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PROCEEDINGS AND DEBATES OF THE 95th CONGRESS

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# Congressional Record

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, SECOND SESSION

## SENATE—*Tuesday, April 11, 1978*

*(Legislative day of Monday, February 6, 1978)*

The Senate met at 11:30 a.m., on the expiration of the recess, in executive session, and was called to order by Hon. MURIEL HUMPHREY, a Senator from the the State of Minnesota.

### PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray:

Almighty God, ever present about us and in us, may we have a vivid sense of Thy real presence with us this day. Forgive us if we behold the beauty and wonder of the world about us having no thought of the Maker. And if the stirrings of the spirit acknowledge Thee in nature help us to understand Thou art more than nature. May we rejoice in the mystery of Thy creation with eyes to read the signposts of history and ears to hear Thy guiding voice.

O Lord, have regard for this Nation and all its leaders in this hour of the hard decision. When we are strong but unsure, mighty but hesitant, we need Thee every hour, lest we stray from Thee. Anoint us with Thy spirit that we may now and always choose Thy will as our will, Thy way as our way, Thy peace as our peace. Lock our fortunes to Thy purposes that we may rise with courage to be a blessing to the world, through Him who came to set men free. Amen.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., April 11, 1978.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MURIEL HUMPHREY, a Senator from the State of Minnesota, to perform the duties of the Chair.

JAMES O. EASTLAND,
*President pro tempore.*

Mrs. HUMPHREY thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

### TUG FORK RIVER VALLEY

Mr. ROBERT C. BYRD. Madam President, the citizens, residents, property owners, and taxpayers of the Tug Fork River Valley in southern West Virginia have for more than 30 years been subjected to periodic flooding in the Tug Fork Basin of the Big Sandy River.

About 800 of those citizens are in the Capitol today, and they are petitioning Congress to waive the benefit-cost ratio as a requirement for flood protection measures in the Tug Fork River Valley.

The two West Virginia Senators, the two Kentucky Senators, and Representatives from the areas involved in both States, NICK RAHALL and CARL PERKINS, have met with the people who have come up from southern West Virginia and parts of Kentucky and have received their petition, and their resolution.

I ask unanimous consent to print in the RECORD a petition that has been presented by these people together with my prepared statement which I made to the group earlier today.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PETITION

Whereas, the citizens, residents, property owners and taxpayers of the Tug River Valley have for more than thirty (30) years been subjected to periodic flooding in the Tug Fork Basin of the Big Sandy River; and,

Whereas, the United States Army Corps of Engineers has for more than forty (40) years, at the expenditure of millions upon millions of dollars, made studies concerning the implementation of flood control projects within the Tug River Basin; and,

Whereas, to date, there has been constructed a partial flood wall around the City of Williamson business district and a flood wall around the Williamson Appalachian Regional Hospital situated in South Williamson, Kentucky; and,

Whereas, the flood wall in the City of Williamson was inadequate to protect said business district in that the water crested approximately eight (8) feet over the top of said wall and that the entire business districts of Iaeger, Matewan and Williamson, West Virginia, were destroyed, and that thousands of residences in both West Virginia and Kentucky were likewise damaged or destroyed by the April 5, 1977, flood; and

Whereas, the Tug Valley Chamber of Commerce, as the coordinating group for flood protection, has for more than twenty (20) years urged the Corps of Engineers and members of Congress to implement a worthwhile flood protection project for the benefit of the residents of the Tug Fork of the Big Sandy River; and,

Whereas, after the expenditure of millions and millions of dollars, there is no adequate protection for said Valley; and,

Whereas, in the last thirty-two (32) years, in twenty-six (26) of those years the river has reached a crest exceeding the flood level in the City of Williamson, wherein gauges are maintained to measure the height of said Tug Fork River; and,

Whereas, the Corps of Engineers has indicated in meeting after meeting that it is only authorized to do that which Congress by legislation authorizes it to do with funding; and,

Whereas, it has become obvious to the citizens and residents that the Corps of Engineers only requests authorization for those projects which it feels will meet either the prior wishes of the Congressional delegations representing the affected areas or those which would not appear to be excessive in cost; and,

Whereas, as a result of the actions of the Corps of Engineers and the Congress, for more than thirty (30) years virtually nothing has been accomplished other than to make an additional study, and after the expenditure of several hundred thousands of dollars, to announce that the project being studied is not feasible due to failure to meet the benefit-cost ratio required by Federal legislation; and,

Whereas, for more than twenty (20) years there has been a cry for flood protection in the Tug Fork Valley, which pleas have gone unheeded; yet in other parts of the country Corps of Engineers projects are forced down the throats of citizens, including an area in northern West Virginia which has had no major flood problem, yet an area which is flood prone is left unprotected; and,

Whereas, it is inconceivable to the citizens of this Valley that our neighboring citizens in the Guyan River Valley and the Levisa Fork Valley have mainstream dam projects which will afford them almost 100 percent protection from mainstream flooding; and,

Whereas, as a result of three (3) disaster declarations by the President of the United States, namely January, 1957, March, 1963, and April, 1977, the Federal Government has expended millions and millions of dollars in flood related expenses in the nature of recovery efforts and has lost millions of dollars in tax revenues from businesses and individuals who suffered casualty losses due to said floods and loss of income from said floods; and,

Whereas, in excess of 11 percent of the coal mined in the United States must pass through or originate in the Tug Fork Valley, it is inconceivable that said Valley would be left unprotected when its natural resources are vital to the well-being of the country as a whole; and,

Whereas, hundreds of millions of dollars of the money of the Federal Treasury are expended throughout the world with no criteria such as the benefit-cost ratio being involved; and,

Whereas, it is obvious that in order for any appreciable flood protection to be afforded the citizens, residents and taxpayers of the Tug River and its tributaries, the benefit-cost ratio must be eliminated from the criteria required for Corps of Engineers' flood protection projects; and,

Whereas, in the construction of the R. D. Bailey Dam on the Guyan River in southern West Virginia, the cost overruns have far exceeded the benefit-cost ratio, and we further believe that the same is true of the Fishtrap Reservoir on the Levisa Fork;

Now, therefore, be it resolved that the Congress of the United States:

1. Immediately enact the necessary legislation to eliminate the benefit-cost ratio criteria from flood control projects on the Tug Fork of the Big Sandy River.

2. Immediately appropriate sufficient monies to dredge and snag the Tug Fork River and its major tributaries in both West Virginia and Kentucky.

3. Authorize the Corps of Engineers to proceed with the immediate implementation of its Plan V (the Matewan cut-off) of its comprehensive study of the Tug Fork.

4. Immediately authorize the Corps of Engineers to update its surveys of the Lower Knox Creek and the Panther Creek Reservoirs to enable a funding authorization for immediate implementation of those projects when said studies have been completed.

5. Authorize an immediate study of a mainstream flood protection dam on Tug River with the ultimate goal to implement said mainstream dam to fully protect the citizens, residents, property owners and taxpayers of the Tug Fork Valley.

Respectfully submitted by the Tug Valley Chamber of Commerce on behalf of the citizens, residents, property owners and taxpayers of the Tug Fork Valley of southern West Virginia and eastern Kentucky, this 11th day of April, 1978, at the nation's capitol in Washington, D.C.

STATEMENT OF SENATOR ROBERT C. BYRD

I want to welcome each of you to Washington.

Each and every day we see marches in the streets and demonstrators on the steps of the Capitol building. They come from all walks of life, and many have legitimate concerns.

But not one—in my way of thinking—has suffered the continous misfortunes and frustrations of those West Virginians and Kentuckians living along the banks of the Tug and Levisa Forks of the Big Sandy River. No, not one.

So, I am happy today that we were able to arrange the travel accommodations to Washington so your voices, as well as ours, can be heard.

Every time it rains in this city my thoughts go to the Tug Fork Valley. I wonder if it is pouring in West Virginia, and if the Tug Fork is out of its banks again.

You say: Senator Byrd, you are Majority Leader of the United States Senate. You say, Senator Randolph, you are the powerful chairman of the Senate Public Works Committee. You reason: Surely, these men can provide flood protection in our valley.

Well, I am not going to apologize today for what we can not accomplish. I am merely going to say that Robert Byrd and Jennings Randolph and Nick Rahall will do their very best—that we will continue to do all we can do.

We are in positions of leadership, but we were provided with no magic wands. We have, to some extent, the power of persuasion. But you can believe me, if talk were all that was needed, the Tug Fork would be as tame as your water faucets.

The Senate and House are composed of 535 Members, and in every region, every State, every city, every hamlet, there are specific problems that exemptions from Federal laws, and the infusion of millions of dollars would help alleviate.

This is our problem, and it is a real one. Because each case is considered a "special case" to people in specific areas, there is a near immovable rock of reluctance to any digression from fiscal policies such as the cost-benefit ratio.

In spite of this, your Congressional delegation is working hard to get this exemption for flood protection in the Tug Fork Valley. I believe we will succeed in the Senate.

I believe, and I know this is the feeling of Sen. Randolph, that your problem is the most special of all the special cases. You are living in the midst of an energy gold mine, and your sweat will ease this country's most pressing problem. Your businesses are needed to feed and clothe the Nation's most important civilian army—the coal miners.

Today, your Congressional delegation has brought together most of the Federal officials who are important in getting permanent flood protection.

We want them to hear your message as they have heard ours. Your voices are effective, and by working together, it is my hope we will accomplish our goal.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Madam President, I thank the Chair. I have no requirement for my time and no request for the time under the order previously entered.

I yield it back.

Mr. ROBERT C. BYRD. Madam President, I do have need for my remaining time.

## THE CALENDAR

Mr. ROBERT C. BYRD. Madam President, as in legislative session, I ask unanimous consent that the Senate proceed to the consideration of Calendar Orders Nos. 667 and 668.

Mr. BAKER. Madam President, reserving the right to object, and I shall not object, I advise the majority leader that these Calendar items, Nos. 667 and 668, have been cleared on this side. We have no objection to their immediate consideration and passage.

## AMERICAN LEGION

The bill (S. 2424) to amend the act incorporating the American Legion so as to redefine eligibility for membership therein, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2424

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 5 of the Act entitled "An Act to incorporate the American Legion", approved September 16, 1919 (41 Stat. 285; 36 U.S.C. 45), is hereby amended to read as follows:

"SEC. 5. No person shall be a member of this corporation unless he has served in the naval or military services of the United States at some time during any of the following periods: April 6, 1917, to November 11, 1918; December 7, 1941, to December 31, 1946; June 25, 1950, to January 31, 1955; August 5, 1964, to May 7, 1975; all dates inclusive, or who, being a citizen of the United States at the time of entry therein, served in the military or naval service of any of the governments associated with the United States during said wars or hostilities: *Provided, however*, That such person shall have an honorable discharge or separation from such service or continues to serve honorably after any of the aforesaid terminal dates.".

Mr. ROBERT C. BYRD. Madam President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–726), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

S. 2424 would amend the Federal charter of the American Legion in order that membership eligibility dates will conform with eligibility dates for veterans' benefits for the Vietnam war era.

STATEMENT

Senator Bayh made the following remarks upon introduction of S. 2424.

Mr. President, today I am introducing legislation which will make a simple yet important change in the present American Legion charter in order that membership eligibility dates will coincide with eligibility dates for veterans benefits for the Vietnam era. During the 59th national convention of the American Legion held in Denver, Colo., from August 23–25, 1977, a resolution was adopted by the Legionnaires present to broaden the Vietnam-era eligibility period from August 5, 1964, through May 7, 1975. At the present time, August 15, 1973, marks the cutoff date for membership.

As my colleagues know, the American Legion plays an important role in promoting the spirit of community mindedness and public service wherever a Legion post is found. Of particular note is the Legion's sponsorship of annual statewide and national seminars where high school youth are able to learn more about government at the local, State, and national levels. Boys and girls' State and Nation activities also give young people the opportunity to participate in actual elections. Such exercises provide better understanding of the workings of our democracy which will be useful to these young people as future community leaders.

Mr. President, this is just one of the many valuable community functions provided by the Legion. Clearly, by extending the eligibility dates for Vietnam-era veterans to become Legionnaires, we will also be enhancing the ability of the Legion to pursue these activities through the additional memberships of those who have already served their country honorably.

## NATIONAL ARCHITECTURAL BARRIER AWARENESS WEEK

The joint resolution (H.J. Res. 578) authorizing the President to proclaim the third week of May of 1978 and 1979 as "National Architectural Barrier Awareness Week" was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Madam President, I move to reconsider the vote by which the resolution was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-727), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

House Joint Resolution 578 would designate the period of the third week of May 1978 as "National Architectural Barrier Awareness Week," calling upon the people of the United States to observe such week with appropriate activities.

STATEMENT

The Architectural Barriers Act of 1968 (Public Law 94-480) committed the Government to remove all physical barriers from Federal buildings. The National Architectural and Transportation Compliance Board was created by the 1973 Rehabilitation Services Act and was given responsibility of enforcing compliance with Public Law 94-480. In April 1977, the Secretary of HEW issued regulations implementing the Rehabilitation Services Act by requiring all buildings constructed, significantly altered, or leased with Federal funds to be barrier free.

The Tax Reform Act of 1976 also recognized the plight of the handicapped by allowing a maximum $25,000 tax deduction for businesses who make facilities fully accessible to the handicapped. The deduction is available through 1979.

The dates specified in the bill also correspond to the week selected by the Easter Seals Society for observing National Handicapped Awareness Week throughout the country.

## ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, as in legislative session, for not to extend beyond the hour of 12 noon with statements therein limited to 5 minutes each.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

## RECESS UNTIL 12 NOON

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the Senate stand in recess until the hour of 12 noon today.

There being no objection, the Senate, in executive session, at 11:36 a.m., recessed until 12 noon; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. ALLEN).

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

## THE PANAMA CANAL TREATY

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of Executive N, 95th Congress, 1st Session, Calendar No. 2, which the clerk will state.

The second assistant legislative clerk read as follows:

Executive N, 95th Congress, 1st Session, the Panama Canal Treaty.

The Senate resumed the consideration of the treaty.

AMENDMENT NO. 100

The PRESIDING OFFICER. The pending question is the amendment by the distinguished Senator from North Carolina (Mr. HELMS) which the clerk will state.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 100.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Before the first sentence of paragraph 2, of article IV, insert the subparagraph designation "(a)".

"(b)(1) When in the performance of official duties, the vessels and aircraft operated by or for the United States Forces may move freely through Panamanian air space and waters without impediment.

"(2) Similarly, the vehicles, equipment, and personnel of the United States Forces may, when in the performance of official duties, move freely in the Republic of Panama without impediment.".

The PRESIDING OFFICER. Time for debate on this amendment is limited to 1 hour, to be divided equally between the distinguished Senator from North Carolina (Mr. HELMS) and the distinguished Senator from Maryland (Mr. SARBANES).

Who yields time?

Mr. HELMS. Mr. President, I yield myself such time as I may require.

(Mr. HASKELL assumed the chair.)

Mr. HELMS. Mr. President, when one looks at the map of the proposed defense installations and canal installations that would be adopted under this treaty, the most striking feature is that the various installations are not contiguous. The appearance of the map has been described by some as resembling Swiss cheese; others have referred to it as "the Balkanization" of Panama. In any case, what you see are a series of separate compartments, dedicated to different uses, and having a different status.

We have, for example, some areas designated as "canal operating area," others as "canal operating areas which will revert to Panama during the life of the treaty," "areas subject to separate bilateral agreement," "defense site," "military area of coordination which will revert to Panama during the life of the treaty," "military area of coordination during the life of the treaty," and "area" of civil coordination (housing)."

Not only are all of these areas separate and distinct, but some of them are entirely surrounded by areas of Panamanian jurisdiction. It is evident that there will be many occasions when U.S. military vehicles and personnel must intrude on Panamanian territory simply to gain access to areas which are dedicated to our use during the life of the treaty. In case of an emergency, of course, we would have to take military action to defend these sites; but even if there were no military emergency, our military personnel would have to pass through areas of Panamanian jurisdiction simply in the performance of routine official duties.

In either case, an unfriendly Government of Panama, or leftist agitators could attempt to raise the issue of U.S. military forces supposedly violating the territorial integrity of Panama.

And why could they raise this issue? They could raise such an issue because incredibly the treaty itself does not provide any specific rights of access to our various civil and military installations on the isthmus. That is really extraordinary when you think about it. Here we have widely separate installations some of them of critical importance without any clear treaty right to have access to them.

Now what does the treaty provide?

The treaty provides first of all that the United States of America and the Republic of Panama commit themselves to protect and defend the Panama Canal. Is that a general writ of authority to move within Panamanian jurisdiction? Maybe yes, and maybe no, depending upon how you interpret it. There is no specificity as to how this commitment may be implemented.

Second, the treaty provides that each party shall act, in accordance with its constitutional processes, to meet the danger resulting from an armed attack or other actions which threaten the security of the Panama Canal or of ships transiting it. Is that a general writ of authority to move within Panamanian jurisdiction? No it is not, for it is operative only in times of a "threat," that is, times of emergency. What happens to the rest of the time? Suppose the United States determines through its constitutional processes that Panama is the threat to the security of the canal, and Panama, through its constitutional processes decides that the United States is the threat. What happens then? Either the United States violates Panamanian internal processes and affairs, or the United States gets out.

What else does the treaty provide? It also provides that, "for the duration of this treaty, the United States of America shall have primary responsibility to protect and defend the canal." But what is the canal? Does the term "canal" include the semaphore fields, isolated from canal operating areas and other

defense sites? Does the term "canal" include electrical generation plants and potable water plants that are isolated from the canal operating areas? The treaty is silent.

Is there anything in the treaty that provides for access to our installations? The only hint of such rights is in the following sentence of article IV, paragraph 2:

> The rights of the United States of America to station, train, and move military forces within the Republic of Panama are described in the Agreement in Implementation of this Article, signed this date.

This is the only sentence, Mr. President, the only sentence which even suggests that we have rights of access; but it does not specify what those rights are. There are no treaty guarantees, Mr. President.

Instead, we have to turn to the agreement in implementation of article IV. Now, when we turn to the implementation agreement, it takes a long time to find anything at all that might be interpreted as permitting access to United States and canal installations by U.S. military forces. Where is that section? It appears to be that it is in article XV of the implementation agreement, an article devoted to "Movement, Licenses and Registration of Vessels, Aircraft, and Vehicles." In short, it is an article devoted to such administrative technicalities as drivers' licenses, automobile license tags, pilots' licenses, and so forth.

Here is how our right of access across Panamanian territory is provided, if it is provided at all. Section (1) (a) of article XV says:

> When in the performance of official duties, the vessels and aircraft operated by or for the United States Forces may move freely through Panamanian air space and waters, without the obligation of payment of taxes, tolls, landing or pier charges or other charges to the Republic of Panama, and without any other impediment.

Now in this language, the operative verb, "move freely" is modified by the phrase "without the obligation of payment of taxes, tolls, landing or pier charges, and so forth." The whole context is one of taxes and licenses. The implication is that "freely" means "free of taxes" and other administrative regulations. It does not amount to a clear-cut grant of authority for the United States to move through Panamanian territory to have access to our bases.

Nor can we depend upon the tag-phrase "and without any other impediment." Clearly the context is still administrative regulation. It does not amount to a full-fledged treaty commitment to allow the United States to have access to our own bases. It has nothing to do with need for a fundamental right of access. Of course, there should be no administrative restrictions; but we need a fundamental right of access.

I hope I need not remind the Senate of the problems of access that we had in Berlin—problems that would have led to full-fledged warfare were it not for the nuclear superiority that we fortunately had at that time. We had fundamental rights of access to Berlin, rights which were denied by the Soviet occupying forces in East Germany. We stood up for our rights. We were prepared to send a convoy of tanks down the access highway to assert our treaty rights. But it was not necessary, because the Soviets knew that we did have the right, and that we were prepared to back it up.

But, Mr. President, the question is this: Could we have asserted our rights if those rights had been stated in the form that we did not need license plates on our tanks? Or that our military vehicles did not have to pay tolls on the autobahn? Mr. President, this provision in the implementation agreement is trivial. It does not go to the real issue at all. It does not go to the fundamental rights of access.

Now the language relating to ships and aircraft that I have just quoted is paralleled in section (2) by similar language referring to "vehicles and equipment." They also may not be taxed and need not pay tolls. They are even exempt from mechanical inspection; they do not have to exhibit a 6-month inspection sticker on their windshields. But nowhere does it mention the rights of U.S. military personnel to move in Panamanian territory. What happens if we want to march the infantry from one installation to another "in the performance of official duties"? Does our right exist only in our unilateral interpretation of our "primary responsibility to protect and defend the canal" as in article IV of the treaty? Is that a clearcut right to defend all of our installations, or only the "canal"?

I need not remind the Senate that this treaty does not define the word "canal." The Neutrality Treaty, on the other hand, defines it as follows:

> "Canal" includes the existing Panama Canal, the entrances thereto and the territorial seas of the Republic of Panama adjacent thereto, as defined on the map annexed hereto (Annex B).

Annex B shows only the entrances and territorial seas of the canal, not the operating areas. So we really do not know whether or not we have the right to move U.S. military forces to protect installations that are not directly associated with the "canal."

Would Panama ever contest our right to move personnel, vehicles, and aircraft across Panamanian territory in the course of the performance of official duties? Obviously, Mr. President, I do not know, and no Member of the Senate can predict. But what happens if our right is contested? That is the question. We can do nothing if Panama contests a basic right, except to assert force against Panama's sovereignty.

Moreover, it is not at all unlikely that controversy would arise over the movement of military personnel and vehicles through Panamanian territory. The controversy, in fact, is bound to arise. In fact, it has already arisen with regard to the DeConcini reservation. In the documents circulated at the United Nations, the Panamanian Ambassador to the U.N., and the communique from the Panamanian Foreign Minister takes particular exception to the interpretation of the distinguished Senator from Arizona that military operations may be necessary in the case of labor unrest and strikes, the actions of an unfriendly government, or political upheavals.

Suppose U.S. military forces are reinforced at the various installations operated by the United States in the case of domestic upheaval in Panama? Suppose, even, that no action is taken; just the movement of troops and military vehicles? Is that covered by the implementation agreement which says that they do not have to be licensed? If the Panamanians are already taking official action to protest the DeConcini reservation now, before the Panama Canal Treaty is passed, is it not likely that they will attempt to deny any interpretation of an executive agreement that gives U.S. military forces the right to move freely without paying taxes as authority to conduct military operations or reinforcements?

If we are going to have military forces in Panama for 22 years, if our bases are going to have any value there whatsoever, we must have proper military logisistics and communication among our bases, and clear authority to position military forces to protect all U.S. installations. That is all this amendment proposes.

If the Panamanians are really sincere that the United States will be available for protection of the canal, there is no possible way that they can deny the United States the treaty right to move freely in Panamanian territory among our installations. If they are going to object to this amendment, if they are going to reject these treaties over something so fundamental, so basic to the purpose of the treaties, then these treaties are not worth very much at all. In fact they are meaningless. They provide no protection.

I do not think that Dictator Torrijos would dare to raise objections to something that is so simple on the surface. It would undermine the validity of all their good intentions, and it would frustrate any workable relationship between our two countries.

Mr. President, I ask unanimous consent that the memorandum and annex of the Panamanian Ambassador to the United Nations, and the communique issued by the Ministry of Foreign Affairs on March 27 be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IMPLEMENTATION OF THE DECLARATION ON THE STRENGTHENING OF INTERNATIONAL SECURITY

Letter dated 28 March 1978 from the Permanent Representative of Panama to the United Nations addressed to the Secretary-General:

I have the honour to send you herewith the note verbale from this mission dated 28 March 1978, together with the following documents:

(a) Resolution of ratification of the Treaty concerning the permanent neutrality of the Panama Canal, adopted by the United States Senate on 16 March 1978 (see appendix I):

(b) Statement by Senator Dennis DeConcini (see appendix II);

(c) Statement by Senator Edward Kennedy (see appendix III);

(d) Communique from the Ministry of Foreign Affairs of Panama, issued on 27 March 1978 (see appendix IV).

In compliance with instructions from my Government, I request you to have the note verbale and the above-mentioned documents distributed as documents of the General Assembly under item 50 of the preliminary list.

JORGE E. ILLUECA,
*Ambassador, Permanent Representative.*

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ANNEX: NOTE VERBALE DATED 28 MARCH 1978 FROM THE PERMANENT REPRESENTATIVE OF PANAMA TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

The Permanent Representative of the Republic of Panama to the United Nations presents his compliments to the Secretary-General of the United Nations and has the honour to inform him that His Excellency Brigadier General Omar Torrijos Herrera, Head of Government of the Republic of Panama, has addressed a letter to the Heads of State and Heads of Government of the States members of the international community.

General Torrijos's letter and the documents enclosed make reference to the vote which took place on 16 March 1978 at the United States Senate on the Resolution of Ratification of the Treaty concerning the Permanent Neutrality of the Panama Canal. In this resolution, approval to the ratification was granted subject to a number of amendments, conditions, reservations and understandings, inserting among them a pre-condition to American acceptance of the Neutrality Treaty, known as the "DeConcini Amendment" (see clause (b)(1) in the attached clipping of the United States CONGRESSIONAL RECORD, vol. 124, No. 38, pp. 7187–7188 (appendix I)).

According to its proponent, the "DeConcini Amendment" is intended to give to the United States of America the unilateral and perpetual right to "take military action on Panamanian soil without the consent of the Panamanian Government", pretending that said amendment must be construed to permit the United States to intervene in Panama in the event of labour unrest, strikes, a slowdown, or under any other pretext labeled as interference with Canal operations (see text of Senator Dennis DeConcini's statement before the United States Senate on 16 March 1978 inserted in the attached clipping of the United States CONGRESSIONAL RECORD, vol. 124, No. 38, pp. 7147–7148 (appendix II)).

Not only does the amendment make no reference to the regime of neutrality, but, as stated by Senator Edward Kennedy, who opposed the DeConcini Amendment, "Panama has waited 75 years since its independence to end American occupation of its heartland. It must wait another 22 years before it achieves full control over its national territory." Now Panama is asked, in Kennedy's words, "to accept an amendment which has the ring of military interventionism—not just during this century, but for all time" (see text of Senator Edward Kennedys statement before the United States Senate on 16 March 1978 inserted in the attached clipping of the United States CONGRESSIONAL RECORD, vol. 124, No. 38, p. S3824 (appendix III) and the attached text of the communique of the Panamanian Ministry of Foreign Relations, dated 27 March 1978 (appendix IV)).

Since the Treaty provides for accession by all States to the Protocol whereby the signatories would adhere to the objectives of the Neutrality Treaty and agree to respect the regime of neutrality, the Panamanian Head of Government has considered it his duty to address this letter to the Heads of State or Heads of Government of the States members of the international community that in so many instances have offered their solidarity and support to the Panamanian nation in its long struggle to reach a peaceful solution to the Panama Canal question based on the recognition of her sovereignty over the totality of its national territory.

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APPENDIX IC: COMMUNIQUE FROM THE MINISTRY OF FOREIGN AFFAIRS OF PANAMA, ISSUED ON 27 MARCH 1978

In our communiqué issued on 16 March, we expressed the decision of the Government not to issue any statement regarding what the Senate had agreed to in relation to the Treaty concerning the permanent neutrality and operation of the Panama Canal. We gave as the reason for such a decision the fact that the Panamanian people had approved two treaties, that is to say, the Neutrality Treaty and the Treaty on the Panama Canal. Until the Senate decides the fate of the latter, it will not have responded to the decolonization programme approved by the Panamanian people.

We also stated in the above-mentioned communiqué that the Government as a whole would study the conditions under which the Senate had given its advice and consent to the Neutrality Treaty and those that it might attach to a decision on the Treaty on the Panama Canal. We have begun that process. But inasmuch as the liberation process is a national undertaking and since, before taking any decision, each citizen must have full knowledge of all the understandings of the Senate regarding the treaties, the Ministry of Foreign Affairs has deemed it appropriate to publish the text of the Senate resolution concerning the Neutrality Treaty without waiting for the official text to be delivered to us through the usual channels.

We are living a crucial moment in our history. Now, more than ever, our country demands from its sons serenity, dignity and a sense of national unity.

Panama sees its future with the serenity of a country engaged in an irreversible process of decolonization.

We must remember that only the peoples that love freedom can be free. Panama has opted for its definitive freedom. In this process we have the decisive support of the peoples of the whole world, as was seen from the session of the Security Council held in Panama in March 1973. On that occasion the world, faced with the veto of the United States delegation, vetoed the United States for not removing the causes of the conflict engendered by the presence of a foreign Government within Panamanian territory.

We recommend to our fellow citizens to study objectively the documents published today in Spanish and English, so that they might assist the Government in taking the most patriotic decision which, as stated by General Omar Torrijos Herrera, Head of the Government of Panama, will be taken within the framework of a great national consensus.

Mr. HELMS. Mr. President, I urge adoption of the amendment and I reserve the remainder of my time. I thank the Chair.

Mr. SARBANES. Mr. President, I rise in opposition to the amendment. This matter was among many other discussed with the Department of Defense in the course of the consideration of the treaty provisions in the hearings that were held by the Senate Committee on Foreign Relations. The Defense Department was of the conclusion, which I share with them, that the treaty and the agreement in implementation of article IV of the treaty and the annex thereto fully and adequately protect the rights of movement and access by United States forces.

In fact, it can be argued, I think cogently, that an effort to develop this right, as it were, within these documents really raises the concern or the danger of movement and access by U.S. forces. of a derogation of rather broadly stated U.S. rights of use of defense sites and of movement with respect to such sites. That is an important sort of legal concept, but I think one that is a valid one. Lawyers may differ on its application, but I think the concept is a valid one. When you have broad statements and then you seek to make specific statements, you run the danger of derogation from the broad grant of authority that may be provided for.

The distinguished Senator from North Carolina quoted the language with respect to the rights of movement, concerning movement when in the performance of official duties with respect to vessels or aircraft, or without any other impediment, and also that dealt with air and water movements, and also vehicle and equipment movements, again in the performance of official duties.

There is no assertion of movement rights unrelated to official duties. It seems to me that is an obvious and appropriate limitation. So there is no assertion in that regard.

But in respect to the performance of the official duties, the right to undertake movement without the obligation, there is a specific provision with respect to the taxing and licensing and an additional provision that goes on to say, "without any other impediment."

Now, we are given the unconditional right to use the defense sites and, of course, appropriate use of this would require, when in pursuance of the performance of official duties, that we have the right of access to the defense sites.

The basic problem or difficulty I have with the Senator's amendment runs to this question of trying to specify certain rights which I think are fully and adequately covered in the agreement, raising a question that it constitutes a limitation with respect to the extended scope of the rights that we are given in the statement of implementation to implement the provisions of the treaty.

It might well be construed as supporting a more narrow interpretation of the U.S. rights in other portions of the agreement than would otherwise be the case.

Of course, most of what I have said has been developed in an exchange with the Department of Defense which, of course, has a very keen and vital interest

in these treaties, both the Panama Canal Treaty which we are now considering and the Neutrality Treaty which we approved on March 16, by a vote of 68 to 32.

I think, as many people realize, the Department of Defense was very much involved in the negotiation process with respect to these treaties. In fact, a general officer representing the Department of Defense participated in full on the negotiating team, and General Dolvin was a very integral part of the American team of negotiators with respect to arriving at the provisions that we have been reviewing over these many weeks here in the Senate concerning the Panama Canal treaties.

Since there will be a continuing American military presence in Panama until the end of the century and then, of course, beyond that there will not be such a continuing military presence, although the United States and Panama joining together in that period after the end of the century have reached agreement that each of them shall be able to take action to maintain the regime of neutrality and to maintain the neutrality of the canal and the right of safe passage for ships through the canal. So, of course, the Department of Defense may have a continuing interest after the year 2000. They will not have a continuing presence in Panama after the year 2000.

Between now and the year 2000, their rights, of course, are spelled out in the Panama Canal Treaty and in the agreements which implement that treaty which, of course, have been reached between the two parties and have been submitted to the Senate as documents associated with the Panama Canal treaties.

I have been quoting, to some extent, from those documents and also putting forth the position which the Department of Defense has reached concerning these provisions, concerning their rights under these provisions, and concerning the amendment which the distinguished Senator from North Carolina has presented to the Senate.

Implementation, of course, has been very carefully worked out as a matter of negotiations between the parties.

The question that was raised about noncontiguous military areas, bases and training areas, has been fully dealt with by the provision in terms of the operational elements that are necessary and, obviously, this is a matter to which the Department of Defense gave great and careful attention.

The question of operational element has been met by the provision that we are entitled to movement between such facilities when in the performance of official duties.

That applies, of course, both to vehicles and equipment; that is, land movement and also air and water movement, where it can take place without impediment in the furtherance of the performance of official duties.

Accordingly, I anticipate and, very frankly, Mr. President, see no problem in this area.

I think the matter which is raised by the distinguished Senator from North Carolina was given very careful and thorough attention by our negotiators, and particularly by those members of the negotiating team who represented the Department of Defense and the Joint Chiefs of Staff, and that the treaty and the associated documents with the treaty fully and satisfactorily deal with this matter.

Therefore, I oppose the amendment of the Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Senator from Maryland for his comments on the amendment.

Inasmuch as the leadership has made clear that it will not permit any amendment to this treaty, I am not optimistic as to the pending amendment. I am, however, heartened by the statement of the Senator from Maryland, if I understood him, that he agrees with the thrust of the amendment, and that its intent is essential. The Senator further contends, if I understand him, that this matter is taken care of in the implementation agreement and in the treaty itself. I find no language that clearly does that, but I am heartened by the legislative history that the distinguished Senator made.

All that notwithstanding, this is such an important, fundamental right, that I wonder what the objection is to spelling it out? The Senator from North Carolina can think of no objection to doing that. In fact, it is essential.

This is the point the Senator from North Carolina would make to his friend from Maryland: We have noncontiguous installations and military bases; and insofar as I have been able to find, the only reference in the treaty text to this right comes under the section relating to whether we will have to put license plates on our tanks and trucks. Obviously, the treaty and the implementation agreement are not adequate in this regard.

I hope the Senate will approve the amendment, although I must say that I do not have a great deal of optimism on that score. However, in this instance, as in others, I feel that it is essential that the Senate confront this defect—and I perceive it to be a defect—in the treaty.

I say to the Senator from Maryland that it is now 12:31, and we have a 1-hour limitation. I would be glad to yield back the remainder of my time, if he is willing to do so, and we can have a vote on the amendment.

Mr. SARBANES. Mr. President, I am quite happy to do that, but I think an order was entered that there would not be a vote until 2 o'clock. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. SARBANES. I assume, in view of that order, that some Members of the Senate have made commitments elsewhere.

Perhaps we could set this amendment aside and go on to the next amendment, if the Senator wants to do that.

Mr. HELMS. In that case, I ask unanimous consent, first, that it be in order for me to ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. The Senator has that right.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HELMS. Mr. President, I suggest the absence of a quorum, during which time I will see if we can round up some Senators to get the yeas and nays.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, is the Senator from North Carolina correct in his understanding that the pending amendment is now being laid aside, in order that I can call up a second amendment, or is unanimous consent in that regard necessary?

The PRESIDING OFFICER. A unanimous-consent order was entered yesterday to that effect, so the Senator's amendment could be set aside and other amendments taken up.

UP AMENDMENT NO. 20

Mr. HELMS. I thank the Chair. I send an unprinted amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. Helms) proposes an unprinted amendment numbered 20.

Mr. HELMS. Mr. President, I have unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of paragraph 3 of article IV add the following undesignated paragraph: "Nothing in this paragraph prevents the military forces of the Republic of Panama or of the United States of America from conducting such separate military planning, exercises, or operations as each Party deems necessary to protect and defend the Canal."

Mr. HELMS. I yield myself such time as I may require.

Mr. President, the central defense concept in the Panama Canal Treaty is the concept of "combined defense." Indeed, were is not for the concept of "combined defense" it is probable that the Department of Defense would never have agreed to the treaty.

It is a matter of historical record that the Joint Chiefs of Staff and the Department of Defense had continuously maintained that all the land in the Canal Zone was necessary to the defense of the canal; and that it would, indeed, be impossible to defend the canal under any new treaty unless the entire zone would be, in effect, a military reservation once the United States surrendered its sovereign rights.

This was the official DOD position until the fall of 1975. It is not difficult to understand why DOD maintained that position. It is only commonsense. One does not have to be a great military strategist or tactician to see that the most effective way to secure an installation is to secure all the components of the installation, as well as a reasonable buffer zone around each component. This was, in fact, the basic reasoning behind the creation of the Canal Zone in the first place. I doubt that any special studies or analyses were conducted to come to that conclusion; it was simply a deeply ingrained concept in defense that everyone took for granted. Once the decision had been made that a U.S. canal had to be fortified to protect its neutrality, the concept of a zone around it came naturally.

Until 1975, no one ever questioned the concept that if the United States were to defend the canal our military forces must have a reasonable area in which to exercise unilateral defense judgments.

It was the Department of State, however, that objected to the unitary zone defense concept. The State Department negotiators found that the treaty negotiations had virtually collapsed. The Panamanians, for reasons of excessive nationalistic pride, insisted on the elimination of the Canal Zone for domestic political reasons. Rather than press the Panamanians on a point that was critical to the United States, the negotiators developed the idea of "combined defense," wherein the Canal Zone would be eliminated and a fiction created that United States and Panamanian military forces would defend the canal together, with the zone itself under Panamanian control. So the State Department negotiators then began to negotiate with the Defense Department, rather than with the Panamanians.

In mid-1975, a position paper embodying a conceptual "combined defense" was prepared and presented to the Panamanians. As was inevitable, that paper was leaked in Panama. Later, the Senator from North Carolina made a lengthy analysis of its fallacies and reprinted the paper in the CONGRESSIONAL RECORD. For those who may be interested in that 1975 analysis, my statement was reprinted in the hearings of the Separation of Powers Subcommittee, page 197, which I believe is on every Senator's desk. I do not know for certain who was the author of the conceptual paper, but some who are close to the State Department have said that it was Mr. Morey Bell, who at that time was prominent on the U.S. negotiating team. At any rate, Ambassador Bunker later admitted to the press that the conceptual paper was authentic.

The fallacies of the combined defense concept are so obvious that it is hardly necessary to mention them; yet perhaps they should be laid on the record. First, there is absolutely no comparison between the force structure and training level of the United States and Panamanian military forces. Panama does not even have a navy or an air force. Of the 8,000 members of the National Guard, about 6,000 do not have professional military training. They serve as policemen, and not very well trained policemen at that.

Secondly, the Panamanian forces do not have sophisticated equipment, the training to use sophisticated equipment, or the budgetary resources to support sophisticated equipment. Any combined defense arrangements on that level would be ridiculous.

Thirdly, the only level where there could be true participation would be in the Combined Defense Board. But participation in the Board by Panamanians would turn the Board into a forum for anti-U.S. propaganda, into a device to put pressure on U.S. defense decisions, and into a medium for learning the details of secret U.S. defense plans. Although Panamanian military forces would be too weak to oppose United States military plans, it would be very easy to bring propaganda to bear, to mobilize civilians in demonstrations, or—to take the most adverse case—to call upon nations antagonistic to the United States to assist them in sabotage, military operations, or concerted international pressure.

Finally, the physical elimination of a zone defense around the canal would make it far more vulnerable to sabotage, terrorism, and controversies over our rights of defense. We are buying trouble, Mr. President, unless we take note of this glaring defect in this treaty, and correct it.

As I understand the State Department's arguments at the time, if it is possible to understand the State Department's arguments at any time, the combined defense concept was necessary for political reasons; that is, as a concession to Panama to get the negotiations started again, and to involve Panama in the defense of the canal, giving the Government of Panama itself a stake in the defense problems. Indeed, it was argued that, in the event of guerrilla warfare, it was better to have the Panamanian National Guard shoot at Panamanian rioters or terrorists, than to have U.S. soldiers do the shooting. This argument, of course, is specious. There is no guarantee whatsoever that Panamanian troops ever would return the fire of Panamanian snipers or Panamanian terrorists. It is at best a pious hope.

What is clear, however, is that the change in defense concepts was not made for military reasons; it was made for political reasons, with the military requirements downgraded severely. The State Department's attempt to rationalize the use of Panamanian troops in hot engagements belongs more to sociological or psychological theory than to military strategy. As a result, our military intelligence could be opened to enemies or opponents, and the actual physical characteristics of defending the canal are severely hampered by loss of a territorial base for defense.

In October, 1975, Deputy Secretary of Defense William P. Clements and General George Brown went to the Canal Zone and to Panama to review the situation. They met with General Torrijos. When they came back to the United States 2 days later, they announced that they had reversed their position, and now favored the treaty. After 11 years, the Pentagon had dropped its requirement for a unitary defense command and zone. Military spokesmen implied that the "combined defense" concept was invented on the spot by the Deputy Secretary and the Chairman of the Joint Chiefs; but in fact, it had already been conceived in the U.S. State Department and presented to the Panamanians.

Mr. President, the following is important:

When Secretary Clements came before the Armed Services Committee this year, he added a new dimension to the basis for his decision to reverse the Pentagon's position. He explained that he had negotiated a security clause with General Torrijos that gave the United States a unilateral right to take whatever military steps would be necessary to defend the canal. That language is now familiar to us all; the Senator from North Carolina offered it as an amendment to the Neutrality Treaty, although the Senate in its dubious wisdom on that subject turned it down.

Nevertheless, it is clear that Secretary Clements attempted to make a trade-off with the State Department. He abandoned the unitary zone defense concept not for military reasons—not on the basis of what's best for national defense—but for political reasons. In return, he tried to salvage the military situation by insisting upon a unilateral right of military operations.

But he lost it all because in this way, the Pentagon was mousetrapped by the State Department into abandoning what is best for the defense of this Nation, which should be the foremost and primary concern of this Senate. To break loose the Pentagon roadblock, the State Department agreed to a security clause with the unilateral right of intervention; but some time after the Carter administration took over, the security clause was dropped, it was abandoned. It is not surprising, therefore, that when Secretary Clements learned of this double dealing, he immediately withdrew his support of the treaties, and he vigorously emphasized that in his appearance before the Armed Services Committee this year.

So now we are stuck with the combined defense concept. If one reads the text of article IV quite carefully, one finds that the treaty is silent on the right of the United States to do planning, training, or operations without the participation of Panama. The treaty does not say that we cannot do planning, training, or conduct operations by ourselves; but neither does it say that we can. It speaks only of combined operations.

The Anglo-Saxon legal tradition is far more flexible than Latin American systems. Our judicial interpreters are accustomed to supplying whatever is necessary to understand the law; but Panama, like most other countries, depends upon

code law. If a right is not stated positively in the law, it cannot be assumed.

Thus, in paragraph 1, we see that the United States and Panama commit themselves to protect and defend the canal. At best, it is ambivalent on the right of the United States to act without the participation and consent of Panama.

It says that each party shall act to meet the danger resulting from an armed attack; but it does not say that either can act independently.

In paragraph 2, it says that the United States shall have the primary responsibility to protect and defend the canal. But where there is a primary responsibility, there is also a secondary responsibility. If there is any implication in the phrase "primary responsibility" the implication is that the U.S. right is neither exclusive nor independent.

In paragraph 3, it says that both parties shall establish a combined Board comprised of an equal number of senior military representatives. This standard of equality is directly at odds with the delegation of "primary responsibility" to the United States.

These representatives shall be charged by their respective governments with consulting and cooperating on all—I repeat, all—matters pertaining to the protection and defense of the canal, and with planning for actions to be taken in concert for that purpose. The word "all" clearly demands that there be no defense matters over which there is not consultation and cooperation. Clearly, not even intelligence information or contingency defense plans could be kept secret legally from the Panamanians.

The absurdity of this situation cannot be explained away. If we knew, for example, that high officials of the National Guard were cooperating with terrorists, we would be legally obligated to inform those very officials. If we had plans for the defense of the canal under a scenario where the National Guard itself attacked the canal, we would be obliged to hand over those plans to the attackers. The language of the treaty demands that the representatives "shall" consult—not "may consult," but "shall consult"—on actions to be taken in concert for that purpose. Is the phrase "to be taken in concert for that purpose" a limitation or a description? If it is a limitation, then there can be no other type of actions allowable, except actions taken in concert.

Now we come to another very interesting and ambiguous sentence:

Such combined protection and defense arrangements shall not inhibit the identity or lines of authority of the armed forces of the United States of America or of the Republic of Panama.

What does this sentence mean? Does this sentence mean that the United States can conduct separate planning, exercises, or operations? I do not see how it can be given that interpretation. All that this sentence says is that the command structure shall not be merged into one unit. The command structures preserve their own identity, but the protection and defense arrangements are still "combined." There is no reference to any other kind of defense activity except combined activity.

Finally, it says that the Combined Board shall provide for coordination and cooperation concerning such matters as:

(a) The preparation of contingency plans for the protection and defense of the Canal based upon the cooperative efforts of the armed forces of both Parties.

Again, this is a positive injunction that contingency plans are to be based upon cooperative effort.

(b) The planning and conduct of combined military exercises.

Once more, the Board is charged with both planning and conduct of combined military exercises; no other type is mentioned.

(c) The conduct of United States and Panamanian military operations with respect to the protection and defense of the Canal.

This clause is apparently the result of sloppy drafting, since it merely repeats the preceding clause (b), leaving out the "planning." Instead of mentioning "combined military exercises" it refers to "United States and Panamanian military operations." While there might be a slight distinction between "exercise" and "operations," if the word "operations" is taken in the sense of actual war as opposed to training, there still remains the confusion of "United States and Panamanian" being substituted for "combined." Are they the same thing? Or is there an attempt here to imply that there are two types of operations, namely, United States operations and Panamanian operations? If that is meant to imply separate operations, the implication fails, because everything mentioned here is under the control of the Combined Board.

So I think we are clearly faced with a serious ambiguity. If the treaty is silent on separate operations, does that mean that separate operations are allowed? Or does it mean that they are not allowed? We cannot afford to take the chance.

So the pending amendment is short and simple and, I hope, to the point:

Nothing in this paragraph prevents the military forces of the Republic of Panama or of the United States of America from conducting such separate military planning, exercises, or operations as each Party deems necessary to protect and defend the Canal.

How on Earth can anyone object to that, Mr. President? The single sentence of this amendment will clear up the ambiguity. It will give us the authority for all the routine, ordinary military exercises and planning that we must do, with or without the participation of Panama. And of course, if we do need to conduct actual operations without Panama's cooperation, we will be able to do so on sound legal grounds.

Mr. President, I urge the adoption of the amendment, and I reserve the remainder of my time.

Mr. ALLEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, the administration and the leadership in the Senate have had full control over these treaties and their wording ever since the negotiations were completed between the Panamanian negotiators and the U.S. negotiators.

Every single amendment that has been accepted, whether it be an amendment to the treaty or a reservation or a condition or what, has had the approval of the administration and the leadership. So if the wording of the DeConcini reservation or the amendment to the resolution of Ratification has caused consternation in Panama, then there is no one to blame except the administration and the leadership because they have had life and death control over every single amendment that has been offered here on the floor of the Senate.

They have had upward of 60 Senators who have supported them on practically every measure—I believe there were only 58 on one particular amendment—and they have had full control of what has gone into this treaty.

Mr. President, I am not going to speak in an attitude of "I told you so," but I believe the difficulties come about with respect to the Neutrality Treaty, or I prefer to call it the defense treaty, because it did give us and does give us certain defense rights in the canal after the year 2000. That treaty was considered first here in the Senate, even though the President had submitted them in the reverse order, which was the logical order.

I tried here on the floor of the Senate—other Senators tried—to get this order of consideration of these treaties reversed because we should have considered first the question of whether we should give the canal away before we considered how we should defend it starting in the year 2000.

Our pleas fell on deaf ears, and to raise the point before the Senate I made a motion to reverse the order of consideration, go back to the logical order of considering, first, whether we give the canal away before we worry about defending it in the year 2000.

That motion received only 30 votes of Senators, and has more or less constituted the hard core of those who are seeking to improve these treaties by amendment.

The leadership said "No, we want to consider the Neutrality Treaty first." I warned, and other Senators warned, that this order of consideration would cause many Senators, who wished to vote for the Neutrality Treaty or the defense treaty, to be unable to do so because in the order in which they were submitted they were part and parcel of one big issue, the Panama Canal Treaty issue.

As a result, there were 32 votes cast against the Neutrality Treaty. I stated here on the floor that if the order were reversed, I would have looked for upward of 99 Senators to vote for the Neutrality Treaty, because the only difference was the extent to which we would be allowed to defend the canal. And I believe that is true.

That being true, Mr. President, if we had considered the Panama Canal Treaty first, and had agreed to give the canal away, as that treaty provides, then there would have been no opposition whatsoever—or perhaps I had better say no opposition of any moment—because I would have looked for some 90 to 99 or perhaps even 100 Senators to have voted for the Neutrality Treaty after the basic issue had been determined. Then it would not have been necessary, Mr. President, to accept the DeConcini amendment in order to get Mr. DECONCINI's vote. The treaty would have been approved well-nigh by acclamation.

But the leadership insisted on handling the defense treaty first, and look what has happened. They got up to the last day and they did not have enough votes to pass the Neutrality Treaty, and this provision, the DeConcini amendment, which says that notwithstanding any other provision of this or any other treaty—or that treaty; I believe it limited it to that one—the United States has a right to take whatever means might be necessary to keep the canal open, including military action.

Yes, that is a departure from the language of the leadership amendment, because the leadership amendment had three loopholes inserted by the dictator through the memorandum with the President which later became the leadership amendment, and that paragraph inserted by the dictator said that in our efforts to defend the canal, we should not interfere with the internal affairs of Panama, we should not interfere with their territorial interests, and we should not interfere with the independence of Panama. It had those three conditions. The DeConcini amendment does not have those.

(Mr. HODGES assumed the chair.)

Mr. ALLEN. So, Mr. President, they have got themselves in somewhat of a bad box. They have got dictator Torrijos in an extremely bad box. It looks as though he is in bad shape either way he goes; not that I object to that, but that is the situation he finds himself in. He has the option, Mr. President, to accept these treaties on his own, as head of state, in which event I believe that the strong opposition in Panama to these treaties would result in dictator Torrijos being thrown out of office; or his other alternative is to submit the matter to a vote by the people of Panama, and in that event it is my judgment that the one-third of the Panamanians who voted against it when the matter was first submitted would swell to well over a majority vote against the treaties; and I believe that would probably result in Dictator Torrijos being deposed.

Mr. President, I see shades of 1903 in these treaties and the manner of procedure with respect to them. The treaty of 1903 that has been denounced on this floor so often—just the other day the distinguished Senator from Idaho (Mr. CHURCH) dusted off the old contention that if the new government, the revolutionary government of Panama, had not signed that 1903 treaty with the United States, they would have faced a Colombian firing squad. But they overlook the fact that in 1955 another treaty was entered into between Panama and the United States confirming these rights that the United States has.

But in 1903 the United States dealt with a revolutionary government, not elected by the people. In 1978 we deal with a dictatorial government not elected by the people. The 1903 treaty was not approved by the people of Panama, and that has been a bone in their craw ever since, that they did not have an opportunity to pass upon the treaty; even though there seemed to be great joy and acclaim for the treaty when it was entered into, they kept making the contention that the treaty was not approved by the people, and we have now another situation where the treaty apparently is not to be approved by the people.

"Oh," they say, "they had a plebiscite." Yes, but we did not see the protests against the treaty as originally submitted. It has now been amended by the DeConcini amendment, so it is not the same treaty. The Panamanians say the Neutrality Treaty as it now stands, as it has already been approved, is an affront to their national dignity and sovereignty.

So that we will not have a repetition of the discord that has existed, the protesting against the treaty that has existed ever since 1903—do we want to go through that again? We are supposed to be in control of the canal for the next 22 years. If the people do not get an opportunity to vote on this new treaty, will they not protest that this treaty was rammed down their throats without their approval, and will not that be cause for protests, demonstrations, riots, and possibly sabotage of the canal?

If we are not to learn from the lessons of history, we are certainly destined to make the same mistakes again, and it looks as though we are going down that same road.

I suggested the other day, and I have submitted, an amendment that will be acted upon before the final vote on the resolution of ratification requiring that before these treaties go into effect they must be approved by the people of Panama in a plebiscite called for the purpose of ascertaining the national will with respect to the treaties.

That is necessary in my judgment, Mr. President, to lay the matter to rest. We see protestation down in Panama, including burning the President of the United States in effigy, all because they feel that we are ramming a treaty down their throats without any voice by them to pass upon the treaty as amended, without any voice on the part of the people to say whether they approve of this or not; and the leadership has expressed its opposition to letting the people of Panama speak on this subject.

Mr. President, I believe that is a very shortsighted policy indeed if we ram an unpopular treaty down the throats of the people of Panama without giving them an opportunity to say what their opinion is.

We are dealing with a dictator there and not the people of Panama. The only way we can find out their will with respect to this amended treaty is to ask them, and to ask them in the form of a plebiscite. We will forever rue the day that we do not ascertain the Panamanian national will.

By the way, I noticed the Dictator Torrijos declared an extended Easter holiday in the schools in Panama because he is afraid of student reaction to these treaties. There would be a reaction because they do not want this treaty as now written.

I am convinced that the people of the United States do not want the treaty. The people of Panama obviously do not want the treaty. Dictator Torrijos has written some 115 nations protesting what the Senate has done in the DeConcini amendment, laying the groundwork to cut the ground out from under the DeConcini amendment, to say that it is meaningless in international law.

What are we to do? We have full control over the treaties at this time. Why should we insist on the Panamanians taking something they do not want? They say we have to do something about the DeConcini amendment. How is it to be done? They say we are going to pass an amendment, a reservation, a resolution, or something, indicating that we do not mean what we said when we passed the DeConcini amendment.

Is that fair? Will anybody attach any credibility to a treaty of the United States again if we approve a treaty saying one thing and then in the ensuing weeks pass something that cuts the ground out from under the meaning of the first treaty?

Also, Mr. President, there are some three votes in the Senate which were determined by the administration and the leadership taking the DeConcini amendment. Had they not taken the DeConcini amendment, had the leadership not given its blessing to the DeConcini amendment, this first treaty would have been defeated because it passed with only one vote to spare.

Mr. President, would it be fair to the Senators who voted for the treaty because the DeConcini amendment was adopted to try to say now, in the second treaty, that we did not mean what the DeConcini amendment says?

That amendment was studied by the President, by his attorneys, by the State Department, by their attorneys, by Mr. DECONCINI, and by the Panamanians. Why was not a protest made then? I recognize that the dictator, on March 15, wrote the President. The letters have been put into the RECORD, both being dated March 15. The dictator in his letter expressed alarm at the reservations which he understood were on the way. The President reassured him on March 15 that they would not interfere with the spirit of the agreement that he and the dictator had entered into.

But that does not seem to be the case.

They regard this first treaty as an affront to their sovereignty because it gives the United States the unilateral right to take whatever action is necessary to keep the canal open. I favor the DeConcini amendment. That is the way it should be. I am not in favor of backing up on it.

Mr. President, those of us who sought to improve these treaties, if they are to be agreed to, are not responsible for the administration being in the predicament that it is now in because, as I say, they have had full control over every single word that has gone into these treaties since they were first submitted to the Senate by the President.

So if they find themselves in an untenable position, a position of insisting that Panama take something it does not want, they have themselves to blame, not the opposition.

Mr. President, I do not believe it would be in the interest of good feelings here in the Senate if an effort is made by the administration and the leadership to dilute the provisions of the DeConcini amendment, to make it say less than what it now says. I know they can write an amendment they can get a majority of the Senate to support. But getting that done and then trying to get the treaty agreed to by two-thirds majority in the Senate is where the difficulty would come, in my judgment. It would make a mockery of the compact entered into between the President—all of this is common knowledge; I am not disclosing anything that is not known by every Senator and the public media—it would make a mockery of the agreement made by the President and Mr. DECONCINI and two other Senators who agreed to support the first treaty if the DeConcini amendment was accepted.

The President agreed to accept it. The leadership agreed to accept it. The leadership gave its blessings to the DeConcini amendment. Now they come forward, as the distinguished Senator from Idaho (Mr. CHURCH) said on yesterday, because something has to be done; we are not going to abandon our policy of nonintervention, no matter what the DeConcini amendment says.

How is that going to be done? Do we pass an amendment saying that the DeConcini amendment is not to be taken at face value, that it means something else?

Let us consider that. As I say, they can get a majority of the Senate to agree to any amendment that they say will extricate them from this difficult situation. I say the Senate has acted in good faith. The Senate has accepted the DeConcini amendment. We made our bed and we will sleep in it. Let us not try to toy with it. Let us not try to go back on an agreement which was made in order to get these treaties passed.

Let us consider the practical aspect. The DeConcini amendment actually goes into effect in the year 2000. It is a reservation to the neutrality treaty in article V, which starts in the year 2000:

> Nothing in this treaty—

Which includes article V—

> shall preclude Panama and the United States from making in accordance with their respective constitutional processes . . .

I believe that is the Nunn reservation, which has not been brought into this argument.

The DeConcini reservation reads like this—

> subject to the condition, to be included in the instrument of ratification of the Treaty to be exchanged with the Republic of Panama, that, notwithstanding the provisions of Article V—

That is the one that starts in the year 2000—

> or any other provisions of the Treaty, if the Canal is closed, or its operations are interfered with, the United States of America and the Republic of Panama shall each independently have the right to take such steps as it deems necessary, in accordance with its constitutional processes, including the use of military force in Panama, to reopen the Canal or restore the operations of the Canal, as the case may be.

That is the provision that Panama is objecting to, because they say that that interferes with their sovereignty, is a direct threat to their sovereignty. I can see their position, but I do not feel that they should be alarmed at that, because the United States does not want to take any steps that are not absolutely necessary to keep the canal open. I do not regard it as a threat to their sovereignty, but they do.

Unquestionably, it would give us the right to send military forces into Panama at such time as we deem it is necessary to keep the canal open, and we would have to interfere to some extent in their internal affairs and would have to land on Panamanian ground and operate from Panamanian ground. That would not have been permitted under the leadership amendment, but it is permitted under the DeConcini amendment, and that is what they do not like. It is quite obvious that opinion in Panama has shifted and that the people are opposed to the treaties.

The treaty we are debating now expires with this century. It expires at the close of December 31, 1999. From a practical point of view, if we wanted to go back on the pledge to take the DeConcini amendment as worded and get the first treaty passed, if we are willing to go back on that and try to water it down in this treaty, let us see how that is going to be done. This treaty expires with this century. The DeConcini amendment starts at the end of this century. So how in the world, in a treaty ending in this century, are we going to dilute the provisions of an amendment that does not even go into effect until next century? By the time that Neutrality Treaty goes into effect, the Panama Canal Treaty will be dead. It will be functus officio, it will have already performed its function. It will go out of existence.

Whatever we say in the Panama Canal Treaty cannot have any force and effect on a treaty or a provision of a treaty that does not go into effect until after the first treaty, the Panama Canal Treaty, goes out of effect. It would have no further effect. So even if the leadership is inclined to ram an amendment through—which I believe they can do. I am not discounting the power of the leadership. I think enough Senators would march to their drumbeat and pass any amendment that they say would extricate us from this difficulty.

But can it be done? Should it be done? Should we go back on the commitments on the first treaty to gain its passage? If we try to do that, Mr. President, I feel confident that there will be not two, not four, but more Senators who will desert the ranks of the supporters of these treaties and vote against the second treaty, which would also kill the first treaty that was acted upon.

Mr. President, I cannot fail to point out that the order in which the leadership required the Senate to consider these treaties is directly responsible for the necessity arising to accept the DeConcini amendment in order to pass the Neutrality Treaty. Had the Panama Canal Treaty been considered first, then there would have been no need of a trade with the distinguished Senator from Arizona (Mr. DECONCINI). They would have had votes and votes to spare. It was this strategem that the leadership adopted that is directly responsible for the tremendous complication now arising from the DeConcini amendment.

All the opponents of the treaties have been able to do is seek to strengthen the treaties. If we are to have treaties, I would like to have them as strong as they can be in giving the U.S. defense rights in Panama and protecting the interests of the U.S. taxpayers.

In seeking to improve the treaty, I am not seeking to defeat the treaty by amendments, because I can think of only one amendment that I would be willing to support and thereafter support the treaty. I am not trying to kill the treaties by amendment. I just want to strengthen the treaties. If they are agreed to, let them protect our right to defend the canal. Let them protect the right of the taxpayers of the United States not to be saddled with hundreds of millions of dollars in payments in addition to giving the canal away.

Mr. President, I want to say again that much has been said about how the opposition to these treaties have spoken with regard to Panama and the right of the Panamanians. They have made it appear that they are the good guys in this effort and the opponents are maligning the Panamanians.

That is far from being the truth, far from being correct.

If any remarks have been leveled by the Senator from Alabama at any person in Panama, it has been at the dictator who has had his way with respect to these treaties up to the time of the DeConcini amendment and then he was assured it was not going to interfere with the spirit of the agreement made between the President and the dictator.

I have leveled criticism at dictator Torrijos' despotic regime and I have pointed out that this $100 million a year that he is going to receive under these treaties, he or his one-man government will receive under these treaties, will be enough to keep his despotic regime in business.

I have leveled criticism at dictator Torrijos, but not to the Panamanian people. I have stood from the very start and I stand now and urge the leadership to get in line. I want to see the Panamanian people consent to this treaty. I do not want to see us negotiate just with the Panamanian dictator. I want to see a compact between the American people acting through their duly constituted representatives in the U.S. Senate. I want to see the American people have a compact with the Panamanian people.

Taking action short of that is going to leave the way open for controversy for the next 22 years because the Panamanian people are going to resent, and properly so, that we did not give them a right to say what was thought about the treaties as they were amended in the Senate.

That condition and that complaint is going to exist for the next 22 years. We could solve it very simply, Mr. President, by agreeing to the amendment that I plan to offer to require a plebiscite in Panama, to get their approval or their disapproval of these treaties. I am hopeful that enough Senators will recognize the need for that to agree to the amendment which I do plan to offer.

Mr. President, just because this treaty before us is defeated, which, of course, has the effect of defeating the Neutrality Treaty as well, does not mean that all negotiations with Panama have been broken off. Far from it.

It would merely pave the way for additional negotiations. Those negotiations would take place and, possibly, the negotiators would not make as many mistakes as they made before. Possibly, the leadership would not stonewall against amendments.

How much better it would have been, Mr. President, if we came in here and had the right to shape these treaties according to the wishes of the Senate and that the leadership had not stonewalled against these amendments and demanded that they be rubber stamped.

They made one fatal mistake in departing from that policy, and that is agreeing to the DeConcini reservation. They thought, Mr. President, and it is quite obvious that that is not working out that way, the leadership obviously thought, "Well, if we don't allow any amendments, we can get by by allowing reservations to the Resolution of Ratification." Reservations by way of amendment, not to the treaty, they did not permit that, but they thought they could permit amendments to the Resolution of Ratification and that the dictator could ratify those without ever submitting it to the people and there would be no problem.

But the leadership has had the policy for the last 2 months of not allowing any amendments to these treaties—other, of course, and this is understood, than the two leadership amendments that were agreed to and that Mr. Torrijos said he could accept.

The reason he could accept it is because this memorandum was written pretty well at his order, as I pointed out a minute ago, because it had three conditions attached to any intervention by us in defense of the canal: The fact we would not interfere with their internal affairs, we would not interfere with their territorial boundaries, and that we would not seek to end their independence.

So, Mr. President, I hope that this treaty will be defeated and thereby cause the defeat of the Neutrality Treaty so that we can get back to negotiating a treaty that will be acceptable to the people of the United States as well as being acceptable to the people of Panama.

The distinguished majority leader last evening was suggesting that no matter what amendments were adopted to the treaty, I still would not vote for the treaty. Well, I have stated here on the floor and I have stated throughout my State that I am not quibbling about the matter of raising the annuity that we pay Panama each year. It is frightfully low, it ought to be changed. If the treaties are defeated, this figure should be changed, because we pay Panama some $2.3 million a year.

I would be willing, Mr. President, to agree to an amendment and then vote for the treaty if it provided that the United States would retain our ownership of the canal and the property in the Panama Canal Zone, that we would continue in perpetuity to operate and maintain and defend the canal, but that we would, in view of Panama's great need for money, raise this annuity tenfold or even twentyfold.

I would not object to seeing Panama receive $50 million. That is not the point.

The point is our resistance to pressure around the world, our retreat around the world, our lack of will to survive as a great world power. That is what is involved in the Panama Canal Treaties more than disposing of the property. It is the fact that it is a trend that exists in this country to give away our very substance and to retreat from any confrontation that we receive around the world.

I can confidently predict—confident to my way of thinking, at least—that Guantanamo, our great naval base in Cuba, will be the next thing to topple if we do agree to these treaties.

If we had the option of sending the treaty back to the Foreign Relations Committee for study, I would be willing to do that, though I do not know how much good a study by the Foreign Relations Committee would do, in all frankness, because the treaty was before the Foreign Relations Committee for months and they saw nothing in the treaty, apparently, that needed amending. At least they offered no committee amendment and did recommend, not as committee amendments, the leadeship amendments that were floated around at that time.

Of course, the strategy there was not to have them come out as a committee amendment, but allow members on the floor to sign up as cosponsors. I was one of the Senators. I see the distinguished gentleman from North Carolina, and I believe he was one of the cosponsors of the leadership amendment.

It was stated that they were improvements over the treaty as regards the right to defend the canal and I thought they must be real fine amendments because for several weeks before the two leaders agreed that they were going to support the treaties, they said this amendment—I do not believe they called it the leadership amendment at that time. I may even have coined that phrase. At any rate, they did not have the leadership amendment when they agreed on that. They said, "This will solve the problem. We can vote for the treaty with the leadership amendment. We cannot vote for it without the leadership amendment."

They said, in effect, "The leadership amendment is so good that it makes the treaty so good that it should not be amended at all, and we are going to resist any further amendment."

That is the situation we have at this time. We have agreed to vote on the 18th of April, so I do not think that a motion to recommit the treaty to the Foreign Relations Committee would be in order. Possibly we can work that out by unanimous consent, because it occurs to me that the supporters of the treaty are in an untenable position. They have a treaty that apparently is not approved at either end of the line.

Mr. SARBANES. Mr. President, will the Senator yield for a moment?

Mr. ALLEN. I will yield for not to exceed 2 minutes.

Mr. SARBANES. Before the Senator spends a great deal of time and energy on working out a unanimous-consent request to recommit the treaties, I want to assure the Senator that I would be constrained to object to such a request. I know that it will come as a surprise to the Senator. But if he was seriously proposing to embark on devoting a lot of time and energy to investigating that possibility, I want to lay it at rest.

Mr. ALLEN. It would not take much time, I assure the Senator. I could draw up such a motion in 30 seconds.

Mr. SARBANES. I want to save even that 30 seconds for the Senator.

Mr. ALLEN. We have consumed even more than that in our brief colloquy.

I admire the distinguished Senator from Maryland very much for the fine job he has done in pushing these treaties up to the very point of a final vote on next Tuesday. He has been steadfast in his advocacy of the treaties. His study and his knowledge of the contents of the treaties and their implication are most impressive. I have enjoyed our exchanges from time to time and our friendly rivalry on the floor. I have great admiration for the distinguished Senator from Maryland (Mr. SARBANES). He has shown great qualities of leadership and

of study and analysis and resourcefulness.

I must say, Mr. President, that such qualities are much in need when it is necessary to espouse a treaty of this sort which, as I see it, is so much against the best interests of the people of the United States, from an economic standpoint and from a military standpoint.

Mr. President, one of the leading arguments that has been made with respect to these treaties is that they are absolutely necessary in order to avoid sabotage and to avoid demonstrations, to avoid riots in Panama. How does that argument tie up with the situation that we see existing in Panama at this time?

The President—excuse me; I used the wrong word, I assure you—the dictator of Panama declared a lengthy Easter recess so the students would not be at their schools to protest against the approval by the U.S. Senate and the prospective approval by Panama of this treaty. Demonstrations are taking place in Panama. I do not know whether the dictator has them under control yet or not. But if they are demonstrating and are now burning the President of the United States in effigy, in Panama, think what they are going to do when the U.S. Senate releases all control over these treaties. So it is act now, Mr. President, or not at all.

It is a strange situation that the advent of the treaties that are scheduled to prevent rioting and demonstration has actually set off riots and demonstrations. Apparently, the only way we are going to please the Panamanians is to defeat these treaties and send them back to the negotiating table.

I hope that a monetary payment to Panama and leaving conditions as is with respect to the operation, defense, and maintenance of the canal would be a proper alternative to this treaty, under which we give away the canal, pay Panama to take it, and then end up—without the DeConcini amendment—with inadequate rights to defend the canal.

I hope that no effort will be made on the floor of the Senate to undercut in this treaty the DeConcini amendment to the other treaty. We realize what the leadership can do, if it wishes, under the rule. I hope this does not occur, and I do not believe it will occur. If they would wait until the time to go out of the Committee of the Whole, which is at the close of business Thursday, if they plan to proceed with an amendment to undercut the DeConcini amendment, I hope they will not wait until the last, when there can be no debate on their "dilute DeConcini amendment," and I hope they will not wait until the last, when we get to the Resolution of Ratification, which is supposed to be voted on by 6 o'clock next Tuesday. But beyond that time, amendments will be in order, and they will be voted on without debate.

So I hope the leaders will not wait, if they plan to go this route, until all time for debate has ended; because I seriously doubt that they would want to face the other Senators on the floor with an amendment that would seek to undercut the DeConcini amendment. If they plan to go that route, I hope they will offer their amendment at such time as adequate debate can be held with respect to the amendment.

Mr. President, we are getting to the end of the road. We see the end in sight. I believe this debate has been constructive. It has been helpful. It has given an opportunity for various viewpoints to arise and for an opportunity to discuss them. It has been healthy that there has been a national debate and that National Public Radio has carried these debates throughout the country. They have rendered a fine service in this regard, and I certainly commend them for the fine results of their coverage.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I would like to yield time to the able Senator from Maryland (Mr. SARBANES) to address the amendments that are now pending. He has had the benefit of hearing the entire discussion, and I think he is in the best position to oppose the amendments for the proponents of the treaty.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. CHURCH. I am happy to yield for that purpose.

Mr. SARBANES. Mr. President, first, I say to the distinguished Senator from Alabama that, as always, I have enjoyed listening to him; and I do try to listen carefully to his statements, as he fully appreciates, I think.

Usually, we save the peroration of flogging the leadership until the end of the day, when, with predictable regularity, it will in fact occur, and the leadership will be taken out to the woodshed and administered an appropriate spanking by the distinguished Senator from Alabama.

And as he has noted on occasions it has brought the majority leader from his office, where he is listening to this illuminating debate on the public radio, to respond. But I noticed today that we apparently now have moved from flogging the leadership only in the evening to also flogging them at noon, and I assume if we start to come in early we will begin to flog the leadership in the morning as well.

So I take it that the admonition which the leadership should draw from the distinguished Senator's comments is that they should perhaps begin to anticipate a flogging morning, noon, and night.

Second, the distinguished Senator from Alabama said that obviously the leadership had full control over everything that happened and wherever we we may now be with respect to these treaties it is their responsibility and their responsibility alone.

I would not want the distinguished Senator from Alabama to not have his share of the credit for the situation, and I think we would have to recognize that the influence which the able Senator from Alabama has been able to exercise in setting the boundaries within which this treaty can be considered has been very significant. The distinguished Senator has really set up the barriers, one might almost refer to them, Mr. President, as the stone walls surrounding the consideration of this treaty, and in a very skillful way—and I say that as a term of admiration for the Senator's skill—he keeps wanting to move in those stone walls, he keeps moving them in, the stone walls that he has erected around this treaty he keeps moving in so that eventually there will not be sufficient space enclosed within his stone walls so that there will be a sufficient basis for an agreement between us and the Republic of Panama so that at the end of this process the stone walls having been moved in closer and closer, the amount of space left is insufficient to provide the basis for a treaty agreement between the United States of America and the Republic of Panama.

And then, of course, if that were to happen the objective of the Senator from Alabama, which he has never in any way concealed, in fact which he has clearly laid out and which has been his position consistently, as I understand it, ever since he came to the Senate, at least since October of 1971, will have been reached which is that there should not be a new treaty, at least one that reaches in any substantive way to the matters considered here.

Finally, of course, the very distinguished Senator has expressed a considerable concern for the Panamanian people. It is his intention, as I understand it, to propose an amendment that would require Panama to hold a plebiscite.

By what right, reason, logic, or consideration for the sensibilities of others the U.S. Senate should impose and dictate to the Panamanian people that kind of condition or restriction escapes me. I should have thought that we have to do our responsibilities and it is up to Panama and the Panamanian people to carry forward their responsibilities.

It, of course, has been stated that there would be a reaction in Panama that the Panamanian people do not want this treaty. In fact, I daresay it has even been suggested in the course of the Senator's comments that they ought not to want this treaty and they ought to be upset about it. Of course, then the next step is if they do get upset about it then we ought not to have the treaty, because we do not want to approve a treaty about which the Panamanians are going to be angry. So 1 minute we say to the Panamanians over the radio:

> You ought to be angry about this treaty. You ought to look at this treaty and you ought to be angry.

That, in effect, is the advice which the distinguished Senator from Alabama gives to the Panamanian people. And then he turns to the Senate, having raised the ire and the anger of the Panamanian people and says to the Senate, "We cannot approve treaties about which the Panamanian people will be angry."

I admire the eternal consistency and logic of the Senator's statement. It is

what is known as a self-fulfilling prophesy. It is the closed circle.

But before one ought to take it with great seriousness I think it ought to be underscored that the distinguished Senator from Alabama joined in sponsoring the resolution in the last Congress about which he had a colloquy with the majority leader last night, and the majority leader, of course, indicated that he does not any longer share the position in that resolution, but it is my understanding that the distinguished Senator from Alabama continues to adhere to that resolution, which amongst other things stated—this was the position embodied in the resolution and the one that I think it ought to be appreciated opponents of this treaty including the distinguished Senator from Alabama continue to adhere to—that—

The Government of the United States should maintain its sovereign rights and jurisdictions over the canal and zone and should in no way cede, dilute, forfeit, negotiate, or transfer any of these sovereign rights.

As I recall in yesterday's debate the Senator from Alabama said something about as far as the Panamanian people are concerned, he wanted them to have their sovereignty back, but, of course, in this resolution which he has sponsored and supported and the positions he generally has taken on the floor, and which were just reiterated with respect to simply increasing the annuity payment, his position has been that there should be no ceding, diluting, forfeiting, negotiating or transferring of any of these sovereign rights.

So that on the question of sovereignty it is clear that the distinguished Senator from Alabama for all the concern that has been expressed with respect to the Panamanian people, as distinguished from the Panamanian Government, is not prepared to deal with that very fundamental, basic question of sovereignty that these treaties address themselves to.

Mr. President, I hope that there is an appreciation of the skill of the Senator from Alabama and of the fact of these stone walls, which he has erected around this treaty and which he seeks day-by-day to move in closer and closer and closer together, so that in the end there will not be contained within the stone walls, that he has erected, a sufficient basis for the agreement between the United States and Panama which is his objective. It is his stated objective.

The Senator has never concealed the fact that that is his stated objective, and the Senator's view of an arrangement that should be negotiated obviously does not even begin to deal with the very fundamental questions of sovereignty and jurisdiction which are so important in resolving the longstanding dispute between our country and the Republic of Panama.

Mr. CHURCH. Mr. President, I thank the able Senator from Maryland for his remarks.

The hour of 2 o'clock having arrived——

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, under the previous order, the question recurs on amendment No. 100 offered by the Senator from North Carolina (Mr. HELMS). All time has expired.

Mr. CHURCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho (Mr. CHURCH).

Mr. CHURCH. I move to lay the amendment on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. LAXALT addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada (Mr. LAXALT).

Mr. LAXALT. Mr. President, I think it is agreeable to all concerned that we have back-to-back votes on each of the amendments under consideration.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. LAXALT. Surely.

Mr. SARBANES. Because of the way the debate developed we did not have time to respond at all to the second Helms amendment. I think we should do that briefly.

I would be prepared to enter into a unanimous-consent request that the vote with respect to the second Helms amendment occur at 2:30, with 15 minutes after the conclusion of this vote divided 5 minutes to the Senator from North Carolina and 10 minutes to this side. We would make our statement and he could respond, and I think that would accommodate us.

Mr. LAXALT. Mr. President, that is perfectly agreeable with us.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question is on agreeing to the motion of the Senator from Idaho to lay on the table the amendment of the Senator from North Carolina. The clerk will call the roll on amendment No. 100.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Maine (Mr. MUSKIE), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON), the Senator from Michigan (Mr. RIEGLE), and the Senator from Minnesota (Mrs. HUMPHREY) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from California (Mr. HAYAKAWA), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

The result was announced—yeas 64, nays 28, as follows:

[Rollcall Vote No. 88 Exec.]

YEAS—64

| | | |
|---|---|---|
| Abourezk | Byrd, Harry F., Jr. | Cranston |
| Baker | Byrd, Robert C. | Culver |
| Bayh | Case | Danforth |
| Bellmon | Chafee | DeConcini |
| Bentsen | Chiles | Durkin |
| Biden | Church | Eagleton |
| Bumpers | Clark | Glenn |
| Burdick | Hart | Gravel |
| Haskell | Magnuson | Proxmire |
| Hatfield, Mark O. | Matsunaga | Randolph |
| Hathaway | McGovern | Ribicoff |
| Heinz | McIntyre | Sarbanes |
| Hodges | Melcher | Sasser |
| Huddleston | Metzenbaum | Schmitt |
| Inouye | Morgan | Sparkman |
| Jackson | Moynihan | Stafford |
| Javits | Nelson | Stevenson |
| Kennedy | Nunn | Stone |
| Leahy | Packwood | Talmadge |
| Long | Pearson | Weicker |
| | Pell | Williams |
| | Percy | Zorinsky |

NAYS—28

| | | |
|---|---|---|
| Allen | Griffin | Roth |
| Brooke | Hansen | Schweiker |
| Cannon | Hatch | Scott |
| Curtis | Hatfield, Paul G. | Stennis |
| Dole | Helms | Stevens |
| Domenici | Johnston | Thurmond |
| Eastland | Laxalt | Tower |
| Ford | Lugar | Wallop |
| Garn | McClure | Young |
| Goldwater | | |

NOT VOTING—8

| | | |
|---|---|---|
| Anderson | Hollings | Muskie |
| Bartlett | Humphrey | Riegle |
| Hayakawa | Mathias | |

So the motion to lay Mr. HELM'S amendment No. 100 on the table was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The PRESIDING OFFICER (Mr. ABOUREZK). The question is on agreeing to the motion to lay on the table.

The motion to lay on the table was agreed to.

Mr. SARBANES. Mr. President, for the information of Members of the Senate who are present, there will be another vote no later than 15 minutes from now, and hopefully somewhat sooner than that, on the second Helms amendment. There is a unanimous-consent agreement which was previously entered into. So that Members can plan their activities, I thought it would be helpful to let them know that.

Mr. President, I would like to address myself to the Helms amendment just briefly. I yield myself 5 minutes.

The PRESIDING OFFICER. Will the Senator suspend? The amendment has not yet been called up.

UP AMENDMENT NO. 20

The PRESIDING OFFICER. Under the previous order, unprinted amendment No. 20 is the pending amendment. There are 10 minutes allowed to the Senator from Idaho (Mr. CHURCH), or his designee, and 5 minutes to the Senator from North Carolina (Mr. HELMS). The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 20.

At the end of paragraph 3 of article IV, add the following undesignated paragraph:

"Nothing in this paragraph prevents the military forces of the Republic of Panama or of the United States of America from conducting such separate military planning, exercises, or operations as each Party deems necessary to protect and defend the Canal.".

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, the Helms amendment suggests there is

some difficulty or ambiguity about our right to take separate action in carrying out the U.S. military duties with respect to defending the canal in the period between now and the end of the century, or the period specifically covered by the Panama Canal Treaty.

The treaty provisions in article IV are quite clear with respect to the American right and the Panamanian right, that each party shall act in accordance with its constitutional processes to meet the danger resulting from an armed attack or other actions which threaten the security of the Panama Canal or ships transitting it.

That is the first point.

The second point is that the Neutrality Treaty, which we adopted 68 to utterly unnecessary. Any Senator with Panama Canal Treaty. There is a misconception on the part of many that it only takes effect after the year 2000. It in fact takes effect simultaneously with the Panama Canal Treaty, namely, 6 months after the instruments of ratification are exchanged. It is only certain limited provisions in the Neutrality Treaty which take effect after the end of the century. So all of the provisions are there in terms of our right to take action to maintain the regime of neutrality, and specifically the provision embodied in the amendment offered by Senators ROBERT C. BYRD and BAKER and an overwhelming majority of the Members of the body, which states:

Each of the two countries shall, in accordance with their respective constitutional processes, defend the canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal.

That provision takes effect at the same time as the Panama Canal Treaty, not after the year 2000. It takes effect at the same time.

Second, the Panama Canal Treaty provides that for its duration the United States of America shall have primary responsibility to protect and defend the canal. We have the primary responsibility to protect and defend the canal.

In article IV it is provided that there shall be a combined board of United States and Panamanian representatives to facilitate the participation and cooperation of the armed forces of both parties in the protection and defense of the canal.

But that article then goes on and in explicit terms states:

Such combined protection and defense arrangements shall not inhibit the identity or lines of authority of the armed forces of the United States of America or the Republic of Panama.

So the identity of our lines of authority are in no way inhibited. Our primary responsibility to maintain the defense of the canal is clearly stated. The balance of the provisions of article IV spell out that what we are establishing is a cooperative arrangement, but that we are not losing, precluding, or compromising our own right to take the action we deem necessary in order to defend the canal.

General McAuliffe, who is the head of the Southern Command stationed in the Canal Zone currently, discussed this matter of the role of the combined board in testimony before the committee, of which the distinguished Senator from North Carolina is a member.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. SARBANES. I yield myself an additional 3 minutes.

Concerning the Senator's contention that somehow the combined board compromises either the integrity of the lines of authority of the American command or our ability to take action in order to meet our primary responsibility for the defense of the canal, General McAuliffe stated the following, on page 88 of the hearing record:

General MCAULIFFE. The Combined Board. Senator, is a coordinating and cooperative element, composed of an equal number of United States and Panamanian officers. Its purposes is to address the coordination of activities relating to the combined defense, to examine defense plans and the like and, of course, certain of the training aspects that are related to that.

The Board does not have any decision power; it is simply a forum for the exchange of proposals and the coordination of matters affecting these forces.

As I did indicate earlier today, Senator, this Board, in my mind, epitomizes the kind of cooperative relationship that we are trying to achieve with the Panamanian forces, to draw them closer together with the United States forces and so as to assure that by the end of the treaty period those forces are able to go off on their own and do a decent job in defending that canal.

On the other side of the coin, I must say that these cooperative arrangements are beneficial to us in that they are designed and, I believe, will help to improve our ability to defend the canal in the treaty years up to the year 2000. However, if for one reason or another that arrangement does not work, the United States still has the obligation of primary responsibility, that is to say, of defense of the canal, and would not be precluded from acting unilaterally in that period if necessary.

Mr. President, I submit that this spells out what is embodied clearly in the treaty arrangement. This is a cooperative arrangement. It is an effort to develop cooperation. But, nevertheless, the U.S. command authority is not impeded, not intruded upon. We have the primary responsibility to defend the canal. We have the right to take whatever action is necessary in order to accomplish that. Therefore, we would be able to respond as was deemed necessary. For those reasons, I oppose the amendment offered by the Senator from North Carolina.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, may I ask the time situation?

The PRESIDING OFFICER. The Senator from North Carolina has 5 minutes; 2 minutes for the Senator from Maryland.

Mr. HELMS. I thank the Chair. I yield my remaining 5 minutes to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the unprinted amendment No. 20, offered by the distinguished senior Senator from North Carolina (Mr. HELMS).

This amendment is essential in that it provides that U.S. defense forces in the Republic of Panama for purposes of defending the canal may conduct military operations separately from those of the Republic of Panama if it deems necessary.

Under the pending treaty, a joint defense force is established and all military training, duties and exercises are to be conducted jointly.

This amendment would merely give U.S. forces the right to act independently in defense of the canal if we deem it necessary. There may be steps which our military leaders feel are needed that the Panamanians may find objectionable.

Mr. President, little notice has been taken in the Senate that the military forces of this country, once Panama becomes sovereign—6 months after ratification—are governed by a combined board.

This Board has an equal number of military representatives from the two countries and in the event of a disagreement, would be locked in a tie vote. These representatives are charged with consulting and cooperating on "all matters pertaining to the protection and defense of the canal."

This arrangement leads one to the understanding that all military actions taken in Panama once Panama becomes sovereign shall be taken only if agreed to by this Combined Board.

Mr. President, the Senate must not forget that if this treaty is approved, Panama will become sovereign in all parts of the old zone in 6 months. Once sovereign, Panama becomes the judge of all issues not explicitly spelled out in the treaties.

If we are to avoid trouble and disputes, defend the canal as we deem proper, and create the relations the treaties attempt to achieve, this amendment should be approved by the Senate.

I thank the distinguished Senator.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, as the able Senator from Maryland explained, we oppose the amendment as being utterly unnecessary. There is nothing in paragraph 3 of article IV of the treaty which prevents the United States of America from conducting such separate military planning exercises or operations as the United States deems necessary. Both Panama and the United States could conduct such operations separately, or they could, if they chose, conduct those operations jointly, depending upon which better achieves the objective of adequately defending the canal.

The amendment is superfluous and utterly unnecessary. Any Senator with any question in his mind can ascertain that fact simply by reading the provisions of the treaty. On that basis, we oppose the amendment. I move to lay the amendment on the table and ask for the yeas and nays.

The PRESIDING OFFICER. The time has not expired yet.

Mr. CHURCH. I yield back the remainder of my time.

The PRESIDING OFFICER. Does the

Senator from North Carolina yield back his time?

Mr. HELMS. Yes, Mr. President, I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. CHURCH. I move to lay the amendment on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment on the table. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Maine (Mr. MUSKIE), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON) and the Senator from Michigan (Mr. RIEGLE) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

The result was announced—yeas 66, nays 28, as follows:

[Rollcall Vote No. 89 Exec.]

YEAS—66

| | | |
|---|---|---|
| Abourezk | Hatfield, | Morgan |
| Baker | Mark O. | Moynihan |
| Bayh | Hatfield, | Nelson |
| Bellmon | Paul G. | Nunn |
| Bentsen | Hathaway | Packwood |
| Biden | Hayakawa | Pearson |
| Bumpers | Heinz | Pell |
| Burdick | Hodges | Percy |
| Byrd, Robert C. | Huddleston | Proxmire |
| Case | Humphrey | Randolph |
| Chafee | Inouye | Ribicoff |
| Chiles | Jackson | Sarbanes |
| Church | Javits | Sasser |
| Clark | Johnston | Schweiker |
| Cranston | Kennedy | Sparkman |
| Culver | Leahy | Stafford |
| Danforth | Long | Stevenson |
| Durkin | Magnuson | Stone |
| Eagleton | Matsunaga | Talmadge |
| Glenn | McGovern | Weicker |
| Gravel | McIntyre | Williams |
| Hart | Melcher | Zorinsky |
| Haskell | Metzenbaum | |

NAYS—28

| | | |
|---|---|---|
| Allen | Ford | Roth |
| Brooke | Garn | Schmitt |
| Byrd, | Goldwater | Scott |
| Harry F., Jr. | Griffin | Stennis |
| Cannon | Hansen | Stevens |
| Curtis | Hatch | Thurmond |
| DeConcini | Helms | Tower |
| Dole | Laxalt | Wallop |
| Domenici | Lugar | Young |
| Eastland | McClure | |

NOT VOTING—6

| | | |
|---|---|---|
| Anderson | Hollings | Muskie |
| Bartlett | Mathias | Riegle |

So the motion to lay Mr. HELM'S amendment No. 20 on the table was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.



UP AMENDMENT NO. 21

Mr. HELMS. Mr. President, I send to the desk an unprinted amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 21.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of article IV, add the following: "6. Any nuclear armament of the United States of America which is mobile or tactical in nature, or which is installed on a military aircraft or vessel of war of the United States of America, and which armament is transported through the former Canal Zone, shall not be considered as emplaced in the territory of the Republic of Panama in violation of the obligations of the United States of America under Article 2 of the Additional Protocol II to the Treaty for the Prohibition of Nuclear Weapons in Latin America or of the obligations of the Republic of Panama under such Treaty.".

Mr. HELMS. Mr. President, so that we might consider a time agreement on this amendment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that there be a time limitation on this amendment of 40 minutes, equally divided, with Mr. CHURCH in charge of the time in opposition to the amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Who yields time?

Mr. HELMS. I yield myself 10 minutes.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, a number of our distinguished colleagues have made an analogy between treaties and contracts. That is a reasonable analogy. A treaty is like a contract; and like a contract, you have to read the fine print.

In paragraph of article IV, the treaty says that the use of areas and installations and the legal status of the armed forces of the United States of America in the Republic of Panama shall be governed by the agreement in implementation of article IV. So if you want to find out what our rights really are, you have to turn to the implementation agreement. Unfortunately, there has been little debate about the implementation agreements because they are not before the Senate.

However, if you look in article VI of the implementation agreement—not to be confused with article IV of the treaty itself—there is an astonishing paragraph. Paragraph 6 says:

Since the Republic of Panama is a signatory to the Latin American Denuclearization Treaty . . ., the United States shall emplace no type of nuclear armament on Panamanian territory.

This is interesting for several reasons. First of all, it is interesting for sloppy drafting. There is no such thing as "the Latin American Denuclearization Treaty." The correct title is the "Treaty for the Prohibition of Nuclear Weapons in Latin America." Perhaps the wrong title is given so that anyone who is trying to find out what that treaty is will not be able to find it and give up.

However, I did find it; and I also found out that the word "emplace," as used in paragraph 6, does not appear anywhere in the Treaty for the Prohibition of Nuclear Weapons in Latin America. That treaty speaks of "the receipt, storage, installation, deployment, and any form of possession of any nuclear weapons." But it does not use the word "emplace," and we have no way of telling what the word "emplace" means under the treaty. So the corollary is that we do not know what "emplace" means in paragraph 6, either.

Second, paragraph 6 is interesting in that it goes directly counter to the thrust and intent of the Treaty for the Prohibition of Nuclear Weapons in Latin America. For that treaty only prohibits Panama from having nuclear weapons in Panamanian territory; it does not prohibit the United States from having nuclear weapons in Panamanian territory. In fact, the intent of that treaty, as explained to the Senate by the President of the United States, the Secretary of State, and the chairman of the Foreign Relations Committee was to allow nonnuclear states to give permission to nuclear states for the transit and shipment of nuclear weapons through nonnuclear territory.

The treaty was signed by Panama and other Latin America countries on April 1, 1968. Only Latin American countries, all of which were nonnuclear, were permitted to sign. Nuclear states, however, were permitted to sign the protocols.

The United States is an adherent to Protocol II. It was transmitted to the Senate by President Nixon on August 13, 1970. He said at that time:

I recommend that the Senate give early and favorable consideration to Additional Protocol II and give its advice and consent to ratification, subject to the statement which accompanies the report of the Secretary of State. That statement, which is similar to the one made by the United States at the time of our signature, expresses our understanding concerning territories and territorial status, transit and transport privileges, non-use of nuclear weapons, and the definition of "nuclear weapon."

The President's reference to "our understanding concerning territories" is very important in the present case, because "territory" as used in that treaty includes "territorial seas," and Panama

claims everything within 200 miles of her shores as her "territorial seas." Thus even if we had nuclear submarines within 200 miles of Panama, Panama could charge us with violations, holding canal operations as hostage.

The letter of Secretary of State Rogers said:

The negotiating history of the Treaty makes it clear that these prohibitions do not affect transit and transport privileges of non-Contracting Parties. This fact is reflected in the statement which accompanied United States signature of Protocol II, and which, it is proposed, should accompany our ratification thereof. In that statement, the United States takes note of the Preparatory Commission's interpretation of the Treaty, as set forth in the Final Act, that, governed by the principles and rules of international law, each of the Contracting Parties retains exclusive power and legal competence, unaffected by the terms of the Treaty, to grant or deny non-Contracting parties transit and transport privileges.

The Foreign Relations Committee voted 13 to 0 to order the protocol reported with additional understandings developed by the committee. In his report, the then chairman of that committee, Mr. Fulbright, said:

In the course of the Committee's hearings executive branch witnesses proposed another modification of the statement to present a more explicit formulation of the U.S. understanding of the basis for territorial claims. The principal provisions of the revised statement, which is incorporated in the form of a declaration in the resolution of advice and consent, are as follows:

(1) U.S. ratification cannot be construed as an acceptance by the United States of the unilaterally asserted boundary claims of the parties to the treaty (e.g., territorial seas).

(2) U.S. military transit and transport privileges will not be affected by ratification.

(3) The pledge not to use nuclear weapons against a contracting party would not prohibit a U.S. nuclear response in the event of an armed attack by a party with the assistance of a nuclear-weapon state.

Mr. President, it is perfectly clear from these documents that there is nothing in the so-called Denuclearization Treaty that would prevent Panama from giving permission to the United States to transport nuclear weapons in Panamanian territory or territorial seas. Yet, paragraph 6 uses the word "since":

Since the Republic of Panama is a signatory to the Latin American Denuclearization Treaty, the United States shall emplace no type of nuclear armament on Panamanian territory.

Plainly, there is no causal relation whatsoever to Panama's being a signatory. Panama is free to allow or to disallow the right of transit or transport to the United States. The Denuclearization Treaty is no restraint on Panama at all. I think Panama should take positive steps to grant us such permission.

Now what does the word "emplace" mean? Is it the same as "deploy"? Does it mean a permanent installation, or does it mean any temporary placement?

Of course, it is true that the Neutrality Treaty entitles vessels of war and auxiliary vessels to transit the canal irrespective of armament. But does the general principle override the specific exception in paragraph 6 of the implementation agreement's article IV? Or is it the other way around?

Moreover, it is not just a question of transit through the canal. There is the question of transit through Panamanian waters, as I have said earlier, waters which may reach as far as 200 miles and which may not be included in the definition of "canal" in the Neutrality Treaty.

Moreover, there is the problem of the status of nuclear armament on U.S. bases in Panama. If tactical nuclear weapons are aboard U.S. military aircraft that land at Howard Air Force Base, are they considered to be "emplaced"? Suppose they are brought to Howard in one aircraft and transferred to another; is that "emplaced"? Suppose they are stored at U.S. bases; is that "emplaced"? How long can they be stored before they are "emplaced"?

Since it is our obligation to assume "primary responsibility" to defend the Panama Canal, we ought to see to it that we have authority to transport any type of nuclear armament on any vehicle or launch platform—through the canal, the territorial seas adjacent thereto, or on our military bases in Panama. Panama has full authority to give us that permission, and we should insist that she give us that authority.

So, Mr. President, the pending amendment would add a new paragraph, also No. 6, to the end of article IV of the treaty.

The PRESIDING OFFICER (Mr. McGOVERN). The Senator's 10 minutes have expired.

Mr. HELMS. I yield myself 3 more minutes, Mr. President, and I thank the Chair. Paragraph 6 reads as follows:

6. Any nuclear armament of the United States of America which is mobile or tactical in nature, or which is installed on a military aircraft or vessel of war of the United States of America, and which armament is transported through the former Canal Zone, shall not be considered as emplaced in the territory of the Republic of Panama in violation of the obligations of the United States of America under Article 2 of the Additional Protocol II to the Treaty for the Prohibition of Nuclear Weapons in Latin America or of the obligations of the Republic of Panama under such Treaty.

Mr. President, I ask unanimous consent that the complete texts of the letter of President Nixon and of Secretary Rogers, and the report of Senator Fulbright, along with the resolution of ratification of Protocol II of the Treaty for the Prohibition of Nuclear Weapons in Latin America, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADDITIONAL PROTOCOL II TO THE TREATY FOR THE PROHIBITION OF NUCLEAR WEAPONS IN LATIN AMERICA

LETTER OF TRANSMITTAL

THE WHITE HOUSE,
*August 13, 1970.*

*To the Senate of the United States:*

I transmit herewith Additional Protocol II to the Treaty for the Prohibition of Nuclear Weapons in Latin America, with a view to receiving the advice and consent of the Senate to its ratification. The Additional Protocol was signed on behalf of the United States on April 1, 1968.

For the information of the Senate, I transmit also the report by the Secretary of State with respect to the Protocol and a copy of the Treaty to which it relates.

The Treaty for the Prohibition of Nuclear Weapons in Latin America, done at Mexico City February 14, 1967, is the first successful attempt to create a nuclear free zone in a populated region of the world. The Treaty is limited to states located in the Latin American region and is already in force among 16 Latin American nations.

Additional Protocol II is designed for nuclear-weapon states, which are not eligible to sign the Treaty itself. It calls upon them to respect the denuclearized status of Latin America, not to contribute to violation of the Treaty, and not to use or threaten to use nuclear weapons against the Treaty parties.

It is in the best interests of the United States to assume these obligations toward the Latin American countries bound by the Treaty. By creating this nuclear-free zone the nations of Latin America have made an important contribution to peace and security in the Western Hemisphere. Ratification by the United States of Additional Protocol II would not only indicate our support for the Latin American nuclear-free zone but would reinforce our other arms control efforts such as the Non-Proliferation Treaty.

I recommend that the Senate give early and favorable consideration to Additional Protocol II and give its advice and consent to ratification, subject to the statement which accompanies the report of the Secretary of State. That statement, which is similar to the one made by the United States at the time of signature, expresses our understanding concerning territories and territorial claims, transit and transport privileges, non-use of nuclear weapons, and the definition of "nuclear weapon". The statement also reaffirms our willingness to make available nuclear explosion services for peaceful purposes on a nondiscriminatory basis under appropriate international arrangements.

RICHARD NIXON.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
*Washington, July 16, 1970.*

THE PRESIDENT,
*The White House.*

THE PRESIDENT: I have the honor to submit to you, with the recommendation that it be transmitted to the Senate for its advice and consent to ratification, Additional Protocol II, signed on April 1, 1968 on behalf of the United States of America, to the Treaty for the Prohibition of Nuclear Weapons in Latin America. The Treaty itself is not open for signature to states that are located outside Latin America, and such states are not eligible for membership in, or bound by the decisions of, the regional organization established to implement the Treaty.

Additional Protocol II to the Treaty is specifically designed for adherence by nuclear-weapon states that are willing to undertake to respect the express aims and provisions of the Treaty, not to contribute to its violation in the territories to which it applies, and not to use or threaten to use nuclear weapons against the states parties to the Treaty. The United Kingdom has signed and ratified the Protocol. The obligations which states assume upon ratification of the Protocol derive from both the provisions of the Protocol and the provisions of the Treaty itself.

The Treaty for the Prohibition of Nuclear Weapons in Latin America is the culmination of a regional effort to keep Latin America free of nuclear weapons. A Joint Declaration on the subject was issued by Bolivia,

Brazil, Chile, Ecuador, and Mexico on April 29, 1963. This effort was welcomed and encouraged by a resolution adopted by the United Nations General Assembly on November 27, 1963. After several years of international negotiations, including consideration of comments by the United States, the Treaty was opened for signature on February 14, 1967. The United States has expressed its support for the Treaty not only by signing Additional Protocol II, but also in public statements made by President Johnson and Vice President Humphrey, by our representatives in the Eighteen Nation Disarmament Committee and the United Nations General Assembly, and by United States votes for resolutions of the General Assembly in 1967 and 1968 commending the Treaty and calling upon those eligible to sign and ratify Protocol II to do so.

The Treaty has been signed by all Latin American states except Cuba (whose present government has indicated that it does not intend to sign) and Guyana (whose eligibility to sign is in dispute). It is currently in force for 16 of these states, and a new regional organization has been established to implement it.

The basic understanding of the Contracting Parties (defined in Article 2 as the states for which the Treaty is in force) are set forth in Article 1. They are (a) to use exclusively for peaceful purposes the nuclear material and facilities which are under their jurisdiction; (b) to prohibit and prevent in their respective territories the testing, use, manufacture, production or acquisition by any means whatsoever of any nuclear weapons; (c) to prohibit and prevent in their respective territories the receipt, storage, installation, deployment and any form of possession of nuclear weapons by the Contracting Parties themselves, by anyone on their behalf, or in any other way; and (d) to refrain from engaging in, encouraging or authorizing directly or indirectly, or in any way participating in the testing, use, manufacture, production, possession or control of any nuclear weapon.

The negotiating history of the Treaty makes it clear that these prohibitions do not affect transit and transport privileges of non-Contracting Parties. This fact is reflected in the statement which accompanied United States signature of Protocol II and which, it is proposed, should accompany our ratification thereof. In that statement the United States "takes note of the Preparatory Commission's interpretation of the Treaty, as set forth in the Final Act, that, governed by the principles and rules of international law, each of the Contracting Parties retains exclusive power and legal competence, unaffected by the terms of the Treaty, to grant or deny non-Contracting Parties transit and transport privileges."

The United States statement makes clear also that, as regards the undertakings in Article 3 of Protocol II not to use or threaten to use nuclear weapons against the Treaty parties, this country would have to consider that an armed attack by a Contracting Party to the Treaty, in which it was assisted by a nuclear-weapon state, would be incompatible with that Party's corresponding obligations under Article 1 of the Treaty.

Article 3 of the Treaty defines "territory" to include the territorial sea, air space and any other space over which the state exercises sovereignty in accordance with its own legislation. The statement of the United States makes clear our understanding that the Treaty and its protocols have no effect upon the international status of territorial claims.

Article 4 of the Treaty defines the zone of application of the Treaty as "the whole of the territories for which the Treaty is in force". The article also makes provision for a broader zone of application within the Western Hemisphere, including international waters, upon the fulfillment of *all* of a number of conditions, one of which is United States ratification of Protocol I to the Treaty. Protocol I calls upon states to apply the status of denuclearization in territories for which they are internationally responsible within the Treaty zone. The United States has not signed Protocol I, and the United Kingdom is the only nuclear-weapon state that has to date become a party to this Protocol.

Article 5 of the Treaty defines nuclear weapons. It excludes an instrument that may be used for the transport or propulsion of a nuclear explosive device if it is separable from the device itself and not an indivisible part thereof. But it includes any device which is capable of releasing nuclear energy in an uncontrolled manner and which has a group of characteristics that are appropriate for use for warlike purposes. This definition is particularly significant in connection with Article 18 of the Treaty, which deals with peaceful uses of nuclear explosions. Paragraph 1 of that article provides that the Contracting Parties may carry out explosions of nuclear devices for peaceful purposes, or collaborate with third parties for the same purposes, *provided* they do so in accordance with the provisions of Article 18 and the other articles of the Treaty, particularly Articles 1 and 5. Paragraph 4 of Article 18 specifically permits the Contracting Parties to accept the collaboration of third parties for such purposes.

The statement which accompanied signature by the United States of Additional Protocol II, made the following comments on the definition of "nuclear weapon" in Article 5:

"The United States wishes to point out again the fact that the technology of making nuclear explosive devices for peaceful purposes is indistinguishable from the technology of making nuclear weapons and the fact that nuclear weapons and nuclear explosive devices for peaceful purposes are both capable of releasing nuclear energy in an uncontrolled manner and have the common group of characteristics of large amounts of energy generated instantaneously from a compact source. Therefore we understand the definition contained in Article 5 of the Treaty as necessarily encompassing all nuclear explosive devices. It is our understanding that Articles 1 and 5 restrict accordingly the activities of the Contracting Parties under paragraph 1 of Article 18.

"The United States further notes that paragraph 4 of Article 18 of the treaty permits, and that United States adherence to Protocol II will not prevent, collaboration by the United States with Contracting Parties for the purpose of carrying out explosions of nuclear devices for peaceful purposes in a manner consistent with our policy of not contributing to the proliferation of nuclear weapons capabilities. In this connection, the United States reaffirms its willingness to make available nuclear explosion services for peaceful purposes on a nondiscriminatory basis under appropriate international arrangements and to join other nuclear weapon States in a commitment to do so."

Subsequent to the making of this statement, the United States in fact joined in such a commitment in the Nuclear Non-Proliferation Treaty, which entered into force on March 5, 1970. Accordingly, it is proposed that when used in connection with our ratification of Additional Protocol II the last sentence of this statement be updated to read as follows:

"In this connection, the United States calls attention to Article V of the Nuclear Non-Proliferation Treaty, under which it joined in an undertaking to take appropriate measures to ensure that potential benefits of peaceful applications of nuclear explosions would be made available to non-nuclear-weapon states party to that treaty, and reaffirms its willingness to extend such undertaking, on the same basis, to states precluded by the present treaty from manufacturing or acquiring any nuclear explosive devices."

Neither the Treaty nor our adherence to Additional Protocol II would present any bar to the use by the United States of nuclear explosions for excavation of a new Atlantic-Pacific interoceanic canal with the consent of the party in whose territory such excavation took place, although it would have to be consistent with other treaty obligations, including the Limited Test Ban Treaty. But the Treaty for the Prohibition of Nuclear Weapons in Latin America would require certain procedures to be followed in connection with such a project. These include (a) advance notification to the International Atomic Energy Agency, containing the information specified in paragraph 2 of Article 18, and (b) observation as provided in paragraph 3 of that article, by representatives of the International Atomic Energy Agency and of the new regional organization established to implement the Treaty.

Articles 6–11 of the Treaty are not of direct interest to the United States, since they relate to meetings of the signatories and the organization and procedures of the regional "Agency for the Prohibition of Nuclear Weapons in Latin America" (the Spanish acronym for which is OPANAL). The first meeting of this organization was held in Mexico City September 2–9, 1969, and was attended by a United States observer. Article 7 of the Treaty provides that "Only the Contracting Parties shall be affected by its decisions."

Articles 12–16 of the Treaty establish a control system for the purpose of verifying compliance with the obligations entered into by the Contracting Parties in accordance with Article 1. Article 13 requires the Contracting Parties to enter into agreements with the International Atomic Energy Agency for the application for its safeguards to their nuclear activities.

I enclose a copy of the Treaty and Additional Protocol I, which I suggest be transmitted to the Senate for its information in connection with consideration of Protocol II. Also enclosed is a copy of the statement which I propose be made an integral part of United States ratification of Protocol II.

I believe that ratification of Additional Protocol II to the Latin American Nuclear Free Zone Treaty would complement our other efforts to prevent the proliferation of nuclear weapons.

Respectfully submitted.

WILLIAM P. ROGERS.

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ADDITIONAL PROTOCOL II

The undersigned Plenipotentiaries, furnished with full powers by their respective Governments,

Convinced that the Treaty for the Prohibition of Nuclear Weapons in Latin America, negotiated and signed in accordance with the recommendations of the General Assembly of the United Nations in Resolution 1911 (XVIII) of 27 November 1963, represents an important step towards ensuring the non-proliferation of nuclear weapons.

Aware that the non-proliferation of nuclear weapons is not an end in itself but, rather, a means of achieving general and complete disarmament at a later stage, and

Desiring to contribute, so far as lies in their power, towards ending the armaments race, especially in the field of nuclear weapons, and towards promoting and strengthening a world at peace, based on mutual respect and sovereign equality of States,

Have agreed as follows:

Article 1. The statute of denuclearization of Latin America in respect of warlike pur-

poses, as defined, delimited and set forth in the Treaty for the Prohibition of Nuclear Weapons in Latin America of which this instrument is an annex, shall be fully respected by the Parties to this Protocol in all its express aims and provisions.

Article 2. The Governments represented by the undersigned Plenipotentiaries undertake, therefore, not to contribute in any way to the performance of acts involving a violation of the obligations of article 1 of the Treaty in the territories to which the Treaty applies in accordance with article 4 thereof.

Article 3. The Governments represented by the undersigned Plenipotentiaries also undertake not to use or threaten to use nuclear weapons against the Contracting Parties of the Treaty for the Prohibition of Nuclear Weapons in Latin America.

Article 4. The duration of this Protocol shall be the same as that of the Treaty for the Prohibition of Nuclear Weapons in Latin America of which this Protocol is an annex, and the definitions of territory and nuclear weapons set forth in articles 3 and 5 of the Treaty shall be applicable to this Protocol, as well as the provisions regarding ratification, reservations, denunciation, authentic texts and registration contained in articles 26, 27, 30 and 31 of the Treaty.

Article 5. This Protocol shall enter into force, for the States which have ratified it, on the date of the deposit of their respective instruments of ratification.

In witness whereof, the undersigned Plenipotentiaries, having deposited their full powers, found to be in good and due form, hereby sign this Additional Protocol on behalf of their respective Governments.

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PROPOSED STATEMENT ON RATIFICATION BY THE UNITED STATES OF AMERICA OF ADDITIONAL PROTOCOL II TO THE TREATY FOR THE PROHIBITION OF NUCLEAR WEAPONS IN LATIN AMERICA

I

The United States understands that the Treaty and its Protocols have no effect upon the international status of territorial claims.

The United States takes note of the Preparatory Commission's interpretation of the Treaty, as set forth in the Final Act, that, governed by the principles and rules of international law, each of the Contracting Parties retains exclusive power and legal competence, unaffected by the terms of the Treaty, to grant or deny non-Contracting Parties transit and transport privileges.

As regards the undertaking in Article 3 of Protocol II not to use or threaten to use nuclear weapons against the Contracting Parties, the United States would have to consider than an armed attack by a Contracting Party, in which it was assisted by a nuclear-weapon state, would be incompatible with the Contracting Party's corresponding obligations under Article 1 of the Treaty.

II

The United States wishes to point out again the fact that the technology of making nuclear exposive devices for peaceful purposes is indistinguishable from the technology of making nuclear weapons and the fact that nuclear weapons and nuclear explosive devices for peaceful purposes are both capable of releasing nuclear energy in an uncontrolled manner and have the common group of characteristics of large amounts of energy generated instantaneously from a compact source. Therefore we understand the definition contained in Article 5 of the Treaty as necessarily encompassing all nuclear explosive devices. It is our understanding that Articles 1 and 5 restrict accordingly the activities of the Contracting Parties under paragraph 1 of Article 18.

The United States further notes that paragraph 4 of Article 18 of the Treaty permits, and that United States adherence to Protocol II will not prevent, collaboration by the United States with Contracting Parties for the purpose of carrying out explosions of nuclear devices for peaceful purposes in a manner consistent with our policy of not contributing to the proliferation of nuclear weapons capabilities. In this connection, the United States calls attention to Article V of the Nuclear Non-Proliferation Treaty, under which it joined in an undertaking to take appropriate measures to ensure that potential benefits of peaceful applications of nuclear explosions would be made available to non-nuclear-weapon states party to that treaty, and reaffirms its willingness to extend such undertaking, on the same basis, to states precluded by the present treaty from manufacturing or acquiring any nuclear explosive device.

III

The United States also wishes to state that, although not required by Protocol II, it will act with respect to such territories of Protocol I adherents as are within the geographical area defined in paragraph 2 of Article 4 of the Treaty in the same manner as Protocol II requires it to act with respect to the territories of Contracting Parties.

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ADDITIONAL PROTOCOL II TO THE LATIN AMERICAN NUCLEAR FREE ZONE TREATY

Mr. Fulbright, from the Committee on Foreign Relations, submitted the following report (To accompany Ex. H., 91st Cong., second sess.).

The Committee on Foreign Relations, to which was referred the Additional Protocol II to the Treaty for the Prohibition of Nuclear Weapons in Latin America, signed at Mexico City on April 1, 1968, having considered the same, reports favorably thereon with understandings and declarations and recommends that the Senate give its advice and consent to ratification thereof with the understandings and declarations in the resolution of ratification which is printed at the conclusion of this report.

BACKGROUND

This protocol and the treaty to which it pertains, the Treaty for the Prohibition of Nuclear Weapons in Latin America (described briefly in the last paragraph of this section), are the result of the work of the "Preparatory Commission for the Denuclearization of Latin America" which met in Mexico City between March, 1965 and February, 1967. The United States was not a member of the Commission but sent observers to all but one of its sessions. On February 14, 1967 the treaty and its two protocols were opened for signature. The United States signed Additional Protocol II with an accompanying statement on April 1, 1968, at Mexico City. (The United States has not signed and does not presently plan to sign Protocol I.) More than two years later, on August 13, 1970, it was submitted to the Senate for advice and consent to ratification.

According to the executive branch, the delay in signature and submission of the protocol to the Senate was occasioned by a desire to see whether the treaty would be "widely accepted by the parties" and by a desire to test the United States interpretation of the treaty and the protocol in actual practice with the parties over an extended period. An initial hearing on the protocol was held by the Committee on September 22, 1970, and a second, and final, hearing on February 23, 1971.

PURPOSE

Protocol II was designed expressly for signature by states possessing nuclear weapons and wishing to associate themselves with the objectives of the treaty. By adhering to this protocol the United States commits itself, subject to its clarifying interpretations, to respect the aims and provisions of the treaty, not to contribute to its violation, and not to use or threaten to use nuclear weapons against the Latin American states for which the treaty is in force.

The treaty itself, which only Latin American nations may sign, commits the contracting parties to use nuclear materials and facilities under their jurisdiction only for peaceful purposes. It prohibits contracting parties from producing, testing, or possessing nuclear weapons in their territories. In addition it forbids the receipt, deployment or installation of any nuclear weapons in the territories of the parties. Compliance with the treaty is to be assured through the International Atomic Energy Agency safeguards system and by special inspections conducted by the "Agency for the Prohibition of Nuclear Weapons in Latin America," an international body established under the provisions of the treaty.

*Main provisions of protocol*

Articles 1 and 2 of Additional Protocol II obligate the United States to respect the express aims and provisions of the treaty, and not to contribute in any way to the performance of acts involving a violation of the obligations of Article I of the treaty in the territories to which the treaty applies in accordance with Article 4 thereof.

Article 3 contains an undertaking "not to use or threaten to use nuclear weapons against the Contracting Parties of the Treaty." The treaty defines contracting parties as "those for whom the Treaty is in force" and thus the term does not include parties to either of the protocols.

Article 4 of the protocol incorporates a number of the provisions of the treaty by reference. It provides that the duration of the protocol shall be the same as that of the treaty, and that the provisions of Article 30 on denunciation shall be applicable to the protocol. Article 30 of the treaty provides that it may be denounced "if, in the opinion of the denouncing state, there have arisen or may arise circumstances connected with the content of this Treaty or of the annexed Additional Protocols I and II which affect its supreme interests or the peace and security of one or more Contracting Parties," and goes on to provide that denunciation shall take effect 3 months after notification. Article 4 of the protocol also provides that the definitions of "territory" and "nuclear weapons" as set forth in Articles 3 and 5 of the treaty shall be applicable to this protocol. In addition, Article 4 of the protocol states that the "provisions regarding ratification, reservations, * * * authentic texts and registration contained in * * * the treaty" should be applicable to the protocol.

Article 5 of Protocol II provides that the protocol shall enter into force for each adherent on the date it deposits its instrument of ratification.

UNDERSTANDINGS AND DECLARATIONS

In his letter of transmittal the President requested that the Senate give its advice and consent to ratification, subject to certain understanding set forth in a statement accompanying the report of the Secretary of State. This statement was similar to that which accompanied the United States signature of the protocol but contained revised language reflecting the entry in force of the Nuclear Non-Proliferation Treaty which occurred subsequent to U.S. signature of the protocol. In the course of the Committee's hearings executive branch witnesses proposed another modification of the statement to present a more explicit formulation of the U.S. understanding of the basis for territorial claims. The principal provisions of the revised statement, which is incorporated in the form of a declaration in the resolution of advice and consent, are as follows:

(1) U.S. ratification cannot be construed as an acceptance by the United States of the unilaterally asserted territorial boundary claims of the parties to the treaty (e.g., territorial seas).

(2) U.S. military transit and transport privileges will not be affected by ratification.

(3) The pledge not to use nuclear weapons against a contracting party would not prohibit a U.S. nuclear response in the event of an armed attack by a party with the assistance of a nuclear weapon state.

(4) Contracting parties are prohibited from acquiring nuclear explosives for peaceful purposes, but the United States could carry out nuclear explosions for peaceful purposes on their behalf and reaffirms its willingness to do so on the same terms as under the Nuclear Non-Proliferation Treaty.

(5) The United States will act with respect to Latin American territories of Protocol I adherents just as Protocol II would require us to act with regard to contracting parties.

COMMITTEE ACTION AND RECOMMENDATIONS

The Committee on Foreign Relations held public hearings on the protocol on September 22, 1970. At that time testimony was heard from Mr. Charles A. Meyers, Assistant Secretary of State for Inter-American Affairs, Mr. James F. Leonard, Assistant Director, U.S. Arms Control and Disarmament Agency, Mr. Charles Van Doren, Deputy General Counsel, U.S. Arms Control and Disarmament Agency, and Rear Admiral William E. Lemos, Director, Policy Plans, Office of the Assistant Secretary of Defense. Completion of the hearings was then delayed pending the appearance before the Committee of Admiral Thomas E. Moorer, Chairman of the Joint Chiefs of Staff. On February 23, 1971, Admiral Moorer testified in support of the protocol. The record of these two hearings has been published as a separate document for the information of the Senate. On March 30, 1971, the Committee, by a vote of 13–0, ordered the protocol reported favorably to the Senate subject to the understanding discussed above. Those members voting in the affirmative were Senators Fulbright, Sparkman, Church, Symington, Pell, McGee, Muskie, Spong, Aiken, Cooper, Javits, Scott, and Pearson.

The Committee is not aware of any opposition to the protocol.

TEXT OF RESOLUTION OF RATIFICATION

*Resolved, (two-thirds of the Senators present concurring therein)*, That the Senate advise and consent to the ratification of Additional Protocol II to the Treaty for the Prohibition of Nuclear Weapons in Latin America, signed at Mexico City on April 1, 1968 (Ex. H, 91–2), with the following understandings and declarations:

I

That the United States Government understands the reference in Article 3 of the treaty to "its own legislation" to relate only to such legislation as is compatible with the rules of international law and as involves an exercise of sovereignty consistent with those rules, and accordingly that ratification of Additional Protocol II by the United States Government could not be regarded as implying recognition, for the purpose of this treaty and its protocols, or any other purpose, of any legislation which did not, in the view of the United States, comply with the relevant rules of international law.

That the United States Government takes note of the Preparatory Commission's interpretation of the treaty, as set forth in the Final Act, that, governed by the principles and rules of international law, each of the contracting parties retains exclusive power and legal competence, unaffected by the terms of the treaty, to grant or deny non-contracting parties transit and transport privileges.

That as regards the undertaking in Article 3 of Protocol II not to use or threaten to use nuclear weapons against the Contracting Parties, the United States Government would have to consider that an armed attack by a Contracting Party, in which it was assisted by a nuclear-weapon state, would be incompatible with the Contracting Party's corresponding obligations under Article 1 of the treaty.

II

That the United States Government considers that the technology of making nuclear explosive devices for peaceful purposes is indistinguishable from the technology of making nuclear weapons, and that nuclear weapons and nuclear explosive devices for peaceful purposes are both capable of releasing nuclear energy in an uncontrolled manner and have the common group of characteristics of large amounts of energy generated instantaneously from a compact source. Therefore the United States Government understands the definition contained in Article 5 of the treaty as necessarily encompassing all nuclear explosive devices. It is also understood that Articles 1 and 5 restrict accordingly the activities of the contracting parties under paragraph 1 of Article 18.

That the United States Government understands that paragraph 4 of Article 18 of the treaty permits, and that United States adherence to Protocol II will not prevent, collaboration by the United States with contracting parties for the purpose of carrying out explosions of nuclear devices for peaceful purposes in a manner consistent with a policy of not contributing to the proliferation of nuclear weapons capabilities. In this connection, the United States Government notes Article V of the Treaty on the Non-Proliferation of Nuclear Weapons, under which it joined in an undertaking to take appropriate measures to ensure that potential benefits of peaceful applications of nuclear explosions would be made available to non-nuclear-weapon states party to that treaty, and reaffirms its willingness to extend such undertaking, on the same basis, to states precluded by the present treaty from manufacturing or acquiring any nuclear explosive device.

III

That the United States Government also declares that, although not required by Protocol II, it will act with respect to such territories of Protocol I adherents as are within the geographical area defined in paragraph 2 of Article 4 of the treaty in the same manner as Protocol II requires it to act with respect to the territories of contracting parties.

Mr. HELMS. Mr. President, I reserve the remainder of my time.

Mr. CHURCH addressed the Chair.

The PRESIDING OFFICER (Mr. HODGES). The Senator from Idaho (Mr. CHURCH).

Mr. CHURCH. Mr. President, this amendment addresses itself to a problem which does not exist.

Every treaty of this character needs implementing agreements between the parties. The implementing agreement entered into by the United States and the Republic of Panama which backs up the Panama Canal Treaty takes the form of an executive agreement, the full text of which already has been provided to the Senate and is public information.

Article IV of this executive agreement implementing the Panama Canal Treaty deals with American use of defense sites in Panama during the life of the treaty. Section 6 of article IV of the executive agreement reads as follows:

Since the Republic of Panama is a signatory to the Latin American denuclearization treaty the United States shall emplace no type of nuclear armament on Panamanian territory.

In the first place, Mr. President, it should be pointed out that our existing national policy is against the emplacement of nuclear weapons on Panamanian territory. The United States desires to do all it can to support the Latin American denuclearization treaty. It is manifestly in the U.S. national interest to support a treaty whereby other countries in this hemisphere agree to refrain from building or emplacing nuclear weapons on their territory.

Do we want this hemisphere filled with nuclear weapons harbored in every Latin American country? Obviously not.

For this reason, we have sought to do all we can not only to discourage Latin American governments from building lethal nuclear arsenals of their own, but also to discourage them from permitting any other nuclear power from emplacing nuclear weapons in their territory.

Are our memories so short that we already have forgotten the crisis that brought us to the brink of nuclear war when the Soviet Union placed nuclear weapons in Cuba?

So this provision merely reiterates existing national policy. As we do not wish Latin countries either to manufacture nuclear weapons or to permit other countries to emplace nuclear weapons in their territory, so we have refrained from emplacing American nuclear weapons in any part of Panama's territory.

That is one thing. I do not know who could argue with that proposition.

But that has nothing whatever to do with our right to move nuclear weapons through the canal. The provisions of the Neutrality Treaty, already ratified by the Senate, explicitly state the following, and I read from article VI, section 1, of the Neutrality Treaty:

In recognition of the important contributions of the United States of America and of the Republic of Panama to the construction, operation, maintenance, and protection and defense of the Canal, vessels of war and auxiliary vessels of those nations shall, notwithstanding any other provisions of this Treaty, be entitled to transit the Canal irrespective of their internal operation, means of propulsion, origin, destination, armament or cargo carried. Such vessels of war and auxiliary vessels will be entitled to transit the Canal expeditiously.

So this is an amendment without a reason. How could language possibly make it clearer? We retain the right to send nuclear-powered naval vessels and auxiliary ships or conventional powered naval vessels and auxiliary ships which may carry nuclear weapons through the canal. The treaty guarantees us that right.

Therefore, the amendment offered by the distinguished Senator from North Carolina is needless. Its only possible purpose would be to force some change in the text of the treaty which, in turn, could place the treaty in jeopardy, either by making it necessary to return again to the negotiating table or by necessitating another plebiscite in Panama.

So, Mr. President, no case has been made for this amendment to the treaty. There is no need for it. The adoption of the amendment could only have a mischievous effect upon the treaty itself, while the right of the United States to

transit nuclear-powered vessels or vessels contining nuclear armaments through the canal is expressly preserved in the text of the Neutrality Treaty already approved by the Senate.

Furthermore, by agreeing in this enabling legislation not to emplace nuclear weapons in Panama, the United States is simply carrying out an existing policy which manifestly serves the interests of protecting the lives of the people of the United States and, indeed, the survival of this Republic by helping to prevent the Western Hemisphere from becoming one gigantic arsenal of nuclear weapons.

For all of these reasons I hope that the Senate will resoundingly reject the amendment offered by the Senator from North Carolina.

Mr. President, I reserve the remainder of my time.

Mr. HELMS. Mr. President, will the Chair state the time situation, please?

The PRESIDING OFFICER (Mr. McGOVERN). The Senator from North Carolina has 9 minutes remaining; the Senator from Idaho has 10 minutes.

Mr. HELMS. Mr. President, I do not propose to use much of the remaining 9 minutes, and I will then be perfectly willing to yield back the remainder of my time when the able Senator from Idaho has made his further remarks, if any.

I would just point out the Senator is arguing against his own position in 1971. He saw the need in 1971 to reserve our rights of transit, as did the President of the United States, and the Secretary of State and, indeed, the then chairman of the Committee on Foreign Relations of that day, the distinguished Senator from Arkansas, Mr. Fulbright. Why should we foreclose that option today by a gratuitous paragraph in the implementation agreement?

We are talking about something very vital here. We are not talking about proliferation of nuclear weapons. I am sure the Senator from Idaho knows better than that. Nobody proposes that. The United States will continue to have control of any weapons we may wish to have in Panama. But regardless of any rhetoric against this amendment, the Senator from North Carolina contends it is absolutely essential if we are serious about protecting our rights and defending the Panama Canal—a responsibility we will be accepting until the year 2000 under the terms of this treaty; so I must reject most respectfully, but most emphatically, the contentions of the Senator from Idaho. If he will read his own position of 1971 he is bound to acknowledge that the Senator from North Carolina is correct. He thought we should reserve the right to have nuclear weapons in transit through nonnuclear territory in 1971; the Senator from North Carolina sees no reason why we should not reserve that right today.

Mr. CHURCH. Mr. President, nothing I have said today in any way contradicts any position I took in 1971, notwithstanding the assertions of the Senator from North Carolina to the contrary.

At that time the U.S. Senate was considering a treaty whereby the countries of Latin America agreed not to permit the emplacement of nuclear weapons on their territory. This was an objective devoutly sought by the United States.

The understanding of the Senate, which was attached to the instrument of ratification, merely made it clear that the provisions of the treaty did not in any way prohibit the United States from moving nuclear weapons through Panama or through any other country signing the treaty. Simply, we could move nuclear-powered vessels of the U.S. Navy or other vessels which might contain nuclear weapons through the Panama Canal.

Well, as I previously pointed out, the Neutrality Treaty that the Senate just recently ratified expressly gives the United States the right to move nuclear weapons or nuclear-powered vessels through the canal. So what is this amendment all about? There is nothing in it that the treaty does not already expressly provide.

Therefore, I can only conclude its objective is mischievous. I hope the Senate rejects it by an overwhelming vote.

Mr. President, I am now prepared to yield back the remainder of my time if the Senator from North Carolina will do likewise.

Mr. HELMS. Mr. President, I suggest the absence of a quorum, with the time equally divided or charged against me, either one.

Mr. CHURCH. If the Senator will withhold momentarily I withhold momentarily until the Senator from North Carolina decides whether he wishes to speak.

Mr. HELMS. I think we have discussed it adequately, Mr. President. I am prepared to yield back the remainder of my time.

Mr. CHURCH. I yield back the remainder of my time.

I move to table the amendment, and I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. CHURCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I ask for the yeas and nays on the motion to lay on the table.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment (UP No. 21) of the Senator from North Carolina (Mr. HELMS). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MELCHER (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from Michigan (Mr. RIEGLE). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Maine (Mr. MUSKIE), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

The result was announced—yeas 59, nays 32, as follows:

[Rollcall Vote No. 90 Exec.]

YEAS—59

| | | |
|---|---|---|
| Baker | Hatfield, | Metzenbaum |
| Bayh | Mark O. | Morgan |
| Bentsen | Hatfield, | Moynihan |
| Biden | Paul G. | Nelson |
| Bumpers | Hathaway | Pearson |
| Burdick | Hayakawa | Pell |
| Byrd, Robert C. | Heinz | Percy |
| Case | Hodges | Proxmire |
| Chafee | Huddleston | Randolph |
| Chiles | Humphrey | Ribicoff |
| Church | Inouye | Sarbanes |
| Clark | Jackson | Sparkman |
| Cranston | Javits | Stafford |
| Culver | Johnston | Stevenson |
| Danforth | Kennedy | Stone |
| Durkin | Leahy | Talmadge |
| Eagleton | Long | Wallop |
| Glenn | Magnuson | Weicker |
| Gravel | Matsunaga | Williams |
| Hart | McGovern | |
| Haskell | McIntyre | |

NAYS—32

| | | |
|---|---|---|
| Allen | Ford | Roth |
| Bellmon | Garn | Sasser |
| Brooke | Griffin | Schmitt |
| Byrd, | Hansen | Schweiker |
| Harry F., Jr. | Hatch | Scott |
| Cannon | Helms | Stennis |
| Curtis | Laxalt | Stevens |
| DeConcini | Lugar | Thurmond |
| Dole | McClure | Tower |
| Domenici | Nunn | Young |
| Eastland | Packwood | Zorinsky |

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Melcher, against

NOT VOTING—8

| | | |
|---|---|---|
| Abourezk | Goldwater | Muskie |
| Anderson | Hollings | Riegle |
| Bartlett | Mathias | |

So the motion to lay Mr. HELMS' UP amendment No. 21 on the table was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. SARBANES. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 23

Mr. CANNON. Mr. President, I call up my amendment No. 23 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes amendment numbered 23.

In the second sentence of paragraph 5 of Article III, strike out "ten million United States dollars ($10,000,000)" and insert in lieu thereof "five million United States dollars ($5,000,000)".

Mr. CANNON. Mr. President, I was privileged recently to chair the hearing in the Senate Armed Services Committee on the financial aspects of the proposed treaty. One of the aspects that struck me as being inequitable to the United States was the proposal to pay the Panamanians $10 million annually for services such as police and fire protection, street maintenance, lighting, cleaning, and garbage collection. What makes it inequitable is that the reimbursement is figured at U.S. pay scales rather than Panamanian rates which are less. In fact, it will cost the Panamanians, according to testimony that we received, less than $5 million a year for the first few years. So I have cut the assessment in half. I see no justification for paying more. A $5 million payment over expenses is unjustified.

I recognize that the treaty provides that every 3 years from the date that the treaty enters into force, the costs involved in furnishing said services shall be reexamined to determine whether adjustment of the annual payment should be made because of inflation and other relevant factors. This reexamination would eventually bring the cost in line with expenditures but would do nothing for the first 3 or more years after the treaty's ratification. This time period would witness the payment of a bonus of $15 million to Panama for no specific reason, under the treaty as it now reads.

In discussing this issue at the Armed Services hearing, the Comptroller General, Mr. Elmer Staats, said the Panama Canal Company estimated the cost to Panama would be $4.4 million. This is only one item of several excessive concessions. Much is made of the fact that it will come out of canal revenues and not U.S. appropriated funds. But these are dollars that in past years have been put back into canal maintenance and improvement or into the U.S. Treasury. So giving this amount to Panama will presumably increase U.S. financial support of canal operations and decrease input to the Treasury.

Apparently, some feel that the increased compensation is due Panama for indignities suffered and damage done to its sovereignty since 1903 and because its past annuities have been so small. If so, this view overlooks the fact that Panama will immediately receive about 65 percent of the land and water areas now comprising the Canal Zone and will later receive the canal itself and the entire physical plant it contains. Further, during the 22 years when increased compensation will be received, Panama will continue to enjoy the input to its economy of the millions of dollars flowing from the U.S. presence. In fact, Panama has profited outstandingly from the U.S. effort in the Canal Zone over the years, so anything suggestive of reparations is unwarranted. In my view, the United States is being very generous by turning over the Canal Zone initially and the entire canal later in the year 2000. I do believe we are too conciliatory at the negotiating table.

I think it might help to put the issue into focus by reviewing the other monetary considerations. Panama will receive 30 cens per ton transiting the canal; also, a fixed sum of $10 million per annum and an additional $10 million per year if canal traffic revenue permits. In addition, the U.S. pledges to arrange for an economic program of loans under existing statutory programs: up to $200 million in Export-Import Bank credits; up to $75 million in AID housing guarantees; and $200 million in Overseas Private Investment Corporation loan guarantees. This totals over $800 million. Also, Panama will receive up to $50 million in foreign military sales credits over a period of 10 years to assist in the canal's defense. The current annual payments by the United States to Panama is $2.3 million.

Now to discuss specifics.

General Parfitt, Governor of the Panama Canal Zone, warned that the canal operation may not be self-sustaining after 1984 under the terms of the treaties being considered. He said, in answer to questions from committee members, that the United States would be obliged to turn over the canal to Panama in the year 2000 free of liens and debts.

If there are outstanding debts, the U.S. Government will have to pay them when the canal passes into Panama's hands. The Governor said that after 1984, canal revenue probably will not support the operation of the canal or meet the U.S. obligation to pay Panama large sums of money from toll revenues.

In his estimation, this means there is a high probability that the United States will have to make up the differences between 1984 and 2000 from appropriated funds. And since the treaties require that the canal pass to Panama debt free, his testimony means that the United States would have to write off the millions of dollars owed to it by the Panama Canal Commission.

Accordingly, I feel the time to practice economy is now. Let us pay our fair share but not one cent more. Agreeing to a $5 million overpayment will not enhance our relations with Panama.

Mr. President, I refer the Members to the hearings before the Committee on Armed Services on page 331, where Senator THURMOND questioned General Parfitt concerning this payment by the Panama Canal Commission. The general stated as follows:

Governor PARFITT. That is intended to pay Panama for services provided in the canal operating area and in the coordinated housing areas. The specific services involved are police protection, fire protection, road and street maintenance, street lighting, garbage collection, traffic management, and street cleaning. These are essentially the services that are to be provided.

Senator THURMOND. Now what will be the actual payments to the public service workers?

Governor PARFITT. You mean what will Panama actually pay?

Senator THURMOND. Is it less than $10 million, the actual payments to the public service workers?

Governor PARFITT. We tried to——

Senator THURMOND. Panamanians don't make as much as U.S. employees in Panama so as not to disrupt their economic system.

Governor PARFITT. We tried to estimate what it would cost us in fiscal year 1979 to perform the services and we estimated about $10 million. We tried to estimate what the cost to Panama would be for similar services, and it is slightly less than half of that, primarily because of the rates they pay to their employees, particularly in the field of police protection, which is the biggest cost differential.

Again, Mr. President, Mr. Staats, who was requested on behalf of the Senate to review this matter with respect to costs, stated as follows:

Article III, Section 5 of the treaty provides that the Commission would pay the Republic of Panama $10 million a year for the costs involved in providing the following public services in the Canal operating and housing areas: police; fire protection; street maintenance, lighting and cleaning; traffic management and garbage collection.

The Panama Canal Company has estimated that it would cost the Republic of Panama about $4.4 million to provide the specified public services. If the Commission continued to provide these services, its estimated costs would be approximately $9.9 million. The difference is attributed to a lower cost of police services, if provided by Panama.

Mr. President, the treaty also provides that the costs involved in furnishing the services shall be re-examined after the first 3 years of the treaty and thereafter, the payment should be based on Panama's actual costs.

It is my contention, Mr. President, that that cost ought to be based on what it costs Panama the first 3 years, as well as the period after the first 3 years. That is precisely what this amendment would do.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Chair advises the Senator from Nevada that there is no time limit on this amendment.

The Senator from Idaho is recognized.

Mr. CHURCH. Mr. President, this is a matter about which reasonable men and women might differ. I think that the distinguished Senator from Nevada has made a good argument, based upon testimony taken in the Armed Services Committee. On the other hand, I think an equally good argument can be made for the $10 million figure.

The able Senator from Nevada gave us an accurate account of the oral testimony received by the Armed Services Committee on this question. Later, however, a series of written questions were propounded in an effort to get more detailed figures. One of those written questions, which appears at page 365 of the Committee on Armed Services hearings and to which the able Senator referred, reads as follows:

What is the estimated cost to the Panamanian government of providing the services designated in Article III, paragraph 5, for which the U.S. is to pay the annual fee of $10 million? As compared with Panama Canal Company cost?

In the first place, these costs are presently paid by the Panama Canal Company, an instrumentality of the United States. It is costing us approximately $10.2 million a year to provide services

which, under the terms of the treaty, the Government of Panama will assume and provide to the United States at a cost of $10 million a year.

So on the face of it, quite apart from the argument presented by the able Senator from Nevada, there is a modest saving to the United States. The terms of the treaty contemplate only a $10 million annual payment to Panama for the first 3 years. In other words, over that 3-year period we would be paying $600,000 less to the Government of Panama than it would cost us to provide the same services, based on our present costs.

Second, in response to this written question, let me read the following footnote:

[2] We expect that cost to Panama of public services will be something less than those paid by the Canal Zone Government and Panama Canal Company for the same services. This is primarily because labor costs in the Republic of Panama are less than those of the Canal Zone.

This is a fact that has been alluded to by the able Senator from Nevada. However, the footnote continues:

Other requirements such as maintenance, overhead and capital may be more expensive for Panama. Art. III of the treaty provides that the payment for these services will be readjusted for inflation and other relevant factors which, we would expect, would reflect the actual cost of services provided by Panama.

So I think it fair to say that although certain costs will be less, other costs may be more when the services are furnished by the Government of Panama.

Having said that, let me add that when I visited Panama with other members of the Foreign Relations Committee, I discussed with General Torrijos the special concern that many American citizens living in the zone and working for the Panama Canal Company expressed to me. What would happen when the Panamanian Government took over the policing of the zone and police protection was no longer afforded them by Americans?

I could understand that this would be a very sensitive matter and so I pursued it in my discussions with General Torrijos.

He said that he was aware of the sensitivities associated with transferring police jurisdiction from the United States to Panama as a part of restoring Panamanian jurisdiction over the zone. He emphasized that in order to make that transition as easy as possible he was going to insist upon special training for police officers hired by the Panamanian Government to work within the zone. That special training among other things would consist of language training in English and other courses to fully acquaint the police officers with the special conditions of life within the zone so that this transfer of authority would occasion a minimum of friction.

Mr. President, all of this will entail extra costs.

The startup costs for the Panamanian Government have not been considered in the argument presented by the Senator from Nevada. This is still another reason why I think it would be unwise to cut back the $10 million figure to $5 million.

With typical fairness, the Senator from Nevada acknowledged that after 3 years we will have sufficient experience to know what the actual costs are to the Panamanian Government to furnish these services. Then the treaty provides that adjustments will be made to reflect those actual costs, so no permanent subsidy will be written into this provision of the treaty.

All factors taken into account, it seems to me that the $10 million figure is not excessive. Some allowance must be made for the additional costs entailed in the start-up of these services and the special consideration that must be given to the adequate training of personnel by the Panamanian Government to avoid the human relations problems that might otherwise occur.

I think that the $10 million figure, therefore, serves the best interests of the Americans living in the Panama Canal Zone, is a reasonable figure given the circumstances, and that, in any case, it will be reviewed at the end of the 3-year period.

For these reasons, I think that it would be unwise to adopt the amendment offered by the Senator from Nevada, even though he has presented a perfectly good argument in support of it.

When we balance the arguments in favor against those opposed, it seems that the scales weight in favor of making no change in the text of the treaty.

I hope, therefore, that the Senate will see fit to table this amendment.

Mr. President, I have no further argument to make. I would be happy to withhold my motion so that the Senator from Nevada may complete his argument.

Mr. CANNON. I thank the Senator.

Mr. President, I would like to refer again to General Staats' testimony, and he was asked to review this. As a matter of fact the Comptroller General has had the responsibility for reviewing the situation of the Panama Canal Company for years on behalf of the Congress and reporting thereon.

He has made a very comprehensive review. As a matter of fact, he makes a lot of suggestions that have not been carried out yet, because General Staats said:

We believe that the treaty implementing legislation is the key determinant of the financial viability of the proposed Panama Canal Commission. Although this legislative package has not been presented, we will discuss some of the issues which should be considered with this legislation.

Then he goes on to outline a number of questions that have been and should have been raised.

Further on in his testimony, on page 371, he states as follows:

The treaty also does not contain specific provisions concerning the quality * * * $10 million a year or require a determination of the actual costs incurred by the Republic of Panama. After 3 years the treaty appears to relate payments to costs.

"The costs involved in furnishing said services shall be reexamined to determine whether adjustment of the annual payment should be made because of inflation and other relevant factors affecting the cost of such services."

The Department of State has said that an annual $10 million is reasonable compensation to Panama for the first 3 years of the treaty; but that, thereafter, the payment should be based on Panama's actual costs. The treaty documents, however, are silent on how these costs are to be calculated.

I point out, furthermore, that I do not believe that it is clear in the treaty that the costs would go back to the actual costs at the end of the 3-year period.

I read, accordingly, from article III, subparagraph 5:

The Panama Canal Commission shall pay the Republic of Panama the sum of 10 million United States dollars per annum for the foregoing services.

They say "per annum."

It is agreed that every 3 years from the date this treaty enters into force, the costs involved in furnishing such services shall be reexamined to determine whether adjustment of the annual payment should be made because of inflation and other relevant factors affecting the cost of such services.

That indicates that the costs probably could only go up about the $10 million, because there is a commitment to pay the $10 million annually and only the obligation to review, to determine whether adjustment should be made because of inflation. Inflation normally does not take a reverse position. It is going to remain constant or increase.

So it appears to me that we are going to be obligated, without any change, for at least $10 million, unless we get it back to the actual cost of the operation from the beginning.

Therefore, I hope the Senate will support this amendment. I think it would eliminate any possible misunderstanding later on; and we are likely to have all the factors as to how much costs are to be verified, as stated by Attorney General Staats, particularly when he says:

The treaty is not clear as to whether payments for the first 3 years are a flat of services to be provided by Panama. The implementing agreement for Article III of the treaty, however, does provide for the establishment of a United States-Panamanian Coordinating Committee for consultation and coordination on matters concerning the housing areas. This committee could possibly serve as a forum for resolution of any problems concerning the quality of public services. We believe that to avoid misunderstanding it is essential to establish standards for these services before they are assumed by Panama.

I think it is also important that we determine at this time in the treaty that the payments are to be for the actual costs of the service and not for a windfall.

Mr. President, I hope the Senate will support the amendment.

Mr. CHURCH. Mr. President, I wish to correct a statement I made earlier. I believe I said that it presently costs the United States $10.2 million a year for these services. I misread the figure.

Mr. CANNON. The amount is $9.9 million.

Mr. CHURCH. Yes, $9.9 million.

The Senator from Hawaii says he recalls my having said that, but I believe I was mistaken.

The fact is that it presently costs the United States nearly $10 million to provide these services, with existing trained personnel and equipment on hand. It

seems to me, therefore, not unreasonable to assume that it may very well cost the Panamanian Government at least as much, given the startup costs, the training costs, and the other special costs associated with the commencement of these services for the first time.

In his argument, the Senator refers to the provisions of section 5 of article III of the treaty, relating to canal operation and management. He read from that section the following language:

The Panama Canal Commission shall pay the Republic of Panama the sum of 10 million United States dollars per annum for the foregoing services.

Those are as follows: fire protection, street maintenance, street lighting, street cleaning, traffic management, and garbage collection.

It is agreed that every 3 years from the date that this treaty enters into force, the costs involved in furnishing said services shall be reexamined to determine whether adjustment of the annual payment should be made because of inflation and other relevant factors affecting the cost of such services.

The distinguished Senator from Nevada has read that sentence to mean that the costs can only go up. I must say that has been our general experience with the cost of services. But that sentence does not simply say that adjustments will be made because of inflation. It says the adjustments will be made because of inflation and "other relevant factors affecting the cost."

One of those relevant factors, of course, would be the general wage level paid by the Panamanian Government. If, in this case, the general wage level paid by the Panamanians is sufficiently less than the wage level paid by the American company, it may be true that costs to the Panamanian Government will be less than the costs to our own company. Then the language clearly provides for a downward adjustment, as well as an upward adjustment.

That being so, Mr. President, and since we are starting off by paying the Panamanians roughly what it costs us to furnish the same services, I think the provision in the treaty is reasonable and should not be changed. For this reason, I move to lay this amendment on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. CULVER). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Nevada. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Maine (Mr. MUSKIE), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON), and the Senator from Michigan (Mr. RIEGLE) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT) is necessarily absent.

The result was announced—yeas 52, nays 42, as follows:

[Rollcall Vote No. 91 Exec.]

YEAS—52

| | | |
|---|---|---|
| Baker | Gravel | Matsunaga |
| Bayh | Hart | McGovern |
| Bellmon | Haskell | Melcher |
| Bentsen | Hatfield, | Metzenbaum |
| Biden | Mark O. | Morgan |
| Bumpers | Hathaway | Moynihan |
| Byrd, Robert C. | Hayakawa | Nelson |
| Case | Heinz | Pearson |
| Chafee | Hodges | Pell |
| Chiles | Huddleston | Percy |
| Church | Humphrey | Ribicoff |
| Clark | Inouye | Sarbanes |
| Cranston | Jackson | Sparkman |
| Culver | Javits | Stafford |
| Danforth | Kennedy | Stevenson |
| Durkin | Leahy | Weicker |
| Eagleton | Long | Williams |
| Glenn | Mathias | |

NAYS—42

| | | |
|---|---|---|
| Allen | Hansen | Roth |
| Brooke | Hatch | Sasser |
| Burdick | Hatfield, | Schmitt |
| Byrd, | Paul G. | Schweiker |
| Harry F., Jr. | Helms | Scott |
| Cannon | Johnston | Stennis |
| Curtis | Laxalt | Stevens |
| DeConcini | Lugar | Stone |
| Dole | Magnuson | Talmadge |
| Domenici | McClure | Thurmond |
| Eastland | McIntyre | Tower |
| Ford | Nunn | Wallop |
| Garn | Packwood | Young |
| Goldwater | Proxmire | Zorinsky |
| Griffin | Randolph | |

NOT VOTING—6

| | | |
|---|---|---|
| Abourezk | Bartlett | Muskie |
| Anderson | Hollings | Riegle |

So the motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to article IV?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order. The Senator will suspend until the Senate is in order. The Senator will kindly suspend until the Senate is in order.

Are there further amendments to article IV?

ARTICLE V—PRINCIPLE OF NONINTERVENTION

The clerk will report article V.

The second assistant legislative clerk proceeded to read article V.

Mr. CHURCH. Mr. President, I move that further reading of the article be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The article is as follows:

ARTICLE V

PRINCIPLE OF NONINTERVENTION

Employees of the Panama Canal Commission, their dependents and designated contractors of the Panama Canal Commission, who are nationals of the United States of America, shall respect the laws of the Republic of Panama and shall abstain from any activity incompatible with the spirit of this Treaty. Accordingly, they shall abstain from any political activity in the Republic of Panama as well as from any intervention in the internal affairs of the Republic of Panama. The United States of America shall take all measures within its authority to ensure that the provisions of this Article are fulfilled.

Mr. CHURCH. Mr. President, I understand it is possible to obtain a unanimous-consent agreement to the next amendment, and I defer to the Senator from Utah.

Mr. HATCH. Mr. President, I would be happy to agree——

The PRESIDING OFFICER. Will the Senator kindly suspend. The Senate is not in order.

Mr. HATCH. On my unprinted amendment I would be happy to stipulate to a 20-minute time agreement equally divided between both sides.

UNANIMOUS-CONSENT AGREEMENT ON HATCH AMENDMENT

Mr. CHURCH. Mr. President, I propose a unanimous-consent agreement that there be a 20-minute time limit on the amendment offered by the Senator from Utah, the time to be equally divided between the Senator from Utah, the proponent of the amendment, and myself.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 22

Mr. HATCH. Mr. President, I call up my unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 22:

At the end of the last sentence of Article V, add the following new paragraph:

"The Republic of Panama shall respect Freedom of Speech and Press, for both electronic and printed media, and shall abstain from any activity incompatible with the spirit of Freedom of Speech and Press. The Republic of Panama shall take all measures within its authority to ensure that the provisions of this Article are fulfilled.".

Mr. HATCH. Mr. President, the treaties now before us imply far more than the abandonment of an internationally vital waterway. For we are contracting an agreement, if it can be called that, considering the fact that neither party seems to be able to reach a consensus as to what the documents actually mean, with a government which seized power in Panama in 1968 and has yet to fulfill its 10-year promise to hold free elections.

The United States has been negotiating with a leader whose power rests upon his control of the Panamanian National Guard; a man who cannot afford to make any but the vaguest gestures toward restoring a semblance of the constitutional democracy he overthrew; a man whose promises of democratization, intended to placate Members of this body, have been nothing more than that—empty promises.

The amendment I am offering today addresses itself to a key element of this already amply documented issue of human rights violations in Panama, namely, freedom of the press. In a one-sided article (No. 5), which requires employees of the Panama Canal Commission to refrain from any activities that might be construed as interfering in

the internal affairs of Panama, my amendment simply seeks to require that Panama reciprocate respect for "the spirit of this treaty" by taking measures to insure the freedom of speech and press.

Since 1968, Mr. President, the Inter-American Press Association's annual report on freedom of the press in individual Western Hemisphere countries has found that in Panama "There is no freedom of the press." Although a modicum of press freedom was allowed long enough to give the appearance of authenticity to the plebiscite on the canal treaties, it is well established that both the press and radio are controlled in Panama by the Torrijos government. Media expressing independent views are faced with the prospects of censorship or confiscation, and prominent news personnel can receive harsh sanctions.

Five radio stations have been confiscated by the Government since the 1968 coup. Three of the country's five newspapers are under absolute Government control. The other two—La Estrella de Panama and the Star and Herald—are strictly self-censored by their editor, the Minister of Housing. In 1975, 111 Panamanians courageously signed a statement saying that without freedom of speech and assembly to discuss the canal treaty, the plebiscite on the pact "will be neither legitimate nor authentic." Since then, at least 15 of those who signed the statement have been expatriated, others have been incarcerated, and all of them have been slandered by the press and harassed by the Government. (See testimony of Mr. Winston Robles, Panamanian Committee for Human Rights, before a subcommittee of the Committee on Appropriations, House of Representatives, March 30, 1977.)

According to information compiled by the Panamanian Committee for Human Rights, General Torrijos has, on two different occasions, promised to rescind law 343 which contains the restrictions imposed on the Panamanian press. The committee reports that "on December 20, 1977, the Panama newspaper La Republica published the text of the proposed new law which would rescind Law 343. The draft of the new law addresses itself to the regulation of insult and slander" and "makes these acts criminal offenses," setting a range of prison terms and fines, and increasing the penalties if the slandered person is a public official. The committee additionally reports that the foreign press is also liable under the proposed new law, a law which apparently was drafted in response to the demands that freedom of press be restored. How can such a response, Mr. President, possibly be construed as an indication that General Torrijos is following through on his promises to lift the restrictions that govern his country's press? What evidence, Mr. President, does this body have which in any way supports the claims General Torrijos has made to Senators visiting in Panama that he will be taking steps to correct what remains a deplorable human rights situation?

The Panamanian Committee for Human Rights' analysis of the unfulfilled promises made by Torrijos was circulated by my distinguished colleague from Florida, Senator STONE. In his cover letter, Senator STONE states, "We have a priceless opportunity, while the ratification debates continue, to gain progress for human rights in Panama," and goes on to suggest that every Member of the Senate write to General Torrijos asking him to implement the promises he has made regarding those human rights. I agree with my distinguished colleague. The Senate does, at this very moment, have a priceless opportunity to gain progress for human rights in Panama. But I ask my friend from Florida, and I ask every Member of this body, does not the opportunity to amend the treaty itself constitute a far more concrete way to begin to correct the human rights situation in Panama? Writing letters is important, Mr. President, but would it not be far more effective to incorporate amendments which substantiate Torrijos' promise to restore the freedoms that are now denied every Panamanian? A reluctance to incorporate such amendments suggests to me that General Torrijos' promises were nothing more than a ploy to convince Senators to vote for these treaties, and that the Senate's desire to encourage reform in Panama is just as casual. My amendment specifically addresses itself to one facet of the human rights picture in Panama.

From the U.S. point of view, what will the absence of a free press in Panama mean to U.S. interests during the life of the treaty between now and the year 2000? Panama will be assuming responsibility for the maintenance and operation of an undeniably essential waterway, the continued use of which is of vital interest to all the nations of the world. It is crucial that the world community be kept informed of Panama's success in her greatly expanded role.

It is imperative that newsmen have full access to sources of information in the Canal Zone dealing with the implementation of the treaty. It is equally as important that the press be able to gather information relating directly to the implementation of the treaty without fear of reprisal from the Panamanian Government. These points can be guaranteed in only one way—through an agreement now between the United States and Panama that freedom of the press will be observed during the life of the treaty.

Such an amendment to the treaty now before the Senate is, granted, unusual. But the treaty itself is unusual, as it cedes a vital waterway and extremely valuable property to another country over the next 22 years. Unusually significant American and international interests are at stake. One way to determine if those interests are being protected, and the treaty's provisions honored, is to guarantee freedom of press in the Republic of Panama.

The treaty's provisions call for an intricate network of new relationships between the United States and Panama. The U.S. role in this new relationship is strictly governed by the terms of the treaty, but as can be seen in article 5, no demands are placed on Panama. The admonition to respect "the spirit of this treaty" is applied only to U.S. citizens. I would submit, Mr. President, that the observance of the spirit of the treaty applies to both of the contracting parties, and the adoption of this amendment would be a step toward restoring the mutuality of this agreement.

The language of the amendment reads as follows:

> The Republic of Panama shall respect Freedom of Speech and Press, for both electronic and printed media, and shall abstain from any activity incompatible with the spirit of Freedom of Speech and Press. The Republic of Panama shall take all measures within its authority to ensure that the provisions of this Articile are fulfilled.

The language is simple and straightforward, Mr. President. It contains no veiled intentions. Treaty proponents will probably claim that this amendment attempts to interfere with the internal affairs of Panama. I would suggest, however, that the internal affairs of Panama—that specter raised at every attempt to make this treaty a binding and meaningful document—cannot and must not be used as an excuse to exempt Panama from her expanded responsibilities with respect to the continued safe and efficient operation of the canal.

Events of recent days have revealed an increasing sensitivity on the part of Members of this body to criticism of the character of the Government in Panama. But how effective can these treaties be if promises regarding human rights made by the leader of that Government are conveniently forgotten? If the relationship between the United States and Panama is so tenuous as to forbid the guarantee of what can only be regarded as a fundamental freedom, then I have very little hope for the successful implementation of these agreements.

Mr. President I urge the adoption of this amendment, and ask unanimous consent that the annual reports of the Inter-American Press Association be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATCH. I reserve the remainder of my time.

EXHIBIT 1

ANNUAL REPORTS OF THE INTER-AMERICAN PRESS ASSOCIATION (IAPA)

(Omar Torrijos Seized Power on October 11, 1968)

1969

*Panama*

There is no freedom of the press.

The condition under which the Panamanian government operates privately owned newspapers remains unchanged.

Costa Rican newspapers are not allowed to circulate in Panama and several editions of U.S. newspapers have been censored and kept out of circulation in the recent past.

The newspaper El Mundo of Panamá City suspended publication and has stated that it was doing so because it was not willing to subject itself to censorship.

Sr. Altamirano Duque, member of the family that owns La Estrella, of Panamá City, has been incarcerated since Dec. 28.

Dr. Gilberto Arias, publisher of several of the newspapers owned by the Arias family, now operated by government appointed editors, is in exile, now living in Puerto Rico.

1970

There is no freedom of the press.

Following the completion of the XI Central American and Caribbean Games staged here in Panama, Gen. Omar Torrijos, Commander of the National Guard, held a press conference on March 14 for the benefit of those correspondents visiting here. At this conference he made it clear that press restrictions in Panama "had been eased." This statement is self-explanatory and reveals openly that press freedom is not yet a reality in the Republic of Panama.

Here is a resume of existing conditions regarding constitutional rights:

On Nov. 5, the Resolutionary Government Junta announced the restoration of constitutional guarantees which had been suspended since the ouster of the Arnulfo Arias regime on Oct. 11, 1968 in a military coup.

Formal announcement of the decree restoring civil liberties was made by the Minister of the Presidency Juan Materno Vasquez. This was done following the television and radio broadcast of the mid-week National Lottery drawing, held for the first time in the City of Colon. The occasion marked the last activity into week-long commemoration of Panama's Independence Day.

The Minister who hails from the Province of Colon, said the action had been approved at the cabinet meeting of Oct. 31. He listed as being restored the constitutional provisions: safeguarding freedom from arrest of search without warrant, the right of habeas corpus, freedom of movement and of speech and the right to injunction.

Also restored was the right of peaceful and unarmed assembly, except in the two major cities of Panama and Colon.

Simultaneously, the government issued two stringent decrees governing press freedom and subversion—Decrees 342 and 343.

The decree dealing with public order defines subversion as:

Inciting to violence against the government by spoken or written word, including cartoons;

Engaging in or causing disturbances or damage to property at public meetings;

Inciting or organizing labor, student or general strikes which hamper public security services or cause damage to public or private property.

Taking up arms, singly or in groups, to carry out guerrilla warfare, or manufacturing or exploding bombs or petards, or setting fire to property, or contracting mercenaries, or introducing firearms into the country, or financing or organizing guerrilla uprisings;

Insulting or offending government officials, ranging from night Judge to the President and including the chiefs and staff officers of the National Guard;

Propagating, either orally or in writing, false reports in or outside the country aimed at "destroying" the government or disturbing public order or national security;

Engaging in propaganda in behalf of doctrines advocating crime or violence to achieve political, economic or social reforms;

Punishment for subversion is imprisonment ranging from one month to 15 years; plus confiscation of any land, air or water craft used by the offender. In cases involving damage to property, payment of indemnity also will be part of the penalty. Foreigners are subject to immediate deportation after serving their sentence.

The press decree requires the registration of owners of publishing, radio and television companies. It stiffens punishment for libel and slander providing for imprisonment ranging from $500 to $5000 upon conviction.

The press decree stipulates that every newspaper must have a responsible party as editor, that he should not be protected by immunity, should be an adult Panamanian and that he should enjoy full civil and political rights.

Under the new press decree, sending of libelous and slanderous material to foreign newspapers, radio and television stations will be subject to prosecution here in Panama, if the newspaper circulates locally or the broadcast or telecast is heard in Panama.

The Decree forbids publication of false news, or confidential documents, of slanted headlines, or private activities of individuals that may cause him moral damage, of references to physical or moral defects or domestic problems of individuals, of court records involving cases under investigation, of stories involving minors under 18 years of age.

Punishment for violations of any of those provisions ranges from imprisonment of 3 to 6 months or a fine of from $50.00 to $500.00 or both.

The press decree provides that the authors, editors, managers and owners at printing plants, publications, radio and television stations all will be liable to prosecution for any of the violations spell out in the decree.

1971

There is no freedom of the press. Conditions have grown worse since our last meeting in Santo Domingo. There is no newspaper which deviates from governmental opinion, and the information media are dominated by the Government.

1972

There is no freedom of the press.

1973

There is no freedom of the press in Panama.

1974

There is no freedom of the press. Among the newspapers published there, there is none that deviates from the official political line.

Mr. Luis Teófilo Núnez of "El Universal," Caracas, recalled that the newspapers belonging to the Arias family are still confiscated and that some members of the family remain in exile.

1975

There is no freedom of the press.

High government officials have repeatedly stated in the press that in Panama there is freedom of expression. This has been done in order to disprove the claims made by various sectors of public opinion to the effort that Panama is in need of a climate of public and individual liberties which will permit the unbiased discussion of the problems which affect the country, and, particularly of those related to the negotiations carried out between Panama and the United States regarding the signing of a new treaty.

This new instrument would subrogate the treaty of 1903, and would eliminate once and for all the perennial grounds of conflict between Panama and the United States that have existed since the Hay-Bunau Varilla treaty was signed.

The Centro de Estudios Nacionales, under the impression that official statements on the existence of freedom of the press in Panama were to be taken literally, decided to publish La Opinión Pública, a weekly publication. To this effect, it previously notified, as required by legal provisions in force, not only the Ministry of Government and Justice but the Municipality of the district of Panama as well. Such notification was made on the special form prepared by the respective authorities for this purpose, which covers all data to be furnished to these authorities in accordance with applicable legislation.

The first edition of La Opinión Pública was sheduled to appear on March 7 of this year. However, on the eve of publication, Mr. Lorenzo Sánchez Galán, a high official of the Ministry of Government and Justice, called the offices of Editorial Verdad—printers engaged by the Centro de Estudios Nacionales to do the printing of the weekly—and without any explanation of his actions, except that he acted "on direct instructions of the Ministry of Government and Justice," confiscated all the material already prepared for publication of La Opinión Pública.

Following the confiscation, Dr. Tomás H. Herrera, D.M., appointed director of the weekly, was called to the Ministry and informed of Resolution # 099 of March 5, 1975, through which the Ministry cancelled publication of La Opinión Pública alleging, without any legal basis, that the Centro de Estudios Nacionales had failed to accredit its legal status. Dr. Herrera was not informed of this resolution until March 10, 1975.

The resolution does not provide for or mention the confiscation of the weekly's material, which leads one to believe that it was the only and most expeditious way—although illegal as well—to prevent publication of the weekly. The legal regulations which cover the required notification to be made to the authorities in the case of the publication of newspapers, do not contain any provision establishing accreditation of the legal status of an association as one of the requisites of that notification whenever such notification is made by a juridical person.

The only legal provision in existence, relating to prove the existence of such organization, is Art. 296 of the Commercial Code according to which, it is necessary to present proof of the existence of an asscciation, whenever the subject under discussion, in any business or controversy is the existence of the association per se. Regarding the scope of the aforementioned article in the sense referred to—the Third Chamber of Administrative and Contentious Matters of the Supreme Court has already rendered its decision—it is evident that a simple notification proceeding such as the one under discussion, is not a business and even less a controversy requiring accreditation of the legal status of the Centro de Estudios Nacionales.

On the other hand, aside from the fact that the pretext adduced in the resolution of the Ministry of Government and Justice, in order to stop publication of La Opinión Pública has no legal basis, neither does, that same measure, that is, the stopping of the publication have any legal basis as well. Even if at the time the publication notification was made, one of the requirements specified by the law was in effect lacking—which was not the case in this instance neither the measure adopted by the resolution in question, authorized by a legal provision. In such case the only thing the law calls for is the imposition of a fine on the persons responsible for the omission but not stoppage of publication. Neither is the confiscation of a publication's material authorized by legal provisions, because the owner of that publication, a juridical person, failed to accredit its existence before the Ministry of Government and Justice.

The director of La Opinión Pública has made use of the resources offered by our juridical system. Without affecting those recourses and in order to settle the matter, thus avoiding the alternative that once those recourses are exhausted publication of the daily be postponed indefinitely, a certificate has been requested from the Public Registry, accrediting the existence of the Center. However, there are indications that since that registry is an agency of the Ministry of Government and Justice, it will not issue the certificate, thus making it impossible to fulfill the requirements set forth in the resolution in question.

The tale does not end there. The Bureau of Commerce of the Ministry of Commerce and Industry, through resolution No. 13 of March 10, 1975, and at the request of the Under Secretary of Government and Justice, on March 7 cancelled the commercial license which permitted the operation of Editorial Verdad.

The request of the aforementioned Under

Secretary, according to the resolution of the Bureau of Commerce, is based on "the proven fact that that association has repeatedly published subversive material" (the underscoring is ours). An attorney who is a member of the Centro de Estudios Nacionales called at the Ministry of Commerce and industry accompanied by the legal representative of Editorial Verdad with the purpose of looking at the dossier relating to the resolution in question. They were able to find out that such a dossier does not exist, or rather, that it consists of only two pages. One: the official communication from the Under Secretary of Government and Justice requesting cancellation of Editorial Verdad's commercial license. Two: the resolution ordering such cancellation.

Everything seems to indicate, if the truth does not contradict that possibility, that a subversion proceeding has been instituted in the Ministry of Government and Justice against the aforementioned publishing firm, and that such proceeding has already culminated, without the interested parties being aware of it, in a condemnatory resolution, which is being carried out at the request of the Under Secretary of Government and Justice. In the light of these occurrences one cannot but reach the conclusion that the cancellation of the license of Editorial Verdad is a reprisal on the part of the government for having agreed to publish La Opinion Pública. Further, this reprisal can be considered an official warning to other publishing firms that then aware of the risks they run if they engage in similar activities.

It could be that, the Centro de Estudios Nacionales could tomorrow obtain the lifting of the restriction which prevents the publication of La Opinión Pública. However, it could hardly do this since it is extremely difficult that any publishing firm would run the risk of being shut down.

From the foregoing it is evident that the actions of the government as regards La Opinión Pública, contradict most eloquently the statements made by high officials of the national government to the effect that there is freedom of the press in Panama.

Last year, the daily Quibo was also arbitrarily closed by the National Guard of Panama, and his own, Ramón Jiménez, arrested by that body. Several weeks ago the government closed down a radio of Colón, managed by Mr. Navas. At present, Panamanian journalists who have not been "absorbed" by the government are fearful of publishing news which may embarrass the administration. However, even more fearful than the journalists, are the owners of social information media because if they should publish something that may be strong enough to be considered a criticism against the government, their publishing firms may be closed down.

In conclusion, if one is to judge from the fact that the government did not allow publication of the newspapers Quibo in January 1974 and of La Opinión Pública on March 7, and by the case of the radio station of Colón, it can easily be inferred that Panamá does not enjoy freedom of the press.

1976

(Williamsburg Conference)

There is no freedom of the press. Newspapers continue to operate under the direct or indirect control of the Government or under strict supervision.

There is no freedom of the press.

(Aruba Conference)

All the newspapers function under the direct control of the government or the strict supervision of the authorities.

A letter addressed by the directors of the Federation of the Chambers of Commerce of Central America to the President of Panama, Mr. Demetrio Lakas, was not published in any of the news media. The letter requested the government to repatriate seventeen businessmen and impresarios who were deported without explanation or just cause.

1977

(Cartagena Conference)

The situation of Panama's press has changed little in the last six months. Three of the five newspapers continue under absolute government control, published by "Editora Renovación S.A." The other two newspapers "La Estrella de Panamá" and "The Star and Herald", belonging to the Duque family, are subject to strict self-censorship by their editor, the Minister of Housing. The only change that has taken place in "Editora Renovación" is the disappearance of "El Panamá América" and "The Panamá American", which were replaced by a bilingual nwespaper "La República".

(Santo Domingo Conference)

Freedom of expression has not existed in Panama since 1968.

Expression of dissident opinions is considered a misdemeanor under decrees 342 and 343.

No independent publication has been permitted to be published. The newspapers "Quibo" in 1974 and "Opinión Pública" in 1975 were prohibited from publication even before the first edition reached the streets.

Since 1968, many journalists have been imprisoned and deported. A special mention should be made of the Leopoldo Aragon case, in which a Panamanian journalist was imprisoned and tortured for an entire year and then deported to Sweden. There he immolated himself a month ago as a protest against the violation of human rights in Panama and against the signing of the canal treaty.

Recently in Panama a certain degree of freedom of the press has been permitted, carefully given out in small doses, to give the appearance of authenticity to the plebescite on the Panama Canal treaties.

Mr. CHURCH. Mr. President, this is the kind of amendment that could only be offered in the Senate of the United States. It undertakes to prescribe for Panama the law that shall apply there with respect to freedom of speech and freedom of the press.

Mr. President, what would we think if the Republic of Panama sought to amend this treaty to prescribe that we in the United States must free the Wilmington 10? Or what would we think if Panama undertook to amend the treaty to insist that we ratify the equal rights amendment? Or what would we think if Panama required that the U.S. Senate approve the Genocide Treaty? And that treaty, incidentally, was first proposed by the United States and has since been approved by more than 80 other sovereign governments, while the Senate has refused even to reach a vote on consenting to that treaty.

Or what would we think if the Panamanians attached a condition that we first must conclude an agreement with the Soviet Union on nuclear arms control? Clearly the survival of the entire human race may depend upon progress in that field; and the human race, of course, includes the Panamanians as well as citizens of the United States.

Such proposals as those would be scoffed at and scorned in the U.S. Senate as an arrogant infringement of our right to govern ourselves.

Yet we seem to have no compunction whatever to impose our terms on other countries. How long can we live so blindly by the double standard? When do we begin to show some sensitivity toward the legitimate feelings of people who live in other lands?

Mr. President, I wish that the world had been made safe for democracy as a result of the First World War, but it was not.

I wish that most nations in the world were free and the people within them enjoying free speech and freedom of the press, the great blessings which we enjoy in this Republic. But the truth of the matter is that most people in most places most of the time, from the beginning of recorded history, have lived under some form of tryranny.

We have to live in the world as we find it because it is within our power neither to control the internal laws of other countries, nor to establish the system under which other people live. We have problems enough keeping America free without undertaking to prescribe the conditions of freedom for other nations.

Mr. HATCH. Will the Senator yield?

Mr. CHURCH. No, I will not yield at this time. If I have time when I have completed my remarks, I will yield.

Now let us suppose, Mr. President, that we were to take this amendment, which the Senator from Utah says we should impose upon the people of Panama, and apply it to other governments in the world with which we are closely allied.

Take Taiwan, for example. We have a formal defense treaty with Taiwan. Does anyone believe that freedom of speech and freedom of the press exist in Taiwan? Has anyone ever suggested that we impose that condition upon Taiwan as a quid pro quo in connection with the mutual security treaty we have with that country?

Take South Korea, which we are formally pledged to defend and in which we keep a substantial American Army. Is there anyone who would seriously contend that there is freedom of speech or freedom of the press in South Korea. Is there anyone who would seek to attach such a condition to the present American treaty with that country?

Take the Rio Pact in this hemisphere, if we want to come closer to home. Under the terms of the Rio Pact the United States has assumed a mutual defense obligation with all of the countries of Latin America. Is there freedom of speech and freedom of the press in Brazil, in Argentina, in Paraguay, in Chile? Is there freedom of the press and freedom of speech in Nicaragua, in El Salvador, in Honduras?

Would the Senator from Utah suggest that as a condition to our security arrangements with these countries we impose a requirement that they establish freedom of speech and freedom of the press as we know it in the United States?

Obviously, Mr. President, this is an impossible amendment. I wish that the world were a different place in which everyone could enjoy the freedoms we know in this country. But that is not the world we live in and we must deal with the world as we find it.

On that basis, Mr. President, I am prepared to move to table the amendment.

Mr. HATCH. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator from Utah has 3 minutes remaining.

Mr. HATCH. Mr. President, I yield 2 minutes to the distinguished Senator from Texas.

Mr. TOWER. I thank my distinguished friend from Utah.

The Senator from Idaho has raised some specific questions. What if the Panamanians were to impose certain conditions on the requirement for freedom, for example, the passage of the ERA, the conclusion of the SALT agreement? Then I think we should say to the Panamanians they can take the treaty and do with it what they will. In fact, we are in Panama by right. Not because we are being compelled to do so but out of the goodness of our hearts, we are surrendering the Panama Canal to them. I think under those circumstances we enjoy a peculiar right to impose certain conditions that we would not accept under other circumstances if, indeed, the treaty to be concluded were of no benefit to us but only to the benefit of the other party to the treaty.

We are not doing this to benefit the United States. We are not doing it even to benefit all of the major maritime nations of the world. We are doing it because we have some naive notion that we should feel some sense of guilt or self-recrimination over having liberated that country at one time and exacted a very small price of a Canal Zone through which we have operated a canal to their benefit and to the benefit of every maritime nation in the world. The notion that somehow this will automatically create a generation of good will in this hemisphere will not come to pass.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Utah has 1 minute remaining.

Mr. HATCH. Mr. President, I ask unanimous consent that there be an additional 2 minutes granted both sides.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Reserving the right to object, there are a number of us who are supposed to be at the White House at 5 o'clock.

Mr. HATCH. I will withdraw my request.

Mr. President, I never thought I would see the distinguished Senator from Idaho arguing that freedom of the press would be scoffed at in Panama or throughout the world, or that this would be such a terrible thing to ask of our Panamanian friends, especially since Mr. Torrijos promised it and said he would do it. What is wrong with freedom of the press? I could hardly believe it when the distinguished Senator from Idaho stood here and said that we would never interfere with any other nation, why were we doing it here? What about South Africa? What about Rhodesia? What about all over the world? What about the human rights policy of this administration, which is supposed to be so good?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CHURCH. Mr. President, how much time remains to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho has 6 minutes remaining.

Mr. CHURCH. Mr. President, these treaties are based upon principles of justice for both sides. So I have hopes that the approval of these treaties may lead to an era of better understanding and of friendlier relations between the United States and Panama. And if that is the case, we may see the growth of freedom in Panama again. Already there have been moves in this direction, which I applaud.

The suggestion that I might see something wrong with free speech or freedom of the press is simply too silly to warrant a response.

The only way that freedom will grow in Panama is through the efforts of Panamanians. There is no way we can confer freedom on them. That is something they must win for themselves If good relations between the United States and Panama exist between now and the end of the century, based upon a treaty that both sides regard as just, then the influence of the United States in the direction of greater freedom in Panama will be felt and will prove effective. The worst way for anyone seriously interested in advancing the cause of freedom in a foreign land is to impose that as a condition in this treaty, for it would have just the opposite effect.

I move to lay the amendment on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to lay the amendment on the table. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Kentucky (Mr. FORD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Louisiana (Mr. JOHNSTON), the Senator from New York (Mr. MOYNIHAN), the Senator from Maine (Mr. MUSKIE), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. RIEGLE), and the Senator from Minnesota (Mr. ANDERSON), would each vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT) is necessarily absent.

The result was announced—yeas 62, nays 29, as follows:

[Rollcall Vote No. 92 Exec.]

YEAS—62

| | | |
|---|---|---|
| Baker | Bentsen | Burdick |
| Bayh | Biden | Byrd, Harry F., Jr. |
| Bellmon | Bumpers | Byrd, Robert C. |
| Case | Culver | Hathaway |
| Chafee | Danforth | Hayakawa |
| Chiles | Durkin | Heinz |
| Church | Eagleton | Hodges |
| Clark | Glenn | Huddleston |
| Cranston | Goldwater | Humphrey |
| Culver | Gravel | Inouye |
| Danforth | Hart | Jackson |
| Durkin | Haskell | Javits |
| Eagleton | Hatfield, Mark O. | Kennedy |
| Glenn | Hatfield, Paul G. | Leahy |
| Goldwater | Hathaway | Long |
| Gravel | Hayakawa | Magnuson |
| Hart | Heinz | Mathias |
| Haskell | Hodges | Matsunaga |
| Hatfield, Mark O. | Huddleston | McGovern |
| Hatfield, Paul G. | Humphrey | McIntyre |
| Hathaway | Inouye | Metcher |
| Hayakawa | Jackson | Metzenbaum |
| Heinz | Javits | Morgan |
| Hodges | Kennedy | Nelson |
| Huddleston | Leahy | Nunn |
| Humphrey | Long | Packwood |
| Inouye | Magnuson | Pearson |
| Jackson | Mathias | Pell |
| Javits | Matsunaga | Percy |
| Kennedy | McGovern | Proxmire |
| Leahy | McIntyre | Ribicoff |
| Long | Metcher | Sarbanes |
| Magnuson | Metzenbaum | Sparkman |
| Mathias | Morgan | Stafford |
| Matsunaga | Nelson | Stevenson |
| McGovern | Nunn | Talmadge |
| McIntyre | Packwood | Wallop |
| Metcher | Pearson | Weicker |
| Metzenbaum | Pell | Williams |
| Morgan | Percy | |
| Nelson | Proxmire | |
| Nunn | Ribicoff | |
| Packwood | Sarbanes | |
| Pearson | Sparkman | |
| Pell | Stafford | |
| Percy | Stevenson | |
| Proxmire | Talmadge | |
| Ribicoff | Wallop | |
| Sarbanes | Weicker | |
| Sparkman | Williams | |
| Stafford | | |
| Stevenson | | |
| Talmadge | | |
| Wallop | | |
| Weicker | | |
| Williams | | |

NAYS—29

| | | |
|---|---|---|
| Allen | Hansen | Schweiker |
| Brooke | Hatch | Scott |
| Cannon | Helms | Stennis |
| Curtis | Laxalt | Stevens |
| DeConcini | Lugar | Stone |
| Dole | McClure | Thurmond |
| Domenici | Randolph | Tower |
| Eastland | Roth | Young |
| Garn | Sasser | Zorinsky |
| Griffin | Schmitt | |

NOT VOTING—9

| | | |
|---|---|---|
| Abourezk | Ford | Moynihan |
| Anderson | Hollings | Muskie |
| Bartlett | Johnston | Riegle |

So the motion to lay Mr. HATCH's UP amendment No. 22 on the table was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. LAXALT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. METZENBAUM). Are there further amendments to article V?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank the Chair.

UP AMENDMENT NO. 23 (SUBSEQUENTLY NUMBERED AMENDMENT NO. 102)

Mr. HELMS. Mr. President, I send to the desk an unprinted amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

Mr. HELMS. May we have order in the Senate, Mr. President?

The PRESIDING OFFICER. The Senator will suspend until such time as there is order in the Senate. Members of the Senate will return to their seats.

Would Members of the Senate be kind enough to terminate their conversations on the floor of the Senate?

Will Members of the Senate be good enough to make it possible for the clerk to state the Senator from North Carolina's amendment?

The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment number 23.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend article V to read as follows:

"ARTICLE V

*"Guarantee of Civil Rights*

"1. The Republic of Panama agrees that any person born before the date of entry into force of this Treaty in the Canal Zone who is a citizen of the United States of America under the immigration and nationality laws of the United States of America is not a national or citizen of the Republic of Panama.

"2. Employees of the Panama Canal Commission and their dependents and designated contractors of the Panama Canal Commission, who are nationals of the United States of America, and members of United States Armed Forces or of the civilian component thereof, and their dependents, and designated contractors of the United States Armed Forces, who are nationals of the United States of America, shall respect the laws of the Republic of Panama and shall have their civil and human rights respected by the Republic of Panama.

"3. Such employees, dependents, contractors, and members who have resided continuously in the former Canal Zone for a period of five years before the date of entry into force of this Treaty shall be considered for purposes of the immigration and nationality laws of the United States of America, as having been lawfully admitted for permanent residence to the United States of America at the beginning of such period.

"4. Such employees, dependents, contractors, and members who are citizens of the United States of America or are permanent residents of the United States of America under paragraph 3 and are prosecuted by authorities of the Republic of Panama shall be entitled to the following procedural guarantees:

"(a) To a prompt and speedy trial.

"(b) To be informed, in advance of trial, of the specific charge or charges made against him.

"(c) To be confronted with and to be allowed to cross-examine the witnesses against him.

"(d) To have evidence and witnesses in his favor presented. The authorities shall submit such evidence and call the witnesses if they are within the Republic of Panama.

"(e) To have legal representation of his own choice for his defense during all investigative and judicial phases from the time of submission to questioning and throughout the entire proceedings; or, if he indicates he lacks funds for his defense, to be defended by the appropriate public defender.

"(f) To have the services of a competent interpreter if he considers it necessary.

"(g) To communicate with a representative of the Government of the United States and to have such a representative present, as an observer, at his trial.

"(h) Not to be held guilty on account of any act or omission which did not constitute a criminal offense under the law of the Republic of Panama at the time it was committed.

"(i) To be present at his trial which shall be public. However, without prejudice to the procedural guarantees in this Article, person whose presence is not necessary may be excluded, if the court so decides for reasons of public orders or morality.

"(j) In his proceedings to have the total burden of proof laden upon the Public Prosecutor or the prosecution.

"(k) To have the court consider only voluntary confessions and evidence properly obtained in accordance with the requirements of the law.

"(l) Not to be compelled to testify against or otherwise incriminate himself.

"(m) Not to be required to stand trial if he is not physically or mentally fit to stand trial and participate in his defense.

"(n) Not to be tried or punished more than once for the same offense.

"(o) To have the right to appeal a conviction or sentence.

"(p) To have credited to any sentence for confinement his entire period of pretrial custody.

"(g) Not to be subject to the application of martial law or trial by military courts or special tribunals.

"(r) To enjoy all other guarantees and rights provided for in the Constitution, Judicial Code and other laws of the Republic of Panama.".

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. HELMS. I yield.

Mr. ROBERT C. BYRD. Will the Senator agree that no vote occur in relation to the pending amendment prior to 6:15 p.m. today? That is approximately 1 hour from now.

I ask this because there are Members on both sides of the aisle who are conferring on the energy package at this moment; and if a vote were to occur within the next hour, it would be inconvenient for them.

Mr. HELMS. I understand. I would be perfectly willing to set a time definite, at any time that is convenient to the majority leader and other Senators. So if the majority leader wants to specify a time for a vote, that will be satisfactory to me.

Mr. ROBERT C. BYRD. The Senator's courtesy is characteristic of him. I think if we simply agree that there will be no vote on this amendment or in relation to it before 6:15 p.m. today, this will relieve our situation, and at that point we can decide.

Mr. HELMS. That is perfectly agreeable to me.

Mr. ROBERT C. BYRD. I thank the Senator.

ARTICLE V—"GUARANTEE OF CIVIL RIGHTS"

Mr. HELMS. Mr. President, the Canal Zone is not a mere strip of land between the Atlantic and the Pacific; nor is the Panama Canal simply an engineering and technological toy. At the heart of the canal operation is people—many of whom have dedicated their lives and careers to the proper functioning of the canal. Therefore, when the Senate talks about turning over the Panama Canal to Panama, we must not forget that the canal in itself is just a hunk of concrete and machinery. That is all that would be turned over. But in point of fact, the canal, as we know it today, is in reality a living organism, a superbly functioning operation that involved the intimate cooperation of two nations and literally thousands of people.

Nor do the canal operations involve only the transit of ships. The transit of ships is the ultimate purpose; but these transits are in turn supported by a wide variety of auxiliary operations essential to the proper functioning of the transit purpose. These support operations range from continuous overhaul of locks machinery, to constant dredging operations, to scrupulous sanitation procedures, to support facilities for vessels in transit and waiting for transit, to support facilities for the employees themselves.

The operation of the canal has always been planned on the basis of cooperation between the United States and Panama. Without the assistance of thousands of Panamanians, the canal could not exist, could not function continuously, could not maintain itself and its procedures in proper order. On the other hand it was always the United States policy to maintain U.S. citizens in key technical, management, and security positions so that the United States would always have the latent capability to operate the canal in an emergency situation.

I think that it is to the credit of the Panamanian employees that they have always shown a loyalty to the canal operation, and a dedication that transcends national interest. During the 1964 riots, for example, many of them stayed on the job for the duration, sleeping on cots in the Canal Zone. Nevertheless, no man can be expected to owe ultimate allegiance to a foreign nation; it is not fair to make such a demand. Therefore, the U.S. citizen force served not only to supply technical and management expertise not available in the Panamanian population; it also served to ensure that the United States would retain control of the canal in case of the development of adverse circumstances.

The control of the canal, therefore, is very closely related to the level of the U.S. presence in the canal operation. Obviously, not all of the U.S. citizen employees are vital to the canal's mission, it is probably not even possible to state precisely what level constitutes control. The fact is that today the Canal Company has a contingency plan to operate the canal without Panamanians if that were necessary. It is a plan that doubtless involves many emergency-type assignments, overtime, long hours, and perhaps even some impairment of service. Human beings can bear up under such circumstances for a while. The smaller the number of reinforcements available, the shorter the time that emergency procedures can be followed without breakdown. Somewhere in the psychological makeup of human communities there exists a "tipping point" where the vitality of the community seems to ebb and for reasons that go beyond mere numbers, the community begins to disintegrate.

Mr. President, the U.S. citizen employees in the Canal Zone come from all walks of life. They are a cross section of the American population. They are in many ways extraordinary Americans—extraordinary for their dedication and their sense of duty; but in their origins and occupations they are like ordinary Americans everywhere. You do not find the snobbery of the Foreign Service, or the elitist preoccupations of the academic crowd among them. What you find is good, old-fashioned American patriotism, and pride in a job well done.

Mr. President, I shall put in the RECORD at this time a breakdown of the occupations of U.S. citizen employees of the Canal Zone.

This, in essence, states that the blue collar occupations are 638; technical and administration, 1,565; top management, 12; special categories, 1,180, including 507 teachers, 208 canal pilots, and 202 police officers.

By law, certain of these positions are designated as "security positions." This

term means that the occupants must be persons who owe allegiance to the United States. The law does not by any means imply that Panamanians are disloyal or untrustworthy. It is simply a statement of fact that U.S. control of the canal depends upon having U.S. citizens in key jobs. At the present time, there are 567 security positions, broken down as follows:

Positions designated by law, 6; access to classified defense information, 137; certain police and fire positions, 158; essential to ensure operations continuity, 266, for a total of 567.

As a matter of practical fact, however, the United States must have a far greater number of U.S. citizen employees than merely the 567 in security positions if the United States is to control the canal in any practical manner. The proposed Panama Canal Commission has a Board which the United States will control by a 5–4 majority; but the United States can never be sure that the policies laid down by the Board will be carried out unless we have sufficient managerial control and technical expertise to carry them out to our satisfaction. Unless we have, for example, canal pilots and lock technicians loyal to the United States, we do not have control of the canal.

THE REORGANIZATION OF THE CANAL AGENCY

In this regard, it is important to understand what will happen to the canal agency as a result of the changes imposed upon it by the treaty. As a result of the divestiture of many employee and canal user support functions, the size of the agency will be drastically reduced. These changes will come about the first year; by the end of the third year, the United States will no longer have practical control of day-to-day operations, if the estimates of the Panama Canal Company are correct.

Most people have the idea that the departure of U.S. citizens, by attrition, will make more jobs available for Panamanians. This has been advertised widely in Panama by Mr. Torrijos. Unfortunately, that idea is totally incorrect. The Panama Canal Company has prepared a treaty implementation plan studying every job in the agency, and evaluating whether or not that job will be eliminated by treaty. The results will surprise many.

I have distributed to every Senator's desk a color chart which graphically illustrates the force structure of the canal organization as proposed under the 1979 budget of the Panama Canal Company—without the treaty—and as compared with the planned force structure imposed by treaty changes in fiscal year 1979 and the 3 subsequent fiscal years.

In so far as the treaty requires the canal agency to divest itself of operations which are auxiliary to actual canal transit, a smaller work force is required. Because there will be fewer operations under control of U.S. agencies, our ability to maintain overall quality control of operations will be greatly lessened. The number of U.S. citizen employees will be reduced both numerically and proportionately in the smaller canal agency; functionally, therefore, it is doubtful that the United States could retain operational control in the face of a Panamanian walk-out.

PANAMANIAN EMPLOYEES—CUT 41.1 PERCENT

Mr. President, the myth, and I emphasize the word "myth," that Panamanians will have more jobs when the U.S. citizens leave does not accord with reality. Of the 10,574 Panamanians planned to be employed under the 1979 budget—without treaty—4,379 will be separated from the canal agency, a reduction of 41.1 percent the first year. In 1980, the Panamanian force level of 6,195 will decline slightly to 6,075, at which point it levels out to the year 1982. It is impossible to make accurate projections after 1982.

Of the 4,379 Panamanian employees to be separated, the vast majority face an uncertain future, to say the least. The Governor of the Canal Zone, Governor Parfitt, has testified before this Congress that about 1,500 Panamanians will have their jobs discontinued without any assurance that a similar job will be created in the private sector. Some estimates of unemployment in the cities of Panama run as high as 20 percent, I might say parenthetically.

Approximately 1,900 job slots will be transferred to Government of Panama agencies. Under article X of the treaty, Panama will retain the present incumbents of those slots only "to the maximum extent feasible." In a government where cronyism and patronage are endemic, the present incumbents of those jobs read that phrase as a threat to their jobs, which pay about three times as much as similar jobs in Panama.

Moreover, it will be difficult for the Government of Panama to maintain a pay scale in those agencies which is so far out of line with the pay scale in other Panamanian Government agencies. In any case, the United States would have no way to enforce a generous interpretation of article X's provisions on behalf of the Panamanian employees of a Panamanian Government agency.

Another 1,450 Panamanians will be transferred to other U.S. Government agencies in Panama; but those jobs, mainly in schools and hospitals, are dependent upon the presence of large numbers of U.S. citizens and military. They would be endangered by any large-scale pullout of U.S. employees or troops.

U.S. CITIZEN EMPLOYEES—CUT 74.6 PERCENT

Although the provision of article X which requires a cutback in the level of U.S. citizen employees by 20 percent within 5 years has been criticized by some as excessive, the chart on Senators' desks at this moment shows that the requirement considerably understates the planned cutbacks. The canal agency will reduce U.S. citizen employees from 3,994 to 2,270 in fiscal year 1979, a reduction of 43.7 percent the first year. By 1982, the U.S. citizen force will be reduced to 1,982, a reduction of 49.6 percent. But Governor Parfitt has testified before the Armed Services Committee that he expects fully half of the U.S. citizen employees whose jobs are not abolished to choose early retirement or voluntary separation within 3 years. If this happens, then the present U.S. citizen work force will be reduced—and this is a disturbing figure—74.6 percent within 3 years.

Three hundred and fifty others will have no job whatsoever—a figure, incidentally, of nearly 10 percent—while 250 others will be required to leave Panama to be transferred to other U.S. Government agencies in the continental United States. Altogether, there will be about 1,600 fewer U.S. citizens in Panama, the majority of them essential to the canal operations. This is what amounts to a "control gap" of enormous proportions.

In addition, another 1,050 Canal Company employees will be transferred to Department of Defense installations in Panama, mainly to schools and hospitals. Of course, the need for these jobs will also decrease as the main U.S. citizen work force declines.

Mr. President, at the risk of belaboring the statistics of this matter—and the statistics cannot logically or properly be ignored—if the statistics for both Panamanian and U.S. citizen employees are combined, the overall reduction in the size of the canal agency which is painfully obvious. Under the 1979 budget—without the treaty—there are 14,518 employees of both nationalities. By 1982, 6,463 employees will have been separated, for a force level of 8,055. This will be a total reduction of 44.5 percent by 1982.

Mr. President, I ask unanimous consent that three tables I have prepared, summarizing these statistics, showing the major job categories of reductions, as well as the official Panama Canal Company figures, be printed in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE I.—MAJOR CATEGORIES OF JOB REDUCTIONS FOR PANAMANIANS

| Major reductions | 1979 budget | 1979 treaties | Reduction |
|---|---|---|---|
| General repair, storehouse, engineering and maintenance | 1,417 | 1,285 | 132 |
| Marine terminals | 1,500 | | 1,500 |
| Retail | 1,235 | | 1,225 |
| Railroad | 134 | | 134 |
| Motor transport | 426 | 345 | 81 |
| Grounds, custodial | 726 | 444 | 282 |
| Education | 282 | 4 | 278 |
| Hospitals | 892 | | 892 |
| Public health | 176 | 112 | 64 |
| Total jobs eliminated | | | 4,599 |
| New jobs created (estimated) | | | 220 |
| Net jobs lost | | | 4,379 |

TABLE II.—MAJOR CATEGORIES OF JOB REDUCTIONS FOR U.S. CITIZENS

| Major reductions | 1979 budget | 1979 treaties | Reduction |
|---|---|---|---|
| General repair, storehouse, engineering and maintenance | 398 | 347 | 51 |
| Marine terminals | 64 | | 64 |
| Retail and Food | 118 | | 118 |
| Railroad | 43 | | 43 |
| Customs and immigration | 65 | 7 | 58 |
| Postal | 69 | 3 | 63 |
| Police | 245 | 177 | 68 |
| Education | 734 | 4 | 730 |
| Hospitals | 396 | | 396 |
| Miscellaneous | 83 | | 83 |
| Total jobs eliminated | | | 1,674 |

PANAMA CANAL, SUMMARY STATEMENT OF FORCE

| | President's budget 1979 | | Estimates with treaty-imposed changes | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | 1979 | | 1980 | | 1981 | | 1982 | | 1983 | | 1984 | |
| | FTP | Total | FTP | Total | FTP | Total | FTP | Total | FTP | Total | FTP | Total | FTP | Total |
| Transit operations | 5,381 | 5,673 | 5,065 | 5,542 | 5,054 | 5,520 | 5,034 | 5,500 | 5,034 | 5,500 | 5,034 | 5,500 | 5,034 | 5,500 |
| Supporting operations | 4,235 | 4,588 | 1,267 | 1,286 | 1,263 | 1,282 | 1,227 | 1,241 | 1,222 | 1,236 | 1,222 | 1,236 | 1,222 | 1,236 |
| General corporate | 873 | 926 | 906 | 959 | 913 | 954 | 873 | 904 | 873 | 904 | 873 | 904 | 873 | 904 |
| Civil functions | 1,515 | 1,793 | 493 | 531 | 445 | 479 | 239 | 272 | 237 | 270 | 235 | 268 | 235 | 268 |
| Health and sanitation | 1,477 | 1,530 | 129 | 130 | 129 | 130 | 129 | 130 | 129 | 130 | 129 | 130 | 129 | 130 |
| General government | 8 | 8 | 7 | 7 | 7 | 7 | 7 | 7 | 7 | 7 | 7 | 7 | 7 | 7 |
| Reorganization provision | | | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| Total year-end force | 13,489 | 14,518 | 7,877 | 8,465 | 7,821 | 8,382 | 7,519 | 8,064 | 7,512 | 8,057 | 7,510 | 8,055 | 7,510 | 8,055 |
| Composition of force by citizenship: | | | | | | | | | | | | | | |
| U.S. citizens: | | | | | | | | | | | | | | |
| Company activities | 2,204 | 2,288 | 1,923 | 1,958 | 1,908 | 1,942 | 1,823 | 1,855 | 1,812 | 1,844 | 1,812 | 1,844 | 1,812 | 1,844 |
| Government activities | 1,433 | 1,656 | 275 | 302 | 234 | 261 | 102 | 128 | 102 | 128 | 100 | 126 | 100 | 126 |
| Reorganization Provision | | | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| Total United States | 3,637 | 3,944 | 2,208 | 2,270 | 2,152 | 2,213 | 1,935 | 1,993 | 1,924 | 1,982 | 1,922 | 1,980 | 1,922 | 1,980 |
| Non-U.S. citizens: | | | | | | | | | | | | | | |
| Company activities | 8,285 | 8,899 | 5,315 | 5,829 | 5,322 | 5,814 | 5,311 | 5,790 | 5,317 | 5,796 | 5,317 | 5,796 | 5,317 | 5,796 |
| Government activities | 1,567 | 1,675 | 354 | 366 | 347 | 355 | 273 | 281 | 271 | 279 | 271 | 279 | 271 | 279 |
| Total non-United States | 9,852 | 10,574 | 5,669 | 6,195 | 5,669 | 6,169 | 5,584 | 6,071 | 5,588 | 6,075 | 5,588 | 6,075 | 5,588 | 6,075 |
| Total year-end force | 13,489 | 14,518 | 7,877 | 8,465 | 7,821 | 8,382 | 7,519 | 8,064 | 7,512 | 8,057 | 7,510 | 8,055 | 7,510 | 8,055 |

| | FTP | Total |
|---|---|---|
| Company activities | 2,006 | 2,048 |
| Government activities | 304 | 333 |
| Total | 2,310 | 2,381 |

Source: Panama Canal Company, statement of operations, Feb. 1, 1978.
Note: Estimate of U.S. citizens force upon entry into force, Oct. 1, 1978:

Mr. HELMS. Mr. President, I repeat: The treaty calls for a reduction of U.S. citizen employees of 20 percent in 5 years; but the actual situation as projected by the Governor and the Panama Canal Company anticipates a reduction 74.6 percent in 3 years. This amounts to a mass exodus of experience and skills. It is doubtful whether the canal can continue to operate with high efficiency with such massive reductions. For the fact is that the Panama Canal is unique as a canal. Experience gained elsewhere cannot be transferred immediately to the Panama Canal. It takes on-the-job training, often for years, to acquire the experience and skills necessary, even when an individual already has technical training. Persons lost through normal attrition can be replaced. But if half of those necessary to canal operations leave within a year or two, there will be no one to train the newcomers—whether the replacements are Panamanian or from some other country.

CANAL PILOTS IRREPLACEABLE

The canal pilots, for example, are irreplaceable. As of December 31, there were 209 qualified canal pilots, of which 203 were operational. I might explain six pilots hold administrative posts. But pilots hold different grade qualifications; the bigger the ship, the more experience is required to qualify. At the present time, there are 98 pilots who hold unlimited papers. These are precisely the most experienced and the most vital, for about half the ships going through the canal today require a pilot with unlimited papers—many of them two to four pilots.

Yet, according to the Panama Canal Company, 71 pilots will be eligible for early retirement. Not surprisingly, those eligible for early retirement are those who have the most experience.

It takes, I am told at least 8 years to train a pilot, and candidates must be shipmasters with experience on many vessels. Nor can pilots be brought from other canals or ports, because their skills are not transferable to the narrow waterways and special conditions of the Panama Canal. No other canal, for example, requires skills in both freshwater and seawater, where ships have different buoyancy.

Moreover, there is the difficulty of attracting new candidates. Although Panama Canal pilot salaries appear to be high, they are not high measured by world standards for men with their scarce qualifications. Moreover, there is an exceptionally high demand at the present time for shipmasters. It is a painfully slow process to recruit 2 or 3 new pilots, much less 71.

I point out the attrition in pilots has already begun. Two pilots—neither yet eligible for early retirement—have already left to become shipmasters; another, the former head of the pilots' association who testified last year that the treaty would have little impact on pilots, is already working in Corpus Christi, Tex.

I apologize for the length to which I have gone into the pilots' situation but I felt it necessary to illustrate what is happening throughout the canal agency. The pilots are the most vital to the operations; but a similar case can be made out for tugboat operators, lock operators, dredging supervisors, and so forth. The list of vital occupations is long; if these experienced employees leave, canal operations and efficiency will deteriorate beyond control.

FEAR OF REPRESSION

Is the case overstated? On the contrary, I have taken pains to understate the case. I have used nothing except the official planning figures and the statements of Governor Parfitt. He said that 50 percent of those whose jobs were not abolished would leave. But a poll of U.S. citizens recently indicated that 69 percent would leave.

Why do U.S. citizens plan to leave, some of whom have never known any other home? Is it because of some vague fear of the unknown, or prejudice against the Panamanian people? On the contrary, it is because of what they already know about the Torrijos dictatorship. Indeed, about 20 percent of the U.S. citizen employees are married to Panamanians. It is precisely such employees who often are the most vociferous against the Panamanian Government. They are more keenly aware of what has happened to their relatives and friends in Panama. They know why the former group of U.S. permanent residents in Panama, a group that numbered 10,000 before Torrijos, has dwindled to about 1,000.

What the U.S. citizen employees fear most is the repression of the Panamanian Government, and, in particular, the brutal methods of the national guard. This repression is not something that can be covered up. The Washington Post recently headlined an interview with Col. Manuel A. Noriega, head of the Panamanian G–2, as "The Name That Strikes Instant Terror." As everyone knows, the Washington Post is no friend to treaty opponents. Nor is the reporter, Sally Quinn, known for her right-wing extremism.

Mr. President, I ask unanimous consent that the article by Sally Quinn be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. The U.S. citizen employees have had too much personal experience with brutality, authoritarian methods, deprivation of civil rights, and harassment from the Panamanian Government to expect anything different if the treaty is ratified.

The Panama Canal Treaty, by surrendering the exercise of U.S. sovereignty in the zone, will deprive U.S. citizens living there of the protections of the U.S. Constitution, the impartiality of the U.S. judicial system, the protection of U.S. laws, and the security of U.S. police. Anyone who attempts to maintain that the Panamanian equivalent institutions are really equivalent simply does not know the facts.

The U.S. citizens, however, knows the facts. Bill Wright of United Features Syndicate has written a perceptive article about their fears after on-the-spot interviews. Mr. President I ask unanimous consent that his article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

THE OMINOUS IMPLICATIONS OF ARTICLE V

Mr. HELMS. Moreover, if the U.S. citizen employees have any doubt about what is in store for them, those doubts are dispelled by a reading of article V. Of all the unnecessary and overdrawn concessions in this treaty, article V is the most iggnominious of all. Nothing more clearly represents the intense desire of the Department of State to obsequiously surrender legitimate American interests, and kowtow to the vengeance of a dictator.

For article V amounts to a bill of attainder against the U.S. citizens now living in the Canal Zone. In article V, the United States not only conspires to deprive U.S. citizens of their civil rights, but also meekly agrees to enforce the edicts of the Panamanian dictator with every measure at its command.

Article V says that U.S. citizen employees "shall respect the laws of the Republic of Panama." Mr. President, it is an insult to the U.S. citizens to imply that they will not obey the law. I do not know of another treaty with a foreign nation in which the United States stoops so low as to undertake to make its citizens obey the law. I would think that it goes without saying the U.S. citizens will obey the law no matter what country they are in. And there is no evidence that U.S. citizens have not been obeying the law when they are in Panama.

There is plenty of evidence that the Panamanian dictator and his family have not been obeying Panamanian law—that they have been engaged in corruption, drug-trafficking, prostitution, smuggling, and other activities characteristic of gangsters—but there is no evidence that U.S. citizen employees of the canal agency are engaged in wholesale infractions of Panamanian law. What we need is a treaty saying that the dictator will obey the law.

Then article V says that U.S. citizen employees "shall abstain from any activity incompatible with the spirit of the Treaty." What does that mean, "the spirit of the Treaty." Maybe the State Department knows what that means; the State Department understands the spirit of surrender, the spirit of giveaway, the spirit demeaning oneself before the world. If that is what "the spirit of the Treaty" means, the State Department is very well equipped to interpret it.

But if "the spirit of the Treaty" means that U.S. citizens give up their rights to criticize a U.S. Government agency, namely, the Panama Canal Commission; or to criticize Panamanian officials who might be working against U.S. interests; or, for example, to petition Congress with their grievances—if that is what "spirit of the Treaty" means, then their civil rights will be abridged. In short, "the spirit of the Treaty" means anything the Panamanians say it means, or anything the U.S. Ambassador, as representative of the State Department, says it means.

Mr. President, this is not government by laws when we oblige our citizens to respect anything so vague and unconstitutional as a "spirit of the Treaty."

Moreover, the article goes on to say that the employees "shall abstain from any political activity in the Republic of Panama as well as from any intervention in the internal affairs of the Republic of Panama." That is an extraordinary sentence, Mr. President. There is no evidence that U.S. citizen employees have been engaging in political activity in the Republic of Panama. In fact, there is no evidence that Panamanians have been engaging in political activity, because the dictator has banned political activity.

Now it is true that U.S. citizen employees have been campaigning against the treaties. But that is their right to do so. If the State Department disagrees, then the State Department is apparently unaware that we do not live in a dictatorship. Perhaps the treaty negotiators have been consorting with dictatorships for so long that they have forgotten what a free country is like; otherwise they would never have agreed to such a provision. Or perhaps the State Department is just looking ahead to the period after ratification and wants some authority to take action against U.S. citizens if they disagree with the State Department's manner of implementing the treaty.

That is obvious in the next sentence, and I quote:

> The United States of America shall take all measures within its authority to ensure that the provisions of this Article are fulfilled.

This sentence empowers the State Department to take measures against any U.S. citizen employee who displeases the whims of the dictator. This sentence inevitably will have a chilling effect not only upon the political rights of free expression which belong to U.S. citizens, but also upon all their actions and conduct during the course of their work. They know that they will be watched carefully both by Panamanian informers and State Department informers to see whether they are conforming to "the spirit of the Treaty." They know that their decisions, for example, in promoting or not promoting Panamanians in their department will have important repercussions. A casual remark against the dictator may bring them into disfavor, or even dismissal. The whole morale of the canal organization will be sapped by this dangerous and unprecedented provision.

This whole article, article V, is both dangerous and unnecessary. It is of absolutely no benefit to the United States; it is a total concession to Panamanian spite. It is noteworthy that it did not appear in the July 10 draft of the treaty. Apparently, it was put in after the so-called blackmail incident over which there has been so much discussion. This article, more than anything else, will trigger the mass exodus of U.S. citizens, with their experience and skill so necessary to the control and efficient operation of the canal.

DUAL CITIZENS

What can be done to stem the tide? It is probably impossible to restore fully the confidence of U.S. citizens in Panamanian law and justice. But there are certain steps that can be taken to reassure U.S. citizens that the United States will stand up for their interests. The first step is to delete the obnoxious provisions of article V so that the United States itself does not become the enforcer of the dictator's mandates.

One of the most serious grievances among U.S. citizens employees is the claim of Panama upon their children. Since 1975, Panama has asserted that anyone born in the Canal Zone is a Panamanian national, whatever the wishes of the person involved. After several weeks of discussions, the State Department caved in and accepted that assertion unilaterally with no basis in law or constitutional theory. It was nothing other than an abject, pretreaty concession to Panama, against the best interests of U.S. citizens.

The practical effect is that about 80 percent of the dependents in the Canal Zone fall into this category, as well as some adults who are second and third generation Zonians. Panama claims that these "dual nationals" are subject to Panamanian law and the Panamanian constitution. So far, the most harassment has come whenever these "dual nationals" have attempted to leave Panama. Panama has insisted that children of U.S. citizens, for example, must have Panamanian identity papers and exit passes to leave Panama.

U.S. citizens fear that when Panama takes jurisdiction over the zone, Panama will also claim jurisdiction over their children, requiring them to attend Panamanian schools, or to participate in "students' brigades." In recent years, the curriculum of Panamanian schools has been reorganized on Marxist principles, using textbooks prepared in Cuba.

Article 3 of the 1972 Panamanian Constitution defines the territory of Panama as comprising the entire area between Colombia and Costa Rica, including by implication, the Canal Zone. Article 9

defines all those born in Panamanian territory as Panamanian nationals. Article 13 asserts that Panamanian nationality acquired by birth "cannot be lost, but its express or implied renunciation shall suspend citizenship"; that is, one's civil and political rights. Article 120 provides for the law to set penalties for those who seek to renounce citizenship. Article 15 says the Panamanian nationals within the territory of the Republic are subject to the constitution and law.

Unless this "dual national" problem is solved, we cannot reasonably expect U.S. citizens to remain under Torrijos regime dictatorship with their children. They are too concerned about the future and the welfare of their children to stay there. Accordingly the treaty must be amended so that U.S. citizens who are dual nationals must be considered as having exclusive U.S. citizenship.

ENGISH-SPEAKING BLACKS IN THE CANAL ZONE

Another problem, similar to the previous one, is the plight of the English-speaking black people living in the Canal Zone. There are 1,309 canal employees who are descendants of the original West Indies workers who were brought in to build the canal. By an unfair exclusion in U.S. law they were never permitted to become U.S. citizens. Technically, they qualify as U.S. noncitizen nationals, since they were born in territory under U.S. jurisdiction. Under our law, a U.S. noncitizen national owes permanent allegiance to the United States.

However, Panama in recent years has claimed them as Panamanian citizens on the same theory that she claim dependents of U.S. citizens as Panamanian nationals. The English-speaking blacks have little interest in being Panamanian citizens. They have always demonstrated an historic allegiance to the United States. They have always lived in the Canal Zone, where they have enjoyed higher standards of wages, housing, education, and civil services than they would have had in Panama.

Although efforts to eliminate racial discrimination in the Canal Zone have paralleled similar changes in attitude in the continental United States, the English-speaking blacks in Panama still face severe racial and other discriminations in Panama because of the language barrier, their loyalty to the United States, and envy because of their jobs and living standards. Once the treaty goes into effect, they would become prime candidates for losing their jobs and their housing to the extent that the Republic of Panama controls either.

The just solution is to allow the English-speaking blacks to petition for U.S. citizenship. But this cannot be done by legislation alone, because of Panama's insistence upon "dual citizenship." It must be done by treaty, or it will not be done at all.

The simplest way is to declare that non-U.S. citizens who have resided in the Canal Zone for 5 years or more have been legally admitted to the United States for permanent residence as of the beginning of the 5-year period. Thus they would fulfill the requirements of our naturalization law, and could petition the U.S. Court of Balboa for citizenship. In point of fact, they have actually lived on U.S. territory all their lives anyway; moreover, they have been working for a U.S. Government corporation. There are no other non-U.S. citizen residents of the Canal Zone. In addition to the 1309 employees, I might add that there are 3,800 dependents.

A BILL OF RIGHTS

Finally, all U.S. citizens fear Panama's commitment to protect their civil rights. Even at best, Panama's civil rights guarantees are far inferior to those in the United States. In execution, their standards fall far short of promise. That is why U.S. citizen employees are deeply concerned by the lack of any commitment by Panama in the treaty to guarantee their civil rights. In fact, article V goes just to the contrary. Instead of Panama committing to protect their rights, article V commits the United States to abridge their rights.

Now it is true that Panama and the United States have agreed upon a set of 18 procedural guarantees for those who are prosecuted by Panamanian authorities. But this agreement has been given the lowest possible visibility. It is not in the treaty. It is not in the implementation agreement. It is the annex to the implementation agreement—Annex C, to be specific.

In other words, it appears as though every attempt has been made to downplay the importance of this bill of rights, inadequate though it is. Yet if it is going to provide the necessary reassurance to the U.S. citizen employees in the Canal Zone, the employees have got to be convinced that Panama has a strong commitment to those procedural guarantees. They will not believe in Panama's will to fulfill these guarantees unless Panama gives it the highest international status of an agreement.

Clearly, this bill of rights has to be on the treaty level. Nothing else is sufficient. If Panama is really serious about giving those guarantees, Panama cannot and will not object to something she ostensibly has already agreed upon.

Mr. President, the pending amendment corrects these three problems in an attempt to reassure U.S. citizen employees that they will receive fair treatment. Without positive evidence from the United States and Panama that the employee's rights will be protected, we cannot expect to retain the expertise so imperative to controlling the canal and keeping it running efficiently.

EXHIBIT 1

THE NAME THAT STRIKES INSTANT TERROR

(By Sally Quinn)

In Panama there is one person whose name often evokes immediate terror. It is not Omar Torrijos.

It is Noriega. Col. Manuel A. Noriega.

Noriega is the chief of intelligence, G–2. The head of La Guardia Nacional. That would be like being head of the CIA, the FBI, the Department of Defense and the Police Department all at once. Which means he has all the troops. Which means he has the power. Which means that both President Lakas and Omar Torrijos are said to be not completely at ease with the situation. Because if Noriega wanted to overthrow the government he probably could.

President Lakas will say, "Noriega's nothing but a G–2. Nobody loves the G–2, not even his wife. His business is to stick his nose in other people's lives. I don't fear him. And I don't think General Torrijos fears him."

But there seems to be a note of uncertainty in his voice.

The interview with Noriega is set for 2:30. He is late. One is led to his "private sitting room" in the National Guard headquarters building through an endless maze of tiny offices, each stationed with crew-cut uniformed guards.

The sitting room is tiny, windowless. It looks more like what one would expect of Hugh Hefner's office than the head of the Panamanian National Guard.

It is lit softly by a lamp in the corner. Thick brown shag rugs cushion the floor. Several deep, comfortable, brown leather sofas line the walls. There is a rather ornate mirrored bar with various kinds of whiskey, wine, liqueurs.

In the center of the room a glass coffee table displays a collection of porcelain frogs. The hi-fi is playing sensuous jazz, ballads and pop rock. The walls are lined with kitsch oil paintings of wretched children's faces—all with huge tears pouring down their faces.

His female "assistant," Marcela Toson, appears and offers tea. She is a buxom, jolly, bouncing young woman, more hostess and traveling companion, as she describes it, than anything else.

An hour goes by. Suddenly there is the sound of clicking heels, then salutes. The colonel is coming.

The door pops open, enter Col. Manuel Noriega. He has gone home to change out of his uniform. For the interview he has chosen a lacy Guaya bera (shirt), tight-fitting slacks, leather boots. His wavy hair is slicked back and he reeks of perfume. He is a slight, wiry man. The high cheekbones and narrow eyes, the swarthy, pock-marked complexion give him a rather Mongolian look.

"Well," he says, grinning proudly and throwing open his arms to show himself off, "do I look like a monster?"

A FEMINIST PATRIOT

In Panama there is a women's group that meets about once a week called the "Union Patriotica Feminia." They are women in their 30s, who all may have different political ideologies but who are devoted to one purpose—to work against the Torrijos government. So far, of the 50 or 60 members, two have been jailed, two exiled.

One of the members is Alma Robles, 38, who was arrested by the G–2 last year and kept in jail for nine days without charges, before released.

Robles is the daughter of the late Rogelio Robles, former political deputy to the assembly and was married until recently to an American. An elegant dresser with a gentle manner, she is starting a boutique in Panama City.

Two years ago she was just another housewife minding her own business.

But then in January 1975 her brother Winston and Ivan, both lawyers, were arrested and exiled.

"There was a big group arrested at that time," she says, "bankers, businessmen, radio station owners. They were all taken, one by one, from their offices and homes one morning. It was a big scandal. According to the government they had been in 'subversive activities,' which means critical of the government."

According to Robles: "Nobody knew where the exiles were taken. In fact, they were taken to the airport. They were undressed, searched, their belongings confiscated. They weren't allowed to talk to each other. Then they were put on a plane and taken to Guayaquil (Ecuador). They had done nothing but belong to political groups who met and

criticized the government. What the government did was a stupid move.

"This finally," she says, "became an international scandal." Finally members of the assembly got so angry at the government that one stood up and said "Panama has spent so much to build an international reputation and now in one week you have ruined it."

"You know," says Robles, shaking her head in scorn, "that's the thing about this government. They are so stupid. They don't define themselves. They aren't left or right. So how can we be against them? We're not against their ideology. We're against their methods."

THE YOUNGEST COLONEL

There are seven colonels in the Panamanian National Guard. "I am the youngest of all the colonels," says Manuel Noreiga. "I am only 38."

He is very matter of fact, too, about how he got to be where he is. "My family," he says, "was originally Colombian. I went to the Instituto Nacional. All the people who come from there fight for their liberty and their sovereignty. It is called the Eagle's Nest. Then I went to Peru to the Military School De Chorrios."

Noriega became friends with Omar Torrijos when he came back from Peru and joined the National Guard. But their friendship was cemented when Torrijos, returning from Mexico after a brief coup against him, entered Panama through the province of Chirriqui where Noriega was in charge. Noriega and his troops defended him. Now Noriega is the head of the National Guard, despite being the "youngest of all the colonels."

PUBLIC RELATIONS

At first during the interview Noriega seems quite nervous. He is perspiring as he talks, and he leans forward on the leather sofa, trying earnestly to convey each point, to convince.

"My major function," he says, "is the security of the people so that they can sleep, that they can circulate, that they can live without fear, that they won't be kidnapped, to prevent terrorist attempts. . . ." he pauses, then sits back. "Well, I think that is enough."

Noriega is aware that a lot of people don't see it that way, that many Panamanians are terrified of him and that most of the Zonians live in fear that the treaties will be ratified and they will come under Panamanian police jurisdiction.

"I know," he says, almost with pleasure, "that I have an image problem. Mine is a position that doesn't attract sympathy. But somebody must do this job. And it's a normal position in all of the armies of the world. In Panama there is only one force that has control. That's my job. But I believe that in the U.S. they paint my role as larger than it is."

Noriega is aware that he is going to have a real PR problem when he takes over jurisdiction of the Canal Zone.

"Gen. Torrijos has plans to integrate all the Zone police to work with the National Guard at the beginning," he says. "Our policy will not be one of repression.

"Our G-3," he says, "has a special psychological program to adapt to the minds of the Zonians. Zonians are different from Americans, you know. They have much different minds than the Americans. This plan is made for Zonians."

Noriega defines the Zonians' fear of him and the National Guard as "a psychological problem. They live separately away from us on an island. They don't know any Panamanians or how they think. They look at Panamanians as people apart from them as if they were from another country."

He gets annoyed when asked about allegations of abuses of power and whether the Zonians have legitimate grounds for fear.

He bristles. "All these horror stories are false."

"Isn't it true that one principle of the laws of North America is that the proof is on the accuser and not the accused?"

He looks triumphant. "I would like to know," he demands, "one real thing that happened."

THE ROBLES ENCOUNTER

"We were at dinner at the house of a friend of mine," says Alma Robles. "It was September 1976. A lawyer friend of my brothers, Eusebio Marchosky, and his wife Blanca, offered to give me a ride home and also offered to take Fulvia Morales.

"It was about 11 o'clock at night as we were driving home when suddenly a large unmarked car with four men in plain clothes passed us, then pulled in front of us and forced us to stop. Four men got out and told us we'd have to come with them to the police department. Even though they were in plain clothes we knew who they were. They had *Guardia* crew cuts."

According to Robles:

She and her three friends were taken to the police department, then locked in an empty room with bright lights. Each was made to stand facing a corner for hours. Finally, the three women were taken to a detention cell.

"I had almost fainted by that time," says Robles, "standing there all that time. We weren't allowed to move or even touch the wall. When they finally took us to the women's cell it was horrible.

"It was filthy, full of vomit and cockroaches and prostitutes sitting on the floor in the filth."

The next day they were taken again to the room where they saw Marchosky who, she says, obviously had been beaten. Later the police separated them, and interrogated Alma Robles for four hours.

They sent her back into the cell and for five days she stayed there, incommunicado. Only later did she learn that Marchosky had been exiled, put on a plane to Miami. His wife was released.

Alma Robles implored an officer to let her have some toilet articles, to notify her husband and family, to tell her what the charges against her were.

"The major, who was scared, told me that I was not under his orders. That I was under Noriega's orders. And he said he had been told I had lost all my rights."

Meanwhile her husband had been going to various police headquarters searching vainly for a trace of her until her photograph appeared in the paper with a pile of "stolen" clothes, saying she had been arrested for theft. Finally, her husband contacted a relative of hers who was a friend of President Lakas's wife. She talked to her husband; he called Torrijos and had Alma Robles released—nine days after her arrest.

She was taken by guard to the Presidential Palace, where she was greeted by President Lakas.

"He looked ashamed," she says. "He said, 'Do me a favor and go into the bathroom and clean up. My secretary will lend you cosmetics. I don't want your husband to see you like this.'

"He told me," says Robles, "that he had called Torrijos and said 'Whether she is guilty or not, if we come to the point where we have to fight women in such a way we ought to give up the whole damn thing."

ONE FOR THE FILES

"Alma Robles, huh,' says Noriega, his face falling. "Alma Robles. Huuummmmmmm. Oh yes, Alma Robles. I think I remember her case."

He calls out to an aide who is standing just outside the door. There is a rapid-fire discussion of the case as he dismisses the aide with the instruction, "Get me the Alma Robles file.

"You see," he says, leaning over confidentially to fill the silence before his aide returns, "there is no rule for jailing or exiling. But many times people prefer to leave the country rather than follow the laws or to confront the rules of justice."

The aide rushes in with a massive file of papers and gives it to Noriega.

"Ah ha!" he cries gleefully. "You see, look at that. See how thick it is." And he throws the file up in the air, then catches it with grimace. "It weighs a lot," he says beaming. "It's 68 pages, see here, look. Sixty-eight pages of charges. Now I have the answer for you."

He sits back, now seeming more relaxed than he has been during the whole interview. "In this time," he explains, "there were various people who were trying to make an economic sabotage of the government. Alma Robles was using her house for plotting the economic overthrow of the government. And it was a problem for us for over two years. Well, you can see the complications.

"Also, like trying to provoke mercenaries to plan terrorist activities. But you must understand this is hard for me because she is a woman. But she was used by the group which wanted to make this economic over throw."

He grows very serious, very sincere.

"Since 1968 (the revolution) the Guardia has been good because it has served the majority of the population. But not of the economic and political interests. So the U.S. does not have to do anything, does not have to worry about us. Because we have been good."

FEAR AND LOATHING

"We are all afraid," says Alma Robles. "Let's face it. It would be foolhardy not to be. But we shouldn't be influenced by our fear. We should try to control it and do something. We're not subversive. We are trying to get more people in Panama to overcome their fear, to talk more openly, to come to meetings. We're taking advantage of the lull in the last few months since they want the treaties ratified. We do have a little freedom to meet publicly, to talk on the radio. A lot of people have taken courage to see others meeting. We don't have that much time left. The majority of people are against the government. But now they can show it."

THE MONSTER'S CAVE

Manuel Noriega is not too happy with the direction the conversation has taken. He gets up and points to a door. "Here," he says, "let me show you my office."

He leads the way into a large room with fake stone walls painted in a cave-like pattern. The stereo is playing much louder in this room, Panamanian pop rock music. There is an enormous mural of Noriega parachuting out of an airplane. There are photographs of him and Torrijos around the room. A huge banquet table with ornate carved chairs dominates the office. It is piled high with bottles of liquor and boxes of candy. "This," he says, "is the monster's cave." Curled up in a cushy leather chair is a very pretty, buxom, young Panamanian woman in tight-fitting jeans and another, perched on the edge of the chair at the table and dressed similarly. "And, these," grins Noriega, "are my secretaries."

He obviously wants to change the subject to a lighter vein. Hobbies.

"Well," he says. "I like to read, like to divert myself, I jog five miles every day and I like to dance." Then with a leer, "There are other things I like to do but I don't want you to put that in the paper.

"I collect art. I love paintings of children. And women too," he says with a laugh. "I'm a Buddhist. I started studying Buddhism four

years ago. And I have a black belt in judo, I'm a vegetarian, too.

"For philosophical reasons," he says, "I don't believe men should eat the flesh of other animals.

"So you see," he says triumphantly," "I can't possibly be a monster eating up the Zonians."

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EXHIBIT 2

THE PANAMA CANAL: THE UNTOLD STORY

(By William F. Wright)

ABOARD OVERSEAS ALASKA, PANAMA CANAL.—Capt. Peter Bolton steps nimbly from a motor launch and hauls his 6-foot frame up a precarious rope ladder to the deck of the Overseas Alaska. A red and white flag flutters up the ship's halyard, signaling to all that a pilot is on board.

Bolton, 55, one of an elite band of mariners who maneuver ships through the Panama Canal, is making his 3,000th transit of the waterway.

He sees change as surely as he knows every twist and turn along the 50-mile-long canal. And he doesn't like it. Later, as we near the final stages of our journey from the Pacific to the Atlantic, Bolton will say with as much resignation as defiance: "We have to accept that there will always be change in this world. However, I must say I will always be opposed to the idea of turning the canal over to Panama."

It is a sentiment heard repeatedly in our journey.

The trip will point up an irony all but lost in the debate over the new Panama Canal treaties: the very agreements that insure the continued efficient operation of the waterway may do just the opposite. They have not anticipated the reaction of the pilots, tugboat captains, lockmasters and other key U.S. canal personnel who may leave before Panamanians can be trained to replace them.

Canal officials fear that the departure of a significant number of essential employees could cripple the waterway far more effectively than a hand-grenade in a critical part of machinery.

Bolton, pushing such thoughts aside, makes his way to the bridge. It is 5 a.m. Capt. Stetson Turner, the ship's skipper, greets him with a handshake and turns over control of the vessel. Bolton is now in command until the tanker leaves Canal Zone waters.

The American-registered Overseas Alaska is the closest thing to a supertanker that can transit the canal. Its beam (width) is 105 feet. The canal locks are 110 feet wide, allowing a clearance of a scant two and a half feet on each side. The 48,000 tons of crude oil from Alaska's North Slope Field force the Overseas Alaska to sit so low in the water that at times less than a foot of clearance is between our keel and the concrete floor of the lock chambers.

As we approach the canal's Pacific entrance, three more pilots climb aboard to help guide the big ship through the locks.

Two tugs maneuver the mammoth tanker into the jaws off Miraflores Locks, the first set of concrete and water stairways which will ultimately lift us 85 feet over the Continental Divide and down again—from sea level to sea level.

The early morning sunlight bathes the locks, highlighting the Panamanian and American flags flying side by side. But, for all appearances, this is an American canal. Bicentennial colors are everywhere: on tugboats, dredges and the workhorses of the canal, the electric locomotive "mules" that haul ships through the locks. Bolton leaves no doubt as to where he stands. As he guides the big ship into the first lock chamber, he dons a terrycloth hat with bold red, white and blue stripes.

As Bolton releases the two tugs, they respond with farewell whistle toots. For Vic Faulkner, captain of one of the tugs and head of the local tugboat union, it may be more than just a passing goodbye. Faulkner voices a concern we are to hear often during the transit:

"If the Panamanian National Guard is given control over the Canal Zone, I think it's a foregone conclusion that in a relatively short time the 'gringos' (Americans) will be gone. They're animals. They're not very well educated. They have no tolerance."

The 8,000-member Guard, Panama's combined military and police force, is scheduled to assume responsibility for law and order in the Canal Zone 30 months after the new treaties come into force. The prospect horrifies many Americans in the Zone, where a U.S. police force has maintained law and order since canal construction days.

Maj. Gen. Harold R. Parfitt, governor of the Canal Zone, acknowledges that the Zonians' concern over the National Guard issue is the most crucial question facing the canal organization.

"If their worst fears materialize and our key canal employees leave, we will have extreme difficulty in continuing to operate the canal in an efficient manner," the governor says. Gordon Frick, personnel director for the canal organization, puts it more bluntly: "If there is any semblance of harassment—any overt moves against individuals—I think a large number of people would quit and we would go down the drain."

A spokesman for the Panamanian National Guard say the Zonian's fears are unfounded. "Law-abiding persons need have no concern," he said.

Vic Faulkner says that unless Zonians get firm U.S. assurances that they and their families will be protected under the treaties, they may stage a "job action" similar to the one which closed the canal down for five days in 1976.

Faulkner voices another concern: Panamanians already employed by the canal organization—75 percent of the total workforce—may be replaced by supporters of Panama's military government.

Faulkner says two members of the Panamanian National Guard already have been assigned to be trained as tugboat captains, bypassing more qualified Panamanians already employed on the tug.

"It's a phony political cram-it-down-the-gringos'-throat operation that is not fair to Panamanians or Americans alike," he says. He says he and other tugboat captains have devised a simple way of dealing with the situation: "We don't allow them into the wheelhouse."

One of the new trainees, Samuel Jimenez, 27, acknowledges that he served as an officer aboard a Panamanian National Guard patrol boat, but says he is now a civilian. He complains that the American tugboat masters "won't let me do anything but listen to the radio."

7:08 a.m.—Bolton brings our ship to an abrupt halt just outside the first lock chamber. There is a delay that annoys the normally mild-mannered Bolton. One of the Panamanian "mule" operators is late for work. For a waterway that handles an average 40 transits a day, time is everything.

"With a big ship like this you can't just stop and start like that," Bolton says, snapping his fingers.

On shore, "Don Gifford, a lockmaster who has worked for the canal organization for 32 years, says the incident helps make his point that the waterway will deteriorate under Panamanian control.

"We have our joke here in the Zone: "Are you going to go on gringo time or Panama time?' Gringo time means you'll be on time. Panama time means you might be several hours late.

"We Americans feel that if we miss a train or bus, it's our fault. Panamanians say that the bus left me."

Gifford's opinion, shared by many Zone Americans, seems to spring from early canal construction days, when many Panamanians refused to have anything to do with building the waterway, forcing the United States to import workers from the West Indies. A Panamanian Ministry of Labor spokesman says, "Panamanians never had the feeling they had any real say-so in the canal operation, so, naturally, they have never had the same attitude towards working on the canal as the Americans did."

7:28 a.m.—The tardy mule operator arrives and we inch into the first lock chamber. Cables from the electric locomotives are attached to the vessel. Mules and ship strain together against the water pressure bottled up in the lock.

As the ship shudders to a stop in the chamber, the gate behind us closes. Water from the chamber ahead and above us flows into ours by the simple expedient of gravity. We begin to rise.

Gifford "walks" our ship into the next lock chamber. He says it won't be long before he leaves the Canal Zone for good. "As soon as the Canal Zone police are done away with, I'm gone. My children are grown up and living in the states. My wife died a few years ago. There's nothing to keep me here."

8:30 a.m.—The second and last lock chamber at Miraflores lifts us to Miraflores Lake, 54 feet above sea level. I go below to the officer's mess.

The talk returns to the canal treaties and to the danger of turning over law and order responsibilities to Panama's National Guard.

"I think that anybody who doesn't have concern about how they're going to be treated by the 'Guardia Nacional' is living in a false world," says Capt. George Markham, one of our bow pilots. "When the Canal Zone goes, I think they're going to bend over backward to make us realize they are in charge."

Capt. Peter Crowell, our other bow pilot, relates how members of the Guard beat him with truncheons at Panama's Tocumen Airport recently when he refused to sign a letter to President Carter supporting the canal treaties.

Canal officials say adverse publicity surrounding the National Guard contributes to the difficulty in attracting new pilot recruits. Another is pay. Panama Canal pilots average $44,000 a year, while Mississippi River Pilots earn between $60,000 and $70,000 a year.

Another source of discontent among older pilots is the lowering of qualifications for new members of the pilot force, once considered the aristocracy of the 10,500 U.S. civilian residents of the Canal Zone.

"When they reduce the qualifications, they take away some of the glamour of the job," Markham says.

We enter and clear Pedro Migue Locks, the second set of concrete and water steps, and at 10 a.m. we enter Gaillard Cut.

Markham, not needed at his bow post at this point, breaks away for coffee in the officers' mess. He launches into a topic often broached by Americans working along the waterway: the importance of the Panama Canal.

"I don't agree with those who say the canal is not important to our economy. And anybody who thinks that when Panama takes over they are not going to jack up the rates (tolls) still believes in the tooth fairy."

Donald G. Schmidt, economist for the canal organization, said the new canal treaties will probably mean an early toll increase of between 25 and 35 percent. This would add between $9,750 and $13,650 to the $39,000 toll the Overseas Alaska paid to transit the canal.

"In the absence of pipelines that would bring Alaska oil to the U.S. East Coast," added Schmidt, "the canal remains the only practical, and certainly the cheapest, route."

And the waterway's importance will grow.

Some 550 tankers carrying 13 million tons of Alaska crude oil to the East Coast are expected to transit the canal. This is only a fraction of the 125 million tons of cargo expected through the waterway in fiscal 1978. And the canal, now handling an average of 40 ships a day, still has at least 25 years to go before it attains its projected capacity of 55 transits a day.

Markham turns his attention to the military value of the canal.

"I think it is vital to our national defense. Without it we just wouldn't be able to deploy our forces in various parts of the world to meet emergencies as we are able to do now." He notes that the only American warships not able to transit the canal are the Navy's 13 biggest aircraft carriers.

A recent study prepared by Edmund J. Gannon, a defense analyst for the U.S. Library of Congress, concluded that the canal's value in the deployment of U.S. forces in various parts of the world will actually be greater in the year 2000—when Panama will assume full control of the waterway under the new treaties—than it is now. The study said this is because the Navy is expected to cut back its larger warships in favor of smaller ones able to transit the canal.

11:15 a.m.—We leave the narrow cut and steam into huge, man-made Gatun Lake, a world of emerald-green water, dense jungle and primeval rainforests that will takes us to the final set of locks on the Atlantic side.

Two tugs join us to nudge our ship into the final set of locks linking the lake to the Caribbean. For Glenn Slaathaug, skipper of one of the tugs, it may be one of his last jobs on the canal.

Slaathaug, 42, is preparing to leave the Canal Zone for good. There is one problem: his wife, Sue, refuses to go through Panama's Tocumen Airport.

Slaathaug claims he was severely beaten with rubber truncheons when he was taken into custody by the Panamanian National Guard at the airport last November 19. The National Guard acknowledged the beating, when he arrived at the airport from leave but says Slaathaug was drunk and disorderly in the United States, and the beating was the only way to subdue him.

Slaathaug says he was only "slightly inebriated" and did nothing to justify the beating. Canal Zone Gov. Parfitt told us that while Slaathaug apparently was guilty of "improper conduct" at the airport, the National Guard "appears to have used excess force" in dealing with the situation.

Vic Faulkner, head of the local tugboat union, sharply criticized the governor and the Carter administration for not protesting the incident. "Excess use of force, I'll say! They literally beat the crap out of him. He was so afraid that he soiled his pants." Color photographs which Faulkner says were taken of Slaathaug shortly after the incident showed what appeared to be extensive welts on his legs, back and abdomen.

An aide of Sen. Robert Dole, R.-Kan., an opponent of the canal treaties, told a Canal Zone civic council meeting that a U.S. State Department official's response was that "if you knew all the details you would probably feel he got exactly what he deserved."

(In Washington, a State Department spokesman declined comment on grounds that the Privacy Act prevented him from discussing the incident without Slaathaug's permission.)

Whatever the facts, Sue Slaathaug says she is "ready to go" back to the United States.

"I'm not going to live under that kind of terror—that kind of fear. The only thing is, I'm scared to death of going through that airport. I'll be damned if I'm taking myself and my three children back through there. They probably have my husband's number from here to next week."

1:40 a.m.—The Overseas Alaska is approaching the waterway's final set of locks which will lower us to the Caribbean. The Caribbean Sea sparks under clear-blue skies. But Bolton sees clouds on the horizon: the new canal treaties.

Bolton again turns his thoughts to the transfer of the Canal Zone to Panama and the introduction of the Panamanian National Guard.

"There is definitely an anti-American attitude on the part of the National Guard," he says. "My understanding is that this is being taught to them." He cites a CBS television documentary showing members of the National Guard training to the chant: "Yanqui go home!"

Glenn Heath, a veteran control house operator at Gatun Locks, says he and most of the canal's other American control house operators have decided to do just that.

"My wife refuses—the word is refuses—to live here with the Guardia Nacional in our communities. A 'Guardia' is a person who has no high regard for human life. They have been trained to kill, rather than protect, the average individual."

What also concerns Bolton and his fellow American workers is that Panama will assume responsibility for much of the Zone's sanitation. Willard S. Sweeney, chief of the canal organization's Sanitation Division, said he can understand the concern.

"They ask 'Will malaria come back? Will we have more rats, more scorpions?' The answer is, I'm not quite sure. It depends on how much Panama lives up to its responsibilities."

Sweeney said only one case of malaria has been recorded in the Canal Zone in the last five years. He said Panama has about 8,000 cases a year.

Bolton noted that the United States maintained sanitation in Panama until 1951, when the Panamanians demanded and received responsibility for the job "as a matter of national pride."

"We gave them new garbage trucks. Within three years they were idle because of lack of maintenance. The city became a pesthole."

Bolton said the Panamanian attitude towards maintenance bodes ill for the 64-year-old canal still operating with much of its original machinery.

"The Panamanian people simply do not have the same discipline we do. They are inclined to put things off until manana. Because of this, when they get full control of the canal, maintenance will fall to the point where there will be major delays to shipping."

A spokesman for Panama's Ministry of Labor said that to acquire the ability to maintain the canal at its present level of efficiency, "all we need is time and training."

Low morale among the canal's U.S. employees has undermined the job dedication that has long been a tradition since canal construction days.

"We have a piece of equipment that requires 15 hours to fix. The Panamanian is not quite sure how to do it. So the American, until recently, stepped in and did the job. Well, now the American is fed up. He's tired of training his replacement."

Heath says that 90 percent of American house control operators—the men who operate the vital lock machinery—have decided to leave. The result, he says, is that the canal will "slowly grind to a halt."

Capt. Bolton expresses a final sentiment, saying he doesn't care if it sounds like "motherhood and apple pie."

"It does make me proud as an American to be part of such an efficient operation. The canal has been described as the seventh wonder of the world. I believe it is and it seems a shame that it may deteriorate."

If Bolton has strong sentiments about the canal, Charles Brathwaite has bittersweet memories. Brathwaite, 81, is one of a dwindling band of survivors of the army of West Indians imported to help dig the canal.

We find him in a tacky, one-room dwelling in one of Panama City's worst slum districts. He invites us in, sits in a rickety rocking chair and recalls conditions under which he worked as a 16-year-old hauling bags of concrete mix to Gatun Locks.

"They were very rough. You got to be very careful. You slip on a scaffold and tumble down and you either dead or lose limbs or something or other. (According to canal records, 5,609 West Indian blacks died from disease and accidents during construction of the canal. American dead numbered some 350.)

"Wages were so small that I had to work for 16 cents an hour."

Brathwaite, clad in a tattered undershirt and faded blue pants, draws a $230 monthly pension from the U.S. government.

"I'm thankful for what I'm getting, but I should be getting more," he says. He turns aside questions about the rigid caste society that subjected Canal Zone blacks to widespread discrimination during construction days and for many years after. "I'm drawing a little pension, I got to say God Bless America."

3:15 p.m.—A simple but clever bit of bathtub hydraulic propels us from the last chamber of Gatun Locks. As the final gate opens ahead of us, water is dumped from the chamber behind and above us. The sudden buildup of pressure in the chamber drives us forward.

Our journey from the Pacific to the Atlantic has taken nine hours and 15 minutes. Capt. Bolton and the three other pilots shake hands with the skipper and board a launch for shore. We are headed for the open sea. Behind us we leave a waterway troubled at the prosepct of change.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina. The Senator from Maryland.

Mr. SARBANES. Mr. President, I first wish to address some of these numbers that the Senator has used. In doing that, I wish to quote directly from responses that were given by Governor Parfitt, the head of the Panama Canal Company and the Canal Zone Government.

I think we should understand at the moment there are two American entities in the Canal Zone. One is the Panama Canal Company, which operates the canal, and, in addition to operating the canal, carries on a number of other functions, which, in this country, would be functions carried on by private enterprise. It is a Government agency. It is an instance in which this Government agency carries on activities with commercial shops, bowling alleys, food production, and so forth, which, in this country, would be carried on by private enterprise, and indeed, in the Republic of Panama would be carried on by private enterprise.

In addition, there is the Canal Zone Government which carries out in this zone, over which the United States exercises jurisdiction, governmental activities comparable to what a municipality would carry out in this country, or what is carried out in the Republic of Panama by the public services of Panama in Panama City or in other localities.

Governor Parfitt is the head of those two entities, the Panama Canal Company and the Conal Zone Government. These questions were put to him and these were his responses.

Planning estimates of number of present employees (broken down into U.S. citizens and non-U.S. citizens) whose jobs will be discontinued and who are expected to be placed with other U.S. Government employment in Panama.

The response to that was:

There are approximately 2,600 full time permanent positions in functions that will be transferred to other U.S. Government agencies in Panama. Currently there are 2,500 employees in these positions, of which 1,050 are U.S. citizens and 1,450 are non-U.S. citizens. In addition, there are 250 (160 U.S. and 90 non-U.S.) temporary and part-time employees in these functions most of whom do not have transfer rights.

Those are the 250 temporary part-time employees without transfer rights.

Some of these employees may be hired by the Government agency that assumes responsibility for these functions.

It is important, in that regard, to appreciate that what is happening is that some of these functions are being transferred from the Canal Zone Government, when we cease to operate the Canal Zone Government, to other U.S. agencies which will carry forward these functions. In many instances they are being transferred to the Department of Defense. Examples of that would be schools, people who would be responsible for teaching functions, and hospitals or the furnish ing of medical care.

So in response to the question, "Planning estimates of the number of present employees whose jobs would be discontinued and who are expected to be placed with other Government employment in Panama," the answer to that is "2,600 full-time positions in functions that will be transferred to other U.S. Government agencies in Panama."

The next question:

Planning estimates of number of U.S. citizen employees expected to be transferred to U.S. Government employment outside of Panama.

The answer was:

Of the 700 U.S. citizen employees whose jobs will not be continued in the Panama Canal Commission and who will not be transferred with their functions to other U.S. Government agencies in Panama, we estimate that approximately 250 will transfer to other U.S. Government employment outside of Panama. We estimate that 100 additional U.S. citizen employees will be selected to fill vacancies within the Panama Canal Commission (vacancies arising from voluntary retirements and normal attrition).

What is important to understand here is that there are now two entities, the Panama Canal Company and the Canal Zone Government. If these treaties take effect, there will be a Panama Canal Commission, which will assume many of the functions now carried out by the Panama Canal Company. The Canal Zone Government, functioning as a government, as it were, in Panama will cease to exist in governmental functions. Many functions will be assumed by Panama, and many other governmental functions now being carried out by the Canal Zone Government will be assumed with respect to American citizens and their dependents by other agencies of the U.S. Government, primarily by the Department of Defense.

So in the end, according to Governor Parfitt, when all of these transitions are accomplished, and so forth, there will only be 700 U.S. citizen employees whose jobs will not be continued in the Panama Canal Commission and who will not be transferred with their functions to other U.S. Government agencies in Panama.

In other words, with all of these U.S. citizen employees either their jobs will be continued in the Panama Canal Commission, which is the agency which will be responsible for operating and maintaining the canal—or they will be transferred with their functions to other U.S. Government agencies in Panama. That is the case for all but 700.

Mr. HELMS. I apologize for interrupting the Senator, and if he would rather proceed, I will wait. He is quoting the responses of Governor Parfitt to questions I asked Governor Parfitt. I appreciate his using the figures that I obtained from Governor Parfitt. I was wondering why the Senator omitted question 6 when he was going down the list of responses.

Mr. SARBANES. I have not gotten to question 6 yet. I intend to include question 6.

Mr. HELMS. I apologize. I thought the Senator had already gone to question 7 when he referred to the planning estimates——

Mr. SARBANES. I am on question 4. I will say to the Senator I intend to go ahead and read. I see the point he wants to make and I intend to put that one on the RECORD as well.

Mr. HELMS. I thank the Senator.

Mr. SARBANES. At the moment I am on question 4 of the questions which were submitted. They were submitted by letter from the distinguished Senator from North Carolina, detailed questions, which, of course, I believe in many ways is the best way to get the most thought-through and carefully worked out response. These were the responses which came back from Governor Parfitt.

Of the 700 U.S. citizen employees whose jobs will not be continued in the Panama Canal Commission and who will not be transferred with their functions to other U.S. Government agencies in Panama,

In other words, all but 700 will either continue with their jobs, which will be carried over into the Panama Canal Commission, or they will be transferred with their function to some other U.S. Government agency in Panama.

Of the 700, he then goes on and says:

we estimate that approximately 250 will transfer to other U.S. Government employment outside of Panama. We estimate that 100 additional U.S. citizen employees will be selected to fill vacancies within the Panama Canal Commission, vacancies arising from voluntary retirements and normal attrition.

Then the next question, question No. 5:

Planning estimates of the number of U.S. citizens not expected to find U.S. Government employment either in Panama or elsewhere.

The answer:

We estimate the remaining 350 U.S. citizen employees whose jobs will not be continued with the Panama Canal Commission will not find U.S. Government employment either in Panama or elsewhere. Of this group we estimate that approximately 50 to 75 percent will be eligible for early retirement.

So, if we take that very large figure of U.S. employees that was earlier put out, up in the thousands, I think it is important to appreciate from the question and the responses here—questions propounded by the distinguished Senator from North Carolina and the responses from Governor Parfitt—that, while the initial figure we are talking about is thousands, we then find, after it has all been analyzed very carefully, that the number is 700 U.S. citizen employees whose jobs will not be continued in the Panama Canal Commission or will not be transferred to other U.S. Government agencies in Panama. Now, of those 700, it is estimated that 250 of the 700 will transfer to other U.S. Government employment outside of Panama; 250 of that 700, which then reduces that number to 450.

Governor Parfitt then estimated that 100 additional U.S. citizen employees would be selected to fill vacancies within the Panama Canal Commission, vacancies arising from voluntary retirements and normal attrition.

That then leaves us with a figure of 350 U.S. citizen employees. With respect to them, he said:

We estimate the remaining 350 U.S. citizen employees whose jobs will not be continued with the Panama Canal Commission will not find U.S. Government employment either in Panama or elsewhere. Of this group we estimate that approximately 50 to 75 percent will be eligible for early retirement.

In other words, of the remaining 350, one-half to three-quarters of them would be eligible for early retirement.

Of course, the final provisions with respect to early retirement can be established by the Congress, because it is a matter within our control and we can deal with that through legislation. By the same token, we can also deal through legislation, or actually, the executive branch of our Government can deal with it as a matter of policy, with the question of job opportunities back in this country with respect to employees. So the number that we are really, in the end, talking about, in view of the estimates, is, I think, a less significant proportion than perhaps the impression one may have gained.

Continuing with the questions:

Question 6. Planning estimates of number of U.S. citizen employees whose jobs are not discontinued by Treaty, but are expected to choose early retirement or voluntary separation within three years.

The Governor's answer to that was:

Of the anticipated 2,000 U.S. citizen employees whose jobs would remain with the Panama Canal Commission, we estimate approximtaely 1,000 would apply for, and choose, early retirement or voluntary separation within three years.

He then went on to question seven—I am going to come back in a second to discuss that answer.

Question 7. Planning estimates of number of Panamanian employees whose jobs are expected to become the responsibility of the Republic of Panama.

Before I go on to the non-U.S. citizens, let me go back to talking about the U.S. citizens. There is an interesting question here, and I recognize that question. That is, will U.S. citizen employees of the Panama Canal Company currently, whose jobs would continue to be available to them with the Panama Canal Commission, stay in those jobs? The Governor has estimated here a figure of 50 percent. That is an estimate, and that is, of course, the best that anyone can do. It is an important question in a number of respects.

These are people who now have that option available to them. The opportunity is there for them if they choose to utilize it. So they are not in a position of not having the opportunity. This is really an estimate of people who may choose not to use the opportunity.

Then, of course, the question becomes, if they withdraw, as it were, precipitately from the work force, what will that do to the standard of the work force and the ability to carry on the functions of the canal? It is an important question. I have a couple of responses to it.

First of all, the thrust of the question has varying weight depending on the nature of the position that one is talking about. There could be some positions in which a lot of people would decide to take early voluntary retirement or voluntary separation. That would be their choice, and it would not make a big difference in terms of the work force, because they could be easily replaced, either by Panamanians or with other employees, American employees, who had jobs that were going to be phased out who would be entitled to move into these positions. It becomes more of a problem when we talk about highly skilled positions. The Senator from North Carolina made reference to the pilots, and that is a highly skilled position.

On the other hand, it is a well-compensated position. Like any other job, a good deal of the attraction of the job is influenced by the remuneration that goes with the job. So there is the opportunity, I think, if you have a serious problem, particularly in those highly skilled positions, to adjust the salaries accordingly in order to hold on to personnel if that becomes a problem.

Second, while the treaty foresees, over the course of the century, moving to a Panamanian work force for operating and maintaining the canal, although it protects those that are there, it also allows or permits recruitment outside of Panama for certain special skills that may not be available within the Republic of Panama. In other words, if a job becomes open at a level that does not require specialized skills, highly trained skills, and—well, let me put it this way: If a job became open, you would have to look to Panama first. But if they did not have the training and the skills required to fill that job, you could recruit outside of Panama.

Therefore, you are entitled, with these very highly skilled positions we are talking about—and the numbers are small in those positions. I think most people would concede that. The number of pilots, for example, I think is 210 or 212 pilots now working for the Panama Canal Company. If that skill is not available under the treaty, there is a specific provision that allows recruitment to take place outside of Panama. That is located in article X, section 2(a) of the treaty, which provides that:

The United States of America shall establish an employment policy for the Panama Canal Commission that shall generally limit the recruitment of personnel outside the Republic of Panama to persons possessing requisite skills and qualifications which are not available in the Republic of Panama.

ORDER FOR VOTE TO OCCUR AT 7:15 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. SARBANES. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanmious consent that the vote occur in relation to this amendment at 7:15 p.m. today.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. McGOVERN). Without objection, it is so ordered.

AMERICAN BUSINESS LEADERS IN PANAMA FAVOR TREATIES

Mr. McGOVERN. Mr. President, American business leaders living and working in the Republic of Panama are overwhelmingly in favor of the ratification of the Panama Canal treaties. The views of these business leaders are typified by the comments of Mr. Edward Abbot before the Detroit Economic Club. Mr. Abbot is the Ford dealer in Panama and has lived in Panama for over 30 years. I urge my colleagues to examine Mr. Abbot's remarks, and I ask unanimous consent that his speech as it was reprinted in La Republica be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McGOVERN. Mr. President, in an interview also in La Republica, Mr. Abbot addresses the concerns of some Zonians about living under the jurisdiction of Panama. It is very interesting to note that Mr. Abbot's conclusion based on his long personal and business relationships with Panama is that these fears are unfounded. I ask unanimous consent that this interview appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

EXHIBIT 1

CANAL TREATY TO ATTRACT NEW INVESTMENTS IN PANAMA

Edward (Ed) Abbott, an American who has been in business in Panama for the past 29 years, late in January addressed the Detroit Economic Club as a member of a five-man "truth squad" from the Isthmus which explained the Panamanian side of the Panama Canal Treaty question to audiences in various U.S. cities.

He was named to the squad by the Panama Government as a qualified representative of U.S. businessmen here.

The full text of Abbott's address follows:

Ladies and gentlemen: My name is Ed Abbott. It is quite an honor to address such a distinguished group as yourselves.

I grew up in Detroit and went to Cooley High School and attended Wayne University. Since 1945 I have lived in Panama as a private businessman and have worked with the Panamanian people for these 29 years as the Ford dealer in Panama. My experience has been that the government has always been just in its dealings with management and labor and has treated both sides with the same equitable consideration. There are approximately 6,000 U.S. families who are integrated and living in the country of Panama and I am reflecting the opinions and speaking for this group.

The private sector has always been concerned with the economic and commercial relations between the United States and Panama. The pending Panama Canal Treaty is certainly a strong influence on the business community and the attraction of new investments in Panama.

This treaty will create a strong climate of stability and the country of Panama will at last have control over its principal natural resource, after a gradual transfer of management in accordance with the terms and agreements of the new treaties.

This will enhance U.S.-Latin American relations as well as all of the Third World nations and certainly will strengthen the national interests and create an image of understanding and fair dealing with our proven allies and friends.

During this transfer of administration the rights of the 3,000 U.S. citizens who work and reside in the Canal Zone have been fully protected. The treaty which has been signed by President Carter and General Torrijos—on behalf of the people of Panama—clearly guarantees these Americans their jobs and salary levels until retirement. The process of integrating into the Panamanian economy for the present U.S. workers in the Zone will be an easy and almost automatic process—as the operation of the Canal is slowly assumed by the Panama government the present housing facilities would not be physically changed—but only the administration would change. We have a good example of this which already took place in Panama.

About 12 years ago the U.S. government returned a tract of land within the city of Colón on the Atlantic side of the Canal, in accordance with a previous agreement.

When the Panama government assumed administration of this housing area, the land and housing was offered to private citizens who were now able to own their own houses. These people built up a respectable middle class community, which has proved to be a good investment. There are absolutely no restrictions on foreigners owning their own property in Panama and the registration of deeds and ownership is patterned after and is similar to our system here in the United States.

Under the new treaty most of the present residential sections in the Canal Zone will become available for private ownership and it follows that the same U.S. citizens may

elect to purchase their housing which was not possible before because all housing was furnished by the U.S. government, and if an employee either U.S. or Panamanian was terminated, he or she had to return to the U.S. or Panama, as the case may be.

Residence in the Canal Zone is limited only to the people who work there. Separate housing is provided for the U.S. citizens apart from the Panamanian employees who live in the Canal Zone and naturally this separation did not foster a program of integration.

Panama's geographical location and favorable business laws offer an excellent opportunity for future investments in this country and Panama welcomes foreign investment and participation concerning the vital interests of the United States in reference to the defense of the Panama Canal, we Americans have been informed by our military advisors that the defense of the actual Canal against an insurgent and Viet Nam type of warfare would indeed be very difficult and expensive unless the surrounding country was friendly. These treaties clearly state that the U.S. has the right and obligation to defend the waterway against any threat that could jeopardize clear passage of any vessel after the year 2000 when the Panama government has assumed full management of the waterway. At the present time the U.S. military presence in Panama is only tolerated and indeed criticized by most of our Latin American neighbors throughout the continent. Since the military action that took place on Jan. 9, 1964, the United States has recognized a need for a fair treaty with the Republic of Panama and during Henry Kissinger's visit when he was Secretary of State, expressed their intent in writing to sign an equitable treaty with Panama, to end one of the last colonial enclaves that still exist in this modern world.

After all these years the Panamanian people at last are realizing their just aspirations and it would indeed be disastrous to not ratify this treaty at this time. Panama has the support of not only Latin America but the whole world has supported Panama's struggle to obtain jurisdiction over their territory and the United States would severely damage their relations and image throughout Latin America and the Third World.

The U.S. would appear to act irresponsibly in the eyes of their Western allies by not ratifying a treaty that gives us the right to defend the Canal against any threat from any source.

The United States urged Great Britain to return the control of the Suez Canal and is presently supporting the people of Africa who are struggling to obtain a majority control over their country. If these treaties are not ratified, then the United States will be placed in a position where they have constantly supported and recognized smaller independent countries rights against larger and oppressive regimes and the rest of the world is now expecting them to adhere to the same policy of freedom for independent nations to pursue their own Democratic goals.

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EXHIBIT 2

FEAR OF LIVING UNDER RP JURISDICTION "UNFOUNDED"

(By J. J. Harrison)

A long-time U.S.-citizen resident of the Isthmus today branded as "grossly unfounded" the fear some Canal Zone Americans have over the possibility of living under Panama Government jurisdiction.

The assertion came from Edward (Ed) Abbott, born in Grand Rapids, Mich., some 60 years ago, but who has called Panama City, Panama, home since 1949, or for the past 29 years.

"We (U.S. citizens) have always been treated justly and with consideration and are fully integrated—and accepted—into the economic and social lifestream of Panama," said businessman Abbott in an exclusive interview with La Republica-English.

He said he was reflecting the opinion and speaking for the 6000 U.S. citizens living in Panama.

"Take it from me," the businessman said, "I am in an excellent position to know Panama and its people". He added that he is the "only Gringo" working shoulder-to-shoulder with his 202 Panamanian employes.

Abbott, also well known as an active civilian airplane pilot, commented on the rights, under the Torrijos-Carter treaties, of the approximately 3000 U.S. citizens currently employed in the Panama Canal Zone.

"The new treaties," he declared, "clearly guarantee these Americans their jobs and salary levels, until retirement".

Declaring that the process of integration into the Panamanian economy would be an easy and almost automatic one for these U.S. citizens, Abbott pointed out that the new treaties would not only afford them the opportunity of purchasing their own homes.

"They would also receive better facilities for entering into commercial activities just the same as so many of their 6000 countrymen have, from one end of the republic to the other," Abbott said.

He noted with "much satisfaction" that during the nine years of the Revolutionary Government, while the treaty has been an issue, "there have never been any overly serious incidents that have adversely affected the private sector in Panama."

He said Panama is one of the few nations that has consistently been free of terrorism and has enjoyed a secure atmosphere for its own citizens, and foreign residents here, alike.

Late in January, Abbott was a member of a five-man "truth squad" which visited various large U.S. cities giving Panama's side on the controversial treaties which will provide this country with complete jurisdiction over all its territory by the year 2000.

Abbott, who on that mission represented U.S. businessmen based in Panama, was accompanied by Panamanian Ambassador to Washington Gabriel Lewis Galindo, who headed the squad; Planning and Economic Policy Minister Nicolas Ardito Barletta, Treaty Negotiator Carlos Lopez Guevara and Eduardo Ferrer Morgan, the Embassy's economic advisor who served as truth squad coordinator.

The full text of Abbott's talk before the Detroit Economic Club, during the January trip, will be printed in Monday's edition of La Republica-English.

The Detroit Economic Club is regarded as one of the strongest groups of economic leaders in the United States.

ORDER FOR VOTE ON HELMS AMENDMENT TO OCCUR AT 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a vote occur in relation to the pending amendment by Mr. HELMS at 11 o'clock tomorrow morning.

The PRESIDING OFFICER (Mr. METZENBAUM). Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. There will be no further rollcall votes today.

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## ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that statements during morning business be allowed, that they be limited to 5 minutes each, that the period not extend beyond 30 minutes, and that the morning business be as in legislative session.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). Without objection, it is so ordered.

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## MESSAGES FROM THE HOUSE

At 2:20 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 6693) to amend the Child Abuse Prevention and Treatment Act to extend the authorization of appropriations contained in such act, and for other purposes, with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 10732. An act to authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal years 1979, 1980, and 1981;

H.R. 10882. An act to authorize appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1979, 1980, and 1981; and

H.R. 10884. An act to authorize appropriations to the Council on Environmental Quality for fiscal years 1979, 1980, and 1981.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 549. A concurrent resolution praising the United States delegation to the Belgrade meeting of the Conference on Security and Cooperation in Europe for its efforts on behalf of human rights, and urging the President to continue to express United States opposition to repressive actions and to violations of basic human rights which are contrary to the Helsinki accords.

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At 5:14 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 9179) to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 7700. An act to amend title 39, United States Code, to ensure the continuation of public services performed by the United States Postal Service, and for other purposes;

H.R. 10730. An act to authorize appropriations to carry out the Marine Mammal Protection Act of 1972 during fiscal years 1979, 1980, and 1981; and

H.R. 10878. An act to extend until October 1, 1981, the voluntary insurance program provided by section 7 of the Fishermen's Protective Act of 1967, and for other purposes.

## HOUSE BILLS AND CONCURRENT RESOLUTION REFERRED

The following bills were each read by their titles and referred as indicated:

H.R. 7700. An act to amend title 39, United States Code, to ensure the continuation of public services performed by the United States Postal Service, and for other purposes; to the Committee on Governmental Affairs.

H.R. 10730. An act to authorize appropriations to carry out the Marine Mammal Protection Act of 1972 during fiscal years 1979, 1980, and 1981; to the Committee on Commerce, Science, and Transportation.

H.R. 10878. An act to extend until October 1, 1981, the voluntary insurance program provided by section 7 of the Fishermen's Protective Act of 1967, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 10732. An act to authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal years 1979, 1980, and 1981; to the Committee on Commerce, Science, and Transportation.

H.R. 10882. An act to authorize appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1979, 1980, and 1981; to the Committee on Environment and Public Works.

H.R. 10884. An act to authorize appropriations to the Council on Environmental Quality for fiscal years 1979, 1980, and 1981; to the Committee on Environment and Public Works.

The following concurrent resolution was read by its title and referred as indicated:

H. Con. Res. 549. A concurrent resolution praising the United States delegation to the Belgrade meeting of the Conference on Security and Cooperation in Europe for its efforts on behalf of human rights, and urging the President to continue to express United States opposition to repressive actions and to violations of basic human rights which are contrary to the Helsinki Accords; to the Committee on Foreign Relations.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JACKSON, from the Committee on Energy and Natural Resources, with an amendment:

S. 743. A bill to provide for the protection of franchised distributors and retailers of motor fuel; to encourage conservation by requiring that information regarding the octane rating of automotive gasoline be disclosed to consumers; and to prevent deterioration of competition in gasoline marketing (together with minority and additional views) (Rept. No. 95–732).

By Mr. EASTLAND, from the Committee on the Judiciary: Special Report on Immigration (Rept. No. 95–733). Annual Report on Criminal Laws and Procedure (Rept. No. 95–734).

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

David D. Newsom, of California, to be Under Secretary of State for Political Affairs.

Robert J. Sugarman, of Pennsylvania, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada.

(The nominations from the Committee on Foreign Relations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

● Mr. CANNON. Mr. President, from the Committee on Commerce, Science, and Transportation, I report favorably sundry nominations in the Coast Guard which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.●

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of March 27, 1978, at the end of the Senate proceedings.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. ALLEN:

S. 2872. A bill to amend the Internal Revenue Code of 1954, as amended, so as to exempt subsistence allowances of law enforcement officers of the United States from Federal income taxes; to the Committee on Finance.

By Mr. INOUYE (for himself and Mr. CANNON):

S. 2873. A bill to provide for the regulation of rates or charges by certain State-owned carriers in the foreign commerce of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 2874. A bill to amend the Foreign Trade Zones Act to increase the use of foreign trade zones in exporting, and for other purposes; to the Committee on Finance.

By Mr. HATHAWAY:

S. 2875. A bill to amend title XX of the Social Security Act to provide for service program planning and assessment; to the Committee on Finance.

By Mr. ABOUREZK:

S. 2876. A bill to provide for increases in appropriations ceilings for development ceilings, land acquisition for boundary changes in certain units of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HATHAWAY:

S. 2877. A bill entitled the Education Fiscal Assistance Act of 1978; to the Committee on Finance.

By Mr. MAGNUSON (for himself and Mr. INOUYE):

S. 2878. A bill to amend the Central, Western, and South Pacific Fisheries Development Act to increase the appropriation authorization through fiscal year 1982, to expand the U.S. fisheries development effort, and to cooperate in the formation and research of the South Pacific Regional Fishery Agency, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. JAVITS (for himself, Mr. WILLIAMS, Mr. SCHWEIKER, Mr. RANDOLPH, Mr. CHAFEE, and Mr. DOLE):

S. 2879. A bill to amend the Public Health Service Act to establish a Commission on National Primary Health Care Needs; to establish hospital-affiliated primary care centers; to establish research and demonstration projects for primary care; to continue the assistance to community health centers, migrant health centers, and the National Health Service Corps; and for other purposes; to the Committee on Human Resources.

By Mr. NELSON:

S. 2880. A bill to provide that future Federal employees will be covered by social security and may elect not to be covered by the applicable Federal employees retirement system, that current Federal employees may elect to be covered by social security and if they so elect may elect to discontinue being covered by a retirement system for Federal employees and have retirement credits under any such system transferred to social security; to the Committee on Finance.

S. 2881. A bill to provide for the actuarial soundness of the Civil Service Retirement and Disability Fund through a financing plan which will be fair and equitable to Federal employees and to the taxpayers; to the Committee on Governmental Affairs.

By Mr. HELMS:

S. 2882. A bill to provide that comparability pay increases shall apply to Members of Congress in any year only if the cost-of-living index for the preceding 12-month period has not increased by more than 2 percent; to the Committee on Governmental Affairs.

By Mr. CURTIS:

S.J. Res. 126. A joint resolution to authorize the President to proclaim the month of May 1978 as "National Car Care Month"; to the Committee on the Judiciary.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INOUYE (for himself and Mr. CANNON):

S. 2873. A bill to provide for the regulation of rates or charges by certain state-owned carriers in the foreign commerce of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

OCEAN SHIPPING ACT OF 1978

● Mr. INOUYE. Mr. President, in August 1977, the Maritime Administration issued a report entitled "Expansion of the Soviet Merchant Marine into the U.S. Maritime Trades." In response to the growing trade penetration in the United States by the Soviet merchant fleet, the MarAd report attempts to analyze and monitor the policies of the Soviet merchant marine, and to forecast its future development.

Among other things, the MarAd report found that:

In 1971, Soviet participation in U.S. liner ocean-borne foreign trade was 160,000 tons valued at $38 million, representing, by tonnage, 0.4 percent of the total U.S. liner trade. In 1976, this participation was 7–8 times greater: preliminary information shows that the Soviets carried 1,434,000 tons valued at $1.7 billion, representing, by tonnage, 2.9 percent of the total U.S. liner trade.

The report concludes since 1971 the Soviet Merchant Marine has substantially increased both its liner service and the carriage of liner cargoes in the U.S. trades. However, it said, this trade penetration is largely successful because of the practice of rate cutting.

The Soviet's rate-cutting practices in our liner trades led Time magazine in an article in its December 5, 1977, edition to inquire, "Piracy or Profit on the High Seas?"

Russian ships can and do quote rates as low as 50 percent below U.S. conference rates because they operate outside the conference system and do not operate for profit but rather from a directed national policy intended, among other things, to earn foreign currency to assist in the balance of payments and to assist in the expansion of Soviet policy throughout the world.

According to the Federal Maritime Commission, Soviet penetration in U.S. liner trades in 1976 was the heaviest in tonnage terms on:

(1) Trade Route 7—U.S. North Atlantic/W. Germany—13.1 percent.
(2) Trade Route 8—U.S. North Atlantic/Netherlands, Belgium—3.7 percent.
(3) Trade Route 10—U.S. North Atlantic/Med. Black Sea, Portugal, Spain, Morocco and Azores (U.S.S.R. ports excluded—2.9 percent.
(4) Trade Route 17—U.S. Atlantic, Gulf and Pacific/Indonesia, Malaysia, and Singapore—5.4 percent.
(5) Trade Route 21—U.S. Gulf/U.K., Ireland, Continental Europe (North of Portugal), (U.S.S.R. ports excluded)—2.7 percent.
(6) Trade Route 29—U.S. Pacific, Hawaii and Alaska/Far East—5.6 percent.

And, data for the first 9 months of 1977, shows significant penetration by the Soviets on 7 of the 16 routes where they have the largest tonnage penetration. The 1977 data show the following penetration levels:

(1) Trade Route 7—12.3 percent.
(2) Trade Route 8—4.1 percent.
(3) Trade Route 10—4.0 percent.
(4) Trade Route 17—10.1 percent.
(5) Trade Route 21—3.6 percent.
(6) Trade Route 22—11.6 percent.
(7) Trade Route 29—6.4 percent.

A comparison of some rates of record will, I believe, illustrate the predatory practices of the Soviets; and explain why their rate of penetration has been so dramatic.

According to one source, in 1973, in the United States/Japan trade, the rates of United States, Japanese and conference members third flag carriers on TV sets, toys and bicycles were $45, $42, and $36 respectively.

In early 1973, a Soviet-owned line—Far Eastern Steamship Co. (FESCO)—which had been operating for about 6 months in the Japan/United States trade, cut the eastbound rates to $38.25, $33 and $31 or respectively 15 percent, 21.4 percent, and 13.8 percent below the applicable rate of conference carriers. The national carriers then reduced their rates to a level which was about 3 or 4 percent above the FESCO rates.

Six days later FESCO slashed its electronics rate by yet another 12 percent to a level 15 percent below the reduced rate of the national lines.

In United States/West German trade, national flag and conference carriers established rates on eastbound movements as follows:

Tobacco—$75.75, rags—$70, plastic sheets—$55, asphalt shingles—$58.50. The undercutting rates of the Soviets, respectively: $56, $55.64, $39.75, and $38.75 or from 20.4 percent to 33.8 percent below the existing level.

More recent examples of trade penetration tactics by Soviet carriers are in the Australian and Central American trades. According to the FMC, in the U.S. Atlantic and Gulf/Australia trade, FESCO minibridge rates averaged some 10 to 13 percent below the rates of ACE lines, which also offers independent minibridge service in this trade.

In a similar comparison of all-water rates between the U.S. Pacific coast and Australia, FESCO's rates likewise averaged some 22 to 25 percent below those of the conference.

In the New Orleans/Central American trade, the Soviets have recently announced the inauguration of a service at rates below those of competing carriers and equal to those of carriers serving the much shorter route between Miami and Central America. Since the inland distance to New Orleans for much of this cargo is significantly shorter, the carriers from Miami will be forced to reduce rates or face the loss of this cargo. The best information available to the FMC indicates that rates in this Miami/Central America trade are already depressed due to heavy competition.

In the Pacific Coast/Far East trade, according to the FMC, there are instances involving specific commodities where the Soviet rates are as much as 48 percent below those of the competing conference and well below those of OOCL, a major independent in the trade. In the North Atlantic/European trade, rates of the Soviet carriers have gone below the conference rate by as much as 50 percent. Such reductions are, indeed, substantial and demonstrate the capability of the State-controlled operator to publish rates at whatever level may be necessary to acquire the involved cargo.

Most recently, a shipment of buses moving from Germany to Houston, Tex., purchased for the most part with Federal dollars, was carried by the Soviet carrier Baltic Shipping Co. at rates well below those quoted by a U.S. carrier, Lykes Bros. Steamship Co. for the same shipment.

Although all the facts are not yet known, I have been told that the German freight forwarder handling the shipment sought rate quotations. Lykes had quoted a LASH barge load of $20,000, which equals about $6,500 per bus. Subsequently, however, Baltic Shipping Co. successfully quoted a rate of $4,500 per bus.

According to one source, at that rate Baltic will not even cover its fuel costs for the voyage.

The Soviets, of course, can set any rate they want. They do not have to worry about profits or costs. It makes no difference to them how many rubles they have to spend inside the Soviet Union to earn a dollar's worth of hard currency.

They do not, for example, have to charge the 12.5 to 15 percent increase scheduled by the various conferences for 1978. According to one source, wage costs for their crews are extremely low by U.S. standards—$97 a month for the master, $31 for an ordinary seaman. And according to the same source, their vessels are fueled at costs that are fully 75 percent below those of other nations.

Mr. President, our national shipping policy is committed to free and open competition in the U.S. liner trades. Clearly predatory pricing practices contradict this policy, and render it meaningless and ineffective.

If they continue, the ultimate consequences for the liner segment of our merchant fleet are readily foreseeable. It will disappear, and our merchant fleet will no longer be capable of serving international economic, military and political commitments of the United States.

Mr. President, on behalf of Senator CANNON and myself I am introducing legislation which would enable the FMC to control the ability of State-controlled carriers in our liner trades to establish and maintain rates that cannot be matched by commercially motivated carriers, and thereby assure free and open competition in our liner trades. Shortly, my Merchant Marine Subcommittee expects to hold hearings on the bill.●

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By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 2874. A bill to amend the Foreign Trade Zones Act to increase the use of foreign trade zones in exporting, and for other purposes; to the Committee on Finance.

AMENDMENTS OF THE FOREIGN TRADE ZONES ACT

● Mr. INOUYE. Mr. President, in 1977 the United States suffered a record merchandise trade deficit of $36.6 billion (c.i.f. basis). It represents a deterioration of $21.8 billion from 1976's poor export performance. Since 1971, when we incurred our first trade deficit since 1893, deficits have almost become the rule rather than the exception.

There are some individuals who have dismissed the significance of the large deficits in the hope that the currency adjustment would cut imports and increase exports. However, as we have had more experience with the floating rate system, it is becoming clearer that price competitiveness is only part of the problem in closing the deficit and that currency adjustments can help our export trade only to a limited degree.

We require a major commitment to the export sector from the present administration. We need to reconsider existing restraints on exports and to devise new initiatives to encourage American firms to export. A comprehensive exporting policy is still lacking.

Foreign trade zones (FTZ) could be a fruitful source of exports and additional jobs. Zones are enclosed areas considered to be outside the customs territory of the United States and are used for storage, exhibition, assembly, manufacture, and other processing.

There are currently 31 cities with authorized FTZ facilities established pursuant to the 1934 Foreign Trade Zones Act. Interest in FTZ's has increased rapidly within the last few years. The number of authorized zones climbed from 21 in 1976 as cities have come to realize the benefits of zones in expediting and encouraging foreign commerce. The State of Hawaii in particular has been very aggressive in using its FTZ in its State redevelopment plans. Under the

able and thoughtful leadership of Homer Maxey, the Honolulu FTZ has emerged as the Nation's leader, accounting for approximately 50 percent of the goods received and shipped and more than 54 percent of the exports from the United States.

Foreign trade zones can also attract industry which would not have been established except for the benefits which FTZ's offer. The Honolulu zone has a major oil refinery which sells millions of dollars of fuel to ships and aircraft. The new Volkswagen plant in Pennsylvania will be located in a FTZ.

These new businesses mean jobs. Firms in the Hawaii zone jobs. This number should increase as more companies establish themselves in the FTZ. When it is operational, the Volkswagen plant will be a major industrial employer.

Used properly, FTZ's can be an important asset in our struggle to boost exports and create new jobs. However, the 1934 act has not provided sufficient flexibility, and it is the objective of this measure to enhance the attractiveness of FTZ's for exporting purposes.

The bill has been drafted as a result of a project that was proposed for the Honolulu FTZ several years ago. A local firm planned to establish a facility to manufacture bagasse, a sugar cane byproduct which is used in construction, for export to Japan. To make the project economically feasible, however, it was necessary to import machinery. The Treasury Department determined that duties would have to be levied on the machinery on grounds that machinery used for manufacturing in the zones was not exempt from tariffs under the act in spite of the fact that none of the product was destined for the customs territory of the United States. As a consequence of this determination, the proposal was shelved, and both the Nation and the State were deprived of the revenues and jobs which the project would have generated.

The bill being introduced today would correct this situation by permitting the tariff-free import of machinery, materials, and fuels used solely in the manufacture or production of goods for export. In order to qualify, the FTZ would be subject to stringent criteria.

It would have to show that: First, fuel, materials, or machinery is essential to the operation of the project; second, it is not available domestically at a comparable price; third, the total retail value of the goods manufactured and exported would exceed the duty which would otherwise be imposed on the imported goods and exceeds $100,000; and fourth, the establishment and operation of the project would not significantly reduce the export operations of existing firms.

In order to insure that the public interest is fully protected, the public would be able to comment on the application for this exemption. Authority for the exemption is limited to a renewable 6-year term, and if the project fails to meet its original purpose, permission for continuation may be denied. Finally, to prevent this provision from being misused to produce and assemble cheap imports, this bill provides that the imports would be taxed at regular duty rates.

I am aware of the fact that some critics of FTZ's believe that they facilitate only imports and hence eliminate American jobs. There is no evidence to support such a contention. Far from being harmful, FTZ's are a potentially important tool in job creation and economic redevelopment. Moreover, I believe this bill contains adequate provisions to thwart any misuse of the new authority.

Based on our experience in Hawaii, I believe that FTZ's can play a vital role in improving our export performance. While I do not wish to exaggerate the benefits, every step that would encourage American businesses to become more competitive and export minded is desirable.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2874

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

FINDINGS AND PURPOSE

SEC. 2(a). The Congress finds and declares that foreign trade is indispensable to the economic welfare of this Nation, that the expansion of such trade, and particularly the expansion of this Nation's exports, has taken on a new urgency, and that foreign trade zones can be utilized more effectively in enhancing this Nation's exporting capability.

DEFINITIONS

SEC. 3 As used in this Act, the term—

(a) "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the insular possessions.

(b) "Secretary" means the Secretary of the Treasury.

SEC. 4. The Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act; 19 U.S.C. 81a et seq.) is amended by inserting after section 3 the following new section:

"SEC. 3A. (a) The Secretary, through the Bureau of Customs, is authorized to approve the duty-free entry of (1) machinery and materials to be used solely in the manufacture or production of goods in a zone if such goods are not subsequently entered into the customs territory of the United States, and (2) fuel and materials consumed solely in the manufacture or production of such goods, in the same manner and subject to the same limitations as foreign merchandise brought into such zone without being subject to the customs laws of the United States under section 3 of this Act. The Secretary shall approve such duty-free entry if he determines that such action conforms to an application approved by the Board under subsection (b).

"(b) Any grantee may apply to the Board for the application of the provisions of this section to any project conducted, or proposed to be conducted, within the zone, operated and maintained by the grantee. The Board may approve any such application if it determines that—

"(1) the appliaction of this section is essential to the successful operation of the project .which is the subject of the application;

"(2) domestic machinery, materials, and fuel are not available at prices comparable to the foreign machinery, materials, and fuel which are proposed to be used or consumed in the operation of such project, or at prices which would permit the successful operation of such project;

"(3) the total value of the goods to be manufactured or produced and exported will exceed the duties which (but for the application of this section) would apply to the entry of machinery, materials, and fuel to be used or consumed in the manufacture or production of such goods and the total retail value of such goods would be in excess of $100,000; and,

"(4) the establishment and operation of the project for which the application is made would not, determined by the Board, significantly reduce the export operations of similar existing businesses."

"(c) Upon receipt of each application, the Board shall publish a notice in the Federal Register to solicit the views of the general public, to be submitted to the Board within thirty days after the publication of the notice. The Board shall have thirty days after such views are submitted to reject or approve the application, except that it may order an additional sixty day extension for the purpose of requiring the applicant to submit additional supporting information. A final determination shall be made no later than one hundred and twenty days after submission of the application.

"(d) Approval granted pursuant to paragraphs (b) and (c) of this subsection shall be valid for six years, and every manufacturer shall reapply for approval with the Board pursuant to paragraphs (b) and (c) at six year intervals.

"(e) Machinery, fuel, materials or manufactured goods imported pursuant to this section shall be taxed at regular rates if subsequently entered into the customs territory of the United States.

"(f) The Board shall promulgate such rules and regulations as it considers necessary to carry out the purposes of this section. Such rules and regulations shall be drafted to eliminate unnecessary paperwork, to simplify forms and to expedite all proceedings."

SEC. 5. Section 16(c) of such Act is amended by inserting after the word "grantee" the following new sentence: "The report shall also contain a summary of activities and programs of the Board and each zone intended to increase the use of foreign trade zones to expand United States exports and such proposals as the Secretary of the Treasury shall make to expand the use of foreign trade zones in exporting."●

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By Mr. HATHAWAY:

S. 2875. A bill to amend title XX of the Social Security Act to provide for service program planning and assessment; to the Committee on Finance.

SERVICE PROGRAM PLANNING AND ASSESSMENT

● Mr. HATHAWAY. Mr. President, the issue of social service planning and coordination is of great concern to me. It is of equal concern to those agencies and persons who work to deliver effective social services at a reasonable cost. In this regard, I am proposing an amendment to title XX to provide funding at the local level for planning and evaluation.

There is a vital need to develop: Effective planning mechanisms for the delivery of human services, close coordination of existing services, and the creation of a continuum of care. Furthermore, effective planning requires accurate needs assessment. I believe that part of this planning process may best be conducted at either the regional or local level. Individuals and organizations most familiar with an area and its services, or lack thereof, are in the best position to assess the needs, evaluate the existing

services, plan for the future, and develop direction and coordination of services. Title XX is designed to provide flexibility in local administration of social services. The State's services program are generally prepared at the State level. The funds are then allocated to various social services program.

However, title XX funding at present, does not adequately provide for planning and evaluation. A lack of input from the local level, both providers and consumers, has resulted in poor planning, duplication of services, and problems in intra-agency cooperation.

This bill will amend title XX by setting aside authorized funds for comprehensive planning and evaluation. There will be no additional cost from this bill since, it simply earmarks a portion of any increase in the title XX ceiling amount, for planning programs.

In keeping with the original intent of title XX to transfer control and decisionmaking in social service from the Federal level to the State and local levels, this amendment provides for planning at the regional and local levels by agencies designated by the Governor of each State. These planning agencies are to be composed, to the greatest possible extent, of persons responsible to the elected officials of the local government.

This amendment requires that not less than one-half of 1 percent of a State's title XX allocation be directed to regional organizations for purposes of planning and evaluation. It mandates that this planning focus on areas having common or related development problems; and that there be a coordinated effort to eliminate repetition and duplication of effort or expense. The amendment involves no additional cost, and should ultimately be cost saving through the establishment of a more efficient, coordinated social services system.

By allocating funds to regional planning agencies specifically for planning and evaluation, this amendment seeks to provide a mechanism to implement the important goal of State and local control of social services. The process of creating effective, efficient, and responsive social service systems is one which involves: Needs assessment—to determine both the resources of a community and the gaps in these resources; planning—to establish direction and goals; evaluation—to provide the necessary feedback, insuring that planning is responsive to real needs and assure that services are as efficient and effective as possible. These tasks require input from regional and local levels, from those agencies and persons who are familiar with a community, its facilities, its needs, and its consumers.

Different areas of the country have different needs; additionally, areas within a State have different human service requirements. The regional planning bodies, which are in the unique position of having direct access to pertinent information about an area's resources and wants, are designated in the amendment as metropolitan, regional, or district planning bodies. These agencies are able to function as direct points of input for consumers and providers of social services at the grassroots level.

Social service agencies, municipalities, and other public agencies in Maine have eloquently testified to the need for a vehicle for planning and maintaining the social service system on a regional and local level. They are increasingly aware of the need for both greater technical skills in planning and for community-level involvement in this planning process. There exists a consensus of opinion that increased funding requires increased involvement in the decisionmaking process. There is also an awareness that as social service systems become more complex, the process of coordinating services increases in importance and complexity as well. As programs and services expand, there is an increased need for accountability, for a mechanism which will provide information about the impact of programs. Establishing planning and evaluation at the regional and local levels provides a unique opportunity to develop systems that are responsive, and responsible to the people they serve.

I have received valuable and insightful input from communities in Maine, from planning organizations, from town and city governments, and social service agencies. I ask unanimous consent that there be included in the RECORD following my remarks a selection of letters from citizens in Maine which addresses the need for change in title XX legislation, as well as a copy of the bill itself.

I believe that this this amendment to title XX will improve the quality and quantity of local and regional input to the broad range of social services. I am confident that regional areas and local communities can, and will develop the type of planning which will produce an improved, more effective, and more efficient State social service program.

I look forward to the consideration of this legislation with my colleagues when it is referred to the Senate Finance Committee, of which I am a member.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2875

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) Section 2002 (a) (3) of the Social Security Act, as amended, shall be further amended as follows:

"(3) No payment may be made under this section to any State with respect to any expenditure for the provision of any service to any individual unless—

(A) the State's services program planning meets the requirements of section 2004, and

(B) (1) the State's services program provides that not less than one-half of one percentum of the State's allocation is directed to regional planning organizations (as defined in section 2007 (3)) for the purpose of community needs assessment, service provider evaluation and continuity of service planning, and

(2) planning assisted under this section shall, to the maximum extent feasible, cover entire areas having common or related development problems. The Secretary shall encourage cooperation in preparing and carrying out plans among all interested municipalities, political subdivisions, public agencies, and other parties in order to achieve coordinated development of entire areas. To the maximum extent feasible, pertinent plans and studies already made for areas shall be utilized so as to avoid unnecessary repetition of effort and expense, and

(C) the final comprehensive annual services plan in effect when the service is provided to the individual includes the provision of that service to a category of individuals which includes that individual in the descriptions required by section 2004 (2) (B) and (C) of the services to be provided under the plan and the categories of individuals to whom the services are to be provided. The Secretary may not deny payment under this section to any State with respect to any expenditure on the ground that it is not an expenditure for the provision of a service directed at a goal described in paragraph (1) of this subsection." (b) Section 2007 is amended by adding at the end thereof:

(3) the term 'regional planning organization' means officials of metropolitan, regional, and district planning agencies or other agencies and instrumentalities designated by the Governor (or Governors in the case of interstate planning), and acceptable to the Secretary, empowered under State or local law or interstate compact to perform metropolitan, regional, or district planning, respectively: *Provided,* That such agenices and instrumentalities shall, to the greatest practicable extent, be composed of or responsible to the elected officials of the unit or units of general local government for whose jurisdictions they are empowered to engage in planning."

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to the first fiscal year beginning after enactment of an increase in the total authorization (under section 2002(a) (2) (A)).

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COUNCIL OF GOVERNMENTS,
*Portland, Maine, January 25, 1978.*

Hon. WILLIAM D. HATHAWAY,
*U.S. Senate, Senate Office Building, Washington, D.C.*

DEAR SENATOR HATHAWAY: Thank you so much for all the time and effort expended by yourself and your staff on my request. I truly appreciate your work and the promptness of your reply. It is also very heartening to know that you share our concern.

Given the vital necessity of developing effective planning mechanisms for the delivery of human services, perhaps now is an appropriate time to re-examine the Title XX situation. The current federal allocation for Title XX services is 12 million. The amount is then matched by an additional 4 million of state and local monies. Of these funds, the state was allocated $381,470 in FY 1978 for administration, research, planning, evaluation and contracts for consulting. The total allocation for planning and evaluation was $68,466.00.

Needless to say, the state wants to maintain the funding for its planning efforts. However, given the fact that local sources provide $2.5 million of the total funds and the fact that the services are provided on the local level it would appear necessary and logical for local officials to have an active part in the decision making process. With the present system this is not, and will not, be the case.

There is a need for comprehensive planning and evaluation to become integral parts of the Title XX process. There is a need to recognize that different areas of the state have different human service needs. There is a need to begin to implement the underlying purposes of Title XX, i.e., transferring control and decision making on social services

from the federal level to the state and local levels. The attached letters attest to the recognition of these needs by local officials.

Until such time as funds are made available, above the ceiling, for planning and evaluation, these needs will remain unmet. I would urge you to consider developing and supporting legislation that will provide adequate funding for human service planning and evaluation. Moreover, I would strongly suggest that such funds be provided not for use by state but by substate districts.

Yours sincerely,

SHARON WHITLOW,
*Assistant to the Director.*

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COMMUNITY ACTION COUNCIL, INC.,
*East Wilton, Maine, December 12, 1977.*

Ms. GLORIA GIFFORD,
*Chairperson, Title XX Task Force, Rockland, Maine.*

DEAR MS. GIFFORD: This agency went through several processes during the last few years in trying to receive local program support dollars. One system which was purely a "who you know" situation should never be allowed to surface. Local municipalities and County governments do not have staff or the expertise in trying to ascertain whether or not programs are efficient and effective. They have no idea if their dollars are being put to good use. A few years ago, this agency went to town meetings, and the opposition usually never gave information based on facts. Rumors were started. People voted without knowing exactly what was before them. Matters were seldom handled in a professional or rational manner. Many agencies were not held accountable but were judged by the public sentiment of the age group being served by their programs.

During the last two years, M.M.A. and A.V.R.P.C. took advantage of available resources and worked closely with municipalities and agencies in Franklin County to develop a mechanism for planning and evaluation of human services. This has been a difficult and time consuming assignment, but the benefits derived from it proved to be extremely worthwhile. For the first time agencies and municipalities are receiving professional guidance, agencies are being held accountable, both parties are experiencing meaningful interaction, and decision makers have sound information on which to act.

The time is here for the State to support this kind of social service planning. Also, the Planning Commission is the logical vehicle for being responsible to carrying out this mission.

It seems logical to me that the State should give its support and free up some of its administrative title XX dollars to make such programming a reality.

Please give this matter your immediate attention.

Respectfully yours,

LARRY E. DUBORD,
*Executive Director.*

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COUNCIL OF GOVERNMENTS,
*Portland, Maine, December 13, 1977.*

Mr. F. WOODMAN JONES,
*Chairman, Maine Human Services Council, Augusta, Maine.*

DEAR MR. JONES: Enclosed please find a copy of a resolution that was unanimously adopted by the GPCOG Executive Committee at their December 13th meeting.

This resolution addresses the issues about which our local officials are deeply concerned. It is my hope that your Council and the Title XX Task Force will consider the points of this resolution during their deliberations on the FY 1977 Title XX plan.

I would also add that the issue of citizen participation is one with which local officials have experience. By decentralizing the Title XX planning process, local officials could contribute their information on and knowledge of local needs and the effectiveness of programs designed to meet those needs.

Your consideration of these issues will be greatly appreciated.

Very truly yours,

RICHARD WOOD,
*President.*

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RESOLUTION

Whereas, the State of Maine receives over 12 million dollars annually to provide funding for social service programs, and

Whereas, local sources provide two thirds of the funds necessary to match the federal funds, and

Whereas, the programs and services receiving funds are intended to meet human service needs on the local level, and

Whereas, local officials do not have effective mechanisms for input to planning and evaluating human services that will best meet their communities' needs, and

Whereas, regional human service planning programs, have fostered local officials involvement and have provided information necessary for evaluating human service programs and funding requests at the local level,

Now, Therefore, Be It Resolved by the Executive Committee of the Greater Portland Council of Governments that a regional planning and evaluation program be established to ensure local officials participation in human service decision making process and that appropriate Title XX Administration funds be allocated to support said program.

CERTIFICATE

The undersigned duly qualified and acting Recording Secretary of the Greater Portland Council of Governments certifies that the foregoing is a true and correct copy of a resolution, adopted at a legally convened meeting of the Executive Committee of the Greater Portland Council of Governments held on December 13, 1977.

CAROL J. DEVERE,
*Recording Secretary.*

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TRI-COUNTY MENTAL HEALTH SERVICES,
*Lewiston, Maine, December 15, 1977.*

Ms. GLORIA GIFFORD,
*Chairperson, Title XX Task Force, Rockland, Maine.*

DEAR MS. GIFFORD: Independent monitoring, analyses and reporting of the activities of human service agencies is a meaningful vehicle for exacting dialogue and coordination among those agencies. Likewise the allocation of scarce public resources/dollars can be achieved with greater ease and objectivity via such a vehicle.

For the first time in the Tri-County area Androscoggin Valley Region Planning Commission has effectively begun this process. There are a number of items still left to be done, as well as to continue what has begun. We are, however, confronted with the fact that the funding for the Androscoggin Valley Regional Planning Commission's human services planner terminates in April 1978.

I am writing in support of the Maine Municipal Association's suggestion that 1 percent of Maine's Title XX allocation be set aside expressly to fund Androscoggin Valley Regional Planning Commission's continued regional human service planning role. This 1 percent could logically be taken from the 5 percent administrative fee that the Department of Human Services retains from every Title XX contract. I say logically for two reasons. First, all of the referenced 5 percent cannot be utilized in support of Title XX contract administration, some must be used for other purposes. Secondly, the Maine Human Services Council has the statutory obligations to determine service gaps to attempt to fill those gaps and to exact a maximum of coordination, cooperation and unduplicated delivery of human services.

I can conceive of no more efficient or less costly way for this obligation to be fulfilled by the Maine Human Services Council. Uniform reporting by these regional efforts could be exacted by the Maine Human Services Council, while permitting maximum local input and involvement.

I hope that you, your Task Force and the Maine Human Services Council will give every positive consideration to Main Municipal Association's suggestion and this letter of support. Thank you.

Sincerely yours,

J. GREGORY SHEA, A.C.S.W.,
*Executive Director.*

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THE TASK FORCE ON HUMAN NEEDS,
*Auburn, Maine, December 15, 1977.*

GLORIA GIFFORD,
*Chairperson, Title XX Task Force, Rockland, Maine.*

DEAR MRS. GIFFORD: It is becoming increasingly apparent each year that municipalities and counties should have access to professional resources in order to determine human needs, evaluate service providers, and thus be enabled to make valid constructive decisions when appropriating local government funds to human service programs.

Long range planning in the human service area is very difficult without technical assistance and could probably best be performed by a regional organization which has local government input. The Androscoggin Valley Regional Planning Commission is presently engaged in human services planning and evaluation but has no ongoing source of funding. I feel that A.V.R.P.C. would be a logical choice to carry on this planning and evaluation function.

It has been suggested by the Maine Municipal Association that 1% of Maine's allocation of Title XX funds be made available for this purpose from the Title XX administrative services within the Department of Human Services, As a human service provider I would like to go on record in support of the adoption of this proposal as I feel that it would be of benefit to this area.

Sincerely,

MARIE T. CONNOLLY,
*Acting Executive Director.*

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BOARD OF SELECTMEN,
*Town of Dixfield, December 16, 1977.*

GLORIA GIFFORD,
*Chairperson, Title XX Task Force, Rockland, Maine.*

DEAR MRS. GIFFORD: Each year local governments fund human service programs with increasing dollar amounts, yet they have, little involvement in the decision-making process of how these dollars are spent. Municipalities and counties should have professional resources to determine needs and evaluate service providers. It is inappropriate to make financial demands upon local governments without providing them technical assistance.

This planning would best be performed by a regional organization which has local government input. In this region, human services planning and evaluation is already being done by the Androscoggin Valley Regional Planning Commission, but they have no ongoing source of funding. A.V.R.P.C. would be the logical choice to continue human service planning in the Tri-County region.

The Maine Municipal Association has suggested that one percent of Maine's allocation of Title XX dollars be made available for this purpose. The money would come from the Title XX administrative services within the Department of Human Services. I feel that adoption of this proposal would be beneficial to this region. We in Dixfield have found the planning and evaluations done for the 1st time this year by A.V.R.P.C. (as mentioned above) to be an invaluable tool in our budget process. Our local Finance Committee could not possibly have secured

and interpreted the information now available to us through A.V.R.P.C. efforts and we firmly believe we need this information or citizens of the town will drop appropriations for such requests altogether, for lack of proof of value received or method of comparison.

Very truly yours,

——— BARTLETT,
*Administrative Assistant.*

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TOWN OF FALMOUTH, MAINE,
*December 19, 1977.*

Mr. F. WOODMAN JONES,
*Chairman, Maine Human Services Counsel, Augusta, Maine.*

DEAR MR. JONES: I am writing this letter to express my concern over the present structure of the Title XX planning process, which minimizes responsiveness to local needs and local concerns. I'm sure you realize that local governments are being asked to fund a growing number of human service agencies, and local tax funds provide nearly twice as much money as the State of Maine. Yet, local governments do not have a meaningful role in the allocation of Title XX funds. The underlying purpose of the Title XX program was to transfer control and decision making on human services to state and local governments. The State of Maine is not meeting that purpose by continuing to centralize decision-making in Augusta.

To offer a concrete suggestion, I believe we ought to be moving toward more comprehensive planning and evaluation in the Title XX process. For example, in the Greater Portland area, the Council of Governments has served on behalf of its member municipalities to evaluate and coordinate human service programs and planning needs. This addresses the problem of different areas of the state having different human service needs. In order to meet these needs, regions should be allowed to develop their own plans, as has been done effectively in the related fields of criminal justice, housing, area agencies on aging and United Ways.

Lastly, I would suggest that a portion of the funds currently used for state administration be allocated to regional planning agencies, thereby bringing the human services planning process closer to the local officials and citizens who are ultimately impacted by the plan.

I sincerely hope that you hear from other local governments on the Title XX planning process and you will find that it is a growing concern.

Thank you for your consideration.

Very truly yours,

DAVE WHITLOW,
*Town Manager.*

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CITY OF SOUTH PORTLAND, MAINE,
*December 19, 1977.*

Mr. F. WOODMAN JONES,
*Chairman, Maine Human Services Council, State House, Augusta, Maine.*

DEAR MR. JONES: I am writing to you to express my concern over the process in which human service agencies obtain funding in the State of Maine. As the person responsible for budget preparation in the City of South Portland, I find it very difficult to evaluate the requests of these agencies for funds, requests which are increasing each year. My problem is further complicated by the fact that by the time I receive these requests, the agencies involved have already received funding from other sources and are looking to the City for a portion of the local share.

Since the City of South Portland is being asked for funds, it seems that we should be involved in the Title XX planning process as well. For example, many agencies which receive Title XX funds have provided services to clients in South Portland, totally independent of any City involvement and usually without any knowledge on the City's part. Now, these agencies are turning to the City asking for funding for services which they provide City residents and, in some cases, threatening to withdraw services if City funds are not appropriated.

I would like to have the City involved earlier in the process than it currently is, such as who gets Title XX funds, are the services needed, are there duplication of services, are the salaries and expenditures of the agencies appropriate? This would allow the City to express an opinion on the need for such agencies in South Portland instead of the current process where all types of commitments have been made prior to any request of the City.

I hope you will involve us in evaluating future requests for Title XX funds so that the current process can be improved.

Sincerely,

RONALD E. STEWART,
*City Manager.*

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TOWN OF GORHAM,
*Gorham, Maine, December 20, 1977.*

F. WOODMAN JONES,
*Chairman, Maine Human Services Council, Augusta, Maine.*

DEAR MR. JONES: We feel compelled to write this letter to express our concern with the method by which allocation of Title XX funds are determined.

The Human Services Council and its Title XX Task Force does include some citizens and local officials on its boards. However, despite their participation and ultimate recommendations. We do not believe this is the intent of the Title XX program.

We would like to suggest consideration of some of the following criteria in determining allocation of funds:

1. Since needs differ from region to region, each region should be permitted to develop its own plan as has been done with success in other related fields. The Municipal Evaluation Committee of the Greater Portland Council of Governments has recently completed a comprehensive study of local human service planning needs, including consumer input. While we are not familiar with activities in other areas undoubtedly most regions have conducted similar surveys.

2. More input should be generated at the local level as local sources provide twice the money provided by the state. Local officials are cognizant of the services needed and desired by their clients. Also, ultimate control and decision should be a cooperative state, regional and local effort.

3. Make available to regional agencies a portion of administrative funds now used by the state, in order to permit regional agencies to undertake a study to develop a more equitable system of allocation and allow local officials a more active part in the human services planning process.

The foregoing are some of the concerns we would like you to be aware of in developing your annual plan and to, again, stress the urgency and importance of a cooperative state, regional and local involvement.

Sincerely,

EBEN B. MARSH,
*Town Manager.*
HELEN C. MASON,
*Welfare Director.*

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TOWN OF MEXICO, MAINE,
*December 21, 1977.*

GLORIA GIFFORD,
*Chairperson, Title XX Task Force, Rockland, Maine.*

We at the local level of government find supporting human service agencies more burdensome. One reason these expenditures, however justified, run into difficulty is because appropriate technical assistance is not being provided.

I feel that money should be allocated from Title XX dollars to perform technical assistance evaluation. These funds should be channeled through the Regional Planning Commission as some of these agencies are already in this review process. As an example, A.V.R.P.C. is such an agency.

I wholeheartly endorse this evaluation process. Continuation of this program is vital if agencies are going to continue to seek municipal dollars. The continuation of such a program will be beneficial to recipients, providers, and municipalities.

Sincerely,

BYRON A. MOODY.

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TOWN OF PARIS,
*South Paris, Maine, December 30, 1977.*

GLORIA GIFFORD,
*Chairperson, Title XX Task Force, Rockland, Maine.*

Each year local governments fund human service programs with increasing dollar amounts, yet they have little involvement in the decision-making process of how these dollars are spent. Municipalities and counties should have professional resources to determine needs and evaluate service providers. It is inappropriate to make financial demands upon local governments without providing them technical assistance.

This planning would best be performed by a regional organization which has local government input. In this region, human services planning and evaluation is already being done by the Androscoggin Valley Regional Planning Commission, but they have no ongoing source of funding. A.V.R.P.C. would be the logical choice to continue human service planning in the Tri-County region.

The Maine Municipal Association has suggested that one percent of Maine's allocation of Title XX dollars be made available for this purpose. The money would come from the Title XX administrative services within the Department of Human Services. I feel that adoption of this proposal would be beneficial to this region.

Sincerely,

PAUL C. BROWN,
*Town Manager.*

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TOWN OF FREEPORT,
*Freeport, Maine, December 29, 1977.*

Mr. F. WOODMAN JONES,
*Chairman, Maine Human Services Council, State House, Augusta, Maine.*

DEAR MR. JONES: The purpose of this letter is to express my concern relative to the Title XX planning process for human services funding. My concern stems from my position of Freeport Town Manager where I participate in a local budget allocation process that appropriates approximately $10,000, much of which is used to match Title XX funds, and of Chairman of the Greater Portland Council of Governments Municipal Evaluation Committee for Human Services Delivery where I was involved in reviewing a significant number of funding requests from Greater Portland Human Service Agencies which rely on Title XX funding for their operations. At present, there does not appear to be a reliable mechanism for translating the local knowledge of human service needs into policy governing the dispersement of Title XX funding. In fact, the decisions seem to follow solely from the State and appear to be based not on actual local needs but on what the State assumes to be local needs. This process appears contrary to the intent of the Title XX program where control and decision making on social services were to be transferred to both State and local governments.

I would submit that the Regional Planning Agencies of Maine could supply the Title XX program a more comprehensive planning and evaluation process and could cause more of the adjustments necessary to meet local and regional needs than can the State. Concurrent with such a shift of responsibility, some of the funds currently being used for admin-

istration of the Title XX program should be provided to the Regional Planning Agencies to insure sufficient funds for conducting the review of human service agencies.

It is my hope that the Maine Human Services Council will recommend that local interests toward Title XX funding be considered to a much greater degree than currently perceived.

Cordially,

BRUCE E. BENWAY,
*Town Manager.*

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TOWN OF PRINCETON,
*Princeton, Maine, December 22, 1977.*

MS. GLORIA GIFFORD,
*Chairperson, Title XX Task Force,*
*Augusta, Maine*

DEAR MS. GIFFORD: It has come to my attention that the Maine Municipal Association is proposing allocation of one percent of the Title XX funds set aside in each region in Maine for human service evaluation and planning. As town manager of Princeton, a small community in Washington County, I would like to take this opportunity to express my wholehearted support for this plan for several reasons.

First, I believe that savings accrued in human service dollars from such an exercise due to increased efficiency, and reduction in duplication of services would be far greater than the investment.

Secondly, human service funds should be spent where the most critical needs of citizens and communities are identified. Even well-run programs can only be beneficial when they fill a service void.

Thirdly, I think that the reputations of many viable and useful agencies have been damaged by the financial or responsibility of a very few. Hopefully, the proposed review would suggest uniform accounting procedures aimed at avoiding future problems.

Finally, there seems to be an increasing competition for scarce dollars at the local level, and at the same time agency requests continue to rise and proliferate. With such a situation, hard decisions are going to be made locally, and without a formalized review system, the likelihood of undeserving agencies receiving a disproportionate share of these scarce dollars increases.

In Princeton, we are in the final stages of a community needs assessment study which asked citizens their opinions about many facets of Princeton life, including human service agencies. Generally, respondents seemed confused about available services, did not use many that did exist, and identified areas where other services were needed. I personally sensed a negative attitude from several respondents toward some agencies.

I think that the review system proposed by the Maine Municipal Association is a logical tool with which to address the problems that have been identified. It is my understanding that similar projects have been developed and have been successful in Penobscot County and elsewhere, providing a much needed rational approach to the current confusing and unruly situation surrounding the realm of human service agencies.

Thank you for your time and consideration.

Sincerely,

DAVID HOLT,
*Town Manager.*●

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By Mr. ABOUREZK:

S. 2876. A bill to provide for increases in appropriations ceilings for development ceilings, land acquisitions for boundary changes in certain units of the national park system, and for other purposes; to the Committee on Energy and Natural Resources.

NATIONAL PARK SERVICE

● Mr. ABOUREZK. Mr. President, I am introducing today a bill prepared at my request by the Department of the Interior. This measure would provide for increases in land acquisition and development authorization ceilings and boundary changes in certain units of the national park system.

In the past several Congresses, the Energy and Natural Resources Committee has found that incorporating many of these measures into an omnibus bill provides an expedient and effective vehicle for the consideration of such legislation. Such an approach permits considerable saving of processing time, without any real sacrifice of attention to, and consideration of, the merits of the individual components of the omnibus package.

Mr. President, while many of the measures incorporated into an omnibus bill might not seem to be of pressing urgency as they compete for time and consideration with numerous other major pieces of legislation, they are often of central and critical importance to the well-being and effective operation of the individual park unit which they affect. Most often, the resolution of these needs will result in improved and more effective administration of particular park units or the general operation of the entire national park system, and usually represent objectives already endorsed by the Congress in earlier legislation. For this reason, it is essential that they be considered and not left unattended in the effort to address matters of more apparent and pressing urgency.●

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By Mr. HATHAWAY:

S. 2877. A bill entitled the Education Fiscal Assistance Act of 1978; to the Committee on Finance.

EDUCATION FISCAL ASSISTANCE ACT OF 1978

● Mr. HATHAWAY. Mr. President, today, I am pleased to introduce the Educational Fiscal Assistance Act of 1978, to assist taxpayers who are bearing the cost of educating their children. It will also inject Federal funds into school financing so that the burden of real estate taxes on citizens will be lessened.

I do not object to local school districts receiving benefits from Federal tax revenues. I have strongly supported a number of Federal programs to help meet the educational needs of our society. It is my view that devoting Federal funds to education is one of the very best investments that can be made by our society. It is an investment which pays handsome dividends. The individual benefits, the societal benefits, and the economic benefits are great and ultimately cannot be given a dollar figure which is in any way adequate.

At the same time, education represents an investments in ideas—ideas to meet our energy needs, ideas to provide quality, accessible, cost-efficient health care, and ideas to promote sound economic development, with decent jobs and housing for all our citizens. The ideas leading to solutions to these most difficult problems will only come to us through education provided equitably to all our citizens.

Throughout the 15 years I have served on the congressional committees responsible for education legislation, I have consistently supported Federal aid to education, and particularly elementary and secondary education. I believe the Federal Government can and should play a very significant role as a financial partner and source of innovation as long as questions of governance and curriculum are resolved at the State and local levels with full involvement of parents and teachers in fundamental policy decisions.

I have supported the concept of tax credit relief to those who must pay the cost of education for their children, whether the education is at the preschool, primary, secondary, college or vocational school level.

To understand the impact of education in this country, let me highlight a few statistics. In the fall of 1977, there were approximately 49 million children in kindergarden through 12th grade. Public school systems account for almost 44 million of these students and private elementary and secondary schools 5 million. Our country's 2- and 4-year colleges enrolled 11.3 million students in the fall of 1977. An article from the Wall Street Journal has highlighted the tremendous scope of this Nation's educational programs.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD as follows:

KIDS IN KINDERGARTEN DECLINED THIS YEAR BY RECORD NUMBER

WASHINGTON.—Kindergarten enrollment declined by the largest amount on record this school year, the Census Bureau said yesterday.

In a survey of education, the bureau said the number of children attending kindergarten fell to 3.2 million from 3.5 million, almost entirely because of a drop in the birth rate five years earlier.

Since the bureau began keeping enrollment records 30 years ago, kindergarten enrollment has dropped only three times. The biggest previous decline was 128,000 in 1972.

A total of 60 million persons under age 35 were going to all schools in October, a decline of 482,000 from the year before.

"The population of five-year-olds decreased about 8% between 1976 and 1977 as did kindergarten enrollment, reflecting the large drop in the number of births five years earlier," the report said.

Among other education trends found in the October 1977 survey:

The number of college students over age 25 increased to 4.1 million from 3.7 million.

Part-time students in college over age 35 increased about 9% in 1977.

College enrollment of people under 35 remained about 10.2 million. Enrollment of college freshmen increased by about 300,000 after a comparable drop the previous year.

The number of blacks attending college rose slightly to 1.1 million from one million but was double the number enrolled in 1970.

Women attending college remain at about 47% of all college students.

Nursery school enrollment rose to 1.7 million from 1.5 million in 1977.

Elementary school's enrollment dropped to 29.2 million from 29.8 million in the past year.

Students in private schools made up 11% of all elementary school pupils in 1977, down from 15% in the mid-1960s.

High school enrollment was unchanged in October at 16.7 million.

Mr. HATHAWAY. As we are well aware, colleges and universities are funded through a combination of tuition and fee charges, grants from the Federal Government, appropriations from State governments, and contributions and bequests from both alumni and private citizens.

The escalating cost of higher education has been eloquently explained by Senators ROTH, MOYNIHAN, PACKWOOD, and RIBICOFF.

Today's New York Times contains an excellent article on the rising costs of college education and what can be expected in the future. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TUITION AT SOME PRIVATE COLLEGES TO EXCEED $5,000 FOR FIRST TIME

(By Gene Maeroff)

The annual tuition at some of the nation's most prestigious colleges and universities will exceed $5,000 for the first time next fall, and the total costs, including room and board, will amount to more than $8,000, according to the College Entrance Examination Board.

A report of a survey of 2,693 institutions of higher education released by the College Board yesterday showed that the cost of an education at a four-year college would increase by 6 percent the coming academic year. Total costs will average $3,054 at public colleges and $5,110 at private colleges.

In private colleges, the gap between the average costs and those at some of the most expensive institutions is accounted for mainly by differences in tuition rates, which in large part reflect higher faculty salaries and greater overhead.

Some lesser-known private colleges, particularly those with religious affiliations, will have tuitions of less than $3,000, but such Ivy League schools as Yale, Brown and Princeton will have tuitions of more than $5,000.

In Princeton's case, even with an increase of $522 in overall charges, the university is projecting a deficit of $85,000 for next year.

Bennington College in Vermont will have the highest tuition in the country, $6,010, and another small New England institution, Hampshire College in Massachusetts, will have the second highest, $5,450.

The highest tuitions among publicly supported institutions will be in Pennsylvania. Pennsylvania State University, Temple University and the University of Pittsburgh will all have tuitions of about $1,400.

Other public universities that the College Board says will have tuition of more than $1,000 are the University of Michigan, the University of Minnesota, the University of Vermont and the University of New Hampshire.

The announcement of next fall's tuition rates come at a time when Congress is debating a plan that would give parents a tax credit for the tuition they pay.

COST PROBLEM FOUND GROWING

The proposal is opposed by the Carter Administration as inequitable and too costly, but this latest increase in tuitions may add to the support the proposal already has in Congress.

"Not only lower-income families, but also middle-income and upper-income families are finding it increasing difficult to meet the costs of a college education," the College Board said in its report, "Student Expenses at Postsecondary Institutions, 1978-79."

Sensing widespread concern over mounting educational costs, the College Board tried to reassure parents about the prospects for student financial aid, which the organization estimated would amount to $12.3 billion next year.

"Rising costs should not discourage students from considering college attendance," said Elizabeth W. Suchar, director of the College Board's scholarship service. "Financial aid is available to help defray costs. Students, including many from middle-income families, may qualify for financial aid and should apply for funds to help them attend colleges that they may not be able to afford on their own."

STANFORD GIVES WIDE AID

Stanford University in California, for instance, has a policy of meeting the financial need of any student who is admitted. Almost 55 percent of Stanford's 6,500 undergraduates receive some form of assistance.

Next fall, Stanford's tuition will rise to $5,130 and total charges to $7,999. The university's officials say that they intend to continue their policy of aid to students.

Hamilton College in Clinton, N.Y., where tuition will rise next fall by more than 10 percent to a high of $4,625, also meets the financial needs of all its students.

"In making these increases, Hamilton's trustees were well aware of the importance of maintaining the colleges' financial-aid program at a level commensurate with the new fees," said the college's president, J. Martin Carovano. "Additional financial-aid funds for scholarship students will, therefore, be made available to offset those increased charges."

A small, but growing number of institutions of higher education are developing plans to help to protect stndents against tuition increases in the course of their education.

For example, the University of Hartford announced last month the creation of three separate plans to help to hold down tuition.

One of the plans will guarantee freshmen no tuition increase in their sophomore year and "only modest increases in their last two years. Another plan will give an undergraduate student who returns each semester a credit of $50 per semester toward the senior year.

The third plan will give a 50 percent tuition reduction to the brothers and sisters of full-time undergraduates.

Washington University in suburban St. Louis is using a different kind of approach to enable families to guard against tuition increases. Beginning this fall, a freshman who pays for all four years of tuition in advance will not have to pay for increases as they occur. The cost is $17,200.

FEES LOWER IN THE WEST

For the 80 percent of the nation's students attending publicly supported institutions of higher education, there are considerable variations in tuition by region.

Students in the middle Atlantic states—New York, New Jersey, Pennsylvania, Delaware and Maryland—will pay more than twice as much as students in the West and the Southwest.

"I am concerned about a feeling that is spreading among the public and among legislators that students can and should pay more for their education," said Wesley W. Posvar, chancellor of the University of Pittsburgh. "This attitude is eroding the former commitment to low tuition."

In all parts of the country, public two-year community colleges will continue to charge the lowest tuitions, according to the College Board. The average tuition at the two-year institutions, where the vast majority of students are commuters, will be $408.

Mr. HATHAWAY. Public schools are primarily financed through local property and State sales taxes. Sales taxes are generally regressive in nature, with the tax on the purchasing of life's necessities often absorbing a much bigger share of disposable income of those least able to afford it. Similarly, property taxes can be insidious in their impact, hitting hardest those individuals on fixed incomes, while granting more favorable treatment to commercial properties.

In contrast to local property taxes and States sales taxes, which form the backbone of many States school financing sources, the Federal tax system collects revenues on the basis of income, with adherence to a progressive rate structure.

Although school policy should continue to be established at the State and local levels, school financing should not rely exclusively or dominantly on these regressive mechanisms. Utilization of Federal tax revenues for partially funding local educational expenses thus has the substantial benefit of insuring that those most able to pay are most relied upon. Conversely, to the extent that utilization of Federal funds shifts the burden from those individuals least able to pay and those regions of the Nation less able to generate sufficient revenues at the State and local levels, overall quality and equity will be promoted.

For all these reasons, I believe we must develop an alternative system of tax assistance for education. To this end, I am today introducing the Educational Fiscal Assistance Act of 1978.

This bill provides a $100 refundable tax credit to a taxpayer for each dependent child who is enrolled in a primary, secondary, vocational, technical school, college or university. The tax credit would be phased in for full-time college, university, vocational and technical school students beginning in 1978; for elementary and secondary students in 1981; and for part-time students in 1982.

I believe that this tax credit approach will provide both fiscal relief to taxpayers with children in eligible educational programs.

Mr. President, in order that my colleagues might be more fully informed of my intentions and the need for this reform, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2877

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Education Fiscal Assistance Act of 1978."

SEC. 2. CREDIT FOR EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting before section 45 the following new section:

"SEC. 44C. EDUCATION TAX CREDIT.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year, the amount of $100 for

each child of such individual who is a student in an eligible educational institution.

"(b) PHASE-IN WITH RESPECT TO CERTAIN STUDENTS.

"(1) SECONDARY AND ELEMENTARY STUDENTS.—No credit shall be allowed under subsection (a) with respect to any child of the taxpayer who is a student at a secondary school (including a vocational secondary school) or elementary school, for any taxable year beginning before January 1, 1981.

"(2) PART-TIME STUDENTS.—No credit shall be allowed under subsection (a) with respect to any child of the taxpayer who is not a full time student for any taxable year beginning before January 1, 1982.

"(3) GRADUATE STUDENTS.—No credit shall be allowed under subsection (a) with respect to any child of the taxpayer to the extent that the child is pursuing a course of instruction which is attributable to a graduate degree program.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible education institution' means—

"(A) an institution of higher education;

"(B) a vocational school;

"(C) a secondary school; or

"(D) an elementary school.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution described in section 1201(a) or 491(b) of the Higher Education Act of 1965 (as in effect on January 1, 1978).

"(3) VOCATIONAL SCHOOL.—The term 'vocational school' means an area vocational education school (as defined in section 195(2) of the Vocational Education Act of 1963, as in effect on January 1, 1978) which is located in any State.

"(4) ELEMENTARY AND SECONDARY SCHOOLS.—The terms 'elementary school' and secondary school' mean, respectively, any elementary or secondary school (as defined in subsections (c) and (h) of section 801 of the Elementary and Secondary Education Act of 1965 as in effect on January 1, 1978)—

"(A) of a local educational agency (as defined in section 801(f) of such Act as in effect on such date); or

"(B) which is privately operated but only if it is—

"(i) accredited or approved under State law (or, in the case of a school in a State which has no procedure for the accreditation or approval of privately operated schools, which meets the requirements of State law relating to compulsory school attendance), and

"(ii) exempt from taxation under section 501(a) as an organization described in section 501(c)(3). The terms 'elementary school' and 'secondary school' include facilities which offer education for individuals who are physically or mentally handicapped as a substitute for public elementary or secondary education.

"(5) CHILD.—The term 'child' means an individual who bears the relationship to the taxpayer described in paragraph (1) or (2) of section 152(a) and with respect to whom such individual is entitled to a deduction under section 151(e).

"(6) FULL-TIME STUDENT.—For purposes of this subsection, the term 'full-time student' means an individual who, during any 4 calendar months during the calendar year in which the taxable year begins, is a full-time student at an eligible educational institution.

"(d) TAXPAYER WHO IS A DEPENDENT OF ANOTHER TAXPAYER.—No credit shall be allowed to a taxpayer under subsection (a) if the child is a dependent of any other person during a taxable year beginning with or within the taxable year of the taxpayer.

(b) REFUND OF EXCESS CREDIT.—Subsection (b) of section 6401 of such Code (relating to excessive credits) is amended—

(1) by striking out "and 43 (relating to earned income credit)," and inserting in lieu thereof "43 (relating to earned income credit), and 44C (relating to credit for educational expenses),", and

(2) by striking out "39 and 43" and inserting in lieu thereof "39, 43, and 44C".

(c) LIMITATION ON EXAMINATION OF BOOKS AND RECORDS.—Section 7605 of such Code (relating to time and place of examination) is amended by adding at the end thereof the following new subsection:

"(d) EXAMINATION OF BOOKS AND RECORDS OF CHURCH-CONTROLLED SCHOOLS.—Nothing in section 44C (relating to credit for educational expenses) shall be construed to grant additional authority to examine the books of account, or the activities, of any school which is operated, supervised, or controlled by or in connection with a church or convention or association of churches (or the examination of the books of account or religious activities of such church or convention or association of churches) except to the extent necessary to determine whether the school is an eligible educational institution within the meaning of section 44C(c)(2).".

(d) EXPEDITED REVIEW OF CONSTITUTIONALITY OF EDUCATIONAL TAX CREDIT.—

(1) CERTIFICATION OF QUESTIONS OF CONSTITUTIONALITY.—In any action brought in a district court of the United States, including an action for declaratory judgment or injunctive relief, concerning the constitutionality of any provision of section 44C of the Internal Revenue Code of 1954 (relating to credit for educational expenses) or any other provision of such Code relating to such section, the district court shall certify immediately all quesions of constitutionality of such provision of the United States Court of Appeals for the circuit involved, which shall hear the matter sitting en banc.

(2) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought no later than 20 days after the decision of the Court of Appeals.

(3) EXPEDITED CONSIDERATION.—It shall be the duty of the Court of Appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under paragraph (1).

(4) SEPARABILITY.—If any provision of section 44C of the Internal Revenue Code of 1954 (or any other provision of such Code relating to such section), or the application thereof to any person or circumstances, is held invalid, the remainder of the provisions of such section and the application of such provisions to other persons or circumstances, shall not be affected.

(e) DISREGARD OF REFUND.—Any refund of Federal income taxes made to any individual, and any reduction in the income tax liability of any individual, by reason of section 44C of the Internal Revenue Code of 1954 (relating to credit for educational expenses) shall not be taken into account as income or receipts for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program of educational assistance or under any State or local program of educational assistance financed in whole or in part with Federal funds.

(f) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting immediately before the item relating to section 45 the following:

"Sec. 44C. Education tax credit."

(2) Subsection (c) of section 56 of such Code (defining regular tax deduction) is amended by striking out "credits allowable under—" and all that follows and inserting in lieu thereof "credits allowable under subpart A of part IV other than under sections 31, 39, and 43.":

SEC. 3. EFFECTIVE DATE.

The amendments made by Section 2 of this Act shall apply to taxable years beginning after December 31, 1977, and shall cease to apply to any taxable year beginning after December 31, 1985.

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By Mr. MAGNUSON (for himself and Mr. INOUYE):

S. 2878. A bill to amend the Central, Western, and South Pacific Fisheries Development Act to increase the appropriation authorization through fiscal year 1982, to expand the U.S. fisheries development effort, and to cooperate in the formation and research of the South Pacific Regional Fishery Agency, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MAGNUSON. Mr. President, today I am introducing a bill that amends Public Law 92-444 in order to authorize increase efforts in the research and development of tuna and other latent fishery resources in the Central, Western, and South Pacific. Although this area is rich in tuna, and potentially other species as well, these fisheries are still largely in an undeveloped and underutilized state. This is due in large part to the lack of adequate research and development efforts.

At the present time, the nations of the South Pacific are asserting jurisdiction over fishery resources out to 200 miles, and are establishing an organization, entitled the South Pacific Regional Fishery Agency, to oversee the management of the species within this area. The new 200-mile jurisdictional assertion will add an estimated 7-million square miles of exclusive fishery zones to existing territorial waters. The nations involved include Australia, the Cook Islands, Fiji, the Gilbert Islands, Nauru, New Zealand, Niue, Papua New Guinea, the Solomons, Tonga, Tuvalu, and Western Samoa. The United States and its trust territories are not members of the parent South Pacific forum; however negotiations are presently underway which will attempt to bring the United States into this regional fishery agency.

The bill I am introducing today has two principal goals. The first is to reauthorize appropriations for Public Law 92-444, the Central Western and South Pacific Fisheries Development Act, through fiscal year 1982. This act was enacted in 1972 to assist in the development of the underutilized tuna resources in the area. The Secretary of Commerce is authorized under that act to carry out, indirectly or by contract, a program for the development of the tuna and other latent fisheries resources of the area. The program includes: Exploration for, and stock assessment of, tuna and other fish; improvement of harvesting techniques; gear development; biological resource monitoring; and an economic evaluation of the potential for tuna and

other fisheries. This program is presently carried out in the Central Pacific area by the Pacific Tuna Development Foundation (PTDF).

Although the act became effective in 1972, the tuna program was not initiated by the Department of Commerce until fiscal year 1975. Even when it was initiated, the Department did not request appropriations under the 1972 act but rather obtained funds from the program from the so-called Saltonstall-Kennedy trust fund (15 U.S.C. 713c–3). These Federal funds are being supplemented by contributions from the members of the Pacific Islands Development Commission and the tuna industry. The current authorization of Public Law 92–444 expires on September 30, 1979. However, because the Saltonstall-Kennedy trust fund is being used to capacity for other purposes, this bill is necessary to continue this worthwhile program.

The second goal of this bill is to demonstrate the interest and commitment of the Congress in developing the fishery resources of the South and Western Pacific area. Should the United States become a member of the South Pacific Regional Fishery Agency, this bill would authorize the Secretary of Commerce, in consultation with representatives of all member nations of the Agency, the Secretary of State, and the industry, to develop and carry out a program for research and development of the fishery resources of the region. Such a program would have as its objective not only increasing the capacity to harvest and to understand the species in the area, but also to develop the resources of the area and to facilitate bringing increased economic benefits to all the member nations through increased availability of fishery resources. Thus, for example, the bill provides that the results and findings of the research and development projects carried out under Public Law 92–444 and this bill shall be made available to any interested member nation of the agency. It is contemplated that the Secretary would work closely with the member nations of the agency, as well as the other enumerated parties, in seeking to maximize the benefits which may result from such development efforts.

In addition to these economic and developmental benefits, this bill, by expanding the availability of tuna in the Central, Western and South Pacific, should offer relief to the United States tuna fleet, which is now facing the probability of being squeezed out of a significant share of the tuna catch in the Eastern Pacific Ocean. A further advantage of the Central, Western and South Pacific tuna stocks is that the principal species, skipjack, is not associated with porpoise populations, and even the yellowfin do not have the same relationship with porpoises as the yellowfin in the Eastern Pacific. Thus, development of these tuna fisheries will not exacerbate the tuna-porpoise problem, but on the contrary, may offer some relief.

This bill increases the authorization for appropriations for next year to $4 million and for the following 3 fiscal years to $5 million. The authorization would cover both the present program of the Pacific Tuna Development Foundation through completion in 1982, and all programs which may arise after the formation of the South Pacific Regional Fishery Agency. Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2878

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Central, Western, and South Pacific Fisheries Development Act (16 U.S.C. 758a) is amended as follows:

(1) Section 3 of such Act is amended by striking out "and" immediately after "institutions," and inserting after "industry" the following: ", and all appropriate member nations of the South Pacific Regional Fishery Agency (hereinafter referred to in this Act as the 'Agency')".

(2) Such Act is further amended by inserting immediately after section 3 the following:

"SEC. 4. In addition to the authority granted in section 2, the Secretary, in consultation with the Secretary of State, representatives of all interested member nations of the Agency, and those parties set forth in section 3, may establish in accordance with section 2, a cooperative three year program for the development of tuna and other latent fishery resources of the Central, Western, and South Pacific Ocean to be completed within one year following official formation of the Agency and contingent upon the availability of funds. The Secretary shall make available to all interested member nations of the Agency the results and findings of research or development projects carried out under this Act."

(3) Sections 4, 5, 6, and 7 of such Act are redesignated sections 5, 6, 7, and 8, respectively.

SEC. 2. Section 8 of such Act, as redesignated, is amended by striking out "$3,000,000" and inserting in lieu thereof "$4,000,000, and for each of fiscal years 1980, 1981, and 1982 the sum of $5,000,000,".

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By Mr. JAVITS (for himself, Mr. WILLIAMS, Mr. SCHWEIKER, Mr. RANDOLPH, Mr. CHAFEE, and Mr. DOLE):

S. 2879. A bill to amend the Public Health Service Act to establish a Commission on National Primary Health Care Needs; to establish hospital-affiliated primary care centers; to establish research and demonstration projects for primary care; to continue the assistance to community health centers, migrant health centers, and the National Health Service Corps; and for other purposes; to the Committee on Human Resources.

PRIMARY HEALTH CARE ACT OF 1978

Mr. JAVITS. Mr. President, today I am pleased to introduce with Senators WILLIAMS, SCHWEIKER, RANDOLPH, and CHAFEE, the Primary Health Care Act of 1978. This bill is the outgrowth of a provision—which I authored—included in S. 2474, the Health Services Extension Act of 1978, which would authorize the establishment of hospital-affiliated primary care centers under section 330 of the Public Health Service Act.

Mr. President, the bill I am introducing today is designed to give renewed emphasis to this Nation's efforts to meet the primary health care needs of its citizens. Although we live today in a world which transplants organs, uses microscopic instruments and laser beams to detect and treat diseases, and employs highly sophisticated technological innovations to prolong life, we have come to neglect the most basic health care needs of our people.

Today approximately 49 million people live in parts of the country which are considered to be deficient in personal health services. For many of these people, living in medically underserved areas means that medical resources in the form of manpower and facilities are scarce or nonexistent. When medicare and medicaid were enacted more than 10 years ago, these programs were hailed as the means by which this country would overcome the growing dilemma of limited access to high quality medical care by the elderly and indigent. Unfortunately, we have seen that these efforts fall short of their mark. While the lessons of medicare and medicaid are many, profound—and costly—one of the most important lessons to be heeded is that money alone will not solve the health care problems of the Nation. Without a corresponding availability of manpower and facilities, barriers which now prevent access to health care services cannot be removed.

Over the years, an increasing proportion of physicians have tended to specialize and subspecialize. In 1930, approximately 95 percent of all practicing physicians devoted the bulk of their time to the delivery of primary care services; by 1975, this percentage had plummeted to roughly 40 percent. The trend toward specialization forced physicians to cluster in parts of the country where access to highly sophisticated medical equipment and a large, comparatively affluent population base was readily available. This twofold pattern eventually brought us to the situation which plagues us today: Roughly a quarter of our entire population—people who live in sparsely populated or economically depressed urban sections of the country—suffer from inadequate medical resources.

A recent study in New York City, for instance, has concluded that great portions of the city are devoid of remotely adequate medical services. Essentially these areas represent medical deserts with only an occasional doctor's office or city or Federal clinic standing as an oasis for health care.

For years we in the Congress have engaged in debate and dispute over the need for a national health insurance program. The merits of the issue aside, of what benefit would national health insurance be to its recipients if adequate medical facilities and manpower are not available to implement the system? We cannot expect medical services which we now lack suddenly to materilize in parts of the country which have long been neglected merely because we have found the money to pay for our citizens' care.

It is my hope that through the coop-

erative efforts of the Congress and the administration we will, over the next few years, focus on assuring that necessary resources are made available in medically underserved parts of the country. I believe the legislation I am introducing today will move us closer to this goal.

This bill, the Primary Health Care Act of 1978, includes provisions for simultaneously addressing the long-range primary health care needs of the Nation while immediately increasing the number of facilities available for the delivery of primary care.

Specifically, the bill authorizes the establishment of a Presidential Commission on National Primary Health Care Needs whose mandate will be to assess the Nation's primary health care needs and develop a comprehensive strategy—focusing on both manpower and facilities requirements and utilizing resources from both the public and private sectors—for meeting these needs. The commission will also be responsible for conducting a special study designed to determine if Federal health facilities such as those owned and operated by the Department of Defense and the Veterans' Administration can be utilized in the short term to provide medical services in medically underserved areas where no other sources of care exist.

In addition, my bill would establish a specific section in the Public Health Service Act entitled "Primary Health Care" which would contain all existing and new authorities for primary health care programs. For example, the bill redesignates authorities for community health centers (sec. 310), migrant health centers (sec. 319) and the National Health Service Corps (secs. 331–338) so that they will appear under the new "Primary Health Care" section. My hope is that as future primary health care authorities are written, their consolidation into one permanent section will lead to a greater degree of policy coordination in program management.

More importantly, however, the bill contains the same significant increases in authorization for community health centers and migrant health centers which I as a cosponsor agreed to include in S. 2474, the Health Services Extension Act of 1978. Currently funding authorizations for these two programs are approximately $290 million. These funds coupled with appropriations from previous years have established more than 700 community and migrant health centers—centers which now provide primary health services to an estimated 5.1 million persons. This proposal would increase the authorizations for these programs by over $200 million over the next 5 years, increasing significantly our ability to establish new community and migrant health centers.

The bill also provides a new authority for the establishment of hospital-affiliated primary care centers. Generally, this provision permits the Secretary of HEW to award project grants for the purpose of establishing and operating primary care centers to hospitals located in areas where there is such a shortage of personal health services that the hospital's emergency room or outpatient department becomes the neighborhood's "clinic" or "physician's office."

I am hopeful that these primary care centers will achieve two goals: First, that improvements can be made in quality of care by converting the delivery system from one which, by its very nature, provides periodic, episodic care to one which concentrates on continuity. Second, I hope to reduce the cost of primary care services which are now delivered by hospitals by moving these services from the costly emergency rooms and outpatient departments into more appropriate—and hopefully more cost efficient—settings.

The bill authorizes $35 million, $60 million, and $85 million for fiscal years 1979, 1980, and 1981, respectively, for the hospital-affiliated primary care centers. The funds are intended to establish between 20 and 30 centers per year providing improved primary care services to approximately 1 to 1.5 million people.

Finally, the bill includes a new authority for research and demonstration projects for primary care in medically underserved areas. Such projects will focus on manpower recruitment and retention; experiments with differing types of organizational and provider models; programs aimed at increasing the productivity, effectiveness, and efficiency of health care providers; programs in health promotion, disease prevention, and health education; demonstrations in the coordination and integration of health and social service programs, and others. The bill authorizes $20 million, $25 million, and $30 million for both urban areas and rural areas for purposes of carrying out approved research and demonstration projects.

Mr. President, I believe that the elements of this bill will do much to improve the quality and accessibility of primary health care services in this country, and I hope my colleagues in the Congress will give this proposal their full support. Mr. President, I ask unanimous consent that the text of the bill and a detailed explanation of the bill be printed in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 2879

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Primary Health Care Act of 1978".

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FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds that—

(1) although the achievement of equal access to quality health care at a reasonable cost is a stated priority of the Federal Government, there remains a wide disparity throughout the Nation regarding the cost, quality and availability of medical care services;

(2) despite Federal financing programs designed to eliminate barriers to medical care services for the poor and the elderly, there remains a shortage of health resources, especially in medically underserved inner city and rural areas;

(3) residents of inner city and rural medically underserved areas lack the availability of basic and appropriate services for health promotion, disease prevention and primary care; and

(4) the Federal Government lacks a comprehensive and coordinated effort for systematically reducing the maldistribution of health resources based on geography and differences in income level.

(b) It is the purpose of this Act—

(1) to develop and promote a long-term strategy for addressing primary health care needs;

(2) to alleviate the shortage of health resources in both urban and rural medically underserved areas of the country; and

(3) to provide authorities for research and demonstration projects which develop innovative approaches for the organization and delivery of primary care.

ESTABLISHMENT OF COMMISSION ON NATIONAL PRIMARY HEALTH CARE NEEDS

SEC. 3. (a) There is established a Commission to be known as the Commission on National Primary Health Care Needs (hereinafter in this part referred to as the "Commission").

(b) (1) The Commission shall be composed of 21 members appointed by the President. The President shall select members of the Commission from individuals distinguished in the fields of medicine, health promotion, disease prevention, primary care, medical care organization and delivery and consumers of health care. Members of the Commission shall be appointed for the life of the Commission. The President shall appoint the members of the Commission within sixty days of the date of the enactment of this Act.

(2) Within the Commission there shall be a five member panel on urban issues and a five member panel on rural issues. Commission members assigned by the Chairperson to such panels shall represent the following interests: one urban or rural consumer of primary health care; one health manpower expert; one medical care organization and delivery expert (including facilities and services); one health promotion and disease prevention expert, and one primary health care expert. The remaining eleven members shall include three consumers and eight experts from categories described in subsection (b)(1).

(3) The Secretary of Health, Education, and Welfare, the Secretary of the Department of Defense, the Administrator of the Veterans' Administration, and the Chairperson of the National Council on Health Planning and Development shall be ex-officio members of the Commission.

(4) (A) Except as provided in subparagraph (E), members of the Commission shall each be entitled to receive the daily equivalent of the annual rate of the basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of the duties of the Commission.

(B) Members of the Commission who are full-time officers or employees of the United

States shall receive no additional pay on account of their service on the Commission.

(C) While away from their homes or regular places of business in the performance of duties of the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(c) The Chairperson of the Commission shall be selected by the President by and with the advice and consent of the Senate. The Vice-Chairperson shall be elected by the members of the Commission.

(d)(1) The Commission may appoint and fix the pay of such staff personnel as it deems desirable, which shall include at least 12 professionals and appropriate support personnel. Such personnel shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) The Commission may appoint and compensate, at a rate not to exceed the annual rate of basic pay in effect for grade GS–18 of the General Schedule, an executive director, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, who shall administer the full-time daily activities of the Commission.

(3) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

COMMISSION DUTIES

SEC. 4. (a) The Commission shall carry out the following:

(1) The Commission shall issue a report to Congress within 18 months after the date of enactment of this Act on the national primary health care needs. Such report shall give special attention to the varying needs of both urban and rural areas and shall include—

(A) the development of a national strategy (including public and private efforts) to assure equal access to primary health care for all individuals regardless of location or income;

(B) an evaluation of Federal efforts to correct the maldistribution of health resources by geography and income;

(C) an assessment of the numbers and locations of medically underserved people, including a system to annually update efforts to meet the special health resource needs of such populations; and

(D) an assessment of the resources necessary to provide equal access to primary health care for all individuals, including research and development, services, manpower, and facilities.

(b)(1) The Commission shall conduct a special study to determine if the Department of Defense, the Veterans' Administration and other Federal health resource facilities can be appropriately utilized in medically underserved areas to provide needed medical services, with special emphasis on the provision of primary care.

(2) The Commission may conduct such special studies as it considers appropriate to carry out the purposes of this section.

ADMINISTRATIVE PROVISIONS

SEC. 5. (a) The Commission may for the purpose of carrying out its duties under this Act hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission deems advisable.

(b) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties. Upon the request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) The Commission shall complete its duties under this Act not later than the expiration of the 24-month period beginning on the first day of the first month that follows the date on which all members of the Commission have taken office. The Commission shall make periodic reports to the President, the Congress, and the Secretary respecting its activities under this Act.

(d) For the purposes of this subpart the term "primary care" means first contact medical care services, including health promotion and disease prevention, and continuous patient management throughout secondary and tertiary treatment.

(e) There are authorized to be appropriated to carry out the provisions of sections 3, 4, and 5, $5,000,000

DESIGNATION OF "PRIMARY HEALTH CARE" SECTION

SEC. 6. Title III of the Public Health Service Act is amended by—

(1) redesignating part H (and all cross references thereto) as part L;

(2) inserting after section 369 the following:

"PART H—PRIMARY HEALTH CARE

"SUBPART I—PRIMARY HEALTH CENTERS.".

COMMUNITY HEALTH CENTERS

SEC. 7. (a) Title III of the Public Health Service Act is further amended by transferring section 330 to part H and redesignating such section (and all cross references thereto) as section 370.

(b) Section 370(e)(2) (as designated by subsection (a)) is amended by—

(i) striking "and" after clause (1);

(ii) striking the period after clause (J) and substituting "; and"; and

(iii) adding the following new clause:

"(K) the center, in accordance with regulations promulgated by the Secretary, has developed an ongoing referral relationship with one or more of the hospitals located in its catchment area.".

(c) Section 370 (as redesignated by subsection (a)) is amended by adding the following at the end thereof:

"(h) The Secretary shall establish, by regulation, a plan to allow community health centers to retain earned income from the operations of the center if the income is used to—

"(1) expand or improve the services of the center;

"(2) expand the population eligible to utilize the services of the center;

"(3) make managerial or physical improvements to the center; or

"(4) establish a reserve fund for use in conversion to a prepaid reimbursement modality.".

(d) Section 370(g)(1) (as redesignated by subsection (a)) is amended by striking out "and" after "1977,", and inserting before the period at the end of the sentence thereof the following: ", $10,000,000 for the fiscal year ending September 30, 1979, $10,000,000 for the fiscal year ending September 30, 1980, $10,000,000 for the fiscal year ending September 30, 1981, $10,000,000 for the fiscal year ending September 30, 1982, and $10,000,000 for the fiscal year ending September 30, 1983".

(e) Section 370(g)(2) (as redesignated by subsection (a)) is amended by striking out "and" after "1977,", and inserting before the period at the end of the sentence thereof the following: ", $320,000,000 for the fiscal year ending September 30, 1979, $352,000,000 for the fiscal year ending September 30, 1980, $387,200,000 for the fiscal year ending September 30, 1981, $425,900,000 for the fiscal year ending September 30, 1982, and $468,500,000 for the fiscal year ending September 30, 1983".

HOSPITAL-AFFILIATED PRIMARY CARE CENTERS

SEC. 8. Part H of title III is further amended by adding after section 370 the following new section:

"HOSPITAL-AFFILIATED PRIMARY CARE CENTERS

"SEC. 371. (a) For purposes of this section:

"(1) The term 'community hospital' means either a public general hospital, owned and operated by a State, county or local unit of government, or a private nonprofit community hospital either of which primarily serves a medically underserved population as defined in section 370(b)(3).

"(2) The term 'hospital-affiliated primary care center' (hereinafter referred to as 'primary care center') means a distinct administrative unit of a community hospital, located in or adjacent to the hospital, which:

"(A) delivers primary health services (as defined in section 370(b)(1), except that the requirement to provide emergency medical services shall be fulfilled by referral to the emergency room of the community hospital) to a catchment area which is determined by the hospital and approved by the Secretary;

"(B) provides referral to supplemental health services as defined in section 370(b)(2);

"(C) provides referral to emergency medical services and authorized access to patient medical records on a 24-hour a day, seven day a week basis; and

"(D) provides information on the availability and proper use of health services provided by the community hospital and the primary care center.

"(3)(A) The term 'primary care group practice' means any combination of three or more primary care physicians (as defined in section 771(b)(2)(F)((ii)) who are organized to provide primary health services in a manner which is consistent with the needs of the population to be served; who are located in or adjacent to the community hospital; who have admitting privileges to the community hospital; and who are either:

"(i) salaried by the hospital such that all members of the group practice are full time in the hospital and a majority of the members of the group practice is full time in the primary care center; or

"(ii) organized into a legal entity (partnership, corporation or professional associatoin) which has a contract approved by the Secretary with the community hospital to provide primary health services. The group shall have an income distribution formula which shares the income and expenses of the group in a systematic manner; all members of the group practice shall devote full-time to the fulfillment of the contract.

"(B) In designated health manpower shortage areas (as defined in section 375 as redesignated under section 11 of the Primary Health Care Act of 1978) where there is an approved application for assignment of National Health Service Corps personnel, the Secretary may assign National Health Service Corps personnel in fulfillment of the requirements of subparagraph (3)(A) where the center would otherwise be unable to form a group practice. The psysician staff may not be composed entirely of National Health Service Corps personnel.

"(C) Physicians in specialties other than primary care specialties may become members of the group practice as needed, except that such physicians may not be used to ful-

fill the requirements of subparagraph (b)(2)(C).

"(4) The term 'primary care resident' means a graduate physician in training, whose training program is approved by appropriate certifying bodies and is in a primary care specialty (general internal medicine, general pediatrics, and family practice) and whose training program requires that at least 40 percent of patient care responsibilities during the last two years of board-eligibility training requirements are in ambulatory care.

"(b)(1) The Secretary may make grants to community hospitals to assist such hospitals in planning, developing and operating primary care centers in medically underserved areas.

"(2) To be eligible for a grant under this subsection, the community hospital must submit an application which contains or is supported by the following assurances, satisfactory to the Secretary—

"(A) that the services of the primary care center shall be delivered through a primary care group practice. Primary health services may be delivered by primary care residents if such services are delivered under the direction of a member of the group practice, and if the primary care resident is assigned to the primary care center for a period of not less than two years. Medical and other health science students may receive primary care training in the primary care center. In no case shall the obligations of the full-time members of the group practice also be full time in the teaching of residents and students. The Secretary shall issue regulations to assure that teaching does not detract significantly from the efficiency and productivity of the actual delivery of service in the primary care center,

"(B) that, to the extent practicable, primary health services in the community hospital shall be delivered only through the primary care center and that qualified personnel trained in triage will be placed in the emergency room, the outpatient department and the primary care center to screen and direct patients to the appropriate location for care,

"(C) that each patient of the primary care center will have an identified member of the group practice who is responsible for the continuous management of the patient when the patient requires referral (inpatient or outpatient) or emergency services,

"(D) that, to the extent practicable, excess facilities and equipment in or owned by the community hospital will be converted for use in the primary care center.

"(E) that the hospital and the primary care center shall avoid unnecessary duplication of facilities and equipment, except that the primary care center may install appropriate support equipment for routine primary health services,

"(F) that the primary care center shall be maintained as a separate and distinct cost and revenue center for accounting purposes. Only such costs which are clearly associated with the provision of services in the primary care setting may be assigned to the primary care center. Inpatient-related costs and costs associated with the education and training of residents, medical and other health science students may not be calculated into the costs of operating the primary care center.

"(G) that the primary care center shall be operated in accordance with all the requirements for community health centers in subsection (e) except for paragraph (2)(G) thereof. The hospital shall have an advisory board which is composed of individuals, a majority of whom are health consumers of the hospital's catchment area. The board shall participate in the development of the application for a grant under this section and shall participate in the development of any renewal grants. The Secretary shall not approve an application for a grant under this section unless it has been approved by the advisory board. When the center is operational, the advisory board shall meet at least six times per year to review the operations of the center to develop recommendations to the hospital's governing board concerning the types of services to be provided and the operation of the center, and

"(H) that the primary care center shall maintain an information program for its patients which fully discloses—

"(i) the covered professional services and referral capabilities offered by the primary care center, and

"(ii) the method by which patients of the primary care center may resolve grievances respecting billing for covered professional services or the quality of the covered professional services.

"(3) Grants under this subsection may be used for covering the costs associated with (A) planning, (B) developing (including modernization and renovation of space), and (C) operating primary care centers.

"(c) The Secretary shall, upon request, provide necessary technical or other nonfinancial assistance (including fiscal and program management assistance and training in such management) to a community hospital to assist it in developing plans for, and in operating, a primary care center. Funds appropriated under this section may be used to carry out the purposes of this subsection.

"(d) The Secretary shall establish, by regulation, a plan to allow primary care centers to retain earned income from the operations of the center if the income is used to—

"(1) expand or improve the services of the center;

"(2) expand the population eligible to utilize the services of the center;

"(3) make managerial or physical improvements to the centers; or

"(4) establish a reserve fund for use in conversion to a prepaid reimbursement modality.

"(e) There are authorized to be appropriated for the purpose of making payments for grants under this section $35,000,000 for the fiscal year ending September 30, 1979, $60,000,000 for the fiscal year ending September 30, 1980, and $85,000,000 for the fiscal year ending September 30, 1981. Not more than $500,000 per project may be used for planning and development.".

MIGRANT HEALTH

SEC. 9. (a) Title III of the Public Health Service Act is further amended by transferring section 319 to part H and redesignating such section (and all cross references thereto) as section 372.

(b) Section 372(f) of the Public Health Service Act (as redesignated by subsection (a)) is amended by adding at the end thereof the following new paragraph:

"(5) The Secretary shall establish, by regulation, a plan to allow migrant health centers to retain earned income from the operations of the center if the income is used to—

"(A) expand or improve the services of the center;

"(B) expand the population eligible to utilize the services of the center;

"(C) make managerial or physical improvements to the center; or

"(D) establish a reserve fund for use in conversion to a prepaid reimbursement modality.".

(c)(1) Section 372(h)(1) of the Public Health Service Act (as redesignated by subsection (a)) is amended by striking "and" after "1977," and inserting before the period at the end of the first sentence the following: ", $4,000,000 for the fiscal year ending September 30, 1979, $4,000,000 for the fiscal year ending September 3, 1980, $4,000,000 for the fiscal year ending September 30, 1981, $4,000,000 for the fiscal year ending September 30, 1982, and $4,000,000 for the fiscal year ending September 30, 1983".

(2)(A) Section 372(h)(2) (as redesignated by subsection (a)) is amended by striking out "and" after "1977,", and inserting before the period at the end of the first sentence thereof the following: ", $40,000,000 for the fiscal year ending September 30, 1979, $44,000,000 for the fiscal year ending September 30, 1980, $48,400,000 for the fiscal year ending September 30, 1981, $53,240,000 for the fiscal year ending September 30, 1982, and $58,564,000 for the fiscal year ending September 30, 1983".

(B) The third sentence of section 372(h)(2) is amended by striking out "and" after "1977,", and inserting before the period at the end thereof the following: ", the fiscal year ending September 30, 1979, the fiscal year ending September 30, 1980, the fiscal year ending September 30, 1981, the fiscal year ending September 30, 1982, and the fiscal year ending September 30, 1983".

(3) Section 372(h)(3) (as redesignated by subsection (a)) is amended by striking out "and" after "1977,", and inserting before the period at the end of the sentence thereof the following: ", $6,000,000 for the fiscal year ending September 30, 1979, $6,600,000 for the fiscal year ending September 30, 1980, $7,260,000 for the fiscal year ending September 30, 1981, $7,986,000 for the fiscal year ending September 30, 1982, and $8,784,600 for the fiscal year ending September 30, 1983".

RESEARCH AND DEMONSTRATION PROJECTS FOR PRIMARY CARE

SEC. 10. Part H of title III of the Public Health Service Act is further amended by adding after section 372 the following:

"SUBPART II—RESEARCH AND DEMONSTRATION PROJECTS FOR PRIMARY CARE

"GRANTS AND CONTRACTS FOR PRIMARY CARE RESEARCH AND DEMONSTRATION PROJECTS

"SEC. 373. (a) The Secretary is authorized to make grants to and enter into contracts with nonprofit private and public organizations and providers of health and dental care to demonstrate new, improved, or expanded primary health and dental care delivery mechanisms in the community setting for medically underserved populations.

"(b) For purposes of this section:

"(1) The term 'medically underserved population' means the population of an urban or rural area designated by the Secretary as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of such services. In designating urban or rural areas for purposes of this paragraph, the Secretary shall take into account unusual local conditions which are a barrier to access to or the availability of personal health services.

"(2) The term 'rural' means an area that is not an urbanized area (as defined by the Bureau of the Census).

"(3) The term 'urban' means an area that is an urbanized area (as defined by the Bureau of the Census).

"(c) Grants and contracts may be made pursuant to this section to examine and develop—

"(1) methods of attracting and retaining primary care physicians, dentists, physician assistants, nurse practitioners and other allied health professionals, both individually and as teams, to train and practice among medically underserved populations;

"(2) the use of differing types of organizational models and providers, all directed

toward meeting the unique needs of medically underserved populations;

"(3) management and technological improvements to increase productivity, effectiveness, efficiency, and financial stability of health and dental care providers, including new or improved methods for biomedical communication, medical and financial recordkeeping and billing systems;

"(4) health promotion, disease prevention and health education programs directed toward obtaining full utility from available health and dental resources;

"(5) methods of identifying, coordinating, and integrating existing health and social service facilities and programs to maximize use of available resources, avoid duplication of effort, and ensure a coordinated, comprehensive care system, including demonstrations to explore the feasibility and effectiveness of combining primary health and dental care delivery programs with other health and social services in the context of integrated social service centers;

"(6) regional approaches to the delivery of health and dental care, through the coordination and integration of primary care programs, including support for federations of existing clinics and consolidated health care delivery systems operating in multiple locations;

"(7) identification and development of new funding mechanisms for the provision of health and dental care, including local revenue generation with public responsibility for these programs assured through the periodic election of legally constituted governing boards and maintenance of service standards facilitated by Federal incentive awards to participating medically underserved populations:

"(8) specific services or mixture of services appropriate for a given area, including ambulatory care, home health care, environmental health services, community outreach activities, transportation services, and other supplemental services:

"(9) effect of availability of primary care and home health services in terms of reduction of emergency room visits, hospitalizations, and institutionalization in long term care facilities; and

"(10) other innovative approaches designed by the applicant and approved by the Secretary to improve the availability of quality health and dental care.

"(d) The Secretary shall submit an annual report to Congress which shall include a description of actions taken, services provided, and funds expended under this section, and evaluation of the effectiveness of such actions, services and expenditures of funds, and such other information as the Secretary considers appropriate.

"(e) An application for a grant or contract under this section shall be in such form, submitted to the Secretary in such manner, and contain such assurances, as the Secretary may require.

"(f) The amount of any grant or contract under this section shall be determined by the Secretary, but shall not exceed the amount that the Secretary determines is needed to carry out the purposes of the grant or contract.

"(g) The Secretary may make payments under this section in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary finds necessary.

"(h) The Secretary shall fund projects relating to each of the ten demonstration authorities identified in subsection (c)(1)–(10).

"(i) The Secretary may continue to support, out of funds appropriated under this section, those projects presently funded through the Public Health Service under the Health Underserved Rural Areas Program.

"(j) There are authorized to be appropriated for the purpose of funding grants and contracts in rural areas under this section $20,000,000 for the fiscal year ending September 30, 1979, $25,000,000 for the fiscal year ending September 30, 1980, and $30,000,000 for the fiscal year ending September 30, 1981.

"(k) There are authorized to be appropriated for the purpose of funding grants and contracts in urban areas under this section $20,000,000 for the fiscal year ending September 30, 1979, $25,000,000 for the fiscal year ending September 30, 1980, and $30,000,000 for the fiscal year ending September 30, 1981."

HEALTH PROFESSIONALS FOR MEDICALLY UNDERSERVED AREAS

SEC. 11. (a)(1) Subpart II of part C of title III of the Public Health Service Act is transferred to part H of such title as subpart IV, and sections 331, 332, 333, 334, 335, 336, 337, and 338 are redesignated as sections 374, 375, 376, 377, 378, 379, and 380, respectively.

(2) The heading for subpart IV, as so redesignated, is amended to read as follows: "Health Professionals for Medically Underserved Areas".

(b) Section 378 (as so redesignated by subsection (a)) is amended by—

(1) inserting "(a)" after "Sec. 378.", and

(2) inserting at the end of subsection (a) thereof the following:

"(b) In addition to the report required by subsection (a), the Secretary shall submit a special report, developed through consultation with the National Advisory Council on the National Health Service Corps (as defined in section 379), to the Committee on Human Resources of the Senate and to the Committee on Interstate and Foreign Commerce of the House of Representatives on Februray 1, 1979. Such special report shall delineate the present and future directions of the National Health Service Corps particularly its relationship as a health manpower program and as a health services delivery program, analyze the use of corpsmen in the various settings defined in section 375, address the use of the Corps in meeting urban and rural health needs and project the estimates of the Corps' manpower and their use through 1985.".

(c) Section 380 (a) (as redesignated by subsection (a)) is amended by striking "$57,000,000" and substituting "$64,000,000".

EVALUATION

SEC. 12. (a) The Comptroller General shall evaluate the operations of primary care centers, community health centers and migrant health centers which receive assistance under the Public Health Service Act. Each distinct category shall be evaluated separately and a comparison shall be made.

(b) The Comptroller General shall report to the Congress the results of such evaluation not later than 30 months after the date of enactment of this section.

MISCELLANEOUS

SEC. 13. (a) Section 1313 of the Public Health Service Act (42 U.S.C. 300e–12) is repealed.

(b) Section 752 (b)(5)(A) of the Public Health Service Act (42 U.S.C. 2940) is amended by inserting the following new sentence after the first sentence thereof: "Certain specialties needed by the Corps may be deferred for more than three years, but in any given year such deferments shall constitute no more than 5 percent of the total number of deferrals granted.".

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SECTION-BY-SECTION ANALYSIS: COMMISSION ON NATIONAL PRIMARY HEALTH CARE NEEDS

The bill would establish a Commission on National Primary Heath, Care Needs which would develop a national strategy for assuring equal access to primary health care services for all Americans, including appropriate responsibilities for both the public and private sectors. Also the Commission would be required to issue a report to the President and the Congress containing an evaluation of federal efforts to correct the maldistribution of health resources by geography and income; accurately assess the numbers and locations of medically underserved people (including a system to update annually efforts to meet the special health resource needs of these populations); assess the resources necessary to provide equal access to primary health care for all Americans; and, finally, determine the cost of providing such access.

While I recognize that the subject of primary care has been the focus of numerous studies, books, articles, and conferences in recent years, I am convinced that this Commission is necessary for two important reasons: first, it can serve as the mechanism by which the current state of knowledge regarding primary health care needs can be brought together into one comprehensive report thereby tying together the valuable contributions of each of these individual efforts; secondly, it will hopefully be able to provide answers to questions which have been thus far left unanswered due to the availability of resources necessary to support the required research. In other words, it is my intent that this Commission—through extensive research activities—will provide substantive answers to such questions as what resources are necessary to provide equal access to primary health care, what will be the costs associated with this effort, and what is the best strategy for achieving these goals. As we all know, the answers to these questions have so far remained elusive.

In addition to these responsibilities, the Commission would be required to conduct a special study of federal health resources—including the resources owned, operated or employed by the Department of Defense and the Veterans Administration—to determine if such resources can be utilized appropriately in medically underserved areas to provide vital health services.

I am concerned that there are federal health resources whose access is restricted only to members of the military or veterans in areas of the country where services and facilities are desperately needed by the general population. Because I believe we can no longer afford to overlook the inefficient use of health care resources, I believe consideration should be given to the prospect of opening access to these federal health resources in medically underserved areas. The Commission on National Primary Health Care Needs would be given the responsibility of evaluating and making recommendations regarding this proposal.

The Commission will be composed of 21 presidential appointees: five of the appointees will constitute a panel on urban issues and five will constitute a panel on rural issues. Members of these two panels shall each include a manpower expert, an expert in medical care organization and delivery, an expert in health promotion and disease prevention, and an expert in primary care. In addition, there shall be one consumer member of each panel. The remaining eleven members shall include three more consumers and eight additional experts from the previously designated categories. The Secretaries of the Department of Health, Education, and Welfare and the Department of Defense, as well as the Administrator of the Veterans' Administration, shall each designate a nonvoting, ex-officio member of the Commission. The Chairperson of the National Council on Health Planning and Development shall also serve as a nonvoting, ex-officio member of the Commission. Finally, the bill contains provisions for appropriate staff positions and sets the life of the Commission at two years.

COMMUNITY HEALTH CENTERS

As a long-time proponent of community health centers (CHCs), I supported in S. 2474 a major increase in the authorization levels for CHCs. S. 2474 provides for a five-year extension of the CHC authorities; during

that time period (FY 1979 to FY 1983), the authorization levels are increased from $320 million to $468.5 million. Because community health centers have generally proven themselves to be an effective mechanism for the delivery of primary health care services—a fact which has served to strengthen my commitment to their growth and development—I have included, as an indication of this support, the amended authorization levels in my bill.

I have also included in my bill an amendment which would allow CHCs, with the approval of the Secretary, to retain earned income from the operations of the center if the income is used for one or more of the following purposes: to expand or improve the service of the center; to expand the population eligible to utilize the services of the center; to make managerial or physical improvements to the center; or to establish a reserve fund for use in conversion to a prepaid reimbursement modality.

The last amendment which I am proposing under this section would require every CHC to develop a structured referral relationship with one or more nearby hospitals. It has recently come to my attention that severe gaps occur in the care of individuals who are treated by CHC physicians who do not have hospital staff or admitting privileges. Because I believe that CHCs should strive to assure continuity of care to the people they serve, I believe it is important to require that appropriate referral relationships be structured between CHCs and hospitals. It is my hope that the establishment of such relationships will lead to improvements in continuity of care provided by CHC patients.

Finally, I would like briefly to address an issue which is currently undergoing extensive debate—that issue involves the controversy over how funds appropriated under the CHC and other federal health services programs are divided between rural and urban areas. Many rural health advocates are expressing concern over the fact that a disproportionate amount of funds under these programs is being spent in urban areas. However, HEW estimates that while it costs approximately twice as much to provide services in an urban area as in a rural area, roughly the same number of people are being served.

I believe that the long-range federal policy response regarding the urban/rural controversy must focus on numbers of people served and not on the proportion of funds allocated between the two areas. We must accept the fact that there are cost of living as well as cost of medical care differences between urban and rural areas. Consequently I plan to urge my colleagues in the Human Resources Committee and in the entire Congress to adopt a policy which would direct HEW in its grants awards process, under this and other health resources programs, to assure to the extent possible that equal numbers of people in rural and urban areas will be served.

HOSPITAL-AFFILIATED PRIMARY CENTERS

In response to my concern about the shortage of primary care services which results in the inappropriate utilization of outpatient departments and emergency rooms for the receipt of such services, I proposed in S. 2474, The Health Services Extension Act of 1978, establishing hospital-affiliated primary care centers in urban areas. The purpose of these centers was to provide a more appropriate setting for the provision of primary care services for people residing in inner-city areas where no other sources of care exist. Since the introduction of S. 2474, I have received numerous suggestions for improving and refining this measure from witnesses who testified at hearings, meetings with individual interest groups, and site visits by my staff to prototype models. This bill which I am introducing today reflects the modifications which have been made in response to this valuable input.

Conceptually, the most fundamental change which I have made in this proposal involves an expansion of eligible institutions from those located exclusively in urban areas to those located in any medically underserved area (as determined by the HEW Secretary). After hearing testimony and talking to a number of groups which represent rural health interests, I am convinced that there are many hospitals located in rural areas which are plagued by the same problems that trouble many urban, inner-city hospitals. More importantly, however, I now believe that any legislative effort aimed at improving the availability of health resources should focus on the broader national issue of medically underserved areas. Whether a person lives in an urban or rural area is irrelevant if that person needs medical care which cannot be obtained due to a shortage of health resources. For this reason I have expanded my proposal to include all medically underserved settings.

Under my proposal, HEW would award grants to community hospitals (defined as either public general hospitals or private, nonprofit hospitals which serve primarily a medically underserved population) for the purpose of establishing hospital-affiliated primary care centers. Intended grant recipients are those hospitals which are currently delivering primary health services through their emergency rooms and outpatient departments because no other source of care exists for the delivery of such services to a population designated by the Secretary as medically underserved. The Secretary should exercise careful discretion in awarding these grants so as to avoid duplication of services to the same population group if existing means of providing services is adequate to fulfill the needs of the population.

The primary care center must be a distinct administrative unit of the community hospital and must be located in or adjacent to the community hospital. With respect to the first requirement, it is my intent that the Secretary give priority to those hospitals which exhibit a strong willingness and commitment to make whatever organizational and structural changes are necessary within the hospital to assure a significant degree of autonomy for the primary care center. After reviewing the operations of ambulatory services departments at the Genesee Hospital (Rochester, New York) and the North Central Bronx Hospital (New York City), I am convinced that the key to the successful operation of these centers lies in their ability to function in an aggressive, independent, and autonomous fashion from the operation of the inpatient facility. While I believe it is inappropriate to mandate in legislation a particular organizational structure because the needs of individual hospitals vary widely, it is my intent that the Secretary give priority to hospitals which through the appropriate rearrangement of administrative, departmental, and professional relationships display the kind of dedication, support, and commitment which have made Genesee and North Central Bronx so successful.

It is also my intent that the primary care centers be located in or adjacent to the community hospital. This requirement is included for the convenience of the patients who, when the primary care center becomes operational, will be rerouted from the hospital's outpatient department and emergency room to the new center. Because of potential cost differentials which are likely to occur between those centers located in the hospital and those centers located adjacent to the hospital, it is my intent that the Secretary give priority to applications which indicate that the primary care center will be established adjacent to the hospital. Although I have included stringent requirements regarding what costs may be assigned to the primary care center, I believe that it will be considerably easier to control costs if the primary care center is not within the inpatient facility. However, because I recognize that many hospitals do not have these resources readily available, and that many such hospitals suffer from the inappropriate utilization of their emergency rooms and outpatient departments for the delivery of primary care, it is not my intent to preclude such hospitals from being eligible for grants under this section.

The hospital-affiliated primary care centers must:

(1) Deliver primary health services which, with the exception of the requirement for the provision of emergency medical services, is defined exactly as primary health services are defined under the Community Health Centers program.

(2) Provide referral to supplemental health services (also as defined under the Community Health Centers program).

(3) Provide referral to emergency medical services and authorized access to patient medical record on a twenty-four-hour day, seven-day-week basis. With respect to emergency health services, I have chosen not to require that the primary care centers directly provide emergency health services because such a requirement would result in an unnecessary duplication of services between the primary care center and the hospital. The term "authorized access to patient medical records" is used here to indicate that access to patient medical records will be by only those health practitioners who may need such access to treat effectively a patient of the primary care center.

(4) Provide an information program for the residents of the catchment area which describes the services of the primary care center and the hospital. Since the primary care center will be a new health services delivery entity in the community, it will be important for both the hospital and the primary care center to educate potential users as to the appropriate use of each of the facilities.

The services of the primary care center must be delivered by a primary care group practice. A primary care group practice must, at a minimum, be composed of at least three primary care physicians (general internists, general pediatricians, and family practitioners) who are organized to provide primary health services in a manner which is consistent with the needs of the population to be served. This means that a group cannot be composed of all pediatricians or all internists, but must be of a mix of professionals capable of providing health services to persons of all ages. Each of the members of the group practice must have admitting privileges to the affiliated community hospital. In addition, the physicians of the group may either be salaried by the hospital or may be organized into a legal entity (partnership, corporation or professional association) which has a contract (approved by the Secretary) with the community hospital to provide primary health services. Under the first model, all members of the group practice must be full-time in the primary care center. Under the second model, the group must have an income distribution formula which shares the income and expenses of the group in a systematic manner, and all members of the group must devote full time to the fulfillment of the contract.

Because I recognize that there are hospitals in some parts of the country which may have difficulty organizing a group practice to meet the specified requirements simply because that area is experiencing a physician shortage, my bill gives the Secretary the authority to substitute physician members of the National Health Service Corps for physician

members of the group. Where this occurs, however, at least one member of the group must come from the hospital or community.

My bill also allows primary care residents to practice in the primary care centers since these centers are logical settings for residents in primary care specialties to obtain training in ambulatory care. A primary care resident is defined as a graduate physician in training, whose training program is approved by appropriate certifying bodies and is in a primary care specialty (general internal medicine, general pediatrics and family practice). These residents may practice only in the primary care center if the resident is assigned to the primary care center for a period of at least two years and if the resident practices under the direction of a member of the group practice. It is my understanding that one of the critical elements of residency programs in some primary care specialties involves requiring the resident to be responsible for the continuing care of an assigned panel of patients. The requirement that the resident practice under the direction of a member of the group practice is not meant to preclude such an arrangement; it is only meant to assure that a member of the group will ultimately be responsible for the care delivered to any patient of the primary care center.

It is also my intent that, where appropriate, the center would utilize the services of allied health personnel in the treatment of patients. In addition, for purposes of education and training, medical and other health science students would be allowed to receive training in the primary care center as long as such training did not significantly detract from or interfere with the delivery or quality of services. Finally, the group would be allowed to add physicians in other specialties as needed, except that these physicians could not be used to fulfill the requirements pertaining to continuous management of patient care described below.

In addition to these requirements, the hospital must also provide assurances in its application that the primary care center will meet the following requirements:

1. That, insofar as possible, primary health services in the community hospital will be delivered only through the primary care center. To assure this practice, health professionals such as nurse practitioners and physician assistants who are qualified to perform triage shall be placed in the emergency room, outpatient department and primary care center to screen and direct patients to the appropriate locations for care.

2. That each patient of the primary care center will have an identified member of the group practice who is responsible for the continuous management of the patient when the patient requires referral (inpatient or outpatient) or emergency services.

The concept of "continuous management" is a vital component of this program. People who now find themselves forced to use outpatient departments and emergency rooms to obtain primary care services are people who are being treated only on a periodic and episodic basis. Even when these encounters occur, it is unlikely that the patient will be treated by the same physician twice. In order to improve the quality of care delivered to such people, my bill places one physician member of the group practice in charge of the continuing care of each patient. This means that one member of the group is responsible for overseeing the delivery of primary care services, for managing and coordinating care when referral or emergency services are required, and for providing follow-up after completion of the referral services. To accomplish this task, every person who becomes a patient of the primary care center is required, through some mutually satisfactory arrangement, to be assigned to a member of the group. Through this practice I am hopeful that we can eliminate the current problems with fragmentation in care.

In this connection, it is also my intent that when a person who is not affiliated with the primary care center or who does not have an established, ongoing relationship with a private physician arrives at the emergency room or outpatient department seeking care, every effort will be made to see that a member of the primary care group practice immediately, or in the case of true emergencies, within a reasonable period of time, becomes responsible for the continuing care of that patient.

In addition, when a patient of the primary care center arrives at the emergency room for treatment during a time when the primary care center is not open, that patient's primary care physician should be immediately notified. At the same time, no patient of the primary care center should be able to receive services through the outpatient department unless a referral for such services is made by the primary care center.

3. That excess facilities and equipment in or owned by the hospital will be converted for use in the primary care center. In making determinations as to which facilities and equipment will be converted, such determinations will be made in the best interest of the primary care center.

4. That the hospital and the primary care center will avoid unnecessary duplication of facilities and equipment, although the primary care center would be permitted to install appropriate support equipment—such as radiology and laboratory equipment—for the purpose of providing routine primary health services.

5. That the primary care center will be maintained as a separate and distinct cost and and revenue center which would have charged to it only those costs which are clearly associated with the provision of primary health services. The hospital would not be permitted to assign inpatient related costs or costs associated with the education and training of resident, medical or other health science students to the primary care center.

6. That the primary care center must be operated in accordance with all the requirements associated with community health centers as listed under 330(e) of the Public Health Service Act or 371(e) of my proposal, except for (e)(2)(G). The hospital must have an advisory board which will participate in the development of the grant application and any renewal applications and which will make recommendations to the hospital's governing board regarding the operation of the center. The Secretary may not approve an initial grant application or any renewal grant application unless the application has been approved by the advisory board.

7. That the primary care center will maintain an information program for its patients which fully discloses the covered professional services and referral capabilities offered by the primary care center and the method by which patients of the primary care center may resolve grievances regarding billing for covered professional services or the quality of such services.

Like community health centers, my bill authorizes these centers to retain earned income if such income is used for those purposes outlined under the community health center section.

Also, my bill gives the Secretary the authority to provide, to those hospitals who so request, necessary technical and other nonfinancial assistance for the purpose of assisting that hospital in developing its plans for and operating a primary care center. The Secretary may use funds appropriated under this section to carry out this function.

The authorization levels for this program have been set at $35 million for FY 1979, $60 million for FY 1980, and $85 million for FY 1981. Funds may be used for planning, developing (including modernization and renovation of space) and operating primary care centers. No more than $500,000 per project may be awarded for planning and development activities.

Before concluding the discussion on this section, I would like to add several general thoughts. First, it is my intent that to the extent possible the primary care centers should be developed so that the overall effort is directed at making the services available to the entire community or catchment area and not just those persons who are "unsponsored" (i.e., the near-poor or non-Medicaid eligibles). It is not my intent that these centers perpetuate any system which involves different classes of care for middle or upper class persons and indigent persons.

As a corollary, it is my intent that the Secretary encourage and, to the extent possible, give priority to those hospitals which demonstrate in their application a willingness ultimately to establish a system of prepayment for reimbursement of services. I have long been committed to HMOs and the concept of prepayment and am convinced that these centers are logical settings for the development of such reimbursement methods.

MIGRANT HEALTH CENTERS

For purposes of this bill, I have redesignated the migrant health center authority from Section 319 of the Public Health Service Act to Section 372. In moving this section, I have included no amendments outside of those contained in S. 2474, The Health Services Extension Act of 1978, except one which like community health centers and hospital-affiliated primary care centers allows migrant health centers to retain earned income.

RESEARCH AND DEMONSTRATION PROJECTS FOR PRIMARY CARE

Section 373 authorizes the Secretary to award grants and contracts for the purpose of funding demonstrations in new, improved, or expanded primary health care delivery mechanisms in the community setting in medically underserved areas.

This program would give the Secretary the authority to make grants to or enter into contracts with nonprofit private and public organizations and providers of health care to undertake a variety of research and demonstration projects aimed at improving the delivery of primary care services in medically underserved areas.

The Secretary is required to submit an annual report to the Congress detailing the accomplishments of this program. The bill authorizes $20 million, $25 million and $30 million for fiscal years 1979, 1980, and 1981, respectively, to both urban and rural areas for the purpose of funding demonstration projects under this section.

HEALTH PROFESSIONALS FOR MEDICALLY UNDERSERVED AREAS

Under my proposal, the National Health Service Corps is redesignated Sections 374–380. Under this provision, I have included the proposed authorization level changes contained in S. 2474 and an amendment which gives the Secretary the authority to permit a certain percentage of National Health Service Corps members to complete residencies which last longer than three years before beginning their service obligations.

EVALUATION

This section authorizes the General Accounting Office to perform an evaluation of the operations of community health centers, migrant health centers and hospital-affiliated primary care centers. This evaluation shall focus on how well each type of center is meeting its statutory goals, and, more importantly, shall compare the centers to determine relative cost effectiveness.

MISCELLANEOUS

Finally, I have included an amendment which would repeal Section 1313 of the Health Maintenance Organization Act. Section 1313 prohibits the use of any other funds under the PHS Act from being used for the development of HMOs. I believe that delivery systems such as community health centers and hospital-affiliated primary care centers are logical, natural settings for the future development of HMOs and should be encouraged. Section 1313 currently stands as a barrier to this effort because of the limitation it places on the sources of funds which can be used for HMO development.

Mr. RANDOLPH. Mr. President, this is not a cursory accommodation of the Senator from New York (Mr. JAVITS), who has had in the past—and continues by his action today in presenting this measure—the awareness and understanding of and commitment to a problem. It is one that is not only in the cities but also in the rural sections of West Virginia, as it is within the metropolitan areas of the State he represents, and in the many rural sections in New York State. But it is a problem. We want, insofar as possible, as I understand it, to reach people, to help people. That is the reason why we need this type of approach.

Am I correct?

Mr. JAVITS. Exactly right. And it is a quarter of the population of the United States.

Mr. RANDOLPH. Again I commend my colleague.

Mr. JAVITS. I thank the Senator for his generosity and for joining in the bill.

Mr. SCHWEIKER. Mr. President, today I am pleased to join with Senator JAVITS as a cosponsor of the Primary Health Care Act of 1978. This is a proposal to provide ongoing authority and funding for a program to establish more vitally needed primary health care treatment centers in underserved areas, both urban and rural.

In addition, the bill authorizes research and demonstration programs in order to identify innovative new ways to provide health services in medically underserved areas.

The bill also establishes a Commission on National Primary Health Care Needs to assess the primary care needs, evaluate the existing Federal effort, and recommend alternatives for the Congress and the President to consider.

When I introduced my Rural Health Services Act of 1978, S. 2744, I noted in my statement that rural underserved areas were badly in need of primary care facilities and services. As a representative of a State with both large rural areas and large urban areas, I am concerned about the lack of primary care health facilities in all underserved areas.

I am, therefore, joining with Senator JAVITS in proposing the Primary Health Care Act in the belief that this is a constructive step toward alleviating the shortage of primary care in underserved areas.

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By Mr. NELSON:

S. 2880. A bill to provide that future Federal employees will be covered by social security and may elect not to be covered by the applicable Federal employees retirement system, that current Federal employees may elect to be covered by social security and if they so elect may elect to discontinue being covered by a retirement system for Federal employees and have retirement credits under any such system transferred to social security; to the Committee on Finance.

S. 2881. A bill to provide for the actuarial soundness of the Civil Service Retirement and Disability Fund through a financing plan which will be fair and equitable to Federal employees and to the taxpayers; to the Committee on Governmental Affairs.

SOCIAL SECURITY COVERAGE OF NEW FEDERAL EMPLOYEES AND THE ACTUARIAL STATUS OF THE CIVIL SERVICE RETIREMENT FUND

● Mr. NELSON. Mr. President, today I am introducing two bills, one of which would require that individuals who are newly employed by the Federal Government after December 31, 1979, be covered mandatorily under the social security system. This bill also would provide an option for persons who are presently employed by the Federal Government to participate in the social security system on a voluntary basis. The other bill would require that the Civil Service Retirement Board of Actuaries report to the Congress with a plan which provides for the financing of the Civil Service Retirement Fund on an actuarially sound basis and with recommendations for financing the fund in a manner which will be fair and equitable to Federal employees and to all American taxpayers.

At the outset, I want to make it clear that the pension rights which have accrued to any present or retired employee of the Federal Government, including postal workers and other civil servants, will not be affected in any way by these bills. This legislation applies only to new Federal employees, and will not terminate the existing Federal retirement programs. Presently employed Federal employees will continue to accrue pension benefits in the future in the same way and to the same extent they do today.

I am introducing this legislation because social security coverage should be extended to all new Federal employees. In my opinion, there is not adequate justification for mandating virtually all private sector employees and self-employed individuals to be covered by social security while all Federal employees are covered under a different and more liberal system in which employees do not contribute half the cost as they do under social security.

Consider, for example, the following facts:

After 5 years on the job, a Federal employee is "vested," that is, the employee has an earned right to a pension. Under social security, 10 years of coverage ultimately will be required to become eligible for retirement benefits.

Under the civil service retirement program, an employee can retire at age 55 without any actuarial reduction in benefits and without any reduction in that retirement pay if the individual continues to work. Within 10 years, the "retired" civil servant can accrue social security coverage and at very low rates. Under social security, a person can retire at age 62 at an actuarily reduced pension. If an individual receives social security and simultaneously holds another job, there is a benefit reduction if the earned salary is greater than the so-called retirement test, which this year is set at $3,400 for social security recipients under age 65, and $4,000 for recipients age 65 and above.

Employees covered under social security and their employers pay the full cost of social security benefits. No general revenue payments are now used to finance social security benefits. Federal employees, on the other hand, pay about 25 percent of the cost of their pensions. The rest is funded out of general revenues.

The retirement benefits under the Federal civil service retirement program are more generous than those provided under social security. A comparison of the benefits accruing to high wage earners under each system substantiates this assertion. Congressmen and their staffs, for example, receive 2.5 percent a year credit for each year of service multiplied by the average of the highest three consecutive years of earnings. After 30 years of service, for example, a Congressman would receive 75 percent of his average highest consecutive 3 years pay, usually the last 3 years. In social security, a high wage earner's retirement benefit would be equivalent to 33 percent of his covered earnings the year before retirement.

Social security is a compulsory system which has been extended over the years to cover the vast majority of jobholders in the labor force today. Before 1950, only about 60 percent of jobs in the private sector were covered. During the 1950's and 1960's, social security coverage was extended to most farm and household workers, self-employed professionals and nonprofessionals, members of the Armed Forces, and employees of nonprofit organizations—except clergymen. Legislation permitting the voluntary group coverage of State and local government employees also was enacted. At present, 9 out of 10 employees work in covered employment at any one time, though virtually everyone works in employment covered by social security at one time or another during their working years.

The extension of social security coverage to all public employees is a logical progression in the social security system. While I support mandatory coverage of State and local employees, a number of questions have been raised about the constitutionality of imposing a tax on State and local employment.

The first bill I am introducing does not mandate State and local public employees into the social security system. Nevertheless, hearings on the constitutionality of the social security tax as applied to State and local employees should be held and the issues relating to this question should be fully discussed. As chairman of the Senate Finance Subcommittee on Social Security, I intend to hold hearings on this issue.

No question exists, however, as to the constitutionality of covering all new Fed-

eral employees under social security. This first bill would mandate all new Federal employees into social security. Those employees who already are employed by the Federal Government would have the choice of maintaining their current status under a Federal retirement program or opting into social security. For those who elect to be covered by social security, credits would be transferred into social security. Any excess contributions that the employee might have made to the Federal plan over and above what he would have contributed to social security would be fully refunded.

PENSION COMMITTEE NEEDED

Mr. President, over the past 3 years, I have advocated the establishment of a Senate Pension Committee to oversee this Nation's retirement programs, including social security, Federal retirement programs, and military pensions. Such a Pension Committee would have the responsibility to oversee the proliferation of Federal retirement programs, to bring to the attention of the Senate, the Congress, and the American public the cost of new benefits provided in these programs and to bring a degree of discipline to the process which decisions are made about the funding and actuarial soundness of the retirement programs. The necessity of such a committee is clearly demonstrated, in my judgment, by the compelling evidence concerning the status of just one of the Federal retirement programs, the civil service retirement system.

FEDERAL RETIREMENT SYSTEMS

Right now, there are some 68 different retirement systems covering Federal employees, although seven of these plans cover 98 percent of all Federal employees. These seven retirement systems include: Civil Service, Foreign Service, Uniformed Services, U.S. tax court judges, Tennessee Valley Authority, Federal Judiciary, and the Federal Reserve Board. The civil service retirement program, however, covers 75 percent of all Federal employees.

The status of these various Federal retirement programs has been the subject of several investigations by the General Accounting Office. The GAO has been particularly concerned about the proliferation of Federal retirement plans, the multitude of inconsistencies between and among the various public retirement plans and social security, and the large unfunded liability that continues to grow every year.

In January of this year, the Treasury Department issued a report on the public debt and the actuarial economic status of the various major retirement and disability pension funds. A review of this actuarial status report reveals that between September 30, 1976, and the fiscal year ending 12 months later on September 30, 1977, the actuarial deficit of the Federal nonsocial security pension funds increased by $18.7 billion. For example, during this one fiscal year the unfunded liability of the civil service retirement fund grew by $10 billion. At the end of fiscal year 1977 the total unfunded liability of the civil service retirement fund was $117 billion.

The time has come for the Congress to deal with the financial problems confronting the various Federal retirement systems and to decide whether all Federal employees should be covered under social security. An examination of the civil service retirement fund demonstrates the financing problems which are extent, generally, in each of the Federal retirement systems.

At my request, the chief actuary of the civil service retirement fund prepared a history of the civil service retirement fund's current financial status, including unfunded liability and projections for the total unfunded liability through the year 2000. Unfunded liability is defined as the amount estimated to be needed to fully finance all benefits due current and former employees and annuitants, when all current and projected income to the fund—which includes agency and employee contributions, 30 year payments, interest payments on the unfunded liability, and military credit payments—is taken into account. The chief actuary's report reveals that in 1921, the unfunded liability of the civil service retirement fund was $200 million. The total unfunded liability is now over $117 billion, and the actuary projects that the unfunded liability will grow to $361 billion by the year 2000. In other words, the unfunded liability of the civil service retirement fund will more than triple in the next 23 years.

I ask unanimous consent that the two charts I have referred to thus far be inserted in the RECORD at this point. Chart No. 1 is the Treasury Department's report on the actuarial status of the various Federal retirement programs. Chart No. 2 was prepared by the chief actuary of the civil service retirement fund and it illustrates the history of the fund's unfunded liability.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

CHART 1

SCHEDULE 10—ACTUARIAL STATUS OF ANNUITY PROGRAMS AS OF SEPT. 30, 1977

[Dollar amounts in millions]

| Agency and program | Valuation date and valuation period | Valuation interest rate, percent | Actuarial liabilities | Actuarial assets | Actuarial deficiency (−) or surplus (+) |
|---|---|---|---|---|---|
| Department of Commerce: National Oceanic and Atmospheric Administration: Retired pay, commissioned officers. | Sept. 30, 1977 | 5.0 | $27 | | −$27 |
| Department of Defense: | | | | | |
| Retired pay | do | 3½ | 175,085 | | −175,085 |
| Panama Canal Company and Canal Zone Government: Retired benefits to certain former employees.[1] | do | | 10 | $10 | |
| Department of Health, Education, and Welfare:[2] | | | | | |
| Social Security Administration: | | | | | |
| Federal old-age and survivors insurance trust fund | Oct. 1, 1977 (1977–2051) | 6.6 | 9,383,000 | 5,887,000 | −3,496,000 |
| Federal disability insurance trust fund | do | 6.6 | 2,255,000 | 963,000 | −1,292,000 |
| Federal hospital insurance trust fund | Oct. 1, 1977 (1977–2002) | 6.6 | 890,325 | 648,748 | −241,577 |
| Department of Labor: | | | | | |
| Federal Employees' Compensation Act[3] | Sept. 30, 1977 | | 7,417 | | 7,417 |
| Pension Benefit Guaranty Corporation[4] | do | Varying | 273 | 118 | −155 |
| Department of State: Foreign service retirement and disability fund | do | 5.0 | 2,736 | 1,125 | −1,611 |
| General Services Administration: Pensions for former Presidents and former Presidents' widows.[5] | do | 7.0 | 2 | | −2 |
| Veterans Administration: Compensation and pensions fund[6] | Sept. 30, 1977 (Fiscal years 1978–83) | | 55,742 | | −55,742 |
| Veterans insurance and indemnities[7] | do | | 41 | | −41 |
| Independent agencies: | | | | | |
| Civil Service Commission: Civil service retirement and disability fund | Sept. 30, 1977 | 5.0 | 249,000 | 133,000 | −116,000 |
| Railroad Retirement Board: Railroad Retirement System[8] | do | Varying | 38,179 | 28,926 | −9,253 |
| Tennessee Valley Authority: | | | | | |
| Retirement system: | | | | | |
| Fixed benefit fund[9] | Sept. 30, 1976 | 8.0 | 332 | 396 | 64 |
| Variable annuity fund[10] | Dec. 31, 1976 | 5.0 | 84 | 84 | |
| U.S. Tax Court: Tax Court judges survivors annuity fund[11] | Sept. 30, 1977 | 7.0 | 2 | 1 | −1 |

[1] Non-U.S. citizen employees who retired prior to Oct. 5, 1958, are not covered by the Civil Service Retirement System but do receive retirement benefits under a separate annuity plan.

[2] The liabilities and assets have been computed over the valuation periods indicated, taking into account the assets at the beginning of the periods indicated and the present values of all income and outgo items during the period.

These estimates are prepared on the bases used by the Congress in making provision for financing the program—that future young workers will be covered by the program as they enter the work force. If the estimates were to be prepared on the assumption that no workers were to be covered in the future other than those who were 17 and over as of Sept. 30, 1977 (that is, contrary to the basis on which the Congress has provided for financing the program), there would be a deficiency of $5,362 billion for the OASDI program, computed on the dynamic assumptions basis. The OASDI figures in this report are consistent with the estimates based on the intermediate assumptions published in the 1977 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Disability Insurance Trust Funds.

No long-range data are furnished for the Federal supplementary medical insurance trust fund since this program is operated on a 1-year term insurance basis, with the premium rate being adjusted by the Secretary of Health, Education, and Welfare so as to finance the cost of the program. Therefore, this system is not susceptible to long-range actuarial analysis, and it has no actuarial deficiency on this basis, but rather only for the existing situation as to incurred liabilities and funds on hand.

The above estimates reflect the status of the programs in effect before the enactment of the Social Security Amendments of 1977 (Public Law 95–216) on Dec. 20, 1977.

[3] Actuarial liabilities for Federal Employees' Compensation Act represent estimated future costs for death benefits, disability compensation, medical, and miscellaneous costs for approved compensation cases on rolls as of Sept. 30, 1977.

[4] This corporation administers insurance programs to prevent loss of pension benefits to participants in covered private plans if they terminate without sufficient assets to pay such benefits.

[5] Each former President is entitled to an annual monetary allowance equal to the basic pay of the head of an executive department. Payments are made from funds appropriated to the General Services Administration and transferred to the Secretary of the Treasury. The widow of each former President is entitled to an annual monetary allowance of $20,000. Payments are subject to certain conditions provided in 3 U.S.C. 102 note.

[6] This is an estimate of compensation, pensions, and other benefits costs as shown in the long-range plans of the agency.

[7] This is an estimate of the claims costs as shown in the long-range plan of the agency.

[8] The actuarial deficiency has been determined under provisions of the Railroad Retirement Act of 1974, Public Law 93-445 approved Oct. 16, 1974, which completely restructured the annuity program.

The above actuarial valuation was made under an open-end approach, that is, account was taken of the expected income and outgo with respect to individuals who will enter railroad service in the future. For the closed group of present members of the System, the actuarial figures show a deficiency of $14,963 million.

[9] The amount shown for actuarial assets represents the book value of assets held by the fund plus the present value of prospective TVA contributions for currently accruing benefits. The amount shown for the actuarial deficiency represents the present value of prospective TVA contributions for past service benefits.

[10] The amount shown for actuarial assets represents the market value of assets held by the fund.

[11] This fund was established under 26 U.S.C. 7448, and is used to pay survivorship benefits to eligible widows and dependent children of deceased judges. Participating judges pay into the fund 3 percent of their salaries or retired pay to cover creditable service for which payment is required and such additional funds as are needed are provided through appropriations. 17 judges are participating in the fund, and 4 eligible widows are receiving survivorship annuity payments. This fund holds $599.000 of public debt securities.

Note: Because the various annuity programs have been computed on different actuarial bases, a total has not been computed.

CHART No. 2

*History of unfunded liability of the civil service retirement system*

[Amounts in billions]

| Fiscal year: | Unfunded liability |
|---|---|
| 1921 | $0.2 |
| 1925 | 0.3 |
| 1928 | 0.4 |
| 1935 | 1.2 |
| 1942 | 1.5 |
| 1953 | 9.9 |
| 1958 | 27.5 |
| 1963 | 37.7 |
| 1965 | 43.4 |
| 1966 | 46.1 |
| 1967 | 50.3 |
| 1968 | 54.9 |
| 1969 | 60.2 |
| 1970 | 52.8 |
| 1971 | 58.6 |
| 1972 | 75.5 |
| 1973 | 81.4 |
| 1974 | 90.4 |
| 1975 | 97.2 |
| 1976 | 106.7 |
| 1977 | 116.3 |
| Projections: | |
| 1978 | 121.0 |
| 1979 | 126.0 |
| 1980 | 130.0 |
| 1985 | 165.0 |
| 1990 | 214.0 |
| 1995 | 279.0 |
| 2000 | 361.0 |

Mr. NELSON. In 1969, the Congress decided that the actuarial status of the civil service retirement fund was so severe that immediate action designed to stabilize the financial situation of the fund was warranted. It was estimated at this time that by 1987, disbursement from the fund would exceed income and that the trust fund reserve would be totally exhausted. The Government would then have had to secure the trust fund obligations from general revenues or reduce benefit payments.

Rather than be faced with such a situation, the Congress passed H.R. 9825, Public Law 91-93, effective October 20, 1969. The purpose of the legislation, as stated in the House committee report, was "to improve the financing and funding practices of the civil service retirement system, so as to maintain confidence in the soundness of the retirement fund and to assure that the necessary money is available when needed to pay the annuities of Government retiree's and survivor annuitants in full and on time."

The civil service retirement fund found itself in a critical financial condition primarily for two reasons. First, the Government had failed over the years to contribute its share of matching contributions to the fund. However, in 1969, the Government's failure to contribute its equitable share represented only about 10 percent ($5-6 billion) of the unfunded liability at that time.

Second, the other major contributing factors to the unfunded liability were liberalization in Federal employee pay (which in turn increased the liability of the trust fund), in annuities, and in groups covered. These liberalizations were passed by the Congress without providing for the means by which to finance the liberalizations.

In an effort to correct this situation, the Public Law 91-93 revisions to civil service retirement law were enacted. This law specified that:

1. The Government amortize, in thirty annual payments, any liability attributed to new or liberalized benefits, including annuity increases other than those annuity increases already provided for in the prior law.

2. The Government make an annual transfer of general revenue funds to the Civil Service Retirement system for interest on the unfunded liability and for the cost of allowing credits for military service. These annual payments are to be made at a rate of 10 percent of the interest payment and the military credit payment in fiscal year 1971, 20 percent in fiscal year 1972, 30 percent in fiscal year 1973, and so forth, until 100 percent is reached in fiscal year 1980 and thereafter when the total interest payment and the military credit payment will be paid.

These provisions represented an attempt "to finance future benefit increases and disclose the true costs of any such benefit liberalizations" by funding them with general revenues. The designers of this legislation believed that by using general revenues the actual costs of liberalizations would be exposed, and because the Government would have to amortize the new liability over a 30-year period, the Congress and the public would be made aware of the implications associated with liberalizations before they were agreed to.

In reality, the provisions of Public Law 91-93 just slowed the growth of the unfunded liability. Public Law 91-93 did not stop the growth of the unfunded liability. The act only provided for interest payments on the existing unfunded liability, the amortizing of any liabilities created subsequent to Public Law 91-93, and payments to cover the cost of military credits. Public Law 91-93 failed to require that the annuity cost-of-living increases already provided for in a previous statute be financed through the 30-year amortization process. In addition, prospective financing of the unfunded liability created by automatic Federal employee pay increases was not provided for in Public Law 91-93. As a result, the financing of the unfunded liability created by these pay increases does not take place until after pay increases go into effect, even though such increases occur annually.

In a Civil Service Commission staff report the 30-year financing provision of Public Law 91-93 was described as "an essential adjunct to Public Law 91-93 funding not to strengthen financing, although it does to some extent, but as a measure of the cost of new benefits." In this sense the new law was successful—there have not been any major liberalizations since enactment of the statute in 1969. But, the fact remains that the true cost of the system has not been totally revealed to Congress and the American people.

The 1969 law also provided for what were described then as "limited, but needed, improvements in the benefit structure." These improvements were not covered by the new financing provisions in the statute. Therefore, these new liabilities created in the 1969 law added to the unfunded liability. The new liberalizations, which increased the unfunded liability of the fund, included: First, a change in the base years used for computation of benefits from the average of the high 5 earning years to the average of the high 3 years, which increased future benefits an average of 10 percent; second, an additional 1 percent added to future cost-of-living adjustments payable to annuitants, so as to compensate for the 5-month waiting period which elapsed between the time the Consumer Price Index (CPI) rose 3 percent and the actual time the annuity payment would be increased; third, a provision to include the value of unused sick leave for computing annuities upon death or retirement; and fourth, a provision to enable surviving annuitants to receive their benefits if they remarry. Public Law 91-93 also did not apply the new 30-year amortization provision to a pay raise which occurred in July 1969.

This 1969 pay raise combined with the liberalizations provided in Public Law 91-93 created immediate new liabilities, exempt from the law's 30-year amortization provision, of some $4.5 billion. Because the new liberalizations would continue to escalate each year, the unfunded liability would concommitantly increase each year as well. The following chart illustrates the initial unfunded liability:

P.L. 91-93 new benefits:

| *Increase in funded liability (millions)* | |
|---|---|
| High 3-year average | $337.0 |
| Sick leave credit | 329.5 |
| Survivor annuity | 150.0 |
| 1% cost-of-living increase | 243.0 |
| Total | 1,059.5 |
| Pay increase effective July 1969 | 3,400.0 |
| Total exempted from financing provisions | 4,459.5 |

UNFUNDED LIABILITY AND FINANCING CRITERIA UNDER PUBLIC LAW 91–93

As I have just stated, the liberalizations in Public Law 91–93, which contributed to the growth of the unfunded liability, were not covered by the new financing provisions established in the statute. These liberalizations were not subject to the requirement that the Government pay the costs of every future liberalization. This means that the increase in the unfunded liability of the civil service retirement fund would not be paid for through 30 equal annual appropriations.

As a result, both the unfunded liability and the interest payments on the unfunded liability grew and continue to grow. Since 1969, Federal contributions have increased at a rapid rate when expressed either in actual dollar amounts or as a percentage of payroll. Even though the total Government contributions in fiscal year 1977 was over $9.2 billion—of which $2.9 billion represents the agency contribution paralleling the employees' contribution and over $6.3 billion from general revenues—the civil service retirement fund unfunded liability grew in fiscal year 1977 by $10 billion.

Moreover, the Public Law 91–93 financing provisions do not reveal the actual total costs associated with the civil service retirement fund, and in fact, fall far short of the financing requirements Congress imposed on private pension programs by the Employee Retirement Income Security Act (ERSIA) standards.

CIVIL SERVICE RETIREMENT COSTS

Normal Cost.—The value of benefit rights accrued annually by employees under a retirement system is referred to as the "normal cost" of the system. Normal cost is commonly expressed as a percent of payroll, representing the estimate of the amount of funds which, if accumulated annually and invested over covered employees' careers, will be enough to meet their future benefit payments. The process utilized to determine the normal cost involves mathematically predicting the future experience of the system (salary progression, rate of return on investments probable rates of employees' death, disability, retirement and termination of employment) and translating this experience into cost on the basis of the system's benefit provisions.

There are two methods to calculate normal costs: Using static or dynamic projections.

"Static" calculations do not consider future general pay increases or annuity cost-of-living adjustments. The normal cost of civil service retirement is calculated by the Board of Actuaries on a static basis. However, annuities are based on an employee's salary, which is adjusted for inflation each year, and annuities are also adjusted according to mandated statutory semiannual cost-of-living increases. These increases in salary create additional liabilities on the civil service retirement system—Federal white collar salaries have increased over 70 percent since 1969. Moreover, annuity adjustments to current retirees increase twice a year based on the Consumer Price Index increase in the previous 6 months. These increases for retirees have totaled over 80 percent since 1969. The Board of Actuaries estimates the system's static cost to be 13.64 percent of covered payroll.

"Dynamic" calculations consider the existing statutes which provide for future pay increases and annuity cost-of-living increases. The Board of Actuaries has estimated the dynamic costs to range from 21.56 percent to 28.74 percent of payroll, depending on the economic assumptions used. The Office of Management and Budget estimates the dynamic normal cost of civil service retirement to be 31.7 percent of pay at present.

METHOD OF FINANCING

A retirement system is considered actuarially sound if trust fund reserves and income to be received are equal to the system's liability for benefit payments to present retirees and the anticipated liability for active employees who will receive benefits in the future.

Most Federal employees contribute 7 percent of pay and agencies match this contribution with another 7 percent for a total 14 percent—congressional employees contribute 7.5 percent, and Members of Congress contribute 8 percent of pay. Historically, the 14 percent combined rate has been compared to the static normal cost of 13.64 percent, leading some to the conclusion that the system is actuarially sound.

Because of the relationship between the employee contribution rate and the static normal cost, many people are convinced that Federal employees pay half the cost of their benefits. Historically, the Government has not always matched the employee contribution each year by putting its contribution into the trust fund, and therefore, it is also widely believed that the current unfunded liability is the responsibility of and should be financed by the Federal Government.

The present financing provisions do not cover the total costs of the civil service retirement system. A chart prepared by the chief actuary of the civil service retirement fund reveals that the true total cost of the civil service retirement system in fiscal year 1977 was 29.3 percent of payroll, with the Federal Government paying 75 percent of these costs. Employees contributed 7 percent, agencies another 7 percent, and general revenues contributed 15.3 percent, making for a total Government contribution of 22.3 percent of payroll. I ask unanimous consent that this chart be inserted at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

CHART 3

CONTRIBUTIONS OF THE CIVIL SERVICE RETIREMENT FUND AS A PERCENTAGE OF COVERED PAYROLL

[In percent]

| Fiscal year | Employee contribution | Government contribution | | | Total (combined employee Government contributions) |
|---|---|---|---|---|---|
| | | Agency | General revenues | Total Government contribution | |
| 1970 | 6.7 | 6.7 | 0.9 | 7.6 | 14.3 |
| 1971 | 7.0 | 7.0 | 2.8 | 9.8 | 16.8 |
| 1972 | 7.0 | 7.0 | 3.9 | 10.9 | 17.9 |
| 1973 | 7.0 | 7.0 | 5.9 | 12.9 | 19.9 |
| 1974 | 7.0 | 7.0 | 7.7 | 14.7 | 21.7 |
| 1975 | 7.0 | 7.0 | 11.8 | 18.8 | 25.8 |
| 1976 | 7.0 | 7.0 | 13.1 | 20.1 | 27.1 |
| 1977 | 7.0 | 7.0 | 15.3 | 22.3 | 29.3 |
| Projected (with 4 percent CPI, 4.5 lercent salary increase, and 4 percent interest on trust funds): | | | | | |
| 1978 | 7.0 | 7.0 | 17.5 | 24.5 | 31.5 |
| 1979 | 7.0 | 7.0 | 19.4 | 26.4 | 33.4 |
| 1980 | 7.0 | 7.0 | 21.2 | 28.2 | 35.2 |
| 1985 | 7.0 | 7.0 | 23.1 | 30.1 | 37.1 |
| 1990 | 7.0 | 7.0 | 25.1 | 32.1 | 39.1 |
| 1995 | 7.0 | 7.0 | 26.8 | 33.8 | 40.8 |
| 2000 | 7.0 | 7.0 | 28.0 | 35.0 | 42.0 |

Mr. NELSON. By the year 2000 the chief actuary estimates that the civil service retirement system will cost a total of 42 percent of payroll or 7 percent of pay for employees and 35 percent of payroll for the Government. It should be emphasized that these cost projections are based on optimistic economic projections of a 4-percent increase in the Consumer Price Index, 4.5-percent salary increase, and 5 percent interest annually.

Clearly, the current method of utilizing static calculations to determine financing requirements does not reveal the total costs of the system. The total costs are hidden from the general public and even from Federal employees or retirees who often believe their contribution and an equal agency contribution on their behalf actually finances the system.

There is a need to determine the actual long-range cost of the current civil service retirement system and other Federal retirement systems, taking into

account the effect of inflation on salaries and benefits. Such costs should be determined through the use of dynamic assumptions.

There are three major economic assumptions which must be included in a dynamic valuation of a retirement system: Annuity increases, salary increases occurring as a result of inflation adjustments, and the rate of investment return.

In civil service retirement, postretirement annuities are tied to the Consumer Price Index (CPI) and initial annuity levels are related to the average of the highest 3 years salary. Therefore, assumptions must be made as to the future CPI annuity increases and salary increases in a dynamic valuation of civil service retirement. The interest rate for investment return used in a dynamic valuation should also be higher than that used for a static valuation since the return should be higher as inflation increases.

GUARANTEED USE OF GENERAL REVENUES

Public Law 91-93 established a guarantee for the use of general revenue funding to finance the civil service retirement fund. In fiscal year 1977 over 50 percent of the cost of the civil service retirement system was paid for out of a general revenue appropriation with another 25 percent in agency contributions which represents the agency's matching share. By the year 2000 the chief actuary has projected that over two-thirds of the system's cost will be paid by general revenues and the remainder will be paid by agency and employee contributions. I ask unanimous consent that two additional charts be inserted in the RECORD at this point. Chart No. 4 shows the total Government dollar contributions to the fund from 1970 to 1977 and projections of contributions through the year 2000. Chart No. 5 is a financial statement for the fund.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

CHART NO. 4

*Government dollar contributions to Civil service retirement fund*

[In thousands]

| Fiscal year | Agency | Total |
|---|---|---|
| 1970 | $1,665,529 | $1,896,346 |
| 1971 | 1,914,492 | 2,687,888 |
| 1972 | 2,059,958 | 3,221,374 |
| 1973 | 2,141,460 | 3,901,941 |
| 1974 | 2,290,894 | 4,817,464 |
| 1975 | 2,494,724 | 6,707,383 |
| 1976 | 2,741,576 | 7,877,108 |
| Transition quarter | 697,262 | 2,134,708 |
| 1977 | 2,909,760 | 9,278,181 |

*Projections*

[Amounts in billions]

| | |
|---|---|
| 1978 | $10.7 |
| 1979 | 12.1 |
| 1980 | 13.5 |
| 1985 | 17.9 |
| 1990 | 23.8 |
| 1995 | 31.2 |
| 2000 | 40.3 |

CHART 5

CIVIL SERVICE RETIREMENT FUND FINANCIAL STATEMENT

[Amounts in millions]

| | Employee contributions | Government contribution | Interest | Total receipts | Total disbursements | Fund[1] |
|---|---|---|---|---|---|---|
| 1921 | $21.5 | | $0.1 | $12.6 | $2.9 | $9.7 |
| 1922 | 14.1 | | .6 | 14.7 | 6.4 | 18.0 |
| 1923 | 14.2 | | 1.0 | 15.2 | 7.7 | 25.4 |
| 1924 | 15.2 | | 1.5 | 16.6 | 8.6 | 33.5 |
| 1925 | 18.0 | | 2.0 | 20.0 | 9.0 | 44.5 |
| 1926 | 18.0 | | 2.2 | 20.2 | 10.2 | 54.5 |
| 1927 | 24.4 | | 2.8 | 27.2 | 13.4 | 68.2 |
| 1928 | 26.5 | | 3.0 | 29.5 | 14.8 | 83.0 |
| 1929 | 28.1 | $20.0 | 4.4 | 52.5 | 16.1 | 119.4 |
| 1930 | 29.0 | 20.5 | 5.9 | 55.4 | 18.1 | 156.8 |
| 1931 | 29.9 | 21.0 | 7.3 | 58.3 | 24.0 | 191.0 |
| 1932 | 31.9 | 21.0 | 8.6 | 61.5 | 28.9 | 223.6 |
| 1933 | 30.5 | 21.0 | 9.8 | 61.2 | 34.8 | 250.0 |
| 1934 | 28.7 | 21.0 | 10.5 | 60.2 | 47.7 | 262.6 |
| 1935 | 30.1 | 21.0 | 10.8 | 61.9 | 52.7 | 271.7 |
| 1936 | 32.4 | 40.2 | 11.7 | 84.3 | 56.7 | 299.3 |
| 1937 | 35.0 | 46.2 | 13.0 | 94.2 | 59.1 | 334.4 |
| 1938 | 37.3 | 73.2 | 16.6 | 127.2 | 62.5 | 399.1 |
| 1939 | 39.2 | 75.1 | 19.2 | 133.5 | 63.8 | 468.8 |
| 1940 | 42.9 | 87.2 | 21.6 | 151.7 | 67.3 | 553.1 |
| 1941 | 55.4 | 91.6 | 25.2 | 172.0 | 72.4 | 652.8 |
| 1942 | 86.9 | 101.8 | 29.7 | 218.4 | 76.4 | 794.9 |
| 1943 | 226.1 | 106.1 | 37.8 | 370.1 | 83.6 | 1,081.3 |
| 1944 | 269.4 | 176.0 | 52.8 | 498.2 | 103.2 | 1,476.3 |
| 1945 | 288.1 | 195.8 | 68.6 | 552.5 | 152.6 | 1,876.2 |
| 1946 | 279.5 | 246.2 | 84.4 | 610.2 | 285.2 | 2,201.2 |
| 1947 | 255.9 | 221.3 | 94.4 | 571.6 | 293.9 | 2,478.9 |
| 1948 | 234.8 | 245.5 | 107.1 | 587.5 | 240.0 | 2,825.8 |
| 1949 | 325.1 | 226.0 | 122.8 | 674.0 | 217.7 | 3,287.6 |
| 1950 | 355.6 | 304.5 | 143.2 | 803.3 | 266.5 | 3,842.2 |
| 1951 | 374.9 | 307.1 | 164.6 | 846.6 | 268.9 | 4,419.9 |
| 1952 | 414.8 | 312.8 | 188.1 | 915.7 | 298.6 | 5,037.0 |
| 1953 | 420.0 | 325.3 | 214.6 | 959.9 | 361.2 | 5,635.8 |
| 1954 | 425.0 | 35.3 | 225.7 | 686.0 | 409.1 | 5,912.6 |
| 1955 | 440.3 | 33.7 | 234.4 | 708.3 | 427.8 | 6,193.2 |
| 1956 | 570.8 | 237.3 | 211.8 | 1,019.9 | 504.4 | 6,708.6 |
| 1957 | 640.5 | 530.6 | 220.8 | 1,391.9 | 588.2 | 7,512.4 |
| 1958 | 675.1 | 583.9 | 194.1 | 1,453.1 | 696.6 | 8,268.9 |
| 1959 | 761.7 | 754.1 | 219.7 | 1,735.6 | 791.6 | 9,212.8 |
| 1960 | 760.2 | 749.5 | 251.1 | 1,760.8 | 893.0 | 10,080.7 |
| 1961 | 855.6 | 890.2 | 281.6 | 2,027.5 | 963.0 | 11,145.2 |
| 1962 | 863.5 | 895.9 | 322.9 | 2,082.3 | 1,061.0 | 12,166.5 |
| 1963 | 933.9 | 950.9 | 362.3 | 2,247.1 | 1,175.8 | 13,237.8 |
| 1964 | 994.5 | 1,041.9 | 419.9 | 2,456.3 | 1,319.6 | 14,374.4 |
| 1965 | 1,066.8 | 1,115.4 | 482.2 | 2,664.4 | 1,437.7 | 15,601.1 |
| 1966 | 1,112.6 | 1,164.5 | 546.4 | 2,823.4 | 1,688.5 | 16,736.0 |
| 1967 | 1,205.5 | 1,263.5 | 625.2 | 3,094.2 | 1,969.4 | 17,860.8 |
| 1968 | 1,335.7 | 1,389.3 | 709.5 | 3,434.4 | 2,347.7 | 19,157.5 |
| 1969 | 1,430.3 | 1,485.9 | 836.5 | 3,752.7 | 2,410.1 | 20,500.1 |
| 1970 | 1,740.4 | 1,952.3 | 990.2 | 4,682.9 | 2,751.5 | 22,431.5 |
| 1971 | 1,919.6 | 2,663.3 | 1,232.9 | 5,815.9 | 3,229.7 | 25,017.7 |
| 1972 | 2,072.7 | 2,205.9 | 1,464.5 | 6,743.1 | 3,748.8 | 27,981.6 |
| 1973 | 2,140.4 | 3,901.9 | 1,568.7 | 7,611.1 | 4,587.7 | 30,979.6 |
| 1974 | 2,332.1 | 4,817.5 | 1,845.5 | 8,995.1 | 5,785.2 | 34,183.9 |
| 1975 | 2,533.9 | 6,707.3 | 2,136.5 | 11,377.8 | 7,207.3 | 38,350.9 |
| 1976 | 2,780.0 | 7,877.1 | 2,473.6 | 13,120.7 | 8,405.4 | 43,062.8 |
| Transition quarter | 706.8 | 2,076.2 | 723.0 | 3,505.9 | 2,278.7 | 44,290.0 |
| 1977 | 2,903.5 | 9,336.7 | 2,826.8 | 15,094.0 | 9,696.6 | 49,687.4 |

[1] Fund amount may not balance with other columns due to transfers of funds from and to other retirement systems and due to change from cash to accrual basis in 1972.

Mr. NELSON. Mr. President, the first bill I am introducing today will establish mandatory social security coverage of all new Federal employees hired after December 31, 1979. The second bill requires the Civil Service Retirement Board of Actuaries to report to the Congress, within 12 months after enactment, with a plan to assure the actuarial soundness of the civil service retirement fund. The actuarial assumptions used in the plan must include the best estimates of future events. Such best estimate assumptions must consider the rate of return on investments, future earnings, inflation, mortality, turnover, and disability.

It is generally agreed that future inflation should be anticipated in the actuarial valuation of pension plans which automatically react to inflation such as final average pay pension plans and plans integrated with social security.

The financing method used to assure actuarial soundness of the civil service retirement fund must assure that:

Retirement benefits will be paid as promised;

Currently accruing retirement costs are known and considered in program evaluations and budgetary allocations;

Adequate cost measures for new proposals are developed; and

Retirement costs bear a reasonable relationship to compensation.

The time has come for the actual cost of the civil service retirement systems to be revealed. The plan called for in the second bill will reveal the costs and will require that the actuaries of the civil service retirement fund come forth with a plan which will finance civil service benefits in a manner such that employees and employers contribute equal amounts. I believe that when this information is brought to light, the Congress will decide that new Federal employees should be covered under social security and that the civil service retirement fund should be financed on an actuarially sound basis with a financing plan that is fair and equitable to Federal employees and to the taxpayers.●

By Mr. HELMS:

S. 2882. A bill to provide that comparability pay increases shall apply to Members of Congress in any year only if the cost-of-living index for the preceding 12-month period has not increased by

more than 2 percent; to the Committee on Governmental Affairs.

FREEZE GOVERNMENTAL SALARIES

Mr. HELMS. Mr. President, I listened with interest to the President's comments on inflation this afternoon. I believe the American people are beginning to realize that the main cause of inflation lies right on the doorstep of Congress. The cause of inflation is wild, wasteful and extravagant Federal spending.

When Congress authorizes the spending of billions upon billions of dollars more than the Federal Government takes in—and this has been going on for years—that is an engraved invitation to devastating inflation.

When the Federal Government goes into debt by another $50 billion, as it is doing this year, more inflation is inevitable.

The President proposed as part of his program, a freeze on the salaries of certain government officials. Because he has no authority over congressional salaries he did not propose freezing them. I am proposing that the salaries of Senators and Representatives be frozen until inflation stops.

I send to the desk, as in legislative session and for appropriate reference, a bill to amend the Pay Comparability Act of 1967, the device which provides for increase in congressional salaries without requiring Congress even to vote on those increases.

Congress causes inflation by massive spending programs and regulations that cripple the economy. Congress should forgo any pay hike until inflation is stopped.

My bill simply provides that the existing automatic increases be stopped insofar as Members of Congress are concerned.

By insulating itself from the agony of the inflation it causes, Congress has invited the lack of public approval that now exists.

Thomas Paine called it tyranny when the English monarch imposed taxes on the American colonies that people in England did not have to pay. The Congress is equally guilty when it imposes the "tax" of inflation on the American people and then makes itself immune from inflation by automatically increasing the salaries of its own members.

Mr. President, I ask unanimous consent that my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2882

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the adjustments in compensation which, but for this Act, would be made in any year under paragraph (2) of section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31), relating to comparability adjustments in the annual rate of pay of Members of Congress, shall take effect only if, during the 12-month period preceding the date on which such adjustments are otherwise to take effect, the Consumer Price Index (all items—United States city average), published by the Bureau of Labor Statistics, has not increased by more than 2 percent.

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By Mr. CURTIS:

Senate Joint Resolution 126. A joint resolution to authorize the President to proclaim the month of May 1978 as "National Car Care Month"; to the Committee on the Judiciary.

NATIONAL CAR CARE MONTH

● Mr. CURTIS. Mr. President, spring is a welcomed season. Year after year we can count on warmer weather, plants coming to life once again, a time of lighter spirits and brighter days. Unfortunately, in recent years spring has shown a tragic characteristic as well. As the weather improves and more people take to the highways, the number of automobile accidents increases. Last year, according to the National Safety Council, the number of fatal automobile accidents per month in the United States rose steadily from March through July as follows:

| | |
|---|---|
| March | 3,600 |
| April | 3,890 |
| May | 4,280 |
| June | 4,490 |
| July | 5,100 |

It is estimated that in 1977 a total of 49,200 people died in highway accidents.

The Department of Transportation reports that in at least 4 percent and possibly as many as 16 percent of those accidents, a vehicular defect contributed to the tragedy. Those defects were the result of driving a car too many miles for too many months and years without check-ups. The three most frequent defects are with brakes, steering, and tires. Many of these problems can be avoided with simple routine car maintenance.

I am today asking that the month of may be designated "National Car Care Month" in order to increase awareness of the impact of preventive auto maintence on the health and well-being of our country.

So many expensive repairs can be avoided by much simpler maintence in the first place.

For example, nearly 90 percent of all tire trouble occurs in the last 10 percent of tread wear. All it takes to check the tread is to place a penny in the tread to check wear. It is much better to replace a worn tire before it has a chance to blow out on a busy highway at high speed.

Regular changing of motor oil and of oil and air filters prevents a lot of stalling in major intersections.

In fact, a lot of simple steps will save a lot of worry.

The Automotive Parts and Accessories Association estimates that more than half of all car engines are operating inefficiently. In a recent test of New York City's Bureau of Motor Vehicle Pollution's 25 department cars, two-thirds of the cars required a new air filter; 62 percent needed new spark plugs; and one-third needed new positive crankcase ventilation (PCV valves).

The obvious benefits beyond the savings of lives and of wear-and-tear on one's car are the savings of money and energy. Cars properly tuned get an average of 8.2 to 25 percent better gas mileage than cars not properly tuned.

Emission control devices are considered a major factor affecting auto fuel economy. If not maintained, such controls can cut gas mileage up to 25 percent.

Misfiring spark plugs can cut mileage by 10 percent. Spark plugs should be checked every 7,500 miles.

Improper front-wheel alinement can cut gas mileage by another three-tenths of 1 percent.

Failure to give immediate attention to burned-out headlights, brake lights, and turn signals can cost untold highway suffering.

By encouraging routine car care, we are encouraging auto safety habits that will benefit all of us.

In terms of the energy crisis, we have learned that we cannot continue the wasteful energy consumption practices of the past. Transportation accounts for 25 percent of our total energy consumption. Even a small percentage of savings is therefore significant.

In terms of the state of our economy, we are wise to do-it-yourself whatever auto maintenance tasks we know how to perform, and to trust reputable auto mechanics to handle those we cannot.

Mr. President, I believe that setting aside a specific month in which all Americans are made more aware of the desirability and need for effective and regular car care may make a lasting impression on the safety of our Nation's highways, and on the value of our hard-earned money.

I ask unanimous consent to have the joint resolution calling for designation of May as "National Car Care Month" printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 126

Whereas the most recent National Safety Council statistics indicate that 16,800,000 auto accidents occurred in the United States in 1976, resulting in 46,700 deaths;

Whereas 49,200 auto accident fatalities were reported nationwide in 1977;

Whereas a 1969 report on turnpike accidents estimated that 11 per centum of all fatal accidents involve some kind of vehicle defect;

Whereas auto safety inspection standards are not uniform in all fifty States;

Whereas car maintenance is as essential a factor in accident prevention as is skillful driving;

Whereas recent studies have indicated that substantial reductions in gasoline consumption and emissions of air pollutants can be achieved through proper maintenance and adjustment; and

Whereas public awareness of the critical impact of effective car care on highway safety and the conservation of energy and the improvement of air quality will encourage improved car care: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America*

*in Congress assembled,* That the President is authorized and requested to issue a proclamation designating the month of May 1978 as "National Car Care Month", and calling upon the people of the United States and interested groups and organizations to observe that month with appropriate activities and efforts to maximize road safety by encouraging the conscientious care and maintenance of automobiles.●

## ADDITIONAL COSPONSORS

S. 123

At the request of Mr. INOUYE, the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 123, a bill to amend the Social Security Act to provide for the payment of services by psychologists, and for other purposes.

S. 224

At the request of Mr. INOUYE, the Senator from Washington (Mr. JACKSON) and the Senator from Minnesota (Mrs. HUMPHREY) were added as cosponsors of S. 224, a bill to amend title 5, United States Code, to allow credit for civil service retirement purposes for time spent by Japanese-Americans in World War II internment camps.

S. 1974

At the request of Mr. NELSON, the Senator from California (Mr. CRANSTON), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of S. 1974, the Regularity Flexibility Act.

S. 2128

At the request of Mr. INOUYE, the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of S. 2128, a bill to amend the Internal Revenue Code of 1954 to eliminate the adjusted gross income limitation on the credit for the elderly, to increase the amount of such credit, and for other purposes.

S. 2360

At the request of Mr. MOYNIHAN, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 2360, a bill to authorize an appropriation to reimbuse certain expenditures for social services provided by the States prior to October 1, 1975, under titles I, IV, VI, X, XIV, and XVI of the Social Security Act.

S. 2414

At the request of Mr. WEICKER, the Senator from Utah (Mr. GARN), the Senator from Oregon (Mr. MARK O. HATFIELD), the Senator from North Carolina (Mr. HELMS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors of S. 2414, a bill to prohibit importation of coffee produced in Uganda into the United States.

S. 2455

At the request of Mr. BIDEN, the Senator from Colorado (Mr. HART), the Senator from Maine (Mr. HATHAWAY), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mrs. HUMPHREY), and the Senator from South Dakota (Mr. MCGOVERN) were added as cosponsors of S. 2455, the Homeowner's Equity Act.

S. 2691

At the request of Mr. WILLIAMS, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 2691, a bill to provide for the furnishing of congregate housing services under the U.S. Housing Act of 1937.

S. 2711

At the request of Mr. WILLIAMS, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 2711, the Community Schools and Comprehensive Community Education Act of 1978.

S. 2725

At the request of Mr. MATSUNAGA, the Senator from South Dakota (Mr. ABOUREZK) was added as a cosponsor of S. 2725, a bill to consider air traffic specialists as air traffic controllers for retirement purposes.

S. 2733

At the request of Mr. MCINTYRE, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of S. 2733, the Small Business Energy Loan Act.

S. 2738

At the request of Mr. DOLE, the Senator from Indiana (Mr. LUGAR), and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of S. 2738, a bill to provide for the indexation of certain provisions in the tax laws.

SENATE JOURNAL RESOLUTION 72

At the request of Mr. INOUYE, the Senator from New Mexico (Mr. SCHMITT), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Pennsylvania (Mr. SCHWEIKER) were added as cosponsors of Senate Joint Resolution 72, authorizing the President to proclaim annually a week during the first 10 days of May as "Pacific/Asian American Heritage Week."

SENATE RESOLUTION 411

At the request of Mr. LUGAR, the Senator from Illinois (Mr. PERCY), and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of Senate Resolution 411, a resolution expressing the sense of the Senate that further efforts be made by Federal departments and agencies to channel additional deposits to minority-owned commercial banks.

SENATE CONCURRENT RESOLUTION 73

At the request of Mr. DOLE, the Senator from Oklahoma (Mr. BARTLETT), the Senator from North Carolina (Mr. HELMS), the Senator from Hawaii (Mr. INOUYE), and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of Senate Concurrent Resolution 73, a resolution regarding the imposition of import fees on crude oil.

AMENDMENT NO. 849

At the request of Mr. NELSON, the Senator from California (Mr. CRANSTON), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of amendment No. 849, intended to be proposed to S. 1974, the Regulatory Flexibility Act.

AMENDMENT NO. 1696

At the request of Mr. NELSON, the Senator from South Dakota (Mr. MCGOVERN), the Senator from Hawaii (Mr. MATASUNGA), the Senator from Minnesota (Mrs. HUMPHREY), and the Senator from South Dakota (Mr. ABOUREZK) were added as cosponsors of amendment No. 1696, intended to be proposed to H.R. 7200, the Public Assistance Amendments of 1977.

AMENDMENT NO. 1716

At the request of Mr. CRANSTON, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of amendment No. 1716, intended to be proposed to S. 2570, a bill to amend the Comprehensive Employment and Training Act of 1973 to provide employment and training services, to extend the authorization, and for other purposes.

## AMENDMENTS SUBMITTED FOR PRINTING

### HIGHWAY POTHOLE BILL—S. 2557

AMENDMENT NO. 1769

(Ordered to be printed and referred to the Committee on Environment and Public Works.)

Mr. SCHWEIKER submitted an amendment intended to be proposed by him to the bill (S. 2557) to provide emergency assistance for the repair of certain weather related damage to highways and urban mass transportation systems due to the winter of 1977–78.

● Mr. SCHWEIKER. Mr. President, today I am submitting an amendment I intend to offer to S. 2557, a bill designed to aid States to repair highway and street damages caused by the disastrous 1977–78 winter. S. 2557, introduced February 22, by my distinguished colleague from Kentucky (Mr. HUDDLESTON) is identical to H.R. 10979, which passed the House of Representatives February 21, 1977. My amendment will permit funds not used by States which did not suffer serious damage this winter to be reallocated to the hardest hit States.

I strongly support the need to provide relief to States which suffered extensive damage to their roads, particularly to those States whose road repair budgets will be exhausted long before completion of repairs which necessarily must be done this spring and summer.

S. 2557 would provide 100 percent reimbursements to repair road damages suffered as the result of the 1977–78 winter. Reimbursements are to be in addition to those funds already budgeted by the States; therefore, the repair workload must exceed the current State budgets and cannot act as a substitute for State funds.

The bills provide that no State is to receive more than 7 percent of the total authorized ($17.5 million) nor less than one-half percent of the total ($1.25 million); however, no provision is made to reallocate funds earmarked to States which did not suffer sufficient road dam-

age attributable to the 1977–78 winter in excess of their current road budgets.

Under one distribution estimate recently brought to my attention, Pennsylvania would receive $9.7 million, much less than the maximum allowed under this bill and considerably less than needed to complete necessary road repair work. I do not seek to deprive any State of funds to repair winter road damage to which it would be entitled under S. 2557. However, since some States clearly did not have severe winters, they will be unable to qualify for their share of the aid. And I want to be certain that Pennsylvania or another State which had extensive winter road damage is able to receive sufficient aid. In light of the current crisis, I feel it would be wrong not to spend these funds and to withhold important relief from those hardest hit States.

Mr. President, I feel this approach has merit, and I have brought it to the attention of my colleagues on the Environment and Public Works Committee, requesting they incorporate the concept into the bill it recommends to the full Senate. Otherwise, it is my intent to offer this amendment at the appropriate time during debate on the bill.●

## LABOR LAW REFORMS ACT OF 1978—S. 2467

AMENDMENTS NOS. 1770 AND 1771

(Ordered to be printed to to lie on the table.)

Mr. HELMS submitted two amendments intended to be proposed by him to the bill (S. 2467) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such Act.

## PANAMA CANAL TREATIES—EX. N, 95–1

AMENDMENT NO. 101

(Ordered to be printed and to lie on the table.)

Mr. ALLEN (for himself and Mr. THURMOND) submitted an amendment intended to be proposed by them, jointly, to the Panama Canal Treaty, Ex. N, 95–1.

## RESERVATIONS SUBMITTED FOR PRINTING

RESERVATION NO. 13

(Ordered to be printed and to lie on the table.)

Mr. THURMOND submitted a reservation intended to be proposed by him to the resolution of ratification of the Panama Canal Treaty, Ex. N, 95–1.

## NOTICES OF HEARINGS

COMMITTEE ON RULES AND ADMINISTRATION

● Mr. PELL. Mr. President, on April 19, 1978, at 10 a.m., the Committee on Rules and Administration will resume the hearings which began on September 28, 1977, on S. 2, the Program Evaluation Act of 1977, and on S. 1244. the Federal Spending Control Act of 1977. The working group of Senate committees' staffs, which was convened after the first day of hearings to consider this matter and report to the Rules Committee, has completed its work, and its report is now in printing.

Those who wish to testify or submit a statement for inclusion in the hearing record should communicate as soon as possible with the Committee on Rules and Administration, 305 Russell Senate Office Building, Washington, D.C. 20510, or telephone Miss Peggy L. Parrish, chief clerk, at 224–0281.●

SUBCOMMITTEE ON ARMS CONTROL, OCEANS AND INTERNATIONAL ENVIRONMENT

● Mr. PELL. Mr. President, the Subcommittee on Arms Control, Oceans, and International Environment of the Committee on Foreign Relations will hold a hearing on Thursday, April 13, on U.S. preparations for the United Nations Special Session on Disarmament. The hearing will be held at 10 a.m. in room 4221 of the Dirksen Senate Office Building.

Witnesses will include the Honorable Charles W. Maynes, Assistant Secretary of State for International Organization Affairs; Dr. Lawrence Weiler, Special Coordinator for the United Nations Special Session on Disarmament, Arms Control and Disarmament Association; William H. Kincade, executive director of the Arms Control Association; Edward C. Luck, deputy director of policy studies for the United Nations Association-United States of America; and, Dr. Charles C. Price of the board of directors of the Council for a Livable World.

As chairman of the subcommittee, I am very interested in making certain that the United States contribute to this session in a very positive fashion. For years, other nations have looked to the United States to set an example in arms control. This session will afford the nations of the world who care about the control of armaments to explore with each other ways in which all can cooperate to ease the burden which arms purchases and competition have entailed.●

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JACKSON. Mr. President, I wish to announce for the information of the Senate and the public, the scheduling of a public hearing before the Senate Committee on Energy and Natural Resources.

The hearing is scheduled for April 17, beginning at 9 a.m. in room 3110, Dirksen Senate Office Building. Testimony is invited regarding S. 2821, a bill to authorize $8,868,000 for grants to the Government of Guam for construction of public facilities, and for other purposes, and S. 2822. a bill to authorize the appropriation of funds for the rehabilitation and resettlement of Bikini Atoll, Trust Territory of the Pacific Islands, and for other purposes.

For further information regarding the hearing you may wish to contact Mr. James P. Beirne of the committee staff on extension 42564. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Committee on Energy and Natural Resources, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.●

SUBCOMMITTEE ON GOVERNMENTAL EFFICIENCY

● Mr. EAGLETON. Mr. President, the Subcommittee on Governmental Efficiency and the District of Columbia will hold hearings on the proposal for a new basic criminal code for the Distirct of Columbia, submitted by the District of Columbia Law Revision Commission, on May 3 and 4, 1978. The hearings will take place in room 3302, Dirksen Building.●

SECURITIES INVESTOR PROTECTION ACT AMENDMENTS

● Mr. WILLIAMS. Mr. President, I wish to announce that the Subcommittee on Securities of the Committee on Banking, Housing and Urban Affairs, will hold hearings on H.R. 8331, the Securities Investor Protection Act Amendments of 1977 on April 25, 1978. The hearings will be held in the committee's hearing room, room 5300 in the Dirksen Senate Office Building, at 2 o'clock p.m.●

SPECIAL COMMITTEE ON AGING

● Mr. CHURCH. Mr. President, I wish to give notice that the Special Committee on Aging will continue its hearings on alternatives in long-term care for the elderly on Monday, April 17 at 9 in room 1224, Dirksen Senate Office Building.

Senator DOMENICI will preside at a hearing on "Health Care for Older Americans: The 'Alternatives' Issue—Standards in Home Care and the Home Services Act."●

FOREIGN AGRICULTURAL POLICY SUBCOMMITTEE

● Mr. STONE. Mr. President, I wish to alert my colleagues to the plan of the Foreign Agricultural Policy Subcommittee of the Senate Committee on Agriculture, Nutrition, and Forestry to conduct a hearing on April 21, 1978, to examine legislation to establish an international food reserve.

I would like to point out that last year the Senate included an international food reserve section within the 1977 Food and Agriculture Act, but it was deleted in conferer ce because of a jurisdictional problem on the House side. This administration has indicated its strong support for an international food reserve and its intention to move ahead and acquire 220 million bushels of wheat for the reserve, which should be beneficial to producers.

The hearing will focus on bills introduced by Senators LUGAR (S. 2641), HUMPHREY (S. 2278), and the administration bill.

We will have a group of invited witnesses, but written statements will be accepted for the record. The hearing will begin at 9:00 in room 324 RSOB. Anyone requiring further information should contact the committee at 224–2035.●

CORRECTION

● Mr. ABOUREZK. Mr. President, I would like to note for my colleagues that

the hearing schedule for the Energy and Natural Resources Committee printed in the RECORD on Tuesday, April 4, 1978, contained an error with regard to two hearings scheduled before the Parks and Recreation Subcommittee.

The correct schedule is:

April 24.—Ceilings and Boundary modifications within units of the National Park System.

April 28.—S. 88, to add additional lands to the Sequoia National Park, California.●

## ADDITIONAL STATEMENTS

### EMERGENCY AGRICULTURAL ACT

● Mrs. HUMPHREY. Mr. President, I am deeply concerned that our farmers be able to earn an adequate income. They are confronting serious adverse economic conditions, and our Government must be responsive in providing effective remedies.

I voted for the original Senate version of the Emergency Agricultural Act of 1978 because it included several alternative proposals for subsequent consideration by a House-Senate conference in developing a reasonable program which could be rapidly implemented.

The conference committee reported legislation providing for a system of new flexible target prices and loan rates for the 1978 wheat, corn and cotton crops, tied to decisions by farmers to take land out of production.

I reluctantly decided to vote against the conference report because it failed to meet two crucial tests. First, it could not be quickly implemented. The President has stated that the budget costs and possible inflationary impact of this particular system of farm assistance would probably necessitate his vetoing this legislation. However, even if this bill should become law the further time involved in administrative implementation would go beyond the period of crop planting in many areas.

Second the extent to which this particular program would actually benefit the major portion of Minnesota agriculture must seriously be questioned. In fact, concern has been expressed that livestock, dairy and poultry operations, constituting almost two-thirds of Minnesota farm income, could confront sharply reduced supplies of feed.

Because of the uncertain outcome of this legislative program, I believe it is essential that Congress pursue further action in connection with pending farm credit legislation, to strengthen aid levels and associated programs under the 1977 farm bill (Public Law 95–113), and to focus our efforts on the needs of the small family farm. In large part because of this major 4-year program enacted by Congress last September, there recently have been significant improvements in market prices. But the fact remains that rising costs of fuel, labor, fertilizer, and heavy debt burdens of capital investment still are exceeding the income of far too many of our farmers from these market sales. Legislative remedies enacted by Congress must effectively address this urgent issue, while at the same time sustaining improvements over the long term and helping to assure expanded international export market opportunities.●

### IN A CLASS BY HERSELF

● Mr. HANSEN. Mr. President, I should like to call attention to an article that appeared in the Chicago Tribune magazine of April 9, concerning the success of a small private school in the black West Side area of Chicago. The story tells of how a dedicated teacher, after years of frustration in the public schools of Chicago, started her own school, and has achieved remarkable successes with children who had not been helped by the public schools.

I would like to note particularly that this kind of school is exactly the place where the Packwood-Moynihan tuition tax credit proposal will make the most real difference. The rich always have and always will be able to send their children to private schools, and the top private schools will always be well-attended and well-endowed. This legislation will not change that. But it will make a big difference for the poor and people of modest means who will be given at least a chance at a different kind of education where the public school is not meeting their needs.

And there can be little doubt that it is in the poorest areas and in minority areas where the public schools have had their greatest failings.

One example of this was that in the recent national merit scholarship competition for black students, well over half of the winners in the Chicago area attended private schools, even though those schools enroll only a small fraction of black students.

We argue loudly in favor of competition in many segments of our society. But in perhaps the most crucial area for our children, education, we have not been willing to give all parents an opportunity at the freedom of choice that the rich have always enjoyed. The tuition tax credit will at least open a small door for striving parents who want a better life for their children through education. Where the public schools are not fulfilling the needs of their children, they deserve that opportunity.

I wish to submit the article for the RECORD:

IN A CLASS BY HERSELF

Grammar school students quote Shakespeare, discuss Socrates, evaluate Beowulf, tell about Ptolemy the cartographer. They recite passages from Kipling and Emerson. Youngsters write themes about Sophocles and "The Brothers Karamazov" that reveal a grasp of the concepts. Spelling and grammar are excellent.

A school for advanced youngsters in Winnetka? Evanston? Oak Park? Wheaton?

Not at all. It's Westside Prep at 3819 W. Adams St. on Chicago's tough West Side. The school began two and a half years ago as the vision of Mrs. Marva Collins, who "was fed up after 14 years of teaching in the Chicago public schools." Using their family savings, her husband, Clarence, remodeled the second floor of their two-family home, and the school opened in September, 1975, with six neighborhood youngsters. It grew to 14 by the end of the first year, and today 20 students ranging in age from 5 to 20 attend Westside Prep.

Seemingly tireless at 37, Marva Collins is never still. Encouraging, prodding, cajoling, joking, and inspiring, she exhorts the youngsters to sit up straight, speak up, look people in the eye, and pay attention. While one age group masters a drill in a workbook, another group receives individual instruction from her.

"You have to show the children you believe in them," Mrs. Collins says. "That you know they can accomplish anything. All you really need for teaching is a blackboard, books, and a pair of legs that will last throughout the day."

"What does extinct mean?" Mrs. Collins asks Erika McCoy. "It means something is no longer alive," answers Erika, a bright, perceptive 8-year-old.

Before coming to Westside Prep last year Erika had been placed in a class for the mentally retarded. Today she writes themes on "The Year and Its History" with such lines as: "January is named after the Roman god Janus. March is named after Mars the Roman god of war. June honors Juno the wife of Jupiter."

Nine-year-old Creshon Harris couldn't read when he started at Westside Prep last year. "He couldn't even read *the* or *an*," says his mother, Mrs. Jeanne Harris. "Now he's reading well and is much more interested in school. His spelling is improving, and has even started reading at home. His behavior is much better because he's successful and enjoys what he does. Mrs. Collins believes in the kids and they believe in her, and now they believe in themselves. The school has given me a lot of peace because I know my child is doing better and getting what he needs."

The connection between learning disabilities and crime is well-documented. Recalling his days as chaplain in Chicago's House of Correction. Father Bruce Wheeler, an Episcopal clergyman, says: "We had an 18-year-old boy in for his fifth conviction for stealing cars. I talked with him and discovered he didn't steal cars to sell but to go joyriding. He couldn't buy a car and drive it because he couldn't get a driver's license. Why couldn't he get a driver's license? Because he couldn't read. In his last term we got a school started in the jail and taught him to read. He was discharged, got his license, got a job, and never came back." Rev. Wheeler points to one of the costly aspects of the broad spectrum of problems summed up under the label "learning disabilities."

Several years ago three states finished studies showing that between 85 and 90 per cent of all juveniles sentenced to correctional facilities suffered from clinically provable learning disabilities. A number of the children who come to Westside were diagnosed as retarded or learning disabled. The experience there has shown that all they needed was adequate teaching. The learning disability apparently lay with the teacher rather than the child.

Mrs. Joanne Turner would probably echo that view. Her daughter, Kimberley, is 10 and, says Mrs. Turner, "She was so far behind in the other school she didn't care anymore. She was nervous and cried all the time. In just a few months in Westside Prep her reading score jumped from 2.2 to 4.0. She won't miss school—even in zero weather. I think Mrs. Collins accomplishes more because she spends more time with the children. Kim plays much better with other children and is always reading at home. If you're any mother at all, you want the best for your child, and

Westside Prep has been tremendous for mine."

Today Kimberley reads at her age level and a few weeks ago wrote: "Marquette was a Jesuit missionary and explorer. Born in France, he began to study to become a priest at 17. He taught a while before he was sent to Canada as a missionary in 1666.

"Father Marquette studied the Indian language. Most of his first years was spent in Lake Superior area to convert the Indians to Christianity. In 1671 he founded a mission in upper Michigan. While in the wilderness Father Marquette met the young explorer Louis Joliet."

"I was angry for 14 years teaching in the public schools," Mrs. Collins says. "Money isn't the answer. And gimmicks don't make education better. Teaching takes a personal interest on the part of the teacher. It takes discipline and dedication to learning, and then we create an intellectual climate that challenges these youngsters to do more."

Five-year-old Christopher Stubblefield concurs. "I like the school," he says with a grin, "because we do hard things here."

"We have a contract system," Mrs. Collins continues. "The children have to complete a certain quantity and quality of work on a contract basis, just like their parents. If they don't work, they don't get paid."

After one youngster was asked to recite and said he only knew half of his assignment, Mrs. Collins said, "When you go home, I'll ask your mother to give you only half your dinner."

A heavy emphasis on individual responsibility predominates in the classroom. "Success doesn't come to you." Mrs. Collins exhorts. "You go to it. You don't buy it with Green Stamps. There's no check until the work is done. You don't get any report card unless all the homework is in. Every moment here is going to be used."

Mrs. Collins: "What did you learn from the 'Little Red Hen'?"

Class: "If you don't work, you don't eat."

Mrs. Collins: "What did you learn from the story of the boy who cried wolf?"

Class: "If you're a lier, nobody will believe you even if you're telling the truth."

Westside Prep is incorporated by the office of the Secretary of State in Springfield. The children attend school from 8 a.m. until 2:45 p.m.—and sometimes 3 or 3:30—with 30 minutes for lunch. The school year began Sept. 8 and will end June 26.

Mrs. Collins admits to no failures and bristles at the suggestion that her students are carefully selected and therefore do superior work. "No child fails," she says. I choose children from the neighborhood who are at the lowest ebb and need it most. Many are from single-parent homes."

Tuition at Westside Prep is $80 a month, but if a parent cannot afford to pay there's no charge. There's a waiting list of 175 children from the neighborhood. Mrs. Collins believes the school works better with less money because she has to spend more time teaching and more time with the children.

Comments by her students support that assessment. Asked how Mrs. Collins differs from other teachers he has had, 10-year-old Duane Alexander, who entered Westside last fall, replied: "She doesn't sit down. She keeps after us until we do it right—that's a lot different In the other school if we didn't do something right, they just left us alone. Mrs. Collins takes time to read with us and ask questions. We spend more time learning at her school."

Ten-year-old Tracy Shanklin added: "The teachers in the other schools weren't consistent. Mrs. Collins is. We don't have to be afraid to ask a question if we don't understand something. She'll explain the answer until we understand She'll give us a book, and we study it until we know what it's all about."

Said Kimberly Turner: "Mrs. Collins spends more time with us. She cares more about what we learn and knows when we don't understand something. Then she helps us."

Students are tested frequently with such standard evaluations as SRA Assessment Survey, California Achievement Test, Metropolitan Achievement Test, and the National Standard Test.

"The children read aloud in class," says Mrs. Collins, "because it keeps them from mispronouncing words as they are likely to do if they read silently. Oral reading is beneficial to punctuation, vocabulary, and style. Children begin to understand synonyms, characterization, conflict, and the author's point of view."

Marva Collins grew up in Atmore, Ala., a small town near Pensacola, Fla. Her father was a successful funeral director and imbued her with a desire to learn and succeed. An avid reader as a child, she attended Clark College in Atlanta after finishing high school in Atmore. Following graduation from Clark she attended Chicago Teacher's College and then studied creative writing for the gifted child at Columbia College here.

Always direct, she says: "We use graphing in math and emphasize mathematics at Westside Prep although it doesn't get as much attention as the reading and writing our children do. We use the Open Court series in basic reading. Many teachers say it's too difficult for kids. Actually, it's too difficult for the teachers. I really learned nothing in college that helped me become a teacher. Academically, it has been my Creator and me."

"Im sure that's correct," agrees Dr. Hobart Mowrer, research professor of psychology at the University of Illinois. "The entire field of learning theory is vastly overrated. And I think poor schools and poor students are a reflection of disintegrated family life and a sick society. The permissiveness that started with John Dewey has contributed to the problem. It's obvious that Marva Collins' emphasis on basics and on responsibility is paying off for these students in Westside Prep."

Dr. Mowrer's comments are particularly significant because he is a well-respected authority on learning theory. An internationally respected psychologist, he has published three books and scores of papers on learning theory and taught eight years at the Harvard Graduate School of Education.

Why does Mrs. Collins' school work? "Well," says Dr. R. P. Albert, principal of Central Elementary School in suburban Riverside, "my reaction is simply that she's an exceptional teacher. They exist in many places, and I think that her own personality and strength motivate the students. Teachers who believe in the kids transfer these feelings to them. Reading excerpts of themes by these youngsters I see that they have outstanding vocabularies and are dealing with abstract ideas. That's unusual in children this age.

"Teachers like Mrs. Collins have what is needed to show young people that they can make it if they try through disciplined effort. I'm committed to the public schools, but I think we need these kinds of alternatives as well."

Another view of Westside Prep comes from Dr. Leonard Borman, a research associate at Northwestern University's Center for Urban Affairs and director of the Self-Help Institute there. Borman may know more about the burgeoning self-help movement than anyone else in the country.

"Looking at what Mrs. Collins is doing, I see it as a solid self-help effort," Dr. Borman says. "She has gone outside the formal system, and I suspect if you're interested in helping kids learn, you have to go outside the system and bootleg it. She's a unique teacher, highly skilled, who wants to help these kids master intellectual skills and is doing it. A fascinating example of self-help at work."

The self-help works so well that a boy who was with her for two years now attends De La Salle as a 13-year-old freshman. And a girl who spent two years at Westside Prep is now doing top-caliber work in Glencoe.

Invariably outspoken, Marva Collins found her remarks inspiring anonymous hate letters during her public school career. But she has continued working with a loving blend of humor, kindness, endless repetition, and sometimes sternness. "You can if you try," Collins emphasizes. "We have to build the total child, otherwise these youngsters will be crushed."

Her students quote Marcus Aurelius: "He alone is poor who does not believe in himsel." Teaching by example as well as words, Collins radiates the kind of self-confidence that enabled her to refuse $16,000 in federal funds last year.

"We keep putting Band-Aids on hemorrhages—giving people money but no skills," she says. "My dream for these kids is that they get all the education they can and then come back to live in this neighborhood and help other young people. My husband and I could live somewhere else, but I think we belong here, and we plan to stay and do what we can." ●

## REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

● Mr. ABOUREZK. Mr. President, I am happy to announce my cosponsorship of Senate Joint Resolution 65, the companion resolution to the recently passed House Joint Resolution 554, granting voting representation in Congress to the residents of the District of Columbia.

I believe that it is incumbent upon me and my colleagues to follow the example of the House of Representatives and pass this resolution. It is important to send a strong mandate to the States to insure this amendment's final ratification.

Commonsense and consideration of the needs and rights of all American citizens would lead one to favor this proposal. There has been no debate to my knowledge over the fact that the residents of the District of Columbia are citizens of the United States. Our country has governed itself for 200 years on the principle of representative government. It is a basic principle that every citizen of the United States should be represented in the Congress. It is beyond my imagination why we should have to be fighting 200 years after our independence for the right of some citizens to be represented. Yet, time and time again the people of this country have had to fight to insure that some group of people are not excluded from this simple and basic right. We have had to amend the Constitution to allow women to vote. to allow blacks to vote, and now to allow residents of the District of Columbia to vote for their own representatives. My hope is that some day we will reach the point where the people will be fully enfranchised. We have come a long way in that direction, but we are not there yet.

Bevond simple consideration of the basic rights of every citizen of the United States, there is a practical reason for extending voting representation in Congress to the District of Columbia. There is a special relationship between the Dis-

trict and the Federal Government. The Congress controls the local legislative process of the District. There is no other jurisdiction in the United States whose needs and desires can be unilaterally thwarted by the Congress. And yet the Congress cannot be held accountable for its actions by the residents of the District of Columbia. Therefore, it is imperative that the District be provided with voting representation in both Houses to provide the residents of our Nation's Capital with a strong voice to insure that their needs and desires are met. Without this representation, the residents of the District will continue to have their desires thwarted with absolutely no recourse.

I understand that there is some concern among some of my colleagues about diluting their power in the Senate by adding two new Senators from the District of Columbia. This should not be a consideration in determining the rights of the residents of the District to be represented in Congress. If some of my colleagues are nonetheless bothered by this consideration, I would simply ask them to take example from our former colleagues who have served in the House and the Senate and have allowed State after State to enter into the Union and have full voting representation in the Congress.

I hope that my colleagues come to the realization that as long as the residents of the District of Columbia are not fully represented here in Congress, the Constitution protects only some of the citizens of this Nation. Let us create a Government that truly represents all its people.●

## SOUTH AFRICA

● Mr. GOLDWATER. Mr. President, for many years I have had a deep interest in the whole continent of Africa. During World War II occasionally I had to fly aircraft across the middle of that vast expanse and then during other parts of that time I served on the northern perimeter. I have visited South Africa on numerous occasions, also Rhodesia and recently South West Africa. I intend to have more to say about this part of the world as time goes on during this session and even on into the next one because I am completely convinced that if the Carter policy toward the continent of Africa and specifically Rhodesia, South Africa, and South West Africa continues without any indication of disfavor on the part of the Congress, without any cessation of what is taking place on his part, that we are going to see utter chaos across that continent that is going to become the most important one in the world as time slowly goes on. I have come across a paper written by Dr. D. S. Prinsloo of Pretoria entitled "United States/South Africa Relations," which I think will make a perfect opening background statement for those which I will place in the RECORD from time to time. Therefore, I ask that this article be printed in the RECORD at this point in my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STRANGULATION WITH FINESSE: U.S. POLICY TOWARD SA

(By Dr. D. S. Prinsloo)

PART I: UNITED STATES/SOUTH AFRICA RELATIONS

2. Background to U.S./South Africa Relations:

2.1 Diplomatic relations:

The United States has had a long historical relationship with South Africa, first with the various colonies and states that formed the Union of South Africa in 1910, and afterwards with the Union which became a Republic in 1961.

The Dutch settlement at the Cape was founded in 1652, and in 1795 this fledgling colony was owned by Great Britain. Four years later, in 1799, an American Consulate was opened in Cape Town, the fifth such post established on the African continent after the attainment of American independence twenty-three years previously.

In 1854 the independence of the Boer republic, the South African Republic (Zuid-Afrikaansche Republiek), was recognised by Britain. After the influx of large numbers of foreign fortune seeks subsequent to the discovery of gold in that country in the early 1870's, and in particular after the rush of Americans to the new city of Johannesburg after the discovery of the world's richest gold deposits on the Witwatersrand in 1886, an American Consulate was opened in Johannesburg in 1891. Seven years later in 1898 a Consulate was also opened in Pretoria, capital of the Republic.

At the end of the Anglo-Boer War of 1899–1902 the two Boer republics became British colonies along with the Cape of Good Hope and Natal. In 1906, four years before the establishment of the Union, an American Consulate was opened in Durban, port city of Natal.

The process of the upgrading of the diplomatic ties between the two countries paralleled South Africa's progress towards full statehood within the British Empire. During the First World War South Africa was a part of the British Empire, and as a result the South African Prime Minister, Jan Smuts, enjoyed a high standing in London and Washington after the war. He strengthened his image through his intimate participation with American leaders on the drawing up of the Covenent of the League of Nations.

The status of South Africa and the other British dominions was largely clarified through the Balfour Declaration of 1926, and with the country's autonomous status confirmed, the South African government on 1 June 1927 created a separate Department of External Affairs to administer the country's external relations. In 1928 the status of the American Consulate in Pretoria was raised to a Consulate-General, while a South African legation was opened in Washington in 1929.

For the first number of years after the formation of the Union, two political parties dominated the local scene. The governing party after Union was the South African Party (SAP), officially formed in 1912, and the National Party which was formed when General Hertzog broke away from the SAP in 1914. The National Party won the 1924 general election after co-operation with the Labour Party, and formed the so-called pact-government, which also won the 1929 elections. As a result of South Africa's economic difficulties following the world-wide economic crisis after the Wall Street crash in 1929, co-operation was sought between the SAP and the governing NP. As a result the two parties fused in December 1934 to form the United Party. Dr. D. F. Malan and his supporters declined to fuse and reformed the National Party. As a result of increasing voters dissatisfaction with the UP government, the reformed National Party regained power in May 1948 after an election agreement with the Afrikaner Party. This election victory was significant as the election manifesto of the NP was based on a policy of racial segregation, an important factor in South Africa's international relations ever since.

In the following year the American Consulate-General in Pretoria was upgraded to an Embassy, and on 23 March 1949 North Winship presented his credentials as the first American Ambassador to South Africa.

2.2 Elements shaping US policy towards SA:

The political awakening of the countries of the Third World following World War II gradually gave new direction to the foreign policies of the major powers. US policies towards Africa were slow to adopt to the new circumstances evolving on the continent, partly through disinterestedness and partly through ignorance of the awakening giant so far removed from the affairs and interests of the American people. South Africa is one of the oldest independent countries on the continent, and is also the most advanced and developed country. Initial US interaction with South Africa was, therefore, largely based on growing economic relations. The 1948 election victory of the National Party with its policy of racial separation, preceding with one year the elevation of diplomatic ties between the two major countries to ambassadorial level gradually posed an increasing dilemma for subsequent US Administrations. This dilemma involved issues ranging over a wide spectrum, and included the following:

(1) The US attitude towards the racial policies and practices in South Africa, and their potential influence.

(a) on US relations with the rest of Africa and the Third World, and

(b) on American society, particularly the Negro population.

(2) The importance of the volume and extent of US economic relations with South Africa, including substantial trade and investments.

(3) US reliance to a large degree on the importation of strategic raw materials, particularly minerals, from South Africa.

(4) The defence and strategic importance of South Africa for the US and its allies, located on the southern tip of the African continent at the meeting point of the Indian and Atlantic Oceans.

The importance and implications of these factors will now be viewed briefly.

3. Political interaction:

The argument over the power and importance of political and economic instruments of policy has not ceased. US interaction with South Africa over the past three decades has been characterised by attempts to attain some balance between the perceived negative influence of political relations with South Africa on the one hand, and the ever-increasing importance of economic relations on the other hand.

According to Lake US policies toward South Africa since World War II have been marked by caution, compromise and muddle, by inconsistency between rhetoric and action, and by a "low profile" uncharacteristic of most of America's post-war foreign policies. This was particularly true of the Truman years, but even in the eight years of the Eisenhower Administration, the apparent tension between rhetoric and action in American policy which has been obvious

ever since, began to emerge. This was partly due to events within South Africa, but also to the emergence of large numbers of newly independent states in Africa that slowly forced changes in the US African policy and also its voting behaviour at the United Nations. Until 1958 the US continued to abstain from voting on resolutions concerning South Africa's racial policies, in agreement with the assessment that the UN was not competent to intervene in domestic matters. In 1958 with the changing face of the African map, the State Department Bureau of African Affairs was created, and in the same year the US voted for a UN resolution which expressed regret and concern over South Africa's racial policies.

The US official attitude displayed a further hardening after the Sharpeville incident of March 1960, and apart from State Department condemnation of the incident, the US also voted for a UN Security Council resolution which "deplored the policies and actions of the South African Government."

The Kennedy Administration went further than any of the previous Administrations, both in the strength of its verbal condemnations of South Africa's policies and in taking action for the first time which demonstrated American opposition to it. One of South Africa's most outspoken opponents in the Administration during those years was the Assistant Secretary of State G. Mennen Williams. The US policy under President Johnson followed the same lines established by Kennedy, and according to Lake even went beyond the opposition of the Kennedy years. During these years two new steps were taken in the UN. In June 1964 the US voted for a Security Council resolution creating a committee of experts to study the feasibility and implications of sanctions against South Africa.

The other action involved South West Africa. Shortly before the decision of the International Court of Justice in July 1966, Assistant Secretary Williams stated that the Court's judgement will be binding on all parties, and that the United States expects the parties to the suit to comply with the judgment, apparently said in the hope and belief that the judgment would go against South Africa. When this did not happen, and the ruling went against Eithiopia and Liberia, the State Department backtracked and issued a statement which emphasized the limited nature of the ruling and South Africa's continuing responsibility to the UN. In October the US also supported a resolution condemning South Africa for its refusal to relinquish its control over SWA, and asking the Security Council to take all effective measures to oust South Africa from SWA.

The Nixon Administration noticeably changed American policy towards South Africa. The Kennedy and Johnson Administrations were criticized by South African opponents from the left for their failure to translate its public denouncements of South Africa's policies into actions that might have forced a radical change. In his first year in office Nixon requested a comprehensive review of the American approach towards Southern Africa, the so-called National Security Study Memorandum 39 (NSSM 39). This study laid the foundation of US policy towards southern Africa until the collapse of the Portuguese empire in Africa, a policy which favoured the maintenance of the status quo as far as possible. A possible reason for this was the American preoccupation with Vietnam, coupled with increasing domestic pressure to end the Indochina war. According to Baker the following were the main assumptions on which the recommendations of the NSSM 39 rested:

(1) that Whites—in the Portuguese colonies, Rhodesia, Nambia and South Africa—would retain power for a considerable period of time;

(2) that although guerrilla war in Mozambique and Angola might ultimately lead to a Portuguese withdrawal, factionalism among the Rhodesian nationalist groups would prevent them from successfully combining and contesting against White power there;

(3) that South Africa, given its military power, could relatively easily curtail internal or external African opposition to its rule;

(4) that with increasing industrialisation, the condition of black workers in South Africa might improve, thereby leading to greater internal stability; and

(5) that South Africa would ultimately grant independence to the various homelands and Namibia, doing so however in such a manner that they remained subservient to South Africa.

Then came a series of events that had a deep impact on the whole spectrum of international relations: the coup in Lisbon leading to independence for Angola and Mozambique under Marxist control; the Marxist victories in South East Asia; the resignation of Nixon after the Watergate scandal; the international energy crisis following the three-fold rise in the price of Arab oil; and increasing Soviet/Cuban military involvement in the affairs of Africa.

The one factor leading to a large degree of consistency in US policy towards southern Africa in the Nixon/Ford years, is the influence of Dr. Henry Kissinger, first as national security advisor and later as Secretary of State, making him the architect of American foreign policy during those years. According to Baker, Kissinger's basic assumption was that development was impossible without stability and order. He viewed the post-war world as comparable to the period following the French Revolution and Napoleonic wars, when Metternich fashioned a series of alliances among nations that brought nearly a century of peace to Europe prior to World War II. The Angolan civil war, and particularly the extent and implications of Soviet/Cuban involvement, forced Kissinger to address himself to that part of the world and its problems, the purpose of his efforts being that of forestalling further Soviet intrusions in Africa. To that end solutions had to be found for the problems facing Rhodesia and Namibia, and South Africa was perceived as the key to their solution. Pressure was therefore exerted on South Africa, but on the basis of "carrot and stick" approaches. The US protested South Africa's racial policies, but in a muted form in return for South Africa's other areas of southern Africa. That was in general terms the basis of US policy towards assistance in solving the problems of the South Africa until the advent of the Carter era, which will be discussed in Part II.

4. Economic interaction

As noted earlier, American policy towards South Africa has for many years revolved around the question of attaining some balance between the perceived negative effects of relations with South Africa, and the importance of US economic relations with the country. Economic interaction is indeed the strongest link between the two countries. This aspect will be dealt with in terms of two facets, trade and investment.

4.1 Trade

US trade with South Africa increased steadily throughout the years of interaction, with the US maintaining and increasing the trade balance in its favour. Just before the Second World War US exports to South Africa had been about $66-million annually. This figure rose to $230-million in 1946, and climbed steadily to $427-million in 1960. This trend continued throughout the Kennedy/Johnson years, gaining new momentum during the Nixon/Ford years. The following figures give an indication of the growth of US/RSA trade and the increasing US favourable trade balance in the latter period:

| United States | Exports to RSA | Imports from RSA | Favorable balance |
|---|---|---|---|
| 1968 | 450 m | 250 m | 200 m |
| 1973 | 746 m | 377 m | 369 m |
| 1975 | 1,307 m | 845 m | 462 m |
| 1976 | 1,350 m | 927 m | 423 m |

Up to this period the RSA has maintained its lead as the largest trading partner of the US in Africa, taking 31 percent of all US exports to Africa in 1975.

No estimate has been made of the number of jobs in the US that depend on that trade, but according to John Chettle, if a conservative estimate of one job for every $20,000 worth of trade is taken, then some 66,000 jobs depend directly on that trade, and even more if the multiplier effect is taken into account. Apart from trade, the RSA also received substantial loans from US financial institutions.

The relative importance of United States trade with the Republic of South Africa can be seen in the following tables of South African exports to and imports from its major trading partners.

By 1976 the United Kingdom was still South Africa's most important initial export market, although its relative importance changed quite substantially over the period above—declining from 33.3 per cent in 1969 to 22.1 per cent in 1976. The US rose to 10.2 per cent in 1976.

EXPORTS TO MAJOR TRADING PARTNERS

| Destination | 1969 (Rm) | 1970 (Rm) | 1971 (Rm) | 1972 (Rm) | 1973 (Rm) | 1974 (Rm) | 1975 (Rm) | 1976 11 mo (Rm) | 1976 Contributions |
|---|---|---|---|---|---|---|---|---|---|
| United Kingdom | 510.3 | 446.4 | 418.8 | 531.3 | 699.7 | 793.7 | 903.7 | 908.8 | 22.1 |
| Japan | 151.8 | 180.6 | 182.9 | 259.3 | 246.4 | 429.3 | 487.3 | 459.0 | 11.0 |
| United States | 110.0 | 129.3 | 121.1 | 147.0 | 163.7 | 238.1 | 429.7 | 420.4 | 10.2 |
| West Germany | 102.2 | 109.1 | 110.3 | 132.5 | 189.7 | 337.2 | 426.8 | 440.2 | 10.7 |
| Belgium | 63.2 | 55.7 | 56.9 | 81.6 | 120.7 | 130.4 | 137.1 | 176.7 | 4.3 |
| Switzerland | 3.2 | 5.2 | 8.4 | 15.5 | 31.1 | 85.7 | 170.6 | 149.0 | 3.6 |
| Other countries | 591.9 | 616.6 | 670.4 | 876.9 | 975.5 | 1,330.9 | 1,351.7 | 1,564.9 | 38.1 |
| Total | 1,532.6 | 1,542.9 | 1,568.8 | 2,044.1 | 2,427.0 | 3,345.3 | 3,906.9 | 4,119.0 | 100.0 |

IMPORTS FROM MAJOR TRADING PARTNERS

| | 1969 (Rm) | 1970 (Rm) | 1971 (Rm) | 1972 (Rm) | 1973 (Rm) | 1974 (Rm) | 1975 (Rm) | 1976 11 mo (Rm) | 1976 Contributions |
|---|---|---|---|---|---|---|---|---|---|
| United States | 370.5 | 423.4 | 469.7 | 459.9 | 529.8 | 811.5 | 985.0 | 1,174.1 | 21.4 |
| West Germany | 292.9 | 374.0 | 408.9 | 411.1 | 606.8 | 925.0 | 1,033.9 | 993.2 | 18.1 |
| United Kingdom | 499.6 | 561.2 | 670.6 | 586.8 | 629.9 | 823.1 | 1,097.3 | 974.0 | 17.8 |
| Japan | 188.4 | 220.8 | 292.1 | 265.8 | 381.2 | 600.4 | 612.0 | 563.3 | 10.3 |
| France | 61.2 | 88.1 | 104.7 | 96.7 | 125.3 | 196.9 | 244.8 | 222.3 | 4.1 |
| Italy | 84.9 | 104.3 | 105.2 | 94.4 | 120.9 | 204.0 | 203.4 | 200.1 | 3.7 |
| Other countries | 639.7 | 775.3 | 833.5 | 912.0 | 888.4 | 1,355.1 | 1,392.1 | 1,352.9 | 24.6 |
| Total | 2,137.2 | 2,547.1 | 2,884.7 | 2,826.7 | 3,282.3 | 4,916.0 | 5,568.5 | 5,479.9 | 100.0 |

Europe has traditionally been the dominant supplier of imports. The United Kingdom has traditionally been the single most important country, but Western Germany surpassed it in 1974 and 1976, while in 1976 the United States became the leading supplier of imports to South Africa.

4.2 Investment:

Even more important than the volume of US trade with the RSA is the growing value of US investments in South Africa. It has also become a major target of pressure within the US to effect a significant discouragement and even withdrawal of US investment in the RSA.

US investment in South Africa has a long history going back to the early part of the century, increasing significantly after World War II with increased investment of $15-million in 1946 for industrial projects by Ford, General Motors, Goodyear and Firestone. Investment grew from $212-million in 1953 to $350-million in 1960, despite a dip in the early fifties. The Sharpeville incident caused a temporary decline in the rate of investment, but by November 1960 US companies began to express their old confidence in South African stability and profitability when plans for expanded investment by a number of companies became known. After a series of economic measures taken by the SA Government in May 1961 American capital flowed in again.

During the Kennedy years official policy on private American investment in SA remained neutral. In 1962 a number of US firms started investing in South Africa for the first time, while in the same year US companies earned $72-million in South African profits, almost twice the average rate of US business on investment in other countries. Johnson continued with the policy of benign neutrality towards investment in the RSA leading to healthy growth trend, and by 1968 US investment in the RSA was about five times the value of 1950 investment. President Johnson's Executive Order of January 1968 constraining US foreign investment as part of his campaign to improve the US balance of payments position, affected US investment in South Africa, but many individual US investors compensated by buying stock in South African companies.

The following table summarises the size and trends of US investment in South Africa from 1963 to 1970:

U.S. INVESTMENT IN SOUTH AFRICA

[In millions of U.S. dollars]

| Year | Book value | Net capital outflows | Income and earnings |
|---|---|---|---|
| 1963 | 411 | 12 | −35 |
| 1964 | 467 | 17 | −36 |
| 1965 | 529 | 31 | 179 |
| 1966 | 600 | 20 | 536 |
| 1967 | 666 | 35 | 202 |
| 1968 | 696 | 6 | 185 |
| 1969 | 755 | 6 | 196 |
| 1970 | 868 | 52 | 219 |

Between 1968 and 1973 the volume of investment showed a marked growth, increasing to $1,26-billion, or by 73 percent in the five-year period. During this time the annual return on investment remained between 17 and 19 per cent.

In 1970 the U.S. Department of Commerce began to advise U.S. investors to consider investment opportunities in South Africa's neighbouring Black states before investing in the RSA itself. It also referred U.S. businessmen to a study by the South African Institute on Race Relations on measures foreign businessmen could take to improve working conditions and benefits for non-White employees.

The following table summarises the increase in total foreign investment in South Africa in the period from 1973 to 1975:

FOREIGN INVESTMENT IN SOUTH AFRICA DISTINGUISHED BY REGION

[In SA rand million]

| Year | Total foreign liabilities to— EEC | Rest of Europe | Americas | Africa | Asia | Oceania | International organizations and other | Total |
|---|---|---|---|---|---|---|---|---|
| 1973 | 6,698 | 956 | 1,776 | 375 | 216 | 78 | 281 | 10,380 |
| 1974 | 7,945 | 1,147 | 2,557 | 447 | 279 | 84 | 298 | 12,757 |
| 1975 | 9,851 | 1,690 | 3,566 | 498 | 348 | 85 | 412 | 16,450 |

Between 1970 and 1976 US direct investment in South Africa almost doubled, while US investments in the rest of Africa (as a result mainly of the nationalisation of US corporations elsewhere in Africa) during the same period fell from $2,6-billion to $2,4-billion. US investment in South Africa, as a proportion of investment in sub-Saharan Africa, grew dramatically in this period: in 1972 that proportion was 38 percent, and by 1974 it was 56 percent, while repatriation of profits of these enterprises from South Africa were also much higher.

At the start of the Carter era, US investment in South Africa has risen to a substantial volume. Almost 400 US corporations, including the top 50 corporations, have subsidiaries or associates in South Africa. In some cases like General Electric the involvement goes back to before the turn of the century. Another 6,000 American companies do business with South Africa on an agency basis. According to New African Development, US firms operating in South Africa employ about 100,000 South Africans, of whom 70 percent are Black. These companies also play an important role in South Africa's economy, controlling about 43 percent of the petroleum market, 23 percent of the automobile sales, and 70 percent of the computer business.

Ferguson and Cotter, in pleading the case for economic pressure on South Africa, mention the fact that US investments in South Africa amount to little more than one percent of total US overseas investment, and that a reduction of US investment would do little harm to the US economy. The other side of the coin is the fact that South Africa provides out of its own savings a high proportion of capital needed for development. Over the 1970–74 period gross domestic fixed investment totalled R21 897-million, and only R2 385-million, or 11 percent, was financed by foreign capital of which less than one-fifth was from the US. Disinvestment by the US would therefore have comparable disadvantages for both countries.

5. Military, nuclear and space co-operation:

5.1 South Africa's strategic importance:

Volumes have been written and said about the strategic importance of the Republic of South Africa, with the main focus being on:

(a) free access for the West to the Cape sea route;

(b) South Africa as the strongest anti-communist nation on the African continent in view of increased Soviet expansion on the continent;

(c) Western access to the immense mineral wealth of southern Africa in view of the fact that the Soviet bloc is a net exporter of minerals critical to Western defense interests;

(d) the uncertainty and vulnerability of the Gibraltar and Suez routes in time of conflict;

(e) South Africa as a proven and committed Western ally in terms of global conflict.

According to Dornan any appraisal of Western interests in Africa should begin with an analysis of Soviet activities in the region, and in the southern hemisphere generally, and that the basis for continued US relations with the RSA should be guided by the [alarming] increase in Soviet influence and capabilities, in connection with the strategic advantages afforded by both the position and the resources.

Brigadier Thompson states that the outstanding importance to the Atlantic powers of the free use of the Cape sea route, and assured access to the mineral resources of South Africa is clear, but what is less clear are the circumstances under which these interests might be denied to the West. In clarifying these circumstances, Robert Moss stressed the growing Soviet expansion and influence in Africa to further its global policy. He noted the strategic foothold which the Soviet Union has gained with the institution of pro-Moscow Marxist regimes in Angola and Mozambique to increase the intensity of the Soviet pioneer movement Rhodesia, South West Africa and the RSA for the very purpose which Thompson fears: to be in a position to deny access to

the West of the Cape sea route, and South Africa's mineral importance. The latter aspect, South Africa's mineral importance, is discussed in the following section, while the attention will now be briefly focused on the importance of the Cape sea route.

For many years military experts have stressed the importance of the Cape sea route. However, it has taken the world energy crisis to bring this home to the man on the street in the West, who now appreciates how much his future, for at least the next decade, depends on Middle East oil which has to be shipped around the Cape of Good Hope. The concern of the West is not wholly focused on oil but also on foodstuffs and important mineral supplies imported via the Cape route. South Africa is the guardian of this route, immediately astride one of the two direct trade routes between the Atlantic and Indian oceans. Its central position in that regard is enhanced by the vulnerability of the other, the Gibraltar-Suez-Red Sea route, to interdiction at several key points. Trade around the Cape of Good Hope now totals 2300 vessels per month, of which 600 are tankers; moreover, of the total tonnage passing around the Cape, 70% is represented by oil-carrying vessels.

The 1973 oil crisis has highlighted the strategic importance of the Cape sea route. By the year 1980 it is estimated that about 1000 million tons of oil will have to be transported by sea. Even with an enlargement of the Suez Canal only about one-fifth of the oil from the Persian Gulf would pass that artery, leaving the alternative Cape sea route more vital than ever before. Even now, the Cape route is Western Europe's and NATO's most important supply route for oil—57% of Europe's requirements passing through it annually. Already 20% of U.S. oil requirements travel via the Cape and this figure should increase to 60% by the 1980's. In addition 25% of Europe's food supplies also pass through the Cape sea route.

Despite the increasing importance of the Cape sea route, considered in the context of the Soviet strategic offensive in Africa and in the Indian Ocean, the British government has decided to terminate the Simonstown naval agreement, the only meaningful security agreement in existence for the entire area. Nevertheless, South African military planners still intend to maintain a high state of readiness to protect the Cape sea route—lifeline of the Free World—against the aggressive offensives of unfriendly forces.

The following table illustrates the volume of traffic passing around the Cape in only one month, January 1976:

| | Freighters | Tankers | Total | Percent of total |
|---|---|---|---|---|
| Liberian (flag of convenience, mostly United States) | 47 | 98 | 145 | 21.97 |
| British | 56 | 43 | 99 | 14.97 |
| Norwegian | 18 | 19 | 37 | 5.60 |
| Greek | 42 | 13 | 55 | 8.32 |
| Warsaw Pact | 20 | | 20 | 3.03 |
| Netherlands | 25 | 5 | 32 | 4.84 |
| French | 10 | 32 | 42 | 6.35 |
| West German | 21 | 16 | 37 | 5.60 |
| Italian | 12 | 9 | 21 | 3.18 |
| United States | 8 | 3 | 11 | 1.66 |
| South African | 33 | 4 | 37 | 5.60 |
| Japanese | 18 | 5 | 23 | 3.48 |
| Indian | 8 | | 8 | 1.21 |
| Spanish | 2 | 3 | 5 | 76 |
| Portuguese | 3 | 4 | 7 | 1.06 |
| Panamanian | 13 | 8 | 20 | 3.03 |
| Danish | 10 | 7 | 17 | 2.57 |
| Swedish | 4 | 2 | 6 | 91 |
| Miscellaneous | 33 | 6 | 39 | 5.90 |
| Total NATO nations | 253 | 250 | 503 | 76 |
| Grand total | 383 | 278 | 651 | 100.00 |
| Daily Average | 12.35 | 8.97 | 21.32 | |

South Africa's relations with the US in terms of defense, nuclear and space cooperation up to the start of the Carter Administration will now be viewed briefly.

5.2 Military Co-operation:

South Africa had for long co-operated with the US in world conflicts, and fought as a US ally in both the First and Second World Wars. Reflecting US/South African friendship during World War II, a lend-lease agreement was signed, and the US established a small number of air bases in South Africa. In 1947 the lend-lease debt was settled for $100-million, while South Africa also agreed to buy $1.4-million worth of remaining lend-lease equipment.

Early in 1949 the Nationalist government in South Africa was one of the first to send an air crew for the massive Berlin airlift. This was reportedly one of the reasons for the American decision to be among the first nations to upgrade their diplomatic representation in South Africa to ambassadorial level in March 1949. In August 1949 Lt. Gen. Beyers, the South African Chief of Staff, and Minister of Defense Erasmus, visited the US for inspection of US military training facilities and to see what kinds of American equipment would be suitable and available for the training of South African defense forces.

In 1950, in response to a request from the UN after the North Korean attack on South Korea, South Africa decided to send No. 2 Squadron of the SAAF to assist the UN force, and was attached to the 18th Fighter Bomber Wing (USAF).

Military co-operation fell short of a formal alliance despite the fact that the South African government repeatedly approached the US and NATO such a relationship. In 1951 an agreement was signed with the US making provision for reimbursable military assistance under the US Mutual Defense Assistance Act. The South African government continued to press for a "Southern NATO" until 1957, and reportedly also tried in 1954 to get NATO Bases in South Africa as a means of gaining a defense guarantee from the US, but neither plans materialised. In July 1955 Britain reached an agreement with South Africa for the return of the Simonstown base to South Africa by 1957, with Britain and her allies retaining use of the base for wartime operations even if South Africa were not a belligerant. At that time US naval vessels made regular use of South African ports, and in October 1959 ships of the US, British French, Portuguese and South African navies took part in a combined antisubmarine operation off the southern coast of South Africa. American participation in these annual joint exercises, named "Capex" reportedly ceased in the early sixties.

In 1963 pressure for actions against South Africa to mount internationally. In August the UN Security Council began to debate on a resolution calling for a ban on all arms sales to South Africa. President Kennedy, anticipating the UN vote, instructed Ambassador Adlai Stevenson to declare unilaterally on 2 August that the US would cease arms sales to South Africa after the end of 1963, and for so long as South Africa continued with its race policies.

Military co-operation between the two countries hit a low point during the Johnson Administration. In 1964, the US extended the scope of its position in the arms embargo, supporting a resolution forbidding the sale to South Africa of materials for the making of arms. The Johnson Administration seems to have been more careful than its successor in its observance of the 1963 arms embargo. For example, sale of light aircraft which could clearly be used for military purposes was prohibited. In 1965, the US refused to license sales to South Africa of single-engine Cessna aircraft which had special equipment that could have made the planes of immediate military value, and of a marine patrol aircraft, the Atlantic 1150, which had been developed by the US, France, Belgium, West Germany, and The Netherlands, under NATO. In September 1966, the US barred the sale to South Africa of three French Mystere 20 jetliners equipped with US General Electric engines.

US/South African military relations worsened after the *Roosevelt* incident of 1967. In February 1967 when the *USS Franklin D Roosevelt* was about to refuel at Cape Town en route to Vietnam, 38 Congressmen protested the granting of shore leave to members of the crew, which was duly cancelled by the US naval authorities. It has ever since been American policy to avoid the use of South Africa ports by its military vessels, except in the case of an emergency. Despite this development and the arms embargo, the South African Navy continued to supply information to the US Naval Attache at Cape Town on Russian vessels in the area.

Military co-operation improved during the Nixon years. In 1969 there were press reports that the French Mystere 20 jetliners equipped with General Electric engines, sales of which had been vetoed by Johnson, were approved available to the South Africa government. In July 1970 the US joined France in abstaining on a UN Security Council resolution which approved a tightening of the non-obligatory arms embargo against South Africa, on the grounds that it was too sweeping.

After the completion of the NSSM 39 study for the Nixon Administration in 1969, Nixon accepted the recommendation that his administration should enforce the arms embargo against South Africa, but with liberal treatment of equipment which could serve either military or civilian purposes. Evidence suggests that the Nixon administration did in fact substantially relax the arms embargo, particularly by making available new items in the "gray area" that had been forbidden previously. According to reports, Nixon paid little attention to criticism of his military policy towards South Africa because South Africa played an important role in the plans of his administration to counter the Soviet threat in the Indian Ocean area and to enhance the security of the Cape area.

Military relations between the two countries entered a vitally important phase as the Angolan civil war mounted in intensity late in 1975. In the course of the hostilities, the leader of the UNITA movement, Jonas Savimbi, requested South Africa to aid the anti-Marxist forces in their struggle against the pro-Moscow MPLA. This appeal was backed by President Kaunda of Zambia and President Mobutu of Zaire who preferred to see victory by the non-Marxist forces.

According to Lt. Gen. William Yarborough the major political *faux pas* of which South Africa was guilty was probably the result of that country's unfamiliarity with the brutal nature of big-power politics. On 14 October 1975 a South African armoured strike force crossed into Angola at the secret request of senior US officials to launch a whirlwind campaign that brought the much stronger Communist forces to the verge of defeat. However, on 19 December 1975 the US Senate, by a vote of 54 to 22, imposed a ban on all further American assistance, overt or covert, to the anti-communist forces in Angola.

The South African forces and their Angola UNITA and FNLA allies, poised to take Luanda and destroy the remaining communist strongholds, suddenly found themselves stranded with their American support withdrawn at the crucial moment. Unwilling to fight the entire communist bloc alone, the South African troops were withdrawn the following month, leaving way open for the seizure of one of Africa's richest and strategically important territories by Moscow's

proxies—the MPLA, Cubans and East Germans. On 31 March 1976 the UN Security Council denounced South Africa and not Cuba as the aggressor in Angola, while the US failed to veto the resolution knowing that the allegation was untrue and that the US was an indirect partner to South Africa's participation in the war.

According to General Yarborough those who had covertly urged South Africa into the war, afterwards conveniently forgot that they had done so and joined in the condemnation of South Africa. In attempting to emerge from the Angolan debacle with as little embarrassment as possible, Secretary of State Kissinger denied in a written statement that the U.S. had any role whatsoever in South Africa's intervention in Angola, and said that the U.S. had even publicly condemned that intervention. That was the general state of affairs in military co-operation between the two countries before Carter took over the White House.

5.3 Nuclear Co-operation:

The South African Atomic Energy Board (AEB) was formed in 1949, and is one of the founder members of the International Atomic Energy Commission. On the recommendation of the AEB the detailed planning of an atomic energy research and development programme for South Africa was begun in the late 1950s.

The commencement of a formal programme of nuclear co-operation between South Africa and the United States dates back to July 1957 when the two countries signed a ten-year agreement on the peaceful uses of atomic energy. According to Sanford Greenberg this agreement resulted in the U.S. Atomic Energy Commission's making available to South Africa:

(a) up to 500 kilograms of 20 percent enriched uranium for fueling power reactors;

(b) up to 6 kilograms of 90 percent enriched uranium for use in a materials-testing reactor; and

(c) research quantities of U-233, U-235 and plutonium.

From 1960 onwards senior staff members of the South African AEB began to proceed to various overseas nuclear establishments for prolonged periods of training in advanced nuclear technology, including the Argonne National Laboratory in Illinois and the Oak Ridge National Laboratory in Tennessee.

In 1961 a $100,000 grant was awarded to the Bernard Price Institute of Geophysical Research at the University of the Witwatersrand in Johannesburg to help improve methods of monitoring nuclear testing.

In 1964 the main facility of the South African AEB was inaugurated. That is the Oak Ridge-type research and materials-testing reactor, SAFARI-1, at the National Nuclear Research Centre at Pelindaba near Pretoria. According to testimony by George Houser, at the U.S. House of Representatives Hearings:

(a) many South African staff members were trained at Oak Ridge;

(b) Oak Ridge supplied a consultant for the Pelindaba reactor;

(c) the director of Oak Ridge was an honoured guest at the inaugural ceremonies;

(d) the United States supplied the enriched uranium to start the reactor; and

(e) nine American organizations were involved in the project, with the major contractor being Allis-Chalmers.

In 1967, the 1957 agreement for U.S./South African co-operation was renewed for another ten years. According to the NSSM-39 study: ". . . the South African Government (then) informed the U.S. that it would do nothing in its uranium transactions to increase nuclear proliferation. South Africa has played a constructive role as a permanent member of the Board of Governors of the International Atomic Energy Board."

In 1970 it was announced by the South African AEB that its scientists have developed a new process for the enrichment of uranium, and a pilot plant established by the Uranium Enrichment Corporation at Valindaba near Pretoria has since successfully proved the commercial viability of the process. In 1973 the Nixon Administration signed contracts with South Africa under the new ten-year agreement to supply enriched nuclear fuel for a planned nuclear power station in South Africa. However, after the U.S. declined to participate in the project, the SA Electricity Supply Commission announced in 1976 that the contract had been awarded to a French consortium. At present the nuclear power station, named Koeberg, is being constructed on the farm Duynefontein between Cape Town and Saldanha Bay, and is expected to come into operation by the end of 1982. It is still unclear whether the Carter Administration is willing to honour the contract signed in 1973.

5.4 Space Co-operation:

Although no programme of research by means of space probes has been carried out, scientists of the South African Council for Scientific and Industrial Research (CSIR) have for long participated in research based on space programmes of other countries. Space tracking in South Africa started in 1957 when the CSIR determined the orbit of the first Russian satellite, Sputnik I.

Space co-operation between South Africa and the United States also started in 1957. In September 1960 agreement was reached between the two countries on three facilities of the US National Aeronautical and Space Administration (NASA) in South Africa. The agreement covered:

(a) a minitrack radio tracking station established under an agreement in 1957;

(b) a camera optical tracking station established in 1958; and

(c) a deep space probe radio tracking station at Hartbeeshoek near Johannesburg (operated by the CSIR on behalf of NASA)

In June 1962 agreement was also reached between the two countires for the establishment of a US military space tracking station in South Africa. According to Schlesinger the US agreed to sell to South Africa as part of the bargain arms for use against communist aggression.

NASA held the Deep Space Tracking Station in South Africa in very high regard. In a confidential memorandum submitted to the Nixon Administration in July 1969 the following was said:

"The South African NASA tracking facility is a vital element in a global network of stations which provides the total communication link with out planetary-bound flight spacecraft. These stations perform three basic functions necessary to mission success tracking—the determination of the precise position and speed of the spacecraft; data acquisition—the reception of information on both scientific experiments and spacecraft "health"; and command and control—the transmission of radio signals to the spacecraft to provide the many instructions necessary in the performance of the flight mission.

The NASA station was located at South Africa both because it had the proper geographic location in relation to the other stations of the Deep Space Network (which are spaced 120 degrees apart) and because it is uniquely located to allow the precise tracking of Cape Kennedy-launched spacecraft during the critical phase just after the spacecraft are placed into planetary bound trajectories (post-injection phase). The tracking information obtained during this phase is used to determine the exact midcourse corrections to be made to the spacecraft's flight path in order to achieve planetary intercept. While trajectory paths will vary somewhat with each mission, the South African station is optimumly located to perform this task for all missions.

As the complexity of NASA's Planetary Programs increase by such new missions as the dual orbital spacecraft of the planet Mars in 1971 and a flyby spacecraft of the more distant planet Jupiter in 1972, even greater tracking precision will be required. Thus, the South African station will play even more of a key role during the critical early post-injection phase.

In addition to its unique launch support role, the South African station also is located to operate in conjunction with other deep space stations around the globe to assure continuous communication to spacecraft. During certain periods the plant positions in the ecliptic place become quite southerly, as in the case for the Mars missions in 1969 and 1971 and Jupiter in 1972. Spacecraft flying to the planets during these periods usually depart from earth in a far southerly trajectory. As a result, for a period of a few months they are viewed primarily by only the Southern Hemisphere stations, South Africa and Australia, both of which are essential to achieve adequate ground tracking, data acquisition, and command support.

Therefore non-availability of the South Africa station would impose serious mission operational constraints and would degrade ground tracking support to a high risk condition."

Despite the importance attached to these installations, American space tracking operations in South Africa ceased in 1975, and some of the facilities were taken over by the CSIR.

6. U.S. reliance on South African strategic minerals

The strategic importance of southern Africa (wherein the RSA is the kingpin) is nowhere better illustrated than by the importance of the massive mineral wealth concentrated by some freak twist of nature on the southern African subcontinent. For the U.S., which is the world's leading consumer of minerals, this is of paramount importance. Although the U.S. is also the world's leading producer of minerals, it is nevertheless dependent on the large scale importation of most minerals. With regard to the U.S. dependence on the RSA in this regard, Lake states the following: ". . . U.S. reliance on the other important materials listed above (minerals) is declining. It either produces them synthetically or has large quantities stockpiled." Also in this regard Ferguson and Cotter have the following opinion: "The other main Western economic interest—in South Africa's gold, chrome, diamonds and iron ore—is considerable. But, arguably, long-term access to these can best be safeguarded by dissociation from the present regime."

The authors apparently have little knowledge concerning the importance and "manufacture" of minerals, and Third World politics. There are fortunately others in the U.S. and among its allies who realize the importance of the continued friendship with mineral producing allies, and who are also more knowledgeable about the U.S. and its allies' crucial dependence on imported strategic materials.

Taking statistics available for five principal minerals, bauxite (for making aluminum), copper, lead, zinc and iron ore, the following figures show the dependency of the U.S. major NATO allies and Japan on imported metals, (figures refer to 1968).

| | Bauxite | Copper | Lead | Zinc | Iron ore |
|---|---|---|---|---|---|
| West Germany | 100 | 97 | 72 | 46 | 86 |
| United Kingdom | 100 | 100 | 93 | 100 | 56 |
| France | 11 | 100 | 75 | 90 | 8 |
| Japan | 100 | 66 | 55 | 61 | 93 |
| United States | 88 | 32 | 19 | 51 | 34 |

In contrast, the USSR exports iron ore, manganese, lead, zinc and aluminum. Hungary and Poland also export ores. Thus, the Soviet military alliance is very largely self-sufficient in minerals. A similar pattern emerges for energy. The USSR enjoys a surplus, whereas the principal NATO allies and Japan all have deficits. The US is least dependent on energy imports, Japan almost totally. The position of the UK is improving as a result of North Sea oil production.

The growing appreciation of America's dependence on imported strategic minerals and of the problems association with securing adequate supplies of such materials is well illustrated by the following statement from the US Geological Survey publication, Resource Perspectives 1975: "The entire US economy is based on minerals. In 1972, the last full year prior to the pinch of the oil embargo, domestic raw materials valued at $32-billion were converted into energy and processed materials, the value of which exceeded $150-billion and formed the basis of a Gross National Product of $1.1-trillion."

The report adds: "The United States continues to be ever more dependent on foreign sources of supply for essential raw materials. Forecasts for the year 2000 indicate that we shall then be completely dependent on imports for 12 commodities, more than 75 per cent dependent for 19 commodities and more than 50 per cent dependent for 26 commodities."

The following table gives an indication of the US dependence on imported minerals.

PERCENTAGE OF U.S. MINERAL REQUIREMENTS IMPORTED IN 1975 FROM MAJOR FOREIGN SUPPLIERS

| Commodity | Percentage of needs imported by United States | Ranked major foreign suppliers |
|---|---|---|
| 1. Columbium | 100 | Brazil, Thailand Nigeria. |
| 2. Mica sheet | 100 | India, Brazil, Malagasy. |
| 3. Strontium | 100 | Mexico, United Kingdom, Spain. |
| 4. Manganese | 99 | Brazil, Gabon, Australia, South Africa. |
| 5. Cobalt | 98 | Zaire, Belgium, Finland, Norway, Canada. |
| 6. Tantalum | 95 | Thailand, Canada, Australia, Brazil. |
| 7. Chromium | 91 | South Africa, U.S.S.R., Turkey, Rhodesia. |
| 8. Asbestos | 86 | Canada, South Africa. |
| 9. Aluminium | 85 | Jamaica, Surinam, Australia, Dominica. |
| 10. Fluorine | 82 | Mexico, Spain, Italy. |
| 11. Bismuth | 80 | Peru, Japan, Mexico, United Kingdom. |
| 12. Platinum group metals | 80 | South Africa, United Kingdom, U.S.S.R. |
| 13. Tin | 75 | Malaysia, Thailand, Bolivia. |
| 14. Mercury | 73 | Canada, Algeria, Mexico, Spain. |
| 15. Nickel | 71 | Canada, Norway. |
| 16. Zinc | 64 | Canada, Mexico, Australia, Honduras, Peru. |
| 17. Tellurium | 59 | Peru, Canada. |
| 18. Selenium | 58 | Canada, Japan, Mexico. |
| 19. Antimony | 56 | South Africa, China, Bolivia, Mexico. |
| 20. Tungsten | 54 | Canada, Bolivico, Thailand, Peru. |
| 21. Cadmium | 50 | Mexico, Canada, Australia, Belgium. |
| 22. Potassium | 49 | Canada. |
| 23. Gold | 45 | Canada. Switzerland, United Kingdom, France. |
| 24. Gypsum | 39 | Canada, Mexico, Jamaica. |
| 25. Vanadium | 36 | South Africa, Chile, U.S.S.R. |
| 26. Barium | 35 | Ireland, Peru, Mexico. |
| 27. Petroleum | 35 | Canada, Venezuela, Nigeria, Saudi Arabia. |
| 28. Silver | 30 | Canada, Mexico, Peru. |
| 29. Iron | 29 | Canada, Venezuela, Japan, Europe Common Market. |
| 30. Titanium | 28 | Canada, Australia. |
| 31. Salt | 6 | Canada, Mexico, Bahamas, Chile. |
| 32. Pumice | 5 | Greece, Italy. |
| 33. Lead | 4 | Canada, Peru, Australia, Mexico. |
| 34. Natural gas | 4 | Canada. |
| 35. Magnesium | 3 | Greece, Ireland, Japan. |

The Executive Vice-President of the U.S. Industrial Council, Anthony Harrigan, links this dependence on minerals to the importance of South Africa as a prime source of strategic minerals and states: "The United States is increasingly dependent on South Africa for strategic materials as it imports more than one hundred minerals—16 of them in very large quantities. If the Soviets are successful in detaching these resources, they will have struck a massive, possibly devastating blow to the West. And these resources, together with the very substantial resources of Rhodesia and South West Africa, would give the Soviet totalitarian order a bigger boost than any other in its history."

According to a study on Africa's Resources submitted by the U.S. African Affairs Advisory Council in 1971, a major porportion of the world's reserves of a few commodities important to U.S. strategic or economic needs are contained in Africa. The study found that most of these commodities "are found primarily in almost unique concentrations in southern Africa" and concluded that the U.S. may in the long run have to turn more to southern Africa for its chromite and other critical minerals. The U.S. is already dependent primarily on South Africa (in 1968–69 figures) for 40 per cent of its antimony, 38 per cent of its chrome ore and more than one-third of its platnium group metals, as well as 85 per cent of its uranium oxide imports. The study concluded that South Africa will probably be the future U.S. source for other minerals such as manganese and vanadium. The key minerals exported from South Africa to the U.S. is noted in the following table:

*Key minerals exported from South Africa as a percentage of U.S. imports*

| | |
|---|---|
| Antimony ore | 43 |
| Chrome | 30 |
| Chromite | 21 |
| Ferrochrome | 35 |
| Copper | 6 |
| Ferromanganese | 36 |
| Platinum group metals | 48 |
| Vanadium | 57 |
| Vermiculite | 100 |

South Africa has been most richly endowed with an immense variety of mineral resources, and is the world's major producer of precious metals and minerals, including gold, platinum metals, and gem diamonds. It also has vast resources of other important industrial minerals such as fluorspar, asbestos, limestone, phosphates and vermiculite. It has the world's largest reserves of important ferrous metals such as manganese, chrome and vanadium, has vast reserves of high-grade iron ore and almost unlimited resources of medium- and low-grade iron ore, and has smaller but significant resources of other ferrous metals such as nobium, tantalum, tungsten and Molybdenum. South Africa is already a significant producer of copper, and it is expected that this production, together with that of lead and zinc, will increase dramatically as a result of the recent discovery of a vast new metallogenic province in the north-western Cape Province. The country also has relatively large, though low-grade, reserves of coal, and ranks among the top three or four countries in the world in terms of known uranium reserves.

The following two tables give an indication of South Africa's importance to the United States and to the West in terms of both known reserves and actual production:

SOUTH AFRICAN RESERVES AS A PERCENTAGE OF WORLD RESERVES IN 1975

| Mineral | World ranking | World | Percentage non-Communist world |
|---|---|---|---|
| Platinum | 1 | 86 | 99 |
| Chrome ore | 1 | 83 | 84 |
| Vanadium | 1 | 64 | 96 |
| Gold | 1 | 49 | 61 |
| Manganese ore | 1 | 48 | 84 |
| Fluorspar | 1 | 46 | 50 |
| Diamonds | 2 | 8 | 92 |
| Nickel | 3 | 10 | 12 |
| Uranium | 4 | 17 | 30 |
| Zinc | 4 | 9 | 9 |
| Phosphate rock | 4 | 8 | 8 |
| Asbestos | 5 | 10 | 14 |
| Antimony | 5 | 4 | 10 |
| Lead | 5 | 4 | 5 |
| Iron ore | 6 | 4 | 6 |
| Coal | 6 | 2 | 4 |
| Titanium | 8 | 2 | 40 |

SOUTH AFRICAN MINERAL PRODUCTION AS A PERCENTAGE OF WORLD PRODUCTION

| Mineral | World ranking | World | Percentage non-Communist world |
|---|---|---|---|
| Vanadium | 1 | 46 | 58 |
| Gold | 1 | 59 | 74 |
| Platium | 1 | 55 | 88 |
| Antimony | 1 | 21 | 31 |
| Chrome ore | 2 | 30 | 47 |
| Manganese | 2 | 24 | 41 |
| Diamonds | 3 | 17 | 22 |
| Urnaium | 3 | 13 | 13 |
| Asbestos | 3 | 10 | 19 |
| Nickel | 7 | 3 | 4 |
| Fluorspar | 8 | 5 | 6 |
| Coal | 9 | 2 | 5 |

Because of South Africa's large share in the world production of many minerals, the West was the leading producer in 1975 of gold (73 per cent of total value of production), vanadium (71 per cent), uranium (65 per cent), nickel (64 per cent), the platinum group metals (60 per cent), asbestos (58 per cent), zinc (57 per cent), lead (53 per cent), copper (46 per cent), phosphate rock (44 per cent), fluorspar (43 per cent), and iron ore (41 per cent). The Communist World was the most important producer of three commodities—bituminous coal (51 per cent of total world production), manganese (38 per cent), and chrome ore (37 per cent). The Third World was the leading producing bloc of tin (75 per cent of total world production), industrial diamonds (57 per cent), and antimony (38 per cent).

What the position of the Western World would have been in 1975 without South Africa's contribution of these 18 strategic mineral commodities is clear. South Africa was responsible for more than 10 per cent of the total Western production of half of these minerals—the platinum group metals (88 per cent), gold (74 per cent), vanadium (58 per cent), chrome ore (47 per cent), manganese ore (41 per cent), antimony (31 per cent), industrial diamonds (22 per cent), asbestos (19 per cent), and uranium (13 per cent).

Had Africa been excluded from the Western bloc, the latter would have been at a

serious disadvantage against the Communist World in the case of gold, the platinum group metals, industrial diamonds, antimony, chrome ore, and manganese ore. That the West can ill afford to ignore its dependence on South Africa in the supply of adequate quantities of essential minerals is therefore also clear. In 1973, despite the fact that the Western World produced 42 per cent of the total value of world mineral production, it was able to meet only 65 per cent of its consumption requirements. Had it not been for South Africa's contribution, production would have fallen to well below 50 per cent of the mineral needs of the West.

The Third World and the communist bloc, with its considerable excess of production over consumption, could be in a position, once again, to hold the West in ransom.

The truth of this last statement is borne out by the question of US importation of chrome. In May 1968 President Johnson issued an Executive Order which prohibited importing all Rhodesian commodities and products, including chrome. Just before the enactment of the Byrd amendment in 1971, the Soviet Union (because it enjoyed a near monopoly of the chrome market) raised the price of its low-grade chrome ore by 188 per cent from $25 per ton to $72 per ton. At that time there was also strong evidence that the Soviet Union was breaking UN sanctions and was importing highgrade Rhodesian chrome and exporting its own low-grade chrome to the US. After the US resumed importing of Rhodesian chrome in 1972, prices declined to normal levels.

However, beginning in 1975 when there appeared to be a strong drive for the repeal of the Byrd amendment in the US Congress, the Soviet Union and Turkey immediately increased chrome ore prices, and in 1975 Russian metallurgical grade ore was quoted at $160 per ton. In the light of all this, Crane states the following: "It is positively moronic in 1977, to depend on the Soviets for chrome ore and also ask the American taxpayers for $121-billion for national defense, the primary purpose of which is to safeguard and defend the nation against possible Soviet aggression. Somehow, somewhere, someone has calculated that Soviet chrome is less blemished with violations of human rights than Rhodesian chrome, and that the Soviet Union is less of a threat to world peace than Rhodesia."

This contention is today equally true with regard to the Carter Administration's attitude towards South Africa!

7. Summary of relations up to 1976

Relations between South Africa and the United States after World War II have fluctuated as a result of a variety of factors, including these:

1. The National Party victory in 1948, and its continuous rule since has resulted in an official policy based on the recognition of ethnicity and the separation of races in the political, economic and social structures of the country. This policy has been anathema to most of the world ever since, and provided for a major strain on US/South African relations, with the extent of opposition and condemnation reflecting different U.S. administrations.

2. The Truman era was followed by eight years of relatively conservative Republican administration under Eisenhower, during which relations between the two countries were largely cordial. That was followed by eight years under Kennedy and Johnson, during which relations became much more strained. For the first time the US came out strongly against South Africa's policies, and also took specific action to demonstrate its opposition to those policies. Relations between the two countries improved again during the eight years of Republican administration under Nixon and Ford. There was, however, a tendency during the last two or three years of that period, particularly under the influence of Kissinger to persuade South Africa to aid the US in attempts to reach some settlement in Rhodesia and South West Africa.

3. Developments within South Africa, and in particular incidents like Sharpeville and the adoption of stringent security measures in the early sixties, induced a noticeable hardening of the US attitude towards Pretoria.

4. The race relations situation within the US itself during the late fifties and early sixties, notably the civil rights campaign, also exerted some influence on relations between the two countries.

5. Developments within the international system following World War II, also forced certain adaptations in US policy towards South Africa. These include the rapid process of de-colonisation in the Third World which drastically altered international relations in general, the composition of the UN General Assembly, and relations between the major powers. These developments necessitated a reevaluation of US foreign relations, and in its bi-lateral relations, leading to further hostility towards South Africa to appease the Third World countries.

6. Soviet expansionism during the period following World War II, the fall of Eastern Europe to communism, the Korean War, the continuing march of communism in South East Asia, and increasing Soviet subversion and direct intervention [and aggression] in Africa, brought a small measure of reality back into US perceptions of South Africa's strategic role and position. However, during the last part of the Ford administration, the US once again showed its by now characteristic reluctance to physically demonstrate its intentions towards communist expansion, as was clearly seen in its inability to act positively during the Angola civil war and the Marxist take-over of that country.

Part II is devoted to an anlysis of US policies and actions towards South Africa during the first fifteen months of the Carter Administration, and the marked increase in the intensity of its anti-South Africa policies which evolved the South African Prime Minister's pointed remark that "the United States want to strangle us with finesse." It is clear, however, that despite this drastic increase in intensity, these policy changes do not demonstrate a complete departure from earlier US policies toward South Africa, but merely the intensification of a latent anti-South African posture among certain powerful US policy influences and policy-makers. This spirit had been latent and becomes overt from time to time, but did not have the opportunity to manifest itself fully to the extent that the Carter Administration allowed it to do.●

## CUBA'S MILITARY ADVENTURES

● Mr. EAGLETON. Mr. President, much has been written about Cuba's military operations in Africa, especially in Angola and more recently in Ethiopia. I believe that an article by Hugh Thomas in the Christian Science Monitor of March 17, 1978, is a very perceptive one and ask that it be printed in the RECORD.

The article follows:

CUBA'S MILITARY ADVENTURES

(By Hugh Thomas)

Cuba always has differed from other Communist states in the emphasis which she has given to military matters.

It used to be supposed that this was the inevitable consequence of her undeclared war with the United States; but nearly 10 years ago Réné Dumont and K. S. Karol already were pointing out the importance of the Cuban army in the sugar harvest.

A careful look at the names on the central committee of the Communist Party shows that army officers predominate there. Where else than in Cuba would the Minister of Education have risen to that role through the Army, having been at one time head of the combat readiness department of the armed forces?

In recent years, Premier Fidel Castro has come to be referred to in the Cuban press as "Commander-in-chief Fidel Castro" (in place of "Doctor" or "Maximum Leader") and that press constantly depicts military scenes or the arrival or departure of some minister of defense from other countries of the Communist world.

POWERFUL ARMED FORCES

The Cuban armer forces are now larger and more powerful than those of all the East European Soviet satellites except for Poland (whose population is four times Cuba's) and far more formidable than those of her Latin American neighbors—even than Mexico, Venezuela, and probably Brazil. This military side to the regime in Cuba partly derives, no doubt, from the fact that Premier Castro and his colleagues were the victors in a civil war (as Tito was in Yugoslavia). The Cuban Government also relies on frequently evoked reminders of the struggles of Cuba against Spain in the 19th century and of the years of "struggle" against the dictators Machado and Batista in this century.

Dr. Castro, like other Caribbean radicals, always has seemed to like guns. His first appearances on the Caribbean scene in the 1940s were all associated with improbable armed expeditions, inside and outside Cuba—at Cayo Confites and in Colombia, in the University of Havana, and then outside the Moncada barracks. Dr. Castro was always the man who put his faith in guns. "As long as there is a revolutionary with a gun, no cause will ever be lost," he told senior officers in the army in December, 1976, after four days of maneuvers, dutifully adding: "We feel increasingly grateful toward the Soviet Union which provided us with these magnificent weapons and taught us how to use them" (Gramma, Dec. 19, 1976). Revolution, Dr. Castro told the Cubans after the failure of the Bay of Pigs in 1961, had not given the people votes; it had given them guns.

COMMUNISM OF MARS

Cuba is thus not a Euro-Communist state; it is not a "revolution with pachanga" (as Guevara said of it in 1960); it does not have *Fidelista* communism. It has a military communism, the communism of the war god Mars.

One obvious purpose of this substantial military investment has become clearer since 1975. Thwarted of his expressed dream in 1960 of converting the Andes into the Sierra Maestra of the Latin American continent, Dr. Castro has been happy, after the collapse of the Portuguese empire, to carry the idea of revolutionary struggle to Africa, in which Cuba always has been interested.

Indeed, the first Cuban involvement in Africa which came to public knowledge was as long ago as the 1964 revolution in Zanzibar. Che Guevara was active in the Congo (as it has since become known) before he went off to his death in Bolivia in 1967. Revolutionary leaders from Africa were welcome in Havana from the early days of the Cuban Revolution, and many have had military training in Cuba. It may be that some of these interests were pursued independently of Soviet policy; but on the whole, it would seem very improbable indeed that, with its economy tied closely to that of the Soviets, Cuba has ever done anything abroad which

has not had Moscow's approval. The Soviet Union herself has been preoccupied by military power in the last few years.

CASTRO'S PERSONAL INTEREST

That does not mean, of course, that Dr. Castro may not have been personally interested in an African military adventure; that had he been against such an adventure, he would not have found means of opposing it (as Eastern European leaders would have done if a similar project had been put to them); or even that he may not even have been responsible, or partially responsible, for formulating the idea of sending troops to Africa. For Dr. Castro has high political gifts, imagination, and daring which must be a breath of fresh air in orthodox Kremlin circles.

The Cuban adventure in Africa began in earnest with the commitment of several thousand troops to assist the MPLA (the Marxist national movement) in Angola in late 1975. Since Cuban troops previously had been noticed on a small scale in places as diverse as Vietnam and Syria, little attention was (to begin with) paid to the Cubans in Africa. Then it turned out that the troops numbered well over 10,000; and it soon became obvious that they were the essential element in assuring that the Soviet Union's candidate in the Angolan civil war would be the victor.

WIDESPREAD AFRICAN PRESENCE

Subsequently, the continued (and in November, 1977, reinforced) Cuban military presence (of perhaps 20,000 troops with 4,000–5,000 civilians) has enabled the Angolan leader Agostinho Neto to remain in power, Cuban support being decisive in suppressing the attempted coup d'état of May 27, 1977.

Cuban troops have been observed, either in the form of military missions or combat assignments, in numerous African countries, including Ethiopia and Mozambique, and with the Polisario forces in Sahara. (The Algerian-backed Polisario guerrilla movement is fighting for the independence of the Western Sahara, a former Spanish colony partitioned by Morocco and Mauritania.) They are also in the (South) Yeman. It may be that Cubans using Soviet weapons saved Ethiopia from defeat by the Somalis in November, 1977. In Tanzania, there is a Cuban medical mission.

The Cuban investment in Africa is an enormous one for a country of 9 million people. The burdens obviously are being felt in Cuba itself: in September and October, the Cuban minister of Health spoke of defects and delays in health service, and Dr. Castro spoke of shortage in the schools. The 4,100 Cuban civilian technicians whom Castro last July mentioned as serving abroad (mostly in Africa) are said to have risen to 6,000 by December, 1977, doctors in particular going to Ethiopia and Angola. Some would say that they are needed at home. Still, Cuba will continue her "internationalist duty."

CASTRO'S TOUR

How long will these difficulties be able to be fobbed off? And when will the discontent that many already are feeling because of a seemingly endless African commitment, including deaths, merge with irritation at the cost of the commitment? Is the recent crime wave to which Castro drew attention (in a speech on Sept. 28) a symptom of this?

Dr. Castro went to central Africa personally for the first time in 1977, although he often had been to Algeria before.

He arrived in Algeria from Cuba on March 1, 1977, and went immediately from there to Libya, Somalia, (South) Yemen, Ethiopia, Tanzania, Mozambique, and Angola. He stayed longest in Libya, being there fully 10 days—March 1–12. He returned home after a second two-day visit to Algeria, via East Germany and the Soviet Union, being away altogether six weeks. Almost everywhere he spoke, although not always for very long. The speeches did not differ greatly from place to place and were often rubbish. In Somalia he said:

"It is 5:45 in the evening. In Cuba it is 9:45 a.m., but the same sun shines over us. . . . There is another sun which shines over us, the sun of revolution and socialism—a sun which is rising all over the world. There is a dawn for this sun but there will never be a dusk. . . ."

SIMPLE, OLD-FASHIONED SPEECHES

After that, the President of Somalia presented Castro with the S[illegible]alian star, first class, an order which, as things have turned out, he cannot be very pleased with now that Somalia has gone to war with Cuba's main ally in East Africa, Ethiopia. In Ethiopia Dr. Castro watched a musical depicting the iniquities which had occurred during the reign of Emperor Haile Selassie and seems not to have spoken.

He was particularly well-received in Tanzania. In Angola, he spoke several times, making use of a simple old-fashioned language which seems to have gone down well:

"Luanda is to the Angolan Revolution what Paris was to the French Revolution and Leningrad was to the glorious Russian Revolution." And:

"What did colonialism leave in Africa? Nothing. We have toured Africa, rather a part of Africa, in the past few weeks, and what we have seen disturbs us very much. The colonialists exploited this continent for centuries, and exploited its sons and daughters . . . there are no (sic) doctors or hospitals . . . how can anyone expect a neocolonialist people to do anything to benefit the African peoples? In Cuba and Angola we . . . don't speak of socialism alone, we speak of scientific socialism."

ONE HOPE AND FRIEND

Back in Europe, he said: "Although the DDR (East Germany) was not on the itinerary of our trip . . . toward the end I said, 'Let's go pay a visit to the DDR.'" In East Berlin, Dr. Castro made a long public report on his African journey, and expressed great satisfaction that so many countries were proceeding directly from tribalism and nomadism to socialism:

"Dear comrades of the DDR, on this trip I was also able to see the great confidence the undeveloped nations, the nations of Africa, the countries which lived under colonialism, have in the socialist camp and especially in the Soviet Union. They know that in their struggle . . . they have only one hope and friend . . . the socialist community headed by the Soviet Union." China, of course, could not ranked as a possible friend, since, in a recent debate in the UN, her representatives had called the Cuban "mercenaries" in Angola and had spoken of the Soviet Union's "ruthless offensive there."

Finally, in Moscow, Dr. Castro had two days of discussions with the Soviet leaders, and with other friends of the cause, such as (head of the Palestine Liberation Organization) Yasser Arafat, in Moscow at that time, and Luis Corvalan, the secretary-general of the Chilean party, as well as Cuban students studying in Moscow.

SOVIET, CUBAN AGREEMENT

During these discussions, Communism Party Secretary Leonid Brezhnev "expressed his great appreciation for the 'foreign policy activities' of the Republic of Cuba, pointing out . . . that its authority on the international scene had increased."

The communiqué spoke of "complete agreement of views" between the Soviet and Cuban Governments on what had been discussed. Dr. Castro at a banquet given in his honor complained of the "ludicrous hypocrisy" of the "imperialist leaders" in speaking of "human rights," adding that in Africa he had been able to see for himself (keen-eyed observer that he is) that "bourgeois ideology is totally discredited and totally bankrupt." At all these occasions in the Soviet Union, Dr. Castro, like his hosts, made verbal concessions about the desirability of détente, although how he manged to contemplate such a concession to a system which he regards as "sweating blood through every pore" is hard to see.

NO POLICY DIFFERENCES

Several conclusions seem to follow, Dr. Castro's own speeches suggest that any difference between Soviet and Cuban policy toward Africa simply does not exist. Anyone who continues to argue that there is such a difference is telling us more about himself than the world. The fact that Dr. Castro's journey to Africa seemed to interfere with, perhaps even upstage, the visit of (then Soviet) President Nikolai V. Podgorny a day or two later, must be irrelevant. Dr. Castro may on occasion have suggested or initiated certain lines of Soviet policy. But it will remain *Soviet* policy.

Dr. Castro himself may welcome this great new thrust for his foreign policy, but his dependence on Soviet transport, weapons, equipment, and fuel prove that essentially the Cubans are Moscow's sepoys in Africa. The Soviet Government perfectly appreciates that the international reaction might be hostile—even considering the enfeebled state of the West—if Soviet infantry were sent to Africa.

But Cubans are internationally popular and many fewer people will complain. Many people want so very much to believe that the Cubans are paladins of freedom. Is this part of a payment by Cuba for Moscow's 17 years of economic and military assistance? It looks like it.

COORDINATING TERRORIST SUPPORTERS

No. doubt, too, Cuba plays a definite part in coordinating the Soviet Union's relations with states such as the (South) Yemen, Libya, and North Korea, which give active support to terrorism. Terror was not part of Dr. Castro's own rebellion against Colonel Batista; but, since 1959, many well-known terrorists have been trained in Cuba, from "Carlos" downwards. When in Africa, Dr. Castro spent a long time with Muammar al-Qaddafi in Libya, and, as earlier mentioned, he saw PLO leader Yasser Arafat in Moscow.

The success of Cuba in Angola in putting into effect Soviet policy must surely suggest to the Soviet Union that, in similar situations in the future, another Cuban expeditionary force may be equally useful. If, for example, there were to be a breakdown in Spain, an eventuality I admittedly regard as improbable, the Cubans probably would turn up there in a very short time as the revolution's roving expeditionary force. "International public opinion" would be neither greatly shocked nor hostile.

Cuba's revolutionary drive—although active for the first time among those very Caribbean states such as Jamaica with whom in the past, for cultural and linguistic reasons, she had nothing to do—has little more to contribute in Latin America. That continent is being left (by Moscow and Havana) to "stew in its imperialist juice" for the time being.

CAPACITY FOR WAR, NOT HUMANISM

But the revolution which was launched in 1959 to free a Latin country from U.S. tutelage has now caused Cuba, financed and equipped by a Eurasian power, to become the spearhead of insurrection in Africa. Although Cuba always has had a surrealistic quality, few would have supposed such a fantasy possible in the past. The Cubans seem to be quite uninterested in letting the chance of improved relations with the United

States affect what they say is their "internationalist" duty in new parts of the world.

Obviously Cuba is a long way from being that exemplary revolutionary state which her many friends assumed she was going to be in those heady days of 1960 and 1961. She is unique in the Communist world for her capacity for war, not for her humanism. She is unique in the Americas as a state whose leaders are willing if not anxious to intervene in the affairs of far-off nations of which previously she knew nothing. And the Caribbean verve, drive, and youthful enthusiasm, which visitors to Cuba always have noticed and which, despite everything, seem to survive, seem entirely at the orders of her implacable (white, Slav, and septuagenarian) paymasters.●

## THE INDIANAPOLIS SYMPHONY ORCHESTRA

● Mr. LUGAR. Mr. President, the Indianapolis Symphony Orchestra, one of the Nation's truly outstanding orchestras, will be performing Sunday, April 16, at 8:30 p.m. in the Kennedy Center.

This distinguished orchestra, directed by John Nelson, is in its 48th season. The performance in Washington is 1 of 15 in the annual spring tour of the orchestra which also will include an engagement in Carnegie Hall.

Founded by Dr. Ferdinand Schaefer in 1930, the orchestra has been a vital part of the cultural life of Indianapolis, the State of Indiana, and the United States.

In this season, the orchestra will perform approximately 170 concerts before more than a quarter of a million people in concert halls, high schools, malls, churches, and city parks.

The orchestra members have been especially effective in reaching youth. The popular Lolli-Pop concerts, designed as first adventures in music, are presented throughout the city and State, and the orchestra includes audience participation and demonstrations of the various instrument sounds. Other special attempts to work with youth include the special "Symphony in Color" art contests, the Bach to Rock Concert, and the Young Artist Concerts.

With special funding from the city of Indianapolis, approximately 10 free municipal concerts are held in the city's parks. This offers many the chance to bring blankets and picnics and to listen to music under the stars.

The orchestra performs often during the noon hour at several Indianapolis downtown locations for the benefit of thousands of citizens who enjoy the performance while eating lunch.

The orchestra comes to the Kennedy Center during a period of unprecedented success. I look forward to hearing a great performance this Sunday.●

## SOLAR ENERGY

● Mr. McGOVERN. Mr. President, solar energy will be one of the major sources of energy for the world within the next 50 years. Development of this needed energy source has been slowed in the United States by the lack of strong positive action by the Federal Government.

Europe appears to be opening up a lead on us in the development of solar energy.

Mr. President, I ask that "Europe: A Burst of Energy in Solar Heating," published in the March 6, 1978, issue of Business Week, be printed in the RECORD. It includes an excellent summary of recent developments in solar energy in Western Europe.

The material follows:

EUROPE—A BURST OF ENERGY IN SOLAR HEATING

Like the U.S., Europe has been socked this winter by blizzards and bone-chilling cold. For the Continent's fledgling solar energy industry, however, soaring fuel bills are good news. From West Germany and Sweden to France, Italy, and Switzerland, hundreds of companies are eagerly venturing into what its advocates tout as one of the hottest growth prospects of the late 1970s. Solar-market analysts foresee double-digit growth through 1985 in annual sales of home hot-water systems, heating and cooling units, and, ultimately, solar electric components.

Though the business is unfolding at varying rates across the Continent, West German and French companies are in the lead. Starting from scratch two years ago, some 500 West German producers, suppliers, and installers of solar collectors have mushroomed to annual sales of $20 million in 1977. "We are reckoning with double to triple that figure this year," says Alex Urbanek, an official of Munich's Solar Energy Association. Though most are tiny, local service components, heavyweights such as Robert Bosch (which has designed a gas-assisted solar system for home heating and hot water) and Messerschmidt-Boelkow-Blohm are gearing up projects.

At least a dozen French companies also are working on solar power plants, home systems, and photovoltaics (direct conversion of sunlight to electricity). Their 1977 sales totaled roughly $15 million. One of the more advanced companies, La Radiotechnique-Complec (RTC), a majority-controlled subsidiary of Philips of Holland, sold 5,000 of its photoelectric panels around the world last year at an average cost of $400.

USING THE SUN

Pierre-Marie Brun, RTC solar product chief, says that most customers use the units to power remote radio beacons, highway telephones, navigation buoys, and aircraft warning lights, such as those on the mountaintop approaches to Saudi Arabia's Medina airport. RTC will soon have competition from Motorola Inc., which plans to retool part of its semiconductor plant in Toulouse to produce photovoltaics.

The key to the industry's continued growth, especially in the often cloudy regions of northern and central Europe, may be government incentives to sweeten solar's appeal. Germany is expected to enact a tax credit to meet 25% of solar costs, and a British parliamentary committee has urged cash grants of up to 50%. France is spending $30 million a year on research and development aimed at commercializing its solar industry. In Sweden, where half of all oil imports are used in home heating, the government underwrites 35% of the cost of home solar units up to a maximum of $650. That could broaden the still tiny market that chemical maker KemaNobel hopes to tap in a joint venture with Euroc, Sweden's largest maker of building components.

"There's a tremendous potential," says Ulf Liljestrand, KemaNobel's solar project chief. "Stockholm gets more sunlight than Paris." He concedes two stiff obstacles: snow and "plumbers who don't like to go climbing around roofs."

BROAD INTEREST

Still, the vast increase in oil prices since 1973 has spurred many governments to action. In addition to national solar programs such as Germany's four-year, $60 million R&D effort, the European Community is putting $70 million into projects to commercialize solar collectors and sharply cut the cost of photovoltaics.

In Sicily, the EC is financing a $7 million solar electric plant built by a Europe-wide consortium to power a town of 800 by 1980. Italian companies now exploring solar projects include Fiat, Montedison, Zanussi, Ansaldo, and Metalli Industriale.

Even the snowcapped Swiss are stirring. Polisolar in Berne, one of a dozen small Swiss solar-energy companies, will "supply a $1 million solar heating and cooling system" this year at the Rome plant of Contraves Italiana, a Swiss-owned electronics and arms makers in the Oerlikon-Bührle empire. Polisolar's collectors are now being used for industrial processes, desalting, and small power plants by licensees in Spain, Sweden, and Austria.

Though the great sunbelt from Morocco to India is an enticing, already perceptible target, the largest market for Europe's solar entrepreneurs will be their 350 million fellow citizens. The French government foresees 200,000 solar-assisted homes and offices by 1981, and spokesmen for German industry project similar growth. Judging by the heady mood of solar's pioneers, the sky—the seat of the industry's principal "fuel source"—is the limit.●

## A REBUTTAL TO TECHNOLOGICAL PROTECTIONISM

● Mr. JAVITS. Mr. President, in today's Washington Post Daniel S. Greenberg has made a major contribution to the national debate on an open and free international trading system. Greenberg is, however, not talking about restrictions on the free flow of goods, but rather on the free flow of ideas, technological protectionism, as he calls it.

In attacking those who would stop the movement of technology overseas, Greenberg reminds us that much of today's R. & D. is now taking place outside the United States. He calls upon U.S. manufacturers to undertake a concerted effort to "exploit" that outside R. & D. similar to the one undertaken by many nations to exploit American-financed research.

Greenberg believes that the major difference between the United States and other nations is in the governmental commitment to "scientific and technological voyeurism." Comparing the roles of scientific attachés in U.S. Embassies abroad and in embassies of other countries, Greenberg concludes that as a matter of policy U.S. Government officials abroad are not in the "business of collecting scientific and technical data for shipment back home," which their foreign counterparts are doing.

Once again, the issue returns to whether the United States has an overall policy that extends to nontrade specific areas, which reflects a commitment to insuring technological change in U.S. industry and the promotion of exports.

Daniel S. Greenberg has effectively rebutted the arguments for intellectual protectionism by providing a positive, nonrestrictive solution. I commend this arti-

cle to my colleagues and ask that it be printed in the RECORD.

The article follows:

OUR INDOLENT PURSUIT OF FOREIGN TECHNOLOGY

(By Daniel S. Greenberg)

Listening in on the complaints that officials in industry, labor and government are making about foreign industrial competition, one gets the impression that some of them would rather curse the darkness than light a candle.

Consider, for example, one of the fastest growing themes in the protectionist camp—namely, that foreign firms are scooping up the results of vast quantities of our taxpayer-financed research and using it to innovate products that outsell domestic goods.

Is that true? You can safely bet your Japanese-made television set that it's true. Which is why the president of the International Association of Machinists and Aerospace Workers charged last year that Japan has reaped $15 billion from the purchase of $1.5 billion of American technical know-how. It's why leaders of the American electronics industry have been pushing for curbs on the export of American scientific and technical knowledge. And it's why the White House has included the export of such knowledge in a recently ordered governmentwide study of what ails industrial innovation in this country.

But before the drumbeat for technological protectionism gets any louder, it would be useful to take note of certain facts concerning foreign mining of American science and technology. Our industrial competitors work hard and systematically at keeping in touch with the output of American laboratories. And we make it extremely easy for them to do so. But in the meantime, there is scarcely an organized American effort to keep abreast of foreign research, which, despite our ethnocentric notions of American scientific supremacy, actually accounts for well over half of the world's scientific and technological output. Furthermore, when it comes to research of industrial value, our seemingly huge budgets are misleading. Half of the government's funds go into military projects, whereas Japan, for instance, devotes no more than 10 percent to that purpose.

In evaluating the calls for protectionism, however, the relevant point isn't who's doing more or less research, since great quantities of it are going on here and abroad. Rather, it's our indolence in matching the organized, serious efforts that many nations make to exploit—as the protectionists correctly contend—American-financed research.

For example, the semigovernmental Japan Trade Center has technically trained representatives posted in New York, Los Angeles, San Francisco, Houston and Chicago. Their duties, according to a spokesman, "are to watch everything in American industry and gather information." The same monitoring role is carried on by representatives of many Japanese firms.

France, which follows a determined policy of keeping in touch with research in the major industrialized nations, keeps six science attachés in Washington, plus one each in Boston, Houston and San Francisco. Principal among their duties is following American science and technology at the laboratory level. The object is to know what's going on long before the rest of the world finds out through the traditionally slow process of scientific publishing.

The embassies of almost all the other industrialized nations are staffed for that purpose, though the intensity of the efforts varies. A staff member of the State Department science office points out, "Most of these people work for their ministeries of commerce and industry, not for the foreign ministry, and their job is to watch the industrial area."

It's all open and aboveboard and, in fact, is greatly assisted by the U.S. government National Technical Information Service (NTIS), which offers for sale about 75 percent of all scientific and technical papers produced in the United States. Foreign sales are such a booming business—with Japan the biggest customer—that NTIS has contracted for foreign dealers to handle its publications in Japan, Britain, France and the Netherlands. Foreigners take 10 percent of NTIS sales. It is a unique window on a national research enterprise—immensely valuable, of course, to American researchers, but equally so to foreign competitors. Except for a small organization in the Netherlands, no other country has anything resembling NTIS.

The United States does maintain science attachés in 23 of our embassies. But unlike most of their foreign counterparts here, they're not in the business of collecting scientific and technical data for shipment back home. Rather, they're concerned with "policy matters"—whatever that means.

The military services, led by a longstanding Navy operation based in London, try to keep in touch with leading scientific centers abroad, but their interests are narrowly defined and are not geared to industrial purposes.

The imbalance in scientific and technological voyeurism is something that American industry is aware of. But with the government indifferent to the problem and pooled monitoring efforts barred by antitrust regulations, few companies do anytihng about it.

One major exception is General Electric, perhaps the most shrewdly and tightly managed of our big high-technology corporations. Monitoring of foreign science and technology is handled by two GE representatives in Zurich, two in London and one in Tokyo. According to Charles M. Huggins, GE's manager of international programs for corporate research and development, "We assume that 60 percent of all new science and technology is developed outside the United States."

American campaigners for technological protectionism should think about that.●

## UPGRADING THE LABOR FORCE

● Mr. McGOVERN. Mr. President, the United States, regrettably, has not responded imaginatively enough to the unemployment problem. We have continued to nibble around the edges of the problem, seeing it as largely a welfare issue, involving people who are urged to pick themselves up by the bootstraps with minimum help or assistance from unemployment compensation.

The nations of Western Europe have adopted a far different policy, which I believe is more effective. They have developed a labor force "investment policy." They believe that labor must be trained and retrained on a continuing basis to supply the changing spectrum of sophisticated skills needed by a high-technology economy.

Although such a program is more expensive than the present policy, in the long run it would increase the productivity and profitability of the American economy. Such a policy could also respond creatively to the kinds of plant shutdowns and plant closings which recently occurred in Youngstown, Ohio.

Mr. President, I ask that an excellent article by Herbert E. Striner, outlining this problem and recommending solutions, entitled, "Investing to Upgrade the Labor Force," printed in the March 13, 1978, edition of Business Week, be printed in the RECORD.

The article follows:

INVESTING TO UPGRADE THE LABOR FORCE

(By Herbert E. Striner)

This nation's dismal unemployment rate is inexcusable, politically and economically. While successive U.S. Administrations wring their hands over the problem, another major industrial country has rolled up its sleeves and dealt with it. Over the last decade, West Germany has outperformed us on employment, productivity, and inflation control, and we steadfastly refuse to learn the lesson. The West Germans, like most of the West European countries, view their work force as a form of "capital." They assume that this capital must be trained and retrained on a continuing basis to supply the changing spectrum of sophisticated skills needed by a high-technology nation. To do so requires a labor force "investment policy."

Beginning in 1964, West Germany has provided, *as a right* to every adult, whether employed or unemployed, up to two years of full-time training or retraining. All training costs plus an income subsidy, which can be as high as 90% of the last wage, are covered. The income subsidy varies inversely with the last wage. Thus, a low-wage employee loses little income in upgrading his or her skills and increasing productivity. A higher-paid worker will lose proportionately in income, thus guaranteeing there are no frivolous decisions to leave a job. The psychology works. Most people want to make more money rather than less. If they are given help to achieve this goal, they will do so. Those needing the most help, but with the most to gain, are the low-paid workers. Hence, they are subsidized the most. But the economy gains the most by their becoming higher-skilled workers. Moving allowances and short-term rental allowances to encourage moving where the good jobs are located are all included.

Because of the success of the West German approach, the French passed similar legislation in 1971, and the British followed in 1975. But even before the German legislation of 1963, the Danes and Swedes had already proven the efficacy of the "investment" approach.

RESISTING AN EFFECTIVE IDEA

Meanwhile, the U.S. has continued to nibble around the edges of the unemployment problem, seeing it as a sort of disguised welfare problem involving people who should be urged to use their own bootstraps with minimal help from unemployment payments. We view workers as an asset as long as they are employed. They become a liability when unemployed, and we are reluctant to spend too much money on them, hoping instead that the economy will improve or they will somehow find some sort of job.

We have had some training programs, of course, but our expenditures have been slight when compared with the relative efforts of West German, French, and since 1975, British programs. We have not, since the GI bill following World War II, provided both an adequate income supplement and a long enough period of training to do the job of maintaining a work force capable of supplying our advanced industrial and service sector needs. No U.S. Administration has really considered the European experience. Our key policymakers are most often "educated" by economic advisers about the inevitability of the Phillips curve and its trade-off between low unemployment rates and higher inflation. But these economic advisers seldom make the point that each country has a

different Phillips curve, with ours being one of the worst.

THE WRONG EMPHASIS

We continue to spend money during the hot summers to cool off human tinder. We spend money for public service jobs that can be done by functional illiterates or by workers who can read and write but have too few skills for the better jobs that are vacant in both the public and the private sectors. We urge businessmen to design jobs for low-skilled workers. What a travesty! We perpetuate economic fraud in these efforts. In November, 1977, when the U.S. unemployment rate was about 7%, the Conference Board's index of help-wanted advertising reached an all-time peak. The jobs are there, but the trained people are not.

Until we adopt an investment approach to our labor force and spend funds that are really adequate for a continuing upgrading of this key resource, our unemployment rate will remain above acceptable levels. Our $2,000 billion economy probably needs an ongoing training program that covers about 2% of our work force each year.

Even when European unemployment rates are adjusted for U.S. data collection methods, the West German rate is around 4%, and the French is around 5%. Scandinavian rates are, of course, well below 3%.

Such a program should be modeled on the German system, which in turn follows the pattern set by our own GI program. It would provide payments and counseling to unskilled workers, but it would let them decide what sort of training they wanted and where they would get it. Private schools, public schools, and on-the-job training programs could then compete on the basis of efficiency.

It will cost a great deal more than we are accustomed to spending for education and training to deal adequately with the problem of an effective work force. But, as every successful businessman knows, you have to spend money to make money. Many of the industrial countries in Western Europe have learned that lesson with respect to their work forces, and their high economic performance has shown it. We have refused to learn from what they have done, especially the West Germans, and our low economic performance has shown it.●

## ANGOLA

● Mr. GOLDWATER. Mr. President, most of the Members of this body will remember the time when the junior Senator from California, Senator Tunney, stood on this floor and offered a resolution that would cut off all U.S. help from the embattled troops of Angola and South Africa. Troops embattled against two of our common enemies, the Cubans and the Soviets. Now I am not going to stand up and say that this Congress or this Senate know precisely or completely what was taking place in Angola after the Portugese had left, but I do think it is necessary for any American interested in how the United States came to take what I consider to be one of the most disastrous mistakes in its history, and I must admit that in the last 10 years we have probably made more foreign policy mistakes than in the entire course of our 200-year history.

I do not care to relate the story of Angola from my own memory or even from my own study because it is not an easy-to-understand situation, particularly it was not easy for Members of this body who had been suffering through the unhappiness of Vietnam to understand how our country became or was involved in an action so far from our shores. Had this whole situation been presented to us, to all of the committees involved, to each individual Senator in a very complete and precise manner, I doubt that the Tunney resolution would ever have prevailed. It was close to Christmas, however, and we were anxious to get home and Vietnam was still a very ugly memory, and no one wanted to become involved in one of those misdirected efforts.

I have studied this, however, enough to realize in my own mind, at least, that the United States, my country, made a mistake which was the opening door to what has been another serious mistake; namely, in the Horn of Africa where we allowed the Cubans equipped with Soviet Arms, to again enter another part of Africa and to observe today these same forces established in Mozambique, ready to invade what has always been the friendly country of Rhodesia. I do not care at this time to go further in this discussion of the continent of Africa, so I will confine my interest at this particular date to what went on in Angola and this, I believe, will allow the reader to begin to form an idea of what the future history of the continent of South Africa will be, particularly if the misguided intentions of President Carter and Ambassador Young are allowed to prevail. One of the best series of articles that I have studied on this whole matter was written by a man on the scene, Mr. Robert Moss who writes for a number of papers, including the Pretoria News, and I ask that this series of articles pertaining to Angola and our part in it and our foregoing our friends in that part of the world be printed in the RECORD.

The material follows:

[From the Pretoria News, Apr. 2, 1977]

HOW S.A. WAS BETRAYED

How Fidel Castro's 15,000 Cuban invaders of Angola, armed by Russia, won a victory by default over the anti-communist guerrillas is told in detail for the first time in an exhaustive study, which begins on this page today, of this largely secret war.

The author, Robert Moss, shows that the United States, having begged South Africa to put troops in to offset the communist intervention, lost its nerve and failed to stop the great buildup of men, guns and aircraft from across the seas, which had started, trucked right across the African continent, way back in 1964.

The Russians' motives were far from ideological. They were after oil, diamonds, minerals—and naval bases.

Only now, when the war is nominally over but guerrilla resistance continues, does the truth of this extraordinary adventure begin to emerge.

The pro-communist forces outnumbered the anti-communists by 10 to one in weaponry. Ten times as many Cubans as South Africans went in. But it was failure of will which determined the issue in the end.

On the morning of October 7, 1975, a company of teenage soldiers from Jonas Savimbi's anti-Soviet Unita movement was heading west through central Angola.

The men belonged to one of three black guerrilla movements which had been promised a share in Angola's independence from Portugal, then only a month away. Their mission was to intercept a column of pro-Soviet MPLA forces that was reported to be striking east towards Nova Lisboa, Angola's second biggest city.

The Unita (National Union for the Total Independence of Angola) column had started out from its base in Silva Porto with two old Panhard armoured cars (a gift from President Mobutu of Zaire) but one had broken down along the way. Its other weaponry was not impressive: three jeep-mounted anti-tank missile launchers, two 106 mm, recoilless guns, and four 0.50 Browning machine-guns. But at this stage that was virtually the full inventory of Unita's hardware.

The column included 14 South African infantry instructors acting as advisers, led by a major. They were tough professionals who had volunteered to go to the aid of UNITA in what had so far been a losing battle against superior Soviet-supplied weapons. They wore Unita uniforms.

About seven kilometres outside the village of Norton de Matos, the little column reached a bridge. Scouts were sent forward, and reported that the enemy was not in sight.

But then a spotter plane appeared overhead, and one of the black soldiers opened up on it with a machine-gun. This was the signal for all hell to break loose. From over the brow of the hills beyond the river the concealed MPLA (Popular Movement for the Liberation of Angola) forces opened up with recoilless guns, light artillery, air-burst mortars—and five Soviet-built T-34 tanks with Cuban crews joined in.

The South African major's jeep was knocked out from under him by an armour-piercing projectile from one of the tanks, but he escaped uninjured. Unita's young soldiers—who had had only two weeks to prepare them for war—scattered in confusion. But Unita's solitary armoured car, commanded by a South African lieutenant, swung forward and lobbed a 90 mm shell into one of the Soviet tanks, which disappeared in flames. The South Africans managed to knock out a second tank with one of Unita's 106 mm guns. After this, the other three Soviet tanks pulled back.

While the enemy mortars kept up an intensive fire, the South Africans, ducking and weaving, slammed six anti-tank missiles towards the hidden positions, without any certainty of hitting anything. But a Unita patrol subsequently claimed that 116 of the enemy had been killed. There were no South African casualties.

This skirmish at an obscure spot in central Angola (never before reported) was the first armed confrontation between the Cubans and South Africans, the prelude to an extraordinary war in which one of the most brazen land-grabs that the Russians and their satellites have attempted proved to be successful—not because of victory on the battlefield, but because of the political failure of the Western powers to deliver sufficient support to the anti-Soviet guerrillas.

The communist invasion of Angola is one of the most decisive, and most sombre, turning points in the whole period since 1945. It is the story of how more than 15,000 troops from a sugar-cane republic in the Caribbean were transported 6,000 miles across the Atlantic to serve as the Gurkhas of the Soviet Empire, and how a pro-communist government in Lisbon, and a number of Third World governments, smoothed the way for that invasion.

It is also the story of how the South Africans—supposedly pariahs—were begged by the United States and by moderate black Africans leaders to put troops into Angola to offset the communist intervention. By the end of a lightning armoured offensive the South Africans came within a hair's breadth of securing a total military victory for the anti-Communist black movements of Angola.

Why that victory was thrown away is the most complex story of all. But the most damning factor was the failure of nerve in Washington.

In an age of televised battles, the war for Angola was a remarkably secret war, and the truth of what happened is only slowly beginning to seep out. The Cubans have just produced their authorised version, in the form of a book-length article published by the Colombian novelist Gabriel Garcia Marquez in the Mexican magazine Progeso. In the midst of a wealth of factual detail, his account is littered with distortions and plain untruths.

For example, Garcia Marquez states that the decision to send Cuban combat soldiers into Angola was taken on November 5, 1975.

But Cuban troops were on the battlefield months before then. He describes a battle at a Cuban training centre outside Benguela in October that the South Africans found deserted and crawling with lice. He gives the impression of a triumphal Cuban march to the south in the early months of 1976, but does not mention that it took the Cubans more than two months to occupy the territory that the South Africans vacated after they took the political decision to withdraw.

But there are two basic truths in the Garcia Marquez account. The first is that the Cuban invasion was encouraged by the belief that the Americans, after Vietnam, Watergate and the witch-hunt against the CIA, were in no shape to respond effectively to communist aggression. The second is that the Cubans were confident that, if they ran into real trouble, their Russian sponsors would not allow them to fail.

It was a war of camouflage. Both the Cubans and the South Africans went into Angola at the outset wearing civilian clothes or other people's uniforms. Cuban volunteers (such as the three wounded prisoners who were taken to South Africa for medical treatment) were told that they were being sent to work on a building project, or to undergo a political training course in Russia. The first South African instructors with Unita were ordered to talk only in English and to describe themselves, if asked, as English.

I cannot profess to write the secret history of the Angola war in full but this narrative (based on authoritative sources in several non-communist countries) will tell a great deal that has never been told before. First, there is the communist invasion of Angola and how it was achieved; then the course of the war, including the battle for Luanda, the capital: and then the West's capitulation, which has brought, in President Kaunda's chilling phrase, "a plundering tiger and her savage cubs" to the gates of Rhodesia, South Africa, and the moderate black African States.

The Russians had been deeply involved in Angola since the early 1960s.

In 1956, the rigidly pro-Soviet Portuguese Communist party had helped to found the Popular Movement for the Liberation of Angola, in which Dr. Agostinho Neto—a mulatto who had helped to set up a clandestine communist group during his student days in Oporto—emerged as the dominant figure.

In the early 1960s the MPLA established its first contacts with the Cubans, who were helping to run a training camp for African guerrillas at Dolisie in Congo-Brazzaville. A number of MPLA cadres also received training in Cuba during this period.

In 1964, the Portuguese Communist leader Alvaro Cunhal set up a meeting for Agostinho Neto with the Soviet leaders in Moscow. This was the trigger for a more ambitious Soviet support programme.

The Russians began shipping consignments of arms and food to Dares Salaam, from where they were trucked to the MPLA via Zambia.

Soviet merchant vessels laden with small arms, AK–47 rifles, RPG–7 rocket launchers, and mortars became a familiar sight in Tanzanian waters. The Russians also began doling out a cash subsidy ranging between 150,000 and 300,000 dollars a year.

Most significant, perhaps, the Russians began to receive a regular intake of MPLA recruits for training at the Institute of Marxism Leninism (for aspiring commisars) at the army camp at Simferopol in the Ukraine (for rank and file soldiers), and at the Frunzi military college (for officer material). One of the graduates of Frunzi was Iko Carreira who, as the MPLA's Minister of Defence, was to play a critical role in the secret talks that led to the Cuban invasion of Angola.

Soviet aid to the MPLA diminished between 1972 and 1974, apparently as a result of the movement's miserable performance in guerrilla operations against the Portuguese.

There was a sharp renewal of interest in the MPLA, however, just before the coup in Lisbon on April 25, 1974, that set the scene for the decolonisation of Portuguese Africa.

The Portuguese Communists were deeply involved in the coup, and the Russians had at least six weeks' fore-warning of it.

But for the Russians the key strategic objective was not Portugal itself, but Portugal's African possessions—above all Angola, rich in oil, diamonds and other minerals, and occupying a vital geopolitical position. Unita sources have claimed that as early as 1969 the Russians concluded a secret treaty with the MPLA leader Neto under which they undertook to guarantee continued support in return for a pledge that, if the MPLA succeeded, it would allow Russia to set up naval bases in Angola.

The Portuguese announced their plans for decolonisation in August, 1974. In the second half of that year, the Russians shipped arms valued at 6-million dollars to the MPLA via Dar es Salaam.

They also opened up a new route for arms deliveries via Congo-Brazzaville. Weapons were either shipped to the Congolese port of Pointe Noire, and then smuggled into the Cabinda enclave by truck, or flown into the Maya Maya air base, outside Brazzaville, and ferried into Angola by small vessels plying the deserted north-western coast by small cargo planes.

At this stage, the Portuguese High Commissioner in Angola was Admiral Rose Coutinho, the "Red Admiral," notorious for his pro-MPLA sympathies.

Sources close to the leaders of the rival National Front for the Liberation of Angola (FNLA) claimed that the bitter hostility that Rosa Coutinho displayed towards the FNLA and its leader Holden Roberto was connected with the indignities inflicted on him when, as a young colonial army officer based at Santo Antonio de Zaire, he was captured by FNLA troops and imprisoned in Kinshasa for six months. Holden Roberto's brother-in-law is President Mobutu of Zaire.

Whatever the explanation, Rosa Coutinho made no attempt to curb the delivery of Soviet-bloc weapons to the MPLA after he was appointed High Commissioner in 1974.

His immediate successor, Air Force General Silva Cardoso, was less partisan. In April 1975, he stopped a Yugoslav vessel from unloading its full cargo of arms in Luanda harbour, but the rest of the cargo got through, smuggled by fishing vessels and Soviet-made landing craft from Pointe Noire.

It fell to General Silva Cardoso (who was abruptly sacked in July, on the pretext of "physical exhaustion") to preside over the disintegration of the political formula for Angola's future that had been agreed on at a conference at Alvor in Portugal and signed on January 15, 1975.

The three Angolan guerrilla movements were to have strived in a transitional Government to prepare for a general election on October 30 and independence on November 11. They were also supposed to provide 8,000 men each for a national defence force.

But the MPLA and its backers had no intention of sharing power with anyone, still less of holding general elections in which Unita—because of its political base among the Ovimbundu peoples, the largest ethnic group in the country—would almost certainly have swept the board.

Between April and August, 1975, Soviet bloc arms flowed in through the ports of Luanada, Dar Les Salaam and Pointe Noire, and the Russians also embarked on a major airlift of arms by Soviet military transports landing in Brazzaville.

The MPLA was being equipped for conventional war with rocket-launchers and with 1–54 and 1–34 tanks and field artillery.

In contrast, the FNLA and Unita were still equipped with side arms and little else.

Although the CIA was authorised to spend 300,000 dollars in covert support for the FNLA in January 1975, supplies started to trickle through in significant quantities only in July—partly the result of holdups in Kinshasa, where the local officials are not famed for their efficiency or incorruptibility.

But it was no good supplying weapons without teaching the MPLA how to use them. In December, 1974, a large contingent of MPLA officers and NCOs had been flown to Russia for intensive training. But early in 1975 a more momentous decision was taken: To put Cuban instructors into Angola.

Cuba's deputy Foreign Minister Carlos Rafael Rodriguez, publicly admitted (in a speech in December 1975) that there were already 230 Cuban military instructors with the MPLA in the spring of 1975. Some may have been transferred around this time to the fort of Massangano. On July 25 another 50 Cubans arrived by plane in Brazzaville to help assemble arms stockpiled at Pointe Noire.

Left-wing Portuguese officers who had visited Havana in July had undertaken (according to the Garcia Marquez version) to secure formal Portuguese approval for Cuban aid to the MPLA. In August the MPLA Defense Minister Iko Carreira visited Moscow and asked for Soviet troops to support his movement. The Russians immediately rejected his request, no doubt fearing American intervention, but it was suggested to Carreira that he should put the same request to the Cubans. Soon afterwards Carreira met three senior Cuban advisers in Luanda, and it became their task to sound out Castro.

Despite the involvement of the Cubans in other parts of Africa, the Middle East and the Caribbean, some well-placed Western sources believe that Castro did not immediately become fired with enthusiasm for this new prospect of ideological derring-do.

His main fear was that the Americans would retaliate—possibly by direct action, or at least by a blockade, against Cuba. The pitiful state of the Cuban economy and the slender defense budget (a nominal 300-million dollars a year) might have been another disincentive. But the Russians made it clear that they would be footing the bills, and are said to have offered secret assurances that they would enter the Angolan conflict directly in the event of American intervention.

At the same time, a series of radical black African Governments, including Guinea-Bissau, Guinea-Conakry, Mozambique, Algeria and Congo-Brazzaville, pressed Castro to send in troops.

Western intelligence sources believe that Castro had already decided on the full-scale invasion before Oscar Oramas, one of the Cuban advisers who had been to Luanda, met him in Havana in the last week of August to warn him of the possibility that the South Africans—who had kept closely in

touch with both the FNLA and Unita behind the scenes—might eventually step in on the side of the rival movements. In any event, the fact that the decision to commit Cuban troops to a combat role was taken long before November 5 (the date given by Garcia Marquez) is demonstrated by the course of events over the following weeks.

Cuban troops went into the battle in Angola two months in advance of the South Africans.

On August 6, 200 more Cuban instructors reached Luanda, where the MPLA was now in uncontested control. During August Unita source reported that some of the Cubans were transferred south to Lobito and Benguela where the Cubans established a training camp and a supply base.

In the bitter fighting in which the MPLA seized control of Lobito, a traditional Unita stronghold, that same month, "yellow-faced men who spoke Spanish" are said to have fought with the MPLA. In September, on the northern front, the FNLA found the bodies of two Cubans in a burned-out armoured car.

From late September, the arrival of Cuban troops steadily accelerated. As with the arms shipments, Congo-Brazzaville was the key trans-shipment point.

President Marien Ngouabi was promised his reward for services rendered when he visited Havana in mid-September. Fidel Castro promised him some expensive military assistance, including the gift of six Soviet-built patrol boats (the Congo republic had only two). Soviet MIG fighters, and training in Cuba for Congolese paracommandos.

At Pointe Noire, war supplies were already being landed, stored and trans-shipped.

On September 25 the Cuban vessel Vietnam Heroico docked at Pointe Noire with 20 armoured vehicles, 30 army trucks and 120 Cuban soldiers. On October 5 another Cuban ship, the Cerro Palado, docked with another 350 troops, who were taken by plane to the northern front.

Then La Playa de Habana docked on October 12 with another 500 troops. The previous day 270 Cubans, including pilots, had reached Brazzaville by air. On October 14 a Cuban Communist party delegation turned up in Brazzaville and assured the MPLA that Cuba would provide the pilots to fly the Mig-21s and Mig-17s that were being supplied by Russia. That was the day that a South African armoured column crossed the Angolan border from its base headquarters at Runtu.

On October 16 Russian transport aircraft landed another 800 Cuban soldiers at Brazzaville.

These and subsequent Soviet flights made use of landing rights at Algiers and Conakry. On October 18 and 19 the 500 Cubans who had sailed in La Playa de Habana were flown to Angola in Soviet military planes.

The following day another 750 Cubans were landed at Novo Redondo, South of Luanda, by coastal vessels. On October 26, 160 Cubans landed at the Maya Maya air base and left the same day for Angola.

As Castro's men continued to arrive, the quantity and quality of the Soviet war material shipped to Pointe Noire increased spectacularly. MIG 21 jet fighters in parts (to be assembled in Congo-Brazzaville); tanks, armoured vehicles, rocket launchers and small arms. Many of these weapons were transferred to huge arms depots set up inside Angola, at Porto Amboim and Uuicama ready to be used by the Cuban reinforcements as they came in.

By Angola's independence day, November 11, there were at least 4,000 Cuban troops based in Angola. Some 2,500 of them were stationed in Luanda and on the Quifangondo front, where their presence enabled the MPLA to fight off the FNLA's drive towards the capital.

Hence it is nonsense to make out that Cuba's decision to send in major combat units was taken only in early November, after South Africa's intervention.

In the two months after independence the strength of the Cuban forces in Angola was increased to over 15,000. Some of the troops came from the special infantry of the Interior Ministry (the equivalent of the KGB's special troops, who are experts in internal repression), but more were "volunteers," drawn from the ranks of former national servicemen, who were offered substantial pay increases to make the trip. Not everyone was told that he was going to war.

Sergeant Esequiel Mustelier, a 23-year-old small farmer from Oriente province, who was captured by the South Africans in the Cariango area on December 10, claimed that he had left Cuba on what he believed to be a peaceful mission, to build schools in Angola.

He was astonished to find no building materials were available.

Carlos Maru Mesa, and Roberto Morales Bellma, taken prisoner on December 12, claimed they had really happened to that they were being sent on a political course in Russia.

Only after they had been deployed at an unknown battlefield in central Africa were their families informed of what had really happened to them.

How did the Cuban troopplanes get to Angola?

The favourite refuelling point for the Russian-made Ilyushins and British-built Britannias leaving José Marti airport between October and mid-December 1975, was Barbados. Security at Seawell airport was slack, it was a long way outside the capital, Bridgetown, and few people seemed to have noticed the night flights in the first few weeks.

It is not clear whether the Barbadian Government gave the green light. But the then Prime Minister, Mr. Errol Barrow, conceded in an interview with The Sunday Telegraph that there may have been as many as 50 flights before he was forced to lodge a formal protest with the Cubans on December 17.

Other observers say that at the height of the airlift there were between 10 and 15 flights a week, and as many as five in a single night. It is impossible to believe that Mr. Barrow's Government did not know from very early on that these mysterious planes, each carrying 100-odd young men, were additional to the scheduled Cuban flights that had been stopping over at Seawell for the previous two years.

American pressure finally stopped the flights, although there was a wrangle within the American Embassy at the time over how much pressure should be applied. The black American Ambassador, Theodore Britton, was accused by the head of his political section of trying to "ingratiate" himself with Barrow.

After the Barbados connection was cut off the Cubans turned to Eric Williams, the Prime Minister of Trinidad, for the same facilities. But he refused, on the ground that he was not ready to back foreign intervention in Angola.

However, the Cubans soon found more amenable countries.

The Portuguese played a key part in getting the Cubans to Angola around Christmas, 1975. Britannia-31s flown by Cubana de Aviacion were allowed refuelling facilities at the airbase on the island of Santa Maria in the Azores.

The pattern was the same with five flights in the last days of December: the Cuban planes would land at night with their internal lights dimmed, and without declaring their cargo. No passengers would disembark.

But Portuguese military intelligence officers established that the flight from Havana on December 20 contained 94 passengers en route to Guinea-Bissau. Another 259 passengers were on four succeeding flights.

Senior Portuguese officers say that American pressure finally persuaded the Portuguese to cut off refuelling facilities, which had been initially granted on the personal authority of the then President General Costa Gomes.

The tremendous logistical exercise that was mounted to get the Cubans and their equipment to Angola went virtually unreported at the time and Western intelligence services were sometimes slow to pick up definite news of some of the key items that were being smuggled in. But the Cubans ran into plenty of snags along the way.

Some of the small coasters used to transship arms and men from the Congo republic into northern Angola were sabotaged: Two were blown up by Portuguese agents in contact with the French intelligence service, and at least three more were blown up by South African commandos using simple dynamite charges.

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[From the Sunday Telegraph, June 6, 1977]

HOW SOUTH AFRICA TOOK ON CASTRO'S INVADERS

(By Robert Moss)

The Communist invasion of Angola posed a challenge to the West. Would anyone take it up? Or would Cuban troops and Soviet guns enable a Marxist movement with only minority backing in the northern part of the country to set up a dictatorship?

The prospect was far from palatable to most black Africa. Moderate or pro-Western leaders like Kenneth Kaunda of Zambia, Mobutu of Zaire or Senghor of Senegal had no desire to see a new Soviet puppet régime set up in Angola. Zambia and Zaire, both dependent of Benguela railway, feared that the Communists would then use economic pressure to change their own policies, and that Angola would be turned into a base for subversion.

Equally, Angola's mineral wealth (especially in diamonds, iron ore and the oil from Cabinda) and its strategic position made it of vital concern to Western Governments. But Angola mattered in a deeper sense, as a place where the Russians had set out to test the capacity of post-Vietnam America to respond to Communist aggression in far-flung places. Before the end of the conflict, most Western nations—America, Britain, France, West Germany, Italy, Spain and Israel—had contributed their mite to the anti-Soviet forces in Angola.

There was a CIA operations officer in Silva Porto, UNITA's headquarters, throughout the war. British Intelligence and private interests—especially Tanganyika Concessions and Lonrho, which loaned UNITA its pilots—remained in close liaison with UNITA and arranged delivery of smaller items such as radio equipment. UNITA leaders frequently came to London for medical treatment and to lobby British M.P.s. When the South Africans withdrew their instructors from Silva Porto, French "mercenaries" working for SDECE (the French M16) took over; in many ways, the French were more adventurous than any other Western power. The Spanish provided a safe base in Europe for the white Portuguese fighting with the FNLA, who were given false papers by the police.

Intelligence officers from all these countries met—sometimes at remote airstrips—to compare their inventories, and to check that they were not duplicating arms supplies.

It was left to South Africa to shoulder the heaviest burden, by providing instructors, advisers and finally an armoured column in a desperate bid to lower the odds against the black nationalists, who were fighting a losing battle against Cuban troops and big guns from Russia. No one thanked the South Africans for what they tried to do. On the contrary, it earned them a smack in the teeth from the U.N. Security Council on March 31,

1976, months after their combat troops had withdrawn.

GUARANTEES FROM THE AMERICANS

Yet, as South Africa's Defense Minister, Mr. Botha, pointed out in a speech to Parliament, his country was at least a part of Africa, unlike Cuba, and presumably had some right to concern itself with events across its borders.

But the key fact about South Africa's intervention was one that neither Mr. Botha nor any other senior official in Pretoria has ever been prepared to discuss. It is that when the South Africans went into Angola, they went in with the private blessing of many Western and black African Governments, and at the urgent invitation of the black nationalist movements in Angola. At one stage, for example, President Mobutu of Zaire actually implored the South Africans to bomb northern MPLA positions. The UNITA leader, Jonas Savimbi, flew to Pretoria at a critical stage in the war to beg Mr. Vorster to keep his troops in Angola. The South Africans also went in with the encouragement of Dr. Kissinger, who offered American guarantees that, in the event, he was unable to fulfill.

How did the South Africans get sucked into a black civil war? The story begins in March, 1975, when a senior South African intelligence officer met Jonas Savimbi in a European capital. At a meeting in Lusaka on April 14 Savimbi asked for small arms and cash to enable his movement to contribute to the joint black army that was supposed to be set up under independence, and so help to establish a military balance that could force the pro-Soviet MPLA to agree to hold elections.

The South Africans—like other Western Governments—were worried by the jealousies between UNITA and its rivals of FNLA, the third black faction in Angola, and urged Savimbi to establish a formal alliance with Holden Roberto, its leader. Savimbi was reluctant, complaining of gangsterish behavior and "anti-white" attitudes among the FNLA chiefs. The South Africans rejected his request and allowed contact to lapse for several months. (Savimbi found other backers in the meantime—including the Chinese, who supplied seven tons of arms in the first half of 1975.)

The South Africans had also been approached by Holden Roberto, through Portuguese intermediaries such as Colonel Santos e Castro, a respected former counter-insurgency fighter, who had been a provincial governor in Angola and was to become a key figure in the anti-Communist movement in both Portugal and Angola. Their first meeting with Roberto took place in Kinshasa in July. On the strength of Roberto's undertaking to consolidate an alliance with Savimbi the South Africans agreed to give the FNLA a shipment of mostly second-hand light machine-guns, rifles and mortars, which arrived in August.

A third meeting towards the end of August, in UNITA-held territory inside Angola, when a senior South African army general was present, set the scene for South Africa's entry into the war. The South African army agreed to provide instructors. Two training camps were set up: one for UNITA at Calombo, south of Silva Porto, another for the FNLA forces loyal to Daniel Chipenda at Mapupa, in southern Angola. Crash courses at these camps enabled the anti-Soviet movements to put 6,000 trained (or at least partly trained) men into the field in six weeks.

A platoon of South African soldiers had already been deployed inside Angola, around the Calueque hydroelectric works on the Cunene river on August 9. But this was a purely defensive exercise, intended to guard the Cunene dam and hydro-electric scheme, which supplied energy to the major towns of southern Angola, from marauding gangs. The South Africans later claimed that their intervention here had had the tacit approval of the Portuguese.

Dr. Hilgard Mayer, the South African Foreign Minister, later said that South Africa's entry on to the battlefield had had "a limited objective—that of gaining time for the rival forces in Angola, with the catalyst of diplomatic pressure from black Africa, to achieve a political settlement.

The army's instructions were to assist Savimbi's and Roberto's forces to regain control of the areas of southern and central Angola where they enjoyed traditional ethnic support, and above all to help UNITA to hold on to its capital, Nova Lisbon, which was threatened by the Cuban and MPLA forces. The hope was that, if the anti-Soviet forces were seen to be in a position of strength on November 11, the day of independence, the MPLA and its sponsors would be forced to make a treaty with them and abandon their plan for outright conquest.

"BROTHERS" FOR THE UNITA TROOPS

As it turned out, the astonishing military success of the tiny South African column in Angola offered the chance of something more: an outright military victory over the Communists. But the chance was rejected.

Even for a black leader who was as consummate a politician as Jonas Savimbi, the relationship with the South Africans was uneasy at first. After all, he had been fighting the Portuguese in the bush for years, only to end up with the country whose apartheid policy was the focus for the hatred and resentment of black nationalists everywhere as his ally. But he soon found a close friend and confidant in the young fair-haired paratroop colonel who landed in Silva Porto on September 21, 1975.

The South African was no newcomer to Angola. He had served as a military attaché with the South African embassy in Luanda between 1970 and 1973, and spoke fluent Portuguese. Savimbi's men took to calling the South African Commandant Kaas (which means "Commander Cheese") because of his fair complexion and the fact that he came from a Dutch family, and Kaas called Savimbi "the Doctor," or simply "Doc."

The major had arrived with a team of 18 infantry corps instructors, who were soon described in the UNITA camps simply as "the brothers." Their orders were to provide training in conventional warfare for UNITA troops, and to help UNITA establish a holding position in central Angola.

The South African team arrived at a moment when the pro-Soviet forces had seized control of all the major towns in Angola except Nova Lisbon, Silva Porto, Luso and Holden Roberto's capital. Carmona, in the north, and Daniel Chipenda's capital, Serpa Pinto, in the southeast. The Communists held all major ports, and were driving deep into the Ovimbundu tribal areas traditionally controlled by UNITA.

Commandant Kaas found himself in charge of a disused Portuguese goal and 1,000-odd enthusiastic UNITA recruits, mostly aged between 14 and 20. He set up a two weeks' training course, working the recruits day and night. His personal headquarters were at the airfield outside Silva Porto.

UNITA was desperately short of weapons, and the shortage was made worse by sheer disorganisation. It was not until after independence day, for example, that Commandant Kaas discovered a cache of 600 light machineguns that someone had hidden away in the bush and then forgotten. All UNITA's weapons and explosives were piled up together in a few mud huts in Silva Porto, and UNITA commanders as far away as Pereira d'Eca would have to trek north to be resupplied. The explanation was political. Savimbi was well aware that one way to prevent remote subordinates from developing into unruly warlords was to leave them in no doubt about where their next bullets would come from.

UNITA had other foreign helpers, although they were of uneven value. Agents from most Western Powers bobbed up in Silva Porto throughout the campaign, and were put up in relatively palatial former Portuguese residences, or in the former monastery. President Mobutu of Zaire not only sent six old Panhard armoured cars (whose electric clutch defeated inexperienced drivers) but 120 smartly turned-out soldiers as well.

PRETORIA'S ORDER: "HOLD BACK"

Their appearance, however, was no guide to their combat potential. They spent most of their time preying on the local girls, and when real fighting was in the offing, they took to removing the steering wheels from the armoured cars overnight in order to prevent any offensive being launched. Savimbi and Commandant Kaas managed to stop this practice by making it plain to the Zairean major in charge that his men were not expected to do any actual fighting. Although Savimbi was pressed to send the Zaireans back, he prevaricated, unwilling to offend Mobutu. However, UNITA took great care to lock up abandoned shops and warehouses and guard them against possible looters.

The crucial mission of the South African advisers with Savimbi was to stop the Communist forces from advancing on Nova Lisboa down one of the three main roads that were open to them: from Luanda to the north, and from Benguela and Lobito to the west. A UNITA column under Savimbi's command set out on October 4 to ward off a reported Communist thrust from the west, and clashed with the Cubans and the MPLA three days later.

After the battle the UNITA forces set up defensive positions to the west of Nova Lisboa and Commandant Kaas radioed an urgent request for reinforcements. He was sent a squadron of 22 armoured cars, airlifted to Silva Porto on big C–130 transports. It was tempting to strike north to the Cuanza river with this new force, but the orders from Pretoria were to hold back. Word had already come of the arrival of another South African force in the south of the country.

One evening in late October, Major Chindondo, the UNITA Chief-of-Staff, arrived breathless and excited at the training camp. He had come to alert Commandant Kaas, to reports that the enemy was advancing towards Nova Lisboa in great strength from the north, and was massed in the Quibala area.

Commandant Kaas assembled most of his armoured cars and a UNITA battalion in a column, code-named Foxbat, which struck north and eventually took up defensive positions in the Cela area. It was here, on November 7, that the UNITA forces bagged one of their biggest quarries. The MPLA advance was being led by a senior Cuban officer driving in a black Citroën. A South African gunner fired at his car with a 106 mm. gun, and he was killed.

The Foxbat column was ordered to hold a line about 30 km. north of Nova Lisboa until independence day—although, in military terms it would have had little difficulty in advancing to the line of the Cuanza river, 270 km. further north. The political directive was that the South Africans should not go beyond traditional UNITA territory, and should be ready to withdraw on November 11.

Meanwhile, another South African column drove over the border of South-West Africa into Angola on October 14. The code-name given to it by the South African high command was Operation Zulu, which apparently confused the Cubans. There were, indeed, more black South Africans than white in the columns, but there were certainly no Zulus.

The officer in command was a stocky colonel in his early forties, an Afrikaner from

the Cape Province who had graduated from the military academy in Saldanha Bay and had volunteered to serve in Angola at the beginning of the month. He was to earn the nickname "Rommel" from his comrades because of the extraordinary speed of the column's advance.

He was alerted at 9:30 p.m. on October 9 that he should get ready to leave Pretoria for the operational headquarters at Rundu, on the Angolan border, on a 7 a.m. flight the following morning. At Rundu, he discovered that his force was to consist of two battalions: a Bushman battalion, mainly recruited from the Caprivi strip, and including many Bushmen who had fought for the Portuguese as skirmishers and trackers, together with Portuguese ex-army officers; and a black FNLA battalion consisting of about 1,000 men divided into three companies and commanded by a mulatto, Commandant Businha.

The FNLA men were followers of Daniel Chipenda, the warlord whose headquarters was at Serpa Pinto. Chipenda had broken away from the MPLA a year before and his loyalty could never entirely be taken for granted by his new allies.

"Rommel" had only six South African officers and seven N.C.O.s to help him command his force. From the outset they had a language problem. Half the Bushmen spoke Portuguese; the other half (recruited in South-West Africa) spoke Afrikaans. So orders would be issued to their Afrikaner commanding officer in Afrikaans. He would then repeat them in English to the Portuguese officers, who in turn would translate them into Portuguese. It was a process that would have been merely tedious on the parade-ground, but on the battlefield it presented the risk of fatal confusion and delay.

"Rommel's" orders were to capture all the important centres along the coast that he could reach before independence day on November 11, within the ethnic areas where support for the UNITA and the FNLA was strongest. He was to make it clear to the civilian population that his was a UNITA/FNLA column; some Portuguese settlers wrongly imagined that they had come to restore the old order.

A SHOOTOUT AT THE BAR

When the column crossed the border at Cuangar on October 14 it included only civilian vehicles—lorries, vegetable trucks, private cars and a few Land-Rovers. The first target was the southern town of Pereira d'Eca, which had already changed hands several times. The column ran into light resistance from MPLA ambush parties using RPG-7 anti-tank rockets along the road (and also from NITA foragers who had not yet been notified of Operation Zulu) but when it got to the town, most of the defenders fled into the bush.

This was to become the pattern throughout much of the campaign. MPLA soldiers took to wearing civilian clothes under their uniforms so that, once driven out of their positions, they could drop their rifles, whip off their military gear, and merge into the civilian population.

The column occupied Pereira d'Eca so quickly that MPLA troops on the outskirts were not immediately aware that the town had changed owners. Commandant Businha was having a celebratory drink in a local bar when two MPLA soldiers came in. He whirled around, took one look at them, and gave the MPLA salute (two fingers up). When they responded, he fired from the hip with his F.N., killing both.

The condition of Pereira d'Eca gave a glimpse of what the South Africans were to find in the bigger towns, gutted by a black civil war. Most of the buildings had been sacked; the shops looted down to the floorboards. Local UNITA forces were brought in to restore basic services.

From Pereira d'Eca, the column swung north-west towards Rocadas where it was joined on October 20 by four troops of armoured cars (about 20 in all) and half a platoon of 81mm. mortars, sent over the border from South-West Africa. The column also gained some more exotic recruits at Rocadas. It was met by a band of 47 Portuguese led by a small, dapper captain with a twirled moustache called Aparicio, who proudly announced that he and his followers were members of the Portuguese Liberation Army (ELP) and that they intended to drive the Communists out of Angola before carrying the crusade to Portugal itself. Aparicio quickly acquired the nickname "Garibaldi" with the South Africans. Unfortunately his group proved to be bolder in promises than in deeds, and never went further than Sá da Bandeira.

Two days later, the strengthened column, now led by a Land-Rover with a machine-gun mounted on top, swept into the town of Joao de Almeida. This was more vigorously defended; it had been used as a major MPLA storage depot, and large quantities of food, equipment and propaganda materials were captured.

Now the road was clear for the assault on Sa da Bandeira, the capital of Huila province, which was still believed to contain a sizeable white population. "Rommel's" main worry now was that the MPLA would pull back inside the town, putting the civilians at risk, but the defences turned out to be concentrated at outlying positions, especially a hill called Monte Cristo Rei because of the large statue of Christ on its summit.

The Zulu forces struck first at the airfield (standard procedure throughout the offensive, since the column was basically air-supplied) and then sent troops to scale the Monte Cristo Rei by stealth on the night of October 24. They found that the MPLA had already withdrawn, together with their big guns. This again was part of the pattern of the campaign so that as Zulu drove farther north it ran into even heavier firepower.

AMBUSH FROM ROCKET-LAUNCHERS

It was left to Captain Garibaldi and his Liberators to clear Sa da Bandeira.

Joined by another troop of Panhard armoured cars and another half-platoon of 81mm. mortars, the South Africans' next target was the major southern port of Mocamedes. On the way the column came under fire from 122mm. single-tube rocket-launchers, an ideal weapon for ambush, very light, easy to handle, and capable of being fired from an ordinary car.

The column managed to fight its way through and occupied the harbour of Mocamedes on the evening of October 27. There was an interesting variety of shipping bobbing at anchor, including a Portuguese navy corvette and Portuguese, Greek and Italian merchant vessels. The South Africans believed that these ships had been bringings arms—and probably Cuban troops as well—to Mocamedes, and were now being loaded up for a mass evacuation. They also knew that Nord-Atlas aircraft, allegedly owned by Frelimo in Mozambique, had been flying troops and equipment out of Mocamedes in advance of the Zulu offensive.

As the sun set over the harbour roads, a red Fiat coupé with a white flag fluttering from its bonnet drove out of the town towards "Rommel's" improvised command post. It had two occupants: the Portuguese captain in command of the 150 paratroops in the town, and a naval officer from the corvette. They requested that the ships in the harbour should be allowed to leave, on the grounds that they were evacuating refugees. The captain also insisted that his paratroops wanted to have nothing to do with the war. "We are neutrals," he insisted. "My rôle here is to guard the lives and property of the refugees."

It was later discovered that he was not telling the whole truth. Unknown to the Zulu force, the communications centre at Silva Porto had already picked up an urgent radio signal from the Portuguese command in Mocamedes to Luanda, requesting that MPLA reinforcements should be sent at once. It was also confirmed later that at the time Zulu arrived, a Soviet vessel had been waiting outside the harbour, bearing more arms and ammunition.

PULLING OUT WITHOUT A FIGHT

Although he could see barges laden with MPLA men plying back and forth between the harbour and the ships at anchor, "Rommel" decided to grant the vessels permission to leave. He also told the navy officer that if the corvette had not left by dawn, it would be blown out of the water—pure bluff, since the South Africans had no means of blowing it up.

By first light on October 28 the corvette had gone. Although there had been intensive fire the previous night, when MPLA and Cuban forces occupied a ridge outside the town and kept up an intensive and accurate fire with 122mm. rockets, there was little resistance inside the town itself. Advance units reached the airport (south of the city) too late to prevent the take-off of a Nord-Atlas carrying MPLA leaders, Cuban advisers and some heavy weapons. Although no Cubans were actually sighted during the fighting around Mocamedes, the precision firing was the clue to their presence.

After local UNITA forces were established in control of Mocamedes, the column turned back to Sá da Bandeira to regroup for the main assault on the north. There were reports that the MPLA was probing south from its positions at Benguela and Lobito—a primary objective for the South African operation as the country's second port and its most important railhead.

The rainy season was beginning, flooding rivers and turning the lowland areas farther north into swamp. From now on, the campaign was to centre on bridges and river crossings. Control of all-weather roads became the key to victory or defeat.

On the road from Sá da Bandeira to Benguela, the Zulu column ran into a series of extremely well-prepared MPLA positions. The influence of the Cubans—who showed themselves in the war to be well-trained in preparing and holding static positions, although inept fighters when things failed to go according to plan—was now obvious at every stage along the way.

The first major clash on the road to Benguela took place at Caporolo at the end of October. Here the Cubans and MPLA had set up their guns on a hill overlooking a bridge. "Rommel" sent his Bushmen westward along the river to look for a ford they could cross in order to take the enemy by surprise from behind. The Bushmen went too far, missing the ford. In the meantime, one of the Panhards nosed too far forward along the main road, disclosing the column's position.

To the South Africans' astonishment, the enemy forces simply picked up their equipment and ran—but not before trying to blow up the bridge. The explosive charges had all been set, but the last man who had checked the circuit on the detonator had forgotten to reconnect the wire, the South Africans drove on across the bridge, and pushed on to Catengue, where the roads from Benguela and Nova Lisboa intersect. It was time to take stock and find out where the enemy was.

A party was sent eastward on the Nova Lisboa road, where MPLA units were reported to be advancing towards Catengue. A South African lieutenant called Jan, blackened from many months in the *bushwelt* along the South-West African border, and with flowing hair and beard, drove in the leading Land-Rover. He drove

straight into an advancing MPLA convoy, led by officers using Mercedes-Benz and Citroën cars "borrowed" from the Portuguese.

He was saved by the fact that the MPLA took one look at him and imagined he was a Cuban. "Donde estáu los compañeros?" someone asked. Jan grunted, waved behind him down the road, and put two fingers up in the approved MPLA style. The MPLA grinned and drove by—and Jan opened up on them with a .50 Browning machine-gun.

He subsequently set up an ambush post on the road from which he was able to knock off no fewer than seven MPLA cars in succession with a 90mm. gun. They just kept coming on like moths into the flames, without any prior reconnaissance.

Three MPLA men were captured and made to strip and dig graves for the next victims of the ambush. Jan bore the nickname of "the Cuban" for the rest of the campaign.

Meanwhile, reconnaissance parties established that a major Cuban/MPLA force had dug in a few kilometres farther up the Benguela road, with 15 or 20 mortars. The mortars sowed terror among the troops when the Zulu column tried to break through on November 2. The black troops refused to face the mortars, and the column was pinned down for six hours, under a ferocious concentration of fire. The black FNLA gunners, for their part, returned the MPLA barrage by firing off their own mortars so rapidly (25 rounds a minute instead of the normal two) that their guns burned out and the barrels grew so hot that when a round was inserted, it would ignite immediately. There were many severe burns. The road was finally cleared after scouts from the Zulu force found a trail winding round the south of the enemy position. An advance group was sent to try to cut off the MPLA line of retreat but, as before, the enemy beat a hasty retreat.

Once again: luck saved the bridge for the Zulu column. Cuban engineers had run a wire back from the bridge for some 2,000 metres to the detonator. Everything was set for demolition, and the South Africans were astonished that the bridge did not go up in flames. By a fluke, one of their mortar rounds had cut the wire.

At the Catengue battlefield, the South Africans picked up another clue to the Cuban presence: an intelligence map marked in Spanish. They captured seven prisoners, who told them that there was a large camp outside Benguela with some 350 Cubans.

After Catengue, the MPLA and their Cuban friends bolted north, leaving neatly-dug trenches and even big ammunition dumps in their wake.

Just south of Benguela, the column found another camp, which turned out to have been the main Cuban base in the area.

The Zulu force was now ready for the assault on Benguela. It numbered about 150 white South Africans with their Panhards, together with the loyal Bushmen and the FNLA battalion, reduced to some 450 blacks and 80 white Portuguese. The attack began on November 4, just a week before independence day, and the airfield to the south-east of the town was seized without resistance.

But now something happened that the South Africans had feared all along: the MPLA and the Cubans pulled their forces back into the city itself. Simultaneously, they opened up a murderous barrage with half-a-dozen single-tube 122mm. launchers, dug in on the other side of Benguela, as well as intensive small-arms fire from the native huts on the outskirts of the town. The column was pinned down at the airport for 26 hours.

For the first time during his almost uninterrupted advance, "Rommel" was faced with a dilemma. His mortars had a maximum range of only about five kilometres, while the enemy batteries were at least 7–8km. away, and the Soviet-made 122s had a range of up to 14km. He could not risk firing into the town, nor could he advance with his armoured cars and allow the enemy to snipe at them from close range. Meanwhile, the deafening thud of the enemy rockets was terrifying his men.

From his command post in the airport control tower "Rommel" finally hit on a solution. He sent his mortars round the eastern outskirts of the town, gambling on getting them within striking distance of the enemy positions before the Cuban range-finders could get a fix on them.

He succeeded because the enemy imagined that he had: when the South African mortars opened up, they were still several hundred metres too far away from their targets. However, the enemy commander must have concluded that the South Africans were merely ranging in, because the Cubans and their rocket launchers pulled out immediately. The mortar companies inside Benguela followed suit.

The battle for Benguela had offered a warning: good soldiering could not always make up for the disadvantage of being outgunned, least of all in a war where the black troops on both sides showed a marked preference for fighting as far away as possible from the enemy lines. "Rommel" radioed back to Rundu with an urgent request for field artillery to match the MPLA's longer-range weapons.

On November 7 the Zulu force drove on to Lobito. The population was largely pro-UNITA, and the Cubans and the MPLA pulled out without fighting. After Lobito had been seized by the pro-Soviet forces, UNITA had been able to keep in close contact with its cadres inside the town by telephone; no steps had been taken to cut off the most obvious form of communication.

The Zulu force stayed at Lobito until independence day. "Rommel" expected to be recalled on November 11, in accordance with his original orders. But the orders were changed. Bloodier fighting lay ahead.

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BATTLE OF DEATH ROAD

(By Robert Moss)

The last representative of the Portuguese empire in Africa, Admiral Leonel Cardoso, the High Commissioner of Angola, decided not to stay for the country's independence celebrations on November 11, 1975. He watched the Portuguese flag being lowered over the 16th-century fort of São Miguel in Luanda, declared that "Portugal is departing without a feeling of guilt or shame"—and scuttled to the safety of the frigate riding at anchor in the harbour.

Five centuries of colonial rule ended as MPLA troops swarmed into the admiral's palace. Portugal, he said, had handed over power to "the six million Angolan people."

While the Marxists in Luanda hailed Agostinho Neto as Angola's first black president, the supporters of the two anti-Soviet movements, UNITA and the FNLA, danced in the streets of Nova Lisboa (renamed Huambo) and Ambriz. The MPLA was quickly able to boast the diplomatic recognition of the Soviet bloc, the Marxist African States and capitalist Brazil. Meanwhile UNITA and FNLA proclaimed their own State, the "People's Democratic Republic," and claimed that they controlled 11 of Angola's 16 provinces.

With the South African column code-named Zulu waiting at Lobito for its marching orders and with FNLA forces threatening Luanda from positions less than 19 miles to its north, the anti-Communist forces enjoyed clear military superiority. But their advantage was rapidly eroded after November 11 by the continued build-up of Cuban combat forces and Soviet weaponry, and the failure of the Western Powers to respond to it.

One glittering opportunity had been lost on the very eve of independence, in a savage battle for the capital. While South Africa's "Rommel," the colonel commanding, Operation Zulu, was striking north to Benguela and Lobito, the FNLA was pushing south in a desperate attempt to seize Luanda before independence day. The FNLA had been driven out of the capital in July, when the MPLA launched a surprise attack, in which Portuguese pilots—flying civilian planes of the Portuguese Angolan airline, TAA'G—had flown reconnaissance missions. But by early November, the Marxists' position in Luanda was no longer secure.

Fighting around Dondo to the south, where the hydro-electric plant that supplied the capital's electricity is located, resulted in blackouts. Luanda's water supply was also cut off for days. Further, the anti-Soviet forces had managed to isolate the capital from its food supplies; the richest farming lands were securely in UNITA hands. There seemed to be a chance that the defenders of Luanda could be starved into submission.

Meanwhile by November 6 a column of some 800 black FNLA troops reinforced by 130 white Portuguese led by Colonel Gilberto Santos e Castro and Major Cardoso—a brilliant irregular fighter and a former officer of Salazar's secret police, the PIDE—and three Zairean battallions led by a Zairean colonel had advanced as far as Caxito, a strategic crossroads 31 miles north of Luanda. Holden Roberto, the mulatto leader of the FNLA, his eyes permanently masked by dark glasses, had taken personal charge of the column and was poised for an assault on Luanda. It was timed for November 10, the eve of independence.

But from the start of the attack things went wrong. The FNLA columnn had advanced to the area of the Bengo river, and was supposed to strike across the bridge over it at first light on November 10. But the orders got garbled, officers overslept, and the attack did not start until 7:45 a.m.

It was the direction of the attack rather than its timing that doomed it from the start. Facing Holden Roberto's men, on the other side of the Bengo river, was a force of some 800 Cubans. The MPLA soldiers with them were commanded by Cubans right down to section level.

The Cubans were well-armed. They had jeep-mounted rocket-launchers, heavy mortars, the huge 40-barrelled "Stalin organs" that terrified black troops, and plenty of machine-guns and anti-tank guns. They had dug themselves in on hilltops at Quifangondo with their guns commanding the only road to Luanda from the north, now bordered by swamp because of the rainy season.

When the Portuguese commanders suggested that the main offensive down the exposed road should be supported by flanking movements on foot through the swamp, the black FNLA officers refused to send their men out, complaining that the swamp was full of crocodiles and "man-eating snakes." The South African and American advisers with FNLA were alarmed by the planned offensive, and it was suggested that Roberto should attempt a broad encircling movement from the east. But Roberto, burning with impatience to plant his flag in the capital before independence day, insisted on taking the direct route—down Death Road.

The South African brigadier who had arrived at the little port of Ambriz to act as liaison officer with Roberto's forces afterwards complained of another reason for failure. In the days before the attack on Luanda, the C.I.A. had organized an emergency airlift of weapons for the FNLA. Mortars and light infantry weapons were flown into Zaire in big C–141 transports and ferried on to Ambriz by Zairean air force planes and the FNLA's own Fokker Friendships, expropriated from the old civilian airline.

The weapons included 10 new 120mm. mortars and some 106mm. recoilless guns. But according to the South African brigadier, the weapons arrived without handling instructions or sighting equipment. There was no time to prepare the FNLA or Santos e Castro's Portuguese to use them.

This account is disputed by American sources, who claim that there was no failure on the side of the suppliers and that there must have been a mixup on the ground. This, in turn, might well have been related to the political climate in Washington. Because of the legal requirements that had been imposed on the CIA to report its operations to Congress the officers assigned to liaise with Holden Roberto were pulled in and out of Angola like yoyos. Although the Americans were the principal armourers for the FNLA (which had, however, benefited from many other sources, including China, which had earlier provided several hundred instructors to train FNLA troops at Kinkuzu in Zaire) they failed to provide continuous or effective tactical advice and logistical supervision on the ground.

American instructors for the 120mm. mortars and the 106mm. recoilless guns turned up in the end—after the battle for Luanda had been fought and lost. Even when they did turn up, they came without the range tables for the guns.

FNLA TROOPS BOGGED DOWN IN MARSHES

So the column that rolled forward at breakfast-time on November 10 was in no way matched to the enemy in waiting. While the Cubans were bristling with brand-new Soviet hardware, all that the FNLA could boast were second-hand rejects from its Western (primarily American) sources, together with odds and ends picked up from black market arms dealers. Holden Roberto had only one gun that was capable of ranging in on the Cuban positions, a 130mm Korean artillery piece. His men carried sidearms of almost every conceivable origin, including Russian-made weapons (mostly supplied by Rumania in August, 1974). Their only armoured vehicles were a few old Panhards manned by Portuguese whites.

The outcome of the battle on Death Road was a foregone conclusion. The Cubans sent up a tremendous barrage of rocket and artillery fire as Roberto's troops approached the Bengo river bridge. Then some of the Cubans drove forward in jeeps from which they fired off Soviet-built rockets at the exposed FNLA troops, by now bogged down in the marshes. Most of Roberto's Panhards were knocked out within an hour. The FNLA abandoned the field within three hours. Five of the Portuguese whites had been killed; black casualties may have run into hundreds.

Some of those present still feel very bitter. Colonel Santos e Castro and the South African brigadier maintain that Luanda would have fallen to the FNLA if the Americans—or other Western sources—had supplied a bit more hardware, and the know-how to put it into the field.

If the South Africans had been able to dispatch a second Zulu column to northern Angola, they could easily have forced their way through to Luanda. Indeed, the Foxbat column could have penetrated the natural defences of Luanda from the south before November 11 by swooping across the Cuanza river—if it had been given the order to do so. But how would it look to the world if pink-faced young Afrikaners were photographed driving into a black African capital in their armoured cars?

It was the desire not to get too far out on a limb that had led to the initial decision in Pretoria that South African troops in Angola would be withdrawn immediately after independence day, November 11. The decision was reversed. One reason has been kept deeply secret until now.

Jonas Savimbi, the UNITA leader, flew to Pretoria on November 10. He met Mr. Vorster, South Africa's Prime Minister, and implored him to keep his troops in Angola at least until the summit meeting of the Organisation of African Unity (OAU), then due to convene in Addis Ababa on December 9. He told Mr. Vorster that moderate black African leaders—including Zambia's Kenneth Kaunda, who was regularly meeting Savimbi—were deeply concerned that the anti-Soviet forces should sustain their position in the field until a vote on Angola could be taken by the OAU.

The other former Portuguese colonies, all under Marxist control, were about to recognise the MPLA Government in Luanda, together with the rest of Russia's friends in Africa: Guinea-Conakry, Somalia, Algeria, Congo-Brazzaville, Mali, and Mauritius. But most of black Africa was sympathetic to the MPLA's rivals, especially UNITA, despite Russian diplomatic pressure.

AMIN'S RAGE AT SOVIET AMBASSADOR

One target for the Soviet diplomatic offensive was the unpredictable Idi Amin, that year's chairman of the OAU. The Russians had given him a squadron of Mig-21 jet fighters, but the hamfisted Soviet ambassador in Kampala, Alexei Zakharov, pushed Amin too hard for support in recognising the MPLA. Amin exploded, accusing the Soviet ambassador of acting "as if he were vice-president of Uganda," and Zakharov was hastily recalled. The Russians followed up by withdrawing all their embassy, military and technical personnel. Although this finally induced Amin to make a mollifying statement, he remained neutral for the time being on Angola's civil war.

So the point that Jonas Savimbi had to make in Pretoria was a highly pertinent one. He told Mr. Vorster, in effect, that if South Africa could ensure that the anti-Soviet forces could at least hold their own in the major towns outside Luanda, it might be possible to get a majority vote at the OAU in favour of a tripartite settlement in Angola. Similar pleas were reaching Pretoria from other sources.

The South Africans were later begged by the Zaireans and the FNLA, for example, to lend air support to a renewed assault on Luanda from the north. The discreet liaison maintained by the Bureau for State Security (BOSS) with black African leaders was producing similar appeals for the South Africans to hang on in Angola. The same request was coming from senior American officials, although Dr. Kissinger—who was a hawk on Angola but was extremely nervous of Press and Congressional efforts to expose American connections with South Africa—had taken steps to isolate himself from direct contacts with the South Africans.

Secrecy was still all-important, both to the South Africans (who had maintained a total blackout at home on Press reports of their involvement) and to the Governments and black nationalist leaders who now depended on them but could not afford to admit it. At Silva Porto, which had begun to be visited by journalists invited by UNITA, as well as by a wide range of African delegates, secrecy was an obsession from the start.

But the South Africans assigned to UNITA were more worried about running into SWAPO guerrillas than reporters. SWAPO (South-West Africa People's Organization) is one of South Africa's deadliest enemies. It had also collaborated with UNITA over a long period, and had used UNITA-controlled areas of Angola as bases for its raids into South-West Africa. Now, without SWAPO's knowledge, UNITA had called in the South Africans as its allies. The South African advisors had spent years of their lives fighting the SWAPO guerrillas and had no wish to meet them socially on neutral ground—where they might easily find themselves greatly outnumbered.

There was a narrow escape just before Savimbi's secret visit to Pretoria, when the South African advisers in Silva Porto were asked to leave town in haste in order to avoid being spotted by a big OAU delegation that was due in. The UNITA commander said he would send for them as soon as the OAU dignitaries left. But after a couple of days no message had arrived.

Commandant Kaas, itching to get back to the war, decided to drive back to town. He arrived at the UNITA headquarters at six o'clock, and ordered a bleary guard to send for the commander at once. He turned up, badly hung-over and wide-eyed with alarm. "Don't you know they haven't left?" he hissed. Fortunately, the OAU delegates were all sleeping off the last night's revels in the former monastery used as a UNITA guest-house—which gave Commandant Kaas plenty of time to beat an orderly retreat back into the bush.

Sketchy Press reports about the South African presence had begun to appear, but they were sufficiently vague to be ignored. No journalist had been anywhere near the zones where the South Africans were fighting. But when the Cubans managed to take some South Africans prisoner, their presence could no longer be shrugged off—and the Communists, lobbying for black African support, made full propaganda use of their captives, the undeniable proof that the "racists" had "invaded" Angola.

Both the military and the political war escalated after November 11. On independence day, "Rommel" received orders to push further north from Lobito. His new orders were to advance to Novo Redondo and other towns around the line of the Queve river—Porto Amboim, Gabela, Quibala.

REINFORCEMENTS FOR "ROMMEL"

The South Africans suffered their first heavy casualties (heavy, that is, in relation to the tiny size of the Zulu column) on November 12, when Cuban gunners dug in six miles south of Novo Redondo dropped a mortar bomb in the midst of the column as it was crossing an exposed stretch of muddy road between flooded marshes. Eighteen South Africans were wounded, and the fact that only one died was due solely to the speed with which they were got to an airstrip under cover of darkness and whisked back to a field hospital at Rundu.

But "Rommel" was about to receive vital reinforcements; a battery of 25-pounders was dropped at Benguela the same day, and the guns were brought forward overnight and placed in new positions. The surprise factor was enough to win the battle. The Cuban gunners on the other side started firing their rockets into the positions the South Africans had occupied the previous day when "Rommel's" guns opened up at first light. Then they withdrew, unable to blow the bridge behind them because the flooded river had risen so high that they were unable to fix explosives to the pylons.

Novo Redondo was occupied on November 14. Here the Zulu column halted, although units were sent out to link up with the Foxbat column farther east, in the area of Santa Comba. "Rommel" sent out patrols to reconnoitre the roads farther north, and found that the Cubans and MPLA had blown all the bridges over the Queve river and set up formidable defences on the other side.

The road to Porto Amboim looked like another Death Road. It was impossible to get within four-and-a-half miles of the town cross-country because of the flooded swamps. For the same reason, it was impossible to get off the road. The road to Gabela looked easier,

but scouts reported that the positions on the other side were "all manned by whites." The prospect of trying to rebuild a bridge under intensive fire from the Cubans' "Stalin organs" was not exactly appetising.

"Rommel" radioed back to Rundu requesting that a paratroop company should be dropped behind the enemy positions at Gabela. His request was refused. Frustrated by his relative lack of firepower and the lack of any means to get across the Queve river he then asked for permission to pull back to Lobito. He was told to wait. At last he was told to move east and establish a new headquarters near Cela in an area where the Foxbat column had run into formidable opposition.

"Rommel" was recalled on November 26. He could console himself for the disappointment at the Queve river with the thought that, during the 33 days the Zulu column was on the move, it covered 1,974 miles—an average of some 60 miles a day.

The bloodiest battles of the war remained to be fought. On the central front, near Quibala, the Cubans were massing. The South Africans were compelled to move in 140mm guns and to form yet another battle group, code-name "Orange."

CUBANS HURLED INTO COMBAT

It was in no-man's land north of Santa Comba that the celebrated "Battle of Bridge 14" took place. It raged for three days, from December 9 to December 12, and an entire battalion of Cuban troops were hurled into the combat. By the end of the battle, four South Africans and an estimated 200 Cubans had been killed on the eastern front, where the South Africans had responded to a UNITA request to help them to recapture Luso and to clear the Benguela railway right up to the Zambian border. Savimbi's calculation was that if UNITA could establish its control over the whole length of the railway line it would guarantee the permanent support of land-locked Zambia by offering it a secure outlet to the sea for its copper and other exports.

By this stage there was, of course, no secret about the extent of Kaunda's commitment to UNITA. Like other visitors to UNITA who travelled via Lusaka, I had found myself received by Jorge Sangumba, UNITA's ubiquitious Foreign Minister, on the airport tarmac at the end of October, whisked through immigration and customs formalities, and subsequently put on to savimbi's personal Learjet (flown by Lonrho pilots) at the Zambian mining company's airstrip for the flight to Silva Porto.

But Savimbi's accurate calculation was that the mood could easily change, and that control of the railway would ensure that UNITA'S most vital black African friend would stay friendly.

As it turned out, UNITA never gained control of the entire railway. Luso, which had changed hands several times in the course of the fighting, was taken by a column, code-named "X-Ray," on December 11. This column had been stiffened by another two troops of South African armoured cars, but the advance farther east was halted about 12½ miles short of Teixeira da Sousa, up against the Zambian border. The problem, once again, was the state of the bridge. A very large bridge had been blown, and South African engineers estimated that it could take up to three months to repair. Savimbi was told that at that stage it was not worth taking.

Before December 9, the day the OAU was supposed to meet, the Cubans had a stroke of luck which they were to turn into a major psychological warfare victory: they captured four South African mechanics who had been sent forward to repair a vehicle north of Cela and accidentally drove on too far into enemy-held territory. They were subsequently displayed in Luanda. The attention of the world media was now rivetted on the the South Africans. The Cubans did not admit their own involvement in Angola until December 22.

The South Africans were by now intensely worried about the danger of fighting a lone battle against Communism in Angola. The heavy weapons that they had expected the Americans to supply were not arriving. The power of the U.S. Congress—and notably, of the House of Representatives Committee on Intelligence—to demand and get information on CIA operations had led to the disclosure, and subsequent leakage to the Press, of five separate programmes, all of which had to be at least partially abandoned. And now South African prisoners were being posed for the cameramen in Luanda.

A secret war had become embarrassingly public, and there were now strong pressures within the Government for an immediate withdrawal. The date had already been fixed: it was to coincide with the OAU summit. But the OAU meeting was suddenly set back; it would now take place on December 18. Should the South Africans wait? The question became acute after December 18. On the last day that Congress met before the Christmas recess, the Senate voted to cut off all further covert assistance to UNITA and the FNLA.

The vote followed the revelation through Congressional hearings of the full extent of covert support for the anti-Soviet movements in Angola, including details of the airlift of light infantry weapons and rocket launchers to Zaire, and the provision of five Zaire-based spotter planes piloted by Americans. After the Senate Foreign Relations Committee voted 7–0 against military aid to any faction in Angola, an extraordinary coalition of liberals and conservatives voted in the Senate to impose a total ban.

The ghost of Vietnam was stalking Capitol Hill. The distrust of Government secrecy and the fear of embroilment in a potential Third World quagmire now ran so deep that even some of the Senate's most notable hawks voted for the ban.

The news came to Pretoria as damning evidence of South Africa's growing isolation in the struggle to determine Angola's future. The mood of doubt deepened as news came in of heavy casualties around Quibala—and of a further postponement of the OAU meeting until January 9.

DEMANDS OF DIPLOMACY

Some frenzied backroom diplomacy took place, involving numerous trips back and forth between black African capitals—notably Lusaka—and Pretoria. There were renewed pleas for South Africa to hold the ring for a bit longer. But Kaunda expressed his concern, on New Year's eve, that the South Africans should leave before the OAU meeting opened or, at the latest, before it wound up. The British and French Governments both expressed concern that the South Africans should withdraw before the UN Security Council meeting scheduled for early January. While it was understood that the military position of the anti-Soviet forces in Angola could rapidly become untenable if the South Africans left, the Governments that had been discreetly sympathetic were now alarmed by the political and diplomatic situation.

South Africa's ambassador to the UN, Mr. Pik Botha, darted home for urgent consultations, and met with the Prime Minister and defence chiefs at Oubosstrand at the end of December. It may have been at this meeting that the decision on the final withdrawal was taken.

The stage was set for the final dénouement. On the eve of the OAU's weekend summit in Addis Ababa, the MPLA paraded another three South African prisoners for the benefit of the world media. (The MPLA is still holding all seven South African captives.) The only thing that the black African leaders who assembled in Addis Ababa were able to agree on was a blanket condemnation of South Africa.

But the depth of black African distrust for the Angolan Marxists and their friends was made plain by the fact that, instead of voting overwhelmingly for a pro-MPLA resolution, the conference split right down the middle. A total of 22 States supported a document drawn up by Senegal's President Senghor, calling for a "government of national reconciliation" in Angola. The same number supported an alternative text produced by Nigeria's Brigadier Murtala Muhammed, which called on the OAU to recognise the MPLA as the legitimate Government of Angola.

This was the end of the road for the South Africans. To have stayed on in Angola would have required a new injection of men and material, with no assurance of adequate backing from any major power, but with the certainty that a continued South African presence would be used by the Marxist lobby in the OAU in the bid to get a new vote that would commit the organisation to the MPLA, and in accelerated efforts to isolate South Africa within international bodies like the U.N.

Their losses had been remarkably light—33 South Africans killed, as against an estimated 2,000-plus Cubans.

The withdrawal of South African forces came on January 22. They pulled back to a line just north of the Cunene river. It is significant, in view of the Cubans' propaganda claims of heroic victories in Angola, that it took them more than two months to occupy the vacuum left behind by the departing South Africans.

UNITA forces held on to the Salazar bridge, over the the south-eastern bend in the Cuanza river, for weeks after the South Africans had gone. When the Cubans finally came inching south, Soviet-made spotter planes were sent ahead to check for any signs of remaining South African forces. The Cubans and the MPLA did not finally reach the border with South-West Africa until April 1, 1976, a week after the South Africans withdrew from their last remaining positions defending the Cunene hydroelectric scheme.

Mr. Vorster said at the time the withdrawal began that the fact "that an acceptable government of unity has not been established in Angola is not the Republic of South Africa's fault. The Republic was not prepared to sacrifice its last man in a war on behalf of the Free World." I cannot quarrel with that statement.

South Africa was fighting many other people's battles in Angola. The background will probably never be fully explained by the South Africans themselves for fear of destroving their remaining hopes of détente with black Africa.

Their refusal to go it alone was influenced by other factors. The most crucial was the possibility that the Communists might escalate the war by putting MiG fighters into the air. French intelligence sources (who maintained an excellent listening-post in Brazzaville throughout the war) reported that 12 MiG–21 fighters were uncrated in Pointe Noire in October, 1975, and assembled by Cuban technicians. American aerial surveillance subsequently established that these planes and a further 10 MiG–17s, were brought to airfields inside Angola in December. Big aircraft fuel dumps were established at the eastern diamond mining town of Henrique de Carvalho, which remained in MPLA hands throughout the war.

These planes were not used during the course of the South African campaign, nor (to the best of my knowledge) was there ever a direct threat from the Russians to

intervene if the South Africans pushed farther north, or refused to depart. But the presence of the Migs was a silent threat.

Their deployment would have presented the South Africans with the choice of committing their own Mirage fighters to an aerial battle over Angola—which might in turn have produced a further Communist escalation—or of watching superior hardware win the war for the Cubans. Even without planes, the Cubans (whose strength was up to 15,000 by mid-January) were exploiting their colossal superiority in armaments. No one intervened to stop the shipment of arms and men to Luanda during the campaign.

If there had ever been hopes that the Americans might attempt a blockade, they collapsed after the Senate vote on December 18. Meanwhile, the Soviet navy showed the flag by shadowing East European merchantmen en route to Angola.

Then there was the manpower problem. There were never more than about 2,000 South Africans in Angola, as against almost 10 times as many Cubans by the end of the campaign. The troops South Africa deployed in Angola were the national servicemen who could be spared after security requirements in South-West Africa had been fulfilled, led by professional officers and N.C.O.s.

To increase the South African presence, it would have been necessary to mobilise citizen forces, and that would have meant going to Parliament, with consequent publicity.

MARKED LACK OF SOLIDARITY

Iko Carreira, the MPLA Defense Minister whose special contacts with Moscow were discussed in the first article, remarked in an interview in May last year that the victory for his movement in Angola was "in no way extraordinary, since proletarian internationalism exists." He was saying in effect that there will be more Angolas.

One thing the West did not take into account, he added, was "the militant solidarity of our friends, and in particular the Cubans." Sadly, the West showed precious little solidarity when it came to the crunch, let alone "militant" solidarity. How much confidence can African or Third World countries that are also targets for Soviet aggression feel after Angola—especially now that Mr. Carter's newly-appointed Ambassador to the U.N., Mr. Andy Young, has said that he does not view Communism as a danger in Africa, and that the Cubans are a force for stability in Angola? Angola's shadow may prove to be as long as Vietnam's.

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[From the Pretoria News, Aug. 2, 1977]

INVASION!

(By Robert Moss)

It was the day "Rommel" and his column crossed the Angolan border at Cuangar. The column consisted only of civilian vehicles—lorries, vegetable trucks, private cars and a few Land-Rovers.

The first target was the southern town of Pereira D'Eca, which had already changed hands several times. The column ran into light resistance from MPLA ambush parties using RPG–7 anti-tank rockets along the road (and also from Unita foragers who had not yet been notified of Operation Zulu) but when it got to the town, most of the defenders fled into the bush.

This was to become the pattern throughout much of the campaign. MPLA soldiers took to wearing civilian clothes under their uniforms so that, once driven out of their positions, they could drop their rifles, whip off their military gear, and emerge into the civilian population.

The column occupied Pereira D'Eca so quickly that MPLA troops on the outskirts were not immediately aware that the town had changed owners. Commandant Businha was having a celebratory drink in the local bar when two MPLA soldiers came in. He whirled around, took one look at them, and gave the MPLA salute (two fingers up), when they responded, he fired from the hip with his FN, killing both.

The condition of Pereira D'Eca gave a glimpse of what the South Africans were to find in the bigger towns, gutted by a black civil war. Most of the buildings had been sacked, the shops looted down to the floorboards. Local Unita forces were brought in to restore basic services.

It was left to Captain Garibaldi and his liberators to clear Sa Da Bandeira. It took them about a week—albeit a very sociable week with the wine flowing freely at impromptu parties of Portuguese in the streets.

The South Africans offered the local radio station to the Unita/FNLA causes, but they were not organised, so Garibaldi walked up and began issuing declarations that the town had been freed by the Portuguese Liberation Army.

Some of these broadcasts gave rise to a report in the foreign Press that the ELP was leading the march to the north.

Joined by another troop of Panhard armoured cars and another half platoon of 81 mm mortars, the South Africans' next target was the major southern port of Mocamedes.

On the way the column came under fire from 122 mm single-tube rocket-launchers, an ideal weapon for ambush, very light, easy to handle, and capable of being fired from an ordinary car.

It was in the skirmishes outside Mocamedes that the column also saw RPG–7 rockets used as a means of psychological warfare. These rockets have a range of about 960 m and a self-destruct fuse fired high, they would explode in mid-air with a big bang and with a big cloud of dense black smoke—totally harmless, since they do not produce shrapnel, but most demoralising to the black soldier, who could not be persuaded that no harm would come.

The gun battle outside Mocamedes might have gone badly for the Zulu column if the enemy had brought heavy mortars into play. But the column managed to fight its way through, capturing a new Russian-made 82 mm recoilless gun, and occupy the harbour of Mocamedes the same evening (October 27). There was an interesting variety of ships bobbing at anchor, including a Portuguese Navy corvette, and Portuguese, Greek and Italian merchant vessels. The South Africans believed these ships had been bringing arms—and probably Cuban troops as well—to Mocamedes, and were now being loaded up for mass evacuation. They also knew that Nord-Atlas aircraft allegedly owned by Frelimo in Mozambique, had been flying troops and equipment out of Mocamedes in advance of the Zulu offensive.

As the sun set over the harbour roads a red Fiat coupé with a white flag fluttering from its bonnet drove out of the town toward "Rommel's" improvised command post. It had two occupants: The Portuguese captain in command of the 150 paratroops in the town, and a naval officer from the corvette. They requested that the ships in the harbour should be allowed to leave on the grounds that they were evacuating refugees. The captain also insisted that his paratroopers wanted to have nothing to do with the war. "My role here is to guard the lives and property of the refugees," he said.

It was later discovered that he was not telling the whole truth. Unknown to the Zulu force, the communications centre at Silva Porto had already picked up an urgent radio signal from the Portuguese command in Mocamedes to Luanda, requesting that the MPLA reinforcements should be sent at once. It was also confirmed later that at the time Zulu arrived, a Soviet vessel had been waiting outside the harbour, bearing more arms and ammunition.

Although he could see barges laden with MPLA men plying back and forth between the harbour and the ships at anchor, "Rommel" decided to grant the vessels permission to leave. He also told the navy officer that if the corvette had not left by dawn, it would be blown out of the water—pure bluff, since the South Africans had no means of blowing it up. But the Zulu column had nothing to match the corvette's guns, and both "Rommel" and Commandant Businha were well aware that had it remained in the harbour during the battle for the town, their forces could have been cut to pieces. The Portuguese paratroops were ordered to stay in their barracks.

By first light on October 28th the corvette had gone. Although there had been intensive fire the previous night, when MPLA and Cuban forces occupied the ridge outside the town and kept up an intensive and accurate fire with 122 mm rockets, there was little resistance inside the town itself.

Advance units reached the airport (south of the city) too late to prevent the take-off of a Nord-Atlas carrying MPLA leaders, Cuban advisers and some heavy weapons. Although no Cubans were actually sighted during the fighting around Mocamedes, the precision firing was the clue to their presence. At earlier skirmishes back along the road MPLA gunners had been missing with 82 mm recoilless guns fired at close range.

In the clear light of day, Mocamedes harbour could be seen to be a pitiful state. The dockside was littered with suitcases, trunks and packing-cases that Portuguese refugees had been forced to leave behind—and with rapidly rusting cars. Crates destined for Zaire or Zambia, landed by ships diverted from overcrowded ports further north were heaped in pyramids.

Looking out over the Atlantic one of "Rommel's" lieutenants had a bright idea. "Let's bring the Bushmen down here to see the ocean," he suggested, "they have never seen it before." So the Bushmen were duly marched down to the waterside, but they were not impressed. Perhaps they thought this was just another dam. No one wanted to bathe in the salt water.

After local Unita forces were established in control of Mocamedes, the column turned back to Sa da Bandeira to regroup for the main assault on the north. There were reports that the MPLA was probing south from its positions at Benguela and Lobito—a primary objective for the South African operations was the country's second port and its most important railhead.

The rainy season was beginning, flooding rivers and turning the lowland areas further north into swamp. From now on, the campaign was to centre on bridges and river crossings. Control of all-weather roads became the key to victory or defeat.

On the road from Sa da Bandeira to Benguela, the Zulu column ran into a series of extremely well prepared MPLA positions. The influence of the Cubans—who showed themselves in the war to be well-trained in preparing and holding static positions, although inept fighters when things failed to go according to plan—was now obvious at every stage along the way.

The first major clash on the road to Benguela took place at Caporolo at the end of October. Here the Cubans and MPLA had set up their guns on a hill overlooking a bridge. "Rommel" sent his Bushmen westward along the river to look for a ford they could cross in order to take the enemy by surprise from behind. The Bushmen went too far, missing the ford. In the meantime, one of the Panhards nosed too far forward along the main road, disclosing the column's position.

To the South Africans' astonishment, the

enemy forces simply picked up their equipment and ran—but not before trying to blow up the bridge.

The explosive charges had all been set, but the last man who had checked the circuit on the detonator had forgotten to reconnect the wire. The South Africans drove on across the bridge, and pushed on to Catengue, where the roads from Benguela and Nova Lisboa intersect. It was time to take stock and find out where the enemy was.

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[From the Sunday Telegraph, Feb. 20, 1977]

MOSCOW'S NEXT TARGET IN AFRICA

Can the West learn from Angola's tragedy, or are we condemned to relive the experience? What the Russians learned from Angola is that war by proxy pays off. They will be strongly tempted to use the same technique in other places—and almost certainly in the assault on Rhodesia and South-West Africa.

The Cubans are Moscow's all-purpose mercenaries, but they are not the only proxy soldiers who are being deployed in the widening war for southern Africa.

The Nigerians are said to be heavily involved in Angola. Western intelligence sources report that Nigerian troops were present at battalion strength when the MPLA and the Cubans pushed south last year. According to UNITA sources in Paris, the Nigerian strength has since been reinforced.

UNITA sources claim to have tapes of radio intercepts showing that at least 5,000 Nigerian troops have been deployed in Angola. They are operating as far south as Mocamedes, and are also based in Lobito, Luanda and the eastern diamond mining town of Henrique de Carvalho. UNITA claims to have intercepted radio communications in English (the common language between the Nigerians, the Cubans and the MPLA), in the Ibo, Hausa and Yoruba dialects, and in a form of pidgin Creole that could indicate the presence of forces from Sierra Leone as well.

An intriguing sidelight is that UNITA also claims that a British shipping line played a key role in ferrying Nigerian troops and military supplies to Angola. Nigeria, rich in oil and boasting an army of some 210,000 men, can clearly afford to be more than rhetorical in its backing for the guerrilla movements of southern Africa.

The Tanzanians have also moved into the region. President Nyerere has put 1,400 of his troops into northern Mozambique to help the FRELIMO Government to suppress the major revolt of the Makonde tribes led by Lazaro Kavandame. Mozambique's army is largely recruited from the warlike Makonde.

Yet another African army is reported to have sent units south: Somali troops are said to be quietly moving into Mozambique. Rhodesian guerrillas in Maputo have bragged to Portuguese correspondents that Somali tanks will be used in future operations against Ian Smith's forces. The story may not be as bizarre as it sounds. Somalia, like Cuba, is a Soviet satellite whose armed forces and intelligence services operate under the direct supervision of Russian officers. Although the Somali army is small (some 25,000 men), it is well-endowed with Soviet armour and has performed well in border skirmishes with the Ethiopians. The Somalis have 200 Soviet-made T–34 tanks and about 50 T–54s.

The black expeditionary forces' task may be to free the Cubans for a future offensive against Rhodesia, South-West Africa—or Zaire, which is also a prime target for the Russians. But the Cubans in Angola still have their hands full in coping with the continuing guerilla war, and the total number there has probably been increased since the end of the South African campaign; some estimates range as high as 22,000.

There are more than 1,000 Cuban advisers and "technicians" in Mozambique, nominally assigned to the Senna sugar plantations or to the port of Beira. Many are believed to be military instructors for the ZIPA guerrillas from Rhodesia and the FRELIMO forces.

In Somalia, at least 600 Cuban instructors are attached to the Somali army and the pro-Somali guerrillas from Djibouti—the French-controlled port on the Red Sea that is expected to become independent later this year. The Cubans are also active in Equatorial Guinea, where President Macias has established one of the bloodiest dictatorships in black Africa. Some 200 Cuban instructors train his paramilitary forces and his personal bodyguard. There are another 300 Cuban advisers in Sékou Touré's Guinea.

In Sierra Leone, Cubans are training an internal security unit, and the Cuban "technicians" have also been sent to the strategically-placed former Portuguese possessions in West Africa: Guine-Bissau, the Cape Verde Islands, and Sao Tome e Principe.

The Cubans are particularly well-entrenched in Congo-Brazzaville, the main staging-point in their invasion of Angola. They maintain at least 400 men at the Pointe Noire docks and the Maya Maya air base, and there are reports that reinforcements have recently been moved in from Angola in preparation for an attempt to put renewed pressure on Zaire's President Mobutu, whose supply routes to the Atlantic are now endangered. In Tanzania there are at least 150 advisers and "technicians," some of them attached to the Tanzanian People's Defence Force.

All in all, it is not a bad effort for a Caribbean sugar-cane republic of eight million people. Of course, someone else is picking up the tabs. The Russians have not only been subsidising the Cuban economy to the tune of more than $1 million a day; they invested over $500 million in the Angolan campaign, and are believed to have supplied weaponry and equipment to Angola worth more than $350 million in the year since the South Africans pulled out.

But Cuba's role as a Soviet proxy is even more striking if you take account of the Cuban presence in the Caribbean (where Castro's men are training Jamaican police) and in the Middle East (where 150 Cuban instructors are training international terrorists in Iraqi camps), not to mention the Cubans' effort to take control of the non-aligned countries' news pool and the role of the Cuban intelligence service, the DGI, in orchestrating the activities of Latin American exile groups and transnational terrorists in Western Europe. Is it possible to imagine an anti-Communist country of the same size acting on the same scale today?

The strategic effect of the loss of Angola is summed up by two statements that oddly concide: one from the Soviet paper *Izvestia*, in a major article last August; the other from South Africa's Prime Minister, Mr. Vorster, in his New Year's message. *Izvestia* said that "revolutionary events have seized southern Africa—the last strong bulwark of colonialism and racism—and the speed of the spread of the flame attests to the huge supplies of 'explosive material' accumulating there." Mr. Vorster, in simple but chilling words, showed that the message had not been lost on him: "The storm has not struck yet. We are only experiencing the whirlwind that goes before it."

Were the effects of the Cuban victory foreseen by the men who sat down in the American Senate on December 17, 1975, to debate whether or not they should vote to cut off all United States support to the anti-Soviet movements in Angola? With a few honourable exceptions, it seemed that the Senators were talking about another war. Senator after Senator recalled the anguish of Vietnam, the peril of getting sucked into another quagmire, the hopelessness of trying to shape events in a far-off place of which Americans knew nothing.

CONTINUING FIGHT AGAINST MARXISTS

Hubert Humphrey caught the prevailing mood: "The United States better start taking care of things it knows how to take care of. We know so little of Africa, the 800 and some tribes that make up Africa . . . I say it is like a different world."

Senator McGovern jumped up to argue that it made no difference which of the black movements won anyway. Senator Tunney thought the rival Angolan movements were only nominally pro-Soviet or pro-American. At heart, all of them were "basically pro-Angolan, Socialist and highly nationalistic." Most of the Senators who spoke that day found it difficult to believe that the Russians would be able to establish a secure foothold in Angola, and some suggested that Angola could prove to be Russia's Vietnam.

It was not a wholly absurd idea. To this day, three anti-Soviet guerrilla movements are continuing the struggle in Angola: UNITA in the south and centre of the country, the FNLA in the north, and the secessionists of FLEC in the Cabinda enclave. Unlike Left-wing revolutionaries from other countries who fly off to university sinecures or their Swiss bank accounts after suffering defeat on their home ground, Jonas Savimbi is carrying on the battle deep inside Angola.

He has claimed that UNITA has 22,000 armed supporters, although Western intelligence sources believe that the figure is probably no more than 6,000. It is virtually impossible to get reliable information on the guerrillas' military capacities, but one index of UNITA's ability to harass the regime is the fact that no train has been able to cover the whole length of the Benguela railway—from the Zambian border to the coast—since the beginning of the war. UNITA's political base is still largely intact, and the MPLA has had little success in building up support among the Ovimbundu peoples, traditional UNITA sympathisers.

This means that it might well be possible for UNITA and the other anti-Soviet groups to inflict a serious humiliation on the Cubans and the MPLA—if they could count on effective outside support. But no Western Power is disposed to play the part of armourer and adviser to UNITA in the way that the Russians and the Chinese played it for the Vietcong.

SOUTH AFRICANS MAINTAIN CONTACTS

Now that the MPLA régime has been admitted to the United Nations, backing UNITA has become diplomatically tricky—although some Western Governments are more strait-laced than others. The French were ahead of the stampede to recognize the MPLA back in February, 1976 (much to the annoyance of their EEC partners, who had expected to be consulted) but this did not inhibit them from remaining deeply involved with UNITA and the FNLA.

Zambia's President Kaunda has come under intense pressure from his "frontline" colleagues to sever all links with UNITA, and finally had to ask Jorge Sangumba, UNITA's chief foreign spokesman, to leave his customary haunt, the Intercontinental Hotel in Lusaka. Jorge now gives his patronage to the Intercontinental Hotel in Kinshasa.

The South Africans maintain contact with the anti-Soviet movements, and there is a large colony of white Angolan refugees. But they are inhibited by their desire not to provide a pretext for a Communist-backed invasion of South-West Africa.

Ironically, if any outside power is ready

to adopt a "forward policy" in Angola, it could still prove to be China. The Chinese have backed both the FNLA and UNITA in the past. Many UNITA leaders, including Savimbi's number two, Miguel Nzau Puna, have received training in China. Puna complained to me when I last saw him about the rigours of the Chinese training schedule (which continued into the night with political indoctrination sessions). The Chinese cut off support to UNITA at the end of 1975, when hard evidence of South Africa's involvement seeped out.

But the Chinese are angry that they have lost nearly every point to the Russians in the contest for power in black Africa—despite the fact that they have spent considerably more in economic aid. So renewed contact with UNITA is a possibility, if a remote one.

With or without outside backing, UNITA's proven survival capacity worries the Russians. The Soviet ambassador in Luanda, Boris Vorobyev, is said to have been instructed to press the MPLA to do a deal with UNITA. President Neto and the Cubans are reluctant, but the biggest stumbling-block is that neither Savimbi nor any other of the top-ranking UNITA leaders has been ready to accept the idea of a deal with the MPLA—which, in current circumstances, would amount at best to a conditional surrender. KGB agents have therefore been trying to sound out UNITA representatives abroad to discover whether it is possible to create a rift between Savimbi and lower-level cadres, so far without notable success.

Angola today cannot be objectively described as an independent country. Control of its armed forces, its secret police, its economy, its civil administration and its educational system is in the hands of Russians, Cubans and East Europeans, and the MPLA itself is being remoulded into an orthodox Communist party. The Cuban garrisons are the basic guarantee that the régime will not only survive but toe the line.

The Cubans have divided Angola into six military regions, with garrisons in the major towns. Five major mopping-up operations have been launched against the anti-Communist forces since the South Africans withdrew, but despite the savagery with which the Cubans and the MPLA have dealt with the civil population large swathes of Angola are still contested zones.

The continued flight of refugees over the 1,200-mile border of South-West Africa is an eloquent comment on the way the people of southern Angola regard their new masters. Some 10,000 have been absorbed into South-West Africa.

A conservative intelligence estimate has 3,700 Cuban troops currently in the central-western region, embracing Lobito, Huambo (formerly Nova Lisboa) and Bie (formerly Silva Porto); 2,000 in each of the northern, eastern and southern regions; and 3,000 in the Cabinda enclave, where some of the fiercest fighting is taking place. There are at least 1,500 Cuban troops in Luanda.

This gives a total of about 14,000 of whom 6,000 are infantry. The Cuban forces include an armoured regiment with 120 T-54 and T-34 tanks and 1,900 men, an armoured car regiment with 70 Soviet-made BRDM vehicles and 1,600 men, an anti-aircraft battalion and five regiments equipped with multi-barrelled rocket-launchers.

The Cubans are also the key element in the new Angolan air force. They pilot all of the MPLA's Soviet-supplied planes, which include a dozen MIG-21s, 10 MIG-17s, helicopters, and Antanov-2 light transport planes. They also pilot some of the scores of light aircraft that were bequeathed by the Portuguese forces. Cubans command the air bases throughout Angola, and are supervising the construction of new air bases at Huambo, Mocamedes and Cabo Lindo and the extension of existing air fields. This could be the prelude to a Soviet attempt to use Angola as the base for a major offensive against South-West Africa.

But Cuba's involvement is not restricted to troops. The Cuban ambassador in Luanda is Oscar Oramas, one of the architects of Cuba's invasion, a senior figure in the Cuban Communist party, an old Africa hand (who was formerly ambassador in Conakry) and, most important of all, a key operative of the Cuban intelligence service, or DGI, a satellite of the KGB directly supervised by a KGB general and his Soviet staff. The new Angolan intelligence service, the DISA, is directly controlled by the DGI.

CUBANS TRAINING UNION LEADERS

Similarly, Cuban advisers have assumed key positions throughout the civil service, and notably in the Interior Ministry, the Education Ministry, and in the supervision of the MPLA's programme of "political mobilisation," which is supposed to drum up support for a "mass Marxist-Leninist party." The Cubans are training Angolan trade union leaders, and the syllabus on offer at the Lazaro Pena trade union college in Marianao includes Marxist philosophy and Cuban history. The Cubans are strongly represented on President Neto's staff, and he is said to have entrusted his personal security to them. They share control of the Finance Ministry and the Bank of Angola with the Russians. The recent measures to establish a new Angolan currency, the kwanza, set an example to any other Government that might wish to wipe out its middle class at a stroke. Angolan families are allowed (on a one-for-one basis) to exchange the old Portuguese Angolan escudos for kwanzas, but only up to the limit of 20,000 kwanzas. Anyone who has more than that stashed away has to accept that his savings have been turned into worthless paper.

Last July, Angola became the first African country to join the Soviet-controlled Council of Mutual Economic Assistance (CEMA). Since Neto's visit to Moscow in October, the trickle of East European technicians, agricultural scientists and managers has become a flood.

Between them, the Cubans and the Russians now decide who can enter and leave Angola, what civil liberties (if any) individuals and organisations will be allowed, what the country will export and import, and how much money will be printed. On the coffee plantations, Cuban supervisors are said to operate a system of forced labour: workers are shifted from one place to another, or from one job to another, without notice or appeal.

These are examples of what "satellisation" means. But foreign troops and advisers can be shown the door.

The Russians remember what happened in Egypt in 1972, when Sadat turned against them, just as the Cubans remember the eviction of their mission from Brazzaville in 1968, before Marien Ngouabi seized power. So an effort is being made in Angola, as in Mozambique, to transform the ruling movement into an orthodox Communist party.

Soviet writers have described in detail how this effort should proceed. The classical text is a book entitled "Political Parties of Africa," published in Moscow in 1970. Its main editor is Vassily Solodovnikov, now Soviet Ambassador in Lusaka.

Solodovnikov accepts that it is unrealistic to expect to create a Communist society in Africa overnight. It will be necessary to begin by working through "revolutionary democratic parties," like the movements that came to power in Guinea, Congo and Tanzania, and like the MPLA in Angola. These movements may start out as a mish-mash of nationalism, Marxism and tribalism, but they include activists "who are inspired by the ideas of scientific Socialism"—in plain words, Communists.

Solodovnikov's thesis is working out in Angola. During his visit to Moscow last October, Agestinho Neto signed a 20-year friendship treaty with Russia that provided for regular exchanges between the MPLA and the Soviet Communist party. Soon after his return, the MPLA announced that Angola was to be described officially as a "Marxist-Leninist republic."

It is perhaps a toss-up whether the MPLA in Angola or FRELIMO in Mozambique has gone further towards achieving Sovietisation. The MPLA does not seem, as yet, to have matched FRELIMO's regulations that dictate the maximum thickness of the soles (and the heels) of shoes, according to the age and sex of the wearer.

Both President Podgorny and Leonid Brezhnev are expected to visit Africa this year. Their main ports of call will be Maputo and (probably) Dar-es-Salaam. The message could be that the West is on the retreat and that Russia is becoming the dominant power in Africa. Their strength is that they are acting according to a global strategy—while Western leaders are not.

The ring of naval and air facilities that the Russians have acquired around the African coast, and the deepwater harbours where they now have the opportunity to create new naval bases, include Luanda and four excellent ports in Mozambique: Maputo, Beira, Nacala and Porto Amelia. Somalia, Congo and all of what used to be Portuguese Africa now have Governments that can be called Marxist, and Soviet-bloc military advisers, troops and intelligence officers are present throughout most of the continent.

But the most important thing to grasp about the Soviet design for southern Africa is that it is essentially negative, it has been accurately described, in an admirable paper from the Institute for the Study of Conflict as "a strategy of denial"—denial, that is, of raw materials and communications.

THREAT TO CAPE ROUTE

A leading Soviet Africanist, E. Tarabrin, predicts that the West's dependence on African raw materials will increase rapidly over the rest of the decade, and that imports of chromites (from Rhodesia and South Africa) will double. Soviet experts also stress that much of Africa's mineral wealth lies in the southern half. The gold, diamonds, platinum, copper and other industrial metals are rich stakes to play for.

Geography is just as important as natural resources. If the Cape route—which carries about 70 percent of the strategic materials required by NATO countries—could be denied to the West, the world could be cut in half vertically by the closing of the Suez Canal as well. There is no alternative to the Cape route, not just because the Suez Canal can be closed overnight and Western Europe is so dependent on Middle Eastern oil, but because technology has bypassed the Canal: the supertankers cannot get through it.

The Communist invasion of Angola was a step toward the fulfilment of Russia's grand design: the domination of the whole of southern Africa.

By giving up in Angola, the Western Powers threw away a unique opportunity to hold the line against Soviet expansion in southern Africa. Why unique? Because in Angola, the reality of the Soviet threat was not obscured by racial sentiment—at any rate, not until Marxist propagandists set about trying to turn the South Africans into the villains of the piece.

The war in Angola was not a war of black men versus white men. It was a war between rival black guerrilla movements and their foreign helpers. It presented a clearcut choice between a pro-Soviet group that promised to turn Angola into a Marxist-Lenist republic and its pro-Western oppo-

nents who promised democratic elections and guarantees for private investors.

Learning from Angola, the Russians are determined to ensure that if they can engineer the removal of the white Government in Salisbury, there will not be a subsequent battle for the spoils between pro-Soviet and anti-Soviet blacks, which might again divide black Africa. How can they ensure that? The spade-work has already been done. The bulk of the black guerrilla forces have been united by the Nkomo-Mugabe alliance, under the umbrella of the Patriotim Front.

The five neighbouring African Governments—which were at loggerheads during the Angolan war—have been persuaded to give their support to Nkomo and Mugabe. Britain and America say they will refuse to accept any settlement that is rejected by these two, even though they patently cannot claim to speak for the majority of black Rhodesians and the only hope of a civilised solution in Rhodesia lies in an agreement between Ian Smith and more representative black leaders such as Bishop Muzorewa.

The Soviet calculation—which seems to be paying off so far—is that the assault on southern Africa will be tolerated, if not aided and abetted, by the West, so long as it is carried out in the name of "majority rule." The fact that, for most of black Africa, "majority rule" means one-party dictatorship or primitive despotism is conveniently ignored.

THE WEST'S LOST CHANCE

But what is still less excusable is the neglect by Western politicians of one of the abiding lessons of Angola: that if "majority rule" means government with the consent of the people, then it can only survive in Africa if it is defended against Communist aggression.

Now Britain and America say that they will not accept a settlement worked out between blacks and whites inside Rhodesia—or for that matter, South-West Africa. The Marxist guerrilla leaders must be included; it seems that it does not matter over-much to either Western Government if the whites have any say.

If Angola is any guide—and I am convinced that it is—this is a prescription for another Marxist dictatorship, imposed by force of arms, which would provide the base for black guerrillas and Soviet proxy troops to attack the ultimate target: South Africa.●

## ACTION OF NATIONAL ENERGY PLAN URGED

● Mr. BAYH. Mr. President, the National Energy Plan has been in the hands of the House-Senate conferees since last fall. Despite the hopes of most of us that we could complete action on these legislative proposals before the end of the last session in December, the conferees have remained deadlocked over the most controversial aspect of the President's plan—the Natural Gas Policy Act. While the conferees are dealing with issues of extreme complexity and momentous importance to the Nation, and they have been working with great diligence to resolve their differences, the American people, as well as observers around the world, are understandably becoming a bit impatient and skeptical about our national resolve due to lack of progress on the energy front. I share these growing concerns.

For this reason, Mr. President, I have joined with Senator METZENBAUM and 50 of my colleagues in the House and Senate in sending a letter to the President urging that the first three parts of the energy bill be passed out of conference and sent to the White House, no longer delayed by division over the natural gas bill. This would also permit separate action on the tax portions of the national energy plan and encourage the tax conferees to resume the deliberations they broke off last year.

As you know, the President's energy plan was composed of five separate legislative proposals: A conservation bill, a coal conversion bill, a utility reform bill, a natural gas pricing proposal and an energy tax bill. The Senate considered each of these measures separately, at great length, and passed them along to the conferees as soon as they were approved on the Senate floor. The House of Representatives, on the other hand, considered the President's proposals as a package, at one time, and have treated them as such in the conference.

The conferees finished their work on the conservation bill on November 1; on the coal conversion bill on November 11; and on the utility bill on December 1. At the behest of the administration, the Speaker of the House has chosen to prevent action on the three completed bills, hoping to keep all five sections in the conference together. As a result of these procedures, the conservation, coal conversion and utility bills have been languishing in conference, awaiting resolution of the natural gas pricing controversy, and the conference has not resumed negotiations on the tax bill.

Mr. President, I think that we are past the time when this procedure makes sense. The initial submission of the national energy plan to the Congress as a package was quite sensible. It allowed Members of Congress to see the whole plate, as it were, and keep various portions of the plan in mind as others were being considered. Continuing to link the five proposals together at this point in time is no longer helpful. In fact, the evidence is mounting that it is becoming harmful. Businessmen and homeowners, farmers and consumers cannot make practical decisions that press for answers. Leaders around the world are increasingly doubting our ability to put our house in order, and the value of the dollar continues to plummet. Oil imports continue to climb and anticipated energy projects are at a standstill.

The major unresolved issues with which the conferees must deal will not be affected one way or another by the conferees reporting out the proposals on which they have completed action. The two key issues still to be decided are whether to force the price of domestic oil to OPEC prices by imposition of a tax at the wellhead, and whether the lid is going to be taken off natural gas prices.

These issues are not new to the Congress. The pros and cons of deregulating the price of natural gas have been debated on and off in this Chamber for years, ever since the Supreme Court ruled on the legality of Government regulation of natural gas prices. The attempts to reduce energy dependence and petroleum imports by raising prices to OPEC levels through the wellhead tax is analogous to President Ford's recommendation to impose import duties on foreign oil. The Congress debated that issue thoroughly at that time.

Mr. President, the decisions the conferees, the Congress, and the President make on these questions will not be affected by early passage of the conservation, coal conversion, and utility bills. However, the freeing up of these proposals and separation of the tax and natural gas bills from one another will make a difference.

As my colleagues and I have stated in our letter to the President, action on the non-gas portions of the energy bill last December would have resulted in more than 90 percent of the total energy savings originally possible under the national energy plan. It would have removed the current uncertainty felt in the business community and convinced the rest of the world that we can take decisive action to deal with our energy problems. It is only the continued struggle over natural gas legislation that has prevented this from happening.

The legislation on which the conferees have acted are meaningful proposals.

H.R. 5037, the Energy Conservation Act, puts a Congressional stamp of approval on the need to end wasteful uses of energy. The United States is the world's most profligate user of energy, with a per capita consumption rate that far exceeds that of other industrial nations, including those with standards of living equally as comfortable as our own. It is essential that we change our habits, both through voluntary conservation efforts and by adopting measures that will make our homes, buildings, machines and automobiles as energy efficient as possible.

The Energy Conservation Act addressed these concerns in a number of ways. First, under the conference agreement, large gas and electric utilities are required to inform their residential customers about ways to save energy, suggesting the installation of certain kinds of equipment and estimating possible energy savings from such improvements. They must also provide their customers with lists of businesses that will finance, supply or install suggested energy conserving measures. Utilities, at the request of their customers, will further be required to undertake home inspections and advise customers specifically about what can be done to their residences to save energy. Customers can also request their utilities to act as "conservation managers," arranging for the installation and financing of desired residential conservation devices. Loan and installation fees can then be paid monthly, along with payments for utility bills.

Second, the legislation makes available low interest loans for families whose incomes fall below $15,000 who choose to take energy conserving steps, as well as to families at all income levels who install solar heating, hot water or cooling equipment. In addition, it extends existing Department of Energy grants for low income families who take conservation steps in individual residences, as well as making grant money available to improve the energy efficiency of multi-family, public housing proj-

ects for moderate income, elderly and handicapped people. Funding for grants for weatherizing public and private nonprofit schools and hospitals, for inspections and technical assistance to local governmental buildings, and for continuation of state energy conservation programs is also authorized.

Finally, the bill addresses the energy efficiency of new industrial equipment and home appliances and requires the Federal Government itself to set an example for the nation by practicing what it preaches in the Federal establishment.

H.R. 5146, the Coal Conversion Act, is a key component of the national energy plan because greater utilization of coal is essential if this Nation is to approach energy self-sufficiency. Right now, coal is America's major alternative to oil and gas. It will play a crucial role in the transition from dependence on foreign petroleum products to reliance on adequate supplies of domestic energy.

Currently, about one-fourth of all oil consumed in the United States is burned by utilities and industrial facilities, and 60 percent of all natural gas is consumed in a similar fashion. Oil and gas are essential for only a limited fraction of these uses, and conversion of such facilities to coal—our most abundant domestic energy resource—could significantly reduce the nation's oil and gas consumption.

The coal conversion bill agreed to by the conferees sets the foundations for this shift by requiring new utilities and industrial facilities, as well as existing plants which are capable of burning coal, to switch to this alternative fuel or other substitutes for oil and gas, if those are considered preferable.

To ease the transition, the bill provides for financial assistance to areas affected by increased coal or uranium production, processing and transportation. Loan guarantees for coal preparation facilities to reduce the sulfur content of coal are also provided. Last year, as chairman of the Transportation Appropriations Subcommittee, I was responsible for earmarking money for local roads adversely affected by mining operations. Recent reports on Appalachian mining areas indicate that roads in heavily mined areas are in a dangerous state of disrepair. I will examine this issue quite closely again this year when the subcommittee considers the Department of Transportation Appropriations bill.

H.R. 4018, the electric rate reform bill, is designed to achieve three broad goals: conservation of capital and energy, efficient use of utility powerplants, and equitable rates to consumers. To achieve these goals, the bill requires State regulatory commissions to consider rate reforms that offer incentives for reduction of energy consumption. For example, utilities have traditionally offered discounted rates to customers as their use went up, thus encourgaging increased use of electricity rather than conservation. And few have offered reduced rates to customers who consume most of their energy during off-peak periods. The legislation requires State utility commissions to take these considerations into account when considering proposed rate schedules and to make information available to the public about the cost of electricity at different times of the day and to different types of customers.

The utility bill also addresses the issue of power sharing among different utilities, to see that electric generating capacity in one location will not be lying idle while other areas suffer shortages or build additional facilities at expense to their consumers. It also encourages the use of cogeneration techniques—the use of waste heat from industrial facilities to generate electricity—a technique widely used throughout Western Europe—thus reducing demand for oil, gas, or coal.

Finally, the bill requires DOE action on a number of festering consumer issues: Examination of ratemaking procedures with the hope of eliminating the practice known as pancaking—the filing by a utility of new rate schedules while previous applications are still pending; periodic review of automatic fuel adjustment clauses—the major means by which utilities raise rates—to determine whether they reflect actual fuel cost increases and encourage efficient management of utilities; provision for consumer intervention in rate cases; and prohibitions against including costs for promotional or political advertising in utility rate structures.

Mr. President, nobody knows how long the natural gas conference will continue. The Senate conferees have made a proposal to the members of the conference from the House. In turn, House conferees have made a counterproposal to Senate conferees. The coalitions offering both of these proposals are fragile. Billions of dollars are at stake in the decision. Feelings run high on both sides.

In the meantime, the energy tax bill lies dormant and those affected by energy policy are being stymied, unable to make decisions, because of the uncertainty prevailing with respect to energy legislation. It is time for the Congress to act on the work we have completed to date on the President's energy package. I urge the rest of my colleagues to join us in this appeal to the President to free up those sections of energy package on which the conferees have completed action so that America can get about its business.●

## AMERICAN PUBLIC FAVORS IMPROVEMENT OF RAILS

● Mr. McGOVERN. Mr. President, I have long believed that rebuilding our Nation's rail system should be one of the top priorities of the Federal Government. Rail transportation is one of the most energy efficient, nonpolluting and inexpensive modes of transportation available.

Transportation is one of the fundamental prerequisites to a growing, fluid economy. By building up the U.S. rail system to the point of pre-eminence it deserves, we can help meet our growth and productivity goals. Without this effort, we can only continue to struggle. Not so incidentally, we can put thousands of people back to work doing this important job.

A recent poll conducted by the respected Louis Harris, confirms that a substantial majority of the American people favor improvements in the quality and the availability of rail travel. The poll also pointed out that a growing percentage of Americans say they will travel by rail more in the future.

Mr. President, I ask that the March 15, 1978, Washington Post article entitled "Harris Study Says Public Wants Better Rail Service" be printed in the RECORD.

The article follows:

HARRIS STUDY SAYS PUBLIC WANTS BETTER RAIL SERVICE

(By William H. Jones)

Although few Americans would choose passenger trains today for trips over 100 miles, a majority favor improvements in the quality and availability of rail travel, pollster Louis Harris reported yesterday.

Detailing results of a nationwide public opinion sampling, conducted by Louis Harris & Associates at the request of Amtrak, the pollster told a National Press Club news conference that a growing percentage of Americans believe they will travel by train more in the future.

The Harris report was based on telephone interviews between Feb. 11 and Feb. 22 with a national sample of 1,600 persons plus more extensive samples of persons residing in five intercity rail corridors.

Publication of the data comes as Amtrak, the government-subsidized National Rail Passenger Corp., is facing the prospect of cutting back on services if federal financial aid is not expanded.

According to Harris, 56 percent of those persons polled would choose a car for trips over 100 miles, 28 percent would pick airplanes, 8 percent favor buses and 6 percent would choose trains. For travelers living in areas where train service is available, the percentage favoring trains increases to 9 percent, he said.

But 60 percent of the persons surveyed favor improvements in rail service (up from 54 percent in a 1972 Harris survey) and 51 percent favor more federal spending to achieve improved service.

From a list of nine proposed improvements in U.S. transportation, persons interviewed by the Harris team ranked auto safety first followed by better commuter mass transit and better intercity rail travel. New highways, new airports and faster airplanes were at the bottom of the list, Harris said.

"If and when energy shortages or the threat of energy shortages become more salient, the public mandate and demand for mass transportation and intercity trains will further intensify. The readiness of mass transportation to bear this greater loan will depend on the priorities the government sets today," he added, in an assessment of the sampling.

Generally good marks were given to Amtrak by those surveyed. The service's "performance rating" was 55 percent positive and 38 percent negative compared with the 1972 survey when 40 percent were positive and 42 percent negative.

In the Boston-Washington corridor, Amtrak got a 67 percent positive rating.●

## VOTER INITIATIVE AMENDMENT

● Mr. ABOUREZK. Mr. President, last July, Senators HATFIELD, GRAVEL, and I introduced the voter initiative amend-

ment, Senate Joint Resolution 67. Since that time we have received a substantial amount of editorial opinion from newspapers all over the country about this constitutional amendment. It has recently come to my attention that the Chicago Tribune, on February 6, joined in the discussion that has been generated by the introduction of this amendment. I ask that the Tribune editorial be printed in the RECORD.

The editorial follows:

YOU AS A LAWMAKER

Senators James Abourezk (D., S.D.) and Mark Hatfield (R., Ore.) are proposing to change the United States Constitution in a startling manner. Under their bill, Senate Joint Resolution 67, federal laws could be proposed and passed by the people, without Congress' acting on them at all; on rare occasions, in fact, the voters at large could function as a kind of super-Congress on issues big enough to merit nationwide attention.

At first sight this seems mere populist moonshine, and in fact there are cogent objections to the idea. Yet it becomes harder to dismiss the longer one looks at it.

The amendment, introduced last July, is the first serious attempt to put the voter-initiative process to work on the national level. That is its only really novel element. Twenty-three states including Illinois now have voter-initiative systems in some form [South Dakota has had such a law since 1898], and they have worked well enough to become a standard, accepted part of their government machinery.

Part of Sen. Abourezk's case is that, if voters can settle statewide issues intelligently, there is no reason to think they couldn't do the same with national ones—which surely would have been thrashed out more exhaustively before coming to a vote.

Another argument is that such direct public participation in the lawmaking process would be an effective way of countering the growing sense of indifference and distrust that so many Americans feel toward government. It is easy to lose interest in a vast, impersonal machine that seems to run by its own rules; it is less easy to ignore one that you are invited to help run.

Under SJR 67, voter initiative would work this way:

A group of citizens, convinced that Congress had short-changed the public in some way by its handling [or nonhandling] of a bill, would unite to draft legislation of its own. This in itself would take long preparation. Such a group normally would have to work closely with members of Congress sympathetic to their cause, and would need expert help with legal language and other technicalities. It could not deal with certain matters that are exempted from voter initiative, including constitutional amendments, declarations of war, confirmations of nominees, and ratification of treaties.

Once drafted, the bill would go to the U.S. attorney general, who would make sure of its validity, then prepare a title and summary to appear on signature-collecting petitions.

Proponents then would have 18 months to collect enough signatures to qualify the proposal for a vote. They would need the equivalent of 3 percent of those who voted in the previous Presidential election—or about 2.5 million signatures—plus a distribution of 3 percent in at least 10 states.

Once the signatures were collected, the attorney general, with the help of state election officials, would have to validate them as legal. [Since some would be invalidated, the backers would actually have to collect one or two million over the minimum to provide a cushion.] When the attorney general certified that the required number of valid signatures had been collected, the proposal would be placed on the ballot at the next congressional election. A simple majority vote would be needed to pass it, and the law would take effect 30 days after enactment.

For two years after a law was passed by voter initiative, Congress would be able to repeal or amend it only by a two-thirds vote; after that a simple majority would be enough. Laws passed by initiative would be subject to judicial review like any others.

Sen. Abourezk argues that this is not a replacement of our representative form of government, but a complement to it—one that would increase both the accountability of government and the citizens' knowledge of public affairs. In any event, he says, long testing in the "laboratory of states" has shown voter initiative to be a workable and democratic process.

Opponents, however, find all this much too glib. Sen. Birch Bayh (D., Ind.)—who like Mr. Abourezk is a liberal and a member of the Judiciary subcommittee studying the proposal—makes these points against it:

Holding a referendum throughout the 50 states would be a vastly complicated project. An issue that called for such a vote would probably be complex in itself and subject to misunderstanding [how for instance, would the average citizen be able to vote knowledgeably on a national energy policy?]. Much would depend—as polls show—on how a proposition was worded on the ballot. The vote would be subject to high-pressure media campaigns that would oversimplify the issues and appeal to emotions rather than facts.

Mr. Abourezk has answers to these objections; their essence is, "You can trust the people." That does not settle the matter. The question is likely to be with us for a long time, and to attract more and more discussion as time goes on. We might as well start thinking about it.●

## PRESIDENT CARTER'S STATEMENT ON NEUTRON WEAPONS

● Mr. PELL. Mr. President, I rise to support President Carter's decision to hold up production of neutron weapons and to request that the Soviet Union respond seriously to this American example of restraint.

The President's decision puts the onus on the Soviet Union to put its money where its mouth is on these weapons. Over several months now, the Soviets have expressed concern about neutron weapons and have charged that these weapons are part of an American effort to create more and more means of mass destruction. The Soviets have also stated that they favor "reducing arms and easing military confrontation." Now is the time for them to demonstrate that these are more than words.

If the Soviets meant what they said, they should now respond in a suitable fashion. In this connection, the Soviets should bear in mind that the reason that neutron weapons were developed and other plans made to moderize our tactical nuclear forces in Europe was because of the massive Soviet threat to Western Europe, represented in particular by the large tank disparity in the Soviets' favor. Reducing that threat would, in my view, be an appropriate Soviet action.

If the Soviets do nothing, then we have the option of moving ahead with neutron weapons. In this connection, it is my belief that the lack of a Soviet response would generate formal NATO support for modernizing its tactical nuclear weapons in Europe with neutron warheads.

In conclusion, I believe that President Carter is to be commended for his decision on neutron weapons and for his actions in SALT and other arms control negotiations to curb the arms race and to avoid nuclear proliferation. There is also perceptible a decent concern on the part of the President for the much overburdened American taxpayer.●

## PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the two notifications I have just received. A portion of the notifications, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, Room S–116 in the Capitol.

The material follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., April 10, 1978.*

HON. JOHN J. SPARKMAN,
*Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover, Transmittal No. 78–26, concerning the Department of the Air Force's proposed Letter of Offer for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, USA.*

[Transmittal No. 78–26]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) *Prosepective Purchaser:* [Deleted]

(ii) *Total Estimated Value:*
Major defense equipment* [Deleted]
Other [Deleted].
Total [Deleted]

(iii) *Description of Articles or Services Offered:* [Deleted]

(iv) *Military Department:* Air Force.

(v) *Sales Commission, Fee, etc. Paid, Offered to be Paid:* None.

(vi) *Date Report Delivered to Congress:* 10 Apr. 1978.

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

DEFENSE SECURITY AGENCY,
*Washington, D.C., April 10, 1978.*

Hon. JOHN J. SPARKMAN,
*Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover, Transmittal No. 78-27, concerning the Department of the Army's proposed Letter of Offer for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost in excess of $7 million.

Sincerely,

ERNEST GRAVES,
*Lieutenant General, USA.*

[Transmittal No. 78-27]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) *Prospective Purchaser:* [Deleted].
(ii) *Total Estimated Value:*

| | |
|---|---|
| Major Defense Equipment* | [Deleted]. |
| Other | [Deleted]. |
| Total | [Deleted]. |

(iii) *Description of Articles or Services Offered:* [Deleted].
(iv) *Military Department:* Army.
(v) *Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid:* None.
(vi) *Date Report Delivered to Congress:* 10 April 1978.

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

## AN EXCEPTION TO THE RULES

● Mr. ABOUREZK. Mr. President, the most recent outbreak of violence in the Middle East once again calls strongly for an examination of the difficult questions of ethical judgment, or as Michael Walzer poses them, "When is the resort to violence justified in international affairs and what acts are legitimate in the conduct of war?" We usually think of terrorism as entirely divorced from government which, as Michael Walzer points out, is not the case of Israel which engages in terrorism even when there is no threat to her destruction. I want to share with my colleagues a review of Michael Walzer's book, Just and Unjust Wars, by Noam Chomsky and ask that it be printed in the RECORD.

The article follows:

AN EXCEPTION TO THE RULES

(By Noam Chomsky)

When is the resort to violence justified in international affairs? What acts are legitimate in the conduct of war? These questions raise difficult problems of ethical judgment and historical analysis. Michael Walzer insists, quite correctly, that beyond merely "describ[ing] the judgments and justifications that people commonly put forward, [we] can analyze these moral claims, seek out their coherence, lay bare the principles that they exemplify." His aim is to develop a certain conception of our "moral world," and to draw from it both specific judgments on historical events and operative criteria for resolving future dilemmas.

There are certain beliefs on these matters that are so widely held as to deserve to be called "standard." With regard to the question of resorting to violence, the standard doctrine holds that it is justified in self-defense or as a response to imminent armed attack, often construed in the words of Daniel Webster in the *Caroline* case, which Walzer quotes: ". . . instant, overwhelming, leaving no choice of means, and no moment for deliberation." This part of the standard doctrine Walzer calls "the legalist paradigm." With regard to the exercise of force, another part of the standard doctrine constitutes what Walzer calls "the war convention," consisting of such principles as, for instance, that prisoners should not be massacred and civilians should not be the direct objects of attack.

The standard doctrine, which is codified in various international conventions, holds that both the resort to war and the means employed in warfare fall within the realm of moral discourse. There has been extensive discussion of these issues in the context of the Vietnam War, the conflict that prompted Walzer's concern. While the standard doctrine is regularly violated, it remains a worthwhile endeavor to evaluate and refine it.

Walzer argues that the legalist paradigm is too restrictive in certain respects. In other respects, however, he interprets it strictly, as he does the war convention. Walzer takes the anti-Axis effort in Europe in World War II to be "the paradigm . . . of a justified struggle"; Nazism, he believes, "lies at the outer limits of exigency, at a point where we are likely to find ourselves united in fear and abhorrence." Nevertheless he condemns as illegitimate under the legalist paradigm Churchill's decision to mine the territorial waters of neutral Norway in order to prevent ore shipments to Nazi Germany, and he considers the terror bombing of German cities to be a serious violation of the war convention. As those examples illustrate, he construes the standard doctrine strictly, even in the extreme case of the struggle against Nazism.

Walzer points out that it is impossible within the confines of his study to present an elaborate historical argument an elaborate historical argument, but to me, at least, the above conclusions seem reasonable. Furthermore, Walzer is right to challenge widely accepted views, for example with regard to terror bombing. It is enough to recall the fundamental moral flaw of the Nuremberg tribunal, graphically revealed by Telford Taylor's observation, in Nuremberg and Vietnam, that "there was no basis for criminal charges against German or Japanese" leaders for aerial bombardment because "both sides had played the terrible game of urban destruction—the Allies far more successfully." As it turns out, the operational definition of a "crime of war" is a criminal act of which the defeated enemies, but not the victors, are guilty. The consequences of this moral stance were soon to be seen in Korea and Vietnam. It would be naive to suppose that a serious moral critique would have prevented further criminal acts of the sort condoned (or ignored) under the Nuremberg principles. Nevertheless, the example illustrates the seriousness of the enterprise in which Walzer is engaged.

Even the most profound justification of the standard doctrine would be of limited import, since it is in any case widely accepted in principle, if not in practice. Hence the major interest of Walzer's study lies in the modifications and refinements he proposes, as in his restrictive interpretation of the war convention. Since the burden of justification rests on those who employ force, the still more significant part of his study lies in those departures from the standard doctrine which advocate its relaxation. These relate only to the legalist paradigm of the justified use of force.

Walzer suggests four modifications that extend the legalist paradigm. Three of these revisions "have this form: States can be invaded and wars justly begun to assist secessionist movements (once they have demonstrated their representative character), to balance the prior interventions of other powers, and to rescue peoples threatened with massacre." These extensions are discussed under the heading of "humanitarian intervention." Walzer states that "clear examples of what is called 'humanitarian intervention' are very rare. Indeed, I have not found any, but only mixed cases where the humanitarian motive is one among several." He cites the Indian invasion of Bangladesh as a possible example (the only one excited), since "it was a rescue, strictly and narrowly defined," and the Indian troops "were in and out of the country . . . quickly."

There then remains to be considered one serious proposal for relaxing the restrictions of the standard doctrine; and thus much of the significance of Walzer's study lies in this crucial case. It is the case of "preemptive strikes." Walzer accepts "the moral necessity of rejecting any attack that is merely preventive in character, that does not wait upon and respond to the willful acts of an adversary" (hence his condemnation of the mining of Norwegian waters). But he feels that the Caroline doctrine is too narrow. Preemptive strikes are justified, he proposes, when there is "a manifest intent to injure, a degree of active preparation that makes that intent a positive danger, and a general situation in which waiting, or doing anything other than fighting, greatly magnifies the risk."

A single example is offered: the Israeli preemptive strike of June 5, 1967. This, Walzer holds, is "a clear case of legitimate anticipation," the only one cited—in this review of 2500 years of history—to illustrate the point that states may use military force even prior to the direct use of military force against them. Israel was "the victim of aggression" in 1967, Walzer claims, even though no military action had been taken against it. What is more, we can have "no doubts" about this case, as Walzer states in the following extraordinary passage:

The Egyptian "challenge" to Israel is thus a clear case of "aggression," on a par with the direct use of armed force in each of the other cases cited. The legalist paradigm fails, according to Walzer, because, given the Caroline doctrine, it does not condone Israel's response to this "aggression."

Note the crucial nature of this case for Walzer's argument. In a review covering 2500 years, Egypt's 1967 challenge is the single example cited of "aggression" involving no direct resort to force; nevertheless, it is not an ambiguous example, but one that raises "no doubts." Israel's preemptive strike is the one historical example adduced to illustrate the need to modify the legalist paradigm to permit "anticipations." Furthermore, this is the only modification covering supposedly unambiguous historical examples that involves a *relaxation* of the standard doctrine. What Walzer is proposing here, as he notes, is a "major revision of the legalist paradigm. For it means that aggression can be made out not only in the absence of a military attack or invasion but in the (probable) absence of any immediate intention to launch such an attack or invasion." Given the burden carried by this example, a serious inquiry into the historical facts would certainly appear to be in order, but Walzer undertakes no such inquiry. He merely asserts that Israeli anxiety "seems an almost classical example of 'just fear'—first, because Israel really was in danger . . . and second, because (Nasser's) military moves served no other, more limited goal."

Israeli generals take a rather different view. The commander of the air force at the time, General Ezer Weizman, stated that he would "accept the claim that there was no threat of destruction against the existence of the State of Israel. This does not mean, however, that one could have refrained from attacking the Egyptians, the Jordanians and the Syrians. Had we not done that, the State of Israel would have ceased to exist *according to the scale, spirit and quality she now em-*

*bodies* . . . We entered the Six-Day War in order to secure a position in which we can manage our lives here according to our wishes without external pressures" [my italics].

The Israeli correspondent of *Le Monde*, Amnon Kapeliouk, citing corroboratory statements by General Matityahu Peled and former Chief of Staff Haim Bar-Lev, wrote that "no serious argument has been advanced to refute the thesis of the three generals." This assessment is confirmed by American intelligence sources, who found no evidence that Egypt was planning an attack and estimated that Israel would easily win no matter who struck the first blow. The chairman of the Joint Chiefs of Staff reported to the President on May 26 that Israel could remain mobilized for two months without serious trouble. "In a military sense, then, time did not seem to be running out" (William Quandt, *Decade of Decisions*).

General Weizman's justification for the preemptive strike bears comparison to the argument advanced by Bethmann-Hollweg, the German Chancellor, after the attack on Belgium in 1914:

"France stood ready for an invasion. France could wait, we could not. A French attack on our flank on the lower Rhine might have been disastrous. Thus we were forced to ignore the rightful protests of the Government of Belgium . . . He who is menaced as we are and is fighting for his highest possession can only consider how he is to hack his way through."

Walzer properly dismisses this justification, pointing out that nonmilitary options had not all been foreclosed and deriding the reference to Germany's "highest possession," which he takes to mean "honor and glory" (compare Weizman's "scale, spirit and quality"). "The mere augmentation of power," Walzer insists, "cannot be a warrant for war or even the beginning of warrant." No doubt one can find differences, possibly even decisive ones, between the Israel and German attacks, or between the Israeli strike and the Russian invasion of Finland—another clear case of aggression, even though, as Walzer concedes, the defense of Leningrad from possible future German attack was at stake and Russia's invasion after Finnish refusal to territorial exchange may have saved Leningrad from encirclement when the Nazis did attack. But two points deserve mention. First, Walzer does not seriously address the relevant historical background. This is a remarkable oversight given the crucial role of the Israeli strike in his argument, and given also his insistence that the Israeli attack on the one hand, and the German and Russian attacks on the other, are all "clear cases," falling on opposite sides of the moral divide. Second, a serious analysis of the 1967 case would quickly reveal that there are indeed doubts and ambiguities, contrary to Walzer's claim.

Walzer presents only the Israeli version of events leading to the 1967 war. He ignores not only the Arab version, but also the well-known analyses of commentators committed to neither side. He does not mention the Israeli attack on the Jordanian village of Es-Samu in November 1966, leaving 18 dead, a "reprisal" after terrorist attacks allegedly originating in Syria (censured by the UN, including the United States). Nor does he discuss the exchange of fire on April 7, 1967, which "gave rise to intervention first by Israeli and then by Syrian aircraft, [then to] the appearance of Israeli planes over the outskirts of Damascus and to the shooting down of six Syrian planes" with no Israeli losses (Charles Yost, Foreign Affairs, January 1968; Yost takes this to have been "the curtain-raiser to the Six-Day War").

Walzer's unqualified assertion that Nasser's moves served no more limited goal than to endanger Israel is sharply at variance with the judgment of many other observers. Yost, for instance, notes various inflammatory Israeli statements that "may well have been the spark that ignited the long accumulating tinder" and discusses the problem that Nasser faced "for his failure to stir at the time of the Es-Samu and April 7 affairs." Walzer mentions that Egypt expelled the UN Emergency Force from the Sinai and Gaza and closed the Strait of Tiran to Israeli shipping. He fails to mention that Israel had never permitted UN forces on its side of the border and refused the request of the UN secretary-general to allow them to be stationed there after Egypt ordered partial evacuation of the UN forces from its territory. (Egypt did not order the UN forces out of Sharm el Sheikh.) As for the closing of the Strait of Tiran, if we apply the reasoning that Walzer feels is appropriate in the case of the German attack on Belgium, we see that there remained unexploited possibilities for peaceful settlement. For example, the matter might have been referred to the International Court of Justice, as Egypt had been requesting since 1957. This proposal was always rejected by Israel, possibly because it agreed with John Foster Dulles that "there is a certain amount of plausibility from the standpoint of international law, perhaps, to (the Arab) claims" (though the United States disagreed with this conclusion).

It also seems that Nasser may have had some legitimate cause for concern when he heard Levi Eshkol, the Israeli Prime Minister, declare that "we shall hit when, where, and how we choose," or when he learned that the Israeli chief of intelligence, General Yariv, had informed the international press that "I think that the only sure and safe answer to the problem is a military operation of great size and strength" against Syria. Nasser alluded to these statements in his May 23 speech, in which he noted various Israeli threats against Syria. And his concern may have been augmented—quite understandably—by the memory of the surprise Israeli attack of 1956, at a time when Egypt was making serious efforts to quiet the border.

My remarks here only scratch the surface of the issue. The point is that the historical record is far more complex and ambiguous than Walzer makes it out to be. His statement that Egypt's "challenge" is a simple and indubitable case of "aggression," on a par with the Nazi conquests in Europe, can hardly be taken seriously. Furthermore, he ignores the aftermath of the Israeli attack. Quite unlike the case of Bangladesh, the Israeli army did not leave. Rather, it prepared for a continuing occupation, with a clearly stated policy aimed at the eventual annexation of some areas, the actual annexation of eastern Jerusalem, and a program of settlement and integration of the occupied territories—a program that continues in the face of nearly unanimous international condemnation.

Some 200,000 West Bank Arabs fled during the Israeli attack in 1967, and about the same number fled or were forcibly expelled after the cease-fire. For many months afterward, UN Chief of Staff General Odd Bull reports. "The Israelis encouraged their departure by various means, just as they had in 1948." As late as the following November, he adds, "There can certainly be no doubt that many thousands of Arabs at this time fled across the Jordan to the East Bank, even though there may be no precise evidence of the methods that were employed to ensure their departure." Thus the land was "liberated"—freed of a large part of its population. The Israelis instituted a military regime in the conquered areas that differs from others of the same type primarily in the favorable press that it has enjoyed in the United States. All of these subsequent developments seem relevant to an evaluation of the Israeli attack, as Walzer would surely see the relevance of similar developments in other cases he discusses.

I focus on this particular example because of its crucial role in the structure of Walzer's presentation of his "moral world." With this case removed, Walzer is left with no historical example of any substance to indicate that his recommended departures from the legalist paradigm are more than academic—that is, that they cover actual historical events. This is not to say that the discussion is worthless; even a purely abstract discussion of these issues is of some interest. But we no longer have "a moral argument with historical illustrations," as the book's subtitle states, at least in the crucial case of relaxing the restrictions of the standard doctrine. Rather, what we have is a mere moral assertion lacking any connection to clear historical cases.

Walzer's analysis of "peacetime reprisals" might also be taken to imply a relaxation of the standard doctrine. He argues that "reprisals are clearly sanctioned by the practice of nations, and the (moral) reason behind the practice seems as strong as ever." The moral argument he presents seems weak; it barely goes beyond assertion. His single example of a "legitimate reprisal" again involves Israel: this time, the 1968 Israeli raid on the Beirut airport in which 13 civilian planes were destroyed in retaliation for an attack on an Israeli plane by two terrorists in Athens. In fact, the reprisal was hardly efficacious: It "aroused considerable sympathy for the Palestinians in Lebanon and brought their activities more into the open" (John Cooley, Green March, Black September), as could have been anticipated. Walzer might have strengthened his point by drawing some of the natural conclusions of his position: For example, that it would be quite proper for Cuban commandos to destroy commercial aircraft at Washington National Airport in reprisal for the acts of terrorists organized in the United States.

Walzer also gives an example of an illegitimate Israeli reprisal, namely, the commando attack in which more than 40 villagers were killed in the Jordanian village of Qibya in 1953, in response to a terrorist murder in Israeli that had no known connection to this village.

Walzer concludes that in this case "the killings were criminal," but the strongest judgment he allows himself is that "particular Israel responses have indeed been questionable, for it is a hard matter to know what to do in such cases." Walzer never explains why his condemnation of terrorist acts *against* Israel is not similarly nuanced. For example, in March 1954, 11 Israelis were murdered on a bus in the Negev; it was the most serious Arab terrorist act since the establishment of the state. In response, the Israeli army attacked the Jordanian village of Nahaleen (which was in no way involved), killing nine villagers. Walzer regards the Israeli retaliation as merely "questionable." But then why was not the original Arab attack also just "questionable"? Or why not also describe the Israeli commandos as "thugs and fanatics," Walzer's term for Arab terrorists (in the *New Republic* article from which this account of terrorism is drawn)? The actual perpetrators of the ambush-massacre of the people on the bus were, as was known at the time, from a Bedouin tribe that had been driven into the desert by Israeli troops. More than 7000 of these Bedouins were expelled from 1949 to 1954, as Israel encroached on the demilitarized zones. Surely Walzer should grant that it is also a "hard matter to know what to do" when people are driven from their homes and their traditional grazing and watering grounds, and left destitute in the desert—as it is a "hard matter to know what to do" when

thousands of peasants are expelled from their bulldozed villages in the same region in the past few years—actions that continue as I write, though the American press is silent.

Walzer does discuss terrorism, but his account is deeply flawed. He makes the important point that the tendency to restrict the term "terrorism" to "revolutionary violence" is "a small victory for the champions of order, among whom the uses of terror are by no means unknown." It is indeed remarkable to see how the term has been restricted in recent years so as to exclude state-organized terrorism. Walzer asserts that "contemporary terrorist campaigns are most often focused on people whose national existence has been radically devalued: the Protestants of Northern Ireland, the Jews of Israel, and so on." He then develops the following "precise historical point: that terrorism in the strict sense, the random murder of innocent people, emerged as a strategy of revolutionary struggle only in the period after World War II."

His "precise historical point," however, is precisely false, as a look at his favored example suffices to show. In just three weeks in July 1938, the Irgun Zvai Leumi, dedicated to the ideals of Menachem Begin's mentor Ze'ev Jabotinsky and later headed by Begin himself, killed 76 Arabs in terrorist attacks on Arab markets and other public places. There were many similar pre-World War II examples: bombs placed in Arab movie theaters, sniping at Arab quarters and trains carrying Arabs, and so on. The propagandists of the Jewish terrorist groups gloried in these triumphs. One of the heroes of the Herut, the party of the current prime minister of Israel, is a man hanged by the British for firing on an Arab bus.

(And while the main paramilitary force of the Jewish community in Palestine did not systematically resort to random terror, it did not disdain it entirely. To cite one case, the same page of the official history that describes the Haganah assassination of the orthodox Jewish poet Dr. Israel Jacob de Haan in 1924 goes on to describe how the Haganah destroyed the house of an Arab near the Wailing Wall in Jerusalem in retaliation for harassment of Jewish worshippers by Arab youths; the bomb caused no injuries "because by chance the inhabitants of the house were away" [Toldot Hahaganah, the official history of the Haganah].)

Contrary to Walzer's claim, random murder of innocent people is no postwar invention of the Provisional IRA and the PLO. His point about "people whose national existence has been radically devalued" is very well-taken—but it applies to Palestinian Arabs no less than to "the Jews of Israel."

The special place of Israel in Walzer's "moral world" is also revealed in his discussion of the war convention—the set of principles that apply once war is under way. He contrasts orders given at My Lai with those issued to Israeli troops entering Nablus during the June 1967 war, citing a book of conversations among Israeli soldiers. It is perhaps less obvious than he assumes that this is the most objective source of evidence concerning the humane practices of the Israeli army. But putting that question aside, he might have selected other examples from the same book, examples concerning, say, the village of Latrun, destroyed by Israeli troops, whose inhabitants were driven into exile. He might have even taken a further step and quoted the eyewitness account by the Israeli journalist Amos Kenan, describing the bulldozing of Latrun and neighboring villages under the command of officers who told their troops, "Why worry about them, they're only Arabs." He might have even quoted Kenan's prophetic conclusion: "The fields were turned to desolation before our eyes, and the children who dragged themselves along the road that day, weeping bitterly, will be the fedayeen of 19 years hence."

In another section of the book, Walzer comments briefly on the pacifist critique of the standard doctrine in an afterword, making the familiar point that nonviolent measures appeal to "the essential humanity of the enemy," in A. J. Muste's phrase, and are therefore of doubtful relevance when the appeal will not be heeded. Much pacifist theory relies on a dual psychological doctrine: Nonviolence will strike a responsive chord, and violent resistance will so shape the character of those who choose it that the distinction between aggressor and resistor will be erased. As Muste put it, "kindness provokes kindness" and "the problem after a war [even a just war] is with the victor. He thinks he has just proved that war and violence pay. Who will now teach him a lesson?" Walzer does not directly address these basic premises of the theory of nonviolent resistance. To me it seems that they cannot be easily dismissed, though ultimately they cannot be sustained. I've written about this elsewhere (American Power and the New Mandarins) and will not pursue the question any further here.

Many other difficult and important questions are raised in Walzer's study, and much of the discussion is literate and richly textured. The examples I have focused on, however, reveal a crucial moral and intellectual flaw, which undermines much of the argument. No doubt Walzer expresses a broad consensus in American society when he assigns a special status to Israel and reconstructs the "moral world" accordingly, but this simply reflects the pathology of the times. Comparable judgments on the exceptional status of Soviet Russia would not have been unusual in an earlier period. Consensus is no criterion of truth or justice.●

## THE IMPORTANCE OF HYDROELECTRIC POWER

● Mr. HATHAWAY. Mr. President, the New York Times on April 8 published an excellent article by Steven Rattner on hydroelectric power in New England.

The potential of small hydroelectric sites throughout Maine and the rest of the Northeast is enormous. The oil savings are substantial but the cost of refurbishing and installing turbines in many of these sites is high. In order to encourage development of these alternative energy sources, I sponsored an amendment to the energy tax bill to give tax credits for the equipment needed to convert small dams into viable energy sources.

The time is long overdue for action in developing a strong national energy plan. We must reduce our dependence on imported petroleum and develop nonpolluting, renewable energy alternatives for the future.

I ask that Mr. Rattner's article be printed in the RECORD.

The article follows:

NEW ENGLAND AGAIN TURNS TO ITS STREAMS FOR ENERGY

(By Steven Rattner)

BELFAST, MAINE.—To a first-time visitor, the Goose River looks mostly like a small stream, meandering unobtrusively through six miles of coastal Maine. Years ago when William McKinley was President, a dozen small industrial plants dotted its tree-lined banks, all drawing their power from water wheels and small dams set against the coursing waters.

Over the years, however, cheap oil and mass production made uneconomical small, water-powered plants employing only 5 or 10 workers. By last December, all that remained of the Goose River's ax factories, paper mills, leather processors and grist mills were overgrown foundations.

Now, with oil prices up fourfold in four years, the power of such streams is again being tapped, although somewhat timidly and with a new goal—electric generation—in mind. The grandly titled Maine Hydroelectric Development Corporation has refurbished one of Goose River's dams and for more than two months has been sending enough power to light 70 homes into the system of the Central Maine Power Company.

"You have to understand the potenial here," said Lawrence Gleeson, the 36-year-old founder, president and—with his wife—staff of Maine Hydroelectric. "It may not look like much, but it adds up."

The various projects now under way may soon begin to add up, particularly for New England, where most of the potential lies. Mr. Gleeson has several more projects in Maine and Pennsylvania on the drawing board. David E. Lilienthal, the first chairman of the Tennessee Valley Authority, is working with the city of Paterson, N.J., to restore electric generation to a dam on the Passaic River and on a number of similar projects.

The town of Springfield, Vt., with 10,000 residents, is spending $58 million to restore its hydroelectric facilities and the city of Bangor—just up the road from here—is considering a somewhat less ambitious effort to refurbish its deteriorated 103-year-old dam.

Businessmen are interested in hydroelectricity as well. A small instrument manufacturer in Duxbury, Vt., recently spent about $20,000—some of it from the state—on a hydroelectric project expected to cut its electric bill by 30 to 40 percent.

On the largest scale, utilities in New England—which ironically were largely responsible for the abandonment of hydroelectric facilities—are themselves now developing new hydroelectricity. The Niagara Mohawk Power Corporation has begun a 14-year, $175-million project to develop 15 sites. Unlike most other new hydroelectric developments, some of Niagara Mohawk's projects would involve building new dams.

Small scale hydroelectricity at existing dams is basically a motherhood and apple pie issue. It saves costly imported oil, it does not involve disruptive local economic impacts, and best of all, it requires only the addition of generators to capture the energy in water now rushing freely past. That means no noxious emissions and no new construction of landscape-altering dams.

With this firmly in mind, Congress has voiced its enthusiastic support. The House and Senate energy conference now considering President Carter's national energy plan has added a three-year, $330 million program for loans and grants for small-scale hydroelectric development. The Department of Energy is already broadening its efforts; a hydroelectric group with a $10 million annual budget is now in place.

RENEWABLE AND NONPOLLUTING

"The beauty of it is that it's decentralized, renewable and nonpolluting," said Representative Richard L. Ottinger, Democrat of Westchester and sponsor of the new program. Mr. Ottinger reported that utilizing 10 percent of New York State's potential could provide enough electricity for Albany and save 2.27 million barrels of oil a year.

Nationally, the Army Corps of Engineers recently calculated that installation of generating equipment at existing dams could add 54,600 megawatts of capacity, equal to the current capacity in New York and all of

New England and enough to save 727,000 barrels of oil a day.

To be sure, the marvels of small-scale hydroelectric power can be easily overstated. For one thing, to achieve the 54,000 megawatts of additional power, hydroelectric equipment would have to be installed at 49,500 dams. Moreover, the report by the corps acknowledged that it did not include "detailed consideration of engineering, economic, financial or environmental feasibility."

For some of the potential projects, economic feasibility is clearly an issue. Mr. Gleeson, for example, is paid 2 cents a kilowatt hour for his power by the Central Maine Power Company—triple the usual rate. In January, that amounted to the lordly sum of $360.

PRECARIOUS FINANCIAL STRAITS

Against this, Mr. Gleeson has invested about $40,000 over the last year, not including large amounts of his own time. The drain has put Mr. Gleeson in precarious financial straits. For months, he, his wife, and their two sons lived in the tiny, one-room office next to the millrace. His savings from his former employment at the Sun Company are gone, as are the proceeds from the sale of his house in Pennsylvania, money he had hoped to use as a downpayment on a Maine home.

But Mr. Gleeson has been fascinated by small-scale hydroelectric power for most of his life. A photograph of an old Connecticut mill near his hometown hangs in the paneled office, and even while working as an engineer, Mr. Gleeson made dozens of trips through Maine and Pennsylvania looking for potential sites.

"These water-powered mills gave New England much of its economic strength in the last century," he said recently, noting that 100 years ago, Waldo County's population was double today's level. "I think hydroelectricity can be viable once more," he added.

Recently, Mr. Gleeson's prospects seemed to have improved. Months of persistence finally persuaded the Department of Energy to award an $18,000 grant for the effort. And Mr. Gleeson says that some of the funds he has already spent could save money later as he develops three other prime sites along the Goose River, sites that could produce a further 400 kilowatts of power, enough for nearly 300 more homes.

ONCE SERVED A GRIST MILL

The other sites are strung along the river's six miles, beginning at Swan Lake, a lake created in large part by the Swan Lake Dam, which once served a grist mill. Mr. Gleeson has no commercial plans for that dam, but hopes someday to have a waterwheel and picnic area to interest visitors in hydroelectric power.

But farther down the river, amid overgrown underbrush and saplings, sit Mason's Dam, once part of a paper mill, and Kelley's Dam, formerly the home of the Kelley Ax factory. The dams, built in the early 1800's, are rock-filled and are in almost perfect condition, even down to the release gates, Mr. Gleeson said as he drove a visitor through this semiagricultural, semiresort, semipoor coastal community.

Another dam, downriver from the now-operating Mill Dam, was refurbished in 1908 by the Penobscot Bay Electric Company to generate electric power but was abandoned about 55 years later.

CAREFUL CONTROL NECESSARY

Release gates are important to run even just Mill Dam; the water level upstream to Swan Lake must be carefully controlled. Two variables are important in determining how much power a dam can generate: the head, the distance from the top of the dam down to the turbine, and the flow, the amount of water racing through.

Actually, the water pouring off the top of the Mill Dam is not generating any power; the useful water cannot be seen. A "penstock pipe" opens into the reservoir near the top of the dam, drawing water down a sort of long chute into the turbine below. The turbine, built in 1887 and still spinning away, is connected to a generator and the power leaves Mr. Gleeson's shed by means of an ordinary looking electric cord.

As with most any energy project these days, the Federal Government regulates hydroelectricity with a heavy hand. Technically, Mr. Gleeson is breaking the law these days, for he has not received any of the required Federal Energy Regulatory Commission permits. But the commission is several years behind and "I'd be out of business by then," Mr. Gleeson said.●

## TOWARD A BETTER UNDERSTANDING OF BUSINESS AND GOVERNMENT

● Mr. INOUYE. Mr. President, deeply embedded in American political thought is the dogma that politics should consist of contentious groups locked into an adversarial position. This view is reflected in the development of not only our political system, but even more graphically in our legal system, in which the adversarial relationship is institutionalized.

As we near the conclusion of the 20th century, this view of society as a struggle among conflicting forces should come under closer scrutiny. Without denying the desirability of competing in the marketplace of ideas, one sees too often the degeneration of that competition into an uncivil, suspicious, and bitter struggle marked by misunderstanding and antagonism. The time has come to call a temporary truce to reexamine the feasibility of that view in a world threatened by strife and swelling political and economic insecurity.

In few other areas has this gulf been greater than in political-business relationships. There are too many individuals in both the business and political worlds who are eager to attribute the worst motives to those with whom they disagree. We need fewer knee jerk reactions and more understanding of the beliefs and concerns of the other parties.

Mr. Walter E. Hoadley, executive vice president and chief economist of the Bank of America, recently addressed himself to this matter in a thoughtful and fair article entitled "Business-Government Relations: Both Sides Must Change" which appeared in the March issue of Dun's Review. He suggests the toning down of the shrill rhetoric on both sides and searching out the grounds for agreement to enhance the public interest. He makes a number of thoughtful suggestions which I commend to the attention of my colleagues.

I ask that the article be printed in the RECORD.

The article follows:

BUSINESS-GOVERNMENT RELATIONS: BOTH SIDES MUST CHANGE

(By Walter E. Hoadley)

As the 95th Congress moves into its second session, businessmen should recognize the fact that elected officials also have a bottom line—votes—which has a profound influence on industry's own more traditional one: after-tax profits. The most immediate issue of concern to business is a tax cut that will offer more incentive for investment and job expansion. But there's more involved.

Elected officials now confront a slowing economy that responds less and less to conventional macro-fiscal and monetary policy measures and has an inflationary bias the public abhors. Business leaders in turn fear more and more interference with their management freedoms and incentives. Frustration abounds, but it may in fact help all concerned.

It would be naive to assume that cooperation between the public and private sectors is going to improve very much very soon. But there's now a chance that somewhat closer working relationships can be achieved, because at least a few individuals on both sides are beginning to see the necessity for better understanding.

No one should underestimate the fundamentally differing points of view of most business executives and most government officials.

The typical successful business executive is well educated technically and trained in the practical profit-and-loss bottom-line approach. He or she is forced to meet actual market conditions, impatient, results-oriented, authoritarian with a chain-of-command mentality, and intolerant of disloyal or poor performing individuals on his or her team.

In contrast, most top government leaders are well educated professionally, trained and experienced in law and public policy oriented. He or she is short on practical economic experience, sensitive to public opinion and voter wrath, skilled at compromise, reconciled to delay, subject to little direct day-to-day accountability, and accustomed to civil service inertia in weeding out poor performers.

To improve their ability to communicate with and persuade government executives to take more positive views on business-related problems, corporate managements are going to have to:

Modify their tendency to give orders in their discussions with public officials, because few will listen seriously.

Stop measuring success in government affairs largely by the number of "bad" bills killed, and take more positive legislative initiatives to help resolve real problems plaguing the public.

Modify the idea that to merit business support, an elected official must vote consistently for whatever business considers the right approach.

Move aggressively to uncover problems of political interest at an early stage in order to negotiate the parameters of the problem and help find alternative solutions.

Avoid trite use of traditional free-enterprise shibboleths and concentrate more government attention on the "how" and "why" of the actual functioning of markets.

Spend more time considering elected officials' needs to satisfy often highly diverse constituencies in order to remain in office.

Recognize that a business proposal is likely to be legislatively rejected unless government officials feel a majority of their constituents agree.

Insure that their corporate executive corps includes many more men and women who understand the second bottom line and how our political process actually works.

Use a more liberal disclosure policy to disarm critics in government who contend that many business practices cannot stand the light of public scrutiny.

Similarly, many elected officials sooner or later are going to have to:

Admit that using business as a convenient scapegoat undermines general public confidence, and hence economic and social progress.

Recognize that more accountability is inevitable for the actual versus the promised results of new laws.

Accept as fact that the weight of excessive government interference in the economy is impeding progress and threatens a compliance breakdown.

Openly admit the costly failures of many massive government programs, in which the primary direction comes from Washington.

Strive harder to encourage the private sector to help get more needed tasks done in the public interest.

Temper the power of non-elected government staff who often accept authority without having the responsibility for the results of their decisions.

Insist that all important government programs be tested thoroughly under actual operating conditions before being launched on the nation.

Reexamine the extensive Congressional hearings process to determine the real value and cost of sessions attended by very few committee members.

Ask pointedly what should be the proper role of government in supporting U.S. business as it competes in world markets with more and more organizations that represent either direct government ownership or subsidy.

As business pursues profits and politicians seek votes this year, each should be prepared to answer a fundamental question. Business should be prepared to tell politicians what difference a tax cut will make to anticipated profits and plans for the future. At the same time, elected officials must assess how a further decline in business-investor confidence and outlays will affect their constituents—and their reelection prospects.

The answers may show the need for closer government-business cooperation.●

## FEDERAL HEALTH MANPOWER POLICY: THE NEED FOR A NEW APPROACH

● Mr. KENNEDY. Mr. President, last week the American Medical Association sponsored the 31st National Conference on Rural Health in Denver. Senator CLARK, a leader in Congress on rural health matters, addressed the conference on the future direction of Federal health manpower policies. His speech is provocative, informative, and insightful. The Subcommittee on Health and Scientific Research plans to begin a review of Federal health manpower programs in the next several months and Senator CLARK's views will therefore, be especially useful.

I ask that this speech, entitled "Federal Health Manpower Policy: The Need for a New Approach," be printed in the RECORD.

The speech follows:

FEDERAL HEALTH MANPOWER POLICY: THE NEED FOR A NEW APPROACH

It's a great honor and pleasure for me to have the opportunity to address you this morning, at this, the American Medical Association's 31st National Conference on Rural Health.

The American Medical Association should be commended for bringing together people from across the country, and from many different walks of life, to rally behind the issue of making health services more available to rural Americans, on behalf of all of us here—we thank you for this opportunity to get together.

The very fact that this conference is necessary, and that it is in its 31st year, clearly demonstrates that the problems of rural health care are still with us:

The health status of rural people still falls well short of the status of other Americans;

Many rural communities still face severe shortages of health personnel and facilities; and

Financing health services is still a problem for rural Americans, given their general inadequate health insurance coverage.

The best we can say is that we're now much better informed about the nature and extent of those problems. However, despite extensive research, few effective solutions have been found, and even these have not been fully implemented.

In fact, some health policy-makers and many citizens in rural communities are developing and initiating programs on the basis of obsolete assumptions.

For example:

That solo physician arrangements is the most appropriate mode of practice for rural areas;

That physicians can be attracted to rural communties through financial incentives; or

That health status can be improved merely through the introduction of medical services in a rural area. Other things, such as environmental and nutritional services are also critical.

Vigorous leadership is critical. We need aggressive leaders who will channel the energy of the many active, but not yet organized people in the field who are pursuing strategies to improve rural health conditions.

The current leadership vacuum is truly discouraging.

Why is it that even now we can point to only a handful of states that have initiated programs to expand primary care services in rural areas?

Why it is that county officials prefer to get absorbed in the problems of potholes rather than of poor sanitation?

Why is it that Congressional committees have been reluctant to deal with rural health problems in a comprehensive way? And why is it that the Federal Government lacks an Office of Rural Health, where policy can be developed and implemented?

I think the time is ripe to change this atmosphere—to make it one of commitment rather than one of indifference. We're just beginning to see signs of a possible emergence of leadership and action. For example, last year, both Houses of Congress unanimously passed the first exclusively rural health measure—the Rural Health Clinic Services Act. It provides for payment of medical services furnished by nurse practitioners and physician assistants in rural health clinics. Besides meeting an urgent need, the Act promotes and legitimizes a new direction in the delivery of rural health care.

The simple premise of this law is that every American, regardless of the size of his or her community, should have a local entry point into the health care system, and that this care should be reimbursed—wherever necessary.

The model upon which the legislation is based is one that is increasingly evident in the more remote areas of rural America, and especially in the smallest communities within those areas.

Briefly, the model looks like this: A community clinic, staffed by a nurse practitioner or physician assistant, would provide basic, routine medical and other health services to people in the surrounding area. Some of these clinics—including many in Appalachia—are community owned and operated; others, like many in the Midwest, are satellites from physician practices in adjacent larger towns. Contact with physicians typically takes the form of continual phone communication and weekly physician visits.

The new law brings to the surface a question that few rural advocates have been willing to address: Does every community need immediate access to a physician? Is this an appropriate public policy to pursue? I've struggled with this question myself, especially whenever I'm approached by Iowans who feel their communities are desperate for a doctor.

It's very difficult to convince rural people that more physicians may not be the best solution to their delivery problems. It becomes especially difficult to do so, given the acknowledged inequities in physician distribution between urban and rural communities.

Available statistics, for example, show that nearly 90 percent of all non-Federal physicians are located in the nation's 300 major metropolitan counties, while 145 rural counties possess no doctor at all.

And if there's a single issue that brings rural people together, it's the issue of physician maldistribution. So a policy that moves us in a different direction may, in the short run, hamper efforts to organize around rural health issues.

In spite of this short-run risk, I'm convinced that some of our current efforts are mis-directed and perhaps even counter-productive. To put my theme in a few words, health manpower should not necessarily mean physician manpower.

I know that several arguments have been made against the model I propose:

That small communities deserve doctors as much as the suburbs do;

That non-physicians provide second-class care and thus place the health of their patients in jeopardy;

That physicians should be forced to practice in small towns if they can't be encouraged to do so voluntarily.

I'd like to take a few moments to consider these reservations concerning the use of health personnel other than physicians.

First, my remarks are directed at the problems in communities with critical shortages of health manpower. These tend to be small communities of fewer than 5,000 people. It is most appropriate and feasible for larger communities to attract physicians for primary care. In fact, my proposal is unworkable unless Federal health manpower policy promotes physician placement in medium-size rural communities. I shall return to this subject in a few minutes.

Second, around 80 percent of the problems that come to a physician's office are of the routine type that can be handled by a nurse. Typically, a patient sees a doctor for just a few minutes.

This system is most efficient, because it allows the doctor to concentrate on the more acute health problems. Routine problems can then be handled by others with the appropriate training and skills.

Is there any logical reason why the smallest towns and remote rural areas should need 24-hour a day, 7 day-a-week doctor availability, when a nurse practitioner or physician assistant could handle locally the bulk of the medical problems that arise?

Considered in terms of economics and health needs, the "physician for every town" concept is one that wastes scarce health resources. Of course, by the same token, there is no more reason why urban residents should have unnecessary access to physician care for most of their medical problems. Any Federal policy that encourages this is likewise misdirected.

Third, and my final point, is that rural areas would be better served, not worse served if they were to adopt this model. Are the people who live in those 145 doctorless

counties truly better off now, traveling many miles to receive physician care, than they'd be with access to a local health clinic, staffed by a nurse practitioner or physician assistant? I think not.

The nurse practitioner and physicians assistant professions abide by high standards of quality health care, with education and training requirements that are established at the State and national levels. No community should fear that the care furnished by these health personnel is inadequate, they must know their limits, but so must a general practitioner.

The key to the success of this model is that it requires a system of care with linkages built between the clinic, with the physician in an adjacent larger community, with the hospital, and with other forms of health services.

As long as there are adequate transportation services and emergency procedures, a patient in a small town should be just as confident of receiving all the care he needs—the same as the patient in the city who must cross town to enter a hospital or go to a physician's office.

Of course, an integral and necessary part of this model is the rural family practice physician who would work in the medium size rural town. He would be a member of a group practice, overseeing one or more small satellite clinics in the surrounding area. Federal health manpower policy must be directed toward the objective of producing more primary care physicians of this type. The University of Iowa College of Medicine, supported by federal funds, has an excellent program to promote primary care.

Starting in 1963—15 years ago—Federal health manpower efforts were directed at increasing the total number of physicians in this country. The hope behind this effort was to increase the supply of doctors and thereby produce a better distribution throughout the country.

These efforts succeeded beautifully in their main objective. However, although the physician-to-population ratio increased roughly by 20 percent between 1965 and 1975, the gap between urban and rural areas widened. Obviously, most of these new physicians have located in metropolitan areas.

The most recent health manpower legislation, enacted in 1976, began to focus the federal impetus toward combating geographic maldistribution. Unless federal policies are modified, there will be increasing reliance in the coming years upon such efforts as family practice residency programs, area health education centers, and the National Health Service Corps to get primary care physicians into rural areas.

I think the time has come to question the wisdom of this emphasis. We should take a particularly close look at the National Health Service Corps' potential for effectiveness.

The premise underlying the Corps is that young physicians will be more likely to establish private practices in rural areas if they are subsidized for two years by the federal government. The record of the Corps has been less than successful in attaining this goal. Moreover, I'm apprehensive about the future, when more and more medical students will face financial constraints, forcing them to opt for practice in the National Health Service Corps as a condition for receiving federal scholarships.

What will be the likely outcome of this occurrence, and how will it affect the situation in rural America?

First, we should not be optimistic about the projected increase of future Corps members going to rural areas. Most of this increase will likely be swallowed up by the newly-designated urban sites in inner-city neighborhoods, hospitals, and other institutions.

Second, I'm pessimistic about the risks of sending to rural areas young graduating physicians whose primary reason for practicing there is to fulfill a financial obligation. A rural community does not want a Corps doctor, if he is just marking time until he can move into a more lucrative urban or suburban practice.

The other federal programs, including training programs in family practice and primary care specialties, and the area health education centers program—which trains and supports all types of health personnel in rural areas—are effective and deserve additional federal support. Even these programs, however, fail to intervene at an early-enough stage in physican training.

The federal government should do all it can to assist those most likely to practice medicine in rural areas. However, we should realize that by the time a physician chooses a location, he or she may already be predisposed to an urban practice. This pre-disposition is based on both a selection process which determines who will attend medical schools, and an urban-oriented educational process within medical school.

We must ask the following questions:

Why aren't more high school students from rural areas expressing an interest in the medical profession?

Why aren't more college students from rural areas entering medical school? And

Why are so few medical schools acquainting students with rural practice?

These are the critical questions. By the time a physician is in residency, it may well be too late to ask why he or she isn't interested in being a family practice physician in Malvern, Iowa. We need to expose the Malvern High School student, the Iowa State undergraduate, and the University of Iowa Medical School student to rural care if we're really serious about getting doctors to rural areas.

Furthermore, strategies to increase the number of health professionals in rural America should not concentrate on personnel alone. We must place equal emphasis on promoting the type of environment in which a young physician would feel comfortable. Few graduating doctors, for example, are now willing to set up a new practice on their own in a small community.

The Federal Government does have the resources to help develop such health care delivery systems, into which the physician can enter and thrive. The largest effort is the Community Health Centers program, which supports approximately 500 centers in urban and rural medically underserved areas.

However, like many federal programs, funding of community health centers is heavily weighted toward urban areas. Despite the fact that three-fifths of this nation's medically underserved people reside in rural areas, less than one-third of the health center funds are channeled there. The recently-announced urban strategy of the Carter Administration will target an even greater proportion of these funds to urban areas.

Meanwhile, another federal program, the Health Underserved Rural Areas program, will be phased out soon unless Congress acts this year to continue it. It supports 88 demonstration projects in rural underserved counties.

To fight these inequities, I'm joining Senator Schweiker, ranking minority member of the Senate Health Subcommittee. Our purpose is to strengthen the program and to provide more equitable funding between rural and urban areas for the community health centers program.

We must also keep in mind that many of the most important decisions affecting future health manpower and resources in rural America will be made not in Washington, but rather by the regional health systems agencies; it's therefore essential for rural people to become active participants in the health planning process, thereby making it more relevant and responsive to rural needs.

At this point, 25 Senators are co-sponsoring a bill I introduced, S. 2487, which would provide more attention to rural health needs within the health planning process. In fact, Senator Kennedy's Health Subcommittee will hopefully include this bill as an amendment to health planning legislation being drafted this week. I spoke with Senator Kennedy about it last evening.

I need your support for these efforts; otherwise we will fail to achieve our common goals. As I learned last year through my experience with the Rural Health Clinic Service bill, grass roots pressure is absolutely essential to get results in Congress. This pressure is also needed at the State, county, and local levels. Rural voices will not be heard unless you organize; rural voices will be drowned out by others unless you actively pursue your objectives. I look forward to working with you to accomplish these objectives.

Thank you.●

## COMMENTARY OF G. W. BOLLENBACK ON DIETARY GOALS

● Mr. McGOVERN. Mr. President, in February 1977, the Select Committee on Nutrition and Human Needs published "Dietary Goals for the United States," which set forth prudent dietary recommendations for the general population based on current scientific knowledge. Throughout 1977 the select committee continued its investigation. In addition to hearings and staff research, the select committee solicited the opinions of many of our leading experts on human nutrition, as well as concerned health and industry leaders.

In November 1977, the select committee published, "Dietary Goals for the United States—Supplemental Views," which is 869 pages in length and contains actual comments received. Due to an oversight, the evaluation of the first edition of the dietary goals report by Dr. G. N. Bollenback, scientific director of the Sugar Association, Inc., was not included in the supplemental views report.

Therefore, I request that Dr. Bollenback's comments and pertinent sections on the consumption of refined and proccessed sugars from the second edition of "Dietary Goals for the United States," which was published by the select committee in December 1977, be printed in the RECORD.

The material follows:

DIETARY GOALS FOR THE UNITED STATES

The importance of nutrition to the American public is great. Thus, any document such as "Dietary Goals for the United States" should be composed as objectively and scientifically as possible.

In constructing the report the Committee Staff had access to a voluminous literature and any number of consultants. The Staff, in our opinion, could not be expected to sift available information and separate opinion from referenced fact without assistance. However, their scientific advisors, had they represented a proper balance of qualified personnel, should have been able to filter fact away from opinion and recommend that the Staff consult primary references to insure accuracy rather than rely on opinions, secondary references and inadmissable nonreferences such as newspaper articles. Use of all three of the latter are evident in the report.

Unfortunately, strong biases also surfaced in this report. These include those against the food processing industry, against sugar and in favor of so-called "natural" (unprocessed and unrefined) foods.

Indeed, the tenor of the rationales or explanation of goals strongly suggests that the goals were preconceived and the bases for them then developed by selecting appropriate materials and advice. This procedure seemed particularly evident in Goals 1 and 5, which deal with carbohydrates and sugar, our particular areas of expertise.

Unfortunately, too many people will read only the goals set out in the report. Too few will read the report. Even fewer will study it.

We have studied the report with particular attention to Goals 1 and 5. Numerous questions are provoked by the "explanation of goals. Goal 1," Pages 14–29. Further, the confusion evident in the rationale behind it (Pages 43–47) essentially self-destroys Goal 5.

As a preliminary comment, we would point out that in the Introduction of the printed report, Page 9, note is made of the "overconsumption" of fat, cholesterol, sugar, salt and alcohol in domestic diet being related to various diseases such as coronary heart disease, cancer, diabetes and cirrhosis of the liver. So far as sugar is concerned, there is no evidence that the amount of sugar consumed by the American public qualifies as "over-consumption." More important, there is no evidence that sugar bears a causal relationship, as implied on Page 9, to any of the diseases mentioned, while fat, cholesterol, salt and alcohol are all recognized as important risk factors for one or another of these diseases. Sugar belongs in different company.

On Pages 12–13 of the report where "U.S. Dietary Goals" and subsequent recommended changes in food selection are listed, one is left with the clear impression from Goal 5, "Reduce sugar consumption by about 40 percent to account for about 15 percent of total energy intake," and change in food selection 6, "Decrease consumption of sugar and foods high in sugar content," that the term sugar is meant to be read as sugar (sucrose), the product derived from sugar cane and sugar beets. This is further emphasized by the repetition of Goal 5 on Page 43 and the "Guide to Reducing Sugar Intake," Page 45.

However, Figure 1, Page 12, shows the current diet as having 24 percent sugar as an energy source. This figure, as arrived at by the Staff, refers to all sugars and not specifically sugar (sucrose). The impression given by Figure 1, namely, that our diet consists of 24 percent sugar (sucrose) is not only wrong, it essentially negates Goal 5.

Your attention is not drawn to that section of the printed report dealing with the "explanation of goals," Pages 14 ff. Detailing comments leads to inordinate complexity. We therefore offer our comments in a brief manner which can be expanded on if need be.

Goal 1. Increase carbohydrate consumption to account for approximately 55 to 60 percent of the energy (caloric) intake.

Use of the term "complex carbohydrates" to mean "fruits, vegetables and grain products" (Page 9) is an evident and questionable expansion of the word "starch" as used by Page and Friend (see, for instance, Figure 3, Page 15). "Starch," in this usage by Page and Friend was defined to mean grain products and vegetables (Sugars in Nutrition, Page 96; NFS–150, Nov. 1974). Apparently a documental home was needed for the purposes of introducing fruits in order to urge their increased usage and expanding the word "starch" to "complex carbohydrates" seemed useful for this purpose.

In building a case for Goal 1, putting the emphasis of increased consumption of fruits, vegetables and cereal grains ("complex carbohydrates") effectively buries issues of real importance.

The Drs. Connor are strongly referenced on Pages 17 and 18 in discussions on heart disease and diabetes. Rather than underlining increased consumption of complex carbohydrates, the Connors say in the reference cited that, "In the diabetic patient, as in the hypertriglyceridemic patient, adiposity is a chief cause of the problem. Thus, the total energy intake from all sources is important to control obesity."

The case for increasing fiber in the U.S. diet is at best based on very preliminary findings. As the report states on Page 18, fibers' role in the diet is a postulate of Burkitt's. The report's citation of Van Soest is highly appropriate: "It is probable that both kinds of fiber are important to nutrition, but relatively little is known about the properties of fiber and its role in nutrition." There is no good reason, then for including fiber in discussions at various points within the report other than to promote the case of increasing the consumption of fruits and vegetables. This case, as put, is not very convincing.

The section of the report dealing with "complex carbohydrates" as vitamin and mineral sources is primarily opinion and philosophy. The first paragraph on Page 20 is probably most descriptive of the situation. "It is important to note that knowledge of the full range of micro-nutrients has not been developed. For example, inquiry is only beginning into the function of elements such as chromium, selenium, vanadium and others, which appear to have important regulatory functions in and between cells. Furthermore, there is only limited knowledge of human requirements for most nutrients, as shown in Appendix C, prepared by the Department of Agriculture."

In suggesting "complex carbohydrates" increase as an aid in the treatment of obesity on Page 20, the report is again primarily offering opinion and overlooks the generally agreed on proposal that obesity will develop if caloric intake exceeds calorie outgo, no matter the source of energy.

The "Guide to increasing complex carbohydrate consumption," which starts on Page 20 of the report, deserves short comment. It is a most evident boost for "natural" versus processed and refined foods, curiously using fruits and vegetables, especially the potato as an example of a "refined" food. Presumably this was to completely exemplify "processed and refined" foods phrasing. The section is socio-economically unrealistic in not addressing such questions as the cost of fresh produce out of season, the shelf life of such produce under whatever storage conditions and the demand of the consumer for products convenient to her lifestyle.

On the whole, the "explanation" for establishing Goal 1 of the Dietary Goals has a very weak factual foundation. While one may not argue against increasing fruit, vegetable and cereal grain consumption, the rationale proposed in the report comes off as a promotion for "natural" versus processed and refined foods with little consideration for socio-economics. Further, in emphasizing such an increase the writers most effectively obscure such real issues as the importance of total caloric intake in obesity, the overpowering importance of obesity in heart disease and diabetes and the lack of proof of importance of fiber in the diet.

Goal 5. Reduce Sugar Consumption by about 40 percent to Account for about 15 percent of Total Energy Intake.

As noted before, in Figure 1, Page 12 of the Staff Report, the carbohydrate breakdown of the "current diet" into 22 percent complex carbohydrates and 24 percent sugar is apparently arrived at by multiplying 46 (percent carbohydrates) times the starch-sugar ratio for 1976 as found in Figure 3, Page 15 (47.1 percent starch 52.9 percent sugars).

The conversion of Page and Friend's term "starch" to "complex carbohydrates" might be tolerable even in the face of the liberal use of the term complex carbohydrates throughout the Report. However, Page and Friend leave no doubt that the term "sugars" is not "sugar" (implying sucrose), as shown in Figure 1 of the Staff Report, but includes "all sugar, that occurring naturally in food such as milk, fruit, syrups and honey as well as refined cane, beet and corn sugar" (NFS–150, Nov. 1974, Page 29). Page and Friend also state that sugar and syrups account for about two-thirds of the sugars. On this basis, sugar (sucrose) is less than 16 percent of the calorie content of the "current diet." This is equal to or less than the percent of sugar recommended as a dietary goal. We append USDA statistics concerning this point.

According to Page and Friend, lactose (from milk) and sugars in fruits each contribute about 3 percent to the 24 percent sugars (Sugars in Nutrition, Page 97). The residue is from other sources. All these figures are recognized as approximations. If, as anticipated, it is anathema to reduce sugars' content of the American diet by reducing lactose (milk) of sugars in fruits than the proposed reduction to the dietary goal remains as a reduction of sugar (sucrose) and syrups from beet, cane and corn although the Staff is obviously restricting their viewpoint to sucrose.

Let us note at this point that we are aware that in the time between the issuance of the original Committee report (January 1977) and the release of the final printed copy (February 1977) there was an admission, tacit and apparently reluctant, on the part of the architects of the report that they had seriously misapplied USDA data. Some adjustments were made.

One might suggest that such adjustments in proceeding from the original to final form of the report were an acknowledgment of an error or oversight. Such a suggestion seems invalid because the final report retains many statements contained in the original that leave no doubt that sugar as sucrose is being selectively treated.

It is perfectly obvious that the writers and advisors of the report, despite briefly and obscurely acknowledging misinterpretation of published data, have thought to construct such a case against sugar (sucrose) (not sugars) that a 40 percent reduction (a dietary goal) is reasonable and well founded. Such manipulations are reprehensible from a scientific point of view. To those not versed in the details treated they can only lead to blind acceptance or complete confusion.

A prime example of promoting, and perhaps reflecting, confusion is in the printed version of the report, Pages 43–44, where a case against current levels of sugar usage is presumed to be built. Here there is a complete interchange of various definitions of "increase use of sugar" or its equivalent. The definitions are:

1. Increase in per-capita consumption of sugar (sucrose);

2. Increase in the ratio of sugars to starch in the national food supply;

3. Increase in the ratio of use of sugar (sucrose) in food products and beverages to use in direct household consumption.

A look at the facts behind these three different definitions of sugar (sucrose) use shows that (1) there have been no significant increases in sugar uses, certainly over the past 50 years. Per-capita consumption has been relatively steady. (2) The shift in type of carbohydrate in the national diet has been primarily due to a decrease in starch consumption with sugar staying constant. (3) The shift of major sugar user from household to food processor is most probably a result of increased affluence with the consequent reduction in home baking, canning, etc., and increased call for convenience items.

In discussing details of the "impact on health of these increase in sugar use . . ." (Page 44) (without recognizing there are no increases) the Staff uses as a prime reference Sugars in Nutrition. This is a good secondary reference source. The other references in this section are non-reference newspaper articles and one is appalled at the use of the New York Times and Los Angeles Times as sources of reliable scientific data.

One can add to this observation that of the references under Goal 5 only Dr. Connor can be considered as being objective. Drs. Cohen, Mayer and Yudkin are so outspokenly anti-sugar that an unbalanced presentation and consequent foundation for establishing Goal 5 had to be a foregone conclusion.

In the specific section on Goal 5, Pages 43–47, many important references, which could have given balance to the discussion, are missing. These include:

1. AER Report No. 48 which discusses factors which may influence the decline in the proportion of sugar delivered directly to households. (Ref. 1)

2. Sugar Reports 241 covering influences on the distribution of nutritive sweeteners. (Ref. 2)

3. The HANES report and the Ten-State Survey which describe nutritional deficiencies in various segments of the U.S. population. (Ref. 3)

4. A good biochem textbook explaining the use of thiamin in carbohydrate metabolism.

5. Articles by Grande, Walker, Keys and others which so discredit Yudkin as to make the citation of his work a severe handicap to the report. (Ref. 4)

6. Diabetes reports by the National Council on Diabetes which describe the major risk factors for diabetes. (Ref. 5)

7. Articles by Medalie on diabetes epidemiology which discount Cohen's work and hypotheses. (Ref. 6)

8. Fogarty Center sponsored conferences on obesity reporting the status of thinking in this field. (Ref. 7)

9. Programs published by the NIDR which are a much more reliable and authoritative information source on caries than Mayer. (Ref. 8)

10. Beverage Industry 1976–1977 Annual Manual which gives a complete list of beverages consumed and not a selected few. (Ref. 9)

11. NFS–156, May 1976, which points out that decreased milk consumption can be related to a decreased proportion of children. (Ref. 10)

The most glaring omission of a reference so far as sugar is concerned is the FASEB report prepared for the FDA in which the health aspects of sucrose are evaluated. The conclusions in this report are

"1. Reasonable evidence exists that sucrose is a contributor to the formation of dental caries when used at the levels that are now current and in the manner now practiced.

"2. Other than the contribution made to dental caries, there is no clear evidence in the available information on sucrose that demonstrates other hazards to the public when used at the levels that are now current and in the manner now practiced. However, it is not possible to determine without additional data, whether an increase in sugar consumption—that would result if there were a significant increase in the total of sucrose, corn sugar, corn syrup, and invert sugar, added to foods—would constitute a dietary hazards."

In the face of this mountain of untapped resources, Goal 5 has no foundation whatsoever in the Dietary Goals for the U.S.

The evident imbalance serving as bases for Goals 1 and 5 provoke the natural reluctance to accept other parts of the report. They also provoke the suspicion that a proper balance of consultants was as sorely missing in helping to construct this report as was a proper balance of reference material.

Finally, there is much in the report that implies the food industry is ripping off the consumer (explanation of Goals 1 and 5). To us this attitude reflects a remarkable lack of understanding of marketing, supply and demand and the necessity for maintaining a continuing supply of food.

It also suggests the surfacing of that perpetual cry of people for a simple unqualified answer to a complex question (e.g., fiber and gastrointestinal diseases). This is a call for black or white, an ideal but unrealistic situation that requires little thinking. Living is primarily gray, requires thoughtful problem solving and does not often produce panaceas. It is more than unfair to suggest otherwise to the consumer.

Certainly these proposed dietary goals must be reconsidered with the assistance of objectivity, reason and practicality. Certainly they must be reconsidered with the help of a balanced group of scientific advisors and data. And most certainly they must be reformulated with a minimum of bias and in the absence of preconception, both of which are clearly evident in the current report.

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U.S. SUGAR CONSUMPTION[2]

[Cane and beet][1]

| Year | Sugar (lb/cap/yr) | Calculated sugar (kcal/day) | Total diet (kcal/day) | Calculated sugar as percent total kcal |
|---|---|---|---|---|
| 1909 | 73.7 | 352.6 | 3,530 | 10.0 |
| 1910 | 75.4 | 360.8 | 3,490 | 10.3 |
| 1911 | 77.4 | 370.3 | 3,470 | 10.7 |
| 1912 | 75.9 | 362.2 | 3,470 | 10.4 |
| 1913 | 81.3 | 389.0 | 3,460 | 11.2 |
| 1914 | 81.0 | 387.5 | 3,440 | 11.3 |
| 1915 | 77.6 | 371.3 | 3,430 | 10.8 |
| 1916 | 76.8 | 366.5 | 3,380 | 10.8 |
| 1917 | 78.0 | 373.2 | 3,330 | 11.2 |
| 1918 | 74.6 | 356.9 | 3,380 | 10.6 |
| 1919 | 86.6 | 414.3 | 3,440 | 12.0 |
| 1920 | 35.5 | 408.0 | 3,290 | 12.4 |
| 1921 | 87.3 | 417.7 | 3,200 | 13.1 |
| 1922 | 104.4 | 499.5 | 3,430 | 14.6 |
| 1923 | 90.5 | 433.0 | 3,440 | 12.6 |
| 1924 | 99.5 | 474.8 | 3,460 | 13.7 |
| 1925 | 104.3 | 499.0 | 3,450 | 14.5 |
| 1926 | 104.5 | 500.0 | 3,460 | 14.5 |
| 1927 | 102.4 | 489.9 | 3,470 | 14.1 |
| 1928 | 103.7 | 494.8 | 3,490 | 14.2 |
| 1929 | 96.9 | 463.6 | 3,460 | 13.4 |
| 1930 | 109.6 | 524.4 | 3,440 | 15.2 |
| 1931 | 100.5 | 480.8 | 3,390 | 14.2 |
| 1932 | 94.7 | 451.9 | 3,320 | 13.6 |
| 1933 | 93.7 | 448.3 | 3,280 | 13.7 |
| 1934 | 93.7 | 448.3 | 3,260 | 13.8 |
| 1935 | 97.8 | 467.9 | 3,200 | 14.6 |
| 1936 | 97.3 | 464.3 | 3,290 | 14.1 |
| 1937 | 96.4 | 461.2 | 3,260 | 14.1 |
| 1938 | 95.2 | 455.5 | 3,260 | 14.0 |
| 1939 | 100.8 | 482.3 | 3,340 | 14.4 |
| 1940 | 95.7 | 456.6 | 3,350 | 13.6 |
| 1941 | 104.3 | 499.0 | 3,410 | 14.6 |
| 1942 | 81.8 | 391.4 | 3,320 | 11.8 |
| 1943 | 80.7 | 386.1 | 3,360 | 11.5 |
| 1944 | 89.5 | 427.0 | 3,350 | 12.7 |
| 1945 | 73.9 | 353.6 | 3,300 | 10.7 |
| 1946 | 75.1 | 359.3 | 3,320 | 10.8 |
| 1947 | 95.1 | 455.0 | 3,290 | 13.8 |
| 1948 | 94.1 | 449.0 | 3,200 | 14.0 |
| 1949 | 96.4 | 461.2 | 3,200 | 14.4 |
| 1950 | 100.6 | 481.3 | 3,260 | 14.8 |
| 1951 | 94.0 | 449.7 | 3,160 | 14.2 |
| 1952 | 97.1 | 463.3 | 3,190 | 14.5 |
| 1953 | 97.2 | 465.1 | 3,170 | 14.7 |
| 1954 | 95.6 | 457.4 | 3,150 | 14.5 |
| 1955 | 96.3 | 460.8 | 3,180 | 14.5 |
| 1956 | 97.8 | 466.7 | 3,180 | 14.7 |
| 1957 | 95.0 | 454.5 | 3,110 | 14.6 |
| 1958 | 96.8 | 463.1 | 3,120 | 14.8 |
| 1959 | 96.4 | 461.2 | 3,140 | 14.7 |
| 1960 | 97.6 | 465.7 | 3,140 | 14.8 |
| 1961 | 97.8 | 467.9 | 3,120 | 15.0 |
| 1962 | 97.3 | 465.5 | 3,120 | 14.9 |
| 1963 | 96.7 | 462.7 | 3,150 | 14.7 |
| 1964 | 96.7 | 461.4 | 3,190 | 14.5 |
| 1965 | 96.8 | 463.1 | 3,140 | 14.8 |
| 1966 | 97.2 | 465.1 | 3,170 | 14.7 |
| 1967 | 98.3 | 470.3 | 3,210 | 14.7 |
| 1968 | 99.0 | 472.4 | 3,260 | 14.5 |
| 1969 | 100.7 | 481.8 | 3,280 | 14.7 |
| 1970 | 101.9 | 487.5 | 3,300 | 14.8 |
| 1971 | 102.4 | 489.9 | 3,320 | 14.8 |
| 1972 | 102.8 | 490.5 | 3,320 | 14.8 |
| 1973 | 101.5 | 485.6 | 3,290 | 14.8 |
| 1974 | 96.6 | 462.2 | 3,280 | 14.1 |

[1] Cane and beet added by Nutrition Subcommittee.
[2] Based on USDA data. See, for instance, W. A. Gortner, Nutrition in the United States, 1900–74. Cancer Research 35, 3246–3253, November 1975.

GOAL NO. 2

Change: "Increase carbohydrate consumption to account for 55–60 percent of the energy (caloric) intake."

To: "Increase the consumption of complex carbohydrates and 'naturally occurring' sugars from about 28 percent of energy intake to about 48 percent of energy intake."

The intent of this goal is primarily to increase the consumption of complex carbohydrates as indicated in the food selection recommendation, "Increase consumption of fruits, vegetables and whole grains." In addition, "naturally occurring" sugars are obtained from fruits, vegetables and whole grains, as well as from milk products. The wording of the goal has been altered to provide greater accuracy and clarity.

GOAL NO. 3

Change: "Reduce sugar consumption by about 40 percent to account for about 15 percent of total energy intake."

To: "Reduce the consumption of refined and processed sugars by about 45 percent to account for about 10 percent of total energy intake."

In reviewing the responses pertaining to the sugar recommendation in this report, it was clear to the Select Committee that there needed to be more preciseness provided to the consumer than was available by solely using the generic term, sugar. In particular, while the text described the various sugars, the graph on page 12 in the 1st Edition comparing the current American diet with the

recommended dietary goals lumped all sugars together under the generic term sugar.

The new graph (p. 5) will break down the current consumption of 24 percent of total caloric intake from sugars into: (1) 6 percent occurring naturally in fruits, vegetables and milk products; and (2) 18 percent refined (cane and beet) and processed (corn sugar, syrups, molasses and honey).

The recommended dietary goal is adjusted to 10 percent of total caloric intake from refined and processed sugars. The specific amount of sugars occurring naturally in foods that a person consumes will be dependent on his or her selection of foods in the category of complex carbohydrates and "naturally occurring" sugars.

Goal 3. Reduce the consumption of refined and other processed sugars by about 45 percent to account for about 10 percent of total energy intake.

Figure 3 (p. 12) from an article by Louise Page and Berta Friend, of the U.S. Department of Agriculture, appearing in "Sugars in Nutrition" published by the Nutrition Foundation, shows that various kinds of sugar accounted for only 32 percent of total carbohydrate consumption in the period 1909 to 1913. However, by 1976, sugars had replaced starch and other complex carbohydrates, as the predominate carbohydrate source. Thus the consumption of all types of sugars has increased from 18 percent of total caloric intake to approximately 24 percent, and the consumption of refined sugar (cane and beet) has increased from 12 percent of total caloric intake to approximately 18 percent. Figure 8 indicates per capita consumption in pounds of refined and processed sugars since 1875, and Table 7 details per capita consumption of caloric sweeteners, 1960–76.

TABLE 7.—CALORIC SWEETENERS: PER CAPITA U.S. CONSUMPTION, 1960-76 [1]

[In pounds]

| Calendar year | Refined cane and beet sugar | | | | | | Corn sweeteners [2] | | | | Minor caloric [2] | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | U.S. grown sugar | | | Cane sugar | | | Corn sirup | | | | | | | |
| | Beet sugar | Cane sugar | Total | Imported | Total | Total | High-fructose | Other | Dextrose | Total | Honey | Edible sirups | Total | Total caloric |
| 1960 | 25.2 | 28.1 | 53.3 | 44.3 | 72.4 | 97.6 | ..... | 8.2 | 3.4 | 11.6 | 1.2 | 0.8 | 2.0 | 111.2 |
| 1961 | 26.1 | 28.7 | 54.8 | 43.0 | 71.7 | 97.8 | ..... | 8.6 | 3.4 | 12.0 | 1.1 | .8 | 1.9 | 111.7 |
| 1962 | 23.9 | 38.0 | 51.9 | 45.4 | 73.4 | 97.3 | ..... | 9.3 | 3.6 | 12.9 | 1.1 | .9 | 2.0 | 112.2 |
| 1963 | 27.2 | 27.8 | 55.0 | 41.7 | 56.5 | 96.7 | ..... | 9.9 | 4.3 | 14.2 | 1.1 | .7 | 1.8 | 112.7 |
| 1964 | 28.5 | 30.3 | 58.8 | 37.9 | 68.2 | 96.7 | ..... | 10.9 | 4.1 | 15.0 | 1.0 | .7 | 1.7 | 113.4 |
| 1965 | 29.4 | 30.3 | 59.7 | 37.1 | 66.4 | 96.8 | ..... | 11.0 | 4.1 | 15.1 | 1.1 | .7 | 1.8 | 113.7 |
| 1966 | 28.3 | 28.6 | 56.9 | 40.3 | 69.2 | 97.2 | ..... | 11.2 | 4.2 | 15.4 | 1.0 | .7 | 1.7 | 114.8 |
| 1967 | 26.6 | 29.9 | 56.5 | 41.8 | 71.7 | 98.3 | ..... | 11.9 | 4.2 | 16.1 | .9 | .5 | 1.4 | 115.7 |
| 1968 | 27.8 | 26.5 | 54.3 | 44.7 | 71.2 | 99.0 | ..... | 12.6 | 4.3 | 16.9 | .9 | .7 | 1.6 | 117.5 |
| 1969 | 30.1 | 25.2 | 55.3 | 45.4 | 70.6 | 100.7 | ..... | 13.2 | 4.5 | 17.7 | 1.0 | .6 | 1.6 | 120.0 |
| 1970 | 31.4 | 25.0 | 56.4 | 45.5 | 70.5 | 101.9 | ..... | 14.0 | 4.6 | 18.6 | 1.0 | .5 | 1.5 | 122.0 |
| 1971 | 31.1 | 22.8 | 53.9 | 48.5 | 71.3 | 102.4 | ..... | 15.0 | 5.0 | 20.0 | .9 | .5 | 1.4 | 123.8 |
| 1972 | 30.4 | 25.4 | 55.8 | 47.0 | 72.4 | 102.8 | 0.9 | 15.6 | 4.4 | 20.9 | 1.0 | .5 | 1.5 | 125.2 |
| 1973 | 30.4 | 24.9 | 55.3 | 46.2 | 71.1 | 101.5 | 1.4 | 16.7 | 4.8 | 22.9 | .9 | .5 | 1.4 | 125.8 |
| 1974 | 26.1 | 21.0 | 47.1 | 49.5 | 70.5 | 96.6 | 2.3 | 17.6 | 4.9 | 24.6 | .8 | .4 | 1.2 | 122.4 |
| 1975 [3] | 30.5 | 24.9 | 55.4 | 34.8 | 59.7 | 90.2 | 4.7 | 17.7 | 5.1 | 27.5 | .9 | .4 | 1.3 | 119.0 |
| 1976 [4] | 33.3 | 23.5 | 56.8 | 38.3 | 61.8 | 95.1 | 7.1 | 17.7 | 5.1 | 29.9 | 1.0 | .4 | 4.1 | 126.4 |

[1] U.S. Department of Agriculture, Sugar and Sweetener Report, SSR vol. 2, February 1977.
[2] Dry basis. Recent corn sweetener consumption may be understated due to incomplete data.
[3] Preliminary.
[4] Estimate.

The largest components in the sugars category are refined sugar (cane and beet), which accounts for 14 percent of total calories, and processed sugars (corn sugar, syrups, molasses and honey), which account for 4 percent of total calories. The other 6 percent of total calories consumed as sugar are obtained from fruit, vegetables and milk products.

The greatest impetus for the increased use of sugars apparently has come from the addition of refined sugar (cane and beet) to processed foods. Figure 9, also from the Page/Friend article, shows the dramatic increase in the use of refined sugar added outside the control of the consumer.

Page and Friend report:

"Use in processed food products and beverages has increased more than threefold from nearly 20 to 70 lbs., while household purchase has dropped one-half from a little more than 50 to about 25 lb. Currently, food products and beverages account for more than two-thirds of the refined sugar consumed—70 lb. out of a little over 100 lb. Moreover, beverages now comprise the largest single industry use of refined sugar, accounting for over one-fifth of the total refined sugar in the United States diet, or nearly 23 lb. Furthermore, the amount used in beverages has increased nearly sevenfold since early in the century when 3½ lb./person/year was used in these products. Use of refined sugar in beverages is now second only to household use."

Table 8, provided by Page and Friend, shows changes in refined sugar used in this century:

TABLE 8.—REFINED SUGAR, ESTIMATED PER CAPITA CONSUMPTION BY TYPE OF USE, SELECTED PERIODS, 1909-13 TO 1971 [1]

[In pounds]

| Type of use | 1909–13 | 1925–29 | 1935–39 | 1947–49 | 1957–59 | 1965 | 1971 (preliminary) |
|---|---|---|---|---|---|---|---|
| In processed foods: | | | | | | | |
| Cereal and bakery products | 4.5 | 7.7 | 9.7 | 12.9 | 15.4 | 15.6 | 17.6 |
| Confectionery products | 6.5 | 8.0 | 8.2 | 9.8 | 9.6 | 10.4 | 11.0 |
| Processed fruits and vegetables [2] | 3.0 | 4.6 | 4.4 | 9.0 | 9.8 | 9.5 | 10.4 |
| Dairy products | 1.5 | 2.3 | 2.4 | 4.6 | 4.9 | 5.3 | 5.8 |
| Other food products [3] | .3 | .7 | 1.2 | 1.5 | 1.7 | 2.5 | 2.6 |
| Total food products | 15.8 | 23.4 | 25.9 | 37.8 | 41.4 | 43.4 | 47.4 |
| Beverages (largely in soft drinks) | 3.5 | 5.0 | 5.2 | 10.6 | 12.6 | 16.9 | 22.8 |
| Total processed food and beverages | 19.3 | 28.4 | 31.1 | 48.4 | 54.0 | 60.2 | 70.2 |
| Other food uses: | | | | | | | |
| Eating and drinking places [4] | 4.5 | 5.7 | 6.3 | 7.7 | 7.3 | 6.2 | 5.5 |
| Household uses [5] | 52.1 | 65.0 | 58.8 | 37.4 | 33.1 | 28.2 | 24.7 |
| Institutional and other uses [6] | .5 | .9 | .9 | 1.3 | 1.0 | 1.4 | 1.1 |
| Total | 57.1 | 71.6 | 66.0 | 46.4 | 41.4 | 35.8 | 31.3 |
| Total food use | 76.4 | 100.0 | 97.1 | 94.8 | 95.4 | 96.0 | 101.5 |
| Nonfood use [7] | .3 | .4 | .4 | .4 | .7 | .6 | .9 |
| Total consumption | 76.7 | 100.4 | 97.5 | 95.2 | 96.1 | 96.6 | 102.4 |

[1] Prepared by Food Consumption Section, Economic Research Service, U.S. Department of Agriculture.
[2] Canned, bottled, and frozen foods (processed fruit and vegetable products); jams, jellies, and preserves.
[3] Includes miscellaneous food uses such as meat curing, and syrup blending.
[4] Includes hotels, motels, restaurants, cafeterias, and other eating and drinking establishments.
[5] Household use assumed synonymous with deliveries in consumer-sized packages (less than 50 lb).
[6] Largely for military use.
[7] Includes use in pharmaceuticals, tobacco, and other nonfood use.

Source: "Sugars in Nutrition," Levels of Uses of Sugar in the United States, L. Page, B. Friend 1974.

This increased use of refined sugar is traceable in large part to the desire of food manufacturers to create unique food products with a competitive edge. Just recently, for example, Nabisco introduced an Oreo cookie with double the amount of sugar filling. Robert Buzzell and Robert Nourse in "Product Innovation in Food Processing" report that the addition of sugar to cereal in 1948 was the direct cause of recovery of slumping cereal sales. Since then, the varieties of sweetened cereals have grown dramatically. The profusion of varieties of cereals, soft drinks and other products represent efforts to protect market shares.

DENTAL DISEASE

Sugars, particularly foods that contain sticky forms of refined and processed sugars (taffy-like candies, sugar-coated cereals, granolas, raisins and other dried fruits) have been implicated in tooth decay, which may be the most widespread disease related to nutrition. The consumption of sugars can lead to cavities (caries) in children and adults, and gum disease and eventual loss of teeth (periodontal disease) in adults. Dr. Mayer, citing a government survey, said in the *Times* article:

"In nations of the Far East, where sugar intake per person per year ranged (at the time) from 12 to 32 pounds, the national averages for decayed, missing or filled teeth in adults 20 to 24 years old ran from 0.9 to 5. By contrast, in South American nations, where sugar intake was high (44 to 88 pounds per person annually) the averages for decayed, missing or filled teeth in the same age group ran from 8.4 to 12.6. As for the United States today, it has been estimated that 98 percent of American children have some tooth decay; by age 55 about half of the population of this country have no teeth."

NUTRIENT DANGER

The most important problem, perhaps, is the danger in displacing complex carbohydrates which are high in micro-nutrients, with refined sugar, which is essentially an energy source offering little other nutritional value. This not only increases the potential for depriving the body of essential micro-nutrients but, noted Dr. Jean Mayer in an article in the New York Times Magazine in June 1976, sugar calories may actually increase the bodys need for certain vitamins:

(Sugar calories) increase requirements for certain vitamins, like thiamin, which are needed (for the body) to metabolize carbohydrates. They may increase the need for the trace mineral, chromium, as well.

Thus, a greater burden is placed on the other components of the diet to contribute all the necessary nutrients—other foods need to show extraordinary nutrient density to compensate for the emptiness of the sugar calories.

DIABETES

The role of refined sugar in the development of diabetes is unclear, largely because the cause or causes of diabetes are still unknown. Many researchers who have been before the Select Committee believe there is no relationship between the level of refined sugar consumption and the occurrence of diabetes.

On the other hand there are a few researchers who believe there is a connection between the increasingly larger proportion of refined sugar calories in the diet and the higher incidence of diabetes. Dr. A. M. Cohen and associates report in "Sugars in Nutrition" that rats with a genetic predisposition to diabetes will develop the disease when exposed to high refined sugar diets and that they can be prevented from contracting it with a sugar-free diet. It is not yet known whether or not some humans may have a genetic tendency comparable to that reported by Dr. Cohen in his rat experiments.

Dr. Mayer noted in an article in the Los Angeles Times in October 1975, that several epidemiological studies indicate a connection between high refined sugar use and diabetes. For example, Yemenite Jewish immigrants to Israel had a low incidence of diabetes until they had consumed a Westernized diet high in sugar for several years. However, other simultaneous changes such as an increased energy intake might also have contributed to the increased incidence of diabetes among these Yemenites.

These considerations have led to a number of governmental and professional health organizations in the United States, and other nations, cited earlier, to recommend a general decrease in sugar consumption (Appendix B).

In "Sugars in Nutrition," Dr. Arvid Wretlind, of the Nutrition Unit, Karolinska Institutet, Stockholm, writing about refined sugar usage in Europe, suggests that sugar consumption be reduced to 10 percent of calories:

"In Europe there has been, and in some countries still is, a continuous increase in sugar consumption. In some of these countries the sugar content of the diet has reached a level between 15 and 18 percent of calories. The increase in sugar consumption, followed by an increased fat intake will, generally speaking, result in a decreased content of essential nutrients and in a reduced consumption of other foods which contain not only energy but also valuable nutrients. The conclusion is that the amount of sugar in a moderate diet should be moderate. A maximum level of 10. cal/percent is proposed."

Reducing the consumption of refined and processed sugars to about 10 percent of caloric intake is an equally reasonable goal for the United States, and would return the consumption of such sugars to a point slightly below that of the early 1900's.

GUIDE TO REDUCING THE INTAKE OF REFINED AND PROCESSED SUGARS

In reviewing ways of cutting the consumption of refined and processed sugars, the most obvious item for general reduction is soft drinks. Total elimination of soft drinks from the diet, for many people, would bring at least half the recommended reduction in the consumption of such sugars.

Soft drink consumption in the United States doubled between 1960 and 1975, rising from 13.6 gallons a year to 27.6, as shown in Table 9 from the Department of Agriculture "Sugar and Sweetener Report," September 1976. This translates into 221 sixteen-ounce cans and 21.5 pounds of refined and processed sugar a year.

TABLE 9.—SOFT DRINK SALES, PER CAPITA CONSUMPTION AND AMOUNTS AND VALUE OF SUGAR USED IN MANUFACTURE, 1960–75

| | Sales (millions) | Per capita soft drink consumption | | Per capita sugar consumption (pounds) | Value of sugar (millions) |
|---|---|---|---|---|---|
| | | 16 oz | Gallons | | |
| Year: | | | | | |
| 1960 | $1,857 | 109 | 13.6 | 11.3 | $188 |
| 1965 | 3,195 | 154 | 19.2 | 15.2 | 274 |
| 1970 | 5,016 | 193 | 24.1 | 19.2 | 420 |
| 1975 | 9,426 | 221 | 27.6 | 21.5 | 1,218 |

Source: Sugar and Sweetener Report, vol. 1, No. 8, September 1976 Economic Research Service, U.S. Department of Agriculture.

This increase has evidently been made at the expense of increases in some more nutritious beverages. As Table 10 shows, between 1962 and 1975, soft drinks became the second most highly consumed beverage, displacing milk. Currently, soft drinks compete with coffee for first place.

TABLE 10.—TRENDS IN BEVERAGE CONSUMPTION

[Gallons, per capita, per year]

| Beverage | 1962 [1] | 1975 |
|---|---|---|
| Coffee | 40.4 | 31.6 |
| Milk | 25.6 | 24.4 |
| Soft drinks | 16.8 | 31.4 |
| Juices | 4.3 | 6.2 |

[1] Earliest data available.

Source: Copyright, John C. Maxwell, Jr., Maxwell Associates, Richmond, Va.

Another source of concern is the caffeine in cola soft drinks, which account for about 65 percent of total drink consumption (at least one non-cola also contains caffeine). Medical World News, of January 1976, reports that suspected connections between caffeine and ulcers, heart disease and bladder cancer have been investigated but that evidence is not strong enough to cause caffeine to be adjudged a risk factor in these diseases. There have been findings of withdrawal symptoms of headache, nervousness and irritability among subjects deprived of normal coffee doses as well as similar symptoms among those who may have ingested too much caffeine. The report said colas are of special concern since they are the major caffeine source for most children.

(Doctors particularly pediatricians) have reported signs—including irritability, headaches, and nervousness—of what has come to be known as "caffeinism" among cola-guzzling youngsters whose total caffeine intake (30 mg per 8-oz. can) may be boosted by cocoa or hot chocolate (up to 50 mg per 5-oz. cup) and chocolate bars (25 mg).

Reduction in soft drink consumption also offers the advantage of reducing consumption of non-nutritive additives, colors, flavors, and preservatives.

The second major area for consideration in cutting the consumption of refined and processed sugars is baked goods, reported by Page and Friend to be the second highest source of sugar use. In this area, as in others, home preparation provides greater control over refined and processed sugars, as well as fat use.

Finally, it is important to remember, that refined and processed sugars have been added to a wide range of products. Although labeling regulations do not currently require the content of the different sugars to be described, if some kind of sugar (corn syrup, fructose sugar, dextrose, honey, etc.) is listed as one of the first two or three ingredients, then one can reasonably assume that there is a lot of sugar added to the product. As noted earlier, use of fresh food enables greater protection against hidden refined and processed sugars.●

## BYELORUSSIAN INDEPENDENCE DAY

● Mr. WILLIAMS. Mr. President, I would like to take a few minutes to call attention to a day of great significance for Americans of Byelorussian descent. On March 25, 1978, Byelorussians throughout the world observed the 60th anniversary of the proclamation of independence for the Byelorussian Democratic Republic.

The chaotic conditions in Russia which resulted from the turmoil of the First World War allowed Byelorussian nationhood to bloom for the first time. After having suffered for centuries under the yoke of czarist oppression, the Byelorussian people. through their freely elected representatives in the First All-Byelorussian Congress, established the Byelorussian Democratic Republic on March 25, 1918. The republic quickly began functioning as a genuine national government and moved to revitalize an economy devastated by war.

This flowering of Byelorussian nationhood, however, proved to be tragically short. In callous disregard of the right of national self-determination, the Bolsheviks in 1919 invaded Byelorussia, eventually settling for partial control of Byelorussia after a partition of that country with Poland. By the end of the

Second World War, the Soviet Union had extended its control over all of Byelorussia.

The almost 60 years of Soviet control over Byelorussia have been marked by a continuous policy of forced Russification. Byelorussian intellectuals were purged in the interests of ideological purity, and millions of Byelorussian peasants were either deported or executed in the process of forced collectivization. Moreover, this campaign of cultural genocide is not a thing of the past. Soviet officials maintain their stranglehold over all aspects of Byelorussian intellectual, social, and cultural life today.

In spite of the many years of Soviet oppression, the spirit of the Byelorussian people and their desire for independence remains strong and unbroken. Mr. President, the 60th anniversary of Byelorussian independence is an occasion for Americans to join all other freedom loving people of the world in expressing our continuing admiration and support for the struggle of the courageous Byelorussian people.●

## H.R. 8423—THE END STAGE RENAL DISEASE BILL

● Mr. DOLE. Mr. President, I feel that the end stage renal disease legislation presented yesterday for your consideration is a most valuable contribution to the field of health care. It attempts to create a program that will be responsive to the needs of those who depend on it for survival, as well as insure that our program funds are used in a cost effective manner.

### RISING COSTS

The medicare end stage renal disease program has given hope to thousands of individuals. It has also protected them from possible financial disaster caused by the prohibitive costs of dialysis and transplantation. However, problems do exist: The cost of the Federal Government has increased at a faster rate than had been forecast. Current estimates by the department indicate that the cost of the program in fiscal year 1978 will be $0.9 billion and will continue to rise to an anticipated $3.6 billion in 1987. Our concern has been to determine ways to reduce costs without placing the patient's welfare in jeopardy. The increase in the use of home dialysis is a step toward solving this problem.

### HOME DIALYSIS

The cost of home dialysis is considerably lower than that of institutional dialysis after the first year. Moreover, home dialysis enables the patient to build dialysis treatments around his/her life rather than building his/her life around dialysis. This is a most important aspect in the treatment of any major illness. The legislation we are presenting removes the fiscal disincentives to home dialysis that existed previously. Our intent was not to mandate one form of treatment over another, but rather to remove deterrents. The choice between home dialysis or institutional dialysis clearly remains that of the patient and the physician. In addition, it had become necessary to reexamine our method of reimbursing dialysis units, the coverage we provide to transplant patients, as well as other program issues. I believe our bill meets that need.

### CONCLUSION

End stage renal disease is a frightening, lifelong condition for a great number of people. This bill will do much to improve our assistance to these individuals. I thank my colleagues for their support of this legislation, and I thank the distinguished Senator from Georgia (Mr. TALMADGE) for his work and leadership in this area.●

## REGULATORY REFORM

● Mr. CANNON. Mr. President, there are a number of myths about what will happen to the air transportation system should regulatory reform legislation be enacted. These myths are given a great deal of attention for many of them foretell the destruction of that industry. One of the most prevalent of these myths is that if S. 2493 is passed, small communities around the country will experience a mass exodus of their air carriers so that more lucrative routes may be flown, leaving those communities without air service. Like most myths that preach destruction, people become afraid and that fear makes the truth about the current system and the truth about this legislation that much harder to hear. But the voices of those who have experienced the kind of poor service to communities under the present system and those who have studied carefully this legislation are not silenced. A number of newspaper editorials have come to my attention and I would like to read to you what people around the country are saying about the present system and about regulatory reform.

An editorial appearing in the New York Times points to the fallacy in the argument that small- and medium-sized communities will lose service under a less regulated environment:

> The strongest political case against reform concerns the service to small cities along lightly booked routes. Airlines contend they serve such cities in return for the healthy profits they garner on major routes. A study by the Department of Transportation discovered, however, that only 29 of the 394 cities with scheduled flights would lose by the test of profitability.

The notion that airlines pay for their unprofitable routes from revenues generated by lucrative markets bespeaks a magnanimity uncharacteristic of any profit-oriented enterprise. Futhermore, the fact of internal cross subsidy in the airline industry is not fully substantiated. Looking at the traffic generated by one community in isolation, the service may not seem profitable. But these communities provide valuable feeder traffic to the airlines which makes the community a valuable part of the carrier's route structure and a key factor in that carrier's profitability statement.

In addition, those communities that cannot generate enough traffic to make service financially rewarding are served by providing subsidy to the airlines. Today's subsidy system is appalling for it awards subsidy not on what the community's needs are but on the needs of the carrier. In another editorial appearing in the Ohio Press, the myth of good service to small communities under the present system is exploded:

> One of the most alarming arguments raised by the airlines against deregulation is that it would mean the loss of service to small communities. But two volumes recently published by the American Enterprise Institute argue that just the opposite will occur—that a reduction in regulation will eventually lead to better service for small communities.
>
> In any event, small communities are not currently being protected by the CAB. In the last 16 years, the CAB allowed airlines to drop service to 175 communities.
>
> In addition, the new legislation guarantees that every community now receiving air service will continue to have it for at least 10 years, even if federal subsidies are necessary.

It is clear from these editorials and others like it that not only will communities not lose service under this bill, but that communities will be better served as a result of this legislation. I ask unanimous consent that these editorials be printed in the RECORD.

The editorials follow:

[From the New York Times, Feb. 28, 1977]

MAKING THE FRIENDLY SKIES MORE FRIENDLY

New York to Los Angeles by air for $89? World Airways wants to offer scheduled service at that price, but the Civil Aeronautics Board won't allow it. Similar bargains would be available between other cities, were it not for Federal regulation that chokes off airline competition. Don't take our word. Ask the General Accounting Office, which estimated last week that competitive pricing could save passengers nearly $2 billion a year.

Most major air carriers are unhappy with that report and the support for regulatory reform that has been building in the past few years. Under current law, the aeronautics board sets fares and restricts the number of companies flying each route. Such regulation is necessary, the airlines argue, to insure fair profits and maintain service to smaller communities. If fares were determined by the free market and routes were opened to all comers, the big carriers would drive small fry from the skies through cutthroat pricing, and dozens of cities would lose scheduled flights altogether.

The airlines are right; hefty fares haven't meant hefty profits. Competition over frequency of service and myriad frills—the only competition now permitted—has frittered away potential earnings. Travelers can now choose among six nonstop flights from New York to Los Angeles between 4 and 6 P.M., listen to nine channels of stereo, and expect to find plenty of empty seats nearby to stow their briefcases—but it costs them $100 more than World Airways wants to charge.

The airlines may or may not be correct that weak carriers would lose in unbridled competition. Lower fares are expected to increase airline use greatly—deregulation in Texas and California confirms this—so lines with half-empty jumbos may actually benefit the most. But even if competition creates distress for some companies, that's hardly reason to extort consumer dollars to keep them in business.

The strongest political case against reform concerns the service to small cities along lightly booked routes. Airlines contend they serve such cities in return for the healthy profits they garner on major routes. A study by the Department of Transportation discovered, however, that only 29 of the 394 cities with scheduled flights would lose by the test of profitability. Economists wonder whether the general flying public has much stake in retaining routes that can't pay their

own way. But even if it is necessary to sustain such routes, direct subsidies would be a much cheaper means to the desired destination.

The case for business-as-usual at the aeronautics board has collapsed under the weight of common sense and consumer politics. Senators Kennedy and Cannon are sponsoring legislation that would open up domestic fares and routes, putting the burden on the airlines to justify further restrictions. With the promised White House support, some version of the Kennedy-Cannon plan is likely to become law this year.

Much less certain is the time when travelers will find reform translated into cash. The new law would not abolish the aeronautics board; it would only require it to encourage competition. A hostile board could sabotage reform for years. But three of five board seats fall vacant this spring—a majority; thus the Administration's appointees will have as much to say about future air fares as the Congress. Mr. Carter has promised to get Government out of places it does not belong. This is a good place to begin.

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[From the Cleveland Press, Aug. 31, 1977]

PLANE FARES SHOULD BAIL OUT

(By Marianne Means)

If you are dreaming on a trip to Europe, you must be delighted by the trans-Atlantic air-fare war.

Trans World Airlines and Pan American, scared by a new foreign budget airline, have suddenly found they can fly round-trip passengers overseas for roughly $250 less than they are now charging for their basic excursion plan, which in turn is cheaper than their regular fare.

The Civil Aeronautics Board must approve the new rates, and there is considerable confusion about how much is actually saved, because the airlines deliberately offer a dazzling array of travel arrangements and costs, depending upon how much inconvenience one is prepared to tolerate.

But the airfare war may be the final push needed to get Congress to substantially reduce federal regulation of the airline industry, for it tends to undermine the pitiful complaints of airline executives that without CAB's rigid protection they would face bankruptcy from the low prices which would result from the new competitive pressures.

President Carter is pushing a measure to deregulate the airlines and congressional momentum for the legislation appears to be growing. It would give carriers more discretion to set their own fares and abandon unprofitable markets, and make it easier for new carriers to enter the field.

The airlines would have the freedom to lower their fares by as much as 35% and raise them as much as 10%, but only on routes on which there is competition.

The General Accounting Office has estimated that airline fares could be $1.4 to $1.8 billion lower each year with greater competition.

The CAB has received 79 applications for charters from new airline hopefuls and rejected everyone. The largest four or five trunk carriers in recent years have controlled almost 70% of the air transportation industry.

One of the most alarming arguments raised by the airlines against deregulation is that it would mean the loss of service to small communities. But two volumes recently published by the American Enterprise Institute argue that just the opposite will occur—that a reduction in regulation will eventually lead to better service for small communities.

In any event, small communities are not currently being protected by the CAB. In the last 16 years, the CAB allowed airlines to drop service to 175 communities.

In addition, the new legislation guarantees that every community now receiving air service will continue to have it for at least 10 years, even if federal subsidies are necessary.

Airline regulatory reform, and the lower fares it promises, has been warming up on the apron long enough. It's time that the reform took off. We travelers on limited budgets are eagerly waiting.●

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## UNITED STATES LOSES $43 BILLION ANNUALLY TO ALCOHOLISM; PUBLIC AWARENESS AND ACTION KEYS TO SOLUTION

● Mr. RANDOLPH. Mr. President, America faces a serious alcohol problem. Almost daily, the public is reminded of a society fueled by alcohol in all facets of the media, even in the comic strips. Within the past decade, the Federal Government created a National Institute on Alcohol Abuse and Alcoholism to assume needed leadership in this complex and serious societal problem.

In its latest report to the Congress, the institute revealed that the Nation loses almost $43 billion annually to the alcoholism problem. Almost $20 billion of that enormous figure is a result of lost production, and another $13 billion going to health care costs.

Dr. Morris E. Chafetz, president of the Health Education Foundation, recently posed a critical question. He asked: "Does America have to be Alcoholic?" Dr. Chafetz presents a searching analysis of the scope of the problem and possible ways to ameliorate it, in an address before the Commonwealth Club of San Francisco.

Mr. President, I ask that the cogent counsel of Dr. Chafetz on one of the major behaviorial problems of our society, be printed in the RECORD.

The address follows:

DOES AMERICA HAVE TO BE ALCOHOLIC?

(By Morris E. Chafetz, M.D.)

There is no question that the United States is a country with a serious alcohol problem. Contemporary publications raise some aspect of the alcoholic issue so frequently that business, government, the family—all facets of American society are intensely aware of the problem of alcoholism and alcohol abuse.

The federal government within this present decade was forced to create a new Institute—The National Institute on Alcohol Abuse and Alcoholism—to assume the leadership of this complex and serious societal problem. The Third Report to the Congress on Alcohol and Health reveals that the Nation loses almost $42 billion dollars annually to the alcoholism problem. Almost $20 billion of that enormous figure is due to lost production, while another $13 billion is spent on health care costs.

Alcoholism and alcohol abuse are without a doubt serious problems for the American people. But I did not come across this continent to San Francisco to overwhelm you with the frightening facts of yet another problem. It is true that some 10 million Americans do have an alcoholic problem; we are, therefore, considered to be an alcoholic nation. But serious and important as that fact is, we will not make the progress I will propose to you today by lamenting that fact. For it is my contention that, although we are indeed an alcoholic nation, we have no need to be so. I shall develop my thesis for finally coming to grips with this issue by hopefully developing for you what I consider a practical and obvious way of preventing many of our national alcohol problems by first showing you how we have created a system which creates alcoholic victims and how that system sustains them as alcoholic victims.

Let us begin our discussion with an examination of how people are diagnosed as alcoholic by professionals and what it can reveal to us. In a careful study of physicians—first-rate physicians—we found that they would tend not to make the diagnosis of alcoholism (in spite of overwhelming evidence to its presence) in patients if the following facts pertained:

If the person is married.

If the person is gainfully employed.

If the person has health insurance.

If the person sought help for an alcohol problem voluntarily.

If the person is accompanied by a member of the family.

If the person's drinking pattern at all approximates that of the doctor doing the diagnosing.

It does not require great scientific wisdom to quickly see that these scientifically derived findings show us that these physicians used the image of the skid row derelict person in their minds when they made the diagnosis of alcoholism. (I might add, parenthetically, that when they were interviewed later about their attitudes and perceptions of alcoholism, they readily stated that alcoholism could occur in any socio-economic group. But when they operated as diagnosticians, it was the skid row image which was operational; not their stated intellectual attitudes. This is living proof again that when it comes to alcoholic people, a wide gap exists between what we say and how we behave toward them.)

Now, I would be the first to confess that epidemiologic studies in alcoholism leave something to be desired. But no researcher or clinician in this field that I know contends that derelict alcoholics makes up any more than 3-5 percent of the total alcoholic population of this Nation. Therefore, ladies and gentlemen, carrying this finding one step further, 95 to 97 percent of the alcoholic people of this Nation go unrecognized and therefore untreated until they more nearly approximate the condition of the skid row alcoholic. A skid row alcoholic is a condition in which all the economic, physical, social and emotional resources that we all require to adapt to life and to recover from any illness, have been dissipated. It would be equivalent to the circumstances in cancer care wherein no one would recognize or treat cancer until it was widely spread throughout the body. Such a circumstance would lead surely to an enormous sense of helplessness and therapeutic nihilism in us all toward dealing with cancer, and would make it most unlikely that persons suspected of having cancer would ask for or accept such a diagnosis. But that is the state of America's reality concerning alcoholism.

Secondly, there are today in this country limited treatment resources for alcoholic people, and even those that do exist, reinforce, in the main, the common stereotype of a "down-n-outer" as the only kind of alcoholic person. But our limited resources reinforce the unhappy fact of our willingness to maintain the national image that alcoholic people do not respond to treatment. We in the field, find ourselves in the circumstance that the professionals and public still believe alcoholism is untreatable in spite of study after study reemphasizing how alcoholism is successfully treated. This is analogous—with our meager treatment resources—to providing only 3,000 units of penicillin to treat pneumonia when we know it requires 300,000 units, and concluding that pneumonia is untreatable and that penicillin does not work.

We diagnose alcoholic people late and do not provide them the proper treatment they

need, and then we blame them for their lack of recovery.

But there is more in our tragic tale of making sure that alcoholic people remain alcoholic: our setting of unrealistic treatment goals that guarantees failure. When we take an alcoholic person into treatment, we believe that the only real measure of success is achieved when the person goes to the grave without ever having taken another drink of alcohol. It happens, I'm sure, but it is the wrong goal to stress and an almost impossible goal to set up for people with a problem. Would you feel down-in-the-dumps again, would you feel like a failure if, after you recovered from pneumonia, sometime later you developed a cough from whatever cause? Or would you feel like a failure if your diabetic control went out of whack because of something that happened to you or something you did? You would not be considered a failure by the medical professional nor would you be labeled untreatable UNLESS, that is, you were alcoholic.

Take, for example, the person who was treated for alcoholism and is doing well for six months, six years or sixty years and then takes a drink, gets drunk or what have you. Because they've lost a job, spouse or something important to them, and then handle their pain by regressing to the use of that neat drug-alcohol, you will have a living example of why we make people get seriously ill with alcohol and then keep them seriously ill with alcohol. Set unattainable goals and you guarantee failures. If we doctors used such strict measures of cure for all the conditions we treat, as we expect of our alcoholic patients, we would all be on bread lines. It's another way of creating and maintaining our alcoholic victims.

But as I have said: It doesn't have to be this way. After almost twenty-five years in this field, how can I conclude that?

I can come to such a conclusion by observing an obvious fact: there are other nations made up of people who have genetic problems, physical disturbances, emotional difficulties and social upheavals. They, too, have urbanization, advertising, a liquor trade, changing values, a breakup of the family as we know it, and almost every single stress condition that confounds and confuses our lives. And they drink. . . . Why not alcoholism?

I believe that they do not have alcoholism because by design or accident, their society has clearly defined rules of alcohol use and it will not tolerate the abuse of alcohol. Note please, ladies and gentlemen, that I differentiate carefully between use and abuse. In this country use and abuse of alcohol are used interchangeably and without clear distinction. I emphasize it because I consider this lack of differentiation to be a major cause of our difficulty. There is nothing wrong that I know of—if you choose to drink—with the moderate use of alcohol. There is nothing wrong that I know of if you choose not to drink. There is a hell-of-a-lot wrong with you and more especially with your group, if you are allowed to abuse alcohol.

What do I mean when I say abusing alcohol? Certainly, getting drunk is abusing alcohol. Getting drunk is overdosing with a drug; overdosing is abuse (too much water or oxygen—those essentials of life—is dangerous, destructive and abusive). Yet, in this country, we accept, in word and deed, getting drunk as part of acceptable drinking behavior, and we laugh at portrayals of the drunken state, which is, by the way, a form of approval (we do not laugh at an epileptic convulsion; we do laugh at alcoholic disorganization). Yet they are not that different. We applaud, furthermore, the prowess of those who consume huge amounts of alcohol furthering excessive drinking; we look askance at those who choose not to drink at all, making them feel strange and different; we know little about alcohol and its effects, especially those of us who are heavy drinkers. In sum, we are a nation of confused, conflicted drinkers who really do not know how to drink.

If we in fact knew how to drink, we would derive alcohol's great benefits. If we chose to drink, and avoid its disasters, we would see that those who chose not to drink felt at ease, and we would eliminate, by social ostracism abusive drinking and loss of control with alcohol. If you don't believe me that what is expected and tolerated determines outcomes in drinking, then think of this: all things being equal, the same number of drinks shared with your closest friend will produce an entirely different outcome than you would have, if those drinks are consumed—for example—in the White House. Why is that? There are no instructions on the White House walls telling you how you may or may not behave. But the rules of and limits on your behavior are transmitted clearly by any number of mechanisms including expectation as they are in every social circumstance and human encounter. Wherever you are or whatever you do, you almost immediately learn what will and will not be tolerated; what is expected and not expected of you.

It would follow in my judgment, therefore, that if in your immediate environment or in your larger society there is alcohol abuse and alcoholism, it is present because you and I tolerate its existence and implicitly give it permission to be there. It cannot be any other way, because we have examples of societies that have gone from being alcohol problem free to having serious alcohol problems and vice versa. For too long we have blamed and focused on the substance, and thereafter on the alcoholic person. It is not the substance or the alcoholic we should focus on trying to prevent alcoholism—neither, given a choice, would choose to be abused or alcoholic—it is us. We seem to need so far the alcoholic and the magic of alcohol to be attracted to, and be repelled by.

But it does not have to be. Instead of coming up with slick superficial tricks such as banning advertising, pouring on excessive taxes, raising age limits, moaning about those ""drunks", let us begin to solve the problem by looking about ourselves. What do we do by our expectations and tolerance to create and maintain alcohol abuse and alcoholism? What do we do that permits a spouse, a child, a colleague, a society to manifest the pain of passing through life with alcohol abuse and alcoholism? The answer is not intended to be embedded in fear, guilt or hysteria. I do not wish to cause you or our alcoholic victims more torment. I'm merely suggesting that a little compassion, a lot of concern, and a commitment to make some changes in what we expect and tolerate can go an enormous way to bringing about the sort of milieu that will minimize our alcohol problems. It will not require either bureaucracies or big budgets. It will only require people who are willing to be aware and who are willing to care.●

## THE GENOCIDE CONVENTION: ONE STEP OF A COORDINATED HUMAN RIGHTS POLICY

Mr. PROXMIRE. Mr. President, day after day for the past 11 years I have taken the floor in support of the Genocide Convention. I believe as firmly today as I did in January 1967 that the ratification of this treaty is an important step in a foreign policy that is concerned with human rights. As the first rights treaty drafted in the post-World War II era, it has a symbolic influence that even exceeds the very important goal that this treaty embodies.

But the ratification of this treaty and the other human rights treaties now pending before the Senate is only one step in a coordinated human rights policy. Today I would like to take a minute to praise the important work of Ed Mezvinsky, who is serving as the U.S. Representative to the U.N. Human Rights Commission. The U.N. Human Rights Commission has been notable in the past primarily for its inactivity. This year there is a difference. We have an administration that is determined to make use of this international machinery and we have a very able and articulate spokesman—a former Member of the House of Representatives, I might add—at the head of our delegation.

I particularly want to call to my colleagues attention a statement Ed made on March 7. In this statement he outlines the pressing human rights problems facing the Commission and presents three concrete guidelines to guide the Commission's deliberations.

First he notes, we need to end the policy of picking on just a few nations as scapegoats for human rights violations. These violations take place without respect to ideological persuasion, region, or continent and the Commission must not ignore any allegation that comes before it.

Second, the Commission needs open hearings—a point I cannot emphasize enough.

And finally, we need to explore ways to make the national and regional human rights mechanisms effective.

His full statement reads like a breath of fresh air for those of us who have felt for many years that human rights has never been accorded its proper place in our foreign policy. I commend the administration for this important turn and, particularly, Ed Mezvinsky for his able and articulate leadership.

This effort deserves the support of all Members of the Senate.

But there are steps we can take here in this Chamber that Ed cannot. We can give him the tools with which he can further his work. Ratification of the human rights conventions now pending before the Senate, beginning with the Genocide Convention, is essential if our efforts in the U.N. Human Rights Commission are to be effective.

Mr. President, I ask unanimous consent that Ed Mezvinsky's statement of March 7 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HUMAN RIGHTS—LET THE VOICES IN

Today there are millions of suffering people throughout the world crying out for help, crying to be heard out of despair. They are asking us to represent them.

There are, it is true, very few governments which, from top to bottom, follow a policy hostile to any decent approach to human rights. But in most governments in the world, even governments that are judged by the outside world to be oppressive, there are good people who want to do what is right. These officials are looking to us for help in arguing with their colleagues for a more humane approach to the universal problem of human rights.

As representatives of the Human Rights Commission, we are called upon to do some-

thing to protect human dignity against systematic and massive violations of human rights. I ask myself: Isn't it our task to bring our influence to bear to help those governmental officials around the world who want to end serious violations of the very basic human rights of their citizens?

Torture abounds in the world and too often we hear the testimony of those who have suffered stark physical pain—the horror stories of man's cruelty to his fellow man.

There are no words that can adequately describe these abuses. How can we comprehend the pained anguish of a political prisoner in a Middle Eastern country who writes: "They tie you to the upper bed on your back, and with the heat coming from a torch or small heater they burn your back . . . sometimes the burning is extended to the spine, as a result of which paralysis is certain."

In at least one Latin American country they take prisoners and hang them upside down by a rope tied to their feet and then submerse them in vats containing water, blood, vomit, and human excrement.

We are smugly deceiving ourselves if we feel satisfied that we have completed our task here. Our work is not done, and no nation can be so self-righteous as to be insulated from charges of human rights violations. We cannot allow a privileged category of states always to be free from scrutiny.

For example, we should be deeply troubled by reports of persecution of religious believers in the Soviet Union. How do we answer the Priest whose only appeal now is for a Bible while serving a harsh 15-year sentence in a Soviet labor colony?

How do we respond to the disturbing reports of anti-Semitism in the official Soviet publications and in the media?

And should we not be equally concerned about the arrests of some fifteen Soviet citizens whose only crime was to monitor their Governments implementation of the Helsinki Final Act?

Shouldn't all citizens be permitted to live within the boundaries of their country in accordance with internationally accepted standards of human rights? And if they find they cannot, should they not be permitted to leave and settle in another country, a right clearly set forth as basic in the Universal Declaration of Human Rights?

Despite signs of progress, we do not find this right fully and consistently respected in the Soviet Union.

And who here has not been moved by the recent reports of suffering in "Democratic" Kampuchea?

There appears little doubt that the Cambodian authorities have flagrantly violated fundamental human rights. Extensive killings have taken place and supporters of the previous regime have been massacred.

In one village it was reported that over 200 men, women and children attempted to leave the country and seek refuge elsewhere. They were shot down by machinegun fire, leaving only a few survivors to escape across the border.

Let us recognize that an investigation is needed in Cambodia.

Next, how are we going to answer the relatives of political prisoners and of those who have mysteriously vanished in some countries of Latin America? We have provided a partial response by our consideration of human rights violations in Uruguay, Paraguay, and Chile. But there are other situations which must be addressed.

We welcome the release of some Americans from Cuba, but that country still holds large numbers of political prisoners.

We welcome the recent release of prisoners in Argentina and the publication of lists of detainees, but the human rights abuses in that country continue. Large numbers remain imprisoned without trial and the tragic disappearances have continued as exemplified by the mass abduction on December 8 from a church in Buenos Aires of mothers and wives of those who have disappeared. In addition, two nuns were carried away.

I have cited these examples because it is important to remember that our mandate is to protect the human rights of people wherever they are. We in this Commission are at the crossroads. Either we must listen to these voices of anguish and despair and act or honestly admit that human suffering will continue to be ignored.

I believe that we can still fulfill our mission.

First, we cannot continue to pick on just a few nations and make them scapegoats for us all. No region, no continent is immune. Our examination of separate country situations can be used to identify the most prevalent abuses. We then should concentrate on the most horrifying abuses, such as torture, and on measures to eradicate the abuses wherever they might occur. There are other basic rights in the economic as well as in the civil and political fields which could stand a similar concentration of our attention.

Second, we need open hearings so the world knows what we are doing. Let us provide a time each year when this Commission can hear directly from representative persons whose human rights have been violated, and who can show us the depth of the problems we are discussing here. Such meetings should be public and need not conflict with our confidential procedures, because only an informed world opinion in every country will enable us to meet the test.

Third, we need to devote the maximum effort possible to discover how each nation and region can develop its own human rights institutions. National and regional institutions are essential. We should stimulate their creation and growth, and work from the grass roots up. Interaction among various viewpoints can enlist human rights monitoring groups in every nation, aware of the fact that they are part of a world movement. We must encourage national monitoring groups.

We are representatives of our governments but in another sense we are here as representatives of the peoples of the world.

The most powerful weapons we have for combatting violations of human rights are truth and knowledge. We must not be afraid to face reality about others, to look into the mirror which reflects ourselves.

What we must do is let the voices in, let the people who have suffered such misery and injustice come before the United Nations Commission on Human Rights and tell us in their own words how their human rights have been violated.

We are the ones who must be in the vanguard in the struggle for human rights, a key challenge of today's world.

Let us hear real people—let us act in the real world.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum and yield the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate Select Committee on Small Business be authorized to meet during the session of the Senate on Friday, April 14, to hold confirmation hearing on Milton Stewart for the position of Chief Counsel of Advocacy at the Small Business Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Surface Transportation Subcommittee of the Commerce, Science, and Transportation Committee be authorized to meet during the session on the Senate on Thursday, April 13, to consider S. 2788, to provide additional authorization for ConRail.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, do we have any orders for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. The Senator from New Mexico (Mr. DOMENICI) is to be recognized for 15 minutes.

Mr. ROBERT C. BYRD. I thank the Chair.

## ORDER FOR RECESS UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR PERIOD FOR ROUTINE MORNING BUSINESS TOMORROW AND RESUMPTION OF CONSIDERATION OF PANAMA CANAL TREATY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the order for the recognition of the Senator from New Mexico tomorrow there be a period for the transaction of routine morning business, as in legislative session, with statements limited therein to 3 minutes, the period not to extend beyond the hour of 11 a.m., and at the hour of 11 a.m. the Senate then resume its consideration of the treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. ROBERT C. BYRD. Mr. President, may I inquire of the Chair? There will be a vote in relation to the amendment by Mr. HELMS at 11 a.m. under the order previously entered; am I correct?

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. Mr. President, that will be a rollcall vote. The yeas and nays have not yet been ordered, but there will be a yea-and-nay vote on a tabling motion or on the amendment up or down, whatever the vote may be in relation to that amendment.

And there will be rollcall votes during

the afternoon of tomorrow in relation to the treaty and by Thursday, the close of business, of course, the Committee of the Whole will have completed its work on the treaty and will rise, and on Friday the Senate will proceed to the consideration of the resolution of ratification.

I guess that about wraps it up for today.

### RECESS UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 10:30 a.m. tomorrow.

The motion was agreed to; and at 6:34 p.m., the Senate, in executive session, recessed until tomorrow, Wednesday, April 12, 1978, at 10:30 a.m.

# HOUSE OF REPRESENTATIVES—*Tuesday, April 11, 1978*

The House met at 12 o'clock noon.

Rev. Francis G. Gallagher, Our Lady of Ransom Roman Catholic Church, Philadelphia, Pa., offered the following prayer:

In the name of the Father and of the Son and of the Holy Spirit, Amen. O God, who created us, God who created heaven and Earth, who created the universe and everything in it, we ask Your help this afternoon. Help us overcome indifference, indecisiveness, and lack of enthusiasm. We would like with Your help, O Lord, to be enthusiastic and make our decisions.

I believe that God is everywhere. I believe that God is here and that God dwells with us. Having with us a background of believing that God is with us at all times, I call upon God for spiritual guidance and courage that people in authority when they act and they do something, they do it for the good of our Nation.

God bless you, God love you, and God be with you. Amen. In the name of the Father and of the Son and of the Holy Spirit.

### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

### MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 8423. An act to amend titles II and XVIII of the Social Security Act to make improvements in the end stage renal disease program presently authorized under section 226 of that act, and for other purposes.

### TRIBUTE TO REV. FATHER FRANCIS G. GALLAGHER

(Mr. EILBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EILBERG. Mr. Speaker, for the past 36 years the Reverend Francis G. Gallagher has been a priest of the Roman Catholic Church, ministering to the spiritual needs of his parishioners in a manner which has been a source of great inspiration to all who know him.

Father Gallagher was born in West Philadelphia 60 years ago, and was ordained to the priesthood in 1942. For 23 years, now, he has served in various parishes in the Fourth Congressional District of Pennsylvania, which I have the privilege of representing in the House. Father Gallagher is, at the present time, an associate pastor of Our Lady of Ransom Church in my congressional district.

I have been privileged to know Father Gallagher for some time, and I share the high regard which his parishioners have for him, and the high esteem in which he is held by all who have been fortunate enough to meet him.

If I may be permitted a light note, Mr. Speaker, there is probably not a single day that goes by, but that Father Gallagher is not mistaken by strangers for the Speaker of the House of Representatives, the distinguished gentleman from Massachusetts (Mr. O'NEILL). I quite agree that the resemblance is uncanny. I trust, Mr. Speaker, that we have not confused our colleagues in the House today, by having two of them appear in the Chamber at the same time.

It has been our honor, Mr. Speaker, to have Father Gallagher lead us in prayer today, and I am certain that his thoughtful words have been as much an inspiration to my colleagues as they have been to me.

### PERMISSION FOR SUBCOMMITTEE ON SURFACE TRANSPORTATION OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT DURING 5-MINUTE RULE TODAY

Mr. EDGAR. Mr. Speaker, I ask unanimous consent that the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation may be permitted to sit during the proceedings under the 5-minute rule today.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was not objection.

### PRESIDENTIAL COMMISSION RECOMMENDATIONS ON MILITARY RETIREMENT COULD ENDANGER DEFENSE PROGRAM

(Mr. SIKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SIKES. Mr. Speaker, the Presidential Commission reviewing the military retirement system has recommended sweeping changes in the name of reform. These changes, if placed in effect, could be dangerous to the Defense program. There already is widespread concern in the Armed Forces about constant efforts to erode the benefits which historically are a part of military service. Retention of personnel, which is essential to avoid costly recruiting and expensive training, obviously will be more difficult if service in the military forces becomes less attractive. There will be increased problems in obtaining adequate numbers under the all-volunteer system. There is little likelihood that present-day thinking in the Congress and in the administration would support a return to the draft. Therefore, enlistments and retention are doubly important to a strong defense and to America's security.

A key recommendation of the Commission is the end of the 20-year retirement plan in order to achieve "savings." In the words of the Chairman of the Commission, "The system now costs too much money." Compared to what? In reality, there is nothing to compare the military or its retirement system to. Look at the facts.

First of all, let us not ignore the fact that those presently serving have a contract. Cancellation of this contract would appear to be an extremely poor procedure even if it were legal. Congress should look long and carefully at any erosion of the present benefits of military service. It could be much more costly than the savings which the Commission anticipates.

### ELATED AT CHINA WHEAT PURCHASE

(Mr. FINDLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FINDLEY. Mr. Speaker, I am elated at China's purchase of 600,000 tons of U.S. wheat on the heels of the Illinois Agriculture Mission to the People's Republic of China. This is the People's Republic's first U.S. grain purchase in 3 years.

As chairman of the mission, which concluded its work Sunday, I was told by Chinese officials that the People's Republic would be buying grain. Our mission emphasized the value of U.S. wheat and soybean oil in particular, and I am hopeful that the purchase of wheat announced yesterday is just the first step in an expanded trade relationship.

Our mission was met with great warmth throughout our tour by officials of the Ministry of Foreign Trade and the Ministry of Agriculture, and I am convinced our work laid the foundation for a rising level of sales of U.S. grain and other items to China.

Vice Minister of Foreign Trade Chen told us explicitly that China wants the development of trade with the United States despite the lack of normal diplomatic relations.

In my opinion, the Chinese purchase is more than a coincidence. It shows, I believe, that missions of this sort can yield immediate as well as long term benefits to U.S. producers.

## CALL OF THE HOUSE

Mr. LEVITAS. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 207]

| | | |
|---|---|---|
| Ambro | Diggs | Pike |
| Ammerman | Dingell | Pritchard |
| Anderson, Calif. | Drinan | Rhodes |
| | Flippo | Rodino |
| Andrews, N.C. | Ford, Mich. | Runnels |
| Archer | Gudger | Santini |
| Ashley | Harsha | Shuster |
| Brademas | Hillis | Spellman |
| Buchanan | Howard | Steers |
| Burke, Calif. | Jacobs | Symms |
| Burton, Phillip | Johnson, Calif. | Teague |
| Cederberg | Jones, N.C. | Thompson |
| Chappell | Kazen | Thone |
| Clawson, Del. | Krueger | Tucker |
| Cohen | Mann | Udall |
| Collins, Ill. | Meeds | Whitley |
| Conyers | Mikva | Young, Alaska |
| Crane | Moss | |
| Dent | Nix | |

The SPEAKER. On this rollcall 380 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated, and after those motions, to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

## RIVERSIDE COUNTY, CALIF., LAND CLAIMS AMENDMENTS

Mr. RONCALIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 7101) to amend certain provisions of law relating to land claims by the United States in Riverside County, Calif., based upon the accretion or avulsion, and for other purposes.

The Clerk read as follows:

H.R. 7101

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the first section of the Act of October 23, 1970, entitled "An Act to render the assertion of land claims by the United States based upon accretion or avulsion subject to legal and equitable defenses to which private persons asserting such claims would be subject" (84 Stat. 1106; Public Law 91–505) is amended by striking out "13.17" and inserting in lieu thereof "13.19".

The SPEAKER pro tempore (Mr. BROWN of California). Is a second demanded?

Mr. JOHNSON of Colorado. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wyoming (Mr. RONCALIO) and the gentleman from Colorado (Mr. JOHNSON) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker. H.R. 7101 would amend the boundary limitation contained in Public Law 91–505, relating to land claims by the United States in Riverside County, Calif., to include two additional landowners. Public Law 91–505, which became law on October 23, 1970, waived the sovereignty rights of the Federal Government within specified points along the Colorado River to permit an equitable settlement in court of a dispute between private individuals and the Federal Government regarding title to accreted or avulsed lands. H.R. 7101 would change the river point boundary limits from 13.17 to 13.19 so that the provisions of the existing public law would apply to this small addition.

In extending the boundary limits, Congress would not be deciding the legal title ownership, but would be granting the private claimants the opportunity to use all legal and equitable defenses in court. However, these claimants would have to meet all of the requirements contained in Public Law 91–505 before obtaining this relief.

Prior to completion of the Hoover Dam, the lower Colorado River was a constantly shifting stream. The result was continual uncertainty concerning the ownership or accreted or avulsed lands. Until 1962, title to those lands was considered to be held by the private individuals in possession and was not disputed by the Federal Government. It was not until 1965 when the United States filed suit against those individuals to gain possession.

When Congress originally considered legislation to provide relief for these land ownership claims, specific boundary points were set out to limit the scope of waiving the Government's sovereignty rights. However, in an effort to exclude a landowner who did not meet the requirements of the legislation and to include only lands in Riverside County, the boundary points were moved too far up the Colorado River thereby excluding the two claimants of H.R. 7101. It was through this oversight that the two claimants of H.R. 7101 were excluded from the original legislation, and necessitates passage of H.R. 7101.

Mr. Speaker, I urge my colleagues to support passage of H.R. 7101.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield such time as she may consume to the sponsor of the bill, the gentlewoman from California (Mrs. PETTIS).

Mrs. PETTIS. Mr. Speaker, H.R. 7101, which I introduced, amends an existing statute, Public Law 91–505, and is limited in its operation and effect to approximately 340 acres of land on the west side of the Colorado River in the southern part of Riverside County, Calif.

Public Law 91–505 permits landowners in an area within 3 miles west of the Colorado River between river boundary points 13.00 a nd 13.17 to plead and prove their equitable defenses in court in actions brought by the Federal Government in which Federal ownership of land is claimed under the theories of avulsion and accretion.

H.R. 7101 extends the effect of Public Law 91–505 to lands between boundary points 13.17 and 13.19. This change in the law will serve to include the farms of two landowners whose situations and circumstances are similar to those of the landowners now included under Public Law 91–505.

I have had submitted to me by these landowners, documents, reports, maps, and other evidence which have convinced me that they were and are in the same situation as those now included in existing law; that they are equally entitled to the same relief; and, consequently, H.R. 7101 is an appropriate piece of legislation to achieve a fair and just result.

I am also convinced that this bill will neither give to those landowners any undeserved benefits or relief nor will the bill deprive the Federal Government of any property to which it is justly or equitably entitled.

Mr. Speaker, I urge my colleagues to support this measure.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield such time as he may consume to the ranking minority member of the committee, the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Speaker, I rise in support of H.R. 7101. Simply stated, this bill corrects an oversight in Public Law 91–505 passed in October of 1970.

That law allowed certain individuals between specific boundary points to raise legal and equitable defenses in title disputes with the U.S. Government. The ownership of the land in question is uncertain due to accretion and avulsion of the Colorado River prior to the completion of the Hoover Dam.

This bill enlarges the boundary points slightly to include land claimed by two individuals which should have been included in the first place.

No precedent is set by this legislation regarding the waiver of sovereign immunity nor is any change in Public Law 91–505 made except to expand the boundary points to correct an inequity.

I urge my colleagues to support this bill.

Mr. JOHNSON of Colorado. Mr. Speaker, I have no further requests for time, and I urge and recommend to my colleagues passage of the bill.

Mr. RONCALIO. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill H.R. 7101.

The question was taken.

Mr. MOTTL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

## GENERAL LEAVE

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the following bills considered today: H.R. 7101, H.R. 2497, and H.R. 11092.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

## RECOGNITION OF INDIAN TRIBES

Mr. RONCALIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2497) to reinstate the Modoc, Wyandotte, Peoria, and Ottawa Indian Tribes of Oklahoma as federally supervised and recognized Indian tribes, as amended.

The Clerk read as follows:

H.R. 2497

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) Federal recognition is hereby extended or confirmed with respect to the Wyandotte Indian Tribe of Oklahoma, the Ottawa Indian Tribe of Oklahoma, and the Peoria Indian Tribe of Oklahoma, the provisions of the Acts repealed by subsection (b) of this section notwithstanding.

(b) The following Acts are hereby repealed:

(1) the Act of August 1, 1956 (70 Stat. 893; 25 U.S.C. 791–807), relating to the Wyandotte Tribe;

(2) the Act of August 2, 1956 (70 Stat. 937; 25 U.S.C. 821–826), relating to the Peoria Tribe; and

(3) the Act of August 3, 1956 (70 Stat. 963; 25 U.S.C. 841–853), relating to the Ottawa Tribe.

(c) There are hereby reinstated all rights and privileges of each of the tribes described in subsection (a) of this section and their members under Federal treaty, statute, or otherwise which may have been diminished or lost pursuant to the Act relating to them which is repealed by subsection (b) of this section. Nothing contained in this Act shall diminish any rights or privileges enjoyed by each of such tribes or their members now or prior to enactment of such Act, under Federal treaty, statute, or otherwise, which are not inconsistent with the provisions of this Act.

(d) Except as specifically provided in this Act, nothing contained in this Act shall alter any property rights or obligations, any contractual rights or obligations, including existing fishing rights, or any obligation for taxes already levied.

SEC. 2. (a)(1) The Modoc Indian Tribe of Oklahoma is hereby recognized as a tribe of Indians residing in Oklahoma and the provisions of the Act of June 26, 1936, as amended (49 Stat. 1967; 25 U.S.C. 501–509), are hereby extended to such tribe and its members. The Secretary of the Interior shall promptly offer the said Modoc Tribe assistance to aid them in organizing under section 3 of said Act of June 26, 1936 (25 U.S.C. 503).

(2) The provisions of the Act of August 13, 1954 (68 Stat. 718; 25 U.S.C. 564–564w), hereafter shall not apply to the Modoc Tribe of Oklahoma or its members except for any right to share in the proceeds of any claim against the United States as provided in section 6(c) and 21 of said Act, as amended (25 U.S.C. 564e and 564t).

(3) The Modoc Indian Tribe of Oklahoma shall consist of those Modoc Indians who are direct lineal descendants of those Modocs removed to Indian territory (now Oklahoma) in November 1873, and who did not return to Klamath, Oregon, pursuant to the Act of March 9, 1909 (35 Stat. 751), as determined by the Secretary of the Interior, and the descendants of such Indians who otherwise meet the membership requirements adopted by the tribe.

(b) The Secretary of the Interior shall promptly offer the Ottawa Tribe of Oklahoma and the Peoria Tribe of Oklahoma assistance to aid them in reorganizing under section 3 of the Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C. 503), which Act is re-extended to them and their members by this Act.

(c) The validity of the organization of the Wyandotte Indian Tribe of Oklahoma under section 3 of the Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C. 503), and the continued application of said Act to such tribe and its members is hereby confirmed.

SEC. 3. (a) It is hereby declared that enactment of this Act fulfills the requirements of the first proviso in section 2 of the Act of January 2, 1975 (88 Stat. 1920, 1921), with respect to the Wyandotte Tribe of Oklahoma, the Ottawa Tribe of Oklahoma, and the Peoria Tribe of Oklahoma.

(b) It is hereby declared that the organization of the Modoc Tribe of Oklahoma as provided in section 3(a) of this Act shall fulfill the requirements of the second proviso in section 2 of the Act of January 2, 1975 (88 Stat. 1920, 1921).

(c) Promptly after organization of the Modoc Tribe of Oklahoma, the Secretary of the Interior shall publish a notice of such fact in the Federal Register including a statement that such organization completes fulfillment of the requirements of the provisos in section 2 of the Act of January 2, 1975 (88 Stat. 1920, 1921), and that the land described in section 1 of said Act is held in trust by the United States for the eight tribes named in said Act.

SEC. 4. The Wyandotte, Ottawa, Peoria, and Modoc Tribes of Oklahoma and their members shall be entitled to participate in the programs and services provided by the United States to Indians because of their status as Indians, including, but not limited to, those under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), and for purposes of the Act of August 16, 1957 (71 Stat. 370; 42 U.S.C. 2005–2005F). The members of such tribes shall be deemed to be Indians for which hospital and medical care was being provided by or at the expense of the Public Health Service on August 16, 1957.

The SPEAKER pro tempore. Is a second demanded?

Mr. JOHNSON of Colorado. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Wyoming (Mr. RONCALIO) will be recognized for 20 minutes, and the gentleman from Colorado (Mr. JOHNSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, H.R. 2497 provides for the restoration of Federal recognition to four Indian tribes of Oklahoma. These tribes lost the Federal status by acts of Congress passed in the 1950's during the era of the so-called termination policy of Congress.

The Ottawa, Peoria, and Wyandotte tribes were terminated by separate acts passed in 1956. The Modoc Indians were terminated by the 1954 act terminating the Klamath Indians of Oregon, with which they were affiliated.

The termination policy was adopted by the Congress in the early 1950's as the most effective means of resolving the "Indian" problem. Termination meant withdrawal of Federal recognition as an Indian tribe and a governing body; sale of tribal assets and distribution of the proceeds per capita; and withdrawal of special Federal services to Indians, such as services of the Bureau of Indian Affairs and the Indian Health Service.

The theory was that this process would make Indians first-class citizens and that they would progress economically and socially with the rest of the population.

The policy was a dismal failure. Experience showed that not only did members of terminated tribes fail to keep up, economically and socially, with the general population, but also did fail to keep pace with progress of Indians of tribes which were not terminated.

Congress explicitly recognized the failure of the policy when it restored the Menominee Indians of Wisconsin in the 93d Congress and the Siletz Indians of Oregon in this Congress.

The record made in the committee convinced us that restoration of these four tribes is necessary if the decline in economic and social condition of these Indians is to be stopped and reversed.

I urge passage of the bill, as amended by the committee.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield to the gentleman from Kansas (Mr. SKUBITZ) such time as he may consume.

Mr. SKUBITZ. Mr. Speaker, I rise in support of H.R. 2497.

This bill reestablishes Federal recognition of four Oklahoma Indian tribes—the Ottawas, Peorias, Wyandottes, and Modocs.

All four tribes were previously recognized but their status was terminated

under a well-intended but later discredited Federal policy of the 1950's.

This bill restores these tribes to full participation in Federal programs available to the Indian people.

I urge support of this legislation.

Mr. JOHNSON of Colorado. Mr. Speaker, I have no further request for time, but I would say briefly I urge my colleagues as expeditiously as possible to pass this bill.

I believe it is the intention of the sponsor of the bill to speak further on it.

Mr. RONCALIO. Mr. Speaker, I yield to the gentleman from Oklahoma (Mr. RISENHOOVER), our colleague who sponsored this bill and a member of our committee, such time as he may consume.

Mr. RISENHOOVER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of H.R. 2497, which reinstates the Modoc, Wyandotte, Peoria, and Ottawa Indian Tribes as federally supervised and recognized Indian tribes.

Late in the year of 1956, the Wyandottes, Peorias, and Ottawas were effectively terminated while the Modocs termination was signed in 1954. The administration, at that time, believed this would help Indian people find their rightful place in our society. Over the years, we who live in northeastern Oklahoma, have seen the members of these tribes fail to gain a rightful share of the bounty of our land.

In a word, termination was a failure. This bill seeks to right the wrong.

It would be difficult to measure the socioeconomic situations of these people as compared with the average American or other tribes which never were terminated. However, if you live in the area—you can see and feel the difference.

Passage of this legislation would restore these tribes to full participation in the Federal programs and services which are enjoyed by other Indian people. It is fair; it is just, it is important.

Additionally, these Indian people strongly desire to regain Federal recognition—as provided in this bill.

Through the two decades of termination, they have kept their tribal identity and under difficult economic circumstances have remained in confederation.

The effect of this bill will be to return the services and assistance which other Indian tribes are receiving from the Federal Government. It will return a formal acknowledgement to historic groups of people.

As the report shows, the costs of this legislation are nominal. It will cost about $15,000 to enroll the tribal members and about $100,000 next year to include these people under programs already provided their Indian brethren. It is estimated that, in total, not more than 6,000 people are members of these four tribes.

The Indian Health Service soon will open a new clinic in Miami, Okla. It will be available for the Cherokees and other federally recognized tribal members. However, it will not be open to the Modocs, Wyandottes, Peorias, and Ottawas unless we enact this bill. It is simply unfair. They need these health services and the incremental costs to IHS would be minimal.

There will be some education and welfare programs under the Bureau of Indian Affairs which these people will become qualified to enjoy. If they take advantage of these programs—the investment will be a wise use of these resources to help deserving people.

But, most of all, these four tribes—each with its own proud history which contributes richly to the homogenous mixture of people which make our country rich and great—deserve the formal and legal recognition which they will inherit with enactment of this bill.

I urge my colleagues to vote for this legislation and, with that vote, correct an error of the 1950s and help four great Indian tribes find their rightful place in the law and in history.

Thank you.

Mr. RONCALIO. Mr. Speaker, I have no further requests for time, and I yield back the remainder of my time.

Mr. JOHNSON of Colorado. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill, H.R. 2497, as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## INCREASING AUTHORIZATION FOR NAVAJO-HOPI INDIANS RELOCATION

Mr. RONCALIO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11092) to increase the authorization of appropriations under the act of December 22, 1974 (88 Stat. 1712).

The Clerk read as follows:

H.R. 11092

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 25(a)(5) of the Act of December 22, 1974 (88 Stat. 1712, 1723) is amended by deleting the figure "$500,000" therein and inserting, in lieu thereof, the figure "$1,000,000".

The SPEAKER pro tempore. Is a second demanded?

Mr. JOHNSON of Colorado. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. RONCALIO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like at this time to announce that I believe our beloved friend and colleague, the gentleman from Arizona (Mr. UDALL) is recovering from his emergency appendectomy operation that occurred about a week ago tomorrow. I sent him some flowers and sent him my sympathies and wishes for a rapid recovery. Happily, I believe he will be back tomorrow. In his absence I am happy to handle for him this legislation which was reported out of the full Committee on Interior and Insular Affairs.

Mr. Speaker, H.R. 11092 provides that the authorization of appropriations for the Navajo-Hopi Relocation Commission's administrative expenses shall be increased from $500,000 to $1,000,000 per year.

The Commission was created by the act of December 22, 1974, to administer the provisions of that act providing for the removal and relocation of Navajo and Hopi Indians from lands subject to partition by the U.S. district court.

As some of the members may remember, the 1974 act resolved a long-standing dispute between the two tribes to approximately 1,800,000 acres of land which was held by the two tribes in joint, undivided, and equal ownership.

The partition of that land will result in the necessity of between 1,100 and 2,300 families, predominantly Navajo, being relocated. This will be a monumental task and is already fraught with bitterness and controversy.

Experience has shown that the $500,000 per annum allotted to the Commission to carry out this sensitive assignment is inadequate. All H.R. 11092 does is to increase the authorization for the administrative expenses of the Commission commensurate with its task.

Mr. Speaker, on behalf of the chairman of the full Committee on Interior and Insular Affairs the gentleman from Arizona (Mr. UDALL) I urge passage of this legislation.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Speaker, I rise in support of H.R. 11092, which increases the authorization for relocation of the Navajo and Hopi Tribes.

In the act of December 22, 1974, Congress directed the U.S. district court for the District of Arizona to partition land jointly owned by the two tribes.

The court has completed its partition order and now members of one tribe residing on the other's land must relocate under the 1974 law. Some 400 families have volunteered to move, some 1,500 others must be surveyed, and all real property appraised for a relocation plan to be submitted to Congress within the next 12 months.

In light of these facts the increased authorization is justified and I urge the bill's adoption.

Mr. JOHNSON of Colorado. Mr. Speaker, this bill has been clearly explained. I see no reason why we should go into any further detail. I urge its immediate passage.

Mr. RONCALIO. Mr. Speaker, I yield back the remainder of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill, H.R. 11092.

The question was taken.

Mr. GUYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

## PERMISSION FOR SUBCOMMITTEE ON ADVANCED ENERGY TECHNOLOGIES AND ENERGY CONSERVATION, DEVELOPMENT, AND DEMONSTRATION OF COMMITTEE ON SCIENCE AND TECHNOLOGY TO SIT DURING SESSION TODAY

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that the Subcommittee on Advanced Energy Technologies and Energy Conservation, Development, and Demonstration of the Committee on Science and Technology be allowed to sit this afternoon from 2 until 4, notwithstanding the fact that the House will be in session.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

## PERMISSION FOR SUBCOMMITTEE ON SCIENCE, RESEARCH, AND TECHNOLOGY OF COMMITTEE ON SCIENCE AND TECHNOLOGY TO SIT DURING SESSION TODAY

Mr. McCORMACK. Mr. Speaker, I ask unanimous consent that the Subcommittee on Science, Research, and Technology of the Committee on Science and Technology, be allowed to sit this afternoon from 2 until 4, notwithstanding the fact that the House will be in session.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

## "EDUCATION DAY, U.S.A."

Mr. LEHMAN. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 767) to authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A.".

The Clerk read as follows:

H.J. RES. 767

Whereas the Congress recognizes a need for the Nation to set aside on the calendar a day devoted to the importance of education to the lives of its citizens and to the general well-being of the Nation; and

Whereas the Lubavitch Movement, which conducts educational activities at more than sixty centers in twenty-eight States as well as around the world, is especially committed to the advancement of education and has proposed the establishment of an "Education Day, U.S.A."; and

Whereas world Jewry marked in 1977 the seventy-fifth birthday of the revered and renowned Jewish leader, the head of the worldwide Lubavitch Movement, Rabbi Menachem Mendel Schneerson, who proclaimed on that occasion a "Year of Education"; and

Whereas the seventy-sixth birthday of this celebrated spiritual leader will occur on April 18, 1978, thus concluding the year of Lubavitch Movement activities dedicated to the "Year of Education" and the Lubavitcher Rebbe's milestone birthday: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President is authorized and requested to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A."

The SPEAKER pro tempore. Is a second demanded?

Mr. ROUSSELOT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Florida (Mr. LEHMAN) will be recognized for 20 minutes, and the gentleman from California (Mr. ROUSSELOT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. LEHMAN).

Mr. LEHMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution may be a little controversial. Hopefully, I will answer as many of the questions that are going to be raised in my statement.

House Joint Resolution 767 calls upon the President to proclaim April 18, 1978, as "Education Day, U.S.A."

Pursuant to the policy established by the Committee on Post Office and Civil Service for consideration of commemorative legislation, the resolution has obtained the requisite 218 endorsements.

Mr. Speaker, over a year ago a resolution similar to the one we are considering today was introduced and referred to the subcommittee. The staff determined that the original bill clearly violated the committee's guidelines on several points, and the sponsor of the bill was so informed. Almost 10 months passed before a revised bill was introduced. Substantial changes were made over the earlier version. Nevertheless, certain clauses in the bill still recognize the contributions of the Lubavitch movement and its spiritual leader, Rabbi Menachem Mendel Schneerson in the field of education. However, the important factor to remember is that the enacting clause is the only part of the resolution which becomes law, and this relates solely to education. Notwithstanding these modifications, the staff apprised the bill's proponents of a potential conflict with the committee's policy over the reference to a living person and religious organization.

Nevertheless, supporters of this resolution were able to enlist the cosponsorship of a majority of the House.

I realize that some Members may feel that this resolution violates provisions of the committee's policy. In this instance, however, I think the support of over a majority of the House overrides any questions that may be raised against this legislation.

Furthermore, the bill is not aimed at paying tribute to a single organization or individual who is sponsoring educational programs throughout the country. Instead, it focuses on the important and continuing role education generally plays in the lives of all Americans at nearly all age levels.

Last fall the National Center for Education Statistics estimated that approximately 61 million persons across the Nation were enrolled in all categories and levels of instruction. That is an incredible number and worthy of congressional recognition, in my view.

I, therefore, urge my colleagues to support this resolution. Mr. Speaker, I think the questions involving an individual and a particular organization being named are valid. I can recognize the fact it is coming pretty close to the point of disregarding to the policy of our committee. But, I leave it to the wisdom of the House to work its will in relation to this particular resolution.

Mr. Speaker, I now yield such time as she desires to my colleague, the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I reluctantly rise in opposition to this legislation.

Mr. Speaker, the Post Office and Civil Service Committee has a policy for consideration of commemorative legislation. This measure does not fall under the adopted criteria. Proposals concerning living persons may not be reported by the committee. In addition, resolutions are to be considered only three times a year—in February, June, and October. The policy follows:

COMMITTEE POLICY FOR CONSIDERATION OF COMMEMORATIVE LEGISLATION

(Amended on April 1, 1976)

It shall be the policy of the Committee that legislation providing for designation of commemorative days or other periods shall be considered only three times each year during the months of February, June and October.

The following types of proposals shall not be reported:

(a) Any proposal concerning a commercial enterprise, specific product, or fraternal, political or sectarian organization;

(b) any proposal concerning a particular state or any political subdivision thereof, city, town, county, school, or institution of higher learning;

(c) any proposal concerning a living person; and

(d) any proposal providing for recurring annual commemorations.

All other proposals with national appeal and significance, which shall be demonstrated by co-sponsorship of the resolution or written endorsement, or a combination thereof, by a majority of the Members of the House, may be reported.

This resolution is being brought up on the floor of the House purporting to designate April 18, 1978, as "Education Day, U.S.A." In fact, its intention is to commemorate the 76th birthday of the head of the worldwide Lubavitch Movement, Rabbi Menachem Mendel Schneerson. I am not opposed to the celebration of Rabbi Schneerson's birthday, but I am opposed to the consideration of a resolution honoring it, such consideration removes the thumb from the dam which has been holding back the flood of such resolutions to the floor in the past 3 years.

"American Education Week" is generally observed during the third week of

November. This week is endorsed by the National Education Association, the U.S. Office of Education, the Parents and Teachers National Conference (PTA), and the American Legion. The resolution we have before us duplicates commemorations.

Mr. Speaker, there are over 220 Members of the House supporting this proposal. I know I am going against the will of the House, however, I would like to bring to my colleagues' attention some of the other events which occurred on April 18 and which we let ourselves in for consideration of when we breach the standards:

1636: Sir Julius Caesar, an English barrister, died.

1775: Waiting until he spots a lantern blinking from the North Church in Boston, Paul Revere starts out on his famous midnight ride to wake the sleepy Americans with his message, "The British are coming!"

1857: Clarence S. Darrow, a famous lawyer, was born.

1864: The Confederates surrendered at Durham Station in North Carolina.

1882: Leopold Stokowski, a symphony conductor, was born.

1906: San Francisco was devastated by earthquake and fire.

1922: Barbara Hale, an actress, better known as Della Street in the Perry Mason series, was born.

1925: Mrs. Calvin Coolidge opened the first Women's World Fair at Chicago.

1932: Ford Model B, last of the original 4-cylinder cars was introduced.

1944: League of Nations ended, giving its physical assets to the United Nations.

1946: Actress Haley Mills was born.

1955: Albert Einstein, physicist, died.

1965: Opera singer Marian Anderson retired.

1970: World Clam-Gulping Championship at Port Townsend, Washington, took place.

Mr. Speaker, there is an old saw that the Nation is not safe when Congress is in session. Maybe that saying should read, "The Nation is not safe when Congress is in session, unless it is acting on commemorative legislation." If this resolution is adopted, we may be certain that the Nation will be safe more of the time. We will have little time for anything but these resolutions.

Mr. ROUSSELOT. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I rise in support of House Joint Resolution 767, and I would like to state first that it is always an education to work with the gentleman from California (Mr. ROUSSELOT).

Mr. Speaker, I am pleased to add my support to House Joint Resolution 767 emphasizing the importance of education to the lives of our citizens.

Although this resolution was not formally considered by our committee under its regular procedure, I think in this case an exception to the committee rule is warranted and so I am pleased to join with the chairman of our committee in bringing this matter directly to the House.

This resolution designates April 18, 1978, as Education Day, U.S.A., a date which coincides with conclusion of the Year of Education and the 76th birthday of the sponsor of this worldwide movement, Rabbi Menachem Mendel Schneerson.

More than a majority of the House have cosponsored this resolution, a demonstration of support that is well-founded.

Mr. ROUSSELOT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I, too, rise in opposition to this joint resolution, because it is just plain unnecessary.

That does not mean that we lack respect and admiration for Rabbi Schneerson, who is commemorated in this resolution. This action does, however, run counter to the rule that we set up some time ago that living people would not be honored by resolutions. That policy was adopted because it had become very difficult for Members of the House to be constantly put through the process of considering all kinds of resolutions honoring many worthy people in our country. In addition, it becomes extremely hard for the committee to exhibit some form of rational justification if we are to take up every single resolution that commemorates some group or individual.

I would like to point out additionally that there is no report on this resolution, because it never came out of the full committee. Further, the committee has really given this resolution no consideration at all. That does not mean this has not happened on other occasions, but I just do not believe that is an appropriate way to do business. The legislative process should be respected.

Further, Mr. Speaker, the opening language of this joint resolution requires the President to issue a proclamation designating April 18 as "Education Day." That requires no action on our part. The President has full authority to issue proclamations any time he deems it essential and appropriate to do so.

Mr. Speaker, I just do not believe this is a necessary resolution. It is unfortunate that we are put in a position of having people say, "Well, you're against Education Day if you oppose this resolution." But it is basically an unnecessary resolution.

We vote on education matters all the time here; the fact is that we vote out billions of dollars in various authorization and appropriation bills.

Mr. Speaker, I am really not convinced that this resolution is needed.

Mr. LEHMAN. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. RYAN).

Mr. RYAN. Mr. Speaker, I rise in opposition to a measure of which I am a coauthor. The reason I oppose the measure of which I am a coauthor is because I was not aware, as is so often the case, of exactly what I was signing, except that it seemed like a good idea and it seemed like a harmless matter.

This resolution itself is harmless. There is no reason not to vote for this resolution except for this one fact: The resolution was tried last year as a simple recognition of a rabbi in Philadelphia who has done some marvelous things to develop Jewish education in this country. For that he should be commended by this body, because he has done those things.

But more important than that fact is the principle involved here. We have set up in the Committee on Post Office and Civil Service a means by which all resolutions can be channeled, funneled, or taken care of so that this House does not begin to spend its time doing just what we are doing right now.

If this passes, I will promise the Members that I will put in a resolution within the year commending certain people in California who I think have done significant things in the field of education. Then I will ask that the resolution be brought out on this floor and passed for the same reason this is being passed. And the Members should not vote against my resolution without being unfair to me or to any other Member who put in a similar resolution on this particular topic or any other topic.

The question here is really this: Do we now again open this up to general use on this floor so that the House becomes a kind of larger Chamber of sighs and whims than it is already. I do not think we should do that.

It is not, then, for the intrinsic value of the resolution itself that I ask the Members to vote no, but for the principle that is being set here today. Approval of this resolution will inevitably force this Chamber to engage in activities which are not properly before it in the manner in which this resolution is before us today. Reluctantly, then, with great respect for my great friend and distinguished colleague, the gentleman from Florida (Mr. LEHMAN), who is carrying this, I intend to vote "no" on the resolution.

Mr. LEHMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have listened carefully to the comments of the ranking Republican of the subcommittee, the gentleman from California (Mr. ROUSSELOT), the distinguished gentleman from California (Mr. RYAN), and the gentlewoman from Colorado (Mrs. SCHROEDER). They certainly make a very interesting and strong point in discussing this particular resolution and how it endangers certain procedures of this body. But, the situation is that this resolution has obtained 218 or more cosponsors in this very Chamber. And even though this resolution, as I noted before, has certain characteristics that raise concerns, still, the enacting clause, which is the only part of this bill which becomes law, does not mention any names, does not mention any institution, and only says:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President is authorized and requested to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A."

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. LEHMAN. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. I thank the gentleman for yielding.

Mr. Speaker, I think the problem with that is, as the gentleman knows, we have asked other committees which have done

this same thing, where they had enacting clauses which said one thing and the body which says something else, to please honor our jurisdiction and not do that. I think what we are doing is saying we are not that serious about our own merits. If we use that loophole what we do is decide who we want to honor in our district, and then we have the generic enacting clause so that we can put the flowery language afterward. And I think that is a serious infringement on jurisdiction.

Mr. LEHMAN. Mr. Speaker, I certainly respect the gentlewoman's opinion, and I think the point is well taken. However, I just want my colleagues in this body to know that there was no effort to circumvent, by this subcommittee or by the full committee, any kind of policy. This was done with the belief or intention that with the 218 signatures this body in its own judgment could work its will.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. ROSENTHAL).

Mr. ROSENTHAL. Mr. Speaker, I rise in support of House Joint Resolution 770, which authorizes and requests the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A."

I take special pride in this resolution as one of its original sponsors, but the credit must go to the Lubavitch movement which proposed the resolution and has worked so vigorously for its passage.

Incidentally, there is an important symbolism in the number of the resolution before us today—House Joint Resolution 770. It was pure coincidence that when I introduced it on March 1, it was assigned the number 770. But to the Lubavitchers, it is more than coincidence. That is the number of their world headquarters—770 Eastern Parkway, Brooklyn, N.Y. That address—770—is as well known to Lubavitchers throughout the world as the address 1600 Pennsylvania Avenue is to Americans.

The Lubavitch Movement actively promotes educational programs at more than 60 centers in 28 States, including my own State of New York, as well as throughout the world. April 18 marks the conclusion of the movement's own "Year of Education," and in addition it will be the 76th birthday of Rabbi Menachem Mendel Schneerson, the renowned leader of the Lubavitch Movement.

In his 27 years as world leader of the Chabad-Lubavitch movement, Rabbi Schneerson has launched extensive educational, social and rehabilitative programs that for many Jews have brought a new awareness of and a rededication to Torah-true Judaism.

He is the seventh leader of the Chabad-Lubavitch movement, which was founded in the 18th century by Rabbi Schneur Zalman of Liadi (1745–1812), author of the basic work of Chabad philosophy—"Tanya," and the "Shulchan Aruch"—the Code of Jewish Law.

Rabbi Schneerson was born in 1902 in Nikolaev, Russia, the son of the renowned Kabbalist and Talmudic scholar, the late Rabbi Levi Yitzchak Schneerson, and the great-grandson of the third Lubavitcher Rebbe, his namesake, Rabbi Menachem Mendel of Lubavitch. His father-in-law was the previous Lubavitcher Rebbe, Rabbi Yosef Yitzchak Schneersohn.

The present Rebbe emigrated to the United States in 1941 and took over leadership of the movement upon his father-in-law's death in 1950. Under him, educational programs and opportunities have been greatly expanded and diversified, reaching increasing numbers of young men and women not only throughout the United States but in Europe, Africa, South America and Australia as well.

This resolution marks the importance of education not only to the Lubavitch Movement, but, in the secular sense, to the entire Nation. It recognizes the need for the country to set aside a day devoted to the importance of education to the lives of our citizens and to the general well-being of the Nation.

I wish to commend the Lubavitch Movement for its dedicated work, to congratulate Rebbe Schneerson on his 76th birthday, and I call on my colleagues to join me in voting for passage of the "Education Day, U.S.A." resolution.

The text of the resolution follows:

H.J. RES. 770

Whereas the Congress recognizes a need for the Nation to set aside on the calendar a day devoted to the importance of education to the lives of its citizens and to the general well-being of the Nation; and

Whereas the Lubavitch Movement, which conducts educational activities at more than sixty centers in twenty-eight States as well as around the world, is especially committed to the advancement of education and has proposed the establishment of an "Education Day, U.S.A."; and

Whereas world Jewry marked in 1977 the seventy-fifth birthday of the revered and renowned Jewish leader, the head of the worldwide Lubavitch Movement, Rabbi Menachem Mendel Schneerson, who proclaimed on that occasion a "Year of Education"; and

Whereas the seventy-sixth birthday of this celebrated spiritual leader will occur on April 18, 1978, thus concluding the year of Lubavitch Movement activities dedicated to the "Year of Education" and the Lubavitcher Rebbe's milestone birthday: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President is authorized and requested to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A.".

Mr. ROUSSELOT. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I have listened with great interest to the protestations here that we are in some way waiving a hard and fast rule to consider this legislation. We do that almost every day on various topics of legislative activity that have a far greater impact on the United States and its people. A broad principle is involved here, the need for education of the people, and certainly that has something to do with the welfare of the American people, particularly, minorities and younger citizens. It is a problem that we must face in view of our present educational system.

This joint resolution simply calls upon the Congress of the United States to recognize one day of the year when we express our approval for solving the problems of education.

A few weeks ago the House allowed the consideration of the Humphrey-Hawkins Act. It purported to address a very broad problem. The bill amounted to a statement of intent that Congress approved of solving the unemployment problem. That act waived the Budget Act. The bill dealt with, certainly, the welfare of the American people. It involved economic problems that the Nation faces and wants to solve. A majority believed it to be effective.

Mr. Speaker, if this House can pass the Humphrey-Hawkins Act certainly it seems odd to me that we would now be so upset by Congress recognizing Education Day.

Mr. Speaker, I intend to support this joint resolution.

Mr. LEHMAN. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman from Maryland (Mr. BAUMAN) for his remarks.

I just wanted to add one additional comment, and that is that the distinguished chairman of the Committee on Post Office and Civil Service, the gentleman from Pennsylvania (Mr. NIX) strongly supports this joint resolution.

Unfortunately, Mr. Speaker, he is not here today to lend his own voice in support of this resolution because he is away on official business. However, I did want to let my colleagues know that the distinguished chairman of the committee joins me in support of this joint resolution.

Mr. ROUSSELOT. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I am absolutely captivated by the remarks of my distinguished colleague, the gentleman from Maryland (Mr. BAUMAN), and his overwhelming desire to help education.

We supposedly help education here in this Congress at least four or five times a year with all kinds of authorizations and appropriations of billions of dollars for education. We will get a chance to vote, I am sure, on a tax credit of some kind.

However, Mr Speaker, my main argument is that this joint resolution is wholly unnecessary. Nobody was able to show that it was needed. It is not that it is the most crucial issue of the day or that education is going to rise or fall on the basis of this resolution. Obviously, it is not.

My other concern is that it associates the whole issue of education with one movement.

Mr. Speaker, I do not know whether the gentleman from Maryland (Mr. BAUMAN) belongs to the Lubavitch Movement.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I will in just a minute.

Mr. BAUMAN. Mr. Speaker, the gentleman has mentioned a movement to which he says I belong.

The SPEAKER pro tempore. The gentleman from California (Mr. ROUSSELOT) has the floor.

Mr. ROUSSELOT. To continue, Mr. Speaker, I really do not know why we have to say that the only way in which we can celebrate Education Day is to give such great attention to the Lubavitch Movement and that they are really the only ones concerned with educational activity. I am pleased to learn that my colleague, the gentleman from Maryland, is so close to that movement, and perhaps he can explain later why he became so attentive to its part in education.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to my distinguished colleague, the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I would have to concur with everything that the gentleman from California (Mr. ROUSSELOT) has said. With some reluctance, I suppose, one could support Education Day. It is a little bit similar to what a Senator said some time ago when we were in the Vietnam war. He said, "Let us just declare that we won it and get out."

Perhaps, in the same spirit, we can declare an Education Day and say we really do have education.

Of course, I graduated from school at a time when one of the requirements was that a student could read and write, so I really do not relate too much to education nowadays.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. ROUSSSELOT) has expired.

Mr. ROUSSELOT. Mr. Speaker, I yield myself 2 additional minutes.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield further?

Mr. ROUSSELOT. I yield to the gentleman from Ohio.

Mr. ASHBROOK. To continue what I was saying, Mr. Speaker, we have had so many changes in education, and I am sure that we should reward education with an Education Day.

When I was young, if a student failed it was because he was dumb. Now if a student fails, it is because the courses do not relate to anything in which he is interested or the teachers are dumb or the taxpayers have not provided education with enough money.

Perhaps, Mr. Speaker, for all of these reasons we should have an Education Day.

Mr. BAUMAN. Mr. Speaker, now will the gentleman yield?

Mr. ROUSSELOT. Now I yield to my very dear colleague, the gentleman from Maryland, who is associated with the Lubavitch movement.

Mr. BAUMAN. Mr. Speaker, I want to disclaim association with any movement. I am not even a member of any organized political group. I am a Republican.

Mr. ROUSSELOT. Mr. Speaker, I have no further comment on that pronouncement.

Mr. BAUMAN. I would say to the gentleman that I have no particular association with the Lubavitch Movement, although I am sure it is a worthy educational cause.

In my judgment, I think it is well that our Jewish friends are active in the field of education.

Mr. ROUSSELOT. Absolutely.

Mr. BAUMAN. Just as are Protestants and Catholics.

Mr. ROUSSELOT. Absolutely, but there is no Protestant group mentioned in this resolution.

Mr. BAUMAN. We should recognize them as well.

Mr. ROUSSELOT. What about the Catholic movement?

Mr. BAUMAN. They, too, deserve recognition for their educational system.

Mr. ROUSSELOT. They are all left out.

Mr. BAUMAN. All I am saying is that a House that passed a resolution recogizing "Sun Day" ought to be able to recognize education as important.

Mr. ROUSSELOT. Was that not an exciting bit?

Mr. BAUMAN. Every day is going to be Sunday by and by, I have been told in the words of a much loved hymn.

The SPEAKER pro tempore. The time of the gentleman from California has again expired.

Mr. ROUSSELOT. Mr. Speaker, I yield myself an additional 2 minutes.

Mr. BAUMAN. Will the gentleman let me complete my statement?

Mr. ROUSSELOT. Oh, absolutely.

Mr. BAUMAN. I just want the House to understand that because the gentleman from California and the gentleman from Maryland have this momentary disagreement, it is not a sign of weakness in that growing movement, the conservative movement, of which we are both members.

Mr. ROUSSELOT, Oh, is that a large group?

Mr. Speaker, I would now like to yield to my colleague from Connecticut, who is an important Member of this House, chairman of the Budget Committee. I would ask the gentleman, does this affect the budget?

Mr. GIAIMO. Could I first please suggest to the gentleman that it is not called the Lubavitch Movement——

Mr. ROUSSELOT. I am not very good on pronunciation.

Mr. GIAIMO. It is the Lubavitch Movement, and if the gentleman came from my part of the country he would find that it is a very excellent educational system.

Mr. ROUSSELOT. I am sure it is.

Mr. GIAIMO. As for whether or not it affects the budget, we have voted on so many suspension bills here lately that affect the budget, such as yesterday, when we voted on a multibillion-dollar—multibillion-dollar, I repeat—SBA disaster loan bill on suspension.

Mr. ROUSSELOT. The gentleman and I did not vote for it.

Mr. GIAIMO. I know we did not vote for it, but the great, overwhelming majority of the House supported the bill.

It is a pleasure to be able to vote for something which does not carry a dollar sign with it, but which merely recognizes an outstanding educational movement in the United States. In my home district we have one of the finest schools, the Hebrew Day School, run by Rabbi Hecht of the Lubávitch Movement. Rabbi Schneerson is the head of that. He is one of the outstanding men in America.

I recognize that we should not be coming forth, as the gentlewoman from Colorado says, that we should not proliferate the numbers of resolutions that come to this floor commending this person and that person and everything that comes to mind. I think it is a bad practice.

The SPEAKER pro tempore. The time of the gentleman from California has again expired.

Mr. ROUSSELOT. Mr. Speaker, I yield myself 2 additional minutes.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield further?

Mr. ROUSSELOT. I would be absolutely delighted to yield.

Mr. GIAIMO. I am grateful to the gentleman. I recognize that we should not proliferate the number of resolutions which come to this floor, but I think in this instance that this is a good exception. American education is embattled in many areas of our country, and for many reasons. Here is a school system that I can tell the gentleman about, the Hebrew Day School in Orange, Conn., that is one of the outstanding schools in the Nation. It points out the ways in which we should go educationally.

Let me say to my conservative friends that they should be all for this educational system, because it is not in any sense a modern liberal system. It is a solid conservative form of education, and one in which I think we can all agree that a great deal of good is coming from. So, I would say that we should support this resolution.

Mr. ROUSSELOT. I thank my colleague.

Mr. JOHN L. BURTON. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to my distinguished colleague from California.

Mr. JOHN L. BURTON. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Connecticut; with the remarks of the gentleman from California; with the remarks of the gentleman from Maryland; with the remarks of the gentleman from Ohio; with the remarks of the gentlewoman from Colorado, and with the remarks any other gentlepersons or gentlewomen might make on behalf of or in opposition to this resolution, because I think it is something that should be fully debated and discussed.

I went to a public school, and I would like that to be in the record.

Mr. ROUSSELOT. Mr. Speaker, that is certainly an all-educational remark, and I appreciate it.

Mr. Speaker, I have fully explored all the ramifications of this highly important resolution in a slightly humorous vein, however, this is a serious issue.

It is with regret and some trepidation that I rise in opposition to House Joint Resolution 770, to establish April 18, 1978, as "Education Day, U.S.A." My colleagues know that this bill has been cosponsored by 220 Members of this body. My colleagues are also aware of the

fact that the resolution violates Post Office and Civil Service Committee policy, and House policy in a number of ways. One, my distinguished colleague on the Census and Population Subcommittee, Mrs. SCHROEDER, failed to mention is that no proposal shall be reported concerning a sectarian organization.

Mr. Speaker, I believe most of us present today supported the establishment of specific, strict rules governing the introduction and consideration of commemorative legislation. We should not deviate from established policy even for a worthy cause or occasion.

This bill purports to proclaim April 18, 1978, as "Education Day, U.S.A.," when, in fact, the legislation actually is intended to celebrate the natal day of one Rabbi Menachem Mendel Schneerson, the founder of the worldwide Lubavitch Movement.

Mr. Speaker, I wish the good Rabbi a very happy birthday and I hope the day will be suitably celebrated by his family, friends, colleagues and supporters. However, I must join with the gentlelady from Colorado in opposing this "opening of the floodgates" for commemorative legislation. With the enactment of House Joint Resolution 770, which so clearly violates established policy, we remove all the protection from the constant lobbying and pressure for more and more commemorative days and weeks which we gained when we adopted the Committee on Post Office and Civil Service policy in the last Congress.

Mr. Speaker, the distinguished Congresswoman from Denver has given us a brief catalog of other very noteworthy events occurring on April 18. At the risk of giving some energetic and patriotic Member of the House a bright idea, I would like to add to the list begun by my colleague:

FAMOUS PEOPLE BORN ON APRIL 18

William Williams, signer of the Declaration of Independence.

Richard Harding Davis, journalist, novelist (Soldier of Fortune).

Sam "Wahoo" Crawford, Baseball Hall of Fame.

Max Weber, painter.

George O'Brien, well-known actor, born 1900.

Steven Longstreet, motion picture writer.

Huntington Hartford, A&P heir, art patron.

Wendy Barrie, actress.

The Honorable Henry Hyde, Member of Congress.

Queen Mother Frederika of Greece, born 1917.

NEWSWORTHY EVENTS

Palm Sunday celebrated in Egypt, 387 AD.

Foundation stone for new St. Peter's Basilica laid in the Vatican, 1506 AD.

British attack San Juan, Puerto Rico, 1797.

Union troops evacuate Harper's Ferry, 1861.

Salona, Guatemala wrecked by earthquake, 1902.

General Doolittle and company bomb Japanese cities, 1942.

Ernie Pyle, journalist of WW II killed, 1945.

Ireland established as a republic, 1949.

Prince Rainier marries Grace Kelly, 1956.

First laundromat in United States opens in Fort Worth, Texas, 1934.

Mickey Mantle, age 21, hits a homerun in Griffith Stadium Washington, that travels 565 feet, believed to be longest ever measured in major leagues, 1953.



Finally, Mr. Speaker, I must warn my colleagues that a comparable list of important events could be compiled for any of the 365 days in our year. Many of the events are worth remembering and celebrating, as is Rabbi Schneerson's birthday. However, our mission in Congress is not to find a purpose for such celebrations. We recognized our broader legislative mission when we adopted formal procedures and rules for the consideration of commemorative legislation. I must urge the defeat of House Joint Resolution 770 on the grounds that the bill is in serious and substantial violation of established policy.

The SPEAKER pro tempore. The time of the gentleman from California has again expired.

Mr. ROUSSELOT. Mr. Speaker, I yield myself 2 additional minutes.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank my distinguished colleague, the gentleman from California (Mr. ROUSSELOT), for yielding.

Mr. Speaker, I rise in support of House Joint Resolution 767 which authorizes and requests that the President proclaim April 18 as "Education Day, U.S.A."

The Lubavitch movement has a center in St. Paul and the effects of its good works are felt throughout our entire Twin City metropolitan area. The good citizens who participate in, and support, its activities are a credit to the movement and its leader, Rabbi Menachem Mendel Schneerson, the Lubavitcher Rebbe.

Mr. LEHMAN. Mr. Speaker, I yield 1 minute to the gentleman from Montana (Mr. BAUCUS).

Mr. BAUCUS. Mr. Speaker, as I pondered the passage of this legislation designating April 18 as Education Day U.S.A., I checked my files and found that since I have been in Congress I have corresponded with over 5,000 Montanans about one sort of education problem or another. That is not surprising, especially when you consider that during this decade Americans have put roughly $40 billion each year into the elementary and secondary education of their children. And, do not forget that as fast as the costs of elementary and secondary education have grown in recent years, the costs of higher education have been growing even faster.

I strongly believe that these funds, to the extent they are used wisely and effectively, are investments—perhaps the wisest investments that our society can make. Yes, Mr. Speaker, education is a key to improvements in our quality of living. And, lest we be complacent, I would remind my colleagues how shocked our Nation was when the first Soviet Sputnik launch reminded us that we must compete intellectually and technically with a less than friendly world.

I would also remind my colleagues that while education is funded for the main part by non-Federal Government sources, it is still the second largest target of public financing. While the total cost of paying for all parts of our defense effort add up in recent years to about 11 percent of our gross national product, 4 to 5 percent of our GNP is devoted to education.

Concerns about education have grown at an unprecedented rate as economic success and social achievement have become inexorably linked with formal schooling in the public mind. In my own State of Montana, the first schools were started in mining camps in the early 1860's, and within 4 years of achieving statehood, the legislature provided for free schools.

As concern with education has grown, increased participation has naturally followed and in the school year ending 1977, more than one person in four was enrolled as a student at an educational institution somewhere in this country.

The combination of four trends—increased concern, widespread participation, record investment, and soaring expectation—places enormous responsibility on those of us in Congress as Americans turn to us to supply Federal aid in support of their educational aspirations. The long and the short of it is that narrow State and local tax bases are not sufficient to adequately fund even the most essential of this educational activity.

The case for Federal support of education is now well established and well understood. A stable and democratic society depends on literacy, knowledge, and widespread acceptance of certain values. Since State and local governments differ in their abilities to finance quality education and equality of educational opportunity, the Federal Government has recognized its responsibilities to subsidize education for a democratic society.

EDUCATIONAL ACTIVITY IN THE 95TH CONGRESS

The 95th Congress is fortunate to serve within an administration which appears to share many of our educational goals. With several important exceptions, such as impact aid and library and counseling funding, President Carter has submitted sound budget requests for education. This is a welcome change from the preceding two administrations which vetoed so many of our proposals in support of education. Yes, for the first time since 1973, the White House has asked for an increase in spending on education from the previous year.

During the first session, Congress authorized $1.1 billion to be spent in the next 5 years for the Education of All Handicapped Children Act. We have passed a bill to extend summer feeding programs in schools through 1980 and authorize Federal grants of 50 cents per child for a national nutritional education program. The Vocational Education Act was amended to include a provision permitting the use of Federal funds for local and State administration support, and another law was enacted increasing aid to higher education. School construction under Federal grants for local public works was authorized and the Career Education Act appropriated $275 million over the next 5 years for career education programs in elementary and secondary schools.

These accomplishments are important, but the current session of Congress will test our skills as responsible legislators even more severely. Most Federal programs to assist elementary and secondary schools will expire in fiscal 1978. Reauthorization of these programs should be accompanied by extensive scrutiny to make certain they are feasible as designed and funded.

Crucial programs that cannot succeed without increased appropriations must be given added support. We cannot afford half-hearted efforts that spend money and produce no results. Nor, can we allow waste in any program regardless of how noble are its goals.

Administration of Federal programs must be simplified. Costly redtape must be cut to maximize the effectiveness of each dollar spent. Legislators must be mindful that in spite of increased public demand for Federal aid to education, the tax-paying public is growing weary under the double burden of inflation and taxation. No program should be authorized before it is designed to operate efficiently.

A case in point is education for the handicapped. A laudable aim most of us share, it carries an expensive price tag. Smaller classes will be essential; teachers will need specialized training or assistance from specialists, and changes in plant and equipment will be needed to make the program work. Before Washington dictates detailed policy to local school districts on the education of the handicapped, some questions must be asked: Can those districts afford it? Can the States afford it? Where the answer is no, the next question must be: Will the Federal Government pay? What are the best ways for pursuing education for the handicapped which keep local school districts in control of these programs and limit Federal redtape and paperwork burdens? It does not make sense to jump head over heels in pursuit of any program without answering such questions as these.

IMPACT AID

When we consider impact aid and the administration's plans for reform of this program, we must ask even louder, can the States and local districts afford these reforms? Impact aid, like all Federal programs, needs periodic scrutiny and reform. But reform should be made with an eye toward strengthening this valued program and making it more effective. One such reform would be the requirement of early payments (by October) with subsequent adjustment based on actual current year figures.

Impact aid has a longer history than any other education program with the exception of aid to land-grant colleges and vocational education. I cannot stress too vigorously its importance to a State like Montana. Deprived of corporate taxes or even property taxes on the 30 percent of our land which is federally owned, without impact aid our local and State taxes would have to rise exorbitantly to keep pace with the inflationary costs of education. Moreover, impact funds are particularly important as they are discretionary funds and thus may be used for educational needs unique to each area.

So, while the Carter administration deserves high marks for its efforts in support of education, congressional vigilance must not be reduced. Our responsibility remains to insure equal opportunity to quality education without inflationary spending and to strike an equitable partnership between the Federal, State, and local governments.

Above all, we must leave the job of teaching to the experts—teachers. Congress is a legislative body, and should not be in the business of undermining local control of schools. Schools cannot be wantonly used to achieve social and political ends. Education is as important, perhaps more important, than many of the goals we have asked our schools to seek.

I am confident that the American people will continue to strongly support whatever must be done to maintain our strong educational system. There is a stable base of support in this country for elementary school, our secondary schools, vocational education, the research, service, and educational activities of our colleges and universities, and adequate financial support for our students, parents, and educational activity in general. However, I hasten to add that such things as the new demand for national competency tests show that Congress and government at all levels must produce clearer, cost-effective results for this high level of expenditure.

Mr. LEHMAN. Mr. Speaker, I yield to the gentleman from Minnesota (Mr. VENTO) such time as he may consume.

Mr. VENTO. Mr. Speaker, I rise in strong support of the resolution.

Mr. Speaker, the House of Representatives will have the opportunity today to act on a joint resolution authorizing and requesting the President to proclaim April 18, 1978, as "Education Day, U.S.A." I urge my fellow colleagues to join with me in support of this resolution, not only to signify the importance of education in the United States, but also to reaffirm our commitment to realizing the best educational system possible for our Nation's youth.

The impetus for designation of April 18 as "Education Day, U.S.A." has come from leaders of the Lubavitch Movement—an internationally renowned organization which has labored hard to promote educational activities at more than 60 centers in 28 States and a number of countries throughout the world. April 18 will mark the conclusion of the Lubavitch Movement's own "Year of Education" and, in addition, will be the 76th birthday of Rabbi Menachem Mendel Schneerson, the respected leader of the Lubavitch Movement.

I am personally aware of the fine work that has been accomplished at the Lubavitch House in St. Paul, Minn. It is an exciting learning center which radiates enthusiasm for learning which is so essential to education today. I applaud the efforts of Rabbi Moshe Feller who heads the Lubavitch Center in St. Paul, and endorse the continued activities of the Lubavitch Movement in our country.

I urge all Members of Congress to support this resolution and call upon President Carter to designate April 18 as "Education Day, U.S.A."

Mr. LEHMAN. In conclusion, Mr. Speaker, when this resolution was first brought to my attention and people in the Lubavitch Movement first came to me and wanted me to present this, I said, "There is no way in the world you are going to get 218 signatures on this." The representative of the movement said to me: "Do not worry. We have to have faith. God willing we will get the signatures." Well, if there is ever anything that proves there is something good in faith, it is the fact that we have the 218 signatures, and that recommends in itself this resolution.

I yield back the balance of my time.

● Mr. GREEN. Mr. Speaker, I am pleased to rise in support of House Joint Resolution 767, to authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A."

This resolution has been proposed by the Lubavitch Movement, which actively promotes educational programs at more than 60 centers in 28 States, including my own State of New York. Since April 18, 1977, the Lubavitch Movement has been observing a "Year of Education," proclaimed on the occasion of the 75th birthday of the noted spiritual leader and head of the worldwide Lubavitch Movement, Rabbi Menachem Mendel Schneerson.

It is appropriate that we, as a nation, set aside a day to consider the importance of education to the welfare and progress of the United States. Education clearly holds the key to our future as a nation and to the continued vitality of our institutions and of our way of life.

I think it is fitting that the day we observe "Education Day, U.S.A." coincides with 76th birthday of the beloved Lubavitcher Rebbe. His devotion, and that of the Lubavitch Movement, to the advancement of education will serve as a special inspiration to all Americans on that day.

I urge my colleagues to vote in favor of House Joint Resolution 767.●

● Mr. CONTE. Mr. Speaker, I rise today in support of House Joint Resolution 767, which will designate April 18, 1978, as "Education Day, U.S.A." The education of our citizens is not only a worthy endeavor, but a healthy necessity. How else is our country to progress but for the continued and expanded knowledge obtained through the process of education.

I would urge my colleagues to recognize Rabbi Menachem Mendel Schneerson's unfailing efforts and achievements in the field of education by supporting this resolution.

Rabbi Schneerson, the renowned head of the Lubavitch Movement who is now marking his 76th birthday, has been a deeply devoted leader in the spiritual movement of the Jewish people through-

out this country and indeed throughout the world for many years. It is fitting that we conclude both his 75th year and the year the Lubavitch Movement devoted its activities to education with this tribute. Dedication of this kind is not often seen and must be acknowledged and commended.●

● Mr. LUKEN. Mr. Speaker, I rise today to express my support for House Joint Resolution 767, a resolution authorizing and requesting that the President designate April 18, 1978, as "Education Day, U.S.A."

April 18 marks the 76th birthday of the renowned Jewish leader, Rabbi Menachem Mendel Schneerson, the head of the worldwide Lubavitch Movement. This day concludes the year of the Lubavitch Movement dedicated to the Year of Education.

The Lubavitch Movement has a special commitment to the advancement of education, and conducts educational activities at more than 60 centers in 28 States as well as around the world. In Cincinnati, the Lubavitch Movement is represented by the Chabad House, which offers educational and spiritual enlightenment to young people in need.

The Lubavitch Movement is totally dedicated to the development of all education, and recognizes the need for our Nation to set aside one calendar day devoted to the importance of education to the lives of our citizens and to the general well-being of our Nation.

As one of the sponsors of this legislation, I fully support the advancement and development of education, and the intent of the Lubavitch Movement in declaring April 18, 1978, as "Education Day, U.S.A." I support this legislation, and urge my colleagues to do likewise.

Thank you.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. LEHMAN) that the House suspend the rules and pass the joint resolution (H.J. Res. 767).

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. LEHMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 767.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 7101, H.R. 2497, and H.R. 11092, on each of which the yeas and nays are ordered.

The Chair announces that the Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

## RIVERSIDE COUNTY, CALIF., LAND CLAIMS AMENDMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 7101.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill H.R. 7101, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 390, nays 14, not voting 30, as follows:

[Roll No. 208]

YEAS—390

| | | |
|---|---|---|
| Abdnor | Butler | Fenwick |
| Addabbo | Byron | Findley |
| Akaka | Caputo | Fish |
| Alexander | Carney | Fisher |
| Allen | Carr | Fithian |
| Ambro | Cavanaugh | Flippo |
| Ammerman | Cederberg | Flood |
| Anderson, Calif. | Chappell | Florio |
| | Chisholm | Flowers |
| Anderson, Ill. | Clausen, Don H. | Flynt |
| Andrews, N.C. | | Foley |
| Andrews, N. Dak. | Clay | Ford, Mich. |
| | Cleveland | Ford, Tenn. |
| Annunzio | Cochran | Forsythe |
| Applegate | Coleman | Fountain |
| Archer | Collins, Ill. | Fowler |
| Armstrong | Collins, Tex. | Fraser |
| Ashbrook | Conte | Frenzel |
| Ashley | Corcoran | Frey |
| Aspin | Corman | Fuqua |
| AuCoin | Cornwell | Garcia |
| Badham | Cotter | Gaydos |
| Bafalis | Coughlin | Giaimo |
| Baldus | Cunningham | Gibbons |
| Barnard | D'Amours | Gilman |
| Baucus | Daniel, Dan | Ginn |
| Bauman | Daniel, R. W. | Glickman |
| Beard, R.I. | Danielson | Goldwater |
| Beard, Tenn. | Davis | Gonzalez |
| Bedell | de la Garza | Goodling |
| Bellenson | Delaney | Gore |
| Bennett | Dellums | Grassley |
| Bevill | Derrick | Green |
| Biaggi | Derwinski | Guyer |
| Bingham | Devine | Hagedorn |
| Blouin | Dickinson | Hall |
| Boggs | Dicks | Hamilton |
| Boland | Diggs | Hammer-schmidt |
| Bolling | Dodd | |
| Bonior | Dornan | Hanley |
| Bonker | Downey | Hannaford |
| Bowen | Drinan | Hansen |
| Brademas | Duncan, Oreg. | Harkin |
| Breaux | Duncan, Tenn. | Harrington |
| Breckinridge | Early | Harris |
| Brinkley | Eckhardt | Harsha |
| Brodhead | Edgar | Hawkins |
| Brooks | Edwards, Ala. | Heckler |
| Broomfield | Edwards, Calif. | Hefner |
| Brown, Calif. | Edwards, Okla. | Heftel |
| Brown, Mich. | Eilberg | Hightower |
| Brown, Ohio | Emery | Holland |
| Broyhill | English | Hollenbeck |
| Burgener | Erlenborn | Holt |
| Burke, Fla. | Ertel | Horton |
| Burke, Mass. | Evans, Colo. | Hubbard |
| Burleson, Tex. | Evans, Del. | Huckaby |
| Burlison, Mo. | Evans, Ga. | Hughes |
| Burton, John | Fary | Hyde |
| Burton, Phillip | Fascell | Ichord |
| Ireland | Montgomery | Sharp |
| Jeffords | Moore | Shipley |
| Jenkins | Moorhead, Calif. | Shuster |
| Jenrette | | Sikes |
| Johnson, Calif. | Moorhead, Pa. | Simon |
| Johnson, Colo. | Moss | Sisk |
| Jones, Tenn. | Murphy, Ill. | Skelton |
| Jordan | Murphy, N.Y. | Skubitz |
| Kasten | Murphy, Pa. | Slack |
| Kastenmeier | Murtha | Smith, Iowa |
| Kelly | Myers, John | Smith, Nebr. |
| Kemp | Myers, Michael | Snyder |
| Ketchum | Natcher | Solarz |
| Keys | Neal | Spence |
| Kildee | Nichols | St Germain |
| Kindness | Nolan | Staggers |
| Kostmayer | Nowak | Stangeland |
| Krebs | O'Brien | Stanton |
| LaFalce | Oakar | Stark |
| Lagomarsino | Oberstar | Steed |
| Latta | Obey | Steers |
| Le Fante | Ottinger | Steiger |
| Leach | Panetta | Stockman |
| Lehman | Patten | Stokes |
| Lent | Patterson | Stratton |
| Levitas | Pattison | Studds |
| Livingston | Pease | Stump |
| Lloyd, Calif. | Pepper | Taylor |
| Lloyd, Tenn. | Perkins | Thornton |
| Long, La. | Pettis | Traxler |
| Long, Md. | Pickle | Treen |
| Lott | Pike | Trible |
| Lujan | Poage | Tsongas |
| Luken | Pressler | Tucker |
| Lundine | Preyer | Ullman |
| McClory | Price | Van Deerlin |
| McCloskey | Pritchard | Vander Jagt |
| McCormack | Pursell | Vanik |
| McDade | Quayle | Vento |
| McDonald | Quie | Volkmer |
| McEwen | Quillen | Waggonner |
| McFall | Rahall | Walgren |
| McHugh | Railsback | Walker |
| McKay | Rangel | Walsh |
| McKinney | Regula | Wampler |
| Madigan | Richmond | Watkins |
| Maguire | Rinaldo | Waxman |
| Mahon | Risenhoover | Weaver |
| Markey | Roberts | Weiss |
| Marks | Robinson | Whalen |
| Marlenee | Roe | White |
| Marriott | Rogers | Whitehurst |
| Martin | Roncalio | Whitten |
| Mathis | Rooney | Wiggins |
| Mattox | Rose | Wilson, Bob |
| Mazzoli | Rosenthal | Wilson, C. H. |
| Meeds | Rostenkowski | Wilson, Tex. |
| Metcalfe | Rousselot | Winn |
| Meyner | Roybal | Wirth |
| Michel | Rudd | Wolff |
| Mikulski | Ruppe | Wright |
| Mikva | Russo | Wydler |
| Milford | Ryan | Wylie |
| Miller, Calif. | Santini | Yates |
| Miller, Ohio | Sarasin | Yatron |
| Mineta | Satterfield | Young, Alaska |
| Minish | Sawyer | Young, Fla. |
| Mitchell, Md. | Scheuer | Young, Mo. |
| Mitchell, N.Y. | Schroeder | Young, Tex. |
| Moakley | Schulze | Zablocki |
| Moffett | Sebelius | Zeferetti |
| Mollohan | Seiberling | |

NAYS—14

| | | |
|---|---|---|
| Benjamin | Evans, Ind. | Jones, Okla. |
| Blanchard | Gammage | Lederer |
| Carter | Gradison | Mottl |
| Cornell | Holtzman | Myers, Gary |
| Dingell | Jacobs | |

NOT VOTING—30

| | | |
|---|---|---|
| Buchanan | Hillis | Rhodes |
| Burke, Calif. | Howard | Rodino |
| Clawson, Del | Jones, N.C. | Runnels |
| Cohen | Kazen | Spellman |
| Conable | Krueger | Symms |
| Conyers | Leggett | Teague |
| Crane | Mann | Thompson |
| Dent | Nedzi | Thone |
| Gephardt | Nix | Udall |
| Gudger | Reuss | Whitley |

The Clerk announced the following pairs:

On this vote:

Mr. Thompson and Mr. Udall for, with Mrs. Spellman against.

Until further notice:

Mr. Rodino with Mr. Del Clawson.
Mr. Runnels with Mr. Buchanan.
Mr. Nix with Mr. Hillis.

Mrs. Burke of California with Mr. Symms.
Mr. Teague with Mr. Dent.
Mr. Howard with Mr. Gephardt.
Mr. Conyers with Mr. Cohen.
Mr. Jones of North Carolina with Mr. Gudger.
Mr. Whitley with Mr. Reuss.
Mr. Kazen with Mr. Conable.
Mr. Mann with Mr. Leggett.
Mr. Krueger with Mr. Crane.
Mr. Nedzi with Mr. Thone.

So (two- thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

## RECOGNITION OF INDIAN TRIBES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 2497, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill, H.R. 2497, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 368, nays 33, not voting 33, as follows:

[Roll No. 209]

YEAS—368

| | | |
|---|---|---|
| Abdnor | Brodhead | de la Garza |
| Addabbo | Brooks | Delaney |
| Akaka | Broomfield | Dellums |
| Alexander | Brown, Calif. | Derrick |
| Allen | Brown, Mich. | Derwinski |
| Ambro | Brown, Ohio | Dickinson |
| Ammerman | Broyhill | Diggs |
| Anderson, Calif. | Burgener | Dingell |
| | Burke, Mass. | Dodd |
| Anderson, Ill. | Burlison, Mo. | Dornan |
| Andrews, N.C. | Burton, John | Downey |
| Andrews, N. Dak. | Burton, Phillip | Drinan |
| | Butler | Duncan, Oreg. |
| Annunzio | Byron | Duncan, Tenn. |
| Applegate | Caputo | Early |
| Armstrong | Carney | Eckhardt |
| Aspin | Carr | Edgar |
| AuCoin | Carter | Edwards, Ala. |
| Bafalis | Cavanaugh | Edwards, Calif. |
| Baldus | Cederberg | Edwards, Okla. |
| Barnard | Chappell | Eilberg |
| Baucus | Chisholm | Emery |
| Beard, R.I. | Clausen, Don H. | English |
| Bedell | | Erlenborn |
| Beilenson | Clay | Ertel |
| Bennett | Cleveland | Evans, Colo. |
| Bevill | Cochran | Evans, Del. |
| Biaggi | Coleman | Evans, Ga. |
| Bingham | Collins, Ill. | Evans, Ind. |
| Blanchard | Conte | Fary |
| Blouin | Corcoran | Fascell |
| Boggs | Corman | Fenwick |
| Boland | Cornell | Findley |
| Bolling | Cornwell | Fish |
| Bonior | Cotter | Fisher |
| Bonker | Coughlin | Fithian |
| Bowen | D'Amours | Flippo |
| Brademas | Daniel, Dan | Flood |
| Breaux | Daniel, R. W. | Florio |
| Breckinridge | Danielson | Flowers |
| Brinkley | Davis | Flynt |
| Ford, Mich. | McCormack | Rogers |
| Ford, Tenn. | McDade | Roncalio |
| Forsythe | McEwen | Rooney |
| Fountain | McFall | Rose |
| Fowler | McHugh | Rosenthal |
| Fraser | McKay | Rostenkowski |
| Frenzel | McKinney | Roybal |
| Frey | Madigan | Ruppe |
| Fuqua | Maguire | Russo |
| Gammage | Mahon | Ryan |
| Garcia | Markey | Santini |
| Gaydos | Marks | Sarasin |
| Giaimo | Marriott | Satterfield |
| Gilman | Martin | Sawyer |
| Ginn | Mathis | Scheuer |
| Glickman | Mazzoli | Schroeder |
| Goldwater | Meeds | Schulze |
| Gonzalez | Metcalfe | Sebelius |
| Gore | Meyner | Seiberling |
| Gradison | Mikulski | Sharp |
| Grassley | Mikva | Shipley |
| Green | Milford | Sikes |
| Guyer | Miller, Calif. | Simon |
| Hagedorn | Miller, Ohio | Sisk |
| Hamilton | Mineta | Skubitz |
| Hammer-schmidt | Minish | Slack |
| | Mitchell, Md. | Smith, Iowa |
| Hanley | Mitchell, N.Y. | Smith, Nebr. |
| Hannaford | Moakley | Snyder |
| Harkin | Moffett | Solarz |
| Harrington | Mollohan | Spence |
| Harris | Montgomery | St Germain |
| Harsha | Moore | Staggers |
| Hawkins | Moorhead, Pa. | Stangeland |
| Hefner | Moss | Stanton |
| Heftel | Mottl | Stark |
| Hightower | Murphy, Ill. | Steed |
| Holland | Murphy, N.Y. | Steers |
| Hollenbeck | Murphy, Pa. | Steiger |
| Holtzman | Murtha | Stockman |
| Horton | Myers, Gary | Stokes |
| Hubbard | Myers, John | Stratton |
| Huckaby | Myers, Michael | Studds |
| Hughes | Natcher | Taylor |
| Hyde | Neal | Thornton |
| Ichord | Nedzi | Traxler |
| Ireland | Nichols | Treen |
| Jeffords | Nolan | Trible |
| Jenkins | Nowak | Tsongas |
| Jenrette | O'Brien | Tucker |
| Johnson, Calif. | Oakar | Ullman |
| Johnson, Colo. | Oberstar | Van Deerlin |
| Jones, Okla. | Obey | Vander Jagt |
| Jones, Tenn. | Ottinger | Vanik |
| Jordan | Panetta | Vento |
| Kasten | Patten | Volkmer |
| Kastenmeier | Patterson | Waggonner |
| Kemp | Pattison | Walgren |
| Ketchum | Pease | Walker |
| Keys | Pepper | Walsh |
| Kildee | Perkins | Wampler |
| Kindness | Pettis | Watkins |
| Kostmayer | Pickle | Waxman |
| Krebs | Pike | Weaver |
| LaFalce | Poage | Weiss |
| Lagomarsino | Pressler | Whalen |
| Le Fante | Preyer | White |
| Leach | Price | Whitehurst |
| Lederer | Pritchard | Whitten |
| Lehman | Pursell | Wilson, Bob |
| Lent | Quayle | Wilson, Tex. |
| Levitas | Quie | Winn |
| Livingston | Quillen | Wirth |
| Lloyd, Calif. | Rahall | Wolff |
| Lloyd, Tenn. | Railsback | Wright |
| Long, La. | Rangel | Wydler |
| Long, Md. | Regula | Wylie |
| Lott | Richmond | Yates |
| Lujan | Rinaldo | Yatron |
| Luken | Risenhoover | Young, Mo. |
| Lundine | Roberts | Young, Tex. |
| McClory | Robinson | Zablocki |
| McCloskey | Roe | Zeferetti |

NAYS—33

| | | |
|---|---|---|
| Archer | Foley | Michel |
| Ashbrook | Gibbons | Moorhead, Calif. |
| Badham | Goodling | |
| Bauman | Hall | Rousselot |
| Beard, Tenn. | Hansen | Rudd |
| Benjamin | Holt | Shuster |
| Burke, Fla. | Jacobs | Skelton |
| Burleson, Tex. | Kelly | Stump |
| Collins, Tex. | Latta | Wilson, C. H. |
| Cunningham | McDonald | Young, Fla. |
| Devine | Marlenee | |
| Dicks | Mattox | |

NOT VOTING—33

| | | |
|---|---|---|
| Ashley | Cohen | Dent |
| Buchanan | Conable | Gephardt |
| Burke, Calif. | Conyers | Gudger |
| Clawson, Del | Crane | Heckler |
| Hillis | Nix | Teague |
| Howard | Reuss | Thompson |
| Jones, N.C. | Rhodes | Thone |
| Kazen | Rodino | Udall |
| Krueger | Runnels | Whitley |
| Leggett | Spellman | Wiggins |
| Mann | Symms | Young, Alaska |

The Clerk announced the following pairs:

Mr. Udall with Mr. Symms.
Mr. Thompson with Mr. Conable.
Mrs. Spellman with Mr. Dent.
Mr. Rodino with Mr. Cohen.
Mr. Runnels with Mr. Gudger.
Mr. Jones of North Carolina with Mr. Buchanan.
Mr. Whitley with Mr. Crane.
Mr. Kazen with Mr. Thone.
Mr. Mann with Mr. Del Clawson.
Mr. Krueger with Mr. Leggett.
Mr. Teague with Mr. Gephardt.
Mrs. Burke of California with Mr. Reuss.
Mr. Ashley with Mrs. Heckler.
Mr. Nix with Mr. Howard.
Mr. Conyers with Mr. Hillis.
Mr. Wiggins with Mr. Young of Alaska.

Mr. DICKS changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 661) to restore Federal recognition to certain Indian tribes, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

Mr. DICKS. Mr. Speaker, reserving the right to object, I just want to make sure which tribes.

Mr. RONCALIO. Mr. Speaker, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, this is a similar bill that passed the Senate, and we are considering it. We will insert the provisions of the House-passed bill just voted on. It involves the Wyandotte, Ottawa, Peoria, and Modoc Tribes of Oklahoma.

Mr. DICKS. Further reserving the right to object, is there any difference from the last bill we just considered?

Mr. RONCALIO. If the gentleman will yield, the subject matter is similar to the bill just passed by the House.

Mr. DICKS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 661

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. (a) Federal recogntiion is hereby extended or confirmed with respect to the Wyandotte Indian Tribe of Oklahoma, the Ottawa Indian Tribe of Oklahoma, and the Peoria Indian Tribe of Oklahoma, the

provisions of the Acts repealed by subsection (b) of this section notwithstanding.

(b) The following Acts are hereby repealed:

(1) The Act of August 1, 1956 (70 Stat. 893; 25 U.S.C. 791–807) relating to the Wyandotte Tribe;

(2) The Act of August 2, 1956 (70 Stat. 937; 25 U.S.C. 821–826) relating to the Peoria Tribe; and

(3) The Act of August 3, 1956 (70 Stat. 963; 25 U.S.C. 841–853) relating to the Ottawa Tribe.

(c) There are hereby reinstated all rights and privileges of each of the tribes described in subsection (a) of this section and their members under Federal treaty, statute, or otherwise which may have been diminished or lost pursuant to the Act relating to them which is repealed by subsection (b) of this section. Nothing contained in this Act shall diminish any rights or privileges enjoyed by each of such tribes or their members now or prior to enactment of such Act, under Federal treaty, statute, or otherwise, which are not inconsistent with the provisions of this Act.

(d) Except as specifically provided in this Act, nothing contained in this Act shall alter any property rights or obligations, any contractual rights or obligations, including existing fishing rights, or any obligation for taxes already levied.

SEC. 2. (a)(1) The Modoc Indian Tribe of Oklahoma is hereby recognized as a tribe of Indians residing in Oklahoma and the provisions of the Act of June 26, 1936 (49 Stat. 1967, as amended; 25 U.S.C. 501–509), are hereby extended to such tribe and its members. The Secretary of the Interior shall promptly offer the said Modoc Tribe assistance to aid them in organizing under section 3 of said Act of June 26, 1936 (25 U.S.C. 503).

(2) The provisions of the Act of August 13, 1954 (68 Stat. 718; 25 U.S.C. 564–564w), hereafter shall not apply to the Modoc Tribe of Oklahoma or its members except for any right to share in the proceeds of any claim against the United States are provided in sections 6(c) and 21 of said Act, as amended (25 U.S.C. 564(c) and 564t).

(3) The Modoc Indian Tribe of Oklahoma shall consist of those Modoc Indians who are direct lineal descendants of the Modocs removed to Indian territory (now Oklahoma) in November 1873, and who did not return to Klamath, Oregon, pursuant to the Act of March 9, 1909 (35 Stat. 751), as determined by the Secretary, and the descendants of such Indians who otherwise meet the membership requirements adopted by the tribe.

(b) The Secretary of the Interior shall promptly offer the Ottawa Tribe of Oklahoma and the Peoria Tribe of Oklahoma assistance to aid them in reorganizing under section 3 of the Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C. 503), which Act is reextended to them and their members by this Act.

(c) The validity of the organization of the Wyandotte Indian Tribe of Oklahoma under section 3 of the Act of June 26, 1936 (49 Stat. 1967; 25 U.S.C. 503), and the continued application of said Act to such tribe and its members is hereby confirmed.

SEC. 3. (a) It is hereby declared that enactment of this Act fulfills the requirement of the first proviso in section 2 of the Act of January 2, 1975 (88 Stat. 1920, 1921), with respect to the Wyandotte Tribe of Oklahoma, the Ottawa Tribe of Oklahoma, and the Peoria Tribe of Oklahoma.

(b) It is hereby declared that the organization of the Modoc Tribe of Oklahoma as provided in section 3(a) of this Act shall fulfill the requirements of the second proviso in section 2 of the Act of January 2, 1975 (88 Stat. 1920, 1921).

(c) Promptly after organization of the Modoc Tribe of Oklahoma, the Secretary of the Interior shall publish a notice of such fact in the Federal Register including a statement that such organization completes fulfillment of the requirements of the provisos in section 2 of the Act of January 2, 1975 (88 Stat. 1920, 1921), and that the land described in section 1 of said Act is held in trusted by the United States for the eight tribes name in said Act.

SEC. 4. The Wyandotte, Ottawa, Peoria, and Modoc Tribes of Oklahoma and their members shall be entitled to participate in the programs and services provided by the United States to Indians because of their status as Indians, including but not limited to those under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), and for purposes of the Act of August 16, 1957 (71 Stat. 370; 42 U.S.C. 2005–2005F). The members of such tribes shall be deemed to be Indians for which hospital and medical care was being provided by or at the expense of the Public Health Service on August 16, 1957.

MOTION OFFERED BY MR. RONCALIO

Mr. RONCALIO. Mr. Speaker, I offer a motion. The Clerk read as follows:

MR. RONCALIO moves to strike out all after the enacting clause of S. 661 and insert in lieu thereof the provisions of H.R. 2497, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "To reinstate the Modoc, Wyandotte, Peoria, and Ottawa Indian Tribes of Oklahoma as federally supervised and recognized Indian tribes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 2497) was laid on the table.

## INCREASING AUTHORIZATIONS FOR NAVAJO-HOPI INDIANS RELOCATION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 11092.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO) that the House suspend the rules and pass the bill H.R. 11092, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 361, nays 43, not voting 30, as follows:

[Roll No. 210]

YEAS—361

| | | | | | |
|---|---|---|---|---|---|
| Abdnor | Bedell | Brown, Ohio | Cochran | Hughes | Price |
| Addabbo | Benjamin | Broyhill | Coleman | Hyde | Pritchard |
| Akaka | Bennett | Burgener | Collins, Ill. | Ireland | Pursell |
| Alexander | Bevill | Burke, Mass. | Conte | Jacobs | Quayle |
| Ammerman | Biaggi | Burleson, Tex. | Corcoran | Jenrette | Quie |
| Anderson, Calif. | Bingham | Burlison, Mo. | Corman | Johnson, Calif. | Quillen |
| | Blanchard | Burton, John | Cornell | Johnson, Colo. | Rahall |
| Anderson, Ill. | Blouin | Burton, Phillip | Cornwell | Jones, Okla. | Railsback |
| Andrews, N.C. | Boggs | Butler | Cotter | Jones, Tenn. | Rangel |
| Andrews, N. Dak. | Boland | Byron | Coughlin | Jordan | Regula |
| | Bolling | Caputo | Cunningham | Kasten | Richmond |
| Annunzio | Bonior | Carney | D'Amours | Kastenmeier | Rinaldo |
| Applegate | Bonker | Carr | Daniel, Dan | Kemp | Risenhoover |
| Armstrong | Bowen | Carter | Danielson | Keys | Roberts |
| Ashley | Brademas | Cavanaugh | Davis | Kildee | Roe |
| Aspin | Breaux | Cederberg | de la Garza | Kindness | Rogers |
| AuCoin | Breckinridge | Chappell | Delaney | Kostmayer | Roncalio |
| Badham | Brodhead | Chisholm | Dellums | Krebs | Rooney |
| Bafalis | Brooks | Clausen, Don H. | Derrick | LaFalce | Rose |
| Baldus | Broomfield | | Derwinski | Leach | Rosenthal |
| Baucus | Brown, Calif. | Clay | Dickinson | Lederer | Rostenkowski |
| Beard, R.I. | Brown, Mich. | Cleveland | Dicks | Le Fante | Roybal |
| | | | Diggs | Lehman | Rudd |
| | | | Dodd | Lent | Ruppe |
| | | | Dornan | Levitas | Russo |
| | | | Downey | Livingston | Ryan |
| | | | Drinan | Lloyd, Calif. | Santini |
| | | | Duncan, Oreg. | Long, La. | Sarasin |
| | | | Duncan, Tenn. | Long, Md. | Sawyer |
| | | | Early | Lott | Scheuer |
| | | | Eckhardt | Lujan | Schroeder |
| | | | Edgar | Luken | Schulze |
| | | | Edwards, Ala. | Lundine | Sebelius |
| | | | Edwards, Calif. | McClory | Seiberling |
| | | | Edwards, Okla. | McCloskey | Sharp |
| | | | Eilberg | McCormack | Shipley |
| | | | Emery | McDade | Sikes |
| | | | English | McEwen | Simon |
| | | | Erlenborn | McFall | Sisk |
| | | | Ertel | McHugh | Skubitz |
| | | | Evans, Colo. | McKay | Slack |
| | | | Evans, Del. | McKinney | Smith, Iowa |
| | | | Evans, Ga. | Madigan | Smith, Nebr. |
| | | | Fary | Mahon | Snyder |
| | | | Fascell | Markey | Solarz |
| | | | Fenwick | Marks | Spence |
| | | | Findley | Marlenee | St Germain |
| | | | Fish | Marriott | Staggers |
| | | | Fisher | Martin | Stangeland |
| | | | Fithian | Mathis | Stanton |
| | | | Flippo | Mazzoli | Stark |
| | | | Flood | Meeds | Steed |
| | | | Florio | Metcalfe | Steers |
| | | | Flowers | Meyner | Steiger |
| | | | Flynt | Mikulski | Stockman |
| | | | Foley | Mikva | Stokes |
| | | | Ford, Mich. | Milford | Stratton |
| | | | Ford, Tenn. | Miller, Calif. | Studds |
| | | | Forsythe | Miller, Ohio | Taylor |
| | | | Fountain | Mineta | Thornton |
| | | | Fraser | Minish | Traxler |
| | | | Frenzel | Mitchell, Md. | Treen |
| | | | Frey | Mitchell, N.Y. | Trible |
| | | | Fuqua | Moakley | Tsongas |
| | | | Gammage | Moffett | Tucker |
| | | | Garcia | Mollohan | Ullman |
| | | | Gaydos | Moore | Van Deerlin |
| | | | Gephardt | Moorhead, Pa. | Vander Jagt |
| | | | Giaimo | Moss | Vanik |
| | | | Gibbons | Murphy, Ill. | Vento |
| | | | Gilman | Murphy, N.Y. | Volkmer |
| | | | Ginn | Murphy, Pa. | Walgren |
| | | | Glickman | Murtha | Walsh |
| | | | Goldwater | Myers, Gary | Wampler |
| | | | Gonzalez | Myers, John | Watkins |
| | | | Gore | Myers, Michael | Waxman |
| | | | Grassley | Natcher | Weaver |
| | | | Green | Neal | Weiss |
| | | | Guyer | Nedzi | Whalen |
| | | | Hagedorn | Nichols | White |
| | | | Hamilton | Nolan | Whitehurst |
| | | | Hammer-schmidt | Nowak | Whitten |
| | | | | O'Brien | Wiggins |
| | | | Hanley | Oakar | Wilson, Bob |
| | | | Hannaford | Oberstar | Wilson, Tex. |
| | | | Harkin | Obey | Winn |
| | | | Harrington | Ottinger | Wirth |
| | | | Harris | Panetta | Wolff |
| | | | Harsha | Patten | Wright |
| | | | Hawkins | Patterson | Wydler |
| | | | Heckler | Pattison | Wylie |
| | | | Hefner | Pease | Yates |
| | | | Heftel | Pepper | Yatron |
| | | | Hightower | Perkins | Young, Alaska |
| | | | Holland | Pettis | Young, Fla. |
| | | | Hollenbeck | Pickle | Young, Mo. |
| | | | Holtzman | Pike | Young, Tex. |
| | | | Horton | Poage | Zablocki |
| | | | Hubbard | Pressler | Zeferetti |
| | | | Huckaby | Preyer | |

NAYS—43

| | | |
|---|---|---|
| Allen | Goodling | Michel |
| Archer | Gradison | Montgomery |
| Ashbrook | Hall | Moorhead, Calif. |
| Barnard | Hansen | Mottl |
| Bauman | Holt | Robinson |
| Beard, Tenn. | Ichord | Rousselot |
| Bellenson | Jeffords | Satterfield |
| Brinkley | Jenkins | Shuster |
| Burke, Fla. | Kelly | Skelton |
| Collins, Tex. | Ketchum | Stump |
| Daniel, R. W. | Lagomarsino | Waggonner |
| Devine | Latta | Walker |
| Dingell | Lloyd, Tenn. | Wilson, C. H. |
| Evans, Ind. | McDonald | |
| Fowler | Mattox | |

NOT VOTING—30

| | | |
|---|---|---|
| Ambro | Hillis | Rhodes |
| Buchanan | Howard | Rodino |
| Burke, Calif. | Jones, N.C. | Runnels |
| Clawson, Del | Kazen | Spellman |
| Cohen | Krueger | Symms |
| Conable | Leggett | Teague |
| Conyers | Maguire | Thompson |
| Crane | Mann | Thone |
| Dent | Nix | Udall |
| Gudger | Reuss | Whitley |

The Clerk announced the following pairs:

Mr. Thompson with Mr. Symms.
Mr. Udall with Mr. Teague.
Mrs. Spellman with Mr. Thone.
Mr. Runnels with Mr. Hillis.
Mr. Jones of North Carolina with Mr. Buchanan.
Mr. Whitley with Mr. Del Clawson.
Mr. Rodino with Mr. Conable.
Mr. Conyers with Mr. Mann.
Mr. Nix with Mr. Cohen.
Mr. Krueger with Mr. Reuss.
Mr. Ambro with Mr. Dent.
Mrs. Burke of California with Mr. Crane.
Mr. Howard with Mr. Gudger.
Mr. Leggett with Mr. Kazen.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 6782, TO PERMIT MARKETING ORDERS TO INCLUDE CERTAIN PROVISIONS

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1047), on the resolution (H. Res. 1121) providing for consideration of the conference report on the bill (H.R. 6782) to permit marketing orders to include provisions concerning marketing promotion, including paid advertisement, of raisins and distribution among handlers of the pro rata costs of such promotion, which was referred to the House Calendar and ordered to be printed.

## PROVIDING FOR CONSIDERATION OF H.R. 11662, ESTABLISHMENT OF LOWELL NATIONAL HISTORICAL PARK

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1113 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1113

*Resolved*, That upon the adoption of this resolution it shall be in order to move, section 401(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11662) to provide for the establishment of the Lowell National Historical National Park in the Commonwealth of Massachusetts, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and said substitute shall be read for amendment by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. MCFALL). The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, the resolution (H. Res. 1113) provides for the consideration of the bill (H.R. 11662) to provide for the establishment of the Lowell Historic Park in the Commonwealth of Massachusetts and for other purposes.

Mr. Speaker, this is a 1 hour open rule which provides for the committee amendment in the nature of a substitute now printed in the bill to be considered as an original bill for the purpose of amendment.

The rule also provides for the bill to be read for amendment by title and waives a point of order against consideration of the bill under section 401 (a) of the Congressional Budget Act of 1974. The act prohibits consideration of any legislation providing contract authority unless such legislation specifies that such authority is to be effective for any fiscal year only to such or in such amounts as are provided in appropriation acts. Although H.R. 11162 did not so provide, the committee substitute cures the Budget Act violation. Since it is that text which is placed before the Committee of the Whole by the rule, the Committee on the Budget concurred that the waiver was only technical and recommended that the waiver be granted.

Mr. Speaker, recently a motion was offered to suspend the rules and pass the bill (H.R. 11662). Although supported by a large majority the motion failed of the requisite two-thirds vote. I believe there was general agreement to the concept although there was some controversy over the scope of the site and certain administrative provisions. The resolution recommended by the Committee on Rules would adequately protect the right of any Member to address these concerns by amendment. Although, I would oppose any amendments, this is an open rule and permits the full House to make that judgment.

There is a strong realization that this is our only opportunity to accurately preserve a physical model of the development of the Industrial Revolution. The legislation before us would establish a National Historic Park at Lowell and a Commission which would jointly acquire and maintain the locks, canals, and old factories there.

This is a bill of vast historic importance and I believe the rule provides a fair and orderly procedure for consideration of this bill. Mr. Speaker, I urge the adoption of House Resolution 1113.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1113 is a 1-hour open rule providing for the consideration of H.R. 11662 which would establish the Lowell National Historical Park in the Commonwealth of Massachusetts.

As my colleagues will remember, this bill was originally before the House under suspension of the rules on Monday, April 3, but it failed to receive the necessary two-thirds vote required for passage on a 228–132 rollcall vote.

The chairman of the Interior Committee (Mr. UDALL) subsequently wrote to the Rules Committee asking for a 1-hour open rule. And on Wednesday, April 5, the Rules Committee granted such an open rule by a voice vote.

My colleagues will also notice that this rule makes the committee substitute in order as an original bill for the purpose of amendment, and it waives section 401 (a) of the Budget Act. Section 401(a) of the Budget Act prohibits consideration of any bill providing new contract authority which is not provided for in appropriation acts. Section 203 of the original bill fails to limit the availability of such contract authority, and the bill thus violates the Budget Act. But, during markup on the bill, the Interior Committee adopted an amendment which eliminates this Budget Act violation, and that amendment is contained in the committee substitute which will be considered as an original bill for the purpose of amendment. Nevertheless, the waiver is still necessary since a point of order would lie against the original bill which this rule makes in order. In view of this situation, the Rules Committee has received a letter from the chairman of the Budget Committee (Mr. GIAIMO) in which he recognizes the existence of this technical violation of the Budget Act but goes on to state that, since "the new provision completely cures the Budget Act violation in the original bill, I have no objection to a waiver of section 401 of the Budget Act to permit consideration of the bill."

H.R. 11662 is aimed at preserving the most historic parts of Lowell, Mass., founded in 1822, and considered to be the

first planned industrial city in the United States. The bill would do this by establishing the Lowell National Historical Park as part of the National Park System and designating a preservation district; and creating the Lowell National Historical Park Commission, under the jurisdiction of the Department of Interior, to administer and protect the park and district in conjunction with the National Park Service. These provisions implement the recommendations of the Lowell Historic Canal District Commission which was established by Congress in 1975. The bill authorizes $40 million in fiscal year 1979, of which $18.5 million is for National Park System acquisition and development, and up to $2.5 million is for Commission acquisition and development.

Some concern was expressed during the debate last week that this might be an urban renewal bill in disguise. I think the additional hour provided for general debate by this rule, plus the opportunity for amendment under this rule, provides ample opportunity for such concerns to be aired and acted on if necessary. I therefore urge adoption of this rule.

Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## PERMISSION FOR COMMITTEE ON RULES TO FILE A PRIVILEGED REPORT

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file a privileged report.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

## ESTABLISHMENT OF LOWELL NATIONAL HISTORICAL PARK

Mr. PHILLIP BURTON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11662) to provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes.

The SPEAKER pro tempore (Mr. McFALL). The question is on the motion offered by the gentleman from California (Mr. PHILLIP BURTON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11662, with Mr. MURTHA in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from California (Mr. PHILLIP BURTON) will be recognized for 30 minutes, and the gentleman from Kansas (Mr. SEBELIUS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Chairman, I yield such time as he may consume to our distinguished colleague, the gentleman from Massachusetts, (Mr. TSONGAS) the author of the legislation.

Mr. TSONGAS. Mr. Chairman, H.R. 11662 would establish a Lowell National Historical Park and an adjacent Lowell Historic Preservation District.

The purpose of this bill is to preserve and interpret certain sites, structures, and districts in Lowell; historically and culturally, the most significant planned industrial city in the United States.

Lowell's nationally significant resources include the 5.6-mile power canal system; seven original mill complexes; 19th century commercial and municipal buildings; social, labor, and educational institutions; mill residences; and early transportation facilities.

Another of the city's significant resources is its people. The Yankee "mill girls" were Lowell's first textile workers. They were replaced beginning in the 1850's by immigrants from throughout Europe. Scores of ethnic neighborhoods developed, cemented by the customs and heritage of the residents' former countries. These traditions remain today in Lowell.

On February 17, 1978, National Park Service Director William J. Whalen testified in support of a Lowell National Park before a House subcommittee. He stated:

> Lowell—more so than any other city—(can) portray the beginning of commerce and industry in America. Lowell presents an opportunity for preservation that should not be lost.

Historian Margaret Terrell Parker has written:

> The city's origin and growth constitute the first instance in America of the development of a city of the primarily industrial type.

According to historian Harry C. Dinsmore:

> The energy supplied by its carefully controlled waterpower gave birth and enduring life to the industrial revolution in this country.

The structures of the Industrial Revolution remain in Lowell. Quoting from the Interior Department report that designated Lowell a national historic landmark:

> Lowell occupies an especially significant place in the nation's history. The virtually unaltered waterways, together with the surprisingly little altered mills and their machinery, form what is probably the most historically significant aggregation of early 19th century industrial structures and artifacts in the United States.

The ways of work and life of the American Industrial Revolution can best be preserved in Lowell. And designation as a national park can help to bridge a serious gap. In a study conducted by the National Park Service, it was concluded that the theme America at Work, "is the most poorly represented of any in the national park system." A second theme relating to Lowell, that of Society and Social Conscience, is described as, "clearly one of the weak areas of the system's representation." In fact, of 13 subthemes represented in Lowell, 5 are partially or poorly represented, and 8 are not represented at all.

The preservation strategy in this bill is based on an intensive 2-year study by the Lowell Historic Canal District Commission, as mandated by Congress in 1975. This legislation also reflects hundreds of hours of consultation with the National Park Service. The bill has been further modified by the House Interior Committee to insure that preservation activities will be directed solely toward significant historical and cultural properties.

Major preservation and intensive visitor use would be directed towards a nationally significant 2-by-5 block area. Preservation responsibilities would be shared by various levels of government within this "historic core area." Every building here relates directly to the corporate system of early Lowell and was built between 1825 and 1880 (with the exception of the nearly 1900 Lowell High School extension). Efforts would be made to restore the structures here to their 19th century appearance. A canal barge, trolley system, and pedestrian trail would link visitor sites.

This 2-by-5 block area, plus the canal system and associated structures, would constitute the Lowell National Historical Park. Lands directly adjacent to the park, containing a high concentration of historic properties, have been included in the Lowell Historic Preservation District.

This bill divides preservation, restoration, and management responsibilities between the National Park Service and a federally funded Lowell Historic Preservation Commission, established under the Department of Interior.

Within the park, the Commission would:

Use easements, grants, and agreements (and acquisition as a last resort) to provide for the preservation of 10 designated sites in the 2-by-5 block area; and

Establish standards and criteria for construction, preservation, alteration, and use of all properties; with the consent of the Secretary;

Within the preservation district, the Commission would—

Establish standards and criteria with the consent of the city manager of Lowell.

The Commission would also develop a park and preservation district plan detailing the Commission's future development, management, and budgetary proposals. A draft plan would be due in 1 year, a final plan in 18 months. Final approval of the Secretary is required. The plan would also include the establishment of an index of significant properties in order to determine eligibility for grants, loans, agreements, easements, and, as a last resort, acquisition. The city of Lowell would also be required to notify the Commission in the event that a building permit or zoning variance is pending for an historic index property.

The Commission would consist of seven local, five Federal, and three State appointees. It would have its own staff and an annual operating budget.

H.R. 11662 is intended to encourage a high level of cooperation between Federal, State, and local governments. The Commonwealth, in establishing the $10 million Lowell Hertiage State Park, has taken anticipated Federal participation into consideration. This State commitment is centered around Lowell's canal system and rivers. City and private sector historic preservation improvements have also been designed in a manner consistent with the national park theme.

Perhaps it would help to explain how the roles of the National Park Service and the Commission were determined. It first must be understood that the Lowell Park strategy is a direct result of the unique nature of the resource represented in Lowell.

Historic Lowell is not connected with famous people or specific political events. It is, rather, the embodiment of an era, a change in the American way of life by the development of industry and the creation of an industrial society. This idea cannot be illustrated with the utilization of a small number of isolated historic structures.

The essence of understanding the significance of Lowell is in the interrelationship of the scenic areas, rivers, canal system, and historic buildings which symbolize the cultural development of modern industrial America. The plan is concentrated in the historic core area where these relationships can best be seen.

The physical nature of the resource is also unique—without precedent for the National Park Service. The extent of nationally significant buildings is vast. Yet, traditional fee acquisition approaches to preservation are not well-suited for an urban area. Therefore, maximum preservation participation by the private sector is essential. The legislation designates historic areas and buildings which can maximize this process. Easements, grants, and loans can provide preservation incentives and extremely limit the need for acquisition.

Although the National Park Service strongly opposes any requirement that the agency purchase easements, enter into agreements, or administer a grants program, they did recognize the need for additional preservation activities. Therefore, the Park Service recommended acquisition of five structures and establishment of a supplemental $17.8 million NPS grant program to accomplish additional preservation tasks. The agency originally recommended that this supplemental preservation plan should be developed by the State and local governments, with oversight by a Federal advisory commission. However, on March 8, 1978, a compromise was reached with the Park Service and H.R. 11662 was introduced as a substitute bill.

The alternative to the Commission is for the Federal Government to shoulder greater financial and local leadership tasks. No one would find this acceptable. Furthermore, a solution that simply limited federal activity to scattered sites would make standards unenforceable and encourage incompatible use of adjacent properties.

The Lowell Historic Canal District Commission considered alternatives to the proposed commission structure with Federal, State, and local officials. They concluded that—

The entity could not simply be advisory;

State or local sponsorship was not feasible or desirable; and

Existing preservation mechanisms were inadequate

Furthermore, they found that the Commission could offer the distinct advantages of —

Centralizing fund approval authority and reporting through the Secretary of Interior;

Limiting National Park Service involvement to those functions for which the agency is best equipped; and

Broadening the participatory base for planning and implementation.

It should be made clear that the Park Service has always taken the position that purchase and operation of five sites alone would not preserve and interpret the story of the American Industrial Revolution in Lowell.

On April 4, I wrote to the Director of the Park Service to ask for an official position regarding this approach.

Director Whalen referred to the statement of Deputy Director Ira J. Hutchison on April 6, 1978, before a Senate subcommittee. He testified:

> The Administration realizes that no precedent exists for our recommendation that supplemental grants be made by the National Park Service. However, we believe that the precedent is warranted in Lowell due to its unique ability—more so than any other city—to portray the beginning of commerce and industry in America.

Director Whalen's letter continued:

> As I testified before the House, the differences between the Administration's position and H.R. 11662 are not over whether we should employ a unique approach to preservation but rather concerns about the size of the Federal commitment of dollars and the scope of the Federal partnership responsibilities . . . The genius of the approach of H.R. 11662 is that although it could have proposed that this area be administered as a "traditional park," it does not. Instead, the proposal envisions a genuine partnership of Federal, State, and local efforts to conserve a living historical landscape.

Twelve years ago Lowell rediscovered its identity. The city recognized that this identity was important to the Nation and its people. Hundreds of persons deserve credit for this effort. It is indicative of the spirit of Lowell that this initiative came from both labor and business, both descendants of immigrants and Yankees, and both Democrats and Republicans. In fact, it was my predecessors in Congress, F. Bradford Morse and Paul Cronin, both Republicans, who deserve credit for initiating and guiding this legislation through its formative stage.

Finally, I would like to quote from the report of the Lowell Historic Canal District Commission. It is a report which has received three national awards and it summarizes the concept of a Lowell Park with these words:

> Lowell dramatically illustrates the transition from an agrarian to an industrial society which occurred early in the history of this country. The unprecedented scale of Lowell's industrial development fostered a new life style that changed the vision and self image of Americans. The physical artifacts of this period—the mills, the locks and canals, the machinery—can be converted to living and dynamic monuments to the epoch they represent. The city's multi-ethnic composition and rich collection of traditions and life styles is a microcosm of our modern society. Lowell, Massachusetts, provides an extraordinary opportunity for Americans to learn about America—how it is and how it was—while exploring the roots of their culture and their way of life.

I urge you to vote for this legislation.

Mr. PHILLIP BURTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, I would like to offer my commendations to the chairman of the Subcommittee on National Parks and Insular Affairs and to the gentleman from Massachusetts (Mr. TSONGAS) for having done an absolutely outstanding job, along with their colleagues on the subcommittee and with the cooperation of the National Park Service, in working out a new, creative, and innovative way of preserving one of the most important historical towns exemplifying the Industrial Revolution in America.

To me, one of the things that has been so exciting about the Lowell project is that here we have a community which is basically preserved intact in its original form a community which was created on a human scale, one which has as part of its industrial background a system of waterways, that is not only of great historic and functional interest but has a certain charm that is lacking in some of our later industrial towns.

It, therefore, has an antique quality and at the same time it has an historic significance which makes it truly unique.

I am particularly interested in the historic preservation aspect of this project because here we are not trying to preserve a single building or a single set of landscape features but a whole district, similar to some of the historic districts that have been preserved and recognized in the past by the Federal Government.

Long before I came to Congress I was actively interested in the cause of historic preservation. I found that one of the hardest things to get across to people is the importance of preserving not only a particular historic structure but the setting in which it existed and the importance of keeping that setting intact as far as possible or returning that setting to its original appearance at the time of the significant events that the particular building or structure represents.

One of the geniuses of the Lowell plan is that it is neither an urban renewal program nor is it merely a plan to preserve some buildings in a static condition. It is a plan to preserve them in a going community and to harmonize activities in the historic part of that community so that the whole area retains both an antique and a lifelike quality.

Mr. Chairman, I would like to ask the gentleman from Massachusetts (Mr. TSONGAS) a couple of questions.

Mr. Chairman, under H.R. 11662, as I understand it, the Lowell Historic

Preservation Commission would develop a park and preservation plan which, among other things, would contain an index of significant properties to determine eligibility for grants, loans, agreements, easements, and acquisition. However, as I understand it, the Secretary of Interior would have to certify the eligibility of the properties. Are there any criteria for the Secretary to use in making that certification?

Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Massachusetts.

Mr. TSONGAS. Mr. Chairman, the answer to the gentleman's question is "yes."

Under the National Park Service's management policies, the criteria would be the same as is now used for historic districts; and that is this:

> Historic districts composed of structures not sufficiently significant individually by reason of historical association or architectural merit to warrant recognition, that, when preserved or restored as integral parts of their environment, are of historical significance to the Nation in commemorating or illustrating a way of life in its developing culture.

Mr. SEIBERLING. Would that mean that a modern building that does not relate in any way to early Lowell would not qualify?

Mr. TSONGAS. The gentleman is correct.

Mr. SEIBERLING. Mr. Chairman, as I understand it, the philosophy behind the plan is to help protect the federally owned properties as well as to protect the interrelationship of the scenic areas, rivers, canal system and historic buildings. Would the Secretary be expected to be guided by this philosophy in making his certification of eligibility?

Mr. TSONGAS. Yes, he would.

Mr. SEIBERLING. Mr. Chairman, I thank the gentleman for his response.

I think it is really important to emphasize that this is a plan for preserving in its entirety the historic features of an entire area of a city. One of the important aspects of this plan, aside from the historic preservation aspect, is that the location is sufficiently near large population centers—indeed it is a population center of a moderate size in itself—so that it is not remote from the people.

There is an old saying that a nation that forgets its past has lost its soul. It seems to me that in all too many cases in this country we have failed to recognize until it was too late that what were once everyday buildings that people worked in and lived in had historic value. As time went by, these structures became more and more unique, and had an historic value, yet before we realized it we lost many of them. We are very fortunate in that Lowell is a city that by and large is intact in its 19th-century form.

It was a work-a-day city in those days, and it is still going to be a work-a-day city, but we are going to keep it so that people generations hence can see this part of 19th century industrial America long after most of the vestiges of early industrial America have gone elsewhere. I think we owe a great debt of gratitude to the chairman of the subcommittee and to the gentleman from Massachusetts for their devotion in helping make that possible. I hope my colleagues will give it the support it deserves.

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Massachusetts.

Mr. BOLAND. I thank the gentleman for yielding.

Mr. Chairman, I want to join in the very eloquent and magnificent expression of the gentleman from Ohio (Mr. SEIBERLING) in support of this unique legislation. I also want to express my appreciation to the distinguished chairman of the subcommittee of the Interior Committee for his leadership here, and particularly I want to compliment my distinguished colleague, the gentleman from Massachusetts (Mr. TSONGAS) for the leadership he has displayed in this particular area. The significance of this particular program will not only impact Lowell, but in other areas of the United States, for years to come. This will be one of the leaders, actually, in determining what we will do with the historic preservation throughout the United States. I think that is significant.

Again, I want to compliment the very distinguished gentleman from Ohio for his very eloquent and magnificent statement with reference to this project.

Mr. Chairman, I want to associate myself with the remarks of the gentlemen from Ohio (Mr. SEIBERLING) in support of this legislation. In addition, I want to express my appreciation to the distinguished chairman of Interior and Insular Affairs Subcommittee on National Parks and Insular Affairs, Mr. BURTON, for the leadership he has displayed in the progress of this legislation. In particular, Mr. Chairman, I would like to compliment my distinguished colleague from Massachusetts, Mr. TSONGAS, for the tremendous amount of work and thought that he has done on this bill and the concepts that it embodies.

Mr. Chairman, the adoption of this legislation will be of tremendous significance not only for the city of Lowell and the Commonwealth of Massachusetts but I believe for the Nation as well. Lowell was one of the first planned industrial cities in the United States and is therefore important to the understanding of the roots of modern urbanized society. For too long we have tended to ignore this aspect of our history. As a result, we have lost the opportunity to preserve many examples of what life was like during the early days of the Industrial Revolution. Since so much of what we are today as a nation is linked to what took place in 19th century Lowell and the cities that followed it, I am glad that we are finally becoming aware of the necessity of insuring that future generations of Americans will have the opportunity to explore that aspect of their heritage.

This legislation represents an awareness on the part of the Federal Government that the restoration and rehabilitation of urban areas is compatible with the goals of the National Park Service. I believe that the Lowell National Historic Park will serve as a model for continued work in this area and I urge that the bill be adopted.

Mr. SEIBERLING. I thank the gentleman for his comments.

Mr. Chairman, let me simply say that the subject is an inspiring one, and I think it deserves all of the thought and the care we can give it.

Mr. PHILLIP BURTON. Mr. Chairman, I yield three minutes to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Chairman, I thank my eminent colleague and chairman of the subcommittee for bringing out this legislation.

There are innumerable reasons why this is an excellent piece of legislation, and I am grateful to my friends on the full committee and on the Subcommittee of National Parks and Insular Affairs for coming up with this bill.

In listening to my esteemed friend, the gentleman from Ohio (Mr. SEIBERLING) just now, I heard him say that a nation which has forgotten its past, has lost its soul. He is correct.

I am speaking now aside from the Lowell program. I would like to think a nation which has forgotten its soldiers in wartime has also lost its soul. Also, a nation which berates its institutions, and its offices, as the U.S. Congress is being berated today, ought to stop and see where the devil it has been and where it is going.

The newspapers today say that 18 Congressmen are receiving extra checks for disability. I am a World War II dogface, with 42 months of infantry service. We have a man in the other august body who had an arm shot off, and he receives a modest pension. It is quoted in the Associated Press account. It also mentions the eminent gentleman from Texas, TIGER TEAGUE, who lost a leg as result of World War II action. It suggests there is wrongdoing in a man being a pensioned war veteran and being paid for being a Congressman, for Lord's sake.

Mr. Chairman, let us have good sense to start fighting for this Congress and defending what is right, or it may well become an institution not worth serving in.

Mr. SEBELIUS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have had some problems with this bill in the past, but I am pleased to say that in the spirit of cooperation, both Mr. SKUBITZ, the ranking minority member of the Interior Committee, and I, as ranking minority member of the Subcommittee on National Parks and Insular Affairs, have worked out many of our differences with the bill's sponsor, Mr. TSONGAS, and he will be offering a series of amendments at the proper time which reflect our joint agreements on amendments to perfect the bill. The adoption of these amendments will make this bill much more acceptable to me, and while the bill still will not embrace all of the changes I would like, I do intend to support it and I plan to offer no further amendments to it.

Mr. Chairman, as I indicated the last time this same bill was on the floor of the House last week, this legislation constitutes a fairly bold new step for direct Federal involvement and financial sup-

port of large-scale historical rehabilitation and restoration efforts in a very urbanized downtown area of Lowell, Mass.

The gentleman from Massachusetts (Mr. TSONGAS) is certainly due a great deal of recognition and credit for his leadership in putting this concept together and bringing this bill before the House.

As I indicated before, I have visited this area twice, and am genuinely supportive of efforts to preserve the historic fabric of the old locks and canals and certain textile mill complexes which were such a dominant part of the early scene of the development of Lowell as one of America's first planned industrial cities.

Much, if not most, of these historic remnants have been surrounded and in many cases supplanted by more contemporary works of man. Many of the old structures have been significantly renovated for more modernized usage, whereby the old original character and fabric has been destroyed or covered over. Yet much of the original old fabric still remains in places, only waiting to be recaptured through restoration and interpretive efforts. Considering this mix of condition, a real challenge exists here to recreate the flavor of the old days, while permitting a living city to continue to operate in its more contemporary ways. This is the challenge of the restoration of part of old Lowell.

Mr. Chairman, due to the conditions I have described, the most serious need in a legislative remedy is to properly prescribe the roles of the various players, and their degree of involvement.

There were several changes made in this bill in committee which helped to clarify these matters somewhat. Nevertheless, there are numerous parts of this bill which still leave me concerned as to their implications and workability. This bill, as it comes to the floor today, could be a headache to administer. Hopefully, some of these problems will be solved or clarified by amendments which may be offered and hopefully adopted on the floor today. The role and function of the Commission is extremely pervasive, and since it has prescribed operational functions even within the boundary of the national historical park itself, it really seems to have more power and control than the National Park Service. It is interesting to note, for instance, that while separate funding amounts are specified for both the National Park Service and the Commission in section 103(a) (1) and (2), another section, section 205(a) (2) directs that all these funds be made available to the Commission for its work in implementing its duties under title III. Hence, the National Park Service must look to the Commission for its funding—a subservient role for the National Park Service I have never before seen.

The 15-member Commission is very heavy on appointments of local people. Seven—nearly half—are to be appointed from recommendations by local city bodies, and 10 from recommending entities within the State. Conceivably, most or nearly all appointments could be resident of Lowell or from very nearby. Such a Commission could develop a very parochial and self-serving view. It is worthy of note that the administration witness, in his statement before the committee, recommended that such a Commission be merely advisory in nature. Yet this Commission in H.R. 11662 is to be very active and operational, as much or more so than the National Park Service. Moreover, it will receive the largest share of the $40,000,000 of Federal funds to be appropriated between it and the National Park Service.

I remain concerned that the roles of both the National Park Service and the Commission are quite unclear, particularly as they interrelate, and the parameters of the way the $21,500,000 of 100-percent Federal grant funds given to the Commission are to be expended, are very imprecise. It is not clear that significant public benefit will derive from the use of all of these funds, and a modified urban renewal or privately owned building face-lifting program is part of what may be entailed here.

Mr. Chairman, I indicated before, my disapproval of such a large area of privately owned, downtown real estate being needlessly brought within the boundaries of the park itself, rather than being left outside and within the area to be operated by the Commission. The property within the so-called intensive use zone is still within the park boundary, and is intended to always remain substantially within private ownership. It, therefore, ought not to be included within the park boundaries. To create a national park unit of any type embracing such a substantial amount of permanent private ownership is a misnomer and a deception to the public, and a disservice to our national park system.

Mr. Chairman, all of these and further criticisms and reservations I have with this bill should and could have been worked out by the committee. I am sorry that this did not happen, because the good and worthy things which deserve to be aided in Lowell through this legislation have been unfortunately jeopardized by the numerous bad features included in this bill.

Some of these problems could possibly be resolved by floor amendments, but the bill cannot be properly reoriented to the degree it needs to be, by floor action. Unless the bill is recommitted to the committee for further work, I hope that the Senate will work the bill over more closely than did the House, building upon whatever improvements might be adopted here on the floor today.

I hope that the final legislation which is signed into law for Lowell will entail a proper resolution of these key issues which I have mentioned.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield for a question?

Mr. SEBELIUS. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I have a great deal of respect for the chairman and the ranking minority member of the Subcommittee on National Parks, on which I have the honor to serve.

Is my understanding correct that some time earlier today, the gentleman from Massachusetts (Mr. TSONGAS) met with various minority members and their staffs and agreed to offer extensive changes in the bill, which will meet the complaints that were raised by both gentlemen from Kansas (Mr. SEBELIUS and Mr. SKUBITZ), particularly the aspects of the bill that might have permitted the use of this legislation to support a quasi-urban renewal project in Lowell, Mass.?

Mr. SEBELIUS. To answer the gentleman, Mr. Chairman, some changes have been made by agreement of the staff of the gentleman from Massachusetts (Mr. TSONGAS) and the minority staff of the committee.

I do not know precisely how much of the language it supplants, as each of the numerous amendments are short in text. Collectively, I believe these amendments will tighten the bill up considerably in the direction I have been concerned about.

Originally it was thought that the bill might involve some aspects of urban renewal. However, the bill, with these amendments now does respond more to that issue, and we do want the area to be a quality national historical park with its old features properly preserved. We do not want to create a large outer perimeter including a great deal of contemporary urban landscape, which will be called a national park.

Mr. Chairman, I think we have responded to that objection to some extent, and I think this bill is now a much more responsible one.

Mr. BAUMAN. If the gentleman will yield further, Mr. Chairman, I hope there will be a full explanation given to the committee of these amendments so that we may judge whether or not the bill should be supported.

Mr. SEBELIUS. I think that will happen.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. SEBELIUS. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I thank my colleague for yielding.

Mr. Chairman, when this bill was before us on the Suspension Calendar, I said at that time that I agreed to it, with a reservation. Despite the reservation at that time, I said I was going to support it.

Mr. Chairman, I want to say this: I still intend to support the bill. I want to say further that we should commend the gentleman from Massachusetts (Mr. TSONGAS) and the minority side.

After talking with them, the gentleman from Massachusetts (Mr. TSONGAS) had a number of amendments of his own which he felt should be added, providing certain safeguards in this bill.

I want to commend him for it, and I want to commend both staffs for working out amendments which we feel do remedy the defects in this bill and will make it a better piece of legislation. When these amendments are accepted here today.

I feel that—

We will have adequate protection in this legislation to assure that Federal

money will not go in to urban revitalization efforts, rather than strict public-benefit historic preservation work.

The powers and functions of the new Federal Commission which is created are limited as follows:

First. To funds for the preservation district principally, leaving the park funds authorizations under control of the Secretary and the National Park Service;

Second. The Secretary shall approve or disapprove any park preservation plan within 90 days after date of receipt from the Commission;

Third. Standards and criteria established by the Commission are subject to review and approval of the Secretary; and

Fourth. The Secretary shall make an annual report to Congress relative to loan and grants provided.

Mr. Chairman, with the adoption of the agreed upon amendments proposed for incorporation in the bill, I find the bill much more palatable and acceptable, and I shall support it.

Mr. SEBELIUS. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman. I am pleased to join in support of H.R. 11662, a bill to establish a national historical park in Lowell, Mass. As a native of Massachusetts, I can say with conviction and pride that Lowell, Mass., remains today a dramatic illustration of 19th-century industrial America and it is our intent by this legislation to preserve this heritage so that its unique cultural and historic resources may be enjoyed by the Nation.

The historical significance of Lowell's 19th-century industrial structures and artifacts including its intricate power canal system has received widespread publicity. The concept of a Lowell National Historical Park, determined by a local-State-Federal Commission created by the Congress in 1975 to be the appropriate action to take in order to preserve and interpret the city's special role in the American Industrial Revolution, has been well received at all levels of Government and by the private sector. This support is attested to by the more than $60 million already invested by the private and public sectors in park-related projects.

I believe we have an opportunity today to do something imaginative, something a little bit different with respect to our national park system but something that is well within the intent of the Congress when it established the national park system to preserve and interepret our natural and historic heritage.

I am hopeful that my fellow colleagues, who I am sure feel as strongly as I in our commitment to preserving America's essence, will recognize the opportunity before us and support H.R. 11662. Thank you.

The article follows:

SAVING THE LOWELL HERITAGE

The House this week can help preserve an important part of America's heritage by approving an imaginative project, the Lowell (Mass.) National Historical Park. Unlike most national parks, Lowell does not involve a precious natural resource or a site linked to famous people or political or military events. Instead, H.R. 11662 would rehabilitate a significant manmade site, the first planned industrial city in the United States. And it would help modern Americans understand the country's industrial development, the design and evolution of factory towns, the role of ethnic groups, and the growth of labor movements—elements that loom larger in many families' own histories than splendid landmarks and great events.

Lowell, on the Merrimack River near Boston, is the right place for that new kind of park. Founded in 1822, Lowell was the first American city built expressly for mass production and shaped by the new social order that factory work imposed. Although the textile industry has largely gone, many huge mill buildings remain. So do the intricate network of power canals and some of the schools, churches and boarding houses established for the Yankee "mill girls." Finally, the city's neighborhoods still reflect the cultural diversity of the thousands of immigrants who streamed there after 1850.

It is a place worthy of national attention. The tricky question has been to figure out how the federal government can bolster local and state efforts and concentrate the National Park Service's energies on the most important sites. A good answer has come out of years of discussion, a congressionally ordered study and the tireless work of Lowell's Democratic congressman, Paul Tsongas. That answer, embodied in H.R. 11662, is a complex partnership involving all levels of government, plus private interests. It is a promising way to preserve the past in the heart of a living city. In that sense, too, the Lowell National Historical Park could be a pacesetter, just as Lowell was during the 19th century.

Mr. SEBELIUS. Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, I think it is laudatory to be cognizant of historic values, a heritage that has allowed this country to reach the state it has. But, I also have concern that, after watching Congress recently place on the backs of the American workers the highest tax increase in the peacetime history of this country, if we really have a reserve of spending dollars that should authorize Congress at this time to go out and resort to funding a $40 million program. A local issue that, frankly, I think can be resolved within the private sector by not only the Corporation of Lowell, but by the Commonwealth of Massachusetts.

Certainly, even the chairman's city of San Francisco has within the private sector, in a magnificent manner, gone ahead and worked to maintain its historic preservation sites, such as along the waterfront and in the south.

I see here that there are buildings which we are authorizing the Secretary, if need be, to condemn so that they can be placed on the National Historic Register although—and if I am in error, I would ask the sponsor to correct me—I understand that some of these are not at present enrolled on the National Historic Building Register.

So, what I am really questioning, not to belittle the intent, but to simply ask, should we at this time, with a $60 to $80 billion deficit facing this Congress this year, with a President today explaining a new inflationary-fighter clause to the American people, with the American people faced with heavy taxes, high inflation, does this really fall within a top drawer congressional priority today? With that, I would yield to the sponsor to answer the questions concerning the historic buildings.

Mr. TSONGAS. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield.

Mr. TSONGAS. The amendments that have been worked out with both Mr. SKUBITZ and Mr. SEBELIUS, I think, go to the safeguards the gentleman is seeking. The structures that are to be condemned are two small modern structures adjacent to the old city hall, because they are inconsistent with the architecture. But, none of the modern or quasi-modern buildings will be preserved. If the gentleman will read the amendments to be offered by Mr. SKUBITZ, he will see that.

Mr. CUNNINGHAM. I will just claim my time to ask another question. Would the gentleman say that the priority of this falls well within the Presidential guidelines to fight inflation, and as a top drawer Government priority?

Mr. TSONGAS. Yes.

Mr. CUNNINGHAM. I am glad that the gentleman feels that way, because frankly my overtaxed constituents I think would take exception.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, is the gentleman familiar with the land and water conservation fund and the method by which it is financed?

Mr. CUNNINGHAM. To a certain degree, although probably not as familar as the gentleman from Ohio.

Mr. SEIBERLING. Let me say the primary source of revenue for the land and water conservation fund, which is $900 million each year set aside for national parks and recreational uses by the States and local governments, is the offshore oil royalties the United States gets from authorizing the exploitation of this wasting resource.

The concept behind the fund is that, since we are depleting the oil and some of our other natural resources the royalties for which go into this fund, we should take a part of the proceeds from those resources and put them into preservation of some of our other resources, both historical and natural. Lowell happens to be primarily a historical resource. If we do not do that in some form or other, someday it is all going to be gone, and after we have burned all the oil and used up all the minerals we will have nothing to show for it. So I suggest the legislation is compatible with the gentleman's viewpoint.

Mr. SEBELIUS. Mr. Chairman, I yield 1 minute to the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. Mr. Chairman, I join with the gentleman in stating that, yes, I think this is worth preserving. We have to set aside some things like this for the future. After some of these things are gone they can never be brought back into being again.

As my colleague, the gentleman from Ohio says, the money for the park, al-

though I am not sure about the preservation district, comes out of the land and water conservation fund, not out of the general tax funds.

Mrs. HECKLER. Mr. Chairman, I strongly support this legislation for which the citizens of Lowell have so long fought, to establish a Lowell National Historical Park. I well remember when our former colleague, F. Bradford Morse, first introduced this concept and I am delighted to see it come to fruition.

Throughout Massachusetts there are reminders of the beginnings of the Industrial Revolution. These older urban centers once bustled with the business of manufacturing and the tremendous factories and elaborate transportation networks testify to a proud heritage. Yet, various economic factors have changed the industrial patterns of this country and, despite the efforts of small businesses to come back into urban areas, much of the vitality of these cities has vanished. Sadly, so have the individuals who worked in the mills and can best tell their story.

That is why the action we take on the House floor today is so important. This bill will synthesize the work of local, State, and the Federal Government in a massive effort to restore physically and to develop and interpret culturally one of the most critical periods in our Nation's history—a period that has never received that kind of treatment in a large-scale way. It is time that cities and industry join in celebrity with the battlefields, geographical phenomena, and birthplaces of national heroes.

In a State like Massachusetts where tourism is a major industry, the economic potential of this park is significant. Lowell is located less than an hour's drive from Boston and less than half that time from Lexington, Mass. The three localities will form a triangle of history and culture with Boston's Freedom Trail and Lexington's Minuteman National Park. Families will come from all over America to visit this living museum; children whose grandparents immigrated to Lowell will be able to see the mills at work and walk along the canals just as their ancestors did.

Mr. Speaker, without our help the hard work and planning the Commonwealth of Massachusetts and the city of Lowell will be for naught and the entire country will lose. The great buildings, architectural triumphs in their own right, will never be duplicated. Those now living who recall the mills operating at peak capacity will not be available to pass on their knowledge through the remarkable process of oral history. There is no better time than now to step forward and join the citizens of Massachusetts who are once again taking the lead to make a part of the past a part of the future.

● Mr. SKUBITZ. Mr. Chairman, when speaking on the floor last week regarding this same bill, I expressed some concern as to the criteria for funding the properties which will be aided by Federal grant funds for historic restoration purposes.

Now that amendments have been agreed upon relative to the funding for properties of "National Historical significance" in the Lowell National Historical Park and Preservation District, I feel that—

We have adequate protection in this legislation to assure that Federal money will not go into urban revitalization efforts, rather than strict public-benefit historic preservation work.

The powers and functions of the new Federal Commission which is created are limited as follows:

To funds for the "Preservation District" principally, leaving the park funds authorizations under control of the Secretary and the National Park Service;

The Secretary shall approve or disapprove any park preservation plan within 90 days after date of receipt from the Commission;

Standards and criteria established by the Commission are subject to "review and approval of the Secretary"; and

The Secretary shall make an annual report to Congress relative to loan and grants provided.

Mr. Chairman, with the adoption of the agreed upon amendments proposed for incorporation in the bill, I find the bill much more palatable and acceptable.●

● Mr. MOFFETT. Mr. Chairman, I strongly support the creation of the Lowell National Historical Park, and hope that it serves as an indication of a positive shift in our national park and recreation planning philosophy.

Besides being an invaluable historical resource, Lowell's industrial area is located both in and near urban areas. It is readily accessible to large numbers of people.

Congress and environmentalists are becoming increasingly aware of our need, not just for wilderness areas and large expanses of open space but for close by, perhaps smaller, interesting parks that can be used during weekends and even lunch hours.We need places to relax that do not require the expenditure of either lots of money or lots of energy to visit.

The environmental movement is expanding to encompass the cities and population centers. I applaud both the choice of Lowell as our first national historical park, and Congress effort to make accessible, human made resources available to us for relaxation and recreation.●

● Mr. DRINAN. Mr. Chairman, as a cosponsor of the legislation, I rise in enthusiastic support of H.R. 11662, providing for the creation of a National Historical Park in Lowell, Mass.

As my colleagues know, Lowell was the first planned industrial city in the United States, and remains to this day a living tribute to the architect and character of the American industrial revolution. Despite its historical significance, however, much of the city's physical heritage is threatened with significant deterioration or destruction. Unless a concerted and cooperative effort is made by local, State and Federal Government—an effort enabled by H.R. 11662—much of the city's physical history may be lost for future generations.

I wish to commend my friend and colleague from Massachusetts (Mr. TSONGAS) for focusing attention to this project within the Interior and Insular Affairs Committee, and for his outstanding leadership in orchestrating support for H.R. 11662 today on the House floor.●

Mr. SEBELIUS. Mr. Chairman, I have no further requests for time.

Mr. PHILLIP BURTON. Mr. Chairman, I do not have further requests for time, but I would like to restate that which I have stated on some other occasions and in other forums before. That is, I have seldom, if ever, been as impressed with the willingness to work and the effective application of intellect and the facts as we have seen demonstrated by our colleague, the gentleman from Massachusetts (Mr. TSONGAS). This legislation will not only stand as a monument and reminder to all in terms of our industrial history but also will similarly stand as a monument to the enormously effective legislative efforts of the gentleman from Massachusetts, Mr. PAUL TSONGAS.

A pertinent article follows:

[From the Washington Post, Apr. 10, 1978]

SAVING THE LOWELL HERITAGE

The House this week can help preserve an important part of America's heritage by approving an imaginative project, the Lowell (Mass.) National Historical Park. Unlike most national parks, Lowell does not involve a precious natural resource or a site linked to famous people or political or military events. Instead, H.R. 11662 would rehabilitate a significant manmade site, the first planned industrial city in the United States. And it would help modern Americans understand the country's industrial development, the design and evolution of factory towns, the role of ethnic groups, and the growth of labor movements—elements that loom larger in many families' own histories than splendid landmarks and great events.

Lowell, on the Merrimack River near Boston, is the right place for that new kind of park. Founded in 1822, Lowell was the first American city built expressly for mass production and shaped by the new social order that factory work imposed. Although the textile industry has largely gone, many huge mill buildings remain. So do the intricate network of power canals and some of the schools, churches and boarding houses established for the Yankee "mill girls." Finally, the city's neighborhoods still reflect the cultural diversity of the thousands of immigrants who streamed there after 1850.

It is a place worthy of national attention. The tricky question has been to figure out how the federal government can bolster local and state efforts and concentrate the National Park Service's energies on the most important sites. A good answer has come out of years of discussion, a congressionally ordered study and the tireless work of Lowell's Democratic congressman, Paul Tsongas. That answer, embodied in H.R. 11662, is a complex partnership involving all levels of government, plus private interests. It is a promising way to preserve the past in the heart of a living city. In that sense, too, the Lowell National Historical Park could be a pacesetter, just as Lowell was during the 19th century.

Mr. SEBELIUS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill as an original bill for the purpose of amendment, and said substitute shall be

read for amendment by titles instead of by sections.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

FINDINGS AND PURPOSE

SECTION 1. (a) The Congress finds that—

(1) certain sites and structures in Lowell, Massachusetts, historically and culturally the most significant planned industrial city in the United States, symbolize in physical form the Industrial Revolution;

(2) the cultural heritage of many of the ethnic groups that immigrated to the United States during the late nineteenth and early twentieth centuries is still preserved in Lowell's neighborhoods;

(3) a very large proportion of the buildings, other structures, and districts in Lowell date to the period of the Industrial Revolution and are important historical resources, including the five-and-six-tenths-mile power canal system, seven original mill complexes, and significant examples of early housing, commercial structures, transportation facilities, and buildings associated with labor and social institutions; and

(4) despite the expenditure of substantial amounts of money by the city of Lowell and the Commonwealth of Massachusetts for historical and cultural preservation and interpretation in Lowell, the early buildings and other structures in Lowell may be lost without the assistance of the Federal Government.

(b) It is the purpose of this Act to preserve and interpret the historically and culturally significant sites, structures, and districts in Lowell, Massachusetts, for the benefit and inspiration of present and future generations by implementing to the extent practicable the recommendations in the report of the Lowell Historic Canal District Commission.

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) the term "park" means the Lowell National Historical Park, established by section 101(a)(1) of this Act;

(2) the term "preservation district" means the Lowell Preservation District, established by section 101(a)(1) of this Act;

(3) the term "Commission" means the Lowell National Historical Park Commission, established by section 301(a) of this Act;

(4) the term "Secretary" means the Secretary of the Interior; and

(5) the term "report of the Lowell Historic Canal District Commission" means the report submitted to the Congress by the Lowell Historic Canal District Commission pursuant to an Act entitled "An Act to provide for a plan for the preservation, interpretation development and use of the historic, cultural, and architectural resources of the Lowell Historic Canal District in Lowell, Massachusetts, and for other purposes", approved January 4, 1975 (88 Stat. 2330).

TITLE I—ESTABLISHMENT OF PARK

ESTABLISHMENTS; BOUNDARIES

SEC 101. (a)(1) To carry out the purpose of this Act, there is established as a unit of the National Park System in the city of Lowell, Massachusetts, the Lowell National Historical Park. There is further established in an area adjacent to the park the Lowell Preservation District, which will be administered by the Secretary and by the Commission in accordance with this Act. The boundaries of the park and preservation district shall be the boundaries depicted on the map entitled "Lowell National Historical Park, Massachusetts", dated March 1978, and numbered "Lowe-80,008A". Such map shall be on file and available for inspection in the office of the National Park Service, Department of the Interior, and in the office of the city clerk, city of Lowell.

(2) The Secretary shall publish in the Federal Register, as soon as practicable after the date of the enactment of this Act, a detailed description and map of the boundaries established under paragraph (1) of this subsection.

(b) The Secretary may make minor revisions of the park and preservation district boundaries established under subsection (a)(1) of this section, after consulting with the Commission and the city manager of Lowell, by publication of a revised drawing or other boundary description in the Federal Register; but no waters, lands, or other property outside of the park or preservation district boundaries established under such subsection may be added to the park or preservation district without the consent of the city manager of Lowell and the city council of Lowell. A boundary revision made under this subsection shall be effective only after timely notice in writing is given to the Congress.

COOPERATION OF FEDERAL AGENCIES

SEC. 102. (a) Any Federal entity conducting or supporting activities directly affecting the park or preservation district shall—

(1) consult with, cooperate with, and to the maximum extent practicable, coordinate its activities with the Secretary and with the Commission; and

(2) conduct or support such activities in a manner which (A) to the maximum extent practicable in consistent with the standards and criteria established pursuant to section 302(e) of this Act, and (B) will not have an adverse effect on the resources of the park or preservation district.

(b) Any applicant for a required Federal license or permit to conduct an activity within the park or preservation district shall provide in the application to the entity issuing such a license or permit a certification that the proposed activity will be conducted in a manner consistent with the standards and criteria established puruant to section 302(e) of this Act and that such activity will not have an adverse effect on the resources of the park or preservation district. No such license or permit shall be granted by any such entity if the Secretary finds that the granting of such license or permit will have an adverse effect on such resources.

AUTHORIZATION OF APPROPRIATIONS

SEC. 103. (a) There are authorized to be appropriated for fiscal years ending on or after September 30, 1979, such sums as may be necessary to carry out this Act, except that—

(1) the total of the amounts authorized to be appropriated for all fiscal years for the purpose of acquisition and development under the park management plan established pursuant to section 201(b) of this Act and emergency assistance under section 205(a)(1) of this Act shall not exceed $18,500,000; and

(2) the total of the amounts authorized to be appropriated for all fiscal years for the purpose of carrying out section 302(b)(2) of this Act, for the payment of grants and loans under section 303 of this Act, for the acquisition of property under section 304 of this Act, and for carrying out any transportation program and any educational and cultural program described in section 302(c) of this Act shall not exceed $21,500,000.

(b) Funds appropriated under subsection (a) of this section shall remain available until expended.

SPENDING LIMITATIONS

SEC. 104. Notwithstanding any other provision of this Act, no authority to enter into agreements or to make payments under this Act shall be effective except to the extent, or in such amounts, as may be provided in advance in appropriations Acts.

TITLE II—ROLE OF THE SECRETARY

PARK MANAGEMENT PLAN

SEC. 201. (a) The Secretary shall submit a statement to the Congress, within two years after the date on which funds are available after the date on which funds are made available to carry out this Act, which—

(1) reports on the progress that the Secretary intends to use these properties; designated for acquisition under section 202 of this Act, and describes the way the Secretary intends to use these properties;

(2) designates the properties within the park and preservation district respecting which the Secretary has entered into or intends to enter into agreements relating to interpretive exhibits or programs under section 203(a) of this Act;

(3)(A) reports on the progress of the Secretary in leasing a portion of the Lowell Manufacturing Company, located on Market Street, for the purpose of establishing a visitors' center in close proximity to parking and other transportation facilities, and (B) designates any other property within the park which the Secretary has leased or intends to lease for purposes of the park;

(4) reports any other activities which the Secretary has taken or intends to take to carry out the purpose of this Act; and

(5) contains a tentative budget for the park and preservation district for the subsequent five fiscal years.

(b)(1) Not later than three years after the date on which funds are made available to carry out this Act, the Secretary shall establish and submit to the Congress a park management plan containing the information described in subsection (a) of this section. Such plan shall, upon request, be available to the public.

(2) After consulting with the Commission, the city manager of Lowell, and the Commonwealth of Massachusetts, the Secretary may make revisions in the park management plan established pursuant to paragraph (1) of this subsection by publication of such revisions in the Federal Register. A revision made under this paragraph shall be effective 90 days after written notice of the revision is submitted to the Congress.

ACQUISITION OF PROPERTY

SEC. 202. (a)(1) The Secretary shall acquire the properties designated in paragraph (2) of this subsection, or any interest therein, by donation, purchase with donated or appropriated funds, condemnation, or otherwise. Any property or interest therein owned by the Commonwealth of Massachusetts or any political subdivision thereof may be acquired only with the consent of the owner. The Secretary may initiate condemnation proceedings under this paragraph only after making every reasonable effort to acquire property through negotiations and purchase, and consulting with the Commission (if established) and the city council of Lowell.

(2) The properties referred to in paragraph (1) of this subsection are the following:

(A) The Linus Childs House, 63 Kirk Street.

(B) The H and H Paper Company (commonly referred to as Boott Mill Boarding House), 42 French Street.

(C) Old City Hall, 226 Merrimack Street.

(D) Merrimack Gatehouse, 269 Merrimack Street.

(E) The Warnalaucit Textile Company, 562 Suffolk Street.

(F) The structures containing the Jade Pagoda and Solomon's Yard Goods, 210 and 200 Merrimack Street.

(b) Until the date on which the Commission conducts its first meeting, the Secretary may acquire any property within the park or preservation district not designated in subsection (a)(2) of this section, or any interest therein, if such property—

(1) is identified in the report of the Lowell Historical Canal District Commission as a property which should be preserved restored, managed, developed, or maintained in a manner consistent with the purpose of this Act;

(2) is listed in the National Register of Historic Places, as maintained by the Secretary pursuant to section 101(a) of the Act entitled "An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes", approved October 15, 1966 (16 U.S.C. 470a), and section 2(b) of the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 462); or

(3) is determined by the Secretary to be of national significance;

and would be subject to demolition or major alteration in a manner inconsistent with the purposes of this Act unless acquired by the Secretary. Such property may be acquired only as provided in subsection (a)(1) of this section.

(c) The Secretary may acquire easements within the park for the purpose of carrying out this Act. Such easements may be acquired only as provided in subsection (a)(1) of this section.

AGREEMENTS AND TECHNICAL ASSISTANCE

SEC. 203. (a) The Secretary may enter into agreements with any owner of property within the park to provide for interpretive exhibits or programs. Such agreements shall provide, whenever appropriate, that—

(1) the public may have access to such property at specified, reasonable times for purposes of viewing such property or the exhibits or attending the programs established by the Secretary under this subsection; and

(2) the Secretary may make such minor improvements to such property as may be necessary to enhance the public use and enjoyment of such property, exhibits, and programs.

(b)(1) The Secretary shall provide, upon request, technical assistance to—

(A) the city of Lowell to assist the city in establishing regulations or laws consistent with the standards and criteria established pursuant to section 302(e) of this Act; and

(B) the Commission to assist the Commission in establishing the index and the standards and criteria required by section 302 of this Act.

(2) The Secretary may provide to any owner of property within the park or preservation district, the Commission, the Commonwealth of Massachusetts, the city of Lowell, and any other Federal entity or any institution such technical assistance as the Secretary considers appropriate to carry out the purpose of this Act.

WITHHOLDING OF FUNDS

SEC. 204. (a) The Secretary may refuse to obligate or expend any money appropriated for the purposes described in section 103(a)(1) of this Act or section 103(a)(2) of this Act if the Secretary determines that—

(1) the city of Lowell has failed to establish regulations or laws consistent with the standards and criteria established pursuant to section 302(e) of this Act within one year after the date such standards and criteria have been established, except that the Secretary may extend such one-year period for not more than six months if the Secretary determines that the city has made a good faith effort to establish such regulations or laws;

(2) the city of Lowell has failed to notify the Commission of (A) applications for building permits or zoning variances respecting any property which is included in the index established pursuant to section 302(d) of this Act, or (B) any proposals of the city of Lowell to change the regulations or laws described in paragraph (3)(A) of this subsection;

(3)(A) during the period before the city of Lowell has established regulations or laws consistent with the standards and criteria established pursuant to section 302(e) of this Act, the city of Lowell has granted any building permit or zoning variance or has taken any other action respecting any property within the park or preservation district, which both the Secretary and the Commission consider to be inconsistent with such standards and criteria;

(B) after the city of Lowell has established the regulations or laws described in subparagraph (A) of this paragraph, the city of Lowell has granted any building permit or zoning variance or has taken any other action respecting any property within the park or preservation district, which both the Secretary and the Commission consider to be inconsistent with such regulations or laws; or

(4) the Commission has not made good faith efforts to (A) provide for the preservation, restoration, management, development, or maintenance of property within the park and preservation district or (B) carry out the park preservation plan approved under section 302 of this Act.

GENERAL ADMINISTRATIVE FUNCTIONS

SEC. 205. (a)(1) The Secretary, acting through the National Park Service, shall take appropriate actions to implement to the extent practicable the park management plan established pursuant to section 201(b) of this Act. In carrying out such plan, the Secretary shall administer the park in accordance with laws, rules, and regulations applicable to the national park system. Before the date on which the Commission conducts its first meeting, the Secretary may take any other action considered necessary to provide owners of property within the park or preservation district with emergency assistance for the purpose of preserving and protecting their property in a manner consistent with the purpose of this Act.

(2) Subject to sections 204 and 302(b) of this Act, the Secretary shall make available to the Commission any funds appropriated under section 103(a) of this Act for the purpose of carrying out title III of this Act.

(b) Notwithstanding any other provisions of law, the Secretary may accept donations of funds, property, or services from individuals, foundations, corporations, and other private entities, and from public entities, for the purpose of implementing the park management plan.

(c) The Secretary may sponsor or coordinate within the park and preservation district such educational or cultural programs as the Secretary considers appropriate to encourage appreciation of the resources of the park and preservation district.

(d) The Secretary may acquire such leases respecting property within the park as may be necessary to carry out the purpose of this Act.

## TITLE III—ROLE OF THE COMMISSION

ESTABLISHMENT OF LOWELL NATIONAL HISTORICAL PARK COMMISSION

SEC. 301. (a) There is established within the Department of the Interior a commission to be known as the Lowell National Historical Park Commission which shall administer the park and preservation district in accordance with this title. The Commission shall consist of fifteen members appointed by the Secretary as follows:

(1) Three members who are members of the city council of Lowell, appointed from recommendations made by the mayor of Lowell.

(2) Three members appointed from recommendations made by the city manager of Lowell of persons who are representative of organized labor, the business community, local neighborhoods, and cultural institutions, and who are not elected officials.

(3) One member appointed from recommendations made by the president of the University of Lowell.

(4) Three members appointed from recommendations made by the Governor of the Commonwealth of Massachusetts.

(5) One member appointed from recommendations made by the Secretary of Commerce.

(6) One member appointed from recommendations made by the Secretary of Transportation.

(7) One member appointed from recommendations made by the Secretray of Housing and Urban Development.

(8) Two members who are qualified to serve on the Commission because of their familiarity with programs of the Department of Interior involving national parks and historic preservation.

(b) If any member of the Commission who was appointed to the Commission under paragraph (1) or (4) of subsection (a) of this section as a member of the city council of Lowell or any other government leaves that office, or if any member of the Commission who was appointed from persons who are not elected officials of any government becomes an elected official of a government, such person may continue as a member of the Commission for not longer than the thirty-day period beginning on the date such person leaves that office or bcomes such an elected official, as the case may be.

(c)(1) Except as provided in paragraph (2) of this subsection, members shall be appointed for terms of two years. A member may be reappointed only three times unless such member was originally appointed to fill a vacancy pursuant to subsection (e)(1) of this section, in which case such member may be reappointed four times.

(2) Of the members first appointed pursuant to subsection (a) of this section, the following shall be appointed for terms of terms of three years:

(A) The members appointed pursuant to paragraphs (2), (3), and (8) of such subsection.

(B) One of the members appointed pursuant to paragraph (4) of such subsection, as designated by the Secretary at the time of appointment upon recommendation of the Governor.

(d) The chairman of the Commission shall be elected by the members of the Commission. The term of the chairman shall be two years.

(e)(1) Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(2) Any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. Any member may serve after the expiration of his term for a period not longer than thirty days.

(f) Eight members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(g) The Commission shall meet at least once each month, at the call of the chairman or a majority of its members.

(h)(1) Except as provided in paragraph (2) of this subsection, members of the Commission shall each be entitled to receive $100 for each day (including travel time) during which they are engaged in the performance of the duties of the Commission.

(2) Members of the Commission who are full-time officers or employees of the United States, the city of Lowell, or the Commonwealth of Massachusetts shall receive no additional pay on account of their service on the Commission.

(3) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses,

including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

PARK PRESERVATION PLAN AND INDEX

SEC. 302. (a)(1) Within one year after the date on which the Commission conducts its first meeting, the Commission shall submit to the Secretary a draft park preservation plan meeting the requirements of subsection (c) of this section. The Secretary shall review the draft park preservation plan and, within ninety days after the date on which such plan is submitted to the Secretary, suggest appropriate changes in such plan to the Commission.

(2) Within eighteen months after the date on which the Commission conducts its first meeting, the Commission shall submit to the Secretary a park preservation plan which meets the requirements of subsection (c) of this section. The Secretary shall, within ninety days after the date on which such plan is submitted to the Secretary, approve or disapprove such plan. The Secretary may not approve such plan unless the Secretary determines that such plan would adequately carry out the purpose of this Act.

(3) If the Secretary disapproves a park preservation plan, the Secretary shall advise the Commission of the reasons for such disapproval together with the recommendations of the Secretary for revision of such plan. Within such period as the Secretary may designate, the Commission shall submit a revised park preservation plan to the Secretary. The Secretary shall approve or disapprove any revised park preservation plan in the same manner as required in paragraph (2) of this subsection for the approval or disapproval of the original park preservation plan.

(4) If the Secretary approves a park preservation plan, the Secretary shall publish notice of such approval in the Federal Register.

(5) If the Secretary fails to approve or disapprove a park preservation plan within ninety days after the date on which the Secretary receives any such plan from the Commission, such park preservation plan shall be considered to be approved, and the Secretary shall publish notice of such approval in the Federal Register.

(6) Any park preservation plan or draft plan submitted to the Secretary under this subsection shall, upon request, be available to the public.

(7)(A) No changes other than those specified in subparagraph (B) of this paragraph may be made in the approved park preservation plan without the approval of the Secretary. The Secretary shall approve or disapprove any proposed change in the approved park preservation plan, except for any change specified in such subparagraph (B), in the same manner as required in paragraph (2) of this subsection for the approval or disapproval of the original park preservation plan.

(B) Any change in the approved park preservation plan relating to the index established pursuant to subsection (d) of this section or the standards and criteria established pursuant to subsection (e) of this section may be made by the Commission in the same manner specified in such subsections. The Commission shall promptly notify the Secretary of any change made under such subsections.

(b)(1) Except as provided in paragraph (2) of this subsection, the Secretary shall not make any funds available to the Commission to carry out section 303 or 304 of this Act until a park preservation plan has been approved under subsection (a) of this section.

(2) Before a park preservation plan is approved under subsection (a) of this section, the Secretary may make available to the Commission such funds as the Commission may request to—

(A) carry out activities to preserve, restore, manage, develop, or maintain any property designated in subsection (c)(1) of this section;

(B) take any action the Commission considers necessary to provide owners of property within the park or preservation district with emergency assistance for the purpose of preserving and protecting their property in a manner consistent with the purpose of this Act; or

(C) acquire in accordance with section 304 of this Act, any property within the park which—

(i) is identified in the report of the Lowell Historic Canal District Commission as a property which should be preserved, restored, managed, developed, or maintained in a manner consistent with the purpose of this Act;

(ii) is listed in the National Register of Historic Places, as maintained by the Secretary pursuant to section 101(a) of the Act entitled "An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes", approved October 15, 1966 (16 U.S.C. 470a), and section 2(b) of the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 462); or

(iii) is determined by the Secretary to be of national significance;

and would be subject to demolition or major alteration in a manner inconsistent with the purpose of this Act unless acquired by the Commission.

(c) Any plan submitted to the Secretary under subsection (a) of this section shall—

(1) describe the manner in which the Commission, to the extent practicable in accordance with the recommendations in the report of the Lowell Historic Canal District Commission, proposes to provide for the preservation, restoration, management, development, or maintenance of—

(A) the Welles Block, 169 Merrimack Street;

(B) the Jordan Marsh Company Building, 153 Merrimack Street and 15 Kirk Street;

(C) the Yorick Club, 91 Dutton Street;

(D) the Lowell Gas Light Company, 22 Shattuck Street;

(E) St. Anne's Church and Rectory, 237 Merrimack Street;

(F) Lowell Institution for Savings, 18 Shattuck Street;

(G) the Ahepa Building, 31 Kirk Street;

(H) Boott Mill, Foot of John Street;

(I) Lowell Manufacturing Company on Market Street; and

(J) the structure commonly referred to as the Early Residence, 45, 47, and 49 Kirk Street;

(2) identify the properties included in the index established pursuant to subsection (d) of this section;

(3) designate the properties which the Commission intends to acquire under section 304 of this Act and specify how such properties shall be used;

(4) include the standards and criteria established pursuant to subsection (e) of this section;

(5) provide a detailed description of the manner in which the Commission intends to implement the grant and loan programs under section 303 of this Act, including information relating to the estimated amount of such grants and the manner in which such grants shall be awarded by the Commission;

(6) provide for a transportation program by which the Commission shall provide, directly or by agreement with any person or any public or private entity, transportation services and facilities for park and preservation district visitors, including barge equipment, docking facilities, and local rail facilities;

(7) provide for educational and cultural programs to encourage appreciation of the resources of the park and preservation district; and

(8) include a tentative budget for the subsequent five fiscal years.

(d) The Commission shall establish, within one year after the date on which the Commission conducts its first meeting, an index which includes—

(1) any property in the park or preservation district (except for any property designated in section 201(a)(2) of this Act) which should be preserved, restored, managed, developed, maintained, or acquired by the Commission because of its historical, cultural, or architectural significance; and

(2) any property which should be preserved, restored, managed, developed, or maintained in a manner compatible with the purpose of this Act because of its proximity to (A) any property referred to in paragraph (1) of this subsection, or (B) any property designated in section 201(a)(2) of this Act.

The index may be modified only by a majority vote of the members of the Commission, taken when a quorum is present.

(e)(1) The Commission shall establish standards and criteria applicable to the construction, preservation, restoration, alteration, and use of all properties within the preservation district with the advice of the Commonwealth of Massachusetts and of the Secretary, and the consent of the city manager of Lowell.

(2) The Commission shall establish the standards and criteria described in paragraph (1) of this subsection for any property within the park with the advice of the Commonwealth of Massachusetts and the city manager of Lowell and with the consent of the Secretary.

(3) The Commission shall establish standards and criteria under paragraphs (1) and (2) of this subsection within one year after the date on which the Commission conducts its first meeting. Such standards and criteria may be revised in the same manner in which they were originally established.

(4) The Secretary shall publish the standards and criteria established under paragraphs (1) and (2) of this subsection, and any revisions thereof, in the Federal Register.

LOANS, GRANTS, AND TECHNICAL ASSISTANCE

SEC. 303. (a) The Commission may make loans to the Lowell Development and Financial Corporation (established under chapter 844 of the Massachusetts General Laws) to enable the corporation to provide low interest loans for the preservation, restoration, or development of property listed on the index established pursuant to section 302(d) of this Act. The Commission may make any such loan to the corporation only after entering into a loan agreement with the corporation which includes the following terms:

(1) The loan to the corporation shall have a maturity of thirty-five years. At the end of such period, the corporation shall repay to the Secretary of the Treasury (in a lump sum) for deposit in the general fund of the Treasury the full amount of the loan without interest.

(2) The money received from the Commission, and any interest earned on such money, may be obligated by the corporation only for low interest loans made under paragraphs (6) and (7) of this subsection, except that the corporation may use such money to the extent the Commission considers reasonable to satisfy the costs of the corporation in administering the loan or procuring loan guarantees or insurance.

(3) Within five years after receiving the loan from the Commission, the corporation shall make loans under paragraphs (6) and (7) of this subsection which, in the aggregate, obligate the full amount of money re-

ceived from the Commission (minus any amount required to satisfy the costs described in paragraph (2) of this subsection).

(4) As loans made under paragraphs (6) and (7) of this subsection are repaid, the corporation shall make additional loans under such paragraphs with the money made available for obligation by such repayments.

(5) The corporation shall make available to the Commission and to the Secretary, upon request, all accounts, financial records, and other information related to loans made under paragraphs (6) and (7) of this subsection.

(6) Before the corporation approves any application for a low interest loan for which money has been made available to the corporation by the Commission, the corporation shall require the prospective borrower to furnish the corporation with a statement from the Commission stating that the Commission has reviewed the application and has determined that any loan received by the prospective borower will be spent in a manner consistent with—

(A) the standards and criteria established pursuant to section 302(e) of this Act, and

(B) the goals of the park preservation plan approved under section 302(a) of this Act.

(7) The corporation may approve any application for a low interest loan which meets the terms and conditions prescribed by the corporation with the approval of the Commission and for which money has been made available to the corporation by the Commission if—

(A) the prospective borrower furnishes the corporation with the statement described in paragraph (6) of this subsection;

(B) the corporation determines that such borrower has sufficient financial resources to repay the loan; and

(C) such borrower satisfies any other applicable credit criteria established by the corporation.

In order to determine whether the corporation has complied with this subsection, the Commission, or such other appropriate person or entity as the Commission may designate, shall conduct an audit at least once every two years of all accounts, financial records, and other information related to loans made under paragraphs (6) and (7) of this subsection. If the Commission determines, after conducting a hearing on the record, that the corporation has substantially failed to comply with this subsection, the outstanding balance of any loan made to the corporation under this subsection shall become payable in full upon the demand of the Commission.

(b)(1) The Commission may make grants to—

(A) owners of property included in the index established pursuant to section 302(d) of this Act for the preservation, restoration, management, development, or maintenance of such property in a manner consistent with the standards and criteria established pursuant to section 302(e) of this Act; and

(b) any person or any public or private entity to provide for (i) educational or cultural programs which encourage appreciation of the resources of the park and preservation district, or (ii) any planning, transportation, maintenance, or other services the Commission considers desirable to carry out the purpose of this Act.

(2) Grants under this subsection shall be made under agreements which specify the amount of the grant, the installments (if any) by which the grant shall be paid to the grant recipient, the purposes for which the grant may be used, and any other condition the Commission considers appropriate. No grant recipient may use a grant in any manner or for any purpose other than as specified in the grant agreement.

(3) Any grant recipient which the Commission, for the repayment to the Commiswith paragraph (2) of this subsection shall be liable, at the discretion of the Commission, for the repayment of the Commission of any funds awarded under this subsection which have been paid to such grant recipient. The Commission may bring a civil action for repayment of such funds. The Commission shall determine whether any additional funds awarded under this subsection shall be paid to such grant recipient.

(c) The Commission may provide technical assistance to—

(1) owners of property within the park or preservation district to assist such owners in (A) making repairs to or improvements in any property included in the index established pursuant to section 302(d) of this Act, or (B) applying for loans under subsection (a) of this section; and

(2) any other person or public or private entity to assist such person or entity in taking actions consistent with the purpose of this Act.

(d) The Commission shall make available to the Secretary, upon request, all accounts, financial records, and other information of the Commission relating to grants and loans made under this section.

ACQUISITION AND DISPOSITION OF PROPERTY

SEC. 304. (a)(1) The Commission may acquire any property included in the index established pursuant to section 302(d) of this Act, or any interest therein, by donation, by purchase with donated or appropriated funds, or by condemnation in accordance with paragraph (2) of this subsection.

(2) Only properties within the park may be acquired by the Commission by condemnation. The Commission may initiate condemnation proceedings only after making every reasonable effort to acquire any such property through negotiations and purchase and consulting with the city council of Lowell.

(b) The Commission may sell or lease any property which it acquires under subsection (a) of this section subject to such deed restrictions or other conditions as the Commission deems appropriate to carry out the purpose of this Act.

(c) Pursuant to a written agreement between the Commission and the Commonwealth of Massachusetts or between the Commission and the city of Lowell, the Commission may sell, donate, lease, or in any other manner the Commission deems appropriate make available to such Commonwealth or city any property which it has acquired under subsection (a) of this section in order to provide for the administration or maintenance of such property by such Commonwealth or city in a manner consistent with the purpose of this Act.

POWERS OF COMMISSION

SEC. 305. (a) The Commission may for the purpose of carrying out this Act hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable. The Commission may administer oaths or affirmations to witnesses appearing before it.

(b) When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(c) Subject to section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) Notwithstanding any other provision of law, the Commission may seek and accept donations of funds, property, or services from individuals, foundations, corporations, and other private entities, and from public entities, for the purpose of carrying out its duties.

(e) The Commission may use it funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(f) The Commission may use the United States mails in the same manner and upon the same conditions other departments and agencies of the United States.

(g) The Commission may obtain by purchase, rental, donation, or otherwise, such property, facilities, and services as may be needed to carry out its duties. Any acquisition of property by the Commission shall be in accordance with section 304 of this Act. Upon the termination of the Commission, all property, personal and real, and unexpended funds shall be transferred to the Department of the Interior.

STAFF OF COMMISSION

SEC. 306. (a) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the rate of pay payable for grade GS–15 of the General Schedule.

(b) The Commission may appoint and fix the pay of such additional personnel as the Commission deems desirable.

(c) The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for grade GS–15 of the General Schedule.

(d) Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

(e)(1) Upon request of the Commission, the head of any Federal agency represented by members on the Commission may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this Act.

(2) The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

Mr. PHILLIP BURTON (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read in full, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there amendments to the bill?

AMENDMENTS OFFERED BY MR. TSONGAS

Mr. TSONGAS. Mr. Chairman, I offer several perfecting and clarifying amendments which are the result of agreements reached with the ranking minority members on the Committee on Interior and Insular Affairs and the National Parks Subcommittee, and I ask unanimous consent that these amendments may be considered as read, con-

sidered en bloc and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, I would hope that the gentleman from Massachusetts (Mr. TSONGAS) will explain each of these amendments in enough detail, because of the fact that not all of us are a part of the agreements that have been reached, so that we can understand exactly what changes are being made.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The amendments offered by Mr. TSONGAS are as follows: Page 33, line 18, insert "Historic" after "Lowell".

Page 33, strike lines 20 and 21, and insert in lieu thereof:

"(3) the term "Commission" means the Lowell Historic Preservation Commission established by section".

Page 34, line 15, insert "Historic" after "Lowell".

Page 45, strike lines 17 and 18, and insert in lieu thereof:

ESTABLISHMENT OF LOWELL HISTORIC PRESERVATION DISTRICT COMMISSION

Page 45, strike lines 21 and 22 and insert in lieu thereof: "Historic Preservation Commission which shall administer the preservation district and provide certain services within the park in accordance with this".

Page 45, line 1, insert "(2)" after "(a)".

Page 61, after line 11, insert the following new subsection:

(e) The Secretary shall make an annual report to the Congress describing the loans, grants, and technical assistance provided under this section and under section 203 of this Act. Such report shall specify the amount, recipient, and purpose of any loan, grant or technical assistance so provided and contain such additional information as the Secretary considers appropriate.

Title III, section 302(e)(2), page 56, lines 6–7, strike the words "with the consent of the Secretary," and insert in lieu thereof the words "subject to the review and approval of the Secretary".

Page 32, line 19, strike out "important" and insert "nationally significant" after "are".

Page 33, strike out line 7 and insert in lieu thereof the following: "pret the nationally significant historical and cultural sites, structures,".

Page 55, lines 10 and 11, strike out "historical, cultural, or architectural significance" and insert in lieu thereof "national historic or cultural significance".

Page 56, beginning on line 21, strike out "property" and all that follows through line 22 and insert in lieu thereof "any property described in section 302(d)(1) of this".

Page 59, strike out lines 18 and 19 and insert in lieu thereof:

"(A) owners of property described in section 302(d)(1) of this Act for the".

Page 61, strike out lines 14 and 15, and insert in lieu thereof: "property described in section 302(d)(1) of this Act, or any interest therein, by dona-".

Page 50, strike out lines 12 through 17.

Page 50, line 18, strike out "(6)" and insert in lieu thereof "(5)".

Page 50, line 21, strike out "(7)" and insert in lieu thereof "(6)".

Page 61, line 14, insert "designated in paragraph (3) of this subsection, any property" after "property".

Page 61, line 19, insert "or property designated in paragraph (3) of this subsection" after "park".

Page 61, after line 24, insert the following new paragraph:

(3) The Commission may acquire in accordance with paragraph (1) of this subsection the following properties, or any interest therein:

(A) World Furniture Building, 125 Central Street, and

(B) The Martin Building, 102–122 Central Street.

Mr. TSONGAS. Mr. Chairman, let me try to explain what these amendments are all about. The first group of amendments are those that we have worked out with the gentleman from Kansas (Mr. SKUBITZ) in his concern that the Federal moneys only be spent on those structures that are nationally significant in both their historic and cultural context. It was the gentleman's concern that the way the bill came out of the committee that that was not absolutely stated. So these various amendments relate to the nationally significant structures and they have been included to carry out the purposes of the bill and to exclude monies being spent on buildings that are not nationally significant. That is the rationale for those amendments.

The second group of amendments also have been worked out with the gentleman from Kansas (Mr. SEBELIUS) regarding his concern about the Lowell Historic Preservation Commission. The bill, as originally written, referred to the Lowell National Historic Park Commission and it was the gentleman's concern that, since the National Park Service does not have fee simple powers over these areas that to include the word "national" would be misleading. Therefore the changes, in essence, that are taking place, change the Lowell National Historic Park Commission to read Lowell Historic Preservation District Commission, which takes care of the problem of the word "national."

The other amendments are technical amendments which carry out the intent throughout the legislation. Third, there has also been worked out with the minority members that the two structures, which sit upon and cover the canal, would have to be removed, so that the first amendment does not jeopardize that necessity.

And the last is a request by the minority that the Secretary of the Interior report to the Congress once a year on the activities of the National Park Service and the Commission.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Massachusetts (Mr. TSONGAS).

The amendments were agreed to.

The CHAIRMAN. Are there further amendments to the bill?

Mr. TSONGAS. Mr. Chairman, I move to strike the last word.

Mr. TSONGAS. Mr. Chairman, I would like to make the following clarifying comments:

COMMISSION APPOINTMENTS

I would like to clarify the Federal appointments to the Lowell Historic Preservation Commission. These appointments would be made by the Cabinet Secretaries of the Departments of Commerce, Transportation, Housing and Urban Development, and Interior. The appointees would be from the various Federal departments as specified and not private citizens from Lowell.

THE INDEX, BUILDINGS IN PROXIMITY, SECTION 302(d)(2)

Only properties listed on the index pursuant to section 302(d)(1), that is; properties preserved, restored, managed, developed, maintained, or acquired by the Commission because of national historical cultural significance are eligible for use of easements, grants, and agreements, and acquisition as a last resort.

However, section 302(d)(2) is necessary to require that the city of Lowell notify the Commission of any building permits or zoning variances regarding properties in proximity to those designated on the index, pursuant to section 302(d)(1), in order to assure that these properties are managed in a manner consistent with the park. These properties would not be eligible for Commission funds.

This provision can protect against the alteration, demolition, or construction of properties that would be incompatible with the purposes of this act.

The CHAIRMAN. If there are no further amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. SHARP) having assumed the chair, Mr. MURTHA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11662) to provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes, pursuant to House Resolution 1113, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SEBELIUS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 326, nays 76, not voting 32, as follows:

[Roll No. 211]

YEAS—326

| | | |
|---|---|---|
| Addabbo | Eckhardt | Lundine |
| Akaka | Edgar | McClory |
| Alexander | Edwards, Calif. | McCloskey |
| Allen | Edwards, Okla. | McCormack |
| Ambro | Eilberg | McDade |
| Ammerman | Emery | McEwen |
| Anderson, Calif. | English | McFall |
| | Erlenborn | McHugh |
| Anderson, Ill. | Ertel | McKay |
| Andrews, N.C. | Evans, Colo. | McKinney |
| Andrews, N. Dak. | Evans, Ga. | Madigan |
| | Fary | Maguire |
| Annunzio | Fenwick | Mahon |
| Applegate | Findley | Markey |
| Armstrong | Fish | Mattox |
| Ashley | Fisher | Mazzoli |
| Aspin | Fithian | Meeds |
| AuCoin | Flippo | Metcalfe |
| Bafalis | Flood | Meyner |
| Baldus | Florio | Michel |
| Barnard | Flowers | Mikulski |
| Baucus | Flynt | Mikva |
| Beard, R.I. | Foley | Milford |
| Bedell | Ford, Tenn. | Mineta |
| Beilenson | Forsythe | Minish |
| Benjamin | Fountain | Mitchell, Md. |
| Bennett | Fowler | Mitchell, N.Y. |
| Bevill | Fraser | Moakley |
| Biaggi | Frey | Moffett |
| Bingham | Fuqua | Mollohan |
| Blanchard | Garcia | Moorhead, Pa. |
| Blouin | Gaydos | Moss |
| Boggs | Gephardt | Mottl |
| Boland | Giaimo | Murphy, Ill. |
| Bolling | Gilman | Murphy, N.Y. |
| Bonior | Ginn | Murphy, Pa. |
| Bonker | Glickman | Murtha |
| Bowen | Goldwater | Myers, John |
| Brademas | Gonzalez | Myers, Michael |
| Breckinridge | Green | Natcher |
| Brinkley | Guyer | Neal |
| Brodhead | Hagedorn | Nedzi |
| Brooks | Hall | Nichols |
| Broomfield | Hamilton | Nowak |
| Brown, Calif. | Hammer-schmidt | Oakar |
| Brown, Mich. | | Oberstar |
| Brown, Ohio | Hanley | Obey |
| Buchanan | Hannaford | Ottinger |
| Burgener | Harkin | Panetta |
| Burke, Fla. | Harrington | Patten |
| Burke, Mass. | Harris | Patterson |
| Burlison, Mo. | Hawkins | Pattison |
| Burton, John | Heckler | Pease |
| Burton, Phillip | Hefner | Pepper |
| Byron | Heftel | Perkins |
| Caputo | Hightower | Pettis |
| Carney | Hillis | Pickle |
| Carr | Holland | Pike |
| Carter | Hollenbeck | Poage |
| Cavanaugh | Holt | Pressler |
| Cederberg | Holtzman | Preyer |
| Chappell | Hubbard | Price |
| Chisholm | Huckaby | Pritchard |
| Clausen, Don H. | Hughes | Pursell |
| | Ireland | Quie |
| Clay | Jeffords | Rahall |
| Collins, Ill. | Jenkins | Railsback |
| Conte | Jenrette | Rangel |
| Conyers | Johnson, Calif. | Regula |
| Corcoran | Johnson, Colo. | Reuss |
| Corman | Jones, Tenn. | Richmond |
| Cornell | Jordan | Rinaldo |
| Cornwell | Kastenmeier | Risenhoover |
| Cotter | Keys | Roe |
| Coughlin | Kildee | Rogers |
| D'Amours | Kindness | Roncalio |
| Daniel, Dan | Kostmayer | Rooney |
| Danielson | Krebs | Rose |
| Davis | LaFalce | Rosenthal |
| de la Garza | Lagomarsino | Rostenkowski |
| Delaney | Le Fante | Roybal |
| Dellums | Leach | Ruppe |
| Derrick | Lederer | Russo |
| Derwinski | Leggett | Ryan |
| Dickinson | Lehman | Santini |
| Dicks | Lent | Sarasin |
| Dingell | Levitas | Sawyer |
| Dodd | Lloyd, Calif. | Scheuer |
| Downey | Lloyd, Tenn. | Schroeder |
| Drinan | Long, La. | Sebelius |
| Duncan, Oreg. | Long, Md. | Seiberling |
| Duncan, Tenn. | Lujan | Sharp |
| Early | Luken | Shipley |
| Sikes | Thornton | White |
| Simon | Traxler | Whitehurst |
| Sisk | Tsongas | Whitten |
| Skubitz | Tucker | Wilson, Bob |
| Slack | Ullman | Wilson, C. H. |
| Smith, Iowa | Van Deerlin | Wilson, Tex. |
| Solarz | Vander Jagt | Wirth |
| Spence | Vanik | Wright |
| Staggers | Vento | Wylie |
| Stanton | Volkmer | Yates |
| Stark | Walgren | Yatron |
| Steed | Walsh | Young, Alaska |
| Steers | Wampler | Young, Fla. |
| Stokes | Watkins | Young, Mo. |
| Stratton | Weaver | Young, Tex. |
| Studds | Weiss | Zablocki |
| Thompson | Whalen | Zeferetti |

NAYS—76

| | | |
|---|---|---|
| Abdnor | Gradison | O'Brien |
| Archer | Grassley | Quayle |
| Ashbrook | Hansen | Quillen |
| Badham | Harsha | Roberts |
| Bauman | Hyde | Robinson |
| Beard, Tenn. | Ichord | Rousselot |
| Breaux | Jacobs | Rudd |
| Broyhill | Kasten | Satterfield |
| Burleson, Tex. | Kelly | Schulze |
| Butler | Kemp | Shuster |
| Cleveland | Ketchum | Skelton |
| Cochran | Latta | Smith, Nebr. |
| Coleman | Livingston | Snyder |
| Collins, Tex. | Lott | Stangeland |
| Cunningham | McDonald | Stockman |
| Daniel, R. W. | Marks | Stump |
| Devine | Marlenee | Taylor |
| Dornan | Marriott | Thone |
| Edwards, Ala. | Martin | Treen |
| Evans, Del. | Mathis | Trible |
| Evans, Ind. | Miller, Ohio | Waggonner |
| Frenzel | Montgomery | Walker |
| Gammage | Moore | Wiggins |
| Gibbons | Moorhead, Calif. | Winn |
| Goodling | | Wydler |
| Gore | Myers, Gary | |

NOT VOTING—32

| | | |
|---|---|---|
| Burke, Calif. | Howard | Runnels |
| Clawson, Del | Jones, N.C. | Spellman |
| Cohen | Jones, Okla. | St Germain |
| Conable | Kazen | Steiger |
| Crane | Krueger | Symms |
| Dent | Mann | Teague |
| Diggs | Miller, Calif. | Udall |
| Fascell | Nix | Waxman |
| Ford, Mich. | Nolan | Whitley |
| Gudger | Rhodes | Wolff |
| Horton | Rodino | |

The Clerk announced the following pairs:

On this vote:

Mr. Steiger for, with Mr. Jones of Oklahoma against.

Until further notice:

Mr. Waxman with Mr. Symms.

Mr. Rodino with Mr. Dent.

Mrs. Spellman with Mr. Horton.

Mrs. Burke of California with Mr. Del Clawson.

Mr. Udall with Mr. Conable.

Mr. Runnels with Mr. Gudger.

Mr. Jones of North Carolina with Mr. Crane.

Mr. Whitley with Mr. Mann.

Mr. Nix with Mr. Diggs.

Mr. Krueger with Mr. Miller of California.

Mr. Howard with Mr. Nolan.

Mr. Fascell with Mr. St Germain.

Mr. Teague with Mr. Ford of Michigan.

Mr. Kazen with Mr. Wolff.

Mr. BREAUX, Mr. MARRIOTT, Mrs. SMITH of Nebraska, Mr. THONE, and Mr. ABDNOR changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. PHILIP BURTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed, H.R. 11662.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## CONFERENCE REPORT ON H.R. 9179, OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS ACT OF 1978

Mr. BINGHAM. Mr. Speaker, I call up the conference report on the bill (H.R. 9179) to amend certain provisions of the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. BRADEMAS). Is there objection to the request of the gentleman from New York?

There was no objection.

The clerk read the statement.

(For conference report and statement, see proceedings of the House of April 5, 1978.)

Mr. BINGHAM (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. BINGHAM) and the gentleman from Ohio (Mr. WHALEN) will be recognized for 30 minutes each.

The Chair recognizes the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conferees on H.R. 9179, legislation extending and revising the operating authority of the Overseas Private Investment Corporation (OPIC), met and reached agreement March 22. Last week the Senate approved the conference report by voice vote.

Mr. Speaker, the conference on behalf of the House were, I think, unusually successful in obtaining the consent of the Senate conferees to most of the provisions of the House bill. In particular, we were able to retain virtually all of the amendments adopted on the floor of the House, including the House amendment to bar any project that would adversely affect employment in the United States; the House amendment to concentrate OPIC programs in the poorest countries; the House human rights provision with a minor addition; effective antibribery language; and prohibition of projects involving copper, citrus, palm oil, and sugar.

Mr. Speaker, as to the small business amendment adopted by the House, the Senate conferees were adamantly opposed to the form of the House amendment. The Senators asserted that the effect of the amendment would be to make it impossible for OPIC to operate. The provisions adopted by the conference would, I sincerely believe, be more effective than the House language in

assuring maximum small business participation in OPIC's operations.

Let me develop that thesis, Mr. Speaker.

First, under the conference compromise, small businesses would receive not 50 percent, but 100 percent, of OPIC loans. All loans would go to small businesses. The OPIC loan program would be exclusively for small business projects.

Mr. Speaker, I would like to point out that in making the case for his amendment, the gentleman from Maryland (Mr. LONG) referred primarily and repeatedly to OPIC's loan program, not the insurance program; and on this I repeat: the conferees recommend that the entire loan program be devoted to small businesses.

Second, the conferees adopted a provision authorizing OPIC to devote up to 50 percent of its net profits to small business projects. This provision would enable OPIC to conduct outreach programs aimed at encouraging and facilitating small business investment abroad, without regard to the requirement that OPIC recoup the cost of such activity. Again, the conferees feel that this authorization will bring real and substantial benefit to small businesses interested in foreign investment in the spirit of the House provision.

So far as OPIC's insurance and guaranty operations are concerned, the conferees set 30 percent of the total as a goal for small business projects insured, reinsured, or guaranteed by OPIC. This places a burden upon OPIC to do better than they have done or are now doing in this regard without imposing an inflexible and impossible requirement. Particularly in view of the allocation of the entire OPIC loan program to small business, a 30-percent target for small business insurance seems reasonable.

The conferees agreed that "small business" should be defined as firms below the "Fortune 1000" level.

This means that the focus will be on businesses other than big business. The term "small business" means different sizes in different industries. For example, retail businesses can be one or two people. Farming can be very few people. However, manufacturing requires substantial capital and more employees, and mining, to which many OPIC projects are devoted, requires substantial capital. Thus, the Small Business Administration has many different definitions for its different programs.

The conference provisions will help the kinds of small businesses that are capable of engaging in foreign investment in the different fields. I repeat, I think that these provisions will do more to help small business get into the act, so to speak, of foreign investment, than the provision of the original House amendment.

Another difference between the Senate and House bills, Mr. Speaker, is that the conferees devoted considerable attention to the House provision precluding OPIC support of copper projects. The Senate had no similar provision and strongly objected to the House provision. The conferees finally agreed to a modified version of the House version precluding support of copper projects that would result in new or expanded projects before 1981, that is, this year or next year or the year after, and would preclude support of any project after that date, after January 1, 1981, if it would cause injury to the U.S. copper industry.

With respect to palm oil, sugar, and citrus, which was of great concern to a number of Members, the conferees accepted the House restriction against any support for such projects which result in exports. The statement of the managers clarifies the point, which is absolutely clear in the House legislative history, that the prohibition applies to projects which would result in exports to the United States.

On the issue of bribery, the conference committee was presented with a House provision requiring OPIC to deny claims on any project with respect to which an OPIC-insured investor had been found guilty of bribing a foreign official, and a similar but—by the time the conferees met—inoperative Senate provision. The Senate requirement that OPIC deny claims in such cases terminated upon enactment of the Foreign Corrupt Practices Act of 1977. That general antibribery legislation was enacted December 19, 1977.

The conferees on behalf of the Senate agreed, however, that it would be unseemly for a Government corporation like OPIC to pay claims in a case where bribery had occurred. They therefore accepted the House provision that claims should be denied provided the bribery were a cause of the loss for which the claims payment was sought.

The conferees agreed also that OPIC should suspend from eligibility for future OPIC coverage any OPIC investor convicted of bribery under the Foreign Corrupt Practices Act of 1977, with the flexibility for exceptions in the national interest and to set specific time periods for such suspensions.

On the matter of the expiration date for the extension of OPIC's authority, the Senate was very firm in insisting on their proposed date of September 30, 1981, and in fact they made this a condition of agreeing to the many concessions which it will be seen they did make to the House position. This represents a 9-month extension beyond the termination date in the House bill.

I might point out that the date of termination set in the House bill was originally set in the International Relations Committee bill reported out 6 months ago. At this much later date, the Senate argument that an expiration date of September 30, 1981, is appropriate is hard to resist.

Mr. Speaker, I hope that the House will see fit to approve the conference report.

Mr. WHALEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 9179, the Overseas Private Investment Corporation Amendments Act of 1978.

This report, as it came out of conference, deals effectively with many of the concerns raised during the course of committee hearings and floor debate.

The most important element of the legislation as it now reads is that small business is given a much greater preferential role in the OPIC program. OPIC will be required to allocate up to 50 percent of its annual net income, after making suitable provision for transfers and reserves, to fund and facilitate the development of projects by small business, cooperatives, and other small U.S. investors. This is a significant undertaking to bring small business into the export and foreign investment business. The applications by small business have in the past been relatively few, which has limited the participation of small business in OPIC programs—not through any intention of OPIC, but simply because no applications were being made on the part of small business.

Another important change in the legislation retained by the conference report is a clear prohibition on OPIC from supporting any project which would result in a significant reduction in U.S. employment.

Finally, to single out one other aspect of the language before us, OPIC will be required to prepare and maintain development impact profiles for each investment it supports. Furthermore, detailed guidelines are spelled out which will insure the provision of data to the Congress to enable us to more clearly evaluate the practical developmental effects of OPIC-assisted projects.

Mr. Speaker, let me point out that the essential provisions of all House floor amendments were retained in the conference version. The Senate, in a striking spirit of compromise, accepted time and again the House position, and on April 6 the full Senate ratified, without opposition, the conference product.

I urge my colleagues to support passage of the conference report on H.R. 9179.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Michigan (Mr. BROOMFIELD), the ranking minority member of the committee.

Mr. BROOMFIELD. Mr. Speaker, I rise in support of the conference report on H.R. 9179, the Overseas Private Investment Corporation Amendments Act of 1978.

OPIC is a self-sustaining quasi-governmental corporation established to complement the development assistance programs of the United States in developing countries. It insures U.S. investment against political risks of expropriation, currency inconvertibility, and losses due to war, revolution and insurrection, and has a limited program of financing private investment projects.

H.R. 9179 in its conference version extends OPIC's operating authority through September 30, 1981, and retains the core of all House amendments. These included the areas of development guidelines, small business preference, U.S. employment goals, restrictions on copper, palm oil, sugar and citrus project involvement, and human rights. It also modifies some basic authorities of the corporation on strictures imposed in 1974 regarding private insurance companies, and it provides that companies convicted of bribery under the Foreign Corrupt Practices Act of 1977 with re-

spect to an OPIC-assisted project lose insurance eligibility and be denied payment of claims.

I believe that OPIC's performance warrants renewal of its operating authority. In the past 3 years OPIC has provided productive capital, managerial and technical expertise, and training in industrial skills to 425 projects in 55 countries, representing $4.6 billion in total investment and important gains in jobs, revenues and foreign exchange for the host country. In turn, OPIC has provided economic benefits to the United States. The estimated 5-year benefits of the projects assisted in the last 3 fiscal years shows net cash flows of $2.3 billion in purchases of machinery and equipment and a net gain of some 37,500 man-years of employment in the United States contrary to the assertion of the AFL-CIO that OPIC exports American jobs. In addition, some of the OPIC-assisted projects have developed new sources of raw materials critical to the United States and world economies.

OPIC is a Federal program which does not require the appropriation of American tax dollars. OPIC charges substantial fees and premiums for its insurance policies as compared to the premiums and fees charged in similar programs by France, Germany, and Japan.

On April 6 the Senate ratified this conference report on H.R. 9179. The OPIC bill is strongly supported by the entire U.S. business community and endorsed by the Republican Policy Committee. Its continued existence is also favored by impartial groups like the League of Women Voters. I call on my colleagues to add their support to extending OPIC's statutory authority in the interest of maintaining U.S. economic presence in friendly developing countries and providing U.S. investors, especially small businesses, and companies lacking significant experience overseas, with an opportunity to expand and complete in the international economy.

Mr. WHALEN. Mr. Speaker, I reserve the balance of my time.

Mr. BINGHAM. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. RYAN).

Mr. RYAN. Mr. Speaker, it is at moments like this that I wish I had the eloquence and the acerbic tongue and wit of Wayne Hays, because I wonder sometimes, with a piece of legislation such as this, if this is not a good example of the reason why the Republican Party is the minority party.

This bill is a bad bill. The administration wants the bill. There is enough bad in this bill to warrant anybody taking it on, and my distinguished colleagues on the Republican side are mute in their criticism of what is in this legislation.

Is there room to be critical? Again I wish I were Wayne Hays. For example, I note that my distinguished colleague the gentleman from Ohio (Mr. WHALEN) refers to the fact that the Senate significantly added in the conference report to the contents of this bill by forbidding reductions in U.S. employment. That is very good, very good. We should have thought of that over here. The only trouble is who is to investigate it or to determine whether or not there is a reduction in employment in the United States? The fact is that the legislation itself causes reductions in employment in this country.

Let me give you a single example:

The gentleman from Arizona (Mr. UDALL), at his insistence, had written into this legislation an amendment, which was adopted, which exempted copper from the provisions of this legislation. The Senate put copper back in for all intents and purposes. The result now is that the gentleman from Arizona (Mr. UDALL), I am told by his staff—because the gentleman is now in the hospital—does not like the bill, and I have the feeling that if that gentleman were here he would be put back in the hospital after reading what is in the bill.

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. RYAN. I will be happy to yield to the gentleman from New York.

Mr. BINGHAM. Mr. Speaker, I discussed this matter with the chairman, the gentleman from Arizona (Mr. UDALL), by telephone this morning. He told me that he really had not had a chance to study the compromise and was not taking a position on the conference report one way or another.

Mr. RYAN. I am aware of that, and I did not say—and if I gave that impression. Of course, the gentleman from New York (Mr. BINGHAM) is right, the gentleman from Arizona (Mr. UDALL) has not seen it. But staff talking to staff indicated that they were unhappy with what has happened to the copper amendment that he put in to protect the copper industry in his country. An industry I might add, which is presently suffering from a worldwide depression in prices. Now we are going to continue more of the copper extraction industry overseas because of the Senate language which severely weakened the amendment that the gentleman from Arizona (Mr. UDALL) put in.

There were 285 Members of the House who voted for the amendment requiring that there be a 50-percent guarantee of this insurance to small businesses. That has been totally ignored in the conference committee and we are now back to where we were. There were some 285 Members, on the only vote taken prior to the conference, prior to the bill coming back for renegotiation, the only vote taken on the bill, and 285 Members voted for the amendment to help the small business community.

There are other matters. The date of the expiration of the legislation of September 1980 has been changed to add 1 more year to 1981, so as to give them that much more time before they have to come back to answer for whatever new devices and new changes they want to make, which are the only reasons to keep it alive.

I know that a conference committee ordinarily is for the purpose of saying, "We have done the best we can for this year. This is just a compromise. Let us vote for it and get it behind us and go ahead with the agenda." Ordinarily I would suggest we adopt that procedure on this legislation, but it has been unfortunate that the House lost so much in the conference committee. To me the position of the House has been shamefully amended, done away with and destroyed.

For those reasons I would suggest that every Member in the chamber vote against the conference committee report. I believe we can do better than we have done so far.

Mr. BINGHAM. Mr. Speaker, may I inquire how much time I have remaining?

The SPEAKER pro tempore. The Chair will state that the gentleman from New York (Mr. BINGHAM) has 17 minutes remaining.

Mr. BINGHAM. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. LONG).

Mr. LONG of Maryland. Mr. Speaker, I thank the gentleman from New York (Mr. BINGHAM) for yielding me this time.

Mr. Speaker, let me say I support fully the remarks made by the gentleman from California (Mr. RYAN). This is a bad bill. The so-called Senate-House compromise, is a sellout; it is a sham.

Certainly so far as the Long of Maryland amendment, which requires that at least half of OPIC's insurance and financing support go to small businesses is concerned. The conference managers have redefined small business. Small business means a firm with up to $2.5 million net worth or $7.5 million total assets.

Small business as defined by the OPIC legislation is any firm smaller than the Fortune 1,000 list of huge corporations. Any firm with $100 million in gross annual sales would be eligible for the OPIC small business program. Is this our idea of small business? Try to sell it to the small businessman in each of your districts.

This bill repeats the same ineffective exhortations to broaden small business particiation which is found in OPIC's 1974 authorization. Give more to small business. How effective has that exhortation been? In 1974, the big corporations on Fortune's list received 49 percent of OPIC's insured investments. So well had small business fared, that by 1976 the Fortune list of giant corporations received not 49 but 68 percent, increasing from less than half to two-thirds. This is how well small business is faring under the exhortation principle, whereas under the Long amendment small business would have at least $375 million of OPIC's insurance and financing support in 1977.

Under the conference report sellout small business could get no more than 50 percent of OPIC's net income, or no more than $24 million, and could get as little as zero. It is similar to protecting workers under a minimum wage. Assume you have said that the minimum wage is $2.50 an hour. Now you are going to make it a maximum. That is exactly what they have done here. They have converted a minimum into a maximum. They have converted a floor into a ceiling, and because the average Congressman is not listening very carefully, they hope they can sell this as a protection to the small business firm. They will keep saying it is unworkable. Many

times I have heard them say on the floor here, that these small business firms cannot operate abroad.

In the first place, over 50 percent of OPIC's projects were for insured investments of less than $1 million, well within the range of transactions for small business. Why the large multinational corporations need protection I do not know. Most of these corporations are as big in assets as the countries in which they are supposed to be trying to operate. It is the small business firm that needs protection against some of the terrors in operating abroad, not the big companies. But small business can make these investments abroad. They do need the protection, and this bill would take it away from them and restrict the protections of the Overseas Private Investment Corporation to big business. It was founded for big business, and that is what they want to keep it for.

Mr. Speaker, I urge that this conference report be voted down.

Mr. BINGHAM. Mr. Speaker, I yield 5 minutes to the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Speaker, when the OPIC bill came up on the floor earlier, there was quite an extensive debate surrounding the addition of an amendment which I had offered concerning human rights. That amendment was adopted on the House side. The Senate side did not in any way address this issue of human rights in its passage of its companion bill in the Senate. Therefore, when it went to conference, the only thing we had in the conference was the human rights amendment that had been adopted by the House. While the chairman of the committee, the gentleman from New York (Mr. BINGHAM), is correct that the human rights amendment is left in the bill in the conference report, I note some changes that have been made to it which raise some questions in my mind.

Basically, there is a proviso added on to the end of the human rights section which adds questionable language. The language speaks about waiving or permitting these OPIC programs to go into effect notwithstanding the provisions of section 116 if the national security interest so requires this project to go ahead. It says that the corporation may support this project regardless of section 116 if the national security interests are required.

What I would like to ask the gentleman from New York (Mr. BINGHAM) is how could a project be deemed to meet the national security requirements if, in fact, the provisions of section 116 apply?

Mr. BINGHAM. Mr. Speaker, will the gentleman yield?

Mr. HARKIN. I am glad to yield to the gentleman from New York.

Mr. BINGHAM. Mr. Speaker, may I point out that in the statement of the managers it is made very clear that the determination with respect to the national security must be made by the President. Beyond that let me say in answer to the question of the gentleman that, honestly, I cannot think of a situation where this kind of exception would need to be made. I do not think OPIC gets into that kind of situation. I have discussed this with the acting president of OPIC. I understand the gentleman in the well has also, and he agrees that this is not a situation that they conceive of arising. So, it was perhaps in an excess of caution that this amendment was added.

Mr. HARKIN. Mr. Speaker, therefore, the gentleman from New York assures me that so far as the gentleman is concerned on this added language, the gentleman cannot envision an instance when the project could go ahead, even though the provisions of section 116 do apply.

Mr. BINGHAM. Mr. Speaker, if the gentleman will yield further, that is correct. Let me say further that, as the chairman of the subcommittee involved in the oversight of OPIC activities, we will make very sure that the OPIC management does not seek to make use of this exception for purposes not envisioned or for purposes not now conceived of.

Mr. HARKIN. Mr. Speaker, I thank the gentleman from New York for those assurances.

It is true that I spoke recently on the phone a few minutes ago with Mr. Poats, the Director of OPIC, who also assured me that, No. 1, he was not, in fact, the author of this added language, that he also could not conceive of any instance when the corporation could use this added language, if, in fact, the provisions of section 116 do apply.

Personally, I would rather that the language were not in there. I think it opens up another loophole which could be used.

I hope that no instance would come up where it could be used to get around the strong provisions of section 116 which would apply here.

As I said, I would rather that the language not have been added; but with the assurances of the gentleman from New York and the executive director, Mr. Poats, I think the human rights amendment is basically intact.

The SPEAKER pro tempore. The time of the gentleman from Iowa has expired.

Mr. BINGHAM. Mr. Speaker, I yield 1 additional minute to the gentleman from Iowa.

Mr. HARKIN. I yield back the balance of my time.

Mr. WHALEN. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Speaker, I rise in support of the conference report concerning the extension and modification of the basic authorities of the overseas private investment corporation.

Mr. Speaker, it seems to me that an institution or agency such as OPIC represents the kind of foreign assistance program which the American people want and deserve. I firmly believe that many of the problem areas in the OPIC mandate have been corrected and that the many benefits which OPIC-financed projects provide to both the United States and the less-developed countries greatly overshadow any of its disadvantages.

OPIC is a self-sustaining enterprise which will not cost the American taxpayer one cent. In addition, OPIC helps create U.S. jobs, enhances U.S. access to strategic and critical materials, and encourages badly needed investment in less-developed countries.

Isn't this the model of what a foreign assistance program is supposed to be? To provide for trade, not aid?

Mr. Speaker, I submit that OPIC provides us with a foreign aid situation where we can have our cake and eat it too. Everyone, business, the poor countries, and the American taxpayer benefit from OPIC's existence.

Mr. Speaker, I urge my colleagues to support this conference report.

● Mr. FINDLEY. Mr. Speaker, I rise in support of the conference report on H.R. 9179 which extends and modifies the basic authorities of the Overeas Private Investment Corporation. And I commend the efforts of Congressmen BINGHAM and WHALEN as floor managers of this bill.

Although I can certainly sympathize with the reservations which some of my colleagues have concerning this bill, I believe that any drawbacks of this program are overshadowed by the many benefits it provides.

For example: OPIC will not cost the American taxpayer one cent. It is a self-sustaining enterprise which is earning a profit. In fact, the net contribution during fiscal years 1974–77 to the U.S. balance of payments resulting from OPIC-assisted investments was $1.3 billion.

There has been some criticism that OPIC operations result in a loss of American jobs. A close look at the situation shows that this is clearly not the case. In fact, it has been estimated that OPIC-assisted projects will, over a 5-year period, create more than 37,500 man-years of employment in the United States.

OPIC has also been very active in assisting projects which help develop additional sources of raw materials critical to the United States and world economic frameworks.

What more do the opponents of this measure want? OPIC is self-sustaining, promotes an increase in U.S. jobs, provides a means for U.S. access to valuable minerals, and aids the less developed countries. Is not this a model of what a foreign assistance program is supposed to be? To provide for trade—not aid. Everyone: business, the poor countries and the American taxpayer—benefits from this operation. I urge my colleagues to support the conference report.●

Mr. BINGHAM. Mr. Speaker, I have no further requests for time.

Mr. WHALEN. Mr. Speaker, I have no further requests for time.

Mr. BINGHAM. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. RYAN. Mr. Speaker, I object to the vote on the ground that a quorum is

not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 216, nays 185, answered "present" 1, not voting 32, as follows:

[Roll No. 212]

YEAS—216

| | | |
|---|---|---|
| Addabbo | Fowler | Neal |
| Akaka | Fraser | Nedzi |
| Alexander | Frenzel | O'Brien |
| Anderson, Ill. | Frey | Ottinger |
| Andrews, N.C. | Gammage | Patten |
| Andrews, N. Dak. | Garcia | Pattison |
| Archer | Giaimo | Pease |
| Armstrong | Gilman | Pepper |
| Ashley | Goldwater | Pickle |
| Aspin | Gore | Poage |
| AuCoin | Gradison | Preyer |
| Badham | Green | Pritchard |
| Baldus | Guyer | Pursell |
| Bellenson | Hagedorn | Quie |
| Bingham | Hall | Quillen |
| Blanchard | Hamilton | Railsback |
| Blouin | Hammer-schmidt | Rangel |
| Boggs | Hanley | Regula |
| Boland | Hannaford | Reuss |
| Bolling | Harris | Roe |
| Bonker | Harsha | Rooney |
| Bowen | Hawkins | Rose |
| Brademas | Heckler | Rosenthal |
| Breckinridge | Hefner | Rousselot |
| Broomfield | Heftel | Ruppe |
| Brown, Mich. | Hightower | Sarasin |
| Brown, Ohio | Horton | Satterfield |
| Broyhill | Hubbard | Sawyer |
| Buchanan | Hughes | Scheuer |
| Burgener | Hyde | Schroeder |
| Burke, Fla. | Ireland | Schulze |
| Burke, Mass. | Jeffords | Sebelius |
| Burleson, Tex. | Jenrette | Simon |
| Butler | Johnson, Calif. | Sisk |
| Carney | Johnson, Colo. | Smith, Iowa |
| Cavanaugh | Jordan | Smith, Nebr. |
| Cederberg | Kastenmeier | Solarz |
| Chisholm | Kindness | Stangeland |
| Clausen, Don H. | Lagomarsino | Stanton |
| Cochran | Le Fante | Steed |
| Collins, Ill. | Leach | Steers |
| Collins, Tex. | Leggett | Steiger |
| Conte | Lehman | Stockman |
| Corman | Livingston | Stratton |
| Coughlin | Long, La. | Thompson |
| Daniel, Dan | Lott | Thone |
| Daniel, R. W. | Lundine | Traxler |
| Danielson | McClory | Treen |
| de la Garza | McCloskey | Tsongas |
| Derrick | McDade | Ullman |
| Dickinson | McEwen | Van Deerlin |
| Dicks | McFall | Vander Jagt |
| Dodd | McHugh | Vanik |
| Dornan | McKinney | Waggonner |
| Downey | Madigan | Walgren |
| Drinan | Maguire | Walsh |
| Duncan, Oreg. | Mahon | Waxman |
| Edgar | Marks | Whalen |
| Edwards, Calif. | Marriott | Whitehurst |
| Erlenborn | Meeds | Whitten |
| Ertel | Metcalfe | Wiggins |
| Evans, Colo. | Meyner | Wilson, Bob |
| Evans, Del. | Michel | Wilson, Tex. |
| Fascell | Milford | Winn |
| Fenwick | Mineta | Wirth |
| Findley | Mitchell, N.Y. | Wolff |
| Fish | Montgomery | Wright |
| Fisher | Moore | Wylie |
| Flynt | Moorhead, Calif. | Yatron |
| Foley | Moorhead, Pa. | Young, Fla. |
| Forsythe | Myers, Gary | Young, Tex. |
| Fountain | Myers, Michael | Zablocki |

NAYS—185

| | | |
|---|---|---|
| Abdnor | Beard, R.I. | Burton, Phillip |
| Allen | Beard, Tenn. | Byron |
| Ambro | Benjamin | Caputo |
| Ammerman | Bennett | Carr |
| Anderson, Calif. | Bevill | Chappell |
| Annunzio | Biaggi | Cleveland |
| Applegate | Bonior | Coleman |
| Bafalis | Breaux | Conyers |
| Barnard | Brinkley | Corcoran |
| Baucus | Brodhead | Cornell |
| Bauman | Brooks | Cornwell |
| | Burlison, Mo. | Cotter |
| Cunningham | Kemp | Pike |
| D'Amours | Ketchum | Pressler |
| Davis | Keys | Price |
| Delaney | Kildee | Quayle |
| Dellums | Kostmayer | Rahall |
| Derwinski | Krebs | Richmond |
| Devine | LaFalce | Rinaldo |
| Dingell | Latta | Risenhoover |
| Duncan, Tenn. | Lederer | Roberts |
| Early | Lent | Robinson |
| Eckhardt | Levitas | Rogers |
| Edwards, Ala. | Lloyd, Calif. | Roncalio |
| Edwards, Okla. | Lloyd, Tenn. | Rostenkowski |
| Eilberg | Long, Md. | Roybal |
| Emery | Lujan | Rudd |
| English | Luken | Russo |
| Evans, Ga. | McCormack | Ryan |
| Evans, Ind. | McDonald | Santini |
| Fary | McKay | Seiberling |
| Fithian | Markey | Sharp |
| Flippo | Marlenee | Shuster |
| Flood | Martin | Sikes |
| Florio | Mathis | Skelton |
| Flowers | Mattox | Skubitz |
| Ford, Tenn. | Mazzoli | Slack |
| Fuqua | Mikulski | Snyder |
| Gaydos | Mikva | Spence |
| Gephardt | Miller, Ohio | St Germain |
| Gibbons | Minish | Staggers |
| Ginn | Mitchell, Md. | Stark |
| Glickman | Moakley | Stokes |
| Gonzalez | Moffett | Studds |
| Goodling | Mollohan | Stump |
| Grassley | Moss | Taylor |
| Hansen | Mottl | Thornton |
| Harkin | Murphy, Ill. | Trible |
| Harrington | Murphy, N.Y. | Tucker |
| Hillis | Murphy, Pa. | Vento |
| Holland | Murtha | Volkmer |
| Hollenbeck | Myers, John | Walker |
| Holt | Natcher | Wampler |
| Holtzman | Nichols | Watkins |
| Huckaby | Nowak | Weaver |
| Ichord | Oakar | Weiss |
| Jacobs | Oberstar | White |
| Jenkins | Obey | Wydler |
| Jones, Okla. | Panetta | Yates |
| Jones, Tenn. | Patterson | Young, Alaska |
| Kasten | Perkins | Young, Mo. |
| Kelly | Pettis | Zeferetti |

ANSWERED "PRESENT"—1

Bedell

NOT VOTING—32

| | | |
|---|---|---|
| Ashbrook | Diggs | Rhodes |
| Brown, Calif. | Ford, Mich. | Rodino |
| Burke, Calif. | Gudger | Runnels |
| Burton, John | Howard | Shipley |
| Carter | Jones, N.C. | Spellman |
| Clawson, Del | Kazen | Symms |
| Clay | Krueger | Teague |
| Cohen | Mann | Udall |
| Conable | Miller, Calif. | Whitley |
| Crane | Nix | Wilson, C. H. |
| Dent | Nolan | |

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Rodino against.

Mr. Jones of North Carolina for, with Mr. Shipley against.

Mr. Whitley for, with Mrs. Spellman against.

Mr. Conable for, with Mr. Crane against.

Mr. Howard for, with Mr. Carter against.

Until further notice:

Mr. Diggs with Mrs. Burke of California.

Mr. Brown of California with Mr. Cohen.

Mr. Clay with Mr. Symms.

Mr. Charles H. Wilson of California with Mr. Ford of Michigan.

Mr. John Burton with Mr. Del Clawson.

Mr. Udall with Mr. Dent.

Mr. Mann with Mr. Nolan.

Mr. Kazen with Mr. Krueger.

Mr. Miller of California with Mr. Nix.

Messrs. STOKES, LLOYD of California and D'AMOURS changed their vote from "yea" to "nay."

Mr. RAILSBACK changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill, H.R. 9179, just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

## PERMISSION FOR COMMITTEE ON INTERNATIONAL RELATIONS TO FILE REPORT ON H.R. 11832, AUTHORIZING APPROPRIATIONS FOR ARMS CONTROL AND DISARMAMENT AGENCY FOR FISCAL YEAR 1979

Mr. ZABLOCKI. Mr Speaker, I ask unanimous consent that the Committee on International Relations may have until midnight tonight to file a report on the bill H.R. 11832, to authorize appropriations for the Arms Control and Disarmanent Agency for fiscal year 1979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

## PERMISSION FOR COMMITTEE ON INTERNATIONAL RELATIONS TO FILE REPORT ON H.R. 11877, AUTHORIZING SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1978 AND APPROPRIATIONS FOR FISCAL YEAR 1979 FOR PEACE CORPS

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on International Relations may have until midnight tonight to file a report on the bill H.R. 11877, authorizing supplemental appropriations for fiscal year 1978 and appropriations for fiscal year 1979 for the Peace Corps.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

## INTRODUCING LEGISLATION FOR WILDERNESS AREA IN COLORADO

(Mr. WIRTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WIRTH. Mr. Speaker, today the gentleman from Colorado, Mr. JIM JOHNSON, and I have introduced legislation for the wilderness area in Colorado. I recommend this legislation to my colleagues.

Mr. Speaker, today I am introducing legislation, along with my colleague from Colorado, Mr. JOHNSON, to protect the unique alpine lands of the Indian Peaks region of my State. In addition, this bill will create a national recreation area on part of the western slope of the Rocky Mountains.

Last fall I introduced a similar bill, H.R. 10068. That legislation granted Indian Peaks wilderness protection and mandated a study to determine the feasibility and desirability of revising the boundaries of Rocky Mountain National Park to include Indian Peaks. Since that time I have worked closely with my colleague, Mr. JOHNSON, on this matter. The bill we are introducing today incorporates all the provisions and lands of H.R. 10068. It also creates the Arapaho National Recreation Area which will border the Indian Peaks wilderness area on the west.

Mr. Speaker, in introducing this legislation I would like to pay tribute to the many, many Colorado citizens who have participated in its development. This is not just my bill. It represents over a year of careful study by superb citizen's group, the Indian Peaks Advisory Committee, and many other Coloradans. Without any motivation other than its concern for Indian Peaks, this group gave freely of its time and energy to study all sides of the issues: How much wilderness? How should it be managed? Which agency should be in charge? How would a wilderness affect the citizens of the adjacent areas? The committee members solicited ideas and criticisms from scores of persons and interested groups. Their work is a perfect example of the benefits of active citizen participation in Government and I am deeply appreciative.

The Arapaho National Recreation Area portion of the legislation is similarly the result of extensive citizen participation by the residents and elected officials of Grand Canyon. Their carefully documented study of the purposes of the NRA is an excellent example of the impact citizens have when they get deeply involved in their Government.

This legislation represents the balance approach needed in our land use policy. There are many desirable uses of Federal land, but they all cannot occur in the same place. Moreover, there are some lands which by their very nature require complete protection so that their unique beauty and the life systems they support will be preserved intact for our children and our children's children.

Mr. Speaker, this bill is a refinement of earlier proposals and will have a negligible impact on persons and organizations who represent uses which ordinarily would be in conflict with wilderness. It will protect unique and fragile regions of arctic peaks and alpine forests as yet unimproved and undamaged by man. At the same time, and contrary to what some persons believe, it will close off only 1 mile of recreational vehicle trail presently open for use. In addition, no significant commercial mining, grazing or timber resources will be affected. I cannot think of another area in our State more deserving of protection where the costs to the rest of society from making the area a wilderness are so low.

The creation of the Arapaho National Recreation Area by this legislation is further proof of this balanced approach. This 31,000 acres lying to the west of Indian Peaks around Lake Granby is at lower altitudes and is far more developed. The water resoures there make it particularly suitable for the emphasis on recreation given it by the bill.

Since I introduced H.R. 10068, it has received broadbased public support. Gov. Richard Lamm of Colorado, the Boulder City Council, numerous citizens' organizations, and hundreds of residents of Colorado have written to me endorsing the legislation.

The proposed Indian Peaks Wilderness Area is a spectacular alpine and arctic world bisected by the Continental Divide. The area is known for its jagged peaks and knife-edged ridges. Many soar over 13,000 feet in elevation, bearing the names of the great Indian tribes of the West—such as the Arapaho, Navajo, Shoshone, and Apache. Over 150 lakes of crystal clarity dot the valley floors. The only active glaciers in Colorado are found in the Indian Peaks area and Rocky Mountain National Park, to the north. These still grind and shape magnificent cirques and headwalls.

Wildlife and vegetation are as varied as the terrain itself. Deer, bear, elk, bobcat and cougar can be found, as well as the endangered greenback trout, a native cutthroat trout species.

For several decades, Coloradans have regarded the Indian Peaks area as a beautiful wilderness with outstanding recreational opportunities. But because Indian Peaks is only 60 miles from one of the largest metropolitan areas in the country, the City of Denver, the area demands prudent management and careful protection in order to preserve its wilderness values.

Wilderness designation for the Indian Peaks area is long overdue. Years ago, my predecessor, Donald Brotzman, successfully sought passage of a bill mandating a wilderness study for the area by the Secretary of Agriculture. This study is just being completed.

Along with wilderness designation, proper management of Indian Peaks and lands surrounding Rocky Mountain National Park has long been a subject of discussion and concern in Colorado. The Indian Peaks area, as well as other lands adjacent to Rocky Mountain National Park, were proposed for inclusion in the Park by its founder, naturalist Enos Mills, and again in 1920 by Park Superintendent Roger Toll.

It was with this historical background, and in consideration of the outstanding qualities of these lands, that I introduced H.R. 8360 in June 19, 1975, providing for inclusion of these lands within Rocky Mountain National Park. My purpose then was to provide a vehicle for discussion of the future of Indian Peaks. In the 2 years that followed, I invited a variety of interested persons and organizations to form a Rocky Mountain National Park Citizen Advisory Committee.

The Indian Peaks Advisory Committee evaluated management options for the lands surrounding Rocky Mountain National Park, and came to me, as have other Colorado citizens, urging both that a 74,850-acre Indian Peaks area be designated as wilderness, and that an opportunity be provided through legislation for the Secretary of the Interior to study the lands surrounding Rocky Mountain National Park in order to evaluate the desirability and feasibility of revising the boundaries of the park. The bill also continues extensive citizen involvement in these decisions by providing funds for local participation in the study.

I would like to clarify why a study by only the Secretary of the Interior is required. The Department of Agriculture's Forest Service is now finalizing a land management plan for the Indian Peaks area as part of its Boulder-Grand Divide planning unit study. The Secretary of the Interior's study provided for in the bill will give the citizens of Colorado an opportunity to compare the proposed management options of both the Secretary of Agriculture and the Secretary of the Interior so they can make a decision as to how this very beautiful and prized area should be managed to protect best its magnificent, yet delicate wild qualities.

In other words, this bill does not prejudge whether the boundaries of Rocky Mountain National Park should be revised. It merely seeks to develop detailed options for future decisions.

The Forest Service's recent effort has not involved an in-depth study of the impact of various land management options on the communities and lands on the periphery of Indian Peaks. That is why it is particularly important to the development of complete options that this portion of the Interior Department study be carefully coordinated with the Forest Service.

The preservation of Indian Peaks is a responsibility which can no longer be left for the future. I urge my colleagues to support this important legislation.

The text of the bill follows:

H.R. 12026

A bill to create the Indian Peaks Wilderness Area and the Arapaho National Recreation Area and to authorize the Secretary of the Interior to study the feasibility of revising the boundaries of the Rocky Mountain National Park

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assmbled,*

SHORT TITLE

SECTION 1. This Act may be cited as the "Indian Peaks Wilderness Area and Arapaho National Recreation Area Act".

FINDINGS AND PURPOSES

SEC. 2. The Congress finds that it is in the national interest—

(1) to include the land within the Arapaho and the Roosevelt National Forests known as the Indian Peaks Area in the National Wilderness Preservation System so as to protect the area's enduring scenic and historic wilderness character and its unique wildlife and to preserve the area's scientific, educational, recreational, and inspirational resources and challenges; and

(2) to create the Arapaho National Recreation Area within the Arapaho and the Roosevelt National Forests and the Colorado Big Thompson Project so as to preserve and protect the natural, scenic, historic, pastoral, and wildlife resources of the area and to enhance the recreational opportunities provided.

INDIAN PEAKS WILDERNESS AREA

SEC. 3. (a) An area of land comprising approximately 74,850 acres located in Boulder and Grand Counties, Colorado, within the Arapaho and the Roosevelt National Forests (as generally depicted as the "Indian Peaks

Wilderness Area" on a map entitled "Indian Peaks Wilderness Area and Arapaho National Recreation Area", dated April 1978) is designated for purposes of the Wilderness Act (16 U.S.C. 1131-1136) as a wilderness area and shall be known as the Indian Peaks Wilderness Area.

(b) The Indian Peaks Wilderness Area shall be administered by the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") pursuant to those provisions of the Wilderness Act which govern areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

ARAPAHO NATIONAL RECREATION AREA

SEC. 4. (a) An area of land comprising approximately 31,767 acres located in Grand County, Colorado, within the Arapaho and the Roosevelt National Forests and the Colorado Big Thompson Project (as generally depicted as the "Arapaho National Recreation Area" on a map entitled "Indian Peaks Wilderness Area and Arapaho National Recreation Area", dated April 1978) is established as the Arapaho National Recreation Area.

(b) The Secretary shall administer the Arapaho National Recreation Area, in accordance with the laws and regulations applicable to the national forests, in such a manner as will best provide for—

(1) public recreation and enjoyment;

(2) the conservation and development of the scenic, natural, historic, and pastoral values of the area;

(3) the management, utilization, and disposal of natural resources such as timber, grazing, and mineral resources so that their utilization will not sustantially impair the purposes for which the recreation area is established; and

(4) the management of water resources to assure the highest quality water, including the control of aquatic vegetation in the reservoirs and the development of needed waste water systems.

(c) The Secretary shall develop an overall management plan for the Arapaho National Recreation Area. This plan shall be developed in consultation with State and local political subdivisions and other interested percal subdivisions and other interested persons.

ACQUISITION OF LANDS FOR THE ARAPAHO NATIONAL RECREATION AREA

SEC. 5. (a) (1) The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, exchange, or bequest, any lands or lesser interests therein, including mineral interests and scenic easements, which the Secretary determines are needed to establish and manage the Arapaho National Recreation Area.

(2) As used in this section, the term "scenic easement" means the right to control the use of land in order to carry out this Act, but shall not preclude the continuation of any use that is compatible with the overall management plan for the Arapaho National Recreation Area developed pursuant to subsection (c) of section 4.

(b) In exercising the authority conferred by this section to acquire lands, the Secretary shall give prompt and careful consideration to any offer made by an individual owning any land, or interest in land, within the Arapaho National Recreation Area. In considering any such offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring the property.

(c) In exercising the authority conferred by this section to acquire property by exchange, the Secretary may accept title to any non-Federal property, or interests therein, located within the Arapaho National Recreation Area the Secretary may convey in exchange therefor any federally owned property within the State of Colorado which is classified by the Secretary as suitable for exchange and which is under the Secretary's administrative jurisdiction. The values of any properties so exchanged shall be approximately equal, or if they are not approximately equal, they shall be equalized by the payment of cash to the grantor or to the Secretary, as the circumstances require. In the exercise of his exchange authority, the Secretary may utilize authorities and procedures available to him in connection with exchanges of national forest lands.

(d) Any land or interest in land owned by the State of Colorado or any of its political subdivisions may be acquired only by donation or exchange.

(e) Notwithstanding any other provision of law, any Federal property located within the Arapaho National Recreation Area shall be transferred without consideration to the administrative jurisdiction of the Secretary for use by the Secretary in carrying out this Act. Lands within the Arapaho National Recreation Area acquired by the Secretary or transferred to the Secretary's administrative jurisdiction shall become part of that recreation area and of the national forest within or adjacent to which they are located.

HUNTING AND FISHING IN THE ARAPAHO NATIONAL RECREATION AREA

SEC. 6. The Secretary shall permit hunting and fishing on lands and waters under the Secretary's jurisdiction within the boundaries of the Arapaho National Recreation Area in accordance with the laws of the United States and the State of Colorado, except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, wildlife management, area general administration, or public use and enjoyment. Except in emergencies, any regulations made by the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department.

PERMITS FOR FACILITIES AND SERVICES IN THE ARAPAHO NATIONAL RECREATION AREA

SEC. 7. The Secretary shall cooperate with other Federal agencies, with State and local public agencies, and with private individuals and organizations in the issuance of permits for facilities and services in the Arapaho National Recreation Area and the development and operation of those facilities and services.

APPLICATION OF STATE WATER LAWS TO THE ARAPAHO NATIONAL RECREATION AREA

SEC. 8. The jurisdiction of the State of Colorado and the United States over waters for facilities and services in the Arapaho National Recreation Area shall be determined by established principles of law. Any taking by the United States under section 5 of this Act of a water right, which is vested under either State or Federal law immediately prior to the enactment of this Act shall, entitle the owner thereof to just compensation. Nothing in this Act shall constitute an express or implied claim of denial on the part of the Federal Government as to exemption from State water laws.

FEASIBILITY STUDY OF REVISING THE BOUNDARIES OF ROCKY MOUNTAIN NATIONAL PARK

SEC. 9. (a) The Secretary of the Interior shall comprehensively study and evaluate the feasibility and desirability of revising the boundaries of Rocky Mountain National Park to include the Indian Peaks Wilderness Area, as established by this Act, and all or part of the additional areas designated as "Park Study Area" on the map entitled "Indian Peaks Wilderness Area and Arapaho National Recreation Area," dated April 1978.

(b) The Secretary of the Interior shall submit to the President and Congress no later than two years after the date of enactment of this Act a report of the findings and recommendations of the study required by this section, together with—

(1) a plan for the administration of the park study area, including the Indian Peaks Wilderness Area, indicating proposed boundaries, access or other roads, visitor facilities, if any, and proposed management options applicable to the area;

(2) an analysis of the impact of the plan described in paragraph (1) of this subsection on the factors listed in subsection (c) of this section;

(3) a statement of the estimated Federal cost for acquisition, development, and operation of the park study area;

(4) a coordinated study plan, developed after consultation with the Forest Service of the Department of Agriculture, regarding compatible management of adjacent Federal lands including assessment of offsite transportation, economic, and social impacts on landowners and local governments; and

(5) proposed legislation for establishment of such revised park boundaries.

(c) The findings and recommendations regarding revision of the boundaries of Rocky Mountain National Park and the plan for administering that area shall be developed after consultations with the Forest Service of the Department of Agriculture, with the affected State and local political subdivisions, and with other interested parties which may be affected and shall take into consideration—

(1) the environmental preservation of the area;

(2) the State and local economies;

(3) the natural, historical, cultural, scenic, and geologic environment;

(4) the management and protection of fish and wildlife habitats and resources;

(5) the management of timber, grazing, mineral and other commercial activities;

(6) the occupancy and development of existing homesites, campsites, commercial and public recreation enterprises, and other privately owned properties;

(7) the environmental impact on counties and local communities; and

(8) the interrelation between recreation areas, wilderness areas, forests, and parklands.

(d) There are authorized to be appropriated $100,000 for the fiscal year ending September 30, 1979, and $100,000 for the fiscal year ending September 30, 1980, to carry out the provisions of this section. The Secretary of the Interior may use up to $10,000 in the fiscal year ending September 30, 1979, and up to $10,000 in the fiscal year ending September 30, 1980, to support local participation in the preparation of the study, report, and plans prepared pursuant to this section.

FILING OF MAPS

SEC. 10. As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and legal description of the Indian Peaks Wilderness Area and the Arapaho National Recreation Area with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives and such description shall have the same force and effect as if included in this Act, except that correction of any clerical or typographical errors in such map and description may be made. Such map and the map entitled "Indian Peaks Wilderness Area and Arapaho National Recreation Area", dated April 1978, shall be on file and made available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

STATE CIVIL AND CRIMINAL JURISDICTION

SEC. 11. Nothing in this Act shall diminish, enlarge, or modify any right of the State of Colorado, or any political subdivision thereof, to exercise civil and criminal jurisdiction

within the Indian Peaks Wilderness Area or the Arapaho National Recreation Area or of rights to tax persons, franchises, or property, including mineral or other interests, in or on lands or waters within those areas.

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. Effective October 1, 1978, there are authorized to be appropriated to carry out all sections of this Act except section 9 $5 million for the acquisition of lands and interests in lands and $5 million for water quality and recreation development.

## THE AMERICAN FARM: ROOTS, VALUES, CHALLENGES

(Mr. EVANS of Colorado asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. EVANS of Colorado. Mr. Speaker, I would like to bring to the attention of the House the following synopsis of a project application filed by the National Farmers Union with the National Endowment for the Humanities concerning rural America.

I commend the Farmers Union for their work in developing this proposal and the Endowment for encouraging it. I think the entire country, both urban and rural, will benefit from this endeavor.

The proposal follows:

THE AMERICAN FARM: ROOTS, VALUES, CHALLENGES

(A Project Synopsis)

The National Endowment for the Humanities funded a planning project sponsored by the National Farmers Union entitled "The American Farm: Roots, Values, Challenges". This led to an application for a long-term project which is now under consideration by the Endowment. Following is a description of that project.

Answers to the unique problems of rural America are ordinarily sought in the context of technology, economics, and/or politics, and the decisions seem to the people affected to be beyond their control, and often contrary to their interests. What is needed is consideration of rural America's problems in humanist terms—in the context of history, human values, and the challenge of the future of mankind. A so-called "humanities community" of deeply concerned academic and non-academic humanists, including historians, philosophers, scholars, writers, and others, has much to offer in this regard.

"The American Farm: Roots, Values, Challenges" will, during its first 15 months, attempt to begin a dialogue between the so-called "humanities community" and the people of rural America. The project will develop study materials that relate the humanities to four aspects of rural life: the land, economics, rural image, and rural people. A joint study of the issues will occur between selected humanists and 23 core couples of the Farmers Union (one couple from each state in which the Farmers Union has organized activities).

The core couples and some of the humanists (most of them, perhaps) will meet for the first time at a Rural America Institute at Southwest State University, Marshall, Minn. in June, 1978. Their contact will continue in four seminars to be held during the 15-month grant period. There will also be a "back home" program for participants during which they will carry out activities of various kinds with the assistance of state Farmers Union staff or leaders, and a representative of the humanities community in each state. These activities will include conducting seminars and discussion groups in the Farmers Union, and might include producing some work such as a history of some aspect of rural life in their community, or developing a community project of some kind.

Besides testing the concept of training core couples in the application of humanistic concerns of rural people so that they might share their knowledge and values with others, the project will test six formats or "packages" by which the humanities might be transmitted to rural audiences.

These are:

(1) The American Farm, a photographic exhibition of the history of American agriculture, will be purchased. It will be displayed at Southwest State University for use in seminars, and will later travel to Farmers Union conventions, rural fairs, and small towns in connection with this project.

(2) Local libraries will be tested as resource centers where material of the project might be located, displayed, and stored.

(3) The use of short video tapes will be tested as a basic program information source.

(4) The identification and eventual compiling of a series of annotated films on the history of the American farm will be tested as a format for transmitting the humanities to rural people.

(5) Filmstrips and slide presentations will be tested in carrying out the purposes of the project.

(6) An interpretive anthology for the four themes (land, economics, rural image, and people) will be developed. This would include guides for teachers or discussion leaders, along with reference material to promote and enhance wide dissemination of humanistic concerns as they relate to rural people and their problems.

Finally, the project will include an extensive and thorough evaluation process. The results will be studied as a basis for the future of the project, and by the National Endowment for the Humanities for developing general guidelines for other projects aimed at non-traditional audiences.

"The American farm: Roots, Values, Challenges" is envisioned as at least a three-year project under the sponsorship of the National Endowment for the Humanities. It is hoped that its effect on the Farmers Union and rural America will be permanent, and that the dialogue and the sharing of values and concerns between rural people and the so-called "humanities community" will continue.●

## NEUTRON BOMB DECISION PLACED IN PROPER PERSPECTIVE

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BADHAM. Mr. Speaker, Mr. George F. Will has focused his attention on the controversy surrounding the so-called neutron bomb in a column printed in this week's Newsweek magazine and the points he raises are well worth the attention of every Member of the House. He places the President's announced "decision" on deployment on enhanced radiation weapons in a proper perspective and examines the content of much of the controversy which has raged in the press and on this floor in the past weeks. I was particularly impressed with his statement:

Imagine the uproar if the tactical nuclear weapons now deployed in NATO were neutron weapons and if NATO proposed replacing them with the dirtier, more indiscriminate weapons that actually are deployed today.

Not too many weeks ago I witnessed a demonstration on the streets of a quiet town in the 40th Congressional District of California by people demanding: "Ban the neutron bomb." I wish each of those people could have read Mr. Will's column because I am sure they, as is the case with many Americans, simply do not know the facts of the matter. I certainly hope that a majority of my colleagues will read it and I include the article at this point in the RECORD:

WHIRL IS KING

(By George M. Will)

Controversy about neutron weapons boiled up last summer, heated by news reports about "killer" warheads that destroy people "rather than," or "while sparing," property. Such reporting reverberated in Congress, where one overwrought senator said a neutron weapon is "dehumanizing" because it "singles out people for destruction, choosing to preserve buildings instead." Soviet propaganda assailed "capitalist weapons" that respect only property. But Congress disregarded such tendentiousness and approved the Administration's request for funds for the weapons.

Like all weapons, neutron artillery shells or warheads are, indeed, "killers." They are not a new species of weapons; these "enhanced radiation" weapons are a subspecies of the nuclear species. They do not "choose" to "preserve" property. They produce all four lethal effects of nuclear explosions; blast, heat, radiation and fallout. But neutron weapons produce only about one-tenth the blast, heat and fallout of regular nuclear weapons, so neutron weapons do little collateral damage to civilians or structures away from battlefields. The radiation is more intense but less widely distributed; it can be confined to a radius of a few hundred yards. And the radiation is short-lived; people can safely enter a blast area the next day.

Deployed in Europe, neutron weapons could partially offset the enormous and expanding Soviet advantage in conventional forces, and especially in tanks. They would be the most effective defense against massed armor. The weapons' value to NATO can be gauged by the frenzy of Soviet propaganda against them. (Of course, the Soviets have many battlefield nuclear weapons of the "dirtier," less precise sort.)

But the history of war is full of ironies, such as the fact that the early fourteenth-century mortars were made possible by metal-casting skills developed for making church bells. Today's irony is that many people complain, in the name of moral sensitivity, that neutron weapons are not indiscriminate enough in dealing destruction. In the modern age, war has become a conflict of populations as well as armies. Since industrial might became the basis of military might, and especially since the development of air power, the theory of war has blurred the distinction between combatants and noncombatants and the practice of war has blended (as historian Michael Howard notes) mass participation and esoteric technology. But neutron weapons are one esoteric technology that diminishes the indiscriminate slaughter of war.

Critics argue that because neutron weapons have few collateral effects, the weapons "invite" use. The logic of this thinking is that weapons should be hideously destructive and dirty so that the nation possessing them will be deterred from using them (except perhaps in the most desperate circumstances). This doctrine of "self-deterrence" is especially dear to those, within the Administration and without, who believe that U.S. power is a threat to world peace.

But if NATO only has tactical nuclear weapons that would devastate the territory

it is designed to protect, NATO will be less attractive to Europeans and less credible to the Soviets. Carter's indefinite postponement of neutron weapons is destabilizing because it strengthens Soviet doubts about U.S. readiness to use existing tactical weapons. The Soviets already knew that the Carter Administration buckles under pressure, and makes unilateral and unreciprocated concessions. Now they have fresh grounds for contempt.

What NATO's members think of the Administration can be imagined (and in some cases is painfully clear). In Europe, as in the U.S., overwrought journalists, skittish politicians and leftist agitators have transformed neutron weapons into a political problem. (Imagine the uproar if the tactical nuclear weapons now deployed in NATO were neutron weapons, and if NATO proposed replacing them with the dirtier, more indiscriminate weapons that actually are deployed today.) In Europe, too, proper leadership is lacking. Officials who want the weapons have flinched from reasoning with their confused constituents.

For many months the Carter Administration shrank from endorsing deployment of neutron weapons. Rather than give forthright leadership to the alliance and to Western publics, the Administration privately urged NATO members, and especially West Germany, to support them. NATO governments, and especially that of West Germany, paid a political price for preparing to do so. When reports of Carter's reversal leaked, West Germany protested, politely. Now, some of Europe's most important leaders barely bother to disguise their disdain.

Carter says the *ultimate* decision about neutron weapons depends, in some unspecified way, on what the Soviets do in future deployments in Europe. But the weapons are needed *now* because of what the Soviets have *done*. At the end of last week's debacle, the Administration's fig leaf was the theory that the unproduced, undeployed weapons can somehow be a "bargaining chip." But that flimsy theory cannot hide the embarrassing truth, which is that the Administration's unilateral and unreciprocated decision against the weapons is just another in a series of similar decisions. The indefinite postponement of weapons designed for a theater in which the Soviet buildup has been especially ominous is a paradigm of Administration policy.

For a decade—approximately the span of the rise and fall of the idea of détente—it has been becoming increasingly difficult for persons so inclined to rationalize the Soviet buildup as something justified by defensive considerations. Today, the buildup of strategic and theater forces, and the concomitant adventurism, are alarming.

So is the Carter Administration. It has canceled the B–1 bomber, slowed other strategic programs (the MX missile, the submarine-launched cruise missile), refused to sustain a Minuteman 3 production capacity, retreated at a gallop from its SALT position of last spring, planned drastic shrinkage of the Navy in the face of rapid Soviet naval growth, announced an intention to withdraw ground forces from Korea and responded to Cuba's aggression in Africa by exchanging diplomatic missions with Havana.

It is unclear how, or why, this Administration devises its policies. Carter is President, but whirl is king. Carter's prevarication, to the blaring accompaniment of Soviet propaganda, has been dangerous. His decision to postpone production of neutron weapons is dangerous as military policy and dangerous as a diplomatic signal. Because Carter has not quite repudiated the weapons, some people may praise him for at least avoiding one mistake. Other people may recall Samuel Johnson's observation: "A horse that can count up to ten is a remarkable horse, not a remarkable mathematician."

## DEATHS OF FOUR COURAGEOUS MEMBERS OF THE SYRACUSE FIRE DEPARTMENT

(Mr. WALSH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALSH. Mr. Speaker, early Sunday morning, April 9, 1978, four courageous members of the Syracuse, N.Y. Fire Department gave their lives while attempting to find and rescue occupants reportedly still inside a burning building.

Each of them was a professional, fully trained, fully experienced, and fully aware of the risks involved in the most hazardous of professions. Yet each of them was young, each had a family, and each had planned the sort of future all of us would wish for our own.

To their colleagues, to their families, and to firefighters everywhere, their loss is something beyond measure. To the citizens of Syracuse, it is the greatest tragedy in nearly 40 years, since February 3, 1939, when nine firefighters perished in another tragic holocaust.

I know the depth of sorrow felt in Syracuse today, for in past tragedies two firefighters who gave their lives were relatives of my family.

As we meet in session here, Syracuse is planning the services tomorrow which will mark the final tribute for the four men who offered the supreme sacrifice—Stanley L. Duda, Frank Porpiglilo, Jr., Michael J. Petragnani, and Robert E. Shuler. I ask for your prayers. May they rest in peace.

We have before us an opportunity to recognize these firefighters, and all those throughout this Nation who have before them given their lives or been disabled in the line of duty. I refer to House Joint Resolution 727, introduced in February by Mr. TEAGUE of Texas, and cosponsored by myself and 148 Members of this body, which would authorize the President to designate the Sunday following Fire Service Recognition Day—always a Saturday in May—as memorial Sunday for firefighters who have been killed or disabled during the previous year.

The measure is strongly supported by the International Association of Fire Fighters, the International Association of Fire Chiefs, by other fire service organizations throughout the country and by religious leaders of all denominations.

You are all aware that a total of 218 members must join in the sponsorship of such resolution before it can be considered by the entire house. I can think of no more fitting tribute than to have us provide the additional sponsorship required to enact this legislation.

## REQUEST FOR NATIONAL ACADEMY OF SCIENCES TO STUDY FEASIBILITY OF ESTABLISHING A SINGLE NATIONAL CANCER ASSESSMENT POLICY FOR EVALUATING CARCINOGENICITY OF SUBSTANCES

(Mr. WAMPLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WAMPLER. Mr. Speaker, today I am introducing a bill amending the Federal Insecticide, Fungicide, and Rodenticide Act by directing the Administrator of the Environmental Protection Agency to request the National Academy of Sciences to study the feasibility of establishing a single national cancer assessment policy for evaluating the carcinogenicity of man-made and naturally occurring substances.

This 14-month National Academy of Sciences study would have one of two possible outcomes. If, on the one hand, it appears possible on the basis of scientific evidence for a standard cancer assessment policy to be constructed for regulatory purposes, then a recommendation as to possible courses of action would emerge. If, on the other hand, it is determined on the basis of the same scientific evidence that the state of the art is still not adequately developed to conclude that a reasonable cancer assessment policy can be constructed, a statement to that effect would be forthcoming.

The study would focus on two fundamental issues—the assessment of chemical carcinogenesis using animal species and extrapolation of the results of animal tests to humans. A full discussion of these issues and the many pertinent underlying issues—such as dose levels, thresholds, comparative metabolism, biological significance, statistical inference, definitions of terms and conflicting human data—is to be included in the National Academy of Sciences report to justify either position taken on the feasibility of implementing a cancer assessment policy at this time.

As I believe I have made clear, the emphasis of my bill is on cancer assessment. I share fully this body's recognition of its collective and individual responsibility of endowing the electorate with an environment free of known carcinogens. Indeed, I applaud the tireless efforts of our distinguished colleague from California (Mr. Moss) under whose leadership Congress has engaged in a war on cancer. Yet I am uneasy that some of the weaponry necessary to wage a successful war may even now be languishing in our scientific arsenal. I refer, of course, to valid and reproducible cancer assessment techniques. It may well be that such weaponry has not been developed.

However, can we afford not to look? Can we afford not to have our best scientists evaluate our present programs? The timely hearings of the gentleman from California has made apparent to the laymen, such as ourselves, the utter complexity of the scientific issues being uncovered; complexities that, unless put into perspective, must inevitably protract endless direct congressional involvement and in the process further heighten public concern. This concern cannot be ignored, even short term.

Mr. Speaker, I am not a cancer expert. As far as I am aware, there are none in Congress. And yet we have enacted legislation authorizing various agencies to regulate carcinogens. Except for food additives we do not say how. We say do

it; presuming, apparently, that the necessary expertise resides in these agencies. Perhaps it does. Perhaps the divergent proposals we observe emanating from the Environmental Protection Agency, Occupational Safety and Health Administration, Consumer Products Safety Commission, National Cancer Institute, and the Food and Drug Administration reflect honest differences of scientific opinion. More likely they reflect differences in administrative policy. Whatever the reasons, we simply do not have hard answers to an issue that is at once grave and complex; that has generated mixed and varied signals from our regulating agencies; and is of escalating concern to the electorate.

What my bill does is to provide for an in-depth evaluation of the current state of the art of chemical carcinogenesis by those most qualified to do so. It raises the question: Is the state of the art—the current aggregate of fundamental knowledge and technological know-how—sufficiently advanced to support the construction of a national cancer assessment policy? If so, why and what are the recommendations? If not, why and what needs to be done to standardize cancer assessment and put the problem in perspective?

Mr. Speaker, a positive response to the questions raised in this legislation would not suggest a cure for cancer nor even a complete understanding of its etiology. The weaponry in the scientific arsenal is evidently not yet that potent. However, its implications in the context of prevention of avoidance of chemical carcinogenesis could be substantial and the attendant benefits enormous, in terms of enhancing public safety, allaying public concern, and orienting the agencies along a common course, to avoid the adverse socioeconomic consequences that their present haphazard activities portend.

Even a negative response would not be without value. First, it would tell us where we are; what remains to be done. Second, it may well provide for more proper orientation of future research efforts; how to get from where we are to where we want to be. Lastly, it could be said that this body had left no stone unturned in an effort to truncate this period of doubt and anxiety in which our constituents find themselves.

## DENIAL OF BASIC HUMAN RIGHTS—EIGHTH ANNIVERSARY OF SLEPAK FAMILY TO EMIGRATE FROM SOVIET UNION

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, today marks the eighth anniversary of the day the Vladimir Slepak family applied to emigrate from the Soviet Union. Unfortunately Vladimir and Maria Slepak will commemorate that anniversary, and 8 years of harassment, in Moscow. They have not been permitted to leave.

For 8 years this family has been subjected to surveillance and interrogation. I saw Vladimir and Maria Slepak in Moscow in 1975. They were bearing up well under incredible pressures. Since that time the Slepaks have been without a decent livelihood. Neither Vladimir or Maria have been able to find employment since 1976.

In October 1977 the Slepak's older son, Alexander, was granted permission to emigrate. On his way to Israel he stopped in the United States to rally international support for his parents. In my Washington office, Alexander told me that his family's plight has worsened. His brother Leonid, has been drafted and has refused induction. Leonid considers himself a citizen of Israel and has been granted Israeli citizenship. He is currently in hiding from the KGB. The Slepak family is slowly being divided and destroyed.

On March 13 I received a letter from Vladimir Slepak which I now share with the whole House. Vladimir Slepak thanks me for my efforts on his behalf. I wish to say at this time that I will continue to do all I can to effect the reunification of the Slepak family. It is criminal that a mere generation after the holocaust we continue to see Jews being denied the most basic of human rights. As a member of the Helsinki Commission I pledge that the U.S. Congress will not forget the Slepak family. We shall continue to implore the Soviet Government to relent in its persecution of this family and to let the Slepaks go.

The Slepak letter is as follows:

Moscow, U.S.S.R.,
*February 12, 1978.*

Hon. JONATHAN B. BINGHAM,
*Congress of the United States, House of Representatives, Washington, D.C.*

DEAR SIR: I was very moved hearing from my son Alexandr about Your efforts in behalf of our family.

I remember our meeting in Moscow, when I was surprised with Your clear understanding of our problems.

Thank You very much for Your noble activity for Human Rights and for free future of our broken family.

With best wishes.

Respectfully,

VLADIMIR SLEPAK.

## HUMPHREY-HAWKINS FULL EMPLOYMENT BILL

The SPEAKER pro tempore (Mr. PANETTA). Under a previous order of the House, the gentleman from Pennsylvania (Mr. MARKS) is recognized for 30 minutes.

Mr. MARKS. Mr. Speaker, some of the most interesting debate thus far in the 95th Congress took place 2 weeks ago when the House considered the Humphrey-Hawkins full employment bill. Among the issues debated when the measure was before us were: inflation targets, distinguishing private sector employment from public sector employment, farm price support goals, a balanced budget, individual and corporate tax reductions, capital formation, and the special problems of youth unemployment.

I would like to take a few minutes to discuss key amendments to the Humphrey-Hawkins bill which involved all of these issues.

As approved by the House Education and Labor Committee, the Humphrey-Hawkins bill, H.R. 50, contained only one set of numerical goals, requiring within 5 years reduction of the unemployment rate to 3 percent of the adult work force—those aged 20 and over—and 4 percent of the overall work force—aged 16 and over. The committee specifically rejected setting numerical goals for other aspects of the economy.

I and several of my colleagues believed that a specific anti-inflation goal belonged in the bill. So an amendment was offered by my friend from Vermont, JIM JEFFORDS, to set a national goal of a reduction in the inflation rate to 3 percent. As Representative JEFFORDS pointed out on the House floor:

> We recognize that inflation is as bad a problem with respect to unemployment as anything else is, and that in order to bring the economy around and help reduce unemployment, we should have a specific goal in the area of inflation as we have a specific goal in the area of unemployment."

I voted for the 3 percent inflation goal amendment, which lost by a vote of 198 to 223. Nevertheless, an amendment was adopted to require the President to include in his annual economic report goals for reasonable price stability and to formulate policies to reduce inflation. While I also supported this amendment, in my opinion, setting a 3 percent inflation goal would have required a more serious commitment to reducing inflation.

A successful amendment which I supported would require the President's economic report to differentiate between employment in the private and permanent public sector and employment in temporary public service programs. This truth-in-reporting amendment helps to insure that the unemployment goals in the bill would not be met entirely through the creation of new public service jobs at the expense of private sector employment.

An amendment also was adopted to set as a goal movement toward 100 percent parity for American farmers. Farm incomes presently are around 65 percent of parity, the lowest rate since the Depression year of 1933. Proponents of the amendment noted that 100 percent of parity is not an attainable goal within 5 years, especially in view of the fact that farm prices reached 106 percent of parity in August 1973. What the amendment really boiled down to was that the administration would have to take into account the farm price situation as part of the overall picture with respect to unemployment and the economic well-being of the Nation.

One of the closest and most controversial votes occurred on the Ashbrook amendment that sought to make balancing the budget a goal and to require the President, in choosing means to achieve the unemployment goal, to first recommend policies and programs designed to achieve a balanced budget. The Ashbrook amendment failed by a vote of 205 to 215. Those who voted against the amendment contended that it would commit us to goals and timetables for reaching a balanced budget without allowing the flexi-

bility to achieve the other goals in the bill at the same time. However, since the administration claims that a balanced budget can and will be achieved by 1981, setting such a goal for 1983 did not seem unreasonable.

Following the defeat of the Ashbrook amendment, the House overwhelmingly—411 to 3—adopted a substitute amendment that declared that one of the purposes of the bill is achievement of a balanced budget consistent with achievement of the bill's unemployment targets. While I was pleased that this amendment sought to emphasize the importance of a balanced budget, it was considerably weaker than the defeated amendment which would have set a balanced budget goal for 1983.

Another important amendment was the Quie-Kemp amendment to set a goal of a permanent reduction in individual Federal income taxes by 10 percent a year for 3 years, accompanied by a 1 percent reduction in corporate taxes annually and an increase in the corporation surtax exemption to $100,000.

This amendment represented an effort by several at my colleagues on the minority side of the aisle and me, to add to the Humphrey-Hawkins bill the goal of implementing the provisions of the Kemp-Roth Tax Reduction Act—a major tax reduction proposal which I have supported since shortly after coming to Congress. The vote on this amendment was remarkably close, 194 to 216. It is interesting that 54 members of the majority joined with us to support this approach.

Those of us who voted for this amendment beleived that the best way to increase employment is to provide increased incentives for private sector saving and investment through tax cuts. Econometric projections indicated that the amendment's tax cuts would create millions of new private sector jobs: 4,000,000 in 1980 and 5,000,000 in 1983.

I was most disappointed that this amendment failed. The steadily increasing tax rates in the economy have reduced the supply of goods and services available. This has caused higher inflation and that has reduced the rate of investment. In 1965, we were taxing 29 percent of our national income. Today we are taxing at around 37 percent. This increasing tax burden has slowed down the rate of productive growth, and that has led to increased import penetration into our market and fewer domestic jobs. One cannot speak of increasing private sector jobs unless the private sector is freed from the tax burdens that prevent it from creating long-term jobs.

I offered my own amendment to the Humphrey-Hawkins bill to emphasize the importance of capital formation in the creation of jobs by mentioning capital formation specifically in the declaration of policy in the bill and by including capital formation in the current and foreseeable trends set out in the economic report of the President.

The Humphrey-Hawkins bill amends the important declaration of policy section of the Employment Act of 1946. The bill will establish priorities in the effort to expand jobs to the full employment level. Appropriately, the first priority is private sector jobs creation.

My amendment, which passed the House, would express this priority in the following manner:

> Expansion of conventional private jobs through improved use of general economic and structural policies, including measures to encourage private sector investment and capital formation.

In my opinion, capital formation truly is job creation. The ability of the country to create jobs and reduce unemployment depends upon its ability to equip workers with the tools of production.

The civilian labor force is expected to rise from 93 million in 1975 to 103 million in 1980. The total investment required to equip these new workers will require large amounts of capital spending. Today it costs more than $30,000 to provide one manufacturing job in American industry, twice what it cost 10 years ago.

According to a Department of Commerce study of December 1975, to create enough jobs to reduce unemployment to 5 percent by 1980—and the Humphrey-Hawkins bill sets a goal of 4 percent by 1983—the United States must devote 12 percent of its real GNP during the period 1975–80 to capital formation. However, between 1965 and 1974, business fixed investment averaged only 10.5 percent of GNP; and during 1975 and 1976, it averaged only 9.3 percent. Moreover, of the seven major industrialized countries, the United States ranks last in investment ratio, last in productivity growth, and the next to the last in output growth. In the Wall Street Journal of November 14, 1977, Irving Kristol summarized this predicament:

> American productive capacity is growing far more slowly than even the disappointing statistics on current capital investment indicate. And it is such slow growth that largely explains our unemployment problem.

Given the importance of private sector investment and capital formation to private sector jobs creation, I felt that they deserved explicit mention in the declaration of policy. The first part of my amendment provided for this. The second part required that the economic report of the President transmitted to Congress include current and foreseeable trends in capital formation.

I was pleased that my amendment was adopted and that it had the support of Chairman HAWKINS.

A substitute to the bill was offered by Congressman AL QUIE. The substitute also set a national goal of 4 percent unemployment, but specifically excluded the use of public service employment to reach the goal. It also included goals of a 3 percent inflation rate, reduction of tax rates, and a balanced Federal budget. To combat the most severe unemployment problem, the substitute would have established a Presidential task force on youth unemployment. The task force was to seek ways to reduce minority youth unemployment to that of nonminority youth, and all youth unemployment to the adult rate.

I felt this approach was better focused than that of the Humphrey-Hawkins measure. I especially favored its emphasis on the private sector. Unfortunately, it was defeated 137 to 276.

After the substitute, for which I voted, was defeated, I then reviewed the Humphrey-Hawkins bill as amended on the floor. The bill before me on final passage was considerably different from the earlier versions of the Humphrey-Hawkins proposal.

The final version did not contain proposals for sweeping national economic planning and massive public employment programs. It did not create any new programs at all, nor did it authorize any expenditures.

Rather, the bill set goals and expressed a national commitment to meet those goals. It would focus the nation's resources on reducing unemployment while controlling inflation.

I think it is important that we, as a nation, set targets for achieving solutions to the problems which continue to confront us. I believe it is vital to set a goal for unemployment and to try to achieve it, I regret that we were unable to set a similar goal for inflation and for a balanced budget when this bill was before the House. I would also like to see us fix targets for tax reductions and for energy independence.

The Humphrey-Hawkins bill on its own will not create any new job. It is my hope, however, that it can serve to stimulate the kind of Federal policies that will provide the incentives and encouragement necessary for the private sector to create lasting jobs for the unemployed. For this reason, I was one of the 257 Members who voted for it.

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## THE NEUTRON BOMB

The SPEAKER pro tempore (Mr. PANETTA). Under a previous order of the House, the gentleman from New York (Mr. WEISS) is recognized for 60 minutes.

GENERAL LEAVE

Mr. WEISS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today on the neutron bomb.

The SPEAKER pro tempore (Mr. PANETTA). Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I am pleased to yield to my colleague, the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, I thank my colleague the gentleman from New York (Mr. WEISS) for yielding to me.

I have asked the gentleman to yield so that I might mention to our colleagues in the House, those of them who may not have seen it, that a national television program took place last night during which our colleague, the gentleman from New York (Mr. WEISS) discussed the neutron bomb. I believe that the gentleman did an exceptionally fine job. I personally want to say that I have great pride in what the gentleman had to say.

Let me just make one comment to my colleagues in order to point out some comparable statistics compiled by the Stockholm Peace Research Institute. This shows that in 1975 only about $25 billion a year was spent for aid for the developing nations compared with approximately $250 billion for military expenditures—that was on the part of all of the nations of the world.

In 1972, the last figures that are available, about $4 billion went into medical research compared to $25 billion for military research.

We cannot reverse those figures overnight, but I believe if we could move gradually toward reducing those figures, we would be living in a world that would be more worthwhile for your children and for my children. The neutron bomb is supposed to give us a little more security, and as far as defense posture is concerned, it would. But, if I am not mistaken, it also would move us in the direction of a world with more and more bombs and more and more weapons. I believe that somehow or other we have to turn this around.

I believe that our colleague the gentleman from New York (Mr. WEISS) is to be commended for leading us in a discussion on a consideration of where we are going in this armaments race. Somehow, without in any way diminishing the security of this Nation and all other nations, we have to build a world of security not built upon weapons but built upon people who have food in their stomachs, who have hope and who have opportunity, and I do not think we are going to do that by developing more and more and bigger and bigger weapons systems.

Again I commend my colleague the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Speaker, the press last Monday contained an article which indicated that the President of the United States may, in fact, have made a decision not to proceed with the ordering of the production of the neutron bomb. That raised a great commotion basically and primarily among people within his own administration, many of them within the military services and some in the diplomatic services. Abiding by the press report, these administration officials seemed to think and imply that the President of the United States had done something which was at least improper, that he did something which was against the better interests of the United States of America and that he did something that was in some way deceitful and that he was vacillating.

I have had occasion to disagree with the President on numerous matters in the course of these past 15 months, both at the foreign policy and the domestic policy level, but I must say that in this instance the critics of the President, both inside the administration and outside the administration, have been unfair to the extent of totally distorting the situation as it exists. The fact is, Mr. Speaker, that last year the Congress of the United States was asked to consider both appropriation and authorization measures, including funding for the neutron bomb and enhanced radiation weapons. The appropriation measures came up first both in the House and in the Senate, and after great debate took place in the Senate, there was an amendment appended to the appropriation measure which in conference was agreed to by the House, and when the measure was finally passed, it contained the following provision:

*Provided further*, That none of the funds appropriated in this act shall be used for production of enhanced radiation weapons until the President certifies to Congress that production of these weapons is in the national interest;

*Provided further, however*, That after such certification is received, production may proceed unless within 45 days Congress by concurrent resolution disapproves such production.

Then it goes on to say the manner in which the debate would take place, how many hours would be provided for it, and so on. That was a matter of law signed by the President on August 7, 1977.

When in September of 1978 the House debated in full the authorization measure, we referred to that provision. It was carried in the papers. It was carried by the media. There is just no excuse for anybody to suggest now that the President, having made a decision previously, is now going back on his word. The fact is that not only did the President not make a decision, he could not make a decision that was binding until, according to the law, he submitted that decision to order production to both Houses of Congress, giving both Houses 45 days within which to adopt a resolution of disapproval.

The President's position on matters affecting nuclear weaponry have been very, very clear from the beginning. His inaugural message very clearly indicated that the prime concern he has in international relations in the course of his term of office is to try to deescalate the nuclear arms race to the extent where there will be no nuclear arms.

It is not only now that the President has deferred his decision to order production of neutron bombs. Initially it was expected that he was going to make his decision in October 1977—at the beginning of the new fiscal year. Without having announced it as such, he in fact deferred that decision. Whether he had come to a final or to a tentative decision to cancel, it is absolutely clear that the President was struggling toward his decision. He had not made a decision which he had broken. It seems to me that all those who are suggesting that in some way the President has done something wrong or improper, or vacillated—simply, I think, out of their own arrogance, having abrogated to themselves the decisionmaking process, having rushed back and forth trying to encourage the NATO governments to ask for deployment, the President having decided it the other way these people now are trying to cast such blame on the President when, in fact, the blame, if there is any, is theirs for proceeding without authorization from the President.

Mr. Speaker, I am pleased to yield now to the distinguished gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. I would like to congratulate my colleague, the gentleman from New York (Mr. WEISS) for taking this special order in opposition to the neutron warhead. I, too, was very distressed at the way the media treated the President's decision to defer making a decision with respect to production and deployment of the neutron bomb, but perhaps most distressed at I suspect what is indicated as a prior position in Congress in opposition to his decision, we ignoring the efforts of the gentleman from New York and many of the rest of us who supported his decision to not only defer production but eliminate production of neutron weaponry or enhanced radiation weaponry.

Perhaps I was most distressed at the aspect of it which indicated there was a tremendous outcry from Congress in opposition to his decision, completely ignoring the efforts of the gentleman from New York (Mr. WEISS) and many of the rest of us to support the decision to not only defer production, but to eliminate production of neutron weaponry or enhanced radiation weaponry. I believe, and the gentleman can confirm my recollection, that the gentleman was the leader in the circulation of a letter in which some 60 of our colleagues joined in urging the President to cancel the production of the neutron bomb altogether; is that correct?

Mr. WEISS. The gentleman is absolutely correct. I should say that we got that number of 62 within less than 24 hours.

Mr. OTTINGER. Mr. Speaker, if the gentleman will yield further, it seems to me that the press was quite remiss in not recognizing that in addition to those who support the neutron weapon, there is very substantial support in the House of Representatives and I am sure in the Senate as well for a decision to not proceed with the neutron bomb.

I think there are two very serious objections to deploying the neutron bomb.

I will later ask unanimous consent to revise and extend and put them in the RECORD in full; but two of them are that, first of all, it undermines the credibility of the President's efforts to get other nations to join us in controlling proliferation of nuclear weapons. That is, I think, one of the best initiatives that the President has embarked upon and most likely to enhance the security of the United States.

Second, a decision to deploy enhanced radiation weaponry or any other so-called tactical neutron weapon breaks down the barrier between nuclear and conventional weapons and makes it much more likely that nuclear weapons will be used. I cannot conceive, particularly in the European theater, where we would use a nuclear weapon and not expect escalation to full nuclear warfare. Indeed, I do not think the weapons would ever be used, knowing that the Russians would greet us with a response to our neutron weaponry, that our generals would realize they could not use them anyway and all this money would be wasted.

It is a sad concept, a dangerous one. I think it is an exceedingly important

topic. I appreciate the initiative shown by the gentleman from New York.

Mr. Speaker, worst of all, though, deployment of neutron bombs would seriously erode the barrier between nuclear and conventional weapons making it much more likely that nuclear weapons would be used in a crisis. This makes much more likely the destruction of modern civilization through major nuclear weapons exchanges.

It is impossible for me to imagine a scenario in which use of neutron bombs would not lead to a major nuclear exchange. These weapons are said to be designed as a deterrent against Russian attack in Europe. If the Russians did attack and we started to prevail against the attack with neutron bombs, surely Russia would make a nuclear reply, starting the Armageddon of escalating nuclear weapons use.

Indeed, in the European theater, knowing as we do of the Russian nuclear capability, it is hard to imagine that we would take the risk of using neutron bombs at all, risking a Russian nuclear response. The chances are overwhelming that we would resort in the first instance to strategic nuclear weapons, the real deterrent to a Russian attack. Thus, the huge investment in neutron bombs would be a total waste if not used, and an unacceptable danger if they are used. The sooner neutron bombs are rejected the better.

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Speaker, I thank the gentleman for yielding. I want to compliment the gentleman for his courage and his wisdom in asking for his special order.

Let me indicate to the gentleman that I am coming at this from a slightly different angle. I read with mounting horror the analysis in one of our journals of the impact of the neutron bomb. It indicated that inside a 1,000-foot radius victims are disabled immediately and will die within 2 days.

Inside a 2,000-foot radius victims are disabled in minutes and will die within 6 days.

Inside a 4,000-foot radius of the explosion of a neutron bomb people are disabled and will die within several weeks.

I thought to myself, my God, let me just say that I think the intelligence of human beings derives from some sort of divine source and if we believe that source might be God, it is hard for me to conceive that God would want the intelligence of man used in a fashion to build such a horrible, horrible weapon of death and destruction.

I am very grateful that the President has deferred action on the neutron bomb. I would hope that we would take the other course instead and cancel the neutron bomb altogether.

It defies the imagination to think that we as civilized human beings have reached a point where our intelligent planning is directed in terms of this kind of awesome weapon of death.

Mr. Speaker, let me say that we are grateful to our colleague, the gentleman from New York (Mr. WEISS), and we thank him for his leadership.

Mr. WEISS. Mr. Speaker, I appreciate the gentleman's kind remarks, and I thank him for his contribution.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I am pleased to yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I want to commend the gentleman from New York (Mr. WEISS) for his leadership on this very important issue and for the kind of enlightened debate that he inspired when we debated it last year. In fact, the chairman of the subcommittee who was managing the bill in which this issue was involved wrote me a note later—and perhaps he wrote it to other Members—saying that it was just about the finest debate he had ever heard on the floor of the House of Representatives on a particular subject.

I think the President has wisely decided to use this issue to try to get the Soviet Union to make corresponding adjustments of policies on its own side. However, let me say that everything that has happened, including the events immediately prior to the President's most recent decision, bore out the main point I made in our debate last fall. That point was that, in addition to the danger that this weapon would make nuclear war more probable and the likelihood that it would accelerate nuclear proliferation by smaller powers, a decision to make the weapon would be a political disaster. I said that it would be a political disaster because it would portray the United States as the initiator of another major step in the never-ending spiral of technological escalation of monstrous, inhumane, antipeople weapons. I think everything that has happened since then has demonstrated the fact that it was political disaster. Even seriously considering production of this weapon was a political disaster.

If the President should feel compelled at some future time to proceed with production of the neutron weapon, I would be very fearful that it would undo the positive image that he created when he announced last year that his goal was the eventual elimination of all nuclear weapons from this Earth. That statement evoked a wonderful response in the people of this country and all over the world. It should not be thrown away for some dubious military advantage which, when inevitably countered by the other side, will have left us even less secure. Let us hope that President Carter can use this as another "bargaining chip" to end the technological weapons development race. That will contribute far more to our security in the long run.

Mr. WEISS. Mr. Speaker, I thank the gentleman for his comments.

Mr. WEAVER. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I am pleased to yield to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, I thank the gentleman for yielding.

Many of my constituents have asked me to speak out against the neutron bomb, and I do so willingly from the bottom of my heart.

My constituents have also asked me to commend the gentleman from New York (Mr. WEISS) for his great leadership in the House, and I want to thank him for carrying on his fight against this inhumane weapon.

If anyone thinks that Russian tanks will move across Europe and we will not be in a nuclear war, he has been misled, because, from the nature of our species, that would bring us one step closer to nuclear war. I believe also that the neutron bomb would bring us closer to a nuclear holocaust.

Mr. Speaker, this weapon should be forbidden and certainly not produced by this country.

Mr. WEISS. Mr. Speaker, I thank the gentleman for his remarks.

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. I thank the gentleman for yielding.

I wish to echo the commendations for my colleague, the gentleman from New York (Mr. WEISS), for his leadership on this very important issue.

I think this special order is urgent and important, because the press has failed to report to the country the sentiment of many Members of Congress who very much oppose the neutron bomb and its deployment. I have seen headline after headline claiming that Congress is opposed to the President's decision. Such statements ignore the views of over 100 Members of Congress who supported the gentleman's amendment when it was proposed in September, including the views of the Members here today and many of those who are not here today who support the President's decision not to go forward with the production of the neutron bomb.

I regret that there has been such serious misrepresentations of the point of view of many Members of this body.

I would also say that I continue to hope that the President will go further and renounce the use of the neutron bomb entirely.

I also wish that the Russians would not have responded to the President's decision with the kind of grunts and harsh words they have used. It is very disappointing that the Russians have insisted that they will not in any way diminish their military efforts.

I think the people of the world have a right not to see life jeopardized by nuclear holocaust, and that means not only Russian life and American life but all life on this earth. The neutron bomb and the deployment of countless unnecessary nuclear weapons will simply take us further down the road to such a holocaust.

I have been advised that the United States has approximately 30,000 nuclear weapons, 30,000 atomic warheads. How many more do we need? If our country is not protected by 30,000 nuclear war-

heads, will it be protected by 30 million nuclear warheads? I think the answer is clear. I think we had better rethink our commitment to producing additional nuclear weapons.

The neutron bomb is designed to fight tanks. If we cannot fight tanks with anything other than nuclear bombs and neutron bombs, then that raises great questions about our military capacity.

The neutron bomb is called a clean bomb. If we are going to be as casual as we are about radiation and its effects as the use of the neutron bomb would imply, then that is very sad. For example, Army magazine made the statement in support of the neutron bomb that dosages of less than 200 or 300 rads have a minimal effect on human beings. This is untrue. A number of employees of the United States who were exposed to only 10 rads of radiation which escaped from an underground explosion developed leukemia, and most Americans are cautioned by Government standards to be exposed to not more than 5 rads a year. The neutron bomb will have harmful effects on our own armed forces and on the European populations.

I think the neutron bomb portends disaster. I compliment and commend the President for his decision not to produce it.

Mr. WEISS. Mr. Speaker, I thank the gentlewoman for her very learned and eloquent statement.

Mr. MOFFETT. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Speaker, I thank the gentleman for yielding.

I congratulate the gentleman for his leadership on this issue.

I think that the response to the very fine debate we had on this issue earlier was overwhelming. I think it led people both inside and outside the House to think more seriously about the senseless, mad atmosphere that surrounds not only the arms race, but our treatment of it within the House.

What the antineutron sentiment means, is that there is a larger sentiment which would have us look at the overall issue of arms in a much more sensible, compassionate, future-oriented way.

How do we address the arms issue now? We address it in the midst of hysteria, in a kind of "the Russians are coming" atmosphere.

Mr. Speaker, as long as defense debates are conducted on this floor with the drums rolling and with threats that the Russians are about to land on Staten Island, with Maginot Line thinking, we will lose the possibility of changing the atmosphere and perhaps heading off a fatal confrontation in the future.

Mr. Speaker, I think that the gentleman from New York (Mr. WEISS) has exerted and exercised real leadership on this issue. I have been proud to join with him in that effort.

We can no longer take the genuine fears of the public about the future and "demogoguery" on those fears by suggesting that we have to build every new devastating weapon that comes along. The gentleman has sought to draw the line on this weapon, a weapon which simply does not make sense from a strategic or moral point of view. I commend him for that and am pleased to have taken part in this discussion with him.

Mr. WEISS. Mr. Speaker, I thank the gentleman for his very fine remarks and for his continued leadership and participation in these efforts.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Speaker, I thank my colleague for yielding.

I join with several of my other colleagues in commending the gentleman from New York (Mr. WEISS) for taking this particular special order on this important issue; and I would also like to reiterate our praise for the gentleman's having raised this issue several weeks ago on the floor of Congress.

At this particular moment, Mr. Speaker, I do not wish to attempt to reiterate the significant number of issues which I thought all of us raised with passion and reason on the floor of Congress in the debate which was described by several of our colleagues as the most sophisticated debate in the modern history of the U.S. Congress. Nonetheless, I still believe that while passion and reason was on our side—unfortunately, not reflected in the vote—we carried the day if one analyzes and evaluates carefully the range of argument that we presented against the madness of this particular weapons system.

Mr. Speaker, I have prepared for this moment a very brief statement. If the gentleman will yield further, I would like to read this statement into the RECORD.

Last January President Carter stated in his inaugural address, "It is my pledge to bring about an end to all nuclear weapons on the face of the Earth." I urge the President to keep that promise and stop production of the neutron bomb. It is time to look beyond the short term military use of the weapon and take a step toward the goal of peace and nuclear disarmament.

It is critically important that those of us who care about human life on the face of this Earth continue to maintain the mind set that nuclear war is unthinkable. But this is not what the neutron bomb does, because if we go forward with this insanity, we make nuclear war thinkable, acceptable and possible, and, I would submit, ultimately inevitable.

Let us be clear on what the weapon really does. The radioactive byproducts remain close to where the bomb was dropped, and are not spread over a wide area, so there is no fallout. However, the neutrons go just as far as in the ordinary A and H bombs so that people found within 1,400 feet of the bomb center receive terrible and usually lethal injuries. It does not kill instantly except at the place of impact but causes people to die a slow, lingering, often terribly painful death after weeks, months, and even years, depending on how close they are to the place where the bomb was dropped. It kills through radiation, thereby destroying life but leaving property untouched.

I might add parenthetically that I call it "the great capitalist bomb" on that particular point alone. While this is called a clean bomb, by its supporters, and therefore more acceptable, that is exactly why it is more dangerous and threatening. By being cleaner it is more likely to be used. For those of us who never want to see a nuclear bomb used again, it is extremely frightening.

My logic is very simple. If both the United States and the Soviet Union have big, dirty bombs, why do they build the small, clean bomb? It obviously means that it is the point that makes nuclear war thinkable. The way to survive is to never allow the concept of nuclear war to become thinkable at all. I believe that once we have started down the road toward nuclear war, it will result in global strategic nuclear war. I believe it is important to realize that the NATO countries were having a hard time convincing their people that the positioning of the neutron bomb on their territory was not a danger to them. I would ask every American how they would feel if these weapons were positioned in their city for possible use.

It is also interesting to note that some military analysts find it less effective than the weapons we have now because strategically the enemy could easily position its defenses in such a way that it would take many neutron bombs to destroy their forces.

With all the feelings that I have, from no idealogical perspective, but simply the desire to see human life survive and sustain itself on the face of the Earth, I urge my colleagues to support a decision against production and deployment of this weapon.

Mr. Speaker, I commend my distinguished colleague from New York. I realize that there are very many frustrated Members in this House with this reasoning. The philosophical values rest on our side, but the votes are on the other side. But, I would join my colleague in fighting to my last breath the continuing evolution of nuclear arms that ultimately, in my estimation, will mark the end of life on this earth. I believe a society that is not committed to its young is a society destined to die. Tomorrow belongs to our young people. It seems to me that we have a profound obligation to see to it that our children have a tomorrow that will allow them to assume their destination. We here today have a profound obligation to fight against all of those weapons that endanger our children's tomorrow, such as nuclear war, nuclear holocaust, the neutron bomb. These are factors that contribute to endangering our children's tomorrow.

I join my colleague in making sure that our Nation and the world shall be for our children, and seeing to it that we guarantee that they have a tomorrow.

Mr. WEISS. I thank the gentleman for his very articulate, logical, and profound statement. I had occasion to have brought to my attention a statement which appeared in the CONGRESSIONAL RECORD, a statement made by a Member of the other body, the Senate.

I would like to read a paragraph of it before I identify the Senator:

> Certain of the objections to the neutron bomb spring from the understandable desire to prevent the escalation of a limited military confrontation into allout thermonuclear warfare. The dominant philosophy in the administration at the moment, as I have pointed out, is that the only sure way to prevent such escalation would be to endeavor to contain the enemy with beefed-up conventional forces. According to this viewpoint, the use of even small tactical nuclear weapons on the battlefield would rapidly lead to a generalized use of nuclear weapons of all magnitudes, and we would have the war of total devastation that all of us desire to avoid. Despite its strikingly different properties, the neutron bomb is lumped together with existing tactical nuclear weapons whose use, so it is argued, would give the enemy license to expand the conflict into a war of mutual destruction.

That is the end of the quotation in the CONGRESSIONAL RECORD. That statement was not made in relation of President Carter's recently announced decision. It was made on March 7, 1963, by the late Senator Thomas Dodd when he was arguing against the then moratorium on testing of nuclear weapons, and he referred in that article to an earlier statement that he had made in 1960, again arguing for the development of the neutron bomb.

The concept of the neutron bomb goes back at least that far, and from Presidents starting with Eisenhower and through Kennedy and now through President Carter there has been an unwillingness to commit nuclear weapons to the use of field positions by field commanders.

Indeed, at one time apparently there was a piece of weaponry called the Davey Crockett, which was supposed to be used by the infantry. It was a sort of bazooka kind of nuclear weapon. It was a launcher for nuclear warheads by a soldier on the battlefield. After great deliberation that idea was discontinued.

The fact is that the conclusion, in spite of statements such as the one I have just read, in spite of the advice of some of the military and NATO advisers to the President, in the past the conclusion has been continually that the threshold for nuclear war would in fact be lowered if we put nuclear weapons, neutron bombs or any other kind, in the likely use of field commanders.

So the President of the United States is really following that tradition of demonstrating more caution because, as he has said and as referred to here and as the Secretary of Defense Mr. Brown has said, the overwhelming likelihood is that, once used, any nuclear weapons, neutron bomb or anything else, what would follow inevitably, as the gentleman from California has stated, is allout, full-scale nuclear war, nuclear holocaust.

We have, many of us, some direct personal recollection of the time when the first atomic bomb was dropped. We recall—I do—the horror of the world upon the dropping of the bombs upon Hiroshima and Nagasaki and the almost pledge taken by humanity that this kind of weaponry was really beyond the bounds for use and that over the years it was accepted by everyone that atomic and nuclear weapons would be used only as weapons of last resort.

To slide casually into a position where, if we listen to some of the President's critics, the neutron bombs and nuclear weapons are equated with hand grenades as almost normal conventional antitank weapons is in fact to become so calloused and cavalier as to accept the end of civilization as we know it. The fight that we are engaged in in supporting the President is really for the survival of the human race. I think all of those who participated in today's debate deserve commendation, and I want to give commendation to all my colleagues who participated in this discussion, in this special order today, because I think all of us have fulfilled a very important role in bringing again national attention to what some of the real issues and the concerns are in trying to stop production and promotion of nuclear bombs.

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I am happy to yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Speaker, the gentleman from New York (Mr. WEISS) has made a very fine point which I agree with entirely. I also think that one of the reasons that there has been such grave concern in Europe about the deployment of the neutron bomb is because it is perceived as lowering the threshold of nuclear war. And, of course, where will that war take place? On the battlefields of Europe.

The gentleman from California (Mr. EDWARDS) also made an extremely important point when he discussed press reports claiming that the NATO allies were concerned by the President's decision. But, I have yet to see a press report that showed how the people of the NATO countries reacted. In fact, there were not even reports on how all the governments were reacting to the development and the deployment of the neutron bomb, and the President's decision not to go forward with it.

My own suspicion is that most of the people in western Europe would be opposed to the deployment of the neutron bomb. But I have not seen any of our press devote any attention to this. All they do is write misleading headlines that suggest that the NATO allies are distressed just as they said that Congress was opposed to the President's decision. I think that this kind of reporting is irresponsible.

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from California.

Mr. EDWARDS of California. I thank the gentleman for yielding.

Mr. Speaker, I join my colleagues in appreciation for the gentleman's leadership on this very important issue. Mr. Speaker, I also want to applaud the President's decision to postpone production of the neutron bomb. At the same time the President is planning to modernize existing weaponry so that it could be adapted to enhance technology in the future. In doing so, President Carter is keeping all options open for negotiating realistic arms reduction with the Soviet Union.

However, to properly evaluate the President's decision we must continually focus on what role this weapon would play in the world arsenal. One of the major arguments advanced in favor of the production of the neutron bomb is that it will serve as a deterrent to a major Soviet invasion of Western Europe. However, this theory has credence only if the Soviets believe that the weapon would actually be used in the case of an invasion. The deterrence effect is weakened by President Carter's statement that the use of the neutron bomb would be viewed in the same way as deployment of any other nuclear weapon—that is, with extreme reluctance so as not to lower the nuclear threshold. If this is true and is accepted by the Soviets, the presence of the neutron bomb poses no additional deterrent.

I fear, however, that a far more likely scenario is one where those with the power to deploy this weapon will be prepared to use it in the face of an advancing invasion force which cannot be stopped by conventional means. In such a case, if the neutron bomb is available, it is likely to be used; and from that point on, the lines will have crossed over, the threshold will have been passed, and we will have uncontrollable nuclear warfare. There is no question in my mind that the availability of the neutron bomb will lower the nuclear threshold. In light of the dangers which are inherent in the use of the bomb, it was wise for President Carter to take a cautious approach regarding any decision to begin production.

In addition, Mr. Speaker, I do not think that the press accurately reflected the position of our NATO allies when the announcement was made by President Carter.

The Governments of Denmark and Norway are also NATO members, and they have reiterated their opposition to the siting of nuclear weapons on their territory. Further, a significant protest movement has already developed in Belgium.

In Britain, there has been no official government position. Prime Minister Callaghan has made supportive remarks, but those are unofficial remarks. The Government has taken no position.

The Germans have taken no position favoring production of the neutron bomb. Prior to President Carter's decision, the German Prime Minister said:

> The United States alone must decide on the production of such weapons.

The Germans would want to see agreement one way or the other by several other NATO nations before production would be started, so when the press says that the President's decision caused great distress to our NATO allies, I do not really think that that can be supported.

Mr. WEISS. Mr. Speaker, I thank the gentleman for his very fine remarks.

Mr. Speaker, as a matter of fact, in addition to the countries and populations whom the gentleman from California (Mr. EDWARDS) so very validly and accurately has cited, I would point out that in Holland the Dutch Parliament took an official position opposing authorization for deployment of the

neutron bomb in Western Europe. The fact is that not only have the people of those countries been opposed publicly—and I repeat, publicly—not a single national member of NATO has come forward and said, "Deploy it now." Not a single one.

And so now, after the fact, after the President has said—"Since you don't want it, and we are supporting those countries that we are supposed to be protecting, I am going to defend my decision on it"—now people within the administration are rushing forward and saying these countries were ready to agree to neutron bomb deployment, and it just happens not to be borne out by any evidence at all.

Further, George Kistiakowsky, who was a Presidential science adviser to President Eisenhower, President Kennedy, and President Johnson, has allowed us to use a manuscript which is going to be printed in the MIT Technological Review as of June 1. He points out that:

> Among the political-strategic think-tanks of German academia only one, which includes a retired General Kielmansegg endorsed the deployment of enhanced radiation weapons. The others, including such distinguished scholars as Weizsaeker, have opposed it on numerous occasions. Noteworthy is that several senior retired German military, including such high rank generals as Baudissin, Steinhoff and Heusinger are against the deployment of enhanced radiation weapons because they oppose the battlefield use of nuclear weapons, as leading to unacceptable collateral damage in Germany.

So, even in the country where there is supposed to be the greatest support for it, and the greatest public support for it, the facts seem to be to the contrary of those who, from inside the administration and from outside, are being critical of the President.

I think that we are going to have to continue our efforts to persuade the people who report on our activities hopefully to report more fully some of the activities that take place here and elsewhere on such momentous issues.

● Mr. DRINAN. Mr. Speaker, I am pleased to join today with my colleagues in commending President Carter for his decision not to go forward with the deployment of the enhanced radiation warhead—popularly known as the neutron bomb. This commendation, however, must be accompanied by serious reservations about the President's decision to proceed with the adaptation of launchers for use of the neutron bomb and to consider the deployment of the warheads as a bargaining chip in arms negotiations with the Soviets.

No weapon which significantly blurs the distinction between nuclear and conventional weapons (thereby making all-out nuclear war more likely) while adding little or nothing to our national security can be treated so lightly as to make its deployment contingent upon our perceptions of Soviet restraint.

Unfortunately, both the United States and the U.S.S.R. continually develop new and more dangerous conventional and nuclear weapons. At what point will the President perceive a degree of lack of restraint which will justify, by some logic as yet undefined, the introduction of the enhanced radiation warhead in the European theater or elsewhere? What criteria will he use? What effects of the neutron bomb will he consider? In spite of the President's wise and courageous decision not to deploy the neutron bomb now, these fundamental and troublesome questions remain unanswered.

The paramount danger presented by the neutron bomb is its capacity to lower significantly the nuclear threshold. The Pentagon tells us that the neutron bomb will deter all-out nuclear war because it is "small" and "clean" enough to use in response to a conventional Soviet attack. Knowing this, the argument runs, the Soviets will be less likely to attack than they would in a situation in which we could use only larger, dirtier, nuclear weapons—which we are less inclined to use for fear of escalation to all-out nuclear war. Thus, the Soviets would no longer entertain the notion that they could launch a massive conventional attack relatively secure in the knowledge that U.S. reluctance to cross the nuclear threshold would inhibit any nuclear response.

This argument is fallacious in several respects. Official Soviet military doctrine has never accepted any distinction between tactical and nuclear weapons—a position which is not so unreasonable when one considers that many of our tactical nuclear weapons are larger than the bombs which destroyed Hiroshima and Nagasaki. While we may unilaterally refuse to consider the enhanced radiation warhead a tiny nuclear weapon, there is little reason to expect the Soviets to do so—especially if the weapon is as effective as its proponents argue. At the very least, it would seem that use of the neutron bomb would invite a nuclear response of some kind by the Soviet Union—and then the almost inevitable escalation to strategic nuclear weapons and holocaust begins.

Another means by which the neutron bomb would lower the nuclear threshold is its perception by the military as a "clean" weapon; that is, one which causes little collateral damage. This perception invites the crossing of the boundary between conventional and nuclear weapons still further, and any blurring of this distinction brings closer the possibility of strategic nuclear war.

In fact, there is considerable debate as to just how little collateral damage the enhanced radiation warhead would cause. We are all familiar with the Pentagon's assurances during the Vietnam war that "surgical air strikes" would cause "minimal" civilian casualties. As it turned out, these casualties proved anything but minimal. While we may be able to draw a bit of comfort from the fact that buildings and crops would remain undamaged by the effects of the neutron bomb, the fact is that unless nearby friendly troops and civilians are in basements or bunkers beneath 3 feet of dirt, they would not be safe and, in fact, would likely suffer the ravages of slow death by radiation poisoning.

The lingering death, usually over a period of weeks, caused by less than immediate exposure to the effects of the enhanced radiation emitted by the neutron bomb, could conceivably violate the 1925 Geneva Protocol on the Conduct of War, according to Sir Rudolph Peierls, professor emeritus. Oxford University, and professor of physics, University of Washington. Professor Peierls, an expert on this subject cites the prohibition against the use of "asphyxiating, poisonous, or other gases, and of *all analogous liquids, materials, or devices*" (emphasis added).

The past pattern of the nuclear arms race is clear. Major technological advances by the United States are soon duplicated by the Soviet Union. From submarines capable of firing nuclear missiles to multiple, independently targeted re-entry vehicles (MIRV's), the pattern has continued. The deployment of the neutron bomb would almost surely prompt similar efforts by the Soviet Union, thus reducing the presumed deterrent value of the weapon to virtually nothing and blurring still further the distinction between conventional and nuclear weapons.

At a time when we are attempting to make this essential distinction even more clear and to reduce the pace of the arms race via the SALT negotiations, deployment of the neutron bomb is counterproductive in the extreme. The President is to be commended for his refusal to take this unwise step. At the same time, those of us in Congress and throughout the United States who oppose the introduction of this destabilizing weapon must make our opposition known lest the President proceed with his option to deploy enhanced radiation weapons. To do so would be to take a major backward step in efforts to put a cap on the arms race and prevent nuclear war.●

● Mr. CONYERS. Mr. Speaker, last week supporters of neutron weapons in and out of the Government launched an all-out campaign for their production. This campaign was triggered by newsstories that the President had decided to cease further development and oppose production of this weapons system. By week's end when the President announced his decision to defer production, the supporters of neutron weapons dug in even deeper in their attempt to convince the American people and the world that the future of Western civilization itself rested on the production of neutron weapons.

Nothing was spared in the attempt to win official and public support for neutron weapons. The media almost without exception disregarded entirely the very legitimate reasons for opposition to these weapons. They misrepresented critical facts about the impact of neutron shells and bombs on the civilian population close to the battlefield. The very serious issues of curbing the proliferation of nuclear weapons and slowing down the arms race were given little or no attention. The balance of opinion for and against neutron weapons was misrepresented, particularly opinion in Europe. The media, for example, never explained why the Dutch parliament voted to oppose the deployment of such weapons on Dutch soil, or why West Germany's leading party, the Social Democrats, in their

convention last November, decided to oppose the use of such weapons.

One of the most objectionable aspects of this campaign to sell the public on neutron weapons was the attempt to paint these weapons in bright, hopeful colors rather than the dull and grim ones they actually reflect. These weapons are cast in a positive light—as "clean" weapons; as "flexible" weapons; as "sanitized" substitutes for the bigger, grosser fission weapons already in the stockpile; as weapons that can be safely deployed on "friendly soil." Rarely has the humanization of machines proceeded so far and with such dangers. The fact of the matter is that neutron weapons are tiny hydrogen bombs whose radiation impact on human beings is highly deadly. One can only speculate that those who speak of these weapons in such positive terms are, unwittingly, embracing what surely are terrible machines in an effort to win them over to their side. The effort to humanize these weapons is, I believe, a necessary illusion for the proponents to entertain. We really should stop dignifying neutron weapons with polite adjectives for as the eminent social philosopher, Erich Fromm, has pointed out, by humanizing such machines, we are really dehumanizing ourselves.

What are the actual effects of neutron weapons on combatants and civilians? To answer this question I spoke to experts on nuclear weapons technology, among them Dr. George Kistiakowsky, professor emeritus at Harvard University, one of this country's leading scientists, the chief science and technology adviser in the Eisenhower administration, and one of the original group at Los Alamos working on the first atomic bomb.

The media reported erroneously this past week that civilians at a distance of a mile from the target would be "safe" from the weapon's effects. This is untrue. According to Dr. Kistiakowsky's research, the weapon would have the following effects:

At close-in combat, neutron weapons have similar blast and heat effects as the larger, nuclear fission weapons have; as one moves away from the immediate blast area the weapon's radiation causes incapacitation that lasts a relatively short time, but death within a day or so.

At 900 meters (one-half mile) harm to tank crews (or workers in nearby buildings) results in immediate incapacitation, recovery in about one-half hour, and then death within 2 to 6 days.

At 1,400 meters radiation impairs human functions within an hour, and death is inevitable.

At 1.7 kilometers (1 mile) radiation results in about 10 percent of the population dying from radiation sickness; and the remaining population the victim of all types of cancers.

At 2.1 kilometers (1½ miles) radiation causes delayed cancers and all types of genetic defects, particularly birth defects.

These effects are particularly alarming because it is generally agreed that neutron weapons, either in the form of artillery shells or else warheads on missiles, if used, will be used in large quantities.

The range of the radiation effects can conceivably cover a very large area, and, furthermore, Europe is one of the most densely populated areas in the world. To call any such weapon "clean" is rather outrageous when one considers that it is a nuclear weapon that is designed to destroy human life rather than property, and will most likely be employed in heavily populated areas. These factors go a long way toward explaining why the Dutch Parliament opposes neutron weapons, as do many of the leading political parties in Europe.

It is also rather bewildering to witness the frantic quality of the proponents' arguments for the indispensability of neutron weapons, militarily. We already have in place in Europe roughly 200,000 precision guidance antitank weapons, even more sophisticated versions of the weapons that worked so effectively against tanks on both sides in the 1973 Arab-Israeli conflict. Not only are neutron weapons not indispensable, but they also are not foolproof. The adversary can develop a defense against neutron weapons such as shields made of polyethylene plastic filled with water or pure hydrogen.

Last week's campaign to win support for neutron weapons also illustrated what is fundamentally wrong with the way the public's business is so often conducted in Washington. In this case, the public discussion on neutron weapons was orchestrated simply to put pressure on the President and the Congress, not to enlighten citizens and their leaders about the issues and stakes involved in a production decision.

The traditional fears of Soviet power, world communism, the so-called inherent weakness of Western democracies, falling behind in the arms race, opening up the floodgates against enemy aggression, being vulnerable to sneak attack, and so forth have been whipped up to stifle thought and dissent, not to promote it. The rather incredible impression was being created that America's existing nuclear and conventional arsenal is inadequate and that we are defenseless except for a decision to produce neutron weapons. It is on the same footing as the Defense Establishment's assertion that the congressional cuts of several billions over the past 5 years have weakened our national security, despite the outpouring of more than $330 billion in military appropriations during this period.

There is, of course, another perspective on weapons development, the arms race, the balance of terror, and neutron weapons. I personally think this perspective is far sounder, safe, and rational than the pronuclear weapons point of view. According to this perspective, the superpowers, and for that matter the entire world, is on a course toward disaster as long as governments continue to develop and produce any and all weapons systems that the technological mind of man conceives. There is no weapon we can produce that the other side cannot also produce.

We act on weapons, nuclear and conventional, as if we are saying to ourselves: Let these new weapons decide for us questions too momentous to decide for ourselves—whether or not we are increasing or decreasing the likelihood of nuclear war; whether or not we are reducing or increasing the harm and hazard to civilians by deploying such weapons; whether or not we (and other nations) can afford the massive diversion of resources to the military sector and away from human, social, and economic welfare.

I am reminded of a profound observation of Dr. Erich Fromm's on the antagonism between machines and men:

> The machine man built became so powerful that it developed its own program, which now determines man's own thinking (from Revolution of Hope).

The spectacle of last week's campaign for neutron weapons indicates that we may well be stuck in the ominous situation that Fromm outlines. Is there no reason and room for moving away from the impasse of blindly acceding to every justification contrived for further development and production of nuclear weapons?

Early last week the President pointed the way toward a new direction. He has shown the courage and wisdom to stimulate debate on neutron weapons, on other weapons systems on the drawing boards, and to raise fundamental questions on the long-term implications of further rounds in the arms race. I believe there exist prudent ways to reach agreements with other nuclear nations on curbing the proliferation of nuclear weapons and the development of yet more sophisticated and lethal nuclear weapons systems. I believe strongly that this Nation has the strength and wisdom to exercise leadership in moving the world toward arms reduction and away from resort to new destabilizing and menacing weapons that raise even higher the risks of nuclear war.

I support the President in his commitment to the ultimate goal of zero nuclear weapons in the world, and to his efforts in the short term to bring about a series of agreements on limiting nuclear weapons and making unnecessary, from any point of view, weapons such as the neutron ones.●

● Mr. STARK. Mr. Speaker, I am slowly becoming convinced that the doctrine of Mutual Assured Deterrence is indeed MAD. We have now developed the neutron warhead, a weapon that destroys people with minimum property damage, and it is hailed as progress. Though the existence of such a "selective" weapon commands a certain perverse fascination, we must recognize that the neutron bomb can only increase the chances of nuclear war. Through adherence to the MAD doctrine, we have now created a weapon whose sole merit is that it will frighten the other side because it is so usable This is supposed to contribute toward stability.

The bomb is designed to deter a conventional attack on our NATO allies. Should Soviet troops and tanks swarm across our lines, however, these eminently practical warheads could be shot toward them from as close a range as three-quarters of a mile. Having scared the other side sufficiently, we could then

regain control of our allies' soil and nary a farmhouse would have been damaged.

Right?

Wrong.

Once any nuclear weapons are used in battle, the barrier barring their use is destroyed. The use of neutron warheads would blur the distinction that exists between conventional and nuclear weapons and there would be nothing to stop further escalation. Moreover, even if we did try to deter an attack by conventional means, it is doubtful that a field commander whose lines of communication have been cut and whose troops are being theatened would hesitate to use the most "effective" weapon at his disposal.

It is my fervent hope that President Carter will be true to his first inclination and bar further funds for this dangerous weapon. We cannot allow advances in weapons technology at the cost of world peace and security. The continued development of the neutron bomb threatens both.●

## WANTED: A NEW FARM POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 30 minutes.

● Mr. REUSS. Mr. Speaker, the conference report on H.R. 6782, the Emergency Agricultural Act of 1978, to be considered tomorrow, is not the answer to the farm problem. This legislation will accelerate the inflationary spiral and hurt consumers, without really helping those farmers who need help the most. It will simply compound the unfortunate results of years of tinkering with various kinds of price supports and payments to the farmers.

The patchwork of farm programs we have built up over the years has produced an unintended result: It has benefited the agri-business enterprises that do not need help, while doing very little for the bona fide family farms that really are in trouble. The agriculture bill which we are to take up tomorrow would only perpetuate the errors of the past. Some farmers do need help today—but not the kind of blunderbuss help which enriches those who do not need it and fails to target in on those who do.

We have not really analyzed what the farm problem in this country is. The Nation's farm income figures published by the Department of Agriculture are misleading. They show a 40-percent drop over 4 years in farmers' total net income. That would indeed suggest a very serious situation, calling for immediate and massive Federal support to the Farm Belt. However, the farm income situation is not quite what it seems.

There are three basically different kinds of farming operations. First, there are those conducted at what should more accurately be called rural residences—operations so small that their gross sales are $2,500 or less. Such farms are generally not full-scale farming operations, nor are they the full support of the family involved. In the past 30 years there has been a great transition of small farm families into jobs off the farm, while they continue to farm in a small way. When income earned off the farm is added in, these families appear reasonably well off in comparison with nonfarm families.

A second class of farm, the big commercial farm with sales of more than $40,000, is also generally reasonably well off. The families involved in these farm operations generally have incomes well above national family averages (though that is not true in all cases). What our present farm programs do is channel the bulk of payments to these already prosperous farm operations.

The third class of farm—the medium-sized farm with sales ranging between $2,500 and $40,000—is another story. As the farm protest movement today dramatizes, the income pressures on these farmers are severe. There are about 1.2 million farm families in this class, and it is their situation which really constitutes the present day farm income problem. They are suffering family incomes below the national average.

The income of these farm families has never risen above the U.S. average even in good years, and many of them are facing even more serious income problems in 1978.

Unfortunately, patching and fixing the traditional farm programs has not adequately helped these farmers in the past, and tinkering with price support and target levels will not do much for them now. Only a substantial revision of farm policy, to target more farm income support on the middle-size farm and less on the small part-time farm or the big commercial operation, can do the necessary job without sticking the consumer for even higher food prices.

At my request, the Congressional Research Service has recently completed a very thoughtful analysis of the farm policies that have led us into our present dilemmas, and suggests new directions which our farm policy might take. The study was prepared by Leo V. Mayer, senior specialist for agriculture. It suggests the following principles:

First, farm programs must be revised to reduce the assistance being given to farm operations that are large enough to be profitable without Federal assistance. There is only so much money available in the budget for agriculture support. As long as operations that are already reasonably prosperous are blanketed into the formulas for farm aid, the medium-size farm that is really hurting cannot be given the help it needs. There should be limitations on the size of Federal payments to farm operators, rather than the relaxation of restrictions which was embodied in the 1977 act.

Second, target prices could be raised enough so that the middle-size farm would receive amounts closer to the new maximums. Such higher target prices should be designed to give the medium-size-farm family an adequate level of income.

Third, the amount of credit any one farmer can receive from the Commodity Credit Corporation should be limited. At the same time, the interest rates farmers pay for this credit could be sharply cut. Again, this would reduce Federal support for the big farm but increase it for the medium farm.

Fourth, there are tax changes which could help even out farm income between good and bad years. Even without changes in the law, the Department of Agriculture should see to it that smaller operators, who often cannot afford sophisticated tax counsel, are fully informed about existing provisions for loss carrybacks and income averaging.

Fifth, terms for cerdit issued by the Farmers Home Administration could be adjusted to provide lower interest rates on the size of loans medium-size farms commonly utilize, and higher rates on amounts borrowed over a certain amount, say $50,000.

And sixth, the farm-to-consumer marketing program established in 1976, which enables farmers to increase their incomes by avoiding the middle-man, could well be expanded. This program has not yet received the attention it deserves.

Because of the additional burdens of taxation and inflation which its adoption would inevitably impose, I oppose the Emergency Agricultural Act of 1978. It is urgent that Congress turn its attention to strengthening the medium size family farm which has always been such a vital part of the social fabric.

AGRICULTURAL FINANCE ISSUES AND POLICY ALTERNATIVES BY LEO V. MAYER, SENIOR SPECIALIST FOR AGRICULTURE, CONGRESSIONAL RESEARCH SERVICE; PREPARED FOR REPRESENTATIVE HENRY S. REUSS, APRIL 11, 1978

INTRODUCTION

Farm protest in the winter of 1977–78 focused public attention on the financial condition of American agriculture. The protesting farmers forecast bankruptcy for one-quarter of American farmers if steps were not taken to improve their prices and incomes. Their recommendations were for an increase of about 50 percent in farm commodity prices, to gain the long-held goal of parity for American agriculture.

The reactions to their proposals, because of their extremeness, was almost uniformly negative.[1] Sympathy was expressed though for their economic plight and congressional action followed to determine the seriousness of the protesters claims. Both the House Committee on Agriculture and the Senate Committee on Agriculture, Forestry and Nutrition held hearings on the general agricultural situation. The results were not very conclusive.

The anomaly in the farm protest movement was that Congress had recently completed action on a new farm bill designed to provide financial assistance to farmers over the period 1978–1981. That farm bill was signed into law by President Carter only three months before the farm protest movement held its first national "tractorcade." The bill had represented a major legislative effort by Congress but the actions of the farm protest group suggested that the "best" farm bill Congress could pass was inadequate to meet the needs of financially-ailing farmers. The conflict posed several troublesome questions: were farm financial conditions worse than the national statistics indicated; were there special conditions faced by some farm groups that were not detected by national farm statistics; were there basic deficiencies in the long succession of farm programs that left financially-troubled farmers without assistance; were there other Government

Footnotes at end of article.

policies that encouraged serious financial problems for American farmers? This report examines these and other issues related to agriculture in the United States.

FARM INCOME CONDITIONS

One difficulty in assessing the farm situation and evaluating farm complaints is the wide range of "farm situations" that exist today. An accurate picture requires an examination of complex statistics well beyond simple national averages. Take, for example, the commonly cited national farm income figures published by the Department of Agriculture.

TABLE 1.—INCOME FROM FARMING

[In billions of dollars]

| | 1973 | 1974 | 1975 | 1976 | 1977 |
|---|---|---|---|---|---|
| Cash receipts from farm marketings | 87.1 | 42.4 | 89.6 | 94.3 | 94.3 |
| Government payments to farmers | 2.6 | .5 | .8 | .7 | NA |
| Nonmoney and other farm income | 5.8 | 7.0 | 6.8 | 7.2 | NA |
| Gross farm income | 45.5 | 100.0 | 98.2 | 103.6 | 105.5 |
| Farm production expenses | 65.6 | 72.2 | 75.5 | 81.7 | 85.5 |
| Farm operators' net income | 29.9 | 27.7 | 22.7 | 21.9 | 20.0 |
| Net change in farm inventories | 3.4 | −1.6 | 2.9 | −1.9 | −.2 |
| Farm operators' total net income | 33.3 | 26.1 | 25.6 | 20.0 | 19.8 |

Source: Department of Agriculture. Farm Income Statistics. July 1977.

These figures show a falling trend for farm operator's total net income; the 40 percent drop over four years suggests an extremely serious farm income situation. Data on average income per farm tends to substantiate that trend. Per farm income figures also show falling farm income during a period of rising prices which suggests a falling standard of living for the average farm family.

TABLE 2.—INCOME PER FARM FROM FARMING

[Dollars]

| | 1973 | 1974 | 1975 | 1976 | 1977[1] |
|---|---|---|---|---|---|
| Cash receipts from farm marketings | 30,616 | 32,662 | 31,361 | 33,950 | 34,300 |
| Government payments to farmers | 917 | 187 | 287 | 264 | 650 |
| Nonmoney and other farm income | 2,050 | 2,463 | 2,772 | 3,089 | 3,450 |
| Gross farm income | 33,583 | 35,312 | 34,420 | 37,303 | 38,480 |
| Farm production expenses | 23,054 | 25,511 | 27,010 | 29,418 | 31,100 |
| Farm operators' net income | 10,529 | 9,801 | 7,410 | 7,885 | 7,300 |
| Net change in farm inventories | 1,198 | −569 | 1,227 | 682 | −100 |
| Farm operators' total net income | 11,727 | 9,232 | 8,637 | 7,203 | 7,200 |

[1] CRS estimates.

Source: U.S. Department of Agriculture. Farm Income Statistics. July 1977.

However, there are at least two more aspects of the farm income situation that should be considered before either the conclusion is drawn that all farm incomes are low or that more Government assistance is necessary. First, income earned from off the farm should be added to farm family incomes. This is necessary because many rural residences that are currently classified as farms, and included in per farm income calculations, are primarily just rural residents with off-farm occupations. Because these residents have very little farm income, their inclusion in the farm income calculations reduce the per farm income averages. Note what a difference it makes if income earned off the farm is added into the total income of farm families:

TABLE 3.—TOTAL INCOME PER FARM

[Dollars]

| | 1973 | 1974 | 1975 | 1976 | 1977[1] |
|---|---|---|---|---|---|
| Income per farm: | | | | | |
| From farming | 10,529 | 9,801 | 7,410 | 7,885 | 7,300 |
| From off-the-farm | 8,335 | 9,330 | 10,148 | 11,174 | 12,000 |
| Total per farm income | 18,864 | 19,131 | 17,558 | 19,059 | 19,300 |

[1] CRS estimates; other years are from the Department of Agriculture, Farm Income Statistics. July 1977.

The inclusion of off-farm income more than doubles the average income of farm families. But what exactly does this mean? Mainly, it means that neither the figures for income from farming nor the figures for off-farm income are very useful in developing an accurate assessment of the farm income situation. The farm income figures are biased downward by the inclusion of "farms" that are really just rural residences. The off-farm figures are misleading because many medium-sized commercial farms that fully employ the operator and his family do not have off-farm earnings. Thus, the farm income figures understate the incomes of full time farmers and inclusion of off-farm income tends to overstate the incomes of these same families. Whether one balances off the other is unclear. What is clear is that neither set of income figures provide a very useful measure of farm well-being.

One possibility for gaining a more accurate insight is by turning to another set of income data published by the Department of Agriculture. These data break all farms down into seven size categories. The size classification is based on amount of products sold annually with the largest size farms having sales over $100,000 and the smallest size farms having sales of less than $2,500 per farm.

The income figures for these different farm sizes (shown on the following page) indicate that the two largest classes of farms, those with sales over $40,000 and over $100,000, have high farm incomes (those shown are net incomes) as well as substantial off-farm income. (The off-farm income is probably from non-farm investments and businesses, farm advisory activities, boards of directors, consulting fees, etc.) Together, the families on these largest farms have total annual incomes well above the national family average.

While their incomes are considerably smaller, the total incomes of the smallest sales class of farms, those with farm product sales under $2,500, appear reasonably well in line with incomes of non-farm families. This is primarily the result of significant income from off the farm, probably jobs in local towns and communities. While their money incomes are below the national family average they are likely about equal if the lower cost of living in rural areas is taken into consideration. The remaining farms, those with sales between $2,500 and $40,000, have incomes that average about $12,000 annually. The incomes of these farm families are well below the national average.

TABLE 4.—SOURCES OF INCOME OF DIFFERENT SIZE FARMS

| Sales class | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|
| Net income per farm from farming: | | | | |
| $100,000 and over | $93,748 | $82,413 | $55,916 | $55,716 |
| $40,000 to $99,999 | 23,539 | 20,617 | 16,633 | 16,558 |
| $20,000 to $39,999 | 12,972 | 11,409 | 9,623 | 9,622 |
| $10,000 to $19,999 | 7,119 | 6,170 | 5,224 | 5,248 |
| $5,000 to $9,999 | 3,970 | 3,476 | 2,987 | 3,030 |
| $2,500 to $4,999 | 2,178 | 1,915 | 1,684 | 1,725 |
| Less than $2,500 | 1,575 | 1,614 | 1,727 | 1,921 |
| Income per farm from off-farm jobs and other sources: | | | | |
| $100,000 and over | 9,406 | 10,587 | 12,007 | 13,310 |
| $40,000 to $99,999 | 4,906 | 5,520 | 6,229 | 6,906 |
| $20,000 to $39,999 | 4,175 | 4,662 | 5,199 | 5,762 |
| $10,000 to $19,999 | 5,205 | 5,792 | 6,397 | 7,060 |
| $5,000 to $9,999 | 6,801 | 7,574 | 8,283 | 9,124 |
| $2,500 to $4,999 | 7,740 | 8,607 | 9,400 | 10,342 |
| Less than $2,500 | 11,824 | 13,280 | 14,223 | 15,360 |
| Total income per farm all sources: | | | | |
| $100,000 and over | 103,154 | 93,000 | 67,923 | 69,026 |
| $40,000 to $99,999 | 28,445 | 26,137 | 22,862 | 23,464 |
| $20,000 to $39,999 | 17,147 | 16,071 | 14,822 | 15,384 |
| $10,000 to $19,999 | 12,324 | 11,962 | 11,621 | 12,308 |
| $5,000 to $9,999 | 10,771 | 11,050 | 11,270 | 12,154 |
| $2,500 to $4,999 | 9,918 | 10,522 | 11,084 | 12,067 |
| Less than $2,500 | 13,399 | 14,924 | 15,950 | 17,551 |

Source: Department of Agriculture, Farm Income Statistics, July 1977.

These farms really represent the present-day farm income problem. The question is: how many of these farms are there? Are they receiving considerable Government assistance already? And, do they deserve special consideration?

TABLE 5.—NUMBER OF FARMS

[In thousands]

| Sales class | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|
| Commercial-plus farms: | | | | |
| $100,000 and over | 138 | 150 | 141 | 155 |
| $40,000 to $99,999 | 286 | 302 | 288 | 307 |
| Total | 424 | 452 | 429 | 462 |
| Commercial farms: | | | | |
| $20,000 to $39,999 | 325 | 325 | 322 | 320 |
| $10,000 to $19,999 | 322 | 312 | 315 | 302 |
| $5,000 to $9,999 | 321 | 310 | 314 | 298 |
| $2,500 to $5,000 | 338 | 326 | 330 | 313 |
| Total | 1,306 | 1,273 | 1,281 | 1,233 |
| Rural residence farms: Less than $2,500 | 1,114 | 1,105 | 1,098 | 1,083 |
| Total | 2,844 | 1,830 | 2,808 | 2,778 |

First, as shown above, there are about 1.2 million "commercial" farms that fall into the middle-sales-classes. The income of these farms never rose beyond the U.S. average family income even in the high farm income years (1973–75).[2] Most of them today, based on the data for 1976 which is the latest available, have incomes well below the national average family income (about $19,000). While their incomes are not as low as only their farm incomes figures suggest, yet their total family incomes do not come up to national standards. Many of these farm families are likely facing more serious in-

come problems in 1978 than the 1976 figures suggest because of lower crop prices and because drought affected some farming areas very adversely in 1977.

### Government Payment Levels and Distributions

The immediate question raised by income figures for the middle-sales-class of farms—those titled "commercial farms"—is how much financial assistance does the Government provide them? Are their incomes low despite large amounts of Government assistance or are they not receiving much financial assistance? Definitive answers are probably not possible but some indications can be found in data on Government payments published by the Department of Agriculture.

But first, it may help to explain that most payments to farmers are for two types of purposes: One is to offset losses caused by natural disaster (drought, floods, hail, etc.) and the second is to protect against economic disaster, mainly low grain prices. The first Federal program is called a "disaster program" and the second a "target price program." Both dispense payments according to the size of farms, or more accurately, according to the units of production on a farm. Thus, disaster payments are a function of the number of acres of a crop lost to natural disaster and the target price payments are based on the normal units of production for a farming unit. In both instances, the size of the payment increases with the size of the farm.

Footnotes at end of article.

TABLE 6.—SIZE AND DISTRIBUTION OF GOVERNMENT FARM PAYMENTS

| | 1972 | 1973 | 1974 | 1975 | 1976 | 1972 | 1973 | 1974 | 1975 | 1976 |
|---|---|---|---|---|---|---|---|---|---|---|
| | Dollars per farm | | | | | Percentage distribution | | | | |
| Sales class: | | | | | | | | | | |
| Commercial—Plus: | | | | | | | | | | |
| $100,000 and over | 9,610 | 5,435 | 1,113 | 1,965 | 1,729 | 19.9 | 28.8 | 31.5 | 34.3 | 36.8 |
| $40,000 to $99,999 | 4,072 | 2,255 | 444 | 688 | 599 | 21.3 | 24.7 | 25.2 | 24.6 | 25.6 |
| Commercial farms: | | | | | | | | | | |
| $20,000 to $39,999 | 2,550 | 1,400 | 271 | 391 | 341 | 20.6 | 17.5 | 16.6 | 15.6 | 4.2 |
| $10,000 to $19,999 | 1,718 | 935 | 176 | 238 | 209 | 15.7 | 11.6 | 10.4 | 9.3 | 8.4 |
| $5,000 to $9,999 | 997 | 545 | 103 | 143 | 125 | 9.3 | 6.7 | 6.0 | 5.6 | 5.1 |
| $2,500 to $4,999 | 621 | 349 | 74 | 130 | 115 | 6.1 | 4.5 | 4.5 | 5.3 | 5.4 |
| Rural residences: Less than $2,500 | 247 | 146 | 28 | 39 | 33 | 7.1 | 6.2 | 5.8 | 5.3 | 9.9 |
| Total (million dollars) | 3,961 | 2,607 | 531 | 807 | 734 | 100.0 | 100.0 | 100.0 | 100.0 | 100 1 |

Source: U.S. Department of Agriculture. Farm Income Statistics. July 1977.

The effect of the link between size of farm and size of payments is evident in the figures below. In 1972 and 1973, the last years of large payments to farmers (for which data are available), "commercial-plus" farms accounted for 13 percent of all farms and received 47 percent of all Federal farm payments. It goes without saying that these farms received the largest average payments per farm.

The question asked earlier though was how much Government assistance the "commercial farms" were receiving. These data show that in 1972 and 1973, these 48 percent of all farms received 46 percent of the farm payments. Their average payment was $1,140, almost identical to the national average. Their payments were, however, only one-fifth of the average payment ($5,343) of "commercial-plus" size farms.

The payments for 1974, 1975 and 1976 illustrate a different situation. In those years, most payments were made for "disaster programs." High market prices had made the target price programs inapplicable and no payments were made for these programs. These data illustrate, however, that a similar distribution pattern continued, although average payments per farm were reduced sharply. Commercial-plus farms, now 16 percent of all farms, received 59 percent of all Federal farm payments. Commercial farms, 45 percent of all farms, received 36 percent of all payments.

On this framework of farm sizes and payment distributions, the Government reinstituted target price payments in 1977. The payments were made to offset declining farm prices for grain and cotton. Checks to cover the Government's liability were sent to farmers at almost the same time that the farm "March on Washington" was taking place. The question is to which farms were the payments going?

One should be very cautious about basing an answer to this question on aggregate, previous year data like those shown above. Also, one should be cautious about drawing negative inferences from the fact that the largest payments have gone to the largest income farms. In all likelihood, there are large farms in the commercial-plus sales category that have low net incomes and suffered serious income problems in 1977. Similarly, there probably are many farms in the commercial farm category (middle sales, middle income farms) that experienced little income problem in 1977. So much depends on other factors—off-farm income, debt-commitments, etc. But it is probably true that, on average, most farmers in income difficulty in 1977 fell into the commercial category of farms, those farms with sales between $2,500 and $40,000; but some income problem farms certainly had sales above $40,000 though and this should be kept in mind.

Thus, one answer to where the payments are going is: Based on past records, the 1.2 million farms in the commercial sales category of farms probably received about one-third of all Government farm payments in 1977. If payments totaled $1.8 billion, their $600 million averaged out at about $500 per farm. By contrast, about 60 percent of the payments probably went to the commercial-plus category of farms for payments of about $2,340 per farm.

It seems useful to stress though that (1) these estimates are based on past distribution patterns and (2) one cannot conclude "hard and fast" that the smaller farms had greater need for the payments than the commercial-plus farms. Given the relative net incomes of the two groups as shown earlier, and the low incomes of the commercial farm groups even in high farm income years, this view seems reasonable though. The middle-sales-classes of farms have always fared poorly if these income statistics are accurate. The vast majority are probably moderate sized, family-operated businesses. They are the focus of efforts to maintain a family farm structure in the United States. However, $500 of Federal payments annually do not provide them with much "staying" power. And expansion of their average farm size is highly unlikely since they must bid against commercial-plus size farms for additional land.

Thus, it seems quite clear that (1) mid-size farms are experiencing below average family incomes and this eventually will encourage them or their children to seek other sources of incomes from other occupations, (2) if there is no increase in their average Federal farm payments they will slowly move out of farming and into the category of rural farm residences, and (3) the decline in number of small farms and the increase in size of large farms is not over in the United States. The 462,000 commercial-plus size farms currently produce and sell about 80 percent of all farm production in the United States.

### FARM ASSETS, LIABILITIES, AND EQUITIES

An aspect closely related to the farm income situation is the farm asset situation. Traditionally, farmers have operated their farms and supported their families on earned income in years of positive income and lived and operated on depreciation and capital gain based credit in years of low or negative income. The major collateral for obtaining credit usually has been farm real estate; if it were rising in value, farmers that owned land borrowed from banks or other credit institutions to survive the low income years. If real estate values were declining, the opportunity for more credit was limited. Fortunately, farm real estate has increased in value almost every year since the Great Depression.

TABLE 7.—FARM BALANCE SHEET

[Billion dollars]

| | End of year values for— | | | | |
|---|---|---|---|---|---|
| | 1973 | 1974 | 1975 | 1976 | 1977 |
| PHYSICAL ASSETS | | | | | |
| Real estate | 335.4 | 378.7 | 429.1 | 497.2 | 546 9 |
| Nonreal estate | 122.3 | 118.9 | 132.0 | 140.6 | 148 0 |
| Total | 454.7 | 497.6 | 561.1 | 637.8 | 694 9 |
| DEBT LIABILITIES | | | | | |
| Real estate | 41.3 | 46.3 | 51.1 | 56.6 | 64.5 |
| Nonreal estate | 32.1 | 35.2 | 39.4 | 45.1 | 51.7 |
| CCC loans | .7 | .3 | .3 | 1.0 | 2.5 |
| Total | 74.1 | 81.8 | 90.8 | 102.7 | 118.7 |
| Equity | 412.1 | 445.7 | 502.0 | 568.2 | 610.9 |
| Debt to asset ratio (percent) | 15.2 | 15.5 | 15.3 | 15.3 | 16.3 |

Department of Agriculture. Agriculture Finance Outlook. November 1977.

In the period after 1973, farm real estate values escalated very rapidly, with a 63 percent increase over the four years from 1973 to 1977. Farm loans using real estate as collateral also increased but there was a slight decline in the percent debt was of real estate value. Overall, as shown below, both farm assets and liabilities have increased with the ratio of debt to assets increasing some in 1977. In earlier years, it had fallen to a low of 15.2 percent from 16.8 percent in 1970; it increased again to 16.3 percent by the end of 1977.

The increase in the debt-asset ratio in 1977 was a rather minor change compared to

the improvements in the financial condition of the average farm. As the data on the following page illustrate, the average farm in 1977 had total assets that exceeded a quarter million dollars with liabilities of less than 20 percent that amount. The average farm has a net worth that exceeded $200,000 with an annual income (shown earlier) of just under $20,000 (counting both farm and nonfarm income). One should keep in mind that these are averages with the same deficiencies as the income data shown earlier.[3]

TABLE 8.—AVERAGE ASSETS AND LIABILITIES PER FARM

[Dollars]

| | End of year values for— | | | | |
|---|---|---|---|---|---|
| | 1973 | 1974 | 1975 | 1976 | 1977 |
| ASSETS | | | | | |
| Real estate | 109,845 | 123,604 | 141,489 | 166,055 | 188,014 |
| Livestock | 14,909 | 8,693 | 10,505 | 10,475 | 10,612 |
| Machinery and motor vehicles | 15,612 | 20,177 | 23,469 | 26,278 | 26,622 |
| Crop inventories | 7,771 | 8,233 | 7,051 | 7,199 | 7,294 |
| Household goods | 4,782 | 5,442 | 5,769 | 6,263 | 6,345 |
| Total [1] | 162,904 | 176,466 | 199,573 | 228,330 | 250,823 |
| LIABILITIES | | | | | |
| Real estate debt | 14,522 | 16,360 | 18,198 | 20,194 | 23,455 |
| Banks, PCA, FHA, etc. | 11,287 | 12,438 | 11,788 | 16,091 | 18,800 |
| CCC loans | 246 | 106 | 107 | 360 | 909 |
| Total | 26,054 | 28,905 | 32,336 | 36,645 | 43,164 |
| Equity: Per farm | 136,850 | 147,562 | 167,236 | 191,684 | 207,659 |

[1] Includes bank deposits, Government bonds and other assets not listed separately.

Source: U.S. Department of Agriculture, Agricultural Statistics 1977 and Agricultural Finance Outlook 1977.

The strong financial situation of the average farm shown in these data contrasted sharply with the forecast by farm protest groups in 1977 that one-fourth of all farms faced bankruptcy in 1978. That forecast was not supported by the Department of Agriculture's annual survey of the Agricultural Finance Outlook in November 1977. That survey found a strong farm asset picture with some diversity among farm borrowers:

Bankers said that the overall quality of their farm loan portfolios averaged as strong in 1977 as in the previous year. Deterioration in loan quality occurred among borrowers in cash grain and beef cattle areas. However, improvements were indicated in the incomes, net worths, and repayment capacities of borrowers producing dairy products, other livestock (primarily hogs), and tobacco. Bankers believed that the quality of their farm loan portfolios in 1977 averaged somewhat better than that of their other business loans. However, they anticipated some decline in the quality of their farm loan portfolios during 1978.

The Department made several other points about the farm financial picture:

1. Farm indebtedness increased rapidly during 1977. The estimated $16 billion rise was a record by a sizeable margin.

2. Farm asset values increased by $59 billion, which gave a net equity gain of $43 billion, fourth largest on record.

3. Renewals and extensions of farm loans were much more common in 1977, with many non-real estate loans converted to real estate-secured loans.

4. Five percent of farm borrowers were viewed by lenders as having become unsatisfactory credit risks and would not be granted continued financing if current conditions persist. This proportion was only a little larger than normal.

In the Department's view, the favorable finance picture was offset by an equally unfavorable farm income picture. It noted that total net farm income had dropped slightly below $20 billion with the change reflecting "much less favorable returns for cash grain producers, following several good income years prior to 1977." But the income picture was not entirely one-sided:

Incomes of farmers other than cash grain producers changed less dramatically. Net returns to livestock producers improved a little and further gains appear likely next year. Livestock, poultry, and dairy producers, in general, are among the beneficiaries of the abundant feed supplies at lower prices.

The picture painted was of falling income and of rising asset values for the average farmer. Farmers were trying, some desperately, to hold onto their higher-valued assets as their incomes trended downward. For owner operators with equity in real estate to use as collateral, getting more operating credit apparently posed no problem. For renters, the declining income could be a serious threat to continuing their farm operations.

It also posed problems for rural businesses and communities. The USDA report noted that "Because of the relatively low farm product prices, farmers will probably borrow more for operating purposes, but they are expected to curtail their capital outlays." The report added that "Personal consumption and other cash uses of funds are also expected to be curtailed." It was little wonder that rural community businessmen supported the idea of a farm strike and the establishment of higher prices for farm commodities.

THE FARM PROBLEM REDEFINED

The farm financial picture described in the previous sections of this report differs substantially from the public perception of farms as small, poorly financed, with family incomes well below the national average. There are farm families that fit this description in substantial degree. There also are farms, producing about 80 percent of all farm output that are large businesses, well financed, with family incomes far above the national average.

Neither group of farms is socially undesirable; both represent chosen ways of living by large groups of rural people: The large (commercial-plus) farms include about a half million families, the smaller (commercial) farms include about 1.2 million families. There are also another million families living in rural areas, most working in off-farm jobs and farming in their spare time, that still meets the current definition of a farm although the majority have little economic dependence on agriculture. These families produce and sell $2,500 or less of farm products each year and clear about $2,000 annually from farming activities.

For many years, the low income of these smallest farms was used to justify Federal assistance programs for agriculture. More recently though, the Department of Agriculture has developed and published annual estimates of their incomes from off-farm sources and this has changed the perception of their financial situation rather sharply. Instead of poverty level incomes, these estimates show that their annual incomes are near the national average family income. Measured in rural purchasing power, their incomes probably provide an above average standard of living.

Thus, the current farm income situation turns out to be far more diverse than it was one, two or three decades ago. Today, there is a significant number of very large farms that control an increasing proportion of farm resources, sell a growing part of farm output; and have high family incomes.

The concentration of resources and output on these farms has been increasing rapidly in the past few years. In 1966, only 1.3 percent of all farms averaged net farm incomes over $50,000; those 43,000 farms sold 27.6 percent of all farm output and received 10.3 percent of all government payments. By 1976, 5.6 percent of all farms averaged net farm incomes above $50,000; those 155,000 farms sold 59.6 percent of all farm output and received 36.5 percent of all government payments. If this rate of increasing concentration continues, by 1986, 10 percent of all farms (250,000 on the present farm definition) will sell 92 percent of all farm output and receive 63 percent of all Government farm program payments.

The remaining farms primarily will be rural residences with off-farm occupations and a side-interest in farming. This continuing change can occur with such gradualness that no serious disruptions will occur in food production, marketing or retailing. Further, the national statistics still will show about 2,500,000 farms, given the present farm definition (or 2,000,000 on the new farm definition ($1,000 product sales equals a farm) adopted in the 1974 farm census.) However, only 200,000 to 250,000 will be significant suppliers of farm output.

It is this prospect of large farms increasingly taking over control of agricultural resources that underlies much of the uneasiness among economically-weak farmers.[4] Uneasiness like this led to the forecast of bankruptcy for one-fourth of all farms in late 1977 by the Farm Protest Group. While this forecast was unlikely to take place immediately, it was a long-term prospect for the 1.2 million farmers in the "commercial" sales class. For these farm families, the implication of the trends toward increasing farm size was clear. Most had already watched their affluent (commercial-plus size) farm neighbors slowly and gradually take control of farms "down the road," add it to their farm operation, and began to look for more farmland to rent or buy. These expansion-minded neighbors were on an upward "tread-mill"[5] that allowed them to take greater advantage of government farm programs, tax laws that allowed write-off of interest costs as a business deduction, investment tax credit programs, preferential taxation of capital gains, and cash-basis accounting.[6] Most "commercial" size farms were not in an income position that allowed them to take advantage of these special tax programs although the hope that they might someday find these programs useful has led them to support their continuation.[7] These 1.2 million "commercial" farm families face a rather bleak future, given their below average incomes, their lack of "expansion-power," and their inability to compete with their economically-stronger farm neighbors.

Thus, we arrive at a definition of the farm problem in the 1970's. In overall terms, it is who will continue to farm or in the terms of Land Grant University Economists, "Who will control U.S. Agriculture?" (See Appendix I). In more specific terms, the farm problem is the 1.2 million "commercial" farm families that have below average family incomes. In more positive terms, the farm problem is how to raise their incomes to levels that will allow them to compete with financially stronger farm interests for additional farm resources (land, machinery, livestock, etc.). Obviously, if the $1.8 billion of Government payments to farmers in 1977 had gone to these 1.2 million farmers, their incomes would have been slightly better (about $1,500 each). Instead, this group received about one-third of all farm program payments (about $500 per farm) which was insufficient to increase their economic bargaining power. Unless some additional assistance is provided these farms, most will slowly fade away. And if the assistance for these farms comes via farm prices—parity prices are one such goal—the improvements in their incomes will be small compared to the gains of larger farms and their competitive position will be worsened

Footnotes at end of article.

rather than improved.[8] Land and other asset prices would escalate to the point where small farms still faced relative economic weakness in the farm asset market. If the nation is serious about maintaining—perhaps we should say reestablishing—a family-farm structure, Federal farm assistance must be disbursed differentially. Current policies, to put it candidly, give too much to those with little need and too little to those with much need. The effect on farm structure has been obvious for two decades to serious students of agricultural trends.[9]

POLICY ALTERNATIVES

The description of the "new" farm problem outlined above is really not new. It is the farm problem as it has slowly and gradually evolved since World War II. For many years, the implicit "answer" imbedded in national farm policies was to allow families on small farms to transfer out of farming, thus removing excess labor from agriculture and supposedly employing it elsewhere in the economy. This "answer" was implicitly recognized as a necessary step if U.S. agriculture was to increase its efficiency and compete on a world market for foodstuffs. Fewer families in agriculture reduced the number of income claimants and allowed either higher incomes for those remaining or the same income for them and lower prices for the goods they sold. In terms of improved world competitiveness, lower prices were most useful and the natural competitiveness of U.S. agriculture assured this outcome. The economically-pressed farmers complained about the "cheap food policy" of the Nation but expansion-minded farmers increased their farm size and reduced their per unit costs of production.

By keeping a step ahead of the gradual decline in real farm commodity prices,[10] these farmers were able to earn reasonably acceptable incomes. This was more true if the increase in their asset values (capital gains) was taken into account[11] in the calculation of their incomes. Their average expansion from the post World War II period to the present has given the nation a three-part structure of agriculture. One part, the commercial-plus size group earns incomes well beyond the average non-farm family. These farms are competitive with or without government assistance. Many probably subscribe to the philosophy "get the government out of agriculture." The gains to them would be substantial if this happened because market pressure on economically-weak farm operators would force more to leave agriculture and thus release land to other operators.

The second part, the commercial farm group, is hard pressed financially by declining real farm prices (this is another way of saying they are hard pressed financially by inflation in the prices they pay for items used in production). To maintain their incomes, these have had to reduce their production costs or increase total units sold—and the latter generally has meant adding more acres of land, a physical impossibility for all farms and an economic impossibility for most farms in this group.[12] Most of these families have compensated for their declining real incomes by having some member of the family take an off-farm job.

| Sales class | Per farm: Cash receipts | Per farm: Production expenses | Per farm: Cost/dollar of sales |
|---|---|---|---|
| $100,000 and over | $370,807 | $319,581 | $0.86 |
| $40,000 to $99,999 | 63,753 | 50,407 | .79 |
| $20,000 to $39,999 | 30,453 | 23,472 | .77 |
| $10,000 to $19,999 | 15,679 | 12,808 | .86 |
| $5,000 to $9,999 | 7,906 | 7,252 | .92 |
| $2,500 to $4,999 | 3,850 | 4,460 | 1.14 |
| Less than $2,500 | 1,232 | 1,652 | 1.32 |

However, the intermediate size farms have too few units to sell to earn an adequate family income while the large farms earn high incomes on large sales despite the higher cost per unit of output. (Source of Data, Department of Agriculture. Farm Income Statistics. July 1977.)

The third part of agriculture has largely made the transition to non-farm jobs and conducts farm activities on a part-time, side-line basis. Some are partly retired and some were part of the urban exodus that came to rural areas in search of a more peaceful environment. This latter group's interest in agriculture is more nearly as a leisure activity rather than an economic dependence although many certainly utilize this income to supplement other earnings. The family incomes of this whole group are not greatly affected though by what happens to farm prices and incomes.

It seems reasonable to conclude, based on this review, that the 30-year transition by a large proportion of farm families to off-farm jobs (the proportion is so large that the average farm family earns more income off-the-farm than on-the-farm) has generally solved the traditional farm problem—a problem often described in past years as excess labor resources in agriculture. With the reduction in farm numbers and increase in farm size that has occurred, there now exists a commercial-plus group of farms that is extremely strong economically, measured in terms of incomes or of assets.

However, as the farm protest movement of 1977–78 indicates, the income pressures on another group of farmers remains very intense and very real. The traditional farm programs that have provided farmers with price support loans and supplementary income payments have helped ease the income problem of these farms but the large size of payments for larger farms probably worked as much to their disadvantage (in increased demand and higher prices for land, machinery, etc.) as the small payments did to their advantage.[13] Larger payments in the future will allow larger farms to continue expanding, buying up the resources of smaller and economically-weaker farmers as they retire or migrate occupationally. The prospect does not give much hope to that large number of farms in the middle-sales-classes. Tinkering with the traditional programs elements like price support levels and target prices will not do much for them either. A substantial revision of the traditional programs is necessary for that goal to be achieved.

POSSIBLE PROGRAM ADJUSTMENTS

This review of farm financial conditions suggests certain policy strategies and elements for future Federal farm policy. One must caution however, that no one set of data or analysis should underlie something as important as the development of farm programs for the nation. By the same reasoning, the development of policy should not proceed without full consideration of all available information and relevant data. To do so involves risk that the policies adopted will focus benefits on groups with questionable need.

This possibility already seems to have occurred in farm policy deliberations. A decade ago, a Federal study of farm income conditions concluded that large farms—farms with $20,000 sales and over—were already earning parity returns on their labor and capital resources.[14] In fact, as the data from the study below shows, the study implied that the largest farms could have withstood a significant reduction in farm prices and still earned parity incomes; by contrast the smallest farms would have required a doubling of farm prices to reach parity incomes. The only obvious impact that this study had on policy was the imposition of the $55,000 limitation on per farm payments in 1970 and this was reduced to $20,000 in 1973 and raised again in the 1977 Farm Act to $40,000.

TABLE 9.—PRICE CHANGE AND PARITY RATIO REQUIRED FOR PARITY RETURNS

| Sales class | Required price change (percent) | Required parity ratio |
|---|---|---|
| $20,000 and over | −9 | 73 |
| $10,000 to $19,999 | +10 | 86 |
| $5,000 to $9,999 | +38 | 103 |
| Under $500 | +170 | 167 |
| All farms | +11 | 86 |

Source: "Parity Returns Position of Farmers," report to the 90th Cong., 1st sess., by the Department of Agriculture, Aug. 10, 1967.

Obviously, the answer to the income differentials in agriculture is not a simple transfer of income from and a reduction of incentives for large farms. That would be publically unacceptable. But the question can also be posed whether Federal income transfer program for agriculture should provide above-parity income farmers with Federal income supplements. This is what the present farm programs accomplish; the majority of payments go to farm operations that have incomes well above national family averages. The question is: Given this factual background, and ignoring political considerations, how should farm programs be changed?

First, the changes should not disrupt the agricultural industry's capacity to provide adequate supplies of food and fiber for the nation and leave adequate amounts for export. Second, any change in programs should not replace the guidance provided to farmers by the market on what, how, and how much to produce of farm and food products. Third, any change in programs should take account of the cyclic instability of agricultural productions and tend to moderate that in stability and where that is impossible, provide farmers protection against adverse impacts. Fourth, change in the programs should treat different agricultural groups—specifically crop and livestock producers—in ways that do not impose burdens on one for the benefit of the other. Fifth and finally, new programs must not impose undue burdens on food consumers or taxpayers to the benefit of food producers, where the end result is higher farm asset values, higher future production costs, and inflationary pressures in the remainder of the economy that ultimately raise the prices paid for inputs by agricultural producers.

To a great extent, this round-robin effect of higher prices—higher costs—higher prices explain the current financial problem of many farmers within agriculture. The great food price spiral of 1973 nad 1974 (a 29 percent increase in retail food prices) led to a large rise in farm purchasing power, particularly for larger farming operations. Many of these operators began purchasing more land and machinery at almost any price partly to take advantage of tax avoidance principles, partly to gain control over more agricultural resources, and partly to get the additional income that higher prices provided. Some of these operators leveraged themselves heavily, using borrowed funds liberally, and when farm prices turned downward in 1976, their small equities quickly disappeared and they faced severe debt repayment problems. In reality, they gambled, and the tax laws encouraged them to do so, that the high farm prices would continue; if prices had continued high, most of these operators would have joined the nouveau riche. But prices went the other way and cash flow problems proliferated. This explains part of the financial problem facing many farm operators in 1978.

Footnotes at end of article.

The question is: are there farm program changes that would improve on these two sets of conditions? The answer, based on this review seems to be: Long run farm policy changes do not appear to be a useful response to the farm discontent of 1977–78; these are special problems which call for special credit assistance much like the Emergency Livestock Credit Program of 1974 was in response to special problems of the livestock industry. Long-run farm policy change could be a useful response to (1) the long-term income problems of the middle-sales-class of American farmers, and (2) the growing problem of concentration of farm production in fewer and fewer farming operations. The following changes are possible responses to both the short-term problems of agriculture and the long-term problems. They are only possibilities not recommendations.

First, farm programs could be revised to reduce or eliminate the assistance provided economically-strong farm operations. By providing these units with massive assistance under current programs, the government is less able to assist the below-average-income farm families due to stringent budget considerations. These budget restrictions might well have led to tighter restrictions on payments to financially-strong farm operations rather than to the relaxation of restrictions as written into the 1977 Farm Act. While payments under disaster programs perhaps could be free to match the potential losses from natural disasters, the payments to any one family under income subsidy programs should not exceed those of other Federal Government assistance programs. Most of these programs would not provide the unemployed or welfare recipient with more than a poverty-level income. A similar limitation on Federal payments to farm operators could benefit the medium size farm operation, improve their competitive position in agriculture and slightly moderate the inequity in bargaining power between commercial-plus and commercial sized farms. The losses of such a change to larger farming units are obvious and need not be spelled out in detail.

Second, target prices could be raised substantially to assure the middle-sales-classes of farms more nearly the new maximum limit of payments. These higher levels of target prices or income supplement payments could raise the incomes of mid-sized farms to nearer the national average family income. One possibility might be to raise target prices to $4.00 per bushel of wheat, for example, which would mean payments of about $1.50 per bushel. A five thousand dollar limit per farm on payments would mean coverage on about 3,300 bushels and a ten thousand dollar limit coverage on 6,600 bushels of wheat. This would be small in terms of commercial-plus size wheat farms but in terms of middle size farms, it would mean raising their incomes to about the national average. In terms of Federal costs, $5,000 per farm for 1.5 million farms would be 7.5 billion dollars. Not all farms would qualify for the maximum payments but a majority of farms might. The remainder would have too little output to reach the limit although this might encourage them to expand production. Since official data show intermediate-size farms have the lowest cost per unit of output and since these almost surely are family farms, this might be a useful result, economically and socially.

Third, a limitation could be placed on the amount of credit any one farmer is eligible to receive from the Commodity Credit Corporation. This limitation could be coupled up with a sharp reduction in interest rates paid by farmers for this minimum amount of credit from CCC. In this way, all farmers would be protected against economic disaster on some minimum amount of production at a lower cost than at present. Above the minimum amount, the CCC could still provide credit for stored commodities if this was deemed desirable, but the interest rates would be competitive with private sources and the non-recourse loan feature need not apply. This would make production in excess of the CCC limit more subject to the market place and effectively free-up market prices from support prices, a step that could have useful effects on expanding farm exports during periods of surplus production.

The current price support program holds market prices at the loan level regardless of market supplies. One of the original reason for proposing a deficiency payment scheme for agriculture was to allow market prices to decline and clear the market of product. When that scheme, originally proposed by Secretary of Agriculture Charles Brannon, was implemented into legislation, the support price feature was continued. At times it has led to large export subsidy programs to ensure competitiveness in world markets. Further, it provides a guaranteed market for farm output for individual farm firms that far exceeds in size, any envisioned when the CCC was established during the Great Depression.

Fourth, the cyclical nature of agriculture makes it a prime candidate for tax programs that smooth out taxable income between years. For example, income averaging is useful in a year of rapid increases in farm receipts. However, farmers also suffer years in which there are sharp decreases in incomes, 1976 and 1977 are examples. These reductions can impose a serious income burden on farm families. One policy possibility would be to substitute the current "loss recovery provisions" that is in the Internal Revenue Code for income subsidy payments for farms with certain characteristics, i.e. large incomes, corporate form of organization, etc. This idea stems from the recent tax refund case of Bethlehem Steel Corporation wherein the Corporation received a $134 million refund from the government because of operating losses it suffered in 1977. (For details, see Appendix II of this report.) While the details for applying this concept to farms would need far more analysis, the possibilities seem relevant to agriculture with its cyclical income situation.

Fifth, another possible policy change relates to the programs of the Farmers Home Administration. The question is whether assistance presently given is helping middle-sales-classes of farms or whether most assistance is going to larger farm operations. Currently, the limitation on credit programs from FmHA is $200,000. It seems quite obvious that most farmers in the middle-sales-categories could not utilize this amount of credit. One possibility would be to reduce sharply the interest rates for the first $50,000 of credit provided by FmHA and raise interest rates to commercial levels on larger amounts. This would have the effect of reducing interest costs for smaller farms and of increasing their net incomes.

Finally, another means of raising farm incomes would be for the government to expand the direct farmer-to-consumer marketing program established in 1976. Many smaller farmers might be able to substantially increase their incomes by marketing directly to consumers through publicly "farmers markets." This program has received minimum resources and has not received the administrative push necessary to make it useful and viable. Its potential would seem to far exceed its present capacity in light of rising retail food prices.

### OTHER POLICY POSSIBILITIES

This short list of program modifications is by no means comprehensive or all inclusive. It implies, however, a substantial shift in the role of Federal Government assistance programs for farmers. That assistance has been, to an increasing degree, concentrated among the commercial-plus size farms, particularly since 1970 although the payments distributed in the past year are unlikely to have changed that trend.

The farm situation today, the three-part structure of agriculture with its inclusion of affluence, near-indigence and indifference, exhibits a range of economic conditions that make it difficult to develop effective farm programs—effective in the sense of providing adequate assistance to medium size, low income farms without over assisting large, higher income farms. This difficulty will continue so long as Federal payments are distributed according to the size of farm production rather than the size of farm income.

The question for future farm policy is whether income supplement and disaster payments programs could be combined into a single program which would base assistance on some measure of farm income adequacy. One reason for raising this question is the experience of 1977 when 2,100 of the 3,100 counties in the United States were declared disaster counties (with farmers eligible for special credit programs) at the same time that the nation had record grain harvests. This experience raised considerable question about the current programs that protect farmers against natural disasters. Questions about the income protection programs are several, most have been raised earlier in this report.

These questions lead to the conclusion that a shift to a combination program to cover both economic and natural disasters might be one means of ensuring some minimum level of income for farm families. If a farm family suffered a large loss from some natural or economic disaster, that could be covered. But if a farm family already had net income above some minimum level, it would be ineligible for further payments. Such a change could remove the criticism that large Government payments are going to farmers who already have incomes from the market place that exceeds the national average family income. Undoubtedly, there would be arguments brought forth in opposition to such a change in Federal farm programs, particularly from farming operations that currently earn large incomes from the market and are eligible for large amount of Government payments under either disaster or other payment programs. But these payments are almost certain to receive wide public attention when the distributions expand. This will create pressure for further change.

### SUMMARY AND CONCLUSIONS

American agriculture has increased in diversity of size and incomes in the period since World War II. A small proportion of farms has grown to enormous size of sales and incomes by historical standards and a large proportion of farms have remained small in size and small in incomes by current standards.

The distribution of Federal assistance to agriculture has followed the trends in farm size with a larger and larger proportion of program payments going to a smaller and smaller proportion of farms. One group of farms, each selling in excess of $40,000 of products, make up 17 percent of our farms (462,000), sell 80 percent of all farm output, earn 60 percent of net farm income, and receive 60 percent of all farm program payments (1976). These farms averaged sales of $232,000, net incomes from farming of $29,300, off-farm income of $9,054, and Government payments of $398, for a total income of $39,150 each in 1976.

Another group of farms, selling less than $40,000 but more than $2,500 of products, made up 44 percent of our farms (1.2 million), sold 19 percent of all farm products, earned 28 percent of net farm income, and received 34 percent of the Federal farm pay-

ments in 1976. These farms had averaged sales of $14,630, net income from farming of $4,753, off-farm incomes of $8,055, and Federal farm payments of $200 for a total average family income of $13,008 in 1976.

The third group of farms, really rural farm residences, made up 39 percent of all farms (1.1 million) sold 1.4 percent of all farm products, earned 9.5 percent of all net farm income (including non-money income) and received 4.9 percent of the Federal farm payments in 1976. These farms averaged sales of $1,232, net incomes from farming of $1,921 (including $33 of government payments), and off-farm income of $15,630 for total incomes of $17,551. Their total incomes were on a reasonable par, measured in rural purchasing power, with non-farm families.

This three-part categorization of American farms points up several features of the current farm situation: One, the income situation varies from very high for the largest farm to relatively low for intermediate size farms to reasonable for the smallest farms. Two, Federal farm assistance programs disburse payments to farmers almost in proportion to their total net incomes and hence, almost inversely to their economic need. Three, higher net farm incomes supplemented by Federal farm program payments are allowing commerical-plus size farms to expand in size of resources and output. This expansion is slowly changing the structure of American agriculture and, in the terminology of some agricultural economists creating the possibility of a "Landed Gentry."

The policy alternatives suggested by this structure of agricultural conditions differs substantially from the current mix of programs. The new policy strategy would focus on providing more financial assistance to intermediate size farms—those with sales annually below $40,000. These farms are, on average, efficiently organized based on their relative costs per dollar of output. Revising programs along lines outlined above could encourage their continuation, and could add to the social structure of rural communities and to the incomes goals of the nation.

FOOTNOTES

[1] For evaluations of farm parity by a number of nationally-known economists and agriculturalists, see Parity Prices for American Agriculture, a report prepared for the House Agriculture Committee by the Congressional Research Service, Library of Congress, February 1977.

[2] One reservation should be pointed out about these middle-sales-size farm income data. A statistical "quirk" may explain their stability over time. If a farm in this group increases its sales and income, it may not be reflected in the class overage because the farm may move up into the next higher sales class. This tends to maintain the class income at the same level over time. However, this doesn't determine the absolute size of income which is the characteristic of most interest.

[3] Average figures on assets and liabilities must be viewed with care, much like the average income figures outlined earlier. The diversity of farm sizes today makes these figures nearly meaningless for assessing the balance sheet of any specific farm. For example, total farm assets were $638 billion at the end of 1976 and total gross farm sales were $94 billion, or an investment of $6.80/dollar of output. Obviously, commercial-plus size farms selling an average of $166,768 of products per farm had much larger assets (perhaps over a million dollars on average) than commercial-size farms selling $14,631 of products per farm (which probably had around a hundred thousand dollars of assets on average). It should also be kept in mind that many farm families do not own the land they farm and hence their total assets are much smaller than these average figures suggest. This would apply to all farm sizes.

[4] Agricultural economists have been raising questions about these trends for a number of years. Agricultural economists in the Midwest worked from 1971 through 1975 on a special public policy education project titled "Who Will Control U.S. Agriculture?" The final project report was included as Appendix I to this report.

[5] For a description of the original "treadmill" concept as it applied to farmers on their way out of agriculture, see Willard W. Cochrane, Farm Prices: Myth and Reality, chapter 5. "The Agricultural Treadmill." University of Minnesota Press. 1958.

[6] Professor Philip M. Raup of the University of Minnesota recently outlined the effects of these "institutional arrangements" on U.S. agriculture and added:

"In the past, much of the discussion of farm problems has assumed that the distortions of policy outlined above have been of principal value to non-farm investors, large conglomerate corporations, or extremely wealthy individuals. A phenomenon of the past five years has been the emergence of a segment of farmers whose income levels, scale of business, and income tax obligations make them effective users of price, credit, and tax policies that formerly were of primary benefit to non-farmers."

[7] Professor Raup in his recent paper noted:

"It is ironic that when efforts have been made to shift to accrual accounting, reduce the preferential taxation of capital gains, limit the deductibility of interest on borrowed funds, remove the inequities of accelerated depreciation, repeal the investment tax credit, or put a ceiling on government farm price support payments, family-type farmers have usually opposed any of these reforms. Policies that contribute to the decline of small or family-type farms, in short, have been supported in most cases by family farmers."

[8] Professor Raup stated it this way:

"Any guarantee of farm commodity prices . . . exerts a differential impact on farms in different size classes. To the extent that a risk of price collapse is reduced, investment in the production of that commodity is made more attractive to large-scale producers. This creates a dilemma in farm price support policy. If the price is set high enough to cover the costs of high-cost, small-scale producers it produces windfall gains for large-scale producers, enabling them to buy out their small-scale competitors. Alternatively, it enables them to bid up the price of land to levels that discourage the sons of smaller, family-type farmers from seeking careers in farming."

[9] See Earl O. Heady, Agricultural Policy Under Economic Development. Iowa State University Press. 1962: Willard W. Cochrane. City Man's Guide to the Farm Problem. University of Minnesota Press. 1965; Earl O. Heady. A Primer on Food, Agriculture and Public Policy. Random House New York, 1967. Luther G. Tweeten. Foundations of Farm Policy. University of Nebraska Press. 1970. This list is not inclusive.

[10] The parity ratio which measures real farm prices, i.e., it is the Index of Prices Received by farmers divided (deflated) by the Index of Prices Paid by farmers, declined from a value of 100 in the 1910–14 period to 67 in 1977. Those farmers with improving efficiency could continue to make adequate returns on investment despite declining real prices; those farmers who could not take advantage of scale economies and other efficiencies were forced to leave agriculture. The number of farms fell from 6 million in 1944 to 2.8 million in 1977 on the current definition or on a realistic definition to 1.5 million. For a description of Parity, See Issue Brief Number 77116, "Agriculture: Parity, Parity, Parity." Congressional Research Service, Library of Congress. Issued November 1977.

[11] The income situation of farmers was evaluated by the Department of Agriculture in 1967 at the request of Congress. The study (Parity Returns Position of Farmers, Report to the 90th Congress, 1st Session, by the Department of Agriculture. Document No. 44, August 10, 1967) found:

(1) Farmers on the average earned, in 1966, 81 percent as much as they might have earned by renting out their land and accepting nonfarm employment. They earned 96 percent as much as they might expect by selling their land, investing in common stocks, and working elsewhere. In 1959 and 1964 the ratio of farm earnings to "parity returns" was lower than in 1966.

(2) Farmers with over $20,000 gross income from farming averaged parity or more than parity returns in 1966 under each of the methods used for comparison.

(3) The smaller farmers (those with less than $20,000 gross income from farming) earned less than parity returns under all methods of comparison and in all years tested.

(4) Farmers in the lowest income group (under $5,000 gross sales) earned only one-third to two-fifths of parity returns even in 1966. Parity returns, as developed in this study, are the equivalent returns that labor and capital employed in farming might get if they were employed elsewhere in the economy. Statistical measurements of parity returns were developed for all farms combined, for several types of farms, and for size classes of farms as indicated by value of sales. Computation by size classes is important, because income of a farm generally varies in relation to the amount of capital and labor used in production.

Parity returns for a farmer's equity capital involves: (1) the value of capital including real estate; (2) the rate of return; and (3) capital gains.

[12] Data for 1976 show that intermediate size farms already have the lowest costs of production:

[13] In the past, the traditional farm programs dispensed significant amount of income to farms that already had high net incomes. This fact led to the inclusion of a payment limitation in the 1973 Farm Act of $20,000 per farm but this was raised to $40,000 in the 1977 Farm Act and will later increase to $50,000. Obviously, the middle-size class of farms with $500 average payments are little affected by the limitation.

[14] A second study by the Department of Agriculture's Young Executives Committee reviewed the "Farm Income Question" at the request of the Secretary of Agriculture in 1971. Its interesting report was included as Appendix III to this report.

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ORIGINAL APPENDICES TO THIS REPORT

I. Published reports and articles relating to the issue "Who Will Control U.S. Agriculture" including the following: University of Illinois, Department of Agricultural Economics, "Who Will Control U.S. Agriculture?" Final Project Report of a nationwide team effort in public policy education. Urbana Illinois, June 1975; also, William G. Murray, "The Iowa Farm" *Iowa Farm Science*, Iowa State University of Science and Technology, July 1969.

II. Articles and Codified materials relating to the "Loss Recovery Provision" of the Internal Revenue Code, including the following: "Steel Maker Due Tax Refund of $134 million" *The Washington Post*, Friday, March 3, 1978. p. B8.

III. Reports of the U.S. Department of Agriculture's Young Executive Committee on "New Directions for U.S. Agricultural Policy—the Farm Income Question" U.S. Department of Agriculture. June 1972.●

## PANAMA CANAL GIVEAWAY: FINAL ISSUES SUMMARIZED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

● Mr. FLOOD. Mr. Speaker, for more than a decade in and out of the Congress, I have made many addresses on Isthmian Canal policy questions. There is very little of fundamental character that is new which could be added to what other Members of the Congress and myself have previously stated. Some of my major addresses were published in one volume under the title of "Isthmian Canal Policy Questions" (H. Doc. No. 474, 89th Congress). Those addresses, together with others subsequently made, and my testimony before House and Senate committees form a reservoir of authentic information.

One of the most recent contributions to the current national canal debate is an article by Phyllis Schlafly on the "Final Issues in the Panama Canal Giveaway" in the April 1978 Phyllis Schlafly Report.

In this article, Mrs. Schlafly, who is an experienced author, TV commentator, lecturer, and authority on national defense problems in their broadest sense, summarizes the crucial facts in the canal subject essential for wisely reasoned conclusions. Because of the relevance and timeliness of the article, I quote it as part of my remarks and urge that it be read by all Members of the Congress and the highest officers in the executive branch of our Government concerned with Isthmian canal policy, including those in the State Department and the Joint Chiefs of Staff.

### FINAL ISSUES IN THE PANAMA CANAL GIVEAWAY

Commentators described the Senate ratification of the Panama Canal Neutrality Treaty on March 16 as a big victory for President Carter, a "breakthrough" that gave the White House reason to celebrate. The photographs of a jubilant President showed that he agrees with this verdict.

President Carter had staked his personal prestige on the Treaty and it carried by only one vote to spare. The vote was certainly a victory for the Treaty. The question is, was it a victory for President Carter?

He succeeded in forcing the Neutrality Treaty on the American people, but he failed to convince them that it was the wise or right thing to do. He succeeded in inducing enough Senators to vote aye, but it was not the merits of the Treaty that persuaded them.

The final ratification votes were obtained by promises to grant or withhold Federal spending for agricultural and copper prices, and by promises to give some Senators an easy ride to re-election by making sure that no formidable candidate files against them this year. Senator Bob Packwood brought out into the open charges that the treaty was "bought" when he revealed the President's promises of Administration decisions for copper stockpiling and farm price increases.

Commentators say that the ratification of the Treaty was a "symbolic triumph" that "significantly strengthened" President Carter's prestige abroad. But the tradeoff may be to diminish his popularity at home. Was it worth it?

Press comment states that the President would have been "crippled" in dealing with Latin America and Moscow if the Treaty had been rejected. But it is probable that the way ratification was achieved has crippled the President in his future dealings with Congress.

White House aides are hoping that the Treaty ratification will produce the "turnaround" in Carter's public image that he has been seeking in order to pull his Administration out of stalled negotiations on his energy package, the Middle East problem, the coal strike, and SALT II. But inducing Senators to vote against their conscience or their constituents, or both, hardly builds good will that will facilitate passage of other Administration goals.

On the morning of the vote on March 16, Senator Wendell Ford aptly pointed out that all the emphasis seemed to be on making the Treaty terms acceptable to dictator Torrijos instead of making the terms acceptable to the American people.

This strange misplaced concern was confirmed that night when the White House revealed its "concern" about Torrijos' reaction to the DeConcini reservation added by the Senate. No concern was expressed by the White House about the American people's reaction at being forced to give away a great national treasure they didn't want to surrender.

This concern to protect Torrijos is further evidenced by the Carter coverup of the heroin-peddling activities of the Torrijos family. The censoring and the shredding of Drug Enforcement Administration documents makes the Watergate coverup look pale by comparison.

A Pyrrhic victory is one which is too costly. It dates back to 279 B.C. when General Pyrrhus won a costly victory over the Romans. President Carter may, like General Pyrrhus, be defeated by his too costly victory on March 16.

### WHO SUPPORTS THE PANAMA TREATIES?

Why is it that some Senators appear to be willing to take the political risk of defying the overwhelming majority of their constituents on the issue of ratification of the Panama Canal Treaties? Some Senators admit that their mail is running 1,000 to 1 against the treaties but still they plan to vote for them.

One answer to that question is the power and prestige of the hidden backers of the treaties, namely, the giant international banks. On December 1, 1977, 95 large international banks ran an advertisement in the Wall Street Journal announcing that they had loaned Panama another $25 million on November 2. This brings the total bank loans outstanding to Panama to $2,777 billion.

The treaties that President Carter signed with dictator Torrijos are the only way these banks can ever be repaid. The Torrijos regime is paying 39 percent of its national income in debt service. Just ask any banker how much he will lend you if you tell him that you are now paying 39 percent of your income in interest on money you have already borrowed.

The banks know those loans are uncollectible unless Torrijos takes control of the U.S. Canal. Those banks have a large financial stake in the ratification of the Panama Treaties—clearly enough to justify contacting their correspondent banks and other business connections who happen to be constituents of undecided Senators.

Intense pressure has been generated by the "selling" campaign carried on by President Carter, the State Department, and the Pentagon. To try to sway the vote of first-term Democrat Senator Edward Zorinsky, President Carter invited 280 Nebraska opinion makers to visit him in the East Room of the White House. The President hoped the guests would be so impressed with the honor of his hospitality that they would rush over to Capitol Hill and ask Senator Zorinsky to vote yes. It is believed that President Carter also threatened to pull the Strategic Air Command (SAC) base out of Omaha unless Zorinksy voted yes. To his credit, the Senator voted no.

The State Department carried on a massive lobbying campaign for ratification that resembled the political headquarters of a presidential candidate, complete with charts and pinboards for every state, and a weekly progress report called PITS (Panama Information Track Score). In one week's activity, the State Department arranged 476 pro-treaty speeches or debates and 288 media interviews to counteract the "bombardiers" (State's lingo for treaty opponents).

Much of the information put out at taxpayer expense by the Carter Administration is not accurate. The Administration originally claimed, for example, that the treaties would not cost the U.S. taxpayers any money because Torrijos' new money will come out of Canal tolls.

Congressman Philip Crane listed some of the specific costs that will have to be born by the taxpayers if the treaties are ratified: $135 million to pay for the early retirement of Panamanians now employed in the Zone, an estimated $1.3 billion for services now provided by the Panama Canal Company which would have to be provided by the Defense Department, the construction of new facilities for our military personnel to replace those turned over to Panama, the expense of training Panamanians to run the Canal, and the loss of $17 million a year in tolls that the Canal Company has been paying to the U.S. Treasury but which will go to Panama under the treaties.

President Carter said in his fireside chat that "the Canal Zone has always been Panamanian territory." To the contrary, in the 1907 case of *Wilson* v. *Shaw*, the U.S. Supreme Court unanimously ruled: "A treaty with it [the Republic of Panama], ceding the canal zone, was duly ratified. . . . Congress has passed several acts based upon the title of the United States. . . . It is hypocritical to contend that the title of the United States is imperfect, and that the territory described does not belong to this nation."

Our Supreme and lower Federal courts have continued to cite with approval *Wilson v. Shaw's* holding that the Panama Canal Zone belongs to the United States.

### PANAMA CANAL NEUTRALITY

The proponents of the Panama Canal Treaties have tried to claim that Panama dictator Torrijos will permit the United States to "maintain the neutrality of the Canal" after Panama takes full control in the year 2000. Why in the world would we want our Canal to be neutral? "Neutrality" is a treaty trap that would imperil our national security.

During World War II, we used the Canal constantly but closed it to German and Japanese ships and submarines. Weren't we fortunate that the Canal wasn't administered under a treaty of neutrality that would have guaranteed equal treatment to both Allied and Axis ships?

During the Missile Crisis of 1962, after our U-2 plane discovered the missiles Khrushchev had deployed in Cuba, our national survival depended on moving our fleet quickly from the Pacific to to Caribbean. Fortunately our Navy had immediate and unimpeded access to our Canal.

If Castro's friend Torrijos had been in control of the Canal, he might have decided to "alleviate world tension" by closing the Canal to both U.S. an U.S.S.R. ships. Such neutrality would have left us at the mercy of Soviet offensive missiles, but would not have hurt the Soviets because their missiles were already in the Caribbean.

During the Vietnam War, 70 percent of our

war supplies went through the Canal. It is not difficult to imagine Torrijos taking the position that it would violate the Canal's neutrality to allow the war to be supplied through the Panama Canal.

Torrijos adamantly refused to allow a treaty provision promising that Panama would keep the Canal open. Panama negotiator Escobar bragged that, although the United States demanded such a provision, Panama refused to agree to it.

The Canal can be neutral and closed just as well as it can be neutral and open. But the facts of world geography dictate that neutrality, either open or closed, would hurt the United States but not our enemies.

Suppose Castro brings his victorious 14,000 troops home from Angola and decides to conquer several islands in the Caribbean. We decide to bring our Pacific fleet through the Canal to set up a blockade to prevent such aggression. Would Torrijos allow our warships to transit the Canal in order to frustrate the plans of his friend Castro?

Torrijos could simply close the Canal for "repairs" for 30 days. By the time we could sail our ships around the tip of South America, we would be confronted with the choice of accepting the fait accompli of additional Castro/Soviet bases in the Caribbean or mounting an invasion with U.S. Marines.

Suppose we have a future confrontation with the Soviet Union or with Red China. Panama could announce that, in such a time of crisis, world peace requires that the Canal be neutral and closed for the duration. A neutral closed Canal would deprive us of our ability to defend our long unguarded Atlantic and Pacific coastal cities, but it would not interfere in the least with strategic war plans of Russia or China.

Those who argue that it would not be in Panama's economic interest to close the Canal and forfeit the tolls do not understand Communist tactics. Communists never permit economic considerations to take priority over ideological objectives. Those who might argue that Torrijos is not a Communist have absolutely no way of guaranteeing that his successor will not be.

The giveaway of our Canal to a Latin American dictator would mean the conversion of a major U.S. military asset into a strategic weapon in the hands of any and all potential enemies. American national security depends on maintaining our right to send our ships through the Canal in time of crisis, while denying transit to our enemies.

DEFENDING THE U.S. CANAL

When President Carter said he would defend the Panama Canal even if it takes 100,000 American troops, he was indulging in an emotional argument designed to scarce us into ratifying the Canal Treaties by conjuring up the threat of rioting, sabotage, or military attack.

President Carter has the shoe on the wrong foot. The 100,000 troops are what might be required if we sign the Canal treaties—not if we reject them. The terms of the treaties require us to give up the two great nonmilitary assets that now peacefully protect the Canal against violence, and would leave us with only American troops to do the job.

On the other hand, without the treaties, we can defend the Canal indefinitely with our existing level of troops there, just as we have done for more than 60 years.

One of our present non-military assets is the Canal Zone of five miles on each side of the Canal that has always enabled us to keep any troublemakers at a safe distance. Under the treaties, we would surrender this Zone immediately to Panama.

The other non-military asset that keeps Panamanian rioters and troops from doing any damage is their knowledge that, if they get too rambunctious, we can simply cut off the flow of U.S. dollars by pulling out and building another canal in Nicaragua. Under the Canal Treaties, however, we promise not even to talk with any third nation about building another Canal.

Nicaragua is a much better place for a canal. The climate is better, it's closer, and it has a deep lake that would cut costs. The original Isthmian Canal Commission recommended that our Canal be built in Nicaragua.

The reason Panama won out over Nicaragua as the location of the great U.S. Canal was because the Panamanians were lucky enough to have as their agent a smart French promoter-diplomat named Bunau-Varilla. He knew that the sweetener that would tip the scales in favor of Panama was the offer to give the U.S. sovereignty "in perpetuity" over the Canal Zone.

Senator Harry Byrd estimates that the overall cost of the Canal Treaties would eventually reach $10 billion. That is the sum of our present capital investment in the Canal and Canal Zone, plus the more than $2 billion we are scheduled to pay Panama to take it.

This figure doesn't even take into account the economic costs from the increase in Canal tolls. Treaty negotiator Sol Linowitz admits that Panama will raise the tolls 30 percent. Most observers expect a 50 percent increase.

More important is the cost to the good name of America in letting the world know that we are willing to surrender to any petty dictator who has a tantrum, makes threats, and hurls demands.

According to Freedom House, Torrijos has the worst record on human rights in all of Latin America. Until the Canal Treaties began to run into opposition in the United States, Torrijos made a practice of throwing his enemies into prison for 15 years without a trial.

Torrijos' brother Moises is under a Federal indictment in connection with heroin-smuggling charges.

The fatal fallacy in the arguments of those promoting ratification of the Panama Treaties is the very idea that we can give away the Canal and the Canal Zone and then, if necessary, use the Marines to enforce our "right" of passage. Those who use that argument have learned nothing from history. If we ever did such a thing, the world would treat us exactly as it treated the British when they sent troops to protect their rights in the Suez Canal.●

## ENDING AGE DISCRIMINATION: TAKING THE SECOND STEP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 15 minutes.

● Mr. PEPPER. Mr. Speaker, I had the distinct pleasure of attending last Thursday a White House ceremony at which President Carter signed into law my bill to raise the mandatory retirement age for most workers to 70, and to eliminate the current age 70 mandatory retirement age completely for most Federal employees. From my viewpoint as chairman of the Select Committee on Aging, that was a signal achievement, and I believe both Congress and the President are to be commended.

But the struggle is not over with the enactment of the Age Discrimination in Employment Act Amendments of 1978. We must move forward to a time when there is no discrimination based on age. Even in the area of employment, the new law contained exemptions and delays, and provided no protection for anyone over age 70. Outside of the employment field, discrimination against older people exists in the administration of certain Federal programs, in certain consumer matters and other areas.

Therefore I am introducing today a package of bills designed to end age discrimination in America .

The bills would address three different aspects of this thorny problem:

First, elimination of all age-based mandatory retirement;

Second, strengthening of prohibitions already on the books against age discrimination in federally funded programs; and

Third, addition of "age" as a prohibited basis of discrimination in civil rights statues.

I am pleased to be joined in this endeavor by the gentleman from Massachusetts (Mr. DRINAN), who serves both on the Select Committee on Aging and on the Judiciary Subcommitee on Civil and Constitutional Rights, which will consider part of the package. Also joining in the effort are the gentleman from California (Mr. EDWARDS), who chairs that subcommittee, numerous members of the Aging Committee, and many others.

I am especially honored to have as a principal cosponsor the gentleman from California (Mr. HAWKINS), who did such a magnificent job in speeding the passage of the 1978 amendments in his capacity as chairman of the Employment Opportunities Subcommittee of the Education and Labor Committee.

MANDATORY RETIREMENT

Unfortunately, my bill as enacted contains certain exceptions to the general prohibitions in the bill which Senate conferees insisted on. Even now it will still be legal to forcibly retire at age 65 certain executives and top policymakers with private pensions of $27,000 a year. For the next 4 years, it will still be legal to retire tenured professors at age 65. No private employee aged 70 or over has any protection whatever against mandatory retirement.

One bill being introduced today would effectively end the executives and tenured faculty exemptions, and extend protection against mandatory retirement to all persons, not merely those under 70. This would be done by amending title VII (Equal Employment) of the 1964 Civil Rights Act to prohibit age-based discrimination.

A second bill would eliminate a series of statutory exemptions permitting mandatory retirement of distinct groups of Federal employees—Foreign Service, air traffic controllers, law enforcement and firefighters, CIA and, inexplicably, employees of the Panama Canal and Alaska Railroad companies. Skills needed for many of these jobs are objective, and relatively easy to measure objectively. Arbitrary dismissal solely because of age in these cases is not only onerous, it is also unneeded.

These persons, no less than those protected under the new law, deserve protection against mandatory retirement, which severs productive persons from

their livelihood, squanders their talents, scars their health, and drives many into poverty and despair.

AGE DISCRIMINATION IN FEDERAL PROGRAMS

In 1975 Congress passed, as part of the Older Americans Act Amendments of 1975, the Age Discrimination Act, which outlawed "unreasonable" age-based discrimination in most federally financed programs. Federal regulations to implement the law will take effect not later than January 1, 1979. The U.S. Civil Rights Commission was directed to study age discrimination in Federal programs and recommend to the Congress and the President how best to implement the act. The Civil Rights Commission released its report in January.

The study found that "barriers * * * erected * * * between persons falling within particular age groups—especially children and older persons—and services * * * financed * * * by the Federal Government * * * (have) had and (are) continuing to have a serious adverse impact on the lives of children and older persons who need these services. * * *"

One part of the package being introduced today is a bill to make the changes recommended by the Commission.

The Commission examined 10 major Federal programs, including the Comprehensive Employment and Training Act, the vocational rehabilitation program, the Legal Services Corporation, mental health services, and community health centers program. It found age-based discrimination in every program studied.

The Commission recommended in its report that a number of changes be made in the Age Discrimination Act before it takes effect January. The key change is to forbid age-based discrimination except where Congress aims a program to the needs of specific age groups. The act now forbids "unreasonable" age discrimination. Just as Congress would not sanction "reasonable" sex or racial discrimination, we should not permit program administrators to say some discrimination based on age is "reasonable."

Other needed changes include curbs on discriminatory State use of Federal funds and strengthening remedies available to those discriminated against. The Select Committee on Aging has unanimously approved recommendations which include making these changes as part of the Older Americans Act Amendments of 1978.

CIVIL RIGHTS CHANGES

The issue of discriminatory treatment of persons on the basis of age transcends specific violations. "Ageism" is as odious a practice as racism or sexism, and it is time that older people received the same protection against arbitrary treatment as others whose civil rights have been systematically violated.

Therefore, one bill being introduced today will amend the duties of the Civil Rights Commission to allow its oversight of complaints of discrimination based on age. The bill will also add "age" to race, color, sex and national origin as a prohibited basis for discrimination in pubilc accommodations (title II, Civil Rights Act of 1964), public facilities (title III of that act), education (title IV), equal employment title VII—as described above), Justice Department intervention (title IX), the community relations service (title X), fair housing (title VIII of the Civil Rights Act of 1968) and prevention of intimidation (title IX of that act).

Mr. Speaker, one final point: Because of the various delays in effective dates which I have outlined, the formal protection of the ADEA will not extend to many workers for months, or years in some cases, despite the fact that Congress and the President have agreed that they should be protected.

Therefore I will shortly be contacting all major employers in the country—and for Federal employees, the Civil Service Commission—urging that the spirit of the broader protections be complied with immediately.

As for Federal employees, the Civil Service Commission has the authority under current law to grant a continuance for any worker beyond age 70 if, after receiving a request from that person's employing agency, the Commission finds that the continued employment will serve the public interest. Only a handful of such continuances are approved by the Commission each year. I believe that the enactment of my bill changes the definition of the "public interest" as perceived by Congress and the President, and I will urge the Commission to broaden its interpretation accordingly.

As for workers in the private sector, major corporations should also recognize that implementing as soon as possible the higher age limits contained in the new law would serve not only the public interest, but their own as well. Enlightened self-interest would bring these companies to the realization that pension costs might be somewhat reduced, and valuable expertise retained, by permitting able workers to stay on the job beyond age 65.

I will therefore be contacting each of the "Fortune 500" corporations to urge swift voluntary action along these lines.

Mr. Speaker, I believe we are at a critical point in the way our Nation perceives advanced age. Building on the momentum created by the enactment of the 1978 amendments, we can banish the specter of "ageism" from the consciousness of our people. The package of bills being introduced today points the direction we must travel to achieve that goal, and I urge their timely and careful consideration by the committees to which they will be referred. ●

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## ADDRESS BY WILBUR J. COHEN, SEVENTH SECRETARY OF HEW (1968–69) ON THE 25TH ANNIVERSARY OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BRADEMAS) is recognized for 5 minutes.

● Mr. BRADEMAS. Mr. Speaker, few Americans have contributed so much over a period of so long a time to the well-being of their fellow citizens as Wilbur J. Cohen.

As you know, Mr. Speaker, Wilbur Cohen served with great distinction as the seventh Secretary of the Department of Health, Education, and Welfare in which responsibility he won widespread respect for his leadership.

More recently, Mr. Speaker, Wilbur Cohen has been named by the Speaker of the House to serve on the National Commission on Social Security which Congress has charged with the responsibility for reviewing the operation of the social security system and making the recommendations for its improvement.

Wilbur Cohen was, of course, one of the persons who played a key role in the creation of the social security system.

It is, Mr. Speaker, therefore, particularly appropriate that Wilbur Cohen should offer his own observations as we today mark the 25th anniversary of the establishment of the Department of Health, Education, and Welfare, and I ask unanimous consent to insert at this point in the RECORD the text of Mr. Cohen's statement on this occasion:

THE 25TH ANNIVERSARY OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

(By Wilbur J. Cohen, seventh Secretary of Health, Education, and Welfare (1968–69))

Today we celebrate the 25th Anniversary of the establishment of the Department of Health, Education, and Welfare. They have been a momentous twenty-five years since it was established by President Eisenhower and the Congress. Our population has increased by 70 million persons, science and technology has advanced, and our society has become diffused and complex. At the same time, the nation's health, education, and welfare needs have multiplied at a rapid rate. The Department of HEW has made efforts to respond to these needs, guided by the objective that hope is the anchor of life and that it is possible to create fuller and better opportunities for every American.

I am proud and I am privileged to have been one of the twelve persons selected by a President to serve as Secretary of the Department. The position is one of immense challenge and responsibility. The Secretary of Health, Education, and Welfare is the only national official whose full-time job is to guard and strengthen the health, education, and social security of all the American people. The clocks tick fast in the United States: Every day over 9000 babies are born and some 2500 men and women reach age 65. Each month 34 million persons receive a social security check. Each year over 100 million persons work and contribute to the productivity of the nation and to the social security system. Each day our total population increases by 3500 individuals and there are 6000 marriages, 3000 divorces, and 100 infant deaths. Each day some 100 million persons go to school or to on-the-job training, or similar learning experience. Each one and each event is of concern to the Department.

The opportunity to work as Secretary toward improving the quality of life in America was to me an exhilarating experience. Such a critical Cabinet post should not be held by man or woman with little faith in the goodness of humanity or with personal political ambition. It should be held by someone who combines compassion and idealism with managerial skills and the ability to work effectively with the executive and legislative branches of government and with the private and public sectors of the nation.

THE UNIFIED APPROACH OF HEW

I do not believe that the Department is unmanageable or that it is a "can of worms"

as some contend. Some believe there should be three separate departments: education, health, and welfare. On the basis of my thirty years' experience in various positions within the Department and fifteen years as a DHEW watcher, I believe these critics are wrong. If separate departments were to be created, balancing priorities, measuring alternatives, and making detailed decisions about specific programs would fall on the President, already overburdened with responsibilities. Still worse, more of these matters would fall on the Office of Management and Budget, which is not designed or equipped to be an operational unit.

The Department's mission to create more and better opportunities for all Americans demands a unified approach to the health, education, and welfare concerns of individuals, families, and communities. A child's health cannot be considered apart from his education; a family's welfare cannot be considered apart from its health and education. A fragmented Department would fragment the human problems that must be dealt with as a whole. It is not the size of an institution which makes it manageable or unmanageable. It is the quality of leadership. It is the lack of flexibility and of staff with new ideas. It is the lack of common purpose.

THE PURPOSE OF HEW

The Department has had since its establishment twenty-five years ago one overriding purpose: to improve the quality of life in this nation. Although its purpose has remained constant, its programs and services have expanded considerably to meet new needs. As our gross national product (GNP) has risen, so has the proportion of the GNP invested in health, education, and welfare. In 1953, all health expenditures in the United States—public and private—totalled 13.5 percent of the GNP. Today, these expenditures are equivalent to 28 percent—a doubling in twenty-five years. Some have complained and charged that the increase in expenditures is an indication of how far we have come toward the ambiguous concept of the "welfare state," but to me it is a constructive indication of the compassion and foresight of our business and labor leaders, our federal and state legislators, and the general public in their determination to meet human needs. We do not aspire to a welfare state but to a state of welfare for ourselves and for our neighbors. Our expenditures for welfare are a clear expression of the remarkable ability of our free enterprise economy and our political democracy to compete with the totalitarian and autocratic regimes throughout the world and outdo their claimed beneficence without impairing our basic freedoms of speech, religion, and economic choice.

THE PRIVATE SECTOR AND HEW

It should be emphasized that a substantial portion of our health, education, and welfare needs are met through the private sector of the economy—some 30 percent of the total—and that a large portion of those needs handled by the public sector is met by state and local agencies. Our system is effective because it is mixed and pluralistic. The various levels of government, business, labor, and the universities work together in a wide range of productive activities which improve the life of all Americans. But like any system, it can and should be improved. To make it work even more effectively we will need the best brains, the best ideas, and the best managerial skills available. I believe that through the vigorous leadership of President Carter and Secretary Califano we can and will make additional improvements in the health, education, and welfare of the American people in the years ahead.

We all must be willing to dream new dreams, and we all must have the vision and the persistence to transform these dreams into reality. The twenty-two years left in this century offer us a rich opportunity to make further progress toward full achievement of the oldest and fondest dream of this Republic: creating a just and humane society, the best on earth. The Congress helped start us on that path in 1798, when it created the first health unit, still an important link in the Department. I believe Congress will continue its efforts and with vigorous Presidential and Congressional support improve the health, increase the educational options, and sustain the social security and welfare of all of us.

We must not be satisfied with the status quo in health, education, and welfare but must press forward with progress in education, revisions in the financing of social security, adoption of national health insurance, and welfare reform. I urge that we utilize the present to fashion the future and that we commit ourselves to work harder than we have ever worked before to achieve the objectives advocated by President Carter and Secretary Califano.●

## PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CARR) is recognized for 5 minutes.

● Mr. CARR. Mr. Speaker, on Monday, April 10, I failed to respond to a recorded quorum call (rollcall No. 200) because I was in transit from my district to Washington. I had appointments with constituents in Michigan at 7 and at 9:30 in the morning, and was unable to return to Washington in time for this quorum call.●

## LEGISLATION TO CREATE A SOLAR AND CONSERVATION LOAN PROGRAM WITHIN SBA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. BEDELL) is recognized for 5 minutes.

● Mr. BEDELL. Mr. Speaker, I would like to bring to my colleagues' attention the proposal which I have introduced to create a solar and conservation loan program within the Small Business Administration.

The need for such a program was well documented in hearings held by Congressman BALDUS' Small Business Subcommittee on Energy. Small solar and energy conservation firms are experiencing difficulty obtaining sufficient capital to expand their operations to meet the increasing public demand for their products. These small businesses need assistance now to be involved with the new energy technologies and to curb monopolistic trends in the solar marketplace. The Small Business Administration has not been meeting this nationwide need through their present loan programs. My bill would address this problem by insuring that small businesses could receive direct or guaranteed loans through the SBA for the design, manufacture, distribution, marketing, installing, or servicing of solar and conservation energy equipment.

The bill has over 100 cosponsors and was approved overwhelmingly by the House Small Business Committee on April 4. In the near future, the full House of Representatives will be asked to consider the proposal.

The full text of the bill is printed below:

H.R. 11713

A bill to create a solar and conservation loan program within the Small Business Administration

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.*

TITLE I—SMALL BUSINESS ACT AMENDMENTS

SEC. 101. (a) Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding at the end thereof the following new subsection:

"(1) The Administration also is empowered to make loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administrator may determine to be necessary or appropriate to assist any small business concern in financing—

"(1) plant construction, conversion, expansion (including acquisition of land for such a plant) or startup, and

"(2) the acquisition of equipment, facilities, machinery, supplies, or materials to enable such concern to design, manufacture, distribute, market, install or service active or passive solar energy equipment, renewable energy sources equipment, or other item on the Energy Conservation Measures List or contained in an approved State Energy Conservation Plan."

(2) No loan shall be made under this subsection if the total amount outstanding and committed (by participation or otherwise) to the borrower from the revolving fund established by this act would exceed $500,000: *Provided,* That no such loan made or effected directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate basis shall exceed $350,000.

(3) No financial assistance shall be extended pursuant to this subsection unless the financial assistance applied for is not otherwise available on reasonable terms from non-Federal sources.

(4) No immediate participation may be purchased unless its shown that a deferred participation is not available; and no loan may be made unless it is shown that a participation is not available.

(5) In agreements to participate in loans on a deferred basis under this subsection, the Administration's participation shall not be in excess of 90 per centum of the balance of the loan at the time of disbursement.

(6) The Administration's share of any loan made under this subsection shall bear interest at the same rate as loans made under subsection (a) of this section. The maximum term of any such loan, including extensions and renewals, may not exceed fifteen years.

(7) All loans made under this subsection shall be of sound value as reasonably to assure repayment, recognizing that greater risk may be associated with loans made to business concerns in this field: *Provided, however,* That factors in determining "sound value" shall include but not be limited to quality of the product or service; technical qualifications of the applicant or his employees; sales projections; and the financial status of the business concern: *Provided, however,* That such status need not be as sound as that required for loans made under subsection (a) of this section.

(8) For purposes of this subsection, the term "active or passive solar energy equipment" shall include, but not be limited to, solar heating and cooling systems, including storage, solar hotwater systems, solar photovoltaic systems, and such other equipment as prescribed by the Administrator. The term "renewable energy sources equip-

ment" shall have such meaning as prescribed by the Administrator.

(9) Funds under this subsection shall be distributed as equitably as possible between nonurban and urban areas.

SEC. 102. Subsection (c) of section 4 of the Small Business Act (15 U.S.C. 633(c)) is amended—

(1) in paragraph (1), subparagraph (B), by inserting "7(1)," 'after "7(1)" and before "8(a),", and

(2) in paragraph (2), subparagraph (B), by inserting "7(1)," after "7(1)" and before "8(a),".

SEC. 103. Subsection (e) of Section 20 of the Small Business Act (15 U.S.C. 649(e)) is amended by adding at the end a new paragraph as follows:

"(11) For the programs authorized by section 7(1) of this Act, the Administration is authorized to make $30,000,000 in direct and immediate participation loans, and $45,000,000 in guaranteed loans.".

(c) Subsection (f) of section 20 of the Small Business Act (15 U.S.C. 649(f)) is amended by deleting the first sentence of the subsection and replacing it with the following: "There are authorized to be appropriated to the Administration for fiscal year 1979 $1,601,750,000 to carry out the programs referred to in subsection (e), paragraphs (1) through (10).".

SEC. 104. Subsection (d) of section 7 of the Small Business Act (15 U.S.C. 636(d) is amended by inserting "(1)" after "(d)" and by adding at the end of such subsection the following paragraph:

"(2) The Administration is hereby authorized to make grants to qualified organizations for the purpose of enabling such organizations to provide training seminars for small business concerns concerning practical and easily implemented methods for design, manufacture, installation and servicing solar energy equipment, and renewable energy sources equipment, or other Energy Conservation Measures."

SEC. 105. Subsection (b) of section 8 of the Small Business Act (15 U.S.C. 637(b)) is amended by striking out "and" at the end of paragraph (14), by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and", and by adding after paragraph (15) the following:

"(16) to provide technical manuals on the design, manufacture, installation or servicing of solar energy equipment, or renewable energy sources equipment, to any small business concern at not more than 50 per centum of the cost to the Administration.".●

## CUSTOMS COURTS ACT OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

● Mr. RODINO. Mr. Speaker, today I am introducing a bill which provides for significant and much needed reform of the laws governing the U.S. customs court. Government decisions in the area of international commerce can and do have an important impact upon the American citizenry. Today, more and more individuals are seeking review of these decisions in the Federal courts, especially the customs court and the Court of Customs and Patent Appeals. Over the years many complex questions have been raised concerning the jurisdiction of the customs court, its scope of review, and the type of relief the court may award. For the most part, the primary jurisdictional statutes involved with international commercial litigation have remained relatively unchanged despite the fact that those cases have become increasingly complicated. In short, the law governing the customs court has not kept pace with the problems posed by modern-day commerical litigation.

Inconsistent judicial decisions concerning the primary jurisdictional statutes have created a patchwork system. As such, litigants proceed at their own risk when choosing a forum for judicial relief. If an improper forum is chosen, that may well result in a holding that the plaintiff is before the wrong court. With the costs of litigation today, such a holding can effectively preclude any judicial relief for some people.

Furthermore, the type of relief available depends greatly on the plaintiff's ability to persuade a court that it possesses jurisdiction over a particular case. Thus, some individuals will obtain relief which is denied others, who by chance select an improper form in which the institute suit. Clearly, a judicial system which perpetuates such a result is unfair.

The Customs Courts Act of 1978 is designed to eliminate many of the problems faced by litigants in international commercial cases before the various Federal courts. This bill expands the Customs Court's substantive jurisdiction and type of relief it may award. Furthermore, the court will be granted the same powers of relief given other article III courts. As such, the Customs Court will best be able to utilize its expertise in bringing about a national consistency in the judicial decisionmaking process regarding international commerce.

The bill also addresses itself to the status of the chief judge of the Customs Court. Presently, the law provides that the President shall appoint "from time to time" one of the Customs Court judges to serve as chief judge. Today's legislation would alter the present statute to accord the chief judge a similar position to that of the chief judge of other courts of national jurisdiction.

It is my hope that the Congress will take action on this much-needed legislation in the very near future. I will certainly do all that I can to bring this about.●

## INADEQUATE BENEFITS AND SERVICES FOR VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. ROBERTS) is recognized for 5 minutes.

● Mr. ROBERTS. Mr. Speaker, the Committee on the Budget has adopted its chairman's recommendations for targets to be included in the first resolution for veterans benefits and services for the coming fiscal year. The views of the Budget Committee and those expressed by the members of the Committee on Veterans' Affairs in its report to the Budget Committee dated March 15 are miles apart. For instance, budget outlays for fiscal year 1979 proposed by the Committee on Veterans' Affairs would be approximately $21.535 billion. In comparison, the Committee on the Budget is recommending a total of $20.471 billion in outlays for the coming fiscal year. The Committee on the Budget is recommending only a net total of $799 million for new entitlements during the coming year. This is supposed to include cost-of-living increases for compensation, pension, education and training, et cetera. Obviously, the amount recommended will not take care of the inflation factor alone in these areas. The Budget Committee is recommending an increase of only $45 million in outlays for ongoing hospital and medical care programs. This compares with a figure of more than $400 million recommended by the Committee on Veterans' Affairs.

The veterans throughout the country are very concerned about the action that has been taken, and I share their concern. So that my colleagues will be aware of the differences of opinion between the Committee on the Budget and the Committee on Veterans' Affairs, there follows a copy of my letter dated April 4 to the chairman of the Committee on the Budget in reference to these differences:

COMMITTEE ON VETERANS' AFFAIRS,
*Washington, D.C., April 4, 1978.*

Hon. ROBERT N. GIAIMO,
*Chairman, Committee on the Budget, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: We have been informed that the Committee on the Budget began marking up, the First Budget Resolution today, and I understand a markup of the veterans' portion of the Resolution may begin tomorrow or Thursday.

Having received your recommendations for Veterans' Benefits and Services, I am compelled to respond on behalf of our veterans and eligible dependents who benefit from programs Congress has provided. Your recommended funding levels are substantially below those recommended by our Committee.

You will recall in our report to the Committee on the Budget, we recommended $2.2 billion in outlays above the amount requested by the President. In addition, since the President substantially underestimated his budget in early January, $511 million in additional outlays must be added based on "reestimates".

If your recommendations are accepted by your members, the Committee on Veterans' Affairs will have a net total of only $799 million in new entitlement authority for all initiatives proposed in our March 15th report. This, of course, would be insufficient to even fund the first-year additional cost of H.R. 10173, the pension reform measure already ordered reported by our Committee. I'm sure you are aware of the strong support for this measure which would resolve the problem of pensions being reduced as a result of social security increases, and the need to provide additional benefits for veterans at age 80, mostly our World War I veterans.

In addition to pension reform, we recommended $350 million for a 6.5% cost-of-living increase in compensation and DIC benefits for service-connected disabled veterans and eligible dependents; $100 million for other initiatives for service-connected veterans; $366 million for cost-of-living adjustments and employment initiatives for those participating in the GI Bill programs; more than $53 million for new medical initiatives; $50 million to strengthen the National Cemetery System and increases in burial benefits; and about $8 million for increased housing benefits. None of this can be accomplished unless the New Entitlement Authority target is increased substantially above the amount you have recommended.

In addition, you are recommending only $45 million in outlays over that proposed by the President for VA's on-going medical programs. We had recommended an additional

$405 million for medical care, research, and construction. of VA and State medical facilities. Your recommendation would not address the Administration's proposed plan to close 3,132 hospital beds during the coming year, and its plan to terminate the medical research program in some 53 VA hospitals.

We are receiving hundreds of inquiries from veterans throughout the country expressing concern for the lack of funds for ongoing VA hospital and health care programs. Surely your members have heard from veterans in their districts and the national service organizations.

In summary, if the Committee on the Budget adopts your recommendations, the Committee on Veterans' Affairs would exceed its target for new initiatives with the passage of a single bill—the pension reform measure, H.R. 10173.

We believe we justified the recommendations in our report to your Committee on March 15th, and we feel the funding levels you have recommended are woefully inadequate. This is regrettable as I do not think it reflects the view of a majority of the Members of the House.

Therefore, unless the funding levels are substantially increased, for both new initiatives and on-going programs, especially in the medical area, we have no alternative but to seek to remedy the situation on the Floor during consideration of the First Resolution.

Sincerely,

RAY ROBERTS,
*Chairman.*

## TATTOOING OF CERTAIN SWINE

Mr. BRINKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BRINKLEY. Mr. Speaker, the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture has imposed new regulations mandating the tattooing of certain swine intended to be sold for interstate slaughter. It appears that these regulations have been imposed without taking the increased danger to employees handling the swine and possible loss of stock into consideration. Mr. Hugh C. Craig, representing the Georgia Stockyard Operators Association, makes a valid case against these regulations in his recent letter to Mr. Francis J. Mulhern, Director of the Animal and Plant Health Inspection Service. Therefore, I would like to submit for the RECORD and commend his correspondence to the attention of my distinguished colleagues. May I also express particular appreciation to my friend, Fox Stephens, for calling this important matter to my attention:

DUBLIN, GA.,
*March 10, 1978.*

MR. FRANCIS J. MULHERN,
*Director, USDA Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C.*

DEAR MR. MULHERN: This correspondence is in reference to Federal Register Volume 42, number 247 and dated December 23, 1977 concerning the sale of sows and boars.

We are unaware that an emergency swine brucellosis situation exists. This would seem the only justification for the drastic procedures indicated by this regulation. The program has been introduced on two other occasions in 1974 and 1975. In both instances the participating parties were notified, hearings were held and the programs were dropped with just cause. In this instance participating parties were not given the opportunity of a hearing and most stockyards were not even notified of the filing of the regulation until February 21, 1978, and then we were notified only by our own state departments of agriculture.

The types of swine involved are highly excitable and are prone to heart failure and heat death with even minimum handling in unfamiliar surroundings. Under normal conditions we presently have death losses in these classes. With weather temperatures varying from a low of 50 degrees to highs of 108 degrees in the South, we can expect heavy losses in the maximum handling in unfamiliar surroundings that will be necessary in order to mark the swine.

Sows and boars are extremely dangerous to handle and employees are highly reluctant to risk their safety in having to closely handle these animals. A local yard worker was bitten while handling these type hogs and subsequently his leg was amputated three times.

The costs to volume stockyards would be excessive. Throughout the process of unloading, separating, tagging and penning of swine all for tatooing, and in addition to the regular process of grading, weighing and selling swine through the auction ring and again re-penning them, the animals would be handled at great lengths. This will cause undue delay in the normal operation of processing all other swine at a substantial loss of time and added labor costs on the yard. There is also the probable loss of life in highly-bred meat type hogs who have an extremely nervous temperament. It would require two to three additional men to process the sows and boars for handling, marking and doing on the spot bookwork. It would also require additional office procedures and bookwork. All this would be expensive for the stockyards to absorb in addition to probable death losses.

We would suggest that should the U.S.D.A. desire a sustained observation of the swine brucellosis situation, the department would consider the alternative method of "on the farm spot-checking." The animals will be more easily handled in their familiar surroundings and will be less nervous.. Checking at the point of origin would also resolve the situation whereby the swine may be traded several times by "hog traders" before reaching a kill plant. This also brings up the fact that tatoo marks will be eliminated when these animals are skinned as ninety percent are in killing plants. In the use of ear tags on lighter weight hogs, these tags will be destroyed by the de-hairing process used in butchering this size hog.

We hold great respect for the progress made by the U.S.D.A. and our state departments of agriculture in the emergency situations with swine cholera and cattle brucellosis. The Georgia Commissioner has been highly complimentary of our state yards' cooperation and support in these programs. We were aware of the urgency of this situation and we voluntarily absorbed the handling costs of these programs.

However, we feel there is a limit. We do not have a state of emergency in swine brucellosis that warrants this action and we are reluctant to enter this dangerous and costly program at this time. As President Carter has implied, committees never seem to dieout, they just keep growing. We can even visualize this program expanding to include marking of all swine in interstate shipment and the prospect is frightening.

As a last resort, should we be forced into compliance with this regulation, we request the following:

That the federal government assume and appropriate sufficient funds to handle swine mark costs and to cover the cost of death indemnity of same to stockyards or dealers. Further, should federal funds become unavailable, the program should be dismissed immediately.

As representative of the Georgia Stockyard Operators Association, Inc., I respectfully submit this letter for your consideration and immediate action of delay of implementation of the abovementioned regulation for hearings, or complete dismissal of the regulation.

Yours very truly,

HUGH C. CRAIG,
*Georgia Stockyards Operators Association, Inc.*

## TESTIMONY BEFORE CONGRESS ON ORME DAM

(Mr. RUDD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. RUDD. Mr. Speaker, I was privileged last Wednesday to appear with other members of Arizona's congressional delegation, along with the Governor of our State, the Honorable Bruce Babbitt, before the House Subcommittee on Public Works Appropriations, in behalf of continued funding for the Central Arizona Project.

The testimony was led by our friend and colleague, Congressman JOHN RHODES, the distinguished minority leader, who along with myself and Congressman BOB STUMP represents the people of Maricopa County, the most populous area of our State.

A key aspect of our testimony dealt with the vitally important issue of what has been known as Orme Dam, the water storage and flood control facility planned where the Salt and Verde Rivers join together 14 miles east of Phoenix.

All of us representing Maricopa County in the U.S. House of Representatives are united in our strong support for Orme Dam, which was authorized by Congress for Federal funding in 1968.

Following are statements specifically relating to Orme Dam that were made by all those who testified. The first statement came from Governor Babbitt, who was introduced to Chairman TOM BEVILL and other members of the Public Works Appropriations Subcommittee by Congressman JOHN RHODES:

[From Governor Babbitt's prepared statement, submitted for the record but not read, during hearings of the House Subcommittee on Public Works Appropriations, April 5, 1978.]

Hon. BRUCE BABBITT. In appropriating funds for fiscal year 1978, Congress heeded the Administration's recommendation that Orme Dam at the confluence of the Salt and Verde rivers be eliminated from the Central Arizona Project. In the project plan Orme Dam was to provide for regulation of the flow of water in the aqueduct from the Colorado River, flood protection for the Salt River Valley, and conservation of water in the Salt and Verde rivers.

Subsequently, the Bureau of Reclamation established a task force including state agency and public interest group representatives to study alternatives for Orme Dam. That study was suspended last fall by order of the Department of the Interior. That order was recently rescinded, however, and the studies are now continuing so that an environmental statement can be completed.

As Governor of Arizona, I am not prepared to make a judgment in the Orme Dam controversy until the study of alternatives has been completed. The high dam as originally planned has been opposed by resi-

dents of the Fort McDowell Indian Reservation, and by certain environmental groups.

The storm which hit Arizona late in February and early March caused a tremendous amount of public and private property damage and loss of six lives. Water release from Salt and Verde River reservoirs to accommodate the watershed runoff peaked at about 120,000 cubic feet per second. I am advised that the flood control capacity in the proposed Orme Dam reservoir, had it been in place, wold have limited the runoff releases to 50,000 cubic feet per second.

Hon. TOM BEVILL. What is your position on Orme Dam?

Governor BABBITT. I—and I believe most of the state officials—believe what we should do with the Orme Dam is to back up and ask the Bureau of Reclamation to commission a careful reconsideration of all of the alternatives.

We must have some regulatory storage to have effective water utilization.

Secondly, Phoenix must have a flood control plan.

Again, the storm of early March proved that.

The alternatives are extremely complex. The position of the Indian tribes is not clear. My recommendation would be that the bureau back up and take a year or two to look at all of the alternatives.

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[Prepared statement of Congressman John Rhodes, First Congressional District, Arizona]

Hon. JOHN RHODES. Mr. Chairman, as I have in the past, I come before you today to urge the Committee to continue funding for the Central Arizona Project. The members of this Committee are well aware of the travail that has surrounded this project, culminating with President Carter's review of it last Spring. At that time, the President saw fit to delete from the Central Arizona Project the Orme Dam and Reservoir. The time is at hand for us to review the President's decision and, I feel, reinstate the Orme Dam and Reservoir as part of the CAP.

In the intervening months since President Carter's decision to delete Orme Dam as part of the Central Arizona Project, many alternatives to the structure have been studied. However, no suitable alternative to Orme has been found for the purpose of storage and diversion of Central Arizona Project water. Any alternative to Orme Dam is, at best, a very weak substitute for these two purposes that the dam would serve. Furthermore, recent events have demonstrated the need for the all-important flood control aspects of Orme Dam.

As this Committee knows, Phoenix has recently been ravaged by the worst floods in the city's modern history. Not only is the current flood disaster the worst in 27 years, it is the second major flood in the past six years. And once again, this disaster has raised the question of the best means of flood control to prevent such occurrences in the future.

No discussion of flood control can be complete without talking about Orme Dam. The record regarding Orme Dam is replete with detailed studies of the flood problems along the Salt River. In a letter I received dated July 11, 1975, from Major Gen. J. W. Morris, then Director of Civil Works for the Corps of Engineers, all of the available information regarding flood control and proposed alternatives to the Orme Dam were summarized. After detailed analysis, the Corps' conclusion was emphatic: ". . . Orme Reservoir stands out as the most cost and operational effective project for flow regulation and flood control." The Corps' conclusion is no different from the conclusions reached by the Bureau of Reclamation, Arizona's own water resource experts, and independent engineering firms. In fact, all of the studies conducted to date have reached the same conclusion: Orme Dam and Reservoir is the most operational and cost-effective structure for CAP water regulation and flood control for the Phoenix metropolitan area. Nothing uncovered by the President's task force contradicted this information.

There is another feature about Orme Dam that also deserves mention when we talk of the structure and reservoir in connection with flood control. If Orme Dam is constructed, part of the flood control measures to be taken would be a project known as Rio Salado. This is a plan to convert the Salt River channel from vacant land and sand and gravel mining operations to water oriented recreation surrounded by a combination of residential, commercial and industrial development. It is similar in its design to the recently completed Indian Bend Wash project, which is also a flood control project, which runs through the center of the City of Scottsdale to the northeast of Phoenix. I think it is interesting to note that when Phoenix was being ravaged by the flood waters of the Salt River bed, the City of Scottsdale was experiencing minimum difficulty with flood waters because of the Indian Bend Wash project. Certainly, Phoenix deserves the same type of recreational-flood control project which has so effectively protected its sister city to the northeast. However, once again, the Corps of Engineers after a detailed analysis of the proposed Rio Salado project reached the conclusion that "without the construction of Orme Dam, the conceptual land use plan (of the Rio Salado) would require a substantial modification because of the flood threat."

At this time, I would like to include in the record both letters from the Army Corps of Engineers concerning Orme Dam and the Rio Salado Project, and I want to urge this Committee to place in the appropriations up to the capability of the Bureau of Reclamation for 1979 funds to reinstate the engineering and design work for the Orme Dam as part of the CAP. This latest flood has demonstrated that we cannot turn our backs on approximately two million people who live in the Central Basin of metropolitan Phoenix and abandon a project that is so necessary to prevent the destruction that has occurred to life and property in the Valley of the Sun.

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DEPARTMENT OF THE ARMY,
OFFICE OF THE CHIEF OF ENGINEERS,
*Washington, D.C., July 11, 1975.*

Hon. JOHN J. RHODES,
*Minority Leader,*
*House of Representatives,*
*Washington, D.C.*

Dear Mr. RHODES: I am pleased to provide you a summary of Corps involvement in the flood control aspects of Orme Reservoir, consideration of alternative solutions, and our attitude towards storage at Orme Reservoir.

Detailed studies of the flood problems along the Salt River were conducted by the Los Angeles District Engineer in 1957. At that time, we found the best solution to the flood problem was flood control storage in Orme Reservoir, if terminal or regulation storage were first provided, as envisioned under the Central Arizona Project. However, in view of the then existing controversy between the States of Arizona and California regarding rights to Colorado River water, the Corps could not make any firm recommendations regarding flood control storage at Orme Reservoir. Consideration was also given at that time to levees along Salt River from Tempe Butte to 27th Avenue, Phoenix, for local flood protection, but such levees were not economically justified.

Orme Reservoir was authorized in 1968 for construction by the Bureau of Reclamation, as a unit of the Central Arizona Project. The dam, about 195 feet high, would be located on the Salt River just below the Verde River confluence. The total capacity of the reservoir would be 1,650,000 acre-feet, comprising 410,000 acre-feet for conservation and dead storage, 950,000 acre-feet for flood control, and 290,000 acre-feet for surcharge storage. The reservoir would be operated to control a standard project flood peak discharge of 290,000 cubic feet per second at the Orme site (250,000 c.f.s. at Tempe) to a peak discharge of 50,000 cubic feet per second. Since 1968, material has been supplied to the Bureau of Reclamation regarding flood control benefits from construction of Orme Reservoir by applying appropriate factors to the 1957 study results. These factors reflected price level changes and generalized information regarding growth in the area.

Recently, the Bureau has requested an update of the flood control evaluation of Orme Reservoir, and that the Corps consider operating the reservoir on a forecast basis, especially for snowmelt floods. We are hopeful that most of these floods could be controlled to a maximum of 7,000 c.f.s. Recognizing that the floods of 1966 and 1973 along the Salt River have modified the topography in the river channel, the Bureau supplied us with up-to-date topography. The enclosed maps depict a preliminary layout of the flooded areas on occurrence of a standard project, a 100-year flood, and a discharge of 50,000 c.f.s. Of particular interest is the significant development inundated by the two larger floods. We roughly estimate that the value of property subject to overflow by a standard project flood is from 500 to 600 million dollars, and from a 100-year flood, from 200 to 300 million dollars. Also shown on the maps is the layout of the levees considered in the 1957 studies.

Flood control storage at Orme Reservoir is now estimated by the Bureau of Reclamation to cost about $70 million. The benefit-cost ratio, on an incremental basis, using an interest rate of 3¼ percent, is estimated at 1.8 to 1. Thus, such storage is amply justified.

Environmental and social concerns have surfaced at the Orme Reservoir site, as follows:

a. Archeological—Many sites have been identified in the area which need to be evaluated for significance. The Bureau of Reclamation will be working with the National Park Service and the Advisory Council on Historical Preservation in developing an appropriate evaluation and mitigation program to reach an agreement on the matter.

b. Rare and endangered species—Three pairs of Southern Bald Eagles are known to utilize the area in and adjacent to the reservoir. Fish and Wildlife Service, under contract with USBR, is conducting studies to evaluate any impacts, which could lead to recommendations for possible mitigation.

c. Loss of natural vegetation—Adverse impacts will be quantified, and possible mitigation measures will be identified.

d. Elimination of informal recreation such as fishing and tubing—This will be offset by a recreational program on the proposed lake or relocated to portions of the river system not presently utilized for such activities.

e. Inundation of 15,000 out of 25,000 acres of the Fort McDowell Indian Reservation. The Bureau is readying a proposal to the Indian community, which they believe would be accepted.

As mentioned earlier, levees were considered along a 10-mile reach of river between Tempe and 27th Avenue, Phoenix during our 1957 studies. Such levees were estimated to cost about $9,000,000 at that time. In view of the extensive development that has taken place in the Phoenix area, we now estimate that about 22 river miles of levee would be required. Such levees are roughly estimated to cost about $60,000,000 under present prices.

I do not consider that construction of

levees would be as desirable as provision of flood control storage space at Orme Reservoir. Flood protection would be limited to the reaches along the levees; no protection would be provided to the agricultural areas along the Salt River upstream and downstream from the levees, and no protection would be provided to areas along the Gila River between the Salt River and Painted Rock Dam. Orme Reservoir would also permit a flexibility of operation during most floods that would allow a modification of the operation of Painted Rock Reservoir to improve upon the flooding and salinity control problems in the Wellton-Mohawk Irrigation and Drainage District and in Mexico. The levees would have to be spaced about 2,000 feet apart and would be about 13 feet high and rights-of-way costs would be substantial. Such a wide channel requirement would also probably preempt the Rio Salado Project. In addition, recent experience with levees spaced so far apart indicates a need for substantial maintenance; small floods meander over the relatively wide channel bottom causing damages to the levee-system. More positive control of large floods can generally be achieved by storage than through local protection works.

Flood plain management would not be a solution to the flood problem. As mentioned earlier, from 200 to 300 million dollars worth of properties are now located in the 100-year flood plain. It would be impracticable to attempt to relocate such large numbers of properties. In addition, the large amount of additional property flooded by a standard project flood would still be subject to damage.

The Bureau of Reclamation is giving consideration to the addition of flood control space at Roosevelt Lake on the Salt River and the reconstruction of Horseshoe Dam on the Verde River to provide flood control storage. They advise us that the cost of such facilities would probably be about $85,000,000, substantially more than the cost of flood control storage at the Orme Reservoir site. Furthermore, there is some question that ample flood control storage can be provided at Roosevelt Lake without modifying Roosevelt Dam, a historic structure. Additionally, storms occurring downstream from the two dams could cause substantially more damages than those resulting from residual flows downstream from Orme Reservoir.

With respect to alternatives for regulation storage, the Bureau is giving consideration to (1) a dam on the Salt River at Granite Reef and (2) a dam on the Salt River upstream from Verde River or (3) a dam on the Agua Fria River downstream from Lake Pleasant. These sties have many environmental and economic disadvantages.

Use of the sites authorized for construction by the Corps of Engineers for flood control—Cave Buttes on Cave Creek, New River on the New River and Adobe on Skunk Creek—would not fulfill the Bureau's need for flow regulation. These sites do not have adequate storage capacity to permit proper regulation of Central Arizona Project waters.

Based on the above-mentioned considerations, Orme Reservoir stands out as the most cost and operational effective project for flow regulation and flood control. We will continue to provide all assistance the Bureau of Reclamation requires in the implementation of their program.

Sincerely,

J. W. MORRIS,
*Major General, USA,*
*Director of Civil Works.*

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DEPARTMENT OF THE ARMY,
OFFICE OF THE CHIEF ENGINEERS,
*Washington, D.C., August 20, 1976.*

HON. JOHN J. RHODES,
*House of Representatives,*
*Washington, D.C.*

DEAR MR. RHODES: This is in further response to your recent letter to Lieutenant General J. W. Morris, Chief of Engineers, concerning the relationship between Orme reservoir and the Rio Salado project.

I believe that much of the controversy about the impact of Orme Dam on the Rio Salado project derives from a difference of opinion as to what constitutes the Rio Salado project. At the present time, the Rio Salado project is a concept plan. The firm of Daniel, Mann, Johnson and Mendenhall prepared a Phase II planning study on the project in 1974 for the Maricopa Association of Governments and the Valley Forward Association. That report, which is the most recently published work on the project, assumed the construction of Orme Dam to reduce the standard project flood flow from 290,000 to 50,000 cubic feet per second and proposed a floodplain reclamation program to convert the Salt River channel from vacant land and sand- and gravel-mining operations to water-oriented recreation surrounded by a combination of residential, commercial and industrial development. Without the construction of Orme Dam, the conceptual land use plan would require substantial modification because of the flood threat.

There are others in the community who visualize purely recreational program in the Salt River channel. Without more specific details, it is difficult to comment on such a program. In any case, provision would have to be made for flood control.

As I mentioned above, the Rio Salado project is still in conceptual form. No detailed plans or evaluations of viability are available. The economic feasibility of the program would have to be established and a strong commitment from the comunity in terms of desires and funds would be required to implement any program. Without Orme Dam, I believe that it would be difficult to generate an economically viable program.

The Arizona State Legislature has designated Maricopa County as the agency responsible for coordination of intergovernmental planning for future development of the Rio Salado project. Our Los Angeles District has recently accepted a request from the County to participate a planning task force. It is anticipated that the Corps will provide technical assistance in flood control and recreation concepts, designs and evaluations. We will coordinate this work with our cooperative efforts with the Bureau of Reclamation on their Orme Reservoir project.

If I can be further assistance to you, please let me know.

Sincerely yours,

V. L. RATHBURN,
*Colonel, Corps of Engineers, Assistant Director of Civil Works, Pacific.*

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[Prepared Statement of Congressman Bob Stump, Third Congressional District, Arizona]

Hon. BOB STUMP. Mr. Chairman, as early as 1903, the U.S. Geological Survey issued a report which recognized the value of a dam at the present Orme location.

In ensuing years Arizonans have never lost sight of the importance of such a structure at the confluence of the Verde and Salt Rivers. It has always been contemplated it would be built; thus, was included as an essential feature of the Central Arizona Project legislation when the legislation was first introduced in the Congress in 1947.

The multiple benefits which would accrue from the emplacement of Orme Dam are widely recognized today by the great majority of the citizens of our State. It is the best solution to our flood and water storage problems, for the regulatory operation of the delivery of water to our cities and farmland, for relief from urban recreation pressures, and with a power feature with or without pump storage, it would meet the area's ever enlarging energy needs by an environmentally acceptable hydro-electric generation plant.

The location of Orme Dam at the confluence of the Salt and Verde Rivers would provide still another essential component to the existing dams as a flood control facility Recently, Arizona faced its worst flood disaster since 1941 and the second major flood in the last six years. A new dam at the confluence of the Verde and Salt Rivers would have easily retained the 500,000 acre-feet of spill which occurred this March. The spill was an equivalent to the domestic needs of a million Valley residents for over two years. Orme Dam would, according to the U.S. Corps of Engineers allow for the inclusion of 950,000 acre-feet of flood control storage and would significantly reduce the flood hazard of a 100 year flood which has a damage potential of $252 million.

The flood control feature would allow for the extensive and improved downstream use and land planning. The most prominent of these is the proposed Rio Salado project, an innovative plan for the development of the Salt River flood plain through the heart of the Valley. Without Orme Dam its maximum benefit to the people cannot be realized.

Basic to the Central Arizona Project is a regulatory storage feature which would assure that the water supply is delivered in the most efficient manner. Orme Dam even in periods of normal flow would increase the water storage capacity of the entire water delivery system by about 14 percent. This is an equivalent to about 131,000 acre feet annually over that which would be deliverable without regulatory storage.

The existence of Orme Dam will improve the operating flexibility of the entire system by adding a downstream level of control which would permit greater planning of flow options between upper reservoirs, to the benefit of agricultural, municipal and industrial users.

Arizona is reputed to have more private recreation boats per capita than any other state in the nation. The Bureau of Outdoor Recreation reports that Orme Dam has the potential of generating up to 2.37 million recreation days of activity per year. The surface acres of Orme Dam Reservoir will nearly equal the surface acres of the Salt River Project system. This would provide relief for the already congested nearly lakes which in recent years have been subject to controlled access.

Another beneficial function of Orme Dam is that it could provide additional hydroelectric power generation which conserves oil. The potential would be present for additional power revenues to pay Central Arizona Project costs.

In view of these comments and those of colleagues, I urge this Committee to allocate funds in the 1979 budget to complete the engineer and design work for Orme Dam as part of the Central Arizona Project.

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[Statement of Congressman Eldon Rudd, Fourth Congressional District, Arizona]

Hon. ELDON RUDD. Mr. Chairman, Members of the Committee, I am here to join my distinguished colleagues to urge the Committee's continued funding of the Central Arizona Project.

Particularly, I am here to convey to you the overwhelming sentiment of our people and the leaders in Maricopa County—the most populous area of our State which we represent—in favor of funding for the Orme Dam, where the Salt and Verde Rivers join together 14 miles east of Phoenix.

Mr. Chairman, funding for construction of this vital water storage and flood control facility has been officially requested by the Maricopa County Board of Supervisors, Speaker Frank Kelley of the Arizona House of Representatives in behalf of state legislators from Maricopa County, and the city councils of Phoenix and Tempe.

Similar endorsements of funding for Orme Dam have come from the Arizona and

Maricopa County Farm Bureaus, Electrical District Number Two in Pinal County, and numerous other organizations and citizen leaders.

I would like to submit letters and resolutions from those whom I have enumerated for the official record, and the Committee's consideration.

As the Committee is aware, Arizona has just been devastated by its worst flood in 27 years. Economic loss as the result of flood damage in Maricopa County alone is estimated to be above $10 million.

In addition, I have been informed by the Arizona Water Commission that more than 550,000 acre-feet of water went over Granite Reef, just below the proposed Orme damsite, during the first few days in March.

This water, value at almost $14 million, was lost to the Colorado River, instead of being trapped and stored for future use by residents of this large metropolitan area.

Moreover, the rivers are still running in Phoenix, and precious water from the Salt and Verde Rivers is still being lost every day in the aftermath of our recent heavy rains and flooding in Arizona.

Mr. Chairman, with the Committee's indulgence, I would briefly like to put into perspective this flooding situation, in relation to the proposed dam and water storage reservoir at the confluence of the Salt and Verde Rivers.

The 550,000 acre-feet of water that went over Granite Reef from March 2nd through 8th is 179.2 billion gallons of water. This is roughly 25 percent of total reservoir capacity, or enough water to fill Apache Lake more than twice.

I have been informed that it is only because Roosevelt Lake, with a storage capacity of 1.3 million acre-feet, had previously been drawn down that floodwater flowing over Granite Reef and into the heavily populated greater Phoenix area was held down to the level that it was.

The 195-foot tall Orme Dam would provide storage capacity of about 1.6 million acre-feet, which with proper regulation that has been typical of the other reservoirs would prevent the flooding that we have now experienced many times in Maricopa County.

Unless that reservoir is built, experts project that between $500 million and $600 million of road and property damage will be incurred in the greater Phoenix area over the next several years or decades.

That is not out of the question considering our most recent flood. At its peak on March 2nd, according to the U.S. Geological Survey, a peak flow of 138,000 cubic feet per second of floodwater rushed through the center of Phoenix.

That means more than a million gallons of water weighing more than 86 million pounds passed a given point every second, destroying almost everything in its path.

This avalanche of floodwater would have been more than 200,000 cubic feet per second if Roosevelt Lake, 60 miles east of Phoenix, did not have more than a million acre-feet of storage room available at the time the floods came.

Storage space open today is less than 170,000 acre-feet.

With the needed additional storage reservoir and dam at the confluence of the Salt and Verde Rivers, future floodwaters can be collected and saved, and the tragic toll in human suffering and economic devastation can be prevented.

Arizona has been hit by heavy floods and flood damage every three or so years for the past 10 years, and so we know that Orme Dam is vitally needed for water storage and flood control.

This year's flooding was the 14th time since 1891 that the greater Phoenix area has suffered major economic loss and suffering by our people, because effective water storage and flood control has been delayed or set aside.

The toll is worse each time, since our population and growth of the area are increasing sharply. The population is now 1.3 million. Based upon current growth, it will be two to three million by the year 2000.

With all costs associated with public works going up at a substantial rate, it is essential that we build Orme Dam now, and I earnestly seek your help in making that possible.

Mr. Chairman, our people have benefitted enormously from savings in terms of flood damage avoided and flood waters controlled and stored as the result of existing reclamation projects in Central Arizona. These reclamation projects stand as a tribute to past actions of this Committee, for which the people of Arizona are most thankful.

I have asked the U.S. Bureau of Reclamation to provide specific details of these savings, as well as facts about savings that could have been realized if Orme Dam was in place.

That information is expected any day, and as soon as it has been provided I would like to submit it to you for your further consideration.

Thank you, Mr. Chairman, for this opportunity to appear and state our case for continued funding for the Central Arizona Project.

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DEPARTMENT OF THE INTERIOR,
*Washington, D.C., April 4, 1978.*

Hon. ELDON RUDD,
*House of Representatives,*
*Washington, D.C.*

DEAR MR. RUDD: This supplements our March 17, 1978, acknowledgement of your March 9, 1978, letter about the March 1978 flood in Maricopa County, Arizona.

Final peak flow and damage figures for the March 1978 flood are not yet available, but it is estimated that without the reducing effect of the Salt River Project (SRP) reservoirs the estimated peak flow on the Salt River at Phoenix, Arizona, would have been in excess of 200,000 cubic feet per second ($ft^3/s$). The observed peak was approximately 120,000 $ft^3/s$. During the 8 days from February 28 through March 7, inflow to the SRP reservoirs totaled about 1.3 million acre-feet. Of that total, 792,000 acre-feet were stored in the reservoirs and 508,000 acre-feet were released when reservoirs on the Verde River filled to capacity and spilled. If Orme Dam had been built as initially proposed, including flood-control storage, and was operational for the March 1978 flood, it would have stored about one-half of the excess flows from the Verde River; the peak flow in Phoenix would have been approximately 50,000 $ft^3/s$. If a "mini" or "low" Orme Dam had been built, there would have been no flood-control storage and the dam would not have reduced flood damages.

Accurate figures on damages which occurred and were prevented are not yet available. The Corps of Engineers is preparing a report on the flood which will include damage assessments. Unofficial estimates have placed damages in the range of $20 to $25 million. In a January 20, 1976, letter report to our Arizona Projects Office, the Corps made preliminary estimates of potential damages along the Salt River from Granite Reef Dam (upstream from Phoenix) to its confluence with the Gila River (downstream from Phoenix).

The following data were extracted from that letter and represent conditions and prices as of September 1975:

| | (1) | (2) |
|---|---|---|
| Peak discharge in $ft^3/s$: | | |
| 290,000 | 200 | 252 |
| 210,000 | 100 | 112 |
| 150,000 | 50 | 54 |

[1] Flood frequency (years).
[2] Estimated potential present flood damage (in millions of dollars).

Based on the above data, damages would have exceeded $100 million without the reducing effect of the SRP reservoirs, and benefits attributed to the SRP would be about $75 million.

The peak flow of 50,000 $ft^3/s$ which would have occurred if Orme Dam had been built would have caused some damages under existing conditions. The surface transportation system would have been disrupted but would only have been damaged slightly, the south runway at Phoenix Sky Harbor Airport would have remained undamaged and in operation, and the evacuation of residents in low-lying areas would not have been necessary. Estimated damages would not have exceeded several million dollars.

Storage levels in SRP reservoirs before the March 1978 flood were unusually low following the 1976–77 drought. The additional storage space increased the reservoirs' effectiveness in reducing the flood peak. Increased storage from the flood has ensured normal water supplies for SRP water users in 1978. The water that Orme Dam would have retained in storage (approximately 250,000 acre-feet) was now wasted. That water could have been very valuable during future droughts.

If we can be of any further assistance in this matter, please let us know.

Sincerely yours,

CLIFFORD L. BARRETT,
(For R. Keith Higginson, *Commissioner*).

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Hon. JOHN RHODES. I would like to make a special plea for some funds to be put into the bill which this Committee will vote out for advanced engineering and design, or whatever study is necessary to proceed more rapidly with the eventual structure which must be built, I think, at the confluence of the Salt and the Verde, at the so-called Orme site.

I know there are various plans which have been advanced and which are being studied for alternative methods of flood control. For some years now—not some years, but for at least a year—we have been studying alternative means of dividing or storing and dividing the waters of the Central Arizona Project before they are actually put into the conduit system.

There has been no good alternative which has been proposed to the use of the Orme site for the latter purpose, that of storing and distributing the waters of the Central Arizona Project.

I doubt very much that we will be able to come up with a reasonable alternative for the other function of Orme, that of flood control, no matter how long we study.

It may be possible for the use of alternative means such as raising the height of the Roosevelt Dam, or perhaps the height of the Horseshoe Dam, to provide for some flood control features which would then allow us to have a lower dam at the Orme site.

As far as I can tell, the only flexibility in the situation is, just how high a dam do you put at Orme? It is not whether you have one, but how high it is. How high do you have to make the dam to provide the flood control storage which I think is absolutely necessary to protect the Phoenix area?

Several times since I have been in this

Congress I have been home and seen the Salt River rolling down through the middle of Phoenix, and, John [Hon. John Myers, Ranking Minority Member of Subcommittee], if the Wabash ever got that muddy, it would look like the Salt, there was that much water. It is fantastic.

Hon. JOHN MYERS. The next time you fly over Wabash, John, you take a look at it.

Hon. JOHN RHODES. I do many times, and I think of you.

Actually, you know, it is not only the waste of the water—and it is really criminal to waste that much water in a desert area—but it is also the fact, of course, if we did have a really devastating, what they call a "project flood," the City of Phoenix itself would be badly damaged.

Mr. Pfister, who is the manager of the Salt River Project, told me the other day that there were three specific storms which were coming into our area. The first one is the one that did the damage. It really dumped a lot of water on the area, and also in the surrounding mountains. That one storm filled the reservoirs of the Salt River Project to overflowing.

He said that if the other two had done the damage that they could have done, that we would have really had a terrible tragedy in the area.

As I say, it isn't a matter of whether or not you are going to build something at the Orme site. We are going to build something there. We have to build something there.

And I say this with all due regard and all due respect for the Fort McDowell Indians. They are a very valiant band of good American citizens, and I feel very sure when the alternatives have been explored and the situation is thoroughly explained to them, and understood by them, that they will come to a decision which will be in the interests of all the people of Arizona, and not just themselves.

I hope if I can make my point at all that it would be a mistake to delay any action at the Orme site until all the studies have been completed, because, as I say, there is going to be something there and it is just a matter of what and how much.●

## PRESIDENTIAL COMMISSION RECOMMENDATIONS ON MILITARY RETIREMENT COULD ENDANGER DEFENSE PROGRAM

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SIKES. Mr. Speaker, the Presidential Commission reviewing the military retirement system has recommended sweeping changes in the name of reform. These changes, if placed in effect, could be dangerous to the Defense program. There already is widespread concern in the Armed Forces about constant efforts to erode the benefits which historically are a part of military service. Retention of personnel, which is essential to avoid costly recruiting and expensive training, obviously will be more difficult if service in the military forces becomes less attractive. There will be increased problems in obtaining adequate numbers under the all-volunteer system. There is little likelihood that present-day thinking in the Congress and in the Administration would support a return to the draft. Therefore, enlistments and retention are doubly important to a strong defense and to America's security.

A key recommendation of the Commission is the end of the 20-year retirement plan in order to achieve "savings." In the words of the Chairman of the Commission, "The system now costs too much money." Compared to what? In reality, there is nothing to compare the military or its retirement system to. Look at the facts.

First of all, let us not ignore the fact that those presently serving have a contract. Cancellation of this contract would appear to be an extremely poor procedure even if it were legal. Congress should look long and carefully at any erosion of the present benefits of military service. It could be much more costly than the savings which the Commission anticipates.

The Commission recommends that for the new enlistees and officer accessions that their retirement system be based on the civil service systems with benefits beginning at age 55 for those with 30 years' or more service, age 60 for those with 20 to 29 years' service, and age 62 for those with 10 to 19 years' service. In essence, the 20-year retirement on half pay would end. Those wishing to leave the service after 20 years could not collect their benefits until age 60. But this only touches on the problem. The real crunch is expected in that the majority of enlisted personnel and many officers have had a full military career after 20 years. Twenty years of service to a Navy chief petty officer, for example, can easily mean an average of 7 or 8 accumulated years away from his family. For an Army sergeant, 20 years of service will include several unaccompanied tours of duty in Korea or Germany or some other outpost for 1 to 2 years' duration per tour. Yet, this type of career is tacitly compared to a civil service position, few of which include sea duty or lengthy unaccompanied tours.

Additionally, there is little mention of the number of working hours in the day of many of our military personnel. In the words of one enlisted man, "I earn good money for a 40-hour week—the only problem is I have to work 60 hours to receive it." Quite likely, the response from the proponents of this restructuring of the military retirement system will say that these people knew what they were getting into, and if they do not like it they can leave. This is exactly the point. Too many will leave.

Our Armed Forces are having a difficult time at present holding onto qualified first and second termers; the end to the 20-year retirement possibility will only increase that probem. And the concern is not just for qualified enlisted personnel. Too many qualified officers, both commissioned and noncommissioned, the cream of our defense forces, particularly those engaged in tactical aircraft capability, nuclear propulsion, and combat arms, already are leaving the service. One recent newspaper article cited the Navy's problems in retaining top aviators at the peak of their careers. Over 9 percent of these pilots are currently resigning between their 3d and 4th year. When asked why they are leaving, many cite the present review of the military retirement system, and a desire to get out of the service while they are young enough to obtain employment with civilian airlines and other private industrial or business programs. Others said they are tired of risking their lives in war and peace, flying highly sophisticated aircraft, working 12 hours a day and every other weekend, while the public derides them and their families.

The military is hardly the fat cat of the Federal Government system. In the past decade their medical care system, particularly for dependents, has been reduced to a system which sometimes is mainly on paper with too little real quality or benefits. We have been hard pressed to provide adequately for the housing we expect our service personnel and their families to live in. Thanks to an interested Congress, there have been many improvements in this area.

However, the condition of some of the junior enlisted bachelor and family housing programs is still deplorable. It is akin to folly to recommend that we now take away the benefits of retirement.

Simply put, the United States has made a commitment; a contract with our service personnel when they sign on to defend this nation. There is no more honorable profession than to bear arms in defense of one's country, and yet each year some seek to remove just a little more from their emollients and put a little more squeeze onto the appropriations for defense programs. As a result, our defense capabilities decline and citizens wonder why. We may not wake up to the realities of this decline until it is too late. But, we can stop this part right now. The military retirement system does not need change, unless it, is to upgrade it.●

## PRESIDENT CARTER URGES ATTACK ON INFLATION

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BRADEMAS. Mr. Speaker, in an address today, April 11, 1978, to the American Society of Newspaper Editors here in Washington, D.C., President Carter urged a vigorous attack on inflation and declared:

I am determined to devote the power of my office toward the objective of reduced inflation.

Mr. Speaker, I think that the President is absolutely right in singling out inflation as a problem to which we must give central attention.

I think he is right, too, in focusing on restraint by all sectors, public and private, as the most appropriate response to the problem.

But, Mr. Speaker, a policy of restraint will be effective in holding down inflation only if it is broadly based. All sectors of the economy must do their part.

The President has spelled out the task: it is now up to all Americans to help him reach our common objective.

Mr. Speaker, at this point in the RECORD I insert the text of the President's

address to the American Society of Newspaper Editors:

ADDRESS BY PRESIDENT CARTER

During the last 15 months we in the United States have made good progress in sustaining growth and creating jobs. Four-and-a-half million more people are at work today than fifteen months ago. The unemployment rate has fallen from nearly 8 percent to a little more than 6 percent. Average household income, after adjustment for both taxes and inflation, is 5 percent higher now than a year ago. Business profits in the second half of 1977 were 15 percent higher than one year before, and during that time the inflation rate was held to a reasonable and predictable level.

But too many Americans—particularly young people and members of minority groups—are still without jobs. I am determined to sustain our economy's progress toward high employment and rising real income, with both existing programs and with new, carefully targeted incentives to encourage private business to hire the hard-core unemployed.

We have other economic problems which cause us continuing deep concern.

OIL IMPORTS AND INFLATION

Our nation's economic health can be protected only if we can cope with the two developments that now threaten it most seriously—the high level of oil imports and the increasing rate of inflation.

These two problems both imperil our economic recovery and threaten the strength of the dollar, and they must be controlled.

The steps that we will take are part of a wider international effort by the major industrial nations to promote world recovery in 1978. In this effort, each country has a role to play—with the U.S. maintaining its growth while attacking inflation and limiting oil imports, other countries achieving their growth targets, and all countries avoiding protectionism and providing greater aid to developing countries. In the hope that this concerted approach will make a large contribution to world recovery, I joined the leaders of six other nations yesterday in announcing that we will meet on July 16 and 17 in Bonn to press ahead with our common efforts.

But the first requirement is effective action within each nation.

The primary reason for our problems with the balance of trade and the decreasing value of the dollar is no mystery. Ten years ago we were paying roughly $2 billion for imported oil. This year oil imports will cost us more than $45 billion.

Our energy problems are no longer theoretical or potential. They are an active threat to the economic well-being of our people.

Of all the major countries in the world the United States is the only one without a national energy policy, and because the Congress has not acted, other nations have begun to doubt our will. Holders of dollars throughout the world have interpreted our failure to act as a sign of economic weakness, and these views have been directly translated into a decreasing value of our currency.

The falling dollar in international monetary markets makes inflation worse here at home. It raises the price of goods we import, and this makes it easier for domestic producers to raise their own prices as well.

That is why we must have meaningful energy legislation without further delay. Our security depends on it, and our economy demands it. If Congress does not act, then oil imports will have to be limited by administrative action under present law, which is not the most desirable solution. One way or the other, oil imports must be reduced.

Recently our healthy and sustained economic growth has exceeded that of most other nations who are our major trading partners, so we have been better able to buy their goods than they have to buy ours.

Our standard of living and our ability to grow depend on the raw materials and goods we import from other countries. Therefore, to prevent further serious trade imbalances, we need to export more agricultural products and other goods and services to pay for our purchases abroad.

A Cabinet-level task force, chaired by the Secretary of Commerce, will develop additional measures to promote exports, and will report back to me within 60 days.

PROTECTING OUR NATIONAL ECONOMIC GROWTH

Now I will discuss the steps we must take to protect our national economic growth and the jobs and prosperity of our people from the threat of growing inflation.

Conserving energy, increasing efficiency and productivity, eliminating waste, reducing oil imports and expanding our exports will help to fight inflation; but making that fight a success will require firm government policies and full private cooperation.

The inflation we are suffering today began many years ago and was aggravated in 1973 and 1974 by a quadrupling of OPEC oil prices, widespread crop shortages, Soviet grain purchases, substantial devaluation of the dollar, and a worldwide industrial boom that led to double digit inflation in the United States and around the world. It now has become embedded in the very tissue of our economy. It has resisted the most severe recession in a generation. It persists because all of us—business and labor, farmers and consumers—are caught on a treadmill that none can stop alone. Each group tries to raise its income to keep up with present and anticipated rising costs; eventually we all lose the inflation battle together.

There are no easy answers. We will not solve inflation by increasing unemployment. We will not impose wage and price controls. We will work with measures that avoid both extremes.

Our first and most direct efforts are within government itself. Where government contributes to inflation, that contribution must be lessened; where government expenditures are too high, that spending must be reduced; where government imposes an inflationary burden on business, labor, and consumers, those burdens must be lightened; wherever government can set an example of restraint and efficiency, it must do so.

REDUCING FEDERAL BUDGET DEFICIT

The budget I have proposed for the next fiscal year is both tight and capable of meeting the nation's most pressing needs. The prospective deficit in that budget is as large as we can afford without compromising our hopes for balanced economic growth and a declining inflation rate. As always, pressures are developing on all sides to increase spending and enlarge that deficit.

Potential outlay increases in the 1979 budget which are now being considered by Congressional committees would add between $9 billion and $13 billion to spending levels next year. The price of some of these politically attractive programs would escalate rapidly in future years. I am especially concerned about tuition tax credits, highway and urban transit programs, postal service financing, farm legislation, and defense spending.

By every means at my disposal, I will resist those pressures and protect the integrity of the budget.

Indeed, as opportunities arise, we must work to reduce the budget deficit, and to ensure that beyond 1979 the deficit declines steadily and moves us toward a balanced budget. I will work closely with the Congress and, if necessary, will exercise my veto authority to keep the 1979 budget deficit at or below the limits I have proposed.

The Federal government must also act directly to moderate inflation.

THE FEDERAL WAGE-PRICE SPIRAL

Two months ago I proposed that in each industry and sector of the economy wage and price increases this year be voluntarily held significantly below the average increase for the two preceding years—an important principle of deceleration.

I am determined to take the lead in breaking the wage and price spiral by holding Federal pay increases down. Last year, Federal white collar salaries rose by more than seven percent. I intend to propose a limit of about 5.5 percent this year, thereby setting an example for labor and industry to moderate price and wage increases. This year I will also freeze the pay of all Executive appointees and members of my senior staff. I believe that those who are most privileged in our nation—including other executives in government and in private companies—should set a similar example of restraint.

State and local governments employ every seventh worker in our nation and I have sent letters to every Governor and to the Mayors of our larger cities asking that they follow the Federal example and hold down their pay increases. I have also asked that if those governments plan to reduce taxes they first consider lowering sales taxes, which add directly to the consumer's burden.

OTHER STEPS TO REDUCE INFLATION ON THE FEDERAL LEVEL

The Federal government will take several other steps to reduce inflation:

All Executive Branch agencies will avoid or reduce the purchase of goods or services whose prices are rising rapidly, unless by so doing we would seriously jeopardize our national security or create serious unemployment. I am also asking that all new or renegotiated Federal contracts which contain price escalation clauses should reflect the principle of deceleration.

We must cut the inflationary costs which private industry bears as a result of government regulations.

Last month I directed Executive regulatory agencies under my control to minimize the adverse economic consequences of their actions. I am determined to eliminate unnecessary regulations and to ensure that future regulations do not impose unnecessary costs on the American economy. Our efforts to reorganize the Federal bureaucracy and to streamline the Civil Service will help us put the government's house in order.

I support "sunset" legislation to ensure that we review these regulatory programs every few years, and eliminate or change those that have become outdated.

I also urge Congressional budget committees to report regularly to the Congress on the inflationary effect of pending legislation, much as the Council of Economic Advisors and the Council on Wage and Price Stability now report to me.

The combined actions of my Administration and the Civil Aeronautics Board have already led to substantial cuts in some airline passenger fares. Despite the opposition of private interests, the airline regulatory reform legislation must be enacted this year. We are also re-examining excessive Federal regulation of the trucking industry, an effort which may result in increased efficiency while reducing freight transportation costs and retail prices.

In addition, I am asking the independent regulatory agencies to try to reduce inflation when they review rate changes, and to explore regulatory changes that can make the regulated industries more efficient.

Last fall, major new legislation was passed which will improve economic conditions for farm families, and we have announced additional administrative action to raise farm income this year.

Unfortunately, the Senate has just passed a bill that would raise food prices by 3 percent and the overall cost-of-living by .4 percent, shatter confidence in the crucial ex-

port markets for America's farm products, and cripple American farm families through increased costs. It is bad for farmers, bad for consumers, and bad for our nation.

I will veto any farm legislation, beyond what I have already recommended, that would lead to higher food prices or budget expenditures.

Housing construction rates have been at a high level and costs have risen rapidly, partly because of sharp increases in the price of raw materials such as lumber. Since lumber accounts for one-fourth of the total cost of a new house, we can obtain some relief by increasing production and using our existing lumber output more efficiently. Therefore, I have instructed the Departments of Agriculture and Interior, the Council on Environmental Quality, and my economic advisors, to report to me within 30 days on the best ways to sustain expanded timber harvests from Federal, State and private lands, and other means of increasingly lumber yields in ways that would be environmentally acceptable, economically efficient and consistent with sound budget policy.

Daily hospital costs have jumped from $15 in 1950 to over $200 today, and physicians' fees have risen 75 percent faster than other consumer prices. It is very important that Congress act now on the proposed Hospital Cost Containment Bill as the most effective step we can take toward reasonable hospital prices. Failure of Congress to act on the Hospital Cost Containment legislation will cost the taxpayer more than $18 billion in needless government spending over the next five years.

Together with the airline deregulation bill, this is one of the two most important measures the Congress can pass to prevent inflation.

These measures have so far been delayed by the opposition of powerful lobbying groups. I will continue to give this legislation my full support, and I call on the leaders of Congress to do the same.

DECELERATION IN THE PRIVATE SECTOR OF THE ECONOMY

Such government actions as I have discussed today can be important steps toward controlling inflation. But is a myth that the government itself can stop inflation. Success or failure in this overall effort will largely be determined by the actions of the private sector of the economy.

I expect industry and labor to keep price, wage and salary increases significantly below the average rate for the last two years. Those who set medical, legal and other professional fees, college tuition rates, insurance premiums and other service charges must also join in. This will not be easy. But the example of Federal action must be matched. Inflation cannot be solved by placing the burden of fighting it only on a few.

The Council on Wage and Price Stability recently began a series of meetings with representatives of business and of labor in major industries such as steel, automobiles, aluminum, paper, railroads, food processing, communications, lumber and the postal services. In consultation with the private parties the Council will identify the rate at which prices, wages and other costs have been rising in recent years, the outlook for the year ahead and the steps that can be taken to reduce inflation.

Let me be blunt about this point. I am asking American workers to follow the example of Federal workers and accept a lower rate of wage increase. In return, they have a right to expect a comparable restraint in price increases for the goods and services they buy. Our national interest simply cannot withstand unreasonable increases in prices and wages. It is my responsibility to speak out firmly and clearly when the welfare of our people is at stake.

Members of my Administration have already discussed this deceleration program with a number of leaders of labor, business and industry. They have promised their cooperation. Later I expect to meet with business and labor leaders to discuss contributions that they can make to help slow the rate of inflation. One of the most important contributions they can make is to show that restraint applies to everyone—not just the men and women on the assembly line, but also the managers in the executive suites. Just as I will freeze the pay of the top executives in the Federal government, the American people will expect similar restraint from the leaders of American business and labor.

I am determined to devote the power of my office toward the objective of reduced inflation. Our approach must be flexible enough to account for the variations in our complex economy—but it must be comprehensive enough to cover most of the activities of our economy.

In the long run, we should develop special programs to deal with sectors of the economy where government actions have the greatest potential for reducing inflation. These include housing, medical care, food, transportation, energy and the primary metals industries. The members of my Cabinet will work individually and with the Council on Wage and Price Stability to develop and to announce early action to reduce inflation within their own areas of responsibility.

To accomplish our deceleration goals in the private sector, I am asking my Special Trade Representative, Robert Strauss, to take on additional duties as a Special Counselor on Inflation. He will work with me, with Treasury Secretary Blumenthal, my chief financial spokesman, with Charlie Schultze, the chairman of the Council on Wage and Price Stability and its Executive Director, Barry Bosworth. He will have specific authority to speak for me in the public interest, and will be a member of the Steering Committee of the Economic Policy Group under the chairmanship of Secretary Blumenthal.

CONCLUSION

Reducing the inflation rate will not be easy and it will not come overnight. We must admit to ourselves that we will never cope successfully with challenge until we face some unpleasant facts about our problems, about the solutions and about ourselves.

The problems of this generation are, in a way, more difficult than those of a generation before. We face no sharply focused crisis or threat which might make us forget our differences and rally to the defense of the common good.

We all want something to be done about our problems—except when the solutions affect us. We want to conserve energy, but not to change our wasteful habits. We favor sacrifice, as long as others go first. We want to abolish tax loopholes—unless it's our loophole. We denounce special interests, except for our own.

No Act of Congress, no program of our government, no order of my own can bring out the quality that we need: to change from the preoccupation with self that can cripple our national will, to a willingness to acknowledge and to sacrifice for the common good.

As the nation prepared for the challenge of war, Walter Lippmann addressed these words to our nation forty years ago:

"You took the good things for granted," he said. "Now you must earn them again. It is written: for every right that you cherish, you have a duty which you must fulfill. For every hope that you entertain, you have a task you must perform. For every good that you wish could happen . . . you will have to sacrifice your comfort and ease. There is nothing for nothing any longer."

These words of admonition apply to us now.●

## ADDRESS BY HON. CLEMENT J. ZABLOCKI ON 30TH ANNIVERSARY OF PASSAGE OF MARSHALL PLAN LEGISLATION

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BRADEMAS. Mr. Speaker, I was privileged to have been present on April 4, 1978, at a dinner in Washington, D.C., at which tribute was paid to the public service of General of the Army George Catlett Marshall and at which there was commemorated the 30th anniversary year of the passage of Marshall plan legislation.

The dinner, sponsored by the George C. Marshall Research Foundation, honored members of the Marshall Associates.

Mr. Speaker, if my memory serves me correctly, the first speech I ever made in the House of Representatives was in tribute to General Marshall for I believed then and believe still that George C. Marshall was one of the greatest public servants in the history of our country.

Certainly, Mr. Speaker, the enactment of the legislation that authorized the Marshall plan, with which General Marshall's name is so indelibly associated, was as President Truman, signed the bill into law, said, "a momentous occasion in the world's quest for enduring peace."

Indeed, Mr. Speaker, I recall, too, having been a student at Harvard University when General Marshall proposed this historic measure.

It was, therefore, Mr. Speaker, with particular interest that I listened on April 4, 1978, to the eloquent remarks of the distinguished chairman of the House Committee on International Relations, the Honorable CLEMENT J. ZABLOCKI, and I insert at this point in the RECORD the text of Mr. ZABLOCKI's address:

REMARKS BY HON. CLEMENT J. ZABLOCKI

Mr. Lovett, General Carter, Mrs. Marshall, Mr. Martin, Honorable Henry Cabot Lodge, Honorable Fran Wilcox, Honorable Averell Harriman, Honorable William Foster and other distinguished guests at the head table:

It is indeed an honor to celebrate with you the 30th Anniversary of the passage of the first Marshall Plan legislation. Celebrating my own 30th year of service in the Congress, I have a special affinity for this much more significant milestone in the history of western civilization.

While 1977 marked the third decade since the Marshall Plan was first conceived and proclaimed, 1978 marks the anniversary of its enactment into law.

We have already paid tribute to the "Bold and Creative Promise" inherent in General Marshall's historic address at Harvard on June 5, 1947. The House has also recognized this extraordinary act of statesmanship and vision by passing H.R. 9165, authorizing the Secretary of State to acquire a statute of the General for placement in the Department of State. We hope and trust that the Senate will soon favorably act upon the resolution.

As a legislator and politician who has been around for a few years, I cannot refrain from noting that between the conception and the implementation—there is often a world of difference. (And I believe that after one year in office, President Carter would support me in that judgment!)

Getting the first legislation passed was not an easy task, and there were a few rough moments. . . . It required patience, determination, and a sense of common purpose among bipartisan supporters in both the executive and legislative branches of our government. I am pleased to note that so many of you who participated in that effort are present this evening. (e.g., Ty Wood, Averell Harriman, William Foster, The Lodges, Henry and John.) Let me say to all of you, we will not reveal your present ages, but we will never forget your contributions—at a time when they were truly needed.

In the intervening years, the Marshall Plan has been studied, analyzed, and examined in great detail as a model for other areas of the world. To some, it represents a unique program of foreign assistance—in that it obviously worked! Results were tangible, discernible and dramatic. The recovery of war-ravaged countries with an industrial base, a skilled and educated population, and modern technical know-how is, we have learned, a far more rapid process than is the development of traditional, agriculturally-based economies.

Today, in fact, those early recipient-nations of Marshall Plan assistance, including two of our former enemies, are among our most intense commercial competitors. Under these circumstances, there is a temptation, at times, to conclude that too much recovery can be a dangerous thing. On occasions like this, however, it is well to consider what the original Herter Report of 1947 referred to as the "Alternative in Terms of Human Lives, Human Misery and Human Slavery. . . ." It behooves us to consider what our economic, political and security prospects might have been by the beginning of this decade had there been no George Marshall and no Marshall Plan.

Finally, my friends, as we look to the future, I would like to leave with you a quote from the late, always-quotable, Hubert Humphrey. In testifying before our Committee on International Relations, he summarized some of the challenges now confronting the institutions of the Atlantic Community—institutions which the Marshall Plan brought into being. He said:

"The past three decades have witnessed the tremendous success of NATO. Not only has NATO withstood the threat from without, it has minimized the likelihood of conflict within. However, even the most satisfying achievements cannot dispel the need for reassessment and renewal. We are no longer the world of 1947, or 1957, or 1967. Today, the scope of problems is broader, the challenges greater, and the risks more severe. Economic uncertainty and a sudden awareness of vulnerability to worldwide market forces have weakened the self-confidence of the advanced industrialized societies.

"Institutions conceived 30 years ago must now meet the requirements of a new era. We cannot leave to chance the resiliency and dynamism that will propel these institutions toward renewed purpose and viable goals. Periodically, therefore, we must undertake with serious resolve a reappraisal of our institutions to assure their survival . . ."

Ladies and gentlemen, there is not much more that I can add to this eloquent statement. In memorializing the passage of the first Marshall Plan legislation, we are reminded, not only of the problems of this decade—questions of nuclear balance and arms control—of economic prosperity or global recession—or of the survival of the concept of individual human rights and liberties . . . We are also reminded of the unfinished work which lies ahead during the remainder of this century—if what the Marshall Plan began is to prevail.

To meet these global problems, we need all of the leadership, perseverance, and dedication we can muster—qualities which are so prominently represented among this audience tonight.

The threat to western democratic traditions and values—which was clearly perceived during the early years of the cold war—remains essentially intact—although it is less visible, less dramatic and, to a generation unfamiliar with armed conflict, less immediate. But the challenges confronting Europe and the United States, not only in the military field, are more formidable and complex than at any time since the end of World War II.

For example, the multilateral trade negotiations currently in progress in Geneva are of crucial importance to the United States and the European Community, but the search for a viable compromise promises to be a most difficult task. Ultimately, it will confront Congress with some very painful decisions.

Similarly, the nuclear energy issue—involving the adequacy of safeguards and nuclear waste disposal procedures—has already demonstrated a potential for divisiveness within the Atlantic community. And this is only the beginning . . .

As our leaders, both in the Administration and the Congress, address these matters in the months ahead, they will need the understanding, support and wisdom of individuals such as those who are assembled here this evening—from across the nation. Let me close by promising you that I will do all in my power to ensure that your voices—the voices of experience—are clearly heard.

Thank you very much.●

## A SERVICE OF THANKSGIVING FOR THE LIFE AND WORK OF HUBERT HORATIO HUMPHREY, THE AMERICAN CHURCH IN LONDON

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BRADEMAS. Mr. Speaker it was not only in our own country that tributes were paid to our late distinguished colleague, the Honorable Hubert H. Humphrey.

On February 2, 1978, a service of thanksgiving for the life and work of this outstanding human being was held at the American Church in London, England.

Participating in the service were Prime Minister James Callaghan and U.S. Ambassadors to the Court of St. James, the Honorable Kingman Brewster, Jr., and to Hungary the Honorable Philip Kaiser.

A moving address was delivered in tribute to Senator Humphrey by Anthony Hyde, chairman of the Democratic Party Committee Abroad, and I ask unanimous consent to insert at this point in the RECORD the program for the service followed by Mr. Hyde's remarks on this occasion.

The material follows:

A SERVICE OF THANKSGIVING FOR THE LIFE AND WORK OF HUBERT HORATIO HUMPHREY

12 NOON, 2ND FEBRUARY 1978, THE AMERICAN CHURCH IN LONDON

Call to worship and opening prayer: The Rev. George A. Pera, D.D., Senior Pastor, The American Church.

The Old Testament lessons: Psalms 121 and 46, read by the Hon. Kingman Brewster, Jr., United States Ambassador to the Court of St James's.

The New Testament lessons: Luke, Chapter 10, verses 25 to 37; Romans, Chapter 8, verses 31 to 39; read by the Rt. Hon. James Callaghan M.P., the Prime Minister.

Reflections: Mr. Anthony Hyde, Chairman, Democratic Party Committee Abroad.

The Prayer: The Hon. Philip Kaiser, United States Ambassador to Hungary.

REFLECTIONS ON HUBERT H. HUMPHREY

(Address delivered by Mr. Anthony Hyde at the Memorial Service, February 2, 1978, in the American Church, London, England)

There is a dream—an old fashioned American Dream—that every American boy can grow up to be President.

Part of that dream—and it is not yet dead in America—is that courage and loyalty; decency and kindness; and the willingness to work and to work hard will be rewarded by success.

Hubert Horatio Humphrey had that dream; and although the ultimate prize three times escaped him, who is to say that his life was not a success?

Success is, after all, not a destination. It is a journey. And Hubert's journey, as the record shows, ran true and straight. Even in moments of failure and frustration—including the ultimate frustration of death—the spirit of this remarkable and remarkably successful man shone through with a strong and steady light.

I never asked him how he got the name of "Horatio." My own opinion is: it was an echo of the turn-of-the-century optimism of America as the "can-do" country. America has a sense of the possible and Humphrey was the embodiment of this. His bounce, his buoyancy, his "can-do" spirit came to him as a priceless personal legacy from his mother and father and before that from his Yankee and immigrant forebears.

Over the years I have had some experience with that "priceless personal legacy"! It dates from the time our close friend, Bill Benton, asked me to help in Humphrey's first Senate re-election campaign in 1954 and includes the time when some of us gave a dinner in his honour, and afterwards went on to Annabels. At three in the morning, I remember his son Skip saying to him: "Dad, we better go home and let these good people get some sleep." Hubert knew how to play hard as well as work hard.

His career is pure Americana. For some it may seem corny. If it does, so be it.

He was born in 1911 in Wallace, South Dakota, in a room over a drug store, the fourth child of Hubert and Christine Humphrey. Much of his early life he spent on a farm and all of his life he had a feeling for the land and for the people who work on the land.

At 10 years of age we see him working in his father's drug store, washing dishes and serving sodas. This is almost the classic American pattern of its day.

What was not so usual, was his father's deep interest in politics and in the issues of the day, which he discussed with his customers. They used to say about him: with every pill, he sold or tried to sell an idea—an idea about the "good society." The young Hubert grew up in this cracker-barrel atmosphere.

In 1926 he went through an early Mid-West Bank closing and lost his life's savings. At 15 he got off lightly: his life's savings were $140!

The next year the Depression struck the Mid-West in earnest and his father had to sell his house to pay his bills.

But his father had that irrepressible spirit and energy which all of us recognize in his famous son. He made a new start.

At high school Hubert's record was outstanding: athlete, star debater, top student and class valedictorian. This was a taste of early success. But Hubert was no stranger to failure—even if it was not his own.

Oh yes, he knew failure: failure of the American Dream to stand up to the harsh

realities of the 20's: failure of the land to produce: failure of businesses: of financial institutions: the failure of Government to act in response to the needs of the American People.

Hubert was very much a child of the Great Depression and of the New Deal.

He knew what it was like to hitchhike because there was no money for fares;

To have to leave university twice: once because, even with his own earnings, there was no money to pay for tuition: a second time, after he had been able to return on a scholarship, because his father was ill and both he and his brother had to leave to run the family business.

He knew about duty and loyalty, too . . . a characteristic for which he was to be criticised in later political life.

All this left its mark on the boy and the young man who was to become one of the most useful, compassionate, effective and successful men in public life, in our time.

It left its mark but it never touched the core of the man: his optimism, his bounce, his warmth, his belief in himself and in other people.

He had a dream of going to Washington, of doing things . . . big things; and of being "someone" in the world, as he would put it. It bubbled to the surface in a letter he wrote from Washington to Muried Buck, the girl he was to marry. He wrote:

"I can see how someday, if you and I just apply ourselves and make up our minds to work for bigger things, how we can someday live here in Washington and probably be here in Government politics or service. I intend to set my aim for Congress. Together we can do things, I am sure. Never let me get lazy or discouraged. You be my inspirational force, Muriel."

Lazy or discouraged, he never was.

They say that behind every great man, there stands a woman. Hubert was luckier than that. His Muriel walked beside him . . . grew with him . . . shared his triumphs and endured his defeats. She is the kind of a wife that if a man reached out in the dark, her hand would be there.

I have "sketched-in" Hubert Humphrey as a boy and as a young man because it helps to explain the mature man.

He was a man of international stature and outlook, yet he was intensely American. He stood for the old fashioned virtues which have helped to make America great.

For the can-do spirit.

For hard work.

For loyalty.

For courage.

For determination.

For compassion for the weak and needy.

For the equality—yes, and for the brotherhood of man.

He loved his family. He cared, He cared passionately . . . but not just for his family and friends . . . for America . . . for mankind.

He knew how to accept defeat and yet remain undefeated.

He had the ability to live and to fight without rancour. He was forgiving. There was no malice in the man. No envy; no bitterness; no self-pity. What a man!

Of the thousands of letters he received during his stays in hospital, one that he particularly treasured was from Sugar Ray Robinson, which ended with the line: "Keep on punching, old buddy." Hubert kept on punching; not just for himself but for all of us. My friend Archie MacLeish has called this "a special kind of gallantry."

There will always be a warm place in the hearts of those who knew him either in person, as I did, or by his services to the Nation. And when those hearts no longer beat, he will move softly into the pages of history. Though he could not quite make the American Dream come true for himself, he did for millions of others. His eloquence and energy made the dream become the law: for Equal Opportunity: for Equal Rights: for Human Rights. And this was true for much of the major legislation in America for the past quarter century.

He will be known as the man who loved his fellow man . . . who gave all he had to give: to America . . . and to the World. Gave it with joy and without restraint. Oh, yes. The bounce and the joy will be remembered. The Happy Warrior has left the scene. The World is not a poorer place. It is a richer place because he passed here and the American Dream still lives.●

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LIVINGSTON) to revise and extend their remarks and include extraneous material:)

Mr. MARKS, for 30 minutes, today.

Mr. DICKINSON, for 60 minutes, on April 13.

(The following Members (at the request of Mr. WEISS) to revise and extend their remarks and include extraneous material:)

Mr. WEISS, for 60 minutes, today.
Mr. REUSS, for 30 minutes, today.
Mr. FLOOD, for 5 minutes, today.
Mr. PEPPER, for 15 minutes, today.
Mr. BRADEMAS, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. CARR, for 5 minutes, today.
Mr. BEDELL, for 5 minutes, today.
Ms. HOLTZMAN, for 5 minutes, today.
Mr. RODINO, for 5 minutes, today.
Mr. ROBERTS, for 5 minutes, today.
Mr. BINGHAM, for 30 minutes, today.
Mr. CONYERS, for 10 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. RUDD, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,478.25.

Mr. REUSS, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,053.

Mr. PHILLIP BURTON, and to include extraneous matter, immediately following his statement with reference to the gentleman from Massachusetts (Mr. TSONGAS).

Mrs. HECKLER, to revise and extend her remarks immediately prior to passage of H.R. 11662 today.

(The following Members (at the request of Mr. LIVINGSTON) and to include extraneous matter:)

Mr. FINDLEY.
Mr. ARMSTRONG in two instances.
Mr. CORCORAN of Illinois.
Mr. GILMAN.
Mr. MICHEL.
Mr. FORSYTHE.
Mr. HANSEN in three instances.
Mr. ASHBROOK in three instances.
Mr. MOORE.
Mr. SCHULZE.
Mr. STEERS.
Mr. DORNAN in two instances.
Mr. SYMMS.

(The following Members (at the request of Mr. WEISS) and to include extraneous matter:)

Mr. BRADEMAS in six instances.
Mr. GAYDOS in five instances.
Mr. MAZZOLI.
Mr. BONKER in two instances.
Mr. SIMON in five instances.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. EILBERG.
Mr. ROONEY.
Mr. HANLEY.
Mr. WAXMAN.
Mr. FRASER.
Mr. PANETTA.
Mr. HANNAFORD.
Mr. STUDDS.
Mr. MINETA.
Mr. FITHIAN.
Mr. NOLAN.
Mr. STARK.
Mr. HARRIS.
Mr. MOFFETT.
Mr. BLOUIN.
Mr. DODD.
Mr. VENTO in two instances.
Mr. DOWNEY.
Mr. BIAGGI.
Mr. MCDONALD.
Mr. DELLUMS in two instances.
Mr. ZEFERETTI.

## ADJOURNMENT

Mr. WEISS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 52 minutes p.m.), the House adjourned until tomorrow, Wednesday, April 12, 1978, at 3 o'clock p.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3830. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken by the Air National Guard, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

3831. A letter from the Chairman, President's Commission on Military Compensation transmitting a preliminary copy of the Commission's final report; to the Committee on Armed Services.

3832. A letter from the Secretary of Health, Education, and Welfare, transmitting the annual report on activities under the Rehabilitation Act of 1973, covering fiscal year 1977, pursuant to section 404 of the act; to the Committee on Education and Labor.

3833. A letter from the Chairman, National Commission for Manpower Policy, transmitting three recent reports of the Commission entitled "The Need to Disaggregate the Full Employment Goal," "The Effects of Increases in Imports on Domestic Employment," and "The Transformation of the Urban Economic Base"; to the Committee on Education and Labor.

3834. A letter from the Governor, Farm Credit Administration, transmitting a report on the agency's activities under the Govern-

ment in the Sunshine Act during the 12 months beginning February 1977, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3835. A letter from the Comptroller General of the United States, transmitting a report on the Federal Bureau of Investigation's efforts to comply with the Freedom of Information and Privacy Acts (GGD-78-51, April 10, 1978); to the Committee on Government Operations.

3836. A letter from the Under Secretary of the Interior, transmitting a draft of proposed legislation to modify the authority of the Government Comptrollers for Guam and the Virgin Islands, and for other purposes; to the Committee on Interior and Insular Affairs.

3837. A letter from the Secretary of State, transmitting notice of the proposed use of Middle East Special Requirements Funds for completion of the Egyptian early warning system in the Sinai, pursuant to section 903(b) of the Foreign Assistance Act of 1961, as amended (88 Stat. 1813); to the Committee on International Relations.

3838. A letter from the Director, U.S. Arms Control and Disarmament Agency, transmitting a copy of a book entitled "Military Expenditure Limitation for Arms Control: Problems and Prospects With a Documentary History of Recent Proposals" by Abraham S. Becker; to the Committee on International Relations.

3839. A letter from the Chief, Division of Bankruptcy, Administrative Office of the U.S. Courts, transmitting the tables of bankruptcy statistics for fiscal year 1976, pursuant to section 53 of the Bankruptcy Act (60 Stat. 329); to the Committee on the Judiciary.

3840. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the Fishery Conservation and Management Act of 1976 to include the Northern Mariana Islands; to the Committee on Merchant Marine and Fisheries.

3841. A letter from the Secretary of the Army transmitting a Corps of Engineers report on the Hudson River, N.Y., in response to resolutions of the Senate and House Committees on Public Works adopted March 27, 1967, and October 19, 1967, respectively; to the Committee on Public Works and Transportation.

3842. A letter from the Comptroller General of the United States, transmitting a report on the Department of Labor's administration of its Apprenticeship Outreach and National On-the-Job Training programs (HRD-78-4, Apr. 10, 1978); jointly, to the Committees on Government Operations, and Education and Labor.

3843. A letter from the Comptroller General of the United States, transmitting a report on the Defense Department's continued failure to charge for using Government-owned plant and equipment for foreign military sales (FGMSD-77-20, Apr. 11, 1978); jointly, to the Committees on Government Operations, and International Relations.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Texas: Committee on Rules. House Resolution 1121. Resolution waiving points of order against the conference report on H.R. 6782. A bill to permit marketing orders to include provisions concerning marketing promotion, including paid advertisement, of raisins and distribution among handlers of the pro rata costs of such promotion, and all points of order against said conference report are hereby waived. (Rept. No. 95-1047). Referred to the House Calendar.

Mr. ZABLOCKI: Committee on International Relations. H R. 11832. A bill to authorize appropriations for fiscal year 1979 under the Arms Control and Disarmament Act. (Rep. No. 95-1048). Referred to the Committee of the Whole House on the State of the Union.

Mr. HARRINGTON: Committee on International Relations. H.R. 11877. A bill to authorize supplemental appropriations for fiscal year 1978, and to authorize appropriations for fiscal year 1979, for the Peace Corps, and to make certain changes in the Peace Corps Act. (Rep. No. 95-1049). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CORMAN:

H.R. 11986. A bill to amend the Internal Revenue Code of 1954 to make certain changes in the taxes on transportation by air and to provide credits or refunds of a certain portion of such taxes for expenditures to retrofit and replace noisy aircraft; to the Committee on Ways and Means.

By Mr. RANGEL:

H.R. 11987. A bill relating to the application of certain provisions of the Internal Revenue Code of 1954 to specified transactions by certain public employee retirement systems created by the State of New York or any of its political subdivisions; to the Committee on Ways and Means.

By Mr. BIAGGI (for himself and Mr. PEPPER):

H.R. 11988. A bill to amend the Age Discrimination in Employment Act of 1967 to provide that employers shall be subject to the provisions of the act without regard to the number of individuals they employ; to the Committee on Education and Labor.

By Mr. DUNCAN of Tennessee:

H.R. 11989. A bill to amend title 5 of the United States Code to provide that disability retirement annuities shall not be terminated for certain permanently disabled annuitants, to provide that certain annuitants whose disability retirement annuities have been terminated shall be given priority in placement in the civil service, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 11990. A bill to grant certain employees of the Tennessee Valley authority, who have been separated from service for reasons not related to performance or conduct, priority in placement in certain positions in such Authority; to the Committee on Public Works and Transportation.

H.R. 11991. A bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions; to the Committee on Ways and Means.

H.R. 11992. A bill to amend the Internal Revenue Code of 1954 to provide tax-saving incentives for savings accounts established for the purpose of purchasing a home; to the Committee on Ways and Means.

By Mr. GORE (for himself, Mr. APPLEGATE, Mr. AUCOIN, Mr. BAFALIS, Mr. BALDUS, Mr. BEARD of Tennessee, Mr. BEVILL, Mr. BLOUIN, Mr. JOHN L. BURTON, Mr. CHAPPELL, Mr. CORNELL, Mr. CORRADA, Mr. FLOOD, Mr. FUQUA, Mr. GIBBONS, Mr. HANLEY, Mr. JEFFORDS, Mrs. LLOYD of Tennessee, Mr. MCHUGH, Mr. NOLAN, Mr. QUILLEN, and Mr. ROE):

H.R. 11993. A bill to direct the Secretary of Agriculture to establish a program for the purpose of indemnifying owners of dairy cattle which, under any Federal law, are destroyed in order to control or eradicate brucellosis, and for other purposes; to the Committee on Agriculture.

By Mr. GUYER:

H.R. 11994. A bill to amend the Internal Revenue Code of 1954 to provide that a taxpayer conscientiously opposed to participation in war may elect to have his income, estate, or gift tax payments spent for nonmilitary purposes; to create a trust fund (the World Peace Tax Fund) to receive these tax payments; to establish a World Peace Tax Fund Board of Trustees; and for other purposes; to the Committee on Ways and Means.

By Mr. JEFFORDS (for himself, Mr. PEPPER, Mr. PURSELL, Mr. AKAKA, Mr. AMMERMAN, Mr. DRINAN, Mr. EILBERG, Mr. FAUNTROY, and Mr. MURPHY of Pennsylvania):

H.R. 11995. A bill to provide for a study of the cost of achieving accessibility to handicapped persons in certain programs, and for other purposes; to the Committee on Education and Labor.

By Mr. KILDEE:

H.R. 11996. A bill to amend part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to extend death benefits to public safety officers who die as a result of conditions arising out of or exacerbated by official duty; to the Committee on the Judiciary.

By Mr. LEDERER (for himself, Mr. BURKE of Massachusetts, Mr. BURLESON of Texas, Mr. CRANE, Mr. DUNCAN of Tennessee, Mr. JENKINS, Mr. KETCHUM, Mr. PICKLE, Mr. WAGGONER, Mr. ROSTENKOWSKI, Mr. ARCHER, Mr. FISHER, and Mr. BRODHEAD):

H.R. 11997. A bill to amend section 118 of the Internal Revenue Code of 1954 to clarify the treatment of contributions in aid of construction to regulated electric or gas public utilities; to the Committee on Ways and Means.

By Mr. MOFFETT (for himself, Mr. ECKHARDT, Mr. BROYHILL, Mr. CARNEY, Mr. MAGUIRE, and Mr. GILMAN):

H.R. 11998. A bill to amend the Consumer Product Safety Act to establish an interim consumer product safety rule relating to the standards for flame resistance and corrosiveness of certain insulation; to the Committee on Interstate and Foreign Commerce.

By Mr. MOORHEAD of Pennsylvania:

H.R. 11999. A bill to establish a program of full employment, vocational training, and employment placement for all young Americans willing and able to work, and for other purposes; to the Committee on Education and Labor.

By Mr. PEASE (for himself and Ms. HOLTZMAN):

H.R. 12000. A bill to provide that daylight saving time shall be observed in any State for 60 days after the President declares an energy emergency to exist within that State, to permit the President to extend such period after reviewing reports submitted by the Secretary of Transportation, and to permit certain daytime broadcast stations to operate before local sunrise; to the Committee on Interstate and Foreign Commerce.

By Mr. RAHALL (for himself and Mr. STAGGERS):

H.R. 12001. A bill to provide for the establishment of the New River Gorge National River in the State of West Virginia,

and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RICHMOND (for himself, Mr. BONIOR, Mr. DRINAN, Mr. EDGAR, Mr. EDWARDS of California, Mr. FLOOD, Mr. FRENZEL, Mr. HYDE, Mr. JENRETTE, Mrs. LLOYD of Tennessee, Mr. MAZZOLI, Mrs. MEYNER, Mr. MINETA, Mr. MURPHY of Pennsylvania, Mr. OTTINGER, Mr. RANGEL, Mr. RODINO, Mr. ROE, Mr. RYAN, Mr. ST GERMAIN, Mr. STOKES, Mr. WALGREN, Mr. WEISS, Mr. WINN, and Mr. WOLFF):

H.R. 12002. A bill to provide financial assistance to centers which train dogs to assist individuals with hearing disabilities; to the Committee on Interstate and Foreign Commerce.

By Mr. RICHMOND (for himself, Mr. AKAKA, Mr. BONIOR, Mr. PHILLIP BURTON, Mr. CARR, Ms. CHISHOLM, Mrs. COLLINS of Illinois, Mr. CORRADA, Mr. EILBERG, Mr. GARCIA, Mr. GREEN, Ms. KEYS, Mr. KRUEGER, Mr. LEDERER, Mr. MITCHELL of Maryland, Mr. NOLAN, Mr. OTTINGER, Mr. PEASE, Mr. RANGEL, Mr. SIMON, Mr. THOMPSON, Mr. VENTO, and Mr. WAXMAN):

H.R. 12003. A bill to provide more effectively for the use of interpreters in courts of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. RICHMOND (for himself, Mr. AKAKA, Mr. BURGENER, Mr. BROOMFIELD, Mr. CONTE, Mr. CONYERS, Mr. EDGAR, Mr. FLORIO, Mr. GREEN, Mr. HANNAFORD, Mr. HEFTEL, Mr. IRELAND, Ms. KEYS, Mr. MCFALL, Mr. MCKINNEY, Mr. MOFFETT, Mr. MURPHY of New York, Mr. MURPHY of Pennsylvania, Mr. NOLAN, Mr. OTTINGER, Mr. PATTERSON of California, Mr. RANGEL, Mr. RYAN, Mr. STUDDS, and Mr. TUCKER):

H.R. 12004. A bill to amend the Internal Revenue Code of 1954 to disregard, in the valuation for estate tax puposes of certain items created by the decedent during his life, any amount which would not have been capital gain if such item had been sold by the decedent at its fair market value; to the Committee on Ways and Means.

By Mr. RODINO:

H.R. 12005. A bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice, and for other purposes; to the Committee on the Judiciary.

H.R. 12006. A bill to clarify and revise various provisions of title 28 of the United States Code relating to the judiciary and judicial procedure regarding judicial review of international trade matters and for other purposes; jointly, to the Committees on the Judiciary and Ways and Means.

By Mr. ROE (for himself, Mr. PRICE, Mr. SMITH of Iowa, Mr. BROWN of California, Mr. FORD of Michigan, Mr. DANIELSON, Mr. LONG of Louisiana, Ms. HOLTZMAN, Miss JORDAN, Mr. RYAN, Mr. CHARLES WILSON of Texas, Mr. FAUNTROY, Mr. HOLLAND, Mr. NOLAN, Mr. LEDERER, and Mr. WEISS):

H.R. 12007. A bill to increase the authorization for the Local Public Works Capital Development and Investment Act of 1976; to the Committee on Public Works and Transportation.

By Mr. ROGERS (for himself, Mr. PREYER, Mr. SCHEUER, Mr. WAXMAN, Mr. MAGUIRE, Mr. MARKEY, Mr. OTTINGER, Mr. WALGREN, Mr. CARTER, Mr. SKUBITZ, Mr. WOLFF, Mr. RODINO, Mr. MANN, Mr. MURPHY of Illinois, Mr. RANGEL, Mr. STARK, Mr. ENGLISH, Mr. FREY, Mr. GILMAN, Mr. GUYER, and Mr. BIAGGI):

H. R. 12008. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to meet obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution importation, and exportation of psychotropic substances, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. RUPPE (for himself, Mr. SEIBERLING, Mr. CONYERS, Mr. PEPPER, Mr. WINN, Mr. GARCIA, Mr. RANGEL, Mr. MURPHY of Pennsylvania, Mr. MAZZOLI, Mr. EILBERG, Mr. FLOOD, Mr. PATTERSON of New York, Mr. MITCHELL of New York, and Mr. BENJAMIN):

H.R. 12009. A bill to amend the Internal Revenue Code of 1954 to provide an additional investment tax credit for property placed in service in certain economic redevelopment areas, to increase the amount of such credit allowable for a taxable year, and to increase the credit for employment of certain new employees in such areas; to the Committee on Ways and Means.

By Mr. SATTERFIELD:

H.R. 12010. A bill to amend title 38, United States Code, in order to extend the authority of the Administrator to make grants and carry out a pilot program for the exchange of medical information between Veterans' Administration facilities and the medical community, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 12011. A bill to amend section 601 of title 38 of the United States Code in order to provide for a continuation of the authority of the Administrator to furnish hospital care to certain veterans living in a State, territory, commonwealth, or possession of the United States not contiguous to the 48 contiguous States, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 12012. A bill to amend the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975, as amended, in order to extend the authority to enter into special pay agreements with physicians and dentists employed by the Department of Medicine and Surgery, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 12013. A bill to amend title 38 of the United States Code in order to extend the authority of the Administrator to make grants to States for the construction, remodeling, or renovation of State home facilities for furnishing hospital, domiciliary, and nursing home care for eligible veterans, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 12014. A bill to amend title 38, United States Code, to extend the authority of the Administrator of Veterans' Affairs to make grants to certain medical schools and other health manpower institutions, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SATTERFIELD (by request):

H.R. 12015. A bill to amend title 38, United States Code, to establish a preventive health care program within the Veterans' Administration; to the Committee on Veterans' Affairs.

By Mr. SATTERFIELD (for himself and Mr. HAMMERSCHMIDT):

H.R. 12016. A bill to amend title 38 of the United States Code in order to authorize contracts with the Republic of the Philippines for the provisions of hospital care and medical services for Commonwealth Army veterans and new Philippine Scouts for service-connected disabilities; to authorize the continued maintenance of a Veterans' Administration office in the Republic of the Philippines; and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SATTERFIELD (for himself, Mr. ROBERTS, and Mr. HAMMERSCHMIDT):

H.R. 12017. A bill to amend title 38, United States Code, to increase from $500 to $1,000 the amount by which the annual income of certain disabled veterans may exceed the maximum annual income limitation for pension without such veterans losing the right to continue to receive drugs and medication from the Veterans' Administration; to the Committee on Veterans' Affairs.

H.R. 12018. A bill to amend title 38, United States Code, in order to provide outpatient dental services and treatment to any veteran who has a service-connected disability rated at 100 percent; to the Committee on Veterans' Affairs.

By Mr. SMITH of Iowa (for himself, Mr. CORMAN, Mr. CONTE, Mr. PATTISON of New York, Mr. HARKIN, Mr. PATTERSON of California, Mr. BLANCHARD, Mr. D'AMOURS, and Mr. BLOUIN):

H.R. 12019. A bill to amend the Internal Revenue Code of 1954 to provide tax relief to small businesses by establishing a graduated income tax rate for corporations; to the Committee on Ways and Means.

By Mr. STRATTON:

H.R. 12020. A bill to amend the Tariff Schedules of the United States in order to prohibit the importation of coffee which is the product of Uganda; to the Committee on Ways and Means.

By Mr. VAN DEERLIN:

H.R. 12021. A bill to amend the Communications Act of 1934 to extend and improve the provisions of such act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WAMPLER:

H.R. 12022. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act for the purpose of directing the Administrator of the Environmental Protection Agency to request the National Academy of Science to conduct a study concerning standardizing certain tests for determining potential carcinogenicity, and for other purposes; to the Committee on Interstate and Foreign Commerce.

Mr. WAMPLER (for himself, Mr. SEBELIUS, and Mr. MARRIOTT):

H.R. 12023. A bill to establish water resources research centers, to promote a more adequate national program of water research, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WEISS (for himself and Mr. STUDDS):

H.R. 12024. A bill to provide that ionization smoke detectors shall bear a label specifying that they contain radioactive materials; to the Committee on Interstate and Foreign Commerce.

By Mr. WHITEHURST (for himself, Mr. FARY, Mr. KRUEGER, Mr. LENT, Mr. NEAL, Mr. PATTERSON of California, Mrs. SPELLMAN, and Mr. WAXMAN):

H.R. 12025. A bill to amend the Ports and Waterways Safety Act of 1972, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. WIRTH (for himself and Mr. JOHNSON of Colorado):

H.R. 12026. A bill to create the Indian Peaks Wilderness Area and the Arapaho National Recreation Area and to authorize the Secretary of the Interior to study the feasibility of revising the boundaries of the Rocky Mountain National Park; to the Committee on Interior and Insular Affairs.

By Mr. BLOUIN:

H.R. 12027. A bill to continue the existing income tax treatment of nonqualified de-

ferred compensation plans established by State and local governments and other employers; to the Committee on Ways and Means.

By Mr. BRINKLEY (for himself, Mr. ABDNOR, Mr. ROBERTS, Mr. HAMMERSCHMIDT, Mr. EDWARDS of California, Mr. CORNELL, Mr. BARNARD, Mr. CARNEY, and Mr. WALSH):

H.R. 12028. A bill to amend title 38, United States Code, to improve the housing programs of the Veterans' Administration; to the Committee on Veterans' Affairs.

By Mr. BYRON (for himself and Mr. STEERS):

H.R. 12029. A bill to increase the distance which officers and members of the Metropolitan Police Force and the Fire Department of the District of Columbia are authorized to reside from the U.S. Capitol Building from 25 miles to 50 miles; to the Committee on the District of Columbia.

By Mr. ECKHARDT (for himself, Mr. METCALFE, Mr. LUKEN, and Mr. MOFFETT):

H.R. 12030. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act to authorize appropriations for fiscal years 1979, 1980, and 1981; to the Committee on Interstate and Foreign Commerce.

By Mr. HOWARD (for himself, Mr. RISENHOOVER, Mr. THORNTON, Mr. GUYER, Mr. TUCKER, Mr. BALDUS, Mr. JONES of Tennessee, Mr. SISK, and Mr. STAGGERS):

H.R. 12031. A bill to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. PEPPER (for himself, Mr. DRINAN, Mr. HAWKINS, Mr. BIAGGI, Mr. ROYBAL, Mr. ROONEY, Mr. JOHN L. BURTON, Mr. DOWNEY, Mr. SANTINI, Ms. OAKAR, Mr. WAMPLER, Mr. RINALDO, Mr. ANDERSON of California, Mr. BURKE of Florida, Mr. CONYERS, Mr. CORCORAN of Illinois, Mr. D'AMOURS, Mr. EDWARDS of California, Mr. FARY, Mr. HARKIN, Mr. HARRINGTON, Mr. HILLIS, Mr. HYDE, and Mr. LEHMAN):

H.R. 12032. A bill to amend title VII of the Civil Rights Act of 1964 to provide protection against employment discrimination to older Americans, and for other purposes; to the Committee on Education and Labor.

By Mr. PEPPER (for himself, Mr. DRINAN, Mr. LONG of Maryland, Mr. MCCLORY, Mr. MOAKLEY, Mr. MURPHY of Pennsylvania, Mr. OTTINGER, Mr. PANETTA, Mr. RICHMOND, Mr. ROE, Mr. SISK, Mr. WALKER, Mr. WAXMAN, Mr. WHITEHURST, and Mr. WOLFF):

H.R. 12033. A bill to amend title VII of the Civil Rights Act of 1964 to provide protection against employment discrimination to older Americans, and for other purposes; to the Committee on Education and Labor.

By Mr. PEPPER (for himself, Mr. DRINAN, Mr. ROYBAL, Mr. ROONEY, Mr. BIAGGI, Mr. JOHN L. BURTON, Mr. DOWNEY, Mr. SANTINI, Ms. OAKAR, Mr. WAMPLER, Mr. RINALDO, Mr. CORCORAN of Illinois, Mr. ANDERSON of California, Mr. BURKE of Florida, Mr. CONYERS, Mr. D'AMOURS, Mr. EDWARDS of California, Mr. FARY, Mr. HARKIN, Mr. HARRINGTON, Mr. HAWKINS, Mr. HILLIS, Mr. HYDE, Mr. LONG of Maryland, and Mr. MOAKLEY):

H.R. 12034. A bill to eliminate mandatory retirement provisions applicable to certain individuals employed in the civil service and in certain other positions in the Federal Government; to the Committee on Post Office and Civil Service.

By Mr. PEPPER (for himself, Mr. DRINAN, Mr. MURPHY of Pennsylvania, Mr. OTTINGER, Mr. PANETTA, Mr. RICHMOND, Mr. ROE, Mr. SISK, Mr. WALKER, Mr. WAXMAN, Mr. WHITEHURST, and Mr. WOLFF):

H.R. 12035. A bill to eliminate mandatory retirement provisions applicable to certain individuals employed in the civil service and in certain other positions in the Federal Government; to the Committee on Post Office and Civil Service.

By Mr. PEPPER (for himself, Mr. DRINAN, Mr. HAWKINS, Mr. ROYBAL, Mr. ROONEY, Mr. BIAGGI, Mr. JOHN L. BURTON, Mr. DOWNEY, Mr. SANTINI, Ms. OAKAR, Mr. SARASIN, Mr. RINALDO, Mr. ANDERSON of California, Mr. BURKE of Florida, Mr. CONYERS, Mr. CORCORAN of Illinois, Mr. D'AMOURS, Mr. EDWARDS of California, Mr. FARY, Mr. HARKIN, Mr. HARRINGTON, Mr. HILLIS, Mr. HYDE, Mr. LEHMAN, Mr. LONG of Maryland):

H.R. 12036. A bill to amend the Age Discrimination Act of 1975 to strengthen provisions which protect individuals from age discrimination in federally assisted programs and activities, and for other purposes; to the Committee on Education and Labor.

By Mr. PEPPER (for himself, Mr. DRINAN, Mr. MOAKLEY, Mr. MURPHY of Pennsylvania, Mr. OTTINGER, Mr. PANETTA, Mr. RICHMOND, Mr. ROE, Mr. SISK, Mr. WALKER, Mr. WAXMAN, Mr. WHITEHURST, and Mr. WOLFF):

H.R. 12037. A bill to amend the Age Discrimination Act of 1975 to strengthen provisions which protect individuals from age discrimination in federally assisted programs and activities, and for other purposes; to the Committee on Education and Labor.

By Mr. PEPPER (for himself, Mr. DRINAN, Mr. EDWARDS of California, Mr. ROYBAL, Mr. ROONEY, Mr. BIAGGI, Mr. JOHN L. BURTON, Mr. DOWNEY, Mr. SANTINI, Ms. OAKAR, Mr. SARASIN, Mr. RINALDO, Mr. CONYERS, Mr. HYDE, Mr. ANDERSON of California, Mr. BURKE of Florida, Mr. CORCORAN of Illinois, Mr. D'AMOURS, Mr. FARY, Mr. HARKIN, Mr. HARRINGTON, Mr. HAWKINS, and Mr. HILLIS):

H.R. 12038. A bill to amend various laws relating to civil rights to extend their protection to the elderly, and for other purposes; to the Committee on the Judiciary.

By Mr. PEPPER (for himself, Mr. DRINAN, Mr. LEHMAN, Mr. LONG of Maryland, Mr. MOAKLEY, Mr. MURPHY of Pennsylvania, Mr. OTTINGER, Mr. PANETTA, Mr. RICHMOND, Mr. ROE, Mr. SISK, Mr. WALKER, Mr. WAXMAN, Mr. WHITEHURST, and Mr. WOLFF):

H.R. 12039. A bill to amend various laws relating to civil rights to extend their protection to the elderly, and for other purposes; to the Committee on the Judiciary.

By Mr. SOLARZ (for himself, Mr. BINGHAM, Mr. DRINAN, Mr. FLOOD, Mr. GILMAN, Mr. GREEN, Mr. HARRIS, Ms. HOLTZMAN, Mr. MIKVA, Mr. MITCHELL of Maryland, Mr. PATTERSON of California, Mr. RANGEL, Mr. SIMON, Mrs. SPELLMAN, and Mr. WEISS):

H.R. 12040. A bill to amend title 5, United States Code, to provide sufficient flexibility in Federal employee work schedules to allow Federal employees to meet the obligations of their faith; to the Committee on Post Office and Civil Service.

By Mr. STARK:

H.R. 12041. A bill extending the deadline for the ratification of the equal rights amendment; to the Committee on the Judiciary.

By Mr. CLAY (for himself, Mr. LAGOMARSINO, Mr. YOUNG of Missouri, Mr. MARKEY, Mr. WINN, Mr. MAZZOLI, Mr. FLOOD, Mr. FITHIAN, Mr. RANGEL, Mr. MITCHELL of Maryland, Mr. LEDERER, Mr. GINN, and Mr. MURPHY of Illinois):

H.J. Res. 834. Joint resolution to authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A."; to the Committee on Post Office and Civil Service.

By Mr. GAMMAGE (for himself and Mr. PICKLE):

H.J. Res. 835. Joint resolution to authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A."; to the Committee on Post Office and Civil Service.

By Mr. MCDADE (for himself, Mr. BRADEMAS, Mr. BLANCHARD, Mr. BOWEN, Mr. CARTER, Mrs. COLLINS of Illinois, Mr. CONTE, Mr. CORRADA, Mr. EILBERG, Mr. FLOOD, Mrs. HOLT, Mr. KILDEE, Mrs. LLOYD of Tennessee, Mr. MCHUGH, Mr. MANN, Mr. MARRIOTT, Mr. NOLAN, Mr. O'BRIEN, Mr. PEPPER, and Mr. PRESSLER):

H.J. Res. 836. Joint resolution designating September 10 through September 17, 1978, as "National Rehabilitation Week"; to the Committee on Post Office and Civil Service.

By Mr. MCDADE (for himself, Mr. BRADEMAS, Mr. RAHALL, Mr. RICHMOND, Mr. ROE, Mrs. SPELLMAN, Mr. STOKES, Mr. WALGREN, Mr. WAXMAN, Mr. WEISS, and Mr. WINN):

H.J. Res. 837. Joint resolution designating September 10 through September 17, 1978, as "National Rehabilitation Week"; to the Committee on Post Office and Civil Service.

By Mr. MURPHY of New York (for himself, Mr. ASHLEY, Mr. BIAGGI, Mrs. BOGGS, Mr. BREAUX, Mr. DON H. CLAUSEN, Mr. COTTER, Mr. DICKS, Mr. EVANS of Delaware, Mr. GEPHARDT, Mr. LAFALCE, Mr. LEDERER, Mr. LEGGETT, Mr. LIVINGSTON, Mr. MCFALL, Mr. MANN, Mr. MOSS, Mr. MURPHY of Illinois, Mr. NIX, Mr. PATTERSON of California, Mr. PEPPER, Mr. PRICE, Mr. ROE, Mr. VAN DEERLIN, and Mr. WEISS):

H.J. Res. 838. Joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning September 17, 1978, as "National Port Week"; to the Committee on Post Office and Civil Service.

By Mr. MURPHY of New York (for himself, Mr. BOWEN, Mr. BURKE of Florida, Mr. JOHN L. BURTON, Mr. CORNWELL, Mr. FLORIO, Mr. GARCIA, Mr. GOLDWATER, Mr. GREEN, Mrs. HOLT, Mr. IRELAND, Mr. KEMP, Mr. METCALFE, Mr. MOAKLEY, Mr. MOTTL, Mr. MURPHY of Pennsylvania, Mr. RICHMOND, Mr. RINALDO, Mr. RISENHOOVER, Mr. RODINO, Mr. SIKES, Mr. SOLARZ, Mr. STANTON, Mr. STOKES, and Mr. TREEN):

H.J. Res. 839. Joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning September 17, 1978, as "National Port Week"; to the Committee on Post Office and Civil Service.

By Mr. RANGEL:

H.J. Res. 840. Joint resolution authorizing the appropriation of funds for the acquisition of a monument to Dr. Ralph J. Bunche and its erection in United Nations Plaza Park in New York City; to the Committee on House Administration.

By Mr. ROSENTHAL (for himself and Mr. HANLEY):

H.J. Res. 841. Joint resolution to authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A."; to the Committee on Post Office and Civil Service.

By Mr. STARK:

H.J. Res. 842. Joint resolution extending the deadline for the ratification of the equal

rights amendment; to the Committee on the Judiciary.

By Mr. WHITEHURST (for himself, Mr. FARY, Mr. KRUEGER, Mr. LENT, Mr. NEAL, Mr. PATTERSON of California, Mrs. SPELLMAN, and Mr. WAXMAN):

H.J. Res. 843. Joint resolution calling for protection of international waters from further pollution; to the Committee on International Relations.

By Mr. ROBERTS:

H. Con. Res. 556. Concurrent resolution to provide for the printing of publications relating to legislation regarding veterans; to the Committee on House Administration.

By Mr. BEARD of Tennessee:

H. Res. 1122. Resolution relating to the future telecommunications policy of the Nation; to the Committee on Interstate and Foreign Commerce.

By Mr. BEDELL:

H. Res. 1123. Resolution amending the Rules of the House of Representatives to prohibit Members of the House of Representatives from using official congressional stationery in mass mailings for any purpose other than official business; to the Committee on Rules.

By Mr. LEACH:

H. Res. 1124. Resolution expressing the sense of the House of Representatives that certain individuals employed in the detasseling of the hybrid seed corn should not be considered to be migrant workers for purposes of the Farm Labor Contractor Registration Act of 1963; to the Committee on Education and Labor.

By Mr. WEISS (for himself, Mr. BONIOR, Mr. JOHN L. BURTON, Mr. CONYERS, Mr. DELLUMS, Mr. GARCIA, Mr. MITCHELL of Maryland, Mr. OTTINGER, Mr. RANGEL, Mr. RICHMOND, Mr. ROSENTHAL, Mr. RYAN, Mr. STARK, Mr. WAXMAN, Mr. WEAVER, and Mr. WOLFF):

H. Res. 1125. Resolution urging the Committee on the Judiciary to disapprove S. 1437; to the Committee on the Judiciary.

## MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

365. By the SPEAKER: Memorial of the Legislature of the State of New York, relative to Federal "meals-on-wheels" legislation; to the Committee on Education and Labor.

366. Also, memorial of the Legislature of the Trust Territory of the Pacific Islands, relative to Federal assistance to the Trust Territory for road construction and improvement; to the Committee on Interior and Insular Affairs.

367. Also, memorial of the Legislature of the State of Connecticut, relative to Northern Ireland; to the Committee on International Relations.

368. Also, memorial of the Legislature of the Commonwealth of Kentucky, requesting that Congress call a convention for the purpose of proposing an amendment to the Constitution of the United States with respect to the right to life; to the Committee on the Judiciary.

369. Also, memorial of the Legislature of the Territory of Guam, relative to tax credits for tuition; to the Committee on Ways and Means.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DODD:

H.R. 12042. A bill for the relief of Daniel Tang; to the Committee on the Judiciary.

By Mr. DORNAN:

H.R. 12043. A bill for the relief of Remedios R. Alcudia; to the Committee on the Judiciary.

By Mr. DUNCAN of Tennessee:

H.R. 12044. A bill for the relief of Lt. (j.g.) Richard T. Cupp; to the Committee on the Judiciary.

By Mr. ERLENBORN:

H.R. 12045. A bill for the relief of Sergio and Javier Arredondo; to the Committee on the Judiciary.

By Ms. KEYS:

H.R. 12046. A bill for the relief of Philip E. Perkins; to the Committee on the Judiciary.

By Mr. MARRIOTT:

H.R. 12047. A bill for the relief of H. F. Mulholland and the estate of John Oakason; to the Committee on Interior and Insular Affairs.

By Mr. RAILSBACK:

H.R. 12048. A bill for the relief of Russell Warren Howe; to the Committee on the Judiciary.

By Mr. BOB WILSON:

H.R. 12049. A bill for the relief of Jose Silva; to the Committee on the Judiciary.

## PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

440. The SPEAKER presented a petition of the city council, San Diego, Calif., relative to deferred compensation; which was referred to the Committee on Ways and Means.

## AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1

By Mr. LEACH:

Page 24, after line 17, insert the following new section:

"§ 7367. Special Reports to Congress

"(a) Concurrently with the transmittal of any nomination of any Presidential nominee subject to this subchapter under section 7362(a)(7) of this title, the Director shall transmit a report containing the information required under subsection (b) of this section to the Committee on Post Office and Civil Service of the House of Representatives, the Committee on Governmental Affairs of the Senate, and such other committees of the Congress as may have appropriate jurisdiction.

"(b) The following shall be included in any report required to be submitted by subsection (a) of this section:

"(1) A copy of the report required by such nominee under section 7363 of this title, together with a certification by the Director as to whether or not, in the opinion of the Director, the nominee is in compliance with applicable laws and regulations.

"(2) Certification by the Director, by the reporting individual, and by the head of any agency with respect to which, during the 5-year period preceding the transmittal of the nomination involved, the reporting individual (or any member of the reporting individual's immediate family or any entity with which the reporting individual is affiliated)—

"(A) had, or sought to obtain, contractual or other business or financial relations with such agency, or

"(B) conducted operations or activities which are regulated by such agency,

as to whether or not, to their knowledge, the reporting individual, any member of the reporting individual's immediate family, or any other financial entity with which the reporting individual is affiliated was a party to any criminal, civil, or administrative proceeding which would relate to the matters for which the nominee would be responsible in the position to which nominated (as determined by the Director by regulation).

"(3) If the existence of any criminal, civil, or administrative proceeding is certified under paragraph (1), a description of the nature of such proceeding and its outcome and the factors on which such outcome was based.

"(c) Notwithstanding any other provision of this chapter to the contrary, the report required to be filed under section 7364(a)(3) of this title within 5 days of the transmittal of a Presidential nomination shall cover the 5-year period preceding the transmittal of such nomination.

"(d) For purposes of this section:

"(1) 'civil, criminal, or administrative proceeding' means—

"(A) any civil or criminal proceeding to which the United States or any State is a party;

"(B) any administrative proceeding by the United States or any State denying any benefit on the basis of any act or omission by the person who is the subject of such proceeding or which restricts, by consent, the activities of the person who is the subject of such action; and

"(C) any investigation of a type which normally precedes any action described in subparagraph (A) or (B) of this paragraph;

"(2) an individual shall be considered to be affiliated with any entity if such individual, or any member of such individual's immediate family, has a substantial interest in such entity or held any position in such entity which is required to be reported under section 7363(b)(6) of this title; and

"(3) 'substantial interest' and 'member of immediate family' have the meanings given such terms under section 7363 of this title.".

Page 24, line 18, strike out "7367" and insert "7368" in lieu thereof.

Page 25, line 24, strike out "7368" and insert "7369" in lieu thereof.

Page 26, in the matter below line 19, strike out the items relating to sections 7367 and 7368 and insert in lieu thereof the following:

"7367. Special reports to Congress.
"7368. Liability under other authority.
"7369. Failure to file or falsifying reports."

Page 43, after line 15, insert the following new section:

§ 1596. Special Reports to Congress

"(a) Concurrently with the transmissal of any nomination of any Presidential nominee subject to this subchapter under section 1592(2) of this title, the Secretary concerned shall transmit a report containing the information required under subsection (b) of this section to the Committees on Armed Services of the House of Representatives and of the Senate, and such other committees of the Congress as may have appropriate jurisdiction.

"(b) The following shall be included in any report required to be submitted by subsection (a) of this section:

"(1) A copy of the report required by such nominee under section 1592 of this title, together with a certification by the Secretary concerned as to whether or not, in the opinion of the Secretary concerned, the nominee is in compliance with applicable laws and regulations.

"(2) Certification by the Secretary concerned, by the reporting individual, and by the head of any agency with respect to which, during the 5-year period preceding the transmittal of the nominations involved, the reporting individual (or any member of

the reporting individual's immediate family or any entity with which the reporting individual is affiliated)—

(A) had, or sought to obtain, contractual or other business or financial relations with such agency, or

"(B) conducted operations or activities which are regulated by such agency,

as to whether or not, to their knowledge, the reporting individual, any member of the reporting individual's immediate family, or any other financial entity with which the reporting individual is affiliated was a party to any criminal, civil, or administrative proceedings which would relate to the matters for which the nominee would be responsible in the position to which nominated (as determined by the Secretary concerned by regulation).

"(3) If the existence of any criminal, civil, or administrative proceeding is certified under paragraph (1), a description of the nature of such proceeding and its outcome and the factors on which such outcome was based.

"(c) Notwithstanding any other provision of this chapter to the contrary, the report required to be filed under section 1594(a)(2) of this title within 5 days of the transmittal of a Presidential nomination shall cover the 5-year period preceding the transmittal of such nomination.

"(d) In this section:

"(1) 'Civil, criminal, or administrative proceeding' means—

"(A) any civil or criminal proceeding to which the United States or any State is a party;

"(B) any administrative proceeding by the United States or any State denying any benefit on the basis of any act or omission by the person who is the subject of such proceeding or which restricts, by consent, the activities of the person who is the subject of such action; and

"(C) any investigation of a type which normally precedes any action described in subparagraph (A) or (B) of this paragraph.

"(2) an individual shall be considered to be affiliated with any entity if such individual, or any member of such individual's immediate family, has a substantial interest in such entity or held any position in such entity which is required to be reported under section 1593(b)(6) of this title.

"(3) 'Substantial interest' and 'member of immediate family' have the meanings given such terms under section 1593 of this title."

Page 43, line 16, strike out "1596" and insert "1597" in lieu thereof.

Page 44, line 21, strike out "1597" and insert "1598" in lieu thereof.

Page 45, line 11, strike out "1598" and insert "1599" in lieu thereof.

Page 47, line 15, strike out "1599" and insert "1600" in lieu thereof.

Page 27 in the matter below line 5, strike out the items relating to sections 1596 through 1599 and insert in lieu thereof the following:

"1596. Special reports to Congress.
"1597. Liability under other authority.
"1598. Failure to file or falsifying reports.
"1599. Regulations relating to reporting of financial interests and to conflicts of interest.

Page 58, after line 13, insert the following new section:

SPECIAL REPORTS TO CONGRESS

304. (a) Concurrently with the transmittal of any nomination of any Presidential nominee subject to this title under section 301(c), the Committee shall transmit a report containing the information required under subsection (b) of this section to the Committees on the Judiciary of the House of Representatives and of the Senate, and such other committees of the Congress as may have appropriate jurisdiction.

(b) The following shall be included in any report required to be submitted by subsection (a) of this section:

(1) A copy of the report required by such nominee under section 302, together with a certification by the Committee as to whether or not, in the opinion of the Committee, the nominee is in compliance with applicable laws and regulations.

(2) Certification by the Committee, by the reporting individual, and by the head of any agency with respect to which, during the 5-year period preceding the transmittal of the nomination involved, the reporting individual (or any relative of the reporting individual or any entity with which the reporting individual is affiliated)—

(A) had, or sought to obtain, contractual or other business or financial relations with such agency, or

(B) conducted operations or activities which are regulated by such agency,

as to whether or not, to their knowledge, the reporting individual, any relative of the reporting individual, or any other financial entity with which the reporting individual is affiliated was a party to any criminal, civil, or administrative proceeding which would relate to the matters for which the nominee would be responsible in the position to which nominated (as determined by the Committee by regulation).

(3) If the existence of any criminal, civil, or administrative proceeding is certified under paragraph (1), a description of the nature of such proceeding and its outcome and the factors on which such outcome was based.

(c) Notwithstanding any other provision of this chapter to the contrary, the report required to be filed under section 301(a)(2) upon the transmittal of a Presidential nomination shall cover the 5-year period preceding the transmittal of such nomination.

(d) For purposes of this section:

(1) "civil, criminal, or administrative proceeding" means—

(A) any civil or criminal proceeding to which the United States or any State is a party;

(B) any administrative proceeding by the United States or any State denying any benefit on the basis of any act or omission by the person who is the subject of such proceeding or which restricts, by consent, the activities of the person who is the subject of such action; and

(C) any investigation of a type which normally precedes any action described in subparagraph (A) or (B) of this paragraph; and

(2) an individual shall be considered to be affiliated with any entity if such individual, or any relative of such individual, has a substantial interest in such entity or held any position in such entity which is required to be reported under this title,

Page 58, line 15, strike out "304" and insert "305" in lieu thereof.

Page 58 line 17, strike out "302" and insert "302 or 304" in lieu thereof.

Page 58, line 22, strike out "301" and insert "301 or 304" in lieu thereof.

Page 58, line 23, strike out "302" and insert "302 or 304" in lieu thereof.

Page 59, line 2, strike out "305" and insert "306" in lieu thereof.

Page 61, line 21, strike out "306" and insert "307" in lieu thereof.

Page 61, line 22, strike out "303" and insert "304" in lieu thereof.

Page 62, line 13, strike out "307" and insert "308" in lieu thereof.

Page 63, line 2, strike out "308" and insert "309" in lieu thereof.

Page 63, line 6, strike out "309" and insert "310" in lieu thereof.

By Mr. MAZZOLI:

On page 30, line 20, strike "In addition" and all that follows through the end of the subsection.

By Mr. MOORHEAD of California:

Page 44, line 2, strike out "; or" and insert in lieu thereof a dash.

Page 44, strike out line 3 and everything that follows through line 13 on page 45.

Page 45, strike out line 16 and everything that follows through line 21 on page 46.

Page 46, line 22, redesignate subsection (f) as subsection (c) and strike out "(a), (b), or (c)" and insert in lieu thereof "(a) or (b)".

Page 46, line 23, insert "(1)" immediately after "shall not apply if".

Page 47, line 6, strike out the period at the end thereof and insert in lieu thereof the following: "; or (2) the former officer's or employee's appearance before the agency is of a category exempt by the agency by general rule or regulation, approved by the Director of the Office of Government Ethics and published in the Federal Register, or the agency, after full disclosure of all facts by the former officer or employee, makes a written determination, subject to review by the Director of the Office of Government Ethics, that the former officer or employee will not exercise any undue influence on substantive agency action by virtue of his or her former association with the agency. All such written determinations shall be a matter of public record."

Page 47, line 7, redesignate subsection (g) as subsection (d) and on page 48, line 3, redesignate subsection (h) as subsection (e).

Page 44, line 2, strike out "; or" and insert in lieu thereof a dash.

Page 44, strike out line 3 and everything that follows through line 13 on page 45.

Page 45, strike out line 16 and everything that follows through line 21 on page 46.

Page 46, line 22, redesignate subsection (f) as subsection (c) and strike out "(a), (b), or (c)" and insert in lieu thereof "(a) or (b)".

Page 47, line 7, redesignate subsection (g) as subsection (d) and on page 48, line 3, redesignate subsection (h) as subsection (e).

By Mr. SIMON:

Page 9, line 8, insert "and dependent child" immediately after "spouse".

Page 9, line 12, insert "or dependent child's" immediately after "spouse's".

Page 9, line 16, insert "or dependent child's" immediately after "spouse's".

Page 9, line 22, insert "or dependent child's" immediately after "spouse's".

Page 10, strike out lines 3 through 12, and on line 13, strike out "(3)" and insert in lieu thereof "(2)".

Page 9, lines 9 and 10, insert "and amount" immediately after "source" and strike out "in excess of $1,000".

Page 9, line 13, strike out "and" and insert in lieu thereof a comma.

Page 9, line 14, strike out "or" and insert "and".

Page 9, line 17, insert ", amount," immediately after "source".

By Mr. STRATTON:

Page 44, line 14, strike out "O–6" and insert in lieu thereof "O–7".

Page 46, line 23, after "shall not apply", insert the following: "with respect to the making of communications solely for the purpose of furnishing scientific or technological information under procedures acceptable to the department or agency concerned or".

# EXTENSIONS OF REMARKS

## ILLEGAL ALIENS AT THE WHITE HOUSE

### HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. ASHBROOK. Mr. Speaker, today's Washington Post carries a very interesting article entitled "Illegal Aliens Received on Visit at White House." Not unusual for Margaret Constanza to host them. She has been in charge of the delegations of homosexuals, radicals, misfits, and any other group that feels the liberals have not liberalized the laws enough so far to suit them.

I include the article with these remarks. If read closely it reveals some interesting facts. Of course, this administration has created a new phony term to designate the illegals. They have become "undocumented aliens." Not illegal, just undocumented. The article refers to one of the aliens as having been deported four times.

As I read the United States Code that makes him guilty of criminal violation of the law. Not just an illegal alien but a person who has criminally flaunted our laws.

Five of the illegals were picked up by the border patrol on their way to the White House Conference. Imagine that, arresting them. Maybe the White House can reprimand those poor people who try to enforce the law at the local level while it is being flaunted at the White House by those who encourage the illegals to come into the country.

Here is the article. Read it and weep:

ILLEGAL ALIENS RECEIVED ON VISIT AT WHITE HOUSE

(By Christopher Dickey)

Fourteen Latin Americans were invited to the White House yesterday to talk with presidential assistant Margaret Costanza.

Several of them had trouble identifying themselves to get past White House security because they are illegal aliens, without any documentation that allows them to live and work in the United States. One said he has been deported four times.

The issue of documentation is what brought them there in the first place. Grapefruit pickers from Arizona, sugar cane workers from Louisiana, domestics and dishwashers from the District of Columbia and their representatives have been gathering since Friday in Mt. Pleasant for a conference of the National Workers Project.

Those who spoke yesterday with Costanza vehemently attacked President Carter's proposed immigration legislation. They also protested what they called the brutality and harassment of the Border Patrol and police forces in the Southwest that have been rounding up illegal aliens.

Five people on their way to the conference from Phoenix last week were picked up by the Border Patrol in Arizona, according to a spokesman for Immigration and Naturalization Service and members of the Project.

Five more, who made it into the White House yesterday, told Costanza that they oppose the Carter immigration plan. They called for a general amnesty, Carter is asking amnesty for those who have lived here since before 1970, a restricted 5-year amnesty for those here since Jan. 1, 1977, and sanctions against employers of undocumented workers.

"We are punished by that (proposed) law very much," said Manuel Maria Bernal, who, like several of the others at the White House, came to work in the citrus groves of the Southwest because he could not support his family in Mexico. Bernal told Costanza he hoped the government would grant visas to workers so they may come and go as their work demands.

Other members of the conference criticized the Carter plan's sanctions against employers of illegal aliens because they believe such measures—already in effect in Virginia and about 20 other states, and under consideration in the District of Columbia—lead to discrimination against all workers with foreign-seeming features or accents.

Costanza was told that foreign nationals would prefer unionization of workers rather than the Carter proposal.

Though some labor groups have blamed illegal aliens for failure of some efforts to unionize workers, because with the threat of deportation they are reluctant to oppose their employers, there recently have been successful strikes of undocumented workers in Arizona citrus groves.

Lupe Sanchez, who helped organize those strikers, told a reporter that his workers won the right to blankets and bathroom facilities, a minimum wage, and warnings before the trees under which they sleep are sprayed with pesticide, "It is obscene," said Sanchez, "to have to negotiate such things."

Costanza said she would visit the groves soon. After hearing repeated charges of harassment and brutality against Immigration Service agents and local police, she said she would send a report of the meeting to the Attorney General.

A spokesman for the Immigration and Naturalization Service said it takes "maximum steps to minimize brutality. But we can't control what the local police forces do. We don't encourage them, we discourage them."●

## FIGHTING INFLATION

### HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. ARMSTRONG. Mr. Speaker, the Colorado General Assembly has adopted and forwarded to us a joint memorial calling for an amendment to the U.S. Constitution to prohibit deficit spending.

As huge Federal budget deficits continue and inflation lowers everyone's standard of living, this action by the Colorado Legislature is very timely.

I urge my colleagues to take time to read Colorado Senate Joint Memorial No. 1 and consider the wisdom of this proposal.

The memorial follows:

SENATE JOINT MEMORIAL NO. 1

By Senators Strickland, Hughes, H. Fowler, Kinnie, MacManus, Meiklejohn, Schieffelin, Woodard, Allshouse, Anderson Decker, L. Fowler, Harding, McCormick, Phelps, Plock, Smedley, and Wham; also Representatives Kramer, Durham, Becker, Bledsoe, Dittemore, Eckelberry, Gorsuch, Hayes, Hefley, Hilsmeier, Lillpop, McElderry, Neale, Reeves, Schaefer, Showalter, Swalm, Tancredo, Waldow, Winkler, Yost, Barnhill, DeNier, Dodge, Herzberger, Jones, Spano, Younglund and Zakhem.

Whereas, with each passing year this nation becomes more deeply in debt as its expenditures grossly and repeatedly exceed available revenues so that the public debt now exceeds hundreds of billions of dollars; and

Whereas, The annual federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the federal government to curtail spending to conform to available revenues; and

Whereas, Convinced that fiscal irresponsibility at the federal level, with the inflation which results from this policy, is the greatest threat which faces our nation, we firmly believe that constitutional restraint is vital to bring the fiscal discipline needed to restore financial responsibility; and

Whereas, under article V of the constitution of the United States, amendments to the federal constitution may be proposed by the congress whenever two-thirds of both houses deem it necessary or on the application of the legislatures of two-thirds of the several states that the congress shall call a constitutional convention for the purpose of proposing amendments which shall be valid to all intents and purposes when ratified by the legislatures of three-fourths of the several states; now, therefore,

*Be It Resolved* by the Senate of the Fifty-first General Assembly of the State of Colorado, the House of Representatives concurring herein:

That the Congress of the United States is hereby memorialized to call a constitutional convention pursuant to article V of the constitution of the United States for the specific and exclusive purpose of proposing an amendment to the federal constitution prohibiting deficit spending except under conditions specified in such amendment.

*Be It Further Resolved,* that this application and request be deemed null and void, rescinded, and of no effect in the event that such convention not be limited to such specific and exclusive purpose.

*Be It Further Resolved,* that copies of this memorial be sent to the secretary of state and presiding officers of both houses of the legislatures of each of the several states in the union, the clerk of the United States house of representatives, the secretary of the United States senate, and to each member of the Colorado congressional delegation.

FRED E. ANDERSON,
*President of the Senate.*
RONALD H. STRAHLE,
*Speaker of the House of Representatives.*
MARJORIE L. RUTENBECK,
*Secretary of the Senate.*
LORRAINE F. LOMBARDI,
*Chief Clerk of the House of Representatives.*

TO THE MEMBERS OF THE COLORADO GENERAL ASSEMBLY

Thank you for sending me a copy of Senate Joint Memorial No. 1 recently adopted by the Colorado General Assembly.

Your Joint Memorial could not have been more timely. In recent months, the spectre of

double digit inflation has reared its ugly head once again. Decisive action must be taken now if we are to prevent a repetition of the stagnation and recession which devastated our economy in the early 1970's.

Professional economists and private citizens alike recognize that inflation is the greatest danger to our economy. Wherever I travel in Colorado, this is the problem people are talking about most. Inflation imposes an especially severe hardship on the elderly, people who are least able to protect themselves against rising prices. But young people are hurt, too, especially those who are just starting out and find themselves priced out of the housing market. And the same is true of virtually every family in our state and the nation. Inflation must be brought under control.

Our country was recovering from the recession of 1973–74 before the present Administration came to power. The annual rate of inflation had been brought down to 4.8 per cent by the time President Ford left office. The economy was expanding and new jobs were being created. But in January of this year the rate of inflation had doubled to a whopping 9.6 per cent, and both the stock market and the international money markets were signalling economic distress ahead.

Concern about the economy is not limited to the financial community. Recent opinion polls make it clear the American people consider inflation to be the most serious problem facing our country today.

It is not hard to pinpoint the source of their concern. When so-called "off-budget" borrowing is included, the Administration's proposed budget for the next fiscal year contains a deficit of $87 billion. Federal money creation to paper over a deficit of that magnitude is certain to spur inflation, and federal "crowding out" of private borrowers in the money markets is sure to slow economic growth. No wonder the stock market is swooning, the dollar is plunging, and ordinary Americans are scrambling to find ways to protect their savings.

To date, the Administration's anti-inflation program has consisted of jawboning and finger-pointing and precious little else. No Administration had ever talked more about the need to stabilize prices, or so casually ignored these goals in formulating its policies.

The Administration has put its stamp of approval on dozens of dubious new programs certain to spawn new inflation. Among them are:

New Social Security taxes that will add $6.8 billion to employers' payroll costs this year alone, as well as drain vitally needed purchasing power from the pockets of consumers;

An increase in the minimum wage which will add approximately $10 billion to the cost of doing business in this country;

Additional unemployment insurance costs of $3 billion in 1978;

Proposed new energy taxes that would, if enacted, extract $72.5 billion from the economy by 1985;

New oil tanker regulations which will cost consumers $1 billion;

A 39 per cent wage increase over three years for coal miners, which could boost the price of steel and electric utility bills by at least 10 per cent;

Restrictive import agreements on steel, shoes, and television sets, and

A cargo preference bill which Treasury Secretary Blumenthal estimated would have added $1 billion a year to the fuel bill of Americans.

Our economy has yet to feel the brunt of most of these new and proposed spending programs. But in the last year alone the consumer price index doubled, purchasing power declined, industrial production fell and retail sales decreased. The dollar fell to an all-time low and the trade deficit grew to an all-time high. The rate of capital investment dropped to the lowest among all industrial nations.

It is clear that unless something is done to halt the federal government's wild spending spree, our economy will once again be suffering from stagflation—double digit inflation and a stagnating economy.

If we simply maintained the rate of inflation at the current 6.7 per cent annual rate:

A home costing $55,000 today will be priced at $83,000 within five years, an increase of 63 per cent;

A new car that sells today for $5,000 will be up by 38 per cent to $6,875 within five years, and

A $100 electric utility bill today will be up by 58 per cent within five years.

But the costs of inflation go beyond the extra bite out of American paychecks. For some it may mean no paycheck at all. Inflation has a devastating effect on business decisions which require new capital formation to create new jobs. A poll of 2,000 chief executives indicated that only 22 per cent of business leaders felt that now is a good time to undertake new or expanded investments.

The only sure, permanent way to put a lid on inflation is to write into the Constitution an amendment that will forbid deficit spending, a wise provision which is already written into the constitutions of 47 states, including Colorado. While I do not personally feel it is desirable to convene a constitutional convention, I completely support the kind of amendment proposed by Senate Joint Memorial No. 1. I am delighted that the Colorado General Assembly has gone on record in support of such an amendment.

I will insert a copy of Senate Joint Memorial No. 1 in the CONGRESSIONAL RECORD, along with a copy of this letter as a means of alerting my colleagues in the House of Representatives to the need for urgent action.

Sincerely,

WILLIAM L. ARMSTRONG.●

## BUSINESS LEARNS ABOUT GOVERNMENT

### HON. SAMUEL L. DEVINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. DEVINE. Mr. Speaker, it is always a pleasure to welcome to Washington a group of businessmen who are here to learn about their Government and how business and Government can work together.

Robert Parsons, of Reynolds Metal Co. in Richmond, is this year's president of the National Coil Coaters Association, which is conducting its Government Affairs Seminar on April 9, 10, and 11.

NCCA consists of a remarkable group of businessmen who have created a new industry with a new technology—the precoating of metals for a wide variety of uses, such as beverage cans, automobile metal, home siding, and recreation products. Their imagination and business initiative has built a multibillion-dollar industry in less than 20 years. Because these men have made good use of modern technology, their industry has been proven cost-effective and energy efficient.

They are here to study "The realities of Regulatory Government in Business Decisions." With so much of today's businessman's time taken up with Government regulations, this is an important subject. I hope that these dynamic businessmen will have as great an impact on Government as they have had on the metals industry. It is only through the informed action of business that the swelling Government regulatory system can be reduced to reasonable limits. We look forward to their visit.●

## HEW'S FISCAL NONSENSE

### HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. HANNAFORD. Mr. Speaker, a recently proposed rulemaking by the Department of Health, Education, and Welfare would broaden the scope of disability insurance coverage under social security. In view of the dire straits in which the social security trust funds can be found today, any such proposal should be looked at carefully. But the proposal I am addressing would be considered ludicrous even if a surplus existed in the social security accounts.

The Department desires to classify as "handicapped" any individual who cannot perform simple arithmetic functions or speak English. While I will agree that these unfortunate individuals will experience great difficulty in the commerce of their daily lives because of their shortcomings, I feel that describing them as "handicapped" for purposes of receiving social security payments is an insult to the millions of truly handicapped persons who depend on the disability insurance program.

Mr. Speaker, the Long Beach Independent, Press-Telegram published a succinct editorial analysis of the HEW proposed rulemaking in its March 27 edition, and I would like to share it with you now.

HEW'S FISCAL NONSENSE

Since January, American workers and employers have been paying higher Social Security payroll taxes to keep the fund from going bankrupt—and the taxes will continue to increase.

Congress approved the very substantial increases at the urging of President Carter.

No one was particularly happy that Social Security taxes had to be raised, but there wasn't much choice since benefits being paid out were more than the taxes coming in.

In view of this, it is incredible that the Department of Health, Education and Welfare is proposing new regulations which, if permitted to become effective, would provide that a person who can't add or subtract, or is unable to speak English, or is over 55 years of age may qualify for disability insurance under Social Security.

Hasn't HEW heard how hard the American worker and his employer have been hit by the increased payroll taxes to keep the Social Security fund solvent? How can they propose new expenditures from the fund under such circumstances?

The proposed new disability regulations, published March 7 in the Federal Register, say being unable to add or subtract is a disability, because "the inability to perform simple calculations in addition and subtraction would represent vocational restrictions."

The regulations say further: "An individ-

ual's inability to communicate in English may be a decisive factor resulting in a finding of disabled. . ."

Another section states that if "an individual's physical and mental capacities are not consistent with making an adjustment to work differing from that which the individual has performed in the past, it will be determined that such an individual is under a disability."

Social Security is not supposed to be a welfare program. It is supposed to be a retirement program, financed by contributions from workers and their employers. The HEW proposals to expand benefit coverage do not conform to the purpose of the system.

Congress should take another look at the Social Security system and, instead of increasing payroll taxes, should rescind some of the projected tax boosts. One way to do this would be to strip away benefits such as Medicare and public welfare programs which are not properly a part of Social Security.

At the very least, it should dump HEW's proposed new rules, which are fiscal nonsense.●

## TAKING A CHANCE ON TURKEY

### HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. EILBERG. Mr. Speaker, in placing an embargo on the shipment of arms from the United States to Turkey, this House has registered its protest against the denial of human rights on Turkish-occupied Cyprus, and on the continued presence of Turkish troops on that island.

Now, we are being asked by the administration to lift our embargo, in the expectation that by restoring our support for arms to Turkey, she will withdraw her troops on Cyprus and allow countless Greek refugees to return to their homes.

The New York Times of Sunday, April 9, commented on President Carter's plans, and in a precise fashion pointed out that this bet "may be a bad one."

I quite agree, Mr. Speaker, that Congress would be taking a large gamble, especially in light of the political climate in Turkey which makes it difficult for President Ecevit to make concessions. I offer for the RECORD the following commentary from the New York Times:

TAKING A CHANCE ON TURKEY

Secretary of State Vance told Congress last Thursday that if only it would lift its restrictions on shipments of American arms to Turkey, the Turks and Turkish Cypriots would put forward new proposals for a Cyprus settlement. He may be right. But the issue is not whether there will be new proposals. Rather, it is whether the proposals will move Turkish troops back from the 40 percent of Cyprus they now occupy to a zone more nearly proportional to the 18 percent of the island's population that is Turkish. Secretary Vance is thus asking Congress to join him in betting that once the American restrictions are removed, the Turkish Government of Prime Minister Ecevit will be able to make large concessions that could not be made while the limits remain.

The bet may be a bad one. In Turkey's politics, no time is a good time for conceding territory to Greek Cypriots. And Mr. Ecevit's position seems less strong now than it did when he returned to office last Jan. 1. In Parliament he has been able to govern without the votes of ultranationalists. But in the streets extremists continue their campaigns of violent intimidation that have taken more than 100 lives this year. There is no reason to think that Mr. Ecevit himself does not want to be generous so as to remove the Cyprus problem from his crowded agenda. But in the prevailing political climate, concessions that are even remotely acceptable to the Greek Cypriots may be impossible. And once American pressure is removed, Mr. Ecevit will have even less reason to take political risks.

Secretary Vance emphasized the strains that the limits on arms shipments impose on Turkish politics and Turkey's links to NATO. But he glossed over the comparable strains on Greek politics, and Greece's links to NATO, if removal of the restrictions is not accompanied by a satisfactory outcome on Cyprus. Greece is no less important to NATO's southern flank than Turkey. Any bargain that "saves" Turkey for the alliance at the cost of losing Greece would be hollow indeed. And if, as is likely, Congress should refuse to ease the limits on Turkey, the Administration's present approach risks alienating both countries.

Turkish's spokesmen decry what they see as an American tilt toward Greece, and they say that they only want Americans to be "even-handed." Yet in the present Cyprus situation, removing the arms limits would amount to a tilt toward Turkey. So long as Ankara's troops remain where they are on the island, Congress should retain the only leverage it has.●

## PUBLIC OPINION ON FOREIGN INVESTMENT HERE

### HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. GAYDOS. Mr. Speaker, the steady increase in foreign investment in the United States also is attracting growing public attention. In many cases the foreign investor is being wooed to locate here. Recently, the governor of Pennsylvania made a special trip to Japan for that specific reason.

Upon his return, the Standard-Observer of Irwin, Pa., conducted a survey among some of its readers to gain their reaction to the idea. I will insert into the RECORD extracts of their responses.

One young lady commented:

I'm a little skeptical . . . The U.S. made so many concessions for Volkswagen (a plant located near New Stanton, Pa.). I think we should give some assistance to small business in this country. That would be more beneficial and fair to citizens here.

A young man observed:

We should take care of our own first.

He pointed out the United States has many problems and encouraging foreign business to settle here primarily benefits them.

It will not be a general benefit to people here; just to the ones who work there, just a few.

Another young lady said a German friend of hers objected to the Volkswagen plant in New Stanton because it took jobs from German workers. She conceded foreign companies locating here will make work for people but, she added:

We will have to pay more taxes for the conveniences for the company, such as new roads. I'm not sure anyone makes out so well.

A housewife opposed the idea, preferring the encouragement of people in this country to open businesses—

I don't like so many coming in.

One man noted there are two sides to the issue—

If people in the U.S. are going to buy foreign products they may as well buy ones manufactured here.

But, he also cautioned:

Foreign buying is getting out of hand.

Mr. Speaker, I, too, am concerned lest encouragement of foreign investors lead to encroachment on our ability to control our own economy. It is for this reason I have advocated reasonable limitations on foreign investments in the United States, permitting the investor a fair return on his money but preventing his control of U.S. industries or business.●

## SOVIETS IMPOSE SEVERE PENALTIES ON HELSINKI WATCHERS

### HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. SIMON. Mr. Speaker, while Western public opinion focuses its attention on the upcoming Shcharansky trial, Soviet authorities have quietly been meting out so-called "justice" to the other members of Helsinki watch groups throughout the Soviet Union. On March 29, 1978, the two founding members of the Ukrainian Helsinki group, Mykola Matusevych and Myroslav Marynovych, were each condemned to 7 years in labor camps and 5 years of internal exile for "anti-Soviet agitation" following a trial which, by all standards, was a mockery of justice.

The week-long trial, conducted behind closed doors so neither friends nor family could attend, culminated 11 long months the two Ukrainians spent in forced isolation after their arrest on April 23, 1977.

Matusevych, 31 years old, and Marynovych, 28, founded the Ukrainian group in November 1976, a few months after the formation of the Moscow group to Promote Observance of the Helsinki Accords. Since November, the group in Ukraine has issued over 20 reports on Helsinki implementation and has witnessed six of its members arrested over the past year.

I find it increasingly difficult to understand why courageous young men, whose only "crime" is to treat seriously their government's signature on an international agreement, must spend years suffering for their humanity. Or why a nation which calls itself civilized continues

to perpetrate with impunity these true crimes against its citizens.

If we do not speak out now against the illegality of these men's trial, if we do not speak out against this flagrant violation of Helsinki pledges to which Brezhnev himself signed his name, if we do not protest Soviet neglect of their own laws, then we ourselves become accomplices through our silence.

Soviet authorities have just begun to punish the 55 imprisoned Helsinki watch group members, but already the cruel arm of Soviet justice has clearly been raised. For the sake of all the dozen others awaiting their fate, we must register the strongest protest against the illegality and immorality of this recent Soviet action.●

## HENRY FORD, II ON REGULATION

### HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. COLLINS of Texas. Mr. Speaker, Henry Ford II has made some excellent analytical statements in recent years. His concise views on "the High Cost of Regulation" sums up this situation. In the recent March 20 issue of Newsweek, they have a 1-page visitors' editorial. In this issue it was the statement of Henry Ford II, chairman of the board of the Ford Motor Co.

Inflation is the number one problem in America but the average citizen does not know that one of the primary causes of inflation is the expensive and costly requirements of regulation and overregulation by Congress.

Henry Ford II puts the issue squarely on the back of Government. He is absolutely right and here in Congress I ask that my colleagues review the sound commonsense remarks that he has made.

The entire statement is profound, but I am quoting only a few of the more fundamental paragraphs of the Newsweek statement on regulation by Henry Ford II:

Perhaps it's only a coincidence that the recent period of rapidly rising government spending and roughshod regulation also has been a time of high unemployment, slow productivity improvement, soaring government deficits and unprecedented peacetime inflation. But I don't believe it's a coincidence at all. Despite a mounting record of failure and frustration, our leaders have failed to grasp the fact that too much government inevitably leads to economic decay.

It is obvious to everyone—or should be—that the more government spends, the less wealth is left for productive investment as well as for private consumption.

But I am arguing with the tendency to sanctify each goal—to seek instant perfection with little regard for costs and consequences.

There is a real danger that regulation will continue to feed upon regulation and become not so much a means to an end as an end in itself. With the labyrinth of regulations, many in Washington and elsewhere find themselves possessed of a power greater in some respects than that of the Congress or state legislatures.

The staggering cost of meeting regulations falls first upon the affected industry and its customers, and only later does the impact begin to be felt by the society at large in terms of general price rises, slower economic growth and fewer jobs. ●

## HUMAN RIGHTS AND THE NEED FOR A PEOPLE-ORIENTED APPROACH TO U.S. FOREIGN RELATIONS

### HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. BONKER. Mr. Speaker, in my judgment, in several instances U.S. foreign policy reverses have been caused by our preoccupation with winning the favor of governments, rather than identifying with the plight of people who suffer under the arbitrary rule of these governments. This government-centered approach has always appeared somewhat ironic to me, since our country's guiding philosophy is that a nation's legitimacy is derived from the consent of those governed. This philosophy is particularly important in Third World countries, whose governments are marked by chronic instability. People, not governments, provide the continuity needed to keep nations and states intact.

President Carter's human rights policy represents in spirit an effort to move toward a closer identification with the interests and welfare of people ruled by repressive governments. This is a very welcome development in my opinion. However, as currently applied, the President's human rights policy continues to vacillate between a people-oriented approach, and an approach fixed on a rather short-term identification with particular governments on behalf of narrowly conceived "national security" criteria. During a recent visit to the Horn of Africa, I noted that this latter approach, which was used in Ethiopia under previous administrations, was detrimental to long-term U.S. interests. The United States faced a similar situation in the former Portuguese territories. Will this senario now be repeated elsewhere, in time, in countries such as Iran?

Mr. Speaker, the American Ambassador to Kenya, Wilber J. Le Melle, gave an eloquent presentation last fall on the relationship between promoting better human understanding and advancing human rights. I now ask that Ambassador Le Melle's remarks be placed in the RECORD, as they emphasize elements which I believe should increasingly be given priority in U.S. foreign policy today.

The remarks follow:

WORLD UNDERSTANDING AND HUMAN RIGHTS

Mr. Chairman, Rotarians, ladies and gentlemen. Your invitation to meet with you today to discuss a subject of such immense importance as world understanding was a particularly welcome one. The search for understanding between and among societies and nations is as old as those institutions. Diplomats—along with artists and teachers, scholars and scientists—have a particular responsibility in carrying on that search. Our sense of urgency in this quest has grown dramatically over the past few decades—both because the potential rewards for success have increased enormously and because the penalties for failure have taken on terrifying proportions. At the same time, the task has become more complex, because of global population growth, enlargement of the world family of nations, and technological development.

Just about everyone subscribes to the proposition that world understanding is a good thing and that we need more of it. But how often do we stop to think about what—in fact—we mean by understanding and how it might best be achieved. Certainly we must go beyond a simple analysis of each other's motives or the learning of a few pertinent facts about the history and culture of other societies. Learning is too often mistaken for understanding, knowledge for wisdom. Learning and knowledge are a process and an achievement of the mind, and we need them. But understanding and wisdom involve a spiritual commitment as well. If we are to achieve true world understanding we must make that spiritual commitment. We must go beyond tolerance and accommodation to genuine respect and a hospitality of the mind and spirit.

In his recently published study on man's origins Richard Leakey* has offered the hypothesis that humans can probably best be defined as cooperating animals. That hypothesis—as opposed to the older and more popular theory which Konrad Lorenz argued—that we are essentially aggressors—seems to me a much better term for defining us, even if it yet awaits final scientific validation. For while our record in the area of cooperation may be a spotty one, it strikes me that man has applied himself more consistently in that direction than otherwise. It remains for us to find ways to improve on the balance, and that is where world understanding must take its place in the forefront of world priorities. It has advanced from being a desirable goal to the status of an imperative.

Over the past three decades the proliferation of nations in the world family has been accompanied by an intensifying of international relations. Politically, economically and socially, our affairs have become progressively more interwoven.

That process of intensification continues today and can be expected to continue well into the future. The interests of nations and, perhaps more to the point, the interests of the individuals who live in those nations, are all of a piece in the modern world. That reality poses certain problems, but it also offers a vast array of opportunities for us to work together in designing a better life for all the world's people.

The division of international affairs into fields we designate as political, economic or social is one we construct arbitrarily for the sake of analysis. That division is frequently difficult to maintain. Nevertheless, each nation does have its own peculiar array of political, economic and social institutions, each shaped by a unique set of historical circumstances. It is vital to the achievement of world understanding that we understand not just how we acquired these institutions and how they function but, more importantly, that we realize, as well, that the people who created them and who compose them were and are essentially the same.

In a world of cultural diversity it is encouraging to see people exhibiting growing appreciation for cultures not their own. So long kept apart by ignorance and misunderstanding, people are now being drawn together by the desire to share the cultural wealth that springs so copiously from every society. In America, every major university and many of the smaller ones have faculties

*Richard Leakey and Roger Lewin, Origins, MacDonald and Jane's, London, 1977.

devoted to the teaching of the historical and cultures of other lands—and the students are flocking to them. The same is true in many countries other than mine, and it is a heartening thing to see. In this era of rapid and easy travel, people are going to other countries to study, to engage in commerce, and most often just to share in another culture. Peoples once divided by a kind of fear engendered by ignorance and misunderstanding are beginning to lose that fear through knowing each other. In this world of many cultures, growing social intercourse is having its effect—and the effect is a major contribution toward world understanding. An unhappy note in this regard is that some nations continue to throw up barriers designed to frustrate that seemingly natural human urge to know one another. We can only hope that efforts now being made to breach those barriers will some day succeed. That would constitute another major step toward the knowledge that we are all one people.

A prerequisite to the achievement of world understanding—and to the enrichment of the human condition that it would herald—is the commitment of national governments to that end. Perhaps owing to the diversity of the American people themselves, the United States Government made that commitment long ago. Our people are free to come and go as they please and our doors remain open to the world. Scholars, teachers, students, artists, and journalists from all lands come to our country in an unending stream and are welcome there, just as our people go abroad in ever greater numbers. Having never been closed, our doors have not required opening. But it is more than a passive commitment. We have done much to promote cultural exchange—the flow of knowledge, ideas and understanding.

In actively committing itself to the promotion of cooperation and understanding among nations, the U.S. Government created a whole new family of agencies designed to work toward that end. The Fulbright-Hayes Act gave rise to the Bureau of Cultural Affairs within the Department of State. It is this Bureau that funds the Fulbright scholarships, the International Visitors program and a number of other activities that work toward helping Americans and people of other nations to see each other as they are, and to work together in seeking understanding of each other's ways. The United States Information Agency, the Agency for International Development, the Peace Corps—all are living, functioning institutions dedicated to the proposition that people from all cultural and historical backgrounds can—and must—work together. The commitment that led to the creation and sustained support of these institutions springs from the American conviction that, in order to survive and to progress, people must cooperate in identifying common goals and achieving them. Because of that conviction, there are many exchanges that take place outside of official circles and usually with little or no governmental participation.

Apart from official government support for international exchanges, a large number of private American institutions—educational, cultural and philanthropical—are also active in the international field and contribute tremendously to the flow of knowledge and understanding between the United States and other countries. The importance of the latter, small group of institutions is that they enjoy greater flexibility and in some instances more latitude in programming which happily compliments the more formally focused governmental efforts.

The same fundamental conviction that has led to American efforts—both official and private—to seek cooperation and understanding among peoples has led us to the position we have taken on fundamental human rights in international affairs. Americans did not invent human rights, nor have we been altogether consistent in observing them. In proclaiming the human rights doctrine as a central part of U.S. foreign policy, President Carter made clear that we are subject to—and prepared to accept—criticism. So we recognize the problem as being a universal one. Because the problem is universal, and because it touches so intimately on the quality of every individual human being's existence, it is the core issue in seeking world understanding. The American conviction that global acceptance of certain fundamental human rights is essential to a peaceful and cooperative relationship among the world's nations is accompanied by another conviction. That is that such an understanding is achievable.

Clearly, if the doctrine of human rights is to become universally accepted and universally applied, it must be defined. What then are these fundamental rights of which we speak? President Carter has said that they are "to speak without fear, to have a chance to express one's political belief, to seek different employment without interference by government, not to be dominated by officials who have power, not to be imprisoned without adequate charge and not to be tortured." Secretary of State Cyrus Vance, elaborating on the doctrine, said that "man has a right to be free from government's violations of the integrity of the person, the right to the fulfillment of such vital needs as food, shelter, health care and education, and the right to enjoy civil and political liberties." Now those rights would appear to be sufficiently fundamental for any reasonable purpose. They are clearly defined and they are universal in the sense that just about any individual, anywhere in the world, would want them for himself. They are those rights which are most basic and fundamental, and about which there is general agreement, or what the scholastic philosophers used to call, a sensus communis. Where the concept gets into trouble is in the fact that there are those who, while clearly arrogating these rights to themselves, would deny them to others.

When the Carter Administration elected to include basic human rights as an integral part of U.S. foreign policy it became inevitable that an old ghost would be raised. The question is being asked—from within the United States as well as from without—whether the human rights doctrine isn't another effort to universalize what might be termed "American morality" as a basis for arranging the relations between nations. Those who raise this question may be looking back warily to the nineteen-fifties—to the height of the cold war when a "new moralism" was injected into U.S. foreign policy with ultimate disastrous results. Obviously that moralist world view, which divided the causes of nations as either good or bad and left no morally justifiable room for neutralism and non-alignment, is something quite apart from the Carter Administration's stand on human rights.

I believe that even a cursory examination of the human rights doctrine should allay any fears that the United States is reverting to the narrow parochialism of cold war mentality. We have left that behind us. The human rights doctrine, far from being a manifestation of American self-righteousness, is quite simply the acceptance by the United States of, in the words of Zbigniew Brzezinski, "an idea whose time has come." As Mr. Brzezinski has further pointed out, "throughout the world, because of higher literacy, better communications and a closer sense of interdependence, people are demanding and asserting their human rights." In championing the cause of human rights America, rather than attempting to draw lines of conflict, is seeking to dispel them.

We are convinced that a consensus is taking shape among the people of the world, a sense that the time has come for human beings—all of us—to move toward the attainment of a common dignity, a common sense of man's heritage, and a common sense that the degradation of one human being degrades all humankind.

Over one hundred years ago President Abraham Lincoln said, "A nation cannot exist, part slave and part free." Under his leadership America abolished the institution of slavery. A similar statement might well be made today with regard to the community of nations. The community of nations cannot exist, part respecting fundamental human rights and part denying them.

The doctrine of human rights is present in U.S. foreign policy because our government and our people see no other way in which the community of nations can take form and be sustained. We seek to establish a common bond of understanding and respect upon which nations can find a new kind of relationship—a relationship in which the common goal is the cooperative pursuit of the betterment of the human condition, a better life for all men.●



## ADMINISTRATION PHONYNESS ON PANAMA CANAL ISSUE IS SHOWN

**HON. JOHN M. ASHBROOK**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. ASHBROOK. Mr. Speaker, the raging controversy over the DeConcini reservation shows many things but above all it shows the sheer phonyness of the Carter administration's position and the charade it has gone through to sell the canal treaty to the public.

Simply stated, the DeConcini amendment which passed the Senate says that the United States has a right to intervene militarily in Panama at any time to keep the canal open. The President has consistently maintained that we could protect our interests and keep the canal open. One difficulty—like most liberals he wanted to say that was so to get the votes but he did not want it in writing to make it fact what he argued in generalities.

How dumb can we be? I have pointed out on numerous occasions the charade that has been going on. Panamanians look at language one way and we look at it another. The President assures the skeptical American public one thing, the Panamanian dictator and the Panamanian people something else. In effect, each side gets to hear what it wants to hear, certainly nothing unusual for Washington liberals.

The Washington Post dutifully plays along with this ploy. In today's edition this liberal newspaper has a front page story with this paragraph in a lead story:

> Yesterday, administration officials began courting DeConcini's staff in preparation for an attempt to somehow clarify the meaning of the reservation in order to placate Panamanian opinion, which reportedly has been inflamed over this issue in recent days.

In Washington doubletalk, Carter doubletalk, what does that mean? Simple. The DeConcini amendment

means what it says it means. State Department appeasers and compromisers will somehow try to come up with a charade that will convince Americans that it means one thing, the Panamanians something else.

No wonder this administration has so little confidence among the American people. No wonder the U.S. Senate has so little confidence either.●

## THE NEUTRON BOMB DECISION

### HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. MICHEL. Mr. Speaker, William F. Buckley, Jr., recently wrote an informative and incisive column about the controversy over the neutron bomb. Demolishing the myths of those who do not want it deployed in Europe, Buckley points out that no less an expert than NATO Comdr. Gen. Alexander Haig has recently held a press conference in Washington to clear up misconceptions about this weapon.

Buckley quite correctly points out that the Soviet Union has launched a massive propaganda barrage against the neutron bomb, distorting its effects and trying to portray it as a weapon that will increase the horror of war. To the contrary, the neutron bomb acts first of all as the primary deterrent to war in Europe. In case it ever was needed it would give the NATO allies a weapon that would enable them to stop the attack of the Warsaw Pact tank forces. At the same time it would not bring about the widespread destruction that results from "dirty" nuclear weapons now in place in NATO countries.

I think that when the story of the neutron bomb controversy is finally written, the role of Soviet propaganda will amaze even the most knowledgeable of Kremlin watchers. To put it briefly, the Soviet Union's propaganda campaign against the neutron bomb has been worth 10 divisions to the Soviets.

The Wall Street Journal, April 11, 1978, published an editorial pointing out the folly of the administration's decision and reminds us that in this administration "defense advocacy is weak, disarmament impulses are inbred and the President is apparently susceptible to moralizing sermons."

At this time I would like to place in the RECORD "Soviets Hate Neutron Bomb", by William F. Buckley, Jr., from the Peoria Journal-Star, Wednesday, April 5, 1978, and "Feckless Decision-Making", Wall Street Journal, April 11, 1978:

SOVIETS HATE NEUTRON BOMB

(By William F. Buckley, Jr.)

Just over a week ago General Alexander Haig, who heads the North Atlantic Treaty Organization, told a Pentagon news conference that the Pesident should poceed to deploy "ER's," which is the term the technical folk use to signify "neutron bombs." There are reasons not merely mincing, but scientific, for making the distinction. To speak of a neutron bomb is to invoke Hiroshima clouds. Whereas enhancing radiation, which is all that a neutron bomb does, simply intensifies the heat, as the words suggest.

For reasons that should be irrelevant to this analysis but are not, the neutron bomb is, taxonomically, a member of the nuclear family. That is, atom-splitting of some sort or other goes on in order to make an ER give. What is of course relevant isn't what makes it go, but what then happens. But this the Soviet Union does not permit us to discuss, preferring to talk about the ER's as though they were an advanced form of hydrogen bomb, to be despised by all decent, industrious and well-intentioned men.

Now General Haig's press ccnference is twice important. First because it brought attention to the military need for the new ER's. Over at the other end, the Warsaw Pact has developed the frightful SS–20 missile, capable of blowing up an entire megalopolis, and has trained these on NATO targets. Specifically, one SS-20 missile is, to quote Haig, "2,000 times more devastating in explosive consequences."

The intensive propaganda war waged by the Soviet Union against the deployment of the neutron bomb is extremely easy for any student of Soviet rhetoric to transcribe. It says "You may not deploy one because we haven't got one."

What the Soviets have is a huge, highly mobile concentration of the world's top military machines. The Warsaw Pact has 31 armored divisions; we have 11. They have 36 infantry divisions, we have 18. What do we do when the juggernaut begins to rumble? We can fire some ER's, that's what: and the effect would be devastating against a motorized division moving toward you.

That being the case, as General Haig stresses, the ER's would enhance the deterrent credibility of the NATO defense forces. And that having been done, the risk of their having to be used is minimized. It would be otherwise if the Warsaw Pack countries began suddenly to move and, in self defense, we flew in and began to fire the ER's.

Now the Haig conference is otherwise interesting. Early in his administration President Carter made it very clear, by his summary treatment of General Singlaub in South Korea, that Carter does not wish generals to disagree with their commander-in-chief publicly. Of all military men, Haig is probably the most experienced in presidential vanities, crotchets, and guile. It is likelier than not that Carter either put Haig up to the press conference in question, to drum up support for the ER's; or that Haig persuaded Carter that the time had come to deliver such an analysis.

After all, several of our allies in Europe, including one or two who are inclined to get themselves overrun from the east every generation or so and only then call on United States assistance, have been squeamish about deploying the neutron bomb on their territory.

Haig's press conference served a twin purpose. To Congress he was saying: the neutron bomb restores parity in Europe and so diminishes the possibility of war; and to Europe he was saying, Act your age, free yourselves of the pull of Soviet cant, and recognize where your own interests lie.

The explosive reaction early in the year by Brezhnev to the neutron bomb needs to be dealt with more thoroughly by the White House. Brezhnev's blast, for one thing, affected the thinking of the Central African Republic, Chad, Mexico, and the National Council of Churches. That may not seem like much, but it is a leg up.

Brezhnev deserves such an answer as Khrushchev on one occasion got from Senator Dodd when Khrushchev was critical of the U.S. resumption of nuclear testing: detailed comparison of the behavior of the two nations a reading of which left no doubt that the United States was alone in showing a consistent desire to limit nuclear experimentation.

It would be easy to put the Soviet Union on the spot about its SS–20 missile. Why don't we do it?

The time is opportune. And it is not irrelevant to the Panama Canal debate, which hangs on the question whether we have a determined commander-in-chief.

[From the Wall Street Journal, Apr. 1, 1978]

FECKLESS DECISION-MAKING

President Carter's deferral of the enhanced-radiation warhead raises basic questions about the decision-making process in his administrtaion. If the Secretary of State, Secretary of Defense and National Security Adviser all favored production, from whom is Mr. Carter taking his advice?

The decision itself, first of all, has to be recognized for what it is, a significant step backward in European defense. The military balance on the central front is already dire, and the enhanced radiation/reduced blast warhead was intended to help deter Soviet adventurism by giving the allies a more effective and more credible counter to huge tank armies. While Mr. Carter covered his decision with just enough waffling to appear indecisive, he has put off this promising opportunity indefinitely.

Politically the decision seems certain to nip the new coalescence of NATO that has started to bud in the last year. Especially so since Mr. Carter made his decision just when the West German government had at American urging agreed to take the initiative in asking deployment. Mr. Carter shoved Chancellor Schmidt out on limb, and then sawed it off behind him. American diplomatic standing in Europe probably cannot be repaired in Mr. Carter's presidency, with effects that will reach far beyond the field of atomic weapons.

And for what? The notion that unilaterally stopping U.S. armaments will lead to Soviet restraint is childish, and in any event the weapon was needed to counter what the Soviets have already done, not what they will do in the future. Once you understand that the "neutron bomb" will not produce more atomic radiation than the warheads it will replace, only less blast and heat, any moral dimension is hard to discern. In short, Mr. Carter's decision is so spectacularly bad one has to wonder how it came about.

In speculating about this, we would certainly not exonerate those officials who did back the ER/RB warhead. Cabinet officials have a responsibility not only to take sensible positions, but to advocate those positions forcefully enough to educate the President broadly and deeply. It's nearly impossible for us to believe that Mr. Carter's decision could have been made by a President who truly understood the likely diplomatic costs; for that matter, we marvel that it could be made by a President who understood even the technical warhead effects. To the extent presidential incomprehension played a part in the decision, Mr. Vance, Mr. Brown and Mr. Brzezinski bear their share of the blame.

The second point that needs to be made concerns the administration's knee-jerk attitude toward arms control, and the atmosphere this lends to decision-making. The three advisers above put aside, the administration is full of people who have devoted their lives to opposing U.S. weapons programs. The President himself talks of otherworldly goals such as the complete elimination of nuclear arms. In such surroundings arms control becomes not merely one means of enhancing national security; disarmament becomes a cause transcending national security.

Finally, we hear that Mr. Carter's initial decision to stop development of the warhead followed a stem-winder from UN Ambassa-

dor Andrew Young, saying that if the weapon were deployed he could not defend the U.S. position in the forthcoming UN special session on disarmament. As precipitating inputs go, we suppose this is better than divine revelation, but barely so. The UN session obviously has the administration in a tizzy, see below. And when disarmament at the UN outweighs defense of Europe, an administration's priorities are at best capricious.

Happily, the Founding Fathers gave us more than one branch of government. If the administration cannot come up with processes that produce cogent decisions, Congress will have to bear more responsibility than usual. A good place to start would be reversing the decision on the ER/EB warhead.

Even more important, if a strategic arms agreement is reached, the Senate will have to remember that it comes from an administration where defense advocacy is weak, disarmament impulses are inbred and the President is apparently susceptible to moralizing sermons. The Senate will have to decide whether this process will produce better judgments in SALT than it has on the enhanced radiation warhead.●

## CONGRESS TOO RESPONSIVE?

### HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. SIMON. Mr. Speaker, the Christian Science Monitor recently had an article headed "Congress: Now Too Responsive to Voters?"

It poses some basic questions, and I think those of us who serve in these halls should reflect on its basic message:

CONGRESS: NOW TOO RESPONSIVE TO VOTERS?

(By Peter C. Stuart)

Congress criticized throughout the years of the civil rights movement and Vietnam war for being "unresponsive" to the national mood, now stands accused of an odd, new charge: being "to responsive."

Once an isolated, slow-moving institution that often seemed impervious to public opinion, Congress, the critics charge, now has become a mercurial, fickle body that overreacts to the slightest pressure from voters.

The apparent transformation, a long time in the making, is capped by recent volatile behavior that has stunned some of the lawmakers who were once most impatient with Capitol Hill's old obstructionist ways.

In the past few hectic weeks, this Congress has:

Rebelled, in apparently unstoppable numbers in the House of Representatives, against the increases in social security payroll taxes which the same Congress approved barely three months ago. The tax hikes are now likely to be rolled back.

Enacted, in a Senate besieged by striking farmers, a farm bill that combines two seemingly contradictory approaches for raising farm income.

Threatened to revoke long-term security aid to South Korea, a major American ally in a militarily unstable region, over a short-term investigation of Korean influence-buying which causes political embarrassment in a congressional election year. A House vote on the aid looms next month.

To the congressmen involved, of course, such unpredictability is not flightiness but the solemn duty of any politician to (in the words of one) "listen to your constituents."

Others are more skeptical. One of them is Sen. Edmund S. Muskie (D) of Maine, who as part of a band of junior liberals in the 1960s often battled what he regarded as Congress's slowness in recognizing national consensus.

He scorns the backbench rebellion against social security taxes as "simply . . . a reaction to a public reaction," and brands the farm bill as an "unanalyzed, undigested, inconsistent" response to "what the farmers have done" by lobbying.

A middle-ranking Republican in the House, four-term Rep. Bill Frenzel of Minnesota, chides his younger colleagues for oversensitivity.

"To them a dozen letters is a consensus, and 15 phone calls is a mandate," he says. "The Congress has changed . . . from a stable, almost inbred body to one of inexperience and whimsy."

Whether it is "whimsy" or being more closely attuned to the changing moods of constituents, the new congressional behavior appears rooted in several recent changes on Capitol Hill.

MORE MARGINAL MEMBERS

Most of the 75 Democratic freshmen elected to the House in 1974, and many of the 47 elected in 1976, captured previously Republican seats—often by whisker-thin margins.

To hold these marginal seats, they tend to be more responsive to day-to-day soundings of folks back home than to congressional leaders, the president, or a consistent political ideology.

INEXPERIENCE

Nearly one-third of the Senate (29 of 100 members) and more than one-third of the House (156 of 435 members) are newcomers serving only their first or second terms. Many are in elective office for the first time.

They have had little experience in evaluating, coping with, or reshaping the views of constituents—or even resisting them, statesmanlike, for a locally unpopular stance in the national interest.

POTENT GRASS-ROOTS LOBBYINGS

The most effective interest-group pressure increasingly comes not from professional Washington lobbyists, but from orchestrated appeals generated among a lawmaker's own constituents, who are more difficult to ignore.

The recent House defeat of the proposed federal consumer protection agency—passed in the three preceding Congresses—came, for example, after congressmen were peppered with letters, phone calls, and visits from local businessmen organized by the U.S. Chamber of Commerce.●

## COMPUTER SCIENCES CORPORATION: OPEN TO WOMEN

### HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. DORNAN. Mr. Speaker, we hear so much criticism about what is and is not being done in the area of sex discrimination, that I would like to take this opportunity of calling to my colleague's attention the achievements of Computer Sciences Corp., headquartered in El Segundo, Calif.

The Wall Street Journal of March 28 carried the following news article on Computer Sciences Corp.:

Industrial sales, like many other fields, is opening up to women.

Computer Sciences Corp., El Segundo, Calif., had only four female marketing and customer-service reps five years ago. Today one of its sales divisions has 50 women on a 200-person staff. Of about 1,200 people hired by Xerox Corp. for sales positions last year, 31%—or 419—were women. IBM says its female sales force has doubled since 1974.

"They're not soft," reports Jack Coke, a personnel officer at Computer Sciences, who debunks the idea that women are "illogical and intuitive." A Los Angeles recruiter adds they are "better organized and more emphatic" than men. While their sales aggressiveness is sometimes misinterpreted by men, officials say, women can overcome the problem of sexual advances by being well-informed and conducting themselves professionally.

The trend hasn't touched all industries. Makers of heavy industrial products say few women seem interested in sales jobs with them.

Computer Sciences Corp. was founded in 1959 and was one of the first companies organized to provide computer services. Today it is a leader in the development and implementation of computer-communications systems technology.

Under the leadership of William R. Hoover, chairman and president of CSC, not only has the company achieved record net income and revenue levels, but it has made great strides forward in opening industrial sales to women.●

## GOVERNMENTAL INTERVENTION

### HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. ARMSTRONG. Mr. Speaker, a few days ago I read with utmost interest an article by Carl A. Gerstacker, chairman of the board of Dow Chemical Co. from 1960 to 1976. I only wish that every businessman would read and reflect upon Mr. Gerstacker's thought-provoking message. I certainly hope that each of my colleagues in the House will do so:

WHEN IT COMES TO GOVERNMENT INTERVENTION

(By Carl A. Gerstacker)

Many papers are a waste of time of the audience or writer, or both. I don't want this to happen here. I warn you, when you put this down to turn to whatever's next, I expect you to be thinking and discussing what's been said. I hope I shall upset your concentration, so if you mess things up today, blame Gerstacker. I'm going to state my theme early and then develop it in a way that, I hope, will give you the feeling that you have a lot of soul searching to do. Here it is: When it comes to governmental intervention should we fight to the bitter end on issues—win or lose totally—or should we compromise and try to salvage something?

Twenty-two years from now, in the year 2000, will there be private corporations as we know them? I don't know! But the way we now make judgments on whether to compromise or fight will go a long way toward answering that question.

Now for some anecdotes.

I have a friend from the country of India, Jeh Tata. He was the first Indian to become a commercial pilot. He started Air India and the government later nationalized the airline. Jeh is now Chairman of the Board of the government-owned Air India. Recently I heard Jeh lamenting the nationalizing of more Indian industry and I said, "Jeh, I don't understand why you work so hard to make Air India successful. You are supporting the

nationalization of private industry. If you make nationalization work with Air India, your government will ask, why not nationalize other things?"

Jeh thought a while, visibly distressed. He loved the airline he had built, he felt a responsibility to *his* employees not to let them down. Making nationalization work seemed the lesser of the evils. He asked me what I would have done. I don't know. What would you do? What is the lesson here? Don't be too quick to say Jeh should have said "No" and abandoned Air India. He may be right; he may also be wrong.

I am a U.S. government-appointed Director of Conrail, the residue of seven bankrupt Northeastern railroads, including the once mighty N.Y. Central and Pennsylvania. When these companies failed they weren't allowed to go out of business and, with whatever dignity they had left, sell their assets and pay off their creditors. No. Our government said that closing rail service was against the public interest. It seized the assets, kept the railroads running, created Conrail as a "private" corporation, and agreed to invest and loan more than $2 billion to it. On the books the government set up an equity item of $630 million to represent the value of all the seven railroads. Doesn't sound like much, does it? The former owners claim it is worth at least ten times that much.

Now, if Conrail goes bankrupt—and since it lost more than $400 million in its first 12 months, that is more than a possibility—the owners and creditors will be worse off than if the railroads had been allowed to die several years ago. If Conrail is a howling financial success, the government will get its $2 billion back and the private owners and creditors might get their money back. If Conrail is a moderate success, and at the moment this is the expectation, then the owners and creditors will probably be worse off than they would have been under simple bankruptcy.

I am a director because I think we need *some* railroad freight service in the Northeast by private, not government owned, railroads. But maybe I am working against the interests of the private owners and the basic concepts of private corporations. Maybe these railroads should have been allowed to die as other companies can.

Am I working to prove that government takeover of businesses is a noble and effective thing, and will I thereby pave the way for government control of still other inefficient businesses? In other words, am I working toward a goal that is the last thing I've worked for, for 40 years?

Jeh Tata, move over; here comes Carl Gerstacker!

Are we hurrying and abetting the demise of private corporations? I don't know, but I am worried.

Sometimes nationalization can even be the lesser of several evils and we may find ourselves asking the government to please do it.

In Indonesia, an earlier government nationalized an oil company and paid for the company out of its own oil. Not so good, you say, but wait. In another case, the government did not nationalize a consumer products company. But it did set the selling prices and the raw material costs, and didn't allow any management people in the plant. You know what happened? After a few years, that company had a disaster on its hands. It wished it had been nationalized.

And that true story brings to mind the plight of Chrysler in Merry Old England. Chrysler is losing gobs of money. As I understood the situation, the government wouldn't let them shut down and, despite Chrysler's asking for it, wouldn't nationalize the operation. The government is paying Chrysler most, but not all, of its losses. This must seem like the lesser of the evils to Chrysler but where does that precedent take us in the future?

By now you're probably saying. "OK, I can see how the least bad alternative may be pretty bad but it hasn't happened to my outfit."

Ah, but things are happening to you. Last year our industry was faced with a piece of legislation specifically tailored to enable a great deal of government control of our industry—the Toxic Substances Control Act. A majority of our industry felt we would lose if we fought for no bill at all—that it was better to compromise and help tailor a bill that was less onerous than it might be. Again, the lesser of the evils, we thought. Well, we have the bill now I wonder whether we did the right thing in accepting TSCA. Alan Smith, the scientific attache at the British Embassy had a lot to say about TOSCA. To quote his remarks—"In the opera, Tosca is a creature of doubtful virtue; who, out of devotion to a hopeless ideal, destroys herself and those around her by refusing to accept a straightforward proposition she declines to accept the advice of the authorities, while protecting repeatedly in language nobody can understand."

In the words of the unlamented cigarette ads, would we rather fight, or switch? Should we switch to a stance of accommodation and cooperation with government, or should we fight like wildcats against the continued encroachment of government? I pose this problem to you.

Frankly, it isn't easy to know exactly what you believe about it or which side you favor. But you should know; we all must agonize over this now, because it is so important to the future of our industry.

There is almost nothing we do now that is not monitored in some fashion by government agencies. This ranges all the way from which people we can recruit, to how much pension we'll pay them when they retire; from the raw materials we use as a starting point, to how we dispose of the eventual waste from the end product. Everything we do is ordained or approved or reviewed in some way by some level of government.

If we project the recent past 25 years into the future, what do we see? Can we even imagine what the relationship between the U.S. government and the U.S. chemical industry will be like if anything approaching present trends continue? Will there be left anything that even resembles a 1970's private chemical company?

We can only speculate. But any kind of speculation leads to the conclusion that our industry will become a mere handmaiden of government if we follow our present path. The question I am posing then is: What will be the winning strategy for the chemical industry in the face of this speculation?

Let's talk about saccharin. It is an interesting case. As we all know, it has been around for 80 years and has been seen as a benefit all that time. It helps diabetes patients and others who need to avoid sugar. It is fairly representative of the benefits of chemistry. But suddenly it is a villain. Do we stand up and fight for saccharin? Or do we switch and say to Uncle Sam, "we'll do our best to come up with a safe new sugar substitute"? Some of us might think that we can make more profit on a new saccharin substitute—so let saccharin go. Or we might say, "I, personally, have no sugar problem, so why should I care?"

And let's talk about acrylonitrile bottles for soft drinks (cf, CHEMTECH, Dec. 1977, p. 717). Should we take up arms and fight for Monsanto's product? Or should we passively support government by turning our backs on the problem. Our self-interest may play a part. Some of us have other plastic compositions for soft drinks. Some of us don't produce acrylonitrile, we buy it, and think that more supply and less demand for acrylonitrile might help our costs, short term anyway. Monsanto says, and I believe them, that the tests show no acrylonitrile-related pathological changes for a child drinking 3000 quarts of cola every day for a year. How wild can government get? And what are you and I going to do? Are we going to fight this unwarranted bureaucratic overkill, or will we compromise?

I haven't time to cover many other "endangered species" such as tetraethyl lead, fluorocarbons, vinyl chloride, pentachlorophenol, 2,4-D, and 2,4,5-T, to name a few. Or other problems such as Dow's $500 million investment in California that never happended. After $4 million in expense and $6 million for land, Dow scrapped this petrochemical plant because we couldn't get the permits, even though the pollution control authorities considered it the cleanest facility they had ever seen, the local population wanted it badly, and it would probably pollute less than the present farming. It was another victory for bureaucratic overregulation, and defeat for the public interest.

Stop and think. If all these are bellwethers, what kind of chemical industry will we have in the year 2000?

Maybe we do switch to accommodation too easily. Most industry was sure that the Common Situs Picketing bill would become law. Only President Ford's surprise veto saved it. Then President Carter promised labor he would sign it. But a lot of industry decided to fight the hopeless odds and the House turned it down. How about that!

Many of you didn't fight very hard against the SEC-induced NYSE rule that forces companies to elect "outside" directors under the guise of an independent Audit Committee of the Board. Dow didn't have a single outside director, but most of you did, and so this "camel's nose in the tent" dictating the composition of a board of directors was easier to accept than fight. It didn't hurt you right away, so you bought it. I wonder whether you will like the next government mandate on the make-up of boards of directors? Remember the camel in the tent!

A while back we in chemicals had unfair (we said) competition from oil companies in such things as plastics because oil companies had "tickets" to import cheap oil. We didn't fight to eliminate controls. We, and that includes Carl Gerstacker, fought to get our share of "tickets" from government, and we got some. Oil and gas are still under controls of many kinds and I think these controls are a bad mistake. Maybe we should have fought, back then, for decontrol instead of just taking our share of government largesse from controls. Did we take the short term, easier way out?

Every company's primary corporate goal is long-term profits, but we must always weigh carefully the factors that influence our profitability, especially when government is involved. Sometimes we are tempted to ask the government to get involved in our businesses in ways that will increase our earnings or minimize our losses. When things get so bad that we welcome government controls we perform an act somewhat akin to Cleopatra's clasping the viper to her bosom. That, at least, is my experience.

We are living in an era of crisis mentality. The press and the public believe in these crises, most of which originate in government. We move from the vinyl crisis to the Kepone crisis to the Red No. 2 crisis to the acrylonitrile crisis, and then to the saccharin crisis. In between times we have the aerosol crisis, the Toxic Substances crisis, the multinational company crisis, New York City's crisis, the energy crisis, and some of these have sub-crises such as the natural gas crisis, and the cold weather crisis, not to mention

such old stand-bys as the population crisis, the unemployment crisis, the environmental crisis, and the consumerism crisis. On any given day we have a wide choice of crises to work on.

This is not a new development. James Madison spoke in the early days of the republic of "the old trick of turning every contingency into a resource for accumulating force in the government." This is still happening today, but we now have the power and immediacy of television. Crises sell newspapers. The financial problems of business do not. The only exception is when they go "belly up", as in the case of Penn Central, and the press and public then ask "What happened? Why didn't someone tell us?"

I believe it is time for each of us to take a broad, searching look at our attitudes and come to grips with the question of the long-term welfare of our industry. If it is in our best interests to smile and compromise and charm the government, then let us select our best charmers and send them to do the job. If it is in our best interests to battle with everything we've got, let's pick our best fighters and send them.

You will surely ask whether there are not alternatives to "fight" or "switch." Well, in some cases we should fight, in others switch. I recognize that. Let us make sure that we entertain both possibilities, make our decisions wisely, and then follow through with all the muscle we have. And if we choose to fight, we must somehow generate enough enthusiasm in that silent majority of our employees and stockholders to get them actively to contact Congressmen, the President, and others. President Carter is urging us to fight overregulation and waste. Let's take him at his word.

I have a general feeling that the chemical industry in recent years has been floating with the tide. Now I fear that we're dangerously close to, and may be pulled over the falls of disaster—that disaster being complete government control of our industry. It won't happen today or tomorrow, but how would you bet on where we'll be after 25 more years of the downhill progress we are making?

I suggest to you that we need to shake loose from the old ways, to start paddling in the direction we want the industry to go. We need to start paddling now and together.

(Carl A. Gerstacker was chairman of the board of The Dow Chemical Company from 1960 to 1976. In addition to his continuing directorial duties at Dow, he is a director of Carrier Corp., Eaton Corp., ConRail, Dundee Cement, Dow Corning, and K-Mart Corp. He is a former president of the Synthetic Organic Chemical Manufacturers Association, and former chairman of the Manufacturing Chemists' Association; a trustee of the Starr Commonwealth for Boys, Northwood Institute, The Macromolecular Institute and the Reproductive Biology Research Foundation; a member of the Rockefeller University Council; and chairman of Albion College Trustees. Gerstacker joined Dow in 1938 after graduating from the University of Michigan with a B.S.E. in chemical engineering. Until 1940 he was on the accounting staff of the company's Dowell Division. He then served six years with the U.S. Army, attaining the rank of major with the Ordnance Department before returning to Dow in 1946, first as a production engineer and then as a purchasing agent. He was elected a Director in 1948; named a vice president in 1955; a member of the executive committee in 1957; and has been chairman of the finance committee since 1959. He and his wife, the former Esther Little Schuette, live in Midland, Michigan. They have four daughters and one son. ●

## THE THIEVES THRIVE

### HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. PICKLE. Mr. Speaker, for years now I have attempted to see legislation passed to put teeth in our Government's effort to fight cargo crime.

The opposition to my approach still runs strong in some quarters. Mainly, some in the transportation industry say legislation is not needed, that industry/government voluntary efforts are working.

A recent story from New York shows that thieves still thrive at John F. Kennedy Airport. This is ironic since crime at JFK brought the cargo security problem to light about 10 years ago. After much ado, the airlines and local authorities maintained that the situation was under control.

The Queens, N.Y., district attorney, Mr. John J. Santucci, has stated otherwise. The evidence appears to substantiate his charges that all is not well at JFK. Neither is it well at many other airports, docks, ports, or terminals.

I commend Mr. Santucci and ask that an article from the March 31, 1978, New York Times be placed in the CONGRESSIONAL RECORD:

[From the New York Times, March 31, 1978]

NINE INDICTED IN "MASSIVE" KENNEDY THEFTS; SANTUCCI CHARGES "COVER-UP" AT AIRPORT

(By Pranay Gupte)

Nine men, including a New York City police detective, were indicted yesterday by a grand jury in Queens on charges of hijacking millions of dollars worth of cargo and stock certificates at Kennedy International Airport and selling them.

The Queens District Attorney described the hijacking and sale as a "massive operation."

At a news conference at his office in the Queens Criminal Court Building, the District Attorney, John J. Santucci, accused various law enforcement agencies, including the Federal Bureau of Investigation, as well as airlines, of noncooperation in his investigation.

Mr. Santucci said these organizations had been, in effect, deceptive in "repeatedly" telling his office that there was "no crime at the airport."

"We believe there are efforts being made at the airport to cover up—whether for public-relations reasons or what, I don't know," the prosecutor said.

"We've had difficulty with the F.B.I.," he continued, "What concerns me greatly is that at every meeting we're told that Kennedy Airport is a 'Garden of Eden.' Nobody cooperates in these investigations. If I want to fandango, I go to a dance, not to meetings with these law enforcement officials."

A spokesman for Federal Bureau of Investigation, when informed about Mr. Santucci's remarks, said that there would be no immediate response from his agency. But other bureau officials pointed out that the agency maintained a permanent staff of a dozen agents to monitor criminal activities at Kennedy Airport and that several arrests had been made over the last few years as a result of these agents' efforts.

Asked what he thought was behind the bureau's alleged noncooperation, Mr. Santucci shrugged.

He said that perhaps the bureau was "jealous" of other law enforcement authorities, such as his office. "The F.B.I. is part of a group telling me that there's no crime at Kennedy Airport," he said. "I don't know why."

Mr. Santucci then accused airline shippers and labor unions of "conspiracy and collusion" and said that in many instances shipping concerns, manufacturers and various airlines handling cargo failed to report thefts.

THEFTS NOT REPORTED

"They only report it to their insurance companies, which pay them, and everybody knows that the consumer pays with higher rates," he said. "Somewhere along the line, people find it profitable not to report thefts."

"There is something strange about these proceedings," Mr. Santucci said.

The prosecutor said that yesterday's indictments of the nine men stemmed from a seven-month undercover investigation by his office. He said that members of his staff had been able to buy, for 10 percent of the market value, such goods as radios, stereos and tape recorders, cameras, bullet-proof vests, telephone "debugging" gadgets and musical instruments.

He said that undercover agents had also been able to buy negotiable stock certificates that had been stolen early this year from the Union Pacific Corporation. Mr. Santucci said that these certificates were blank, that any number of shares up to one million could be entered and that since the company's stock was recently trading at about $42 a share, each of the certificates could have been represented as having a value of up to $42 million.

The police detective who was indicted by the grand jury was identified as Patrick Santoli, 36 years old, of Holbrook, L.I. He had been assigned to the Police Department's automobile crime unit, and the indictment accused him of possessing and using an unnamed device that had been stolen from the airport.●

## REPRESSION IN SOUTH AFRICA: CONGRESSIONAL ACTION STILL NEEDED

### HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. BONKER. Mr. Speaker, last fall, the House passed by an overwhelming margin House Concurrent Resolution 388, strongly denouncing gross violations of human rights in South Africa. Despite all the attention to "reforms" in South Africa's sports policy and adjustments in domestic regulations, there is no indication that the imprisonment and mistreatment of political dissidents has abated. The terrorism act and other repressive legislation which sanction violations of human rights still stand.

Aside from taking further action in Congress, there are constructive initiatives which Members can undertake during visits to South Africa. In a recent letter to the ad hoc monitoring group on South Africa, Amnesty International suggested types of initiatives which might be most appropriate during visits

there. I would like to insert relevant portions of this letter in the RECORD for the benefit of colleagues concerned about the deterioration of human rights in South Africa.

In addition, I would like to call attention to an emerging problem facing white South Africans confronted with military conscription. Increasing numbers of conscripts are presented with a difficult moral dilemma in having to join an army illegally occupying Namibia, and serving as a force to suppress domestic discontent, as was the case in Soweto recently.

Tragically, South Africa has no provision for conscientious objectors, nor does it provide means of alternative service. Consequently, increasing numbers of South Africans are feeling morally obligated to leave their country as refugees, for reasons which, ironically, few countries, including our own, are willing to recognize as sufficient basis for allowing entry and diplomatic protection. An article by David Martin in the London Observer describes this growing problem, and I include it in the RECORD at this time:

EXCERPTS FROM A LETTER TO THE AD HOC MONITORING GROUP ON SOUTH AFRICA FROM AMNESTY INTERNATIONAL, MARCH 24, 1978

There are efforts which are perhaps best undertaken by individual Members of Congress in their public (though non-legislative) capacities. We are particularly sensitive in this country to the relative newness which African issues hold: they are not ones with which the American public has had long experience. Amnesty International has been trying to locate and at times create an audience for precise information about the practice of apartheid in an effort to focus international attention on the extreme hardship which that philosophy imposes on life in the Republic. We would hope that each member of your Ad Hoc Monitoring Group would make our Report available to his constituency.

While initiatives from outside the Republic are essential, we also urge you to consider sending delegations of your members to South Africa in order to:

(a) pursue cases of political imprisonment in which official responses to your inquiries have been unsatisfactory;

(b) meet South African parliamentarians and express to them the abhorrence with which their security legislation is regarded in other countries. This second point is, we believe, of great importance since the South African Parliament contains almost no members willing to question, let alone oppose, the Government's policies in this field. You, as United States Congress people, could have access and even influence which would be possible to no other national or international body.

(c) meet with African and minority political leaders, many of whom are imprisoned, banned or banished with consequent denial of their access to public fora.

In addition, it is frequently helpful for external observers to attend trials, both to indicate foreign interest and to ensure, to an extent, that proper judicial process is not abrogated. This applies not only to overtly political trials, but also to those taken under racially discriminatory legislation. In this context we would also recommend that Members of Congress request to visit prison facilities, including Robben Island.

It is necessary that international pressures remain vocal; both private and public voices must continue to protest the existence of repressive legislation in South Africa. Not only is the legislation itself harsh and socially obstructive, but the punishment which accompany indictment and conviction are severe, ranging from long sentences to capital punishment. The conditions of banning and house-arrest, as well as internal exile, prohibit any convicted person from participating in a normal life, and these deprivations are often seemingly arbitrary.

We hope, therefore, that you will continue to work under a dual mandate, whereby broad pressure for the unconditional repeal of security legislation, such as the Terrorism Act, which is incompatible with all due process principles, is under-pinned by action on behalf of individual prisoners; legislation and its implementation are two aspects of a single issue. We hope that the Ad Hoc Monitoring Group will continue its work on behalf of prisoners of conscience in jail or who are under banning orders or house arrest. Your members should also be willing to make appeals in cases where an individual is arrested and past experience suggests a high risk of torture.

The issue of torture requires separate mention here. As media reports have recently recounted in some detail, and as our report describes, there have been many documented cases of torture and deaths in detention. We hope that any appeal to the government of the Republic, and all public statements, will draw attention to these facts and underscore our feeling that such treatment is in all cases reprehensible. In addition, pressure for public autopsies, with international representation, in the growing number of cases where detainees die in police custody, is needed. Here you might utilize American legal and medical forensic expertise.

Although our report outlines only the situation surrounding political imprisonment, it is clear that the entire legislative and judicial apparatus in South Africa is based on a philosophy of separatism which precludes just treatment or equal status for South African citizens. The corpus of discriminatory legislation is extensive. Pressure for the repeal of those laws is urgent. It should be noted also that the current policies for relocating Africans in bantustans both circumscribes individual mobility and abrogates traditionally conceived rights to and of citizenship.

As legal norms have been progressively eroded, the number of those citizens of all races who undergo imprisonment or other forms of persecution as a direct consequence of discriminatory law and policy has increased. One result has been a sizeable refugee exodus to neighboring African states and to some European countries. The number of South Africans who have obtained asylum in the United States has so far been relatively small, but we hope that increased recognition by Congress of the exigencies of the South African situation will result in a relaxation of admission procedures for refugees, detainees and those under threat of persecution.

As an international organization, Amnesty International works within the context of the United Nations programs. 1978 has been designated International Anti-Apartheid Year. It is also the 30th anniversary of the Universal Declaration of Human Rights. While the UN has done major work in documenting human rights violations in South Africa and in directing international action, much effective pressure can only be exercised bilaterally. Here, for reasons which are apparent, the United States Congress has a unique role to play. As the one Congressional body which focusses solely on South Africa, we feel that the Ad Hoc Monitoring Group has an unusual opportunity to exert influence on the South African Government and Parliament.

(Article written by David Martin which appeared in the London Observer on Dec. 18, 1977.)

LUSAKA.—Large numbers of young South African men who are liable for two years military conscription including the possibility of combat service in Namibia are leaving their homeland to become draft dodgers, according to a group of them in the Botswana capital, Gaborone.

They estimate the numbers of draft dodgers in "hundreds". Most of them, they say, have gone to Europe on the pretext of further education. But few are likely to return while the call-up is still in force. At the same time a small flow of deserters is beginning.

One of the draft dodgers in Gaborone is John Coast, a 26-year-old Cape Town University graduate who arrived in Botswana by train at the end of November.

He was ordered to report to the Lions Head Commando on 7 October for three months service in Namibia where South African troops are fighting guerrillas of the South West Africa Peoples Organization (SWAPO). Because of examinations his call-up was deferred until 1 December and four days before that he left South Africa for Botswana.

"I would not have left South Africa if I had not been called up," he said. "But I am not prepared to do active service especially in Namibia. One knows that the security forces are basically a suppressive force and that Namibia is an illegally occupied country."

In South African schools all white male citizens and noncitizens who have lived in the country for five years are registered for military service at the age of 16. Unless they are going on for further education they are liable for call-up at 17. Those who receive academic deferments are monitored and if a three-year course is not completed in five years the deferment ends.

Hitherto there has been virtually no publicity about South African draft dodgers and deserters. However in August the United Nations World Conference For Action Against Apartheid in Lagos passed a resolution urging member states to "grant immediate political asylum to bona fide war resisters and deserters from the apartheid armed forces."

That clause attracted little attention and few member states appear to have considered its implications. The South African draft dodgers and deserters are encountering difficulties in finding countries willing to accept them as political refugees because they are white, and even Sweden which took in many American Vietnam War draft dodgers has proved unhelpful.

A South African deserter who arrived in Gaborone on 3 December says the United Nations told him they would give him a ticket to Europe if he could produce a letter saying Sweden or any other country accepted him. But the Swedish Mission in Gaborone declined.

Mr. Coast said he was treated with "antagonism" when he saw a diplomat in the British High Commission Consular Section in Gaborone. He says that the diplomat suggested he should return to South Africa, saying that nothing would happen to him—although he would certainly be imprisoned for refusing to do military service.

In Botswana there are at least a dozen draft dodgers and deserters waiting for countries to accept them. Two deserters have arrived this month. The bulk of the draft dodgers who have passports and can afford tickets are flying direct to Europe.

Mr. Graham de Smidt, a 26-year-old Cape Town teacher, became a draft dodger in July, also after receiving a three-month call-up for service in Namibia. He tried to fly out from Johannesburg airport to Europe but his pass-

port was seized. A few days later, with his wife, he walked across the border into Botswana.

He was also not prepared to fight in an illegal occupation army in Namibia. He sees the South African Army as a force to maintain the white regime, discrimination and privilege. "What is really taking place in South Africa is a civil war where it's South Africans fighting South Africans and I was not going to be part of that."

Even conscientious objectors are forced to serve in the army, Mr. de Smidt said, but at the discretion of the commanding officer need not carry arms. Members of religious orders like Seventh Day Adventists, Buddhists and Jehovah Witnesses are put into detention barracks. And homosexuals are kept in Ward 22—the psychiatric unit—at Voortrekkerhoogte hospital in Pretoria.

One of the deserters in Gaborone, who was unwilling to be named because he feared it would compromise his being admitted to another country, spent five months in the South African Army. He said he had initially intended to become a draft dodger but did not have the money for a ticket to Europe and he finally gave way to pressure from his family.

After basic training he was posted to the Directorate of Information Systems and Analysis (DISA) in Johannesburg. The unit's prime task was to compile a computerized system on all South African white males with the ultimate objective that identity and military numbers would be identical. Personal details such as religion, date of birth and next of kin were fed into the system.

The unit's secondary function was as the SOWETO TASK FORCE to be called in if the police were losing control. The deserter was absent without leave and crossed into Botswana after his unit was put on standby as a result of expected trouble in Soweto during December.

For this task the unit was given specialised training including the use of the "D Formation". This consisted of a formation of three platoons of sharpshooters on the outer perimeter of the D-shaped formation with a headquarters platoon in the centre.

The formation drew up 200 yards from a crowd and the commanding officer first warned them that it was an illegal assembly and gave them three minutes to disperse. If they failed to do so tear gas was fired. If this still failed, about five "ringleaders" were selected and identified by the commanding officer and a marksman was ordered to shoot them dead one at a time. Thereafter, if the crowd still did not disperse, the soldiers were ordered to put their weapons on automatic and fire at will into the crowd.

The deserter said that during his five months service he continually encountered "naked racism" and anti-semitism. "The attitude of officers and recruits alike was that blacks were just kaffirs and one lieutenant told a Jewish recruit that he wished Hitler had killed all the Jews."

Political indoctrination lectures stressed that South Africa was fighting Communism and a lecturer told them that 75 percent of South Africa's newspapers were owned by Communists. The lecturer said he knew this was true because he had been told so by the Chief of the Rhodesian Army.

The deserter never served in Soweto. But he says that during training a Sergeant Major Keet told recruits that there had been reports in the press of a mass grave in Soweto after the June 1976 riots and official reports had put the death toll at around 160. The Sergeant Major said this was incorrect, that there had been eight mass graves and that the death toll was about 800.●

## REPRESENTATIVE PAUL SIMON DISCLOSES INCOME DETAILS

## HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. SIMON. Mr. Speaker, for 23 years I have been making detailed disclosure of my income assets and liabilities. I have followed this practice during my service in the Illinois House and Senate, as Lieutenant Governor of Illinois and as a Member of the House for the past 4 years.

I do not fault others for not making such statements, but I think our rules do not go far enough in requiring the same disclosure detail that I have included in my yearly reports. For example. I think our rules should be clear in requiring detailed accounting of income for spouses and minor children of Members of Congress, and professional fees earned by those of us in positions of public trust.

I have made these yearly statements voluntarily and I don't think they have done me any harm. I think complete financial disclosures offer the public the best means possible to determine for themselves whether their Representatives are serving the public interest or some special interest. I am confident that few of us have anything to be ashamed of, but I think we build public confidence in government by making the details of our personal finances a matter of public record.

As I have done each year since I began serving in the House, I am publishing my financial statement in the RECORD, along with statements from members of my staff earning over $15,000 per year, another practice I have followed since my years as Lieutenant Governor. I hope other Members will join me in this practice.

WASHINGTON, D.C.—Congressman Paul Simon, on Monday, April 3, 1978, released his 23rd annual complete personal financial statement, including all income, assets and liabilities for himself, his wife and their two children.

In addition, the Southern Illinois congressman released financial statements for members of his personal staff with annual salaries of $15,000 or more.

Simon has been making the voluntary financial statements since 1955, when he entered the Illinois House of Representatives. He followed the practice during eight years in the state House, six years in the Illinois Senate, and four years as Lt. Governor, and continued it after election to Congress in 1974.

As Lt. Governor, he was the first state official in the nation to require similar statements of his staff members, a practice he continued when elected to Congress. Simon is believed to have followed the practice of complete personal financial disclosures longer than any other public official currently holding office in the United States.

Simon's statement lists 1977 income for himself and his wife, Jeanne, totaling $73,666.19. The figure includes his House salary, reimbursement for travel and other expenses, rental income, stock sale, interest and dividend income, honoraria for appearances, book royalties, payment for three articles and some miscellaneous items. Simon's 1976 income was $64,581.47.

The statement also shows assets (as of Jan. 1, 1978) of $243,031.17 and liabilities of $121,585.30, for a net worth of $121,445.87—contrasting with a Jan. 1, 1977 net worth of $111,335.78.

In addition to statements of income and assets for his children, Sheila and Martin, Simon also listed four gifts he received in 1977, with values greater than $25.00, a practice he began last year.

He noted that he received a coffee maker from the Building and Construction Trades, valued at about $35.00, hotel lodging of undetermined value from the government of Cyprus during his official trip there last summer for the funeral of Archbishop Makarios; quilts from Mrs. Stanley Maciewski of Chester and friends in Troy, Illinois, the value of the quilts undetermined; and a painting (of undetermned value) of a Southern Illinois scene from the artist, Ms. Jackie Rainer.

"I think these financial statements are the best way to deal with the potential conflict of interest problems that may arise during public service," Simon said in releasing his 23rd annual statement.

"They allow constituents to decide for themselves whether an office holder is serving the public interest or some other interest."

The complete Simon financial statement follows, along with statements for the following members of his staff:

Ray Buss, district assistant; Ray Johnson, office manager; Terry Michael, press secretary; Judy Wagner, legislative coordinator; Nick Penning, legislative assistant; and Virginia Otterson, office manager, West Frankfort office.

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TWENTY-THIRD ANNUAL FINANCIAL STATEMENT, CONGRESSMAN PAUL SIMON, 24TH DISTRICT OF ILLINOIS

INCOME FOR 1977

*Income of Paul and Jeanne Simon*

| | |
|---|---|
| Salary, U.S. House of Representatives | $54,275.00 |
| U.S. Treasury, official travel | 4,052.55 |
| Rental income, Carbondale home | 2,100.00 |
| Book of the Month stock sale (75 shares—purchased 9–20–74 for $708.02) | 2,025.78 |
| Paul Simon for Congress Committee, reimbursement for non-official travel, other non-official business expenses | 1,482.64 |
| Book royalties | 2,580.15 |
| Carbondale National Bank, interest | 27.24 |
| Citizens Savings & Loan, Silver Spring, Md., interest | 14.08 |
| University Bank, Carbondale, interest | 3.30 |
| Mobil Corporation, bond interest | 8.50 |
| (1977 honoraria and travel reimbursement for appearances): | |
| American Medical Association | 674.38 |
| Brookings Institution | 300.00 |
| Illinois College | 632.00 |
| Newman Center, Purdue University | 250.00 |
| George Washington University | 400.00 |
| Nebraska Democratic State Central Committee | 829.00 |
| Assn. of Independent Colleges and Universities | 574.00 |
| Harper College (Illinois) | 600.00 |
| Fordham University | 275.00 |
| American Lutheran Church | 500.00 |
| Webber (Ill.) High School (Jeanne) | 200.00 |

TWENTY-THIRD ANNUAL FINANCIAL STATEMENT, CONGRESSMAN PAUL SIMON, 24TH DISTRICT OF ILLINOIS—Cont.

INCOME FOR 1977—Cont.

*Income of Paul and Jeanne Simon*—Cont.

| | |
|---|---|
| Adams County (Colorado) Democratic Central Committee | 218.62 |
| Jefferson County, Missouri Democratic Club | 180.00 |
| Christian Century Foundation | 191.82 |
| Elijah P. Lovejoy Foundation | 152.00 |
| (Payment for articles in publications:) | |
| National Observer (Dow Jones) | 75.00 |
| Illinois Times (Springfield, Ill.) | 7.50 |
| Change (education magazine) | 100.00 |
| (Special income to Jeanne, relating to service on Advisory Committee of White House Conference on Library and Information Services:) | |
| Travel expenses to library conference in Chicago | 184.64 |
| Dept. of Health, Education and Welfare, pier diem for Chicago conference (the check was returned to the Treasury Dept. as a donation to the U.S. Treasury | 375.12 |
| (Dividends on stock holdings:) | |
| Book of the Month | 67.50 |
| Adams Express | 28.20 |
| AT&T | 8.00 |
| Bethlehem Steel | 7.50 |
| Brunswick | 0.58 |
| Chrysler | 1.00 |
| Crown Zellerbach | 11.40 |
| Mutual Real Estate Trust | 1.25 |
| Hardees | 6.40 |
| Fruehauf | 7.40 |
| Lear Siegler | 18.00 |
| Maremont | 7.80 |
| Massachusetts Inv. Growth | 8.38 |
| National Aviation | 47.60 |
| National Steel Corporation | 5.00 |
| Norton Simon | 7.36 |
| Pepsico | 9.90 |
| Ralston Purina | 4.80 |
| Scott Paper | 3.04 |
| Texaco | 28.00 |
| United Merch & Mfg | .80 |
| Warner Lambert | 4.40 |
| Westinghouse | 3.90 |
| Gulf & Western | .66 |
| Harper & Row | 3.00 |
| Borg Warner | 33.00 |
| Ludlow | 50.00 |
| Fairchild | 3.00 |
| Total 1977 income, Paul and Jeanne Simon | 73,666.19 |

*Income of children, Sheila and Martin Simon*

Sheila: Total of $210.73, including—interest from Citizens Savings & Loan of Potomac, Md., $10.85; interest from United Savings & Loan of Troy, Ill., $25.17; interest from Carbondale Savings & Loan, $13.11; dividends from Ford Motor Co., $3.40, and AT&T, $8.20; and babysitting income (est.), $150.

Martin: Total of $338.09, including—interest from Citizens Savings & Loan of Potomac, Md., $1.48; interest from United Savings & Loan of Troy, Ill., $25.01; dividends from Ford Motor Co., $3.40, and AT&T, $8.20; and lawnmowing income (est.), $300.

*Gifts with a value of more than $25*

In 1976, I publicly stated that I would list all gifts with a value of more than $25 as part of my yearly financial statement. The gifts I received in 1977 valued at more than $25 were:

(a) Coffee maker from Building & Construction Trades, about $35.

(b) Hotel lodging, government of Cyprus—during my trip to Cyprus as part of the official U.S. delegation to Archbishop Makarios' funeral—value not known.

(c) Quilts, from Mrs. Stanley Maciewski of Chester and friends in Troy, Illinois—value not known.

(d) Painting of barn in Mulberry Grove area, from painter, Ms. Jackie Rainer—value of painting not known.

NET WORTH STATEMENT, PAUL AND JEANNE SIMON, AS OF JANUARY 1, 1978

*Assets*

| | |
|---|---|
| Bank of Maryland checking account balance | 221.76 |
| House of Representatives checking account balance | 237.17 |
| University Bank of Carbondale savings account balance | 67.69 |
| Citizens Savings & Loan, Potomac, savings balance | 358.32 |
| Carbondale National Bank, savings balance | 565.40 |
| U.S. Savings Bonds | 543.75 |
| General American Life Insurance, cash value | 2,517.00 |
| Polish National Alliance Insurance, cash value | 868.25 |
| Congressional Retirement System, cash value | 11,035.77 |
| Ill. General Assembly Retirement System, cash value | 16,233.10 |
| Residence, 511 W. Main, Carbondale, 1974 purchase price plus improvements that year | 40,000.00 |
| Residence, 11421 Falls Road, Potomac, Md., 1974 purchase price | 126,000.00 |
| 1976 and 1977 improvements to Potomac home | 16,489.95 |
| Furniture and Presidential autograph collection | 15,000.00 |
| 1965 Ford Mustang | 150.00 |
| 1974 Chevrolet | 1,750.00 |
| (Stock holdings with number of shares:) | |
| Hardees, 40 | 440.00 |
| Ludlow, 350 | 2,581.25 |
| Borg-Warner, 20 | 557.50 |
| Harper & Row, 10 | 135.00 |
| Massachusetts Investors Growth, 33 | 266.64 |
| Mutual Real Estate, 25 (approx. value) | 25.00 |
| Gulf & Western, 1 | 11.87 |
| Norton Simon, 9 | 178.87 |
| Norton Simon, Preferred, 1 | 19.75 |
| Adams Express, 141 | 1,683.00 |
| AT&T, Preferred, 2 | 120.00 |
| Bethlehem Steel, 5 | 104.38 |
| Borman's, 8 | 26.00 |
| Brunswick, 1 | 14.00 |
| Chock Full of Nuts, 10 | 50.00 |
| Chrysler, 2 | 25.25 |
| Crown Zellerbach, 6 | 202.50 |
| Curtis Publishing, 2 (approx value) | 2.00 |
| Fairchild Industries, 8 | 131.00 |
| Fruehauf, 4 | 105.00 |
| Lear Siegler, Preferred, 8 | 122.00 |
| Maremont, 13 | 247.00 |
| National Inds., 3 warrants | .38 |
| National Inds., Preferred, 1 | 13.00 |
| National Steel, 2 | 65.25 |
| Pepsico, 12 | 331.50 |
| Ralston Purina, 4 | 56.50 |
| Rohr Industries, 3 | 20.62 |
| Scott Paper, 4 | 55.00 |
| Texaco, 14 | 385.00 |
| United M&M, 8 | 28.00 |
| Warner Lambert, 4 | 103.00 |
| H.R. Weissberg, 5 (approx. value) | 5.00 |
| Westinghouse, 4 | 72.00 |
| Jet-Lite, 120 (approx. value) | 300.00 |
| Mobil debenture bond, 8&½% | 100.00 |
| National Aviation, 119 | 2,031.75 |
| Total assets | 243,031.17 |

*Liabilities*

| | |
|---|---|
| University Bank of Carbondale, Carbondale house loan | $13,608.17 |
| University Bank of Carbondale, personal note | 7,475.97 |
| National Bank of Washington, note | 6,400.00 |
| First National Bank of Collinsville, personal note | 9,900.00 |
| F. Hurley, personal note | 3,550.00 |
| National Savings & Trust, personal note | 20,400.00 |
| (Notes on Potomac house:) | |
| Thomas Fischer III, Pennsylvania | 49,510.67 |
| Weaver Bros. Mortgage Brokers | 10,740.49 |
| Total liabilities | 121,585.30 |

*Net worth*

| | |
|---|---|
| Assets | $243,031.17 |
| Liabilities | 121,585.30 |
| Net worth | 121,445.87 |

*Assets of children, Sheila and Martin Simon*

| | |
|---|---|
| Sheila: | |
| AT&T, 2 shares | $120.00 |
| Ford Motor Co., 1 share | 44.88 |
| Carbondale Savings & Loan | 113.46 |
| United Savings & Loan, Troy | 520.72 |
| Citizens Savings & Loan, Potomac | 143.08 |
| Israel Bond | 100.00 |
| Total | 1,042.14 |
| Martin: | |
| AT&T, 2 shares | 120.00 |
| Ford Motor Co., 1 share | 44.88 |
| United Savings & Loan, Troy | 517.52 |
| Citizens Savings & Loan, Potomac | 28.96 |
| Israel Bond | 100.00 |
| Total | 811.36 |

STAFF DISCLOSURES SUBMITTED TO CONGRESSMAN SIMON IN MARCH 1978

*Ray Buss, District Assistant*

1977 income other than government: Rental income, $8,650.

Sources and amounts of indebtedness over $500: Mortgage, Carbondale Savings & Loan, $56,560; mortgage, Mary Licos, $9,600; personal loan, Salem National Bank, $16,200.

Stocks and bonds owned: None.

Property owned: Apartment house, $100,000; household furnishings, $7,000; Buffy Bear (sheepdog), $107.

*Ray Johnsen, Office Manager*

1977 income other than government: Troy Publishing Co. stock sale, $15,000 (80.74 capital gains, $12,111); rental income, Troy property, $3,353; General Motors, Inc., dividends, $70.60; Roadhouse Record, Inc., dividends, $180; Alpha Portland Industries, dividends, $11.04; Wright Patman Congressional Federal Credit Union, interest, $9.29; Missouri Portland Cement, interest, $239.42; Metropolitan Life, interest, $18.43; Suburban Savings & Loan, interest, $78.87; General American Life, interest, $114.51; American Savings & Loan, interest, $31.99; Bankers Life, interest, $95.48; Metropolitan Savings & Loan, interest, $8.47; Perpetual Savings & Loan, interest, $114.48; and Troy Publishing Co., interest, $863.25 (totaling $17,299.83).

Sources and amounts of indebtedness over $500: Washington & Lee Savings and Loan, $29,635.72.

Stocks and bonds owned: Wright Patman Congressional Federal Credit Union, $157.84; 150 shares Cottonwood Junction, Inc., $10,000; Series E Bonds, $543.75; H. J. Porter, bonds, $5,070; 400 shares, Laclede Steel, $3,800; 24 shares, Alpha Portland Cement, $432; 24 shares, Watson Lumber Co., $7,200; 21 shares, General Motors, $1,340; Perpetual Savings & Loan, $4,114.48 (totaling $32,658.07).

Property owned: State of Illinois Employees Retirement System, $1,772.01; real estate, Arlington, Va., $95,000; real estate, Troy, Ill., $30,000; household furnishings, $15,000; 1978 Chevrolet, $6,000; 1975 Volkswagen, $2,000 (totaling $149,772.01).

*Terry Michael, Press Secretary*

1977 income other than government: $35 interest income.

Sources and amounts of indebtedness over $500: Wright Patman Congressional Federal Credit Union, auto loan, $4,800.

Stocks and bonds owned: shares, Wright Patman Congressional Federal Credit Union, $1,964.

Property owned: 1976 Lancia Beta Coupe, $6,000; household goods, $1,200.

*Nick Penning, Legislative Assistant*

1977 income other than government: $1,743.09, Plains Television Corp., Springfield; $11.31, Springfield Sacred Heart Credit Union; $18.64, Wright Patman Congressional Federal Credit Union, interest; $50, Congressman Paul Simon, payment for assistance with magazine article.

Sources and amounts of indebtedness over $500: $44,622.77, Robert Heltzel Co., Manassas, Va., for home mortgage.

Stocks and bonds owned: $25 U.S. Savings Bond for daughter Lisa Kathleen Penning.

Property owned: 1976 Dodge Aspen Station Wagon purchased new in 1976 for $4,354; residence at 1122 S. Harrison, Arlington, Va., purchased 2/14/77 for $49,700.

*Virginia Otterson, West Frankfort Office Manager*

1977 income other than government: wages of husband, Robert H. Otterson, Old Ben Coal Corp., $24,081.65; interest income—GSA Series H. Bonds, Lincoln National Life Insurance, First Community Bank of West Frankfort, Bank of West Frankfort, totaling $2,459.35; dividend income—Affiliated Funds, C.I.P.S., First Community Bank of West Frankfort, Keystone Fund B-1, Roosevelt National Investment Co., Boca Raton National Bank, totaling $1,525.44.

Sources and amounts of indebtedness over $500: None.

Stocks and bonds owned: 34 shares, Boca Raton Bank; 2 shares, Fidelity Bank; 2 shares, Citizens Bank; 300 shares, C.I.P.S.; 102 shares, Keystone B-1; 100 shares, Roosevelt Investment; 4 Illinois Central bonds; 100 U.S. Leasing Warrants; 1,600 shares, Affiliated Fund; 42 shares, First Community Bank; all totaling about $28,500; GSA Series H Bonds, $10,000; Series E Bonds totaling $10,875.

Property owned: real estate, West Frankfort, $29,500; 4 lots, West Frankfort, $3,000; 1977 Buick, 1972 Pontiac, 1971 Camaro totaling $8,000; 1972 travel trailer, $1,500 household goods about $5,000.

*Judy Wagner, Legislative Coordinator*

1977 income other than government: $587, interest on accounts at Perpetual Savings & Loan and Senate Credit Union.

Sources and amounts of indebtedness over $500: American National Bank (home mortgage, $81,736; Mrs. Dorice Bumpus, personal note, $8,070; U.S. Senate Credit Union, $4,082; Master Charge, $751; Maryland National Bank, $879; Sears, $520.

Stocks and bonds owned: None.

Property owned: residence, Bethesda, Md., $110,000 (1976 appraisal); farm house, purchased in 1976, Gilmanton, N.H., $25,000; 20-acre lot in Gilmanton, N.H., purchased in 1974 for $16,000.●

## MALVINA REYNOLDS, SINGER-ACTIVIST, DIES

### HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. DELLUMS. Mr. Speaker, Malvina Reynolds, a personal friend of mine who was known throughout our country as a singer/songwriter who cared deeply about all people, died recently in Oakland, Calif.

I would like to share with my colleagues an article that was published shortly after her death that shows the important contribution Ms. Reynolds made to our culture. She will be greatly missed.

MALVINA REYNOLDS, SINGER-ACTIVIST, DIES

(By Bob Fordham)

Celebrate my death for the good times I've had,
For the work that I've done and the friends that I've made,
Celebrate my death of whom it could be said,
She was a working class woman and a red,
My man was the best, a comrade and a friend,
Fighting on the good side to the very end,
My child was a darling, merry, strong and fine,
And all the world's children were mine.

Her snow-white hair and her guitar were familiar sights at rallies and marches of the last two decades. Her voice was high and croaky, but when she sang people listened.

Malvina Reynolds, songwriter and social critic, died Friday morning in Oakland of kidney failure. She was 77 years old. She was hospitalized Wednesday after being stricken at her Berkeley home.

Reynolds was perhaps best known for her song "Little Boxes," which lightheartedly criticized life in modern suburbia. She was inspired to write the song in 1964 while driving past a Daly City housing tract.

It has been said that Reynolds wrote "Little Boxes" in the car. "Whether this is true or not I can't say," said Ruth Bernstein, Reynolds' business manager since 1964. "But Malvina always carried a pencil and a piece of paper. When something moved or provoked her, she wrote a song."

Bernstein estimated that Reynolds wrote between 500 and 600 songs. "Most were not recorded and many had non-social themes," Bernstein said. "Malvina wrote songs for friends, songs about dieting and going to the dentist."

"It's my way of talking, that's all," Reynolds said of her music. "Everybody has a way of saying something and mine happens to be a very satisfying way."

Malvina Reynolds was born in 1900 in San Francisco. An honor student at Lowell High School, she was not permitted to graduate because her parents opposed America's involvement in World War I.

Despite her lack of a high school diploma, Reynolds attended UC Berkeley, where she eventually earned a doctorate in romance philology.

Reynolds worked as a steel worker, a social worker and a newspaper editor during the Depression and World War II. She married William Reynolds, a carpenter and a draft resister during World War I.

Reynolds was over 50-years-old when she began her musical career. When she returned to the Berkeley campus to study music in 1951 she met folksinger Lou Gottlieb of the Limelighters, who encouraged her to write music.

With her first "hit" song, "Turn Around," recorded by Harry Belafonte, and later with "Little Boxes," Reynolds' fame grew. Her songs were recorded by Pete Seeger and Joan Baez.

Although she performed throughout the world, Reynolds' home remained Berkeley. Friends and music were always welcome in her modest house on Parker Street.

Reynolds had, in fact, become something of a local institution in recent years. She could usually be seen at anti-war demonstrations in the late 1960s and she hosted a folk music program on radio station KPFA.

Official recognition of her contributions to Berkeley came on Reynolds' 77th birthday last Aug. 26, when the Berkeley City Council declared that day "Malvina Reynolds Day." A huge party was held that night for her at the La Pena Cultural Center and the adjacent Starry Plough Pub.

Another Berkeley social music institution, Country Joe McDonald, was aided and influenced in his musical career by Malvina Reynolds. "She was one of the first people I met in Berkeley," McDonald said. "She really encouraged me and helped me get started. Malvina influenced the music of Baez, Dylan and Phil Ochs as well as my own."

Despite the success of "Turn Around" and "Little Boxes," Reynolds never attained widespread acceptance or financial success. She had trouble finding work in the '50s and late '60s because of her political views and activities. "Right wing groups were often putting pressure on concert promoters not to hire her," Bernstein said.

"Malvina wouldn't have turned down success," said McDonald, "but she had a role as a woman and a mugwump which were more important. There wasn't really a place for her in mainstream music."

Reynolds kept singing and protesting to the end. Her latest concern was over the dangers of nuclear power. She had planned to sing at a pro-solar rally in Bellingham, Washington, in two weeks. She was concerned with rape and last year wrote a song called "The Judge Said" in response to the lenient acquittal of a rapist in Madison, Wisconsin.

In lieu of a funeral, there will be a memorial concert sometime within the month. Instead of flowers, her family has requested that contributions be sent to Bay Area Women Against Rape, People Against Nuclear Power, or the National Council Against Repressive Legislation.●

## AMERICA'S CIVIL DEFENSE: DOES IT EXIST?

### HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. DORNAN. Mr. Speaker, it is all too easy to be misled by the defense budget that the Carter administration has submitted to Congress, calling for a 3-percent increase in defense spending for fiscal year 1979. This increase, amounting to a total expenditure of some $115 billion, tends to reassure those of us who have actively urged the administration to repair its growing defense gap. However, such reassurance is illusory, and the cause for it premature.

That is, in the so-called hard areas of our national defense budget such as strategic forces or civil defense, we are actually spending less. We are spending less, because the White House still favors the myth that the Soviet Union has become more pacifist, that its strategic designers are really just plain good ole boys rather than aggressive and well funded war planners who mean business. If the Soviets appear sometimes, rarely, as benign or ideologically wearisome as our State Department press release writers seem to believe, in the final analysis, we can never trust an ideology which accepts lying as state policy and no U.S. administration has the right to play such a large gamble over the ultimate survival of our Nation in the face of the greatest threat to peace and liberty in the history of mankind.

Our Nation's civil defense system is equivalent to a national life insurance policy in this world of ever-present dangers. The Soviets know this, explaining why they have spent incomparable sums of money to build a system incorporating both "collision" and "comprehensive" features in the nuclear age. In effect, the Soviets are steadily improving their civil defense system in order to approach what they regard as a possibility, the perverse prospect that for the Soviets an eventual nuclear confrontation might become profitable.

We must protect our population with the same regard for life as any state on the planet. We have a responsibility to see that our fleeting civil defense system is repaired. Mr. John G. Hubbell, the distinguished roving military editor for the Reader's Digest, recently wrote a capsuled analysis of where we stand in relation to the Soviets in the area of civil defense. It is based on the latest intelligence estimates, and it is must reading for all of us. I request that his analysis be incorporated into the RECORD.

SOVIET CIVIL DEFENSE: THE GRIM REALITIES

RUSSIA'S ELABORATE BLUEPRINT FOR SURVIVAL IN THE EVENT OF FULL-SCALE NUCLEAR WAR AFFECTS THE BALANCE OF POWER AND THE FREE WORLD'S SECURITY

(By John G. Hubbell)

The evidence is unmistakable and omninous. The Soviets have added a major civil-defense component to their military posture—an addition which, in a superpower showdown, could prove decisive.

Item: U.S. intelligence has located, at 75 points adjacent to the beltway encircling Moscow, huge steel spheres—each containing communications centers, emergency power sources, sleeping areas, food and water storage. Reserved for the Politburo, military general staff and high-level Soviet bureaucracy, they have been sunk 600 feet into the ground, then covered with earth and reinforced concrete. Similar shelters have been built in and around major cities throughout the U.S.S.R.

Item: Since the early 1960s, the Soviets have been dispersing their new industrial complexes in widely scattered locations over the length and breadth of Russia. Even single factories, which in the United States would be housed under one roof for efficiency's sake, are divided into many buildings so separated from one another and with machinery so protected that destruction would require numerous nuclear warheads. And every factory in Russia now has blast-resistant underground shelters sufficient to accommodate its largest work shift.

Item: All Soviet factory workers devote at least two to four hours per month to civil-defense training. Moreover, civil-defense education begins in the second grade and continues on a compulsory basis up to age 60.

Item: Reconnaissance satellites have located huge underground food-storage facilities throughout the U.S.S.R. Intelligence sources explain that the Soviets plan to store away enough food (with the help of U.S. grain purchases) to feed themselves following a nuclear exchange—at least until a new harvest.

Item: Throughout the U.S.S.R., special training sites have been built with fire-gutted buildings, downed power lines, and all the debris that would result from nuclear assault. Factory and municipal workers attired in gas masks and protective clothing learn to fight fires, decontaminate buildings, rescue people and restore services.

The Soviets have made no secret of this interest in civil defense. According to Harriet Fast Scott, a Washington-based consultant on Soviet military affairs who lived for years in Moscow, "Officials constantly stress that nuclear war is survivable and that 'civil defense is everybody's business.'"

By the mid-1960s, U.S. intelligence agencies had made several attempts to call attention to the Soviet civil-defense programs as a major effort which, if continued, could affect our own deterrent capability. The information was dismissed by some as irrelevant to arms control, and intelligence collection ceased in the late '60s. In 1972, we entered into the Anti-Ballistic Missile (ABM) treaty without taking Soviet civil defense into account. With the ABM treaty, Washington and Moscow agreed not to deploy weapons systems that could effectively defend against each other's nuclear missiles. In other words, we each made our population hostage to the threat of nuclear attack by the other. But the Soviets, with their continuing and increasingly elaborate civil-defense program, have been depriving us of our hostage—in effect, circumventing the intent of the treaty.

In 1972, the Soviets dramatically upgraded civil defense. Organized since 1961 under a central military command, it was now publicly ranked as a separate service of the armed forces on an equal footing with its army, navy and air force. Each of the U.S.S.R.'s 15 republics has a military commander and staff concerned solely with civil defense. In 1976, elite status was conferred upon civil-defense boss Col.-Gen. Aleksandr T. Altunin: he was elevated to full membership in the Central Committee of the Communist Party. Last year, he was promoted to full general.

There simply is no question that Russia is serious about civil defense. Says Prof. Leon Gouré, director of Soviet studies at the University of Miami's Center for Advanced International Studies: "Soviet leaders persistently call for a military posture that includes a war-survival capability. They see no point in being able to destroy an enemy if he is able to destroy them in turn. And as the disparity between the Soviet and American abilities to survive nuclear war becomes more pronounced, it becomes more difficult for the Kremlin to believe that the United States would engage in a nuclear exchange over a secondary issue; for example, on behalf of Israel or Japan or even Western Europe."

Nevertheless, many Americans still subscribe to the belief that a nuclear exchange would mean suicide for the country making the first move. Yet T. K. Jones, for three years senior technical adviser to former U.S. SALT negotiator Paul H. Nitze, offers some tough, mathematical reality to chew on:

Suppose the worst happens. A crisis gets out of hand, and the U.S.S.R. launches a nuclear first strike against the United States. Calculations show that half our strategic arsenal would survive such a strike. If all our surviving strategic weapons—all of them—were then delivered on the Soviet Union, they would kill all of the people in an area that amounts to only 2.7 percent of the U.S.S.R.'s geography. Retargeting these weapons to produce radioactive fallout would force the Russians to take shelter, but within a week of American retaliation the people in 97 percent of the Soviet Union would be able to leave their shelters for an eight-hour workday.

Had the Soviets not gone ahead with civil defense but had kept their population in the cities hostage to our nuclear arsenal, our deterrent force would still be effective. However, the Kremlin now is able to disperse its people over its agricultural lands, approximately 27 percent of U.S.S.R. territory—an area nine times greater than we can cover with our nuclear weapons.

The bottom line? Last year, in response to a query from Sen. William Proxmire (D., Wis.), Gen. George S. Brown, Chairman of the Joint Chiefs of Staff, estimated that ten Americans might die for every one Russian in a Soviet-American "worst case" nuclear shoot-out if the Soviets successfully evacuated their urban populations and the U.S. failed to take civil-defense measures. That means Russia's losses could be roughly half the 20 million lives it lost in World War II, and about four percent of the population—food for thought for Americans who have been educated in the myth that we can wipe out the U.S.S.R. many times over!

Clearly, the Soviets regard their civil-defense capabilities as a factor of immense strategic significance, one which is not matched in the American arsenal and which strongly supports Moscow's pursuit of its aggressive international designs. Without the advantage it provides, Soviet leaders surely would be much less likely to threaten our allies or challenge us in areas of vital interest.

What to do about it? For openers, our government can stop soft-pedaling the issue in the hope of achieving politically popular but dangerous arms-control agreements with the Kremlin. Indeed, there has been some minimal progress in this respect. Before he took office, Defense Secretary Harold Brown was publicly doubting the notion of an effective Soviet civil defense; but by last spring, he was taking a much more sober view, estimating Soviet civil defense expenditures at a billion dollars annually, ten times the U.S. investment. At the same time, an interagency intelligence survey was being drafted by the CIA which would put the Soviet investment much higher. Intelligence services in Western Europe have estimated $65 billion for the past decade.

Not incidentally, even before the interagency report had been written, people who had not participated in the survey were leaking to the press alleged conclusions demonstrating the Soviet civil-defense activities had declined since 1973 an were not cause for alarm. Accordng to participants, the highly classified study shows no such thing.

We must face the facts. According to Jones, Professor Gouré and others who have studied Soviet civil defense closely, we have no choice but to get into a civil-defense program, although we need not do so on the massive, activist, hugely expensive scale the Russians have. Jones and Gouré believe that with reasonable expenditures for shelters and crisis evacuation, at least 90 percent of our population could be saved in a nuclear attack. Bomb-damage calculations show that there is no need to uproot and scatter our essential industry and work forces across the landscape, but zoning laws must be changed so that dangerous industrial clusters can be disassembled and factories spread out. An vigorous testing shows that industrial machinery can be rigged to withstand all but a direct nuclear hit. Factories can be fireproofed, and shelters built to afford some protection for workers.

Also needed is a trained professional civil-defense force, the basis of which already exists in the National Guard and the Red Cross. Augmented by veterans organizations and other civil groups, such a trained force could provide rudimentary instruction to the general public as well as direction in case of actual attack. Studies show that in times of crisis, people pay close attention to authoritative instructions, and act quickly on them.

Experts agree that an upgraded, well-planned civil-defense program need not cost much, that it would add perhaps $1 billion to a defense budget which now approaches $117 billion annually. And it would restore credibility to the American deterrent—credibility which has been diminished to a dangerous degree as a result of the massive Soviet civil-defense program.●

## POSTAL REFORM AND FAIR COMPETITION

### HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 5, 1978*

● Mr. EARLY. Mr. Speaker, this past Thursday legislation was passed that should aid the U.S. Postal Service in maintaining public service at adequate levels and within acceptable cost ranges. Only one glaring error seriously marred this bill, H.R. 7700, and would have, but for the alertness of Congressman WILSON, eliminated USPS as a viable parcel post carrier.

Historically, Congress has been concerned that the Government not compete unfairly with private carriers for parcel post business. For most of this century, Congress has, in fact, required that parcel post pay a little more than any other class of mail. Congress has never maintained a monopoly on parcel post, though it has consistently protected private carriers from unfair Government competition. Since the turn of the century, however, there has been an evolutionary change in the parcel post delivery system. At one time the Government was the dominant carrier competing with a fledgling private industry. That situation no longer exists.

A narrowly designed amendment meant to primarily benefit a single business interest was adopted last Wednesday by a wide margin. I voted against the so-called Simon amendment notwithstanding the enormous write-in campaign waged by UPS. Private business interests latched onto an effective ruse that, simply stated, would have one believe that jobs in the private sector would be lost as the result of unfair competition from the Postal Service. That logic is unfounded and misleading. In terms of profitability, UPS has performed considerably above the average for large transportation companies. In 1974 and 1975, its return on equity (return on investment) amounted to 13 percent and 21.7 percent, respectively. The average return on equity for the 50 largest transportation firms (excluding UPS) was considerably less—6.5 percent in 1974 and 3.3 percent in 1975. During this same period UPS handled nearly 900 million parcels compared to the Postal Service's 338 million parcels. It can hardly be maintained that the Postal Service poses an undue competitive threat to private carriers.

Mr. Speaker, to argue that H.R. 7700 will harm private industry indicates a misunderstanding of the situation. Time, and time again, the U.S. Postal Rate Commission has handed down decisions indicating that rate changes requested by the Postal Service—ratemaking hearings at which private carriers were represented—could not "* * * cause undue adverse impact on the general public or business users." The Commission in a 1975 decision went further and noted that USP made no "claim that the lower parcel post rates proposed by the Service will have an injurious effect upon it."

Other arguments that the Postal Service is the beneficiary of hidden subsidies or cross-subsidies are simplistic in nature. Private parcel post carriers are well protected by H.R. 7700 in their legitimate interests. As originally reported from committee, H.R. 7700 would not have applied the 60 percent limitation on attributable costs to parcel post. Parcel post would be required to bear its full attributable cost, plus a fair share of all other costs. This would insure against unfair rate cutting should the Postal Service attempt to do so. Moreover, the Postal Rate Commission would be required by H.R. 7700 to consider in every rate case "* * * the effect of rate increases upon enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters." The Commission itself has stated in previous decisions that parcel post rates must give appropriate consideration to the matter of competition and provide a "Reasonable contribution to the institutional costs."

Even the legislative history of the Postal Reorganization Act of 1970 makes it clear that Congress respected the old costing system for parcel post rates linked to full allocated costs. Congress, then, noted the specific competitive impact factors and stated that "* * * to go beyond that point would simply be to recommend provisions of law protecting a particular economic interest or limiting the availability of a Federal parcel delivery system."

Charges levied against the Postal Service that it is the beneficiary of subsidies giving it an unfair competitive edge in the parcel post industry are misleading. Some would have us believe that like any other business, the Postal Service should have to account for all costs and pass those costs on to the private citizen, presumably in the form of higher parcel post rates. This would be fair in a free enterprise system allowing for the usual marketplace forces in determining which entity should survive as the most efficient carrier. But, Mr. Speaker, these arguments are specious and misstate the actual forces impinging upon parcel post carriers, including USPS, when rates are set. In determining parcel post rates, including the recovery of all costs, particular attention must be given to the fact that alternative means of sending and receiving parcels must be made available to the public at competitive rates. It is undisputed that although households have alternatives to the Postal Service, they are still more dependent upon USPS than is the business community. Adoption of special interest amendments might lead to an inevitable disruption of adequate and competitive parcel post service in some rural and suburban areas. The Postal Service is a public service and not a business. The public demands not only 6-day mail delivery, but an alternative for parcel post delivery. Narrowly drawn amendments would effectively eliminate that choice.

Mr. Speaker, I believe it can be adduced from Postal Rate Commission hearings and the testimony of postal rate experts before the Post Office and Civil Service Committee, that H.R. 7700 emphasizes parcel post rates competitive with private enterprise. And, as it has been pointed out by several of my colleagues, the parcel post language in H.R. 7700 after an examination by an independent panel of rate experts, was judged as evenhanded in its treatment of all parcel post carriers.

In concluding, Mr. Speaker, I would add one more thought. Theoretically, the market forces should weed out those businesses that are inefficient and noncompetitive. That stands to reason within a business context. But the Postal Service is not a business. It is a public service and should continue to be one. My decision not to support the Simon amendment rested on the belief that the amendment was contrary to the national interest (insofar as Postal Service was concerned), would have fostered a possible monopolistic situation and would have possibly lessened the incentive for innovative, efficient and safe delivery of parcel post.●

## RISING COLLEGE COSTS

### HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. CORCORAN of Illinois. Mr. Speaker, an article in last week's Washington Post details a study recently released by the College Scholarship Service of the College Board, a nonprofit organization of schools, educational, associations, and scholarship agencies which proves, without a doubt, that the already aggravated problem of rising college costs is getting worse. The report says that it will cost an average of 6 percent more to go to college next year than it does this year. It also explains the fact that a resident student at a private 4-year college will spend more than $5,000 in the academic year starting in September.

Mr. Speaker, the advocates of college tax credits, including me, have been concerned about these educational expenses for quite some time. The people who would benefit from these tax credits are not looking for a free ride. We want to give them, through the tax credit approach, an "inflation offset" so that they can afford to educate their children. It is our belief that tax credits will get money back into the pockets of the individual so that he can decide for himself how it should be spent, not how the bureaucrats in Washington decide it should be spent.

Mr. Speaker, at this time, I would like to include the text of this article in the RECORD:

COLLEGE COSTS RISE; 4 YEARS COULD RUN $20,000

NEW YORK—It will cost an average of 6 percent more to go to college next year than it does this year, says a new study that shows that a resident student at a private, four-year college will spend more than $5,000 in the academic year starting in September.

That $5,000 is equivalent to about one-

third the median family income in the United States. And it means that even if there is no further inflation—and that is not likely—a freshman who enters a private school this fall and lives on campus will pay more than $20,000 for a college education.

The study, released yesterday, was conducted by the College Scholarship Service of the College Board, a nonprofit organization of schools, educational associations and scholarship agencies. The findings were based on reports from 2,693 colleges and universities.

Costs vary according to the type of institution involved and such factors as whether a student commutes or lives on campus.

The board study showed, for example, that 1978–79 school expenses for a commuting student at a public, four-year college will total $2,604, up 4.8 percent from this year. A student at the same school who lives on campus will spend $3,054, up 5.3 percent from this year.

The study estimates expenses at private, four-year colleges will average $5,110 for on-campus students, up 6.1 percent from this year, and $4,577 for commuters, up 5.7 percent. ●

## SOUTHEAST ASIA—WHICH WAY TO A CLEAR CONSCIENCE?

### HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. DOWNEY. Mr. Speaker, there is a basic apprehension among many American people that any involvement or, indeed, concern, with the problems of Indochina and the Indochinese people will lead us into another military conflict in that part of the world.

This solicitude is proof of exactly how little we are willing to learn from our involvement in Southeast Asia. We should not ignore the war as if it never happened. Rather we should closely examine the actions we took and learn from our experiences. Indochina should not be the repressed trauma it has been since April 17, 1975, when the last of the government troops defending Phnom Penh against the Khmer Rouge had put down their weapons.

No one can deny that our involvement in Southeast Asia is a blot on our history. This is a direct result of a series of bad judgments. Bad judgment from those who got us involved. Bad judgment from those who misconceived exactly what our mission was and how to complete it once we were involved. Finally, bad judgment from those who engineered the evacuations.

This episode of our recent history has affected our behavior in sometimes unacknowledged and generally detrimental ways—from mistreating our veterans at home to ignoring our obligations to the people of Indochina. It is ironic that those who were involved with the war on this level seem somehow held responsible for it.

We are all familiar to some degree, perhaps not enough, with the atrocities taking place in Cambodia. Reports from refugees are continually pouring out of that country from those who are lucky enough to escape. These reports are not given the attention they deserve. The media is reluctant to cover these reports and, despite its stance on human rights, the administration virtually ignores the horrors of Cambodia. There seems to be a concerted effort to keep the collective American conscience guilt free.

If there is any question as to the authenticity or reliability of the refugee's reports, then an impartial international organization should conduct an extensive survey of them. Testimonies should be cross-checked to insure their credibility. Reports from our intelligence sources should be utilized to determine just how bad the situation is.

As the strongest advocate of fairplay and justice in the world, the United States must take steps to end the carnage in Cambodia and demand a basic adherence to human rights. The President and the Congress must realize that the United States is at least indirectly responsible for the situation of the Indochinese people.

Realistically, there is nothing we can do directly. Short of armed conflict, we can exert no leverage in Cambodia. However, we can focus the world's attention on the atrocities being committed there. We can compel the United Nations to take an interest. We can urge the People's Republic of China—possibly the only country Cambodia respects—to apply pressure. And we can exert our own influence in an effort to force the Khmer Rouge to observe the basic human rights protected by the United Nations Declaration of Human Rights.

As a matter of good conscience, we cannot go on ignoring the plight of the Indochinese people.●

## FISHERMEN'S PROTECTIVE ACT COMMENDED

### HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 10, 1978*

● Mr. DODD. Mr. Speaker, the House passed H.R. 10878, a bill amending the Fishermen's Protective Act. As the Congressman from the fishing district of Connecticut, I am very pleased that this bill, which I strongly supported, has been passed by the House. I would like to take this opportunity to discuss the reasons why I believe this bill is important for the protection of our Nation's fishermen and for the protection of endangered wildlife.

H.R. 10878 would extend until October 1981 the cooperative insurance program which compensates American fishermen for damages incurred when foreign governments seize their vessels in territorial waters that are not recognized by the United States.

The cooperative insurance program is an important protection extended to our Nation's fishermen as they pursue their livelihoods in accordance with the law of the sea as recognized by the United States. As the record of participation demonstrates, the cooperative insurance program has been received with enthusiasm and interest by our Nation's fishermen. More than 100 vessels have participated each year since the program began in 1969; there are currently 119 tuna and shrimp vessels in the program.

During the program's first 9 years, there have been 119 seizures eligible for compensation, resulting in claims totaling over $3 million. H.R. 10878 will continue the program for 3 more years, protecting our fishermen and encouraging them to fish in waters which are open under international law.

Our fishermen have suffered losses not only through seizure by foreign governments, but also through the damage of their fishing gear by foreign vessels. This is particularly distressing to me, Mr. Speaker, because while the fishermen of my district seldom venture far from home, they face the possibility of severe economic loss if their fishing gear is damaged by the foreign vessels which enter New England waters.

Under the provisions of the Fishermen's Protective Act, there are now three methods for obtaining compensation for damage caused by foreign vessels. However, none of the methods provides an efficient administrative mechanism for adjudicating damage claims filed by U.S. fishermen.

The primary obstacle to securing compensation has been the requirement that fishermen prove which vessel caused the damage for which compensation is sought. This has been particularly difficult for fishermen who set out traps or lay out long lines and are unable to constantly monitor their gear.

In order to correct this problem, H.R. 10878 would create an insurance program which would protect fishermen under what would be essentially a no-fault compensation program. This would provide coverage for damage attributed to both vessels and acts of God. The compensation procedure would be simplified and claims would be processed within 30 days. Any foreign vessel which sought permission to fish in U.S. waters would be required to participate in the insurance program.

The Subcommittee on Fisheries and Wildlife expects the insurance program to be especially popular with independent, small boat fishermen of whom there are a considerable number in the southeastern Connecticut region. I believe that the insurance program will provide fair and well-deserved compensation to our Nation's fishermen.

The Fishermen's Protective Act includes an amendment which authorizes the President to embargo fish products from countries whose nationals act to diminish the effectiveness of an international fisheries conservation program. The amendment, the Pell amendment, has proven to be an effective tool in our efforts to conserve the world's whales and to encourage other nations to observe both the word and spirit of agreements reached by international fishery conservation bodies.

H.R. 10878 would extend the provisions of the Pell amendment to include not only fisheries, but all endangered species. The President would be authorized to embargo wildlife products from nations which the Secretary of Commerce or the Secretary of the Inte-

rior have determined are diminishing the effectiveness of an international endangered species conservation program. If the success of the Pelly amendment is any indication, this should prove an effective means for protecting endangered species.

H.R. 10878 significantly and beneficially strengthens the Fishermen's Protective Act. I look forward to H.R. 10878 protecting our fishermen and endangered wildlife.●

## SMALL BUSINESS ADMINISTRATION PROGRAM AMENDMENTS AND AUTHORIZATIONS

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. GILMAN. Mr. Speaker, while having generally supported H.R. 11445, the Small Business Administration programs and authorizations—which passed the House yesterday—I am concerned that the bill contained a provision raising the interest rates for nonresidential natural disaster loans from 3 to 5 percent on the first $250,000 borrowed. Moreover, I object to the fact that this measure was brought to the floor under a procedure not affording Members the opportunity to reject specific provisions contained in the bill.

Contained in H.R. 11445, is a section authorizing $270 million for the expansion of the SBA development center program for management and technical assistance for the period fiscal year 1979 to fiscal year 1982. I support this provision, and last session cosponsored legislation supporting the concept of small business development centers.

I am also firmly supportive of the concept, as articulated in the committee report accompanying H.R. 11445, that SBA disaster loans should be readily available to farmers. I am pleased that the proposed move to exclude from eligibility for SBA disaster loans those small businesses which happen to be agricultural producers, was defeated. The most likely alternative for farmers to these SBA loans are disaster loans offered by the Farmers Home Administration (FmHA).

I have long been an ardent advocate of reforming the inequitable and inefficient FmHA disaster loan program, and have introduced legislation to accomplish that goal. Accordingly, I commend the Small Business Committee for both spelling out that "FmHA programs are inferior [to SBA programs] and in many ways inadequate" as concerns the farmers, and for underscoring the continued need for making SBA disaster loans available to farmers.

However, I believe that H.R. 11445 errs egregiously in increasing the SBA disaster loan interest rate from 3 percent on the first $250,000 and 6⅝ percent on all thereafter to a 5-percent overall interest rate. Data indicates that the bulk of SBA loans are for less than $250,000. Moreover, while commitments appeared last year to complete a comprehensive review of the disaster interest rate question, no such study has been undertaken. Yet, the House was yesterday presented with a bill containing a provision to increase that portion of SBA disaster interest rates which will be borne most heavily by businesses seeking loans under $250,000.

I was also disappointed by the bill's lack of attention to the need for some margin of flexibility in determining eligibility for these SBA loans. I specifically point to a case in my congressional district in which an SBA ruling made flood victims ineligible for new, more favorable interest rates effective July 1, 1976, because of an SBA determination that the storm responsible for the flooding began a day earlier. Even though the rainfall in the area affected was significantly greater on July 1, than the preceding days, SBA's determination concluded that the "actual" storm had commenced earlier; thus, even though the storm was in progress on July 1, 1976, SBA arbitrarily ruled these flood victims ineligible for disaster assistance at the newer higher interest rates.

Thus, while realizing the obvious need for extending SBA disaster assistance and for backing the above provisions of H.R. 11445 for which I have indicated my support, I urge the Committee on Small Business to examine the urgent need for flexibility in administering the SBA disaster loan program, and to undertake, as expeditiously as possible, a comprehensive review of the interest rates now scheduled for SBA disaster loans.●

## RISING COSTS AND VANISHING MARKETS ENDANGER AMERICAN FARMERS

### HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. HANSEN. Mr. Speaker, the United States must develop adequate foreign and domestic farm markets and control the spiraling costs of production if American agriculture is to remain strong and free.

We must make ourselves more competitive by finding new uses for agricultural products and new markets for our products around the world. And certainly we must not continue to follow the Carter human rights calamity in foreign policy which sees us forfeiting substantial markets in pursuit of unreasonable and erratic demands of other nations.

While markets are important they will never save the farmer without an early and effective curtailment of the rampant inflation which has propelled farm debt and costs of land, machinery, labor, and other production requirements to astronomical heights.

The real heart of the problem centers around the Government's appetite for big spending. Government overspending causes increased inflation and it is the family farmer saddled with a huge investment with low proportionate return who feels the effects first and worst.

I commend farmers and ranchers for their fighting spirit and faith in the free American economic system which has kept them going and sustained the Nation through extremely rough circumstances. Farmers are having to fight for their lives but it is really the welfare of the consumers of the Nation and the world which is at stake.

However, farmers need more than sympathy and lipservice; they need action. This segment of our Nation's economy has become a whipping boy. When food prices go up the farmers are blamed, but when farm prices fall off while food prices continue to go up, the farmers still seem to get most of the credit.

Recent meetings in Washington with concerned farmers have resulted in a better understanding. They explained what problems they were faced with in trying to make a living and we have explored in depth the alternatives that Congress and the administration might pursue to help solve farm problems.

In seeking a solution to this problem, I am always open to suggestions and will continue to support any constructive measure and work with all means at my disposal to find answers to provide opportunity for a fair return for the farmers of this Nation. Hopfully, the farm legislation before us will finally result in needed relief, at least on a temporary basis until a more permanent and responsible program can be developed.

The grazing fee moratorium bill which I have sponsored, to hold down arbitrary increases in costs to ranchers has passed the House and is now awaiting action in the Senate. This bill will keep the current rates for at least one more year and give Congress adequate time to thoroughly consider other pending alternatives.

Regarding the 160-acre problem, this situation has been neutralized somewhat for the time being since a California Federal court declared that the Department of Interior could not put regulations into effect regarding this issue until an environmental impact statement had been prepared. The Interior Department has reversed its original position and agreed to prepare the statement and not appeal the court decision. The best estimate is that it will take about a year for them to complete the statement.

The adverse impact on Idaho and the Nation's agriculture by the proposed transfer of the Panama Canal is significant. U.S. Department of Agriculture statistics readily show the specific impact on sugar, grain, cattle, and other commodity markets. All citizens, farmers, and consumers, should immediately and forcefully express their concern to their U.S. Senators who are currently voting on the issue.●

## TRB ON TAXES

### HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. FRASER. Mr. Speaker, in the concise and timely manner to which we have become accustomed, TRB, in his column "Tax Time" in the April 8, 1978, New Republic, calls some important points to

our attention. TRB is quite right when he writes that we Americans have shown a rather remarkable degree of faith and confidence in our institutions which today remain strong after having been subjected to many years of abuse. But these institutions are not indestructible.

At this time we are again coming to the realization that inflation is a cruel tax that plagues us by eroding purchasing power while driving us into ever higher tax brackets. Some argue that the biggest culprit is the Federal Government's inability to live within its means; another $60 billion deficit, it is said, is the prime factor behind the latest increase in the rate of inflation.

But part of the deficit is attributable to what IRS Commissioner Jerome Kurtz calls the $200 billion subterranean economy—income sheltered legally and otherwise from Federal taxes.

So tax reform ought to be a tool in any anti-inflation program. And tax reform or better enforcement of existing laws is needed if Americans are to continue to believe in the fairness of the present system.

IRS Commissioner Kurtz has indicated that he is aware of the enforcement problem, but adequate resources to conduct more thorough investigations into possible shelter abuses are lacking.

Advocates of tax reform may sometimes feel that they are pursuing a will-o'-the-wisp. But better enforcement of present laws ought to be obtainable in short order. As TRB concludes, this all should give us "something to think about on April 15."

The article follows:

TAX TIME

Of all the rituals of American democracy I think the annual self-flagellation of citizens in filling out their income tax forms (deadline April 15) is the most impressive. I suppose nobody hates to pay taxes more than I do. But I go through my Form 1040 once a year, by custom, with reasonable honesty, and send my contribution on to the federal bureaucrats, grumbling at every step of the way. We carry the self-inflicted mortification beyond any other nation. Why do we do it? Let's face it, because we accept Oliver Wendell Holmes' saying that taxes are the price of civilization; because, at heart, we trust our government to administer the money with a reasonable degree of competence and evenhandedness, and because, finally, we trust our neighbors—yes, we believe that they are doing their share too and, on average, will be as conscientious as we are, or maybe more so.

It is well to have the grizzly ordeal come in the Spring, the time of hope. Everything looks brighter then. We couldn't stand it in November. Taxes come up with the tulips.

Having made this unpopular genuflection to the income tax, let me add that I think that anything that weakens this unique relationship between Americans and their government is subversive in the ultimate sense. By the middle of this month 85 million individual income tax forms will have been received by the Treasury, with a vernal tide of about $186.8 billion dollars. Some 2.3 million corporations will have contributed another $60 billions. Of these returns about 2.5 percent will be audited. No doubt the fear of such audits propels the process along. But it would not survive for a minute without that additional ingredient: confidence in the ultimate fairness of the government and of fellow-citizens.

It is the ingredient of confidence that is challenged now from many directions. During the campaign candidate Carter called the tax system a "disgrace to the human race" which was a rhetorical way, I suppose, of promising that he would make reforms if elected; so far these reforms haven't appeared.

Confidence in the tax structure is attacked from many sides. For six years Representative Charles Vanik, Democrat of Ohio, has compiled an annual study of corporate tax loopholes. Last January he examined 168 of the biggest US companies and found that 17 of them had paid nothing in effective Federal income taxes in tax year 1976. These 17 companies (listed in the *Congressional Record* of January 26) had combined worldwide net incomes of $2.9 billion. No US income tax. Forty-one other giant companies (listed by name) paid less than 10 percent in effective federal income taxes in 1976, Vanik reported. IRS Commissioner Jerome Kurtz, in a TV appearance last week, agreed that corporations are paying a smaller proportion of all taxes than they used to; individuals are paying a higher proportion. Tax loopholes for corporations and affluent individuals, he acknowledged, have grown: Kurtz called it "an increasing number of abusive shelters." How much escapes? "We have some estimates of a $200 billion subterranean economy," Kurtz said. He put a comfortable face on it, however: "Two hundred billion dollars is a very high number, but in a two-trillion-dollar economy it's certainly not overwhelming," he said.

It may not be overwhelming in a world of cash and balance sheets, but in a tax system that rests on intangibles like faith and fairness, it could be said to be destructive.

Another attack on the unique American tax system is inflation. If we cherish the progressive income tax, we must do something about this. Consumer prices rose in February at an annual rate of 7.2 percent and the average worker's buying power, according to the Labor Department, declined at an annual rate of 2.4 percent. The consumer was caught between higher prices, a social security tax boost, and graduated income taxes. Consider the example of the luckless Jones family. The Jones family has four members, and back in 1955 Mr. Jones earned $15,000. His sympathetic employer matched inflation with wage increases, dollar for dollar, over 21 years. This produced a fine income of $32,900 in 1976—an increase of 120 percent. But the higher salary pushed the Jones family from a 22 percent tax bracket into a 36 percent bracket. Its tax soared from $1540 to $6600. That's an increase of 330 percent. The unfortunate family doubled its nominal income but it is now 11 percent worse off in purchasing power than in 1955.

Most American families, despite inflation, are better off than they were. But old people, pensioners, those on fixed incomes aren't; and now comes last week's warning signal that for one month, anyway, the average worker's buying power declined. If a Washington politician isn't aware of the dynamite in that signal he is very stupid indeed.

The most dangerous attack on the tax system in our time was made by Richard Nixon, who undertook to warp the Internal Revenue Service into a political appendage. On September 11, 1972, John Dean handed to IRS Commissioner Johnnie Walters an "enemies list" of 490 McGovern aides and supporters for investigation. Four days later, at the White House, H. R. Haldeman told Nixon that Dean was "moving ruthlessly" on the investigation "through IRS."

The attack on the integrity of the IRS, I think, was the worst breach of faith of Richard Nixon. As contrasted to this, John Kennedy, and, after him, Lyndon Johnson, called in the IRS regional commissioners and district directors and addressed them emphasizing their bipartisanship. On the third floor of the IRS building, down the hall, is a small plaque proudly commemorating the visit Kennedy made to the office—the only visit of any president. An income tax form tells about a citizen's family, debts, social status, payments, donations, contributions—it is hard to imagine any document more entitled to privacy. Information is recorded and stored on tapes in a bank of IRS computers in Martinsburg, West Virginia. David Wise, in his chilling book, *The American Police State*, shows how Nixon and his crew deliberately set out to make the IRS the equivalent of the FBI and CIA, an instrument of social control. The Special Service Staff (SSS) had files on Jimmy Breslin, Mayor John Lindsay, Coretta King, columnist Joseph Alsop, the Ford Foundation, the American Civil Liberties Union. There were dozens of lists—"audit them, investigate them" were the orders. The sullen bureaucrats resisted. Nixon had three IRS commissioners in five years. And at the end of it all it was disclosed that Nixon himself paid only $792 in taxes in 1970, and $873 in 1971, having deducted half a million for donating his vice-presidential papers in an improperly backdated gift. Something to think about on April 15.●

## NATIONAL PORT WEEK

### HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. MURPHY of New York. Mr. Speaker, today I have the distinct pleasure of adding to our growing list of cosponsors the following Members listed below. The response by my colleagues has shown a real concern for the recognition of our ocean and inland centers of trade.

In addition, we have received letters from nine State Governors expressing the desire to have their respective States participate in the "National Port Week". At the present time, Florida, Indiana, Illinois, Vermont, South Carolina, Mississippi, Oklahoma, South Dakota, and Virginia have issued or will issue executive proclamations coinciding with this joint resolution. We invite all the Governors to join with the above States in proclaiming "National Port Week".

I thank both the Governors and these Members on behalf of our ports for their support and look forward to my other colleagues joining with us in cosponsoring the joint resolution authorizing the President to proclaim the week of September 17, 1978, as "National Port Week".

The list of cosponsors for these resolutions is as follows:

Mr. Ashley, Mr. Biaggi, Mrs. Boggs, Mr. Bowen, Mr. Breaux, Mr. Burke of Florida, Mr. John L. Burton, Mr. Don H. Clausen, Mr. Cornwell, Mr. Cotter, Mr. Dicks, Mr. Evans of Delaware, Mr. Florio, Mr. Garcia, Mr. Gephardt, Mr. Goldwater, Mr. Green, Mrs. Holt, Mr. Ireland, Mr. Kemp, Mr. LaFalce, Mr. Lederer, Mr. Leggett, Mr. Livingston, Mr. McFall, Mr. Mann, Mr. Metcalfe, Mr. Moakley, Mr. Moss, Mr. Mottl, Mr. Murphy of Illinois, Mr. Murphy of Pennsylvania, Mr. Nix, Mr. Patterson of California, Mr. Pepper, Mr. Price, Mr. Richmond, Mr. Rinaldo, Mr. Risenhoover, Mr. Rodino, Mr. Roe, Mr. Sikes, Mr. Solarz, Mr. Stanton, Mr. Stokes, Mr. Treen, Mr. Van Deerlin, and Mr. Weiss.●

## WELCOME PRESIDENT CEAUSESCU

### HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. BIAGGI. Mr. Speaker, the President of Romania, Nicolae Ceausescu, will be arriving today for a State visit to the United States. I am pleased to join with our President and other members of the Government in welcoming President Ceausescu to our country.

Mr. Ceausescu has been in the news lately regarding his ongoing efforts to help bring about a peaceful settlement in the Middle East. We recall his courageous efforts in helping to bring about Egyptian President Anwar Sadat's historic visit to Israel.

I am sure Mr. Ceausescu has earned the respect and admiration not only of the parties to the Middle East dispute, but of world leaders and diplomats the world over who have tried often enough to help bring peace to the Middle East. I hope Mr. Ceausescu's further efforts in this area will bring additional fruitful results.

President Ceausescu, however, is not coming to the United States solely to discuss the prospects for peace in the Middle East, although I am certain that that will be a major topic of discussion. He is also concerned about the continued trade relationship with the United States that has been ongoing for nearly 2 years. Romania enjoys most-favored-nation status in our trading relationship and that status has sparked a major growth in commerce between our two nations.

It is interesting to note that the United States has benefited in this arrangement with the balance of payments on the surplus side for our country. Romania is obtaining the much needed heavy industrial equipment to expand its economy and has found a market for its various consumer products such as gloves, men's wear, and glassware.

There are problems with the human rights questions that are raised frequently with respect to Romania. These questions must be raised and discussed in an atmosphere of friendship and mutual cooperation for world peace.

My hope is that the Romanian Government under the able and enlightened leadership of President Ceausescu will continue to provide for the equal rights of all its citizens and assure those who wish to leave that country for other lands that they will have the right to emigrate. In this area, my own experience in the past has been good and I am hopeful that the Romanian Government will continue to be responsive to all requests for exit visas.

Mr. Speaker, my colleagues, I hope that the spirit of cooperation and friendship that has been engendered by President Nicolae Ceausescu will be a guiding light for our relations with other nations in the Communist bloc. I further hope that President Ceausescu's personal efforts to help move the stalemated Egyptian-Israeli talks forward will be successful as well.●

## RUSSIAN ROULETTE AT THE PANAMA CANAL

### HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. HANSEN. Mr. Speaker, Members of the U.S. Senate who on one hand seek closer ties with Castro's Cuba and on the other hand vote to give away the Panama Canal are playing Russian roulette with the peace and security of the United States and the Western Hemisphere.

Cuba is the leading exporter of armed revolution in the world, and the main neutralizer to their efforts in Central and South America is the U.S. presence in the Caribbean and particularly the Canal Zone.

Cuban revolutionary efforts which have been so successful in Africa failed miserably in the Americas under the notorious Communist Che Gueverra mainly because of the stabilizing influence of the United States emanating from our military and commercial control of the Panama Canal.

Removal of U.S. influence in Latin America could well create a power vacuum which would most naturally be filled by the aggressive revolution-peddling Government of Cuba.

Some Senators have tried to defend their votes by claiming they have significantly changed the treaty with amendments. That is an argument I just cannot buy.

None of the amendments or reservations adopted change the fundamental weakness of the first treaty. That weakness is that "in time of peace and in time of war" the canal will remain "secure and open" for the vessels of all nations.

This means that if Cuba wanted to ship troops through the canal to support a revolt against an anti-Communist government in South America, the United States would have to permit the ships to pass. And this analogy can be further expanded in areas of national security.

Many Senators have ignored the wishes of their constituents and the best interests of the country, and caved in before the pressures of appeasement and massive White House lobbying to pass the Neutrality Treaty.

It is widely known that the reason many Senators are taking this position is that the Carter administration has pulled out all the stops and is making offers that apparently they cannot refuse. Cabinet members were asked to come up with pork barrel projects to help sway undecided Senators while the administration offered to change its position on other issues favored by certain Senators and in some cases opposing party members were assured of no opposition in this year's election.

One treaty supporter put it very well when he suggested the President was more like the master of ceremonies at "Let's Make a Deal."

Mr. Speaker, playing Russian roulette at the Panama Canal or with any other part of America is dangerous to the security of the Nation and disastrous to the morale of the people.

Let us hope that Capitol Hill will stop making deals and start making more sound decisions to protect the well-being of the citizens of this Nation.●

## ITALIAN CULTURE WEEK

### HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. ZEFERETTI. Mr. Speaker, the city of New York will soon be observing Italian Culture Week during the week of April 16–23. This occasion is a source of great pride for the millions of Italian Americans not only in New York City, but for those across the Nation.

We stand proud of our rich heritage, for the sons and daughters of Italy have made invaluable contributions in all fields of human endeavor, including science, education, the arts, sports, and other areas too numerous to mention at this time. Their achievements have all too often been ignored by our history books, but these individuals are giants in the hearts of all Italian Americans.

It cannot be denied that the news from our native land has been less than encouraging during the past few months, the most recent incident being the kidnaping of former Prime Minister Aldo Moro. We must keep in mind, however, that this increase in terrorist activity is not unique to Italy alone. These heinous attacks have sadly become a fact of life in nations throughout the world.

The kidnaping of Moro is a further indication that no government or amount of protection can adequately thwart terrorism. There is no doubt in my mind that Italy will survive this tragedy, but its recovery can be hastened if the United States and other democracies throughout the world offer their support. That is why I have joined many of my colleagues in cosponsoring House Resolution 1082, which expresses Congress condemnation of the Moro kidnaping and terrorism around the globe.

The political and social unrest inherent in today's Italy cannot dim the lure of that country's art, music, landmarks, and other contributions that have enriched the history of the world for untold centuries. That nation has withstood the turbulence of numerous wars, earthquakes, and other disasters—both natural and manmade—that have destroyed weaker nations, and I remain firm in believing that today's turmoil will also be overcome.

We, of Italian heritage, must rally behind our homeland during these trying times, and I again remind all Americans of the valuable contributions made by Americans of Italian descent. Having helped found and expand our United States, they continue to play a vital role in the strengthening of our country.

I, for one, am proud of my Italian heritage, and I applaud New York City officials for declaring this week of salute to Italy and its descendants.●

## VANCE SPEAKS ON FREE TRADE

### HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. SIMON. Mr. Speaker, I would like to call to my colleagues' attention a recent speech by Secretary of State Cyrus Vance, "America's Stake in an Open Trading System."

Some sectors of our economy are threatened by imports. In my own district, shoe companies and other industries have been hurt. I support the efforts being made by Ambassador Robert Strauss and others in the administration to insure that our trading partners are playing the game fairly. We appear to be moving well in the right direction.

I also favor programs, such as economic adjustment assistance, that help workers in this country who have lost their jobs due to imports. Because of my concerns about the impact of foreign trade, I have joined the Congressional Steel Caucus and the House Informal Working Group on Textiles.

I am also concerned, however, about the trend toward protectionism that appears to be evident in this country and among many Members of Congress. As Secretary Vance points out in his speech, protectionist actions by the United States would do direct harm to our own interests.

Before we consider any protectionist moves, we should remember that if we restrict trade, other countries will do the same. This occurred in the 1930's with disastrous consequences. The costs to the public of such actions at this time would also be disastrous. One of every eight manufacturing jobs in this country depends on exports, and each of these jobs create another one in a supporting industry. Every third acre of American farmland produces goods for export. In my State of Illinois it is one out of two acres. Exports contribute a total of $200 billion to our gross national product. Many of our industries depend on imported materials to produce their final goods.

If we invoke protectionist policies, our consumers would suffer from rising prices and rampant inflation. As many as 10 million jobs would be jeopardized. American consumers and workers would be the losers.

Secretary Vance's speech is an effective antidote to protectionist pressures, and I would like to insert it, as well as a column I wrote some weeks ago on international trade, into the RECORD at this point:

AMERICA'S STAKE IN AN OPEN TRADING SYSTEM

(By Secretary of State Cyrus Vance)

I am delighted to have this opportunity to meet with you today. I want to talk about the stake of every American citizen in maintaining an open international trading system.

In the 30-plus years since World War II, we have enjoyed a mounting level of prosperity. Our people have enjoyed the fruits of an outward looking economy, vigorously engaged in a steadily more open and active world commerce. We have grown from a $200 billion economy to a $1.9 trillion economy, in no small measure because we have seized the opportunities afforded by our superior technological and industrial capabilities to expand the reach of our economy to every corner of the globe. We have been able to do this because we have succeeded in fostering a progressively more open world trading system, one that has enabled us to generate new markets, new jobs, and new choices for the American consumer.

In 1962 President John Kennedy told us that a rising tide of international trade would lift all boats. He was right. Our commitment to vigorous world trade has served us well.

At this moment, however, we face unusually difficult strains on our economy. There is a strong impulse to abandon our commitment to an open world trading system—to draw our wagons into a circle.

Let there be no mistake about the sensitivity of this Administration to the reality of those strains and the necessity to deal, constructively and effectively, with the causes and the consequences of current economic difficulties. Unemployment is more than a statistic to a family without a job. Inflation is a corrosive that eats away at the hope of every American for a better future. The damage to a community when a factory shuts its gates can be devastating.

As the President indicated in his State of the Union Message, bolstering our domestic economy is at the top of this Administration's agenda. The comprehensive economic program which the President submitted to Congress in January presents the clear outlines of a coordinated strategy to expand our industrial productivity, to create new job opportunities, and to develop a more consistent and dependable economic climate for private investment and trade.

We all share the same economic goals: to keep our recovery on course; to enhance the economic security and well-being of our people; and to assure that the benefits and burdens of a dynamic economy are equitably shared. But we must be careful how we pursue these goals. We must avoid short-term responses to current pressures that mortgage our future interests. We must resist the temptation to insulate ourselves from international economic competition, for we are a nation that thrives on world trade. We cannot lose sight of one simple proposition: To buy from us, other nations must be able to sell to us.

It is essential to recognize that the economic strains that we feel are by no means confined to the United States; indeed, our economy is strong when compared with most of our trading partners. The sharp increase in oil prices in 1973–74 sent world inflation rates upward and helped push the world economy into recession. Recovery has been slow. Unemployment is unacceptably high. Large surpluses have been accumulated by some of the oil exporting countries while the consuming countries grapple with the corresponding deficits. These deficits lead countries to try to import less and export more, something which all countries obviously cannot do simultaneously.

These strains create pressures here and abroad to turn to policies that restrict trade. Until now, the industrial countries, despite these unprecedented economic stresses, have, for the most part, resisted the rush toward trade restriction. But if we should turn down the road toward protectionism, our major trading partners would face irresistible demands to impose their own barriers. And the developing countries, caught in the squeeze between high energy prices and narrowing export prospects, would be forced to restrict their imports as well.

The American people have a vital interest in a progressively more open trading system. We have far too much at stake to benefit, in any lasting sense, from a new wave of international protectionism.

One out of every eight manufacturing jobs in the United States depends on exports. For every one of those jobs, another one—in a supporting industry—is created.

Every third acre of U.S. farmland produces for export. Each dollar of those agricultural exports stimulates more than a dollar's worth of output in a food-related industry.

Today, one out of every three dollars of U.S. corporate profits is derived from international activities.

Exports of our goods and services now contribute nearly $200 billion to our gross national product.

Two-thirds of our imports are essential raw materials, or goods we cannot readily produce. From automobiles to newspapers, from jet aircraft to household appliances, many of our industries depend upon imported materials.

What I have just described is the profile of a nation whose prosperity depends upon an open trading system.

The impact of America's trade with the world is felt in each of your states. Let me cite just a few examples.

For the State of Washington, international trade accounts for a substantial part of the $5.6 billion in aircraft equipment which the United States exported in 1977.

Nebraska contributed about 11 percent of the $5.6 billion of feedgrains we exported in 1976.

Ohio has a vital interest in international trade as well. The tire, steel, and electrical equipment industries in Ohio depend upon imports of critical materials such as natural rubber, manganese, and cobalt.

For Oregon, the importance of trade is clear. In 1976 more than 8 percent of total U.S. exports to Japan, more than 12 percent of our exports to Korea, and more than 25 percent of our exports to India passed through Oregon's ports.

I could go on: with Arkansas, which contributes more to our exports of poultry and rice than any other state; with Massachusetts, which contributes substantially to our rapidly growing exports of electrical and health care equipment, as well as computers and accounting machines; with Texas, which is a major exporter of cotton and industrial chemicals; with New Jersey, where foreign trade provides a livelihood for about one in five workers.

In all, 22 states have established offices in Europe and Asia to promote trade and to encourage foreign investment in the United States, evidence of the direct concern you have demonstrated in fostering vigorous international competition.

There are, of course, sectors of our economy that are threatened by imports. It is tempting to think that we can solve many of our economic problems by insulating these industries from import competition. But the costs to the American public would be enormous:

Consumers—particularly poor and middle income Americans—would suffer. They would pay more for what they buy and they would have less choice.

Inflation would be fueled. Import restrictions not only push consumer costs up, they add substantially to producer costs as well, driving prices upward and undermining the competitiveness of many of the goods we produce.

Jobs would be jeopardized. If U.S. consumers have to spend more on some items because of import restrictions, they will have less to spend on other goods and services, the great bulk of which are produced here at home by American workers. And just as important, protectionism against our trading partners breeds protectionism by our trading partners against us. Nearly 10 million American jobs depend on our exports. No Administration committed to protecting the jobs of every American worker should embark upon a course that could unleash a new and danerous era of trade warfare.

In short, we cannot protect jobs in some industries without endangering the livelihood of more workers in other industries. We cannot solve the problem of an unemployed steel worker in a way which costs a machinist his job. Our policy must look to the future of both. We must continue the momentum of the last three decades toward more open trade among nations, while at the same time we deal fairly and humanely with short-term dislocations.

Let me discuss the steps this Administration is taking to pursue both our immediate and future goals.

First, we are engaged in a major and comprehensive effort to devise a more open and equitable trading system. We are seeking in the multilateral trade negotiations in Geneva, along with our trading partners, to achieve a comprehensive reduction—and sometimes elimination—of industrial tariffs and an easing of barriers to our vital agricultural exports.

This effort, if successful, will stimulate expanded opportunities for world trade. But more than tariffs are involved in the Geneva negotiations:

We are working toward international rules that limit the use of government procurement policies and subsidy practices that distort trade;

We are seeking to reduce or eliminate a variety of other nontariff barriers which impede trade; and

We are making a serious effort to improve international procedures under which governments take actions to protect their citizens against sudden surges of imports.

The negotiations in Geneva will establish the framework of world trade for years to come. This will involve tough negotiating in the months ahead. Some argue that we should pull back and wait out this period of economic uncertainty. We believe just the opposite: that successful completion of this major effort to expand trade and strengthen its international rules will increase business confidence and spur our recovery. Ambassador Bob Strauss is determined to bring back a package of agreements that will bolster our economy and those of our trading partners. We look to you for guidance and support as this process unfolds.

Second, as we work to secure enduring improvement in the world trading system, this Administration will fully and vigorously enforce the laws which have been enacted to stop unfair trade practices aimed at American industries. American workers must be confident that their Government will insist that all nations play by the rules.

We must also insure that our enforcement mechanisms are effective. In the case of steel, where widespread "dumping" threatened to overtake our enforcement capabilities, we developed a "trigger price" device to enable us to respond promptly and effectively to this unfair trade practice. Although steel has been the most prominent case recently, it is not the only action we have taken against unfair practices. We have moved to prevent dumping of other products, and have taken countervailing duty action against such items as leather goods from Latin America and fish from Canada.

We also intend to carry out the mandate of the Trade Act of 1974, which provides for temporary relief to industries injured by imports. The disruption caused to families and communities by particular trade problems cannot be ignored. Under this authority, the Administrtaion during the past year negotiated orderly marketing agreements with Taiwan and Korea for shoes and with Japan for color TV sets.

In implementing these laws we will adhere to the principle that our actions must be temporary and limited only to the minimum relief necessary. Such measures should not become permanent. Trade relief should provide breathing space for adjustment, not a subsidy for inefficiency.

Third, we must stimulate lagging U.S. exports. On December 21, the President announced steps that will enable us to respond more creatively and energetically to export opportunities. He has asked Congress for an unprecedented $15 billion expansion of direct lending authority for the Export-Import Bank over the next five years. And he has directed the Department of Commerce to vigorously assist U.S. exports, in ways that are consistent with an open trading system.

Finally, we must insure that no segment of the population is forced to bear the burden of a more open trading system without being helped to find new opportunities. The Administration is committed to making trade adjustments assistance more effective. The delivery of benefits to displaced workers and communities must be accelerated. We have been experimenting with new types of programs, such as one in the footwear industry, where teams from government and industry are working together to improve the competitiveness of our firms.

We cannot prevent change. Our economy is dynamic and it must remain so. But we can and must help affected industries and workers to adjust to change—through modernization, retraining, and facilitating shifts of resources to more productive sectors.

Trade policy alone cannot carry the entire burden of solving this Nation's economic problems. We must also have an effective energy policy and we must have it soon. Unless we curb our unchecked appetite for foreign oil—on which we spent $44.6 billion last year, or 30 percent of our total import bill—we will not begin to reverse the $30 billion U.S. trade deficit. We must take the difficult steps that are required to reduce our requirements for imported oil and to promote the development of other energy sources. Both for our energy and trade needs, passage of domestic energy legislation is imperative.

Nor can we solve our economic problems by ourselves. No single country or group of countries can shoulder the adjustment to a changing world economy. Some successful exporting countries have been seen as taking advantage of the relatively open U.S. market, while at the same time restricting their markets to imports. This contributes to protectionist pressure among their trading partners.

We recently concluded a series of intensive discussions with Japan leading to its commitment to open its markets further. Japan has also announced its plans to accelerate its growth. The fact that we encouraged Japan to open its market to imports rather than to restrict its exports illustrates a basic principle of our trade policy: that whenever possible we will resolve our problems with an "outward" or trade expanding orientation.

An outward looking trade policy is not a luxury for the United States. It is pure economic necessity. Even more than our trade is at stake. For, if we let ourselves slide into the unpredictable business of protectionism, international investment, monetary affairs, and international development will also suffer. We would be fostering a kind of nationalism which could shake our alliances and undermine our efforts to build international cooperation across the entire range of pressing global issues.

Protectionism is a dangerous gamble in which everybody loses. That is the indelible lesson of history. A wave of trade restrictions in the early 1930's deepened a worldwide depression. The desperate economic situation that existed then in Europe certainly contributed to the popularity of authoritarian movements. Today we cannot close our eyes to the relationship between economic growth and political stability around the world.

Today, as much as in any period of our history, American leadership is called for. Others are looking to us. Unless we demonstrate our resolve to move toward a fairer and more open trading system, such a system simply will not evolve. Unless we adjust to a changing international economy—an international economy in which we have a major stake—America's interests will seriously suffer.

We will need your help. Together we can meet the immediate challenges that face us without endangering our future. And together we can work to build an international economic system that expands opportunity and fosters peace.

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## The International Trade Dilemma

(By Congressman Paul Simon)

How much Japanese steel should the United States permit to enter for sale here? How many pairs of shoes from Taiwan and Korea should be permitted to enter the U.S.? What should we do about imports of textiles into the United States? Should we require Mid-East oil to come to our country in U.S. ships?

These are among the questions Congress and the President are struggling with these days.

What is at stake are American jobs, jobs in others countries, inflations and our relationships with other countries.

And there are no easy answers.

If we restrict the ability of other nations to sell to us, they restrict our ability to sell to them. One out of every eight U.S. industrial jobs is dependent on exports. In Illinois roughly one out of every two acres of farmland is used for exports.

So there is a danger that if we protect ourselves in one area, we will hurt ourselves in another.

Steel provides a good example. Steel production is down about 20 percent from 1973. That means a great many steelworkers are out of jobs. And it is getting worse. A simple way to solve part of the problem would be to put greater restrictions on steel imports (primarily from Japan) to the United States.

But another Illinois corporation, Caterpillar, is one of the nation's largest exporters and thousands of Illinois jobs are dependent on those Caterpillar exports. About five percent of the steel Caterpillar now uses comes from foreign producers, the other 95 percent from U.S. steelmakers.

If the United States makes too big a fuss over that five percent from foreign markets, we stand a chance of losing substantial sales of Caterpillar products overseas, hurting the people in Peoria and Joliet and Decatur who manufacture Caterpillar, and hurting the steelworkers who make the 95 percent of the American steel Caterpillar now uses.

Steel companies all over the world have been having a tough time during this recession. The best answer to all of these problems is to get the world economy moving again.

But U.S. steel problems have been aggravated by cost increases substantially greater than the general inflation trend. In the past

five years industrial prices generally have risen 55 percent, while steel has gone up 79 percent.

Factors which have caused this include:

A 66 percent increase in hourly wages.

Coal, iron ore and steel scrap have all risen more than 100 percent.

Stricter environmental standards.

It costs Japan 15 to 20 percent less than U.S. manufacturers to produce a ton of steel. When you add transportation costs for shipment from Japan, they can sell for about five percent less than the U.S. producers.

And there are some who charge that U.S. steel manufacturers simply have not kept up with steel producers in other countries in modernizing and using the latest production techniques.

One of the things that can be done to protect U.S. workers is to provide better job guarantees in the United States. This would help promote peace of mind among the workers and their families.

Second, import laws which already exist should be enforced with much greater firmness. The old business of winking at violations of foreign import regulations has to be made a thing of the past.

Agreements we have with other countries have to be enforced more rigidly.

The long-run interest of the United States is to encourage trade with other countries, but in the meantime workers and businesses adversely affected need greater protections than they now receive.●

## HOMEBREWERS SEEK AMENDMENT TO HOMEBREW BILL

### HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. DELLUMS. Mr. Speaker, several constituents of the Eighth California District are among the many thousands of persons who brew small amounts of beer for personal consumption. They have followed with interest the course of legislation regarding the licensing and production of homebrew. While they believe that the time for legislation is right and that a bill concerning homebrew is a useful step in controlling any possible abuse of the activity, they believe that several amendments are required to achieve equity between home winemakers and those who brew beer.

While the bill has been passed by this House and is now pending in the other body, I would like to share with my colleagues in the House the text of a petition which is presently circulating among home winemakers and brewers. These individuals will be attempting to secure amendment in the other body and if they are successful, I would urge my colleagues in the House to reflect on their concerns and accept these amendments:

PETITION TO OUR U.S. SENATORS

On March 14, 1978, the House of Representatives passed a bill, H.R. 2028, that would abolish two present restrictions on home wine-making. But it would also establish three restrictions on home brewing of beer. That is, the bill does not treat beer and wine alike.

We ask the U.S. Senate to adopt three amendments to provide equality for home-made beer and wine:

1. The bill would abolish registration for wine-makers, which the sponsor of H.R. 2028 says "has proven to be of little use to the Federal Government and is burdensome to the public." We ask that registration for beer-makers be eliminated from the bill.

2. We ask elimination from the bill of the limit of 30 gallons of beer in a household at any one time. It provides no such limit for wine. Both beer and wine must be aged for months, so several batches can be around the house even though little is being consumed.

3. We ask annual limits based on the amount of alcohol in beer and wine, not on the amount of water. The present bill would limit both beer-making and wine-making to 100 gallons a year for single individual-households, 200 gallons for larger households. Because beer contains less than half as much alcohol as wine does, we ask limits for beer of 200 gallons and 400 gallons.

With these amendments, the bill would be a good one, establishing controls without unfair restrictions "burdensome to the public." ●

## MAD DOCTRINE

### HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. STARK. Mr. Speaker, I am slowly becoming convinced that the doctrine of mutual assured deterrence is indeed MAD. We have now developed the neutron warhead, a weapon that destroys people with minimum property damage, and it is hailed as progress. Through the existence of such a "selective" weapon commands a certain perverse fascination, we must recognize that the neutron bomb can only increase the chances of nuclear war. Through adherence to the MAD doctrine, we have now created a weapon whose sole merit is that it will frighten the other side because it is so usable. This is supposed to contribute toward stability.

The bomb is designed to deter a conventional attack on our NATO allies. Should Soviet troops and tanks swarm across our lines, however, these eminently practical warheads could be shot toward them from as close a range as three-quarters of a mile. Having scared the other side sufficiently, we could then regain control of our allies soil and nary a farmhouse would have been damaged.

Right?

Wrong.

Once any nuclear weapons are used in battle, the barrier barring their use is destroyed. The use of neutron warheads would blur the distinction that exists between conventional and nuclear weapons and there would be nothing to stop further escalation. Moreover, even if we did try to deter an attack by conventional means, it is doubtful that a field commander whose lines of communication have been cut and whose troops are being threatened would hesitate to use the most "effective" weapon at his disposal.

It is my fervent hope that President Carter will be true to his first inclination and bar further funds for this dangerous weapon. We cannot allow advances in weapons technology at the cost of world peace and security. The continued development of the neutron bomb threatens both.●

## GIVE DISC A CHANCE

### HON. MICHAEL T. BLOUIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. BLOUIN. Mr. Speaker, recently I offered testimony to the House Ways and Means Committee on why I believe the Domestic International Sales Corp. (DISC) should be continued and not be phased out as is currently proposed in pending tax reform legislation. Moreover, I attempted to specifically draw attention to the fact that DISC has made a significant contribution to the overall economic well being of my home State of Iowa.

Mr. Speaker, it does not appear to be coincidental that many are reevaluating their position on DISC. For instance, it might be well to point out that in a recent survey conducted by the National Federation of Independent Businesses (NFIB) of those responding 52 percent of their membership favored the continuation of the Domestic International Sales Corp.

I am committed to the continuation of DISC as a means to expand this country's export markets, as well as aiding in the fight to reverse the serious trade imbalance we are presently experiencing. It is for this reason, therefore, that I would like to insert into the RECORD at this time my recent comments on this subject for the House's consideration.

The comments follow:

From time to time an individual has to step back and re-evaluate one's position as it relates to programs that are periodically considered by Congress. As times change, new situations arise, and subsequently one has to attempt to use a little common sense when considering whether to continue to eliminate programs. After many months of reviewing the "pros" and "cons" concerning this particular matter, it is my conviction that to eliminate DISC would be unwise. Moreover, it is my belief, that the Domestic International Sales Corporations, as it is presently structured, clearly offers itself as a vehicle to aid the overall domestic economic picture that we must all admit has not been very positive as of late.

My question is, will we have the wisdom to give this program a legitimate chance?

Most small U.S. companies fail to become involved in export matters for a variety of reasons. Not only is there substantial initial and ongoing costs in becoming involved in export activities, but there is the chronic shortage of capital that often prevents small companies from expanding their facilities to handle export activities. Moreover, when you couple this with the fact that export receivables, unlike their domestic counterparts which are normally payable in thirty days, usually require 180 or longer, and are often not financeable through U.S. banks (not to mention associated currency fluxuations and inflation risks), it often dissuades this country's small firms from electing to vigorously adopt an exporting posture. Additionally, smaller U.S. companies often find themselves losing foreign sales to foreign competition given that they are locked into the position of demanding firm letters of credit prior to the consumation of an export deal.

It was for reasons such as these that the Domestic International Sales Corporation

was originally created. It should be noted, however, that these were not the only reasons why this preference was enacted.

As a result of the declining competitiveness of U.S. firms in the 1960's, many firms then involved in exporting products began to re-evaluate their overall "marketing strategy." Some U.S. firms began servicing their foreign markets through the use of marketing agreements, while others established foreign manufacturing facilities. Worst of all, many U.S. companies began withdrawing from export markets completely. To exacerbate this situation, the U.S. was then experiencing a negative trade balance.

While admittedly this trade imbalance was not as profound as it is now, our government, as well as the Congress, had the foresight to seek the means by which to provide the psychological, as well as capital incentive necessary to enter, as well as to maintain, existing domestic export operations.

In my opinion, DISC has served to stimulate exports in several very important ways. It has encouraged companies to begin or expand its export operations; it has provided the necessary capital to expand its export facilities, as well as provide the necessary cash flow to deal with slow export receivables; and, has served to stimulate our domestic economy by encouraging domestic firms to service international markets from at home rather than enter into marketing agreements or to establish manufacturing plants abroad. Moreover, with the adoption of the DISC "incremental rule" as a part of the Tax Reform Act of 1976, i.e., one-half of the DISC income in excess of 67% of the four-year base period is deferred from taxation, I feel that those who have been critics of DISC in the past should be satisfied given that this "rule" guarantees all concerned that no firm will be able to continue claiming this preference unless they continue to expand their export activities. Additionally, it should be noted the existing statute requires that at least 95% of both DISC income and assets must be reinvested in export-related activities.

According to Frank A. Weil, Assistant Secretary of Commerce for Industry and Trade, there are about 300,000 manufacturing firms in this country and of the 50,000 plus firms that have export potential only about 25,000 are actually exporting now. The logical question that might be asked is why are one-half of these firms not electing to export? In my opinion, the answer is painfully clear—why take the risk!

There are quite a few small businessmen in my district who have told me that even with the risks involved, they would very much like to establish a DISC, but wisely rationalize "why should I go through the motions when there is going to be a continuing 'battle' " waged year in and year out to discontinue DISC incentives. To tell you the truth, I don't really blame them, given that the present legal and accounting costs associated with complying with the complex DISC legislation in already quite burdensome—an area I might add that could stand reform and simplification.

I would like to point out that in my part of Iowa, DISC is creating jobs; DISC is allowing businesses to expand; but most importantly, DISC is contributing to improving the overall economy, which needs all the help it can get at this particular time. Moreover, if there are those who have their doubts about the effectiveness of DISC, I would certainly welcome them to visit Northeastern Iowa so they can personally see companies that have grown through DISC and the jobs that have resulted through this program.

Last month it was my privilege to have had one of my constituents, Mr. Tom Parks, President of KWIK-Way Manufacturing of Cedar Rapids, Iowa, testify before this Committee. Mr. Parks, in my opinion, not only gave one of the best "common sense" defenses of why DISC should be continued, but he also showed how DISC had legitimately contributed to employing individuals and stimulating Iowa's economy.

Let's consider just on part of Mr. Parks' testimony:

"Since 1971 our export business has grown from $1.1 million annually or about 6.2% of sales, to $5.6 million in 1976 or 36.2% of sales, 1976 being the last year on which audited figures are available. Translated into jobs, 144 people of approximately 400 people employed in our modest operations are now totally dependent upon export for their employment. 144 people approximates our total employment in pre-DISC days, evidence that an encouraged and properly operated business grows, improving our tax base."

To me, this statement is one reflective of why the Congress should continue DISC. Why? Because DISC is helping firms to grow and to employ more people. Mr. Parks' firm is not an isolated example. In fact, there are many firms in Iowa who are taking advantage of DISC and can show positive accomplishments as a result.

It seems only equitable that this government should provide some type of incentive to American firms if for no other reason than their foreign counterparts are currently receiving export incentives from their respective governments in the form of tax advantages and direct subsidies. Our trading partners have gone to great lengths to stimulate their exports, the result being that exporters in foreign countries have a decided advantage over their U.S. counterparts.

As this country faces a continually growing trade deficit, it might be well to reflect on the comments of Assistant Secretary of Commerce Weil, who stated quite some time ago that this country needs "a plan of action, a plan that translates into an overall export strategy." I could not agree with him more! In my opinion, however, this country will fail in this regard if it decides to eliminate DISC.

I will be the first to admit that the continuation of DISC will not by itself solve our present trade imbalance. I would submit, however, that DISC serves as an important element expanding this country's export markets abroad, and in stimulating our lagging domestic economy.

In considering the Tax Reform proposal now before the Congress, it is time for us to show that we are committed to a vigorous export policy by not eliminating the Domestic International Sales Corporation.●

## THE 100TH ANNIVERSARY OF THE SOUDERTON INDEPENDENT

### HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. SCHULZE. Mr. Speaker, on April 19, 1978, the Borough of Souderton will honor its community newspaper, the Souderton Independent, as it celebrates its 100th anniversary. I would like to join my constituents in congratulating this paper for its century of public service as it begins its second hundred years under the aegis of the descendants of the paper's founder.

In April 1878, W. F. Goettler founded the Independent which has since become a backbone of the Souderton community. Now, a century later, the four great-grandsons of Mr. Goettler are still publishing the paper in the same tradition of integrity and quality established by their great-grandfather. This weekly paper which serves over 6,500 homes in the Indian Valley community, has provided an invaluable public service. A community paper provides a vital link in the chain that binds the community and its people together. The Souderton Independent has provided informative yet entertaining and responsible journalism for the people of its community for many years.

I join my constituents in lauding the Independent for its long service to the community and for the many distinguished achievements of its first 100 years. I send my heartiest congratulations to the Moyer and Fenstermacher families as they begin the second century of publication of this family paper.●

## SMALL BUSINESS LOAN INTEREST RATE CHANGES

### HON. W. HENSON MOORE

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. MOORE. Mr. Speaker, I voted against H.R. 11445 yesterday due to the provision in the bill to increase disaster loan interest rates to 5 percent instead of continuing the present 3-percent level for loans to small business. I concur with the extension of present low interest rates for disaster loans to homeowners as well as other features within H.R. 11445 of benefit to small business, but I find the increase in disaster loan interest rates for small business to be unwarranted and prejudicial.

My objections center upon title I of H.R. 11445 and concur with my opposition to S. 1306 defeated on the House floor on November 1, 1977, when a nearly identical move was attempted to increase small business disaster loan interest rates to 5 percent for loans issued during the first 9 months of this year. It was ill-advised to attempt to increase these interest rates then and remains wrong today. Small businesses which would be aided by a $250,000 maximum loan at 3-percent interest are primarily independently owned stores and businesses that are family operated. These "mom and pop" small businesses simply do not have the operating capital or economic nest egg to rebound from a severe flood or natural disaster. Many have to take out a second mortgage on their businesses or refinance their homes in order to recover. Those who need an SBA loan larger than $250,000, pay the 6⅝-percent interest rate to make the program self-supporting. Thus, it is geared to benefit small business most.

With last year's rejection of higher interest rates for small business disaster loans, a commitment was given to thoroughly study the interest rate structure prior to any change from existing policies. I am not a member of the Small Business Committee, but information available to me shows no study has been forthcoming. In other words, the House has acted to continue low homeowner in-

terest rates, but not those for small business without substantive justification for taking either action.

I support the preservation of the existing 3-percent interest rates for small business loans and action taken within H.R. 11445 of benefit to individual homeowners.●

## CARTER PROPOSAL HEARTENING TO HUNGARIAN PEOPLE

### HON. JAMES M. HANLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. HANLEY. Mr. Speaker, I recently received a letter from Tibor Helcz, the national chairman of the Federation of Hungarian Former Political Prisoners, concerning President Carter's proposal that Hungary be granted most-favored nation status. The organization, consisting of former prisoners of Nazi and Communist prison camps, is dedicated to the cause of seeing full human rights extended to the people of Hungary. They should be congratulated for their work to assure Hungarian compliance with the Helsinki accords. Indeed, this is why it is particularly heartening to hear that they endorse the granting of most-favored nation status to Hungary. Hopefully, the creation of a warmer climate between our two countries will result in great improvements in the basic human rights of the Hungarian people.

Mr. Helcz has communicated this message to Secretary of State Cyrus Vance, and because of its importance I would like to insert a copy of this letter in the CONGRESSIONAL RECORD, assuring that this body will have this organization's views before it when we consider the issue.

The letter follows:

FEDERATION OF HUNGARIAN
FORMER POLITICAL PRISONERS,
*Syracuse, N.Y., March 24, 1978.*

Hon. CYRUS VANCE,
*Secretary of State, The Department of State, Washington, D.C.*

DEAR MR. SECRETARY: We, The Federation of Hungarian Former Political Prisoners, have frequently expressed our support for a proposal by the United States to grant Hungary "most favored nation" status. Recently, we were pleased when the State Department announced the Hungarian and United States governments signed a new trade agreement, as Hungary is now placed in the same special category as Poland and Romania by lifting restrictions on imports in return for freer emigration.

We must stress first and above all that the Federation of Hungarian Former Political Prisoners is a human rights movement. Each of us has survived long years of imprisonment and untold anguish in Nazi and Communist (or both!) prison camps. For this reason, we are solidly dedicated in our struggle to obtain human rights for our fellow Hungarians in Soviet-dominated Eastern Europe and to obtain release of Hungarian political prisoners.

Reportedly, the U.S. Government claims that Hungary is the most "liberal" of all Communist-bloc countries. We must insist, however, that the Red-dominated Hungarian government indeed does *not* guarantee citizens the basic human rights adopted by the Helsinki Accords four years ago. We offer examples:

First, while Hungary agreed to accept a linkage between trade and emigration of Jewish persons and other minorities, we are much more concerned about emigration in a far broader term. According to latest statistics, Hungary has only 2 percent minorities, including 1 percent Jewish. We find it only fair to ask you, Mr. Secretary, to intervene for the same rights for 98 percent Magyars, who are 55 percent Roman Catholic, 20 percent Calvinist, 5 percent Lutherans, and the remainder of other faiths.

Secondly, travel and emigration by young Hungarians to the West falls into an area of the strictest control by Communist authorities. It is futile, if not impossible, for a Hungarian family to obtain a visa to the West, as some members must remain behind as hostages. Family reunifications are at a standstill, with authorities employing intimidation, harassment, and imprisonment against those who persist in exercising their human rights. When Hungarians are denied legal means of emigration, they are then left with the risky, often lethal avenue of escape from their country.

Section 203/1 of the Hungarian Penal Code prescribes sentences of from six months to five years imprisonment for attempts to cross the border without permission. Incidents of border shootings are not uncommon.

Amnesty International, the 1977 Nobel Peace Prize-winning human rights organization has adopted Sandor Rudovics, a twenty-seven year old factory worker, from the city of Szombathely, who with his wife, departed Hungary in 1973 for Austria, leaving their baby daughter behind.

"The authorities refused to grant permission for their daughter to leave Hungary to join her parents. On October 10, 1974, Sandor Rudovics returned to Hungary and tried to leave the country with his daughter without official permission. He was arrested and sentenced to two years imprisonment on charges of crossing the frontier illegally. After spending two years in prison, Sandor Rudovics made another attempt to cross the frontier in August, 1976. He was again arrested." (Amnesty International Report, 1977, Page 255) This persecution is a direct violation of the Helsinki Accords.

The other well-publicized case in connection with the supposedly guaranteed "freedom of travel" is Jeno Farkas' arrest in an aborted escape from Hungary on April 27, 1977, his eighth attempt. He previously languished for 8½ years in Hungarian prisons for his desire to leave the country. We can cite hundreds of cases such as Rudovics' and Farkas'.

Thirdly, another area we are most deeply concerned with on the human rights issue is lack of freedom of speech in Hungary. "Agitation," the catch-all category of the Section 127 of the Hungarian Penal Code, prescribes prison sentences of up to eight years for acts liable to "incite others" to "hatred" directed against the State and international relations of Hungary. His code is a suppression of any criticism of the government.

According to official Hungarian statistics, at least 100 citizens were convicted of such "incitement" in 1975. Later figures were denied us.

The case of Dr. Maria Dombovari-Lorincz, a medical doctor from Budapest, is a sad example of freedom of speech in Hungary. She was charged in 1977 under Article 127/6 to "incite hatred against alliance and friendship between Hungary and other countries." Dr. Dombovari had publicly denounced the presence of Soviet troops stationed in Hungary since 1956. For this, she was sentenced to an undisclosed term in prison.

Fourthly, while Hungarian authorities have long been sentencing citizens to serve prison terms for expressing desire of national independence, we American-Hungarians have openly and freely espoused total withdrawal of Soviet troops from Hungary as one of the conditions for returning the Holy Crown of Saint Stephen to Hungary. This condition, however, has not been met, and this holy relic, (a revered symbol of our national heritage) is being returned despite the existence of tyranny in our native land.

In addition, after the American and Hungarian authorities signed the recent trade agreement, Hungary "persuaded" four leading dissidents to leave the country. These dissidents were among those Hungarian intellectuals who in late 1976, sent an open letter of solidarity to signatories of Chapter 77 in Czechoslovakia. By exiling them to the West, the Communist-controlled Hungarian government again demonstrated rejection of freedom of speech.

We stand behind President Carter in his attempt to grant "most favored nation status" to Hungary. We firmly believe his dedication to human rights will create a warmer political atmosphere in which our Federation's desire for amnesty to political dissenters in Hungary and a full implementation of the Helsinki Accords will become a reality.

We would be most grateful, Mr. Secretary, for your supporting our Federation's efforts. Be assured, we shall persist with firmest determination and faith in our endeavors to restore fundamental human rights in our native Hungary.

Respectfully yours,

TIBOR HELCZ,
*Chairman.*●

## NO REMOVAL OF MILITARY BASES WITHOUT AN ACT OF CONGRESS

### HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. HANSEN. Mr. Speaker, the House on February 28 took an unheralded but significant stride toward forcing recognition of the constitutional role of the U.S. House of Representatives in consideration of the proposed Panama Canal treaties.

Working with the leadership and staff of the House Armed Services Committee I introduced a bill H.R. 11201 now cosponsored by over 80 percent of the committee's members designed to block any transfer of military bases in the Panama Canal Zone without action by both Houses of Congress.

This bill has been referred to the jurisdiction of the Armed Services Committee, and the overwhelming support evidenced among its members should indicate the possibilities of early consideration and passage which I am now urging with the cooperation and help of key committee members.

This action adds strength to my resolution pending before the House Merchant Marine and Fisheries Committee which now has 237 cosponsors, well over half the Members of the House, demanding that the House as well as the

Senate act in any transfer of U.S. property in Panama—a resolution which is being urged to early floor action by discharge petition which is rapidly moving toward the necessary number of signatures.

Since this legislation has the support of the chairman and a large majority of committee members as cosponsors, there is considerable likelihood that the legislation can be moved along at an early date, if necessary, to adequately impress upon the Senate and this administration that the House will not be bypassed and trifled with in its responsibilities to the American people.

The administration since last November has promised and not delivered implementing legislation for the proposed treaties and more and more Members are concerned that the treaty process consideration will go too far too fast before the real facts are made available to the Congress.

This has made the huge unprecedented effort of assertion of rights by the House of Representatives necessary.

What it boils down to is not just a fight over giving away the Panama Canal but a possibly even more important fight over giving away basic constitutional safeguards protecting the peoples' interests.

I have formally requested expeditious committee action and the following resolution signed by a majority of the members of the Armed Services Committee urging early consideration of the bill was presented to the chairman to signify firm support for whatever expediting steps he deems necessary.

The resolution, a letter, and a bill follow:

RESOLUTION UPHOLDING BASIC CONSTITUTIONAL AUTHORITY OF CONGRESS

In support of legislation to prohibit the transfer or other disposal of any military installation located in the Panama Canal Zone without the specific authorization of Congress

Whereas, the United States Government has enjoyed right of access, possession, ownership, and title to the Panama Canal Zone as defined by previous treaties and enactments of law through payments to French interests, to the Republic of Panama, to private land owners of the Canal Zone and indemnification of Columbia; and

Whereas, the Supreme Court in the 1907 case of Wilson vs. Shaw ruled that the Panama Canal Zone is titled Property of the United States; and

Whereas, authorization and appropriation of funds by Act of Congress as provided by the Constitution of the United States is necessary and unavoidable for alteration, modification, or removal of military installations in the Panama Canal Zone; and

Whereas, under Article IV of the United States Constitution the Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and

Whereas, under Article I of the Constitution money shall not be drawn from the Treasury, but in Consequence of Appropriations made by Law; and

Whereas, implementing legislation necessary to authorize the conveyance, relinquishment or disposition to the Republic of Panama or any foreign government of any right to, title to, or interest in the property of the United States Government agencies in the Panama Canal Zone or any real property and improvements thereon located in the Zone has not been received timely even though consideration of proposed related treaties is currently in process in the United States Senate,

Now therefore, be it enacted by the House of Representatives and the Senate of the United States of America in Congress assembled. That notwithstanding any other provision of law, no right, title, or interest of the United States in or to any real property located in the Canal Zone which on the date of the enactment of this Act is under the jurisdiction of the Secretary of a military department may be transferred or otherwise disposed of unless such transfer or disposal has been specifically authorized by Act of Congress enacted after the date of the enactment of this Act.

And further, be it understood that we the undersigned petitioners as sponsors of said legislation who among us constitute a majority of well over two-thirds of the House Committee on Armed Services do hereby request of the Chairman of such committee urgent and priority action in consideration of this bill, this consideration being in keeping with a majority of Members of the House of Representatives, as demonstrated by the 223 cosponsors on record in support of H. Con. Res. 347 upholding the provisions of Article 4, Section 3, Clause 2 of the U.S. Constitution.

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HON. MELVIN PRICE,
*Chairman, Armed Services,*
*Washington, D.C.*

DEAR MR. CHAIRMAN: Since the Panama Canal Treaties seem to be in their final stages of consideration before the U.S. Senate, and since it appears that a conscious effort is being made to bypass the House of Representatives through unprecedented applications of the concept of self-implementing treaties, and since it appears that the House will need to assert its authority under Article IV, Section 3, Clause 2 of the U.S. Constitution to act timely in matters of transfer or disposal of U.S. property to a foreign government, it appears necessary that the Committee on Armed Services which has significant jurisdiction in the Canal Zone because of key military installations therein situated, call up H.R. 11201 for immediate consideration.

This legislation has a large number of sponsors including over 80 percent of the Members of the Armed Services Committee and is similar to H. Con. Res. 347 which has 237 cosponsors.

The situation is urgent in terms of the Constitutional authority and responsibilities of the House and this legislation stipulates that "no right, title or interest of the United States . . . in the Canal Zone . . . under the jurisdiction of the Secretary of a military Department may be transferred . . . unless such transfer . . . has been specifically authorized by Act of Congress . . ."

Mr. Chairman, again your early action is respectfully requested to deal with what appears to be a serious constitutional challenge to the traditional authority of the House and our legitimate role as Representatives of the people of the United States.

Sincerely,

GEORGE HANSEN,
*Member of Congress.*

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H.R. 11201

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That notwithstanding any other provision of law, no right, title, or interest of the United States in or to any real property located in the Canal Zone which on the date of the enactment of this Act is under the jurisdiction of the Secretary of a military department may be transferred or otherwise disposed of unless such transfer or disposal has been specifically authorized by Act of Congress enacted after the date of the enactment of this Act.●

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## QUIET STRENGTH

## HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. PICKLE. Mr. Speaker, while we were away from Washington, the Washington Post ran a feature story on Secretary of Labor Ray Marshall on the front page of the Saturday "style" section of March 25, 1978.

Since we did not get to see the story, I want to share it in the CONGRESSIONAL RECORD.

The story is a story of life, and how life can be led when it is difficult, and hurting to go forward. This is an excellent story of the able Ray Marshall and his family:

LABOR'S RAY MARSHALL: WRESTLING WITH PUBLIC AND PRIVATE CRISES

HIS FIRST PRINCIPLE IS NOT TO WORRY ABOUT THE THINGS HE CANNOT CHANGE

(By Jacqueline Trescott)

It was 4 a.m. one Saturday morning last month and Ray Marshall didnt want to go into the Labor Department's auditorium and tell the press the coal talks had broken down. Again.

Marshall was fatigued and finally discouraged. On only a few hours sleep, he had spent the previous 2½ days in an intensified round of bargaining and caucusing, and had been optimistic that an end to the 73-day-old strike was in sight. He had been shuttling between the White House, where the coal operators were waiting in the Roosevelt Room, and his office, where the bargaining council of the United Mine Workers was camped out.

Now all the work and all the hours seemed for naught. And the beleaguered Marshall was tired of black coffee, tired of the spare-rib dinners the staff was ordering for this son of a Louisiana tenant farmer.

This endless night the secretary didn't even try to relieve the tension with a Bob Newhart routine. (His imitation is unrivaled, says his staff.) Everything was unraveling and he hated to say that out loud.

"Folks" said Marshall, hesitating a little as he faced the bleary-eyed press corps, "sorry. we can't reach an agreement. The bargaining council voted down the last offer, 39–0. It looks like it's not going to be possible for us to have a negotiated settlement."

But the painful night was not over for Marshall. As he wrestled with the coal strike, the first major crisis during his 14 months as Labor secretary, he also had been coping with a personal ordeal. Within a five-week period, his son, Christopher, 15, had two operations for cancer. On January 30, Chris had an arm and shoulder removed because of the disease, and underwent a second operation on March 2, after it was discovered the disease had spread to his lungs.

The morning of the pre-dawn press conference, Marshall went home, spent some time with Chris, one of his five children, and was back in the office before 9 a.m.

Yesterday the 160,000 striking UMW members vote on the latest contract offer, the third since Dec. 6. Cautious about the outcome, Marshall prepared two statements, one grateful, one not.

By late evening, it appeared he would be using the grateful one. United Mine Workers President Arnold Miller announced last night the striking coal miners had voted to ratify a new three-year contract and end their 109-day walkout.

"It's been a pretty hard time," said Marshall, 49, earlier this week. To his friends Marshall is known as a man who has two loves, his work and his family. Despite simultaneous crises in both areas, publicly Marshall has not lost his control, congeniality or optimism.

"We were shocked about Chris, partly because it was so sudden, but also because at every turn in the process, things were pretty bad. You think a pain in the arm is a muscle problem or a sprained ligament but it turned out to be cancer. It was a shock," said Marshall, his voice soft and level but the words impeded by his emotion.

The people who saw the most of Marshall, however saw only his stoic side. "I would go home some nights after these negotiations and Helen would ask me what was disturbing me," said Robert Strauss, the chief U.S. trade negotiator who was part of the White House coal strike team. "I told her I was thinking about Ray Marshall, and how that guy was under the tremendous weight of the president putting his confidence in him on the strike matter, plus the burden of his load. I couldn't do it. And I've always thought of myself as a strong man. He was unflappable, he never showed the tension."

Stuart Eizenstat the administration's domestic affairs adviser, noted, "I saw him at countless meetings. He looked fresh, he never showed any strain. And his mind never wonders and you think it would at a time like this."

Patricia Marshall, shy and soft-spoken, has seen this strength before in her husband in their 31 years together. "Ray has never given into any kind of pressure," she said.

His particular resilience and discipline evolved from his own emotional battles as a child. He was very poor, spent five years in an orphanage, and lied to get into the Navy at age 15. By the time he was 48, and selected for the Cabinet, Marshall was a well-established economist at the University of Texas, with an armful of books to his credit and a 75-acre ranch. He believes anybody can beat the odds.

By many different people, Marshall is considered a rare bird. George Meany once introduced Marshall to Alexander I. Solzhenitsyn as one of the few professors in the United States who understood working people. Some people find it surprising, given his background, that he developed what friends call a "guiltless" sensitivity to race relations and focused much of his professional interests on the plight of minorities.

Not everybody likes Ray Marshall, his views, his performance at Labor or his strategy during the coal strike. But he deals with criticism and tough situations with examples of courage he has borrowed from novelist William Faulkner, the late Earl K. Long, the governor of Louisiana, and the apostle Paul.

It's Faulkner he quotes, especially from the writer's Nobel Peace Prize speech: "I believe that man will not merely endure: He will prevail."

MAKING THINGS SIMPLE

"I don't remember not working," said Marshall, putting aside a piece of wire copy he had been doodling on and settling into a corner of his office couch.

Coming from this Labor secretary that statement is not flip but factual. Marshall has the ruddy complexion of an outdoorsman, which he has been at least by hobby most of his life. This afternoon he is not wearing the cowboy boots he wears at least twice a week but a pair of brown oxfords, with a brown and white suit.

Marshall was born in Oak Grove, La., where his father, Thomas, was a tenant farmer. Marshall was Freddie Ray then and he picked cotton and sugar cane. He spoke of his father as a strong man who rejected the fundamentalist religion of North Louisiana as irrational and emotional, and his mother, Virginia, as a sensitive, largely self-taught woman, who gave him his first lessons in race relations.

"We had black neighbors and my mother said to address them 'Yes, ma'am.' The white neighbors didn't like that and criticized (her) but I didn't develop any fears because of that criticism," said Marshall.

When Marshall was 11, his mother died suddenly of blood poisoning and the five children went to live in the Mississippi Baptist Orphanage in Jackson, where the family had by now moved. Thomas Marshall, the secretary's younger brother, who now works for the Department of Agriculture here, recalled, "He kept the brood together. We griped about the work we had to do but Ray was energetic. He got up at 4 a.m. to milk the cows, and he operated the engines and boilers of the laundry. And he was smart. I overheard the teachers say that he knew more than they did."

The education and work procedures at the orphanage were bound into a strict religious code, and Marshall viewed it skeptically. "I tried to learn all I could about Christianity and the brotherhood of man. But what disturbed me was the contract between what they did and what they were saying, particularly on race matters and materialism. The preacher would say, 'This is the way God intended things. Do you find cows mixing with horses or birds mixing with rabbits.' And I asked, 'have you ever heard of black cows mixing with white cows?' "

Eventually Marshall decided he wanted more independence and when he was 15 he ran away from the orphanage, worked briefly making false teeth, and then joined the Navy, serving as a radio operator in the Pacific.

After World War II, Marshall returned to Jackson, got his high-school equivalency diploma, enrolled in Hinds Junior College, where he met his wife, and then earned a degree from Millsaps College. At one point, Marshall considered a political career "to address the issues of the disadvantaged." A professor told him, "Look, life isn't that much fun down here and politics is about the only entertainment we have. We don't want to hear serious talk. So think about that."

Marshall took his interest to the classroom where his views as a faculty member of the University of Mississippi and Louisiana State University in the 1950s attracted the White Citizens' Council. They called him a "scalawag and troublemaker." But he survived in the environment, recalled Bernard Sliger, a colleague who is now president of Florida State University, because, "Ray never irritated people. It wasn't felt that he was an outsider and he was always calm and logical. He always smiled."

From his experiences in the South, Marshall picked two people from whom he learned valuable lessons—William Faulkner, whom he met in the early 50's, and Earl Long. "I really didn't read Faulkner until I was in Finland on a Fulbright in 1955 and 1956. It was a writing style I was not used to because I was accustomed to scanning books and papers. I told Faulkner this and he said, 'I work hard at my craft, I don't want you to scan it.' And we talked about fear and courage, and he said, 'The only thing you can do well when you fear is run, and if you are running, you are not true to yourself.' "

Again, it was courage and style that Marshall learned from Long, two-term governor of Louisana. "I certainly didn't agree with everything he stood for. But he showed you could dramatize the simple things, you could get your point across and still be outrageous," said Marshall.

The secretary, it is quickly noted, has been just the opposite: shy, low-keyed, methodical, and, before the coal strike, often overlooked. "Yes," said Marshall. "But I am trying to make things simple."

NO HOLDING BACK

As secretary of Labor, Marshall has accomplished many of his goals. Under his administration, the overall unemployment rate has dropped from 7.3 in January, 1977, to 6.1 percent last month. The overall black unemployment rate has dropped in the same period from 13.1 to 11.8. Yet the black teen-age unemployment rate, which has hovered around 40 percent, has barely changed.

He has doubled public service jobs to 725,000, gotten a sizable jobs component in the welfare reform measure and was the administration's strongest point man in House passage of the Humphrey-Hawkins jobs bill. He also has lost on a couple of pieces of legislation.

His internal staffing also has drawn praise; there are a number of highly placed blacks and his assistant secretary for manpower, Ernest G. Green, is black.

He's pleased.

Others are not. Charles Bailey of the National Right to Work Committee, called Marshall's record "abominable." Sen. Orrin Hatch (R-Utah), a member of the Committee, on Human Resources, formerly Labor and Public Welfare, said Marshall's a "decent, scholarly man but as a secretary he is biased to big labor on almost all issues and he performed poorly in the coal miners' strike. He wasn't forceful enough."

But then again some are pleased. "I'm not criticizing Marshall when I criticize President Carter," said Jerry Wurf, president of the nation's largest public employe union, who has denounced some of Carter's urban approaches. "Marshall is one of the best appointments, forthright and honorable. We know he has to compromise and when we don't get everything, it's not his fault." Another critic of the administration, M. Carl Holman, president of the National Urban Coalition, said, "He understands. We've lost some fights but when he is attacked as a liberal in the Cabinet, I consider, that a good sign."

Rarely does Marshall get ruffled by criticism, defensive, yes, but, rarely angry. Only once in the last two months, with the monumental professional and personal pressures, does the staff remember him angry. Evans and Novak wrote a column giving Robert Strauss the credit as the chief strategist in the negotiations. Marshall exploded. Strauss has since said Marshall called the shots.

And, it was to Strauss that Marshall turned the night President Carter announced an earlier (and unratified) contract agreement and said, "No one is more relieved than I that this is settled. Now I can get back and devote more time to my personal decisions."

In his office, Marshall is talking about fear, that fears are self-imposed. And about sleep, that needing a lot of sleep is a state of each person's mind. He hasn't had that much sleep lately.

"One of the ways I have been able to deal with the coal thing and the shock with Chris has been Chris' own attitude. We discussed the different treatments, whether chemotherapy is better immediately after surgery or should we wait. We talked about the unpleasantness that can come with the treatment. We haven't held anything back from him," said Marshall.

When Chris was hospitalized during the coal strike, Marshall would visit him in the morning, again in the evening, and sometimes, at lunch. He came back encouraged as Chris learned to write with his other arm, learned to tie his shoes and put in his contact lenses.

"But the thing that has made it easy is his own strength. We decided that it doesn't help to get depressed," said Marshall. And he taught his son and the rest of the family his first principle. "Never to worry about things I cannot change."●

## HUMAN IMPACT OF THE BUDGET

### HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. MINETA. Mr. Speaker, the Budget Committee has now completed action on the concurrent resolution on the budget for fiscal 1979. During the preparation of that resolution, the committee conducted extensive hearings on the shape of spending and revenues for the upcoming fiscal year. I would like to share the remarks of Ms. Marjorie Boehm, national president of the Women's International League for Peace and Freedom, who testified before the committee on February 27, 1978.

It is too easy to think of a budget as simply a mass of figures without realizing the full human impact on the citizens of this country. Ms. Boehm's testimony is directed at that human impact.

This year defense spending will again be one of the largest single components of the Federal budget. While we all realize the vital importance of national defense to this country, there is considerable evidence that we pay too high a price for that security. Defense spending, with the billions of dollars in contracts that it hands out to American industry, has traditionally been considered an important stimulus to the economy. That assumption, however, is being brought into question. As these questions are raised, it becomes increasingly important to redefine what is actually the "national security" of this country.

Ms. Boehm is a resident of Santa Clara County and is familiar with the impact of defense industries on the local community and its residents. The conclusion her testimony reaches is clear: Rather than a boon to the economy, excessive Government spending on weapons systems and military manpower can be a brutal sacrifice and a tragic underuse of our national resources. This lesson is valid throughout the country.

The testimony follows:

Honorable Chairman and members of the Budget Committee of the House of Representatives.

The Women's International League for Peace and Freedom recognizes that the decisions you make before April 15 will influence the setting of priorities and the well-being of our country this year and in the future. We recognize also that this committee and the office of management and budget expect 75 to 80% of the nation's budget to remain relatively uncontrollable, which makes your decisions about the remaining 20 to 25% even more important.

The proposed "national defense" function outlays of $117.8 billion are 23.5% of the expected budget total of $500.2 billion. Defense Secretary Brown has said that needs for 1983 will require $56 billion more. If this committee accepted such thinking our defense budget would rise to $173.8 billion and would comprise 26.7% of our projected total outlay for that year of $650 billion.

Members of the Women's International League for Peace and Freedom feel that it is time to redefine the word "security" in terms of the kind of world and country in which we want to live. What is being hawked in the marketplace as defense or "security" we believe cannot bring us a truly healthy, prosperous, democratic country in the world of peace and freedom sought by our international sisterhood.

JOBS

We are convinced that the greatest threat to security in the United States is unemployment.

California is one of the most military-dependent states in terms of percent of federal income and the most military-dependent of any state in terms of total dollars. In 1977 our share in prime contracts was slightly over $10 billion.

I live in Santa Clara County which received $1.94 billion. Nearly one half of that amount went to Lockheed Missile and Space Company.

With a population of about 10% of the nation's total, we in California got about 11.5% of all federal expenditures in 1976. And, in three important categories of spending, we were way over our per capita share. These categories were, in percentages of the total U.S. expenditure: Department of Defense 18%, National Aeronautics and Space Administration (NASA) 47% and Energy Resource and Development Administration (ERDA) 12%. We fell below our per capita share in three areas: the Department of Agriculture 7.9%, Department of Commerce 7.3% and Department of Transportation 5.3%.

How did our unemployment figures stand during this same year of 1976? The percent in California was 9.2% as against 7.7% for the United States, and Santa Clara County matched the national average with 7.7% that year. In 1977 California's rate was 7.6% and that of the U.S. 7%. That is hardly what might have been expected considering the generous flow of U.S. dollars into California.

I am sure you are all familiar with the Bureau of Labor Statistics Report revealing that military spending creates fewer jobs than a corresponding amount of money spent by the government in other areas. The average number of jobs per billion dollars of Pentagon spending is 75,710. Government spending in other sectors generates many more jobs. For each billion spent in state and local government, 87,021 jobs are created. And in construction 100,072 jobs are generated by each billion dollars.

A study done in Santa Clara County projects what could be accomplished in jobs creation by a 10% shift from military to other areas of spending. It shows that at least 8,534 jobs would be created by that modest shift of funds.

It is a myth that military spending creates jobs. Such spending is capital and research intensive, not labor intensive. In 1968 Lockheed Missile and Space Company received $551 million in contracts and employed 31,500 workers. In 1976 that complex got $882 million in government orders and employed only 15,500 workers.

The Joint Economic Committee of Congress reports that each unemployed worker costs U.S. taxpayers $18,279 in lost taxes, unemployment insurance, food stamps, welfare and other important services.

A study by the Social Security Administration reports that Social Security income has been reduced drastically by unemployment. If the jobless rate were cut from 7% to 5%, Social Security would show a $10 billion surplus over the next 4 years instead of an $11 billion deficit.[7]

Economist Gar Alperovits says, "unemployment is stealing from the standard of living for all Americans."[8]

We are concerned that the increases in outlays for employment and training programs are insufficient. Large numbers of unemployed workers are still not being helped at current levels. We recommend a substantial increase in the Training, Employment and Social Services function to allow for growth in jobs programs.

We are also concerned that special youth programs for jobs and training proposed in the budget do not meet the request made by the Conference of Mayors. Since unemployment figures for teenagers are hovering close to 20% and those of minority youth near 40% we must expand our jobs programs for youths, not assume that fewer youths will be looking for jobs.

INFLATION

Another enemy of real security is inflation. The Women's International League for Peace and Freedom believes that the greatest single cause of inflation is military spending. Such spending consumes billions of dollars but does not put anything back into the economy that can be used. Its products don't generate the need for other goods. Meanwhile, research and development in all areas of human needs, such as health services, have lagged behind, unable to compete for funds against the military-industrial partners.

In 1976, ¾ of Federal research funds went to Defense, Space and Atomic Energy.[9] This has paid off in armaments but has cost us dearly in all facets of our lives and our finite environment. The FY 1979 budget maintains this priority in research spending, with over 60% programmed for Defense and Space areas.

In Santa Clara County, as elsewhere, ever larger numbers of elderly on fixed incomes are in desperate straits as property taxes rise. Young couples often must choose between having a baby or buying a house because of incredibly inflated rates.

HEALTH

The Women's International League for Peace and Freedom believes that we shall never have real security in the U.S. until we have a comprehensive health program. We are concerned that the only budget proposals relating to Medicare or Medicaid programs are to fund administrative studies for the purpose of economy or preventing frauds and abuse. We see nothing to help the elderly who are now paying more for medical care out of their own pockets than they did before Medicare.

Dan McCorquodale of the Santa Clara County Board of Supervisors, in a letter to President Carter said our county operates a health facility which includes a large hospital complex known as Valley Medical Center (VMC). This hospital serves a cross section of county residents but in particular it is the place of last resort for patients of limited financial means. Currently we are facing capital expenditures of as much as $50 mil-

lion to bring the physical plant at VMC to acceptable standards. This is about 10 percent of the county's annual budget and it comes on top of our ongoing budget items. How are such costs to be met? At the local level, our principal tax fund is the property tax, a tax which is not linked to ability to pay. It seems to me that the only real vehicle for addressing unmet social needs will be to convert some of the defense dollars to these new priorities. I would urge this effort as a preparation to move ahead to FY 79."

INTERNATIONAL

The Women's International League for Peace and Freedom which was founded at the Hague in 1915 has sections in 24 countries around the world and groups in an additional 3 countries. At our twentieth Triennial Congress in Tokyo last summer our resolution on economic and social change called upon the women of the world "to stand in solidarity to convert monies wasted on military build-up to be used for the abolition of hunger, poverty, unemployment and illiteracy."

I submit that although the Military Assistance items in our budget under international affairs may be a relatively small proportion of the total, the decisions you make regarding them are of an importance out of all proportion to their monetary significance. Your committee is indeed being asked to set international priorities. Consider these amounts sought in FY 79: U.S. development aid for poor countries $1.6 billion; UN and OAS programs $282 million and Military and Security Assistance $2.7 billion. A decrease in the third category would have at least a symbolic effect on worldwide arms sales.

There is another reason why you should consider a reduction in that amount. Sales credits and training program grants are still going to countries where violations of human rights have been documented: the Philippines, South Korea, Thailand and Indonesia. Many countries in Latin America continue to receive arms under U.S. budgeted programs of previous years even though they have been criticized as human rights violators. There is a symbiotic relationship between production of weapons for U.S. military purposes and production for Foreign Military Sales. Pentagon officials say that export sales now sustain 350,000 jobs in the defense industries. There are reasons why production for the U.S. military spills over into international arms sales. The arms industry wants to maintain constant production and to maximize profits. Overseas sales also diminish per unit cost of weapons research and development.

Weapons sales are a concrete way to maintain the U.S. balance of payments and absorb the huge accumulation of funds from Middle East Oil Sales. It is incumbent upon your committee to assure that a break in U.S. arms production will slow military sales also. This country must export other goods and services to maintain its balance of payments position. A reduction in our nearly 500,000 troops abroad would slow the dollar flow. A decrease in military activity would certainly reduce our need for energy, our dependence on Middle Eastern oil and would also improve our balance of payments position. Appropriations Committee Chairman Mahon has been quoted as saying," every year you ask for more money and every year you say we need more security." Dr. Brzezinski has told us that security depends on the political situation but also on our well-being and on the well-being of citizens of other countries.

The Women's International League for Peace and Freedom rejects the notion that we must continue to expand our ability to destroy the world. We worry about the build-up of counter-force weapons. We know that even present levels of NATO troops, tanks and trucks clog the highways of Europe. We hope for progress in the signing of a SALT agreement. We hope that the U.S. will make a substantial contribution to the UN Special Session on Disarmament this spring. A U.S. budget with decreased military expenditures could be a real prelude to these steps towards peace. Please try it.●

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## A SEARCH FOR WAYS TO TEACH COURAGE

### HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. DORNAN. Mr. Speaker, last Sunday's Washington Post carried an article which told the story of Adm. James Stockdale's approach to his new job as president of the Naval War College. More specifically, how he intends to instill into the students there the qualities of courage and integrity which he and his comrades displayed so heroically in the POW torture cells of Hanoi. Admiral Stockdale is trying to find ways to teach the next generation of Navy officers how to withstand if necessary the tortures, beatings, and fear he resisted for 7½ years.

His theory and method are, to my mind, accurate. He knows better than any man that courage does not exist until it has been used; until there is something to fear and overcome. Courage cannot be exhibited in the classroom but only in the crucible of combat and war. Courage itself cannot be taught with lectures and class notes but perhaps the reason to be courageous can be.

Stockdale's class will study philosophy and history—not military manuals—to learn the reasons courage is needed. It was the values of civilization, the wisdom of the great teachers which formed the bedrock of Admiral Stockdale's courage and which he believes will form the bedrock of courage for his officer students. With a thorough knowledge of the beliefs and values which have made our civilization great, the officers will know what they are defending and why it must be defended, and without the knowledge of what and why, courage can all too easily collapse or dissipate.

Mr. Speaker, I include the Washington Post article as part of my remarks today:

[From the Washington Post, Apr. 9, 1978]

A FORMER POW'S SEARCH FOR WAYS TO TEACH COURAGE

(By George C. Wilson)

NEWPORT, R.I.—Standing before the picture hung in the place of dishonor over the toilet, the admiral stabbed the tiled bathroom wall with his forefinger to tap out the type of coded message that had sustained him during 7½ years of isolation and torture in Hanoi's Hoa Lo prison.

In those days when Hao Lo was a fearsome place rather than just a picture in the bathroom, James Bond Stockdale's determination to live and lead was fortified every time he heard a tapped message from a fellow prisoner of war. Now, as president of the Naval War College here, Stockdale is searching for some way to teach Navy officers how to withstand the tortures, the threats, the beatings and the fears that he had to teach himself to resist.

Can such qualities be transmitted in the calm setting of a peace-time campus? Stockdale believes they can be, although it is only in the crucible of combat or the desperation of the detention that they finally rise to the surface. For him, it was the classical philosophy learned in a graduate course at Stanford, rather than anything taught him at Annapolis, that came back to fortify him against the cruelties of his North Vietnamese captors.

There was the time, for example, when the North Vietnamese handcuffed Stockdale's hands behind his back, locked his leg in heavy irons and dragged him from his dark prison cell to sit in the unshaded courtyard where other prisoners could see what happened to anybody who refused to cooperate. The Navy's official report of Stockdale's imprisonment, based on exhaustive questioning after his release, describes that and other incidents during Stockdale's 2,714 days of captivity from Sept. 9, 1965, to Feb. 12, 1973:

"He remained sitting in that position for three days. The sun beat down upon him. Since he had not been in the sun for a long time, he soon felt weak. He yelled for Bao Cao [guard], and the guard struck him from side to side on the face.

"The indomitable prisoner communication system provided a great boost to Captain Stockdale's morale at this point as two prisoner dishwashers established voice contact for short words of encouragement in spite of close guard supervision.

"The guard on duty decided not to let him sleep, and at one point accused him of dozing, punching Captain Stockade right and left on the jaw.

"As the guard left the stall, Captain Stockdale remembers hearing with pride a towel [snapping out in prison code the letters] GBUJS for God Bless You Jim Stockdale."

There are lessons in that and other prison experiences that Stockdale has decided to distill into an elective course for officers at the Naval War College, starting next fall. Called "Foundations of Moral Obligation," the course that Stockdale himself will teach represents the latest attempt to help American fighting men cope with pressure, including but not limited to that inflicted by captivity. He will try to convey to young officers what teachings got him through his 7½ years of captivity, which began on Sept. 9, 1965, when he parachuted from his damaged A–4 fighter-bomber into a tree. He will try to explain how and why a man can summon up astonishing courage if he has committed himself to integrity—"one of those words which many people keep in that desk labeled 'too hard,'" in Stockdale's words.

There was the day his captors decided to force him to be photographed for a propaganda film:

Escorted by Pig Eye [the POW's name for one of their guards], Captain Stockdale marched down to the Heartbreak improvised wash area where he was given a new razor and soap. He knew he had to act quickly, and he had already decided exactly what to do.

Getting down into a hundred position, as if prepared to shave, he frantically started digging with the razor. He began to cut the top out of his hair in sort of an inverse Cherokee in an attempt to make himself

unpresentable so that he couldn't be photographed.

In his panic, he actually dug the razor into his scalp several times without feeling it. Pig Eye, who had been busy getting gear together, suddenly realized that Captain Stockdale was not working on his whiskers. He stormed through the door and saw the blood streaming from the cuts in the scalp. . . .

Realizing his blunder, Pig Eye jerked Captain Stockdale out of the wash area and rushed back to Room 18 [where two other guards, "Rabbit" and "Chihuahua," were waiting] . . . Captain Stockdale could see their surprise turn into rage as they saw his bloody head and leaped to their feet and to the conclusion that it was a suicide attempt.

Captain Stockdale immediately took a seat on the floor [in the position the guards had so often pushed him into before subjecting him to the wrenching rope torture.]

"No. No. Get up," one of the guards ordered. "Why are you taking your own life? You've got things to do. The senior officer wants to see you tonight."

(The guards left him locked up in his cell and rushed out to find a hat to cover the cuts so the film ordered by the prison director could be made on schedule.) Alone for the moment, Captain Stockdale knew he had a problem and would have to act quickly. In panic, he realize that the hat would beat him in spite of his determination. He was not going to be used as a tool, for in his hierarchy of values the very top of the list was "not to betray my fellow prisoners or mislead them."

By this time he was about nine days into a fast and was neither too strong nor too alert. He thought of the honey bucket as a device to cut his wrists. He went over to the corner, glanced at the badly rusted, filthy thing and rejected that idea because of the certainty of infection from the rust and filth.

He glanced at the window-glass panes and thought of breaking a pane and cutting his wrists. But he knew there were Vietnamese close by outside, so he picked up his heavy mahogany stool, and, in Captain Stockdale's own words:

"I just started pounding my face. I bruise easily, and I stood there thinking I could be heard. Pretty soon a crowd of curious civilian [prison] workers were looking in awestruck horror through the panes of glass at this madman standing in the middle of the room pounding his face with the stool.

"I kept working because I knew I would get some swelling. I could feel my eyes coming up. There was a commotion at the door, and here were Chihuahua and Rabbit frantically trying to get back in.

"They finally burst in to find both my eyes almost closed up, my eyebrows and eyelids cut and bleeding and my appearance pretty well unfit for photography."

[The guards rushed out of Stockdale's cell a second time, evidently to tell the prison camp director about the further damage the subject of the film had inflicted on himself.]

His eyes still weren't quite as swollen as he wanted them, so he went to the wall and began pounding his face against the concrete. [When the guards returned and saw Stockdale, Chihuahua asked him:] "What are we going to tell the senior officer?"

"You tell the major," Stockdale replied, "the Commander decided not to go."

The film the North Vietnamese had in mind, Stockdale learned later, was to show him talking with a lower-ranking fellow prisoner about the unjustness of the war. The other prisoner would be standing behind a screen so Stockdale would not know he was there. The camera would have photographed the two prisoners from the side so viewers would not notice the screen.

Although Stockdale's heroics frustrated the filming scheme, the North Vietnamese through expert rope torture and other coercion did force Stockdale to write and record statements against his will. Like so many prisoners before him, Stockdale learned that every man—no matter how tough—has a limit of how much pain he can take. But he resisted each time before submitting to keep himself and fellow prisoners from unraveling.

During the Korean War, some American prisoners unraveled completely under brainwashing inflicted by their North Korean captors in hopes of giving future U.S. prisoners of war a moral guide to cling to, the Eisenhower Administration created a Code of Conduct.

One provision of that code stated: "When questioned, should I become a prisoner of war, I am bound to give only name, rank, service number and date of birth. I will evade answering further questions to the utmost of my ability. I will make no oral or written statements disloyal to my country and its allies or harmful to their cause." The late military columnist and author, S.L.A. Marshall, has said that he was "the penman" when the code was written.

U.S. soldiers, sailors, marines and airmen have all found they could not, under torture, limit themselves to giving "only name, rank service number and date of birth." Cmdr. Lloyd M. Bucher, skipper of the spy ship USS Pueblo captured by North Korea in 1968, said after his release that the code should be reviewed in the light of the harsh realities of communist torture. He and other Pueblo crewmen testified that their North Korean interrogators were expert at finding a man's weak point and exploiting it. For Bucher, that proved to be his love for his crew. The North Koreans told him they would shoot each one of his crew, starting with the youngest, unless he signed a false confession that he invaded North Korea's territorial waters. Bucher signed.

The fear that they could not stand up under torture and would sign propaganda statements in violation of the Code of Conduct drove some Pueblo and Vietnam War servicemen to attempt suicide. They often went into deep and lasting depression after signing confessions under torture.

U.S. officials decided to review the code against the experience of the Pueblo crew and Vietnam prisoners of war. One suggestion was that the code be liberalized and that the U.S. government declare to the world that it would disavow any future confessions by U.S. servicemen on the assumption they were obtained under duress. Stockdale was among the former prisoners of war who urged the code continue unchanged. He argued that even though experience had shown the code could not be fulfilled completely, it served as a standard for men to try to adhere to in captivity. His hardline stand on how prisoners should behave under pressure impelled Stockdale to file misconduct charges in 1973 against two officers who were imprisoned with him. Navy Secretary John Warner decided against prosecuting.

After assessing the various views on the Code of Conduct, the White House announced last November that President Carter had made one liberalizing change. He deleted the word "only" from the provision which formerly stated: "I am required to give only name, rank, service number and date of birth." The White House said the change was "to reduce guilt feelings in prisoners who are coerced into giving more than name, rank, service number and date of birth."

Stockdale, who looks amazingly fit at fifty-four considering what he went through—except for the stiff left leg which was torn at the knee so savagely by his first captors that it cannot be restored through surgery—said his new War College course will focus on a man's personal code.

Uncomfortable questions to be addressed in the classroom, he said, will include: "What do you think of a [dive-bomber pilot] who pulls off the target high" so anti-aircraft fire does not hit him? "What do you think of a guy who doesn't aim his bombs? Is that the way to lead?"

Stockdale's class will study philosophy and history, not military manuals, to get into the teachings that stayed under him like bedrock after the pressure of prison camp had blown everything else away. The philosophy course he took at Stanford in his thirties, said Stockdale, did him a lot more good in Hanoi than any of the Naval Academy's technical subjects.

The 1st century Greek Stoic Philosopher Epictetus "was tailor-made for my predicament," said Stockdale as he walked stiff-legged to the bookshelves lining his second-floor office at the Naval War College. "One proposition in his manual that I remembered was that you're but an actor on the stage and your job is to play well the given part."

Other teachings of Epictetus that came back to the crippled pilot and helped sustain him in captivity included: "Lameness is an impediment to the body but not to the will." "Men are disturbed not by things, but by the view they take of them." "It's better to die in hunger, exempt from guilt and fear, than to live in affluence with perturbation."

But instead of digging out such teachings so they can form bedrock in the minds and personalities of today's military officers, complained Stockdale, the wisdom that has stood the test of time is being eclipsed by the theoretical jargon of systems analysis, managerial techniques and modern weaponry.

"We spend most of our time worrying about things that have nothing to do with our profession of arms," he said. Stockdale's students will be directed to read Epictetus' "Enchiridion," the Book of Job, Aristotle, Plato, Kant, Mill, Sartre, Emerson, Dostoyevsky, Conrad, Kafka, Koestler, and Solzhenitsyn.

"I think this is the only way to teach a sophisticated audience 'duty, honor, country.' I'm not trying to make fundamentalists out of them. I'm not trying to make warmongers out of them.

"I'm trying to make more self-confident leaders who will realize half of what comes into their baskets is crap and that they should worry about things that are important." ●

## BUDGET SHORTAGE FOR VETERANS MEDICAL PROGRAM

### HON. W. G. (BILL) HEFNER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. HEFNER. Mr. Speaker, I have been receiving a great many letters from my constituents concerning the President's fiscal year 1979 budget request for the veterans health care system. They are concerned, as I am, that this budget is inadequate to meet the real and growing need for top quality medical services to our Nation's veterans and their families.

The chairman of the Committee on Veterans' Affairs, RAY ROBERTS, and the ranking minority member, JOHN PAUL HAMMERSCHMIDT, wrote each Member of the House on February 28 indicating the significant shortages in the President's budget request. Our Veterans' Affairs Committee supports the necessary funds for the important Veterans' Administration medical programs and our request to the Budget Committee for funds over and above the President's budget was arrived at only after a detailed analysis and study of the matter.

But the information we are receiving about the Budget Committee's action on the upcoming budget resolution would indicate that it, too, is unwilling to recommend adequate funding for this program. It would now appear that the only way this matter can be resolved, one way or another, is on the floor of the House.

The national commander of the American Legion, Robert Charles Smith, has just furnished me with a copy of an article which will appear in the American Legion magazine in May entitled "VA Medical Program Must Be Preserved." This article is included with my statement, and I commend it to the reading of every Member of this House. Each Member can be assured that the national veterans' organizations and the individual veterans and their families represented by these organizations are all vitally concerned with this matter. I am calling this to the attention of all Members in order that they may be fully informed of the real concerns over the inadequacy of the budget for these essential health services which benefit not only our Nation's veterans but all our citizens through the outstanding research programs of the Veterans' Administration physicians.

VA MEDICAL PROGRAM MUST BE PRESERVED

It becomes increasingly clear that the struggle to preserve the veterans benefits program for which The American Legion has devoted its energies for 59 years will be won or lost in the contest for the veterans medical care program administered by the Veterans Administration. We have come to grips with the situation over the VA Budget for Fiscal Year 1979. The Congress is now considering this Budget.

1. VA requested Budget authority of $5.8 billion for the veterans medical program.

2. Construction funds are requested for two replacement hospitals (Seattle, Wash., and Portland, Oreg.).

3. New VA hospital at Camden, N.J., is cancelled.

4. Total VA acute care bed capacity will be reduced by 3,132 beds.

5. We have identified shortfalls of $426 million needed for improvements, and medical and prosthetic research.

This means that the size of the system is going to be reduced at a time when the nation has the highest veteran population (29.5 million) in its history.

The Camden hospital is the only new hospital that had been planned and was intended to provide medical care for 300,000 veterans of South Jersey, who now have to depend on the Philadelphia VA hospital. The Camden hospital has been planned for several years after exhaustive studies by the VA, and construction of the hospital has had the approval of Congress. All of a sudden, VA says the hospital is not needed. We ask: Why the sudden change?

Eliminating 3,132 beds from the system will reduce VA bed capacity to 88,300—subject to additional reductions in future years. Again, we ask: Why?

Our questions are made urgent by the fact that the largest segment of the veteran population is made up of 13.5 million veterans of WW II, whose average age is now 58. These veterans are becoming increasingly subject to the catastrophic illnesses that are associated with advancing years—such as cancer, heart disease and stroke—illnesses that will force them to turn in increasing numbers to the VA for medical care they will no longer be able to afford in the private sector.

This year, two VA research physicians have received the Nobel Prize for Medicine—testimony to the quality of VA medical research for the benefit not only of veterans, but of all humanity. Yet in the face of this significant achievement the VA is reducing the level of its research programs. Why?

We believe we see an alarming lack of commitment to medical care for veterans.

And our troubles do not end there. Increasingly, voices are being raised in the medical community challenging the justification of maintaining a separate medical care system for veterans. We must face it; there are those in the medical community who resent $5.8 billion being spent on medical care *just* for veterans.

And that is still not all. The American Legion is convinced that should National Health Insurance become a fact, an effort would be made to phase the VA hospital system into national health insurance, and to make VA facilities available to all citizens who have need of them. The attack will be launched by the social planners at HEW, who are envious of the magnificent VA hospital system.

What should The American Legion do?

The friend of the veteran throughout history has been the Congress—the voice of the people. We have many friends in Congress who will speak for us. But first they have to know that we will speak for ourselves. It is up to veterans, speaking through their organizations, to let Congress know what is right and fair for veterans, their dependents and survivors.

But many old friends are leaving Congress, by reason of death or retirement. We do not know who is going to replace them. That is where the average Legionnaire comes into the picture. It behooves all Departments, Districts, Posts and each Legionnaire to approach candidates for Congress—both House and Senate—to find out from them what their attitude is toward veterans problems and, when possible, to secure from them commitments to heed the needs and rights of veterans.

The American Legion today finds itself embattled on many fronts in defense of veterans programs. Our success or failure will determine two things; first, whether the efforts of countless Legionnaires during 59 years will be recorded by history as having been successful, and second, whether veterans, during the balance of the 20th century and beyond, will have available to them veterans programs as we have known them.

Make no mistake, we could lose our hospitals—as our British and Canadian comrades have lost theirs. And if veterans hospitals are lost, there will be little hope for the future of all other veterans' programs.

Legionnaires, and all veterans, earned their status as veterans through honorable service in time of war. We are not strangers to struggle. With courage and determination, with diligence and persistence, *we shall win*. To be true to our heritage, and to provide for those who follow us—we must succeed.●

## THE MERIT EMPLOYMENT ACT

### HON. HERBERT E. HARRIS II

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. HARRIS. Mr. Speaker, the Post Office and Civil Service Committee is now holding hearings on H.R. 11280, the administration's civil service reorganization bill. I am concerned that the bill may open the door to improper political influences and have introduced H.R. 11165, the Merit Employment Act which requires that all personnel actions be made on the basis of merit and bars political recommendations for Federal jobs.

As we consider this legislation, we must make sure sufficient safeguards are included to protect employee rights. Joseph Young, in two recent Washington Star columns, has outlined some of the concerns that employees have about the administration's legislation and I urge my colleagues to take note of his observations:

DOUBLE STANDARD SPOTTED AMONG CARTER PERSONNEL REFORM PROPOSALS

The pro-management slant of President Carter's personnel reform plan is illustrated by the double standard it would set up in adverse actions.

While most federal employees would be denied the guarantee of full-scale evidentiary hearings in firings, managers and supervisors accused of personnel violations and facing possible removal would be entitled to such hearings.

Also, in these cases the burden of proof would rest on most federal employees to show that their agencies were wrong in firing them. The reverse would be true for federal managers and supervisors facing adverse action because of charges that they violated federal personnel rules or employee rights. In these situations, the burden of proof would be on the special counsel of the proposed Merit System Protection Board who would handle such cases.

This is just another example of why federal employees are suspicious and apprehensive over Carter's personnel plan.

Meanwhile, Bernard Rosen, the retired executive director of the Civil Service Commission who now is a professor of government of American University, has criticized four aspects of the Carter plan that he contends "would seriously undermine the effectiveness and impartiality of the civil service, while the benefits sought from the relevant changes are vague and uncertain."

In a speech before the International Personnel Management Association, Rosen rapped the proposal to eliminate the CSC and create the Office of Personnel Management and the Merit System Protection Board in its place.

Rosen said the board "will be incapable of fulfilling the role of an effective watchdog to protect against merit abuses because, as proposed, it lacks an adequate mandate and resources."

Rosen said the board would serve a useful purpose in handling employee appeals and investigating allegations of merit violations, but "it would be incapable of meeting the larger responsibilities of protecting the merit system because it would be too far removed from day-to-day operations."

As contemplated in the Carter plan, the board would not be "sufficiently independent" of the Office of Management and

Budget and the White House to have the clout necessary to enforce the merit system in government, Rosen said.

Rosen also criticized the proposed OPM, declaring that by having it run by a single administrator appointed by the President, instead of the bipartisan three-member setup in the CSC, could result in "manipulating the civil service for personal or political favoritism."

Rosen said "There is an abundance of experience to tell us that a single administrator making personnel policy as well as directing operations of the central personnel agency will hold an unwarranted concentration of power and is a major threat to merit in the federal system of civil service employment."

Rosen also was critical of the proposal to delegate significant personnel authority to the agencies, declaring that this would seriously weaken the merit system. Also, "it is the wrong way to go if we want a citizen to file an employment application in one place instead of many," he said.

Another criticism Rosen made concerned the proposed Senior Executive Service.

Rosen said the proposed system of reassigning and arbitrarily removing careerists in the proposed SES would result in their being subjected to intense pressure "to . . . serve special interests rather than the public interest" if they want to hold on to their careers.

He expressed serious misgivings over the proposal that those in the SES would qualify for bonuses if their superiors liked their work and conversely would be kicked out of the service if their performance was not deemed satisfactory.

"This will seriously damage one of the most important characteristics of career executives: expressing views and judgments which, based on their experience and technical knowledge, may be critical of policies and programs advanced by Presidential appointees," he said.

"The danger of being replaced, not for poor performance, but simply to put someone else in the job would understandably cause many career executives to moderate their criticism or even hesitate to adequately question the ideas and proposals of superiors."

Rosen also challenged the administration's assertion that only 10 percent of these jobs would be filled by political appointees.

It would be "especially easy" to place political appointees in many of the career jobs if career executives can be "reassigned and demoted without cause," he said.

At the conclusion of his speech, Rosen received two standing ovations from his audience composed mainly of federal career executives.

Ironically, these careerists have been afraid to open their mouths about their fears and doubts on the Carter plan.

No one expects any one careerist to stand up and publicly criticize President Carter, but the various federal managerial and professional organizations have been notable for their silence.

As far as we know they haven't even asked to testify on the plan during the hearings being held by the House Civil Service Committee.

They owe it to their members to take a stand on the plan—either for or against. The thunderous applause that greeted Rosen's critical remarks undoubtedly made him feel good, but he would feel better if he got some meaningful support from among his former career colleagues in government. After all, their careers are on the line.

In this situation, silence isn't golden. It's stupid.

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CARTER PERSONNEL REFORM PLAN FACES HARD QUESTION FROM CONGRESS

When Carter administration officials go to Capitol Hill next week to testify on the President's personnel reform plan, they'll face hard questions about possible inconsistencies and flaws in the proposals.

For example, some members of Congress are disturbed over what they see as a double standard in a Carter recommendation designed to make it easier to get rid of unsatisfactoy employees.

On the one hand, in a deal made with the AFL–CIO and the American Federation of Government Employees in order to get their support for his personnel reform package, Carter agreed to back as part of the reform legislation a system of outside binding arbitration for union members in grievances and adverse actions.

But for non-union employees, and even those union members who are supervisory and managers outside the bargaining units, the appeals system would not be nearly as liberal.

While the rights of union members would be at least as strong as they are now in appealing firings and other adverse actions, non-union members would be subjected to a limited appeals system. They could appeal to the proposed new Merit System Protection Board but not be assured of a full-scale evidentiary hearing as they are now.

The board could order an evidentiary hearing if it decided the situation warranted it, but this right would by no means be guaranteed.

Thus the proposal could be interpreted as placing a premium on union membership and penalizing those federal employees who choose not to join unions or cannot because there are no unions established where they work.

Another aspect of Carter's plan that disturbs some members of Congress is his recommendation that bonuses be paid in lieu of regular pay raises for federal supervisors and managers in grades 13 and above as an incentive for better performance.

This has raised some concern that it could result in consideration of personal friendships and political influences in determining who would get these bonuses.

Concern also has been expressed that such a system would result in many professional employees such as scientists and engineers in these grades drawing higher salaries than their managerial and supervisory bosses.

And some employees in grades below GS–13 also could draw higher pay than those in the immediate grades above them. This is because in grades GS–13 through 15 managers and supervisors would receive only a partial increase of an annual pay raise given to other federal workers, and those in the proposed new Federal Executive Service would get nothing.

Also, there would be no more virtual automatic in-grade raises for those in grades 13 and above.

All this raises some serious questions. What kind of morale would exist if subordinates made more than their superiors? And what about the infighting and the office politics that would arise in the awarding of bonuses to managers and supervisors in grades 13 and above? Would they be based on true merit or on friendship or political clout?

Still another possibility worries some of the unions. If a lot of managers and supervisors in the higher grades are denied bonuses (only 50 percent of them would be eligible for such raises each year), would this produce a downward chain reaction in which disgruntled managers and supervisors would deny in-grade step increases to their underlings in the lower grades?

Members of Congress also want to know about the proposed new Office of Personnel Management which along with the new merit board would replace the functions of the Civil Service Commission. Would this signal the emergence of widespread political patronage in government?

While the OPM would not be a part of the President's office, it might well be considered an adjunct of the White House.

The OPM would have its five top officials appointed by the President and in all likelihood the five would be from the political sector. The director and deputy director would be political appointees. The five assistant directors probably also would be political appointees, although one or two of them could be career men or women.

Thus, there could be a political orientation to the OPM not found in the present CSC. The OPM would have overall policy control regarding federal personnel policies, with the authority to decentralize hiring authority and other personnel actions to the individual departments and agencies as well as clear all future applicants for jobs in the proposed Senior Executive Service.

The proposed merit board would not set merit policies, but would investigate complaints by employees of any abuses. Thus, the OPM for all intents and purposes will run the government's personnel system.

Will the OPM with its close ties to the White House be as responsive to the Congress and its civil service committees as the Civil Service Commission has been? Or will it adopt the attitude of semi-independence from congressional oversight that other White House units have seen fit to do?

The President's proposals include procedures designed to set strong federal merit standards and punish those who violate them. Are they adequate? Can they be strengthened?

The Carter administration may well answer all the questions that have been raised to the satisfaction of members of Congress. But these are questions that should be answered before Congress takes final action on the President's plan. That's why the congressional hearings are so important.●

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## EMERGENCY AGRICULTURE ACT OF 1978 (H.R. 6782)

### HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

Mr. NOLAN. Mr. Speaker, I urge my colleagues to support H.R. 6782, the Emergency Agriculture Act of 1978. This bill, which applies only to the 1978 crops of wheat, corn, and cotton, was reported out of the conference committee on April 5, 1978, and will soon come before the House for final approval.

The Emergency Agriculture Act increases the 1978 support prices for wheat, corn, and cotton to about 70 percent of parity for producers complying with set-asides already announced by the Department of Agriculture. The 70 percent of parity price floor, while an improvement, does not give farmers an opportunity to recover their production costs. Recognizing this deficiency, the conference committee also provided farmers with the option of qualifying for higher target prices under the flexible parity provisgion, if additional cropland is set aside.

BIASED BUDGET ESTIMATES

The Carter administration has resorted to biased "advocacy economics" in an attempt to discredit the Emergency Agriculture Act of 1978 (H.R. 6782). The administration's economic analysis of

H.R. 6782 is based upon worst-case assumptions which have only a remote chance of occurring. The administration conveniently fails to note that if the same worst-case assumptions are applied to the recent USDA initiatives, their own program has disastrous economic implications. No one who understands our farm economy would be deceived by economic analysis based on improbable worst-case economic assumptions. Those who are not familiar with the farm economy should carefully examine the administration's questionable economic analysis.

FOOD PRICE INFLATION

According to the administration, H.R. 6782 will "increase food price inflation to double-digit levels."

The above statement is obviously misleading. Economists currently are forecasting a 6 to 8 percent increase in food prices for this year in the absence of any additional farm legislation. USDA predicts that H.R. 6782 will cause retail food prices to increase by 2 to 4 percent. CBO projects a more moderate increase of 1.1 to 1.5 percent, or, a $46 to $63 increase in the food bill for an urban family of four—a modest increase in consumer food prices.

H.R. 6782 provides farmers an opportunity to obtain an income which will give them a better chance to meet their production costs and continue farming. If the House defeats H.R. 6782, the Nation's farmers would receive a clear message that they—along with urban consumers—will be stuck with a 6 to 8 percent rise in consumer food prices, but will still be expected to produce at a loss.

In 1972 and 1973, farm commodity prices hit their high marks. Since that time farm income has dropped precipitously, but consumer food prices have failed to drop accordingly. According to CBO and USDA estimates, H.R. 6782 will raise farm income, but not to the peak levels of the early 1970's. From USDA's point of view, however, no matter how low farm commodity prices have dropped, any recovery in prices, regardless of how slight or from whatever depression level, is denounced as inflationary.

It is not fair to continue making farmers the shock absorber for everybody else's inflation.

COST TO THE GOVERNMENT

According to the administration, H.R. 6782 "would add as much as $6 billion to the Federal budget."

CBO, in its budget estimate dated March 29, 1978, expected the fiscal year 1979 cost to be $4.2 billion and later revised the figure upward to $5.7 billion. CBO also expected H.R. 6782 to result in a $1.4 billion saving to the Government in fiscal year 1980 as higher market prices reduced Government costs.

Economic analysis is worthless unless costs are weighed along with benefits. USDA, however, has not undertaken any analysis of how increased farm income will expand purchasing power and stimulate the economy.

The administration's economic analysis is also full of contradictions. On the one hand, USDA assumes high participation in the flexible parity program and sharply reduced stocks. This would cause market prices to rise substantially and thus reduce Treasury costs. On the other hand, USDA denounces the alleged high cost of H.R. 6782, ignoring the fact that the worst-case assumptions reduce Treasury costs.

EXPORT MARKETS

According to the administration, H.R. 6782, by sharply reducing production and increasing prices, could seriously undermine our competitive position in world markets.

This is another of USDA's worst-case assumptions, one that applies equally well to the Department's recent initiatives.

The main question which USDA has ignored for decades is: "Why sell at a loss?" By continuing to do so, U.S. farmers are exporting their equity abroad, thus undermining the economic stability of U.S. agriculture. Exports of cheap grain aggravate the Nation's trade deficit. H.R. 6782 will increase the market value of U.S. farm commodities so that even if the volume exported is reduced, the value will increase. In USDA's own issue briefing paper on the American agriculture movement's proposal for 100 percent of parity, the Department estimates that at 100 percent of parity the U.S. will lose 30 percent of its grain exports, but the value of all commodities exported increases by $7.5 billion the first year and continues upward in subsequent years. H.R. 6782 will not raise farm prices to 100 percent of parity, but any loss of export markets will be balanced by the increased value of the commodities exported.

USDA has been more interested in maintaining the volume of exports rather than increasing the value of the commodities exported—a policy which injures U.S. farmers and increases the Nation's trade deficit.

ADVERSE EFFECTS ON LIVESTOCK INDUSTRY

According to the administration, if H.R. 6782 were enacted, "the higher feed prices that result would adversely affect our own livestock industry."

Contrary to USDA's assertion that producers will set aside the maximum under the flexible parity provisions, CBO estimates that only 60 percent of the feed grain producers will enter the program and the remainder will stay out because they feed their grain. Again, USDA is using improbable assumptions to make its case. The charges that the bill would hurt the livestock industry are not coming from family-size farmers who produce both feed grains and livestock, dairy, and poultry. The opposition is coming from larger than family-size agribusiness operations.

The livestock industry has been in its loss situation for several years because cheap feed has induced overexpansion. Raising feed grain prices now will restrain another expansion cycle in the livestock industry, thus leveling out the roller coaster price of meat.

BUREAUCRACY

According to the administration, H.R. 6782 will "require vast new layers of bureaucracy to administer" the new program.

County ASCS officials know how to measure land and they have performed the task competently in the past. Sign-up and measurement pose no problems.

MAJORITY OF BENEFITS GO TO SMALL NUMBER OF FARMERS

According to the administration, H.R. 6872—

Would direct the vast majority of its benefits to a small number of the very largest of our farmers, rather than those in the greatest need of help.

USDA estimates that 5 percent of the farmers would receive one-third of the payments under this bill. The bill includes a $40,000 payment limitation.

The administration ignores the fact that 95 percent of the producers cannot survive at 70 percent of parity—which is the latest administration position. Small and medium size family farmers need better commodity prices in order to survive. According to USDA's own issue briefing paper on the American agriculture movement's proposal for 100 percent of parity, the Department states that 100 percent of parity prices "slow the decline in farm numbers" and increase the number of small farms.

The past several decades of farmland expansion have been fueled by low farm commodity prices. Producers had to increase the size of their farms in order to reduce the per unit cost of production. The higher farm commodity prices which will result from H.R. 6782 will slow farmland expansion and, by increasing market prices, will provide medium and smaller farmers with the income they need to maintain their operation.

It is unusual to find the administration crying crocodile tears for small farmers, given their past track record. Last year the administration did not support an amendment to prevent nonfarm corporations from receiving farm program benefits. This year, the administration failed to provide any funds for the small farm research and extension program authorized by the 1977 farm bill.

The administration supported raising the interest rates on FmHA loans, to the detriment of medium- and smaller-size farmers. The administration opposed the provision in the Emergency Agricultural Credit Act which authorizes low-interest, graduated payment FmHA loans to new farmers so that they may compete for the purchase of farms, thus reducing farmland expansion by big farmers. Finally, the administration should realize that low farm commodity prices will continue to drive the small and medium-sized farmers out of the business.

UNITED STATES WILL BE RESIDUAL GRAIN SUPPLIER

According to the administration, the planted acres of crops not included in H.R. 6783 will be severely reduced.

USDA is particularly concerned about a reduction in the planting of soybeans, but again, the Department employed worst-case assumptions. If USDA fears a substantial movement out of soybean production, such a tide could easily be stemmed by simply raising the soybean loan level.

PRODUCERS WILL SHIFT ACREAGE TO CROPS DESIGNATED IN THE BILL

According to the administration, H.R. 6782 would make the United States the prime adjuster of world food supply in order to balance supply and demand.

Currently, with its cheap food policy, the United States is already the residual supplier. Other exporting nations will continue to undersell the United States whether our prices are high or low. The level of prices is not the major factor in the maintenance of export markets. Rather, U.S. farmers do not have an effective marketing agent for their production. Private U.S. grain traders cannot compete with the grain boards which conduct the sales for other nations.

The United States will not be the residual supplier of grain if Congress enacts the Weaver bill, H.R. 11294. This bill gives the Commodity Credit Corporation the authority to designate the Commodity Credit Corporation as the seller or marketing agent for export sales of U.S. grain. Given the great volume of U.S. grain involved in the export trade the CCC will be able to bargain for higher export prices. Such a program gives the United States flexibility as a price leader so that we will maintain our current export markets and develop new ones through CCC negotiations of reliable long term sales which private grain trades are unable to transact.

PARTICIPATION IN RESERVE PROGRAM

According to the administration, H.R. 6782 will undermine the reserve program.

Again, this fear is based on a worst-case assumption that stocks will be severely reduced.

The existing reserve program, however, has been no more than a last resort measure for farmers. Until the recent administration initiatives, farmers had no economic incentive to lock up their grain for 3 years. Only after heavy pressure from Congress and farmers did the administration agree to raise the storage payments to realistic levels and consider waiving the interest charges. Last year the administration resisted establishing a grain reserve large enough to stabilize supply, but last month the administration finally agreed to increase the size of the reserve stocks.

The current reserve program will never provide farmers with an opportunity to obtain a fair income because the stocks will be allowed to flow onto the market at price depressing levels. Last year, the administration resisted establishing higher loan release and call-in levels. The grain reserve program, the so-called cornerstone of administration farm policy, is therefore a defective mechanism as it now exists.

Under current policy and under the program established by H.R. 6782, the administration has the authority to raise the loan release and call-in levels to realistic levels which will make the reserve program work to protect farmers and consumers from boom and bust prices.

BUYING TIME FOR FARMERS AND CONSUMERS

H.R. 6782 is only a 1-year emergency measure. With or without H.R. 6782, followup legislation is necessary for 1971–1981.

The recent USDA farm program initiatives provide only a 70 percent of parity floor under farm income. Farmers cannot survive at these poverty levels which are below their cost of production. H.R. 6782 offers farmers immediate economic assistance at realistic levels.

Without H.R. 6782 and without followup legislation farmers can expect a continuation of the boom and bust cycle and its erratic swings in commodity prices. For consumers, however, the price of food never comes down when farm commodity prices slide into the bust phase.

I again urge my colleagues to reject the administration's erroneous and panicky appraisal of the Emergency Agriculture Act and to vote in support of H.R. 6782. I also urge my colleagues to request that the House Agriculture Committee immediately begin consideration of a long-range farm program which will stabilize the agricultural economy at price levels fair to farmers and consumers.●

## THE FIGHT AGAINST SCLERODERMA

### HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. PANETTA. Mr. Speaker, I would like to draw the attention of my colleagues to the fight against schleroderma, a painful and debilitating disease that attacks the skin and multiple organs of the body.

In its most serious, systemic form, scleroderma can strike the esophagus, intestines, lungs, heart, or kidney, causing fibrosis, inflammation, and atrophy of normal functioning tissues. Localized scleroderma causes hardening and thickening of the skin, particularly of the hands and fingers, along with painful ulcerations.

The cause of scleroderma is unknown, and there is no cure for the disease. Therefore, much work remains if we are to overcome its effects.

Spearheading the battle against scleroderma is the United Scleroderma Foundation, a nonprofit organization established in December 1975, in Watsonville, Calif. The foundation is led by Diane Williams, herself a victim of scleroderma. Having met Ms. Williams, I can tell you she is a dedicated and enthusiastic woman. She has overcome the crippling effects of this disease to help bring national attention to the more than 300,000 people suffering the effects of scleroderma.

I would like to place in the RECORD the text of a handbook which explains the nature of scleroderma and describes the activities of the United Scleroderma Foundation. I urge my colleagues and the public to read this information to obtain an understanding of this disease and its victims.

The information follows:

You may be a patient whose physician has just made a diagnosis—scleroderma. Perhaps you are a husband, wife, mother, father, daughter or son of a person who has received this same message. You might be a friend to someone who is afflicted, or you are just interested in this unusual disease.

If one of the above is the case, there probably is a great deal of confusion in your mind. Perhaps the following information will help explain some of what is known about scleroderma, the direction it takes and what is being done about it.

Scleroderma is a relatively uncommon disease of undetermined cause.

A definition of scleroderma in Schiffere's Family Medical Encyclopedia is "hardening of the skin," appropriately based on the roots of the word.

Stedman's Medical Dictionary goes a little further: "Thickening of the skin caused by swelling and thickening of fibrous tissue, with eventual atrophy of the epidermis; hidebound disease."

This disease has been described and diagnosed for centuries. Although some authors have been credited with earlier documentation, Curzio of Naples wrote the first definitive description in 1753; however, present thinking is that his patient probably had scleredema. This is a different disease which usually remits spontaneously.

Gintrac introdced the current term "scleroderma" in 1847, after which it was recognized as a skin disorder. Only in the present century has scleroderma been thought of as a more generalized ailment.

Scleroderma is an all inclusive term used to apply to several clinical conditions. For general purposes, it is divided into two major forms, systemic and localized.

SYSTEMIC SCLEROSIS (SS)

1. Diffuse.
2. CREST syndrome (defined later).
3. MCTD (Mixed-Connective Tissue Disease).

LOCALIZED SCLERODERMA

1. Morphea (limited to a well defined patch of skin).
2. Generalized morphea.
3. Linear (a band-like thickening confined to one part of the body, such as an arm or leg).

This is the definition of systemic sclerosis and localized scleroderma used by Dr. Gerald P. Rodnan, Professor of Medicine and Chief of the Division of Rheumatology and Clinical Immunology in the Department of Medicine, University of Pittsburgh.

Diffuse scleroderma indicates possible involvement of internal organs of the body, namely the esophagus, intestines, lungs, heart or kidneys. The liver is affected only in the CREST syndrome, and then not commonly.

Localized scleroderma involves the skin or the skin plus other body parts (muscle, bone) in a circumscribed or patchy (morphea) distribution or in a linear pattern which usually affects one part of the body.

Either variety involves only a limited portion of the skin and frequently poses more of a cosmetic problem than anything else. There may also be some mobility problems. Linear scleroderma does not involve the face; the form of localized scleroderma in which the face is affected is known as scleroderma en coup de sabre.

Scleroderma is classified as one of the collagen diseases, although it does not appear to be a disorder of the collagen molecule primarily.

Collagen is the most abundant protein in connective tissue as well as the body. It consists of three chains that are coiled about each other like strands in a rope. The collagen chains and molecules become cross connected to each other as they age. This is the dominant structural material of man and other members of the animal kingdom.

Scleroderma is thought to result from loss of blood vessels which in turn leads to fibrosis of skin and multiple organs.

CREST is a clinically recognized varient of scleroderma. The prognosis of individuals with CREST syndrome is often very good, as this is a relatively benign disorder compared to the classical diffuse scleroderma form of systematic sclerosis.

There rarely is any threat to overall health in this type of scleroderma, although recently patients have been found who developing severe lung disease twenty years or more after the onset of CREST syndrome.

The term CREST is an acronym made up of the first letters of the five most prominent manifestations noted below. CREST syndrome includes patients who were formerly said to have sclerodactyly and to have a favorable prognosis.

Calcinosis is the accumulation of calcium below the outer layer of skin. These accumulations may become painful with time. They may protrude through the skin, causing infections.

Raynaud's phenomenon is a vascular reaction, an exaggeration of a normal blood vessel reaction to cold. Normally vessels constrict in order to conserve the warmth of the body for the internal organs; but in scleroderma the vessels are decreased in number and narrowed. Even a slight constriction may produce a marked decrease in or cessation of the flow of blood to the fingers.

In response to cold, the tips of the fingers or toes may go from white to blue to red. The result may be painful, with burning pins and needles numbness.

Raynaud's phenomenon may occur in association with scleroderma or other forms of connective tissue disease such as lupus erythematosus. In either case the term secondary Raynaud's phenomenon is employed.

This phenomenon also may occur as an isolated circulatory disturbance. In this case the term primary Raynaud's phenomenon is used. Not all Raynaud's phenomenon means scleroderma, but it is present in about ninety percent of scleroderma patients.

Esophagael dysfunction involves fibrosis and loss of normal motility of the lower esophagus, actually thinning of muscle. This causes difficulty in swallowing and acid reflux and leads to heartburn.

In Sclerodactyly the skin becomes thin, shiny and bright; the fingers and toes may not bend, or they become fixed into flexed or less functional positions.

Telangiectasia occurs when the small vessels near the surface of the skin become dilated and visible. They form fine little red or purple spiderish spots that usually have at least one straight border.

Mixed-Connective Tissue Disease is an overlap between scleroderma and one or more other collagen diseases; for instance, systemic lupus, dermatomyositis or rheumatoid arthritis. This type of scleroderma has a different course and is treated in a different way.

Scleroderma may be defined as a rare disease complex of (1) vascular changes, (2) fibrosis, an abnormal increase in the amount of collagenous connective tissue in an organ, (3) inflammation that to varying degrees involves skin and visceral organs, and (4) atrophy or loss of normal functioning tissues.

The basis of scleroderma is thought to result from blood vessels narrowing, which leads to fibrosis of skin and multiple organs and atrophy of normal tissues.

It is not known what the primary event may be. Changes may occur first in vessels or cells (fibroblasts) which cause connective tissue proliferation; or an inflammatory response may take place. It is possible that a combination of the changes may occur early.

At first, scleroderma can be difficult to diagnose. There may be slowly evolving changes in the skin or malfunction of the internal organs. The relationship to any systemic disease may be unknown at this point. Arthritis-like symptoms may appear. Rheumatoid arthritis, lupus erythematosus, osteoarthritis and bursitis are frequent misdiagnoses.

Common presentations may include such nonspecific complaints as weakness; weight loss; fatigue; neurasthenia; vague muscle, joint or bone aching; arthritis; Raynaud's phenomenon; stiffness of the hands; altered pigmentation; unexplained edema; thickening of the skin or telangiectases.

Loss of body hair; swallowing difficulties; heartburn; shortness of breath; blood pressure problems (rare as a presenting problem); heart, kidney, intestinal or lung problems. If any one of these is an isolated complaint, scleroderma isn't the first disorder that comes to mind.

When two or more of these symptoms come together, the true nature of the disease may be suspected. There is no single test which proves the diagnosis. Several tests, including blood sedimentation rate, gamma globulin, latex fixation, antinuclear antibody tests, skin biopsies and X-rays may be made. Some of the tests may be abnormal, but scleroderma is not necessarily the only possible diagnosis.

All of the above tests are non-specific, and none proves the diagnosis. This generally is established on the basis of combined clinical findings. The decision may be confirmed by biopsy, although this seldom is required for diagnostic purposes.

Estimates of frequency in the United States vary from 50,000 to 300,000. With the probable occurrence of numerous undiagnosed cases, an exact figure is difficult to ascertain.

Any age group may be affected, although most patients develop the disease between the ages of thirty and fifty. It is emphasized that occurrence may be observed at any age, even in childhood.

Approximately three times as many women as men develop scleroderma during early and middle age. The frequency tends to increase with age in both sexes. In older ages, the relative ratio of women to men is less.

In most cases, this is a chronic and disable disease, although there are exceptional records of remissions after five to ten years. The patient must face the fact that he is dealing with a long-term disorder.

Unfortunately there is not as yet any known therapy that will stop or reverse the progressive sclerosis involved in sclerodema. Many different medications and therapies have been tried. Some of these have been met with initial hope and enthusiasm both by doctors and patients, but so far none has led to a permanent cure of the disease.

Several agents still are being researched to determine if they are useful in special types of scleroderma. Cortisone, penicillamine, colchicine, immunosuppressive drugs, DMSO (dimenthylsulfoxide) and Vitamin E are some that currently are being studied. Aspirin frequently is prescribed as relief for the arthritis symptoms. There is no evidence whatsoever that DMSO or vitamin E is helpful.

Scleroderma usually doesn't respond to cortisone, as does arthritis of the rheumatoid type. It is emphasized that no specific drug is available at present to cure scleroderma, although various anti-inflammatory agents may provide benefit in treating certain manifestations.

General supportive, nutritional, drug and physical therapeutic measures can contribute significantly to improving function and comfort of the patient.

Much research is being conducted on the possible causes and treatment of scleroderma, but at present it is controversial. Toxic therapies should be avoided. The patient's physician can best prescribe for the individual case.

The patient should avoid prolonged exposure to cold, over-fatigue and chronic emotional stresses. Occupational exposure to cold should be eliminated. Smoking must be stopped. Excessive alcoholic intake may aggravate the condition by shifting blood flow away from affected areas.

Good care of circulation and infections is recommended. A warm climate may offer relief of some symptoms, but modern air conditioning should not be used to excess.

Upper respiratory tract infections should be treated early and vigorously. The treatment is directed toward preventing long term complications.

Rest is most important. Physiotherapy can include warm whirlpool baths and hot water baths. Passive and graduated muscle exercises are beneficial, as is general physical conditioning.

After diagnosis, the patient will probably go through an emotional process in several stages—denial, anger, bargaining (an attempt to postpone), depression, and finally, acceptance. The patient should know the truth first, then be given the most important thing—HOPE.

At the first California Licensed Vocational Nurses Association Scleroderma Workshop in Monterey, California, in February, 1977, Dr. Denny L. Tuffanelli said the old advice "Don't read about the disease," is founded upon concern about patients reading without guidance with the resultant misunderstanding.

He said the patient with serious problems has a right to know facts. Group meetings or clubs are a way for people to learn more about their minds and bodies. Personal exchange between the afflicted is encouraged.

Once more the unknown cause of the disease is stressed. There has been recent progress in understanding the collagen and ground substance in scleroderma. According to Dr. Richard K. Winkelmann of the Mayo Clinic, one of the problems has been the abundance of theories and the absence of facts. Now, however, data exists to make classification and staging of scleroderma according to severity possible.

After the diagnosis, the physician often has little to offer except alleviation of the patient's symptoms. Many fundamental questions are unanswered, as the disease varies from the sclerosis of a small bit of skin to overwhelming systemic reactions terminating in death.

Scleroderma is a baffling disease with no cure available at this time. The symptoms can be treated only with the hope of making the patient more comfortable. It is wise to seek a specialist who practices in the area in which the patient lives.

Currently studies and research are being conducted at medical centers throughout the United States. These may result in new findings to uncover a cure.

Attention to scleroderma research by medical people should be encouraged. The United Scleroderma Foundation is hoping to further this work by grant awards for the most productive and scholarly published research papers on scleroderma, its causes and potential cures. Outstanding work in collagen or related diseases will be eligible for the grants. The awards will be decided upon by the USF's Medical Advisory Board, a nationwide panel of physicians who specialize in scleroderma.

The United Sclerodemra Foundation is a non-profit organization established in December, 1975, in Watsonville, California, under the state laws of California. Its goals are to educate and inform the public about scleroderma; to promote medical research toward finding a cure; to help patients make and maintain contact with each other, and to accept donations, bequests, memorials

and grants, and to oversee their proper and most useful distribution.

Scleroderma patients and supporters formed the foundation to channel hopelessness into action, ignorance in knowledge and fear into acceptance.

The United Scleroderma Foundation will be glad to answer any inquiries. The address is Post Office Box 724, Watsonville, California 95076. Telephone contact may be made at 408-728-1277.●

## EQUALITY UNDER THE LAW FOR SOVIET REFUGEES

### HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. STEERS. Mr. Speaker, last month I introduced a bill with my distinguished colleagues, MILLICENT FENWICK and GLADYS NOON SPELLMAN, H.R. 11508, that would allow paroled refugees the same treatment under the law as conditional refugees regarding the computation of their permanent resident status. Indochinese and Cuban refugees already receive this treatment, but refugees from the Soviet Union do not.

At the present time, conditional refugees must be in the United States several years before they can apply for permanent resident status. They then must have permanent resident status for 5 years before being eligible for citizenship. This 5-year period is computed from the time they arrived in the United States. Paroled refugees must also wait an initial period before receiving permanent resident status, but their 5-year permanent resident status requirement is computed from the day they received permanent resident status, not the day they entered this country.

In some cases, these paroled refugees entered the United States the same day as conditional refugees, but they must wait years longer to acquire citizenship. It is the aim of H.R. 11508 to provide Soviet refugees the same consideration under the law as is presently accorded the other major groups of refugees.

This bill is extremely simple and I am inserting into the RECORD the text of this bill for my colleagues' perusal:

H.R. 11508

A bill to provide that certain refugees who were paroled and later admitted for permanent residence into the United States will be treated, for determining their period of residence for purposes of naturalization, as establishing permanent resident status as of the date of their arrival to the United States

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That any alien who, before the date of enactment of this Act—

(1) was paroled into the United States as a refugee under section 212(d)(5) of the Immigration and Naturalization Act, and

(2) had his status adjusted to that of an alien lawfully admitted to the United States for permanent residence,

shall, for purposes of section 316 of such Act, be regarded as lawfully admitted to the United States for permanent residence as of the date of his arrival.●

## AN OUTRAGEOUS ATTEMPT TO CHANGE THE RULES

### HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. McDONALD. Mr. Speaker, the debate over the so-called equal rights amendment has already consumed more of America's time than many persons think it really merits. Clearly, public opinion is turning against ERA. However, the pro-ERA lobby is now attempting to win with blackmail—no conventions in anti-ERA States—what they have failed to win in the legislatures of the States. And, if this blackmail effort is not bad enough, they are now attempting to secure an extension of the time alloted for ratification of a constitutional amendment. Thus, while the ball game is, officially, almost over, the ERA proponents want an extended overtime with which to plead their case. This is wrong and Phyllis Schlafly recently stated the case as to why they are wrong in a very succinct item that appeared in the Washington Post of Tuesday, April 11, 1978.

The item follows:

THE ERA ARGUMENT—AN "OUTRAGEOUS ATTEMPT TO CHANGE THE RULES"

(By Phyllis Schlafly)

The football game is in the last quarter and your team is winning. Suddenly the coach of the losing team demands that the game be extended an extra quarter to give them time to catch up.

Would the fans on either side put up with such an outrageous attempt to change the rules in the middle of the game? Certainly not. Neither will fair-minded Americans accept a similar attempt by the backers of the Equal Rights Amendment to change the rules in the middle of the consideration process and extend the time limit another seven years.

Such action would be unfair, unprecedented, and unrealistic. It should be buried under a torrent of righteous indignation.

The Supreme Court ruled in *Dillon v. Gloss* (1921) and *Coleman v. Miller* (1939) that Congress has the power to set a "reasonable" time limit for ratification. Nothing could be more unreasonable than to saddle state legislatures with the duty of debating the same constitutional amendment for 14 consecutive years.

The seven-year limit was set by Congress in the ERA resolution itself because that figure had been used in most other amendments of this century. As passed by Congress on March 22, 1972, ERA specifically states that it shall become part of the Constitution "when ratified by the legislatures of three-fourths of the several states within seven years from the date of its submission by the Congress."

In addition to the poor sportsmanship of the ERA supporters in trying to change the rules, their proposal is a great confession that they cannot get three more states by March 22, 1979. (Actually, they need six more states, because Nebraska, Tennessee and Idaho have rescinded their ratifications of ERA.)

The reason ERA has lost all its early momentum is that women have discovered that it will do nothing to benefit them in employment, education, credit or in any other endeavor. Federal legislation already has eliminated sex discrimination in those areas by passage of the Equal Employment Opportunity Act of 1972, the Education Amendments of 1972 and the Equal Credit Opportunity Act of 1974.

ERA will, however, take away from women many rights they now enjoy. It will take away a young girl's exemption from the draft in all future wars and force her to register just like her male counterpart. The Selective Service Act would have to read "all persons" in our next war, and women would be involuntarily assigned to combat duty just like men.

If laws pertaining to family support are neutralized by ERA, it would void the husband's obligation to support his wife, to provide her with a home and support their minor children. ERA simply would not permit any "sexist" law such as "Husband is liable for the support of his wife."

Section 2 of ERA would shift from the states to the federal government the last remaining aspects of our lives that it does not already control, including marriage, divorce, child custody, prison regulations, protective labor legislation and insurance rates.

ERA would prevent us forever from making reasonable differences between men and women on the basis of factual differences in child-bearing and physical strength. ERA would force upon us the rigid, unisex, gender-free mandate demanded by the women's liberation movement, and it would transfer the power to apply that mandate to the federal government and the federal courts.

ERA can't win in seven years, and it is even less likely to win in 14 years. American women are too smart to fall for the fraud of ERA.●

## COMMERCIAL ARMS SALE

### HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTAT

*Tuesday, April 11, 1978*

● Mr. STUDDS. Mr. Speaker, on March 8, the Subcommittee on International Scientific and Security Affairs of the House International Relations Committee held a hearing on the sale by U.S. companies of police and law enforcement equipment to nations around the world. During the hearing, a number of very important questions were raised concerning the uses to which U.S.-supplied equipment are put. In addition, a great deal of interest was expressed in the Carter administration's policy toward the sale of commercial weapons to governments known to have poor records in the area of human rights.

I believe that the issue of commercial arms sales is very important, and that it is deserving of continued close scrutiny by the Congress. I believe also that the following correspondence between myself and Under Secretary of State Lucy Benson on this subject will be of interest to my colleagues:

WASHINGTON, D.C., *March 10, 1978.*

Hon. LUCY WILSON BENSON,
*Under Secretary for Security Assistance, Department of State, Washington, D.C.*

DEAR MS. BENSON: In testimony on March 8 before the House Subcommittee on International Security and Scientific Affairs, Representative Thomas Downey raised a number of questions about our current commercial weapons sales practices. At that hearing, I expressed my intention to request an Administration reaction to the arguments presented by Representative Downey in his statement (copy attached), and asked that

this correspondence be included in the official record of the hearing.

Accordingly, I would greatly appreciate a letter from the State Department which would spell out the Administration's views with respect to both the general thrust of, and the specific suggestions made by, Congressman Downey. In particular, I would like to know:

(1) What are the reasons for keeping confidential the names of those U.S. companies which sell weapons on a commercial basis to other countries? Why, for example, should information about whether or not Cadillac-Gage is selling armored cars to Haiti be kept confidential?

(2) Would it not be reasonable to modify the term "internal security," as it is used in Section 4 of the Arms Export Control Act, in order to make clear that this term does not include actions which would contribute to the repression of legitimate forms of dissent in other countries?

(3) Would the Administration support a prohibition on the use of military sales credits for financing foreign police, prisons, law enforcement, or domestic intelligence-gathering activities?

I realize that many proposed actions which seem appealing on the surface do not translate well into concrete legislative proposals. I also believe, however, that the issues raised by Representative Downey are well worth the attention both of the Administration and of the Congress.

Finally, I would like to express my appreciation for the continuing effort being made by President Carter, and spearheaded by your office, to develop a workable arms sales restraint policy for the United States.

Sincerely,

GERRY E. STUDDS.

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UNDER SECRETARY OF STATE
FOR SECURITY ASSISTANCE,
SCIENCE AND TECHNOLOGY,
*Washington, D.C., April 8, 1978.*

Hon. GERRY E. STUDDS,
*House of Representatives.*

DEAR GERRY: I am writing in response to your letter concerning the recent testimony offered by Congressman Downey before the House Subcommittee on International Security and Scientific Affairs with regard to certain aspects of our arms transfer policy, especially with relation to exports of commercially-sold defense articles and defense services on the U.S. Munitions List.

As you know, the Administration has placed a renewed emphasis on the observance of, and respect for, internationally-recognized human rights as a fundamental tenet of United States foreign policy. Consistent with this policy and the provisions of section 502B of the Foreign Assistance Act of 1961, as amended, we carefully review all proposed exports of commercially-sold items on the Munitions List intended for countries where substantial human rights problems exist. This is especially the case with respect to proposed exports of equipment that could be used by the police and other civil law enforcement authorities of those countries. The review process has recently been expanded to include police-related items not on the Munitions List, whose export is controlled by the Commerce Department. In many cases, applications for licenses for such exports have been denied on human rights grounds. In addition, we have made clear to a number of governments that the question of the nature and scope of any security assistance relationship with the United States is directly related to the state of human rights observance.

With regard to the specific proposals made by Mr. Downey, we are, of course, entirely sympathetic to the ends they are intended to achieve. Our preliminary analysis suggests that while some of these proposals may be desirable and feasible, others would present substantive and procedural difficulties that would seriously undercut their ultimate usefulness. Still others represent practices that are already being followed by the Department in exercising its functions with respect to the control of commercial exports of defense articles and services. We expect to be providing the Committee with more detailed comments on Mr. Downey's proposals in the very near future.

In your letter you asked for our views on three specific matters. The following comments are keyed to the questions which you have asked:

1. Section 38(e) of the Arms Export Control Act incorporates by reference the provisions of section 7(c) of the Export Administration Act of 1969, as amended, so that the requirements of the latter provision of law are made applicable to the activities of the Office of Munitions Control. Consequently, confidential business information, or information with respect to which a request for confidential treatment has been made by the person or firm supplying that information, received by the Office of Munitions Control, may not be released to third parties unless the Director of that office finds that withholding the information would be contrary to the national interest. (Section 38(e) carries with it the qualification that nothing therein shall be construed as authorizing the withholding of information from the Congress.) Moreover, the Freedom of Information Act exempts from disclosure under that statute ". . . commercial or financial information obtained from a person and privileged or confidential", 5 U.S.C § 552(b)(4).

Much of the information received by the Office of Munitions Control falls within the categories of information protected from disclosure by the above-mentioned statutes. For example, information relating to the identity of customers and the nature of the sale with respect to which a license application is filed could, if improvidently released, cause genuine competitive harm to the applicant. This is especially true of export license applications and applications for prior approval of sales activities, both of which may come well before the final conclusion of a sales transaction. The present system enables us to obtain information regarding export transactions and related matters (such as agent's fees) in excess of the bare minimum required by law and regulation. Thus, the restrictions on disclosure of information furnished in confidence to the Office of Munitions Control serve an important dual function recognized by statute—to further the regulatory scheme by encouraging full and complete disclosure, and to protect those who furnish such information from possible competitive harm—and do not, nor are they intended to, insulate either the exporter or the Executive Branch from any public criticism of specific export transactions. Any substantial relaxation of these disclosure limitations could put at risk the sources of information needed to effectively administer an important regulatory scheme, without genuine compensatory advantage to the public.

On the other hand, the Department does make available to the public, upon request, statements submitted under section 38(b)(1) of the Act, which identify and describe the activities of persons engaged in the manufacture, export or import of defense articles and defense services, without reference to particular transactions. Further, the annual report submitted to Congress each year under section 657(a)(3) of the Foreign Assistance Act is almost entirely public information. This report documents arms exports to all countries during the preceding fiscal year.

2. As you know, we do not construe the term "internal security" as used in section 4 of the Arms Export Control Act to refer to police and other civil law enforcement activities, but rather to the maintenance of internal order in a military sense, a legitimate purpose for which all countries, including our own, have historically maintained and supported armed forces. While we could support in principle an appropriate clarification of the present language of section 4 to make this distinction explicit, any such modification would have to avoid a formulation that would condition the legal propriety of a particular transaction upon the subsequent actions of the purchaser not foreseen at the time the sale was made. We are prepared to work closely with the Committee in the event it chooses to consider modification of section 4 in this respect.

3. With respect to the financing under the Arms Export Control Act of purchases related to foreign police, prisons, law enforcement, or domestic intelligence-gathering activities, such activities do not fall within the authorized purposes for which FMS sales may be made under section 4 of the Act, and consequently are not activities for which the use of FMS financing would be approved. Consequently, we do not believe that an amendment of the type you suggest would be either necessary to, or effective in, achieving the desired end.

We are, of course, looking forward to working together with the Congress in framing legislative proposals that will help give practical effect to the foreign policy goals of the United States. If I may be of further assistance in this or any other matters, please do not hesitate to let me know.

Sincerely,

LUCY WILSON BENSON ●

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## PANAMA AND PAX AMERICANA

## HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. SYMMS. Mr. Speaker, last Friday (April 7) the Wall Street Journal carried an excellent editorial entitled Panama and Pax Americana that discussed some of the subtleties of the Panama Canal Treaty debate.

For one, the article points out that the people of Panama seem to believe (or have been led to believe by Torrijos) that the increased revenues to their Government from payments by the United States will permit the Panamanians a tax cut. The article goes on to point out that the reason Panamanian taxes are so high is because Torrijos runs Panama the same way Nelson Rockefeller ran New York State.

Mr. Speaker, I simply cannot help being amused by this ironic comparison; I must share this editorial with my colleagues in Congress:

PANAMA AND PAX AMERICANA

(By Jude Wanniski)

One of the most puzzling political phenomena of the year is the wide gap between the people and the politicians on what to do with the Panama Canal.

Who doubts that if there were provision in the Constitution for a national referendum, and one were held on the Canal treaties, that the voters would bury them? The opinion polls suggest the public opposes the treaties by roughly a two-to-one margin. Yet the representatives of the people, in the White House and in the U.S. Senate, by an astonishingly lopsided margin of roughly 70% to 30%, back the treaties, interpreted by the people as "giving away" the Canal.

Of course it's true that in a representative form of government we expect as natural the frequent discrepancies between the apparent wishes of the citizens and the votes of their delegates. This is because we expect our political delegates to weigh the intellectual arguments and passions of their constituents in addition to the numerical majority. In other words, Americans accept the idea that majority rule is not inconsistent with the notion that the squeaky wheel gets the grease.

But how can we explain this Canal voting? Not only has antitreaty sentiment among the citizenry amassed a wide numerical majority. It also commands the passion of that majority. There is scarcely any intensity among the minority of citizens who support the treaties. Senators Howard Cannon of Nevada and Paul Hatfield of Montana, for example, can hardly find any of the citizens who they represent agreeing with their protreaty votes.

What's going on?

AN EXPLANATION

There must be a rational explanation. And there is, I think, an honest difference of opinion here between the people and their representatives. When you come right down to it, President Carter and two-thirds of the Senate base their decision on the idea that "imperialism" is a bad thing and that the Panama Canal (which we "stole fair and square") is a symbol of American imperialism (Teddy Roosevelt, gunboat diplomacy and all that). Furthermore, they believe imperialism is antihistorical, as witness the crumbling of the Roman and British empires.

The American people, on the other hand, still think Yankee-style imperialism is not a bad thing, all things considered. By this we'd mean an extension of hegemony not by conquest, but through superior example, leadership and salesmanship. Americans more or less think our system of government is the best in the world. For 60 years the U.S. economy has been preeminent. For a good part of that time U.S. military power has protected the interests of democracy and freedom. The U.S. dollar has been the world currency. American culture has become an international language. A benign imperialism, mostly.

Nor do Americans, generally speaking, believe "imperialism" is antihistorical. On the contrary, if the world is going to be unified someone has to be in the lead. If it is not the United States it looks to the man in the street that it will be the Soviet Union. The problem with empires, like any club, is that they are good only as long as people really want to belong to them. Previous empires broke down because the costs of belonging finally overtook the benefits.

For the last dozen years or so, unhappily, the costs of membership in the Pax Americana have been rising and the benefits have been falling. American imperialism has been falling. American imperialism has been getting a bad name. People are trading in dollars for yen. France and Italy are on the brink of switching to the other guys. German citizens are taking up collections to help support our tattered legions stationed there. And when Omar Torrijos rattles his Panamanian saber, our Kissingers tremble.

President Carter and two-thirds of the U.S. Senate are correct in their calculations. A shrinking Pax Americana cannot keep clients against their will. One must cut the empire down to size, smiling as we wave bye-bye to former customers. So long, Cuba, Goodbye, Vietnam and Indochina. Adios, Angola. Goodbye, Canal. Shrink the U.S. Navy to bathtub size. Ban the neutron bomb. Take what you can get at SALT, and start thinking about kissing Taiwan goodbye.

The American people are making different calculations, and seem to be saying it is too soon to throw in the towel on Yankee world leadership. Heck, we hardly had a decent run at it, and when the President and Senate reach so far down into the barrel to give away the Canal, it seems premature. Sure, if the economy continues to bleed itself with inflated currencies and debt finance we'll have no choice but to retreat, to lighten the load. But so soon?

What, though, is the alternative? It goes without saying that internal economic disintegration must be halted and real expansion renewed. But even if Mr. Carter and two-thirds of the Senate had a clue as to how this could be done, it would not be enough to boom the host country of this empire. The American failure of the last 30 years, as an imperialist host, is that it unwittingly poisoned the poor countries of the world with unfortunate advice. In the next run at a Pax Americana, this has to change.

Consider Panama. The chief reason by far that the people of Panama want the Canal is economic. In addition to getting a big bag of money to take the Canal off our hands, Panama gets the right to boost Canal tolls and milk it for everything the traffic will bear. The people of Panama seem to have a vague hope the revenues will go to reducing their domestic taxes.

Why are Panamanian taxes so high? The main reason is that for the last decade Gen. Torrijos ran the government the way Nelson Rockefeller ran New York State. Spend and tax, spend and borrow. Mr. Torrijos was advised that this was the best way to build a modern economy by his friend, Nelson Rockefeller, who a decade ago sent a team of experts to Panama to help him out. Panama's external debt is at least $2 billion and debt service takes 37 cents of every dollar of national revenue. For the most part, New York banks hold the paper. Mr. Rockefeller is the only American we know who exhibits genuine passion on behalf of the treaties and Mr. Torrijos.

A BETTER WAY

There must be a better way of redeeming Mr. Rockefeller for his dreadful advice to his friend than giving up the Canal and a lot of money. Sen Harry Byrd of Virginia thinks the U.S. taxpayer costs will hit $10 billion before the deed is done in the year 2000. And chances are slim that Mr. Torrijos will use the money to relieve his people of oppressive taxes. He'll buy a lot of military trinkets and build a replica of the Albany Mall.

Why not pay off Panama's $2 billion debt if the government agrees to cut tax rates by 37% (the amount of revenues now going to debt service). The Panamanians would love it.

We shouldn't pin this to Mr. Rockefeller, either. He was, after all, only one of a crowd of Americans who circled the globe since World War II selling a British brand of economics. It never occurred to the American Keynesians that the British Empire crumbled under the idea that public debt and high tax rates were the correct, modern formula for growth. Mr. Rockefeller was honest. He practiced what he preached. New York has not recovered, just as the former British colonies have not recovered, just as Panama has not recovered. And observe the prosperity of Egypt 22 years after Mr. Nasser grabbed Suez from the dying Pax Britannica.

Imperialism becomes malign when the Empire disseminates poisonous advice. Lucky for us that countries like Germany, Japan, Taiwan and several others ignored our advice, and kept the Western economy buoyant.

Perhaps this partly explains why there is such a gap between the people and the politicians on the Canal. The citizenry may sense that Keynesianism is on its last laps, and we'll soon abandon the idea that an American hegemony can succeed with economic theories that destroyed the British Empire. American global leadership must surely become more attractive once we stop advising the Panamas of the world to search for happiness in debt, devaluation and taxation.

This is an optmistic view. The President and the Senate clearly do not believe any of this foolishness, which is why they vote the way they do. The people haven't given up on another run at a Pax Americana, which is why they are putting up such a fuss.

(Mr. Wanniski is an associate editor of the Journal.)●

## CHILD ABUSE PREVENTION AND TREATMENT AMENDMENTS OF 1977

### HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

Mr. BRADEMAS. Mr. Speaker, yesterday the House of Representatives gave final approval to H.R. 6693, legislation providing for a 4-year extension of the Child Abuse Prevention and Treatment Act with authorizations at $25 million for fiscal 1978, $27.5 million for fiscal 1979, and $30 million each for fiscal 1980 and 1981.

The measure would increase the level of funds available to the States for assisting State child abuse prevention and treatment efforts. Continued support would be provided for ongoing service programs helping abused children and their families. The legislation would also require a close review of the research activities of the National Center on Child Abuse and Neglect.

Mr. Speaker, the legislation passed yesterday would give special assistance to programs dealing with the sexual abuse of children, and would also provide for the reform of adoption procedures to ease the interstate placement of children in adoptive homes.

At this point, Mr. Speaker, I would place in the RECORD a summary of the compromise agreement on H.R. 6693 reached with the Senate Committee on Human Resources and approved yesterday by the House of Representatives:

H.R. 6693—JOINT EXPLANATORY STATEMENT OF HOUSE BILL, SENATE AMENDMENT, AND COMPROMISE AGREEMENT

TITLE I—CHILD ABUSE PREVENTION AND TREATMENT AMENDMENTS

SEC. 101—National Center on Child Abuse and Neglect.

*Dissemination of research and training materials*

The House bill would add a requirement to the Child Abuse Prevention and Treatment Act that the National Center on Child Abuse and Neglect "disseminate" as well as "compile, analyze and publish" (requirements of existing law) research and training materials.

The Senate amendment contained no comparable provision.

The compromise agreement contains the House provision.

*Comprehensive plan for maximum coordination of activities of all agencies and organizations involved in child abuse and neglect*

The Senate amendment would require that the National Center on Child Abuse and Neglect prepare a comprehensive plan for seeking to bring about maximum coordination of the goals, objectives, and activities

of all agencies and organizations involved in child abuse and neglect.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision.

*Research priorities*

Both the House bill and the Senate amendment would require that the Secretary of H.E.W. establish research priorities for making grants or contracts under the Act and, not less than sixty days before establishing such priorities, publish a statement of such proposed priorities in the Federal Register for public comment.

The compromise agreement contains this provision.

The Committees anticipate that the research and demonstration priorities for fiscal year 1978 will reflect the amendments to the Act contained in the compromise agreement.

*Research grants*

Both the House bill and the Senate amendment, with slightly different phraseology, would provide that research grants may be made for periods up to three years with a review, at least annually, by the Secretary of H.E.W. utilizing peer review mechanisms to assure the quality and progress of research conducted under such grants.

The compromise agreement contains this provision utilizing the House phraseology.

*Staff and resources*

Both the House bill and the Senate amendment would provide that the Secretary of H.E.W. shall make available to the National Center on Child Abuse and Neglect the necessary staff and resources for the Center to carry out effectively its functions.

The Compromise agreement contains this provision utilizing the Senate phraseology.

The Committees note that while insufficient staff and resources have been made available to the National Center on Child Abuse and Neglect to enable it to carry out its functions, the support staff at the Assistant Secretary for Human Development's level has grown significantly over the past few years. The Committees expect that adequate staff and resources will promptly be made available at the program level to carry out this Act effectively.

The Committees would like to make clear that they expect that no funds appropriated under this Act would be utilized for research programs or activities which are not specifically authorized by this Act, nor would such funds be transferred to any office or other activity of the Department of H.E.W. which is not directly responsible to the Commissioner of the Administration for Children, Youth, and Families or other successor office or activity which performs substantially similar functions with respect to the child abuse and neglect programs. The Committees have been assured that no such diversion of research funds appropriated under this Act has been implemented with respect to fiscal year 1978 appropriations, and the Committees expect that this situation will continue hereafter.

SEC. 102—Definitions.

*Sexual exploitation*

The House bill would add "or exploitation" after "sexual abuse" in the definition of child abuse and neglect in section 3 of the Act.

The Senate amendment contained no comparable provision.

The compromise agreement contains the House provision.

*Failure to provide medical treatment*

The House bill would add to the definition of child abuse and neglect a provision excluding from the definition of child abuse and neglect a failure to arrange for medical treatment because of religious belief.

The Senate amendment contained no comparable provision.

The compromise agreement does not contain the House provision.

*Definition of age*

The Senate amendment would amend the definition of "child" to allow the age of the child to be defined by State law.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision.

SEC. 103—Demonstration or Service Programs and Projects.

*Service programs and projects*

The House bill would add "service" programs to the demonstration program authority. The Senate amendment would provide for special consideration to be given to continued federal funding of programs or projects of national or regional scope and demonstrated effectiveness.

The compromise agreement incorporates the provisions of both the House bill and the Senate amendment. The provisions of the House bill are included in section 103 and the provisions of the Senate amendment are included in section 104.

*Development and establishment of training programs*

The House bill would strike out "the development and establishment of" in the training authority for demonstration programs.

The Senate amendment contained no comparable provision.

The compromise agreement contains the House provision.

The Committees stress that this change is intended to clarify that funds may be utilized for maintenance of training programs and is not intended to eliminate the authority for development and establishment of training programs.

*Relocation of appropriations earmarking provisions*

The Senate amendment would move the provision earmarking the funds appropriated under the Act for programs or projects from section 4 to section 5.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision.

*Disbursement of State grant funds*

The House bill would add "(through the Center)" to the provisions dealing with disbursement of State grant money and strike out the phrase "for the payment of reasonable and necessary expenses" in the provisions dealing with reimbursement in the State grant program. The Senate amendment would also add "through the Center" to these provisions along with a conforming amendment to facilitate the movement of the earmarking provisions of the Act from section 4 to section 5.

The compromise agreement contains the Senate phraseology.

*Obligation of State grants*

The Senate amendment would require a reduction in grants awarded to a State which fails to obligate funds within 18 months after its award.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision.

SEC. 104—Authorization of Appropriations, Earmarking, and Sexual Abuse Treatment Programs.

*Authorization of appropriations*

The House bill would provide for a five-year extension of the authorization of appropriations at levels of $25 million for fiscal year 1978, $27.5 million for fiscal year 1979, and $30 million each for fiscal years 1980, 1981, and 1982. The Senate amendment would provide for a two-year extension at $25 million each for fiscal years 1978 and 1979.

The compromise agreement provides for a four-year extension at $25 million for fiscal year 1978, $27.5 million for fiscal year 1979, and $30 million each for fiscal years 1980 and 1981.

*Earmarking of appropriations*

The Senate amendment would move the earmarking provisions of the Act from section 4 to section 5 and would include research activities as among those (presently demonstration programs and projects) for which 50% of the funds are earmarked under existing law.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provisions.

*Continued funding of national or regional projects of demonstrated effectiveness*

The House bill, the Senate amendment, and the compromise agreement, to extent previously described in section 103, provide for funding of service programs within the existing demonstration program authority and for special consideration for continued Federal funding of child abuse and neglect programs or projects, previously funded by the Department of H.E.W. of national or regional scope and demonstrated effectiveness.

*Earmarking of appropriations for State grant program*

The House bill would provide that not less than 30% of the funds appropriated shall be used for the State grant program. The Senate amendment would provide that not less than 20% of the funds appropriated shall be used for the State grant program.

The compromise agreement provides that not less than 25% of the funds appropriated for each of fiscal years 1978 and 1979 shall be used for the State grant and not less than 30% for each of fiscal years 1980 and 1981.

*Sexual Abuse Treatment Center, programs, and projects*

The House bill would provide for the establishment of not less than five centers for provision of treatment and other services to sexually-abused children and those who commit sexual abuse against children, and authorizes the appropriation of such sums as may be necessary. The Senate amendment would authorize the appropriation of $2 million each for fiscal year 1978, and 1979 for (1) research, (2) demonstration projects, and (3) State grants for programs and projects to prevent, identify, and treat sexual abuse of children, including the treatment of family units. The Senate amendment also would provide that not more than 20% of the sums appropriated each year may be spent on research.

The compromise agreement incorporates provisions from both versions to: (1) provide for authorizations of appropriations of $3 million for fiscal year 1978, $3.5 million for fiscal year 1979, and $4 million each for fiscal years 1980 and 1981; (2) provide for programs and projects (including the support of not less than three centers for the provision of treatment, personnel training, and other related services) designed to prevent, identify, and treat sexual abuse of children, including programs involving the treatment of family units, programs for the provision of treatment and other related services to persons who have committed acts of sexual abuse, and programs for the training of personnel, and (3) provide that not more than 10 per centum of the sums appro-

priated under this authority shall be expended for research.

*Definition of sexual abuse, utilization of funds by other programs or projects, and limitation upon appropriations for sexual abuse programs*

The Senate amendment would provide (1) a definition of sexual abuse for the purpose of funding programs and projects under the separate authorization of appropriation contained in section 5(b) of the Act; (2) that funds appropriated under section 5(a) authorization in the Act may also be used for the purposes specified in the section 5(b) authorization; (3) that programs and projects receiving funds under the section 5(a) authorization may also receive funds for activities under the section 5(b) authorization; and (4) that no funds may be spent for section 5(b) unless funds are appropriated under section 5(a) at least the fiscal year 1977 level.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision.

*Criminal penalties for sexual exploitation of children*

The House bill would establish criminal penalties for the sexual exploitation of children.

The Senate amendment contained no comparable provision.

The compromise agreement does not contain the House provision.

Sec. 105—Advisory Board.

*Elimination of Advisory Board report submission requirement*

The House bill would eliminate the provision in the Act (Sec. 6(b) & (c)) requiring the Advisory Board on Child Abuse and Neglect to prepare and submit, within eighteen months of the date of enactment, a report to Congress and the President on the programs, projects, and activities related to child abuse and neglect sponsored by other agencies. This report has already been submitted.

The Senate amendment contained no comparable provision.

The compromise agreement contains the House provision.

*Public members on advisory board*

The Senate amendment would add not less than three public members to the Advisory Board, and provide for compensation for public members while serving on the Advisory Board.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision.

*Activities of advisory board*

The Senate amendment would require the Advisory Board members to discuss planned activities as well as existing activities and would require the Board to review the comprehensive plan prepared by the National Center under the provisions of section 101 (1)(E) of the compromise agreement, and submit the plan to the President and Congress no later than eighteen months after the date of enactment of this provision.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision.

TITLE II—ADOPTION REFORM

The Senate amendment would provide for:

1. Appointment by the Secretary of HEW of an advisory panel to recommend model adoption legislation and procedures to facilitate interstate adoption of children;

2. Establishment of a national adoption and foster care information data gathering and analysis system and national adoption information exchange system;

3. Establishment of an appropriate administrative arrangement within HEW to provide centralized focus for planning and coordination of all departmental activities affecting adoption and foster care, including an education and training program on adoption, preparation, publication and dissemination of information and education and training materials regarding adoption and adoption assistance programs, and technical assistance in the planning, improving, developing, and carrying out of programs and activities related to adoption; and

4 A study of the nature, scope and effects of interstate (and to the extent feasible, intrastate) placement of children in adoptive homes by unlicensed persons or agencies.

5. An authorization of appropriation of $5 million each for fiscal years 1978, 1979, 1980, and 1981 for carrying out this title.

The House bill contained no comparable provisions.

The compromise agreement contains the Senate provision.●

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## PROBLEMS WITH ERISA

### HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 11, 1978*

● Mr. STEERS. Mr. Speaker, the passage of the Employee Retirement Income Security Act of 1974, otherwise known as ERISA, marked yet another moment of governmental intruction into the private lives of American citizens. I welcome this opportunity to suggest to the Congress and to the audience of the CONGRESSIONAL RECORD some of the problems and obstacles imposed by this act.

The mandates in the Employee Retirement Income Security Act imposed at least five different sets of problems which have thus far been uncovered. They are:

First. Excessive paperwork;

Second. Mounds of bureaucratic redtape due to a division of responsibility for administration of the act ;

Third. Legal difficulties not previously dealt with, due to new and different words and phrases;

Fourth. Spouses working within the household end up being penalized due to their choice of jobs; and

Fifth. The impossibility of maintaining an individual and portable retirement fund at least equivalent to an IRA allowed amount, due to sometimes tenuous and only remotely possible, coverage of optional employer related retirement accounts.

Turning to the first problem, that of excessive paperwork, many constituents have spoken to me about the problems and burdens this act has precipitated. A large part of the problem lies in the fact that the forms to be filled out and filed bear only a marginal relationship to that which is the subject matter of the reports. For example, in the case of a small business with few employees, if there is a profit-sharing plan, it comes under the jurisdiction of the act. If the plan satisfies the scrutiny of the Internal Revenue Service, there must be forms filled out, of which the only connection with the act is that the profit sharing will occur later in life. In effect, there is a provision being made for possible future income and the label given it is profit sharing. In the case of one person businesses which have incorporated, the problem becomes especially apparent. While drawing a salary the profit sharing is not merely current income deferred until a later date, but an exercise of corporate power which is outside the bounds of any duty to compensate employees. Why this has to be reported separately (from records of the corporation) to the IRS is not entirely clear, but it does. What then happens to the report is only vaguely set forth. While it certainly contributes to the already overflowing files of memoranda on people in a similar situation in the Federal Government's files, that information may well be found to be less than valuable or useful. The answer to this problem may take the form of one of several options:

First. Repeal ERISA;

Second. Restrict the jurisdiction of ERISA to only employee contributed funded accounts and eliminate all other types of pension systems;

Third. Restrict the jurisdiction of ERISA to only deferred employee compensation systems; and

Fourth. Enact Senate bill S. 901 or House bill H.R. 4340.

The second problem area involves a division of responsibility which results in duplication of all employers' (or anyone who is required to file reports) efforts. The enactment of ERISA started the Departments of Labor's and Treasury's dual jurisdiction over the pension systems of ERISA. Having to deal with one Federal regulatory agency at a time can be a very trying situation. My constituents, however, tell me of the even greater difficulties in dealing with two independent Federal regulatory agencies. As we all know regulatory agencies answer to no constituency, nor are they elected into office. At the level of implementation of policy decisions, the levels of the agcncy are not even staffed with workers approved by the Congress. The problem then, lies not in the personnel of the agencies, but in the latitude given the agencies by Congress in how to go about implementing a Federal law. When all the activities of the Departments of Labor and Treasury are reviewed closely it can be seen that their primary function or duty is not to oversee pension administration, pension vesting abilities or pension systems in general. Rather, the passage of ERISA tacked onto their jobs something that neither was especially suited to do. In fact, a basic question is whether or not the Federal Government should be in the pension overseeing business at all. As most pensions amount to either employer contributed funds or deferred compensation or a combination of the two, the taxation consequences are readily apparent. Thus to have sections of the Internal Revenue Code spelling out deductions, allowed or disallowed, involving both personal and corporate income tax, makes sense. But to have anyone collecting mandated forms for the purpose of merely keeping an eye on pension systems in general, does not make a great deal of sense. In theory, and in fact, when the IRS reviews a tax form and notes that John Doe has reduced his taxable income by setting up an independent retirement account, they need only note that, and be aware of the

limitations that it involves, in terms of amounts, when it can be used, and so forth. It is my feeling that the Federal Government should not have to oversee pension systems as it now does. However, the next best solution of the problem may well be to set up an independent pension administration and assign to it the previously split authority of the Labor and Treasury Departments. Thus, the options for solutions are:

First. Repeal ERISA;

Second. Pass Senate bill S. 901 and/or House bill H.R. 4340;

Third. Give all responsibility for the administration of ERISA to either of the Departments of Labor or Treasury but not to both.

The third problem area which my constituents have addressed can generally be described as a problem of legally defining words and phrases which are new or used in a new context. This problem stems from the new act and its allowing regulatory agencies to define terms. For example, what number of hours worked is equal to a workweek? Many people would describe this as an easy question and 40 hours is a natural answer, Thus, a regulatory agency's civil servants may have as their standard, a 40-hour workweek. But these same people have divined that a 45-hour workweek is the standard of measurement. The importance of this one concept should not be underestimated. If a worker has to put in X amount of hours in order for rights to a retirement account or fund to either vest, accrue, or begin to pay out, then this issue is a fundamental one for Congress to decide. An industry standard may well be a 40-hour week. However, with an arbitrary assignment of 45 hours for every 7 days worked as opposed to industry's standard of 40 hours will not result in an accrued week of work as far as the pension fund is concerned. Thus, for every 53 weeks worked (or 1 week more than a year) there will be accrued for pension purposes, only 48 weeks (or 4 weeks less than a year). Thus, the loss is approximately a little more than 1 month per year in a retirement program. The problem sounded very simple but can turn into disaster when applied capriciously and inconsistently. Again, this is but one example of the defining of words and phrases which can wreak havoc on pension systems. The problem could call for independent and responsible pension fund overseers or an agency which will look to each different industry and to different companies within each industry. In the end, however, this may result in a certification of each and every pension system, which not only defeats the purpose of ERISA but might make Federal regulation in this area totally useless and superfluous. Thus, the options to solve this problem may be itemized as follows:

First. Repeal ERISA; and

Second. Pass S. 901 and/or H.R. 4340;

Third. Severely restrict the authority of a regulatory body from redefining words and phrases which already have a meaning within an industry or company and which are acceptable within a normal English language dictionary's meaning.

The fourth problem area raises a fundamental issue with which we are now faced in many of the complex problems confronting legislators and nonlegislators. Currently spouses working within the household end up being penalized, due to their choice of job. Clearly, this is a part of the pension system which discriminates against women, as so many of the spouses working within a household are women. While there are a great many women who do leave the household, a large percentage remain and are household workers. These household workers are generally not paid a wage or salary as they would have received had they worked as either a furniture cleaner in a different job, or a babysitter or a nanny in another household. Should these women, however, be set aside from other working men and women in what can be contributed to a retirement account in their name? I do not think so. I believe, and my constituents in their communications to me suggest, that the current situation is inequitable, unfair, discriminatory, and deplorable. These women eventually may be forced to live off of the retirement account in their name. Then they will be punished, as they could have saved more had they not been stigmatized and limited unequally as to how much they could save in a tax-free environment for the time when they would be totally out of the job market, or their spouse would be out of the job market, or if they wanted to work, were disabled and unable to work. This problem, while severe in nature, is the easiest to solve. All we have to do is allow homebound spouses to either contribute or have contributed in their name the same amount that they could have contributed were they in a job of their own. The methods which can accomplish this are as follows:

First. Enact H.R. 7587;

Second. Enact H.R. 4649; and

Third. Enact H.R. 2454.

The fifth, and last only on this list of problems, is another easy one to solve. Here is the situation of another John or Mary Doe. Suppose they work for a corporation which will vest rights to a retirement account in their names (and only the corporation can contribute to the account) but only after working at their jobs for at least 5 continuous years. And then the amount placed in their account is not as much as they would like or would place if they were allowed to add as much as an individual retirement account allows. When John or Mary leaves their job, they might have a vesting percentage. But then they might not. One acceptable minimum vesting standard for ERISA is one in which the nonforfeitable percentage of employer contributed amounts of 25 percent vests after 5 years. Thus, John and Mary have no alternative. They cannot open an individual retirement account because they are covered by a pension system of sorts. But, the one under which they are covered, is not nearly as valuable as an individual account they can add to at will and carry with them from job to job. To say that if John or Mary shifts jobs frequently that keeping records would be difficult or impossible is no real response. The IRS keeps track of all moneys coming in and out of individual's and corporate income streams already. Such mechanisms can be modified, transferred, or copied in a pension overseeing agency. To argue that if John or Mary are under 30 years of age and most likely will never bother to establish a retirement account were it not for their employer's actions, it also is not responsive to the problem at hand. I believe that many young people are now (or would be if allowed to) actively interested in preparing for their nonproductive and non-income-producing years. Even further, the demands of a family in later years, or just rising prices due to inflation and the increased cost of living, may be a strong incentive to start a retirement fund as soon as possible. Their Government would be doing them a tremendous disservice by not allowing them to choose or by making the choice for them. Thus, portability of a fund is one answer, and allowing an employee to have his own retirement account, regardless of what his employer may do, is another or additional solution of the problem. Here, then are the options suggested:

First. Enact H.R. 6551 or H.R. 114;

Second. Amend ERISA so as to raise a pension's vesting standard in such a way so fewer current pension systems will qualify as pensions and thus more people will be allowed to start individual retirement accounts;

Third. Establishment of a separate Pension Administration Agency which will be entrusted with overseeing all pension systems; and

Fourth. Allow anyone to establish an individual retirement account regardless of what other plan under which they might be covered.

In summary, as my constituents have indicated, many severe and complicated problems have come about due to the Federal Government's attempt at rules and regulations concerning retirement accounts. The simplest but perhaps least easy means to accomplish a resolution of these problems would be to leave entirely the area of pension administration.

The next best solution may be realized through the passage of H.R. 4340, which would have the President establish an Employee Benefit Administration within any department or agency of the United States. I heartily encourage my colleagues in the House of Representatives to pass this measure to amend the Employee Retirement Income Security Act of 1974 and thereby promote more efficient and satisfactory management of the Federal Government relating to employee and welfare pension plans. Certainly, the thrust here is that the establishment of such an Administration would not result in the expansion of the Federal bureaucracy—it would coordinate the efforts of two agencies into one by eliminating the present "dual jurisdiction."

I join my constituents in feeling that the time for an overhaul is now. In short, solutions to these problems are available and I urge the Congress to act swiftly and justly on behalf of every American who plans for his or her retirement.●

# SENATE—*Wednesday, April 12, 1978*

*(Legislative day of Monday, February 6, 1978)*

The Senate met at 10:30 a.m., on the expiration of the recess, in executive session, and was called to order by Hon. WILLIAM D. HATHAWAY, a Senator from the State of Maine.

## PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O Lord God, to whom the prayers of Thy children arise as incense from wistful souls, speak to our busy and burdened minds and bodies as we lift our lives to Thy searching gaze. Assess our thoughts, words, and deeds, not according to the values of our contemporaries, but against the transparent glory of the Master.

Grant that in these hard and dangerous days we may find peace in the midst of the storm, forgiveness for every sin, correction for every failure. May our sense of personal responsibility move us to lay our lives on the line—clean, strong, honest, and trustworthy in service to our fellow man.

We pray that we may not fail our own or coming generations in our dedication to justice and brotherhood. What we pray for ourselves, we pray for all others in the affairs of government. Unite us heart to heart, soul to soul, as we offer our petitions in the name of that One who taught us to pray that His radiant kingdom may come on Earth. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., April 12, 1978.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WILLIAM D. HATHAWAY, a Senator from the State of Maine, to perform the duties of the Chair.

JAMES O. EASTLAND,
*President pro tempore.*

Mr. HATHAWAY thereupon assumed the chair as Acting President pro tempore.

## SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New Mexico (Mr. DOMENICI) is recognized, as in legislative session, for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished minority leader may have control of Mr. DOMENICI's time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I understand the assistant majority leader has a request. I will yield to him briefly, and then I want to yield the remainder of the time to the distinguished Senator from Kansas.

## CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM ACT OF 1978

Mr. CRANSTON. Mr. President, as in legislative session I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 6693.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the House agree to the amendments of the Senate to the bill (H.R. 6693) entitled "An Act to amend the Child Abuse Prevention and Treatment Act to extend the authorization of appropriations contained in such Act, and for other purposes", with the following amendments:

Strike out the matter proposed to be inserted by the Senate amendment to the text of the bill and insert in lieu thereof the following:

That this Act may be cited as the "Child Abuse Prevention and Treatment and Adoption Reform Act of 1978".

TITLE I—AMENDMENTS TO CHILD ABUSE PREVENTION AND TREATMENT ACT

NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

SEC. 101. Section 2 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101) (hereinafter in this title referred to as "the Act") is amended by—

(1)(A) striking out "and publish" and inserting in lieu thereof "publish, and disseminate" in clause (1) of subsection (b);

(B) striking out "and publish" and inserting in lieu thereof a comma and "publish, and disseminate" in clause (3) of subsection (b);

(C) striking out "and" after clause (5) of subsection (b);

(D) striking out the period at the end of clause (6) of subsection (b) and inserting in lieu thereof a semicolon and "and"; and

(E) adding after clause (6) of subsection (b) the following:

"(7) in consultation with Federal agencies serving on the Advisory Board on Child Abuse and Neglect (established by section 6 of this Act), prepare a comprehensive plan for seeking to bring about maximum coordination of the goals, objectives, and activities of all agencies and organizations which have responsibilities for programs and activities related to child abuse and neglect, and submit such plan to such Advisory Board not later than twelve months after the date of enactment of this clause. The Secretary shall establish research priorities for making grants or contracts under clause (5) of this subsection and, not less than sixty days before establishing such priorities, shall publish in the Federal Register for public comment a statement of such proposed priorities.";

(2) inserting at the end of subsection (c) the following new sentences: "Grants may be made under subsection (b)(5) for periods of not more than three years. Any such grant shall be reviewed at least annually by the Secretary, utilizing peer review mechanisms to assure the quality and progress of research conducted under such grant."; and

(3) adding after subsection (c) the following new subsection:

"(d) The Secretary shall make available to the Center such staff and resources as are necessary for the Center to carry out effectively its functions under this Act.".

DEFINITION

SEC. 102. Section 3 of the Act (42 U.S.C. 5102) is amended by—

(1) inserting "or exploitation" after "sexual abuse"; and

(2) inserting a comma and "or the age specified by the child protection law of the State in question," after "eighteen".

DEMONSTRATION OR SERVICE PROGRAMS AND PROJECTS

SEC. 103. Section 4 of the Act (42 U.S.C. 5103) is amended by—

(1) amending subsection (a) by—

(A) inserting "or service" after "demonstration" in the first sentence;

(B) striking out "the development and establishment of" in clause (1); and

(C) striking out the last sentence of such subsection;

(2) amending subsection (b) by—

(A) striking out in paragraph (1) "Of the sums" and all that follows through "grants" and inserting in lieu thereof "The Secretary, through the Center, is authorized to make grants", and striking out "for the payment of reasonable and necessary expenses"; and

(B) inserting in paragraph (2) immediately below clause (J) the following new sentence: "If a State has failed to obligate funds awarded under this subsection within eighteen months after the date of award, the next award under this subsection made after the expiration of such period shall be reduced by an amount equal to the amount of such unobligated funds unless the Secretary determines that extraordinary reasons justify the failure to so obligate."; and

(3) amending the heading for such section to read as follows:

"DEMONSTRATION OR SERVICE PROGRAMS AND PROJECTS", AUTHORIZATION OF APPROPRIATIONS, EARMARKING, AND SEXUAL ABUSE CENTERS

SEC. 104. Section 5 of the Act (42 U.S.C. 5104) is amended by—

(1) striking out "and" after "1975," and striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "$25,000,000 for the fiscal year ending September 30, 1978, $27,500,000 for the fiscal year ending September 30, 1979, and $30,000,000 each for the fiscal years ending September 30, 1980, and September 30, 1981, respectively. Of the funds appropriated for any fiscal year under this section, not less than 50 per centum shall be used for making grants or contracts under sections 2(b)(5) (relating to research) and 4(a) (relating to demonstration or service projects), giving special consideration to continued Federal funding of child abuse and neglect programs or projects (previously funded by the Department of Health, Education, and Welfare) of national or regional scope and demonstrated effectiveness, and not less than 25 per centum shall be used for making grants or contracts under section 4(b)(1) (relating to grants to States) for the fiscal years ending September 30, 1978, and September 30, 1979, respectively, and not less than 30 per centum shall be used for making grants or contracts under section 4(b)(1) (relating to grants to States) for each of the fiscal years ending September 30, 1980, and September 30, 1981, respectively."; and

(2) inserting "(a)" after "SEC. 5." and adding at the end thereof the following new subsection:

"(b)(1) There are authorized to be appropriated $3,000,000 for the fiscal year ending September 30, 1978, $3,500,000 for the fiscal year ending September 30, 1979, and $4,000,000 each for the fiscal years ending September 30, 1980, and September 30, 1981, respectively, for the purpose of making grants and entering into contracts (under sections 2(b)(5) (relating to research), 4(a) (relating to demonstration or services projects), and 4(b)(1) (relating to grants to States)) for programs and projects (including the support of not less than three Centers for the provision of treatment, and personnel training, and other related services) designed to prevent, identify, and treat sexual abuse of children, including programs involving the treatment of family units, programs for the provision of treatment and related services to persons who have committed acts of sexual abuse against children, and programs for the training of personnel.

"(2) Of the sums appropriated under this subsection, not more than 10 per centum shall be expended under section 2(b)(5) (relating to research).

"(3) As used in this subsection, the term—

"(A) 'sexual abuse' includes the obscene or pornographic photographing, filming, or depiction of children for commercial purposes, or the rape, molestation, incest, prostitution, or other such forms of sexual exploitation of children under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary; and

"(B) 'child' or 'children' means any individual who has not attained the age of eighteen.

"(4)(A) Nothing contained in the provisions of this subsection shall be construed as prohibiting the use of funds appropriated under subsection (a) for programs and projects described in subsection (b), nor be construed to prohibit programs or projects receiving funds under subsection (a) from receiving funds under subsection (b).

"(B) No funds shall be obligated or expended under this subsection unless an amount at least equal to the amount of funds appropriated in fiscal year 1977 has been appropriated for programs and projects under subsection (a) for any succeeding fiscal year.".

ADVISORY BOARD

SEC. 105. Section 6 of the Act (42 U.S.C. 5105) is amended by—

(1) inserting before the period at the end of the first sentence in subsection (a) a comma and "and not less than three members from the general public with experience or expertise in the field of child abuse and neglect";

(2) striking out "administered" both places it appears in the second sentence in subsection (a) and inserting in lieu thereof "planned, administered,"; and

(3) striking out subsection (b) and subsection (c) and inserting in lieu thereof the following new subsections:

"(b) The Advisory Board shall review the comprehensive plan submitted to it by the Center pursuant to section 2(b)(7), make such changes as it deems appropriate, and submit to the President and the Congress a final such plan not later than eighteen months after the effective date of this subsection.

"(c) Members of the Advisory Board, other than those regularly employed by the Federal Government, while serving on business of the Advisory Board, shall be entitled to receive compensation at a rate not in excess of the daily equivalent payable to a GS–18 employee under section 5332 of title 5, United States Code, including traveltime; and, while so serving away from their homes or regular places of business, they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently.".

## TITLE II—ADOPTION OPPORTUNITIES

FINDINGS AND DECLARATION OF PURPOSE

SEC. 201. The Congress hereby finds that many thousands of children remain in institutions or foster homes solely because of legal and other barriers to their placement in permanent, adoptive homes; that the majority of such children are of school age, handicapped, or both; that adoption may be the best alternative for assuring the healthy development of such children; that there are qualified persons seeking to adopt such children who are unable to do so because of barriers to their placement; and that, in order both to enhance the stability and love of the child's home environment and to avoid wasteful expenditures of public funds, such children should not be maintained in foster care or institutions when adoption is appropriate and families for them can be found. It is, therefore, the purpose of this title to facilitate the elimination of barriers to adoption and to provide permanent and loving home environments for children who would benefit by adoption, particularly children with special needs by—

(1) promoting the establishment of model adoption legislation and procedures in the States and territories of the United States in order to eliminate jurisdictional and legal obstacles to adoption; and

(2) providing a mechanism for the Department of Health, Education, and Welfare to (A) promote quality standards for adoption services (including preplacement, postplacement, and postadoption counseling and standards to protect the rights of children in need of adoption), and (B) provide for a national adoption and foster care information data gathering and analysis system and a national adoption information exchange system to bring together children who would benefit by adoption and qualified prospective adoptive parents who are seeking such children.

MODEL ADOPTION LEGISLATION AND PROCEDURES

SEC. 202. (a) Not later than eighteen months after the date of enactment of this Act, the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") shall issue, based on the recommendations of the panel described in subsection (b) of this section, proposed model adoption legislation and procedures and publish such proposal in the Federal Register for comment. After soliciting and giving due consideration to the comments of interested individuals, groups, and organizations and consulting further with such panel, the Secretary shall issue and publish model adoption legislation and procedures which shall not conflict with the provisions of any interstate compact in operation pursuant to which States are making, supervising, or regulating placements of children.

(b)(1) Not later than ninety days after the date of enactment of this Act, the Secretary shall appoint a panel (hereinafter referred to as the "panel") to be composed of not less than eleven nor more than seventeen members generally representative of public and voluntary organizations, agencies, and persons interested and with expertise and experience in facilitating the achievement of the purposes of this title (including, but not limited to, National, State, and local child welfare organizations, including those representative of minorities, and adoptive parent organizations). The panel shall (A) review current conditions, practices, and laws relating to adoption, with special reference to their effect on facilitating or impeding the location of suitable adoptive homes for children who would benefit by adoption and the completion of suitable adoptions for such children; and (B) not later than twelve months after the date on which the members of the panel have been appointed, propose to the Secretary model (including adoption assistance agreement) legislation and procedures relating to adoption designed to facilitate adoption by families of all economic levels.

(2) The panel shall be terminated thirty days after the Secretary publishes the final model legislation and procedures pursuant to subsection (a) of this section.

(3) Members of the panel, other than those regularly employed by the Federal Government, while serving on business of the panel shall be entitled to receive compensation at a rate not in excess of the daily equivalent of the rate payable to a GS–18 employee under section 5322 of title 5, United States Code, including traveltime; and, while so serving away from their homes or regular places of business, they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently.

(c) The Secretary shall take such steps as he or she deems necessary to encourage and facilitate the enactment in each State of comprehensive adoption assistance legislation and the establishment in each State of the model legislation and procedures published pursuant to subsection (a) of this section.

INFORMATION AND SERVICES

SEC. 203. (a) The Secretary shall establish in the Department of Health, Education, and Welfare an appropriate administrative arrangement to provide a centralized focus for planning and coordinating of all departmental activities affecting adoption and foster care and for carrying out the provisions of this title. The Secretary shall make available such consultant services and personnel, together with appropriate administrative expenses, as are necessary for carrying out such purposes.

(b) In connection with carrying out the provisions of subsection (a) of this section, the Secretary shall—

(1) provide (directly or by grant to or contract with public or private nonprofit agencies and organizations) for the establishment and operation of a national adoption and foster care data gathering and analysis system utilizing data collected by States pursuant to requirements of law;

(c) conduct (directly or by grant to or contract with public or private nonprofit agencies or organizations) an education and training program on adoption, and prepare, publish, and disseminate (directly or by grant to or contract with public or private nonprofit agencies and organizations) to all interested parties, public and private agencies and oragnizations (including, but not limited to, hospitals, health care and family planning clinics, and social services agencies), and governmental bodies, information and education and training materials regarding adoption and adoption assistance programs.

(3) notwithstanding any other provision of law, provide (directly or by grant to or contract with public or private nonprofit agencies or organizations) for (A) the operation of a national adoption information exchange system (including only such information as is necessary to facilitate the adoptive placement of children, utilizing computers and data processing methods to assist in the location of children who would benefit by adoption and in the placement in adoptive homes of children awaiting adoption); and (B) the coordination of such system with similar State and regional systems;

(4) provide directly or by grant to or contract with public or private nonprofit agencies or organizations, including parent groups) for the provision of technical assist-

ance in the planning, improving, developing, and carrying out of programs and activities relating to adoption; and

(5) consult with other appropriate Federal departments and agencies in order to promote maximum coordination of the services and benefits provided under programs carried out by such departments and agencies with those carried out by the Secretary, and provide for the coordination of such aspects of all programs within the Department of Health, Education, and Welfare relating to adoption.

STUDY OF UNLICENSED ADOPTION PLACEMENT

SEC. 204. The Secretary shall provide for a study (the results of which shall be reported to the appropriate committees of the Congress not later than eighteen months after the date of enactment of this Act) designed to determine the nature, scope, and effects of the interstate (and, to the extent feasible, intrastate) placement of children in adoptive homes (not including the homes of stepparents or relatives of the child in question) by persons or agencies which are not licensed by or subject to regulation by any governmental entity.

AUTHORIZATION OF APPROPRIATIONS

SEC. 205. There are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1978, and such sums as may be necessary for the succeeding three fiscal years to carry out this title.

Amend the Senate amendment to the title of the bill so as to read: "An Act to promote the healthy development of children who would benefit from adoption by facilitating their placement in adoptive homes, to extend and improve the provisions of the Child Abuse Prevention and Treatment Act, and for other purposes.".

Mr. CRANSTON. Mr. President, I rise to urge my colleagues to support the compromise agreement on H.R. 6693, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, which was passed unanimously Monday by the House.

Mr. President, this measure will provide authorizations of appropriations for an additional 4 years for the child abuse prevention and treatment program established within the Department of Health, Education, and Welfare by Public Law 93–247. It will also provide authorization of appropriations for two new programs: One dealing with sexual abuse or exploitation of children and the other dealing with adoption reform—an area which has been of great concern to me for a number of years.

Mr. President, the House passed a 5-year extension of the Child Abuse Prevention and Treatment Act last fall. We substituted for the House-passed H.R. 6693, the provisions of S. 961, as amended, which contained two titles, one dealing with the child abuse program and the other incorporating an adoption reform measure, and sent the amended bill back to the House on October 27, 1977. The Senate-passed amendment provided a 2-year extension of the authorization of appropriations for the child abuse prevention, and treatment program, along with authorizations for a new sexual abuse treatment program modified based on my subsequent work and the adoption reform initiative. The adoption reform provisions had been modified based on my subsequent work with the administration on S. 1928, the major provisions of which regarding adoption assistance and foster care protections have been incorporated by the Finance Committee in H.R. 7200 as reported by that committee. The compromise agreement which we have been able to work out with the Members of the other body includes each of these activities, along with various provisions strengthening the Child Abuse Prevention and Treatment Act.

Mr. President, in order that all Senators and the public may fully understand the various agreements reached in arriving at the compromise measure, I ask unanimous consent that there be printed in the RECORD at the conclusion of my remarks a document, prepared with the House committee, in lieu of a joint explanatory statement accompanying a conference report, entitled, "H.R. 6693—Joint Explanatory Statement of House Bill, Senate Amendment, and Compromise Agreement," followed by a text of existing law showing changes made by the compromise agreement, and the full text of the House amendment.

The PRESIDING OFFICER. Without objection it is so ordered.

(See exhibit 1.)

Mr. CRANSTON. Mr. President, I would like to explain in summary fashion the provisions of the compromise agreement reached with the members of the Committee on Education and Labor of the other body.

TITLE I

Mr. President, title I of H.R. 6693 would amend the provisions of the Child Abuse Prevention and Treatment Act (Public Law 93–247) to provide authorization of appropriations for an additional 4 years, as well as certain amendments to the existing law to strengthen the on-going child abuse prevention and treatment program.

ACTIVITIES OF THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

The compromise agreement contains a number of provisions—taken from both the House bill and the Senate amendment—to enhance the activities and contributions made by the National Center on Child Abuse and Neglect which was established within the Department of Health, Education, and Welfare by Public Law 93–247.

The existing law provides that the Secretary of Health, Education, and Welfare, shall, through the national center, carry out a variety of functions under the act. The compromise agreement contains the following provisions relating to these activities by the national center.

First, the legislation directs the national center to "disseminate" as well as "compile, analyze, and publish" research and training materials. This provision should insure that the information and data collected by the national center is made more readily available to researchers and other interested individuals and organizations.

Second, the national center is directed to prepare a comprehensive plan for seeking to bring about maximum coordination of the goals, objectives, and activities of all agencies and organizations involved in child abuse and neglect. This provision—part of the Senate amendment—is designed to assure the development of maximum coordination among the various agencies and organizations involved in child abuse prevention and treatment. The compromise agreement also provides for review of the plan developed by the national center by the Advisory Board on Child Abuse and Neglect, also established by Public Law 93–247.

Third, the compromise agreement provides for the establishment of research priorities for making grants or contracts under the act, and publication of proposed priorities in the Federal Register for public comment. This provision should encourage the active participation of researchers and program personnel in focusing and directing the research activities carried out under the child abuse prevention and treatment program.

Fourth, the compromise agreement contains provisions authorizing the center to make 3-year grants for research from a single year's appropriation. While the center currently has authority under HEW policies to make grants for more than 3 years out of multiple year appropriations, this new provision will enable the center to make multiple year grants from a single year's appropriation. This provision provides for annual review, utilizing peer review mechanisms to assure the quality and progress of research conducted under such grants. These provisions should strengthen the ability of the national center to carry out longitudinal studies.

Fifth, the Secretary is directed to make available to the national center the necessary staff and resources for the center to carry out effectively its functions. Both Senate and House authorizing committees have been concerned that insufficient staff and resources have been made available to the national center in the past. It is expected that the Secretary will promptly take the necessary steps to rectify this problem.

AMENDMENTS TO DEFINITIONS OF CHILD ABUSE

The legislation contains two amendments to the definition of child abuse and neglect in section 102 of the act.

First, the definition is amended to add "or exploitation" after "sexual abuse." This amendment will make it clear that sexual exploitation of children—such as is occuring in the disturbing epidemic of child pornography—will be covered under the act.

Second, the definition of "child" is amended to allow the age of the child to be defined by State law. This provision from the Senate amendment is aimed at allowing those several States whose child abuse laws specify maximum ages below 18 to participate in the State grant program under the act.

AMENDMENTS TO DEMONSTRATION PROGRAM AUTHORITY

Under the existing law, 50 percent of the funds appropriated under the act are earmarked for grants and contracts under section 4(a) of the act. Section 4(a) authorizes the Secretary, through the center, to make grants and contracts with public agencies or nonprofit private organizations for demonstration programs and projects designed to prevent, identify, and treat child abuse and neglect.

The amendment in the compromise agreement will authorize the Secretary to make these grants and contracts for service, as well as demonstration programs and, as provided in the Senate amendment, will also include research grants and contracts within the 50 percent earmark. This provision will authorize the Secretary to fund programs under the act which are no longer considered demonstration programs or to fund new programs which are service, rather than demonstration, in nature. Additionally, the compromise agreement includes the Senate provision that special consideration be given to refunding of programs or projects of national or regional scope and demonstrated effectiveness.

STATE GRANT PROGRAM

The compromise agreement makes several changes in the State grant program set forth in section 4(b) of the act.

First, it provides that the State grant program, as are the research and demonstration programs, will be carried out through the national center.

Second, it provides, as did the Senate amendment, for a reduction in grants awarded to a State which fails to obligate funds within 18 months after its award. This provision is designed to encourage States to utilize funds awarded under the act in a more expeditious manner.

Additionally, as a compromise between the House and Senate provisions, the percentage of funds earmarked for the State grant program is increased from not less than 5 percent, nor more than 20 percent, under existing law, to not less than 25 percent for each of fiscal years 1978 and 1979 and not less than 30 percent for each of fiscal years 1980 and 1981. These increases will provide the States with needed resources to continue and expand State efforts regarding child abuse and neglect problems.

ADVISORY BOARD ON CHILD ABUSE AND NEGLECT

The compromise agreement also makes several changes in the law relating to the composition and functions of the Advisory Board on Child Abuse and Neglect established under Public Law 93-247.

First, the amendment includes the Senate provision that not less than three public members be added to the Advisory Board, which now consists of representatives from the various Federal agencies involved in child abuse and neglect programs. This provision is important to insure public input into the activities and deliberations of the Advisory Board.

Second, the amendment includes the Senate provision that the Advisory Board members shall discuss the planned, as well as existing activities, of their various agencies in the area of child abuse and neglect and that the Advisory Board shall review the comprehensive plan prepared by the national center and submit the plan to the President and Congress no later than 18 months after enactment.

NEW PROGRAMS RELATING TO SEXUAL ABUSE OF CHILDREN

Mr. President, this legislation blends together the House and Senate provisions to authorize the appropriation of funds for a new program to deal with sexual abuse of children. This new provision authorizes the appropriation of $3 million for fiscal year 1978, $3.5 million for fiscal year 1979, and $4 million each for fiscal years 1980 and 1981. These funds will be used for the funding of programs and projects, including not less than three centers for the provision of treatment, personnel training, and other related services, including programs involving the treatment of family units, programs for the provision of treatment and other related services to persons who have committed acts of sexual abuse, and programs for the training of personnel. The legislation also provides that not more than 10 percent of the sums appropriated under this authority are to be used for research activities.

Included is the Senate provision that child abuse programs receiving other support under the act may receive additional funds under this authorization for sexual abuse programs, that ongoing child abuse programs dealing with sexual abuse of children may continue to do so with other funds appropriated under this act and, finally, that no funds are authorized to be obligated and expended for the new sexual abuse programs unless funds are appropriated for the child abuse and neglect programs at at least the fiscal year 1977 level. This provision is to insure that the level of funding for child abuse programs generally is not reduced in order to meet the need to address the problems of sexual abuse of children.

TITLE II

Mr. President, title II of the H.R. 6693 compromise agreement contains the Adoption Reform Act of 1977 which the Senate passed on October 27, 1977, as part of the substitute for the House-passed H.R. 6693.

Mr. President, I am delighted to report that the Members of the other body agreed to accept these provisions from the Senate amendment without substantive change or modification. As my colleagues well know, I have sought the enactment of adoption reform legislation for the past several years. The passage of title II of H.R. 6693 represents the first major step toward enactment of comprehensive adoption reform measures that are vitally essential to facilitate the placement of thousands and thousands of children presently locked into the uncertainties of the foster-care system.

Mr. President, title II of H.R. 6693 represents the culmination of almost 6 years of research, drafting, counseling with experts in the adoption field, redrafting, and introduction into the legislative process—first in the 93d Congress, and again in the 94th. The first hearings on the adoption proposals were held during the summer of 1975 by the former chairman of the Senate Subcommittee on Children and Youth, now Vice President MONDALE. When we were unsuccessful because of time pressures last Congress in securing Senate passage of the Opportunities for Adoption Act, I introduced the new version—S. 961—in the 95th Congress.

BACKGROUND

I called hearings on S. 961 on April 4, 1977, as one of my first actions as chairman of the newly designated Subcommittee on Child and Human Development of the Human Resources Committee. The hearings dramatically demonstrated the disincentives to adoption inherent in our present foster-care system, and demonstrated as well that there are many compassionate adults who are eager to shower love and affection on children with special needs if only they could be freed from the limbo of foster care. The hearings increased my own enthusiasm about the prospect of providing more meaningful and stable lives for many of these youngsters who in the present system have no hope of ever returning to their homes of birth, and for making a real difference in the otherwise uncertain, too often hopeless lives of thousands of children.

ADMINISTRATION SUPPORT

Shortly after the hearings, Mr. President, Vice President MONDALE, prompted by congressional concern, initiated discussions within the administration in an effort to accelerate work on proposals for reform in this area. Last July after scores of hours of discussion and negotiations within the administration and between congressional staffs and HEW and White House staffs, the Vice President unveiled a major administration proposal to reform the present Federal foster care system and to remove the present disincentives to the adoption of "special needs" children which our foster care system perpetuates. Two weeks later, on July 26, I introduced on behalf of the administration legislation embodying that proposal—S. 1928, the proposed Child Welfare Amendments of 1977. S. 1928 was referred to the Committee on Finance, and was considered by the committee in conjunction with its work on H.R. 7200, the House-passed legislation to amend the Social Security Act. Last November the Finance Committee reported H.R. 7200 with the adoption provisions in S. 1928 accepted virtually intact as part of H.R. 7200.

The adoption provisions of S. 1928 and H.R. 7200 were derived from section 103 of S. 961 as reported by the Human Resources Committee, which authorized Federal financial participation in adoption assistance programs. Briefly, the Finance Committee bill specifically would permit the use of foster care maintenance money—title IV-A of the Social Security Act—and medicaid funds—title XIX of the Social Security Act—for adoption assistance to meet the costs associated with caring for a "special needs" child who might otherwise have been relegated to spending his or her childhood years in foster-care placements.

The passage of the adoption provisions of H.R. 7200, along with title II of H.R. 6693, will provide for a comprehensive mechanism to facilitate the adoptive placement of "special needs" children and the overall reform of adoption policies and practices. This constitutes a truly giant step forward for the estimated 120,000 children now in foster

care waiting—sometimes endlessly—to be adopted.

Mr. President, I will briefly summarize the provisions of title II of H.R. 6693.

MODEL ADOPTION LEGISLATION AND PROCEDURES

First, title II provides for the appointment by the Secretary of Health, Education, and Welfare of an advisory panel to recommend, to the Secretary, model adoption legislation and procedures to facilitate the interstate adoption of children. This panel shall be composed of persons generally representative of public and voluntary organizations and agencies and persons interested and with expertise and experience in adoption. Not less than 18 months after the date of enactment of this act, the Secretary shall issue proposed model adoption legislation and procedures based upon the recommendations of the panel, and shall publish such proposed models in the Federal Register for public comment. Thereafter, the Secretary shall issue the final version of the model law and procedures.

ADOPTION INFORMATION AND SERVICES

Title II further provides that the Secretary shall establish in the Department of Health, Education, and Welfare an appropriate administrative arrangement to provide a centralized focus for planning and coordinating of all departmental activities affecting adoption and foster care and for carrying out the provisions of this title. This planning and coordination would relate to all departmental activities in this field, including those to be carried out pursuant to the provisions of H.R. 7200 I have just described. In connection with this responsibility, the legislation also directs the Secretary to provide for the establishment and operation of a national adoption and foster care data-gathering and analysis system. This system, utilizing data collected under other requirements of law—such as the Social Security Act amendments in H.R. 7200—should provide us for the first time with comprehensive, national data reflecting the patterns of foster care and adoptive placement throughout the States, the District of Columbia, and the territories and possessions.

Title II also requires the Secretary to conduct an education and training program on adoption and to disseminate information and education and training materials regarding adoption and adoption assistance programs, as well as to provide technical assistance to all interested agencies and organizations.

ADOPTION INFORMATION EXCHANGE

Mr. President, one of the most important features of title II is the provision directing the Secretary to provide for—directly or by grant or contract—the operation of a national adoption information exchange system to assist in the location of children who would benefit by adoption and in the placement in adoptive homes of children awaiting adoption and to coordinate the system with similar State and regional systems. The Adoption Resources Exchange of North America, ARENA, operated by the North American Center on Adoption of the Child Welfare League of America, demonstrate the potential of such a system for locating adoptive homes for a child anywhere in the country. I believe that the enactment of this provision will contribute to the continuance and improvement of the ARENA type exchange mechanism, and will assure all children waiting for adoption of a far greater opportunity for permanent placement with a loving family.

STUDY OF UNLICENSED ADOPTION PLACEMENTS

Mr. President, title II also provides that the Secretary provide the appropriate committees of Congress with the results of a study designed to determine the nature, scope, and effects of black market adoption. Testimony at Senate hearings strongly suggested that most black market placements occur between States with weak adoption laws and procedures, and that these placements are extraordinarily exploitive of all parties involved. The information derived from this study should be very helpful to determining how best to tackle this very difficult problem.

AUTHORIZATION OF APPROPRIATIONS

Mr. President, title II of H.R. 6693 provides authorizations of appropriations of $5 million for fiscal year 1978 and such sums as necessary for fiscal years 1979, 1980, and 1981.

CONCLUSION

Mr. President, the provisions of both title I and title II of H.R. 6693 provide for important services and programs for children in need. I believe these amendments and new programs are critical to meeting our commitments to distressed children and their families.

In closing, I want to express my thanks to the chairman of the Committee on Human Resources, Mr. WILLIAMS, and the ranking minority member of the committee, Mr. JAVITS, as well as the members of the Child and Human Development Subcommittee, Mr. HAYAKAWA and Mr. RIEGLE, for their support and contributions to this measure. I also want to express my gratitude to the chairman of the Subcommittee on Select Education of the House Education and Labor Committee, Mr. BRADEMAS, and the ranking minority member of the full committee, Mr. QUIE, as well as my colleague from California (Mr. MILLER) for their great cooperation in fashioning the compromise agreement. In addition, I would like to congratulate Jack Duncan and Marty LaVor of the House committee staff and John Lawrence of Congressman MILLER's staff, whose expertise and hard work made the development of this measure possible as well as members of our committee staff Susanne Martinez, Fran Butler, Bonnie Connors, Pat Markey, Jack Andrews, and David Morse, and John Backer of Senator HAYAKAWA's staff and Craig Polhemus of Senator RIEGLE's staff, and all who contributed in this endeavor.

I urge adoption of the compromise agreement.

EXHIBIT 1

H.R. 6693—JOINT EXPLANATORY STATEMENT OF HOUSE BILL, SENATE AMENDMENT, AND COMPROMISE AGREEMENT

TITLE I—CHILD ABUSE PREVENTION AND TREATMENT AMENDMENTS

Sec. 101—National Center on Child Abuse and Neglect.—

*Dissemination of research and training materials*

The House bill would add a requirement to the Child Abuse Prevention and Treatment Act that the National Center on Child Abuse and Neglect "disseminate" as well as "compile, analyze, and publish" (requirements of existing law) research and training materials.

The Senate amendment contained no comparable provision.

The compromise agreement contains the House provision.

*Comprehensive plan for maximum coordination of activities of all agencies and organizations involved in child abuse and neglect*

The Senate amendment would require that the National Center on Child Abuse and Neglect prepare a comprenhensive plan for seeking to bring about maximum coordination of the goals, objectives, and activities of all agencies and organizations involved in child abuse and neglect.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision.

*Research priorities*

Both the House bill and the Senate amendment would require that the Secretary of H.E.W. establish research priorities for making grants or contracts under the Act and, not less than sixty days before establishing such priorities, publish a statement of such proposed priorities in the Federal Register for public comment.

The compromise agreement contains this provision.

The Committees anticipate that the research and demonstration priorities for fiscal year 1978 will reflect the amendments to the Act contained in the compromise agreement.

*Research grants*

Both the House bill and the Senate amendment, with slightly different phraseology, would provide that research grants may be made for periods up to three years with a review, at least annually, by the Secretary of H.E.W. utilizing peer review mechanisms to assure the quality and progress of research conducted under such grants.

The compromise agreement contains this provision utilizing the House phraseology.

*Staff and resources*

Both the House bill and the Senate amendment would provide that the Secretary of H.E.W. shall make available to the National Center on Child Abuse and Neglect the necessary staff and resources for the Center to carry out effectively its functions.

The Compromise agreement contains this provision utilizing the Senate phraseology.

The Committees note that while insufficient staff and resources have been made available to the National Center on Child Abuse and Neglect to enable it to carry out its functions, the support staff at the Assistant Secretary for Human Development's level has grown significantly over the past few years. The Committees expect that adequate staff and resources will promptly be made available at the program level to carry out this Act effectively.

The Committees would like to make clear that they expect that no funds appropriated

under this Act would be utilized for research programs or activities which are not specifically authorized by this Act, nor would such funds be transferred to any office or other activity of the Department of H.E.W. which is not directly responsible to the Commissioner of the Administration for Children, Youth, and Families or other successor office or activity which performs substantially similar functions with respect to the child abuse and neglect programs. The Committees have been assured that no such diversion of research funds appropriated under this Act has been implemented with respect to fiscal year 1978 appropriations, and the Committees expect that this situation will continue hereafter.

Sec. 102—Definitions.—

*Sexual exploitation*

The House bill would add "or exploitation" after "sexual abuse" in the definition of child abuse and neglect in section 3 of the Act.

The Senate amendment contained no comparable provision.

The compromise agreement contains the House provision.

*Failure to provide medical treatment*

The House bill would add to the definition of child abuse and neglect a provision excluding from the definition of child abuse and neglect a failure to arrange for medical treatment because of religious belief.

The Senate amendment contained no comparable provision.

The compromise agreement does not contain the House provision.

*Definition of Age*

The Senate amendment would amend the definition of "child" to allow the age of the child to be defined by State law.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision.

Sec. 103—Demonstration or Service Programs and Projects.—

*Service programs and projects*

The House bill would add "service" programs to the demonstration program authority. The Senate amendment would provide for special consideration to be given to continued Federal funding of programs or projects of national or regional scope and demonstrated effectiveness.

The compromise agreement incorporates the provisions of both the House bill and the Senate amendment. The provisions of the House bill are included in section 103 and the provisions of the Senate amendment are included in section 104.

*Development and establishment of training programs*

The House bill would strike out "the development and establishment of" in the training authority for demonstration programs.

The Senate amendment contained no comparable provision.

The compromise agreement contains the House provision.

The Committees stress that this change is intended to clarify that funds may be utilized for maintenance of training programs and is not intended to eliminate the authority for development and establishment of training programs.

*Relocation of appropriations earmarking provisions*

The Senate amendment would move the provision earmarking the funds appropriated under the Act for programs or projects from section 4 to section 5.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision.

*Disbursement of State grant funds*

The House bill would add "(through the Center)" to the provisions dealing with disbursement of State grant money and strike out the phrase "for the payment of reasonable and necessary expenses" in the provisions dealing with reimbursement in the State grant program. The Senate amendment would also add "through the Center" to these provisions along with a conforming amendment to facilitate the movement of the earmarking provisions of the Act from section 4 to section 5.

The compromise agreement contains the Senate phraseology.

*Obligation of State grants*

The Senate amendment would require a reduction in grants awarded to a State which fails to obligate funds within 18 months after its award.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision.

Sec. 104—Authorization of Appropriations, Earmarking, and Sexual Abuse Treatment Programs.—

*Authorization of appropriations*

The House bill would provide for a five-year extension of the authorization of appropriations at levels of $25 million for fiscal year 1978, $27.5 million for fiscal year 1979, and $30 million each for fiscal years 1980, 1981, and 1982. The Senate amendment would provide for a two-year extension at $25 million each for fiscal years 1978 and 1979.

The compromise agreement provides for a four-year extension at $25 million for fiscal year 1978, $27.5 million for fiscal year 1979, and $30 million each for fiscal years 1980 and 1981.

*Earmarking of appropriations*

The Senate amendment would move the earmarking provisions of the Act from section 4 to section 5 and would include research activities as among those (presently demonstration programs and projects) for which 50% of the funds are earmarked under existing law.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision.

*Continued funding of national or regional projects of demonstrated effectiveness*

The House bill, the Senate amendment, and the compromise agreement, to extent previously described in section 103, provide for funding of service programs within the existing demonstration program authority and for special consideration for continued Federal funding of child abuse and neglect programs or projects, previously funded by the Department of H.E.W. of national or regional scope and demonstrated effectiveness.

*Earmarking of appropriations for State grant program*

The House bill would provide that not less than 30% of the funds appropriated shall be used for the State grant program. The Senate amendment would provide that not less than 20% of the funds appropriated shall be used for the State grant program.

The compromise agreement provides that not less than 25% of the funds appropriated for each of fiscal years 1978 and 1979 shall be used for the State grant and not less than 30% for each of fiscal years 1980 and 1981.

*Sexual Abuse Treatment Center, programs, and projects*

The House bill would provide for the establishment of not less than five centers for provision of treatment and other services to sexually-abused children and those who commit sexual abuse against children, and authorizes the appropriation of such sums as may be necessary. The Senate amendment would authorize the appropriation of $2 million each for fiscal year 1978, and 1979 for (1) research, (2) demonstration projects, and (3) State grants for programs and projects to prevent, identify, and treat sexual abuse of children, including the treatment of family units. The Senate amendment also would provide that not more than 20% of the sums appropriated each year may be spent on research.

The compromise agreement incorporates provisions from both versions to: (1) provide for authorizations of appropriations of $3 million for fiscal year 1978, $3.5 million for fiscal year 1979, and $4 million each for fiscal years 1980 and 1981; (2) provide for programs and projects (including the support of not less than three centers for the provision of treatment, personnel training, and other related services) designed to prevent, identify, and treat sexual abuse of children, including programs involving the treatment of family units, programs for the provision of treatment and other related services to persons who have committed acts of sexual abuse, and programs for the training of personnel, and (3) provide that not more than 10 percent of the sums appropriated under this authority shall be expended for research.

*Definition of sexual abuse, utilization of funds by other programs or projects, and limitation upon appropriations for sexual abuse programs*

The Senate amendment would provide (1) a definition of sexual abuse for the purpose of funding programs and projects under the separate authorization of appropriation contained in section 5(b) of the Act; (2) that funds appropriated under the section 5(a) authorization in the Act may also be used for the purposes specified in the section 5(b) authorization; (3) that programs and projects receiving funds under the section 5(a) authorization may also receive funds for activities under the section 5(b) authorization; and (4) that no funds may be spent for section 5(b) unless funds are appropriated under section 5(a) at at least the fiscal year 1977 level.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provisions.

*Criminal penalties for sexual exploitation of children*

The House bill would establish criminal penalties for the sexual exploitation of children.

The Senate amendment contained no comparable provision.

The compromise agreement does not contain the House provision.

Sec. 105—Advisory Board

*Elimination of Advisory Board report submission requirement*

The House bill would eliminate the provision in the Act (Sec. 6(b) & (c)) requiring the Advisory Board on Child Abuse and Neglect to prepare and submit, within eighteen months of the date of enactment, a report to Congress and the President on the programs, projects, and activities related to child abuse and neglect sponsored by other agencies. This report has already been submitted.

The Senate amendment contained no comparable provision.

The compromise agreement contains the House provision.

*Public members on Advisory Board*

The Senate amendment would add not less than three public members to the Advisory

Board, and provide for compensation for public board members while serving on the Advisory Board.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision.

*Activities of Advisory Board*

The Senate amendment would require the Advisory Board members to discuss planned activities as well as existing activities and would require the Board to review the comprehensive plan prepared by the National Center under the provisions of section 101 (1)(E) of the compromise agreement, and submit the plan to the President and Congress no later than eighteen months after the date of enactment of this provision.

The House bill contained no comparable provision.

The compromise agreement contains the Senate provision.

TITLE II—ADOPTION REFORM

The Senate amendment would provide for:

1. Appointment by the Secretary of HEW of an advisory panel to recommend model adoption legislation and procedures to facilitate interstate adoption of children, and the later adoption of such model legislation and procedures by the Secretary;

2. Establishment of a national adoption and foster care information data gathering and analysis system and national adoption information exchange system;

3. Establishment of an appropriate administrative arrangement within HEW to provide centralized focus for planning and coordination of all departmental activities affecting adoption and foster care, including an education and training program on adoption, preparation, publication, and dissemination of information and education and training materials regarding adoption assistance programs, and technical assistance in the planning, improving, developing, and carrying out of programs and activities related to adoption; and

4. A study of the nature, scope, and effects of interstate (and to the extent feasible, intrastate) placement of children in adoptive homes by unlicensed persons or agencies.

5. Authorizations of appropriation of $5 million each for fiscal years 1978, 1979, 1980, and 1981 for carrying out this title.

The House bill contained no comparable provisions.

The compromise agreement contains the Senate provisions.

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H.R. 6693

Strike out the matter proposed to be inserted by the Senate amendment to the text of the bill and insert in lieu thereof the following:

"That this Act may be cited as the "Child Abuse Prevention and Treatment and Adoption Reform Act of 1978".

TITLE I—AMENDMENTS TO CHILD ABUSE PREVENTION AND TREATMENT ACT

NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

SEC. 101. Section 2 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101) (hereinafter in this title referred to as "the Act") is amended by—

(1)(A) striking out "and publish" and inserting in lieu thereof "publish, and disseminate" in clause (1) of subsection (b);

(B) striking out "and publish" and inserting in lieu thereof a comma and "publish, and disseminate" in clause (3) of subsection (b);

(C) striking out "and" after clause (5) of subsection (b);

(D) striking out the period at the end of clause (6) of subsection (b) and inserting in lieu thereof a semicolon and "and"; and

(E) adding after clause (6) of subsection (b) the following:

"(7) in consultation with Federal agencies serving on the Advisory Board on Child Abuse and Neglect (established by section 6 of this Act), prepare a comprehensive plan for seeking to bring about maximum coordination of the goals, objectives, and activities of all agencies and organizations which have responsibilities for programs and actvities related to child abuse and neglect, and submit such plan to such Advisory Board not later than twelve months after the date of enactment of this clause. The Secretary shall establish research priorities for making grants or contracts under clause (5) of this subsection and, not less than sixty days before establishing such priorities,

(2) inserting at the end of subsection (c) the following new sentences: "Grants may be made under subsection (b)(5) for periods of not more than three years. Any such grant shall be reviewed at least annually by the Secretary, utilizing peer review mechanisms to assure the quality and progress of research conducted under such grant."; and

(3) adding after subsection (c) the following new subsection:

"(d) The Secretary shall make available to the Center such staff and resources as are necessary for the Center to carry out effectively its functions under this Act.".

DEFINITION

SEC. 102. Section 3 of the Act (42 U.S.C. 5102) is amended by—

(1) inserting "or exploitation" after "sexual abuse"; and

(2) inserting a comma and "or the age specified by the child protection law of the State in question," after "eighteen".

DEMONSTRATION OR SERVICE PROGRAMS AND PROJECTS

SEC. 103. Section 4 of the Act (42 U.S.C. 5103) is amended by—

(1) amending subsection (a) by—

(A) inserting "or service" after "demonstration" in the first sentence;

(B) striking out "the development and establishment of" in cause (1); and

(C) striking out the last sentence of such subsection;

(2) amending subsection (b) by—

(A) striking out in paragraph (1) "Of the sums" and all that follows through "grants" and inserting in lieu thereof "The Secretary, through the Center, is authorized to make grants", and striking out "for the payment of reasonable and necessary expenses"; and

(B) inserting in paragraph (2) immediately below clause (J) the following new sentence: "If a State has failed to obligate funds awarded under this subsection within eighteen months after the date of award, the next award under this subsection made after the expiration of such period shall be reduced by an amount equal to the amount of such unobligated funds unless the Secretary determines that extraordinary reasons justify the failure to so obligate."; and

(3) amending the heading for such section to read as follows:

"DEMONSTRATION OR SERVICE PROGRAMS AND PROJECTS".

AUTHORIZATION OF APPROPRIATIONS, EARMARKING, AND SEXUAL ABUSE CENTERS

SEC. 104. Section 5 of the Act (42 U.S.C. 5104) is amended by—

(1) striking out "and" after "1975," and striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "$25,000,000 for the fiscal year ending September 30, 1978, $27,500,000 for the fiscal year ending September 30, 1979, and $30,000,000 each for the fiscal years ending September 30, 1980, and September 30, 1981, respectively. Of the funds appropriated for any fiscal year under this section, not less than 50 per centum shall be used for making grants or contracts under sections 2(b)(5) (relating to research) and 4(a) (relating to demonstration or service projects), giving special consideration to continued Federal funding of child abuse and neglect programs on projects (previously funded by the Department of Health, Education and Welfare) of national or regional scope and demonstrated effectiveness, and not less than 25 per centum shall be used for making grants or contracts under section 4(b)(1) (relating to grants to States) for the fiscal years ending September 30, 1978, and September 30, 1979, respectively, and not less than 30 per centum shall be used for making grants or contracts under section 4(b)(1) (relating to grants to States) for each of the fiscal years ending September 30, 1980, and September 30, 1981, respectively."; and

(2) inserting "(a)" after "SEC. 5." and adding at the end thereof the following new subsection:

"(b)(1) There are authorized to be appropriated $3,000,000 for the fiscal year ending September 30, 1978, $3,500,000 for the fiscal year ending September 30, 1979, and $4,000,000 each for the fiscal years ending September 30, 1980, and September 30, 1981, respectively, for the purpose of making grants and entering into contracts (under sections 2(b)(5) (relating to research), 4(a) (relating to demonstration or services projects), and 4(b)(1) (relating to grants to States)) for programs and projects (including the support of not less than three Centers for the provision of treatment, personnel training, and other related services) designed to prevent, identify, and treat sexual abuse of children, including programs involving the treatment of family units, programs for the provision of treatment and related services to persons who have committed acts of sexual abuse against children, and programs for the training of personnel.

"(2) Of the sums appropriated under this subsection, not more than 10 per centum shall be expended under section 2(b)(5) (relating to research).

"(3) As used in this subsection, the term—

"(A) 'sexual abuse' includes the obscene or pornographic photographing, filming, or depiction of children for commercial purposes, or the rape, molestation, incest, prostitution, or other such forms of sexual exploitation of children under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary; and

"(B) 'child' or 'children' means any individual who has not attained the age of eighteen.

"(4)(A) Nothing contained in the provisions of this subsection shall be construed as prohibiting the use of funds appropriated under subsection (a) for programs and projects described in subsection (b), nor be construed to prohibit programs or projects receiving funds under subsection (a) from receiving funds under subsection (b).

"(B) No funds shall be obligated or expended under this subsection unless an amount at least equal to the amount of funds appropriated in fiscal year 1977 has been appropriated for programs and projects under subsection (a) for any succeeding fiscal year.".

ADVISORY BOARD

SEC. 105. Section 6 of the Act (42 U.S.C. 5105) is amended by—

(1) inserting before the period at the end of the first sentence in subsection (a) a comma and "and not less than three members from the general public with experience or expertise in the field of child abuse and neglect";

(2) striking out "administered" both places it appears in the second sentence in subsection (a) and inserting in lieu thereof "planned, administered,"; and

(3) striking out subsection (b) and subsection (c) and inserting in lieu thereof the following new subsections:

"(b) The Advisory Board shall review the comprehensive plan submitted to it by the Center pursuant to section 2(b)(7), make such changes as it deems appropriate, and submit to the President and the Congress a final such plan not later than eighteen months after the effective date of this subsection.

"(c) Members of the Advisory Board, other than those regularly employed by the Federal Government, while serving on business of the Advisory Board, shall be entitled to receive compensation at a rate not in excess of the daily equivalent payable to a GS–18 employee under section 5332 of title 5, United States Code, including traveltime; and, while so serving away from their homes or regular places of business, they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently.".

## TITLE II—ADOPTION OPPORTUNITIES

### FINDINGS AND DECLARATION OF PURPOSE

SEC. 201. The Congress hereby finds that many thousands of children remain in institutions or foster homes solely because of legal and other barriers to their placement in permanent, adoptive homes; that the majority of such children are of school age, handicapped, or both; that adoption may be the best alternative for assuring the healthy development of such children; that there are qualified persons seeking to adopt such children who are unable to do so because of barriers to their placement; and that, in order both to enhance the stability and love of the child's home environment and to avoid wasteful expenditures of public funds, such children should not be maintained in foster care or institutions when adoption is appropriate and families for them can be found. It is, therefore, the purpose of this title to facilitate the elimination of barriers to adoption and to provide permanent and loving home environments for children who would benefit by adoption, particularly children with special needs by—

(1) promoting the establishment of model adoption legislation and procedures in the States and territories of the United States in order to eliminate jurisdictional and legal obstacles to adoption; and

(2) providing a mechanism for the Department of Health, Education, and Welfare to (A) promote quality standards for adoption services (including preplacement, postplacement, and postadoption counseling and standards to protect the rights of children in need of adoption), and (B) provide for a national adoption and foster care information data gathering and analysis system and a national adoption information exchange system to bring together children who would benefit by adoption and qualified prospective adoptive parents who are seeking such children.

### MODEL ADOPTION LEGISLATION AND PROCEDURES

SEC. 202. (a) Not later than eighteen months after the date of enactment of this Act, the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") shall issue, based on the recommendations of the panel described in subsection (b) of this section, proposed model adoption legislation and procedures and publish such proposal in the Federal Register for comment. After soliciting and giving due consideration to the comments of interestd individuals, groups, and organizations and consulting further with such panel, the Secretary shall issue and publish model adoption legislation and procedures which shall not conflict with the provisions of any interstate compact in operation pursuant to which States are making, supervising, or regulating placements of children.

(b)(1) Not later than ninety days after the date of enactment of this Act, the Secretary shall appoint a panel (hereinafter referred to as the "panel") to be composed of not less than eleven nor more than seventeen members generally representative of public and voluntary organizations, agencies, and persons interested and with expertise and experience in facilitating the achievement of the purposes of this title (including, but not limited to, national, State, and local child welfare organizations, including those representative of minorities, and adoptive parent organizations). The panel shall (A) review current conditions, practices, and laws relating to adoption, with special reference to their effect on facilitating or impeding the location of suitable adoptive homes for children who would benefit by adoption and the completion of suitable adoptions for such children; and (B) not later than twelve months after the date on which the members of the panel have been appointed, propose to the Secretary model (including adoption assistance agreement) legislation and procedures relating to adoption designed to facilitate adoption by families of all economic levels.

(2) The panel shall be terminated thirty days after the Secretary publishes the final model legislation and procedures pursuant to subsection (a) of this section.

(3) Members of the panel, other than those regularly employed by the Federal Government, while serving on business of the panel shall be entitled to receive compensation at a rate not in excess of the daily equivalent of the rate payable to a GS–18 employee under section 5322 of title 5, United States Code, including traveltime; and, while so serving away from their homes or regular places of business, they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently.

(c) The Secretary shall take such steps as he or she deems necessary to encourage and facilitate the enactment in each State of comprehensive adoption assistance legislation and the establishment in each State of the model legislation and procedures published pursuant to subsection (a) of this section.

### INFORMATION AND SERVICES

SEC. 203. (a) The Secretary shall establish in the Department of Health, Education, and Welfare an appropriate administrative arrangement to provide a centralized focus for planning and coordinating of all departmental activities affecting adoption and foster care and for carrying out the provisions of this title. The Secretary shall make available such consultant services and personnel, together with appropriate administrative expenses, as are necessary for carrying out such purposes.

(b) connection with carrying out the provisions of subsection (a) of this section, the Secretary shall—

(1) provide (directly or by grant to or contract with public or private nonprofit agencies and organizations) for the establishment and operation of a national adoption and foster care data gathering and analysis system utilizing data collected by States pursuant to requirements of law;

(2) conduct (directly or by grant to or contract with public or private nonprofit agencies or organizations) and education and training program on adoption, and prepare, publish, and disseminate (directly or by grant to or contract with public or private nonprofit agencies and organizations) to all interested parties, public and private agencies and organizations (including, but not limited to, hospitals, health care and family planning clinics, and social services agencies), and governmental bodies, information and education and training materials regarding adoption and adoption assistance programs;

(3) notwithstanding any other provisions of law, provide (directly or by grant to or contract with public or private nonprofit agencies or organizations) for (A) the operation of a national adoption information exchange system (including only such information as is necessary to facilitate the adoptive placement of children, utilizing computers and data processing methods to assist in the location of children who would benefit by adoption and in the placement in adoptive homes of children awaiting adoption); and (B) the coordination of such system with similar State and regional systems;

(4) provide (directly or by grant to or contract with public or private nonprofit agencies or organizations, including parent groups) for the provision of technical assistance in the planning, improving, developing, and carrying out of programs and activities relating to adoption; and

(5) consult with other appropriate Federal departments and agencies in order to promote maximum coordination of services and benefits provided under programs carried out by such departments and agencies with those carried out by the Secretary, and provide for the coordination of such aspects of all programs within the Department of Health, Education, and Welfare relating to adoption.

### STUDY OF UNLICENCED ADOPTION PLACEMENTS

SEC. 204. The Secretary shall provide for a study (the results of which shall be reported to the appropriate committees of the Congress not later than eighteen months after the date of enactment of this Act) designed to determine the nature, scope, and effects of the interstate (and, to the extent feasible, intrastate) placement of children in adoptive homes (not including the homes of stepparents or relatives of the child in question) by persons or agencies which are not licensed by or subject to regulation by any governmental entity.

### AUTHORIZATION OF APPROPRIATIONS

SEC. 205. There are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1978, and such sums as may be necessary for the succeeding three fiscal years to carry out this title.

Amend the Senate amendment to the title of the bill so as to read: "An Act to promote the health development of children who would benefit from adoption by facilitating their placement in adoptive homes, to extend and improve the provisions of the Child Abuse Prevention and Treatment Act, and for other purposes.".

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### CHANGES IN EXISTING LAW MADE BY PROPOSED COMPROMISE AGREEMENT ON H.R. 6693

Changes in existing law made by the proposed amendment are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

### CHILD ABUSE PREVENTION AND TREATMENT ACT

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may

be cited as the "Child Abuse Prevention and Treatment Act".

THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT

SEC. 2. (a) The Secretary of Health, Education, and Welfare (hereinafter referred to in this Act as the "Secretary") shall establish an office to be known as the National Center on Child Abuse and Neglect (hereinafter referred to in this Act as the "Center").

(b) The Secretary, through the Center, shall—

(1) compile, analyze, [and] publish, *and disseminate* a summary annually of recently conducted and currently conducted research on child abuse and neglect;

(2) develop and maintain an information clearinghouse on all programs, including private programs, showing promise of success, for the prevention, identification, and treatment of child abuse and neglect;

(3) compile [and publish], *publish, and disseminate* training materials for personnel who are engaged or intend to engage in the prevention, identification, and treatment of child abuse and neglect;

(4) provide technical assistance (directly or through grant or contract) to public and nonprofit private agencies and organizations to assist them in planning, improving, developing, and carrying out programs and activities relating to the prevention, identification, and treatment of child abuse and neglect;

(5) conduct research into the causes of child abuse and neglect, and into the prevention, identification, and treatment thereof; [and]

(6) make a complete and full study and investigation of the national incidence of child abuse and neglect, including a determination of the extent to which incidents of child abuse and neglect are increasing in number or severity[.]; *and*

(7) *in consultation with Federal agencies serving on the Advisory Board on Child Abuse and Neglect (established by section 6 of this Act), prepare a comprehensive plan for seeking to bring about maximum coordination of the goals, objectives, and activities of all agencies and organizations which have responsibilities for programs and activities related to child abuse and neglect, and submit such plan to such Advisory Board not later than twelve months after the date of enactment of this clause.*

*The Secretary shall establish research priorities for making grants or contracts under clause (5) of this subsection and, not less than sixty days before establishing such priorities, shall publish in the Federal Register for public comment a statement of such proposed priorities.*

(c) The Secretary may carry out his functions under subsection (b) of this section either directly or by way of grant or contract. *Grants may be made under subsection (b)(5) for periods of not more than three years. Any such grant shall be reviewed at least annually by the Secretary, utilizing peer review mechanisms to assure the quality and progress of research conducted under such grant.*

*(d) The Secretary shall make available to the Center such staff and resources as are necessary for the Center to carry out effectively its functions under this Act.*

DEFINITION

SEC. 3. For purposes of this Act the term "child abuse and neglect" means the physical or mental injury, sexual abuse *or exploitation*, negligent treatment, or maltreatment of a child under the age of eighteen, *or the age specified by the child protection law of the State in question*, by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary.

DEMONSTRATION (*or service*) PROGRAMS AND PROJECTS

SEC. 4. (a) The Secretary, through the Center, is authorized to make grants to, and enter into contracts with, public agencies or nonprofit private organizations (or combinations thereof) for demonstration *or service* programs and projects designed to prevent, identify, and treat child abuse and neglect. Grants or contracts under this subsection may be—

(1) for [the development and establishment of] training programs for professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of the prevention, identification, and treatment of child abuse and neglect; and training programs for children, and for persons responsible for the welfare of children, in methods of protecting children from child abuse and neglect;

(2) for the establishment and maintenance of centers, serving defined geographic areas, staffed by multidisciplinary teams of personnel trained in the prevention, identification, and treatment of child abuse and neglect cases, to provide a broad range of services related to child abuse and neglect, including direct support and supervision of satellite centers and attention homes, as well as providing advice and consultation to individuals, agencies, and organizations which request such services;

(3) for furnishing services of teams of professional and paraprofessional personnel who are trained in the prevention, identification, and treatment of child abuse and neglect cases, on a consulting basis to small communities where such services are not available; and

(4) for such other innovative programs and projects, including programs and projects for parent self-help, and for prevention and treatment of drug-related child abuse and neglect, that show promise of successfully preventing or treating cases of child abuse and neglect as the Secretary may approve. [Not less than 50 per centum of the funds appropriated under this Act for any fiscal year shall be used only for carrying out the provisions of this subsection.]

(b)(1) [Of the sums appropriated under this Act for any fiscal year, not less than 5 per centum and not more than 20 per centum may be used by the Secretary for making grants] *The Secretary, through the Center, is authorized to make grants* to the States [for the payment of reasonable and necessary expenses] for the purpose of assisting the States in developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs.

(2) In order for a State to qualify for assistance under this subsection, such State shall—

(A) have in effect a State child abuse and neglect law which shall include provisions for immunity for persons reporting instances of child abuse and neglect from prosecution, under any State or local law, arising out of such reporting;

(B) provide for the reporting of known and suspected instances of child abuse and neglect;

(C) provide that upon receipt of a report of known or suspected instances of child abuse or neglect an investigation shall be initiated promptly to substantiate the accuracy of the report, and, upon a finding of abuse or neglect, immediate steps shall be taken to protect the health and welfare of the abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect;

(D) demonstrate that there are in effect throughout the State, in connection with the enforcement of child abuse and neglect laws and with the reporting of suspected instances of child abuse and neglect, such administrative procedures, such personnel trained in child abuse and neglect prevention and treatment, such training procedures, such institutional and other facilities (public and private), and such related multidisciplinary programs and services as may be necessary or appropriate to assure that the State will deal effectively with child abuse and neglect cases in the State;

(E) provide for methods to preserve the confidentiality of all records in order to protect the rights of the child, his parents or guardians;

(F) provide for the cooperation of law enforcement officials, courts of competent jurisdiction, and appropriate State agencies providing human services;

(G) provide that in every case involving an abused or neglected child which results in a judicial proceeding a guardian ad litem shall be appointed to represent the child in such proceedings;

(H) provide that the aggregate of support for programs or projects related to child abuse and neglect assisted by State funds shall not be reduced below the level provided during fiscal year 1973, and set forth policies and procedures designed to assure that Federal funds made available under this Act for any fiscal year will be so used as to supplement and, to the extent practicable, increase the level of State funds which would, in the absence of Federal funds, be available for such programs and projects;

(I) provide for dissemination of information to the general public with respect to the problem of child abuse and neglect and the facilities and prevention and treatment methods available to combat instances of child abuse and neglect; and

(J) to the extent feasible, insure that parental organizations combating child abuse and neglect receive preferential treatment.

*If a State has failed to obligate funds awarded under this subsection within eighteen months after the date of award, the next award under this subsection made after the expiration of such period shall be reduced by an amount equal to the amount of such unobligated funds unless the Secretary determines that extraordinary reasons justify the failure to so obligate.*

(3) Programs or projects related to child abuse and neglect assisted under part A or B of title IV of the Social Security Act shall comply with the requirements set forth in clauses (B), (C), (E), and (F) of paragraph (2).

(c) Assistance provided pursuant to this section shall not be available for construction of facilities; however, the Secretary is authorized to supply such assistance for the lease or rental of facilities where adequate facilities are not otherwise available, and for repair or minor remodeling or alteration of existing facilities.

(4) The Secretary shall establish criteria designed to achieve equitable distribution of assistance under this section among the States, among geographic areas of the Nation, and among rural and urban areas. To the extent possible, citizens of each State shall receive assistance from at least one project under this section.

(e) For the purpose of this section, the term "State" includes each of the several States, the District of Columbia, the Com-

monwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam and the Trust Territories of the Pacific.

AUTHORIZATIONS

SEC. 5. (a) There are hereby authorized to be appropriated for the purposes of this Act $15,000,000 for the fiscal year ending June 30, 1974, $20,000,000 for the fiscal year ending June 30, 1975 [and] $25,000,000 for the fiscal year ending June 30, 1976, and for the succeeding fiscal year[.], *$25,000,000 for the fiscal year ending September 30, 1978, $27,500,000 for the fiscal year ending September 30, 1979, and $30,000,000 each for the fiscal years ending September 30, 1980, and September 30, 1981, respectively. Of the funds appropriated for any fiscal year under this section, not less than 50 per centum shall be used for making grants or contracts under sections 2(b)(5) (relating to research) and 4(a) (relating to demonstration or service projects), giving special consideration to continued Federal funding of child abuse and neglect programs or projects (previously funded by the Department of Health, Education, and Welfare) of national or regional scope and demonstrated effectiveness, and not less than 25 per centum shall be used for making grants or contracts under section 4(b)(1) (relating to grants to States) for the fiscal years ending September 30, 1978, and September 30, 1979, respectively, and not less than 30 per centum shall be used for making grants or contracts under section 4(b)(1) (relating to grants to States for each of the fiscal years ending September 30, 1980, and September 30, 1981, respectively.*

*(b)(1) There are authorized to be appropriated $3,000,000 for the fiscal year ending September 30, 1978, $3,500,000 for the fiscal year ending September 30, 1979, and $4,000,000 each for the fiscal years ending September 30, 1980, and September 30, 1981, respectively, for the purpose of making grants and entering into contracts (under sections 2(b)(5) (relating to research), 4(a) (relating to demonstration or services projects), and 4(b)(1) (relating to grants to States)) for programs and projects (including the support of not less than three Centers for the provision of treatment, personnel training, and other related services) designated to prevent, identify, and treat sexual abuse of children, including programs involving the treatment of family units, programs for the provision of treatment and related services to persons who have committed acts of sexual abuse against children, and programs for the training of personnel.*

*(2) Of the sums appropriated under this subsection, not more than 10 per centum shall be expended under section 2(b)(5) (relating to research).*

*(3) As used in this subsection, the term—*

*(A) "sexual abuse" includes the obscene or pornographic photographing, filming, or depiction of children for commercial purposes, or the rape, molestation, incest, prostitution, or other such forms of sexual exploitation of children under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary; and*

*(B) "child" or "children" means any individual who has not attained the age of eighteen.*

*(4)(A) Nothing contained in the provisions of this subsection shall be construed as prohibiting the use of funds appropriated under subsection (a) for programs and projects described in subsection (b), nor be construed to prohibit programs or projects receiving funds under subsection (a) from receiving funds under subsection (b).*

*(B) No funds shall be obligated or expended under this subsection unless an amount at least equal to the amount of funds appropriated in fiscal year 1977 has been appropriated for programs and projects under subsection (a) for any succeeding fiscal year.*

ADVISORY BOARD ON CHILD ABUSE AND NEGLECT

SEC. 6. (a) The Secretary shall, within sixty days after the date of enactment of this Act, appoint an Advisory Board on Child Abuse and Neglect (hereinafter referred to as the "Advisory Board"), which shall be composed of representatives from Federal agencies with responsibility for programs and activities related to child abuse and neglect, including the Office of Child Development, the Office of Education, the National Institute of Education, the National Institute of Mental Health, the National Institute of Child Health and Human Development, the Social and Rehabilitation Service, and the Health Services Administration, *and not less than three members from the general public with experience or expertise in the field of child abuse and neglect.* The Advisory Board shall assist the Secretary in coordinating programs and activities related to child abuse and neglect [administered] *planned, administered,* or assisted under this Act with such programs and activities [administered] *planned, administered,* or assisted by the Federal agencies whose representatives are members of the Advisory Board. The Advisory Board shall also assist the Secretary in the development of Federal standards for child abuse and neglect prevention and treatment programs and projects.

[(b) The Advisory Board shall prepare and submit, within eighteen months after the date of enactment of this Act, to the President and to the Congress a report on the programs assisted under this Act and the programs, projects, and activities related to child abuse and neglect administered or assisted by the Federal agencies whose representatives are members of the Advisory Board. Such report shall include a study of the relationship between drug addiction and child abuse and neglect.

[(c) Of the funds appropriated under section 5, one-half of 1 per centum, or $1,000,000, whichever is the lesser, may be used by the Secretary only for purposes of the report under subsection (b).]

(b) The Advisory Board shall review the comprehensive plan submitted to it by the Center pursuant to section 2(b)(7), make such changes as it deems appropriate, and submit to the President and the Congress a final such plan not later than eighteen months after the effective date of this subsection.

(c) Members of the Advisory Board, other than those regularly employed by the Federal Government, while serving on business of the Advisory Board, shall be entitled to receive compensation at a rate not in excess of the daily equivalent payable to a GS–18 employee under section 5332 of title 5, United States Code, including traveltime; and, while so serving away from their homes or regular places of business, they may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of such title for persons in the Government service employed intermittently.

COORDINATION

SEC. 7. The Secretary shall promulgate regulations and make such arrangements as may be necessary or appropriate to ensure that there is effective coordination between programs related to child abuse and neglect under this Act and other such programs which are assisted by Federal funds.

Mr. CRANSTON. Mr. President, I move that the Senate concur in the amendments of the House of Representatives.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from California.

The motion was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I move that the Senate concur in the House amendments to the Senate amendments to the title of the bill.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

## ORDER OF BUSINESS

Mr. BAKER. Mr. President, I yield the remainder of the time remaining under the Domenici special order to the distinguished Senator from Kansas.

The ACTING PRESIDENT pro tempore. The Senator from Kansas.

## EMERGENCY FARM BILL—H.R. 6782

Mr. DOLE. Mr. President, this afternoon the House of Representatives will take up the conference report on H.R. 6782, the Emergency Agricultural Act of 1978.

The House considers this important legislation in an atmosphere of concern for our Nation's farmers and with a sense of urgency for the financial pressures which confront America's farm families.

We can be proud that the U.S. Senate has already gone on record in favor of this market oriented farm program, an initiative which will enable the American farmer to continue to produce abundant supplies of food for America and the world. It is a fiscally responsible program, one which will give farmers a reasonable prospect of making a profit without inordinately increasing food prices for the American consumer. It is a proposal which merits the support of the House of Representatives.

Without more money from the marketplace and some limited additional funds from the Government, farmers face financial disaster. The need for emergency farm legislation has been fully documented in hearings before the Senate and House Agriculture Committees.

WHITE HOUSE PRESSURES

I am concerned and disturbed about the atmosphere created by the White House and the USDA in their efforts to defeat any and all attempts by the Congress to deal effectively with the farm crisis.

The House vote comes at a time when the White House has announced the bill will be vetoed if passed and has circulated vague and unreasonable objections to the bill.

I have found the cost figures used by the White House on the bill to be inaccurate and exaggerated. The White House and the USDA have used "worst-case" figures. They have deliberately

tried to scare the Congress and the American public and particularly the American consumer, into being against the emergency legislation.

I am hopeful that our colleagues in the House of Representatives will not be distracted by the exaggerated inaccurate and, in some cases, outright false, cost estimates on the bill or the threat of a Presidential veto. The Congress has its responsibility and the President has his responsibility.

It is not a Republican initiative, it is not a Democratic initiative; it is an initiative by Republicans and Democrats in the House and in the Senate to assist America's farmers who, in turn, will assist the American consumer.

Monday, I wrote my colleagues in the House a letter stating my objection to the White House claims. I ask unanimous consent for the letter to be inserted in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. DOLE. Unfortunately, Mr. President, the President of the United States, President Carter, has been against all attempts by Congress to assist the farmer. The President, as recently as yesterday, said that he would veto any effort by Congress to help American farmers that he has not already recommended. I would hope the House would keep that in mind this afternoon.

It is not enough, and it cannot be said accurately, that we can veto or defeat this legislation in the House and then offer something else, because that is not the alternative.

The President indicated very directly he would veto anything. Let me suggest again that may be his responsibility, but our responsibility in Congress is to pass meaningful and responsible legislation, and we have done that as far as the American farmer is concerned in the Senate just this week.

The President seems willing to sacrifice our Nation's family farmers in the name of inflation, and I believe this is a smokescreen that is being used to hide the President's lack of concern about American farmers, about the farming situation and, frankly, about the American consumer.

I find it somewhat amusing that the Consumers Federation of America is lobbying night and day against this bill, calling it inflationary—the very group that met with farmers earlier and talked with farmers and talked about their willingness and wanting to assist the American farmer.

I might also suggest the Consumers Federation of America was in the forefront in 1975 in supporting emergency farm legislation. But, of course, then we had a Republican President.

In his inflation message yesterday the President asserted:

> Inflation cannot be solved by placing the burden of fighting it on only a few.

That is precisely what he is asking the American farmer to do. He is saying to the American farmer, "You ought to be able to produce your products below the cost of production. You should not make a profit."

It just seems to me if we are really concerned about America's farmers, if we are concerned about the fact that more than 5 percent of American farmers left the farms last year, we ought to address that problem.

Today the American farmer is less than 5 percent of the total population. They have been bearing more than their share of the burdens of inflation.

By fighting the farm bill, and by indicating that it would be vetoed, the President and Secretary Bergland and others who are leading the fight against the farm bill are helping to insure that fighting inflation will continue to be the burden of the few.

BURDEN OF INFLATION

The farmers have certainly borne the burden of inflation. They have been accepting low prices for what they sell and paying higher and higher prices for what they buy. Let me give you one concrete example.

Right now, the value of the wheat in a loaf of bread is 3 cents. The price of wheat is $3 a bushel. If the price went to $5 a bushel, that would add about 2 cents to the cost of the wheat in a loaf of bread.

We are told by the administration that this bill is going to cost billions and billions of dollars. That is not the case. I suggest that those who have not thus far focused on the farm problem, those who have not focused upon the rural crisis in America, take a moment to stand and reflect on the farmers' plight. Not all farmers are in difficulty, but many are, particularly the small family farmers.

They have been bearing the burden through huge financial losses on their farms.

They have been bearing the burden through bankruptcy, increased borrowing at the bank and by selling their farms and moving to the city.

They have been bearing the burden by selling equity in their farms to foreign countries through grain exports that are sold below the costs of production.

They have been bearing the burden of inflation long enough. They cannot bear it any longer and survive.

Last fall the farmers started telling America they could bear the burden no longer by themselves. By the thousands they have come to Washington to tell their story.

DEAF EARS AT WHITE HOUSE

The farmer's story has been heard and understood by Congress and the American people. The only roadblock has been the White House and the USDA. The people who work at that level seem to have deaf ears. They seem to have turned away from the American farmer. President Carter told a group of American farmers when they visited the White House a couple of months ago, "Those of you who survive will have it all right." I suggest that that is hardly the way to address a group of loyal and hard-working Americans.

TIME FOR ACTION

The time for action is now. I call upon my colleagues in the House of Representatives to make their own decision, independent of White House pressures.

The Emergency Agriculture Act of 1978 was adopted by the Senate and the Senate-House conference committee after several months of deliberation. The act was carefully considered and will provide reasonable farm incomes, protect consumers from extreme price rises, enhance our balance of payments and agricultural exports, and allow us adequate reserves to meet our humanitarian food commitments.

The bill reaches a compromise and gives the farmer more money from the marketplace. It is a 1-year bill.

I strongly urge our colleagues in the House to support the bill, and urge the President to reconsider his objections and announced veto threat.

The bill is a small price to pay for the economic health of our farmers, for economic vitality in rural America, for the creation of jobs in the agribusiness sector of our economy, and for the assurance of a plentiful, reasonably priced food supply for the American people and the world.

Finally, Mr. President, let me say this: This Senator finds it very difficult to believe that the American Farm Bureau Federation, one of the Nation's largest representatives of the American farmer, is fighting this bill. Fighting a bill that is market-oriented. I find it difficult to rationalize the American Farm Bureau Federation's policy on this bill with their stated policy around the country.

I can say to the credit of many State Farm Bureaus that they support the legislation. They support flexible parity. They support affording an opportunity for the farmer to make it in the marketplace; and I still fail to understand the reason why the American Farm Bureau Federation, which professes to be geared to free enterprise and a market economy for the American farmer, are saying "We cannot support this bill".

I hope that those in the House of Representatives who have to make this decision later today will take a look at the bill and at its orientation, and will cast their vote for the American farmer.

Mr. PEARSON. Mr. President, will my distinguished colleague yield?

Mr. DOLE. I yield to my colleague from Kansas.

Mr. PEARSON. I just want to say to my colleague, who has exercised such a tremendous role not only in emergency farm legislation but in all aspects of legislation dealing with rural America, that one might almost be amused, if it were not so serious a matter, to see the continued commentary in the media as to the increased cost of foodstuffs and food as related to the farmers' prices. It is, I think, one of the great distortions and misunderstandings of American economics to relate the end use and the initial production together.

I have not seen anywhere, Mr. President, in the discussion of this particular problem, any reference to the increased cost of production in food processing, the middle man, or the retail stores, by any responsible person in this Government. It is a fact that some years ago in the Commerce Committee we looked into this very question, and we found that, particularly at the retail level, when prices go up at the farm level, they go up in the supermarket, but they never come down.

So it just seems to me, Mr. President, that one ought to really consider what the true dynamics of the agricultural economy in this country today are, and to reflect upon what the result would have been, Mr. President, had agricultural prices increased at the inflationary rate that the cost of industrial goods increased in the 1970's. What would food prices be today? The farmers of this country, whatever might be the result of this particular bill or other bills, have, through the whole period of the 1970's, been one of the most forceful dampers upon inflationary pressures in this country. They cared; and they gave America the greatest quantity of food and the best food at the lowest prices in the world.

So, Mr. President, I would hope that from the President on down, given his statement on inflation yesterday, there would be some understanding, some place in the Government, as to what the real forces are.

I compliment my colleague on his statement and his leadership in this field.

Mr. DOLE. I thank my distinguished colleague from Kansas.

This is a day of decision for the American farmer. This is a day of decision in the House of Representatives. As my colleague, Senator PEARSON, just pointed out, when farm prices go down it is not reflected in the supermarket.

I think many consumers would be surprised to know that it costs more for the bread wrapper than the cost of the wheat in a loaf of bread.

EXHIBIT 1

U.S. SENATE,
*Washington, D.C., April 10, 1978.*

DEAR COLLEAGUE: Today the Senate accepted the House/Senate Conference Report on the Emergency Agricultural Act of 1978, H.R. 6782. An affirmative Senate vote, 49 yeas to 41 nays, was achieved in spite of a strong-concerted Administration effort to defeat any emergency farm legislation by the use of "worst case" figures.

Both USDA and CBO estimates for H.R. 6782 failed to recognize that payment limitations per farm of $40,000 as specified in last year's farm bill will apply to H.R. 6782. We deliberately structured the flexible parity provision to benefit the small family farmer. We did not include any exemption for existing payment limitations. Perhaps they failed to take this into account because President Carter has mistakenly claimed that this bill "would direct the vast majority of its benefits to a small number of the very largest of our farmers."

Further, the CBO in their cost estimates assumes that 90 percent of wheat producers will choose the 50 percent setaside. In their earlier estimate they assumed an average of a 35 percent participation level. CBO and USDA are using farm price levels so low under the program that it distorts the deficiency payment cost estimates.

CBO estimate of cost over a two-year period of $5.3 billion would be reduced $1.4 billion using a 35 percent participation level and another $1.9 billion if we assume that prices to farmers will average out at just current levels. This leaves a cost of only $2.0 billion—not even considering the fact that neither CBO nor the USDA took into account the payment limitation factor.

Other scare stories are that consumer prices will be raised inordinately and that we may draw down grain stocks too far.

My reply is that with a carryover of 2.3 billion tons of wheat and feed grains and nearly 6 million bales of cotton, we face no danger of shortages from the effects of this one-year bill.

Concerning the cost of this bill at the grocery store, a family of four will pay somewhere between $1 and $2 more per week. A recent Harris poll showed that a majority of Americans are willing to have food prices rise by five percent to help farmers achieve their income goals.

I urge my colleagues in the House to put the need for saving the family farmer in the proper perspective and to analyze objectively the figures that are being orchestrated by the Administration. I believe that your objective analysis will result in your support of the "Emergency Agricultural Act of 1978."

Sincerely yours,

BOB DOLE,
*U.S. Senate.*

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

## ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business, as in legislative session, not to extend beyond the hour of 11 a.m., with statements therein limited to 3 minutes.

## AUTHORIZING U.S. DISTRICT COURT SESSIONS TO BE HELD AT HEMPSTEAD, N.Y.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 669.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, I rise only to advise the majority leader that Calendar Order No. 669 is cleared on this side. We have no objection to proceeding with its consideration and passage at this time.

The bill (S. 2597) to amend title 28, United States Code, to move the place for holding court for the district court of the Eastern District of New York to Brooklyn and Hempstead, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the second paragraph of section 112(c) of title 28, United States Code, is amended to read as follows:

"Court for the Eastern District shall be held at Brooklyn and Hempstead (including the village of Uniondale).".

SEC. 2. The United States District Court for the Eastern District of New York, by order made anywhere within its district, may pretermit the regular session of court at Hempstead until Federal quarters and accommodations are available and ready for occupancy, except that for the entire period and such pretermission, a special session of the court shall be held at Westbury. Pretermission may be ordered without regard to the provisions of section 140(a) of title 28, United States Code.

SEC. 3. Notwithstanding the provisions of section 142 of title 28, United States Code, the Administrator of General Services, at the request of the Director of the Administrative Office of the United States Courts, shall continue to provide existing quarters and accommodations at Westbury for the duration of the special session held pursuant to section 2 of this Act. Appropriations to the judicial branch of Government shall be available to the Director to make necessary disbursements for such quarters and accommodations, and to pay user charges as required by section 210 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490), at rates otherwise authorized by law.

SEC. 4. Notwithstanding the provisions of section 456 of title 28, United States Code, any judge, and any officer or employee of the judicial branch, whose official station is, on the day before the date of enactment of this Act, Westbury, may maintain that official station for the duration of the special session held pursuant to section 2 of this Act.

SEC. 5. The Director of the Administrative Office of the United States Courts may pay travel and transportation expenses in accordance with subchapter II, chapter 57 of title 5, United States Code, to any officer or employee of the judicial branch whose official station changes as a consequence of this Act and who relocates his residence incident to such change of official station.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PURPOSE

The purpose of the proposed legislation is to authorize the U.S. District Court for the Eastern District of New York, which is now authorized to hold court at Brooklyn, Mineola, and Westbury, to instead hold court at Brooklyn and Hempstead (including the village of Uniondale, which is a part of the town of Hempstead).

STATEMENT

At present, 28 U.S.C. 112(c) delineates the configuration of the Eastern (judicial) District of New York and authorizes the U.S. District Court for that district to hold court as follows:

"The Eastern District comprises the counties of Kings, Nassau, Queens, Richmond, and Suffolk and concurrently with the Southern District, the waters within the counties of Bronx and New York.

"Court for the Eastern District shall be held at Brooklyn, Mineola, and Westbury."

S. 2597 would, in effect, substitute Hempstead as a place of holding court in lieu of Westbury, and provide related necessary authority to govern the provision and use of court facilities at those locations for the transition period during which the court is transferring from Westbury to Hempstead.[1]

[1] Prior to 1970 when Westbury was added as a place of holding court, court was held in borrowed state facilities in Mineola. The reference to Mineola in section 112(c) should have been stricken in 1970 since it has not been used as a sitting place for court proceedings since the institution of Westbury. Therefore, this technical oversight is now corrected by deletion of Mineola.

For several years a "Long Island Courthouse" for the Eastern District of New York at Westbury has been growing progressively more inadequate to the court's needs. The courtroom is small, prohibiting the trial of any case involving more than three parties. With an existing seating capacity for spectators of only 40 seats, redesigning the courtroom is not a realistic solution for that problem. Library space has always been inadequate, as has been the available space for the use of the clerk's office, the probation unit, the U.S. marshal's office (in fact the marshal has no office space now) and the U.S. attorney's office.

In recent years the court has been searching for alternative facilities which would better serve its needs without greatly disrupting access and availability to the local community in which it is now located. In late 1977, the court learned that the General Services Administration had leased space in a building at Hofstra University for intended use by the Internal Revenue Service, only to discover, after leasing, that the Service had changed its plans. Upon inquiry, the court confirmed availability of the space, the General Services Administration's willingness to lease it, and the University's genuine enthusiasm for such an arrangement. Only 8 miles from its present location, the Hofstra building would provide the Court with several advantages in addition to a more adequate physical facility. The new location is adjacent to the University's Law School, and thus its library. That physical proximity will be of real advantage to both institutions, providing the opportunity for law students and faculty members to observe court proceedings easily and enabling the court's personnel to call upon the research and other services of the law school. In addition, the Hofstra building has sufficient space to accommodate two resident district judges, three bankruptcy judges, related clerks' offices and the needs of the probation, U.S. marshal, and U.S. attorney offices. When the currently pending judgeship legislation, which does provide an additional judicial position for the Eastern District of New York, has become public law, the court intends to assign two judges to the "Long Island Courthouse" as full-time resident judges. That, of course, will not be possible unless an alternative facility has been authorized in lieu of Westbury.

Although the Judicial Conference of the United States has for many years usually advised against the proliferation of additional places of holding district courts, and this Committee has consistently agreed with that policy, S. 2597 does not present that problem. An additional district court location is not at issue here; an alternative one is. Under this bill, the court itself will "phase out" the Westbury facility as soon as the Hempstead facility is fully functioning. Under Judicial Conference policy guidelines proposed changes in district court locations must be approved by both the district court and the Judicial Council for the circuit in which the district is located. Both the U.S. District Court for the Eastern District of New York and the Judicial Council of the Second Circuit have approved substituting the Hofstra location for the Westbury location.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–728), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

COST

The authorizations for appropriations contained in this bill are required to facilitate the operation of the court during the period between the establishment of Hempstead as a place of holding court and the actual occupancy of the facilities located there by the court. Because all costs of renovation at Hempstead will be met by the General Services Administration, as incidental to its leasing of the space, the funds appropriated for the special session at Westbury during that period, which are already allocated to the judiciary, will not increase. When the court actually moves into the new Hempstead facility the $186,000 per year now being spent for space at Westbury will be transferred to Hempstead. Because the increased space at that location will, in rental payments to G.S.A., cost approximately $279,000 per year, the net increase in costs for the new facilities will be $93,000. In addition, at the time of the move, a judge who now resides in Hempstead will transfer his official station from Brooklyn to Hempstead, giving that location the services of two full-time resident judges. Although his change of official station will result in no relocation costs (under section 5 of the bill), the relocation of two deputy clerks of court and secretarial personnel, associated with his transfer of official station, will incur some relocation costs, estimated to not exceed $7,000. Therefore, the estimated additional costs of the bill in the first year will be $100,000 and the estimated costs for each year thereafter $93,000, plus whatever space rental increases may be assessed by G.S.A. upon renegotiation of the original lease. These amounts are far less than would be incurred by an expansion of the present Westbury facility or construction of a new facility.

## CONVEYANCE OF CERTAIN LANDS TO THE COUNTY OF MINERAL, NEV.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 4979.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the House agree to the amendment of the Senate to the bill (H.R. 4979) entitled "An Act to direct the Secretary of the Interior to convey certain public and acquired lands in the State of Nevada to the county of Mineral, Nevada", with the following amendment:

Page 3 of the Senate engrossed amendment, strike out all after line 5, over to and including line 3 on page 4, and insert:

SEC. 2. Upon receipt of a request from the county of Mineral, State of Nevada, for the purchase of a tract of the lands described in section 1, the Secretary shall immediately cause the same to be appraised and, upon completion of such appraisal, shall notify the county of Mineral of the appraised value of such tract and the county shall have six months from the date of such notice to complete the purchase of such tract by payment of the appraised value into the Treasury of the United States whereupon the Secretary shall issue a patent or other instrument conveying such tract to such county. Any such patent or other instrument of conveyance shall be subject to valid existing rights and easements of record; and shall contain any reservation necessary to protect the continuing uses by the United States of real property owned by the United States that is adjacent to the tract conveyed. In addition, conveyance of section 29, township 8 north, range 30 east, shall be made only in accordance with the provisions of section 209 of the said Federal Land Policy and Management Act of 1976 (90 Stat. 2757; 43 U.S.C. 1719).

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. JACKSON, I move that the Senate concur in the House amendment.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

## CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

## THE PANAMA CANAL TREATY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of Executive N, 95th Congress, first session, Calendar No. 2, which the clerk will state.

The assistant legislative clerk read as follows:

Executive N, 95th Congress, 1st Session, The Panama Canal Treaty.

The Senate resumed the consideration of the treaty.

AMENDMENT NO. 102

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there may be 10 minutes for discussion of the pending amendment by Mr. HELMS, to be equally divided between Mr. HELMS and Mr. SARBANES, before any vote occurs.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The Senator from North Carolina.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

Does the Senator from Maryland wish to proceed first?

Mr. SARBANES. Either way would be quite all right.

Mr. HELMS. Mr. President, I want to thank my good friend and distinguished colleague from Maryland for making my case yesterday evening in his comments on this amendment. When I pointed out that 42 percent of the Panamanian workers would lose their jobs with the canal company and 75 percent of the U.S. citizen employees would be gone within 3 years, the able Senator from

Maryland in rebuttal quoted detailed statistics given by Governor Parfitt before the Armed Services Committee.

Of course, as we agreed yesterday, the statistics cited by the able Senator came from the response of Governor Parfitt to questions which this Senator from North Carolina had propounded to Governor Parfitt. They were exactly the same statistics which I used, which I had analyzed, and which I presented to the Senate yesterday.

As the distinguished Senator discovered when he got down to question 6 of the questions I had propounded to Governor Parfitt, it was rather clear, I think, that the Governor's opinion was that within 3 years half of the U.S. citizens who are needed, half of those in necessary jobs, will leave the canal.

Of course, when half of the U.S. citizens who are needed leave, there will not be enough experts to run the canal or even to train Panamanians to take their places. Why are they leaving? They are leaving because they can see what it is like to live under a dictatorship and they do not like it.

If we are to keep the canal functioning, and I assume that all Senators agree that is absolutely essential, we must respond to the concerns of these American citizens and try to give them enough reassurance so that they will stay long enough to keep the canal from breaking down.

The pending amendment, Mr. President, provides the bare minimum of reassurance for some—and I emphasize the word some—of their concerns.

First, it would remove Panama's arrogant claim that the children of U.S. citizens born in the Canal Zone are Panamanians subject to the whims of the dictatorship.

Second, it would give the English-speaking black people in the Canal Zone, decendants of the original canal builders from the West Indies, a chance to become U.S. citizens and thereby escape Panama's claim that they are Panamanian nationals.

Third, it will provide at the treaty level a bill of rights, a guarantee of procedural rights, for any U.S. citizen who might be prosecuted by the notorious courts under the control of a dictator.

A vote to defeat this amendment, a vote to table this amendment, is a vote, Mr. President, against human rights. It is a vote against the constitutional protections which are the privilege of every citizen of the United States.

I urge my colleagues to consider carefully the consequences when they cast their votes on this amendment.

I thank the Chair.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Maryland.

Mr. SARBANES. Mr. President, Governor Parfitt himself, in testimony before both the Foreign Relations Committee and the Senate Armed Services Committee really pointed out that this whole question of whether people stay on or not depends in part on the implementing legislation, which we have complete control over in terms of how we deal with our early retirement rights and job placement rights and with how the transition is accomplished. Let me just quote him twice, first before the Foreign Relations Committee:

> Governor PARFITT. The Secretary is quite correct. The assurances that have been given to date, both in terms of the assurances provided by the Secretary—

And second, referring to the Secretary of the Army, who is a stockholder in the Panama Canal Company—

> and in terms of those that are embodied in the treaties themselves, have been very reassuring. In the last few months there has been more of a wait-and-see attitude among the population. I would think from the standpoint of the employee guarantee if the assurances are fulfilled in the legislative package, that that would do much to retain the necessary skills that we have to have.

Before the Armed Services Committee, Governor Parfitt addressed the question of employees leaving. The question was put to him—

> In your answer, could you address yourself specifically as to how many of the skilled employees might leave and the importance of the implementing legislation in their decisions?

The Governor referred to the fact that a survey was made and that it indicated they might leave. And of course, he made the statement which we quoted earlier in response to the question posed by the distinguished Senator from North Carolina.

Governor Parfitt went on to say:

> It has always been my perception that this could be prevented by two initiatives. One is providing implementing legislation which deals fairly and equitably and generously with the employees; and, two, by establishing and maintaining a high order of cooperation with Panama in order to insure that when jurisdiction passes to Panama it is done very softly, very sensitively, and thus avoids provocative incidents which will assuredly result in the outward flow of our employees.
>
> So we must effectively deal with both of those situations, in my view, in order to have an assurance of continued efficient operation of the canal.

I say to the Senator from North Caroline that the problem he has referred to is one that I am sensitive to as well. On my visit to Panama, in fact, I met at some length with Americans who work for the company and reside in the Canal Zone. I have expressed earlier in this debate on the floor my respect and admiration for the professionalism of the work they have done in operating the canal.

In fact, early on, in April of 1977, when we had the treaty negotiators at a meeting of the Committee on Foreign Relations, we received a report at that time. One of the concerns I expressed to them, which was echoed by other members of the committee, was the need for greater consultation with the American employees in the zone and sharpened attention to some of their concerns.

Now, the rights which they have been guaranteed in terms of procedures, if they become involved in some legal dispute, are quite extensive. That applies both to civilian employees and to military employees, and includes such things as a prompt and speedy trial; the right to be informed in advance of trial of the specific charge or charges to be made against them; the opportunity to confront and be allowed to cross-examine witnesses and to have legal representation, and so forth and so on. So there is an extensive list of procedural guarantees that both the military component and the civilian component, which will continue to function in Panama, either in the employ of or for the dependents of those who are in the employ of the United States Government, will have available to them and will have as protection. I think it is very important to underscore that fact.

There is a great deal of apprehension, I know, but I do think a great number of safeguards have been written in to deal with some of those concerns. Some of the other concerns are not matters that involve the Republic of Panama. Those are matters completely within the control of the Government of the United States, including the Congress. Those are matters that deal with early retirement questions and alternative job placement opportunities, and things of that sort. These are completely within the control and the purview of the U.S. Government.

The PRESIDING OFFICER (Mr. DECONCINI). The Senator's time has expired. The Senator from North Carolina has 1 minute remaining.

Mr. HELMS. I ask unanimous consent that the distinguished Senator have 2 more minutes to finish his train of thought.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. I appreciate the Senator's consideration.

There is another point, and I think it is an important point to make. It is estimated that some 6,000 to 7,000 Americans currently live and work in the Republic of Panama; in other words, not connected with the Panama Canal Company. They do not live in the zone, they live in the Republic of Panama, just as Americans live and work in France or England or Germany. The reports that we have received from the community have been that they have lived and worked there without any difficulties and without any troubles. I know that the people who live in the zone feel that they are considered or perceived differently and that there is going to be antagonism. There is some concern about that. But as Governor Parfitt has expressed here, the sensitivity of the transition is enormously important. That, I think, has been underscored to Panamanian officials.

In testifying before us, Captain Williams of the Pilots Association stated, in response to this very question:

> Recognizing this, however, it should be borne in mind that what was previously blind resistance to change has moderated considerably, to the point that a more open-minded tolerance to "wait and see" is now prevalent.
>
> How many key employees, such as pilots, will terminate their employment if this treaty enters into force?

Then he says the estimate is 5 or 10, it could go higher. But it all depends on how this transition is accomplished.

I think it can be done well. There are guarantees. Therefore, I oppose the

amendment of the Senator from North Carolina.

Mr. HELMS. Mr. President, I have absolutely no problem with the good intentions of the distinguished Senator from Maryland. I know his intentions are of the best. The problem here is that he is talking about legislation; we are talking about a constitutional right and the preservation thereof. The closer the impending loss of those rights, the more quickly people leave. The Captain Williams whom the Senator just quoted himself has already left the Canal Zone. He lives in Corpus Christi, Tex. No matter what his opinion last year, today he is exactly what we are talking about when we speak of the exodus of U.S. citizen employees who are so apprehensive about what will happen. Their concerns will not be allayed.

At this very moment, I say to the distinguished Senator, there are four of the canal pilots from the Canal Zone in the Senate appropriations room, one floor below us, who are stating their concerns to the American people through the press. So we have a very real problem here which the Senator, himself, has recognized. I think it is essential that the Senate, at the treaty level, address itself——

The PRESIDING OFFICER. All time has expired.

Mr. HELMS. I ask unanimous consent that I may have 1 more minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HELMS. I think it is absolutely essential that the Senate address this human rights problem now at the treaty level, rather than have to rely on a legislative remedy which may or may not be effective.

Mr. President, I ask unanimous consent that the statement which has just been delivered to the press conference downstairs by the four pilots be printed in the RECORD at the conclusion of my remarks.

I thank the Chair.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF PANAMA CANAL COMPANY PILOTS JUNIUS CHAUVIN, JOHN WALLACE, BURLEY PRUETT, AND RAY HALL

The four of us are all pilots with the Panama Canal Company. Among us we count 53 years of service with the Company. We are not by nature politically oriented. In fact, we are just the opposite. Because of the sensitive nature of our jobs in piloting the ships of many nations, we have tried to avoid political controversies.

In addition, we don't claim any expertise in political affairs and in general would prefer to leave them to other people. But we do know the business of piloting ships through the Panama Canal. Our years of service on commercial ships and additional years of service as Panama Canal pilots gives us, we believe, a unique expertise in this specialized area. In addition, we have gained a deep appreciation of the maintenance requirements of the Canal and of the conditions necessary to keep it running smoothly.

We have taken the step of coming to Washington at our own expense to speak to members of the Senate and members of the press because we are deeply concerned that, if the Panama Canal treaties are ratified, they will have drastic effects on the operations of the Canal.

Our observation of the maintenance capability seen under the present regime in the Republic of Panama is that it is very poor. There are many roads, hospitals, power plants, industries and the like which are not functioning because of improper attention to maintenance.

Should this level of maintenance prevail in the Canal Zone after the treaties are ratified, this would make it extremely difficult to operate the Canal.

These considerations among others have caused a high level of apprehension in the Canal Zone about these treaties. And I should point out that this apprehension exists among the Panamanian employees as well as among the American employees because studies show that the present Panamanian employees will be hurt at least as much as we will—and probably more. If these treaties are ratified, it is probable that several thousand Panamanian employees will be put out of work.

Because of the intolerable living and working conditions that we foresee if the Canal Zone is placed under the new jurisdiction, we estimate that as many as 50 of the total of 206 pilots now on the force will leave within a year if the treaty is ratified.

We believe that there will also be an exodus of many hundreds of other American Canal employees—including many highly skilled technicians and supervisors.

If the treaties are ratified, the Americans in the Canal Zone would be subject to the jurisdiction of Panamanian courts and at the mercy of the Panamanian National Guard.

We should point out that there is already a shortage of pilots. More and more large ships are going through the canal and these ships require four pilots instead of the two required on average ships. Also, only senior pilots can take these ships through the Canal. For this and other reasons, there has recently been a squeeze on the pilot force which has caused many pilots to work overtime. Efforts by the company to recruit more pilots have largely been unsuccessful.

What has made the piloting jobs attractive for us has been the steady work, good pension plan, and—most important—the good living conditions for us and our families. If the treaties are ratified, these living conditions will no longer exist.

It should be emphasized that Panama will not be able to supply pilot replacements for many years to come. It is a small country and it does not have any nautical tradition. A school has recently been established to train mariners but, the graduates of this must first serve on ships at sea before they can become qualified to begin training as canal pilots.

In closing, we want to emphasize that we are not against a new treaty but against this treaty. We believe, however, that any new treaty should above all insure that the Canal continues to function smoothly. These treaties do not do that.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. SARBANES. Mr. President, I move to lay the amendment of the Senator from North Carolina on the table, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I ask for the yeas and nays.

Mr. SARBANES. I move to lay on the table the Helms amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment of the Senator from North Carolina on the table. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further anounce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON), the Senator from Michigan (Mr. RIEGLE), and the Senator from New Hampshire (Mr. MCINTYRE) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT) is necessarily absent.

The result was announced—yeas 54, nays 40, as follows:

[Rollcall Vote No. 93 Exec.]

YEAS—54

| | | |
|---|---|---|
| Baker | Haskell | Metzenbaum |
| Bayh | Hatfield, Paul G. | Morgan |
| Bellmon | Hathaway | Moynihan |
| Bentsen | Hayakawa | Muskie |
| Biden | Heinz | Nelson |
| Bumpers | Hollings | Pearson |
| Byrd, Robert C. | Huddleston | Pell |
| Case | Humphrey | Percy |
| Chafee | Inouye | Proxmire |
| Church | Jackson | Ribicoff |
| Clark | Javits | Sarbanes |
| Cranston | Johnston | Sparkman |
| Culver | Kennedy | Stafford |
| Danforth | Leahy | Stevenson |
| Durkin | Long | Weicker |
| Eagleton | Magnuson | Williams |
| Glenn | Mathias | Zorinsky |
| Gravel | McGovern | |
| Hart | | |

NAYS—40

| | | |
|---|---|---|
| Allen | Goldwater | Randolph |
| Brooke | Griffin | Roth |
| Burdick | Hansen | Sasser |
| Byrd, Harry F., Jr. | Hatch | Schmitt |
| Cannon | Hatfield, Mark O. | Schweiker |
| Chiles | Helms | Scott |
| Curtis | Hodges | Stennis |
| DeConcini | Laxalt | Stevens |
| Dole | Lugar | Stone |
| Domenici | McClure | Talmadge |
| Eastland | Melcher | Thurmond |
| Ford | Nunn | Tower |
| Garn | Packwood | Wallop |
| | | Young |

NOT VOTING—6

| | | |
|---|---|---|
| Abourezk | Bartlett | McIntyre |
| Anderson | Matsunaga | Riegle |

So the motion to lay on the table Mr. HELMS' amendment No. 102 was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ARTICLE VI

Mr. ROBERT C. BYRD. Mr. President, may we move to the next article?

The PRESIDING OFFICER. Are there further amendments to article V? If not, the clerk will report article VI.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the article be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The article is as follows:

ARTICLE VI

PROTECTION OF THE ENVIRONMENT

1. The United States of America and the Republic of Panama commit themselves to implement this Treaty in a manner consistent with the protection of the natural environment of the Republic of Panama. To this end, they shall consult and cooperate with each other in all appropriate ways to ensure that they shall give due regard to the protection and conservation of the environment.

2. A Joint Commission on the Environment shall be established with equal representation from the United States of America and the Republic of Panama, which shall periodically review the implementation of this Treaty and shall recommend as appropriate to the two Governments ways to avoid or, should this not be possible, to mitigate the adverse environmental impacts which might result from their respective actions pursuant to the Treaty.

3. The United States of America and the Republic of Panama shall furnish the Joint Commission on the Environment complete information on any action taken in accordance with this Treaty which, in the judgment of both, might have a significant effect on the environment. Such information shall be made available to the Commission as far in advance of the contemplated action as possible to facilitate the study by the Commission of any potential environmental problems and to allow for consideration of the recommendation of the Commission before the contemplated action is carried out.

ARTICLE VII

The PRESIDING OFFICER. Are there amendments to article VI? If not, the clerk will report article VII.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the article be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The article is as follows:

ARTICLE VII

FLAGS

1. The entire territory of the Republic of Panama, including the areas the use of which the Republic of Panama makes available to the United States of America pursuant to this Treaty and related agreements, shall be under the flag of the Republic of Panama, and consequently such flag always shall occupy the position of honor.

2. The flag of the United States of America may be displayed; together with the flag of the Republic of Panama, at the headquarters of the Panama Canal Commission, at the site of the Combined Board, and as provided in the Agreement in Implementation of Article IV of this Treaty.

3. The flag of the United States of America also may be displayed at other places and on some occasions, as agreed by both Parties.

ARTICLE VIII

The PRESIDING OFFICER. Are there amendments to article VII? If not, the clerk will report article VIII.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the article be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The article is as follows:

ARTICLE VIII

PRIVILEGES AND IMMUNITIES

1. The installations owned or used by the agencies or instrumentalities of the United States of America operating in the Republic of Panama pursuant to this Treaty and related agreements, and their official archives and documents, shall be inviolable. The two Parties shall agree on procedures to be followed in the conduct of any criminal investigation at such locations by the Republic of Panama.

2. Agencies and instrumentalities of the Government of the United States of America operating in the Republic of Panama pursuant to this Treaty and related agreements shall be immune from the jurisdiction of the Republic of Panama.

3. In addition to such other privileges and immunities as are afforded to employees of the United States Government and their dependents pursuant to this Treaty, the United States of America may designate up to twenty officials of the Panama Canal Commission who, along with their dependents, shall enjoy the privileges and immunities accorded to diplomatic agents and their dependents under international law and practice. The United States of America shall furnish to the Republic of Panama a list of the names of said officials and their dependents, identifying the positions they occupy in the Government of the United States of America, and shall keep such list current at all times.

The PRESIDING OFFICER. Are there amendments to article VIII? If not, the clerk will report article IX.

ARTICLE IX

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the article be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The article is as follows:

ARTICLE IX

APPLICABLE LAWS AND LAW ENFORCEMENT

1. In accordance with the provisions of this Treaty and related agreements, the law of the Republic of Panama shall apply in the areas made available for the use of the United States of America pursuant to this Treaty. The law of the Republic of Panama shall be applied to matters or events which occurred in the former Canal Zone prior to the entry into force of this Treaty only to the extent specifically provided in prior treaties and agreements.

2. Natural or juridical persons who, on the date of entry into force of this Treaty, are engaged in business or non-profit activities at locations in the former Canal Zone may continue such business or activities at those locations under the same terms and conditions prevailing prior to the entry into force of this Treaty for a thirty-month transition period from its entry into force. The Republic of Panama shall maintain the same operating conditions as those applicable to the aforementioned enterprises prior to the entry into force of this Treaty in order that they may receive licenses to do business in the Republic of Panama subject to their compliance with the requirements of its law. Thereafter, such persons shall receive the same treatment under the law of the Republic of Panama as similar enterprises already established in the rest of the territory of the Republic of Panama without discrimination.

3. The rights of ownership, as recognized by the United States of America, enjoyed by natural or juridical private persons in buildings and other improvements to real property located in the former Canal Zone shall be recognized by the Republic of Panama in conformity with its laws.

4. With respect to buildings and other improvements to real property located in the Canal operating areas, housing areas or other areas subject to the licensing procedure established in Article IV of the Agreement in Implementation of Article III of this Treaty, the owners shall be authorized to continue using the land upon which their property is located in accordance with the procedures established in that Article.

5. With respect to buildings and other improvements to real property located in areas of the former Canal Zone to which the aforesaid licensing procedure is not applicable, or may cease to be applicable during the lifetime or upon termination of this Treaty, the owners may continue to use the land upon which their property is located, subject to the payment of a reasonable charge to the Republic of Panama. Should the Republic of Panama decide to sell such land, the owners of the buildings or other improvements located thereon shall be offered a first option to purchase such land at a reasonable cost. In the case of nonprofit enterprises, such as churches and fraternal organizations, the cost of the purchase will be nominal in accordance with the prevailing practice in the rest of the territory of the Republic of Panama.

6. If any of the aforementioned persons are required by the Republic of Panama to discontinue their activities or vacate their property for public purposes, they shall be compensated at fair market value by the Republic of Panama.

7. The provisions of paragraphs 2–6 above shall apply to natural or juridical persons who have been engaged in business or nonprofit activities at locations in the former Canal Zone for at least six months prior to the date of signature of this Treaty.

8. The Republic of Panama shall not issue, adopt or enforce any law, decrees, regulation, or international agreement or take any other action which purports to regulate or would otherwise interfere with the exercise on the part of the United States of America of any right granted under this Treaty or related agreements.

9. Vessels transiting the Canal, and cargo, passengers and crews carried on such vessels shall be exempt from any taxes, fees, or other charges by the Republic of Panama. However, in the event such vessels call at a Panamanian port, they may be assessed charges incident thereto, such as charges for services provided to the vessel. The Republic of Panama may also require the passengers and crew disembarking from such vessels to pay such taxes, fees and charges as are established under Panamanian law for persons entering its territory. Such taxes, fees and charges shall be assessed on a nondiscriminatory basis.

10. The United States of America and the Republic of Panama will cooperate in taking such steps as may from time to time be necessary to guarantee the security of the Panama Canal Commission, its property, its employees and their dependents, and their property, the Forces of the United States of America and the members thereof, the civilian component of the United States Forces, the dependents of members of the Forces and the civilian component, and their property, and the contractors of the Panama

Canal Commission and of the United States Forces, their dependents, and their property. The Republic of Panama will seek from its Legislative Branch such legislation as may be needed to carry out the foregoing purposes and to punish any offenders.

11. The Parties shall conclude an agreement whereby nationals of either State, who are sentenced by the courts of the other State, and who are not domiciled therein, may elect to serve their sentences in their State of nationality.

ARTICLE X

The PRESIDING OFFICER. Are there amendments to article IX? If not, the clerk will report article X.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the article be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The article is as follows:

ARTICLE X

EMPLOYMENT WITH THE PANAMA CANAL COMMISSION

1. In exercising its rights and fulfilling its responsibilities as the employer, the United States of America shall establish employment and labor regulations which shall contain the terms, conditions and prerequisites for all categories of employees of the Panama Canal Commission. These regulations shall be provided to the Republic of Panama prior to their entry into force.

2. (a) The regulations shall establish a system of preference when hiring employees, for Panamanian applicants possessing the skills and qualifications required for employment by the Panama Canal Commission. The United States of America shall endeavor to ensure that the number of Panamanian nationals employed by the Panama Canal Commission in relation to the total number of its employees will conform to the proportion established for foreign enterprises under the law of the Republic of Panama.

(b) The terms and conditions of employment to be established will in general be no less favorable to persons already employed by the Panama Canal Company or Canal Zone Government prior to the entry into force of this Treaty, than those in effect immediately prior to that date.

3. (a) The United States of America shall establish an employment policy for the Panama Canal Commission that shall generally limit the recruitment of personnel outside the Republic of Panama to persons possessing requisite skills and qualifications which are not available in the Republic of Panama.

(b) The United States of America will establish training programs for Panamanian employees and apprentices in order to increase the number of Panamanian nationals qualified to assume positions with the Panama Canal Commission, as positions become available.

(c) Within five years from the entry into force of this Treaty, the number of United States nationals employed by the Panama Canal Commission who were previously employed by the Panama Canal Company shall be at least twenty percent less than the total number of United States nationals working for the Panama Canal Company immediately prior to the entry into force of this Treaty.

(d) The United States of America shall periodically inform the Republic of Panama, through the Coordinating Committee, established pursuant to the Agreement in Implementation of Article III of this Treaty, of available positions within the Panama Canal Commission. The Republic of Panama shall similarly provide the United States of America any information it may have as to the availability of Panamanian nationals claiming to have skills and qualifications that might be required by the Panama Canal Commission, in order that the United States of America may take this information into account.

4. The United States of America will establish qualification standards for skills, training and experience required by the Panama Canal Commission. In establishing such standards, to the extent they include a requirement for a professional license, the United States of America, without prejudice to its right to require additional professional skills and qualifications, shall recognize the professional licenses issued by the Republic of Panama.

5. The United States of America shall establish a policy for the periodic rotation, at a maximum of every five years, of United States citizen employees and other non-Panamanian employees, hired after the entry into force of this Treaty. It is recognized that certain exceptions to the said policy of rotation may be made for sound administrative reasons, such as in the case of employees holding positions requiring certain non-transferable or non-recruitable skills.

6. With regard to wages and fringe benefits, there shall be no discrimination on the basis of nationality, sex, or race. Payments by the Panama Canal Commission of additional remuneration, or the provision of other benefits, such as home leave benefits, to United States nationals employed prior to entry into force of this Treaty, or to persons of any nationality, including Panamanian nationals who are thereafter recruited outside of the Republic of Panama and who change their place of residence, shall not be considered to be discrimination for the purpose of this paragraph.

7. Persons employed by the Panama Canal Company or Canal Zone Government prior to the entry into force of this Treaty, who are displaced from their employment as a result of the discontinuance by the United States of America of certain activities pursuant to this Treaty, will be placed by the United States of America, to the maximum extent feasible, in other appropriate jobs with the Government of the United States in accordance with United States Civil Service regulations. For such persons who are not United States nationals, placement efforts will be confined to United States Government activities located within the Republic of Panama. Likewise, persons previously employed in activities for which the Republic of Panama assumes responsibility as a result of this Treaty will be continued in their employment to the maximum extent feasible by the Republic of Panama. The Republic of Panama shall, to the maximum extent feasible, ensure that the terms and conditions of employment applicable to personnel employed in the activities for which it assumes responsibility are no less favorable than those in effect immediately prior to the entry into force of this Treaty. Non-United States nationals employed by the Panama Canal Company or Canal Zone Government prior to the entry into force of this Treaty who are involuntarily separated from their positions because of the discontinuance of an activity by reason of this Treaty, who are not entitled to an immediate annuity under the United States Civil Service Retirement System, and for whom continued employment in the Republic of Panama by the Government of the United States of America is not practicable, will be provided special job placement assistance by the Republic of Panama for employment in positions for which they may be qualified by experience and training.

8. The Parties agree to establish a system whereby the Panama Canal Commission may, if deemed mutually convenient or desirable by the two Parties, assign certain employees of the Panama Canal Commission, for a limited period of time, to assist in the operation of activities transferred to the responsibility of the Republic of Panama as a result of this Treaty or related agreements. The salaries and other costs of employment of any such persons assigned to provide such assistance shall be reimbursed to the United States of America by the Republic of Panama.

9. (a) The right of employees to negotiate collective contracts with the Panama Canal Commission is recognized. Labor relations with employees of the Panama Canal Commission shall be conducted in accordance with forms of collective bargaining established by the United States of America after consultation with employee unions.

(b) Employee unions shall have the right to affiliate with international labor organizations.

10. The United States of America will provide an appropriate early optional retirement program for all persons employed by the Panama Canal Company or Canal Zone Government immediately prior to the entry into force of this Treaty. In this regard, taking into account the unique circumstances created by the provisions of this Treaty, including its duration, and their effect upon such employees, the United States of America shall, with respect to them:

(a) determine that conditions exist which invoke applicable United States law permitting early retirement annuities and apply such law for a substantial period of the duration of the Treaty;

(b) seek special legislation to provide more liberal entitlement to, and calculation of, retirement annuities than is currently provided for by law.

Mr. ROBERT C. BYRD. Mr. President, I understand that there will be an amendment or amendments to this article.

Mr. HELMS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

AMENDMENT NO. 82

Mr. HATCH. Mr. President, I call up amendment No. 82 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an amendment numbered 82:

After paragraph 10 of Article X, insert the following new paragraph:

11. In order to fulfill the prior assurances by the Government of the United States respecting the economic well-being and job security of any United States national employee of the Panama Canal Company, United States nationals who are employees of the Panama Canal Company or of another instrumentality of the Government of the United States in the Canal Zone prior to the entry into force of this Treaty and who subsequently after ratification of this Treaty elect to leave the Zone or are removed from such employment for reasons other than misconduct, neglect of duty, or malfeasance shall have the right to job placement with no reduction in grade or step in a Federal position with the Government of the United States within the continental United States subject to the provisions of subchapter II of chapter 5, of title 5 of the United States Code.

Mr. HATCH. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will come to order. Senators will please refrain from conversation on the floor.

Mr. HATCH. Mr. President, if these treaties are approved by the Senate, and I think there is a great deal of doubt about that, they contain no assurances by the U.S. Government for the American nationals in the Canal Zone who work there other than a vague and ambiguous statement to the effect that things will be adjusted in their behalf. What has been said is that, "They will be provided for." Union and civic leaders in the Canal Zone have repeatedly asked for a detailed explanation as to exactly what these rather vague assurances mean. Their requests have either been ignored or answered with a similar vague statement, and indeed in some cases, half truths.

There is no question that an effective and efficient transition to Panamanian operation of the canal will necessitate the cooperation of those experienced U.S. employees who are presently employed by the canal. Unfortunately, because of the uncertainty that these citizens are experiencing with regard to their own employment circumstances, morale is at an all-time low among them, and the Panama Canal Company is expecting twice as many U.S. citizens to leave than is required by the treaty-imposed changes.

The employees are tired of being pushed aside and they have reached a point where they must have some assurances as to what their fate will be assuming these treaties are approved. I submit to my colleagues that it is shabby treatment for this Government to pull the rug out from underneath them and to make no firm commitment to them regarding their livelihood. Hence, this amendment seeks nothing more than fair and equitable treatment for them by guaranteeing them a job opportunity in the United States for any eligible employee who elects to leave the Canal Zone for whatever reason he deems appropriate.

I think it is important to know here that the AFL–CIO endorsed the Panama Canal Treaties as "a just and enduring basis for harmony in the Western Hemisphere." Obviously, there is a good deal of disagreement with that position in the Senate.

But I think of more importance here is the fact that their support, which has been published and distributed to all Senators, is contingent upon the equitable treatment and protection of all workers in the Canal Zone, who big labor says must not be caught in the middle and victimized as a result of their government's foreign policy.

The AFL–CIO goes on to say that in keeping with the treaty provisions requiring protection for the job rights and benefits of U.S. citizens employed in the Canal Zone, the Government has established an outplacement service for those employees faced with voluntary or involuntary separation from their current positions. They say that this is a good step toward meeting the Government's obligation to the citizens, but more must be done. For once I find myself in agreement with the leaders of the AFL–CIO in desiring to protect the job security of canal employees. We both agree that the administration and the Department of Defense should promptly develop, in concert with the unions representing Canal Zone workers, provisions for full and complete protection of the job rights and benefits of all these workers.

I believe this is a laudable and necessary objective and my amendment would serve as the focal point for requiring that this protection include the job placement guarantees which are rightfully due these employees who are caught so much in the middle of this complicated situation.

It should be noted that these employees have been told that they will be given job placement priority in the civil service system if, and only if, their jobs are abolished. It came to my attention by two employees of the Canal Zone who visited me in my office that the Civil Service Commission in Miami and New York have been instructed not to hire Panama Canal employees who desire to transfer to those cities even though jobs were available there. It is fairly obvious to me that the Carter administration is holding them captive so that they may be forced to provide the technical expertise to Panamanians in order for them to be able to continue to operate the canal unless these American employees are willing to terminate their civil service careers. If these tactics are being used now, before the treaties are ratified, it is clear that U.S. employees will have no priority placement after the treaties are implemented and when living and working conditions in the Canal Zone are bound to deteriorate even more so than they are at the present moment.

As for those U.S. employees who do not lose their jobs, they will by virtue of the situation become prisoners with no avenue of escape other than the termination of their civil service careers and the ultimate forfeiture of all they have worked for over a period of years.

This is an extremely unfair situation which should not be condoned by any Member of the Senate. If ever there were a group of Federal employees in need of such a guarantee, it is these. Supposedly hired with the protections of civil service provisions, the number of American employees in the Canal Zone will undergo a forced 20-percent drop within 5 years of the effectiveness of the treaties. The remainder will gradually be phased out by a discriminatory system of preferential hiring. Accordingly, American nationals will be subject to forced rotation into less preferable jobs, and will be given no guarantee of nondiscriminatory assignment or promotion. As a shrinking minority of American employees become a vestige in the eyes of the Panamanians of what they will perceive to be U.S. imperialism, pressures to force the civil servants out of their jobs will become greater and greater.

I submit that they will have at that point no way to stem the tide of adverse action unless we act here and now to make it clear as to what their job security rights are.

The supposed quid pro quo is a U.S. Government promise to the effect that it will act as a placement service "to the maximum extent feasible." This is surely a weasle-type language which signifies nothing and the reports that the Civil Service Commission offices in Miami and New York have been instructed not to hire Canal Zone employees surely suggest that this commitment, as diluted as it is, is meaningless.

Hollow assurances is not justice and fairness to those Americans who are victimized, at no fault of their own, by ratification of these treaties.

My amendment would add teeth to our commitment to the employees of the Canal Zone by binding the U.S. Government to offer certain minimum guarantees which in principle are right and necessary. However, because it would be unilaterally binding on the United States, it would not require another plebiscite nor should the Government of Panama object to the personnel policies which we determine reasonably necessary to safeguard the interests of American employees.

My amendment attempts to attract similar guarantees for superlevel civil servants contained in the Ribicoff-Percy-Sasser-Javits civil service reform bill. My thesis is that if we can make job guarantees to GS–18's situated well-paid and comfortably in Washington, as we are doing pursuant to that measure to the civil rights reform bill, surely we can make a modest commitment to American's abroad who find their jobs and lifestyle hostage to the dictates of American foreign policy.

Mr. President, I submit to you that all decency and honor demands that we provide the modest job assurances that my amendment calls for so that the American nationals who work for the Panama Canal Company will know exactly where they stand and can plan their future accordingly. I believe that the Senate should join with the AFL–CIO executive council and approve this amendment which provides for some protection for the job rights and benefits of all those affected workers. I recommend the adoption of my amendment.

I certainly recommend the adoption of my amendment.

I can say that when I was in Panama last August one of the most interesting meetings we had was with the employees and the union leaders of those employees in Panama. In addition to the fact that almost to a man the U.S. employees were against these treaties, their chief secondary concern was what will be their labor rights, assuming these treaties go through. They did not believe that they were being well taken care of. I might just add one of their chief concerns was that they should have their rights incorporated within the treaty as a protection

to them because they know that if this Government does not make the commitment by having their rights incorporated within the treaty it is very unlikely that this Government will make the commitment thereafter and they will be lost in the shuffle.

They know that. I believe that. Therefore, I sincerely bring forth this amendment, which cannot affect or hurt, it seems to me, the Panamanians, because of the nonnecessity to have a plebiscite, and I think will be human. decent. and will bring human rights right here home to those whose human rights and laboring rights are being violated by, I think, the present leadership in Washington.

Mr. GRIFFIN. Mr. President, will the Senator from Utah yield?

Mr. HATCH. I am delighted to yield.

Mr. GRIFFIN. I wish to comment that the amendment of the distinguished Senator from Utah underscores and focuses upon a number of concerns that I have had about this treaty and how it would work between now and the year 2000.

I find in my State, as I discussed this subject, that most people do not realize that 30 months after ratification the employees, whether they be Panamanian or U.S. citizens, even while performing their duties with respect to the canal itself, will be subject to Panamanian laws, Panamanian courts——

Mr. HATCH. That is right.

Mr. GRIFFIN (continuing). And Panamanian police.

While we do not turn the canal over to Panama until the year 2000, we do turn all jurisdiction and control of the Panama Canal Zone over to the Republic of Panama 30 months after the treaties become effective. This creates a lot of interesting questions, I mean, about employee rights during this period between now and the year 2000.

For example, while this recites that labor relations with employees of the Panama Canal Commission shall be conducted in accordance with the form of collective bargaining established by the United States of America after consultation with employee unions, let me ask the Senator from Utah, who is a distinguished lawyer and has studied these things, where does the union go, to what court will the union go, to get relief after these treaties become effective?

Mr. HATCH. That is a good question. Once Panama receives all civil and criminal jurisdiction over the Canal Zone they will have to go to the Panamanian courts.

As the distinguished Senator from Michigan well knows there are wide varieties within this country of exercises under the collective-bargaining systems of this country, and that vague language does not protect those employees one bit.

One of the points brought up innumerable times is that a lot of these U.S. employees are married to Panamanian nationals. If they do not leave now and give up their civil service jobs, because there are no jobs being provided for up here, they may, once jurisdiction is transferred to Panama, which occurs within 30 months after the day of ratification of these treaties, as I understand it, never be able to leave Panama without leaving their spouses down there and leaving their children. That is a tremendous injustice they have to face, that my amendment corrects.

Mr. GRIFFIN. Just looking at such a situation as a labor dispute that might develop 48 months or whatever after the treaties become effective, does anybody know whether there is relief available in a Panamanian court under a situation like this, and do we know not only what the laws of Panama are today but what they will be 48 months from now?

Mr. HATCH. We do not.

As the Senator very interestingly pointed out and, as a matter of fact, it should also be pointed out, there is no labor law really protecting these citizens even under U.S. labor laws because they are employees of the Federal Government, and our labor laws do not particularly cover these employees, except the Government does treat them equally and fairly. But if my amendment is not enacted, there will be absolutely no protection to them other than, I would have to say, an inane promise that is already being abridged.

Mr. GRIFFIN. The Panama Canal Commission that will be established, presumably by implementing legislation if the treaties are ratified, will be immune from suit under the treaties.

Mr. HATCH. That is correct.

Mr. GRIFFIN. And could only be sued, as I understand it, in the Federal court in the State of Louisiana. This will create an interesting situation for the employees, whether they are Panamanians or U.S. citizens, who have complaints against the Panama Canal Commission, will it not?

Mr. HATCH. Well, it is intolerable for them because how can they afford to press their rights, if they have rights that are litigable? They cannot press their rights.

Mr. GRIFFIN. On the other hand, if there is a strike in violation of a collective bargaining agreement, they will be dependent, the Panama Canal Commission will be dependent, upon whatever relief they may be able to get from a Panamanian court.

Mr. HATCH. That is right, and that may be no relief at all.

Mr. GRIFFIN. Yes. Unless the DeConcini amendment, of course, or some version thereof, is written into this treaty, and it is accepted not only by General Torrijos but also by the people of Panama so that we will have the right, if the canal is closed down for any reason, to do something about it.

Mr. HATCH. The Senator has very clearly pointed that out.

Mr. GRIFFIN. I think it is very interesting that so much of the argument of the proponents in this particular area depends upon the enactment of implementing legislation. For example, this treaty holds out in rather vague terms very generous benefits to come, having to do with early retirement, and so forth, if Congress will get around to passing this very generous legislation.

Yet the proponents are against having the House of Representatives pass on the treaties themselves.

Not only, as the Senator from Utah has pointed out, is there a constitutional argument having to do with the transfer of real estate for which there is a good argument that the House of Representatives should participate in the approval of the treaty, but aside from that, and it is a constitutional requirement that the House of Representatives approve the treaties, it seems to me, as I have said over and over again, it would make good commonsense to call upon the House of Representatives to approve the treaties if you expect the House of Representatives later on not only to create a Panama Canal Commission but also to pass this legislation for these employees.

What are they going to do in the meantime? Are they just going to sit around and hope that the House of Representatives, the Congress, is going to pass this very generous legislation, because they may very well decide, well, they do not know when that is going to happen? They have had no indication from the House of Representatives that they approve of these treaties, so who could blame them if they leave, which is unfortunately what a lot of them will do.

Mr. HATCH. That is right. They want to be protected now because they know it is very unlikely that they will be protected later, and I want to protect them now because it just plain is unfair.

But the distinguished Senator has also pointed out another very important thing, and that is why should not the House be called upon to vote at least on the transfer of American property since it will be called upon to vote with regard to implementing legislation, and they may be very irritated because their rights have been avoided, or at least not listened to, especially since 235 of them have demanded the right to vote on the transfer of American property down there.

That is no insignificant thing. I think for our colleagues to waive that right for and on behalf of the House of Representatives without giving them that opportunity, by having voted down the amendments pertaining to this precise constitutional issue, was tremendously foolhardy on the part of my colleagues who voted against the House in that manner because they have basically allowed the President to extend his power, to my way of thinking, in violation of the doctrine of the separation of powers, and I think it is detrimental to the Senate in the final analysis.

But be that as it may, we lost on that amendment, and I suppose now it is in thehands of two bodies: The Supreme Court of the United States—and I hope they will read this record, because I think we made an overwhelming case—and I suppose in the final analysis the House itself, because the House has to decide whether they will implement this treaty. If they decide not to do so we are in deep trouble. So I think the House will

have a double shot, once before the Supreme Court and once on the floor of the House of Representatives.

But today we are debating and arguing for the labor rights, human rights, and employment rights of American citizens in Panama, who have been promised by this Government and their own leaders here in Washington that they will be protected.

Mr. GRIFFIN. I understand from the testimony General Parfitt gave that there are in the neighborhood of 500 U.S. citizens employed in connection with the Panama Canal operation whose services are absolutely essential, and for whom Panamanian replacements cannot possibly be trained in the short term.

I further understand that a poll was taken—this was at the time of the hearings in the Foreign Relations Committee—which showed that 60 percent of the U.S. personnel working down there planned to leave if these treaties are ratified by the Senate. I do not know whether there has been subsequent updating of that or not.

I would think the President would be concerned whether these employees are going to remain on the job. If he wants to encourage them to remain on the job, he would want to resolve the constitutional question that will hang over these treaties, it seems to me, and just as a matter of good commonsense he would want to have a resolution before the House of Representatives approving these treaties, because if the House does not approve the treaties, it will mean not only is there a constitutional question to be litigated, but in the meanwhile until the House sometime thereafter acts, there is going to be concern about these employees and whether they will stay. Would it not be ironic and tragic if the Senate itself, by ratifying these treaties, should trigger an exodus that closes down the canal?

Mr. HATCH. The Senator has spoken well. One of the reasons for this amendment is to let those workers down there know that their rights are being protected and will be protected, so there will be no desire on their part to leave the Canal Zone at this time.

There may be those who are married to Panamanian nationals with dual citizenship problems, who may be forced to remain in Panama if we do not pass this amendment. I feel very sorry for those people, and would like to help them. The fact is that commonsense and reason, true paternalism, and true concern for their welfare—which are one and the same thing, as this Senator see it—mandate that we protect these workers, and that we protect them in writing in accordance with their specific requests to be protected; and we will be doing no less than we ordinarily do for all the highly paid Government employees who sit here in perfect safety, security, and comfort in Washington, D.C. I think it is unfair to do otherwise.

I thank the distinguished Senator from Michigan, and I reserve the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The Senator from Maryland is recognized.

Mr. HATCH. Mr. President, will the distinguished Senator yield for a unanimous-consent request?

Mr. SARBANES. Surely.

Mr. HATCH. Mr. President, I ask unanimous consent that we not have a vote on this amendment until after the hour of 12:35 p.m. A number of Senators have come to me and indicated that they had commitments downtown, and they would like to be protected so that they could vote on this matter. I think it would only be fair.

Mr. SARBANES. Mr. Preident, if the Senator would withhold the request and we can go ahead with the debate on this amendment a bit, I would like to check on how that would affect our side.

Mr. HATCH. The people who have come to me have been from your side. This is not a partisan matter.

Mr. SARBANES. Well, we will certainly accommodate them, but meanwhile we will check it out.

Mr. HATCH. I also have to be off the floor for about 10 minutes right now.

Mr. SARBANES. I will assure the Senator that we certainly will not go to a vote until he returns to the floor, and that we will not go to a vote which does not accommodate the request. As a matter of fact I accede to the unanimous-consent request that there not be a vote earlier——

Mr. HATCH. Let us make it 1 o'clock.

Mr. SARBANES. Members might then face a different problem.

Mr. LAXALT. We already have a 1 o'clock unanimous-consent agreement. It would have to be after that.

Mr. SARBANES. I think the problem is that by 1 o'clock Senator STEVENS must be recognized in order to offer his amendment.

Mr. HATCH. Well, 12:35 will be fine.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LAXALT. What was the final agreement? What was the time?

Mr. SARBANES. No vote will occur until 12:35.

Mr. ROBERT C. BYRD. And could we say not later than 12:45?

Mr. HATCH. That will be fine.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Maryland.

Mr. SARBANES. Mr. President, we have heard a number of arguments made in the course of the presentation of the pending amendment including, to some extent, a replay of the argument that the House of Representatives is constitutionally required to participate in a transfer of property, that it cannot be done by treaty.

We have been over that argument at great length in this body. We spent 3½ days on that argument. It was rejected by the Senate by a very decisive majority, and then subsequently the Court of Appeals for the District of Columbia handed down a decision which rejected the argument.

So I do not intend to replay that theme. I think it has been fully dealt with. Let me turn to the specifics of this amendment, and address myself to them.

I said earlier in this debate that I intended to oppose amendments which would seek to place in the text of the treaty subject matter which could be handled by statute here in Congress because it dealt with a subject that was entirely within the jurisdiction of Congress. I take the view, on those matters where we retain jurisdiction and can change by statute how the matter is dealt with, that we should not place those matters in a treaty between ourselves and another country.

The other country has no role in dealing with such matters. In fact, one really should ask the question, why should we seek to do that if we want to maintain the maximum amount of control in our own hands? Why should we lose the control, we have to deal with certain subject matters through statute by placing those matters in a treaty, requiring that any changes we might want to make in how we deal with them would require an amendment to the treaty, thereby requiring the concurrence of the other country? It really defies logic, it defies commonsense, and it defies what best looks after American interests to seek to take subject matter that we can handle by statute, place it in a treaty, and give the other country that is party to the treaty influence—in fact, control, with respect to any changes, since the other party could always refuse to accede to the changes—over the subject matter.

The matter dealt with in the amendment offered by the Senator from Utah is such a matter. It deals with the question of employment rights in this country of American citizens who have been working for the Canal Company. That is a matter we will be called upon to deal with here in the Congress in the implementing legislation. We have full discretion and full scope in how we handle that matter.

We have some days on the floor when the debate is of such a nature that all of the alleged defects in the treaty are being set out from the point of view of the Panamanian people. Members of the Senate opposed to the treaties take to their feet to discuss at great length how, from their perspective, these treaties are not good for the Panamanian people. They recite all the things which are wrong with the treaties. In fact, we have the very interesting argument where it is asserted, "Well, the Panamanians should really be mad about what has happened with respect to these treaties." Having made that assertion, the same speaker then turns to the Members of the Senate and says, "We ought not to approve these treaties because the Panamanians will be mad about what is in the treaties."

On the one hand they say to the Panamanians, "You ought to be mad," and the Panamanians are all listening to this on the radio. Then Members turn to the Senate and say, "The Panamanians will be mad, and if they are going to be mad

we should not approve the treaties." It is a very skillful argument.

Today is the day on which some Members of the Senate, in effect, say to the Americans in the Canal Zone that they ought to be upset, truly upset. "If they become truly upset they are going to leave their jobs, and if they leave their jobs the canal will not be able to operate. Therefore, we ought not to approve the treaties. So let us talk today about all the reasons why the Americans ought to be so truly upset in working there, they will leave their jobs. If we can bring that about we will have an argument that we are not approving the treaties because the Americans will not be there to do their jobs."

Again, it is a very interesting sort of argument. Let us just talk about it for a moment.

I know that many Americans working in the Canal Zone, working for the Panama Canal Company or the Canal Zone Government, the two American entities there, and for other Americans stationed there with the Department of Defense, are concerned about the transition and concerned about the future. That is an understandable concern. I first want to assure them that I think it is a concern of which every Member of the Senate is sensitive.

I want to repeat that: I think it is a concern of which every Member of the United States Senate is sensitive.

I recall in the spring of 1977 when the Foreign Relations Committee asked the two negotiators to come in and brief us on how matters were proceeding that one of the issues that arose at that meeting, brought up by Members of the Senate, myself included, was the amount of consultation taking place with the American employees of the Panama Canal Company and the Canal Zone Government, and how much information was being transmitted to them about what the possibilities were.

We had received reports, and I think they were reports with some substance to them, that the employees really felt they were being left in the dark; that a good deal of apprehension which might be present in any event was heightened by the fact that they just did not know.

I think as a consequence of that meeting—and I checked this out during my visit to Panama in talks with Americans who live and work in the Canal Zone—there was greater consultation, there was greater information, there was an effort to be more responsive. I think that is important. But it seems to me that the protection for those employees lies within the jurisdiction which we have over how they are to be dealt with through statute.

It makes no sense to seek to put those provisions into a treaty, thereby making Panama a party to the provisions both in the first instance and a party to the provisions thereafter with respect to changes one might wish to make. It makes no sense at all to place those provisions in the treaty rather than dealing with them by statute here in the Congress.

I think it is clear to anyone who has any understanding of the Senate and of the House of Representatives, since it requires both to enact legislation, that responding to the legitimate concerns of the Americans who have worked in the Canal Zone would be a matter of the highest priority.

It is really not necessary to assert that the administration will do everything it can, because it is the Congress that, in the end, will make the determination.

(Mr. CLARK assumed the chair.)

Mr. SARBANES. Secondly, I submit there is every indication that the administration will indeed do everything that it can do.

The Senator from Utah, in the course of his presentation with respect to this amendment, asserted that two regional offices of the Civil Service Commission—I think he said—had issued instructions that there was to be no hiring of people seeking jobs who currently were working for the Panama Canal Company or the Canal Zone Government.

Is that an accurate statement of the assertion?

Mr. HATCH. I apologize, Mr. President. I did not hear the question of the Senator from Maryland.

Mr. SARBANES. As I understood it, the assertion was that two regional offices of the Civil Service Commission had issued a directive that there was to be no hiring of Americans seeking employment in this country who had been with the Panama Canal Company or the Canal Zone Government.

Mr. HATCH. I do not know that they have a written directive, but complaints have been made to us by American citizens working in Panama that the jobs have dried up the minute they applied for them up here, and that they believed that the two Civil Service Commission offices are drying up the jobs and not giving them the opportunity of coming to this country.

Some of them just have to leave now because they are married to Panamanian nationals and will not be able to leave later, once Panamanian law takes effect.

Mr. SARBANES. Of course, I do not for a moment concede that point. I am going to get to the assertion that somehow people will be locked in or frozen in Panama and not be able to leave. But for the moment, I want to leave that point to one side and just deal with the question of the complaints which the Senator says have been brought to his attention.

Mr. President, when I heard that, it was a matter of very deep concern to me. I mean, if, in fact, it were true, then I think a reasonable charge could be made that the Government of the United States was not being responsive to the situation of these employees, as it should be. So, immediately upon hearing them, we naturally went to seek fuller information with respect to the matter. We have been in touch with the Civil Service Commission and have received the following statement from the Chief of the Agency Staffing Liaison of the Bureau of Recruiting and Examining. I want to read the statement in full:

> With reference to the recruiting and employing of former Panama Canal Company and Canal Zone Government United States citizen employees who may lose their jobs because of the Panama Canal Treaty, the Civil Service Commission has recently instructed all of its regions to give priority consideration to the hiring of these employees. Additionally, the Commission has instructed all regions throughout the United States that they must not hire other U.S. citizen employees outside of their own agency if an available Panama Canal Company/Canal Zone Government employee is available and qualified for the position.

I submit, Mr. President, that this is a forthright statement that is responsive to the problem about which we may all have a legitimate concern. I think it is obviously directly contradictory to the basic assertions upon which the complaints to the Senator from Utah rest.

I am frank to say that I do not think the matter should rest there. It should be pursued further. It is quite possible that someone down the line is not carrying out the directives that have been given. But as I indicated, these are instructions that have been sent by the Commission to all regions throughout the country and they are designed to be responsive to this problem.

Mr. HATCH. If the Senator will yield, I was happy to know that our President has said the same, the labor leaders here in Washington have said the same. But the complaints we receive are complaints of people who paid their own way to come up here to America, who are U.S. citizens working in Panama who feel that they cannot leave Panama and they are being held hostage there; and they are going to have to give up their civil service status and leave anyway and lose their civil service status because they have to leave.

Whether the Commission issues a bulletin or not or a policy or not, and whether the President says this or not, all I am asking to do is nothing less than we would do for any civil servant here in Washington; that is, provide these people with some job rights and job protections, because they have not brought this about. This has been brought about as a result of treaty negotiations by the last four administrations.

I do not think that it is an untoward request. Let me say that the distinguished Senator from Maryland has pointed out, and I think quite accurately, that this would not be binding on Panama.

Mr. SARBANES. No, if the Senator will let me resume, I think this is an important point. I am not really addressing, and certainly not quarreling with, the substance of the Senator's concern, or even addressing these concerns. It is quite conceivable that, in dealing with legislation, I might even want to go further than the Senator from Utah in how we accommodate the employees. I want to say to the Senator, and I stated this at the very outset of the debate and on more than one occasion subsequent to that, that I have a high regard and respect for the pro-

fessionalism of the employees who have worked in the Canal Zone and the contribution they have made.

Mr. HATCH. So do I.

Mr. SARBANES. Second, I have met with them and I think I have some appreciation of their problems and their concerns. What I am saying is that we ought not to take a matter, a subject matter that we can deal with here, in the Congress of the United States, and place it into a treaty; because if we put it into a treaty, first of all, we may get a provision on which the other government has to agree, or has some role in agreeing to. They have no role in this. This is our problem and our business.

Third, if in the future we want to change how we deal with it, make it more favorable, adjust to changing circumstances, we would have to go back and amend the treaty with the other country and the other country would then be in a position to put the veto on the proposed change, because it would be in the treaty and they could refuse to agree to it.

Why do that?

Mr. HATCH. If the Senator will yield on that point, I shall answer him.

Mr. SARBANES. Let me finish the question, then I shall yield.

Why put it into the treaty when we can address it here in Congress, in legislation, and have the full range of control over the subject matter?

Mr. HATCH. I think that is a fair question. Why put article X in the treaty? We have basically three pages of protections for our laboring people down there that really, basically, according to the Senator's argument, do not have anything to do with the rights of Panamanians down there, or with Panama.

Since we have taken such deliberative care to put almost three or four pages in here about employment with the Panama Canal Commission, why not include these protections? All I am asking is, if a man or a woman in Panama is working pursuant to a Civil Service Commission appointment or job, if they want to leave, they ought to be able to leave and we ought to find them equivalent jobs in this country. That ought to be part of that article X. It is only fair.

I think we ought to be concerned with the human rights of our employees; especially since it will not require a plebiscite or any other passing upon by the Panamanian Government.

Mr. SARBANES. It would require their approvol. You are putting it into a treaty. Once you put it into a treaty, the other party has to agree to it or it is not part of the treaty.

Mr. HATCH. Can you imagine their not agreeing to it?

Mr. SARBANES. I do not want them to have the right to agree or not to agree to it, because we control it in the United States and in Congress, and the Panamanians ought not to have authority over it.

I do not understand why the Senator wants to bring them in as a party with respect to dealing with this problem, other than for different considerations having to do with opposition to the treaties themselves. But on this subject matter—

Mr. HATCH. If I might answer that, the different consideration does not even play a role here. I fought actively and hard against these treaties for very good reasons and I have listed those reasons on the floor. That does not enter into this particular discussion, because I happen to know, and I think nobody can argue against this proposition, that Panama could not care less whether we protect our employee rights here in America. And if they did care, I could not care less whether they do care, because I think we have an obligation as U.S. citizens to do that. I think it is our obligation to protect our employees' rights, especially since our President, our ambassadors, our State Department, and many of the people who are voting for these treaties have said they will be provided. I do not want, any more than those people down there in Panama want, to have that left up to a subsequent bit of legislation here after the fact.

If I were absolutely certain that my amendment here would become law through legislation immediately following these treaties, maybe I would back off on this point. But I am not certain.

As a matter of fact, I do not believe it will ever become law. So I want it in here along with all these other protections, almost four pages in the Panama Canal Zone treaty.

I would submit, knowing the concern which the distinguished Senator from Maryland, and I would say many others of the 68 who voted for the Neutrality Treaty, have for workers' rights, I would submit it is a valid, worthwhile thing for us to do and there is, really, no reason for stonewalling that particular objection. Not any reason whatsoever. There is no problem with Panama. There will be no problem with Panama.

I would think they would be as interested in this as the Senator, my friend from Maryland, indicated he is, and I certainly am by bringing this amendment to the floor.

If these workers' rights are not important, why have it in the treaty at all?

I would not argue that article X should be stricken from the treaty, but since article X is there, let us get this final protection, on which I think all reasonable minds would have to agree is a minimum. We have to protect those people, who did not bring this on themselves down there and who deserve a protection, as civil service employees in Washington, it has been advocated, should have, sitting here in the confines of comfort, peace and tranquility of this city, rather than within the tremendously dislocated and problematical situation they are sitting in down there in Panama.

I am sorry to have interrupted the distinguished Senator from Maryland at this point. I just wanted to make this point. I appreciate his comments thereon.

Mr. SARBANES. Mr. President, I think it is clear, or ought to be clear, that there is no difference here with respect to responding to the concerns of the American employees or providing them protection. I made the assertion earlier in this debate that in my view every Member of the U.S. Senate would be sensitive to that consideration.

The real difference arises with respect to the approach which seeks to deal with a subject matter that we can deal with in the Congress by statute and makes that subject matter part of the treaty, which then means that the other party to the treaty has a role to play in shaping the subject matter.

Why in the world should we do that? Why in the world should we take the matter of these employees with respect to their opportunities for other employment or their early retirement considerations, if that should be brought forth, and make that subject to agreement by the Republic of Panama, or any future changes subject to agreement by the Republic of Panama?

In fact, it is interesting that the Senator from Utah earlier was so anxious for the House of Representatives to participate in disposition of property by this approach, but, of course, would eliminate the House of Representatives from dealing with the question of retirement or Government rights.

The fact of the matter is that these employment rights can be dealt with solely by the Government of the United States, including the Congress and, therefore, that is how we ought to address this question.

I daresay when we address it on the substance, I will be every bit, if not more, responsive to these problems as the Senator from Utah.

I think that there is a matter of equity here that does need be responded to, and I have so expressed myself publicly on many previous occasions. But I do not want to take a subject matter that we can handle here and place it in a treaty, and thereby give the other party to the treaty, the other country, a right, as it were, to pass on that provision, or later to pass on any revision of it. If we later wanted to revise it, they, of course, would be in a position to block or veto it.

So it is really a matter of how we address this.

I have consistently taken this position, as I said earlier, with respect to amendments which propose to include in the text of the treaty between ourselves and another country a subject matter which we can deal with entirely and completely ourselves here by statute.

I do not think it is logical. It do not think it makes good commonsense. It does not give us as much discretion to protect our interests as we otherwise would have, and that has been the essential thrust of this argument.

I am not about to be placed in the position, and I have indicated that, of being insensitive or unresponsive to these concerns. I do not think any Members of the Senate will be insensitive or unresponsive to these concerns.

But I do not think the way to deal with them is to seek to put them in the treaty and thereby give a role to Panama with respect to matters that are entirely our own responsibility and ought to be handled by us here within the scope of our own discretion and our own judgment.

Mr. HATCH. Will the Senator yield?

Mr. SARBANES. I yield to the Senator.

Mr. HATCH. With regard to that particular point, there is every reason to do it because we have given all of these other labor roles within the treaty that are not protective of our people.

But, more importantly than that, even if this amendment is adopted and incorporated within this treaty as a protection of our laborers down there, and as a minimum protection to them, there is nothing that says we have to have Panamanian consent to extend those protections, to enhance those protections, or to do anything else except lower those protections.

I have been very appreciative that the distinguished Senator from Maryland agrees with me that they ought to have these protections.

Can the distinguished Senator from Maryland guarantee to me right here today on this floor that they will have those protections within a month after these treaties are ratified, if that happens, an assumption I think at this point nobody should easily make, can he guarantee me they will have those protections through legislation formally passed through the Congress and signed into law by the President?

Mr. SARBANES. If by the question of guarantee the Senator asks, is such legislation now law, the answer is "no."

Mr. HATCH. Well, that is not my question.

Mr. SARBANES. If the question is, do I believe that there is every reasonable probability that such legislation will be enacted into law, the answer is "yes."

Mr. HATCH. Of course, that is not my question. My question is, can he guarantee it, and, of course, I already know the answer, it is that he cannot guarantee it.

Mr. SARBANES. As I say, it depends——

Mr. HATCH. If I could finish.

Mr. SARBANES. Well, I just say it depends on——

Mr. HATCH. This way, by adding to the treaty itself, we would make sure that protection is in, with no fear of anything Panama might do later, with no fear of having to obtain consent from Panama, because we would not want to have to reduce these rights once we grant them.

If we want to extend them, or enhance them, all we have to do is pass legislation later.

So the distinguished Senator's argument, it seems to me, is fatally flawed and very illogical.

Mr. SARBANES. Mr. President, I want to address myself to this guarantee question.

As I said to the Senator, if he meant by that to ask whether I can say that the law has been enacted and therefore we are beyond the lawmaking stage, the answer is "no." If by "guarantee" he means to ask whether I have every reasonable expectation that some legislation will be enacted, my answer to that is a very definite "yes."

The executive branch of our Government already has moved to respond to this problem.

The Senator earlier said that he had received complaints that regional offices of the Civil Service Commission were not accepting employment applications from U.S. citizen employees who were losing their jobs with the Panama Canal Company or the Canal Zone Government. If it were true, that matter would be of very deep concern to me. Therefore, as soon as the statement was made, we sent someone to check with the Civil Service Commission with respect to this matter.

The information we received from the chief of the agency staffing liaison of the Bureau of Recruiting and Examining of the Civil Service Commission was as follows, with respect to their policy. I want to read this again, because I think it is important in showing how the Government of the United States already is responding to the concern which the Senator from Utah outlined earlier and which others of us have outlined from time to time.

The Commission said the following with respect to its policy in this matter:

With reference to the recruiting and employing of former Panama Canal Company and Canal Zone Government of United States citizen employees who are losing their jobs because of the Panama Canal Treaty, the Civil Service Commission has recently instructed all of its regions to give priority consideration to the hiring of these employees.

Let me read that again:

* * * the Civil Service Commission has recently instructed all of its regions to give priority consideration to the hiring of these employees.

Additionally, the Commission has instructed all regions throughout the United States that they must not hire other United States citizen employees outside of their own agency if an available Panama Canal Company-Canal Zone Government employee is available and qualified for the position.

Let me repeat that sentence:

Additionally, the Commission has instructed all regions throughout the United States that they must not hire other United States citizen employees outside of their own agency if an available Panama Canal Company-Canal Zone Government employees is available and qualified for the position.

So our Government already is seeking to be responsive.

I submit that the legislation to be enacted will be fully responsive to this problem and that certainly the way to proceed is not to seek to deal with it as a treaty matter and thereby involve the other country that is party to the treaty in the decisionmaking with respect to this matter, when we can decide it here, by statute, ourselves.

For that reason, Mr. President, I oppose the amendment of the Senator from Utah.

Mr. HATCH. Mr. President, I am interested in the Civil Service document that the distinguished Senator from Maryland read; because if he reads it clearly, the rights I have been talking about here are not protected. That document does not say that they have the right to transfer, but only that they are going to have the right to be new hirees. It is not nearly as protective of our Americans who work in Panama, who are upset and disgruntled and hurt and tremendously concerned about their futures, pursuant to a treaty which does not really protect their futures, to be anything but new hirees, if they are lucky to make the transfer, if they need it, to the United States.

My amendment protects them, rather than hurts them. My amendment says:

In order to fulfill the prior assurances by the Government of the United States respecting the economic wellbeing and job security of any United States national employee of the Panama Canal Company, United States nationals who are employees of the Panama Canal Company or of another instrumentality of the Government of the United States in the Canal Zone prior to the entry into force of this Treaty and who subsequently after ratification of this Treaty elect to leave the Zone or are removed from such employment for reasons other than misconduct, neglect of duty, or malfeasance shall have the right to job placement with no reduction in grade or step in a Federal position with the Government of the United States within the continental United States subject to the provisions of subchapter II of chapter 5, of title 5 of the United States Code.

That is very protective. It is precisely what the distinguished Senator from Maryland indicates that he agrees with.

If we read all of article X, we find that it covers matters such as employment and labor regulations, a system of preference in hiring Panamanian employees, the terms and conditions of employment, employment policies, training programs for Panamanian employees and apprentices. Within 5 years we have to reduce our employment by 20 percent. How are our people protected? It says:

The United States of America shall periodically inform the Republic of Panama, through the Coordinating Committee, established pursuant to the Agreement in implementation of article III of this Treaty, of available positions within the Panama Canal Commission.

It goes on to establish qualification standards for skills and experience.

It talks about a policy of periodic rotation, at a maximum of every 5 years, of U.S. citizen employees and other non-Panamanian employees hired after the entry into force of this treaty. It reads:

It is recognized that certain exceptions to the said policy of rotation may be made for sound administrative reasons . . .

They talk about wages, fringe benefits, nationality, sex, race. They talk about those who are displaced from their employment as a result of the discontinuance by the United States of America of certain activities pursuant to this treaty. There is a long paragraph on that.

They talk about—

A system whereby the Panama Canal Commission may, if deemed mutually convenient or desirable by the two parties, assign certain employees of the Panama Canal Commission, for a limited period of time, to assist in the operation of activities transferred to the responsibility of the Republic of Panama as a result of this Treaty.

It talks about the salaries and other costs of employment. It talks about the negotiation of collective contracts.

It says:

Employee unions shall have the right to affiliate with international labor organizations.

It provides for early optional retirement programs.

I could go on and on. All this is discussed in article X.

We come up with something which really protects American citizens, which should be no problem to the Panamanians and will not require a plebiscite, and which the distinguished Senator from Maryland admits is something he would favor by separate legislation, but he cannot guarantee that we will have such separate legislation, and we are having trouble getting it amended to these treaties.

I submit, Mr. President, that this is a minimum amendment that we should have to these treaties and that my colleagues should vote for it. Unfortunately, with the stonewalling that has gone on during the last weeks and months, we realize the uphill battle we have. But when these treaties are finally disposed of one way or the other, by ratification or by defeat in the Senate, I want it to be known that I have stood up for the workers in Panama and for their rights, which I think have been neglected by those who should have been representing them.

I find it very interesting that although no Senator or representative of a Senator was on the treaty negotiating team, a representative of the AFL–CIO was on the treaty negotiating team and did not insist, as a minimum prerequisite, on what I have in this amendment today.

Mr. President, I am prepared to yield back the remainder of my time and to proceed to a vote on this matter.

The PRESIDING OFFICER. Is all time yielded back?

Mr. SARBANES. I yield back the remainder of my time.

Mr. HATCH. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SARBANES. Mr. President, I move to table the amendment of the Senator from Utah, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Utah. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Washington (Mr. MAGNUSON), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Michigan (Mr. RIEGLE), and the Senator from Washington (Mr. MAGNUSON) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 55, nays 33, as follows:

[Rollcall Vote No. 94 Exec.]

YEAS—55

| | | |
|---|---|---|
| Baker | Hart | Matsunaga |
| Bayh | Haskell | McGovern |
| Bentsen | Hatfield, Mark O. | Metzenbaum |
| Biden | Hatfield, Paul G. | Morgan |
| Bumpers | Hathaway | Moynihan |
| Byrd, Robert C. | Hayakawa | Muskie |
| Cannon | Hodges | Nelson |
| Case | Hollings | Pearson |
| Chafee | Huddleston | Pell |
| Chiles | Humphrey | Percy |
| Church | Inouye | Proxmire |
| Clark | Jackson | Ribicoff |
| Cranston | Javits | Sarbanes |
| Culver | Kennedy | Sparkman |
| Danforth | Leahy | Stafford |
| Durkin | Long | Stennis |
| Eagleton | Mathias | Stevenson |
| Glenn | Melcher | Talmadge |
| Gravel | Metzenbaum | Williams |

NAYS—33

| | | |
|---|---|---|
| Allen | Hansen | Schmitt |
| Bellmon | Hatch | Schweiker |
| Brooke | Helms | Scott |
| Burdick | Laxalt | Stevens |
| Byrd, Harry F., Jr. | Lugar | Stone |
| Curtis | McClure | Thurmond |
| DeConcini | Nunn | Tower |
| Dole | Packwood | Wallop |
| Ford | Randolph | Young |
| Garn | Roth | Zorinsky |
| Griffin | Sasser | |

NOT VOTING—12

| | | |
|---|---|---|
| Abourezk | Eastland | Magnuson |
| Anderson | Goldwater | McIntyre |
| Bartlett | Heinz | Riegle |
| Domenici | Johnston | Weicker |

So the motion to lay Mr. HATCH'S amendment No. 82 on the table was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion was agreed to.

AMENDMENT NO. 90

The PRESIDING OFFICER. Under the previous order, the Senator from Alaska (Mr. STEVENS) is recognized to call up amendment No. 90 to article XIV.

Mr. STEVENS. Mr. President, that is an amendment to article XIV, I believe, and it is amendment No. 90 that is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) for himself and Mr. THURMOND proposes an amendment numbered 90:

At the end of Article XIV add the following new paragraph:

"(2) If at any time before or after December 31, 1999, either the Republic of Panama or the United States of America abrogates, terminates, or otherwise declares void under their respective domestic laws the Panama Canal Treaty, the Treaty concerning the Permanent Neutrality and Operation of the Panama Canal, or any amendments, reservations, understandings, or declarations thereto exchanged as part of or with the instruments of ratifications of such treaties then such treaties shall terminate and the following treaties which would have been superseded by the Panama Canal Treaty shall remain in full force and effect:

"(a) The Isthmian Canal Convention between the United States of America and the Republic of Panama, signed at Washington, November 18, 1903;

"(b) The Treaty of Friendship and Cooperation signed at Washington, March 2, 1936, and the Treaty of Mutual Understanding and Cooperation and the related Memorandum of Understandings Reached, signed at Panama, January 25, 1955, between the United States of America and the Republic of Panama;

"(c) All other treaties, conventions, agreements and exchanges of notes between the United States of America and the Republic of Panama, concerning the Panama Canal which were in force prior to the entry into force of this Treaty; and

"(d) Provisions concerning the Panama Canal which appear in other treaties, conventions, agreements and exchanges of notes between the United States of America and the Republic of Panama which were in force prior to the entry into force of this Treaty.

As used in this treaty the term supersede (supersedure) means to stay, set aside or render dormant.".

Renumber the existing paragaph in Article XIV accordingly.

In the title of Article I delete the word "Abrogation" and insert in lieu thereof the word "Supersedure".

In Article I, paragraph 1, delete the words "terminates and".

In Article I, paragraph 1, delete the words "This Treaty" and insert in lieu thereof "All of the Articles of this Treaty except Article XIV".

The PRESIDING OFFICER. The time on this amendment is limited to 3 hours, to be equally divided between and controlled by the Senator from Alaska (Mr. STEVENS) and the Senator from Idaho (Mr. CHURCH).

The Chair recognizes the Senator from Alaska.

Mr. STEVENS. I thank the Chair. I ask unanimous consent to have added as cosponsors of this amendment the names of the Senator from Nevada (Mr. CANNON), the Senator from Arizona (Mr. DECONCINI), the Senator from Wyoming (Mr. WALLOP), the Senator from Kansas (Mr. DOLE), and the Senator from Arizona (Mr. GOLDWATER).

The PRESIDING OFFICER (Mr. HODGES). Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I previously have pointed out to the Senate the legal research that my staff and I have done concerning Panamanian Su-

preme Court cases and the legal treatises written by distinguished Panamanain lawyers and intellectuals which indicate that the Republic of Panama may, under its domestic law, be able to declare declarations, reservations, and understandings which were not submitted to a plebiscite at the time of the original treaty, not having been reviewed by plebiscite in Panama, void under Panamanian law. The Panamanain Supreme Court has, in fact, on one occasion declared a treaty unconstitutional because it was not properly published during the ratification process.

The problem that bothers me is that reservations, declarations and understanding are primarily attached to the Resolution of Ratification under the domestic procedures of the United States and the procedures of the Senate in connection with the previous treaty that was approved. It is apparent that that will be the situation with regard to this initial treaty, which would take effect now, if approved, and be effective until the year 1999.

It appears to me that under the interpretation given by the Panamanians under their own domestic law, these reservations, declarations, and understandings such as the DeConcini reservation are effective only if they are in fact amendments to the treaty itself, which, under the Panamanian law, would require a subsequent plebiscite in order to be valid.

Under our domestic law, any reservation, declaration, or understanding attached to a treaty or to the resolution of ratification is binding. Under the Panamanian law that is not the situation, as we understand it, because under their law the treaty must be subject to a plebiscite. The Resolution of Ratification is not subject to a plebiscite, and there is serious doubt as to whether the reservations, declarations, and understandings that the Senate has previously adopted would in fact be binding upon the Panamanians unless this amendment is adopted.

I point out again that I am one who believes and has believed that we need a new relationship with Panama. Unfortunately I cannot support these treaties, because I find they are in fact interpreted one way in the United States and another way in Panama. The net effect of that, in my opinion, is to give a legacy to succeeding generations of Americans that can only lead to a collision between our two countries, and ultimately would mean that the United States would have to abondon its legitimate interests in the canal or use force in order to assert our rights in Panama, to protect the Panama Canal, or to continue its operations, and I consider the Panama Canal to be an area and a facility that will be of substantial importance to the United States in terms of our economy and our national security for many years to come.

It is with a great deal of reluctance that I have opposed these treaties, because I think that a new relationship is necessary. On the other hand, I do not think this generation has the right to establish a situation in which there is no alternative for future generations to protect the interests of the United States except through the use of force. The DeConcini reservation, I think, is the action of the Senate that has raised the interest of the Panamanian regime. We are informed that General Torrijos has in fact reserved judgment on this reservation, and I have placed in the RECORD already a series of translations from the Panamanian media which indicate an overwhelming reaction against that reservation.

I think that legally, as I have said before, any of the actions taken by the Senate in attaching amendments or reservations or declarations to the resolution of ratification are ineffective and will be ineffective in Panama unless this amendment is adopted.

The research that I have referred to, conducted not only by my office but independently by the Library of Congress, showed that the Republic of Panama, under its domestic law, may declare a reservation, declaration, or understanding of a substantive nature which has not been submitted to a plebiscite in Panama void under their constitutional procedures. In fact, as I mentioned, in 1963 the Panamanian Supreme Court ruled that the 1949 Geneva Convention on the Red Cross was unconstitutional in Panama because of a defect in the ratification procedure, as far as the Panamanian law was concerned.

I see no alternative except to declare that unless Panama is ready to accept the reservations, declarations, and understanding attached to both of these treaties and to their resolutions of ratification, as adopted by the Senate, we in effect have not reached agreement. The effect of my amendment would be to declare that if Panama voids the action taken by the U.S. Senate in attaching a reservation, a declaration, or an understanding either to the treaties or to the resolutions of ratification, then the existing treaty relationship between Panama and the United States, so far as we are concerned, remains in effect.

I know that a similar amendment was offered before, and was rejected. I hope that in this amendment we have taken sufficient pains to see that it is drafted in a way that will accomplish the objective that we seek. We have located this amendment in article XIV, which is the dispute settlement provision. The article that terminates the Panama Canal Treaty on December 31, 1999, is also amended by this amendment. As amended, that article would terminate all of the Panama Canal Treaty except the dispute settlement mechanism on December 31, 1999. The dispute settlement mechanism, as amended by my amendment, would remain in force in perpetuity, simultaneously with the Neutrality Treaty.

There is nothing inconsistent about this approach. In fact, it is, in connection with the Neutrality Treaty, a permanent dispute settlement mechanism. There is nothing that would prohibit the application of the dispute settlement mechanism to any problem which might arise under the Neutrality Treaty. I think that would be an improvement. This is, in effect, a safety device. What it says to the Panamanians is that "If you are not prepared to accept U.S. understandings of the two treaties presented for ratification under the terms on which the United States is willing to accept them, then the old treaties remain in effect."

I am hopeful that all those who are interested in the reservations, the amendments, and the declarations which have been considered in the past will consider this amendment long and hard. I consider it to be, in my humble opinion, the key amendment in the debate and the battle so far. There is no question in my mind that General Torrijos has set the stage internationally for unilteral action on the part of the Panamanians to void the DeConcini reservation and the other amendments to the resolution of ratification on the Neutrality Treaty.

Without this amendment, without some action that clearly states the position of the United States, we are in the unfortunate position that under our constitutional system, under the decisions of our Supreme Court, the United States is bound by the treaties, if we ratify them, and we are bound by the actions we have taken in the resolution of ratification.

Under the Panamanian procedure, they are not bound by the resolution of ratification. They are not bound by the reservations, such as the DeConcini reservation, unless the resolution of ratification and the treaties are both submitted to the people of Panama in a subsequent plebiscite.

I believe General Torrijos knows that well. He has some very astute negotiators and people who have been working with him in connection with these treaties.

When I was in Panama, along with other Members of the Senate, I was privileged to meet with General Torrijos and to discuss very frankly these treaties. He knew at the time that I opposed the treaties. We discussed the matter very frankly off the record.

I have honored the conversation. I have not put on the record, here or elsewhere, the discussion which we had. I am convinced from the conversations I had that General Torrijos is a very resourceful leader, and he has taken action which any of us would have taken if we were in his position sitting in Panama with Panamanian domestic law which gives him the right to ignore the action of the U.S. Senate, if he sees fit to do so, despite the fact that we would be bound by the treaty ratifications if we, in fact, adopt the resolution of ratification.

I also should state that for myself I am concerned about the fact that the people of Panama have heard the statements here on the floor. I am certain that in the translation some of our comments have come across in Panama which have either been misunderstood or people do not understand statements which are being made in connection with the justification of maintaining our national interest as opposed to the Panamanian national interest.

We seek not to insult or to in any way denigrate the actions of our Panamanian neighbors. I, as one who has lived in a territorial status, certainly have felt the same emotions as the people of Panama and understand what the Panama Canal in the past has meant to the Panama-

nian national psyche. I do not blame them for wanting to seek a change in their relationship to the Panama Canal.

I fault our own people for not having explained thoroughly to the Panamanians the process of ratification of a proposed treaty under our system. I particularly fault our own people in not having protected against the misunderstandings which have arisen out of these two documents, misunderstandings which have led to meetings between the President of the United States and General Torrijos with the issuance of a statement attempting to explain the provisions of the treaty, which led to a series of amendments offered by Members of the Senate in the utmost of good faith, trying to protect the interest of the United States, and which have led to the Senate having adopted the DeConcini resolution which states that we intend to take such action as may be necessary to protect our national interest with regard to the Panama Canal.

The situation I see is that without the amendment we have proposed today we can look into the future and see the action that will take place. We will be presented with a resolution of ratification. If it is adopted there will be an exchange of documents between Panama and the United States, at which time our State Department will deliver to Panama the reservations and the declarations, the understandings, which were attached by the U.S. Senate to the resolution of ratification.

It is a very simple matter under Panamanian law to have those actions of the U.S. Senate declared void in Panama, notwithstanding the fact that the United States has already ratified, or would at that point have already ratified, the Neutrality Treaty and the Panama Canal Treaty and would be bound by its terms.

I say that the seeds of war, Mr. President, for future generations of Americans and Panamanians exist in the misunderstandings which are apparent in these documents. There is no greater responsibility for the Members of this Senate than to make certain that these documents are interpreted in Panama and in the United States in the same way, and to make certain that the Panamanians accept, freely and openly, any reservations, declarations, or understandings made by the Senate in its ratification process of these treaties.

If we do not do that, future generations of Americans, as I say, will have but two alternatives: Either to abandon the legitimate economic and military interests of the United States, in the future use of the Panama Canal, or to use force to assert our legitimate national interests over that claimed by the Panamanians as their legitimate national interests.

That is a terrible legacy to leave to future generations. For myself, I cannot support documents which will do that.

I urge the Senate to carefully consider this amendment. I am convinced that if this amendment is agreed to and General Torrijos does declare void the reservations which have previously been adopted, we would at least preserve the framework of the treaty relationship between the United States and Panama which exists today.

Mr. WALLOP. Will the Senator yield?

Mr. STEVENS. Mr. President, I yield to the Senator from Wyoming such time as he may desire.

The PRESIDING OFFICER. The Senator from Wyoming (Mr. WALLOP).

Mr. WALLOP. Mr. President, I will briefly comment. I compliment my colleague for the remarks he has just delivered. I would point out again, as I tried to do once before, that this is no killer amendment. It is placed in the treaty document as a more useful and understandable article with regards to the results it expects to effect.

The problems which were mentioned by the distinguished Senator from Alaska relate to what almost amounts to a unilateral act of ratification on the part of the United States. I do not think it is fair to our people, and surely not fair to the Panamanians, to put this kind of a burden on the process of the conduct of relations between our two countries without understanding, fairly clearly, what expectations there are, and to which standards we would return should either party fail to live by the articles of the two treaties, resolutions, reservations, and amendments thereto.

Much of the argument in favor of this amendment has already been presented. I associate myself with the argument in its behalf.

The arguments in favor of the amendment are not dissimilar to those I offered earlier to this treaty. Basically, this treaty, if it is abrogated, provides no ground to which to return, leaving the decision to some future American leader, or Panamanian leader, to resort to force or to accept the failure of one party or the other to abide by the terms of the treaty.

We are, in short, left in thin air as two nations trying to conduct relations between each other.

The American people and the world, I think, deserve to know to what standard we would revert should these treaties be broken. While this appears on its face to be an argument or an agreement to contract, if you will, between Panama and the United States alone in this world, there is a world economic interest involved here that I think we, as a nation, and Panama, as a nation in the location of the canal, owe some allegiance. The standard proposed under this amendment is recognizable by both parties and it should have standing in the world community.

Simply stated, the amendment would provide that if the treaty or any of its amendments, reservations, declarations, or understandings are voided by either party, then these treaties shall terminate and we shall return basically to the status quo. If both sides uphold the terms of the new agreements, the amendment will never be used.

If it is the intent of both parties to abide by the terms of the treaties and other more evil influences on the world stage do not orchestrate or instigate an abrogation, no one will ever know of this amendment, no sovereignty be subject to it, no national loss of face be compelled by it.

Mr. President, recent events mentioned by Senator STEVENS and spread across the newspapers of this land and the world bring to light the extent to which an abrogation of a treaty reservation could become a possibility, a reality. Daily, the press reports that Panama is not pleased with the DeConcini reservation, delineating what was already implied by U.S. negotiators. Panama's reaction to this interpretation highlights two points: First, that Panama and the United States do not agree on what the vague terms of this treaty mean; second, that the administration's reassurances to the Senate were more based on wishful thinking rather than rooted in solid legal fact for mutual understanding between our country and Panama.

Mr. President, I want to state again that I am not opposed to a new relationship between our country and Panama. In a speech on the Senate floor, back at the beginning of the debate on these treaties, I established my position that, in the interest of justice and in the interest of the dignity of both countries, we should reexamine our relationship with Panama and establish a new circumstance between ourselves.

I am not opposed to new treaties. I am not opposed to redefining our role in Panama and in the Canal Zone. But the issue has always been these treaties before us and, in effect, nothing else. While we are trying to build a new relationship on a faulty and unclear document, the world, perhaps unaware of some of the implications of the documents before us, awaits action. What the Senate has been trying to do for the last 2 months is to clarify that document and to insure that both parties know what is expected of each other. Any contract is only as solid as the language of the contract, that which is contained within the four walls of the contract, as it were. Now we are given an indication of the degree to which that document is unclear.

The reaction of the Panamanians to the DeConcini reservation makes it all the more imperative that we have something upon which to fall back should these new treaties be abrogated. We need a legal and a moral foothold on which to base our actions. Mr. President, in my opinion, the Stevens amendment, of which I am pleased to be a cosponsor, gives us that basis. If the treaty is upheld, the amendment is irrelevant. But if the terms of the treaty are broken, we know what happens; Panama knows what happens, and the world, indeed, what happens. Perhaps, if that were to happen—and I, for one, hope that it will not—that new relationship desired between our two countries might be negotiated more carefully in the interest of both our countries.

Mr. President, I yield back to the distinguished Senator from Alaska.

Mr. STEVENS. Mr. President, I thank the distinguished Senator from Wyoming for his contributions in support of this amendment.

Mr. President, I ask unanimous consent that the Senator from Massachu-

setts (Mr. BROOKE) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Maryland (Mr. SARBANES).

Mr. SARBANES. Mr. President, will the Chair let us know the time situation on this amendment?

The PRESIDING OFFICER. Originally it was 3 hours. The opposition has 90 minutes. Approximately 27 minutes have been used by the proponents.

Mr. SARBANES. Is there a time fixed for a vote?

The PRESIDING OFFICER. There has not been a time fixed for the vote. There was a 3-hour time limit only.

Mr. SARBANES. Mr. President, the amendment offered by the Senator from Alaska begins, if I may say so, from an extraordinary premise, which is that you should put into an agreement that you are concluding with another party to a provision saying in effect to the other party, "We anticipate or expect that you are going to violate this agreement; therefore, we are going to write into the agreement what will happen when and if you violate it."

That is an interesting way to go about making contracts and approaching agreements. In effect, what you do is, at least up to a point, make an assumption of bad faith rather than good faith on the part of the other party to the agreement. I think it is important to make that point at the outset. A country such as Panama, for 70 or more than 70 years, has really carried out the obligations of the 1903 treaty, despite resentment toward it and a feeling of antagonism that it was not fairly negotiated and that it has not kept abreast of a changing world which has made many of the concepts contained in that treaty outdated. No one, I think it is reasonable to say, would expect two independent nations today, negotiating a treaty, to be able to include in the treaty many of the provisions that are in the 1903 treaty.

Conceivably, the Soviet Union might impose such an arrangement upon a country by force. But I do not think anyone looking around the world today, at the nature of the world, would seriously suggest that two independent nations seeking to reach an agreement with one another could arrive or would arrive at the arrangements, all of the arrangements, embodied in the 1903 treaty.

Many of the issues which have been the source of contention over the years—and the contention in many respects has escalated in recent years—matters that may not really have been tenable even in 1903 between two totally independent countries. But I do not think the same sensitivities concerning many of those provisions existed then that exist now, and no two self-respecting nations could reach an agreement of that sort today.

To begin by making the assumption, as we do with the other party, that they are, in fact, going to violate the agreement, I think is an extraordinary assumption to make. I really think people ought to consider how we would feel if the other party to an agreement being reached were to say, "Well, we are reaching this agreement that is going to govern our relations over the rest of this century, and then indefinitely into the future, and this is how we perceive these matters will develop." Then at the same time if they said to us, "But you know we have a real suspicion and doubt that you are not going to keep this agreement, that you are entering into it but not in full good faith, and you are not going to keep it; and, therefore, we are going to add another provision to this agreement, which we want you, the other party, to agree to, that when you break the agreement, certain things are going to happen."

Now, just as a starter, that is an unfair premise.

The second thing is what we say is going to happen if it is broken, so that we are going back to the 1903 treaty.

Well, of course, the reason we are here with these treaties is that the 1903 treaty has proven to be inadequate and unsatisfactory to the situation.

If the 1903 treaty were adequate and satisfactory, we would not be here. We would not have negotiated these new treaties and the Senate would not have spent the last 9 weeks considering whether to advise and consent to them.

The reason we are here, and the reason the new treaties have been negotiated, is that the old 1903 arrangement, to which this amendment would return us, has clearly been inadequate, to put it mildly; inadequate to govern the relationship between the two countries in the latter part of the 20th century.

So that is why we are here. We are here because the 1903 treaty is not satisfactory. We are here, I would hope, proceeding on the premise that both parties have negotiated in good faith and agreement which they would hope to keep with one another.

Third, there is the notion that if it should happen that a substantive treaty provision is not adhered to, it would be an act of bad faith on the part of the other party. I want to underscore again that we have no reason to make that projection on the basis of Panama's past performances. The few difficulties that have occurred on occasion in Panama have not really gone to the substance of the Panamanians keeping their end of the bargain.

I do not think it is an overstatement to suggest that virtually every Member of this body, away from the heat and the dramatics of the fight over the approval or disapproval of these treaties, in some calmer, quieter time, without a specific issue to which the rhetoric of the debate had to adjust itself, if he or she were to sit and read the history and the record of our activities in Panama since 1903 and the conduct of the Panamanian governments and the Panamanian people, would seriously contend that the Panamanian people and Panamanian governments have not kept their end of the bargain, kept their end of a bargain they have long regarded—indeed, from the very outset—as being an unfair bargain for them.

But I think in all fairness it would have to be conceded that they have really carried out their end of the treaty arrangements over the past three-quarters of a century.

I know the attention and seriousness with which the able Senator from Alaska (Mr. STEVENS) has approached this matter. Partly in response to that seriousness of purpose which he manifested and which he has expressed in discussing the amendment today and discussing, at least, the concept of it earlier in the course of the debate, we sought from the legal adviser to the Department of State an opinion with respect to a unilateral attempt to abrogate a treaty for a material breach.

I shall take a few moments of the Senate's time to read the response that was received. Mr. President, this is a communication from the legal adviser, Mr. Herbert J. Hansell, to the Department of State:

> Your staff has requested that we respond to your inquiry concerning the legal effect of (a) a unilateral attempt by Panama to abrogate the Panama Canal Treaty prior to its termination date, or (b) a material breach by Panama of the terms of that Treaty.
>
> The termination of a treaty, or the suspension of its operation, may take place only in conformity with generally accepted rules and practices of international law. In the case of the Panama Canal Treaty, the governing rule is set forth in Article II(2) of the Treaty itself. That article stipulates that the Treaty will terminate at noon, Panama time, December 31, 1999. Absent mutual consent to an earlier termination, or a termination with another appropriate basis in international law, such as material breach by the United States or impossibility of performance, the Panama Canal Treaty will remain in force until the specified time. A unilateral declaration of abrogation or suspension by Panama, prior to the specified date, will not be effective.
>
> Therefore, until the Panama Canal Treaty is terminated on December 31, 1999, the United States will have the legal right to assert and enforce all U.S. rights under the Treaty. Moreover, a material breach of the Panama Canal Treaty by Panama would entitle the United States to suspend performance of its obligations in whole or in part. Article 60(1) of the Vienna Convention on the Law of Treaties provides that
>
> "A material breach of a bilateral treaty by one of the parties entitles the other to invoke the breach as a ground for terminating the treaty or suspending its operation in whole or in part."
>
> In the Panama Canal Treaty, the United States has agreed, *inter alia*, (a) that Panama will receive certain payments each year during the life of the Treaty, (b) that Panamanian nationals will increasingly participate in the operation and maintenance of the Canal and that Panama's forces will participate in the defense of the Canal, (c) to transfer to Panama certain property at the entry into force of the Treaty and during its lifetime, and (d) to transfer the Canal and related property to Panama on December 31, 1999.
>
> In the event of a material breach by Panama of its obligations, it would be perfectly appropriate for the U.S. to withhold performance of these and other U.S. obligations under the Treaty until Panama complied once again with its obligations.
>
> We are, of course, confident that both the United States and Panama will faithfully comply with their respective obligations under the Treaties. Indeed, in over seventy years, Panama has not committed any significant breach of the existing treaties de-

spite the fact that it considers those treaties unfair and unjust. It is reasonable to assume that compliance with the Treaties freely entered into by Panama in 1977 will be at least as good as that experienced under a treaty entered into in the circumstances of 1903. But, as the foregoing demonstrates, the Parties would have satisfactory remedies available in the event either were to fail to comply with its obligations in the future.

That is the end of the letter.

I wish particularly to underscore the statement in the letter that—

A unilateral declaration of abrogation or suspension by Panama prior to the specified date will not be effective. Therefore, until the Panama Canal Treaty is terminated on December 31, 1999, the United States will have the legal right to assert and enforce all U.S. rights under the treaty.

As the legal adviser concluded:

We are, of course, confident that both the United States and Panama will faithfully comply with their respective obligations under the treaties. Indeed, in over 70 years, Panama has not committed any significant breach of the existing treaties, despite the fact that it considers those treaties unfair and unjust. It is reasonable to assume that compliance with the treaties freely entered into by Panama in 1977 will be at least as good as that experience under a treaty entered into in the circumstances of 1903. But as the foregoing demonstrates, the parties would have satisfactory remedies available in the event either were to fail to comply with its obligations in the future.

I have discussed to some extent—and I am going to go on to do so—the amendment offered, accepting the premise of its proponents, namely; that one of the parties to this agreement will, in fact, repudiate it. I do that simply because I want to address the substance of that contention, although, as I have said, I think it is an extraordinarily discomfiting premise to proceed upon, and its implications to the other party, of an agreement that has been freely entered into, might well be very harmful. The premise, in effect, has been put out in this amendment, and therefore I want to go on to address it.

I underscore, as I proceed to do so, that the Republic of Panama has faithfully complied with its obligations under the 1903 treaty, a treaty whose modification they have sought continuously from the very outset. Even so, they have not committed any significant breach of the existing treaties in the more than 70 years in which they have been in effect.

The first point is that if you are going to have the premise of abrogation or violation of treaties, you certainly cannot go back to the 1903 treaty. The remedy for that rests in carrying forward our rights under these treaties, under these arrangements. These arrangements have been freely entered into by both parties. The other party is entitled to expect us to carry out our part of the bargain, and we are entitled to expect them to carry out their part of the bargain.

The fact is that we are entitled, as the Department of State has said, to the legal right to assert and enforce our rights under the treaty. If an abrogation or repudiation should occur—if—our remedy is to enforce our rights under the treaty, which we are very clearly in a position to do.

Second, the treaty arrangements contained here begin the development of new arrangements between our two countries. Some changes will take place at once; others will take place in 3 years; others will take place over a continuing period of time. Very significant changes will take place at noon on December 31, 1999.

Seven years from now, or 11 years from now, or 15 years from now, if there should be some abrogation of a treaty term, it would be senseless to seek to remedy that by going back to the 1903 provision; clearly there is no reason to expect that the other party would agree to put that provision in the treaty, in any event, since those are the terms they want to get away from. But even if you add it in and it is agreed to, to try then to go back to the 1903 treaty would mean unscrambling the developments that had taken place over that 7-year period or 11-year period or 15-year period, or whatever it may be.

In effect, new treaties are cooking a new omelette; and once you start that process of cooking it, you cannot then go back to the earlier arrangement.

I urge the proponents of the amendment to stop and think for a moment about various steps that are going to occur over a period of time, and then think about what would be involved in reversing all those steps. What kind of action would you then be calling upon the United States to take?

Reference was made earlier to troubles, and so forth. Imagine for a moment, if you will, the troubles that would be associated with that process.

Second, you are then talking about a very mixed up situation. The treaty arrangements have been worked out in a very careful way. Some Members of the Senate think that they are good treaties and they support them; other Members of the Senate oppose them. But I think both sides would have to state that they constitute a fully developed comprehensive scheme as to how matters are going to proceed.

You cannot start down that path and go part way down that path, and then stop and say, "No, now we are going to leap backwards to that earlier arrangement from which we were moving." If you start down that part and something happens that impedes continuing in that direction, your remedy is to take measures to insure that you continue to assert the rights that are contained in the comprehensive arrangements which have been worked out in these treaties.

I mean the practicalities, let alone the principle, of going back to the 1903 treaty defy imagination when we ask how it could possibility be accomplished.

Of course, if you are going to make this premise about the bad faith of the Panamanians in not carrying out the treaty and therefore abrogating one of its terms—if you are going to make that assumption—then why would they not abrogate the 1903 treaty to which you are seeking to go back? In other words, the premise upon which the supporters of the amendment proceed as to how the Panamanians will behave is equally as applicable to the 1903 treaty. In fact, if they were to repudiate or abrogate the 1977 treaties, which have tried to meet many of the problems over those three-quarters of a century, there is every reason to suppose that that attitude would obviously apply to the 1903 treaty. I do not see how one can escape that conclusion.

So, we have started on a process here and if it is interrupted, the way to solve it is to continue the process. There is no way we can leap out of the middle of that process and go back to an earlier arrangement.

Some references were made as to anticipated troubles, but if you really want to imagine a situation which would bring troubles, I submit that such a situation would be an effort to go back to the 1903 treaty after we have begun the process of trying to implement and make work the 1977 treaties that are before the Senate today, assuming we advise and consent to them.

There are many, many ways, of course, in which we can seek to have the treaties complied with. The Neutrality Treaty establishing a regime of neutrality for the Panama Canal, gives to both the United States and the Republic of Panama, each acting separately, the right to take such action as is necessary to maintain the regime of neutrality embodied in that treaty. That is an important authority and one that obviously comes into play with respect to the provisions of these two treaties.

So, Mr. President, I submit that the premise on which the amendment proceeds is faulty with respect to the attitude of the Panamanian people and the Panamanian governments toward treaty obligations; but further, that even if one proceeds on that premise, the remedy for an abrogation is to enforce the rights contained in these treaties. Obviously, we cannot go back to the 1903 treaty. That is the very treaty we are trying to move away from. So, in principle, you cannot go back to it, and, in practice, I suggest that once we have started out on the process of implementing the 1977 treaties it will be virtually impossible to return to the 1903 situation because changes will have taken place—changes with respect to jurisdiction over the zone, the sovereignty which Panama exercises over its own territory, the territorial lines that are drawn, and services that are provided. For example, the Panama Canal Commission, which will become the successor American agency of the Panama Canal Company and will operate and maintain the Panama Canal for the rest of the century, will not engage in all of the retail-type activities which the Company has been engaged in over its history. They are no longer going to be running bowling alleys, food stores, shoe stores, and so forth and so on. Those, then, are going to be done privately in the economy of the country.

So a lot of things are going to happen that cannot be reversed.

If we move on these treaties, we will have entered into certain specified arrangements. Our joint responsibility, the responsibility of both countries, then, is to see that these arrangements are adhered to and carried out. It is my own belief that they will be adhered to and carried out voluntarily by both parties. There is everything in the record of our relationship to lead us to such a conclusion. But if it should happen that that is not the case, I think there are adequate authorities contained in the treaties to keep the relationship on the basis of the terms of these treaties.

For those reasons, Mr. President, I oppose the amendment which the distinguished Senator from Alaska has offered and to which the distinguished Senator from Wyoming has also addressed his thoughtful remarks, and I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska (Mr. STEVENS).

Mr. STEVENS. Mr. President, one of the great difficulties we have in addressing this issue is the difficulty of trying to determine how we can get around the domestic law in Panama. I wish there had been proper advice given to the Panamians about our ratification procedure. I have the feeling that had there been a real attempt to bring about understanding of this procedure the ratification process, the plebiscite that took place where Panama did, in fact, endorse these treaties before the U.S. Senate addressed them, would not have taken place prior to our consideration of the treaties.

I may be wrong in that, but that is just my own feeling. There is no way under the current situation that these two procedures mesh.

The Senator from Maryland said why should we, in effect, enter into a contract that presumes in the beginning that one party may try to terminate it or abrogate it or declare it void.

The difficulty is that under the procedures in Panama, as I understand them—and I do not interpret the statement read by the Senator from Maryland from the Department of State legal counsel to contradict that—they can, in fact, declare a portion of the documents as not binding on Panama if they have not complied with their domestic law in the ratification process.

Again the problem in Panama as far as the Red Cross situation was concerned in terms of the Geneva Convention, as I understand it, was that the convention had not been published properly. By not having been published properly it was not before the Panamanian Government properly and, therefore, was not subject to the ratification process.

It does seem to me that the problem I am trying to address is how to make certain that we have an understanding, and my response to the Senator from Maryland would be that with due regard and respect to our Panamanian friends, the adoption of this amendment would make them carefully evaluate their actions before they attempted to void the reservations, such as the DeConcini reservation, that have been added to the resolution of ratification. If my amendment has been adopted, the Panamanians will be voiding our reservation with the knowledge that we take the position that the prior treaty arrangements between the United States and Panama remain in effect until they use their domestic law to comply with and to, in fact, adopt the reservations, understandings, and declarations of the U.S. Senate.

I do not want to get into a deep legal argument over the matter. It is my understanding that under the new constitution of Panama they except themselves from any action required by international law, if such action would be prejudicial to the national interests of Panama. Certainly all of the furor we have heard from Panama in the last few days concerning the DeConcini reservation indicates that a substantial portion of the Panamanian people believe that action of the Senate was prejudicial to the national interests of Panama.

It is obvious that the Senate believes it was in the national interests of the United States to declare, as it did in the DeConcini reservation, our intent to protect our national interests in the Panama Canal.

I must say that as the debate has gone on, and continues, I have developed a frustration over the processes of our ratification procedure because there is no way that those of us who seek to make the treaties effective, in our opinion, and to make them reflect the desires of a majority of the people of the United States can achieve those goals.

It is fairly apparent that those of us who have tried to improve these treaties do not have a majority in the Senate.

On the other hand, whether it will be possible to have two-thirds of the Senate ratify this Panama Canal Treaty unless some action is taken to protect the reservations, declarations or understandings adopted by the Senate in its consideration of this treaty, cannot presently be predicted.

I am delighted and honored to have the support of the Senators from Arizona, both of them, Senator DECONCINI and Senator GOLDWATER; of Senators BROOKE and CANNON; and of Senators WALLOP and DOLE. The impact of their cosponsorship of this amendment demonstrates to me that they, too, would like to make certain that the actions taken by the Senate in the past, and which may be taken in connection with declarations, reservations or understandings attached to the resolution of ratification on this treaty will, in fact, be binding upon Panama.

I find no way to assure that that will be the case unless we tell Panama in no uncertain terms that if they do not accept the treaties, as we understand them, and subject to those reservations, declarations or understandings, then so far as we are concerned, we will continue to act under the treaty of 1903.

We have been careful in this amendment, as I have said, to eliminate the provisions of the treaty which would abrogate the preceding treaty arrangements, and we have changed the technical words to reflect the supersedure procedure.

We say that this treaty supersedes the prior treaties. If Panama interprets this treaty and the Treaty of Neutrality as we do then the 1903 treaty lies dormant forever. If they do not accept the treaties on the same terms, if we do not have a deal, if we do not have an agreement which is not subject to misunderstanding, then we will continue under the 1903 arrangements.

I should think from my visit to Panama that their feelings about the 1903 treaty and subsequent arrangements that are set forth in this amendment, the treaty of March 2, 1936, and the memorandum of agreement of January 25, 1955, their feelings about those prior arrangements are so well expressed that they would think twice about refusing to accept the DeConcini reservation and the other understandings and declarations that have been attached.

At the very least, Mr. President, I would say that this amendment will mean that the leader of Panama will, in fact, have to submit the treaties and the resolutions of ratification passed by the Senate to the people of Panama for a plebiscite, a second plebiscite, and the issue would then be whether or not the people of Panama wish to accept these new two treaties as interpreted by us or whether they wish to leave in effect the existing treaty relationships between our two countries. I think that is a clear-cut issue that the people of Panama ought to have the opportunity to vote on.

As I understood what I heard when I was down there it would be pretty clear to me that if they really thought about it, the Panamanians would accept these treaties with the DeConcini reservation and the other reservations, declarations or understandings. I think it is one whale of a good deal for the Panamanians. There is still a lot in these treaties that is totally unacceptable to the people of the United States.

Mr. WALLOP. Mr. President, will my colleague yield just for a question?

Mr. STEVENS. I am happy to yield.

Mr. WALLOP. He heard in the argument of the distinguished Senator from Maryland that our premise is wrong. I would submit that our premise is different. But I doubt that it can be termed wrong until history has proven that it is wrong.

I would ask my colleague from Alaska inasmuch as he is an attorney, and I assume has seen, participated in, drawn up, given counsel on a number of contracts in his life, in his professional life, it is not an unusual thing for a contract, as it were, to include a penalty clause or a return-to clause, or a clause that in some manner describes circumstances if the other pieces of the contract are not lived up to. Perhaps in this instance we would not want to call it a penalty clause, but it is a reservation clause. Is that a reasonable thing?

Mr. STEVENS. Well, legal treatises are full of materials concerning the doctrine of anticipatory breach, with actions for liquidated damages or whatever you want to call it in terms of the actions used, no matter what the terms of the relationships of the parties might be.

I hasten to add, however, that this amendment has been drafted so that if the people of Panama take action to void unilaterally a portion of the understanding as it was reached through our constitutional processes, including this process here in the Senate, we say that these treaties have no force and effect in terms of superseding the existing treaty relationship. In other words, that existing treaty relationship goes on until this process is in fact validated.

Mr. WALLOP. I appreciate that. I did not really mean—I was searching for a word. There is a sort of condition subsequent type of premise that we are working on. I do not think it is my premise, and I doubt that it is the premise of the Senator from Alaska or the other cosponsors of this amendment, that Panama will definitely abrogate this treaty. This is a condition that we hope to forestall by the kind of amendment or the kinds of conditions set forth within this amendment; is that not correct?

Mr. STEVENS. Yes, I certainly agree. I cannot contemplate that the Panamanians would refuse to accept these documents, even with these reservations and understandings, because they are so one-sided.

Mr. WALLOP. That is true. It is, therefore, not a supposition, but rather it is a recognition of a possible condition.

Mr. STEVENS. This is a winner-take-all document as far as I am concerned. After the year 2000, we have no relationship to the Panama Canal except to guarantee its neutrality. The DeConcini reservation gives us the right to protect our national interests unilaterally, but it does not restore the balance of the relationship I think should have existed in terms of a continuing partnership for the operation, maintenance, and defense, of this facility, which is so much in our national interest and the interest of every other nation in this hemisphere.

Mr. WALLOP. I certainly agree with my colleague. Not only this hemisphere but virtually the entire world of commerce, that it is virtually unilaterally laid on us to preserve after the year 2000.

I thank the Senator.

Mr. STEVENS. I reserve the remainder of my time. Did the Senator from Alabama wish me to yield? I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. Mr. President, the Committee on Foreign Relations, in reporting out the treaties, says the following in its recommendations to the Senate:

> The Committee recommends that the resolution of ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal be amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "subject to the following understanding:
>
> "The President shall include all amendments, reservations, understandings, declarations, and other statements incorporated by the Senate in its resolution of ratification respecting this Treaty in the instrument of ratification exchanged with the Government of the Republic of Panama."

Now, the same recommendation occurs with respect to the Panama Canal Treaty. The resolution of ratification with respect to the Neutrality Treaty, which we approved in the Senate, more than two-thirds of the Senators present concurring therein, provides in its concluding paragraph:

> "The President shall include all amendments, reservations, understandings, declarations and other statements incorporated by the Senate in its resolution of ratification respecting this Treaty in the instrument of ratification exchanged with the Government of the Republic of Panama."

That has been included in the resolution of ratification, and the committee has recommended that a similar provision be included in the resolution of ratification of the Panama Canal Treaty; and the chairman of the committee, as he did in the consideration of the prior treaty, will of course offer that understanding at the appropriate time.

That then becomes the treaty in its entirety. It is included in the resolution of ratification and included in the instruments of ratification to be exchanged by the respective governments, to which they would have to accede. That establishes the relationship.

I would simply repeat the previous analogy, that once you begin this relationship, if there is some abrogation later on, you cannot really unscramble the eggs. The only way to proceed is to carry forward the arrangements provided for in these treaties, and assert our rights under the treaties. That is both the practical and principled way to proceed.

The Senator from Wyoming said that I had a different premise and that he could not say it was altogether wrong to anticipate that the Panamanians will not abide by the treaty.

I am not sure I said that. What I said was that their past history was one of abiding by the previous treaty over about three-quarters of a century, in which they had substantially kept all of its terms; and I suggested that almost every Member of the Senate, when we got away from this debate would concede that upon examination of the historical records, and that past history made an assumption of abrogation an inappropriate premise on which to proceed.

But I went on to address the premise that lies behind the amendment, and to try to discuss the substance of what it proposes.

It is not for us to tell Panama how to do its business. We will have to make our judgments here as to what we think has to be done, and Panama will have to make its judgments. They did not condition their plebiscite on approval of the treaties by the Senate of the United States, nor did they condition their plebiscite on some other provision, that the treaties be approved by the House of Representatives, for example, and not by the Senate.

Suppose they had done that, and said, "Well, we are going to condition our processes on their processes," and then proceed to write our processes for us? What would our reaction have been? I do not think it is hard to predict what our reaction would have been. We have to make our judgment here with respect to what we think is appropriate, and they will have to make their judgment there.

Mr. WALLOP. Mr. President, will the Senator yield for a question on that last statement?

Mr. SARBANES. Surely.

Mr. WALLOP. You ask what the reaction would have been had the Panamanians conditioned it on ratification by the House rather than the Senate, which would have changed our processes.

I think, as I understand one of the arguments of the Senator from Alaska, what he is trying to do is fit this in to processes under the Panamanian Constitution which have been already ruled upon by their supreme court. The difference, I think, is that we would have had to say we cannot do that under our constitutional processes.

As I understand the contention of the Senator from Alaska it is that the Panamanian constitution and their record with regard to the Geneva Convention has been that they cannot accept certain of these reservations that have been attached by the Senate without another plebiscite or without some other understanding from this Senate.

I would suggest that it is not our intent to ask Panama to change their processes. It is the contention of the Senator from Alaska, as I understand it, that their processes almost demand either another plebiscite or some understanding as to what takes place if it is ruled to be unconstitutional or otherwise is abrogated by some action within Panama.

(Mr. ALLEN assumed the chair.)

Mr. SARBANES. Let us take the question of the United States entering into an executive agreement. What would be the Senator's reaction if the country said, "We are telling the United States we will not enter into this agreement unless it is done by treaty. In any event, we are telling you, in terms of your own processes, what you must do."

Mr. WALLOP. We would have to say we cannot.

Mr. SARBANES. Obviously, I submit that we are in the position where we will have to make our judgments and the Panamanians will have to make theirs. The nature of how we perceive they will make the judgment may affect how Senators vote on the treaties, but for the opponents to propose this kind of an amendment is basically to state opposition to the treaties. That is what I am trying to say.

Mr. WALLOP. I would suggest that is certainly not my motive. I would not speak for the other cosponsors. It was not designed as a killer amendment and, in effect, does not do anything to their processes.

Mr. SARBANES. I did not use the term "killer amendment."

Mr. WALLOP. I agree.

Mr. SARBANES. It was not used by me with respect to this amendment.

Mr. WALLOP. Not with respect to this amendment. I am talking about the earlier amendment offered by the Senator from Wyoming.

Mr. SARBANES. In fact, I do not think I have ever used that term.

Mr. WALLOP. Well, it was a word of art in some other day which was being used with some frequency. I have not participated in the debate for some days, and I am back in the old cliches. Please forgive me.

It really has not been the intent to interfere with their processes, or at least it is not my understanding that it interferes with their processes.

I would ask the Senator from Alaska if he considers it to be such.

Mr. SARBANES. I yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, on page 13 of the report of the Senate Foreign Relations Committee is this statement:

In the event the Senate concludes that some additional change is necessary, the Committee strongly urges (1) that such material be incorporated in the resolutions of ratification as an understanding, interpretation, declaration, or some similar designation; and (2) that that material not alter the rights, duties and obligations contained in the treaties. Any material so incorporated in the Senate's resolutions of ratification will have precisely the same force and effect, under both domestic and international law, as material included in the text of the treaties themselves. Any amendment to the text of the treaties, however, is virtually certain to require a new Panamanian plebiscite—which the Committee-recommended amendments will not.

The committee goes on later to say:

While the Committee does not believe that the Senate should, to avoid the need for a new Panamanian plebiscite, alter the substance of any new material which it believes the national interest of this country requires, it does believe that the Senate can and should take into account the form in which such material is added, since that form, even though legally inconsequential, could mean the ultimate success or failure of the ratification of these treaties.

I have no argument with that statement. That is in the report of the Senate Foreign Relations Committee, the statement "As it applies to the domestic law of the United States and to international law."

The difficulty comes as that statement is applied to the Panamanian domestic law, and as Panamanian domestic law relates to international law. The document that we are amending, which we have amended in the past and it is apparent we are going to amend this time; namely, the resolution of ratification, is clearly subject to attack under Panamanian domestic law, since under Panamanian law it is not presented to their people in a plebiscite but it is the treaty which was presented. We have, under our domestic law and our understanding of international law, interpreted these treaties in one fashion in the United States; they, under their domestic law as it relates to international law, may interpret these treaties in another manner. The Panamanians necessarily do not accept our interpretation. We may well be entering into a new treaty relationship with the Panamanians with a situation where we have stated our understanding of these treaties in one way and they have, under their constitutional process, the absolute right to ignore what we have done, what we have said, and the statements we have made as to our understandings of the agreement into which we have entered.

In effect, what I am saying is if we pursue the course we are on now, there will not be a meeting of the minds between the Panamanians and the United States in terms of a new agreement.

This amendment should be adopted, because it will state that unless there is a meeting of the minds, unless we have actually arrived at a total consensus on the new relationship between Panama and the United States, the old relationship should remain in effect.

That is the intent of my amendment.

I might state to the Senator from Maryland, subject, of course, to his response, I am prepared to bring the matter to an end in any way he wishes to do so. We thought one other Senator wanted to speak but he is tied up in a hearing and will not be here.

Mr. SARBANES. Mr. President, I am prepared to yield back the remainder of my time and go to a vote with respect to this amendment, if that is the suggestion of the Senator from Alaska.

Mr. STEVENS. That is my suggestion, subject to whatever time the Senator from Maryland wants to take.

The PRESIDING OFFICER. Do both sides yield back the remainder of their time?

Mr. SARBANES. Yes, Mr. President.

Mr. STEVENS. Yes, Mr. President.

The PRESIDING OFFICER. Both sides having yielded back the remainder of their time, the question is on agreeing to the amendment of the Senator from Alaska.

Mr. SARBANES. Mr. President, I move to lay on the table the amendment of the Senator from Alaska and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Alaska. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. EASTLAND. Mr. President, on this vote, I have a pair with the distinguished Senator from Alabama (Mr. SPARKMAN). If he were present and voting, he would vote "aye"; if I were permitted to vote, I would vote "nay." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Michigan (Mr. RIEGLE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON) and the Senator from Michigan (Mr. RIEGLE) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT) and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

The result was announced—yeas 53, nays 40, as follows:

[Rollcall Vote No. 95 Exec.]

YEAS—53

| | | |
|---|---|---|
| Baker | Hatfield, Mark O. | McIntyre |
| Bayh | Hatfield, Paul G. | Metzenbaum |
| Bellmon | Hathaway | Morgan |
| Bentsen | Hayakawa | Moynihan |
| Biden | Hollings | Muskie |
| Byrd, Robert C. | Huddleston | Nelson |
| Case | Humphrey | Pearson |
| Chafee | Inouye | Pell |
| Church | Jackson | Percy |
| Clark | Javits | Proxmire |
| Cranston | Kennedy | Ribicoff |
| Culver | Leahy | Sarbanes |
| Danforth | Long | Stafford |
| Durkin | Magnuson | Stevenson |
| Eagleton | Mathias | Stone |
| Glenn | Matsunaga | Weicker |
| Gravel | McGovern | Williams |
| Hart | | |
| Haskell | | |

NAYS—40

| | | |
|---|---|---|
| Allen | Goldwater | Roth |
| Brooke | Griffin | Sasser |
| Bumpers | Hansen | Schmitt |
| Burdick | Hatch | Schweiker |
| Byrd, Harry F., Jr. | Heinz | Scott |
| Cannon | Helms | Stennis |
| Chiles | Hodges | Stevens |
| Curtis | Johnston | Talmadge |
| DeConcini | Laxalt | Thurmond |
| Dole | Lugar | Tower |
| Domenici | McClure | Wallop |
| Ford | Melcher | Young |
| Garn | Nunn | Zorinsky |
| | Randolph | |

PRESENT AND GIVING A LIVE PAIR AS PREVIOUSLY RECORDED—1

Eastland, against.

NOT VOTING—6

| | | |
|---|---|---|
| Abourezk | Bartlett | Riegle |
| Anderson | Packwood | Sparkman |

So the motion to lay Mr. STEVENS' amendment No. 90 on the table was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. MATSUNAGA). Under the previous order, the Chair recognizes the Senator from Virginia (Mr. SCOTT).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, and I have cleared this with Mr. SCOTT, that Mr. THURMOND be recognized at this time to call up an amendment, and that upon the disposition of that amendment Mr. SCOTT then be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. CHURCH. Mr. President, I understand that it would be agreeable with Senator THURMOND that there be a time agreement on this amendment, the time agreement being limited to 1 hour and the time being divided equally, 30 minutes to a side.

Mr. THURMOND. Mr. President, I can agree if we make it 35 minutes. I may not take that, but I would rather have it.

Mr. CHURCH. Very well. It is agreeable to the Senator from Idaho.

I, therefore, ask unanimous consent that the time be limited on the Thurmond amendment to an hour and 10

minutes, with 35 minutes allocated to each side, Mr. THURMOND being in charge of the side for the proponents and I being in charge of the side for the opponents.

Mr. ROBERT C. BYRD. Mr. President, I ask that it be in order for Mr. THURMOND to call up his amendment out of order.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 24

Mr. THURMOND. Mr. President, I send my amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND), for himself and Messrs HARRY F. BYRD, Jr., HELMS, GARN, LAXALT, SCHWEIKER, HANSEN, ALLEN, and SCHMITT, proposes unprinted amendment numbered 24:

At the end of paragraph 4 of article XIII, add the following:

"(d) Notwithstanding the provisions of subparagraphs (a) and (b), the funds required to be paid in any year under this paragraph to the Republic of Panama may be paid only to the extent that the operating revenues of the Canal exceed all operating expenses of the Panama Canal Commission not including payments made to Panama under this paragraph."

The PRESIDING OFFICER. The Senator from South Carolina (Mr. THURMOND) is recognized for 35 minutes, in support of his amendment.

Mr. SCOTT. Mr. President, will the Senator from South Carolina yield briefly?

Mr. THURMOND. I am pleased to yield to the Senator from Virginia.

Mr. SCOTT. It is my understanding that the previous unanimous-consent agreement, insofar as it relates to the Senator from Virginia, is not changed in any way, other than that I will follow the Senator from South Carolina in the amendment that he brings up.

The PRESIDING OFFICER. The Senator from Virginia is correct.

Mr. SCOTT. I thank the Chair.

Mr. THURMOND. Mr. President, I would like to address myself to the financial aspects of the Panama Canal treaties. I believe the American people are not fully aware of what it will cost them if these treaties are ratified. Let me just say, on that score, that I do not blame the American people for not being fully aware of the costs of these treaties primarily because of totally misleading statements by leading proponents of these treaties.

MISLEADING STATEMENTS ON THE COST OF TREATIES

On February 1, 1978, President Carter, in a nationally televised address to the American people, stated:

Are we paying Panama to take the canal? We are not. Under the new treaties payments to Panama will come from tolls paid by ships which use the canal.

On December 28, 1977, President Carter stated:

We wanted a treaty that did not put a financial burden on the American taxpayer, and we got it.

On September 26, 1977, Secretary of State Vance in testimony before the Senate Foreign Relations Committee stated concerning the cost of the treaties:

The treaties require no new appropriations, nor do they add to the burdens of the American taxpayer.

Later in his testimony before the Senate Foreign Relations Committee, Chairman SPARKMAN asked Secretary Vance concerning the so-called implementing legislation: Will there be a necessity for the usual appropriations action?

Secretary Vance answered: "No."

Then Chairman SPARKMAN asked: "What, if any, budgetary impact would this have?"

Secretary Vance answered: "No appropriations will be required." And Chairman SPARKMAN replied, "No appropriations will be required. I think those are two questions that have concerned people."

I believe these quotes from administration officials are representative of many statements made by treaty supporters concerning the cost of the treaties. I believe these statements are misleading, intentionally or not, concerning the cost of these treaties to the American taxpayer. It is small wonder that the American taxpayer believes these treaties will not cost him.

COST OF TREATIES TO AMERICAN TAXPAYER

Let me state, as clearly and emphatically as I can, that these treaties will cost the American taxpayer a bare minimum, a rock bottom, $758 million over the next 22 years, and in all likelihood considerably more than that.

Let me outline what constitutes this $758 million:

$440 MILLION FOREGONE INTEREST TO THE TREASURY

The Panama Canal Company has the statutory obligation to pay interest to the U.S. Treasury on the interest-bearing portion of the U.S. investment in the Canal Zone. At $20 million per year over 22 year, this will amount to a $440 million loss to the Treasury over the life of the treaty. I might note that Comptroller General Staats, in testimony before the Senate Armed Services Committee, stated that this $20 million estimated annual interest payment "could be substantially more" per year over the next 22 years, since the interest rate is based on the U.S. Treasury average rate for long-term issues and "as that portfolio turns over, these rates are bound to go up, and I do not believe that this has been fully taken into account in these projections." According to an Armed Services Committee staff study, Mr. Staats has estimated the total loss to the Treasury over the next 22 years at $505 million.

$165 MILLION EARLY RETIREMENT BENEFITS

Additional early retirement benefits to present Panama Canal Company employees are being negotiated. These payments would, of course, come from appropriated funds. Estimates of the annual costs of the various proposals being negotiated range from $6.5 to $8.5 million per year. If we take $7.5 million, which is the midpoint of the estimates, this would amount to $165 million over the next 22 years. I believe the Senate Budget Committee estimates these retirement costs at $196.2 million through 1999.

$100 MILLION IN DEPARTMENT OF DEFENSE COSTS

Certain support functions under the treaties, such as hospitals and schools, will be transferred to the Department of Defense. Most of these costs will be billed to the new commission directly. However, under present accounting methods, the Department of Defense will not be reimbursed for certain schooling costs which are estimated at $5 million per year, or $110 million over 22 years.

$43 MILLION IN BASE RELOCATION COSTS

There will be certain treaty-related costs having to do with relocation of certain U.S. military bases in the Canal Zone. This one-time cost is estimated to be $43 million.

Let me add up what these costs that I have just described are: $440 million in foregone interest to the U.S. Treasury; $165 million in early retirement costs; $110 million in certain Department of Defense costs; and $43 million in certain base relocation costs. The addition of these figures makes a grand total of $758 million—a direct cost to the U.S. taxpayer for these treaties, either in money that will not accrue to the U.S. Treasury or will be drawn from the U.S. Treasury through the appropriations process.

Mr. President, the Comptroller General of the United States, Elmer B. Staats pointed out in his testimony before the Senate Armed Services Committee that there will be other treaty-related costs that will be borne by other agencies of Government, but that "only sketchy details are available at this time." There is also the question of approximately $8.9 million currently owed by Panama to the Panama Canal Company for certain services which is still outstanding. Some of this debt has been outstanding since 1959.

PAYMENTS TO PANAMA UNDER TREATIES

Payments to Panama from tolls under the treaties are:

First. $0.30 per canal ton—estimated at $40 million per year—for a total of $880 million for 22 years.

Second. $10 million per year—fixed expense—$220 million for 22 years.

Third. $10 million per year for certain services such as police, fire protection—$220 million for 22 years.

Fourth. $10 million per year if revenues exceed expenditures—$220 million for 22 years.

This is a potential total of about $1.5 billion for the next 22 years, at a minimum, since some of those payments will be adjusted for inflation. This sizable sum will accrue to a country of 1.7 million people, or a total of $880 for every man, woman, and child in Panama.

Thus, in addition to the tremendous $758 million direct burden to the taxpayer, Panama will also receive from tolls over $1.5 billion over the next 22 years. While the $1.5 billion amount is anticipated to come from tolls, as treaty supporters would have us believe, there is a serious question whether or not revenues will be sufficient to meet expenditures including the payments to be made to Panama.

Let me quote from testimony of Comptroller General Staats in his testimony before the Armed Services Committee.

If the canal transits fall short of what is currently estimated, it is possible that toll revenues will be insufficient to cover the costs of the Commission, including the scheduled payments to Panama. In this eventuality, the U.S. Government is likely to be required to provide financial assistance either through the congressional appropriations or by allowing the Commission to borrow from the U.S. Treasury.

Looking at the possibilities of increased costs over the Company's initial estimates, Mr. Staats concluded:

It seems to me there are some very real concerns as to whether we can adjust tolls upward, assuming you do all these things that I have just listed, and still make it possible to operate the canal without serious deficits.

While one can make different assumptions on factors affecting future canal revenues and arrive at different conclusions as to whether the canal operation will be financially sound, there is a substantial possibility that the canal will suffer operating deficits during the life of the treaty, and if so, it will be our taxpayers who will make up the deficits. I might add that these payments from our Treasury to make up deficits would, in effect, amount to a payment from the U.S. taxpayer to Panama. I would remind my colleagues that under article XIII of the Panama Canal Treaty that the United States shall turn over the canal in 1999 "in operating condition and free of aliens and debts * * *."

On page 92 of the Foreign Relations Committee report, there is this statement:

The treaty provides that the new Panama Canal Commission will make three different annual payments to Panama. The revenue for these payments will come exclusively from canal tolls and not from the American Treasury.

This contrasts with Mr. Staats' testimony before the Armed Services Committee, which I will repeat, because I believe it is important, since he is the chief accountant for our Government:

If the canal transits fall short of what is currently estimated, it is possible that toll revenues will be insufficient to cover the costs of the Commission, including the scheduled payments to Panama. In this eventuality, the U.S. Government is likely to be required to provide financial assistance either through congressional appropriations or by allowing the Commission to borrow from the U.S. Treasury.

So, Mr. President, the Panama Canal Treaty currently before the Senate will result in a minimum, direct cost to the U.S. taxpayer of $758 million. In addition, the U.S. Treasury will be liable for additional, undetermined amounts, which could run into many millions of dollars, if the canal has deficits in the next 22 years.

There will also, of course, be increases in tolls under the treaty in order to make payments to Panama as required by the treaty. It is difficult, of course, to state precisely what would be the additional cost to U.S. taxpayers and consumers resulting from this treaty. I believe it is clear that this treaty will cost the U.S. consumer an additional amount. An Armed Services Committee staff study indicated that U.S. shippers and consumers would bear an additional cost for the next 22 years of $1.2 billion resulting from higher tolls.

There would have been toll increases even without this treaty, but no doubt tolls will have to be increased a greater amount to cover payments to Panama under the treaty and the U.S. consumers will bear a portion of these higher tolls.

I might say there, Mr. President, I believe the record shows that about 70 percent of the tonnage that goes through the canal either originates in the United States or is coming to the United States. So it can be readily seen that almost three-fourths of the increase in tolls will be borne by consumers in the United States.

OTHER LIABILITIES

The United States and Panama also have exchanged notes regarding a military and civilian aid package to Panama which is related to the treaties but not technically dependent upon them. These consist of foreign military assistance credits—$50 million, Agency for International Development Housing Guarantees—$75 million, Export-Import Bank credits—$200 million, and an Overseas Private Investment Corporation loan guarantee—$20 million. Should Panama, which already pays 37 percent of its total income to service large foreign debts, fail to repay these amounts, totaling $345 million, the United States could become liable to make good these losses.

CLOSING

Mr. President, I believe that close analysis of the Panama Canal Treaty will reveal significant financial implications for the U.S. taxpayer. If the treaty is ratified, the U.S. taxpayer will bear a minimum direct cost of $758 million; in addition, the U.S. Treasury may very well be liable potentially for many millions of dollars if the canal runs deficits, and this is certainly a possibility. The American consumer will also bear an additional cost of some $1 billion in the form of higher cost of goods if this treaty is ratified. And finally, the United States has apparently agreed to a military and civilian aid package of some $345 million which the United States will be liable for if Panama defaults, and given Panama's current posture this is at least a distinct possibility.

Mr. President, the American taxpayer will bear all of these direct and potential costs I have cited for the privilege, yes privilege, of giving up his $10 billion canal which the United States has run, at no profit, with great efficiency, for the benefit of the world community.

Mr. President, from the financial and economic viewpoint this treaty is of great disadvantage to the American taxpayer and ought to be rejected or, at least, significantly amended to correct this situation.

Mr. President, I ask unanimous consent that the attached tables and their explanations be printed in the RECORD

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE I.—Direct costs during life of treaty either as a loss of revenue to U.S. Treasury or to be met through appropriations

| | Millions |
|---|---|
| 1. Interest forgone to U.S. Treasury ($20 million×22 years) | $440 |
| 2. Early retirement costs ($7.5×22 years) | 165 |
| 3. DOD costs — primarily schooling costs ($5 million×22 years | 110 |
| 4. DOD costs—one-time base relocation costs | 43 |
| Total A | 758 |

TABLE II.—Payments to Panama to be supported by toll increases (under treaties)

| | Millions |
|---|---|
| 1. 30 Canal Ton—Estimated $40 million/year | $880 |
| 2. $10 million/year — Fixed Expense (×22 years) | 220 |
| 3. $10 million/year—Certain Services, Police, Fire Protection, etc. (×22 years) | 220 |
| 4. $10 million—If Revenues Exceed Expenditures (× 22 years) | 220 |
| Total B (billions) | 1.54 |
| Total A and B (billions) | 2.298=2.3 |

TABLE I—EXPLANATION

1. *Foregone Interest to the Treasury*—currently the Panama Canal Company has the statutory obligation to pay interest to the United States Treasury on the interest bearing portion of the U.S. investment there. Currently this amounts to about $20 million per year. The forthcoming implementing legislation will relieve the new Panama Canal Commission (under the treaty) of the obligation to pay this interest.

2. *Early Retirement Benefits*—additional early retirement benefits to present Panama Canal Company employees are being negotiated. These benefits would be paid by the Civil Service Commission and would not be charged to the new Panama Canal Commission accounts and, therefore, would be a cost to the taxpayers. Civil Service Commission estimates of the annual costs of the various proposals being negotiated range from $6.5 to 78.5 million a year.

The approximate mid-point in this range is used.

3. *Costs of Benefits for Dependents of Certain Personnel transferred to DOD*—certain support functions under the new treaties, such as hospitals and schools, will be transferred to DOD. Most of these costs will be billed to the Commission directly. However, under present accounting methods DOD will not be reimbursed for certain schooling costs. This would mean an additional cost to DOD of about $5 million per year unless DOD changed its billing rates to recover the additional costs.

4. *Base Relocation Costs*—Administration witnesses indicated that there would be certain treaty-related costs having to do primarily with relocations of certain U.S. military bases in the Canal Zone. These one-time costs were estimated to be $43 million.

TABLE II—EXPLANATION

1. Panama under the Treaties will be paid 30 cents on each Panama Canal net ton transiting the Canal. This will provide payments to Panama of about $40 million annually, based on current estimates. The 30 cents will be adjusted by the U.S. wholesale price index and may result in increased payments, depending on future tonnages.

2. Panama is to be paid $10 million annually to provide various services—fire, police, streets, etc. Estimates of these costs are only about $4.4 million, so Panama, in

effect, gets a $5.6 million subsidy. This amount will be adjusted every three years, depending on inflation, etc.

3. $10 million is a fixed annual annuity to be paid out of Canal operating revenues. This constitutes a fixed expense of the Panama Canal Commission.

4. Under the Treaties, Panama is to get $10 million annually to the extent revenues exceed expenditures. There is a dispute as to whether or not this payment would be made before any prior year deficits are paid.

Mr. THURMOND. Now, Mr. President, with regard to the amendment I am introducing here to paragraph 4 of article XIII of the Panama Canal Treaty, I wish to make a few additional remarks.

The purpose of this amendment is to insure that any payments to Panama under the treaty are not subsidized by the American taxpayer. It merely requires that all operating expenses of the Canal Commission be paid before any payments can be made to Panama. The Panama Canal Commission, under the treaty, should not suffer operating deficits resulting from payments having to be made to Panama prior to payment of its necessary operating expenses.

Mr. President, on February 1, 1978, President Carter in a nationally televised address to the American people stated:

Are we paying Panama to take the Canal? We are not. Under the new treaties payments to Panama will come from tolls paid by ships which use the Canal.

My admendment merely seeks to see to it that the President's statement remains the truth.

Mr. President, I realize that this matter could be handled in the implementing legislation. However, it should be clearly understood by Panama and the United States that the American taxpayer is not going to subsidize Panama if deficits occur in canal operations. The only way to do this is by treaty amendment. As a practical matter, once these treaties are ratified, Panama could care less what our implementing legislation says.

Mr. President, since the proponents of the treaty claim that transferring this canal is not going to cost anything, I do not see why there should be any objection to accepting this amendment. The President of the United States said it would not cost anything. The Secretary of State said it would not cost anything. Many of the proponents of the treaty, have said it would not cost anything. If that position is correct, then why not accept this amendment?

Mr. President, I reserve the remainder of my time.

Mr. MATSUNAGA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I rise in opposition to this amendment.

If we were to pay Panama what we pay Spain, for example, Turkey, as another example, Greece as another example, for the use of military bases, we would be paying Panama in excess of $100 million a year. We have not, in fact, paid one penny to Panama from the time the canal was built. If we were paying $100 million for the use of military bases for the past 75 years, we would have paid over $7.5 billion. Consider the savings we have made by not being required to pay for the use of military bases in Panama.

The Panama Canal Treaty changes the basic economic assumptions under which the canal has historically been operating. For the first time the new treaty gives long overdue recognition to the fact that the canal is Panama's primary economy resource. While Panama has benefited from the presence of the United States through salaries paid Panamanians who work in the operation of the canal and by direct purchases made by the Canal Company of Panamanian goods and by the establishment of private commercial enterprises by American business enterpreneurs, the fact remains that we have paid Panama as little as $250,000 initially for about a 16-year period and then $1.9 million for a while and presently only $2.5 million annually.

(Mr. MELCHER assumed the chair.)

Mr. MATSUNAGA. The total revenues collected from tolls last year amounted to $165 million; $2.3 million of this amount paid to Panama represents less than 1.4 percent. That is what we have been paying to Panama for the use not only of the canal but the Canal Zone, a strip of land 5 miles by 51 miles running smack in the middle of the country of the Republic of Panama—5 miles, extending 5 miles, on each side of the canal, that is.

Now, by increasing the cooperation between the United States and Panama, the new treaty will allow Panama to take full advantage of its major national asset. The treaty will encourage greater Panamanian assistance to insure that the canal will be run efficiently and effectively, and certainly we must make provision so that the canal, regardless of the transfer of control, will be run as efficiently as it has been run under U.S. control.

Unless we provide these incentives and unless we provide the necessary funding for the operation of the canal, we are definitely not going to have the canal being operated as it ought to be operated.

As it has been pointed out earlier, the trend of the amount of tolls collected has been on the increase in recent years, and we anticipate a continuing increase. It is estimated that by an increase of 25 or 30 percent of the toll charges we will collect ample sums to pay for all the costs of the operations of the canal.

If we consider the fact that we will not be paying until the year 2000 for the use of the military bases which, as I pointed out earlier, should amount to annual fees in excess of $100 million, we are, in fact, saving the American taxpayers millions of dollars annually.

The Panama Canal Treaty is intended to protect the major U.S. economic interests by insuring that the canal will remain open and operating efficiently. This is what the treaty intends to do. The United States will retain primary responsibility for operating the canal for the life of the treaty.

In addition, the treaty insures that Panama will be adequately prepared to assume full control of the canal by the year 2000, and unless we provide adequate financial means for Panama to do this, it will not be able to train the necessary personnel to take over the efficient operation of the canal.

The treaty and the additional supporting package will increase the economic cooperation between the United States and Panama. The financial arrangements designated in the treaty were designed to reflect this partnership arrangement in the operation of the canal.

Panama will assist the United States in the canal operation, and the annuity payments would give Panama a greater stake in its operation.

Mr. Speaker—I say Mr. Speaker because I see sitting in the chair a former colleague of mine in the House and it made me think for a moment there I was still in the House, but I know I am not in the House because had it been the House I would have been shouted down by now, having expended my limited 5 minutes—Mr. President, it is also important to note that with respect to payments to Panama the treaty does not call for any additional appropriation from the U.S. Treasury.

Ambassador Ellsworth Bunker testified before the Committee on Foreign Relations on September 26 and said:

The United States consistently maintained during the negotiations that payments to Panama for its contributions to the canal enterprise should be drawn entirely from canal revenues; that is, that the payments should reflect the canal's economic value as measured by its revenue-generating capacity.

Secretary of State Cyrus Vance made the same point, and I quote:

Under the treaties, Panama will receive payments which more fairly reflect the fact that it is making available its major national resource, its territory. But the treaties require no new appropriations nor do they add to the burdens of the American taxpayer.

In sum, the treaty will allow Panama to gain a fuller advantage of its major national resource, help in the efficient operation of the canal, protect the major U.S. economic interest by maintaining the open and free operation of the canal, and increase cooperation between the United States and Panama.

As I have on several occasions here on the floor stated, unless the Panama Canal can be kept open and free and available for use at all times by the United States, that canal is worthless to the United States.

The basic intent of the Panama Canal Treaty is to attain this objective of keeping the canal open and free for use by the United States and other countries. It is for the purpose of promoting this requirement that we have agreed to pay Panama the amounts designated in the Panama Canal Treaty.

We have consistently demonstrated here on the floor, by quoting facts and figures, that the treaty will not mean any additional assessment upon the American taxpayers; that we will be able to meet payments assured to Panama out of the revenue tolls collected from the operation of the canal.

Mr. President, the State Department comments on the proposed amendment, and I would like to recite for the record

the position of the State Department on the amendment offered by the Senator from South Carolina (Mr. THURMOND).

According to the State Department:

The proposed amendment would constitute a major substantive modification in the terms of the treaty respecting Panama's share of the economic benefits in the canal. It would seek to make the payments to Panama provided for in subparagraphs 4(A) and 4(B) of article XIII subject to the existence of operating surpluses.

The proposed amendment is unnecessary and would certainly be unacceptable to Panama. Under the terms of the treaty, the United States retains complete authority over the setting of tolls (and thus over the income to the Canal Commission) and over the management of the Commission (including the setting of wages, the making of capital improvements, et cetera.) Thus, the extent to which the Canal will generate an operating profit is a matter within the discretion of the United States. Accordingly, Panama cannot be expected to accept a formula which would make the bulk of their income from the Canal dependent upon decisions within the sole discretion of the United States. If we were to insist that the payments to Panama be derived from Canal profits, Panama could be expected to insist on an equal voice in the management decisions that would determine the amount of profit, if any.

To the extent that the amendment is designed to ensure that United States taxpayer funds will not be utilized to make payments to Panama, it is unnecessary. Economic projections demonstrate that there is no reason to believe that the Canal will not continue to be financially self-sustaining over the period of the treaty. Moreover, nothing in the treaty would permit the utilization of taxpayer funds without the authorization of the Congress of the United States.

Mr. President, it is then that the Senator from South Carolina can rise in defense of the statements he has made and in an attack upon the statements which he has attacked, the statements made by the proponents of the treaty.

The foregoing reasons, Mr. President, ought to indicate that the amendment offered by the Senator from South Carolina should definitely be soundly defeated.

I reserve the remainder of my time.

Mr. THURMOND. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 18 minutes remaining.

Mr. THURMOND. Mr. President, maybe I should not be surprised, but I was somewhat surprised, that the distinguished and able Senator from Hawaii did not answer the charge that I made.

I made the charge that there was going to be a direct cost to the taxpayers of America, and I made the further charge that there will be potential expenses that could fall upon the taxpayers of America.

The Senator from Hawaii says, "Oh, we have got bases in Turkey and this country and that country and the other country, and we have to pay them."

Maybe we do have to pay them, but we have not bought property there. We have not paid for property there. We have not expended billions of dollars on property there, as we have in the Panama Canal Zone.

We own the Panama Canal. We own it in perpetuity, and there is no comparison between Turkey and the other countries and the Panama Canal. The Panama Canal is our property. It belongs to the United States. We do not own anything in Turkey; we do not own anything in Greece and these other countries that the distinguished Senator made reference to, and it is perfectly ridiculous to try to compare Turkey and the other countries with the Panama Canal, which we do own.

Now, Mr. President, there was a statement there, I believe, that we paid only 1.4 percent of last year's tolls to Panama. I might say that for previous years we have had a deficit, and we will certainly have a deficit if we have to pay Panama $60 million a year. Who will make up this deficit? The taxpayers of America.

The distinguished Senator from Hawaii said:

Oh, this amendment here will not be acceptable to the other party, to Panama.

Why, sure, it is not acceptable to Panama, but whose interest are we looking after here, the interest of Panama or the interest of the people of the United States?

Mr. MATSUNAGA. Will the Senator yield?

Mr. THURMOND. I think the time has come in this country when we had better look after the interest of our own people for a while.

Mr. MATSUNAGA. Will the Senator yield?

Mr. THURMOND. I will yield a little later. Let me get through first.

The time has come when we need to look after the interests of the people of America. The United States has given away more than all the nations of the world put together. We certainly have not been cheesy. We have been the most generous people in the most generous nation that has ever existed on the face of the Earth. It is perfectly ridiculous to say we have mistreated Panama. We have not mistreated Panama.

Panama wanted to build this canal. They had a revolution, even separated from Colombia so that they could enter into a treaty to build this canal. They wanted to get ahead of other countries to build a canal. We paid them $10 million at that time, and we paid Colombia $25 million also for any interests they had, so they would not disturb Panama in entering into this arrangement. We paid $40 million to the French people, who had some interest there. We bought the land, and paid the landowners, even the squatters, who had no title, but were just squatting on this land; we paid them. The United States has paid everybody concerned.

We have no obligation to Panama. But because we built the Panama Canal, Panama has the highest per capita income of any country in Central America. It has the fourth highest income of any country in all of South America.

What have we done wrong toward Panama? We have done nothing but help them. We have poured money into that country every year. We have spent millions and millions of dollars down there buying goods. We have spent millions and millions of dollars down there paying employees of the United States. We have spent millions and millions of dollars down there paying non-U.S. citizens, chiefly Panamanians. Everything we have done has helped Panama.

The trouble is, they have got a dictator down there now, Torrijos, who has deprived his people of their rights, and now that country is classed along with Cuba and the Soviet Union in respect to the rights they give their people.

They have no human rights. They have no civil rights.

I wonder if President Carter has thought about that when he is talking so much now about human rights in different parts of the world. Yet he is dealing with this man. If these treaties go through, it will strengthen the hand of this dictator. It would just help to entrench this dictator in power and do it at the expense of the citizens of the United States.

Mr. President, this amendment to article XIII protects the American taxpayer from subsidizing Panama as a result of these treaties, and at the same time would help to insure proper financial management of the canal. Put simply, the amendment requires payment of all operating expenses of the Panama Canal Commission before allowing payments to Panama required under paragraph 4 of article XIII of the treaty. Then payments can be made to Panama only to the extent that operating revenues of the Canal Commission exceed operating expenses. Nothing in the proposed treaty specifies the priority of Canal Commission expenses. Therefore, the Commission can make all payments to Panama required under paragraph 4 of article XIII, except those mentioned under subparagraph (c), and use whatever is left over to pay its expenses.

Panama could conceivably profit or benefit from the treaty while the Canal Commission operates at a deficit.

My amendment is designed to prevent this occurrence. My amendment does not prohibit these payments being made to Panama. It merely says that the necessary expenses of the canal must be paid first.

I do not see that this can be anything but beneficial for the U.S. taxpayer who will be called upon to subsidize Panama when deficits occur unless this amendment is adopted. My amendment seeks to protect the American taxpayer.

I hope the Members of this body will see fit to adopt this amendment in the best interests of the American people.

Now I will be glad to yield to the distinguished Senator from Hawaii if he wishes to propound any questions.

Mr. MATSUNAGA. I thank the Senator from South Carolina for yielding.

Under the Panama Canal Treaty as proposed, as I pointed out through testimony submitted for the record, testimony of Secretary Vance and Ambassador Bunker, it is expected that no appropriations out of the general fund will be made for maintenance of the canal and in making payments to Panama. Does the Senator realize that today the situation is such that all except $500,000, which is paid to the Republic of Panama comes from appropriated funds of the U.S. Treasury?

Mr. THURMOND. Certain funds come from the Treasury, yes. But under this arrangement we will be providing——

Mr. MATSUNAGA. So that under the treaty as proposed, none of the payments being made to Panama will come out of appropriated funds. When the Senator from South Carolina speaks of our need to think about the American taxpayer, we are indeed thinking about the American taxpayer by proposing a treaty which would require no payments out of the U.S. Treasury, whereas today we are paying $1.8 million out of the taxpayer funds.

Mr. THURMOND. We get interest back, and that interest is foregone to the U.S. Treasury, of $20 million a year for 22 years, or $440 million. Then if these treaties go through, the early retirement cost is $7.5 million for 22 years, which is $165 million. The Department of Defense costs for the one-time base relocations will be $43 million. In addition, $110 million in certain support functions will be transferred to the Department of Defense. That makes a total of $758 million which will be lost to the Treasury.

In addition to that, of course, the payments to Panama are going to be supported by the toll increases which amount to as follows: Thirty cents per canal ton estimated to be $880 million, $40 million a year, pretty well agreed on; $10 million a year fixed expense, $220 million; $10 million in certain services, police and fire protection, 22 years, $220 million; $10 million if revenues exceed expenditures for 22 years, $220 million. That makes a total liability of $1.54 billion, plus the $758 million, making a grand total of $2.3 billion.

Mr. MATSUNAGA. If the Senator will yield again, I am deeply impressed by his recitation of dollar amounts, but what is the connection of the statement of expenses with regard to the amendment of the Senator?

Mr. THURMOND. My amendment will assure the taxpayers of America that there will be no additional expense over the previously mentioned $758 million if we turn over this canal. Why would the Senator object to that?

Mr. MATSUNAGA. That has nothing to do with the items of expense which the Senator was just quoting. As I understand the Senator's amendment, he is merely intending that the Republic of Panama may be paid only to the extent, to quote from the amendment, "that the operating revenues of the canal exceed all operating expenses of the Panama Canal Commission, not including payments made to Panama under this paragraph."

All the figures which the Senator has been quoting are very impressive indeed, but I see no relation of such amounts to his amendment.

Mr. THURMOND. Well, Mr. President, I am simply showing what it is going to cost the taxpayers of America if we turn this canal over under these treaties which are now before us.

I want to say that under the new treaty there is nothing in the treaty which specifies priority of expense payments. There is nothing in the treaty which limits payments to Panama except in paragraph 4(c) to whatever surplus exists after operating expenses are paid. There is nothing in the treaty which prevents use of taxpayer money to make payments to Panama.

My amendment would do this: It would require all expenses to be paid before any payments are to be made to Panama. It would limit all payments to Panama under paragraph 4 to the extent that operating revenues exceed expenses and prevent deficits because of payments to Panama. It will limit payments to Panama to the extent of surplus operating revenues, and thus prevent borrowing or appropriating tax dollars to pay Panama.

That is what my amendment does. It protects the American taxpayer, which the present treaties do not do.

Mr. MATSUNAGA. Does the Senator yield the floor?

Mr. THURMOND. Unless the Senator wishes to propound some questions.

Mr. MATSUNAGA. I want to take my own time now.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, it is impressive to listen to all of the expenditures involved in the operation of the canal, but the point I was trying to make during colloquy with the Senator from South Carolina is that his amendment will not in any way alter or eliminate one item of the expenses involved.

His amendment would provide that to the extent the operating revenues of the canal exceed all operating expenses of the Panama Canal Commission, only then would payments be made to Panama.

But it would in no way alter the expenditures which would be required in the operation of the canal. Much has been made about saving the taxpayer, saving the taxpayer. Repeatedly, we have pointed out, those of us who support the Panama Canal Treaty, that under the new treaty, the American taxpayer will not be required to pay any additional funds because the United States will have actual control over the canal, over the operation of the canal, over the determination of the toll charges. So that, considering the trend of increasing revenues from tolls collected, we expect sufficient revenues to pay the expenses. If the opponents of the treaty wish to defeat the treaty, it would mean the retention of the status quo under which, today, only about $500,000 comes from the Panama Canal Company and the remainder of the $2.3 million which we pay to Panama comes from appropriated funds out of the U.S. Treasury, which means out of the taxpayers' pockets.

Therefore, if the opponents of this treaty and the proponents of the amendment being offered by the Senator from South Carolina really mean that they want to save the taxpayers some money, they will support the treaty as it has been proposed, for, in fact, the projections indicate and those of us who support the treaty are confident that the provisions of this treaty can be carried on without assessing the American taxpayer any additional funds.

I reserve the remainder of my time.

Mr. THURMOND. Will the Senator yield?

Mr. MATSUNAGA. I am happy to yield to the distinguished Senator from South Carolina.

Mr. THURMOND. If there is a deficit down there while operating the canal, where is the money coming from?

Mr. MATSUNAGA. The Senator from South Carolina has provided figures. We proponents of the treaty have provided figures. It is a matter of whether or not you care to believe the figures as they are presented. I am sure that the Senator from South Carolina has seen projections of the collections. I wish I had them handy to me.

Here we are.

Mr. THURMOND. Mr. President, I am not speaking of projections. I am asking a simple question.

Mr. MATSUNAGA. I am answering the question the Senator has put to me.

Mr. THURMOND. If there is a deficit down there, where is the money coming from?

Mr. MATSUNAGA. From the tolls.

Mr. THURMOND. Suppose they are not sufficient.

Mr. MATSUNAGA. Well, suppose. You know, just as you can suppose anything, you can suppose that the world will come to an end tomorrow. Projections are based on the experiences of the past. If experiences of the past mean anything, then we proponents of the treaty feel that the projections we have presented for the record can be relied upon.

I remind the Senator from South Carolina of projections such as the following: In fiscal year 1979, it is anticipated that with no toll rate increase, we shall have collections, in millions of dollars, of $194 million. This is in fiscal year 1979.

With a 15-percent increase, the anticipated toll collections will be $222.5 million; with a 5-percent increase, $240 million. It is expected that a 30-percent increase might be sufficient to meet all expenses and, in 1979, it would bring in $248 million; in 1980, $250 million; in 1985, $256 million; and in the year 1990, $273.2 million.

Now, compare this to what we collected last year. It was only $165 million. So, by 1990, with a 30-percent increase in toll rates, we shall increase the tolls by over $100 million. This is how we are going to be able to pay Panama the amounts agreed to in the treaty without requiring the taxpayer to pay any additional taxes.

Mr. GRIFFIN. Will the Senator from South Carolina yield?

Mr. THURMOND. I do not believe I have the floor.

The PRESIDING OFFICER. The Senator from Hawaii has the floor.

Mr. THURMOND. I was asking him a question. I asked the simple question that, if there is a deficit in operating the canal, where will the money come from? His answer, in effect, as I understand it, is that it is projected there will be enough funds from tolls to take care of it.

My point is if there are not enough funds, if there is a deficit, where is the money coming from?

Mr. MATSUNAGA. I shall respond to the Senator from South Carolina, as I

thought I had responded, by saying by increasing the toll rates so as to meet the necessary expenses. Of course, in the meantime, we could borrow from the Treasury. There is nothing to keep us from borrowing from the Treasury and then increasing the tolls, then make greater collections and pay back into the Treasury. When I say "we" I mean the Panama Canal Commission.

That is the way to do it, just as in the operation of any business. When a businessman goes into debt one year, he borrows from the bank and makes adjustments, either to cut down costs or increase income. In the case of the operation of the canal, it is simple to increase the toll rates, because, while we are charging only $1.29 per Panama ton, the Suez Canal is charging $2.56, I believe. So that a 30-percent increase would mean nothing at all and a projection with a 30-percent increase will mean that we will not go into deficit.

Mr. THURMOND. Governor Parfitt indicated that you can increase tolls to a certain point and after that, you have a diminishing return. If you do and if there is still an operating deficit, where is the money coming from?

Mr. MATSUNAGA. Well, I suppose with the Senator from South Carolina taking the position that he has taken, nothing the Senator from Hawaii says will appease him, much less convince him.

Mr. THURMOND. The Senator from Hawaii is familiar with Mr. Staats.

Mr. MATSUNAGA. I repeat, with a 30-percent increase, it is expected that we will have no deficit at all and we will not need to assess the taxpayer any additional tax dollars in order to carry out our bargain of the Panama Canal Treaty.

Mr. THURMOND. The Senator is familiar with Mr. Staats. Let us see what he says about it. Mr. Staats is Comptroller General of the United States, appointed by a Democratic President, a good man. Let us see what he says:

> If the canal transits fall short of what is currently estimated, it is possible that toll revenues will be insufficient to cover the cost of the Commission, including the scheduled payments to Panama. In this eventuality,

In this eventuality—

> the United States Government is likely to be required to provide financial assistance either through congressional appropriations or by allowing the Commission to borrow from the United States Treasury.

So, where is the money coming from except the U.S. Treasury if there is a deficit?

Mr. MATSUNAGA. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. MATSUNAGA. I reserve the remainder of my time. If the Senator from South Carolina wishes to continue, he might use the remainder of his time.

Mr. THURMOND. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from South Carolina has 9 minutes remaining.

The Senator from South Carolina.

Mr. THURMOND. Mr. President, I am pleased to yield now to the able Senator from Michigan, if he has a question.

Mr. GRIFFIN. The Senator from South Carolina was seeking to get the Senator from Hawaii to answer a very simple question. Of course, I have not listened to the whole debate and maybe this has been referred to several times. But it seems to me the answer to his question is very simple. It is spelled out clearly in the treaty. There is not any question, legally speaking, under the treaty, if it should be ratified, of who is going to be responsible if there is a deficit. It is fine for the Senator from Hawaii to predict and presume, and everything else, that there will not be a deficit. Maybe he is right. But the question as I understand it, of the Senator from South Carolina is, who is going to pay for it if there is?

Under article XIII of the Panama Canal Treaty, it says very clearly that upon the termination of this treaty in the year 2000, the Panama Canal shall be turned over to Panama in operating condition and free of liens and debts.

Well, there is no way the United States can turn it over to Panama in the year 2000 free of liens and debts unless the United States pays all the bills.

So the answer to the Senator's question is that if there is a deficit, the U.S. taxpayers will have to pay it.

Mr. THURMOND. That is exactly right.

Mr. GRIFFIN. We have an obligation under the treaty to do it.

Mr. THURMOND. That is exactly right. That is the position I take with the Senator from Michigan.

I want to say this, there is no question the Treasury is going to have to pay these three items under any condition. No. 1, early retirement costs, $7.5 million for 22 years, $165 million.

I see the distinguished chairman of the Appropriations Committee here and I am glad he is here, because we think this is very important.

Two, Department of Defense costs, primarily schooling costs, $5 million for 22 years, $110 million.

DOD costs, one-time base relocation, $43 million.

So there is $165 million, $110 million, and $43 million that will definitely have to come out of the Treasury. There is no question about it. It cannot come from anywhere else.

Now, a fourth item is that we are going to lose, the Treasury is going to lose, interest of $20 million a year for 22 years, and that will cost the Treasury $440 million more.

Therefore, we have got a loss to the Treasury that we cannot dispute, I think anybody will acknowledge this, of $758 million, that is a direct loss to the Treasury. We cannot get around that.

What I am trying to do with this amendment is to prevent any further loss to the Treasury, to provide that if there is any operating deficit down there, that the first funds there will go to pay that, rather than to go to pay Panama.

The $758 million we cannot get around. We are going to lose that. That is definite. But I do not want to see us lose more than that. That is the reason I offered this amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. ZORINSKY). The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, in deciding whether or not to support the amendment offered by the Senator from South Carolina, we need to look at the situation as it exists now and the situation which will prevail after the new Panama Canal Treaty is adopted.

Nothing in the treaty—I repeat, nothing in the treaty—would permit the utilization of taxpayers funds without the prior authorization of the Congress of the United States.

Presently, as I pointed out to the Senator from South Carolina, we are paying $1.8 million out of the U.S. Treasury, out of appropriated funds, and only $500,000 of the $2.3 million paid annually to Panama comes from the Panama Canal Company.

So that what we are, in fact, doing by provisions of the Panama Canal Treaty is what the Senator from South Carolina himself is proposing, assuring that the American taxpayer will not be required to pay any additional taxes for payments to the Republic of Panama.

So talk about trying to do things which will mean additional taxes for the American taxpayer, it is clear on the face of the treaty, by the evidence presented by proponents of the treaty, that nothing in the treaty will require additional assessment of taxes on the American taxpayer for the purpose of carrying out the provisions of the treaty.

I yield back the remainder of my time.

Mr. THURMOND. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from South Carolina has 4 minutes remaining.

Mr. THURMOND. Mr. President, I just want to state that a statement was made there about raising the tolls and it is projected the tolls will be sufficient.

Again, I want to quote Mr. Staats, the Comptroller General of the United States. He has expressed concern as to how high we can raise these tolls, just as Governor Parfitt has, a major general who is in charge down there, the Governor of the Panama Canal Zone. He has raised the same point.

Here is what Mr. Staats has had to say:

> It seems to me that there are some very real concerns as to whether we can adjust tolls upward, assuming you do all these things that I have just listed, and still make it possible to operate the canal without serious deficits.

So Mr. Staats has very serious concerns himself as to whether we can operate without deficits.

The point I am getting at, if we do operate with a deficit, where is it coming from? That is what I am asking.

My amendment does not prohibit these payments being made to Panama. It merely says that the necessary expenses

of the canal must be paid first. I do not see that this can be anything but beneficial for the U.S. taxpayer, who will be called on to subsidize Panama when deficits occur unless this amendment is adopted. My amendment seeks to protect the American taxpayer.

That is the reason I have offered it here, to provide that we will, in this case, first take care of the operating expenses before we pay money to Panama. Does that not make sense?

They claim they will have enough money for tolls, but suppose they do not have enough money from tolls, then where does it come from? It will have to come out of the Treasury, the same as the other points I mentioned a few moments ago are going to come out of the Treasury—$758 million that we all acknowledge will come out of the Treasury.

Then there will be more money to come out of the Treasury unless we pass this amendment or adopt something similar to take care of the situation.

That is what I have tried to do with this amendment.

Mr. GOLDWATER. Will the Senator yield for one point?

Mr. THURMOND. I am pleased to yield to the able Senator from Arizona.

Mr. GOLDWATER. Just one point in the testimony we heard before the Armed Services Committee.

The statement was made before the Armed Services Committee that regardless of who had control of the canal, the United States or Panama, that by the year 2000 the tolls would go up 100 percent to 105 percent.

Mr. THURMOND. I think that is the indication right there as to how high the tolls are going, and Governor Parfitt and Mr. Staats and others have expressed their concern, because when tolls reach a certain amount, then it will be unprofitable to go through the canal.

You have goods from the west coast coming to the east coast by way of truck or by train. When you have that, because it is cheaper, the income from the canal will be less; and when the income from the canal is less, who is going to make up the deficit?

I am trying to provide that Panama will not be paid first, that we pay the operating expenses of the canal before we pay Panama anything. To me, that makes sense.

Mr. President, I yield back the remainder of my time.

Mr. MATSUNAGA. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from South Carolina. On this question the yeas and nays are ordered, that the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Michigan (Mr. RIEGLE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. RIEGEL) would vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT) and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

The result was announced—yeas 56, nays 39, as follows:

[Rollcall Vote No. 96 Exec.]

YEAS—56

| | | |
|---|---|---|
| Anderson | Hart | Matsunaga |
| Baker | Haskell | McGovern |
| Bayh | Hatfield, | McIntyre |
| Bellmon | Mark O. | Melcher |
| Bentsen | Hathaway | Metzenbaum |
| Biden | Hayakawa | Morgan |
| Bumpers | Heinz | Moynihan |
| Byrd, Robert C. | Hodges | Muskie |
| Case | Hollings | Nelson |
| Chafee | Huddleston | Pearson |
| Church | Humphrey | Pell |
| Clark | Inouye | Percy |
| Cranston | Jackson | Proxmire |
| Culver | Javits | Ribicoff |
| Danforth | Kennedy | Sarbanes |
| Durkin | Leahy | Stafford |
| Eagleton | Long | Stevenson |
| Glenn | Magnuson | Weicker |
| Gravel | Mathias | Williams |

NAYS—39

| | | |
|---|---|---|
| Allen | Goldwater | Sasser |
| Brooke | Griffin | Schmitt |
| Burdick | Hansen | Schweiker |
| Byrd, | Hatch | Scott |
| Harry F., Jr. | Hatfield, | Stennis |
| Cannon | Paul G. | Stevens |
| Chiles | Helms | Stone |
| Curtis | Johnston | Talmadge |
| DeConcini | Laxalt | Thurmond |
| Dole | Lugar | Tower |
| Domenici | McClure | Wallop |
| Eastland | Nunn | Young |
| Ford | Randolph | Zorinsky |
| Garn | Roth | |

NOT VOTING—5

| | | |
|---|---|---|
| Abourezk | Packwood | Sparkman |
| Bartlett | Riegle | |

So the motion to lay on the table Mr. THURMOND's amendment (UP No. 24) was agreed to.

Mr. CLARK. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. McGOVERN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order the Chair recognizes the Senator from Virginia (Mr. SCOTT).

Mr. CLARK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

We will have order in the Senate Chamber. All Senators wishing to carry on personal conversations please retire to the cloakroom.

The Senator from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. President, it is understood that we will have a final vote on the canal treaty next Tuesday and I have been considering what additional factors could be presented to the Senate in order to persuade a few undecided Senators to vote against ratification. Attempts to amend the treaties appear to be fruitless and may even detract from Senators comprehending the full impact of ratification of these treaties upon our own country and the future of the free world. Even the alleged dissatisfaction with one reservation by Panama could divert us from concentrating on whether ratification of the canal treaty is in the national interest.

We have had more than 50 amendments offered to the treaties to date. Most of which have been defeated by motions to table. But in one way or another all but two, the so-called leadership amendments, have been defeated. Therefore, rather than offering an amendment at this time, I would like to address the basic question as to whether the canal treaty should be ratified by the Senate.

A few days ago a long time friend and constituent stopped by the office and the first thing he mentioned was that from our point of view this treaty just did not make sense. Frankly, I believe this is the opinion of the vast majority of the American people and since we are here in a representative capacity this factor should weigh very heavily upon our minds. Of course, I agree with statements made by a number of Senators that the people of our respective States elect us to the Senate to inform ourselves on the issues and to exercise our best judgment on how to vote. They do look to us for leadership and I make no suggestion that our judgment should be determined by computers. Nevertheless, in my judgment the weight of public opinion should be a major factor to be considered.

The Neutrality Treaty ratified by a close vote of the Senate a few weeks ago is entirely different from the canal treaty now before us. The word neutrality has a good ring to it and one might assume that if the canal was operated on a neutral basis, it might be for the benefit of all mankind. However, the canal treaty now before us would give away American property; property we obtained through the payment of $10 million to the Republic of Panama; property for which we paid private owners and squatters something over $4 million; property for which we paid the French company that had attempted to construct the canal, $40 million; and property for which we later paid Colombia, the nation from which Panama was created by secession, the sum of $25 million.

The Canal Zone is part of the unincorporated territory of the United States. It is an area in which we put the genius of America to work, succeeding in constructing a lock canal where the French had failed in constructing a sea level canal, an area within which we first conquered yellow fever, contained malaria, provided modern water and sewage systems, and healthy living conditions for a tropical jungle. Over the years we have increased the annual payment to Pan-

ama from $250,000 to approximately $2.3 million at the present time, this amount representing the payment that had been received by Colombia from the French company for the Panama Railroad which continues to parallel the canal across the Isthmus.

Over the years we have maintained the canal in proper operating condition and have permitted all nations of the world to utilize it at cost and without profit to the United States. So it is understandable, Mr. President, that the people of the United States do not consider it sensible to give away this valuable national asset, this vital artery of commerce with its strategic military importance, to a nation with a history of instability, presently headed by General Torrijos who overthrew a lawfully elected government to become chief of state.

I believe Senators should reflect upon the type of government we have in the United States and the part the people of our country should play in the decisionmaking process. I also believe we should consider conditions as they exist throughout the world, the proximity of Cuba, its activities in Africa, the Soviet buildup, and the possibility of Communist control of the canal in the future.

Virginians continue to indicate their strong opposition. A poll taken by our office indicates that 87 percent of the people are opposed to ratification and the ratio of our mail is even heavier against the treaty. Of course we know that the President, the State Department, and the Senate leadership all favor ratification of the treaty, and that efforts have been made to educate the American people, to the administration's point of view.

Nevertheless, the American Legion, the Veterans of Foreign Wars, various retired military associations and patriotic groups are opposed to ratification as well as citizens at large and it does seem that the ultimate decision in matters of such great national importance as this treaty should be made by the American people. This was the concept when our government was formed. Alexander Hamilton recognized it during the debates on the Constitution in 1778 when he said: "Here sir, the people govern." Thomas Jefferson, in various letters written after he left the White House, agreed with Hamilton's statement. He said in 1820:

> I know of no safe depository of the ultimate powers of the society but the people themselves.

Further on in the same letter he states:

> My personal interest in such questions is entirely extinct.

And I assume this is because he had left the White House more than 10 years previously and was living at Monticello, however, he added:

> But not my wishes for the longest possible continuance of our government on its pure principles.

Mr. President, I believe each Senator should be, and is concerned about the longest possible continuance of our Government on its pure principles, as Jefferson suggested.

In this connection, we can learn much from history and at a time when we are attempting to placate those agitating in Panama who covet the canal we constructed, we might look back to some of the events immediately prior to World War II and consider the parallel between efforts to appease Adolph Hitler when he was violating the Versailles Treaty, secretly building up Germany's armed forces, reoccupying the Rhineland, forming an alliance with the then dictatorship of Mussolini in Italy, coveting Czechoslovakia, Austria, and the Ukraine. You will recall Neville Chamberlain, then Prime Minister of Great Britain, going to Munich in 1938 with the head of the French Government, their meeting with Hitler and Mussolini and agreeing to German military occupation of the Sudetenland and a plebiscite to determine whether additional areas in Czechoslovakia should be annexed by Germany. This concession was made on September 30 and less than 6 months later, in March of 1939, the Germans occupied all of Czechoslovakia leading to World War II. This is history and, yet, we know that Chamberlain returned to England in triumph holding a piece of paper stating, "I believe it is peace for our time." Subsequent events proved him wrong and the fears of Winston Churchill regarding appeasement to be right. Somehow, Chamberlain and his umbrella, the concept of appeasement, seem to be relevant to the matter now under consideration by the Senate. I know it is contrary to Senate custom and decorum to carry canes on the floor of the Senate but perhaps it would be appropriate for those who favor appeasement to carry an umbrella. Because if we continue to weaken the United States by the actions we take, we may ultimately have cause to regret our actions.

In my judgment, we should think deeply about the various political and military activities present in the world today and the concessions being made from time to time by our Government to appease the appetite of aggressive nations whose philosophies are entirely foreign to our own.

In today's world we see Vietnam military forces in Cambodia, North Korean, and South Korean military forces facing one another at the 38th parallel, the obvious trouble in the Middle East, but perhaps the most disturbed continent in the world today is Africa with many thousands of Cuban troops acting as surrogates for the Soviet Union, along with a number of other Eastern European nations.

Of course a major part of our military forces abroad are in Western Europe forming part of the NATO forces facing the Warsaw Pact nations.

It is generally conceded that the Warsaw Pact nations have superior conventional forces in Europe, but that the tactical nuclear weapons of the United States and NATO nations are the major deterrent to the Communist forces overrunning Western Europe should they choose to do so. But our Nation is indecisive as to the manufacture and use of the neutron bomb, we have decided against the B-1 bomber, we are negotiating a SALT II treaty which supposedly would permit the Soviet Union to have unlimited numbers of Backfire bombers, no onsite inspection of the Soviet Union forces even though we are told of the advances they have made on a killer satellite that might end our satellite observations of their military activities.

We should remember that our own Defense Department, in testimony before the Armed Services Committee, has indicated that Soviet strategic offensive forces have increased drastically within the last decade:

Intercontinental ballistic missiles from 224 to over 1,400.

Sea-launched ballistic missiles from 120 to 900.

Strategic warheads from 390 to 4,000.

Since 1965 Soviet conventional forces have also expanded substantially:

Military personnel from 3.3 to 4.4 million.

Divisions from 147 to 168, with added tanks, artillery, and armored personnel carriers.

Two thousand additional tactical aircraft, combined with the introduction of more sophisticated aircraft.

Naval forces with greater missile firepower, more nuclear-powered attack submarines, greater fleet range, and the construction of three small aircraft carriers.

We cannot afford to ignore the Russian buildup of its military and naval forces; of its support for revolutionary movements throughout the world; Soviet pilots flying Mig aircraft in Cuba; or Russia supplying weapons and materials for Cuba to intervene in the internal affairs of other nations; of Egypt, Ghana, and Somalia finding it necessary to expel the Russians; of Canada expelling more than a dozen Russian diplomats for attempting to bribe Canadian citizens to obtain intelligence information.

All these happenings add credence to the warning of the former Chairman of our Joint Chiefs of Staff, Adm. Thomas H. Moorer, in testimony on January 31, before our Senate Armed Services Committee. He said:

> The defense and use of the Panama Canal is wrapped inextricably with the overall global strategy of the United States and the security of the free world. I submit that, if the United States opts to turn over full responsibility for the maintenance and operation of such an important waterway to a very small, resource poor and unstable country as Panama and then withdraws all U.S. presence, a vacuum will be created which will quickly be filled by proxy or directly by the Soviet Union as is their practice at every opportunity.
>
> So, Mr. Chairman, and members of the committee, do not be surprised if this treaty is ratified in its present form to see a Soviet and/or Cuban presence quickly established in Panama. In any event, any confrontation over the "neutrality" of the canal then becomes a confrontation with the Soviet Union rather than the Panamanian guerrillas or terrorists. With the Soviets already on the scene, as Senator Goldwater has pointed out, fighting our way in—with or without the help of the small 1,500 man Panamanian Army will not be without unnecessary loss of

U.S. men and material, not to mention loss of the use of the Canal.

I believe a permanent United States presence in the Panama Canal Zone to be the only feasible and safe posture for all of the nations of this hemisphere. In saying this I must also emphasize that the year 2000 is meaningless insofar as the requirements for the security of this hemisphere are concerned. The threat, the problems, the global balance will not change as if by magic in the year 2000, so why should we pass this dilemma down to our children and grandchildren?

Let us remember that this same Admiral Moorer, as Chairman of the Joint Chiefs of Staff, was our No. 1 military man from 1970 to 1974. Although he is presently retired, I believe his opinions are entitled to great weight.

There seems to be a strange logic that the United States would be in a better position if we reduced its present military installations in the Canal Zone from 17 to 4 after the treaties are ratified and entirely withdraw our military presence from the canal by the year 2000. The argument goes that, with a friendly Panama, the canal would more likely be available for the use of U.S. commercial and military ships.

Mr. President, on page 35 of part 3 of the hearings before the Committee on Foreign Relations, the distinguished Senator from Idaho (Mr. CHURCH) posed a number of questions to Admiral Moorer, the substance of which was why the leftists and Communist groups in Panama were so outspoken in opposition to the proposed treaties. And it has been mentioned on the floor a number of times during this debate that the Communist party oppose the treaties. However, the World Marxist Review; "Problems of Peace and Socialism," contains articles indicating Communist support for the treaties. According to the Library of Congress, this paper is the American edition of a Prague publication. It is a leading theoretical journal of the Communist movement from an international standpoint. It contains programs and party decisions, and articles on the parties of specific countries. In the February issue of the World Marxist Review, an article entitled "For Panama's Complete Independence," on page 89, it expresses these thoughts:

We live in an epoch in which imperialism is losing ground. Its positions are growing weaker and it has suffered one strategic defeat after another in many parts of the globe. The imperialist structure is being rent asunder at various levels, and one example is the distintegration of the colonial system.

Let us note that the difficulties now faced by imperialism stem not only from the fact that it has outlived itself, and is being eroded by its internal crisis. They are also the result of the crushing blows by the progressive forces, which are growing stronger all over the world and which are inspired above all by the socialist community, headed by the Soviet Union, which sprang from the great October Revolution and which has blazed for mankind the trail for triumphant national liberation and social emancipation. The potential accumulated by the world revolutionary movement and the active, mighty, sustained, systematic and vigorous struggle of all the anti-imperialist forces of the globe are the main reason for the weakening of the positions of imperialism. In the new historical conditions, it no longer has any firm ground anywhere. In all its possessions, far or near, which imperialism once found it easy to maintain, the firm ground everywhere has been converted into shifting sands.

The same publication contains an article, dated September 7, 1977, by the Political Bureau, Peoples Party of Panama, which concludes with the following paragraph:

We, Panamanian Communists, support the treaty signed by Torrijos and Carter inasmuch as it is a vehicle of our country's decolonization and point out the need for strengthening anti-imperialist national unity in order to advance toward complete liberation through the defeat of the imperialist oligarchy in all areas and consummate the structural transformations launched in preceding years.

We have taken a step forward. The struggle continues.

Mr. President, I would reiterate the statement, "We, Panamanian Communists, support the treaty signed by Torrijos and Carter.

I believe, Mr. President, that all Members of the Senate know that the Communist party operates in mysterious ways; but their publications, prepared for their own membership, would appear to me to be a good source of information of their real opinions.

What is ignored here is to whom we are giving the canal—today to General Torrijos and tomorrow to who knows what Government in Panama, given that country's political instability.

Let us recall for a moment who General Torrijos is. He is the dictator of Panama who took over that country from a lawfully elected government "at the point of a gun" in 1968. He is the same dictator who has increased the national debt of Panama from some $167 million to over $1.5 billion, the highest per capita national debt in the world. He is the dictator who has compiled a dismal record on human rights, according to Freedom House. He is the same dictator who has open admiration for Castro and who, on his return to Panama after signing the treaties in Washington last fall, sent the following message to Castro:

On my return trip to my country and flying above the sky of Cuba, I salute you with friendship always . . . In Latin America, your name is associated with feelings about dignity that have been channeled toward a shameful period of colonialism.

This is the same Fidel Castro who has thousands of Cubans in Angola, several thousand Cubans in Ethiopia and, apparently, sees a need to have Soviet pilots fly air defense missions for him in Cuba. Torrijos is the same dictator who has never met the American Governor of the Canal Zone. This according to testimony of the Governor. I asked Governor Parfitt, when he testified before the subcommittee on separation of powers of the Judiciary Committee, his personal opinion as to Communists within the structure of the Government of Panama.

Governor Parfitt, an active major general in our army, responded:

I believe the general consensus is that the Panamanian government itself is not communist-leaning, but advisers in various places within the government are in fact Communists.

I asked, "This would be advisers to General Torrijos? Some of his advisers are believed to be Communists?"

Governor Parfitt answered, "That is correct."

Let me add that Governor Parfitt also testified at this hearing that our Government did not ask him whether the proposed treaty should be negotiated. It seems untenable that the top U.S. official, the Governor of the Canal Zone, would not be asked his opinion before the treaties were signed.

So, it does not appear that we would be giving up our $10 billion canal to any great or reliable friend of the United States. This may in part account for the fact that the vast majority of Americans are opposed to ratification of the canal treaty.

Let us look at the attitude of Latin America toward these treaties Mr. President, one of the great myths surrounding these treaties is the view that the United States will alienate all of Latin America if we do not ratify these treaties. The administration would have us believe that all of Latin America strongly supports U.S. turnover of the canal to Panama.

Let us address this point. When former Deputy Secretary of Defense Clements testified before the Armed Services Committee, he indicated that Robert Hill, former Ambassador to several Central and South American countries, asked him to inform the committee that his contacts indicated most of these countries did not favor the treaties, because they were "convinced it would be an added cost to their economy" and because they were concerned "with respect to the security of the canal" since most of their trade depends upon efficient and economical operation of the canal.

At a meeting of the Organization of American States last year, the nations of Latin America passed a resolution by an overwhelming vote of 17 to 0 with three absentees to reaffirm:

The principle that the Panama Canal tolls should exclusively reflect the actual operating costs.

Panama abstained from this vote and apparently implicitly criticized the Organization of American States (OAS) for even considering the matter.

When Lt. Gen. Gordon Sumner, Chairman of the Inter-American Defense Board, testified before the Armed Services Committee he stated that the 19 countries of Latin America which comprise the Inter-American Defense Board:

Look at this canal as the "Canal of the Americas" and it is important to those countries."

When asked concerning the views of Inter-American Defense Board countries on the treaties, General Sumner stated that he had talked to:

The presidents, the ministers of defense and the high level military people of the 17 countries besides the United States and Pan-

ama, and that all express a very grave concern about the treaties.

He testified that—

They see the possibility here for conflict. They also see the possibility for mischief making by the Communists.

He went on to add that all of these countries have "some type of Communist subversion or terrorism going on within their countries." General Sumner indicated that all members of the Inter-American Defense Board have "expressed reservations about the fact that the United States will no longer be in Panama. Once we do not have the bases there, then the entire area becomes destabilized."

From my own visits to Latin America last year, I can confirm the views of both Ambassador Hill and General Sumner. There was considerable concern, particularly in countries on the west coast of South America, concerning possible toll increases. The countries of Latin America were also worried about the possible involvement of Communists in Panama once the U.S. presence there was reduced or eliminated.

It would appear that we should consider the effect of ratification on American citizens located in the Canal Zone. According to testimony of General McAuliffe before the Committee on Foreign Affairs, there are more than 30,000 Americans residing in the Canal Zone. Roughly 20,000 are military personnel and their dependents and approximately 10,000 civilian employees of the Canal Company with their dependents make-up the remainder of the 20,186 Americans. These American citizens have made their objections to the treaties known in a variety of ways. Of course, in the event the treaty is ratified, we would extinguish the U.S. jurisdiction in the Canal Zone. We would terminate its legal, its national presence there. We would terminate all of the inherent rights of our country under the 1903 convention and all subsequent agreements between the United States and Panama. We would place our citizens there, resident citizens, American citizens in Panama, including members of the Armed Forces and their dependents, under Panamanian jurisdiction.

Suggestions have been made by proponents of the treaty that we have in some manner been unfair to the Panamanian people. Yet, on checking with the State Department, we find that Panama receives one of the highest per capita levels of U.S. assistance among the nations of the world. During the 6 years between 1971 through 1976 for instance, our average annual assistance through the AID program was just over $27.6 million, or a grand total of $165.6 million to a nation with a population of approximately 1.7 million persons.

Panama has also participated extensively in loan activity with the Export-Import Bank during recent years. We continue to be Panama's principal trading partner, and private U.S. capital has invested heavily in the country.

The number of banks in Panama has increased from 21 in 1967 to 71 in 1977 with total assets of $9.7 billion. I note from the CONGRESSIONAL RECORD of October 25 of last year that the chairman of the Senate Banking Committee (Mr. PROXMIRE) state on page 34964 that the data supplied by the Bank Regulatory Agency show United States banks had total claims on Panama of $2.831 billion as of December 31, 1976. Individual Senators can form their own judgment as to what part, if any, the banking interest has in ratification of these treaties.

Mr. President, when we consider what the United States would lose, we should bear in mind that the Canal Zone is more than just a location for a big ditch that connects the Atlantic to the Pacific Oceans. There are military and civilian facilities located within the approximately 650 square mile Canal Zone area. According to a report prepared by the Panama Canal Company in September 1977, the improvements within the zone have a replacement value of $9.81 billion. This is the value of the American property that we would give away. This does not include the value of unused Canal Zone land estimated to have a value of $115 million. It is interesting to note also from the report of the Canal Company that the country of Panama has received gross payments and income from the Canal Zone from 1963 to the present of $1.8 billion. That is for a period of 17 to 18 years and includes the annuity, wages and salaries to Panamanians, direct purchases, retirement payments and resident expenditures. It does not include foreign aid rendered by the United States to Panama which I previously referred to.

You may recall last month I had a four-volume computer printout on the Senate desk weighing 47 pounds, more than 1 foot high, and used it as a podium from which to speak. The computer printout is still in the office if any Senator would care to examine it and it contains a breakdown of the current replacement value of U.S. improvements in the Canal Zone.

A General Services Administration report on the real estate owned by the United States indicates that our Canal Zone Government has a total of 266 buildings having a gross square foot area of 2,482,037 square feet. It includes buildings of various types, 10 which are used for offices, 32 for hospitals, 3 for prisons, 110 for schools, 22 for other institutions, 6 for housing, 6 for storage, 2 for services, 5 for research and development, and 70 for all other purposes.

A similar report of U.S.-owned real estate in the Canal Zone under the jurisdiction of the Panama Canal Company includes 2,647 buildings of various kinds having a total gross square foot area of 10,456,489; 34 of which are used for offices, 2 for schools, 1 for other institutional purposes, 2,005 for housing, 161 for storage, 29 for industrial purposes, 151 for services, and 264 for all other purposes.

This report, however, does not include the improvements on various military bases within the Canal Zone. You will remember, however, that I made a somewhat detailed report and had pictures on the floor of the Senate illustrating both the military installations and the civilian ones. I still have these pictures if any Senator would care to look at them.

Let us now turn briefly to some of the financial aspects of the canal treaties, to the loss of income to our Government or direct cost to our Government should the canal treaty be ratified between the date of ratification and the date of the termination on December 31, 1999. Without going into detail there will be a loss to the U.S. Treasury of $440 million in annual interest payment on the U.S. investment for the construction of the canal; early retirement costs of $165 million; Department of Defense costs of $110 million; one-time base relocation costs of $43 million. This totals the sum of $758 million as a minimum cost to our taxpayers for giving Panama a $10 billion Canal Zone.

As Senators know, Panama will also receive from canal tolls under the provisions of the treaty; first, 30 cents per ton for all cargo transiting the canal. This is estimated to be $40 million per year, or a total of $880 million during the term of the treaty. Second, a fixed annuity of $10 million per year, or $220 million for the 22-year term. Third, $10 million per year for certain services such as police and fire protection, or $220 million for the 22-year period; and fourth, $10 million per year from tolls if revenues exceed expenditures and should economic conditions permit. This is an additional $220 million, or a potential total of $1.5 billion as a minimum since some of these payments will be adjusted for inflation.

So, Mr. President, I can readily see why Panama has coveted the U.S. territory over the years, and most heartily agree with the visitor who stopped by the office earlier this week and said from the U.S. point of view, these treaties just do not make good sense.

My opposition, in a broad sense, is that the treaties are written in a way to meet the demands of Panama and to further the best interests of Panama rather than the best interests of the United States. At the present time the United States has possession and control of the canal. From the viewpoint of our own national interest there is no need to negotiate a new treaty. In my judgment, we do not obtain any benefits from these treaties but we lose substantially all of the interests we now have in the Canal Zone. It would appear that our negotiators have been willing to give Panama anything it wanted and that Panama has wanted everything it could get. This has resulted in a one-sided treaty. A treaty that, in my opinion, is not in the interest of the United States or in the interest of the free world.

Mr. President, I have a number of amendments that may possibly be offered at a later date, one of which would have the United States retain the ownership of the Canal Zone, but would provide for a multiple nation control of the Canal Zone.

I have hesitated to introduce that at this time because of seeing amendment

after amendment, regardless of its merits, being subjected to motions to table without the amendments being considered on their merits. But I do reserve the right and would advise the Senate that this amendment, together with others, may be offered at a later time.

I have an amendment that would provide that Panama would get an annuity of $10 million per year and then if the amendment should be adopted would move to strike the other provisions of the treaty.

That would mean we would continue the same conditions as we have today, except we would increase the annuity for Panama from $2.3 million to $10 million.

Certainly, to me, that would be a charitable act on behalf of the United States.

Mr. THURMOND. Mr. President, I compliment the able and distinguished Senator from Virginia for the address he has just delivered.

The Senator from Virginia has been to Panama. He has seen firsthand the situation down there. He has visited in the Panama Canal Zone. He has talked with employees down there. He has talked with the Governor of the canal. He has talked with the commanding general and the other prominent officials in the Canal Zone. He has talked with officials of the Panamanian Government.

So what the distinguished Senator from Virginia said today is firsthand information. He has proved to be a man of sound judgment, and he has been a valuable addition to the Senate.

I just wish to take this opportunity to congratulate the Senator from Virginia for bringing out these facts today, not only about the Panama Canal Zone and the Panama Canal, but also their relation to the way in which the United States is withdrawing from various parts of the world today, at the very time when the Soviets are increasing and expanding their influence throughout the world.

I hope the Members of the Senate will take time to read the splendid address of the Senator from Virginia and that people outside the Senate will have an opportunity to read it, as it is a very informative and helpful address.

Mr. SCOTT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GLENN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I yield to the distinguished Senator from Alabama (Mr. ALLEN).

Mr. ALLEN. Mr. President, if the distinguished Senator has concluded his remarks and if he would yield the floor, I would ask for the floor in my own right.

Mr. SCOTT. I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, I, too, wish to commend the distinguished Senator from Virginia (Mr. SCOTT) for his very fine and eloquent speech and for his analysis of what the approval of these treaties would mean to the future of the United States, because he sees these treaties as a test of our very will to survive as a great nation, he sees this as a test of whether we are going to retreat around the world every time we meet resistance, and he sees this as a very crossroad in our future, our future as a great world power, and our future as a leader of democratic thought and democratic action.

So much more is involved, as the distinguished Senator points out, than the very important matter of whether or not we shall give the Panama Canal away. Important as that is, it is not the most important feature, and our retreat from responsibility and our retreat from our role as a world power is a greater issue than the giving up of the Panama Canal, the transfer of the property to Panama and the paying of Panama of hundreds of millions of dollars to take the canal. Great as that issue is, it is not as important as the overriding issue of our desire to remain as a great world power and our determination to remain as a great world power, and this giving up of the canal symbolizes a retreat.

I appreciate the fine remarks of the distinguished Senator from Virginia (Mr. SCOTT). I also appreciate the very fine remarks just a moment ago on another subject by the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, Jr.). Certainly the great State of Virginia is well represented here in the U.S. Senate by her two great U.S. Senators.

Mr. SCOTT. Mr. President, if the Senator will yield briefly, he is most gracious in his remarks about me and my senior colleague, and we thank him for it.

Mr. ALLEN. I say that in all sincerity, I assure the Senator, and assure the Members of the Senate.

Mr. President, this is a time for statesmanship on the part of the administration. It is a call for statesmanship, because we have before us treaties that quite obviously do not command the support of the people of either nation. It is quite obvious to the Senator from Alabama that the great majority of the people of the United States oppose giving the canal away and it is quite obvious that the people of Panama are opposed to having the canal given to them under the terms and conditions of the treaties as presently shaped here in the U.S. Senate.

I am hopeful that between now and the time that we are to vote on April 18, that the President will recall these treaties, both treaties. If one treaty is withdrawn, I would assume that both might be withdrawn, because neither can go into effect unless both are approved. I hope that the President will recall these treaties from the Senate, send them back to the negotiating table, with the implicit advice that the Senate has given with respect to these treaties from the debates that have taken place here on the floor—and with the unrest of the Panamanians, as a result of the wording of some of the reservations to the treaty.

The treaties apparently are not accomplishing one of the purposes for which they were designed. We had been assured here on the floor of the Senate before these uprisings and demonstrations took place that the treaties were needed and are needed to prevent uprisings, demonstrations, and the burning in effigy of the President of the United States. We were assured that if the treaties were not agreed to that sort of thing would happen. But now we see that, far from that being the case, if the treaties are agreed to it is going to cause great unrest, great protest, and great demonstrations in Panama.

Mr. President, who is responsible for this dilemma in which we find ourselves? Mr. Torrijos apparently has been maneuvered by action of the Senate into an untenable position, an impossible position. Even though he assured the administration that some of these reservations that have been agreed to were displeasing to him, nevertheless, contrary to the policy that had obtained throughout the proceedings on the treaties, we went ahead and agreed to these reservations that were displeasing to the dictator. Up to that time the procedure in the Senate had been to, in effect, clear everything with dictator Torrijos, see that everything that was done in the Senate was satisfactory with him, and so far as I know as I notice the distinguished Senator from Massachusetts (Mr. BROOKE) has pointed out no one here in the Senate stated that the DeConcini reservation would be unacceptable to Panama. The distinguished Senator from Massachusetts felt that in voting for the DeConcini reservation he was voting for something that the Panamanians would approve, that they did not object to. That seems to be far from the case.

Mr. President, the entire proceedings with respect to the treaty, the tabling of amendments, the acceptance of such reservations as the leadership is willing to take, the adding of the leadership amendments, all of these things had the approval of the administration, the approval of the leadership, the approval of the managers of the bill.

Not one single word has been added to either treaty that did not have the approval of the administration, the approval of the leadership, and the approval of the managers of the treaties, because they march at the head of a substantial majority of the Senators who are able to defeat any amendment they wish, who can accept any amendment they wish, so they have full control of every word that has gone into these treaties, every single word.

The negotiators agreed to it in the negotiations; the treaties were submitted to the Senate, and from that time on every bit of shaping of these treaties, every word that was turned down, every word that was accepted, had the approval of the administration or it would not have come to pass.

That being true, this impasse, this being on the horns of a dilemma, is not the responsibility of those who have opposed these treaties, those who have sought to strengthen these treaties. The impasse, the blame for the impasse, lies directly

at the feet of the administration and the leadership and the managers of the treaties.

Now, Mr. President, when these treaties were submitted to the Senate—let us go back to the very start—President Carter submitted them in the order, first, of the Panama Canal Treaty, the one we are on now; second in order was the neutrality treaty that, in fact, goes into effect starting with the next century—the main thrust of the treaty does.

It was thought, I assume, that by getting the Neutrality Treaty approved first—and who can object to neutrality—by getting the Neutrality Treaty with its elements of right of defense by the United States of the canal, by getting that approved they thought that would set in motion such momentum for the treaties that they would be approved very quickly.

I warned, Mr. President, that the leadership in insisting on taking up the Neutrality Treaty first was depriving many Senators of the right to vote for the Neutrality Treaty. Why? Well, if the Panama Canal Treaty had been approved first then there would have been very little objection to the Neutrality Treaty. It would just have been a question of how much defense was going to be allowed, and once the decision had been made to give the canal away Senators would have flocked to support the Neutrality Treaty.

Some 86 Senators joined the leadership amendment which was supposed to have provided greater defense rights for the United States in the canal.

But the leadership reversed that order of consideration of these treaties, and therein lies their fatal flaw. If they had continued with the order in which they were submitted, the Panama Canal Treaty first, this whole matter would have been disposed of, in my judgment, weeks ago.

I predicted, Mr. President, more than once here on the floor that this reversal of the order of consideration of these treaties would add at least 1 week to the time it would take to act on both treaties. I believe I was too low in my estimate. I believe it has added 2 or 3 weeks to the time taken to consider both treaties.

I firmly believe if we had not seen these treaties changed in the order of their consideration, and in putting the Neutrality Treaty first, which required Senators who opposed the Panama Canal Treaty also to vote against the Neutrality Treaty, whereas they would have voted for the Neutrality Treaty if that had been the second treaty to be considered—so the fatal mistake thus far with respect to the treaties was the order of consideration.

I tried, and 29 other Senators tried, to get that order reversed, to go back to the question of deciding the basic issue first, and everything else would then have been easy, decide whether they were going to give the canal away before we worried about defending it in the year 2000.

A motion was made—the Senator from Alabama made that motion—that we reverse the order and consider the Panama Canal Treaty first. That received 30 votes here in the Senate. If that side had prevailed, and we had considered the treaty we are now considering first, this whole matter would have been disposed of. It would not have been necessary to negotiate with the distinguished Senator from Arizona (Mr. DECONCINI) with respect to his reservation, because Senators would have been falling all over themselves to come forward and pledge their support to the Neutrality Treaty. I believe we would have disposed of the Neutrality Treaty in 2 days time if the basic issue had first been decided.

All these negotiations were out in the open. Nobody is disclosing any secrets. I know of no secrets with respect to the negotiations. It is all a matter of public record that it was necessary in order to pass the Neutrality Treaty to accept Mr. DECONCINI's reservation, and they did accept his reservation word for word.

Mr. DECONCINI voted for the treaty, along with at least two other Senators who based their vote, conditioned their vote, on accepting the DeConcini amendment, and the first treaty was ratified.

Now they are talking about, Mr. President, undercutting, diluting, changing the nature of the DeConcini reservation which had already been agreed to, the treaty with respect to which it had been added had been agreed to, and now they are talking about some sort of language in the Panama Canal Treaty that would supposedly say that we did not mean what the DeConcini amendment says when we agreed to it.

Well, everybody knew what was in the DeConcini amendment. They had been negotiating over it for days. It had been subjected to review by Senator DECONCINI's staff, the Senator himself, by the State Department, and the attorneys for the State Department, by the President himself. They all knew what was in it. It has not got any hidden meaning. It is all right there for anybody to see who bothers to read it.

Now, where the mixup has come is this: We recall that the two leaders stated they could not support the treaty as it was first presented to the Senate, because it did not give us the unilateral right to intervene for the defense of the canal, and the leadership amendment is supposed to have given us that right. But dictator Torrijos very wisely and cannily and shrewdly had inserted in the memorandum between the President and the dictator a paragraph that protected him and his regime, and that protection is absent in the DeConcini reservation, and that is what all the furor is about.

The leadership amendment, based word for word on the memorandum by the President and the dictator, had three items that gave protection to Panama in the event of U.S. intervention for the purpose of defending the canal. The leadership amendment was designed to give us the unilateral right to defend the canal. The DeConcini amendment gives us the unilateral right to keep the canal open—just one little step further, to keep it open—which would involve defense even if it requires, according to the DeConcini amendment, military action on our part. But the DeConcini amendment does not have these three saving clauses that the leadership amendment has: First, that in our intervention we should not interfere with the internal affairs of Panama; second, that in our intervention we should not interefere with the territorial sovereignty of Panama; and third, that we should not interfere with the independence of Panama. Those three savings clauses are in the leadership amendment, but they are not in the DeConcini amendment, and that is where the slip-up came.

The dictator was willing to take the leadership amendment, because there was as much in the leadership amendment for him as there was for the United States. But under the DeConcini amendment we are given a defensive right without any burden; so therein lies the basis of the Panamanian objection.

It did not come as a surprise to the administration that Torrijos objected to this amendment, and they exchanged letters on March 15, the dictator and the President, wherein the dictator raised objections to the reservations that he saw coming, but he was assured by the President that the reservations would not interfere with the spirit of the agreement that he and the dictator had reached.

So I feel that in the next few days, strange things are going to happen here on the floor of the Senate. They are going to try to placate the Panamanians. They are going to try to weaken the DeConcini amendment, even though it has already passed, and on the basis of the DeConcini amendment three votes were cast for the treaty. Having obtained the fruits of the agreement as to the DeConcini amendment, having gotten the benefits of that agreement—that is, the approval of the treaty—now they are going to want to put something in this treaty to placate the Panamanians. I do not know whether that is going to give offense to those who voted for the treaty on account of the addition of the DeConcini amendment. I rather imagine it will. But here we are going to be playing one side against the other, trying to make concessions here without losing support there, and I do not know whether that tightrope can be walked.

I would have hoped that the U.S. Senate would not be subjected to that ordeal. I do not know what the outcome is going to be on these treaties, but I say if they are agreed to it is not going to be any great credit to the United States of America. It is not going to fulfill the promises that were made with respect to what these treaties would do. They were supposed to be good neighbor gestures. They are supposed to allay hostility, anti-Americanism. Why, they just add fuel to the flames, Mr. President; and that is the reason why I say that the time has come for statesmanship in this regard.

I hope that the Senate will not be required to doctor up this second treaty to try to please the Panamanians, to try to please those Senators who rested their faith in the administration when they accepted the DeConcini amendment, and now see the prospect that in this instrument they are going to try to take back

what they said in the DeConcini amendment.

That is not going to look too good on the part of the United States, Mr. President, to accept an amendment that has undergone close and careful scrutiny, every word weighed, and then accepted by the leadership, accepted by the managers of the bill, and accepted by the President.

Now they say, "Oh, we must do something to clear up the questions over the DeConcini amendment." Well, if you do that, if you backtrack on that, you are certainly running the risk of losing both treaties.

Mr. President, rather than see the treaties defeated outright on next Tuesday, would it not be the better course of wisdom, the better course of diplomacy, and the better course of statesmanship to have these treaties recalled? It can be done. Have these treaties recalled, then have further negotiations take place in the light of this debate, in the light of the defects and ambiguities of both treaties, study these debates here in the Senate, feel the pulse of the Panamanians a little bit closer, and come up with a treaty that might well be as acceptable to a two-thirds majority here in the Senate, and that might be acceptable to the Panamanians.

Why add fuel to the flames of the unrest in Panama that exists now? All groups, with one possible exception, one political party there—or I do not think political parties are allowed to exist any more in Panama, but there are various factions in the country. I think all of them have come out against the treaty, according to the news accounts.

Mr. President, an article appeared in the Washington Star yesterday about these negotiations that are taking place between the Americans and Panamanians to try to placate them and at the same time not antagonize Senators who thought they had an agreement as to the first treaty. I ask unanimous consent that the article, entitled "Panama's Efforts Again Embarrass Treaty Backers," written by Walter Taylor, and published in the Washington Star of Tuesday, April 11, 1978, be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PANAMA'S EFFORTS AGAIN EMBARRASS TREATY BACKERS

(By Walter Taylor)

American supporters of new Panama Canal treaties again have been embarrassed by Panamanian machinations over Senate-approved changes in the agreements.

This time it involves the White House and the head of its congressional liaison staff, Frank Moore, one of the individuals President Carter credited for securing Senate passage last month of the first of the two canal pacts. Reports possibly traceable to Panamanian officials also have questioned the actions of Carter himself in accepting one controversial alteration in the treaties.

Administration officials already were concerned that Panama's vociferous protests about the so-called "DeConcini reservation"—a Senate-passed provision designed to permit unilateral U.S. action to maintain operation of the canal—might unravel the tenuous majority that supports the treaties in the Senate.

Senate Republican Leader Howard H. Baker of Tennessee, a key backer of the agreements, already has issued one stern warning to Panama about its behind-the-scene maneuvering to have the DeConcini measure softened, or at least portrayed in a light less grating on Panamanian sensibilities.

Panama has stopped short of rejecting the treaties, but it was revealed last week that its head of government, Brig. Gen. Omar Torrijos, had written the leaders of more than 100 member countries of the United Nations to protest the DeConcini change, and that Torrijos' ambassador to Washington, Gabriel Lewis, had telephoned a number of senators to strongly criticize Senate approval of the reservation.

With administration officials still trying to prevent a backlash in the Senate from those events, the White House yesterday found itself having to deny the authenticity of a purported transcript of a White House meeting between Lewis and Moore that was leaked to reporters by opponents of the treaties.

The original source of the transcript could only have been an official of Panama.

One flabbergasted administration official, asked about the accuracy of the transcript early yesterday afternoon, scoffed at the document. "There was nobody there but (White House officials) and the Panamanians. We didn't even make a transcript. And certainly it wouldn't be to the Panamanians advantage to let anything like that loose."

Later, however, it became evident that the "transcript," said by sources originally to have been written in Spanish, had been prepared from notes of one of the Panamanian participants in the meeting. The introduction to the documents is written in the first person, as if by either Lewis or the other Panamanian official in attendance, R. A. Bilonick Paredes.

"As scon as we entered the office of Mr. Frank Moore, he gave us the news . . ." the memo begins. The remainder of the three-page document is presented as a verbatim transcript of candid give-and-take between Lewis and Moore.

After a number of queries by reporters, the White House late yesterday issued a statement, attributed to Moore, saying the supposed transcript was "riddled with inaccuracies."

On top of the disputed transcript, reports circulated among some key treaty supporters that Carter had been warned by Panamanian officials that the DeConcini reservation was unacceptable even before the Senate vote on the provision, yet publicly embraced it in an 11th-hour scramble to line up the necessary 67 votes for treaty approval.

Sen. Dennis DeConcini, D-Ariz., the sponsor of the controversial provision, has said Carter indicated to him that the change would cause problems with the Panamanians, but never suggested that the language of his proposal might lead to outright rejection of the treaties.

The accuracy of the reports that Carter was flatly told that Panama might reject the agreements if the DeConcini reservation was adopted by the Senate could not be confirmed. But the scenario evidently was found plausible by two of the strongest treaty supporters in the Senate.

A senior aide to one of the senators, relaying the sentiments of his boss, said flatly that Carter twice had been warned by Panama, but had not passed the information along to treaty supporters. "All of this might have been avoided had any body known the consequences," said the Senate staffer.

A key Democratic supporter, asked whether Carter should have anticipated the harsh reaction of Panama to the measure, confirmed that the President's pre-vote knowledge "was a matter of question." It might be, he said, that the President "bungled."

The original source of the reports could not be pinpointed. The possibilities, however, seemed to include only the President and members of his administration or Panamanian officials.

The latest turn of events further clouded the outlook for Senate action on the treaties when less than a week ago adoption seemed assured. A final vote on the agreements, which would cede the canal to Panama in the year 2000, is scheduled next week.

Opponents, whose every effort to kill the treaties has been stymied, seemed to be basking in the predicament the administration and its forces in the Senate suddenly found themselves.

The Senate leadership endorsed the language causing the current controversy, Sen. James Allen, D-Ala., a leading opposition spokesman, reminded his colleagues yesterday.

Opponents' newest ammunition was the so-called transcript of the Moore-Lewis meeting, which depicts Lewis as demanding a new resolution to "neutralize the effect" of the DeConcini reservation.

The document includes this exchange:

Lewis: "Let's get to the point. The main objective of my visit is to know whether you have a rough draft of a resolution that might neutralize the effect of the DeConcini amendment and if so, when you could give it to me for my study, as the clock is now against us. It is necessary that I send this speech to Panama as the DeConcini amendment affects us directly and the speech should have the objective of resolving the problem that the DeConcini amendment put us into."

Moore: "I do not see any difficulty. (Deputy Secretary of State) Warren Christopher will have the text ready tomorrow for certain."

Later in the exchange, the document quotes Lewis as saying, "I think you have public officials with interventionish mentalities."

"Where?" Moore is said to have asked.

"Not here at the White House but in all your departments," Lewis is quoted as responding. "Many of them are not high-level officials but of the middle level."

At still another point in the conversation, Lewis suggests that senators "are not aware of the Panamanian reality" regarding hostility to the treaty changes. "You're right," Moore is quoted as responding, "But we cannot make the senators of the opposition face this."

In the statement released by the White House last night, Moore acknowledged that he had discussed the general political situation that the DeConcini reservation had created both in Panama and among supporters in the Senate.

Moore added, however, that he told the Panamanian officials "that in no way would an amendment undercutting the legality of the DeConcini amendment be adopted by the U.S. Senate."

Referring to a meeting the Panamanians were planning for the next day, last Thursday, with Assistant Democratic Leader Alan Cranston of California, Moore said he told the Panamanians he thought it "would be helpful in terms of expressing their concerns." But he said he "pointed out to them, however, that in no way should they become involved in proposing language for an amendment or reservation."

No such admonitions appear in the "transcript" that was circulated yesterday.

Despite the continued flap over the DeConcini amendment, administration officials and leading Senate supporters continued to be optimistic that the political tumult both in Panama and in the Senate can be overcome.

Sen. Frank Church, D-Idaho, one of the

floor managers of the treaties, said in a speech on the Senate floor yesterday that Panamanian objections to the DeConcini measure stem from a "simple misunderstanding" over the use of the word "intervention" to describe U.S. rights to protect the neutrality of the canal.

"Intervention to us may mean taking action for the limited and specific purpose of protecting our legitimate security interests in the canal," said Church. "But in Panama and throughout the rest of this hemisphere, the word 'intervention' conjures up all that was humiliating and distasteful in their relations with the United States 50 years ago."

Church proposed a clarifying statement, possibly one added to the treaties themselves, spelling out that the United States has no desire to intervene in the internal domestic affairs of Panama. "Let us make it unmistakably clear that we will not back away from or dilute in any fashion the essential and legitimate rights to protect the neutrality of the canal which we have so carefully defined in the treaty and in the action taken by the Senate."

But, he added, "let us find an appropriate way to reassure the people of Panama that our intention was not to nullify the specific pledge of non-intervention in the internal affairs of Panama (and) reaffirm the specific commitment to respect Panama's territorial integrity and political independence which we similarly voted to incorporate in the treaty."

In an interview, Church indicated that treaty supporters are likely to propose a new pact change that would fill his prescription for ending the current dispute. There also is the possibility that Carter may make a clarifying statement regarding U.S. and Panamanian rights under the proposed new treaties.

The precise language of another treaty provision is yet to be hammered out, Church added.

Meanwhile, 60 opponents of the treaties in the House said yesterday they would ask the Supreme Court to overturn a lower court decision and give the House a voice in the canal decision. The lawmakers, led by Rep. Mickey Edwards, R-Okla., also asked Chief Justice Warren T. Burger to order Carter to shift no property until after the high court has acted on a challenge to any such transfer.

Mr. ALLEN. Mr. President, on tomorrow—and I may have to do it right at the very last, after the time for debate has expired—I am going to offer an amendment calling for another plebiscite in Panama before these treaties go into effect.

We say, why have a stipulation like that in there? Let the Panamanians handle it the way they want to.

Well, it is important, Mr. President, that we have a compact with the people of Panama. Let us not have another 1903 treaty which the Panamanians will rail against for the next 22 years, just as they have said they have railed against the 1903 treaty since 1903.

Let it not be said that we just dealt with a dictator down there and after we put in amendments here in the Senate we did not ask the people of Panama if they approved of that action, we just asked the dictator.

Let us profit by the mistakes and lessons of the past. Let us not have another 1903 treaty that the people of Panama say they were not consulted about.

They had a plebiscite back in October of last year. Yes, everybody in Panama was praising the treaties then. But a different situation prevails now. The people of Panama are not praising these treaties. They are severely condemning them. In light of that, in light of our future dealings with the Panamanians, let us get approval of what we have done from the people of Panama. Otherwise, we will live to regret it.

That is the best way to put a stop to demonstrations, possible sabotage, marches, burnings. Let us submit this to the people of Panama, or require that before it goes into effect—and I have an amendment that will accomplish that—the issue again be submitted to the people of Panama in view of the change in the treaty.

Those are two alternatives I suggest as a means of extricating ourselves from this dilemma: First, have the President recall these treaties from consideration by the Senate, which I believe would be an act of statemanship. Otherwise, we will have a divided Senate; we are going to have a divided Panama; we are going to have a divided United States of America.

Recall these treaties from the Senate. Send them back to the negotiating table. Profit by the lessons of history. Profit by the debate which has taken place here. Profit by the knowledge of the feelings of the Panamanians. Eliminate the defects and the ambiguities that are now in the treaties, and which have been pointed out, well-recognized by all. Then our efforts thus far will not have been in vain. That would be the preferable course, to my way of thinking.

Failing in that, Mr. President, I anticipate the treaty can probably be rammed through the Senate. It is going to leave some bad feelings. If we undercut the DeConcini amendment, that is going to leave bad feelings throughout the Senate. If we ram more DeConcini reservations through to keep his vote and the vote of several others, that is going to anger some of those who have been voting for the treaties and against all amendments. I see nothing but chaos and confusion if we continue to press for a vote on this treaty on April 18.

I do believe the President can perform an act of statesmanship by withdrawing the treaties for further negotiation.

Failing in that, let us not repeat the mistakes of 1903. Then we were dealing with a revolutionary government of short tenure in office. Now we are dealing with a revolutionary government of long tenure in office, but still a revolutionary government not elected by the people. I would say that the dictator in Panama is no more representative of the people of Panama than was the revolutionary Government of Panama with which we dealt in 1903.

There is an analogy. In 1903 and in 1978 our dealings have been with nonelected, revolutionary governments, so we should beware.

The treaty in 1903 was not approved by the people of Panama, though it was quite obvious that it met with their approval. It was a quid pro quo situation as between the revolutionary leaders and the United States that we guaranteed Panama's independence and they guaranteed to let us build a canal. That is the long and short of it.

Whereas it met with the apparent approval of the people of Panama in 1903, it will not meet with the approval of the people of Panama in 1978. Why, Mr. President, should we submit to the Panamanian Government a treaty that is admittedly unpopular in Panama and admittedly unpopular in the United States?

One distinguished Senator reported this morning that he had asked for calls to his own State office with expressions of approval or disapproval of this treaty we are considering right now. He said over a 24-hour period the call-ins to his office—none of them conspired, as far as he knew—were 96 against the treaty and 2 in favor of the treaty.

I will not say that is the ratio throughout the country, but it is certainly heavy against the treaty in my State of Alabama.

Why should the U.S. Senate, deciding what is best for the people of Panama and the people of the United States, submit an unpopular treaty to Panama that has been changed to such an extent that it is causing demonstrations in Panama, and has caused the dictator there to extend the Easter recess for schools in Panama beyond the date of final action by the Senate? He knows the students are against this treaty so he has not allowed them to return to school where they might demonstrate. They have a long Easter recess for the schools in Panama.

Should we again make the mistake of 1903? We are getting very dangerously close to doing just that.

We say now, "Those fellows back in 1903, why did they not wait a little while and get this government functioning down there, get it set up to where they could have a plebiscite?"

Well, we did not do it, because it was quite obvious that this is what Panama wanted and it certainly was what the United States wanted. But we do not have that situation today.

The distinguished Senator from Alaska (Mr. GRAVEL) earlier this week, as a strong supporter of the treaty—right here on the Senate floor where I am pointing—said in his judgment the people in Panama would overwhelmingly defeat these treaties in a plebiscite.

If that is the case, why are we forcing this treaty on them? Is this creating a good neighborly feeling? I do not see that it is.

This is doing just the opposite, Mr. President, of what these treaties are supposed to do. They are supposed to show how big-hearted the United States is. We are going to give away a $10 billion property because we do not like the 1903 treaty; we took advantage of Panama; we are going to rectify that mistake, even though the Panama Canal has been a boon and a blessing to the people of Panama, allowing them to have the highest standard of living in all of Central America. Even though 80 percent of the employees of the canal are Panamanians, we did them wrong back in 1903 and we have to rectify that; we have to make amends; we have to give the canal to Panama.

That is supposed to be the reason for giving the canal away, to keep the Panamanians happy, to keep them from sabotaging the canal, to keep them from demonstrating and rioting. But it is not working out that way. Strange to say, it is my view, based on my observation of the facts, I believe there would be great rejoicing in Panama if these treaties, as presently written, were defeated by the U.S. Senate. That is what the tone of the people seems to be at this time.

Torrijos, in great dismay and confusion, does not know whether to submit the treaty, if approved by the Senate, to the people in Panama in a plebiscite and have it defeated and, possibly, have himself kicked out of office; or to approve the treaties as an act of the head of state and surely get toppled from his dictatorship. So he is going to be pressing the Senate and he or his representatives, his government, have had great control over the action in the Senate. They have turned down all amendments except the leadership amendment. When I speak of the DeConcini amendment, that is a reservation to the resolution of ratification, not the treaty. They are careful to say that nothing but the leadership amendment, that had protection for the dictator as one of its paragraphs—they split the memorandum and made two amendments out of it. Those are the only two amendments that have been agreed to here in the Senate.

Every single addition, every single word added to this treaty had the approval of the administration and the leadership. Their final draft, their final work, is before the Senate now, and I daresay no amendments will be allowed. I am hoping that they will—I know the leadership would not agree to it. I hope the Senate will agree to require a plebiscite down there so that we can have a compact with the people of Panama and not just a dictator and have shades of 1903 abound here in the Senate.

The treaty is the work, the shaping of the treaty is the work of the administration and the leadership, based on negotiations by our negotiators. So blame cannot be laid at the door of those of us who sought to strengthen these treaties if they are to be agreed to. I do not approve of the treaties, but if they are to be approved by the Senate, I want them to be as strong as possible in the interest of our defense rights on the canal and in the interest of the American taxpayer. Those are my two goals with respect to the amendments. If those amendments improving the treaties have the result of killing the treaties, I could not help that. But if they were to pass, I want the treaties to be just as strong in the interests of the people of the United States, in the interests of the taxpayers of our Nation, as we can possibly make them.

We have this situation of being caught on the horns of a dilemma. How are they going to keep the Panamanians happy and keep faith with those Senators who voted for the DeConcini amendment in good faith, and then who voted for the treaty on the condition of the DeConcini amendment having been adopted? Are we going to keep faith with them, those who wanted strong unilateral defense rights, a strong unilateral right to keep the the canal open—and the leadership agreement and the administration's agreement to that amendment carried with it the votes of three Senators who make that statement openly. They got the treaty passed by agreeing to the DeConcini amendment. Now they are talking about changing this treaty to change the impression gained by the Panamanians from the DeConcini amendment; in other words, water it down or dilute it.

Let us see if that can be done, even. Oh, I know it can be done from the standpoint of strength in numbers. I know that the leadership can put in any amendment they want to and say, "This is a good amendment; vote for it," and it would pass. But let us see what this handiwork would be after they have rammed such an amendment through the Senate.

(Mr. SASSER assumed the chair.)

Mr. ALLEN. I am hopeful, Mr. President, that if they plan—speaking of the leadership now—if the leadership plans to put some sort of language in the Panama Canal Treaty that would undercut or dilute or change—I shall use the word "change"—the meaning of the DeConcini amendment, I hope they will offer it in time for there to be some debate on the issue. I know they can wait until the end of the day tomorrow if they go the amendment route rather than the reservation route, and offer it after all time for debate has ended. At 6 o'clock tomorrow afternoon, we cannot debate on amendments any further. But anybody can offer an amendment that wants to and get a vote on it. So if the leadership offers an amendment, and I rather imagine they will follow the policy they have had heretofore of not allowing amendments to the treaty, they will probably offer it as a reservation.

But, reservation or amendment, I hope they will offer it at such time as there will be opportunity to debate that amendment, because I want the cards to be laid on the table as to just what they are going to do.

Are they going to try to placate the Panamanians or are they going to keep faith with those who voted for the DeConcini amendment and also voted for the treaty on the condition that the DeConcini amendment had been agreed to? It is going to be interesting to see the movement of the leadership to seek to resolve this impasse.

I suggested two routes out of the dilemma: One, withdrawal of the treaties by the President of the United States, which would be an act of statesmanship; second, agree to an amendment requiring a plebiscite by the people to the changed circumstances, the changed wording, the changed meaning of the treaty.

Let us see what the legal effect would be of an amendment or a reservation to the Panama Canal Treaty by the leadership. Suppose they put in an amendment or reservation saying that it has been our policy through the years not to intervene in another country's foreign affairs, in another nation's internal affairs, and we give assurance that is going to be our policy in the future and anything we may have said in the other treaty, if it conflicts with this, we really did not mean that.

If they have some sort of amendment or reservation of that sort and attach it to this treaty, let us see what would be the effect of that.

This treaty will be gone on January 1 in the year 2000. It will be dead. It will be dead as a doornail and we would go under the other treaty.

So, any language that is put in this treaty will expire at the very time of the Neutrality Treaty with the DeConcini amendment, which is directed directly at article V of the Neutrality Treaty, which makes reference to the start of the new treaty, which is at the expiration of the other treaty. So, anything that is said in this treaty will expire and would go under the Neutrality Treaty, because by then the canal will be wholly Panama's.

They will not have any Panama Canal Commission any more, or Panama Canal Company, and anything in the treaty will drop, including any amendment or understanding placed in this treaty seeking to dilute the DeConcini amendment.

It will have performed its function, the Panama Canal Treaty. Its provisions would be what might be called functus officio. It has performed its function and there is no further use for it. It is consigned to history.

But the new treaty, the Neutrality Treaty, would then come into effect with the DeConcini amendment in full force and effect stating that notwithstanding any other provision of the treaty, any other provision of article V, this shall be the rule, that the United States will have the right to keep the canal open, even if it takes military action.

As I say, the DeConcini amendment did not have these three saving clauses in it that the leadership amendment had. That was something the President and the dictator agreed on. While the dictator agreed to something, he is sure of getting something back. He got back a commitment that the United States would not interfere in the internal affairs of Panama, that the United States would not impinge upon their territory, their territorial jurisdiction, and that they would do nothing to interfere with the independence of Panama.

That is the reason the dictator was so agreeable to this memorandum that he and the President entered into, because there was more in it for him than there was for the United States.

But where the slip-up came, Mr. President, was that, apparently, that fact escaped the notice of, I imagine, the dozens of people that analyzed the DeConcini amendment, that poured over its every word, that weighed every word. They just did not relate it to the leadership amendment.

Some thought, this is just the leadership amendment all over again. Besides, it is just a reservation, anyhow. So what?

Well, it is worded, though, it is going to be part of the notes of ratification that both sides have got to agree on.

So there has been a slip-up here, Mr. President, a slip-up by the leadership in being so anxious to pick up these last three votes for the treaty that they agreed to an amendment that they knew displeased the Panamanians.

The very first time, Mr. President, in this whole 2 months of debate, the very first time that an amendment was agreed to that met the displeasure of the Panamanian dictator, just one time, one slip-up, and we are in this impasse today.

The question is going to be: Can we placate the Panamanians without doing damage to the Senators who placed their trust in the supporters of this treaty when they agreed to vote for the treaty if the DeConcini amendment were approved?

That is going to be the question. Are we going to placate the Panamanians at the expense of the feelings of the U.S. Senators?

That is the reason I say these treaties ought to be recalled by the President. They are not popular in Panama. They are not popular in the United States.

Those of us who oppose the treaties, or those of us who are trying to strengthen them, do not believe they are in the best interests of the people of the United States. Panama feels that the DeConcini amendment is an insult to their national dignity and a threat to their sovereignty. I personally do not feel that it is. They think so. A mistake has been made. Let us admit it.

Mr. President, if we are to have further negotiations, and we can have them if the President recalls now, or if the treaties are defeated, either way, there can be negotiations, why defeat the treaties and go back to negotiations when we can avoid that vote by having the treaties recalled by the President and have further negotiations?

I have no doubt that an acceptable treaty can be arrived at, one that would meet a consensus here.

I do not state I would support it. But I believe an acceptable treaty that would meet the approval of more than a two-thirds consensus here in the Senate could be agreed upon with further negotiations, but I feel that those negotiations would be hampered if the Senate first defeats the treaties.

If we gain the treaties, Mr. President, if we win on the treaties, what are we going to have? Panamanians unhappy. Dictator Torrijos, who has worked closely with the Government of the United States, at peril as to his position—and I would not regret to see dictator Torrijos overthrown. I think it would be good for Panama, good for the possibility of a democratic administration in Panama. But I would hate to see him deposed as a result of his able negogtiations for his country in concluding the negotiations on these treaties. I would hate to see him turned out because of the unpopularity of the treaties. I would not object. I would be glad to see the democratic forces in Panama take over the Government there. But I would hate to see the submission of these treaties, unpopular as they are in Panama, cause his overthrow.

That can be avoided, Mr. President, by either of the two routes I am suggesting: Either recall by the President or submission to a plebiscite in Panama.

Mr. President, from the very start it has been the policy of the leadership to stonewall against amendments; whereas, amendments were sought, legitimate amendments, that may possibly cause a new plebiscite in Panama. But it has not been our attitude—those who oppose the treaties—to freeze out the Panamanian people from having an opportunity to speak on this tremendous issue of such vital importance to the people of Panama—of greater importance, I dare say, to the people of Panama than to the people of the United States.

Should we send the treaty back to dictator Torrijos, with the danger that he, as head of state, might accept these treaties, causing great concern and consternation in Panama? Is that a good neighbor policy? Is that creating friends in Panama and in Central America and South America?

Panama already is trying to undercut this treaty. Dictator Torrijos has written the heads of state of more than a 100 nations. He has had his Ambassador to the U.N., Mr. Illueca, submit to the U.N. the DeConcini language and Senator DECONCINI's statement on the floor; Senator EDWARD KENNEDY's statement on the floor; a communique from the Minister of Foreign Affairs of Panama, issued the 27th of March 1978, and the Resolution of Ratification of the treaty. He has submitted all these things to the U.N. General Assembly as a predicate to making an effort to have this DeConcini reservation nullified by the U.N.

That is a pretty highhanded performance, to seek to nullify a treaty that has not even been sent down for approval. That is what we are running into. They do not like this amendment. Let us face it. They do not like this treaty with this amendment in it. Let us face that.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter from Panama's Ambassador to the U.N., together with the enclosures he added to the letter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IMPLEMENTATION OF THE DECLARATION OF STRENGTHENING OF INTERNATIONAL SECURITY

(Letter dated 28 March 1978 from the Permanent Representative of Panama to the United Nations addressed to the Secretary-General.)

I have the honour to send you herewith the note verbale from this mission dated 28 March 1978, together with the following documents:

(a) Resolution of ratification of the Treaty concerning the permanent neutrality of the Panama Canal, adopted by the United States Senate on — March 1978 (see appendix I);

(b) Statement by Senator Dennis DeConcini (see appendix II);

(c) Statement by Senator Edward Kennedy (see appendix III);

(d) Communiqué from the Ministry of Foreign Affairs of Panama, issued on 27 March 1978 (see appendix IV).

In compliance with instructions from my Government, I request you to have the note verbale and the above-mentioned documents distributed as documents of the General Assembly under item 50 of the preliminary list.

JORGE E. ILLUECA,
*Ambassador, Permanent Representative.*

ANNEX

Note verbale dated 28 March 1978 from the Permanent Representative of Panama to the United Nations addressed to the Secretary-General.)

The Permanent Representative of the Republic of Panama to the United Nations presents his compliments to the Secretary-General of the United Nations and has the honour to inform him that His Excellency Brigadier General Omar Torrijos Herrera, Head of Government of the Republic of Panama, has addressed a letter to the Heads of State and Heads of Government of the States members of the international community.

General Torrijos's letter and the documents enclosed make reference to the vote which took place on 16 March 1978 at the United States Senate on the Resolution of Ratification of the Treaty concerning the Permanent Neutrality of the Panama Canal. In this resolution, approval to the ratification was granted subject to a number of amendments, conditions, reservations and understandings, inserting among them a pre-condition to American acceptance of the Neutrality Treaty, known as the "DeConcini Amendment" (see clause (b)(1) in the attached clipping of the United States CONGRESSIONAL RECORD, vol. 124, No. 38, pp. 7187–7188 (appendix I)).

According to its proponent, the "DeConcini Amendment" is intended to give to the United States of America the unilateral and perpetual right to "take military action on Panamanian soil without the consent of the Panamanian Government", pretending that said amendment must be construed to permit the United States to intervene in Panama in the event of labour unrest, strikes, a slow-down, or under any other pretext labeled as interference with Canal operations (see text of Senator Dennis DeConcini's statement before the United States Senate on 16 March 1978 inserted in the attached clipping of the United States CONGRESSIONAL RECORD, vol. 124, No. 38, pp. 7147–7148 (appendix II)).

Not only does the amendment make no reference to the regime of neutrality, but, as stated by Senator Edward Kennedy, who opposed the DeConcini Amendment, "Panama has waited 75 years since its independence to end American occupation of its heartland. It must wait another 22 years before it achieves full control over its national territory." Now Panama is asked, in Kennedy's words, "to accept an amendment which has the ring of military interventionism—not just during this century, but for all time" (see text of Senator Edward Kennedy's statement before the United States Senate on 16 March 1978 inserted in the attached clipping of the United States CONGRESSIONAL RECORD, vol. 124, No. 38, p. 7154 (appendix III) and the attached text of the communiqué of the Panamanian Ministry of Foreign Relations, dated 27 March 1978 (appendix IV)).

Since the Treaty provides for accession by all States to the Protocol whereby the signatories would adhere to the objectives of the Neutrality Treaty and agree to respect the régime of neutrality, the Panamanian Head of Government has considered it his duty to address this letter to the Heads of State or Heads of Government of the States members of the international community that in so many instances have offered their solidarity and support to the Panamanian nation in its long struggle to reach a peace-

ful solution to the Panama Canal question based on the recognition of her sovereignty over the totality of its national territory.

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APPENDIX I

(Resolution of Ratification of the Treaty concerning the Permanent Neutrality of the Panama Canal adopted by the Senate of the United States of America on 16 March 1978.)

Resolved, (two-thirds of the Senators present concurring therein), that the Senate advise and consent to the ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, together with the Annexes and Protocol relating thereto, done at Washington on September 7, 1977 (Executive N, Ninety-fifth Congress, first session), subject to the following—

(a) Amendments:

(1) At the end of Article IV, insert the following:

"A correct and authoritative statement of certain rights and duties of the Parties under the foregoing is contained in the Statement of Understanding issued by the Government of the United States of America on October 14, 1977, and by the Government of the Republic of Panama on October 18, 1977, which is hereby incorporated as an integral part of this Treaty, as follows:

" 'Under the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal (the Neutrality Treaty), Panama and the United States have the responsibility to assure that the Panama Canal will remain open and secure to ships of all nations. The correct interpretation of this principle is that each of the two countries shall, in accordance with their respective constitutional processes, defend the Canal against any threat to the regime of neutrality, and consequently shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal.

" 'This does not mean, nor shall it be interpreted as, a right of intervention of the United States in the internal affairs of Panama. Any United States action will be directed at insuring that the Canal will remain open, secure, and accessible, and it shall never be directed against the territorial integrity or political independence of Panama.' "

(2) At the end of the first paragraph of Article VI, insert the following:

"In accordance with the Statement of Understanding mentioned in Article IV above: 'The Neutrality Treaty provides that the vessels of war and auxiliary vessels of the United States and Panama will be entitled to transit the Canal expeditiously. This is intended, and it shall so be interpreted, to assure the transit of such vessels through the Canal as quickly as possible, without any impediment, with expedited treatment, and in the case of need or emergency, to go to the head of the line of vessels in order to transit the Canal rapidly.' "

(b) Conditions:

(1) Notwithstanding the provisions of Article V or any other provision of the Treaty, if the Canal is closed, or its operations are interfered with, the United States of America shall have the right to take such steps as it deems necessary, in accordance with its constitutional processes, including the use of military force in Panama, to reopen the Canal or restore the operations of the Canal, as the case may be.

(2) The instruments of ratification of the Treaty shall be exchanged only upon the conclusion of a Protocol of Exchange, to be signed by authorized representatives of both Governments, which shall constitute an integral part of the Treaty documents and which shall include the following:

"Nothing in this Treaty shall preclude Panama and the United States from making, in accordance with their respective constitutional processes, any agreement or arrangement between the two countries to facilitate performance at any time after December 31, 1999, of their responsibilities to maintain the regime of neutrality established in the Treaty, including agreements or arrangements for the stationing of any United States military forces or maintenance of defense sites after that date in the Republic of Panama that Panama and the United States may deem necessary or appropriate."

(c) Reservations:

(1) Before the date of entry into force of the Treaty, the two Parties shall begin to negotiate for an agreement under which the American Battle Monuments Commission would, upon the date of entry into force of such agreement and thereafter, administer, free of all taxes and other charges and without compensation to the Republic of Panama and in accordance with the practices, privileges, and immunities associated with the administration of cemeteries outside the United States by the American Battle Monuments Commission, including the display of the flag of the United States, such part of Corozal Cemetery in the former Canal Zone as encompasses the remains of citizens of the United States.

(2) The flag of the United States may be displayed, pursuant to the provisions of paragraph 3 of Article VII of the Panama Canal Treaty, at such part of Corozal Cemetery in the former Canal Zone as encompasses the remains of citizens of the United States.

(3) The President—

(A) shall have announced, before the date of entry into force of the Treaty, his intention to transfer, consistent with an agreement with the Republic of Panama, and before the date of termination of the Panama Canal Treaty, to the American Battle Monuments Commission the administration of such part of Corozal Cemetery as encompasses the remains of citizens of the United States; and

(B) shall have announced, immediately after the date of exchange of the instruments of ratification, plans, to be carried out at the expense of the United States Government, for—

(i) removing, before the date of entry into force of the Treaty, the remains of citizens of the United States from Mount Hope Cemetery to such part of Corozal Cemetery as encompasses such remains, except that the remains of any citizen whose next of kin objects in writing to the Secretary of the Army not later than three months after the date of exchange of the instruments of ratification of the Treaty shall not be removed; and

(ii) transporting to the United States for reinterment, if the next of kin so requests, not later than thirty months after the date of entry into force of the Treaty, any such remains encompassed by Corozal Cemetery and, before the date of entry into force of the Treaty, any remains removed from Mount Hope Cemetery pursuant to subclause (i); and

(C) shall have fully advised, before the date of entry into force of the Treaty, the next of kin objecting under clause (B)(i) of all available options and their implications.

(4) To carry out the purposes of Article III of the Treaty of assuring the security, efficiency, and proper maintenance of the Panama Canal, the United States of America and the Republic of Panama, during their respective periods of responsibility for Canal operation and maintenance, shall, unless the amount of the operating revenues of the Canal exceeds the amount needed to carry out the purposes of such article, use such revenues of the Canal only for purposes consistent with the purposes of Article III.

(d) Understandings:

(1) Paragraph 1(c) of Article III of the Treaty shall be construed as requiring, before any adjustment in tolls for use of the Canal that the effects of any such toll adjustment on the trade patterns of the two Parties shall be given full consideration, including consideration of the following factors in a manner consistent with the regime of neutrality:

(1) the costs of operating and maintaining the Panama Canal;

(2) the competitive position of the use of the Canal in relation to other means of transportation;

(3) the interests of both Parties in maintaining their domestic fleets;

(4) the impact of such an adjustment on the various geographical areas of each of the two Parties; and

(5) the interest of both Parties in maximizing their international commerce.

The United States and the Republic of Panama shall cooperate in exchanging information necessary for the consideration of such factors.

(2) The agreement "to maintain the regime of neutrality established in this Treaty" in Article IV of the Treaty means that either of the two Parties to the Treaty may, in accordance with its constitutional processes take unilateral action to defend the Panama Canal against any threat, as determined by the Party taking such action.

(3) The determination of "need or emergency" for the purpose of any vessel of war or auxiliary vessel of the United States or Panama going to the head of the line of vessels in order to transit the Panama Canal rapidly shall be made by the nation operating such vessel.

(4) Nothing in the Treaty, in the annexes or the Protocol relating to the Treaty, or in any other agreement relating to the treaty obligates the United States to provide any economic assistance, military grant assistance, security supporting assistance, foreign military sales credits or international military education and training to the Republic of Panama.

(5) The President shall include all amendments, reservations, understandings, declarations, and other statements incorporated by the Senate in its resolution of ratification respecting this Treaty in the instrument of ratification exchanged with the Government of the Republic of Panama.

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APPENDIX II

(Statement made by Senator Dennis DeConcini in the Senate of the United States of America on 16 March 1978.)

Mr. President, I thank the Chair for his indulgence in calling the Senate to order.

For the last three (3) months, I have argued that the treaties as drafted did not appear to contain sufficient safeguards for the United States. But I have also stated publicly that I believed a new treaty with Panama was essential; that history had bypassed the era of simple colonialism when large powers bullied the small. Until recently, I believed that it would be possible for the Senate to make some constructive amendments to the treaty that would satisfy the needs of Panama—but not at the sole expense of the American people. However, as every member of this Chamber knows, the administration was unwilling to accept the slightest changes in the text of the agreement.

Because of this recalcitrance, I suspect that a number of potential supporters of the treaty were lost. Together with Senator Ford, I offered a number of amendments to the treaty. When it became clear that no amendments except the so-called leadership amendments would be accepted, I began to search for alternatives that would accomplish the desired objectives.

After extensive consultations with experts from the executive, Congress, and the academic community, I became convinced that it would be possible to achieve a clearer un-

derstanding of American rights and responsibilities under the treaty through the device of an amendment to the resolution of ratification in the nature of a condition precedent to American acceptance of the treaty itself. Such a condition will be binding on the Republic of Panama.

Therefore, I have recast my amendments in this form. I have assured the President that if my amendment No. 83 to the resolution of ratification is accepted by the Senate that I will vote in favor of the Neutrality Treaty. In turn, the President assured me yesterday in a meeting we had at the White House that he would accept and support my amendment. To the best of my knowledge, that is how things stand as of this moment.

I would like to stress that I am offering this amendment in the name of the people of Arizona. Like Senator Ford, I too have crossed my State and spoken personally to hundreds, perhaps thousands of concerned citizens. As a whole, my constituents do not approve of the Panama Canal treaties. However, they are willing to accept their necessity if American rights to insure open and free access to the canal are clearly spelled out. That is all my amendment intends—but that much at least is essential.

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AMENDMENT NO. 83, AS FURTHER MODIFIED

Mr. DECONCINI. Mr. President, I would like to call up my amendment No. 83, as modified. I would ask, Mr. President, to further modify such amendment. A few of these changes are purely technical and drafting changes.

The PRESIDING OFFICER. The Senator will suspend until the clerk states the amendment.

Mr. DECONCINI. Mr. President, I have the clarified drafted change amendment that I would ask the clerk to state.

The PRESIDING OFFICER. The clerk will state the amendment.

The second legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) and Mr. FORD propose amendment numbered 83, as further modified, as follows:

Before the period at the end of the resolution of ratification, insert the following: "subject to the condition, to be included in the instrument of ratification of the Treaty to be exchanged with the Republic of Panama that, notwithstanding the provisions of Article V or any other provision of the Treaty, if the Canal is closed, or its operations are interfered with, the United States of America and the Republic of Panama shall each independently have the right to take such steps as it deems necessary, in accordance with its constitutional processes, including the use of military force in Panama, to reopen the Canal or restore the operations of the Canal, as the case may be".

Mr. DECONCINI. Mr. President, the changes are technical and draft changes. The one substantive change is to include the phrase "according to its constitutional processes," after the words "to take such steps as it deems necessary" and before the words "including the use of military forces."

I send to the desk a clean copy and I thank the Chair and the clerk for reporting the same.

I also would like to ask that Senator CANNON, Senator CHILES, Senator NUNN, Senator LONG, Senator TALMADGE, Senator PAUL HATFIELD and Senator HAYAKAWA be added as consponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The purpose of this amendment is quite simple. Mr. President. It is designed to establish a precondition to American acceptance of the Neutrality Treaty. That precondition states that regardless of the reason and regardless of what any other provision of the Neutrality Treaty might say or what interpretation it might be subject to, if the Panama Canal is closed, the United States has the right to enter Panama, using whatever means are necessary, to reopen the canal. There are no conditions, no exceptions, and no limitations on this right. By the terms of the amendment, the United States interprets when such a need exists, and exercises its own judgment as to the means necessary to insure that the canal remains open and accessible.

A good deal of the discussion involving the Panama Canal treaties has centered upon threats to the canal which might come from third parties—more specifically—the Communist countries. While this concern is certainly justified, I have been equally bothered by the possibility that internal Panamanian activities might also be a threat to the waterway, should we give it up. Labor unrest and strikes; the actions of an unfriendly government; political riots or upheavals—each of these alone or in combination might cause a closure of the canal. In February 1975, for example, there was a "sickout" which disrupted the efficient operation of the canal. Yet as I read the treaties, there does not appear to be any specific guarantee that a disruption of the canal arising out of internal Panamanian activities can be swiftly and adequately dealt with.

Although General Torrijos has brought a welcome degree of stability to Panama in recent years, it can be argued that the history of Panama is one of substantial political instability and turmoil. Under normal circumstances, the United States would not or should not contemplate intervening in the internal affairs of another nation. However, there are extremely unique and special circumstances surrounding the relationship between the United States and Panama. Since the beginning of this century, the United States has exercised de facto sovereignty over the Panama Canal Zone, and has been responsible for the defense and operation of the canal. We have maintained this control over the canal for one very simple reason: The Panama Canal is vital to the security, economic and military of the United States. This fact must be recognized in any treaty which contemplates a fundamental change in the American-Panamanian relationship.

The amendment contains a very specific reference to the use of military force in Panama. I believe these words are absolutely crucial because they establish the American right—which I am not convinced is adequately provided for either in the body of the treaty or the leadership amendment—to take military action if the case so warrants. It further makes it clear that the United States can take military action on Panamanian soil without the consent of the Panamanian Government.

The question of consent, is also crucial. Since the main thrust of this amendment is directed toward situations in which the canal is closed because of internal difficulties in Panama—difficulties like a general strike, a political uprising, or other similar events, the consent of the Panamanians to take action would not make sense. If America is to have any rights at all under this treaty, it must have the right to act independently to protect the canal and to keep it open.

I believe that the question of an attack on the canal by a third party aggressor is adequately dealt with in the treaty. There seems to be little question that under such circumstances the United States does have the right to act with the Panamanians to protect and defend the canal. Thus, my concerns have centered around two problems. The first is the one expressed in the amendment now on the floor. The other is the question of a continued military presence.

We have just adopted an amendment by Senator Nunn that I had the privilege of cosponsoring. It provides that the United States and Panama may conclude an agreement providing for a continued American military presence in Panama after the year 2000. This change is important because it may be vital to both countries to provide for such presence while at the same time not disrupting the regime of neutrality that is established.

It was my desire, and the desire of Senator Nunn, to allow for a continued presence without a new treaty that would, by its very nature, call into question the regime of neutrality. It is much more appealing to have that right embodied in the very document that creates the regime of neutrality. Therefore I complement the Senator from Georgia in his efforts to gain acceptance of the military presence reservation.

I hope the Senate will support the amendment I offer to the resolution of ratification providing for America's right to keep the canal open. I am also happy to announce that the President of the United States has endorsed this change, and has indicated that he believes it to be a constructive step in fulfilling the goals of the Neutrality Treaty.

I believe I speak for all Senators in stating that it is not our expectation that this change gives to the United States the right to interfere in the sovereign affairs of Panama. The United States will continue to respect the territorial integrity of that Nation. My amendment to the resolution of ratification is precautionary only; and it is based on the long history of American stewardship of the canal. It recognizes the very special relationship that the Panama Canal has to American security.

I certainly hope, Mr. President, that if this right is attached to the treaty it will never need to be exercised. Yet, it is important that the American people know that should the need arise, the United States has sufficient legal sanctions to act.

Mr. President, I commend this change to my colleagues and urge their support.

Mr. President, I ask for the yeas and nays on this amendment.

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APPENDIX III

(Statement made by Senator Edward Kennedy in the Senate of the United States of America on 16 March 1978.)

MILITARY INTERVENTION IN PANAMA

Mr. President, we have before us an amendment to the resolution of ratification of the Panama Canal Neutrality Treaty which would permit the "use of military force in Panama" by either party, "if the canal is closed or its operations interfered with".

I am opposed to this amendment. It stirs up what is already an emotional issue in Panama, without adding to rights of the United States already recognized by the treaty.

From the outset, the people of Panama—and all of Latin America—have rightly opposed U.S. military intervention in their internal affairs. That is why the negotiators, the administration, and the Senate leadership have all carefully defined and limited the expression of our military rights to the defense of the neutrality of the Panama Canal. Even the reservation on defense arrangements, adopted by the Senate yesterday, provided that Panama and the United States could jointly—I emphasize jointly—agree to American military deployments, after the year 1999, which facilitate performance of "responsibilities to maintain the regime of neutrality" over the Panama Canal.

Now we have an amendment which starkly insists on our right to use military force in Panama—always the most sensitive issue from its standpoint as a small, proud, sovereign state.

Now we have an amendment which makes no reference to the regime of neutrality which it is our responsibility to defend.

Now we have an amendment which could—but must not—be construed, instead, to per-

mit the United States to intervene militarily on almost any pretext. A strike, a slowdown, even inefficient operation of the canal could—but must not—be used as a pretext to use force, in order to "restore the operations of the canal".

Mr. President, Panama has waited 75 years since its independence to end American occupation of its heartland. It must wait another 22 years before it achieves full control over its national territory. Now we are asking Panama to accept an amendment which has the ring of military interventionism—not just during this century, but for all time.

I recognize that acceptance of this amendment may facilitate ratification of the Panama Canal Treaties. If the amendment is accepted, I believe that our Nation is honorbound to strictly limit its interpretation and not, as General Torrijos warned in Washington last October, to allow the treaties to "become an instrument of permanent intervention" in Panama.

Fortunately, our right of military action continues to be defined by article IV of the Neutrality Treaty, as amended by the Senate.

This is our right "to act against any aggression or threat directed against the canal or against the peaceful transit of vessels through the canal".

This is our right to assure "that the canal will remain open, secure and accessible".

This is not a right to take action "against the territorial integrity or political independence of Panama", prohibited under article IV of the treaty.

This must not be a right to intervene in the Panama Canal on any pretext labeled as interference with canal operations.

With these understandings, Mr. President, we can hope to avoid continuing confrontation between Panama and the United States. Without them, we can look forward to a continuation of the unfairness and the resentment which has characterized our treaty relationship since 1903.

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APPENDIX IV

(Communiqué from the Ministry of Foreign Affairs of Panama, issued on 27 March 1978.)

In our communiqué issued on 16 March, we expressed the decision of the Government not to issue any statement regarding what the Senate had agreed to in relation to the Treaty concerning the permanent neutrality and operation of the Panama Canal. We gave as the reason for such a decision the fact that the Panamanian people had approved two treaties, that is to say, the Neutrality Treaty and the Treaty on the Panama Canal. Until the Senate decides the fate of the latter, it will not have responded to the decolonization programme approved by the Panamanian people.

We also stated in the above-mentioned communiqué that the Government as a whole would study the conditions under which the Senate had given its advice and consent to the Neutrality Treaty and those that it might attach to a decision on the Treaty on the Panama Canal. We have begun that process. But inasmuch as the liberation process is a national undertaking and since, before taking any decision, each citizen must have full knowledge of all the understandings of the Senate regarding the treaties, the Ministry of Foreign Affairs has deemed it appropriate to publish the text of the Senate resolution concerning the Neutrality Treaty without waiting for the official text to be delivered to us through the usual channels.

We are living a crucial moment in our history. Now, more than ever, our country demands from its sons serenity, dignity and a sense of national unity.

Panama sees its future with the serenity of a country engaged in an irreversible process of decolonization.

We must remember that only the peoples that love freedom can be free. Panama has opted for its definitive freedom. In this process we have the decisive support of the peoples of the whole world, as was seen from the session of the Security Council held in Panama in March 1973. On that occasion the world, faced with the veto of the United States delegation, vetoes the United States for not removing the causes of the conflict engendered by the presence of a foreign Government within Panamanian territory.

We recommend to our fellow citizens to study objectively the documents published today in Spanish and English, so that they might assist the Government in taking the post patriotic decision which, as stated by General Omar Torrijos Herrera, Head of the Government of Panama, will be taken within the framework of a great national consensus.

Mr. ALLEN. Mr. President, we speak of the DeConcini amendment. As the DeConcini amendment, it would not have stood a chance on the floor of the Senate—not a chance. It was offered as an amendment to the treaty, and the managers of the bill had it turned down by the Senate. But then when it was offered as a reservation, carrying out their commitment to accept it in return for three votes, the supporters of the treaties had it adopted as a reservation or—I suppose to state it most accurately—as an amendment to the resolution of ratification, providing for a reservation.

That then became a leadership-approved amendment; else it would not gotten to first base. It would not have received approximately 37 votes. But with the leadership's stamp of approval, it received a vote of about 55 to 35. So much for the powers of the leadership over this treaty.

Mr. President, again I say that putting an amendment into a treaty that expires at the end of this century, an amendment seeking to dilute the provisions of an amendment to the treaty which already has been agreed to, which lasts in perpetuity, is just folly. It cannot be done.

So any language we put in the present treaty in an attempt to dilute the DeConcini amendment might look good on the surface, but it is something that cannot be done; nor can legislative history, at this late date, have anything to do with expressing the background and the reasons why at that particular time the DeConcini amendment was agreed to.

The legislative history with respect to that amendment, if it did not expire with the adoption of the amendment—and possibly it did not, because it could have been reconsidered, but it was not—expired when the motion to table the motion to reconsider was agreed to. That shut off all legislative history with respect to that amendment. Then when the treaty was adopted, that just bolted the door. There could be no more legislative history explaining why the Senate agreed to the DeConcini amendment and saying that we did not mean what we said back then. That is water over the dam. That cannot be done on this treaty.

We might say, 3 weeks after an amendment is adopted, "Gee, I just happened to think of a good reason why we adopted that amendment," and stand on the floor of the Senate and say, "This is part of the legislative history." That does not make it so. The legislative history ended with agreeing to the treaty.

So we will have to put in an amendment, they say, or a resolution or something, to get away from this DeConcini amendment that we approved, to which we gave our stamp of approval.

What kind of business is that, Mr. President? This is not a game here. The U.S. Senate has discharged its solemn duty to advise and consent, in this case, to the Neutrality Treaty.

A motion was made to reconsider that action. That was tabled. That treaty is gone. It is gone from consideration of the Senate except, I would assume, by unanimous consent. It is gone from consideration of the Senate unless resubmitted by the President as a new and revised treaty. This same treaty could not come back to us, but if it is sent back as a new treaty, even though it might have the very same provisions, it could be considered. But as to creating legislative history, the opportunity to do that is gone. And any effort to undercut the DeConcini amendment I assure the Senate will not meet with approval of a number of U.S. Senators.

So that leaves, it would seem to me, Mr. President, two courses that the Senator from Alabama suggested as the two best possibilities for extricating ourselves from the horns of this dilemma.

I believe that that will be best for Panama. I believe that it will be best for the United States. And I am hopeful that that will be done because if we go ahead and ram the treaty through, if we can, send it down to Dictator Torrijos as a hot potato, or a hot coal—I guess it would be hotter than a hot potato—it could well cause his removal from office either way he goes. If he submits it to the people it will be defeated in such a resounding fashion that it would be treated as a referendum on his tenure in office, and I believe it would be untenable for him to continue in office. If he accepts it without a referendum, without a plebiscite, it is going to cause a revolt in Panama because the Panamanians see this as an affront. They are happy to accept it now; of course they want the canal. But as has been said here on the floor of the Senate, and I am going to reiterate this because it has been indicated that the proponents of the treaties are the ones who are trying to shield the Panamanians from having their national dignity impugned, I say that the Panamanian people are a proud people and a sensitive people. They want the canal, yes. But they do not want their sovereignty assailed, and they do not want the United States to retain the right to come back into Panama any time they want to to keep the canal open. They say that is an affront to their national dignity.

And based on news accounts it seems they would be willing to give up the canal rather than have their dignity affronted. So I say that the people of Panama are a proud people. They are proud of their nation. They are proud of their nationality. They are proud of their sovereignty and they want to insist on their sovereignty. But I will say the proponents of the treaties have been concerned not

that the people would have an opportunity to vote on this treaty, but they have been concerned and have insisted that they not have a right to vote on the treaty.

Mr. President, who is interested, then, in the sensitivity of the Panamanian people? The opponents say, "Let us not have a treaty unless the Panamanian people approve of it." What is wrong with that principle to stand on? The administration does not stand on that. The administration and the leadership would be glad to accept a treaty approved by the dictator alone, not the Panamanian people in another plebiscite.

Now, is that a correct statement? The distinguished Senator from Idaho (Mr. CHURCH) time after time has stated here on the floor, "Do not amend this treaty, do not amend it at all, because if you do it is going to call for another plebiscite and it is going to kill the treaty."

Mr. President, I say if the Panamanian people do not approve of the treaty we ought to kill it, and if we are not willing to kill it, we ought to allow the Panamanian people speaking in a plebiscite to kill the treaty if that is the national will of the people of Panama.

So these things will have to be thrashed out. Are we going to try to placate Panama, or are we going to be willing to undercut the action of the Senate as expressed in the DeConcini amendment, approved by the leadership? This is not something that was just eased in at the last moment. Mr. President, this provision was studied word for word, each word weighed and analyzed, with the Panamanians saying they did not want it, they objected to it; and, as I say, for the first time that I know of the wishes of the Panamanians were discarded, and they were so desperate to pass these treaties that they agreed to something that they knew the Panamanians would reject. So they took their chances. The Panamanians do object.

The distinguished Senator from Massachusetts (Mr. BROOKE) has sharply criticized the administration for accepting this amendment and not divulging to the Senate the fact that the Panamanians objected to the amendment. The distinguished Senator from Massachusetts has grave doubts about approving this treaty, and he made a speech in which he finally agreed to support the first treaty. He said if he voted that day on the Panama Canal Treaty he would vote against it. I do not believe that this incident about the DeConcini amendment is going to improve his frame of mind as he looks at the question of whether he is going to support this treaty.

Mr. President, we also brought out here on the floor the exchange of correspondence between the dictator and the President, both letters dated March 15. It must be on the basis of cables. Otherwise, we need to call in the Panamanian Post Office if they are the ones that were able to do such a good job. But it looks like it would be the U.S. Post Office and Postal Service because the letter would have to have gone from the United States to the dictator in Panama.

That would have been the service of the U.S. Postal Service.

At any rate, both letters were dated the 15th. Torrijos raised a question about these coming reservations. He is worried about them. He is protesting against them, and the President answering, "Well, yes, we are going to take some reservations but they are not going to interfere with the spirit of the agreement we have reached."

Well, there was a mistake somewhere along the line because it has interfered with this agreement that they have.

So, Mr. President, the administration went heedlessly onward accepting the DeConcini reservation knowing the peril of accepting it, so anxious not to be turned down by the Senate on the treaty that they took a calculated risk of accepting the DeConcini reservation and getting the treaty approved. Now it has been stated that something must be done in this treaty to show that that is not our meaning.

I do not believe that is going to sell. I do not believe it is going to sell, first, to the Senate. I do not believe it is going to sell to the people of the United States. I do not believe it is going to sell to the people of Panama.

If that was our intent we would have the unilateral right to act. If that was our intent when we approved the DeConcini reservation and approved the first treaty it is our intent now no matter what is said in this treaty

So, Mr. President, I again turn to my suggestion of a solution of this impasse, a solution that will remove us from the horns of this dilemma, and that is for the President to ask for a withdrawal of these treaties and save everybody's face in this regard.

We have been on the treaties now, I guess, for over 2 months. Our negotiators worked for 13 years and came up with a treaty. The leadership has been in full control of it from the date it hit the desk of the Secretary. They are responsible for every word that was added to that treaty or to the resolution of ratification. They approved every single word. There is not a single word in there that did not have the blessing of the leadership.

So there is where the leadership has led us in this case, to a treaty that is not satisfactory, not acceptable, either in Panama or the United States, and I hope the President will withdraw these treaties from consideration by the Senate.

Mr. President, I thank the Chair and I yield the floor.

Mr. CHURCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, as in legislative session, not to extend beyond 30 minutes, and with statements limited therein to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MESSAGES FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Chirdon, one of his secretaries.

## ANNUAL REPORTS OF THE RIVER BASIN COMMISSIONS—MESSAGE FROM THE PRESIDENT—PM 167

The Presiding Officer laid before the Senate the following message from the President of the United States, which, with accompanying reports, was referred to the Committee on Environment and Public Works:

*To the Congress of the United States:*

I am happy to transmit the annual reports of the six river basin commissions, as required under Section 204(2) of the Water Resources Planning Act of 1965.

The Act states that commissions may be established, comprised of state and federal members, at the request of the governors of the states within the proposed commission area. Each commission is responsible for planning the best use of water and related land resources in its area and for recommending priorities for implementation of such planning. The commissions, through efforts to increase public participation in the decision process, can and do provide a forum for all people within the commission area to voice their ideas, concerns and suggestions.

The commissions submitting reports are New England, Great Lakes, Pacific Northwest, Ohio, Missouri and Upper Mississippi. The territory these six cover include parts or all of 32 states.

The enclosed annual reports indicate the activities and accomplishments of the commissions during Fiscal Year 1976. A brief description of current and potential problems, studies and approaches to solutions are included in the reports.

JIMMY CARTER.

THE WHITE HOUSE, *April 12, 1978.*

## MESSAGES FROM THE HOUSE

At 3:25 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the bill (S. 661) to restore Federal recognition of certain Indian tribes, and for other purposes, with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 7101. An act to amend certain provisions of law relating to land claims by the United States in Riverside County, Calif., based upon the accretion or avulsion, and for other purposes;

H.R. 11092. An act to increase the authorization of appropriations under the act of December 22, 1974 (88 Stat. 1712);

H.R. 11445. An act to amend the Small Business Act and the Small Business Investment Act of 1958; and

H.R. 11662. An act to provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes.

## HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 7101. An act to amend certain provisions of law relating to land claims by the United States in Riverside County, Calif., based upon the accretion or avulsion, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 11092. An act to increase the authorization of appropriations under the act of December 22, 1974 (88 Stat. 1712); to the Select Committee on Indian Affairs.

H.R. 11445. An act to amend the Small Business Act and the Small Business Investment Act of 1958; to the Select Committee on Small Business.

H.R. 11662. An act to provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts, and for other purposes; to the Committee on Energy and Natural Resources.

## ORDER FOR STAR PRINT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the committee report on H.R. 130 (No. 95–731), be star printed, and I send to the desk the necessary changes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CULVER, from the Committee on the Judiciary:

1977 Juvenile Delinquency Annual Report (Rept. No. 95–735).

By Mr. PELL, from the Committee on Human Resources, without amendment:

H.J. Res. 649. A joint resolution to authorize the President to call a White House Conference on the Arts, and to authorize the President to call a White House Conference on the Humanities (Rept. No. 95–736).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HOLLINGS (for himself, Mr. CANNON, and Mr. FORD):

S. 2883. A bill to amend the Communications Act of 1934 to extend and improve the provisions of such Act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HATHAWAY (for himself and McINTYRE):

S. 2884. A bill to amend the Bilingual Education Act to give priority in the funding of new applications for demonstration grants to geographical areas and groups which have historically been underserved by such programs; and to allocate funds appropriated in proportion to the geographical distribution of such children throughout the Nation; and for other purposes; to the Committee on Human Resources.

By Mr. HATHAWAY:

S. 2885. A bill to amend provisions of the Higher Education Act of 1965 relating to Teacher Centers to provide increased authorizations, to insure a State minimum allotment in certain circumstances, and to allow applications from local educational agencies to be submitted directly to the Commissioner in certain circumstances; to the Committee on Human Resources.

By Mr. RANDOLPH:

S. 2886. A bill for the relief of Fritz Blatti and Gabriele Blatti; to the Committee on the Judiciary.

By Mr. HOLLINGS (by request):

S. 2887. A bill to amend Section 305 of the Communications Act of 1934 to permit foreign embassies to operate fixed and mobile radio facilities in the VHF and UHF bands for the express purpose of providing protective security for Ambassadors and other designated personnel, with the right to operate such facilities in the United States thereof, being based upon reciprocity; to the Committee on Commerce, Science, and Transportation.

By Mr. MATHIAS:

S. 2888. A bill to establish a Potomac River Shoreline Area Commission for the purpose of developing a plan for the cooperative management by Federal, State, District of Columbia, and local authorities of certain areas along the Potomac River, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MARK O. HATFIELD:

S. 2889. A bill to amend the Merchant Marine Act, 1936, to provide for the establishment of capital construction funds for fisheries facilities; to the Committee on Commerce, Science, and Transportation.

S. 2890. A bill to amend the Farm Credit Act of 1971 to provide that certain loans to farmers, ranchers, and producers or harvesters of aquatic products may be made for periods of 15 years; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2891. A bill to provide loan guarantees to the commercial fisheries industry for the development of underutilized fisheries; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MOYNIHAN (for himself and Mr. JAVITS):

S. 2892. A bill to authorize the Secretary of the Treasury to provide loan guarantees for the assistance of the City of New York; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. STENNIS (for himself, Mr. EASTLAND, Mr. SPARKMAN, Mr. ALLEN, Mr. BAKER, and Mr. SASSER):

S. 2893. A bill to provide the completion of the Natchez Trace Parkway from Natchez, Mississippi, to Nashville, Tennessee; to the Committee on Energy and Natural Resources.

By Mr. PELL (for himself, Mr. CLARK, and Mr. MATHIAS):

S. 2894. A bill to establish an Institute for Human Rights and Freedom to promote respect for and observation of human rights and fundamental freedoms in foreign countries; to the Committee on Foreign Relations.

By Mr. BENTSEN (for himself, Mr. CURTIS, Mr. DOLE, Mr. WALLOP, Mr. HANSEN, Mr. STONE, Mr. ZORINSKY, and Mr. McGOVERN):

S. 2895. A bill to impose quotas on the importation of beef in order to assure an adequate supply of quality beef at stable prices for the American consumer; to the Committee on Finance.

By Mr. GARN:

S. 2896. A bill to amend the Endangered Species Act; to the Committee on Environment and Public Works.

By Mr. LONG (by request):

S. 2897. A bill to amend the Federal Railroad Safety Act of 1970 to provide the Secretary of Transportation a longer period within which to assess civil penalties for certain violations, to extend authorizations of appropriations for fiscal year 1979 and 1980 for the rail safety program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 2898. A bill to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CULVER (for himself, Mr. BAKER, Mr. RANDOLPH, Mr. WALLOP, Mr. GRAVEL, and Mr. HODGES):

S. 2899. A bill to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that Act should be granted for such actions; to the Committee on Environment and Public Works.

By Mr. MUSKIE (for himself, Mr. STAFFORD, and Mr. CHAFEE):

S. 2900. A bill to provide for compensation for damages and clean-up costs caused by discharges of oil and hazardous substances, to establish a liability fund, and for other purposes; to the Committee on Environment and Public Works.

By Mr. CANNON (for himself, Mr. HOLLINGS, and Mr. PEARSON) (by request):

S. 2901. A bill to amend the Communications Act of 1934 to extend and improve the provisions of such Act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH:

S. 2902. A bill entitled the "Fair Treatment for Skilled Trades Act of 1978"; to the Committee on Human Resources.

By Mr. RANDOLPH (for himself and Mr. STAFFORD):

S. 2903. A bill to amend the Rehabilitation Act of 1973 to establish programs for training interpreters and for providing interpreter services to deaf individuals, and for other purposes; to the Committee on Human Resources.

By Mr. RANDOLPH (for himself, Mr. CASE, Mr. HEINZ, Mr. BAYH, Mr. MAGNUSON, and Mr. STAFFORD):

S. 2904. A bill to expand and improve the quality and scope of reading services available to blind persons, and for other purposes; to the Committee on Human Resources.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOLLINGS (for himself, Mr. CANNON, and Mr. FORD):

S. 2883. A bill to amend the Communications Act of 1934 to extend and improve the provisions of such act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

PUBLIC TELECOMMUNICATIONS FINANCING ACT OF 1978

● Mr. HOLLINGS. Mr. President, I send to the desk a bill to amend the Communications Act of 1934, as amended, relating to noncommercial, educational radio and television broadcasting, and I am pleased that my chairman Senator

CANNON, has joined me as a cosponsor of the measure. This bill would revise the administration's proposed public broadcasting amendments, S. 2235, introduced by request of the administration on October 25, 1977, by Senators MAGNUSON, PEARSON, and myself. S. 2235 served as the basis for today's proposals to strengthen our national commitment to high quality, educational, and cultural broadcasting.

An identical bill to the one I am introducing is being introduced by Congressman VAN DEERLIN, chairman of the House Communications Subcommittee.

President Carter's legislative proposal represented a welcome initiative to improve our national system of noncommercial educational broadcasting. His efforts to focus national attention on the need for a recommitment to the goals of the Educational Broadcast Facilities Act of 1962 and the Public Broadcasting Act of 1967 are most praiseworthy. I applaud the hard work and dedication of the President and his staff.

The bill which Congressman VAN DEERLIN and I have introduced is designed to build upon the initiative of the President. It will enhance our commitment to a system of public broadcasting offering unique and innovative programing services. We have discussed our new bill with the administration and feel there is general agreement on the principles and objectives we all seek.

I ask unanimous consent that an analysis comparing the administration's bill and this bill be printed in the RECORD at this point.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

ANALYSIS OF HOLLINGS/VAN DEERLIN BILL AND THE ADMINISTRATION'S PUBLIC BROADCASTING BILL

The Hollings/Van Deerlin public broadcasting bill will be introduced concurrently by the Chairman of the Senate Communications Subcommittee (Sen. Ernest F. Hollings) and the Chairman of the House Communications Subcommittee (Rep. Lionel Van Deerlin). In most major respects, the bill does not deviate from the scope of the legislation introduced last year by the Administration. However, in several instances the Hollings/Van Deerlin bill strengthens, clarifies and supplements the Administration's proposal. In both bills two major areas are addressed: first, the telecommunications facilities program (i.e., federal support for purchase of broadcast and non-broadcast equipment and apparatus); and second, public broadcasting programming.

I. TELECOMMUNICATIONS FACILITIES PROGRAM

The Administration proposes to transfer the facilities program from HEW to the Corporation for Public Broadcasting (CPB). The facilities program was first established at a time when the major policy objective was to establish educational facilities; therefore, it seemed logical to locate the facilities program within the Office of Education of HEW.

Over the years the concept of "educational television" has changed to one of "public broadcasting." Both the Administration and the Hollings/Van Deerlin bills expand the concept of public broadcasting to encourage the use of whatever telecommunications technology (broadcast and/or nonbroadcast) is effective and efficient in delivering public television and radio programs and services. Consequently, the Hollings /Van Deerlin bill deviates from the Administration's bill in the following respects:

(a) The facilities program is transferred to the Commerce Department (not CPB) and would be administered by the newly created National Telecommunications and Information Administration. This agency has a broad range of expertise in various communications technologies and has the mandate for being the Administration's principal telecommunications advisor and spokesman as well as the repository for planning and developing a national telecommunications policy. Therefore, it is the appropriate place to locate the facilities program so that it could benefit from this expertise and prominence.

(b) The Administration proposes an authorization of $30 million. The Hollings/Van Deerlin bill will increase that authorization to $40 million and divide the program into two parts. No more than one-quarter of the funds could be spent for improving the service of an existing station. The remainder of the funds would go for expanded coverage and for new stations and other telecommunications entities. In this way we can further the primary objective of expanding public broadcasting services to as many people in this country as possible.

(c) The Hollings/Van Deerlin bill would establish an affrmative outreach program to encourage minority and women participation in and ownership of public telecommunications entities.

(d) The program would be authorized for 3 fiscal years (1979, 1980, 1981).

II. PUBLIC BROADCAST PROGRAMMING FUND—CORPORATION FOR PUBLIC BROADCASTING

Both the Administration's bill and the Hollings/Van Deerlin bill increase the authorization for public broadcasting and refine the various functions of CPB in distributing federal funds for program production, acquisition and distribution. This bill differs from the Administration's proposal in the following respects:

(a) The Administration proposes an authorization for 5 years, which when combined with the present system of forward funding public broadcasting by 2 years, would authorize the program through fiscal year 1985. The Hollings/Van Deerlin bill would authorize the program through fiscal year 1983—5 years from the effective date of the bill. The Hollings/Van Deerlin bill would not change the forward funding principal and would not change the authorization amounts contained in the Administration's bill, but would allow Congress to reexamine the role of federal support of public broadcasting at an earlier date than proposed by the Administration.

(b) As with the facilities program at the Commerce Department, the Hollings/Van Deerlin bill would expand the concept of "public telecommunications" in order to encourage, to the maximum extent practicable, the use of whatever technology is appropriate in providing public television and radio services to the public.

(c) The Administration proposes that 25 percent of the public broadcasting funds should be set aside for national programming. The Hollings/Van Deerlin bill would drop this set aside as being inappropriate and unnecessary, since in practice at least this level of "national" programming will be reached by voluntary action of public telecommunications entities.

(d) Both the Administration and the Hollings/Van Deerlin bill contain strong provisions on EEO. However, the Hollings/Van Deerlin bill would clarify those employment standards. Further, this bill would strengthen the enforcement procedures proposed by the Administration to require that stations certify in advance of receiving funds that they are in compliance with the principals of equal employment and nondiscrimination. CPB would monitor the employment practices of all its grantees and contractors. HEW would enforce EEO standards, with the power to direct CPB to suspend or reduce grants to recipients in violation of EEO.

(e) To strengthen responsible financial management of federal and non-federal support of public telecommunications, the proposed bill would allow the General Accounting Office and the Corporation for Public Broadcasting to establish a uniform system of accounts for all stations which receive public broadcasting funds. In addition, the bill would allow GAO and CPB to audit all public telecommunications entities receiving federal funds. The current law provides for audit responsibility and for recordkeeping. This bill would strengthen those provisions and clarify the role and responsibilities of GAO in determining that all funds available to public broadcast stations have been spent and accounted for properly.

(f) Further, in the spirit of sound financial management, this bill provides that the Corporation for Public Broadcasting may spend no more than 5 percent of the funds received from the public broadcasting fund for its own overhead. This provision expresses the view that the Corporation should act as a foundation or other endowment, involving itself not in day-to-day programming decisions, but rather in setting only overall priorities. Performing this more circumscribed role, CPB staff need not engage in activities which duplicate or overlap functions of other parties engaged in programming.

(g) The Administration's bill proposes that all licensees must hold open meetings. The Hollings/Van Deerlin bill would clarify and expand this open meetings provision to provide that all meetings (of CPB as well as licensees) which deal with the public broadcasting issues shall be open unless they relate to personnel matters. In the case of an educational, institutional organization or university whose board may well take up matters unrelated to public broadcasting, only that portion of the meeting which relates to the public broadcasting matters would have to be open to the public.

(h) The Hollings/Van Deerlin bill adds a provision guaranteeing access to public broadcasting satellites to parties other than stations, their membership organizations and major program producers. These other parties would have only secondary priority to the regular satellite users, but access would be free of charge. The intent of this additional provision is to facilitate the participation of independent program producers to solicit financial backing for program projects and to sell final programs directly to public broadcasting stations.

(i) Two items not contained in this bill which were proposed by the Administration are: (1) removal of the ban on editorializing for public stations not licensed to governmental entities; and (2) phasing out of four presidentially appointed members of the 15-member CPB Board and replacement with members chosen by the public television and radio licensees (two each). ●

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By Mr. HATHAWAY (for himself and Mr. MCINTYRE):

S. 2884. A bill to amend the Bilingual Education Act to give priority in the funding of new applications for demonstration grants to geographical areas and groups which have historically been underserved by such programs; and to allocate funds appropriated in proportion to the geographical distribution of such children throughout the Nation; and for other purposes; to the Committee on Human Resources.

BILINGUAL EDUCATION AND EQUITABLE DISTRIBUTION ACT OF 1978

● Mr. HATHAWAY. Mr. President, I am pleased to introduce today along with the Senator from New Hampshire (Mr. McINTYRE) the Bilingual Education Equitable Distribution Act of 1978.

This legislation has one fundamental goal—to promote the equitable distribution of title VII Bilingual Education Funds to all regions of the Nation and to all groups in need of such assistance.

It accomplishes this goal by amending section 721 of the Bilingual Education Act by inserting the following new paragraph in subsection (b):

(3) In the consideration of initial applications from local educational agencies to carry out programs of bilingual education under clause (1) of section 721, the Commissioner shall give priority to applications from local educational agencies (A) which are located in geographical regions of the Nation and (B) which propose to assist children of limited English language proficiency that have historically been underserved by programs of bilingual education. In approving such applications, the Commissioner shall, to the extent feasible, allocate funds appropriated in proportion to the geographical distribution of children of limited English language proficiency throughout the Nation, with due regard for the relative ability of particular local educational agencies to carry out such programs and the relative numbers of persons from low-income families sought to be benefitted by such programs.

Such language is necessary in this statute lest underserved geographical areas and groups continue to be neglected. Currently 255,000 children nationwide benefit from federally funded bilingual demonstration grants. This is far short of the need, however, since the estimates of children who could benefit range from 800,000 to 3.6 million, depending on the information source. Thus the shortfall in program resources to program need is somewhere between 1 to 3 and 1 to 10.

It is critically important that these limited resources be allocated fairly and with a view toward remedying prior overconcentration or particular groups or regions.

The administration proposal in S. 2675 contained a provision apparently intended to achieve this goal—namely, to limit funding of current projects to only 5 years. This approach seems to be unlikely to succeed in Congress due to its rejection by the House Committee on Education and Labor.

Rather, it makes more sense to give priority in the funding of new grants to those not yet served, to avoid dismantling and disruption of existing programs.

In introducing this bill I have a particular region and group in mind—namely the Franco-Americans in the State of Maine and elsewhere in northern New England.

There has been very limited utilization of Federal bilingual funds by Franco-Americans despite a positive record of success where programs have been established.

To my knowledge there are two grants funded in the State of Maine for Franco-Americans, both in Aroostook County, Maine—one in Van Buren and one in Madawaska.

In these programs bilingual approaches have been coordinated with other parallel programs, to great advantage. These approaches are coordinated with follow-through and other programs to advance the goals of student achievement by promoting student interest and the interest of their parents.

I was privileged recently to participate in hearings of the Subcommittee on Employment, Poverty, and Migratory Labor at which Mr. Orrison Moody, follow-through coordinator for SAD 24, and Mr. Carlton Dubois, superintendent testified.

These educators pointed out in great detail the accomplishments of the follow-through program by using a bilingual approach, to the extent that the State of Maine, with its own resources, has determined to incorporate a number of these concepts into its statewide programs.

These gentlemen pointed out that in the county as recently as 10 years ago children were punished for speaking French on the school grounds—in a region where over 80 percent of the people are Franco-Americans, and in whose families the dominant language has been French for over 3 centuries.

The adverse impact of such an inhumane and anti-intellectual approach on young children was clear, but until the advent of bilingual education unfortunately remained uncorrected.

Since that time, the gains have been significant to the point that it is now obvious that the children learn more, faster, in all areas through reliance on bilingual concepts. The integrity of this approach is particularly sound in the area of history and cultural background—so essential to providing our young people with a sense of identity and self worth.

In this regard, in order that my colleagues might be aware of the kinds of learning functions and activities which are fostered through bilingual education, I ask unanimous consent that an excerpt from an address I delivered at the Acadian Village Festival on July 10, 1977, in Van Buren, Maine, be printed in the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR WILLIAM D. HATHAWAY

It is a pleasure to be here this evening. I congratulate everyone connected with arranging the Acadian Village Festival and I'm sorry I missed the first two days.

Special congratulations are owed to Mrs. Frances Levasseur, who has worked continuously to bring the idea of the Acadian Village to life.

A few short years ago, Mrs. Levassuer, with the help of her friends and neighbors, began the long, hard job which has resulted in the unique historical and cultural asset of the Acadian Village.

She realized that there was a new generation which needed to know where they came from and how their ancestors lived.

The Village, with its homes, general store, chapel, black-smith shop, post office, barns, and community center will show the people of Van Buren, Madawaska, and the entire St. John Valley what it was like to live here two and three centuries ago.

It will stand as a symbol of the community which has existed here for over three centuries, and as a living monument for all who have lived and worked here and have raised their families here. It also stands as a monument to the indomitable spirit of the Acadian people, of which many in this room are proud representatives. In fact, I understand over 80% of the residents of this area can trace their ancestry to the original inhabitants.

Long before our popular culture became interested once again in its Roots, and centuries before Alex Haley was born, the Acadian people have understood the importance of staying in touch with one's past, of maintaining common goals and pursuits, and of preserving a rich cultural heritage.

You have succeeded in these difficult tasks against extreme odds and extraordinary adversity.

In fact, without this strong commitment to each other, you would not have been able to survive the shocks and turmoil which history has inflicted on your people.

The word "Acadia", or more properly Acadie (Ah-kah-dee') derives from a Mic Mac Indian word (akade) meaning a place where fish, birds, fur bearing animals and forests of valuable trees abound.

In 1524, the explorer Jean Verrazano described "a land called Acadie because of the beauty of its trees."

With this sort of advertising, Henry the IV of France issued a patent to Pierre du Gast to exploit this potentially rich area. In 1604, an expedition of 79 men set out for Acadie.

In the summer of 1604, this expedition settled on St. Croix Island in Passamaquoddy Bay.

Samuel Champlain was among that group of 79 men who were ravaged by severe storms and scurvy during that first hard winter, which must have made all of them wonder about the appropriateness of the name of the region.

In the summer of 1605, they sought a more hospitable climate, and went as far south as Cape Cod, but ended up returning to Port Royal.

A short time after this, Henry revoked the du Gast patent and the settlers went back to France.

But others returned to take their place, and by 1701 there were 2,450 Acadians, 466 inhabitants of Port Royal and the rest spread over the large interior—including 50 at the River St. John.

Until 1713, when the Treaty of Utrecht gave the English sovereignty over this area, control had seesawed between the French and the English.

In 1755 after 200 Acadians were caught fighting for the French, the scurrilous English Governor, Charles Lawrence of Novia Scotia, demanded that the Acadians swear loyalty to the English government.

On July 3, 1755, in a preview of events to take place 21 years later, the Acadians presented their memorandum of objections to the Governor's Council at Halifax.

This led to his order exiling them. In a human tragedy of epic proportions, later immortalized by Longfellow's Evangeline, families were split up. They were subjected to the cruelest conditions of captivity, disease and death.

Of the 10,000 or so first put under arrest, 2,000 escaped into the forest, and many of these began a journey which led them to this valley.

Those who suffered exile endured deplorable conditions. They were sent to the English colonies from Massachusetts to Georgia, and most were treated like slaves or worse.

For example, 750 were sent to Philadelphia, where this human cargo waited three months in the harbor. Small pox killed over 230 of them. 650 went to a watery grave in the icy Atlantic. Others went to England, for a time. A group found their way to Louisiana.

But despite these hardships, the survivors stayed together and helped each other through these trying times. They have stood as a powerful symbol of the unconquerable nature of the human spirit and will, and as an example for oppressed peoples everywhere.

So, the Acadian Village you have constructed, and the antiques and artifacts contained in it, are much more than historical curiosities.

They are reminders of the strength and self sufficiency of the Acadian people, reminders of your ancestors' refusal to bow down to a distant monarch; and reminders of a small settlement refusing to be dominated by a large empire.

It is quite clear that Acadians still possess all these qualities in large measure, but reminders are helpful lest future generations forget.

Thank you.

Mr. HATHAWAY. Mr. President, there are other, unmet needs of Franco-Americans in the State of Maine and in other States throughout the Nation. For example, as of the 1970 census, there were in the State of Maine, over 141,000 individuals whose mother tongue was French, over 200,000 in California, over 367,000 in Massachusetts, over 208,000 in New York, over 101,000 in Rhode Island, over 112,00 in New Hampshire, over 44,000 in New Jersey, and over 42,000 in Vermont.

I shall be looking forward to working for the inclusion of the provisions of this bill in the amendments to the Bilingual Education Act and the omnibus Elementary and Secondary Education Act of which it is a part. Deliberations on these matters shall continue over the next few weeks before the Subcommittee on Education, Arts and Humanities, and the full Human Resources Committee. I am hopeful that with the cooperation of my colleagues on this committee that these provisions will be adopted.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2884

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Bilingual Education Equitable Distribution Act of 1978".

SEC. 2. Section 721(b) of the Bilingual Education Act is amended by redesignating paragraph (3) as paragraph (4) and by inserting immediately after paragraph (2) the following new paragraph:

"(3) In the consideration of initial applications from local educational agencies to carry out programs of bilingual education under clause (1) of section 721, the Commissioner shall give priority to applications from local educational agencies (A) which are located in geographical regions of the Nation and (B) which propose to assist children of limited English language proficiency that have historically been underserved by programs of bilingual education. In approving such applications, the Commissioner shall, to the extent feasible, allocate funds appropriated in proportion to the geographical distribution of children of limited English language proficiency throughout the Nation, with due regard for the relative ability of particular local educational agencies to carry out such programs and the relative numbers of persons from low-income families sought to be benefitted by such programs.".●

By Mr. HATHAWAY:

S. 2885. A bill to amend provisions of the Higher Education Act of 1965 relating to teacher centers to provide increased authorizations, to insure a State minimum allotment in certain circumstances, and to allow applications from local educational agencies to be submitted directly to the Commissioner in certain circumstances; to the Committee on Human Resources.

TEACHER TRAINING PROGRAMS AND TEACHER CENTERS AMENDMENTS OF 1978

● Mr. HATHAWAY. Mr. President, I am pleased today to introduce the Teacher Training Programs and Teacher Centers Amendments of 1978.

This measure would modify and clarify the existing law in a number of significant respects.

First, it would increase the level of authorizations for the upcoming fiscal year for these programs from $75,000,000 to $100,000,000. Such an increase in the authorization ceiling would appear to be desirable in order to provide the Senate and the Committee on Appropriations with additional flexibility in appropriating sums for this important purpose.

Teacher centers can, and I am confident will, fulfill a very important function in the increasingly complex world of education today. In this regard, I would like to refer to the purpose of teacher centers, as delineated in section 532(a)(2) of the Higher Education Act of 1965:

(2) For the purpose of this section, the term "teacher center" means any site operated by a local educational agency (or a combination of such agencies) which serve teachers, from public and non-public schools of a State, or an area or community within a State, in which teachers, with the assistance of such consultants and experts as may be necessary, may—

(A) develop and produce curricula designed to meet the educational needs of the persons in the community, area, or State being served, including the use of educational research findings or new or improved methods, practices, and techniques in the development of such curricula; and

(B) provide training to improve the skills of teachers to enable such teachers to meet better the special educational needs of persons such teachers serve, and to familiarize such teachers with developments in curriculum development and educational research, including the manner in which the research can be used to improve their teaching skills.

Thus these centers allow our Nation's teachers the opportunity to meet with each other to tailor educational programs and curricula to the particular needs of their own students. I know these professionals are most willing and very able to accomplish this goal, given opportunity and some assistance.

While the sums authorized are significant, they can only be properly evaluated in the context of society's overall level of expenditures for education, and with Federal educational expenditure. In the upcoming fiscal year it is estimatd that $125 billion will be spent by local, State, and Federal Governments at the elementary, secondary, and postsecondary levels. Of the Federal commitment of $22.7 billion, $10.1 billion is for elementary and secondary programs.

Teacher centers therefore offer the means, at a relatively small percentage of the total funds, to allow our teachers to integrate and rationalize all of the educational programs and policies which converge on today's classrooms.

Further, because these are Federal funds, with no match required, they would not lead to increased property taxes for already over-burdened homeowners. It has long been my view that increased reliance for financing education programs ought to be placed on our Federal revenue system.

Because the Federal tax structure is progressive—taxing those with higher incomes at higher brackets, an increasing burden for our public expenditures is placed on those who can best afford it.

Unfortunately this is not true of many States and local taxes, which often are not based on income. Property taxes, and sales taxes are generally regressive—taking a higher proportion of income from those with less to begin with.

Furthermore, our Federal educational expenditures ought to be viewed as an investment in our children's future, and in the future of their country. With judicious investment, the returns for both can be most promising.

One study of which I am aware measured the increase tax revenues directly attributable to the education received under the GI bill against its cost. By 1970, this study estimated that the Federal Government had received back over $100 billion resulting directly from its $12 billion investment.

Today we ought to pay renewed attention to this lesson. With the staggering costs of unemployment compensation, welfare assistance, and public jobs programs, it is clear that we ought to be giving increased priority to providing our Nation's youth with greater skills and education. It is on this basis that I was pleased to introduce and work for enactment of the Career Education Incentive Act, which the President signed into law on December 7, 1978.

But at the same time it is clear to me that if our educational system is going to work as well as it can, primary reliance and trust must be placed in the professional classroom teacher. I know from discussions with my daughter, who is an elementary schoolteacher, that various competing programs, curricula, and priorities can impose a crushing and counterproductive burden on them in terms of paperwork and frustration. Further, many well-intentioned efforts emanating from Federal, State, and local policymaking bodies can fail in their purpose unless teachers are involved in the planning and implementation.

In this regard I shall be looking forward to working with the distinguished senior Senator from Rhode Island (Mr. PELL), who so ably serves as chairman of the Subcommittee on Education, Arts and Humanities in the upcoming deliberations of the Human Resources Committee on renewal of the Elementary and Secondary Education Act. It is my understanding that a vigorous effort will

be made to limit unnecessary paperwork and to involve classroom teachers in the planning elements to the extent feasible.

But expansion of the teacher center program would also serve to foster substantially these goals.

Currently there are pending in the Office of Education over 1,500 applications for teacher centers. At the level of funds included in the President's budget of slightly more than $10 million, not more than 50 programs will likely be funded. Even at full funding, only about 400 could be funded.

Mr. James Green of the National Education Association testified on these matters on March 14 before the Subcommittee on Labor-HEW of the Committee on Appropriations. In the course of his testimony, Mr. Green was questioned by the distinguished chairman of the Appropriations Committee, Senator MAGNUSON, about the potential for an expanded program and also about the possible need for an increased program authorization. This bill provides that opportunity.

Further, it clarifies other matters contained in existing law. It makes clear that two or more local educational agencies may form a consortium for purposes of applying for a teacher center grant, and that statewide programs are permissible. In small States these should particularly be encouraged.

Also, the bill makes clear that the Commissioner may consider an application submitted to a State educational agency notwithstanding a State's refusal to approve such application. Under the language of this bill, such applications would be forwarded to the Commissioner, along with the comments and evaluation of the State agency.

While I would hope that there would be a maximum degree of cooperation among State and local educational agencies on these matters, it is conceivable to envision a situation where a State might reject an otherwise meritorious application for reasons unrelated to the substance of the application. This bill would allow the Commissioner to consider such a matter, while at the same time fully protecting the State's right to comment on its reasons for not recommending the application. Such a provision seems appropriate in this situation, because, unlike many other provisions of law, no State or local matching funds are required.

I look forward to working toward enactment of this bill, and am hopeful that it can be enacted in the near future in order to provide full benefit in the funding of fiscal year 1979 applications.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2885

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the Teacher Training Programs and Teacher Centers Amendments of 1978.

SEC. 2. Section 531 of the Higher Education Act of 1965 is amended—

(1) by striking out "and for each of the fiscal years ending prior to October 1, 1979," and inserting in lieu thereof the following: "and the fiscal year 1978, and $100,000,000 for the fiscal year 1979,"; and

(2) by inserting at the end thereof the following new sentence: "In the event that sums exceeding $50,000,000 are appropriated in any fiscal year for purposes of carrying out this part, programs in each State shall receive grants totaling not less than $250,000 for such fiscal year.".

SEC. 3. Section 532(c) of the Higher Education Act of 1965 is amended—

(1) in paragraph (1), by inserting immediately after "local educational agency" the following: "or any consortium of local educational agencies (including statewide programs)";

(2) in paragraph (2), by inserting at the end thereof the following new sentence: "The Commissioner shall, upon the receipt of such petition, request further consideration by the State educational agency."; and

(3) by inserting at the end thereof the following new sentence: "If, subsequent to the expiration of thirty days after the Commissioner's petitioning the State educational agency, such agency has not transmitted such application, then such application shall be transmitted to the Commissioner along with the comments and evaluation of the State educational agency.".●

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By Mr. MATHIAS:

S. 2888. A bill to establish a Potomac River Shoreline Area Commission for the purpose of developing a plan for the cooperative management by Federal, State, District of Columbia, and local authorities of certain areas along the Potomac River, and for other purposes; to the Committee on Energy and Natural Resources.

POTOMAC RIVER SHORELINE AREA COMMISSION

● Mr. MATHIAS. Mr. President, we have in our mist a great natural and historic resource—the Potomac River.

The bill I am introducing today will focus attention on the wide range of forces that threaten it daily.

Among those forces is the booming population of the Washington metropolitan region. It is estimated that by the year 2000, 4 million people will live in greater Washington. This population growth will make great demands on the States of Maryland, Virginia, and West Virginia and the Potomac River for more water and increased opportunity for recreational uses. Such growth will also pose a growing threat to Maryland's beauty and the Potomac's purity.

Added to the pressure man places on the river are the forces of nature. Storms, floods, droughts, and even ice floes all have taken their toll on the Potomac as well as on the rich agricultural land of Maryland, Virginia, and West Virginia that borders it.

Fortunately, I can report that the Potomac is comparatively healthy. Heavy industry has not yet contaminated its waters and its banks have not yet been despoiled by an unbroken line of apartments or highways. Other American rivers have not been spared this sad fate. We should learn from the mistakes we made on those other rivers and take cooperative action now to insure the preservation of this truly natural treasure.

In the past, the residents of Maryland towns on the upper reaches of the Potomac have taken for granted the green farmland, trees, mountains, clean water, fish, and wildlife which abound in the basin. I want to assure that these conditions will prevail in the future.

The bill I am introducing today, and which is being introduced in the other body by Representative FISHER of Virginia, establishes a forum for the citizens of the Potomac basin to think through common problems and to reason together over common goals and policies for the future growth and management of the Upper Potomac and its shoreline. I do not want to commit the future of the Potomac and its Maryland shores to arbitrary decisions by the Army Corps of Engineers, the Department of the Interior or by any other Federal agency whose interests may not comprehend the welfare of the people most closely concerned.

My bill will establish therefore a 30-member Commission composed of five representatives from each of the three States bordering the river from the District of Columbia north to Cumberland, Md. Other representatives include:

(1) one State representative each from Maryland, Virginia, and West Virginia;

(2) one representative of the District of Columbia government and one citizen representative from the District of Columbia;

(3) five at-large citizen representatives with interests in such things as fish and wildlife, recreation, and conservation;

(4) one representative each from the Environmental Protection Agency, Corps of Engineers, and National Park Service;

(5) one representative of the Chesapeake and Ohio Canal Commission; and

(6) one representative of the Interstate Commission on the Potomac River Basin.

The Commission is to prepare a plan of recommended actions for managing the resources of the upper river basin. Among these are:

A statement of public values to be protected and enhanced.

A map delineating the prospective boundaries of the shoreline area.

A local participation element.

A comprehensive land use and conservation element which considers areas of ecological, historic, recreational, or fish and wildlife significance; insures reasonable access to the river by the public; differentiates the needs for shoreline protection based on location and existing local land use control; recognizes existing economic activities within the prospective area; and provides for the protection and enhancement of farming, forestry, proprietary recreational activities, and commercial, residential, and industrial activities that do not conflict with the public values identified for the area.

Consistency with local, State, and Federal programs and policies.

A public use element.

A financial element.

A continuing management element.

Representative Fisher and I have emphasized in this legislation that the Potomac River Shoreline Commission is to consult closely with local and State governments and to coordinate its recommended policies and actions with local plans, zoning, and other land-use controls.

Public hearings are mandated in each of the States in the course of the plan's development. Once the proposed actions are in final written form, they must be reviewed once more by local jurisdictions to insure that their point of view has been taken into account. The plan is then to be presented to the Congress which has 36 months to act on it.

We believe this bill is a beginning for citizen planning and coordination of the Potomac River Shoreline. It brings together a broad range of interest groups to consider common problems related to the river and to fashion some common solutions.

A citizens' advisory commission such as the Potomac River Shoreline Commission could become a model for grassroots citizen participation for other natural resource areas similarly threatened. We believe the Commission established by this bill will be broadly representative and is an innovative means for addressing common regional problems.●

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By Mr. MARK O. HATFIELD:

S. 2889. A bill to amend the Merchant Marine Act, 1936, to provide for the establishment of capital construction funds for fisheries facilities; to the Committee on Commerce, Science, and Transportation.

S. 2890. A bill to amend the Farm Credit Act of 1971 to provide that certain loans to farmers, ranchers, and producers or harvesters of aquatic products may be made for periods of 15 years; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2891. A bill to provide loan guarantees to the commercial fisheries industry for the development of underutilized fisheries; to the Committee on Banking, Housing, and Urban Affairs.

● Mr. MARK O. HATFIELD. Mr. President, today I am introducing three bills to provide financial incentives for fishermen to help develop underutilized fish species. Federal legislators and fishermen celebrated, with mixed reactions, the 1-year anniversary of the Fishery Conservation and Management Act of 1976. This act was thought to be landmark legislation which would establish a 200-mile limit and free domestic fishermen from competition with foreigners. In the past year, however, fishery management plans, continued adverse affects of dam construction and court decisions extending Indian fishing rights have severely restricted the income of domestic salmon fishermen. In addition to heavy regulation, economic conditions have not provided adequate incentives to divert fishermen from overcrowded fisheries such as salmon, to underutilized species like hake, cod, pollack, and haddock. In all, these circumstances have not only imposed severe economic limitations on the salmon industry, but have jeopardized the supply and stability of traditional seafood products and have stymied efforts to fully realize the potential of our fisheries resources. We must update our commercial fishing fleet, not only to fullfill requirements necessary to displace foreign fishermen, but we must begin to establish a favorable balance of trade on the world fish food market. It is estimated that if imports of foreign fish products were replaced by domestic production, the additional economic impact would approach $3 billion with an increase in 200,000 man-years in employment.

S. 2889 would amend the Merchant Marine Act of 1936 to allow any citizen owning or leasing a fishing vessel to defer up to 50 percent their taxable income and establish with the Secretary of Commerce a capital construction fund for the purpose of providing replacement vessels, additional vessels or reconstructed vessels for the purpose of harvesting and processing underutilized fish species.

S. 2890 intends to amend the Farm Credit Act of 1971 to extend from 7 to 15 years the authorization for loans under this act. This amendment will provide harvesters and processors of aquatic products greater opportunity in seeking financial assistance for their investments.

S. 2891, the Commercial Fisheries Financial Assistance Act of 1978 authorizes the Secretary of Commerce to guarantee the payment of interest on the unpaid balance of the principal of any loan made by a bank or lending institution for the construction, rehabilitation, purchase or operation of a new or used vessel or facility for the production of underutilized fisheries. Any loan guaranteed under this act, shall not exceed 90 percent per annum of the actual depreciated cost; shall have a maturity date not to exceed 25 years for fishery facilities and 15 years for fishing vessels and shall bear interest at a rate not to exceed such percent per annum of the unpaid principal as the Secretary determines to be reasonable. This act also authorizes to be appropriated $1 million to be deposited in the Treasury or invested in bonds to be used as credit against the principal and interest guaranteed by the above mentioned program.

It is important that we provide adequate financial assistance in order that commercial fisheries interests are provided adequate opportunities to fully utilize the resources within the 200-mile fishing zone. These bills. I believe, will help increase the potential of the commercial fishing industry and strengthen the competitive position with respect to foreign harvesters and processors.

Mr. President, I ask unanimous consent that the text of these bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2889

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That subsection (a) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), is amended to read as follows:

"SEC. 607. (a) Agreement Rules.—Any citizen of the United States owning or leasing one or more eligible vessels (as defined in subsection (k)(1)), or one or more fisheries facilities (as defined in subsection (k)(9)), may enter into an agreement with the Secretary of Commerce under, and as provided in, this section to establish a capital construction fund (hereinafter in this section referred to as the 'fund') with respect to any or all of such vessels or facilities. Any agreement entered into under this section shall be for the purpose of providing—

"(1) replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States for operation in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States, or

"(2) replacement, additional, or reconstructed fisheries facilities in the United States,

and shall provide for the deposit in the fund of the amounts agreed upon as necessary or appropriate to provide for qualified withdrawals under subsection (f). The deposits in the fund, and all withdrawals from the fund, whether qualified or nonqualified, shall be subject to such conditions and requirements as the Secretary of Commerce may by regulations prescribe or are set forth in such agreement; except that the Secretary of Commerce may not require any person to deposit in the fund for any taxable year more than 50 percent of that portion of such person's taxable income for such year (computed in the manner provided in subsection (b)(1)(A)) which is attributable to the operation of the agreement vessels or facilities or from the sale or marketing of fish or fish products.".

SEC. 2. Subsection (b) of section 607 of such Act is amended—

(1) in subparagraph (A) of paragraph (1) by inserting "or which is attributable to the operation of the agreement facilities, or from the sale or marketing of fish or fish products" at the end thereof;

(2) in subparagraph (B) of paragraph (1) by inserting "or facilities" after "vessels"; and

(3) in subparagraph (C) of paragraph (1) and in paragraph (2) by inserting "or facility" after "vessel" each place it appears.

SEC. 3. Subsection (f) of section 607 of such Act is amended—

(1) in subparagraph (A) of paragraph (1) by inserting "or a fisheries facility," after "vessel," and

(2) in subparagraph (C) by inserting ", a fisheries facility," after "reconstruction of a qualified vessel".

SEC. 4. Subsection (g) of section 607 of such Act is amended—

(1) in paragraphs (2) and (3) by inserting "facility," after "vessel," each place it appears; and

(2) in paragraph (4) by inserting "facilities," after "vessels,".

SEC. 5. Subsection (k) of section 607 of such Act is amended by adding at the end thereof the following new paragraphs:

"(9) The term 'fisheries facility' or 'facility' means a new or used facility in the United States, including but not limited to, docks, equipment and buildings, for the receiving, preparing, processing refrigerating, storaging, and distribution of fish or fish products.

"(10) The term 'agreement facility' means any fisheries facility which is subject to an agreement entered into under this section.

"(11) The term 'fish' means fin fish, mollusks, crustaceans, and all other forms of marine animals and plant life (other than marine mammals and birds) which have been harvested by a commercial fishing vessel of the United States.

"(12) The term 'fish products' means any article which is produced from or composed of (in whole or in part) any fish.".

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S. 2890

*Be it enacted by the Senate and House of Representatives of the United States of*

*America in Congress assembled,* That the first sentence of section 2.4 of the Farm Credit Act of 1971 (12 U.S.C. 2075) is amended by striking out "seven years" and inserting in lieu thereof "15 years".

SEC. 2. The first sentence of section 2.15(b) of the Farm Credit Act of 1971 (12 U.S.C. 2096 (b)) is amended by inserting "may be made for a period not to exceed 15 years and" after "Loans authorized in subsection (a) hereof".

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S. 2891

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act be cited as the "Commercial Fisheries Financial Assistance Act of 1978".

SEC. 2. The purposes of this Act are—

(1) to increase the potential of the commercial fisheries industry to harvest, process, and market a greater percentage of the fish, shellfish, and other marine resources sold in this country;

(2) to strengthen the competitive position of the commercial fisheries industry with respect to foreign harvesters and processors, thereby resulting in increased economic stability in the domestic industry and full utilization of the resources within the extended fisheries zone by the domestic fisheries industry;

(3) to provide increased commercial fisheries opportunities for access to developmental capital; and

(4) to provide financial assistance to the commercial fisheries industry.

SEC. 3. As used in this Act, the term—

(1) "commercial fisheries industry" means all segments of such industry in the United States from harvesting to processing to distribution;

(2) "fishery" means a species or group of species forming a segment of the harvesting sector of the fisheries industry;

(3) "underutilized fishery" means such a species or group of species which are not harvested to their full optimum sustainable yield by the domestic commercial fisheries industry;

(4) "fisheries shoreside facilities" includes, but is not limited to, such new or used facilities, as docks, receiving facilities, processing facilities, processing plants, and storage and distribution facilities, together with all necessary equipment;

(5) "processing facilities" means production equipment and facilities (including land) needed to receive the catch of fishing vessels, and prepare, hold, or distribute such catch for market;

(6) "citizen or national of the United States" means any individual who is a citizen or national of the United States or any corporation, partnership, or other entity organized under the laws of any State of the United States or the District of Columbia, however, no such corporation, partnership, or other entity shall be deemed to be a citizen of the United States unless it is a citizen within the meaning of section 2 of the Shipping Act, 1916 (46 U.S.C. 802);

(7) "fishing vessel" means any new or used vessel, boat, ship, or other type of craft, regardless of size, and all necessary gear and equipment, or the acquisition of such gear and equipment separately, which is used for, equipped to be used for, or of a type which is normally used for—

(A) commercial fishing; and

(B) aiding or assisting in the performance of any activity relating to commercial fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing of Fish, and

(8) "Secretary" means the Secretary of Commerce.

SEC. 4. The Secretary shall promulgate rules and regulations to carry out this Act.

SEC. 5. (a) The Secretary is authorized to guarantee and to enter into commitments to guarantee the payment of the interest on, and the unpaid balance of the principal of, any loan made by a bank or other lending institution for—

(1) the construction, rehabilitation, purchase, or operation of new or used fisheries shoreside facilities for underutilized fisheries, and

(2) the construction, rehabilitation, purchase, or operation of new or used fishing vessels for underutilized fisheries.

(b) Any loan guaranteed under this section—

(1) shall have the borrower approved by the Secretary as responsible and possessing the ability, experience, resources, and other qualifications necessary for the adequate operation and maintenance of the fishing vessel or fisheries shoreside facility which serve as security for the guarantee of the Secretary;

(2) shall be in an aggregate principal amount which does not exceed 90 per centum of the actual cost or depreciated actual cost, as determined by the Secretary, of the vessel or facility which is used as security for the guarantee of the Secretary;

(3) shall have a maturity date satisfactory to the Secretary, but, not to exceed twenty-five years in the case of a loan referred to in subsection (a)(1) or fifteen years in the case of a loan referred to in subsection (a)(2);

(4) shall provide for payments by the borrower satisfactory to the Secretary;

(5) shall bear interest at a rate not to exceed such per centum per annum on the unpaid principal as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Secretary;

(6) may only be made to a borrower who is a citizen or national of the United States; and

(7) shall be approved by the Secretary only upon the furnishing of such security or other reasonable assurance of repayment as the Secretary shall require considering the objectives of this Act; and the proposed collateral for any such loan shall be of such a nature that, when considered with the integrity, ability, and prospective earnings of the borrower, repayment of the loan will be reasonably assured.

SEC. 6. There is hereby created a Commercial Fisheries Loan Guarantee Fund (hereinafter referred to in this title as the "Fund") which shall be used by the Secretary as a revolving fund for the purpose of carrying out this Act. There is authorized to be appropriated to the Fund $1,000,000. Moneys in the Fund shall be deposited in the Treasury of the United States to the credit of the Fund or invested in bonds or other obligations of, or guaranteed as to principal and interest by, the United States.

SEC. 7. (a) In the case of any loan guaranteed by the Secretary under this Act, the Secretary shall not guarantee the principal of such loan in an amount in excess of 90 per centum of the face amount of the loan.

(b) The full faith and credit of the United States is pledged to the payment of all such guarantees with respect to both principal and interest as may be provided for in the guarantee, accruing between the date of default under a guaranteed loan and the payment in full of the guarantee.

(c) Any guarantee, or commitment to guarantee, made by the Secretary under this Act shall be conclusive evidence of the eligibility of the loan for such guarantee, and the validity of any guarantee, or commitment to guarantee, so made shall be incontestable.

(d) The aggregate unpaid principal amount of the loans guaranteed under this Act and outstanding at any one time shall not exceed $250,000,000.

(e) The Secretary shall endeavor to promptly process all loan guarantee applications, and in no event shall the Secretary fail to approve or deny an application within ninety days after the date of receipt of the application.

(f) The Secretary shall charge and collect from the borrower such amounts as he may deem reasonable for the investigation of applications for a guarantee, for the appraisal of properties offered as security for a guarantee, for the issuance of commitments, and for the inspection of such properties during construction, expansion, or rehabilitation: *Provided,* That such charges shall not aggregate more than one-half of 1 percentum of the original principal amount of the loan to be guaranteed.

(g) All moneys received by the Secretary under this Act shall be deposited in the Fund.

SEC. 8. Loans guaranteed under this Act and agreements relating thereto shall contain such other provisions with respect to the protection of the security interests of the United States (including acceleration and subrogation provisions and the issuance of notes by the obligor to the Secretary), liens and releases of liens, payments of taxes, and such other matters as the Secretary may prescribe.

SEC. 9. (a) In the event of a default which has continued for thirty days in any payment by the borrower of principal or interest due under a loan guaranteed under this Act, the lender or his agent shall have the right to demand, at or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than ninety days from the date of such default, payment by the Secretary of the unpaid principal amount of the loan and of the unpaid interest thereon to the date of payment. Within such period as may be specified in the guarantee or related agreements, but not later than thirty days from the date of such demand, the Secretary shall promptly pay to the lender or his agent the unpaid principal amount of the obligation and unpaid interest thereon to the date of payment: *Provided,* That the Secretary shall not be required to make such payment if prior to the expiration of said period he shall find that there was no default by the borrower in the payment of principal or interest or that such default has been remedied prior to any such demand.

(b) In the event of any payment by the Secretary under subsection (a), the Secretary shall have all rights in any security held by him relating to his guarantee of such loans as are conferred upon him under any security agreement with the borrower. Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of property by the United States, the Secretary shall have the right, in his discretion, to complete, recondition, reconstruct, renovate, repair, maintain, operate, charter, or sell any property acquired by him pursuant to a security agreement with the obligor or may place a vessel in the national defense reserve.

(c) Any amount required to be paid by the Secretary pursuant to subsection (a) shall be paid in cash. If at any time the moneys in the Fund are not sufficient to pay any amount the Secretary is required to pay, the Secretary is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary, with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other

obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations to be issued hereunder and for such purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such notes and obligations. The Secretary of the Treasury at any time may sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Funds borrowed under this section shall be deposited in the Fund and redemptions of such notes and obligations shall be made by the Secretary from such Fund.

(d) In the event of a default under any guaranteed loan or any related agreement, the Secretary shall take such action against the borrower or any other parties liable thereunder that, in his discretion, may be required to protect the interests of the United States. Any suit may be brought in the name of the United States or in the name of the lender and the lender shall make available to the United States all records and evidence necessary to prosecute any such suit. The Secretary shall have the right, in his discretion, to accept a conveyance of title to and possession of property from the borrower or other parties liable to the Secretary, and may purchase the property for an amount not greater than the unpaid principal amount of such obligation and interest thereon. In the event the Secretary shall receive through the sale of property an amount of cash in excess of any payment made to a lender under subsection (a) and the expenses of collection of such amounts, he shall pay such excess to the borrower.●

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By Mr. MOYNIHAN (for himself and Mr. JAVITS):

S. 2892. A bill to authorize the Secretary of the Treasury to provide loan guarantees for the assistance of the city of New York; to the Committee on Banking, Housing, and Urban Affairs.

NEW YORK CITY LOAN GUARANTEE

● Mr. MOYNIHAN. Mr. President, today Senator JAVITS and I are introducing the administration's New York City Loan Guarantee Act of 1978. This bill was drafted by the Carter administration to implement the President's pledge of support for the city of New York.

As Secretary of the Treasury Blumenthal stated in his letter of April 6 transmitting the text of the bill to the Senate, "The administration believes that the consequences of a New York City bankruptcy would be serious for residents of the city, New York State and the Nation. Although the city has made substantial progress since 1975 toward restoring its fiscal soundness, it is uncertain whether the city would be able to meet its financing needs after June 30, 1978—when the present Seasonal Financing Act expires —without Federal assistance. Therefore, some continued Federal assistance is appropriate to assure the city's solvency."

The bill authorizes the Secretary to guarantee up to $2 billion in debt obligations of the city of New York. Such guarantees would extend only to the original purchasers of city debt, and would last no more than 15 years. The bill provides that the State of New York must maintain a fiscal control mechanism in existence, and provides that the revenue sharing funds payable to the city and State may be withheld by the Secretary to recover amounts paid on any guarantee. The bonds guaranteed under this bill would be subject to federal income tax.

The Subcommittee on Economic Stabilization of the House Banking Committee is currently considering a New York City loan guarantee bill introduced by Representative MOORHEAD, who chairs that subcommittee. When that bill emerges from the House Banking Committee, we will introduce it in the Senate so that the Senate may have before it that proposal as well as the President's.

In our view, the proposal of this legislation by the President is a vital step forward in New York City's struggle to regain fiscal stability. Of course, very much more remains to be done. A reasonable settlement of the city's negotiations with municipal employees will be a crucial factor and will greatly affect the view which Congress takes of this legislation.

We wish to express our appreciation to the President, to Secretary of the Treasury, Michael Blumenthal, and to Assistant to the President for Domestic Affairs, Stuart Eizenstat. The passage of legislation authorizing loan guarantees for New York City, an event which comes much closer today, will be the culmination of the efforts of many public officials and private citizens in New York City and State and here in Washington.

Mr. President, I ask unanimous consent that a section-by-section analysis of the proposal by the administration, and the text of the bill be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 2892

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

SEC. 101. This Act may be cited as the "New York City Loan Guarantee Act of 1978."

TITLE I—LOAN GUARANTEES

DEFINITIONS

SEC. 201. As used in this Act:

(a) "City" means the City of New York.

(b) "State" means the State of New York.

(c) "Financing agent" means any agency or instrumentality of the State duly authorized by the State to act on behalf of or in the interest of the City, and no other subdivision of the State, with respect to the City's financial affairs.

(d) "Secretary" means the Secretary of the Treasury of the United States of America.

(e) "City indebtedness" means indebtedness for borrowed money with a stated maturity more than one year from the date of issuance thereof of (i) a Financing agent, but only if the proceeds thereof are advanced to or applied for the benefit of the City or (ii) the City. For purposes of any calculation pursuant to section 202(a) or section 204, references to "City indebtedness guaranteed hereunder" and "City indebtedness committed to be guaranteed hereunder" shall, if less than all of the principal amount thereof is guaranteed, mean only that portion that is guaranteed or committed to be guaranteed.

SEC. 202. (a) The Secretary may guarantee, and enter into commitments to guarantee, the payment of the principal of and interest on any City indebtedness. Such guarantees may be of all of any portion of the principal of and interest on such City indebtedness and, subject to the limitation set forth in section 202(b)(ii), may be for all or any portion of the term of such City indebtedness: *Provided*, That the Secretary shall not guarantee, or commit to guarantee, any City indebtedness if, after giving effect to such guarantee or commitment, any repayment or cancellation of any City indebtedness previously guaranteed and any lapse of any guarantee previously made, the sum of the aggregate principal amount of (i) City indebtedness guaranteed hereunder then outstanding and (ii) City indebtedness committed to be guaranteed hereunder would exceed $2,000,000,000.

(b) Any guarantee of any City indebtedness hereunder shall lapse and be of no further effect on the earliest of:

(i) any date specified in the guarantee;

(ii) the fifteenth anniversary of the date of the issuance of such City indebtedness; and

(iii) the date of any sale, transfer or other disposition (other than to a successor in interest or any disposition not involving a change in beneficial ownership) of such City indebtedness by the person who initially acquired it upon issuance: *Provided* That for the purposes of this section 202(b)(iii) any acquisition of City indebtedness by any person for purposes of resale as part of a distribution shall be disregarded with respect to any City indebtedness that is sold, transferred or otherwise disposed of by such person within ninety days of his acquisition,

except with respect to claims and other rights that have accrued thereunder prior to such date.

CONDITIONS

SEC. 203. The Secretary shall not guarantee or commit to guarantee any City indebtedness unless he shall have determined at the time such guarantee or commitment to guarantee is made that:

(a) there is a reasonable prospect of repayment of such City indebtedness in accordance with its terms and conditions;

(b) an instrumentality of the State has been established and is acting that has authority and has been directed, which authority and direction the State has covenanted will not be repealed, invalidated or otherwise substantially impaired during any period during which the Secretary may guarantee or commit to guarantee City indebtedness hereunder or during which any City indebtedness guaranteed hereunder is outstanding, to require the City to adopt and adhere to budgets covering all expenditures other than capital items, the results of which would not, for fiscal years of the city beginning after June 30, 1981, show a deficit when reported in accordance with generally accepted accounting principles applicable to governmental bodies and, for fiscal years of the City beginning on or prior thereto but after June 30, 1978, make substantial progress towards that goal;

(c) credit is not otherwise available to the City or a Financing agent on reasonable terms; and

(d) the interest rate on such City indebtedness is reasonable, taking into consideration current average market yields for other obligations guaranteed by the United States.

Any determination by the Secretary that the conditions set forth in this section 203 have been met shall be conclusive, such determination to be evidenced by the making of such guarantee or commitment to guarantee, and the validity of any guarantee so made shall be incontestable in the hands of the holder of such guaranteed City indebtedness, except for fraud or material misrepresentation on the part of such holder. The

Secretary is authorized to determine the manner in which such guarantees and commitments will be issued and, in addition to the terms and conditions required by this section 203, to require from, or agree to with, the City, a Financing agent, the holders of the City indebtedness guaranteed or committed to be guaranteed and any other party in interest such other terms and conditions as he may deem appropriate, including provision of security for the repayment of amounts paid pursuant to any guarantee under this Act. Any such other term or condition may be modified, amended or waived in the discretion of the Secretary.

GUARANTEE FEE

SEC. 204. The Secretary shall assess and collect from the issuer of any City indebtedness guaranteed hereunder, no less frequently than annually, a guarantee fee computed daily at a rate of no less than one-half of 1 percent per annum on the outstanding principal amount of City indebtedness guaranteed hereunder. All funds received by the Secretary in payment of such fees shall be paid into the general fund of the Treasury.

SECURITY

SEC. 205. (a) Any other provision of law to the contrary notwithstanding, the Secretary shall withhold from any payments from the United States to the City or the State of the character described in clauses (i), (ii) and (iii) of this section 205(a) that may become due pursuant to any law, and shall, in the case of payments of the character described in clauses (i) and (ii), deposit in the general fund of the Treasury, an amount, calculated on the date such payment is otherwise payable, equal to the aggregate of all outstanding claims that the Secretary has against issuers of City indebtedness hereunder. The Secretary shall withhold from such payments in the following order of priority:

(i) First, payments to the City under the State and Local Fiscal Assistance Act of 1972, as presently or in the future amended, or any other enactment providing for general purpose financial assistance;

(ii) Second, payments to the State under the State and Local Fiscal Assistance Act of 1972, as presently or in the future amended, or any other enactment providing for general purpose financial assistance: *Provided* That the Secretary shall not withhold any amount from any payment to the State to the extent he reasonably expects that within the next ninety days a payment of an equal or greater amount subject to withholding under clause (i) of section 205(a) will be payable to the City; and

(iii) Third, any other payments to the City.

(b) The Secretary shall be entitled to recover from the issuer of any City indebtedness, or any other person liable therefore, the amount of any payments made with respect to such City indebtedness pursuant to any guarantee hereunder, and upon making any such payment the Secretary shall be subrogated to all the rights of the recipient thereof.

(c) The remedies of the Secretary prescribed in this Act shall be cumulative and not in limitation of, or in substitution for, any other remedies available to the Secretary or the United States, and the Secretary may take all such action as may be appropriate to enforce his rights or the rights of the United States arising hereunder, under any guarantee or any agreement with respect thereto.

(d) With respect to any debt to the United States arising under this Act, for the purposes of section 3466 of the Revised Statutes (31 U.S.C. 191) the term "person" includes the City and any Financing agent. The provisions of such section to the contrary notwithstanding, the Secretary is authorized to waive, wholly or partially, the priority for the United States established thereunder with respect to any such debt if, in his judgment, such waiver is necessary to facilitate the ability of the City to meet its financing needs: *Provided* That no such waiver by its terms shall subordinate the claim of the United States to those of any other creditor of the City or any Financing agent.

TERMINATION

SEC. 206. The authority of the Secretary to guarantee City indebtedness under this Act terminates on June 30, 1982. Such termination shall not affect the carrying out of any contract, guarantee or other obligation entered into pursuant to this Act, or the taking of any action necessary to preserve or protect the interests of the United States arising hereunder, except that no commitment to guarantee any City indebtedness shall be effective after such date.

AUDITS

SEC. 207. The General Accounting Office shall make such audits as may be deemed appropriate by the Secretary or the General Accounting Office of all accounts, books, records and transactions of the issuer of any City indebtedness guaranteed hereunder. The General Accounting Office shall report the results of any such audit to the Secretary and the Congress.

AUTHORIZATIONS

SEC. 208. There are authorized to be appropriated to remain available without fiscal year limitation such sums as may be necessary to carry out the provisions of this title.

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

SEC. 301. TAX TREATMENT OF CERTAIN FEDERALLY GUARANTEED OBLIGATIONS

(a) Certain Federally Guaranteed Obligations.—Section 103 of the Internal Revenue Code of 1954 (interest on certain governmental obligations) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) Certain Federally Guaranteed Obligations.—If payment of any principal or interest on an obligation is guaranteed by the United States under the New York City Loan Guarantee Act of 1978, then the obligation shall be treated as not described in subsection (a)."

(b) Lapse of Guarantee.—Section 1058 (cross references) is redesignated as section 1059, and the following new section is inserted immediately after section 1057:

"SEC. 1058. LAPSE OF CERTAIN FEDERAL GUARANTEES.—

The following rules apply on the lapse of a guarantee under the New York City Loan Guarantee Act of 1978:

"(a) For all purposes of this subtitle, the guaranteed obligation shall be treated as surrendered in exchange for a newly issued obligation described in section 103(a).

"(b) For purposes of determining the amount of gain or loss recognized on such exchange, the fair market value of obligation (immediately after the guarantee lapses) shall be determined by the Secretary."

(c) Character of Certain Federally Guaranteed Obligations.—Section 1221 (capital asset defined) is amended by striking "or" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting "; or" in lieu thereof, and by inserting after paragraph (6) the following new paragraph:

"(7) Obligations guaranteed under the New York City Guarantee Loan Act of 1978."

(d) Conforming Amendment.—The table of sections for Part IV of Subchapter O of Chapter 1 is amended by deleting the last item and inserting in lieu thereof the following new items:

"SEC. 1058. LAPSE OF CERTAIN FEDERAL GUARANTEES.—

SEC. 1059. CROSS REFERENCES."

(e) Effective Date.—The amendments made by subsections (a), (b), (c), and (d) shall apply to taxable years ending after the date of the enactment of this Act.

SECTION-BY-SECTION ANALYSIS OF A BILL TO AUTHORIZE LOAN GUARANTEES FOR THE CITY OF NEW YORK

SECTION 101

This section provides that the bill shall be titled the "New York City Loan Guarantee Act of 1978."

Title I—LOAN GUARANTEES

SECTION 201

This section sets forth the definitions of various terms used throughout the bill. The definition of "City indebtedness" makes clear that the guarantee authority of the Secretary of the Treasury is limited to long-term financing, and does not include seasonal financing.

SECTION 202

Subsection (a) provides that the Secretary may guarantee all or any portion of the principal of and interest on any City indebtedness and that the guarantee may be for all or any portion of the term of that indebtedness, subject to a maximum guarantee term of 15 years. No guarantee could be made if the principal amount of guaranteed City indebtedness outstanding would exceed $2,000,000,000.

Subsection (b) provides that any guarantee will lapse on the earlier of the date agreed to in the guarantee, the fifteenth anniversary of the issuance of the guaranteed City indebtedness and the date of any disposition of that indebtedness by the initial purchaser. Certain exceptions to these provisions are also set forth.

SECTION 203

This section sets forth conditions that must be satisfied before a guarantee is issued. Subsection (a) requires the Secretary to determine that there is a reasonable prospect of repayment. Subsection (b) requires the Secretary to determine that a fiscal control mechanism has been established that will require the City to adopt and maintain expense budgets that, for City fiscal years 1982 and thereafter, are balanced in accordance with generally accepted accounting principles and, for City fiscal years 1979, 1980, and 1981, make substantial progress towards that goal. The State must covenant to keep the control mechanism effective for the life of any Federal guarantees. Subsection (c) requires the Secretary to determine that credit is otherwise not available on reasonable terms, and Subsection (d) requires the Secretary to determine that the interest rate on any guaranteed City indebtedness is reasonable. Any determinations made by the Secretary will be conclusive. The Secretary may also negotiate the other terms of any guarantee arrangement.

SECTION 204

This section requires the Secretary to assess a guarantee fee on any guaranteed City indebtedness. The fee must be assessed at least annually and can be no less than one-half of 1% per annum.

SECTION 205

Subsection (a) would authorize the Secretary to withhold Federal transfer payments to the City and the State to recover amounts paid on any guarantee. It also specifies the order of priority in which such payments are to be withheld.

Subsection (b) gives the Secretary the authority to recover from the issuer of any City indebtedness any amount paid pursuant to a guarantee, and provides that the Secretary shall be subrogated to all the rights of the recipient of those payments.

Subsection (c) provides that the remedies

set forth in the bill are cumulative and not in limitation of, or in substitution for, any other remedies available to the Secretary or the United States. It also authorizes the Secretary to take such actions as may be appropriate to enforce his rights under the bill or any guarantee.

Subsection (d) makes clear that the priority afforded the United States by Section 3466 of the Revised Statutes (31 U.S.C. 191) is applicable, and also gives the Secretary discretion to waive that priority if necessary to facilitate the City's ability to meet its financing needs. However, no waiver by its terms could subordinate the claims of the United States to the claims of other creditors.

SECTION 206

This section provides that the authority of the Secretary to guarantee City indebtedness terminates on June 30, 1982.

SECTION 207

This section provides for audits by the General Accounting Office.

SECTION 208

This section provides an authorization for the appropriation of such sums as may be necessary to carry out the provisions of the bill.

SECTION 209

This section provides that the authority of the Secretary to make guarantees is limited to the amounts provided in advance by appropriations acts.

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

This title amends certain provisions of the Internal Revenue Code of 1954, including Section 103, to provide that interest on obligations guaranteed under the bill is taxable while the guarantee is outstanding.●

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By Mr. STENNIS (for himself, Mr. EASTLAND, Mr. SPARKMAN, Mr. ALLEN, Mr. BAKER, and Mr. SASSER):

S. 2893. A bill to provide for the completion of the Natchez Trace Parkway from Natchez, Miss., to Nashville, Tenn.; to the Committee on Energy and Natural Resources.

NATCHEZ TRACE PARKWAY

● Mr. STENNIS. Mr. President, I am introducing today a bill which will authorize and require the Secretary of Interior to complete the construction of the Natchez Trace Parkway in 5 years.

I am very pleased to announce that cosponsoring the bill with me are Senators EASTLAND, SPARKMAN, ALLEN, BAKER and SASSER, and I thank them for joining in this legislative endeavor to correct a situation which has resisted solution through administrative means.

Construction by the Federal Government of this National Parkway began in 1937. The Parkway extends from Nashville to Natchez, passing through portions of Tennessee, Alabama and Mississippi. Now, over 40 years later, it is still only 74 percent complete, being usable in intermittent stretches over its length.

Early progress on the project was excellent. Of the total length of 444 miles, 120 miles were placed under contract in the first 5 years of construction. Progress since then, however, has been extremely slow. Although the States of Mississippi, Alabama and Tennessee have cooperated fully, successive administrations have declined to budget funds to maintain a consistent rate of construction, and 114 miles remain to be completed. Inflation continues to escalate the projected costs of construction.

In the early days of our Nation the Natchez Trace was the historic road between the East and what was then the Southwest. It had its origin as an Indian trail. Beginning about 1785 it was used as a return trail by the flatboatmen, returning from New Orleans after selling their products. In 1800 Congress extended mail service from Nashville to Natchez, using the Trace. Congress appropriated money in 1806 for the Postmaster General to improve the Trace, and what had been an Indian trail became a frontier road that played a key part in the expansion of our country, the growth of its trade, and the defense of its territory. Andrew Jackson earned the name "Old Hickory" by his stamina in leading the Tennessee militia over the Trace in the War of 1812, and used the road to bring his army north after the Battle of New Orleans.

The historic sites, the Indian mounds, and the artifacts have been carefully protected and are there to see. The problem is that the parkway itself has not been completed. There are 114 miles of the Natchez Trace yet to be built, and 330 miles are now in use. It is not sensible to prolong this project year after year, leaving it as an incomplete facility. The citizens who attempt to use this parkway for the intended purposes must inevitably receive a very unsatisfactory impression of the consistency of Federal policies.

As a matter of fact, from 1969 to last year the project was literally abandoned by the Department of Interior, which persistently declined to request construction funds. This amounted to unilateral voiding of a contract or at least a firm commitment.

A long time ago the Federal Government and the three States concerned made an agreement about the Natchez Trace Parkway. The States would provide the project lands and rights of way; the parkway would be dedicated to recreational use with restricted driving speeds, and forbidden to trucks; and the Federal Government would build the parkway. The States have lived up to their share. The Federal Government has been intolerably slow in its part. This bill will authorize the expenditure of $180 million, over a 5-year period, a figure which allows for the current annual rate of inflation of construction costs.

Mr. President, the Natchez Trace Parkway has reached a stage where it would be a sound investment for the Government to complete it in a timely way. I believe that it is not sensible to prolong this project year after year, leaving it as a facility that is three-quarters built and is usable only in intermittent stretches. It is inefficient and uneconomical to do so, while construction costs rise on the uncompleted quarters of the project. It should be completed and start to realize the benefits to the citizens of the three-State area and to the many other citizens who as tourists visit that area in increasing numbers each year.

I strongly urge the early consideration and passage of this bill to complete the Natchez Trace in 5 years.●

● Mr. SPARKMAN. Mr. President, I am very glad to join with my colleague from Mississippi in introducing a bill to provide for the completion of the Natchez Trace Parkway from Natchez, Miss. to Nashville, Tenn.

I do so because, in my opinion, it would be folly to further delay completion of this historic highway which was authorized in 1938, 40 years ago. Of the total length of the highway, 444 miles, only 114 miles remain to be completed. We ought to move now to put an end to the sporadic construction which has taken place over those 40 years, and act to complete the remaining miles within a 5-year period.

To do so, in my opinion, simply makes good sense, and I am happy to be a cosponsor.●

● Mr. SASSER. Mr. President, I am very pleased to offer my support to the Senator from Mississippi, Senator STENNIS, for his bill which will bring about completion of the Natchez Trace Parkway within 5 years.

The parkway's primary purpose when it was first conceived in 1936 was to memorialize the historic importance of the old Natchez Trace. The roadway was designed to mark and preserve the remaining sections of that historic pathway, first used by our Indian forerunners, now connecting the cities of Natchez, Miss., and Nashville, Tenn. At the same time, it was laid out to serve today's citizens of the area and provide a focus for visitors to our region.

The expanding development and increasing interest in tourism in the South add emphasis to the need for the Natchez Trace Parkway. When complete, it will connect the attractions of its terminus cities with a corridor of recreation opportunities. We are undertaking few projects today which possess the scenic and relaxing characteristics which the Natchez Trace Parkway will offer when completed.

The parkway envisioned by our predecessors in the 76th Congress extended 444 miles and passed through three States—Mississippi, Alabama, and Tennessee. Now, some 40 years later, we are looking back on the progress of the project to note that it is still only 74 percent complete. The 114 miles of unfinished segments are spread intermittently throughout the length of the parkway. As my colleague, Senator STENNIS, points out, this must present a disappointing impression in the minds of visitors on the consistency of Federal policies which undertake a project and then seem to lose the momentum for completion, three-quarters of the way through.

I share the feeling of all those whose names appear on the bill being introduced today, that the Natchez Trace Parkway has reached a state where it represents a sound investment for the Federal Government to complete it in a timely way. It is inefficient to leave a project in this partial state of completion and uneconomical to prolong the process of construction. Mr. President, I

believe we should move now to commit ourselves to the goal of completion of the Natchez Trace Parkway within 5 years so that the citizens of the region and increasing numbers of tourists visiting the area can begin to realize the full benefits which the planners of the project envisioned in this parkway.●

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By Mr. PELL (for himself, Mr. CLARK, and Mr. MATHIAS):

S. 2894. A bill to establish as Institute for Human Rights and Freedom to promote respect for and observation of human rights and fundamental freedoms in foreign countries; to the Committee on Foreign Relations.

INSTITUTE FOR HUMAN RIGHTS AND FREEDOM

● Mr. PELL. Mr. President, today I and the senior Senators from Iowa and Maryland are introducing a bill to establish and authorize funding for an Institute for Human Rights and Freedom, to promote respect for and observance of human rights and fundamental freedoms in foreign countries. Congressmen FASCELL and FRASER have introduced an identical bill in the House of Representatives, and I believe that the Senate should consider simultaneously the establishment of such an Institute.

The Institute which we are proposing would serve as a further manifestation of the deep commitment of the United States to human rights and fundamental an independent body openly facilitating freedoms around the world. It would be programs to promote international respect for and observance of human rights.

It is not the intention to create another bureaucracy or to duplicate the work of either the Department of State or the Commission on Security and Cooperation in Europe, of which I am the cochairman. Rather, this Institute would serve essentially as a means for providing financial and other assistance to private organizations—both in the United States and abroad—which are engaged in promoting respect for human rights. The institute would be small, having no more than 25 employees, and the funding proposed is modest—only $5 million. It is my earnest hope that the Senate will support the creation of this Institute.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2894

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

STATEMENT OF PURPOSE

SECTION 1. It is the purpose of this Act to establish, as a manifestation of the commitment of the United States to human rights and fundamental freedoms, an independent institute which will openly carry out programs to promote international respect for and observance of human rights and fundamental freedoms.

ESTABLISHMENT OF INSTITUTE

SEC. 2. There is created as an agency of the United States a body corporate to be known as the Institute for Human Rights and Freedom (hereafter in this Act referred to as the "Institute").

FUNCTIONS OF THE INSTITUTE

SEC. 3. (a) In order to promote international respect for and observance of human rights and fundamental freedoms, the Institute is authorized to—

(1) provide assistance to nongovernmental organizations and individuals that promote human rights and fundamental freedoms in foreign countries by means consistent with the United States Charter and other international obligations of the United States;

(2) sponsor, conduct, and provide assistance for conferences, seminars, and other meetings on human rights and fundamental freedoms in foreign countries;

(3) provide assistance for the publication and dissemination in foreign countries of books and other written works, and for the display or other presentation in foreign countries of artistic works, which have been suppressed for political reasons;

(4) provide assistance for research, fellowships, internships, and studies on human rights and fundamental freedoms in foreign countries;

(5) provide assistance to nongovernmental organizations which support victims (and the families of victims) of political persecution by foreign governments;

(6) provide financial support for nongovernmental organizations in the United States that furnish assistance for the legal defense of human rights and fundamental freedoms in foreign countries; and

(7) carry out other programs which the Institute determines will promote respect for and observance of human rights and fundamental freedoms in foreign countries.

(b)(1) Assistance may be provided under this Act only to nongovernmental organizations and individuals.

(2) Financial assistance under this Act may be provided in the form of grants, loans, or guarantees, on such terms and conditions as the Institute may determine.

(3) Financial or other assistance may be provided under this Act only with the consent of the recipient and shall be provided openly.

(4) Assistance provided under this Act for use in a foreign country must be provided consistent with the laws of that country.

PUBLIC INFORMATION

SEC. 4. In addition to complying with the requirements of section 552 (relating to public information) and section 552b (relating to open meetings) of title 5 of the United States Code, the Institute shall publish in the Federal Register, and otherwise make available to the public and to interested persons, a statement with regard to each decision of the Institute to provide financial or other assistance under this Act. Any such statement shall be published and otherwise made public as soon as practicable after the decision to provide assistance is made and shall include, in addition to such other information as the Institute deems appropriate, the identity of the recipient of the assistance, the amount and nature of the assistance, and the purpose for which the assistance is to be used.

RELATIONSHIP TO UNITED STATES FOREIGN POLICY

SEC. 5. The Secretary of State shall keep the Institute fully informed on United States foreign policy as it relates to the activities of the Institute. The Institute shall give consideraion to the foreign policy of the United States in carrying out this Act, but shall not be subject to the direction of the Secretary of State in carrying out its responsibilities under this Act.

MANAGEMENT OF THE INSTITUTE

SEC. 6. (a) The management of the Institute shall be vested in a board of directors (hereafter in this Act referred to as the "Board") which shall direct the exercise of all the powers of the Institute.

(b)(1) The Board shall be composed of seven members (hereafter in this Act referred to as "directors") appointed by the President, by and with the advice and consent of the Senate, from among individuals in private life with a demonstrated concern for, and experience in matters pertaining to human rights and fundamental freedoms. No more than four directors may be of the same political party.

(2) One director shall be designated by the President to serve as Chairman of the Board and one director shall be designated by the President to serve as Vice Chairman of the Board.

(3) Directors shall be appointed for terms of six years, except that of the directors first appointed two shall be appointed for terms of two years and two shall be appointed for terms of four years, as designated by the President at the time of their appointment. A director appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term. Upon the expiration of his or her term of office a director shall continue to serve until a successor is appointed and has qualified. Directors shall be eligible for reappointment.

(c) Directors shall each be entitled to receive not to exceed the daily equivalent of the annual rate of basic pay in effect for level IV of the Executive Schedule (5 U.S.C. 5315) for each day, including travel time, during which they are engaged in the actual performance of their duties as dirtctors, and shall be reimbursed for actual and necessary expenses (including transportation expenses) incurred while engaged in the actual performance of their duties as directors.

(d) The Board may prescribe, amend, and repeal bylaws, rules, and regulations governing the manner in which the business of the Institute may be conducted and in which the powers granted to it by this Act may be exercised and enjoyed.

(e) A majority of the directors shall constitute a quorum of the Board for purposes of conducting business.

(f) The Board may appoint such committees as the Board finds to be in the best interests of the Institute, each such committee to consist of at least two directors. Such committees, together with officers and agents duly authorized by the Board, may, to the extent provided by the Board, exercise the powers of the Board in the management of the affairs of the Institute.

(g) The chief executive officer of the Institute shall be an Executive Director who shall be appointed by the Board on such terms as the Board may determine. The Executive Director shall receive compensation at a rate not to exceed the rate provided for level IV of the Executive Schedule (5 U.S.C. 5315).

POWERS OF THE INSTITUTE

SEC. 7. (a) The Institute—

(1) shall have perpetual succession unless sooner dissolved by an Act of Congress;

(2) may adopt, alter, and use a corporate seal which shall be judicially noticed;

(3) may, subject to the availability of appropriations therefor, make and perform contract and other agreements with any nongovernmental person however designated, whether within or without the United States;

(4) shall determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid;

(5) may employ and fix the compensation of not to exceed 25 individuals at any one time;

(6) may use the United States mail in the same manner and on the same conditions as the executive departments of the Government;

(7) may, with the consent of any board, corporation, commission, independent establishment, agency, or executive department of the Government, avail itself of the use of information, services, facilities, officers, and employees thereof in carrying out this Act;

(8) may employ experts or consultants, or organizations thereof, in accordance with section 3109 of title 5, United States Code;

(9) may accept money, property, and services of any kind by gift, devise, bequest, grant, or otherwise, and make advances, grants, and loans to any nongovernmental person, whether within or without the United States, when deemed advisable by the Institute in carrying out this Act;

(10) may sue and be sued, complain, and defend, in its corporate name any court of competent jurisdiction; and

(11) shall have such other powers as may be necessary and incident to carrying out this Act.

(b) The Institute shall establish a principal office. The Institute may establish agencies, branch offices, or other offices in any place or places within the United States or elsewhere in any of which locations the Institute may carry on all or any of its operations and business.

MISCELLANEOUS PROVISIONS

SEC. 8. (a) The Institute shall be a nonprofit corporation and shall have no capital stock. Except as provided in sections 6(c), 6(g), and 7(a)(5), no part of the income or assets of the Institute shall inure to the benefit of its directors, officers, and employees, and such income and assets shall be used solely for the carrying out this Act. No director, officer, or employee of the Institute shall in any manner directly or indirectly participate in the deliberation upon or the determination of any question affecting his or her personal interests or the interests of any corporation, partnership, or organization in which he or she is directly or indirectly interested.

(b) The Institute shall be subject to the provisions of the Government Corporation Control Act (31 U.S.C. 841 et seq.) relating to wholly owned Government corporations.

(c) Upon termination of the corporate life of the Institute all of its assets shall be liquidated and, unless otherwise provided by Congress, shall be transferred to the United States Treasury as the property of the United States.

ANNUAL REPORT

SEC. 9. The Institute shall submit to the President and the Congress each year a detailed report on its activities in carrying out this Act during the preceding year.

AUTHORIZATION OF APPROPRIATIONS

SEC. 10. There is authorized to be appropriated to the Institute to carry out this Act $5,000,000 for the fiscal year 1979. Amounts appropriated under this section are authorized to remain available until expended.●

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By Mr. BENTSEN (for himself, Mr. CURTIS, Mr. DOLE, Mr. WALLOP, Mr. HANSEN, Mr. STONE, Mr. ZORINSKY, and Mr. McGOVERN):

S. 2895. A bill to impose quotas on the importation of beef in order to assure an adequate supply of quality beef at stable prices for the American consumer; to the Committee on Finance.

BEEF IMPORT ACT OF 1978

● Mr. BENTSEN. Mr. President, I am today introducing legislation to amend the Meat Import Act in order to add stability to the domestic cattle market and assure the U.S. consumer high quality beef at reasonable prices. My proposal has been formulated as a result of extensive testimony received at the January 27 Senate Finance Committee hearings on this issue.

Under present law, beef imports are increased as domestic cattle production increases and beef imports are decreased as domestic production decreases. This is a completely counterproductive approach which contributes to an extremely unstable cattle market with consumers periodically paying very high beef prices. The existing formula is detrimental to both cattlemen and consumers.

My bill will reverse the boom and bust cycle in the cattle industry by allowing increased imports during periods of high prices and reducing imports during periods of depressed prices. This countercyclical control of imports will add stability to cattle prices and will help prevent inflationary beef prices during periods of domestic beef shortages.

I do not believe that anyone can question the fact that the domestic beef industry as a whole has been seriously hurt in the past several years. Imported frozen boneless beef has been allowed to capture 15 to 20 percent of the total U.S. processed beef supply during a period of chronic liquidation in our domestic market. This is not fair to our domestic producers and it is not fair to our consumers who will pay for the chronic liquidation of our U.S. cattle in skyrocketing prices in future months.

We must reduce the historical cyclical fluctuations in cattle production and prices. A countercyclical formula will stabilize profits to ranchers at levels that are reasonable for consumers. In particular, this approach will help moderate beef prices for the American housewife at times of domestic beef shortages.

Mr. President, even a small increase in imports can have a very negative effect on cattlemen during periods of overproduction. This is particularly true for smaller cattlemen. Added stability in the cattle industry would be particularly beneficial to smaller, family-owned farms and ranches, which are less able to withstand the upswings and downswings of the cattle cycle than larger corporate operations with ready access to financial markets. Many cattlemen have been caught in a cost-price squeeze and have been victimized by serious drought. This has led to bankruptcy for smaller ranchers.

Added stability in the cattle sector would provide an economic climate to encourage investment in cost-reducing technology, improvements in productivity, better breeding stock, pasture improvements, better machinery and equipment, and better veterinary programs.

Under this legislation, all forms of beef and veal would be subject to a countercyclical beef import formula which is based on per capita supplies of domestic cow beef. The new quotas would be computed as follows:

A×B/C=New Proposed Quota.

A=Adjusted Base Quota as calculated under the 1964 Meat Import Law.

B=Base period average. This is a ten-year moving average of per capita domestic commercial cow beef production. The base period is the 10 years prior to the year under consideration.

C=Average of two-year per capita supply of commercial cow production. It includes the year previous to and an estimate of the year under consideration.

This formula is adjusted to increase the protection of our domestic cattle market during periods of extreme distress.

The legislation also modifies the Presidential authority to suspend quotas under existing law and will prevent disproportionate shipments of imports into any one port.

Mr. President, I urge Congress to enact this legislation, and I ask unanimous consent that a factsheet summarizing the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

FACT SHEET—BEEF IMPORT ACT OF 1978

1. Countercyclical formula—Beef imports will increase during periods of domestic shortage and decrease during periods of domestic overproduction. This will help stabilize the cattle market and prevent sharp upswings in consumer prices.

This will be achieved by adjusting the quota in the 1964 Meat Import Act according to per capita domestic commercial cow beef production. The existing quota would be multiplied by a new fraction. The numerator is a ten year average of per capita domestic commercial cow beef production for the ten years prior to the year in consideration. The denominator is the average of two-year per capita supply of commercial cow production. The denominator includes the year previous to and an estimate of the year under consideration.

In addition, during periods of severe overproduction (when the new fraction is .8 or less), imports will be restricted to 2 percent of domestic production.

2. Including all forms of beef—In order to close a loophole in existing law, processed beef and veal will be subject to the quota as well as fresh, chilled and frozen beef and veal.

3. Quarterly Limitations—Quotas will be computed on a quarterly basis in order to be more responsive to the domestic cattle cycle. (Under existing law, computations are made on an annual basis.)

4. Modification of Presidential Authority to Suspend Quotas—Existing law will be modified to make sure that quotas will not be suspended except during periods of real National emergencies or disasters.

5. Port of Entry—The President will be given authority to prevent disproportionate shipments or imports into any one port.●

Mr. DOLE. Mr. President, the American livestock industry is unique among other commodities in that there is a law on the books dealing with the amount of fresh, chilled and frozen meat that is imported, known as the Meat Import Quota Act. This law passed in 1964. The purpose of this unique law is not only to provide a degree of reasonable protection for the domestic livestock industry, but also provides guaranteed access to the United States on the part of exporting nations.

BENEFITS TO CONSUMER AND FARMER

In the past 2 years it has become obvious that a rather major flaw exists in this legislation which needs correction, along with several clarifying amendments, in order to make the law more equitable and workable. Currently, the law provides that when the supply of meat is plentiful and prices

low to consumers, that this will allow an increased amount of meat imports, adding to the supply and further lowering prices.

This situation has financially ruined many farmers in recent years. The provisions of the bill I cosponsor today with the distinguished Senator from Texas (Mr. BENTSEN) would change that quota formula to allow more meat imports in times of short supply, thereby stabilizing the tendency toward higher prices to the benefit of the consumer, and reduce meat imports in times of ample supply to prevent the disastrous drops in prices which disrupted our meat production. The bill, therefore, benefits both consumers and producers, and still allows cooperating nations ready access to sell meat to the United States.

In addition to this major provision, the bill contains the following provisions:

The bill will broaden the types of meat imported to include prepared, preserved, cooked, canned, and cured beef and veal, to eliminate similar supply and pricing disparities in these types of meat.

The bill provides quarterly limitations based on annual estimates on imports to assure a continuous supply of meat year around instead of seasonal peaks and valleys we have seen in the past.

The bill clarifies the authority of the President to invoke or suspend quotas, as in the past we have seen hesitancy by the administration to act due to the ambiguity of the present law.

The bill provides authority to prevent disproportionate shipments of imports through any one port of entry (generally) and/or specified ports of entry. This clarifies the situation brought about several years ago by transshipments of meat through Puerto Rico.

Mr. President, I want to emphasize that considerable thought has gone into the drafting of this legislation. I introduced an earlier bill, S. 2492, which contains the change in quota system, but this legislation has been refined following hearings by the Senate Finance Committee and this is definitely an improved bill.

It enjoys the support of the major producer organizations in the Nation and deserves the support of all Senators, because of its sincere approach to providing a more stable, adequate, reasonably priced supply of meat in the future.

Mr. President, I ask unanimous consent that a short history of the Meat Import Quota Act of 1964 be printed in the RECORD at this point, together with Executive Order No. 11539, delegating certain authorities under the act to the Secretary of State, Secretary of Agriculture, and the special trade representative. Both documents provide valuable background information for the proper consideration of this legislation.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

HISTORY OF THE MEAT IMPORT LAW (PUBLIC LAW 88-482) AND PROGRAM FOR 1977

Following a ten-year rise in imports and a sharp decline in U.S. cattle prices, Congress passed an Act on August 22, 1964 (PL 88-482), herein-after referred to as "the Law" to maintain control over the growth of imports so as not to place undue stress on domestic cattle prices. Under the Law, imports of fresh, chilled or frozen beef, veal, mutton and goat meats are allowed to grow, from a base of 725.4 million pounds, at the same rate as domestic commercial production of these meats in the 1959-63 base period compared to the most recent three-year average (including an estimate of production in that year). A 10 percent overage is allowed, so that only when imports are expected to exceed the adjusted base quota level by 10 percent are those quotas triggered. Each year the Secretary of Agriculture is required to publish in the Federal Register the estimated quantity that would trigger the imposition of quotas under the Law, and quarterly, the quantity of meat that, but for the Law, would enter the United States in such calendar year.

If the Secretary's estimate of imports exceeds the trigger level, the President is required by law to invoke quotas on imports of meats subject to the law. Quotas may be suspended or the total quantity increased if the President determines and proclaims that,

"(1) such action is required by overriding economic or national security interests of the United States, giving special weight to the importance to the nation of the economic well-being of the domestic livestock industry;

"(2) the supply of articles of the kind described . . . will be inadequate to meet domestic demand at reasonable prices; or

"(3) trade agreements entered into after the date of the enactment of this Act ensure that policy set forth will be carried out."

In the first three years after the Law was passed, imports were below the trigger point for quota imposition. But by mid-1968 it was apparent that the year's imports would exceed the trigger quantity, and in August Australia and New Zealand were asked to restrain shipments voluntarily in order to avoid quotas. The other 11 supplying countries (eligible because they also were certified to be free of foot-and-mouth disease and met U.S. meat inspection standards) were asked to hold to shipments already scheduled. Imports in 1968 were above the quota level but below the trigger point.

For 1969 all supplying countries, except Canada and the United Kingdom, agreed to a restraint level below the trigger quantity. The program worked fairly well, although imports exceeded the restraint level somewhat and imports from one country—Honduras—has to be embargoed. The authority to negotiate "voluntary" agreements and restrict imports to the agreed quantity is provided by Section 204 of the Agricultural Act of 1956.

For 1970 a restraint program was negotiated with a target below the trigger point as was the case in previous restraint programs. Imports were extremely heavy, however, and at mid-year two actions were taken:

(1) The President proclaimed and then suspended quotas, and a new restraint level was authorized at a higher level than the trigger quantity, and (2) Section 204 was used to embargo transshipments through Canada, thus closing a serious loophole in the program. Section 204 also was used to hold five supplying countries to their restraint agreements.

For 1971 the restraint program continued at the level established in late 1970. This was higher than the trigger quantity for 1971 and required Presidential action to proclaim and suspend quotas as was done the year before. Actual 1971 imports were 48 million pounds below the restraint level, largely because of U.S. dock strikes.

For 1972 a restraint program 7 percent higher than the 1971 program was agreed to by the principal supplying countries. At mid-year the voluntary restraint program was suspended by the President in order to encourage greater shipments of beef to the United States at a time when retail prices were high and other major importing countries had removed import duties and levies or issued larger quotas to compete for limited world supplies.

Quotas under the Law were invoked by the President in both 1973 and 1974 but simultaneously suspended because of overriding economic interests. As the year 1974 progressed, domestic cattle slaughter increased significantly with a large part of the increase coming from greater slaughter of culled cows and non-fed steers and heifers. Imported beef competes principally with this type of domestic production. As a consequence of this larger domestic production, prices for manufacturing grade beef fell and imports slowed so that by year's end they were below the point which would permit the imposition of quotas:

In 1975 and 1976 the Department of State negotiated programs of export restraint with supplying countries to keep imports below the trigger level. In 1976, larger than anticipated imports from Canada who was not a participant in the voluntary restraint program caused the Secretary of Agriculture to estimate in October that imports would exceed the trigger level.

This estimate caused the President to invoke formal quotas under the Meat Import Law. The Secretary of Agriculture in setting the individual country allocations took into consideration the voluntary restraint program that had been previously negotiated with 11 of the 15 supplying countries.

For 1977, a similar program of voluntary restraints is in place. Imports from Canada who has not formally participated in earlier programs will be covered by the 1977 arrangements and entries of meats processed in foreign-trade zones, trust territories, or possessions after January 1, 1977 will be counted against the individual country limitations.

*Actual imports subject to meat import law of 1964*

| | |
|---|---|
| 1965 | 613.9 |
| 1966 | 823.4 |
| 1967 | 894.9 |
| 1968 | 1001.0 |
| 1969 | 1084.1 |
| 1970 | 1170.6 |
| 1971 | 1132.6 |
| 1972* | 1355.5 |
| 1973* | 1355.6 |
| 1974* | 1079.1 |
| 1975 | 1208.9 |
| 1976 | 1231.7 |

*Quotas suspended by Presidential Action.

DELEGATIONS OF AUTHORITY TO NEGOTIATE AGREEMENTS AND ISSUE REGULATIONS LIMITING IMPORTS OF CERTAIN MEATS

By virtue of the authority vested in me by section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. The Secretary of State, with the concurrence of the Secretary of Agriculture and the Special Representative for Trade Negotiations, is authorized to negotiate bilateral agreements with representatives of governments of foreign countries limiting the export from the respective countries and the importation into the United States of fresh, chilled, or frozen cattle meat (item 106.10 of the Tariff Schedules of the United States) and fresh, chilled, or frozen meat of goats and sheep, except lambs (item 106.20 of the Tariff Schedules of the United States) which are the products of such countries.

SEC. 2. The Secretary of Agriculture, with the concurrence of the Secretary of State and the Special Representative for Trade Negotiations, is authorized to issue regulations governing the entry or withdrawal from warehouse for consumption in the United States of any such meats to carry out any such agreement.

SEC. 3. The Commissioner of Customs shall take such actions and supply such information to the Secretary of Agriculture with respect to entry or withdrawal from warehouse for consumption in the United States of such meats as the Secretary of Agriculture, with the concurrence of the Secretary of State and the Special Representative for Trade Negotiations, may request to carry out any such agreements or regulations.

SEC. 4. Heads of departments and heads of agencies are hereby authorized to redelegate within their respective departments or agencies the functions herein assigned to them, except that the function of negotiating agreements delegated to the Secretary of State by section 1 and the function of issuing regulations delegated to the Secretary of Agriculture by section 2 of this order may be redelegated only to officials required to be appointed by and with the advice and consent of the Senate, as provided by 3 U.S.C. 301.

RICHARD NIXON.

THE WHITE HOUSE, *June 30, 1970.*

[F.R. Doc. 70-8539; Filed, July 1, 1970; 11:23 a.m.]

By Mr. LONG (by request):

S. 2897. A bill to amend the Federal Railroad Safety Act of 1970 to provide the Secretary of Transportation a longer period within which to assess civil penalties for certain violations, to extend authorizations of appropriations for fiscal year 1979 and 1980 for the rail safety program, and for other purposes; to the Committee on Commerce, Science, and Transportation.

S. 2898. A bill to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

FEDERAL RAILROAD SAFETY ACT

● Mr. LONG. Mr. President, I am introducing today, two bills providing for authorization of appropriations under the Federal Railroad Safety Act of 1970, for fiscal year 1979. One bill is being introduced, by request, for the Department of Transportation and provides for extensions of authorization in the amount of $35 million under the Federal Railroad Safety Act of 1970, for fiscal years 1979 and 1980. In addition, the Department's bill coordinates activities between State and Federal inspectors by permitting State agencies to enforce safety rules in U.S. district courts under certain circumstances. The Department's bill also makes it clear that the Federal Tort Claims Act does apply to the outside, contract employees who operate sophisticated automated rail inspection vehicles. Finally, the Department's bill makes it clear the Hours of Service Act is to apply to any common carrier engaged in interstate or foreign commerce by railroad, relieving the Federal railroad inspectors from having to prove, in each case in which a violation is processed, that one or two cars on that train were in fact moving in interstate commerce.

The other bill I am introducing at the request of railway labor. It is a combination bill containing the authorization for fiscal year 1979 for the Federal Railroad Safety Act, as well as a number of suggested rail safety amendments.

The first portion of this bill authorizes the sum of $37,725,000 for FRA's budget for fiscal year 1979 broken down as follows:

First, for the Office of Safety, 600 safety inspectors (including 100 track inspectors and 45 signal and train control inspectors) and 125 clerical personnel not to exceed $20,725. Such funds shall be available for travel expenses of safety inspectors for not less than 20 days per month.

Second, $3,500,000 is authorized for the State program under the Rail Safety Act which is the same amount as has been authorized in previous years.

Third, $3,500,000 for salaries and expenses not otherwise provided for, which is the same as authorized in prior years.

Fourth, $10 million for conducting safety research and development activities.

There are limitations on funding contained in the proposed bill requiring that at least 50 percent of the funds for railroad research and development shall be for safety research, improved track inspection and data acquisition technology, improved rail freight service, and improved passenger systems. In addition, funds for any railroad research and development program shall not exceed the funds allotted for railroad safety research.

The bill also clears up confusion created by two opposite court decisions in defining the term "designated terminal" under the Hours of Service Act. Designated terminal is defined as the home terminal and the away from home terminal for the assignment of a particular crew. In addition, the hours of service for a railroad worker is reduced to 10 hours per day starting 2 years from the effective date of this law.

Section 6 of the bill limits the length of a freight train to 4,300 feet, exclusive of the caboose. Studies have shown that the length of the train has direct correlation between accidents and efficiency. At present, the average length of a freight car is approximately 56½ feet, which would mean that a train could contain up to 75 cars. At present, the average number of cars in a train is 67.

Section 7 is designed to protect a railroad employee who is discharged, harassed, or discriminated against where he notifies the Secretary of an alleged violation or danger; has filed or instituted any proceeding resulting from any alleged violations of the safety laws; has testified in any safety proceeding; has refused to operate defective equipment or refused to work in an area or surroundings where he reasonably believes there is present an imminent danger to his safety and health.

The final section creates an Office of Occupational Safety and Health to administer the occupational safety and health functions of the FRA. The sum of $9 million for salaries and expenses for up to 200 inspectors, and 40 clerical personnel are authorized. In addition, funds shall be available for travel expenses for such inspectors for not less than 20 days per month.

Mr. President, I take no position at this time on the merits of either of these two bills. They are being introduced in order to get them before the Committee on Commerce, Science, and Transportation in connection with our Surface Transportation Subcommittee hearings on April 21, 1978, on railroad safety.●

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By Mr. CULVER (for himself, Mr. BAKER, Mr. RANDOLPH, Mr. WALLOP, Mr. GRAVEL, and Mr. HODGES):

S. 2899. A bill to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that act should be granted for such actions; to the Committee on Environment and Public Works.

ENDANGERED SPECIES ACT AMENDMENTS OF 1978

● Mr. CULVER. Mr. President, the authorization for the Endangered Species Act of 1973 expires at the end of fiscal year 1978 and reauthorization legislation must be reported by the Committee on Environment and Public Works by May 15. Accordingly the Subcommittee on Resource Protection has scheduled hearings for this Thursday and Friday to consider the need for extending this program.

There is another matter which the subcommittee should address during these hearings—whether flexibility should be added to section 7 of the act. Section 7 requires each Federal agency to assure that it neither conducts nor assists any action which adversely affects an endangered or threatened species or habitat that is critical to the existence of such species. Over the last year this provision has come under considerable public discussion as construction of at least one major project—the Tellico Dam in Tennessee—has been stopped because of a conflict with the act.

In order to provide a vehicle for these discussions, I am cosponsoring today with Senator RANDOLPH, Senator BAKER, and other colleagues from the Committee on Environment and Public Works an amendment to the 1973 act which would designate a mechanism whereby such conflicts could be resolved. Our amendment would set up a seven-member Endangered Species Interagency Board composed of the Secretaries of the Interior, Agriculture, the Army, Transportation, the Administrator of the Environmental Protection Agency, and the Chairman of the Council on Environmental Quality, and the Secretary of the Smithsonian. When a Federal agency believes it has a conflict with the act which cannot be resolved through consultation with the Fish and Wildlife Service (FWS) under provisions of section 7, it would petition the Board for relief. The FWS would have 30 days to respond to this petition. After reviewing the petition and providing an opportunity for a formal public hearing, the Board would decide whether the project should be permitted to proceed as planned with modifications or terminated.

In order to exempt an activity from the requirements of the Endangered Species Act, five of the seven agency heads under this provision would have to

determine: First, that the project is of regional or natural significance; second, that there is no reasonable or prudent alternative; and third, that the benefit of completing the project clearly outweighs the benefits of conserving the species. In addition, the Board must have the assurance that the project agency has taken all reasonable steps to mitigate damage to the species and its habitat.

Mr. President, the assumption behind this proposal is that the interagency consultation process developed by the Fish and Wildlife Service and the National Marine Fisheries Service should remain strong and that it will, in the vast majority of cases, be successful in resolving these conflicts. In those few instances where consultation cannot resolve the problems, however, I believe that this proposal provides a reasonable mechanism of balance.

The amendment would also extend the authorization for appropriations for the Endangered Species Act for fiscal years 1979, 1980, and 1981 at a level of $23 million, $25 million, and $27 million for the Secretary of Interior and $2.5 million, $3 million, and $3.5 million for the Secretary of Commerce, respectively.

Mr. President, let me emphasize that this proposal is by no means cut in stone, but is merely meant to serve as a focus of discussion during this week's hearings.●

● Mr. BAKER. Mr. President, I am today cosponsoring along with a number of my colleagues a bill that reauthorizes the Endangered Species Act. This act and the protection it provides for certain species of fish, wildlife, and plants has added a very important and heretofore ignored perspective to our national conservation efforts. At the time of the act's original passage the Congress had begun to recognize the tremendous pressures which a growing society imposes on our dwindling wildlife resources. In my opinion, the Congress by approving the Endangered Species Act, expressed the intent that whenever reasonably possible in accomplishing development activities we should avoid deleterious impacts to endangered species or their critical habitats. I do not believe, however, that Congress intended that the protection or management of an endangered species should in all instances override other legitimate national goals or objectives with which they might conflict. The present interpretation of the act, however, has and will continue to lead to just such results. The bill before you today addresses this problem. I hope my colleagues will find that the provision directed at this issue is both balanced and reasonable.

This new provision is intended to provide a format for discussion of this important issue in hearings before the Senate Environment and Public Works Committee's Subcommittee on Resource Protection. These hearings will be held on April 13 and 14.

Let me briefly explain the problem being experienced under the present implementation of the act and what the proposal in our amendment does to resolve it. Under the current interpretation of the act the Fish and Wildlife Service is charged with the care and protection of an extremely broad and continually expanding number of endangered species. As part of the mandate the Service under section 7 of the act must review all Federal or federally assisted programs to assure that no deleterious impacts to endangered species or their critical habitats occur as a result of these programs. In carrying out this mandate the Service has created a consultation process designed to help other agencies seek modifications to projects and thus help avoid conflict with the act. This consultation process has, in many instances, been effective in helping Federal agencies find approaches to carrying out their developmental responsibilities in a manner that avoids destructive impacts on endangered species or their critical habitat. There are, however, instances in which a Federal activity, if it is to achieve its stated purpose, simply cannot avoid a direct impact to a species or its critical habitat. Because the objective of the Endangered Species Act and that of the other Federal program are in direct conflict, even consultation cannot resolve the impasse. The present interpretation of the law provides no flexibility to balance other legitimate national goals and priorities with the need to protect and manage a particular species. Our amendment would allow such a balancing of interests and if it is decided that the Federal activity is of more importance than the protection of a particular species, the action may proceed.

This decision on whether a particular Federal action should be exempted from the requirements of section 7 would be made by a Federal interagency committee. This committee would have the authority to examine only those Federal actions which had completed the consultation process and were still found to be in irresolvable conflict with the act.

I believe this is a useful and needed addition to the Endangered Species Act and hope that in the next few weeks as the Endangered Species Act is considered in committee it will receive constructive criticism and support. The discussions in committee should address the concept and the structure of the interagency committee and what the best criteria for resolution of conflicts under the act should be. It is only through a thorough discussion of these and other issues that the committee can design a process that fully addresses the problems that have arisen under the act. Hopefully the bill we introduce today will stimulate and provide a vehicle for these discussions.●

● Mr. RANDOLPH. Mr. President, when the Endangered Species Act was passed by Congress in 1973, it was hailed as landmark environmental legislation. It established the United States as a world leader in the international effort to bring back from the brink of extinction hundreds of unique plant and animal species.

One of the most important provisions of that statute is section 7 which requires each Federal agency to assure that it neither conducts nor assists any action which adversely affects an endangered species or its critical habitat. This provision declares a national policy that the Federal Government is committed to the conservation of these fish, wildlife, and plants and will not knowingly contribute to their demise.

Over the last year this provision has become the subject of controversy as a result of the U.S. 6th Circuit Court of Appeals opinion in Hill versus TVA. In its decision, the court enjoined TVA from completing construction of the $116 million Tellico Dam on the Little Tennessee River, because the impoundment would destroy the critical habitat of the snail darter, an endangered species of fish.

This situation has caused considerable concern among some who fear that some environmentalists, armed with section 7, will be able to literally shut down Federal construction programs by finding a remote species of mussel, snail, or fish at any project site.

This appears to be an over-reaction based on information developed during oversight hearings on the act by the Environment and Public Works Subcommittee on Resource Protection last July. I feel that section 7 as presently drafted may be too inflexible. Conflicts between the Endangered Species Act and Federal activities should be resolved in favor of the species when possible. There may be, however, instances where the project is of such national importance that it should be permitted to continue.

This bill would provide needed flexibility for the endangered species law by enacting an exemption mechanism allowing a balancing judgment where conflicts develop between two Federal objectives. I stress that this is not a final proposal. It is an important step in resolving problems which have arisen. Committee members will seek a broad public discussion of the provisions contained in this measure. However, as a concept it is a reasonable approach which will serve as a well reasoned basis for further consideration.●

● Mr. WALLOP. Mr. President, I would like to add some remarks to those of my distinguished colleagues about the amendment to the Endangered Species Act which I am cosponsoring today.

My office and a number of other offices have recently received many letters from constituents who truly want to protect wildlife, especially endangered or threatened species, and who are asking me to fight any amendments to the Endangered Species Act. In the past I have asked them if they want me to fight any amendments which might strengthen the act, which usually draws a surprised look. I do not mean to be facetious, but what I would like to do is ask everyone concerned about this important conservation law to consider the merits of this particular approach. I personally believe that it is a carefully thought out and sensitive solution to a problem we should recognize and deal with positively. There are those who will say it is too tough an amendment, and who may attempt to weaken it. I would prefer to fight for the present law than weaken it as some have suggested. While this amendment may not be perfect, I do believe it offers a reasonable vehicle for discussion, and I for one will be willing to consider other strong alternatives which address some of the problems we are facing but do not gut the act.

I am proud to be from a State where abundant wildlife is one of our finest and most cherished treasures. Few States in our union contain the diversity of wild animals which Wyoming boasts, from the delicate trumpeter swan to the wide-roaming grizzly bear. I have the deepest respect and appreciation for every creature, for we share this earth and a common quality of life. Every species, be it a snail darter, woundfin, whooping crane, or grizzly bear, is important in the chain of life and an indicator of the health of our planet. What former National Park Service Director George Hartzog said of our national parks can be easily applied to our wildlife; the species of this world, like our parks, are comparable to the canary in the miner's cap; a stilled voice signaling the presence of death in the mine shaft air. Wildlife are our early warning system. The pressures on them are the same pressures that threaten our overall environment. Species perform essential biological services to maintain a balance of nature in the total environment, and enhance the esthetic and scientific world as well. We are obliged to preserve them and their habitats or we will in short order lose more than we can afford.

The Endangered Species Act of 1973 went beyond the acts of 1966 and 1969 to provide the kind of management tools needed to act early enough to save vanishing species. One of its most important provisions directed Federal agencies to consult with the U.S. Fish and Wildlife Service whenever a major Federal action might threaten any endangered or threatened species or its critical habitat. Because the U.S. Fish and Wildlife Service has worked hard to insure compliance, and because most agencies have cooperated in the full spirit of the law, we have been able to modify projects in many ways and proceed with orderly development and preservation of species. Everyone who has worked to fulfill the law should be commended. For consultation is the key to early detection of wildlife-project conflicts, and with cooperation and consultation in the future we can hopefully learn to avoid future project-species conflicts like the one at Tellico Dam. In the meantime the Resources Protection Subcommittee of the Senate Environment and Public Works Committee is considering other ways to address this problem. At present we are considering a bill which will enable States to inventory elements of natural diversity in the natural world in a comprehensive fashion. This information on wildlife habitat and other biological features should enable Federal and State Government, communities, and private interests to identify and plan for significant wildlife habitats and other elements of the natural world in a way not now possible in many States. I hope the committee can address this legislation shortly.

The Endangered Species Act is a strong law, but because it is so strong it is ripe for attack and, unfortunately, for misuse. To my mind the greatest threat to it all along has not been that it so strongly supports wildlife over every other national priority, but that its provisions can be used by well-intentioned individuals to stop Federal projects as a primary goal and in a way never intended by Congress. The potential for abuse of the law exists, and that potential has aroused considerable consternation in Congress and elsewhere. In order to understand the problem, one must understand the complexity of speciation to some extent. While I am no expert on the topic, I was most interested to hear some of the country's finest scientific experts discuss speciation during oversight hearings on this law last year. Speciation is a complex issue over which even the finest minds disagree. However, one fact which seems clear is that species and their subspecies (which the act protects) exist by the millions the world over. We have barely begun to identify all species, and species and subspecies appear and disappear naturally constantly. Extinction, like the appearance of new species, is a normal life process; man has unfortunately accelerated it to a dangerous and irresponsible level.

However, the terms of the Endangered Species Act provide that no Federal agency may take any action which would adversely impact an endangered species or its habitat. With new species unique to a particular locality coming and going naturally all the time, this is a considerable mandate. What it provides is a good opportunity for an individual or group opposed to a particular Federal project to find one of those millions of species and have its critical habitat protected not for the sake of the species, but to prevent the project. Certainly discovering an endangered species is not the easiest thing to do, but it is very possible that a good scientist with enough desire may be able to find an endangered species or subspecies on the vast areas often impacted by a Federal project. I do not deny many of the projects are poor, and probably should not be constructed. However, I do say that the temptation to misuse the Endangered Species Act to stop them remains great.

Major projects throughout this Nation already are being affected by this law. Environmental advocates feel that the stringent provisions of section 7 will force agencies to find a way to modify the projects, and any balancing mechanism will provide a "chink in the armor" of the act and a way for agencies to maneuver for their projects to the possible detriment of species. However, I think we are being blind if we do not recognize the number of potentially irresolveable project-species conflicts which will probably greet Congress in the near future. It seems inevitable to me that congressionally authorized projects undertaken in the name of national and regional interests must and will be stopped by the Endangered Species Act. One example I have seen is the proposed listing of the Virgin River in southern Utah as critical habitat for a fish called the woundfin. This listing could well stop the proposed LaVerkin Springs desalter and one other desalinization project in the Colorado River Basin, designed to implement salinity levels mandated by the Water Pollution Act of 1972. I am not familiar enough with the merits of the LaVerkin Springs plan or the entire salinity control project to judge its merits, and there may be better ways to control salinity. However, this is one example which points out the possibility of having two national goals in conflict.

The Endangered Species Act makes Congress the final arbiter in such cases. I submit that Members of Congress have neither the time nor the expertise to resolve many of these issues. If we do not consider other ways to address this problem which will inevitably arise, I fear that we may lose the entire act and the protection for species and their habitats. I suspect there are indeed Members of Congress who would like to permit development to the detriment of species, who might want to "gut" the act in order to permit other national goals to proceed. By taking this initiative and proposing a stringent examination process in clear cases of project-species conflict, I believe we can keep the teeth in the law and provide a fair arena for flexibility when confronted by no other alternatives.

This amendment, as has been described, creates an Endangered Species Commission of the secretaries from seven agencies. Those agencies have been carefully chosen and include the Departments of Agriculture, Interior, Transportation, along with the Council on Environmental Quality, the Environmental Protection Agency, Smithsonian Institution, and Army. Federal agency heads would be allowed to petition the Commission for exemptions from the act for projects. If the Commission found that the consultation process has occurred and an irresolvable conflict exists, it may grant a project exemption if it determines that there is no reasonable and prudent alternative to such action, and the benefits of such action clearly outweigh the benefits of conserving the species. The exemption would have to be approved by a vote of five or more agencies.

I have agreed to cosponsor this proposal, because I believe we need to act now to avert a wave of future amendments designed to weaken the act and which are not carefully thought out. This is a tough amendment, with tough criteria for any exemption. I am not inflexible in this matter, and hope everyone will recognize this proposal as only a vehicle for discussion and not an ironclad solution impossible to change. If others can suggest better ways to solve the problems we will encounter with this law, I will study them carefully. As I have noted before, the Endangered Species Act is one of this Nation's finest conservation laws, but only if we manage it sensibly, guard it from misuse, and let biological facts and reason guide our perspective.●

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By Mr. MUSKIE (for himself, Mr. STAFFORD, and Mr. CHAFEE):

S. 2900. A bill to provide for compensation for damages and clean-up costs caused by discharges of oil and hazardous substances, to establish a liability fund, and for other purposes; to the Committee on Environment and Public Works.

OIL SPILL LIABILITY FUND AND COMPENSATION ACT OF 1978

● Mr. MUSKIE. Mr. President, the Subcommittee on Environmental Pollution has scheduled hearings on April 17 and 18 to consider pending legislation to establish a comprehensive oil spill liability regime. The House of Representatives and the Senate Commerce Committee, with whom we share some jurisdiction on this matter, have already completed action on this legislation. It is the intent of the Environment and Public Works Committee now to complete the process so that final action can be taken.

In reviewing the "superfund" legislation, we want to take a concentrated look at four questions. First, should Federal law preempt tougher State laws? Second, should the legislation address the problem of hazardous spills in a way similar to our approach in the Clean Water Act? Third, what is the appropriate level of liability for oil spills, and what defenses should be available to the party responsible for the spill? And fourth, what incentives does the bill contain for tanker and oil handling facility operators to adopt tough measures to guard against oil spills?

The *Amoco Cadiz* disaster off the coast of Brittany has brought home to the world the frightening dangers of oil spills, especially from huge oil-carrying vessels. In addition, the Law of the Sea Conference has a mandate to address ocean pollution at its conference now underway in Geneva.

So it is an especially appropriate time for the Congress to review our sometimes confusing oil spill legislation, to establish a consistent policy which offers real protection for the American coastline and the people who live along it.

In order to have the full range of issues associated with the "superfund" legislation before us, I am today introducing a bill which is in some respects similar to the bills already pending before the Senate Environment and Public Works Committee. However, there are a few areas of significant difference which I would like to touch on briefly.

This bill is a major streamlining of other pending legislation in that it builds around an existing body of law, section 311 of the Clean Water Act which has been tested in the courts. It does not propose any radical changes in the existing statutory structures. Instead, it fills the gaps, makes uniform the liability structure, and streamlines procedures.

This bill includes spills of hazardous substances in addition to oil as part of the comprehensive liability schemes. Some will argue that it is not appropriate to include hazardous substances in the "superfund" structure since there will be no fee imposed for contribution to the fund. However, more than half the designated hazardous substances are petroleum-based products, thereby making the oil fee-based fund a legitimate source for liability coverage for hazardous materials. Further, the penalties assessed for spills of nonremovable hazardous substances will be deposited in the fund and will more than cover any costs associated with hazardous materials spills.

Certainly spills of chemical substances can be as damaging, if not more so, than spills of oil. And because, in most cases, such spills are impossible to clean up, the potential for damages is significantly increased. It is essential that this aspect of pollution be included within this comprehensive scheme to assure full protection of our natural resources.

This bill restricts the available defenses to liability to assure that only spills caused solely by an act of God, act of war, third party negligence, or U.S. Government negligence would relieve the spiller of liability. In the other measures pending before the committee, the spiller can avoid liability by showing that the spill was caused primarily by these other actions, thereby opening up a gaping and litigable loophole.

In the area of relationship to State law, this bill deals with the preemption issue in what I believe is a defensible way. Certain States rights are preserved while the multiplicity of State funds is reduced.

In most other areas, this bill is substantially similar to those already reviewed by the House and Senate.

Mr. President, I ask unanimous consent that an outline and the text of this bill be included in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 2900

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this bill may be cited as the "Oil Spill Liability Fund and Compensation Act of 1978".

DEFINITIONS

SEC. 2. For the purposes of this Act—

(1) the terms "oil", "discharge", "vessel", "public vessel", "United States", "owner or operator", "remove" or "removal", "contiguous zone", "onshore facility", "offshore facility", "barrel", and "hazardous substance" shall have the meaning provided in section 311(a) of the Federal Water Pollution Control Act;

(2) the terms "State", "person", "navigable waters", and "territorial seas" shall have the meaning provided in section 502 of the Federal Water Pollution Control Act;

(3) the term "act of God" means an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistable character the effects of which could not have been prevented or avoided by the exercise of due care or foresight;

(4) the term "claim" means a request, made in writing for a sum certain, for compensatiton for damages or removal costs resulting from a discharge of oil or a hazardous substance;

(5) the term "claimant" means any person who presents a claim for compensation under this Act;

(6) the term "damages" means damages for economic loss or the loss of natural resources as specified in section 3(a)(2) of this Act;

(7) the term "Fund" means the Oil Spill Liability Fund established under section 4.

(8) the term "guarantor" means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this Act or section 311(p) of the Federal Water Pollution Control Act;

(9) the term "refinery" means a terminal which receives oil for the purpose of refinement; and

(10) the term "terminal" means any permanently situated onshore or offshore facility which receives oil in bulk directly from any vessel, offshore production facility, offshore port facility, or any pipeline including the pipeline constructed under the Trans-Alaska Pipeline Authorization Act.

LIABILITY FOR DAMAGES AND REMOVAL COSTS

SEC. 3. (a) Except where an owner or operator of a vessel or an onshore or offshore facility can prove that a discharge was caused solely by (i) an act of God, (ii) an act of war, (iii) negligence on the part of the United States Government, or (iv) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, and notwithstanding any other provision or rule of law, such owner or operator of a vessel or an onshore or offshore facility from which oil or a hazardous substance is discharged in violation of section 311(b)(3) of the Federal Water Pollution Control Act shall be jointly, severally, and strictly liable for—

(1)(A) all costs of removal incurred by the United States Government or a State under subsections (c), (d), (e), (b)(2)(B)(v), or (f)(4) of section 311 of the Federal Water Pollution Control Act or under the Intervention on the High Seas Act or section 18 of the Deepwater Port Act of 1974, and

(B) any other costs or expenses incurred by any person to remove oil or a hazardous substance as the terms "remove" or "removal" are defined in section 311(a)(8) of the Federal Water Pollution Control Act; and

(2) all damages for economic loss or loss of natural resources resulting from such a discharge, including:

(A) any injury to, destruction of, or loss of any real or personal property;

(B) any loss of use of real or personal property;

(C) any injury to, destruction of, or loss of natural resources;

(D) any loss of use of any natural resources, without regard to the ownership or management of such resources;

(E) any loss of income or profits or impairment of earning capacity resulting from injury to or destruction of real or personal property or natural resources, without regard to the ownership of such property or resources; and

(F) any direct or indirect loss of tax, royalty, rental, or net profits share revenue by the Federal Government or any State or political subdivision thereof, for a period of not to exceed one year.

(b) In the case of an injury to, destruction of, or loss of natural resources under subsection (a)(2)(C) of this section, liability shall be to the United States Government and to any State for natural resources within the State or belonging to, managed by, controlled by, or appertaining to such State. The President, or the authorized representative of any State, shall act on behalf of the public as trustee of such natural resources to recover for such damages. Sums shall be available for use to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Federal Government or the State government, but the measure of such damages shall not be limited by the sums which can be used to restore or replace such resources.

(c)(1) The liability of an owner or operator of a vessel or an onshore or offshore facility for damages and removal costs under this section, and inclusive of the limits of liability established under section 311(a) of the Federal Water Pollution Control Act, for each discharge or incident shall not exceed—

(A) $300 per gross ton or $500,000, whichever is greater, of any vessel carrying oil or hazardous substances in bulk as cargo;

(B) $300 per gross ton of any other vessel;

(C) the total of all costs of removal under subsection (a)(1) of this section plus $50,000,000 for any offshore facility operated under the authority of or subject to the Outer Continental Shelf Lands Act;

(D) $50,000,000 for any deepwater port subject to the Deepwater Port Act of 1974 (including any vessel moored at such port, in any case where $50,000,000 exceeds $300 per gross ton of such vessel); or

(E) $50,000,000 for any other onshore or offshore facility.

(2) Notwithstanding the limitations of paragraph (1) of this subsection, the liability of the owner or operator of a vessel or an onshore or offshore facility under subsection (a) of this section shall be the full and total damages and removal costs not offset by any removal costs incurred on benalf of such owner or operator, if (A) the discharge of oil or a hazardous substance was the result of willful misconduct or gross negligence within the privity and knowledge of the owner or operator or of a gross or willful violation (within the privity and knowledge of the owner or operator) of applicable safety, construction, or operating standards or regulations; or (B) the owner or operator fails or refuses to provide all reasonable cooperation and assistance requested by a responsible official in connection with removal activities under the contingency plan established under section 311(c) of the Federal Water Pollution Control Act.

(d) In any case where the owner or operator of a vessel or an onshore or offshore facility can prove that a discharge was caused solely by an act or omission of a third party (or solely by such an act or omission in combination with an act of God, an act of war, or negligence on the part of the United States Government), such third party shall be liable under this section as if such third party were the owner or operator of the vessel or onshore or offshore facility from which the discharge actually occurred.

(e) The President is authorized to establish by regulation, with respect to any class or category of onshore or offshore facility subject to subsection (c)(1)(E) of this section, a maximum limit of liability under this section of less than $50,000,000 but not less than $8,000,000.

LIABILITY FUND ESTABLISHMENT

SEC. 4. (a) There is hereby established in the Treasury of the United States an Oil Spill Liability Fund, not to exceed $200,000,000, except that such limitation shall be increased to the extent necessary to permit any moneys recovered or collected which are referred to in subsection (b) (2) and (3) of this section being paid into such Fund. The fund shall be administered by the President and the Secretary of the Treasury, as specified in this section. The Fund may sue and be sued in its own name.

(b) The Fund shall be constituted from—

(1) all fees collected pursuant to subsection (c);

(2) all moneys recovered on behalf of the Fund under section 5;

(3) all moneys recovered or collected under section 311(b)(2)(B) of the Federal Water Pollution Control Act.

(c)(1) The Secretary of the Treasury shall collect from the owners of refineries receiving crude oil, and from the owners of terminals receiving any oil for export from or entry into the United States whether for import or transfer to a foreign country, a fee, not to exceed three cents per barrel of oil received. Oil upon which a fee has been levied under this paragraph shall not be subject to subsequent levy hereunder.

(2) The Secretary of the Treasury, after consulting with appropriate Federal agencies, may promulgate rules and regulations relating to the collection of the fees authorized by paragraph (1) and, from time to time, the modification thereof. Modifications shall become effective on the date specified therein, but no earlier than the ninetieth day following the date the modifying regulation is published in the Federal Register. Any modification of the fee shall be designed to assure that the Fund is maintained at a level not less than $150,000,000 and not more than $200,000,000. No regulation that modifies fees, nor any modification of such a regulation, whether or not in effect, may be stayed by any court pending completion of judicial review of that regulation or modification.

(3)(A) Any person who fails to collect or pay fees as required by the regulations promulgated under paragraph (2) shall be liable for a civil penalty not to exceed $10,000, to be assessed by the Secretary of the Treasury, in addition to the fees required to be collected or paid and the interest on those fees at the rate the fees would have earned if collected or paid when due and invested in special obligations of the United States in accordance with subsection (d)(2). Upon the failure of any person so liable to pay any penalty, fee, or interest upon demand, the Attorney General shall, at the request of the Secretary of the Treasury, bring an action in the name of the fund against that person for such amount. (B) Any person who falsifies records or documents required to be maintained under any regulation promulgated under this subsection shall be subject to prosecution for a violation of section 1001 of title 18, United States Code.

(4) The Secretary of the Treasury may, by regulation, designate the reasonably necessary records and documents to be kept by persons from whom fees are to be collected pursuant to paragraph (1) of this subsection, and the Secretary of the Treasury and the Comptroller General of the United States shall have access to such required material for the purpose of audit and examination.

(d)(1) The President shall determine the level of funding required for immediate access in order to meet potential obligations of the Fund.

(2) The Secretary of the Treasury may invest any excess in the Fund, above the level determined under paragraph (1), in interest-bearing special obligations of the United States. Such special obligations may be redeemed at any time in accordance with the terms of the special issue and pursuant to regulations promulgated by the Secretary of the Treasury. The interest on, and the proceeds from the sale of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(e) If at any time the moneys available in the Fund are insufficient to meet the obligations of the Fund, the President shall issue to the Secretary of the Treasury notes or other obligations in the forms and denominations, bearing the interest rates and maturities and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of these notes or obligations shall be made by the President from moneys in the Fund. These notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of comparable maturity. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and, for that purpose, is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purpose for which securities may be issued under that Act are extended to include any purchase of these notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of these notes or other obligations shall be treated as public debt transactions of the United States.

USE OF LIABILITY FUND

SEC. 5. (a) The President shall use the money in the Fund for the following purposes:

(1) payment of any claim for costs of removal or damages in excess of the amount for which the owner or operator of the vessel or onshore or offshore facility from which oil or a hazardous substance is discharged is liable under section 3(c) of this Act;

(2) payment of any claim for costs of removal or damages where the source of the discharge of oil or a hazardous substance is not known or cannot be identified;

(3) payment of any claim for costs of removal or damages in any case where the claim has not been satisfied in accordance with subsection (b) of this section;

(4) all removal costs or expenses or other costs of carrying out the National Contingency Plan established under section 311(c) of the Federal Water Pollution Control Act, including removal costs incurred by any person and approved under such National Contingency Plan;

(5) the costs of providing equipment and similar overhead, including research related to the purposes of this Act and section 311 or, if appropriate, section 504 of the Federal Water Pollution Control Act, for any Federal agency involved in strike forces, emergency task forces, or other response teams under such National Contingency Plan;

(6) the costs of assessing both short-term and long-term injury to, destruction of, or loss of any natural resources resulting from a discharge of oil or a hazardous substance;

(7) the costs of Federal or State efforts in the restoration, rehabilitation, or replacement or acquiring the equivalent of any natural resources injured, destroyed, or lost as a result of any discharge of oil or a hazardous substance;

(8) reimbursement to any State for the payment of any claims for costs of removal or damages payable under this Act which such State has paid with funds under the control of such State; and

(9) subject to such amounts as are provided in appropriation Acts, the administrative and personnel costs of administering the Fund and this Act;

(b)(1) The President is authorized to promulgate regulations designating one or more Federal officials who may obligate money in the Fund in accordance with subsection (a) of this section or portions thereof.

(2) The President is authorized to delegate the administration of his duties and authorities under this Act to the heads of those Federal departments, agencies, and instrumentalities which the President determines appropriate.

(3)(A) The President shall promulgate, and may from time to time amend regulations for the presentation, filing, processing, settlement, and adjudication of claims for costs of removal or damages resulting from the discharge of oil or a hazardous substance under this Act.

(B) Whenever the President receives information from any person alleging they have incurred costs of removal or damages resulting from the discharge of oil or a hazardous substance for which the owner or operator of a vessel or onshore or offshore facility is liable under section 3 of this Act, he shall notify the owner, operator, and guarantor of such vessel or onshore or offshore facility of such allegation. Such owner or operator or guarantor, may, within five days after receiving such notification or presentation of any claim by a claimant, deny such allegations, or deny liability for damages for any of the reasons set forth in subsection (a) of section 3 of this Act.

(C) (1) Payment of any claim by the Fund under this section shall be subject to the United States Government acquiring by subrogation all rights of the claimant to recover the costs of removal or damages from the person responsible for such discharge.

(2) Any person, including the Fund, who pays compensation pursuant to this Act to any claimant for damages or costs of removal resulting from a discharge of oil or a hazardous substance shall be subrogated to all rights, claims, and causes of action for such damages and costs of removal such claimant has under this Act or any other law.

(3) Upon request of the President, the Attorney General shall commence an action on behalf of the Fund to recover any compensation paid by the fund to any claimant pursuant to this Act, and, without regard to the limitation of liability provided for in section 3(c), all costs incurred by the Fund by reason of the claim, including interest, administrative and adjudicative costs, and attorney's fees. Such an action may be commenced against any owner, operator, or guarantor, or against any other person who is liable, pursuant to any law, to the compensated claimant or to the Fund, for the damages or costs of removal for which the compensation was paid.

(d) The Fund shall not be available to pay any claim for costs of removal or damages to the extent the discharge or the damages had been caused by the gross negligence or willful misconduct of the particular claimant.

(e) No indemnification, hold harmless, or similar agreement shall be effective to transfer from the owner or operator of a vessel or onshore or offshore facility, to any other person, the liability provided for under this Act, other than as specified under the provisions of this Act.

FINANCIAL RESPONSIBILITY

SEC. 6. (a) (1) The owner or operator of any vessel over three hundred gross tons (except a non-self-propelled barge that does not carry oil or hazardous substances as cargo) using any port or place in the United States or the navigable waters or any offshore facility shall establish and maintain in accordance with section 311(p) of the Federal Water Pollution Control Act evidence of financial responsibility sufficient to meet the liability to which the owner or operator of such vessel could be subjected under section 3 of this Act. The provisions of paragraphs (3), (4), (5), and (6) of such section 311 (p) shall apply to any vessel, or the owner or operator thereof, subject to this section. This subsection shall take effect October 1, 1978.

(2) Any vessel subject to the requirements of this subsection which is found in the navigable waters without the necessary evidence of financial responsibility shall be subject to seizure by the United States of any oil or hazardous substances carried as cargo.

(b) (1) The owner or operator of any onshore or offshore facility (except a storage or transportation facility of less than 1,000 barrels of oil or equivalent capacity at any one time) shall establish and maintain evidence of financial responsibility sufficient to meet the liability to which the owner or operator of such facility could be subjected under setcion 3 of this Act. Such evidence of financial responsibility shall be established according to regulations prescribed by the President and comparable to that required under section 311(p) of the Federal Water Pollution Control Act. This subsection shall take effect 180 days after enactment of this Act.

(2) The owner or operator of any onshore or offshore facility subject to this subsection who fails to comply with this subsection or the regulations prescribed thereunder shall be subject to a fine of not more than $10,000.

STATE LAWS AND PROGRAMS

SEC. 7. (a) Nothing in this Act shall be construed or interpreted as preempting any State from imposing any additional liability or requirements with respect to the discharge of oil or hazardous substances within such State.

(b) (1) Except as provided in this Act, no person may be required to contribute to any public fund, the purpose of which is to pay compensation for loss or damages resulting from discharge of oil or hazardous substances.

(2) State programs for supporting—

(A) The purchase and prepositioning of cleanup and removal equipment, and training of personnel;

(B) Removal costs and cleanup costs caused by discharges of oil or hazardous substances;

(C) Payment of claims for damage and losses resutling from discharge of oil or hazardous substances;

(D) Research into the problems and effects of oil pollution and methods and techniques for control and cleanup of oil pollution; and

(E) Administrative costs for such programs;

which are in effect on the date of enactment of this subsection shall be permitted to continue in effect and operating under the same terms and conditions under which they have operated in the year immediately preceding enactment of this subsection.

(3) Such state programs may be reimbursed from the Fund for all costs arising after the data of enactment of this Act and incident to operation of such programs, including expenditures for—

(A) The purchase and prepositioning of cleanup and removal equipment;

(B) The training of personnel in cleanup and removal techniques;

(C) The payment of cleanup costs and removal costs arising from discharges of oil and hazardous substances; and

(D) The payment of claims for cost of removal, damages or losses resulting from such discharges, to the same extent and under the same terms and conditions as such claims could be paid under state law as it existed immediately prior to enactment of this subsection.

CONFORMING AMENDMENTS

SEC. 8. (a) TRANS-ALASKA PIPELINE ACT.—(1) Section 204(b) of the Trans-Alaska Pipeline Authorization Act (87 Stat. 586) is amended, in the first sentence—

(A) by inserting after the words "any area" the words "in the State of Alaska";

(B) by inserting after the words "any activities" the words "related to the Trans-Alaska Oil Pipeline"; and

(C) by inserting at the end of the subsection the following new sentence: "This subsection shall not apply to removal costs covered by the Oil Spill Liability Fund and Compensation Act of 1978".

(2) (A) Section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)) is hereby repealed. The Trans-Alaska Pipeline Liability Fund is hereby abolished. All assets of that fund, as of the effective date of this section, shall be transferred to the Oil Spill Liability Fund established by section 4 of this Act. The Oil Spill Liability Fund shall assume any and all liability incurred by the Trans-Alaska Pipeline Liability Fund under the terms of section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)).

(B) The Secretary of the Interior shall certify to the Secretary of the Treasury the total amount of the claims outstanding against the Trans-Alaska Pipeline Liability Fund at the time the transfer of assets required under paragraph (A) is made. If the Secretary finds that—

(i) the total amount of the assets so transferred is greater than the total amount of the outstanding claims so certified, the Secretary shall distribute any such excess funds to those persons who paid fees into that fund in the proportion that their representative payments bear to the total payments into the fund; or

(ii) the total amount of the assets so transferred is less than the total amount of the outstanding claims so certified, the Secretary of the Treasury shall increase by 2 cents per barrel the fee imposed under section 4 on barrels of oil until such time as the total amount of the 2-cent-per-barrel increase so collected equals the difference between the amount of the certified outstanding claims and the amount of the transferred assets.

(C) In the event that the total amount of the actual claims settled is less than the total amount of the outstanding claims certified, the difference between these amounts shall be rebated by the Secretary of the Treasury directly to the operator of the trans-Alaska oil pipeline for payment, on a pro rata basis, to the owners of the oil at the time it was loaded on the vessel.

(D) For purposes of paragraph (A), the term "barrels of oil" means only barrels of oil which would, but for the repeal made by paragraph (1), be subject to the fee imposed under section 204(c)(5) of the Trans-Alaska Pipeline Authorization Act. The term "Secretary" means the Secretary of the Treasury.

(b) INTERVENTION OF THE HIGH SEAS ACT.—Section 17 of the Intervention on the High Seas Act (88 Stat. 10) is amended to read as follows:

"SEC. 17. The fund established under section 4 of the Oil Spill Liability Fund and Compensation Act of 1978 shall be available to the Secretary for actions taken under section 5 of this Act.".

(c) FEDERAL WATER POLLUTION CONTROL ACT.—Section 311 of the Federal Water Pollution Control Act is amended as follows:

(1) Clause (H) of paragraph (2) of subsection (c) is amended by inserting after the words "of this section" the words "or the fund established under section 4 of the Oil Spill Liability Fund and Compensation Act of 1978, as appropriate,".

(2) Subsection (f) is amended, in the last sentence of paragraph (1), by inserting a comma after the word "vessel" and by adding immediately thereafter "or against any guarantor of an owner's or operator's liability under the Oil Spill Liability and Compensation Fund Act of 1978,".

(3) Subsection (g) is amended, by inserting in the last sentence, after the word "party" the words "or against any guarantor of an owner's or operator's liability under the Oil Spill Liability and Compensation's Fund Act of 1978".

(4) Any sums appropriated prior to the enactment of this Act under subsection (k) of such section 311 shall be transferred to the Fund established under section 4 of this Act.

(d) DEEPWATER PORT ACT.—The Deepwater Port Act of 1974 (88 Stat. 2126) is amended as follows:

(1) In section 4(c)(1) strike "section 18 (1) of this Act;"; and insert in lieu thereof "section 5 of the Oil Spill Liability and Compensation Fund Act of 1978.".

(2) Subsections (b), (d), (e), (f), (g), (h), (i), (j), (l), (n), and clause (1) of subsection (m) of section 18 are deleted.

(3) Clause (3) of subsection (c) of section 18 is amended by striking "Deepwater Port Liability Fund established pursuant to subsection (f) of this section.", and inserting in lieu thereof "fund established under section 4 of the Oil Spill Liability and Compensation Fund Act of 1978".'.

(4) Subsections (c), (k), and (m) of section 18 are redesignated (b), (c), and (d),

respectively, and clauses (2), (3), and (4) of subsection (m) are redesignated (1), (2), and (3), respectively.

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OIL SPILL LIABILITY FUND AND COMPENSATION ACT OF 1978

I. Basic approach:

A. Leave section 311 of the Clean Water Act in place as basic law providing clean-up authority, penalties for spills and failure to notify, and liability of discharge for clean-up costs for discharges of oil and hazardous substances.

B. Establish liability of discharger for compensation for economic loss and create fund with oil revenues to assure payment without limit of both clean-up costs and compensation for economic loss.

II. The Act would cover all waters and resources covered by section 311, that is, all discharges:

(1) Into or on the navigable waters of the contiguous zone,

(2) In connection with activities under the Outer Continental Shelf Lands Act or Deepwater Port Act of 1974, or

(3) Which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976);

plus certain discharges into the territorial sea of a foreign country such as Canada when reciprocal rights to recover damages have been established.

III. The standard for discharge would be that under section 311, that is discharges of harmful quantities of oil or hazardous substances would be prohibited, except that the discharge standard for vessels beyond the territorial seas of the United States would be that provided under the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended.

IV. Terms would be defined by reference to the definitions in section 311, plus definitions derived from H.R. 6803 for certain new terms.

V. The Act would establish strict liability by the owner or operator of any vessel or facility discharging oil or a hazardous substance for:

A. all clean-up and mitigation costs or expenses incurred under section 311(c), (d) or (e) of the Clean Water Act or the Intervention of the High Seas Act, and any other costs or expenses incurred by any person to remove oil or hazardous substances as "removal" is defined in section 311(a)(8) of the Clean Water Act.

B. damages for economic loss resulting from a discharge, of the following types:

(1) Injury to, or destruction of, real or personal property;

(2) Loss of use of real or personal property;

(3) Injury to, or destruction of, natural resources;

(4) Loss of use of natural resources;

(5) Loss of profits or income or impairment of earning capacity due to injury or destruction of real or personal property or natural resources;

(6) Loss of tax royalty, rental or net profits revenue by Federal, State or local government for a period of one year due to injury to real or personal property.

VII. Defenses to a discharger's liability would be those under section 311, that is, there is no liability where an owner or operator can prove a discharge was caused solely by an act of war, an act of God, or an act or omission of a third party.

VII. The liability of an owner or operator would be limited, for any one discharge or incident, as follows:

A. $300 per gross ton or $500,000 whichever is greater, for vessels carrying oil or hazardous substances in bulk as cargo;

B. $300 per gross ton for other vessels;

C. all removal costs plus $50,000,000 for facilities under OSC Act;

D. $50,000,0000 for deepwater ports (including discharges from vessels moored at such ports);

E. $50,000,000 for other facilities unless a lower limit is established by the President for a particular class or category of facility.

This bill includes the existing limits of liability for clean-up costs under section 311, without actually changing those recently established limits.

Liability is unlimited if caused by willful misconduct or gross negligence within the privity or knowledge of the owner or operator, or by a gross or willful violation of applicable safety, construction, or operating standards or regulations. Failure or refusal to cooperate in clean-up activities also invokes unlimited liability.

VIII. The Act would direct the Secretary of the Treasury to establish a liability fund with fees of up to $.03 per barrel of crude oil received by refineries or terminals. This would include all offshore, domestic, and imported oil. The fund would be maintained at level of $200,000,000 with levy reinstated when fund depleted below that level, and authority to borrow from U.S. Treasury to cover claims whenever amount in fund is exceeded. Also deposited in the Fund would be sums recovered from dischargers and penalties. This fund would replace those funds created under the Trans-Alaska Pipeline Act and the Deepwater Port Act of 1974 and that proposed under the pending Outer Continental Shelf Lands Act amendments. It would also supersede the contingency fund established under section 311.

IX. The Fund would be available to be disbursed, according to regulations issued by the President, for—

A. Any claim for clean-up costs or damages in excess of the limits of liability of the discharger;

B. Any such claim where the discharger cannot be identified;

C. Any such claim where there is delay in satisfying the claim. (Claimants must first assert claims for clean-up costs or damages against the discharger, if known, unless certain defenses or denials of liability are raised. If the claims are not satisfied within 60 days, they may be presented to the Fund for payment. When paid, the Fund is subrogated to all rights against the discharge source.);

D. Clean-up costs and expenses incurred by Federal or State governments or any other party under the National Contingency Plan;

E. Overhead and equipment costs including research of Federal agencies involved in response teams;

F. Costs of assessing injury to or destruction of natural resources;

G. Costs of restoration or replacement by the Federal Government or a State of natural resources damaged or destroyed as a result of a discharge (or acquisition of resources to offset loss of irreplaceable resources);

H. Reimbursement of States for payments of claims made with State liability funds; and

I. Administrative costs of the Fund, subject to such amounts as are appropriated in appropriation Acts.

The Fund would be liable without limit for all clean-up costs and compensable damages, except to the extent caused by gross negligence or willful misconduct of a claimant. The bill would establish a simplified claims procedure based on that in H.R. 6803, leaving it to the President to specify the claims procedure through regulation.

X:

A. The penalties for unlawful discharge, for failure to notify and for discharge of non-renewable hazardous substances under section 311 would continue to apply.

B. Vessels and facilities would be required to provide evidence of financial responsibility under section 311(p) at least in the amount of potential liability under this new Act. Facilities under the Act (except storage or transportation facilities of less than 1000 barrels capacity) would have to provide such evidence within 6 months after enactment. Vessels using the navigable waters would be required to have evidence of increased financial responsibility by October 1, 1978 (the date provided in the 1977 amendments to section 311).

C. These requirements may be enforced through denial of entry or clearance of ports, or by confiscation of cargo of any vessel found in the navigable waters without adequate evidence of financial responsibility. Facilities would be subject to substantial penalties for violations of these requirements.

XI:

A. The Act would substantially modify, with conforming amendments, the Trans-Alaska Pipeline Authorization Act and the Deepwater Port Act of 1974. Amendments to section 311, the Clean Water Act, would be minimal.

B. The Act would expressly allow States to impose more stringent requirements or liability on discharges of oil or hazardous substances. States would be prohibited from collecting further revenues on oil for compensation, but could continue funds for clean-up. States would be allowed to pay clean-up liaibility and compensation claims out of existing funds and to receive reimbursement for those payments from Federal fund.●

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By Mr. CANNON (for himself, Mr. HOLLINGS, and Mr. PEARSON) (by request):

S. 2901. A bill to amend the Communications Act of 1934 to extend and improve the provisions of such act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

PUBLIC BROADCASTING FINANCING ACT OF 1978

● Mr. CANNON. Mr. President, I introduce today, at the request of the White House, and on behalf of myself, Mr. HOLLINGS, and Mr. PEARSON, a bill to amend the Communications Act of 1934 to extend and improve the provisions of such act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes.

I ask unanimous consent that the text of the bill and the letter of transmittal be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 2901

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Public Broadcasting Financing Act of 1978".

TITLE I—CONSTRUCTION AND PLANNING OF FACILITIES

PURPOSE

SEC. 101. (a) The heading for part IV of title III of the Communications Act of 1934 is amended to read as follows:

"PART IV—ASSISTANCE FOR PUBLIC TELECOMMUNICATIONS FACILITIES; TELECOMMUNICATIONS DEMONSTRATIONS; CORPORATION FOR PUBLIC BROADCASTING".

(b) The heading for subpart A of part IV of title III of the Communications Act of 1934 is amended to read as follows:

"Subpart A—Assistance for Public Telecommunications Facilities".

(c) Section 390 of the Communications Act of 1934 is amended to read as follows:

"DECLARATION OF PURPOSE

"SEC. 390. The purpose of this subpart is to assist in the planning and construction of public telecommunications facilities in order to achieve the following objectives: (1) extend delivery of public television and radio services to as many citizens of the United States as possible by the most efficient and economical means, including the use of non-broadcast technologies; (2) significantly increase public television and radio services for minorities; and (3) strengthen the capability of existing public television and radio stations to provide educational or cultural services.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 102. Section 391 of the Communications Act of 1934 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 391. (a) There are authorized to be appropriated to the Public Broadcasting Fund established pursuant to section 396(k) $30,000,000 for the fiscal year ending September 30, 1979, and $30,000,000 for the fiscal year ending September 30, 1980, to be used by the Corporation for Public Broadcasting to assist in the planning and construction of public telecommunications facilities as provided in this subpart. Sums appropriated under this subpart of any fiscal year shall remain available until expended for payment of grants for projects for which applications approved by the Corporation pursuant to this subpart have been submitted within one year after the last day of such fiscal year.

"(b) Payments to the Corporation from appropriations under this subpart shall be used to cover the Corporation's costs of administering this subpart.".

GRANTS FOR CONSTRUCTION AND PLANNING

SEC. 103. Section 392 of the Communications Act of 1934 is amended to read as follows:

"GRANTS FOR CONSTRUCTION AND PLANNING

"SEC. 392. (a) For each project for the construction of public telecommunications facilities there shall be submitted to the Corporation an application for a grant containing such information with respect to such project as the Corporation may require, including the total cost of such project, the amount of the grant requested for such project, and a five-year plan outlining the applicant's projected facilities requirements and the projected costs of such facilities requirements. Each applicant shall also provide assurance satisfactory to the Corporation that—

"(1) the applicant is (A) an entity which is eligible to be licensed or is licensed by the Federal Communications Commission as a noncommercial educational television or radio station; (B) a system of public broadcast stations; (C) a nonprofit foundation, corporation, institution, or association organized primarily for educational purposes; or (D) a State or local government agency, or a political subdivision of a State;

"(2) the operation of such public telecommunications facilities will be under the control of the applicant:

"(3) necessary funds to construct, operate, and maintain such public telecommunications facilities will be available when needed;

"(4) such telecommunications facilities will be used only for educational or cultural purposes; and

"(5) there has been comprehensive planning for public telecommunications facilities in the area the applicant proposes to serve, including coordination with State educational television and radio agencies as appropriate, and the applicant has participated in such planning, and will make the most efficient use of the facilities grant.

"(b) Upon approving any application under this section with respect to the construction of any project, the Corporation shall make a grant to the applicant in the amount determined by it, but not exceeding 75 percent of the amount determined by the Corporation to be the reasonable and necessary cost of such project.

"(c) To obtain assistance for the planning of any project for which construction funds could be obtained under this section, there shall be submitted to the Corporation an application for a grant containing such information as the Corporation may require and providing assurance satisfactory to the Corporation that the applicant would be eligible to receive assistance under subsection (a).

"(d) Upon approving any application under this section with respect to the planning of any project, the Corporation shall make a grant to the applicant in any amount it determines.

"(e) Any studies financed under this section shall be provided to the Corporation.".

FACILITIES GRANTS MADE BEFORE OCTOBER 1, 1978

SEC. 104. Section 392A of the Communications Act of 1934 is amended to read as follows:

"FACILITIES GRANTS MADE BEFORE OCTOBER 1, 1978

"SEC. 392A. (a) The Secretary is authorized to administer grants made under this subpart before October 1, 1978.

"(b) If, within 10 years after completion of any project for construction of public telecommunications facilities with respect to which a grant was made before October 1, 1978, under this subpart—

"(1) the applicant or other owner of such facilities ceases to be an agency, institution, foundation, corporation, or association described in section 392(a)(1); or

"(2) such facilities cease to be used for public television purposes or public radio purposes, as the case may be (unless the Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligations to do so), the United States shall be entitled to recover from the applicant or other owner of such facilities the amount bearing the same ratio to the value of such facilities at the time of such determination (as determined by agreement of the parties or by action brought in the United States district court for the district in which such facilities are situated), as the amount of the Federal participation bears to the cost of construction of such facilities.".

ESTABLISHMENT OF CRITERIA

SEC. 105. Section 393 of the Communications Act of 1934 is amended to read as follows:

"ESTABLISHMENT OF CRITERIA

"SEC. 393. The Corporation, in consultation with the national membership organizations representing public television and radio licensees, with national educational organizations, minority group representatives, and as appropriate with others, shall establish criteria for making construction and planning grants made pursuant to this subpart. Such criteria shall be consistent with the objectives set forth in section 390 and shall be made available to interested parties upon request.".

LONG-RANGE PLANNING FOR FACILITIES

SEC. 106. Section 394 of the Communications Act of 1934 is amended to read as follows:

"LONG-RANGE PLANNING FOR FACILITIES

"SEC. 394. (a) The Corporation in consultation with the national membership organizations representing public television and radio licensees, with national educational organizations, minority group representatives, and as appropriate with others, shall create a long-range plan to accomplish the objectives set forth in section 390. Such plan shall include a detailed 5-year projection of broadcast and non-broadcast telecommunications facilities requirements of public broadcasting, and a projection of expenditures necessary to meet such requirements.

"(b) The long-range plan required in subsection (a), updated annually, and a summary of the Corporation's activities implementing the plan, shall be submitted to the President as part of the report required in section 396(1) of this part.".

PUBLIC TELECOMMUNICATIONS FACILITIES

SEC. 107. Section 397(2) of the Communications Act of 1934 is amended to read as follows:

"(2) The term 'public telecommunications facilities' means apparatus necessary for production, interconnection, captioning, broadcast, or other distribution of programing, including, without limitation, studio equipment, cameras, microphones, audio and video storage or reproduction equipment, or both, signal processors and switchers, towers, antennas, transmitters, microwave equipment, mobile equipment, satellite communications equipment, instructional television fixed service equipment, subsidiary communications authorization transmitting and receiving equipment, cable television equipment, video and audio cassettes and discs, optical fiber communications equipment, and other means of transmitting, emitting, storing, and receiving images and sounds, or intelligence, except that such term shall not include the buildings to house such apparatus, with the exception of small equipment shelters which are part of satellite earth stations, translators, microwave interconnection facilities, and similar facilities.".

CONSTRUCTION

SEC. 108. Section 397(3) of the Communications Act of 1934 is amended to read as follows:

"(3) The term 'construction', as applied to public telecommunications facilities, means acquisition (including acquisition by lease), installation, and modernization, and planning incidental thereto.".

TITLE II—TELECOMMUNICATIONS DEMONSTRATIONS

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. Section 395(h) of the Communications Act of 1934, as so redesignated in section 202(1), is amended by striking out "September 30, 1977, and $250,000 for the period July 1, 1976, through September 30, 1976," and inserting in lieu thereof "September 30, 1978, and $1,000,000 for the fiscal year ending September 30, 1979,".

TECHNICAL AMENDMENTS

SEC. 202. Part IV of title III of the Communications Act of 1934 is amended—

(1) by redesignating section 392A as section 395 and inserting above the heading for such section the following new heading:

"Subpart B—Telecommunications Demonstration";

(2) by inserting above section 395(b), as so redesignated in paragraph (1), the following new heading:

"Application Approval";

(3) by inserting above section 395(c), as so redesignated in paragraph (1), the following new heading:

"Amount of Grant or Contract; Payment";

(4) by inserting above section 305(d), as so redesignated in paragraph (1), the following new heading:

"Uses of Funds";

(5) by inserting above section 395(e), as so redesignated in paragraph (1), the following new heading:

"Nonbroadcast Telecommunications Facilities";

(6) by inserting above section 395(f), as so redesignated in paragraph (1), the following new heading:

"Duration of Funding of Demonstrations";

(7) by inserting above section 395(g), as so redesignated in paragraph (1), the following new heading:

"Summary and Evaluation";

(8) by inserting above section 395(h), as so redesignated in paragraph (1), the following new heading:

"Authorization of Appropriations";

(9) in section 393, by striking out the heading for such section and by striking out "SEC. 393.";

(10) by redesignating section 393(a) as section 395(i)(1) and inserting above it the following new heading:

"Records, Access by Secretary and Comptroller General";

(11) by redesignating section 393(b) as section 395(i)(2);

(12) in section 394, by striking out the heading for such section;

(13) by redesignating section 394 as section 395(j) and inserting above it the following new heading:

"Rules and Regulations";

(14) in section 395 thereof, by striking out the heading for such section;

(15) by redesignating section 395 as section 395(k) and inserting above it the following new heading:

"Assistance by Commission; Coordination with Commission and Corporation"; and

(16) by redesignating subpart B as subpart C, and by amending the heading for subpart C, as so redesignated, to read as follows:

"Subpart C—Corporation for Public Broadcasting".

TITLE III—CORPORATION FOR PUBLIC BROADCASTING

CONGRESSIONAL DECLARATION OF POLICY

SEC. 301. Section 396(a) of the Communications Act of 1934 is amended—

(1) by striking out "noncommercial educational" each place it appears therein and inserting in lieu thereof "public";

(2) in paragraph (6) thereof, by striking out "educational" and inserting in lieu thereof "public"; and

(3) by amending the heading above each subsection to read as follows:

"Congressional Declaration of Policy".

ESTABLISHMENT OF CORPORATION

SEC. 302. Section 396(b) of the Communications Act of 1934 is amended to read as follows:

"Establishment of Corporation

"(b)(1) There is authorized to be established a non-profit corporation to be known as the 'Corporation for Public Broadcasting', which will not be an agency or establishment of the United States Government. The Corporation shall be subject to the provisions of this section, and, to the extent consistent with this section, to the District of Columbia Nonprofit Corporation Act.

"(2) The Corporation, its grantees, subgrantees, contractors, and subcontractors shall be subject to the requirements of title VI of the Civil Rights Act of 1964 and title IX of the Education Amendments of 1972.".

BOARD OF DIRECTORS OF CORPORATION

SEC. 303. Section 396(c) of the Communications Act of 1934 is amended to read as follows:

"Board of Directors

"(c)(1) Except as provided in paragraph (2) of this subsection, the Corporation shall have a Board of Directors (hereinafter in this section referred to as the 'Board'), consisting of 19 members, 15 of whom shall be appointed by the President, by and with the advice and consent of the Senate (hereinafter in this section referred to as 'Presidential appointees'), two of whom shall be appointed by the national membership organization representing public television licensees, and two of whom shall be appointed by the national membership organization representing public radio licensees (hereinafter in this section referred to as "licensee appointees'). Not more than eight of the Presidential appointees may be members of the same political party. Licensee appointees may not serve concurrently on the Board and on the board of directors of their respective national membership organization, nor may they be regular full-time employees of such organization.

"(2) Beginning January 1, 1979, as vacancies occur among Presidential appointees, the membership of the Board shall be reduced until it consists of 15 members, 11 of whom shall be Presidential appointees and four of whom shall be licensee appointees. After December 31, 1982, not more than six of the Presidential appointees may be members of the same political party.

"(3) The members of the Board—

"(A) shall be selected from among citizens of the United States who are not regular full-time employees of the United States, and who are eminent in such fields as education, cultural and civil affairs, or the arts, including radio and television; and

"(B) shall be selected so as to provide as nearly as practicable a broad representation of various regions of the Nation, various professions and occupations, and various kinds of talent and experience appropriate to the functions and responsibilities of the Corporation.

"(4)(A) The term of office of each member of the Board shall be six years, except that—

"(i) any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(ii) the terms of office of the licensee appointees first taking office shall begin 90 days after the date of the enactment of the Public Broadcasting Financing Act of 1978.

"(B) The term of office of one television licensee appointee and one radio licensee appointee shall expire, as designated at the time of their appointment, at the end of four years, and the term of office of one other television licensee appointee and radio licensee appointee shall expire, as designated at the time of their appointment, at the end of six years. No members shall be eligible to serve in excess of two consecutive terms of six years each. Notwithstanding the preceding provisions of this paragraph, a member whose term has expired may serve until his successor has qualified.

"(5) Any vacancy in the Board shall not affect its powers. Vacancies shall be filled in the manner in which the original appointments were made, except as provided in paragraph (2) of this subsection.".

CHAIRMAN OF BOARD

SEC. 304. Section 396(d)(1) of the Communications Act of 1934 is amended by striking out "President shall designate one of the members first appointed to the Board as Chairman; thereafter the".

OFFICERS AND EMPLOYEES

SEC. 305. Section 396(e)(2) of the Communications Act of 1934 is amended by striking out "the second sentence of", and by striking out "subsection (c)(1)" and inserting in lieu thereof "subsections (c)(1) and (c)(2)".

PURPOSE AND ACTIVITIES OF CORPORATION

SEC. 306. (a) Section 396(g)(2)(B) of the Communications Act of 1934 is amended to read as follows:

"(B) make grants to national, regional, and other systems of public broadcast stations, other public broadcasting entities, and independent production entities for the production or acquisition of public television or radio programs for national or regional noncommercial distribution;".

(b) Section 396(g)(2)(D) of the Communications Act of 1934 is amended by striking out "broadcasting".

(c) Section 396(g)(2)(H) of the Communications Act of 1934 is amended by striking out "and the use of nonbroadcast" and all that follows through "or radio programs".

(d) Section 396(g)(2) of the Communications Act of 1934 is amended—

(1) in subparagraph (H) thereof, by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(2) by adding at the end thereof the following new subparagraph:

"(I) to make grants or contracts for the use of nonbroadcast telecommunications technologies for the dissemination of public television or radio programs.".

(e) Section 396(g)(3) of the Communications Act of 1934 is amended to read as follows:

"(3) To carry out the foregoing purposes and engage in the foregoing activities, the Corporation shall, to the extent consistent with the provisions of this subpart, have the usual powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act. The Corporation is prohibited from—

"(A) owning or operating any television or radio broadcast station, interconnection system or facility, network, community antenna television system or program production facility; and

"(B) producing, acquiring, scheduling, or distributing programs, or selecting individual programs or series of programs for production, acquisition, distribution, or broadcast.".

(f) Section 396(g) of the Communications Act of 1934 is amended by adding at the end thereof the following new paragraph:

"(4) In performing its functions, the Corporation shall minimize its administrative costs. This shall be accomplished by carrying out its functions, wherever practicable, through grants to national, regional, and other systems of public broadcast stations, and other public broadcasting entities, and otherwise through outside experts and consultants.".

ANNUAL REPORT TO CONGRESS

SEC. 307. Section 396(i) of the Communications Act of 1934 is amended to read as follows:

"Report to Congress

"(i)(1) The Corporation shall submit an annual report for the preceding fiscal year ending September 30 to the President for transmittal to the Congress on or before the 31st day of December of each year. The report shall include—

"(A) a comprehensive and detailed report of the Corporation's operations, activities, financial condition, and accomplishments under this subpart and such recommendations as the Corporation deems appropriate;

"(B) the plan on public broadcasting development required in paragraph (2);

"(C) the report on public telecommunications facilities required in section 394; and

"(D) a comprehensive and detailed inventory of funds distributed by Federal agencies to public broadcasting entities during the preceding fiscal year.

"(2)(A) The Corporation, in cooperation with the national membership organizations representing public television and radio licenses, and in consultation as appropriate with others, shall create a five-year plan for the development of public broadcasting. Such plan shall include programing priorities and procedures for distribution of funds

pursuant to subsection (g)(2)(B) and (k)(3). Such plan, updated annually, and a summary of activities implementing the plan shall be included in the report required by paragraph (1).

"(B) The cooperation between the Corporation and the national membership organizations representing public television and radio licensees which is required in subparagraph (A) shall involve a process intended to result in an agreement among the parties. Such process shall include provisions for seeking to resolve differences, with ultimate decisionmaking authority vested in the Board.

"(3) The officers and directors of the Corporation shall be available to testify before appropriate committees of the Congress with respect to such report, the report of any audit made by the Comptroller General pursuant to section 396(1), or any other matter which such committees may determine.".

FINANCING; NATIONAL PROGRAMING FUND; OPEN MEETINGS AND FINANCIAL RECORDS

SEC. 308. Section 396(k) of the Communications Act of 1934 is amended to read as follows:

"Financing

"(k)(1)(A) There is hereby established in the Treasury a fund which shall be known as the 'Public Broadcasting Fund', administered by the Secretary of the Treasury.

"(B) In addition to such funds authorized to be appropriated under section 391, there is authorized to be appropriated to such fund, for each of the fiscal years during the period beginning October 1, 1977, and ending September 30, 1980, an amount equal to 40 percent of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year second preceding each such fiscal year, except that the amount so appropriated shall not exceed $121,000,000 for the fiscal year ending September 30, 1978; $140,000,000 for the fiscal year ending September 30, 1979; and $160,000,000 for the fiscal year ending September 30, 1980.

"(C) For each of the fiscal years during the period beginning October 1, 1980, and ending September 30, 1985, there is authorized to be appropriated to such fund an amount equal to four-ninths of the total amount of non-Federal financial support received by public broadcasting entities during the fiscal year second preceding each such fiscal year, except that the amount so appropriated shall not exceed $180,000,000 for the fiscal year ending September 30, 1981, and $200,000,000 for each fiscal year during the period beginning October 1, 1981, and ending September 30, 1985.

"(2) The funds authorized to be appropriated by this subsection shall be used solely for the expenses of the Corporation. The Corporation shall determine the amount of non-Federal financial support received by public broadcasting entities during each of the fiscal years indicated in paragraph (1) for the purpose of determining the amount of each authorization, and shall certify such amount to the Secretary of the Treasury, except that the Corporation may include in its certification non-Federal financial support received by a public broadcasting entity during its most recent fiscal year ending before September 30 of the year for which certification is made. Upon receipt of such certification, the Secretary of the Treasury shall disburse to the Corporation, from such funds as may be appropriated to the Public Broadcasting Fund, the amount authorized for each of the fiscal years pursuant to the provisions of this subsection.

"(3) The Corporation shall establish a National Programing Fund from which it shall make grants in accordance with the plan developed pursuant to subsection (1)(2) to national, regional, and other systems of public broadcasting entities, and independent production entities for the production or acquisition of public television or radio programs intended for nationwide distribution. During each fiscal year during the period beginning October 1, 1980, and ending September 30, 1985,the Corporation shall deposit in the National Programing Fund an amount equal to not less than 25 percent of the funds paid to the Corporation from the Public Broadcasting Fund under this section.

"(4) The Corporation shall reserve for distribution among the licensees and permittees of public television and radio stations that are on-the-air an amount equal to not less than 40 percent of the funds disbursed to the Corporation from the Public Broadcasting Fund under this section in each fiscal year in which the amount disbursed is $88,000,000 or more, but less than $121,000,000; not less than 45 percent in each fiscal year in which the amount disbursed is $121,000,000 or more, but less than $160,000,000; and not less than 50 percent in each fiscal year in which the amount disbursed is $160,000,000 or more.

"(5)(A) The Corporation, in cooperation with the national membership organizations representing public television and radio licensees, shall establish and review annually the percentage of funds reserved pursuant to paragraph (4), and criteria and conditions regarding the division of such funds between public television and radio stations, and regarding the distribution of such funds among public television and radio stations respectively. Such cooperation shall be carried out in a manner which complies with the requirements of subsection (1)(2)(B).

"(B) The total amount of funds shall be divided into two portions, one to be distributed among radio stations, and one to be distributed among television stations. The Corporation shall make a basic grant from the portion reserved for television stations to each licensee and permittee of a public television station that is on-the-air. The balance of the portion reserved for television stations and the total portion reserved for radio stations shall be distributed to licensees and permittees of such stations in accordance with eligibility criteria that promote the public interest in public broadcasting, and on the basis of a formula designed to—

"(i) provide for the financial need and requirements of stations in relation to the communities and audiences such stations undertake to serve;

"(ii) maintain existing, and stimulate new, sources of non-Federal financial support for stations by providing incentives for increases in such support; and

"(iii) assure that each eligible licensee and permittee of a public radio station receives a basic grant.

"(C) No distribution of funds pursuant to this subsection shall exceed, in any fiscal year, one-half of a licensee's or permittee's total non-Federal financial support during the fiscal year second preceding the fiscal year in which such distribution is made.

"(6) Funds may not be distributed pursuant to this subsection to the licensee or permittee of any public broadcast station whose governing board does not hold open meetings under such reasonable terms and conditions as the Corporation shall establish.

"(7) Funds may not be distributed pursuant to this subsection to the licensee or permittee of any public broadcast station that does not maintain for public examination copies of annual financial reports such station submits to the Corporation.

"(8) Funds distributed pursuant to this subsection may be used at the discretion of stations for purposes relating to the provision of public television and radio programing, including—

"(A) producing, acquiring, broadcasting, or otherwise disseminating public television or radio programs;

"(B) procuring national or regional program distribution services that make public television or radio programs available for broadcast or other dissemination at times chosen by stations;

"(C) acquiring, replacing, or maintaining facilities, and real property used with facilities, for the production, broadcast, or other dissemination of public television and radio programs; and

"(D) developing and using nonbroadcast communications technologies for public television or radio programing purposes.".

RECORDS AND AUDITS

SEC. 309. (a) Section 396(1)(3)(A) of the Communications Act of 1934 is amended by striking out "section" and inserting in lieu thereof "part".

(b) Section 396(1)(3)(B) of the Communications Act of 1934 is amended by striking out "section" and inserting in lieu thereof "part".

CIVIL RIGHTS ENFORCEMENT

SEC. 310. Section 398 of the Communications Act of 1934 is amended to read as follows:

"CIVIL RIGHTS ENFORCEMENT

"SEC. 398. (a) Except to the extent authorized by subsection (b) hereof, nothing contained in sections 390 to 399 of this part shall be deemed (1) to amend any other provision of, or requirement under this chapter; or (2) to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision or control over public broadcasting, or over the Corporation or any of its grantees or contractors, or over the charter or bylaws of the Corporation, or over the curriculum, program of instruction, or personnel of any educational institution, school system, or public broadcasting station or system.

(b)(1) No person in the United States shall on the ground or race, color, religion, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to employment-related or any other discrimination in connection with any activity funded in whole or in part with funds made available under this part.

(2) The Secretary of Health, Education and Welfare is authorized and directed to enforce this subsection (subsection (b)) and to make such rules and regulations as may be necessary to carry out his functions hereunder.

(3) The Corporation shall provide an annual report for the preceding fiscal year ending September 30 to the Secretary on or before the 31st day of December of each year. The report shall contain information in the form required by the Secretary in order to determine whether recipients of funds under this part are in compliance with subsection (b)(1). The Corporation shall submit a summary of this report to the President as part of the report required in subsection 396(i). The Corporation shall provide other information in the form and with any analysis which the Secretary may require in order to carry out his functions under subsection (b).

(4) Whenever the Secretary (i) makes a final determination that a recipient of funds under this part is not in compliance with subsection (b)(1), or (ii) receives a notice of finding, after notice and opportunity for a hearing by a Federal or State court, or by a Federal or State administrative agency other than the Department of Health, Education and Welfare, to the effect that there has been a violation of subsection (b)(1), the Secretary shall within 10 days after such occurrence, notify the affected recipient that such activity has been so found not to be in compliance with subsection (b)(1), and shall request each recipient notified under this paragraph with respect to such violation to secure compliance. Unless the recipient shall demonstrate to the Secretary within

90 days that the violation has been fully corrected or that the recipient is in compliance with all remedial provisions of such finding, the Secretary shall direct the Corporation to suspend further payments of any funds under this part to the recipient and the Corporation shall comply with such directive. Resumption of payments shall take place only when the Secretary certifies to the Corporation that the recipient has entered into a compliance agreement approved by the Secretary. A recipient whose payments have been suspended may apply at any time to the Secretary for such certification."

TITLE IV—GENERAL PROVISIONS

PUBLIC BROADCAST STATION

SEC. 401. Section 397(7) of the Communications Act of 1934 is amended to read as follows:

"(7) The terms 'noncommercial educational broadcast station' and 'public broadcast station' mean a television or radio broadcast station which (A) under the rules and regulations of the Federal Communications Commission in effect on the date of the enactment of the Public Broadcasting Financing Act of 1978, is eligible to be licensed by the Commission as a noncommercial educational radio or television broadcast station and which is owned and operated by a public agency or nonprofit private foundation, corporation, or association; or (B) is owned and operated by a municipality and which transmits only noncommercial programs for educational purposes.".

INTERCONNECTION

SEC. 402. Section 397(8) of the Communications Act of 1934 is amended to read as follows:

"(8) The terms 'interconnection' and 'interconnection facility' mean the use of microwave equipment boosters, translators, repeaters, communications space satellites, video or audio tape recorders, or other apparatus or equipment for the transmission and distribution of television and radio programs to public television or radio broadcast stations.".

INTERCONNECTION SYSTEM; SYSTEM OF PUBLIC STATIONS; NATIONAL MEMBERSHIP ORGANIZATION

SEC. 403. Section 397 of the Communications Act of 1934 is amended by adding at the end thereof the following new paragraphs:

"(12) The term 'interconnection system' means the use of interconnection facilities for the distribution of programs to public television or radio stations, which may include the selection and scheduling of programs for such distribution.

"(13) The term 'system of public broadcast stations' means any two or more public television or radio stations acting cooperatively, either on a formal or informal basis, to produce, acquire, or distribute (by means of interconnection or otherwise) programs, or for other mutual programming and related activities.

"(14) The term 'national membership organization' means a nonprofit corporation or organization designated to represent public television or radio licenses for purposes of this part by a majority of such licensees eligible to receive grants from the Corporation under section 396(k)(5).

"(15) The term 'Secretary' means the Secretary of Health, Education, and Welfare.

"(16) The term 'public television or radio program intended for nationwide distribution' means programs, including but not limited to children's programs, arts and cultural programs, educational and instructional programs, and current affairs programs, designed to serve audiences throughout the United States and made available to all public television or radio licensees, as appropriate. Nothing in this subpart shall be construed to exclude from such term those programs which may not be broadcast by all licensees, or to require broadcast of any programs by any licensee.

"(17) The term 'meeting' means the deliberations of at least the number of members of a governing body required to take action on behalf of such body where such deliberations determine or result in the joint conduct or disposition of the governing body's business, but only to the extent that such deliberations relate to station matters.".

EDITORIALIZING

SEC. 404. (a) Section 399(a) of the Communications Act of 1934 is amended by inserting "licensed to any governmental agency or instrumentality" after "station".

(b) Section 399(b)(5) of the Communications Act of 1934 is amended by striking out "Secretary" and inserting in lieu thereof "Corporation".

TECHNICAL AMENDMENTS

SEC. 405. (a)(1) Part IV of title III of the Communications Act of 1934 is amended by redesignating subpart C as subpart D.

(2) The heading for subpart D of part IV of title III of the Communications Act of 1934, as so redesignated in paragraph (1), is amended to read as follows:

"Subpart D—General".

(b)(1) Sections 397(10)(A), 397(10)(B), 397(11), and 399 of the Communications Act of 1934 are amended by striking out "noncommercial educational" each place it appears therein and inserting in lieu thereof "public".

(2) Sections 397(9), 397(10)(A), and 397(11) of the Communications Act of 1934 are amended by striking out "educational" each place it appears therein and inserting in lieu thereof "public".

(3) Section 397(10)(B) of the Communications Act of 1934 is amended by striking out "educational" the second, third, and fourth places it appears therein and inserting in lieu thereof "public".

(4) Section 398 of the Communications Act of 1934 is amended by striking out "educational" the first and third places it appears therein and inserting in lieu thereof "public".

(c) Section 397(6) of the Communications Act of 1934 is amended by striking out "subpart B" and inserting in lieu thereof "subpart C".

EFFECTIVE DATES

SEC. 406. The provisions of this Act shall take effect on October 1, 1978, except that the provisions of sections 102, 201, and 303, and the provisions of section 396(k)(1) of the Communications Act of 1934 (as amended by section 308), shall take effect on the date of the enactment of this Act.

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OFFICE OF
TELECOMMUNICATIONS POLICY,
*Washington, D.C., March 22, 1978.*

The VICE PRESIDENT,
*President of the Senate, U.S. Senate.*

DEAR MR. VICE PRESIDENT: Enclosed for the consideration of the Congress is a draft bill entitled the "Public Broadcasting Financing Act of 1978." This bill is designed to continue and increase long-range funding for public television and radio while making statutory changes to improve the overall effectiveness of the system.

This bill is essentially the same as S. 2235, which was introduced by Senators Magnuson, Hollings and Pearson last October at the Administration's request. It does, however, contain several amendments in response to reactions received by the Administration and in fulfillment of commitments made by the President. The most important of these amendments assigns civil rights enforcement responsibilities for public broadcasting to the Department of Health, Education and Welfare. An explanation of the amendments and a section-by-section analysis of the legislation is enclosed.

The statutory changes proposed in the legislation are discussed in detail in the message which the President sent to Congress last October, a copy of which is enclosed. The amendments now being proposed do not represent any changes in the policies the President proposed last fall. Rather, most of them are technical in nature or are simply intended to further clarify the intentions underlying the bill.

In addition to continuing and increasing long-range funding for public broadcasting, the bill would amend the Educational Broadcast Facilities Act of 1962 and the Public Broadcasting Act of 1967, which are incorporated into the Communications Act of 1934.

The 1962 Act first provided Federal funds for the construction and improvement of public broadcasting stations. The 1967 Act created the Corporation for Public Broadcasting (CPB) and provided the first Federal funds for a national interconnection system for such stations and for programming produced by and for them. The Public Broadcasting Financing Act of 1975 provided a method of long-range funding for CPB through five-year advance authorizations to provide insulation from political manipulation and to facilitate forward planning. Under this Act, appropriations have been made on a two-year advance funding cycle.

Fiscal year 1980 is the last year covered by the existing authorization bill, so enactment of new authorizing legislation by this Congress is necessary to assure continuation of advanced-year funding.

In summary, the statutory changes the President has proposed are designed to:

Clarify the mission of the Corporation for Public Broadcasting and to reduce overlap with other public broadcasting organizations.

Increase cooperation between CPB and other public broadcasting organizations.

Increase public broadcasting's journalistic independence and insulation.

Increase the proportion of federal funds allocated by CPB for national programming.

Transfer the responsibility for administering facilities funds from HEW to CPB.

Set priorities for use of facilities funds to extend public television and radio service to the entire population and to assist minorities in starting public stations.

Make facilities funds available for non-broadcast technologies.

Requires long-range planning by CPB in cooperation with other public broadcasting organizations.

Require greater public accountability by public stations.

Increase the participation of minorities and women in public broadcasting.

Require CPB to inventory annually grants from federal agencies to public broadcasting.

The bill includes a five-year authorization for CPB at $180 million for fiscal year 1981 and $200 million in each of the four succeeding years. Level authorizations after two years are necessary, we believe, to provide the President and Congress with an opportunity to review public broadcasting's financial needs, the effects of these amendments, and the recommendations of the Carnegie Commission on the Future of Public Broadcasting. The bill would also reduce the ratio of non-Federal funds public broadcasting must raise to match future appropriations from $2.50 to 1 to $2.25 to 1.

The bill also includes a separate authorization for the facilities program at $30 million annually for fiscal years 1979 and 1980. The bill proposes that the telecommunications demonstration program started under the 1975 Public Broadcasting Financing Act remain at HEW, with $1 million authorized for this purpose in fiscal year 1979.

The Office of Management and Budget advises that the enactment of the proposed legislation would be consistent with the program of the President.

Sincerely,

WILLIAM J. THALER,
*Acting.*●

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By Mr. HATCH:

S. 2902. A bill entitled the "Fair Treatment for Skilled Trades Act of 1978"; to the Committee on Human Resources.

● Mr. HATCH. Mr. President, today I am pleased to introduce the Fair Treatment for Skilled Trades Act of 1978.

There is a great need for this bill in our society. Throughout our Nation are several million skilled tradesmen who are trapped in industrial unions for the purposes of collective bargaining and held captive by NLRB administrative case law. Most of these people are unwillingly immersed in plantwide bargaining units where the bargaining rights are held by industrial unions or other major independent unions which these employees feel cannot represent their best interests in bargaining. This situation must be put to a stop and these millions of skilled craftsmen be permitted to have the greatest freedom of association among themselves and the right to choose which unions can best represent their interest, if any.

Because this is a highly complex provision in the National Labor Relations Act, I think a good deal of background information is necessary to inform my colleagues as to what this bill seeks to do. Under existing law, section 9(b) of the National Labor Relations Act confers on the Board the discretion to establish the unit appropriate for collective bargaining and to decide whether such units shall be the employer unit, craft unit, plant unit, or a subdivision thereof. With respect to craft units, section 9(b)(2) of the act prohibits the Board from deciding "that any craft unit is inappropriate for 'collective bargaining' purposes on the ground that a different unit has been established by a prior Board determination, unless a majority of the employees in the proposed craft unit vote against separate representation."

The interpretation of this section of the act by the Board has reflected its decisional policy, and changes in interpretation have resulted in policy changes. The most recent such major change was announced in Mallinckrodt Chemical Works, 162 NLRB 387. In that case, the Board majority described their decision as demonstrating an intention to free itself "from the restrictive effect of rigid and inflexable rules" in determining bargaining units. I believe an analysis of the Board's decisions following Mallinckrodt reveals just the opposite. It is my contention that the Board has seldom found crafts severance appropriate following Mallinckrodt because of the restrictive nature of the criteria developed in that case, permitting severance, which I shall discuss herein.

Before Mallinckrodt, the Board held in American Potash Co., 107 NLRB 1418, that the mandate of section 9(b)(2) was best effectuated when the employees sought to be severed from a broader unit where a true craft or traditional departmental group and the union which sought to represent them was the one which traditionally represented that group. The only exceptions made were in four industries: Basic steel, basic aluminum, lumber, and wet milling. The rationale for these exceptions, in the nature of a grandfather clause was to preserve firmly established bargaining patterns in the industries where the Board had at the time of American Potash already denied a severance because of the degree of integration of the production process.

The American Potash case seems to be in harmony with the legislative history behind the enactment of section 9(b)(2) which shows that prior to 1947 the Board allowed craftsmen to vote in a separate election, in an initial organization, and thus had separate representation of their own (Globe Machine and Stamping Company, 3 NLRB 294). Following this so-called Globe doctrine, in American Can, 13 NLRB 1252, the Board refused to allow craft units to be "carved out" of a broader bargaining unit which had already been established. The Senate Report No. 105 on the then Taft-Hartley Act of 1947 stated in relevant part—

> . . . The Board except under unusual circumstances, has virtually compelled skilled artisans to remain part of a comprehensive plant unit. The committee regards the application of this doctrine as inequitable. Our bill still leaves to the Board discretion to review all the facts in determining the appropriate unit, but it may not decide that any craft unit is inappropriate on the ground that a different unit has been established by a higher Board determination.

The report further indicated that the new section, 9(b)(2), would overrule the American Can case.

The thrust of the Senate's language survived the conference committee deciding the fate of the Taft-Hartley Act and was included in a final conference report. In considering the Senate version, Senator Taft on April 23, 1947, explained:

> . . . We have provided further protection for craft unions. Today the situation is that when a new plan is organized the Board ordinarily permits the craft members of that plant to vote as to whether they will have a special craft union or join a general plant union. The Board has followed the desires of the craft unit on that question. But if at the time of the first certification a craft unit is not organized, or if no action is taken, and if by default they are included in a plant unit which is certified to the Board, the Board has taken the position that after one year of such bargaining no craft union will be recognized or given an opportunity to be heard in connection with establishing a craft unit.
>
> All this bill does is to provide that such a previous finding shall not have that effect, and that if a year later the craft people want to form a separate union they shall have the same consideration at that time as they would have had if they had taken that action when the plant was first organized. In effect, I think it gives greater power to the craft units to organize separately. It does not go the full way of giving them an absolute right in every case; it simply provides that the Board shall have discretion and shall not bind itself by previous decision, but that the subject shall always be open for further consideration by the Board. (93 CONGRESSIONAL RECORD, pages 3950–3952.)

Thus, the American Can case was effectively overruled by the Congress, but the Board was left with discretion to review all the facts in any given craft severance case.

Thus, the legislative history was made quite clear in regard to the effect of section 9(b)(2). But in Mallinckrodt the Board widened its inquiry beyond the two tests previously used in the American Potash decision and would thereafter permit "evaluation of all consideration relevant to an informed decision" and set forth six factors as illustrative of what the Board deemed relevant. They are:

> (1) Whether or not the proposed unit consists of a distinct and homogeneous group of skilled journeymen craftsmen performing the function of their craft on a nonrepetitive basis . . .
>
> (2) The history of collective bargaining, of the employees sought, and the plant involved . . . with emphasis on whether the existing patterns of bargaining are productive of stability in labor relations, and whether such stability will be unduly disreputed . . .
>
> (3) The extent to which the employees in the proposed unit have established and maintained their separate identity . . . and the extent of the participation or lack of participation in . . . the existing pattern of representation . . .
>
> (4) The history and pattern of collective bargaining in the industry involved . . .
>
> (5) The degree of integration of the employer's production process . . .
>
> (6) The qualifications of the union seeking to "carve out" a separate unit . . .

The problem arises that since Mallinckrodt, the Board has seldom found craft severance appropriate because of the restrictive nature of the criteria set forth above. The Chairman of the National Labor Relations Board, Mr. John H. Fanning, has recently written me regarding the data which has been collected by the Board on the craft severance cases. Such data are based on an analysis of severance cases in "reported" Board decisions; that is, those cases which have made their way to the Board in Washington by one process or another and appear in the Board's bound volumes of its published decisions.

These data show that since the issuance of Mallinckrodt in December of 1966, the question of whether to permit severance on a craft or departmental basis has been before the Board on 71 occasions, with the Board denying severance in 63 cases while granting the request for severance for 8, and only 8, instances. Interestingly enough, a check of the results of these eight cases discloses that employees voted to sever from the existing unit on six occasions, while voting against severance on two other occasions. I submit that this is hard evidence of the fact that when these skilled tradesmen are presented with the opportunity to establish a separate unit, they take it in their best interest.

The purpose of my bill is, therefore, to return to the original intent of the Taft-Hartley Act in fashioning section 9(b)(2) and to overrule the restrictive criteria fashioned by the Board in its Mal-

linckrodt doctrine and its progeny. It appears to me that the criteria the Board has developed to make decisions on a craft severance circumvent the congressional history underlying the creation of the relevant section of the law and prevent craft severance. While I know that it was the Board's desire to bring stability to labor relations in America by preventing the proliferation of bargaining units, a principle with which I generally agree, it is not justified as a method which creates outright slavery for skilled tradesmen by depriving them of a method of free choice as to which unions and units are best suited for the purposes of collective bargaining.

Accordingly, my bill is designed to see to it that skilled tradesmen receive the fairest treatment possible, comparable with the treatment of other employees under the act in the area of unit determinations, to provide them with the maximum opportunity to join together as an appropriate unit for collective bargaining. Equity and fairness in our labor law dictates no less.

Mr. President, I ask unanimous consent that the text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2902

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 9(b) of the National Labor Relations Act is amended by striking out clause (2) and inserting in lieu thereof the following: "(2) decide that any craft unit is inappropriate for such purposes, in any case where a different unit has been established by a prior Board determination, or collective bargaining history, unless the determination of the Board is based upon the same factors, given the same weight, as would be applied to such a decision in the case of initial establishment of such a unit, unless a majority of the employees in the proposed craft unit votes against separate representation; or".●

## ADDITIONAL COSPONSORS

S. 418

At the request of Mr. BAYH, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of S. 418, the Displaced Homemakers Act of 1977.

S. 551

At the request of Mr. GRIFFIN, he was added as a cosponsor of S. 551, the Victims of Crime Act of 1977.

S. 2400

At the request of Mr. BAYH, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of S. 2400, to establish a National Alcohol Fuels Commission.

S. 2565

At the request of Mr. MATHIAS, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 2565, a bill to provide for further research and services with regard to victims of rape.

S. 2612

At the request of Mrs. HUMPHREY, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of S. 2612, the Biomedical Sciences High School Enrichment Programs Act.

S. 2707

At the request of Mr. LEAHY, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 2707, the Federal Disclosure and Accountability Act of 1977.

S. 2744

At the request of Mr. SCHWEIKER, the Senator from Nevada (Mr. CANNON) was added as a cosponsor of S. 2744, the Rural Health Services Act of 1978.

S. 2780

At the request of Mr. HATHAWAY, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2780, a bill to amend the Public Health Service Act to provide for grants and contracts for projects to provide health and dental care to medically underserved rural populations, and for other purposes.

S. 2598

At the request of Mr. JAVITS, the Senator from New York (Mr. MOYNIHAN) and the Senator from Hawaii (Mr. MATSUNAGA) were added as cosponsors of S. 2598, a bill to amend title XI of the Public Health Service Act.

SENATE JOINT RESOLUTION 29

At the request of Mr. BURDICK, the Senator from Nevada (Mr. LAXALT) was added as a cosponsor of Senate Joint Resolution 29, to authorize the President to annually proclaim National Family Week during the week in November which includes Thanksgiving Day.

SENATE JOINT RESOLUTION 121

At the request of Mr. PELL, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of Senate Joint Resolution 121, authorizing the President to proclaim the second full week in October 1978, as National Legal Secretaries' Court Observance Week.

SENATE CONCURRENT RESOLUTION 74

At the request of Mr. MATHIAS, the Senator from Ohio (Mr. GLENN) was added as a cosponsor of Senate Concurrent Resolution 74, recognizing April as Fair Housing Month.

AMENDMENT NO. 1678

At the request of Mr. BAYH, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of amendment No. 1678, intended to be proposed to S. 418, the Displaced Homemakers Act of 1977.

## SENATE CONCURRENT RESOLUTION 78—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO FAIR TRADE IN THE STEEL INDUSTRY

Mr. BAKER (for himself and Mr. HEINZ) submitted the following concurrent resolution, which was referred to the Committee on Finance:

SENATE CONCURRENT RESOLUTION 78

Whereas, the American steel industry is facing an unprecedented crisis, in the last several months having suffered layoffs of more than 20,000 workers;

Whereas, a contributing factor to the problems facing the American steel industry is the dumping of imports subsidized by foreign governments into this country;

Whereas, such imports have adversely affected the United States balance of payments and have been a factor in reduced employment opportunities in the American steel industry; and

Whereas, the Department of the Treasury has failed to be sufficiently aggressive in investigating the unfair trade practices of foreign steel manufacturers, thus permitting the continued sale of imported products below cost: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That the Congress reaffirms its support for existing laws restricting unfair or subsidized competition from imports, particularly the Antidumping Act of 1921 and the Trade Act of 1974, and urges the President to direct Federal agencies, particularly the Department of the Treasury and the Office of the Special Trade Representative to enforce vigorously and aggressively existing laws to prevent cases of dumping, trade discrimination, and other forms of unfair competition that have an adverse impact on the American steel industry.

FAIR TRADE IN THE STEEL INDUSTRY

● Mr. BAKER. Mr. President, I send to the desk a concurrent resolution and ask that it be appropriately referred.

Mr. President, last October the distinguished junior Senator from Pennsylvania (Mr. HEINZ) offered a sense-of-the-Senate resolution regarding the damaging effect of foreign imports on certain domestic industries. I was pleased to cosponsor that resolution, and it passed the Senate on October 12.

Specifically, the resolution reaffirmed the Senate's support for vigorous enforcement of existing statutes which seek to protect American industries from unfair competition. Although many industries recently have suffered from an influx of cheaper priced imports, no one has suffered as much as the steel producers. Numerous plants have been closed and thousands of steelworkers have been laid off. The steel industry's problems are not totally attributable to increased imports. Nevertheless, imports constitute a large part of their problem and a part that can be dealt with under existing law.

The administration's response to this crisis has been to propose a very complex "trigger-pricing" system. Although it is too early to tell how effective the "trigger-pricing" system will be, I believe that it should be pursued in conjunction with, rather than in lieu of, enforcement of the Anti-Dumping Act.

It is for that reason that Senator HEINZ and I today reintroduce in the form of a concurrent resolution the resolution which passed last fall. We do so in an effort to make our point on enforcement of the Anti-Dumping Act more forcefully. I am pleased to join in this endeavor with Senator HEINZ who has been instrumental in assisting the domestic steel industry.●

● Mr. HEINZ. Mr. President, last October I submitted a resolution relating to the proper enforcement of our laws against unfair competition in the steel industry by our foreign trading partners. That resolution was cosponsored by 14 other Senators, and it was adopted by the Senate on October 12.

With that resolution we attempted to send a message to the administration that its trade policy with respect to steel

was sadly deficient. Thousands of workers had been laid off and major plants closed as steel imports approached the 20-percent level. At that point no action had been forthcoming from the administration.

Following the adoption of that resolution, however, and subsequent meetings with the President and other administration officials, some policy initiatives began to develop. President Carter announced his intention to fully enforce our antidumping and unfair trade laws, but he subsequently retreated from that commitment in his approval of the "trigger price" mechanism developed by Treasury Under Secretary Anthony Solomon.

In effect this system is a price floor which will raise some prices and essentially legalize dumping in some cases. It will also create an administrative nightmare similar to that which occurred several years ago when we experienced wage and price controls. Some of the inherent inequities in this kind of system have already come to light, particularly with regard to the wire rod manufacturers. In the latter case, a temporary injunction has been granted against the application of the trigger price system to wire rod.

Although it will be some months before the full effect of this system is known, it is worth noting that steel imports for January and February rose sharply to 3.79 million tons from 2.12 million tons in the previous year. This is hardly a sign of restraint on the part of our trading partners and does not bode well for the future of the industry, or the future of the trigger price system, for that matter.

Under these circumstances, I think it is appropriate to repeat our message of last October loud and clear. The President must understand the determination of Congress that laws already on the books be aggressively and competently enforced, and that unfair or subsidized competition be thereby restricted. This resolution reaffirms that message, and I urge its rapid consideration.●

## AMENDMENTS SUBMITTED FOR PRINTING

### MILITARY CONSTRUCTION AUTHORIZATIONS—S. 2636

AMENDMENT NO. 1772

(Ordered to be printed and referred to the committee on Armed Services.)

Mr. HATHAWAY submitted an amendment intended to be proposed by him to the bill (S. 2636) to authorize certain construction at military instailations, and for other purposes.

● Mr. HATHAWAY. Mr. President, I am pleased that President Carter, in his recent visit to Bangor, Maine, pledged to reevaluate the economic impact of closing Loring Air Force Base. I am confident that this review will lead to a more realistic appraisal of the economic consequences of closing Loring.

However, within a matter of weeks, the Defense Department is expected to announce plans to close or reduce 50 or more military installations in the United States. Given the imminence and the reported size of the next series of closings, I am submitting legislation that will insure that Congress has a reliable source of analysis for determining the cost savings to be realized from any base closure, and the economic impact on any community affected by a base closure.

In addition, this amendment to the military construction authorization measure will guarantee that communities experiencing base closings or reductions will not suffer serious and irreparable economic disclocation.

This legislation requires the General Accounting Office to conduct an independent study to determine cost and savings estimates to be realized from proposed or actual closing or reduction of any military installation. The GAO also is required to assess the local economic impact and consequences of any base closing or reduction. This assessment shall include economic impact on unemployment, income, small business, State and local tax revenues, State and local governmental expenditures for unemployment compensation, welfare, general assistance, medical costs, and other related social services expenditures, and the multiplier effects of such proposed closing or realinement on the community concerned.

This legislation also requires that upon a determination by the General Accounting Office that the closure or reduction of a military installaton would result in an increase in direct or indirect unemployment greater than one quarter of 1 percent quarterly over the existing unemployment rate. Then such base closure or reduction would be suspended until a special task force developed a detail plan of economic assistance to the communities affected by the closing or reduction. The plan will have to be developed and implemented in such a manner that the revitalization of the economic base will result in an increase in the local unemployment rate of less than one quarter of 1 percent quarterly, in the communities affected by the base closure or reduction.

The Defense Department is now required by law to determine the cost savings that would be realized from any base closure. It also has the responsibility to assess the economic impact on the affected community. But the Defense Department's estimates should be viewed with some skepticism by Congress. It is clear that they have a vested interest in showing that substantial savings and minimal economic dislocation will result from any base closure or realinement.

Recently, the Northeast-Midwest Institute and the Coalition of Northeast Governors issued a joint study entitled "The Aftermath: The Problems Communities Face After a Military Installation Closes." The study reviews the experiences of six communities which recently have suffered a base closing and found the current framework for assessing the economic impact and coordinating revitalization efforts to be inadequate.

In the six communities studied, significant disparities existed between the Defense Department's and the communities' estimates of the economic dislocation that would result from the base closure. Each of these communities felt obligated to prepare their own estimate of the economic consequences of the base closure because the Defense Department's analysis was so woefully inadequate.

In my own State, the Defense Department claims that it can "save" $17 million in military expenditures over 5 years by reducing Loring Air Force Base. Yet independent studies by the Save Loring Committee indicate that such a "saving" could generate total costs to the Federal Government of more than $133 million dollars over the same 5-year period.

This legislation that I am introducing today will insure that Congress has an independent, accurate, and reliable estimate of the economic savings and the local economic dislocation to be realized from any base closure or realinement.

As this legislation amends what was formerly known as section 612 of the 1977 and 1978 military construction authorization measure, I believe it would be useful to briefly summarize some of the legislative history of section 612.

In this regard, I ask unanimous consent that previous remarks I have made about section 612, along with the text of the amendment, and excerpts from the Northeast-Midwest Study, be printed in the RECORD.

There being no objection, the material and amendment were ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR HATHAWAY

Mr. President, I appreciate very much the work of the Committee on Armed Services with regard to the 1978 military construction authorization measure, the conference report which is now pending.

I particularly appreciate the efforts of the Subcommittee on Military Construction and Stockpiles ably chaired by the Senator from Colorado (Mr. HART) with respect to the provisions contained in section 612 of the pending measure.

That section establishes as permanent Federal law a sound procedure of congressional participation and review of any proposed base closure or significant realinement. Under these provisions, the Secretary of Defense or the Secretary of the military department involved is required to publicly announce, and notify the Senate and House Committees on Armed Services in writing of any proposed closure or realinement. The Secretary is then required to comply with all of the requirements of the National Environmental Policy Act of 1969 with respect to the proposal. The Secretary must submit his final decision to implement such a proposal to the committees acompanied by a detailed justification for the decision including statements of "estimated fiscal, local economic, budgetary, environmental, strategic, and operational consequences of the proposed closure or realinement."

Most importantly the Secretary is barred from taking any final irrevocable action with respect to the proposal until the expiration of 60 days subsequent to the submission of the final decision to the committees. In this way Congress is assured of having an ample opportunity to review the proposed closing or realinement from the standpoint of our national interest in its broadest sense.

If Congress does not agree with the reasons cited in the submissions to the committee, or if it feels that, notwithstanding those

reasons, a particular base ought to be kept open due to an overriding national interest, it can nullify the decision of the Secretary by enacting legislation.

I commend the Senator from Colorado for including these procedures in his bill S. 1474, and for successfully steering them through the Senate on May 13, 1977.

I commend him also for convincing the conference committee to retain these important provisions, since they were not included in the House-passed version.

I was particularly pleased to see that the final conference report version of section 612 contains drafting changes which represent further improvement and refinement of the version which passed the Senate on May 13, 1977.

In particular, these changes should clarify the relationship between section 612 of the pending measure and section 612 of the Military Construction Authorization Act, 1977, (Public Law 94–431), and will, I believe, serve to underline the integrity and continuing applicability of the provisions already in existing law.

In this regard I was particularly concerned about the potential interpretation of a portion of the Senate passed version of May 13 which stated:

"(d) This section shall not apply to any closure or realignment . . . if such closure or realignment was publicly announced prior to October 1, 1977."

This subsection was apparently required because the bill itself, the 1978 authorization, was intended to govern the authorization of funds beginning in the 1978 fiscal year, which did not begin until October 1, 1977.

The language of the subsection at the same time called into some question the status of proposed base closures and reductions which were publicly announced prior to October 1, 1977.

The language of the 1977 Authorization Act states, in the relevant subsection, the following:

"(c) This section shall not apply to any closure or realignment . . . if such closure of realignment was publicly announced prior to January 1, 1976."

Thus the language in the 1977 act, now law, was intended to apply to any and all base closures or reductions announced subsequent to January 1, 1976. During the Senate floor debate on that measure, which occurred on September 15, 1976, it was made clear by me and a number of other Senators, including my colleague from Maine, that that provision was intended to be applicable, or capture, all proposed closures and major realinements made public subsequent to that date.

Specifically mentioned in the course of this debate by me and others as being captured by these provisions was the proposed reduction at Loring Air Force Base located in Limestone, Maine, which was announced publicly in March of 1976.

The legislative history therefore made it clear at that time that the Senate intended these provisions to apply prospectively to the proposed Loring AFB realinement, for as long as the proposal was pending.

The language in the bill before the Senate on May 13, 1977, however, cast some doubt as to whether this version of section 612 was intended to supersede the provisions of existing law, and whether, with its different trigger date, it might somehow take Loring AFB out from under the sound and rational review procedures in existing law.

To remedy this situation, I offered an amendment cosponsored by my colleague from Maine and the Senator from Massachusetts (Mr. KENNEDY) on June 29 of this year to H.R. 7589, the military construction appropriation bill that stipulated that no funds appropriated in that bill could be used to implement a closure or realinement until all of the provisions of both section 612 of the 1977 authorization in existing law and section 612 of the 1978 authorization legislation were complied with. I was pleased that the Senate approved this amendment and that it was incorporated into the appropriations legislation as it passed this body. I would urge the conferees to retain this language to plug any potential loophole and to make crystal clear that the principles of section 612 apply to any and all closures or reductions announced subsequent to January 1, 1976.

This thus removes any potential for the Air Force, or any other department, to engage in artful dodging of these vital provisions.

At the same time, I am greatly appreciative of the adjustments made in the pending measure since it was last before the Senate. These changes are responsive to the concerns I raised on the floor on June 29 and should further underline the continuing applicability of the original version of section 612 to those proposed reductions announced prior to the effectiveness of the pending measure.

In this regard, Mr. President, I ask unanimous consent that section 612 of the conference report be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BASE CLOSURES AND REALIGNMENTS

SEC. 612. (a) Chapter 159 of title 10, United States Code, as amended by section 504 of this Act, is amended by adding at the end thereof a new section as follows:

"§ 2387. Base closures and realignments

"(a) Notwithstanding any other provision of law, no action may be taken to effect or implement—

"(1) the closure of any military installation;

"(2) any realignment with respect to any military installation involving a reduction by more than one thousand, or by more than 50 percent, in the number of civilian personnel authorized to be employed at such military installation at the time the Secretary of Defense or the Secretary of the military department concerned notifies the Congress under subsection (b)(1) that such installation is a candidate for closure or realignment; or

"(3) any construction, conversion, or rehabilitation at any military facility other than a military installation referred to in clause (1) or (2) (regardless of whether such facility is a military installation as defined in subsection (d)) which will or may be required as a result of the relocation of civilian personnel to such facility by reason of any closure or realignment to which clause (1) or (2) applies, unless and until the provisions of subsection (b) are complied with.

"(b) No action described in subsection (a) with respect to the closure of, or a realignment with respect to, any military installation may be taken unless and until—

"(1) the Secretary of Defense or the Secretary of the military department concerned publicly announces, and notifies the Committees on Armed Services of the Senate and the House of Representatives in writing, that such military installation is a candidate for closure or realignment;

"(2) the Secretary of Defense or the Secretary of the military department concerned complies with the requirements of the National Environmental Policy Act of 1969 with respect to the proposed closure or realignment;

"(3) the Secretary of Defense or the Secretary of the military department concerned submits to the Committees on Armed Services of the Senate and House of Representatives his final decision to carry out the proposed closure or realignment and a detailed justification for such decision, including statements of the estimated fiscal, local economic, budgetary, environmental, strategic, and operational consequences of the proposed closure or realignment; and

"(4) a period of sixty days expires following the date on which the justification referred to in clause (3) has been submitted to such committees, during which period no irrevocable action may be taken to effect or implement the decision.

"(c) This section shall not apply to the closure of a military installation, or a realignment with respect to a military installation, if the President certifies to the Congress that such closure or realignment must be implemented for reasons of national security or a military emergency.

"(d) As used in this section:

"(1) 'Military installation' means any camp, post, station, base, yard, or other facility under the authority of the Department of Defense—

"(A) which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or Guam; and

"(B) at which not less than five hundred civilian personnel are authorized to be employed. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

"(2) 'Civilian personnel' means direct-hire permanent civilian employees of the Department of Defense.

"(3) 'Realignment' includes any action which both reduces and relocates functions and civilian personnel positions, but does not include a reduction in force resulting from workload adjustments, reduced personnel or funding levels, skill-imbalances, or other similar causes.

"(e) Except as provided in subsection (c), this section shall apply to any closure of a military installation, and any realignment with respect to a military installation, which is first publicly announced after the September 30, 1977.".

(b) The table of sections at the beginning of chapter 159 of such title is amended by adding at the end thereof a new item as follows:

"2687. BASE CLOSURES AND REALIGNMENT.".

(c) Section 611 of the Military Construction Authorization Act, 1966 (Public Law 89–188; 10 U.S.C. 2662 note), and section 612 of the Military Construction Authorization Act, 1977 (Public Law 94–431; 90 Stat. 1366), shall be inapplicable in the case of any closure of a military installation and any realignment with respect to a military installation, which is first publicly announced after September 30, 1977.

Mr. HATHAWAY. Mr. President, first, the language contained in this section acts to insert a new section into positive law of the United States Code, thus insuring that it will be interpreted as permanent law. But at the same time, it cleans up the potential difficulties in the prior draft.

This language cannot be seen as superseding the provisions of section 612 of Public Law 94–431 with respect to reductions proposed prior to October 1, 1977 since in subsection (c) of section 612 of the pending measure it states the following:

"(c) Section 611 of the Military Construction Authorization Act, 1966 (Public Law 89–188; 10 U.S.C. 2662 note), and section 612 of the Military Construction Authorization Act 1977 (Public Law 94–431; 90 Stat. 1366), shall be inapplicable in the case of any closure of a military installation and any realignment with respect to a military installation, which is first publicly announced after September 30, 1977."

Thus the existing law continues to be valid and fully applicable to all major reductions

announced subsequent to January 1, 1976 and prior to October 1, 1977, including Loring Air Force Base.

This conclusion flows directly from the language which stipulates that the existing law does not apply to closures announced after September 30, 1977 and at that point 10 U.S.C. 2687 takes over.

The potential problem of the new language superseding the old is avoided, and section 612 of Public Law 94–431 continues to stand as valid law now and in the future.

Mr. President, in order to make entirely certain that this is the case and that there is no possibility for ambiguity, I would like to ask the distinguished floor manager, who also was the manager of the conference in behalf of the Senate if this is the proper interpretation of the measure before us.

Mr. HART. I am pleased to respond to the inquiry of the Senator from Maine on behalf of the Senate conferees.

The Senator's interpretation is entirely correct. The changes made in conference referred to by the Senator do make absolutely clear that any base closure or realinement which is announced from January 1, 1976 to September 30, 1977, will continue to be captured and governed by section 612 of Public Law 94–431.

Section 612 of Public Law 94–431 is in no way superseded by the language in section 612 of the bill before us which will add section 2687 to title 10 of the United States Code.

As the Senator mentioned, the proposed reduction at Loring Air Force Base was specifically and repeatedly discussed during the floor debate on last year's bill, and it clearly continues to be governed by section 612 of that bill.

Mr. HATHAWAY. I thank the Senator from Colorado and appreciate his participating in this colloquy with me.

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## THE AFTERMATH: THE PROBLEMS COMMUNITIES FACE AFTER A MILITARY INSTALLATION CLOSES

### I. BACKGROUND

An earlier Center and Institute paper demonstrated that the sixteen-state Northeast-Midwest area has suffered disproportionately from base closings. In preparing that study, the authors found that communities which were affected by base closings felt that they had suffered severe economic dislocation and that the federal response had been inadequate. Given the imminence of another round of base closing announcements,[1] it is critical to explore what assistance is available for affected communities, what is lacing, and what is needed.

This paper is not a conclusive examination of those issues involved in the base closings, and does not consider the rationale used by the Defense Department in justifying these closings. Instead, it focuses on what happens after a base is closed. Two areas of concern are identified:

1. Impact of Closings—The amount of impact which is estimated is critical in judging the amount of assistance required for revitalization. Are there differences between the estimates provided by the Office of Economic Adjustment within the Department of Defense and the estimates prepared by state and local communities?

2. Revitalization—What steps are now being taken to assist affected communities in their revitalization efforts? Are these steps sufficient? What assistance should be given for longer term problems of conversion from military to civilian uses?

In order to examine these questions, we analyzed six case studies of communities affected by base closings. The case studies were selected according to two requirements: that they be graphically distributed across the country; and that reports had been prepared about the base closing by both the Department of Defense and community officials. Community studies were used not only to find evidence of inaccuracies by the Department of Defense, but also to compare assumptions, methods and concerns.

### II. CASE STUDIES

#### *A. Boston/Chelsea*

In April, 1973, the Department of Defense announced the closing of the historic Boston Naval Shipyard at Charlestown and South Boston, and the Chelsea Naval Hospital in Massachusetts. These closure announcements not only shutdown these bases, but coupled with the simultaneous naval base closing in Rhode Island, all but eliminated the entire 1st Naval District.

In response to these closures, state and local officials, in conjunction with the Congressional delegation from Massachusetts, requested assistance from the President's Economic Adjustment Committee to alleviate the anticipated economic loss to affected communities.

The Commonwealth of Massachusetts, with a grant from the U.S. Department of Commerce (Economic Development Administration), formed the Joint Commission on Federal Base Conversion. This Commission, made up of representatives from the public and private sectors, undertook a study to determine the impact of the base closings on Massachusetts and to develop tentative plans for the re-use of the excess land and existing facilities at the closed bases.

In 1975, the Joint Commission evolved into the Government Land Bank. This state agency is mandated to aid in the "speedy and orderly conversion" of the South Boston Naval Annex, Chelsea Naval Hospital, the Charlestown Shipyard and Westover Air Force Base to civilian uses.

To achieve this goal, the Land Bank is empowered by the Commonwealth to "spend up to $40 million" in state funds to purchase property at the closed military bases and has the power to arrange long term financing for local economic development.

In 1977, the Land Bank purchased from the federal government 138 acres comprising the former South Boston Naval Annex for $4.7 million. At present, the Charlestown Shipyard and the Chelsea Naval Hospital are still held by the General Services Administration.

#### *B. Rhode Island (Newport/Quonset Point/Davisville)*

On the same day as the announced closings in Boston, the Department of Defense closed the Quonset Point Naval Air Station located in Rhode Island and instituted a drastic reduction in personnel at the Newport Naval Base by transferring destroyers to other naval bases throughout the country. In October of 1973, the Defense Department also announced that the Construction Battalion Center at Davisville, Rhode Island, would be reduced to a "caretaker status". These actions constituted the largest single military cutback ever sustained in one state.

The Defense Department's Office of Economic Adjustment initiated its program in Rhode Island in April of 1973. At the same time, the Governor's office launched an aggressive effort with the formation of the Economic Coordinating Council (ERCC). ERCC, through grants provided by the U.S. Department of Housing and Urban Development and the Economic Development Administration, prepared an economic impact study for the affected areas and developed plans for land re-use (to enhance the economic revitalization) in Rhode Island.

The Economic Renewal Coordinating Council was later absorbed into Rhode Island's Department of Economic Development. The Department of Economic Development has continued efforts toward economic revitalization and obtaining land excessed by the Department of the Navy.

As of February 1978, Rhode Island still does not own land at Quonset-Davisville or Newport. The present arrangement consists of a series of short-term leases (1 year). Rhode Island has concentrated its re-use efforts at the Quonset-Davisville area. Final dispcsition of this area is contingent upon an Environmental Impact Statement currently being prepared by the General Services Administration.

#### *C. Frankford*

The Frankford Arsenal was one of the 111 base realignment actions announced by the Secretary of Defense in November of 1974. These proposed realignment actions were part of a continuing Department of Defense effort to shift resources from support and overhead activities to combat capability. They were scheduled for completion in 1977.

The Frankford Arsenal was established in Philadelphia, Pennsylvania, in 1816. Originally a storage, repair and test center for ammunition and artillery, the Arsenal performed research, development, engineering and production of small caliber ammunitions in the years following World War II.

The proposed closing of the Arsenal brought a sustained effort by the City of Philadelphia to prevent the facility from being closed. The City of Philadelphia contested the Department of the Army's estimates concerning costs and savings that would result from shutting down the arsenal and presented their own monetary projections concerning the action.

In 1975, the General Accounting Office was requested to conduct an independent study of costs and savings. The General Accounting Office found that the Department of the Army had overestimated annual savings by $1.3 million, and did not include the affect of unemployment compensation in calculating one time costs. These two considerations aside, the General Accounting Office verified the Department of the Army's findings. In September of 1977, the Frankford Arsenal was permanently closed.

Presently, the Philadelphia Industrial Development Corporation is actively pursuing alternative uses for those areas in Philadelphia affected by the closing.

#### *D. Sauk County (Badger Army Ammunitions Plant)*

The Badger Army Ammunitions Plant, located in Sauk County, Wisconsin, was built by the Army in 1941 for the expressed purpose of providing munitions for World War II. Its history has been one of cyclical employment reaching peak levels during war time. The plant has been de-activated in 1946, 1951 and most recently in August of 1975. A skeletal crew of 288 employees is maintained, and the plant is under the designation of a "caretaker status."

The community did not contest the closing of the plant in 1975 because it has accepted the cyclical routine of the business conducted at Badger. In October of 1975, the Office of Economic Adjustment prepared a report which evaluated economic development efforts in the region, and assessed the region's economic development potential.

OEA's report recommended the establishment of a Sauk County Development Council to deal with economic development on an areawide basis.

The community has been eligible for only technical assistance grants from the Economic Development Administration, and has not been able to obtain funds for its major priorities—land acquisition and utility construction. A grant for an Overall Economic Development Plan has been pending with

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[1] "Four Virginia Bases Among 20 Army May Close or Come Back." *The Washington Post*, July 21, 1977.

the Economic Development Administration since 1976. The approval of this grant would enable the County to expedite the process of obtaining funds necessary to build water and sewage facilities to develop industrial sites.

*E. Fort Wolters*

Situated between the cities of Mineral Wells and Weatherford in North Central Texas, Fort Wolters was designated in 1963 as the Army's primary helicopter pilot training base in the United States.

The Department of the Army continually maintained that Fort Wolters was to be a "permanent military installation." To accommodate the anticipated needs created by this status, the communities committed substantial amounts of money to improving educational and municipal facilities in the area.

However, in 1971, the Army announced plans to close Fort Wolters. The communities fought this decision and won a temporary reprieve, but in 1973 the Fort was deactivated and placed on a permanent caretaker basis. This designation prevented the community from obtaining any potential surplus land at Fort Wolters. Again, the communities attacked the action, and in August 1973, the land was declared in excess.

In 1974, 4,531 acres were turned over as surplus to the General Services Administration. Four hundred acres have been devoted to educational and health facilities for HEW; over 2,200 acres have been designated as a wildlife preserve. The City of Mineral Wells purchased 206 acres for the purpose of developing light industry. Of the 4.500 acres, only 800 acres has not been disposed of and has been retained by the General Services Administration.

*F. Fort MacArthur*

Located in San Pedro, California, Fort MacArthur was closed by the Department of the Army in a planned reduction of the Army's Air Defense NIKE HERCULES Missile Batteries in February, 1974. Fort MacArthur, the only active Army installation in Southern California, was officially placed in a "caretaker status" in June of 1975.

Community reaction to the closing was immediate. Leaders of the local movement to "keep Fort MacArthur open" included Mayor Tom Bradley of Los Angeles, Congressman Glenn Anderson, Assemblyman Vincent Thomas and the San Pedro Chamber of Commerce. Community estimates and Department of the Army figures on the economic impact of the closing were far apart.

The Office of Economic Adjustment became involved as a result of a fact-finding mission to San Pedro. OEA found the most serious long term concern to the community to be in the successful disposition of the Fort MacArthur property.

The Office of the Mayor's Economic Development Office in Los Angeles, through a Title IX grant provided by EDA, conducted a base re-use plan for the excess land at Fort MacArthur in March of 1976.

As of February, 1978, only a small parcel of land has been turned over to the City of San Pedro for the pupose of building a school. The remainder of the land is still retained by the Federal Government.

Existing federal programs to assist communities affected by base closings are coordinated by the Office of Economic Adjustment (OEA) in the Department of Defense (Manpower, Reserve Affairs, and Logistics), which is responsible to an interagency committee called the Economic Adjustment Committee (EAC).

The OEA was created in 1961 by administrative order by Secretary of Defense McNamara. In 1970, the EAC was established through a White House Memorandum by President Richard Nixon, and given authority over OEA, in order to bolster economic adjustment efforts. A 1973 report submitted to Congress by the EAC, which is chaired by the Secretary of Defense, stated—

"The EAC's primary task is to persuade community leaders to undertake a vigorous effort to diversify the community's economy by prudent and quick utilization of any surplus property in a manner that enhances the overall development effort of the entire area." [2]

The OEA's function is to assist the communities affected adversely by the withdrawal of military bases and contracts. Its principal tasks are to plan for the transition process, and help local leaders obtain assistance from other branches of the federal government. The Office of Economic Adjustment assists communities which request aid and have ". . . suffered significant economic impact as a consequence of Department of Defense decisions and actions . . .". The guidelines for the impact which must be sustained by a community because of a base closure (or loss of contract), before the OEA will help, are flexible. The OEA considers the local unemployment rate, the percentage of employed who will lose their jobs, and other items indicating distress. No firm minimum exists. The OEA sees its job as "helping the community to help itself".

The preparation of plans for economic conversion, while an OEA function, is often contracted out to consulting firms, most notably the firm of Booz-Allen and Hamilton. The plans typically recommend filling the economic gap with industry, recreational facilities, schools, housing, hospitals, and airports. Tourism is a frequently mentioned option. Using the representation of federal agencies on EAC, OEA is supposed to be able to help localities obtain the resources necessary for economic development. This includes grants from federal agencies for manpower training, capital needs (up to several million dollars), and business development loans (averaging about $200,000 per plant). This aid is to be provided through the federal agencies represented on the EAC, such as the Department of Labor; Health, Education and Welfare; Small Business Administration; and Community Services Administration.

Approximately thirty people work for the OEA. Twenty-two are based in Washington, D.C. and each of five regions has a single person and secretary based in it. It is difficult to estimate the annual budget, since work is chargeable to particular federal domestic agencies. Direct costs are as follows: [3]

| | |
|---|---|
| Payroll | $850,000 |
| Travel | 50,000 |
| Contracts | 645,000 |
| Total | 1,545,000 |

Direct funding by the OEA to communities was authorized for the first time under Section 610 of Public Law Number 94-431, the Military Construction Authorization Act of 1977. Six million dollars can be spent for preparation of technical feasibility studies and environmental impact statements; additional funds may go towards planning. At present, three projects have been approved for the expenditure of the funds. Two will be the examination of the feasibility of various types of base conversion in specific areas; the third examines the environmental impact a new proposal for a base closed in Rhode Island. However, none are beyond the most rudimentary stages of implementation.

[2] *The Impact of Defense Cutbacks on American Communities*, Report of the President's Economic Adjustment Committee, Report to the Congress, July 1973; p. 8.

[3] Data from telephone interview with Comptroller office of the Assistant Secretary of Defense.

IV. IMPACT

Assessing the impact of a base closing on a community is the first important step after a closing is announced. It is at this point that the Office of Economic Adjustment becomes involved and it is the first chance for the community to organize itself and consider the steps necessary to overcome the negative economic impact which has been incurred.

It is important to look at the assessment of impact for a second reason. The severity of impact which is estimated is critical in judging the amount of assistance and effort for revitalization. If the impact is estimated to be slight, minimal assistance will be seen as necessary; if the impact is estimated to be much greater, then the need will become evident for greater assistance.

In five of the six case studies, the Office of Economic Adjustment and local communities both prepared analyses of the impact of base closings.[4] These were Boston/Chelsea, Rhode Island, Sauk County, Fort MacArthur, and Fort Wolters. As would be expected, estimates were minimized or maximized according to their source. The Office of Economic Adjustment is in the Department of Defense and its estimates reflect a best case approach; local communities wish to obtain as much assistance as possible, and their estimates often reflect a worst case approach.

This report has not examined the accuracy of the numerical estimates contained in each side's reports. Instead, we have focused on the methods and assumptions used in deriving these estimates.

In the case studies, we found that the most attention was given to four indicators: employment, income, multiplier estimates, and state and local tax revenues and facilities.

*A. Employment*

Employment estimates reflect how divergent the estimates of impact will be when different assumptions are used. In each of the five studies, the Office of Economic Adjustment uses the same method: First, it calculates actual employment at the time of the closing according to the residence of those employed. Second, it calculates how many of these are military personnel, who can be expected to move, and how many are the more stationary civilian personnel. Third, it re-estimates these figures, generally a year later, to reflect retirements, relocations, and unfilled positions. Impact is seen as occurring only when a civilian laborer remains in the labor force and resides in the immediately adjacent communities. Three examples of the estimates produced by this methodology are:

Rhode Island, where OEA's original estimate of 17,280 military positions and 4,984 civilian jobs lost, was re-estimated according to the following table:

*Residual unemployment estimates*

| | |
|---|---|
| Civilian employees as of Nov. 1973 | 3,042 |
| Number of employees to be placed | 1,646 |
| Employees to be retired | 330 |
| Civilian remaining as of July 1975 | 200 |
| Total reduction in force | 1,246 |

In Boston/Chelsea, OEA first estimated in 1973, that 6,099 civilian and 1,015 military jobs would be lost as a consequence of the closing of the Boston Naval Shipyard and Chelsea Naval Hospital. A year later, OEA revised its estimate due to retirements, relocations, and unfilled positions, and estimated a loss of 5,848 civilian positions.

In Sauk County, the Office of Economic Adjustment examined the unemployment at the base in its final phasedown, when employment had been reduced from 5,390 to 688 personnel. This final employment was used

[4] At the Frankford Arsenal in Philadelphia, the community did not request an impact assessment.

in the estimate of a total direct impact of 2,500 workers in the county.

Communities use different assumptions and methods than OEA, and therefore have different estimates of employment impact. The communities look at much larger geographic areas, ranging from counties to an entire state. They consider all jobs lost to have an economic impact, whether or not the person retired or relocated. The communities also look at jobs lost since the initial phasedowns, not just the final closure action. The estimates in two case studies are quite different:

In Rhode Island, the Economic Renewal Coordinating Council felt that the impact of the base closings had to be measured statewide. By examining the seasonally adjusted unemployment and average annual increase in the state work force, ERCC estimated that 12,220 jobs had been lost to Rhode Island as compared to OEA's estimate of 1,246 jobs lost.[5]

In Sauk County, estimates of employment focused on the phases of the shutdown, the location of employees, and the skills of the workers. The cutbacks since peak production in 1969 cause a direct job loss of 5,390 workers, a difference in the two estimates of 3,137 workers. The analysis also examined the employee's residences and found that 44% of the facilities' workers came from the five outlaying counties, and had significant impact on these counties. Olin Corporation, the civilian contractor at Badger, stated that 50% of the workers were unskilled and 15% semi-skilled, and that jobs and retraining available for these sectors were minimal.

*B. Income*

Analysis of income in the case studies again reflects differences in assumptions and measures. However, in the income area, OEA uses different methods in each case study and our discussion will be on a case by case basis.

In Rhode Island, OEA found the estimate of losses to be $71.8 million, based on personnel, dependents, and Navy procurements.

ERCC does not draw up a dollar estimate in this manner. Instead, ERCC examined local communities and statewide impact. On a local level, ERCC measured the annual rate of growth in sales tax collections as compared to the rate of growth in national retail sales, and inferred that any change between the two was the result of the base closures. ERCC found that retail sales in North Kingston were 11.2% below what would have occurred if the bases had remained open; Aquidneck Island retail sales had fallen by 10%. On a statewide basis, ERCC noted change in personal income, and found that it had fallen to $4,780 per capita, or $138 below the national average of $4,918. The estimated Navy-related income losses to the state were totaled to be $291.2 million, more than four times OEA's estimate.

Boston/Chelsea estimates by the two groups—Office of Economic Adjustment and Joint Commission on Federal/Base Conversion—also differed widely. The Office of Economic Adjustment estimated the loss of the Metropolitan area to be $187.9 million. The Joint Commission used different categories and derived $462 million in losses.

| | *Millions* |
|---|---|
| Gross regional income | $90.5 |
| Impact on income expended | 74.5 |
| Naval procedures | 22.9 |
| Total income lost | 187.9 |

[5] A third study by Randolph Shen of the University of Rhode Island estimated a loss of 4,239 civilian jobs; less than ERCC's and more than OEA's estimates. (See *Estimating the Economic Impact of the 1973 Base Closings in Rhode Island*, Randolph Shen, October 1977.)

| | *Millions* |
|---|---|
| Wages and salaries | 150 |
| Gross business volume | 270 |
| Retail sales | 42 |
| Total income lost | 462 |

*C. Multiplier estimates*

A comparison of multiplier estimates[6] used by the Office of Economic Adjustment and the communities also shows different assumptions and methods. First, as stated previously, the Office of Economic Adjustment reduces the jobs affected by considering retirements, relocations, and earlier phasedowns not to have an economic impact.

It also focuses on the immediately adjacent communities. Finally, the Office of Economic Adjustment uses an employment multiplier since it considers this to be the most important impact. The communities, such as Rhode Island, use an income multiplier. An income multiplier produces a significantly higher estimate since it measures other impacts beyond just employment.

Fort MacArthur in San Pedro, California, is a good example of how different assumptions can produce very different estimates. OEA used the method described above, and estimated total lost revenue to be $56 million. The local community estimated the number of jobs lost, analyzed their impact on the entire metropolitan area, and used an income multiplier. This resulted in the much higher estimate of $87 million or more in income lost.

*D. Tax revenues and facilities*

State and local tax revenues and facilities are the fourth area reviewed in the impact assessment of case studies. This is not an area commonly thought of as being related to base closings, but a loss of state and local tax revenues, particularly in communities already experiencing economic difficulties, can mean cutbacks in services and higher taxes, and therefore compound the economic problems caused by the closure.

The Office of Economic Adjustment only considered tax revenues in the Fort McArthur and Badger Army cases. As could be expected, local communities also review these estimates. Community leaders emphasize the impact of loss of tax revenue, particularly when OEA omits it:

In Boston/Chelsea, the Joint Commission on Federal Base Conversion cited the loss of $1 million annually in sales taxes and $4.5 million in income tax to the Commonwealth of Massachusetts.

In Rhode Island, the Economic Renewal Coordinating Council used the decline in sales tax revenues for its estimates of loss of retail sales.

Facilities are important because communities often build facilities to accommodate the military base and its personnel and have to amortize these facilities after the base has closed. In the case studies, this included water and sewage facilities, schools, hospitals, and fire and police protection. OEA feels that these facilities will, in most cases, be utilized through population expansion and new economic activity generated by revitalization efforts.

The communities, however, tend to highlight the burden which these facilities create. For example, at Fort Wolters in Mineral Wells, Texas, a community report—entitled "Economic Rape—Army Style" found that Mineral Wells had expanded $15 million to accommodate personnel and activities at Fort Wolters. The community felt that the debt service would become a significant burden once the base was closed.

Recently, the Department of Health, Education, and Welfare, has recognized this problem with provision for fiscal relief in the form of a hold-harmless clause in Public Law 81-874 for educational facilities' bonds for three years following a base closing.

[6] A multiplier is defined as the number by which a change in defense employment or income must be multiplied in order to present us with the resulting change in total employment.

*E. Summary*

In summary, the case studies demonstrate that the assumptions and methods used by the Office of Economic Adjustment and local communities differed greatly. For each of four indicators, we found:

Employment: OEA examines the geographically adjacent communities, the employees affected by the final closing, and regards retirements and relocations as not having an economic impact. The communities incorporate a broader perspective by looking at metropolitan or even statewide impact, all positions lost since the first phasedown, and regard all positions eliminated as important to the economy.

Income: OEA and the local communities use different methods in each case study. OEA's figures are always lower than the community estimates.

Multiplier Estimates: The different assumptions used for employment and income produce very different multiplier estimates. In addition, OEA invariably uses an employment multiplier, while local communities prefer an income multiplier.

Tax Revenues and Facilities: Local studies emphasize the impact of closings on loss of tax revenues and support for facilities. OEA is inconsistent in its treatment of this factor.

These different methods and assumptions are important because they lead to very different assessments of severity of impact. The Office of Economic Adjustment's reports are upbeat and minimize the impact; local communities feel the impact is much greater. Given this disparity it is obvious that there is not a reliable source for analysis of impact from which to build a solid economic revitalization plan.

V. REVITALIZATION

A crucial task facing communities affected by a base closing is the revitalization of the area's economic base. Although a substantial portion of this effort can and should be developed and implemented by the local communities, a partnership between local governments and the federal government is required to achieve optimum success.

Revitalization efforts must necessarily be preceded by the assessment of the economic impact resulting from the base closings. This step often requires the assistance of the federal government, as many communities do not have the technical knowledge or the funds to compute the economic consequences of a base closing.

Similarly, local communities often find the bureaucratic red tape encountered when applying for assistance and grants to be a major stumbling block. Top level federal assistance in facilitating this process is often a critical need.

Finally, federal assistance in expeditiously obtaining base property is critical to a community. This is especially true during the initial efforts at revitalization.

Therefore, a close partnership between affected communities and the federal government maximizes a community's ability to recover from the economic dislocation which can result from a base closing. Without this cooperation, a community may suffer chronically high unemployment, stagnant economic growth, and loss of tax revenues needed to support income maintenance costs.

This section examines the three most important elements in a successful revitalization effort: planning, obtaining grants, and obtaining title to the land. In discussing each element, the report analyzes whether or not a cooperative effort has taken place, focusing on the role of the Office of Economic Adjustment.

*A. Planning*

A major function of the Office of Economic Adjustment is the prepartion of plans which can serve as a guide to communities in their revitalization efforts. Communities frequently lack the technical expertise and the available funds to develop a plan for economic development of the area, and therefore need assistance from the federal government.

In the case studies analyzed in this report, OEA contracted with the consulting firm of Booz-Allen and Hamilton for the planning studies. Many of the people we interviewed expressed the opinion that these reports suffered from "typical consultants' use of jargon and standard formulas." They did not feel that the OEA plans were needed.

Our analysis of the planning reports revealed that the same recommendations continually emerged. These were that industrial development should take place on the site, that the area had great potential for tourism and recreational activities, and that coordination and formation of committees were necessary for areawide economic development. Given the general nature of these reports, it is not surprising that in the four case studies we examined,[7] the planning reports produced for OEA were not used by the community.

Seymour Melman of Columbia University, who has studied conversion efforts, summarized the community perspective succinctly when he stated that "nearly every report takes $50,000 and eight months, decides there is an economic problem, and recommends the formation of committees to work on the problem." [8]

*B. Obtaining grants*

Grants can play a significant role as a community converts its economic base from a defense-related to a civilian-related structure. Communities adversely affected by a base closing may require a variety of grants from the federal government, from planning to retraining to capital grants.

A review of the case studies indicates that the majority of federal grants awarded to affected communities were Economic Development Administration (EDA) Title IX planning and technical assistance grants. In only one case study, Boston/Chelsea, were capital funds made available. Other than EDA-Title IX grants, only HUD conversion planning grants and labor department retraining grants were awarded to more than one of the communities analyzed.

The case studies demonstrate that communities affected by base closings have only been eligible for a few, limited, short-term grants. Revitalization efforts—attracting new industry, creating jobs, obtaining land, constructing facilities—became a long and tedious process.

The problems Sauk County has encountered are typical. After Badger Army Ammunitions Plant was closed, the county received an EDA Title IX technical assistance grant and a Labor Department training grant. Once these short-term grants expired, the community had to apply and compete for further federal funding in order to continue their efforts. Sauk County applied in 1976 for an Overall Economic Development Program (OEDP) grant because the county needed to construct water and sewage facilities in order to develop its industrial park. This grant, however, was only for the purpose of developing a plan so that they could apply for construction funds. The OEDP grant was approved in the spring of 1977 and as of February 1978 was pending in Washington.

The community maintains that without new water and sewage facilities it will be unable to attract a significant amount of new industry to fill the void created by the closing of Badger. The officials point to the continually rising unemployment in the area since the closing as evidence of their problems.

The Office of Economic Adjustment, according to the community leaders we spoke to, was helpful in cutting through bureaucratic red tape and facilitating the provision of the short term grants which communities need. In fact, it appears that OEA's role is strongest and most successful in this area. However, as the Sauk County case indicates, long term funding is a major problem, and a problem for which OEA is unable to provide assistance.

The following are the grants received in the six case studies:

Rhode Island

Economic Development Administration—Title IX planning assistance Housing and Urban Development—Conversion Planning Department of Labor—Manpower Retraining Health, Education, and Welfare—PL 874 Education Hold Harmless Small Business Administration—Assistance for Workshops

Boston, Massachusetts

South Boston Annex—Economic Development Administration—Title IX planning assistance Site Clearance

Chelsea—Housing and Urban Development—Conversion Planning Department of Labor—Manpower Retraining

Philadelphia (Frankford Arsenal)

Economic Development Administration—Title IX planning assistance (for re-use of an adjacent parcel)

San Pedro, California (Fort Mac Arthur)

Economic Development Administration—Title IX planning assistance

Mineral Wells, Texas

Economic Development Administration—Title IX planning assistance

Sauk County (Badger)

Economic Development Administration—Title IX planning assistance Department of Labor—Manpower Retraining

*C. Acquiring the land*

As officials of the Economic Adjustment Committee have stated, the quick utilization of base property is essential to a successful revitalization effort. The case studies were analyzed, therefore, to determine [9] the communities' success in acquiring the land occupied by closed bases. It is important for the transfer of land to happen quickly so that communities can implement their long term economic development plans.

In our research, we found that communities have faced severe problems in acquiring base property. This is particularly true in Boston and Rhode Island.

In Boston, the naval facilities at the South Boston Naval Complex, Charlestown Naval Shipyard, and the Chelsea Naval Hospital, were closed in April of 1973. As of February 1978, however, only one of the land parcels had been purchased from the United States General Services Administration—and that had been purchased at a high price and only through creation of a special governmental agency.

In June of 1977, the City of Boston represented by the Economic Development Industrial Corporation (EDIC) obtained title to the 138 acres of land in the South Boston Naval Annex. The land was purchased for $4.7 million ($34,000 per acre). The site has been renamed the Boston Marine Industrial Park, and it will emphasize ship repair and marine related industry. At present, approximately 800 people are employed in various businesses which operate in the park.

Title to the 88 acres at Chelsea Naval Hospital and the 130 acres at Charlestown is still retained by the Department of the Navy. Development plans for Chelsea, under the aegis of the Chelsea Community Development Center, include a public waterfront park and housing. The Boston Redevelopment Authority has similar plans for the development of the land area at Charlestown with the priorities being the establishment of an historical park and condominiums. However, they still have not gained title to the land.

In Rhode Island, the naval facilities at Quonset Point-Davisville and at Newport were officially closed in April of 1973. However, the State of Rhode Island still does not own the land at these facilities. Title to the land has been retained by the Department of the Navy.

The bulk of the land being used and considered for future use is located in the Quonset-Davisville area. There are fifty-two active leases at the facility. The majority of the leases are contracted with private concerns which range from catering services to printing outfits. The state has its own Ocean Training Agency located here and this also serves as a site for the CETA program.

The transfer of the title to the land has become a long and involved process. Most recently, GSA has completed its draft of an environmental impact statement which will be released in March of 1978. If the finalized version is approved at public hearings, tentatively scheduled for the spring of 1978, the process toward state acquisition of the land will resume—five years after the bases were closed.

*D. Summary*

In summary, in the case studies we find that there are inherent problems at the federal level in the current structure for revitalization. We identified three critical areas:

Planning: The planning reports prepared for the Office of Economic Adjustment were too general in their recommendations and were not used by the communities surveyed for the report. Communities find it necessary to apply for special funding to prepare their own economic development plans.

Obtaining Grants: OEA was found by the surveyed communities to be most effective in helping communities obtain short-term grants. Major problems are the absence of long-term capital grants and the time and effort required to obtain other funds.

Acquiring the Land: The report's survey found that leasing and transfer of land is a long and arduous process for communities, and that leases are only available on a short term basis.

The gaps in federal assistance for revitalization are important given the technical assistance, funding, and high-level federal coordination, communities often need to develop and implement their own redevelopment plans. The report's analysis raises questions about whether it serves these purposes. Its planning is inadequate, grants are available only on a short-term basis, and acquiring land takes years and stalls renewal efforts. It seems that OEA's location within the Department of Defense limits its effectiveness when dealing with other agencies and allows for only a short-term involvement.

VI. CONCLUSIONS

In analyzing the case studies, we found:

The Office of Economic Adjustment's estimates of the economic impact of a base closing on a community vary markedly from estimates prepared by community officials. The disparity makes it clear that a reliable source of analysis for determining the economic impact of base closings does not exist.

OEA does not have adequate resources for assisting communities in efforts to revitalize their economic base as evidenced by inadequate plans, lack of long-term grants, and an inability to facilitate land transfer transactions.

[7] MacArthur and Frankford communities did not request studies.

[8] Telephone interview, January 23, 1978.

[9] Report, "The President's Economic Adjustment Committee," *op. cit.*

The current framework for assessing the economic impact of a base closing on a community, state, or region, and assisting these areas in recovering from the effects of the closing does not work. A new beginning must be made.

The following alternative structure is recommended:

First, the efforts involved in base closings—assessing the cost and savings, analyzing the impact, and providing needed assistance for revitalization efforts—should be directed by a White House level coordinator. This coordinator would provide the stature necessary to facilitate prompt action on grants, planning, leasing, and other problems which may develop. The coordinator could serve as staff director for a strengthened Economic Adjustment Committee, which has been the most successful part of the existing programs.

Second, the functions of assessing impact must be removed from the Defense Department. Asking the Defense Department to assess its own actions is analogous to asking the fox to guard the chickens—and is unfair to both. An alternative location for the assessment function may be an independent agency such as the General Accounting Office.

Third, planning assistance under EDA's Title IX program should be automatically triggered by the loss or transfer of a fixed number or percentage of jobs, and should not be dependent on an outsider's perception of appropriate community reaction. Planning efforts should be monitored by the White House coordinator.

Fourth, a policy of reimbursing communities for a percentage of the savings estimated by the Defense Department as a result of closing a base, would provide a sound fiscal basis for assistance to affected communities. Congressman Philip Ruppe has introduced a bill—HR 8472—which seeks the reimbursement of ten percent of the savings for use by the affected communities for job training and overall economic revitalization. A similar bill—S. 1901—has been introduced by Senators Griffin and Riegle. It is possible that a higher percentage of the savings may be necessary for the tasks faced in a successful conversion effort.

Base closings, like contracts, and the defense budget as a whole, also involves a more basic question; how can a community convert to a non-military based economy? A national policy which requires the development of alternative use plans to be developed for each military base and defense plant in the country may facilitate the reallocation of resources released by gradual conversion steps. Senators McGovern and Mathias have recently submitted a bill which introduces such planning, S. 2279. Similar bills have also been introduced by Representatives Bingham, HR 205, and Weiss, HR 10648.

This mechanism would alleviate the crippling unemployment problems which frequently follow the closing of a military base. Furthermore, many critical civilian needs, such as schools, hospitals, mass transit, and other needs, can be met by converting the technological capabilities of defense-related facilities and plants which have been closed to a civilian orientation. Long range concerns of conversion would receive the serious attention which they merit under such a plan.

If these changes to assist communities in coping with the impact of base closings are not made, future closings will continue to have a negative impact upon the affected communities. Strengthening of the Office of Economic Adjustment would merely be minor tinkering with a system that does not work. Communities will continue to face a fragmented and chaotic situation, where the federal agency which caused their economic distress, the Department of Defense, is still in charge.

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AMENDMENT No. 1772

At the appropriate place in the bill, insert a new section as follows:

BASE CLOSURES AND REALIGNMENTS

SEC. . (a) Section 2687 of title 10, United States Code, is amended by—

(1) striking out "sixty days" in subsection (b)(4) and inserting in lieu thereof "180 days";

(2) redesignating subsections (c) through (e) as subsections (d) through (f), respectively, and adding after subsection (b) a new subsection (c) as follows:

"(c)(1) Whenever the Secretary of Defense or the Secretary of the military department concerned has publicly announced that any military installation is a candidate for closure or realignment, the Comptroller General of the United States shall conduct a study to determine the cost and savings estimates to be realized from such closing or realignment. In conducting such study, the Comptroller General shall assess the economic impact and consequences of the proposed closing or realignment on the community concerned. Such assessment shall include the impact on unemployment, income, small business concerns, State and local tax revenues, State and local governmental expenditures for unemployment compensation, welfare, general assistance, medical costs, and other related social service expenditures, and the multiplier effects of such proposed closing or realignment on the community concerned.

"(2) The Comptroller General of the United States shall submit the results of any study made in the case of the proposed closing or realignment of any military installation to the Committee on Government Operations, Education and Labor, and Small Business of the House of Representatives and the Committee on Governmental Affairs, Human Resources, and the Select Committee on Small Business of the Senate within 120 days after the day on which the proposed closing or realignment of such installation is publicly announced. In any case in which the proposed closing or realignment of any military installation was publicly announced after February 1976, and prior to the date of enactment of this paragraph, the Comptroller General shall submit the results of such study to such Committees within 180 days after such date of enactment.

"(3)(A) On any case in which the Comptroller General of the United States determines, as the result of any such study, that the proposed closing or realignment of any military installation will likely result in an increase in unemployment in the community concerned in an amount greater than one quarter of one percent quarterly over a period of 4 quarters following the date of the proposed closing or realignment, no further action may be taken to implement the proposed closing or realignment of such installation until a special task force has been established as provided in subparagraph (B), such task force has developed a detailed plan of economic assistance to the community or communities affected by the proposed closing or realignment, and such plan has been put in operation. In developing the plan of assistance for any community, the task force shall consult with and seek the advice of the Secretary of Health, Education, and Welfare and the heads of other appropriate departments and agencies.

"(B) The special task force established under subparagraph (A) in any case shall be composed of the following representatives:

"(i) a representative from the Council on Economic Advisors, designated by the chairman of such council;

"(ii) a representative from the Department of Commerce, designated by the Secretary of Commerce;

"(iii) a representative from the Department of Labor, designated by the Secretary of Labor;

"(iv) a representative from the Department of Defense, designated by the Secretary of Defense; and

"(v) a representative from the Small Business Administration, designated by the Administrator of such administration.

The representative designated from the Council of Economic Advisors shall serve as chairman of any such task force.

"(4) The plan of assistance developed by the special task force provided for under paragraph (3) for any community shall be developed in a manner which will provide for the revitalization of the economic base of such community and result in an unemployment decline in such community of one quarter of one percent or less quarterly over a period of 4 quarters following the date of the actual closure or realignment of the military installation concerned."; and

(3) striking out "(c)" in subsection (f) (as redesignated by clause (2) of this section) and inserting in lieu thereof "(d)", and by striking out "September 30, 1977" in such subsection and inserting in lieu thereof "February 28, 1976".

(b) The amendments made by subsection (a) of this section shall not apply in the case of the closure of any military installation (as defined in section 2687 of title 10, United States Code), or the realignment with respect to any such installation, which was first announced after February 28, 1976, and prior to the date of enactment of this section if such installation has already been closed or the announced realignment has already been accomplished prior to such date of enactment.●

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## COMMODITY EXCHANGE ACT AMENDMENTS—S. 2391

AMENDMENT NO. 1773

(Ordered to be printed and referred to the Committee on Agriculture, Nutrition, and Forestry.)

Mr. HUDDLESTON submitted an amendment intended to be proposed by him to the bill (S. 2391) to extend the Commodity Exchange Act, and for other purposes.

● Mr. HUDDLESTON. Mr. President, Congress this year must reauthorize the Commodity Futures Trading Commission, which was established in 1974. Appropriately, Congress provided a sunset in the CFTC Act at the time of passage in order to provide thorough oversight of the Commission's performance and implementation of congressional intent.

Last January, in an attempt to focus attention and stimulate discussion within the Congress, the CFTC, the futures industry, and with other interested parties, I introduced a reauthorization bill, S. 2391. Since that time, Senate hearings have been held on CFTC reauthorization and testimony has been received from several dozen interested parties.

Today I am submitting an amendment in the nature of a substitute to S. 2391. This updated version of the bill reflects the thinking and the testimony of many of the witnesses who appeared before the Senate Agriculture Committee.

This measure is a refined version of my original bill. I am introducing this substitute so that a legislatively more complete package may be considered during the committee markup.

Mr. President, I ask unanimous consent that the amendment, including the section-by-section analysis be printed in the RECORD.

There being no objection, the amendment and summary were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1773

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. Section 2(a) of the Commodity Exchange Act is amended by—

(1) striking out "section 217 of the Commodity Futures Trading Commission Act of 1974" in the first sentence of paragraph (1) (7 U.S.C. 2) and inserting in lieu thereof "section 19 of this Act";

(2) inserting "(A)" immediately after the designation of paragraph (2) (7 U.S.C. 4a (a));

(3) striking out in the second sentence of paragraph (2) "a Chairman and four other Commissioners" and inserting in lieu thereof "five Commissioners";

(4) adding at the end of paragraph (2) a new subparagraph as follows:

"(B) The President shall appoint, by and with the advice and consent of the Senate, a member of the Commission as Chairman. An individual may be appointed as Chairman at the same time that that person is appointed as a Commissioner. The Chairman shall be the chief administrative officer of the Commission and shall preside at hearings before the Commission. The President may, at his pleasure, designate a different Chairman, and the Commissioner previously designated as Chairman shall complete his term as a Commissioner.";

(5) striking out in paragraph (5) (7 U.S.C. 4a(d)) ", by and with the advice and consent of the Senate,";

(6) striking out in subparagraph (6)(A) (7 U.S.C. 4a(e)(1)) "the Chairman" and inserting in lieu thereof "a Chairman who shall be chosen from the Commissioners by the President";

(7) inserting "(A)" immediately after the designation of paragraph (7) (7 U.S.C. 4a (f));

(8) adding at the end of paragraph (7) a new subparagraph as follows:

"(B) No Commissioner or employee of the Commission classified as a GS–16 or higher, shall, for a period of one year beginning on the last day of service as such Commissioner or employee—

"(1) make any appearance before; or

"(2) make any written or oral communication to the Commission, or any Commissioner or employee of the Commission, on behalf of any person (other than the United States) on any particular matter that is before the Commission: *Provided*, That this restriction shall not apply to an appearance or response pursuant to a subpoena issued by the Commission, or any matter of an exclusively personal and individual nature.".

(9) striking out in the first sentence of paragraph (8) 7 (U.S.C. 4a(g)) "establish a separate office within the Department of Agriculture to be staffed with employees of the Commission for the purpose of maintaining" and inserting in lieu thereof "maintain";

(10) striking out in subparagraph (9)(A) (7 U.S.C. 4a(h)(1)) "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry"; and

(11) striking out in subparagraph (9)(B) (7 U.S.C. 4a(h)(2)) "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry".

SEC. 2. Section 4c of the Commodity Exchange Act (7 U.S.C. 6c) is amended by—

(1) striking out in the last sentence of subsection (a) "not have been disapproved" and inserting in lieu thereof "have been approved";

(2) striking out in subsection (b) "Senate Committee on Agriculture and Forestry" and inserting in lieu thereof "Senate Committee on Agriculture, Nutrition, and Forestry"; and

(3) adding at the end thereof the following new subsections: (c) Notwithstanding the provisions of subsection (b) of this section, it shall be unlawful for any person to offer to enter into, enter into, or confirm the execution of any transaction subject to the provisions of subsection (b) of this section, except where both parties to each such transaction are either a producer, processor, or commercial user of, or a merchant handling, the commodity involved in the transaction, or the products or byproducts thereof, and offer to enter into, or enter into, such transactions solely for the purposes of their business as such, until (1) the Commission transmits to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry documentation of its ability successfully to regulate such transactions, and (2) the expiration of thirty calendar days of continuous session of Congress after the date of such transmittal without either House of Congress adopting a resolution disapproving of such regulation: *Provided*, That the Commission is not precluded from transmitting documentation relating to its ability to regulate such transactions regarding individual commodities, classes of commodities, or regulation of such transactions on specific boards of trade, at such time as the Commission deems appropriate. Nothing in the preceding sentence shall affect any rights or obligations arising out of any transactions subject to the provisions of this subsection entered into, or the execution of which was confirmed, prior to October 1, 1978.

(d) Notwithstanding the provisions of subsection (c) of this section a registered futures commission merchant may offer to enter into, enter into, or confirm the execution of, any transaction subject to the provisions of subsection (b) of this section if—

(1) the grantor in the transaction is a person who: (A) is in the business of buying, selling, producing, or otherwise utilizing the underlying commodity; (B) at all times has a net worth of at least $10,000,000 certified annually by an independent public accountant using generally accepted accounting principles; (C) agrees to notify such futures commission merchant if he has reason to believe his net worth has fallen below $10,000,000; (D) segregates daily, exclusively for the benefit of purchasers, money, 'exempted securities' (within the meaning of section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)), commercial paper, bankers' acceptances, commercial bills, of unencumbered warehouse receipts, equal to an amount by which the value of each transaction exceeds the amount received or to be received by the grantor for such transaction; (E) provides an identification number for each transaction; and (F) provides confirmation of all orders for such transactions executed, including execution price and a transaction identification number;

"(2) the futures commission merchant has evidence that the grantor meets the requirements set forth in clause (1) of this subsection; and

"(3) the futures commission merchant treats and deals with an amount of money, 'exempted securities' (within the meaning of section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78(c)(12)), commercial paper, bankers' acceptances, commercial bills, or unencumbered warehouse receipts, equal in value to the value received from its customers as payment of the purchase price in connection with such transactions, as security for performance of the transactions until the expiration or liquidation of those transactions, records each transaction in its customer's name by a transaction identification number provided by the grantor, and provides a disclosure statement to its customers, pursuant to regulations of the Commission, that discloses, among other things, all costs, including any mark-ups or commissions involved in such transaction.

"(e) The provisions of subsection (c) and (d) of this section shall expire on September 30, 1984."

SEC. 3. Section 4d(2) of the Commodity Exchange Act (7 U.S.C. 6d(2)) is amended by inserting after *"Provided, further,"* in the first paragraph the following:

"That in accordance with such terms and conditions as the Commission may prescribe by rule, regulation, or order, such money, securities, and property of the customers of such futures commission merchant may be commingled and deposited as provided in this section with any other money, securities, and property received by such futures commission merchant and required by the Commission to be separately accounted for and treated and dealt with as belonging to the customers of such futures commission merchant: *And provided further,"*.

SEC. 4. Section 4g(3) of the Commodity Exchange Act (7 U.S.C. 6g(3)) is amended by striking out "Brokers" and inserting in lieu thereof "Floor brokers".

SEC. 5. Section 4f(1) of the Commodity Exchange Act (7 U.S.C. 6f(1)) is amended by—

(1) striking out "All regulations" in the third sentence and inserting in lieu thereof "Each registration"; and

(2) inserting in the third sentence "or at such other time, not to be less than one year from the issuance thereof, as the Commission may by rule regulation or order prescribe," after "issued,".

SEC. 6. The third sentence of section 4k(2) of the Commodity Exchange Act (7 U.S.C. 6k(2)) is amended to read as follows:

"Such registration shall expire two years after the effective date thereof or at such other time, not less than one year from the issuance thereof, as the Commission may by rule, regulation, or order prescribe, and shall be renewed upon application therefor unless the registration has been suspended (and the period of such suspension has not expired) or revoked after notice and hearing as prescribed in section 6(b) of this Act: *Provided*, That upon initial registration, unless the Commission otherwise prescribes by rule, regulation, or order, the effective period of such registration shall be not more than two years nor less than one year from the effective date thereof.".

SEC. 7. Section 4n of the Commodity Exchange Act (7 U.S.C. 6n) is amended by—

(1) striking out subsection (2) and redesignating subsections (3), (4), (5), (6), and (7) as subsections (2), (3), (4), (5), and (6) respectively;

(2) striking out "All registrations" in subsection (3) and inserting in lieu thereof "Each registration"; and

(3) inserting after "year," in subsection (3) "or at such other time, not less than one year from the effective date thereof, as the Commission may by rule, regulation or order prescribe,".

SEC. 8. Section 40(1) of the Act (7 U.S.C. 60(1)) is amended by striking out "registered under this Act".

SEC. 9. Section 6 of the Commodity Exchange Act (7 U.S.C. 8) is amended by—

(1) inserting "on the record" after "hearing" in the second sentence;

(2) by inserting "on the record" after "hearing" in the second sentence of subsection (a);

(3) by striking out the third sentence of subsection (b) and inserting in lieu thereof the following new sentences:

"For the purpose of securing effective enforcement of the provisions of this Act, and for the purpose of any investigation or proceeding under this Act any member of the Commission or any Administrative Law Judge or other officer designated by the Commission is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records which the Commission deems relevant or material to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States or any State at any designated place of hearing. In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction in which such investigation or proceeding is carried on or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records. Such court may issue an order requiring such person to appear before the Commission or member or Administrative Law Judge or other officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district wherein such person is an inhabitant or conducts business or wherever he may be found.".

SEC. 10. Section 6b of the Commodity Exchange Act (7 U.S.C. 13a) is amended by inserting "on the record" after "hearing" in the first sentence.

SEC. 11. The Commodity Exchange Act is amended by adding after section 6c a new section as follows:

"Section 6d. (1) Whenever it shall appear to the attorney general of any State or such other official as the State may designate that the interests of the residents of such State have been, are being, or may be threatened or adversely affected because any person (other than a contract market or floor broker) has engaged, is engaging, or is about to engage in any act or practice constituting a violation of any provision of this Act or any rule, regulation, or order thereunder, the State may bring an action on behalf of its residents in the proper district court of the United States in such State, to enjoin such act or practice, or to enforce compliance with this Act or any rule, regulation, or order thereunder, and said courts shall have jurisdiction to entertain such actions and, upon proper application, shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this Act or any rule, regulation, or order thereunder, including the requirement that the defendant take such action as is necessary to remove the danger of violation of this Act or any such rule, regulation, or order.

"(2) No action may be brought under this section without the prior approval of the Commission unless the Commission specifies by rule or regulation that prior approval shall not be required in such a case.

"(3) Immediately upon bringing any such action, the State shall serve written notice thereof upon the Commission, and the Commission may intervene in the action by filing a notice of appearance in the action and, upon doing so, the Commission shall have the right to be heard on all matters arising therein and to file any petition for appeal therein.

"(4) No restraining order, in junction, writ of mandamus, or order affording like relief, shall be issued ex parte in any action brought under this section. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

"(5) Any action under this section may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the act or practice occurred, is occurring, or is about to occur, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

"(6) For purposes of bringing any action under this section, nothing in his Act shall present the attorney general or other duly authorized official of any State from exercising the powers conferred on him by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(7) For purposes of this section the word "State" means any State of the United States, the District of Columbia, or any territory or possession of the United States.".

SEC. 12. Section 8 of the Commodity Exchange Act (7 U.S.C. 12–1) is amended by striking out in the second paragraph "and make public" the second time that phrase appears.

SEC. 13. Section 8a(1) of the Commodity Exchange Act (7 U.S.C. 12a(1)) is amended by inserting after "by the Commission" the following:

", which may require the applicant, and any persons associated with the applicant as the Commission may specify, to be fingerprinted and to submit, or cause to be submitted, such fingerprints to the Attorney General of the United States for identification and appropriate processing".

SEC. 14. Section 8c(1)(B) of the Commodity Exchange Act (7 U.S.C. 12c(1)(B)) is amended by striking out the last sentence and inserting in lieu thereof the following:

"An exchange shall make public its findings in any such proceeding, including the action taken or the penalty imposed, but shall not disclose the evidence or reasons therefor, except to the person who is suspended, expelled, or disciplined, or denied access, and to the Commission: *Provided*, That this subsection shall not apply to criminal investigations or proceedings.".

SEC. 15. Section 9(c) of the Commodity Exchange Act (7 U.S.C. 13(c)) is amended by—

(1) striking out "or" after "section 40,"; and

(2) inserting "or section 19," after "section 8b,".

SEC. 16. Section 12(d) of the Commodity Exchange Act (7 U.S.C. 16(d)) is amended to read as follows:

"(d) There are hereby authorized to be appropriated to carry out the provisions of this Act such sums as may be required for the fiscal year ending June 30, 1975, for the period beginning July 1, 1975, and ending September 30, 1976, and for each of the fiscal years beginning October 1, 1976, and ending September 30, 1984, and not in excess * * * subsection, be authorized by law for any subsequent fiscal year.".

SEC. 17. Section 14 of the Commodity Exchange Act (7 U.S.C. 18) is amended by—

(1) striking out "registered" in subsection (a) and inserting in lieu thereof "who is registered or should be registered";

(2) striking out all after "Provided," in subsection (b) and inserting in lieu thereof the following:

"That in complaints wherein the amount claimed as damages does not exceed the sum of $5,000, a hearing limited to only the basic or novel issue or issues of the case shall be held, and additional proof in support of the complaint and respondent's answer may be supplied in the form of short depositions or verified statements of fact."; and

(3) striking out subsection (c) and inserting in lieu thereof the following:

"(c) After opportunity for hearing on complaints where the damages claimed exceed the sum of $5,000 has been provided or waived and on complaints where damages do not exceed the sum of $5,000, requiring hearing only on the basic or novel issue or issues in the case, as provided in this section, the Commission shall determine whether or not the respondent has violated any provision of the Act or any rule, regulation, or order thereunder.".

SEC. 18. The Commodity Exchange Act is amended by adding at the end thereof a new section as follows:

"SEC. 19. No person shall offer to enter into, enter into, or confirm the execution of any transaction for the delivery of any commodity specifically set forth in section 2(a) of this Act prior to the enactment of the Commodity Futures Trading Commission Act of 1974, pursuant to a standardized contract commonly known to the trade as a margin account, margin contract, leverage account, or leverage contract, or pursuant to any contract, account, arrangement, scheme or device that the Commission determines serves the same function or functions as does such a standardized contract, or is marketed or managed in substantially the same manner as such a standardized contract. Notwithstanding any other provision of this Act, the Commission may prohibit or regulate any such transactions involving any other commodities under such terms as the Commission shall initially prescribe by October 1, 1979: *Provided*, That any such order, rule, or regulation may be made only after notice and opportunity for hearing: *And provided further*, That the Commission may set different terms and conditions for such transactions involving different commodities. If the Commission determines that any such transaction is a contract for future delivery within the contemplation of section 3 of this Act such transaction shall be regulated in accordance with the applicable provisions of the Act.".

SEC. 19. Title II of the Commodity Futures Trading Commission Act of 1974 (7 U.S.C. 15a) is amended by striking section 217.

SEC. 20. (a) There is hereby established a National Commission on the Effects of Futures Markets on Farm Income (hereinafter referred to as the "Commission").

ORGANIZATION

(b)(1) The Commission shall be composed of nine members, none of whom may be employees of the Federal Government or Members of Congress, including—

(A) three members to be appointed by the President pro tempore of the Senate;

(B) three members to be appointed by the Speaker of the House of Representatives; and

(C) three members to be appointed by the President, by and with the advice and consent of the Senate, one of whom shall be designated as the chairman at the time of his appointment and who, by background, experience, and education is particularly suited to the position.

A vice-chairman shall be selected by a majority vote of the full Commission. The Commission members shall represent, as far as practicable, producers, processors, and distributors of agricultural commodities and their products, economists, family farmers, commodity exchanges, national agricultural organizations, and consumers.

(2) Any vacancy in the Commission shall not affect its powers, except the selection of

a vice-chairman, and shall be filled in the same manner as the original position.

(3) Five members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS

(c) Each member of the Commission may receive compensation at the highest rate of pay for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged upon the work of the Commission, and shall be reimbursed for travel expenses, including per diem in lieu of subsistence as authorized under section 5703 of title 5, United States Code.

DUTIES OF THE COMMISSION

(d)(1) The Commission shall study and appraise:

(A) the relationships between the prices established on futures markets and the prices of the actual commodities in the cash markets;

(B) the concentration and magnitude of trading by foreign individuals, corporations, or governments on domestic futures markets;

(C) the actions necessary to stimulate greater use of futures markets by American farmers, if advisable;

(D) the justification for the differentials in prices farmers receive for their crops and the futures prices for the same commodity;

(E) the effect of increasing the number of delivery points under a futures contract on the amount received by producers of that commodity; and

(F) the need for changes, if any, in the Commodity Exchange Act or the regulations thereunder.

(2) The Commission shall make such interim reports as it deems advisable, and it shall make a final report of its findings, conclusions, and legislative recommendations to the President and to the Congress by October 1, 1981.

(3) All books, papers, reports, memorandums, and all of the documents collected, produced, obtained, or in the custody or possession of the Commission shall be transmitted to the Commodity Futures Trading Commission which shall maintain them and make them readily available for public inspection and copying without regard to section 552 of title 5, United States Code.

POWERS OF THE COMMISSION

(e)(1) The Commission, or any three members thereof authorized by the Commission, may conduct hearings anywhere in the United States or otherwise secure data and expressions of opinions pertinent to the study. In connection therewith the Commission is authorized by a majority vote—

(A) to require, by special or general orders, any person to submit in writing such reports and answers to questions as the Commission may prescribe and within such reasonable period and under oath or otherwise as the Commission may determine;

(B) to administer oaths;

(C) to require by subpoena the attendance and testimony of witnesses in the production of all documentary evidence relating to the execution of its duties;

(D) in the case of disobedience to a subpoena or order issued under this subsection, to invoke the aid of any district court of the United States in requiring compliance with such subpoena or order;

(E) in any proceeding or investigation, to order testimony to be taken by deposition before any person who is designated by the Commission and has the power to administer oaths, and in such instances to compel testimony in the production of evidence in the same manner as authorized under paragraphs (C) and (D) of this subsection; and

(F) to pay witnesses the same fees and mileages as are paid in like circumstances in the courts of the United States.

(2) Any district court of the United States within the jurisdiction of which an inquiry under this section is carried on may, in case of refusal to obey a subpena or order of the Commission issued under this subsection, issue an order requiring compliance therewith; and failure to obey the order of the court may be punished by the court as a contempt thereof.

(3) Notwithstanding any other provision of law, the Commission is authorized to require directly from the head of any executive department, agency, or independent establishment of the Federal Government available information deemed useful in the discharge of its duties, and all such departments, agencies, and establishments are authorized and directed to cooperate with the Commission and to furnish all information requested by the Commission.

(4) The Commission is authorized to enter into contracts with Federal or State agencies, private firms, institutions, and individuals for the conducting of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

(5) Subject to the provisions of section 552 of title 5, United States Code, when the Commission finds that publication of any information obtained by it is in the public interest and would not give an unfair competitive advantage to any person, it is authorized to publish such information in the form and manner deemed best adapted for public use, except that data and information that would separately disclose the business transactions of any person, trade secrets, or names of customers shall be held in confidence and shall not be disclosed by the Commission or its staff.

ADMINISTRATIVE ARRANGEMENTS

(f)(1) The Commission is authorized to appoint and fix the compensation of an executive director and a chief economist without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. The Executive Director, with the approval of the Commission, shall employ and fix the compensation of such additional personnel as may be necessary to carry out the functions of the Commission, except that no individual so appointed shall be paid at a rate in excess of the rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code.

(2) The Executive Director, with the approval of the Commission, is authorized to obtain the services of experts and consultants as provided under section 3109 of title 5, United States Code.

(3) The head of any executive department, agency, or independent establishment of the Federal Government is authorized to detail, on a reimbursable basis, any of its personnel to assist the Commission in carrying out its work.

(4) Financial and administrative services (including those relating to budgeting and accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement, from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator of General Services.

(5) Ninety days after submission of its final report, as provided in subsection (d)(2) of this section, the Commission shall cease to exist.

AUTHORIZATION OF APPROPRIATIONS

(g) There is hereby authorized to be appropriated to the Commission such sums, not in excess of $1,000,000 for each year of its existence, as may be necessary to carry out the provisions of this section.

SEC. 21. The provisions of this Act shall become effective October 1, 1978.

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SECTION-BY-SECTION ANALYSIS

Section 1. CFTC Membership; Chairman of the CFTC; Senate confirmation of CFTC Executive Director; CFTC Personnel: Prohibitions.

Section 1 of the bill amends paragraphs (1), (2), (5), (6), (7), (8), and (9) of section 2(a) of the Commodity Exchange Act.

Section 1(1) contains a technical amendment to section 2(a)(1) of the Act. (The amendment reflects the deletion in section 19 of S. 2391 of section 217 of the Commodity Futures Trading Commission Act of 1974, dealing with leverage contracts in gold or silver bullion or bulk silver or gold coins, and the addition of a new section 19 to the Commodity Exchange Act, dealing with leverage contracts on these and all other commodities.)

Sections 1(2) through (4) amend section 2(a)(2) of the Act to provide that (A) there will be five Commissioners on the Commodity Futures Trading Commission and (B) one of the Commissioners will be appointed by the President, subject to confirmation by the Senate, to be Chairman. An individual may be appointed as Chairman at the same time that person is appointed as a Commissioner. The Chairman will serve at the pleasure of the President and preside at Commission hearings. If the Chairman is subsequently replaced by another Chairman, he will serve the remainder of his term as a Commissioner.

Section 1(5) amends section 2(a)(5) of the Act by repealing the requirement that the appointment of the Executive Director of the Commodity Futures Trading Commission be subject to confirmation by the Senate.

Section 1(6) contains a technical amendment to section 2(a)(6)(A) of the Act to clarify that the executive and administrative functions of the Commission will be exercised solely by the Chairman chosen from the Commissioners by the President, consistent with the amendments contained in sections 1(2) through (4) of the bill.

Sections 1(7) and (8) amend the prohibitions on activities by Commission personnel. Section 1(8) amends section 2(a)(7) of the Act to prohibit any Commissioner or Commission employee classified as GS–16 or higher, for one year from his or her last day of service at the Commission, from making any appearance before the Commission or communicating with the Commission, any Commissioner of Commission employee on behalf of any person (other than the United States) on any matter before the Commission. This prohibition does not apply to any appearance or response pursuant to a Commission-issued subpoena or matters of an exclusively personal and individual nature.

Section 1(9) amends section 2(a)(8) of the Act to remove the requirement that the Commission establish a separate office within the Department of Agriculture to be staffed with Commission employees for the purpose of maintaining liaison, and imposes a requirement for maintenance of a liaison.

Sections 1(10) and (11) contain technical amendments to sections 2(a)(9)(A) and (B) of the Act, relating to Commission submittals of budget requests and legislative recommendations, to evidence the change in the name of the Senate Committee on Agriculture, Nutrition, and Forestry from the Senate Committee on Agriculture and Forestry.

Section 2. Approval of contract market rules; Options trading.

Section 2(1) of the bill conforms section 4c(a) of the Commodity Exchange Act with other provisions in the Act requiring the Commission's prior approval of contract market rules.

Section 2(2) contains a technical amendment to section 4c(b) of the Act to evidence the change in the name of the Senate Committee on Agriculture, Nutrition, and Forestry from the Senate Committee on Agriculture and Forestry.

Section 2(3) amends section 4c of the Act to prohibit commodity options transactions—except where both parties to the transaction are either a producer, processor, or commercial user of, or a merchant handling, the commodity on which the option is written and they enter into the option solely for the purposes of their businesses as such—until the following conditions are satisfied: (1) the Commission transmits evidence to the congressional agriculture committees of its ability successfully to regulate these transactions, and (2) 30 days of continuous session of Congress following transmission of the justification statement by the Commission passes without either House adopting a resolution disapproving of the proposed regulation. The Commission could transmit documentation of its ability to regulate option transactions regarding individual commodities, classes of commodities, or regulation of options trading on specific boards of trade, when the Commission deems it appropriate. Right or obligations arising out of any options transaction subject to the provisions of section 4c(b) entered into, or the execution of which was confirmed before October 1, 1978, are not affected. (The total prohibition on options transactions in basic agricultural commodities is not affected by this amendment.)

Section 2(3) adds a new subsection (d) to section 4c of the Act. New section 4c(d) exempts from the congressionally imposed ban on commodity options transactions under subsection (c), as added by section 2(3) of the bill, ban under subsection (b), dealer options that satisfy the requirements of that subsection. The grantor of the option must: (1) be in the business of buying, selling, producing, or otherwise using the commodity on which the option is written; (2) continuously maintain a minimum net worth of $10 million, certified annually by an independent public accountant using generally accepted accounting principles; (3) segregate daily, exclusively for the benefit of purchasers, money, government securities, commercial paper, or unencumbered warehouse receipts equal to the purchaser's profit; provide identification of each option granted; and provide confirmations for all options executed, including execution price and a transaction identification number. The futures commission merchant must have evidence that the grantor satisfies these requirements before he sells options written by that grantor. The futures commission merchant is required to: (1) treat and deal with all funds received from its customers as the options purchase price—to be held as money, government securities, commercial paper or unencumbered warehouse receipts—as security for performance of the option until its expiration or liquidation; (2) record each option in the customer's name by an identification number furnished by the grantor; and (3) provide a disclosure statement to customers pursuant to Commission regulations disclosing all costs, including any mark-ups or commission in the transaction. Section 2(3) adds a new subsection (e) to section 4c of the Act making the provision of new subsection (c) and (d) effective through September 30, 1984.

Section 3. Commingling of futures customers' funds. Section 3 amends section 4d (2) of the Act—which requires futures Commission merchants to account separately for funds and other property received by them from, or accruing to, their customers in connection with commodity futures contract trading—to authorize the Commission to prescribe the terms and conditions under which funds and property commingled and deposited under section 4d(2) may be commingled and deposited with other funds and property received by a futures Commission merchant and required by the Commission to be separately accounted for and treated as belonging to its customers.

Section 4. Maintenance of trading records by floor brokers. Section 4 of the bill substitutes the words "Floor brokers" for "Brokers" in section 4g(3) of the Act, which requires the maintenance of daily trading records in a specified manner and form, to make it clear that floor brokers are the persons required to maintain daily trading records. The term "floor broker" is defined in section 2(a)(1) of the Act, and the word "broker" does not appear in any section other than section 4g(3).

Section 5. Registration of futures commission merchants and floor brokers.

Section 5 amends section 4f(1) of the Act to provide that the registration of each futures commission merchant and floor broker will expire on December 31 of the year in which it was issued or at such other time, not less than one year from issuance of the registration, as the Commission may prescribe. Currently, the registration of all futures commission merchants or floor brokers expires on December 31 of the year of issuance.

Section 6. Registration of associated persons.

Section 6 amends section 4k(2) of the Act to authorize the Commission to prescribe the period of registration, not less than one year, for associated persons. If the Commission takes no action, the period of registration for associated persons would be two years, as is the case under existing section 4k(2).

Section 7. Registration of commodity trading advisors and commodity pool operators.

Section 7(1) deletes section 4n(2) of the Act, which provides that the registration of any commodity trading advisor and commodity pool operator is to become effective 30 days after the Commission's receipt of a registration application. The Act does not impose a time period for the Commission to process applications for other classes of registrants—futures commission merchants, associated persons, and floor brokers.

Section 7(2) and (3) amend section 4n(3) of the Act to provide that the registration of each commodity trading advisor or commodity pool operator will expire on June 30 of each year or at such other time, not less than one year from the effective date thereof, as the Commission may prescribe. Currently, the registration of all commodity trading advisors and commodity pool operators expires on June 30 of each year.

Section 8. Antifraud provisions relating to commodity trading advisors and commodity pool operators.

Section 8 deletes "registered under this Act" from section 40 of the Act, which makes it unlawful for any commodity trading advisor or commodity pool operator to defraud any client or participant or prospective client or participant. The amendment makes it clear that the antifraud provisions apply to all commodity trading advisors and commodity pool operators, regardless of whether they have registered or whether they are required to register.

Section 9. Refusal of designation as a "contract market" hearing on the record; suspension or revocation of "contract market" designation—hearing on the record; Commission subpoena power.

Section 9(1) amends section 6 of the Act to provide that the opportunity for a hearing afforded a board of trade whose application for designation as a "contract market" has been denied shall be for a hearing on the record.

Section 9(2) amends section 6(a) of the Act to provide that the hearing required before the Commission may suspend, for a period of not more than six months, or revoke the "contract market" designation of a board of trade must be on the record.

Section 9(3) amends section 6(b) of the Act to make the Commission's power to administer oaths and affirmations, to subpoena witnesses, and to take related actions for the purpose of conducting investigations and proceedings, independent from the authority currently contained in that section based on the Interstate Commerce Act. This section also expressly authorizes the Commission to invoke the aid of the courts of the United States in requiring the attendance and testimony of witnesses and the production of books and other records.

Section 10. Hearing on the record for a cease and desist order or imposition of a civil money penalty against a contract market.

Section 10 amends section 6b of the Act to require that the hearing the Commission must conduct prior to issuing a cease and desist order, or imposing a civil money penalty against a contract market for violating any provisions of the Act or any rule, regulation, or order thereunder, must be on the record.

Section 11. Jurisdiction of the States.

Section 11 adds a new section 6d to the Act.

New section 6d(1) authorizes States to bring actions seeking injunctive relief for violations of the Commodity Exchange Act, or Commission rules, regulations, or orders thereunder. The action would be brought in the proper United States district court in the State as described in subsection 5 of this section, which will have jurisdiction to issue writs of mandamus, or orders affording like relief, and to take such action as is necessary to remove the danger of violation of the Act or any Commission rule, regulation, or order thereunder.

New section 6d(2) requires Commission approval before a State may bring an action under this section, unless the Commission specifies by rule or regulation that prior approval is not necessary in such a case.

New section 6d(3) requires the State to serve written notice on the Commission that it is bringing the action. The Commission may intervene in the action by filing a notice of appearance and shall have the right to be heard on all matters arising therein and to file a petition for appeal in the action.

New section 6d(4) provides that no restraining order, injunction, writ of mandamus, or order affording like relief shall be issued ex parte in any action brought under this section. Subsection 4 further provides that, upon a proper showing, a permanent or temporary injunction or restraining order will be granted without bond.

New section 6d(5) describes the venue of the United States district courts for these actions. They may be brought in the district in which the defendant is found or is an inhabitant or transacts business or where the act or practice occurred, is occurring, or is about to occur. Process may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

New section 6d(6) provides that, for purposes of bringing an action under this section, the State Attorney General (or other authorized State official) will not be prevented from conducting investigations or administering oaths or affirmation or compelling

the attendance of witnesses or production of evidence under existing State loans.

New section 6d(7) defines "State", for the purposes of this section, as being any State of the United States, the District of Columbia, or any territory or possession of the United States.

Section 12. Disclosure of traders and their positions on boards of trade to the public.

Section 12 of the bill amends section 8 of the Commodity Exchange Act by deleting the requirement that the Commission make public the information it has available on traders on boards of trade and their positions when such information is requested by a congressional committee.

Section 13. Fingerprinting applicants for registration.

Section 13 amends section 8a(1) of the Act to authorize the Commission to require fingerprinting of applicants for registration as futures commission merchants, persons associated with futures commission merchants, floor brokers, commodity pool operators, and commodity trading advisors, and any persons associated with the applicant, that the Commission may specify, that would be submitted to the Attorney General of the United States for identification and processing.

Section 14. Announcement of results of disciplinary or access denial proceedings by exchanges.

Section 14 adds a new section to section 8c(1)(B) of the Act requiring each exchange to make public its findings in exchange proceedings to discipline or deny membership to any person, including the action taken or the penalty imposed, but not the evidence or reasons for the action, except to the person subject to the action and to the Commission. This disclosure requirement does not apply to criminal investigations or proceedings.

Section 15 of the bill amends section 9(c) transactions.

Section 15 of the bil lamends section 9(c) of the Commodity Exchange Act to make it a misdemeanor for any person to engage in any leverage transaction contrary to Commission regulations.

Section 16. Authorization for appropriations.

Section 16 of the bill amends section 12(d) of the Commodity Exchange Act by extending the Act and authorizing appropriations for six years, fiscal years 1979 through 1984, for the operation of the Commodity Futures Trading Commission.

Section 17. Reparations.

Section 17 amends section 14 of the Act which deals with reparation proceedings.

Section 17(1) amends section 14(a) of the Act to make it clear that reparations proceedings may be brought against any person who is registered, or who should be registered, under the Act, and who violates the Act or the Commission's regulations thereunder.

[NOTE: This provision is consistent with the Commission's decision in *Stucki* v. *American Options Corp.*, CFTC Docket R-77-59 (February 13, 1978).]

Section 17(2) amends section 14(b) of the Act to provide that, in cases where the damages claimed do not exceed $5,000, a hearing would be held, limited to the basic or novel aspects of the case. Additional proof may be supplied in the form of short depositions or verified statements of fact. (Under the existing section 14(b), in cases whereinthe damages claimed do not exceed $2,500, a hearing is not required, and supporting documents may be supplied to the Commission.)

Section 13(3) amends section 14(c), which requires the Commission to render a decision in reparation cases, to conform to the amendment made by subsection (2) of this section.

Sections 18 and 19. Leverage transactions.

Section 19 deletes section 217 of the Commodity Futures Trading Commission Act of 1974, dealing with leverage transactions for delivery of silver bullion, gold bullion, or bulk silver coins or bulk gold coins.

Section 18 adds a new section 19 to the Act.

New section 19 makes it unlawful for any person to offer to enter into, enter into, or confirm the execution of a leverage transaction, or any contract, account, arrangement, scheme or device that the Commission determines serves the same purpose as a leverage contract, or is marketed or managed in substantially the same manner as a leverage contract, for the delivery of basic agricultural commodities. The Commission is authorized to prohibit or regulate leverage transactions involving any other commodity or commodities, without limitation, under such terms as the Commission may initially prescribe by October 1, 1979. The Commission may set different terms and conditions for leverage transactions involving different commodities. If the Commission determines that any leverage contract is a contract for future delivery within the contemplation of section 3 of the Act, that transaction will be regulated under the applicable sections of the Act.

Section 20. National Commission on the Effects of Futures Markets on Farm Income.

Section 20(a). Establishment of the Commission.

Section 20(a) Establishes a National Commission on the Effects of Future Markets on Farm Income (hereinafter referred to as the "Commission").

Subsection (b). Organization of the Commission.

Subsection (b) provides that the Commission will be composed of nine members: three appointed by the President Pro Tempore of the Senate; three appointed by the Speaker of the House of Representatives; and three appointed by the President, by and with the advice and consent of the Senate, one of whom would be designated as Chairman. A vice-chairman would be selected by a majority vote of the full Commission.

The Commission members would represent, as far as practicable, producers, processors, and distributors of agricultural commodities and their products, economists, family farmers, commodity exchanges, national agricultural organizations, and consumers.

Vacancies on the Commission would not affect the Commission's powers (except the selection of the vice-chairman) and would be filled in the same way as the original position.

Five members will constitute a quorum of the Commission.

Subsection (c). Compensation of members.

Subsection (c) provides that the members of the Commission would be compensated at the highest rate of pay for grade GS-18, and would be reimbursed for travel expenses, including per diem in lieu of subsistence while engaged in Commission duties.

Subsection (d). Duties of the Commission.

Subsection (d) provides that the Commission will study and appraise: (1) the relationships between the prices established on futures markets and the prices of actual commodities in the cash markets; (2) the concentration and magnitude of trading by foreign individuals, corporations, or governments on domestic futures markets; (3) the actions necessary to stimulate greater use of futures markets by American farmers, if advisable;

(4) the justification for the differentials in prices farmers receive for their crops and the futures prices for the same commodity; (5) the effect of increasing the number of delivery points under a futures contract on the amount received by producers of that commodity; and (6) the need for changes, if any, in the Commodity Exchange Act or the regulations thereunder.

The Commission's final report of its findings, conclusions, and legislative recommendations would be submitted to the President and the Congress by October 1, 1981. The Commission could also issue interim reports as it deems advisable.

All the materials collected, produced, obtained, or in the custody of the Commission would be transferred to the Commodity Futures Trading Commission and made available for public inspection and copying.

Subsection (e). Powers of the Commission.

Subsection (e) vests in the Commission the powers necessary to carry out its functions, including subpoena powers.

Subsection (f). Administrative arrangements.

Subsection (f) authorizes the Commission to appoint and fix the compensation of an executive director and a chief economist. The executive director would be authorized, with the approval of the Commission, to appoint and fix the compensation (not in excess of the GS-18 level) of subordinate Commission employees.

The Executive Director could obtain the services of experts and consultants.

Subsection (f) also permits the detailing of employees from other Federal entities to the Commission, on a reimbursable basis, to assist the Commission in carrying out its work.

The Commission's financial and administrative services would be provided by the General Services Administration, and would be paid for either in advance or by reimbursement from the Commission's funds as agreed upon by the Chairman of the Commission and the Administrator of General Services.

Subsection (f)(5). Termination of the Commission.

Subsection (f)(5) provides that, ninety days after submission of its final report, the Commission will terminate.

Subsection (g). Authorization for appropriations.

Subsection (g) authorizes appropriations of such sums, not in excess of $1 million for each year, as may be necessary for the Commission to carry out the provisions of this section.

Section 21. Effective date.

Section 21 provides that the bill will become effective on October 1, 1978.●

## FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1978—S. 50

AMENDMENT NO. 1774

(Ordered to be printed and referred to the Committee on Human Resources and the Committee on Banking, Housing, and Urban Affairs, jointly.)

Mr. HATHAWAY submitted an amendment intended to be proposed by him to amendment No. 1703 intended to be proposed to S. 50, the Full Employment and Balanced Growth Act of 1978.

AMENDMENTS NOS. 1775 AND 1776

(Ordered to be printed and referred to the Committee on Human Resources and the Committee on Banking, Housing, and Urban Affairs, jointly.)

Mr. HATHAWAY (for himself and Mr. RIEGLE) submitted two amendments intended to be proposed by them, jointly, to S. 50, supra.

THE HUMPHREY-HAWKINS BILL

Mr. HATHAWAY. Mr. President, as a cosponsor of the Full Employment and Balanced Economic Growth Act of 1977, the so-called Humphrey-Hawkins bill, I

am pleased as a member of the Subcommittee on Employment, Poverty, and Migratory Labor to have the opportunity to work on further refinements and improvements in the course of its deliberations this week.

PROVISIONS OF THE BILL

This legislation is a logical and long overdue extension of the principles set forth in the Employment Act of 1946. It provides a blueprint for mobilizing the economic potential of the private and public sectors. It requires, for the first time, the coordination of our national economic planning mechanisms toward achieving the goal of full employment.

The failure of our economy to achieve full employment has cost our society greatly. The range of costs is wide and tragic. The waste of human potential, the concomitant social ills of crime, alcoholism, drug abuse, and neglect constitute an immeasurable cost to our society and economy.

In more direct costs, it has been shown statistically that excessive unemployment has cost our economy over $600 billion in lost production since 1970—or over $12,000 for the typical family of four.

Further, every 1 percent of unemployment has been shown to cost $20 billion in lost Federal, State, and local tax revenues, extra unemployment costs and increased welfare costs.

The Humphrey-Hawkins bill does not promise a miracle cure to these ills, but it does provide a mechanism for addressing the massive and fundamental problem of unemployment in a comprehensive and rational fashion.

It sets as a national policy goal to be achieved by 1983 an overall unemployment rate of 4 percent; and a rate of 3 percent for those workers over the age of 20. Interim goals are also set. The legislation does not mandate that these goals must be achieved; we learned a long time ago that Congress cannot, simply by passing laws, solve all of society's problems.

But Congress can require that all the departments and agencies of the executive branch coordinate their programs and policies toward achieving this goal of full employment.

Consistent with this, the bill affirms in law the "right to useful employment paying decent wages for every American able, willing, and seeking work." But the bill clearly states that this is not the kind of right which allows a person to sue in court. Rather, the bill mandates that this right be translated into practical reality through the coordination of planning and implementation of Federal programs.

To fulfill this mandate, the legislation requires the President to propose to Congress on an annual basis both short term and medium term employment, production, and income goals, together with fiscal and monetary policies and objection intended to achieve the 5 year unemployment goals of the bill.

The Federal Reserve must also report to Congress its proposed monetary policies and to estimate the impact of these policies on inflation and unemployment.

Also, the legislation stipulates that first priority be directed toward promoting jobs and economic opportunity within the private sector. Consistent with this, the Full Employment and Balanced Economic Growth Act, as its name implies, recognizes that unemployment and inflation are parallel problems in our society, and that they feed upon each other in preventing us from fulfilling our national goals.

Therefore, the inflation consequences of the employment policies contained in the President's report and the report of the Federal Reserve must also be addressed. In this regard, the bill commits the Government to achieving reasonable price stability as rapidly as possible, and calls for the use of programs designed to monitor prices, stockpile commodities which are in short supply, and to encourage increased productivity on the part of both labor and management. The bill urges that antitrust laws be strengthened and the burdensome Government regulations be modified or eliminated.

The bill does provide flexibility to the President with respect to the employment goals established. If after 3 years it becomes apparent that the initial 5-year goals cannot be achieved, these may be adjusted. The bill is pragmatic in this regard, but the goals do not become meaningless thereby, and this is not a political loophole. Rather, it insures that the integrity of the planning mechanisms be maintained and the overall goal of balanced economic growth be assured.

The legislation does not set up a massive new bureaucracy or require expensive new initiatives. But it does recognize the integrated nature of our total economy and the role which the Federal Government has played and must continue to play to meet our job needs.

AMENDMENTS

While I support the bill, I do intend to work for specific improving amendments in the course of the subcommittee's markup and subsequent consideration by the full Human Resources Committee. My specific concerns fall into four areas. First, the bill should fully address the needs of small business. Second, its programs and policies ought to recognize the incalculable social and economic cost of alcoholism and drug abuse. Third, it should address the need to allocate equitably Federal facilities, bases, and installations to all regions of the country, with particular consideration to the need to ameliorate economic dislocations to individual regions from proposed closing or reductions. Finally, it should recognize and make provision for the awesome potential of Federal grants, contracts, and procurement programs and policies to improve the quality of life in given regions, and it ought to allocate these benefits equitably to all regions. One way to insure this goal is to give greater emphasis to setting aside such contracts to firms located in labor surplus areas consistent with Defense Manpower Policy 4A, the so-called labor surplus policy.

I shall be pleased to elaborate on each of these needs.

SMALL BUSINESS

Too often small business is a silent or neglected partner in Federal programs and policies. There are over 9 million small businesses throughout the country, accounting for over half the jobs in the Nation, and over one-third of our gross national product. At the same time, our laws and regulations are many times ill-suited to their needs.

In this regard it has been my privilege to serve on the Senate Small Business Committee, ably chaired by the Senator from Wisconsin, my good friend, GAYLORD NELSON. Senator NELSON also coincidentally serves as chairman of the Subcommittee on Employment, Poverty, and Migratory Labor, which has initial responsibility for reporting S. 50. It has been a pleasure to work with him on both committees and I am confident that together we will be able to tailor the provisions of S. 50 to refocus all Federal programs to take into account the legitimate needs and concerns of small business.

In this regard, amendment No. 1765, submitted by Senator NELSON on April 7 should go a long way toward achieving this goal. I was pleased to cosponsor this amendment.

The amendment modifies the bill in a number of ways to insure that its processes take full account of the needs of small business.

It requires the Chairman of the Council of Economic Advisers to advise both the President and the Congress with respect to the effects which overall economic policies have upon small business. It expands the overall responsibilities of the Council to include recommendations regarding how overall competition could be fostered and how opportunities for small business could be improved. It modifies provisions of the bill dealing with capital formation to insure the special needs of small business are taken into account. I know from my work on the Small Business Committee and from many discussions with small businessmen in the State of Maine that many outlets for capital taken advantage of by large business are totally foreclosed to smaller business. There is a need for new and imaginative approaches to overcome this problem.

There are other changes made by this amendment to other parts of the bill—all directed toward insuring that small business' needs are addressed.

This approach builds on a number of other initiatives intended to achieve the same overall goal.

For example, I have introduced a resolution, Senate Resolution 360, to require all Senate committees to review each and every regulation emanating from the executive branch. This review would focus on whether such regulations were inconsistent with or exceeded the scope of implementing legislation.

Also, I am cosponsoring a bill introduced by the Senator from Iowa (Mr. CULVER) directing Federal agencies and departments, in issuing regulations, to

take into account whether alternative, less administratively burdensome approaches could be taken with respect to small business. Where feasible, a separate, simplified set of regulations should be issued.

Also, I am sponsoring along with the Senator from Colorado (Mr. HART) the Competition Review Act, S. 2071. This would establish a Presidential commission to review 12 basic industries to determine the present level of competition, and thereby promote the goals of our society of free enterprise and equal opportunity. I appreciate Senator NELSON's kind remarks about this initiative in his statement on the small business amendment to S. 50.

Finally, I was pleased to have introduced in the 94th Congress, Senate Resolution 104, to give direct legislative authority over the Small Business Administration to the Committee on Small Business. This resolution which ultimately benefited from the cosponsorship of three-fourths of the Senate, was adopted and took effect with the beginning of the 95th Congress.

Since that time, the committee, under the leadership of Chairman NELSON, has undertaken a serious and thorough review of all of the legislation within its authority and its efforts have already resulted in the enactment of a large number of improvements.

In this regard, I was pleased to introduce and work toward enactment of the Small Business Authorization Act of 1978 and 79, Public Law 95–89, which provided greater emphasis on small business management assistance activities procurement assistance, and disaster relief.

The small business amendment to S. 50 builds on this record of achievement, and Chairman NELSON is to be complimented on insisting that the planning procedures in the Full Employment and Balanced Economic Growth Act incorporate such provisions.

ALCOHOLISM AND DRUG ABUSE

The current version of S. 50, amendment numbered 1703 contains in section 2 general findings, and in section 204 on youth-employment reference to the relationship between unemployment and drug addiction. The bill stipulates that one of the purposes of this legislation is to coordinate Federal policies to limit this and other adverse consequences.

As chairman of the Subcommittee on Alcoholism and Drug Abuse, I know too well of these findings and the need for an increased commitment and initiative. At the same time, I believe this language, in limiting the recognition of the problem to "drug addiction," may imply that other societal problems are not as important.

Consequently, I intend to propose an amendment to strike "drug abuse" each place it occurs and substitute instead "alcoholism and drug abuse."

Alcoholism costs our society not less than $42 billion per year in lost productivity and increased health care costs. Other human costs including auto fatalities, domestic violence, and child abuse are incalculable. The average alcoholic worker costs his employer 25 percent of his annual wages in lost producivity, increased breakage, and absenteeism.

The linkage between alcoholism and other societal problems has been long known, but the pervasiveness and wide-range of such linkages is being increasingly recognized.

Abuse of the so-called hard drugs—heroin and its chemical cousins—creates a direct economic loss of between $10 billion and $17 billion. Our Nation's approximately 500,000 heroin addicts are responsible for a grossly disproportionate share of crime and violence.

But drug abuse, of licit and illicit substances, is a much wider phenomenon, with much greater consequences.

These are chronicled quite thoroughly and articulately in the publication, "Drug Use Patterns, Consequences, and the Federal Response: A Policy Review" issued by the White House Office of Drug Abuse Policy ably directed by Dr. Peter Bourne.

FULL EMPLOYMENT AND FEDERAL GRANTS, CONTRACTS, AND PROCUREMENT

Another of my concerns is that Federal grant, contract, and procurement programs be mobilized toward achievement of the full employment goals of the Humphrey-Hawkins bill.

On this matter it is my intention to offer an amendment to establish as a national priority policy and program required for full employment, as delineated in proposed new section 6 of the Employment Act of 1946 that—

Proper attention be given to the relationship between (A) Federal grants, contracts, and procurement and (B) the distribution of jobs and income among different regions of the Nation and among urban, suburban, and rural areas, and moving toward an equitable allocation of the benefits from such Federal programs and policies to all regions, with particular attention to the needs of labor surplus areas.

The goal of this amendment is to incorporate by reference and thereby give increased emphasis to provisions already a part of existing law. I refer specifically to the procurement policy and priorites stated in section 15 (d) and (e) of the Small Business Act, which read as follows:

(d) For purposes of this section priority shall be given to the awarding of contracts and the placement of subcontracts to concerns which shall perform a substantial proportion of the production on those contracts and subcontracts within areas of concentrated unemployment or underemployment or within labor surplus areas. Notwithstanding any other provision of law, total labor surplus area set-asides pursuant to Defense Manpower Policy Number 4 (32A C.F.R. Chapter 1) or any successor policy shall be authorized if the Secretary or his designee specifically determines that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards will be made at reasonable prices. As soon as practicable and to the extent possible, in determining labor surplus areas, consideration shall be given to those persons who would be available for employment were suitable employment available. Until such definition reflects such number, the present criteria of such policy shall govern.

(e) In carrying out labor surplus areas and small business set-aside programs, departments, agencies, and instrumentalities of the executive branch shall award contracts, and encourage the placement of subcontracts for procurement to the following in the manner and in the order stated:

"(1) Congress which are located in labor surplus areas, and which are also small business concerns, on the basis of a total set-aside.

"(2) Concerns which are small business concerns on the basis of a total set-aside.

"(3) Concerns which are small business concerns, on the basis of a partial set-aside.

"(4) Concerns which are located in labor surplus areas on the basis of a total set-aside."

These provisions, signed into law on August 4, 1977, by the President, were originally proposed as part of S. 1442 which I was pleased to introduce on May 2, 1977,and which the Senate unanimously approved on May 19, 1977.

As further background on their significance, I ask unanimous consent that there be printed in th RECORD at this point the explanatory material from the Small Business Committee report, S. Report 95–184, filed on May 16, 1977, by Chairman NELSON.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

TITLE IV—PROCUREMENT ASSISTANCE

BACKGROUND ON LABOR SURPLUS SET-ASIDE SECTION

Section 2 of the Small Business Act stipulates as a declared policy of the Congress that a "fair proportion of the total purchases and contracts or subcontracts for property and services for the Government . . . be placed with small business enterprise. . . ."

To implement this policy, section 15 of the act mandates that small businesses shall receive awards or contracts, or any parts thereof, whenever it is determined by SBA and the contracting procurement agency "(1) to be in the interest of maintaining or mobilizing the Nation's full productive capacity, (2) to be in the interest of war or national defense programs, or (3) to be in the interest of assuring that a fair proportion of the total purchases and contracts for property and services for the Government are placed with small business concerns. . . ."

This language is the statutory basis for the small business set-aside program by which contracts or parts of contracts are allocated for competition solely among small business concerns.

In fiscal year 1976, small businesses received approximately $12.4 billion in procurement awards from both defense and civilian procurement agencies out of a total of approximately $57 billion, or 22 percent. But of the $12.4 billion awarded to small business, only $3.19 billion were for set-asides.

Almost three-fourths of the aggregate value of procurement awards made to small firms, therefore, resulted not from set-aside procedures, but rather from small companies succeeding in open competition with large concerns. The net result was that small business set-asides constituted approximately 22 percent of the value of total procurement contracts awarded to small businesses and only 5.6 percent of overall Federal procurement.

The committee believes that in order to meet the requirements imposed by existing law, an increased number and proportion of

contracts, with an increased aggregate value, should be subject to set-aside procedures. It is also the committee's conclusion that small firms should be assured a "fair proportion" of Federal procurement. An appropriate target goal should be a proportion equal to not less than the small business proportion of private employment in the economy of the United States. As of last year, this figure was approximately 55 percent. It is clear that there is a great need for expansion of contract set-asides to achieve this goal.

This bill specifically authorizes $13 million for salaries and expenses for procurement assistance. These funds are to be used to employ an increased number of procurement officers to increase the number and total value of set-asides, and to develop a procurement data bank of small business concerns.

In order that these increased set-asides are awarded to those businesses which have the greatest need and could most benefit from such contracts, the committee feels it appropriate that priority be given to concerns which are located in areas of concentrated unemployment, underemployment, or labor surplus areas. In establishing this priority, the committee intends that there be greater coordination and interaction between the small business set-aside procedures and the set-aside procedures established pursuant to Defense Manpower Policy No. 4 (32A C.F.R. Part 8), the so-called Labor Surplus Policy. This policy, first made effective in 1952, applies to defense and civilian procurement and to large and small concerns.

Unfortunately, the Labor Surplus Policy has not been fully implemented and therefore remains largely dormant. In fiscal year 1975, labor surplus concerns received $74.4 million or 0.19 percent in preference awards of prime contracts in excess of $10,000 from the Department of Defense procurement agencies. Expansion of this total would be of benefit to the small business sector since, in fiscal year 1975, these small businesses receive approximately 77 percent of the DOD labor surplus preference awards. In the preceding fiscal year, the figure was 76 percent.

One of the principal reasons that the labor surplus program has not been adequately implemented is that under a General Accounting Office interpretation of existing law, labor surplus set-aside contracts must be split into two or more units. One of those units must be bid among all eligible firms to establish a competitive price. If Labor Surplus concerns can meet this price on the reserved portion of the contract, they are eligible to receive that portion as a labor surplus area set-aside.

While this procedure insures that the procurement agency receives a reasonable price on the total production run of the contract involved, it artificially restricts the number of contracts going into this program to contracts susceptible to being split into two production runs. It also ignores whether a reasonable price for the entire contract could be obtained from labor surplus area concerns.

SUMMARY OF LABOR SURPLUS SET-ASIDE SECTION

The Small Business Act is amended to authorize total labor surplus area set-asides if the head of the procurement agency involved "determines that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards will be made at reasonable prices."

The amendment requires that a contracting agency give highest priority to the setting aside of a total contract for performance by small business concerns eligible for labor surplus area contracts. If this is not feasible due to a lack of reasonable expectation that offers will be obtained from a sufficient number of eligible small business concerns, the contracting agency would then consider setting aside the entire contract to small firms regardless of their location. If this is not feasible, next consideration would be given to setting aside part of the contract for small business concerns regardless of location. Final consideration would be given to a total set-aside for large and small firms eligible for labor surplus area contracts.

Mr. HATHAWAY. Mr. President, as is clear from the Small Business Committee report, the legislative intent behind these provisions was to channel Federal procurement and other programs into areas of labor surplus consistent with the original goal of Defense Manpower Policy No. 4, first promulgated by President Truman as an Executive order in 1951. Unfortunately, this policy was never properly implemented by the executive branch due to confusion over its relationship with the small business set-aside program, and due to apparent reluctance or refusal on the part of some departments and agencies to participate in this vitally important effort.

Another reason for the lack of implementation of the labor surplus program was difficulty with the criteria of eligibility established by the Department of Labor in determining which firms were qualified as being within labor surplus areas. Until very recently these criteria took in over 80 percent of the firms in the Nation, which called into serious question the value of the bidding preference offered by the labor surplus program.

Two developments within the executive branch have radically altered this situation and greatly improved the outlook and utility of the policy.

On October 27, 1977, the General Services Administration issued a revised and updated Defense Manpower Policy 4A, which incorporated all of the provisions and the underlying intent of Public Law 95–89.

For the benefit of my colleagues, I ask unanimous consent that the text of DMP–4A be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Title 32A—National Defense Appendix

CHAPTER I—FEDERAL PREPAREDNESS AGENCY, GENERAL SERVICES ADMINISTRATION

[Defense Manpower Policy DMP–A]

PART 134—PRESERVATION OF THE MOBILIZATION BASE THROUGH THE PLACEMENT OF PROCUREMENT AND FACILITIES IN LABOR SURPLUS AREAS (DMP–4A)

Agency: Federal Preparedness Agency, General Services Administration.

Action: Final rule.

Summary: This policy provides for directing the attention of Federal departments and agencies to the potential within labor surplus areas for the award of appropriate procurement contracts and grants and the execution of agreements, for the locating of new plants or facilities, and for assigning responsibilities to specified officials of the Government to carry out the policy. This revision brings the policy into conformance with Pub. L. 95–89. The effect of the revisions will be to direct an increased amount of procurement to labor surplus areas.

Effective date: October 27, 1977.

For further information contact:

J. J. Delaney, Controlled Conflict Preparedness Division, 202–566–0760.

Part 134 is recaptioned and revised to read as follows:

PART 134—PRESERVATION OF THE MOBILIZATION BASE THROUGH THE PLACEMENT OF PROCUREMENT AND FACILITIES IN LABOR SURPLUS AREAS (DMP–4A)

1. *Purpose.* Success of the national security program depends upon efficient use of all our resources, including labor force and facilities, which are preserved through practice of the skills of both management and workers. A primary aim of Federal manpower policy is to encourage full utilization of existing production facilities and workers in preference to creating new plants or moving workers, thus assisting in the maintenance of economic balance and employment stability. When large numbers of workers move to already tight areas, heavy burdens are placed on community facilities—schools, hospitals, housing, transportation, utilities, etc. On the other hand, when unemployment develops in certain areas, unemployment costs increase the total cost to the Government, and plants, tools, and workers' skills remain idle and unable to contribute to our national security program. Consequently it is the purpose of Defense Manpower Policy No. 4A to (a) direct attention to the potentialities of labor surplus areas for the award of appropriate procurement contracts and grants, for the execution of agreements, and for the locating of new plant or facilities, and (b) assign responsibilities to specified officials of the Government to carry out the policy stated below.

2. *Cancellation.* This policy cancels and supersedes Defense Manpower Policy No. 4.

3. *Authority.* Pursuant to the authority vested in the Administrator of General Services by Executive Order 10480, Executive Order 11051, as amended, and Executive Order 11725, and in accordance with Public Law 95–89, Defense Manpower Policy No. 4A is hereby issued.

4. *Policy.* It is the policy of the Federal Government to award appropriate contracts and grants to, and to execute agreements with, eligible labor surplus area concerns, to place facilities in labor surplus areas, and to make the best use of appropriate resources in order to achieve the following objectives:

(a) To preserve management and employee skills necessary to the fulfillment of Government contracts and purchases;

(b) To maintain productive facilities;

(c) To improve utilization of the Nation's total economic potential by making use of the economic resources of each area; and

(d) To help ensure timely delivery of required goods and services and to promote readiness to expanded efforts by locating procurement where the needed labor force and facilities are fully available.

5. *Applicability and scope.* The provisions of this policy apply to all Federal departments and agencies, except as otherwise prohibited by law. Set-aside procedures used under this policy shall apply to appropriate procurements, grants, and agreements greater than $2,500.

6. *Definitions*—(a) *Labor surplus areas.* Labor surplus areas are geographic areas determined by the Secretary of Labor. This determination shall be made so as to target this policy to the areas of greatest unemployment. Furthermore, in making such determination, the Secretary of Labor is authorized to declare certain areas labor surplus areas because of catastrophic events even though they may not qualify under normal procedures.

(b) *Eligibility.* An offering firm shall be deemed eligible for a labor surplus area set-aside award if it agrees to perform a substantial proportion of production, manufacturing, or appropriate services in labor surplus areas, as of the date of the award.

(c) *Substantial performance.* A recipient of a contract or grant or a party to an agreement shall be deemed to achieve substantial performance in a labor surplus area if the aggregate costs that will be incurred by the recipient or its first-tier subcontractors on account of manufacturing, production, or appropriate services performed in a labor surplus area amount to more than one-half of the contract price.

7. Implementation. (a) Priority shall be given in the awarding of contracts and grants, the execution of agreements, and the encouragement of the award of subcontracts to concerns which perform a substantial proportion of the manufacturing, production, or appropriate services on those contracts and subcontracts within labor surplus areas. Labor surplus area set asides are authorized if the Federal department or agency determines that there is a reasonable expectation that offers will be obtained from a sufficient number of responsible, eligible concerns so that awards will be made at reasonable prices.

(b) In carrying out labor surplus areas and small business set-aside programs, Federal departments and agencies shall award appropriate contracts and grants, execute agreements, and encourage the award of subcontracts for procurement to the following in the manner and in the order stated:

(1) Concerns which are located in labor surplus areas and which are also small business concerns, on the basis of a total set-aside.

(2) Concerns which are small business concerns, on the basis of a total set-aside.

(3) Concerns which are small business concerns, on the basis of a partial set-aside.

(4) Concerns which are located in labor surplus areas, on the basis of a total set-aside.

In this connection, contracting officers shall make unilateral set-asides in accordance with the above priorities.

(c) All Federal departments and agencies shall:

(1) Use their best efforts to award all procurement contracts and grants, and execute agreements, greater than $2,500 to concerns that will perform a substantial proportion of the manufacturing, production, or appropriate services on those contracts within labor surplus areas, to the extent that procurement objectives will permit.

(2) Ensure that firms in labor surplus areas that are on appropriate bidders mailing lists are given the opportunity to submit offers on all procurements for which they are qualified. Whenever the number of firms on a bidders mailing list is excessive in relation to size and type of procurement, a representative number of firms from labor surplus areas shall be given the opportunity to submit offers.

(3) Establish programs to encourage prime contractors to award subcontracts to firms that agree to perform a substantial proportion of the production, manufacturing, or appropriate services on those subcontracts in labor surplus areas.

(4) Cooperate with other Federal departments and agencies in achieving the objectives of this policy.

(d) The preferences described in this policy shall be in addition to other preferences to which firms may be entitled because of performance in labor surplus areas, such as the preference under the Buy American Act.

3. *Responsibilities.* To carry out the purpose and policy objectives set forth above, the following assignments of responsibilities are made:

(a) The Secretary of Labor shall:

(1) Classify labor surplus areas and disseminate this information on a timely basis to Federal departments and agencies.

(2) In cooperation with State and local authorities and the Secretary of Commerce, provide labor-market data and related economic information in efforts to assist in the initiation of industrial expansion programs in labor surplus areas.

(3) Identify occupations and skills which are in surplus supply within labor surplus areas and make this information available to firms requiring such occupations and skills and interested in establishing new plants and facilities.

(4) Identify occupations and skills for which labor will be needed by new or expanding industries and industries that expand during a mobilization; and, in collaboration with other Government agencies, make assistance available to labor surplus area institutions and users in developing on-the-job, apprentice, or other training programs for developing skills of the work force.

(5) Through the affiliated State employment services, receive job openings on a voluntary basis and/or under the mandatory listing program provided for by section 2012 of Title 38 of the United States Code and by Executive Order 11701, and refer qualified unemployed workers to concerns in labor surplus areas.

(b) The Secretary of Commerce shall:

(1) In cooperation with State economic development agencies, the Secretary of Defense, the Administrator of General Services, and the Administrator of the Small Business Administration, assist concerns which have agreed to perform contracts in labor surplus areas in obtaining Government procurement business by: (A) Providing such concerns with timely information on proposed Government procurements; and (B) maintaining current information on the manufacturing capabilities of such concerns with respect to Government procurement and disseminating such information to Federal departments and agencies.

(2) Urge concerns planning new production facilities to consider the advantages of locating in labor surplus areas.

(3) Provide technical advice and counsel to groups and organizations in labor surplus areas on planned industrial parks, industrial development organizations, expanding tourist business, and available Federal aids.

(c) The Administrator of the Small Business Administration shall make available to small business concerns in labor surplus areas all of its services, endeavor to ensure opportunity for maximum participation by such concerns in Government procurement, and give consideration to the needs of these concerns in the making of joint small business set-asides with Government procurement agencies.

(d) There is hereby continued in operation within the Federal Preparedness Agency the Surplus Manpower Committee.

(1) This Committee shall be chaired by the Director, Federal Preparedness Agency, General Services Administration, or his designee, and shall include representation from the Office of Federal Procurement Policy; Department of Defense; Department of Commerce; Department of Labor; General Services Administration; Small Business Administration; Department of Health, Education, and Welfare; Department of Housing and Urban Development; Department of Energy; and other interested departments and agencies.

(2) The Committee shall advise the Director, Federal Preparedness Agency, on policies, procedures, and activities in existence or needed to carry out the purpose of this policy.

(3) When an entire industry that sells a significant proportion of its production to the Government is generally depressed or has a significant proportion of its production units located in a labor surplus area, the Committee may make appropriate recommendations relative to that industry in lieu of recommendations relative to specific geographical areas. In such cases, after notice to and hearing of interested parties, the Director, Federal Preparedness Agency, will give consideration to appropriate measures applicable to the entire industry.

(e) All Federal departments and agencies shall give consideration to labor surplus areas in the selection of sites for Government-financed facilities, including expansion, to the extent that such selection is consistent with existing law and essential economic and strategic factors that must also be taken into account.

9. *Reporting requirements.* Reports and monitoring of the effects of this policy, including subcontracting activity, shall be the responsibility of the Department of Defense for all military procurements and the General Services Administration for all civilian procurements. Copies of these reports shall be furnished by agencies receiving these reports to the Federal Preparedness Agency on a regular basis.

(Pub. L. 95–89; Executive Order 10480; Executive Order 11051, as amended; and Executive Order 11725.)

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A–107.

JAY SOLOMON,
*Administrator of General Services.*

Dated: October 27, 1977.

[FR Doc.77–31897 Filed 11–2–77;8:45 am]

Mr. HATHAWAY. Mr. President, DMP–4A thus incorporated the new priorities for all Federal procurement as contained in section 15(d) and (e) of the Small Business Act. Further, it broadened the applicability of these principles to cover all Federal grant and contract activities.

The other major difficulty in administration of this program was cleared up on March 3, 1978, with the issuing by the Department of Labor of revised criteria for determination of labor surplus areas.

I ask unanimous consent that excerpts from the text of the DOL press release be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LABOR DEPARTMENT ADOPTS NEW CRITERIA IN CLASSIFYING LABOR SURPLUS AREAS

Secretary of Labor Ray Marshall announced changes in the 25-year-old method of classifying labor surplus areas that enables employers to obtain preference in bidding on Federal procurement contracts.

The revised criteria, scheduled for publication March 3 in the Federal Register and effective immediately, link the classifications with the national unemployment rate on a quarterly basis. The new formula will give preference in procurement contracts only to areas with exceptionally high unemployment—that is, at least 20 percent higher than the national rate.

Under the new criteria, 453 areas of labor surplus are being listed as eligible, effective for the remainder of the quarter ending March 31, 1978, for preference in bidding on Federal procurement contracts (see below).

This is in contrast to the 1,171 labor areas listed last December when the old system was in use, based on a flat 6-percent-or-more unemployment rate as the qualifying benchmark.

The new procedure classifies an area as a labor surplus area for a three-month period if its local unemployment rate is at least 1.20 times the average national rate experienced in the four quarters immediately preceding.

The determination of eligibility based on the preceding four quarters, a moving average, is designated to reflect overall trends in the U.S. economy as manifested in unemployment rates.

Because the national rate averaged 7.3 percent for the preceding four quarters, areas qualify for eligibility if their average jobless rate for the four quarters was at least 8.8 percent (7.3 x 1.20=8.8).

In addition, such areas must have an average unemployment rate of at least 6 percent to qualify as labor surplus areas. This requirement would become effective whenever the national average unemployment rate is 5 percent or less.

Also, any area with a jobless rate of 10 percent or higher qualifies regardless of the national average rate. This "automatic" qualification occurs whenever the national rate reaches 8.3 percent or above.

Under the previous classification criteria, labor surplus areas generally consisted of areas with unemployment rates of 6 percent or more. When that policy was initiated in 1951–52, the national jobless rate was hovering around 3 percent.

Over the intervening years—especially during the 1970's—the jobless rate has drifted upwards. During this period, the number of areas classified as having substantial unemployment also increased significantly.

For the month of December 1977 there were 1,171 areas so classified, compared with 719 late in 1973 and 494 late in 1969. The excessive number of qualifying areas blunted the intent of Defense Manpower Policy No. 4—to have contracts awarded to areas of exceptionally high unemployment.

The changes implement amendments to the Small Business Act (PL 95–89), enacted Aug. 4, 1977. They also implement the revised Defense Manpower Policy No. 4A (DMP–4A), published in the Federal Register Nov. 3, replacing the previous DMP–4.

Previous studies—one by the General Accounting Office and another by the Northeast-Midwest Research Institute—and the Department's own analysis demonstrated that the previous policy was ineffective. Not only was procurement widely dispersed, thereby failing to target resources to areas most in need but it was also ineffective in responding to needs reflecting changing business conditions. These considerations prompted the Department of Labor to revise its definition of labor surplus areas.

A labor market area may be classified under the new criteria as eligible for DMP–4A preference if it encompasses a smaller area of concentrated high unemployment, as long as the overall unemployment rate for the entire area is at least equal to the "floor" rate of 6.0 percent.

Such classifications are made when (1) the jobless rates of the smaller areas (i.e., cities or counties) met the 1.20 ratio test, (2) each such unit has a population of at least 50,000, and (3) the number of unemployed in the smaller areas accounts for at least 25 percent of the total unemployed in the overall area.

The revised procedures for classifying labor surplus areas for Federal procurement purposes also permit the Labor Department, at its discretion, to waive the eligibility criteria in areas where a sudden and unforeseen rise in unemployment has occurred—not immediately reflected in the annual average unemployment for the area during the previous four quarters.

Such instances can arise due to natural disasters, plant closings, contract cancellations, layoffs caused by foreign imports, etc., that have a substantial impact on the area's employment and unemployment and are not the result of temporary or seasonal factors.

In situations where such exceptional circumstances exist, the Labor Department can, upon petition from a state employment security agency, declare such areas eligible for DMP–4A perference for a period not to exceed one year.

Mr. HATHAWAY. Mr. President, by altering the criteria for determining labor surplus areas from a straight 6 percent unemployment rate to one which is 1.2 times the national average, this DOL policy change has the effect of lowering the number of areas qualifying for preferential treatment by two-thirds, and thereby gives meaning to the preference.

We are therefore finally in the position, 27 years after President Truman first promulgated this policy, to see it properly and effectively implemented.

A significant percentage of the over $70 billion in Federal procurement contracts, and the greater dollar value of grants and contracts, can, with the cooperation of all departments and agencies of the executive branch be channeled into labor surplus areas. With this initiative, a large savings can be realized in unemployment compensation, welfare costs, health care and other associated costs.

Instead of receiving Government payments for not working, those individuals in our labor surplus areas could be put to work on worthwhile Government programs—not make-work efforts—but in meeting the already existing needs for goods and services.

But this will only occur, as I have pointed out, with the full cooperation of the executive branch, from the President on down.

This amendment to the Full Employment and Balance Economic Growth Act of 1977 would accomplish this goal. It would require a coordinated effort throughout all departments and agencies toward targeting grants, contracts and procurement to areas of labor surplus, with a view to equitable distribution to such areas throughout the Nation.

Along with listing this goal in the general priorities section, my amendment would incorporate it explicitly into section 202 dealing with countercyclical employment policies, and section 204 dealing with regional and structural employment policies.

EQUITABLE ALLOCATION OF FEDERAL FACILITIES, BASES, AND INSTALLATIONS, AND AMELIORATING THE IMPACT OF CLOSURES OR REDUCTIONS

Finally, I intend to offer an amendment to include as a national priority goal in proposed new section 6 of the Employment Act of 1946 the following language:

(6) proper attention to the relationship between the location of Federal facilities, including military bases and installations, and the distribution of jobs and income among different regions of the Nation, and moving toward an equitable allocation of the benefits from such facilities, bases, and installations to all regions, with particular consideration to ameliorating any economic dislocations from closures or reductions of such facilities, bases, or installations to any particular region.

First, this language is intended to insure that in pursuing the employment goal in proposed new section 6 of the opportunities of allocation of Federal facilities be fully considered and equitably distributed. For too long we have experienced a gradual but pronounced drift of these facilities to certain regions to the detriment of others. The resulting decline and ultimate stagnation impacts these neglected areas but at the same time hurts the Nation as a whole.

Further, the concentration of such Federal facilities in areas which are growing economically already offers no significant national advantage. On the contrary it exacerbates the pendulum-like shifts of population, and creates unnecessary stresses on the local resources of emerging areas. As a result, large proportions of still useful housing may stand vacant in declining regions while severe housing shortages and overextension of local public works may occur in booming areas.

Of course, the Federal Government cannot be expected to eliminate these phenomena, which are to some degree inevitable in a dynamic national economy. At the same time, though, its policies should not aggravate these tendencies, and to the extent feasible, ought to direct its policies toward limiting the more adverse effects. This amendment is intended to accomplish this goal.

It recognizes the merit of an overall policy on the part of the Congress and the executive branch of moving toward an equitable allocation of Federal military bases, hospitals, research facilities, office buildings, training centers, and so on, throughout all regions of the Nation. This can be a key element in insuring full and fair employment in such regions and can serve as an important counterbalance to otherwise occurring radical shifts.

The amendment further underlines the importance of programs and policies intended to ameliorate any economic dislocations from closures or reductions of such facilities, bases, or installations to any particular region.

In this regard, I am most familiar with one example in particular—the proposed reduction of Loring Air Force Base in Aroostook County. This 80-percent reduction, if implemented would result in an unemployment rate in excess of 26 percent for northern Maine, and would create direct and indirect costs to the Federal, State, and local governments of over $133 million over 5 years according to the save Loring committee.

While I am hopeful that this particular proposal will be rejected by the executive branch, this example has pointed out to me the devastating impact such an administrative action can have on a region and its people.

It seems fitting and appropriate that the Federal Government which created

such a facility in the first place owes a commitment to these countless individuals and families who have devoted the best part of their lives and their livelihood to making it a success. Small businessmen—grocery storeowners, small manufacturers, operators of services—who have undertaken substantial investment in financial and emotional resources to meet the needs of servicemen and their families must be provided with alternatives and opportunities. It is unwise and inhumane to require immediate uprooting and relocation. Further, taking into account the massive costs resulting to Government as well as to individuals, it is a poor business decision.

This new language I intend to offer would provide the impetus for an integrated cross-governmental approach to these problems, giving them the attention they deserve at the very highest levels of our Federal Government.

Mr. President, I ask unanimous consent that there be printed in the RECORD the text of these amendments.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1774

On page 4, line 8, strike out "drug addiction" and insert in lieu thereof: "alcoholism and drug abuse".

On page 4, lines 13 and 14, strike out "drug addiction" and insert in lieu thereof: "alcoholism and drug abuse".

On page 24, line 21, strike out "drug addiction" and insert in lieu thereof: "alcoholism and drug abuse".

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AMENDMENT No. 1775

On page 16, line 2, strike out "and".

On page 16, between lines 2 and 3, insert the following:

"(5) proper attention to the relationship between (A) Federal grants, contracts, and procurement and (B) the distribution of jobs and income among different regions of the Nation and among urban, suburban, and rural areas, and moving toward an equitable allocation of the benefits from such Federal programs and policies to all regions, with particular attention to the needs of labor surplus areas; and".

On page 16, line 3, strike out "(6)" and insert in lieu thereof "(7)".

On page 22, line 17, after "Nation;" insert the following:

"Federal grants, contract, and procurement programs which are targeted on labor surplus areas;".

On page 24, lines 9 and 10, immediately after "Federal Government tax, expenditure" insert the following: "(including procurement of goods and services)".

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AMENDMENT No. 1776

On page 16, line 2, strike out "and".

On page 16 between lines 2 and 3, insert the following:

"(6) proper attention to the relationship between the location of Federal facilities, including military bases and installations, and the distribution of jobs and income among different regions of the Nation, and moving toward an equitable allocation of the benefits from such facilities, bases, and installations to all regions, with particular consideration to ameliorating any economic dislocations from closures or reductions of such facilities, bases, or installations to any particular region; and".

On page 16, line 3, strike out "(6)" and insert in lieu thereof "(7)".●

● Mr. RIEGLE. Mr. President, I join with Senator HATHAWAY in introducing this legislation because I know all too well the devastating impact that base closings can have on local communities. I am anxious to assure that the Federal Government do everything it can to aid these communities, which have often provided military and support personnel with friendly, cordial homes for many, many years. Workers in these communities deserve to benefit from our long-overdue Federal commitment to achieving full employment as quickly as possible.

Federal procurement policy has long been linked with economic dislocations resulting from defense closures. I have worked with the Defense Department and other Federal agencies to mobilize the appropriate forces following the closing of Kincheloe Air Force Base in Michigan during the summer of 1977, and on other occasions. The amendments that we are offering today to the Full Employment and Balanced Growth Act of 1978 will go beyond these existing efforts to direct the President to put any new employment programs to work, wherever possible, to assist such communities.

These proposed amendments to the Full Employment Act supplement S. 1901, a bill I introduced with Senator GRIFFIN last July, which would set aside 10 percent of the estimated 10-year "savings" gained by a base closure to be used to aid those communities directly affected. I feel that programs of this nature are essential to meet the Government's moral responsibility to help the people directly affected by its decisions—and to help them in a manner that provides permanent, productive employment rather than through reliance on temporary welfare or unemployment payments.●

## LABOR LAW REFORM ACT OF 1978—S. 2467

AMENDMENTS NOS. 1777 AND 1778

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted two amendments intended to be proposed by him to the bill (S. 2467) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act.

## PANAMA CANAL TREATIES—EX. N, 95–1

AMENDMENT NO. 103

(Ordered to be printed and to lie on the table.)

Mr. GRIFFIN submitted an amendment intended to be proposed by him to the resolution of ratification of the Panama Canal Treaty, Ex. N, 95–1.

## RESERVATIONS SUBMITTED FOR PRINTING

RESERVATION NO. 14

(Ordered to be printed and to lie on the table.)

Mr. HEINZ (for himself, Mr. HOLLINGS, and Mr. BELLMON) submitted a reservation intended to be proposed by him to the resolution of ratification of the Panama Canal Treaty, Ex. N, 95–1.

## NOTICES OF HEARINGS

CONDUCT OF MONETARY POLICY

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing, and Urban Affairs shall hold 2 days of hearings, April 24, 1978, and April 25, 1978, on the conduct of monetary policy pursuant to Public Law 95–188. The hearings will be held in room 5302 of the Dirksen Senate Office Building, and both days shall start at 10 a.m.

The hearing on April 24, 1978, shall consist of two panels. Testifying on the first panel will be Dr. Otto Eckstein, president of Data Resources, Inc., and Mr. Leonard Santow, adviser to the board and senior vice president of the J. Henry Schroder Bank & Trust Co. The second panel will consist of three economists: Prof. Donald Hester of the Economics Department at the University of Wisconsin, Dr. Thomas Thomson, vice president and chief economist of the Detroit Bank & Trust Co., and Dr. Joan Walters, chairman of the department of economics at Fairfield University.

On Tuesday, April 25, 1978, the committee will receive testimony from the Honorable G. William Miller, Chairman of the Board of Governors of the Federal Reserve System. Chairman Miller will convey to the committee the objectives and plans of the Federal Reserve Board and the Federal Open Market Committee for the upcoming 12-month period. These objectives and plans will be in terms of desired growth or diminition in the monetary and credit aggregates for the upcoming 12 months, taking into account past and prospective developments with respect to production, employment, and prices. This quarterly report to Congress is now required under Public Law 95–188, the Federal Reserve Reform Act of 1977, which inserted into the Federal Reserve Act a new section, section 2A.

Anyone requiring further information about these hearings should contact Steven M. Roberts, of the committee staff, at 224–0893.

SUBCOMMITTEE ON PUBLIC LANDS AND RESOURCES

● Mr. JACKSON. Mr. President, I wish to announce for the information of the Senate and the public, the scheduling of an additional day of hearings before the Subcommittee on Public Lands and Resources of the Senate Energy and Natural Resources Committee.

As my colleagues will recall, on February 23, I announced that the subcommittee had scheduled a hearing for April 12 to take testimony regarding legislation relating to reclamation law. The response to the announcement has been overwhelming, necessitating the scheduling of an additional day on April 13 to receive testimony. The hearing will begin at 10 a.m., in room 3110 of the Dirksen Building.

I might add that in addition to the three Senate measures earlier placed on the agenda, S. 242, S. 1812, and S. 2310, another measure S. 2606, a bill to amend

and supplement the acreage limitation and residency provisions of the Federal reclamation laws, has been placed on the agenda.

A heavy witness schedule faces the subcommittee and it has become necessary to limit the number of those presenting oral statements and I encourage the submission of written statements for the hearing record. Those who wish to submit a written statement should write to the Public Lands and Resources Subcommittee, room 3106 Dirksen Building, Washington, D.C. 20510. For further information regarding the hearings you may wish to contact Mr. Russell Brown or Mr. Steve Quarles of the subcommittee staff at telephone 224–2366.●

AQUACULTURE HEARINGS

● Mr. LEAHY. Mr. President, I wish to announce that the Subcommittee on Agricultural Research and General Legislation of the Senate Committee on Agriculture, Nutrition, and Forestry will conduct hearings on April 18 and 20 on the various bills to promote acquaculture in the United States. These hearings are to help the subcommittee determine what is the best approach that the Federal Government can take to assure that aquaculture in America realizes its full potential.

The hearings on April 18 will begin at 10 a.m., and at 9 a.m. on April 20.

We have scheduled a hearing on April 18 to accommodate out-of-town witnesses who will be testifying at similar hearings before the Committee on Commerce, Science, and Transportation on April 17.

Oral statements will be limited to 10 minutes, written statements may be of any length and will be inserted in the record in their entirety.

Anyone wishing to testify should contact Miss Denise Love, the committee hearing clerk, at 202–224–0014.●

SUBCOMMITTEE ON CITIZENS AND SHAREHOLDERS RIGHTS AND REMEDIES

● Mr. METZENBAUM. Mr. President, the Subcommittee on Citizens and Shareholders Rights and Remedies of the Committee on the Judiciary will hold a hearing on Thursday, April 20, 1978, on S. 2390, the Citizen Access to the Courts Act of 1978. The hearing will commence at 9 a.m., in room 6226, Dirksen Senate Office Building.

Anyone wishing to submit testimony for the record, contact Mr. Nathan R. Zahm, Acting Chief Counsel of the subcommittee, 4–B Russell Senate Office Building, Washington, D.C., 20510, phone 202–224–4703.●

SUBCOMMITTEE ON THE CONSTITUTION

● Mr. BAYH. Mr. President, the Subcommittee on the Constitution has scheduled hearings on Senate Joint Resolution 65, a proposal to amend the Constitution to provide for representation of the District of Columbia in the Congress. The hearings will be held Monday, April 17, Thursday, April 27, and Friday, April 28, 1978, at 9 a.m., in room 5110, Dirksen Senate Office Building.

Any person wishing to submit written statements for the hearing record should send them to the Subcommittee on the Constitution, suite 102–B, Russell Senate Office Building, Washington, D.C. 20510, before May 15, 1978.●

CHANGE IN HEARING ROOM—ARBITRATION OF CIVIL CASES IN U.S. COURTS

● Mr. DECONCINI. Mr. President, on February 1, 1978, I announced that an open public hearing would be held by the Subcommittee on Improvements in Judicial Machinery of the Committee on the Judiciary on S. 2253, a bill to amend title 28 of the United States Code to encourage prompt, informal, and inexpensive resolution of civil cases by use of arbitration in U.S. district courts, and for other purposes, and on March 23, 1978, I noticed a room change.

The hearing on this subject is now scheduled to be held on April 14, 1978, in room 2228, Dirksen Senate Office Building, commencing at 9 a.m.

Those who wish to testify or submit a statement for inclusion in the record should communicate as soon as possible with the Subcommittee on Improvements in Judicial Machinery, 6306 Dirksen Senate Office Building, telephone 202–224–3618, Washington, D.C. 20510.●

## ADDITIONAL STATEMENTS

## INVESTMENT IN SOUTH AFRICA

● Mr. GOLDWATER. Mr. President, while I was recently in South Africa I met a business friend of mine and when I asked him what he was doing in that part of the world he said that some of his directors felt they should close their plant in South Africa and not reopen it. I said how in the world can a successful business such as yours ever think of doing such a thing, not only from the business standpoint, but from the matter of relations with South Africa, a country that we need very badly on our side, but a country which could probably do just as well if all American business returned home. That encounter disturbed me and I have been looking for some way to answer it. Just today, a compilation that touches on this subject came to me from the Embassy of South Africa. Because it contains such vital information and raises such profound questions, particularly at this time, I ask it be printed in the RECORD.

INVESTMENT IN SOUTH AFRICA

Foreign private investment currently accounts for about 20% of total private investment in South Africa.

The U.S. share of total direct foreign investment was 16% in 1976 and, expressed as a percentage of total South African investment (including foreign investment), it amounted to 4%.

Roughly 350 American companies have direct investments in South Africa with a book value of more than $1.5 billion. This represents about 40% of all American investment in Africa, and 1.2% of total private American investment abroad.

It is estimated that between 90,000 and 100,000 blacks are employed by U.S. corporations in South Africa. An even greater number of blacks are employed in associated industries.

The progressive impact and productive role that United States corporations have had on the living standards of South Africa's black community, is often misrepresented by pressure groups. In fact, contradicting the position taken by such groups, South African black leaders—some of whom are outspoken critics of the South African Government—have unanimously opposed a disengagement of foreign investments:

Speaking in St. Louis on a visit to the United States in 1977, Zulu leader, Chief Gatsha Buthelezi, condemned advocacy of withdrawal of foreign capital as "a sterile exercise, because it does not help either side".

Addressing the Economic Club of Michigan during April 1977, Chief Lennox Sebe, Chief Minister of the black homeland Ciskei, said that while the West and black African states had been expressing concern for the welfare of blacks for years, that concern had never the form of effective help for the black man. This often critical black leader added that the South African Government was the only one giving such help.

Mrs. Lucy Mvubelo, a black labor leader, was quoted in Fortune as saying "if Americans withdraw it will lower the general standard of living here, and Africans will be the first to suffer".

The Shangaan leader, Professor Hudson Ntsanwisi, has also pleaded with foreign investors not to withdraw, but to help establish industries in the black homelands. This, he contends, would not be "supporting separate development, but assisting the black people of this country".

These views are shared, in one way or the other, by many influential Americans and South Africans:

Mr. Harry Oppenheimer, chairman of the Anglo American Corporation of South Africa, said in a recent interview with the Zurich financial newspaper, Schweigerische Handelszeitung, that stopping investment in South Africa was not the right way to bring about peaceful change.

"Many people, particularly in the U.S. and Britain, are demanding two totally contradictory things. On the one hand they want to help the blacks by not investing in South Africa, and on the other they demand that wages and other conditions are improved. But you cannot achieve improvements in the field of wages and other working conditions if industry is not registering a steady growth," Mr. Oppenheimer said.

In an interview with the Chicago Tribune on February 6, 1978, Ambassador Andrew Young, chief U.S. delegate to the United Nations, said: "Economic sanctions looked like an easy answer but South Africa is one of the most self-sufficient nations in the world. It could get along without us. In fact, their economy contributes about half a billion to the U.S. economy yearly. If we cut off investments we would lose jobs in this country and we wouldn't necessarily help blacks in that country."

There are a number of facts regarding the realities of South Africa's internal situation which regularly tend to be ignored. These involve the continued economic, social and political progress of South African blacks, coloreds and Asians.

Non-white purchasing power is estimated to have increased from $919 million in 1970, to $6.7 billion in 1977. The disposable income of blacks is forecast to exceed $9.3 billion by 1980.

The government increased wages and salaries for black government workers between 1973 and 1976 by 105%, compared to increases for white government workers which amounted to 22.8% during the same period.

In the "Summary and Recommendations" of U.S. Corporate Interest In Africa (Report to the Committee on Foreign Relations, United States Senate), which was submitted

by Senator Dick Clark, it is specifically mentioned: "It should be noted that there is no legal restriction in South Africa on paying equal wages for equal work just as there are no legal prohibitions against training black workers or placing blacks in executive or supervisory positions." Further in this document it is stated: "Training of black employees is one aspect of multi-national labor practices which the South African Government actively supports. Indeed the South African Government encourages black training through the provision of tax incentives . . ."

According to a year-long study by a Johannesburg stockbroking firm, Max Pollack & Freemantle, the real increase in earnings by blacks between 1970 and 1976 was 51.3% compared to 3.8% for whites. Black *per capita* income is forecast to rise 29.5% as against 7.3% for whites in the period 1975 to 1980.

Several U.S. corporations with interests in South Africa adopted a six-point set of principles for the operation of their South African companies. The South African Government has expressed it support for these objectives.

The Urban Foundation and the South African Employers' Consultative Committee on Labour Affairs have adopted a South African Code of Employment Practice. This Code expresses the resolve of South African industry and commerce to eliminate discrimination in employment practices.

In 1973 the Bantu Labour Regulation Act was amended to provide additionally for the creation of liaison committees at factory level. This increased works committees from 43 in mid-1973 to 2,681 in 1976. A clear indication of the success of the amplified committee system in creating healthier employer/employee relations, in the sharp decline in the number of strikes since the promulgation of the amended Act. In 1973, 246 strikes occurred in which 67,338 black workers took part with a loss of 1,389,873 man-hours. During 1976 there were only 105 strikes in which 15,725 black workers participated and 130,675 man-hours were lost.

In 1977 the government scrapped twenty of the existing 25 categories of statutory job reservation and announced that the Industrial Tribunal was investigating the possibility of doing away with the remaining five.

The Wiehahn Commission is presently engaged in a thorough re-examination of all labor-related legislation. After gathering evidence from all interested parties it will report on the way in which existing labor legislation operates and what changes are necessary to ensure an equitable new deal for all population groups.

In 1977 the recommendations of an all-black committee were accepted which will lead to the abolition of the "pass book" system. Blacks will now be issued with reference books identical to those being carried by whites.

Both the constitutional progress of the black territories and the level of development of urban blacks have reached the stage where the government is giving wide ranging powers to urban blacks to manage their local affairs via autonomous, elected urban community councils. These will eventually have autonomy over matters such as administration and policy, housing, schools, health facilities, business, transport, welfare and sport and recreational facilities.

The government has taken the first steps towards compulsory education for blacks (already more than 20 percent of South Africa's total black population is at school). The number of black students writing the twelfth grade examinations increased by 41.7 per cent in 1977.

In addition to the 41 multi-racial trade unions which existed in 1975, the Mines Technical Officials Association and the Master Builders Association opened their doors to multi-racial membership in 1978.

On April 1, 1978 all academic personnel at universities achieved complete parity in remuneration.

South Africa ranks among the 26 industrialized countries (the only one on the African Continent) and among the 15 foremost trading countries of the world. With only 5% of the African Continent's population, and 4% of its land sea, South Africa produces 22% of Africa's total output of goods and services, 90% of Africa's steel production and ranks fourth in the world in mineral production. It is the economic giant of the African sub-continent, and represents the key to the entire region to the foreign business community.

United States trade with South Africa in 1976 totaled $1,967.8 million. More significantly, South Africa was one of the few countries with whom the U.S. had a favorable balance of trade—in 1976 this amounted to $919.8 million.

The composition of trade with South Africa is important. Imports from South Africa consist mainly (nearly 70% of value) of metals and minerals. These include such essential elements as industrial diamonds, manganese and ferro-manganese, chrome and ferro-chrome, antimony, copper, uranium oxide, platinum sponge, palladium, rhodium, nickel, zinc and iridium, osmium and osmiridium. It is reported that the United States relies on South Africa for 35% of its imports of ferrochrome and ferromanganese, 57% of its vanadium imports, 43% of its antimony imports, 20% of its platinum group imports, and 13% of its imports of industrial diamonds.

These not only play an important part in the economic and industrial well-being of the United States but in many instances will be difficult to obtain from alternative sources, and if so, at economically realistic prices.

Few of the imports from South Africa are in competition with domestically produced goods.

Exports to South Africa, on the other hand, are mainly concentrated in the areas of machinery and transportation equipment, chemicals, the food industry and electrical and office equipment. These are also mainly the type of exports to South Africa which are supported by the Export-Import Bank. This is significant when viewed in conjunction with the gain of only 3% in volume of the exports of capital goods from the United States.

Curbs on foreign investment will seriously harm the fragile economies of neighboring and other black African countries on the sub-continent. During 1976 an estimated 2.1 million migrant workers from outside its borders took up temporary employment in the Republic of South Africa. The majority came from Transkei, Lesotho, Malawi, Mozambique, Botswana and Swaziland. Most of these countries are unable to employ the majority of their own people; in the case of Botswana and Lesotho only 10% of the labor force can be employed. The incomes derived from the workers who sell their labor in South Africa, represent up to 25% of the G.N.P. of these countries.●

## PROFILE OF ROBERT STRAUSS

● Mr. RIBICOFF. Mr. President, President Carter has made a wise choice in selecting Robert Strauss to lead the fight against inflation. As Special Trade Representative he has had a keen sense of the relationship between economic and political issues. This is a man with a grasp on reality. Nothing is more real than the pervasive problem of inflation. As a nation we must put our best strength against our most serious challenges, and we owe the President and Robert Strauss our support in this battle. Bob Strauss is a man of great ability.

I ask that a profile of Mr. Strauss by Warren Weaver, Jr., in today's New York Times be printed in the RECORD.

The profile follows:

EBULLIENT POLITICAL MANIPULATOR

(By Warren Weaver, Jr.)

WASHINGTON, April 11.—Since he arrived in Washington in 1970, Robert S. Strauss has piled one success upon another, first in the bloody arena of Democratic Party politics, then as a national political leader and finally as a cabinet-level officer and Presidential adviser. Now, President Carter has given the fast-talking, rough-kidding Texas lawyer an assignment—as Special Counselor on Inflation, that may give him pause for a moment or two. His friends are wondering whether in taking it on he has finally endangered his reputation as an immodest miracle-worker.

"If the President is counting mostly on jaw-boning to fight inflation, Bob may be just his man," one longtime political associate said today. "He can talk the skin off a snake and keeping him laughing all the while. But inflation? That's a big order, even for Strauss.

Until March 1977, Mr. Strauss had cultivated a reputation as a master political manipulator, the man who somehow pulled the Democratic Party back together after the divisive struggles of 1968 and 1972 and paved the way for victory in 1976 by a candidate who was not his original first choice.

But for the last year, the outspoken millionaire businessman has operated in a completely new area, as the President's Special Representative for Trade Negotiations. While he has his critics—Mr. Strauss would be uncomfortable without them—he has generally been regarded as surprisingly successful in the swampland of international economics.

His techniques, honed over years of reconciling political adversaries, have not seemed to change all that much. At a recess in critically important trade talks in Tokyo last January, he startled Nobuhiko Ushiba, his Japanese counterpart by throwing his arms around him and shouting: "Brother Ushiba, you're crazy as hell." The result: laughter and lowered tensions.

Mr. Strauss has always specialized in the humor of insult, to the almost universal delight of his associates. He dropped by the surprise birthday party of a noted political reporter and columnist the other day just long enough to announce: "You'd have thought that in 50 years, a guy could have found a better bunch of friends than this."

Robert Schwarz Strauss was born Oct. 19, 1918. The ebullient Texan has served the President during the last year not only in the sensitive role of trade negotiator. He has also devoted considerable time and effort to White House Congressional relations and to such emergency duties as mediating the coal strike with a barrage of telephone calls to his friends in industry.

Almost from the moment of his arrival in Washington, Mr. Strauss proved enormously successful at press relations, baiting reporters mercilessly, insulting them in areas of special pride and entertaining them at the same time. Perhaps this is why his confidential assignments in the Carter Administration tended to find their way into print.

Being a trusted White House adviser has tamed some of Mr. Strauss' social instincts. He has given up luncheon drinking alto-

gether although recently, on Air Force One, he commandeered a large gulp of a reporter's martini, rather than order one of his own in front of the teetotaling President.

EARNING THE PRESIDENT'S CONFIDENCE

The fact that Mr. Strauss has earned the confidence of President Carter at all is considered fairly remarkable by men who knew them both. In the preliminary maneuvering of 1976, Mr. Strauss, party chairman since late 1972, had privately favored Senators Henry M. Jackson, Hubert H. Humphrey and Lloyd M. Bentsen, in that order, for the Democratic nomination.

But when Mr. Carter emerged from the primaries and caucuses as the popular choice, Mr. Strauss threw all his energies behind him, organizing a smooth and happy convention in New York City and pulling all the party's diverse elements together for a relatively unified fall campaign.

Mr. Strauss forged close working relationships with several key Carter political advisers, notably Charles Kirbo and Hamilton Jordan, and wound up, by impartial accounts, as the only non-Georgian in the Carter inner circle.

His designation as special Trade Negotiator aroused some criticism in academic and professional circles, where he was regarded as a manipulator rather than a substantive expert. Similarly today, some authorities felt that the Administration's point-man on inflation should have been W. Michael Blumenthal, Secretary of the Treasury, Charles L. Schultze, chairman of the Council of Economic Advisers, or a figure on that level.

Still, he is conceded by virtually everyone to be a do-er. He assumed the chairmanship of the Democratic Party over bitter liberal opposition, then won that faction over so successfully that the conservatives attached him after the Kansas City convention of 1974.

First as treasurer of the Democratic man, he reduced the party's disastrous 1968 debt from about $10 million to $2 million, a point from which it has not budged since his departure late in 1976. Fund-raising has been regarded as one of his natural talents.

BORN IN LOCKHART, TEX.

Mr. Strauss was born in Lockhart, Texas, where his father owned a dry-goods store. He recalls with less than his usual good humor growing up in the only Jewish family in that community and attending the University of Texas at a time when campus anti-Semitism was commonplace.

He met John B. Connally at the university, worked for his successful campaign for the governorship and has remained close to him, even after his conversion to Republicanism. Graduated from the University of Texas Law School in 1941, he served as an agent of the Federal Bureau of Investigation during World War II, then opened a Dallas law firm that has prospered with its founder.

In 1941, Mr. Strauss married the former Helen Jacobs, and they have two sons and a daughter. His business interests include a family-owned radio station in Tuscon, Ariz., and majority stockholdings in a suburban Dallas bank, as well as the law firm, which now operates actively in Washington as well as Dallas. His partners bought him out when he went to the White House, but that is not regarded as an irreversible move.●

## PANAMA CANAL TREATY OPINION POLL

● Mr. SCOTT. Mr. President, our office is in the process of getting out our April report to constituents. Of particular interest to colleagues, I would think, is the result of our opinion poll. I would call their attention especially to the fact that 83 percent of the people responding opposed ratification of the Panama Canal treaties. I ask that a copy be printed in the RECORD.

CANAL TREATIES

(By BILL SCOTT)

The President submitted to Congress two interrelated treaties regarding the Panama Canal. One purportedly was to guarantee the permanent neutrality of the canal and was approved in the Senate by a narrow vote. The second, or more important treaty, is presently under consideration with a final vote scheduled for April 18. This second treaty transfers sovereignty, ownership and control of the canal to the Republic of Panama with provisions for its joint operation through December 31, 1999, or somewhat more than 21 years.

On various occasions I have spoken against ratification of the Canal Treaty proposal because it seems unreasonable for us to convey to Panama, without consideration, property of the United States having a replacement value of approximately $10 billion. Over the 21-year period of the treaty Panama would receive approximately $1.5 billion from canal tolls, and during the same period the treaty would cost the U.S. taxpayer $750 million. It also seems unwise for us to start on a course which could result directly or indirectly in communist control of this vital artery of commerce with its strategic military importance. However, proponents of the treaty argue that failure to give up our property will result in less friendly relationships with Latin America and its retention is a remnant of colonialism. To the contrary, respect for the United States would be lessened within the world community; and our allies within the free world will have less confidence in our ability to lead them toward peace through strength.

We do appreciate the many thousands of individual letters and phone calls received regarding this important matter that indicate Virginians are overwhelmingly opposed to ratification.

IMMIGRATION BILL

Our office has received considerable comment from constituents expressing the view that many responsible citizens may be deprived of potential employment opportunities by illegal aliens. Upwards of three million illegals are holding jobs in this country, according to Department of Justice figures.

A proposal I introduced would require Congressional approval of large-scale admission of foreign refugees, would impose fines on employers who knowingly hired illegal aliens, and prohibit those individuals living in the country illegally from receiving federal assistance, such as food stamps or Medicaid benefits.

Under current government policy, known as parole authority, the Attorney General can allow certain aliens to come into the United States and remain, without specific Congressional approval. A provision of the proposed bill would include the number of refugees paroled into the U.S. within the national quota for that country. It also provides that the government would be required for the first time to report quarterly on the number of illegal aliens holding jobs in the United States.

LABOR LAW REFORM

The Senate is expected to soon debate proposed amendments to the National Labor Relations Act. This is the basic law regulating collective bargaining in the United States and is intended to protect employees on their right to join unions and bargain collectively. During the past few months amendments to the Act have passed the House of Representatives with strong support of organized labor, and are now under consideration in the Senate.

Those supporting labor law amendments argue that delays in enforcement of employee rights have frustrated attempts of large numbers of employees to exercise their rights. They believe that changes are necessary to prevent delays in holding union elections and enforcing remedies in unfair labor practice cases.

The bill would, among other things, expedite enforcement of orders of the National Labor Relations Board, and prevent employers found guilty of unfair labor practices from receiving federal contracts for a period of three years.

Opponents of the bill claim, however, that it is really intended to arrest the decline in union membership; and that when viewed together, the amendments put considerable power in the hands of union organizers and sharply weaken the ability of employers to resist union organization. They argue, for example, that one of its provisions would compel them to give unions equal time, on company property, if management held conferences with employees on company time.

TUITION ASSISTANCE

The Finance Committee has reported a tuition tax credit bill which would phase in over the next three years a tax credit for educational expenses. Beginning August 1, 1978, the measure would provide a credit equal to 50 percent of tuition and fees to college students with a maximum credit of $250. Two years later, the credit would be increased to cover tuition and fees for grade schools and high schools. Starting the following year, 1981, the credit would be extended to cover the expenses of graduate students and part-time students. The Committee and the Administration admit the bill could cost the government over $5 billion a year in lost tax revenues.

Proponents argue that the tax relief provided by this bill is intended to maintain the nation's historic mixture of both public and private education. They do not consider the cost to be great in comparison with the total federal budget for education or that the grant and loan approach gives more power over education to Washington bureaucrats.

Opponents say that both the tuition tax credit proposal and the extension of the grant program to church-related and private grade and high schools are unconstitutional under the First Amendment provision for separation of church and state. They believe that church-related schools would be the primary beneficiaries of the bill.

RICHMOND VISIT

Our next visit to the Richmond office is scheduled for Friday, April 28, and any constituent desiring to discuss a problem or issue is welcome to stop by during regular business hours. The state office is located on the eighth floor of the Federal Building at 400 North 8th Street. The office phone number is 649-0049 if you care to call in advance but an appointment is not necessary.

MILITARY SPENDING

The President has forwarded to the Congress a budget request of $126 billion for the Department of Defense for the fiscal year beginning October 1. The funds would be spent for procurement of new weapons systems, research and development, military personnel and military retirement pay in addition to operations and maintenance of our active and reserve forces. This request is particularly important in light of a major buildup of the strategic and conventional forces of the Soviet Union over the last ten years.

We are told that the Soviet Union has significantly increased its manpower and nu-

clear and conventional war equipment such as long and intermediate range missiles, tanks, submarines, and this buildup shows no sign of slowing. The committees will take the Soviet buildup into account when making decisions on the U.S. defense budget, and the chairman of the Senate Armed Services Committee has recently indicated hearings will be had on the production of the neutron bomb.

Some adjustments in the President's recommendations will, of course, be made and this could include additional spending to maintain the capacity to defend the country and its vital interests throughout the world.

CIVIL SERVICE PROPOSALS

Constituents and especially Federal employees should be interested in Administration plans to reorganize the Civil Service System. Two means are being used to put the plan into effect: 1) a legislative proposal to be enacted by Congress, and 2) a reorganization plan under the President's general authority, to reorganize agencies unless either House of Congress disapproves the plan within 60 legislative days after it is submitted.

The Civil Service Commission would be abolished in favor of an Office of Personnel Management and a Merit Systems Protection Board. A Federal Labor Relations Authority would administer the existing federal labor-management relations program. Among many other proposed changes is the creation of a Senior Executive Service under which agency heads would have more authority over the pay grades, promotion and demotions of 9200 top government managers. Should you desire a copy of the bill as introduced or a copy of the organization plan, when submitted, please let us know.

CONGRESSIONAL PAPERS

During the 12 years of service in the House of Representatives and the Senate, our office has accumulated an assortment of papers which are being donated to George Mason University in Fairfax.

George Mason, a state institution, was chosen partly because our home for the past 31 years is within a few miles of the campus. However, the university is a developing institution with a present enrollment of approximately 9,600 students, with the prospects of becoming one of the major schools of higher learning in Virginia within a few years. It is understood that a legislative study committee is considering the establishment of a law school on the Fairfax campus; and the university, located within one of the most populous and fast-growing areas of the state, should be considerably expanded in the years ahead.

The papers will include a variety of material, such as statements made on the floor of the House and Senate, legislative proposals, committee activities, correspondence with private organizations and governmental agencies, newsletters, responses to annual questionnaires, speeches and background reports on issues considered by Congress.

Members of the University faculty and library staff will undertake the task of organizing and preserving items of significant historical value, and our office will work with them in the transfer of the material to the University. It is understood that I will have access to the material, and it can be utilized by the faculty, students working with them, and will be available to the general public three years after the termination of my Senate service.

OPINION POLL RESULTS

We are grateful to constituents who responded to our 12th annual questionnaire and shared their views on a number of important issues. The tabulation of results, some of which are shown below, leaves little doubt of how Virginians feel on the questions presented.

87 percent of the people responding opposed ratification of the Panama Canal treaties, while 13 percent favored ratification.

Only 6 percent favored election day voting registration, while 94 percent expressed opposition.

An overwhelming 86 percent of those responding opposed repeal of the Hatch Act, while 14 percent favored repeal.

The enactment of a national welfare system was opposed by a margin of 86 percent to 14 percent.

With regard to the proposed Strategic Arms Limitation Agreement now being negotiated, only 12 percent of the constituents who responded believed the Russians would adhere to any treaty agreed upon, while 13 percent believed the Senate should ratify a treaty regardless of any imbalance in numbers in order to obtain a limitation on the growth of strategic arms, and 15 percent believed we should allow the Soviets to have material superiority in some fields to compensate for our more sophisticated weapons in other areas. 88 percent, 87 percent and 85 percent, respectively, were of a contrary opinion.

83 percent of those responding would amend the Constitution to provide that the states rather than the federal government have the power to regulate the circumstances under which pregnancies might or might not be terminated.

76 percent of the people felt that foreign assistance should be reduced or eliminated entirely, while only 3 percent favored a spending increase. The remaining 21 percent preferred retaining foreign aid at present levels.

SOMETHING TO PONDER

"To inform the minds of the people, and to follow their will, is the chief duty of those placed at their head."

Thomas Jefferson.●

## DIPLOMACY AND HUMAN RIGHTS

● Mr. CRANSTON. Mr. President, on February 13, Deputy Secretary of State, Warren Christopher, spoke before the American Bar Association on "The Diplomacy of Human Rights: The First Year." The address warrants the special attention of the Senate because it is a comprehensive review of the first year of the Carter administration's actions on human rights—a keystone of the campaign of Jimmy Carter for President and a prime commitment of Jimmy Carter as President.

The address also warrants the special attention of the Senate because Secretary Christopher commits the administration to a new proposal for the worldwide advancement of human rights: The need to create an objective, reliable international clearinghouse to collect and to process information on human rights conditions. Secretary Christopher's remarks reinforce the administration's commitment to advancing the cause of human rights. He gives a realistic but encouraging assessment of our human rights policy in its day-to-day application as the administration is consulting with foreign leaders about specific human rights violations and trying to alleviate them, meeting with opposition leaders of other nations, making greater use of the tools available in public diplomacy, and incorporating human rights considerations into the operations of more Federal agencies and of the international organizations. Because political, social, and economic conditions vary from country to country, our officials need a variety of responses for the best mix of actions to accomplish productive results.

Secretary Christopher is aware of the difficulties in translating a commitment to human rights into an effective policy—a policy which works to achieve improvements in human conditions as contrasted to one which isolates us in moral righteousness and disassociates us from human rights violators. He is convinced, nonetheless, that through dedication, hard work, and creative diplomacy, we can make our human rights policy an active and effective one. I completely agree.

I might mention that Congress, too, has played an instrumental role in shaping human rights policy over the past few years. Congressional interest and determination elevated human rights considerations to a higher plane in U.S. foreign policy and made Mr. Christopher's predecessors at the State Department more aware of human rights. Congress has legislated a mandate to reduce the levels of military, security-supporting, and bilateral economic assistance to countries which systematically and severely violate the human rights of their own people. And the Congress has taken an active part in expanding human rights concerns from bilateral U.S. relations with other countries into international financial institutions.

I would like to add a note of caution in this regard. Human rights concerns clearly are relevant to the multilateral assistance effort: the international lending institutions try to help member nations provide them the most basic human needs—food, shelter, and health—to their people. But the Congress must be mindful of what actions our Government can take unilaterally to encourage other governments to improve human rights conditions. The actions of Congress should not be inconsistent with the purpose of the international institution or prevent the institutions from functioning effectively.

Expressing our concern in a variety of ways in the international institutions—by negotiating improvement in human rights conditions, quietly working with other countries, or using our vote—we are more likely to bring about desired changes than through congressionally mandated automatic "no" votes.

Perhaps the most promising part of Secretary Christopher's address in his suggestion that a responsible and objective human rights clearinghouse be set up to gather information on the human rights situations in all countries around the world. He committed the State Department to help create this kind of institution. I think this idea deserves serious consideration by my colleagues in the Senate. I believe that Congress is in a unique position to offer constructive suggestions as to the nature, composition and location of such a body.

Mr. President, I ask that the full text of Secretary Christopher's address to the ABA be printed in the RECORD.

The text follows:

THE DIPLOMACY OF HUMAN RIGHTS: THE FIRST YEAR

I am delighted to be here today among so many old friends. Last August, I had the good fortune of addressing the Gavel Awards luncheon at the ABA Convention. On that occasion I discussed the principles that guide one of the most important foreign policy initiatives of the Carter Administration—the human rights policy.

Today, after one year's experience with that policy, I would like to talk about how those principles have been put into practice, to talk about the diplomacy of human rights.

Before doing so, let me remind you that our policy concerns three categories of rights: the right to be free from governmental violations of the integrity of the person; the right to fulfill one's vital needs such as food, shelter, health care, and education; and civil and political rights.

In his inaugural address, President Carter set the tone for a foreign policy based firmly on our values as a Nation. "Because we are free," he said, "we can never be indifferent to the fate of freedom elsewhere." In this single sentence, from which so much has flowed, the President was expressing an old and sometimes ignored truth with new vigor.

Our strength as a Nation and our magnetism to the world at large are predicated on our commitment to human rights. It is only proper that the human rights considerations so important to our national life be reflected in our international life as well. This means they must be fully integrated into our diplomacy.

The pursuit of this cause is not an ideological luxury cruise with no practical port of call. Our idealism and our self-interest coincide. Widening the circle of countries which share our human rights values is at the very core of our security interests. Such nations make strong allies. Their commitment to human rights gives them an inner strength and stability which causes them to stand steadfastly with us on the most difficult issues of our time.

In this first year, I have been impressed by what a subtle, creative, and flexible process diplomacy can be in advancing the cause of human rights. Diplomacy is not just words, though words can be highly effective. It is also an impressive variety of intangible symbols and gestures, as well as tangible measures.

Diplomacy can be a rich mix, indeed. In the case of our human rights objectives, we have evolved a mix that is proving effective.

The primary ingredient of human rights diplomacy has a seeming simplicity: We frankly discuss human rights in our consultations with foreign diplomats and leaders. An obvious technique, yes. Just words, yes. But I must tell you that many of us have been amazed at its effectiveness

A career Foreign Service officer told me recently that until last January it would have been unusual for our Ambassador to raise with the leader of another country, in face-to-face conversation, the fate of political prisoners. Our diplomats intended to shy away from direct high-level dialogue on such sensitive human rights issues.

That has changed. Time after time in the past year we have had such conversations. And very often these very frank discussions have led to beneficial results. Sovereign governments have reexamined conditions in their capitals and provinces, and releases of prisoners and other positive actions have followed.

When we raise human rights with another government, we take an affirmative stance. We explain that our people, our Congress, and our government are deeply troubled by the human rights abuses we believe to be occurring. And we ask for the other government's assessment of the situation and the prospects for improvement.

Sometimes, it is true, the response is truculent and defensive. Sometimes, we are charged with "intervening" in the internal affairs of another sovereign state.

But much more often, the response is a real effort to join issue on the merits. Frequently, there is candid acknowledgement of the validity of our interest—and interest rooted in solemn international agreements that make the way a government treats its own citizens a matter of legitimate international concern.

Just as frequently there is disagreement over the degree and the causes of the problem. It is often asserted, for example, that terrorism justifies repression. But usually these differences in perspective are overtaken by a consideration of possible improvements. By consideration, for example, of:

Whether those held without trial, often incommunicado and for lengthy periods, can soon be released or at least charged and tried; or

Whether the return to civilian rule can proceed on schedule; or

Whether those responsible for mistreating prisoners will be prosecuted.

Sometimes we achieve explicit understandings on such issues. More commonly there is an implicit recognition of the need for improvement and for further consultations as the situation evolves. Either way, the raising of the issue has profound significance. Rather than being conveniently ignored, human rights abuses are brought to the center of the diplomatic interchange. There, they must be addressed.

I believe the almost geometric increase in world awareness of human rights issues is perhaps the major accomplishment of our human rights diplomacy. This new consciousness not only helps curb existing human rights abuses; it also acts as a deterrent to new violations.

The words of human rights diplomacy can effectively be joined with symbolic acts. For example, trips to other countries by our senior officials, and official invitations to the leaders of other nations to visit the United States, can be used to advance our human rights objectives. Such visits can mark our recognition that a country has an outstanding human rights record, or provide the opportunity to discuss human rights problems with the leader of a country where improvements are urgently needed.

There are a host of other measures that can be used symbolically to send the desired signal, such as: cultural and educational exchanges; selection of the site of international conferences; the level of our representation at diplomatic events; port visits by our fleet. Carefully used, such symbols and gestures can help advance the cause of human rights.

There is also significance in our willingness to meet, on appropriate occasions, with opposition leaders from countries with serious human rights problems. My colleagues and I have met with a number of such leaders in Washington, including some who are living in exile from their homeland. And abroad, our ambassadors regularly meet with opposition leaders.

These meetings enable us to hear both sides of the story, to learn how a human rights problem is seen by those directly affected, and to demonstrate that we are concerned about all the people of the country involved, not just those in power.

Beyond private diplomatic discourse and important symbolic steps, the diplomacy of human rights must sometimes include criticism of regimes implicated in serious human rights violations.

Public comment by our government is an official act that directs the attention of the entire world to the objectionable practices of another government. We believe that such criticism can have some inhibiting effect on such governments. We do not generally prefer this approach, but neither will we shrink from it.

Needless to say, public comment has been our first line of approach with respect to countries like Cambodia and Uganda, where we have little or no diplomatic contact, but yet where unspeakable violations of human rights are occurring as a matter of deliberate state policy. We deplore these policies. We hope other governments which have the contact that we lack can make known the extent of international concern and bring about improvements.

We have also, of course, spoken openly and forthrightly at the Belgrade meeting that has been reviewing implementation of the Helsinki Final Act. That document contemplates a full and frank review of whether the signatories have lived up to their human rights commitments. It is clear that the Soviet Union and the East European countries, in varying degrees, have not done so. We have not hesitated to say so publicly, to request an explanation, and to seek compliance.

Our comments and those of West European governments have helped sustain the Helsinki accord as a living force in the cause of human rights, an engine for keeping constant pressure on governments to respect the rights of their people. Our silence would have effectively permitted that force to fade away.

In speaking of our public efforts, I should note that we are actively using our public diplomacy tools such as USIA (United States Information Agency) to convey our human rights concerns to various nongovernmental audiences abroad. The Voice of America has increased its attention to these issues. Our embassies and offices abroad have organized seminars in which thoughtful Americans can directly express their human rights concerns to people from similar walks of life in foreign countries.

Our human rights initiative has given recognition and a new stimulus to the long-standing efforts of private nongovernment organizations in this field. We applaud these endeavors and recognize that over time they may well outdistance any government effort.

When our relationship with another government includes economic and military assistance, we are prepared to take tangible steps to recognize good human rights performance or to manifest our concern over human rights violations. When appropriate or necessary, in other words, we will support our words with actions. In taking such steps, we are guided and strengthened by important legislative provisions enacted by a Congress overwhelmingly committed to the cause of human rights.

Taking due account of the needs of the poorest, we have made a fundamental decision gradually to channel a growing share of our economic assistance to countries that respect the human rights of their people.

On the other hand, when countries we assist consistently curtail human rights, and where our preferred diplomatic efforts have been unavailing, we must consider restrictions on the flow of our aid, both overall levels and individual loans or grants. Thus, over the course of the past year we have, for example:

Deferred bilateral economic assistance to certain countries;

Opposed loans by the World Bank and the other international financial institutions for countries that engage in flagrant violations of human rights; and

Taken steps to insure that food aid provided to countries with serious human rights problems will reach the needy.

We have also advised other departments of the government on human rights conditions abroad that may affect their activities. For example, a recently enacted statute calls for the Export-Import Bank to take human rights considerations into account, and the bank regularly seeks advice on this issue.

Human rights performance is also an important factor in our decisions on military assistance and commercial arms sales subject to government licensing. We have reduced or declined to increase our military aid to a number of countries and refused to issue licenses in a variety of instances.

The diversity of cultures and the different stages of economic and political maturity tend to produce agonizing, almost incredibly complex, choices in granting or withholding aid. Moreover, human rights, while a fundamental factor in our foreign policy, cannot always be the decisive factor. But the difficulty of the decisions will not deter us from supporting our words with action.

It is important to note that we are not alone in pursuing the diplomacy of human rights. Increasingly, other governments are standing with us. In the United Nations, in the Organization of American States, and in other contexts, we have strong partners in the cause of human rights. Recently, we initiated consultations with our West European allies and others on how to promote broader international cooperation in support of human rights. In general, we are finding strong support for giving human rights a higher priority in international relations.

As I reflect on the first year of human rights diplomacy, there is one area in which I would like to ask for the creative thinking and counsel of this great association. I refer to the need I perceive for an objective, authenticated data base on human rights conditions in all countries.

Let me put the problem in perspective. With the aid of our embassies around the world, we are constantly trying to gather reliable and extensive human rights data. Nevertheless, the validity of our information on human rights conditions in other countries is frequently challenged. Probably it is inevitable that the data collected by any one country would be suspect. Coverage is bound to be limited, and there may be the suspicion that the collecting country has an ax to grind.

What is needed is an objective, widely respected clearinghouse for human rights information on all countries of the world. This would be an important resource for us and others interested in taking human rights conditions in other countries into account in policymaking. It would thus both inform our decisions and authenticate the existence and severity of human rights problems.

Perhaps you will be able to suggest how such a clearinghouse might be created. It is clear that it must be international in scope. What is not so clear is whether it should be sponsored by a private organization or by a group of countries or an international organization. Once created, I could visualize that such an entity might also play an important educational role in improving human rights conditions around the world. We stand ready to help in creating such an organization.

This, then, is a capsule view of the diplomacy of human rights. It is a diplomacy that refuses to "be indifferent to the fate of freedom elsewhere." It is a diplomacy that has permitted the United States to seize the initiative for human progress once again. Surveys conducted abroad have shown time and time again that the renewed interest in human values expressed by the President and implemented by our diplomatic efforts has had an enormously positive impact on the view people in foreign countries hold of America and our role in the world.

We are daily concerned with our government's response to human rights conditions in other countries. But our credibility—and indeed the inner health of our society—depends upon facing up to our problems here at home and seeking to improve our own human rights situation.

Much of President Carter's domestic program is directed toward the enhancement of the human rights of Americans. Proposals for welfare reform, efforts to cut the cost of health care, and the commitment to full employment are obvious examples. We should also note that within the past year travel restrictions for American citizens abroad have been eliminated and visa requirements for foreigners coming to this country have been significantly eased.

It is well to remember that we are far from perfect. Our ample due process with all its guarantees does not afford perfect justice. But whatever our shortcomings, they are faced frankly and openly. The three constitutional branches of government have the responsibility to do so. And the "fourth branch" is there to insure that that responsibility is met.

In making human rights a fundamental tenet of our foreign policy and greatly increasing sensitivity to human rights concerns, we have helped to create an atmosphere in which human rights progress is much more likely to occur. We do not take credit for particular improvements, but we note the tangible evidence from every continent that the condition of large numbers of people—of individual, identifiable human beings—is less oppressive now than it seemed one year ago.

In Africa, there have been releases of substantial numbers of political detainees; for example, in Sudan. Nigeria, Upper Volta, Mali, and Ghana are moving toward reestablishment of civilian governments. Most African leaders have intensified their efforts to promote agricultural development. Nigeria and other African nations are supporting creation of an African Human Rights Commission under U.N. auspices.

In the Near East, Morocco moved toward political liberalization after nearly a decade of rule by decree. Restrictions on freedom of the press were lifted, and significant numbers of political prisoners were released. Tunisia authorized establishment of the Tunisian League for the Rights of Man, which has been permitted to investigate allegations of human rights violations. Iran released a substantial number of political prisoners and agreed to a visit by the International Committee of the Red Cross (ICRC).

In South Asia, there was in India a magnificent resurrection of democracy, Nepal released political prisoners and lifted newspaper curbs. Sri Lanka changed its government for the sixth time since independence through the free choice of its people. Pakistan released over 11,000 political prisoners.

In East Asia, the Indonesian Government released 10,000 political detainees, confirmed its intent to release 20,000 more in accordance with its previously announced release schedule, and agreed to resumption of ICRC visits. South Korea released all but one of the Myong Dong prisoners—opposition political and religious leaders who had opposed the government. The Philippine Government eased some of its martial law restrictions and released some detainees. The new Government of Thailand has eased press restrictions, improved trial procedures, and stated its intent to seek general elections early next year.

In Latin America, political prisoners were released in Haiti, the Dominican Republic, Paraguay, Argentina, and Peru. The military Governments of Peru, Ecuador, and Bolivia annouced that elections will be held in 1978. States of seige were lifted in El Salvador and Nicaragua. Most Latin American governments have allocated increased resources to improving the living standards and productivity of their poor farmers. Some restrictive laws have been repealed in Panama. And El Salvador, Haiti, and Paraguay agreed to visits by the Inter-American Human Rights Commission.

In Western Europe, for the first time in NATO's history, every member of the alliance is a democracy. New churches have been constructed in Poland. Certain countries of Eastern Europe have eased their restrictions on emigration and family reunification. Some human rights activists in Poland and Romania have been released from prison. And live television programs in Hungary have allowed prominent Westerners to voice their views on political issues.

Despite these many improvements and others like them, the fact remains that the distance covered is dwarfed by the distance that remains to be traveled. I could recount in detail the retrograde human rights developments of the past year, as well as the horrendous human rights violations that persist across the globe—in many of the countries I have just mentioned, as well as elsewhere.

Suffice it to say that in all quarters of the world, too many people are still subject to torture and are suffering in squalid prisons, uncharged and untried. Too many people are hungry, have inadequate shelter, and lack medical care and educational opportunity. Too many people are living under martial law or are otherwise barred from political participation. Too many are denied the right to emigrate or even to travel freely within their own country.

These problems are the challenges of the future. They will not be solved easily. But our experience with one year of human rights diplomacy convinces us that while the journey is long, it is not impossible.

Of course none of us can know for sure where the progress of human rights may lead. But every so often during the past year, as I have struggled to understand the deep meaning of human rights, I have felt a fleeting intimation of what untold spiritual and material riches may lie ahead—perhaps centuries ahead—in a world of true, universal human freedom. Justice Holmes perhaps had a similar feeling and certainly expressed it much better than I ever could when he said:

"I think it not improbable that man, like the grub that prepares a chamber for the winged thing it never has seen but is to be—that man may have cosmic destinies that he does not understand. And so beyond the vision of battling races and an impoverished earth I catch a dreaming glimpse of peace."

I think that in the last analysis the cause of human rights has power and will succeed because, no matter what the obstacle, it tenaciously allows the world's people to "catch a dreaming glimpse of peace." ●

## DOE POSITION ON ALCOHOL FUELS

● Mr. JAVITS. Mr. President, the increasing amount of foreign petroleum imports are of great concern to me. I refer to an article in Thursday's New York Times. March 16, 1978. William G. Miller, recently appointed Chairman of the Federal Reserve Board, expressed serious concern about the economic impact of our energy situation. He warned that the United States must cut down on its use of imported oil and must take some positive and forceful steps to develop new energy sources in order to restore confidence in the dollar. He further stated that whatever we do, we must act quickly. Time is running out.

One of the most urgent energy problems this country must solve is to find a liquid energy replacement for gasoline used by our automobiles and industrial turbines. One such liquid fuel which can be integrated into our present energy system is alcohol. Alcohol can be synthesized with current technology from a variety of sources that are both renewable and plentiful. The urban waste generated by our cities which has become increasingly difficult to dispose of properly can be made into methanol. Timber, another renewable resource, as well as coal, one of our most abundant domestic resources, can also be made into methanol. In addition, agricultural wastes, certain energy crops, sugar cane, contaminated foods, and even algae, all can be used to produce ethanol.

I believe that increased use of alcohol fuels can substantially reduce our need for imported petroleum; in addition, alcohol fuels can help solve our sewage disposal problems, provide an alternative income source for our farmers, and enable us to utilize our high sulfur coals.

I have made predictions similar to William Miller's about the future state of the world economy, as well as our own financial security, if we do not quickly and assertively develop domestic technologies to supplement our energy imports. Alcohol fuels serve this purpose. We must have a liquid fuel that can be gradually integrated into our own energy system before the year 2000, that is at the same time versatile enough in its possible end uses to meet the many needs of our industrial society. Again, alcohol fuel fits this description.

Alcohol, in addition to its use as a gasoline extender, can be successfully employed as a industrial turbine fuel, a peak turbine fuel for utilities, and as an industrial chemical. Indeed, as an industrial chemical, alcohol could be utilized to wean energy dependent industries off of petroleum based chemicals since many of our plastics could be made from alcohol derivatives rather than from petroleum.

Most importantly, it is time for some positive action in the energy arena. Although alcohol fuels will not solve the energy crisis they can make a significant contribution by decreasing our need for petroleum imports. If we are to show our allies that the United States has the resources to meet the challenge of a more energy independent America, we must begin to utilize some technologies we have overlooked in the past.

In response to a joint letter signed by 28 Senators to Secretary Schlesinger, the Department of Energy Task Force on Alcohol Fuels has just submitted its report to Congress. In order to encourage discussion about alcohol fuel I would like to place the March 17, 1978, report entitled "United States Department of Energy Position Paper on Alcohol Fuels" in the RECORD.

The material follows:

DEPARTMENT OF ENERGY,
*Washington, D.C., March 17, 1978.*

DEAR MEMBER OF CONGRESS: This is a follow-up to the letter of December 6, 1977, from Dale D. Myers, the Under Secretary, on the subject of alcohol fuels. In that letter he stated that we would reassess the alcohol fuels activities in the Department, with a look toward emphasizing the near term. Our reassessment is complete. Enclosed is the DOE Postion Paper on Alcohol Fuels which brings out, among other things, the timing of a decision on commercialization of alcohol fuels.

We intend to continue to work closely with the Congress in this critical area.

Sincerely,

DONALD A. BEATTIE,
*Acting Assistant Secretary for Conservation and Solar Applications.*

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DOE POSITION PAPER ON ALCOHOL FUELS

Ethanol and methanol are the alcohol fuels which are among the non-petroleum liquid fuel options which can be derived from resources available in abundance in the U.S. In addition to the alcohols, these options include: (1) petroleum-like hydrocarbon fuels from coal, oil shale, and biomass, and (2) in the far term, hydrogen.

Federal decisions on commercialization of any fuel option(s) could have significant far reaching and long term effects, domestically and internationally. It is important, therefore, that commercialization decisions be made only after all available options are compared and evaluated on a common basis to determine what options(s) best fit different national needs for different contingency conditions. The Supply Strategy Study, currently underway within the Department of Energy (DOE), serves as the key assembly and evaluation mechanism for all fuels options in this regard. The results of this study will lead to Federal policy decisions on commercialization of non-petroleum based fuels by January 1979. A newly initiated element of the DOE Alcohol Fuels Programs (AFP), called the Immediate Action Element, will provide the alcohol fuels data needed for the Supply Strategy Study.

The DOE has been investigating the resource bases and end-use technology aspects of alcohols for several years. The technical advantages and deficiencies of alcohols as fuels are well understood. There appear to be no major technological barriers facing either production or distribution of alcohol fuels. Certain end uses, although not all, require virtually no modification to combustion engines where the alcohol is blended with petroleum derived liquid fuels. There are several major uncertainties which remain concerning alcohol fuel supply potential, production cost, most appropriate applications, and the best approach to achieve commercialization. Lastly, there is uncertainty regarding whether Federally provided incentives are needed to foster commercialization and, if so, the types to be employed.

To help resolve these uncertainties, a series of special studies has been incorporated into the overall DOE AFP as an Immediate Action Element to be conducted in parallel with the Supply Strategy Study. These special studies are structured to examine and help resolve key technological, economic, environmental, and institutional issues. The information supplied to the Supply Strategy Study from the existing data base and the special studies of the Immediate Action Element will contribute to a DOE decision on commercialization of non-petroleum liquid fuels to be made by January 1979. If the decision is made to promote rapid commercialization, specifically of alcohol fuels, implementation of the best method, as defined in the Supply Strategy Study, will commence. Also, at that time the current DOE AFP may be revised and expanded to encompass activities such as end use demonstrations.

The following paragraphs briefly describe the supply, utilization, and economic characteristics of alcohols and note the major issues associated with their implementation. Also described are the major elements of the current DOE AFP.

ETHANOL

About 93 percent of current industrial (non-beverage) ethanol production in the United States is based on synthesis from ethylene derived from petroleum and natural gas constituents. Fermentation of grains, fruit, and sulphite liquors accounts for the remaining 7 percent. As crude oil costs increase, the market share of fermentation alcohol will likely increase. Industrial ethanol manufacture amounts by volume to about one-third of 1 percent of the fuel used in highway vehicles (100 billion gallons of gasoline per year). Ethanol has about 66 percent of the heating value of an equal volume of gasoline, so the amount of energy that this volume represents is an even smaller fraction of that used. If all practicably available farmland were used for farm crop plantings in excess of those required for food production, the ethanol produced from the crops and crop residues would satisfy no more than 8 percent of today's total liquid fuels energy demand.

Ethanol prices[1] at the plant gate are estimated to be in the range of $1–1.30 per gallon ($13.20–17.10 per million Btu[2]). The current price of gasoline on a comparable basis is somewhat less than $0.40 per gallon ($3.50 per million Btu[1]) based on overall supply. Therefore, unless ethanol production is heavily subsidized for national security, political, or other reasons, it is not likely to be in commercial fuel use in large quantities because of the high cost alone. Research and development are being conducted to increase crop yields, reduce processing time, and utilize energy conservation and other approaches which would improve both energy use and economics, but it is not likely that these will give savings large enough to enable ethanol to compete nationally with other alternatives. However, production and utilization of ethanol on a regional basis may have merit.

METHANOL

Methanol is presently made almost totally from natural gas in the United States, thus new plants are expected to use different feedstocks. The most abundant domestic source of methanol in the future is coal through gasification to a synthesis gas and subsequent catalytic conversion. The process steps in going from coal to methanol are commercial and commercial size plants could be in operation within 5 years using essentially current technology. Methanol could also be produced from wood, agricultural residues, and municipal solid waste using the same general technical approach as for coal, but process details and economics are not as well defined and costs vary with feed stock. Programs in progress at DOE will more accurately define the process and economics of methanol production for these longer term approaches.

Present manufacture of methanol amounts by volume to about 1 percent of the fuel used in highway vehicles (about ½ percent of the energy used since the heating value of methanol is about half that of gasoline). The forecast is that methanol from coal will be significantly less costly than ethanol, i.e., a selling price at the plant gate of about $0.30–.50 per gallon ($5.25–8.78 per million Btu[3]), depending upon such factors as feed stock price, rate of return on investment, and type of financing.

To provide some perspective on the magnitude of the supply problem, consider a rea-

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[1] All costs and prices herein are given in 1977 dollars.

[2] Based on lower heating value of fuel.

[3] Based on lower heating value of fuel.

sonable scenario for methanol from coal in which ten state-of-the-art plants would be constructed in the 1980–1990 time period. Each plant would be capable of producing approximately 6000 tons (1.9 million gallons) per day; the largest current methanol plant produces 2000 tons per day. This production capacity would provide about 5 percent of the expected energy demand for transportation-oriented gasoline by 1990. If one new plant per year of the same size came on stream during the 1990–2000 period, about 8–9 percent of the gasoline demand could be satisfied by 2000. The cost for plant construction alone would be about $450–500 million per plant, or about a $10 billion investment up to the year 2000.

Methanol from high-yield forestry biomass is projected to be in the same general price range as methanol from coal, even though the production facilities are expected to be smaller, more dispersed, and with a total supply less than that from coal. In addition, the technology for biomass gasification requires further development.

END-USE CONSIDERATIONS

Alcohols have been used as fuels in motor vehicles for over 60 years in many places in the world, generally in blends with gasoline or other petroleum products. Petroleum shortages, agricultural surpluses, or national independence have generally been the driving force behind such use of fuel alcohols, which has occurred despite the fact that the consumers had to pay a premium price. Ethanol has been the alcohol of choice in the past because of availiability from fermentation of local agricultural products. On a technical basis, ehanol can be considered to be somewhat better than methanol because of its higher energy content (75,670 Btu per gallon compared to 56,560 Btu per gallon for methanol), and also better phase stability and violatility characteristics in gasoline blends. Although methanol has also seen limited engine use in the past as a racing fuel, recent interest has been due to potentially greater availability, lower cost than ethanol, and costs generally competitive with other synthetic fuels.

The DOE has been investigating the utilization of alcohol fuels in highway vehicles for several years, both as blends with gasoline for initial implementation and as straight alcohols in the longer term. Although several problems have been identified with both types of fuels, they are considered to be solvable through available engineering techniques.

Most of the end-use emphasis to date has been on internal combustion engines for vehicles but some preliminary tests have indicated that alcohols are suitable fuels for gas turbine peaking units, utility boilers, industrial heating, and fuel cells. Such applications are planned to be explored in greater depth in the future within the DOE alcohol program.

For all the presently foreseen alcohol fuel applications, it appears that the fuel supply problem rather than end-use technology will be the pacing item in achieving widespread commercial implementation.

MAJOR ISSUES

There are major issues concerning alcohol supply potential, production cost, regional versus national end-use applications, and whether or not the Federal Government should foster commercialization. Despite the general acceptability of alcohols as fuels, numerous potential resource bases, and a variety of potential end-use applications, these issues serve as barriers to commercialization and utilization. The most important barrier is the fact that alcohols cost more than petroleum fuels. Methanol produced in large scale operations from non-petroleum resources may have a price comparable to current methanol manufactured from natural gas, but it would not be competitive with gasoline, at today's prices, on a dollars per Btu basis. In the case of ethanol, current and projected production prices based on fermentation of agricultural products are more than double those of methanol. On the other hand, ethanol from agricultural crops apparently has become cost competitive with industrial ethanol from petroleum.

Some non-energy issues have resulted in considerable interest in producing alcohols. Because of present grain surpluses, local or regional proposals to use ethanol from grain as a supplement to gasoline have raised the issue of the need for government tax and/or other incentives to offset the high cost of production. The desire to dispose of municipal solid waste and utilize forest and agricultural residues has resulted in still other proposals to produce and use methanol and ethanol on a small-volume localized basis.

THE DOE PROGRAM FOR RESOLUTION OF ISSUES

The DOE has a number of current activities directly related to the resolution of most of the above major issues. They include (1) the Alternative Fuels Utilization Program of Transportation Energy Conservation, (2) the coal gasification, methanol conversion, automotive test, and economic analysis projects of Fossil Energy, and (3) the agricultural and wood products of the Fuels From Biomass Program of Solar Energy, in response to Congressional, DOE, and other concerns regarding the production and use of ethanol and methanol as liquid fuels, an expanded plan of action is being implemented to (1) remove uncertainties, and (2) provide information supportive of potential national decisions in this area. This Plan contains the following basic elements:

Immediate Action Elements: A series of special studies to examine and help resolve key technological, economic, environmental, and institutional issues that obstruct or cloud commercialization decisions. Planning for early end-use demonstration is included.

Alcohol Fuels RD&D Element: An expanded and integrated continuation of current DOE alcohol-related RD&D activities in the Conservation, Fossil Energy, and Solar Energy areas.

The DOE is currently conducting a fuels Supply Strategy Study. The special studies in the Immediate Action Element of the AFP will provide analyses of key issue areas for alcohol fuels to support the Supply Strategy Study. These special studies will examine the following aspects of alcohol fuels use: (1) resource availability, (2) economic, environmental, and social impacts, (3) end use applications, (4) Federal fiscal consequences, (5) industry incentives, and (6) policy instruments for price control, market assurance, and import control.

An output of the Immediate Action Element studies will be an evaluation of various techniques for facilitating the commercialization of alcohol fuels. For example, one such approach to be considered is a regulatory program requiring that a specified percentage of the U.S. liquid fuel demand be met with domestically produced alcohols or other synthetic fuels.

The information provided to the Supply Strategy Study from these special studies together with existing information will permit a comparison with other liquid fuel options and result in a DOE decision on commercialization of alcohol fuels to be made by January 1979. Based on the policy selected, firm decisions can be made at that time as to (1) whether or not the current Alcohol Fuels RD&D program elements requires modifications, and (2) what additional program elements should be initiated, if any.

While these special studies are in progress, current programs will be expanded to (1) inform the U.S. public and industry on various aspects of the use of alcohol fuel in passenger cars and other applications, (2) improve the technology for conversion of renewable biomass via fermentation and gasification techniques, (3) perform mission analyses and system studies to assess market potential, (4) cooperate with the USDA in implementing the Food and Agriculture Act of 1977, and (5) cooperate with various state and local programs involving the production and/or use of alcohol fuels.

TIME FRAME CONSIDERATIONS

In the near term (by 1985), alcohol fuels are not likely to be extensively used on a commercial basis in the absence of new Federal initiatives because (1) the production costs of alcohols are much higher than those of gasoline, (2) there is insufficient production capacity with which to supply such fuels, and (3) there is no ready end-use market and support infrastructure. Limited use may occur in local areas where the fermentation of surplus grain to ethanol is subsidized by tax credits and loan guarantees for new plant construction.

Therefore, the DOE Alcolhol Fuels Program is structured to (1) help resolve the many issues associated with commercialization of alcohols, (2) help establish a National policy regarding alcohol fuel production and use, and (3) demonstrate selected production and end-use technologies which would permit and facilitate a rapid implementation of alcohol fuel production and use it if it should become National policy to do so (for reasons other than traditional marketplace economics).●

## RURAL SOLID WASTE

● Mr. HATHAWAY. Mr. President, in the State of Maine many small towns and communities are faced with EPA requirements to end open dump burning in order to comply with the Clean Air Act. These communities are frequently faced with a small tax base and relatively large expenses to obtain the equipment to convert to a sanitary landfill or some alternative to open dump burning.

At present there is inadequate Federal funding to help assist these smaller towns. In 1976 Congress authorized special assistance for small rural communities under section 4009 of the Resource Conservation and Recovery Act (RCRA). That section remains to be funded, however, as the specific requirements of the solid waste act have not yet taken effect. The program for State grants, which includes a set aside for technical assistance panels, is also proposed to be funded at less than one-half the authorized level of $42 million.

One of the most cost-effective ways for dealing with solid waste disposal problems is through recycling of materials. That effectiveness for large population centers has been apparent for some time. Rural areas, however, may also benefit from regional or multicommunity recycling projects, cutting down considerably on the need for land disposal. A recent publication of the National Wildlife Federation describes such rural projects, one already underway in Tennessee and three others being planned in various parts of the country, including Lincoln County, Maine. These projects show the possibilities for cost-effective, environ-

mentally sound solid waste projects in rural communities.

At this point, I ask to print in the RECORD excerpts from the articles on Lincoln County, Maine, and Benton, Tenn. from the NWF publication on "Rural Solid Waste."

The excerpts follow:

THE COUNTY THAT COULD!

For the past four years, Benton County, Tennessee has been demonstrating how a little creative thinking can be harnessed and applied to a particular situation to develop a rural solid waste management system that makes both economic and environmental sense. Although not perfect, the system developed by Thomas (Norman) Hale, Benton County Solid Waste Manager, is clearly a step in the right direction. In the past, valuable resources have been needlessly thrown away and rural areas have remained littered and polluted remnants of what was once the most pristine part of America. The way out of the open dump dilemma in sparsely settled rural America has often seemed blocked by the projected costs of establishing and maintaining a sound collection and disposal system. "Recyling" was a concept thought to be relevant only in the city. Fortunately, times have changed.

A sign of these changing times can be seen in Benton County. This small rural county in western Tennessee faced familiar barriers when citizens and local governmental officials sought to clean up their community. With a population of only 15,000 people, including 5,000 in Camden, the county's only sizeable city, local leaders were well aware that only a limited tax base and limited funding would be available. It became Hale's task to design and adapt a solid waste system to Benton County's situation in the most economical fashion possible. Hale found that the most economical approach would be to include the recycling of valuable materials. As a result, he has come up with a solid waste management system that is probably one of the least expensive countywide systems in the nation. Hale states that the system operates on a yearly budget averaging approximately $50,000. Yearly revenues from the recycling of various materials average around $25,000 and are a prime factor in keeping the cost of the overall system at close to half that of more typical solid waste disposal systems for counties of similar size and population.

Hale was able to utilize a fairly inexpensive collection system. He decided to use twelve large (20 cubic yard) containers which are located at key sites in the county on the roads leading to Camden. These containers, which cost $2,000 apiece, were the only items for his system purchased with outside funds, in this case federal revenue sharing funds. The containers are picked up and hoisted onto a regular flat trailer truck twice a week and emptied at the county sanitary landfill near Camden. When the truck picks up a full container it drops off an empty one.

For one month, Hale kept tabs on all the garbage and trash entering the county landfill, discovering that over 50 percent of the wastes were cardboard and paper. Realizing that by just breaking even on the added costs involved in recycling he would be ahead of the game since he would also be saving valuable landfill space, Hale started recycling paper, cardboard, and eventually white goods. Hale's approach to recycling is a flexible one, depending upon the dictates of the open market. He understands the environmental benefits that result from recycling, but his decision to engage in resource recovery in Benton County is of purely economic origin: it saves money. He has, at times when the price was right, recycled tires, plastic, and wooden boxes.

Currently, cardboard, metals, and aluminum are separated by hand and baled for sale to nearby markets located in Jackson (50 miles away) and Nashville (75 miles away), Tennessee. Most of the cardboard is brought to the landfill separately by truck from the companies in the county which use it in large quantities. A baler, which cost $5,000 to install, was donated to the landfill operation by a buyer of the recycled cardboard. Hale recycles about 100 tons of cardboard per month at approximately $25 per ton. He pays $4 per ton to a broker who assures him of a ready market at all times. Hale recycles an average of 25 tons of metal a month at $30 a ton and receives ten cents a pound for aluminum mixed with some iron. The revenue raised in the sale of these materials is used to offset operating cost for the entire system.

Hale's landfill and recycling operation is not only saving resources from waste, reducing overall costs, and extending landfill life, but it is also providing jobs at no extra cost to the community. The salaries paid to the additional workers involved in the baling and recycling process comes from the sale of the recycled materials which were previously just being thrown away.

To some, Hale's operation looks more like a salvage business than a recycling effort. Although he has constructed a building where the recyclable materials are baled and stored for shipment to the west Tennessee markets, piles of metal are left out in the open at various times and tires, wooden boxes, and tree shrubbery are left uncovered. Hale contends that this does not present a problem. He admits that pulling recyclables out of the waste stream as they enter the landfill detracts somewhat from exacting attention to other landfilling practices, but he can't see how recycling could prove economically feasible in Benton County, otherwise. He can also point to the significant sanitary and environmental improvements that have occurred since he was able to develop a system that is workable within Benton County's very limited budget.

In the future Hale may develop new methods for recycling resources in rural areas. What he has done so far, however, provides an illustrative example of tailoring a solid waste management system to prevailing local conditions, stressing the adaptive quality that is so essential if rural systems are to make sense for rural people.

DOWN EAST

"Down East" in coastal Lincoln County, Maine, site of the Project's first community education effort, a sudden burst of progress in the New Year culminated in the signing of a consulting firm to design a county-wide solid waste system. SCS Engineers of Augusta is drawing up the specifications for both a sanitary landfill and a materials recovery program.

Recycling will be accomplished through source separation of recoverable materials by the residents, who will, as always, bring the wastes to the town disposal site. Barrels will be provided for the recyclables. County funds will be used to purchase a few pieces of necessary equipment, including a truck and a baler, and for the construction of a central storage and service building. The overall operation will be serviced by a county employee, probably hired with Comprehensive Employment Training Act (CETA) funds.

The proposed sanitary landfill will serve primarily the Boothbay region where the bulk of the county population resides. The county seat, Wiscasset, currently operates a sanitary landfill as well.

The county is committing over $200,000 in compiled revenue sharing funds for implementation of the system. Warrants for individual towns to participate in the system will appear on the March town meeting ballots. An extensive public education program will precede actual start-up of the system.●

## GOADING ISRAEL

● Mr. CASE. Mr. President, I call to the attention of my colleagues an editorial in the Washington Post of April 7, 1978, on Israel's use of American arms in Lebanon. The editorial concludes that "a calculated decision seems to have been made to use the issue as a gratuitous political goad." I ask that the article be printed in the RECORD.

The article follows:

GOADING ISRAEL

For 26 years Israel has acquired arms under a formal agreement with the United States. On occasions too numerous to recite it has used those weapons *outside* as well as inside its own borders. Through three major wars and countless incidents, successive administrations have understood that the realities of Arab hostility justified the reading that, in using American weapons in that way, Israel was acting in legitimate self-defense. Why, then, did the secretary of state feel bound to slap Israel hard on Wednesday by informing Congress that Israel "may" have violated the 1952 military-aid agreement in its recent intervention in Lebanon?

Mr. Vance offered no explanation. He merely made the charge and indicated Washington would not invoke the arms cutoff that a 1976 law requires if a "substantial violation" of a military-supply agreement is found. But that is unsatisfactory. What *are* the standards the State Department applies, in this case and in general? All arms recipients are entitled to know. Is it conceivable that "legitimate self-defense," the 1952 language, does *not* cover a country that has lost more than 1,000 lives to terrorists crossing from a neighboring state—Lebanon—that does not perform the elementary national duty of policing its own territory? A country that, even as the rebuke arrives, is withdrawing its forces under the terms of a U.N. resolution drafted in the first instance by the United States? We don't understand.

We support the administration's strategy of seeking a Mideast peace agreement. But some of its tactics are insensitive. Right now, for instance, the administration should be concentrating on persuading Israel to rethink parts of its position in the negotiations with Egypt. It can only weaken the American case if, while presenting it, the United States acts in other ways to embarrass Israel and nourish its swollen suspicions that its security is of fading American concern. It is one thing to criticize the Lebanese operation, as we have done, for its heavy civilian toll. It is another to smear Israel with a vague allegation that puts a cloud over access to the arms on which its security depends. As a good lawyer, Mr. Vance could have found a half-dozen other ways to handle the congressional inquiries on Israel's use of American arms in Lebanon. Instead, a calculated decision seems to have been made to use the issue as a gratuitous political goad.●

## CAREER OPPORTUNITIES FOR SOCIAL WORKERS IN ISRAEL

● Mr. METZENBAUM. Mr. President, I would like to take a moment to inform my colleagues of an opportunity for Americans to make a positive contribution for themselves and to the State of Israel.

At the present time, there is a severe shortage of qualified social workers in Israel. Israel has long recognized that American social services are among the best offered in the world, especially in the field of social work. Recognizing this fact, an appeal has been made for professionals seeking a career in social work in Israel. Israel's own Minister of Social and Labor Affairs, Dr. Israel Katz, received his doctorate in social work from Case Western Reserve University in my home town of Cleveland, Ohio.

Israel is offering a challenge to interested Americans to take on a multiplicity of social problems. The need exists to work with thousands of immigrants from Arab countries who came to Israel without any worldly possessions or skills whatsoever. Many of these immigrants have been in Israel over 20 years, yet they are still struggling to gain basic social and economic security within Israel society.

Within the last 6 years, Israel has extended its social services twofold in order to bridge the social gap existing between native Israeli Sabras and new immigrants. However, all the money in the world without mobilized professional support will not begin to solve the problems.

The opportunity for a career commitment and a professional challenge exists for social workers in Israel. Israel offers wages equivalent to a better than middle-class standard of living.

Finally, I wish to praise Mr. David Bedein, the Israeli Representative of the Israel Association of Social Workers, for his work and determination to help Israel meet its unyielding social needs. Mr. Bedein is currently in the United States recruiting interested Americans for careers in social work. For the benefit of my colleagues, I ask that an article which appeared in the April edition of the National Association of Social Workers News, be printed in the RECORD.

The article follows:

ISRAELIS CROSS ATLANTIC TO FIND SOCIAL WORKERS

The Israel Association of Social Workers (IASW), represented in the U.S. by David Bedein, an Israeli-trained social worker and community organizer, has opened an office in New York City to launch a 9-month campaign to interest young American social work professionals and recent graduates in careers in Israel.

There is a severe shortage of qualified social workers in that country. Bedein, in a recent interview, said, "I am here on a mission, part of which is to tell every one within earshot of the serious need for social workers in Israel."

RECRUITMENT GOALS

As part of his vigorous campaign, Bedein, a native of Philadelphia, now in the U.S. on a grant from the Israel Government, plans to bring together people on a regular, informal basis so they may learn first-hand about the employment opportunities in Israel for social workers, the possibilities of making preliminary pilot trips to Israel, and the vital need for social workers there. It is his goal to recruit 400–500 professionals by mid-1978. There are currently about 1,750 certified social workers employed professionally in Israel (another 1200 non-professionals are also in the field) according to Bedein, and annual projections show that there will be a need for 500 more a year through 1981.

Susan Lapid, American-born and currently on leave from her Israeli-based job as a school social worker, will not be a target for Bedein's recruitment efforts—she has been committed to the challenge of effecting social change in Israel since she made a trip there during her sophomore year at Queens College. "I was so struck," said Lapid, "by the spirit and determination of the people of Israel to bridge the social gap between the cultures, that I felt this was the place for me to act upon my deep commitments . . ." Her enthusiasm runs high and her concern is evident as she describes some of the problems facing Israel society in general and the Israeli social worker in particular.

"People from the Eastern countries," she explained, "come to Israel with definite disadvantages. Basically, they are lacking in marketable skills for a modern western-oriented society. In addition, the children often enter school without the cognitive skills of those who come from European or American backgrounds. Although they may be just one year behind at the start, this gap widens irreparably year by year until they become discouraged, frustrated, and ultimately drop out of school." Her jobs, first as a street worker and then (upon graduation from the Hebrew University School of Social Work), as a school social worker, have brought Lapid up close to some of Israel's most pressing social problems. She has also worked as a juvenile probation officer and is already developing plans for a "youth village" for children to grow and flourish in a healthier environment than their homes can provide. Many large, poor Sephardic [1] families, according to Lapid, simply buckle under the strain of the shift from the patriarchal system to a more modern, egalitarian one, in which the woman of the household must also work.

STRANGERS COPING TOGETHER

When asked how her Sephardic clients accepted (or did not accept) her as an Ashkenazi [2] social worker, Lapid explained that they identify with her rather than respond to her with suspicion or fear. "They see me as one of them—an immigrant who speaks Hebrew with an accent—and they know I've been through a great many experiences similar to theirs in adjusting to a new life—and they're right. But they also know that I come from a more privileged background than they do, and that I have had to adjust to a more difficult life than I had in the States—they're right about that, too—and they respect that."●

[1] Sephardic—referring to a member of the occidental branch of European Jews settling in Spain and Portugal, or one of their descendants.

[2] Ashkenazi—a member of one of the two great divisions of Jews comprising the eastern European Yiddish-Speaking Jews.

## FINANCIAL STATEMENT OF MR. LUGAR

● Mr. LUGAR. Mr. President, consistent with a practice which I established during my service as mayor of Indianapolis, I am submitting personal financial statements for publication. Included are itemizations of net worth, income, and taxes paid by Richard and Charlene Lugar.

I insert these statements to be printed in the RECORD.

The statements follow:

*Senator Richard G. and Charlene S. Lugar, sources of income for year ending December 31, 1977*

| | |
|---|---|
| U.S. Senate | $55,102 |
| Secretary-Treasurer, Thomas L. Green & Co., Inc. | 24,419 |
| Lugar Farm Co., partnership distribution | 2,271 |
| Lugar Stock Farm, Inc., dividends | 342 |
| Thomas L. Green & Co., Inc., dividends | 6,772 |
| Honoraria from speeches | 24,945 |
| Interest on savings accounts | 374 |
| Reimbursement from campaign fund for expenses | 1,108 |
| Net rent income from personal residence | 1,006 |
| Total income | 116,339 |
| 1977 Federal income taxes paid | 33,748 |
| 1977 Social security taxes paid | 965 |
| 1977 Indiana State and local taxes paid | 4,803 |
| Total Federal, State, and local taxes | 39,516 |

Taxes Paid as Per Cent of Income=34.0 percent.

*Senator Richard G. and Charlene S. Lugar, financial statement, Mar. 31, 1978*

ASSETS

| | | |
|---|---|---|
| Cash in savings and checking accounts | | $371.00 |
| Cash value of life insurance | | 39,353.53 |
| Adjusted residence—land and improvement costs | 181,090.17 | |
| Less: Mortgage | 83,084.47 | |
| | | 98,005.70 |
| Automobiles—current estimated values | | 8,500.00 |
| Thomas L. Green & Co., Inc. (233½ shares of common stock at cost, December 1962) | | 61,293.25 |
| Lugar Stock Farm, Inc. (168 shares owned by Richard and 60 shares owned by Chalene at cost, December 1959) | | 22,800.00 |
| Lugar Farm Company (⅛ share of partnership—book value as indicated in 1977 tax return) | | 4,029.03 |
| Individual retirement account as of Dec. 31, 1977 ($1,500 deposited both in 1975 and 1976 at 1st Federal Savings and Loan, Indianapolis, Ind.) | | 3,387.34 |
| Total net assets | | 237,739.85 |

NOTES.—The shares of Thomas L. Green & Company, Inc. and Lugar Stock Farm, Inc. represent minority interests in closely held family businesses. The last transaction in the stock of Thomas L. Green & Company, Inc. occurred in December of 1962 when Thomas R. Lugar and Richard G. Lugar purchased an equal number of shares at the cost presented in this statement. It is probable that the shares have increased in value.

No transactions have occurred in the stock of Lugar Stock Farm, Inc. since its incorporation in December of 1959. The cost of the shares was then based on an Internal Revenue Service appraisal when the estate of the late Marvin L. Lugar was settled. The 604.5 acre Lugar farm was valued at $305.00 per acre in November 1956.●

## JOBS AND THE ENVIRONMENT

● Mr. McGOVERN. Mr. President, one of the most distressing events of the last few years has been the unnecessary hostility between environmentalists on the one hand and trade unionists and working people on the other. The issues involved in building large new powerplants, particularly nuclear plants, has

divided groups which should be natural allies working for social progress.

I have been extremely impressed with the work and thinking of Dr. Barry Commoner, of the Center of the Biology of Natural Systems, at Washington University in St. Louis, Mo. He has become one of the most effective spokesmen on energy questions in the United States.

In recent months, Dr. Commoner has begun to analyze the problem of continuing high unemployment. He argues effectively that our national commitment to capital intensive energy development is in part responsible for our high unemployment. Dr. Commoner points out that the development of energy conservation, solar energy, and other alternative energy technologies is required if we are to significantly reduce unemployment in America.

Mr. President, I ask that Dr. Commoner's speech to the Canadian Labour Congress on February 20, 1978 entitled "Energy and Labor: Job Implications of Energy Development or Shortage" be printed in the RECORD.

The speech follows:

ENERGY AND LABOR: JOB IMPLICATIONS OF ENERGY DEVELOPMENT OR SHORTAGE

The theme of this conference—jobs and the environment—is a timely and crucial one. Both are urgent and unsolved problems. Canadian unemployment has jumped from a "normal" rate of 4 or 5 percent to 8.4 percent, the highest since World War II. In the United States, despite a 6.4 percent figure in December, unemployment averaged 7 percent last year. About 15 percent of young workers are unemployed and nearly 40 percent of young, black workers are unemployed. At the same time, in spite of major legislation and a huge effort to clean up the environment, we are still plagued by pollution. Some environmental problems, like toxic chemicals, have become even worse. Their most serious effects, such as sterility and cancer, have been imposed on labor—the workers who produce and use these chemicals.

Now the persistent problems of unemployment and environmental decay have been joined by a third one—the energy crisis. Although there is much confusion about what the energy crisis is, who is to blame for it and even whether it is real, this much is clear: Whatever is done about energy or even if nothing is done, it will have enormous effects on both jobs and the environment, and indeed on all the other issues with which labor is concerned—prices, working conditions and the strength of the economy.

We therefore confront three serious, simultaneous problems: Unemployment, environment and energy. The worst feature of this troublesome triumvirate is that it seems impossible to solve any one problem without making the others worse When more than 20,000 U.S. steelworkers were laid off in the last six months and steel plants closed, the industry blamed the cost of pollution controls for its inability to compete with steel imports. Here in Canada you are told that to meet the nation's energy needs, much of Alberta's land and water must be diverted to mining tar sands, and that the resulting environmental damage must be borne as a kind of patriotic duty.

People seem ready to accept the notion that there are built-in, insoluble conflicts among the three goals of employment, energy sufficiency and environmental quality. Compromise seems to be the only way out, trading off jobs for environmental quality and energy for agricultural land and clean waters. "There is no free lunch," we are told; we cannot meet all these goals at once, something has to give. Anyone proposing to solve one of the problems is expected to question the importance of solving the others. The oil companies call for strong incentives for oil and natural gas production, but want environmental controls to be "reexamined" and made "more reasonable." Those of us who are seen as "environmentalists" are expected to argue strongly for environmental quality and energy conservation, making only some sympathetic sounds about the plight of the unemployed.

And inevitably, labor is caught in the middle. Utility executives and business leaders pressure labor to join battle against environmentalists, claiming that their opposition to nuclear power plants will throw people out of work. Auto executives pressure the unions to join in condemning gasoline conservation for fear that it will worsen the economic situation in the auto industry.

Before I examine this situation, let me make my own position unambiguously clear:

If there were in fact a conflict between jobs and environmental quality, or between maintaining the supply of energy and ecological balance, I would personally favor actions that cut unemployment and maintain the flow of energy, and suffer the environmental consequences. I say this because my own interest in the environment and in a sensible energy policy is based on a much more fundamental aim—the improvement of human welfare. And I know of no way to accomplish that aim if people are out of work, if inflation is rampant and the economic system is in a decline.

I'd like to carry this argument even further, and assert that of these three issues, the one which most urgently needs to be solved is unemployment, and the attendant problems of runaway inflation and economic decline. Unless we can solve the unemployment problem, the rest won't matter very much. How long can we tolerate the rejection of one in every five young workers—or two in five if they are black—trying to find their very first job; trying, as every young person must, to discover if they can find a place in society? It is hard to conceive of a nation finding the will to tackle the enormously complex energy crisis or coping with thousands of chemical pollutants when the new generation which is supposed to reap the benefits of these improvements is condemned to such despair. Or to put it in more practical terms, an economic system incapable of finding work for such a large proportion of its new generation of workers could hardly be expected to muster the huge financial resources needed to clean up the environment and to weather the energy crisis. On these grounds I am convinced that if we were forced to choose among them, the task of reducing unemployment and of rebuilding the faltering economy would have to take precedence over the energy and environmental crisis.

But are we in fact forced to make this desperate choice? Must we sacrifice environmental quality—which is, after all also essential to human welfare—on the altar of high employment and economic stability? My answer is *no*.

I am aware that this is a strong claim which seems to fly in the face of common wisdom about our trio of crises. And I would agree, if you are convinced that people are unemployed because they don't want to work, that the Arabs are to blame for the energy crisis and that pollution is due to our sloppy habits, it is indeed hard to see any connections among the three issues. Looked at this way, there does not seem to be a way to harmonize the three goals rather than compromise them; to solve all the crises rather than trying to improve one situation by worsening the others.

But if we look for more funamental reasons why, like ancient Egypt, we have been afflicted with this series of unexpected plagues, we will discover that they are connected. More than that, we will discover that the only way to meet the fundamental needs of labor—to reduce unemployment and inflation and reverse the present economic decline—is to adopt a policy that would at the same time make sense out of the energy crisis and reduce pollution. The reverse is also true: the only sound energy and environmental policy—a policy that can best give the nation a stable energy supply and a clean environment—is one that serves these needs of labor. This is the main point of my remarks, in which I hope to demonstrate why I have reached these conclusions.

To begin with, we must recognize that the place where labor works, where energy is produced and used, and where most environmental problems are created, is the same: the productive enterprise—the mine, the factory, the farm. This means that the relation between the availability of jobs, the production and use of energy and impact on the environment depends on how these productive enterprises are designed and operated—more generally, on the technology of production. In turn, the design and operation of a mine, a factory or farm involves economic factors: the wages paid to labor, the price of energy and other necessary inputs, the amount of capital needed to buy or build the productive machinery, the value of the goods that are produced and the expected rate of profit.

The welfare of labor—the availability of jobs, for example—depends on how this complex system operates, and that, in turn, depends on how all of its different technological and economic elements are connected. What labor requires from this system, simply stated, is that it should operate at its highest possible capacity; that it should provide, for all who can work, decent jobs at decent pay, in conditions that protect safety and health; that the goods which it produces should be sold at prices that labor can afford; that inflation, which erodes the standard of living, should be controlled; that labor should be free to organize and to take part in the decisions which affect its welfare.

Our task here is to learn how the production and use of energy and the quality of the environment affect these requirements which labor—and indeed society as a whole—must place on the production and economic system. Specifically, we need to ask what energy policy will encourage strong economic activity, ample job opportunities, control inflation and enable labor to play its proper role.

The first, most obvious feature of such a policy is that energy must be available. It is a simple, but often overlooked fact that every form of production—in factories, farms, transportation, offices—requires energy and cannot operate without it. This is the inescapable result of the physical laws which govern the production and use of energy. These laws tell us that work must be done if we wish anything to happen that won't happen by itself (for example, producing an auto) and that work can be done only if there is a flow of energy. Any block in the flow of energy means that production stops—and people lose their jobs. And a small interruption in the flow of energy can have a much larger effect on the economy. For example, when the Midwest ran out of natural gas last winter—because Texas producers preferred to make an extra profit of $1 per thousand cubic feet by selling gas within the state rather than shipping it north at a lower, regulated price—the resulting economic dislocation involved losses, in wages alone, many times greater than the cost of the missing fuel. No matter what else is done about energy, it must continue to flow if goods are to be produced and people are to remain at work.

The second basic point is that the availability of energy depends on its price. People have frozen to death because they couldn't afford to pay their utility bill. In turn, the price of energy has a heavy influence on general inflation and worsens its damaging effects: reduced purchasing power, lowered demand for goods, depressed production and unemployment. Because energy is used in producing all goods and services, when the price of energy rises it inevitably drives up the cost of everything else. When the price of energy, which was essentially constant for 25 years, suddenly began escalating in 1973, wholesale commodity prices followed suit. Before 1973 commodity prices had been inflating at a modest rate of about 2 percent a year. After 1973 they took off, going into double-digit figures in 1974, and since then running at more than 10 percent a year.

The prices of goods that are particularly dependent on energy are hardest hit by inflation. Unfortunately, these energy-intensive goods include housing (which depends on the cost of fuel and electricity), clothing (most of which is now made from petroleum-based synthetic fabrics) and food (which now heavily depends on fertilizers and pesticides, chemicals made out of petroleum and natural gas). This puts a particularly heavy burden on the poor. In the United States, the poorest fifth of all families use about 25 percent of their budget to buy such energy-intensive items; the wealthiest fifth of the families use only 5 percent of their budget for this purpose. When the price of energy rises the poor suffer most.

The rising price of energy also damages the economy and increases unemployment because of its influence on economic predictability. This is an important factor in a new industrial investment because an entrepreneur needs a reliable prediction of the long-term cost of the energy needed to operate it. This is how the rate of return on the investment is computed—the famous "bottom line" which determines whether or not an investment will be made. The price of energy is now rising at a rate unprecedented in the history of the United States. In the ten years before 1973 the energy price index increased at about 3.7 percent per year; in 1973–76 it increased at the rate of 25 percent per year. The problem for the businessman is not so much the actual price of energy, since in most cases he can pass the cost—and usually a little more—along to the consumer. What the businessman cannot cope with is the rate of increase, because when the rate is very high it is also uncertain, making future energy costs highly unpredictable. Several business commentators have pointed to such uncertainties as a major cause of the present slow rate of investment—which means that plants are not built, and job opportunities are lost.

Unfortunately, nearly all of our energy now comes from sources that must, inevitably, rapidly increase in price. Nearly all of our energy comes from oil, natural gas, coal and uranium. These are nonrenewable resources. They are limited in amount. We are "running out" of them. At this point some people tend to visualize oil and gas supplies slowing down to a trickle as the underground pools run dry. But that is not the way it works. What happens as oil, for example, is taken out of the ground is that the easiest oil to produce is produced first. As a result, the cost of producing oil inevitably escalates as more oil is produced. The law of diminishing returns is at work. As production of oil, natural gas and, more recently, uranium, increased it became necessary to drill deeper, to tap smaller deposits and to use more expensive recovery methods.

Inescapably, whenever the limited supply of a nonrenewable fuel is sufficiently depleted, its price begins to rise exponentially—that is, the higher the price, the faster the price increases. (In the case of oil this is sometimes blamed on OPEC and the Arab states' embargo. But in fact two years before the embargo, the OPEC oil ministers got their cue from a massive and detailed report published by the U.S. National Petroleum Council. The NPC—which should know, since it is composed of the officers of the U.S. oil companies—predicted that the price of domestic U.S. oil, which had been essentially constant for the previous 25–30 years, would, beginning in 1972–73, need to rise exponentially if the oil companies were to maintain their rate of return on investment. The OPEC oil ministers believed their American colleagues and took steps to see that they were not left behind.)

In sum, the situation is this: As long as we continue to use nonrenewable energy sources, the price of energy will continue to escalate, causing a series of disastrous economic effects—rapid inflation, an erosion of the standard of living of poor families and uncertainties about investments in new production—all of which depresses the economy and worsens unemployment. Continued dependence on nonrenewable energy sources inevitably hurts the country, and labor in particular.

A third basic link between energy and the economy is provided by capital. We now hear frequent complaints in the financial columns that the present weakness of the economy is in good part due to the lag in new capital investment. This is an ominous sign, for a slow rate in investment in new productive enterprises today means much lower productive capacity—and job opportunities—tomorrow. The availability of capital, and the willingness of investors to risk it in new productive enterprises, is a crucial feature of the economy's health.

There is a close connection between the flow of energy and of capital. It is widely recognized that the availability of capital strongly influences energy production. Utilities have been forced to abandon new construction projects (especially nuclear power plants) and investors have been forced to abandon synthetic oil and shale oil projects for lack of the necessary capital. What is less well-known is that the opposite connection is also important: The ways in which we now produce and use energy strongly influence the availability of capital, and therefore the rate of new investment which depends on it.

Various methods of producing energy differ considerably in their capital productivity—that is, in the amount of energy (for example, BTU's) produced annually per dollar of capital invested. One dollar invested in oil production (in 1974) produced about 17 million BTU's of energy per year. But that same dollar invested in producing strip-mined coal yielded only 2 million BTU per year; in shale oil about 400,000 BTU per year; and nuclear power brings up the rear with the equivalent of 20,000 BTU per year. Thus, any energy policy which emphasizes the production of electricity (particularly from nuclear power plants), rather than direct burning of fuel; which favors the use of coal over oil and natural gas; or which emphasizes the production of synthetic or shale oil, would worsen the energy industry's already serious drain on the availability of capital.

Each of the different ways of producing energy also has its own particular demand for labor. For example, in 1973 for every unit of energy yielded (trillion BTU's), oil and natural gas extraction created six jobs; strip mining, six jobs; deep coal mining, 18 jobs. As a result of these differences, and differences in capital productivity, the same amount of capital invested in different ways of producing energy can have very different effects on unemployment. For example, one calculation shows that a given amount of capital would produce two to four times as many jobs if invested in solar energy rather than electricity generation. A report to the New York State Legislative Commission on Energy Systems calculated that investment in energy conservation would produce about three times as many jobs as the same capital invested in nuclear power.

Finally, the impact of different forms of energy production on working conditions and on the general environment also vary a great deal. The physical dangers of work in coal mines and the risk of diseases such as black lung are well known. In the nuclear power industry, uranium miners are exposed to particularly high risks of radiation-induced cancer. The risks of radiation to other workers in the industry are still poorly understood, but some recent studies suggest that they may be higher than most earlier estimates. Shale oil production and conversion of coal to synthetic fuels produce highly carcinogenic substances; workers in a pilot coal conversion plant operated in West Virginia in the 1960's suffered 16–37 times the incidence of skin cancer as comparable workers in different jobs. There may be similar problems in tar sands operations.

The environmental impact of different energy sources closely parallels their impact on the workers' health. Coal mining, shale oil and tar sands oil production devastate the land and use large amounts of scarce water. Coal conversion operations are heavy polluters of the air. Coal-burning powerplants pollute the air with nitrogen oxides, sulfur dioxide and carcinogens. The nuclear power industry has yet to solve its serious environmental problems, such as safe disposal of radioactive wastes. Recent reports show that radiation leaking from reactors has contaminated milk from nearby dairies with unsafe levels of strontium 90. When energy is conserved all of these difficulties are, to that extent, reduced. And if solar energy were used instead of these conventional sources, environmental impact would be very sharply reduced.

From these considerations it is apparent that the effect of energy production on major factors which govern the welfare of the nation, and of labor in particular—inflation, employment, the availability of capital, working conditions and environmental quality—varies greatly depending on the form of energy which is produced. While a continuous flow of energy in some form is essential to keep the production system going and the economy strong, the way the flow is sustained can have the opposite effect. For example, if we were to choose to sustain the necessary flow of energy by relying heavily on very capital-intensive sources of energy (such as nuclear power, shale oil production and the production of synthetic fuels from coal) the enormous drain on capital would hinder investments in the productive enterprises that use the energy and seriously disrupt economic development. It is true that continued production of energy is essential to the economy. But it is also true that we could literally bankrupt the economy by investing heavily in the wrong kinds of energy production.

Perhaps the most striking example of this danger is nuclear power, as Saunders Miller, a prominent utilities investment counselor, has pointed out:

"Based upon thorough in-depth analysis, the conclusion that must be reached is that, from an economic standpoint alone, to rely upon nuclear fission as the primary source of our stationary energy supplies will constitute economic lunacy on a scale unparalleled in recorded history, and may lead to the economic Waterloo of the United States."*

*The Economics of Nuclear and Coal Power, Miller, S.; New York; Praeger Publishers, 1976; p. 109.

If we turn now from the ways in which we produce energy to a consideration of the ways in which we use it, we see once more that there are profound differences which seriously affect both labor and the national welfare. Here we need to consider how efficiently energy, capital and labor are used in production processes. A convenient way to measure these efficiencies is in terms of the productivity of an enterprise, such as a particular manufacturing operation. This measures how much economic gain—usually expressed as value added—is produced per unit of energy, capital or labor used. Thus, three basic productivities need to be considered:

Energy productivity, or how efficiently the enterprise converts the energy that it uses into value added. This is measured as: dollars of value added per BTU used in production.

Capital productivity, or how efficiently the enterprise converts the capital invested in it into value added. This is measured as: dollars of value added per dollar of capital invested.

Labor productivity, or how efficiently labor is converted into value added. This is measured as: dollars of value added per man-hour.

Let us compare the productivities of two industries which produce competing materials: leather products and the chemical industry which produces the plastics that have so heavily replaced leather and other natural materials. Of the two industries, leather production is about 4.5 times more efficient in converting capital into valued added, and nearly 13 times more efficient in its use of energy. This relationship between capital and energy productivity is quite general among different industries. Five industries, petroleum products, chemicals, stone, clay and glass products, primary metals and paper, account for about 59 percent of electricity and 77 percent of the total energy used in manufacturing. They also have the lowest capital and energy productivities of all major sectors of manufacturing.

There is a good correlation between energy productivity and capital productivity because energy is used to run the machines purchased by capital; the more capital (machinery) involved in an industry, the more energy it uses. And in many cases, this means fewer jobs, since the energy is often used to replace human labor. For example, for the same economic output the chemical industry uses less than one-fourth the amount of labor than the leather industry.

Another important feature of the relation between energy and the economic system is that—strange as it may seem in the light of supposed economic principles—capital and energy tend to flow toward those enterprises that use them least efficiently. Capital used in industrial production flows heavily toward those sectors which are low in both energy productivity and capital productivity. For example, the five industries cited earlier that use energy and capital least efficiently use nearly one-half of the capital invested in all manufacturing industries. In contrast, the seven most energy-efficient industries (such as leather production) use only 7 percent of the capital invested in manufacturing.

As pointed out earlier, various methods of producing energy also differ significantly in their capital productivity (i.e., how efficiently capital is used to produce energy). Here too capital tends to flow toward those enterprises which use it least efficiently. For example, although electric power represents only 21 percent of the total amount of energy which we use, it consumes 56 percent of the capital invested in energy production. At the same time, due to thermodynamic limitations, no more than one-third of the fuel used to drive a power plant is converted into electricity. Electric power is therefore by far the most expensive form of energy in terms of capital expenditure. When electricity is used to produce space heat, more than 97 percent of the thermodynamic value of the original energy is wasted. Yet about a fifth of U.S. electric power is used in this way—an enormous waste, not only of energy, but also of the capital needed to produce job-generating factories and homes.

In recent years industries with high energy and capital productivity (such as leather) have given way to industries with low capital and energy productivities (such as plastics). This is particularly true of the displacement of natural products (leather, cotton, wool, wood, paper and soap) by synthetic ones (plastics, synthetic fibers and synthetic detergents). For the reasons cited earlier, this displacement not only drains supplies of energy and capital, but also worsens unemployment. In the U.S. about half of the unemployment is "technological"—that is, job opportunities lost when such new production technologies are introduced and cut the overall demand for labor—and usually disproportionally increase the demand for energy and capital.

Now we can see the basic links among energy, the economic system and the environment: The same shifts in production technology that reduced the productivity of capital and energy and have cut the number of jobs usually increased the impact of production on the environment. As synthetic products replaced natural materials more petroleum and natural gas were used both as raw materials and for fuel, polluting the environment with combustion products and toxic chemicals. The petrochemical industry demonstrates the close links among the wasteful use of energy and capital, the assault on the environment and unemployment.

Thus, we find that unemployment is part of the same economic trends that generated the energy crisis and the environmental crisis: Energy has been produced increasingly in forms (especially electric power, and nuclear power in particular) which use a great deal of capital relative to the amount of energy that they yield. As a result, energy production has claimed an increasing proportion of the capital available for business investment, making it less available for investment in new job-creating enterprises. (In 1960, energy production claimed 26 percent of the capital invested in industry; by 1980 it is expected to claim more than a third.) At the same time, industries which use energy inefficiently also use capital inefficiently; they also pollute the environment most heavily and are often least effective in creating jobs. In sum, the same economic tendencies—the displacement of labor by energy-driven machines—that have worsened employment carry a good deal of the responsibility for the energy crisis and the environmental crisis. The crises in employment, energy, and the environment are, in this sense, the same crisis.

Against this background what can be said about Carter's National Energy Plan, which is the United States' first effort to establish a comprehensive energy policy? Judged by the standards developed above, most of the plan must be given rather bad marks, especially for its effect on labor. The plan is based on the strategy of raising energy prices as a means of encouraging energy conservation. Leaving aside that the plan would in fact accomplish very little conservation (only 16 percent of the increased demand for energy between now and 1985 would be met by conservation) this approach will only worsen inflation, and with it unemployment and all the economic ills which trouble labor.

The plan mandates a sharp increase in the present rate of nuclear power plant construction and in the use of coal—with a resulting doubling in the contribution of electricity to the energy to be acquired between now and 1985. This means heavy reliance on the ways of producing energy that are most wasteful of capital, a step that is certain to add to our present economic difficulties. At the same time, by increasing the availability of electricity (relative to direct use of fuel) the plan would encourage those industries that are power-intensive—and which are thereby likely to use little labor. Finally, the plan would create enormous new environmental difficulties, because it relies so heavily on the two methods of producing energy that most severely threaten the environment—the use of coal and nuclear energy.

In sum, the National Energy Plan is likely to aggravate the energy crisis rather than solve it, for it would worsen the main effects of the energy crisis: inflation, unemployment and economic uncertainty. This means, I fear, that if the plan is enacted in anything remotely resembling its present form, we would be confronted even more by the divisive antagonisms among those concerned with unemployment, energy and the environment that only contribute confusion to a national debate that cries out for clarity.

Is there no way out? There is. There are alternatives to the nuclear power plants, the strip mines, the coal gasification projects, to the continued use of oil and natural gas which will rise in price forever. The alternative is, of course, solar energy.

Now at this point many people will react with a faraway look in their eyes, and perhaps with some impatience and frustration, expecting to hear another one of those pie-in-the-sky schemes about a beautiful solar future. But that is not what I am talking about. I am not going to tell you that all will be well if we do more research on solar energy, set up a few more demonstration houses or learn how to build a solar power plant in space. What I am going to tell you—and not on my own authority, but on the authority of U.S. government agencies—is that for most methods of using solar energy the technology is already in hand, and can be introduced at once in most parts of the country, for a wide variety of uses, at economically competitive costs. To many people, and apparently to some government officials, this is news. But it is good news, for the most important thing about solar energy is that unlike conventional energy sources it will stabilize the price of energy, slow inflation and improve investment planning; it will create rather than destroy jobs; it can turn the country's faltering economy around. It can give us a real energy plan that solves the energy crisis rather than making it worse—the kind of energy plan that meets the needs of labor.

Here are a few reminders about what solar energy is all about.

First, unlike oil, natural gas, coal or uranium, solar energy is renewable; it will never run out (or at least not in the next few billion years). Because solar energy is renewable it is not subject to diminishing returns—which means that its price, instead of escalating like the price of present energy sources, will be stable and even fall as the cost of devices continue to decline. By stabilizing the price of energy, solar energy reduces the threat of inflation and eases the task of planning investments in new productive enterprises, thus relieving two of today's worst economic problems.

Second, the use of solar energy does not depend on any single technique. There are different sources of solar energy, some forms more available in one place and other forms in other places. Everywhere that the sun shines solar energy can be trapped in collectors and used for space heat and hot water. Of course, the amount of sunshine varies from place to place, but not as much as most people think. The sunniest place in the

United States, the Southwest, gets only twice as much sunshine as the least sunny place, the Northwest. In some places the most available form of solar energy may be wind (the wind blows because the sun heats the air on the earth's surface unevenly). In agricultural areas solar energy will be available in the form of organic matter (which is produced by plants, through photosynthesis, from sunshine): manure, plant residues, or crops grown to be converted into methane (the fuel of natural gas) or alcohol. In forested areas, waste wood, or even wood grown for the purpose, can be converted into heat, either directly, or by being made into gas. And wherever the sun shines, photovoltaic cells can be used to convert solar energy directly into electricity.

Third, for each of these solar processes the scientific basis is well understood and the technological devices have been built and are in actual use. Solar collectors are used all over the world, and were once (about 30 years ago) common in Florida and California; small windmills used to dot the farm landscape; methane plants are in operation in hundreds of thousands of Indian and Chinese villages; alcohol produced from grain was used extensively, mixed with gasoline, to run cars and trucks during World War II; photovoltaic cells now power satellites and remote weather stations. Of course solar energy needs to be stored during the night or over cloudy periods. This can be done in batteries, in tanks of alcohol or methane, in silos full of grain, as standing timber, or for that matter in piles of manure. All these items exist.

The main questions are, once again, economic: Granted that most solar technology exists, does it pay to introduce it? More precisely the question is not whether it will pay, but when. The cost of conventional nonrenewable fuel is now rising exponentially and will do so indefinitely. Since it is renewable, the cost of solar energy is fixed only by the cost of the equipment, which will fall in price as experience is gained. Place these two curves on the same time scale and inevitably they will sooner or later cross. Solar energy, which a few years ago was more expensive than the conventional alternatives, will inevitably equal them in price and then each year become cheaper relative to conventional energy.

Estimates of when and how solar energy systems become economically advantageous have now been made by the Solar Energy Task Force of the Federal Energy Administration (now part of the new Department of Energy). Here are the main features of the task force's "National Solar Energy Plan":

Solar heating: In most of the central part of the United States, if the government would provide low-cost loans, it would today pay a householder who uses electricity or oil for space heat and hot water to replace about half of it with a solar collector system. Even borrowing all the necessary funds at eight percent interest, with a 15-year amortization period, would cut the average annual heating bill by 19–20 percent.

Photovoltaic electricity: Here is the biggest surprise. For a long time even those of us most optimistic about solar energy were convinced that this technology—a wonderfully simple way to produce electricity from sunshine—was unfortunately so expensive as to remain uncompetitive for some time to come. Now the FEA report shows that the production of electricity from photovoltaic cell systems can compete with conventional power sources and exactly how that can be accomplished. The report shows that, beginning immediately for the more expensive installations such as gasoline-driven field generators, within two years for road and parking lot lighting, and within five years for residential electricity in the Southwest, photovoltaic units can compete, economically, with conventional power. All that is required to achieve this remarkable accomplishment is to invest about $0.5 billion in the purchase of photovoltaic cells by the federal government. This would allow the government to order about 150 million watts capacity of photovoltaic cells. This order would allow the industry to expand its operations sufficiently to reduce the price of the cells from the current price of $15/watt (peak) to $2–3/watt in the first year; to $1/watt in the second year and to $0.50/watt in the fifth year, achieving the competitive positions noted above and successfully invading the huge market for conventional electricity. A similar federal (or state) purchase plan could bring large-scale power-generating windmills down to a competitive price, according to the FEA report.

Methane and alcohol production from organic matter: While methods of commercializing these sources of solar energy have not yet been worked out by the FEA task force, current research already begins to show that can be done. Public works funds can be used effectively to rebuild urban garbage and sewage-sludge disposal systems so that they generate methane, which can help meet a city's energy demand. In certain farm operations—such as a dairy with 200 or more cows or a farm raising 5,000 or more chickens—it is already economical to replace current manure-disposal systems with methane generation, using it, for example, to produce electricity to drive farm machinery and heat to warm the barns. In Texas, one company has already begun to sell methane produced from feed-lot manure to the natural gas pipelines. Several Midwestern states are actively developing alcohol production from grain, as a partial substitute for gasoline in cars, trucks and tractors.

The most important aspect of solar energy, I believe, would be its effect on employment and economic recovery, but solar energy has another unique feature—it has no economy of scale. In all conventional energy production, there is a very large economy of scale—the cost of the energy falls sharply with the size of the unit. Solar energy is very different. When a farmer wants to produce more corn he does not produce bigger corn plants, but plants more of them over a larger area. And each corn plant operates at the same efficiency, so that one acre of corn traps solar energy as efficiently as 1,000 acres of corn. The same is true of all solar techniques, such as photovoltaic cells. You can run a flashlight or a whole house on photovoltaic cells, at the same energetic efficiency.

In conventional energy production the large economy of scale means that only very large corporations can compete (that explains why the energy corporations are such big ones). In solar energy production a small or middle-sized company (or a household) can do as well as a corporate giant. As a result, huge, centralized solar installations are unneeded. The power can be produced on a scale that matches its use, where it is used, thus eliminating the need for heavy transmission systems (although light ones will be useful to balance out production and demand). It is easy to see that the introduction of solar energy would mean a rebuilding of not only our system of energy production, but also many of the ways in which energy is used in manufacturing, agriculture and transportation. This would mean a vast program of new construction; it would create new jobs, and in doing so begin to control inflation.

The point of the foregoing analysis of the economic consequences of different ways of producing and using energy is not so much to support this particular theory about the role of energy in the production and economic system. What I wish to emphasize is the basic point that all energy sources and ways of using energy in production, are not alike in their effects on jobs, inflation and economic stability—and therefore on the interests of labor. Yes, some form of energy must be available if production and the economy is to continue—if goods are to be produced and if people are to have jobs and afford to buy what they need. But it makes a big difference which form of energy is chosen to support production, and how it is used. Choose the wrong form of energy and the effort to support the economy and create jobs will have the reverse effect. The economy will suffer and jobs will be lost.

Consider, for example, the often repeated claim that nuclear power plant construction is a good way to produce energy, support the economy and create jobs. This claim simply does not stand up before the facts. When compared with alternative ways of producing the needed energy it becomes clear that nuclear power is not the best way to sustain the economy and to provide jobs. Here is a concrete example: The Fiat Company, in Italy, has just announced the availability of a cogeneration unit ("TOTEM") which uses natural gas, or methane produced from a solar source, to drive a converted gasoline engine, producing electricity and recapturing the normally wasted heat as a source of space heat. About 67,000 TOTEM units would produce a total of about 1,000 megawatts of power—the capacity of a typical U.S. nuclear power plant. However, whereas the nuclear plant would cost about $1 billion, the TOTEM units would cost only $191 million, and they would produce electricity at about one-fourth of the cost of electricity from the nuclear plant.

The economic efficiency of such cogeneration units, as compared with nuclear power means not only lower electricity prices, but also a more effective use of capital, therefore more opportunities for productive investment of capital—and more jobs. Because they can run on methane—a renewable solar fuel—such units can help bridge the gap between our present dependence on nonrenewable fuels and a solar economy. As should be evident from Fiat's accomplishment, such units could readily be manufactured in U.S. and Canadian auto plants, where they could take up the slack created by the disruptive effects of the energy crisis.

It is also informative to compare nuclear power with photovoltaic cells. If the proposed U.S. federal purchase plan were carried out, in five years or so the photovoltaic industry would expand enough to begin to allow local installations to compete economically with nuclear power in many parts of the United States. Again, many more jobs would be created by the solar technology than the nuclear one. The widespread availability of competitive photovoltaic cells would also create many opportunities for new types of industrial production. For example, it would encourage the development of battery operated hand-tools, since batteries could readily be recharged by a photovoltaic unit mounted on the factory roof.

These are only two examples of the choices that are now open to us, and I mention them only to emphasize that there are choices. There is only one way in which the familiar arguments that pit jobs against the environment, that put labor leaders on the side of nuclear utility executives, make sense. And that is if we accept the assumption that the alternative to a new nuclear power plant is no new electricity and that the alternative to massive strip mining is no new sources of heat. In other words, this argument holds only if we give up the right to choose, among the different ways of producing energy, those which best serve the nation's—and labor's—needs. Then, of course, the bitter choice between jobs and the environment must be made, for if the flow of energy is disrupted we will surely suffer massive unemployment and economic disaster.

I am aware that labor groups have often decided to support nuclear power, shale oil production, coal conversion and similar energy sources which, on the basis of the foregoing analysis, seem to be not in labor's interests. But I know of no instance in which such support has been based on an actual comparison with alternative sources of energy. In every case, it is not a matter of making the wrong choice, but of avoiding a choice—in the belief that energy is essential for production and jobs (which is correct) and that all forms of energy will yield the same beneficial effects (which is not correct). Resolutions have been passed by labor groups which in one place strongly urge a fight for jobs and against inflation, and elsewhere urge the development of all forms of energy, listing sources such as nuclear power and coal conversion—which are bound to do employment and inflation more harm than good—alongside solar energy, which is labor's most powerful weapon against energy-driven inflation and unemployment.

If labor is to win its fight for jobs, for reasonable prices, for decent working conditions and for a strong economy, it must accept the responsibility of deciding, for itself, which forms of energy and which ways of using it will best sustain these aims. Up to now these decisions have not been made by labor, but by management. And now that management's choices—for nonrenewable sources such as oil and capital-intensive sources such as nuclear power, rather than the solar alternative—have precipitated the energy crisis, the decisions are being made by government executives and legislators. But, again, labor is on the sidelines.

Unless labor enters into the debate—on its own terms, making its own decisions about what energy policy best serves the needs of society, and labor in particular—we will make the same disastrous mistakes once more. Nor is it enough for labor to rely on "environmentalists" and other people of good will to suggest the right way to produce and use energy. There is no guarantee, for example, that an energy policy will be free of serious economic and social disadvantages just because it is based on solar energy. Devotion to solar energy is not, after all, proof against indifference to social welfare, greed or simple foolishness.

Consider for example two different ways to achieve a transition to solar energy. One option is to deliberately increase the price of conventional energy, so that solar technologies will become more quickly competitive. The other is to hold down the price of conventional energy as much as possible and use public funds to cut the cost of solar alternatives and make them competitive. For the reasons already given, the first approach would place an intolerable economic burden on the people, especially the poor and the minorities, who suffer most from unemployment. At the same time, wealthier people would benefit from the transition.

This strategy would increase both the general cost of energy and the price the consumer needs to pay to shift to a solar source. Poor people, unable to afford the high price of the new solar technology, would be forced to pay higher fuel prices, while wealthy people, who could afford the solar investment, could avoid buying the high-priced fuel. The strategy of rising fuel prices in order to encourage solar energy would tax the poor and favor the rich, justifying the suspicion already voiced that public movements for energy conservation and solar energy are likely to be more in the interest of the wealthy than of the poor and the unemployed.

Perhaps the most serious dangers of this approach arise from a feature which in some quarters would be regarded as a virtue—the strategy relies on the "free marketplace" to govern the introduction of solar technologies. Bluntly stated, this means that the introduction of each solar technology would be governed by a single criterion—that it generate a profit for its producer greater than one he might obtain from an alternative investment. Such a strategy would please the companies now entrenched in the energy field. The oil companies would, of course, benefit from higher oil and natural gas prices. Even if the price increase were generated by taxes, it would make the oil companies' holdings in coal and uranium more valuable, and help support the price of oil in the world market—in which most of the U.S. companies are also involved. Private utilities could also benefit, by using their position in the consumer market and their access to capital to sell or lease to their customers whatever solar technologies are most profitable and least damaging to their centralized operations.

The last to gain from such a solar transition would be the poor. They would need to wait for benefits until, in the course of time, the massive substitution of solar energy for conventional sources stabilized the rising price of energy, and reduced the rate of general inflation. Finally, when the cost of the solar technologies fell far enough, the poor could afford them too. Such a profit-oriented transition would mean that the benefits of solar energy would be allowed, as usual, only to trickle down to the mass of people.

Clearly, it would not serve labor's interests—or for that matter, the nation's—to rely on such an approach to an environmentally-sound system of solar energy. Rather, labor and the nation need an approach which permit rational planning of the development, testing and introduction of solar technologies in keeping with their efficacy in the overall process of transition rather than on the basis of the narrow criterion of profitability. This approach would, of course, challenge the widely fostered notion that private profit is the sole acceptable basis for new productive investments. But this has happened before, in connection with the development of energy resources—notably in the development of hydroelectric projects, in particular the Tennessee Valley Authority, rural electrification and most recently nuclear power. In each case the creation of the system required public initiative and at least the initial investment of public funds.

The issue is not necessarily one of public ownership, since in the case of nuclear power, the decision to develop it and the design of the technology was determined socially, while the ownership and operation of most of the industry has been in private hands. The example of nuclear power should also remind us that social governance of such decisions is by no means a guarantee that they will be in the best interest of society. Social governance is a necessary but not sufficient condition for maximizing social welfare.

An independent labor position on energy could provide a powerful remedy for some of the serious economic difficulties in U.S. and Canadian industry. Many industries—auto, steel, textiles, shoes and electronics—are being forced to cut back because they cannot compete with imports. These industries face the enormously difficult job of overcoming the economic advantages of foreign producers, achieved by their more modern productive facilities, in order to regain their share of the market. Meanwhile, plants close and people are thrown out of work. From what has been said earlier it should be evident that to cope with the energy crisis all industrial countries will need to develop new renewable sources of energy and new energy- and capital-efficient production technologies. Promising examples are photovoltaic cells and cogeneration units such as Fiat's TOTEM. Consider this very sobering thought—that U.S. and Canadian industry, still locked in the old pattern of producing and using energy—will not move quickly enough to develop photovoltaic cells and cogeneration units, failing to meet the inevitable demand for them. If that happens we will soon see Japanese photovoltaic cells and Italian cogeneration units capturing not just a part of the North American market, but all of it. We will have been frozen out of a good chunk of the enormous worldwide industrial transformation that is certain to take place under the impetus of the energy crisis.

I believe that labor can protect us from this fate, strengthen economic development and create jobs by taking its rightful place in the decision-making process that will determine our response to the energy crisis. Labor has the most to lose from the wrong decisions, and the most to gain from the right ones. Labor has the experience to understand how old production facilities can be converted to new uses and how to train workers in the new skills. Labor has the experience to defeat the notion, already being heard in some quarters, that union labor would drive prices up and make the solar transition that much harder, and to show that non-union labor would mean shoddy workmanship that could only hold back the new technologies. Finally, only labor has the political strength to break the corporate stranglehold on energy and to help society apply the power of public governance to the creation of a new energy system that can truly serve human welfare.●

## EDUCATION FOR THE HANDICAPPED

● Mr. MATHIAS. Mr. President, efforts to make education more accessible to the handicapped, in terms of both program design and architectural barrier removal, have presented unique challenges to institutions at all levels. The willingness schools have shown in acknowledging shortcomings is very encouraging, but the challenges cannot be met without difficulty. Where the handicapped were ignored, programs have had to be expanded and more special education teachers employed to serve the new students. The schools can look with much hope, however, to Public Law 94–142, the Education of All Handicapped Children Act, which authorizes Federal spending of up to 40 percent of the additional per pupil costs of educating all handicapped children. The act, properly funded, will shoulder much of the initial financial burden of making public education truly universal.

There is a second problem that has not been so clearly accounted for in our national educational policies. Institutions will be required to remove all the barriers that make programs physically inaccessible to the handicapped by 1980 under section 504 of the 1973 Vocational Rehabilitation Act. Architectural barriers cannot be removed without sizable capital outlay. Older buildings on most college campuses unfortunately were constructed without any thought given to the difficulty faced by the handicapped. Those campuses must make significant changes in their physical plant to give all students equal opportunity at education. Elementary and secondary schools face the same problem and will have to spend a great deal of money to pay for these corrections.

Estimates of the national cost of architectural barrier removal reach into the several billions of dollars. Secretary of Health, Education, and Welfare Califano told me when he came up to discuss the budget with the Appropriations Committee that he thought those estimates were highly exaggerated because most schools have simply overestimated the size of changes that will have to be made. That may be so. I certainly hope so, but the schools are faced with the problem now and cannot take much solace in the Secretary's verbal assurances. They cannot afford to make changes that may be found inadequate when the date for compliance rolls around, but they hesitate to begin if they may also be found wasteful.

I am urging the Appropriations Committee to begin spending Federal funds to help these institutions begin the job. I have urged and intend to work in the committee for a fiscal year 1978 supplemental appropriation of $150 million for barrier removal in the schools. Fifty million of that figure would be for higher education and the remainder for elementary and secondary institutions. I intend to work for the same amount in the fiscal year 1979 budget. The administration has recommended only $50 million, for higher education and only in fiscal year 1979.

I do not pretend that this will pay for any substantial part of the total national costs of these needs. I do hope it will allow the Secretary of Health, Education, and Welfare to give schools the kind of guidance they need to do what is necessary, while not incurring huge expenses which are not called for. This is an important task, and HEW should be given the means to help the schools with it. The money should be available for grant awards to institutions whose plans are completed early and correctly, without waste.●

## IS CONGRESS UP TO THE CHALLENGE OF INFLATION?

● Mr. MUSKIE. Mr. President, yesterday, President Carter announced a series of anti-inflation initiatives. He pledged his influence, his power, and his prestige to the battle. In doing so, he challenged each of us to follow his lead. Now the Congress must ask itself whether we are up to that challenge.

President Carter called on the Nation to tighten its belt. He called on individuals who suffer least from inflation to accept a voluntary freeze on income. He has told his own top officials that their salaries will be frozen, and, in a symbolic gesture to set the tone for both business and labor, he has set a ceiling on a wage increase for Federal employees.

The Congress voted to forgo any increase in pay for Members last year, and we should do so again this year.

The President has pledged to continue to fight unemployment while trying to maintain control of inflation. He has asked us to pledge ourselves to a degree of national austerity. He has asked us to increase productivity by reducing waste. He has asked us to lower the outflow of dollars by conserving energy.

He has asked Congress not to contribute to inflation as a result of excess Federal spending and increased Federal deficits. He has pledged to back his words with the credibility of his office and the power of his veto.

The President's requests are a tall order. They represent a challenge to himself as well as to the Congress. The country will follow the President's lead based on his performance.

But the Congress too has a special responsibility.

The Congress pledged a new approach to spending priorities in the congressional budget process, but has, whenever politically convenient, ignored that discipline.

We now have before us a challenge to our credibility. The question is whether each individual group will insist on being the last under the price-wage spiral fence or whether each will place the national interest first.

Some of us asked the farmers for restraint and a majority of our colleagues disagreed. We will ask Government employees for restraint and we will be asked to reject that request for restraint. We will have another opportunity when the tuition tax credit legislation comes to the floor of the Senate. And, undoubtedly, we will have repeated opportunities as appropriations and tax bills come before us.

It is time to hold both the Congress and the President politically accountable for each individual decision which has a detrimental effect on our battle against inflation. The public should know whether each Senator, each Representative, and the President himself is acting as well as talking against inflation. Each Member should have an opportunity to explain to his constituents why a particular special interest. like the grain farmers, was placed above the general national interest—and even the interest of other farmers—in the fight against inflation. Our voters will have the right to judge for themselves whether they are prepared to accept the judgment of their representatives.

The President said, in his speech:

We all want something to be done about our problems—except when the solutions affect us. We want to conserve energy, but not to change our wasteful habits. We favor sacrifice, as long as others go first. We want to abolish tax loopholes—unless it's our loophole. We denounce special interests, except for our own.

No Act of Congress, no program of our government, no order of my own can bring out the quality that we need: to change from the preoccupation with self that can cripple our national will, to a willingness to acknowledge and to sacrifice for the common good.

It is only with this kind of discipline—with the electorate informed of the meaning of the votes we make—that the effort the President has initiated can be successful. We have an opportunity and a responsibility, and I for one am prepared to join the President in his new initiative.

Mr. President, I submit for the RECORD a perceptive analysis of the President's speech by Haynes Johnson in the Washington Post this morning and the text of the speech as released by the White House.

The material follows:

CARTER ON INFLATION: A DELIVERY MORE FORCEFUL, A MESSAGE MORE INTERESTING

On the eve of the president's anti-inflation address the network television cameras captured a telling vignette for the national audience. They showed gold traders clamoring loudly over bids as prices rose while a market analyst stood in the foreground explaining what was happening.

The market was reacting favorably, he said, because of the conviction the president would not take strong action such as recommending wage and price controls. In other words, he went on, the president won't take steps to affect the long-term consequences of inflation. Ergo: let 'er rip. Get it today, the hell with tomorrow. Even in these cynical times that was a singularly candid expression of the doctrine of selfishness—and thus worth pondering alongside the president's words yesterday.

Jimmy Carter's speech on inflation to the newspaper editors came one year, less a week after he delivered his nationally televised "moral equivalent to war" address on energy. The differences between those two speeches are striking—in tone, delivery, and content.

Then the president began somberly, starky. "I want to have an unpleasant talk with you about a problem that is unprecedented in our history," he said. "With the exception of preventing war, this is the greatest challenge tsat our country will face during our lifetime." He called for sacrifices, and warned that the alternative to action "may be a national catastrophe."

But his delivery belied his words: he was low-keyed, soothing almost.

Yesterday, the president began by accentuating the positive. He brought us good news jobs were up, unemployment down, household incomes and business profits rising, and the rate of inflation being held within reasonable and predictable boundaries. Carter gave no martial summons, issued no grand appeal for sacrifice, flatly rejected wage and price controls, both now and later, and stressed the need for voluntary cooperation among business and labor and other private citizens.

But Carter's delivery yesterday was notably more forceful, and his message perhaps even more interesting. He was going to do what he could as president about inflation, he was saying, including the use of vetoes. And he was determined to set the government's own house in order as an example for the rest of the nation.

At the same time, he said, the idea that government can do it alone is a myth. He uttered no cheap homilies about such traditional American virtues as thrift triumphing in the end. There was no pleading for WIN buttons, WIN flags, and WIN gardens as in the Gerald Ford era when the president gave us the immortal prescription for solving inflation now by saying, in words printed in upper case to underscore their importance: "Grow more, waste less . . . drive less, heat less."

Carter's closing words were especially interesting, for they struck at the truly most difficult problems, those involving public attitudes and appetites.

"We all want something to be done about our problems—except when the solutions affect us. We want to conserve energy, but not to change our wasteful habits. We favor sacrifice, as long as others go first. We want to abolish tax loopholes—unless it's our loop-

hole. We denounce special interests, except for our own."

And, his theme:

"No act of Congress, no program of our government, no order of my own can bring out the quality that we need: to change from the preoccupation with self that can cripple our national will, to a willingness to acknowledge and to sacrifice for the common good."

Whether Jimmy Carter's words will strike any response remains to be seen. One speech does not a policy make. Nor has the president spelled out, except in vague generalities, just what it is he expects of his fellow citizens. But it followed up by presidential deeds and further systematic candid reports on where we stand, he just might arouse public supports for action on what surely has become the scourge of these times.

The fact of inflation of ever-rising prices and increasing pressures for more and more and more, has become so imbedded in the weary public consciousness that it's hard to realize how relatively new a phenomenon we confront.

Just a decade age, as the war in Vietnam began to spread its poison throughout the American system, Lyndon Johnson held a press conference. He was asked about growing public dissatisfaction with the war and rising inflation. Always prepared, LBJ produced a chart he said he had had made for the press the night before.

The chart showed where consumer prices stood in 1960 for a number of key industrial nations. Since then, LBJ pointed out, prices had been rising dramatically. He crisply ticked off the figures—more than 40 percent in Japan, some 30 percent in Italy, 20 in France, about the same in the United Kingdom and slightly less in Germany. But for the United States—well, there we were, doing better than anyone.

"Our average price increase has been less than 1½ percent a year," Johnson said proudly. "Rates in other countries have been at least double that. . . . So the cost-of-living record of the United States is far superior to the performance of any other major industrial country."

The tragedy of the Johnson Presidency, of course, is that LBJ failed to ask for a tax increase to sustain the accelerating costs of Vietnam, driving us into a deadly inflationary spiral. That's a familiar story. What doesn't seem to be understood is a more significant aspect of the problem.

If the economic "experts" have any credence left (probably a dubious assumption) they make two generally telling points: it's the world, and not just the United States and selected industrial powers, that faces the perils of mounting inflation; and, these worsening problems represent something relatively new and ominous.

As one thoughtful scholar, Irving S. Friedman, puts it: "For many centuries, the phenomenon of rising prices, called inflation, was temporary." When inflation did occur, the causes were easily identifiable—and of short duration. Our own post-Civil War period, particularly in the conquered South; the devastation of Germany, after World War I, when barrels of marks were exchanged for loaves of bread, or of Russia after its revolution—these were the examples.

But an all-pervasive inflation is something that dates from the years after World War II. And, if people such as Friedman are right, we don't yet see "persistent inflation as a potential destroyer of societies"—as something, indeed, that moves like a plague from country to country, eventually infecting all.

Here's one citizen who doesn't expect the President to "solve" the problem. But he would welcome more Presidential accounting, and explaining, of where we are, what we face, and what actions we ought to take. That kind of public Presidential followup was missing a year ago after Carter's "moral equivalent to war" speech. But the role of President as public educator and teacher remains open.

Who knows, it might even work.

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TEXT OF THE ADDRESS BY THE PRESIDENT TO THE AMERICAN SOCIETY OF NEWSPAPER EDITORS APRIL 11, 1978

During the last 15 months we in the United States have made good progress in sustaining growth and creating jobs. Four-and-a-half million more people are at work today than fifteen months ago. The unemployment rate has fallen from nearly 8 percent to a little more than 6 percent. Average household income, after adjustment for both taxes and inflation, is 5 percent higher now than a year ago. Business profits in the second half of 1977 were 15 percent higher than one year before, and during that time the inflation rate was held to a reasonable and predictable level.

But too many Americans—particularly young people and members of minority groups—are still without jobs. I am determined to sustain our economy's progress toward high employment and rising real income, with both existing programs and with new, carefully targeted incentives to encourage private business to hire the hard-core unemployed.

We have other economic problems which cause us continuing deep concern.

Our nation's economic health can be protected only if we can cope with the two developments that now threaten it most seriously—the high level of oil imports and the increasing rate of inflation.

These two problems both imperil our economic recovery and threaten the strength of the dollar, and they must be controlled.

The steps that we will take are part of a wider international effort by the major industrial nations to promote world recovery in 1978. In this effort, each country has a role to play—with the U.S. maintaining its growth while attacking inflation and limiting oil imports, other countries achieving their growth targets, and all countries avoiding protectionism and providing greater aid to developing countries. In the hope that this concerted approach will make a large contribution to world recovery, I joined the leaders of six other nations yesterday in announcing that we will meet on July 16 and 17 in Bonn to press ahead with our common efforts.

But the first requirement is effective action within each nation.

The primary reason for our problems with the balance of trade and the decreasing value of the dollar is no mystery. Ten years ago we were paying roughly $2 billion for imported oil. This year oil imports will cost us more than $45 billion.

Our energy problems are no longer theoretical or potential. They are an active threat to the economic well-being of our people.

Of all the major countries in the world the United States is the only one without a national energy policy, and because the Congress has not acted, other nations have begun to doubt our will. Holders of dollars throughout the world have interpreted our failure to act as a sign of economic weakness, and these views have been directly translated into a decreasing value of our currency.

The falling dollar in international monetary markets makes inflation worse here at home. It raises the price of goods we import, and this makes it easier for domestic producers to raise their own prices as well.

That is why we must have meaningful energy legislation without further delay. Our security depends on it, and our economy demands it. If Congress does not act, then oil imports will have to be limited by administrative action under present law, which is not the most desirable solution. One way or the other, oil imports must be reduced.

Recently our healthy and sustained economic growth has exceeded that of most other nations who are our major trading partners, so we have been better able to buy their goods than they have to buy ours.

Our standard of living and our ability to grow depend on the raw materials and goods we import from other countries. Therefore, to prevent further serious trade imbalances, we need to export more agricultural products and other goods and services to pay for our purchases abroad.

A Cabinet-level task force, chaired by the Secretary of Commerce, will develop additional measures to promote exports, and will report back to me within 60 days.

Now I will discuss the steps we must take to protect our national economic growth and the jobs and prosperity of our people from the threat of growing inflation.

Conserving energy, increasing efficiency and productivity, eliminating waste, reducing oil imports and expanding our exports will help to fight inflation; but making that fight a success will require firm government policies and full private cooperation.

The inflation we are suffering today began many years ago and was aggravated in 1973 and 1974 by a quadrupling of OPEC oil prices, widespread crop shortages, Soviet grain purchases, substantial devaluation of the dollar, and a worldwide industrial boom that led to double digit inflation in the United States and around the world. It now has become embedded in the very tissue of our economy. It has resisted the most severe recession in a generation. It persists because all of us—business and labor, farmers and consumers—are caught on a treadmill that none can stop alone. Each group tries to raise its income to keep up with present and anticipated rising costs; eventually we all lose the inflation battle together.

There are no easy answers. We will not solve inflation by increasing unemployment. We will not impose wage and price controls. We will work with measures that avoid both extremes.

Our first and most direct efforts are within government itself. Where government contributes to inflation, that contribution must be lessened; where government expenditures are too high, that spending must be reduced; where government imposes an inflationary burden on business, labor, and consumers, those burdens must be lightened; wherever government can set an example of restraint and efficiency, it must do so.

The budget I have proposed for the next fiscal year is both tight and capable of meeting the nation's most pressing needs. The prospective deficit in that budget is as large as we can afford without compromising our hopes for balanced economic growth and a declining inflation rate. As always, pressures are developing on all sides to increase spending and enlarge that deficit.

Potential outlay increases in the 1979 budget which are now being considered by Congressional committees would add between $9 billion and $13 billion to spending levels next year. The price of some of these politically attractive programs would escalate rapidly in future years. I am especially concerned about tuition tax credits, highway and urban transit programs, postal service financing, farm legislation, and defense spending.

By every means at my disposal, I will resist those pressures and protect the integrity of the budget.

Indeed, as opportunities arise, we must work to reduce the budget deficit, and to ensure that beyond 1979 the deficit declines

steadily and moves us toward a balanced budget. I will work closely with the Congress and, if necessary, will exercise my veto authority to keep the 1979 budget deficit at or below the limits I have proposed.

The Federal government must also act directly to moderate inflation.

Two months ago I proposed that in each industry and sector of the economy wage and price increases this year be voluntarily held significantly below the average increase for the two preceding years—an important principle of deceleration.

I am determined to take the lead in breaking the wage and price spiral by holding Federal pay increases down. Last year, Federal white collar salaries rose by more than seven percent. I intend to propose a limit of about 5.5 percent this year, thereby setting an example for labor and industry to moderate price and wage increases. This year I will also freeze the pay of all Executive appointees and members of my senior staff. I believe that those who are most privileged in our nation—including other executives in government and in private companies—should set a similar example of restraint.

State and local governments employ every seventh worker in our nation and I have sent letters to every Governor and to the Mayors of our larger cities asking that they follow the Federal example and hold down their pay increases. I have also asked that if those governments plan to reduce taxes they first consider lowering sales taxes, which add directly to the consumer's burden.

The Federal government will take several other steps to reduce inflation:

All Executive Branch agencies will avoid or reduce the purchase of goods or services whose prices are rising rapidly, unless by so doing we would seriously jeopardize our national security or create serious unemployment. I am also asking that all new or renegotiated Federal contracts which contain price escalation clauses should reflect the principle of deceleration.

We must cut the inflationary costs which private industry bears as a result of government regulations.

Last month I directed Executive regulatory agencies under my control to minimize the adverse economic consequences of their actions. I am determined to eliminate unnecessary regulations and to ensure that future regulations do not impose unnecessary costs on the American economy. Our efforts to reorganize the Federal bureaucracy and to streamline the Civil Service will help us put the government's house in order.

I support "sunset" legislation to ensure that we review these regulatory programs every few years, and eliminate or change those that have become outdated.

I also urge Congressional budget committees to report regularly to the Congress on the inflationary effect of pending legislation, much as the Council of Economic Advisors and the Council on Wage and Price Stability now report to me.

The combined actions of my Administration and the Civil Aeronautics Board have already led to substantial cuts in some airline passenger fares. Despite the opposition of private interests, the airline regulatory reform legislation must be enacted this year. We are also re-examining excessive Federal regulation of the trucking industry, an effort which may result in increased efficiency while reducing freight transportation costs and retail prices.

In addition, I am asking the independent regulatory agencies to try to reduce inflation when they review rate changes, and to explore regulatory changes that can make the regulated industries more efficient.

Last fall, major new legislation was passed which will improve economic conditions for farm families, and we have announced additional administrative action to raise farm income this year.

Unfortunately, the Senate has just passed a bill that would raise food prices by 3 percent and the overall cost-of-living by .4 percent, shatter confidence in the crucial export markets for America's farm products, and cripple American farm families through increased costs. It is bad for farmers, bad for consumers, and bad for our nation.

I will veto any farm legislation, beyond what I have already recommended, that would lead to higher food prices or budget expenditures.

Housing construction rates have been at a high level and costs have risen rapidly, partly because of sharp increases in the price of raw materials such as lumber. Since lumber accounts for one-fourth of the total cost of a new house, we can obtain some relief by increasing production and using our existing lumber output more efficiently. Therefore, I have instructed the Departments of Agriculture and Interior, the Council on Environmental Quality, and my economic advisors, to report to me within 30 days on the best ways to sustain expanded timber harvests from Federal, State and private lands, and other means of increasing lumber yields in ways that would be environmentally acceptable, economically efficient and consistent with sound budget policy.

Daily hospital costs have jumped from $15 in 1950 to over $200 today, and physicians' fees have risen 75 percent faster than other consumer prices. It is very important that Congress act now on the proposed Hospital Cost Containment Bill as the most effective step we can take toward reasonable hospital prices. Failure of Congress to act on the Hospital Cost Containment legislation will cost the taxpayer more than $18 billion in needless government spending over the next five years.

Together with the airline deregulation bill, this is one of the two most important measures the Congress can pass to prevent inflation.

These measures have so far been delayed by the opposition of powerful lobbying groups. I will continue to give this legislation my full support, and I call on the leaders of Congress to do the same.

Such government actions as I have discussed today can be important steps toward controlling inflation. But it is a myth that the government itself can stop inflation. Success or failure in this overall effort will largely be determined by the actions of the private sector of the economy.

I expect industry and labor to keep price, wage and salary increases significantly below the average rate for the last two years. Those who set medical, legal and other professional fees, college tuition rates, insurance premiums and other service charges must also join in. This will not be easy. But the example of Federal action must be matched. Inflation cannot be solved by placing the burden of fighting it only on a few.

The Council on Wage and Price Stability recently began a series of meetings with representatives of business and of labor in major industries such as steel, automobiles, aluminum, paper, railroads, food processing, communications, lumber and the postal services. In consultation with the private parties the Council will identify the rate at which prices, wages and other costs have been rising in recent years, the outlook for the year ahead and the steps that can be taken to reduce inflation.

Let me be blunt about this point. I am asking American workers to follow the example of Federal workers and accept a lower rate of wage increase. In return, they have a right to expect a comparable restraint in price increases for the goods and services they buy. Our national interest simply cannot withstand unreasonable increases in prices and wages. It is my responsibility to speak out firmly and clearly when the welfare of our people is at stake.

Members of my Administration have already discussed this deceleration program with a number of leaders of labor, business and industry. They have promised their cooperation. Later I expect to meet with business and labor leaders to discuss contributions that they can make to help slow the rate of inflation. One of the most important contributions they can make is to show that restraint applies to everyone—not just the men and women on the assembly line, but also the managers in the executive suites. Just as I will freeze the pay of the top executives in the Federal government, the American people will expect similar restraint from the leaders of American business and labor.

I am determined to devote the power of my office toward the objective of reduced inflation. Our approach must be flexible enough to account for the variations in our complex economy—but it must be comprehensive enough to cover most of the activities of our economy.

In the long run, we should develop special programs to deal with sectors of the economy where government actions have the greatest potential for reducing inflation. These include housing, medical care, food, transportation, energy and the primary metals industries. The members of my Cabinet will work individually and with the Council on Wage and Price Stability to develop and to announce early action to reduce inflation within their own areas of responsibility.

To accomplish our deceleration goals in the private sector, I am asking my Special Trade Representative, Robert Strauss, to take on additional duties as a Special Counselor on Inflation. He will work with me, with Treasury Secretary Blumenthal, my chief financial spokesman, with Charlie Schultze, the Chairman of the Council on Wage and Price Stability and its Executive Director, Barry Bosworth. He will have specific authority to speak for me in the public interest, and will be a member of the Steering Committee of the Economic Policy Group under the chairmanship of Secretary Blumenthal.

Reducing the inflation rate will not be easy and it will not come overnight. We must admit to ourselves that we will never cope successfully with challenge until we face some unpleasant facts about our problems, about the solutions and about ourselves.

The problems of this generation are, in a way, more difficult than those of a generation before. We face no sharply focused crisis or threat which might make us forget our differences and rally to the defense of the common good.

We all want something to be done about our problems—except when the solutions affect us. We want to conserve energy, but not to change our wasteful habits. We favor sacrifice, as long as others go first. We want to abolish tax loopholes—unless it's our loophole. We denounce special interests, except for our own.

No Act of Congress, no program of our government, no order of my own can bring out the quality that we need: to change from the preoccupation with self that can cripple our national will, to a willingness to acknowledge and to sacrifice for the common good.

As the nation prepared for the challenge of war, Walter Lippmann addressed these words to our nation forty years ago:

"You took the good things for granted," he said. "Now you must earn them again. It is written: for every right that you cherish, you have a duty which you must fulfill. For every hope that you entertain, you have a task you must perform. For every good that

you wish could happen . . . you will have to sacrifice your comfort and ease. There is nothing for nothing any longer."

These words of admonition apply to us now.●

## WATERWAY USER CHARGES AND THE OCTOPUS

● Mr. DOMENICI. Mr. President, for anyone involved in the issue of waterway user charges, refreshment is regularly available from the publications of the barge industry. For example, a recent newsletter of the National Waterways Conference, Inc., comes complete with the drawing of an octopus, its mouth snarling with evil, its tentacles reaching out to crush the waterways. Of course, the octopus is labeled "user charges."

The octopus image is probably an unfortunate one for the barge industry, since it might just remind some people that the barge industry is really dominated by a few giant multinational corporations, like Exxon and United States Steel.

And, sadly, the tentacles of this barge-industry octopus seem most attracted to picking up scraps of misinformation in an effort to propagate the fear of user charges.

One of the more grandiose examples of distortion was propounded by a barge group known as the Ohio Valley Improvement Association, quoted of late in the Waterways Journal. The OVIA said that waterway user charges would raise electricity rates for a Cincinnati family "by $11 a month."

Now, stop for one moment and look at that figure. Let us assume all of the costs of producing electricity in Cincinnati are due directly to fuel shipped by water: There would be no costs related to labor, no cost for capital plant, no cost for transmission lines, no costs for other types or sources of fuel. Since my proposal prevents any user charge from exceeding 1 percent of the delivered price of a commodity, that means today's average monthly electrical bill in Cincinnati must be at least $1,100, or $13,200 annually. Do you think the OVIA figure might be a trifle high?

Let us look at another example, this one from a recent paper distributed in the Senate on behalf of the barge industry and prepared by a retired professor named Marvin Barloon. Should any user charges be collected at a particular new lock on the Ohio River, Mr. Barloon warns, the charge—

> Would amount during the construction period to something higher than 36 cents per ton . . . more than doubling present carrier charges.

In another context he refers to my bill as imposing a charge of "59 cents a ton."

Mr. Barloon would flunk his homework, for he does not appear to know simple mathematics. As I said, my proposal limits any charge to 1 percent of the commodity's value, which means the charge on $20 coal could never exceed 20 cents, for example. The charge on $3 gravel could never exceed 3 cents. How, therefore, can it reach 36 cents or 59 cents on one short stretch of river, when it could not exceed 3 or 20 cents for the entire voyage?

But Mr. Barloon is not to be daunted. He goes on to calculate that my waterway user charge proposal means charges—

> * * * 75 times as high as the 6¢ fuel tax of H.R. 8309.

Using Barloonian logic, that translates roughly into an annual cost of some $5 billion. That, too, seems a bit excessive, since my proposal is based strictly on a percentage of expenditures, and expenditures are less than $500 million yearly.

Nevertheless, I have come across some recent statement favoring user charges from what might be termed "unexpected sources." The St. Louis Post Dispatch, on a user-charge editorial, said this:

> The Carter Administration favors the idea and, as a matter of principle there is nothing wrong with it. River transportation should not have an entirely free ride at the expense of the taxpayers or competing forms of transportation.

A study in a recent issue of Transportation Journal by James C. Johnson and Donald L. Berger found, in a survey of 358 transportation and marketing executives, that 82.6 per cent of the marketing executives and 86 per cent of the transportation executives favored waterway user charges. About 60 percent of these executives also concluded that user charges would have no adverse impact on costs and consumer.

Regrettably, however, the OVIA-Barloon mentality continues to have the greatest buoyancy along the waterways. I have put together a few of these statements (cited for ease of identification as "Fiction"), followed by clarification (cited as "Facts").

> Fiction: Any greater charge (than the House bill) would . . . bring about the termination or substantial reduction of service on most of our waterways . . . The Domenici plan would permanently cripple our system of water transport . . . (Anonymous). If user fees are imposed immediately at an unreasonable level, the trophy is going to be one Mr. Carter will live to regret. For he will see before many months have passed following their imposition an economic upheaval, the likes of which he never before has witnessed. (A waterway industry editorial.)

Fact: The Department of Transportation calculates that even with the most severe assumptions of my approach, waterway tonnage will grow by 40 per cent over the next decade. Some crippling! Art Sogn, a grain marketing economist at South Dakota State University, made this point:

> It is important for South Dakota producers to have the lowest possible cost of shipping their grain to the Gulf . . . However, if the advantage is too heavily weighed in favor of barges the eventual result could be inadequate rail transportation from December to April when the barges cannot operate.

Fiction: The Domenici bill would "effectively close some waterways . . . We believe that (the House proposal) would be much more equitable and manageable." (Glover Wilkins, chief of the Tennessee-Tombigbee Waterway Development Authority).

Fact: Mr. Wilkins should favor the House bill, since it exempts traffic on the $1.4 billion Tennessee-Tombigbee Waterway from any charge whatsoever.

Fiction: "Low cost transport of coal . . . low cost transport of fuel oil . . . low cost transport of raw materials . . . low cost transport of grain . . ." (John A. Creedy, President of the Water Transportation Association).

Fact: Of course Mr. Creedy thinks barges are a "low-cost" mode, since the taxpayers are contributing what amounts to more than 40 percent of the industry's revenues by providing a free right of way through extensive and elaborate Corps of Engineers expenditures. And that is not counting the Coast Guard expenditures, and the Maritime Administration equipment guarantees, and so on—expenditures not affected by my amendment.

Fiction: One waterways publication described the growth of barge traffic, compared with other modes, as an example of "survival of the fittest."

Fact: That is true, if fittest means the group getting the richest Federal subsidies.

Fiction: Cost recovery schemes on water resources are "radical measures" (Mr. Creedy). A cost-recovery concept on the inland waterways is "irrational." (J. W. Hershey, Chairman of American Commercial Barge Lines, Inc.).

Fact: Cost-recovery is so "radical" and "irrational" that it is the standard used on hydropower projects, on water supply projects, on irrigation projects, and it is built into the highway, airway, and numerous other Federal programs.

Fiction:

> The Domenici tax would have devastating effects on already hard-hit farmers. Two-thirds of all inland waterway tonnage consists either of the products the farmer grows or the products he used for growing, such as fertilizer, agricultural chemicals, etc. (Anonymous)

Fact: According to the Department of Agriculture, 8 percent of inland waterway traffic involves agricultural products.

Fiction:

> The Domenici tax at 1% of the cargo value . . . (Anonymous)

Fact: My proposal would establish an upper limit of 1 percent of commodity value, not a fee of 1 percent. And any 1 percent charge, in those rare instances when a lid is needed, would probably not come into effect until about 1990. That percentage limitation, of course, was included in my proposal at the request of the late Senator Humphrey as a way to protect the farmer.

Fiction:

> Under a system of charges that differentiates among waterways, movements of cargo by water would eventually become uneconomic on all but the main stem of the Mississippi and possibly the Ohio River. Traffic on tributary waterways would cease. (Anonymous). Under the proposed segment-by-segment cost recovery system certain important areas—the Arkansas, the upper Ohio, West Virginia, and the Missouri—would find their transport costs sky-rocketing, industrial plants rendered obsolete and jobs disappearing. (Mr. Hershey).

Fact: How can a top fee of 20 cents a ton on coal or 3 cents a ton on gravel or even $1 on petroleum—the outside limits established by the 1 percent lid—make all those waterways uneconomical?

But the drumbeat of distortion goes on. Harry N. Cook, executive vice presi-

dent of the National Waterways Conference, Inc., recently made this point:

We will not accept any bill based on the cost-recovery principle.

An interesting declaration. But is it really fair to charge a small community in Nevada or Ohio or Nebraska the full cost for tapping into a Corps water supply reservoir, or charge an electric co-op the full cost of producing the Federal hydropower it uses, then let the big barge companies off the hook when it comes to relating their costs to the expenditures they impose on the public? You will note that percentage user charges are never described as unfair or bad economics. They are simply called "radical" or "irrational."

Mr. President, sound arguments may indeed exist against my proposal to phase-in, over 11 years, a system of user charges based on waterway expenditures (leaving a perpetual 50 percent taxpayer subsidy on new construction). But I doubt that debate in the Senate or in the Nation is served by the cacophony of distortions blaring from the barge industry.

I will admit that the barge representatives do speak sometime with accuracy. Mr. Creedy is quoted as making this assertion:

There is a considerable case for getting the facts right.

I agree.●

## PERFORMANCE OF OUR ARMED FORCES

● Mr. McINTYRE. Mr. President, as chairman of the Senate Armed Services Subcommittee on Research and Development I take great pride in citing outstanding examples of superior performance by our armed services.

It is with special satisfaction that I today call the attention of the Senate to the milestones achieved by the 157th Air Refueling Group (AREFG), Air National Guard, New Hampshire.

The 157 AREFG consistently performs in excess of required standards. Some recent achievements include the following:

The 157th AREFG reached C–2 status and was available to accomplish one line of EWO (emergency war order) alert, July 1, 1976, 3 months prior to the programed date.

The 157 AREFG satisfactorily completed its first limited operational readiness inspection on February 1, 1977. It was the first Air National Guard unit to have its commander's capability estimate of C–1 confirmed by the SAC Inspector General.

First Combat Evaluation Group—SAC's standardization/evaluation team—conducted an evaluation of the 157 AREFG's flying and standardization program September 6–13, 1977. The overall rating was excellent, with aircrew performance rated outstanding. Their report contained the following:

Individual crew member pride and professionalism was evident on all flight evaluations. Flight crews should be commended for their outstanding performance.

The commander of the 157 AREFG, Col. James E. Cuddihee, logged his 20,000th hour of military flying time on December 16, 1977. This milestone made him the leader in flying time among all active Air Force pilots.

The 157 AREFG has completed over 19 years of accident-free flying (no class A mishaps). This places them very near the top of SAC's Hall of Fame for Tactical Flying.

Along with the 509th Bomb Wing (SAC), they had the first joint operational readiness inspection of our strategic total forces. The results were that on March 21, 1978, all areas were rated satisfactory or better—another first. Forty of eighty-seven areas were rated outstanding or excellent. The SAC Inspector General noted:

Aircraft were generated well ahead of schedule . . . Personnel are commended for their strong performance . . . Aircrews are highly knowledgeable . . . Mission effectiveness is rated Outstanding.

This is an outstanding record, Mr. President, for which the 157 AREFG can be justly proud and it is an honor for me to salute them for a job well done.●

## SOLAR PRODUCTS INDUSTRY

● Mr. HASKELL. Mr. President, recently I had the opportunity to address a meeting of solar dealers who sell and install solar furnace systems. The men and women attending this meeting are among the pioneers in a relatively new and exciting industry. They represent the true spirit of American free enterprise. They are putting their reputations, money, and future on the line as they enter into what they consider to be one of the major growth industries of the near future.

One of the things that impressed me most at this meeting was a resolution which the dealers all signed. It is composed of such easily understandable language that it would provide a model for the rest of the solar industry and certainly for some Government offices and agencies which sometimes have a tendency for overkill in their wording of documents which the businessman and consumer have to decipher. I offer this resolution for the edification and guidance of the industry and Government officials involved in the solar future of this country.

The resolution follows:

RESOLUTION

I. Be it resolved that we will wholeheartedly support the efforts of the S.E.I.A. to prevent the placing of unnecessarily restrictive, grossly discriminatory and unduly burdensome warranty requirements upon the solar industry by government agencies at federal and state levels.

II. Be it resolved that we will actively watch and provide input into what is happening in our own state regarding standards, certification, warranties, tax incentives, sun rights and advertising restrictions, and that we do not need the urging of "canned" responses to issues or actions we know little or nothing about. We will anticipate legislation, actively support that which is positive and needed and actively oppose that which is negative and wasteful.

III. Be it resolved that we will approach our local building code officials and get the groundwork laid for revisions of the code based not upon cheap energy as they are, but upon scarce energy, as they will eventually be. We will encourage them to correspond with A.G.A. to find out what they could or should be doing to lead the way in the coming energy usage revolution.

IV. Be it resolved that we support individual ownership of energy producing devices and that those who own such devices ought to be treated exactly like other energy producers regarding tax breaks, etc. Furthermore, we strongly oppose the spending of tax dollars (in immensely disproportionate amounts) to finance "energy in the sky by and by" schemes which will perpetuate the same kind of total dependence upon large energy corporations which we are subject to now.

V. Be it resolved that we support industry developed standards, performance specifications, uniform labeling of solar products and internal enforcement of same through the S.E.I.A.

VI. Be it resolved that we support and display the following solar code of ethics:

1. I will not decide or degrade my competitors' product. Instead I will stress the positive advantages my system has over my competitors' product.

2. I accept my responsibility as a pioneer in a new industry to provide meaningful education about solar heating to the general public.

3. I will educate my potential customer ethically, especially stressing the advantages of proper insulation and conservation of energy in his home, even though this may result in the sale of a smaller piece of solar equipment. I will never sell a piece of equipment without counseling the customer about the merits of "solar insulation".

4. I will have my equipment tested by independent professional engineers and will publish useful BTU output ratings of my system, so that the consumer may make an educated decision about which product to buy.

5. I will truthfully and completely disclose to my customers the projected costs of maintenance, on an annualized basis, of my product.

6. I will give my customer a clear, concise and understandable warranty concerning parts and labor on my product.

7. I will disclose all costs of the solar heating system to my customer, including special insulation, remodeling, special construction techniques, additional costs over conventional construction techniques, the costs of living space lost to the solar heating equipment, all labor and profits as a total installed price, so that he may knowledgeably cost-comparison shop my product against my competitor's product.

8. All prices will be properly quoted in writing to my customer prior to installation of the equipment.

9. I will constantly strive to upgrade quality of my product while endeavoring to reduce its price.

10. I will disclose to my customers any problems of which I am aware with regard to building permits and insurance which he may encounter.

11. I will not engage in price-fixing of my product or related equipment.

12. My advertising will be clear and concise, designed to give the customer a fair, clear understanding of costs and performance. I will not engage in deceptive practices.

13. I will not talk about "typical houses", because this is deceptive. Rather, I will recommend solar insulation, whether the house is new or used. Just as it is common knowledge that electrically heated homes require more insulation, I will clearly explain that solar heated homes need even more insulation if the system is to be cost effective.

14. I will not use sloppy "rules of thumb" which mislead the customer and are deceptive. For example, I will not use phrases like "it takes a collector half the square footage of the home". Rather, I will care-

fully perform a complete heat loss calculation on the structure in question and present different sized systems and their costs so my customer can make an educated decision.

15. I will not use fear tactics in my sales. Although I may educate my customer to the realities of the energy crisis, I will not unduly emphasize this or strive to frighten my customer into purchasing.

VII. Be it resolved that we support passage of a National Energy Policy *NOW*. Whether it is President Carter's or the Senate's, the House's or any combination thereof, we know that there will be possible or probable necessity for modification based on increased understanding of what is and is not in our national interest. We advocate built-in mechanisms for swift and easy modification of the plan to keep pace with the virtually unprecedented rapidity of change which we have experienced in the energy field.●

## NOMINATION OF LYNN COLEMAN

● Mr. BUMPERS. Mr. President, we will shortly be called upon to vote on the nomination of Lynn Coleman of the District of Columbia to be General Counsel of the Department of Energy. It is in the interest of Senators to inform themselves as thoroughly as possible. To this end, I would like to share with my colleagues an article by Congressman BOB ECKHARDT of Texas. This article appeared in the Nation magazine on February 18, 1978. It has previously been brought to the attention of the House of Representatives by Congresswoman BARBARA JORDAN of Texas.

Mr. President, I submit for the RECORD Miss JORDAN's remarks and Mr. ECKHARDT's article:

NOMINATION OF LYNN COLEMAN

Miss JORDAN. Mr. Speaker, I commend to you and submit for inclusion in the RECORD an article written by our colleague, BOB ECKHARDT, regarding the appointment of Lynn Coleman as General Counsel of the Department of Energy. This article appeared in Nation Magazine on February 18, 1978.

Mr. Speaker, what are the questions we should ask of a proposed public official? Is he qualified? Is he honest? Will he place the public interest above his own? Is he a person of integrity?

If those questions are answered affirmatively, there is no reason to deny the opportunity for public service.

The record reflects that in the case of Lynn Coleman, the answers to those questions are "yes."

The Senate, I trust, will confirm this nomination.

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A GOOD WORD FOR THE REVOLVING DOOR

(By BOB ECKHARDT)

In the issue of November 12, 1977, we criticized editorially James Schlesinger's appointment of a "registered oil lobbyist out of John Connally's Houston law firm to be general counsel of his [Energy] department." That man, Lynn Coleman, is now being considered by the Senate and we publish below an argument by Rep. Bob Eckhardt (D.-Texas) for his confirmation.

At issue here is a weighing of the merits and hazards of the "revolving door" relationship that exists in this country between private business and public service. The government logically seeks to appoint to its agencies men and women who have substantial knowledge of the areas in which they would work. But such persons, almost inevitably, have associations with and attitudes toward the industries they will be expected to supervise. In this situation, the Senate must examine not only the candidate's ability and experience but his or her character or principles. Such, at least, is the theory.

Representative Eckhardt, who appears here as Mr. Coleman's defender, is known in Washington as a liberal Congressman with deep commitment to the public interest. He is the immediate past president of the Democratic Study Group, the liberal caucus of the House. He has always opposed deregulation of natural gas, and he drafted the Staggers-Eckhardt Amendment to the Oil and Conservation Act of 1975, which brought "new" oil under federal regulation, and was bitterly opposed by oil interests.

In view of this record, we believe readers will be interested in his reasons for thinking that the country will profit from the presence of Lynn Coleman in the Department of Energy.

Lynn Coleman, a young man, is in what are considered the most active years of a trial lawyer's career. President Carter appointed him to the position of general counsel to the new Energy Department, and his confirmation hearing before the Senate Committee on Energy and Natural Resources raises interesting ethical issues concerning the proper U.S. policy about movement from private to public life.

Of course, the government has frequently tapped law firms for public service, and there have been notable examples of this in Texas, the most striking occurring during Wilson's administration. The firm was Gregory, Batts and Brooks. Gregory was Wilson's Attorney General and Batts came to Washington to aid in prosecuting some of the major anti-trust cases during the great era of trust busting. The firm was small but distinguished, composed only of the three partners; though they had personally represented corporate clients, not a breath of criticism of either Gregory or Batts reflected on the quality of their public service.

Coleman has practiced with Vinson and Elkins, one of the largest and most prestigious law firms in Houston. There are 240 lawyers in the firm, and former Secretary of the Treasury John Connally is one of the senior partners. The firm is old, and Connally is relatively new in it. Two other firms in Houston, Baker and Botts, and Fulbright and Jaworski, employ from 200 to 250 lawyers each. Fulbright and Jaworski represents a number of oil and gas interests—as does Vinson and Elkins. (The former firm's revolving-door relationship with government is well-known, and I have not heard it urged that Leon Jaworski's predilections, developed through long association as a partner with that firm, disqualify him for public service.)

I think the public still envisages a law firm as small, like Gregory, Batts and Brooks, rather than huge, like Vinson and Elkins. When critics say Lynn Coleman is in John Connally's law firm, they picture Connally, Coleman and a few other lawyers engaging together as comrades in arms in "'often successful legal battles on behalf of such clients as Union Oil Company, Continental Oil Company, and other major oil and natural gas firms," as Sen. Howard Metzenbaum (D., Ohio) puts it. Although Metzenbaum fairly and accurately added that Coleman was never personally involved in handling cases on behalf of major oil companies, and that Coleman had asserted that his experience with smaller companies did not make him partial and biased in favor of oil and gas interests, criticism of the appointment did not diminish. Nor did Metzenbaum blunt his attack.

Perhaps a third of the young Texas lawyers graduating with high marks each year go to the Houston metropolitan area; another third, to the Dallas-Fort Worth area. Since the big Texas firms vigorously recruit talent from the law schools of the state and the top law schools throughout the country, it may be conservatively estimated that these big firms in the three cities get about half of the young lawyers with the highest marks entering practice in Houston, Dallas and Fort Worth. Are the very substantial number of lawyers who are in these firms or pass through them so tainted as to be disqualified for later public appointment?

Twelve years ago, Lynn Coleman was one of these promising young recruits. He had grown up in Vernon, Texas, and gone to the University of Texas Law School after graduating from Abilene Christian College. When he finished law school, he spent a year as a clerk with federal Judge John Brown and then went to Vinson and Elkins. Over the next twelve years he rose to the status of partner and then to head the firm's Washington office. Coleman has said—and none of his factual presentations were challenged—that about 3 percent of his time in his Washington practice had been spent advising major oil companies, about 50 percent had been spent working on matters for the government of Puerto Rico, and the rest involved representing a diverse assortment of clients, including Houston Natural Gas Company, an intrastate pipeline. This background raised suspicions in Senator Metzenbaum's mind about the new appointee.

Senator Metzenbaum is an astute and thorough man. His examination of witnesses in hearings and his performance in conferences between Senate and House conferees display his ability as an advocate. But he is able in other ways: he has a strong feeling that the broad public interest should be protected against narrower private interests. Therefore, he was less impressed that the twelve years duing which Lynn Coleman had occasionally represented oil and natual gas interests would improve his skills as general counsel than he was fearful that such an experience might bias Coleman's legal judgment in important policy matters in favor of those former clients.

Moreover, Metzenbaum and Sen. James Abourezk (D., S.D.), who had strongly supported the President's program to contain gas prices within reasonable bounds, had been stung by the Presidential Whip when the Vice President and the leadership of the Senate killed their filibuster in order to hasten passage of energy legislation through the Senate in any form.

Against this background, it is understandable that Senator Metzenbaum approached the Coleman confirmation in, to say the least, an uncooperative spirit. He must have felt that the President had played into his hands by submitting the appointment of a Connally partner, an oil-and-gas fox to guard the people's chicken coop. What a ready-made forum this was to explore the threat of conflict of interest within the energy agency! And he exploited the situation.

The confirmation hearing afforded a good stage for a blistering attack, but there was not much substance of it. Coleman had arranged to sever all relations with his law firm permanently and to handle no cases in which it had been involved. Senator Metzenbaum, to his credit, began his examination of Coleman by saying: "In order to clarify the record, I intend to ask some specific questions about the issues I have raised." He then cited a series of cases in which Coleman had participated. It could be argued that they revealed a bias on Coleman's part in favor of oil and gas interests, to the detriment of the general public, and that they ought therefore to disqualify Coleman from appointment to the office for which he had

been named. Despite his perhaps preconceived view of the Coleman confirmation, he conducted the hearing interrogation fairly.

There were no startling disclosures. Coleman, as a young lawyer, had participated on the brief in two typical examples of corporate representation, one involving United Gas Pipeline Company, concerning what should be the proper rate base for pipeline charges, and another involving Austral Oil Company, which sought to uphold in court the Federal Power Commission's grant of a gas price of 18.5 cents based on certain factors that went beyond "cost base pricing."

The latter case was the more important. The FPC had generally adhered closely to "cost based" pricing of natural gas at the wellhead. In the Austral case the FPC did not abandon cost as a basis of pricing but broadened the criteria for judging what costs are involved in production. The case importantly affected existing energy policy and law by significantly broadening the base and permitting higher prices.

Then Senator Metzenbaum brought up another case in which Coleman was more actively involved, the Trans-Ocean Oil Company case. There, the FPC was demanding information concerning gas reserves in the area where Trans-Ocean was drilling. Trans-Ocean sought to withhold this information, contending that to make it public would give its competitors important data for bidding on other "blocks" or areas in which it was also interested in bidding. The commission finally ordered the company to submit the data, but only after bids and sales on certain "off set blocks" had been completed. The case was a typical conflict between two commercial interests.

Then Senator Metzenbaum referred to the Montana Power case, the only one in which he found Coleman's advocacy to his liking. Senator Metcalf had previously praised Coleman's participation in this litigation, which he called a "very remarkable series of cases." Coleman had represented Montana producers against the Montana Power Company.

Finally, Senator Metzenbaum referred to the Puerto Rican case. Crude oil refined in Puerto Rico was unusually expensive because it consisted almost wholly of foreign oil. Under federal law, refiners are permitted to pass costs of crude oil on to the consumer in higher prices for products like gasoline, diesel fuel and heating oil. The extension of the refiner rule to Puerto Rico made subsidiaries of the United States refiners base the prices for their products on the nationwide refining cost of their parent companies rather than directly pass through the higher cost incurred in buying refiner products from the island refiner, Commonwealth Oil Refining Company, which accounted for 80 percent of Puerto Rican supplies for consumption.

Senator Metzenbaum found it "probably confirmable" that Coleman's successful defense of the rule saved consumers of Puerto Rico $144 million a year. But he claimed that the case was really a contest between Shell, on the one side, and Texaco, Mobil and Exxon on the other. Shell supported the Federal Energy Administration's position, which was favorable to Puerto Rican consumers.

This history of former law practice is not very revealing, except to show ability and experience. In the hearing, Sen. Bennett Johnston (D., La.) had said to Coleman:

"We have been talking about a counsel's job here. It is just absolutely inconceivable to me . . . that we would deny you a spot of general counsel because you had experience in the private sector."

But the Louisiana Senator, who has been strongly pro-oil and gas on the Energy Conference Committee, was inclined to be friendly to a lawyer with oil and gas experience.

Senator Metzenbaum then very properly explored Coleman's lobbying activities for Houston Natural Gas Company. Since Houston Natural operates within the state, it is not a "jurisdictional pipeline": the Federal Power Commission does not regulate its rates with respect to its purchase, sale and transportation of gas. Thus, Houston Natural may buy gas in Texas and sell it to Houston Lighting & Power Company in Texas without having either the price of the gas or the cost of its transportation controlled by the FPC. But it may not buy gas for the interstate market and mix it with the gas it is transporting for use solely in Texas without making the total mix "jurisdictional," and thereby making itself a pipeline subject to FPC regulation.

The energy legislation now being considered would tend to move gas from use in industries in Texas, where it is produced, to homes throughout the country. This is the opposite direction to that toward which gas has moved in the past. It had been moving into the intrastate market, where it was sold at uncontrolled prices about three times those of gas going to interstate use. The proposed legislation would stop this trend. Further, it would phase out the use of gas for boiler fuel by both direct prohibition and taxes on certain uses not prohibited. Even with the increased prices permitted by recent FPC decisions and the even higher prices permitted under the proposed legislation, gas would still be a bargain compared to oil, and its value is further enhanced by its being the cleanest of fuels.

This movement of gas from the intrastate market to the interstate market would of course leave gas pipelines, that had previously carried only intrastate gas, functioning at less than capacity, thus inefficiently. It is as if a train of 100 railroad cars, each full of oil, should be compelled to operate half full, while another train was provided to carry oil to interstate users. It is obvious that it would be better and cheaper to use the excess capacity of the first 100-car train. But if, in order for the intrastate pipeline to use its excess capacity to carry interstate gas, it must subject all its gas and all its carriage to FPC control, the pipeline will elect to operate with a less than full load. Thus, each 1,000 cubic feet of gas which makes up the less than full load will cost more, and the fuel bills will rise for both residential and industrial consumers in Texas. Also, if new interstate pipelines must be built to deliver gas that could have been handled through the excess capacity of the old intrastate pipelines, such will add an additional cost burden to interstate gas.

Coleman, as a lobbyist for Houston Natural Gas Company, brought this to my attention, and I drew an amendment, which became part of the House-pased bill, to permit intrastate pipelines to use their excess capacity to move gas into interstate commerce, without giving the FPC the power to control their gas that remains in intrastate use.

In the confirmation hearings, Senator Metzenbaum called the amendment "the Coleman Amendment" and characterized it as a loophole for moving gas at unregulated prices into the interstate market. What he failed to recognize was that the amendment required the FPC to pass on the arrangements and to approve them only if it were assured that the prices involved were "fair and equitable."

Coleman's activity as a lobbyist throws more light on his character and ethics than does the history of his law practice. There are essentially three types of lobbyists in Washington: the old-fashioned beefsteak-and-bourbon lobbyist; the new-fashioned Washington emissary lobbyist, and the lawyer lobbyist. The first kind influences through affability, sometimes verging on bribery. The second compels by organizing support or opposition at home. The third persuades by showing ways of solving problems or reconciling differences.

Coleman is of the third type. The talents of such a person are of the kind most desired in a Congressional staff member or an attorney in an administrative agency. And when one having these talents is known to be a person of candor with a natural impulse to act in the public interest, such a person is a prime candidate for appointment and for confirmation in a job like that of general counsel of the Energy Department.

My experience with Coleman in matters such as the excess pipeline capacity question goes back a number of years. I have found him a useful adviser and confidant in other matters where his expertise and my interest coincided. His representation of Houston Natural is a good example. In that matter Coleman did not act improperly. He argued in support of the amendment, and its adoption was of course favorable to his client. But he made no misrepresentations and did not attempt to affect the legislative process by any improprieties. His lobbying efforts were limited to presenting legal and economic arguments.

Senator Metzenbaum's skeptical view of the amendment was also not at all improper. Though his criticisms were developed in a "stop Coleman" movement, they raised legitimate points. Generally, the FPC's standard is based upon the judgment that the price is "just and reasonable." Here the standard rested upon the language "fair and equitable." This might be construed to be a less rigid standard, but it was necessary to use language other than that of the Natural Gas Act because all the judicial baggage that "just and reasonable" carried could not practically be carried over to a determination respecting a pipeline whose economic structure would not be subject to total FPC scrutiny and control.

Senator Metzenbaum also raised this precaution: that we make sure that the amendment not be a vehicle for the intrastate pipeline to "broker" gas, thus drawing off a middleman's profit in addition to a reasonable profit for transportation. We are working on these points in conference now, and the Senator and I are in substantial agreement.

Sen. Henry Jackson (D., Wash.), who seemed generally favorable to Coleman, raised another question: Should a person of integrity and character, who clearly possesses a high level of competence and against whom there is no evidence of wrongdoing, nevertheless be disqualified from serving in a high public post if there were an appearance of taint because he had represented interests which he must control after his appointment? While assuring Coleman he did not personally question his probity, Senator Jackson worried about how the public could be convinced "that someone who has been so closely identified in a firm with the oil industry" could "really fulfill the important obligations that fall on the office of general counsel."

Sen. John Durkin (D., N.H.) asked Coleman in the hearing the following question which I paraphrase:

I have nothing but admiration for your ability and respect your integrity, but how do I tell the people of New Hampshire and New England that you, as general counsel for the Department of Energy, are going to solve the national energy problems for them when you have been an oil company lawyer?

How can such a question be answered?

It seems to me that Senators have an obligation to discover for the people of New England and the rest of the country whether in fact Lynn Coleman has become indelibly tainted by his oil and gas associations. Their obligation is the more serious when they deal with a man about whom they admit there is no evidence of wrongddoing and about whose ability and integrity there is substantial and unchallenged evidence. Further, they must

examine each nominee on his or her individual merits. The Coleman case seems to me to demonstrate conclusively that no general rule can possibly be applied without seriously restricting the government in recruiting people sufficiently talented and experienced to deal with technical problems, such as those involved in regulating the oil and gas business.

The result of the Coleman confirmation proceeding described here will probably be final by the time this is printed. Whatever the result, the issues involved in it and the manner in which they were considered matter. People will inevitably move outward through the revolving door at the portal of public service. We should not deplore the fact that they sometimes move inward. The Senate should welcome those who are honest, qualified and well motivated to perform public service and bar those who are not. This should be the only rule or standard.●

## HMO'S WORK AT KEEPING HEALTH CARE COSTS DOWN

Mr. PELL. Mr. President, during this period of rising health care costs, more and more attention is being paid to health maintenance organizations as a type of health care delivery and health care cost containment.

Health maintenance organizations—HMO's—are prepaid group practices where for a monthly premium an individual or a family can have a comprehensive health care program.

On February 17 of this year President Carter visited an HMO in Providence, R.I. RIGHA—the Rhode Island Group Health Association—was the first fully qualified HMO under the Health Maintenance Organization Act of 1973, and it serves as a model for many developing HMO's throughout the country. On March 10 Secretary Califano held a special day-long meeting in Washington of hundreds of business, labor, and health leaders to introduce them to the idea of HMO development as a workable solution to skyrocketing health cost inflation.

At that meeting one of the most important and interesting speeches was given by a close friend of mine from Rhode Island, who was essential in the founding of RIGHA and in seeing it through thick and thin until today, Edwin C. Brown, the Secretary-Treasurer of the Rhode Island AFL–CIO.

Ed Brown's eloquent statement clearly points out the importance of HMO's as well as the heroic efforts of men like the late Thomas Policastro and of Ed himself to get RIGHA on its feet.

I would like to share with my colleagues this excellent statement and bring their attention to the important role that HMO's play in taking care of people when they are sick, in keeping them healthy, and in keeping health care costs to a minimum in today's incredibly expensive health environment. At this point I would like to print Ed Brown's statement in the RECORD:

The statement follows:

STATEMENT BY EDWIN C. BROWN

Dr. Elwood, members of the panel, and conference participants: The health care industry is shrouded in mystery and myth. It is complicated, fragmented and confusing. America has the very best medical schools, the best trained physicians and nurses, and the best equipped hospitals. Americans also spend more money per capita for health care than any other nation in the world, and yet, our residents do not receive a better quality of health care.

The question I frequently ask myself is . . . "How in the world did a jewelry toolmaker ever become so involved in such an unorganized business? It is a question for which I have no rational answer. In retrospect, however, I can think of more reasons why I should not have become involved. I survived, and I believe the creation of the Rhode Island Group Health Association has been a significant factor in improving the delivery of health care in Rhode Island.

My involvement, on behalf of the Rhode Island AFL–CIO, was a back door happening. During World War II, most unions had negotiated with employers for amounts of money to be set aside for the purchase of a schedule of health benefits. The employer usually purchased the benefit package from a friendly insurance carrier. These plans were expensive, benefit coverage was inadequate, and the employee, physician, hospital, and employer were inundated with an avalanche of paper work before benefit payments would be made. The required forms were drafted by insurance companies—no two companies had the same forms—and they were complicated and incomprehensible.

The situation became so intolerable that providers were insisting upon their payment directly from the ailing worker and he in turn would arm-wrestle with the carrier for reimbursement. The workers, the providers, and the employers were becoming increasingly disenchanted with the burdensome system. Subsequently, unions insisted that employers turn to the Blue Cross-Blue Shield arrangement as a solution to the complicated and unsatisfactory paper work method of the insurance carriers. With the Blues, the union and employer negotiated a specific level of benefits. All parties understood their benefit schedule and there were no reams of forms to be filed.

For years the health care industry of the nation was sick, and after the war the patient took a turn for the worse. Hospital expansion took place. Obsolete hospitals required modern buildings and hardware, cost of supplies skyrocketed, wages for hospital employees needed updating, and the convenient conduit of the Blues firmly in place, physicians altered their mode of practice and were demanding a greater share of the health care dollar.

Union leadership found itself in a very unpleasant situation. They were negotiating greater and greater amounts of money from employers for health coverage, but these amounts were purchasing less and less health care. Deductibles became more numerous, out of pocket payments by workers increased, and it was almost impossible to obtain a family physician. If health care was needed on a Wednesday, holiday, weekend, evenings, or during the doctor's vacation, it was necessary to visit a hospital emergency room and suffer the consequences. The so-called system was a mess. It was not working satisfactorily and getting worse. The Blues made no meaningful effort to contain costs, or improve the level of care. The governing boards of the Blues vigorously resisted union efforts to have the membership of the boards more accurately represent the population of subscribers.

The question raised repeatedly by our membership was—"are we getting our monies worth? We were convinced we were not, and improvement in the disorganized method of health care delivery appeared remote.

Union members were agitating for changes in the manner in which the Blues operated, and also the legislation that governed them. It was at this juncture that the state labor council became deeply involved. The council was convinced that the Blues was reluctant to break with the past and were comfortable with the status quo.

This so-called system was the cause of many of the deficiencies we were complaining about. It contained no provisions to assure high quality care, there was no concern over needless operations, overcharging, excessive and unnecessary hospitalization. It did nothing to provide early diagnosis, prevention of disease, or health care education, and it met but a fraction of the health care costs. The Blues were incapable of containing costs, and as a matter of fact, their system was contributing factor in the rapid rise of health care costs. Their scheme was based on the antiquated, solo practice, fee for service, piecework system—so many dollars for a tonsil, or an appendectomy or a hysterectomy.

Because some of the changes unions sought required legislative action, labor's legislative arm, the Rhode Island AFL–CIO, was mandated to seek amendments in the enabling legislation of the Blues. The AFL–CIO concluded that the Blues were merely serving as a conduit for the transfer of funds from an employer to a provider. The unions had bargained for these amounts of money and they were not permitted any voice in the dispersal of their negotiated money.

We expressed our lack of confidence in the health care industry publicly. We exerted extreme pressure for change in the state legislature and we served as strong opposition before regulatory agencies during the frequent hearings on rate increases. We experienced limited success, but we were laying a foundation for future developments. The public discussion focused attention on the shortcomings of the health care industry, and employers, our members, elected and appointed officials, and the general public received a revealing education concerning the goings-on associated with that industry. It was evident that supplying more and more money for less and less care was not a sensible arrangement.

Our union leadership soon realized that it was not going to be easy to correct many of the deficiencies in the industry. We became convinced that it was imperative that alternative ways to provide adequate health care at a reasonable cost must be devised.

Consequently, the Executive Board of the Rhode Island AFL–CIO established a Health Services Committee. Our committee learned that there were organized systems of providing health care. They became aware of the Lahey and Mayo Clinic systems. Most were already familiar with the military system. They learned how presidents and congressmen have available a group practice system for their health needs. They also discovered the prepaid, group practice plan run by Kaiser on the West Coast, the Meatcutters one in Cleveland, the HIP plan in New York City, and the Teamsters plan in St. Louis.

By the time of the 1966 convention of the Rhode Island AFL–CIO, the committee was far enough advanced to offer a resolution that stated—"the continuation of the solo practice, fee for service, fragmented method of delivering health care was not in the best interest of our members and the population of the State." It mandated the officers of the Rhode Island AFL–CIO to develop a method of improving the existing system. The new system would be addressed to the major problems of availability of care—organization of a prepaid group practice, distribution, utilization, improved quality, and the financing of health care based upon experiences in other sections of the United States. To help defray the cost of this venture, the convention delegates voted to increase the per capita tax from 5 cents to 10 cents per member per month.

It was at about this time we turned to National AFL–CIO for guidance. On a visit to

the Social Security Department of the National AFL–CIO, we informed Nelson H. Cruikshank and Bert Seidman of our interest in the formation of a health care program. They were members of the prepaid group practice plan in Washington, D.C. and they were enthusiastic supporters of the concept. They arranged for Thomas F. Policastro, president of the Rhode Island AFL–CIO, and myself to meet with Dr. Palmer Dearing and Lou Segadelli of Group Health Association of America. We became affiliated with the Group Health Association of America and have profited from that association.

In March, 1967, I received a call from Lou Segadelli of GHAA. He informed me that GHAA had been awarded a grant from the federal government to conduct studies as to the feasibility of establishing prepaid group practice plans. He asked if the Rhode Island AFL–CIO would be interested in having a study made in Rhode Island as to the feasibility of establishing a group health plan. I had two questions. What would a feasibility study consist of, and how much would it cost us? The first question was explained, and the reply to the second was "nothing." At that price, I agreed. Tom Ludwig of the GHAA staff was assigned to direct the feasibility study.

To help finance certain phases of the study we needed additional local funds. We had available the funds raised by the previous increase in per capita tax. We also returned to our local unions for additional voluntary contributions. The leaders of these unions resorted to ingenuous ways of raising their share of the seed money. They conducted car washes, cake sales, entertainments, drawings on TV's, and direct solicitations. Other unions appropriated monies from their local's treasury, or from their health and welfare reserves. In total, we raised about $300,000 in seed money. On June 28, 1967, the conclusions of the 90-day feasibility study were published. It was agreed that the necessary ingredients were present for possible success.

We learned much from the feasibility study. We learned that a significant number of union members, employers, physicians, hospital administrators and Brown Medical school officials were sufficiently interested in discussion alternative methods of delivering health care. This gave us encouragement to proceed.

Some employers were not only concerned about the escalating costs of regular health care, but were also interested in trying to do something about lowering the costs of workers' compensation.

Members of our committee visited the plans in Cleveland and New York, but it was their conclusion that none of the plans visited would be successful if transplanted to Rhode Island. They learned that group practice plans were an effective way of encouraging early diagnosis, preventive care, education, and reduce costs through less hospitalization. They learned that group practice plans were far superior to the uncontrolled solo practice, fee for service method. They learned that the Blues and third party payers were not solving the cost problem, they were making it worse. Their system was an incentive to hospitalize unnecessarily. They failed to encourage preventive health care techniques or educational programs. The committee learned our negotiated fringe benefits were purchasing a schedule of benefits and not providing health care. They learned that medical audits were top drawer secret documents and there was no way of learning if we were receiving good, bad, or mediocre care. There was no way of learning about a report of a hospital utilization committee, or the findings of a tissue committee, or a disciplinary action by the medical staff for a poor performance of a fellow physician, or the results of peer review, if any. They also discovered that independent journalism was featuring the virtues of group practice and pointing an accusing finger at the evils of the health care industry. Among them were: Time, Life, Look, Fortune, Business Week, Progressive Architecture, and others.

Before the feasibility study had been completed, there was a serious question if the existing practice of medicine was not hazardous to our health.

Unions wanted a one-stop service for the subscribers. It was our belief that if a plan were to be successful in Rhode Island, it must be a free standing facility based at a primary hospital where it would be convenient for plan physicians, patients and family. In too many instances we learned that union members had no medical specialists to care for the family, and very often the wife's physician was considered to be the family physician.

In a Rhode Island plan there must be a team of primary care physicians on call at our health center seven days a week; including nights, weekends, and holidays. The subscriber must have a free choice of the plan's primary care specialists to care for the entire family and sub-specialty consultants were to be readily available. The patient need not travel all over the state for treatment, lab tests or x-rays. The plan would engage in early diagnosis and preventive care. We wanted the medical records for all the members of the family located in the central place for better family health care. Duplication of services and hardware were to be eliminated and ancillary services convenient.

We wanted a nonprofit, comprehensive, prepaid, multi-specialty, hospital based, prepaid group practice plan. We were convinced that the type of group practice engaged in at Mayo and Lahey Clinics should be made available to our subscribers.

Although the legal umbrella to organize a plan in Rhode Island would have been adequate, we decided it would be advantageous to have the state legislature adopt special enabling legislation for our particular needs.

After traveling the legislative route of public hearings and meeting the usual problems associated with such legislation, the bill was passed and signed into law by the then governor and now U.S. Senator John H. Chafee. However, in preparing the legislation, a listing of the names of incorporators was necessary. We wanted a list of incorporators that showed a broad base of community support. In particular we invited some of the major employers to join with us. To this point in time, we had received considerable encouragement from many employers, some physicians, public officials, etc. However, we soon learned that union officers had no monopoly on stupidity. There was a sufficient supply of the commodity to be shared with others. We received more lame-brained excuses from them for not joining with us in public view than you could shake a stick at. Some hedged because they were on the boards of the Blues, or hospitals, or health agencies, and they feared there would be conflict. Others, sought the nonmedial advice of their physician friend.

That was tantamount to asking if Lenin believed in Communism. They were scared off. They were told our scheme would never work, they would become involved in a communist conspiracy, it was socialized medicine and would destroy the free enterprise system. These hard-nosed employers did not have the courage of their earlier convictions.

We turned elsewhere for support. To our pleasant surprise, we found several public-spirited individuals who came forth and supported our effort. A president of a college, a former governor, a university professor, a clergyman, a financier, the head of the Urban League, and some small businessmen were included. But we did not receive universal support of the business community.

The early reluctance displayed by employers and physicians to cooperate has turned around. We now have enthusiastic support. During the past couple of years we have attracted the chief operating officers of our telephone company; a major insurer, (not Prudential); the financial officer of a large manufacturing firm and the personnel director of a major hospital, and other management representatives. All are contributing their expertise to our success. The early fear and hostility of physicians is no longer as vicious. We have a healthy list of applicants, consultants are seeing patients at our facility, and we have comfortable working arrangements with most all specialties.

After the legislation was in place, we embarked upon meeting after meeting with hospital administrators and trustees, physicians, employers, supply houses, government officials, union members, and anyone else who would meet with us. We were waltzed around pretty well by the health care establishment.

During the course of our hospital trustee meetings, a classic example of employer resistance took place. I had completed my plea to the trustees for affiliation with a large community hospital. The trustees remained silent, they looked at each other and after a deafening silence, the trustee chairman spoke up . . . "Ed, I hear what you say, I understand your request, but honestly, what are you really after?"

He was expressing the fears of an insecure business community. Their concern was—were we trying to organize the employees of the hospitals? Were we trying to use a health plan as a scheme to organize workers in unorganized plants or did we have ulterior motives?

Another example of an employer's reluctance to venture along new social paths took place when a group of Steelworkers wanted the opportunity to join our plan. The employer refused to offer a choice. It was only after the union members threatened a work stoppage did the employer agree to dual choice of plans, and we were successful in enrolling a large percentage of the workers.

Our enabling legislation was enacted in early 1968 and it was not until 1971 before we were able to start delivering services. And it was not because we were not trying.

Our affiliation with a hospital came about only after a strong stand taken by our Catholic Bishop. He and some of the trustees were convinced that the type plan we were proposing made sense and he was willing to give us a try at the catholic-run hospital. The medical staff of this hospital resorted to every possible tactic to prevent our affiliation. He insisted that the hospital was for the convenience of patients and not the doctors. The irresponsible behavior of some of the staff physicians is what gives doctors a bad name.

The first two years of our operation was a nightmare. We were in a hand to mouth operation. The reservoir of local union funds was depleted. The federal government was not prepared to make a meaningful commitment. I next turned to national AFL–CIO unions. George Meany and Lane Kirkland of the AFL–CIO were our greatest champions. Through the intervention of Bert Seidman, the National AFL–CIO provided us with a $100,000 loan; Twenty-five thousand dollars came from the Textile Workers of America and another $25,000 from the Ladies' Garment Workers; $57,000 from the Rhode Island AFL–CIO; $5,000 fom the Transit Workers; and $2,000 from Local No. 580 of the Social Workers. We also negotiated a $90,000 loan from the local Laborers' Health and Welfare fund. After about two years of operation, we were on the ropes. Employers were continuing to resist our enrollment efforts, physicians and the Blues were bad-mouthing us on every occasion. The bickering among the hospitals, the medical staffs, and poor

administrtaion by our staff was discouraging. For the first time I was about ready to admit failure.

During our trials and tribulations, I was visited frequently by representatives of various insurance carriers, suppliers of medical and hospital equipment, foundations, and sundry entrepreneurs. They were creating an erroneous impression that they were interested in helping us succeed. I became convinced they were merely picking our brains.

When I was at the lowest point in my confidence as to the future of RIGHA, I received a visit from a team of Prudential Insurance Company representatives. Until this time, I had never been aware of Prudential's interest in RIGHA or in the HMO concept.

Prudential was not included in number of insurance companies that had previously proved to be such an annoyance. My first reaction was, here was a new kid on the block and I was damned he was not going to pick my brains about the good and bad of RIGHA. My reception of this team of gentlemen would not have qualified me as a prime candidate for the British Diplomatic Corps. Their reception was somewhat less than cordial. To my amazement, their approach was so much different than the previous insurance peddlers.

They were not on a fishing venture. They convinced me they were on the level. They had done their homework. They knew very accurately the situation at RIGHA. They were very frank as to the potential of the plan. They stated in general business terms why Prudential was interested in a relationship that may help RIGHA. They were clear on what they would do for us and the experience their company may gain from a cooperative relationship. I visualized the possibility of saving RIGHA.

I arranged meetings between members of the RIGHA board and representatives of Prudential. Originally there was a difference of opinion within my own family as to the wisdom of a union-sponsored plan embracing the giant of the insurance industry—or vice versa. I was convinced it was the only way to go. Within weeks, a plan was developed, all the pertinent information had been exchanged and the wedding consummated. As financial support was a necessary ingredient, Prudential came through with grants and loans. But most important Prudential had recognized our basic weakness—lack of good management talent. Our arrangement with Prudential not only included financial assistance, but we consummated a management contract that, to my way of thinking, was more important than the money commitment.

The health care consultants who were advising me were insistent that I turn to the health care industry for professional management. I had tried that route on several occasions and it was a failure. They had brought the bad habits of their health care experiences to RIGHA and things went from bad to worse. I was convinced that what was needed was a good business manager with common sense.

The management contract with Prudential produced a team, headed by Ken Simmons, that turned RIGHA from a failure to success. In addition to Simmons, there was Sam Havens an administrator; Dave Robertson, the comptroller; and a marketing person. It gave strong management. It made the plan attractive to physicians and other professionals. It made local employers more comfortable with the plan. It attracted to the plan Dr. Robert Rosenberg, who is responsible for many of our medical successes. Words of mine or inadequate to express the worthwhile contributions Ken Simmons and Dr. Rosenberg have made to RIGHA.

During our period of agonizing suffering, many staunch supporters came forth with a helping hand. Among the true friends were U.S. Senator Claiborne Pell, Dr. Joseph E. Cannon, Rhode Island director of health, and his deputy John Tierney; John Kittredge and Lesley Ralson of Prudential. The governors of the state, and mayors of several cities were also very supportive.

On opening day, June 1, 1971, RIGHA had enrolled 1200 members—far short of our targeted goal. There was slow gradual growth until 1973 when Prudential came to our rescue. In 1974, the state of Rhode Island and the federal government enacted legislation that called for employers to offer employees a choice of health care plans when such were available. This was a significant factor in the enrollment growth. Since 1974, the enrollment has increased from 12,000 members to 28,000 prepaid and over 5,000 fee for service patients. There are 25 full time physicians, 250 employees, our main facility is located in an attractive restored historic mill building and we operate a satellite center twelve miles away. We were the first qualified HMO in Rhode Island and in the country. The second qualified HMO in Massachusetts and we are now in the process of marketing our plan to a Massachusetts population of over 200,000 residents. We are operating one of the most successful alcoholism programs in the country, we have "no smoking" clinics, weight control sessions, mass inoculations, health education, and during the recent New England snowin, our facilities and staff served, for several days, the health needs of many stranded travelers. If I sound proud of the accomplishments of RIGHA, it is because I am proud. RIGHA has recovered from a serious condition of weak management and financial malnutrition and thanks to the diagnostic and remedial prescriptions provided by Doctor Prudential, we are out of the woods.

Management or labor cannot do it alone. We tried it and did not meet with unqualified success. Labor and management must adopt the sames working relationship for HMO as it does with the United Way campaign and other worthwhile community endeavors. They must work together with a professional medical, marketing, and managerial staff. It is not an adversary, but a cooperative venture.

There is no right way to organize such a plan. The plan and techniques employed must be tailored to meet the paricular situations in the location. Also, you will find that there is no specialized genius who can do it for you. It takes hard work, patience and money.

Management has a vital role to play in the improvement of health care delivery. It is in your best interest you become deeper involved.

The HMO vehicle is the American private enterprise system at work. To be successful, it must receive complete cooperation from government, private employers, and unions.

In closing, I will offer a greater challenge. I believe we should be working to deveop a heath care system that would provide complete health care for ailing individuals regardless the cause of their condition. The day to day health care matters should be folded into the health care plans associated with injury or illness on the job, auto accidents, or from any other source. All that is needed is the will to do it, and I believe such a plan is possible.

## A DEMONSTRATION PROGRAM TO STIMULATE CONSERVATION

● Mr. McINTYRE. Mr. President, this Congress has an opportunity to take an important energy conservation step in the fiscal 1979 Department of Energy budget. This opportunity has been presented to us and to the administration before, but strangely, we have let it slip by.

We have begun long-range programs to convert our economy to domestic sources of energy. And we have begun to authorize research and development programs for measures such as natural gas burners, electric heat pumps, and natural gas heat pumps. But it is absurd that almost 5 years after the Arab oil embargo, we do not have any programs to take advantage of the potential savings in home oil heating systems.

My esteemed New Hampshire colleague (Senator DURKIN) plans to introduce soon in the Committee on Energy and Natural Resources an amendment to the Federal energy budget that will provide $10.5 million for a "Residential Oil Heat Efficiency Improvement Program." This amendment has my full support, and I hope all my colleagues will support it as well.

Below I will outline how this program can save over 200,000 barrels of imported oil every day. Through this program, millions of citizens can save 15 to 30 percent, and possibly as much as 40 percent of their heating oil bills. But first, Mr. President, it would be a good idea to review the rationale for Federal involvement in this program to improve the efficiency of home heating oil burners.

According to Federal data, approximately 14 million homes in the United States are heated with oil.

Some energy policymakers have concluded that the use of heating oil will or should be phased out in the future. The likelihood that this will happen without severely coercive Government pressure is practically nil. Indeed, the Department of Energy projects that without this program demand for home heating oil will grow in the coming years to the following totals:

| | |
|---|---|
| 1980 | 409 million barrels |
| 1985 | 446 million barrels |
| 1990 | 498 million barrels |

With this substantial and growing projected use of home heating oil, it is appropriate for the Government to see what can be done to achieve maximum conservation. We have already filled our citizens' ears with exhortations to cut down their use of fuel by turning down thermostats. And people are installing insulation as fast as the Nation's manufacturers can produce it.

More can be done to help people conserve in comfort. New burners which have already been developed and tested can save between 15 percent and 30 percent of the oil now used in home heating oil burners. And replacement of existing burners with some new burners being developed can save as much as 40 percent of the oil consumed.

If only half of the 14 million oil-heated homes in the Nation were equipped with these high-efficiency burners, the energy saving would be tremendous. Some statistics below show the potential savings. According to the Department of Energy, residential heating oil consumption is expected to be 1.4 million barrels per day by 1985. Here are some examples of potential savings:

First. If half (50 percent) of the oil burners in the Nation were replaced by burners that save only 15 percent of oil use and cost, the saving would be 50 percent×15 percent×1.4 million barrels/day=100,000 barrels per day.

Second. If half of the oil burners were replaced with burners that are 30 percent more efficient, the savings would be 50 percent×30 percent×1.4 million barrels per day=200,000 barrels per day.

The efficiency of an oil heating system can also be improved in many instances by reducing the size of the burner nozzle.

During the era of cheap energy, builders were more concerned about supplying ample amounts of heat to a home than about conserving energy. As a result, many oil heating systems have larger nozzles than are needed. Consequently, many families can save 10 to 15 percent on their heating bills simply by reducing the size of burner nozzles at a cost of less than $50.

The $10.5 million program that Senator DURKIN will offer, and which I heartily endorse, consists of two parts: a $6 million demonstration of existing energy-saving technologies, and a $4.5 million research and development program from new energy-saving oil heating system components.

Significant energy savings can be achieved through development of new components for oil heating systems.

New boilers and furnaces that deliver heat more effectively from a burner to the room being heated are on the drawing boards, but need development funding.

Also, experimental new burners, which may be more efficient than the best burners now on the market, which in some cases can use a mix of fuels such as wood and oil, are also being developed.

Oil-fired heat pumps are also being developed. These heating systems may have higher initial installation costs than today's oil heating systems, but they may also save half the oil that would be used by a conventional system.

Although the Department of Energy is funding programs to develop gas-fired and electric heat pumps, no money is budgeted for oil-fired heat pumps, which offer the biggest potential saving of all these research and development items.

PAYBACK PERIOD

Refitting oil heating systems with new, improved burners can be one of the most cost-effective energy conservation measures possible in a home. The Commonwealth of Massachusetts has done a study of the relative costs and savings of replacing oil burners compared to adding insulation and other measures. This comparison has been published in a proposed "Demonstration Project for Residential Oil Burner Modification/Replacement Technology." I ask unanimous consent to insert a copy of this proposal at the end of my statement.

The Massachusetts report analyzes the so-called payback period, which is the period of time needed for the homeowner to get back, in savings on fuel costs, the amount of money spent on the energy measure. The shorter the payback period, the more energy is saved for a given measure. An example of a payback period is the rate at which money deposited in a bank earns interest. At simple interest of 10 percent, money in a bank account would pay for itself in 10 years.

The results of the Massachusetts analysis of payback periods are startling. For each type of house studied, both new burner installations and adjustments to the firing rate of existing burners have payback periods of less than 2 years. This is substantially less payback time than insulation, even for poorly-insulated houses.

In other words, one of the best energy-saving investments that a homeowner can make is in a good new oil burner.

WHY A FEDERAL ROLE?

If replacing oil burners is such a good idea, why does the citizen need the Federal Government to get involved? Why are people not already replacing burners in large numbers or hurrying to obtain new burner equipment with reduced firing rates, just as people are insulating homes?

There are several reasons. One is that the Government has put a great deal of effort into publicity telling people about insulation, but there has been virtually no publicity regarding efficient oil heating systems.

Also, the public does not know much about the technology involved in oil heating. A new burner costs $200 or more, and at this price, people are naturally unwilling to spend money on measures which promise savings over time but with which they are unfamiliar. In addition, some home heating oil dealers, who sell eqipment as well as oil, may be unwilling to sell equipment that cuts down their sales volume. However, through a Federal program, oil dealers can be shown that although sales volumes decline, profitability need not suffer. I might note in passing that the Oil Heat Institute of Long Island and the New England Fuel Institute, whose members are heating oil dealers in those regions, both support a Federal program of this nature.

The burner industry is too small to overcome buyer resistance as well as doing all the research, development, testing, standardization, and certification. The largest manufacturer of burners in the Nation had sales of only $11 million in 1976. With small companies facing small demand and substantial buyer resistance, the industry is stumbling just when it should be advancing.

These and other market barriers can be overcome through a cooperative program between Government, the equipment industry and heating oil retailers.

This program will become doubly important if the proposed Federal income tax credit for energy conservation measures and a Federal loan program to help people finance energy conservation measures are passed.

Improved heating oil burners are among the items for which the Federal consumer income tax credit has been proposed. If this tax credit is to be an effective instrument of Federal policy, the public will need to have full knowledge of the savings potential of these devices.

THE PROPOSED PROGRAM

The following activities, and others, would be important parts of a Federal program.

I. For the $6 million demonstration program:

(1) Training programs for retailers and installers in order to ensure that replacements are done properly;

(2) Monitoring programs to check on installations and to verify projected savings;

(3) Public information programs to make consumers aware of the potential energy savings and to allay the fears of both the public and the oil retailers about these measures;

(4) A demonstration of the potential energy savings that can result from replacing old burners;

(5) A demonstration of the safety of flue dampers and other heat recovery measures.

II. For the $4.5 million research and development program:

(1) Development of new boilers and furnaces for residential use;

(2) Development of new, more efficient burners;

(3) Development of equipment to burn both wood and oil; and

(4) Development of oil-fired heat pumps.

ADDITIONAL NEEDED STEPS

In addition, I have introduced a bill, S. 2733, the Small Business Energy Loan Act, to provide Small Business Administration loans to small firms that make or sell energy-conserving measures but cannot obtain financing elsewhere. This bill could help small-burner manufacturers to convert their plants or expand to produce new energy-conserving burners and parts. These energy-conserving measures and others would be brought to market faster as a result of this legislation.

In conclusion, Mr. President, I see several potential energy-conservation gains resulting from this program. It would help to show more clearly how much oil can be saved through conversion to new, efficient burners that are now coming onto the market. Also, we would learn more about, and hasten development of, newer burner technologies with even greater energy conservation potential.

This program would stimulate development and manufacturing activity, and it would encourage contractors and retailers to sell and install new, efficient burners. It would provide consumers with the information they need to make intelligent purchasing decisions, and raise confidence in energy-conserving heating equipment.

The proposed program dovetails with the contemplated Federal income tax credit for residential energy conservation measures and with the untility residential energy conservation program in the President's energy legislation to save the Nation hundreds of thousands of barrels of oil imports per day, and save consumers a substantial portion of their heating bills.

I wish to submit for the RECORD copies of the proposed programs:

The material is as follows:

A DEMONSTRATION PROJECT FOR RESIDENTIAL OIL BURNER MODIFICATION/REPLACEMENT TECHNOLOGY

I. INTRODUCTION

The proposers, The Massachusetts Energy Policy Office and the Walden Division of Abcor, Inc., along with their principal subcontractor the Better Home Heat Council,

Inc., offer unique qualifications to conduct a community-wide demonstration program in the application of oil burner modification/replacement technologies which hold high promise for conserving a substantial portion of the energy used for residential space heating. The program is designed to evaluate the institutional and marketing barriers to widespread implementation of these available technologies. The results of this experiment will have important economic benefits for this state and region as well as a significant effect on the realization of national energy conservation goals. The ultimate goal is to provide a proven fuel oil conservation program for statewide implementation based upon the concepts described below. The Better Home Heat Council, Inc., of Massachusetts, an association of 400 retail fuel oil dealers, will coordinate all program activities that require the participation of the oil heat industry.

II. TECHNICAL DISCUSSION

A. A brief description of the technologies to be demonstrated

The rationale for this demonstration is based upon field research conducted by Walden Division of Abcor, Inc., located in close proximity to Boston, Mass. For the last three years Walden conducted extensive investigations into potential energy conservation techniques, retrofits, and equipment modifications related to oil-fired residential heating sytems for the National Bureau of Standards and Federal Energy Administration.[1] These evaluations have clearly demonstrated the technical feasibility and cost-effectiveness of two oil burner retrofit modifications which could provide major reductions to homeowner's oil heat bills while conserving significant quantities of No. 2 fuel oil. The two measures are firing rate reductions on oil burners found to be overfired with respect to the heating load (and hot water load if supplied by heating plant) of the residence and the installation of new, flame retention oil burners with reduced firing rates on overfired heating plants in which the original burner was found to be inefficient, generated high smoke levels, or the firing rate could not be reduced.

Table 1 below summarizes the effect of these energy conservation measures on the cost and quantity of fuel used by homeowners. The payback realized from these conservation measures is more favorable than the conventional alternative investments in residential conservation such as insulation and storm windows.

Walden has also recently completed field studies under contract to the National Bureau of Standards[2] to evaluate the energy conservation potential of motorized stack dampers, sealed combustion units, and stack heat reclaimers. Although analysis of these data has not been completed, certain qualitative observations have been noted.

[1] DOC Contract No. 5–35781 (published), and DOC Contract No. 6–35738 (published).

[2] DOC Contract No. 7–35747 (to be published).

TABLE 1.—ENERGY CONSERVATION POTENTIAL OF OIL BURNER RETROFIT MODIFICATIONS FOR THE AVERAGE HOMEOWNER

[Based on a 6,000 degree day heating season]

| Modification | Average seasonal fuel oil saved | | Average annual cost savings | | Cost of modification | Average payback period |
|---|---|---|---|---|---|---|
| | Gallon | Percent | Amount | Percent | | (years) |
| Reduced firing rates[1] | 252 | 14.0 | $90 | 11.1 | $70 | 0.8 |
| New burner installation | 531 | 30.4 | 215 | 27.9 | 340 | 1.6 |

[1] Data based on units that supply space heating load only.

Motorized stack dampers definitely conserve fuel oil by reducing offcycle convective flue and barometric damper flow. The fuel saving potential is considerably less than found from firing rate reductions and new burner installations with reduced firing rates. The installation cost of the stack damper exceeds the cost of a firing rate reduction and is less than the installed cost of a new, flame retention burner. Three factors might limit the utility of incorporating stack dampers in the proposed demonstration program. First, installation of dampers on certain units generate intolerable odors that disperse throughout the residence. The underlying cause of the odors is thought to be associated with low stack draft. Second, crimping of sheet metal flue ends that insert into the damper have caused damper failures which will override oil burner controls leading to "no heat" calls. Even careful installation protocol has not always guaranteed continued operation. Finally, stack dampers have received significant attention through television documentaries and news articles so that the market forces of supply and demand have already established a viable mechanism for delivery. A decision whether to include these devices in the demonstration program will be based on Walden's final evaluation and conclusions. Results indicate that sealed combustion and stack heat reclaimers offer considerably less energy saving potential and cost-effectiveness, therefore both devices will not be considered in this demonstration.

*B. Barriers to the application of this technology*

These conservation techniques are neither widely applied by homeowners nor promoted by the retail oil heat industry. The realization of the energy conservation potential associated with these techniques has been hampered by the following barriers:

(1) Consumer knowledge of the efficacy of burner firing rate reductions is virtually nonexistent when compared to the widespread understanding of the benefits obtained from the more conventional residential energy conservation practices such as insulation, storm windows, etc. There is in fact no significant consumer demand for this service at this time. Additionally, consumers have not been widely informed of the advantages and fuel savings potential of new, flame retention oil burners when compared to low speed, conventional burners.

(2) Since oil heat dealers are by and large the only source from which homeowners can obtain technical services related to oil burner maintenance/replacement/modification, structural and economic factors in that industry effect the availability of this service. Among these are the following:

(a.) The oil burner modification obviously lowers customer sales of fuel oil. Dealers offering the service trade off the longer term profit of higher average sales per customer for the immediate profit of an oil burner modification or installation. In the absence of widespread demand, it is difficult to market this service profitably. Dealers who do offer the service tend to see it as an expense rather than as a money maker and therefore it is not marketed aggressively.

(b.) The structure of the oil heat industry undercuts competitive pressures to market this service. The industry is fragmented with over approximately 8,000 dealers servicing the national residential market. Labor and transportation costs limit dealers to servicing a circumscribed territory. A given area may be served by two types of dealers, full service oriented dealers and "oil only" dealers. Typically, the latter operates with one or two trucks, his own labor and non union help; competing with other dealers on price only; often selling at a lower margin than the full service dealer. The full service dealer has modern equipment and higher operating costs; markets annual maintenance services as well as fuel; and competes on reliability and quality of his services. Given the recent escalation in retail prices, these dealers are very sensitive to assuming additional costs for a service which will effect their competitive position on price.

(c.) The oil burner firing rate reduction is a technically complex and labor intensive operation requiring previous training on the part of the installer and the use of instrumented testing procedures during installation. Some oil heat dealers have limited or no technical capability in this area. Others are reluctant to commit technicians to an operation which requires on the average 3.76 labor hours to perform and will not yield a guaranteed minimum savings for every customer. In undertaking this program they would assume some risk of dissatisfaction among long term customers. The lack of either industry or state regulated standards that define accepted practice for making these modifications creates a risk that dealers who market this service would be accused of deceptive advertising.

(d.) Banks no longer finance low interest property loans through dealers preferring higher interest, personal loans for new burner installations. This personal loan approach doesn't insure payment to dealers for work, therefore dealers, already taxed with larger than normal accounts receivables, are reluctant to incur additional receivables.

(e.) In theory, the optional application of these technologies suggest that they be done subsequent to the application of insulation, storm windows and other procedures which reduce the overall space heating load of a residence. This implies that oil heat dealers, who market the burner technology services, should first encourage homeowners to invest in insulation, storm windows, etc., in order to minimize the space heating load of their residence before reducing burner firing rates on the existing burner or installing a new, flame retention burner. But this raises two significant issues. The first has to do with the fact that oil dealers do not provide these other conservation services and are limited in their ability to influence a homeowner's investment decisions in this regard. The second is raised by the data presented in Table II. This comparative analysis ranks the standard residential conservation measures against the oil burner modifications in terms of cost, savings and payback. These data document that the payback on burner modification/replacements as compared to other measures is much more attractive due to significantly lower costs for comparable savings. On this basis, one could reasonably conclude that burner modification/replacements should be done independently of other measures. This is particularly the case where there are constraints on the homeowner's ability to raise the substantially large amounts of capital required for other measures.

The four cases in Table II represent prototypical housing units for the period indicated as derived from housing stock characteristics for New England.[3] The cost data is derived from NBS publications. The residential unit types vary in age, or in differences in the combination of existing insula-

[3] Unpublished monograph by Mitchell G. Tyson for the Energy Analysis group of Brookhaven National Laboratory on "Residential Heat Load Characteristics for the Northeast."

tion and/or storm windows. The analysis reveals that in all cases, reduced firing rates and new burner installations with reduced firing rates produce much faster paybacks than any other single or combined measure(s), regardless of whether the burner modification occurs prior to or after the other measures are implemented. The costs shown for insulation and stormwindows may be offset somewhat by do-it-yourself homeowners, but this will only produce a payback comparable to reduced firing rates in the case of insulating a previously uninsulated attic.

PAYBACK ANALYSES

Case I: Pre-1940 single family detached, uninsulated, no storm windows (New England)

| Measure | Cost | Annual savings | Payback (years) |
|---|---|---|---|
| Add ceiling insulation (R-30) | $312 | $170 | 1.84 |
| Add storm windows | 875 | 160 | 5.47 |
| Add basement floor insulation (R-30) | 424 | 70 | 6.06 |
| Add wall insulation (R-11) | 672 | 110 | 6.11 |
| Total | 2,283 | 510 | 4.48 |
| Reduce burner firing rate | 70 | 112 | .63 |
| New flame retention burner with reduced firing rate | 340 | 267 | 1.27 |

Case II: Pre-1940 single family detached R-5 in wall, R-7 in ceiling, with storm windows

| | | | |
|---|---|---|---|
| Add basement floor insulation (R-30) | $424 | $70 | 6.06 |
| Add ceiling insulation (R-24) | 276 | 40 | 6.90 |
| Total | 700 | 110 | 6.36 |
| Reduce burner firing rate | 70 | 58 | 1.21 |
| New flame retention burner with reduced firing rate | 340 | 137 | 2.48 |

Case III: 1940-65 single family detached, R-5 in wall, R-7 in ceiling, no storm windows

| | | | |
|---|---|---|---|
| Add basement floor insulation (R-30) | $460 | $70 | 6.57 |
| Add ceiling insulation (R-24) | 299 | 45 | 6.64 |
| Add storm windows | 875 | 90 | 9.72 |
| Total | 1,634 | 205 | 7.97 |
| Reduce BFR | 70 | 76 | .92 |
| New flame retention burner with reduced firing rate | 340 | 181 | 1.88 |

Case IV: 1965-72 single family detached, R-7 in walls, R-11 in ceiling, storm windows

| | | | |
|---|---|---|---|
| Add basement insulation (R-30) | $566 | $85 | 6.66 |
| Add ceiling insulation (R-19) | 277 | 30 | 9.23 |
| Total | 843 | 115 | 7.33 |
| Reduce BFR | 70 | 55 | 1.27 |
| New flame retention burner with reduced firing rate | 340 | 133 | 2.56 |

III. PROPOSED PROGRAM

A. Objectives

The objectives of the proposed program are the following:

a. Establish the viability of the oil saving retrofit option as an energy conservation measure that will cause homeowners to take the initiative and purchase it on their own.

b. Demonstrate the most effective methods of creating demand for proven oil burner conservation technology.

c. Demonstrate the most effective method of delivery of this technical conservation service.

d. Evaluate the interface of oil burner technology with other residential conservation technologies.

e. Define the institutional and market barriers that require public policy initiatives at the State and local level to assure wide scale implementation.

B. Program Design

The project is organized as a sequence of activities, progressing toward the goal of statewide implementation of the policies and programs in both the public and private sectors, that are necessary to achieve wide scale application of oil burner modification and replacement technologies. For purposes of planning and scheduling, three distinct project phases have been identified. Phase I concentrates upon development of marketing and training programs that will stimulate both demand for oil burner conservation services in the residential sector and the oil dealer's ability to supply the service. These training and market activities are focused on support of three program strategies which in phase I will be brought to the stage of readiness for actual demonstration.

Each strategy addresses some of the stated objectives of the proposal and is designed to focus on a set of institutional or market barriers which must be overcome to facilitate the widespread utilization of oil burner conservation technology. The first strategy referred to as the "homeowner initiative" addresses the lack of consumer awareness by developing and testing educational materials that will enable homeowners to make a simple assessment of their need for oilburner conservation services and where the need is indicated to take the initiative in seeking the service from their oil heat dealer.

By carefully monitoring this approach to stimulating demand, it is expected that the project will delineate the practical problems encountered by consumers both in using this type of material and in obtaining the satisfactory level of service from their regular dealer.

The second strategy, Industry Marketing, will focus on building the oil heat industry's capability to market burner modifications and installations for developing a pilot marketing program and technician training program. The marketing program will be coordinated by the Better Home Heat Council of Massachusetts and developed with cooperating oil heat dealers as a test of the best sales techniques and most economical methods for selling burner conservation services to their customers.

This effort will yield a wealth of information on the effectiveness of dealer advertising and marketing on stimulating demand, on training needs, and on cost of service. Also, it will highlight the types of resources and policies that will be required of both the public and private sectors in a full-scale implementation effort.

The third program strategy, community-based conservation, recognizes the extensive activity of community-based agencies in promoting energy conservation in various localities in Massachusetts. Examples of these types of agencies are: community action programs, that are a major source of subsidy for weatherizing the homes of low-income owners and tenants; city sponsored neighborhood rehabilitation planning and counselling services, that provide technical assistance and financial support for upgrading the housing stock in urban neighborhoods; and the University of Massachusetts extension service which has been an educational outreach service in rural and suburban areas that counsels and trains homeowners and tenants in energy conservation methods.

It is believed that using this channel to reach homeowners and tenants in urban neighborhoods will be more effective than relying solely upon mail or media-based advertising/education in promoting burner testing and conservation technologies since these neighborhoods have lower income and may be served by minimum service oil dealers.

Phase II of the project involves the integrated implementation of the three program strategies in the setting of a community or a region. Using the channels developed through each of the program strategies, a comprehensive effort will be understaken to reach every residential unit serviced by an oil dealer, to evaluate the efficiency of the combustion system in terms of modification or replacement and encourage the homeowner to take recommended action.

This demonstration in the scale of a single community will have three important outcomes.

(1) It will permit an evaluation of the effectiveness and limitations of each strategy. The demonstration of the homeowner in industry strategies will indicate the degree to which private market mechanisms when stimulated by the necessary information/advertising achieve the desired change in consumer behavior. To the degree that the demonstration validates the effectiveness of the marketing and homeowner education packages, they will be made available statewide to oil dealers and consumers for use in conservation programs. Results of the community based strategy will indicate the degree to which public subsidy will be required to improve oil burner technology in lower income households.

(2) Conducting a community-wide demonstration will provide a highly visible setting for testing a proven technology that consumers are presently unaware of. In this context, the demonstration will serve as a powerful stimulus for achieving the desired changes in both consumer and oil dealer behavior. Extensive media coverage of the demonstration while in process combined with a report evaluating the results will communicate the importance of oil burner modification/replacement to audiences around the state.

(3) The demonstration wil generate a substantial data base, documenting the effectiveness of several replacement/modification technologies, the viability of various marketing strategies and the problems that the demonstration strategies may not adequately resolve. The information will be the basis for formulating the public policy initiative that may be necessary to achieve successful statewide implementation.

Phase III activities are not proposed for inclusion within the scope of funded project activities. Phase III is referenced here to emphasize the commitment of the Massachusetts Energy Policy Office to using results of this demonstration project as the basis for a statewide program aimed at achieving wide scale application of the technology. Statewide implementation will in part rely upon use of the products, particularly the training and marketing materials that have been developed and proven effective in the demonstration program. For example, if this statewide implementation effort involved the continuing program of homeowner education, the Energy Policy Office will be in a position to commit a portion of the resources available in its state conservation plan to this objective.

The other critical aspect of the State's support of this project is commitment to pursuing the public policy initiatives that may be necessary to address problems encountered in the demonstration. The data generated during the Phase II demonstration will provide both a sound and highly visible basis for whatever public policy actions may be indicated to resolve these problems. The Energy Policy Office has the capacity and commitment to propose and promote appropriate legislative and/or regulatory remedies.

C. Schedule

The demonstration project will span a period of approximately two calendar years. There are several factors influencing the timing and start-up of the project which could cause some restructuring of certain program elements. Anticipating receipt of funds by October, 1977, a period of about eight months would be required to map the project, prepare the requisite educational, training, and advertising materials, develop the organizational/contractual relationships, train personnel involved in delivery of technical services, and if possible, small-scale pilot testing of the materials for each of the strategies. The full-scale demonstration must be initiated during the summer months

of 1979 so that field evaluation can take place over the 1978–80 heating season. Table III displays the proposed timetable for both Phase I and Phase II.

[Table 3 not printed in RECORD.]

D. Discussion of Phase I Strategies

A general description and outline of the Phase I tasks within each of the three option strategies follows:

1. Homeowner initiative strategy:

This segment of the program plan would be primarily concerned with an evaluation of homeowner initiatives to obtain requisite energy conservation services from the oil heat industry so that the following items could be determined.

type of homeowner educational programs needed (manuals, pamphlets, seminars, courses, etc.);

utility of educational package as a device for homeowner assessment of energy conservation options;

effectiveness of media campaign (public service announcements) directed toward homeowners; and

quality of service provided by oil heat industry.

The major product of this effort will be a homeowner educational package that informs the homeowner about oil-fired residential energy conservation measures available to him, provides a methodology for homeowners to determine the general condition of their heating plant, and instructs him in the evaluation of the services, including cost-effectiveness. The result of this evaluation will be incorporated in an overall strategy that will include a comprehensive homeowner initiative package.

A segment of the population will be chosen to participate in this phase of the program. The selection process will take into consideration such factors as location, oil heat dealer, type of house, type of heating system, need for insulation, etc., so that a meaningful sample will be obtained. The sample group will then receive information regarding all aspects of this option including announcements of meetings and courses, energy conservation information, and other incorporated concepts. The responsiveness and participation of group members will be monitored to assess the effectiveness of each measure. Those participants that actually request service from the oil heat industry will be followed closely to determine the results of their inquiry.

Specific task assignments and scheduling associated with this program segment follow:

1. Prepare full-service homeowner information manual—3 months.

2. Select participants to receive package and development of delivery system—2 months (simultaneously with Task 1).

3. Monitor the action taken by participants (includes any retrofits)—3 months.

4. Modify the homeowner initiative package—3 months.

2. Industry marketing strategy: The objective of this strategy will be to assess the effectiveness of industry marketing of conservation services on a profit basis. During this program, a complete profit motivated conservation service package for the oil heat industry will be developed. The applicability of this supply-motivated option will be evaluated as a component of the overall delivery system of energy conservation services. In addition, the training requirements for service personnel will be determined, capital requirements in terms of first costs and pricing will be defined and the quality of service and fuel savings will be analyzed. With the support and assistance of the Better Home Heat Council, selected oil heat dealers will internally institute mechanisms through which they can offer complete residential energy conservation services. The Better Home Heat Council will serve as a communications link to insulation specialists and weatherization contractors while also aiding in the organization and dissemination of training manuals, courses, or information.

To support the available resources of the BHHC and the individual oil heat dealers, assistance will be provided by the Energy Policy Office and Walden for the development of the service program and promotional package. The promotional package will be developed primarily within existing marketing mechanisms employed by the Better Home Heat Council to gain the support and confidence of the participating dealers.

Upon completion of the promotional package and structuring of the delivery mechanisms to be used by the dealers, small-scale implementation of the service will be enacted to provide assessment of the effectiveness of this strategy. Those homeowners responding to the promotional package will receive the requested service as part of the program plan so that monitoring of the technical effectiveness can be performed.

The major tasks and scheduling associated with this option channel are the following:

1. Select participating dealers—2½ months.

2. Develop and deliver oil heat promotional package—4 months (simultaneously with Task 1).

3. Prepare technical assistance needs of dealer (training, measuring equipment, materials, etc.)—1½ months.

4. Prepare and deliver training program for service and support personnel (includes monitoring retrofit activity)—3½ months.

5. Modify and finalize oil heat industry initiative option—3 months.

3. Community based conservation strategy:

This program strategy will enlist community service agencies as a channel for reaching homeowners and tenants with information and services to encourage oil burner conservation practices. The types of agencies to be involved will include community action agencies that presently operate a program of weatherization assistance for low income persons and municipally sponsored neighborhood rehabilitation services that currently provide a range of technical and financial services to residents of urban neighborhoods. The existing activity of these agencies recommends them as a valuable conduit of information and assistance to residents of urban neighborhoods with lower incomes who are served by small oil dealers and therefore less likely to be reached and/or persuaded by the industry marketing or homeowner initiative channel. It is also generally the case that agencies to be used as channels are a source of subsidy funds to facilitate the investment by lower income households in weatherization and rehabilitation. By developing a capability within these agencies to offer oil burner conservation services to their clients, it is expected that their subsidy funds will eventually be made available to support investment in oil burner modification/replacement. This will of course have a significant multiplier effect on the eventual statewide implementation effort as lower income households might otherwise be unable to avail themselves of these conservation practices. The availability of weatherization subsidy will also permit some testing of the effect of oil burner modification/replacement with and without weatherization of the building.

The several objectives served by this program option are:

Building the effectiveness of community based weatherization/housing rehabilitation agencies as channels for promoting oil burner modification/replacement practices in urban neighborhoods.

Train agency weatherization/rehabilitation counseling staff in conducting steady-state and seasonal efficiency tests to evaluate burner efficiency.

Develop an information package on oil burner modification/replacement to be used by agency staff in personal contacts with homeowners and tenants.

Acquire oil burner modification/replacement services as a "free standing" service independent of regular oil dealer/customer relationship.

The major tasks and scheduling associated with this option are:

1. Select target community service agencies, define scope of program, cement contractual relationships, and establish coordinating mechanism for project management—1½ months.

2. Provide training to agency counseling staff—2½ months.

3. Select vendor(s) for delivery of replacement/modification services—2 months.

4. develop information package for agency staff in personal contact with homeowner (includes small-scale delivery)—3 months.

5. modify and finalize information package for agency staff—3 months.

IV. Impact of the program on Massachusetts and New England:

A program that achieves wide scale implementation of oil burner modifications will produce important benefits for Massachusetts and New England. In 1974, approximately 15 percent of U.S. energy consumption was used for residential space heating (75 percent of residential sector use). Essentially all of that energy was derived from fossil fuel combustion, either directly with combustion equipment on the premises or indirectly through the use of electrical resistance heating. Logically, a demonstration of oil-fired residential energy saving options must be focused in those regions or states most dependent upon this fuel as a source of energy. New England's dependence on fuel oil far exceeds and dramatizes the unique circumstances New England is faced with.

The energy shortage in New England is exacerbated by the region's lack of indigenous energy sources and extremely high dependence upon imported oil, both domestic and foreign. Therefore, it is particularly important for New England to reduce the vulnerability of its fuel supplies to outside forces by initiating significant energy conservation programs. Massachusetts is ideally suited for the site of this proposed demonstration. Massachusetts houses nearly half the population and oil burner units of New England, while almost 45 percent of New England's residential fuel oil is consumed in the state. Furthermore, the residential oil burners in the state represent ten percent of the national oil burner population. Additionally, the age distribution of the existing stock of homes in Massachusetts (47 percent built prior to 1940) is considerably older than other regions of the country and offers a greater potential for cost-effective energy conservation from weatherization programs. With a broad mix of oil burner types (conventional, flame retention, shell, and low pressure), heating plant systems (warm air furnaces, hot water and steam boilers), and building structures (single family detached and attached, multi-family low rise and high rise), communities in the state could provide almost any desired distribution of housing characteristic and heating system variables needed to satisfy a statistical design for random or representative sampling.

Table IV shows the hypothetical impact of oil burner retrofits in this state, the region, and the country assuming that approximately 50 and 10 percent of all presently installed residential burners can be cost-effectively modified for firing rate reductions and new burner installations, respectively. Nine percent of the total estimated national savings would occur in Massachusetts

with the result that 4.3 milion barrels of No. 2 fuel oil (equivalent to 15 percent of state residential sector fuel oil consumption) could be saved annually if these procedures were implemented at residences amenable to the specific retrofit modifications. Additionally, over 75 million dollars in residential heating bills would be saved annually.

TABLE IV.—POTENTIAL FUEL SAVINGS FROM OIL BURNER RETROFIT OPTIONS

| | Average seasonal fuel oil saved * | | Average annual cost savings ** | | Cost of modification | payback period (years) |
|---|---|---|---|---|---|---|
| | Gallons | (Percent) | Amount | (Percent) | | |
| Reduced firing rates: | | | | | | |
| Massachusetts | $118.8\times10^6$ | 14.0 | $\$49.9\times10^6$ | 11.1 | $\$35.8\times10^6$ | 0.7 |
| New England | $224.7\times10^6$ | 14.0 | $94.4\times10^6$ | 11.1 | $70.4\times10^6$ | .7 |
| United States | $1,333.5\times10^6$ | 14.0 | $561.1\times10^6$ | 11.1 | $462.8\times10^6$ | .8 |
| New Burner installations: | | | | | | |
| Massachusetts | $63.6\times10^6$ | 30.4 | $26.7\times10^6$ | 27.9 | $40.6\times10^6$ | 1.5 |
| New England | $121.8\times10^6$ | 30.4 | $51.2\times10^6$ | 27.9 | $82.1\times10^6$ | 1.6 |
| United States | $571.2\times10^6$ | 30.4 | $239.9\times10^6$ | 27.9 | $420.2\times10^6$ | 1.7 |

* Based on typical heating season for the Boston, Mass., area.

** Based on fuel oil cost of $0.42 per gallon and electric cost of $0.036 per kilowatt-hours.

V. Qualifications of Massachusetts Energy Policy Office—Walden:

As the proposers of this project, Massachusetts Energy Policy Office and Walden bring to bear a unique blend of talent and resources. The Massachusetts Energy Policy Office is located within the Executive Office of the Governor and is the lead state agency for energy conservation policy and programs within the Commonwealth. In existence since July of 1974, the office now comprises a staff of 30, twenty of whom are professionals trained in engineering, law, public policy, architecture, business administration, city and regional planning, economics and international relations. As the principal source of policy analysis and advice to the Governor and the Cabinet in energy related matters, Massachusetts Energy Policy Office has the ability to formulate legislative or regulatory policies for consideration by relevant state agencies, which would be directed to overcoming barriers impeding the wide scale adoption of oil burner modification/replacement technologies in Massachusetts.

As the lead agency in initiating and funding energy conservation programs, Massachusetts Energy Policy Office now manages a State Conservation Program funded under the Energy Conservation and Policy Act at a level of $500,000. It is anticipated that this funding will reach an annual level of $1,000,000 in calendar 1978. A significant portion of these resources are committed to support of residential and commercial conservation activities. Since the outcome of this proposed demonstration program will be an optimal strategy for promoting this technology in Massachusetts, it is expected the Massachusetts Energy Policy Office program resources will be committed to implementation of this strategy.

Its past experience in residential conservation includes operation of one of two national models of a Federal Energy Administration funded Project Conserve program. This program provided homeowners in the state with individualized computer analyses of their houses and suggested energy-related home improvements. The success of the program as a public education and awareness program was demonstrated by the large participation, over 135,000 homeowners, throughout the state.

Massachusetts Energy Policy Office has the demonstrated ability to coordinate the diverse group of actors and institutions that would be involved in this demonstration program. Most important it has the capacity and the mandate to commit its resources to implementing the strategy and activities demonstrated to be effective in achieving wide scale implementation of oil burner modifications in Massachusetts. These resources include both the financial resources to support ongoing program activity and the ability to propose and promote the necessary public policy initiatives.

Walden, as a company with experience in the environmental and energy area has conducted extensive research on the "as is" condition of residential oil burners in Massachusetts and on the degree to which efficiency can be improved by a range of technical modifications to the burner system. This research has documented that most residential burners are oversized relative to the space heating load of the residence they serve with the consequence of excessive convective heat loss during the burner off-cycle.

Walden has shown that reduced firing rates, leading to an improvement in seasonal efficiency, will yield annual fuel savings of 14 percent on the average, while installation of new, flame retention burners with reduced firing rates will yield an annual fuel savings of 30 percent. Both Walden's field experience and technical expertise with respect to the specific retrofit procedures is essential to the successful execution of the proposed program. With these unique capabilities, Walden personnel will be able to technically train servicemen, using existing facilities or creating new avenues, supervise the implementation of all heating system modifications, and evaluate the technical quality and effectiveness of the various retrofit options. Walden has prepared a manual of guidelines for use by oil heat service managers for the training of skilled technicians in the procedures of reducing firing rates.

The Walden effort was conducted as a realistic field test with cooperation of the retail oil heat industry. As a result, Walden has established strong working relationships with the Better Home Heat Council.

SEPTEMBER 14, 1977.

Hon. THOMAS J. MCINTYRE,
*Chairman, Subcommittee on Government Regulation and Small Business Advocacy, Senate Office Building, Washington, D.C.*

DEAR SENATOR MCINTYRE: Enclosed is an outline of oil heat conservation opportunities I promised in my appearance before the Small Business Subcommittee June 28th to support a rebate to home heating oil consumers should the proposed crude oil equalization tax go into effect.

During my testimony I pointed out that heating bills were considerably higher than they need be for some 13 million oil heat homes, and that they and the nation would benefit from a very modest investment in research to improve the efficiency of presently installed heating systems.

Other industry representatives with me June 28th supported the view that target energy savings of at least 10% were realistic, and that they would welcome an opportunity to cooperate with responsible government agencies in improving the efficiency of existing installations.

The proposed program does not require any technological breakthroughs. It calls for examining, applying and demonstrating already known technology. As to why this has not already been accomplished I can only surmise that federal policies seem directed to more exotic and longer range energy choices.

We agree that a wide range of energy projects should be pursued and look forward to the day when solar back-up to oil heating systems and advanced cycle oil heat pumps become practical. However, one must not forget that even by 1985 well over 80% of all space heating installations will be those which are now in place. Our proposals recognize this important fact and suggest a higher priority for government sponsored research in upgrading existing installations.

We note that Senator Bumpers successfully proposed an amendment to the current ERDA authorization specifically directing $3 million dollars research to improve the efficiency of gas heating furnaces. This, even though ERDA did not request such funds and despite the oft-claimed superior efficiency for natural gas fuel and equipment. We hope that when the opportunity arises the Congress will include a similar charge to ERDA for oil heat equipment since its users are exposed to considerably higher fuel costs than natural gas consumers at this time.

We sincerely appreciate the Small Business Subcommitee's interest in this practical approach which offers significant energy savings for the nation and hard pressed oil heating users in the near term.

Very truly yours,

WILLIAM R. MARRAN.

A GRASSROOTS HEATING OIL RESEARCH CONSERVATION PROGRAM

PART I—SOME BACKGROUND QUESTIONS ON THE CONCEPT AND APPROACH

What is the energy saving potential?

What are the current projections for heating oil demand?

What would be the cumulative conservation effect of just a 10% reduction in these oil demand projections?

How does the ERDA Research & Development budget for energy resource development compare with that for distillate oil resource conservation?

Why would heating oil marketers willingly cooperate in a government sponsored research program that will reduce sales to existing customers?

Summing up:

What are the precepts underlying the grass roots approach?

What are the goals to be achieved by this program?

PART II—IMPLEMENTATION OF THE GRASS ROOTS OIL HEATING RESEARCH AND DEVELOPMENT PROGRAM

Oil heat Research & Development conservation board.

Initial projects.

Data gathering, analysis.
Evaluating options, setting priorities.
Information dissemination.

PART I—WHAT IS THE ENERGY SAVING POTENTIAL?

According to census and Bureau of Mines figures there are approximately 13,000,000 residences which use distillate heating oil for space heating.

Over 487,000,000 barrels of distillate oil was used for heating in 1975, according to Bureau of Mines. It is expected that the 1976 figure when compiled will have grown to approximately 540,000,000 barrels.

According to one assessment within ERDA [1] ". . . oil-fired heaters (in the field) have overall efficiencies of some 50%—Retrofit and new furnace designs requiring no new technology can be developed quickly and easily to increase these efficiencies to better than 80%."

Given such efficiency improvements, it follows that the United States could soon save over 150,000,000 barrels of heating oil a year if the necessary funds were made available.

The energy conservation potential is equivalent to almost half the entire output of all of the nuclear generators in the United States!

WHAT ARE THE CURRENT PROJECTIONS FOR HEATING OIL DEMAND?

The Federal Energy Administration projects distillate heating demand as follows:

Short-term demand of distillate oil use: Residential: 1980—408,566,000 barrels [2].

Long-term projections of distillate oil use: [3]

Residential: 1985—446,352,000 barrels; 1990—497,854,000 barrels.

The foregoing FEA forecast makes it abundantly clear that future need for heating oil will continue undiminished into the foreseeable future.

Whatever doubt existed among some government planners about the need to count on heating oil is being erased by declining supplies of natural gas.

The President has stated [4]: "The cornerstone of the National Energy Plan is conservation, the cleanest and cheapest source of new energy supply."

WHAT WOULD BE THE CUMULATIVE CONSERVATION EFFECT OF JUST A 10 PERCENT REDUCTION IN THESE OIL DEMAND PROJECTIONS?

Applying a 10% conservation reduction to the FEA heating oil projections reveals the cumulative effect can be enormous.

For example, the energy savings in just six years would exceed all of the energy output expected from the Alaska pipeline all next year.

In ten years the seemingly modest 10% conservation savings could equal the total amount of heating oil refined in an entire year.

HOW DOES THE ERDA RESEARCH AND DEVELOPMENT BUDGET FOR ENERGY RESOURCE DEVELOPMENT COMPARE WITH THAT FOR DISTILLATE OIL RESOURCE CONSERVATION?

The Energy Research and Development Administration budget authority in fiscal years 1976, 1977 and 1978 for research, development and demonstration programs includes the following amounts:

[In thousands of dollars]

| | 1976 | 1977 | 1978 |
|---|---|---|---|
| Nuclear | 756,000 | 1,183,000 | 1,204,000 |
| Solar | 115,000 | 290,000 | 368,000 |
| Wind | 14,400 | 21,600 | 34,700 |
| Geothermal | 31,000 | 55,000 | 116,000 |
| Shale Oil | 14,900 | 22,700 | 28,900 |

Footnotes at end of article.

While few would question the need of funds for research and development in all the areas listed above, the obvious disparity in the conservation research category should call for an objective reevaluation.

To the best of our knowledge total expenditures on oil heat conservation research by all government agencies combined in the last 20 years does not exceed $800,000, which includes budgeting of approximately $300,000 this year and last for an efficiency identification program at Brookhaven National Laboratories.

Compared to the ERDA allocations for alternate energy sources, it would appear that oil heat conservation research is the cheapest source of new energy supply and is deserving of vigorous government support.

WHY WOULD HEATING OIL MARKETERS WILLINGLY COOPERATE IN A GOVERNMENT SPONSORED RESEARCH PROGRAM THAT WILL REDUCE SALES TO EXISTING CUSTOMERS?

Independent locally owned and operated oil heat marketers deliver 75% of the nation's heating oil, and service.

Oil heat marketers are totally dependent on the satisfaction of their retail customers to stay in business and grow.

Oil heat customers have seen their bills for this life essential double in the past five years.

Marketers are aware that increased costs have forced their customers to conserve to their limits.

It does marketers little good to deliver larger volumes to customers who cannot pay for amounts needed for health and comfort.

Major oil company suppliers generally look upon heating oil as the low end of their market. Therefore, they allocate no funds to research and are increasingly indifferent to the retail oil heat marketers who buy from them.

Manufacturers of heating equipment, if they are large, and sell gas and electric equipment consider the heating oil portion of their product mix of lesser importance. Government attitudes toward heating oil, (such as those expressed in Project Independence) have not encouraged manufacturers.

Five manufacturers sell 80% of all burners. They tend to be quite small. One of the largest oil burner manufacturers in the country has total annual sales of $11,000,000 a year. Another of the larger burner manufacturer's sales totalled $4,000,000 annually.

Marketers realize fuel costs will continue to rise if availability is to be assured.

The only solution is to reduce the amount of more expensive fuel needed by their individual customers, so they can afford it.

The fuel thus conserved can then be sold to other new heating oil customers, preserving an opportunity for the marketer to continue to survive and serve all those dependent on his services.

SUMMING UP: WHAT ARE THE PRECEPTS UNDERLYING THE GRASSROOTS APPROACH?

There has been mention by ERDA of the need of our industry support. This is precisely what is recommended. It will take the form of grass roots support by oil dealers, and active advisory participation by an industry board.

The Grass Roots Program for heating oil conservation is based on the following precepts:

Distillate oil and natural gas are the two most efficient modes of energy conversions available for heating the home today.[5 6]

There is no practical substitute for heating oil at this time, and it will remain an essential part of the energy mix for a long time.

Heating oil conservation is an important area of energy savings.

The heating oil distributors and service industry, not to be confused with the major oil producers, is in great need of conservation tools and technology.

The heating oil dealers and manufacturers will willingly participate in a meaningful effort to implement a conservation program to help the home owner, and their country. A significant aspect of the participators will be in the gathering of field test data by heating oil dealers on a voluntary basis.

WHAT ARE THE GOALS TO BE ACHIEVED BY THIS PROGRAM?

Develop a sound knowledge of the sources and magnitude of energy lost in the process of converting heating oil to usable heat in the home.

Identify the areas which hold most promise of savings to be gained from future research and development.

Provide a source of reliable data for those governmental and regulatory agencies concerned with energy matters as related to use and conservation of heating oil.

Create a greater awareness and sophistication on the part of the public who must make the final decisions on the application of heating oil conservation techniques and equipment in their homes.

Help the heating oil service organizations to better understand the use of present technology and equipment for heating oil conservation, and keep them informed of new developments.

Provide an improved base of technical knowledge to inventors, manufacturers, engineers, and scientists, who are concerned with designing improved fuel saving techniques and equipment.

Develop a forum in which industry can interface with ERDA and other appropriate governmental bodies for a more efficient application of funds and available knowledge to the field of heating oil conservation.

Develop information which can lead to reasonable requirements that new heating equipment be built to meet certain efficiency standards.

PART II

On April 29, 1977 the President appealed to all citizens to rediscover the ingenuity and efficiency which made our country prosper. He said "We can rediscover small-scale, more creative ways of satisfying our needs. If we are successful, we can protect jobs, the environment, and the basic American standard of living, not only for ourselves but also for our children and grandchildren."

GRASSROOTS HEATING OIL CONSERVATION PROGRAM

The projects outlined in this proposal should be run simultaneously to the greatest extent possible, in the interest of reaping early results in fuel conservation.

Much will be gained by getting out information to oil dealers, service organizations, manufacturers and the like as early in the program as possible. The development of continuing interests in the program is an essential ingredient to its success.

IMPLEMENTATION OF PROGRAM—OIL HEAT RESEARCH AND DEVELOPMENT CONSERVATION BOARD

In the past it seems that the limited Government funds which have been budgeted to research in heating oil conservation have not warranted concentrated effort. The result has been that the research was often not coordinated with detailed knowledge in the field. They have therefore been unable to get the results hoped for. Furthermore, it is also quite likely that very limited interest in heating oil, except to phase it out may lead to failure of future studies, and R & D unless a different method is used to direct this application of budgeted funds.

Bear in mind that there is a significant body of highly qualified, interested people who could make a meaningful contribution in supplying direction and advice in the area of oil heat conservation studies. These people can be found among the dealers, service managers, oil burner manufacturers and design engineers who have a vital interest in the outcome.

From this group should be drawn a Heating Oil Conservation Advisory Board which would meet at the top level of overall Project Direction. The function of this Board would be:

To help arrive at the proper order of priorities

To insure that the selection of projects for R & D be worthwhile and practical

To keep abreast of program progress

To consider change in direction, or possibly termination of those projects which appear headed towards failure

INITIAL PROJECTS—I

Gather and interpret basic data on areas of greatest fuel saving potential:

Heat lost up chimney during operating phase of combustion cycle:

Amount of heat lost through use of heated inside air to support combustion (consider possibility of using unheated outside air)

Amount of heat lost by admission of excess air, often two to three times as much as necessary to support combustion which has effect of carrying considerable amount of heat up chimney—(consider problems of stability, and particularly danger of refractory burnouts at temperatures which develop with zero excess air)

Energy lost by use of heated inside air as source of draft regulation.

Losses due to excess heat carried up chimney because of incomplete extraction of energy from combustion gasses. Consider as well the potential problem of condensation within chimney at low flue gas temperatures.

Heat lost up chimney during periods between combustion when heating plant is in standby mode:

Energy loss by flow of heated inside air through draft regulator and up the chimney.

Energy lost through drift of heated inside air up the chimney by way of combustion air intake and heat exchanger, gathering heat from firebox and heat exchanger as well. Consider in particular the effect of a range of boiler standby temperatures on this considerable source of heat loss. Consider effect of reduction of fire size which extends operating period, thereby reducing percentage of standby time lost. Consider effect of high speed flame retention configuration on off cycle air drift through heat exchanger during standby.

Loss of heat caused by unwanted radiation and convection from boiler, furnace jackets, heat and hot water pipes, heating ducts.

Loss of heat caused by reheating mass of fire box, and heat exchange surfaces on each firing cycle. Consider optimization of length of firing cycle to reduce frequency of this loss.

Loss of energy caused through unwanted flow of heat from sides and floor of dry base boilers.

It must be pointed out that although there are bits and pieces of information, and research on many of the points covered in the areas listed above, there is little solid ground from which to start to develop the neded solutions. It has not been pulled together, and good data has not been separated from the poor. There has been almost no field testing to validate concepts developed by scholars often somewhat unseasoned in the area of home heating. It is essential that cost effective, on target R&D be based on a firm knowledge of the field. The most likely targets for a successful improvement in efficiency of heating must be clearly identified before they can be worked upon. This has not happened in the past.

INITIAL PROJECTS—II

Research and development of quality control, handling, and improvement of combustion properties of heating oil.

One of the simplest and cheapest, and most effective means of saving heating oil in the home is to reduce the size of the flame. Furthermore, proposed Government regulations would restrict new equipment sizing to the actual heat loss which is often below ½ gallon of heating oil an hour. There is however a major obstacle to implementation of this concept, and that is the problem of nozzle plugging at low firing rates.

Another proven method of saving heating oil is to make precise adjustments of heating plants through the use of combustion testing equipment. Again the problem of heating oil quality control creates substantial problems in these adjustments for continuous peak efficiency. All too frequently these adjustments do not hold because of the quality of the oil delivered to the nozzle.

It is very important therefore that studies be conducted in the following areas:

Effects of comingling of oils by suppliers, terminals, etc.

Evaluation of the causes of deterioration of fuel quality; particularly during storage in the home owner's tank.

Field evaluation of additives commercially available to oil dealers:*

To retard or eliminate soot formation

To stabilize quality of oil stored in the homeowners tank—particularly against sludge formation.

To keep oil lines, filters, pumps and nozzles clean

Field evaluation of commercially available oil filtering systems, particularly those installed in the home.*

Evaluation of the present range of heating oil specifications allowable under present Federal and State regulations, as they relate to:

Pollution control

Compatability in comingling

Equipment failure in the home: Tank leaks, oil line, filter, nozzle plugging, fuel pump failure

Following the evaluation a developmental program should be embarked upon to:

Set up uniform quality standards for heating oil, particularly to insure compatability and stability

Develop reliable additives to keep fuel clean, and to reduce soot formation

Field evaluation work to include controlled tests programmed for dealer participation

Develop better filters for use in the home

Higher capacity (perhaps through staged filtering)

Finer filtering to accommodate smaller nozzle orifices

Lower emergency failure rate (perhaps with a simple warning system to signal when filter needs changing)

DATA GATHERING AND ANALYSIS—FIELD TESTS OF ENERGY SAVING CONCEPTS, AND EQUIPMENT

Once the basics are known, the greatest return on R & D will probably come through a field test program geared to evaluate the cost effectiveness of energy saving modifications of heating systems. Many of these modifications will consist of a carefully thought out application of existing hardware. The object of this phase of study would be to develop the ability to predict the savings which certain changes can produce. This knowledge would be most helpful to the homeowner, as well as to the company which proposes an energy saving investment. It would also aid the government in evaluating those changes which may be worthy of tax credits. There can be no doubt that the net effect would be an acceleration of energy savings through modernization and modification.

Brookhaven National Laboratories has compiled a list of such possible "retrofits".* It should be noted that the cost in none of the examples above exceeds $150 and that the homeowner might get his money back in less than three years. Unfortunately, it is at this point conceptual, and strictly theoretical. It has not been proven in the field.

To translate this basic data into practical application of energy saving concepts, a plan of field testing, in the user's homes must be put into effect. Much of this can be done through the cooperation of participating oil dealers.

EVALUATING OPTIONS AND SETTING PRIORITIES

The technical information arrived at in Phase I should be disseminated to all parties who might be interested—manufacturers of heating oil equipment, heating oil dealers, design engineers, inventors, and their comments invited.

The responsible government project director, and his aides, should then meet with the Heating Oil Conservation Advisory Board to arrive at a set of further projects:

TABLE 2.—BROOKHAVEN NATIONAL LABORATORY REPORT

| Retrofit action | Estimated cost (dollars per unit) | Total potential market ($10^6$ units) | Estimated maximum annual retrofits ($10^5$ units per year) | Energy savings per retrofit ($10^6$ Btu per year) | Gallons saved | Payback period for oil at 40¢ per gal (year) |
|---|---|---|---|---|---|---|
| 1. Reduced burner nozzle size | 20 | 11 | 11.00 | 18.7 | 133 | 0.37 |
| 2. Retrofit controls: | | | | | | |
| (a) Variable aquastat for boiler water temperature | 150 | 14 | 3.90 | 18.7 | 133 | 2.78 |
| (b) Timers for thermostat control | 100 | 11 | 3.66 | 16.6 | 119 | 2.10 |
| (c) Continuous circulator operation | 30 | 10 | 5.00 | 10.4 | 74 | 1.00 |
| 3. Burner steady-state efficiency adjustment | 20 | 14 | 14.00 | 5.2 | 37 | 1.33 |
| 4. Retention-head burner with reduced firing rate | 150 | 11 | 2.75 | 25.00 | 179 | 2.10 |
| 5. Convective stack damper to reduce downtime losses | 150 | 11 | 2.75 | 20.8 | 149 | 2.50 |
| 6. Outside air ducting for combustion air | 100 | 7 | 2.33 | 12.7 | 91 | 2.77 |

[1] Energy savings per "Retrofit" have been converted to gallons saved per year (per Home) for greater ease of understanding.

[2] Based on a total of $14 \times 10^6$ single family units and oil consumption of $500 \times 10^6$ bbl/yr.

Notes: (1) Savings from retrofit actions are not additive. (2) Options 5 to 10 have less development.

For field testing existing equipment, and conservation techniques using modified applications of available hardware.

For requests for proposals to develop new fuel saving equipment, following specifically defined guide lines.

It should be noted that the objective of this approach is to encourage private initiative to come into play once the stage has been set by initial research that only government funds could accomplish.

While further funds may be needed for specific R & D projects, there is reason to believe that private industry will work on its own to a great extent.

INFORMATION DISSEMINATION

Create an adequate repository of information for heating oil energy decision making and to insure accuracy of product and technological papers.

Develop educational films, papers and seminars on heating oil conservation equipment, materials and technology for presentation to heating oil dealers, service managers and service personnel. Objective is to increase quality of services to oil consumption.

Prepare heating oil conservation leaflets, film presentations, equipment efficiency rating information, and the like to help owners of oil space heating systems understand and evaluate the options available to them which might decrease their annual oil consumption. This includes heating system improvement and home construction alteration as well as consumer information on the proper operation and maintenance of oil furnaces and boilers.

Provide a periodic mailing of updated technical information and developments to manufacturers of heating oil equipment, design engineers, inventors, trade publishers, heating oil service organizations and trade groups.

Provide technical information to municipalities, state and federal agencies involved in energy programs.

FOOTNOTES

[1] September 1, 1975, a proposed program for ERDA from Brookhaven National Laboratories Engineering Systems Division.

[2] PIES Model Output Report No. A158042C, FEA Office of Energy Systems Modeling and Forecasting.

[3] Unpublished data from FEA Office of Energy Systems Modeling and Forecasting, Supply and Integrated Analysis Division. (Data will be published in mid-September.) Figures do not include impact of National Energy Plan.

[4] "The National Energy Plan" Executive Office of the President's Energy Policy and Planning—April 1977.

[5 6] National Energy Plan—Page 45—"Two-thirds of the energy used in electricity generation is wasted."

Brookhaven National Laboratory ERDA R & D Report, March, 1977 studies show that in the best heat pump, electric hot water combination, 2,245 gallons of oil are required at the generator to provide heat and hot water for a typical home in the Northeast, while the best oil combination in that same home would use only 1,233 gallons. This is exclusive of the extra air conditioning load to be expected to be associated with a heat pump.

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BNL BURNER-BOILER/FURNACE TESTING PROGRAM—PROGRAM RATIONALE

PURPOSE

This testing program will provide technical information for use in support of the DOE RD&D program in Space Conditioning Technology, with the objective of achieving a significant reduction in the consumption of oil and gas for space heating of residential and commercial buildings. Reference: Schedule 189 dated May 1977.

APPROACH

In order to accomplish the above, BNL will provide and operate test facilities of advanced design with the capability for accurate efficiency measurement of oil and gas-fired space heating equipment with emphasis on evaluation of the annual performance of the equipment. The testing program will provide:

1. Efficiency Test Methodology: By the continued improvement and refinement of the enthalpy flow efficiency measurement procedure.

2. An Evaluation of Other Test Methodologies: By the evaluation of and comparison with testing and seasonal performance methodologies developed by other organizations in both the public and private sectors.

3. Characterization of Available Commercial Equipment: By the testing of commercially available general types of equipment to provide baseline information on the performance of such equipment. The number of units to be tested will be limited to the minimum required to characterize the generic types of equipment which make up the existing commercial stock. When appropriate, BNL will recommend demonstration of high efficiency equipment to accelerate the rate of consumer acceptance.

4. Evaluation of Refit Actions: By the testing and evaluation of the annual performance improvement which can be achieved in existing heating system installations through modifications ("refit actions") or changes in operational procedures.

5. Evaluation of Development Equipment: By the testing of developmental equipment not presently commercialized, to identify equipment with potential for high seasonal performance efficiency, and identifying the developmental status of promising equipment and the appropriateness of government support to achieve commercialization of the equipment.

6. Disseminate Results: Widespread dissemination of the results of the test programs, as appropriate, including the efficiency measurements and annual fuel use and efficiency evaluation.

Enthalpy flow efficiency test procedures and annual fuel use methodology have been established. A hydronic test stand was completed, including automatic controls, at the end of FY 76. A forced air stand was available for manual operation in May 1977 and will be equipped for automatic operation early in FY 78. The two test stands have been in continuous use and the schedule for testing voluntarily submitted commercial and prototype equipment now extends to August 1978. Offers of additional equipment items for testing continue to be received, at a rate greater than that of the test capability. The 21 equipment items tested to date have been distributed approximately equally in areas 3, 4, and 5 described above. The number of units tested in each of these three categories represents only a very small fraction of the numbers which will have to be tested in order to achieve the objectives of the program.

The response to the test program by potential offerors of equipment of the type sought has been greater than expected. This led to preparation of plans, in conjunction with DOE, for construction of an additional test stand at an early date, to carry out the test work in the areas described. It was determined that the schedule for conducting the program would be unreasonably long without such an expansion. An expansion was approved by DOE in June 1977 and $85,000 of incremental spending was authorized from FY 77 funds to initiate the work.

While the specific mix of equipment to be tested in future years cannot be forecast accurately at this time, flexibility is provided in the design of the test stands. Each of the three stands—two hydronic and one forced air—will be capable of testing oil-fired equipment.

RESULTS

The BNL enthaply flow efficiency test methodology has proven to be the most accurate means to assess the performance of space conditioning equipment and equipment refit combinations. The reason is simply that other test techniques either do not or cannot measure burner off-cycle losses accurately. Test procedures and annual performance methods used by or intended to be used by other organizations have been evaluated and additional evaluations will be conducted as they are received.

A small number of commercial units have been tested to identify their efficiency of operation. Substantial further testing, including some equipment from other countries, will be required to adequately characterize the stock of commercially available equipment with regard to efficiency.

Some refit actions have been evaluated and a large number of others have been identified. This type of testing is expected to yield profitable results for several more years.

Some developmental equipment has been tested, notably low firing rate oil burners. Many more items are awaiting tests. Experience shows that the amount of promising new equipment or design concepts that will be offered is difficult to estimate but will probably be greater than was expected when the test program was first conceived.

Dissemination of results has been initiated on a selective basis. Plans are now being developed for more widespread dissemination.

It is not possible to provide a precise estimate of the probable, useful duration of this test program. At present, it is evident that the results are likely to be sufficiently profitable in terms of achieving the purpose of the program to continue testing for at least three more years (through FY 1980). We believe that a good planning estimate would be that the program should continue for five years, through FY 1982.

A quantitative outline of the generic type of equipment and the estimate of the minimum number to be tested to characterize each type is attached. This outline does not include testing required by the need to procure equipment not voluntarily offered but which may be required to complete a characterization study.

*Oil-fired heating equipment characterization tests*

(Listed in order of priority for testing)

| | No. of tests |
|---|---|
| I. Boilers (forced hot water heating systems): | |
| A. Boiler—Available w/matched burner (domestic): | |
| 1 Dry base—Steel (DB–Stl) | 3 *1 |
| 2 Wet base—Steel (WB–Stl) | 3 *1 |
| 3 Dry base—Cast iron (DB–CI) | 3 *1 |
| 4 Wet base—Cast iron (WB–CI) | 3 |
| Total | 12 |
| B. Boiler—Available w/mismatched burner (domestic): | |
| 1 DB–Stl | 3 |
| 2 WB–Stl | 3 |
| 3 DB–CI | 3 |
| 4 WB–CI | 3 |
| Total | 12 |
| C. Boiler—Available w/matched burner and vent damper (domestic): | |
| 1 DB–Stl | 3 |
| 2 WB–Stl | 2 |
| 3 DB–CI | 2 *1 |
| 4 WB–CI | 2 |
| Total | 9 |

Footnote at end of table.

*Oil-fired heating equipment characterization tests—Continued*

(Listed in order of priority for testing)

| | No. of tests |
|---|---|
| D. Boiler—Available w/matched burner and vent damper and flue gas heat reclaimer (return water preheat type) (domestic): | |
| 1 DB–Stl | 3 *1 |
| 2 WB–Stl | 2 |
| 3 DB–CI | 2 |
| 4 WB–CI | 2 |
| Total | 9 |
| E. Boiler—Available outside location—No chimney (domestic): | |
| 1 DB–Stl | 4 |
| 2 WB–Stl | 3 |
| 3 DB–CI | 2 |
| 4 WB–CI | 2 |
| Total | 11 |
| F. Boiler—Prototype w/matched burner (domestic and import): | |
| 1 Air atomizing burner | 3 *1 |
| 2 Ultrasonic burner | 3 *1 |
| 3 Recirculating burner | 3 *1 |
| 4 Slurry fuel burner | 3 |
| 5 Waste fuel and oil | 3 |
| 6 Other (sealed combustion, import, etc.) | 8 |
| Total | 23 |
| II. Oil burners: | |
| A. Burners—Available in a base line boiler (domestic and import): | |
| 1 Hi-speed retention hd | 3 *2 |
| 2 Lo-speed retention hd | 3 |
| 3 Lo-speed nonretention hd | 3 |
| 4 Recirculating (blue flame) | 3 *1 |
| 5 Import | 3 *1 |
| Total | 15 |
| B. Burners—Prototype in a base line boiler (domestic and import): | |
| 1 Low input fixed rate recirculating | 3 |
| 2 Low input fixed rate yellow flame | 3 |
| 3 Low input adjustable rate: | |
| Low pressure air atomizing | 3 |
| Ultrasonic | 3 |
| Recirculating (blue flame) | 2 *1 |
| Slurry fuel (coal/oil/water) | 2 |
| 4 Emulsion (oil/water) | 3 *1 |
| 5 Import | 3 |
| Total | 22 |
| C. Burners—Available high speed retention head vs. nonretention head (in various old inventory boilers): | |
| 1 DB–Stl | 5 |
| 2 WB–Stl | 5 |
| 3 DB–CI | 5 |
| 4 WB–CI | 5 |
| Total | 20 |
| III. Vent damper: | |
| A. In base line boilers (low performance), time delay damper | 2 *1 |
| B. In base line boilers (low performance), by-pass damper | 2 |
| C. In a high performance boiler, time delay damper | 2 |
| D. In a high performance boiler, by-pass damper | 2 |
| E. In a high performance boiler (forced draft), time delay damper | 2 |
| F. In a high performance boiler (forced draft), by-pass damper | 2 |
| Total | 12 |
| IV. Other: | |
| A. Humidified combustion | 3 *1 |
| B. Fuel additives | 4 |
| C. Direct combustion air source—no barometric damper | 2 |
| D. Control strategies—programmed burner cycle strategy | 2 |
| E. Aquastat reset | 3 *1 |
| F. Reduced firing rate | 3 *1 |
| G. Flue gas heat reclaimers—water type—to include a summer and winter operation (domestic water preheat and space heating return water preheat) | 3 |
| H. Flue gas heat reclaimers—air type | 3 |
| Off-cycle air flow control | 2 |
| Total | 25 |
| Total number of tests using hydronic test stands | 170 |
| Less 19 tested during fiscal year 1977 | −19 |
| Total | 151 |
| Estimated minimum number of test-years for (2) test stands: 4 test years. | |
| V. Oil-fired furnaces (forced warm air heating equipment): | |
| A. Furnace—Available w/matched burner: | |
| 1 Upflow | 3 |
| 2 Downflow | 3 |
| 3 Lo-Boy | 3 *1 |
| 4 Horizontal | 3 |
| Total | 12 |
| B. Furnace—Available w/mismatched burner: | |
| 1 Upflow | 3 |
| 2 Downflow | 3 |
| Total | 6 |
| C. Furnace—Available w/matched burner and vent damper (time delay vs. bypass): | |
| 1 Upflow | 4 |
| 2 Downflow | 4 |
| Total | 8 |
| D. Furnace—Prototype upflow-downflow: | |
| 1 Multifuel (oil-gas) | 2 |
| 2 Low input—fixed firing rate (below .6 gph) | 6 |
| 3 Low input—adjustable firing rate | 6 |
| 4 Humidified combustion | 2 |
| 5 Alternate fuel burning | 4 |
| 6 Fuel additives | 2 |
| Total | 22 |
| E. Furnace—Available w/matched burner and vent damper and flue gas heat reclaimer: | |
| 1 Water type—to preheat domestic water | 2 |
| 2 Air type | 2 |
| Total | 4 |
| F. Furnace—Available w/matched burner and flue gas heat reclaimer: | |
| 1 Water type to preheat domestic water | 2 |
| 2 Air type | 2 |
| 3 Programmed burner cycle control strategy | 2 |
| Total | 6 |
| G. Other: | |
| 1 Recirculating (blue flame) furnace (upflow) | 3 *1 |
| Total number of tests using forced air test stand | 61 |
| Less 2 tested during fiscal year 1977 | −2 |
| Total | 59 |

Estimated minimum number of test years for (1) test stand: 3 test years.

*Number of tests completed by September 30, 1977.●

Footnote at end of table.

## RONALD REAGAN ON THE FUTURE OF AMERICA'S NEIGHBORHOODS

● Mr. GARN. Mr. President, Congress has recognized that the people of our urban neighborhoods are a vital human resource, and a key force for the revitalization of America's troubled cities. In creating the National Commission on Neighborhoods last year, Congress mandated a careful examination of the administrative, legal, fiscal, and structural obstacles facing neighborhood people seeking to improve their neighborhoods. In doing so, Congress recognized that much of the problem facing neighborhoods is of governmental origin. There was at least a strong hint that sweeping away the obstacles posed by unwise and thoughtless governmental policies, laws, regulations, and practices might do far more to unleash the energies of neighborhood people than a host of new Federal programs.

Former Governor Ronald Reagan addressed this point in a national radio commentary aired during March 1978. I ask that Governor Reagan's text be printed in the RECORD at this point.

The statement follows.

THE FUTURE OF AMERICA'S NEIGHBORHOODS

Last December, President Carter named the 16 persons who, along with four members of Congress, serve on the new National Commission on Neighborhoods. Now, it is no secret that Presidential commissions have, as often as not, been devices for either generating support for a President's existing policies or for sweeping unpleasant issues under the rug for awhile. But, this new commission just may turn out to be different.

We all know the importance of preserving strong urban neighborhoods. For millions of city residents their neighborhood is far more than just the location of a home or apartment. The neighborhood scale is a human scale—a place where the real spirit of a community can develop. Many neighborhoods are rich in tradition and memories. And, in many, there is a mixture of generations and functions, so that activity is continuous. This, in turn, works to keep crime down when, as one urban planning critic described it, there are "eyes on the street"; eyes of grandparents and shopkeepers who watch the passing parade.

Neighborhoods can provide a sense of roots. It is the home of the fraternal lodge, the church, the deli, the corner pub, the street festival, the Fourth of July celebration.

The legislation that created the Neighborhoods commission recognized all this and more. It recognized that foolish government policies over the past several decades have often worked to undermine, even destroy established neighborhoods, building codes, zoning laws, highway construction, urban renewal, federal mortgage insurance, the so-called model cities program, forced school busing—these and other factors have often combined to depress the value of neighborhoods and undercut the fullness of their life.

Wisconsin Senator William Proxmire, a member of the new commission, commented on this at a Senate hearing when he said to a witness, "You would probably have better neighborhoods today if there had been no federal programs at all!" Amen to that!

Congress has given the new Presidential commission the responsibility for assessing the impact of all this governmental activity on urban neighborhoods and to make recommendations for sweeping away the obstacles that face people who try to keep up their neighborhoods.

Quite a few of the commission's members seem committed to that point of view, including its chairman, Massachusetts State Senator Joseph Timilty.

A particular target of commission disapproval is likely to be HUD—the federal Housing and Urban Development department.

What America's neighborhoods need, of course, is not a massive "delivery of services" from government, but a massive rebirth of opportunity. That could begin with the new National Commission on Neighborhoods. Let's hope so.●

## STATEMENT BY SENATOR WALLOP ON NATIONAL HOUSING GOALS

● Mr. GARN. Mr. President, this morning the Banking, Housing, and Urban Affairs Committee was fortunate to have Senator MALCOLM WALLOP of Wyoming testify regarding energy impacted communities and the related housing problems. As he points out, the problems of impacted housing do not lend themselves to one national strategy. Further, may I point out, it is not just a "western" problem: Impacts are being felt in such diverse areas as Appalachia, the Dakotas, Illinois, Wyoming, Indiana, Utah, and Colorado just to name a few. It is clearly not an easily defined problem.

Mr. President, I ask that Senator WALLOP's very cogent statement be printed in the RECORD.

The statement follows:

STATEMENT OF SENATOR MALCOLM WALLOP ON NATIONAL HOUSING GOALS

Mr. Chairman, in light of the administration's intention to accelerate U.S. energy production, one must consider that housing problems are often the first negative impacts to surface in communities near mineral and energy production. The lack of adequate housing has many far reaching consequences on the social and economic environment. I am pleased the Banking, Housing and Urban Affairs Committee has called hearings on S. 2855, the National Housing Goals, because the housing needs of the energy producing states of the country especially in the West and more specifically my home state of Wyoming, have changed considerably in the past ten years. As each day passes, it becomes clear that national attention must be focused on the housing needs of each region of the nation. A single housing strategy cannot and will not accommodate all geographical areas of this country.

The setting of goals to act as a guide post for direction is useful, but the goals should be flexible enough to make sure that the differences of housing markets and the changes occurring over time may be accounted for. After reading the proposed legislation I am pleased to see the provision for "an annual reassessment of housing conditions, requirements and needs, by region and area . . ." To illustrate the need for flexibility and periodic reassessment of the housing goals I would like to share with you a scenario of housing problems in an "energy boomtown" in Wyoming.

The development of energy resources is often located in a sparsely populated rural area far from any major population center. Gillette, Wyoming is one such area. The population of Gillette has been increasing in leaps and bounds since 1970 and is expected to increase between 10 and 16 percent annually for at least the next ten years. The present overall vacancy rate for all types of housing in the Gillette urban area is estimated to be less than 1 percent and a five to six fold increase in the annual demand for housing is expected in the next five years. Permanent households will be the predominant source of this demand. As the lack of adequate housing grows, the turnover rate of workmen spirals resulting in net loss in energy production. The inadequate housing also increases the difficulty of recruiting doctors, teachers, and other community service people. I think you will agree that as these services decrease, so does the quality of living environment for all community members.

The housing needs in energy impacted communities fall into two broad categories: those of the newcomers, and those of the existing community. The needs vs. income gap applies to many members of both groups, and as experience shows, conflict between housing distress and housing reality produces major problems.

The newcomers no matter what type of work they perform expect to have a choice of housing. They do not want to settle for a lower quality of life, nor do many find mobile home parks a suitable solution to the housing needs. The existing community citizens, on the other hand, expect to continue their traditional lifestyles but are threatened by the expanding population. Inflation in the energy development area tends to squeeze many residents, specially the elderly and those on low and fixed incomes. Long time residents find themselves involved in a rapidly escalating cost/demand spiral, robbing them of security.

As we all know, housing costs are escalating each day. The problem is aggravated in rural energy impacted communities by the following factors:

Limited land for development due to extensive federal holdings.

Construction labor is scarce, expensive and sometimes unqualified.

Materials are expensive to obtain, due to distance from major suppliers.

Construction and permanent financing is often unavailable from local sources.

Community infrastructure has not been upgraded or extended for use by new housing developers.

Lack of significant competition within the local home building industry.

I hope some light has been shown upon the wide range of housing problems facing communities that have a massive number of people, in a short period of time, descend upon them. If this is going to be the trend of the future for areas and states containing needed energy supplies, we must devise a mechanism to adjust to the geographical variation of income, housing costs, condition of housing stack and migration.

Mr. Chairman, I do not want to give the impression that I am looking to the federal government to shoulder the total burden of the problem. This is a shared responsibility of local industry, state and federal governments. Several agencies in the federal government though can make changes that will make dealing with the housing problems in energy impacted areas much easier.

The Department of Housing and Urban Development has several programs which, if made available to energy impacted areas, could be beneficial. I would like to suggest:

The Department of Housing and Urban Development develop specific criteria for energy impacted areas.

A revision of prototype housing costs (public housing), and revise fair market rents (Section 8) which could be responsive to the needs and construction costs in those areas.

Provide technical assistance to communities in the use of programs which are uniquely able to meet the needs of the low income and elderly.

Modify statewide mortgage limits such as exist in Section 235 homeownership program. Such limits severely limit the ability to address energy impact housing needs.

Make greater use of Community Development Block Grant Funds for providing building site and community facilities in energy impacted communities.

The development of a creative grant and loan program that will provide planning and technical assistance for the conversion of temporary homesites, mobile home parks, to permanent homes. The temporary homesites will be constructed in a manner that will accommodate the later construction. Such programs are already being tested in several communities in Wyoming.

The Federal Housing Administration appraisal criteria is too often based on urban needs. FHA is without an apparent understanding of the differing needs of rural areas and the specific area that will be impacted by energy development. A more appropriate appraisal criteria needs to be developed.

The Farmers Home Administration county supervisors are heavily burdened with responsibility for traditional agricultural needs. The burden detracts from the supervisor and staff's ability to be totally knowledgeable of programs that could be of use in energy impacted areas. I would like to see:

Special training in energy impacted housing needs and programs provided to existing and future county supervisors.

Additional staff as necessary to process housing applications should be provided.

The present maximum loan limits on a single family home is $33,000. The limit should be raised to meet the market price of housing.

The Region VIII Federal Regional Council is pursuing to coordinate cooperation within the different federal agencies. There should be more encouragement for intergovernmental cooperation.

In conclusion, Mr. Chairman, I would like to urge the Committee to extend the national housing goals with the idea in mind that we are a very diverse union of states and a single housing strategy cannot accommodate all geographic regions of our nation.●

## INFLATION AND PRESIDENT CARTER

Mr. HARRY F. BYRD, JR. Mr. President, President Carter spoke yesterday in regard to inflation, and I applaud the President for emphasizing the inflation which this country is now experiencing.

I am convinced that the inflation facing the American people is our No. 1 enemy.

When one analyzes the President's program, however, one cannot look at it with much enthusiasm—at least, the Senator from Virginia cannot.

In the course of his remarks, the President said that the Federal Government can do very little about inflation. Yet, in my judgment the No. 1 cause of inflation is what is happening in Washington, D.C.

Washington, D.C. is a major cause of the inflation which the American people are undergoing today.

It is the huge, accumulated, and accelerated deficit spending by the Federal Government that is fueling the fires of inflation.

President Carter's new budget, which he submitted only 2 months ago, calls for an increase of 10 percent in the cost of Government.

Since then, he has advocated additional new programs.

He wants an additional bailout of New York City; the Carter administration has advocated a new $2.4 billion urban aid program; the administration wages a major increase in foreign aid, all to come out of deficit spending.

The Carter administration has advocated a new welfare program which would increase the number of people on the welfare rolls and would greatly increase the cost to the Federal Government of the welfare programs—thus adding even more to the runaway deficit.

Mr. President, the place to start to fight inflation is here in Washington, D.C.

I am greatly disappointed that President Carter has made no mention of an official report issued by the Inspector General of the Department of Health, Education, and Welfare. This official report states that that one Department in 1977 misspent $7 billion.

The Inspector General's report stated that this misspending resulted from waste, mismanagement, and fraud. Yes, $7 billion of American tax funds have been misspent by that one Department.

I think it is important that the President and his cabinet address themselves to this basic problem.

How long are we going to continue to permit these departments of Government in Washington, particularly the Department of HEW, to misspend, though waste, mismanagement, and fraud, the money coming out of the pockets of the hard-working wage earners of our Nation?

How much is $7 billion, which was misspent by HEW through waste, mismanagement, and fraud?

The sum of $7 billion is greater than all the Federal income taxes paid by all the people of Virginia during the past year.

To put it another way, that sum of $7 billion is equal to the total income taxes paid by 5 million American families earning $15,000 a year each.

I say again, Mr. President, that if inflation is to be tackled effectively, if inflation is to be got under control, Government spending must be got under control. I am convinced that we will not get the cost of living under control until we get the cost of Government under control.

Jimmy Carter, the candidate, properly in speech after speech emphasized the need to balance the Federal budget.

But Jimmy Carter, the President, is going in the opposite direction. The combined Federal funds deficit for this year and next will be greater than was the entire cost of Government in 1965.

## THE GENOCIDE TREATY AND HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, article 55 of the United Nations Charter calls for "universal respect for, and observance of, human rights and fundamental freedoms for all * * *." In order to insure that such an exhortation does not become empty rhetoric, article 56 obligates all United Nations members, "to take joint and separate action in cooperation with the Organization for the achievement of these purposes * * *."

In the period following the Second World War, there have been a number of treaties and declarations on human rights designed to meet this obligation. These documents have served to protect civil, political, and economic rights, to name a few. The first of these treaties, and one of the most important, is the Genocide Convention, which makes genocidal acts crimes under international law.

For years, I have felt the need to speak out on our failure to ratify this treaty. It is one of the great unfinished pieces of business facing the Senate. It is an integral part of an international, concerted effort to protect human rights. I urge its prompt ratification.

Of course, there is still more work to be done in the area of human rights. The United Nations Association of the United States has produced an informative pamphlet outlining the development of human rights treaties. This pamphlet also highlights our involvement in these treaties. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the pamphlet was ordered to be printed in the RECORD, as follows:

### THE UN AND HUMAN RIGHTS

The protection of individual human rights has traditionally been considered the responsibility of national governments. Human rights provisions are included in the UN Charter, however, and from the beginning, the UN has tried to set standards of conduct for governmental behavior. What follows are brief analyses of just a few of the human rights issues being dealt with by the United Nations. Others include the status of women; the rights of children, refugees, the elderly and the handicapped; the right of asylum; freedom of information; torture and treatment of prisoners; and religious intolerance.

Some changes in the actions and procedures described below are expected as a result of the initiatives now being taken by the United States as well as other countries.

### THE CHARTER PROVISIONS

There are specific references to human rights in the Preamble and six articles in the UN Charter; the most important are in Articles 55 and 56. Article 55 calls for "universal respect for, and observance of, human rights and fundamental freedoms for all . . . ." Article 56 obligates all UN member nations "to take joint and separate action in cooperation with the Organization for the achievement of (therse) purposes . . . ."

In an apparent contradiction of these provisions, Article 2 (paragraph 7) stipulates that "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state . . . ." This is the most frequently used justification for rejection of international jurisdiction over human rights issues. In the opinion of most experts, however, this is negated in part by the Nuremberg principle that criminal violations of human rights are subject to the rules of international law. In addition, two advisory opinions by the International Court of Justice uphold the view that all obligations of the Charter are legally binding, including those on human rights. President Carter, in his address at the United Nations in March 1977, supported this contention: "All the signatories of the UN Charter have pledged themselves to observe and respect human rights. Thus, no member of the United Nations can claim that mistreatment of its citizens is solely its own business."

### DEFINING HUMAN RIGHTS

Perceptions of human rights vary widely among UN member nations. The Western concept tends to emphasize individual political freedoms such as the right to vote and hold public office and the rights of free speech and assembly. In the developing countries, the achievement of economic and social rights, such as the meeting of basic human needs for adequate food, clothing and shelter, are necessarily seen to be at least as important as political rights. Political rights, in this view, may be subordinated to progress on economic and social development, if only temporarily in some cases. Communist doctrine is essentially incompatible with both these positions. Under Marxist theory, there are no individual rights; human rights are defined collectively in terms of the needs of the state which are considered paramount.

Since 1946, with the founding of the UN Commissions on Human Rights and the Status of Women, most UN activities in the human rights field have been directed at further defining the Charter provisions. Both Commissions report to the Economic and Social Council (ECOSOC) and through ECOSOC to the General Assembly (GA). Through the work of these and other forums, the UN has built up an impressive body of standards, law and precedents. These fall into three main categories: conventions and covenants (treaties), non-binding declarations of principles and recommendations for national and international action.

The UN lists 19 major conventions on human rights and over 20 declarations. Others have been adopted by the UN's specialized agencies. What follows is a brief description of the more important of these international instruments.

### THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

The Universal Declaration of Human Rights was adopted by the General Assembly in 1948. It had been drafted in the UN Commission on Human Rights under the leadership of Eleanor Roosevelt. Based in part on the US Bill of Rights, its 30 Articles cover the full range of civil, political, economic, social and cultural rights. The GA proclaims it a "common standard of achievement for all nations."

Although not legally binding, it has become the basis for most subsequent UN actions in this field. Its provisions have been included in the constitutions and legislation of many of the newly independent countries, and it has served as the basis for several judicial decisions. Experts consider it an authoritative interpretation of the human rights provisions of the UN Charter as well as part of customary international law. In this respect, it has attained a degree of legal importance.

### THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Because of the non-binding character of the Declaration, it was considered necessary to translate its provisions into treaty form and to define them in greater detail. Work began in 1949, and was completed by the Human Rights Commission in 1954. After long and difficult negotiations in the GA's Third (Social and Humanitarian) Committee, two Covenants were finally adopted in 1966. Both have been criticized for loose wording which might be subject to distortion and manipulation, and for weak implementation procedures which rely too heavily on reporting by governments.

The Covenants took effect in 1976, after 35 governments ratified them. There are now 46 parties to the Covenant on Economic, Social and Cultural Rights and 44 to the Covenant on Civil and Political Rights. Of the five permanent members of the Security Council (US, UK, USSR, France and China), only the UK and Soviet Union have signed and ratified both Covenants, the latter on the basis of interpretations which in effect nullify their provisions. China has indicated its intention to examine all treaties entered into by the Nationalist regime after October 1, 1949, the date the Mao government assumed power in Peking, but has taken no action.

In the United States, much of the opposition to the Covenants, and to other human rights conventions as well, is based on the contention that under the 10th Amendment to the Constitution the protection of human rights is left to the states. Advocates of ratification question the states' rights argument because national legislation already deals with many of these issues. President Carter has announced his intention of signing both Covenants and transmitting them to the Senate for ratification.

The International Covenant on Economic, Social and Cultural Rights includes provisions on freedom from hunger, the right to an adequate standard of living, favorable working conditions and the right to an education. Governments ratifying the Covenant are required to submit to the Economic and Social Council (ECOSOC) periodic reports on steps that have been taken to implement its provisions.

To most of those developing countries which have ratified the Covenant, these terms are viewed as goals to be achieved gradually. In the United States, however, where ratification would automatically make it the law of the land, the chief criticism of the Covenant is that the standards it sets might be difficult to enforce in the courts because some of them are in conflict with US domestic law and with the US economic system. For example, Article 6 refers to the "right to work," a highly controversial phrase in the United States; Article 7 has language even more precise than the proposed Equal Rights Amendment with regard to "women being guaranteed conditions of work not inferior to those enjoyed by men;" Article 10 requires paid leave during a "reasonable period" before and after childbirth, an issue subject to union contracts in most cases. Even the strongest supporters of ratification assume the US would have to add reservations to its ratification to the effect that the Covenant's provisions could not supersede domestic law in certain areas.

The International Covenant on Civil and Political Rights includes, among others, the right to life, liberty, security and privacy of person, freedom of expression and assembly and the right to equality before law. In most instances, these rights are qualified by the need to protect national security and public order, public health, morals, and the rights and freedoms of others. Certain rights, however, such as protection from torture, inhuman or degrading treatment are not subject to these exceptions.

Much of the criticism of the Covenant in the United States has centered on Article 20, which prohibits "propaganda for war" and any "advocacy of national, racial or religious hatred that constitutes incitement to discriminate, hostility or violence." This might constitute an infringement of First Amendment rights to freedom of speech and the press. US ratification of the Covenant would probably be contingent on a reservation protecting US constitutional rights.

A Human Rights Committee of 18 experts will review reports by governments on their compliance with the Covenant. Under Article 41, the Committee is also authorized to hear complaints of violations by one state against another, provided both have accepted the competence of the Committee to do so. The Committee held its first session in March 1977, to approve its rules of procedure.

The Optional Protocol to the Covenant on Civil and Political Rights provides for complaints by individuals against their governments. The Human Rights Committee is required to hear such complaints in closed session, to forward its views to the country and the individual concerned and to submit an annual summary of these activities to the GA. Petitioners must have exhausted all domestic remedies for their grievances and all complaints must be signed and verifiable.

The Protocol took effect in 1976; it has been ratified by only 17 nations, including Canada and the Scandinavian countries, but by none of the major powers.

### CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

The Genocide Convention, adopted in 1948, defines the term as "acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group." These acts include killing, "causing serious bodily or mental harm, deliberately inflicting . . . conditions of life calculated to bring about physical destruction," measures to prevent birth and forcible transfer of children. Article 1 of the Convention specifically states that "genocide, whether committed in time of peace or in time of war is a crime under international law which (governments) undertake to prevent and to punish."

The Convention became effective in 1951 and has now been ratified by 82 nations. The US, which had played a leading role in drafting the Convention, was among the first to sign it. It was transmitted to the Senate for ratification in 1951, where it ran into opposition from some who feared its implications on treatment of US minorities and by others who argued that it would supersede the authority of the states in criminal matters. Several attempts at ratification failed. President Carter has included the Genocide Convention in his list of four conventions to be recommended for Senate ratification. If ratified, enabling legislation under the "necessary and proper clause" of the Constitution would probably stipulate the continued power of the states to act in criminal cases such as murder.

### INTERNATIONAL CONVENTION ON THE ELIMINATION OF RACIAL DISCRIMINATION

The General Assembly adopted the Convention in 1965. It has been in effect since 1969, and has been ratified by over 90 countries. The Convention obligates all states to combat all acts of racial prejudice and discrimination, which is defined in the text as "any distinction, exclusion or preference based on race, color, descent or national or ethnic origin."

It was the first human rights treaty to contain implementation provisions. A Committee on Racial Discrimination examines periodic reports submitted by governments on measures taken in compliance with the Convention. The Committee is also authorized to hear state-to-state complaints of violations (Article 11), and it may review complaints from individuals and groups if the state concerned has accepted the competence of the Committee to do so. (Article 14)

The United States signed the Convention in 1966, but it was not sent to the Senate for ratification. One potential obstacle to US ratification is Article 4, which obliges states to "declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination." Article 4 also calls for "due regard to the principles embodied in the . . . Declaration" but US ratification will thus certainly require a reservation specifying protection of constitutional rights of free speech and assembly. The UK has attached a similar reservation to its ratification.

President Carter is expected to transmit the Convention to the Senate during the 95th Congress.

The International Convention on the Suppression and Punishment of the Crime of Apartheid was adopted by the GA in 1971. It is directed primarily against South Africa and its policies of racial segregation. The text defines apartheid as any "act committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group." Such acts are to be treated as criminal offenses "against humanity." The Convention took effect in 1976 and has now been ratified by 31 states. The US and most other Western countries have criticized its loosely worded definition of *apartheid*. They also consider it redundant because most of its key provisions are already included in the Genocide and Racial Discrimination Conventions.

The Decade for Action to Combat Racism and Racial Discrimination, an effort to focus world attention on racial issues, particularly in southern Africa, was inaugurated by the GA in December 1973. The Assembly also adopted a program of action for the ten-year period which has since been expanded to include a World Conference to Combat Racism, now scheduled for 1978 in Ghana. In protest over the Assembly's adoption in 1975 of a resolution equating Zionism with racism, the US has refused to participate in either the planning or the funding of the Conference.

### IMPLEMENTATION PROCEDURES AND THE "DOUBLE STANDARD"

A major criticism of actions in the human rights field is the UN's "double standard," the ignoring of known violations in many nations, while indulging in regular denunciations of only a few countries, usually South Africa, Israel and Chile. In part this is a reflection of the difficulties in reaching agreement on what constitutes violations of human rights. More importantly, many human rights issues, particularly those related to the Middle East, are in fact highly explosive political issues. And, because the UN is essentially a political institution, even if they are not political issues, they are usually treated as such. The decision in 1977 by the Human Rights Commission not to investigate charges of murder in Uganda is eloquent testimony to the priority accorded political considerations, in this case, maintenance of African unity. The machinery for dealing with human rights violations exists, but it is cumbersome and is not often activated.

ECOSOC Resolution 1503 was adopted in 1970. It established the first procedures not required by treaty for reviewing complaints from private groups and individuals. It authorizes the Human Rights Commission and its Sub-Commission on the Prevention of Discrimination and Protection of Minorities to review and make recommendations on those situations "which reveal a consistent pattern of gross and reliably attested violations of human rights."

Since adoption of Resolution 1503, the number of complaints has risen dramatically to over 50,000 in 1976. Processing of these complaints is slow, however, taking a minimum of 18 months. The complaints are handled on a confidential basis and the petitioner is not informed if his complaint is being considered, if or when it has been rejected, or if and how it has been acted upon. (In 1972 and 1973 several cases were reportedly referred to the Sub-Committee by the special five-member working group charged with reviewing the complaints, but no further action was taken.)

The Soviet Bloc is now claiming that the 1503 procedures are no longer needed because

they have been supplanted by those included in the Covenants. The Covenants' procedures, however, apply only to governments, not private complaints, and governments are usually loath to criticize other governments for fear of possible retaliation. The worst cases of human rights violations are usually publicized, not by governments, but by private non-governmental organizations.

The ILO Precedent: The International Labor Organization (ILO) has developed effective and sophisticated procedures for enforcing the provisions of the more than 150 conventions it has sponsored, several dealing with human rights. The effectiveness of the ILO procedures lies in the tripartite character of the agency: governments' reports on their implementation of ILO conventions are regularly and critically reviewed by both management and labor experts, as well as by other governments. These reviews have frequently led to improvements in national legislation. The US is not a party to any ILO convention. In 1975 the United States gave formal notice of its intention to withdraw from the ILO partly because of the "erosion of tripartite representation in the agency." In its letter of intent, the US declared that it "cannot accept the workers and employer groups in the ILO falling under the domination of Governments."

UN High Commissioner for Human Rights: This proposed office, first suggested by Costa Rica in 1975, would be intended to provide high-level private conciliation and mediation efforts by a respected and impartial international civil servant. Although his powers have not been defined, the Soviet bloc and the Arab states have consistently opposed the proposal as a violation of Article 2(7) of the UN Charter and a potential encroachment on national sovereignty. The idea has been shelved since 1974. President Carter has announced his intention to revive it.

US POLICY: CREDIBILITY AND THE CONSTITUTION

The US has ratified only five UN human rights conventions, dealing with the status of refugees, the political rights of women and slavery. Those who support US ratifications of other UN conventions maintain that the US will have little or no credibility in its advocacy of human rights until action is completed on at least those four conventions supported by President Carter. In addition they cite the ineligibility of the US to participate in either the Human Rights Committee or the committee on Racial Discrimination because the US is not a party to either the Convenant on Civil and Political Rights or the Racial Discrimination Convention. This permits, by default, the USSR and Third World countries to interpret the conventions in ways which tend to distort or negate their original intent.

Opponents of ratification rely primarily on the 10th Amendment provisions on states' rights. The landmark Supreme Court decision of *Missouri* v. *Holland* in 1920, refuted this argument. This so-called "migratory birds case" involved the constitutionality of Congressional legislation giving effect to a treaty with Canada which encroached on state game laws. The Court upheld the authority of Congress to implement valid treaty commitments even if they deal with matters normally under state authority. In addition, Justice Holmes, writing for the majority, stated that "no doubt the great body of private relations usually fall within the control of the state. but a treaty may override its power."

In 1953, Secretary of State John Foster Dulles took a different view. He pledged that the Eisenhower Administration would "not become party to any (human rights) covenant or present it as a treaty for consideration by the Senate," but would seek to promote human rights by "methods of persuasion, education and example." The treaty-making power was not to be used "to effect internal social changes."

Ten years later, President Kennedy attempted to reverse this policy, and transmitted three conventions to the Senate for ratification, all apparently chosen to avoid the constitutional issue: the Convention on the Political Rights of Women, a matter of federal law under the 19th Amendment; the Supplementary Convention on Slavery and the ILO Convention on the Abolition of Forced Labor, both under the purview of the 13th Amendment. The Slavery Convention was ratified in 1967, and the Convention on the Political Rights of Women in 1976. No action has been taken on the ILO Convention.

The Security Assistance Act of 1976 requires annual reporting on observance of human rights in every country receiving US security assistance. The first report issued in 1977 showed most of the 82 countries listed as violators of human rights. Cuts in security assistance, however, were proposed for only three countries, Argentina, Uruguay and Ethiopia. For political and security reasons, there were no requests for others such as Brazil, South Korea and the Philippines.

In addition, several attempts have been made to add human rights criteria to loans made by international financial institutions (IFIs) such as the World Bank. These conditions are strongly opposed by World Bank President Robert McNamara who maintains they would destroy the traditionally nonpolitical character of international development agencies.

The Helsinki agreement, scheduled for review in June 1977, is not being dealt with in the UN, but it has been discussed as a possible precedent for future regional agreements on human rights.

Mr. PROXMIRE. Mr. President, I yield the floor.

## ORDER FOR RECOGNITION OF CERTAIN SENATORS TOMORROW, AND DESIGNATION OF PERIOD FOR ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the prayer, the Senator from New York (Mr. JAVITS) be recognized for not to exceed 15 minutes; that he be followed by the Senator from New Mexico (Mr. SCHMITT) for not to exceed 15 minutes; and that thereafter, until the hour of 11 o'clock a.m., there be a brief period for the transaction of routine morning business, with statements therein limited to 5 minutes each, as in legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR RECESS UNTIL 10:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10:15 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. This would mean, then, Mr. President, that the Senate would resume its consideration of the treaty at 11 o'clock; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I understand that Mr. DOLE will be ready at 11 o'clock on his amendment, and I believe that rollcall votes in relation thereto should occur at about noon tomorrow, for the information of Senators.

## COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Wednesday, April 19, to hold further hearings on S. 2, the Programs Evaluation Act of 1977, and S. 1244, the Federal Spending Control Act of 1977, otherwise known as the "sunset legislation."

The PRESIDING OFFICER. Without objection, it is so ordered.

## CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business be closed.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXECUTIVE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of nominations on the Executive Calendar, beginning on page 2 under "New Reports."

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, the items appearing on the Executive Calendar from the point identified by the majority leader through and including the nominations in the Coast Guard placed on the Secretary's desk have been cleared on this calendar, and we have no objection to their immediate consideration and confirmation.

## DEPARTMENT OF STATE

The second assistant legislative clerk read the nomination of David D. Newsom, of California, to be Under Secretary of State for Political Affairs.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

The second assistant legislative clerk read the nomination of Robert J. Sugarman, of Pennsylvania, to be a commissioner on the part of the United States.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## NOMINATIONS IN THE COAST GUARD PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read routine nominations to be placed on the Secretary's desk.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that these motions be considered en bloc.

Mr. ALLEN. Mr. President, reserving the right to object, and I shall not object, are those the nominations as ensigns in the Navy? Are they the ones the distinguished majority leader had reference to?

Mr. ROBERT C. BYRD. They are Coast Guard nominations, beginning with—yes, the Senator is correct.

Mr. ALLEN. That would indicate that the United States Senate has to approve commissioning an ensign in the Navy. I raise that point because I sought to get the Senate to provide for approving the members of the Panama Canal Commission, feeling that they were as important, possibly, to the conduct of the Nation's business as requiring the Senate to confirm the commissioning of ensigns. But these are ensigns requiring the approval of the United States Senate?

Mr. ROBERT C. BYRD. Yes, they are; and I do not believe that the present members of the Panama Canal Board are required to be confirmed.

Mr. ALLEN. Yes, but the Senator does know that the present members, with the exception of one, have actually been confirmed in the positions which they hold as Assistant Secretary of the Army, and things of that sort.

Mr. ROBERT C. BYRD. Yes; he would be required to be confirmed for the position of Assistant Secretary of the Army.

Mr. ALLEN. I thank the Senator. I withdraw my reservation.

Mr. BAKER. Mr. President, reserving the right to object, as a former ensign, I might say they are entitled to that recognition.

Mr. ALLEN. I am a former ensign, myself, but I rose to the rank of lieutenant, junior grade.

Mr. BAKER. Well, the distinguished Senator from Alabama and I share many things, and we share that distinction as well.

Mr. ROBERT C. BYRD. Mr. President, I am sorry that I cannot claim that distinction, so therefore I cannot join the distinguished company in this regard. I salute them, however.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SENATE RESOLUTION 432—WAIVING A REQUIREMENT FOR SERVICE ON THE SELECT COMMITTEE ON ETHICS

Mr. BAKER. Mr. President, as in legislative session, I ask unanimous consent that I may send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 432) waiving for the remainder of this Congress with respect to the minority party the requirement that a member of the Select Committee on Ethics have served in the Senate for more than six but less than twelve years.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object to the immediate consideration, and I shall not object, this resolution has been cleared with Mr. PELL from the Committee on Rules and Administration and with Mr. STEVENSON, the chairman of the Select Committee on Ethics. I have no objection.

The PRESIDING OFFICER. Without objection, as in legislative session, the resolution is considered and agreed to.

The resolution is as follows:

*Resolved*, That subsection (d)(2)(B) of the first section of Senate Resolution 338, Eighty-eighth Congress, agreed to July 24, 1964 (as added by section 102 of Senate Resolution 4, Ninety-fifth Congress) shall not apply for the remainder of the Ninety-fifth Congress with respect to a member of the Select Committee on Ethics from the minority party.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I do not often have the opportunity to move to lay on the table a motion by the distinguished minority leader. He is always moving to lay on the table my motions to reconsider, but this is one time I am going to move to lay on the table his motion.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

## KEMP-ROTH TAX CUT BILL

Mr. BAKER. Mr. President, as in legislative session, on March 15, 1978, the House of Representatives took up the Kemp-Roth tax cut bill. An impressive number of House Members, on both sides of the aisle, voted for this important measure, which received 194 affirmative votes and lost by only 22 votes.

I have strongly supported this bill to cut taxes and I look forward to a time when we can vote in the Senate on this sound and sensible legislation. It would not only provide for more jobs and a boost to the American economy, but it would also bring about long-term growth for the country.

Mr. President, in the April 10, 1978, issue of Fortune magazine there is an excellent analysis of this proposed tax cut and a profile of Representative JACK KEMP of New York who, with my distinguished colleague from Delaware, Senator ROTH, created and now advocates this important proposal. Congressman KEMP is one of the most able and impressive leaders in the House and I would hope that other Members of the Senate would learn more about the proposal which he and Senator ROTH are advancing.

I ask unanimous consent that this article be printed in the RECORD at this time.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JACK KEMP WANTS TO CUT YOUR TAXES—A LOT

(By Irwin Ross)

Jack Kemp is a most unusual Congressman. Members of Congress come from a variety of fields, but very few were professional athletes. Kemp was: in the middle 1960's he ranked among the outstanding quarterbacks in pro football. Most Congressmen read a lot, of necessity, but relatively few are heavy readers of serious books. Kemp is: he's a dedicated, not to say compulsive, student of economics. Few members of Congress emerge as national figures without quite a lot of seniority behind them. Kemp did: regarded as merely a curiosity after his football stardom catapulted him into Congress in 1970, he has become a political star, a spokesman for his party and a molder of its policies.

A man of missionary zeal, Kemp is involved in no less daunting an effort than trying to reshape the thrust and strategy of the Republican party. He wants to drop the old rhetoric about cutting spending and balancing the budget and instead rally the voters with a new battle cry of jobs and economic expansion through big tax cuts. He has already had a remarkable impact. Last fall, the Kemp-Roth tax-reduction bill (coauthored by Republican Senator William Roth of Delaware) was unanimously endorsed by the Republican National Committee. It has picked up more than 160 cosponsors in the Congress.

Kemp has become one of the G.O.P.'s most sought-after speakers; since last September he has carried his campaign to nineteen states, averaging better than a speech a week. He is featured in the Republican Naitonal Committee's twenty-eight-minute TV film on tax cuts, and has been invited to address fourteen Republican state conventions (not all of which can be fitted into his schedule).

ECHOES OF J.F.K.

Kemp's program has a bold and dramatic sweep to it. His bill calls for a deep across-the-board cut in personal income-tax rates—an average of 30 percent, to be phased in over a three-year period. By comparison, the tax-rate cut that President Carter recently proposed is positively niggling. The Kemp-Roth bill also calls for a mild reduction in the top corporate rate, from 48 to 45 percent over three years, as well as an increase in the threshold—from $50,000 to $100,000—at which the top corporate rate takes effect.

Kemp makes much of the point that his tax program is modeled after the Kennedy cuts of 1964–65, which reduced income-tax rates nearly 20 percent and cut the corporate rate from 52 to 48 percent. In Kemp's view, the Kennedy cuts were a tremendous success in reviving incentives and stimulating the economy. He frequently uses the slogan, "Let's get the economy moving again," echoing the theme of John F. Kennedy's 1960 presidential campaign. The Republican film on taxes actually includes a clip of J.F.K. presenting his tax program to a joint session of Congress in January, 1963. The frequency with which Kemp invokes Kennedy suggests that the late President may be passing into the pantheon of nonpartisan national heroes. At the same time, of course, Kemp is making an effort to deflect Democratic flak directed against his tax plan.

BEYOND BLOCK-THAT-DEFICIT

There is a touch of irony in Kemp's advocacy of grand-scale tax reduction. He has generally been identified with the conservative wing of his party. He worked briefly for Ronald Reagan during his time as governor of California, was an ardent hawk on Vietnam, and has tended to take a right-wing position on most issues—for example, against ratification of the Panama Canal treaties and against decriminalization of marijuana. Early in his congressional career he introduced a constitutional amendment to prohibit busing.

His tax program, however, is anything but conservative, if that label is taken to signify old-fashioned, block-that-deficit fiscal conservatism. Indeed, in speaking of his economic views, Kemp occasionally refers to himself as a radical, by which he means that he gets at the roots of things. Conservatives, of course, would like to lower taxes, but they worry about the budgetary consequences and therefore want tax cuts to be accompanied by spending cuts. Kemp, while making an occasional reference to "prudent spending," does not propose any reduction in outlays.

"I don't worship at the shrine of the balanced budget," he says. "Republicans have been trying to balance the budget ever since Herbert Hoover. I would much rather have a growing economy and a budget that's unbalanced than a contracting economy with a balanced budget." He is well aware that in a growing economy, stimulated by tax cuts, the relative proportions of private and public spending would shift in the direction of the former, but he does not stress the point.

"SO THEY ELECTED ME"

On the platform the boyish-looking, powerfully built Kemp is a rousing performer. He will start out conversationally, but as he warms to his theme he is soon bouncing around behind the podium, rearing back one moment, jutting forward another, and continually using his hands—to form globes, trace soaring arcs, or emphasize points with an outstretched finger, a slicing motion, or a clenched fist pounding the air.

Before he gets to the main business, he indulges in some genial self-depreciation. He recalls, for example, that when he was first running for Congress, he told a TV interviewer that he'd probably return to football if he lost the election. That night, as Kemp tells it, a newscaster solemnly reported that "congressional candidate Jack Kemp warned the people of Buffalo that if he is not elected, he will play football." Kemp adds: "So they elected me." The crowd roars.

The economic message, when it comes, is delivered in short, staccato bursts. Kemp has a number of favorite bits, which also pepper his conversation. Among them: "Generally speaking, if you tax something, you get less of it. If you subsidize something, you get more of it. In America, we tax work, growth, investment, employment, savings, and productivity, while subsidizing non-work, consumption, welfare, and debt."

To explain the impact of high marginal tax rates on incentives and output: "Let's say your income is taxed 10 percent on Monday, 20 percent on Tuesday, 30 percent on Wednesday, 40 percent on Thursday, 50 percent on Friday, and so on. For most people, sometime around Friday, you'd decide not to work anymore." Kemp feels that he can be allowed such simplistic formulations, for, as he frequently points out, "I'm not an economist. I have no formal training in economics. But I am an expert in incentives."

"DRAINING ME OF EVERYTHING I KNEW"

Kemp's awareness of his lack of formal training in economics may partly account for the remarkable intensity of his search for knowledge. Jude Wanniski, a writer on the Wall Street Journal, vividly recalls the first time he met Kemp, early in 1976. Wanniski walked into Kemp's office, without an appointment, and sent in his card. Fifteen minutes later, Kemp burst out of his room. "Wanniski!" he exclaimed, "I've just been thinking about how I was going to meet you." He explained that he had been reading Wanniski for a long time. They immediately began talking about economics.

It was then 10:00 a.m. They talked all day, Wanniski canceling appointments and following Kemp around Capitol Hill. In the evening, Kemp took him home to Bethesda, where his wife, Joanne, prepared dinner. And they talked until midnight. "It was exhausting," says Wanniski. "He was draining me of everything I knew. He was squeezing my head."

Kemp counts Wanniski among the people who have had an important influence on his thinking. Another is Irving Kristol, the well-known essayist and coeditor of The Public Interest. Kemp credits Kristol with pointing him in a new direction, toward the view that the Republican party, as Kristol puts it, needs to become "a party of hope—rather than a party that has benefited from Democratic disasters." At times, Kemp calls himself a "Kristolian."

Early in his acquaintance with Kemp, Kristol was agreeably surprised to note that "when you mention something that he should read, he goes out and reads it. Last year, I recommended some old articles in The Public Interest, and when we met again, he had read them all. I didn't remember them as well as he did."

Kemp sometimes reveals a touch of insecurity when he runs into an argument for which he has no adequate response. Half an hour before he was to deliver a speech, he unexpectedly telephoned one of his economic advisers for some help on a technical point of economics. He had learned that a reporter who had disputed the point with him would be in the audience.

The insecurity emerged not long ago when a visitor asked whether he had read Keynes' General Theory of Employment, Interest and Money, which many professional economists have never managed to finish. Kemp looked crestfallen and confessed that he had not. An hour later, as he dropped his visitor at the airport, he suddenly said, "You've got me worried. I'll have to go back and read the General Theory."

Kemp's intellectual energies are by no means exhausted by economics. During the bicentennial year, he returned from a speaking trip all steamed up with curiosity about the quality and texture of life in this country in the 1770's and 1780's. He pulled together everything he could find on the social and intellectual history of the period, and went on a reading jag. When finally sated, he moved to something else. Some other enthusiasms, apart from economics, have been enduring. He knows quite a bit about ballet, an interest that goes back to the time an aunt took him to a performance of the Bolshoi Ballet in Los Angeles in the Fifties.

THE DREAM CAME TRUE—SLOWLY

Los Angeles is where Kemp was born and grew up. His father was a businessman, coowner of a small trucking firm; his mother had once been a social worker. Jack's abiding boyhood ambition was to play pro football. He played quarterback at Fairfax High School in Los Angeles and at nearby Occidental College, where he majored in physical education.

The early years of his football career were so unpromising that a less dogged man might have become discouraged. Soon after his graduation from college in 1957, the Detroit Lions drafted him as a third-string quarterback, and he then spent three frustrating seasons employed by no fewer than five teams, hardly ever getting off the bench. His chance finally came in 1960, when he was taken on by the Chargers, a Los Angeles team that later moved to San Diego. Kemp became the starting quarterback of the Chargers, but he achieved national celebrity only after he joined the Buffalo Bills for the 1962 season. He came to be recognized as a very smart, spunky quarterback who energized the whole team when he came onto the field—the inspiring leader straight out of boys' books. He led the Bills to two A.F.L. championships and in 1965 received the league's Most Valuable Player award.

Kemp was a leader off the field too. He was a cofounder of the A.F.L. Players Association and later served as its president. He helped negotiate the first collective-bargaining agreement in pro football, an experience that gave him some knowledge of how unions operate (but did not make him a union partisan when it came to voting in the House of Representatives).

His intellectual development went forward during his pro football years. One important influence was an article in Fortune (March, 1960) on the free-market economist Friedrich Hayek and his new book *The Constitution of Liberty*. The article led Kemp to read the book and start to explore the ideas of other conservative economists. While playing for the Chargers, Kemp also took some postgraduate courses in history and political science, working toward an M.A. He had a vague idea that he might want to teach someday.

A POLITICAL GODFATHER

The San Diego period proved to be crucial in Kemp's post-football career, for it expanded a budding interest in politics. Through the sports editor of the San Diego Union, Kemp met the paper's editor, Herbert Klein, who had been Nixon's press secretary in the 1960 campaign. Klein, an ardent football fan, provided Kemp's entrée into Republican politics. Kemp speaks of him as "kind of my political godfather." Klein was also helpful in getting Kemp enrolled in the paper's editorial-training program during the off-season. Kemp did research for the editorial writers, wrote "a couple" of editorials himself, and made a good many speeches for the paper before community groups.

In 1970, while Kemp was still with the Buffalo Bills, Republicans leaders in Erie County asked him to run for Congress from what was then the Thirty-ninth District. The district spread over a large suburban expanse and a small segment of Buffalo and had a sizable population of blue-collar workers. It was a marginal district, then represented by a liberal Democrat, Richard (Max) McCarthy, but previously by a right-wing Republican. McCarthy did not run in 1970, and Kemp beat another newcomer in a tight race. Thereafter the district lines were redrawn, but the new Thirty-eighth remained substantially the same in demographic composition as the old Thirty-ninth. Kemp's share of the votes rose to 73 percent in 1972 and 78 percent two years ago.

THE BLUE-COLLAR LINKAGE

This extraordinary popularity is in part the payoff for careful nurture of his constituency, of the sort that is typical of diligent congressmen. In Washington, Kemp is always available, by phone and in person, and he regularly flies back to Buffalo. He holds periodic meetings around the district, from 9:00 a.m. to 4:00 p.m., at which constituents with problems involving federal agencies can consult him. Moreover, he has devoted an enormous amount of time to obtaining federal funds for local public-works projects—notably sewage-treatment plants and an ambitious urban mass-transit system.

One of Kemp's more impressive political achievements has been the collecting of a sizable number of local union endorsements in past elections, despite a voting record that the A.F.L.–C.I.O. ranks as dismal. Last year, for example, he voted against both the common situs picketing bill and the increase in the minimum wage. State and national labor endorsements go to his opponents, and the Buffalo A.F.L.–C.I.O. Council is dead set against him, but a number of Buffalo-area unionists like him. Floyd Lisinski of the pressmen's union says of Kemp: "He was always there when I needed him. He returns my calls almost immediately." Moreover, the building-trades unions prize the construction jobs he has brought the district.

Kemp himself credits much of his present popularity to his tax program. The idea of economic expansion through tax cuts has a strong appeal to blue-collar audiences, he insists. The election figures certainly indicate that he has substantial blue-collar support, but it is difficult to evaluate the specific appeal of his tax program in Buffalo. Local observers are of divided mind about its popularity—though never about Jack's.

Whatever the impact of Kemp's ideas on people in Buffalo, it was the high level of unemployment in the city that turned him to a search for economic solutions some years ago. Initially, he was a fairly orthodox, budget-balancing Republican. Then he underwent a major change in his economic views and political emphasis.

Before his tax-reduction bill, Kemp sponsored a "jobs creation" measure, which would have legislated a wide range of fiscal therapies, including lower tax rates, an exemption for new personal savings, and the abolition of double taxation of dividends. But it was too complicated to promote effectively, and so he moved to his present proposal. Last year, in his conversations with Senator Roth, Kemp urged a 30 percent cut in personal income-tax rates in one year, but Roth thought it imprudent to move that fast, and so they settled for 10 percent a year.

IN FAVOR OF WORK

While Kemp is well aware of the political attractiveness of cutting taxes, he also offers a respectable, though disputed, economic rationale for his program. Simply stated, the argument is that substantial cuts in tax rates would lead to a bigger G.N.P. by increasing people's preference for work, saving, and entrepreneurial risk-taking—as against leisure, spending, and less productive forms of investment, such as real-estate speculation. A faster-growing economy would ultimately increase government revenues, even at lower tax rates, because there would be a larger volume of private and corporate income to tax. This line of argument—from the "supply side" rather than the "demand side," as economists put it—descends from classical theory, and specifically the views of the nineteenth-century French economists Jean Baptiste Say and Leon Walras. A modern version has been put forward in recent years by Robert A. Mundell of Columbia and Arthur B. Laffer of the University of Southern California.

In setting forth his ideas, Kemp makes use of the "Laffer curve," which he is continually drawing on paper napkins and the backs of envelopes. The curve (see below) illustrates the relationship between tax rates and government revenue. Very high rates of taxation limit revenue by restraining output. Lowering tax rates from such counterproductive levels can increase government revenue by stimulating greater output. That is why Kemp has no fear that his tax proposals would result in a bigger federal deficit.

In Kemp's view, the Kennedy cuts proved the efficacy of this approach. Now incentives have to be restimulated once again—because over the intervening years inflation has greatly increased the tax bite, in real terms, by pushing people into higher marginal brackets.

To support his case, Kemp points to what happened after the Kennedy tax cuts went into effect. Last year he asked the Library of Congress to compare the revenue the Treasury projected back in 1963, when Kennedy proposed his program, with what actually happened. The Treasury forecast a revenue loss of $89 billion for the years 1963–68. As things turned out, tax revenues increased by $54 billion, because of the great acceleration in economic activity. What we did before, Kemp is fond of saying, we can do again.

His economic advisers are split on what Kemps' tax cuts would do to the budget deficit. Laffer believes the Kennedy experience would be repeated. Norman Ture, a Washington consultant on whom Kemp also relies, has put the Kemp-Roth tax cuts through his econometric model, which has a heavy emphasis on supply-side effects, and comes up with a revenue gain of $1 billion in 1978 (assuming the progam was already in effect) but a revenue loss of $40 billion in 1980 and $43 billion in 1982.

Ture's explanation is that in the first year there would be a sizable jump in G.N.P., as underutilized plant capacity is put to fuller use, but that in successive years the growth of G.N.P. would be slower. Nonetheless, Ture projects such a vast increase in savings that the additional deficit could be financed without any "crowding out" of private investment—a point that Kemp has seized on.

Keynesians, of course, also consider the Kennedy cuts to have been a huge success, but in their view the crucial element was expansion of demand. They argue that the effect of tax cuts on incentives has not been proved, at least in the tax environment in the U.S. For his part, Kemp says that "Kennedy's economists did the right thing for the wrong reasons." He will only grudgingly concede any stimulative effect from enlarged demand.

The political irony is that the Republican party is now on record for big tax cuts, whereas the Democratic Administration is proposing modest nicks in personal income-tax rates, and other changes that, as Kemp sees it, only increase the progressivity of the tax schedule and lead to "income redistribution rather than income growth." Many Democrats think Kemp is being demagogic and absurdly heedless of a ballooning deficit; Kemp thinks the Democrats are prisoners of false dogma.

"YOU'RE NOT SUPPOSED TO LAUGH"

The Kemp-Roth bill, of course, will not pass; such proposals by the minority party never do. But it may well raise the ante in the tax debate, for there is already a disposition among Democrats to go beyond the Carter Administration's program.

Meantime, Jack Kemp has begun to alter the face that the Republican party presents to the world. In the process, he has become a national leader of the party. Recently he has been urged to run for governor of New York this year, but that would be very chancy. Besides, the political argument he is interested in is centered in Washington. The next move he freely talks about is to the Senate in 1980, if Jacob Javits, now seventy-three, retires.

Some of Kemp's admirers see him on the national ticket two years hence, possibly even as a presidential candidate. This suggestion was reported to him somewhat jocularly a few weeks ago. "You're not supposed to laugh at that," said Kemp, not laughing. Even if his staffers share that view, however, they have been avoiding use of his middle initial (F for French, his grandmother's maiden name) or of his three initials, which have a certain familiarity: J.F.K.

## TIME-LIMITATION AGREEMENT ON DOLE AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I understand this request is agreeable with Mr. DOLE: I ask unanimous consent that there be a limitation of 1 hour for debate on the amendment by Mr. DOLE tomorrow, and that that time be equally divided between Mr. DOLE and Mr. CHURCH or their designees.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 10:15 a.m. After the prayer, Mr. JAVITS and Mr. SCHMITT will be recognized, each for not to exceed 15 minutes, after which there will be a period for the transaction of routine morning business until 11 a.m., with statements therein limited to 5 minutes each.

At 11 a.m., the Senate will resume its consideration of the treaty, and Mr. DOLE will be recognized with respect to his amendment. Rollcall votes will occur throughout the afternoon.

## RECESS UNTIL 10:15 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate, in executive session, stand in recess until the hour of 15 minutes after 10 o'clock tomorrow morning.

The motion was agreed to; and at 7:01 p.m., the Senate, in executive session, recessed until tomorrow, Thursday, April 13, 1978, at 10:15 a.m.

## CONFIRMATIONS

Executive nominations confirmed by the Senate April 12, 1978:

DEPARTMENT OF STATE

David D. Newsom, of California, a Foreign Service officer of the class of Career Minister, to be Under Secretary of State for Political Affairs.

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

Robert J. Sugarman, of Pennsylvania, to be a Commissioner on the part of the United States on the International Joint Commission, United States and Canada.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE COAST GUARD

Coast Guard nominations beginning Will Daniel Agen, to be ensign, and ending Edward Lewis Young, Jr., to be ensign, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 22, 1978.

# HOUSE OF REPRESENTATIVES—*Wednesday, April 12, 1978*

The House met at 3 o'clock p.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*Let your light so shine before men, that they may see your good works and glory your Father who is in heaven.*—Matthew 5: 16.

Almighty God, our heavenly Father, in this quiet moment we open our hearts unto You praying that we may feel the touch of Your spirit upon us as we begin the work of this day. Grant unto each one of us wisdom for the decisions we have to make, good will in the contacts we have with one another, and faithfulness in our devotion to You and to our country.

Bless the citizens of our Nation with the flora of Your continued favor. May we as a people be great enough in spirit to be a channel through which peace, justice, and good will can flow into our world.

Thy love divine hath led us in the past;
In this free land by Thee our lot is cast;
Be Thou our Ruler, Guardian, Guide, and Stay,
Thy word our law, Thy paths our chosen way.

Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

## MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 578. Joint resolution authorizing the President to proclaim the third week of May of 1978 and 1979 as "National Architectural Barrier Awareness Week."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2424. An act to amend the act incorporating the American Legion so as to redefine eligibility for membership therein.

## CONFERENCE REPORT ON FARM BILL EXCEEDS THE LIMIT

(Mr. MOORHEAD of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I have always supported farm legislation and last year I not only supported the omnibus farm bill, I spoke in favor of it. I have no regrets, though its income and price supports have unavoidably proved expensive in budgetary terms at a time of large crops. I said then, and reaffirm today, that a healthy urban economy depends in good part on a healthy agricultural economy, and vice versa. But there comes a limit. This conference report exceeds that limit.

Mr. Speaker, the essence of my argument on the 1977 bill, when I spoke during debate on the rule, was that the farm program—reinforced by the 1977 act which we eventually approved—would help to assure ample agricultural supply. From the point of view of the Nation's inflation problem, that is the heart of the matter, more important than the budgetary cost. It is quite true that prices at the farm gate now amount to only about one-third of the cost of finished food to the consumer, but it is equally true—as the 1973–75 experience demonstrated beyond any doubt—that a surge of prices at the farm level caused by changes in world demand or supply conditions can by itself lead to an explosion of food prices at the supermarket. There is only one guarantee against a repetition of that painful experience, and it is ample farm supply.

The conference report before us hits directly, overtly, and purposely at farm supply. Its whole thrust is to retire acreage and cut production. We have heard and will hear various estimates of budgetary cost and impact on consumer prices. I do not really trust any of those figures, which are bound to be imprecise. But we do not need those figures to make the case against this bill. Instead, we need look at only one magnitude that really is important. Let me emphasize it and repeat it:

With maximum farmer participation in the set-aside program established by this bill, 59 million acres would be removed from production of wheat, feed grains, and cotton. This is nearly triple—repeat, triple—the acreage that will be retired under the recently augmented set-aside programs established by the administration, which itself is large enough to be troublesome to me and others worried about the inflation problem.

Retirement of anything like 59 million acres creates a grave risk of another explosion of farm and food prices, particularly if crops here or abroad this year are subnormal. The impact on meat prices could be felt for several years. At a time when inflation is our most serious domestic problem, this is foolhardy to say the least.

We can debate the right level of cash income support to farmers through Government payments, and I have voted for a generous support level. But every nonrural Member of this House should be able to see at a glance that a massive cutback in agricultural supply through acreage retirement is exactly the wrong approach at a time like this. The conference report should be decisively defeated.

## WHITE HOUSE HEEDS BAD ADVICE ON TUITION TAX CREDIT BILL

(Mr. COUGHLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COUGHLIN. Mr. Speaker, President Carter has once again revealed his inability to discern between good and bad advice by choosing the latter in his arrogant statement concerning the tuition tax credit bill, which after a monumental uphill battle, was finally reported out of the Ways and Means Committee yesterday.

Mr. Carter, during his appearance on national television yesterday, cited the total 3-year cost of $1 billion of the tuition tax credit for higher education as one of his primary reasons for considering a veto of the bill. The President is obviously having difficulty in handling the facts of the issue to make such a short-sighted statement, when the cost of his own plan to expand existing Federal tuition aid surpasses the tuition tax credit proposal by nearly $500 million. Added to the $1.46 billion administration's program, the bureaucratic maze necessary to administer the extra workload created by the expansion of the existing student aid programs, and the costs incurred as a result of the high default rate on student loans, the expense of Mr. Carter's program escalates far beyond any of those student assistance programs presently being considered by this body.

I can only hope that the President will get his facts straight the next time he chooses to make an attack on a program with as much merit as the tuition tax credit plan.

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore (Mr. WRIGHT) laid before the House the following communication from the Clerk of the House of Representatives:

*April 12, 1978.*

Hon. THOMAS P. O'NEILL, JR.,
*The Speaker, House of Representatives, Washington, D.C.*

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 10:25 a.m. on Wednesday, April 12, 1978, and said to contain a Message from the President wherein he transmits to the Congress the annual reports of six river basin commissions (New England, Great Lakes, Pacific Northwest, Ohio, Missouri and Upper Mississippi), as required under Section 204(2) of the Water Resources Planning Act of 1965.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
*Clerk, House of Representatives.*

## ANNUAL REPORTS OF THE SIX RIVER BASIN COMMISSIONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interior and Insular Affairs:

*To the Congress of the United States:*

I am happy to transmit the annual reports of the six river basin commissions, as required under Section 204(2) of the Water Resources Planning Act of 1965.

The Act states that commissions may be established, comprised of state and federal members, at the request of the governors of the states within the proposed commission area. Each commission is responsible for planning the best use of water and related land resources in its area and for recommending priorities for implementation of such planning. The commissions, through efforts to increase public participation in the decision process, can and do provide a forum for all people within the commission area to voice their ideas, concerns and suggestions.

The commissions submitting reports are New England, Great Lakes, Pacific Northwest, Ohio, Missouri and Upper Mississippi. The territory these six cover include parts or all of 32 states.

The enclosed annual reports indicate the activities and accomplishments of the commissions during Fiscal Year 1976. A brief description of current and potential problems, studies and approaches to solutions are included in the reports.

JIMMY CARTER.

THE WHITE HOUSE, *April 12, 1978.*

## EDUCATION DAY, U.S.A.

Mr. NIX. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 770) to authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A.," and ask for its immediate consideration.

Mr. Speaker, this legislation is identical to House Joint Resolution 767, which was passed under suspension of the rules yesterday. The measures are identical, but the committee would prefer that House Joint Resolution 770 be the joint resolution as passed by the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request to the gentleman from Pennsylvania?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, I would like to direct a question to the chairman of the committee.

This is merely to have the language properly conform to what the committee agreed to; is that not correct?

Mr. NIX. Mr. Speaker, if the gentleman will yield, yes, the gentleman is correct.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 770

To authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A.".

Whereas the Congress recognizes a need for the Nation to set aside on the calendar a day devoted to the importance of education to the lives of its citizens and to the general well-being of the Nation; and

Whereas the Lubavitch Movement, which conducts educational activities at more than sixty centers in twenty-eight States as well as around the world, is especially committed to the advancement of education and has proposed the establishment of an "Education Day, U.S.A."; and

Whereas world Jewry marked in 1977 the seventy-fifth birthday of the revered and renowned Jewish leader, the head of the worldwide Lubavitch Movement, Rabbi Menachem Mendel Schneerson, who proclaimed on that occasion a "Year of Education"; and

Whereas the seventy-sixth birthday of this celebrated spiritual leader will occur April 18, 1978, thus concluding the year of Lubavitch Movement activities dedicated to the "Year of Education" and the Lubavitcher Rebbe's milestone birthday: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President is authorized and requested to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A.".

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## VACATING PROCEEDINGS ON PASSAGE OF HOUSE JOINT RESOLUTION 767

Mr. NIX. Mr. Speaker, I ask unanimous consent to vacate the proceedings whereby the House passed the joint resolution (H.J. Res. 767) on yesterday, April 11, 1978.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

A similar joint resolution (H.J. Res. 767) was laid on the table.

## CALL OF THE HOUSE

Mr. BROOMFIELD. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 213]

| | | |
|---|---|---|
| Andrews, N.C. | Dent | Runnels |
| Archer | Dicks | Santini |
| Armstrong | Diggs | Scheuer |
| Ashley | Eckhardt | Spellman |
| Burke, Calif. | Garcia | Teague |
| Burton, Phillip | Harsha | Thompson |
| Chappell | Howard | Tucker |
| Clawson, Del | Mikulski | Udall |
| Clay | Miller, Calif. | Van Deerlin |
| Collins, Ill. | Rahall | Whitley |
| Crane | Rodino | Wilson, C. H. |

The SPEAKER pro tempore (Mr. NATCHER). On this rollcall 401 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

## ELIMINATING ELEMENTARY AND SECONDARY EDUCATION FROM TUITION TAX CREDIT BILL

(Mr. LUKEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. LUKEN. Mr. Speaker, I am most disturbed over the action of the House Ways and Means Committee in eliminating elementary and secondary education from the tuition tax credit bill.

I believe that tuition tax credits offer parents and students alike the freedom of educational choice without overriding financial burdens. In my district the parents of almost 25,000 students have expressed a strong desire to choose a religiously based education. These parents have the additional burden of supporting local public schools while paying tuition for the school of their choice. In this time of high taxation and inflation it has become increasingly difficult for them to do so.

At this time, I would also like to express my support for legislation that has passed the Senate Finance Committee, which eventually grants up to $500 in tuition tax credits for all levels of education.

I further believe that the House has indicated its support for a full tuition tax credit bill in its disapproval of the administration's Middle Income Students Assistance Act. Because of this indication of House sentiment, it is my firm belief that an open rule be granted so that the House may express its will on the inclusion of elementary and secondary school students.

Thank you.●

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 11003, CLARIFYING AUTHORITY FOR EMPLOYMENT OF PERSONNEL IN WHITE HOUSE OFFICE AND EXECUTIVE RESIDENCE

Mr. YOUNG of Texas, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1051) on the resolution (H. Res. 1127) providing for the consideration of the bill (H.R. 11003) to clarify the authority for employment of personnel in the White House Office and the executive residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes, which was referred to the House Calendar and ordered to be printed.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3787, DIRECTING SECRETARY OF THE INTERIOR TO PURCHASE AND HOLD LANDS IN TRUST FOR ZUNI INDIAN TRIBE OF NEW MEXICO

Mr. YOUNG of Texas, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1050) on the resolu-

tion (H. Res. 1126) providing for the consideration of the bill (H.R. 3787) to direct the Secretary of the Interior to purchase and hold certain lands in trust for the Zuni Indian Tribe of New Mexico; to confer jurisdiction on the Court of Claims with respect to land claims of such tribe; and to authorize such tribe to purchase and exchange lands in the States of New Mexico and Arizona, which was referred to the House Calendar and ordered to be printed.

## CONFERENCE REPORT ON H.R. 6782, EMERGENCY AGRICULTURAL ACT OF 1978

Mr. YOUNG of Texas. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1121 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1121

*Resolved*, That immediately upon the adoption of this resolution it shall be in order to consider, any rule of the House to the contrary notwithstanding, the conference report on the bill (H.R. 6782) to permit marketing orders to include provisions concerning marketing promotion, including paid advertisement, of raisins and distribution among handlers of the pro rata costs of such promotion, and all points of order against said conference are hereby waived.

The SPEAKER pro tempore (Mr. NATCHER). The gentleman from Texas (Mr. YOUNG) is recognized for 1 hour.

Mr. YOUNG of Texas. Mr. Speaker, from time to time during the period that the Speaker has graciously allotted to me, I will be yielding to other Members of the House. I want to make it clear on the record that such yielding is for the purpose of debate only.

Mr. Speaker, I yield 30 minutes time to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, this resolution provides for the consideration of the conference report on the Emergency Agricultural Act of 1978, H.R. 6782. The resolution waives all points of order so that this important conference report might be considered by the entire House. This includes a waiver of section 303(a) of the Congressional Budget Act because the loans and payments based on the increased loan rates and target prices in the conference report are in the nature of new spending authority being considered prior to the adoption by the Congress of the first concurrent budget resolution.

I believe that the Committee on Rules granted the rule on this measure yesterday because a majority of the committee believed that this important agricultural measure should be debated before all the Members so that they could have an opportunity to hear the pros and cons of this measure in order to be able to have an informed basis on which to cast their vote.

Mr. Speaker, on October 31, 1977, the House suspended the rules and passed the raisin marketing order bill, H.R. 6782, by a vote of 396 to 7. On March 21, 1978, the Senate passed its version of the bill by a vote of 67 to 26 containing major emergency farm program provisions not included in the House bill.

The conference report establishes new, flexible target prices and higher loan rates for the 1978 wheat, corn, and cotton crops, expands Agriculture Department authority to encourage the use of grains in making fuel, increases the borrowing authority of the Commodity Credit Corporation, and establishes a raisin marketing order program. On April 10, 1978, the Senate agreed to the conference report on H.R. 6782 by a vote of 49 yeas to 41 nays.

Mr. Speaker, I urge the adoption of House Resolution 1121 so that the House may proceed to the consideration of the conference report on the bill H.R. 6782. I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is an extremely important action that the House will be taking this afternoon and I believe that we ought to, during the consideration of the rule, learn something about this piece of legislation on which we will be voting.

The Senate has already passed this legislation. I know that there is talk that attempts will be made to vote down the previous question and to bring in this bill or that bill on which the House has not had an opportunity to consider to the floor for immediate consideration. I think it is important, therefore, that we yield as much time as possible to those familiar with the legislation itself to explain it. So at this time, Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. I thank the gentleman for yielding.

Mr. Speaker, I urge the adoption of the rule. I understand an effort is going to be made to vote down the previous question. I submit to the Members, my colleagues, that we have a real farm emergency existing in this country today. If the Members think not, just visit with some of the Congressmen who come from the States where wheat, corn, or cotton are currently being grown.

My congressional district grows none of these commodities. My congressional district is basically an urban district, but I am here because of having sat through 3 weeks of hearings in the Committee on Agriculture. I am convinced that farmers of these commodities today are an emergency and need help and it is in the best interests of consumers to keep farmers in business.

If we vote down this rule, what we are essentially telling these farmers is that, look, we do not think you are in trouble. Just go home and survive another year, and come back and we will talk about it next year. This is the only vehicle that we have to try to give emergency assistance to farmers who are, indeed, in an emergency today. So I urge the Members to face up to the issue and vote for the rule. Then support the conference report, as did your conferees in the conference committee, as has the Committee on Rules in providing this waiver of the Budget Act, which none of us take lightly, but we feel that this is an emergency and worthy of that waiver.

In the conference committee, we were faced with several alternatives to try to help the farmers. One was to pay them $75 an acre not to plant. The conferees determined that was not a good idea. The farmers do not want a check out of the Treasury; they want to see the price of what they grow go up at the marketplace and get a fair return for what they grow, just like a skilled laborer gets a fair return for his work, just like a businessman gets a profit on what he sells.

Secondly, there was the opportunity to raise target prices, and it was realized that this merely fools the public. We raise the price support which we give the farmer, which he does not want. We do not do anything to cut back production, and we wind up having the Treasury or the taxpayers paying the difference. The farmers do not want that either. They want it to be paid for in the marketplace where it should be and it will not be that big an increase.

The conferees settled upon this approach, this flexible parity approach, which offers to the farmer a higher target price, for the more land he takes out of production, with the hope and realization that the market price will rise to that level or, hopefully, even higher, eliminating any target price payments out of the Treasury, or certainly reducing the amount that would otherwise be necessary.

If the Members doubt there is an emergency that makes this sort of legislation necessary, look at some of the statistics. In 1 year's time we have seen about a $2 billion drop in farm income—in 1 year, 1976–77.

Mr. Speaker, we also saw in that 1-year time period the exports of agricultural products go down about $2 billion. We have seen inflation in that same time period go up 7 percent. It has been calculated that these farmers growing these commodities have a drop in earnings today in real dollars to about what they earned in 1940. None of the rest of our constituents earn what they did in 1940 and it is not fair to expect cheap food at the expense of farmers earning what they did in 1940 which is not earning a living wage today.

In 1975, about 41.8 percent of the food dollar went to the farmer. Last year it was 38.8 percent.

In 1975 the value of wheat in a pound of bread was 4½ cents. In 1977 it was 2½ cents. Bread has gone up in price. Wheat has gone down in price, but bread is higher now than it ever was before.

In 1975 a 12-ounce box of corn flakes had a value of corn in it of 4½ cents. Last year it had 3½ cents.

Relating back to net farm income figures, in 1933 about 6½ percent of the total national income went to farmers. In 1976 it was about 1½ percent.

What it boils down to is simply this. The cost of farming has gone up, like everything else. The income to the farmer has gone down, not like any other occupation in this country. So today we are eating food at a cheap price, a cheap grain price, which has been contrived by politicians in Washington to keep it that way by depressing farm prices and

supporting farmers with a check from the Federal Government.

This approach gets away from that. This is the market approach. This is the approach that tells Americans we will help farmers in this emergency not by Government payments but in the marketplace where they want it and it should be.

Mr. YOUNG of Texas. Mr. Speaker, I yield 4 minutes to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, what I have to say here today is not said as the majority leader. There is no official leadership position. Everybody is on his own to do as he pleases.

I do want to take this occasion to express my deep disappointment that the Rules Committee did not see fit to grant a rule which would permit the offering of some substitute. Many of us would like to vote for a bill that could provide at least a measure of badly needed help to the Nation's hard-pressed family farmers and have at least a chance of becoming law.

Let none of us deceive ourselves. There is no possibility whatever that this bill will become law. The President has publicly announced that he will veto it. I think it highly unlikely that there would be votes in the House to override a veto, and the Senate already has demonstrated that it lacks the votes to do so.

Therefore, the exercise we are undergoing here today is a meaningless charade. It is harmless only to the extent that nobody is deceived into thinking that it means something. The farmer will not be helped, regardless of how one votes, because the bill embodied in this conference report will not become law.

It is regrettable in the extreme that we have no opportunity whatever today to do something real and meaningful for the Nation's family farmers—because many of them desperately need help.

During the early months of this year, I have talked with farmers who have had to sell their homes in order to keep up their payments on their tractors. I have talked with other small farmers whose land has been in their families, debt free, for as long as three generations—and now for the first time is mortgaged to the hilt.

For many of them, whether they stay afloat or go under will depend on this year's crop and crop prices.

So far as those particular farmers are concerned, our voting for this rule and this conference report today is just about as helpful as standing on a river bank watching a man drown and singing a rousing chorus of "He's a jolly good fellow."

We might have extended some real help today if we were given an opportunity to send the report back to conference with an amendment embodying some less costly and less inflationary proposal which had at least some prospect of becoming law.

Members can vote for this bill if they wish. Maybe some of your farmers will be pleased that you have given them three cheers and a pat on the back. But it is not going to help them. Instead of giving the farmers some chance for meaningful help, this rule effectively forecloses any chance that any help will be forthcoming in the immediate future.

I know that many Members have promised their farming constituents that they would vote for "something." If you interpret as "something" a bill which you know will not become law, then perhaps you can feel in good conscience that your commitment has been satisfied. But what the farmers get will not be "something." What the farmers get will be nothing.

Unwilling to be a party to that deception, I am going to vote against this rule. If enough Members vote against this rule, perhaps the Rules Committee could be persuaded to reconvene and give us, the Nation's consumers and thousands of small farmers at least an opportunity for an effective option.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, if this exercise on the floor today is a meaningless charade, then it is not this House of Representatives or the other body that has made it so.

I am sorry to see the leader of the majority stand here in the well and tell this House that our responsibility is to knuckle under to the President of the United States. If the President wants to accept the responsibility of vetoing this farm bill, then let him accept that responsibility. But those of us in the Congress, whether we are from urban, suburban, or rural areas, also have a responsibility to act when Americans are in trouble.

If this has become a meaningless charade, it is because the President, ever since last September, October, and November, when the dimensions of the farm crisis were obvious to all, has refused repeatedly to act, has thrown up his hands, and has said, "It will all work out. Just go along with the present farm law." That is not good enough.

I suspect that if we had a major flood, if we had a major drought, or if the cities were burning because of riots, the President would have come down here with bills containing expenditures far in excess of this legislation. But, no, for some unknown reason the President has decided that American farmers would be made victims of this so-called charade.

I am not so sure that when the President says, "You can believe me," we can always believe him. He says he will veto the bill, but I wonder if he wants to be the President who accepts the responsibility of smacking every farmer all across this country in the face and saying, "You don't have a problem; it will all just go away." He said he would veto the 1977 farm law and he did not.

I asked the Library of Congress to give me an idea of the magnitude of the spending in this so-called inflation-causing bill, as the White House has described it compared to other spending. How much are we really giving to the farmers?

The Library Research Service came back and gave me this information: In the last full fiscal year for which figures are available, 1975, $21 billion in subsidies went to commerce, business, and industry, and $16 billion in subsidies went to health. Fifteen billion dollars in direct subsidies and indirect subsidies went to housing. And you can go on down the list and find billions and billions of dollars for programs which the liberal Members of this body have never shown any inclination to hesitate and vote for.

Almost everyone has discovered that another large segment of Americans, the farmers, are in trouble, and indeed, as the majority leader said, they are even selling their tractors to pay for their homes.

I am saying to the Members that we have a duty to act, and we may not have another chance to act. The farmers have already planted in the South; they are plowing over on the Eastern Shore of Maryland this afternoon. They need some certitude about Government policy in the next few days. So let us exercise our own constitutional authority. The Congress never had any problems voting on what is right for the people when other administrations were in the White House. Let us not bow to threats. Let us in this instance make sure that we exercise that responsibility and vote to help the farmers. I have twice opposed unwise farm bills in the time I have served here, for the same reason I support this bill—for the best interests of the farmers.

Mr. Speaker, I hope that all of us will be able to go home, whether it be to a city or to a farm, and say that we did the best thing for the farmers, and let us pray that the "farmer" in the White House will do the same.

Mr. YOUNG of Texas. Mr. Speaker, may I inquire of the Chair as to how much time I have remaining?

The SPEAKER pro tempore. The gentleman from Texas (Mr. YOUNG) has 23 minutes remaining.

Mr. YOUNG of Texas. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Speaker, I listened to my friend, the majority leader, who makes a genuine amount of sense. And, while his arguments may make some sense, I cannot buy them totally because the administration had given us no idea what they will accept. We have no reason to believe that any farm bill will be acceptable. And for that reason, I think that this body, this House of Representatives, has an obligation to vote up or down on the bill. I strongly favor an up vote. And, therefore, I would urge the Members to vote for the rule, regardless of how they vote on the bill.

A lot of us have given lipservice to the farmers. I have not met a Member of Congress who has not said, "I believe the family farmer should survive." This

is the only opportunity we will have to demonstrate our committment to that lipservice, and I submit to the Members that an up vote on the rule will give them at least that partial opportunity to submit to their people here.

Hubert Humphrey once came to Wichita, my home town, for a speech. We flew over Kansas in an airplane which had been made in Wichita, and he looked out the window and he said, "We Americans do not realize how cheap our food is."

The low prices have been possible because of the incredible productivity of the family farmer in this country and because farmers have often sold their crops at a loss—not even being able to recoup their costs of production—as is true today.

I do not want consumers to have to face skyrocketing food prices, but that will not happen with this bill. In fact, by preserving those efficient family farmers, this legislation should help to hold down those prices in the long run.

In closing, I, an urban member, ask the members of my party, of the party of Hubert Humphrey, to remember the pledge of our 1976 platform. It said, "We must assure parity returns to farmers based on costs of production, plus a reasonable profit." Let us at least give them a chance to achieve that goal by supporting this bill.

Mr. LATTA. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, since the majority leader has raised the question of a veto, let me read some quotes from candidate Carter on this subject. In an interview with the Farm Journal of October 1976, he—candidate Carter, now President Carter said—on the subject of vetoes:

Unlike President Ford, who has repeatedly vetoed the actions of the elected Congress, although he was not elected to this office, I would cooperate with and rely upon the Congress. I have stated that support prices, in my opinion, should be at least equal to the cost of production but should not guarantee a profit.

That is a quote from candidate Carter.

In a farm policy speech at the Iowa State Fair Grounds, August 25, 1976, candidate Carter, now President Carter, had these words for the farmers out in Iowa:

We need a President and a Secretary of Agriculture who understand the problems of the family farmer and the American consumer—and if I am elected, we are going to have both.

At a campaign rally in Evansville, Ind., on September 27, 1976, candidate Carter said this:

Gerald Ford has vetoed four times as many bills per year as Richard Nixon. And the bill vetoes have not been designed to have money, they've been designed to keep people out of work, to cut down on veterans' benefits, to keep us from educating and training nurses, to prevent an opening up of the secrets of our government, to stop veterans from training and to keep from having adequate prices for farm products. Those are the kinds of vetoes we've had. And a lot of them have been overridden. . . . We've had a breakdown in the relationship that ought to exist between the President who's supposed to represent us and the Congress, who's also supposed to represent us.

All we want Mr. Carter to do now is to face up to these promises he made in 1976.

What did the Democratic platform have to say on this subject? Let me remind my friends who might be in doubt on the other side. The Democratic platform adopted July 14, 1976—in what city?—in New York City reads as follows:

Without parity income assurance to farmers, full production cannot be achieved in an uncertain economy. We must assure parity returns to farmers based on costs of production plus a reasonable profit.

Today we are going to give our Democratic colleagues an opportunity to support their platform by voting for a full parity bill.

Mr. LATTA. Mr. Speaker, I yield 4 minutes to the gentleman from Colorado (Mr. JOHNSON).

Mr. JOHNSON of Colorado. Mr. Speaker, I urge that we vote for this rule and consider the conference report that has been sent back to us.

I know that many Members are concerned about the cost estimates which have been presented. We will not have time in this short debate on the rule to really get a good look at the cost estimates; but there will be statements made about the costs based on the CBO budget estimate.

Mr. Speaker, let me point out to the Members the flexibility not of the parity program, but the flexibility of the costing analyses that we are getting.

CBO made two cost estimates, one on March 19; and then 2½ weeks later, on April 6. In their latest estimate, CBO said that this program is going to cost $5.3 billion for fiscal year 1978 and fiscal year 1979.

Listen to these assumptions that they have made. This is on April 6. They said that everybody is going to participate to the maximum, that is, 50 percent of the set-aside. That means that for every 2 acres one plants, he sets one aside.

They assume that there will be no payment limitation on individual producers.

They also assume that even though there will be lower supplies, there will be lower prices, lower than they presently are today.

Mr. Speaker, those are the assumptions on which they make their estimate of the $5.3 billion. However, that was on April 6. On March 19 they said this:

The variable parity program has not previously been implemented as a government support mechanism, so there is no historical basis for projecting producers' reactions.

What did they do then? On March 19 they estimated that the wheat producers would set aside 35 percent; corn producers, 32 percent; and cotton producers, 20 percent. Also on March 19 they said that the cost would be $2.3 billion.

Now, here on April 6 they say 90 percent of the wheat producers will set aside 50 percent. In a 2½ week period they changed that 15 percent in their estimates. They now say 50 percent of the corn producers will set aside 50 percent of their land. Two weeks earlier they said they would set aside 32 percent of their land. Also 2 weeks earlier they had said that the cotton producers would set aside 20 percent, but on April 6 they said that 80 percent of the cotton producers would set aside 50 percent.

Who is playing games with whom? They assumed that there would be no payment limitation; but as a matter of fact, we all know there is a payment limitation of $40,000.

To alarm consumers, the CBO has suggested that the flexibility of parity will create reduced supplies and a potential for shortages that will thereby increase the cost of food; but at the same time, to convince other people that we will bust the budget with flexible parity, they have concluded that farm prices will be lower than the actual current level if we reduce production.

Obviously, this is a nonsensical kind of exercise that they have been going through. There is no deductive process and there is no deductive logic in this whole mechanism.

Again, Mr. Speaker, I urge the Members to vote for the rule. Then we can get into the actual figures of what it might or might not cost when we get into consideration of the conference report. There is not any question but what the farmers who are involved in this will not receive a windfall or anything like that.

I urge the Members to vote for the rule and consider the bill on its merits when we get it before us. I think it can be justified to anybody in the country, consumer, producer, taxpayer, from any point of view; and the only way we can get any kind of immediate relief considered by the White House is to pass this particular conference report.

Mr. YOUNG of Texas. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, let me say at the outset or make clear at the outset to the Members of this House that we are doing a great deal for American agriculture. The budget resolution which we will report out in the next few weeks will carry an agriculture amount of something in the neighborhood of $12 billion. That ain't "hay," to use an agricultural expression.

The question is the adoption of this particular conference report, the Dole legislation, if you will. This particular conference report is not a good bill.

It is not good legislation. It is inflationary. It is bad, and it should be killed right here, today.

I oppose this rule because it violates the spirit and intent of the Budget Act; because the House and its Agriculture Committee have never had the opportunity to even see this legislation on which the conference report is based; and because the conference report, if adopted, would constitute a disaster for the Federal budget and the economy, with seri-

ous effects on inflation and on the deficit. It violates the Budget Act, as you well know, because it violates section 303 in that we have not had an opportunity yet to study the overall budget implications to the U.S. Government before we vote an entitlement program at this time.

We should not commit ourselves to a particular policy on agriculture until we adopt an overall economic and budgetary policy through our budget resolution, which we will do in the coming months.

The conference report is sure to be vetoed, according to the statements of the President of the United States. Therefore, even if the present farm situation constituted an enmergency which would justify the granting of a waiver of the Budget Act, what good would it do? How would it eliminate an emergency when we are told in advance that this legislation is not going to be signed into law by the President.

The consideration of the conference report is contrary to the best interests of the Nation in that it would add to inflation. It would add between 1 and 1.5 percent to the food consumer price index. It would add another 0.2 to 0.3 percent to the overall consumer price index on top of the 0.3 to 0.5 increase which existing law is causing. That means that it would add in the neighborhood of between 0.5 percent and 1 percent to the overall existing inflation rate of the United States. We start out with a base of somewhere in the neighborhood of 6 percent inflation, and if we add 1 percent, we are well up into the area of 7 percent. Now, if this were truly an emergency, if this legislation were the cure for that emergency, I would say that it could then conceivably justify the granting of a waiver by the Rules Committee of the Budget Act. But it is not the solution to that emergency.

It is a bill which our President himself has told us is going no place. Therefore there is no possible justification for waiving the Budget Act.

For heaven's sakes, why are we violating the Budget Act; why are we in fact wasting our time with legislation here this afternoon which is not going to become enacted? Why do we not get down to the job of trying to write an adequate farm policy, with attention to its effect on inflation, with attention to how it affects all the farmers of America, not primarily a small group of farmers such as the overextended and highly indebted wheat and corn growers, and the cotton growers? Let us get on with the work of integrating farm policies with the other policies of our economy so that we can hold inflation in line.

Mr. YOUNG of Texas. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, I want to make it clear to start with that I was for the Foley substitute. I think the Foley substitute is what we should have had about 2 months ago, instead of what the administration did, but we no longer have that as an alternative. We know now also that we do not even have as a practical alternative that this bill will become law. If it passed, the President will veto it, so it will not become law. All we are talking about is, should the House veto the bill or should the President. I think we should let the President have that opportunity. Reasonable persons may disagree about who should veto this bill, but I do not like to hear some of the excuses that have been made in the well today, and yesterday out on the Capitol steps, that this bill is inflationary.

I think I can prove to the Members that it is not. In 1975, according to agricultural statistics, wheat was an average of $3.52 at the farm gate. Today, it is less than $3. In 1975, I bought a loaf of bread, right here in Washington, D.C. It is Wonder Bread, purchased April 18, 1975. Stamped on it is 48 cents. Today, wheat is more than 50 cents less per bushel. Last night I went right down here to a store, and I bought another loaf of the same kind of bread, and stamped on it is 53 cents. The price went up 5 cents at the same time wheat prices were going down more than 50 cents.

I also bought some flour in 1975. It was 85 cents for a 5-pound bag; last night it was 99 cents.

Just to show the Members that the price of the raw product has little to do with the price, let me state this: Corn is selling for much less than wheat as far as the price paid the farmer, but the price in the store is identical for each 5 pounds. It was 99 cents for each. I bought something else, only 3 pounds, not 5 pounds, but I bought 3 pounds of potting soil which was $3.59. That is sacked dirt. So you see, wheat and corn are cheaper than dirt cheap.

The fact of the matter is the raw material does not have much to do with the price of the product.

Also I heard the President say, correctly I think, that the deficit in the balance of payments is a principal inflationary problem. It is. I do not usually use agricultural statistics—I am not all that crazy about them except when they support my position, but these do. They tell us if this bill passes we will ship 6 percent less product overseas and get 6 percent more money for it. We will receive $1 billion more for 6 percent less product. That will help the deficit in the balance of payments and that will help control inflation, by the President's own reasoning which he used yesterday, to wit: "reducing the deficit in the balance of payments will help reduce inflation."

I think we should send him the bill, and the President receives the bill, at least for the first time, the legislation will be at the decisionmaking level in the administration. Then we should hear directly why this bill is so bad and what the President would do to correct the kind of situation we are in. It preserves the possibility that they will yet take administrative action. I think we ought to give him a chance at that time to take administrative action. If we relieve him of the pressure here today, he is not going to do that. But if we give him the bill, at least we will have another chance to secure something administratively.

Although I prefer another approach, under the circumstances, I urge a vote for the rule and the bill.

Mr. NOLAN. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Minnesota (Mr. NOLAN).

Mr. NOLAN. Mr. Speaker, I commend the gentleman for his statement and urge the adoption of this rule so that this House can have an opportunity to unveil the real facts about the impact that this bill will have on our economy, because the administration has clearly used biased economics to discredit this bill.

Mr. LATTA. Mr. Speaker, I yield myself 3 additional minutes.

Let me say I am always somewhat amused when my chairman of the Budget Committee brings up the matter about busting the budget. He always brings it up about agriculture. He does not bring it up about some of these other matters that bust the budget, and I will get into them more in just a second, but he did mention $12 billion for the farmers but he failed to mention in the President's little document that he sends us on the budget that there is also $9 billion in there that does not go to the farmer. For example, there is the food stamp program, the school milk program, the child nutrition program, and so forth, which add up to $9 billion, but they are charged to the income security function of the budget.

Let me just say we have heard about waivers.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield since he mentioned my name, yield very briefly?

Mr. LATTA. I yield to the gentleman from Connecticut.

Mr. GIAIMO. Mr. Speaker, I did not mean that $9 billion is included in the $12 billion.

Mr. LATTA. I did not say it was. I said it is in the Department of Agriculture budget.

Mr. GIAIMO. That even makes my argument better.

Mr. LATTA. No, it does not. No, we conveniently forget that income security is charged for this $9 billion in its budget.

Let me say we hear a lot about these waivers. We have had all kinds of waivers of the Budget Act starting in the 94th Congress. Here are all the waivers. I will not take the time to read them but I will put them in the RECORD. In the 95th Congress here are the waivers of the budget. I will put them in the RECORD.

Mr. Speaker, the following are the waivers I have referred to:

CONGRESSIONAL BUDGET ACT WAIVERS

BUDGET ACT WAIVERS, 94TH CONGRESS

*Section 401*

H. Res. 337—H.R. 4485. Emergency Middle Income Housing.
H. Res. 341—H.R. 3922. Older Americans.
H. Res. 352—H.R. 4222. School Lunch.
H. Res. 418—H.R. 4115. Nurse Training.
*H. Res. 489—H.R. 6900. Emergency Unemployment Compensation—401(b)(1).

H. Res. 505—H.R. 6860. National Energy Conservation & Conversion Program.
H. Res. 599—H.R. 7014. Energy Conservation & Oil Policy Act of 1975.
*H. Res. 852—H.R. 6461. Public Broadcasting (Sect. 401 & 303(a)).
H. Res. 1092—H.R. 9803. *Conf. Report* Child Day Care Services.
*H. Res. 1155—H.R. 365. Firefighters 401 (b).
*H. Res. 1156—H.R. 366. Public Safety Officers 401(b).
*H. Res. 1214—H.R. 12945. Housing & Community Development 401(b).
*H. Res. 1432—H.R. 13958. Appointment, promotion, separation, and retirement of members of armed forces 401(b).
*H. Res. 1433—H.R. 14070. Higher Education Act 401; 401(b); 303(a).
*H. Res. 1467—H.R. 8911. Supplemental Security Income Amendments 401(b) & 303 (a).
*H. Res. 1489—H.R. 14578. Federal reclamation projects & programs 401(a).
*H Res. 1534—H.R. 15069. Forest & Rangeland Renewable Resources Planning Act of 1974 401(b).
*H. Res. 1548—H.R. 14932. Regional Rail Reorganization Act of 1973, the Railroad Revitalization & Regulatory Reform Act of 1976, the Rail Passenger Service Act, and the Interstate Commerce Act.

*Section 402*

H. Res. 1458—H.R. 14032. Toxic Substances Control Act.
*H. Res. 1512—H.R. 14886. Presidential Transition Act 402(a).
H. Res. 1519—H.R. 14940. Treaty of Friendship & Cooperation between U.S. and Spain.
*H. Res. 1550—S. 22. Revision of Copyright Law 402(a).
H. Res. 1580—H.R. 15636. Water Resources Development Act.

*Section 303(a)*

*H. Res. 852—H.R. 6461. Public Broadcasting 401.
H. Res. 853—H.R. 8529. Rice Act.
H. Res. 854—S.J. Res. 121. Milk Support Prices.
H. Res. 1090—H.R. 12226. Peace Corps Act.
*H. Res. 1141—H.R. 8235. Conf. Report (waived all points of order including that for Sec. 303(a) the reason stated was a waiver had been granted when H.R. 8235 was initially considered).

*Section 303(a)*

* H. Res. 1433—H.R. 14070. Higher Education Act 303(a); 401; 401(b).
*H. Res. 1467—H.R. 8911. Supplemental Security Income Amendments 303(a); 401 (b).
(Note.—Did not waive Sec. 303(a) for H.R. 10210 Unemployment Compensation.)

BUDGET WAIVERS—95TH CONGRESS, 1ST SESSION

*Section 303(a)*

*H.R. 3477—(H. Res. 360) on bill and committee amendment.
*H.R. 6689—(H. Res. 537).
*H.R. 7171—(H. Res. 666) and on S. 275.
*H.R. 8444—(H. Res. 727) and on H.R. 8555 the amendment in the nature of a substitute.
H.R. 8200—(H. Res. 826) and on committee substitute.

*Section 303(a)(2)*

*H.R. 9346—(H. Res. 839) on bill and committee amendment in the nature of a substitute.

*Section 303(a)(4)*

*H.R. 9346—(H. Res. 839) on bill and committee amendment in the nature of a substitute.

* Indicates more than one waiver.

*Section 401*

H.R. 6796—(H. Res. 657) waiver just on committee amendment in the nature of a substitute.

*Section 401(a)*

*H.R. 7171—(H. Res. 666).
H.R. 3199—Conf. Rept. (H. Res. 935).

*Section 401(b)*

*H.R. 6689—(H. Res. 537).
H.R. 6655—(H. Res. 541).

*Section 401(b)(1)*

*H.R. 3477—(H. Res. 360) on bill and committee amendment.
*H.R. 3843—(H. Res. 388) on bill and committee amendment.
H. R. 4800—(H. Res. 411).
*H.R. 6161—(H. Res. 589) on bill and committee amendment in the nature of a substitute.
*H.R. 7010—(H. Res. 601).
H.R. 5959—(H. Res. 643).
H.R. 5646—(H. Res. 632) on bill and committee amendment.
H.R. 6683—(H. Res. 639).
H.R. 6669—(H. Res. 641).
*H.R. 7171—(H. Res. 666).
H.R. 4544—(H. Res. 702) on bill and committee amendment in the nature of a substitute.

*Section 402*

*H.R. 7171—(H. Res. 666).

*Section 402(a)*

*H.R. 692—(H. Res. 270).
H.R. 11—(H. Res. 304).
H.R. 2846—(H. Res. 359).
H.R. 3843—(H. Res. 388).
H.R. 4250—(H. Res. 423).
H.R. 5040—(H. Res 424).
H.R. 4974—(H. Res. 450).
H.R. 3199—(H. Res. 468).
H.R. 6810—(H. Res. 560).
*H.R. 6161—(H. Res. 589).
*H.R. 6804—(H. Res 603) on bill and on S. 826.
*H.R. 7073—(H. Res. 620).
H.R. 4740—(H. Res. 714) on bill and S. 1522.
*H.R. 8444—(H. Res. 727).
H.R. 2176—(H. Res. 728).
H.R. 8309—(H. Res. 776).
H.R. 8309—(H. Res. 815).

BUDGET ACT WAIVERS 95TH CONGRESS, 2ND SESSION

*Section 401(a)*

H.R. 2637—(H. Res. 960) Cargo Aircraft for Air Force.
*H.R. 1614—(H. Res 964) OCS—waiver on bill, on amendment in nature of substitute and on S 9.
H.R. 9214—(H. Res. 990) Authorize the U.S. to Participate in the Supplementary Financing Facility of the International Monetary Fund.
H.R. 11662—(H.Res. 1113) Provide for Establishment of Lowell National Historical Park in the Commonwealth of Massachusetts.

*Section 402(a)*

*H.R. 1614—(H. Res. 964) OCS on bill.
H.R. 9370—(H. Res 998) Aquaculture Act of 1977.
H.R. 3813—(H. Res. 1006) Redwood National Park.
H.R. 50—(H. Res. 1057) Humphrey-Hawkins (Full Employment and Balanced Growth Act of 1978).
H.R. 7700—(H. Res. 1078) Postal Service Act of 1977.
H.R. 11302—(H. Res. 1112) EPA Research and Development Authorization.

In the second session we have had already some waivers.

What really busts the budget, to use that terminology? In this budget resolution, the education, training, employment, and social services function, is up $6.9 billion in budget authority in the budget resolution, and up $4.2 billion in outlays. CETA is in for an 18-percent increase. There is a 24 percent and $2.9 billion increase in the budget authority for educational programs. In social services, the Budget Committee increased the President's request by $593 million.

Health: Outlays are up $5.4 billion, 12 percent; budget authority is up $4.6 billion, 10 percent;

Transportation: Up $5 billion and 35 percent; outlays up 13 percent or $2 billion.

There are major increases in this function for mass transit.

Community and regional development: Up $400 million, or 45 percent in the President's budget for budget authority; 103 percent increase by the Budget Committee, or $7.7 billion, primarily to fund the new urban program.

Other budget busters:

In the accelerated public works program, the gentleman from Texas (Mr. WRIGHT) came in on the last day or so and requested an increase.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. LATTA. Mr. Speaker, I yield myself 1 additional minute.

The gentleman came into the Committee on the Budget and as a member of that committee offered just a little amendment of $2 billion to the accelerated public works program.

We did not hear anything about that in the press, but there was $2 billion.

Then, countercyclical aid is also up $1.1 billion.

Then, get this, we did not even want this in northwestern Ohio, the Legal Services Corp., a $50 million or 24 percent increase in budget authority; an increase of $89 million or 58 percent in outlays.

Then the Equal Employment Opportunity Commission: Up $19 million or 21 percent in the budget authority; up $21 million or 23 percent in outlays.

And so it goes.

Let me give you another figure that really dazzled me. We had before our Committee on the Budget the Secretary of HEW. Do you know how much his department's increase has been since 1973? Just guess? Your guess would be too low. It is $100 billion. That is the increase to HEW since 1973 by the Secretary's own testimony. Those were for increases for things other than out on the farm. As far as the farms are concerned we are talking about peanuts this afternoon.

Mr. YOUNG of Texas. Mr. Speaker, may I inquire of the Chair how much time I have remaining?

The SPEAKER pro tempore. The Chair will state that the gentleman from Texas (Mr. YOUNG) has 13 minutes remaining and the gentleman from Ohio (Mr. LATTA) has 11 minutes remaining.

Mr. YOUNG of Texas. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Tennessee (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, the exercise in which we are about to engage can only be characterized as a charade.

The rule we are being asked to adopt would permit no substitute, no amendment, or even the slightest change in this bill.

By its very terms, the proposed legislation is restricted in its application to wheat, corn, and feed grain farmers and cotton farmers. No amendment may be offered to include growers of peanuts, potatoes, sugarcane, and beets, or poultry farmers, beef-cattle farmers, hog farmers, dairy farmers or those farmers who specialize in producing fresh eggs for the breakfast table.

Yet each one of us here knows that an increase in the price of wheat, corn, and feed grains is bound to increase the cost of producing beef, pork, turkeys, fryers, hens, and eggs, milk and other dairy products, and all other agricultural produce in which wheat or corn is an essential ingredient.

But not one word is contained in this entire bill, recognizing these self-evident facts, or which would seek to guarantee any of these other farmers that they can regain or recapture their increased cost of production. Wheat, corn, feed grain, and cotton—and that's all! All of these other farmers would be excluded completely from the umbrella of protection by which this bill seeks to protect the wheat, corn, feed grain, and cotton farmers.

I am for protecting all farmers, without discrimination. That is, I am for guaranteeing to all genuine, independent and family farmers—two-thirds of whose income is derived from farming and agricultural production—a fair price for what they produce, and a reasonable margin of profit on their investment and labor—assuming efficient and competent management.

But this bill fails to do that, even for the wheat, corn, feed grain, and cotton farmers. And we all know in our hearts that regardless of the action we may take here today, this bill has absolutely no chance whatever of becoming law, in view of President Carter's unequivocal statement on yesterday that he will veto the bill if it comes to his desk.

So what have we accomplished if we adopt this rule and pass this bill without amendment, or consideration of any substitute which might be offered that would have some chance of actually becoming law and helping the farmers?

I for one refuse to be a party to this charade. Let us reject this rule and this ill-considered bill, and then let us set about the business of drafting a bill that will treat fairly all bona fide independent and family farmers whose income is derived from produce of the soil.

It can be done—and it can be done without imposing an undue burden of taxes upon the people of this Nation, and without increasing the price of food and clothing on the shelves of our grocery stores and other merchants of products made from fiber produced on the farms.

I call to your attention my testimony before the Agriculture Committee in which I outlined "A commonsense Approach to the Farmer's Problem," an approach which Congressman E (KIKA) DE LA GARZA, chairman of the Agriculture Subcommittee on Department Investigations, Oversight, and Research, said:

It'd be my guess that if every member of Congress read your paper, we'd have the kind of farm legislation we need on the books tomorrow.

But this rule permits no amendment and no change in the bill. And for these reasons I feel constrained to vote against both the rule and the bill, if it comes before us on final passage.

Thank you, Mr. Speaker.

Mr. YOUNG of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Speaker, I support the rule and the conference report on the farm bill which is now before us. I consider it essential that this Congress enact effective farm legislation without further delay. It is well into planting time in most parts of the country. The farmer cannot wait while Congress and the administration wrangle about policies and programs. There may not be another opportunity during this year to be helpful to the farmer and he must have help. He needs it now. Farmers are an independent group. Only the stress of necessity would have caused them to organize and work as they have this year to get recognition from the administration and the Congress which should have been forthcoming long ago.

H.R. 6782 will give farmers a chance to obtain the fair share of income they need in order to continue farming this year. Without the kind of relief anticipated by this legislation, more and more family farmers will be forced out of business. The principal problem is the American consumer will pay more for farm produce. That is undesirable. However, in this bill, we are not committing ourselves to a long-term curtailment of production that will destroy our reserve program. A better balance between supply and demand, hopefully, will be brought about by this 1-year program and will enable us to continue enlarging our export markets and effectively increase our use of food in humanitarian contributions.

Frankly, I do not agree with the approach which is provided for the solution of farm problems by H.R. 6782, the Emergency Agriculture Act, but it is all that is before us. The bill is designed to provide emergency short-term help and applies only to the 1978 crop. We will need better permanent legislation so that the farmers can prepare for the years ahead. I hope the committees will begin work promptly to provide a farm bill which will encourage production, which will hold down prices to the consumer, and will aid sales of American farm produce abroad.

My quarrel with this bill is that it will pay the farmers more for producing less through subsidies by idling their land. I do not like the principle of idle land and we should not be committed to it indefinitely. I feel that farmers should be encouraged to produce more, not less. There is a large, unexplored market for American farm produce abroad. Higher production should result in lower prices in our own country to the consumer as well as to larger sales abroad. I realize this also will mean subsidies to the farmers, both for produce to be consumed at home and for products to be exported. We are providing for contingent subsidies in the bill now before Congress. If a subsidy must be paid, I prefer that it be paid for overproduction, not underproduction.

Subsidies on any new program to insure a cost-of-living return to the farmer may require a two-level price system. The objective should be to keep the farmer in the business of producing farm products. We want him to be able to provide ample food and fiber to meet the requirements of the consumer, hopefully without increasing prices to the consumer. We want to assist in the sale of farm products abroad in competition with products of other countries. It is very important that we remember the major cost of farm products to the consumer is not chargeable to the farmer. The middle man, transportation, and the retailer are responsible for a larger share of cost than the farmer.

The simple fact is the farmers' complaints are real and their problems have grown worse year by year. They cannot continue indefinitely to produce without some of the protection which is offered in such large measure to labor and to most segments of the industrial world. We cannot afford to reject this first step toward a better farm program.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. GUYER).

Mr. GUYER. Mr. Speaker, we often speak of the necessity of preserving our endangered species. Let me introduce a truly endangered species that well soon may become "Vanishing Americans." I refer to the American farmer.

Many Americans think milk comes from a dairy, bread from a bakery, and meat from a supermarket. Very few people give thought to the fact that the basic sources of all food come from farms and ranches.

American people enjoy about 114 pounds of beef per capita annually. Chances are, if we had to do the slaughtering, we would not eat many steaks.

Agriculture in the United States represents our main chance to obtain a favorable balance of payments in trade with foreign countries.

The American farmer not only supplies more than an adequate food supply for our people, but a surplus over and above our needs. Last year alone, America gave—free of charge—65 percent of all of the food received from all countries, by the rest of the world.

Mr. Speaker, most farmers are too conscientious to loaf and too proud to ask for welfare. But, sir, farmers now are in trouble. Tractors that sold for $22,000 a few years ago, now cost $40,000. Wheat that should bring $5 a bushel, sells for $2.50. A loaf of bread that costs 69 cents, contains less than 4 cents for the farmer's share of the wheat.

Many farmers, especially young farmers, are in debt and cannot pay their land, equipment, and farm payments, having lost thousands of dollars on their crops.

Farmers have a rough way to go. Increased prices of machinery, labor, seed, fertilizer, and living expenses, plus long hours and scant returns—combine to complicate their financial plight. All of this, together with the heavy losses sustained during our most devastating winter, truly places the farmer in a serious financial strait. Perhaps this little verse is nearer to the truth than we might think—

His horse went dead, and his mule went lame,
He lost six cows in a hurricane.
Then a cyclone came on a summer day
And blew the house where he lived away.
Then an earthquake came—when that was gone,
It swallowed up the land that his house stood on
Then the tax collector, he came round
And charged him for the hole in the ground.

Mr. Speaker, in 1976 the Democratic platform contained this statement:

Without parity income assurance to farmers, full production cannot be achieved in an uncertain economy. We must assure parity to farmers, based on production, plus a reasonable profit.

During his Presidential campaign, Jimmy Carter time and time again, promised farmers his full support. It is quite likely, that those promises helped him carry Ohio against Mr. Ford.

Now the President says the farm bill is too costly and will add to inflation. He did not seem that concerned when he gave us a half-trillion-dollar budget.

I just read today that the President made a speech the other day to a bunch of investment people. He said, "If I wasn't President, I would be out there buying some of these common stocks." One fellow said, "If you weren't President, we would buy them, too."

It also seems strange that certain unions have made contracts for higher wages and increased benefits, which resulted in raising the price of an automobile by as much as $500.

It seems inconsistent that we can find money for welfare, food stamps, urban renewal, depressed cities, sewer and water programs, school lunches, disaster aid, foreign refugees, and foreign aid for countries we cannot spell, pronounce, or locate—and then cannot give the American farmer a little lift for his labors.

Today is a signal occasion. Each of us has the privilege and opportunity of voting for the farmer, his family, his community, his customers, and his associates in the agribusiness industry, that provides so many jobs.

The farmer is not only a producer. He is a consumer. He puts his dollars in circulation. He is the bulwark of this country, and the partner of every industry that has made this country great.

I hope you will find it in your heart to vote for your rural American neighbor, as we have traditionally done for our other neighbors around the world.

Mr. YOUNG of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. TRAXLER).

Mr. BURLISON of Missouri. Mr. Speaker, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Missouri.

Mr. BURLISON of Missouri. Mr. Speaker, there is not time to discuss the merits of the bill, but I would hope my colleagues will vote for this rule, so we can have a full discussion of the issues. We need to face the issues. We should not dodge them by voting against the previous question or voting against the rule. We must accept our responsibility and leave it to the President to assume his.

Mr. TRAXLER. Mr. Speaker, I rise in support of the rule and the bill. I want to urge Members to vote for the rule, because there is a fundamental question of the integrity of Congress at stake here. The supporters of this measure, the farmers across America, have been here since last January participating in the democratic process. They have gone from office to office. They have gone to OMB. They have gone to the White House. They are back to our offices. They come to us as a group each week. They do not have a board of directors. They do not have a list of members. They do not pay dues. This is a populist movement coming out of rural America. They are entitled to a vote on what they consider the most important piece of legislation this Congress will confront this year. In the name of fairness, in the name of justice and equity, they deserve a vote. Whatever your opinion may be on the bill, please allow the bill to be considered on its merits.

Our Senate colleagues waived points of order against this legislation based on section 303 of the Budget Control Act so that they could get on to the necessary and democratic consideration of legislation that is of great importance to every farmer in this country. I hope we will do the same. To disallow a vote on this conference report on the basis of a budgetary technicality is a slap in the face of every farmer who believes in our governmental process, and worked since January for this legislation.

Farmers are losing money. They see their losses in every food item that we as consumers buy. In 1975, the farmer received 41.8 percent of our food dollar. In 1977, this percentage dropped to 38.8 percent. Food prices went up, but farmers got less. In 1977, the average value of wheat in a 1-pound loaf of bread was 2.6 cents, yet in 1975, the wheat share was 4.5 cents. The price of bread has gone up, but the farmer's share has gone down. In an average 12-ounce box of corn flakes, the 1977 value of corn was 3.5 cents. But in 1975, farmers got 4.5 cents for the same corn. The price of corn flakes has gone up, but the farmer's share has gone down.

Farm incomes have declined in recent years. Figures computed by the Michigan State University School of Agriculture showed that farmers in Michigan had a farm labor income of only $112 in 1976. These same figures show that cash crop farmers in Michigan will show a farm labor income of a negative $11,965 for 1977.

As of January 1, 1978, farm debt was at $118.7 billion. At the same time, more and more farmers were finding it harder to repay that debt. The Governor of the Farm Credit Administration has told the House Subcommittee on Agricultural Appropriations, of which I am a member, that he is concerned that farmers will be unable to maintain regular payments on their debts because of poor farm income. Credit is no substitute for income, and this Congress must take affirmative action to improve our farmers' incomes.

The bill before us may not be the best solution to the current problem. Neither was the farm bill we passed last August. Even Secretary of Agriculture Bob Bergland admitted that to many of us on Monday when he said that there is "legitimate need to increase the target rates on some of our crops." The administration's action of just 2 weeks ago was an explicit recognition of the need for action, and we can forget about the statements made some 2 months ago that said last year's farm bill was good enough. If it was, we would not be here discussing the matter right now.

The Congress has a responsibility to the consumer and to the farmer. We have a responsibility to provide the consumer with the assurance of a continued food supply at reasonable prices. We also have a responsibility to see to it that the farmer gets those reasonable prices. The fact that some middlemen may take additional profit from our efforts to improve farm income should not be used as an argument in opposition to this bill. We cannot afford to penalize the American farmer any longer, because if we do, we will not have the food supply that we boast about to every other nation in this world.

Members are concerned about the Federal budget. The President has used zero-based budgeting this year to determine our budget priorities. I say that this bill must be one of our priorities. We can make no better investment in our future than guaranteeing the continued livelihood of the American family farm. Farmers are consumers, and for every dollar that they earn, they create purchasing power throughout our economy of 2.1 times their level of spending. No other sector of our economy provides such impetus to our economic growth.

We need to move ahead on this vital agricultural legislation. We must allow for all sides of the issue to be heard here in the people's forum, the U.S. Congress. I urge every Member present to vote in support of the rule to allow for the consideration of the conference report to H.R. 6782, the Emergency Agriculture Act of 1978, and then to vote for the conference report.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. SEBELIUS).

Mr. SEBELIUS. Mr. Speaker, I had not intended to speak on the rule today and to save my remarks for the general debate; but after the majority leader urged that we defeat the rule and also that we vote down the previous question, I felt I should speak. I happen to have

thousands of farmers who have come here in the last 4 months and they are all concrned with whether or not they are going to stay in business. In western Kansas in the farming of wheat, you have summer fallow. In the conference bill in the 1977 act they took away the section that provided if 55 percent of our land is in fallow, you would not have to set aside any more land. A typical farmer in western Kansas has to fallow 1 year before he can plant, so if he is hailed out, he has to fallow again and that makes 4 years for one crop. Then on set-aside acres the land is held out again, it is 5 years before you get one crop, so we are not setting aside acres for any other purpose.

I brought with me a copy of the Congressional Insight, the congressional poop sheet, which continues the scare tactics we have gone through on this whole thing.

In this paper they say, "The emergency farm bill may get ploughed under in the House," there is opposition to it as a budget-buster. Further, they say, "The bill carries a multibillion-dollar price tag and could increase the price of bread by 12 cents a loaf."

The Members will recall, as I dramatized last year with a bread wrapper, that in a present loaf of bread only 3 cents goes for the flour in that pound loaf of bread, and more than that goes to pay them to haul that loaf of bread from the bakery to the supermarket. That is way more than the farmers get. For a 12-cent increase, the price of wheat would have to go to $12.50 for the farmer to get that much. That is the kind of thing that scares you off.

I would very briefly like to reflect on prices. We get Gulf prices, we get Chicago prices, and we get Kansas City prices, but in Kansas, instead of getting $3.30 for a bushel of wheat in Goodland, Kans., they get only $2.67. In Oberlin, Kans., for irrigated corn today, they are only getting $2.19, and $2.20 is the cost of production.

Mr. Speaker, all I am trying to say to the Members is that we should let the farmers have the initiative to decide and not let the USDA make the decision.

He is going to decide for himself, and let us say if he opts to set aside and the USDA says it will be 20 percent for wheat and 10 percent for corn, he is going to get the target price, whatever that is. If he opts for parity and gets $5.04 for wheat, he is going to have a 50 percent set-aside. Normally then he has only set aside one-half, and let us say he has set aside one-third of his acres, then he gets $5.04 for his wheat, and he only gets that if the market price has not gone to that point.

I just say that it is commonsense to do this. It is there, and when we get to comparing the prices with everything else, it is commonsense. I have met with the people who are here; they have spent all this time in Washington, and my office has been full with farmers, wheat farmers and corn farmers

Mr. Speaker, I say to the Members, please, let us adopt this rule and get on with our business.

Mr. YOUNG of Texas. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Louisiana (Mr. HUCKABY).

Mr. HUCKABY. Mr. Speaker, the question that we have before us today is, I think, really very simple.

The American farmer—and by that I mean the family farmer—has come to Washington. He is in trouble. He is in worse trouble than he has been in since the 1930's. With this bill before us, we have our only opportunity to do something for the family farmer.

Let me point out that there is a $40,000 payment limitation in this bill. The large farmers and the corporate farmers will not be involved in these payments. This is for the family farmer.

Mr. Speaker, I urge support and adoption of the rule and the conference report.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Speaker, the time comes in any emergency when it is necessary to bite the bullet. That time is now, and I urge my colleagues to vote for the rule and for the conference report.

Let me make three quick points. First, I remind my colleagues that Members from both urban and rural America are supporting this conference report. That reflects a new unity in this country, a new understanding that everybody has a stake in American agriculture.

Second, I want to talk about the quality of the many hundreds of farmers who have come to my district since the first of January. They are good farmers. They are young farmers. They are dedicated farmers. They love the land. They are willing to work 16 or 18 hours a day. They put everything they have into their land and equipment. All they want is an opportunity to succeed, and they cannot continue selling below the cost of production without going broke.

Third, this bill is the best of the proposals we have before us. It follows the best philosophy. It gives the opportunity for farmers to have some independence, and to exercise some options. It gives farmers a chance to improve prices in the marketplace. It will cost the Government less than other proposals under consideration.

I thank the gentleman.

Mr. YOUNG of Texas. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Speaker, I rise in support of the rule and in support of the conference report.

Mr. YOUNG of Texas. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Colorado (Mr. WIRTH).

Mr. WIRTH. Mr. Speaker, I rise to oppose the rule providing for the consideration of H.R. 6782, the emergency farm bill. This is a difficult position for me to take—Colorado farmers have been extremely hard-hit by rising costs and low prices. But the rule waives one of the most significant reforms adopted by the Congress in the past 50 years.

The Congressional Budget Act requires that bills which would result in new entitlement spending authority not be enacted into law until the adoption of the first concurrent resolution on the budget. The law requires that the first budget resolution be adopted by May 15. The emergency farm bill will result in payments ranging as high as $5 billion—a significant amount of money by anyone's standards—yet it will be brought to the floor without waiting for the first resolution. This avoids the discipline imposed by the congressional budget process, which requires the Congress to set a ceiling on expenditures for the coming year.

In order to arrive at this total figure, it is necessary that the House and Senate Budget Committees consider our national priorities—national defense, housing, agricultural programs—and decide approximately how much we will spend on them. These figures are not plucked from the air—they are the result of many hours of thoughtful consideration, input from the various congressional committees, and expert testimony from witnesses. By deciding how the pie will be divided before the slicing begins, we will have control over runaway spending.

Federal dollars are a fixed resource. We cannot treat them in a cavalier manner, as if they will replenish themselves. The Congressional budget process is designed to force the Congress to decide what our expenditures will be, and how much the Government will collect in taxes.

By waiving the requirement that the bill cannot be considered before the first concurrent resolution, we will be locked into place before the consideration of competing national priorities. We will be left with two choices—to exceed the budget, or to cut back on other programs. Given the lack of discipline with which the Congress approached the emergency farm bill, I have little doubt which alternative will become a reality. And we cannot express surprise when we learn—through conversations with constituents, or through the polls published in the papers—that the American people hold the Congress in extremely low regard. We should not ignore the institutional constraints, as well as the commonsense approacn embodied in the Congressional Budget Act.

In the final analysis, Federal spending will only be brought under control when the Congress—the guardian of our purse strings—takes its responsibilities seriously. If we give in to one segment of our population in this manner, and enact this legislation without regard to competing national priorities, the discipline of the process will be a thing of the past. We will return to the days of spending without regard for the total. And we will have lost control of the Federal budget.

Mr. Speaker, while I am immensely sympathetic with the arguments made by those who are in a difficult farm situation, it seems to me that there is one element here that has not been focused on appropriately, and that is the rule which waives one of the most significant

reforms we have seen in this institution in the last 50 years.

The Congressional Budget Act requires that bills which would result in new entitlement spending authority not be enacted into law until the adoption of the first concurrent resolution on the budget.

A lot of us have worked very hard over the last 4 years to make the budget process work. That was passed in 1974. As the Members remember, it was by a very, very tiny margin that Brock Adams' first ceilings were voted in and how difficult it has been to make that budget process work.

If we are serious about attempting to make that process work and get control over expenditures, we have to vote against this rule and make that process, which the gentleman from Connecticut (Mr. GIAIMO) spoke to, work appropriately.

The question was raised, and I would like to engage in colloquy with the chairman of the Budget Committee, if I might, about previous waivers to the Budget Act. It seems to me that an attempt was made to show that we had waived in the past, and why not waive at this point. I would like to ask the chairman of the Budget Committee to respond to that.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Connecticut.

Mr. GIAIMO. Mr. Speaker, the Rules Committee has power to grant Budget Act waivers. The Rules Committee grants these waivers, but it does so in a very limited way. Many bills come up before the Rules Committee which are in technical violation of the Budget Act—by that I mean that they violate the Budget Act—and, in effect, the Rules Committee says, "If you cure the defect by an amendment, we will give you a waiver."

So, in effect, they are no longer in violation of the Budget Act. That is the condition of the granting of a rule. There are only a few bills, seven in number, which have been waived.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from South Dakota (Mr. ABDNOR).

Mr. ABDNOR. Mr. Speaker, I would just like to say that I have to disagree with my friend, the distinguished gentleman, the majority leader from Texas. I agree with my colleagues from Iowa and Maryland. They pointed out that the President should have the opportunity to decide whether he is going to veto or sign this bill.

Many of us recall last year when the farm bill was before us, we ended up with some very meager target prices of $2.90 for wheat and $2 for corn. The President again threatened and the word was sent down, "I will veto the bill." But he did not. So I think we all have the right to question him once again.

Mr. Speaker, I rise in firm support of the rule and the conference report.

In this legislation we have an opportunity to enact a historic landmark reversal in our Nation's cheap food policy. This policy has continually relegated farmers to the status of second-class citizens, and it must not be permitted to continue.

According to correspondence I recently received from Secretary Bergland, the per capita disposable personal income of farmers was about 20 percent less in 1976 than that of our nonfarm citizens. On a median family income basis, farm families received over $5,000 less.

A Federal policy which perpetuates this situation is obviously unfair and, I repeat, must not be allowed to continue.

As I told the House conferees in my letter of March 29 during adoption of the Flexible Parity Act: farmers would for the first time be given a real voice in determining the price they receive. At the same time, those who do not feel they need the higher prices would be allowed to produce without restraint, while those who do would be responsible for reducing their production as would be required to achieve the higher price in the marketplace.

Everyone seems to agree that farmers need improved income, but some of those who will vote against the conference report are apparently unwilling to take the necessary action. Others have suggested other solutions, such as direct payments to farmers not to plant or increasing grain reserves. Both of these suggestions tend to further reduce the farmers' ability to control their own destiny, though, and do little to correct the basic flaw in our national cheap food policy.

I addressed the issue of grain reserves further in a letter to the editor of the Washington Post and would like to have it included in the RECORD.

Finally, the Council on Wage and Price Stability and others have said the conference report is inflationary, implying that farmers do not deserve the increased income it is intended to provide. I wrote the Chairman of the Council on that point and ask that my letter to him be included in the RECORD as well.

In my view, it is little to ask that the average American family, which is living on about $5,000 more income each year than the average farm family, should be expected to pay $100 more a year to help establish a healthy farm economy. That is all the Council on Wage and Price Stability estimated the Senate bill would cost the average family, and the Congressional Budget Office estimate for the conference report is even less—only $46 to $63 per year or a mere 30 cents per person per week.

Is that too much to ask? Clearly not.

Indeed, one of my constituents has pointed out that HEW admits to having misspent more than this legislation will cost.

The real question is whether we are really dedicated to giving farm families a fair break or not. Are we willing to reverse our cheap food policy or not? Is all the talk of improving farm income just rhetoric or are we willing to act?

Adoption of the conference report will be a step in the right direction.

I urge my colleagues to vote for this legislation.

[From the Washington Post, Jan. 27, 1978]

FARMERS' WOES: GRAIN RESERVES ARE NOT A SOLUTION

(By JAMES ABDNOR)

I wish to take issue with The Post's Jan. 20 editorial "Farmers Rights—and Wrongs." The Post is correct in noting that there is a broad middle ground where the interests of farmers and consumers meet, but the suggested answer—stabilizing prices through a program of building national grain reserves—is no answer to farmers.

Farmers do not fear collapsing prices. They fear prices staying at the levels that currently prevail. Nor are they anxious about a future that threatens to be worse than today. They fear a future that is no different from today—when our production, processing, transportation and marketing systems provide consumers with the finest quality food at the cheapest prices on earth at any time, while bankrupting many farmers, preventing others from getting into farming and maintaining the rest as paper-rich but money-poor second class citizens.

A system of grain reserves not only is not a solution, but, from the grain farmers' viewpoint, it is worse than no solution at all. If large surplus "reserves" are maintained as a matter of public policy, they will inevitably also maintain prices at inordinately low levels. If the government acquires grain stocks while prices are low and sells them when prices are high, the profit will be at the farmers' expense. Quite simply, the dollars taken out of farmers' pockets when prices are high will exceed those paid them through government acquisitions when prices are low.

No, grain reserves are not a solution to the grain farmers' woes. If so-called consumer interests (farmers are consumers, too) feel reserves are required to ensure against shortages, fine. But, they must be willing to bear the full costs involved, including compensation to farmers for the price-depressing effects of the reserves. Even so, reserves, per se, are not a solution to low market prices.

One solution to low market prices, caused by excess production, is less production. That solution will inevitably come about from normal market factors.

It is, however, an inherent assumption of the federal farm program that the socio-economic and political effects of allowing large numbers of farmers to be driven out of business are unacceptable. Support for the "family-farm system" is nearly universal, but at current funding and price-support levels the farm program is of greater symbolic importance than of practical assistance to many farm families. We are not going to run out of farmers who have families any more than we are going to run out of food, but we may see the demise of the family farm as we have known it, and we will most assuredly see higher farm prices under the agricultural system that results.

TAKING EXCEPTION

It is conceivable, despite the renown productivity of the family farm, that the system that evolves may be even more efficient and able to continue to hold farm prices down, but that is most unlikely. The problems of family farmers are very much a function of their own productivity, competitiveness and lack of market power. As such and faced with the considerable market influences of the big three—government, labor and business—the family-farm system will continue to self-destruct until such time as the agricultural system that remains reaches a more favorable balance of power in the market. To quote from a popular commercial, the mes-

sage to consumers is clearly "Pay me now or pay more later."

Another solution—the one the farm program professes to adopt—is to ensure farmers a fair return for their products. Ideally that means both covering their costs of production and allowing them a decent standard of living. The current farm program fails to do so, and a grain reserve certainly will not do so. I personally would prefer that farmers receive a fair return in the marketplace and intend to continue doing everything I can to achieve such goals, as lowering obstacles to maximization of our agricultural exports. It is theoretically—but hardly politically—possible to provide farmers an adequate income through government payments. However it is done, though, it must be done, and it will be done—unless economic law can be repealed.

Financial returns to agriculture will indeed be higher. The only question is who will benefit—family farmers or others, perhaps large corporate entities. If not family farmers, it seems evident the market power exerted by the agribusinessmen who remain will demand returns in excess of what otherwise might have sufficed. The bottom line, then, is that we can continue to pursue the "cheap food" policy that is espoused in The Post's editorial and elsewhere, but it will doubtlessly be unwise in the long run. The broad middle ground where interests of farmers and consumers meet is in preserving the family-farm system.

Pay now or pay more later—from the consumer's standpoint it's just about that simple. The predicament—indeed, the catastrophe—facing farm families is much more complicated as they watch their life's work and that of their parents and grandparents eroded and lost.

It is in the interest of no one to let this erosion continue.

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[From the Washington Post, Jan. 20, 1978]

FARMERS' RIGHTS—AND WRONGS

Blocking highways as a method of political protest is intolerable. But these farmers are pursuing a goal that is even more wrongheaded. They want a massive price increase that would severely hurt consumers and send the inflation rate shooting upward. The farmers' distress is real, but they are rapidly squandering public sympathy. Their attempts to block roads are symbolic—more, perhaps, than they realize—of their whole movement, which is pursuing its ill-chosen aims with absolutely no regard for the damage and distress that it might threaten to everyone including, in the end, farmers themselves.

Everybody has the right to protest and to be heard. But nobody has the right to press his cause by harassing and endangering a random selection of his fellow citizens unlucky enough to be caught behind a roadblock. The demonstrations on Route 66 were, in fact, a rather ugly sequence in which tractors hit a couple of police cars and a policeman who was on foot. Holding motorists hostage, by violence, is not permissible. Speaking of symbols, that incident ended with a tractor standing sadly by the side of the road, its back tires blown out by a police shotgun. That offers a pretty accurate picture of the conclusion toward which the demonstrators' present course is taking them.

But it doesn't have to end that way. If these farmers choose to regard everyone else on the road as their enemies, from whom nothing can be obtained except by force, they are bound to be the losers. But we have been arguing on this page for some time—apparently without a great deal of success, so far—that there is a broad middle ground where the interests of farmers and consumers meet. Both have a strong interest in price stability. That means ending the wild market swings that have greatly increased the risks of farming over the past six years. The answer is a program of building national grain reserves. Farmers need to know, when they plant their crops, approximately what the selling price will be. Farming ought not be a roulette game in which extremely hard-working men and women are required to put their whole livelihood at stake on the weather and on the market every year. Farmers, and everyone else, are entitled to the kind of price stability and assurance that reserves can provide.

Instead, these demonstrators are pressing for a big increase in grain prices. If they got it, the first victims would be other farmers—the cattlemen and poultry-men who buy grain for feed. But eventually even the grain farmers themselves would suffer. The present demonstrations, in fact, mark the morning-after that followed the great euphoric binge in farm prices in 1972 and 1973. Because grain suddenly brought higher prices on the market, farm land was worth much more. Now the farmers have been stuck in a falling market with extremely high land costs, high taxes based on them—and a steady inflation in manufactured goods, in part due to rising food prices in years past. The process is circular. Simply raising prices for the farmers won't help them for long.

In fact, these demonstrators don't seem to know much about national farm policy, or markets, or political strategy. Among farmers themselves, these people are outsiders, without much leadership. They aren't being steered, or even supported, by the country's large farm organizations. The leaders to whom they would naturally look—in successive administrations, in Congress, in the farm organizations—have continued to tolerate, year after year, radical and perilous instability in the agricultural markets. That is what has brought these demonstrators—frightened, confused and increasingly vehement—onto the highways and into the capital.

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HOUSE OF REPRESENTATIVES,
*Washington, D.C., March 24, 1978.*

CHARLES L. SCHULTZE,
*Chairman, Council on Wage and Price Stability, Washington, D.C.*

DEAR MR. SCHULTZE: I was shocked and dismayed to read the Associated Press article entitled "Administration Hits Bill for Farm Relief," which appeared in the March 23, 1978, issue of The Washington Post.

Your concern over the inflationary effects of this legislation is understandable, but seems to indicate a willingness to force farmers to continue to absorb the inflated production costs they must pay, without permitting them the increased income they must have to do so. (I wrote Secretaries Blumenthal, Marshall, and Kreps, who are members of the Council, and Secretary Bergland, who is not; and none of them feels his department can help to lower farm production expenses.) Sympathy is simply not enough—farmers must have higher incomes and they will. The only question is how many will be driven out of business first.

It strikes me as being not at all unreasonable to expect the average American family to pay an additional $100 to re-establish a healthy farm economy, thereby helping to ensure preservation of the family farm system which has brought them the most adequate supply of the highest quality food at the cheapest prices anywhere at anytime on earth.

I find it highly ironic that even as USDA is announcing that two-thirds of the rise in 1977 grocery store prices is accounted for by imported foods, you are suggesting that meat import quotas be raised—this after meat imports have already contributed to excessive liquidation of the domestic cattle herd, thereby inordinately depressing livestock prices. That increased meat imports would now be advocated to prevent cattlemen from recouping their losses is beyond belief!

Are you unaware that in 1977 the farmer's share of each dollar spent in grocery stores for U.S. farm foods was only 38.8 cents? That is less than in 1976! And, of the one-third of the increase in grocery store prices not accounted for by imported foods, most was accounted for by higher processing and distribution costs. Why should every other segment of the food marketing chain command increasing receipts, while farmers are expected to get by with no increase? If you truly feel farmers are not entitled to a $100 raise from each of their customers, how much do you feel they do deserve?

I commend the Administration for its better-late-than-never concern over inflation. It is our nation's number one problem and has had my concern for some time. To use the farmer as a scape goat, though, and to suggest that he can continue to bear the cost of inflation in other segments of the economy without relief is not only unfair, it is inexcusable and contrary to the national interest.

Please reconsider your position and retract the statements made in the Post article.

Sincerely,

JAMES ABDNOR,
*Member of Congress.*

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[From the Washington Post, Mar. 23, 1978]

ADMINISTRATION HITS BILL FOR FARM RELIEF

The Carter administration yesterday criticized the Senate's emergency farm relief bill as one of the most inflationary government actions in recent years.

The White House Council on Wage and Price Stability said the bill the Senate approved Tuesday would add from two to five percentage points to the rate of food price inflation this year.

The legislation, if enacted, would add at least $100 a year to the average family's food bill because of increased payments by the government to farmers, the council said. The bill next will be considered by the House.

"If the bill becomes law, it would be one of the most inflationary actions of the federal government in recent years," the council said in a statement. While the agency expressed sympathy to the problems of farmers, it said, "we are also concerned about the impact of farm legislation on consumers and the overall economy."

Even without the new farm legislation, food prices are rising faster than expected this year, meaning higher cost to consumers. The increase for the year could amount to 8 percent, officials have said. But the council statement said enactment of the new legislation would bring "a major risk of returning the country to double-digit food price inflation."

Consumer food prices increased at an annual rate of 8.9 percent in the three-month period ending in January, and wholesale food prices rose at an annual rate of 19.4 percent for the three months ending in February. Officials had not expected those sharp increases to continue, however.

The Senate package would add to the average family's food bill through a system of payments to farmers for not planting.

The Senate package faces almost certain overhaul in the House, but changes there are unlikely to lower the cost to consumers.

The House voted 332 to 63 yesterday to seek a conference with the Senate to work out differences on the farm legislation.

If the bill becomes law, the average American family of three that spent $2,583

for food last year will be paying at least $100 more than the $2,686 to $2,738 the government already is predicting for 1978, the council said.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, yesterday morning I heard my good friend, the gentleman from Washington, Mr. TOM FOLEY, describe this conference report as a walking dead man—a very apt description.

It has no chance of becoming law. The only question, as someone else said, that we have to decide ourselves is whether you and I, Members of this body, are going to be recorded for or against the conference report. We can cop out, we can vote down the rule, and avoid a direct vote on the question ourselves. Even though I am for the rule, I am against the bill. I think a strong case can be made against it as being against the interest of the farmer in the short term and in the long term.

However, I do believe that each of us has a duty to our constituents, wherever they may be, to be recorded as voting "yes" or "no."

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from South Dakota (Mr. PRESSLER).

Mr. PRESSLER. Mr. Speaker, it seems strange to me that only a few years ago when President Ford was in the White House, this body would frequently send legislation to him even though he said he might well veto it.

Now the argument is being used in the House that this legislation is a "walking dead man" or something of that sort.

However, Mr. Speaker, I believe strongly that we have a constitutional responsibility in this body to perform our duty and to let the President perform his. It seems a very strange and a new argument that since the President has said he will veto it, we should not bring the legislation up.

Also, in terms of the rule, I sincerely hope that we do adopt this rule so that we have a chance for a recorded vote.

The American farm movement has been in Washington for well over 4 months; and if they are to go home disappointed, there will be great prices to pay in terms of the losses of our last generation of family farmers, and also I might say, the last generation of our small businessmen. Consumers will be equally affected—for our consumers benefit from the family-sized farm which is the most efficient unit of farm production. If we lose our family farmers, we will have corporate farming—and price fixing—and much higher food costs to the consumer.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Speaker and colleagues of the House, we have just gone through the longest coal strike in the history of our country. During the time of the strike, those who were on strike had been making an average of $75 to $100 per day and were striking for better working conditions and greater fringe benefits.

Yesterday, Mr. Speaker, I happened to call a repairman to my house in order to fix my furnace and air-conditioner system. He charged me $24 an hour to come out and do the work.

Mr. Speaker, in almost every segment of our economy, whether it be white collar or blue collar, workers are receiving incremental increases in earnings which permit them to cope with a corresponding increase in the cost of living. This is not true on the farms of this Nation however. The costs of farming have greatly increased in recent years. Farm machinery costs have gone up, fertilizer costs have gone up—everything has gone up for the farmers except the prices they receive for their products.

The American farmer, Mr. Speaker, is not receiving any better prices for agricultural commodities today than he did 20 or 30 years ago. Now we are being given an opportunity to help correct this situation. Clearly there is a crisis in American agriculture today—and today we have the opportunity to take positive and affirmative action in order to help the farmer and promote agricultural stability.

Mr. Speaker, President Carter has indicated that he does not care for this bill. Unfortunately, this administration has shown little care or concern about the farmer or the serious agricultural problems facing our Nation. The House and Senate Agriculture Committees have shown they care. The U.S. Senate has shown it cares. I am deeply concerned, and I hope the House of Representatives is willing to show that we too, care about the farmer.

Mr. Speaker, I am for the rule; I am for the bill. This is not a copout. We should give the President the opportunity to act on this legislation by adopting the conference report.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Speaker, in January I told the farmers of Minnesota that there was not much chance of legislation like this being enacted.

To our surprise, pleasant surprise, the other body has taken action to pass this bill. The House members of the conference committee has also taken action in support.

We ought to pass this rule and pass this bill and give the people who have pushed it this far an opportunity to get it through the White House.

Mr. Speaker, we are just about at planting time up in the northern part of the country. We cannot wait any longer.

Let us look at the whole question of the budget. Each one of us tries to keep our own personal budget in balance; but if a child in our own family needs medical help or in any way is in serious need, we set our budget aside and give that person all the help we can.

Mr. Speaker, the agricultural sector of our economy is in serious trouble. The farmer needs help. The proposed help of the administration is to put the commodities in storage and hold farmers hostage for years. This is a better way to help the farmers bring carryovers of grains down and provide a chance to help them get out of this trouble in 1 year.

Mr. Speaker, I opt for this bill to help the farmers to get out of the financial problems they face rather than go back to Government surpluses in Government bins.

Mr. LATTA. Mr. Speaker, I yield myself one-half minute.

Let me say to my colleagues that this is neither a Democrat nor a Republican bill. This is a bipartisan bill.

It came out of a conference committee of the two Houses and it was made up of Democratic and Republican Members. The Senate has acted, and now it is up to the House to act on this measure.

I plead with my colleagues today to respect the honor and the integrity of this conference committee that was appointed by the Congress and permit its report to come up for consideration. The Senate has acted. It is now time for the House to act and to agree with the conferees. I think they have brought forth a good bill and it should pass.

Mr. YOUNG of Texas. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Texas (Mr. KRUEGER).

Mr. KRUEGER. Mr. Speaker, I rise in support of the rule and the conference committee report.

Mr. Speaker, today, Members of the House of Representatives will decide whether the much-needed Emergency Farm Act of 1978 will proceed through the legislative process to conclusion, or whether it will be prevented from progressing to the President. I urge my colleagues to approve this crucial legislation.

In the larger sense, Members of the Congress today have the opportunity to vote in favor of the Emergency Farm Act of 1978, and so take action which could herald the beginning of a new American agriculture policy, a policy assuring the farmer a fair return for his product and greater independence from Government interference.

Today's decision is not a responsibility to be taken lightly. The livelihoods of dedicated farmers who have lobbied the Nation's capital, both for themselves and for the thousands who toil at home to produce food for a hungry world, are dependent on our decision today.

Personal testimony by farmers and grim statistics make a highly persuasive case for passage of this conference report. Farm debt has more than doubled in the last 5 years to nearly $100 billion, and farm income has declined nearly $13 billion. Farmers now face bankruptcies at four to five times the normal rate. From across the Nation, farmers have spent their time and money to come to Washington and tell us their stories, and also to tell us that never before have they encountered prices for equipment

so high, and prices for crops so low. They have opened their financial records, and their hearts, to us in order to document the alarming situation they face. In instance after instance, farmers have shown that although their last harvest was their greatest, their latest return was their lowest.

Strong public opinion and goodwill have accompanied the farmers to Washington. A recent Lou Harris poll showed 80 percent of Americans were in sympathy with the goals of the striking farmer, and only 13 percent were opposed.

The Emergency Farm Act of 1978 is the most effective approach to the farm problem. It is the least expensive and least inflationary approach, preferable to other solutions which would increase Federal involvement through direct payment. The bill represents a step away from centralized, Federal planning of agriculture and would help return decisionmaking to each individual farm, thereby allowing farmers to write their own farm programs. Most important, H.R. 6782 grants higher target prices to producers, up to 100 percent of parity, depending upon the amount of acreage each farmer chooses to set-aside. This legislation is necessary if we are to prevent thousands of family farmers from being forced out of farming by bankruptcy.

What the farmers of our Nation have come to Washington to tell us is that they seek parity, not charity. I urge my fellow Members of Congress to join me in taking positive action by voting in favor of vital flexible parity legislation, the Emergency Farm Act of 1978. Also, I ask other Members of the Congress to join with me in urging the President to reconsider his decision to veto this cost efficient and very necessary legislation.

Mr. YOUNG of Texas. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Speaker, I rise this afternoon to express my opposition to the House-Senate conference report to H.R. 6782, now known as the Emergency Agricultural Act of 1978.

H.R. 6782, a noncontroversial raisin-marketing order bill when it passed this House on October 31, 1977, returns to us today in a cloud of confusion and emotion. It returns also with two substantial amendments: One would increase target prices for wheat, corn, and cotton; the other would create a sliding scale for crop pricing linked to an acreage set-aside program, the latter often referred to as "flexible parity" or the "Dole Dial-a-Parity Plan."

The conference report would establish new, higher target prices and loan rates for the 1978 wheat, corn, and cotton crops to be based on the number of acres the farmer takes out of production. This legislation, if passed, would allow the farmer to select his own target prices by allowing him to decide how much of his own land to set aside.

The Congressional Budget Office and the USDA estimate that this legislation would add as much as $5 billion to our current farm program in fiscal year 1978 and 1979. Retail food prices could increase as much as 4 percent over the incredible 6-to-8-percent increase already forecast. The projected effect on the overall economy would be to increase inflation on a magnitude of 5 percent.

For the past 16 years, I have represented one of the largest agricultural production areas in the United States. In the Fourth Congressional District of California, we are leading producers of rice, peaches, tomatoes, and nut crops.

Contrary to information circulating around Capitol Hill in recent weeks, declining commodity prices and farm incomes in 1977 were the result of large, worldwide supplies of grains, oilseeds, and fibers. Another contributing factor was the liquidation of domestic cattle herds because of unprofitable feeding and poor pasture conditions caused by the drought in the Western United States.

As a result, the realized net income in 1977 declined to $20 billion—in real terms, equivalent to that of 1971—a poor year. The result of this overall situation was a severe cash-flow and debt-repayment problem for farmers. The severity, however, varied greatly by commodity and by region of the country; but nevertheless took its toll on our farmers.

Although lacking in many respects, the administration announced its farm program on March 29, 1978, which would pay farmers to take 5 million acres of corn and cotton out of production. This would be in addition to those previously announced 20-percent wheat and 10-percent seedgrain set-asides. The administration's set-aside program provides loans and payments to farmers if they plant a specified percentage of their acreage in the preceding or current crop year. The existing program would also lift the ceiling on farmer-held wheat and feed grain reserves, waive the interest charges on those reserves after the first of the year to encourage farmers to hold back grain until the market improves, and raise the loan rate for soybeans from $1 to $4.50 per bushel. This plan is in effect now, requiring no action by this body.

Even more encouraging is news that most commodity prices have shown appreciable increases in recent months. The realized net farm income for the first half of crop year 1978 is at an annual rate of $23 billion, or about $3 billion higher than last year. Foreign demand for major crops already points to a record volume of agricultural exports in the current marketing year.

The indications are, Mr. Speaker, that farm incomes for the coming year will be adequate at the very least and that a so-called emergency situation does not exist at this time. Notwithstanding, we are today being asked to grant a rule and waive section 303 of the Congressional Budget Act and consider this legislation. This bill violates the act by authorizing next year's spending before we have even adopted the first budget resolution setting tentative spending levels.

As a member of the Budget Committee, I know my colleagues have not had a proper opportunity to deliberate on this bill. Our committee has just concluded many months of work on the first budget resolution for fiscal year 1979. We are recommending a total budget authority for the coming year of $568.1 billion, with projected total outlays of $501.3 billion and a programed deficit of approximately $58 billion. The committee is recommending a $12.2 billion budget authority and $12.1 billion in outlays for the agricultural function alone.

To add out-of-hand what could be an additional $5 billion to our already oversized national debt, without the opportunity for Budget Committee review, markup or floor amendments, deprives each of us of our obligation to fulfill the legislative process in a responsible manner.

In addition to putting further pressure on credit markets, encouraging imprudent monetary growth that undermines the dollar abroad and accelerates inflation at home, adoption of a waiver and passage of H.R. 6782 could result in significant alterations in production. It could cause the removal of as much as one-third of our Nation's corn, wheat, and cotton acreage. This undoubtedly would create gyrations in the market prices of farm commodities, resulting in unusable markets and quite possibly the loss of critically needed export markets for our agricultural products.

The administration's farm program, most of which is already taking effect, is a better solution to the problems our farmers face. It provides farmers with immediate help, is less expensive, and therefore less inflationary. At the same time, the current program strengthens farm income and will promote steady agricultural growth. By expanding the farmer-held grain reserves, producers can hold their crops and await higher prices without exposing consumers and livestock producers to severe price increases should the Nation experience a poor harvest this fall. Agricultural exports will continue unimpeded. The land diversion aspect of the administration's program strengthens market prices by shrinking price-depressing surplus production, thus bringing our agricultural commodities into better balance with demand.

We have an emergency farm program that is working today, and it does not cost $5 billion more than we can afford to pay. The marketplace is currently providing adequate income levels for the great majority of our farmers. Any further action we take will be an unnecessary expenditure of money we do not have. Exports are up, prices are up, and foreign production is down.

The California Farm Bureau Federation opposes this legislation, the National Grange opposes it, the Consumer Federation of America opposes it, the Poultry and Egg Institute opposes it, and President Carter yesterday promised to veto it.

While I feel very strongly that a healthy agricultural environment is essential to our Nation, we do not need nor can we afford the luxury of this inappropriate and misguided legislation. H.R. 6782 does not serve the best interests of American agriculture or the Nation as a whole. I urge you to join me in voting "no" on the rule and "no" on this conference report.

Mr. YOUNG of Texas. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas (Mr. HIGHTOWER) for the purpose of closing debate.

Mr. HIGHTOWER. Mr. Speaker, "later, later, later," is always used by the opposition.

Mr. Speaker, the oldest argument against anything is to put it off and say, "later." Our distinguished friend, the Majority Leader, says that later maybe we can get a better rule and get a bill that the President will sign. "Let us do it later."

My friend, the chairman of the Budget Committee, says that maybe later, after we consider all the other budget problems, but "later" is not going to be good enough. What is an emergency is always an interesting idea. It depends on whose house or whose barn is burning down as to whether it is an emergency.

Well, I submit, Mr. Speaker, that our barns are burning down; our creek is dry; and the Congress is standing over the well. We have got to have action now. It is not going to be good enough to come back and later try to get a better bill. Farmers are already planting their crops.

We have had farmers here since the first of January. They came then because they thought they could get quick action. They knew that something needed to be done, and they have been reasonably patient as we have come through these weeks and weeks of talk and debate, of trying to decide the best way to address this problem. While those of us who have been involved have been hearing talk of "later," the President has now said no. He says that the farm bill that we passed last year is going to be good enough.

But, I tell the Members now, and I think each Member has heard this story from farmers who have visited their offices, that the farm bill of 1977 is not enough. The Department of Agriculture says that if we will wait and give it time, it will be all right.

If we had a friend out in the middle of a creek or a river trying to swim across who was going down and yelled for help, it would not be good enough for us to stand on the bank and say, "Friend, don't you know that we are going to build a great bridge here next year? Next year you will be able to walk across the river. You will not have to swim."

Neither can we wait until next year. We cannot wait until everything is just right and everybody is in the right mood.

Mr. Speaker, the time is now, and not later.

● Mr. HARRIS. Mr. Speaker, I will vote today against the conference report on H.R. 6782, the "Emergency Agricultural Act of 1978," because it will be devastation to the family budget and the American economy. The Senate rider to the bill includes far-reaching, new policies including increases in targets and loans on wheat, corn, sorghum, barley, and upland cotton and a land diversion program.

PUTTING HIGHER PRICES ON THE FAMILY DINNER TABLE

On March 22, the President's Council on Wage and Price Stability estimated that the Senate farm bill would add two points to the rate of food price inflation. If this bill is enacted into law, $200 more a year could be added to the 1978 family food cost. Under the bill, retail food prices would be 2 to 4 percent higher than the 6- to 8-percent increase already forecast. Higher grain prices will affect other agriculture prices like cattle, pork, and dairy products since the price of livestock feed would increase and also drive up consumer prices.

The current food spiral is eating away at the family budget; the American family cannot continue to absorb Government-stimulated price hikes like this. In the Washington, D.C., area alone, food prices have escalated at least 50 percent in the last 5 years. The Bureau of Labor Statistics reported on March 29 that food prices leaped an unusually high 2.2 percent between January and February of this year—almost double the national increase. This increase followed a 1.2-percent jump between December and January and pushed food prices in the Washington area up to more than 11 percent above what they were a year ago.

BURDENING THE TAXPAYER WITH MORE INFLATIONARY SPENDING

The Council on Wage and Price Stability has also said that enactment of this bill would be one of the most inflationary actions of the Federal Government in recent years. USDA estimates that the bill would cost taxpayers from $3 to $5 billion more than the current farm program. I just cannot see the wisdom of handing out $5 billion to corporate farmers, especially with the 1977 farm bill now in effect. Another $3 to $5 billion is an unwarranted burden for the American taxpayer.

INADEQUATE HOUSE CONSIDERATION

Finally, I object to this bill because of the way it was handled. The Senate added a far-reaching, expensive, new program rider to a minor bill, the Raisin Marketing Promotion Act. This rider did not undergo full hearings and committee and House consideration, with full debate airing all sides of the issue. In my view, the House has not had the legislative opportunity, required by our rules, to give this comprehensive measure full consideration.

I stand firm in my opposition to this bill. I believe the Senate amendments are highly inflationary. I strongly urge you to weigh the facts and vote against the conference report and put the dinner tables of the American family first.●

GENERAL LEAVE

Mr. YOUNG of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution now being considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. YOUNG of Texas. Mr. Speaker, I move the previous question on the resolution

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HARKIN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. FOLEY. Mr. Speaker, I call up the conference report on the bill (H.R. 6782) to permit marketing orders to include provisions concerning marketing promotion, including paid advertisement, of raisins and distribution among handlers of the pro rata costs of such promotion, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of April 6, 1978.)

Mr. FOLEY (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement of the managers be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER pro tempore. The gentleman from Washington (Mr. FOLEY) will be recognized for 30 minutes, and the gentleman from Virginia (Mr. WAMPLER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on the bill H.R. 6782. A great number of American farmers have been the victims of a vicious cost-price squeeze over the past year An oversupply of some farm products, especially grains, caused commodity prices to fall to disastrous levels in 1977. These low prices, coming at a time when the costs of production continued to escalate, have created a situation in which many farmers today are facing severe cash-flow and debt-repayment problems.

The House and Senate Agriculture Committees have already acted on emergency credit legislation which, when adopted by the Congress and signed into law by the President, will help to allevi-

ate some of the more immediate financial problems facing farmers. While this legislation is essential, it represents only the first component of a two-step solution. We must also assure that American agriculture has the necessary economic vitality to continue producing to meet the growing demand for our food and fiber products.

In order to insure this, some modification of the Food and Agriculture Act of 1977 is needed.

As you are well aware, the administration recently announced a number of actions it would be taking to achieve a better balance of supply and demand. While these actions will, in my opinion, make a positive contribution toward the improvement of commodity prices this year, there are many who feel that they do not go far enough.

The conference committee, wishing to insure the continued economic recovery of American agriculture during the coming year, has agreed to a number of modifications in the 1977 Farm Act.

The conference report had its genesis in a noncontroversial raising marketing order bill, H.R. 6782, passed by the House last fall. The Senate attached to it provisions of an Emergency Agricultural Act for the 1978 crop year and with these amendments the bill was returned to the House. The House requested a conference to resolve the differences in the measures adopted by both Chambers and the conference report represents the agreement reached in that conference.

The Senate committee first amended the bill to require the Secretary to formulate additional set-aside programs for the 1978 crop year with the objective of diverting 31 million acres from the production of wheat, feed grains, upland cotton, and soybeans. The bill was amended on the floor of the Senate to provide specific price objectives to the additional set-aside program and additional amendments increased the target prices and loan rates for the 1978 crop of these commodities.

During consideration of the bill in the Senate, an additional title was added to provide a flexible parity program. Under the Senate amendment, a system of graduated target prices was established for the 1978 crops of wheat, feed grains, and upland cotton based on the amount of acreage a producer voluntarily sets aside to conserving uses. This title also increased the loan rates for these commodities. The flexible parity program included in title II for the 1978 crops of these commodities differed in a number of respects from the program provided in title I for the 1978 crops of the same commodities.

The conference report adopts in large respect the flexible parity approach of title II of the Senate amendment. It reduces, however, the number of steps of graduation for the target prices and changes the levels established for loan rates and target prices from those contained in the Senate amendment.

Specifically, with respect to the 1978 crop of wheat, the conference report provides graduated target prices in three steps based on the amount of cropland a producer voluntarily sets aside. The target price—now $3 per bushel—would increase to $3.50 a bushel with a set-aside of 20 percent, to $4.25 a bushel with a set-aside of 35 percent, and to $5.04 a bushel with a set-aside of 50 percent. The report also increases the minimum loan rate to $2.25 per bushel. The loan rate under current law for 1978 was previously announced at $2.25 per bushel and will be $2.35 if the average market price during the 1977 marketing year is more than 105 percent of the 1977 loan level of $2.25.

With respect to the 1978 crop of feed grains, the conference substitute increases the target price for corn from $2.10 a bushel under current law to a system of graduated target prices in three steps based on the amount of cropland a producer voluntarily sets aside. The target price would be $2.40 a bushel with a set-aside of 10 percent, $3.05 a bushel with a set-aside of 35 percent, and $3.45 a bushel with a set-aside of 50 percent. The conference report also increases the minimum loan rate from $2 a bushel to $2.25 a bushel.

The loan rates for the 1978 crop of other feed grains would be established as in existing law in relation to the level at which loans are made available for corn taking into consideration the feeding value and average transportation costs to market of grain sorghums in relation to corn. The conference substitute also provides for a graduated system of target prices for the 1978 crops of grain sorghums and barley at such levels as the Secretary determines fair and reasonable in relation to the target prices established for the 1978 crop of corn.

The conference report provides for different graduated target prices for the 1978 crop of upland cotton increased from the current level of 52 cents per pound. The basic target price would be 60 cents a pound. There would be two additional levels, namely, a target price of 72 cents a pound with a set-aside of 35 percent and a target price of 84 cents a pound with a set-aside of 50 percent. The loan rate for the 1978 crop of upland cotton (now 44 cents a pound) would also be increased to 48 cents a pound.

There are additional provisions contained in the conference report relating to other issues. First, it adopts provisions related to raisin marketing orders that were contained in the bill that originated in the House with a few technical and conforming changes. The conference substitute also adopts the Senate amendment which increases the borrowing authority of the Commodity Credit Corporation from $14.5 billion to $25 billion effective October 1, 1978. The increase would be effective only to the extent provided in appropriation acts. This amendment is necessary in the light of the increased outlays of CCC required by this bill and by the ongoing programs provided for in the recently adopted Food and Agriculture Act of 1977.

The conference substitute also adopts a provision that would encourage the production of commodities to be converted into an experimental fuel, popularly called "gasohol." The conference substitute provides that the Secretary may permit set-aside or diverted acreage to be devoted to the production of any commodity (other than the commodities from which the acreage is being set aside or diverted) for conversion into gasohol if the Secretary determines that such production is desirable to provide an adequate supply of commodities for such purposes, is not likely to increase the cost of the price support program, and will not adversely affect farm income. During any year in which there is no set-aside or diversion of acreage the Secretary may make incentive payments to producers who devote a portion of their acreage to the production of commodities to be converted into gasohol. Appropriations would be required to implement the program.

There were a number of provisions contained in the Senate amendments which were not agreed to by the conferees and were deleted in the conference substitute. Among these were provisions that required labeling of imported meat and meat products with the name of the country of origin and provisions of the Senate amendment requiring the Secretary to provide a 3-year guaranteed nonrecourse loan program for specified commodities for which price support is authorized under the Agricultural Act of 1949.

Other miscellaneous provisions provided for in the Senate amendments deleted from the conference substitute include a requirement that the Secretary permit grazing and haying and normal tillage practices on set-aside acreage, and changes in the extended loan program trigger prices and in the prices at which CCC stocks may be released. These provisions were dropped because the conferees believed they were not needed, or were impracticable and difficult to administer.

The conferees also deleted provisions of the Senate amendment that amended the Consolidated Farm and Rural Development Act to expand eligibility for farm real estate and operating loans to include family farm corporations and partnerships and to increase the lending limits for such loans. Comparable provisions are included in the Agricultural Credit Act of 1978, H.R. 11504, a bill which has been reported by the House Committee on Agriculture which provides comprehensive changes in the authority of the Farmers Home Administration, including provisions for an economic emergency loan program. This bill will be considered by the House in the near future.

Mr. Speaker, I hope the Members will join in support of the conference substitute.

Mr. Speaker, I reserve the balance of my time.

Mr. WAMPLER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Nebraska (Mr. THONE).

Mr. THONE. Mr. Speaker, I rise in enthusiastic support of the conference report on H.R. 6782, the Emergency Agricultural Act of 1978.

We face a very simple issue today. Are we in favor of agriculture achieving equality with the rest of America? I say,

"Yes." Or, does Congress want to say to the farmer that his occupation should not share in our Nation's rising standard of living? Does Congress want to say to the farmer that he should be content with being a second-class citizen? I say, "No."

Let me remind you very briefly what we all owe to the farmer. One American farmer feeds about 60 people. He does it so efficiently—he does it so economically—that Americans spend a smaller share of their income on food than the people of any other nation in the world. The farmer's efficiency has been one of the most important factors in permitting Americans to reach their high level of affluence, compared with the rest of the world.

Let me remind you very briefly of how serious is the plight of the farmer. He is caught in a vicious price-cost squeeze. Prices for major grains last harvest were less than half what they had been 4 years earlier. Yet the farmer's cost of production—what he must buy in order to produce a crop—doubled in the past 10 years. As a result, last September the comparison of farm income with farm costs reached a 44-year low. Imagine that, if you will. The farmer had not been as bad off for costs compared to income since the depression and dust bowl year of 1933.

What should be done to correct this situation?

Obviously, one way to improve U.S. grain prices is to increase exports. My fellow colleagues, the record shows that this administration has done a fantastically poor job of pushing grain exports. Let me remind President Carter that in the last fiscal year, two of the three major grain exporters—Canada and Australia—increased their exports of wheat and flour. U.S. quantities of wheat and flour sold last year were down 20 percent from the previous year. The legislation we are considering today would have very little cost if the Carter administration would change its ways and begin seriously promoting agricultural exports. There is nothing in this legislation to prevent the administration from getting off dead center and becoming a good salesman for American agriculture.

Another way to improve the lot of agriculture would be to promote energy and industrial uses for farm products. An example is gasohol, a mixture of 90 percent gasoline and 10 percent alcohol made from crops. The Carter administration has an even sorrier record in this field than it has in the area of export promotion. The Carter administration has been an outright opponent of industrial and energy uses for farm products. The administration opposed authorization of funds for such purposes. When funds were authorized, the administration opposed appropriations to fulfill them. When funds have been appropriated for such purposes, the Carter administration has drug its feet about using the appropriations. There is nothing in the legislation being considered today that would prevent the Carter administration from having a change of heart and promoting energy and industrial uses of crops.

The Emergency Agricultural Act of 1978 offers another way to improve the lot of farmers. Flexible parity is the most important concept in this pending legislation. I have supported this idea since it was first advanced. Flexible parity will improve the farmer's lot within a minimum of Government involvement. Farmers do not want the Government telling them how much to plant. Flexible parity allows each farmer to decide how many of his acres he will plant. Farmers do not want to became dependent upon Government for their income. Flexible parity permits each farmer to obtain the great share of his income from the marketplace.

Flexible parity can be a means by which the present huge inventory of grain can be greatly reduced. Once that inventory is reduced, flexible parity can be a means of preventing reoccurence of such a huge glut.

Now, let us consider two of the main claims that are made by the opponents of this bill.

One claim is that passage of this legislation will drive up the cost of food. First of all, I think this Congress should once and for all reject the Nation's cheap food policy. The American policy has been one of depriving the farmer in order to spare the consumer. When did this administration ever show similar concern about holding down consumer prices in other areas? This administration practically forced the coal mine operators to accept an increase of about 40 percent in their costs for wages and benefits. It is my firm belief that the coal strike settlement will have a greater effect in raising costs of food for consumers than the legislation we are considering today.

The passage of this legislation will have little significant effect on food prices. If passage of this bill results in raising the price of wheat a few cents a bushel, will that make a marked change in the price of bread? The answer is, "No." Last year, the price of wheat went down 44 percent from 1976. Yet, the price of bread went up. It is my belief that if the farmer would give away his wheat, the price of bread would continue to go up. This legislation will have little effect on those continuing increases to the consumer.

The other claim is that this legislation could result in a shortage of grain. This is an outrageous argument. The end of the wheat marketing year is May 31. Official Department of Agriculture figures indicate that at the end of next month there will be more than twice as much wheat in storage in the United States as America consumes in a year.

The United States has also tried to get other nations to join in setting up an international reserve of grain to meet world crises. The talks that sought an international wheat agreement recently failed. If the United States will act through this bill to decrease the wheat inventory, other nations will become more reasonable about joining to establish an international reserve.

As I said, the extent of the farmer's plight has been known since last fall. President Carter and his advisers made a poor judgment of how serious the situation is. The President and his advisers kept insisting that nothing needed to be done. The President and his advisers said that the farm strike was only a brief flurry that would rapidly disappear. They said that when planting time came all of the farmers would be in their fields. Obviously, from all of the farmers that we have seen every week since January—and all those we have seen today—not all farmers are now in their fields.

When candidate Jimmy Carter spoke in farmland in 1976, he said,

> I believe that support prices, in my opinion, should be at least equal to the cost of production.

The 1976 Democratic platform, which candidate Carter dictated, contained a promise of parity for farmers.

The proposed legislation would not allow President Carter to fulfill that promise, but it would be a step in that direction.

President Carter has threatened to veto this bill. I think he will think a long time before he carries out such a threat. If he does, the farmer's financial plight, which has already brought on a recession in some rural small towns, will likely be the cause of a nationwide major recession.

President Carter has threatened to veto this bill, but he has made similar threats on other legislation that he did not carry out. I believe that's the same sort of idle threat that President Carter made when the Agricultural Act of 1977 was being considered. Then, a bipartisan group of us raised the target prices both on corn and wheat by 25 cents a bushel over the last figure the President said he would accept. President Carter signed the bill and even tried to take credit for it. I believe we should give the President the opportunity to make an agonizing reassessment of his position on this matter. I believe the President will ultimately sign it. If he does not, then I will vote to override his veto.

To insure continuance of the family farm, to bring about the prosperity that arises from the land, I urge my colleagues to join me in voting "yes" for H.R. 6782.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the distinguished chairman of the Committee on Appropriations, the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, I rise in support of the conference report. The farm crisis does exist, and it is a severe crisis. American agriculture needs help if it is to survive as the most productive force in our Nation's economy.

Those who may have doubted that a crisis exists in American agriculture have had every opportunity to learn firsthand about it from the thousands of farmers who have been in Washington. They have told their story and they have told it well, and their story is credible.

Mr. Speaker, a significant aspect of this legislation is the flexible parity proposal. The 1-year trial of this method of supporting agriculture and helping agriculture support itself could be most helpful in the consideration of future farm legislation. As a 1-year experiment, it should be supported. Of course, no one

can predict the outcome of such an approach.

The bill before us is not a perfect piece of legislation, but it is the only measure available to us at the moment. Certainly, the present situation in agriculture is intolerable. We should have taken action weeks ago in regard to the problem which is confronting us.

Before us today is a bill which will improve the American agriculture picture and help the small farmer and farm communities survive.

Mr. Speaker, I urge approval of the conference report.

Mr. WAMPLER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois (Mr. MADIGAN).

Mr. MADIGAN. Mr. Speaker, I rise in opposition to the conference report. First of all, because no one knows how many people may participate in this proposed program. We do know, however, what the impact of massive participation in a 35- to 50-percent set-aside of any crops may be.

First, it would have a very adverse effect on our ability to export at a time when our trade deficit is the worst in the history of our country. There simply is no way that 50 percent of something multiplied by 3.45 can ever equal 100 percent multiplied by 2.50.

Second, it would have a very inflationary impact on the cattle rancher at the very time when the administration is talking about removing quotas on imported beef.

Third, the conference report would be another factor in encouraging other countries into even further expanding their agricultural production, so as to further usurp our markets by simply underselling us.

I think it is important to note exactly what the condition of the land is today, particularly in the most productive Midwestern States. The land is still very wet. This wetness will encourage a high participation in a set-aside program and the wetness itself will have a negative impact on yields this fall, probably as much as 100 percent, making, worse the problem that will be created by high percentage set-asides.

Finally, the question needs to be asked: If all this is being done as a means of increasing the farmers' ability to buy goods and services, thereby contributing to the success of the rural economy, then someone needs to explain how that will be accomplished by cutting back by either 35 or 50 percent the demand for fertilizer, fuels, seed, crop insurance, and everything else that goes into agricultural production. If that much of the fertilizer manufacturing capability is shut down in the United States this summer, it will not be back on stream the following spring, because they simply cannot do it that quickly.

Clearly, Mr. Speaker, these things have not been thought out, and when they are added up, it becomes very clear that the conference report should be rejected.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi (Mr. BOWEN).

Mr. BOWEN. Mr. Speaker, I was a conferee on this bill, and I am very familiar with it. I have been in this House for only 6 years and on the Agriculture Committee for that period, but I knew that sooner or later we would pass a farm bill that was bad for everybody—bad for farmers, bad for consumers, and bad for taxpayers—and we have finally done it.

My Republican friends on this side of the aisle tell me privately they know this is a lousy bill, but they want to sock it to Jimmy Carter and maybe pick up 30 or 40 new House seats as a result of his veto.

My Democratic friends on this side of the aisle who support this bill tell me they also know it is a lousy bill, but they are mad at Jimmy Carter because he did not do what he should have earlier to solve our farm problems administratively, so they want to sock it to him and let him veto the bill.

All these arguments have some validity, and I am especially disturbed that the administration has not done more and earlier to limit acreage and raise prices, thereby making this legislation unnecessary.

But my unhappiness with the administration is not sufficient for me to abdicate my own process of judgment and my own sense of conscience as to what is right and wrong.

I will not attempt to discuss the merits of this legislation for other parts of the country, but in my state and in my part of the country this bill would, if enacted, be a total disaster for farmers.

The bill would at first glance cause massive cutbacks in production, and this might be true in much of the Nation, where sharp inflation could result, but in the Midsouth and Southeast it would cause massive overproduction of cotton and underproduction of soybeans.

What would you think of a bill that allowed farmers to double and triple cotton acreage and call that a 50-percent set-aside? You would not think much of it, I hope, because that is just what this bill does.

A farmer who planted 100 acres of cotton in 1977 and 200 acres of soybeans could under this conference report double his cotton acreage in 1978, plant 200 acres of cotton and set-aside 100 acres that used to be soybeans. That would qualify as a 50-percent cotton set-aside and make that farm eligible for 100 percent of parity, the 84 cents a pound target price.

This practice followed throughout the cotton-soybean area of the country would inevitably force farmers to plant two-thirds of their crop acreage in cotton and set aside another third of their poorer land. Why gamble on $5, $6, or $7 soybeans when you can get an 84 cents target price for all your cotton on two-thirds of your best land? It would be the only sensible thing to do.

This process carried out widely throughout the South—at this time of the year it would call for some replanting and plowing under—would mean doubling last year's cotton production and cutting 26 million acres and 40 percent of the soybean crop. This would make the cotton price fall through the floor and bring a target price payment of $133 million per penny of exposure, or a total of $4.8 billion in deficiency payments to 100,000 cotton farmers.

Even with a more likely increase of 1, 2, or 3 million acres of cotton, the price would still fall to the loan level, the Government would acquire huge stocks of cotton and make massive outlays in deficiency payments—with a $40,000 payments limitation.

There are, it is worth noting, many farmers for whom a $40,000 payment would not provide an adequate supplement for farm income.

The price of cotton would clearly go through the floor and the price of soybeans through the ceiling. In the first instance, the so-called Dole bill would indeed become a massive Government dole and everything but a market solution, which its supporters claim it is.

I, for one, believe that farmers want their income in the marketplace and not in a dole from the U.S. Treasury.

In the case of soybeans, we could wreck the world market, create a worldwide foreign expansion of soybean production, and bring the reintroduction of export embargoes.

The response of the market next year after this 1-year bill would be a gigantic reaction in the other direction—the very rollercoaster effect we are trying to avoid. This bill works directly contrary to our efforts to stabilize agricultural prices for both producers and consumers.

This bill would be an administrative monstrosity requiring a Department of Agriculture five times the size of the present one to attempt to enforce the program. It would also be a disaster for cattlemen, pork producers, dairymen. poultry producers, and other feeders.

It would, in short, pit one farmer against another, farmer against consumer, and farmer against taxpayer.

It is very sad, in fact tragic, that the House Rules Committee, by a vote of 8 to 7, denied this House the opportunity to consider the Foley bill—a moderate 4-year reform bill which would have passed both Houses and, I believe, would have been signed by the President. If not, I am confident the veto would have been overridden.

If this conference report is defeated today, I urge the chairman of our House Agriculture Committee to begin immediate business meetings to develop new farm legislation, which I, and I know many others, believe is badly needed.

Our farmers need relief; they need it now, and they need it in the long run also, but this bill does not provide it. This is a bill supported by those who know it will never become public law, who know that if it passes this House, it will be vetoed, and that there are neither votes in the House nor in the Senate to override that veto.

We have today heard Members in this well call for support for a bill that they know will never help the first farmer, while they have earlier fought to defeat

legislation that would bring immediate relief and which could be enacted.

Mr. Speaker, I refuse to be a part of this pious process of deluding a group of great and hard-working Americans, the men and women who till our soil and produce our food and fiber. I will vote against this conference report as the quickest and most effective action to get back to the urgent task of drafting new farm legislation.

Mr. WAMPLER. Mr. Speaker, I yield such time as he may consume to the gentleman from Delaware (Mr. EVANS).

Mr. EVANS of Delaware. Mr. Speaker, I rise in opposition to the conference report.

Mr. Speaker, it is difficult not to be sympathetic to the problems of many American farmers. Even though relatively small in numbers, they feed not only 215 million Americans, but countless millions throughout the world. Thus, Government must develop policies which will help them stay in business.

Unfortunately, this legislation, the so-called emergency farm bill, will not benefit either the farmer or the consumer. It is a haphazard legislative attempt to solve problems by getting Government even more involved in agriculture, and it simply will not work.

History has shown that excessive Government involvement in agriculture—as this bill represents—leads to massive inefficiencies in production. Farmers will produce not what the market demands, but what brings the highest Federal subsidy. The result will be massive surpluses in some commodities, and critical shortages in others.

I also believe that one of the ways of increasing farm income is to export more of our farm produce overseas. Yet the massive subsidies that this bill provides will price American farmers right out of the world marketplace.

Further, we must remember that farmers are consumers, too. The poultry, dairy and livestock industries, which are very important in Delaware, will be severely impacted through higher feed grain prices. Costs of production will rise, thus putting these farmers into an even more severe economic squeeze than they are today.

For consumers in general, this bill literally mandates higher food prices. Because of the haste in which this bill is being considered, no one quite knows by how much food prices, already too high, will rise. But it appears that an average family of four would see their food bill increase by as much as $200 to $400 a year. Few Delaware families can handle that kind of increase.

Finally, Mr. Chairman, this bill will shoot holes in an attempt to curb inflation by controlling the growth of the Federal budget. Just yesterday, the President of the United States cited inflation as our No. 1 domestic problem, and called on Congress to restrain unnecessary Federal spending. I agree with him. Yet, today we are considering a bill which will add $5.7 billion to the already massive Federal deficit.

Mr. Speaker, the answer to the farm problem is not paying people not to produce. That has failed before, and it will fail again. The answer is to let farmers, not bureaucrats, determine what they will plant, and then guarantee new markets abroad for these commodities. I urge that this bad bill be defeated.

Mr. WAMPLER. Mr. Speaker, I yield 3 minutes to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, the measure before us today is designed to prevent economic disaster for the American farmer and to preserve the family farm. The American small farmer is facing a crisis. If this Congress is unwilling to assist him, he faces the prospect of literally being pushed off his own land. If we are serious in our often-stated desires to preserve the family farm, now is the time to turn those statements into action by supporting this report.

The administration has stated that this emergency farm legislation is inflationary and that it will lead to higher prices at the supermarkets. The fact is, however, that there are no solid estimates of what this bill will cost.

But, if we fail to pass it, I can offer some costs that will ensue. One likely result will be that many American farmers are going to be forced out of business because they cannot make a living at farming. A result of this is likely to be shortages at the supermarkets, and higher prices that usually attend such shortages. There also may be higher taxes required to pay for programs that will be needed, not only to allocate these shortages, but also to deal with the problems of dislocation we will see as the farmers leave the countryside to seek work in other areas.

The administration is trying to portray itself as a friend of the city dweller by opposing this measure, saying the city dweller will have to pay higher prices for food and fiber. But, the city dweller will also have to pay if the bill fails, through shortages, higher prices and probably higher taxes. And, the eventual price in human suffering may well be much higher. Thus, I think a vote for this measure is, in reality, a vote for the city dweller, as well as a vote for the farmer.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota (Mr. NOLAN).

Mr. NOLAN. Mr. Speaker, I urge my colleagues to support H.R. 6782, the Emergency Agriculture Act of 1978. This bill, which applies only to the 1978 crops of wheat, corn, and cotton, was reported out of the conference committee on April 5, 1978, and will soon come before the House for final approval.

The Emergency Agriculture Act increases the 1978 support prices for wheat, corn, and cotton to about 70 percent of parity for producers complying with set-asides already announced by the Department of Agriculture. The 70 percent of parity price floor, while an improvement, does not give farmers an opportunity to recover their production costs. Recognizing this deficiency, the conference committee also provided farmers with the option of qualifying for higher target prices under the flexible parity provision, if additional cropland is set aside.

BIASED BUDGET ESTIMATES

The Carter administration has resorted to biased "advocacy economics" in an attempt to discredit the Emergency Agriculture Act of 1978 (H.R. 6782). The administration's economic analysis of H.R. 6782 is based upon worst-case assumptions which have only a remote chance of occurring. The administration conveniently fails to note that if the same worst-case assumptions are applied to the recent USDA initiatives, their own program has disastrous economic implications. No one who understands our farm economy would be deceived by economic analysis based on improbable worst-case economic assumptions. Those who are not familiar with the farm economy should carefully examine the administration's questionable economic analysis.

FOOD PRICE INFLATION

According to the administration, H.R. 6782 will "increase food price inflation to double digit levels."

The above statement is obviously misleading. Economists currently are forecasting a 6 to 8 percent increase in food prices for this year in the absence of any additional farm legislation. USDA predicts that H.R. 6782 will cause retail food prices to increase by 2 to 4 percent. CBO projects a more moderate increase of 1.1 to 1.5 percent, or, a $46-$63 increase in the food bill for an urban family of four—a modest increase in consumer food prices.

H.R. 6782 provides farmers an opportunity to obtain an income which will give them a better chance to meet their production costs and continue farming. If the House defeats H.R. 6782, the Nation's farmers would receive a clear message that they (along with urban consumers) will be stuck with a 6 to 8 percent rise in consumer food prices, but will still be expected to produce at a loss.

In 1972 and 1973, farm commodity prices hit their high marks. Since that time farm income has dropped precipitously, but consumer food prices have failed to drop accordingly. According to CBO and USDA estimates, H.R. 6782 will raise farm income, but not to the peak levels of the early 1970's. From USDA's point of view, however, no matter how low farm commodity prices have dropped, any recovery in prices, regardless of how slight or from whatever depression level, is denounced as inflationary.

It is not fair to continue making farmers the shock absorber for everybody else's inflation.

COST TO THE GOVERNMENT

According to the administration, H.R. 6782 would add as much as $6 billion to the Federal budget.

CBO, in its budget estimate dated March 29, 1978, expected the fiscal year

1979 cost to be $4.2 billion and later revised the figure upward to $5.7 billion. CBO also expected H.R. 6782 to result in a $1.4 billion saving to the Government in fiscal year 1980 as higher market prices reduced Government costs.

Economic analysis is worthless unless costs are weighed along with benefits. USDA, however, has not undertaken any analysis of how increased farm income will expand purchasing power and stimulate the economy.

The administration's economic analysis is also full of contradictions. On the one hand, USDA assumes high participation in the flexible parity program and sharply reduced stocks. This could cause market prices to rise substantially and thus reduce Treasury costs. On the other hand, USDA denounces the alleged high cost of H.R. 6782, ignoring the fact that the worst-case assumptions reduce Treasury costs.

EXPORT MARKETS

According to the administration, H.R. 6782, by sharply reducing production and increasing prices, could seriously undermine our competitive position in world markets.

This is another of USDA's worst-case assumptions, one that applies equally well to the Department's recent initiatives.

The main question which USDA has ignored for decades is: "Why sell at a loss?" By continuing to do so, U.S. farmers are exporting their equity abroad, thus undermining the economic stability of U.S. agriculture. Exports of cheap grain aggravate the Nation's trade deficit. H.R. 6782 will increase the market value of U.S. farm commodities so that even if the volume exported is reduced, the value will increase. In USDA's own issue briefing paper on the American Agriculture Movement's proposal for 100 percent of parity, the Department estimates that at 100 percent of parity, the United States will lose 30 percent of its grain exports, but the value of all commodities exported increases by $7.5 billion the first year and continues upward in subsequent years. H.R. 6782 will not raise farm prices to 100 percent of parity, but any loss of export markets will be balanced by the increased value of the commodities exported.

USDA has been more interested in maintaining the volume of exports rather than increasing the value of the commodities exported—a policy which injures U.S. farmers and increases the Nation's trade deficit.

ADVERSE EFFECTS ON LIVESTOCK INDUSTRY

According to the administration, if H.R. 6782 were enacted, "the higher feed prices that result would adversely affect our own livestock industry."

Contrary to USDA's assertion that producers will set aside the maximum under the flexible parity provisions, CBO estimates that only 60 percent of the feed grain producers will enter the program and the remainder will stay out because they feed their grain. Again, USDA is using improbable assumptions to make its case. The charges that the bill would hurt the livestock industry are not coming from family-size farmers who produce both feed grains and livestock, dairy, and poultry. The opposition is coming from larger than family-size agri-business operations.

The livestock industry has been in its loss situation for several years because cheap feed has induced overexpansion. Raising feed grain prices now will restrain another expansion cycle in the livestock industry, thus leveling out the roller coaster price of meat.

BUREAUCRACY

According to the administration, H.R. 6782 will "require vast new layers of bureaucracy to administer" the new program.

County ASCS officials know how to measure land and they have performed the task competently in the past. Signup and measurement pose no problems.

MAJORITY OF BENEFITS GO TO SMALL NUMBER OF FARMERS

According to the administration, H.R. 6782 "would direct the vast majority of its benefits to a small number of the very largest of our farmers, rather than those in the greatest need of help." USDA estimates that 5 percent of the farmers would receive one-third of the payments under this bill. The bill includes a $40,000 payment limitation.

The administration ignores the fact that 95 percent of the producers cannot survive at 70 percent of parity—which is the latest administration position. Small and medium size family-farmers need better commodity prices in order to survive. According to USDA's own issue briefing paper on the American Agriculture Movement's proposal for 100 percent of parity, the Department states that 100 percent of parity prices "slow the decline in farm numbers" and increase the number of small farms.

The past several decades of farmland expansion have been fueled by low farm commodity prices. Producers had to increase the size of their farms in order to reduce the per unit cost of production. The higher farm commodity prices which will result from H.R. 6782 will slow farmland expansion, and, by increasing market prices, will provide medium and smaller farmers with the income they need to maintain their operation.

It is unusual to find the administration crying crocodile tears for small farmers, given their past track record. Last year the administration did not support an amendment to prevent nonfarm corporations from receiving farm program benefits. This year, the administration failed to provide any funds for the small farm research and extension program authorized by the 1977 farm bill.

The administration supported raising the interest rates on FmHA loans, to the detriment of medium and smaller size farmers. The administration opposed the provision in the Emergency Agricultural Credit Act which authorizes low-interest, graduated payment FmHA loans to new farmers so that they may compete for the purchase of farms, thus reducing farmland expansion by big farmers. Finally, the administration should realize that low farm commodity prices will continue to drive the small- and medium-sized farmers out of the business.

PRODUCERS WILL SHIFT ACREAGE TO CROPS DESIGNATED IN THE BILL

According to the administration, the planted acres of crops not included in H.R. 6782 will be severely reduced.

USDA is particularly concerned about a reduction in the planting of soybeans, but again, the Department employed worst-case assumptions. If USDA fears a substantial movement out of soybean production, such a tide could easily be stemmed by simply raising the soybean loan level.

UNITED STATES WILL BE RESIDUAL GRAIN SUPPLIER

According to the administration, H.R. 6782 would make the United States the prime adjuster of world food supply in order to balance supply and demand.

Currently, with its cheap food policy, the United States is already the residual supplier. Other exporting nations will continue to undersell the United States whether our prices are high or low. The level of prices is not the major factor in the maintenance of export markets. Rather, U.S. farmers do not have an effective marketing agent for their production. Private U.S. grain traders cannot compete with the grain boards which conduct the sales for other nations.

The United States will not be the residual supplier of grain if Congress enacts the Weaver bill, H.R. 11294. This bill gives the Commodity Credit Corporation the authority to designate the Commodity Credit Corporation as the seller or marketing agent for export sales of U.S. grain. Given the great volume of U.S. grain involved in the export trade the CCC will be able to bargain for higher export prices. Such a program gives the U.S. flexibility as a price leader so that we will maintain our current export markets and develop new ones through CCC negotiation of reliable long term sales which private grain trades are unable to transact.

PARTICIPATION IN RESERVE PROGRAM

Again, this fear is based on a worst-case assumption that stocks will be severely reduced.

The existing program, however, has been no more than a last resort measure for farmers. Until the recent administration initiatives, farmers had no economic incentive to lock up their grain for 3 years. Only after heavy pressure from Congress and farmers did the administration agree to raise the storage payments to realistic levels and consider waiving the interest charges. Last year the administration resisted establishing a grain reserve large enough to stabilize supply, but last month the administration finally agreed to increase the size of the reserve stocks.

The current reserve program will never provide farmers with an opportunity to obtain a fair income because the stocks will be allowed to flow onto the market at price depressing levels. Last year, the administration resisted establishing higher loan release and call-in levels. The grain reserve program, the so-called

cornerstone of administration farm policy is therefore a defective mechanism as it now exists.

Under current policy and under the program established by H.R. 6782, the administration has the authority to raise the loan release and call-in levels to realistic levels which will make the reserve program work to protect farmers and consumers from boom and bust prices.

BUYING TIME FOR FARMERS AND CONSUMERS

H.R. 6782 is only a 1-year emergency measure. With or without H.R. 6782, follow-up legislation is necessary for 1979–81.

The recent USDA farm program initiatives provide only a 70 percent of parity floor under farm income. Farmers cannot survive at these poverty levels which are below their cost of production. H.R. 6782 offers farmers immediate economic assistance at realistic levels.

Without H.R. 6782 and without follow-up legislation farmers can expect a continuation of the boom and bust cycle and its erratic swings in commodity prices. For consumers, however, the price of food never comes down when farm commodity prices slid into the bust phase.

I again urge my colleagues to reject the administration's erroneous and panicky appraisal of the Emergency Agriculture Act and to vote in support of H.R. 6782. I also urge my colleagues to request that the House Agriculture Committee immediately begin consideration of a long-range farm program which will stabilize the agricultural economy at price levels fair to farmers and consumers.

Mr. WAMPLER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from North Dakota (Mr. ANDREWS).

Mr. ANDREWS of North Dakota. Mr. Speaker, I appreciate my colleague's yielding me this time.

One of the things in this entire debate on the rule and in the debate so far on the conference report that bothers me is that nobody has given the American farm families the credit they deserve, credit for being the most efficient and effective producers of food and fiber anywhere in the world.

The consumers who have listened to this debate so far might have the idea that somehow or other the Congress is setting up some type of subsidy or handout to the farmers. Nothing is farther from the truth. The American farmer can compete with any farmer anywhere in the world. The $5 top price for wheat in this bill and the $3.50 price for corn in this bill are lower in fact than the support price on corn and feed grain in almost every nation in the world, certainly in every nation in the Western part of the world.

When our farmers in North Dakota raise wheat and ship it in export in competition with their Canadian neighbors on the other side of the border, they find the Canadian farmer gets an 80-cent-a-bushel rail rate subsidy which the American farmer does not get.

Our farmers can compete with any farmers anywhere in the world. They cannot, however, compete with other governments, and they cannot compete in the face of rigged tariff barriers.

We must give our farm families the help they need so they will be here producing for us during the next several years. If we do, we will serve not only the farm areas but the consuming areas in this country, because that will give us the production we need all over this great land of ours and give us the exports we need to maintain an acceptable balance of payments and pay for the fuel we have to import.

Mr. Speaker, our farm families deserve to be praised, not censored. All we are trying to get for them is a fair shake compared to the markets of the world.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, I come before my colleagues today as a member of the House Agriculture Committee to urge that they vote against the conference report on H.R. 6782, the emergency farm legislation.

The congressional district I represent is heavily dependent upon agriculture for its economic well-being. It is one of the leading producers of feed grains, soybeans, and livestock. However, while I feel very strongly that a healthy agricultural environment is essential to our entire Nation, I do not believe that this legislation serves the best interests of American agriculture, or the Nation as a whole.

Let me state that I am in total agreement with those who argue that the average American farmer today is caught in a vicious squeeze between rising costs of production and credit on one hand and sagging income in the marketplace on the other, particularly in the wake of two of the largest grain harvests in history. This is a situation which certainly deserves the attention of our Nation's policymakers. However, after careful study of the proposal and close consultation with farmers in my district, I believe that H.R. 6782 is not the right approach.

My primary concern with this approach stems from the "flexible parity" plan contained in the legislation. The "flexible parity" plan represents a fundamental departure from a market-oriented agricultural system. Among other ramifications, its implementation could place the future of American farm export markets and the economic recovery of our livestock, dairy, and poultry industries in serious jeopardy.

If H.R. 6782 is adopted, as much as one-third of our national corn, wheat, and cotton acreage could be removed from production. Carryover stocks of corn and wheat have been at an alltime high, and they have been a major cause of the depressed grain markets. It is estimated that by the end of the year we will have on hand 1,200,000 bushels of corn or 20 percent of normal production.

If this bill were to become law, and if there should be good participation by corn farmers accompanied by poor weather, we could face an actual shortage and the prospect of embargoes again on exports.

Mr. Speaker, the last thing we need at this time is the possibility of new embargoes. It is a hard fact of life that America no longer enjoys a seller's market in the world grain trade. Past embargoes on sales of wheat, corn, and soybeans have not helped our reputation with major consuming nations like Japan and the Soviet Union which were forced to seek out new suppliers such as Canada and Brazil. If the reliability of U.S. farmers as suppliers of food for the world market is challenged, the U.S. trade balance, to which American agriculture last year contributed a staggering $24 billion in sales receipts, might ultimately be eroded.

Indeed, the failure to provide a safety valve or cap on the amount of land taken out of production, in the event of bad weather, or other unforeseeable circumstances, is one of this measure's most serious flaws.

In addition to its economic ramifications, H.R. 6782 could also mean a particularly cruel hoax for the individual farmers who decide to participate fully in the "flexible parity" plan. The "flexible parity" provision promises farmers full parity price payments guaranteed by the Government if they idle half as many acres as they plant in corn, wheat and cotton. This would be accomplished by direct Government payments to the producer of the difference between guaranteed price (target price) and loan or market price, whichever difference is the least. However, if a crop shortfall should drive the commodity market price to the level of the Government price guaranteed in this bill, the participating farmer would get absolutely nothing. His loss would be compounded, too, because he would have idled up to a third of his land in order to participate in the "flexible parity" plan and he would have a diminished harvest with which to take advantage of the strengthened market prices.

Meanwhile, his neighbor across the road who did not participate in the program would reap the benefits of the higher prices, and be able to plant all his land without taking a single acre out of production.

Under recent action taken by the administration, the corn farmer who sets aside 20 percent of the land he plants is guaranteed about $100 for each acre set aside, no matter what happens to market prices. It seems to me that the present program is much fairer to corn farmers, and does not pose such a threat to export markets.

The farm problem is complex and there is surely room for disagreement as to how to solve it. However, I do not believe that the solution can be found through increased Federal involvement in farm production by means of an extremely complicated acreage set-aside program and a substantial hike in the direct Government payments to producers which will cost between 3 to 5 billion tax dollars beyond current budget provisions.

I believe that the key to improving farm income lies in implementing a pro-

gram which will bring supply and demand into better balance so that farmers can receive a fair price for their products in the marketplace. To my mind, that means increasing markets abroad and decreasing production at home through a sound and reasonable program.

I therefore ask that you join with me in opposing this conference report.

Mr. Speaker, we all agree that farm income is important, and I do not think the question today is whether or not farm income is important or whether this is an inflationary bill. I think the problem is how we can best attack the problems of the farmer.

I come from a corn area. I do not question for a minute that the problems of some of the wheat and cotton areas may be somewhat different from those that we face. My farmers depend heavily upon exports of our product. In that regard, I do not think we are unique. At the end of this crop year, our corn carryover will be 20 percent of 1 year's production. We are requesting that farmers cut production by 30 percent. I ask this question: If we have bad weather, how are we going to have enough corn to supply our foreign customers?

We have had embargoes before. I do not think any of us want any more embargoes. I think it is important that we maintain those export markets.

Mr. WAMPLER. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma (Mr. EDWARDS).

Mr. EDWARDS of Oklahoma. Mr. Speaker, I rise in support of the farm bill embodied in this conference report.

I represent an urban district, and yet this bill is of critical importance to my constituents. The economic health of the cities depends in large part on the well-being of the farmer. If grain and fiber are in short supply, we in the city suffer.

Yes, this bill has a price tag. But this House consistently votes to spend $7 billion, $8 billion, $10 billion for foreign aid; hundreds of millions of dollars for fish protection. Tens of millions of dollars to preserve historical sites in Lowell, Mass. And now with farmers facing bankruptcy, suddenly my colleagues decide its time to cut Federal spending. My colleagues who spend so much so often who have created the inflation they are now so shocked by, suddenly find that there is a group in America they are not concerned about: Those farmers who consistently get the short end of the stick.

What is sauce for the goose, it seems, is poison for the gander. The Government that helps every nonworker, every nonproducer, has no funds left for those who work hardest, longest, and for the least reward.

And yet the farmers asks for no handout. He asks for no welfare. He asks only for a climate in which he can grow his products and sell them for a profit. He asks that the same Government that drives up the cost of fertilizer and tractors, that stimulates imports and discourages exports, now allow farmers the freedom to use the tools of a free market, the laws of supply and demand to earn a living as they provide the Nation with its food.

No, this bill is not perfect. I would write it differently. Every farmer I know would write it differently. But this is the only bill we have been able to get. It offers some relief for a segment of our society that badly needs relief.

For the sake of all Americans, those who live on farms. Those who live in the towns and those who live in the cities, I urge you to vote for this farm bill. You cannot responsibly do otherwise

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from Tennessee (Mr. JONES).

Mr. JONES of Tennessee. Mr. Speaker, I rise in support of the conference report. I want to emphasize to my colleagues that without a doubt, the American farmers are facing their darkest hour in many decades. Net farm income has fallen from about $33 billion in 1973 to about $20 billion in 1977. I know of no segment of our economy that can sustain the radical drop in income of this nature and still survive.

The farmers have taken in slack. They have tightened their belts. They have produced food and fiber for this country at below the cost of production. Many of us in this body have expressed our sympathy for the farm situation and have pledged ourselves to doing something about it. I voted for this provision in the conference and I intend to vote for it today because farmers need help. They need help this year and if they are going to get help this year, this is the only answer.

We have been told that the President intends to veto the bill as inflationary. I submit that it is his Constitutional right and duty to do as he sees fit. However, it is our right and our duty to address this agricultural situation and to do it quickly. Unfortunately, the issue in this proposal has become a political football. In some ways, I think the farmers who have been visiting in Washington for about 4 months now have been ill advised to pursue this particular type of program. But, I made a commitment to farmers, not only in Tennessee, but also the farmers across this Nation, to do what I could to help.

I have been involved in farming and agriculture all of my life and, yet, I still am astounded to look at what has happened to the cost of producing farm products in the last 4 or 5 years. This bill would provide some relief for 1 year and, even though I am skeptical of its provisions, I think we should give it a fair test.

Farmers need help. They need help this year. They need help today and I intend to support the conference report.

Mr. WAMPLER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Montana (Mr. MARLENEE).

Mr. MARLENEE. Mr. Speaker, I rise in support of the conference report. Today, my colleagues, you have the opportunity to change the destiny of the agricultural industry. To change it from an industry doomed to perpetual surplus with a huge grain reserve, to change it from an industry doomed to financial failure, to change it from an industry doomed to take over by corporations and interests outside of the family farms.

As a member of the Agriculture Committee, as a Representative of the second largest grain, farm district and, yes, as a farmer myself, I am totally convinced that the conference report legislation is the best vehicle we have ever devised to take the farmer out of a surplus position and put back in a position where the can deal with the free market system. It can do this without the drain on the Treasury that has been reported by CBO.

Simply under this bill, the farmer voluntarily takes out of production a percentage of his acres. The more he takes out, the higher price he receives on the balance of his seeded acres. A true incentive to take acres out of production. The more acres he takes out of production, the fewer bushels of grain on the market. The fewer bushels of grain on the market, the higher price we have in the marketplace. The higher the market price, the smaller the subsidy payment to the farmer. In their manipulation of costs of the program, the economists overlooked this very simple, ecnomic theory.

In my letter from the Department of Agriculture, Office of the Secretary, Mr. James C. Webster's briefing paper, I quote from page 2 producer response:

H.R. 6782 would offer producers strong economic incentive to participate and, once in the program, to make maximum acreage set-asides. At the highest set-aside compliance level (50 percent), producers' returns over cash costs would be higher than under the current program by $15 per acre for wheat, $33 per acre for corn and $34 per acre for cotton, national average basis.

One thing this bill does not do, my friends, it does not create a huge grain reserve of 200 to 300 million bushels, that would be paid for by the taxpayers. It does not do this. As a matter of fact, today we all received an issue briefing paper from USDA which stated the impacts. Quoting from page 4:

The farmer-held grain reserve would not be workable under H.R. 6782 even with high yields. Under the current program a reserve of 1.6–1.8 billion bushels would be accumulated. The lack of reserves would undermine our reliability as a supplier to domestic and foreign markets.

And again on page 3:

Higher prices and reduced supplies would threaten our ability to meet our food aid commitments world-wide.

My colleagues—higher prices in the marketplace? Reduced supplies? Is that not what we have been working for?

One thing this bill is designed to do is take the farmer from a subservient position to one where he can operate his own farm, make his own independent decisions without the Federal Government.

The farmers have been controlling inflation on their production. From 1940 to 1971 the prices farmers received for

their production increased only 2.7 percent while their costs increased 71.4 percent. Inflation, you bet, but not from the farm.

Then, in 1972, 1973, and 1974 farm grain prices doubled, the price of tractors and combines doubled, then depression. Prices received were cut in half, while prices paid continued to rise until right now the ratio that grain farmers receive for their product in comparison to what they pay is worse than the Great Depression.

Why is it when the farmer wants a price recovery it is suddenly considered inflationary. When he is only trying to recover ground lost in the great grain crash of 1975, it is inflationary. But it is not inflationary.

BUDGET OUTLAYS (ESTIMATED)

*International Affairs; Estimated*

| | (*In billions*) |
|---|---|
| Foreign economic and financial assistance | $5.3 |
| Military assistance | .5 |
| Foreign affairs conduct | 1.1 |
| Miscellaneous | .9 |
| Total | 6.7 |
| Loan guarantees authorization increase New York City | 2.0 |

*Domestic (Authorized Outlays)*

| | |
|---|---|
| Shipbuilding and operating subsides | $507,109,000 |

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. RICHMOND).

Mr. RICHMOND. Mr. Speaker, as the only urban member of the House Agriculture Committee, I oppose this emergency farm bill. I am deeply concerned that we have lost sight of the broad-based urban/rural coalition which has taken over 3 years and immeasurable work to establish. As a member of the conference committee on H.R. 6782, I oppose the conference report for the following reasons:

First. The farm bill will raise consumer food prices to unacceptable levels. The bill adds 2 to 4 percent to this year's already expected 7- to 9-percent increase, or up to $200 for an average family of four. This totally unnecessary cost hits hardest on those families who are on tight budgets, working families with children, the elderly, and persons on fixed incomes.

Second. The farm bill helps mostly large farms at the expense of small farms. The largest 5 percent of farms will receive 40 percent of the benefits, while the smallest 60 percent of farms will receive only 15 percent of the benefits. Yet it is the small farms that are in most severe financial difficulty.

Third. The farm bill hurts dairy and livestock farmers. Higher feedgrain prices will cause these farmers to pay more for feed over the next 2 years. Cost of production will rise, putting dairy, livestock, and poultry farmers into another cost-price squeeze.

Fourth. The farm bill is inflationary and will increase the Federal spending deficit. Total cost of the bill is estimated at $5.7 billion, most of which will be paid out of the U.S. Treasury. The overall Consumer Price Index will rise a full 1 percent and the administration's and Budget Committee's plans to control inflation will be wrecked.

Fifth. The farm bill will seriously deplete food stocks. Stocks of U.S. grains could be reduced to 1974 levels. Even higher prices would result, with possible shortfalls for both exports and food-aid programs.

Sixth. The farm bill is not consistent with current laws. Because the bill is for only 1 year, it will destroy the supply-demand balance and artificially inflate prices. When the bill expires, farmers will suffer a serious depression and we will return to boom-or-bust agriculture.

Seventh. The farm bill avoids long-term problems faced by farmers. Such as foreign land speculation, inadequate crop insurance, middlemen profits, overuse of chemicals and petroleum-based energy, increasing foreign markets, and corporate farm takeovers.

Eighth. A farm bill of this scope is not necessary because prices are rising. The prices of wheat and feedgrains have risen dramatically in recent months, easing the farmers' plight. As they approach cost of production, farmers are finding it easier to survive the crisis with less Government assistance.

Ninth. The administration has already acted to help farmers in several ways. By increasing payments farmers receive when participating in the reserve program, purchasing wheat to build an emergency international reserve, raising price supports for soybeans and rice, and adjusting cotton and feedgrain production, the administration has demonstrated its commitment to help farmers.

Tenth. The farm bill will reduce U.S. agricultural exports. The high prices provided by the bill will make U.S. commodities overpriced and noncompetitive on the world market. This could further increase our already serious balance-of-payments deficit.

Eleventh. The House has not had a proper opportunity to deliberate this bill. Since the Senate conference report was never considered by the House Agriculture Committee and never brought to the House Floor, there has been no opportunity for markup, debate or floor amendments. Thus, House Members have been deprived of their responsibility to fulfill the legislative process on this legislation.

Twelfth. Emergency credit legislation has already been approved. The House and Senate Agriculture Committees have already approved a well-thought-out $4 billion fiscal relief package of guaranteed loans for hard-pressed farmers. This bill should be considered by the House in the near future.

Mr. Speaker, during over 3 years in the House, I have gained the confidence of small American family farmers and I appreciate, understand, and support their goals. I do not intend to give up this support by voting for this bill and I strongly urge you, especially my urban colleagues, to join me in my demands for a balanced approach to establishing a sound farm program and vote no on this conference report.

Mr. WAMPLER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Speaker, it has been mentioned a number of times that this program would be harmful to dairy farmers and beef farmers.

Do not believe it. The dairy farmer is going to be in serious trouble if this bill does not pass. The reason is that Government dairy price supports purchases are going up. They are going up, and it was estimated a little earlier this year that Government purchases would be over $1 billion in this year. Last year purchase totaled $700 million, the year before $129 million. The dairy price support at 80 percent of parity expires on March 31 of next year. Unless something is done in the dairy industry to reduce Government purchases supports at 80 percent of parity will not be continued. What needs to be done will not be done, so that the feed prices will continue to increase.

The reason dairy production is up requiring high Government purchases is that the cheap feed has caused dairy farmers to feed a tremendous amount of the feed to their cattle as way of getting rid of it. This has increased production, low beef prices has slowed the culling of dairy herds.

Both higher feed prices and higher beef prices will reduce milk production, reducing Government purchases.

Mr. Speaker, the best thing for the dairy farmer, the best opportunity for him to continue 80 percent of parity dairy price supports beyond March 31, 1979, is that this legislation passes.

I urge the Members to support this bill.

Mr. FOLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Speaker, it is obvious that there is a serious problem in American agriculture. I think that it is grossly unfair to force the farmers to sell their crops for less than the cost of production. Because of the debts which they have incurred, more and more small farmers are having to sell out to large corporations. In the long run if American agriculture becomes concentrated, large corporations may be able to manipulate prices to the detriment of the consumer.

I do not consider the Emergency Agricultural Act to be an adequate solution to the problem. I would much rather see the farmers planting fence row to fence row and have adequate markets to sell their produce at a price which will enable them to recover their cost of production with a reasonable profit. Because past administrations have not been aggressive in opening up export markets and in negotiating reductions in tariff barriers for American products, this is not an option for the 1978 crop year. An increase in the export markets would help solve two problems. In addition to improving farm price levels, it

would help correct our serious balance-of-payments deficit. To date, the administration has done little to insure the certainty of markets abroad.

In the long run, we really need to develop a comprehensive agricultural policy. This policy will have to balance all of the disparate views and interests.

In the short term, there is a crisis which must be addressed very quickly. The administration has refused even to negotiate over possible solutions to the short-term problem. On Monday, April 10, I was in a meeting with Secretary of Agriculture Bob Bergland. He certainly left the impression that the administration was unwilling to consider any measures. The actions of the administration in communicating with the Rules Committee the next day confirmed this impression. There was a motion to make it in order for the House to consider an alternative measure if the Emergency Agricultural Act should not have sufficient votes for passage. The administration indicated to the members of the Rules Committee that it was unwilling to have any compromise even considered, and the motion was defeated.

For a long time I was genuinely undecided on which way to vote because I was not really satisfied with the bill. I had hoped that the President would work out an acceptable compromise, but the administration refused to even discuss the issue.

I cast my vote knowing that President will veto the bill, if passed, and that there will not be enough votes to override the veto. In many ways, I feel that the vote may be symbolic. It may be a way of demonstrating to the White House that there needs to be a better dialog between the administration and the Congress on the whole range of farm issues.

The passage of the bill will send this message to the President.

I cast my vote in the hope that in the event the bill passes, the consequences of a veto will force the President to consider the problem and come up with a meaningful program. At a very minimum, I hope that the President will accompany the veto with an announcement that additional actions will be taken under existing authority.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, President Carter and Secretary Bob Bergland are doing the most effective single thing to help the American farmer stay in the business of raising the food for this Nation; that is, they are invigorating the grain reserve, and by so doing are bringing up grain prices. At the same time they are protecting the consumer by assuring our food supply at stable prices. Both these benefits are achieved at little cost to the Treasury.

I was listening to the speech made by the distinguished and able gentleman from Maryland, when he took this administration and the majority party to task, I would like to point out that in my 3 years in the Congress, on the vote on the farm bill, in 1975, the gentleman from Maryland voted no. On the vote to sustain the veto or the bill to raise target prices, the gentleman from Maryland voted to sustain the veto. In last year s farm bill to raise target prices, the gentleman from Maryland, the minority spokesman, voted no.

Mr. WAMPLER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Minnesota (Mr. HAGEDORN).

Mr. HAGEDORN. Mr. Speaker, the Emergency Agricultural Act before us today is the best possible piece of legislation Congress can pass at this time to help our Nation's farmers and the economy as a whole.

This legislation will give the individual farmer the opportunity to participate in the program to the degree he deems beneficial to his operations. This legislation is to be commended for providing the incentives to the producer while at the same time allowing him to exercise his own judgment in determining his involvement in the program.

This legislation would also provide the farmer with a fair and equitable return on his inputs, initiatives, and labor. The inflationary cost of production (land, machinery, fertilizer, and energy), coupled with low, unstable market prices has caused serious financial hardships to the farmer. In addition, it has discouraged many young people from becoming involved in the already dwindling farm business. (Less than 4 percent of the U.S. population lives on the farm.) The farmer can no longer accept the sharp cyclical trends in the economy and still survive.

Agriculture and the American farmer have been the backbone of our Nation from the beginning. It is imperative to note that when the farmer falters, so does the entire economy.

When the productivity of the American citizen is declining at an alarming rate, the American farmer's productivity is steadily increasing. It is indeed a social injustice to make the farmer the whipping boy for inflation.

While an overblown campaign has been launched against this legislation, terming it inflationary, I feel several major points have been neglected.

I think it is fitting to point out that in recent years the Presidents that have come into office, and want to attempt to launch an initiative against inflation, seem to want to cut their anti-inflation teeth by vetoing farm legislation.

I think there has been ample evidence offered already this afternoon that this legislation will not be inflationary. It will provide the American farmers with a very basic price, which they deserve. Second, I think we ought to point out that this Congress, in 1977, established a limitation of payments under this section of $40,000 per farmer. I happened not to support that. I wanted to keep it at $20,000, but 230 Members of this body said, "No, we want a higher payment."

That is part of the problem today when we look at these inflated estimates of what this legislation is going to cost. It is that those people who raised this limit, are now saying they are high.

Under title I, section 101, of the Food and Agricultural Act of 1977, there is a $40,000 payment limitation for each farmer. This provision, therefore, offers assistance to the family farmer while at the same time places a ceiling on payments to larger, corporate farmers.

The law of supply and demand would suggest that with the increased incentives to set aside additional acreage, the supply would decrease. However, the demand for these products would push prices up in the marketplace, thus offsetting the need for total deficiency payments. In my view, the $5 billion figure quoted is in itself inflated.

While figures and statements have been made regarding the cost of this legislation, the Congressional Budget Office estimates show that the average family would only pay about $1 or $2 a week more, or about $63 a year with 100 percent parity. Furthermore, I feel that the Harris Survey speaks for itself. The poll shows a 54 to 36 percent majority would be willing to have food prices rise by 5 percent in order to give farmers 100 percent parity. Even more interesting is the fact that urban residents, by a margin of 48 to 37, favored parity and were willing to pay the 5-percent increase.

It is evident from this study that the plight of the American farmer crosses all social and economic barriers. It should also serve as an indicator of the support that has been generated for this legislation.

Following is the article written by Louis Harris entitled "Overwhelming Majority":

[From the Wichita (Kans.) Eagle, Jan. 30, 1978]

OVERWHELMING MAJORITY

(By Louis Harris)

By 80–13 percent, an overwhelming majority of Americans is in sympathy with the farmers who have taken to their tractors to protest falling farm incomes.

Moreover, by 5 to 1 the public supports the basic demand of the farmers, which is to raise the prices of the crops they sell so that they would be based on 100 percent of parity. This would guarantee them a profit and enable them to make ends meet.

Of course, the acid test of such public backing is whether consumers would be willing to pay higher food prices to relive the plight of the farmer. Over the past few years, Harris Surveys have consistently shown that, along with energy and health, more than 8 of every 10 Americans attribute their rising cost of living to the high cost of food. Indeed, in this latest survey of 1,259 adults nationwide, when asked how worried they would be about their own food costs rising rapidly if farm prices were allowed to go up sharply, 35 percent said they were "greatly worried" and another 47 percent were "moderately worried."

Despite this, the public feels so strongly about the plight of the farmer that a 54–36 percent majority would be willing to have food prices rise by 5 percent in order to give farmers their parity goals. To be sure, when people were asked if they would be willing to see their food costs go up 10 percent, a 68–19 percent majority then said they would oppose the farmers' position.

But accepting a 5 percent rise in food costs is not insignificant. There are very few occa-

sions these days when Americans express a willingness to pay more for any product or service.

Part of the reason for this deeply felt sympathy for the farmers can be traced to the fact that most people do not blame farmers for high food prices. By a lopsided 87–4 percent, a majority continues to agree with the charges of farm protest leaders that "food middlemen rather than the farmers are the ones who make most of the profits in food."

In many ways, these latest results are an unusual testimony to the fact that people do not behave strictly according to their own economic self-interest. Farmers are now less than 4 percent of the population. More than 3 out of every 4 Americans live in an essentially urban setting. Yet it is apparent that most people do not view the question as a simple matter of producer vs. consumer interests.

This becomes clear in a more detailed analysis of the pivotal question dealing with people's willingness to see their food prices rise by 5 percent in order to give farmers 100 percent of parity in prices, a level that will insure them a profit on their products:

Among people who live in big cities, a 48–37 percent majority favors parity, even if it means a 5 percent rise in their own food costs. To be sure, rural residents support the move by a higher 60–33 percent. But the key fact is that in the big cities, the issue has not been cast as consumers against farm producers.

Among union members, a high 59–33 percent majority would be willing to pay 5 percent more in food costs to give farmers their price goals. It is evident that union labor is capable of identifying with the plight of farmers, despite the long history of farm and labor union organizations being at loggerheads on most issues in Congress.

The most affluent and educated groups are also most supportive of the protesting farmers movement. Among the college educated, a 57–34 percent majority is willing to pay 5 percent more for food costs, as is an even higher 62–29 percent majority of professionals. Among those with incomes of $25,000 and over, willingness to pay more to see parity given to the farmers reaches a high-water mark of 63–33 percent.

It is evident that the plight of farmers has become a matter of conscience to millions of Americans. And their depth of conviction is such that they are willing to affect their own economic status to see what they feel is just done for farmers.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. FITHIAN).

Mr. FITHIAN. Mr. Speaker, I rise in strong opposition to this bill. I would urge my colleagues on the other side of the aisle and on our side of the aisle to consider what we are going to do to American agriculture if this should become law. We know the politics which brought this here, but I would ask my friends to put the politics behind and consider how important it is to American agriculture to maintain its overseas sales operations. If this bill becomes law, we are going to destroy that.

Second, this is an unworkable bill. Everybody knows it is an unworkable bill. Not one single speaker here today would really defend this as a workable piece of legislation. It is destructive of the livestock industry; it is destructive of the dairy industry; it is destructive of the marketing relations, which will ultimately destroy the grain industry.

I would plead with the Members not to fall into the trap of trying to push this legislation over the edge. Surely, those from the farm belt and those of us who know anything about farming know that this is not the answer to the problem.

Mr. Speaker, I have lived on a farm most of my life. Perhaps better than anyone in this Chamber, I understand the pressures which face the American farmer.

I know the agony of a long, dry growing season and the joy of a bumper yield. I know the sweat and hard work that go into farming and the tough business sense that a farmer must have today to survive. It is no 9-to-5 job and it is often not very profitable. Maybe it is because I have been a farmer myself that I hold such deep respect for the farmers who have been here in Washington over the past few months.

No less than these farmerss who have brought their case to Congress, I want to see the family farm survive. I want American agriculture to thrive again. But I do not believe that we will be doing farmers a favor by enacting the legislation which soon will face us, the emergency farm bill of 1978 (H.R. 6782).

I hope that the farmers whom I respect will take the time to think about this case, so that they might understand that my opposition to this conference report is in the interest of getting a fairer deal for American agriculture and for all our citizens.

When I look out across my district in Indiana, I see row upon row of corn and soybeans. One out of every three rows must go into the overseas market to assure farmers an adequate income. Perhaps my strongest argument against this bill is based upon its potential impact on our farm export market. It is true that this bill may increase the price of our corn and wheat to the point where some of our buying partners may look to other suppliers for part of their needs. But of a larger concern is the likelihood of drastic consequences in the event of any crop shortfall due to poor weather. A production cutback so severe as that proposed in this legislation—on top of the set-aside provisions already announced by the Department of Agriculture—could drain the granary.

Furthermore, this legislation would encourage farmers to take acreage which normally would be planted in soybeans and plant corn instead, with a large segment taken out of production. This would probably force the abrogation of many U.S. soybean trade commitments around the world. The reliability of U.S. farmers as suppliers of food for the world would be challenged again. Ultimately, this will erode the U.S. trade balance, to which American agriculture last year contributed $24 billion in sales receipts.

American farmers cannot afford to lose their markets. Some reduction in planting is needed but can we responsibly remove huge quantities of land from production without any provision for increased grain reserves? I believe that the international ramifications of this bill are so severe that they must be examined fully before this body acts. To approve such far-reaching legislation with so little consideration would ill behoove this House.

Nor would this legislation help those who it is purported to support, the average American farmer. It is estimated that 5 percent of the largest farms in the United States would receive at least 40 percent of the payments authorized by this bill; while 60 percent of U.S. farmers would receive only 15 percent of those benefits. Is it responsible to encourage large farm ownership by directing aid there, rather than to the more productive small family farm, which has been so hard hit by financial crisis during the past 4 years?

Farmers understand the economics of this legislation, too. As taxpayers, they would be spending an additional $3 to $5 billion. No estimates are yet available on the cost to administer such a cumbersome program, which the U.S. Department of Agriculture calls "administratively unworkable," but I can only imagine the expense of the redtape involved; the bill is a bureaucratic nightmare.

Indeed, I believe that this bill is nothing more than a tragic hoax on American farmers. My colleagues know that this bill will be vetoed, as well it should. Any responsible President would use his power to block such a costly, unworkable, irresponsible program as this. Therefore in place of getting 100 percent of parity we will get 100 percent of nothing in the way of help for farmers. It is simply not a valid response to the thousands of farmers who spent their time and money in working for fair farm legislation on Capitol Hill over the past few months.

Farmers know that we can produce a better bill than this, and my colleagues know it, too. Approval of this legislation in pursuit of political security would be irresponsible. I hope we won't lose sight of the fact that these farmers came to Washington asking for good legislation, not simply more legislation.

Let us act on behalf of American farmers not by voting for the first farm bill that faces us since the controversy began last fall. Let us act responsibly in the best interests of millions of family farmers across America. If I were still actively farming today, I would be working against this bill. I hope my farmer friends will understand that I am working against it on the House floor out of an understanding of their plight and a determination to do something about it.

I urge my colleagues to join me in opposing the conference report on H.R. 6782.

Mr. WAMPLER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Minnesota (Mr. STANGELAND).

Mr. STANGELAND. Mr. Speaker, I strongly support the conference report.

Mr. WAMPLER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Colorado (Mr. JOHNSON).

Mr. JOHNSON of Colorado. Mr. Speaker, this debate has degenerated to a point where it really is not a debate. It is a statement of conclusions on the part of every person who gets the opportunity to speak, and that is because of the time limitations, and I do not know what we can do about that. But there have been a number of statements that were made that I am sorry we do not have the time to refute, but I can tell the Members as honestly as I know how that I think there are answers to every argument that has been made with respect to excessive costs.

Obviously if the price rises in the market, there will be less payments out of the Treasury. Nobody knows what will happen, but the prices are rising and we know with the grain reserves what they are—and the new release prices for wheat are $3.15 until October and $4 after that—that prices will rise. The Government cannot depress prices by dumping any longer, so the price will rise. As the price rises, that means less payments out of the Treasury.

The argument is that the bill is inflationary, but the highest estimates I have heard are that it will be about $100 per family for a year.

We are at that point where we are saying the people who are losing money have to continue to lose money so that the people who consume their products will not have to pay whatever it will cost to produce the products. Obviously we can't allow that situation to continue.

Under this bill we still are not reimbursing the farmers if they set aside about 35 percent. We are not reimbursing them at a profitable level—at about the cost of production but not at any profit. Do we really expect people to produce without the expectation of a reasonable profit? We do not in any other sector of the economy. Why do we for farmers?

There has been talk about shortages. There is not any danger of shortages. The gentleman from Texas (Mr. POAGE) in the conference committee pretty well rebutted that when the Department of Agriculture made that point and I hope he gets a chance to talk about shortages now.

This bill is talking about and dealing with surpluses. The alleged shortages are not a problem. When we talk about a 35 percent or 50 percent set-aside remember this is the weird Department of Agriculture mathematics. A 50 percent set-aside means we set aside 1 acre for every 2 that we plant, and a 35 percent set-aside means we set aside 1 acre for every 3 we plant.

So do not worry about the talk about shortages.

Now about overseas sales, there have been some statements that this is going to affect our overseas sales. If we had the time I would be delighted to engage in a debate with the gentleman from Indiana who has great expertise in this field. I disagree with him. If we debated it at length the Members would see that there is a tremendous argument against that point of view.

Finally when we say it is unworkable legislation or destructive legislation, I would say to the Members that are attacking by using alarmist language which simply is not justified.

I urge Members to vote for this bill.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma (Mr. ENGLISH).

Mr. ENGLISH. Mr. Speaker, I think there is one thing that is very clear and known to all Members of this House and we have seen evidence of it over the past 4 months. That is there is no real question of need as far as rural America is concerned and no real question of a crisis existing in rural America. There are a couple or three points in this regard I would like to make.

It seems that many over the past few weeks have discovered that this country has an inflation problem. It is a problem many of us have been aware of for some time and many of us have tried to take action to deal with the problem, but I would like simply to point out that there is no group in our society that is affected worse than the American farmer, particularly whenever we consider in the past 4 years this group has had no opportunity to keep up with inflation because the farmer's prices have been falling while others have risen. However, they are the first ones to be asked to bear the brunt of the burden of the inflation fight. Over the past 40 years the Congress has reaffirmed the Nation's commitment to preserve the family farmer as the major producer of our food. Without the passage of this conference report, the demise of family farmers will reach unacceptable levels and it will be the older farmer who will be forced out first—it will be the young farmer. The farmer who is the future of family farming and the future for reasonably priced food. With this in mind I urge the passage of the conference report.

Mr. FOLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. FOWLER).

Mr. FOWLER. Mr. Speaker, I represent a district which is almost 100 percent urban and suburban. Yet I can think of few issues which have a greater effect on my constituents than our country's agricultural policy. Without a healthy farm economy, consumers will eventually have neither adequate supplies of food nor stable prices. Without substantial agricultural exports, our balance-of-trade deficit will grow to intolerable levels and our whole economy will suffer substantial disruptions. Without strong farming and rural communities, the exodus to our urban areas will continue and will further complicate the efforts to solve the problems of our cities. Thus it is clear that agricultural issues are of vital importance not only to the farmer and the rural resident but to all Americans. It is also clear that agricultural policy is intertwined with vital U.S. policies concerning inflation, international trade, finance, and urban affairs.

Given the key role of American agriculture, the economic difficulty suffered by our farmers in recent years is a serious national problem. Lower crop prices, rising indebtedness, and increased costs for energy, labor, and fertilizer, have combined to substantially reduce farm income in many parts of the country. Inconsistent and unpredictable Government policies have certainly contributed to our difficulties and we continue to have an obligation to provide a more stable and economically healthy environment for the American farmer.

I deeply regret that I must oppose the conference report on H.R. 6782, the Emergency Agricultural Act of 1978. In my opinion, this legislation, which states the laudable objective of providing immediate financial assistance and added flexibility for family farmers, is in reality a political haymaker which would, in fact, create more serious problems for farmers, consumers, and our national economy.

Passage of H.R. 6782 could cause serve long-term harm to the family farmer by jeopardizing export markets, by damaging the livestock, dairy, and poultry industries through higher feedgrain prices, by disrupting orderly production and marketing, and by concentrating most of its benefits to the largest farms.

Agricultural exports make an important contribution to the economic well-being of both farmers and the Nation as a whole. For example, in 1976 U.S. farmers fed our own population and still were able to export 55 percent of our wheat, 30 percent of our rice, 45 percent of our soybeans, 32 percent of our grain sorghum, and 26 percent of our corn. These overseas sales also make a major contribution to our national economy. Last year, agricultural exports produced $24 billion in sales receipts for the United States and without them our balance of trade situation would be catastrophic.

By offering large incentives for removing land from production, H.R. 6782 could reduce U.S. corn, wheat, and cotton acreage by up to 33 percent. With so much land out of production, bad weather would cause a serious crop shortfall that would significantly reduce the availability of U.S. commodities for export. Given this prospect, our overseas customers would undoubtedly question the reliability of the United States as an agricultural exporter and would have a strong incentive to locate new, more dependable suppliers in other nations. In addition to this factor, H.R. 6782 would make exports less attractive to our farmers by raising domestic prices and making U.S. commodities less competitive on the world market.

The higher feedgrain costs will cause major difficulties for the meat, poultry, and dairy producers of Georgia and the Nation. Also, under H.R. 6782 farmers would be discouraged from participating in the farmer-held grain reserve program that would provide price and supply stability for these producers.

H.R. 6782 would create disruption and uncertainty in the farm economy. The flexible parity provisions of this legislation would be extremely difficult for USDA to administer and for farmers to comply with since benefit levels would be entirely dependent on the precise amount of acreage diverted from production. Farmers would be subject to additional bureaucratic redtape in order to comply with the complex eligibility requirements. Since it would take some time for the necessary administrative machinery to be put in place, farmers with spring and early summer plantings would be forced to make their production decisions in an atmosphere of doubt and uncertainty.

H.R. 6782 is posed as a 1-year, emergency measure. If the Congress were to adopt such a fundamental change in our agricultural policy in this manner the result would surely be further confusion for the American farmer. If passed and signed into law, this legislation would return the country to the disastrous stop-go, unpredictable governmental policies of recent years that have helped to produce the current crisis.

A final difficulty with the Emergency Agricultural Act is that this legislation would provide the majority of its benefits to the largest farms. Five percent of the largest farms would receive at least 40 percent of the total benefits while 60 percent of American farms would get only 15 percent of the payments. The family farmer would receive only crumbs.

Aside from the negative effects that H.R. 6782 would have on farmers, this bill would also have a detrimental impact on the American public as a whole. USDA estimates that this legislation would cost the taxpayer at least $2 billion in fiscal years 1978 and 1979. The Council on Wage and Price Stability projects that it would add from 2 to 5 percent to retail food prices. With the large amount of acreage that would be removed from production, bad weather could lead to a recurrence of the large-scale food shortages and rapid price increases of 1973–75.

Many American farmers have suffered tremendous financial losses in the past year. They both need and deserve assistance. But this head-long rush to make political hay is the crassest form of deception to the family farmer.

I would urge the House to reject the legislation that is before us today. But I would further urge it to move as expeditiously as possible to consider and enact long-range policies that will truly benefit the farmer and the consumer.

In my opinion, the key to resolving our agricultural difficulties centers around the farmer-held grain reserve program. This program, which accumulates grain stocks during times of surplus and returns these stocks during times of shortage or rapidly escalating prices, will help the farmer by taking surplus commodities off the market. The consumer will benefit through stable prices and a secure supply of food. This approach would address the fundamental problem of our Nation's farm economy: The wide fluctuations in agricultural supplies and prices.

Last year the Congress took a step in the right direction by enacting the Humphrey-Weaver grain reserve, a measure which I was pleased to cosponsor. The program has already achieved some success: 300 million bushels of wheat have been acquired and corn stocks will be taken in beginning on May 1. We should take further legislative action to strengthen the program and I endorse Congressman WEAVER's call for a reduction in the storage costs to farmers.

We should also move swiftly to expand farm credit programs and to target the additional assistance to the farmers most in need of debt relief.

One of the greatest needs of our farmers is to have predictable, consistent governmental agricultural policies. We cannot simultaneously encourage production and scarcity. We cannot tell our farmers to produce for the export market and then turn around and impose export embargoes.

Restoring the economic well-being of America's farms is vital to our country's future. I have no higher priority than to work for the establishment of an effective, and consistent, agricultural policy: one that benefits the family farmer and benefits the Nation.

Mr. FOLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. LLOYD).

● Mr. LLOYD of California. Mr. Speaker, I wish to express my support for the goals of this legislation, for I realize that to lose the family farm is to destroy one of the foundations of our country. We know something is wrong when our farmers, traditionally quiet yet firm supporters of our Government, feel they must come to Washington to present their case to the American people. We know something is wrong when farmers are penalized for their efficiency and superb production record. And we know something is wrong when it is more profitable to bury a crop than to market it.

But I am caught in what I hope is an unusual situation: I am part of a farming family, owning a wheat farm in Washington. Thus, I have a personal understanding of what it is like to see grain destroyed for economic reasons. Because of my economic ties with the farm, and the possible advantages I would gain should this bill pass, I have decided to vote "present" on the legislation, to insure that there can be no misunderstanding of which "master" I serve—the Government of the United States or myself. Clearly, my constituency requires the former.●

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, this bill I believe is wrong legislatively because the bill bypassed the committee process. There were no hearings on the legislation, there was no debate, there was no discussion. It is wrong economically not only because of what it does to the budget but because of what it does to inflation and, more importantly to agriculture itself. I say that this bill means that the rich will get richer and the poor will become poorer because the largest 5 percent of the farms will get 40 percent of the benefits.

The bill is wrong for agriculture, and make no mistake about that. If this bill passes and the President vetoes it, and if his veto is sustained then there will be no more momentum for agricultural legislation on this floor. The President will blame the Congress and the Congress will blame the President and the farmers will have no relief whatsoever.

We need to work on good legislation that can be enacted, legislation that will make sense in terms of good legislation and make sense economically and also make sense, more importantly, for the farmers.

Mr. WAMPLER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from South Dakota (Mr. PRESSLER).

● Mr. PRESSLER. Mr. Speaker, in addition to my earlier oral remarks during debate on the rule, I want to make one additional point—bread costs more than it did in 1975 when I came to this Congress—but wheat is cheaper. Food costs will go up if farm prices go down? Really? Why isn't the opposite true? The truth is that the farmer has been blamed for rising food costs—but he is innocent. His prices have gone down. I hope consumers understand that.●

Mr. WAMPLER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Speaker, I thank the gentleman from Virginia (Mr. WAMPLER) for yielding me this time.

Mr. Speaker, I would like to try to answer some of the statements that have been put forth by the opponents of the conference report. I will do this just as quickly as I can, due to limited time.

First, Mr. Speaker, it is charged that the bill is not workable. Sure, it is workable if the administration wants to work it. The conference report was drawn to dovetail right in with the existing legislation of the 1977 farm bill.

The statement was made that the farmers instead of reducing their acreage, would actually plant more cotton under this bill. That is not true. The cotton farmers will reduce their production in order to get the price up. Also, the Secretary of Agriculture in the 1977 farm bill has the power to set aside, the power for diversion, the power of crop reduction, and the power of loan authority and many other authorities to control the amount that is planted. All we are doing is giving him one more tool to use and I know that he will use it and that he can make it work. I say this because on February 27, 1976, when the present Secretary of Agriculture, Mr. Bergland, was a member of the Committee on Agriculture in this House, he wrote a letter to all of the colleagues in the House criticizing then-Secretary of Agriculture Butz for not taking administrative action. In that letter he said that, and I quote:

The law allows him to raise price support levels to 90 percent of parity, and I believe

that is exactly what should be done as soon as possible to offer protection to the farmers who already have their crops in the ground, and for those who would be working their fields soon.

Mr. Speaker, that same situation exists today, and the desires of the Secretary of Agriculture now I am sure are the same as they were when he was a Member of this body. So I say that he will make it work and it will work.

Then, Mr. Speaker, comments were made about wiping out the reserve surplus of corn. The Congressional Budget Office has stated that this bill will reduce the supply of corn by 300 million bushels. That will leave better than 1 billion bushels of corn reserves left in this country. That is exactly what is depressing the corn prices, those reserves, and the biggest part of it will still be there. So this argument is incorrect.

Further, we have heard today that this bill will also destroy the livestock industry. This is wrong as we know good and well that cheap grain means cheap meat and cheap dairy products. The only way you can keep those prices up, and keep them doing well is if the grain farmers are doing well. If you have cheap grain, you overproduce meat and dairy products. This is a common fact of economics. Therefore, all farmers should stick together and want each farmer to make a living wage and get a good profit for what he produces.

Lastly, and most importantly, this is really in the best interests of the consumer. I said earlier I represent a consumer district which is 60 percent urban. The consumer does not fare well when farmers go out of business. When we start importing things like sugar and oil and many other commodities, that does not help the consumer as we have seen. The best way for the consumer to survive, the best way to have a good quality source of food at a fair price, is for the farmer to make a reasonable profit in producing it. Then and only then will the consumer do well. That is what this bill tries to do. It tries to shift the emphasis to the marketplace and to get away from this artificial price support system and the cheap grain policy we have been following in this country.

Mr. FOLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma (Mr. RISENHOOVER).

Mr. RISENHOOVER. I thank the Chairman for yielding.

Mr. Speaker, I rise in support of the conference report and urge a vote for its approval so we can send it down to the White House and let the American Agriculture movement work on them and do the job they have done here.

The SPEAKER pro tempore. The Chair would like to advise all of our friends in the gallery that we are delighted to have you, but no applause, please—no applause.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. MATHIS).

Mr. MATHIS. Mr. Speaker, I wish I had worn my boots as I came down into the well today, because I have never heard so much rhetoric about one piece of legislation as I have about this. I could stand and talk for an hour about the merits of this legislation. One thing is not debatable, and that is this is the only opportunity we will have to do something for the farm community that exists in this piece of legislation today. It is not perfect. There are many things that we could do to perfect this bill, but it is all we have. I think that farmers all across this country are looking to us today to give them a positive sign that representative government does work, at least at one end of Pennsylvania Avenue.

Mr. Speaker, some of my colleagues have said that by defeating this conference report today we can assure consumers all over the world of cheap grain and cotton prices with abundant surpluses for emergency situations. Nothing could be further from the truth or more disastrous in the long run for consumers. Every responsible economist that has spoken on the subject knows that America's farmers are not going to continue breaking their backs for prices that do not cover their costs of production.

The collapse of the farm economy, which the United States is now experiencing, is both a symptom and a cause of economic depression. This conference report can contribute significantly toward alleviating the farm problem for the benefit of all segments of the economy, not just farmers.

Some persons are arguing that Government assistance to farmers is contrary to the principles of free enterprise. In a true free enterprise system, I am confident that farmers could compete with less Federal help than any other sector of the economy. But it is hypocritical to expect farm prices to be determinated by the free market laws of supply and demand when farm costs are being increased by every sort of governmental interference imaginable. Is it free enterprise when the Government destroys foreign markets through embargoes? Is it a free market where a handful of giant, multinational corporations control the production and prices of farm machinery? Is the control of world energy supplies and prices by a cartel of foreign governments a part of free enterprise? Is it free enterprise when the U.S. Government, in concert with the World Bank, subsidizes foreign agricultural production for import to the United States? Is it a free market system where the Federal Government imposes tens of billions of dollars of regulatory costs throughout the food marketing chain from the cultivation stage, where cost-efficient pesticides are banned, to the checkout counter, where wages are set by law, and then the farmer is blamed for high food prices, even when the prices he receives are plummeting?

Mr. Speaker, I say that if Congress wants farmers to produce under free market conditions, then let us send legislation to the floor to accomplish that. Let us repeal the Federal regulatory agencies, let us break up monopolistic organizations, pull out of the World Bank, and quit subsidizing OPEC.

Until that can be done, let us give the farmers this emergency, 1-year bill to assist them in overcoming the burdens the Government has already imposed on them. Maintaining a strong agricultural economy is the most responsible action the House can take, and I urge the adoption of the conference report on the Emergency Agricultural Act of 1978.

Mr. WAMPLER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, the assumption is widely held here today that if President Carter vetoes this bill, he will incur the wrath of the American farmer. Those who make that assumption I think underrate the intelligence of the American farmers, certainly of those in the State of Illinois.

I believe that the majority of the farmers of my home State—and my home State produces more corn than any other State and more soybeans than any other State—see the enormity for mischief in this bill, and they will thank the President for vetoing it, and they will thank us for voting against it.

I say it has enormity for mischief because it carries the potential for the retirement of as much as 60 million acres of land, much of that coming out of soybean production, so much so that one USDA official forecast the possibility of a shortage of soybeans, calling for another embargo.

I would like to have the Members consider other consequences of this bill. The Economic Research Service of the USDA at my request came up with an estimate of what this would cost in unemployment in the United States because of the enormous cutback in productive activity by America's farmers, less machinery built, less fertilizer manufactured, less processing, less shipping. They came to the conclusion that this bill would cost 230,000 jobs. Measure that—measure that against the cost of each lost job—loss of tax revenue to the Federal Government, the cost of food stamps, unemployment compensation, and all of that.

It is an enormous price tag on top of the other costs that have been cited. I believe that it would be very prudent on the part of this body to reject the conference report and if it does, I think it will have the applause of the vast majority of the thoughtful farmers of this Nation.

Mr. FOLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma (Mr. WATKINS).

Mr. WATKINS. Mr. Speaker, I stand in support of this bill.

Mr. Speaker, not since the depression of the 1930's has the Nation seen such widespread unrest among farmers. The immediate cause of this unrest is low farm prices, aggravated by several years of drought and a continual increase in production costs, which have more than doubled in the last 10 years. Department of Agriculture figures show that realized net farm income in 1977 declined to $20 billion in real terms, equivalent to 1971. As a result of this economic crunch there have been severe

cash-flow and debt-repayment problems for most farmers. The farmer's return on his investment in 1977 reached its lowest point since March of 1933, and over the past 7 years, farm debt has increased to over $100 billion.

The bill which we are to vote on today, H.R. 6782, would have several beneficial effects, most of which would immediately benefit our farmers and rural communities. It provides farmers with immediate financial assistance that will enable many of them to remain in farming. It provides farmers with needed flexibility by allowing them to take out of production the amount of land that best suits their needs. It will reduce surplus supplies of wheat, corn, and cotton so that supply and demand will be in better balance.

This measure is the least expensive and least inflationary approach to the farm problem. It is predicted that retail food prices will rise less than 1 percent. Even with this modest rise, it is predicted the average family would pay only $63 more a year on their food bill. The American consumer would still enjoy the cheapest food prices of any nation in the world. I submit this is a very minor increase for consumers to absorb in light of the needs of the agriculture community.

Furthermore, the money farmers would receive from this bill would be a stimulus to the whole economy. Every dollar spent by the American farmer stimulates $2.10 of additional business activity.

I urge every Member of the House of Representatives to support this emergency farm legislation. Should we fail to enact this much needed bill, we will be divorcing ourselves from the American farmer, who has given us the standard of living we enjoy today.

Mr. FOLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama (Mr. NICHOLS).

Mr. NICHOLS. Mr. Speaker, I rise in support of this bill.

I have been favorably impressed with the thousands of farmers associated with the American agriculture movement from Alabama and elsewhere throughout the country who have come to Washington during the winter and spring months seeking answers to the severe financial problems they face in producing food and fiber for the Nation.

As one who has observed lobbyists of every description and for every cause during my service in Congress, I am most appreciative of the manner in which farmers of Alabama have petitioned those of us who represent them in the Congress. They have been courteous; they have been considerate; and though generally naive and unaccustomed to the habits of city life, they have conducted their affairs in what I believe to be a responsible manner.

Even when the goats were turned loose on Capitol Hill, the policemen who were able to run most of them down, did so without animosity and, in general, I am pleased with the conduct of our farm people in the Nation's Capital.

Now as the American agricultural movement enters the countdown stage on farm legislation it becomes apparent to me that, if the farm bill is passed by the House this afternoon that considerable credit must go to those thousands of farmers who, wearing their red and blue caps, denims and work jackets and in many cases accompanied by their wives and sometimes a few children, have accomplished this unparalleled success story in lobbying.

It is my judgment that most Members of Congress from both urban and rural districts share these views and have been generally convinced that the farmers' problems are the Nation's problems and what affects rural people also affects the consumer in our cities. Whatever measure of success comes out of the thousands of visits to congressional offices by the farmers who came to their Nation's Capital, those of us back home who watched and waited are most certainly indebted for their untiring efforts and dedication to American agriculture.

Mr. Speaker, I expect to vote for this bill, not because it is a perfect bill, nor because I agree with everything that it contains, I intend to support it because on this warm afternoon of April 12, when planting time is at hand, it is the only vote that this Congress will have between a farm bill and the alternative of which would be to continue to ask the farmers of this Nation to subsidize daily more than 200 million Americans who are dependent on our farmers for the production of food. I have received numerous calls and letters from individuals who have been frightened over the additional cost of food in the marketplace in the event this bill becomes law.

Mr. Speaker, I believe these claims have been exaggerated for farmers know that the major cost, because of rising consumer prices, can not be layed at the farmers doorsteps. I do believe that food prices might increase a percentage point or more if the measure is enacted but if the price of wheat were doubled the additional amount of wheat in a loaf of bread would be minimal.

And then there is the matter of equity, which surely must be paramont with those of us who make the laws of this land. The farmer is simply not getting his fair share of the food dollars being spent at the retail level. For too many years the American farmer has been on the bottom rung of the economic ladder. This bill represents the manner in which we can partially correct this problem in being fair to the American farmer who is the backbone of this Nation.

Mr. FOLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. Mr. Speaker, I rise in support of this legislation.

It is not an ideal measure, but it is the only legislation before us which offers some assistance to our farmers. Enactment of this measure will help the farmers from my home State of Minnesota. It is especially important for grain farmers in my State.

This is a 1-year program. The farmers have faced increasing costs of production with decreasing prices. The resulting cost-price squeeze is putting many of our family farmers out of business.

The increases in wheat and corn target prices in this bill which are tied to the land diversion program will insure improved incomes for our farmers. While the bill is not all farmers need or want, it is an improvement on the farm bill we passed last summer.

One of my concerns about this bill is the risk that it will reduce feed grain supplies, given the fact that 65 percent of Minnesota farm income is attributable to the animal sector. We produce nationally, in a normal year, 6 billion bushels of corn. While some estimate this bill may reduce production by a third, this would still leave us with 4 billion bushels. Also, we have to consider the 1 billion bushels of carryover in corn as well as 1 billion bushels of carryover in wheat. So, given the 2 billion bushels that are available, I am less concerned about the feed supply.

The paramount problem facing agriculture today is price depressing surpluses of commodities. It makes good economic sense to take action to reduce this situation in a sound manner. I believe reducing this surplus is in the best interest of both consumers and producers since it will provide for more economic stability.

The conference report on H.R. 6782 establishes new, higher target prices and loan rates for the 1978 wheat, corn and cotton crops to be based on the number of acres a farmer takes out of production. For wheat, the legislation establishes a target price of $3.50 a bushel with a 20-percent set-aside, $4.25 a bushel with a 35-percent set-aside, and $5.04 a bushel with a 50-percent set-aside. The loan rate for wheat would rise from $2.35 to $2.55 a bushel.

For example, with a 350-acre farm, if a farmer selects the $5.04 a bushel parity price for his or her wheat crop, 50 percent of the planted acreage has to be set aside. Under this 50-percent set-aside, if the farmer plants 200 acres of wheat, 100 acres of farmland will have to be diverted to qualify for the higher target price.

The program works similarly for corn and cotton. For corn, a $2.40 a bushel target price is coupled with a 10-percent set-aside, a $3.05 price is coupled with a 35-percent set-aside, and $3.45 a bushel target price calls for a 50-percent set-aside of planted acreage. The loan rate for corn would go from $2 to $2.25 a bushel. For cotton, a graduated target price of 60 cents a pound calls for a 0- to 20-percent set-aside, a price of 72 cents a pound calls for a 35-percent set-aside and 84 cents a pound is based on a 50-percent set-aside. The loan rate for cotton would rise from 44 to 48 cents a pound.

In addition to raising commodity target prices, the farm legislation before us today authorizes the Department of Agriculture to encourage production of ethanol by permitting the use of set-aside land for growing crops that can be blended to make fuel.

Energy costs have gone up considerably since the oil embargo in 1973 and have been reflected in farmers' higher costs of production. With rising oil prices and our commitment to reducing demand for foreign oil, alcohol fuels can help solve the farmer's dilemma caused by skyrocketing fuel costs. Although this is a good start, more can be done at the Federal level through direct Federal support for development and production, marketing assistance, and simplification of licensing for gasohol plant construction.

As a followup to the measure before us, I urge the House and Senate Agriculture Committees to develop legislation to provide long-term assistance to our family farmers. The committees should focus on strengthening farm income by increasing the value and volume of farm exports, providing adequate credit needs and developing solutions to the problems of spiraling prices for land, fertilizer, machinery, and energy which contribute to the escalating costs of production.

Representative RICK NOLAN'S Family Farm Development Act, which I cosponsor, contains a variety of urgently needed, new, and amended programs dealing with farm prices, marketing, taxes, loans, land values, research and education, and conservation. Representative NOLAN'S bill can serve as a framework for developing answers to the problems facing our family farmers.

The Agricultural Trade Act introduced by Representative DAWSON MATHIS, which I also cosponsor, will make it possible to move more aggressively into international marketing of our farm commodities. The bill expands the amount of credit offered by the Commodity Credit Corporation to finance exports of farm products. The legislation also establishes a more systematic Federal policy for the promotion of U.S. exports, establishes U.S. agricultural trade offices abroad to develop new markets for U.S. farm goods, and upgrades the role of agricultural attaches in U.S. embassies. The bill's expanded credit provisions would not apply to nations that are currently barred from receiving credit from the U.S. Government.

Hearings on this bill along with similar measures begin next week in the House International Economic Policy and Trade Subcommittee. As a member of the full International Relations Committee, I will work to encourage the development of our markets for farm commodities abroad.

A lot has been said about how the emergency farm bill will affect consumer food costs. The Congressional Budget Office projects an increase in retail food prices of 1.1 to 1.5 percent, or a $46 to $63 yearly increase in the food bill for an urban family of four. The U.S. Department of Agriculture is making predictions based on the worst possible set of circumstances. I feel their projected rise in consumer food costs is misleading to consumers.

Consumers will ultimately benefit from higher farm prices if prices are more stable. The wide fluctuations in farm prices over the past few years have resulted in a ratchet effect in prices at the supermarket. Consumer food costs rise when commodity prices rise, but stay up when commodity prices go down. Only the middlemen, the food processors and retailers, reap a profit. The cheap food policies of the past have led to boom-or-bust prices for consumers and farmers alike.

For these reasons, I hope my colleagues join me in supporting the urgently needed emergency farm assistance.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. PHILLIP BURTON).

Mr PHILLIP BURTON. Mr. Speaker, I believe that ever since I have been in the House I have supported every bit of farm legislation and I do believe I supported virtually every amendment to bring more justice to our rural community. Regretfully, on this occasion, for two simple reasons, I must vote against the conference report. First, I discount essentially those who argue against the conference report because of its impact upon the American urban consumer. Almost everything we do drives up the cost of living and the cost of doing business for the rural sector of our economy; so it is not on those grounds that I rise in opposition to the report.

First and foremost, as best I can gather from the overwhelming majority of those whose viewpoints I trust, this program really will not work.

Second, and perhaps decisively, it will never become law and, therefore, will be misleading. I want to reject this report and put the pressure on us to come back with a product that will help the farmers and that will work.

Mr. WAMPLER. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Massachusetts (Mrs. HECKLER).

Mrs. HECKLER. Mr. Speaker, I strongly object to the Emergency Agriculture Act of 1978 for the following reasons. The act is based on premises that are false and misleading. H.R. 6782 has been widely promoted to give immediate across-the-board relief to millions of American farmers and is especially targeted to small family farms. In actual fact, small farmers, those earning less than $20,000 per annum, will earn only 15 percent of the benefits of this legislation, while 5 percent of the Nation's agricultural establishments, generally of the larger, better financed variety, will receive over one-third of the benefits of the bill. What's more, a major sector of the agricultural community will actually be prejusticed by the proposed legislation. The Emergency Agriculture Act will cause grain prices to rise resulting in higher feed prices for the Nation's cattle producers. End result: Lower earnings for cattle ranchers, higher food prices, or both.

I object to H.R. 6782 because it is inconsistent with stated White House policy on inflation and price control. This bill will increase the American consumers' food costs by 2 to 4 percent. Food prices are slated to rise 6 to 8 percent anyway. With H.R. 6782 we can look forward to an 8- to 12-percent increase in food prices this year. If we accept H.R. 6782 today, we may be sleepwalking toward double-digit inflation, food shortages, further erosion in our balance of payments and possibly the biggest consumer's revolt in the Nation's history.

I object to the bill for the way it has been hastily conceived without the benefit of committee hearing in the House and pressed upon reluctant or undecided Members without adequate staff work or study. Are we entering an era of legislation by acclamation? Have we abandoned our tradition of a creative, reflective legislative process? The 1977 omnibus farm bill was conceived and written in that nobler reflective spirit. The bill was enacted after long and careful scrutiny by my colleagues on the Agricultural Committee and passed after a thorough, intelligent debate in this Chamber. Already that legislation is improving the economic condition of the American farmer. While H.R. 6782 seeks a remedy in massive public spending, the omnibus bill provides positive, productive solutions to the problem of the American farmer. The problem of the American farm is a problem of abundance, not of scarcity. H.R. 6782 actually seeks to create scarcity in the world's most abundant farm economy. H.R. 6782 mandates to retire from production vast tracts of acreage. This incredible policy of planned scarcity, combined with poor weather conditions, could leave consumers, foreign customers, and aid programs short of grain requirements. It is pathetic and highly lamentable that this esteemed body is asked to offer the world's richest society a barren and negative policy of deliberate scarcity, rather than an intelligent and creative use of the rich land God has given us.

I do not deny that the American farmer faces serious problems. I recognize that the farmers deserve a fair return on their investment and should enjoy the benefits of expanding domestic and world markets but no one will benefit from making the farmer less efficient, his prices less competitive, his exports smaller, and the health of the larger community in which he lives more sickly and inflationary.

The omnibus bill of 1977 directed its energies to exactly the kind of creative, productive measures that do credit to the standards of the representative body we serve. The act finances farmer-held grain reserves, implements land diversion programs, and above all encourages the export of American agribusiness to a hungry and fast-growing world population. In all, the omnibus bill of 1977 will increase farmers net income by $3 to $4 billion annually.

And today, I sadly report, sir, we are asked to dismantle the creative, epoch-making legislation of last year to offer the American people more massive Federal handouts and worse, scalpers' prices for the Nation's consumers in our supermarkets. The Emergency Agriculture Act is a poorly conceived, shoddy rush job; it is the wrong bill, at the wrong time, conceived for the wrong reasons.

Mr. WAMPLER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I rise in defense of the paramount interests of the vast majority of Americans, the same

Americans whose economic plight has been totally ignored by the conferees. I am referring to the American consumers, the taxpayers, and the vast number of American farmers and ranchers, who strongly oppose this massive ripoff of the public Treasury for the select benefit of the "privileged few." I urge my colleagues to vote for what is in the best interest of the majority of Americans, who are facing the possibility of double-digit inflation, dramatic increases in food prices, the weakening of the dollar abroad, the declining food exports, and all the other bleak economic conditions which are surfacing, and oppose this special interest proposal.

We all have heard of the immediate, urgent necessity of enacting this irrational and inflationary proposal, but I suggest that it is time we overcome this panic to try to outgive the administration, and carefully consider the disastrous consequences of this act. We all have listened to the arguments of the farm interests who have been camping out in this town for the last few months. But, we have not benefited from the arguments put forth by the majority of Americans—the consumers, and the taxpayers, who do not have the luxury of taking 3 months off to lobby Washington. Now, we are witnessing the vocal opposition to this proposal that has been flooding our offices over the past week. The arguments against this boondoggle are most persuasive. The impact on the economy is appalling. According to the Congressional Budget Office, food prices will increase by 3 percent next year alone, with the enactment of this proposal. That is in addition to the projected 6- to 8-percent increase which will result from current farm policies. The American consumer will be socked with an additional burden of over $5 billion annually, which averages out to over $100 for a family of 4. This will play havoc with the food component of the consumer price index, by raising that figure approximately 2.5 percent in the first year. The result will be an increase of ½ to ¾ of a percent in our inflationary figures which will go a long way in pushing the figure back up to double digits.

With all of these catastrophic effects, one should be able to expect great rewards in return. Well, upon close examination, you can see who is being rewarded. I have already named the people who will be penalized by this ill-conceived proposal. Now, I think you would be interested in knowing who will benefit. It is not the obvious, the entire farming sector, but only the wheat, corn, and cotton producers, to the acute disadvantage of the dairy, poultry, and livestock producers. Of those privileged who will receive this giveaway, approximately 5 percent of these farms, the largest ones, will receive an estimated one-third of the money, or $2 billion. These are the same "struggling" farmers whose income averaged approximately $50.000 last year. The individuals who are really deserving of support, the small farmers, who comprise 60 percent of all farming operations, will receive only 15 percent of the giveaway, according to the Congressional Budget Office. Thus, we are again subsidizing the large farming operation to the obvious disadvantage of the struggling, small farmer.

Mr. Speaker, it must be asked, why are we sacrificing our future economic security for the benefit of the privileged few? Why are we so anxious to negate the new 4-year Agriculture Policy Act we adopted last year, without seeing the possible benefits of that hotly debated policy? Why are we caving in to this small but noisy special interest? This giveaway is not in the best interest of the consumers, not in the best interest of the taxpayers, not in the best interest of the poultry, dairy, and livestock producers, not in the best interest of this country's future grain reserves, and finally, is not in the best interest of our competitive position in the world agriculture markets. This is a high price to pay for a select few. This is especially foolhardy when we consider the track record we had in 1973–74, under circumstances similar to what we will be creating with this proposal. We ran short of reserves, fell into double-digit food inflation, which was followed by deep recession. We are now asking for the same nightmare, for what? For the select benefit of a few. We are tampering with our future economic security with the reduction of our grain reserves. Congressional Budget Office projections place the reduction of carryover stock at approximately 24 percent. This dangerously low level coupled with bad weather similar to what we have been experiencing the past few years, could result in severe grain shortages, the likes of which we have never experienced. Again, for what—for the benefit of a select few.

Mr. Speaker, it is time we place the sincere interest of the consumers, the taxpayers, and the other farming sectors, all comprising the vast majority of Americans, above the special interest of these large, high-income, farming operations. It is time we reject this misguided philosophy of paying farmers higher deficiency payments for growing less, the so-called pay-not-to-grow philosophy that flies in the face of those millions of starving individuals throughout the world.

Mr. Speaker, the President has marshaled the conviction to say "no" to this group with their hands out, and into the taxpayers pocket. I can only hope that the majority of my colleagues will consider the dire consequences of this massive boondoggle and join me in outright rejection of this $6 billion raid on the Treasury. I urge the defeat of this one-sided proposal.

Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair desires to advise that the gentleman from Washington (Mr. FOLEY) has 12 minutes remaining, and the gentleman from Virginia (Mr. WAMPLER) has 6 minutes remaining.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Speaker, I will vote for this conference report, but not enthusiastically. As a matter of fact, I am going to hold my nose and vote for it, because I would rather have had the Foley substitute to vote for. I refer to the Foley substitute that lost by one vote in conference and lost by one vote in the Committee on Rules.

If we had that substitute, we could vote against the conference report, vote for the Foley substitute, and produce a much better bill, one that could be passed and signed by the President. And I submit that if the President did not sign that bill, we would have the votes to override his veto. The Foley bill is a much better bill.

However, without the alternative and for reasons enunciated earlier by my distinguished colleague, the gentleman from Iowa (Mr. SMITH), we must vote for this conference report and send the bill down to the White House. We have to do that in order to put pressure on the President to do the things that are necessary this year to get the prices up in the marketplace, that is, to push our exports, to insure that there will be no embargoes, to make sure that our meat import law is fair and equitable and to make a better incentive for set-aside. These are the things that will make sure that the prices in the marketplace this year are high.

Mr. Speaker, if passage of this conference report accomplishes that, it will serve our purpose, and I urge my colleagues to vote for the conference report today.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina (Mr. JENRETTE).

Mr. JENRETTE. Mr. Speaker, I have listened carefully to all the arguments here today. None of the arguments, however, have had nearly the effect on me that the picture of the plight of the farmers and the picture of the small farmer going out of business.

Hundreds of farmers have been in my office and in the offices of other Members, and their problems parallel those of the Chamber of Commerce, they parallel the problems of the Amtrak workers, the Postal Service, and they parallel the problems of all those who have come to us and asked for help. We have given help to those other people.

Now we have a segment of our society that has been the backbone of our society that is asking for our help, and I think we must give it to them. I say to the Members that we must pass this legislation.

As one of the earlier supporters of the President, let me say that I believe it is necessary that we pass this legislation and make sure this segment of our society is not ignored. This is their day in court. We must not let them down.

Mr. Speaker, no other legislation has meant so much to the farmers, and let us, in this court of deliberation, show that we care for the American farmers and the farmers of the future.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. KREBS).

Mr. KREBS. Mr. Speaker, I have always been told that confession is good for the soul. The bill that is responsible

for this mess is, I suppose, my raisin bill, and I want to apologize to the membership for that. However, in clear conscience I cannot support this conference report.

There is no question that there are many farmers in this country who are in deep trouble, and I do not think there is any qustion that each and every Member of this House wants to help the farmers. But I do not think that we can help one segment of agriculture by creating new problems for other segments of agriculture, and that is exactly what this bill will do. We may be solving some problems, although that is debatable, but for many farmers in other sections of the country we are going to create new problems. We would create problems for farmers in California, specifically the cotton farmers, who represent the epitome of the free enterprise system which so many on both sides of the aisle have for some reason ignored today.

This legislation certainly is not going to do anything for dairy farmers, despite the comments of my good friend, the gentleman from Louisiana (Mr. MOORE), that the dairy farmers enjoy high feed costs.

Mr. Speaker, I urge the Members to vote against this conference report.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. BURLISON).

Mr. BURLISON of Missouri. Mr. Speaker, there has been a number of fallacious arguments that have been advanced in opposition to this conference report today, and I would like to take my 1 minute briefly to address a few of them.

It has been stated a number of times that the farmers under this program will set aside the maximum amount of their acreage, thus imperiling an adequate production and supply. I would argue with that, on the basis that those conclusions do not take into consideration many things. For instance, all of the cotton producers who have cotton gins or an interest in cotton gins will insist that their land produce. And all of the meat growers who raise their own feed will continue to produce that feed for their own use. Other examples could be cited if time permitted.

One of the other fallacies is about the cost of this bill. These costs estimates are overstated. They are high on their face. A principal factor overlooked is the decrease in cost, because of the decline in deficiency payments under the conference report. If significant acreage is removed from production, it necessarily follows that supply will be reduced and prices in the marketplace will increase. Costs to the Government in the form of income support payments will thus be eliminated or reduced.

Those who purport to represent meat producers proclaim that this bill will be damaging to them. Over the long term that cannot be true. A subsidy to the grain producer is an indirect aid to the meat producer. To the extent that Government helps the grain producer, it keeps him in business and reduces the price that must be ultimately paid by the grain buyer or user.

Several of our city-suburban colleagues have complained about this legislation substantially increasing food and fiber prices. This is not so, as so vividly portrayed by the gentleman from Iowa (Mr. SMITH) during debate on the rule. While bread and cereal prices have spiraled upward in the grocery store, prices received by farmers for wheat and corn have plummeted downward. At the same time that cotton shirt prices have escalated in the department store, commodity prices received by the cotton farmer have deescalated. The fact is uncontestable that the farmer gets very little of the consumer dollar while said consumer continues the cheap food policy in this country by paying only 17 percent of his income for food. The Russians and Chinese, in contrast, pay upward of 50 to 60 percent.

For one moment, for the sake of argument, let us concede that opponents are correct when they allege that this bill will increase food prices about 1 percent or $50 to $100 per family per year. I submit this is an outrageously low price to pay to keep farmers in business to keep providing food and fiber at reasonable prices to our people. Clearly, this conference report should be approved.

Mr. WAMPLER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from South Carolina (Mr. SPENCE).

Mr. SPENCE. Mr. Speaker, I rise in support of this conference report.

We have heard a lot today about helping the American farmer and agriculture to survive. I would just like to add that we are really helping our constituents, the consumers of these farm products. If our farmers do not survive, our consumer constituents do not eat. It is just that simple.

Mr. WAMPLER. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. WHALEN).

Mr. WHALEN. Mr. Speaker, I rise in opposition to the conference report on H.R. 6782. Flexible parity will not be the answer to the financial problems besetting American agriculture. The House should reject this bill today and direct its conferees to return with the original House legislation providing necessary emergency-lending authority to those farmers that need it.

Mr. Speaker, for the past 2 years, farmers have found themselves caught between high production costs and debt-servicing payments on the one hand, and comparatively low farm prices on the other. Very simply, grain prices are below the cost of production.

But the long-term interests of grain producers, livestock farmers, and consumers alike do not lie in pushing farm prices up to artificial and unsustainable heights. Such a program, either through excessive support payments or large crop set-asides, can only produce another boom-bust cycle that we seek to prevent.

Rather, the answer to the farm problem, embodied in the omnibus farm bill passed by this House last year, is greater price stability. Stability can be achieved through a farmer-held reserve program, through support levels and release prices within equitable ranges, and through adjustments of targets prices on the basis of future production costs.

I repeat that these concepts are part of the 1977 Farm Act, and I submit that their effects are just now being felt.

Already this year, net farm income is approximately $3 billion higher than last year. This is without any new entitlement programs, either through flexible parity or USDA set-aside proposals. Furthermore, agriculture prices are now rising dramatically and implementation of the 1977 farm program promises to continue that trend.

The economic arguments against H.R. 6782 as now written are well known and well founded. If the flexible parity concept were to become law, it would raise consumer food prices and aggravate inflation. It would increase the Federal budget and, hence, the Federal deficit. It would reduce U.S. agriculture exports and further erode our balance of payments.

If enacted, flexible parity tied to set-asides would deplete food stocks. It could lead to huge and dangerous crop production adjustments. Discounting the fact that USDA frankly has conceded that flexible parity is bureaucratically unmanageable, if it did succeed in aiding the grain farmer this year, flexible parity would do so at the expense of livestock and dairy farmers.

And finally, Mr. Speaker, almost ironically, because of the circular nature of the farm price process, price increases granted to the farmer this year through flexible parity would be returned to him next year in the form of higher land costs, higher taxes based on them, and a steady stream of inflation in manufactured goods. Unfortunately, the inflationary impact of H.R. 6782 would hit farmers just about the time that the emergency aid envisioned in this bill would expire.

Realistically, the issue before us today is not flexible parity. Arguments for or against H.R. 6782 are essentially moot. The fate of this bill has been preordained.

The President has announced, as recently as yesterday, that he will veto this bill. Monday's vote in the Senate on H.R. 6782, which passed by a slim 49 to 41 majority, indicates that any override attempts will be futile. The flexible set-aside proposal cannot now be passed into law.

Thus, the real issue before us today is one of time. It is actually whether the House will recommit H.R. 6782 today, or have it recommitted by Presidential veto next week.

Mr. Speaker, what farmers need are programs that work equitably to support prices at fair levels. There is little doubt that both farmer and consumer would be served by a more stable market in farm commodities. However, stock management, rather than high Federal support payments or acreage restrictions,

should be the main instrument of our farm policies.

There is legislation that can bring reasonable stability to farm and food prices, at levels that mean prosperity to farmers. It is not the conference report on H.R. 6782. It is Public Law 95–113, the Food and Agricultural Act of 1977.

I will not vote to send to the President a bill that I know he must and should veto, at the expense of allowing our policies time to function properly. I suggest that this can be done. I hope my colleagues will join me in voting to recommit H.R. 6782.

Mr. WAMPLER. Mr. Speaker, I yield 1 minute to the distinguished gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Speaker, in my judgment every citizen of America has a stake in this legislation. Farmers cannot continue to "set the table" for America at a loss. As more farmers reach the point of no return and go out of agriculture, the basic cornerstone of this Nation's economy starts to crumble, unemployment increases, and our whole structure is in trouble.

This legislation is designed to help small farmers, with a $40,000 ceiling on the payments. If we can help our farmers continue to operate efficiently, we, the consumers, are going to continue to have foodstuffs at a reasonable cost, and the hardy men and women who make up agriculture in America are going to continue to stay on the farms. We will have the best food on Earth, as we have in the past, at reasonable prices, and we will be able to share our bounty with the rest of the world.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. HUCKABY).

Mr. HUCKABY. Mr. Speaker, I rise in strong support of this measure.

The American farmer, American agriculture, is the most efficient machine that has ever existed in this world. The American farmer has a problem because of surpluses, because of world weather conditions in the last few years. This bill is an attempt to reduce surpluses and to allow the American farmer to stay in business. It is not going to affect our export business whatsoever. We are still going to be able to sell all of the commodities overseas that we can.

It has been stated here twice that the largest 5 percent of the farmers will get anywhere from 30 to 40 percent of the benefits of this bill.

That simply is not true. The largest farmers will not even participate in this program with the $40,000 payment limitation, Only the small- and medium-size farmers are going to participate in this program.

Mr. Speaker, the American farmer, the last of the free enterprise system, is becoming more and more a vanishing breed. If we do not begin to do something today here in this Congress to protect him, he will soon be a completely vanished breed.

Mr. WAMPLER. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. BROWN).

Mr. BROWN of Michigan. Mr. Speaker, what kind of double standard do we have?

We want to stamp our foot down on the agricultural industry of this country, which is the heart of our economy; but we still can subsidize the maritime industry; we can provide trade adjustment payments for industries where imports have impacted harmfully on such industries; we can pass minimum-wage laws, Davis-Bacon acts, and many other similar measures, which either give a subsidy or add to consumer costs.

Mr. Speaker, I think it is about time that we did at least the same thing for agriculture as we have done for all the other sectors of our economy.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from Montana (Mr. BAUCUS).

Mr. BAUCUS. Mr. Speaker, I think all of us agree that the farmers are in trouble and need help, but the President has, unfortunately, put us in an impossible position where we must choose to vote for or against a bill, and he is probably going to veto it. We will have a difficult time here in the House and perhaps in the other body in overriding that veto.

Still, Mr. Speaker, I think we have a responsibility. We have to do what we can for the farmers. That means we have to send to the President a message, a message that the farmers are in trouble. They are going broke.

I would like to speak in favor of H.R. 6782, the Emergency Agricultural Act of 1978. The higher prices this bill provides are necessary for farmers throughout the country.

But rather than concentrate on what the bill does for farmers, I would like to talk about what it will do for the Nation as a whole. We have been selling our wheat and feed grains overseas at less than the cost of production. This is a problem not only for our farmers—who are going bankrupt—but also for our national economy.

Last year the United States ran a $10 billion trade deficit. Our enormous purchases of manufactured goods and oil were nowhere near balanced by exports.

The only bright spot on this otherwise bleak landscape is agriculture. We sold almost $10 billion worth of grain overseas last year. All told agricultural exports brought in about $23 billion from foreign countries.

Overseas sales are crucial to American agriculture. One of every three farm acres in this country produces goods for export. But we cannot make farmers or our Nation better off by selling goods below the cost of production.

Administration sources have said repeatedly that this bill would destroy export markets. But the USDA analysis of H.R. 6782 shows little or no effect on the quantity of goods exported.

Additionally, several weeks ago the USDA did an analysis of the American Agricultural proposal for prices at 100 percent of parity. That analysis shows that if prices increased to 100 percent of parity, the quantity of overseas sales would decrease slightly. But export income would increase $7.5 billion in the first year.

The huge trade deficit we have been running causes the dollar's value to decline. We have an opportunity to cut the deficit as much as one-half by passing this bill.

The administration and some Members of Congress have stated that this bill could lead to commodity shortages that would upset domestic and overseas markets. They fail to account for the enormous reserves we have now. These huge reserves are the result of high prices in 1973–74 that led to a "plant fence to fence farm policy."

On January 1 our domestic supply was 1.9 billion bushels. We consume about 750,000 bushels a year, and export roughly a billion bushels. That means we could supply our normal export and domestic demands for the next year without additional production.

But even the worst USDA estimate of high farmer set-asides and low yields shows wheat production of 1.28 billion bushels.

This bill would not destroy export markets or lead to domestic shortages. What it will do during the 1 year it is in effect is put our domestic supplies back in line with world demands. Even with poor weather, we will maintain adequate reserves.

Neither the Congressional Budget Office nor the USDA in analyzing this bill considered its positive economic impacts.

In my State of Montana, and in other agricultural regions, it is not just farmers suffering from low farm prices. Small towns are in even worse shape.

Farmers just do not have the cash to make their normal purchases of equipment and supplies. They are even curtailing their normal purchases of clothing and household goods.

The result is small-town merchants going broke. And, the problems do not stop in small towns—just ask any farm equipment manufacturer. All of you have businesses in your districts that supply farmers, and as long as farm prices are depressed, those businesses will suffer.

By restoring rural purchasing power, we can revitalize the entire American economy. As responsible representatives of the American people, we must consider the cost of this bill—but we must also consider the economic benefits it provides.

Finally, I will touch on inflation. There may be some inflationary impact of giving farmers fair prices. But, as Mr. Carter said in his message yesterday:

> Inflation cannot be solved by placing the burden of fighting it on only a few.

We have to fight inflation—but forcing farmers into bankruptcy is not the way to do it.

The President's threat to veto this bill should not keep any of us from voting yes. We have got to send him the message that Congress is concerned and dedicated to the goal of improving farm income.

Farmers constitute a reserve of stability and vitality that throughout his-

tory has contributed to the strength of this Nation. Farmers from all over the country have contributed funds to send delegates here to tell us that their way of life is threatened by low prices.

My fellow Democrats, I think also we should give the President the message that part of our party platform reads that without parity for the farmers, our economy will suffer and crops cannot be produced. We must assure the farmers a reasonable profit based upon the cost of production.

Mr. Speaker, I urge adoption of the conference report.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky (Mr. HUBBARD).

Mr. HUBBARD. Mr. Speaker, I rise in strong support of the conference report on the Emergency Agricultural Act of 1978; and I urge my colleagues to support this much-needed legislation.

With interest I have listened to previous speakers from urban areas who oppose this bill.

Mr. Speaker, farm families may only constitute 4 percent of the population of the United States, but I submit that the role they play in the Nation's economy is a crucial one. The farmer is the largest consumer of all; and when he purchases a combine or a tractor, it creates employment in the factories and in the cities.

Mr. Speaker, some have said this bill will be inflationary by allowing the farmer to receive a fair return on his investment. Just think about what will happen if we allow the family farmer to go bankrupt. That is exactly what will happen in many cases, and we will find many large agribusiness firms and foreign investors will be buying up this farm land and taking over control of the farm land instead of leaving it with individual farm families.

Mr. Speaker, I believe sincerely that if this bill passes the House today, the President of the United States will change his mind and sign the bill. I would say that he is in real trouble in my district if he does not.

Mr. WAMPLER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Kansas (Mr. SEBELIUS).

Mr. SEBELIUS. Mr. Speaker, as principal sponsor of this legislation in this body, I appreciate this opportunity to discuss H.R. 6782, the Emergency Agricultural Act of 1978.

In this current debate, opponents of this bill have understandably expressed concern over rising food costs, increasing Government spending and the danger of fueling the fires of even more inflation. I share this concern.

Consumer groups and others have stated flatly that this bill will raise food costs anywhere from 3 to 5 percent. The administration has stated the bill's cost could reach $13 billion, some $5 billion more than the current program. The President, in his message yesterday, underscored the importance of winning the battle against inflation and warned he would veto any bill he regarded as inflationary.

This legislation has been publicized in this fashion by the national media to the extent that I am sure some of my colleagues consider this emergency bill little more than an inflationary, consumer ripoff.

I would urge my colleagues that before you buy this kind of labeling, you consider the following points:

First, the cost of the bill: Let me stress that this is a 1-year temporary bill. The Congressional Budget Office estimates there will be a $400 million savings this fiscal year. There is now sufficient evidence to show that administration cost estimates are in error and by a very wide margin..

In a memorandum prepared by the Congressional Budget Office for Senator HERMAN TALMADGE, the CBO estimated that with moderate farmer participation, the total cost of this bill would be $2.7 billion. Clearly the administration's $5 billion cost estimate we have seen bandied about in a spate of "Dear Colleague" letters assumes the worst set of circumstances. In addition, these cost estimates do not take into consideration the $40,000 payment limit for each farmer. Including this payment limitation the bill's cost would be reduced by another 20 percent.

Let me also point out that in terms of cost, the substitute to this bill offered in conference by the gentleman from Washington and chairman of the House Agriculture Committee, Mr. FOLEY, comes with a price tag of $3 billion. Many of our farmers have told me my colleagues across the aisle have advised them they should be realistic and support the Foley substitute and yet this emergency bill would cost less and is the least expensive of the alternatives that have been offered.

More important, should we not pass this bill, I can assure you there will be a cost that will have to be paid. In wheat farm country, we are in the midst of the worst economic crisis since the "Great Depression." Perhaps the first question you must answer is whether you believe the farmer is in trouble. In fact, our current crisis is actually worse than the depression days due to massive debt and the danger of solid farm operations going under if we do not experience a turnaround.

It has been popular for critics of this legislation to say problems in farm country today are limited to the young farmer, the farmer who capitalized on $4 and $5 wheat and the big grain producer. To be sure, these folks are in trouble, but so is everyone else in farm country.

The farm depression has already had a ripple effect throughout every community in the Great Plains and its repercussions are now beginning to be felt nationally.

We are not crying wolf in farm country—we are facing an agri-tragedy. We stand to lose a generation of farmers. Look in the galleries. Our plight is real. This display of citizen participation has been the greatest farmer involvement in Government since the days of Kansas populism. These folks have the support of businessmen, bankers, professional people, and wage earners and their prayers.

Every one of these farmers and their families here today in Washington are not here by choice. For their own sake and for the sake of consumers throughout our Nation, they should be back in farm country doing what they do best—producing food for this Nation and for a troubled and hungry world.

However, there is a very good and simple reason why these folks have been so persistent and remain in Washington and why we are considering this emergency legislation. These farmers are not the issue and the current farm movement is not the issue. The issue is the social and economic crisis tha* exists in farm country that brought the farmer to Washington in the first place. This issue has not gone away and it will not go away unless we respond fully. If we do not respond fully to this problem, the cost to farmers, consumers and to every citizen in this Nation may be irreparable.

Second, we should address the issue of food costs. On prime time television, we have heard that passage of this bill will raise retail food prices up to 5 percent and cost families an additional $300 a year for food costs. Mr. Speaker, these assertions are simply not true. The Congressional Budget Office estimates the average family will pay somewhere between $43 and $63 a year more on its food bill or $1 or $2 a week as a result of this legislation. I believe that most Americans are willing to go along with this kind of increase in order to help the farmers.

Third, this measure will not only help the farmer, but will help our entire economy. Every dollar spent by the American farmer stimulates 2 more dollars of additional economic activity. This bill will halt further layoffs within our argribusiness industry, create jobs, add to our balance of trade, offset some of the tremendous deficit we are experiencing from oil imports. This legislation will help create real dollars that will be turned over and over again within our economy.

Mr. Speaker, there are numerous other allegations regarding this legislation that demand full discussion and clarification. However, rather than go into additional comments at this time, let me simply say it is my contention and belief that this bill over the long term will respond fully to the economic depression in farm country, help us return to a balanced supply-demand picture with ample stocks for domestic and foreign needs, and represents an investment rather than a cost.

I fully endorse the President's commitment to slow down and halt inflation, the worst enemy of the farmer and every citizen. But, I do not think we can accomplish this goal by suddenly making the farmer the whipping boy for inflation. It has been the farmer who has suffered the most from inflation and

whose economic problems have been unprecedented.

Mr. Speaker, in 1952 the average wheat suport price within my district of Kansas was approximately $2.22 a bushel. That was 25 years ago. Today, the loan support price within my district of Kanlike to have someone explain to me how that can be inflationary.

Finally, I believe there is another issue of importance and that issue is equity. No one in our economy works harder or can match the productivity record of the American farmer. We are faced with a paradox of enormous irony; the man whose job it is to feed this Nation and a troubled and hungry world cannot obtain a fair price for his products to the extent he can stay in business. This bill represents a means by which we can fully correct this problem and be fair to the man who is the backbone of our Nation.

Mr. FOLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, I rise in support of this legislation, and particularly want to commend the gentleman from the valley (Mr. DE LA GARZA) for the leadership he has given on this measure.

Mr. FOLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Speaker, I rise and support this conference report. The American farmer is in need of help. Farm income is at its lowest level in the last 20 years. Yet food prices are among the highest ever. This bill may not answer every question, but it provides relief for farmers who need it so bad.

Mr. WAMPLER. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, I rise in support of the conference report on H.R. 6782. This bill has been through one of the most tortured parliamentary processes that I have witnessed during my service as a Member of this body.

As reported by the committee of conference the bill was only for 1 year, affecting the 1978 crops of wheat, feed grains and cotton.

I believe most Members who have been involved with this legislation want to help our grain and cotton farmers.

Both systems would cost about the same, it seems. CBO's first cost estimate of $5.7 billion for the conference report is obviously too high. A more reasonable estimate, using comparable assumptions, would place this closer to a $2 billion figure.

When it comes to the merits of the legislation let me say that it will substantially boost farm income from grain and cotton production in 1978. These sectors of agriculture are at present experiencing some very rough times and unless something is done many good family farmers will be broken.

Members from districts that have no feed grains, cotton, or wheat may ask "Why should I vote for this conference report?"

I say the answer is that it is good for America.

A strong grain/cotton economy produces jobs.

It stimulates U.S. exports.

It helps our balance of payments with foreign nations.

It strengthens the dollar.

It keeps producers producing so that inflation is mitigated.

It preserves a land tenure system of many small landowners.

And it ultimately provides American consumers with the lowest cost, best quality food of any people in the world.

I would also like to make a couple of other points that seem to have been overlooked in the frenzy of criticism generated against this bill by the administration.

The first point I would like to make is that the conference report is not a partisan matter.

The "flexibility parity" legislation introduced in the other body was also sponsored by a number of Republican and Democratic Members of the House. That original legislation, however, did not raise CCC loan levels on feed grains, cotton and wheat.

The conferees did that.

The gentleman from Georgia (Mr. MATHIS) was the author of the amendment to raise corn loans to $2.25 per bushel.

The gentleman from Texas (Mr. DE LA GARZA) was the author of the amendment to raise cotton loans to 48 cents per pound.

And the gentleman from Washington (Mr. FOLEY) was the author of the amendment to raise the wheat loan to $2.55 per bushel.

Another very important change in the original "flexible parity" bill was the deletion by the conferees of the "antidumping" provisions of that proposal.

The original flexible parity proposal prohibited the Government from selling (or causing the sale of) grain from Government-owned stocks or from farmer-held (but Government-controlled) reserves for prices less than full parity.

As I say, this important feature was dropped, again at the insistence of a majority of the House conferees.

I hope, therefore, the Members of this body will understand why I contend this conference report is not a partisan instrument. It carries the brands of both political parties and it is truly a bipartisan effort—the proof of which is the fact that every conferee except one from both the House and the Senate signed this conference report.

Finally, will the President veto this bill?

Frankly, I don't know.

He says he will, but he says a lot of things.

If he does, it is up to us to discharge our constitutional responsibility, just as it is his duty to exercise his.

In conclusion, I would like to make one basic point, and that involves the very reason we are debating this bill today.

Realized net income to American farm and ranch people fell by 7 percent last year—from $21.9 to $20.4 billion.

U.S. farm exports are dropping, farm debt is increasing and inflation is chewing up family farms across the Nation. That is why thousands of farmers have come to Washington.

That is why we have this bill in this Chamber today—and that is why we should pass it today.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, one out of every seven farmers in the State of Illinois lives in my district. We have to help the American farmer—no question about it—but this is not the way to do it.

Everyone here knows this bill is not going to become law. Let us get a bill that genuinely helps the farmer that does not adversely impact on the balance of payments, that does not adversely impact on inflation, and that does not adversely impact on hungry people beyond our borders who need food. We can have such a bill geared to target prices, similar to the old Brannan plan that some of us remember from some years ago.

This is not a sound approach. Let us face it. Let us kill it now so the President does not have to do it.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. BRINKLEY).

Mr. BRINKLEY. Mr. Speaker, recently the question was asked a group of us: "Which of your children do you love the most?" We were surprised because we love all of our children equally well. And then the questioner responded with his own answer. He said: "In terms of need or in terms of attention you love that child most, who needs it the most." Today that child who needs this the most is the American farmer. That great populist William Jennings Bryan said:

> When the cities are destroyed, they will be built again; but when the farms are destroyed, grass will grow in the streets of the cities.

Food does not grow on the grocers' shelves nor does fiber just appear on the haberdashery shelves. Let us meet our responsibility to the farmers, that is the basic thing, and then let others meet their responsibilities.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, this country was founded by men and women who cared and who dared. They pledged their lives, their fortunes, and their sacred honor on a novel experiment called democracy. No one has contributed to this concept more fully and without reservation than our farmers, at every level and in every corner of this great country of ours. We now have an opportunity, the rare opportunity of lending a helping hand to this group.

This may not be the total solution to the problem. This is emergency action. voluntarily electing to set aside anygery, but no one can deny the need is there. This is a very small token of recognition, may I add, for past contributions. It is an investment in the future. We can and should do no less.

● Mr. QUAYLE. Mr. Speaker, I plan to support the conference report to H.R. 6782, the Emergency Agricultural Act of

1978. It represents a voluntary, short term solution to the serious economic problems facing many of our family farms in America today.

The flexible parity provisions provide the family farmer a 1-year opportunity to achieve parity in the marketplace by voluntarily electing to set-aside anywhere from 10 to 50 percent of the land during the 1978 crop year.

Last year I established an Indiana 4th District Agricultural Advisory Committee which includes farm representatives from each of the counties in my congressional district as well as representatives of the major farm organizations.

The committee recently submitted to me its recommendations on farm policy and agreed that a combination of increased voluntary set-asides coupled with higher target prices would be beneficial to the farm economy and should be a general objective. The committee emphasized to me that whatever action Congress takes to enhance grain prices, it should not increase Government involvement nor aggravate the inflationary spiral.

The flexible parity approach will help the farmers in the marketplace with a minimum of governmental involvement.

President Carter and others cry out that this is an inflationary bill. There is little question that inflation is the No. 1 problem confronting the Nation today, and the farmer has been one of its prime victims. However, we should not make the family farmer the whipping boy for inflation by denying him the limited incentives provided in this emergency bill.

It is difficult to estimate the number of farmers that will eventually elect to participate in this program. The fiscal consequences, in my judgment, will not be as severe as predicted by the administration. There is little question that this compromise conference report is less expensive than the measure as passed by the Senate which included more costly land diversion and higher target price provisions.

The Congressional Budget Office has reported that this bill will raise food prices anywhere from 1.1 to 1.5 percent. This translates to about $63 more a year on the food bill of the average family. It is questionable that the inflationary impact will be as severe as the minimum wage hikes which were enacted earlier by this Congress and signed by the President.

Mr. Speaker, I urge the adoption of the conference report as a signal from this Congress that we are interested in saving the family farms of America. Under leave to extend my remarks, I include a statement of policy recommendations from the 4th District of Indiana Agriculture Advisory Committee:

STATEMENT OF POLICY RECOMMENDATIONS FROM THE 4TH DISTRICT OF INDIANA AGRICULTURE ADVISORY COMMITTEE, MARCH 31, 1978

The 4th District of Indiana Agriculture Advisory Committee, which was appointed by Congressman Dan Quayle, has been at work since February 3, 1978, to develop recommendations on agricultural policy and legislation for submission to the Congressman.

We now wish to submit to Congressman Quayle this statement of policy recommendations which represent the best thinking of the Committee, and request that the Congressman study the recommendations and take whatever action he deems appropriate.

We recommend that this Agriculture Advisory Committee remain active, and provide continuing input to the Congressman, and at the same time, encourage him to continue to communicate with the Committee as well as all farm families within the 4th District.

There is good reason for deep concern about the economic plight of the farmer and the survival of the family farm in the Nation. Soaring inflation coupled with declining crop prices have posed serious threats to many farmers who are strapped with heavy financial burdens.

It is important that these problems be addressed promptly. In many instances, we find that government policies—including actions of the Congress—have contributed to the farmer's plight.

Inflation constitutes a number one problem for all Americans—but it hits especially hard at the farmer because his costs have risen while commodity prices have dropped.

Government bureaucracy, paperwork, and red tape impede the efforts of farmers, as well as other citizens, in their participation in government programs.

Our tax laws represent a deterrent to the transferring of land from a farmer to his heirs and there is urgent need to constantly update these laws, enact reforms, and provide tax breaks that will encourage young people to continue family farm operations.

We believe that recent efforts by farmers from across the country to focus attention on these and other problems have been beneficial and have helped educate consumers, congressmen, and bureaucrats alike.

We acknowledge the need for action in regard to improving grain prices—but we would hope that such action would not result in increased government involvement nor aggravate the inflationary spiral.

We recognize that no simple answers exist. Farm problems vary from state to state depending on farm size, commodities involved, management procedures and other climatic and economic factors. It is important, however, that we continue to have open dialogue between farmers and their elected representatives, at all levels, to find ways to best turn around the economic disaster facing the farmers. Such a disaster would have a "ripple effect" throughout the entire national economy.

Following are the recommendations which have been agreed to by a majority of the members of this Advisory Committee:

INFLATION

The Advisory Committee finds that farmers especially are placed in a difficult position by inflation, with reduced income, and recommends that Congressman Quayle take initiatives, and support actions, that will reduce unnecessary federal spending, lower the federal deficit, and result in less but more efficient government.

In recent months prices at the grocery store have gone up—but prices received by the farmer for his products have gone down. An educational effort aimed at the consumer is needed.

We recommend that in reporting of Consumer Price Index statistics—especially as they apply to food costs—the government should make an effort to break down prices received by farmers for their commodities, e.g. grain, meat, dairy products, as compared to supermarket prices.

EXPORTS

The Advisory Committee is concerned that insufficient actions are being taken by the Administration to expand U.S. agricultural exports. We believe that more aggressive initiatives insofar as export sales are concerned would have a positive effect on commodity prices.

The Advisory Committee also believes that inaction in last year's longshoreman's strike; shortage of hopper cars; and storage facilities hamper the exporting process.

It is imperative, if we are to expand exports, that improved rail transportation must be provided to grain centers, including smaller elevators. A solution must be found to the persistent shortage of hopper cars to haul grain. Barge transportation should be improved, and specifically, the Committee calls for expediting the modernization and improvement of Lock & Dam 26.

The Advisory Committee finds that the Panama Canal is vital to the shipment of U.S. agricultural commodities now and in future years. It is essential that the Canal be kept open and its neutrality guaranteed.

We favor a reduction in trade barriers, and generally advocate a free trade policy that will permit the market to work without governmental interference.

While the Committee does not object to trade with either the Soviet Union or the Peoples Republic of China, we believe such transactions should be on a cash basis. We further feel that agricultural sales with other Nations should be on a cash basis, as much as possible.

The Advisory Committee expresses its concern over the Carter Administration policies which are apparently aimed at making food a tool of our foreign policy. We recommend that red tape and delays in making food shipments under the Food for Peace program (P.L. 480) be investigated and legislative action taken to speed the process regardless of foreign policy considerations.

Specifically, we recommend that overseas U.S. Agricultural Trade Offices be upgraded for the purpose of carrying out trade promotion activities, and that the United States locate agricultural counselors in nations with which the U.S. has diplomatic relations.

We support a resolution directing the President to instruct U.S. negotiators participating in the Multilateral Trade Negotiations, the Secretary of Agriculture, and the Special Representative for Trade Negotiations to set as their goals both expansion of U.S. agricultural markets abroad and increases in prices of U.S. agricultural exports to levels sufficient to assure, for U.S. farmers, a return on those exports equal to that which would be available at domestic parity levels.

We urge that the Commodity Credit Corporation make prompt disclosure of foreign sales.

We believe Congress should be consulted by the President before any embargo actions are imposed.

IMPORTS

The Advisory Committee believes that a "reasonable approach" should be taken in regard to the levying of import tariffs because of the United States' growing objective to export more of our agricultural products.

However, the Committee strongly supports the labeling of all foreign food imports so that the origin of the country is clearly seen by the consumer.

The Advisory Committee supports legislation providing that food stamp recipients could not use food stamps for buying foreign foods that are so marked and indicated on their packages, or for foreign-produced meat and meat products. We think it is reasonable that American taxpayers' dollars spent in federal food programs be used on American farm products.

FOREIGN INVESTMENTS

There are growing reports of foreign investments in U.S. farmland and other agribusiness facilities in the United States. Land values in the corn belt are reported to have tripled in the past 10 years. The first and only survey of foreign investment was com-

pleted in 1974, and found that there was $45 billion invested by foreigners in U.S. land, property, plants and equipment. The Advisory Committee urges continued monitoring of this activity with a report made to the American people.

CREDIT RELIEF

The Advisory Committee supports the new economic emergency loan program which has been approved by the House and Senate. However, the imposition of more debt on hard-hit farmers can only be viewed as a temporary stop-gap measure. At the same time, the Committee views with alarm the red-tape and long delays which apparently are a pattern in seeking loan assistance through the Farmers Home Administration.

The credit relief legislation, now pending in a House-Senate conference committee, establishes a new emergency loan program for established and reasonably successful farmers and farmer corporations that had temporary credit problems because of a general tightening of agricultural credit and an unfavorable relationship between production costs and prices received for agricultural commodities.

Loans could be used for mortgage payments and operating expenses, getting into new crops or otherwise "reorganizing" a farm, refinancing existing debts and for certain other purposes. Individual loans are limited to $400,000 in the House bill, $500,000 in the Senate version.

The House bill also created a special 3 per cent interest loan program to cover mortgage and operating expenses of low-income farmers including new farmers.

ENHANCING GRAIN PRICES

The Advisory Committee has devoted much of its time to the discussion of methods of enhancing prices which farmers receive for their grain commodities. There are some who believe that no action should be taken by government. Others feel that government, which guarantees a large segment of hourly workers a set minimum wage, should, at the very least, legislate that farmers are entitled to a guarantee that their commodities should not be sold below the cost of production.

Needless to say, the recent nationwide effort of the American Agriculture Movement has sparked the attention of both the Administration and the Congress. Numerous bills have been introduced.

The Administration on Thursday, March 30, made its first significant concessions to farmers by using existing laws to institute the first paid land diversion program since the early 1970s. About 4 million fewer acres of corn would be put into production as a result. It is estimated the action would raise farm incomes by $3 billion to $4 billion a year.

The Advisory Committee believes that Congressman Quayle should give serious consideration to supporting parts of legislation now before a House-Senate Conference Committee, as a short-term solution to present problems.

The Advisory Committee is generally supportive of those actions which are voluntary and not mandatory.

Following is a brief summary of the three major provisions of legislation now before the Conference Committee:

*Talmadge land diversion program*

1. Requires the Secretary of Agriculture to set aside at least 31 million acres of cropland for crop year 1978, in addition to the 15 million acre wheat and feed grain set-asides already announced by the Department of Agriculture.

2. Authorizes direct payments to farmers, only for that portion of land they set aside beyond the levels in the previously announced program. Payments are estimated at about $75 an acre.

3. Stipulate the following distribution for the additional setaside: 15 million acres of wheat, 10 million acres of feed grains, three million acres of cotton, three million acres of soybeans.

4. Mandates specific market price objectives for the land diversion program, and authorizes the Secretary to set aside additional land or take certain other steps as needed to bring market prices up to those objectives. The price objectives are: $3.50 a bushel for wheat; $2.50 a bushel for corn; $6 a bushel for soybeans and 60 cents a pound for cotton.

5. Waives the $40,000 upper limit on total payments to an individual farmer authorized by the 1977 farm law.

6. Requires payments of at least 50 per cent of the total due a farmer at the time a program contract is signed.

*McGovern target price, loan program*

1. Raised target prices and loan levels for certain commodities as follows:

Wheat target price to $3.55 a bushel, from $3–$3.05; wheat loan to $2.85 a bushel from $2.25–$2.35.

Corn target prices to $2.50 a bushel, from $2.10; corn loan to $2.25 a bushel from $2.

Cotton target price to 70 cents a pound, from 52 cents; cotton loan to 50 cents a pound from 44 cents.

*Dole flexible parity program*

1. Creates a sliding scale of target prices for crop year 1978 and linked it with the set-aside program. Participation in the announced set-aside programs is a condition for eligibility and payments would be made only on set-asides in addition to the already established programs.

2. Establishes seven wheat target prices ranging from $3 a bushel for farmers who set aside 20 per cent of their cropland to $5.04 a bushel for those who set aside 50 per cent of their land. The higher figure represents 100 per cent parity, calculated under the 1910–1914 formula.

3. Established eight corn target prices ranging from $2.10 for a 10 per cent set aside to $3.45 for 50 per cent set aside.

4. Establishes a single cotton target price of 70 cents a pound for a 20 per cent set aside.

5. Raises commodity loan rates for wheat to $2.85 a bushel, and for corn to $2.40 a bushel.

6. Discourages farmer participation in federal grain reserves programs.

7. Permits grazing and haying on all crop year 1978 set-asides.

The Advisory Committee believes that a combination of increased voluntary set-aside coupled with higher target prices would be beneficial to the farm economy and should be a general objective.

Finally, the Advisory Committee urges Congressman Quayle to give careful consideration to other long-term legislative proposals affecting the farmer which are now before the Congress. Such proposals should be the subject of future discussions and consideration by the Committee with the Congressman.

BUREAUCRACY

The Advisory Committee finds that there are too many regulations, and we think that for too long, government agencies run by unelected bureaucrats, have been left free to come up with impractical, mischievous and in some cases downright ridiculous restrictions.

At the present time, we are concerned about promulgated regulations concerning nitrites and nitrates which could destroy the pork industry. Further research is in order before such drastic regulations are implemented.

The Advisory Committee recommends that all federal agencies, including the Agriculture Department, submit their proposed regulations to Congress for adequate review and analysis before being promulgated. Congress should have a 30-day period to veto regulations it finds unacceptable. "Sunset legislation" also should be enacted requiring all government departments and agencies to periodically justify their continued existence.

We are concrned about actions by OSHA and EPA which impede food production and contribute to higher food prices. Congress, through its oversight committees, should investigate and eliminate unnecessary regulations and harassment.

Congress should re-examine Section 208 of the Clean Water Act as it applies to rural communities and farms. In any case, enforcement should be kept at the local level.

An economic impact statement should be required on rules and regulations promulgated by federal agencies and departments.

ADVOCACY OF THE FARMER

We believe that the Department of Agriculture should be representative of, and an advocate of farmer problems and the farmer. We are concerned that the Department does not necessarily reflect the farm voice as much as it should.●

● Mr. ARMSTRONG. Mr. Speaker, agriculture is the backbone of the American economy, and the key to future prosperity. No democratic nation in history has survived as a strong and independent power without a strong and prosperous agricultural sector.

Americans spend a lower percentage of their paycheck on food than any other nation in the world—about 18 percent of the average American's wages go to food purchases. At the same time, the U.S. farmers feed not only Americans, but export enough food to feed another 200 million people.

In the United States, 2.8 million farms and 4 million farmers supply enough food for almost half a billion people. If you break that down, the average farmer produces food for almost 100 people every year, and that does not include nonfood crops such as cotton, leather, wool, linseed oil, et cetera. Every year there are fewer farms, fewer farmers, and yet they produce more.

And the reward for this incredible record?

There has been no reward, as we all know. Since 1970, farm earnings, after adjusting for inflation, have decreased. At the same time, the capital investment of the average farmer has approached $200,000. Family farmers are generally working harder for less return than any other working people in America.

In my own State of Colorado, the 1977 realized net farm income was down 22 percent from 1976, and amounted to only half of the 1974 realized farm income. The average income for Colorado farmers and ranchers, after expenses, was $8,992 in 1976—the lowest it had been since 1971. But in 1977, that net income dropped even further, dipping close to $8,000.

By contrast, that figure is roughly half the U.S. average family income in 1977.

Low income is only half the story, however. As farm prices and income have declined, farm production costs have skyrocketed. Colorado farm expenditures

have risen 120 percent over the last 10 years and are expected to rise at least another 7 percent in 1978.

True, food prices have increased 150 percent in the last 10 years, but that increase has not gone to farmers, but to the transportation, the wholesalers, the retailers, and to the various governments in taxes. The farmer has ended up with less, and many people wonder why farmers are upset.

At a time when consumer prices have doubled in the past 10 years, and tripled in the past 30, the prices farmers have received for their crops has increased only 80 percent over 30 years, less than 3 percent per year at a time when inflation has been more than 5 percent per annum.

For these reasons, I am pleased to support the conference report on H.R. 6782, the Emergency Agriculture Act of 1978.

American farmers need help, and they need it now—not next year, or 3 years from now.

Congress and the administration have heeded every other political pressure group's requests, many of which have not deserved assistance nearly so much as the struggling farmers.

But the administration, and unfortunately, some Members of this body are so concerned about the impact of the Emergency Agriculture Act on inflation that the facts tend to be ignored.

According to the Congressional Budget Office. the 2-year additional cost of H.R. 6782 would be $5.3 billion. This cost estimate is based on the unrealistic assumption that 90 percent of all wheat producers would set aside at least 50 percent of their acreage.

The actual impact is likely to be a highly doubtful projection.

While the administration has cited the existing farm program as helpful, recent actions by Secretary Bergland have not given farmers any great hopes. On April 7, 1978, the Secretary of Agriculture announced the administration's crop loan levels for 1978. Despite promises, the loan levels for wheat and all feed grains were at the same level as in 1977. So, despite increasing costs of production, farmers cannot borrow any more on their crops this year than they could last year.

At the same time the administration is failing to help farmers, they continue to help the country. Only our continuing and massive exports of farm production has kept the dollar from sliding further on the world market and helped offset the growing dollar cost of imported oil. Yet even here, the administration seems unwilling to help the farmer or the country.

Just a few weeks ago the State Department advocated that agricultural attaché offices be eliminated in five foreign countries and reduced in five others. These 10 nations where the agriculture attaché cuts were recommended provided a market for $3 billion worth of U.S. farm products in 1976.

The administration has failed to take constructive action on reducing Japanese and Common Market tariff barriers to U.S. farm exports and, in fact, led the American people to believe the Japanese were willing to permit increased imports of American beef. The Japanese evidently do not agree.

With this background, you can see why the farmers, and consumers, of the United States need the speedy passage of the Emergency Agriculture Act of 1978.

The question is not inflation, no matter what the administration claims. While Government-generated inflation has created the economic plight facing farmers and wage earners today, under the circumstances I have outlined, it would be a grievous mistake to make the farmers of America the scapegoat of an anti-inflation campaign.

Farmers are as willing, perhaps more willing than most Americans, to do their part in the fight against inflation. But to demand that they bear the brunt of the burden because they and their families comprise only 4 percent of the population is to my mind unconscionable.

The other 96 percent of the American population has benefited for generations from the hard work and industry of American farmers. But farmers do not live in a vacuum. When the minimum wage goes up, when the price of energy skyrockets, when the wages of truckers, government employees, steelworkers, et cetera, go up, so do the costs of farming. When the Congress legislates new environmental programs, higher social security taxes, and more deficits, farm costs increase.

Farmers cannot control these increased costs which we in Congress have so often passed on to them. That's why they need this legislation.

Possible increases in farm program costs may seem big until you make a few comparisons to other programs supported by the administration.

The Emergency Agriculture Act would cost less than half the $6.3 billion to $7.4 billion the Inspector General estimates the Department of Health, Education, and Welfare misspent last year because of waste, fraud, and abuse. The Emergency Agriculture Act can hardly be deemed inflationary compared with other programs sponsored or supported by the administration:

A substantial hike in the minimum wage that will increase unemployment and add approximately $10 billion annually to the cost of doing business in the United States;

A 39-percent wage increase over 3 years for coal miners, which could boost the price of steel and electric utility bills by at least 10 percent;

Social security payroll tax increases that will take an additional $227 billion from Americans over the next 10 years;

Proposed new energy taxes that would extract $72.5 billion from the economy by 1985;

New oil tanker regulations which would cost consumers another $1 billion;

A cargo preference bill which Secretary Blumenthal estimated would have added $1 billion a year to the fuel bill of Americans; and

Budget proposals adding up to a total of $87 billion for next fiscal year. The interest that taxpayers will have to pay on that debt is in itself greater than the entire cost of the Emergency Agriculture Act of 1978.

Even this partial listing makes it clear that a rejection or a veto of the Emergency Agriculture Act would be only a token gesture in the fight against inflation. But it would be a disaster for American agriculture.

Agriculture is a key sector of our domestic economy, and our greatest hope for redressing our dangerous imbalance of trade. If the farmers are hurting now, we can be certain the rest of our economy will be hurting a few years down the road. To deny farmers the assistance they need today, simply to effect a cosmetic economy, is virtually to guarantee higher food prices and perhaps food shortages in the years ahead.

If we are serious about fighting inflation, then we should place the blame on the real causes.

The farmers have not created inflation, nor should they bear the brunt of fighting it. Instead we should enact legislation which will support farmers and their efforts, those efforts which have given us the cheapest food of any industrialized nation in the world.

In this effort, I urge all Members to support the conference report on H.R. 6782, the Emergency Agriculture Act of 1978.●

● Mr. CORCORAN of Illinois. Mr. Speaker, during the debate today on H.R. 6782, the conference report which accompanied the Emergency Agricultural Act of 1978, I was reminded that an important era in agriculture is ending. When I left our family farm some 20 years ago, I did so because the Federal Government had such a grip on agriculture that our land could only support one or two families. Since then, two major developments in Government policy have occurred: First, in recent years, until the last year or so, we have seen less Government involvement in the marketing of farm products and improved profits for farmers—good news for the farmers. Second, we have witnessed an increasing trend of bureaucratic agencies, such as EPA, OSHA and the like, playing an increasing role in agriculture—bad news for the farmer. Under the Carter-Bergland administration, we are going back to the bad old days of agriculture. This reverses the good news of farm profitability, and will eventually lead to continued tinkering on the farms of this country.

It is with these considerations in my mind that, after considerable thought, I decided to vote "no" on the conference report. This report will not only be inflationary, it will impede the shipment of American goods abroad, a very alarming consequence. The target prices and the loan levels in this legislation will simply make U.S. products less competitive in world markets. It also will encourage higher prices through planned scarcity, which could create world food shortages in the event of another serious drought in other producing countries. Finally, the program will be virtually impossible to administer effectively and efficiently.

I discussed this conference report and all of the controversy leading up to the

vote today with many farm leaders and farmers, as well as other concerned citizens throughout the 15th District of Illinois. They opposed this bill almost unanimously for many of the same reasons to which I have previously alluded.

The overwhelming concern expressed by my constituents was their desire to eliminate further Government involvement in their daily lives. If I heard it once, I heard it several times—"Tom, please help get government off our backs, and out of our pockets." I heartily agree. The typical American farmer provides us with so much, and in return he asks for so little. He does not seek a handout or a free ride. Instead, he asks only that the Government not stand in the way of his own efforts.

On February 4, 1978, I held a seminar on agricultural information in Pontiac. During that seminar I heard from more than 200 farmers, farmwives, and agribusinessmen who expressed their concerns to me regarding the serious problems which now face the American farmer. These people do not support the unrealistic concept of 100-percent parity for their products. They are not violent strikers, as are some of our brothers and sisters in other parts of the country. They have but one common interest: To be prosperous and productive. They want to strengthen their individual economies and the economy of the United States through increased sales of American farm products abroad, among other methods.

In 1977, I sponsored a resolution which called on the Carter administration to develop a comprehensive program to promote the sale of American farm products overseas. On February 21, of this year, I cosponsored a bill which would, among other provisions, establish agricultural trade offices and designate several agricultural counselors to actively seek foreign markets for American products. This is the direction the American farm movement needs to pursue.

The immediate problems facing the farmers of this country—caused primarily by bad Government farm policies—can be solved on a 1-year basis by extending credit to cover the costs of land and machinery purchases they have made in recent years. Moreover, while repudiating the fallacies in the 1977 farm bill the Congress could act today to make its provisions effective on an emergency basis with reasonable payments for the acres to be idled. This entire approach should be scrapped after this year so we can return to the free market system with the Government role essentially limited to export promotion.

Mr. Speaker, this multibillion dollar farm conference report was considered without the benefit of any hearings in committee. This legislation proposed only apparently for 1 year, could cause irreparable long-term damage to the economy of every farmer and his family in this country.

Let us defeat this report and send the conference committee back to work out an emergency plan which is truly in the best interests of the American farmer.●

● Mr. RINALDO. Mr. Speaker, I oppose the conference report to H.R. 6782, the Emergency Agricultural Act of 1978. The economic picture in this country is presently very bleak. We are suffering from a sizable deficit in our balance of payments; the dollar is taking a drubbing in the international monetary market; unemployment continues to affect far too many Americans; the stock market is in the doldrums; and inflation continues to rise.

In spite of these symptoms of our economic ill health, we are being asked to render the patient still weaker instead of vigorously fighting to regain fiscal well-being. In the conference report before us today, we are being asked to approve sizable increases in cash payments to producers who agree to reduce their acreage of wheat, corn, and cotton crops. The conference committee is asking Congress to approve a crop reduction to a maximum of 50 percent set-aside, with payments supplementing market prices to reach the equivalent of 100 percent of parity.

If the House approves this conference report, it will add 4 percent to food prices this year. This is in addition to the 6- to 8-percent increase in prices already projected by the Department of Agriculture. Approval of the farm bill will increase deficit spending by adding approximately $5 to $6 billion in budget outlays in fiscal year 1979. Large set-asides can cause food reserves to decrease to serious levels, and make U.S. farm goods less competitive in international markets. Adding this degree of fiscal disruption to an already faltering economy is unconscionable. I urge my colleagues to join me in taking this opportunity to register their votes in favor of fiscal responsibility.●

● Mr. FRENZEL. Mr. Speaker, this conference report presents a tough decision. It purports to help agricultural producers, and there surely is a broad consensus that some farmers need help.

It is the one farm bill on which we can vote that could be effective prior to this year's planting season. It is time that the administration could take, and will surely take, some action under existing law, but this vote today is our only chance to have a piece of the action.

This vote also allows us to put some pressure on the President. He usually needs pressure before he becomes concerned about problems or wants to take action. The opportunity to prod the President, to encourage action on his part, and to accentuate his embarrassment is appealing.

This approach is also appealing in that it is an ingenious approach to a vexing problem. It seems to offer more promise than some of the old solutions, in which classification I include the Talmadge approach. It will give an incentive for reduced planting. Despite all of these reasons to vote for the bill, I am obliged to vote against it.

In the first place, it is, by general agreement, a very inflationary proposal made in already very inflationary times. While most Americans would like to see help for farm families who need help, it appears that this bill would be more expensive than is necessary.

There is no more important problem facing our country now than inflation. The minority group in this House has articulated the importance of this problem with great vigor. I, personally, feel a strong commitment to hold spending down to reasonable levels. I find the potential spending levels which could be caused by this bill to be too high.

And, while this policy is innovative, it is also complicated and untested. It has been hastily drawn to meet an acknowledged emergency. It is acknowledged to be difficult to administer and enforce. It seems to have loopholes. It seems to offer unnecessarily generous subsidies to take land out of production, without any guarantees that production will decrease proportionately.

But perhaps the most dangerous aspect of this bill is that it puts us deeper into bureaucratic programs. Under the previous two administrations, this country took giant strides to disencumber itself from bureaucratic, counterproductive farm programs that had resulted in heavy surpluses and depressed farm prices.

We ought to be very, very careful before we permit ourselves to sink back into another such program. Even though this bill is presented as a single year proposal, farm programs have a way of extending themselves.

Finally, I am bothered by the concept of parity. The use of a concept based on conditions existing more than a half century ago, and one which is confusing even to those who have tried to understand it, is troubling. I would hope that whatever farm program is ultimately executed will be based on a firmer foundation than that of parity.

For these reasons, I am compelled to vote no. I would like to vote for help for the agricultural producers who are suffering obvious hardship, but I think this solution is not the right one.●

PERSONAL EXPLANATION

● Mr. CARR. Mr. Speaker, I voted today in favor of the conference report on H.R. 6782, the so-called Emergency Agricultural Act of 1978. My "aye" vote is a vote of solidarity with the many American farmers who face imminent and serious economic problems, and my vote symbolizes my concern that inadequate and unstable farm income threatens the agricultural production base of our Nation—a base on which we all rely.

Nevertheless, in the context of the bill before us and the manner in which it was brought before us, my vote can only be considered as symbolic, and is intended to be considered as such. This is, of course, a less than ideal vote in a less than ideal situation. Despite the many weaknesses of this legislation, however, I think we must demonstrate that there is a significant constituency in this House for fair and reasonable agricultural reforms. We need to insure that the issues which have been brought before us in recent weeks do not disappear along with this bill, which will disappear.

Although I am by no means an expert on agricultural issues, there appear to be numerous problems with H.R. 6782.

It is not clear that the bill would really help hard-pressed American farmers, and even if it would provide assistance, it might cause more problems than it would solve. The legislation would give added fuel to the fires of inflation which ravage all consumers—including farmers—and would hinder our efforts to restrain the growth of the Federal budget. The bill would also have uncertain but potentially devastating impacts on our agricultural exports—and all farmers have a stake in seeing that these exports are maintained while new foreign markets are found. Finally, the bill might hurt some farmers and dairy and cattle ranchers, and the agricultural community is correspondingly divided over this bill.

I also have strong objections to the manner in which this legislation was considered. As you know, H.R. 6782 was originally a noncontroversial bill dealing with the marketing of raisins, and the emergency farm provisions were not added until the bill was considered in the Senate. As a result, the House has not had the opportunity to hold hearings on the bill, to study its provisions in depth, or to amend and perfect those provisions. The facts about this bill have not been made clear, there has not been sufficient time for opposing viewpoints to be aired, and the legislative process has been circumvented. Finally, I suspect that this legislation is a partisan political ploy by Senator DOLE, who may be more concerned with placing the administration in a no-win situation than he is with drafting a farm bill which could be passed and which really would help American agriculture.

Now that the House has defeated this bill, it has no future, but I think there is a future for more productive and more carefully drafted farm legislation, and I urge Government officials and farmers alike to work together to create a more acceptable legislative product.●

● Mrs. COLLINS of Illinois. Mr. Speaker, I rise in opposition to the conference report on H.R. 6782, the Emergency Agricultural Act of 1978.

Although I am sympathetic to the fact that the real income of farmers has declined in recent years, I do not believe that this legislation provides a remedy that is either fair to the American consumer or is in the long-term interests of U.S. agriculture. The basic purpose of the conference report is to implement the notion of "flexible parity," an ideal with great political appeal in certain regions of the country, but without any real economic merit. As embodied in H.R. 6782, wheat, feedgrain, and cotton farmers would be permitted to set their own price support levels through a formula that would raise price supports in proportion to the amount of land taken out of production. The legislation would raise both the target prices that the Government agrees to give farmers directly and the loan prices that the farmer can borrow by "loaning" his crop to the Government.

The trouble with this approach is that it ignores the effects of higher farm prices on consumers, on the rate of inflation generally, and on the world food supply situation. Furthermore, it offers no solution to the recurrent cycles of boom and bust that are largely responsible for the predicament in which American agriculture finds itself today.

As a Representative of a district in parts of which food costs make up a large percentage of living expenses, I am highly sensitive to the upward trend in supermarket food prices in recent months. According to the Consumer Price Index, food prices rose 8 percent during 1977 while the average price of all commodities rose by 6.8 percent. Over the last 5 years the price index for food has risen by 56 percent while the index for all items went up by 46 percent. According to the White House Council on Wage and Price Stability, this legislation, if enacted, would add at least $100 a year to the average family's food bill and would bring with it a major risk of returning the country to the double-diget food inflation of a few years ago.

Furthermore, the legislation abandons the hope of building grain reserves at a very time when the Sahel and other famine-prone regions of the world are once again threatened with massive food shortages. Neither America nor the rest of the world can afford to subsidize such a shortsighted answer to America's agricultural problems.●

● Mrs. SCHROEDER. Mr. Speaker, the Emergency Agricultural Act of 1978 would harm farmers and consumers alike.

This bill will not benefit the farmers in greatest peril and would further aggravate their problems.

First. The largest 5 percent of farms will receive about one-third of the payments.

Second. It would harm American farmers in the world market. U.S. farm goods would become less competitive on international markets and customer nations would find new, more reliable suppliers.

Third. The huge land retirement required by this bill would shrink grain supplies to very low levels, leaving farmers and foreign markets extremely vulnerable to a poor harvest.

Fourth. It would result in further land inflation because higher commodities prices boost land costs. This in turn would make it more difficult for young people to get into farming.

H.R. 6782 will hit equally hard at the consumers.

First. Retail food prices would be 2 to 4 percent higher than the 6 to 8 percent increase currently being forecast.

Second. The bill has the potential for driving food supplies to dangerously low levels and leaving the consumer in a very vulnerable position should there be a bad harvest.

The taxpayer would be forced to subsidize this program by increasing the budget an additional $3 to $5 billion over the current program.

The overall impact of this bill would boost inflation by .2 to .3 percent.●

Mr. FOLEY. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. VOLKMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 150, nays 268, answered "present" 1, not voting 15, as follows:

[Roll No. 214]

YEAS—150

| | | |
|---|---|---|
| Abdnor | Ginn | Nichols |
| Alexander | Glickman | Nolan |
| Andrews, N. Dak. | Gonzalez | Oberstar |
| | Gore | Perkins |
| Armstrong | Guyer | Pettis |
| Baldus | Hagedorn | Pickle |
| Barnard | Hall | Poage |
| Baucus | Hammer-schmidt | Pressler |
| Bauman | | Quayle |
| Bevill | Hansen | Quie |
| Breaux | Harkin | Rhodes |
| Breckinridge | Harsha | Risenhoover |
| Brinkley | Hefner | Roberts |
| Broomfield | Hightower | Robinson |
| Brown, Mich. | Hillis | Roncalio |
| Brown, Ohio | Holland | Rose |
| Broyhill | Holt | Rudd |
| Burgener | Hubbard | Schulze |
| Burke, Mass. | Huckaby | Sebelius |
| Burleson, Tex. | Ichord | Shipley |
| Burlison, Mo. | Jeffords | Shuster |
| Carr | Jenkins | Sikes |
| Carter | Jenrette | Skelton |
| Cavanaugh | Johnson, Calif. | Skubitz |
| Cederberg | Johnson, Colo. | Slack |
| Clausen, Don H. | Jones, N.C. | Smith, Iowa |
| | Jones, Okla. | Smith, Nebr. |
| Cochran | Jones, Tenn. | Snyder |
| Coleman | Kazen | Spence |
| Daniel, R. W. | Keys | Stangeland |
| Davis | Kildee | Stanton |
| de la Garza | Kindness | Steed |
| Devine | Krueger | Symms |
| Dickinson | Latta | Taylor |
| Diggs | Long, La. | Thone |
| Dornan | Lott | Thornton |
| Edwards, Ala. | Lujan | Traxler |
| Edwards, Okla. | McCloskey | Treen |
| Emery | McCormack | Trible |
| English | McEwen | Tucker |
| Evans, Colo. | Mahon | Ullman |
| Evans, Ga. | Marlenee | Vander Jagt |
| Flippo | Martin | Wampler |
| Flowers | Mathis | Watkins |
| Flynt | Michel | White |
| Foley | Miller, Ohio | Whitten |
| Fountain | Mitchell, N.Y. | Wilson, Bob |
| Fraser | Montgomery | Wilson, Tex. |
| Frey | Moore | Winn |
| Fuqua | Myers, John | Young, Alaska |
| Gammage | Natcher | Young, Tex. |

NAYS—268

| | | |
|---|---|---|
| Addabbo | Bolling | Coughlin |
| Akaka | Bonior | Cunningham |
| Allen | Bonker | D'Amours |
| Ambro | Bowen | Daniel, Dan |
| Ammerman | Brademas | Danielson |
| Anderson, Calif. | Brodhead | Delaney |
| | Brooks | Dellums |
| Anderson, Ill. | Brown, Calif. | Derrick |
| Andrews, N.C. | Buchanan | Derwinski |
| Annunzio | Burke, Fla. | Dicks |
| Applegate | Burton, Phillip | Dingell |
| Archer | Butler | Dodd |
| Ashbrook | Byron | Downey |
| Ashley | Caputo | Drinan |
| Aspin | Carney | Duncan, Oreg. |
| AuCoin | Chappell | Duncan, Tenn. |
| Badham | Chisholm | Early |
| Bafalis | Clay | Edgar |
| Beard, R.I. | Cleveland | Edwards, Calif. |
| Beard, Tenn. | Cohen | Eilberg |
| Bedell | Collins, Ill. | Erlenborn |
| Beilenson | Collins, Tex. | Ertel |
| Benjamin | Conable | Evans, Del. |
| Bennett | Conte | Evans, Ind. |
| Biaggi | Conyers | Fary |
| Bingham | Corcoran | Fascell |
| Blanchard | Corman | Fenwick |
| Blouin | Cornell | Findley |
| Boggs | Cornwell | Fish |
| Boland | Cotter | Fisher |

| | | |
|---|---|---|
| Fithian | McFall | Richmond |
| Flood | McHugh | Rinaldo |
| Florio | McKay | Roe |
| Ford, Mich. | McKinney | Rogers |
| Ford, Tenn. | Madigan | Rooney |
| Forsythe | Maguire | Rosenthal |
| Fowler | Mann | Rostenkowski |
| Frenzel | Markey | Rousselot |
| Garcia | Marks | Roybal |
| Gaydos | Marriott | Ruppe |
| Gephardt | Mattox | Russo |
| Giaimo | Mazzoli | Ryan |
| Gibbons | Meeds | Santini |
| Gilman | Metcalfe | Sarasin |
| Goldwater | Meyner | Satterfield |
| Goodling | Mikulski | Sawyer |
| Gradison | Mikva | Scheuer |
| Grassley | Milford | Schroeder |
| Green | Miller, Calif. | Seiberling |
| Gudger | Mineta | Sharp |
| Hamilton | Minish | Simon |
| Hanley | Mitchell, Md. | Sisk |
| Hannaford | Moakley | Solarz |
| Harrington | Moffett | St Germain |
| Harris | Mollohan | Staggers |
| Hawkins | Moorhead, Calif. | Stark |
| Heckler | Moorhead, Pa. | Steers |
| Heftel | Moss | Steiger |
| Hollenbeck | Mottl | Stockman |
| Holtzman | Murphy, Ill. | Stokes |
| Horton | Murphy, N.Y. | Stratton |
| Hughes | Murphy, Pa. | Studds |
| Hyde | Murtha | Stump |
| Ireland | Myers, Gary | Thompson |
| Jacobs | Myers, Michael | Tsongas |
| Jordan | Neal | Vanik |
| Kasten | Nedzi | Vento |
| Kastenmeier | Nix | Volkmer |
| Kelly | Nowak | Waggonner |
| Kemp | Oakar | Walgren |
| Ketchum | Obey | Walker |
| Kostmayer | O'Brien | Walsh |
| Krebs | Ottinger | Waxman |
| LaFalce | Panetta | Weaver |
| Lagomarsino | Patten | Weiss |
| Leach | Patterson | Whalen |
| Lederer | Pattison | Whitehurst |
| Le Fante | Pease | Wiggins |
| Leggett | Pepper | Wilson, C. H. |
| Lehman | Pike | Wirth |
| Lent | Preyer | Wolff |
| Levitas | Price | Wright |
| Livingston | Pritchard | Wydler |
| Lloyd, Tenn. | Pursell | Wylie |
| Long, Md. | Quillen | Yates |
| Luken | Railsback | Yatron |
| Lundine | Rangel | Young, Fla. |
| McClory | Regula | Young, Mo. |
| McDade | Reuss | Zablocki |
| McDonald | | Zeferetti |

ANSWERED "PRESENT"—1

Lloyd, Calif.

NOT VOTING—15

| | | |
|---|---|---|
| Burke, Calif. | Eckhardt | Spellman |
| Burton, John | Howard | Teague |
| Clawson, Del | Rahall | Udall |
| Crane | Rodino | Van Deerlin |
| Dent | Runnels | Whitley |

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Van Deerlin against.

Mr. Udall for, with Mr. Dent against.

Mr. Runnels for, with Mr. Rahall against.

Mr. Whitley for, with Mr. Howard against.

Until further notice:

Mr. Rodino with Mrs. Spellman.

Mr. Eckhardt with Mrs. Burke of California.

Mr. John Burton with Mr. Del Clawson.

Mr. RUDD changed his vote from "nay" to "yea."

So the conference report was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

## LEGISLATIVE PROGRAM

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, I take this time in order that we may announce to the Members the program for the remainder of the day and the rest of this week.

Immediately today we will take up consideration of the only other bill on the schedule, H.R. 3161, the firefighter's basic workweek. If we can finish that bill today—and we should be able to do it, under a 1-hour open rule—then tomorrow we will try to complete the remainder of the week's schedule, having removed from the program consideration of the bill, H.R. 1, Ethics in Government Act.

That measure will be considered at a later date.

We hope that tomorrow the House will be able to complete consideration of the following bills:

H.R. 11003, the White House authorizations;

H.R. 11302, the EPA authorizations, fiscal year 1979; and

H.R. 3787, the Zuni Indians Court of Claims case.

Mr. Speaker, each of those bills comes to the House under a 1-hour open rule. If we are able to complete consideration of those three bills, then we will not have a session on Friday.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1, ETHICS IN GOVERNMENT ACT OF 1977

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1954), on the resolution (H. Res. 1128) providing for consideration of the bill (H.R. 1) to require candidates for Federal office, Members of the Congress, and officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions, which was referred to the House Calendar and ordered to be printed.

## BASIC WORKWEEK OF FEDERAL FIREFIGHTERS

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1067 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1067

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3161) to amend title 5, United States Code, to improve the basic workweek of firefighting personnel of executive agencies, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, this is the rule providing for the consideration of H.R. 3161 concerning the basic workweek of Federal firefighters.

This is a 1-hour open rule.

The resolution provides for the committee amendment to be considered as an original bill for the purpose of amendment. This is the customary procedure when a substitute text is reported. Without this provision an amendment to an amendment would be ruled out of order as tertiary.

Since the adoption of a substitute would preclude any instructions in the motion to recommit, the rule makes in order a motion to recommit with or without instructions. This involves no controversy and simply protects the minority.

Mr. Speaker, at the present time Federal firefighters work an average 72-hour week. This legislation would reduce that workweek to 56 hours and, in effect, reduce the pay of these personnel.

The bill recognizes the unreasonable schedule of three 24-hour shifts. But the bill must be judged primarily on its effect on the Government.

The current schedule produces considerable dissatisfaction by requiring Federal firefighters to put in a longer workweek at lower pay than municipal firemen. As a result, each year we lose nearly one-quarter of our work force to more attractive jobs in the private sector and municipal fire departments.

In view of the highly specialized nature of their work protecting military facilities and nuclear sites, it is very important to try to retain our most experienced firefighters. This is not only a matter of public safety, there is a cost factor since the Federal Government is a self-insurer.

Minimization of loss through retention of experienced workers is a difficult factor to measure. The Congressional Budget Office felt it could not even try. But it is a factor which must weigh heavily in measuring the fiscal impact of this legislation.

I am well aware that there is controversy over this legislation. Nevertheless, the Committee on Rules has recommended an open rule. No points-of-order are waived. There are no unusual procedural factors. The rule simply makes it in order for the House to debate the legislation and to consider amendments which any Member might wish to offer.

I feel that the rule provides a fair and orderly procedure for the consideration of the bill and I urge its adoption.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule provides 1 hour of general debate for the consideration of H.R. 3161, to change the basic workweek for Federal firefighters. Under the rule the bill will be open to all germane amendments. There are no waivers of points of order in the rule. In order to preserve the normal amending process, the rule provides that the committee amendment in the nature of a substitute will be in order as an original bill for the purpose of amendment.

The primary purpose of this bill is to provide that the regularly scheduled administrative workweek of each Federal firefighter will average 56 hours per week. In addition, the bill authorizes payment of 25 percent premium pay to firefighters who have a 56-hour workweek. Under existing law, Federal firefighters are paid 25 percent premium pay for a 72-hour workweek.

The Congressional Budget Office estimates that the enactment of H.R. 3161 will result in additional costs of $6.7 million for fiscal year 1978 and $24.3 million for fiscal year 1979. These costs are based on the assumption that an additional 2,200 firefighters will be hired as a result of the reduction in the firefighters' workweek.

Mr. Speaker, I support the rule on this bill.

Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, the only reason I am taking time under the rule, is that I feel I have a better audience now than I will in 10 or 15 minutes. I am also hopeful of having the House cast a second vote for responsibility, since it rejected the farm conference report just a few minutes ago.

Mr. Speaker, I would like to remind the Members that this bill is opposed by the administration; specifically, by the Civil Service Commission, the OMB, and the Department of Defense.

I would also like to remind the Members that, if I understood correctly, our President has called for voluntary wage and price restraints. This voluntary wage and price restraint policy will, presumably, apply to the Federal Government as well.

The President, in a very heroic fashion, has proclaimed that he will limit the annual pay increase for Federal employees this year to approximately 5.5 percent, much less than they asked for.

Mr. Speaker, if I could refer to the committee report on this measure, page 11, I would like to read from a letter from the chairman of the Civil Service Commission, Mr. Campbell, to the chairman of the committee. It reads:

> The purpose of H.R. 3161 is to reduce the hours of duty of firefighters in the Federal service without reducing their pay. * * * H.R. 3161 provides, in effect, an additional increase in hourly regular rate of pay for these employees of approximately thirty percent.

Mr. Speaker, here we are, the day after the President has called for voluntary restraint, about to take up a bill which provides for a 30-percent increase in pay for a very, very select group of Federal employees. The precedent is awesome. If this bill is passed, we will find the House Committee on Post Office and Civil Service pouring out dozens of measures for every special group of Federal employees.

Mr. Speaker, at some point we are going to be forced to draw the line. I suggest we draw the line here and now.

I suggest that this measure, which would cost $24 million in its first fiscal year impact and $35 million by fiscal year 1982, is not in and of itself a staggering sum; but the importance is that by rejecting this bill, we are saying that we want to treat all Federal employees equally. We are not going to single out a select group and give them special consideration.

It seems to me especially inappropriate the day after the President has called for voluntary wage and price controls for the House of Representatives to pass a bill providing 10,000 Federal employees with a 30-percent pay increase and with no extra work required.

Mr. Speaker, this bill was defeated in the previous Congress by a margin of approximately 20 votes. Given the caliber of the freshmen class in this Congress, given the added maturity of the Members who have returned from previous Congresses, I would hope that wisdom would prevail and the President's position would be sustained this afternoon.

Mr. LOTT. Mr. Speaker, I have no further requests for time.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. HARRIS).

Mr. HARRIS. Mr. Speaker, it is not my intent to debate the bill on debate time for the rule. I think we ought to go ahead and adopt the rule.

I do think the point has to be made that the allegation that this somehow increases firefighters' pay by 30 percent is simply wrong. This bill does nothing more than bring into conformity the Federal hours for Federal firefighters to that which is in 95 percent of all municipal systems. It is an antiquated procedure to keep firefighters on duty 72 hours per week. This bill brings into conformity with nationwide practice the Federal firefighters, and attempts to do nothing more.

I think the rule should be adopted, and I think the bill should be passed.

Mr. MOAKLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. LUKEN).

Mr. LUKEN. Mr. Speaker, I rise today in support of the measure to reduce the regularly scheduled administrative workweek of Federal firefighters. I wholeheartedly support this bill and consider this a significant step in recognizing the extraordinary role that firefighters play to insure the safety of all citizens.

As a former mayor and council member of the city of Cincinnati I have had many occasions to observe the gallantry of the firefighters of that area. They have tremendous demands on their time and are subject to countless danger. This bill, although limited to the Federal level, is of major importance, because it is the first step to recognizing the need for reform of working conditions for America's firefighters.

At present these Federal firefighters work a 72-hour workweek with three 24-hour shifts. This bill, if enacted, would reduce this workweek to 56 hours.

It is essential that we consider the many demands put on firemen. They are subject to numerous pressures and are expected to respond at all times in a professional manner—always ready to enter the most dangerous places and take the risks for the rest of the citizens. Their job is hazardous and one of the most important community services.

We must recognize the Federal firefighters have quite a variety of responsibilities, even exceeding those requirements of municipal firefighters. We are told that they deal regularly with munitions, chemicals of an unusual nature, aircraft fuels, nuclear products, and even forest fires.

In addition the members of the Federal firefighting force are involved extensively in fire prevention.

My comments here are consistent with the statements I have made in urging the passage of a bill I have sponsored to upgrade firefighting and fire prevention and, therefore, fire protection throughout the country. This country loses 12,000 lives yearly, and we do not even know whether that figure is complete, because of the neglect of the American people and the Federal Government, and all local governments in adequately providing necessary fire protection.

Finally, the 72-hour week is outmoded. This is a throwback to conditions in municipalities that existed 20 years or more ago.

It is time we brought fire protection out of the dark ages in this country, and I believe this is a step in the right direction.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 374, nays 5, not voting 55, as follows:

[Roll No. 215]

YEAS—374

| | | |
|---|---|---|
| Abdnor | Downey | Kostmayer |
| Addabbo | Drinan | Krebs |
| Akaka | Duncan, Oreg. | Krueger |
| Alexander | Duncan, Tenn. | LaFalce |
| Allen | Early | Lagomarsino |
| Ambro | Edgar | Latta |
| Ammerman | Edwards, Calif. | Le Fante |
| Anderson, Calif. | Edwards, Okla. | Leach |
| | Eilberg | Lederer |
| Anderson, Ill. | Emery | Leggett |
| Andrews, N.C. | English | Lehman |
| Andrews, N. Dak. | Erlenborn | Lent |
| | Ertel | Levitas |
| Applegate | Evans, Ga. | Livingston |
| Archer | Evans, Ind. | Lloyd, Calif. |
| Armstrong | Fary | Lloyd, Tenn. |
| Ashbrook | Fenwick | Long, La. |
| Aspin | Findley | Lott |
| AuCoin | Fisher | Lujan |
| Badham | Fithian | Luken |
| Bafalis | Flippo | Lundine |
| Baldus | Flood | McClory |
| Barnard | Florio | McCloskey |
| Baucus | Flynt | McCormack |
| Bauman | Ford, Mich. | McDade |
| Beard, R.I. | Ford, Tenn. | McEwen |
| Beard, Tenn. | Forsythe | McHugh |
| Bedell | Fountain | McKay |
| Beilenson | Fraser | McKinney |
| Benjamin | Frenzel | Madigan |
| Bennett | Frey | Mahon |
| Bevill | Fuqua | Mann |
| Biaggi | Gammage | Markey |
| Bingham | Garcia | Marks |
| Blanchard | Gaydos | Marriott |
| Blouin | Gephardt | Martin |
| Boggs | Giaimo | Mathis |
| Boland | Gibbons | Mattox |
| Bonker | Gilman | Mazzoli |
| Bowen | Ginn | Meeds |
| Breckinridge | Glickman | Metcalfe |
| Brinkley | Goldwater | Meyner |
| Brodhead | Gonzalez | Michel |
| Brooks | Goodling | Mikulski |
| Broomfield | Gore | Mikva |
| Brown, Mich. | Gradison | Milford |
| Brown, Ohio | Grassley | Miller, Calif. |
| Broyhill | Green | Miller, Ohio |
| Buchanan | Gudger | Mineta |
| Burgener | Guyer | Minish |
| Burke, Fla. | Hagedorn | Mitchell, Md. |
| Burke, Mass. | Hall | Mitchell, N.Y. |
| Burleson, Tex. | Hamilton | Moakley |
| Burlison, Mo. | Hammer-schmidt | Moffett |
| | | Mollohan |
| Butler | Hanley | Montgomery |
| Byron | Hannaford | Moore |
| Caputo | Hansen | Moorhead, Calif. |
| Carney | Harkin | |
| Carr | Harrington | Moorhead, Pa. |
| Carter | Harris | Mottl |
| Cavanaugh | Harsha | Murphy, Ill. |
| Cederberg | Hawkins | Murphy, N.Y. |
| Chappell | Hefner | Murtha |
| Chisholm | Heftel | Myers, Gary |
| Clausen, Don H. | Hillis | Myers, John |
| | Holland | Myers, Michael |
| Clay | Hollenbeck | Natcher |
| Cleveland | Holt | Neal |
| Cohen | Holtzman | Nedzi |
| Coleman | Horton | Nichols |
| Collins, Ill. | Hubbard | Nix |
| Conte | Huckaby | Nolan |
| Conyers | Hughes | Nowak |
| Corcoran | Hyde | O'Brien |
| Corman | Ichord | Oakar |
| Cornell | Ireland | Oberstar |
| Cornwell | Jacobs | Obey |
| Cotter | Jeffords | Panetta |
| Cunningham | Jenkins | Patten |
| D'Amours | Jenrette | Patterson |
| Daniel, Dan | Johnson, Calif. | Pattison |
| Daniel, R. W. | Jones, N.C. | Pease |
| Danielson | Jones, Okla. | Pepper |
| Davis | Jones, Tenn. | Pettis |
| de la Garza | Jordan | Pickle |
| Delaney | Kasten | Pike |
| Dellums | Kastenmeier | Preyer |
| Derrick | Kazen | Price |
| Derwinski | Kelly | Pritchard |
| Devine | Kemp | Pursell |
| Dickinson | Ketchum | Quie |
| Dicks | Keys | Quillen |
| Dingell | Kildee | Railsback |
| Dodd | Kindness | Rangel |
| Dornan | Regula | Sikes |
| Reuss | Simon | Volkmer |
| Rhodes | Skelton | Waggonner |
| Richmond | Skubitz | Walgren |
| Rinaldo | Slack | Walker |
| Risenhoover | Smith, Iowa | Walsh |
| Roberts | Smith, Nebr. | Wampler |
| Robinson | Snyder | Watkins |
| Roe | Solarz | Waxman |
| Rogers | Spence | Weaver |
| Roncalio | St Germain | Weiss |
| Rooney | Staggers | Whalen |
| Rose | Stangeland | White |
| Rostenkowski | Stanton | Whitehurst |
| Rousselot | Stark | Whitten |
| Roybal | Steed | Wiggins |
| Rudd | Steers | Wilson, Bob |
| Ruppe | Steiger | Wilson, Tex. |
| Russo | Stokes | Winn |
| Ryan | Stratton | Wirth |
| Santini | Studds | Wolff |
| Sarasin | Stump | Wright |
| Satterfield | Symms | Wydler |
| Sawyer | Taylor | Wylie |
| Scheuer | Thompson | Yates |
| Schroeder | Thone | Yatron |
| Schulze | Traxler | Young, Alaska |
| Sebelius | Trible | Young, Fla. |
| Seiberling | Tsongas | Young, Mo. |
| Sharp | Vander Jagt | Zablocki |
| Shipley | Vanik | Zeferetti |
| Shuster | Vento | |

NAYS—5

| | | |
|---|---|---|
| Collins, Tex. | Johnson, Colo. | Murphy, Pa. |
| Conable | McDonald | |

NOT VOTING—55

| | | |
|---|---|---|
| Annunzio | Evans, Del. | Rahall |
| Ashley | Fascell | Rodino |
| Bolling | Fish | Rosenthal |
| Bonior | Flowers | Runnels |
| Brademas | Foley | Spellman |
| Breaux | Fowler | Sisk |
| Brown, Calif. | Heckler | Stockman |
| Burke, Calif. | Hightower | Teague |
| Burton, John | Howard | Thornton |
| Burton, Phillip | Long, Md. | Treen |
| Clawson, Del | McFall | Tucker |
| Cochran | Maguire | Udall |
| Coughlin | Marlenee | Ullman |
| Crane | Moss | Van Deerlin |
| Dent | Ottinger | Whitley |
| Diggs | Perkins | Wilson, C. H. |
| Eckhardt | Poage | Young, Tex. |
| Edwards, Ala. | Pressler | |
| Evans, Colo. | Quayle | |

The Clerk announced the following pairs:

Mrs. Spellman with Mr. Del Clawson.

Mrs. Burke of California with Mr. Eckhardt.

Mr. Teague with Mr. Rahall.

Mr. Dent with Mr. Udall.

Mr. Whitley with Mr. Howard.

Mr. Van Deerlin with Mr. Runnels.

Mr. Rodino with Mr. Cochran of Mississippi.

Mr. Annunzio with Mr. Fish.

Mr. Brademas with Mr. Evans of Delaware.

Mr. Breaux with Mr. Coughlin.

Mr. Sisk with Mrs. Heckler.

Mr. Ashley with Mr. Marlenee.

Mr. Brown of California with Mr. Crane.

Mr. John Burton with Mr. Pressler.

Mr. Evans of Colorado with Mr. Treen.

Mr. Fascell with Mr. Bonior.

Mr. Phillip Burton with Mr. Diggs.

Mr. Flowers with Mr. Edwards of Alabama.

Mr. Foley with Mr. Fowler.

Mr. Rosenthal with Mr. Hightower.

Mr. Ullman with Mr. Long of Maryland.

Mr. Charles H. Wilson of California with Mr. Thornton.

Mr. McFall with Mr. Ottinger.

Mr. Moss with Mr. Maguire.

Mr. Perkins with Mr. Quayle.

Mr. BEILENSON and Mr. WEAVER changed their vote from "nay" to "yea."

So the resolution was agreed to.

A motion to reconsider was laid on the table.

Mrs. SCHROEDER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3161) to amend title 5, United States Code, to improve the basic workweek of firefighting personnel of executive agencies, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Colorado (Mrs. SCHROEDER).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 3161, with Mr. DODD in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentlewoman from Colorado (Mrs. SCHROEDER) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 30 minutes.

The Chair now recognizes the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Federal Government employs approximately 11,500 civilian firefighters. About 10,500 of this number are employees of the Department of Defense. The remainder are employed by the Department of Transportation, the Nuclear Regulatory Commission, the Department of Agriculture, and the Veterans' Administration.

Federal firefighters have a variety of responsibilities which are not required of most municipal firefighters. Department of Defense firefighters, for example, must be familiar with the steps necessary to prevent and combat fires connected with munitions, exotic chemicals, aircraft fuels, and nuclear products. Department of Agriculture firefighters are responsible for dealing with the threats of fire to national forests. Nuclear Regulatory Commission firefighters must be familiar with the massive problems of fire at nuclear powerplants. The Federal Government is a self-insurer of its losses and has, as a consequence, a direct incentive to prevent fire-related losses. The responsibility for fire prevention falls on Federal firefighters and their record of fire prevention is good.

H.R. 3161 amends chapter 61 of title 5, United States Code, relating to hours of work, to prescribe a new basic workweek for Federal firefighters. Under existing law, the authority to fix the hours of work of Federal employees, including firefighters, rests with the heads of employing agencies. The typical workweek of the Federal firefighter now is 72 hours, consisting of three 24-hour shifts. Each shift contains an 8-hour period of actual work and a 16-hour period of standby status. During the standby period the firefighter has a sleeping period; however, the entire standby period may be interrupted without additional compensation not only for emergencies but for duties normally performed during the designated work period. In no case may a firefighter be away from assigned duties—that is, firefighting, fire preven-

tion or inspection tours, or standby at the firehouse—during the 24-hour shift.

Public Law 93-259, the Fair Labor Standards Act Amendments of 1974, provided a special overtime provision for employees engaged in fire protection activities or law enforcement activities. Department of Labor regulations interpreting these FLSA amendments have provided that since January 1, 1977, firefighters working over 54 hours in a week shall be entitled to time and one-half overtime. As a result of this change in the FLSA, the vast majority of non-Federal firefighters are working 54-hour workweeks or less.

Although the FLSA applies to Federal firefighters, the Department of Labor regulations do not. Instead, the Federal firefighter workweek is governed by Civil Service Commission rulings. The computation of Federal firefighter pay is much more complicated because of these rulings, because provisions of title 5 of the United States Code also come into play. The key issues of debate on H.R. 3161 required that these provisions be explained.

PREMIUM PAY

Section 5545(c)(1) of title 5, United States Code, provides that Federal employees who regularly perform substantial amounts of standby duty beyond a normal tour of duty shall receive an additional sum as compensation in lieu of overtime, night differential, Sunday and holiday pay. This sum is called premium pay. It is a percentage not to exceed 25 percent of base pay. The actual percentage of premium pay is fixed by the Civil Service Commission on the basis of overtime, nights, Sundays, and holidays worked. Irregular overtime work beyond the scheduled 72 hours results in further overtime compensation.

As a result of this requirement, many Federal firefighters receive the maximum percentage of premium pay—25 percent—which the Civil Service Commission may authorize. They receive the maximum amount because they work 72 hours per week, they work at night, they work a certain number of Sundays and holidays. Were it not for this special premium pay provision, Federal firefighters—and other Federal employees in like circumstances—would receive for their present workweek a combination of amounts, including time and one-half overtime pay, night differential pay, and Sunday and holiday pay.

FLSA REQUIREMENTS

Section 207(k) of title 29, United States Code, subjects Federal firefighters to the overtime provisions of the Fair Labor Standards Act (FLSA). Since January 1, 1977, the FLSA has required overtime pay to firefighters for all hours worked in excess of 54 per week.

Under the FLSA, overtime work is compensated for at a rate of one and one-half times the employee's regular rate of pay. For Federal firefighters, the regular rate of pay is determined by dividing the firefighter's total remuneration—base pay plus 25 percent premium pay—by 72 hours. Under a decision of the Comptroller General (G-51325, March 19, 1976), Federal firefighters who have a 72-hour workweek are considered to have been paid at their regular rate of pay for each of the 72 hours in their worksheet.

Therefore, according to the Comptroller General, firefighters are entitled to be paid only at the rate of one-half times their regular rate of pay for the 18 hours of overtime work (72-54) under the FLSA. In the case of a GS-5, step one, firefighter, for example, each of the 18 hours is worth only an extra $1.66 in FLSA overtime pay. Furthermore, since such overtime must be actually worked to be paid, a firefighter who takes annual or sick leave, performs military service, or is called to jury duty, suffers a reduction in FLSA overtime pay.

Mr. Chairman, I think a bit of history of the Federal Government's treatment of its firefighters shows that the firefighters are justified in their perception. In the mid-fifties firefighters were on a 60-hour schedule. Most municipal departments were then working 80-hour weeks. At that time, a long forgotten bureaucratic change was made. By applying the premium pay provisions of title 5 to Federal firefighters, their hours were increased (by 20 percent) to 72 per week, while their additional pay set by the premium pay statute under the same interpretation which the Civil Service Commission is still foisting off in its attempt to claim that firefighters premium pay under H.R. 3161 would be too high—was upped only 12 to 15 percent. As a result of this move, one-fifth of the firefighters were then fired as excess—because of the additional bargain hours which their brethren were now required to work. Moreover, it took tons of haggling by the firefighter unions to finally get the Civil Service Commission to increase premium pay to the 22 to 25 percent which Federal firefighters now receive. My guess is that few Federal firefighters now with the Government were around for these times. However, the misunderstanding lingers on.

The general view of Federal firefighters, as revealed during the hearings on this legislation, is that they are being treated unfairly. They work a scheduled 2 hours per week and receive about the same pay which most municipal firefighters receive for a 54-hour week. They view themselves as being required to work 18 hours of overtime for which they are paid at a rate which is a dollar less than the minimum wage. This additional 18 hours per week over which they have no control apparently is a significant factor in determining the duration of a firefighter's employment with the Federal Government. Although other benefits for Federal firefighters are similar to those offered municipal firefighters, about 23 percent of Federal firefighters left their jobs last year.

Mr. Chairman, I now want to answer the major arguments posed against H.R. 3161.

First, opponents claim that the bill is bad because it interferes with agency discretion to set hours for employees. The bill will remove part of this discretion. However, agencies will retain authority to set hours and schedules within the 56-hour framework the bill creates. Should Congress permit agencies discretion which has resulted in Federal firefighters being scheduled for a third more hours than 95 percent of the municipal firefighting work force is scheduled?

Second, opponents claim that the bill is bad because Federal firefighters already have a "great deal." That is, they do not fight as many fires as their municipal counterparts because they spend about 50 percent of their time on fire prevention, versus a municipal average of 20 percent of time. Federal firefighters do this for a couple of reasons: It would not pay the Government, as a self-insurer of losses, to have great numbers of fires. Moreover, it would not pay anyone if some of the fires which Federal firefighters have to face broke out—fires, for example, connected with armament laden military aircraft or nuclear materials. The benefit comparison that opponents use is an apples and oranges approach. Certainly, Federal firefighters can retire after 20 years; other Federal workers generally cannot. However, most municipal firefighters have 20-year retirement plans comparable to Federal firefighters.

Third, opponents claim that statutorily retaining 25 percent premium pay for Federal firefighters is unfair to other Federal employees who receive premium pay. This argument ignores the fact that all Federal employees receiving premium pay, except firefighters, do so after 40 hours per week. It also neglects the fact that if premium pay were reduced from 25 percent to the 15 percent or so that the Civil Service Commission has stated would fit a 56-hour workweek, Federal firefighters would be among the lowest paid of all firefighters. If the premium pay provision in H.R. 3161 were really as out of line as opponents have claimed, I would think that ample opportunity has been offered to propose an amendment to change the provision, but none has been offered.

Fourth, opponents claim that Federal firefighters will be getting a substantial reduction in hours for only a "slight wage decrease averaging considerably below hourly minimum wage rates." This is true. Under H.R. 3161 Federal firefighters will lose 16 of their 18 hours of FLSA overtime which they are currently working each week in excess of 54 hours at less than the minimum wage rates. The Government is getting a great deal on the paltry wages they get away with paying for 18 additional hours of work per week. When your pay amounts to peanuts in the first place, that is all you stand to lose when your hours are reduced.

Fifth, opponents claim the bill will require excessive costs to replace the firefighter hours which will be lost when the workweek is reduced. There are several points to be made on this argument. First, the Congressional Budget Office estimates that the reduction alone in FLSA overtime pay in 1979 for current firefighters will cover more than a third of the estimated costs for hiring new firefighters. Also, with hours more comparable to municipal fire departments,

we might be able to start trimming the excessive training costs for new firefighters to replace the approximate 23 percent turnover our Federal fire departments experienced last year. Moreover, if Federal fire departments had not been subject to an approximate 25 percent reduction in force during the last administration, increased personnel required to implement this bill would have been drastically reduced.

Mr. Chairman, I believe that H.R. 3161 is a sound approach to bringing Federal firefighter hours out of the Dark Ages. I urge my colleague's approval of the bill.

Mr. SKELTON. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I am happy to yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, may I ask, how many more is the few more required to be hired?

Mrs. SCHROEDER. There are about 2,200 more that will be needed.

Mr. SKELTON. Mr. Chairman, I thank the gentlewoman.

Mrs. SCHROEDER. Mr. Chairman, I would like to compliment the gentleman from Virginia (Mr. HARRIS) who has worked hard and long on this legislation and has got it through the Committee on Post Office and Civil Service and has spent many hours working in the committee on this bill.

Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. HARRIS).

Mr. HARRIS. Mr. Chairman, the bill before us today, H.R. 3161, to reduce the working hours of Federal firefighters, will simply adjust the working hours for this group of 11,500 Federal workers. Currently, the typical workweek is 72 hours, consisting of three 24-hour shifts. This bill prescribes a 56-hour workweek and will accommodate a 24-on-48-off work schedule.

The basic point of the bill is equity: most municipal firefighters, through collective bargaining, have reduced their workweek to around 56 hours a week. Federal firefighters cannot bargain over hours and the Civil Service Commission has not moved to bring their workweek in line with their municipal counterparts.

The result of the current schedule has unfortunately been frequent turnover. Last year, about 23 percent of Federal firefighters left their jobs. This means in essence, that the Federal Government is a training ground for municipal firefighters and we are losing talented individuals to protect our VA hospitals, military and other Federal installations.

H.R. 3161 has three basic provisions: First, it provides that the regularly scheduled workweek shall average 56 hours per week over a 21-day period. This would mean that overtime work in excess of 56 hours could not be regularly scheduled; second, it provides—as does current law—that each firefighter is entitled to 25 percent premium pay in lieu of all other premium pay under title 5 for the 56-hour week; and third, it clarifies the overtime pay provision and provides that each firefighter is entitled to overtime pay under title 5 for all official hours of work over the 56-hour-per-week standard.

It has been argued that this bill is somehow a salary windfall for Federal firefighters. Our committee's research has shown that not only do municipal firefighters work shorter hours, they also earn at least $500 more per year. Or stated another way, Federal firefighters now work 33 percent more hours each week than municipals but receive only 12.5 percent to 23 percent more pay. There is one further point about pay that I would like to make. The Civil Service Commission's pay comparisons are with cities with over 10,000 in population. True comparability would compare firefighter salaries with the actual locality, like our Federal blue-collar local prevailing rate system. In other words, in areas like Washington, D.C.—large metropolitan areas—municipal salaries are much higher than in a community of 10,000. It is not fair to lump all municipal salaries together in this fashion.

The facts are, that under this bill, Federal firefighters will actually lose money. The following comparison dramatically shows what the average firefighter, a GS–5, step 4 ($10,955 per year) earns under current policies and would earn under this bill:

| | |
|---|---|
| I. 72-hour weekly tour of duty (present schedule): | |
| Base pay for 40 hours | $210.80 |
| 25 percent premium pay | 52.70 |
| FLSA overtime for 18 hours | 32.94 |
| Total | 296.44 |
| II. 56-hour weekly tour under H.R. 3161: | |
| Base pay for 40 hours | $210.80 |
| 25 percent premium pay | 52.70 |
| FLSA overtime for 2 hours | 4.72 |
| Total | 268.22 |
| Loss in FLSA overtime pay | $28.22 |

There are currently 12,500 Federal firefighters in all but a dozen or so States. The Department of Defense is the largest employer of firefighters, with approximately 10,500. The Department of Transportation, the Nuclear Regulatory Commission, the Veterans' Administration and other agencies employ the remainder. These firefighters provide important protection for many Federal installations, standing guard at defense bases, veterans hospitals, some civilian airport and other Federal Establishments. While some would like to portray the firefighter as one who "stands idle" much of the time, firefighters actually have a variety of duties, including fire prevention and other fire-related services. A Federal firefighter must maintain a proficiency in a variety of subjects, ranging from the combustibility of materials to general air traffic control techniques. Firefighters are subject to hazard and are often required to work on Sundays and holidays. Our pay, benefits, and hours policies should reflect the fact that firefighters must be compensated for their knowledge, ability, and the considerable risk they incur in protecting lives and property.

It has also been argued that this bill would set up a special class of Federal employees, that other employees, like nurses and medical technicians have to work "off-hours" or nonstandard hours. To this I answer, these other groups of Federal employees are not engaged in potentially hazardous work, like firefighters. And if we should take a look at all hours and pay policies for these various groups, I invite the Civil Service Commission to submit legislation to the Congress. Speaking as one member of the Post Office and Civil Service Committee, I am sure our committee would welcome a proposal.

H.R. 3161 was the subject of complete hearings in our subcommittee on September 26, 1977 and was reported to the full committee unanimously on September 27. On January 25, it was ordered reported by a full committee vote of 18 to 4. In the last Congress, a similar bill was narrowly defeated in the House by a vote of 184 to 204. I hope that some of the misunderstandings that prevailed in the last Congress have been cleared up today and I urge my colleagues to support this bill to make more reasonable the working hours of this special group of civil servants.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I am happy to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, the gentleman from Virginia (Mr. HARRIS) knows that in the past I have been very sympathetic to this legislation. However, I am somewhat concerned about our putting a flat limitation on the amount of overtime, whereas the gentleman mentioned that in municipal, county, and local firefighting groups there is no limitation on the hours they can work on overtime.

Mr. HARRIS. Mr. Chairman, although there was such a limitation in a previous version, there is no limitation in this bill on the amount of overtime they can work. All this bill does is require that the regularly scheduled workweek schedules out at 56 hours. If it is needed that the Federal firefighters work more overtime than that, they can be required under this bill to do so. There is no flat limitation on overtime in this bill.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman.

Mr. DERWINSKI. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I rise in support of H.R. 3161, a bill to reduce the basic workweek of our Federal civilian firefighters.

First of all, I would take this opportunity to compliment my colleagues, the distinguished gentlelady from Colorado (Mrs. SCHROEDER) and the gentleman from Virginia (Mr. HARRIS) for their unwavering and untiring efforts in the last Congress and this Congress in managing this legislation which in my opinion is long overdue.

The goal of H.R. 3161 is to reduce the workweek of the Federal civilian fire-

fighters, numbering some 12,000 in our Nation, from 72 hours per week to 56 hours per week. This reduction will insure for the first time comparability for Federal civilian firefighters with their municipal counterparts throughout the country. The average workweek of the typical municipal firefighter in this country, as was pointed out to the Subcommittee on Employee Ethics and Utilization during its deliberations, is less than 50 hours per week with many fire departments working as few as 42 hours per week.

Another contribution which I believe this bill will make to the betterment of firefighter working conditions is in regard to their entitlement to overtime compensation under the Fair Labor Standards Act. Currently, a Federal employee who is a firefighter is entitled to a "reduced" overtime rate of compensation under the act. The critical factor in determining overtime entitlement is the employee's work period. Where the work period is 72 hours, like that of many Federal firefighters, the base rate of pay for purposes of computing overtime is diminished when compared to the firefighter with a 54-hour workweek or the typical GS employee working 40 hours a week. As a hypothetical case, if an individual is hired to work 72 hours a week as a firefighter for a rate of $144, the base pay is determined by dividing 72—the number of hours of the work tour or work period—into 144, the weekly compensation. This yields a base pay of $2 per hour. Thus, the firefighter is paid $2 for each of the 72 hours he is on duty. In addition, the firefighter is entitled to overtime compensation under the Fair Labor Standards Act for each hour of duty exceeding 54 hours in a workweek, but since he has already been paid $2 per hour for each hour between 54 and 72, he is only entitled to $1 more per hour for the 18 hours of overtime.

It is not surprising that most firefighters find this method of computing overtime deprives them of reasonable overtime compensation and frustrates the purpose of the Fair Labor Standards Act. Under the provisions of this bill, Federal firefighters will be entitled to a fair and "real" overtime rate of compensation which will provide them with the full benefit of the Fair Labor Standards Act.

By reducing the basic workweek for Federal firefighters to 56 hours, the Federal firefighter will, like most other employees, be actually entitled to 1½ times his regular rate of pay when the length of the firefighter workweek exceeds the maximum workweek established by the Fair Labor Standards Act.

As this bill establishes a 56-hour workweek for Federal firefighters, my hypothetical firefighter hired to work a 72-hour tour of duty for $144 per week would have a base rate for purposes of overtime computation of $2.57 per hour, rather than $2 per hour when the basic workweek is 72 hours. And since this firefighter has only received the base pay for each of the 56 hours he is on duty, he would be entitled to the base pay of $2.57, plus one-half of base pay, $1.29, for each hour of work in excess of the 54 hours a week established under the Fair Labor Standards Act.

Contrary to some who argue that this legislation creates a pay bonanza for the Federal firefighter, quite the opposite is true. In the committee report on page 9, it actually shows the average Federal firefighter's pay would be reduced from $15,407 to $13,938 anually. A net reduction of $1,469 per year. This certainly is not a pay bonanza.

There are those who will also argue that there is no apparent problem of recruiting Federal civilian firefighters. However, the truth of the matter in any area of good business is the ability of an employer to maintain a stable workforce. The average turnover in Federal fire departments is 23 to 26 percent annually. The reason for this high turnover is that the Federal Government initially hires firefighters at a GS-3 level of pay and once these firefighter trainees gain sufficient experience they seek employment with the cities and towns which offer them generally higher wages for far less hours of work.

I believe that it is encumbent upon the Congress to provide the best possible fire protection for the American taxpayers' Government installations. And I submit that the best insurance of this is a stable Federal firefighter force.

Federal firefighters assume a grave responsibility, as in DOD installations where they have complex and difficult functions to discharge which do not come within the scope of responsibilities of the great majority of municipal fire companies. Combustible munitions, chemicals, and petroleum, and nuclear products essential to modern warfare must be properly stored under safety and fire prevention programs requiring careful and constant supervision. The value of the properties in storage now runs to billions of dollars, and aside from the ever-present possibility of accident, there is always the potential for terrorist or enemy attack in case of war or domestic disturbance. All these elements must be taken into consideration as essential elements all fire prevention and fighting plans.

The American taxpayer deserves the benefit of a highly motivated and qualified firefighting workforce. Anything less could prove catastrophic given the hazards and conditions described above.

Passage of H.R. 3161 would restore the element of fairness denied Federal firefighters as a result of the implementation of the 1974 FLSA amendments, and in addition immeasurably improve the morale and long term stability of personnel.

Accordingly I strongly urge my colleagues to support this most needed legislation.

Mr. DERWINSKI. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I find myself this afternoon once again in the interesting position of administration spokesman urging the rejection of this special interest legislation. I do not know how much longer I can shoulder this burden for the administration, but I have been looking in vain to the other side of the aisle for a member of the President's party to present the White House viewpoint.

My purpose in bringing to your attention—and particularly to the attention of my dear Democratic colleagues—the strong opposition of the Carter administration to H.R. 3161 is really to perform an act of unprejudiced political charity. The President obviously has enough problems of major consequence and does not need nor deserve the embarrassment of having a bill foisted upon him which he has determined to be not in the public interest.

Actually, there is no partisanship involved in opposing this bill. The Civil Service Commission under the Ford administration objected to the 94th Congress's version on the grounds that it afforded unjustified preferential treatment to a select group of employees. To refresh your memory, that bill was defeated in the House on August 4, 1976, by a vote of 184 to 204.

H.R. 3161 is a slightly restyled version of that legislation, but with the same underlying purpose. This legislation proposes to reduce the workweek of Federal firefighters from 72 hours to 56 hours with no corresponding reduction to premium pay. Further, it would preclude regularly scheduled overtime beyond the 56-hour week. Firefighters now receive 25 percent premium pay in addition to their basic pay, as well as overtime pay for all hours in their tour of duty in excess of the average 54-hour workweek.

The Carter administration has examined the proposal contained in H.R. 3161 and has come to the same conclusion.

In his report to the Congress on H.R. 3161, Civil Service Commission Chairman Alan K. Campbell said:

> This (legislation) would establish Federal firefighters as a favored class of employees separate from other Federal employees who perform standby duty . . . The Commission cannot support a reduction in the hours of duty of Federal firefighters without a concomitant reduction in the percentage of annual premium pay. The Commission, therefore, is strongly opposed to enactment of H.R. 3161.

The Department of Defense, which employs about 90 percent of the Federal firefighters (approximately 10,500 of 11,559 in Federal service) is strongly opposed to the bill.

In its testimony to our committee, DOD said:

> It is the position of the Department of Defense that its firefighters are fairly and adequately compensated through the 25 percent premium pay benefits, through the provisions of the Fair Labor Standards Act Amendments of 1974, and through the government comparability raises. An overabundance of qualified applicants for DOD firefighting positions nationwide further indicates that the compensation and benefits of the Federal firefighters are adequate.

The Congressional Budget Office estimates the cost of this legislation, in fiscal year 1979, to be $24.3 million. This figure would continue to rise, reaching in fiscal year 1982 an additional personnel expense of $35.1 million. This estimate is based on the assumption that because of the reduction in average work hours of

current firefighters under this bill, additional firefighters would have to be hired to maintain the current level of service.

It is estimated an additional 2,200 firefighters would have to be hired under this bill. Current civilian personnel manpower ceiling projections do not allow for these additional personnel; consequently an increase in the ceiling would be necessary.

Mr. Chairman, all in all, H.R. 3161 is a bad bill. It is unamendable and should be rejected outright as its ancestor was in the 94th Congress.

If the Members will look at the report, they will find the DOD, OMB, and the Civil Service Commission all pointing out, quite logically and in a thorough nature, why this legislation should not be passed. It sets a bad precedent. For fiscal years 1978 and 1979, it will add $31 million in unbudgeted funds. A month from now many of the Members will be posturing in favor of the balanced budget amendment. But just remember, if we defeat this bill, that is a $31 million additional deficit we do not have to allow for. There are dozens of special interest bills like this stacked up in the Committee on Post Office and Civil Service. If we let this one roll, it is "Katy bar the door," they all come rolling out. This is only 31 million immediate dollars in cost, but it is a very vital principle. This bill will complicate admnistrative procedures in the Department of Defense where most of these people are employed. I would suggest that the Members take one final look at the minority views, at the letter of Mr. Campbell, and then join me in voting the bill down.

Mr. KETCHUM. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from California.

Mr. KETCHUM. I thank the gentleman for yielding.

Mr. Chairman, May I say to the gentleman that as he has stated the administration is opposed to this bill. I suppose it is an effort to fight inflation. We all heard the President's great speech the other day—I am wondering, and I must ask my friend, where then is the majority leader? He gave us a great speech just a little while ago why we must back up the President of the United States, and I am just wondering where he is.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I rise in support of H.R. 3161 which deals with the basic workweek of Federal firefighters. The need for legislation of this type is clear. Federal firefighters are required to work 16 hours a week more than their counterparts in municipal firefighting units while the municipal firefighters earn on an average at least $500 more per year than the Federal firefighters. Under these circumstances, it is not surprising that 23 percent of all Federal firefighters left their jobs last year.

I think it is important to point out that we are dealing with a basic case of equity for those people we hire to provide fire protection. The job of the Federal firefighter is considerably more complicated than his counterpart in municipal service. On Federal installations on which these men and women serve, they are required to deal with the hazards of munitions, exotic chemicals, aircraft fuels, and nuclear products. We should be aware of the heavy costs involved with training the replacements of those who are leaving the Federal firefighting service in order to familiarize them with the specialized techniques used to control fires among these materials. We are speaking of possible fire hazards involving sophisticated and extremely costly equipment. Approximately 90 percent of the Federal firefighters are employed by the Defense Department and are stationed at military bases around the country. It is the job of the Federal firefighters not only to contain and extinguish a fire on these installations but to prevent fires amoungst these volatile and extremely dangerous materials. They have done a commendable job in this effort, and we should consider the consequences of allowing the highly trained professional Federal firefighter to leave his post for employment elsewhere simply because his employment requirements are vastly disproportionate to those elsewhere in that profession.

In my mind we would be "penny wise and pound foolish" if we were to take the risk of a major disaster at a military installation or nuclear powerplant. I believe we should make every effort to keep the good people we have right now and I support this bill, because it will take this step by bringing the workweek of these firefighters into line with the rest of their profession.

Mr. DERWINSKI. Mr. Chairman, in order to expedite the proceedings and and as an act of diplomacy, I will relinquish the floor and urge a "no" vote.

Mrs. SCHROEDER. Mr. Chairman, I yield back the balance of my time.

Mr. DERWINSKI. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will read the committee amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

*Be it enacted by the Senate and House of of Representatives of the United States of America in Congress assembled,* That (a) chapter 61 of title 5, United States Code, relating to hours of work, is amended by inserting after section 6101 the following new section:

"§ 6102. Basic workweek of firefighters

"(a) The regularly scheduled administrative workweek of each firefighter shall be an average of 56 hours per week, computed on the basis of a period of 21 consecutive days. The duration and frequency of work-shifts occurring within such period shall be determined under regulations prescribed by the Civil Service Commission.

"(b) For the purpose of this section, 'firefighter' means an employee in an Executive agency, the duties of whose position are primarily to perform or to supervise work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment. Such term does not include any employee who has a regularly scheduled administrative workweek of 40 hours which is established under section 6101(a)(2)(A) of this title."

(b)(1) Section 5545 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) Each firefighter with a regularly scheduled administrative workweek established under section 6102(a) of this title shall be entitled, in lieu of premium pay provided by other provisions of this subchapter (other than premium pay provided in paragraph (2) of this subsection, to premium pay equal to 25 percent of so much of his annual rate of basic pay as does not exceed the minimum rate of basic pay for GS–10.

"(2) Hours of work officially ordered or approved in excess of the regularly scheduled administrative workweek established under section 6102(a) of this title are overtime work and shall be paid for in accordance with the rates specified in section 5542 of this title.

"(3) For the purpose of this subsection, 'firefighter' has the meaning given it in section 6102(b) of this title.".

(2) Section 5545(c)(1) of title 5, United States Code, is amended by inserting ", unless subject to subsection (e) of this section," after "shall receive".

(3) Section 5547 of title 5, United States Code, is amended by striking out "sections 5542, 5545(a)–(c), and 5546 (a), (b)" and inserting in lieu thereof "sections 5542, 5545 (a), (c) and (e), and 5546 (a) and (b)".

(4) Sections 5595(c), 8114(e), 8331(3)(C), and 8704(c) of title 5, United States Code, are each amended by striking out "section 5545(c)(1)" and inserting in lieu thereof "section 5545 (c)(1) and (e)(1)".

(c) The analysis of chapter 61 of title 5, United States Code, is amended by inserting after the item relating to section 6101 the following new item:

"6102. Basic workweek of firefighters.".

SEC. 2. The first section of this Act shall take effect at the beginning of the first applicable pay period which begins at least 60 days after the date of the enactment of this Act.

Mrs. SCHROEDER (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mr. DERWINSKI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will remind the Members that the White House considers this bill so bad that it is unamendable. Therefore, on behalf of 1600 Pennsylvania Avenue, I urge a "no" vote on final passage.

The CHAIRMAN. Are there any amendments? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DODD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee.

having had under consideration the bill (H.R. 3161) to amend title 5, United States Code, to improve the basic workweek of firefighting personnel of executive agencies, and for other purposes, pursuant to House Resolution 1067, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. DERWINSKI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 241, nays 129, not voting 64, as follows:

[Roll No. 216]

YEAS—241

| | | |
|---|---|---|
| Addabbo | Dicks | Jones, N.C. |
| Akaka | Dingell | Jordan |
| Alexander | Dodd | Kasten |
| Allen | Downey | Kastenmeier |
| Anderson, Calif. | Drinan | Kazen |
| | Duncan, Tenn. | Kemp |
| Anderson, Ill. | Edgar | Ketchum |
| Applegate | Edwards, Calif. | Kildee |
| Aspin | Edwards, Okla. | Kindness |
| AuCoin | Eilberg | Kostmayer |
| Baldus | Emery | Krebs |
| Baucus | Evans, Ga. | Krueger |
| Bauman | Fary | Lagomarsino |
| Beard, R.I. | Fascell | Le Fante |
| Bennett | Fish | Leach |
| Bevill | Fisher | Lederer |
| Biaggi | Flippo | Leggett |
| Blanchard | Flood | Lehman |
| Blouin | Florio | Lent |
| Boggs | Flowers | Livingston |
| Boland | Foley | Lloyd, Calif. |
| Bonior | Ford, Mich. | Lloyd, Tenn. |
| Bonker | Ford, Tenn. | Long, La. |
| Bowen | Forsythe | Lott |
| Breckinridge | Fraser | Lujan |
| Brinkley | Frey | Luken |
| Brodhead | Fuqua | Lundine |
| Buchanan | Gammage | McClory |
| Burgener | Garcia | McCloskey |
| Burke, Mass. | Gaydos | McCormack |
| Burton, John | Gephardt | McDade |
| Carney | Giaimo | McFall |
| Carr | Gibbons | McKay |
| Carter | Gilman | McKinney |
| Cavanaugh | Ginn | Madigan |
| Chisholm | Gonzalez | Markey |
| Clausen, Don H. | Goodling | Marriott |
| | Green | Mathis |
| Clay | Guyer | Metcalfe |
| Collins, Ill. | Hanley | Meyner |
| Conte | Harkin | Mikulski |
| Conyers | Harrington | Miller, Calif. |
| Corman | Harris | Mineta |
| Cornell | Heckler | Minish |
| Cotter | Heftel | Mitchell, Md. |
| Coughlin | Hightower | Mitchell, N.Y. |
| D'Amours | Hillis | Moakley |
| Daniel, R. W. | Hollenbeck | Mollohan |
| Danielson | Holt | Montgomery |
| Davis | Holtzman | Moorhead, Pa. |
| de la Garza | Hubbard | Mottl |
| Delaney | Hughes | Murphy, Ill. |
| Dellums | Jenrette | Murphy, N.Y. |
| Dickinson | Johnson, Calif. | Myers, John |
| Myers, Michael | Roncalio | Trible |
| Natcher | Rooney | Tsongas |
| Nedzi | Rose | Vento |
| Nichols | Rousselot | Walgren |
| Nix | Roybal | Walker |
| Nolan | Ruppe | Walsh |
| Nowak | Sawyer | Wampler |
| Oakar | Scheuer | Watkins |
| Oberstar | Schroeder | Waxman |
| Panetta | Schulze | Weaver |
| Patten | Seiberling | Weiss |
| Patterson | Shipley | Whalen |
| Pattison | Simon | White |
| Pepper | Skubitz | Whitehurst |
| Pickle | Smith, Iowa | Whitten |
| Pressler | Solarz | Wilson, Bob |
| Preyer | Spence | Wilson, C. H. |
| Price | St Germain | Wilson, Tex. |
| Quie | Staggers | Wirth |
| Quillen | Stark | Wolff |
| Railsback | Steed | Wright |
| Rangel | Steers | Yatron |
| Reuss | Stokes | Young, Alaska |
| Richmond | Stratton | Young, Fla. |
| Rinaldo | Studds | Young, Mo. |
| Roe | Thompson | Zablocki |
| Rogers | Traxler | Zeferetti |

NAYS—129

| | | |
|---|---|---|
| Abdnor | Fenwick | Moorhead, Calif. |
| Ammerman | Findley | |
| Andrews, N.C. | Fithian | Murphy, Pa. |
| Andrews, N. Dak. | Flynt | Murtha |
| | Fountain | Myers, Gary |
| Archer | Frenzel | Neal |
| Armstrong | Glickman | O'Brien |
| Ashbrook | Goldwater | Obey |
| Badham | Gore | Pease |
| Bafalis | Gradison | Pettis |
| Barnard | Grassley | Pike |
| Bedell | Gudger | Poage |
| Bellenson | Hagedorn | Pritchard |
| Benjamin | Hall | Regula |
| Brooks | Hamilton | Rhodes |
| Broomfield | Harsha | Risenhoover |
| Brown, Mich. | Hefner | Roberts |
| Brown, Ohio | Horton | Robinson |
| Broyhill | Huckaby | Rostenkowski |
| Burke, Fla. | Hyde | Rudd |
| Burleson, Tex. | Ichord | Russo |
| Burlison, Mo. | Ireland | Ryan |
| Butler | Jacobs | Satterfield |
| Caputo | Jeffords | Sebelius |
| Cederberg | Jenkins | Sharp |
| Chappell | Johnson, Colo. | Shuster |
| Cleveland | Jones, Okla. | Skelton |
| Cohen | Kelly | Slack |
| Coleman | Keys | Smith, Nebr. |
| Collins, Tex. | LaFalce | Snyder |
| Conable | Latta | Stangeland |
| Corcoran | Levitas | Stanton |
| Cornwell | McDonald | Steiger |
| Cunningham | McEwen | Stump |
| Daniel, Dan | McHugh | Symms |
| Derrick | Mahon | Taylor |
| Derwinski | Mann | Volkmer |
| Devine | Marks | Waggonner |
| Dornan | Martin | Wiggins |
| Early | Mazzoli | Winn |
| English | Michel | Wydler |
| Erlenborn | Milford | Wylie |
| Ertel | Miller, Ohio | Yates |
| Evans, Ind. | Moore | |

NOT VOTING—64

| | | |
|---|---|---|
| Ambro | Fowler | Rodino |
| Annunzio | Hammer-schmidt | Rosenthal |
| Ashley | | Runnels |
| Beard, Tenn. | Hannaford | Santini |
| Bingham | Hansen | Sarasin |
| Bolling | Hawkins | Sikes |
| Brademas | Holland | Sisk |
| Breaux | Howard | Spellman |
| Brown, Calif. | Jones, Tenn. | Stockman |
| Burke, Calif. | Long, Md. | Teague |
| Burton, Phillip | Maguire | Thone |
| Byron | Marlenee | Thornton |
| Clawson, Del | Mattox | Treen |
| Cochran | Meeds | Tucker |
| Crane | Mikva | Udall |
| Dent | Moffett | Ullman |
| Diggs | Moss | Van Deerlin |
| Duncan, Oreg. | Ottinger | Vander Jagt |
| Eckhardt | Perkins | Vanik |
| Edwards, Ala. | Pursell | Whitley |
| Evans, Colo. | Quayle | Young, Tex. |
| Evans, Del. | Rahall | |

The Clerk announced the following pairs:

Mr. Annunzio with Mr. Del Clawson.
Mrs. Spellman with Mr. Eckhardt.
Mr. Dent with Mr. Crane.
Mrs. Burke of California with Mr. Rahall.
Mr. Teague with Mr. Udall.
Mr. Whitley with Mr. Howard.
Mr. Van Deerlin with Mr. Runnels.
Mr. Rodino with Mr. Thornton.
Mr. Breaux with Mr. Maguire.
Mr. Jones of Tennessee with Mr. Diggs.
Mr. Sisk with Mr. Treen.
Mr. Brown of California with Mr. Marlenee.
Mr. Rosenthal with Mr. Ambro.
Mr. Perkins with Mr. Ullman.
Mr. Moss with Mr. Quayle.
Mr. Ashley with Mr. Beard of Tennessee.
Mr. Bingham with Mr. Byron.
Mr. Brademas with Mr. Hansen.
Mr. Hawkins with Mr. Holland.
Mr. Mikva with Mr. Fowler.
Mr. Sikes with Mr. Sarasin.
Mr. Santini with Mr. Thone.
Mr. Vander Jagt with Mr. Vanik.
Mr. Ottinger with Mr. Hammerschmidt.
Mr. Hannaford with Mr. Cochran of Mississippi.
Mr. Phillip Burton with Mr. Evans of Delaware.
Mr. Duncan of Oregon with Mr. Mattox.
Mr. Evans of Colorado with Mr. Long of Maryland.
Mr. Moffett with Mr. Edwards of Alabama.
Mr. Pursell with Mr. Stockman.
Mr. Meeds with Mr. Tucker.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill just passed, H.R. 3161.

The SPEAKER. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

## THE PLIGHT OF THE VINS FAMILY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama (Mr. BUCHANAN) is recognized for 5 minutes.

● Mr. BUCHANAN. Mr. Speaker, the Soviet Government has again raised questions in the minds of people around the world with regard to its intentions on complying with international agreements. This time, the occasion is the conviction of Peter Vins, who is a Helsinki monitor in the Ukraine and the son of Georgi Vins, a long-imprisoned Baptist leader.

By signing the Final Act of the Conference on Security and Cooperation in Europe, known as the Helsinki Final Act, the Soviet Government committed itself not only to compliance with the human rights provisions, but to promoting them as well.

With the conviction and sentencing to a year at hard labor of Peter Vins, the Soviet Government has emphasized that it not only plans to disregard the promises it made at Helsinki, but also to punish those who dare call attention to this lack of compliance.

Peter Vins' crime, in Soviet terminology is "parasitism." This is a Catch-22 provision whereby the Soviet Govern-

ment first arrests an individual for expressing rights guaranteed by the Soviet Constitution and then files criminal charges against him for not working while in jail for the first conviction. Such is the case with Peter Vins.

He was first arrested in December as a result of his activities as a Helsinki monitor and for possessing two Bibles. Following his release in January he went to Siberia to visit his father, who is in a forced labor prison there. Upon his return, he was rearrested, this time for not having a job while he was in prison for the earlier conviction and while he was visiting his father.

Mr. Speaker, the courage of the Vins family over many, many years of harassment and and repression is an inspiriation to those of us in the free world who may have a tendency to take such rights as freedom of speech and religion too much for granted. Peter Vins' grandfather died in a Soviet prison camp. His crime was that of being a Baptist minister. His grandmother, at the age of 62, was sentenced to prison for 3 years for expressing her religious beliefs.

His father is serving his second 5-year term in a Soviet forced labor camp, again for daring to practice and preach his religion. Two years ago, Peter went on record as urging the Soviet Government to release Georgi Vins and to permit the exercising of religious beliefs.

And now, the Soviet Government has compounded its crime. Not only has Peter Vins been imprisoned, the Soviet Government has refused to take action on his application for emigration for himself and his family so that they might be reunited with other members of their family in the West.

Mr. Speaker, if this is the type of compliance we can expect from the Soviet Union on international agreements, I would suggest to the Department of State that it cease negotiations on the SALT Treaty immediately. For, as we have seen with the Helsinki Act, an agreement may contain many important commitments, but the value of these commitments is lost if one of the parties fails to honor them.

If the Soviet Government expects us to give credence to its promises on SALT or any other agreement now being negotiated, it must begin to comply with those agreements already signed.●

## EASTERN AIRLINES A300 AIRBUS PURCHASE RAISES QUESTIONS ABOUT NOISE REDUCTION LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 10 minutes.

● Mr. VANIK. Mr. Speaker, the airport and aircraft noise reduction bill diverts tax revenues from needed airport safety and development projects and provides a fund to the airlines for the purchase of new and more profitable aircraft. Witnesses supporting the legislation testified that the bill, in addition to helping reduce aircraft noise, would create domestic employment and help balance our trade deficits through the development of new aircraft for sale abroad. In the last week, actions by PanAm and Eastern Airlines have shown that the employment/balance-of-payments arguments are suspect. In the case of Eastern's purchases of the new A300 airbus, there are questions of unfair trade practices and excessive export financial subsidy.

The contribution that our aerospace industry makes to our export sales requires that our trade policy in this area be evenhanded. However, the United States cannot afford to have the American lead in commercial aircraft production destroyed through foreign subsidies; by bargain basement financing arrangements or other trade distorting aids to export.

In the sale of these A300 planes, however, the issue of possible unfair trade practices is so serious that Congressman GUY VANDER JAGT, a member of our subcommittee, has asked that we hold hearings on this case, and I am inclined to support that request, to examine the financial gimmickry that accompanied this sale. I note that late last year, the International Trade Commission considered initiating a 337 unfair trade practices investigation into the sales promotion effort being made on the A300, but did not proceed with a full investigation. If there have been unfair trade practices, I question why we need to provide tax revenues to assist the airlines in purchasing subsidized foreign aircraft.

I have had serious reservations about this bill since the committee began considering it on February 6. As reported, this legislation would reduce various airline users' taxes by 2 percent, and impose a separate excise tax mandated to be passed through the passengers. Airlines would then receive a credit, according to a formula, for purchasing new aircraft, or retrofitting or reengining old planes, in order to meet the new stringent Federal noise abatement standards.

The industries claimed that since the new regulations were retroactive to old aircraft, the airlines required some assistance if regulations were to be met. However, by law, the FAA is supposed to determine that noise abatement rules are economically reasonable, technologically practicable, and appropriate for the particular type of aircraft. If such a determination was made, I would like to know why the airlines need this subsidy.

Testimony during the February 6 hearing abounded with declarations that the tax benefits would increase American employment, assure the continued superiority of the American aircraft industry, and help right the U.S. balance of trade. One of the bill's sponsors testified:

> The bill is balance of payments legislation. One of the top items of export of the U.S. has long been our aerospace technology and equipment . . . The legislation will lead to the development of a new generation of aircraft and will undoubtedly spur our aerospace industry . . .

Paul R. Ignatius, president and chief executive Officer of the Air Transport Association of America, argued that by passing the bill:

> . . . You would create tens of thousands of jobs . . . You would be helping to maintain the historic leadership of the United States aircraft manufacturing industry . . . Finally, you would help the United States in its export balances program because aeorspace exports, I believe, next to agricultural exports have been the most important single category.

The airline and aircraft industries threatened that failure to pass this portion of the noise abatement bill would leave the American aircraft industry at the mercy of subsidized European aircraft industries. Within 2 months of their testimony, however, airlines placed $1.2 billion worth of orders with European aircraft industries—with options on additional purchases that will be financed in part by the $2.5 billion tax giveaway proposed by this bill.

The merit of the job creation/balance-of-payments arguments was destroyed by—

First. The announcement on April 5 that PanAm was purchasing $250 million in Rolls Royce RB211 engines for use in the new Lockheed Tristar airliners "which are to replace its aging fleet of Boeing 707's * * * Pratt and Whitney and General Electric, the two major American aircraft engine builders, both fought for the order. * * * The shift to Lockheed and Rolls Royce represents a major policy change on equipment on Pan American's part."

Second. On April 7, Eastern Airlines signed a $778 million contract for 23 new A300B twin-engine, wide-body planes produced by Airbus Industrie, a consortium of five European nations, although the engines will be U.S.-made, General Electric products. It is reported that both United and Allegheny are considering purchases of the A300B. Articles reporting the purchase indicate that this contract also includes options on 25 of the smaller A300–B10 200-seat planes plus 9 additional 244-seat versions of the A300.

Eastern's action focuses attention on the serious question of unfair trade practices and excessive export subsidies. The Eastern arrangement includes a rather intricate financing method for the sale. Airbus Industrie has allowed Eastern Airlines to use almost gratis four of the planes, worth at least $25 million each, since December, and Eastern will now hold these planes on long-term lease. The news articles further described this complicated arrangement:

> Out of the total price, $552 million will involve external financing. Airbus Industrie has agreed to arrange for $250 million of 10-year export credit financing through European banks, guaranteed by the appropriate export credit guarantee agencies. In addition, Airbus has agreed to provide about $96 million of manufacturer's subordinated financing to Eastern.

I am not in any way arguing against the purchase of foreign aircraft or parts, per se. We have dominated the world aircraft market for decades, and competition—assuming it is fair—must be

accepted. I do want to emphasize, however, that the arguments in support of diverting tax revenues from badly needed safety projects to capital for the airlines cannot be based on the promise that this will create U.S. jobs or balance our trade deficit. The recent purchases made by these American airlines show us that their arguments, weak as they are, are not even very credible.

The weakness of the airlines' arguments only adds to the turbulence disrupting the flight of this ill-begotten aid. Its flight was already threatened by the strong arguments against further subsidy. Airlines have a minimal effective Federal income tax rate, below 10 percent. In February, the Senate Finance Committee voted to extend by 1 year the time in which airlines may offset 100 percent of their tax liability with the investment tax credit. This measure could have airlines up to $50 million. Last week, the CAB agreed to allow a 3-percent increase in domestic fares, costing travelers an additional $140 million annually. What more do the airlines want?

This legislation to transfer taxpayer funds to the airline industry should be permanently grounded. When the Ways and Means Committee and the House once again debate H.A. 8729, I will urge that the bill be rejected.●

## THE MINORITY MENTAL HEALTH SUPPORT AND DEVELOPMENT PROGRAM ACT OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STOKES) is recognized for 10 minutes.

● Mr. STOKES. Mr. Speaker, I am today joining my congressional colleagues, Senators INOUYE and MATSUNAGA in introducing legislation which would establish within the National Institute of Mental Health in the Alcohol, Drug Abuse and Mental Health Administration an identifiable division of minority group mental health programs. The charge of such a division would be to foster development of mental health programs for the improvement of minority group mental health.

The need to establish such a division has been consistently manifested by the disproportionate representation of minorities within every negative statistical indicator of health. Moreover, the need has been further evidenced in statistics on morbidity and socioeconomic problems and in the resulting high percentage of minorities as compared to whites in correctional institutions and public inpatient psychiatric facilities. At my request, the Congressional Budget Office undertook a series of studies to examine the causes of and possible remedies for racial inequalities.

One of these studies, "Health Differentials Between White and Nonwhite Americans," published 6 months ago, found that differentials in health status between whites and nonwhites persist, despite considerable recent progress in narrowing the gap. Nonwhites still experience nearly 50 percent more bed disability, 70 percent higher infant mortality, and a life expectancy 6 years shorter than that of whites. This means that the average nonwhite male in America will not live to collect social security or to have his terminal illness paid for by medicare. While the Federal Government has attempted to address the disparity of health services between blacks and whites, blacks are still four times as likely as whites of the same age group to die of hypertension, 60 percent more likely to die of tuberculosis, 50 percent more likely to die from diabetes, and four times more likely to die from chronic kidney disease.

Educational inequality is also a factor which contributes to stress. And stress has long been recognized as a major contribution to a variety of physical and mental illnesses. According to the Congressional Budget Office's study on educational disparities, black Americans tend to have less formal schooling than white Americans. Though some strides have been made by blacks in the area of educational attainment, more than two-thirds of the white population had completed at least 12 years of school while fewer than half or 47.0 percent of the black population had. Most of the analyses of enrollment, attainment, and achievement data arrive at the same conclusion: That differences between blacks and whites along these educational measures are attributable largely to noneducational factors such as family income, parental education, socioeconomic status of the student's community and notably, the opportunities for upward mobility in the job market once he has completed his education.

Studies also show that unemployment creates stressful situations for laid-off workers and their families as well. Unfortunately, nonwhites are overrepresented in the statistics on unemployment. Although the situation of minorities in the labor force has steadily worsened since 1974, the unemployment rate for nonwhites has been about double that for whites for some time. In August 1977, the unemployment rate for whites was 6.1 percent while the rate for nonwhites was 14.5 percent. For those males 14 years of age and over who did have an income, median income in 1975 was $5,560 for blacks and $9,300 for whites. Furthermore, white males who were high school graduates had a median income in 1975 only about $100 lower than that of black males who were college graduates. Other statistics show that, compared with whites, blacks are disproportionately concentrated in the categories of jobs in which the rates of pay are lower. Blacks are underrepresented relative to whites among professionals, managers, and craftsmen; they are overrepresented in semiskilled jobs and unskilled jobs and are particularly underrepresented among administrators.

Mr. Speaker, if all these discouraging statistics are not convincing enough to prove that minorities are stress-ridden, all we need do is look at the statistics on poverty. Minorities are overrepresented in that area too. Ten percent of all American families are classified as below the poverty income level. Whereas fewer than 8.7 percent of white families are poor, in comparison, over 30 percent of black families, 34 percent of Native American families, and 21 percent of families with Spanish origin fall into this category. To be poor means not only to have less money to purchase health care; it also means a greater likelihood of an environment characterized by the overcrowded, unsafe housing, poor sanitation, and inadequate nutrition, and a lack of self-awareness which all together predispose illness. Although poverty and illness transcend racial lines, to be overrepresented in every negative indicator of socioeconomic problems, imposes severe and oftentimes unbearable internal conflicts.

The scarce number of studies done on minority mental health point to historic neglect as being culpable for minorities being overrepresented in every analysis of these inequities and to disinterest for reinforcing them. According to a former Director of the National Institute of Mental Health:

> Racism in this country is a product of more than 300 years of systematic subordination of Indians and blacks by the white majority, plus later subordination of still other groups. It pervasively influences every single institution in our society.

The plight of blacks in this country is a prime example of the effects of individual and institutional discrimination. The role of racism must be clearly understood as a phenomena in this country with its socioeconomic and intrapsychic components. It is one the basic roots of American culture. As such, it functions as part of the etiology of much of the mental illness seen in America's minority populations. Stresses endured by minorities in the United States because of racism have been unrelenting. Discrimination has limited minorities' access to housing, employment, and adequate income, severely limiting their life choices. This limitation provides minorities with a bleak choice—doomed if they actively resist and doomed if they passively accept. The outcome is internal conflicts, repressed anger and inner stress that erupt into behavior that is socially or psychologically dysfunctional. It translates into outbursts among individuals within minority communities, often against each other or in self-destructive behavior.

Consequently, minorities are disproportionately represented in statistics on abusers of alcohol and drugs. Suicide has become one of the leading causes of death among minority young adult males and the rate for black women has risen more than 80 percent in the last 20 years, surpassing that for white men and white women. Studies show that minority suicides result when the ability to cope with internalized frustration and anger at institutional racial bias breaks down. Furthermore, studies show that a nonwhite is over seven times as likely to be a victim of homicide, more than likely at the hands of another minority.

Disruptive stress as a cause of societal turmoil was documented in the Kerner

report on the riots of the sixties and recently in the preliminary report of the President's Commission on Mental Health. According to this September 1977 report:

> America's mental health problem is not limited to those individuals with disabling mental illness and identified psychiatric disorders. It also includes those people who suffer the effects of a variety of societal ills which directly affect their everyday lives. Vast numbers of Americans experience the alienation and fear, the depression and anger associated with unrelenting poverty and the institutionalized discrimination that occur on the basis of race . . . the nation must realize the terrible emotional and mental damage that poverty and discrimination cause.

Unfortunately, America's mental health service delivery system has not responded to these realities of minority mental illness. In fact, racial and cultural indifference has been operative as an impediment to quality mental health services for American Minority Groups.

Until recently, there has been minimal concern for the mental health of black Americans. This has been evident in racist stereotypes which have too often pictured blacks as being too lackadaisical and carefree to have emotional problems. Society's response to real or imagined black mental illness has been incarceration rather than medical treatment. This is manifested in the rates for blacks in correctional institutions which are over nine times greater than those for whites and over four times higher in facilities for juvenile delinquents. This data suggests vast inequities in the handling of behavior problems of persons from different social and racial backgrounds. When blacks are treated, they are either traditionally overdiagnosed or underdiagnosed. The reluctance to diagnose blacks as affectively ill is excessively compensated by the predilection to diagnose blacks as schizophrenic and more likely to be chronically ill.

In fact, until recently, psychiatrists were taught that blacks were not susceptible to depression. When blacks have been legitimately diagnosed as having emotional problems, rarely have examiners considered social, economic and environmental factors as primary contributors. Rather, psychiatrists have overstated emotional and psychological reasons why blacks have mental problems. In short, traditional methods neglected the fact that blacks undergo tremendous stress as an element of routine existence. Inner city concentration, slums, high unemployment rates, police brutality, underemployment, poverty level wages, menial employment, discrimination, and broken families are all factors which produce minority mental illness. It is no wonder that admission rates for blacks to State and County mental hospitals stand at 344 per 100,000 or more than twice the rate for whites.

Mr. Speaker, to understand the high rate for black mental patients, it is important to note that traditional mental health indicators cannot accurately measure the mental status of minorities. For example, definitions of "Pathology and Normality" are relative. It is believed by mental health professionals that an individual was "normal" to the extent that in one's lifetime one was able to "assimilate the historically hard-won wisdom of society and to experience the fruits thereof." To the extent that one had failed, one was said to be "abnormal." The inequities with which minorities are faced underline the fact that because of the historical patterns of discrimination and racism found in America relatively few minorities have experienced the fruits of assimilation into American Society.

If we are to respond to the clear mental health needs of minorities, it is crucial that we recognize the prerequisite of substantially increasing the number of minority mental health professionals who, because they share the same racial experiences, the same socioeconomic background, or similar lifestyles and value system, are more capable of accurately diagnosing the mental heath state of nonwhites. The sparcity of minority psychiatrists in this country must be corrected. No longer can this Nation tolerate a situation where the ratio of black psychiatrists per 100,000 blacks is 2.4 while the ratio for whites is 13 psychiatrists per 100,000 patients. These statistics, Mr. Speaker, in view of the documented dismal state of affairs, detail the Federal Government's historical lack of significant attention to minority manpower requirements.

The Federal answer to the appalling discrepancy between psychiatric treatment provided to white Americans and nonwhite Americans are the community mental health centers. The goal of these centers was to reduce institutionalization and effectively address the evinced need in the black community. Today there are approximately 650 centers funded at $269 million and serving 2.7 million persons. However, these centers have not achieved their goal. Admissions to public inpatient psychiatric facilities occur nearly twice as frequently among blacks as whites, and 22 percent of all such admissions are for nonwhites, whereas these centers serve a population which is 12 percent nonwhite. The location of these centers, lack of outreach, effective community communication, and a lack of racial insensitivity are all factors which undermine the effectiveness of this program.

As a result of systemic insensitivity, the mental health service delivery system in America continues to put America's minority population in a position where they are forced to experience and attempt to endure daily macro and micro insults to the person. If the system continues to perpetuate neglect, it can never truly be termed a system of care for minorities. To accurately address the status of minority mental health in this country, a definitive commitment must be made on the part of the Federal Government.

Mr. Speaker, the Minority Mental Health Support and Development Program Act of 1978 offers such a commitment by providing for the establishment of a division within the National Institute of Mental Health, the mental health needs of minority populations would receive the level of attention which they deserve. Critical support through this division would be aimed at the development of strategy to increase the minority population's mental health manpower, the study of the effects of racism upon minority and majority institutions and individuals, and the development of systems to assist minority populations in coping with the effects of racism. Moreover, bilingual and bicultural mental health programs would be developed and special and innovative programs would be directed toward the training of mental health workers in institutional settings and of mental health professionals in racial sensitivity.

Mr. Speaker, the concerns that this division are to address are currently served in part by the present center for minority group mental health programs at NIMH. However, because of limited fiscal resources and prescribed authority due to the nature of such a unit, the center is not equipped to substantively address the unique mental health needs of minorities. The center has only had the capability of funding one research and devleopment center for native Americans, one for Asian Americans, two for blacks and two for hispanics. The research and development center at Howard University, and the Charles R. Drew Post graduate School in Los Angeles, Calif., are two examples of centers which are taking a positive step toward resolving inequities in the mental health research arena. Unfortunately, these centers cannot resolve the mental health problems of all black Americans. The establishment of a clearly identifiable division is the solution.

My bill would establish a legislatively mandated minority entity which would insure the stable existence of a massive focal effort which is not subject to administrative changes. Mr. Speaker, the unique mental health needs of minority group persons are Herculean in scope and deserve concentrated attention, manpower, and support on the part of the Federal Government. The minority mental health support and Development Program Act of 1978 would provide for this vitally needed pledge.

Mr. Speaker, I cannot emphasize strongly enough the urgent need for a national commitment to improve the minority mental health in America and to eliminate institutional indifference which has pervaded America's societal structure and impaired the mental health of not only minorities but of all Americans. I strongly urge you to join me in my efforts to rid our Nation of the indifference which has been the underlying cause of many of society's social and mental ills, by your support of the Minority Mental Health Support and Development Program Act of 1978.

H.R. 12102

A bill to amend the Public Health Service Act to provide for the establishment of a Division of Minority Mental Health Programs within the National Institute of Mental Health, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Minority Mental

Health Support and Development Program Act of 1978."

SEC. 2. The Congress finds that—

(1) at least 39 million Americans are members of ethnic and racial minority groups;

(2) as a result of historical and present racism, minority group members are disproportionately represented within every negative statistical indicator of health morbidity and socio-economic problems and are at increased risks for mental disorders;

(3) minority group members are disproportionately represented among the Nation's mental health human resources, representing four percent of the Nation's psychiatrists while admission rates to public mental hospitals for non-whites are more than double those for whites;

(4) such phenomena as schizophrenia, alcoholism, drug abuse, homicide, and suicide are disproportionately higher for non-whites than whites, and minority income levels, housing conditions, and educational attainment, which impact upon minorities mental health, are substantially below that of our Nation as a whole, and minority individuals continue to suffer from stresses of prejudice and racism;

(5) in fiscal year 1976, despite these alarming statistics, less than seven percent of all National Institute of Mental Health research awards were of major relevance to minorities;

(6) there is administratively established within the National Institute of Mental Health the Center for Minority Group Mental Health Programs which, although the focal point for minority activities, was only able to administer in fiscal year 1977, four percent of the total National Institute of Mental Health budget for research and training, because of an inadequate budget; and

(7) the Center, considering its minimal staff and limited budget, has made remarkable strides in six years of existence, focusing upon the unique mental health needs and resources of the Nation's minority populations.

SEC. 3. Part (G) of title IV of the Public Health Service Act is amended by inserting after section 455 the following:

"DIVISION FOR MINORITY MENTAL HEALTH PROGRAMS

"SEC. 456. (a) The Secretary shall designate the Center for Minority Group Mental Health Programs of the Institute as a division of the Institute to be known as the Division for Minority Mental Health Programs (hereinafter in this section referred to as the 'Division').

"(b) The Secretary, acting through the Division shall—

"(1) support programs, including demonstration projects, with regard to the delivery of mental health services to minority populations;

"(2) develop a plan to increase the minority population's mental health manpower;

"(3) develop bilingual and bicultural mental health programs;

"(4) study the effects of racism upon minority and majority institutions and individuals;

"(5) develop systems to assist minority populations in adapting and coping with the effects of racism; and

"(6) develop special and innovative training programs aimed at the elimination of institutional racism;

"(c) The Secretary, acting through the Divisions, may carry out subsection (b) by making grants to, and entering into contracts with, professional associations, nonprofit entities, and State and local agencies.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out this section.".●

## THE PRESIDENT'S URBAN POLICY STATEMENT: A GOOD START

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 5 minutes.

● Mr. REUSS. Mr. Speaker, on March 27 President Carter submitted to the Congress his proposals for a national urban policy. I commend the President for his statement. He has set in motion a policy process that if sustained holds the promise of halting the deterioration of our urban centers and improving the quality of life they offer.

It would be easy to snipe at the President's proposals. But at this early stage, this would put in jeopardy the policy process the President has initiated and ill serve our cities and their people.

No other President has endeavored to set out a comprehensive urban agenda for the Nation. To his credit, President Carter made this one of his first priorities. The commitments he has now undertaken represent significant departures from past policies. We have some benchmarks from which we can gauge our progress. Consider the following:

The President has promised to revamp existing urban aid programs to make them more consistent in their objectives and efficient in their administration, and to insure that the people most in need receive their benefits.

He has promised to initiate an urban impact review process to insure that agency program proposals and regulations do not inadvertently harm our cities.

He has requested a new executive order that will clearly direct Federal agencies to locate their facilities in cities. He has ordered more Federal procurement, including Defense Department procurement, from firms in high unemployment areas.

He has emphasized the need to preserve and rehabilitate existing infrastructure in urban areas—highways, public buildings, housing, commercial structures—rather than to tear up additional countryside. He has explicitely endorsed the objective of discouraging sprawl patterns of development in the administration of EPA's water and sewer grants.

He has proposed an incentive program to encourage States to do more to help their cities, and rightly said that this program should be reviewed when general revenue sharing comes up for renewal in 1980.

He has committed his administration to greater minority participation in Federal grants and contracts.

He has recognized the need to enlist neighborhood groups in efforts to maintain and revitalize their communities.

Above all, he has emphasized improved private sector collaboration with government at all levels to bolster local tax bases and provide jobs for those too long excluded from the mainstream economy. We lack details. But the targeted job credits, the differential 5-percent investment tax credit, and the activities proposed for the national development bank sound like steps in the right direction.

The principles the President has embraced are no mean undertakings. Yet mayors, Governors, neighborhood leaders, and others have all found some reason for discontent. I suggested that caviling at this point is not what is needed. All the real tests for the President's policies and programs lie ahead. Active White House leadership will be required to refine them and put them into effect. The President will need constructive suggestions and all the support he can get. Let us not shoot the piano player just as he has really begun to play.●

## AMERICAN DREAM ACT REINTRODUCED WITH COSPONSORS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I am today reintroducing the American Dream Act for myself and the following members of the Banking, Finance and Urban Affairs Committee: Mr. REUSS, Mr. ASHLEY, Mr. MINISH, Mr. MITCHELL, Mr. FAUNTROY, Mr. NEAL, Mrs. SPELLMAN, Mr. D'AMOURS, Mr. PATTISON, Mr. MATTOX, Mr. VENTO, Mr. GARCIA, Mr. HYDE, Mrs. FENWICK, Mr. STEERS, and Mr. EVANS of Delaware.

Since the original introduction of the American Dream Act on January 30 I have received letters from all over the country supporting the legislation. A vast majority of letters have come from senior citizens who see the legislation as a means of increasing their income without having to give up their homes. Since many of these senior citizens are living on fixed incomes, it is imperative that they have an alternative source of funds such as that considered under the American Dream Act in order to fight inflation.

Mr. Speaker, I have made one change in the legislation since the original introduction of the bill in order to make certain that homeowners using these two mortgages are adequately protected. I have added the language that maximum consumer safeguards shall be required in any such mortgage. This provision will make certain that in a reverse annuity mortgage a senior citizen would not lose his home if he outlived the money available under the mortgage.

The American dream has always been to own your own home and to have enough income to retire on in comfort. That is why I am calling this bill the American Dream Act. It will make that dream a more certain reality.

This double-barreled legislation will allow federally chartered savings and loan institutions to offer two types of alternative mortgages. The first, designed to help young couples and newlyweds, would be a form of graduated payment mortgages, or GPM. Monthly payments would begin at a reduced level and increase gradually over the life of the mortgage. Both the rate of increase and the interest rate would remain fixed for the duration of the loan.

Currently many young people are forced to rent or to postpone buying a

home—even though they may have a steady but small income. Their income, however, can be expected to rise and as it does, so does their ability to handle a larger mortgage payment. Under GPM, homeownership would now be possible for couples in the early years of marriage. And studies show that the impact would be tremendous. The graduated mortgage payment would allow 11 percent of current renters under the age of 35 and up to 2½ million couples to own their own homes.

The second kind of mortgage, called a reverse annuity mortgage or RAM, would permit senior citizens—many living on fixed incomes—to draw equity from their homes without having to sell. The homeowner would not only retain ownership but also receive a monthly cash payment based on the equity of his house. When the homeowner dies or decides to sell, the amount of these payments is merely deducted from the proceeds of the sale and returned to the lender.

Mr. Speaker, what happens today when these senior citizens leave the work force to live on social security or some other pension plan? In many cases inflation devours their pension income, yet that same inflation that increased the value of their homes cannot be used to make ends meet. Why should they have to wait until death to reap the economic fruits of 30 years of mortgage payments?

Under a RAM, senior citizens can live in their own homes for the rest of their lives—homes they bought and paid for. The potential is enormous. It is estimated that senior citizens currently have a net equity of $90 billion in their homes. And by the year 2000 one in four Americans will be 65 or older. The American Dream Act will help lay a foundation to deal with the problems senior citizens face and to offer a new source of income at a time when it is most needed.

I am firmly committed to the concepts of this bill. Since the American Dream Act merely grants permissive rather than mandatory authority to make the loans, I am optimistic that we can deal with it speedily, without protracted hearings. I would even attach this bill to another legislative vehicle if that could insure immediate relief for the millions of Americans who find their dreams slippery and elusive.

Mr. Speaker, the quicker we can get these mortgages on the books, the quicker we can help the people. I urge support for this bill and will do all I can to see it passed swiftly.●

## DEATH IN TRANSIT—III

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, hazardous cargoes create many kinds of dangers; some are susceptible of exploding; some pose the threat of radiation poisoning; some can burn with tremendous speed and heat; some can cause death or injury by noxious fumes; some can burn or kill by corrosive action; and some can cause death by rapid decompression, which is nearly the same as an explosion.

By far the greatest hazardous cargo disaster of all time occurred in my own home State of Texas when a shipload of ammonium nitrate exploded at Texas City, leveling a wide area near the port and killing 561 persons. This was back in 1947, and for years afterward the site of that explosion resembled a bombed-out city. That disaster remains the greatest reminder of the hazards that dangerous materials can pose but other, smaller disasters constantly press upon us the reality that we have not solved our problems. In fact, the potential for catastrophe is great and growing.

There are 320,000 miles of railroad track in this country, but only 300 Federal inspectors available to check those tracks for safety. Tracks can go literally for years without a Federal safety inspection. It has been estimated that it would cost perhaps $3 billion to put all the railroad track and roadbed in this country into first-class shape, but there is no evidence that this kind of investment is forthcoming.

One old railroad hand told me that he always had great problems in getting his company to part with a few thousand dollars to fix up dangerous track, but they always had the cash to pay for emergency operations to pick up the pieces after an accident.

You have to wonder whether the railroads are poor, or whether they really do not care about the condition of their track and equipment.

You have to wonder, because we know that tank cars being produced in the last several years are not as safe as older cars were.

Thousands of new cars were built with high-carbon steel wheels, which last a long time, but which also develop cracks if they get overheated, as they do when brakes stick. It is now illegal to use that type of wheel on tank cars, but there are still many thousands on the road, and they will remain there until a crash replacement program can be finished.

You have to wonder, because on that ill-maintained track and roadbed are running cars that are far bigger and heavier than ever used before. These supercars cause vastly more wear and tear than older cars did—and yet we know that tracks are not being as well maintained as they were decades ago. That is why the rate of derailments has actually doubled in the last 10 years.

But faulty track is not the only thing that invites disaster from trains carrying hazardous cargo.

In my home city of San Antonio there are no less than 216 railroad grade crossings. Each one of these crossings creates a collision hazard.

What is more, a train that blocks a grade crossing can cause tremendous problems for emergency personnel. A police vehicle or a fire truck cannot move through a train that is occupying a grade crossing. And some of these trains are extremely long.

The San Antonio fire chief tells me that just a few days ago he sat at a grade crossing for 22 minutes waiting for a long freight train to clear. He was not on an emergency run, but if he had been, there would have been a great problem in finding a way around that train.

It is, according to Texas law, illegal for a train to occupy a grade crossing for that length of time, but plainly that law is not being enforced. It probably will not be.

Meanwhile, we have a situation in which there could be a derailment with a spill or explosion at one of these grade crossings, but it would be immensely difficult for emergency equipment just to reach the scene—let alone deal with the problem.

San Antonio's fire department is trained and hopefully equipped to deal with hazardous cargo accidents of many kinds—but it is not possible to do this if large areas are blocked off by a long train, as can happen at no less than 216 grade crossings within the city limits.

There have been proposals in the past to have through freight trains routed around the central city of San Antonio, but clearly this would be a difficult and expensive proposition. Yet it is clear that hazardous cargoes pose a continuous threat to the community, and that this threat is compounded not only by the dangers that grade crossings create in themselves, but further in the blockage of emergency access by trains within those crossings—trains that could be stopped dead and creating enormous dangers through leaking or burning cargo.

We are confronting a situation in which it is not enough to just repair track and roadbed. We are confronting a situation in which there are 25,000 tank cars that do not meet current safety standards, and of which a mere 25 have been repaired. And we are facing a situation in which there are multiple grade crossing hazards, each one of which can make it extremely difficult for emergency vehicles to reach the scene of an accident, whether that problem involves the train or not.

As the fire chief of San Antonio suddenly realized, while sitting for 22 minutes at a downtown grade crossing, there could have been a fire on the other side, or even somewhere on the train, and he would have had a very hard time getting there. It was a sobering thought, and it ought to stand as a warning.

Texas City happened 31 years ago. It is a miracle that there has not been another such holocaust since that time. We are luckier than we deserve to be, and we cannot expect to forever escape the consequences of neglect and carelessness.

## ADEQUATE FUNDING FOR VA'S ONGOING HOSPITAL AND MEDICAL CARE PROGRAMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. ROBERTS) is recognized for 5 minutes.

● Mr. ROBERTS. Mr. Speaker, when the President submitted his budget in January, I expressed the view that the recommended budget for hospital and medical care for veterans was deficient. There is ample evidence before the committee to show that because of lack of funds veterans, especially non-service-connected veterans, are currently being told they must seek hospitalization elsewhere. We have found that even service-connected veterans are being required to wait for extended periods of time in VA hospitals and outpatient clinics throughout the country before being able to see a physician or to receive timely laboratory services. The reason for these delays is very simple. The agency does not have the funds necessary to adequately staff its hospitals, outpatient clinics and other health care facilities. The Committee on Veterans' Affairs recommended that the President's hospital and medical care budget be increased by $400 million during the next fiscal year; however, the Budget Committee, in its markup of the first resolution, has included only $45 million in outlays above the amount requested by the President. Obviously, we have a difference of opinion as to what constitutes proper care for our veterans.

I can assure my colleagues that this has happened throughout the country, and I cite the following series of correspondence concerning the treatment of veterans at the VA hospital in Portland, Oreg., as an example of the difficulty being encountered by veterans in obtaining a timely delivery of medical services at this facility.

DISABLED AMERICAN VETERANS,
*Washington, D.C., March 22, 1978.*

JOHN D. CHASE, M.D.,
*Chief Medical Director, Department of Medicine and Surgery, Veterans Administration, Central Office, Washington, D.C.*

DEAR DR. CHASE: Enclosed are copies of correspondence from Supervisory NSO John G. Hurt of our Portland, Oregon office and veteran John W. Taylor pertaining to "the backlog problem in the audiology clinic at the Portland VA Hospital."

Since NSO Hurt indicates that the backlog results from "understaffing and appropriate funding," it is requested that necessary corrective action be taken to make available additional funding and staff at the Portland VA Hospital to remedy the intolerable situation of approximately 200 veterans on the waiting list for hearing aid evaluation.

Your early response to this request will be appreciated.

Sincerely,

NORMAN B. HARTNETT,
*National Service Director.*

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DISABLED AMERICAN VETERANS,
*Portland, Oreg., March 8, 1978.*

Mr. NORMAN B. HARTNETT,
*National Service Director, Disabled American Veterans, National Service Headquarters, Washington, D.C.*

DEAR MR. HARTNETT: This is in response to your letter of January 23, 1978, directed to Mr. John P. Clark, Hospital Director, V.A. Hospital, Portland, Oregon, concerning the above-named veteran's difficulty in obtaining a binaural eyeglass hearing aid. In your letter you included a postscript requesting that you be advised as to the individualized attention rendered by this office regarding this veteran's request.

The backlog problem in the Audiology Clinic at the Portland V.A. Hospital was first brought to my attention by this veteran in November, 1977, and at that time I contacted the Administrative Section of the hospital and was advised that they were aware of the existing backlog and that the problem was due to understaffing and inappropriate funding. During my conversation with the Administrative Section, I suggested that they possibly readjust their budget to alleviate the extreme backlog. Subsequent to my request they have contracted fee basis physicians to work part time to reduce the current backlog. This has helped service-connected veterans waiting for tests and hearing aids; but, in my opinon, the situation still remains inadequate. The Administrative Section states that this is a budgetary problem and no further improvement is foreseen under the current appropriation set aside for this facility. They have however informed me that they are complying with Public Law 94–581 to insure that service-connected veterans are receiving priority treatment.

I have also received a copy of Mr. Taylor's letter to you dated February 21, 1978, concerning his remedy to the problem, which is additional staffing in this area. I wholeheartedly agree with his suggestion, but I am not aware as to how this can be accomplished unless additional funds are provided to improve the existing deficiency.

Sincerely,

JOHN G. HURT,
*National Service Officer.*

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SALEM, OREG., *February 21, 1978.*

NORMAN B. HARTNETT,
*National Service Director, D.A.V., Washington, D.C.*

DEAR COMRADE HARTNETT: Not much is accomplished if one complains but does not offer a remedy. In my letter of 9 Nov. 77 I complained; now I shall suggest a remedy.

The Chief of Audiology of the Portland, Oregon, VA Hospital, Stephen A. Fausti, Ph.D., has taken an interest in my case and personally has seen me three times. First he referred me to a professional technician who replaced parts of my eyeglasses hearing aid frames. On February 8 he himself adjusted the temples and in so doing gave me great relief from the irritation I had been experiencing.

Dr. Fausti appears to have his department well organized. He is young, alert and himself a worker. However, he has one strike on his operation: He needs one or more professional people to help carry the load.

Two hundred service people are waiting for hearing tests. The administrative as well as the technical work of the department must be staggering!

Thank you for the job you are doing for the D.A.V. and for your interest in my case.

Very truly yours,

JOHN W. TAYLOR.●

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## HEALTH AND SOCIAL SERVICES IN CONGREGATE HOUSING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, I am today introducing a bill which will provide the supportive services needed in federally funded housing for older people. Joining me as a prime cosponsor is my able and distinguished colleague, Mr. EDWARD ROYBAL, who chairs the Subcommittee on Housing and Consumer Interests, as well as other members of the Aging Committee.

We cannot deny that the Federal Government has done a great deal—although not nearly enough—to provide many forms of housing to the elderly and this need continues to be a great need. However, a "brick and mortar" approach by itself is insufficient. This approach makes no allowance for the health and social services and these people often need to avoid premature institutionalization. As a result, many older persons are forced to live their lives in what amounts to one-room prisons. With the knowledge we have concerning the needs of this deserving group, let us move forward and provide the necessary congregate services such as health, food, security services, which will enable older persons and the handicapped to live independently as long as possible.

I do not stand alone in making this proposal to you, but these recommendations have stemmed from hearings held by the Aging Committee, from practitioners in the field, and most of all from the elderly themselves.

One of the problems in the present delivery system is that services are not well coordinated and are often inaccessible because of distance and superficial barriers, thus making it impossible for the elderly to receive such services. A GAO study in Cleveland, Ohio, revealed there were 118 service providers who were serving the elderly in that city alone. It is absurd to expect persons in need of the services to weave through the bureaucratic maze in order to receive something which in the end will be of benefit to us all. Congregate services would be provided in the building in which they live and would not be necessarily dependent on distant service providers.

As the original author of title VII nutrition programs, I am aware of what can be done in neighborhoods as title VII programs alone provide daily balanced means to 400,000 elderly; however, the sad commentary to this is there are 800,000 more on the waiting list. Such waiting lists for services are not the exception but the rule. I say that to illustrate the point that here is a service which not only has the potential to provide hot meals but the potential to be the focal point for a coordinated system of services to those who live in their own homes. HUD has been able to provide meals to about 25,000 elderly in federally assisted housing. However, this is insignificant when one considers the hundreds of thousands who live in such housing.

It is a known fact that after a few short years in housing projects that these individuals often need at least one or more supportive services in order to maintain their independence. My bill brings under one roof a system that is capable of adjusting to meet the needs of those who live in assisted housing. Older people would not have to weave through the bureaucratic maze to receive their fair share.

May I remind you that some 80 percent of the elderly prefer and do live in their own homes. This group is being served by the Older Americans Act and social services funded under title XX of the Social Security Act. The gap in the delivery system is to the elderly who live in group housing situations. In public housing alone one out of every three persons is over 65. In addition to public housing are

the many other programs funded under HUD which cater solely to the elderly, housing over 600,000 older persons.

The elderly who reside in this housing are the poor or near poor who cannot afford to purchase service when it is needed. When even the most minor illness strikes, they often have to be placed in our society's warehouses for the elderly—nursing homes—that could have been provided more appropriately and less expensively in their own homes if minimal support services had been available.

Mr. Speaker, I would call your attention to a recent GAO study, which was done at my request, Home Health—The Need for a National Policy to Better Provide for the Elderly. This study stated that,

> Until older people become greatly or extremely impaired, the cost of nursing home care exceeds the cost of home care including the value of the general support services provided by family and friends.

There is no logical or rational reason why we must continue to support policies which are as counterproductive as those which perpetuate the nursing home cycle. It is time to act on a policy with a strong basis both in terms of economics and the well-being of our older citizens.

Mr. Speaker, I would be remiss not to mention KGO-TV in San Francisco and their contribution in developing the legislative recommendations that are the basis for this bill. Through their outstanding documentary "Old Age: Do Not Go Gentle", they have brought to the attention of the public and the Congress the plight of the elderly because of the lack of adequate services.

In addition, I want to thank my distinguished colleague, Congressman ROYBAL, who chairs the Housing Subcommittee of the Aging Committee, for joining with me in this important legislation and in special joint hearings today.

Our bill is not meant to take away from similar, although less comprehensive, legislation that is pending before the Congress such as the bill introduced by Senator WILLIAMS and Mr. ST GERMAIN. It does represent our commitment to do all that we can toward enactment of the strongest possible bill in this area this year.

With your permission, Mr. Speaker, for the benefit of my colleagues, I would like for my bill to be entered into the RECORD in its entirety at this point.

H.R.—

A bill to provide health and social services in a congregate setting in federally assisted housing projects for the elderly and handicapped

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

GRANTS FOR FACILITIES AND SERVICES

SECTION 1. (a) The Secretary of Housing and Urban Development shall make grants, to the extent of funds appropriated to carry out this Act, for the purposes of—

(1) financing the construction or rehabilitation of congregate facilities in existing, rehabilitated, or newly constructed federally assisted housing projects for elderly and handicapped individuals and families; and

(2) financing the provision of congregate services, through the use of such congregate facilities, for elderly and handicapped individuals and families residing in such projects and in housing located in the immediate vicinity of such projects.

(b) Any such grant shall be made to the entity responsible for the project with respect to which the grant is made.

(c) Any recipient of a grant for the construction or rehabilitation of such congregate facilities shall be entitled, upon completion of the construction or rehabilitation of such facility, to an annual grant for the provision of congregate services as long as the congregate facility and the housing project in which such facility is located continue to operate for the same purposes for which they operated when such congregate facility was initially opened.

(d) The amount of any grant made for the construction or rehabilitation of a congregate facility may be up to an amount equal to the total cost of constructing or rehabilitating such congregate facility.

(e) Any recipient of assistance under this Act shall encourage private contributions, and shall attempt to utilize financial assistance from the Department of Health, Education, and Welfare, other Federal agencies, and State and local governments to assist in the financing of construction, rehabilitation, and services assisted under this Act, and the Secretary shall in no way preclude or discourage the use of such contributions or assistance for the purpose of improving the facilities and services assisted by this Act.

(f) Any recipient of assistance under this Act shall provide outreach activities designed to inform eligible recipients of the availability and nature of the services financed under this Act.

(g) The amount of any grant made for any fiscal year for the provision of congregate services may not exceed the amount which the appropriate area agency on aging (or the appropriate State agency on aging in the case of an area in which an area agency has not been established) has certified, pursuant to regulations issued by the Secretary, is needed to meet the needs, during such fiscal year, of the elderly and handicapped individuals and families for whom the services will be offered. Such agency shall assess such needs every three years and report the findings and conclusions of such assessment to the Secretary.

(h) No grant may be made under this Act for the construction or rehabilitation of congregate facilities unless the appropriate area agency on aging in the area in which such facilities are to be located has certified, pursuant to regulations issued by the Secretary, that there is a need for such facilities; except that, in the case of an area in which such an area agency has not been established, the appropriate State agency shall make such certification.

(i) The Secretary shall, in making grants under this Act, give priority to constructing and rehabilitating congregate facilities in existing federally assisted housing projects for elderly and handicapped individuals and families.

(j) Any recipient of assistance under this Act shall, to the maximum extent practicable, employ elderly and handicapped individuals in the provision of the services financed by such assistance.

REGULATIONS AND ACCESSIBILITY OF RECORDS

SEC. 2. (a) The Secretary shall issue regulations for the purpose of assuring that all congregate facilities constructed or rehabilitated and all services provided with assistance under this Act are utilized in an economical, efficient, and effective manner for the direct benefit of elderly and handicapped individuals and families.

(b) Each recipient of a grant under this Act shall agree, as a condition of receiving such grant, to provide the Secretary with access to records and other documents made in connection with the receipt and expenditure of funds received under this Act.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 3. There are authorized to be appropriated such sums as may be necessary for the purpose of carrying out this Act.

USE OF INFORMATION CONCERNING ALTERNATIVE TECHNOLOGIES

SEC. 4. The Secretary shall obtain information from other Federal agencies, including the National Aeronautics and Space Administration, for the purpose of utilizing alternative technologies in the construction or rehabilitation of facilities, or in the provision of services, assisted under this Act. Any Federal official from whom the Secretary requests such information for such purpose shall provide such information to the Secretary.

DEFINITIONS

SEC. 5. For purposes of this Act—

(1) the term "area agency on aging" means the agency established for an area pursuant to section 304(a) of the Older Americans Act of 1965;

(2) the term "congregate facilities" means facilities utilized for the purpose of providing congregate services;

(3) the term "congregate services" means health, nutrition, food, and security services and housekeeping and chore services, and other services which are essential for independent living or which assist frail or impaired elderly or handicapped individuals and families to remain independent in their own homes where possible and thereby to avoid having to reside in nursing homes;

(4) the term "elderly and handicapped individuals and families" means individuals and families who are receiving, or are eligible for, assistance under the United States Housing Act of 1937 because of their income and age or handicapped status;

(5) the term "federally assisted housing projects for elderly or handicapped individuals and families" means any rental housing project (A) which has a substantial number of elderly or handicapped individuals and families, or both, as tenants, and (B) which receives assistance under the United States Housing Act of 1937, section 236 of the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, or title V of the Housing Act of 1949, or the construction of which was assisted by a loan received pursuant to section 202 of the Housing Act of 1959;

(6) the term "Secretary" means the Secretary of Housing and Urban Development; and

(7) the term "State agency on aging" means the agency established for a State pursuant to section 304(a) of the Older Americans Act of 1965.●

## MICROWAVE HEALTH HAZARD IN THE MICROWAVE LANDING SYSTEM?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WEISS) is recognized for 5 minutes.

● Mr. WEISS. Mr. Speaker, the Committee on Governments Operations, of which I am a member, submitted to the House today a report entitled, "The Microwave Landing System (MLS) Controversy." I voted to approve this excellent report which concerns the integrity of the Federal Aviation Administration (FAA) in competing for design approval from the International Civil Aviation Organization (U.N.) for its version of the MILS.

However, I have grave reservations with respect to other aspects of the MLS.

I do not believe MLS development should be encouraged without a complete discussion of all controversial elements connected with this topic—specifically possible health hazards associated with the use of microwaves in the MLS.

Those who will recall the discovery of Moscow's use of microwaves to eavesdrop on personnel in our Soviet Embassy know that there is much more to be concerned with regarding microwave equipment than merely the way in which a Federal agency competes for design authority. The microwave exposure incident in Moscow emphasized the health hazards associated with this technology. There is a vital health question linked to the use or any microwave equipment: What level of microwave radiation is acceptable and will not pose a serious threat to the public?

I recently requested the FAA congressional liaison office to report to me on the filing of an environmental impact statement (EIS) on the MLS. According to the FAA there has so far been no EIS filed with Congress on the MLS. Such a statement must be made available to the public so that any question about health hazards may be openly debated.

On March 24, 1977, during a colloquy with several colleagues on the House floor when the FAA authorization (H.R. 3965) was being debated, I was advised that there was no health hazard associated with the MLS. However, I pointed out at that time—

> I would feel happier if we could have studies done in this area, so that the FAA would be subject to the same kind of studies and scrutiny that are being made of commercial utilization and other utilizations of the microwave.

It is apparent that an EIS and other studies would be invaluable in this respect.

In a highly regarded book, "The Zapping of America" by Paul Brodeur, published last year on the subject of microwaves the potential health hazards were raised in relation to another kind of air-to-ground navigation system:

> At the Naval Air Station at Quonset Point, Rhode Island, . . . three civilian employees among a group of eight technicians who were engaged in the overhaul and repair of Tactical Airborne Navigation equipment (known as TACAN), which is similar to radar in operation, either have developed cancer or have died of it since 1970. One of these men died of lung cancer in 1970; another died of cancer of the pancreas, lungs, and liver in 1973; and the third man, who left the Naval Air Station in 1973 to work on TACAN for the Federal Aviation Administration, has been found to have cancer of the pancreas, lungs, and liver.

The author points out that the man who died of pancreatic cancer was only 31 years old. This is highly unusual when one realizes that 99 percent of all reported cases of pancreatic cancer occur in people over 40, and most of them occur in people in their fifties and sixties.

It seems to me that there are serious questions which remain unanswered concerning possible microwave health hazards. There may indeed be no reason to be concerned with the MLS as a hazard to health, but the public should be assured that no such hazard exists.

Finally, I would point to the fact that a clear legislative responsibility exists here. The Government must act responsibly in assuring that the public is provided safe standards for microwave use. At present the U.S. standard for microwave radiation—based on a recommended guideline adopted by the Occupational Safety and Health Administration, the Department of Defense and the electronics industry—is 10 milliwatts per square centimeter. There is, however, compelling evidence based on the experience of other countries, that this standard is grossly inadequate. Whether or not it is an adequate standard must be determined by Congress and then a standard must be enacted into law.●

## TRIBUTE TO JEANNE THOMSON ON OCCASION OF HER RETIREMENT

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the RECORD.)

● Mr. PERKINS. Mr. Speaker, the month of April is usually a joyous time because it means springtime. But this year, the arrival of April has a significance for us on the Committee on Education and Labor which I do not like to contemplate.

That is because the first of this month marked the retirement of our much beloved Miss Jeanne Thomson, a member of the committee staff for nearly a quarter century.

For many years, Jeanne Thomson's has been the first face encountered by the general public upon entering the main committee offices in the Rayburn Building. And her voice on the telephone has been the introduction to the committee by thousands and thousands of people on the Hill and elsewhere.

Until the arrival of data processing, Jeanne has been the undisputed mistress of the Committee Calendar. She had in her head a capacity for bill numbers, public laws, and details of legislative status that is unmatched.

Four chairmen of the committee have been fortunate to have her as legislative assistant: Samuel McConnell, Graham Barden, Adam Powell, and CARL PERKINS.

Because of her long service, she has a wealth of knowledge about the origins of major labor and education legislation—some of which have been obscured by the passage of time. She has been invaluable to us as a sort of "memory bank" with a high sense of humor.

And this store of knowledge contains a great deal more than the dry bones of legislative enactment. She knows the people involved, too.

I do not know of anyone who has such a wide knowledge of the people on Capitol Hill and in the executive branch. She can pick up a telephone and accomplish more with a single call than many of us can do threshing around in the bureaucracy for a week.

Jeanne is a warm, generous, and uncomplicated woman with an instinctive fondness for almost everyone she meets. She has maintained behind her desk a veritable gallery of photos of children and dogs attached to members of the committee staff.

She has compassion and gentleness enough to weep over a story of someone else's misfortune, and is tough enough to bellow all the way down the hall "Where the hell have you been" to a staff member who has not kept her informed of his whereabouts.

A native of McKeesport, Pa., Jeanne came to the committee in 1954 after first having worked for the National Association of Manufacturers.

I tried to talk Jeanne out of retiring, but her mind is made up. Although she will be at her home in Arlington, I suspect there will be many occasions in the years ahead when she will be receiving a telephone call from someone here at the committee who will want to know who introduced a certain bill back in 1967, or what the Rules Committee did with one of our bills in 1959.

In retirement, she knows she has the good wishes and the affection of all of those with whom she has worked—and the hundreds of others on the Hill who are her friends.

We are going to miss that lady.●

## FEDERAL ASSISTANCE FOR MAMARONECK HARBOR, N.Y.

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. OTTINGER. Mr. Speaker, today I am introducing legislation to relieve a terrible financial burden placed upon the village of Mamaroneck, N.Y., by the Federal Government. My bill amends the local cooperation agreement for the Mamaroneck Harbor navigation project and allows the Federal Government to pay the costs associated with the dredging of the harbor, including all costs associated with the disposal of the dredged material.

The saga of this project started 1 year ago, when the village was informed that the fiscal year 1978 budget contained $523,000 for the operation and maintenance of the Mamaroneck Harbor by the New York District, Army Corps of Engineers. The funds were to be used to dredge the east and west basins of the harbor, as well as its main channel.

News of the funding came as a relief to village officials and residents, as the harbor is the mainstay of Mamaroneck's economy and was in need of maintenance.

Last fall, during negotiations with the Army Corps over the dredging of the harbor, village officials learned that because of a local cooperation agreement authorized by Congress years ago, the village was responsible for furnishing dredge spoil disposal areas and for covering all costs associated with disposal of the dredged material if upland disposal areas were not available. At the time the original local cooperation agreement was made, these costs were minimal. The village was able to dump the dredge spoil at an upland disposal site, or it could dispose of the spoil in the Long Island Sound at a small cost to the locality.

In recent years, however, conditions have changed drastically. Environmental

concerns have prompted the closing of dumping sites in the Sound, and the development of land in and around the village has precluded the availability of open space suitable for the dumping of dredge spoil upland. If the village was to have its harbor dredged, the only alternative for dumping of the dredge spoil was a disposal site located in the open sea. It was determined that the local costs associated with dumping in the open waters would amount to roughly one-half million dollars—$500,000.

The village had several months to raise the needed funds. After a series of unsuccessful attempts to tap potential resources—local, State, and Federal—the village was forced to relinquish its prerogative to the appropriated funds and to forgo having its harbor dredged during the current fiscal year.

The corps is presently engaged in a 3-year study of the feasibility of using dredge spoil to build islands in Long Island Sound, which would provide an inexpensive avenue to disposing of the spoils. The bill I am introducing provides the necessary short-term relief to the village of Mamaroneck, pending completion of the study. Should the harbor be allowed to silt up, the entire economy of the village would suffer greatly. The village derives over $530,000 annually in property taxes on the residential, commercial, and parkland on and adjacent to the waterfront. In the harbor area, there are five boatyards which employ 153 people with annual salaries in excess of $2,171,000. Other industries which are directly related to the harbor—and which sustain the village economy—include the yacht and beach clubs with 100 full-time and 300 part-time employees.

Sales made to boating people contribute greatly to the overall receipts of the businesses in the community. Realtors in the village also depend heavily upon the prosperity of the harbor, as it is probably the greatest factor influencing sales and values of properties located away from the waterfront.

My proposal will provide immediate relief and will allow the village to continue functioning as a healthy and vital community. Hopefully, within the next 4 years, the corps will complete its study on the use of dredged material to create islands in Long Island Sound, and it will be possible to provide permanent and comprehensive relief to those small municipalities which must have their harbors maintained, but cannot afford the high costs of dumping the material in the open sea.

The complete text of the bill follows:

H.R. 12064

A bill to modify the project at Mamaroneck Harbor, New York, relating to the Federal share of the maintenance costs of the project

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the navigation project at Mamaroneck Harbor, New York, authorized by the first section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved September 22, 1922 (42 Stat. 1038), the first section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved August 30, 1935 (49 Stat. 1029), and section 101 of the River and Harbor Act of 1960 (74 Stat. 480) is hereby modified to provide that the Federal share of the cost of any dredging necessary to maintain such project, including the cost of the disposal of any dredged material resulting from such dredging, shall be 100 per centum.●

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. JONES of North Carolina (at the request of Mr. WRIGHT), for April 10 and 11, on account of official business.

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LIVINGSTON) to revise and extend their remarks and include extraneous material:)

Mr. COLLINS of Texas, for 30 minutes, on April 13.

Mr. KEMP, for 5 minutes, today.

Mr. BUCHANAN, for 5 minutes, today.

(The following Members (at the request of Mr. AKAKA) and to revise and extend their remarks and include extraneous matter:)

Mr. VANIK, for 10 minutes, today.

Mr. STOKES, for 10 minutes, today.

Mr. REUSS, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. LE FANTE, for 5 minutes, today.

Mr. ROBERTS, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. WEISS, for 5 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LIVINGSTON) and to include extraneous matter:)

Mr. FINDLEY.

Mr. MCKINNEY.

Mr. MOORE.

Mr. BEARD of Tennessee in two instances.

Mr. COLLINS of Texas in three instances.

Mr. HANSEN in three instances.

Mr. DERWINSKI.

Mr. QUAYLE.

Mr. WHITEHURST.

Mr. RINALDO.

Mr. KEMP.

Mr. LENT.

Mr. LEACH.

Mr. LAGOMARSINO in two instances.

Mr. CORCORAN of Illinois.

Mr. KASTEN.

Mr. GOLDWATER.

Mr. BURGENER.

Mr. HAMMERSCHMIDT.

(The following Members (at the request of Mr. AKAKA) and to include extraneous matter:)

Ms. MIKULSKI.

Mr. ROONEY.

Mr. COTTER.

Mr. BLOUIN in two instances.

Mr. VENTO.

Ms. KEYS.

Mr. BREAUX.

Mr. BRODHEAD.

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. EDWARDS of California.

Mr. MAZZOLI in three instances.

Mr. TEAGUE in two instances.

Mr. MOORHEAD of Pennsylvania.

Mr. HAMILTON.

Mr. SOLARZ in two instances.

Mr. STUDDS.

Mr. FISHER.

Mr. MILFORD.

Mr. LE FANTE.

Mr. DRINAN.

Mrs. MEYNER.

Mr. ROYBAL.

Mr. HANNAFORD.

Mr. PEPPER.

Mr. CONYERS.

Mr. ROE.

Mr. UDALL.

Mr. BYRON.

Mr. MCDONALD.

Mr. OBERSTAR.

Mr. RONCALIO.

## SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2424. An act to amend the Act incorporating the American Legion so as to redefine eligibility for membership therein; to the Committee on the Judiciary.

## ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 9179. An act to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation; and

H.J. Res. 578. Joint resolution authorizing the President to proclaim the third week of May of 1978 and 1979 as "National Architectural Barrier Awareness Week".

## ADJOURNMENT

Mr. AKAKA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 38 minutes p.m.), the House adjourned until tomorrow Thursday, April 13, 1978, at 11 o'clock a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3844. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a cumulative report on rescissions and deferrals of budget authority as of April 1, 1978, pursuant to section 1014(e) of Public Law 93–344 (H. Doc. No. 95–319); to the Committee on Appropriations and ordered to be printed.

3845. A letter from the Director of Legislation, Department of the Navy, transmitting notice of the Navy's intention to sell the vesssel *Tawakoni (AFT–114)* to the Republic of China, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

3846. A letter from the Director of Legislation, Department of the Navy, transmitting notice of the Navy's intention to sell the vessel *William R. Rush (DD–714)* to the Republic of Korea, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

3847. A letter from the Counsel, National Railroad Passenger Corporation, transmitting a report on the Corporation's activities under the Freedom of Information Act during calendar year 1977, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3848. A letter from the Acting Chairman, U.S. Nuclear Regulatory Commission, transmitting a plan for research to improve the safety of light-water nuclear power plants, pursuant to section 205 of the Energy Reorganization Act of 1974, as amended (91 Stat. 1482); to the Committee on Interior and Insular Affairs.

3849. A letter from the Under Secretary of Energy, transmitting a report on the study of the use of the Barnwell Nuclear Fuel Plant located in South Carolina in support of the nonproliferation objectives of the United States, pursuant to section 106(d) of Public Law 95–238; to the Committee on Science and Technology.

3850. A letter from the Chairman, U.S. Nuclear Regulatory Commission, transmitting the 11th report on abnormal occurrences at licensed nuclear facilities, pursuant to section 208 of Public Law 93–438; jointly, to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

3851. A letter from the Secretary of Housing and Urban Development, transmitting a semiannual report on State implementation of energy conservation standards for buildings, pursuant to section 311 of Public Law 94–385; jointly, to the Committees on Interstate and Foreign Commerce, and Banking, Finance and Urban Affairs.

3852. A letter from the Attorney General, transmitting a draft of proposed legislation to clarify and revise various provisions of title 28 of the United States Code relating to the judiciary and judicial procedure regarding judicial review of international trade matters and for other purposes; jointly, to the Committees on the Judiciary, and Ways and Means.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SISK: Committee on Rules. House Resolution 1126. Resolution providing for the consideration of H.R. 3787. A bill to direct the Secretary of the Interior to purchase and hold certain lands in trust for the Zuni Indian Tribe of New Mexico; to confer jurisdiction on the Court of Claims with respect to land claims of such tribe; and to authorize such tribe to purchase and exchange lands in the States of New Mexico and Arizona (Rept. No. 95–1050). Referred to the House Calendar.

Mr. DODD: Committee on Rules. House Resolution 1127. Resolution providing for the consideration of H.R. 11003. A bill to clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes. (Rept. No. 95–1051). Referred to the House Calendar.

Mr. BROOKS: Committee on Government Operations. Report on the Microwave Landing System (MLS) controversy (Rept. No. 95–1052). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on FAA determination of "No Hazard" for structures near airports. (Rept. No. 95–1053). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLLING: Committee on Rules. House Resolution 1128. Resolution providing for the consideration of H.R. 1. A bill to require candidates for Federal office, Members of the Congress, and officers and employees of the United States to file statements with the Comptroller General with respect to their income and financial transactions. (Rept. No. 95–1054). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ULLMAN:

H.R. 12050. A bill to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition; to the Committee on Ways and Means.

By Mr. RANGEL (for himself and Mr. CONABLE):

H.R. 12051. A bill relating to the application of certain provisions of the Internal Revenue Code of 1954 to specified transactions by certain public employee retirement systems created by the State of New York or any of its political subdivisions; to the Committee on Ways and Means.

By Mr. ANNUNZIO (for himself, Mr. REUSS, Mr. ASHLEY, Mr. MINISH, Mr. MITCHELL of Maryland, Mr. FAUNTROY, Mr. NEAL, Mrs. SPELLMAN, Mr. D'AMOURS, Mr. PATTISON of New York, Mr. MATTOX, Mr. VENTO, Mr. GARCIA, Mr. HYDE, Mrs. FENWICK, Mr. STEERS, and Mr. EVANS of Delaware):

H.R. 12052. A bill to authorize the Federal Home Loan Bank Board to allow Federal savings and loan associations to issue graduated payment and reverse annuity mortgage instruments; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BROOKS (for himself, Mr. FOUNTAIN, Mr. HORTON, and Mr. WYDLER):

H.R. 12053. A bill to reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes; to the Committee on Government Operations.

By Mr. CARNEY:

H.R. 12054. A bill to amend title 38, United States Code, to authorize the Veterans' Administration to transport to the place of burial the remains of persons who die while receiving care at State veterans' homes and hospitals with which the Administrator of Veterans' Affairs has contracted for services; to the Committee on Veterans' Affairs.

By Mr. DINGELL (for himself, Mr. OTTINGER, Mr. WALGREN, and Mr. GORE):

H.R. 12055. A bill to amend the Energy Policy and Conservation Act to establish the means for obtaining both short-range and long-range comprehensive energy policy analyses; to the Committee on Interstate and Foreign Commerce.

By Mr. DRINAN (for himself, Mr. FOWLER, Mr. GARCIA, Mr. GLICKMAN, Mr. LUKEN, Mr. PATTERSON of California, Mr. ROSE, Ms. SCHROEDER, Mr. SHARP, Mr. STOKES, and Mr. TSONGAS):

H.R. 12056. A bill to provide additional assistance to small business concerns in acquiring procurement information and contracts from the United States; to the Committee on Small Business.

By Mrs. FENWICK (for herself, Mr. KRUEGER, Mr. MARTIN, Mr. GOLDWATER, Mr. STOCKMAN, Mr. KEMP, Mr. VANDER JAGT, Mrs. COLLINS of Illinois, Mr. CEDERBERG, and Mr. EVANS of Delaware):

H.R. 12057. A bill to amend the Internal Revenue Code of 1954 to allow certain married individuals who file separate returns to be taxed as unmarried individuals; to the Committee on Ways and Means.

By Mr. JONES of Tennessee:

H.R. 12058. A bill to establish an Office of Rural Health within the Department of Health, Education, and Welfare, and to assist in the development and demonstration of rural health care delivery models and components; to the Committee on Interstate and Foreign Commerce.

By Mr. KREBS:

H.R. 12059. A bill to provide that the acreage limitations, the residency requirements, if any, and the excess land provisions of the Federal reclamation laws shall not apply in the case of certain contracting entities served by the Kings River and Tulare Lake Basin project, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. LEHMAN (for himself, Mr. ROUSSELOT, Mrs. SCHROEDER, Mr. CORCORAN of Illinois, Mr. GILMAN, Mr. ALEXANDER, Mr. BEVILL, Mr. EDGAR, Mr. EDWARDS of California, Mr. EDWARDS of Oklahoma, Mr. FASCELL, Mr. FLOOD, Mr. GUYER, Mr. HARRIS, Mr. LLOYD of California, Mr. REUSS, Mr. SKELTON, and Mr. SIMON):

H.R. 12060. A bill to amend title 13, United States Code, to provide for the review of Federal authority for the collection of statistical information, to require certain information to be included in committee reports accompanying legislation in which there is provided Federal authority for the collection of information, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. MIKVA (for himself, Mr. COCHRAN of Mississippi, Mr. MURPHY of Pennsylvania, Mr. NOLAN, and Mr. RYAN):

H.R. 12061. A bill to correct inequities in certain sales representatives practices, to provide protection for certain sales representatives terminated from their accounts without justification, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MIKVA (for himself and Mr. GILMAN):

H.R. 12062. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide that disability insurance benefits and the medicare program shall be financed from general revenue (pursuant to annual authorizations) rather than through the imposition of employment and self-employment taxes as at present, and to adjust the rates of such taxes (for purposes of financing the OASI program) accordingly; to the Committee on Ways and Means.

By Mr. MOORE:

H.R. 12063. A bill to protect American producers of fruits, vegetables, and other crops from unfair competition relating to the use of pesticides; to the Committee on Agriculture.

By Mr. OTTINGER:

H.R. 12064. A bill to modify the project at Mamaroneck Harbor, N.Y., relating to the Federal share of the maintenance costs of the project; to the Committee on Public Works and Transportation.

By Mr. PEPPER:

H.R. 12065. A bill to amend the medicare program to provide for reimbursement for certain extended care services; to the Committee on Ways and Means.

By Mr. PERKINS:

H.R. 12066. A bill to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes; to the Committee on Public Works and Transportation.

H.R. 12067. A bill authorizing the construction of certain flood control facilities on the Lower Knox Creek, Kentucky; to the Committee on Public Works and Transportation.

By Mr. ROONEY:

H.R. 12068. A bill to extend provisions of the Noise Control Act of 1972, as amended, for 1 year; to the Committee on Interstate and Foreign Commerce.

By Mr. ROONEY (by request):

H.R. 12069. A bill to extend provisions of the Noise Control Act of 1972, as amended, for 2 years; to the Committee on Interstate and Foreign Commerce.

By Mr. RONCALIO:

H.R. 12070. A bill to authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill Dam and Reservoir, Shoshone Project, Pick-Sloan Missouri basin program, Wyoming, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ST GERMAIN:

H.R. 12071. A bill to amend the Internal Revenue Code of 1954 to allow individuals a refundable tax credit for amounts of wages and other compensation lost as a result of an emergency or major disaster; to the Committee on Ways and Means.

By Mr. ST GERMAIN (for himself and Ms. OAKAR):

H.R. 12072. A bill to provide for the furnishing of congregate housing services under the U.S. Housing Act of 1937; to the Committee on Banking, Finance and Urban Affairs.

By Mr. STAGGERS (by request):

H.R. 12073. A bill to amend the Communications Act of 1934 to extend and improve the provisions of such act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. THONE:

H.R. 12074. A bill to establish the natural resources conservation program; to the Committee on Agriculture.

H.R. 12075. A bill to amend the Public Health Service Act to provide for revision of the National Institute on Aging; to the Committee on Interstate and Foreign Commerce.

By Mr. THONE (for himself and Mrs. SMITH of Nebraska):

H.R. 12076. A bill to amend the Internal Revenue Code of 1954 to authorize a tax credit for certain expenses of providing higher education; to the Committee on Ways and Means.

By Mr. WATKINS:

H.R. 12077. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide assistance for the prevention and detection of arson; to the Committee on the Judiciary.

Mr. ULLMAN (by request):

H.R. 12078. A bill to amend the Internal Revenue Code of 1954 to reduce individual and corporate income taxes, to provide greater equity and simplicity, and for other purposes; to the Committee on Ways and Means.

By Mr. WAGGONNER (for himself, Mr. COLLINS of Texas, and Mr. LLOYD of California):

H.R. 12079. A bill to eliminate the reduction in social security benefits for spouses and surviving spouses receiving certain Government pensions, as recently added to title II of the Social Security Act by section 334 of the Social Security Amendments of 1977; to the Committee on Ways and Means.

By Mr. WAGGONNER (for himself, Mr. PICKLE, Mr. HOLLAND, Mr. FRENZEL, Mr. NOLAN, Mr BURLESON of Texas, Mr. ERTEL, Mr. SAWYER, Mr. JOHN L. BURTON, Mr. BROWN of Ohio, Mr. ROSE, Mr. MCCLOSKEY, Mr. COUGHLIN, Mr. LENT, and Mr. NEDZI);

H.R. 12080. A bill to defer from income certain amounts deferred pursuant to State or local public employee deferred compensation plans; to the Committee on Ways and Means.

By Mr. WEISS (for himself, Mr. ADDABBO, Mr. AKAKA, Mr. ANDERSON of Illinois, Mr. ANNUNZIO, Mr. AUCOIN, Mr. BAFALIS, Mr. BAUCUS, Mr. BEDELL, Mr. BINGHAM, Mr. BLANCHARD, Mr. BOLAND, Mr. BROWN of Michigan, Mr. BUCHANAN, Mr. BURKE of Florida, Mrs. BURKE of California, Mr. JOHN L. BURTON, Mr. PHILLIP BURTON, Mr. CARNEY, Mrs. CHISHOLM, Mr. CLEVELAND, Mr. COCHRAN of Mississippi, Mr. COHEN, Mrs. COLLINS of Illinois, and Mr. CONTE):

H.R. 12081. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

By Mr. WEISS (for himself, Mr. CONYERS, Mr. D'AMOURS, Mr. DANIELSON, Mr. DELLUMS, Mr. DIGGS, Mr. DORNAN, Mr. DOWNEY, Mr. DRINAN, Mr. DUNCAN of Tennessee, Mr. EDGAR, Mr. EDWARDS of California, Mr. EILBERG, Mr. ERTEL, Mr. EVANS of Georgia, Mr. FARY, Mr. FASCELL, Mr. FINDLEY, Mr. FLORIO, Mr. FORD of Tennessee, Mr. FRASER, Ms. HOLTZMAN, Mr. HORTON, and Mr. HUGHES):

H.R. 12082. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

By Mr. WEISS (for himself, Mr. HYDE, Mr. JEFFORDS, Mr. KASTENMEIER, Mr. KEMP, Mr. KREBS, Mr. LAFALCE, Mr. LEHMAN, Mr. LENT, Mr. LOTT, Mrs. LLOYD of Tennessee, Mr. MCCLOSKEY, Mr. MCCORMACK, Mr. MCDADE, Mr. MCDONALD, Mr. MCKINNEY, Mr. MARLENEE, Mr. MAZZOLI, Ms. MIKULSKI, Mr. MILLER of Ohio, Mr. MILLER of California, Mr. MINETA, Mr. MITCHELL of Maryland, Mr. MOAKLEY, and Mr. MOFFETT):

H.R. 12083. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

By Mr. WEISS (for himself, Mr. MOLLOHAN, Mr. MOSS, Mr. MURPHY of Pennsylvania, Mr. MURPHY of New York, Mr. NEAL, Mr. NIX, Mr. OTTINGER, Mr. PANETTA, Mr. PEASE, Mr. PATTEN, Mr. PATTERSON of California, Mr. PEPPER, Mr. RANGEL, Mr. RICHMOND, Mr. RINALDO, Mr. RODINO, Mr. ROE, Mr. ROSE, Mr. ROSENTHAL, Mr. ROYBAL, Mr. RUNNELS, Mr. RYAN, and Mr. ST GERMAIN):

H.R. 12084. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

By Mr. WEISS (for himself, Mr. SARASIN, Mr. SCHEUER, Mrs. SCHROEDER, Mr. SEBELIUS, Mr. SEIBERLING, Ms. SPELLMAN, Mr. STEERS, Mr. STUDDS, Mr. THONE, Mr. WAMPLER, Mr. WAXMAN, Mr. WHALEN, Mr. WHITEHURST, Mr. BOB WILSON, Mr. CHARLES H. WILSON of California, Mr. WINN, Mr. WOLFF, Mr. RAILSBACK, Mr. YATRON, Mr. YOUNG of Alaska, and Mr. YOUNG of Florida):

H.R. 12085. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; and to remove rate inequities for married persons where both are employed; to the Committee on Ways and Means.

By Mr. WYDLER:

H.R. 12086. A bill to amend the Federal Aviation Act of 1958 to authorize U.S. international air carriers to carry domestic traffic between U.S. cities on flights operated in foreign air transportation; to the Committee on Public Works and Transportation.

By Mr. ZABLOCKI (for himself and Mr. FOLEY) (by request):

H.R. 12087. A bill to authorize the establishment of an international emergency wheat reserve, and for other related purposes; jointly, to the Committees on Agriculture, and International Relations.

By Mr. DRINAN:

H.R. 12088. A bill to amend title 28 of the United States Code to authorize the payment of reasonable attorney fees and expenses to the prevailing party (other than the United States) in any civil action brought by or against the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. FISHER:

H.R. 12089. A bill to establish a Potomac River Shoreline Area Commission for the purpose of developing a plan for the cooperative management by Federal, State, District of Columbia, and local authorities of certain areas along the Potomac River, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. FISHER (for himself, Mr. CONABLE, Mr. MILLER of Ohio, Mr. MURPHY of Pennsylvania, Mr. O'BRIEN, Mr. PATTISON of New York, Mr. PEPPER, Mr. QUIE, Mr. QUILLEN, Mr. REUSS, Mr. ROE, Mr. SAWYER, Mr. STEIGER, Mr. THOMPSON, Mr. TUCKER, Mr. VANDER JAGT, Mr. VANIK, Mr. WALKER, Mr. WHALEN, and Mr. WHITEHURST):

H.R. 12090. A bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions; to the Committee on Ways and Means.

By Mr. FISHER (for himself, Mr. CONABLE, Mr. GREEN, Mr. LOTT, Mr. PREYER and Mr. RANGEL):

H.R. 12091. A bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions; to the Committee on Ways and Means.

By Mr. GRADISON (for himself, Mr. EVANS of Georgia, Mr. KASTEN, Mr. KEMP, Mr. MOORE, Mr. BROYHILL, Mr. GLICKMAN, Mr. PATTERSON of California, and Mr. WALSH):

H.R. 12092. A bill to amend the Internal Revenue Code of 1954 to provide for automatic cost-of-living adjustments in the income tax and withholding rates; to the Committee on Ways and Means.

By Mr. GREEN:

H.R. 12093. A bill to amend title XIX of the Social Security Act to provide that certain handicapped individuals shall be eligible for medical assistance; to the Committee on Interstate and Foreign Commerce.

By Mr. KOSTMAYER (for himself, Mr. LUNDINE, Mr. MCHUGH, Mr. GEPHARDT, Mr. GAYDOS, Mr. BONIOR, Mr. LAFALCE, Mr. CORRADA, Mr. OTTINGER, Mr. EDGAR, Mr. VENTO, Mr. MARKEY, Mr. ERTEL, Mr. SEIBERLING, Mr. WEAVER, Mr. PEASE, Mr. PATTISON of New York, Mr. HARRINGTON, Mr. WEISS, Mr. PATTERSON of California, Mr. NOWAK, Mr. RANGEL, Mr. BEDELL, Mrs. SPELLMAN, and Mrs. CHISHOLM):

H.R. 12094. A bill to preserve jobs and stabilize communities by facilitating employee, or employee-community, ownership of concerns that would otherwise close down or move out of the community, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LAGOMARSINO (for himself and Mr. GOLDWATER):

H.R. 12095. A bill to provide for the protection and preservation of a certain area in the Santa Monica Mountains in the State of California under a greenline park and preserve system established and administered by State and local governments with Federal assistance, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. LEACH:

H.R. 12096. A bill to amend title 23 of the United States Code to increase the scope of the speical bridge replacement program; to the Committee on Public Works and Transportation.

By Mr. MAGUIRE (for himself, Mr. ANDREWS of North Dakota, Mr. AUCOIN, Mr. DOWNEY, Mr. EDGAR, Mr. EILBERG, Mr. FLOOD, Mr. LEDERER, Mr. MILLER of California, Mr. NOLAN, Mr. OTTINGER, Mr. PATTERSON of California, Mr. PATTISON of New York, Mr. SANTINI, Mrs. SCHROEDER, Mrs. SPELLMAN, and Mr. STEERS):

H.R. 12097. A bill to require certain Federal agencies to analyze complaints regarding their delivery of services and benefits and to report their findings to Congress; to the Committee on Government Operations.

By Mr. MINETA (by request, for himself, Mr. JOHNSON of California, and Mr. WALSH):

H.R. 12098. A bill authorizing appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. MURPHY of New York:

H.R. 12099. A bill to provide for the addition of Sailors Snug Harbor to Gateway National Recreation Area in the State of New York, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PEPPER (for himself, Mr. ROYBAL, Mr. BIAGGI, Mr. BONKER, Mr. SANTINI, Mr. RISENHOOVER, Mr. LUNDINE, Ms. OAKAR, Mr. HAMMERSCHMIDT, Mr. RINALDO, and Mr. PANETTA):

H.R. 12100. A bill to provide health and social services in a congregate setting in federally assisted housing projects for the elderly and handicapped to the Committee on Banking, Finance and Urban Affairs.

By Mr. RICHMOND (for himself and Mr. NOLAN):

H.R. 12101. A bill to amend the Farmer-to-Consumers Direct Marketing Act of 1976 for the purposes of directing the Secretary of Agriculture to make grants to assist persons in developing innovative methods of direct marketing and extending the authorization of appropriations of such act, and for other purposes; to the Committee on Agriculture.

By Mr. STOKES:

H.R. 12102. A bill to amend the Public Health Service Act to provide for the establishment of a Division of Minority Mental Health Programs within the National Institute of Mental Health, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. TUCKER:

H.R. 12103. A bill to include civilian security police of the Department of Defense within the civil service retirement provisions applicable to law enforcement officers and firefighters; to the Committee on Post Office and Civil Service.

By Mr. WHITEHURST (for himself and Mr. MADIGAN):

H.R. 12104. A bill to amend the Ports and Waterways Safety Act of 1972, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. WHITEHURST (for himself and Mr. FRENZEL):

H.R. 12105. A bill to amend the Internal Revenue Code; to the Committee on Ways and Means.

By Mr. MIKVA (for himself, Mr. CORCORAN of Illinois, Mr. FARY, Mr. SIMON, and Mr. TUCKER):

H.J. Res. 844. Joint resolution to authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A."; to the Committee on Post Office and Civil Service.

By Mr. MURPHY of Pennsylvania:

H.J. Res. 845. Joint resolution to postpone the implementation of the enforcement provisions of the Surface Mine Control and Reclamation Act of 1977, Public Law 95-87 for a period of 6 months; to the Committee on Interior and Insular Affairs.

By Mr. PEPPER (for himself, Mr. SIKES, Mr. BURKE of Florida, Mr. IRELAND, Mr. ROGERS, Mr. GIBBONS, and Mr. CHAPPELL):

H.J. Res. 846. Joint resolution to authorize and request the President to issue a proclamation designating April 18, 1978 as "Education Day, U.S.A."; to the Committee on Post Office and Civil Service.

Mr. ST GERMAIN (for himself, Mr. AUCOIN, Mr. BINGHAM, Mr. BONIOR, Mr. BRECKINRIDGE, Mr. CARNEY, Mr. CONYERS, Mr. FLOOD, Mr. FLORIO, Mr. GONZALEZ, Mr. HORTON, Mr. LAFALCE, Mr. LUNDINE, Mr. MATTOX, Mr. PATTERSON of California, Mr. PRITCHARD, and Mr. WINN):

H.J. Res. 847. Joint resolution to declare June 4 through 10, 1978, to be "National Neighborhood Week"; to the Committee on Post Office and Civil Service.

By Mr. SYMMS:

H.J. Res. 848. Joint resolution disapproving proposed regulations of the Department of the Treasury requiring centralized governmental registration of firearms; to the Committee on Ways and Means.

By Mr. WHITEHURST (for himself and Mr. MADIGAN):

H.J. Res. 849. Joint resolution calling for protection of international waters from further pollution; to the Committee on International Relations.

By Mr. HANSEN (for himself, Mr. MURPHY of New York, and Mr. AMMERMAN):

H. Con. Res. 557. Concurrent resolution expressing the sense of the Congress with regard to the disposition by the United States of any right to, title to, or interest in the propery of Canal Zone agencies and any real property located in the Canal Zone; to the Committee on Merchant Marine and Fisheries.

By Mr. CORNWELL (for himself, Mr. GOODLING, Mr. MCCLOSKEY, and Mr. CHARLES WILSON of Texas):

H. Res. 1129 Resolution expressing the sense of the House of Representatives with respect to the killing of some 1,000 dolphins by Japanese fishermen in February 1978, and encouraging the Government of Japan to reassess its policy in permitting such killing; to the Committee on International Relations.

By Mr. TUCKER (for himself, Mr. WINN, Mr. SEBELIUS, Mr. CEDERBERG, Mr. ENGLISH, Mr. QUAYLE, Mr. MCCORMACK, Mr. FRASER, Mr. EVANS of Georgia, Mr. BUTLER, Ms. HOLTZMAN, Mr. CARR, Mr. HEFTEL, and Mr. PATTERSON of California):

H. Res. 1130. Resolution expressing the sense of the House of Representatives that the study provided for by section 4(d) of the International Investment Survey Act of 1976 be completed not later than December 31, 1978; to the Committee on International Relations.

## PETITIONS, ETC.

Under clause 1 of rule XXII,

441. The SPEAKER presented a petition of the Board of Trustees, Michigan State University, East Lansing, Mich., relative to extending the time period for ratification of the Equal Rights Amendment; which was referred to the Committee on the Judiciary.

## AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1

By Mr. DANIELSON:

Page 2, line 21, insert "or the Sergeant at Arms of the House of Representatives" after "Clerk".

Page 21, line 15, insert "(other than from the United States Government)" after "income".

Page 22, line 11, strike out "value and identity" and insert in lieu thereof "identity of the source and a brief description".

Page 22, line 13, strike out "(other than from the United States Government)".

Page 22, strike out lines 16 through 23.

Page 23, line 4, insert "personal" after "each".

Page 23, line 14, strike out "except that the identity of the recipient of" and insert in lieu thereof "excluding".

Page 23, line 16, add a period after "1954".

Page 23, strike out line 17.

Page 26, lines 2 and 3, strike out ", and is not in any way, directly or indirectly, related to".

Page 26, line 4, insert "and" after "source,".

Page 26, line 5, strike out ", and the" and insert in lieu thereof "or the estimated".

Page 26, lines 7 and 8, strike out ", and is not in any way, directly or indirectly, related to".

Page 26, line 9, strike out "amount and identity" and insert in lieu thereof "identity of the source and a brief description".

Page 27, line 19, strike out "Campaign receipts" and insert in lieu thereof "Political campaign funds received by a reporting individual or political campaign expenditures of such individual".

Page 35, line 20, strike out "bequest and other forms of inheritance" and insert in lieu thereof "inheritances".

Page 36, line 19, strike out "and".

Page 36, line 25, strike out the period and insert in lieu thereof "; and ".

Page 36, line 19 following the semicolon strike " and "

Page 36, line 25: After "family" strike the period and insert "; and

Page 36, add the following after line 25:

(7) "reimbursement" means any payment or other thing of value received, directly or indirectly, by a reporting individual, other than gifts, to cover travel-related expenses of such individual other than those which are—

(A) provided by the United States or the District of Columbia;

(B) required to be reported by the reporting individual under section 7342(c)(3) of title 5 of the United States Code; or

(C) required to be reported under section 304 of the Federal Election Campaign Act of 1971.

Page 41, line 8, strike out "1978" and insert in lieu thereof "1979".

Page 49, line 3, strike out "1978" and insert in lieu thereof "1979".

Page 50, line 23, insert "(other than from the United States Government)" after "income".

Page 51, line 19, strike out "value and identity" and insert in lieu thereof "identity of the source and a brief description".

Page 51, lines 21 and 22, strike out "(other than from the United States Government)".

Page 51, strike out line 24 and all that follows through line 6 on page 52.

Page 52, line 12, insert "personal" after "each".

Page 52, line 22, strike out "except that the identity of the recipient of" and insert in lieu thereof "excluding".

Page 52, line 24, strike out "in-" and insert in lieu thereof a period.

Page 52, strike out line 25.

Page 55, lines 10 and 11, strike out ", and is not in any way, directly or indirectly, related to".

Page 55, line 12, insert "and" after "source,".

Page 55, line 12, strike out ", and the" and insert in lieu thereof "or the estimated".

Page 55, lines 15 and 16, strike out ", and is not in any way, directly or indirectly, related to".

Page 55, line 17, strike out "amount and identity" and insert in lieu thereof "identity of the source and a brief description".

Page 63, line 7: After "value" insert "'reimbursement',".

Insert at the end of the bill the following new title:

TITLE IV—GENERAL PROVISIONS

EFFECT ON STATE AND LOCAL LAW

SEC. 401. The provisions of this Act, and the regulations issued thereunder, shall supersede and preempt any State or local law with respect to financial disclosure by reason of candidacy for Federal office or employment by the Federal Government.

By Mr. HYDE:

Page 41, insert the following after line 15:

PART C—SPECIAL PROSECUTOR

SPECIAL PROSECUTOR

SEC. 226. (a) Title 28 of the United States Code is amended by inserting immediately after chapter 37 the following new chapter:

"Chapter 39—SPECIAL PROSECUTOR

"Sec.
"591. Appointment.
"592. Prosecutorial jurisdiction; authority.
"593. Removal or termination.
"594. Final report; congressional oversight.
"595. Presentations by Attorney General and Solicitor General.
"596. Special panel of the court.
"597. Termination of effect of chapter.

"§ 591. Appointment

"(a) Upon receiving any specific information that any of the persons described in subsection (b) of this section has—

"(1) knowingly authorized or engaged in any Federal criminal act or omission involving the abuse of Federal office;

"(2) knowingly authorized or engaged in any act or omission constituting a violation of any Federal criminal law regulating the financing or conduct of elections or election campaign; or

"(3) violated any Federal criminal law relating to the obstruction of justice or perjury, or conspired to violate any such Federal criminal law or to defraud the United States;

the Attorney General shall conduct, for a period not to exceed sixty days, such preliminary investigation as the Attorney General deems appropriate to ascertain whether the matter under investigation is so unsubstantiated that no further investigation or prosecution is warranted.

"(b) The persons referred to in subsection (a) of this section are as follows:

"(1) The President or Vice President.

"(2) Any individual serving in a position compensated at level I of the Executive Schedule under section 5312 of title 5 of the United States Code.

"(3) Any individual working in the Executive Office of the President and compensated at a rate not less than the rate provided for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code.

"(4) The Director of the Federal Bureau of Investigation or the Director of Central Intelligence.

"(5) Any individual who held any office or position described in any of paragraphs (1) through (4) of this subsection during the incumbency of the President or during the period the last preceding President held office, if such preceding President was of the same political party as the incumbent President.

"(6) A national campaign manager or chairman of any national campaign committee seeking the election or reelection of the President.

"(7) A Member of Congress (including a Delegate to the House of Representatives or Resident Commissioner in the House of Representatives).

"(c) If the Attorney General finds the matter subject to preliminary investigation in accordance with subsection (a) of this section is so unsubstantiated that no further investigation or prosecution is warranted, the Attorney General shall file a memorandum with the special panel of the court. Such memorandum shall contain a summary of the information received and the results of any preliminary investigation.

"(d) If, after the filing of a memorandum under subsection (c) of this section, the Attorney General receives additional specific information about the matter to which such memorandum related, which information, in the judgment of the Attorney General, warrants further investigation or prosecution, the Attorney General shall, not later than thirty days after receiving such additional information, apply to the special panel of the court for the appointment of a special prosecutor.

"(e) If the Attorney General finds the matter subject to preliminary investigation in accordance with subsection (a) of this section warrants further investigation or prosecution, or if sixty days elapse from the receipt of the information and the Attorney General has not yet determined that the matter is so unsubstantiated that the matter does not warrant further investigation, then the Attorney General shall apply to the special panel of the court for the appointment of a special prosecutor.

"(f) If, in the course of any Federal criminal investigation, the Attorney General determines that the continuation of the investigation or of a resulting prosecution or the outcome of such investigation or prosecution may so directly and substantially affect the political interests of the President, of the President's political party, or of the Attorney General as to make it inappropriate in the interest of the administration of justice for the Department of Justice to conduct such investigation, then the Attorney General shall apply to the special panel of the court for the appointment of a special prosecutor.

"(g) Any memorandum or application filed under this section with the special panel of the court shall not be revealed to any third party without leave of the court. In the case of any such application, the application shall contain sufficient information to assist the special panel of the court to select a special prosecutor and to define that special prosecutor's prosecutorial jurisdiction.

"(h) Upon the receipt of an application under this section, the special panel of the court shall appoint an appropriate special prosecutor and shall inform the Attorney General and the Congress of, and make public, the name of such special prosecutor.

"(i) The Attorney General may request that the court assign new matters to an existing special prosecutor or that the prosecutorial jurisdiction of such a special prosecutor be expanded, and the special panel of the court may make appropriate orders for such assignment or expansion. A special prosecutor may accept a referral of a matter by the Attorney General, if the matter relates to a matter within the prosecutorial jurisdiction established by the special panel of the court.

"(j) A judiciary committee of either House of the Congress may request that the Attorney General apply for the appointment of a special prosecutor under this section. Not later than thirty days after the receipt of such a request, the Attorney General shall notify the committee making the request in writing of any action the Attorney General has taken under this section, and, if no application has been made to the special panel of the court under this section, why such application was not made. Such written notification shall not be revealed to any third party except that the committee may, either on its own initiative or upon the request of the Attorney General, make public such portion or portions of such notification as will not in the committee's judgment prejudice the rights of any individual.

"(k) Upon application of a majority of majority party members or a majority of all nonmajority-party members of a judiciary committee of either House of the Congress, the United States District Court for the District of Columbia may issue any appropriate order (including an order in the nature of a writ of mandamus) commanding the Attorney General to comply with any provision of this chapter.

"§ 592. Prosecutorial jurisdiction; authority

"(a) Notwithstanding any other provision of law, a special prosecutor appointed under this chapter shall have, with respect to all matters in such special prosecutor's prosecutorial jurisdiction established under this chapter, all the investigative and prosecutorial functions and powers of the Department of Justice, the Attorney General, and any other officer or employee of the Department of Justice.

"(b) A special prosecutor appointed under this chapter shall receive compensation at a

per diem rate equal to the rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5 of the United States Code. For the purposes of carrying out the duties of the office of special prosecutor, such special prosecutor shall have power to appoint, fix the compensation, and assign the duties of such employees as such special prosecutor deems necessary (including investigators, attorneys, and part-time consultants). The positions of all such employees are exempted from the competitive service. No such employee may be compensated at a rate exceeding the maximum rate provided for GS–18 of the General Schedule under section 5332 of title 5 of the United States Code.

"(c) A special prosecutor appointed under this chapter may make public from time to time and shall send to the Congress at least annually such statements or reports as such special prosecutor deems appropriate.

"(d) There are authorized to be appropriated for each fiscal year such sums as may be necessary, to be held by the Department of Justice as a contingent fund for the use of any special prosecutors in the carrying out of this chapter.

"§ 593. Removal or termination

"(a) A special prosecutor appointed under this chapter may be removed from office, other than by impeachment and conviction, only by the special panel of the court and only for extraordinary impropriety, or such incapacitation or other condition as substantially impairs the performance of such special prosecutor's duties.

"(b) The office of a special prosecutor shall terminate upon the submission by such special prosecutor of notification to the Attorney General that the investigation of all matters within the prosecutorial jurisdiction of such special prosecutor, and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such matters. No such submission shall be effective to terminate such office until after the completion and filing of the report required under section 594 of this title.

"(c) The special panel of the court may, either on such panel's own motion or upon suggestion of the Attorney General, terminate the office of special prosecutor at any time, on the grounds that the investigation of all matters within the prosecutorial jurisdiction of the special prosecutor, and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such matters.

"§ 594. Final report; congressional oversight

"(a)(1) In addition to any reports made under section 592 of this title, a special prosecutor appointed under this chapter shall, at the conclusion of such special prosecutor's duties, submit to the special panel of the court a report under this section.

"(2) A report under this section shall set forth fully and completely a description of the work of the special prosecutor, including the disposition of all cases brought, and the reasons for not prosecuting any matter within the prosecutorial jurisdiction of such special prosecutor which was not prosecuted. The report shall be in sufficient detail to allow determination of whether the special prosecutor's investigation was thoroughly and fairly completed.

"(3) The special panel of the court may release to the Congress, the public, or to any appropriate person, such portion of a report made under this section as the special panel deems appropriate. The special panel of the court shall make such orders as are appropriate to protect the rights of any individual named in such report and prevent undue interference with any pending prosecution. The special panel of the court may make any portion of a report under this section available to any individual named in such report for the purposes of receiving within a time limit set by the special panel any comments or factual information that such individual may submit. Such comments and factual information, in whole or in part, may in the discretion of such special panel be included as an appendix to such report.

"(4) A special prosecutor, where appropriate, shall promptly advise the chairman and ranking minority member of the House committee having jurisdiction over impeachments of any substantial and credible information which such special prosecutor receives that may constitute grounds for an impeachment. Nothing in this chapter shall prevent the Congress or either House thereof from obtaining information in the course of an impeachment proceeding.

"(b) The appropriate committees of the Congress shall have oversight jurisdiction with respect to the official conduct of any special prosecutor appointed under this chapter, and such special prosecutor shall have the duty to cooperate with the exercise of such oversight jurisdiction.

"§ 595. Presentations by Attorney General and Solicitor General

"Nothing in this chapter shall prevent the making by the Attorney General or the Solicitor General of a presentation to any court as to issues of law raised by any case or appeal.

"§ 596. Special panel of the court

"The special panel of the court to which functions are given by this chapter is the division established under section 49 of this title.

"§ 597. Termination of effect of chapter

"This chapter shall cease to have effect five years after the date on which it takes effect, except as to the completion of then-pending matters, which in the judgment of the special panel of the court require its continuance in effect, with respect to which matters it shall continue in effect until such special panel determines that such matters have been completed."

(b) The tables of chapters for title 28 of the United States Code and for part II of such title 28 are each amended by inserting immediately after the item relating to chapter 37 the following new item:

"39. Special prosecutor."

ASSIGNMENT OF JUDGES TO DIVISION TO APPOINT SPECIAL PROSECUTORS

SEC. 227. (a) Chapter 3 of title 28 of the United States Code is amended by adding at the end the following new section:

"§ 49. Assignment of judges to division to appoint special prosecutors

"(a) Beginning with the two-year period commencing on the date this section takes effect, the chief judge of the United States Court of Appeals for the District of Columbia shall assign three persons who are judges or justices for each successive two-year period to a division of the United States Court of Appeals for the District of Columbia to be the special panel of the court for the purposes of chapter 39 of this title.

"(b) Except as provided under subsection (f) of this section, assignment to the division established in subsection (a) of this section shall not be a bar to other judicial assignments during the term of such division.

"(c) In assigning judges or justices to sit on the division established in subsection (a) of this section, priority shall be given to senior retired circuit judges and senior retired justices.

"(d) The chief judge of the United States Court of Appeals for the District of Columbia may make a request to the Chief Justice of the United States, without presenting a certificate of necessity, to designate and assign, in accordance with section 294 of this title, retired circuit court judges of another circuit or retired justices to the division established under subsection (a) of this section.

"(e) Any vacancy in the division established under subsection (a) of this section shall be filed only for the remainder of the two-year period in which such vacancy occurs and in the same manner as initial assignments to the division were made.

"(f) No judge or justice who as a member of the division established in subsection (a) of this section participated in a function conferred on the division under chapter 39 of this title involving a special prosecutor shall be eligible to participate in any judicial proceeding involving a matter which involves such special prosecutor while such special prosecutor is serving in that office or which involves the exercise of such special prosecutor's official duties, regardless of whether such special prosecutor is still serving in that office."

(b) The table of sections for chapter 3 of title 28 of the United States Code is amended by adding at the end the following item:

"49. Assignment of judges to division to appoint special prosecutors."

DISQUALIFICATION OF OFFICERS AND EMPLOYEES OF THE DEPARTMENT OF JUSTICE

SEC. 228. (a) Chapter 31 of title 28 of the United States Code is amended by adding at the end the following:

"§ 528. Disqualification of officers and employees of the Department of Justice

"The Attorney General shall promulgate rules and regulations which require any officer or employee of the Department of Justice, including a United States attorney or a member of his staff, to disqualify himself from participation in a particular investigation or prosecution if such participation may result in a personal, financial, or political conflict of interest, or the appearance thereof. Such rules and regulations may provide that a willful violation of any provision thereof shall result in removal from office."

(b) The table of sections for chapter 31 of title 28 of the United States Code is amended by adding at the end the following:

"528. Disqualification of officers and employees of the Department of Justice."

Page 41, line 16, strike out "C" and insert in lieu thereof "D".

By Mr. GARY A. MYERS:

Page 3, line 2, strike out "(2)" and insert in lieu thereof "(1) (other than the identity of the source of income), (2),".

Page 3, line 6, strike out "(2)" and insert in lieu thereof "(1) (other than the identity of the source of income), (2),".

Page 21, line 16, strike out "the preceding calendar year" and insert in lieu thereof "any portion of the preceding calendar year during which the reporting individual held a position described in section 201(f)".

Page 25, line 6, strike out the period at the end thereof and insert in lieu thereof "except that this paragraph shall not require the reporting of the amounts of income received while reporting individual was not holding any office or position described in section 201(f)."

# EXTENSIONS OF REMARKS

## "GOING PLACES WITH OL' JOE"

**HON. DALE MILFORD**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. MILFORD. Mr. Speaker, the Transportation Club of Dallas this week heard some interesting, and I believe valid observations on the relationship between the Federal Government and the transportation industry.

The speaker was Joe P. Johnson, president of the Federal Services Division of Martin Ryan Haley & Associates, Inc.

I believe Mr. Johnson's remarks are interesting reading, and I would like them to appear in the RECORD.

TRANSPORTATION INNOVATIONS VS. GOVERNMENT REGULATIONS

During the recent weeks since I received your invitation to address this luncheon, I have been conscious of many articles appearing in various publications that reinforce my already firm belief that transportation generally may well be more affected by government regulation than any other industry.

I have, for example, the March 24th Business and Financial section from the Washington Post in which every article on the front page of that section refers to regulation or government involvement in some form of transportation.

One article refers to President Carter's order mandating plain English be used in the regulatory publications. Another article concerns the Federal Railroad Administration and its order to remove certain wheels from tank cars. Another article talks about auto sales, another about taxes as related to certain forms of transportation, another concerns the oil tax deadline. And there's another article on Senator Kennedy and his traveling deregulation show and their trucking hearings in the midwest.

Yet another article speaks very appropriately, I think, of government involvement in transportation, where CONRAIL losses are put at $366 million for 1977, with a forecast for no improvement in its financial status for the current year.

I also have the Congressional Monitor for Friday, March 10th—which is not a lot different from any other day—and which lists the Senate and House committee hearings that had been, or were in the process of being scheduled.

Of the 237 committee and subcommitee hearings listed, 47—or 20 percent—refer directly to the transportation industry—hearings on everything from auto repairs to retirement policies for Department of Defense air controllers.

Another publication, the Weekly Regulatory Monitor, covers hearings scheduled by the various bureaucratic agencies. The March 6th issue lists 198 scheduled hearings, of which 36—again almost 20 percent—apply directly to the transportation industry.

This is at the federal level, and says nothing about the involvement of government by the various state, county, city and other local governmental entities in the field of transportation.

It may come as a surprise to those of you who are not bicycle enthusiasts (I am, incidentally) that the League of American Wheel Men and the Bicycle Manufacturers Association are right in there at the Senate hearings on the Carter transportation bill plugging for bikeways, bike facilities and asking for more funding for transportation facilities for the non-motorist.

Is there any hope for innovations in transportation to successfully break through the bureaucratic process and become useful? Is there any *need* for innovations? I say, Yes!

Figures from reliable transportation surveys indicate that between 85 and 90% of the total passenger trips are still by car, with one person per car. We can certainly conclude that transportation pattern shifts are needed.

During the First Session of the 95th Congress in 1977, while endless days of hearings were being held on a broad aviation regulatory reform bill, a well-organized and targeted approach, developed and introduced by the Federal Express Corporation and others, resulted in air cargo deregulation legislation being enacted into law. This legislation passed because it addressed the problems of today.

What are those problems of today? Energy conservation. Cost efficiencies. Better service, and time conservation. Of these, time conservation may be the most significant.

The traveling business person—who comprises the bulk of airline passenger traffic—may well be fed up with the process that requires spending so much time making reservations, driving to the airport, purchasing tickets and checking in. And most airlines practically demand check-in 30 minutes prior to departure even on short flights.

The United States aviation industry, hampered by governmental decisions preventing development of supersonic air transports—and additionally hampered by the removal from the defense budget of research and development funds that would have provided short take-off-and-landing, 45- to 60-passenger jets—is behind the eight-ball.

The recent purchase by Eastern Airlines of the A300 air bus—the largest purchase ever of foreign-built aircraft by United States air carriers—has to be a blow to both the industry and the economy. In spite of the lumps the United States aircraft builders have suffered, however, a short take-off-and-landing, 45- to 60-passenger jet is probably more than a shadow in the crystal ball of air passenger travel.

Additionally, the supersonic air transport for long-range trips is here. The ability to leave Paris at 8 o'clock in the evening and land in the eastern United States at 6:00 p.m., without the usual so-called jet lag, is a way of life that is here to stay—that's time conservation!

If my premise is correct, demand will begin to force the development of new air travel patterns. For instance: A 45-passenger bus will load downtown or at other convenient areas with passengers to the same destination, drive to a close-in, short-field airport, go directly onto the ramp to a plane of like size, and passengers will arrive at destination in about the same time as it presently takes to make reservations, drive to the airport, buy a ticket and check in.

In other markets where the demand is sufficient, the use of planes such as the A300 air bus would then diminish the importance of the so-called engineering marvels known as airports for ordinary passenger travel as we know it today. It would not make them useless or obsolete. The diminished role of air passenger transportation would be replaced with new and massive needs for air freight transportation, with an emphasis on intercontinental air freight movement.

This concept in regards to air passenger and freight movement, and other concepts that we will suggest as we look at some other forms of transportation, actually could be called the modular concept or transportation center development. Intermodal transit programs will probably be key complements in urban economic development programs and the revitalization programs of certain metropolitan areas.

As we look at transportation of freight by trucks, this modal concept will become increasingly important. Statistics presented at the 4th National Conference on "Effects of Energy Constraints on Transportation Systems" indicate that the modal shift concept will become much more prevalent in the movement of freight by a combination of truck and rail. This means increased significance for the freight forwarding approach to the movement of goods and merchandise.

The conference concluded that substantial opportunities exist for energy conservation in the freight transportation industry. These opportunities will bring to bear great political pressures that will no doubt cause certain changes to be effected in the present regulatory system.

Again, in regards to the example I used earlier concerning air cargo deregulation and Federal Express, the changes will address specific needs and requirements. I believe that a one-step-at-a-time transition will occur. Major all-at-once regulatory changes would cause such a need for restructuring the industry that the resultant capital needs could not be met, and the excess capacities resulting from sudden shifts would not be tolerable.

I would be remiss in any discussion of the transportation process if I did not address the use of waterway transportation. I do not care today to become embroiled in any controversy over the waterway user's tax.

I have observed the development of the Arkansas River as a major transportation system from Tulsa to the Gulf. I believe the Trinity has an even greater potential.

Despite opposition because of traditional operating patterns, I do believe that especially the Congress will implement amendments to current laws that would permit response to the points mentioned earlier—energy conservation, cost efficiencies, better service and time conservation.

I am just like the most of you. I believe that government should be involved where it's beneficial to me, and not involved where it's not beneficial. I am not saying that government will become uninvolved in transportation. I think projects such as the development of the Trinity River must be the responsibility of government because the project is too large for private enterprise.

I think the important point for you who are involved in transportation to remember, however, is that government—whatever it is—still is a government of special interest groups. James Madison in the Federalist Papers states that special interest groups and their lobbyists would provide the balance that would keep our system viable.

Elected members of government constantly and vigorously seek your input in order that the right conclusions might be reached. You have both the opportunity and the responsibility to have your input and knowledge become a part of the decision-making process.

If we have succeeded today in convincing you—were you not already convinced—that government does play a role in transportation, then maybe the best advice I can leave with you is that you must develop an effective political posture if you want to be

an effective force in transportation industry changes.

I thank you for having me.●

## RECOMBINANT DNA ACT

### HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. COLLINS of Texas. Mr. Speaker, the burden of Government regulation, so costly and harmful to U.S. industry, is increasingly expanding into our scientific community. I am specifically concerned with H.R. 11192, the Recombinant DNA Act, recently marked up by the Interstate and Foreign Commerce Committee and subsequently reported to the Science and Technology Committee. This legislation, allowing Federal control of DNA research, will severely hinder the field of study with the greatest potential to cure human disease.

During the initial markup, I offered separate views opposing the passage of H.R. 11192. In that light, I wish to offer excerpts from an article by Dr. Bernard D. Davis, an Adele Lehman professor of bacterial physiology at Harvard University. Dr. Lehman's article appeared in the April 5, 1978, Wall Street Journal and clearly documents the dangers of Federal intervention into this highly specialized field.

Excerpts from the article follows:

The need for any legislation is increasingly questioned. It is important to know why the dangers seem so much smaller today.

People for several years have been making recombinants in many laboratories, without a single resulting illness. It is clear that the predicted dangers remain entirely hypothetical.

The recombinant technique is increasingly recognized as a tool of great versatility, comparable to the use of radioactively labeled molecules in studying the chemical processes in living systems. For example, recombinants make it possible to isolate human genes. Moreover, they also make it possible to study the action and the regulation of these genes in the thousandfold simpler background of a bacterial cell. And gene regulation—the selective turning on of some genes and turning off of others is a crucial problem in modern biomedical science.

It is the key to the normal development of a fertilized egg into a human being, and also to the abnormal development of a cancer (a line of cells that have escaped from normal growth regulation). Other uses of recombinants, of more immediate medical and industrial importance, will include the manufacturer of unnumerable useful human products, such as insulin, other hormones, antibodies and antiviral agents. With such benefits in sight we will be paying an extravagant price if we perpetuate restrictions that are not justified by the hazards. Moreover, if this price involved only money, like the tens of millions of dollars wasted on lunar quarantine, it would be bad enough. But it also involves a greater, hidden cost: hindrance of research on diseases that are meanwhile taking human lives.

Though the development of these novel recombinant organisms was created by specialists in molecular biology, the assessment of the possible hazard is a problem in quite a different area of science: infectious disease. Unfortunately, few professionals in this field were included in the early discussions, though they might have kept the scenarios within realistic bounds. The NIH finally assembled a world-wide group of such experts last summer, and they agreed that the proposed recombinants could not be as dangerous as many known disease-producing organisms, which are cultured in thousands of medical laboratories every day.

The bacteria being used in this work are special weakened strains, carefully developed to require nutrients that are not encountered in natural environments.

My next point concerns the class of recombinants containing human DNA. These have particularly broad promise for medical research; but they have been classified as particularly dangerous, because of fear that they might pick up and spread the genes of human viruses. But this fear is based on the additional assumption that these recombinants would be an entirely novel class of organisms, never encountered before in nature. With further discussion this assumption has become exceedingly unlikely. We know that bacteria can take up DNA (though infrequently); and since bacteria have been growing in the colons of our ancestors for millions of years, it is virtually certain that they have often taken up human DNA, released from dying cells of the surrounding intestinal wall. Accordingly, mankind must have long been exposed to recombinants of this kind.

With these developments, the initially very cautious attitude of the scientific community has shifted dramatically. The bluntest critique has come from James Watson (who triggered the development of molecular biology by his discovery, with Francis Crick, of the structure of DNA). Though he was one of those who first voiced caution, he now urges that we abandon the whole expensive bureaucracy of guidelines and release the wasted time and money for solving real health problems. It seems almost certain that Watson will prove right. But meanwhile it also seems clear that public anxiety, generated initially by scientists, cannot be reversed until the true nature of recombinant DNA research is widely understood.●

## CALIFORNIA EXPLORES ALTERNATIVE ENERGY STRATEGIES

### HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. BROWN of California. Mr. Speaker, this past Sunday I addressed the Second International Helioscience Institute on Alternate Energy Conference, which was held in Palm Springs, Calif. I very much enjoyed the event, which was another demonstration of the great support alternative energy technologies have in this country.

One of the news accounts of this conference shows how California in particular is moving ahead in this area. I would like to insert it in the CONGRESSIONAL RECORD for the review by other Members.

The article follows:

[From the Christian Monitor, Apr. 11, 1978]

CALIFORNIANS GO 'SOFT' ON ENERGY

(By David F. Salisbury)

In his office, California Gov. Edmund G. Brown Jr. has a model solar collector which he demonstrates to visitors with considerable relish.

From the Governor to the 350 people who attended the latest conference on alternative energy here recently, Californians have emerged as some of the most ardent supporters for what British physicist Amory Lovins called the "soft path" and what others characterize as a "Jeffersonian" approach to solving the nation's energy problems.

This approach puts primary emphasis on conservation, renewable energy resources, and special transitional fossil fuel technologies as opposed to nuclear power. It is called Jeffersonian because it would ultimately return to the citizen an increased amount of control over and responsibility for energy production.

"California is definitely a leader in solar energy development," says Ted Lucas, author of two books on the subject. Of the roughly 400 solar energy firms in the U.S. today, about a quarter are located in California, he estimates.

Mr. Lucas sees several reasons for this. One is psychological. Californians, he observes, like to feel they are in the forefront.

Another reason is state government. Jerry Brown, he feels, has championed several measures which significantly encourage solar energy development. Finally, there is sunshine itself. California has long prided itself on its sunny climate, so the step to utilization of solar energy is not great.

California Rep. George E. Brown, Jr. is part of a loosely knit solar coalition in Congress which has been trying to get the administration to increase its support of energy sources other than coal and nuclear.

Mr. Brown and several other congressmen visited President Carter April 10 to urge that he develop a strategy and a timetable for the development and commercialization of alternative energy sources.

But regardless of what happens in Washington, California already has taken several steps down the "soft path." Richard Maullin, director of the State Energy Commission, lists these steps:

1. Development of building standards to encourage energy conservation. Rather than mandating specific amounts of insulation for the ratio of window to wall space, the state has taken a "performance" approach. Building on the experience of the northern California City of Davis, the first community in the country to adopt this approach, the state sets overall energy conservation standard which architects can meet anyway they wish.

2. Enactment of a 45 percent solar energy state income tax credit.

3. Creation of a certification system for solar equipment to protect the consumer. Approved systems will be given a special state seal, provided the companies extend a specified warranty.

4. This year the state is spending $2.5 million for public education, including demonstration projects on alterantive energy sources. Next year's budget will increase this to $4 million, if approved by the Legislature.

5. With its large potential for geothermal energy, the state has cut down licensing time for such plants from 18 to 12 months, and may reduce it evern further.

Recently Governor Brown proposed the largest state energy program ever. He would like to spend $500 million over the next five years. Of this, $200 million would go toward energy conservation measures, including retrofitting state and local government buildings to cut their energy consumption by a quarter.

The rest would go toward various energy technologies—including methods to convert forest and agricultural residues into energy, wind turbines, geothermal power plants, and an advanced coal-fired plant that would produce both electricity and a clean-burning gas which could be distributed throughout an area within 150 miles of the plant, all with minimal pollution.

This general approach has its vocal critics within the state. Chief among them are Republican aspirants for the governorship who characterized Mr. Brown's support for conservation and alternatives as exotic and potentially disastrous.

It also runs contrary to the inclinations of the state's utilities, whose strategy was to shift from fossil fuel to nuclear energy. They had intended to generate more than half the electricity in the state with nuclear energy by 1995.

Large segments of the California business community also have been leery of the Brown approach to energy. Many feel the climate in the state has become antibusiness, an impression the Governor has only recently begun to counteract.

Still, California supporters of the alternative energy sources clearly feel they are ahead of the country. They have little doubt that this basic approach is the only one that resolves the conflict between energy and environment while increasing the quality of life.

The energy crisis is "an insurmountable opportunity," summarizes Prof. Donald W. Aitken of San Jose State University, the campus with the largest solar energy construction program in the United States.●

## ABORTION—A MATTER OF CONTROVERSY

### HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. STUDDS. Mr. Speaker, the issue of abortion is one of the most controversial, emotionally charged, and socially complex concerns we face. It is an issue very poorly suited to rational political debate, and yet it is one upon which Members of Congress have been repeatedly asked to vote.

Deep divisions on this issue exist throughout our Nation, and feelings in the 12th Congressional District of Massachusetts are no exception. Letters which I have recently received express eloquently and thoughtfully the concerns of those on either side of the question.

I would like to share with you some examples from my file of these letters:

From a man in Centerville:

I fervently pray that you will vote against any effort to deny to poor persons the necessary funds to have an elective abortion. To do this would be an outrageous denial of the most basic human right and in my opinion, despite what the Supreme Court has ruled, would violate the equal protection clause of the Constitution.

A New Bedford man told us:

I do not want my tax money to be used to finance abortions, legal or otherwise, simply because I do not believe in killing, or terminating a pregnancy. There is no way anyone can terminate a pregnancy without terminating a life and there is no way anyone can terminate a life without killing someone! Please do not use my money for killing!

In South Dartmouth, a woman said:

The number of coat-hanger abortions is going to increase terribly if Medicaid refuses to fund non-therapeutic abortions. It is disgusting that a woman unable to afford a medical abortion will have to resort to this method to avoid giving birth to an unwanted baby. Abortion is not a luxury that is exclusively the right of the financially able. It is a pressing social, economic, and emotional need for women of all ages.

A man from Marshfield wrote:

I agree with the editor of a well-known magazine when he wrote: "Anyone who kills a human embryo, therefore, has to admit at least the possibility that he or she is killing an innocent human person. He may believe he is not, he may be totally convinced he is not. But the fact is, he has no way of ruling out either the possibility or the probability that he is not."

A clergyman wrote to me that:

No one wants abortions, but neither do we want our nation to go back to all the illegal abortions which were performed before abortions were declared legal. I lost a cousin at the hands of an untrained abortionist, and I don't want to see that happen to anyone.

From a woman in North Dartmouth:

I urge you to support a Human Life Amendment. Why not allow this most controversial subject to be decided by the people—not by seven men who are not even elected to their offices! Why should those seven justices dictate the law . . . ?

A doctor from our district wrote:

Abortion is a solution, however unsatisfactory, to the problem of unwanted pregnancies. Yet those who are most adamant against abortions are the very ones who are preventing the use of contraceptives. I find it both pathetic and ironic that the very people who object to abortions are doing nothing to remove the root cause of abortion.

From a couple in Weymouth:

We feel abortion is morally wrong, and find it galling to support it with our tax dollars.

Social and economic alternatives to abortion, such as unrestricted access to birth control, better sex education, and a guaranteed family income should be developed, together with a streamlining of the Byzantine procedures for adoption.

We are both active in the Pro-Life movement but try to be realistic. There are many inequalities still remaining in our society and they must be removed to allow all of our citizens to live a life of dignity.

However, it is our opinion that abortion is looked upon by many as a panacea, and if it is looked upon as such it would be merely another cosmetic approach to problems.

From a newlywed man in our district:

My wife and I are young newly weds; we have just started our lives together a few months ago. We did not expect or intend to conceive a child, which has happened, and we are not ready to become parents—we cannot afford to physically, mentally or monetarily.

I cannot explain the comfortable feeling I have as I write you this letter, from (an abortion clinic) in Boston, in a bright clean, well-lit waiting room, knowing my lady is in good hands—instead of in some alley hoping like hell the strange man will bring my lady back to me in a healthy condition . . . you see, I love her.

Mr. Speaker, these are only a few of the many letters I have received on this subject.

The diversity of opinion is very clear and very strong.

Our most respected religious leaders are deeply divided on the issue of abortion. Certainly, no national consensus exists on either the question of a constitutional amendment, prohibiting abortions, or on the question of public financing of abortions for the poor.

As I have been telling those of my constituents who ask that I take a stand against abortion:

I understand the strong convictions which prompt many people to oppose the procedure of abortion, and I respect their right to avoid the procedure: I cosponsored a measure—which has since become law—to allow hospital personnel to refuse, without prejudice to their jobs, to participate in abortion procedures should their conscience so dictate.

When the Supreme Court debated abortion in the 1973 Roe against Wade case, it concluded that "we need not resolve the difficult question of when life begins. When those trained in the respective disciplines of medicine, philosophy, and theology are unable to arrive at any consensus, the judiciary, at this point in the development of man's knowledge, is not in a position to speculate as to the answer."

Congress and the State legislatures, having no more or different information available to them, are in no better position to speculate on the subject than the High Court. It seems to me that those who advocate a constitutional amendment banning abortion would be compelling every woman to accept the view that a constitutionally protected person exists from the "moment of conception," even when such a view conflicts with an individual woman's religious or moral views. In view of the personal nature of this question, and the lack of a clear national consensus on the issue, I believe it is wisest for the Government not to intrude—but rather to leave the decision of abortion to the conscience of each woman and the judgment of her physician.

The elimination of Federal medicaid funds for abortions has been the most recent focus of the abortion controversy. I opposed the adoption of the so-called Hyde amendment last December because I believe that it discriminates against those who do not possess the financial resources needed to obtain a medically safe abortion. It establishes, in practical terms, a system whereby the rich can obtain abortions legally, while poor women are forced to either bear children against their will, or to choose the grim alternative of seeking an illegal, cheap abortion.

I believe that the proper role of Congress should be to insure that no coercive laws on the subject of abortion are enacted. Instead, we should make a new and constructive commitment in programs and funds to provide alternatives to abortion in the form of family planning through contraception, pregnancy counseling, and humane foster child and adoption programs.●

## RALPH BUCHMAN—CONSCIENTIOUS CITIZEN AND OUTSTANDING EDUCATOR

### HON. MICHAEL T. BLOUIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. BLOUIN. Mr. Speaker, on Sunday, April 16, it will be my privilege to take part in a tribute to one of Iowa's most conscientious citizens and outstanding educators—Mr. Ralph Buchman.

Mr. Buchman, or Buck to his friends and associates, has decided to leave Epworth, Iowa, and the Western Dubuque High School after 29 years, most of them in the dual role of principal and athletic director.

When he first came to Epworth in 1949, it was a small independent high school with no more than 100 students. A decade later a merger of some similar schools produced the Western Dubuque Community School District and Ralph Buchman became principal and athletic director of a high school with 1,100 students in grades 9 through 12.

Taking in parts of five counties, the Western Dubuque system is the largest school district (area wise) in the entire State.

Through the early years of growth and expansion Buck was there. In fact it seemed to many of us that he was always there.

He was there to open the building in the morning; he was there to help cope with problems all day long; and he was there at every after school event possible whether it was a band concert, a play or an athletic event.

For those of us who believe our children are our future, Ralph Buchman is one of America's unsung heroes.

He served as surrogate father for many of his students and teachers and handed out advice and discipline to anyone who either asked for it or needed it. Not afraid to back a student up against a locker to get his attention, he was also not afraid to dole out generous helpings of the compassion and understanding so vital to someone in his position.

Despite all this, Ralph Buchman is a modest man. But he is an individual who has every right to stand tall and hold his head high as he looks to the future. In his way he has contributed so much to making today better than we might have hoped for and tomorrow even more promising.

I am proud to call this unselfish human being my friend. The people of Western Dubuque especially the students and teachers join me in wishing him well in his new venture and saying how it just won't be the same at Western Dubuque without him.●

## A SPECIAL TELEVISION PROGRAM FOR BALTIMOREANS

### HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Ms. MIKULSKI. Mr. Speaker, many of my constituents and my colleagues in the House of Representatives complain about the quality of television programing. As a member of the Communications Subcommittee, I have special interest in this area.

It is with a special note of pride and relevancy that I wish to commend one television program in my city of Baltimore which represents how television can truly serve the public interest. "Square Off" is a weekly panel of current events. That description applies to many public affairs programs—programs that in many instances are put together with little thought and little interest to the viewer; but "Square Off" is different. Each week four Baltimoreans, chosen from a group of 12, discuss the issues in the news of the past week. The discussion is often heated. The panelists' views are strongly held. It is not, by any means, a predictable public affairs program with people who hold predictable views.

The panelists include a school administrator, a senior citizens activist, college professors, lawyers, a social worker, a housewife, a radio personality, and a newspaper columnist. The only thing they share in common is their awareness of the important events in our society and their ability to express their views in an interesting and lively manner.

"Square Off" is well known in the Baltimore community. People talk about it the day after it is broadcast with friends and co-workers. To celebrate "Square Off's" first anniversary, viewers filled a Baltimore hotel banquet room for a live broadcast.

I want to commend WJZ–TV for airing this worthwhile program and urge others to take notice of what television programing can do for a community.●

## CHICAGO JOB TRAINING PROGRAM CITED AS MODEL FOR THE UNITED STATES

### HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mrs. COLLINS of Illinois. Mr. Speaker, I wish to share with my colleagues a recent article in the New York Times describing the highly successful effort undertaken in Chicago between the city, using CETA funds, and local employers, to provide on-the-job training to nearly 2,000 of the so-called chronically unemployed. Although on-the-job training programs have been in existence around the country for many years, the Chicago program is unique in the extent to which the business community has been encouraged to participate actively in both outreach and followup efforts. With congressional action on CETA expected sometime next month, the success of the Chicago experience should provide us with the insight and the inspiration to structure the CETA program to maximum effectiveness.

The article follows:

[From the New York Times, Apr. 10, 1978]

CHICAGO JOB TRAINING PARTNERSHIP OFFERS MODEL FOR U.S. PROPOSAL

(By Nathaniel Sheppard, Jr.)

CHICAGO, April 9—An unusual partnership here between the city and private businessmen has been providing on-the-job training for close to 2,000 people a year who are considered "chronically" unemployed.

The Chicago effort, dealing with people who have been out of work six months or more, has been judged so successful that it is the principal model on which the Department of Labor is basing Federal strategies for lowering unemployment to be contained in Title VII of the revised Comprehensive Employment Training Act, on which Congressional action is expected by the middle of next month.

The program here has turned out metal finishers, carpenters, welders, lab technicians, underwriters, butchers, bookkeepers, offset press operators, locksmiths, mechanics, and carpet layers, to name only a few job categories.

Of 1,122 on-the-job training slots last year in 209 occupations, 258 were professional and technical, 213 were clerical and sales, 213 were in machine trades and the rest involved structural, benchwork, servicing and processing jobs.

Sponsors of the Chicago program say that about 52 percent of the trainees for skilled and semiskilled professions remain with the employer who trained them and that many of the remaining 48 percent go on to further training or better-paying jobs elsewhere.

On-the-job training programs have been in existence around the country for many years, but Chicago's is believed to be the largest—and the most unusual.

Under the program here, the city, using Federal funds, contracts with the not-for-profit Chicago Alliance of Business-Manpower Services, which in turn "buys" training from local employers by paying one-half the salary for apprentices accepted from city and state unemployment lists. It is this combination of special funding, and commitment by business that makes the Chicago way of doing things exceptional.

As the system now works, an employer lists his needs with the business group, which screens the job seekers and matches them with the apprenticeship requirements.

The trainees receive between $3 and $7 an hour with most salaries falling in the $4-an-hour category. Last year, 62 percent of the trainees were black, 20 percent white and 18 percent Hispanic. Sixty percent were males and 75 percent earned less than the $5,800 for a family of four or $3,700 for an individual that is the cutoff for the Federal definition of the poverty level.

Under the Chicago arrangement, the Chicago Alliance of Business-Manpower Services organizes, markets, supervises, and contracts directly for on-the-job training with about 500 local businesses. The organization is an affiliate of Chicago United, a coalition of 42 executives—usually presidents or board chairmen—from major city companies. One half of the executives are from minority groups and about 45 percent of the apprenticeships are at minority-owned businesses.

"One of the reasons the program is so successful is that businessmen are more receptive to programs marketed by other businesses than those suggested by government," said Travis Gafford, executive director of C.A.B.M.S. "It becomes a businessman-to-businessman relationship."

Robert McGregor, who heads Chicago United, said another reason for the program's success was that businesses "no longer have to worry about government red tape."

"People have lost faith in government and are looking more and more to businesses to solve problems," Mr. McGregor added. "Other businessmen know we will be interested in the same things they are interested in—sound management and accountability and results."

According to Samuel Bernstein, assistant to the Mayor for manpower, costs for the program in its first year, which began Oct. 1, 1975, totaled $5.3 million, including $400,000 for administrative costs. The following year, the budget grew to $5.9 million, and this year, outlays are expected to reach $6 million.

"The average salary training graduates receive is $8,860 per year," he said, "com-

pared to an average salary of $8,100 per year for a person who gets straight vocational training in school and $8,000 for a family of four on welfare, including food stamps and Medicaid."

"A FANTASTIC IDEA"

An employer in the program, Gary Majer of the Abbott Metals Corporation, said the program was a "fantastic idea. We couldn't afford to hire people who weren't trained, but with the Government helping this way, we are pleased to give jobs to people who really want to work."

Mr. Majer points to an 85 percent success rate with the primarily Hispanic trainees at his concern who help construct postal and hospital carts, rifle racks and food-warming equipment.

One of the Chicago program's trainees, Georgia Trezrant, works with the American Friends' Service Committee in their "Mothers in Prison" program.

"I was incarcerated myself," she said. "This job makes me feel so good to know I can help someone who is in the same situation I was in."

As the outreach worker for the group, she helps find clothing, housing and food for the children of imprisoned women, who do not hesitate to call her if they are released at night and need a place to sleep. Her employers say she is more effective than anyone else they have had in the position because she relates so well to her clients.

Another trainee, Marina Sue Escamilla, went through basic training in the Air Force, but when they wanted to put her into office work, she asked for a discharge. "I like to be outside," she said. As a CETA school aide at the Joseph Jungman school she is inside and out with the youngest Mexican-born pupils every day.

The Chicago Alliance of Business-Manpower Services program was one of 10 Chicago employment efforts that were lauded by the New York City-based Committee for Economic Development in a recent report.

According to William Hewitt, who heads the Labor Department's Employment Evaluation and Research Sections, Title VII of the revised CETA is to have as its centerpiece the inclusion—for the first time—of private employers in the design, development and approval of training programs.

"Since everyone looks to the private sector to provide jobs, we plan to build a mechanism through which it will have a voice in the development of training programs. Training people for positions the businesses do not want would be futile and we can't wait until people are trained before we start looking for jobs for them," he said.

Under Title VII, a national business council would be established to help develop programs and have a major voice in which job efforts would receive funds, Mr. Hewitt said.

Not everyone, however, is as enthusiastic about the program as Mr. Hewitt and the Chicago sponsors. One thing that has held up Congressional action on Title VII is strong opposition from traditional prime sponsors of such operations—city and county governments. Nevertheless, when Congress does take action, the Chicago influence is expected to be felt.●

## TRIBUTE TO GERALD A. O'BRIEN, INVENTOR OF TAP TRANSDUCER

### HON. JOSEPH A. LE FANTE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. LE FANTE. Mr. Speaker, the development of communications throughout our Nation's history contributed significantly to our advancement as one of the great powers of the world. In the past, New Jersey has been noted for the scientific achievements of Thomas Alva Edison. Now the time has come to pay special tribute to another inventor from the Garden State who contributed immensely to our country's growth by resolving a communication problem that had baffled scientists for over a century.

In 1973, Gerald A. O'Brien, of Jersey City, N.J., developed the "tap transducer," a modified version of the telegraph which acts as a voice transmitter without all the intricate mechanism of Mr. Bell's telephone. In doing this, Mr. O'Brien not only contributed valuable knowledge to science, but also provided a means for creating energy conserving communication for an energy conscious people.

O'Brien's tap transducer looks very much like Morse's original telegraph but works at a much faster rate so that it can transmit a voice much further and louder than the telephone, using one-third the energy. The tap transducer can also be used to detect earthquakes and find defects in airplanes and machinery. It has many communicative possibilities that will make communication less expensive and wasteful.

Born in 1935, Gerald O'Brien graduated from St. Patrick's elementary school in Jersey City and then, after 1 year of high school, entered the work force. Despite his limited formal education, Mr. O'Brien displayed an ingenious talent for solving complicated engineering problems.

That talent was also evidenced in his other patented inventions which should not go unnoticed. These include a portable voice generator that aided deaf mutes in communication and an electromagnetic amplifier sound transducer used to convert acoustical waves into amplified electrical waves.

Mr. Gerald O'Brien deserves credit for his accomplishments and the role they play in keeping ours a well-informed and intelligent society. More importantly, however, he has proved to be an outstanding citizen in his pursuit for a progressive, modernized system for communication.●

## THE LONGHORNS PLAY GREAT B-BALL

### HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. PICKLE. Mr. Speaker, for the past 20 years, most critics scoffed at basketball as played in the Southwest Athletic Conference. When the fall came, a lot of folks put a University of Texas or an Arkansas, and so forth, in the top 10 of football teams; but when winter rolled around, it was a different view—the Southwest teams were sometime the doormat, or nearly that.

In the past 3 years, this has been turning the other way. Now, not only are great football teams coming from the Southwest Conference, but top basketball teams as well.

I am a graduate of the University of Texas; furthermore, the University of Texas at Austin is in my congressional district. So, with great pride I note the winning of the National Invitation Tournament by the Texas Longhorn basketball team. The NIT is a prestige affair and its winner each year is a top flight team.

I might add that the Texas team did not slip by to victory, but won its games with strong margins of victory.

On April 7, 1978, the governing body of the University of Texas System, the Board of Regents, passed a resolution of appreciation to the team and its leader, the irrepressible Abe Lemons.

I include the resolution in the RECORD and add that it echoes the sentiments of millions of Texans:

RESOLUTION

Whereas, the 1978 Longhorn Basketball Team, through skill, determination, hard work, individual and team effort, completed the season with a winning record equal to the highest in the history of The University and went on to become Co-Champions of the the Southwest Conference and Champions of the National Invitation Tournament, the first post-season national championship for any Southwest Conference basketball team, and

Whereas, this athletic achievement was brought about under the leadership of Coach Abe Lemons, whose wit, hard work and professional skill earned him designation as Co-Coach of the Year by the National Association of Basketball Coaches, and

Whereas, Jim Krivacs and Ron Baxter were named Co-Most Valuable Players of the National Invitation Tournament, the first time in twenty five years that two players have been given this honor, and

Whereas, Ron Baxter and John Moore were selected as All Southwest Conference Players, and

Whereas, the entire Longhorn Basketball Team has demonstrated those qualities of character, sportsmanship and teamwork which represent the highest ideals in intercollegiate sports,

Now, therefore, be it resolved that the Board of Regents of the University of Texas System this 7th day of April, 1978, does express its appreciation for the excellence manifested in the performance of the 1978 Longhorn Basketball Team, the leadership and inspiration of Coach Lemons and his staff, and the notable recognition brought to the University by those who played the game of basketball with distinction.●

## STATE DEPARTMENT RECEIVES LIST OF POLITICAL PRISONERS AND MISSING PERSONS IN ARGENTINA

### HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. DRINAN. Mr. Speaker, the Government of Argentina continues to detain thousands of political prisoners, most of them without specific charge and without trial. Compounding this injustice, Argentina's military rulers have refused repeated requests to release a comprehensive list of individuals detained and their status. Thousands of families agonize over the fate of their relatives,

not knowing if they are in prison, where they are jailed, whether they have been charged with a crime, what their physical condition is, or even whether they are alive or are among the ranks of the "disappeared," presumably victims of the right-wing paramilitary forces who seem to operate with impunity.

On March 29, the Council on Hemispheric Affairs, in conjunction with the Argentine Information Service Center, hand delivered to Deputy Secretary of State Warren M. Christopher the most comprehensive list to date of Argentinians who are political prisoners or who have disappeared. They also presented Mr. Christopher with a letter describing the need for action and expressing the hope that the list of 10,000 names would be transmitted to the Argentine authorities.

Deputy Secretary Christopher assured representatives of the two groups that the list would be forwarded to Raul Castro, U.S. Ambassador to Argentina, and that all efforts would be made to bring the list to the attention of the Argentine Government.

In his letter to Mr. Christopher, the Council on Hemispheric Affairs' director, Laurence R. Birns, points out that the Argentine Government has failed to respond, publicly or privately, to Secretary of State Vance's personal request for information about individuals on a somewhat less comprehensive list which he presented to the Government during his recent stay in Argentina. Meanwhile, arrests without charge or trial and unexplained disappearances continue to take place regularly.

Mr. Speaker, the failure of Argentina's military rulers to take the simple humanitarian step of announcing those whom it has arrested and detained indefinitely for so-called "political offenses" stands as one of the most cruel violations of fundamental human rights in a world already overburdened with such abuses. The regular disappearance of many individuals, apparently with at least the tacit approval if not the outright complicity of the Government, makes even more cruel the refusal to list political prisoners, as the families of many cannot know if their relatives are alive or dead.

I was a member of an Amnesty International mission investigating the human rights situation in Argentina. The report of that November 1976 visit concluded:

> The state of martial law in force deprives all the citizens in Argentina of their most fundamental civil and political rights, their constitutional guarantees. What it means in practice is that merely on suspicion of subversion, a citizen may be arrested or abducted, held for a long period incommunicado, tortured and perhaps even put to death. He has no legal safeguards against these measures.

It is evident that the situation in Argentina since release of that report by Amnesty International, recipient of this year's Nobel Peace Prize, has not improved. While boasting of having virtually wiped out the left-wing terrorists whose existence provided the stated rationale for the draconian security measures adopted by the military government, Argentina's rulers retain those measures and seemingly ignore the right-wing terrorists responsible for so much violence.

I commend to the attention of my colleagues Mr. Birns' excellent letter to Deputy Secretary Christopher, and I hope that the State Department will continue to push vigorously for a comprehensive accounting of all political prisoners in Argentina.

The letter follows:

COUNCIL ON HEMISPHERIC AFFAIRS,
*New York, N.Y., Mar. 29, 1978.*

Mr. WARREN CHRISTOPHER,
*Deputy Secretary of State, Department of State, Washington, D.C.*

DEAR SECRETARY CHRISTOPHER: We are writing you at this time to express our appreciation to you for your efforts to improve the human rights situation in Latin America, and specifically in Argentina. We also wish to use this note to you to comment on some recent developments in Argentina, and to offer some recommendations regarding the plight of political prisoners and their relatives in that country.

The executive and legislative branches of the U.S. Government have taken numerous initiatives intended to encourage greater respect for basic human rights by the Argentine military government. The termination of military aid programs, the restriction of sales of certain military materiel, and the negative votes of the U.S. in the international lending institutions have all played a significant role in impressing Argentine authorities of the serious importance that the U.S. attributes to that nation's human rights practices.

Last November, Secretary of State Cyrus Vance delivered to the Government of Argentina a list of persons imprisoned, disappeared, or killed for political reasons, and formally asked the Argentine military authorities to supply the U.S. government with information as to the charges against them, and their places of detention. Other governments, the United Nations' Human Rights Commission, and the Inter-American Commission on Human Rights also have made similar inquiries.

Unfortunately, there has been no response to these concerns, and no real improvement in the human rights situation in Argentina. Kidnappings continue to take place, and right wing terrorist groups within the security forces continue to act with total impunity despite the fact that the government has shown great efficiency in eliminating left-wing subversion.

As an ostensible concession to this U.S. human rights concern, the Government of Argentina published the names of several thousand political detainees. This gesture was seen by some officials in this country as an indication of a new trend towards moderation on the part of the local authorities.

In our view these hopes were premature, if not overly optimistic. Few prisoners are actually being released while new arrests and disappearances continue. As for the names of prisoners which had been published, a careful examination of those listed shows that the majority of them had been detained during the administration of Mrs. Isabel Peron, prior to the military takeover of March 1976. The Argentine Government actually disclosed little information about the thousands of persons who have disappeared in the last two years, and actually denies having any knowledge of the fate of most of them.

It should be noted that the Argentine Government has failed to respond, either publicly or privately, to Secretary of State Vance's personal request, made during his trip to Argentina last year, for information on the situation of prisoners included in the list which he presented to the local authorities during his visit. This list, originally prepared by the Argentine Information and Service Center, has now been updated, expanded and corrected to include nearly 10,000 names.

Meanwhile, prison conditions have continued to deteriorate in Argentina leading to protests and violent confrontations between prisoners and security forces. Last March 14, 165 prisoners in Wing No. 7 of the Villa Devoto prison on the outskirts of Buenos Aires began to protest, peacefully, prison-living conditions. After a series of still-to-be-clarified events, 61 prisoners were dead and many more were seriously injured. There is evidence contradicting the official government version that only common criminals died, and that they died of smoke inhalation and not gunfire.

Irrespective of how these people died or what was their status, these events should be seen as an indication of the deplorable conditions reigning in Argentine prisons and the desperation of the imprisoned. However, there is every reason to believe that at least some at the Villa Devoto prison were killed by security forces and, as the attached list might illustrate, at least some may have been political prisoners.

Given the critical nature of the situation, we would hope that you would be moved to instruct Ambassador Castro to provide the Argentine Government with the new updated and expanded list of political prisoners and disappeared persons and request, once again, information about their places of detention and the charges against them. We also hope that you would see the merit of the U.S. continuing to vote against multilateral loans to Argentina until a noticeable improvement takes place in the human rights situation there, and actively encourage other nations to join the U.S. in these initiatives. In this spirit, we also wish to raise the desirability of suspending all sales and deliveries of military material to Argentine until congressional as well as executive inquiries on pressing human rights matters are satisfactorily answered.

Finally, given the status of political prisoners in the country, we hope that the administration will encourage the immediate implementation of the parole visa program recently recommended by the Attorney General for political prisoners and others wishing to leave Argentina, and that no respite take place in the sanctions that have been taken against the Argentine government until significant, rather than token, change in the current situation occurs.

LAURENCE R. BIRNS,
*Director.*●

## BUDGET SHORTAGE FOR VETERANS MEDICAL PROGRAM

### HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. TEAGUE. Mr. Speaker, letters continue to reach my office from grassroot America which show a deep concern that the Congress fulfill its commitment that America's veterans are provided the best possible medical care for those that we owe our very existence to as a free Nation. These letters bring to my attention the lack of adequate funds to continue to provide quality care for American veterans in VA health care facilities.

For over 31 years the veterans medical program has sought to affiliate its hospitals with the approved schools of medicine in this country. The reason for this was to improve the quality of care the veteran receives while at the same time providing the clinical facilities to the medical schools to increase both the quality and quantity of medical education. This partnership is unique in the annals of government and has not only benefited the veteran but the Nation as a whole.

To illustrate the shortsightedness of the administration's budget for fiscal year 1979, there is attached a recent letter I received on the subject of the VA research budget from President Jarvis E. Miller of Texas A. & M. University, together with my response.

Chairman RAY ROBERTS of the Veterans Affairs Committee and the ranking minority member of that committee, the Honorable JOHN PAUL HAMMERSCHMIDT, wrote each member a personal letter on February 28, 1978 outlining the additional requirements. The Congress must act both through the first concurrent budget resolution and through the Appropriations Committee to provide adequate funds for the veterans medical program. While I personally am of the opinion that all veterans programs are based on congressional commitment and needs, there is none of them as important and essential to veterans and the Nation as this outstanding health care delivery system. I ask all Members to familiarize themselves to these needs and to support the provision of these additional funds:

TEXAS A. & M. UNIVERSITY,
*College Station, Tex., March 13, 1978.*

Hon. OLIN E. TEAGUE,
*U.S. House of Representatives, Rayburn Building, Washington, D.C.*

DEAR MR. TEAGUE: Your participation and attendance at our military weekend festivities on Saturday, March 4 was certainly appreciated. As per our conversation, the recent proposed actions by the Veterans Administration Central Office regarding the curtailment of core research funding at the Temple Veterans Administration Center is of serious concern. We view the proposed reduction with alarm since it will have potentially severe consequences for the Temple VAC and for the College of Medicine at Texas A. & M. University.

The College of Medicine and the Temple Veterans Administration Center are cooperating as partners in the development of a college of medicine program under the authority of PL 92-541 (the Teague-Cranston Bill). To accomplish our goals in medical education and care of our veterans, we have made a primary and continuing commitment to improve the academic and research environment at the Temple VAC. We have invested faculty effort and funds from PL 92-541 to accomplish this and view the deletion of core research funding at the Temple VAC as a serious hindrance to the attainment of our mutual goals. I believe the education of future physicians and, ultimately, the care of our veterans, will suffer serious consequences from such a deletion.

We have requested a waiver from the Veterans Administration Central Office for the Temple VAC; however, indications are that this is not likely to be granted. We request your assistance in assuring continuation of these funds for the Temple VAC. The education of Texas physicians and the care of our veterans will benefit from such a continuation.

Thank you.

Sincerely yours,

JARVIS E. MILLER,
*President.*

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APRIL 3, 1978.

Mr. JARVIS E. MILLER,
*President,*
*Texas A. & M. University,*
*College Station, Tex.*

DEAR MR. MILLER: Thank you for your letter of March 13th regarding the curtailment of the medical research program at Temple.

We are very concerned with the President's proposed budget for medical and prosthetic research. Unless funds are restored by the Appropriations Committees of the Congress, we understand the research programs in some 53 hospitals will be drastically curtailed or terminated altogether. This cannot be allowed to happen.

We are doing everything possible to see that these funds are restored. The Committee on Veterans' Affairs is recommending an additional $18.3 million over the funding level requested by the President for medical and prosthetic research. It is a well known fact that the research conducted by the Veterans Administration has produced excellent results. As you know, two full-time VA employees recently received the Nobel Prize for medicine, and this is no time to cut back in an area so vital to the Veterans Administration medical program.

The research program also enhances the recruitment and retention of physicians in the VA System.

I share your concern and will do everything I can to see that the research program is continued at the Temple VA Center.

I appreciate your letter and shall make your views known to both the Appropriations Committee and the Committee on the Budget.

Sincerely,

OLIN E. TEAGUE,
*Member of Congress.*●

## INEFFECTIVE FEDERAL TAX SYSTEM EXPOSED

### HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. VENTO. Mr. Speaker, I rise today to commend Washington Post staff writer Art Pine for his March 27 article that so effectively refutes the common notion that our progressive Federal income tax system results in a major redistribution of income between wealthy and poor taxpayers.

Through studies by the Treasury, the congressional Joint Committee on Taxation, and the Brookings Institution, Mr. Pine has compiled statistics which clearly indicate that taxpayers in all brackets realize about the same portion of the Nation's total income distribution after income taxes as they had before.

This analysis certainly lends credence to the view that the progressivity of our Federal income tax system is not what it is commonly thought to be. Mr. Speaker, I insert this article into the RECORD:

INCOME TAX DOESN'T REDISTRIBUTE U.S. WEALTH

The progressive federal income tax, which is supposed to hit the rich harder than it hits the poor, isn't the great income leveler that it is commonly thought to be, according to new figures.

While the income tax does take proportionally more from wealthier taxpayers than from less affluent ones, it has relatively little effect on the distribution of income in this country.

It's only when government "transfer payments"—such as Social Security benefits, welfare and other major programs—are included that the system actually shifts significant amounts of income from the rich to the poor.

And even that is offset to a large degree by the impact of federal Social Security taxes and state and local taxes. When all federal, state and local taxes and benefits are considered, the system is only virtually proportional—with most taxpayers bearing about the same tax burden.

These conclusions are based on statistics compiled from several sources—the Treasury, the congressional Joint Committte on Taxation and computer studies by the Brookings Institution. Experts caution that the figures are not precise, but they're the best that are available.

The ineffectiveness of the federal income tax system in redistributing income stems from its basic structure:

Although wealthier persons are taxed at higher rates than poorer ones—and pay the lion's share of the total income tax tab—taxpayers in almost all brackets wind up with roughly the same portion of the nation's income pie after income taxes as they had before.

A major reason is that while the effective tax rates vary somewhat for persons in different income brackets, they aren't sharply higher or lower except for those in the very top or bottom brackets—groups that may be extremely rich or poor but comprise relatively small numbers of taxpayers.

For the large group of taxpayers in the $10,000 to $30,000 income bracket the effective federal tax rates vary very little, from a low of 9 percent to a high of 13.8 percent. Above that, the rates rise to 17, 24, 29 and 30 percent—but only 5 percent of taxpayers fall in that group.

The figures provided by the Joint Committee on Taxation show these results:

The richest one-fourth of American households—those with incomes of $17,000 a year or higher—took home 55.5 percent of the income in this country in 1977. After federal income taxes, they still had 53.2 percent. This is so despite that fact that they paid 74.3 percent of all personal income taxes.

The poorest one-fourth—wage earners making less than $5,000 a year—received 4.6 percent of the income that year. After federal income taxes, their share rose to 5.2 percent. (These taxpayers paid less than 0.1 percent of personal income taxes.)

Those in the richest 5 percent of the country—taxpayers with incomes of $30,000 or more—earned 22.1 percent of the income in 1977. After federal income taxes, they still had 19.7 percent of all income. (These figures include all income from capital gains—profits from the sale of stocks or other assets.)

The richest half of American households received 82.1 percent of all income before taxes. After taxes, they still held 80.4 percent. For the poorest half, the income tax boosted their share only modestly, to 19.6 percent, from 17.9 percent before taxes. (The dividing point between these groups was an income of $10,000 a year.)

Moreover, figures compiled by Benjamin A. Okner, a former Brookings tax specialist now at the Treasury Department, show that when all federal, state and local taxes are taken into account, even this modest income redistribution is almost totally offset.

Using 1970 income levels, Okner has estimated the share of national income held by the poorest fifth of the population edges from 4.9 percent to 5 percent, while that of the richest fifth moves from 45.8 percent to 44 percent.

The biggest changes stem from government transfer payments, such as Social Security and welfare benefits. When these are included, the income share of the poorest fifth of the population nearly doubles, to 8.2 percent, while that of the richest fifth moves from 45.8 percent to 44.

FEDERAL INCOME TAX DISTRIBUTION UNDER 1977 LAW FOR 1976 INCOME LEVELS

Filers earning under $10,000: Represent 50 percent of all filers; receive 17.9 percent of all income before taxes; pay 5.7 percent of all taxes; end up with 19.6 percent of all income after taxes.

Filers earning over $10,000: Represent 50 percent of all filers; receive 82.1 percent of all income before taxes; pay 94.3 percent of all taxes; end up with 80.4 percent of all income after taxes.

Filers earning over $17,000: Represent 25 percent of all filers; receive 55.5 percent of all income before taxes; pay 74.3 percent of all taxes; end up with 53.2 percent of all income after taxes.

Filers earning over $30,000: Represent 5 percent of all filers; receive 22.1 percent of all income before taxes; pay 39.3 percent of all taxes; end up with 19.7 percent of all income after taxes.

Source: Joint Committee on Taxation.

These findings were bolstered in an updated study by another Brookings tax analyst, Joseph J. Minarik, using 1977 data. Minarik found the federal income tax burden varied only slightly last year for households in the $17,000 to $50,000 brackets—ranging between 10 and 17 percent.

When the employe's share of Social Security payroll taxes and state and local taxes of all sorts were included, the figures showed the tax burden is proportional for most of the nation's households. Everyone in the $8,000 to $50,000 categories paid roughly 30 to 32 percent of his income in taxes.

The reason is that the mild progressivity of the federal income tax is offset entirely by Social Security and state and local taxes, which tend to hit lower-income families proportionally harder. State and local sales and excise taxes, for example, took 3.8 percent of a $50,000-a-year family's income in 1977, but 10.7 percent of the earnings of a $5,000-a-year household.

Minarik's study shows that the federal income tax has become somewhat more progressive in the past 11 years—both because of recent changes in the tax law and the fact that inflation has pushed taxpayers into higher brackets, where their income is taxed more heavily. And taxpayers in all groups are paying proportionally more in taxes.

However, the increased progressivity in the federal income tax has been offset by the rising share of the tax burden going to Social Security and state and local taxes. As a result, the total tax burden—federal, state and local—still is proportional.

The combination of these figures appears to dispute one of the long-standing impressions about the federal income tax—specifically that it is so progressive that it results in a major redistribution of income between wealthier taxpayers and poorer ones.

Joseph A. Pechman, the Brookings Institution's top tax expert, says the effect of the income tax is redistributing income is small. "Substantial redistribution through the income tax system is not very popular," he notes. Other tax authorities agree.

Nevertheless, conservatives point out while the impact of the income tax is altering the portion of the income pie held by various categories of taxpayers may seem small in percentage terms, it often can mean substantial dollar losses for some taxpayers.

For example, for taxpayers in the $17,000-a-year bracket and up, the income tax produces a shift of only 2.3 percentage points. In dollar terms, however, that amounts to a change of $22.3 billion—or an average $5,000 a taxpayer.

By contrast, for those in the $5,000-and-below brackets, the income tax produces a gain of 0.7 percentage points. However, because there are so many more taxpayers in that category, the already scant amount is spread even thinner. The increase amounts to $263 a taxpayer.

Along with the fact that the tax rates vary so little for the bulk of American taxpayers, there are other factors that tend to reduce the impact of the income tax system in shifting income between rich and poor taxpayers.

To begin with, the tax rates so often cited—the 14 to 70 percent minimum and maximum—are only the marginal rates, and do not apply to all of a taxpayer's income. (The first several thousand dollars is taxed at a lower rate than the second, and so on.)

As a result, the effective tax rates that various income groups pay—the percentage of income that taxpayers actually pay in taxes—is substantially lower, ranging from 5.5 percent in the $5,000-to-$10,000 brackets to a maximum of 30 percent in the $200,000-and-over bracket.

Then, too, taxpayers in higher brackets get a larger share of the tax breaks and deductions—a factor that tends to reduce the amount of taxes they have to pay. For example, only half the income from capital gains is subject to taxation.

The question is, if the income tax system is taxing middle- and upper-income groups at higher rates, and it isn't redistributing that income to the poor, where is the money going?

The answer: Into government coffers, where some is spent on social benefits (which go mainly to the poor) and some on general government. But the tax system itself, while progressive, is only modestly so.●

## OLD CITIES CRUMBLE AND DECAY

### HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, one of the most serious and least discussed problems facing our Nation's cities is the deterioration of their infrastructure. In city after city, the maintenance and repair of roads, streets and sewers is being deferred. Boston's water pipes are leaking a large volume of their fresh water supply, San Francisco's inadequate sewers resulted in numerous overflows last year and in, perhaps, the most serious incident to date, New York City's West Side Highway collapsed from disrepair.

Initially, fiscal strain resulted in a cutback of operating expenditures. When these reductions did not eliminate the fiscal problems, capital expenditures were also reduced. These reductions in capital expenditures have continued at an increasing rate. I fear our cities and our Nation face grave danger if these reductions continue.

The following is a copy of a recent article by John Herbers which appeared in the New York Times entitled "Beneath the Streets, Old Cities Crumble and Decay." I urge my colleagues to give careful consideration to the serious implications of the situation discussed in this article:

[From the New York Times, Apr. 9, 1978]

BENEATH THE STREETS, OLD CITIES CRUMBLE AND DECAY

(By John Herbers)

America's large, old cities are facing a hidden and largely ignored problem under their streets—an uncharted maze of aging water mains, sewer lines and other subterranean facilities that have deteriorated to the point where they threaten public health and safety.

A rash of recent failures in such systems, which had been neglected for decades as cities struggled to deal with an overwhelming social and financial burden, has focused attention on the threat that they represent and raised the prospect of new demands on the Federal treasury by municipalities around the nation.

Boston is losing half its fresh water through leaky pipes at a cost of $7 million a year. New York and other cities have had serious water main breaks. Inadequate sewers in San Francisco resulted in 80 overflow incidents last year in which raw sewage was flushed into the bay in violation of Federal law.

Ground water seeps into the sanitary sewers of Baltimore, overloading treatment facilities. A few months ago, a small Philadelphia boy drowned in an underpass where the storm sewers were not sufficient to handle the runoff.

Many billions of dollars would be required to update the antiquated network of pipes, cables, tunnels and manholes that strain to support an increasingly technological society.

The Joint Economic Committee of Congress, noting a decline in capital expenditures for such urban networks as streets and bridges, said in a recent report that the neglect "appears to be the single greatest problem facing our nation's cities." The new urban policy announced last month by President Carter, which called for more "targeting" of Federal funds into the central cities, was based in part on the emerging realization that new outlays are needed to rebuild the urban underground.

However, the extent of the need is not yet known nationally because many cities do not know what is in the complex of wires, pipes, cables, tunnels and conduits under their busiest arteries or exactly where that complex is. The original plans have been lost in some cases and have grown inaccurate in others as facilities were expanded haphazardly. The conditions of some systems becomes known only when trouble bubbles to the surface.

To assess the problem nationally, the Department of Housing and Urban Development has commissioned the Urban Institute in Washington to conduct an 18-month study and to report its findings as it proceeds.

CITIES ON "TIME BOMBS"

George E. Peterson, director of finances for the institute and the head of its study, said that the extremes range from East St. Louis, Ill., where the state took over the dilapidated city infrastructure, to Dallas, where computers are used to find failures before they happen. In between, he said, are a lot of cities sitting on "a time bomb."

A spot check of some large and intermediate cities around the country by The New York Times disclosed that the trouble has been building for a long time. In most of the nation's larger cities, sewer and water lines were laid in the 19th century or early in the 20th century, and some of them had a life expectancy of 50 to 75 years.

In the 1930's, when modernization should have started, the Depression struck. In the

1940's there was World War II. In the 1950's the cities began devoloping financial trouble as the white middle-class started moving to the suburbs. In the 1960's the demands were for solutions to social problems and in this decade the emphasis has been on the employment of the poor and on public works projects usually unrelated to the infrastructure.

The extent of the neglect is suggested in a report issued last year by the Twentieth Century Fund for the City of New York, where facilities both above and below ground have reached a critical stage. For example the report said that in addition to extensive work needed on streets and bridges, the city had 1,000 miles of deteriorating sewers that should be replaced over 20 years. It suggested that 1,500 miles of new sewers be built at a cost of $310 million a year. The list of problems with other facilities was similar.

WATER MAINS

Many cities have cast iron water mains that have been weakened over the years by electrolysis or by acid in the soil. Boston, which began laying iron water mains in the 1840's, has a system that carries 150 million gallons of water a day, but loses 78 million gallons a day through leakage. Charles Scales, chairman of the water and sewer commission, said that the entire system should have been replaced, "ideally, yesterday." But because of its financial situation the city can replace only 10 miles, or about one percent of the 1,100-mile system each year.

Houston, a newer city where pipes were laid after the turn of the century, is better off. It loses only 20 to 30 percent of its purified water, but that still totals more than 70 million gallons a day. And because it is low and flat, Houston has received about 3,600 water-damage complaints this year—complaints that leaks have destroyed lawns, undermined sidewalks and caused driveways to cave in.

"In this neighborhood, if there isn't a leak somewhere, we wonder," said Stanley Gafner, who lives in a middle class section of southwestern Houston.

Then there are the spectacular breaks, such as the one that occurred last January at 63d Street and First Avenue in New York City, closing the Franklin D. Roosevelt Drive. In Cleveland, a similar break in a February snowstorm left an area of several blocks of the city isolated for several days.

SEWERS

San Francisco, like a number of other cities, has a combined sewage system—one pipe for both rainwater and human waste. In a storm the flow can grow to 50 times the normal rate. S. Myron Tatarian, director of public works, said that when there is heavy rain, water and raw sewage pour directly into the ocean and bay, bypassing even primary treatment.

"This city ignored changing technology for 30 years," he said. "Bacteria levels in the bay are enormous."

San Francisco is building a system of conduits to hold the sewage in heavy rains and is planning more treatment plants; but in Providence, R.I., which also has a combined system, there is another kind of difficulty and no solution in sight. In recent years low-lying areas of the city have been flooding after every rainstorm and the city is unable even to clean the sewers to obtain maximum flow.

"It would take 10 years to clean up all the sewers in the city," said Joseph Vileno, an official in the Mayor's office.

SEWERS CANNOT HANDLE RUNOFF

Baltimore has had flooding, too, because its storm sewers, which serve the entire metropolitan area, cannot handle the runoff that has resulted from extensive development in the suburbs, according to Frank Kuchta, director of public works. It is a problem common to many cities that supply their suburbs with water and sewage disposal.

"When those sewers were built," said Philadelphia's Water Commissioner, Carmen Guarino, "you didn't have all the blacktop all over. Now, there's no place for the water to permeate. It all winds up in the sewers, and we haven't kept pace."

Deterioration of the sewer lines is an additional difficulty. In Boston, the main interceptor, where the pipes meet, has collapsed four times since 1961. There has been a gaping hole more than 20 feet wide in Massachusetts Avenue since the last collapse, in October.

THE MAZE

More than money is involved in correcting the difficulties. Major disruptions of urban life would be required to repair some of the decay, partly because of underground congestion.

Only one major city, Memphis, is reported to be attempting to keep in one place maps of all its underground facilities. In the oldest cities it would be impossible because of what Charles Borruso of New England Telephone Company in Boston called "the morass of congestion."

"A guy couldn't crawl through there," he said. "If you took all the dirt out, it would look like a set of monkey bars."

GROUND X-RAY MACHINE NEEDED

Theodore Andriotes, head of the bureau of operations for Baltimore, said, "I often thought if someone would invent a ground x-ray machine so we could see what all we have down there, he would clean up."

Under New York and Boston there are abandoned pipes and cables from the last century. In some places, steam pipes that heat up nearby telephone cables and cause trouble. In many manholes, there is not enough room for cables to expand and contract. In Pittsburgh, contractors on a new office building had to weave the foundation around an unused railroad tunnel and an underground spur of the long abandoned Pennsylvania Barge Canal. In Boston, there are sealed off subway tunnels including a circuitious one known as the Burma Road.

FEDERAL AID

Not all cities are overburdened by troubles underground. Dallas, in addition to using its computerized system to forecast failures, has established a regular replacement and maintenance program. Such cities as Chicago, Detroit and Dayton, Ohio, which have multiple social problems above ground, have reasonably efficient infrastructures. But over-all, Federal and local officials say, replacement and repair are not moving fast enough.

"Out of sight, out of mind," said Mr. Guarino of Philadelphia.

Most Federal aid has gone for other purposes. Since 1972, the Environmental Protection Agency has spent more than $17 billion on sewage treatment plants but little to repair or replace the lines leading to the plants.

AGENCY PUSHES FOR IMPROVEMENTS

The agency is using leverage to push the cities into financing their own improvements. For example, it has been holding up the financing for a plant in the southeastern section of Philadelphia until the city agrees to provide sewer lines that would end the infiltration of ground water which requires additional capacity at the treatment plant. The city says it would take 10 years to make the requested repairs on its sewers, and the dispute has not been resolved.

President Carter's new urban policy is designed to provide some help. It calls for redirecting some funds from rural and suburban areas to help cities with their infrastructure. But at best, this would be only a fraction of what is needed, and the city officials are looking for help.

"Unless significant additional amounts of state and Federal aid can be obtained," said David Rossman, the former New York City budget director who headed the Twentieth Century Fund study, "the city faces a decade of serious deterioration in its vital physical support systems."

## CARTER GETS GOOD GRADE

### HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

Mr. EDWARDS of California. Mr. Speaker, observers and analysts traditionally begin on election night with evaluations and predictions of and about Presidents-elect seldom waiting until the President-elect has been in office for any length of time, let alone until inauguration day to publish their words of wisdom and presumably be the first on record to be able to say "I told you so."

I do not think it takes a scholar to possess the kind of patience, temperance and good judgment usually reserved to "give a guy a chance" before announcing Presidential evaluations, but it certainly does not hurt.

Prof. Reo M. Christenson of Miami University has written a letter to the editor of the Washington Post on April 11 which displays the sort of intellectual open-mindedness which I think many of us could benefit from in our haste to judge, at the earliest possible moment, the performance of President Carter, or for that matter, any new officeholder:

A PROFESSOR'S GRADE FOR CARTER: B TO B+

I have been teaching a course on the presidency for many years and naturally follow Carter's administration closely. That doesn't validate my opinion, but it seems to me that Carter is a more capable president than his critics concede.

It takes any president 12 to 18 months to get comfortable in the saddle; allowances must be made for that—and especially for a non-Washingtonian like Carter. But as things look now, his proposed programs have almost invariably been intelligent ones, although necessarily constricted by the fiscal bind and the antigovernmental temper of the times. (And conditioned by the harsh fact that no one—including Carter's critics—has good answers for today's most pressing problems). Certainly those programs are better than Congress is usually willing to accept! And Carter is apparently learning how to deal with that unruly body, judging by his extraordinary efforts on the Panama Canal.

His human-rights posture has yielded modest gains, perhaps as much as we could realistically expect. He seems to be a competent administrator, willing to delegate authority to good people. On the latter point, his selection of people like Andrus, Califano, Young, Schultze, Marshall, Krebs, Strauss, Eisenstadt, Powell, Miller and Webster suggests that he is better at judging political horseflesh than most of our presidents have been.

Carter is a man of decency and integrity—and it is about time we focused on what he does, rather than harp endlessly on the contrast between what he promised and what he now finds it possible to do. When he defaults on a promise, that should not be ignored, but it is really much less important than the quality of what he *does* produce. He is an intelligent and thoughtful person, he works hard, and he has a pretty good feel

for public sentiment. While his speeches are mostly so-so, his best ones have been pretty good. Finally, he has exercised admirable restraint in responding to his condescending and often brutal detractors.

As I survey those characteristics and this performance, I'd say Carter rates a B to B+. Are the press and his own party really giving him a fair shake?

REO M. CHRISTENSON,
*Professor of Political Science,*
*Miami University.*

OXFORD, OHIO.●

## HELP FROM BILL HUNGATE

### HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. FINDLEY. Mr. Speaker, William L. Hungate, who provided us all with abundant wisdom and wit during his service as a Member of this body from Missouri, has not let his new responsibilities as a lawyer and teacher so occupy his time that he has forgotten his old friends on Capitol Hill and the problems we face.

For example, he has written me attaching a form he thinks will be useful in answering constituent mail. It is so ingenious I want to share it with all my colleagues:

ST. LOUIS, MO.,
*April 4, 1978.*

Hon. PAUL FINDLEY,
*U.S. House of Representatives,*
*Rayburn House Office Building,*
*Washington, D.C.*

DEAR PAUL: As one fully acquainted with the efficiency level of your staff and the amount of energy they devote to your office, I thought perhaps the enclosed form would prove handy to you in answering your mail.

I see where the Congressmen are going to computers, but to me, this is much more personal.

Best wishes.

Yours sincerely,

WILLIAM L. HUNGATE.

( ) Gentlemen ( ) Dear ( ) Sir ( ) Madame ( ) Mr. ( ) Mrs. ( ) Miss ------
( ) In reference to your ( ) letter ( ) bill ( ) reminder ( ) form ------ ( ) shipment ( ) notice ( ) card ( ) invitation of --/--/--, ( ) attached
( ) Your ( ) information ( ) records is/are ( ) correct ( ) incorrect.
( ) The ( ) merchandise ( ) selection ( ) bill ( ) service ( ) other ------
( ) referred to ( ) ordered on --/--/--
( ) was not ( ) ordered ( ) wanted ( ) received ( ) as ordered ( ) as advertised
( ) was ( ) discarded ( ) returned on --/--/-- ( ) defective ( ) unsatisfactory
( ) Please send ( ) missing parts ( ) replacement ( ) instructions ( ) diagram ( ) refund
( ) I have no knowledge whatever of the matter to which you refer
( ) Future correspondence on this matter
( ) may result in legal action against you
( ) will be ignored
( ) will be referred to ( ) my lawyer ( ) my accou: tant ( ) Eetter Business Bureau ( ) District Attorney ( ) U.S. Post Office ( ) your home office
( ) The ( ) information ( ) document ( ) payment ( ) cooperation you request will not be provided because:
( ) not available ( ) request unjustified
( ) not appropriate ( ) not relevant
( ) invasion of privacy ( ) excess bother
( ) other ------
( ) I make charitable donations only through
( ) United Fund ( ) my religious activity
( ) other institutions ( ) inadvertence
Please discontinue solicitation.
( ) I support your ( ) organization ( ) opposition. ( ) I pledge $-------
( ) Please ( ) acknowledge ( ) investigate ( ) reply ( ) do not reply ( ) correct ( ) explain ( ) desist ( ) take immediate action ( ) keep up the good work ( ) see other side.
( ) Sincerely ( ) Cordially ( ) With best wishes ( ) I remain ( ) other ------ ------.

Mr. Hungate's thoughtful suggestion brings to mind a practice attributed to the late great H. L. Mencken. The editor of the Mercury was, quite naturally, flooded with correspondence unending. He devised a brief acknowledgment that sufficed for all mail. In fact, it was so clever that it relieved Mencken even of the burden of reading the letter to which it responded.

Mencken's solution to floodtide mail was a response consisting only of these words, "Dear Sir, You may be right. Yours truly, HLM." ●

## ARMS EMBARGO AGAINST TURKEY SHOULD CONTINUE

### HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. BRODHEAD. Mr. Speaker, I rise to express my opposition to the President's request to lift the arms embargo against Turkey. I do this because Turkey has not made any significant steps toward a resolution of the Cyprus problem.

In 1974, Turkish forces equipped with U.S.-supplied arms invaded Cyprus. In taking this action, Turkey totally disregarded provisions of U.S. law which prohibit the recipients of U.S. arms from using them for offensive purposes.

As a result of Turkey's illegal action, Cyprus has been a divided country. Forty percent of the island is still under Turkish military control, and about one-third of the population, both Greek and Turkish, are refugees.

In October 1975, Congress rejected a total arms embargo against Turkey under assurances from the Ford administration that progress on Cyprus would be forthcoming. That proved to be an empty promise. Today, more than 2 years later, we are again being asked to believe that the prospects for a Cyprus settlement will be enhanced by permitting the sale of more arms to Turkey.

In light of Turkey's past misuse of U.S. arms assistance and its unwillingness to come to grips with the Cyprus situation, I believe that such a policy is unwise. I urge my colleagues to join me in voting to continue the arms embargo against Turkey.●

## JOSEPH C. NETTLETON—A TRIBUTE

### HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. FLORIO. Mr. Speaker, I would like to have the following biography of Mr. Joseph C. Nettleton inserted in the RECORD as a special tribute to a man who has made many contributions for the benefit of his union and its members. Mr. Nettleton retired in January 1978, as vice president of Local 56, Amalgamated Food and Allied Workers Union, Camden, N.J.

Joseph Nettleton joined the amalgamated Food & Allied Workers Union, mated union early in 1939 with local 195 meatcutter and meat manager for the Food Fair Co. He was one of two who started organizing the meatcutters. He became a steward in 1940 with local 195.

When members working in south Jersey formed their own local 56, Joe became a charter officer, serving as its first and only treasurer from January 1941 to March 1954—at which time the office was merged into secretary-treasurer. In 1954, Nettleton was elected vice president and served continuously until his retirement.

His outstanding career exemplifies his active participation in establishing and maintaining local 56. He served as an original delegate to the Retail Joint Council since its inception, serving on the executive board; he was secretary-treasurer of the Camden-Gloucester County Central Labor Union from May 1941 to February 1978; he helped found the Union Reporter newspaper, the official mailing media of the Amalgamated Meat Cutters Unions in the Delaware Valley; and for more than 20 years, Joe served on the executive council of the State of New Jersey AFL–CIO.

Joe is a native of Camden and lived there most of his life. He attended elementary and high school in Camden and St. Joseph's College in Princeton, N.J.

He was active in community affairs, served as trustee, campaign vice chairman, and budget committee member for many years for the United Fund of Camden County.

He was cooriginator of the citizens apprenticeship program (CAP) for 9 years and the only coordinator for this CAP program under the auspices of the Camden Central Labor Union, Union Organization for Social Service, and the United Fund. The program was guiding juniors in the public and parochial high schools who volunteered to have the opportunity of becoming better informed as a future citizen.

Joe Nettleton was appointed a member of the Camden City's Planning Board. He was elected chairman of the board, and served as such for 8 years. During the time he was chairman the crisis of the famous Camden blight hearings and determination" of the planning board took place.

He was appointed a Camden City councilman to serve the unexpired term of 6 months and was elected to serve two

additional terms of 4 years each, a total of 8½ years before he resigned in 1975.

Nettleton is also active in fraternal affairs, having served through the "chairs" of the Foresters of America; Artisans OMP; past grand Knight of Columbus, Immaculate Conception Council 3512. He is a member of the Fourth Degree Knights of Columbus and served on the original Color Corps of the Fourth Degree.

In each and every position of responsibility he has held, Joe Nettleton has proven himself a quality leader genuinely concerned with his union, and his community. His career is truly commendable and his retirement is truly deserved.●

## PROXMIRE RIDICULES RESPONSIBLE RESEARCH

### HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. TEAGUE. Mr. Speaker, I wish to take task with my colleague in the other House, Senator WILLIAM PROXMIRE, for inventing outrageous headlines to ridicule responsible research. This is not a new pastime for the Senator from Wisconsin. He has engaged in these semantic simplicities on many other occasions by picking out a particular piece of research from the National Science Foundation (NSF) budget request and distorting it to make it resemble a boondoggle, financed with taxpayers' money. The latest object of Mr. PROXMIRE's belittlement is a research project entitled, "Computer-Controlled Systems for Locomotion and Manipulation," which culminated in the construction of a robot affectionately dubbed by NSF as the "Bionic Bug."

In a recent press release by the Senator criticizing "Bionic Bug" as fat in NSF's engineering budget, he mentions by outstanding reputation the principal investigator on the project, Prof. Robert McGhee at Ohio State University, but then suggests that the "Bionic Bug" would be most useful on the Ohio State football field.

I consider it irresponsible of Senator PROXMIRE to attack the research of a scientist whom he acknowledges as having a worldwide reputation for excellence in his field. Dr. McGhee is a well-known authority in the area of manipulators and powered orthopedic devices. He has for the past several years engaged in cooperative research with the Michael Pupin Institute in Belgrade, to find more efficient computational means for dynamic modeling of both human gait and artificial articulated mechanisms such as walking machines. Authorities in rehabilitative medicine believe his work will be of increasing value in developing more quantitative methods in physical medicine. Dr. McGhee's experimental study of a sensor-controlled external knee locking system, which grew out of his work on vehicular locomotion, represents, in his own words:

> The first published example of application of a micro-computer to the control of knee joint locking and unlocking using artificial sensory information.

This work now serves as the basis of a U.S. Veterans' Administration contract with one of the world's foremost experts in prosthetic devices, Professor Tomovic at the University of Belgrade. An artificial leg developed by Professor Tomovic with a self-contained microcomputer for knee joint control, will be tested this month with a patient at the VA Prosthetics Center in New York. In fact, Anthony Staros, director of the center stated:

> This is a very hopeful prospect that could be available within the next five to six years with application not only to amputees, but also to paraplegics and stroke victims. Certainly micro-processors can, in the near future, enable us to control the position and stability of lower artificial limbs and braces just as they now permit the functioning of upper extremity devices.

Mr. Speaker, I have long been concerned with the problems of handicapped people, first as chairman of the House Veterans Affairs Committee and now as chairman of the House Committee on Science and Technology. During the past 2 years two different citizen advisory panels established by the Science Committee, have reported to the Congress on how our Nation's vast scientific and technological resources might be better directed toward meeting the needs of the handicapped. These experts have just issued their final report and Dr. McGhee's work, as one example of the great potential for research to aid handicapped persons, should be applauded and not ridiculed. For millions of people who have lost the use of their legs, arms, or both, this research could offer them a new life.

Although the contribution of this research project to rehabilitative medicine would alone justify its funding, there are applications for this same research in other fields as well.

The Jet Propulsion Laboratory has expressed high interest in Dr. McGhee's project because they feel it has important implications for their work in developing machinery for the exploration of planetary surfaces, particularly on Mars. After a visit to Dr. McGhee's project, JPL scientists wrote him stating:

> Of particular interest to us was your walking machine. Your progress has been very impressive, and the potential future developments are most intriguing.

Mr. Speaker, I could continue to relate other examples of application for this NSF research project but I believe that I have clearly identified the frivolity of Senator PROXMIRE's accusation.

As representatives of the people of this Nation, it is our responsibility to insure the proper use of American tax dollars for the benefit of American citizens, but it is also our responsibility to gather all the facts and information and present them to the public in a responsive and not an inflammatory frivolous manner.●

## THE PROPOSED SALT II AGREEMENT

### HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. BEARD of Tennessee. Mr. Speaker, the structure of the proposed SALT II agreement is well known:

First. It will consist of a treaty, to remain in force through December 31, 1985, unless replaced earlier by an agreement further limiting strategic offensive arms.

Second. A 3-year protocol is under negotiation; it will be considered an integral part of the treaty. Because of the extension of the SALT I interim agreement, and the inability to conclude a SALT II agreement before the expiration date of SALT I, the United States proposes that the 3-year Protocol period be backdated to October 31, 1977, thus expiring on September 30, 1980. The Soviets proposed that the 3-year protocol period begin when the treaty enters into force.

Third. A joint statement provides the principles and basic guidelines for subsequent negotiations on the limitation of strategic offensive arms.

THE TERMS OF THE SALT II TREATY

First. Upon entering the treaty each side undertakes to limit its strategic nuclear delivery vehicles (SNDV's), consisting of ICBM launchers, SLBM launchers, heavy bombers, and air-to-surface ballistic missiles (ASBM's), to an aggregate number not to exceed 2,400.

The United States has proposed that the SNDV count be reduced from 2,400 to 2,160 from January 1, 1980; the Soviets have countered by proposing an SNDV reduction from 2,400 to 2,250 from January 1, 1981.

Second. Within the aggregate numbers each side has the right to determine the composition of the aggregates. The following limits, however, would apply.

There will be a limit of 1,320 MIRV'd systems, within the SNDV aggregate.

Another limit within the overall SNDV aggregate would provide a ceiling of 1,200 or 1,250 MIRV'd ICBM's and SLBM's.

Within the SNDV aggregate there would be a ceiling of 820 on MIRV'd ICBM launchers.

Third. *The definition of what constitutes a heavy bomber is presented by listing each side's "heavy bombers." For the United States, the heavy bombers listed are the B–52, and the now U.S. unilaterally canceled B–1. On the Soviet side the Bear and Bison are listed.

*The Soviet Backfire bomber still remains a subject of negotiation. It appears that the Backfire bomber's resolution will be left, at least in terms of official acknowledgment, to a Carter-Brezhnev summit meeting. However, the limitations on the Backfire would include a Soviet promise, in the form of a

*Indicates unresolved issue.

letter from Brezhnev to Carter, or in the form of a statement signed by both nations, not to increase the Backfire's present production rate and place collateral constraints on the system, such as a prohibition on refueling exercises, and a limitation on areas where the Backfire would be deployed. The Backfire agreement may or may not be subject to congressional approval; this will depend on the terms negotiated, and the form in which those terms will be presented.

An agreement on how to define new heavy bombers has not yet been reached, except that both sides agree that future case-by-case determinations of which types of aircraft have the capabilities and chracteristics similar to or superior to those of current heavy bombers shall be agreed upon in the Standing Consultative Commission.

The difficulty being encountered with the Backfire bomber illustrates the problems the United States could expect to encounter with any future Soviet bomber system.

Under the treaty air-launched cruise missiles (ALCM's) with ranges in excess of 600 kilometers would be limited to "heavy bombers." *Under the proposed Soviet language the United States could not unilaterally place ALCM's with ranges exceeding 600 kilometers on any aircraft—such as the FB–111 H, or a modified commercial wide-bodied carrier—other than the B–52 or the B–1. As proposed by the United States, the United States could unilaterally declare what constituted a heavy bomber so long as the carrier was counted under the SNDV aggregate.

The definition for the cruise missile range is still under negotiation. The Soviets propose that the definition be incorporated into the treaty and that the definition of range, limited to 2,500 kilometers for the ALCM, would be the maximum distance which could be covered by the missile in straight line flight in its standard design mode.

The United States has proposed, that the agreed statement defining cruise missiles and their range be placed in the protocol. The United States proposes that the cruise missile range definition be defined as the aerodynamic range.

Each side agrees not to develop, test, or deploy ICBM's which have a launch weight greater or a throw weight greater than that of the heaviest ICBM's deployed by either side as of the date of signature of the treaty.

This provision, in effect, would prohibit the United States from deploying any ICBM with a throw weight greater than Titan (8,000 pounds), and the Soviets would not be permitted to deploy an ICBM with more throw weight than the SS–18 (16,000 pounds), classed as a modern heavy ballistic missile. The United States has no ICBM comparable to the Soviet SS–18; MM III is classed as a "light" missile, with 2,000 pounds throw weight, and the Titan is an old U.S. ICBM system—deployment was begun in 1959—of which 54 are presently still deployed.

Both sides agree not to start construction of additional fixed ICBM launchers, and they agree not to relocate fixed ICBM launchers. Additionally, each side agrees not to supply ICBM launcher deployment areas with intercontinental ballistic missiles, or storage facilities, in excess of a number consistent with normal deployment, maintenance, training, and replacement requirements. The definition of normal deployment will be one missile at each ICBM launcher.

Both sides agree not to develop, test, or deploy systems for a rapid reload of ICBM launchers, a provision that can actually no longer be enforced, since they already have so-called "cold-launch" systems, and thus have, in effect, a "rapid" capability.

The United States has proposed that the Soviets agree not to produce, test, or deploy the SS–16, a mobile ICBM; this agreement would include an understanding not to produce the missile's propulsion system, the reentry vehicle, and its guidance system.

The SS–20, a mobile intermediate range ballistic missile (IRBM), which consists of the first two stages of the SS–16, could, of course, be deployed in unrestricted numbers, since it will not be covered by the SALT II agreement.

What will happen to those SS–16's reportedly already deployed in fixed silos still remains to be determined.

Both sides agree not to significantly increase (15 percent or more) the number of ICBM or SLBM test and training launchers.

A provision in the treaty is under negotiation indicating that to insure the viability and effectiveness of the treaty neither side will undertake initiatives which would circumvent the provisions of the treaty.

This provision, the Soviets are insisting, should include a prohibition on the transfer of strategic offensive arms to other States and assisting other States in the development of such systems. The Soviets intend this prohibition to include a ban on transferring components, technical descriptions and blue prints for such arms. This provision is directed primarily against the cruise missile, but it would, of course, cover other systems.

Each side agrees not to interfere with the national technical means of verification of the other, and not to take deliberate concealment measurements which would impede verification.

*Still under negotiation is the notification procedure for the Soviets and United States to notify each other of ICBM flight tests, in advance of such tests, and it would include three areas:

First. Tests which extend beyond the national territory.

Second. Tests which represent a danger to navigation on the high seas.

Third. Tests which do not extend beyond the national territory, but which could be misinterpreted and give rise to concern.

The Standing Consultative Commission, established in 1972, will be used to monitor compliance and serve as the forum for raising grievances.

*Still under negotiation is the procedure for each side listing its numbers of deployed strategic forces.

PROTOCOL

Each side undertakes not to deploy mobile ICBM launches, or to flight test ICBM's from such launchers for the duration of the protocol.

*Each side agrees not to flight test or deploy new types of ICBM's, although the Soviets are seeking one exemption.

*Each side agrees not to flight test or deploy new types of SLBM's, except that each side may have one exemption. The definition of new type for the United States is the C–4 SLBM missile and according to U.S. understanding, the new Soviet SLBM missile would be the SSN–18. Under the Soviet understanding, the new type for the United States would be the C–4, but the Soviets would be permitted to deploy not just the SSN–18, but also the SSN–18 follow-on system for their new Typhoon submarine. The Typhoon would be the equivalent of the U.S. proposed C–4 follow-on, the D–5.

Each side agrees not to flight test or deploy cruise missiles capable of a range in excess of 2,500 kilometers.

Ground- and sea-launched cruise missiles would be limited to 600 kilometers for deployment, 2,500 kilometers for testing.

*The Soviets insist that all armed cruise missiles be included within the terms of the agreement; the United States is proposing that only nuclear-armed cruise missiles be restricted under the terms of the agreement.

JOINT STATEMENT OF PRINCIPLES

First. Both sides agree to continue negotiations for SALT III, based on the principles of equality and equal security. The objective will be to reach an agreement on further limitations and reductions in numbers of offensive strategic forces, including qualitative limitations.

Second. Both sides agree that further reductions and limitations will be subject to adequate verification.

*Third. Both sides agree to seek measures to strengthen stability, including the maintenance and enhancement of the survivability of permitted strategic offensive forces, and further limitations on those strategic offensive arms most destabilizing to the strategic balance.

Fourth. The following items remain under negotiation for the principles:

Reductions in the numbers of strategic offensive arms to levels not to exceed an agreed aggregate number in the range from 1,800 to 2,000, and an agreed aggregate number in the range from 1,000 to 1,100 for launchers of missiles equipped with MIRV's.

A sublimit on the number of launchers of ICBM's equipped with MIRV's.

A reduction in the number of launchers of heavy ICBM's.

Restrictions on the development, testing, and deployment of new ICBM's, and on modifications to existing ICBM's.

Restrictions on the number of flight tests of ICBM's and SLBM's.

Further restrictions on strategic defenses, including air defenses and civil defenses.

Further limitation and reduction strategic offensive arms, taking into account all factors that determine the

*Indicates unresolved issue.

strategic situation, including such factors as differences in the geographic situation of the parties, the existence of forward-based nuclear systems, the possession of nuclear weapons by U.S. NATO allies.

Radical solution of the question of forward-based nuclear systems and carrier-based aircraft in the vicinity of the territory of the U.S.S.R.

Further measures for qualitative limitation of strategic offensive arms, including the question of the prohibition of new types and systems of such arms, as well as agreed limitations on modernization of existing strategic offensive arms.●

## COMMISSION TO PLAN FOR FUTURE LAND USE ALONG THE POTOMAC RIVER

### HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. FISHER. Mr. Speaker, the Potomac River is one of the most interesting and beautiful rivers in the eastern United States. As the main stem of the river runs between Maryland and West Virginia and Virginia, it changes from a wide and bucolic body of water to raging white water and dramatic falls. The shores of the river and the surrounding area are as compellingly beautiful and beguilingly changeable as the river itself.

But the setting for this scenic and historic river is fragile. The pressures for development and recreation use of the river shore are coming to the Potomac as they have come to many parts of the countryside within reach of urban areas. The problem inherent in these pressures is not so much in the changes that they engender as in the possibility that a lack of forethought and planning will result in unattractive and inefficient development and needless loss of access to the river.

Much of the attraction of the Potomac shoreline is found in the diversity of the uses along the shore. Farming and other private land uses contribute greatly to the character of the area. Boating, hiking, fishing, and so on are among the activities through which the public can enjoy the shoreline and its environs. To insure that this diversity continues and that public and private interests are respected a forum is needed to bring these interests. I am introducing a bill entitled the Potomac River Shoreline Commission Act to provide such a forum for the landowners and residents of the river area, outdoor enthusiasts, naturalists, and government at all levels to discuss common problems concerning the Potomac River shores and attempt to formulate common goals for their protection and appropriate use.

The bill will establish a Potomac River Shoreline Commission to prepare an advisory plan for the river and its shoreline between Washington and Cumberland. The 30-member commission will consult with local, State, and Federal bodies charged with responsibility for the river area. In preparing its plan the commission will hold public hearings in the affected area. The plan, which will take effect only through the actions of governmental bodies at all levels, will recommend a cooperative effort between all levels of government and private interests, with each doing what it does best.

The Potomac River Shoreline Commission will have five citizen representatives from each State that borders the main stem of the river, one from the District of Columbia, five at-large public members with an interest in outdoor activities and conservation, one representative from each State government and the District of Columbia, and one member each to represent the C. & O. Canal Historical Park Advisory Commission, the Interstate Commission on the Potomac River Basin, the Environmental Protection Agency, the Army Corps of Engineers, and the Department of the Interior. Not only are the non-Government members a majority of the commission, but at least one member from each of the States and the District of Columbia must be present in order for a quorum to be constituted.

The bill lists the elements that must be included in the plan that the commission will develop. These elements include a statement of the values that the plan is intended to protect and that will guide the planning; a proposed boundary map of the area to be covered by the plan; a description of the role of local officials and citizens in the planning and management of the area; recommendations for land use and conservation; recommendations for the coordination of local, State, and Federal programs and policies with each other and with private interests; recommendations for places where public use will be allowed; recommendations for financing the plan; and recommendations for the way the plan for the area should be managed.

The recommended land use and conservation element is to cover several issues. It will identify locations which are either ecologically fragile or important because of their potential for wildlife, recreation, and scenic beauty. Land management techniques such as easements, public access agreements with private owners, and other methods that will enable the goals of the plan to be implemented will be spelled out in this part of the plan. The land-use element will also provide for the protection and promotion of such existing uses of the area as farming and forestry and those industries and other developments which are consistent with the purposes of the plan. The final feature of this will also provide standards for recreational use of the river, which will indicate, for instance, the kinds of uses that are appropriate for various sections of the river.

The bill provides for the commission to hire an executive director and an independent staff. In addition, the commission may request assistance from the Department of the Interior.

The plan is to be submitted to the States along the main stem of the river, the District of Columbia, and the county governments along the river within 2 years. These bodies will have 60 days to submit their comments on the plan to the commission. After another 60 days during which the commission will make adjustments in the plan based on the comments, the plan will be submitted to Congress. Congress would then have to act to implement the recommendations for Federal action in the plan. The recommendations for State or local government action will have to be implemented by those bodies.

A commission made up primarily of local residents of the shoreline area, appointed by their Governors with the advice of their county governments, will decide what it wishes to accomplish in recommending a plan for the area, and will, in fact, decide what the boundaries of the area should be. The plan will spell out the roles of the local, State, and Federal governments in managing and protecting the area. It will make recommendations for future uses of the shoreline area, taking into account present and future private uses of the land.

In every step of the process the public will be involved, through their representatives on the commission, through open meetings of the commission, and through public hearings sponsored by the commission. The commission is charged with consulting with governmental bodies at all levels, and with organizations and interested people as it progresses in its work. Furthermore, the product of the commission will be advisory with no other powers until the appropriate governing bodies have acted.

Although there have been legislative proposals dealing with the Potomac River in the past, this bill is a new approach and should be studied on its merits. It is the result of consideration of testimony at hearings on the earlier, different proposals and of comments on drafts of the present proposals from many affected organizations, local governments, and individuals. I think that the time has come for people interested in the river area to work together on protecting it and thinking about its future. In this way the natural beauty and pleasures of the Potomac as we know it today, along with appropriate uses, will be available for generations to come.●

## McKINNEY BILL WOULD AID RESTORATION OF HISTORIC AREAS

### HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. McKINNEY. Mr. Speaker, a precious part of our country is going to waste. All across America, historic homes and neighborhoods are falling into a deplorable state of decay. These buildings, invaluable reminders of our national heritage, are collapsing and often being replaced by stark, soulless structures which cannot hold a candle to the beauty

and architectual excellence of their predecessors. To successfully battle urban blight, a medium must be struck. We must balance the occasional merits of replacement with the more beneficial practice of rehabilitating existing historic structures.

Lately, the trend in urban renewal has been leaning more and more in the direction of rehabilitation. According to Department of the Interior supplement 11593, "National Benefits of Rehabilitating Existing Buildings," the repair and alteration or renovation of nonresidential buildings has grown to nearly $19.9 billion this year. The rehabilitation of residential property may reach 38 percent of the market, or $32 billion. In all, about $52 billion, about 32 percent of all construction dollars, will be spent on the rehabilitation of existing buildings. Congress has responded to this sharp increase by enacting section 2214 of the Tax Reform Act of 1976. This new provision, for the first time, allowed those other than the original owners of certified historic structures the election to deduct from their taxes, over a 5-year period, the cost of rehabilitation with their otherwise allowable depreciation deductions.

An example of the effectiveness of this proposal can be seen in the following hypothetical case documented in "The New Economics of Rehabilitating Older Buildings": Mr. Danford, an unmarried accountant who earns $26,000 a year (which places him in a 40-percent tax bracket) decided to buy a residence as rental property. The house and land which he purchased for $30,000 ($10,000 for the land plus $20,000 for the building are located in a National Register Historic District. Mr. Danford spends $35,000 to rehabilitate the exterior of the house and converts the interior to three rental units. Mr. Danford filled out the Certification of Significance Within a Historic District and Certification of Rehabilitation sections of the National Park Service Tax Reform Act application, sent both to his State Historic Preservation Office, obtained the necessary certification and procedeed to prepare his tax return.

Using the 200-percent accelerated depreciation method allowed for "substantial rehabilitation" of residential rental property under the 1976 Tax Reform Act, Mr. Danford can depreciate the $20,000 cost of the house as well as the $35,000 rehabilitation cost. Assuming a 25-year life on the property (property lives are set by IRS tables), Mr. Danford can deduct $4,400 from his first year tax return. The mathematics involved proceeds as follows: the $20,000 cost of the house is added to the $35,000 cost of the rehabilitation ($20,000+$35,000=$55,000); assuming a 25-year life for the property ($55,000/25), and using the 200-percent accelerated depreciation ($55,000÷25×200%=$4,400). Because Mr. Danford is in a 40-percent tax bracket, his taxes will be reduced by $1,760 ($4,400×40%). Under the old law, the maximum first year deduction would have been $2,750 ($55,000÷25×125%) for a tax savings of only $1,100 ($2,750×40%). Thanks to the Tax Reform Act, Mr. Danford will pay several hundred dollars less in taxes—a significant incentive to rehabilitate.

While this is a step in the right direction, this provision is available only to building owners who can use depreciation allowances, like Mr. Danford who used his building as rental space; and this in effect, rules out almost all noncommercial owners. The bill which I have proposed would extend this useful tax treatment to the private owner of a certified historic structure. It will allow individuals to deduct from their taxes that amount which would normally be deducted as a depreciation allowance. The taxpayer may use the equivalent of a depreciation allowance or he may deduct his certified rehabilitation expenditures over a 5-year period.

As I see it, the net effect of this proposal would be threefold: The enhancement of urban renewal projects, the preservation of the Nation's historical heritage and the restoration of available living space. I would remind my colleagues that enactment of this proposal holds great potential since there are over 1,000 eligible districts in the Nation.

It should be remembered, however, that buildings which qualify as certified historic structures are often in need of repair. More often than not, these buildings need painting, plaster work, surface refinishing and repair of facades and grill work, jobs which frequently require the work of highly paid skilled craftsmen. Any relief which can be provided to homeowners or the owners of any noncommercial historic buildings cannot help but add to the beautification and restoration which is needed in so many parts of this country.

Action has been taken to aid homeowners who wish to rehabilitate certified historic structures. On March 29, 1977, Senator STROM THURMOND introduced S. 1158 which would provide noncommercial rehabilitation election. S. 1158 is currently pending before the Senate Finance Committee where it has received a commitment from Chairman RUSSEL LONG (D.-La.) to be brought up as a floor amendment in the spring.

According to Senator THURMOND'S statement (CONGRESSIONAL RECORD page S5034),

> The early implementation of this provision is essential, as it triggers the deadline provisions of section 2124 . . . In other words, to utilize the provisions of this bill, an owner must act before June (15,) 1981 to begin restoration of his structure.

While my bill is similar to Senator THURMOND'S, I intend to add a provision which will extend the life of section 2124 so that homeowners and owners of other noncommercial structures will be able to take advantage of section 2124 for a longer time than is now possible.

My experience as a member of the District of Columbia Committee and on the Subcommittee on Banking and Finance which dealt last year with New York City's fiscal crisis has made me aware of the need for and the potential of rehabilitation in American cities. By allowing tax relief for private homeowners who rehabilitate their historic homes, we are providing a much needed incentive. Urban renewal cannot stop with the commercial owner. For a comprehensive urban rehabilitation program to succeed, it must encompass every sector of the urban community, both business and private. This bill is designed to further speed the cause of urban renewal begun by section 2124 and in the end, transform many currently decaying historical districts into living monuments to the enduring quality of urban life.●

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## THE SUNSHINE STATE DECLARES "SUN DAY" AS A DAY FOR SOLAR INFORMATION

### HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. PEPPER. Mr. Speaker, we are all familiar with the efforts of this country to meet its present energy demands and to call upon alternatives to meet the demands of the future. It is exciting and encouraging to realize that solar energy technologies which were virtually unknown by most of us several years ago, are now drawing more public attention each day as viable means to meet many of our energy needs. In keeping with this greatly increased public interest and awareness, and with the natural enthusiasm of our educational institutions, our Governor, the Honorable Reubin Askew, and his cabinet issued an executive resolution calling for solar exhibits and demonstrations in the schools and universities of the State on "Sun Day," May 3, 1978.

This is a timely and very significant way to bring solar technology to the public, and the resolution notes the vehicle provided for such demonstration projects as Public Law 95–93, which provides for academic credit for community services projects undertaken by our young people. I hope that other States may follow the Florida initiative; the resolution and the Governor's actual "Sun Day" proclamation follow:

Whereas, May 3, 1978 has been proclaimed as Sun Day in the State of Florida; and

Whereas, Public Law 95–93, The Youth Employment and Demonstration Project Act, signed into law August 5, 1977, provided that academic credit for community services projects be allowed for youths; and

Whereas, this act includes solar energy devices made of cost free recycled materials, in the definition of community services projects; and

Whereas, it is possible for students at all grade levels to construct effective and efficient solar flat plate collectors from recycled waste materials, or to construct such other solar demonstration projects as may give students a basic introduction to the fundamentals and potentials of solar energy;

Now, therefore, be it resolved, that the Governor and Cabinet of the State of Florida urge all State private and public schools and universities to encourage the construction of a Sun Day, school, demonstration exhibit and hereby make available, at no charge, instructions and information regarding solar collectors and projects through the Environmental Education Office of the Department of Education.

In testimony whereof, the Governor and Cabinet of the State of Florida have hereunto subscribed their names and have caused the Official Seal of the said State of Florida to be

hereunto affixed in the City of Tallahassee, Florida on this 6th day of April, A.D., 1978.

REUBIN O'D. ASKEW,
*Governor.*

COSIGNERS

Cabinet of the State Florida—Secretary of State, Bruce A. Smathers; Attorney General, Robert L. Shevin; Comptroller, Gerald A. Lewis; Treasurer, Bill Gunter; Commissioner of Agriculture, Doyle Conner; Commissioner of Education, Ralph D. Turlington.

PROCLAMATION

Whereas, the energy demands of Florida are presently growing at a rate which would require by the year 2000 six times as much energy as currently needed; and

Whereas, the energy sources now supplying the State's demands are becoming increasingly scarce, and more costly; and

Whereas, the energy resources available to the citizens of Florida must be preserved and are vital to the future; and

Whereas, the utilization of solar energy offers the measure to lessen dependence upon ever dwindling fossil fuels; and

Whereas, broad use of solar energy in Florida must be stimulated by increased public awareness, both now and in the future; and

Whereas, May 3, 1978 will be observed throughout the Nation as Sun Day, a day to observe the importance of the new era of mankind's primal source of energy, the sun; and

Whereas, during the observance of Sun Day, activities will be sponsored by the Florida Solar Energy Center focusing attention on solar energy;

Now, therefore, I, Reubin O'D. Askew, by virtue of the authority vested in me as Governor of the State of Florida, do hereby proclaim May 3, 1978 as

SUN DAY

in Florida and urge that citizens participate in observances designed to inform the public about the program connected with solar energy.

In witness whereof, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capital, this 13th day of March in the year of our Lord nineteen hundred and seventy-eight.

Attest:

REUBIN O'D. ASKEW,
*Governor.*

BRUCE A. SMATHERS,
*Secretary of State.*

## COMMENTS ON THE BUDGET FOR AGRICULTURE AND RELATED AGENCIES

### HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Ms. KEYS. Mr. Speaker, it is with great pleasure that I take this opportunity to share with my colleagues the text of the statement recently presented by President Duane Acker of Kansas State University, which is in my district, before the House Appropriations Subcommittee on Agriculture and Related Agencies. His remarks, addressing President Carter's proposed budget for the Department of Agriculture, are excellent and I highly recommend them to my colleagues' attention:

Mr. Chairman and members of the Committee, my name is Duane Acker. I am President of Kansas State University and I speak to you today on behalf of the National Association of State Universities and Land Grant Colleges.

Farmers, ranchers, owners and operators of private grazing and timberlands—the custodians of our food producing capacity and our renewable natural resources—are in a serious financial and business crisis.

On election night of 1976, I had supper with several young farmers at Anthony, Kansas. Anthony is in Kansas wheat country and near the Oklahoma border. These young farmers were in trouble. They had purchased wheat land in 1973, 1974 or 1975 for $700 to $1,000 per acre. U.S. farmers had been urged to produce. Consumers were worried about $1 bread. Our country certainly needed grain exports to aid our deteriorating balance of payments.

But by the Fall of 1976 these young farmers, who had responded to our country's expressed need and an apparent good business opportunity, were in trouble. They had voted that day for the congressional candidate each thought could best respond to their problems.

As you personally know the crisis has become more severe. Congress can respond. I would like to make six points.

1. A strong nationwide research and education program is a part of that response. We can reveal and we can teach: a) how to produce at lower costs by utilizing genetic resistance to disease, rather than or as a supplement to, the use of purchased disease or insect fighters, b) the concept of minimum tillage—saving tillage costs and sharply reducing erosion, c) how to achieve consistent production with less drought stress or disease effect, d) how to produce with less environmental risk as implied in a) and b) above, and e) how to maintain our capacity to produce.

It is important to individual family farmers, as well as in the national interests, that investments in farming operations not be unduly risked in the long run by possible recurrence of such devastating problems as southern corn leaf blight, or exotic livestock diseases.

2. The President's budget does not respond. That budget calls for an 11.1 million dollar reduction in Hatch agricultural research funds. It calls for an approximate $950,000 reduction in McIntyre-Stennis forestry research funds. It would reduce to zero funds for rural development research called for under Title V under the Rural Development Act of 1972. It reduces, by more than $9,000,000, funds available for several Extension programs, including farm safety and marketing of agricultural products, and would reduce to zero the extension rural development effort, all this at a time when the Extension endeavors in rural development are having notable impact in making rural America a better place to live and work. It provides no increase in Smith-Lever funds for Extension, at a time when Extension's primary clients are in the most serious difficulty they've faced since the 1930's. The President's budget would provide little financial help for the expanded human nutrition research program which has received much congressional support in recent sessions.

In the current fiscal year we have 46 percent fewer nutrition aides within the Expanded Foods and Nutrition Program for low income families than in fiscal year 1971. The President's budget would provide no increase in personnel for this program even though we have effectively learned the value of good nutrition and the impact this program has had on the nutritional status of low income families.

3. Enrollment in our Colleges of Agriculture across the country has increased 182 percent the last 15 years. PL 95-113, of which we witnessed the signing last fall in the White House rose garden, mandates U.S.D.A. to assume a vigorous role in strengthening undergraduate and graduate teaching in agriculture in our nation's land-grant universities. Yet there is no provision in the President's budget to implement this mandate.

4. The states, and in the case of extension, the counties, are responding, and so are commodity and farm organizations. State and local leaders vividly recognize the essential nature of aggressive, forward-looking research and education programs to stabilize and provide for the long time vigor of American agriculture, and farming and ranching enterprises.

In the area of animal health, for example, it has been my privilege to be personally involved in the provision by state legislatures of animal disease research facilities during the last decade in South Dakota, Nebraska and Kansas, at each state's land-grant university. Mississippi State University recently broke ground for a new College of Veterinary Medicine and veterinary research facility.

In Kansas, individual counties have, in two of the last three legislative sessions, sought increased mill levy authorizations to permit them to strengthen the Extension program in their counties.

The wheat, corn, soybean and grain sorghum organizations in Kansas have sought authority from the 1978 Kansas Legislature to assign $200,000 of check-off funds to an educational endeavor at Kansas State University designed to teach foreign grain buyers the good characteristics of U.S. grains.

The Extension and Research programs in agriculture and related disciplines, which have characterized and caused in large part the fantastic success of American agriculture, have long been a joint effort of the Federal and State governments and, in the case of Extension, county government. Recent legislation calls for the teaching endeavors in agriculture to be a federal-state partnership. Eyes are now pointed toward Congress to carry forward and provide leadership to these partnerships.

5. Of special concern to the long time contributions research and education can make to the stability and strength of American agriculture is the apparent decreased interest, demonstrated in the President's budget, to the formula funding of research and education programs. The budget calls for some increase in short-term grants. The benefit of these grants to help the universities respond to individual problems of high national interest cannot be argued. Yet, we all know that farming or ranching or the production and maintenance of timber and other natural resources succeeds only with stability—stability in weather, federal programs, etc. If research and education programs are to serve farmers and our other clientele effectively we need the stability and the long time strength of the Hatch-Smith-Lever, McIntyre-Stennis and other formula funds. Grants are a bit like the weather; they go up and down.

6. States have made significant progress over the past decade in providing facilities on land-grant university campuses for research programs. Yet one cannot be optimistic about the future. As university enrollments plateau and decline because of declining numbers of high school graduates and a slight drop in the percentage of high school graduates who go on to college, there is a high chance state legislatures will associate the universities' building needs with that enrollment, not fully recognizing or associating the facility needs with the significant research and extension programs headquartered at our land-grant university campuses. We urge, therefore, strong funding for research facilities at universities in support of the research programs in agriculture and related disciplines.

In summary, our charge in Agriculture and the natural resources at the universities we represent is to help our major clientele group—the farmers, ranchers and those re-

sponsible for the major renewable resources—to survive and to achieve a reasonable level of living. Our charge is also to help the students who aspire to produce our food, tend our renewable resources, or work in other professions to maintain our capacity to produce, to be well equipped for their challenging assignment. We seek your support of and continued investment in helping us meet this charge.

I would close with one illustration. A farmer from Columbia, South Dakota, appearing before the Appropriations Committee of the South Dakota Legislature a few years ago to support increased investments in agricultural research and extension said:

"1936 was a dry year. I had a $200 property tax bill and couldn't pay it. Last year was dryer. I had a $2,000 tax bill. I paid it and also had to pay quite a bit of income tax. Why? In large part this was due to the adapted small grain varieties that have been developed and released, the drought resistant alfalfa and grasses and the corn lines selected and developed for our short growing season and low rainfall. This work has been done by the Agricultural Experiment Station and the educational program that caused adoption and implementation has been done by the Extension Service."

Mr. Chairman and members of the committee, I thank you for your interest, your attention and your support. I would be pleased to respond to questions.●

## WHO'S KIDDING WHOM ABOUT FEDERAL LOAN GUARANTEES?

### HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. SOLARZ. Mr. Speaker, much has been heard in the Congress lately concerning the question of Federal loan guarantees for New York City. I would like to call the attention of my colleagues to a brief item which appeared in the New York Times and puts the whole question of Federal guarantees in a clearer perspective. The author of the article is Victor Gotbaum, a good friend of mine, a vocal supporter of New York City, and also the executive director of District Council 37 of the American Federation of State, County and Municipal Employees. That union along with the other municipal unions of New York City has already purchased over $2 billion of city bonds with some of the assets of their members pension funds.

For anyone who is looking for a brief factual account of our other Federal loan guarantee programs, I strongly urge them to read the following item:

WHO'S KIDDING WHOM ABOUT FEDERAL LOAN GUARANTEES?

(Comments by Victor Gotbaum, Executive Director, District Council 37)

If Congress votes to guarantee two billion dollars of New York City loans, it will increase the amount of federal guarantees issued next year from 81 to 83 billion dollars.

The Congressional Research Service estimates that by next year the total amount of outstanding loans guaranteed by the federal government will be 324 billion dollars.

The estimate for fiscal 1979 is 368 billion.

Two billion dollars will increase the total amount of federal loan guarantees outstanding in 1978 by six-tenths of one percent.

Who's kidding whom?

The federal government guarantees loans for home owners, multi-national and other corporations, farmers, businessmen, shippers, steel companies, students, foreign governments, new communities.

Less than two weeks ago, the Senate passed a farm subsidy bill that will cost American taxpayers two billion dollars in direct cash to the farmers and an estimated six billion dollars in higher food prices. (No comment is intended here on the merits of the bill.)

This single act of the Senate, according to the Congressional Budget Office, will raise the cost of living by one to one and a half percent in the next two years.

It will add $200 to $300 to the food bill of a New York family of four.

Let's take a quick look at some of the federal loan guarantees issued just last year, i.e.,

The FHA, 11.5 billion. Student loans, more than a billion dollars. Farmers Home Administration and Rural Electrification Administration, 8.5 billion. Maritime Administration, 955 million.

The U.S. government guaranteed interest and principal on bonds to build R.F.K. Stadium in Washington.

The Federal government has been guaranteeing loans for Americans and others for generations.

It's the right and responsibility of the government to serve its people this way.

Why should this right and responsibility end at New York City's borders?

A Wisconsin Senator leads the attack on New York City as unworthy of federal guarantees. While a Wisconsin Congressman leads the lobby for a federal guarantee of 109 million dollars in loans to American Motors Corporation.

American Motors employs 8000 workers in Kenosha, Wisconsin.

Wisconsin legislators don't attack the management of American Motors or demand that Wisconsin voters working for AMC give up fringe benefits and take wage cuts to qualify their company for federal guarantees.

The issue of loan guarantees for New York City, unfortunately, is not fiscal.

It's political.

It's too easy to generate attention by attacking New York City.

A Congressman representing agri-business and the suburbs of Disneyland comes to New York as an instant-urban-expert.

To TV cameras, microphones and reporters assembled he declares that New York must "do more" and expresses deep concern that extending federal guarantees to this city will invite national bankruptcy.

It's time to call a fact a fact. And an American city an American city.

New York is part of America. Billions of our tax dollars have gone to farmers, big business, home owners, car drivers, students, doctors and every other level of American life.

In spite of, and all during our desperate fiscal crisis we sent out billions more than we received from Washington.

Our money didn't go out with lectures, threats and demeaning attacks on the millions of other Americans who regularly receive federal aid.

Federal guarantees of New York loans will not cost the nation one cent.

No one's food bill will go up. No one's taxes will go up. No one's gas, oil, or any other bill will go up.

New York City has done more than any other city in American to reduce costs and balance its budget.

Our schools, parks, subways, hospitals, our streets and bridges have deteriorated from cuts in the people and money available to maintain them.

The simple fact is that this city is *entitled* to federal loan guarantees to help us on the road back.

The irony is that even those politicians who most loudly oppose the loans don't want New York to go bankrupt.

They just don't want to give up a good issue.

Our thanks to Senator Jacob Javits for some of the figures presented here. They were researched by the Congressional Research Service at the request of Senator Javits.

## SALT II—STATUS AND PROSPECTS

### HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. BEARD of Tennessee. Mr. Speaker, various administration spokesmen have recently stated that the proposed SALT II agreement is 90 percent wrapped up, that the remainder should be finalized in the near future, and that the Congress can expect to consider the agreement this year.

To date the negotiated terms of the proposed SALT II agreement, and in particular the terms of the protocol, in my view, are inadequate and unacceptable from the standpoint of U.S. national security interests. Even if those 10 percent of the outstanding issues are all negotiated in the U.S. favor—and they will not be—the agreement, in my view, would still be unacceptable. Yet, I also believe it is possible within the present SALT II negotiations framework to reach an agreement that would meet both United States and Soviet security requirements.

The prospective SALT II agreement will not restrict in any militarily meaningful way Soviet strategic force developments, deployments, and capabilities. The proposed terms of the SALT II agreement, however, impose significant restraints on the U.S. ability to respond to those Soviet strategic programs which pose the greatest threat to strategic stability, and the agreement threatens to prevent the United States from making those of its strategic forces that are threatened more survivable.

I have discussed many of my concerns with the proposed SALT II agreement in the past. Let me briefly highlight a few of those concerns now.

The proposed SALT II treaty, in my view, will be a bar to future meaningful arms control agreements.

Under the terms of the proposed treaty the United States will legitimize and codify the throw-weight advantages presently possessed by Soviet ICBM's.

The Soviets will be permitted a 7-to-1 ICBM throw-weight advantage, with three times as many ICBM warheads, with each warhead having an average of three times more yield. With improved accuracy, the Soviets could further fractionate the payload of their ICBM systems, and further increase their ICBM warhead numbers.

Thus, in the future, as we try to reduce the number of strategic nuclear delivery vehicles permitted each nation, the Soviets could, in fact, retain more warheads because of their throw-weight superiority.

There are also a number of Soviet weapons systems which will not be restrained by the proposed SALT agreement in any meaningful way.

The Soviet Backfire bomber, for example, will not be counted under the total number of strategic nuclear delivery vehicles permitted each side. Whether the Soviets intend to use the Backfire in an intercontinental role is less important than the fact that the bomber could be so used. Thus, to the extent the Backfire is not counted under the total aggregate permitted each nation it undermines the U.S. objective of controlling total strategic delivery vehicles permitted each nation.

With the Backfire unrestricted, the Soviets could equal or surpass the United States in deliverable megatonnage in the bomber leg of their strategic forces.

With the permitted deployment of the SSN–18 submarine ballistic missile, and its follow-on for the Typhoon ballistic submarine, the Soviets could equal or surpass the MIRV capability of U.S. SSBN's. Thus, the Soviets could equal or surpass the United States in capabilities in each leg of strategic forces, and they would do this at a time when the United States could no longer be confident that the U.S. Minuteman force could survive a surprise Soviet attack.

Under the proposed SALT II agreement, the Soviet SS–20 mobile intermediate range ballistic missile can be deployed in unrestricted numbers. Thus, the Soviets have a system which can rapidly be converted to an intercontinental ballastic missile. The SS–20 consists of the first two stages of the mobile SS–16 ICBM; by building and storing the missile's third stages the SS–20 could quickly be modified to an SS–16. More importantly, simply by reducing the SS–20's payload and by making fuel modifications, the SS–20 itself could be given an intercontinental capability.

The range restrictions on the ground- and sea-launched cruise missiles, in my view, do not seem appropriate without some concessions from the Soviet Union. More importantly, the range restrictions on the air-launched cruise missile, especially in light of the President's unilateral cancellation of the B–1 bomber, will deny the cruise missile access to many critical Soviet targets, and these restrictions will degrade the cruise missile's penetration capabilities.

These illustrations, and there are many such other examples, all point to possible serious asymmetries in United States-Soviet strategic capabilities, but they are not, in my view, central to the issue of strategic stability.

The greatest source of strategic instability is the growing vulnerability of the U.S. silo-based ICBM force—the Minuteman—to a surprise Soviet attack. By early in the next decade the United States could not be confident that Minuteman would survive a preemptive Soviet attack. This is no longer an issue of contention. With or without SALT, as Secretary of Defense Harold Brown has acknowledged, the Soviets will have this capability.

In such an attack the Soviets would also destroy the nonalert U.S. bombers and submarines. The United States, in such an attack, would lose as many as 6 to 10 million Americans and we would still face a superior Soviet strategic reserve force.

Further, our retaliatory capability would rest with those submarines that survived the initial attack, and the cruise missile which would encounter serious penetration difficulties. By contrast, the preponderance of the Soviet capability would still be in time responsive weapons.

Perhaps the threat of that U.S. retaliatory capability would deter the Soviets from ever initiating an attack in the first place, but that retaliatory capability bears no correlation with presently prescribed U.S. deterrence and defense objectives. This retaliatory capability reflects what is commonly known as a "minimum deterrence, assured destruction only" posture. This posture is premised on the belief that differences in strategic capabilities are unimportant, and its advocates hold that the view that nuclear superiority has no political or military utility. This view, however, is actually less important than the present guidelines and objectives for employing U.S. nuclear strategic forces, and the damage criteria and requirements we have prescribed for U.S. strategic forces to complete.

The United States without a survivable ICBM as part of the strategic Triad would not be able to maintain crisis stability, escalation control, essential equivalence, and all those other elements of policy now believed necessary for deterrence. These elements of U.S. strategic policy are a composite view of preceding administrations and they have served for over three decades to prevent the outbreak of nuclear war.

If we fail to redress the vulnerability of the U.S. ICBM leg of the U.S. Triad, we would place an overreliance on the SLBM fleet, a system that is not capable of being used against the total spectrum of Soviet targets. Equally significant, we would deny ourselves a hedge against a Soviet ASW breakthrough. This breakthrough could be as sudden as it would be ingenious. More importantly, with the $C^3$ vulnerability of U.S. submarines, and the fact that no more than two-thirds of the 41 submarine fleet could be at sea at a given time, the ability of the Soviets to neutralize only a portion of the at-sea submarines would seriously degrade U.S. retaliatory capabilities.

Similarly with the cruise missile, the system is susceptible to prelaunch survivability and penetration problems. It certainly could not be used against terminally defended targets, and those targets would constitute the bulk of the U.S. requirement for the cruise missile in the absence of having the ICBM.

For these and other reasons, then, we cannot fail to redress the vulnerability of the U.S. ICBM leg of the *Triad*; we certainly cannot afford to codify this vulnerability into a future SALT agreement.

The proposed SALT II treaty prohibits either nation from constructing new fixed ICBM launchers. The principle behind this proposed term is to stop both the United States and Soviets from deploying more strategic missiles.

The problem, however, is that we are trying to control missiles by controlling silos. Unfortunately there is no direct correlation between the two. Without verifiable restraints on missile development and production we cannot control missiles since missiles, especially those with a cold launch capability, can be launched from cannisters from anywhere the Soviets might want to launch them.

Conversely, if the United States can adequately verify Soviet strategic missile development and production, then there should be no real reason to be concerned whether they are deployed in a fixed or mobile mode, unless the United States wanted and had the capability to destroy those Soviet silos in a first strike; this, however, is not a U.S. objective, and the United States does not possess such a capability. Silo limitations would deny the Soviets the ability to deploy their extra missiles in those silos in which missiles are already in place, but their extra missiles could still be used for launching from cannisters or reload in the fixed silos.

By contrast, by permitting each nation to deploy mobile ICBM's, the problem of verification for missile development and production would not be changed. But the ability of both nations to deploy mobile ICBM's would prevent either nation from credibly attacking and destroying a sufficiently large number of the other side's mobile ICBM's in a first strike. Thus, mobility for ICBM's would actually enhance rather than undermine strategic stability.

In short, if the United States can verify Soviet ICBM development and production within a satisfactory margin of error, ICBM mobility would contribute to deterrence. If the United States cannot adequately verify Soviet ICBM development and production, then those missiles would still be produced and stored, and therewith could be used whenever the Soviets wanted to.

The real threat to strategic stability, in point of fact, comes from the Soviet capability to neutralize the U.S. Minuteman force; the United States does not have a similar capability. Thus, it is the United States, and not the Soviets, which needs to deploy a mobile or multiple aim point ICBM system. A SALT II ban on constructing new fixed ICBM launchers thus works against the United States, because a future survivable U.S. ICBM system might require the construction of additional launchers for redundancy, and to insure survivability; the above SALT provision would preclude that option.

The SALT II Protocol would also ban testing and deployment of a mobile ICBM, for the duration of the protocol. This provision was put in at U.S. insistence, not Soviet insistence.

The U.S. rationale is that this prohibition would stop the Soviets from deploying their mobile SS–16 ICBM. As pointed out earlier, unless we constrain the mobile SS–20 ICBM—which we will not—this provision will only hurt the United States. Moreover, since the United States cannot credibly threaten Soviet ICBM silos it is unlikely the So-

viets would trade in their more capable silo-based ICBM systems for the SS–16, especially since they can deploy the SS–20 in unlimited numbers.

Even if it is correct, that the United States will not test the so-called MX system—and by that I mean the concept to develop a more survivable ICBM—the Soviets, and the U.S. arms control community, will undoubtedly insist that this provision be incorporated into a future SALT III agreement. Thus, the provision serves no useful purpose, and it poses many serious future problems.

For that reason I believe it is essential that the SALT II agreement explicitly provide for the counting and deployment of mobile ICBM, and that the provision in the protocol, put in at U.S. insistence, which bans the testing and deployment of a mobile ICBM, be eliminated.

An agreement which stated:

The development and testing of ICBMs for the purpose of allowing their deployment and launching from multiple aim points is allowed. The concept of deployment at multiple aim points includes ICBMs that are mobile and also ICBMs that are deployed at several redundant fixed sites. Also, the development and testing of associated canisters, transporters, and launchers is allowed.

If ICBMs are deployed in a multiple aim point mode, they will be counted under SALT limits in terms of the number of missiles and not in the context of launchers. The side undertaking such a deployment must provide for the adequate verification of the number of missiles deployed.

Such a provision, in my view, with a commitment from the administration to develop and deploy a multiple aim point ICBM system—and this survivable basing mode could be used for the present Minuteman force—would facilitate Senate ratification of the proposed SALT II agreement.

A multiple aim point ICBM system would significantly contribute to strategic stability and future arms control agreements.

Such a system would deny any nation the incentive from striking first, because the attacking nation would expend more of its forces than it destroyed, thereby placing itself in an inferior post attack position. Thus, it is unlikely that a nation would risk a preemptive attack, and a contribution to deterrence would be made.

If the MX could be pinned down as some of its critics contend, so too could Minuteman. This would preclude the United States from using Minuteman in a launch under attack situation. Moreover, once pinned down the Minuteman force could be destroyed with a minimum force expenditure, thus placing the attacker in a superior position. As mentioned earlier, by attacking MX, the attacker would end up in an inferior position.

Verification of the multiple aim point system is not considered an insurmountable problem in the U.S. scientific community. The Soviets do not bring up the issue of verification at SALT, because they are obviously confident the nature of our open society and their own national means of verification permit adequate verifiability. From the U.S. standpoint, a violation of the SALT limitations, on a large enough scale, to overcome the stability provided by the system, would not escape detection; and cheating below that level would not be militarily significant.

Moreover, the SALT provision I recommend would explicitly provide that the "side undertaking such a (mobile ICBM) deployment must provide for adequate verification of the number of missiles deployed."

Equally significant, the deployment of a multiple aim point ICBM system would allow each nation to take further reductions in the number of strategic nuclear delivery vehicles because such a system would make each nation relatively insensitive to cheating that would go undetected.

The two major issues presently holding back a SALT agreement is the Soviet insistence to be permitted to deploy one new ICBM system, and their insistence to deploy the follow-on system to the SSN–18, for their Typhoon ballistic submarines. With these and other outstanding SALT II issues concessions by both nations are still to be made. Thus ample opportunity exists to incorporate a provision into the treaty explicitly providing for the counting and deployment of a mobile ICBM. Equally significant, the provision in the protocol banning the testing and deployment of a mobile ICBM, which is being put in at U.S. insistence, should also be withdrawn. Both of these actions would give substance to the position in the statement of principles that both sides agree to measures to "strengthen stability, including the maintenance and enhancements of the survivability of permitted strategic offensive forces." These actions would also illustrate the administration's commitment to maintaining the survivability of the ICBM leg of the U.S. Triad. And it is, in large part, because of the concern in Congress that the administration plans to dramatically change U.S. strategic deterrence objectives, requirements, and capabilities, that the projected SALT II agreement appears so unpalatable. A clear sign from the administration that it intends to proceed with the development and deployment of a more survivable land-based ICBM would, therefore, undoubtedly restore much of the administration's lost credibility.●

## IN HONOR OF RETIRING LONG BEACH FIREFIGHTERS

### HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. HANNAFORD. Mr. Speaker, on Saturday, April 15, I will be taking part in a tribute to 27 public servants who are retiring after many individual years of sacrifice for the betterment of the lives of citizens who live in Long Beach, Calif.

They are members of the Long Beach firefighting force, and they deserve the recognition of all Congressmen and Congresswomen assembled. To this end, Mr. Speaker, I would like to commend the men listed below and enter each of their names in the official RECORD of proceedings for the House of Representatives.

Mr. Speaker, I know you will join me in saying "thanks" to these hard-working, self-sacrificing firemen from Long Beach, and in wishing them well in their future endeavors:

James D. Andrews, Curtis E. Baker, Ronald G. Bentley, Jack B. Campbell, George R. Caplinger, Carleton L. Christopherson, Merle E. Combs, Stanley S. Duree, James E. Gember, William H. Hite, Jr., Arnold A. Hoxmeier, Paul W. Humiston, James R. Krueger, Donald J. Lehnert, Alex Miller, Willis J. Moffitt, Clarence H. O'Neill, Douglas D. Penskofer, Harold R. Peterson, George R. Pinkerton, Arthur H. Radin, Floyd G. Schwartz, Oscar K. Steffen, Charles J. Tyack, Joseph A. Valenzuela, Robert J. Wells, Fred L. Woolcott.●

## PREVENTING A RETURN TO EXECUTIVE ABUSES

### HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. MAZZOLI. Mr. Speaker, on Thursday the House is scheduled to consider H.R. 1, the Ethics in Government Act of 1977. This is a very important step in our efforts to restore the public's confidence in their governmental officials.

H.R. 1 requires complete financial disclosure by some 20,000 high-ranking Federal employees, their spouses and dependents. Title I has been left blank for a floor amendment to add H.R. 11941, the Legislative Branch Disclosure Act, which requires comprehensive financial disclosure by Members of Congress, their employees, and candidates for Congress.

I have the privilege of serving on the House Judiciary Committee and on the Select Ethics Committee. I have had the unique opportunity to work on financial disclosure requirements for both the legislative and executive branches. I have been a part of the lengthy hearings and debate on these important reforms, and I am well aware of the hard work which has gone into reporting sound, workable proposals to the House.

I am very proud of the final work products. However, I do have one reservation about H.R. 1, and I intend to offer an amendment on the House floor to correct what I believe is a serious flaw in this measure.

Under the language of H.R. 1, employees must file annual financial disclosure reports, the reports are open to public scrutiny, and refusal to file reports—or the intentional reporting of false information—exposes an employee to criminal penalties of up to $10,000 in fines and imprisonment of up to 1 year.

H.R. 1 gives the President wide discretionary authority to exempt from public disclosure financial reports of intelligence officials.

The Judiciary Subcommittee on Administrative Law adopted—and the full Judiciary Committee concurred—an amendment to take that authority a step further.

In addition to exempting intelligence officials' reports from public review, the President has been given the authority to allow the filing of false financial disclosure reports by these same officials.

In short, intelligence officials will file truthful reports with the President and could be authorized then to disclose false information to the public for cover purposes. No one would be allowed to examine the true reports or to challenge the President's decision to allow the false disclosure.

There was no testimony—in public or in closed session—to justify the granting of this exception. A one-sentence request from the CIA stands alone as justification for the provision.

When the House takes up H.R. 1, I intend to offer an amendment deleting the false reporting provision. I attempted to have that exemption deleted during Judiciary Committee consideration of H.R. 1, but my efforts failed. The text of my amendment follows:

AN AMENDMENT OFFERED BY MR. MAZZOLI TO H.R. 1

On page 30, line 20, strike "In addition" and all that follows through the end of the subsection.

I hope the House will support my amendment to remove the false reports language. It would be unconscionable for a provision of a financial disclosure bill—held out to be an ethical reform and aimed at restoring public confidence in Government—to lay the groundwork for a return to executive abuses we have seen in the past.

At the very least, the CIA and its associates in the intelligence community should come before the House and Senate Intelligence Committees to justify—if that is possible—the need for such an exemption and to offer feasible alternatives.

Following is an article I wrote on the subject which was published by the Washington Post on April 1, 1978.

FINANCIAL DISCLOSURE: SHOULD WE LET CIA AGENTS LIE?

During the second week of April, the House is scheduled to consider H.R. 1, a measure calling for comprehensive governmental financial disclosure. Yet, H.R. 1, officially entitled the Ethics in Government Act, ironically—and unacceptably—gives the intelligence community the legal right to lie.

In commenting on the bargain struck between former Central Intelligence Agency director Richard Helms and the Justice Department, President Carter said, "A public official does not have a right to lie." Attorney General Bell said of the same case. "It sets the intelligence community out on a new course."

Despite those commendable statements of principle, the administration, through the CIA, delivered a letter to my House Judiciary subcommittee requesting in one sentence that the subcommittee authorize the CIA to lie to the public and to Congress. Without any testimony to justify that extraordinary action, the subcommittee agreed.

The contradiction between the "new course" for the intelligence community hailed by the administration and the legal right to lie it subsequently requested of Congress could not be more striking.

H.R. 1 requires a complete financial disclosure by some 20,000 high-ranking federal employees and their spouses and dependents.

Under the bill, most of those employees must file annual reports making public such information as source and amount of income; source, value and description of gifts given and received; value and identity of personal and real property; and certain liabilities and business relationships.

Refusal to file reports—or the intentional reporting of false information—exposes an employee to criminal penalties of up to $10,000 in fines, and imprisonment for up to one year.

In a concession to the intelligence agencies, the bill contains a provision that would allow the president to exempt from public disclosure any financial reports filed by an intelligence agent. The provision is designed to protect an intelligence agent working under the cover of being an employee of a nonintelligence agency of the federal government.

However, this "cover" provision clearly was not satisfactory to the CIA. The agency requested that the president additionally be authorized to allow an intelligence agent to disclose to the public a false financial report.

Under the CIA's proposal, agents would file truthful reports with the president and disclose false information to the public for cover purposes. No one would be allowed to examine the true reports or to challenge the president's decision to allow the false disclosure.

There was neither public nor closed-session testimony to justify the granting of that exception. The CIA's one-sentence request stands alone in justification of the provision.

The CIA did meet with me and my staff to discuss its proposal. However, the offer of that meeting was made after my subcommittee had agreed to the proposal and after the CIA learned that I intended to challenge the provision in full committee.

From my meeting with the CIA I gather the agency justifies the false-disclosing provision because it facilitates placing intelligence agents in top posts in nonintelligence federal agencies.

Such an exception may not be cause for alarm with a president, an attorney general and a CIA director who do not believe public officials have an inherent right to lie. They guarantee the disclosure exception will be infrequently and judiciously exercised.

But persons with vastly different attitudes could succeed to those positions. They might not be prudent or watchful in the exercise of the disclosure exemption. That could easily lead to executive branch abuse of the Constitutional rights of American citizens.

It would be unforgivably ironic if a provision of a financial-disclosure bill—held out to be an ethical reform and aimed at restoring public confidence—were to lay the groundwork for a return to executive abuses.

The false-report language also contradicts Carter's statement in transmitting this proposed legislation to Congress: "The American people must be assured that no one, regardless of position, is above the law."

Further, there are policy reasons to question an unrestrained CIA use of other governmental agencies for cover. Previous revelations of CIA use of the Peace Corps and State Department as "cover" organizations have damaged the credibility of those agencies in many countries and limited their ability to perform their missions successfully.

To grant such blanket exemption without careful testimony and serious congressional debate is not responsible lawmaking.

The House should remove the false-reports language from H.R. 1. Then the CIA and its associates in the intelligence community should be requested to come before the House and Senate intelligence committees to justify—if that is possible—the need for such an exemption and to offer feasible alternatives.

One alternative would be to require those committees to consider all requests for the right to publish false financial reports and to review annually the need for that provision.

Another alternative would allow falsifying only the salary and the employing agency of an intelligence agent. A third option would be to limit the life of the exemption to three years. Its extension would depend upon our experience with it.

The House has a choice to make. It can permit—under the guise of ethical reform—a step backward in its efforts to correct past intelligence excesses and abuses.

Or, as I hope it will do, it can send a powerful and assuring message to the nation that no public official has a right to lie and none will be permitted to do so.●

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## RETIRING JIM FARBER OF POTTSVILLE, PA., HAS SERVED PEOPLE WELL

### HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. YATRON. Mr. Speaker, today, I would like to take a few minutes to pay tribute to a man who I am proud to represent in the Congress, Charles J. Farber. Known to all as Jim, this remarkable man recently retired as superintendent of streets for the city of Pottsville, Pa., after 34 years of faithful and conscientious service.

My purpose in bringing Jim Farber's story to the attention of my colleagues is to provide further documentation to the basic theory on the greatness of America. That theory is that our people—diverse in background, patriotic in purpose, generous of heart, and humble in spirit—are the Nation's greatest asset. Jim Farber is a case in point.

Jim served the people of Pottsville under five different mayors, both Democratic and Republican, which in itself is indicative that his retention was based solely on his abilities rather than any political affiliation.

His only and primary concern was to his municipality and the people who lived therein.

His snow removal program was considered Pennsylvania's finest, for reasons that he refused to sleep until the city's streets were completely cleared. Every year he attended Pennsylvania's ice and snow school to further his education so he could better serve his people.

Jim Farber's efforts drew national admiration and praise when, in 1974, he was featured in a national construction magazine.

Even more noteworthy is the fact that Jim's selfless dedication to helping others has garnered a tremendous love and respect for him among the people of Pottsville.

Jim Farber is a modest man, but an individual who has every right to stand tall and hold his head high as he looks to the future. It is men such as he who have contributed so much to making to-

day better than we might have hoped for and tomorrow even more promising as we face the challenges ahead.

I welcome the opportunity to be in the chorus singing the praises of this hard-working, decent, honest, and loyal American.

On behalf of the Congress of the United States and the grateful people of Pottsville, I offer our sincere appreciation to this man who has served so long and so well.●

## SOME THOUGHTS ON CONGRESSIONAL REPRESENTATION

### HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for April 12, 1978, into the CONGRESSIONAL RECORD:

SOME THOUGHTS ON CONGRESSIONAL REPRESENTATION

One of the questions asked me most frequently is whether a Congressman should vote as the majority of his constituents wish or as he himself thinks best. The question is intriguing because it goes to the very heart of our representative form of government.

On one view of the matter, the Congressman is an agent of his constituents, an official who carefully monitors their opinions and then casts his votes accordingly. This view was summed up by a Congressman who once said to me, "I'm in Congress to represent my district. What is good for the majority of my constituents is good for the country. It only fouls things up when a Congressman votes for what he thinks is the national interest." However, on another view of the matter a Congressman is free to express his own opinions on public policy. Edmund Burke, the famous eighteenth century Irish statesman, said that a representative owes his constituents his judgment. Burke also said that a representative is betraying his constituents rather than serving them if he sacrifices his judgment to their opinions.

Whether a Congressman is an agent of his constituents or is free to use his own judgment is a classic problem for our representative form of government. Politicians, political scientists and philosophers have discussed it for decades. I do have a general view on it. The opinions of constituents certainly exert an important influence on a Congressman's votes. He has a moral and constitutional obligation to take them into account, and in any case the issues of public policy are so many and so different that he must often listen to his constituents as he struggles to reach decisions. He must constantly check the "pulse" of his district as he makes his judgments. A Congressman is not a representative if his actions bear little or no relationship to his constituents' opinions.

The attitude back home looms very large in Congress, but it is not the only factor which influences congressional voting. The insights and knowledge that a Congressman gains as he goes about his business are also important. Like any other person, he develops opinions that are very much his own on some issues. When those issues are debated, his personal outlook plays a prominent role in his final decision.

It is not possible to say which of these influences is more important in actual practice. The answer would vary from issue to issue and from Congressman to Congressman. Nor is it possible to say which of these influences should be more important in theory. To my way of thinking, both of them should have a place. The Founding Fathers had the right idea. They intended a Congressman to listen to his constituents, study the issues at hand and then exercise his best judgment. In their view, a Congressman sometimes has a duty to mold opinion, not just to follow it. He is not supposed to be a mere "seismograph" to record shifts in popular belief. He is elected because the voters have confidence in his judgment and his ability to use that judgment responsibility. If the Founding Fathers had wanted a Congressman always to take the stance of the majority, then they probably would have established a national referendum instead of a national legislature.

The idea of the Founding Fathers is good enough in itself, but there are other reasons to reject the view that a Congressman must always vote with the majority of his constituents. A genuine problem is the inability of a Congressman to be certain where the majority lies on any one issue. He may have some idea of their stand, but in the absence of a referendum or a comprehensive public opinion poll he cannot really be sure what they think. Very often the silent majority is just that—silent. Thus, a Congressman could not always vote his constituents' preferences even if he wanted to.

There would be enormous obstacles in trying to discover the majority viewpoint on each of the hundreds of issues that come before Congress every year. Referendums would be required almost daily in the nation's 435 congressional districts. Few voters would participate in the referendums and there would be real questions about validity of the results. Just getting the necessary information to the people would be beyond the combined capabilities of the government and the press. The costs of such a system and the bureaucracy it would create would be unacceptable to us. And—in the final analysis—the results of constant sampling of opinion would not be all that reliable. Public opinion polls would not be an adequate substitute. They have very real limitations, too, and their results must be examined with great caution and a clear recognition of the margin of error.

I am firmly convinced that a Congressman must be part listener, part leader. He is not, however, the only one to carry the responsibility of leadership. Constitutents must sometimes mold the opinion of their Congressman. I know of no member of the House of Representatives whose mind has not been changed a number of times by the advice of a thoughtful, concerned constituent. The process of give-and-take between constituents and Congressman, each listening and leading in turn, is the genius of our representative form of government.●

## NEW JERSEY GREEN THUMB PROGRAM WINS AWARD

### HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mrs. MEYNER. Mr. Speaker, it is my pleasure to inform the House of Representatives that the New Jersey Green Thumb program has received the National Distinguished Superior Performance Award at the National Green Thumb conference.

Operating under title IX of the Older Americans Act, Green Thumb provides part-time, continuing employment for rural, low-income senior citizens. The New Jersey Green Thumb program was among the first pilot programs begun in 1965 under Operation Mainstream. Starting with only a handful of workers, it has grown to its current level with 684 workers enrolled in the program.

Mr. Speaker, the success of New Jersey's Green Thumb program is attributable to its dedicated staff and the senior workers themselves. I offer several statements as indicative of the support that Green Thumb receives from its administrators, its employees, and myself. These statements are excerpts from testimony received at hearings of the Select Committee on Aging which I chaired in Hacketttstown, N.J.

But one person will come to you at the end of the day, and it is a great reward—maybe it is not much, but it means a lot—when they come at the end of the day and say: "Thank you for a good hot meal, and for all the problems that I have caused you." But when they say "Thank you for a job well done," to me that is good pay. Testimony of Irene Stem, senior citizen employee of New Jersey Green Thumb speaking of the end of a working day.

From its inception in 1965, the Green Thumb Program has been dedicated to dispelling the myths regarding the aged in our society; to educating the public and successfully demonstrating the overall benefits that the older American can contribute in the meaningful, self-respecting, productive capacity of maturity. We are proud of our workers, and of our program, which provides the most services at the least cost." Testimony of Anne Gillingham, District Director New Jersey Green Thumb Program.

Mr. Speaker, I congratulate the staff and the senior participants of the New Jersey Green Thumb program. I ask my colleagues to remember their words when we consider the Older Americans Act reauthorization and the Department of Labor Appropriations bill.●

## FREE ENTERPRISE WEEK ESSAY WINNER

### HON. W. HENSON MOORE

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. MOORE. Mr. Speaker, on December 15, 1977, I inserted remarks into the CONGRESSIONAL RECORD informing the House that for the first time ever in my district and possibly anywhere in the United States, a Free Enterprise Week was going to be held within the Sixth District of Louisiana during the week of January 8 through 14, 1978. That week's activities did, in fact, take place and were a tremendous success.

Mr. Speaker, a part of the activities and certainly a most important part was an essay contest conducted in most high schools throughout the sixth district. High school students were encouraged to prepare an essay on what the free enterprise system meant to them. A select grading committee then gave great attention to these essays and winners were selected from each of the

four parishes which competed. Then from those four finalists, a sixth district or Free Enterprise Week winner was selected.

The winner was Ms. Deborah Arthur who is 17 years old and a midterm graduate of Franklinton High School in Franklinton, La., which is the parish seat of Washington Parish. She is the daughter of Mr. and Mrs. Thomas C. Arthur of that city. Her essay was truly an excellent composition on what the free enterprise system means to our young people who have their future ahead of them in this economic system in our country. She read her essay for an audience of about 500 people at a free enterprise awards banquet in Baton Rouge, La., on Saturday evening, January 14, 1978.

Following is the text of her essay:

"FREE ENTERPRISE: THE COMPETITIVE SYSTEM"

A free enterprise system is the mechanism by which labor, resources, and skills are brought together to produce and distribute the enormous variety of things people need and want. Our nation's free economy means we have freedom in choosing the products and services we buy, the jobs we seek, the businesses we start, where we sell our products, and the price we sell them for.

Two hundred years ago when our country first began, individuals made almost all the economic decisions; today things have become much more complicated. Even though Americans still exercise freedoms of economic choice, we have now what may be called a "mixed economy". That is, three groups play a major decisionmaking role. The groups are the consumers, who look for the best value in return for what they spend; the producers, who seek the best income for what they offer; and the federal, state, and local governments which seek to promote the safety and welfare of the public, and to provide services in the public interest. While members of these three groups make decisions in our economic system, the key role that makes everything work is played by we the people, in our role as the consumer.

Throughout history there has been the problem that all of our needs and desires cannot be fully satisfied in a world of limited resources; therefore, many societies have attempted to solve the problem by dictating what individuals' needs and wants should be. Yet, economic freedoms and personal freedoms interlock. When individuals are told how they must conduct their economic lives, and where there are obstacles to such economic freedoms as spending choices and career choices, personal freedoms are inherently involved.

In the American economic system, decision making is shared by consumers, producers, and governments; our country goes where we decide to take it. These choices can be made wisely only if the choices we make are based upon an adequate understanding of our economic system. Our challenge and privilege is to make wise choices in our use of economic resources to best satisfy our needs and wants. We must do this now and in the future.●

## NO HOUSE OF LORDS IN THE CONSTITUTION

### HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. HANSEN. Mr. Speaker, there should be a "Special Congressional Medal of Honor" for persons with the courage and foresight a majority of Congressmen have demonstrated in the current critical fight to save the constitutional powers of the House of Representatives, the voice of the people. A constitutional crisis exists and these Members have risen to the challenge by sponsoring House Concurrent Resolution 347 which reaffirms the traditional provision that there will be no disposal of U.S. property by treaty alone.

The immediate issue of concern is not one of preserving American access to the Panama Canal, but to preserve the House of Representatives as a coequal legislative body as the Constitution provides. A Senate obviously bent on becoming a House of Lords aided by an expedient Executive Department attitude pushing approval of the Panama treaties at any cost is expanding the "self-executing treaty" concept beyond any reasonable precedent to override all other provisions and safeguards of that great document.

The leadership of that would-be imperial body has told me the House will get nothing or no more than we can successfully demand, provisions of the Constitution to the contrary notwithstanding.

I am shocked and deeply disturbed at this high-handed effort to deprive the people's voice, the House of Representatives, of our rightful responsibilities.

As sponsors of House Concurrent Resolution 347 which now has 238 cosponsors, Members of this body have registered their determination that the Senate's grab for power at the expense of the House will not succeed.

The constituents of these Members of Congress and all Americans can be grateful for their willingness to stand firm for the Constitution and the protection of the rights of the people. I am sure these citizens are confident that with well over half the Congress committed to stopping a runaway Senate that a vote can now be taken to formally put the House on record—and it can if these same Members and others will now join our special effort to bypass the pitfalls and get the measure up for a timely and early vote.

Again, we are fighting for the honor and prerogatives of the House of Representatives and it will take unusual courage and unprecedented action to slice through the obstacles—the signing of a discharge petition.

In conference with key House leaders who would normally avoid such a process, we are in agreement that this is probably that one time when this legislative device has real use and credibility. JOHN MURPHY, chairman of the Committee on Merchant Marine and Fisheries which has jurisdiction in this matter has courageously placed principle above procedure as has Minority Leader JOHN RHODES in advocating that Members of the House sign a discharge petition.

Many Members have consistently declined as a matter of principle or policy to sign discharge petitions but the constitutional confrontation has become so critical that key leaders of the House are advocating this emergency procedure and first time signers are abundant as the list now swells above 150. Only 68 additional signatures at this critical time on discharge petition No. 6 will assure that House Concurrent Resoluton 347, which Members have so wisely cosponsored, will receive an early vote and the rights of the House and the people will have been properly protected.

I am deeply appreciative of the splendid attitude and courageous adherence to principle which has been demonstrated.

Mr. Speaker, I include for the RECORD the following Dear Colleague distributed April 10, 1978 requesting signers for discharge petition No. 6:

IT IS AN EMERGENCY

1. I can refuse to sign discharge petition #6 even though the Chairman of the affected committee and other key leaders of the House are breaking all historical precedent by advocating its one-time use on a constitutional issue of major impact on the legislative process and our system of checks and balances.

Or:

2. I can sign discharge petition #6 to prevent the gagging of the House by an imperial Senate acting to implement an arbitrary concept of self-executing treaties which would establish a legislative process excluding required action by the House of Representatives in violation of Articles I and IV of the Constitution.

The challenge is great. The Constitution is imperiled by executive expedience and legislative arrogance.

DEAR COLLEAGUE: The Constitutional authority of the House is threatened. By virtue of the vote last week refusing to recognize the legitimate Constitutional role of the House of Representatives with respect to the Congressional power to dispose of federal property the Senate has rubber stamped a State Department maneuver which is in clear violation of historical precedent as established by our founding fathers.

There is no need to point out the mischief which might take place if the concept of "self-executing treaties" is allowed to prevail where property disposal and appropriations are involved. Once the precedent exists, where will the lines be drawn? Will Treaty approval power further expand to preclude any need for action by the House of Representatives in matters of foreign policy? If the possibilities are expanded, will self-executing treaties even allow tax adjustments and other appropriations-type authority exclusive of House action?

It is inevitable that the House will act on any Panama Treaty approval implementation—this is even conceded by the Administration. The question is will we act in constitutional partnership so nothing is formulated that is not supported by timely action of both Houses of Congress or will we only be taken in as a junior partner after implementation has begun and conditions are set where the choice lies between rubber stamping what has already been decided or finally working our will at the risk of breaking promises and creating an international incident.

There are two fights involved—one over the Panama Canal and one over the Constitution. I ask that, whatever your feelings regarding the Panama Treaty issue, you continue to *fight for the rights of the House* and preservation of our proper constitutional role as Representatives of the people. The House must assert itself and preserve the Separation of Powers. This Constitutional principle must remain intact.

When the will of the House is so thwarted by certain influences then we must turn to the only legislative tool capable of alleviating

the situation. Therefore, I have initiated discharge petition number 6 which would allow for immediate consideration by the entire House of H. Con. Res. 347 which has 237 cosponsors. Over 150 Members have already signed this discharge petition and the number is increasing rapidly.

DISCHARGE PETITION NO. 6 SUPPORTED BY COMMITTEE CHAIRMAN JOHN M. MURPHY

". . . It remains of paramount importance that House Members sign discharge petition No. 6 . . the most expeditious means of bringing the Resolution (No. 347) to the floor and allowing all Members to express a position on a matter that vitally affects the power of which we are trustees."

DISCHARGE PETITION NO. 6 SUPPORTED BY MINORITY LEADER JOHN J. RHODES

". . . if ever there was a time for this unusual procedure to preserve our legislative system and the constitutional provisions for checks and balances, this is it. I have accordingly extended my support both as a co-sponsor of H. Con. Res. 347 and as a cosigner of discharge petition No. 6 and strongly encourage all Members to do the same."

Letter to Congressman George Hansen, April 4, 1978.

It is urgent because of time factors that you join us immediately. Please sign discharge petition No. 6 today.

Sincerely,

GEORGE HANSEN,
*Member of Congress.*

SENATORS ALSO CONCERNED

BROOKE. ". . . there should be no 'short cuts' in the decisionmaking process related to the Panama Canal treaties. The benefit of the doubt on this matter should clearly be given to a strict adherence to procedures. And this means that the House of Representatives, as an equal partner with the Senate in legislative matters, should assume the responsibility I believe the Constitution places upon it regarding the disposition of U.S. property." ". . . here we have clear title to the property. There has been no dispute about that whatsoever." Congressional Record, April 5, 1978, S. 4795.

ALLEN. "The House of Representatives is not involved in the ratification procedures, but it must be involved in legislation authorizing the disposition of property." Congressional Record, April 7, 1978, S. 5053.

HATCH. "I think Congressman Murphy laid it out pretty fairly, and I urge my fellow Members of Congress in the House of Representatives to do exactly that and to bring this matter to a head." Congressional Record, April 7, 1978, S. 5083.●

## CONGRESS SHOULD CANCEL ITS COST-OF-LIVING SALARY INCREASE

### HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. MAZZOLI. Mr. Speaker, the President yesterday unveiled his anti-inflation plan.

The main specific action proposed by President Carter was to place a 5.5-percent "cap" on the cost-of-living increase for Federal employees scheduled for October.

This action makes it all the more imperative that Congress cancels its own cost-of-living salary increase which would take effect this October also.

I wrote the Post Office and Civil Service Subcommittee on Presidential Pay Recommendations urging that legislation be immediately reported to the full House which would eliminate the 1978 cost-of-living increase for Members of Congress.

The President's commitment to controlling inflation is laudable. He has taken a step in the right direction in promising an all-out effort to hold down the Federal budget, including more frequent use of his veto power if necessary and more forceful persuasion of private industry as to price and wage increases.

We must follow President Carter's lead. Congress must bite the bullet and take a strong position against inflation by waiving its salary adjustment scheduled for October 1978.●

## COMPREHENSIVE CONGREGATE HOUSING FACILITIES AND SERVICES ACT OF 1978

### HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. ROYBAL. Mr. Speaker, I am today with Congressman CLAUDE PEPPER, Chairman of the Select Committee on Aging, introducing legislation designed to insure that each elderly person residing in federally assisted housing has the opportunity to live in an environment conducive to his/her needs. This bill would authorize the Secretary of the Department of Housing and Urban Development to award grants to developers of federally assisted housing for the elderly for the construction of congregate facilities and the provision of supportive social services.

When the House of Representatives established the Select Committee on Aging 3 years ago, it recognized that previous attempts by Congress to identify the unique problems confronting senior citizens and to develop solutions aimed at solving those problems had been largely unsuccessful. Consequently, the Aging Committee was instructed to assist Congress in improving its performance by focusing attention on issues of crucial importance to the welfare of this Nation's 23 million older persons.

As Chairman of the Aging Committee's Subcommittee on Housing and Consumer Interests, I am pleased to report that my subcommittee has devoted considerable energy to examine the housing problems of the elderly and to exploring alternatives designed to modify and embellish the conventional solution to this country's housing problems—bricks and mortar. There is no doubt in my mind that this approach has proved inadequate to meet the housing needs of older persons. Instead, we must view housing for the elderly from another perspective. With increased life expectancy and with the advantages of modern medicine, the elderly are now able to lead more active lives and enjoy a more independent life style than ever before. Yet because the elderly become increasingly frail and less mobile with advancing age, their housing requirements can be expected to differ significantly from those of the general population. Hence, the ideal environment for a large segment of our elderly population is apt to be one that permits them a substantial degree of independence, while at the same time facilitating access to nutritional, health, housekeeping, transportation, social, and other supportive services.

It is my belief, and I am certain that my colleagues in Congress will concur, that in the past, the special housing needs of senior citizens have often been ignored by those Federal agencies, such as the Department of Housing and Urban Development, responsible for implementing Federal housing programs. Persons involved in the policy decisionmaking process appear to approach elderly housing problems with the mentality that those elderly persons who cannot maintain their complete independence belong in nursing homes. In contrast, our policy objective should be to enable senior citizens to maintain their independence as long as possible, thus preventing or delaying premature institutionalization. Confinement in an institution is repugnant to a basically healthy, but frail elderly individual who fears that life in a nursing home will mean the loss of his/her dignity, self-respect, and independence.

It has been estimated that more than 3 million elderly individuals may require assisted living arrangements and approximately 2.4 million could be helped in a residential congregate housing setting with services. Without this type of facility, many of these elderly persons will have to go to nursing homes. Studies of nursing home populations indicate that one-third to one-half of the residents would be able to function in less intensive care settings, such as congregate housing, if they existed.

For example, a study by Robert Morris found that between 250,000 and 300,000 persons are annually assigned to costly institutions for reasons other than medical needs. The U.S. General Accounting Office, after studying 378 patients in Michigan nursing homes, concluded that 80 percent did not require skilled nursing care and should not be in a nursing home. Other studies have shown that 53 to 61 percent of the patients in nursing homes in New York City did not need to be there and in Minneapolis, this figure was 30 to 40 percent.

A survey of public housing authorities by Wilma Donahue shows that approximately 80 percent of the elderly residents would benefit from a congregate housing facility.

Some experts have referred to nursing homes as places for "premature functional death" and many believe that they are responsible for the shortened life spans of some residents. Thus, it is imperative that we adopt a national policy that will discontinue the use of nursing homes for the impaired elderly who do not need them. The appropriate alternative appears to be congregate housing, which is a means to lengthen an individual's stay in the community in a semi-independent environment. In addition, it should prove to be a more eco-

nomical housing arrangement than institutionalization.

Existing housing laws contain no mechanism for the financing of congregate services. The focus of Federal policy for the elderly has been directed principally at income maintenance through such programs as social security, supplemental security income, and veterans benefits. While these programs have been somewhat successful in reducing poverty among the aged, they do not provide the income necessary to enable tenants of federally assisted housing to pay for the supportive services necessary to maintain their independence.

One may well be justified in inquiring as to why congregate services cannot be provided to the elderly living in federally assisted housing through existing programs, such as those authorized under the Older Americans Act or title XX of the Social Security Act. My colleagues and I on the Select Committee on Aging have frequently raised the same question. It appears that there are a number of reasons to explain, but not justify, HUD's and HEW's poor performance in integrating programs. We have been told that jurisdictional squabbles which, have earned Federal agencies a reputation of being unresponsive bureaucracies, are to blame in part for the absence of coordination. In addition, the use of funds is often determined at the State and local level, and local units of government must balance competing priorities with limited financial resources, inadequate to meet the spiraling need and demand for supportive services. Thus, there is no guarantee under existing programs that services will be made available in the amount, frequency, and duration required by elderly residents of federally assited housing.

The principal aim of this legislation, however, is not to promote the cooperation of Federal agencies. While this is a worthy objective, its accomplishment would take many years with no immediate relief for the elderly. Instead our bill, if enacted, provides a more direct solution by transforming the concept of congregate housing from a possibility into a reality. It would make supportive services an integral and vital element of housing for the elderly.

Last month, I sponsored with Representative ST GERMAIN another bill, H.R. 11309, which is a less comprehensive version of this legislation in that it only covers public housing, excluding other important housing programs serving senior citizens such as sections 8, 202, and 236. Naturally I would like to see prompt action taken on the more comprehensive legislation. I believe that the evidence we have supports the need for such a program. However, I can appreciate the importance of proceeding cautiously with new, untried and untested programs. Therefore, I intend to lend my full support to both proposals, with the hope that Congress will acknowledge the importance of providing congregate services by enacting at least a limited program. Once this program is operating, we will have the opportunity to evaluate it by weighing its relative costs and benefits. I feel certain that it will score highly as a cost effective program that promotes the dignity and self-esteem of elderly beneficiaries. Its success should induce Congress to expand the program so that congregate services can be made available in all federally assisted senior citizens housing.

At present there are few, if any, housing choices available and appropriate for senior citizens. Independent living arrangements and institutionalization lie at opposite ends of the housing spectrum, with a wide void in between. This bill is needed to fill in the "gray area." The availability of congregate housing would solve the housing dilemma faced by many senior citizens by providing another relatively inexpensive alternative. Therefore, I recommend its speedy consideration and enactment by Congress.●



## NEW YORK IS LOSING THE PEOPLE'S LAWYER

### HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. LENT. Mr. Speaker, at the end of 1978, the State of New York will lose a great public servant. Attorney General Louis J. Lefkowitz, affectionately and appropriately known as "the people's lawyer", has chosen to retire from the position he has held continuously since 1957 and to which he was elected on five occasions.

During his long public career (he was first elected to the New York State Assembly in 1928) he established a reputation as one of New York's most popular vote-getters. His quick stride, limitless energy, and remarkable memory for names enabled him to effectively cover vast areas of New York State during his election campaigns. Winning margins of over 1 million votes were his hallmark.

During the 21 years he served New Yorkers as their attorney general (no other attorney general in the history of the office had a longer tenure), he initiated positive programs for greater protection of consumers, investors, and the legitimate businessman. He created a Bureau of Consumer Frauds and Protection. This bureau was the first agency of any State government which was exclusively concerned with the enforcement of laws enacted for the protection of the consumer.

He was elected president of the National Association of Attorneys General in 1962. He received the Louis E. Wyman Award in 1967, which is presented annually to the State attorney general who "has done most to advance the objectives of the National Association of Attorneys General to help make the United States a better place in which to live for all."

Of all the things written and said about "Louie" since his retirement announcement, nothing more eloquent than the following article expresses the personal loss that will be felt by thousands of citizens of New York who were the attorney general's "clients" for the past 21 years.

By the way of congratulations to Louis Lefkowitz on a job well done, I offer at this point in the RECORD a tribute to Louie written by columnist Murray Kempton, entitled, "Lefky Put the Little Things Right, Too":

"Don't go into things that are not in your jurisdiction."—The Farewell Address of Attorney General Louis Lefkowitz, March 1, 1978.

Louis Lefkowitz has the face that seems to have learned the secrets of the grave, the eyelids a little weary and every line and feature somehow suggesting itself as repository of a thousand privities and mysteries. That face is the mask where Louis Lefkowitz conceals his innocence.

There passes into retirement with him the memory of the only absolutely pure-hearted public man I have ever known.

The unkind gods amused themselves slaughtering New York City newspapers in the '60s, and their carnage reached its climax in 1966, when the World-Telegram, the Journal-American and the Herald Tribune consummated their suicide pact. This funeral occasion brought doubtful lamentations from Senators, Mayors and Governors about strong voices of the public conscience being stifled.

It escapes my recollection that Louis Lefkowitz had anything to offer on the subject of the lights of freedom going out. All he did was call us at the Telegram to say that, if anyone there couldn't find another job, he had two summer openings in Consumer Affairs. It was a pity about Louis Lefkowitz; he had so little capacity for abstractions.

My discovery of Louis Lefkowitz as the only present help in time of trouble occurred in the summer of 1962 when I did my family the disservice of transferring us all to Washington. We loaded our furniture, wished the movers Godspeed, and made our way to the hut we had rented in the dimmer outreaches of Camelot. A day passed, and then another with no sign of the moving van. Calls to the home office produced only the exquisite courtesies hot July evenings draw forth from Brooklyn truck dispatchers.

It was at last too much even for Mrs. Kempton's exemplary tolerance and she said containedly but definitely, "Do something." It was one of those moments of challenge that I had never met before and haven't since; but, as luck would have it, Louis Lekowitz image appeared front and center among the clouded shadows of my brain; and I called him up. The moving van appeared the next morning. Louis Lefkowitz had made me a man, if only pro tem.

It has been my fixed conviction ever since that, when the good Lord finally gave up on us, He left Louis Lefkowitz behind as the only resort for the insulted and injured. If you were cheated, he'd get your money back; he might not punish the cheater; but then most times he couldn't; the commercial code was not, after all, written to protect the innocent.

I confess that I kept him a secret the way food critics ought to with really good restaurants; but once or twice I yielded up his name to quite desperate cases; and he always somehow righted the wrong done them. He would do it for anybody: Louis Lefkowitz would take a contract for a beggar on the street.

It was always faintly amusing to think of him as the incarnation of law enforcement for the State of New York, because he was generally too busy bandaging the victim to make much of the pretense of scourging the evildoer.

And now he is departing; and who will take his place? Someone morally indignant, I suppose; and what good have they ever done us? Louis Lefkowitz wants to be remembered as "the People's Lawyer." If that suits his taste, so be it; but the title seems inadequate for the shining memory he takes away with

him. For me Louis Lefkowitz will always be the People's Fixer.●

## MY RESPONSIBILITY TO AMERICA

### HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. HAMMERSCHMIDT. Mr. Speaker, I would like to take this opportunity to commend the Veterans of Foreign Wars and its ladies auxiliary for their tireless efforts to instill a sense of patriotism in the youth of America, and for their sponsorship of the Voice of Democracy Contest. This year, more than one-quarter of a million students participated in the competition for five national scholarships which are awarded as the top prizes.

In my view, the true spirit of this creative endeavor has been captured and made vivid by Susan Diane Dunn, the winning contestant from the State of Arkansas. Susan presently attends Hartman Public High School, but has already announced her long-range plans to pursue a legal education at the University of Arkansas at Fayetteville. The text of her outstanding essay follows for your review:

THE 1977-78 VFW VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM, ARKANSAS WINNER, SUSAN DIANNE DUNN

The responsibilities of today's teenager in our society are many and vary greatly within the scope and the vastness of the different responsibilities. To give meaning to the word responsibility, one must necessarily have an understanding of the word duty, as the two are almost inseparable. Foremost among these responsibilities are to love, defend, and maintain the freedom our forebearers fought so valiantly to achieve.

Honor parents and family, abide by and uphold the laws of our country, for the basis of our freedom lies in strong family ties and swift, sure justice under our laws.

It is our obligation to have a deep appreciation of our country's majestic beauty and resources, and to guarantee the right of succeeding generations to the same unspoiled beauty, clean air, and waterways as they were handed down to us. And to continually strive to make a better life for all mankind.

Not among the least of these responsibilities of the individual is to improve himselm through a life-long program of education, personal growth and development.

To fulfill our responsibilities to our country, family, and society requires our constant attention and endeavors in the daily facets of our lives. We must protect our freedom by being active in state and local politics and keeping our elected officials informed as to how we want them to represent us.

We owe a portion of our time to the betterment of our communities by engaging in civic clubs, educational organizations and in activities of the church.

And by preparing ourselves for the responsibilities of adulthood and parenthood, which are indeed among the greater of our responsibilities, for it is truly said that "An apple does not fall far from the tree."

To be an American gives me the feeling that I can go forth unafraid and that no foreign oppressor will threaten the security of the nation or my loved ones.

I go forth each day with the knowledge and deep appreciation that I am free, not only as stipulated in the Constitution of the United States, but also in my own God-given right. And as long as ours and each succeeding generation upholds the responsibilities of "being an American", as indeed our forefathers bought our freedom by sacrifice of their lives and fortunes, we shall remain free.

The teenager's role of citizenship in our country's future must be the constant awareness of an everchanging society as we struggle to solve the problems brought about by over population, world-wide hunger and famine, industrial growth and the omnious energy shortage.

Our role as citizens of this country demand that we give equal attention to each of these and many more problems and at the same time maintain the basic principles by which our country was founded.

The task is before us, the obstacles great, but the rewards are infinite.●

## EXIT VISAS FOR THE RABINOVS

### HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. UDALL. Mr. Speaker, roughly 5 months ago I was informed of the unfortunate plight of two Soviet citizens, Arkady and Lena Rabinov, who have been trying unsuccessfully for several years to gain permission to emigrate. I am happy to report to the House that, according to U.S. Department of State, the Rabinovs have now been granted permission to leave the U.S.S.R.

We can all be happy that the Rabinovs are finally able to emigrate from the Soviet Union, but I think it is also appropriate to point out, in the interest of future emigrants, the expense at which these visas were procured. The Rabinovs were refused exit visas five times by the Soviet authorities. Both lost their jobs when they applied for emigration permits and were forced to live off of the charity of friends. Not only were Arkady and Lena punished for their desire to leave the country, but because of his son's request for an exit visa, Arkady's father was dismissed from a position as a professor at the University of Leningrad, a job he had held for over 25 years.

It seems to me that Mr. and Mrs. Rabinov were not "granted" their visas, they earned them. Six years of poverty, unanswered questions, family separation, and waiting—all clearly intended as deterrents to other potential Soviet emigrants—were the price extracted from this unfortunate couple. I am not too impressed with a government which uses these methods to discourage its citizens from departing.

Fortunately, things are headed in the right direction. In the past few years, there has been some increase in the number of exit visas issued to Jews and to people with relatives outside the U.S.S.R. Last year there was an increase of 25 percent over the 1976 rate.

The U.S. Department of State has been actively supporting the cases of Soviets who wish to emigrate, and a large portion of the credit for the latest trend must go to officials in that Department. During his visit to Moscow last March, Secretary Vance stressed U.S. support for family reunification and Jewish emigration, and presented a list of Soviet Jews who had previously been refused exit visas, including the Rabinovs, to the Soviet Government. State Department influence was also applied during Minister Gromyko's visit to the United States in September 1977 at the Belgrade Conference last year, and during the January 1978 visit of Soviet parliamentarians to the United States.

It is my sincere wish that this trend continue. Citizens of the Soviet Union have for too long been denied the basic human and political rights to which they are entitled, and which are enjoyed by citizens of the United States and of other truly democratic countries.●

## TRIBUTE TO LONG JOHN NEBEL—AN INSTITUTION IN NEW YORK RADIO

### HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. BIAGGI. Mr. Speaker, it is with great sadness that I report the passing of Long John Nebel one of the most celebrated of all media personalities in the New York market. Long John succumbed to cancer after a long and grueling fight.

Long John Nebel was an institution in New York late night radio for more than 20 years. He held down the all night radio slot on several major stations beginning with WOR in 1956 and ending with WMCA with a 12-year stint with WNBC in the middle. He attracted a large and loyal audience due in part to his personal zany style and the unique variety type format of his shows. They ranged from panel discussions to "open lines" where people could speak their minds. It is a technique certainly not invented by Long John, but without question perfected by him. His listeners were more than an audience, they were totally devoted to him, they followed him from station to station without missing a show. He was a cult hero.

Long John throughout his career kept a remarkable pace. At his peak he did six 5-hour shows a week and for a short time added a 2-hour show on Sundays. He achieved the prestigious $100,000 a year club as "The Iron Man of the Microphone" as he was described by the New York Post.

From 1972 until his death Long John was joined on his show by his lovely wife, Candy Jones. Together they were an intellectually stimulating duo, providing the highest quality of radio entertainment.

Long John Nebel will be missed. He made insomnia a pleasure for millions of New Yorkers over the past two decades. Many felt he may have contributed to it because it was so difficult to turn his show off. New York has lost one of its most unique entertainers and I express my condolences to his wife and daughter.

At this point in the RECORD I would like to insert the obituary prepared by the New York Times on the life of Long John Nebel:

LONG JOHN NEBEL, 66; WAS HOST FOR ALL-NIGHT TALK SHOW ON RADIO

(By Eleanor Blau)

Long John Nebel, whose all-night radio talk-shows attracted thousands of insomniacs and other "night people" for more than 20 years, died of complication from cancer Monday at the New York Sheraton Hotel. He was 66 years old and had been living at the hotel for several months.

Mr. Nebel was co-host with his wife of the Long John Nebel-Candy Jones Show, heard nightly from midnight to 5:30 A.M. on WMCA. "He was the first to do an all-night talk show on radio and the first to have a network talk show," said Dennis Israel, vice president and general manager of the station. "His show was controversial, intelligent and a great part of history. There will never be another Long John Nebel. It's an era that went away."

Mr. Nebel got his start on all-night radio on WOR in 1956 after an official of that station observed his patter at an auction house, according to his biographer, Donald Bain.

ALMOST IMMEDIATE SUCCESS

Long John, so-called because of his slender 6-foot-3-inch frame, was almost an immediate success and Mr. Bain attributed two trademarks to that popularity. Mr. Nebel became involved in the occult, inviting as guests on his show, people who claimed to have been from outer space. And he developed a panelist concept in which unknown people in various lines of work joined him almost as co-hosts from time to time. Mr. Bain, one of those panelists, recalled, "They were nobodies—people John just kind of liked and felt had some flair for being on the air. And they became very, very close, a sort of fraternity."

As for the people said to be from outer space, Mr. Nebel was hardly a believer. "He was one of the great put-ons of all time," Mr. Bain said. "He wasn't serious about the occult. It was a way to identify himself in the New York market with something different."

Among his put-ons, Mr. Nebel convinced listeners there was a pending shortage of cigarette-lighter wicks because of a drought in Wisconsin where most of the wicks were "grown."

He was a master at finding the weaknesses of a guest he considered a phony, and would let the victim "hang on his own noose," Mr. Bain said. And he was a great storyteller.

In a strident, very deliberate manner of talking "he could take forever to tell a story yet he would never be boring," Mr. Bain said. "He had a great sense of detail. I remember sitting with John and he took about an hour talking about returning an electric blanket to Macy's and it was literally fascinating."

And he was a giggler. "I remember him telling a story about a headless woman and eventually John was just helpless, falling off his chair."

Mr. Nebel was born in Chicago with the last name of Zimmerman and took the name of his stepmother who adopted him, later dropping "K" from the spelling. He never went beyond the eighth grade in school and used to say in later years that his show, in which he interviewed people from all walks of life, was his best education.●

## NEW RIVER, A NATIONAL RIVER

### HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. RAHALL. Mr. Speaker, I recently joined with my colleagues, Senators ROBERT C. BYRD, JENNINGS RANDOLPH, and Congressman HARLEY O. STAGGERS by introducing legislation that would establish the New River Gorge as a national river in West Virginia as was recommended to the Congress by Secretary of Interior Cecil B. Andrus on behalf of the Carter administration.

In a letter transmitting the administration's legislation, the Secretary said:

The New River and its gorge possess outstanding scenic, geologic, recreational, botanical, fish, wildlife, historic and cultural and mineral values.

He also added that—

it becomes apparent that a major effort must be launched aimed at preserving and at the same time intensively managing these superlative natural, historical and recreational resources.

I know that my West Virginia colleagues who share sponsorship of this bill are pleased to share with me the fact that the administration has recognized the national significance of the New River Gorge and the needed Federal legislation to protect this national resource. This is a major step towards enactment of vitally needed protection for the gorge area.

The bill will be referred to the Interior and Insular Affairs Committee and the Senate Committee on Energy and Natural Resources. It is my hope that careful study will be given to the legislation and that early hearings will be held where all views on the bill may be heard.●

## DR. LLOYD G. JONES

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. ANDERSON of California. Mr. Speaker, when Supt. Dr. Lloyd G. Jones states that he knows the Torrance Unified School District inside and out, he speaks as an individual with authority and knowledge, who since 1948 has worked at a number of levels within the system.

Thus, when Dr. Jones retires on June 30, 1978, the Torrance community will lose the leadership of an individual who has always demonstrated a unique knowledge and understanding of their educational needs.

Born in Riverside, Calif., on October 30, 1917, Dr. Jones moved with his family to the city of Torrance at the age of 1. He graduated from Narbonne High School in nearby Harbor City in 1936, and continued his then burgeoning interest in entertainment as a singing waiter at Clifton's Cafeteria. As a child, Lloyd Jones had appeared in several feature films, and attended school on the film sets with such child stars as Shirley Temple, Jackie Searles, and Mickey Rooney.

After singing at various hotels and clubs in Southern California during the "torch song" era, Lloyd Jones entered the U.S. Army's Special Services Division in 1942, entertaining troops at bases in the States and abroad.

Following the war, Dr. Jones attended Laverne College, graduating with a bachelor of arts degree in history in 1948. Immediately after his graduation, he joined the Torrance Unified School District as an elementary school teacher—the beginning of a long and successful career in education.

The following years were exciting for Dr. Jones and his lovely young wife, Maxine, and their family. He received his master's degree in education in 1952 from the University of Southern California. Professionally, Dr. Jones' abilities were being recognized as outstanding in the field of education, and he became vice principal and then principal at Seaside Elementary School.

In 1963, Dr. Jones earned his Ed. D. from the University of Southern California in educational administration. He served as curriculum consultant, assistant superintendent (elementary education), and deputy superintendent for education until becoming superintendent of schools for the Torrance Unified District on April 21, 1971.

The excellent reputation which the Torrance Unified School District has earned over the years is due in no small way to the many contributions Dr. Jones has made over the years through his leadership, ability, and knowledge of the district. Among the awards he has received during his many years of service are the Honorary Service Award from them the Seaside Parent-Teacher Association; the Torrance Elementary School Principals' Association Golden Apple Award; and the National Congress of Parents and Teachers Honorary Life Membership from the Torrance Council of Parent-Teacher Associations, Inc.

Professionally, Dr. Lloyd Jones is a member of the American Association of School Administrators, school superintendents of cities of 100,000 to 300,000; Association of California School Administrators; California City School Superintendents; Southern California City School Superintendents; and the Parent-Teacher Association.

Dr. Jones has also been an active and involved member of the Torrance community. He sits on the Advisory Board of the Torrance Family Branch, Young Men's Christian Association of Metropolitan Los Angeles; the Executive Committee of the South Bay District of the Boy Scouts of America; the Board of Directors of EDUCARE; and served as honorary chairman, School Night for Scouting in October 1975.

Dr. Jones never forgot his early love of music, an interest that has continued to grow over the years. He is also an avid golfer, and enjoys landscaping and art. His many interests and lively personality will, I am sure, keep him very busy in the years ahead.

My wife, Lee, joins me in wishing Dr. Lloyd G. Jones the best of fortune as he brings his long and successful career in educational administration to a satisfying conclusion. We would also like to extend our congratulations to his lovely wife, Maxine, and their sons, Allan and Evan.●

CONGRESSIONAL SALUTE MEMORIALIZING JOHN D. CECCHINO OF GARFIELD, N.J., AND COMMEMORATING MOUNT CECCHINO, MOUNTAIN RESERVE PARK, WAYNE, N.J.

## HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. ROE. Mr. Speaker, I wish to call to the attention of you and our colleagues a most significant happening in America's history which is taking place in my congressional district upon the official designation and dedication of Mount Cecchino, a 750-foot peak located in Mountain Reserve Park of my hometown of Wayne, N.J., in commemoration of the lifetime of achievements of the late John D. Cecchino, outstanding educator and humanitarian, of Garfield, N.J.

Mount Cecchino memorial project which was sponsored by the faculty and students of the New Milford High School, New Milford, N.J., under faculty chairman, Mr. Joseph L. DiBernardo, and student chairman, Miss Marcia Knebel, in cooperation with the residents and governing officials of the respective communities, commemorates the deeds of our people which have made our representative democracy second to none among all nations throughout the world.

The teamwork among the students, faculty, governing officials, and residents of the community was dynamic and successful. Their quest to honor a former teacher whose standards of excellence in his daily pursuits dedicated to the education of our people, young and adults alike, had truly inspired the strength of the people's will to hold steadfast his memory, honor his deeds, and place an indelible mark on the quality of his leadership endeavors as an educator received national approval upon the official naming of Mount Cecchino by the U.S. Board of Geographical Names.

Mr. Speaker, I know you will want to join with me in commending the students, teachers and residents of New Milford for their most noteworthy endeavors and share the pride and joy of John Cecchino's wife, Nina; their son, John, Jr.; daughter, Susan; brother, Carlo, a Bergenfield councilman; and sister, Frances DuPre of Brooklyn.

John Cecchino was a highly respected and revered teacher, a fact that is now mirrored in the Mount Cecchino memorial project. At the time of his passing on March 1, 1976, he was New Milford's Community School director. He coordinated the adult school and the Saturday fun shop, and for many years had been student activities director of the high school. John had been a history teacher at the high school since 1954 and is past president of the New Milford Education Association.

Mr. Cecchino was affectionately known to a generation of New Milford students as "Mr. C." He is a graduate of Paterson State College and received a master's degree from Montclair State College. He was named to Who's Who in American Universities.

John was also a member of the New Jersey Education Association, the Benda-Roehrich Veterans of Foreign Wars Post No. 2867 in Garfield, and the Garfield Third Ward Democratic League. He served as certified clerk for the city of Garfield in 1965–70 and was past president of the Garfield chapter of UNICO. Born in the Bronx, John had lived in Garfield for 30 years.

Mr. Speaker, there were many, many testimonials written in tribute to John Cecchino. I have selected an editorial from his prestigious hometown newspaper, the Garfield Messenger, which, with your permission I would like to insert at this point in our historical journal of Congress, as follows:

IN MEMORIAM—JOHN C. CECCHINO, EDUCATOR

Garfield has lost an outstanding citizen and friend—a truly magnificent educator—devoted father and husband—a realistic, fun-loving and gregarious man. The large turnout from New Milford schools where he was employed and local people was ample testimony as to the true quality of this school man.

To John Cecchino, education consisted in preparing the moral character of young people, teaching them the fundamentals and invaluable principles accepted in preparing them for a good life. It consisted in giving them from tenderest childhood, the notion of human dignity. Education to him directed his actions, inspired his behavior in all his contacts with mankind and at the same time helped him master himself. This is what made him a true educator.

John tried in every way to give his young charges, the elements of his intellectual activity because to him it meant the unalterable foundation of his life, enabling him to adapt himself to the variations of his environment and to link these variations to past and future events.

John grew up the "hard way", obtaining first his high school equivalency certificate and then working his way through college and later obtaining his master's degree while teaching. From teacher, he rose in rank to become adult school director and later coordinator of studies. This is evidence of his zeal and potential. And to John we do say:

John built a beautiful temple,
With loving and infinite care,
Planning each facet with patience,
Laying each stone with prayer;
All praised his unceasing effort,
For the temple this great teacher built
Was something unseen by men.

His gifts were many and sundry. He always said give to your enemies—foregiveness; to your opponent—tolerance; to your friend—your heart; to a customer—service; to all men—charity; to a child—good example; to yourself—respect.

Mr. Speaker, may I also present to you at this time excerpts of statements made by his associates, faculty and student members, which have intertwined his goals and objectives in seeking life's purpose and fulfillment with the love, affection and esteem in which he was held by all who had the good fortune to know him, as follows:

HIS TRIBUTE—ADULTS

An outstanding person in the game of life who finished too soon . . . teacher, safety patrol, remedial reading, introduced Special Education, first AVA Coordinator, originated Adult Ed and Saturday Fun Shop, President of Teachers Association, Activities Coordinator, member of Steering Committee, honorary coach . . . referred to as Mayor of Garfield . . . affinity for students of all kinds . . . consoling word and confident arm . . . leavening agent in emotionally laden situations . . . personnel file loaded with commendations about his extensive service—W. R. SNYDER, *Principal.*

Mr. "C" left much for all of us . . . taught us how to enjoy life . . . our mediator, our compromiser, our faculty diplomat . . . never lost the feeling of boy in himself—JOHN DOMBROSKI, *Teacher Representative.*

Typifies the dictionary definition of unique—the one and only, different from all others, having no like or equal, singular, unusual, rare . . . His heart was always several sizes too large for problem currently at hand—DAVID E. OWENS, *Superintendent of Schools.*

He loved life, he loved contact with people, he loved being with people . . . No one ever spoke unkindly of him—ALFRED J. MITCHELL, *Vice President, Board of Education.*

Vision, leadership, and determination helped adult ed blossom in this town. . . . John was a handshake, a booming "Hello" and a wide grin . . . You knew it was genuine . . . He left his mark on all he touched—IRENE KWITEL, *President, Adult Ed.*

Eternal optimist . . . saw good and best in all of us . . . a shoulder to lean on . . . gave us confidence when we needed it and a belief in ourselves when down in the dumps—MYRNA ALPERIN, *President, Saturday Fun Shop.*

Hate was never in his heart . . . I doubt he ever knew how to . . . never too busy to listen . . . never turned anyone away—EVELYN SEIPEL, *Secretarial Representative.*

HIS TRIBUTE—STUDENTS

Mr. "C" had a rapport with us that many people strive for all their lives—GERALD LOGAN, *President, Student Council.*

A unique individual, an outstanding educator, and a true humanitarian . . . searched for the underdog and rallied to his cause—ARLENE SMITH, *President, Honor Society.*

His cheerful greetings were: a wink of the eye, a nod of the head, and a raised hand—STEVE EIGE, *Emerald Staff.*

So often we give materially, yet it is when we give from the heart that we truly give a special gift. . . This is the way Mr. "C" gave to us, a giant in every sense of the word!—MARA MAMORSTEIN, *Editor-in-Chief, Knight News.*

If something bothered him, you never would have known it because he never complained—LARRY MINTZ, *Treasurer, Spanish Honor Society.*

He was the type of person you couldn't help love because he was filled with love—JULIE GRIDINSKY, *Class of 1979.*

He was special because he cared about people in a world whose general tendency was apathy. . . . A man like him comes around once in a lifetime—KEVIN KELLENBERGER, *President, Class of 1978.*

We are grateful to have shared our high school years with this fine human being—GWENN GHIOSAY, *President, Class of 1977.*

We shared tears and sorrow for him, but we should smile if we can. . . . He would have liked it better that way—ROBERT AZUMA, *President, Class of 1976.*

The other night I asked God, "Why did he have to go now? I loved him so much!" God looked back at me and said, "I know, but I loved him so much more!"—MIKE ADASHESKI, *Student.*

The man to go to when you had something on your mind—COLLEEN MAYE, *Student.*

He will never die in the students' eyes because they will always remember him—ANTHONY BOTTIGLIERO, *Student.*

Considerate, self-giving, fun-loving, all together a nice, true person—PAUL CICCIA, *Student.*

We should not remember him by how he died, but how he lived—TARA MAYE, *Student.*

If you're listening, Mr. Cecchino, everyone gets it sometime in their life, and you were our gift from God—LISA GETELMAN, *Student*.

No task was too great as long as he knew he was able to help someone or even to make the situation seem a little worse than it was—LINDA CECCO, *Student*.

His favorite quote was, "Something of ourselves remains wherever we have been"—BONNIE LEE PERRY, *Student*.

Today we say our last good-bye, but in our hearts, he'll never die—MARY LOU BURKE, *Student*.

CONCERT CHOIR FINAL TRIBUTE

"Glorious Everlasting.
"If We Only Have Love."

STUDENT POEM

"A GREAT GUY"

Mr. C. was a really great guy,
Who was above and beyond all the rest.
He always said the kids were great,
And he knew they were always the best.

He did everything that he had to,
And he did everything that he could.
He helped the kids in every way,
And he did all he thought he should.

He was a man with the greatest of love,
And he showed it every day.
He always went singing down the hall,
And he always had something happy to say.

Mr. C. was a special man,
That's why we loved him so dearly.
He always told us how much he cared,
And he made his love quite clearly.

We are very grateful to have known such a man,
Who gave us everything that he had.
If we think back on all the fond memories,
It'll be impossible to ever be sad.

—JEANNIE SAPUNARICH, *Student*.

Mr. Speaker, it is a pleasure and privilege to have this opportunity to extend our heartiest congratulations to John's family and seek this national recognition of him and his good deeds which is now forever lastingly etched in the magnificent setting of Mount Cecchino, and applaud the vision and untiring efforts of the people who diligently pursued a landmark place for John in the history of America. We do indeed salute the Honorable John D. Cecchino, outstanding educator, good friend and great American, for his distinguished contribution to the quality of life and way of life here in America.●

## WASTE TREATMENT SYSTEM

### HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. BYRON. Mr. Speaker, on May 24, 1971, nearly 7 years ago, I made a statement on the floor of the House to bring to the attention of my colleagues the exciting news that a ground-breaking ceremony had taken place on a federally financed project to recycle and reuse waste water from the Sterling Processing Corp. poultry plant in Oakland, Md.

I rise at this time, Mr. Speaker, to give the House of Representatives and the American people an accounting of what has transpired in the 7 years since I praised this worthwhile project on the floor of the House. I am pleased to be able to report that the project is a technical success—the waste water from the plant is being treated to such a degree that it could be safely recycled and reused in the processing of chickens in the plant. However, I am deeply disappointed to also have to report that the project is a bureaucratic failure—that is, it is so mired in redtape and indecision by Federal agencies that I am afraid a half million dollars and 7 years of effort have been completely wasted—sacrificed at the alter of bureaucratic incompetence.

Yesterday I testified before the House Appropriations Subcommittee on HUD and Independent Agencies because I believe the actions of the EPA in the Sterling case reflects adversely on the EPA's ability to spend water quality research funds wisely. I would like to include in the RECORD at this point a copy of this testimony and my 1971 RECORD statement:

STATEMENT OF HONORABLE GOODLOE E. BYRON BEFORE THE SUBCOMMITTEE ON HUD-RELATED AGENCIES, COMMITTEE ON APPROPRIATIONS

Mr. Chairman and Members of the Subcommittee: I would like to express my deep appreciation to you for this opportunity to present to you the problems encountered in my district by a poultry processing plant which has been unable to obtain the approval of the Environmental Protection Agency for the use of recycled water in the plant. All attempts to solve this problem have failed, and I am seeking the assistance of this Committee, through language in your Committee report, to direct the E.P.A. to approve the project.

I would like to outline briefly the history of this problem in order to put the present impasse in its proper perspective. The Sterling Processing Corporation is one of the major employers in Oakland, Maryland—the county seat of Garrett County, which is located in the mountains at the western end of Maryland. In the mid-1960's, the town of Oakland notified Sterling Processing that it expected to have difficulty supplying the large amounts of water necessary to wash and process the chickens in the plant. Furthermore, the effluent from the plant flows into the Youghiogheny River, which is a wild and scenic river. Therefore, anything that can be done to promote water conservation and reduce the effluent at the plant is very worthwhile.

Consequently, a demonstration project was designed to see if it is possible to treat the water discharged by Sterling Processing in such a way that some of the water could be recycled and reused in the plant. The plan to implement this project calls for mixing the recycled water—which is already drinking-quality pure—with regular well water on a 50–50 basis, treating it again in the plant's water purification system, and then reusing it in the plant to process chickens.

This project was funded by the federal government in January 1971 at an original cost of $146,000. Seven years and a half million dollars later, I am pleased to be able to report to this Committee that the project is a technical success. Waste water from the chicken plant is being treated and purified to such a degree that it is considered as pure as drinking water, that is, "potable", by water quality experts who have made this water the most thoroughly tested water in the country.

However, I am equally disappointed to have to report that the project is a bureaucratic failure. This project has been stymied by the failure of the Environmental Protection Agency and the Department of Agriculture to agree on a definition of "potability" as it applies to recycled water.

Several years after the initial grant award to the Maryland Department of Health to build the recycling system, the E.P.A.'s Office of Water Supply raised questions about the quality of the water in the system. The E.P.A. would not certify the water as potable, which is necessary to clear the way for the Department of Agriculture to approve the use of the recycled water in the chicken plant. To resolve these uncertainties about the water, the E.P.A. spent an additional $113,000 to finance further studies of the water by one of the nation's top experts in water quality, Dr. Julian Andelman of the University of Pittsburgh. Dr. Andelman concluded that the water is safe to use and poses no threat to the public health. The Maryland State Health Department also certified the water as potable. In every other poultry plant in the state, that certification alone would have been enough to obtain the approval of the Department of Agriculture for the source of water in the plant. However, because of the questions raised by E.P.A. over this project in the past, the U.S.D.A. also asked the E.P.A. Office of Water Supply to certify that the recycled water is potable. In what must be a classic example of bureaucratese, E.P.A. stated that it had no objection to the use of the recycled water in the plant, yet it would not certify that the water is potable. The problem rests with the fact that the E.P.A.'s definition of potability is based on the use of raw water, not recycled water, even though the recycled water may be of superior quality than raw water. Without a statement of potability from the E.P.A., the U.S.D.A. would not permit the use of the recycled water in the chicken plant.

The E.P.A. Office of Water Supply is unable to cite anything specific about the recycled water that causes their reluctance to certify it as potable, as so many other experts have done. Instead, at several meetings I have held to try to resolve this matter, the E.P.A. has stated that there may be some unknown qualities in the water which might suggest that it should not be used as drinking water, although it is safe to use to wash chickens. These unknown qualities were not tested for by Dr. Andelman, E.P.A. claims, because the state-of-the-art of water quality research has changed since it made its grant to him. I asked E.P.A. if it would be possible to conduct more research on the water at Sterling to answer whatever questions it might now have about the water which prevent it from certifying the water as potable. Amazingly, E.P.A. replied that it could not formulate the questions needed to conduct further research because not enough was known about whatever it is E.P.A. wants to research further. And if additional research is to be conducted, by the time it would be finished, E.P.A. stated it would have still additional questions to pose based on further developments in the field. Therefore, it would still be impossible to certify that the water is potable. In other words, the E.P.A. Office of Water Supply will never state that recycled water is potable regardless of the findings of expert after expert who has studied the water at Sterling Processing.

When I asked E.P.A. officials how they could possibly justify the expenditure of a half million dollars on the water recycling system at Sterling Processing if they had no intention of ever letting it be implemented despite its demonstrated technical feasibility, I was treated to a spontaneous display of bureaucrats instinctively explaining how each of them personally had nothing to do with the earlier decisions on the project.

I think it is important that we look at this problem from the position of my constituent, Mr. Gilman Sylvester, the President of Sterling Processing. He was recently featured on the front cover of the national trade journal, Poultry Processing and Marketing. I have given each of you a copy of

this magazine to review. You will note that Mr. Sylvester's kindest characterization for his dealings with the federal government on this matter is "total frustration." You can imagine Mr. Sylvester's feelings when you consider the fact that the federal government made a commitment to this project seven years ago, has spent hundreds of thousands of dollars to make it a technical success, Mr. Sylvester has invested more than $100,000 of his company's funds in the project, and now the E.P.A. will not make the necessary decision to implement the project he has worked so hard to achieve. If it had turned out that recycled water is unsafe, then Mr. Sylvester and I could understand the E.P.A.'s inaction over this matter. But the experts have approved the Sterling water and Mr. Sylvester believes in the project. You will note that in the magazine article I have given you, Mr. Sylvester is pictured drinking the recycled water. My legislative assistant has also visited the plant and he drank the water. I am pleased to report that the quality of his work has improved markedly since that time.

To give you an example of the level of coordination between the E.P.A. and the U.S.D.A., in this matter, the U.S.D.A., which has the legal responsibility to approve the water supplies of the nation's poultry processing plants, first learned about the project from a Congressional Record statement I made in 1971 about the groundbreaking of the project.

I think it is very significant that all of these problems with the Sterling recycling project are occurring at the very time that top officials of E.P.A. have been making statements that America in the future may have to turn to water recycling and reuse as a way of conserving water supplies and meeting strict water pollution control standards. The authorization for fiscal year 1978 for research in water recycling and other dinking water research programs was $25 million. The budget request for fiscal 1979 is $10.9 million.

If there is ever to be a case where water recycling is in the national interest, then Sterling Processing in Oakland, Maryland is it. There is a need here for both water conservation and the reduction of effluents. The recycled water will not be used as drinking water, but only in a 50% mixture with raw water before being treated again for use in processing chickens. This water has been thoroughly tested and found to be safe by some of the country's top experts in the field. If E.P.A. will not take steps to enable the use of recycled water at Sterling Processing, then I don't think it will ever allow the use of recycled water. My experience with E.P.A. on this project convinces me that it is not in a position to spend any money on water quality research wisely. I therefore request this Committee not to appropriate any funds for E.P.A.'s water quality research unless the Committee report specifically directs the E.P.A. to take all necessary steps to enable the use of recycled water at Sterling Processing. I believe this issue is larger than the use of recycled water in Oakland, Maryland. It involves the future water policy of this country and the very credibility of the federal government itself to act rationally.

I would like to submit additional material concerning this matter for the hearing record. Thank you very much.

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PLANT IN OAKLAND, MD., BREAKS GROUND FOR DEMONSTRATION WASTE TREATMENT SYSTEM

Mr. BYRON. Mr. Speaker, on May 18, 1971 ground was broken at the Sterling Processing Corp. poultry plant in Oakland, Md., for a demonstration pilot plant for secondary waste treatment.

This is a demonstration project sponsored by the Sterling Processing Corp., the Department of the Interior, and the Maryland Department of Health and Mental Hygiene. I commend these efforts. Mr. Gilman Sylvester, the plant manager, has invested much time, effort, and enthusiasm in getting this project started. The Republican of Oakland carried the following story on May 20, 1971, describing the ground breaking:

GROUND BROKEN FOR PILOT PROJECT AT STERLING PLANT

Ground was broken Tuesday at the Sterling Processing Corporation poultry plant, just west of Oakland, for a building to house machinery for the recirculation of secondary waste effluent and its reuse in the plant itself. This is the first attempt in the United States for such a project.

The 300 gallon per minute double filtration system to be installed will be a demonstration pilot plant. Total cost will be $204,000 with a grant of $146,000 coming from the Department of the Interior, and the balance being furnished by the State Health Department and the Processing Corporation. The results are expected to contribute greatly to conserving the water supply of the town of Oakland and serve as an example for other industrialists to follow.

The Sterling corporation already has a waste treatment plant that is 99 percent effective in treating its industrial waste water and has its own water filtration system. The water will go into two aerated lagoons, be treated for some two weeks and then go through the new filtration system and back to the water treatment plant with the water being a potable water source.

Richard Lyons, of the State Health department, will be at the plant on full time basis and will serve as project supervisor at the site.●

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MALCOLM JOHNSON SET STANDARDS FOR JOURNALISTS

## HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. FUQUA. Mr. Speaker, a great journalist has retired. Oh, I know we can throw around words like "great" and other adjectives and not really mean them. In the cast of Malcolm Johnson, that statement is true and all who know of his contributions agree.

Malcolm Johnson retired at the end of January after 42 years as a journalist and as a humanitarian. That career began in Jacksonville in 1937, joining the Associated Press' Jacksonville bureau in 1939, moving to its Tallahassee bureau in 1940 and covering the Capitol for the AP for 14 years before becoming editor of the Tallahassee Democrat in 1954.

His daily column was required reading for Floridians, 25 newspapers carrying his comments. His community was an entire State, not just his beloved Tallahassee.

Under his direction the Tallahassee Democrat became universally recognized as one of the finest daily newspapers for a circulation of its size in the Nation. Professional journalists over the Nation have long praised its quality.

That is to his credit and is an indisputable fact.

But an aspect of his life that is not as well known was the time he found to give to young journalists and the respect in which he was held by them. I know of many, many men and women who have told me of the regard they had for his opinion of the profession and how he was never too busy to impart his wisdom and confidence to them.

One told me that Malcolm Johnson had the greatest influence on his life of any person he had known except his parents, and that man was a pretty good journalist in his own right.

Another side of the man is demonstrated in Funders, Inc. which each year raises money to send poor youngsters to summer camp. This brief experience often provides the impetus to change the course of a youngster's life.

It is significant of the man that Funders started when a group of Boy Scout leaders came to Malcolm and asked him to help with a drive to send more scouts to summer camp. "Why just scouts and why just boys?" he asked and formed a corporation to send all needy kids to camp.

Malcolm Johnson has been asking "why" about a lot of things and seeking the answers for a long time. The result has been a richer life for those his influence touches and has touched.

No mention of Malcolm can be made without noting the Upsy Daisy Plant Uplift Society, formed when engineers were staking out the first Leon County section of Interstate 10. Long a student of local wildlife, his works on birds and flowers in the Tallahassee area are considered classic, he became concerned when he found that the new roadway would destroy the largest patch of wild azaleas in the area. He wrote a column and got permission from the road builders for residents to harvest the plants before they were destroyed. It was a miserable day when the dig was scheduled, but they came by the thousands. Since then there have been 15 others, all well attended, one recorded on national television.

When I think of the times he has seen in his career in Tallahassee, I marvel at his many contributions. He saw this beautiful community grow from a relatively small southern town to the active capital city of the Nation's eighth largest State.

Not only did he observe and report events, he shaped them.

In his office at the Tallahassee Democrat when last I visited him there, he sat in his old rocking chair. Quiet, relaxed, his bushy eyebrows moved in concern with the quick thrust of his mind He has a unique ability to move through minutia to the heart of the matter and this was one of his strengths as a journalist.

Much was written and said about Malcolm as he took his leave of his active newspaper career so I wanted to wait a while and then say something about a man I have long admired.

Since my election to the Florida Legislature nearly 20 years ago, I have been a fervent reader of his. Sometimes I have been at the receiving end, but never was he unfair or vicious. He made his points and while those of us in public office may not have always agreed, we always listened. And in listening, we learned.

It is like the man that his final column contained this paragraph at the end:

We'll get the kind of government the people permit. Wise and good officials will make government work to the benefit of their constituents under the worst constitutional forms. If you elect bad officers, you'll get bad government with the best of laws and constitutions.

It would be unfair not to mention the gracious lady who made so much worthwhile. The one-time Jacksonville newspaperwoman directed the furnishings and decoration of the Prince Murat House at the Tallahassee Junior Museum; the columns, now the home of the Chamber of Commerce; and Marjorie Kinnan Rawlings' home at Cross Creek. Dorothy Johnson is a remarkable lady whose contributions deserve all of the plaudits she has received.

Perhaps the finest tribute I can think of is to repeat something Malcolm once wrote about his profession in which he said:

What other work could have sat me at the ringside of history in national politics, scientific advance, and natural phenomena? Flying with astronomers to get above the clouds to photograph an eclipse . . . watching the first movies of the development of a chicken in the egg . . . talking to a killer moments before his walk to the electric chair . . . reporting the birth of a third political party presidential candidate . . . watching men rise to seats of the mighty, and fall again . . .

My field has been politics, Florida's in particular. Others of our craft have and do find the same excitement in sports, in covering riots and raids, crime and courts, war and economics.

Whatever there is that people want to read and know about, you'll find a person dedicated to learning and writing about it for their benefit—and reaping high satisfaction, even after inevitable frustrations in his pursuit of the news.

And it always will be that way, because people will keep on yearning for information they haven't the time nor means to gather firsthand.●

## THE RIGHT TO PRIVACY VERSUS NATIONAL SECURITY

### HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. MAZZOLI. Mr. Speaker, the House Intelligence Committee will soon have before it legislation to create new charters for the intelligence community.

This legislation will be complex and many faceted, but in many instances, we will be debating one fundamental question: What sacrifices of individual liberties and rights are necessary to safeguard our national security?

The following article from the April 7, 1978 New York Times raises one aspect of this question. While I do not necessarily endorse Mr. Paper's remedy for this problem, I do believe that his article presents a distressing problem with which the committee must deal.

The need of the Federal Government to obtain phone records in some cases involving our national security is clear. However, the review of a neutral court would help insure that the Government's reasons for requesting the records are legitimate.

And, certainly, if the records are to be used in a criminal prosecution an individual ought to have the right to challenge the Government's access to these records, and to review the propriety of the Government's prior obtaining these records.

Mr. Paper's article follows:

NUMBERS, PLEASE

(By Lewis J. Paper)

MAPLEWOOD, N.J.—A civil-rights worker in Mississippi, Spiro T. Agnew and newspaper reporters—these and thousands of others have something in common: The Government once secretly obtained records of their private telephone conversations.

In every case, the Government did not bother to advise these individuals that their telephone records were in its hand. Nor were they told why the Government wanted these records or what it intended to do with them. In fact, the Government did not have to explain anything to anyone—all it had to do was direct telephone companies to turn over the requested records.

The Government's unlimited power to obtain telephone records, protected by law, is still a part of our national experience.

That power depends on Section 605 of the Communications Act, which commands telephone companies to release records of private communications when served with a court subpoena or with a "demand of other lawful authority." The law does not specify who or what that "other lawful authority" is. Nor does it require the Government demand to be approved by a neutral court. And the law is similarly silent on the purposes for which the records can be used. In short, the law's grant of power is as unrestricted as anyone can imagine.

Not surprisingly, the law has been abused. Thus, the Federal Bureau of Investigation obtained the telephone records of a civil-rights worker in 1969 in an effort to harass and discredit a group that J. Edgar Hoover considered extreme. In 1968, President Johnson used the guise of "national security" to obtain the telephone records of Mr. Agnew, then the Republican Vice-Presidential nominee; Mr. Johnson was hoping to find information that could be used publicly to embarrass Mr. Agnew. And in 1974, the Internal Revenue Service obtained the records of telephone calls made by reporters in one newspaper's Washington bureau. The I.R.S. was not investigating a violation of the law by the reporters; instead, it was trying to determine whether anyone in the I.R.S. was the source of newspaper stories criticizing the Nixon Administration.

There is no public record documenting the precise number of records obtained, but if public and private comments of telephone company officials are any indication, the statistics are enormous. It would be difficult to blame telephone companies for past or present abuses, however. After all, they are only obeying a lawful request.

Fortunately, the opportunity for corrective action is at hand. The Senate is considering an omnibus intelligence bill that authorizes the collection of telephone records in national-security investigations only in "exigent circumstances" or when the Attorney General determines that the acquisition of records is "necessary and reasonable." This is a step in the right direction, but it does not go far enough: The privacy of telephone communications should not depend on the discretion of Government officials, no matter how good their intentions; moreover, the bill does not include nonsecurity agencies and departments.

Congress should broaden and strengthen the proposal in two ways.

First, the law should require all requests for telephone records to have the prior approval of a neutral court. This is the general practice when the Government makes other private searches, and there is no reason to make an exception for telephone records. Second, the law should require the Government to advise the individuals involved that records of their private telephone conversations have been requested, and those individuals should be given an opportunity to ask the court to deny that request.

These procedures are essential to protect constitutional rights and should be suspended only for good cause in carefully defined situations.●

## EDITORIAL COMMENTS ON PRESIDENT'S DECISION TO DELAY PRODUCTION OF NEUTRON BOMB

### HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following editorial from the Washington Post concerning the President's decision to delay production of the neutron bomb.

The editorial follows:

[From the Washington Post, April 6, 1978]

THE NEUTRON DECISION

All things being equal, the president could make his decision concerning the procurement and deployment of neutron weapons in a clean, isolated, even philosophical way. He could weigh the military pluses and minuses of these so-called "enhanced radiation" warheads strictly in terms of whether they would—as some argue—1) make East-West war less likely by providing NATO with relatively "clean" and controllable tactical nuclear weapons that an enemy would readily believe the Western forces might use or 2)—as the counterargument goes—make it all too likely that any East-West confrontation in the NATO area would turn into a nuclear exchange, since the very "manageability" of the neutron weapons would tempt the side that had them to introduce them.

But all things aren't equal, and that detached, clinical kind of choice is, in our view, no longer available to Mr. Carter—at least not without very bad consequences. We say this with more than routine reluctance and regret, because a year ago, when something more nearly akin to political and diplomatic lab conditions prevailed, we ourselves found it fairly easy to reach a judgment *against* the president's going forward with the weapons. We found the second of the views cited above the more persuasive. And we have held that opinion up to now. But it seems to us that the president has lost—in some measure, forfeited—the luxury of such a choice. We now feel that if neutron weapons are to be held out of the Western arsenal, they should be negotiated out with the Russians—and only for something considerable in return.

Let us be very plain about this: The most important altered circumstance that seems to us to argue for Mr. Carter's going ahead with a decision to procure the weapons is the evident unwillingness of the Soviet Union to slow even by a hair its buildup of what are called "theater weapons," a gigantic and ever-growing arsenal of medium-range nuclear missiles, tanks and the rest, trained remorselessly on Western Europe. American awareness of that buildup has become a good deal clearer and sharper in the last year or

The Soviets have also done much to transform the international politics of the issue into a circus. It is as poignant as it is preposterous that so many well-intentioned arms controllers have taken to the streets

and Xeroxes to single out and protest this particular range of weapons. What is poignant is that the whole propaganda thrust of the Soviets—their effort to capitalize on the Western democracies' open internal disagreement on precisely this question—has altered the character of the decision Mr. Carter will make on it. It has made it more, not less, desirable for him to let the weapons go forward, at least to the procurement stage.

If the Soviets wish to influence the deployment of these weapons in the NATO theater they should be given every chance to do so—by the appropriate means, which is *by trading off some of their own increasingly NATO-directed arms,* arms that have had more than a little to do with justifying the need for the neutron weapons in the first place. We will be frank to say that Mr. Carter seems to us to have permitted the setting for his decision to get way out of hand and to have let the choice be framed by others for him. But now it seems to us he really needs to make a forthright, no-nonsense decision to proceed, with a view to negotiating the weapons out at whatever point in the production-deployment sequence an opportunity may arise to get a reasonable return.●

## RURAL DEVELOPMENT POLICY ACT

### HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. OBERSTAR. Mr. Speaker, testifying on behalf of the National Association of Towns and Township, Mr. Warren Youngdahl recently underscored the need for greater Federal focus on the development of rural America.

The national association is a federation representing public officials from over 13,000 units of local government around the country. NATAT is unique among Washington-based public interest groups in that it is the only one comprised of predominantly smaller communities, nonmetropolitan in nature. Considering that a very substantial proportion of Americans live in such localities, NATAT provides the focus for a vital intergovernmental perspective.

During hearings before the Agriculture Subcommittee on Family Farms and Rural Development, chaired by Congressman RICHARD NOLAN, Mr. Youngdahl presented his valuable insights regarding the Rural Development Policy Act, H.R. 10885.

Mr. Youngdahl is a supervisor for Marcell Township in the northwest portion of Minnesota's Eighth Congressional District. He is also vice president of the Minnesota Association of Township Officials and long-time member of Minnesota's Rural Development Council. I am very pleased to submit for the consideration of my colleagues. Mr. Youngdahl's concise and informative evaluation of this important rural development legislation:

THE RURAL DEVELOPMENT POLICY ACT—A MUCH-NEEDED COORDINATING MECHANISM

At its last meeting here in Washington, the National Association's Board of Directors voted unanimously to support H.R. 10885, the Rural Development Policy Act. NATAT recognizes the need for a two-pronged, comprehensive approach to solving the institutional problems of rural America: a top-down and a bottom-up attack on the obstacles in the federal system which impede efforts to improve the quality of life for people living in the non-metropolitan sectors of our country. We view H.R. 10855 as an important legislative initiative which will provide a much-needed and long overdue focus in Washington for coordinating the development of rural policies and programs. It will also support the efforts of the Secretary of Agriculture in fulfilling his mandate, under Section 603 of the Rural Development Act of 1972, to promote effective non-metropolitan development and growth in the United States.

FEDERAL RURAL DEVELOPMENT COUNCIL

This bill provides for the establishment of a Federal Rural Development Council, comprised of Cabinet members and the heads of major federal agencies, and under the direction of the Secretary of Agriculture. We see this as a fundamental provision of the law because it would institutionalize the rural sector at the highest level of government and would provide the opportunity for communication between, and coordinated action through, our nation's chief policy makers. In terms of development programs, a Rural Development Council will help alleviate some of the urban bias which now permeates our federal structure. For example, the Economic Development Administration's Public Works Program is weighted in favor of larger communities because one of its criteria for chosing grant applicants involves absolute numbers of unemployed. Clearly, this provision discriminates against smaller rural communities. The Department of Housing and Urban Development's Small Town grant program, a provision of the Community Development Act of 1977, similarly gives larger communities an advantage in the selection process. Many other federal programs have arbitrary population cut-offs which cut thousands of non-metropolitan communities out of the system entirely.

It is situations like those I have just enumerated which we feel a strong Federal Rural Development Council could begin to remedy.

RURAL DEVELOPMENT ADVISORY COMMITTEE

The National Association of Towns and Townships is very enthusiastic about another provision of the Act which establishes a Rural Development Advisory Committee, comprised of representatives of state and local government, rural residents, and organizations with an expertise in rural matters. We view this Advisory Committee as a feature which is vital to an effective decision-making process. Now, for the first time, our nation's policymakers will have the benefit of direct input and feedback from rural officials and will be able to hear first-hand how federal programs and policies are working—or not working—in the community.

A strong Advisory Committee is a key to the success of the Rural Development Council, and NATAT recommends that adequate funding be provided to underwrite the travel and meeting expenses of Advisory Committee members. While we recognize that it is the President's desire to reduce the number of federal advisory groups, especially those which have outlived their usefulness, we hope that he and the Congress will recognize this Advisory Committee as an integral part of a national rural development effort.

INCREASED FUNDING AUTHORIZATION FOR RURAL PLANNING

As members of this Subcommittee are no doubt aware, the current authorization for rural development planning grants under Section III of the Rural Development Act is $10 million. This level of funding is inadequate to meet our planning needs at the local level.

At a meeting of Minnesota's Rural Development Council, we discussed this situation and agreed, along with our executive director, Mr. John Kostishak, that if public officials are to be able to respond to the need for planning the development of our rural communities nationwide, then significantly higher levels of funding must be provided. I think another important measure of the need for additional funds is indicated by the number of calls received by the Department of Agriculture earlier this year regarding the planning grant program. Even before the regulations for administering this program were drafted, the Department received over 600 inquiries from officials around the country about the program.

Obviously the need exists. Countryside America is painfully aware of this need as urban growth has begun to creep haphazardly into many rural areas. We wholeheartedly support that provision of the Act which allows for increased funding and, as a local government organization, believe it will enhance our capacity to be more effective partners in the intergovernmental system.

Again, on behalf of the Board of Directors of the National Association of Towns and Townships, I want to thank Chairman Nolan and the members and staff of the Subcommittee for the opportunity to share our views on this monumentally important piece of legislation.●

## BUFFALO BILL DAM MODIFICATION BILL

### HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. RONCALIO. Mr. Speaker, today I am introducing legislation to authorize the addition of a 25-foot collar on the top of Buffalo Bill Dam in Park County, Wyo., to provide additional storage capacity in Buffalo Bill Reservoir and for other related purposes.

Buffalo Bill Dam, completed in 1910, is named for the early day scout and showman who actively promoted the Shoshone project, perhaps our first federally built reclamation works. The dam was the tallest structure of its kind when built at 325 feet. It is a constant radius curvature structure with a base width of 108 feet, crest width of 10 feet, and crest length of 200 feet.

The dam was built primarily for irrigation storage with water first delivered to farms in 1908. Power production facilities were not added until 1922 with another power plant installed in 1948 for a total generating capacity of about 10,600 kilowatts.

Water from Buffalo Bill Dam and Reservoir irrigates about 94,000 acres with the newest irrigation unit, the 19,200-acre Polecat extension, being authorized on March 11, 1976. The current gross value of power and crop production from the project averages $8 to $10 million annually. The facilities also provide recreation and fish and wildlife benefits.

During the 68 years of operation at Buffalo Bill, the total storage capacity has been reduced by sedimentation, from an original storage capacity of 456,000 acre-feet to about 424,000 acre-feet today, a loss of about 32,000 acre-feet.

While the Bureau of Reclamation has determined there is sufficient storage now to serve both the Shoshone Project and the new Polecat Bench extension unit, last year's drought raised concern that under extended dry conditions there may not be adequate water supplies for the entire project.

Furthermore, there are ever increasing demands for water in Wyoming, especially for growing towns and cities, industrial development, and energy activities. If we can provide new storage through modification of existing facilities, it will be at a lower cost and without the environmental ramifications of building an entirely new structure in another location flooding another valley.

The modification of the dam authorized in my bill would provide an additional storage capacity of 271,000 acre-feet. The new water would be available for industrial and municipal use, irrigation, hydroelectric power generation, recreation, and fish and wildlife conservation. The bill also authorizes replacement of the outdated 1922 Shoshone powerplant and construction of a visitors center, dust abatement dikes, and impoundments.

Buffalo Bill Dam was subject to safety studies after the Teton Dam disaster which determined that under the worst possible flood conditions, the dam would hold. But water would crest 7 feet over the top of the dam with a potential $10 million damage to dam abutments, power facilities and downstream roads, bridges, farms, private structures, and buildings. Yet the study did not recommend any corrective action.

The work authorized in this bill, adding 25 feet to the height of the dam, would eliminate concern of floodwaters going over the top of the dam and would also provide valuable and needed additional water storage capacity. Cost of the entire authorized work is estimated to be $56,200,000 based on 1977 prices.

Buffalo Bill Dam is listed in the National Register of Historic Places and the American Society of Civil Engineers has designated it as a National Historic Civil Engineering Landmark. It is altogether appropriate that through today's technology this structure be made even more useful than ever thought possible by our early day reclamation planners and engineers.●

## THE UNITED STATES CAN DO MORE IN SUPPORTING INTERNATIONAL ALTERNATIVE ENERGY PROGRAMS

### HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. BROWN of California. Mr. Speaker, one of the areas where the United States has neglected its role in the world, and where we can easily show true leadership is in the area of developing alternative energy technologies and resources. As with most subjects, there is litigation on the books which authorizes U.S. activities in the Department of Energy, the Department of State, and AID. But as with most programs, this program suffers from inattention and inadequate resources.

One effort to tap the substantial resources in the Department of Energy's domestic energy research, development and demonstration program has been proposed by a coalition of some 50 Congressmen as an amendment to the Department of Energy's fiscal year 1979 authorization bill. The text of this amendment, which was primarily sponsored by my friend and colleague from California, Mr. BEILENSON, follows:

AMENDMENT TO DOE AUTHORIZATION

SEC. . (A) The Secretary is directed to use to the fullest extent practical, the domestic energy research, development and demonstration activities in support of the Department's international energy program.

(B) The international energy program shall support the energy programs of the President and the Congress which are established in the Department of State and the Agency for International Development.

(C) $20 million are authorized for this purpose, of which no less than $5 million shall be used for programs in research, development, and application of small-scale, decentralized technologies utilizing renewable energy sources for the rural areas of developing countries.

Other approaches to this obvious opportunity for U.S. trade and world leadership can easily be envisioned. I am sure that either this, or some similar amendment will, in fact, be approved this year. The reason I raise it here is to alert others to the issue and the potential of this type of U.S. effort.

As we consider alternative energy technologies, we need to recognize that we do not work alone in this field. In several technologies, other nations are substantially ahead of the United States. Other nations have already recognized the need for greater utilization of indigenous energy supplies.

A recent editorial in Science magazine put this matter in focus when it stated:

From the standpoint of energy research programs, the United States is clearly the leader in terms of quantity and scope. . . . But with respect to converting research into production facilities that make a difference to the country's energy supply, the United States lags.

Other countries seem to be moving into this gap, although they still lack the great research resources of the United States. A broader approach to this issue, similar to that described in the above amendment, is needed to move the United States in this direction.

The Science editorial follows:

[From Science magazine, Apr. 4, 1978]

ENERGY AND DEVELOPMENT

The United Nations Conference on Science and Technology for Development to be held in Vienna in September 1979 could be an important constructive event. Many observers, however, fear that it will be just another confrontation of politicians from developed and less developed countries. Transfer of science and technology cannot be accomplished by the interaction of politicians or by gifts of black boxes or tons of blueprints—a prerequisite is human interaction at an expert level.

The organizers of the U.N. conference might well draw lessons from a symposium entitled "Energy and Development in the Americas," held from 13 to 17 March near Santos, Brazil.* Participants came from 16 countries and included about 110 scientists, engineers, and government representatives. They brought to the meeting different backgrounds of knowledge and experience, and found mutual pleasure and benefit in friendly interchanges. Topics covered included nuclear energy, oil, oil shale, coal, synthetic fuels, hydropower, windmills, hydrogen, solar energy, biomass, efficient use of energy, and energy for rural peoples. The participants shared the belief that the days of cheap oil are over and the conviction that each country must survey its own energy resources and move toward an energy independence based on indigenous supplies.

For Latin America in general, this means an emphasis on solar energy, biomass, and the development of large hydropower potentials. Venezuela has a great oil resource in its Orinoco tar sands; Brazil, oil shale: Colombia, substantial coal reserves; and Mexico, newly discovered oil; but the region as a whole is lacking in fossil fuels.

A problem much on the minds of participants was the continuing crowding into cities of the peoples of Latin America. There was a search for a means of slowing this trend by making rural life more attractive. Ways of creating cheap, small, practical energy sources were discussed. A problem of the cities is to provide electricity. Today, Argentina, Brazil, and Mexico are proceeding with nuclear power plants. Some of their neighbors are considering following this path.

From the standpoint of energy research programs, the United States is clearly the leader in terms of quantity and scope. This country is also becoming expert at building "demonstration plants." But with respect to converting research into production facilities that make a difference to the country's energy supply, the United States lags.

Brazilians are moving ahead with the production of alcohol for motor fuel and of charcoal from eucalyptus trees for steel mills. The use of palm oil to supplement diesel fuel is on the horizon, and the development of hydro-power is continuing.

Two speakers from outside the Western Hemisphere provided additional perspectives. The French are proceeding with the operation of a nuclear reprocessing plant and with practical means of disposing of nuclear wastes. They have developed and are implementing long-range plans for their energy future. If one takes into account the skimpy resources of the Indian subcontinent, the United States is put to shame by the Indians. They are building a large number of biomass converters to produce methane from cow manure. The heating value of the methane is five times that of the cow dung. Sludge from the digesters makes excellent fertilizer.

This international meeting, sponsored jointly by the Brazilian Society for the Progress of Science and Interciencia, was organized in less than 6 months. In the year and a half remaining before the Vienna meeting, the United Nations still has time to create sessions and an atmosphere in which significant interchange can occur.—PHILIP H. ABELSON.●

## H.R. 7700, THE POSTAL SERVICE ACT OF 1977

### HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. GOLDWATER. Mr. Speaker, I supported H.R. 7700, with the sincere

hope that this bill will return the Postal Service to some degree of respectability. The bill will now return to the President and the Congress some of the oversight over the Postal Service that we relinquished in 1971. The Postmaster General will again be a Presidential appointee, Congress will be able to veto any policy changes, such as cancellation of Saturday mail deliveries and the closings of rural post offices. The bill requires the Postal Service to detail to Congress each year how it plans to spend its money, and it abolishes the Board of Governors.

The Postal Service in its present form is just not fulfilling the purpose for which it was created. It is plagued by mismanagement and lack of accountability. There are few incentives for its managers and employees alike.

The passage of the Postal Reorganization Act in 1971 was supposed to make the Postal Service more efficient. However, what we have today is almost total public dissatisfaction. The U.S. Postal Service is one of the 10 largest corporations in America, whose labor force is surpassed only by General Motors and American Telephone and Telegraph. The Reorganization Act authorized Congress to appropriate an annual public subsidy of $920 million for the Postal Service from 1972 to 1979. That amount was to decline thereafter until 1984, when the subsidy could be eliminated, because the Postal Service was supposed to be able to break even by that date. The closest the Postal Service came to breaking even however, was in fiscal year 1973, when the deficit was $13 million. It has been down hill ever since.

Part of the problem lies in the passage of the 1971 Postal Reorganization Act. On the one hand, the law says:

> The postal service shall have as its basic function the obligation to provide services to bind the Nation together through the personal, educational, literary and business correspondence of the people.

However,

> Postal rates and fees shall provide sufficient revenues so that the total estimated income and appropriations to the Postal Service will equal, as nearly as practicable, total estimated costs of the Postal Service.

It is obvious that public-service and break-even mandates are incompatible.

Part of the problem lies in the fact that the Congress did not give the Postal Service enough freedom while at the same time we failed to require cost-effective management or put a limit on nonmail delivery expenses.

While I supported H.R. 7700, I consider it only an interim solution and a distasteful one at that. The fact that the Postal Service has not worked out to our expectations, does not mean that the concept was a mistake. I think that what we need are the right people who can do the job. Obviously, this has not been done. Mismanaged private companies lose customers and eventually go bankrupt, and it is this threat and the promise of profits that makes private enterprise work.

There is no such performance incentive within the Postal Service.

One solution may be the repeal of the private express statutes. Competition just may generate the innovations and efficiencies so badly needed in the Postal Service. This competition from private carriers would drive down first-class rates, particularly for local delivery. During the 1840's and 1850's, private express companies forced the Government to lower its first-class rates from 25 cents to 3 cents—a rate that survived until 1958.

Another solution which does not exclude the first, would be to denationalize the Postal Service. There is no reason for continuing postal service as a nationalized industry merely because it has historically been a Government enterprise. When the Federal Government and the post office were founded in 1789 there was little alternatives to Government ownership and operation of the postal system. However, means of financing large-scale businesses have long since been available. There is no longer any need for the Federal Government to remain the sole supplier of postal services.

As a privately run business, the Postal Service would compete with other forms of communication and distribution, and would flourish or die according to its success in meeting the needs of its customers. The Postal Service would then pay taxes instead of being a drain on the Treasury. It would raise needed capital in the open market at a fair cost rather than wastefully through tax-financed Government guarantees. In other words, it would get the job done, or give way to something better.

There is no doubt that many questions need to be answered should full private competition come to pass. But, private enterprise has given us good service. We do not hear many complaints about telephones, energy, airlines, and so forth, which is all the more reason why I believe private enterprise can also give us good mail service.

Thus, this "yes" vote of mine is the last one I will cast for postal subsidies or other bail-outs when they are not accompanied by other reforms or requirements that insure quality of service for the American public and insure that American tax dollars are not being poured down a rat hole.●

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## ARMS SALES TO EGYPT AND SAUDI ARABIA—PRESIDENT'S PROPOSAL MUST BE REJECTED

**HON. ROBERT W. KASTEN, JR.**

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. KASTEN. Mr. Speaker, in the near future, President Carter is expected to formally submit his three-part proposal to sell sophisticated fighter planes to Egypt and Saudi Arabia. The President's proposal is a dangerous "all or nothing" package that links the sale of weapons to these countries with the sale of long-promised aircraft to Israel.

The administration's Middle East policy is reckless. It has transformed the United States from a partner with Israel to a problem for Israel.

Certainly, this latest pronouncement by the administration is evidence of this transformation. It comes at the wrong time and can do nothing but further exacerbate the already tense situation that exists in the Middle East. The road to peace is difficult, and the administration has chosen to throw one more stumbling block in the way.

Israel is today what it has always been—our principal ally in the Middle East. While there have been occasional differences of opinion over the specifics of U.S. policy with respect to Israel, every American President since Harry Truman has affirmed our commitment to insure the survival of Israel.

We entered into that commitment knowing full well the obstacles ahead. We did so, because of our affinity for a nation built on the same democratic principles as our own country; our ties to the cultural and religious heritage of the Jewish people, and our profound admiration for the readiness of the Israeli people to fight, when necessary, to defend their existence as a free and independent state.

Our original commitment to the Jewish people has been a cornerstone of American foreign policy. We cannot permit the current machinations of the Carter administration to undermine that commitment, particularly at this most critical time in the Middle East negotiations.

### THE ADMINISTRATION PACKAGE

While it is rumored that the administration may alter its February proposal, it appears that the President will continue to endorse arms sales for Israel, Egypt, and Saudi Arabia as part of a package, leaving Congress the narrow option of approving or rejecting the entire package. I am opposed to the concept of a package sale, and I am firmly opposed to selling sophisticated weaponry to the enemies of Israel. I hope that Congress will soundly reject the proposal—thus sending a clear message to the White House that their drifting Middle East policy will not be tolerated.

### ARMS FOR ISRAEL

In February, the administration proposed the sale of 15, F–15 fighter planes for Israel. These are sophisticated, long-range fighters. Israel had requested 50 F–15's, 25 of which it is already acquiring. The administration has reduced the number of the additional F–15's Israel will receive from 25 to 15. Israel also requested 150, F–16 fighter/bombers, with the administration approving the sale of only 75, for approximately $1.5 billion.

The United States has a standing commitment since 1975 to sell Israel these aircraft. A pledge to maintain Israel's defensive strength through providing advanced equipment was written into the Sinai II disengagement agreement. The sale of F–15 and F–16 fighters should proceed as promised during the Ford administration. We cannot allow our allies to believe that promises by one American administration will be subject to reversal by successive administrations.

U.S. policies in the past have been directed consistently toward seek-

ing a balance of military force among the nations of the Middle East. In contrast to its neighbors, Israel has only the United States from which to purchase arms. It must have full confidence that the United States will supply the weapons necessary to insure its own defense.

ARMS FOR EGYPT

The second part of the administration's proposal includes the sale of 50 F–5E's for Egypt. These are short-range fighter/bombers that have been priced at $400 million for the shipment.

Unlike the sale of F–15's and F–16's to Israel, there is no prior U.S. commitment to sell either F–5E's to Egypt nor F–15's to Saudi Arabia. The sale of offensive weaponry to Egypt, in particular, represents a dramatic turnabout in U.S. Mideast policy.

Part of the administration's rationale is that Egypt must have reasonable assurances of its ability to defend itself now that it no longer receives military equipment from the Soviet Union. That logic is faulty. Egypt is presently strong enough to deter any real threat to her by a hostile neighbor. Egypt continued to receive arms from the U.S.S.R. through 1977. Moreover, Egypt is presently receiving advanced aircraft from Britain and France and is having her fleet of Mig 21's refurbished by Lockheed and General Electric. Unlike Israel, Egypt's defensive strength does not depend upon the United States.

Providing F–5E aircraft to Egypt would go against U.S. interests in the Middle East. It would result in providing offensive weapons to both sides of a conflict and threaten Israel's security during sensitive peace negotiations.

Mr. Sadat's earlier peace initiatives were applauded by the world. If he really wants peace, he does not need more fighter-bombers. If he decides to pursue the war option, the United States cannot assume the position of having supplied Egypt with weapons it will use against our long-time ally, Israel.

ARMS FOR SAUDI ARABIA

The third, and most objectionable element of the arms package is the proposal to sell 60 F–15's to Saudi Arabia at a cost of $2.5 billion.

The F–15 is the most advanced air-superiority fighter in the world. It is capable of long-range attacks and interceptions. F–15's would enable Saudi Arabia to strike deep into Israel. This sale would effectively alter the balance of power in the region against Israel and make a military solution rather than a negotiated settlement more appealing to the Arab countries.

The national interests of our country in assuring peace and stability in the Middle East would be jeopardized by this sale.

America's aim of assuring Israel's security will be directly undermined by the F–15 sale to Saudi Arabia, whose planes with long-range lethal missiles could neutralize Israel's F–15's on a 1-to-1 basis and pose an unprecedented threat to Israeli bases and cities.

In the last 4 years, Saudi military strength has increased significantly. Since 1973, Saudi Arabia has spent more than $12 billion on advanced weapons and military construction.

The sale of the F–15's will mean a tripling of Saudi air strength compared with 1973. Saudi acquisition of the F–15's would be particularly disturbing in light of the ongoing expansion of their air bases, especially their principal base at Tabuk, which is only minutes flying time from Israel's Red Sea port of Eilat. The presence of so advanced a weapons system on Israel's borders will not enhance Saudi Arabia's security. Rather, it will make Saudi participation as a fourth confrontation state in a future Arab conflict with Israel more likely.

The words of King Khalid in May 1976 cannot be overlooked as we review the terms of this sale:

When we build up our military strength we have no aims against anyone except those who took by force our land and our shrines in Jerusalem—and we know who that is. We also believe that the strength of Saudi Arabia is a strength for the whole Arab and Islamic world. We always intended to make use of all military equ'pment that might help build our military strength.

FAVOR ISRAELI SALE

Mr. Speaker, there is absolutely no reason why these sales must be treated as a package deal. Each sale should be scrutinized on its own merits, with Congress making the final decision of how we proceed. Long-promised arms to Israel should not now suddenly be held hostage to our country's military relationship with Saudi Arabia or our erratic political relationship with Egypt.

I favor providing Israel with 25 F–15's and 150 F–16's—the full amount of these aircraft Israel needs for its defensive purposes. Such a sale is in keeping with previous U.S. commitments to our ally. I am opposed to the sale of F–15's to Saudi Arabia and the F–5E's to Egypt.

As Congress makes its decision on these proposed sales, I am reminded of the moving words of former Prime Minister Golda Meir, in an article she wrote for the New York Times in January 1976:

There are 21 Arab states, rich in oil, land, and sovereignty. There is only one small state in which Jewish national independence has been dearly achieved. Surely it is not extravagant to demand that in the current power play the right of a small democracy to freedom and life not be betrayed.●

## THE WHITE HOUSE STAFF

## HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. DERWINSKI. Mr. Speaker, I have been a longtime advocate of giving our Nation's Chief Executive all the flexibility he needs in hiring and compensating members of his White House staff. At times, I have felt quite lonely in that position. Now, I am happy to see I am in prestigious company. The Washington Star, in an April 8 editorial, emphasized the folly of trying to put constraints on the size if the White House staff. As the editorial pointed out, as long as the staff is subjected to the budget process, it will be kept within bounds. The editorial follows:

[From the Washington Star, April 8, 1978]

THE WHITE HOUSE STAFF

The most recent legislative authorization for White House staffing having been enacted nearly 40 years ago, it probably is time to bring things up to date. The 14 presidential assistants allowed in the 1939 law hardly fits the need of the 1970s, even for a president who has pledged to shrink the government.

But the corrective measure that came up in the House the other day seemed a peculiar way to go about it.

In the first place, it came to the House floor under a procedure that permitted no amendments and therefore required a two-thirds vote. Evidently the bill's supporters thought it was non-controversial, a notion of which they were quickly disabused. It produced much huffing and puffing, especially on the Republican side; not only did it fail to get a two-thirds majority, it barely got a simple majority (207 for and 188 against).

Telling a House member that he can't offer an amendment to legislation on the floor smacks of steamroller tactics and it's apt to get a member's back up even if he doesn't have strong feelings one way or another about a bill.

Republican members had, or at least feigned, strong feelings against the bill. Remembering Democratic jibes about the size of White House staffs during recent Republican administrations, they complained that the bill would nearly double the number of super-grade positions—from 55 to 100—on the president's personal staff. The bill also would allow an unlimited number of White House employees below the super-grade level.

The Republicans understandably had trouble reconciling President Carter's pledge to reduce the White House staff with the White House's support of a bill that would authorize a big increase in the staff and with its adamant position against subjecting the bill to amendments on the floor.

The president's special assistant for administration, Hugh Carter ("Cousin Cheap," they call him around the White House because of his parsimonious ways), explained that Mr. Carter had no intention of doubling the staff and, in fact, had reduced it since he took office; but "we wanted to have plenty of flexibility in the future in the event of an emergency like World War III or something and needed to increase the staff."

Of course! You never can tell when another world war might come along. Even brush fire wars can require a lot of White House attention—remember Vietnam?

But where do you start or stop in the numbers game? Obviously 14 high-echelon staffers aren't enough. But should the ceiling be 55, or 100, or some other number? If the law establishes a ceiling above the number currently on hand, does that tend to encourage the White House to move toward the maximum allowed?

Why not authorize the president to have as much staff as he, the Office of Management and Budget and the Congress deem appropriate for the work at hand? The White House ought to be required, of course, to justify its personnel requests to the appropriate committees of Congress. And it ought to be required to account for the floaters that it "borrows" from time to time and for varying periods from other executive agencies.

The White House ought not be constrained by a numerical quota. It pays, as Cousin Hugh suggests, to stay loose at the seat of national government. Surely the annual budget process can keep the staff size within appropriate bounds.●

## REPRESENTATIVE JACK KEMP TESTIFIES IN SUPPORT OF FUNDING FOR ENVIRONMENTAL AND PUBLIC WORKS PROGRAMS

**HON. JACK F. KEMP**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. KEMP. Mr. Speaker, yesterday I testified before the Public Works Subcommittee of the House Committee on Appropriations on behalf of crucial environmental protection and public works programs in my congressional district and in western New York. There are a number of these projects that have gone unfunded or underfunded in President Carter's fiscal year 1979 budget.

These projects represent the culmination of many years of hard work by State, local, and Federal officials, along with the people of the Niagara frontier, to create a better environment, better living conditions for homeowners in flood-prone lands, and an improved waterway system all around the Buffalo area for increased commercial and recreational use.

I particularly urged the subcommittee to appropriate funds for the Ellicott Creek Flood Control project, which has been halted due to the administration's policy of no new starts. The construction of this project is crucial to the environmental well-being of Amherst, Williamsville, and the entire 38th Congressional district. Such construction starts as this represents also mean many more jobs, and a badly needed economic stimulus to western New York.

A copy of my statement follows:

STATEMENT OF REPRESENTATIVE JACK KEMP OF NEW YORK BEFORE THE SUBCOMMITTEE ON PUBLIC WORKS OF THE COMMITTEE ON APPROPRIATIONS; APRIL 12, 1978

Mr. Chairman and my fellow members of the Committee on Appropriations:

I am here this morning to testify in support of—

Additional funding for the Ellicott Creek flood control project of $1,100,000;

Additional funding for the Cattaraugus Harbor Project of $1,640,000;

Additional funding for the Great Lakes/St. Lawrence Seaway Navigation Season Extension Study of $1,025,000;

Additional funding for the Lake Erie Wastewater Management Study of $400,000;

Additional funding for the Great Lakes to Hudson River Waterway Study of $215,000; and the Administration's budget level requests for—

Scajaquada Creek Flood Control Construction Project;

Black Rock Lock, Tonawanda Harbor, and Buffalo Harbor maintenance funds; and

Buffalo Metropolitan Area Study (Tonawanda Creek).

Mr. Chairman, I would like to take this opportunity to thank the Committee for providing me with this opportunity to testify today; and I would especially like to thank Mr. Nowak and the other Western New York Representatives who have worked so hard on these Public Works projects.

SPRING FLOOD THREAT IN WESTERN NEW YORK

Because of the now famous "Blizzard of '77" along with the inordinately heavy snowfalls in this past winter of 1978, Western New York is faced with an urgent necessity of preventing potentially disastrous flooding throughout the Niagara Frontier. The flooding potential is caused by the melting snow and ice left over from the record snowfalls. Last year the Buffalo area underwent an unusually slow spring, which resulted in a comparable slow but steady snow melt. Spring of 1977 also saw a lot of high, dry winds that evaporated much of the snow.

This year the snow level was almost as deep. In a February 11, 1978 article in the Buffalo Evening News, reporter Paul McClennan states, "While the snow today is not as deep, the concern is almost as great. In the upland areas with streams leading into Lake Erie, the corps estimates there is the equivalent of 4 inches of water in the snow pack compared with a long-term average for this time of year of 1.67 inches. That's a lot of water if the snow suddenly melts and flows into otherwise small creek beds. . . . Combined water content of snow in the Lake Erie and Genesee River tributaries spells potential trouble for residents throughout Erie County from Cattaraugus Creek through the Buffalo-Cazenovia-Cayuga creeks region to the Ellicott and Tonawanda Creek watershed."

This potential threat to the homes and citizens of my District underlines the unpredictability of nature, especially in a northern area such as Buffalo, New York, where the slightest variance from the norm can spell disaster for countless numbers of people. We in the Federal Government have a responsibility to do all that we can to prevent such devastations as this potential flooding to the best of our ability, particularly when literally thousands of dollars have already been spent on preparatory studies and various planning stages. To literally halt construction of vital flood control projects is indefensible when such action is taken arbitrarily, without good reason.

ELLICOTT CREEK FLOOD CONTROL PROJECT

The Administration has designated no funding for this extremely important flood control project. I find it unconscionable that the Administration could let a major project such as this suffer needless delays by totally eliminating vital funds in the FY 79 budget. This project is of major importance to the entire Western New York area, and I urge the members of this Subcommittee to restore the Corps' full funding request of $1,100,000.

Ellicott Creek is the largest tributary of Tonawanda Creek and drains an area of approximately 110 square miles in Erie, Genesee, and Wyoming Counties. The Ellicott Creek Basin includes all of the villages of Alden and Williamsville and parts of 2 cities, one other village, and 10 towns.

Portions of the lower basin—notably the towns of Amherst and Lancaster—are subject to periodic flooding, sometimes of an extensive nature. The danger of this is even greater given the unusually large snowfalls of the past two years, and the runoff that occurs from the melting snow and ice in the spring.

The development of the Ellicott Creek project has suffered a temporary setback as the result of extensive Corps of Engineers studies which determined that extremely weak soil conditions now exist along the banks of the creek. I was informed by Col. Daniel D. Ludwig, District Engineer for the Corps in the Buffalo area, last June 3, that this meant that the existing channel could not be enlarged as previously proposed without significant structural (floodwalls and utility and road relocation) changes and resulting adverse impacts. The solution which Col. Ludwig proposed was a new channel, extending from Pfohl Park and rejoining the creek just upstream of Niagara Falls Boulevard.

On March 9 of this year, I received a letter from Col. Ludwig elaborating on the Ellicott Creek project. Col. Ludwig's letter follows:

DEPARTMENT OF THE ARMY,
BUFFALO DISTRICT,
CORPS OF ENGINEERS,
*Buffalo, N.Y., March 3, 1978.*

Cong. JACK KEMP,
*House of Representatives,*
*Washington, D.C.*

DEAR MR. KEMP: I certainly appreciate the thoughts given in your letter of 24 January 1978 in response to my December letter appraising you of the status of projects and studies in your Congressional District.

In rereading your letter and my recent correspondence to you, I realized that while I have advised you of our capabilities for FY 1979 and our current progress on the Scajaquada Creek project, I had not given you an update on the Ellicott Creek flood control project. In my recent letter and meeting with you I indicated my current efforts are being devoted towards completing the Phase II Design Memorandum and that I expect to have that document approved in time for a 1979 start of construction. Actually, construction in 1979 is not only contingent upon timely completion of the Phase II Design Memorandum but also upon actions by my higher headquarters and possibly even by Congress with regard to the Phase I Design Memorandum which I completed last year.

The Phase I Design Memorandum was submitted thru the North Central Division of the Office of the Chief of Engineers and the Board of Engineers for Rivers and Harbors (BERH). The Phase I General Design Memorandum has a twofold purpose, (1) to depict construction proposed in response to your legislation in 1974 WRA (Sec. 14, PL 93-251) and gain OCE approval for construction of the lower portion of the project, (2) serve as a report as required by the basic authorization (Sec. 201 of 1970 WRA, PL 91-611) requiring review of Sandridge Reservoir. It has been determined that a Post Authorization Change Report is the vehicle by which we will address the requirement of basic authorization regarding review of Sandridge Reservoir. Modified Plan E is now recommended in Phase I GDM in lieu of the Sandridge Reservoir. A construction start on the lower end of project requires a minimum of one year after OCE approval of the pertinent part of Phase I GDM covering the lower portion of the project authorized by your 1974 legislation. OCE is now reviewing the Phase I GDM.

I trust that this letter will bring you up to date on the Ellicott Creek project. If you need any additional information, please contact me.

Sincerely yours,

DANIEL D. LUDWIG,
*Colonel, Corps of Engineers,*
*District Engineer.*

As you can see, the Ellicott Creek Flood Control Project has undergone substantial study and effort by the Corps of Engineers, and is most desperately needed by the people of Western New York. It is crucial that the Congress restore the Corps' requested funds to this budget so that this vital work can continue on schedule.

CATTARAUGUS CREEK SMALL BOAT HARBOR

This is another important project for which the Administration has budgeted no funds, but for which the Corps of Engineers' FY 1979 capability is $1,640,000. This project involves the construction of two breakwaters at the mouth of the creek and the dredging of a channel between them. The project is designed to keep the creek mouth open to reduce the threat of flooding resulting from ice jams and to provide recreational boaters unrestricted passage between the creek and Lake Erie. A detailed design of the Cattaraugus Creek small boat harbor project is com-

plete, and the plans and specifications will be completed this summer. Funding is now needed to begin construction.

GREAT LAKES-ST. LAWRENCE SEAWAY NAVIGATION SEASON EXTENSION

Here the Administration has budgeted $6,459,000 out of the Corps FY 1979 capability of $7,484,000, leaving a difference in funding of $1,025,000. The extension of the winter navigation season is crucial on the Great Lakes-St. Lawrence Seaway corridor to all states which are served by commerce along this waterway.

Mr. Chairman, I support the Great Lakes-St. Lawrence Seaway Navigation Season Extension Demonstration Program and the funding recommended by the Corps of Engineers for this project of $7,484,000.

Extending the navigation season on the Great Lakes is of major importance to the Port of Buffalo. Traffic moving from the upper lakes, down the chain, and into the St. Lawrence Seaway frequently uses the facilities at the Port of Buffalo; thus, the longer the navigation season on the entire lakes, the greater the use of the Port of Buffalo.

There has been a remarkable increase in tonnage after December 15 over the years the demonstration program has been extended, with increased tonnage through the Soo Locks and St. Mary's River operations up as high as 9.1 million tons. However, due to the severity of the winter of 1976–77, the winter for which the latest figures are available, tonnage fell to 2.93 million tons. Clearly, the Corps' work on extending the navigation season on a reliable basis is vitally needed.

Any adverse environmental effects are minimal, and some environmental benefits have actually been obtained through controlling damage caused by free-flowing ice.

This demonstration program has worked effectively and efficiently. The savings and benefits of the extended season include direct shipping costs, increased and stabilized incomes and employment, and many other regional benefits. There are estimates of $1.9 billion increase in regional output and $560 million in wages per year, which would create about 38,000 new jobs within the Great Lakes Region. These are estimates that have been made by the Bureau of Economic Analysis of the Department of Commerce.

Congress in 1970 recognized the urgency for improving water-borne commerce in the system, when it put the Winter Navigation Board to work to study and demonstrate the feasibility of year-round, system-wide navigation.

In the 1974–75 and 1975–76 winter seasons, traffic has moved full-season through the Soo Lock from Lake Superior into the lower lakes, carrying millions of tons of cargo. This has resulted in a benefit-cost ratio for upper lakes navigation through January each year in excess of 3 to 1. For full-system, year-round service, the benefit to cost ratio is estimated to be 9 to 1.

Extension of the season will do a number of things. It results in fuel savings. It disturbs the environment less than other modes of transportation which would have to be used. It increases use of vessels and port facilities. It makes greater use of capital facilities, and it provides for more stable employment, providing jobs on a 12-month basis for labor. I very strongly urge this Committee's support for full funding of this request, as more delays in the extension of the winter navigation season will have serious ramifications on all Great Lakes Ports, including the Buffalo harbor.

LAKE ERIE WASTEWATER MANAGEMENT STUDY

The funds requested by the Administration for this study are exactly half of the Corps' FY 1979 capability—$400,000 out of a potential $800,000. If full funding is restored, a final feasibility report of the Lake Erie Wastewater Management Study will be completed in June 1978. This report will contain a recommended wastewater management program for several Lake Erie tributaries. According to the Corps, these watersheds will be intensively monitored, and the results will be used to develop a basin-wide plan for restoring Lake Erie to an acceptable water quality level. Detailed engineering and design of the recommended wastewater management program for the entire Lake Erie watershed is scheduled to commence after review and approval of this plan by the Congress.

ALL AMERICAN TRANSPORTATION SYSTEM/GREAT LAKES TO HUDSON RIVER WATERWAY

Along with my Western New York colleagues, I strongly support an increase in the President's budget request from $35,000 to $250,000 for the Great Lakes to Hudson River Waterway Study. This action has the full approval of New York State, and would serve to coordinate two previously authorized studies. In 1973 the Corps was authorized to investigate waterborne commerce between the Great Lakes and the deep-draft Hudson River flowing down to the Port of New York. This study concentrated on the eastern portions of the New York State Barge Canal System, examining its feasibility for commercial use, while limiting any study of the western end of the Barge Canal System to a feasibility for recreational use. In May, 1977, the House Public Works Committee approved a new Congressional authorization for the Corps to study and all American Transportation System—a comprehensive study designed to examine multi-modal transportation systems from Lake Erie to the eastern seaboard, in light of the increased projected use of the Great Lakes to transport low sulphur coal from the Western States to the east, and the availability of Buffalo as a central transshipment point for further transportation of such shipments to points east. As a Representative from Western New York, I was particularly interested in this study's focus on the reestablishment of the Port of Buffalo as a major shipping and trade center for the northeast. In the interests of comprehensive and coordinated planning and efficient government investment, I, along with my colleagues from Western New York, propose to consolidate the substantive aspects of these two studies under one authority and one appropriation.

I would like to point out most emphatically that this study does not duplicate previous studies made by the Corps to simply enlarge the Erie Barge Canal for increased access by existing traffic. The purpose of this study is to determine which among all alternative modes of transportation, including an enlarged Barge Canal and possible transshipments by rail, truck, or additional traffic on Lake Ontario, will be the cheapest and most efficient method of transporting projected increases of energy fuel such as low sulphur coal from the Western states that primarily will use the Port of Buffalo as a transshipment center from the other Great Lakes ports. The completion of this project would provide an alternative transportation system to the Welland Canal port that is currently diverting traffic from the economically depressed Western New York area. I must emphasize, however, that the St. Lawrence Seaway is projected to be severely overcrowded by the late 1980s, with major delays involved—approximately the date of the completion of the project if full funding for the study is received. In addition, all examinations of the expansion of the Erie Canal emphasize that, because of certain environmental and economic considerations, the Erie Canal will only be considered to be expanded to an enlarged barge canal. There are absolutely no plans to expand the Canal into a deep draft ship waterway, in competition with the St. Lawrence Seaway.

SCAJAQUADA CREEK FLOOD CONTROL CONSTRUCTION PROJECT

Mr. Chairman, I support the full funding that the Administration has budgeted for the Scajaquada Creek Construction Project, in the amount of $500,000.

Flooding along this creek has been persistent and at times severe. Floods in May 1957, January 1959, August 1963, and September 1967, the latter two causing substantial damage, have been replaced in recent years with flooding every year. The Corps' design memorandum concluded that this annual flooding has been caused principally by the nearly complete urban development along its course. Flooding again this spring is again a distinct danger.

This is not a large project in dollar terms. It is a large project, however, to those who now must annually suffer from the consequences of not doing this construction work. The total cost is projected at $3,260,000, a small mount as most flood control projects go. The benefits to the people of Cheektowaga, Lancaster, Depew, and Buffalo are certainly worth this investment shared by the Federal and local governments.

In a letter to me dated February 3, 1978, Corps of Engineers District Engineer Daniel Ludwig has outlined for me the progress of this badly-needed flood control project. Unfortunately, due to some unforeseen circumstances primarily involving weather disruptions during the Blizzard of '77 and real estate purchase delays by the New York State Department of Environmental Conservation (NYSDEC), Col. Ludwig informs me that he has been unable to utilize fully the FY 77 funds allotted to this project. I am enclosing Col. Ludwig's letter here in my statement for the record:

DEPARTMENT OF THE ARMY,
BUFFALO DISTRICT CORPS OF ENGINEERS,
*Buffalo, N.Y., February 3, 1978.*

Hon. JACK F. KEMP,
*House of Representatives,*
*Washington, D.C.*

DEAR MR. KEMP: The purpose of this letter is to inform you of the current status of the Scajaquada Creek Flood Control Project in the town of Cheektowaga.

In our letter of 28 January 1976, we informed you that the final design and plans and specifications were being completed. We also informed you that no new construction starts were being included in the President's FY 77 budget. However, add on funding was subsequently provided in the FY 77 Appropriation Bill to enable us to proceed with construction of the Scajaquada Creek project. Unfortunately, delays due to the impact of our own emergency work early last year and delays by New York State Department of Environmental Conservation (NYSDEC) in obtaining required real estate have prevented me from effectively utilizing the FY 77 funds.

We had anticipated some delays with property acquisition and had purposely divided project construction into two contracts to allow an early start in areas where real estate problems appeared minimal. However, real estate for the Stage 1 construction still was not available until late in September 1977. The Stage 1 contract was then advertised and finally awarded in early November 1977 (FY 78).

I am bringing this to your attention because of your role in obtaining the FY 77 funds which I had stated a capability to use. I want you to know why we have not succeeded in performing as planned in FY 77, and I want you to know that it is now apparent the same real estate acquisition problems may delay the start of the Stage 2 construction contract in FY 78. I have drawings and specifications available for Stage 2

construction, but I cannot advertise until all lands, easements and rights-of-way are available from the State. I now expect to award the Stage 2 contract in September of this year, but such a late award will mean that the available FY 78 funding will not be expended. I have closely coordinated this situation with officials of NYSDEC and will continue to do so. I am satisfied they are doing everything within their power to expedite their real estate acquisition activities.

My present schedule is to complete Stage 1 in October 1978. Stage 2 construction is now scheduled to start in November 1978 with completion in June 1980.

I will continue to keep you informed on the Scajaquada Creek project. I will also advise you concerning any funding transfers that take place. In the meantime, please feel free to contact me if you have any questions about this matter.

Sincerely yours,

DANIEL D. LUDWIG,
*Colonel, Corps of Engineers,*
*District Engineer.*

I have received assurances from Commissioner Peter A. A. Berle of the NYSDEC, however, that the Department of Environmental Conservation has been working with Col. Ludwig "to assure that the easements are provided to the Corps of Engineers before the Corps' scheduled advertising date." In a letter which I received from Commissioner Berle on March 20, the Commissioner said, "I can assure you that this Department is doing everything possible to see that the project is built on schedule."

I am confident that the Corps' request for $500,000 in FY 79 will be fully utilized, and will help to bring this vitally-needed project back on schedule.

BLACK ROCK LOCK, TONAWANDA HARBOR, AND BUFFALO HARBOR

I support the Administration's request for $865,000 for River and Harbor maintenance of the Black Rock Lock and Tonawanda Harbor, and $1,415,000 for the Buffalo Harbor. These ongoing projects are the mainstay of the Port of Buffalo's economic activity, and are crucial to the continued viability of Buffalo as a Great Lakes Port. I am pleased that the Administration recognizes the importance of these projects.

BUFFALO METROPOLITAN AREA STUDY (TONAWANDA CREEK)

Additional data is needed to complete the report on the construction of two shallow detention reservoirs, normally dry and arranged in series along Tonawanda Creek between the village of Alexander and the city of Batavia. The Corps has informed me that this additional data should decrease the amount of funding and time that will be required for the project in its postauthorization stage. The Administration's request for $222,000 will be sufficient to complete this study.

OTHER PUBLIC WORKS PROJECTS IN THE 38TH CONGRESSIONAL DISTRICT OF NEW YORK

Mr. Chairman, there are other important projects such as shoreline erosion construction in Angola along Lake Erie that remain of prime importance to the residents of the 38th Congressional District of New York, but which are funded on a continuing basis by the Corps of Engineers and do not need to be listed here. I would like at this point to thank Col. Ludwig of the Buffalo Corps for all his assistance in the past two years, for providing the New York Congressional delegation with efficient, quick and thorough advice and counsel, and for providing the people of Western New York with dedicated and selfless service.

Mr. Chairman, I wish to thank the Subcommittee for its time this morning and for the consideration of these matters.●

## AID TO ZOOS NECESSARY TO PRESERVE WILDLIFE

### HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. WHITEHURST. Mr. Speaker, the April 17, 1978, issue of U.S. News & World Report contained an excellent summary of actions that are being taken throughout the world to preserve wildlife, and made an excellent case for the need to intensify these efforts.

I would like to take this opportunity to share this article with my colleagues, and to call particular attention to the final three paragraphs. Since zoos are indeed becoming "Noah's arks," I believe that it is essential that we take prompt and positive action on legislation such as H.R. 11295 to insure that these last refuges of many species provide the best possible facilities for their care and preservation.

The article follows:

PRESERVING WILDLIFE—A WORLDWIDE STRUGGLE

Will the relentless spread of human population doom wild animals almost everywhere? The danger is spurring measures ranging from breeding programs to bans on hunting.

From one end of the earth to the other, an intensifying drive is under way to save wildlife from extinction.

Dozens of nations, rich and poor alike, are joining hands to try to stem the steady disappearance of the earth's birds, mammals, fish and plants.

Forty-four countries are working to stamp out a flourishing international traffic in rare animals and the products made from them.

Seafaring nations are cutting back sharply on the hunting of whales, the largest living creatures remaining on the globe.

Scores of countries are creating and expanding national parks and game preserves.

Inside and outside such preserves, the hunting of rare animals is being banned, and stiff penalties imposed for violations.

To replenish dwindling herds, conservation agencies are establishing special programs to breed and manage both wild and captive animals.

"The world has just begun to wake up to the fact that if something isn't done, it will lose its most spectacular wildlife," declares Keith M. Schreiner, associate director of the U.S. Fish and Wildlife Service.

GAPS IN ENFORCEMENT

Rare animals long have been protected by law in many countries. But enforcement has varied from place to place, and a thriving black market has encouraged massive poaching. Ivory from elephant tusks, for example, sells for $30 per pound on the world market. Zebra hides go for $600 or more. Rare animals such as pythons and ocelots fetch hefty sums from people with a hankering for an exotic pet.

It was to curb such international traffic that an endangered-species treaty was drafted in 1973 by 44 nations. The accord prohibits most imports and exports of more than 600 species of animals and provides for close cooperation between participating countries.

At the same time, the protection given endangered species of sea creatures has been stepped up. Since the early part of this century, the hunting of seals has been governed by international agreements. Whales were given little protection, however, until the early 1960s. At that time, the International Whaling Commission, made up of the U.S. and 16 other nations, began to lower quotas on how many whales may be taken.

The limit set for 1978 is 17,839, less than a third of the more than 66,000 taken in 1961. Experts believe that the quotas—if obeyed—will let the world's badly depleted whale herds grow significantly in the years ahead.

On land, perhaps the most conspicuous step in the battle to save wildlife has been the expansion of national parks, national forests and other refuges. No one has an exact count on just how many such parks now exist around the world. But World Wildlife Fund International, a money-raising group, says it has provided aid for more than 200 major parks in 74 countries since the fund was set up in 1961.

END OF AN ERA

The world's first national parks were established centuries ago as hunting preserves for European and Asian royalty. Today, with the need to protect wildlife recognized, hunting in such parks is being limited or banned altogether. Even Kenya, famous not long ago for old-fashioned African safaris and big-game hunts, has been forced to act. Last year, it banned all commercial hunting and prohibited the sale of animal skins and trophies.

The world's largest system of wildlife habitats is in the U.S.—a billion acres of national and state parks, forests, wildlife refuges and other wilderness areas. Every year, lawmakers add more acreage. Now pending in Congress are proposals to put a third of the entire state of Alaska under protection.

The U.S. also is a leader in programs to rescue endangered species by controlled breeding. This effort was given new emphasis in 1966, when Congress passed the Endangered Species Preservation Act. The federal Office of Endangered Species has set up recovery teams to bring 59 species back from the brink of extinction, and some progress is being made.

An early success story has to do with the fragile, graceful whooping crane. By the 1940s, only 14 of these birds remained in North America, so few that they couldn't replenish their flock. Scientists removed eggs from whooper nests and transferred them to the nests of sandhill cranes, a related species. The young whoopers were hatched and reared by the sandhill flock, under the close protection of federal authorities. Today, whoopers total 126, and scientists expect this number to keep edging upward.

Similar progress, though not so dramatic, has been made with such species as the gray whale, cougar, bighorn sheep and trumpeter swan.

TOO MUCH PROTECTION

Sometimes, endangered animals recover so well that they become threats to mankind. For example, the once-rare alligator has returned to the rivers and lakes of the Southeast in large numbers. Last fall, a man in Florida was killed by an alligator.

The result of such attacks: Alligators in Florida and several other Southeastern states have been moved from the "endangered" list,* which bans all hunting, to the "threatened" list, to permit the hunting of troublesome animals.

Despite the proliferation of wildlife-preservation efforts around the world, experts doubt that every species can be saved. Many conservationists, in fact, are gloomy about the long-range prospects. They cite the record: Between 1771 and 1870, 12 mammals became extinct. Between 1871 and 1970, at least 43 more species disappeared. Of the 10 million species of animals and plants on earth today, perhaps 25 percent could become extinct before the end of this century, some conservationists fear.

The impetus toward extinction springs

Footnotes at end of article.

from two human causes—uncontrolled hunting and the spread of human population. As people occupy a greater and greater share of the earth's surface, they are rapidly destroying wildlife habitats. This destruction is occurring on all continents but has been particularly evident in recent decades in Africa, Asia and Latin America, where human population-growth rates are especially high. An estimated 40 percent of the rain forests—where 10 percent of all known living species are found—were destroyed as people built farms and towns.

The result: Many once-plentiful creatures of the jungle and plain, such as the African elephant, are being forced into smaller and smaller areas, making food and shelter increasingly scarce. In some game parks of Rhodesia, elephant overcrowding is so severe that thousands of elephants are being shot so that the remainder will have enough food and water to survive.

Some authorities see the plight of the elephant and other threatened species as merely the latest chapter in what Herbert Spencer called "the survival of the fittest." After all, they say, extinction is a natural part of the evolutionary process. Many species, such as the dinosaur and the mammoth, became extinct long before human beings came on the scene, and further changes in nature's cast of characters seem certain as long as conditions on the earth continue to evolve.

If that is so, why even make an effort at wildlife preservation? Conservationists cite several reasons.

National pride is one; some endangered creatures, such as the American bald eagle, are considered patriotic symbols in their homelands. Preservation of beauty is another reason; many rare animals, like the tiger, are considered as beautiful and irreplaceable as Renaissance art.

MAN ENDANGERED?

Thomas E. Lovejoy, program director of the World Wildlife Fund's U.S. branch, suggests still another reason: "As a biological creature himself, man is dependent upon the survival of other creatures. If he continues to allow animals to become extinct, he may someday find himself endangered."

Whatever the arguments for saving wildlife, the efforts to do so are running into increasing resistance from people whose livelihoods would be affected. For example, porpoises were given protection by a 1972 federal law. Yet it took years of court action to force American tuna fishermen to alter their fishing techniques, which were causing the accidental killing each year of hundreds of thousands of porpoises swimming with the tuna in the Pacific Ocean. The changes, which involve use of large-mesh nets to avoid ensnaring the porpoises, reduced the kills by 96 percent.

Arguing that the whale hunt is an important part of their ancient traditions, Alaskan Eskimos in December won partial exemption from a worldwide ban on hunting the bowhead whale, a species that may number no more than 2,500. The Eskimos received permission from the International Whaling Commission to land up to 12 bowheads per year. Conservationists fear this may encourage Russia and Japan, which take 85 percent of the world catch, to seek further exemptions from the whale quotas.

LAST REFUGE

In one particularly controversial case, the Tennessee Valley Authority and some business groups are appealing to Congress and the Supreme Court to reverse a federal-court decision blocking completion of the 116-million-dollar Tellico Dam. The court held that the dam's completion would violate the Endangered Species Act by destroying the last remaining habitat of the snail darter, a 3-inch fish found only on the dam site.

The Tellico controversy raises an important question: How much are people here and abroad willing to pay to preserve wildlife?

Already, Americans pay hundreds of millions of dollars in federal and state taxes and for hunting and fishing licenses to support wildlife efforts. Most other developed countries also have extensive programs.

Most Third World countries, however, where much of the world's wildlife lives, are so pressed by massive social and economic problems that they have little money remaining for wildlife conservation.

In this situation, the fate of many animals is being left in the hands of the world's zoological parks. Zoos are becoming increasingly important as latter-day "Noah's arks," preserving in captivity animals that can no longer exist in the wild.

Some zoos, including those in London, Frankfurt, San Diego, and Washington, D.C., operate breeding farms where rare animals, such as the golden marmoset and Pere David's deer, are born and raised in captivity.

"We hope that such animals—some of which no longer exist in the wild—can someday be reintroduced there, perhaps in 40 or 50 years," says Theodore Reed, director of the National Zoo in Washington, D.C. "That may be possible if man doesn't turn all of his wilderness into desert and pollute his oceans."

TEN ENDANGERED SPECIES: HOW MANY ARE LEFT

Estimates by wildlife biologists:

| | |
|---|---|
| Black-footed ferret | 5 |
| California condor | 40 |
| Whooping crane | 126 |
| Florida panther | 200 |
| Mountain gorilla | 1,000 |
| Eastern timber wolf | 1,040 |
| Indian tiger | 1,800 |
| Bowhead whale | 2,500 |
| Utah prairie dog | 3,300 |
| Bald eagle* | 4,000 |

*Number in Lower 48 States.

NOTE.—U.S. species, except for gorilla, tiger and whale.

SOURCE.—U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Administration, World Wildlife Fund, National Wildlife Federation.●

## NEED FOR FEDERAL SUPPORT OF BRIDGE REPLACEMENT

### HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. LEACH. Mr. Speaker, as a representative from Iowa—the State which leads the Nation in number of deficient or obsolete bridges—I am very encouraged by the increased attention which the Federal bridge replacement program has been receiving recently. Both the hearings and the most recent legislation under discussion in the Subcommittee on Surface Transportation of the House Public Works and Transportation Committee have given this problem the attention which it so urgently needs.

I fully support new legislation to remedy the problem and to expand the special bridge replacement program which currently authorizes financial assistance for bridges on the Federal aid system at a level of $180 million a year under a 75–25 Federal/State matching formula. That level of assistance unfortunately does not even begin to meet the needs which were outlined in a January 9, 1978, U.S. News & World Report article entitled, "Weak Bridges: Growing Hazard on the Highways." That article pointed out that the number of unsafe bridges in the United States has risen to a staggering figure of 105,000 with an estimated replacement or repair cost of $23 billion. Iowa alone has nearly 14,000 such structures. Five of these, which already meet Federal criteria for assistance and which could be scheduled for construction within the near future, would require $110 million.

In addition, there are special needs and difficulties faced by bridges shared by more than one State. One such facility, the Keokuk bridge, crosses the Mississippi River from Keokuk, Iowa, in the congressional district which I represent, to Hamilton, Ill., in the district represented by Congressman TOM RAILSBACK. It is strategic as well to the commerce and transportation needs of Missouri. The Keokuk bridge was first constructed in 1871 for purposes of carrying trains and horsedrawn carriages, and is only 17.2 feet wide. Today, tractor trailers, which are nearly 8 feet wide, must stop to allow another trailer to pass. A swing span on the bridge is used about 3,000 times a year to permit free flow of Mississippi River traffic.

The Tri-State Bridge Committee, headed by Leona Nixon, executive director, has pointed out that:

Children have been born on a bridge during drawspan openings. People have died on our bridge. In a recent traffic safety study . . . the bridge accident rate was double the next highest accident rate of any intersection in the community. . . . With railroads leaving areas, trucking is becoming more and more important. Farmers on the Illinois side have been known to drive 60 miles to sell their grain rather than drive 10 miles to Keokuk. . . . This bridge is the hub of a tri-state shopping center of nearly 60,000 people serving the towns of Hamilton, Warsaw, Nauvoo, and Carthage in Illinois; Alexandria, Wayland, Kahoka and Memphis in Missouri. It is imperative that replacement of the archiac and hazardous 106 year old Mississippi River Bridge be expeditious.

The magnitude of this problem was further underlined during hearings which Congressman RAILSBACK and I chaired last year in Keokuk.

These kinds of problems are not uncommon, even for bridges entirely located within a single State. To deal more effectively with the bridge safety issue, I am today introducing legislation which goes beyond existing bridge replacement and repair legislation in several respects. Under this bill, the Secretary of the U.S. Department of Transportation could, for the first time, make available $200 million each fiscal year for the specific purpose of meeting the special needs of bridges connecting two States. Due to the unique budgetary difficulties which face such interstate structures in having to secure the agreement and financial commitment of more than one State government, relief can be stalled or delayed for indefinite periods. On the other hand, the failure or inadequacies of such bridges can pose critical problems for the commercial and transportation needs of the people in more than one State.

I applaud the efforts of several of my colleagues in trying to improve the assistance available for all bridges under

the existing program and am likewise urging an increase in aid for onsystem bridges from the current $180 million to $500 million. In addition, my bill would authorize $500 million more for off-system bridges, for a combined total each year of $1 billion to be apportioned to the 50 States.

The share distributed to each State would be calculated according to a ratio of number of bridge feet needing replacement or repair in that State to the national total of bridge feet needing aid. Funds so apportioned would be announced to each State 3 months prior to the beginning of the fiscal year in order to cooperate with State budget planning procedures, and would remain available to the State for obligation 2 years following the fiscal year in which the funds were first made available. Contrary to current Federal policy, such moneys would be available for rehabilitation in addition to replacement for bridges deemed significantly important, unsafe structurally, deteriorating, or functionally obsolete. Inventories of such structures, off and on the Federal aid system, are authorized by the bill.

It is my hope that the guidelines set forth in this legislation will be given consideration during the continuing review of comprehensive surface transportation legislation. The bridge problem is not only serious, it is urgent. We dare not wait for further loss of life or economic well-being in our communities before we take action.●

## TERRORIST THREAT

### HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. McDONALD. Mr. Speaker, terrorism does not take place in a vacuum. As Barron's editor Robert M. Bleiberg clearly understands, it is one tactic in the war against Western society designed to intimidate, disrupt, and demoralize the civilian sector. Mr. Bleiberg has accurately noted in his editorial commentary that appeared in the April 10 issue of Barron's that the basis for America's internal security protection against terrorism was the House Committee on Internal Security. The committee was responsible for providing Congress with the information it needed so as to enact new laws to meet changing challenges from our enemies. The House Committee on Internal Security was abolished just when it had begun investigations of international and domestic terrorism. The terrorism continues to increase which demonstrates that it is time for us to reconstitute the Internal Security Committee. We need laws to enable our law enforcement and intelligence agencies to move against the terrorists and their networks of supporters.

I urge my colleagues to join with me in urging the Rules Committee to report out House Resolution 48 so we can vote on reconstituting the Internal Security Committee. Toward that, I highly recommend Mr. Bleiberg's perceptive article:

TERRORIST THREAT—IN THIS COUNTRY ONLY THE LAW-ABIDING ARE LIVING DANGEROUSLY

Last month's issue of Enterprise, the Journal of the National Association of Manufacturers, carriers an article that strikes us as must reading these days for businessmen. In between such more or less standard features as "Personal Tax Reduction" and "World Trade Objective—Free But Fair" appears a piece with the jolting headline "How to Protect Yourself Against Terrorists," excerpted from a talk given before the NAM's Board of Directors recently by Edgar N. Best, deputy assistant director of the Federal Bureau of Investigation.

In two tightly packed pages, the FBI man proceeds to tell us all that we ever wanted to know—and perhaps a bit more—about kidnapping (or "hostage situation," as it's called). Pre-planning, we learn, is important: keep ready to hand, preferably in a red notebook, designed to alert your secretary to the situation, a hostage telephone checklist. See that your board of directors has duly passed a resolution authorizing the payment of ransom, and designating at least two corporate officers—"these things can happen at any time of the day or night"—as paymasters. Learn a few tricks of the trade, like opening up the lining of the case which will contain the money and marking it with your initials and the date. Above all: "One of the main things you must insist on is a simultaneous transfer of the ransom money and the victim. Really negotiate on that point. You don't want to pay the money and get the hostage later."

Along with the chauffeured limousines, three-martini lunches and other corporate perks, threats of terroristic attack now evidently go with the job. Indeed they do. Long a way of life in such troubled and volatile parts of the world as Argentina and Uruguay, acts of violence against businessmen, including kidnapping and murder, lately have spread to Western Europe, where crimes of the kind have erupted in France, Italy and West Germany. In this country, the FBI, though now under legislative and legal constraint, has gone on the alert.

In the first press conference held since he took office, William H. Webster, new Director of the Bureau, disclosed that besides making its expertise freely available to interested parties—for further information, call Jim Ingram at (202) 324-3000—his agency is stepping up anti-terrorist training at its academy in Quantico, Va. Those who are on the firing line, meanwhile, are taking what precautions they can. At the annual meeting of W. R. Grace & Co. two years ago (*Barron's*, May 17, 1976), J. Peter Grace made headlines and raised eyebrows when that bulge under his suit jacket turned out to be a revolver. Seems that his home had been cased and his name had turned up on a number of radical hit lists. One way or another, more and more U.S. businessmen these days are under the gun.

Like command, it's a lonely place. Unlike the state of affairs in other countries, or until recently in our own, the law enforcement authorities have been hard-pressed, if not helpless, to cope. Look at the dismal track record. Eighteen months to find Patty Hearst, fledgling terrorist who, so to speak, never left town. In New York City, the FALN, revolutionary group which claims to be fighting for Puerto Rican independence, has gone unapprehended for years while committing one atrocity after another, notably the bombing of Fraunces Tavern, a foul deed which left scores injured and took several lives. By the same token, the so-called New World Liberation Front, with virtual impunity, has boasted over 50 bombings in California, Colorado and Oregon, including attacks on the facilities of Adolph Coors, Dean Witter and General Motors, as well as on the homes of officers and directors of Pacific Gas & Electric, a favorite target.

In the Golden State (as our colleague, Jim Grant, not long ago carefully documented), wiretaps by city and state authorities are prohibited, nor may federal agents share whatever they glean in this way with the local police. Small wonder that since the first bomb exploded nearly half-a-decade ago, only the FBI has had even a measure of success in tracking down the perpetrators. For that matter, the forces of law and order everywhere lately have found themselves handcuffed. Left-wing lawyers, banded together in Communist fronts, have launched litigation aimed at frustrating undercover efforts by federal agents, one of whom has even been indicted (at the behest of the Department of Justice) for allegedly showing, in the performance of his duties, an excess of zeal. Congress, in turn, has opted to abolish the House committee which used to investigate subversion and terrorism, foreign and domestic alike. To add insult to injury, an aptly named Subcommittee on Oversight, headed by Rep. John Moss (D., Calif.—natch), lately has sought to intimidate and harass, if not put out of business altogether, Research West, Inc., one of the few private organizations with the expertise to help companies protect lives and property. In some parts of the country, including the nation's capital, terrorists evidently have free run of the place; only the law-abiding live dangerously.

Just how dangerously, the morning newspaper every few weeks or so makes alarmingly clear. According to one official source, terrorists launched 239 attacks—bombings, kidnappings and assassinations—on individuals and their property throughout the world last year, up from only 37 a decade ago. Using a different set of statistics, including others besides executives, the FBI's Best told the NAM that in 1977, "we had 270 cases of kidnapping and 291 hostages taken," up from 165 cases, involving 207 hostages, in 1976. Numbers aside, the attacks, on victims chosen either for their prominence or symbolic value, have grown increasingly bold and outrageous. Hans Martin Schleyer, a West German industrialist, was kidnapped and killed and his body stuffed into a car trunk. The home of a San Farncisco banker and director of Pacific Gas & Electric was ringed with fire bombs. FALN blasts, notably one outside the Mobil Building on 42nd Street in New York, which shattered windows and killed a passerby with deadly shards of glass, have become a more-or-less routine occupational hazard in Fun City.

In response, businessmen, at home and abroad, have begun to do what they can to protect themselves. That hot line to the FBI's Jim Ingram is perpetually busy, while private firms that specialize in industrial security report mounting interest in their services. Last year, the Conference Board disclosed that persistent terrorist attacks against business had forced a growing number of companies to tighten their security. Last November, *Newsweek* put the case more graphically. "Nervous executives are hiring bodyguards, armor-plating their cars, enrolling their chauffeurs in evasive-driving schools, equipping their homes and offices with security devices, cultivating an inconspicuous and unpredictable life-style and, in some cases, becoming virtual recluses. At the same time, most major corporations are devising elaborate security programs, spending millions of dollars in the process on everything from bomb-detection gear to kidnap insurance."

Self-help, of course, lately has grown increasingly vital, if not yet quite a matter of life-and-death. Owing to an unholy alliance of left-wing lawmakers, journalists

and alleged consumer champions (who advocate the endless aggrandizement of government power except in such realms as national or internal security), intelligence agencies have been all but crippled. The House Committee on Internal Security has been abolished. Throughout the country, files on subversive and violence-prone organizations, laboriously built up over decades, have been systematically impounded locked up or destroyed (perhaps liquidated is a better word). Law enforcement bodies by and large now are barred from penetrating Marxist-Leninist cells or even avowedly terrorist groups. And Research West Inc., which in its own small way has sought to fill the growing vacuum in personal and corporate security, has fallen afoul of the Moss Subcommittee; the latter has subpoenaed its confidential files and threatened its intrepid owner with a citation for contempt. That's what you call putting first things last.

In seeking to justify such incredible behavior, Congressman Moss et al. have tried to draw the line between advocacy and action, legitimate dissent and criminal conspiracy. All well and good, but thanks to the activists, that fine line has grown increasingly blurred. Thus, Ralph Nadar, that presumably peaceful advocate of social change, has been quoted as saying: "If someone tries to break into your house, you can retaliate lawfully. In the case of a nuclear reactor, the self-defense is projective. But what are you going to do, wait until radioactivity is all over the place? Shouldn't you destroy property before it destroys you?" Militants in the Clamshell Alliance, who several times have illegally occupied the premises of the Seabrook nuclear power plant of Public Service Co. of New Hampshire, and threaten come summer to stage a rerun, plainly have paid such counsel heed. (Critical Mass Energy Group, a Nadar anti-nuclear power group, is pushing the probe of Research West.)

At open meetings of the Socialist Scholars in the late 'sixties, left-wing extremists blatantly announced their plans to foment riots in the nation's cities. A defunct Fellow of the Institute for Policy Studies, socialist braintrust in Washington, D.C., has been unmasked as an agent of the KGB. Like diplomacy, terrorism is the pursuit of war by other means. It's a war this country is losing.●

## SALT "ASSURANCES"

### HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the following editorial by Mr. George F. Will concerning the proposed Salt II treaty.

The editorial follows:

[From the Washington Post, April 6, 1978]

THOSE SALT "ASSURANCES"

(By George F. Will)

The Washington Post recently carried an article that deserves national attention. It is an example of the kind of advocacy the nation soon will hear in defense of what the Carter administration is doing in the strategic arms limitation talks (SALT). It illustrates why the treaty that will be produced by Paul Warnke, the administration's chief negotiator, will be rejected by the Senate.

The article concerns the controversy about whether the Soviet Backfire bomber should be counted as a strategic weapon. The writer, Arthur Cox, is a paid consultant to Warnke. Cox's argument (published April 2) is as follows:

At Vladivostok, in 1974, Gerald Ford and Leonid Brezhnev agreed to limit each side to 2,400 strategic weapons. Although the United States knew Backfire's capabilities, the United States did not refer to it as a strategic weapon. And Backfire's supersonic capability proves that it is not a strategic weapon, because "at supersonic speed, its fuel would burn up before it could reach the United States."

And flying subsonic, Backfire "could easily be shot down by supersonic U.S. interceptors." To pacify American opinion, the administration wants "assurances" that Backfire will not be used strategically. Such assurances might include Soviet promises not to base Backfire in the Arctic and not to build tanker aircraft for refueling Backfire.

The refuting facts are:

In 1974, there were fewer than 25 Backfires deployed and there was no settled U.S. judgment about Backfire's range. Now it is known that, unrefueled, Backfire can strike U.S. targets and land in a third country, such as Cuba. And when refueled by airborne tankers, it can fly round-trip.

That Backfire cannot fly supersonic all the way to U.S. targets proves nothing. No supersonic bomber is supposed to operate supersonically during more than a small fraction of a mission. Fuel consumption cannot be sustained for long at supersonic speeds, especially at low altitudes, where such aircraft are designed to be able to operate supersonically.

The normal attack profile of supersonic bombers such as B1 (which President Carter shot down) and Backfire is "hi-lo-hi": a high subsonic flight to the enemy nation, a low radar-evading penetration with a short supersonic dash to the target, and a high subsonic return. The fuel penalty for using afterburners to fly supersonic in the low attack phase is so heavy that bombers must limit such use to brief bursts to elude enemy air defenses, and to sprint away from blast areas.

If, as Cox asserts, the supersonic Backfire should not be counted under SALT limits because it would be easy prey for U.S. interceptors, then surely he must insist that the United States should not be required to count its subsonic B52s, which are easier prey for the 2,600 modern Soviet supersonic interceptors. (The Soviets also have 10,000 air-defense missiles; the United States has none.)

Backfire's strategic capability is unquestionable, and its strategic role is anticipated in Soviet strategic writings. Soviet doctrine plans for a "third phase" nuclear conflict, which involves eliminating what remains of the enemy's nuclear capability (unemptied silos, command-and-control facilities). This would also be the "pin down" phase, when the enemy is driven to capitulation by continuing attacks on civilians.

It is said the United States could be "assured" that Backfire would not be used strategically in a nuclear crisis if the Soviets would not build refueling tankers, and would promise not to base Backfires in the Arctic. But the Soviets already have modernized heavy bombers to serve as tankers, and reportedly are building a version of the Il76 jet transport for tanker service. A Soviet promise not to base Backfires in the Arctic would not be reassuring. In a crisis, both nations would do what Kennedy did during the Cuban missile crisis: deploy forces at forward bases.

Neither Backfire nor the U.S. cruise missile was mentioned in the Vladivostok accord. One reason the United States did not demand inclusion of Backfire was that the Soviets would then have demanded limits on cruise missiles. Now Warnke has negotiated an agreement that limits the number of cruise missiles and limits them to a 600-kilometer range, while leaving the Soviets free to deploy an unlimited number of Backfires.

From its first sentence, which asserts that opponents of Warnke's treaty are really opponents of all strategic arms limitation, to its last sentence, which dismisses the Backfire controversy as a "charade," Cox's article is misleading. The narrowing, descending path to defeat in the Senate is paved with such stuff.●

## HELP FOR FARMERS: THE NEED FOR TRUTH IN LEGISLATION

### HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 12, 1978*

● Mr. CONYERS. Mr. Speaker, the plight of smaller farmers in America, like the plight of unemployed workers, is a condition that the Federal Government and our society in general have too long neglected. Both problems have common sources. In the absence of a full employment policy, the economy will continue to operate far below full production and employment levels, and farmers as well as urban workers will suffer inadequate incomes and high levels of joblessness. It is for this reason that I have devoted considerable effort to winning support for the Humphrey-Hawkins Full Employment and Balanced Growth Act. This legislation would put in place an economic plan that provides for a stable farm economy as well as health business and industrial conditions.

Another source of the problem is the tremendous increase in the concentration of economic power that has taken place in agriculture as well as industry. A direct result of this is the ability of big firms to engage in administered pricing and monopolistic tactics that raise consumer prices while denying small farmers and firms a fair rate of return.

The heightened political awareness and activism among farmers is to be applauded and cheered. The more citizens who get involved in the political process, the better off this country will be. This is how our Government ought to operate. In this spirit, I and my staff have devoted more than 10 hours with the more than 150 farmers who have called, wrote or visited me.

Unfortunately, what the great majority of small farmers need most to improve their situation will not come about through H.R. 6782. It is the wrong kind of measure, and is probably unacceptable to most Americans. This farm bill will have the following adverse effects for farmers and society as a whole:

Raise consumer food prices an additional 2 to 4 percent beyond the expected 7 to 9 percent;

Add an estimated $5 to $7 billion to an already large Federal budget deficit;

Assist the largest farms at the expense of small farms who it is estimated will receive only 15 percent of the bill's benefits;

Hurt dairy and livestock farmers by driving up feedgrain prices, further fueling long-term inflation; and

Will seriously deplete foodstocks which will further push up prices for consumers.

The sad truth is that farmers have been terribly misled by this bill which simply cannot accomplish what they and the rest of society need. The President has indicated in the strongest manner that he will veto such a measure.

There are other and better ways that I can support to assist farmers in trouble: Create new low-interest credit programs geared to hard-pressed farmers; increase the grain reserve program; prohibit large nonfarm corporations from investing in farm land; improve programs for direct farmer-to-consumer marketing, establish floor prices that are fair to the American farmer; and expand our agricultural products export programs.

While I appreciate the farmers' plight, under the circumstances I cannot vote for H.R. 6782.●

## SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meeting as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committees scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, April 13, 1978, may be found in Daily Digest of today's RECORD.

### MEETINGS SCHEDULED

#### APRIL 14

8:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To mark up FY 79 authorizations for the Commodity Futures Trading Commission.
324 Russell Building

9:00 a.m.
Armed Services
Research and Development Subcommittee
To continue hearings on S. 2571, FY 79 authorizations for military procurement.
224 Russell Building

Commerce, Science, and Transportation
To hold hearings on S. 1896, FY 79 authorizations for the Hazardous Materials Transportation Act.
235 Russell Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To mark up S. 2527, proposed FY 79 authorizations for NASA.
1202 Dirksen Building

Judiciary
Improvements in Judicial Machinery
To hold hearings on S. 2253, to encourage prompt, informal, and inexpensive resolutions of civil cases by use of arbitration in U.S. district courts.
2228 Dirksen Building

Select Small Business
To hold hearings on the nomination of Milton D. Stewart, of New York, to be Chief Counsel for Advocacy, Small Business Administration.
424 Russell Building

9:30 a.m.
Banking, Housing, and Urban Affairs
To resume mark up of S. 2065, 2470, and 2546, bills to protect consumers' rights in the operation of electronic fund transfer systems.
5302 Dirksen Building

Environment and Public Works
To hold hearings on the nomination of William E. Albers, of the District of Columbia, to be Alternate Federal Cochairman of the Appalachian Regional Commission.
1224 Dirksen Building

Environment and Public Works
Resource Protect Subcommittee
To continue oversight hearings on and the reauthorizations for the Endangered Species Act (P.L. 93–205).
4200 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To resume oversight hearings on the operation of the witness protection program under the Organized Crime Control Act (P.L. 91–452).
S–126, Capitol

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on budget estimates for FY 79 for HUD.
1318 Dirksen Building

Energy and Natural Resources
Energy Conservation and Regulation Subcommittee
To continue hearings on S. 2692, FY 79 authorizations for the Department of Energy.
6226 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue hearings on S. 2692, FY 79 authorization for the Department of Energy.
3110 Dirksen Building

Foreign Relations
International Operations Subcommittee
To hold hearings on proposed FY 79 authorizations for the Board for International Broadcasting and Radio Free Europe/Radio Liberty.
4221 Dirksen Building

Governmental Affairs
To resume hearings on S. 991, to create a separate Cabinet-level Department of Education.
3302 Dirksen Building

10:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Henry Geller, of Virginia, to be Assistant Secretary of Commerce for Communications and Information.
5110 Dirksen Building

Judiciary
To hold a business meeting.
2300 Dirksen Building

#### APRIL 17

9:00 a.m.
Energy and Natural Resources
To hold hearings on S. 2821 authorizing funds to the Government of Guam to construct certain public facilities, and S. 2822, to provide for the rehabilitation and resettlement of Bikini Atoll.
3110 Dirksen Building

Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To mark up S. 2090 and S. 2081 proposing an extension of certain programs of the Economic Opportunity Act.
4332 Dirksen Building

Judiciary
Criminal Laws and Procedures Subcommittee
To resume hearings on S. 2013, to require the additional labeling of explosive materials for the purpose of identification and detection.
1318 Dirksen Building

Judiciary
Constitution Subcommittee
To hold hearings on S.J. Res. 65, to amend the Constitution so as to provide for representation of the District of Columbia in Congress.
5110 Dirksen Building

Special Aging
To resume hearings to explore alternatives in long-term health care for older Americans.
1224 Dirksen Building

9:30 a.m.
Environment and Public Works
Transportation Subcommittee
To resume markup of proposed Federal aid highway legislation.
4200 Dirksen Building

Judiciary
To resume considerations of S. 1874, to allow consumers and other parties who have not dealt directly with an antitrust violator to recover their damages under the antitrust laws.
2228 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on H.R. 9370, S. 2762, and S. 2582, to provide for the development of aquaculture in the United States.
235 Russell Building

Energy and Natural Resources
To hold hearings on pending nominations.
3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To hold hearings on S. 2083, proposed Oil Pollution Liability and Compensation Act, and related bills.
6202 Dirksen Building

Finance
Public Assistance Subcommittee
To resume hearings on S. 2084, to replace the existing Federal welfare programs with a single coordinated program.
2221 Dirksen Building

Select Indian Affairs
To hold hearings on S. 2712, proposed Indian Program Evaluation and Needs Assessment Act.
6226 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Department of State, and on supplemental appropriations for FY 78.
S-146, Capitol

APRIL 18

9:00 a.m.
Environment and Public Works
Nuclear Regulation Subcommittee
To resume hearings on FY 79 authorizations for the Nuclear Regulatory Commission.
4200 Dirksen Building

Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To continue markup of S. 2090 and S. 2081, proposing an extension of certain programs of the Economic Opportunity Act.
4232 Dirksen Building

9:30 a.m.
Human Resources
Health and Scientfic Research Subcommittee
To mark up S. 2549, proposed FY 79 authorizations for the National Science Foundations; S. 2416, to extend through FY 81 the program of assistance for nurse training; and S. 2474, to extend through FY 83 the Public Health Service Act.
1318 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommitteo
To meet in closed session with Secretary of State Vance to discuss foreign policy.
S-146, Capitol

Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To hold hearings on S. 2096, Right to Financial Privacy Act, and S. 2293, to modernize the banking laws with regard to the geographical placement of electric funds transfer systems.
5302 Dirksen Building

Energy and Natural Resources
Energy Conservation and Regulation Subcommittee
To resume hearings on S. 2692, proposed FY 79 authorizations for the Department of Energy.
Room to be announced

Energy and Natural Resources
Energy Research and Development Subcommittee
To mark up S. 2692, FY 79 authorizations for the Department of Energy.
6202 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To continue hearings on S. 2083, proposed Oil Pollution Liability and Compensation Act, and related bills.
6202 Dirksen Building

Finance
Public Assistance Subcommittee
To continue hearings on S. 2084, to replace the existing Federal welfare programs with a single coordinated program.
2221 Dirksen Building

Judiciary
To resume hearings on FY 79 authorizations for the Department of Justice.
2228 Dirksen Building

Select Indian Affairs
To hold hearings on S. 2375, to establish guidelines to be followed by the Department of the Interior in response to petitioning Indian tribes seeking an acknowledgment of a Federal relationship.
5110 Dirksen Building

Select Small Business
To resume hearings on S. 2259, to expand and revise procedures for insuring small business participation in Government procurement activities.
424 Russell Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for International Organizations and Conferences, and on supplemental appropriations for FY 78.
S-146, Capitol

APRIL 19

9:00 a.m.
Environment and Public Works
Water Resources Subcommittee
To consider proposed water resources legislation.
4200 Dirksen Building

9:30 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To receive testimony from Attorney General Bell on budget estimates for FY 79 for the Department of Justice.
S-146 Capitol

Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold oversight hearings on the coordination of Federal programs to combat drug abuse.
4232 Dirksen Building

Judiciary
Juvenile Delinquency Subcommittee
To resume oversight hearings on the Drug Enforcement Administration's efforts to control drug trafficking on U.S. borders with Mexico.
424 Russell Building

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the FAA, Department of Transportation.
1224 Dirksen Building

Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue hearings on S. 2096 the Right to Financial Privacy Act, and S. 2293, to modernize the banking laws with regard to the geographic placement of electronic funds transfer systems.
5302 Dirksen Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Environment and Public Works
Transportation Subcommittee
To hold hearings on the status of proposed construction of a Federal Interstate Highway near Memphis, Tennessee.
4200 Dirksen Building

Judiciary
To continue hearings on FY 79 authorizations for the Department of Justice.
2228 Dirksen Building

Rules and Administration
To resume hearings on S. 2 and S. 1244, to require periodic reauthorization of Government programs, and to consider other legislative and administrative business.
301 Russell Building

10:30 a.m.
Commerce, Science, and Transportation
To resume hearings on H.R. 9370, S. 2762, and S. 2582, to provide for the development of aquaculture in the United States.
1202 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To receive testimony on budget estimates for FY 79 for the FBI, and on supplemental appropriations for FY 78.
S-146, Capitol

APRIL 20

9:00 a.m.
Judiciary
Citizens and Shareholders Rights and Remedies Subcommittee
To hold hearings on S. 2390, the Citizens' Access to the Courts Act.
6226 Dirksen Building

9:30 a.m.
Appropriations
Agricultural Subcommittee
To resume hearings on budget estimates for FY 79 for the Department of Agriculture and related agencies.
1224 Dirksen Building

*Environment and Public Works
Nuclear Regulation Subcommittee
To consider proposed nuclear regulation legislation.
4200 Dirksen Building

Human Resources
Alcoholism and Drug Abuse Subcommittee.
To hold oversight hearings on the Drug Abuse Education Act (P.L. 91-527).
4232 Dirksen Building

Judiciary
To hold oversight hearings on the application and enforcement of the FBI Charter.
2228 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue the hearings on budget estimates for FY 79 for NASA.
1313 Dirksen Building

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Department of Justice, and on supplemental appropriations for FY 78.
S-146, Capitol

Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue hearings on S. 2096, the Right to Financial Privacy Act, and S. 2293, to modernize the banking laws with regard to the geographic placement of electric funds transfer systems.
5302 Dirksen Building

Commerce, Science, and Transportation
To resume consideration of S. 1381, setting standards for State no-fault benefit plans to compensate motor vehicle accident victims.
235 Russell Building

Energy and Natural Resources
Energy Conservation and Regulation Subcommittee
To resume hearings on S. 2692, FY 79 authorizations for the Department of Energy.
S-126, Capitol

Energy and Natural Resources
Energy Research and Development Subcommittee
To resume markup of S. 2692, FY 79 authorizations for the Department of Energy
3110 Dirksen Building

Select Indian Affairs
To resume hearings on S. 2375, to establish guidelines to be followed by the Department of the Interior in response to petitioning Indian tribes seeking an acknowledgement of a Federal relationship.
318 Russell Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To continue hearings on budget estimates for FY 79 for the Department of Justice.
S-146, Capitol

APRIL 21

9:00 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To hold hearings on S. 2278 and S. 2641, the International Emergency Food Reserve Act.
324 Russell Building

9:30 a.m.
Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To hold hearings to receive a report on Federal policies and programs relating to tourism.
235 Russell Building

Environment and Public Works
Resource Protection Subcommittee
To consider proposed resource protection legislation.
4200 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To resume markup of S. 1753, authorizing funds through FY 83 for the Elementary and Secondary Education Act.
155 Russell Building

Human Resources
Handicapped Subcommittee
To mark up S. 2600, to extend certain vocational rehabilitation programs and to establish a comprehensive services program for the severely handicapped.
154 Russell Building

Judiciary
To resume consideration of S. 1874, to allow consumers and other parties who have not dealt directly with an antitrust violator to recover their damages under the antitrust laws.
2228 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on budget estimates for FY 79 for NASA.
1318 Dirksen Building

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To continue hearings on budget estimates for FY 79 for the Department of Justice.
S-146, Capitol

Energy and Natural Resources
To hold hearings no pending nominations.
3110 Dirksen Building

Select Indian Affairs
To resume hearings on S. 2712, proposed Indian Program Evaluation and Needs Assessments Act.
457 Russell Building

APRIL 24

9:00 a.m.
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To mark up S. 2570, to extend the Comprehensive Employment Training Act (CETA).
4232 Dirksen Building

9:30 a.m.
Environment and Public Works
Regional and Community Development Subcommittee
To consider proposed regional and community development legislation.
4200 Dirksen Building

Judiciary
To resume consideration of S. 1874, to allow consumers and other parties who have not dealt directly with an antitrust violator to recover their damages under the antitrust laws.
2228 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Department of Commerce, and on supplemental appropriations for FY 78.
S-146, Capitol

Banking, Housing, and Urban Affairs
To hold oversight hearings on monetary policy.
5302 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on FY 79 authorizations for the Fishery Conservation and Management Act (P.L. 94-265).
235 Russell Building

Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 2876, authorization ceilings and boundary modifications of units of the National Park System.
3110 Dirksen Building

Energy and Natural Resources
Public Lands and Resources Subcommittee
To hold oversight hearings on the implementation of the Surface Mining Act (P.L. 95-87).
6226 Dirksen Building

Finance
Taxation and Debt Management Subcommittee
To hold hearings on S. 2738, to provide for the indexation of certain provisions of the Federal income tax laws, and related bills.
2221 Dirksen Building

Foreign Relations
Foreign Assistance Subcommittee
To resume hearings on FY 79 authorizations for foreign assistance programs; S. 2420, proposed International Development Cooperation Act; and to mark up proposed FY 79 authorizations for the Peace Corps.
4221 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To continue hearings on budget estimates for FY 79 for the Department of Commerce, and on supplemental appropriations for FY 78.
S-146, Capitol

APRIL 25

9:00 a.m.
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To continue markup of S. 2570, to extend the Comprehensive Employment Training Act (CETA).
4232 Dirksen Building

9:30 a.m.
Environment and Public Works
To consider proposed highway legislation.
4200 Dirksen Building

Judiciary
To resume oversight hearings on the application and enforcement of the FBI Charter.
2228 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To receive testimony from Secretary of Commerce Kreps on budget estimates for FY 79 for the Department of Commerce.
S-146, Capitol

Banking, Housing, and Urban Affairs
To continue oversight hearings on monetary policy.
5302 Dirksen Building

Energy and Natural Resources
To resume hearings on S. 499, 1500, 1546, 1787, and 2465, to designate or add certain lands in Alaska to the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, and National Wilderness Preservation Systems.
3110 Dirksen Building

Finance
Public Assistance Subcommittee
To resume hearings on S. 2084, to replace the existing Federal welfare program with a single coordinated program.
2221 Dirksen Building

Foreign Relations
Foreign Assistance Subcommittee
To continue hearings on FY 79 authorizations for foreign assistance programs, and on S. 2420, proposed International Development Cooperation Act.
4221 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To continue hearings on budget estimates for FY 79 for the Department of Commerce, and on supplemental appropriations for FY 78.
S-146, Capitol

Banking, Housing, and Urban Affairs
Securities Subcommittee
To hold hearings on H.R. 8331, the Securities Investor Protection Act.
5302 Dirksen Building

Judiciary
To resume hearings on FY 79 authorizations for the Department of Justice.
2228 Dirksen Building

APRIL 26

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings to examine the science and technology aspects of the Federal Research and Development budget.
5110 Dirksen Building

Human Resources
Employment, Poverty, and Migratcry Labor Subcommittee
To continue markup of S. 2570, to extend the Comprehensive Employment Training Act (CETA).
4232 Dirksen Building

9:30 a.m.
Environment and Public Works
Regional and Community Development Subcommittee
To resume consideration of proposed regional and community development legislation.
4200 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on budget estimates for FY 79 for the Federal Home Loan Bank Board and the National Institute for Building Sciences.
1318 Dirksen Building

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Arms Control and Disarmament Agency, Foreign Claims Settlement Commission, Japan-U.S. Friendship Commission, and the Legal Services Corporation.
S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for ConRail and the U.S. Railroad Association.
1224 Dirksen Building

Commerce, Science, and Transportation
To hold oversight hearings on the Fishery Conservation and Management Act (P.L. 94-265).
235 Russell Building

Energy and Natural Resources
To consider pending calendar business.
3110 Dirksen Building

Environment and Public Works
Nuclear Regulation Subcommittee
To mark up FY 79 authorizations for the Nuclear Regulatory Commission.
S-126, Capitol

Finance
Public Assistance Subcommittee
To continue hearings on S. 2084, to replace the existing Federal welfare program with a single coordinated program.
2221 Dirksen Building

Foreign Relations
Foreign Assistance Subcommittee
To continue hearings on FY 79 authorizations for foreign assistance programs, and on S. 2420, proposed international Development Cooperation Act.
4221 Dirksen Building

Rules and Administration
To resume hearings on S. Res. 166, to reorganize administrative services of the Senate, and to consider other legislative matters.
301 Russell Building

Select Indian Affairs
To hold hearings on S. 2358 and 2588, to declare that the U.S. hold in trust for the Pueblo tribes of Zia and Santa Ana respectively, certain public domain lands.
6226 Dirksen Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the National Transportation Safety Board and the ICC.
1224 Dirksen Building

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the FCC, Federal Maritime Commission, FTC, International Trade Commission, and on supplemental appropriations for FY 78.
S-146, Capitol

APRIL 27

9:00 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To hold hearings on S. 2385, S. 2405, and S. 2504, bills to authorize the Commodity Credit Corporation to finance export credit sales of agricultural commodities.
324 Russell Building

Judiciary
Constitution Subcommittee
To resume hearings on S.J. Res. 65, to amend the Constitution so as to provide for representation of the District of Columbia in Congress.
5110 Dirksen Building

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To resume consideration of proposed resource protection legislation.
4200 Dirksen Building

Judiciary
To hold hearings on S. 1382, to establish criteria for the imposition of the sentence of death.
2228 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Civil Rights Commission, EEOC, and on supplemental appropriations for FY 78.
S-146, Capitol

Energy and Natural Resources
To hold hearings on pending nominations.
3110 Dirksen Building

10:30 a.m.
Commerce, Science, and Transportation
To continue oversight hearings on the Fishery Conservation and Management Act (P.L. 94-265).
235 Russell Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Renegotiation Board, SEC, and on supplemental appropriations for FY 78.
S-146, Capitol

APRIL 28

9:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 65, to amend the Constitution so as to provide for representation of the District of Columbia in Congress.
5110 Dirksen Building

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To continue consideration of proposed resource protection legislation.
4200 Dirksen Building

Judiciary
Improvements in Judicial Machinery Subcommittee
To resume hearings on S. 1314, to provide that State and Federal prisoners may petition Federal courts in a writ of habeas corpus.
2228 Dirksen Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To continue hearings on S. 2385, S. 2405, and S. 2504, bills to authorize the Commodity Credit Corporation to finance export credit sales of agricultural commodities.
324 Russell Building

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To receive testimony on budget estimates for fiscal year 1979 for the Departments of State, Justice, Commerce, the Judiciary, and related agencies.
S-146, Capitol

Banking, Housing, and Urban Affairs
To markup proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
5302 Dirksen Building

Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 88, to add additional lands to the Sequoia National Park, California.
3110 Dirksen Building

Finance
Public Assistance Subcommittee
To resume hearings on S. 2084, to replace the existing Federal welfare programs with a single coordinated program.
2221 Dirksen Building

Foreign Relations
Foreign Assistance Subcommittee
To resume hearings on fiscal year 1979 authorizations for foreign assistance programs, and on S. 2420, proposed International Development Cooperation Act.
4221 Dirksen Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the Minority Business Resource Center.
1224 Dirksen Building

MAY 1

10:00 a.m.
Foreign Relations
To resume hearings on FY 79 authorizations for foreign assistance to Korea related to the withdrawal of U.S. forces, and on S. 2420, proposed International Development Cooperation Act.
4221 Dirksen Building

MAY 2

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the Office of the Secretary, DOT.
1224 Dirksen Building

Banking, Housing, and Urban Affairs
To continue markup of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
5302 Dirksen Building

Finance
Public Assistance Subcommittee
To continue hearings on S. 2084, to replace the existing Federal welfare programs with a single coordinated program.
2221 Dirksen Building

Foreign Relations
To continue hearings on FY 79 authorizations for foreign assistance to Turkey and Greece, and on S. 2420, proposed International Development Cooperation Act.
4224 Dirksen Building

Judiciary
Constitution Subcommittee
To resume hearings on S. 35, the proposed Civil Rights Improvements Act.
6226 Dirksen Building

MAY 3

9:00 a.m.
Governmental Affairs
Governmental Efficiency and the District of Columbia Subcommittee
To hold hearings on proposed new criminal code for the District of Columbia.
3302 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S. 35, the proposed Civil Rights Improvements Act.
1202 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 2883, authorizations for the Corporation for Public Broadcasting for fiscal years 1979–1983.
1224 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue markup of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
5302 Dirksen Building

MAY 4

8:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings on the status of nonfarm, nonfood, and fiber rural development research with USDA and the State land grant system.
322 Russell Building

9:00 a.m.
Governmental Affairs
Governmental Efficiency and the District of Columbia Subcommittee
To continue hearings on proposed new criminal code for the District of Columbia.
3302 Dirksen Building

9:30 a.m.
Commerce, Sciences, and Transportation
Communications Subcommittee
To continue hearings on S. 2883, authorizations for the Corporation for Public Broadcasting for fiscal years 1979–1983.
1224 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue markup of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
4200 Dirksen Building

MAY 5

8:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To continue hearings on the status of nonfarm, nonfood, and fiber rural development research with USDA and the State land grant system.
322 Russell Building

9:30 a.m.
Veterans' Affairs
To resume markup of S. 364, to provide for the judicial review of administrative decisions promulgated by the Veterans' Administration, and to allow veterans full access to legal counsel in proceedings before the VA; S. 2398, to extend the period of eligibility for Vietnam-era veterans' readjustment appointment within the Federal Government; H.R. 5029, authorizing funds for hospital care and medical services to certain Filipino combat veterans of WW II; and S. 2836, to amend the Veterans' Administration Physician and Dentist Pay Comparability Act.
412 Russell Building

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 1979 for the St. Lawrence Seaway Development Corporation, and the Research and Special Programs Directorate, Department of Transportation.
1224 Dirksen Building

Banking, Housing, and Urman Affairs
To continue markup of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
5302 Dirksen Building

MAY 8

9:30 a.m.
Human Resources
To mark up S. 2600, to extend certain vocational rehabilitation programs and to establish a comprehensive services program for the severely handicapped.
4232 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 2211, the International Maritime Mobile Satellite Telecommunications Act.
235 Russell Building

MAY 9

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the Office of the Secretary of Transportation.
1224 Dirksen Building

MAY 16

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the Department of Transportation.
1224 Dirksen Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings jointly with the Senate Banking Subcommittee on International Finance on technology exports and research and development investments.
6226 Dirksen Building

MAY 17

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings in connection with restrictions employed by foreign countries to hold down imports of U.S goods.
5302 Dirksen Building

MAY 18

9:30 a.m.
Veterans' Affairs
Housing, Insurance, and Cemeteries Subcommittee
To hold hearings on S. 1643 and H.R. 4341, to eliminate the requirement for inspections of the mobile home manufacturing process by the VA, and S. 1556, authorizing funds through FY 81 to assist States in establishing and maintaining VA cemeteries.
457 Russell Building

## CANCELLATIONS

APRIL 26

9:30 a.m.
Veterans' Affairs
To mark up S. 364, to provide for the judicial review of administrative decisions promulgated by the Veterans' Administration, and to allow veterans full access to legal counsel in proceedings before the VA; S. 2398, to extend the period of eligibility for Vietnam-era veterans' readjustment appointment within the Federal Government; H.R. 5029, authorizing funds for hospital care and medical services to certain Filipino combat veterans of WW II; and S. 2836, to amend the Veterans' Administration Physician and Dentist Pay Comparability Act.
412 Russell Building

# SENATE—*Thursday, April 13, 1978*

*(Legislative day of Monday, February 6, 1978)*

The Senate met at 10:15 a.m., on the expiration of the recess, in executive session, and was called to order by Hon. WENDELL R. ANDERSON, a Senator from the State of Minnesota.

## PRAYER

The Reverend Charles A. Summers, pastor, Sixth Presbyterian Church, Washington, D.C., offered the following prayer:

God of old times, these times, and the times to come, receive our praise this morning. You are the Author of life and we praise You for the gift of another day. You are as close as our next breath, as steady as our heartbeat—and when these fail You will still be God. We are in Your hands: be merciful when we are discouraged, be harsh when we are selfish, be gentle when we are frightened.

O Lord, You have blessed us as a nation. May our thanksgiving issue forth in justice for the poor and the forgotten. May we always remember that the Earth belongs to You and is on loan to us. When our misguided zeal hinders Your plan, oppose us in order to save us.

We pray for the leaders of our country. We pray also for the many behind the scenes who type and file and push brooms. All are Your people, in need of Your care.

Now go with us in the work at hand. Grant that awareness of grace which frees us to serve. Give us strength to

seek the truth and to speak the truth we see. Grant us patience to listen to others and humility to know our own limitations. God, forgive us when we identify the goals of our Nation with the goals of Your kingdom.

In all things may our lives praise You as we look forward to the day when Your Christ shall reign. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., April 13, 1978.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WENDELL R. ANDERSON, a Senator from the State of Minnesota, to perform the duties of the Chair.

JAMES O. EASTLAND,
*President pro tempore.*

Mr. ANDERSON thereupon assumed the chair as Acting President pro tempore.

## THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, as in legislative session, that the Legislative Journal be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## APPOINTMENTS BY THE VICE PRESIDENT

The ACTING PRESIDENT pro tempore. The Chair, on behalf of the Vice President, appoints the Senator from Utah (Mr. GARN) as a congressional adviser to the SALT delegation in Geneva during 1978.

The Chair, on behalf of the Vice President, pursuant to Senate Resolution 110, 95th Congress, appoints the Senator from Maryland (Mr. MATHIAS) to serve as a member of the Select Committee on Ethics, in lieu of the Senator from Connecticut (Mr. WEICKER), resigned.

## RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

## ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## PANAMA CANAL TREATY

Mr. MOYNIHAN. Mr. President, I rise to take this occasion of morning business to speak to what will be the concerns of this day in the Senate and in the days immediately to follow—the ratification of the Panama Canal treaties, and, particularly the question of the Senate advising and consenting to the ratification of this second treaty.

Mr. President, I would like to observe that in the course of this day the U.S. Senate is going to be put to a test of some importance. We are going to see just how much and how long the pattern of this Senate will continue, a pattern of being extraordinarily careful of strong adversaries and rather hard with weak allies.

I cannot forget, Mr. President, the time at the end of 1975 when I was Ambassador to the United Nations and the Soviet Union invaded Africa, sending an expeditionary force of Cuban mercenaries—a term President Carter properly used in his Wake Forest speech on March 17.

The Soviet Union invaded Africa, sending Cuban mercenaries, and they were prepared to fight. To the dismay of the Africans and of the United Nations Ambassador and our allies the world over, the U.S. Senate stood up and said, in effect, in no circumstances will any American fight back, or any American ally fight back, because the Soviets fight for real, they kill people who oppose them. The Cubans are in there and they are prepared to fight.

Now, we seem increasingly to prefer some symbolic victories over weak allies. A small country, Panama, that has been our friend from the day of its creation, has never threatened us, never in any way hurt us, even in times of our great need when it might have done so and used leverage, never sought it.

The Secretary of State, for some unknown reason, is leaving Washington today to fly to Rhodesia. Why the Secretary of State leaves the capital at this moment of crisis, I do not know. He will fly to Rhodesia where he will seek to incorporate the Marxist guerrillas in the government of that new black-ruled country—yet a biracial—country with a moderate, respected leadership. But why will the Secretary of State seek to bring into that government the Marxist guerrillas armed by the Soviets? The guerrillas say if we do not the Russians will send the Cubans and, of course, we will not resist it.

The Cubans fight. Apparently, the U.S. Senate will have nothing to do with people who fight, not particularly if they are enemies. Is it only our friends with whom we will be difficult? What has become of this great Nation?

I joined the U.S. Navy at age 16 in the middle of the Second World War, where I soon understood we had to fight if liberty was going to survive. Have we so forgotten what is required of men who would maintain freedom in a world where totalitarianism rises? Do we not understand that the men making our foreign policy already assume that the Soviet Union has a military advantage over us, and are saying that we must negotiate a SALT treaty because by the mideighties that Soviet strategic advantage will be irreversible?

Our foreign policy already portrays symptoms of a nation which knows it has been outmatched by the Soviet Union, and while this incredible transition takes place, this transformation takes place in our circumstances in the world, we sit about worrying and thinking of new ways to impose our machismo fears on the innocent and deserving Republic of Panama.

Mr. President, I hope we might get on with the real business of the Senate, which is defending freedom in the world against the enemies of freedom, and not imposing our unnecessary fears on a small country and a good ally.

I thank the Chair.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

## CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, may we have morning business closed?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

## SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New York is recognized, as in legislative session, for not to exceed 15 minutes.

## THE STATUS OF MIDEAST NEGOTIATIONS

Mr. JAVITS. Mr. President, I thank the majority leader for his generosity and thoughtfulness in preserving my time and I thank Senator MOYNIHAN for his ringing declaration for freedom.

THE STATUS OF MIDEAST PEACE NEGOTIATIONS

During the Easter recess, I visited Israel for the purpose of bringing myself up to date on the position and thinking of the Israeli Government, as well as to obtain a good understanding of the thinking of the opposition.

Based on my discussions with the leading figures of the Israeli Government and opposition, my discussions with the President and Secretary of State both before and after my visit to Israel, and upon my review of the various basic documents which I have seen, I should like to report to the Senate my observations and conclusions respecting the current status of Mideast peace negotiations.

Four weeks have elapsed now since Prime Minister Begin's visit to the United States. Also I have just returned from a visit to Israel where I went and conferred with Prime Minister Begin and the leading members of the Government and the opposition. Hence, it is appropriate for me to review the status of Mideast peace negotiations. First, it is quite clear that negotiations are continuing between Egypt and Israel despite some of the more dire implications that were drawn from the failure of President Carter and Prime Minister Begin to reach a meeting

of the minds on a number of important issues. The dark cloud which seemed to have descended on the scene when President Carter reported to Members of Congress what he felt to be the "six no's" he had received from Prime Minister Begin has been penetrated by new rays of light and hope.

In saying this I do not wish to imply any sense of complacency or euphoria. That would be seriously misplaced, for serious differences among the parties on key substantive issues remain. But, the process of negotiation is continuing. The United States has continued diplomatic exchanges with Israel and Egypt and all parties have demonstrated a willingness to reexamine their own positions as well as the positions of the others.

Potentially the most significant new development has been the visit of Israeli Defense Minister Weizman to Cairo for discussions with President Sadat and General Gamassy. A return visit by Defense Minister Weizman to Cairo is expected soon. Thus far, the visit of Mr. Weizman has not led to resumption of formal negotiations in the Political and Military Committees, as requested by Prime Minister Begin but press reports have stated that some substantial progress has been made on a number of key issues respecting the Sinai as well as the West Bank and Gaza problems.

There has been a major change in the overall negotiating atmosphere in another respect. The overriding sense of immediacy and impending doom which surrounded the visit of President Sadat to Washington in February—which contributed heavily to the adverse atmospherics of the Begin visit in March—has receded appreciably. Now, no one is contending that President Sadat's political position is in any immediate danger and the sense that the negotiating process is in a close and frantic race to meet a deadline has been dissipated. This has relieved much of the tension in the highly overcharged atmosphere which engulfed the Begin visit.

In looking back at the events leading up to the Begin visit, especially in light of what has now transpired in the 4 weeks since that visit, it is fair to say that the position of Israel, and the specific proposals that have been put forward by Prime Minister Begin, did not receive the "fair basis" objective consideration which they deserved. Instead, an exaggerated and at least partially inaccurate characterization of the Israeli's position—as being intransigent and narrow—was conveyed as the conclusion to be drawn from Prime Minister Begin's meetings with President Carter.

The atmosphere of great hope created by President Sadat's historic breakthrough visit to Jerusalem and Prime Minister Begin's reception of him and the atmosphere of near despair created by his visit to Washington combined—perhaps unavoidably—to produce a situation in which the conditions and stipulations of Egypt seemed to be given more weight and much more solicitude than the positive peace plan by Prime Minister Begin.

On the other hand, a very different set of spectacles was used to examine the position and proposals of Prime Minister Begin, which were subjected to critical and sometimes unsympathetic scrutiny.

In the more dispassionate atmosphere which I hope will now prevail, I believe that Israel's position will be seen as being considerably more flexible and more forthcoming than the characterization of it as being "Begin's six no's" lead the American people to believe. Accordingly, the time has come to restore a greater degree of symmetry to the standards which are applied in respect to the positions of President Sadat and Prime Minister Begin.

The differences between the United States and Israel as they were expressed by President Carter at the end of the Begin visit, in my judgment, resolve around a single point—the status of the West Bank and Gaza. The differences respecting the application of U.N. Resolution 242, and the Israeli settlements, all can be traced back to this one point.

And, the fact is that the status of the West Bank and Gaza in international law is unsettled and a subject of historic dispute.

For the purposes of the Mideast peace negotiations, the United States has adopted a simplistic view of the status of the West Bank and Gaza in international law—a position which is in doubtful harmony with previous positions taken by the United States.

It may be that the position assumed by the United States in the current peace negotiations, respecting the West Bank and Gaza, is justifiable on the grounds of what are perceived to be the diplomatic and political realities of the situation. But, since Israel's position has been criticized by the State Department on legal grounds, a brief review of the situation from an international law point of view is called for.

The dismemberment of the Ottoman Empire in the international settlement after World War I resulted in a British Mandate over Palestine. In 1922, Britain unilaterally carved the Kingdom of Transjordan out of the original Mandate and awarded it to the Hashemite leader who had recently been defeated by the Saudis in a dynastic struggle for control of what is now Saudi Arabia.

Pursuant to the Balfour Declaration, which promised the establishment of a Jewish Homeland in Palestine, the prefiguration of the State of Israel through immigration, took place during the period between World Wars I and II. This process was given great impetus and great urgency by the liberation of the Jewish remnant which survived the Nazi holocaust in Europe.

The British Mandate in Palestine acquired the legal sanction of the League of Nations. When the League was disbanded at the establishment of the United Nations, it is not even clear that the United Nations gave its explicit legal sanction to the British Mandate. In any event, on April 2, 1947 Britain informed the United Nations of its intent to divest itself of the Mandate and requested the General Assembly to make provisions for the "future government in Palestine." On November 29, 1947, the General Assembly voted its approval of the recommendation of the United Nations Special Committee on Palestine to partition Palestine into a Jewish and Arab state with some degree of economic union, and, an international trusteeship for Jerusalem. The plan was accepted by the Jewish agency but rejected by the Arab States. An outbreak of disorder and terrorism ensued and the Security Council refused to take action to implement the partition plan.

At midnight on May 14, 1948 the Palestine Mandate was terminated. The Jewish community immediately proclaimed the State of Israel within the territorial boundaries of the partition plan, and Israel was recognized by a number of states including the United States and the U.S.S.R.

Egypt, Syria, Transjordan, Lebanon, and other Arab states responded by attacking Israel, to deny it its statehood. a cease-fire began on July 18, 1948 and in February, March, April, and July of 1949 armistice agreements between Israel and Egypt, Lebanon, Jordan, and Syria respectively were negotiated by the parties and went into force. For Jordan these cease-fire lines included the West Bank; for Egypt they included the Gaza Strip.

In 1950, Jordan purported to annex the areas of the West Bank which it had occupied in the 1948 fighting. This annexation has never been recognized by the United States. Indeed, only two governments ever recognized that annexation—Pakistan and Britain. Egypt never purported to annex the Gaza strip, which it had occupied and which it continued to administer until it was captured by Israel in June 1967, at the same time that Israel also took the West Bank territory from Jordan.

I have included this brief review of the politico-legal history of the West Bank and Gaza because it is highly pertinent to an understanding of the present differences between the United States and Israel.

The essence of the Israeli Government's position is that the status of the West Bank and Gaza is different under international law from the position of the Sinai and the Golan Heights. The United States has refused to recognize any such difference. And, this has contributed materially to the dispute between the United States and Israel with respect to the meaning of U.N. Resolution 242 and the status of Israeli settlements in the West Bank which have been branded as illegal.

The position which has been put forward by the Begin government, as I understand it, maintains that Israel by right of conquest has a claim in international law to the West Bank and Gaza at least equal to the claim of Jordan which is similarly based on the right of conquest. At a minimum, Israel contends that the question of sovereignty over the West Bank and Gaza are unsettled questions in international law and thereby distinguishable from the question of sovereignty respecting the Sinai and Golan which admittedly are

within the internationally recognized borders of Egypt and Syria.

Admittedly, the Israel position is complicated by Mr. Begin's longstanding contention that Israel has a Biblically based claim to Judea, Samaria (West Bank) and Gaza District.

However, my purpose is not to seek to vindicate the claims put forward by Israel on the merits. Rather, my purpose is to show that Israel has a respectable legal basis for its contention that the status of the West Bank and Gaza is unsettled in international law, that it has not acted in a way which can be categorically branded illegal, that its position is not arbitrary or intransigent and—most importantly—that it has a basis for putting forward the proposals which it has tabled.

To argue that those proposals are entitled to be considered and discussed and to provide a basis for Egyptian counterproposals, is only to argue for equality and fair play, in my judgment.

A major difference has arisen between the United States and Israel with respect to the U.S. desire that Israel agree to the formulation that U.N. Resolution 242 applies "on all fronts". The Israeli Government believes passionately that this formulation commits it to eventual acceptance of a Palestinian sovereignty in the West Bank and Gaza, because it places the status of the West Bank and Gaza on equal footing with the status of the Sinai and the Golan Heights where there are jurisdically established Egyptian and Syrian claims of sovereignty. Israel feels that it is not legally obliged to do so. Also, Israel sees agitation and irredentism under such an interpretation starting at once for a Palestinian state (likely to be PLO dominated) in anticipation of the referendum as to the disposition of the West Bank to be made at the end of 5 years under its peace proposals.

It is at this point that the legal position of Israel's Government becomes interrelated with its overriding security requirements.

Within Israel I encountered a spectrum of views on the legal issues respecting the West Bank and Gaza, even within the Begin government. However, there is near unanimity within Israel with respect to its security claims on the West Bank. And, on security grounds, President Carter is said to have stated, as U.S. assumptions, that total Israeli withdrawal from the West Bank and Gaza are not required under U.N. Resolution 242—which balances withdrawal from occupied territories with "secure and recognized boundaries." It has even been implied that President Sadat is agreeable to security adjustments respecting the West Bank and Gaza.

In various public statements President Carter has suggested various arrangements involving an Israeli military presence in the West Bank and Gaza. Moreover, the previous Israeli Government informally suggested the Allon plan and opposition leader Peres has elaborated on that plan in numerous private discussions.

The Begin government has put forward a different approach which it feels would accomplish the same results. Instead of dividing the land of the West Bank, the Begin government has proposed a division of functions on the West Bank. In essence, it would reserve security functions to Israel and turn over "self-rule" civil functions to the Arab inhabitants of the West Bank.

The Begin government has not put forward its proposals on a "take it or leave it basis." It has specifically stated that its proposals are worthy to be the basis of counterproposals. This is not "intransigence" as that word is commonly understood.

The overriding impression which I received in Israel was one of a deep appreciation of the great contribution to the peace process which was embodied in President Sadat's historic peace initiative, and Prime Minister Begin's reception of it and an unabated determination to work to achieve tangible peace agreements based on the new opportunities opened up by that initiative—and in the efforts at mediation as they were then undertaken by President Carter.

Just about all Israelis, specifically including Mr. Begin's bitterest political opponents of the last 30 years, feel that Mr. Begin has made honest and far-reaching proposals in response to President Sadat's initiative. They share Mr. Begin's feeling that his proposals have not been given the consideration which they deserve. And, they share the feeling that a more critical and unsympathetic standard has been applied to Israel than to Egypt and President Sadat.

Under the circumstances, I see no rational grounds for the creation of an atmosphere of confrontation between the United States and Israel—this relationship must remain intact in our own and Israel's national interest.

I believe very strongly that a sympathetic and creative approach by the United States can lead to a reformulation of the issues which would eliminate most, if not all, of the "six no's" which were elicited from Mr. Begin. The object of U.S. diplomacy, surely, is to produce formulations which will produce agreement, not disagreement. And, all of the flexibility cannot be expected to come from one side.

Now that the pervasive atmosphere of immediacy and impending doom may have been lifted from the Mideast peace negotiating process, I believe there is a good opportunity for all parties to take a fresh look at what had seemed to be a serious impasse but which upon closer examination reveals many areas of agreement, enormous movement forward from the starting positions of President Sadat and Prime Minister Begin, and important areas for the reduction of remaining differences.

I believe that an important contribution can be made at this time by the United States in placing a renewed emphasis on the enormous benefits that would be opened to all parties by the achievement of concrete agreements. For, the fact of agreement will transform the situation in the Mideast. The way could be opened for dramatic, cooperative economic development—not only through the lifting of the crushing economic burden of armament but also through opportunities to enlist Israeli technological and managerial capacities and those of Egypt in support of the enormous capital resources of Saudi Arabia and other oil producers in a regional development plan.

The establishment of peace cannot mean a restoration of the pre-1967 status quo of bitter animosity. And, in a transformed Mideast the present fears and security preoccupations could be seen in a less compelling and threatening light, making the achievement of agreements easier to achieve and easier to implement.

President Carter has placed great emphasis on the need to face up to the Palestinian question "in all its aspects." Admittedly this has important implications for Israel. But, in my judgment, it is the Arab States, more than Israel, which have failed really to face up to the Palestinian question. On this point, the United States, having pressed Israel very hard, ought now to turn its attention to pressing the Arabs to face up—and stand up—to the PLO which remains as the single greatest obstacle by far to the achievement of peace in the Mideast. It is not enough in my judgment, merely to obtain acquiescence in the bypassing of the PLO in the present round of negotiations. It is not enough, in my judgment, to postpone the issue by holding open the prospect of a referendum in 5 years in which the PLO could come in and achieve a PLO State on the West Bank.

The time has come for the Arabs—those Arabs who believe in the negotiating process and who desire peace—to face down the PLO and demand of the Palestinian people a leadership prepared to accept achievement of peace with Israel—or forfeit the claim of a voice in the settlement respecting the West Bank and Gaza.

For despite the hopeful progress that has been made in the negotiations between Egypt and Israel, the PLO continues to make Lebanon its bloody plaything. Israel's exasperated incursion into southern Lebanon cannot, by itself, solve the PLO problem there. Israel has announced a plan for the withdrawal of its forces and I believe that Israel must comply in the proximate future with the call of U.N. Resolution 425 for the withdrawal of its forces from Lebanon. To fail to do so could embroil Israel in an unnecessary dispute with the United States over the use of U.S. supplied weapons there and give an opening to the "rejectionist" forces in the PLO and some Arab States to supplant the Arab-Israel search for peace with a confrontation in the Security Council where the Soviet Union will be only too ready to undercut the U.S. peace effort and seek to blacken Israel's name and to discredit Sadat and other peace inclined Arab leaders.

Mr. MOYNIHAN. Mr. President, will the Senator yield for 30 seconds?

Mr. JAVITS. I yield.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. MOYNIHAN. Mr. President, will the Senator from New Mexico have the goodness to yield for 30 seconds?

Mr. SCHMITT. Mr. President, the Senator from New Mexico is very happy to yield to the Senator from New York.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. MOYNIHAN. I do thank the Senator.

Mr. President, there can be few persons in this Nation who have been so much involved with the questions of the Middle East and the quest for peace in that region as the senior Senator from New York, and no person in the U.S. Congress—not one—has given this as close attention to the full extent of his incomparable capacity. Since the day that Israel became a state, JACOB JAVITS was in the Congress, and he has been involved in it step by step to this promising moment, and surely there has not been heard in this chamber, much less in this land a more masterful account of the situation now and once again an account which the way in which things can move forward.

I cannot more congratulate the Senator for showing us that there is so much more hope than we have been thinking of.

Mr. President, I shall ask unanimous consent to introduce into the RECORD, as a supplement to what Senator JAVITS said, an address I gave in New York on Friday which addresses, in particular, the curious fact that the U.S. Government insists that the settlement of Israelis of the West Bank are illegal and contrary to international law. When asked what international law Israel contravenes, we are told Article 49 of the Fourth Geneva Convention, which addressed itself to the practices of the Nazi government, and which forbids the transfer or deportation of populations into occupied territories. By what extent of imagination those 8,000 or 9,000 Israelis could have been said to have been transferred or deported by their government I do not know. And how insensitive of us to harken to Nazi practices with respect to an internal political problem in the Middle East.

Mr. President, I thank the Senator from New Mexico for yielding me this time

I want to say that the Senator from New York has performed brilliantly and I know we are in his debt. I desperately hope his address will be read in the White House, the State Department, and in Geneva.

I ask unanimous consent to have printed in the RECORD the text of the remarks I made at Temple Israel in New York City on April 7, 1978.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR DANIEL PATRICK MOYNIHAN

Two weeks ago a column by Mary McGrory in the Washington Star carried the headline: "Has the United States Changed Sides in the Middle East?" In describing the Carter-Begin talks, Miss McGrory wrote:

"The President went out of his way to characterize his talks with the Israeli Prime Minister as 'grim.' He sighed, when they finished, that peace seems 'far away.'"

And one week ago, in a column in Newsweek, George F. Will, writing of the Israeli Prime Minister's quite extraordinary opening offer in his negotiations with Egypt calling for self-rule for the West Bank and the return of the Sinai, asked how it could have come to pass that "the Administration praised Begin's proposal in December but disdains it in March."

This morning an editorial in the Washington Post observed that "through three major wars and countless incidents successive administrations have understood that the realities of Arab hostility justified the reading that in using American weapons across its borders Israel was acting in legitimate self-defense. Why, then, did the Secretary of State feel bound to slap Israel hard on Wednesday by informing Congress that Israel 'may' have violated the 1952 military aid agreements in its recent intervention in Lebanon."

These are the observations of independent journalists of quite varied politics. I cite them only to suggest what is the mood of observers in Washington today. It is one of anxiety and uncertainty.

For the first time in the history of the State of Israel the question is being asked whether the United States is breaking off its attachment to that nation. Or, as the Washington Post editorial states it, whether the security of Israel is "of fading American concern."

Can there, then, ever have been a more serious moment in the relations between our two countries?

I think not.

Accordingly as a Senator I wish to speak with great deliberateness, for I am fearful of being misunderstood by the President. I do not wish to anger him, and I hope not to have to oppose his policies. I would hope he might hear what I have to say.

Allow me then to repeat an opening paragraph from the address I gave to the United Jewish Appeal National Conference here in New York last December tenth:

"I have no quarrel with our government, and especially none with our President. He is a noble and truthful and wholly committed man. He struggles for understanding as do we all. I speak tonight in the spirit of Isaiah, trusting that indeed we might reason together, and learn from one another."

It is no longer the case that I have no quarrel with our government. I have a profound disagreement with those responsible for our Middle East policy.

I prefer to think I was careful about opening this disagreement. I am sure that through much of last year many persons wondered why I did not do so. Yet surely these are matters of an order that impose the greatest care, even caution.

On June 7, 1977 in a commencement address at Baruch College I spoke to the emerging doctrine within the Administration that the "East-West" conflict was receding and that we should direct our concern more to relations between the industrial North and the developing South. The President himself had spoken of the Soviets joining us in "common aid efforts" to help the latter. I said, however;

"If we genuinely care about the developing world, then we must look to the behavior of the Soviet Union, for with respect to the non-Communist regions of the world, be they developed or underdeveloped, there is one Soviet policy: the worse, the better. * * *

"In nation after nation, at conference after conference, what the Soviets seek is failure, breakdown, bitterness, mistrust. They judge that they thrive on this, and history certainly does not disprove them."

As summer passed, it began to seem necessary to speak more plainly. For, on October 1, like a rocket illuminating the whole of the landscape, there came the joint Soviet-American statement on the Middle East. In a document clearly drafted by the Soviets we were informed, in effect, that they were being asked by us to return to the Middle East to act in effect as a partner in bringing about or enforcing a settlement there. Among other things, the joint statement seemed to envisage a Palestinian state on the West Bank ruled by the Palestinian Liberation Organization.

There was an outcry here at home. There was shock elsewhere. On October 5 the Foreign Minister of Israel met here in New York with our President in long talks which Mr. Dayan described as "brutal." I put the matter as succinctly as I could in an address at Temple Israel in Albany on October 25:

"It bears repeating, first and foremost, that the Soviet Union is not interested in peace in the Middle East. * * * For decades, the Soviets have judged that their interests in the Near East are best served by chaos and upheaval, by war and revolution. This obvious attribute of Soviet policy has been the basis of the Mid East policies of successive administrations each understanding that the Soviet role must be minimized, not enhanced.

"Is there now evidence that the Soviet Union has come to share our interest in peace in the Middle East? We have followed the tragic developments in Lebanon, a pro-Western democracy now brought to ruin by Soviet arms and Soviet clients. We have watched the Soviets in their never-ending search for ethnic disputes, for regional rivalries, or whatever, which can be exploited for Soviet purposes. The bloodiest war now in progress in the world, that between Ethiopia and Somalia, is a prime example of this Soviet principle and where it leads.

"The history of the past three decades—or the news of the past week in review—both tell the same story: the Soviets strive to establish a strategic and ideological and political presence wherever they can. They say as much; they declare as much; they keep no secret of it."

The prospect of a restoration of the Soviet position in the Middle East was sufficiently alarming to President Sadat, so it seems to me, as to have triggered his decision to make his dramatic visit to Israel. Of a sudden, the President of Egypt and the Prime Minister of Israel had acquired a common interest in shoring up Western interests in the Near East, just as the West's leading nation seemed set on a course of inviting the Soviets back into the region!

Thus, as I felt obliged to say on December 10:

The President of Egypt saw that the policies of the United States were making his own position untenable. It was he who had expelled the Soviet Union from his country in 1972 and turned instead to the United States. Now the United States was bringing the Soviets back to the region. The downfall of President Sadat would be one of the first prices the Soviets would exact from the newly established partnership.

"And so Anwar Sadat took the great gamble of seeking peace on his own, directly with Israel in cooperation with such other Arab nations that would join him."

The state of the situation in the Middle East was once again illuminated, this time gruesomely, when on March 12 of this year, PLO terrorists attacked on the coast of Israel, killing thirty-seven civilians—fourteen children, twelve women, eleven men. And on the same day, Radio Moscow reported the event,

seeking to portray it as a military operation during which "over thirty soldiers" (emphasis added) were killed. Such is the Soviet interest in portraying acts of murder as legitimate military operations. And why not. Just a day earlier, Radio Moscow had broadcast the words of Yasir Arafat, whose own affinities in world politics were once again revealed by his use of the worn-out vocabulary of Soviet totalitarianism, as he spoke of an "imperialist-Zionist presence . . . a bridge for imperialist hegemony led by the United States." A murderous link, this relationship between the Soviet Union and the PLO, but a predictable one.

And so it is now necessary to speak bluntly, once again.

I believe that what is happening to American policy, not merely in the Middle East but in the world at large, is a gradual accommodation to the fact that the Soviet Union has not only become the equal to the United States in military power, but seems destined to surpass the United States.

Already in Washington Administration spokesmen are saying just this behind closed doors. We are being told that it is urgent that we get a strategic arms limitations agreement quickly else Soviet strategic power will have surpassed that of the United States by the mid-1980s. This can only mean a SALT treaty that would accommodate to that seemingly ineluctable trend.

And this, I believe, is the true explanation for the succession of events, large and small, overt and covert, by which the administration has quietly given in to the long sustained efforts of the Soviets to depict Israel as an outcast nation, an illegitimate nation, a nation whose very existence violates the standards of the international community.

This is not altogether new. But the vigor with which this point is pressed is surely new. Consider the administration's pronouncements on the illegal nature of the Jewish settlements in the Sinai and on the West Bank.

This matter seems to loom large indeed. President Carter himself said at a press conference on January 30:

"Our position on the settlements in occupied territories has been that they are illegal, that they are an obstacle to peace."

In an interview broadcast on the following February 14, Secretary Vance repeated this conclusion. He said, "The Geneva Convention, the so-called Fourth Geneva Convention considered this question and concluded that the creation of settlements in occupied territory was contrary to international law." This particular convention, concluded in 1949, was also invoked by Assistant Secretary of State Atherton in his appearance before subcommittees of the House International Relations Committee on October 19, 1977. Mr. Atherton said, "We see the Israeli settlements as inconsistent with international law."

True, in saying this, these men have not created a new stance for the United States. Some such claim has been made by administrations since 1967. But of course this is a nonetheless most debatable point. My own reading of the international conventions cited by the State Department in support of its position is that the administration's claim is weak indeed, probably wrong altogether.

The State Department's argument rests on its reading of Article 49 of the Geneva Convention of 1949 on "civilian persons in time of war." The Article outlaws "individual or mass forcible transfers" as well as "deportations." The last paragraph of the Article reads: "The occupying power shall not transfer or deport parts of its own civilian population into the territory it occupies." In a Department of State Briefing Paper prepared in July, 1977, the Department says: "The government of Israel is obligated by Article 49 of the Geneva Convention of 1949 on the Protection of Civilians not to transfer parts of its own civilian population to occupied territory."

We must note immediately that the convention and its prohibitions derive from the experiences of the Nazi era. We must immediately ask whether the presence of fewer than 10,000 settlers amidst an Arab population of about 700,000 is what the framers of the convention imagined as a violation. The settlers have acted voluntarily, often very much against the wishes of their government. How can they possibly be said to have been "transferred," or "deported" by that government? Even more, there is clearly no consensus among legal authorities as to who the "occupying power," especially in the West Bank, is.

No less an authority than Stephen Schwebel, Deputy Legal Adviser in the State Department, wrote in 1970 in the American Journal of International Law that the Israeli presence on the West Bank results from a lawful exercise of the right to self-defense, that Israel had a right to insist upon reasonable security measures to insure that the West Bank would not again be used to mount a similar threat, and that Israeli title to the West Bank was probably better than that of Jordan, in that Jordan had acquired the West Bank by an illegal annexation.

I do not wish to be understood as saying that settlements are either necessary or wise.

But it is more than a little wondrous how much the question of legality intrudes into this issue.

The President of the United States and the Secretary of State do not recurrently address themselves to questions of international law.

And yet the references to international law which we now associate with both of them somehow seem to involve Israel as they seem to involve no other place. And it is all the more strange in that Israel is the only party to the Mid East conflict where the rule of law is firmly established; where democratic institutions flourish; where civil liberties as we understand them are most fully protected.

It is really necessary for our own government to contribute, no matter how unintentionally to the large worldwide effort to deprive Israel of its very legitimacy as a state?

It is a disturbing tendency within this government to invoke the rules and the precedence of international law in a way that works to the political benefit of groups and organizations and states which have nothing but contempt for that very rule of law.

Justice Holmes once said that the Constitution is not a suicide pact, nor surely is the body of international law or the Charter of the United Nations. We must understand that a regime of law so exploited as to benefit the lawless for some short range political or diplomatic expedient, could well contribute to the ruin of the rule of law itself.

As more and more we accommodate to the rise of totalitarian power, we become less and less concerned with the needs of democracies. We find their procedures "irksome," we become impatient with their "quibbles" about law and language, forgetting that respect for law and language is the very essence of a democratic society.

We find the Israelis "difficult to deal with." Increasingly we interpret their respect for law and language, all of which requires them to move slowly and carefully if they are to move at all, as somehow an "obstacle to peace."

We contrast this with Egyptian "flexibility," by which we mean the easy cynicism of nondemocratic societies about procedures and texts—all "mere words"—and their ability to act within parliamentary consultations.

We proclaim for ourselves the role of mediator, but seemingly chose to show no comprehension of the asymmetry of negotiations between two such different political systems. Indeed, if we seem to prefer either of the two, it is the one least like our own.

For three years now I have been speaking of the failure of nerve in American foreign policy. I find it more pronounced now than ever. And I do urge the friends of Israel to consider that, now more than in the past, American policy in the Middle East reflects our policy in the world at large, and it is to that larger policy that our concerns must be directed.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I wish to compliment the two Senators from New York for their leadership in this very difficult issue and for the perception and perspectives that they offer to it.

## HUD

Mr. SCHMITT. Mr. President, the proposed reorganization of the Department of Housing and Urban Development, known as HUD, has raised some vital questions with respect to the Department's housing program and the general responsiveness of our executive branch of Government.

Mr. President, we also now hear via the press that the Secretary of that Department has declared that it is now truly an urban agency, to some extent indirectly indicating that the rural portions of this Nation will suffer as a result.

There is widespread opposition to this current HUD reorganization. New Mexico is not the only State whose citizens and local and Federal officials are vehemently opposed to moving multifamily housing services great distances from their need.

Members of the housing community in the private sector, in both the real estate and construction industries, are protesting this move which would increase the difficulty and cost of providing needed housing and, of course, raised the cost of that housing to the people who need it. Citizens who have benefited from the HUD programs as implemented by local offices have expressed a very deep concern.

In fact, Mr. President, one Sunday afternoon in January, 400 people gathered in Albuquerque to vent their frustration with respect to loss of these particular services. There were people from all walks of life, from all political parties, from business, from labor, from real estate, including those people who benefit most directly. The proposed plan appears to be wracked with dissension in the upper echelons of the Department.

The ordered centralization of HUD and the resulting unresponsiveness and irresponsibility of certain officials of that Department whom I have contacted regarding this matter have progressed to the point of disbelief and beyond. There has resulted a display of total disregard for obligation and responsibility to all rural Americans (particularly those living west of the Mississippi) that is in-

credible in this Senator's opinion. It is inconceivable that Secretary Harris has ignored letters, avoided the issue, evaded questions in hearings, and, in general, has not felt obligated to respond at all, at least in a reasonable period of time, or substantively to Members of Congress with respect to a major action which will affect the lives of millions of people. When response is finally received—months after the fact—it is then with only vague generalizations rather than facts.

Given this state of affairs, how are we then to believe that the executive branch can or will be responsive to a New Mexican or any American with the dream of owning his or her own home? The local HUD office has done an outstanding job of providing decent, low-cost housing for the citizens of New Mexico. It has been shown that Albuquerque is one of the most efficient HUD offices in the country. If we have learned anything from the steady centralization of government over the past few decades, we can now surmise that the multifamily housing needs of New Mexico and other rural States would scarcely be served at all by moving crucial functions 700 miles east to Dallas. Mr. President, that would be the same as providing for the housing needs of Washington, D.C., from a central office in Chicago. We can also guess that even more essential single family housing services will be the next to go into regional, urban centers. In an effort to determine the Department's justification for the proposed reorganization move, I have repeatedly questioned its officials, as have other Senators and Congressmen. I anticipated straight, factual answers to my questions to Secretary Harris at a Banking, Housing, and Urban Affairs Committee hearing on January 27 of this year. This was not to be. Thus, this hearing was followed up with a letter on February 9, containing questions for the record. Incredibly, in subsequent hearings shortly thereafter, Mrs. Harris promised an answer within a week—it is now two and a half months since my original inquiry and letter to her and her followup commitment. Only yesterday, Mr. President, did I receive a response—a response of sorts, and I suspect the only reason she bothered to respond yesterday was due to the fact that she was scheduled to testify before the Banking Committee and today before the Housing Appropriations Subcommittee.

After more than 6 months, beginning way back last October or September, we still have no essential facts with which to support or not support Mrs. Harris' claims that efficiency will be increased by 23 percent, and that costs will be reduced by $550 million over the next 4 years.

Mr. President, we have done considerable research on this, and all of our facts indicate just the opposite, that inefficiency will increase and costs will rise. I can assure the Secretary that this arrogance will not go unchallenged during the current budget process. The people of New Mexico and the United States deserve to get answers to their questions, whatever they may be.

The Department led me to believe that I was the only Senator who appeared to be concerned about the reorganization. Yet some 20 Senators, one-fifth of this body, recently signed a letter to Senator RIBICOFF requesting that hearings be held on Senator MCINTYRE'S Senate Resolution 302, which would delay the reorganization until such time as the Congress could study it. Further, over 30 of my colleagues have expressed to my office their desire to meet with the President to make their deep concern on this matter known to him personally. I myself have already called the Vice President with no direct results. My congratulations to the Secretary and others in the Administration on the unique ability they have shown to unite the Members of the Senate along bipartisan lines—Secretary Harris, in particular has succeeded where others have failed.

Secretary Harris led me to believe that all regional offices would be treated equally under the reorganization. Yet Lubbock, Tex.; Grand Rapids, Mich.; Des Moines, Iowa; Bangor, Maine; Coral Gables, Fla.; Manchester, N.H.; Providence, R.I.; Houston, Tex., and apparently other cities have received moratoriums on the reduction in services. My repeated questions as to the rationale for such discrimination have fallen also on deaf ears. The response I did receive at one point was an assurance by Assistant Secretary Medina that these moratoriums are temporary actions for the duration of 1 year only. Still no answer as to why they are necessary.

And Mr. President, to top things off, as the Department was removing housing services from rural areas, such as New Mexico, a HUD study was ordered to determine how the Department could better serve rural areas. Commissioned on January 10, the study was due March 1. Not surprisingly, it is now the middle of April and there is no sign of the report. Once again, taxpayers' hard-earned dollars appear to have been thrown away on an executive branch study that may never see the light of day. Unfortunately, Mr. President, this use of studies to do nothing is not confined just to the present administration.

At the request of myself and several other concerned Senators, it is my understanding that an audit has now been conducted by the General Accounting Office with respect to HUD services in several cities. Although not yet official, apparently the audit initially reveals that HUD reorganization will cost the taxpayer more than the projected savings. This is in spite of the fact that the Department has answered almost any and every question about the reorganization with the stock reply that centralization will save approximately $550 million over the next 4 years, and result in an increase in time efficiency of 23 percent. Mr. President, we can find absolutely no factual justification for those claims.

Mr. President, it would appear that the administration's collective mind is made up on this. But when Senators cannot obtain straight answers to legitimate questions, when 20 Senators would like a closer look at the justifications for the reorganization plan, when 30 Senators are ready to express their deep concern to the President, when obvious fair play and credibility are mutilated, when dollars are wasted on studies which gather dust, when an independent GAO audit appears to reveal an increased cost with diminished services, commonsense dictates an end to this stubbornness and to the need for the Congress to take a hand.

This proposed move by the Department of Housing and Urban Development is another in a long line of "reorganizations" that take government from the people—and charge them more for doing it. What happened to the oft-expressed wish of this administration—in the campaign as well as more recently—to return government to the people? What has happened to repeated promises of increased services and decreased costs? And where is the common decency that would have given us straight answers necessary for Congress to have to evaluate the performance of the Department of Housing and Urban Development? New Mexicans and all Americans deserve more from those mandated to serve them, particularly those privileged to serve without being elected by those they either help or hurt. The battle is not over.

Mr. President, unless someone else wishes to make a comment on this matter during the remainder of my time, I will be glad to yield it back.

Mr. MOYNIHAN. Morning business, as I understand, was to be closed at 11 o'clock. I believe it is now 11 o'clock.

If I may make one observation, Mr. President, if the Senator had only waited 2½ weeks for a response from HUD, he has another month ahead of him.

Mr. SCHMITT. I understand, but it has been 2½ months. The battle was joined last October.

Mr. MOYNIHAN. Well, then this Senator still has 2½ months ahead of him.

Mr. SCHMITT. Well, it is good to see that it crosses both sides of the aisle.

## THE PANAMA CANAL TREATY

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of Executive N, 95th Congress, 1st Session, Calendar No. 2.

Under the previous order, the Senator from Kansas (Mr. DOLE) is recognized to call up an amendment.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. DOLE. I yield to the majority leader.

## ORDER FOR RECESS UNTIL 10 A.M. ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I have discussed this request with the proponents and opponents of the treaty, and it seems to be the general consensus that the request would be accepted, and I therefore make it now. It will give committees an opportunity to meet tomorrow without last-minute interruptions for rollcalls, and so on. The committees do need some time to meet during the lengthy debate on the two treaties.

Therefore, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 o'clock on Monday morning. We can, later today, change the hour from 10 to 11. This will give committees ample notice, by getting the request consented to at this point, and ample time to schedule their meetings for tomorrow.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator from Kansas.

## THE PANAMA CANAL TREATY

The Senate continued with the consideration of the treaty.

Mr. DOLE. Mr. President, parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. DOLE. Is there a time limit on this amendment?

The ACTING PRESIDENT pro tempore. There is; one hour, equally divided.

UP AMENDMENT NO. 25, AS MODIFIED

Mr. DOLE. Mr. President, I send to the desk a modified form of amendment No. 3 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) offers an unprinted amendment numbered 25.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

In the second sentence of the first paragraph of article XI, strike out "for thirty calendar months" and insert in lieu thereof "until such date as is agreed upon by the members of the Panama Canal Consultative Committee, but not before January 1, 1990".

In paragraph 2 of article XI, amend subparagraph (a) to read as follows:

"(a) The authorities of the United States of America shall have the primary right to exercise criminal and civil jurisdiction over employees of the Panama Canal Commission who are citizens of the United States and their dependents, and members of the United States Forces and civilian component and their dependents, in the following cases:"

In paragraph 2(a)(i) of article XI, strike out "offense committed" and insert in lieu thereof "act or omission".

In paragraph 2(a)(ii) of article XI, strike out "offense committed" and insert in lieu thereof "act or omission".

In the text following clause (ii) of paragraph 2(a) of article XI, strike out "offenses committed" and insert in lieu thereof "acts or omissions".

Strike paragraph 6 of article XI.

Renumber subsequent paragraphs of article XI accordingly.

Mr. DOLE. Mr. President, on my time, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. NUNN). Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that I may proceed as in legislative session for a period of 5 minutes, the time to be charged against the time of the Senator from Kansas.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. On two matters, both relating to agriculture.

## THE DEFEAT OF THE EMERGENCY AGRICULTURE LEGISLATION

Mr. DOLE. Mr. President, I would just say that this country is astounded that the President of the United States should take delight, because of the defeat of the emergency agriculture legislation in the House of Representatives yesterday.

Frankly, this attitude is hard to understand, in the light of the serious crisis today in agriculture, and in the light of campaign commitments and promises made in 1976. But even beyond that, it is hard to understand how anybody could celebrate or indicate delight, or indicate that somehow it was a victory, that, because of administration prodding and lack of House support of it, a bill designed to help American agriculture was resoundingly defeated.

That is now history, and the farmers lost. I think the American consumers lost and rural America lost. The farmers are still in financial trouble, just as they were yesterday. There are still serious surpluses of certain commodities. There are still farmers leaving the land, selling their farms. They are still borrowing money where they can. Farm prices are still below the cost of production.

I would just hope that we can do now what we can. We are now at the mercy of the President of the United States. Whatever he will do for the American farmer must be done, from a legislative standpoint.

I cannot think of worse timing for a farm bill than to come up the day after the President announces to the world that he is going to veto it, and announces to the world that he is going to make it a symbol of fighting inflation.

I would suggest that once the price tag of $6 billion was put on this bill erroneously, the farmer never had a chance. It was picked up by the media. It was picked up by large newspapers advertising it as a $6 billion bill, which is not a fact. It is not true.

I can understand why many of my urban colleagues in the House could not vote for a $6 billion farm bill. I could not either. But I suggest now that we move ahead and do what we can for the American farmer. As American farmers have told me so many times, "If you do not eat, do not worry about my problem."

Well, we did not worry about his problem. We said no. He still has it. The American consumer still has a concern.

I would just suggest it is not a time for celebration; it is a time for rethinking, a time to find some provision which the President will support.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senate will resume executive session.

## THE PANAMA CANAL TREATY

The Senate continued with the consideration of the treaty.

UP AMENDMENT NO. 25, AS MODIFIED

Mr. DOLE. Mr. President, at the desk is a modified form of amendment No. 3 to article XI of the Panama Canal Treaty.

Consistent with the intent of article XI of the Panama Canal Treaty, which seeks to "provide for an orderly transition" of jurisdiction over the Panama Canal Zone, I have proposed an amendment which would simply extend the period for the transfer of jurisdiction from the United States to Panama. This treaty is being marketed by the administration as a "twenty-two year" transition document. However, a careful reading of the treaty provisions suggests that this is not a 22-year transition agreement—it is a 30-month transfer of title. Thirty months is entirely too short a period to avoid serious disruption in the lives of Americans and their dependents who live and work in the Canal Zone. In order to prevent confusion, disruption, and a massive exodus of Americans now residing in the Canal Zone, it is important to extend the transition period for a more orderly transfer of authority.

As things now stand, the treaty returns full jurisdiction over the Canal Zone to Panama as soon as the treaty enters into force, and it transfers all U.S. judicial, administrative, and regulatory authority to Panama 30 months later. After that, American citizens will be subject to Panamanian law, and subject to Panamanian civil and criminal justice as well.

More specifically, article XI provides the following: Effective immediately, Panama assumes full plenary jurisdiction over the entire Panama Canal Zone, and Panamanian courts assume jurisdiction over all new civil cases of a private nature involving American citizens. Only 30 months later, at the end of the so-called "transition period," Panamanian courts will assume jurisdiction over all criminal cases involving American citizens; the United States will withdraw all its police forces and lose all police authority in the former Canal Zone; and the U.S. court system will cease to function. American laws, regulations, and administrative authority will no longer be enforced. All this occurs, despite the fact that the United States retains the right to use certain designated areas and installations within the former Canal Zone until the year 2000. I question just how effective our rights of "use" will be for the remaining 20 years, after our laws and administrative authority end in 30 months.

UNFAIR TO AMERICAN EMPLOYEES

Mr. President, I believe the question is, does this constitute "orderly transi-

tion"? I do not know of many Americans who are willing to subject themselves to the justice and authority of the Panamanian National Guard. This provision will literally drive Americans out of Panama. If article XI remains unchanged, I believe we will see a mass exodus of U.S. engineers, pilots, and other canal personnel within the next 2½ years.

As a matter of fact, a public opinion questionnaire circulated among United States Canal Zone employees last November, and provided to me by the Panama Civil Council during my visit last December, demonstrates that 70 percent of those surveyed intend to leave the Canal Zone soon after these treaties are ratified. Over half of those who intend to leave indicated that their "primary reason for leaving" was the loss of American jurisdiction in the form of the police and court system in the Canal Zone. Fully 90 percent of those intending to leave plan their departure within 3 years after the treaties are ratified.

Think of it: 3,000 American employees in the Panama Canal Zone, who have played the central role in operating and maintaining the canal for decades; and 70 percent of the sampling which was surveyed indicated that they and their families would feel compelled to leave Panama soon after these treaties are ratified. Considering the treaty provisions, I am not sure that many of us can blame them.

American employees have served the canal well since it was completed in 1914. No employee should have to fear for his future job security, or for the protection of his personal rights, and those of his family. During our visit to the Panama Canal Zone last December, Senator PAUL LAXALT and myself visited with dozens of canal employees, who expressed distress about protection of their property and personal rights after the Panamanian police and courts take control. They deserve better than this. Their skill and dedication deserve the careful consideration of the U.S. Senate. We can give them proper consideration by simply extending the "transition period" to a length more suitable for "orderly transition," including proper training for Panamanian replacements.

DOLE AMENDMENT

Mr. President, this amendment I have offered will permit the Panama Canal Consultative Committee to study the matter after the treaty takes effect and, with the benefit of actual experience, make a recommendation as to when the period of transition should formally end. However, under the terms of this amendment, the period will in no event terminate prior to January 1, 1990. This date coincides with transfer of the administration of the Panama Canal Commission from United States to Panamanian leadership, under the terms of article 3 of the treaty. It is logical that primary U.S. authority over both the Panama Canal and the special Canal Zone areas should expire about the same time.

By allowing for this extended transition period, we will allow for a more orderly and gradual phase-out of American employees in the area, and of judicial and administrative control over them. Also, by preserving U.S. jurisdiction over civil cases as well as criminal cases involving American nationals during the transition period, we better protect the interests of our own citizens living in the area.

Thus, if this amendment is adopted, treaty arrangements will be as follows:

First. Panama will still assume full plenary jurisdiction over the Canal Zone upon entry into force of the treaty. And the United States will retain rights of use over certain designated areas and installations in the zone.

Second. The U.S. court system will continue to function, and will retain jurisdiction over all criminal and civil cases involving American citizens who are employees of the Panama Canal Commission, until at least the year 1990. This jurisdiction will also continue with respect to employee dependents, and to members of the U.S. forces and their dependents as well. It will apply to "acts or omissions" occurring during the transition period, or prior to it, within those areas and installations used by the United States under the provisions of the treaty.

Third. U.S. police forces will remain on hand, exercising their proper and limited authority within the areas and installations used by the United States, until at least 1990.

Fourth. The laws, regulations, and administrative authority of the United States, which are now applicable in the Canal Zone, shall remain in force during the extended transition period, just as they would for the 30-month period envisioned in article XI.

That is all. There is no change in other provisions in the treaty. Neither employment conditions nor defense provisions are changed in any way by this amendment. It is designed only to protect Americans residing in the Canal Zone, and to provide for a more orderly transition—not to obstruct or eliminate those transition arrangements.

Certainly, there is no way to guarantee that the same level of civil and political rights will be honored by the Panamanian National Guard once it gains total jurisdiction over the Canal Zone and Canal Zone employees. Given the very inconsistent record of the Panamanian Government with regard to human rights, and given the popular disdain for the Amercian presence in the zone, there is every reason to believe that the rights of our citizens may not be fully observed and protected. We realize that Americans are going to leave, but we do not want a mass exodus at the outset. We want an orderly withdrawal, and an orderly transition.

The best thing we can do is to provide an adequate period of time for an orderly transfer of judicial and police jurisdiction. This is all this amendment seeks to accomplish.

Mr. President, that is all this amendment seeks to do. That is all it does. I hope that the amendment will be accepted by the treaty proponents. It is not in any way designed to frustrate the pro-treaty forces, not in any way designed to frustrate the Panamanian leadership, it is not in any way designed to confuse American leadership. It is designed solely to provide a more orderly transition and to provide some protection for U.S. employees in the zone.

Mr. President, I reserve the remainder of my time.

Mr. MOYNIHAN. Mr. President, I rise to respond to the thoughtful and reasoned statements of the Senator from Kansas, and to state also why it is that the proponents of the treaty before us cannot in good faith accept his amendment.

The amendment to extend the transition period for the transfer of judicial jurisdiction is, in our view, unnecessary to protect the interests of U.S. citizens or to operate and defend the canal. Just as important, to us as to them, we feel it would be a needless insult to Panama.

I want to make clear that we do not suggest that the Senator from Kansas would intend such an insult, but it would be perceived as such. The Senator from Kansas is the most courteous and thoughtful of men and sensitive to others' feelings in a way that is not always encountered in public life. But it is, nonetheless, the case that we would be saying, in this instance, that Panama is not capable of administering its own laws in its own territory and that its laws are inherently unfair. There is nothing in our experience to warrant our saying that and, even if there were, it would be most impolitic to say so. This is not something a sovereign nation says to another sovereign nation when it wishes to maintain good and close relations.

With equal justice, countries in Latin America might have said to this country that our laws were not fair and our administration of justice was not equitable at a time when racial discrimination against black Americans and against Hispanic Americans was so common. Yet, without in any way endorsing our arrangements, they never chose to suggest some fundamental institutional incapacity to live up to their standards, as this amendment would suggest that we fundamentally believe that Panamanians could not live up to ours.

The Panama Canal Treaty and agreements in implementation of articles III and IV of the treaty contain carefully negotiated provisions to protect U.S. citizen employees of the canal commission, military personnel and their dependents, and to guarantee these individuals specified procedural rights in any criminal proceeding under Panamanian law. It is important to note that these guarantees and rights apply whether the alleged criminal act occurred in the canal zone or elsewhere in Panamanian territory. The extension of the transition period will only continue U.S. jurisdiction over offenses committed within the zone.

The fact is that Panama is another country and Americans who wish to go and live there are going to have to accept the normal circumstances that living in another country involves, which means being subject to its laws. Just as

importantly, it is a condition which we impose on Panamanians or any other foreigner living in our country. Simply, elemental respect for a friendly nation, an allied nation, surely behooves us to reject this proposal.

Mr. President, I wish to speak, at the outset of this last day of debate on general provisions of the treaty, about the general circumstances we find ourselves in. Particularly, I should like to speak to some of the opponents of the treaties, not least to the Senator from Kansas (Mr. DOLE), who knows the high regard in which I hold him. I must say that I am troubled at what seems to me to be a flight from reality, among both the liberals in the Senate and the conservatives in the Senate, a flight from the reality that the true concern of American foreign policy has to be with the threat from an evermore aggressive, evermore powerful Soviet Union. Our concern has to be with the expansion of totalitarian power in the world, with the growth of its military strength.

In the Senate, in late 1975, we faced the first clear challenge of the Soviet Union in the post-Vietnam period. The Soviet Union invaded Africa with a mercenary crops of Cuban soldiers. I used the word "mercenary" then, to the great horror of many persons. I might point out that President Carter used the same word in his Wake Forest speech just a month ago.

Mr. President, the openly flaunted Soviet aggression in Africa was clearly meant to be a test of our will in the aftermath of the defeat in Vietnam. The Soviets would see whether it would work. I was then the U.S. Permanent Representative to the United Nations and I found myself speaking out against the Russians, saying that, at the very moment when the last vestige of white imperialism was disappearing from the African Continent, suddenly the blue eyes were back, white men with European weapons murdering black men, and were we going to stand for this?

The Africans at that time were pleading. President Kenneth Kavnda, of Zambia was pleading in the private councils of his continent and in his capital, that someone come and stop the Soviets. I remember he called them the plundering tiger and its marauding cubs. "Come and help," they said.

Here in the U.S. Senate it was decided we would not help. Not only would we not fight, we would not even talk, or help others who would fight.

Mr. President, I cannot imagine a more difficult set of readings for some Members of our body, than that which they said in that debate, when one after another they said, in effect, we will not get into another Vietnam, this has nothing to do with the Soviets, just taking the anticolonialist side and they will be sorry they ever got in there.

And we backed down. We said, "They will fight and we will not."

Since that day, Mr. President, none of those speeches which said that we would have nothing to fear from the Soviets would be made on this floor today, I daresay.

But today, the Secretary of State is leaving Washington to fly to Rhodesia, a place an American Secretary of State has never visited. Why he does not want to be in Washington for the success of these treaties, I do not know. But he is leaving. He is going on two hopeless journeys—one to Rhodesia, the other to Russia.

In Rhodesia, he is going to be insisting that Marxist guerrillas armed by the U.S.S.R.—our Secretary of State is going to insist that Marxist guerrillas armed by the Soviet Union—be brought into the Government of Rhodesia, renamed Zimbabwe where a peaceful settlement and black majority rule have at last came about.

Why will he do that? Why will he, a man who was the Deputy Secretary of Defense during the Vietnam war—when fighting Marxist guerrillas was what we were supposed to be doing over there—insist on bringing the Marxists into the Government of Zimbabwe? Why? Because power comes out of the barrel of a gun, and the guns pointed at Rhodesia are Russian.

Every State Department spokesman who comes to Capitol Hill to talk to us says that we have to do this in Rhodesia or the Russians will send the Cubans in. The Russians will fight and, of course, we will not. We will never help anybody who will fight. That is apparently all past.

The talk is that the Russians will only be there a little while, they are just helping out, they will be sorry, and so on, and so on.

Let us all be honest. In northeast Africa, the Russians brought not just a general to Ethiopia but they brought General Petrov, the first time in the history of Russia that a commanding general of the Soviet land forces has commanded forces outside the land mass of the Warsaw Pact countries.

Our foreign policy more and more shows the behavior of a country whose Government thinks itself to be overmatched with respect to military power. And so we have let the Russians threaten us. And now, routinely, the Soviets use force and we do not. Therefore, we accede to them.

It has been observed, and properly, that so many people who oppose these treaties fear that the United States is declining in the world, withdrawing in the world, showing itself as abject in the face of hostility.

Indeed, editorial writers in Western Europe started digging out the old Stockholm peace pledge and denouncing the capitalist bomb the United States is proposing, because it will do away with people, not property. As the distinguished Senator from Georgia (Mr. NUNN), now presiding, has said, there cannot have been as great a victory of Soviet propaganda in the postwar period as the recent reversal of the United States on the neutron bomb.

But, in the main, the victories of the Soviet Union these days are military. They are the plain consequence of force. A government with a greater military power need not resort to psychological warfare. It is still working, so they will not give way, for, obviously, they think we are afraid.

Yes, I say to the opponents of this treaty, I share your concern about how the United States appears in the world, but I cannot see that genuine and proper interests are advanced by an action here which makes us appear to be acting against a weak ally in a manner we would never act against a strong adversary.

I ask, what will the world think of us if we are seen to impose our strength against weak friends, the strength which we would never direct against strong enemies?

It is a serious question. The world will not interpret our behavior as I think we will interpret it. The world will observe that we were not prepared to help anybody else—much less fight. We would not fight at all, we would not resist the Cuban invasion of Africa, a Russian invasion with Cuban armies. We would say that the Cubans are there liberating, or doing this or that, that they will soon be sorry, that they will go away.

I say, it was not just Senators who did this. Some of the most important institutions of the United States, especially the press, were talking, as the New York Times did, of the African quagmire.

When I gave an address on this matter here in Washington on December 2, 1975, Mr. Graham Hovey of the New York Times dismissed what I said as apocalyptic. He said that the idea the Russian invasion with Cubans in Africa poses any alarm or concern to us, why that is just nonsense. It is the sort of weakmindedness that started the cold war in the first place.

We heard the familiar excuses the Soviet-backed faction had more popular support, the other factions could not have much popular support, and so on.

At one time it was noted the United States helped them and we "know" anyone we are with has to be wrong.

We humiliated ourselves then, I think. It was not a question of involving ourselves in another Vietnam experience. It was a question of helping people in the face of Soviet aggression who asked for help. And now that Soviet aggression has become institutionalized. Any time the Soviets threaten to send Cubans, we give in.

But now, why do not the sponsors of these treaties address themselves to this question? We cannot get anywhere by imposing symbolic subjection upon the Panamanians. The Panamanians are our friends. The Panamanians are tested friends. There was a time when the Panamanians could have caused a very good deal of trouble for us in time of war.

There have been three Pacific wars in my lifetime. I joined the Navy when I was 16 years of age, in the middle of the Second World War, and there have been three Pacific wars since. In any event, the Panamanians could have caused us trouble, but they never did; they never even tried. They never took the opportunity even to suggest that they were going to exact a price. They have proved

to be friends. Why vent our fears on them?

If we will not face the Cubans, why do we want to humiliate the Panamanians? I want to be clear. I do not think anyone on the other side, especially not the Senator from Kansas (Mr. DOLE), wants to humiliate anyone. But they are frustrated, they know that this country is growing weaker in the world, day by day, visibly so, capable of being intimidated by the threat of force—not merely from the Russians themselves but even from their Cuban mercenaries. This is not the position of a strong and comforted Republic.

It is true surely, that the opponents of these treaties worry about that, and I share their concern. But I ask: Is their concern directed here to some constructive purpose? Will the world interpret the reservations and conditions we are imposing on this treaty as an act of strength or an act of weakness? Will the world judge that we acted from confidence or that we acted from fear—sometimes even secret fears, not publicly expressed?

Mr. President, neither I, nor any other, can speak for the world; but I have not been without experience in foreign affairs, and I suggest that the world will think we have acted from fear. The world will see in our effort to impose complex and meaningless and unnecessary conditions on our relations with Panama as the reverse of the Angola coin; because the Senate, when it faced the prospect that some serious opposition might be encountered, would have none of it. The Senate stood up and said one thing after another which at that time visibly was not so—that Angola was just having a tribal civil war in central Africa. That is what one distinguished Senator described the Soviet invasion of Angola as—a tribal civil war.

Nobody in central Africa thought it was a tribal civil war. They thought it was a Russian invasion. We would not help the people who would face it. Having shown our fear there, are we not also expressing our fear here? Should we not say we are a confident and decent people? We have a long and good relation with the decent people of Panama. We trust each other. You cannot live together in close relation as long as we have done without knowing whether we are worthy of mutual trust.

This trust is incorporated in these treaties—not in what is not there but, rather, in what is there. Our negotiators never could have raised with any other country in the world the dense mixture of American and Panamanian rights in the Canal Zone that these treaties incorporate, except that our relations with this other nation, this small but important nation, are so good and so sound. Why exacerbate it? Why make Panama the object for expressions of fears which should be confronted on their own?

If there are people in this body—and I hope there are—who are fearful of the U.S. position in the world, fearful of the positions of the free nations in the world, concerned for freedom, let us confront that. Let us not sublimate it by imposing upon Panama—friendly, proven, trustworthy Panama—conditions which are inappropriate to a republic.

We have shown our fear of the Soviet Union. Must we vent it on Panama? Can we not speak to the reality of our situation, which is that we profoundly misled ourselves in Angola?

It would have been one thing, when the Soviets invaded Africa, if we had said, "They have invaded Africa, and we are not going to do anything about it. It is not a place of interest to us, or not enough interest," or, "We will not do it," or, "We cannot do it." Instead, we said, "It is not an invasion. They are helping out anticolonial forces. It is a tribal civil war. They will soon be sorry."

Now they dominate the continent, and our policy is dictated by fear of them.

(Mr. CLARK assumed the chair.)

Mr. NUNN. Mr. President, will the Senator from New York yield for a brief observation?

Mr. MOYNIHAN. I am honored to yield to the distinguished Senator from Georgia.

Mr. NUNN. Mr. President, we have been debating these treaties now for, I would say, approximately 45 days. I am certain of the exact time.

Mr. MOYNIHAN. We have grown older in the service of these treaties.

Mr. NUNN. We have grown older—and wiser, I hope.

I have heard a lot of debate on the floor and a lot of speeches on the subject, both on and off the floor, in Georgia and in other places, but I must say that it has been a real pleasure for me to be in the chair of the Presiding Officer the last few minutes; because I think the Senator from New York has more succinctly and more accurately summarized the issue with which we are faced than has anyone else I have heard—not only with respect to the Dole amendment but also with respect to the overall ratification or rejection of these treaties.

The Senator has done a masterful job of that. He also has done a masterful job of summarizing the fears and frustrations that have been evidenced regarding these treaties which really more appropriately go to the overall legitimate concern about America's role in the world. I feel that the Panama Canal debates have become the symbol or the focal point for that very legitimate frustration that the people of this land have about what is happening to America in the world. I know that those fears and those concerns are felt be very patriotic, dedicated people.

I do not happen to believe, as the Senator from New York has expressed, that this is the appropriate vehicle at which those frustrations should be aimed.

I certainly agree with the Senator's observation about where the real challenge of the Soviet Union came in the post-Vietnam era. It came in Angola. I recall very well the night the U.S. Senate decided we would not give any aid. It was not a question of the United States intervening. It was not a question of the United States sending troops. It was not a question of the United States sending gunboats or airplanes or anything else. It was a question of the United States cutting off aid to our own friends in Africa—not white people, black people.

I recall that night very well, because I observed to some people in private that this decision was going to be looked back on with a great deal of sorrow by the U.S. Senate; because we would reap the harvest of that decision for months and years to come. I said that privately to several friends that night.

I have to say that I think the U.S. Senate that night reflected the mood of the American people at that point in history. I do not think it was a situation in which the Senate voted one way and the American people were of a different opinion. I think we correctly reflected that mood. I did not, because I voted with the minority, those who lost on that issue.

However, I believe we sowed the seeds that we are now reaping, not only in Ethiopia and Somalia but all over Africa as well.

I was briefed the other day by the Central Intelligence Agency in a classified briefing about the number of Cuban troops in the continent of Africa—looking at the map and coloring it red where there were Cuban military forces, supplied and paid for by the Soviet Union. It is astounding what is happening there.

So, the Senator, in my opinion, not only has made an outstanding speech on the overall relationship of the Panama Canal questions to the world. I believe he also has correctly identified the position in which we find ourselves in the world today.

The Senator from New York has more adeptly summarized the issues confronting us on these treaties and the issues that confront the United States in the world than any other remarks that the Senator from Georgia has been privileged to hear in 60 days of debate. I congratulate the Senator for what I think has been an outstanding series of remarks about these treaties and about the U.S. position in the world.

I must say that I also agree with the spirit of the amendment that the Senator from Kansas has sponsored, and I may very well vote for that amendment. The Senator from New York has addressed the overall issues that these treaties present, and the Senator from Kansas has talked about a specific issue on which I may very well agree with him.

So my remarks are not directed toward the Dole amendment but rather toward the outstanding, erudite, and articulate remarks that the Senator from New York has made about the position of the United States in the world today.

I thank the Senator.

Mr. MOYNIHAN. Mr. President, I could not be more moved by the statement of the distinguished Senator from Georgia who has attained to a condition of world eminence with respect to the matter of American military position in the world. I shall perhaps extend his thoughts just a moment, again trying to

speak to those who are fearful of these treaties.

The Senator from Georgia mentioned the debate over Angola, and let me just read some of the things that were said by the majority on that day, and the majority did not include the Senator from Georgia.

When Africans asked our help against the Soviet invasion, one Senator said, "We must heed the lessons of Vietnam." Another Senator said, "If we learned anything from our experience in Vietnam it is the folly of permitting a cold war mentality to lead us to choose sides in an internal conflict in a remote corner of Africa which presents no real threat to our national security or our vital national interests."

That is just 2½ years ago.

Was it an internal conflict? How did a Soviet invasion become an internal conflict that did not concern us anyway?

Yet today the Secretary of State is flying to an African country to help impose an incredible settlement there, for fear of Soviet intervention into that "internal conflict."

Another Senator had said that all the Russians were doing was supporting "anticolonialism."

The most flagrant, bloody, imperialistic act of our age, sending mercenary troops into Africa, murdering Africans, white troops murdering Africans and it was described as supporting anticolonialism. Yet another Senator said that if we in any way gave support to the anti-Soviet groups, we would be siding with repressive regimes in southern Africa, and so on.

My time is about to expire. May I just say, in conclusion, to the opponents of the treaties, that we have heard their voices and we share their concerns.

The PRESIDING OFFICER (Mr. NUNN). The time of the Senator from New York has expired.

The Senator from Kansas.

Mr. DOLE. Mr. President, the Senator from Kansas has 8 minutes remaining, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. Let me say I share the comments and views expressed by my colleague from Georgia with reference to the statement made, and I really believe the Senator from New York has performed a service. Maybe my amendment has served some purpose in giving the Senator a vehicle upon which to express himself and I think the views of many in this Senate. I would not disagree that perhaps we are pointed in the wrong direction, but I think there is this fear, not fear of the Panamanians—they are our friends, as the Senator from New York has pointed out. We hope they remain our friends. We seek that continued friendship. But there is this fear based on the very thing the distinguished Senator from New York has pointed out:

As I measure the distance from Havana to Panama City, it is not quite as far as from Havana to all these places in Africa, some 4,000, 5,000, 6,000, 8,000, 10,000 miles, where they now have Cuban troops.

There is this fear based on a record or lack of a record by this administration, and going back even into the last administration, again not the fault of President Ford, but the fault of some who stood on this floor and made the very statement the Senator has referred to with reference to Angola.

So I suggest that the Senator is absolutely correct. There is this fear that we will turn tail and run.

The Senator from Kansas tried to take some positive initiative by introducing a resolution several weeks ago suggesting we should endorse the agreement reached in Rhodesia by moderate leaders, and we were met with silence by the administration. There was a counter-resolution introduced that we should reject the proposed settlement.

So we find it very difficult. This Senator was very disturbed last year when we were in such a rush to normalize relations with Cuba, and we had a long debate on this floor. We had a vote on an amendment, and the amendment prevailed. Then the leadership undertook to water down the amendment so it was meaningless. It became the sense of the Senate. And some of us feel very strongly there should not be this rush to normalization as long as they are exporting communism.

I must agree with the Senator from New York. It is hard for this Senator to understand where we are. We always seem to be compelled or propelled, or whatever, trying to embrace the Marxists and bring them into an agreement as we are doing now in Rhodesia.

But the seeds were sown on this floor. The seeds were sown on this floor in the Angola debate when we turned our back on our friends and said, in effect, oh, I remember all the rhetoric, and I guess as it has been pointed out the results are now becoming known, but there is this fear. Maybe it is not justified. Maybe we do not understand. Maybe the opponents of the treaty did not understand.

But I say that is one of the reasons for some resistance to the treaty. It is certainly not the Panamanian people. But who knows what may happen next year or the next year with the record we have made in this administration? General Torrijos acknowledges close friendship with Castro. So I suggest that, for whatever it may be worth, there is that problem and perhaps if we had a strong policy, perhaps if we had said no, or perhaps if we had said yes, or said something in some part of the world, had we stood up to the Russians even in the Belgrade Conference on Human Rights, maybe we would have backed away from the debate on the treaty.

So I just conclude my remarks by suggesting that I hope when the Panama Canal debate is finished—and we have had almost enough—we could perhaps debate the questions raised this morning by the distinguished Senator from New York on a bipartisan, nonpartisan basis, to discuss the American interests and the American role, or lack of American interests, or lack of American role.

I just suggest that, as I said earlier, in this amendment, because of the stories in the last few days, I tried to be very careful in my remarks which are not designed to upset the Panamanian people, not designed to frustrate what may happen if the treaties are passed, but designed to bring about some orderly transition and designed to protect the rights of Americans.

That seems to be a responsibility that we have. Maybe again it is not justified. Maybe those fears or those concerns about the rights of Americans are ill-founded.

I assume, as the Senator from New York has pointed out, the Panamanian people have the capability, the potential, and the concern, and there will be no difficulties. I hope not.

But it seems to me that it is a matter that deserves consideration.

The Senator from Kansas has tried not to offer too many amendments. I must say this is not one that I consider to be a major amendment, but I offer it to point up the concern about the transition and whether or not there will be time enough, if there is this mass exodus of Americans, for the Panamanians to take control and to operate the canal and do all the other things they will be required to do if the treaties are ratified.

Mr. President, I think the time has about expired. The Senator from Kansas is willing to yield back the remainder of his time and accept a voice vote. I suppose there will be a tabling motion.

I yield to the distinguished Senator from Arizona.

Mr. GOLDWATER. Just a comment. When I was last in Panama I asked about the subject of pilots, and this is most interesting, and we have not talked about it during the course of this debate. There are 200 pilots who guide the ships through the canal. Of these there are only two who are Panamanians. Now, that surprised me because I thought Panama, as a seafaring nation—they are small boat people, but they did not look on themselves as seafaring although there are countless ships under the Panamanian flag.

The PRESIDING OFFICER. The Senator from Kansas time has expired.

Mr. DOLE. Mr. President, I ask unanimous consent that we might proceed for 2 additional minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. GOLDWATER. I will hurry it up.

To qualify a man to be a pilot on the Panama Canal requires, No. 1, that that man hold a master's ticket. Now, a master's ticket on the sea is not something you get overnight. I would say you spend at least 10 or 12 years, and then with that master's ticket it takes 8 more years to train you to be a pilot on the Panama Canal, and there are only 2 Panamanians out of the 200.

Yet I have heard some rumors in the last several days that American pilots on the Panama Canal may come home to

express their dislike and distrust of this treaty. This is just another point that the Senator raised that I think we should be aware of.

I have quite a bit of interest in this because I have my own captain's ticket—not master's ticket—and it took me 15 years to get it. You are not going to find an overabundance of masters beating their way down to Panama even though their pay is very, very good. This is another point I think we have to consider when we are discussing whether or not that canal can operate, and it is one of my major worries.

I thank the Senator.

Mr. DOLE. I thank the distinguished Senator.

I have indicated to the leadership that I am willing to accept a voice vote. I think I know what the outcome will be. We have made the case and, I assume, there will be a motion to table or will it be up and down?

Mr. CLARK. Up and down.

The PRESIDING OFICER. Is all time yielded back?

Mr. DOLE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back, the question is on agreeing to the amendment of the Senator from Kansas. (Putting the question.)

The amendment was rejected.

Mr. CLARK. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments to article X?

AMENDMENT NO. 97

Mr. SCHMITT. Mr. President, I will be asking unanimous consent to consider amendment 97 which goes to articles II, III, XI, and XIII, and I believe there is no objection to the consideration of that amendment.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, I ask unanimous consent that Senators THURMOND, GARN, LAXALT, DOLE, GOLDWATER, and DOMENICI be added as cosponsors to amendment 97.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, this amendment is the so-called cemetery amendment. It is a matter that has been delt with previously by this body with respect to the Neutrality Treaty. However, I will attempt to develop the arguments that it has been dealt with inadequately.

Mr. President, it seems that in the hurry to conclude the negotiations on the two treaties important issues were either not fully considered or not considered at all. One of the issues not considered during the negotiations with the Republic of Panama is that of the American cemeteries in the Canal Zone. That this issue has been brought to the attention of the Senate at all is due to the work of various veterans organizations, and whose work I commend today.

I understand the Veterans of Foreign Wars wrote to Secretary Vance about 5 months ago about this issue. It has been brought to my attention that the VFW is still awaiting a response from the Secretary.

The proponents of these treaties, the Neutrality Treaty and the Panama Canal Treaty, have not been willing to admit that the treaties do have some shortcomings, and have voted down every amendment proposed rather than examining that amendment on its merits. This is, of course, with the exception of the so-called leadership amendments to the Neutrality Treaty.

In effect, they have been saying that the wisdom of the administration and of the previous administrations is greater than the collective wisdom of the Senate, and, therefore, should not be questioned.

Various justifications for this position are given but, fundamentally, I think that is a correct statement of the case.

The amendment before us deals not with controversial issues upon which there is considerable disagreement but with an issue that has considerable support in this Chamber and among the American people.

Mr. President, the amendment, as I said, does not deal with the issues that have polarized us in this body over the last 2 months, but with an issue that I believe most, if not all, Members of this body and of Congress agree is an issue and must be resolved in one way or another.

The amendment, Mr. President, deals with the moral obligation of this Nation to the citizens who have in the past served this Nation in various capacities within the Panama Canal Zone. In the Canal Zone there are buried in two cemeteries 909 veterans and 3,993 civilians who were U.S. citizens. About 450 of the military personnel who are buried there were war veterans. These individuals were in part responsible for the construction, operation, and defense of what, up until now, has been a vital American waterway and, in fact, a vital international waterway, a truly international public service provided by this country in cooperation with other nations.

These individuals who are buried in the Panama Canal Zone dedicated their lives to serving the United States. This great country at least has an obligation to guarantee that their final resting place will be maintained properly and protected from desecration.

Mr. President, as I stated, the negotiators of this treaty did not even consider the issue of the American cemeteries.

Richard Wyrough, Deputy Director and Senior Adviser for Treaty Affairs in the State Department, testified before the House Veterans' Affairs Committee, Subcommittee on Cemeteries and Burial Benefits, on March 1, 1978. Portions of his statement are as follows:

I was a member of the United States delegation that negotiated the treaties, and I must say that it is a matter which was not specifically addressed during the negotiations. We first examined the question sometime after the treaties were signed in September 1977 as we began to turn our attention to the details of planning their eventual implementation.

Mr. President, I would add parenthetically I hope that is only partly true, that the details of planning the eventual implementation of the treaties were only discussed after the treaties were signed. I am afraid from what we have seen in the discussion of these treaties that that may be all too true in many points of the treaties, not just the question of the cemeteries.

I continue the quotation:

The Administration has explored in a preliminary way several possible solutions to the problem. We have not yet, however, approached the Panamanians with our ideas, although they are aware of the matter.

As Assistant Secretary Blumenfeld mentioned, our immediate concern has been with Mt. Hope cemetery, since it will be one of the properties turned over to Panama when the treaties are implemented. One option we have considered, inasmuch as Mt. Hope is actively being used by Panama today and would presumably continue to be so when it reverts to actual Panamanian control, is to negotiate an agreement for the maintenance of the American sector of the cemetery. Possible problems in connection with this option include funding, assuring proper American oversight responsibilities of the maintenance work, and assuring general access to American gravesites for relatives and friends of those who are interred in the cemetery.

Continuing with Mr. Wyrough's comments:

A second option is to offer a proposal to the next of kin of the deceased Americans buried at Mt. Hope whereby the United States Government at its expense would disinter the remains, transport them to the United States and reinter them at a site chosen by the relatives. All other costs associated with the move, such as purchase of the burial plot, headstone, etc., would be borne by the next of kin. Apart from the question of where to find the funding for our Government's portion of this proposal, there are other problems, such as the difficulty in locating the next of kin, what to do with the remains of those not claimed by next of kin, making arrangements for next of kin who claim the remains, but cannot afford the costs involved, etc.

As you can see, the problem is a thorny one, and the possible solutions I have discussed are not without their drawbacks. However, as Assistant Secretary Blumenfeld mentioned, we do have a proposal to put before you which we think presents a feasible approach to the matter. In closing, I should like to mention that the matter is not, as I mentioned earlier, something that we have discussed in detail with the Panamanians. While we do not anticipate any particular difficulties, we cannot be certain at this point as to their reaction.

Mr. President, I wish to stress Mr. Wyrough's statement that the cemetery issue "is a matter which was not specifically addressed during the negotiations." Yet, it seems that there is agreement by the Department of State and both proponents and opponents of these treaties that the fate of the American cemeteries is an important issue. These treaties are deficient in that they do not address this issue. If this issue was not addressed during the negotiation, I wonder how

many other equally important issues were not addressed.

Mr. President, it is important that this treaty be amended to provide for the continued maintenance of the American cemeteries. The distinguished Senator from South Carolina (Mr. THURMOND) offered a similar amendment to the Neutrality Treaty. While I supported that amendment, I feel that it is the Panama Canal Treaty that should be amended to provide for the protection of the final resting place of our citizens. It is this treaty which turns over the land, including the American cemeteries at Mt. Hope and Corozal, to the Republic of Panama.

My amendment, if adopted, would not change the treaty substantially. The land would be turned over to the Government of Panama on schedule. The amendment would only provide that the Government of Panama would grant the United States in perpetuity, without charges or taxation, the use of the American sector of the cemetery at Corozal. The remains buried at Mount Hope would be disinterred and reinterred at Corozal or at a National Cemetery in the United States depending on the wishes of the next of kin.

While proponents of the treaties argued that they were in agreement with this concept, they voted against Senator THURMOND's amendment. Instead, the Senate adopted a reservation offered by the distinguished Senator from West Virginia (Mr. RANDOLPH). I supported this reservation, but I do not feel that it can adequately protect the interests of the American people as it relates to our citizens buried in the Canal Zone. There are now many different interpretations of the usefulness of reservations to these treaties.

This reservation, at best, obligates only our Government to undertake negotiations to accomplish what would be accomplished under this amendment. Panama may not wish to so negotiate. What if no agreement can be reached if negotiations are undertaken? What will be the fate of the cemeteries?

Mr. President, there are some very serious questions that arise with regard to this situation. First, the issue of the amendment process. We have been told by the administration and the proponents of the treaty that it would be wrong to amend the treaties because that would entail another plebiscite in Panama. I submit that it is not the obligation of the U.S. Senate to concern itself with plebiscites in Panama. We are elected by the American people, not the Panamanian people. We have an obligation to the American people to make sure that these treaties represent the best interests of the United States. The inconvenience which the Government of Panama would face should a plebiscite be needed is not our concern, and it should not be the determining factor in our voting at any rate.

Mr. President, it is not that I think we should not find a balance between the interests of the United States and the interests of the Republic of Panama, the Western Hemisphere nations, and all the nations of the world on the issue of the Panama Canal Treaty. I think I have been very clear on that point in the amendment I offered to the Neutrality Treaty some weeks ago. However, in the case of the American dead, there is no question whose national interests are paramount.

A question about the need for a plebiscite in the Republic of Panama has already been raised. The Neutrality Treaty has been amended by the leadership amendments. Yet, the administration maintains that no new plebiscite is required in Panama. Serious legal and constitutional questions in Panama have been raised with respect to this interpretation, and have been more than buttressed by the efforts of many Senators, including those of Senator STEVENS in this Chamber.

On the other hand, the proponents have been willing to accept reservations and understandings to the resolutions of ratification. Senator RANDOLPH's reservation about the cemetery issue is an example. The proponents have argued that the reservation is binding on the Republic of Panama, but also have argued that since it does not change the treaty, no new plebiscite is required. I fail, Mr. President, to understand this particular rationale. Maybe I was brought up in too logical an environment to understand it. Either the reservations are binding and change the treaties and thus require a plebescite, or they do not require a plebiscite, since they do not change the treaties and are not binding. History will not allow the proponents to have it both ways.

Another important question is whether the Panamanian Government will accept this approach. The question involved not just this Government, but future governments. To quote Mr. Wyrough again, he stated:

> I should like to mention that the matter is not, as I mentioned earlier, something that we have discussed in detail with the Panamanians. While we do not anticipate any particular difficulties, we cannot be certain at this point as to their reactions.

I suspect that the administration also did not anticipate any "particular difficulties" when it decided to accept the DeConcini reservation to the Neutrality Treaty.

AMENDMENT NO. 97

Mr. President, I call up my amendment No. 97 and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. SCHMITT. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> Before the period at the end of paragraph 2 of article II, insert a comma and the following: "except that the provisions of this Treaty shall not terminate with respect to such part of Corozal Cemetery as encompasses the remains of citizens of the United States of America.".
>
> At the end of the first paragraph of article III, add the following: "The Republic of Panama grants in perpetuity, without charge or taxation, to the United States of America the use of such part of Corozal Cemetery as encompasses the remains of citizens of the United States of America, which cemetery shall be administered by the American Battle Monuments Commission.".
>
> In the first paragraph of article XI, insert ", except for such part of Corozal Cemetery as encompasses the remains of citizens of the United States of America," immediately after "the former Canal Zone.".
>
> In the text above paragraph 2(a) of article XIII, immediately after "all real property," insert "except for such part of Corozal Cemetery as encompasses the remains of citizens of the United States of America,".

Mr. SCHMITT. Mr. President, should the Senate adopt this amendment (No. 97) there would be no question as to the future of the cemeteries; none whatsoever. Either a plebiscite would be held to agree to our position, or we would retain possession and control of the cemetery and the Canal Zone under the 1903 treaty, as amended, until other arrangements can be negotiated.

I hope other arrangements will be negotiated, and that this whole controversy can be resolved through a new set of negotiations dealing with all the issues, not just the cemetery issue, and with all interested parties involved.

However, Mr. President, if the administration feels that the Government of Panama will be willing to accept this proposal, the proposal embodied in amendment 97, then there is no reason for not including it in the treaty as an amendment. It seems that there is a doubt that Panama will be willing to go along with us on this matter.

There seems to be a fear of another plebiscite. I can certainly understand some of that fear with respect to the present Government of Panama. I do not understand it, and I am afraid I never will understand it, with respect to our own Government, a government which prides itself on being a representative democracy.

If what we have done here is not acceptable to the Panamanians, then we should find out now so that further negotiations can take place. It can only worsen the situation should disagreements arise later on this issue of cemeteries or on any other issue concerned with the treaties.

The problem with the Randolph reservation is that even if Panama accepts it as binding, they are compelled to negotiate with the United States. There is no provision in the reservation stating that an agreement must be reached, nor could there be any such provision.

On December 31, 1999, the United States must turn over the present Canal Zone to the Government of Panama, even if no agreement on the cemetery issue is reached, should this treaty be ratified without the amendment I and others are proposing today.

This is unacceptable to me and New Mexicans, and I believe to the majority of the American people, particularly those who have served their country in the military forces and in the Canal Zone.

Mr. President, I urge my colleagues to carefully consider our moral obligation to those who participated in the construction, operation, and defense of the Panama Canal and who are now buried on the land they worked for and defended, or who are next of kin of these same individuals.

Only by amending the treaty can we be certain that their gravesites will receive the dignity they deserve, the dignity which we have provided all other cemeteries containing American dead.

The reservation adopted by the Senate to the Neutrality Treaty, the Randolph reservation, is not a guarantee that these gravesites will, in fact, receive the dignity they deserve. Serious questions about the legality of the reservations have been raised. The administration's interpretations of international law with regard to reservations have not been clear. In fact, they have been contradictory. We cannot allow this issue to fall by the wayside due to misinformation or misunderstanding.

Mr. President, I urge the passage of this amendment. That concludes my opening statement. I will be happy to yield to the majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. President, I ask unanimous consent that the vote occur with relation to the amendment by Mr. SCHMITT at 1:30 p.m. today. I understand this has been cleared all around.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator for yielding.

Mr. SCHMITT. Mr. President, I reserve the remainder of my time.

Mr. CLARK. Mr. President, I yield to the distinguished Senator from Vermont.

Mr. STAFFORD. Mr. President, I ask unanimous consent that I may proceed, as in legislative session, for not to exceed 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

## THE IMPORTANCE OF THE PUBLIC BUILDINGS COOPERATIVE USE ACT

Mr. STAFFORD. Mr. President, the Committee on Environment and Public Works last week conducted an oversight hearing into implementation of the Public Buildings Cooperative Use Act of 1976. This law is important. It increases the flexibility of the General Services Administration to meet Federal office space needs, while making Federal buildings more compatible with the community.

A major aspect of this law is its authority allowing GSA to acquire and convert older buildings into new Federal office space. This recycling opportunity has received wide attention lately in the architectural community. In fact, a majority of the AIA's recent design excellence awards were given to such conversion projects. Mr. President, I ask unanimous consent that an article on these awards for the recycling of older buildings be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ARCHITECTS' AWARDS

(By Wolf von Eckardt)

Old buildings adapted to new use outnumber newly designed buildings eight to seven among the 15 winners of national honor awards for design excellence chosen by the American Institute of Architects this year.

This is in keeping with the still growing trend to "recycle" ornate, old structures that have outlived their original purpose rather than tear them down. The trend is due to a change in public taste and the fact that new construction has become just as expensive as renovation.

The seven-member AIA jury, headed by George M. Notter Jr. of Boston, said it was not concerned with authentic restoration so much as "excitement derived from something really special" in the design of the recycled building

The greatest popular and commercial success among the recycled award winners, no doubt, is the Faneuil Hall Marketplace in Boston. Architects Benjamin Thompson & Associates turned the deteriorating historic wholesale market into a lively "people place" which is attracting a million people downtown every day.

Among the other awarded recycling jobs are: an old school converted into the Center Stage theater in Baltimore (James R. Grieves, architect); the old Carnegie mansion converted into the Cooper-Hewitt Museum of Design in New York City (Hardy Holzman Pfeiffer, architects); a burned-out factory converted into a luxury apartment house in New York City (Bernard Rothzeid, architect); and an old police station converted into a museum of modern art in Boston (Graham Gund, architect).

A Washington, D.C., winner is Hugh Newell Jacobsen for transforming a Gothic Revival cottage in Chevy Chase into a modern house suitable for a modern art collection. Jacobsen has won 12 national AIA awards.

Among the new buildings honored are Skidmore, Owings & Merrill's addition to the Art Institute in Chicago and the late Louis L. Kahn's Yale Center for British Art—quite possibly the late master's best work.

Mr. STAFFORD. During last week's hearing, Mr. President, the committee received many thoughtful and valuable statements. But one of our witnesses—R. Randall Vosbeck of the American Institute of Architects—did a particularly outstanding job.

His testimony addressed in a clear and succinct way many of the issues, focusing on where the Federal buildings policy should be going. Because I believe it is a statement and analysis that should interest each Member of the Senate, I ask unanimous consent that Mr. Vosbeck's excellent testimony also be printed in the RECORD.

There being no objection the statement was ordered to be printed in the RECORD, as follows:

A STATEMENT BY R. RANDALL VOSBECK, FAIA

Mr. Chairman, my name is Randall Vosbeck, FAIA, member of the Board of Directors and Chairman of the Government Affairs Commission of the American Institute of Architects and a practicing architect in Virginia. Accompanying me today is David Caney, Director of Congressional Liaison on the Institute's staff. On behalf of the American Institute of Architects, the national society for the architectural profession, I would like to express our appreciation for the opportunity to address this committee on the efforts of the federal government to implement the Public Buildings Cooperative Use Act.

As you may know, the AIA was a strong and enthusiastic supporter of this particular legislation. In May, 1975 we testified in support of the bill before the Senate Subcommittee on Public Buildings and Grounds. We stated then, and we feel now, that the Act provides a common sense approach to the conservation of the nation's significant buildings and to greater and more attractive access to federal buildings by the general public.

Enacted in October, 1976, the Public Buildings Cooperative Use Act held the promise of federal leadership in the preservation and use of suitable buildings of historic, architectural or cultural significance. Additionally, the concept of multi-use was authorized. The location of commercial, cultural, educational and recreational facilities in federal buildings was seen as a means to promote a physical public involvement in the environment of government, reflecting a positive federal participation in local communities' activities and development. Adaptive use and preservation in-use make up the framework for the protection of our national building heritage while at the same time conserving the energy and materials expended in the past. The rich, sound and reusable historic fabric of our built environment can provide the federal government with good facilities and a tangible demonstration of its commitment to conservation and revitalization. Successful examples of such efforts exist in both the public and private sector. They vary from probably the best known example of adaptive use in the United States, Ghiradelli Square in San Francisco, to the lesser known but equally successful state office building in Montpelier, Vermont, which was reconstructed from an old hotel.

All too often, government buildings have been edifices housing the bureaucracy without regard or place for public interaction. People approach government buildings only when they must. More often they simply trudge past. The strong emphasis of the Cooperative Use Act on the involvement of the public through access and use sought to change this.

After one and a half years what has been the level of activity under the Act? Has the promise of change in the act been fulfilled? The General Services Administration (GSA) has presented its analysis of accomplishments pursuant to the provisions of the Act in the September, 1977 "Implementation Progress Report". Of the five projects selected for presentation in the report, two, the Old Post Office, Washington, D.C. and the Post Office-Custom House, St. Louis, Missouri were developed prior to the effective date of the Act. The other three examples are still in various stages of preliminary development. The number of government leases in historically, architecturally, or culturally significant buildings executed to provide for federal space needs has been relatively few to date.

With regard to long term multiple use activities in existing buildings, GSA states the number of opportunities to provide such activities are somewhat limited because of the lack of suitable space. As stated in that report, by far the greatest area of regional activity implementing the Act has occurred in the occasional use category. However, GSA admits that the full extent of the opportunities available in this one area appear to be virtually untapped. Reviewing this report, we think that the level of activity under the Public Buildings Cooperative Use Act can fairly be described as disappointing.

There seem to be two major impediments to the full realization of the objectives of the Act. The first involves the Advisory Council on Historic Preservation, (ACHP). The Public Buildings Cooperative Use Act has

given the Council an integral role to play. Under the statute, the Council is responsible for identifying the historically, architecturally and culturally significant buildings in a particular region and for preparing reports recommending to the federal government those buildings which may be suitable for the specific federal needs. GSA would also use the results of the regional identification process to compile annual building surveys to be used when considering short term lease arrangements to satisfy government space requirements. Responsibility for this national identification and reporting process can only be successfully met by proper organization and funding. Due to budgetary and organizational constraints, the ACHP has had great difficulty in meeting its statutory responsibility. Currently, ACHP has allocated one staff person at one-half time to provide GSA with all the surveys and reports demanded by the Act. At the appropriation hearings for fiscal year 1979, the Council requested no additional funding in its own name for this purpose and stated that it anticipates continued staffing at the present level. In light of the scope of its responsibilities, the inadequacy of the current resources available for ACHP's efficient participation are quite clear.

The other impediment to the effective accomplishment of the goals of the Act is the GSA Implementation Guidelines issued in April, 1977. The guidelines provide direction through policy statements and feasibility standards for the determination of "suitable" government action in carrying out this new law. The major emphasis of the guidelines with regard to preservation and multi-use is on new or newly acquired buildings. Given GSA's very modest level of activity in this area, new construction or acquisition proposals developed under the requirements of the Cooperative Use Act will only have an impact over a very long term. The most immediate action leading to the successful implementation of the Act could be the application of the multi-use program to existing federal buildings. But the guidelines now require that when public access space becomes vacant in federal buildings, multi-use activity can be considered only where there is no identifiable federal space need. Given the nature of the bureaucracy, such an eventuality will be rare indeed. Additionally, in order for a federal agency to prevent its relocation out of a public access area, it need only indicate that the relocation would result in an undefined "significant impairment" of that agency's operations. Both of these criteria are excessively vague and therefore lend themselves to interpretations that could frustrate the objectives of the Act. In their present form, we are afraid the guidelines will not facilitate multi-use programs in existing buildings.

We at the Institute believe that both of the above impediments to the successful implementation of the Public Buildings Cooperative Use Act can be eliminated. To increase the abilities of the Advisory Council on Historic Preservation, new staffing, organization, and funding arrangements must be provided. We understand that ACHP and GSA are now in the process of negotiating a contract for services required by the Act and that some funding accommodation has been reached for fiscal year '79. This is an appropriate and positive first step. As a small independent agency, ACHP needs a stable staffing and funding atmosphere in order to concentrate on its responsibility to deliver identification surveys and feasibility reports. Without this stability and security, their facet of the program will continue to hobble full implementation of the Act.

A more definitive and practical outline of agency efforts to promote multi-use activities must be developed. The purpose of the Act is clear and GSA's guidelines to facilitate that purpose must reflect the strong legislative emphasis on federal agency responsibility for its fulfillment. The guidelines should not allow agency complacency with existing space use or unrealistic space need projections to dictate the feasibility of multi-use opportunities. In order to prevent such a result, a rating system for space allocation and agency function relocation should be developed. Such a rating system could weigh agency space needs against the directive of the Act to provide greater public use and access. We believe that, in certain situations, the objectives of the Act demand that multi-use facilities can and should be given priority over agency functions in public access areas. At the least, the Act would seem to require that multi-use space be placed on an equal footing rather than last in line when assigning space.

If I may Mr. Chairman, I would like to make a side comment on an area not precisely pertinent to today's hearing but which may be relevant. I believe the committee, in dealing with this whole area of public buildings and federal space needs, could profitably re-examine the long term leased space program. Certainly, the federal government needs the flexibility to lease space on an emergency basis or for largely commercial convenience reasons, such as branch post offices in large office complexes. But reliance on leased space for long term base operations offices creates a number of economic and design problems and may generate pressures against the very purposes of the legislation we are discussing today.

First, GSA's leasing procedures, as we understand them, essentially call for a form of limited competitive bidding on a dollar per square foot basis for office space within a geographic area. This puts a tremendous emphasis on low first cost construction, often on cheap outlying land that lacks transportation, proximate housing and other amenities. Little consideration is given to life cycle costs, which may be of great importance in a lease-purchase arrangement, nor to the fact that the costs of transportation and other amenities such as food provision, ancillary services, housing, utilities and even basic items such as fire and police protection, are shifted to local governments and individuals. This point was brought out in the President's recent urban policy statement.

Second, from a design standpoint the long term lease program creates confusion and disparity as to who the designer's client really is. The person actually paying the architect's bill, the builder-developer, has a very limited interest in the building beyond maximum space for minimum cash outlay. The day to day user of a leased building, the federal government, has little leverage in the design beyond basic code compliance and final acceptance. And the public is left out of the picture altogether.

GSA's implementation guidelines for the Cooperative Use Act give extensive attention to historic preservation within the leased space program, as well they should be given the limited budgets for out-right acquisition and new construction. But we cannot expect much actual implementation here because of the practical disadvantage the guidelines place on federal leasing of historic or architecturally significant buildings. Under the guidelines, historic structures will have to compete on a strictly equal footing in terms of dollar costs with the least expensive speculative proposals. Since historic structures are, almost by definition, in urban centers, their land cost alone will preclude builders from trying to remodel them for federal use on the slim chance that they will be cost competitive. In addition, the guidelines specifically state that no relaxation in federal codes and standards will be made to accommodate historic preservation or adaptive use, apparently limiting the potential pool of candidate buildings of historic or architectural merit to those that miraculously meet or can economically be made to meet 1978 codes. This is a more stringent approach than almost any of the building codes used by local governments.

We would have hoped that GSA would have given historic preservation and adaptive use some differential edge in the leased space procedure to compensate for the indirect advantage federal use of these structures offers in energy conservation, urban rehabilitation, and in cultural richness. We realize that GSA is under heavy political and budget pressure to satisfy federal space needs through the long term lease program. Acquisition of space through very low market level leases has, on paper, a gratifying low short term budget impact. I suspect that this may well be false economy when all the societal and life cycle costs are factored in. In short, Mr. Chairman, it does us all little good to be here discussing greater public access to federal buildings or how these buildings can be used to enhance the urban environment and achieve better design quality, when GSA has to figuratively whip federal agencies and civil servants into even working in buildings put up their long term leases.

Mr. Chairman, I want to thank you for this opportunity to testify and reiterate our support for the Public Buildings Cooperative Use Act. We would be glad to try and answer any questions you may have at this point.

Mr. STAFFORD. Mr. President, I yield the floor.

## THE PANAMA CANAL TREATY

The Senate continued with the consideration of the treaty.

Mr. CLARK. Mr. President, I rise in opposition to the pending amendment for two principal reasons. First of all, it seems to me that the amendment is quite unnecessary for reasons I have tried to explain; and, second, that it does not accomplish any more, it seems to me, than we have already accomplished by the so-called Randolph reservation in the Neutrality Treaty.

The amendment would seek to accomplish, in effect, what the Senate has already accomplished in reservations Nos. 1, 2, and 3 to the resolution of ratification to the Neutrality Treaty.

These Randolph reservations were, of course, approved by the Senate by a vote of 96 to 1. As the distinguished Senator from New Mexico has indicated, he was one who voted for that, and one of the sponsors, as I was.

This requires the United States and Panama to negotiate for an agreement which would provide for the American Battle Monuments Commission to administer that part of the cemetery encompassing the remains of U.S. citizens. The conditions include flying the U.S. flag over the cemetery. The reservations also require the President to arrange the removal of remains of U.S. citizens presently in the Mount Hope Cemetery prior to the entry into force of the treaty.

Additionally, the reservations, since they were passed, require the United States, during the first 30 months of the treaty, to transport the remains of U.S.

citizens from the Canal Zone cemeteries to the United States, if desired by the nearest living relative.

Since these reservations are attached to the Neutrality Treaty, these provisions would remain in effect permanently, whereas the proposed amendment, the pending amendment, would become part of the Panama Canal Treaty which ends on December 31, 1999.

It seems to us that it is a more encompassing amendment, the reservations which were adopted in perpetuity, than would be the case with the Senator's amendment.

It is therefore questionable to us whether the rights which the amendment seeks would extend beyond the end of this century.

This possible conflict in interpretation could jeopardize the rights already set forth by the Senate in the reservations to the Neutrality Treaty convincingly passed. We have every reason to believe that the Panamanians indeed will accept this reservation.

For these reasons, we oppose the proposed amendment.

In short, Mr. President, what I am saying is just this: We have already agreed to the Senator's amendment in the so-called Randolph amendment by a vote of 96 to 1, reservations 1 through 3 of the Neutrality Treaty. This guarantees the rights of those who the Senator from New Mexico is concerned about. They have been dealt with in perpetuity.

I say finally that the Senator would get no more assurance from the Panamanians through an amendment than through a reservation. Each process is the same, insofar as its standing in law, and each process is the same insofar as the fact that the Panamanians would have to accept it. His amendment would become a part of the treaty only if Panama agreed to the amendment. The same is true of the Randolph reservation. Neither of them can stand alone. Both sides must agree.

It seems to me that we accomplish no more with this amendment than with the Randolph reservation. Each of them must be accepted by the Panamanian Government. So we see, really, no reason for the amendment, and perhaps a bit of a weakening of the issue by actually limiting the period of its effectiveness to the end of the century; whereas, the approved reservation on the Neutrality Treaty, in fact, assures it in perpetuity.

Mr. SCHMITT. Mr. President, just so we clear up the last point first, if the Senator will look at the portion of amendment 97 that goes to paragraph 2 of article II, we have taken careof that particular problem by adding:

except that the provisions of this Treaty shall not terminate with respect to such part of Corozal Cemetery as encompasses the remains of citizens of the United States of America.

That would provide for this aspect of the treaty to be in force in perpetuity.

Also, Mr. President, I should like to ask unanimous consent for Senator RANDOLPH, the sponsor of the resolution to the Neutrality Treaty, to be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, the Senator from Iowa also said that the process by which amendments and reservations become effective is the same. Maybe I misunderstood the Senator, but I believe that it is correct to say that an amendment to a treaty is binding on all parties to the treaty, whereas a reservation is binding only on one party. I think that is sound international law. I am not a lawyer, but I believe it is.

I am also intrigued by the Senator's comment that Panama must agree to reservations and amendments. The only way that I am aware, under Panamanian law, that a change to a treaty can be agreed to is through a plebiscite. Is the Senator suggesting that all the reservations that we have added to the Neutrality Treaty and may add to the Panama Canal Treaty must be agreed to by a Panamanian plebiscite?

Mr. CLARK. The Senator will be glad to respond.

First of all, what I indicated, of course, was that whether we pass an amendment, as the Senator is proposing, or a reservation, as has been adopted by the so-called Randolph reservation, in either case, the Panamanians must, through their own procedures, accept either of those for them actually to become effective in international law.

In other words, we cannot simply pass any amendment that we please and, therefore, bind the Panamanians by our amendment. It is quite true that if we pass an amendment of this kind, which has not been previously discussed and negotiated, it would be my feeling that there would have to be a plebiscite. But certainly, in whatever procedure they use, whether it is by plebiscite or some other process, we cannot dictate to the Panamanians which amendment to accept, or which reservation. That is their decision. The same is true of a reservation.

All I am saying is whether we do this by reservation, as Senator RANDOLPH has done, or whether we do it by amendment, as the Senator from New Mexico proposes, in either case, this is simply an expression of our position. The Panamanian Government must accept the amendment through a plebiscite. The Panamanian Government must accept the reservation through their own procedures. I think something less than a plebiscite. But in either case, it has to be accepted.

In other words, we cannot enforce our view on the other party to the treaty. They both have exactly the same standing in law. Both must be agreed to by the Panamanian Government, and one gains no more by one process than by another in the eyes of international law or as we or the Panamanians would view it.

Mr. SCHMITT. I appreciate the Senator's remarks. I agree that either a reservation or an amendment, to be effective, must be agreed to by the Panamanians. I submit that by their own law, that requires a plebiscite and not just the agreement of the present government.

Mr. CLARK. Speaking of the amendment?

Mr. SCHMITT. Speaking of both, I am afraid, because otherwise, I see no other way for it to be constitutionally binding, according to Panamanian law, on future Panamanian governments.

Mr. CLARK. Of course, that would be for the Panamanian Government to decide.

Mr. SCHMITT. It may be for them to decide, but by the reading of Panamanian law that we have discussed many times in this debate, I think it would be safe to assume that any future government could interpret that law as having required a plebiscite and they can negate the value of any reservation to the treaty.

If we are going to have some process—and I think by law, Panamanian law, the process required is a plebiscite—then we might as well do it as an amendment. If the amendment is not agreed to, then we revert back to the 1903 treaty and the appropriate amendments thereto, and we know exactly where we stand. If the Panamanians reject a reservation, then I do not think there is anything in international law that invalidates the treaties and we are right back where we started from with respect to the issue of the cemeteries and, unfortunately, with respect to a number of other issues, such as those addressed by the so-called DeConcini reservation.

Again, I do not claim to be a lawyer. I am a geologist, a former aviator, and now a U.S. Senator. But I do think I have some access to logic and there is a difference between a reservation and an amendment. A reservation binds only the United States. An amendment, if agreed to by plebiscite, will bind both parties.

Mr. CLARK. If the Senator will yield, I do not understand the reasoning of the Senator in saying that these reservations are passed will bind only us. Does that mean that——

Mr. SCHMITT. I think, Senator, that that is supported in international law.

Mr. CLARK. Is that the Senator's interpretation, then?

Mr. SCHMITT. My interpretation of the reservation is that it binds only the parties attached to the treaties until some other process binds the other country. I see no reason why Panama can be bound by a reservation—DECONCINI, SCHMITT, or otherwise—unless they go through the constitutional process of a plebiscite.

Mr. CLARK. It is quite true that whether we are talking about a reservation or amendment, at some point, it has to be accepted by the other party or it does not become binding on either side.

Mr. SCHMITT. Absolutely correct.

Mr. CLARK. Once that occurs, it is binding on both sides. We cannot make a one-sided agreement in a treaty. The whole idea of the treaty process is that each of us will agree to all of the amendments and all of the reservations or the treaty will not stand.

I agree that there may be a difference of opinion among Panamanians in terms

of their own interpretation of the laws, but whether an amendment has to go the plebiscite route or a reservation has to go the plebiscite route, that is not something we can dictate, obviously. Of course, the Senator is as entitled to interpret Panamanian laws as I am. I do not know whether it has to go to a plebiscite or not. My feeling is that, certainly, if an amendment is passed, a plebiscite would be required for an amendment of this kind, which is totally new.

It seems to me if that were the case, the Senator's chances of having his amendment implemented would probably be lessened, in view of the fact that it would have to stand the test of a vote of the majority of Panamanians. The reservation, assuming it did not have to go the plebiscite route—and that is not the Senator's assumption, it is my assumption—it seems to me it is certainly not going to be any problem for the Panamanian Government to accept. So if we are concerned about this cemetery, whether or not, in fact, these rights will be preserved, it seems to me, if anything, the chances are greater under a reservation than that it would be acceptable in a plebiscite. Although I frankly doubt that it would be defeated under either process, at least it would call into question the whole issue of another plebiscite.

Let me conclude by saying that I read here for the record a protocol of exchange signed at Washington on December 18, 1951, for the convention with New Zealand for the avoidance of double taxation. This was entered into force in 1951. I read the reservation only to make one point: That, in fact, this has to be done jointly. It is not just binding on one party:

The text of the said reservation was communicated by the Government of the United States of America to the Government of New Zealand. The Government of New Zealand has accepted the said reservation. Accordingly, it is understood by the two Governments that the convention aforesaid, upon entry into force in accordance with its provisions, is modified in accordance with the said reservation, so that, in effect, paragraph (4) of Article IX of the convention aforesaid is deemed to be deleted.

In other words, we cannot, in any agreement, dictate to the other party what is going to be binding on the two of us. All reservations, all amendments, must be acknowledged by both sides, or the treaty, in my judgment, would never go into effect. It would have no standing in international law.

Mr. President, I ask unanimous consent to have printed in the RECORD the protocol of exchange just referred to.

There being no objection, the protocol of exchange was ordered to be printed in the RECORD, as follows:

PROTOCOL OF EXCHANGE SIGNED AT WASHINGTON ON DECEMBER 18, 1951, FOR THE CONVENTION WITH NEW ZEALAND FOR THE AVOIDANCE OF DOUBLE TAXATION ENTERED INTO FORCE, 1951

The undersigned, Dean Acheson, Secretary of State of the United States of America, and Carl Berendsen, Ambassador Extraordinary and Plenipotentiary of New Zealand to the United States of America, being duly authorized thereto by their respective Governments, have met for the purpose of exchanging the instruments of ratification by their respective Governments of the convention between the United States of America and New Zealand for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at Washington on March 16, 1948, and, the respective instruments of ratification of the convention aforesaid having been compared and found to be in due form, the exchange took place this day.

As recited in the ratification on the part of the United States of America, the Senate of the United States of America, in its resolution of September 17, 1951, advising and consenting to the ratification of the convention aforesaid, expressed a certain reservation with respect thereto, as follows:

"The Government of the United States of America does not accept paragraph (4) of Article IX of the convention, relating to the profits or remuneration of public entertainers."

The text of the said reservation was communicated by the Government of the United States of America to the Government of New Zealand. The Government of New Zealand has accepted the said reservation. Accordingly, it is understood by the two Governments that the convention aforesaid, upon entry into force in accordance with its provisions, is modified in accordance with the said reservation, so that, in effect, paragraph (4) of Article IX of the convention aforesaid is deemed to be deleted.

In witness whereof, the respective Plenipotentiaries have signed the present Protocol of Exchange.

Done in duplicate at Washington this eighteenth day of December, 1951.

For the Government of the United States of America: Dean Acheson.

For the Government of New Zealand: Carl Berendsen.

Mr. CLARK. Mr. President, I am sorry for having been so long in my answer.

Mr. SCHMITT. That is fine. I think it is a very important issue, because we are not only talking about the moral obligation and of the American dead, but we are talking about the issue of reservations and amendments.

I just say, knowing the New Zealand people as I do, but not knowing the constitutional processes well enough to know exactly what may have occurred, I would suspect that the reservation to the protocol just ordered printed in the RECORD was consistent with their constitutional processes, without any question.

The issue here is what are Panama's constitutional processes? I think, with respect to reservations, everybody right now feels very strongly there is a question about what the process is. But there is no question about the amendment process. That is exactly why I am proposing for this very critical issue, at least critical for many people, that we have an amendment so we know exactly what is required in order to protect these cemeteries and the dead contained therein.

A plebiscite is what we need. We are going to end up, I am sure, feeling very uncertain about any other process that General Torrijos may propose for agreeing to or not agreeing to the reservations that have been entered into, on this, by the U.S. Senate.

I would also submit that there is a major difference between the Randolph reservation and the amendment that I have offered. The Randolph reservation only goes to the issue of having negotiations. It does not require an agreement. Whereas, the amendment to the treaty itself that I am proposing will require, because it is part of the treaty, the reaching of an agreement. That agreement, of course, will result when and if the Panamanians, through a plebiscite, ratify the changes to the treaties that we feel are necessary here in the U.S. Senate.

Mr. President, I think that it is clear that this amendment, and the issue raised about the differences between reservations and amendments, not only goes to the heart of the problem with the cemeteries, but goes to heart of the problem of the treaties in their entirety.

The reservations offered by Senator DECONCINI were thought to have been, a few weeks ago, binding on Panama as well as on the United States. However, we have seen considerable disagreement arise as to whether that is so.

I, personally, because of the constitutional issue in Panama and the question of international law on the differences between reservations and amendments, never felt that we could be assured that reservations to these treaties would be binding on the Government of Panama. In particular, even if one head of state agreed to a reservation, without going through the constitutional process in Panama, it would be subject to being denied or revoked by any future head of state.

I think the people of this country, certainly many Members of this body, would feel much better if the reservations and the amendments to this treaty were submitted to the Panamanian people according to their constitutional processes before these treaties enter into force.

Of course, I would be remiss if I did not remind my colleagues that I think the bilateral treaty process is out of date and that we should not be entering into these treaties for much more fundamental reasons than just the questions before us here today. But that is not the issue. The issue is the treaty before us and how we can have a good treaty, a treaty that will protect legitimate U.S. interests as well as hemispheric interests.

I think it is very important that on the particular issue of cemeteries, as well as many other issues, that we amend the treaties rather than depending on reservations which, I repeat, under international law as I understand it, bind only one country until the constitutional processes of the other country have, in fact, accepted such a reservation. Whereas, an amendment binds both parties, or the treaty is not in force.

Mr. President, I reserve the remainder of my time and, if there are no further comments, I suggest the absence of a quorum.

The PRESIDING OFFICER. We remind the Senator that there is no agreement for division of time.

Mr. SCHMITT. I thank the Chair.

I was under the impression that the time was divided equally, but I will still suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CLARK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1:25 P.M.

Mr. CLARK. Mr. President, I ask unanimous consent that the Senate stand in recess until 1:25 p.m. today, at which time the Senator from New Mexico will be recognized for 2½ minutes to summarize his arguments on the pending amendment; that there then be 2½ minutes for the managers of the treaties; that in accordance with the previous unanimous-consent agreement, there be a vote in relation to the pending amendment at 1:30 p.m.; and that the Senator from Alabama (Mr. ALLEN) then be recognized to call up his amendment.

There being no objection, at 12:54 p.m. the Senate recessed until 1:25 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. RIBICOFF).

The PRESIDING OFFICER. Who yields time?

Mr. SCHMITT. Mr. President, we are scheduled to vote on amendment No. 97 at 1:30. Before that vote, I would just say once again that this amendment, the so-called cemeteries amendment, would change the body of the treaty so that the cemeteries in the Canal Zone, specifically Mt. Hope and Corozal, would be dealt with by treaty rather than by some future and uncertain negotiations.

Amendment No. 97 would amend four articles of the treaty so that this would be accomplished, and also so that the provisions added by the amendment would be in force in perpetuity.

I think, Mr. President, that the technical aspects of these amendments are not as critical, though I would submit they are properly drafted, as the moral aspects of the amendment, which represents a continued moral commitment by the Government of the United States and its people to those individuals who, in the past, in their service either in the Armed Forces or in the civil portions of the Government, have assisted in the operation and defense of the canal.

The PRESIDING OFFICER (Mr. INOUYE). The Senator's time has expired.

Mr. SARBANES. I yield the Senator 30 seconds of my time to complete his statement.

Mr. SCHMITT. I appreciate the Senator's courtesy. I have completed my statement, but I certainly would urge my colleagues to put into the form of an amendment the resolution of the issue of the cemeteries in the Canal Zone. A reservation is not sufficient, in my mind; a reservation binds only the United States to the treaties. An amendment would, when properly ratified by the Panamanian people, bind both parties.

I thank the Senator from Maryland for his courtesy.

Mr. SARBANES. Mr. President, I rise in opposition to the amendment. This matter was dealt with fully and, in fact, in great detail by the reservation added to the permanent Neutrality Treaty, which passed the Senate by a vote of 96 to 1. That reservation sketched out in great detail how we would proceed. It was a reservation which ran to some 2½ pages, and addressed the matter fully. It was carefully worked out in terms of dealing with this problem, both in terms of people who wish to bring back the remains of their loved ones to this country, where the Government undertook to pay for it, and in terms of requiring administration by the American Battle Monuments Commission, which is a commission which handles comparable arrangements all over the world, with respect to our honored dead and their burial in foreign lands.

It is our view, of course, that that reservation, which has permanent application, more than adequately deals with the problem and is, in fact, a better and more constructive way in which to do so.

The PRESIDING OFFICER. All time has expired.

Mr. SCHMITT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SARBANES. Mr. President, I move to table the amendment of the Senator from New Mexico and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maryland. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Indiana (Mr. BAYH), the Senator from Iowa (Mr. CULVER), the Senator from Missouri (Mr. EAGLETON), the Senator from Louisiana (Mr. LONG), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. CULVER) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BARTLETT), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The result was announced—yeas 55, nays 34, as follows:

[Rollcall Vote No. 97 Ex.]

YEAS—55

| | | |
|---|---|---|
| Anderson | Case | Durkin |
| Bellmon | Chafee | Glenn |
| Bentsen | Chiles | Gravel |
| Biden | Church | Hart |
| Bumpers | Clark | Haskell |
| Burdick | Cranston | Hatfield, Paul G. |
| Byrd, Robert C. | Danforth | Hathaway |
| Hayakawa | Johnston | Nelson |
| Heinz | Kennedy | Pearson |
| Hodges | Leahy | Pell |
| Hollings | Magnuson | Proxmire |
| Huddleston | Mathias | Ribicoff |
| Humphrey | Matsunaga | Riegle |
| Inouye | McGovern | Sarbanes |
| Jackson | McIntyre | Stafford |
| Javits | Metzenbaum | Stevenson |
| | Morgan | Stone |
| | Moynihan | Weicker |
| | Muskie | Williams |

NAYS—34

| | | |
|---|---|---|
| Allen | Goldwater | Sasser |
| Brooke | Griffin | Schmitt |
| Byrd, Harry F., Jr. | Hansen | Schweiker |
| Cannon | Hatch | Scott |
| Curtis | Helms | Stennis |
| DeConcini | Laxalt | Stevens |
| Dole | Lugar | Thurmond |
| Domenici | McClure | Tower |
| Eastland | Melcher | Wallop |
| Ford | Nunn | Young |
| Garn | Randolph | Zorinsky |
| | Roth | |

NOT VOTING—11

| | | |
|---|---|---|
| Abourezk | Culver | Percy |
| Baker | Eagleton | Sparkman |
| Bartlett | Long | Talmadge |
| Bayh | Packwood | |

So the motion to lay Amendment No. 97 on the table was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HANSEN. Mr. President, I wish to make a few remarks with regard to the deplorable treatment my distinguished colleague Senator DECONCINI has been receiving in the press lately. I am especially angry after reading this morning's editorial in the Washington Post which I believe, stops just barely short of being libelous at the very least, it smacks of defamation of character.

I am appalled at the blindness of those who publicly castigate the junior Senator from Arizona in their assertions this entire "reservation" mess is his doing. The Washington Post editorial refers to the "humbling of the highest office in the land" in the administration's dealing with the Senator in trying to extricate itself from the situation.

I say the administration got itself into this situation and the administration is going to have to get itself out—if it possibly can at this point. The leadership, the administration, including the State Department, and the President himself are entirely responsible for every word in these treaties. Nothing, absolutely nothing has been added without their express approval and subsequent loud support.

This situation arose through the incompetence of those pushing ratification of the treaties, at any price, and their insensitivities to the feelings of both the American people and the citizens of the Republic of Panama. I really believe these treaties are beyond salvation at this point. This whole process has done more to alienate the people of both countries than all the years of unrest. To lay the blame on the honest and sincere intentions of one Senator, whose view, I might add, was shared by 74 other Senators, 74, is reprehensible and beneath

the dignity of those who claim they represent responsible journalism.

I cannot stand by while the media attempts to extricate the administration from one of its worst foreign policy blunders of the last 15 months. The administration knew full well what would be the reaction from the Panamanian Government upon the adoption of the DeConcini reservation, yet it ignored all the signs. Whether the administration managed this through poor advisers, bad information or ineptness is uncertain. I suspect it was a combination of all three. The most generous thing I can say at this point is that the administration completely bungled the whole operation on its own. For the Washington Post, or any other supposedly responsible form of media to suggest it was the doings of one Senator is outrageous. I am really disgusted.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho.

Mr. McCLURE. Mr. President, I ask unanimous consent that, as in legislative session, I may introduce a concurrent resolution and make some remarks thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SENATE CONCURRENT RESOLUTION 79—SUBMISSION OF A CONCURRENT RESOLUTION DISAPPROVING PROPOSED FIREARMS REGULATIONS

Mr. McCLURE (for himself, Mr. STEVENS, Mr. DOLE, Mr. MARK O. HATFIELD, Mr. THURMOND, Mr. GARN, Mr. LAXALT, Mr. GRIFFIN, Mr. TOWER, Mr. HANSEN, and Mr. DOMENICI) submitted the following concurrent resolution, which was referred to the Committee on Finance:

SENATE CONCURRENT RESOLUTION 79

Whereas, the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury, has proposed regulations which, although called "quantity reporting of firearms disposition," would constitute centralized Federal registration of firearms; and

Whereas, the Congress has specifically rejected Federal gun registration and centralized recordkeeping in the 1968 Gun Control Act and on repeated occasions since then; and

Whereas, there has been no claim that the Bureau of Alcohol, Tobacco and Firearms has been unable to trace firearms successfully under the present tracing system; and

Whereas, the increased paperwork, computerization, and cost of manufacture would be overburdensome to the taxpayer and the consumer; and

Whereas, the proposed regulations are an attempt to accomplish by regulation what Congress has refused to authorize by legislation;

Therefore, be it

Resolved by the United States Senate (the House of Representatives concurring) that the Bureau of Alcohol, Tobacco and Firearms regulations proposed by the Department of the Treasury in the March 21, 1978, *Federal Register*, requiring the reporting of all firearms transactions in federally licensed Commerce to be centrally maintained by the Federal Government, the placing of additional serial numbers on all firearms, and the implementation of certain other proposed changes, exceed powers conferred on that Department by the Congress, and that the proposed regulations be withdrawn.

Mr. McCLURE. Mr. President, since firearms control first became an issue before Congress, and throughout the legislative history of the Gun Control Act of 1968, Congress has specifically and repeatedly rejected the idea of national gun registration. Despite this clear legislative record, the Bureau of Alcohol, Tobacco and Firearms of the Treasury Department is now attempting through bureaucratic edict to impose a Federal gun registration scheme. The regulations proposed by BATF are not merely unauthorized by existing law, they are demonstrably in direct contradiction to the legislative intent of Congress.

This blatant attempt to usurp congressional authority demonstrates once again that certain governmental officials consider themselves to be above the law.

Those who favor various gun control proposals are perfectly free to advocate their position, to introduce legislation or a constitutional amendment and work for its passage, but nothing in the Constitution that I am aware of gives gun control advocates the right to pass laws by decree.

To emphasize once again that Congress will not permit any agency of the Federal Government to act lawlessly or unconstitutionally I am today joining with Congressman JOHN ASHBROOK in introducing a concurrent resolution disapproving the proposed regulations of the Treasury Department.

I am joined in the sponsorship of this concurrent resolution in this body by Senators STEVENS, DOLE, MARK O. HATFIELD, GARN, THURMOND, LAXALT, GRIFFIN, TOWER, HANSEN, and DOMENICI.

For the information of my colleagues, I ask that there be printed in the RECORD a detailed study of the legislative history of gun registration proposals prepared by James Featherstone, formerly Deputy Assistant Secretary in charge of enforcement at the Treasury Department, and a brief factsheet prepared by the National Rifle Association.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE TREASURY DEPARTMENT—IN DISREGARD OF CONGRESSIONAL REJECTION OF THE CONCEPT—PROPOSES GUN REGISTRATION

On March 21, 1978, an as yet unnominated and unconfirmed Assistant Secretary of the Treasury approved a notice of rulemaking proposing that:

1. Licensed manufacturers and licensed importers of firearms put a unique serial number on each firearm imported into or manufactured in the United States. The unique serial number would identify the firearm as to: importer or manufacturer, importation or production year, the firearm model and caliber or gauge, and the serialized numerals of the model.

2. Each licensed manufacturer submit to the Bureau of Alcohol, Tobacco and Firearms a quarterly report of firearms manufactured listing all the firearms manufactured and identifying each with a unique serial number.

3. Each licensed manufacturer, licensed importer, and licensed dealer submit to the Bureau of Alcohol, Tobacco and Firearms a quarterly report of firearms dispositions showing data on the description and disposition of each firearm and information about the mode of transportation to another licensee, including date transported and name and address of the carrier. Reports of dispositions to non-licensees would include the date of disposition and firearm description but not the name and address of the non-licensee.

The regulations approved by the Assistant Secretary purport to be issued in accordance with power delegated by the Congress to the Secretary of the Treasury by Section 926 of the Gun Control Act of 1968, which authorizes the Secretary to issue regulations he deems reasonably necessary to carry out the provisions of the Act. The Act, in Section 923(g), requires each licensed importer, manufacturer, and dealer to maintain records of importation, production, shipment, receipt, sale, or other disposition of firearms and ammunition. The importers, manufacturers, dealers, and collectors are required to make such records available for inspection at all reasonable times and to submit to the Secretary such reports and information with respect to such records and the contents thereof as he shall by regulation prescribe. The Secretary is authorized to enter during business hours the premises of any importer, manufacturer, dealer or collector to inspect the records and documents required to be kept and any firearms stored at the premises.

The reports required by the proposed regulations would amount to transferring copies of records now required to be kept by licensees at their business premises, for centralized computerization in Washington. The centralized register would contain a record of every firearm manufactured in the United States and its subsequent receipt and disposition by licensees. The proposed regulations stop short of requiring that non-licensed recipients be identified by name and address. Nonetheless, the scheme proposed by the regulations amounts to a centralized registry of firearms in the United States and the names and addresses of non-licensee purchasers can easily be obtained by telephone by the Government. If the Treasury is permitted to issue this regulation, it can be reasonably anticipated that another regulation, requiring identification of unlicensed purchasers by name and address, will be forthcoming.

It has not been demonstrated that the regulations proposed on March 21, 1978, are reasonably necessary to carry out the provisions of the Act. The stated purpose of the regulations is to improve the tracing of firearms used in crimes and to enable the Bureau of Alcohol, Tobacco and Firearms to put resources more effectively into problem areas. It is also claimed that the data reported would reveal any "unusual flow" of firearms and aid in identifying dealers who are illegally diverting and selling firearms.

The Treasury is just as capable of tracing firearms with the records where they are now, in the hands of the dealers, as it would be were the records centralized. There has been no claim that the Bureau of Alcohol, Tobacco and Firearms has been unable to trace firearms successfully under the present system. In fact, the BATF has often pointed with pride to its tracing capabilities. Further, dealers who are illegally diverting and selling firearms are most readily identified by proper investigation and intelligence coverage of the criminal element. Moreover, Treasury has not explained what is meant by the term "unusual flow" of firearms and what relation it might have to enforcement of the Gun Control Act.

The action of the Treasury Department exceeds the powers conferred on it by Congress. It was clearly the Congressional intent that the records required to be kept by the licensees be maintained at their places of

business. That is why the Secretary was given the right to enter their business premises and inspect such records. The right conferred on the Secretary to require reports and information with respect to the records certainly did not contemplate the discretion to transfer their entire contents to Washington for computerization. That would be inconsistent with the intent of Congress that the purchaser record his transaction not with the Government, but with the licensee who would maintain the record. The Treasury Department is then given the authority to go to the licensee for information when the need arises. The prior Assistant Secretary responsible for enforcement at the Treasury Department refused to centralize the record keeping system without Congressional authority.

REJECTION BY CONGRESS OF CENTRALIZED GOVERNMENTAL REGISTRATION DURING CONSIDERATION OF THE 1968 ACT

The legislative history of the Gun Control Act of 1968 reflects that Congress has consistently rejected the concept of centralized registration of firearms with the Federal Government.

On July 19, 1968, Representative McClory of Illinois introduced an amendment making it a crime to possess an unregistered handgun. (1094 Cong. Rec. Vol. 114, Part 17, p. 22248.) The proposal required that a licensed firearms dealer obtain a completed registration application from a purchaser and that the dealer file it with the Secretary of the Treasury at the time of sale. If the purchase was not made from a licensed dealer, the purchaser was required to apply to the Secretary for registration. Those already in possession of handguns were required under the proposal to register their guns. The registration application required the name, address, date and place of birth and social security number of the applicant. The firearm was identified by name of manufacturer, caliber or gauge, model, type, and serial number. Also required were the date and place of sale, the name and address of the transferor, and his dealer's license number or registration number.

After extensive debate, the McClory registration amendment was defeated by a vote of 168 to 89. (p. 22267)

The House also defeated by a vote of 172 to 68 an amendment by Representative Bingham that would have extended the McClory registration proposal to rifles and shotguns. (p. 22266)

On July 23, 1968, Representative McClory introduced an amendment making it unlawful for anyone to sell or otherwise transfer a firearm or ammunition unless the purchaser or transferee exhibits a permit issued by a State or a valid federal gun license. (p. 22745) The proposal empowered a licensed dealer to issue the license. The application identified the person by fingerprints or photograph and required the applicant to make a written denial of such things as: convictions, narcotics addiction, mental incompetence, and alcoholism. This statement and fingerprints or photograph were to be forwarded to the Secretary with the applicant's physical description and address.

The McClory licensing proposal was defeated by a vote of 179 to 84. (p. 22747)

On September 17, 1968, Senator Tydings offered an amendment providing for the registration of handguns, rifles, and shotguns. (1098 Cong. Rec. Vol. 114, Part 21, p. 27149–50) It was in substance the same registration plan as McClory's coupled with the Bingham amendment. The Tydings amendment also provided for a licensing scheme similar to that introduced by Representative McClory. The Tydings amendment was defeated by the Senate by a vote of 55 to 31. (p. 27421)

Senator Jackson proposed an amendment which would have denied federal firearms dealers licenses to persons whose place of business is in a state which does not: require registration of firearms, deny ownership and possession of firearms to certain classes of persons, provide a central state registry of the make, model or serial number, and other identifying characteristics of firearms, provide information on the identification and address of the owner of the firearm and provide for transmittal of the information in the central state registry to the National Crime Information Center of the FBI. (p. 27422)

The Jackson proposal was defeated 48 to 35. (p. 27427)

Senator Brooke introduced an amendment requiring registration at both the local and federal level and the establishment of a firearms inventory in the Treasury Department. The registration information would identify the purchaser by name, age, address, and social security number. It would also identify the firearm by manufacturer, caliber or gauge, model and type, and serial number. (p. 27428–9) Senator Brooke's proposal was defeated by a vote of 53 to 31. (p. 27456)

Senator Tydings on September 18, 1968, proposed an amendment making it unlawful to sell a firearm to anyone unless the purchaser exhibits a valid federal gun license or a valid permit issued by a state whose permit system has been approved by the Secretary. (p. 27457–8) The amendment was rejected by a vote of 49 to 35. (p. 27460)

Senator Hruska summed up Congressional action on October 9, 1968, as follows:

"Mr. President, I might say further that the real issue, which was properly and justifiably denied in this body as well as in the other body, was that of federal registration or licensing of guns and gun owners. That issue this body met four square. There were four attempts and four variations of that effort, and each one of them was decisively turned down, as it should have been.

In the House of Representatives, that concept was turned down by a ratio of almost 2 to 1. I think that fairly and squarely reflects the sentiment of the American people. They are not ready for that type of Federal regulation and control. If anything is to be done in that direction, it should be by the municipalities and the States which are capable of enforcement of that kind of law." (1100 Cong. Rec. Vol. 114, Part 23, 90th Cong. 2nd Ses., p. 30184)

REJECTION BY CONGRESS OF CENTRALIZED GOVERNMENTAL REGISTRATION SINCE PASSAGE OF THE 1968 ACT

Over the past ten years since the enactment of the Gun Control Act, the Congress has continued to speak out strongly against firearms registration whenever the issue has been raised. During debate of the Bayh gun control bill in 1972, several attempts to offer federal registration schemes failed.

1. On August 9, 1972, the Senate rejected the Brooke amendment to establish a National Firearms Registry by a vote of 53 to 31.

2. On August 9, 1972, the Senate rejected by a 75 to 16 margin the Stevenson amendment to require federal registration of handguns.

3. On August 9, 1972, the Senate rejected by a margin of 78 to 11 a Kennedy amendment to require federal registration and licensing of all firearms and their owners. Senator Kennedy tried again that day to require registration of handguns only. Senator McClellan offered an amendment to table Senator Kennedy's motion. Senator McClellan's amendment passed 68 to 21.

Several years later Congress continued to reject registration.

4. On February 17, 1976, the House Judiciary Committee voted 18 to 13 to reject the McClory amendment to H.R. 11193. It would have required states to register handguns.

5. On February 17, 1976, the House Judiciary Committee rejected by a vote of 18 to 13 the Drinan/Edwards amendment to require a national handgun registration scheme.

6. On February 18, 1976, the House Judiciary Committee rejected by a vote of 20 to 10 the Hughes amendment to authorize LEAA funds for states to register all handguns.

7. On February 18, 1976, the House Judiciary Committee rejected, on a tie vote of 15, the Russo amendment to require state registration of handguns.

8. On March 2, 1976, the House Judiciary Committee voted 22 to 10 to add an amendment to H.R. 11193, the Conyers Bill. This amendment would retain Congressional veto over the Treasury Department's proposed regulations on firearms.

Other examples of Congressional intent:

On May 14, 1975, Senator Ribicoff proposed a motion to table Senator McClure's amendment to prohibit the Agency for Consumer Advocacy from dealing with any aspect of firearms or ammunition. It was defeated by a vote of 67 to 27. On July 18, 1975, Senator Kennedy proposed an amendment to weaken the Moss-McClure amendment prohibiting the Consumer Product Safety Commission from regulating or dealing with any aspect of firearms or ammunition. Kennedy's amendment failed 75 to 11.

It is obvious from the above that the Treasury Department was unwilling to submit legislation to Congress to compel centralized registration with the Government of guns or people, knowing that Congress had consistently rejected such schemes in the past and would likely do so now. Treasury decided, therefore, to ignore the limits placed upon it by Congress and seek to accomplish, by regulation, what it could not accomplish by legislation, thereby attemting to usurp Congressional prerogatives.

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NRA FACT SHEET—TREASURY DEPARTMENT PROPOSED FIREARMS REGULATIONS

The U.S. Department of the Treasury has published regulations (March 21 Federal Register) to establish a national computerized central firearms registration system.

The regulations, if allowed to go into effect, would require all transactions of all firearms within existing Federally licensed commerce to be reported quarterly to the Bureau of Alcohol, Tobacco and Firearms. Reporting would cover all dealer sales to individual citizens, as well as all transactions between manufacturers, importers, exporters, wholesalers, jobbers, distributors and dealers.

Based on BATF estimates of the 5.2-million new firearms in commerce in fiscal year 1977 and BATF claims that an average of four transactions occur before a dealer sale to an individual citizen occurs, the reporting requirements would conservatively total at least 25-million separate computer entries.

When used firearms are included in the equation, the number of firearms transactions which would be computerized would total between 35 and 40 million.

The system would require 688,000 quarterly reports yearly from 172,000 holders of Federal Firearms Licenses. BATF estimates that the paperwork costs to dealers would be $8-million yearly.

The Treasury Department claims that the startup cost of this massive system would run about $5-million, and, according to Assistant Secretary Richard Davis, funding would neither have to be appropriated nor authorized by Congress, but would be simply "redirected" from existing BATF funding.

However, that $5-million estimate does not begin to jibe with past BATF firearms registration cost estimates. BATF Director Rex Davis has previously estimated a national handgun registration system would call for a $35 to $100 million startup cost, followed

by $20-million per year in operational costs. This proposed registration by regulation would cover all firearms—rifles, shotguns, and handguns.

In both the March 16 Congressional and public briefing on the proposals, Richard Davis, Assistant Secretary of the Treasury declared that the regulations would give BATF authority to call in and computerize all existing Federal form 4473's (which list the name and address of each firearms purchaser) which have been filled out by individual firearms buyers since enactment of the 1968 Gun Control Act. Secretary Davis qualified that declaration in the Congressional briefing by saying that such an action today would be "politically unrealistic."

Assistant Secretary Davis's predecessor, David R. MacDonald, told Congress during 1975 House Judiciary Committee hearings that Treasury should not act to centralize existing dealer records without Congressional authority. Also in 1975, BATF estimated they could trace a firearm in 27 minutes under the existing recordkeeping system if it is a "priority". There can be no justification for the proposed centralization other than expansion of bureaucratic authority and a desire to in fact register firearms.

Although Treasury says the reporting requirements do not include the names and addresses of individual private firearms purchasers, officials maintain they can easily obtain such information under the proposed regulations with a telephone call from BATF to the dealer making such a sale.

The regulations would also order institution of a new "unique" system of identifying firearms with a common 14 digit serial code. With this serial number, which would be required for all firearms manufactured after the regulations are placed into effect, the BATF could computerize information as to make, model, barrel length, caliber and individual number of all firearms. With this information, the Treasury Department could locate the purchasers of any firearms or category of firearm it might declare prohibited in the future. BATF estimates that the cost to consumers would be $5 million for retooling.

Other provisions in the regulations include redefinition of import and export regulations (a detailed summary of this provision will follow), and a requirement that all firearms lost or stolen while in Federally licensed commerce be reported within 24 hours of discovery. Failure to record or report such loss or theft to the satisfaction of BATF would be a felony, punishable by 5 years in prison, and a $5,000 fine. In many instances, the failure to report a theft of a firearm could exact a far harsher penalty on a dealer than on the thief.

There are literally no provisions of these regulations which can be supported by the National Rifle Association, its membership and affiliates.

During the debate of the 1968 Gun Control Act, the issue of national gun registration was raised and soundly defeated by better than a 2 to 1 margin. Since that time, Congress has rejected all national gun registration schemes which have been proposed. Clearly, Congress has refused to give the firearms control bureaucracy this authority.

This proposed regulation—whether called registration or "reporting"—amounts to the same thing: centralized national firearms registration. It is the very clear policy of the National Rifle Association that we are unalterably opposed to firearms registration at any level of government.

Mr. STEVENS. Will the Senator yield?

Mr. McCLURE. I am happy to yield to the Senator from Alaska who is a cosponsor of the resolution.

Mr. STEVENS. Mr. President, as the Senator from Idaho stated, during the last decade, Congress has consistently and systematically rejected any attempt to initiate a system of national registration of firearms. I think both the House and Senate have made it quite clear that national firearms registration is unacceptable.

After extensive debate on four attempts to enact such a scheme, Senator HRUSKA made the following statement on October 9, 1968:

Mr. President, I might say further that the real issue, which was properly and justifiably denied in this body as well as in the other body, was that of Federal registration or licensing of guns and gun owners. That issue this body met four square. There were four attempts and four variations of that effort, and each one of them was decisively turned down, as it should have been. In the House of Representatives that concept was turned down by a ratio of almost 2 to 1. I think that fairly and squarely reflects the sentiment of the American people. They are not ready for that type of Federal regulation and control. If anything is to be done in that direction, it should be by the municipalities and the States, which are capable of enforcement of that kind of law.

Since that time, Federal registration schemes have been offered in several forms and again, have failed. At least four amendments were offered to the so-called Bayh gun control bill in 1972 which would have required national registration of either handguns or all firearms. Each amendment failed.

During House Judiciary hearings, the committee four times rejected amendments which would have initiated registration schemes. I do not think there can be any question as to the feelings of Congress.

Yet, in total disregard of this legislative history, the Bureau of Alcohol, Tobacco and Firearms has proposed regulations which would mandate the collection and computerizations of firearms records presently kept by licensed dealers. Although the proposed regulations stop short of requiring that nonlicensed recipients be identified by name and address, the centralized register would contain a record of every firearm manufactured in the United States, identified by the proposed new "unique" serial number, and its subsequent receipt and disposition by licensees.

These regulations are allegedly authorized under the authority of the Gun Control Act of 1968, section 926. This section authorizes the Secretary to issue regulations he deems reasonably necessary to carry out the provisions of the act.

Section 923(g) requires each licensed importer, manufacturer, and dealer to maintain records of importation, production, shipment, receipt, sale or other disposition of firearms and ammunition. The importers, manufacturers, dealers, and collectors are required to make such records available for inspection at all reasonable times and to submit to the Secretary such reports and information with respect to such records and the contents thereof as regulations shall prescribe. The Secretary is authorized to enter during business hours the premises of any importer, manufacturer, or collector to inspect the records and documents required to be kept and any firearms stored at the premises.

That legislation does not contemplate a centralized computer information system. It sets up a system whereby records are to be maintained, not by the Federal Government, but by licensees in their places of business. In fact, the prior Assistant Secretary responsible for enforcement at Treasury refused to centralize the recordkeeping system without congressional authority. The Bureau of Alcohol, Tobacco and Firearms has far exceeded their authority in attempting to force these regulations on the American people and on Congress.

Further, the Bureau has not offered any reason to believe that these regulations and the expense and paperwork they would entail are necessary. The stated purpose of the regulations is to improve the tracing of firearms used in crime and to enable the BATF to put resources into problem areas. But, in the past, the Bureau has pointed with pride to their present tracing capabilities. There is no reason given to spend $5 to $7 million of taxpayer money, in addition to the costs of complying with these regulations by Americans, to institute a new system particularly in light of congressional opposition to do so.

In a day and age when Americans everywhere are deploring the computerization of our society and growing Federal intrusion into all aspects of our lives, I just do not think it makes sense to spend millions of dollars to mandate further computerization and further Federal intrusion when there is not justifiable need to do so.

The concentration of power in the Federal Government has spawned a new elite of policymakers and regulatory agency officials. Many of these fulfill Justice Louis Brandeis' prophecy a half century ago that "The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well meaning but without understanding."

Mr. MARK O. HATFIELD. Will the Senator yield?

Mr. McCLURE. I yield to the Senator from Oregon.

Mr. MARK O. HATFIELD. Mr. President, I commend the Senator from Idaho for his action here today and his perception of this action on the part of the agency.

I would like to take a moment to point out that the agency's regulations are rather insidious because they do very obviously move the agency very close, if not to, actually, circumvent legislation so close it is very hard to distinguished.

Simply stated, it is this: That each manufacturer of such gun will place on that gun a unique serial number. That number then is further followed through by a wholesaler, from the wholesaler to the retailer.

Now, it stops at that point as far as Washington demanding those records and that tracing of that gun from manufacturer to retailer. But, bear in mind, that when each retailer sells that item to a customer, he, the retailer, must retain

the record of that gun by number and to whom it is sold.

So we have moved it right up to the point of where we actually then would have gun registration by merely having the Washington agency at some time in the future, if not stop here, commanding or demanding from that retailer the gun sales by number and by name.

So I feel that the Congress, and the Congress solely, should make this determination by legislative action, which it has failed to do in the past, but which it could do at any time enough votes were garnered for it in the future, that it is up to the Congress and not an agency to try to circumvent the very action Congress denied in the past.

Mr. McCLURE. I thank the Senator from Oregon.

I think it is worth pointing out that Congress not only did not provide such a section of the law, did not provide for such a feature in the law, they specifically refused to take that step.

So the administrative agency is attempting to do that which Congress has specifically refused to do.

Mr. DOLE. Will the Senator yield?

Mr. McCLURE. I yield to my colleague from Kansas.

Mr. DOLE. First, I thank the distinguished Senator from Idaho for being alert to an effort by indirection to do something that is not authorized by the legislation. Also, I wish to thank my distinguished colleague from Oregon who called this to my attention as recently as yesterday.

I believe that the statements made by the distinguished Senator from Alaska and the distinguished Senator from Idaho and the distinguished Senator from Oregon clearly spell out the dangers. I suggest that this resolution is very timely and I am very pleased to be a cosponsor of it.

Mr. President, as an original cosponsor of this joint resolution, I want to express my great concern about the new proposed regulations issued by the Bureau of Alcohol, Tobacco and Firearms. These regulations have the potential to be the first step toward national gun registration.

These regulations would make fundamental changes in the system of firearms registration by dealers that Congress has created in the past. The BATF regulations would create a central list of every firearm sold to a dealer. The officials in Washington would have started a system which could be converted to extend beyond the dealers to the citizens who own the guns. I am certain that when Congress has passed gun control legislation in the past, it did not intend to give BATF the authority to begin creation of a nationwide gun control system.

The regulations would make another major expansion in Federal gun regulation. Each and every firearm would be required to have a unique serial number. The BATF claims that this is necessary to trace stolen weapons. Yet, the BATF has always prided itself in its ability to find the source of stolen firearms used in the commission of a crime without this unique number.

The potential infringement of constitutional rights that could occur in the future from use of unique serial numbers is clear. Again, the regulations have the potential to be used in ways that Congress has not authorized. The potential risks that implementation of these regulations would entail are not justified by any improvements in crime fighting capability, real or imagined by the BATF.

The most disturbing implication of these regulations is the disregard for the power of Congress that the BATF apparently has. The basis for proposing this joint resolution is simply that the Treasury Department and BATF do not have the statutory authority to enact these regulations. These proposed regulations so clearly exceed the authority of the BATF that such a joint resolution should not be needed.

Unfortunately, if this resolution is not passed, these regulations will automatically go into effect. The BATF and Treasury would be showing the proper respect for Congress if they were to voluntarily withdraw these regulations until Congress could adequately study the proposal. However, given the attitude of this administration, such voluntary restraint is unlikely. Therefore, I want to assure the gun owners of America that I will continue to oppose this unjustified attempt to extend Federal gun control powers.

Mr. McCLURE. Mr. President, I ask unanimous consent that Senators TOWER and DOMENICI be added as cosponsors to the concurrent resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

## THE PANAMA CANAL TREATY

The Senate continued with the consideration of the treaty.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Alabama (Mr. ALLEN).

Mr. ALLEN. Mr. President, inasmuch as the amendment that I have to offer would not be in order until we have gone through the articles, I wonder if we might have the Chair call the articles, inasmuch as my amendment is to article II, so it would be in order.

ARTICLE XI

The PRESIDING OFFICER. Are there further amendments to article X?

If not, the clerk will report article XI.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that reading of the article be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The article is as follows:

ARTICLE XI

PROVISIONS FOR THE TRANSITION PERIOD

The Republic of Panama shall reassume plenary jurisdiction over the former Canal Zone upon entry into force of this Treaty and in accordance with its terms.

1. In order to provide for an orderly transition to the full application of the jurisdictional arrangements established by this Treaty and related agreements, the provisions of this Article shall become applicable upon the date this Treaty enters into force, and shall remain in effect for thirty calendar months. The authority granted in this Article to the United States of America for this transition period shall supplement, and is not intended to limit, the full application and effect of the rights and authority granted to the United States of America elsewhere in this Treaty and in related agreements.

2. During this transition period, the criminal and civil laws of the United States of America shall apply concurrently with those of the Republic of Panama in certain of the areas and installations made available for the use of the United States of America pursuant to this Treaty, in accordance with the following provisions:

(a) The Republic of Panama permits the authorities of the United States of America to have the primary right to exercise criminal jurisdiction over United States citizen employees of the Panama Canal Commission and their dependents, and members of the United States Forces and civilian component and their dependents, in the following cases:

(i) for any offense committed during the transition period within such areas and installations, and

(ii) for any offense committed prior to that period in the former Canal Zone.

The Republic of Panama shall have the primary right to exercise jurisdiction over all other offenses committed by such persons, except as otherwise provided in this Treaty and related agreements or as may be otherwise agreed.

(b) Either Party may waive its primary right to exercise jurisdiction in a specific case or category of cases.

3. The United States of America shall retain the right to exercise jurisdiction in criminal cases relating to offenses committed prior to the entry into force of this Treaty in violation of the laws applicable in the former Canal Zone.

4. For the transition period, the United States of America shall retain police authority and maintain a police force in the aforementioned areas and installations. In such areas, the police authorities of the United States of America may take into custody any person not subject to their primary jurisdiction if such person is believed to have committed or to be committing an offense against applicable laws or regulations, and shall promptly transfer custody to the police authorities of the Republic of Panama. The United States of America and the Republic of Panama shall establish joint police patrols in agreed areas. Any arrests conducted by a joint patrol shall be the responsibility of the patrol member or members representing the Party having primary jurisdiction over the person or persons arrested.

5. The courts of the United States of America and related personnel, functioning in the former Canal Zone immediately prior to the entry into force of this Treaty, may continue to function during the transition period for the judicial enforcement of the jurisdiction to be exercised by the United States of America in accordance with this Article.

6. In civil cases, the civilian courts of the United States of America in the Republic of Panama shall have no jurisdiction over new cases of a private civil nature, but shall retain full jurisdiction during the transition period to dispose of any civil cases, including admiralty cases, already instituted and pending before the courts prior to the entry into force of this Treaty.

7. The laws, regulations ,and administrative authority of the United States of America applicable in the former Canal Zone immediately prior to the entry into force of this Treaty shall, to the extent not inconsistent with this Treaty and related agreements,

continue in force for the purpose of the exercise by the United States of America of law enforcement and judicial jurisdiction only during the transition period. The United States of America may amend, repeal or otherwise change such laws, regulations and administrative authority. The two Parties shall consult concerning procedural and substantive matters relative to the implementation of this Article, including the disposition of cases pending at the end of the transition period and, in this respect, may enter into appropriate agreements by an exchange of notes or other instrument.

8. During this transition period, the United States of America may continue to incarcerate individuals in the areas and installations made available for the use of the United States of America by the Republic of Panama pursuant to this Treaty and related agreements, or to transfer them to penal facilities in the United States of America to serve their sentences.

ARTICLE XII

The PRESIDING OFFICER. Are there amendments to article XI? If not, the clerk will report article XII.

Mr. ALLEN. Mr. President, I ask unanimous consent that reading of the article be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The article is as follows:

ARTICLE XII

A SEA-LEVEL CANAL OR A THIRD LANE OF LOCKS

1. The United States of America and the Republic of Panama recognize that a sea-level canal may be important for international navigation in the future. Consequently, during the duration of this Treaty, both Parties commit themselves to study jointly the feasibility of a sea-level canal in the Republic of Panama, and in the event they determine that such a waterway is necessary, they shall negotiate terms, agreeable to both Parties, for its construction.

2. The United States of America and the Republic of Panama agree on the following:

(a) No new interoceanic canal shall be constructed in the territory of the Republic of Panama during the duration of this Treaty, except in accordance with the provisions of this Treaty, or as the two Parties may otherwise agree; and

(b) During the duration of this Treaty, the United States of America shall not negotiate with third States for the right to construct an interoceanic canal on any other route in the Western Hemisphere, except as the two Parties may otherwise agree.

3. The Republic of Panama grants to the United States of America the right to add a third lane of locks to the existing Panama Canal. This right may be exercised at any time during the duration of this Treaty, provided that the United States of America has delivered to the Republic of Panama copies of the plans for such construction.

4. In the event the United States of America exercises the right granted in paragraph 3 above, it may use for that purpose, in addition to the areas otherwise made available to the United States of America pursuant to this Treaty, such other areas as the two Parties may agree upon. The terms and conditions applicable to Canal operating areas made available by the Republic of Panama for the use of the United States of America pursuant to Article III of this Treaty shall apply in a similar manner to such additional areas.

5. In the construction of the aforesaid works, the United States of America shall not use nuclear excavation techniques without the previous consent of the Republic of Panama.

ARTICLE XIII

The PRESIDING OFFICER. Are there amendments to article XII? It not, the clerk will report article XIII.

Mr. ALLEN. Mr. President, I ask unanimous consent that reading of the article be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The article is as follows:

ARTICLE XIII

PROPERTY TRANSFER AND ECONOMIC PARTICIPATION BY THE REPUBLIC OF PANAMA

1. Upon termination of this Treaty, the Republic of Panama shall assume total responsibility for the management, operation, and maintenance of the Panama Canal, which shall be turned over in operating condition and free of liens and debts except as the two Parties may otherwise agree.

2. The United States of America transfers, without charge, to the Republic of Panama all right, title and interest the United States of America may have with respect to all real property, including non-removable improvements thereon, as set forth below:

(a) Upon the entry into force of this Treaty, the Panama Railroad and such property that was located in the former Canal Zone but that is not within the land and water areas the use of which is made available to the United States of America pursuant to this Treaty. However, it is agreed that the transfer on such date shall not include buildings and other facilities, except housing, the use of which is retained by the United States of America pursuant to this Treaty and related agreements, outside such areas;

(b) Such property located in an area or a portion thereof at such time as the use by the United States of America of such area or portion thereof ceases pursuant to agreement between the two Parties.

(c) Housing units made available for occupancy by members of the Armed Forces of the Republic of Panama in accordance with paragraph 5(b) of Annex B to the Agreement in Implementation of Article IV of this Treaty at such time as such units are made available to the Republic of Panama.

(d) Upon termination of this Treaty, all real property, and non-removable improvements that were used by the United States of America for the purposes of this Treaty and related agreements, and equipment related to the management, operation and maintenance of the Canal remaining in the Republic of Panama.

3. The Republic of Panama agrees to hold the United States of America harmless with respect to any claims which may be made by third parties relating to rights, title and interest in such property.

4. The Republic of Panama shall receive, in addition, from the Panama Canal Commission a just and equitable return on the national resources which it has dedicated to the efficient management, operation, maintenance, protection and defense of the Panama Canal, in accordance with the following:

(a) An annual amount to be paid out of Canal operating revenues computed at a rate of thirty hundredths of a United States dollar ($0.30) per Panama Canal net ton, or its equivalency, for each vessel transiting the Canal, after the entry into force of this Treaty, for which tolls are charged. The rate of thirty hundredths of a United States dollar ($0.30) per Panama Canal net ton, or its equivalency, will be adjusted to reflect changes in the United States wholesale price index for total manufactured goods during biennial periods. The first adjustment shall take place five years after entry into force of this Treaty, taking into account the changes that occurred in such price index during the preceding two years. Thereafter successive adjustments shall take place at the end of each biennial period. If the United States of America should decide that another indexing method is preferable, such method shall be proposed to the Republic of Panama and applied if mutually agreed.

(b) A fixed annuity of ten million United States dollars ($10,000,000) to be paid out of Canal operating revenues. This amount shall constitute a fixed expense of the Panama Canal Commission.

(c) An annual amount of up to ten million United States dollars ($10,000,000) per year, to be paid out of Canal operating revenues to the extent that such revenues exceed expenditures of the Panama Canal Commission including amounts paid pursuant to this Treaty. In the event Canal operating revenues in any year do not produce a surplus sufficient to cover this payment, the unpaid balance shall be paid from operating surpluses in future years in a manner to be mutually agreed.

ARTICLE XIV

The PRESIDING OFFICER. Are there amendments to article XII? If not, the clerk will report article XIV.

Mr. ALLEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The article is as follows:

ARTICLE XIV

SETTLEMENT OF DISPUTES

In the event that any question should arise between the Parties concerning the interpretation of this Treaty or related agreements, they shall make every effort to resolve the matter through consultation in the appropriate committees established pursuant to this Treaty and related agreements, or, if appropriate, through diplomatic channels. In the event the Parties are unable to resolve a particular matter through such means, they may, in appropriate cases, agree to submit the matter to conciliation, mediation, arbitration, or such other procedure for the peaceful settlement of the dispute as they may mutually deem appropriate.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. ALLEN. Mr. President, we have gone through all the articles, so that an amendment now will be in order to any of the articles in the treaty. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT 101

Mr. ALLEN. That being the case, Mr. President, on behalf of the distinguished Senator from South Carolina (Mr. THURMOND), the distinguished Senator from North Carolina (Mr. HELMS), and myself, I call up amendment No. 101 and ask that it be stated.

The PRESIDING OFFICER (Mr. CANNON). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN), for himself, Mr. THURMOND, and Mr. HELMS, proposes an amendment numbered 101:

Amend Article II of the treaty by striking the period at the end of Article II, section 1, substituting a semicolon, and adding the following: "*Provided, however*, That within such six-months period the people of Panama shall have approved this Treaty in a national plebiscite called by the Panamanian Government for the purpose of ascertaining the Panamanian national will on the question of approval or disapproval of this Treaty.

Mr. ALLEN. Mr. President, this is an amendment to article II, which is the appropriate place to offer this amendment, calling for a plebiscite in Panama on this treaty. This would carry with it the other treaty, without so stating, because neither treaty can go into effect until both are put into operation.

Article II provides:

This Treaty shall enter into force, simultaneously with the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, 6 calendar months from the date of the exchange of the instruments of ratification.

This amendment would merely add this language to the provision stating the effective date of the treaty. It goes into effect, along with the Neutrality Treaty, 6 months from the date of the exchange of the instruments of ratification, which would be the exchange between the two heads of state. But the amendment adds this proviso:

*Provided, however,* That within such six-months period the people of Panama shall have approved this Treaty in a national plebiscite called by the Panamanian Government for the purpose of ascertaining the Panamanian national will on the question of approval or disapproval of this Treaty.

Mr. President, if we examine the dealings with the Panamanian people, starting with the treaty of 1903, which has been under attack in the Senate by proponents of the treaties, we will see readily that we are in fact approaching another 1903 treaty situation. The 1903 treaty with Panama, it has been averred time and time again on the floor, took advantage of the Panamanians.

We dealt with a revolutionary government in entering into this treaty. The people of Panama were not consulted, and that is true, even though the treaty providing for the Panama Canal was received with wide acclaim by the people of Panama. Yet, the people of Panama were not called upon to pass upon the treaty, and the treaty was made merely with the revolutionary government of Panama.

Today we have the same situation. We are dealing not with the people of Panama in the absence of this amendment. We are dealing with a revolutionary government in Panama, not chosen by the people, never voted into office by the people, holding office as a result of a coup d'etat at gunpoint in Panama; and without this amendment, we will be dealing with the dictator of Panama only. We will have no compact with the Panamanian people. We will have a compact between the U.S. Government, acting under its constitutional processes, and the dictator of Panama, because there is no indication whatsoever that the dictator has any intention to submit this treaty to the people of Panama.

Do we want to go through the next 22 years, the duration of the Panama Canal Treaty, with the charge made by Panamanians dissatisfied with the treaty that "You dealt with the dictator of Panama and you did not give the people of Panama the opportunity to express their opinion on this treaty"?

It has been said that there already has been a plebiscite. Well, that plebiscite took place before the treaties were submitted to the U.S. Senate—certainly before there was action on them—and there has been a vast change in the treaties, a change that has caused riots and demonstrations in Panama, showing the strong opposition of the people in Panama to the treaties as presently shaped in the Senate.

In effect, Mr. President, there has been no plebiscite on this treaty. There was tremendous approval of the first treaty. It was approved by a vote of 2 to 1, but since then the situation has changed. The very groups who supported the treaty before are in strong opposition to the treaty now, because they feel that the reservations which were added in the Senate are an impact on their national dignity and their national sovereignty. They are willing to forego the benefits of these treaties rather than have their national sovereignty impinged upon.

So if we just deal with the dictator and allow him to accept the treaties as finally acted upon in the Senate, and if the dictator accepts them without submitting them to the people, it will forever be averred that we took advantage of the Panamanians again, that we have another 1903 treaty situation again. With all the complaints and all the criticism that have been leveled against the 1903 treaty, it certainly would lead me to feel that the Senate does not want to be a party to such a situation again.

Suppose we submit these treaties to Panama. The dictator accepts them. The Panamanian people riot. The Panamanian people say, "This is something that the United States, the gringos from the north, have forced on the Panamanian people." That criticism could be voiced time and time again, as they have guerrilla attacks, as they have violence, and as they have sabotage in Panama.

Would not they have a good case when they say, "Well, we never passed on these treaties, we never agreed to them, this was a compact between the United States and dictator Torrijos," who did not represent the Panamanian people?

Why does he fear to submit the treaties to the people of Panama? Why, he knows the people of Panama would reject these treaties. That is why. So why should we force these treaties on the Panamanian people?

Let us require that they say that they want to accept and to agree to these treaties. What is wrong with that? If they want the treaties and the U.S. Senate is willing to submit them to Panama, let them so state in a plebiscite, in a referendum called for that purpose. It would be far better if they do not want the treaties to let them say so and then let us go back to the negotiating table and see if a treaty acceptable to the American people and acceptable to the Panamanian people can be agreed upon.

Mr. President, we are in a strange situation here in the Senate. These treaties have been negotiated, they have been shaped here in the U.S. Senate as the Senate has the constitutional right and duty to do, but yet, in my judgment, they do not please either the American people or the Panamanian people.

Would not this be a great safety valve to insert in this treaty that it does not become effective unless within this 6-month period before which the treaties go into force a plebiscite be called in Panama to determine the wishes of the Panamanian people? I would hope that the Senate would be able to profit by the mistakes of the past. The 1903 treaty was handled poorly by the American Government, because they should have required that the Panamanian people pass on that treaty. But yet we are faced with almost an identical situation to the 1903 treaty situation. Can those Senators then who have been so critical of the action of the U.S. Government in 1903 dealing with the revolutionary government of Panama not see the similarity, the analogy of the 1903 situation and the 1903 action by our Government to the action that they are now suggesting that the Senate take dealing with a revolutionary government without the approval of the Panamanian people? That is exactly the scenario of 1903.

The proponents of the treaties are critical of what happened in 1903. Yet they are putting in motion a scenario remarkably similar to the 1903 situation.

In the next 22 years, during the life of this Panama Canal Treaty before the canal is turned over to Panama absolutely, we are going to hear it proclaimed a thousand times in Panama, "We are not satisfied with this treaty, it was not submitted to us, we want a better deal, and to force that better deal we are going to riot, we are going to demonstrate, we are going to take every means possible to show our disapproval of these treaties."

Why do we risk that, Mr. President? Why is it not the better part of wisdom to say to the Panamanian people, "Very well, we will ascertain your wishes; if these treaties are not satisfactory with you, we will not ask that you have these treaties forced upon you."

So that, Mr. President, is the purpose of this amendment, to provide and to assure that our compact is not just with the Panamanian dictator but that it is with the people of Panama. And that is important.

Mr. President, throughout this entire debate the proponents of these treaties have tried in every way possible to keep the Panamanian people from being allowed to pass on these treaties. Is that a fair statement? The proponents of these treaties have tried in every way possible while they have been under debate in the Senate for over 2 months—they have been pending for some 6 months—to assure that these treaties will not be submitted to the Panamanian people for action, that we will deal only with the dictator of Panama and not with the people of Panama, because every single amendment that has been offered to the treaty has been rejected here on the floor, except for the two so-called leadership amendments that left loopholes big enough for a truck to be driven through.

They are the only two amendments that have been agreed to by the leadership and, of course, the leadership controls a heavy majority of the Members of the Senate on these votes.

But every time an amendment was offered one argument that would be made against it is do not accept this amendment because if you do, it will require another plebiscite in Panama. What is wrong with that? Why should not the people of Panama be consulted? Why should not these treaties be satisfactory with the Panamanian people before they go into effect?

The leadership had not thought so. They thought we should deal just with the dictator and, therefore, not allow any amendments to the treaties other than these that were agreed to by dictator Torrijos.

Mr. CURTIS. Mr. President, will the distinguished Senator yield?

Mr. ALLEN. I am delighted to yield to the distinguished Senator from Nebraska (Mr. CURTIS).

Mr. CURTIS. Is it not true that the Constitution of Panama grants to the people through a plebiscite a direct role in the ratification of the treaties?

Mr. ALLEN. That is my understanding, yes. I think it is very dangerous since these treaties have been changed that they be not submitted again to the Panamanian people. Otherwise, they might rule these reservations unconstitutional under their law.

Mr. CURTIS. Just as we in our Constitution have vested in the U.S. Senate a role in treaty making, the constitution of Panama gives the people a direct role; is that correct?

Mr. ALLEN. Yes, that is correct. In other words, the people down there occupy the role, in effect, of the U.S. Senate here on this end of the line.

Mr. CURTIS. That being the case, the distinguished Senator from Alabama has offered an amendment which is far different than just a proposal that here is something the people ought to vote on.

Mr. ALLEN. That is right.

Mr. CURTIS. It is a proposal requiring that the constitutional processes in Panama be followed.

Mr. ALLEN. That is correct.

Mr. CURTIS. Is that correct?

Mr. ALLEN. Yes.

Mr. CURTIS. In other words, if there is a change in the treaty of any kind made by the U.S. Senate, and the treaty goes back to Panama, then to conform to their constitution it must be dealt with by both the executive and the people directly; is that correct?

Mr. ALLEN. That is my understanding of their constitutional provisions; yes, sir.

Mr. CURTIS. We then are in the same position if we offered a treaty to another country, and after it was transmitted to them they made changes, and it came back to the United States as a different agreement.

Mr. ALLEN. Yes.

Mr. CURTIS. Then it would be incumbent upon our executive to submit it to the Senate for consideration, would it not?

Mr. ALLEN. That is my understanding, yes.

Mr. CURTIS. I think the distinguished Senator's point is well taken. Oftentimes you hear the proposal made, "Well, let the people vote on it," and it may have merit, the idea of letting the people decide or, "Let us find out what the people want." That is worthy.

But this is far different, it is more than that. It is true it is submitting to the will of the people of Panama, but it also is a necessary step in the operation of their constitutional government; is that correct?

Mr. ALLEN. That is correct, yes.

Mr. CURTIS. I commend the distinguished Senator for his amendment; and while he has graciously yielded to me, I want to commend the distinguished Senator for his scholarship, for his in-depth study of the law, the Constitution, and for his faithful attendance and his diligent, unwavering participation in these deliberations.

Mr. ALLEN. I thank the Senator.

Mr. CURTIS. It has been most outstanding. He has displayed a strength of character and a strength of mind and a brilliance that are most unusual and extraordinary. It is rather disappointing that his proposals, as well as the proposals of many other people, are usually tabled by the lash of the proponents and absentee individuals who never hear what is being proposed, to deny the right of the Senate to vote on the merits of a proposal.

But, in spite of all that, the Senator has performed his duty in a conscientious and very exemplary way, and I am sure he has earned a place in history as one of the greatest of the U.S. Senators.

Mr. ALLEN. I thank the distinguished Senator for his very kind and, I must say, undeserved remarks. I appreciate the fine contribution he has made in pointing out the defects in these treaties, how they will not be to the best interests of the people of the United States from an economic standpoint and from a military standpoint as well.

Mr. President, the distinguished Senator from Nebraska spoke of the fact that the leadership has been able to defeat every amendment other than the two leadership amendments, and so they have.

The leadership is responsible, Mr. President—the leadership and the administration together are responsible—for every single word in this treaty. Having an overwhelming majority of the Members of the Senate following their recommendations and their lead, they have had the power of life and death over any amendment.

If amendments adding reservations to the resolution of ratification were accepted—and several were—they had to meet the approval of the leadership and of the administration or they would not have any chance of passing. So if we find ourselves in the Senate today in something of an impasse, if we find ourselves on the horns of a dilemma, over the fact that in the Neutrality or the Defense Treaty, which the Senate agreed to some 3 weeks ago in order to obtain passage or approval—which would be a better word—in order to obtain approval by the Senate of the first treaty, it was necessary, they found, at the last moment to obtain additional votes for the treaty, and in order to get those they agreed with certain Senators in the Senate that they would accept the DeConcini amendment.

Now, the dictator and the President exchanged letters on March 15, the day before the vote in the Senate. The dictator was raising a question about the fact that he had heard that reservations were being considered, and he was fearful of the meaning of these reservations. These letters are in the record of the Congress and Senate action, and the President assured him that nothing would be agreed upon that would interfere with the spirit of the agreement that he and the dictator had reached.

But when the smoke of battle had cleared away, the dictator objected strenuously, I might say violently, to the DeConcini amendment which had been used to gain enough votes to pass the treaty, and the Panamanians thought so poorly of the DeConcini amendment that already they have started to try to undercut this amendment in the U.N., at the bar of world opinion, and they are seeking to declare the provisions of this amendment illegal, unenforceable, even before the treaties have both been agreed to here in the Senate.

The DeConcini amendment has caused such consternation in Panama that if the dictator accepts the treaty with the DeConcini amendment, public opinion is so strong there that it is going to cause, in my judgment, the overthrow of dictator Torrijos. That would not be an undesirable happening in the view of the Senator from Alabama if it called for or it caused democratic forces to get back in control of the Government of Panama. But I would hate to see the dictator turned out of office because he has worked out a very fine treaty from the standpoint of Panama with the American negotiators, and through action of the U.S. Senate.

There is only one provision that has been added to these treaties that has not met with the approval of Mr. Torrijos, just one. The administration slipped up just one time. They beat down everything else, but they made the mistake of accepting the DeConcini amendment in order to pass the treaty. That is what it took, and they took a calculated risk that the dictator could go ahead and accept the treaty with that provision in it, and now they find out they cannot in light of the adverse public opinion in Panama.

But this was not just a DeConcini amendment. It had to become a leadership approved amendment, or it never would have passed, because not one single word has been added to this treaty without the approval of the administration and the leadership.

So now the administration is going to have, over the weekend, to try to resolve this dilemma that they find themselves in. Panama seems to be requiring that this DeConcini amendment be diluted or be weakened, or to have it said that it

has no force and effect, or not the force and effect that it was thought to have and was stated to have during the debate, but that it means something else.

That is the problem that the administration has, stated frankly and baldly. How can they appease the Panamanians without incurring the ire of Senators who would not have voted for the treaty without the DeConcini amendment? That is the problem they have.

They have the votes. They could get any amendment passed that they want passed, but will it mean anything, and will it have the effect that they think it might have? I suggest that it will not.

The first treaty is gone. We cannot bring it up again; it is already agreed to. It would take unanimous consent to bring it back up, to work on it again, and I doubt if unanimous consent would be obtained.

Then, in trying to cut the ground out from under the DeConcini amendment with respect to this treaty, how can that be done? By adding language trying to knock out the provision in the other treaty? That is not going to work, either, because this treaty that we are on now expires at the very time the DeConcini amendment goes into effect. Come the dawn of the next century, this Panama Canal Treaty is through; it is dead; it has served its purpose; and we then proceed on to the other treaty, where the DeConcini amendment is embodied.

Why did not the supporters of the treaty see the deadly danger in the DeConcini amendment? Why did they not? The DeConcini amendment, every single word of it, was weighed, it was held in a balance, it was studied, it was looked at minutely, its effect pondered and considered, under study by the State Department, presented to the President himself, and studied, I assume, by the leadership.

Well, they fell victim, it would seem to the Senator from Alabama, to their own reasoning with regard to procedure on a treaty.

They reasoned that no amendments must be allowed, because to amend the treaty—when I say amendments, I am talking about amendments to the treaty—no amendments to the treaty should be allowed, because to do so would require another plebiscite.

"But we can allow almost anything to come in as a reservation, because that will not require another plebiscite, and the dictator can accept it and that will be the end of it." Thus they reasoned; but it did not work out that way. They reasoned wrongly, because the reservation is so worded that it must become a part of the notes of ratification between the heads of state, and it will be written right into the final agreement between the two heads of state.

"Well," they say, "the DeConcini amendment is not too far wrong, not too far different from the leadership amendment." And they thought, well, it was not much worse than the leadership amendment. Both of them give us the unilateral right to move to keep the canal open. But the leadership amendment—and as I say, it had loopholes in it, loopholes big enough to drive a truck through—the leadership amendment, supposedly providing for unilateral action on the part of the United States to defend the canal, had a paragraph in it—and I am sure the leadership would not have put that in if they had been drafting the amendment, because the amendment did not really show any originality; it merely took the memorandum between the President and the dictator and used that word for word, transferring it over to the treaty itself in the form of the leadership amendment.

But that memorandum between the dictator and the President had three clauses inserted in it by the Panamanians—I assume by the dictator, inasmuch as it was an agreement between the President and the dictator—that gave him protection, and the DeConcini amendment did not have these three protective clauses that the Panamanian dictator inserted in the memorandum with the President which later became the leadership amendment.

Because the leadership amendment, based on the memorandum, provided that in asserting our right to intervene and defend the canal, we would not interfere with the internal affairs of Panama, we would not interfere with their territory, and we would not interfere with their independence. Those three safeguards were given the Panamanians in the leadership amendment, but not in the DeConcini amendment. That is where the Panamanians feel that their national dignity is being besmirched and their sovereignty being questioned.

The amendment got by the scrutiny of all of the proponents who bother to look at it, the State Department, the President, and the managers of the treaty, and they just embraced it. When they found that "with this amendment we are going to win the treaty fight" they all promptly embraced it.

But it did not have the safeguards in it for the Panamanians that the leadership amendment had. That is the impasse that we have.

Would it be right, would it be fair to the Senators who based their vote for the treaty on the full strength DeConcini amendment, to now seek to water down that amendment, and to say that it does not mean what it meant when it was accepted, and what the legislative history shows that it meant? They have tried to amend the legislative history by a different line of talk about the DeConcini amendment. That is not going to work, because, as Senators know and as the public knows, once a provision is written into a law, and once that law passes, you cannot think up something three weeks later and come in and say, "Look, this is what we meant when we passed this law or this amendment; we meant something else."

What counts is, what did the Senate mean at that particular time as to the meaning of that particular provision? The door is closed to having legislative history to show we did not mean what we said we meant when we passed the DeConcini amendment.

Nor can they, by amending the present treaty, do away with the provisions of the DeConcini amendment, because, as I have stated, the Panama Canal Treaty expires at the very time the DeConcini amendment takes up.

Mr. President, this will probably be the last amendment offered to the treaty. We have gone through all of the articles and now we are going back, as the rules provide, to seek to amend any of the articles that we so desire. This is an amendment to article II, which would assure us that this is a compact that we have with the Panamanian people, and that this treaty will not forever be the subject of division, criticism, the charge that we have dealt unfairly with the Panamanian people—as is the case with the 1903 treaty. Let us avoid the pitfalls of the 1903 treaty, which has been under such attack here by the proponents of the treaty. Let us not make those same mistakes. The Senate, 20 years from now, will be saying, "Why did not the Senate, in the year 1978, have a safeguard providing for a plebiscite in Panama?"

As the distinguished Senator from Nebraska (Mr. CURTIS) pointed out, the people of Panama, in regard to action on the treaty, occupy the same place that the Senate has in giving their advice and consent to a treaty. They have held, as has been pointed out here on the floor by the distinguished Senator from Alaska (Mr. STEVENS) just the other day in connection with his amendment, that the Panamanian Constitution provides that anything that has not been approved by the people as to a treaty is unconstitutional in Panama.

Once we let these treaties out of our hands, we are going to see a concentrated effort by Panama to knock out the DeConcini amendment, to say it is unconstitutional, because it was not in the treaty at the time of the plebiscite.

Of course, the plebiscite was called by the dictator prematurely because he knew that the U.S. Senate had the constitutional duty of giving advice and consent with respect to the treaty, and that the form that advice takes is in the form of amendments. He knew there was a likelihood that the treaty would be amended, yet he calls for a plebiscite on the spot. One-third of the people voted against it even then, while everybody seemed to be for it. Now everybody seems to be against it, and it would not stand a shadow of a chance of passing in Panama.

Let us get to the bottom of it. If, in fact, they are for it, let them say so; if they are against it, let them say so.

Also, let us comply with the Panamanian Constitution. There is no assurance Torrijos will comply with it. There is every indication he will not. If we would have a valid treaty, one that they cannot nullify in part, we need to see that the constitutional processes of Panama are followed.

This amendment would solve several questions:

Will the constitutional processes of Panama be followed?

The answer to that would be yes, with the amendment. The answer would be no, in all likelihood, without it.

Will this amendment assure that if the treaty is agreed to, it will be an agree-

ment not just with the dictator but with the people of Panama?

Yes. The amendment will assure that. The treaty without the amendment will not assure that.

Again, Mr. President, I say if we do find ourselves here in the Senate at an impasse, shall we please the Panamanians by undercutting DECONCINI, or will we displease the Senators who voted for the treaty with the DeConcini amendment to be accepted—and it was accepted? How far can we go in pleasing the Panamanians without displeasing the Senators who constitute the balance of power on this issue? That is the quandary.

I am still of the opinion that an act of statesmanship on the part of the President would be to recall these treaties before a final vote on next Tuesday.

Admit that the treaties have been allowed to get into a position where any action would be subject to criticism. After all, Mr. President, these treaties were billed as a great good neighbor act. "If we do not do this, they are going to have riots in Panama, they are going to have demonstrations, they are going to have sabotage, possibly."

But, Mr. President, it is rather strange that on the eve of giving them this great good neighbor gesture, giving them the canal, we find that they do not want the canal under the conditions that the Senate has attached to this gift, that infringement be allowed upon the sovereignty of Panama.

Strange as it may seem, the good neighbor gesture would not be to approve the treaties and send them down to Panama, a dissatisfied recipient, an unhappy recipient. The good neighbor act would be for the President to recall these treaties, send them back to the negotiating table, and see if the negotiators can come up with treaties which meet with the approval of the American people and the Panamanian people as well.

If the President does not act in this statesmanlike fashion—and I sincerely believe that would be the best way out of this dilemma—the next best thing would be to either defeat the treaties outright, and let them go back to the negotiating table, or allow them to go through with a plebiscite amendment attached to see if these treaties really meet with the approval of the Panamanian people.

Mr. President, when these treaties first came before the Senate, the President sent them up in the order of the Panama Canal Treaty first and the Neutrality or Defense Treaty second. That was the logical order of presentation, for should we not first decide whether we were going to give the canal away before we decide how we are going to defend it in the year 2000?

Well, the leadership, as is their right, shifted this order of consideration so that we would consider first the Neutrality Treaty. They thought nobody much would object to a Neutrality Treaty. But the opponents of the treaties, or I might state those who have tried to strengthen these treaties, saw it differently. They saw the Neutrality Treaty as part and parcel of the overall question, "Shall we give the canal away?" As a result, 32 votes were cast against that treaty, just two short of the required number to defeat the treaty.

I warned at the time, Mr. President, that this action of reversing the order of the treaties, considering the Neutrality Treaty first, was going to cause many Senators to be deprived of the right to vote for the Neutrality Treaty, because I predicted that, if they took up the Panama Canal Treaty first and that was agreed to, then the Neutrality Treaty would be approved almost by acclamation. If you witnessed, there were some 86 cosponsors of the so-called leadership amendments; not that we thought it accomplished a great deal, but because they were so highly touted, so highly praised as solving some of the problems. They changed the Neutrality Treaty from a treaty that must be defeated in the Senate, according to their own words, to a treaty that was so good that you could not have any more amendments to it. That is what this leadership amendment was supposed to do. But 32 Senators had to vote against the Neutrality Treaty because it is part and parcel of the Panama Canal transfer, shall I say.

I felt so strongly that we ought to consider the Panama Canal Treaty first that I offered a motion seeking to reverse the order that the leadership had set for these amendments, requiring the Panama Canal Treaty to come up first, followed by the Neutrality Treaty, in the proper chronological sequence. That received only 30 votes. The leadership was able to defeat it. The Senate defeated it, on the recommendation of the leadership, of course.

I predicted then that that action of reversing the order of consideration of the treaties, considering the Neutrality Treaty first, would add at least 1 week to the time necessary for the consideration of these treaties. Well, that was correct, except that, instead of reducing it 1 week, I believe doing it the other way would have reduced it 3 weeks, easily, because the Panama Canal Treaty, I daresay, at that time would have been approved and then Senators would have flocked to vote for the Neutrality Treaty. It would not have been necessary to accept the DeConcini reservation in order to pass the Neutrality Treaty. There would have been over 90 votes cast for it.

So, everywhere along the line, it has not been the opponents of these treaties that have caused the confusion. All we have caused is that there be legitimate debate and that there be a fair consideration of the points made by the opponents with respect to their desire to shape these treaties to the best interests of the American people, to shape these treaties in a way to give the United States the strongest defense rights in the canal and the Canal Zone.

(Mr. MOYNIHAN assumed the chair.)

Mr. ALLEN. Then every single word that has been added to the treaties has had the approval of the administration and now, at this late hour, we do not know whether the administration is going to lean toward pleasing the Panamanians and offending the Senators or pleasing the Senators and offending the Panamanians. That remains to be seen.

Mr. President, I understand that today will be the last day on which we can offer amendments to the treaty. Starting Monday, the vehicle before the Senate will not be the treaty but a resolution of ratification of the treaty, which, in itself, is amendable—not to offer amendments to the treaty, but to offer amendments to the resolution of ratification, or reservations to the resolution of ratification. So there doubtless will be reservations added.

I believe the leadership, though, is going to be cognizant of the fact that a reservation, while not rising to the dignity of an amendment to the treaty, does pose some real problems and does have a meaning. That a reservation does have a meaning, I feel, was not fully understood in the debate up to this time. I believe it is understood now and I believe that the administration is going to be a little more cautious in accepting reservations.

Mr. President, I should like to comment just briefly on a provision that has been called to my attention in the implementing legislation in connection with the treaties. You know, the treaty has certain provisions about the American citizens who are employees down on the canal and some 3,000 employees, either for the Panama Canal Company or the Canal Zone government. The treaty says that, in the first 5 years, the Panama Canal Commission, which is a U.S. Commission and is going to take over from the Panama Canal Company to operate the canal, the treaty mandates that the Commission get rid of at least 20 percent of the U.S. employees down there. Get rid of 20 percent of them—that is an American Commission, and we are supposed to have control over the canal for the next 22 years.

The treaty puts four Panamanians on the Commission and five Americans, and does not require any Senate confirmation of them. It mandates that we have to get rid of 20 percent of the American employees—I say American employees. Possibly, I should say U.S. citizen employees, because I guess, in a broader sense, we are all Americans in this hemisphere. We have to get rid of 20 percent of the U.S. citizen employees and—listen to this: This treaty that is supposed to provide for our control of the canal for 22 years says there cannot be any more U.S. citizens employed on the canal unless they have some special skill that the Panamanians do not have. How many would that be? Half a dozen?

So they are going to weed out the U.S. citizens working on the canal, some 2,000 or 3,000 of them, and not going to allow any more to be employed. This is an American Commission, mandated by the treaty.

Now, they said, well, do not amend the treaty; do not add that little trivia in there. I tried to knock out that provision, guaranteeing every U.S. citizen a right to continue to work there until they reach retirement age, until they retire voluntarily, or until they are discharged

for cause. They said, oh, no, we do not need that amendment, and they voted it down, saying, handle that in the enabling legislation.

I want to point out one of the provisions here, just to show how these treaties and the enabling legislation are stacked against the U.S. citizen.

Section 410, on page 58 of the implementing legislation, has this strange provision: It says that any Panamanian who is working on the canal down there when these treaties go into effect, he can immigrate to the United States without regard to quota or any other restricting provision.

He can just set sail for the United States. "Here I am."

Also, any Panamanian who is retired down there after 15 years of service is given special immigrant status and can move to the United States.

Now, why is that necessary? Why is it necessary to offer, shall I say, asylum, offer political asylum to Panamanians working on the canal, or Panamanians who have retired after working on the canal 15 years, and give them a right to enter the United States regardless of the quota system?

Is Torrijos all that bad? When we wipe out the Canal Zone and turn the zone and the government over to Torrijos, are his mercies so tender that the Panamanians themselves are going to want to flee?

Read the enabling legislation. They provide for, in effect, a getaway of the Panamanians working on the canal. Just consider that for a moment.

I hope, Mr. President, that we will keep faith with the Panamanian people, as well as the American people. Let us give them a right to say whether they approve of this treaty or not. Let us see that the constitutional processes of Panama are followed in order that we will have a valid treaty. Let us remove from future relations with Panama, and with the world, the possibility that Panama will say, "Well, this is an agreement worked out with the dictator, we don't feel bound by it, we want the canal now. Oh, we agreed, the dictator agreed to this. Well, we don't accept that and besides Torrijos is no longer with us."

That may well be the statement down in Panama after not too long a time after these treaties are accepted by Torrijos without submitting them to the people.

Let us not have another 1903 specter before us and before before us and before the country and before the world.

Why are the proponents of the treaties so critical of the conditions under which the 1903 Treaty was agreed to? Why can they not see that we have an analogous situation here?

Mr. President, I hope the amendment will be agreed to.

I yield the floor.

Mr. MATSUNAGA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, last November I had the great privilege to accompany the distinguished majority leader (Mr. ROBERT C. BYRD), the Senator from West Virginia, and five other Senators on a study mission to the Republic of Panama for the purpose of assessing the merits of the proposed Panama Canal treaties. That experience firmly convinced me that the ratification of the new treaties would be in the best interest of the United States.

On my return from that trip, I pledged that I would do all that I could to inform Americans of the need for the new treaties, as well as of the actual provisions of the treaties now before the Senate and why they should be supported. Carrying out this pledge, I have spoken before a number of citizens' groups in Hawaii and elsewhere.

I would like at this time to submit the text of a speech on this subject which I delivered in Honolulu before the Hawaii World Trade Association on March 30, 1978, and ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

THE PANAMA CANAL TREATY: TO RATIFY OR NOT TO RATIFY?

Honorary Consul General of Panama, Mrs. Armenia Adams de White, President Jerry Chang, members of the Hawaii World Trade Association, and friends: Aloha!

After fourteen years of service in the House of Representatives, I come before you today as one who has had the great privilege of serving his first fourteen months in the United States Senate.

There's a big difference between the two legislative bodies. In the area of foreign policy, for example, the names of the two committees are different. Until the recent reorganization in the House, its Committee was always called the Committee on Foreign Affairs, while in the Senate, its Committee has always been called the Committee on Foreign Relations. Somebody asked Alben Barkley, who was Vice President under Harry Truman why this was so. Barkley's response was that most House members are younger, so they can have affairs; but by the time they get to the Senate, they're only capable of having relations.

This afternoon I wish to address myself to an important and complex foreign relations, foreign affairs, or foreign policy matter—the Panama Canal Treaty: The question being to ratify or not to ratify.

As you know, there are two Treaties which have already been signed by the Heads of State of both Panama and the United States. One of the Treaties, the so-called Neutrality Treaty, was ratified by the Senate by a vote of 68 yeas to 32 nays on March 16. You know, of course, that all treaties must be ratified by a two-thirds majority vote. The second Treaty is expected to be voted on in the next few weeks.

I voted for ratification of the Neutrality Treaty, and intend to vote to ratify the second so-called Panama Canal Treaty. I will do so because I think it would be disastrous for both Panama and the United States if the treaties were not ratified. I would like to share with you today the reasoning behind my position.

We must bear in mind, first and foremost, that the Canal is worthless to us unless it can be kept in operation and we are able to use it.

The question then arises: In the event that the U.S. Senate rejects the Panama Canal Treaty, and hostilities between Panama and the United States should ensue, could we adequately defend the Canal and keep it in use?

In search of an answer, I went to Panama four months ago with the Senate Majority Leader, Senator Robert C. Byrd, and five other Senators. While I was there, I inspected the Canal. I took a helicopter tour of the Canal Zone, and I visited a remote island province of Panama, I talked with Americans who live in the Canal Zone and with those who live in Panama proper, with American military and business leaders, with Panamanian leaders, including General Omar Torrijos and President Demetrio Lakas, and with Panamanians who voted for, and Panamanians who voted against the Treaties in their plebiscite of last October.

My first-hand observation of the situation in Panama convinced me that General George Brown, Chairman of the Joint Chiefs of Staff, was right when he said that in the event of hostilities between the United States and Panama, we could not adequately defend the Canal and keep it in use, even with a hundred thousand troops. General Brown, of course, was speaking in the realistic expectation of guerrilla type hostilities.

As a former infantry officer, while helicopting over the Canal and viewing the dense tropical jungle extending for miles, right up to the Canal on both sides, I came to the unavoidable conclusion that any determined band of guerrillas could keep the Canal completely shut down over extended periods of time and render it useless in the event of an emergency.

I was convinced, as were the other visiting Senators, that the operation of the Canal would be indefensible in the event of armed conflict between our country and Panama, as distinguished, of course, from hostilities between any other nation and the combined defense forces of Panama and the United States. The man-made freshwater lakes that supply the Canal's water, its complex lock system, and the locks' electric power supply are just too, too vulnerable.

Incidentally, you may be interested and amazed as I was, to know that there is not a single drop of salt water in the Panama Canal. It is operated by the use of fresh water from two lakes, Lake Gatun and Lake Madden. Fifty-one million gallons of fresh water pour into the Pacific or the Atlantic from these two lakes every time a ship sails through the Canal.

A single breach in the Lake Gatun Dam, the Canal's major water source, would close down the Canal for as long as two years, the time it would take rainfall to refill the lake. The sinking of a ship in the lock system—which would be technically easy to accomplish—would bring Canal operations to a halt for a long period of time.

We are living in a world where terrorism runs rampant. It won't take much terrorism to close the Panama Canal. Justifiably, shipowners themselves would refuse to sail their ships through the Canal so long as a real threat to their safety prevailed.

The new Treaties are the best guarantee—in fact, the only guarantee—we have to avoid hostilities and to keep the Canal open for our unobstructed use.

Every businessman in Hawaii should be aware of how the closing of the Panama Canal affect U.S. trade. Every American should know that such closing would adversely affect his or her daily living and the security of this country.

Because the new, bigger ships, including supertankers carrying Alaskan petroleum to Gulf or East Coast refineries, cannot fit into the Canal, the Canal is becoming less crucial to our trade with the passage of time. However, in 1976 sixteen percent of American trade went through the Canal. By comparison, the percentage of U.S. intercoastal trade passing through the Canal in 1924 was as much as 50 percent. Similarly, while 1,265 U.S. military vessels went through the Canal in 1949, in 1976 only 85 made the same journey.

The Canal plays a significant role in business in our State, as you may know. However, it is becoming less important with each

passing year. Sixteen years ago, ten percent of Hawaii's trade went through the Canal. In 1976, this figure had dropped to 4.3%, or 729,000 long tons of a total of 16.7 million long tons of cargo which sent through Hawaii's harbors, that year.

So while the Panama Canal is not as essential as it used to be to United States trade, including that of Hawaii, the United States still needs the use of the Canal, especially in the event of an emergency. And there is every reason to expect that we will continue to have its unobstructed use—if we ratify the Treaties.

There is a further and perhaps even more compelling reason for ratification of the Treaties: Ratification would set right what is unquestionably an ugly chapter in American history. An examination of the events leading up to the signing of the 1903 Treaty, under which we now operate the Canal supports this judgment.

Up until 1903, Panama was a province of Colombia. The United States had sought a Treaty to construct the Canal with Colombia, the country that owned the land. The Treaty was negotiated with the help of a Frenchman, Philippe Bunau-Varilla, who was the chief engineer for the French company that had gone bankrupt trying to build the Canal. But the Colombian Senate refused to approve it.

Bunau-Varilla, who stood to gain $40 million under the rejected treaty, then talked the United States into sponsoring a Panamanian Revolution against Colombia, in exchange for the right to build and operate the Canal.

Bunau-Varilla, the Frenchman, planned the revolution, literally wrote the original Panama Canal Treaty of 1903, and even signed the Treaty for Panama on November 18, 1903, all before the official Panamanian delegation arrived in Washington to begin negotiations. What is even more incredible is that no Panamanian had even seen the Treaty before it was signed by the Frenchman and our own Secretary of State.

Theodore Roosevelt, who was then President, and who dispatched American warships to Panama in support of Bunau-Varilla, took credit for success of the revolution and extended official American recognition of the new nation of Panama within three days after the revolution. The hastily drawn Treaty was signed by Secretary of State John Hay for the United States on November 18, 1903, only 15 days after the revolution.

Before signing, Secretary of State Hay observed that the Treaty was "Vastly advantageous to the United States, and we must confess, not so advantageous to Panama," but upon the urging of Bunau-Varilla and under the instructions of President Roosevelt signed it. Here's what Bunau-Varilla told Secretary of State Hay just before the Treaty was signed: "For two years you have had difficulties in negotiating the Canal Treaty with the Colombians. Remember that [at that time] the Panamanians were still Colombians. You have now before you a Frenchman. . . . Do it now!"

Bunau-Varilla made one thing certain—that included in the new Treaty, just as it was in the proposed treaty rejected by Colombia, was a provision for the payment of $40 million by the United States to the French for equipment and materials used in the unsuccessful digging of the Canal by the French.

You can easily appreciate why the Panamanians disliked the Treaty from its very beginning. In 1936 and 1955, the Panamanians pleaded for minor changes in the Treaty for their benefit, and the United States readily consented. In 1958, riots broke out in Panama when nationalists attempted to raise the Panamanian flag over the Canal. Several Panamanians were killed in the incident.

In 1963, in an effort to calm the situation, we began flying both our flag and the Panamanian flag over the Canal Zone. But more riots ensued. Finally, in 1964, after 20 Panamanians and four Americans were killed in an incident, we consented to renegotiate the Treaty to cool the situation. That renegotiation took thirteen years, and was supported by the two Democratic and two Republican Presidents who served during that period.

In trying to decide whether or not to support the newly negotiated Treaties, we must try to understand the Panamanians' point of view. In our dialogue with the Panamanians in November of last year, we visiting Americans were told that what they want most is to regain their "national dignity". They openly expressed their hurt feelings over the fact that a foreign country has complete control over their greatest national resource and primary means of transportation through their country.

The United States operates the Canal and controls a strip of land ten miles wide that runs completely across the middle of Panama, dividing that country in two. The Panamanians feel that only with the return of the Canal Zone to their control will they be able to express genuine pride in their country, and walk with dignity as citizens of the Republic of Panama.

That's why they rioted in 1959 and 1964. That's why they pushed so hard for renegotiation of the Treaty of 1903. That's why they voted to ratify the new Treaties so overwhelmingly in last fall's plebiscite.

In fact, all of Latin America resents the old 1903 Treaty. Ratifying the new Treaties would be a major step indeed in improving our international relationships in our own hemisphere.

Let us now take a brief but close look at the objections which have been raised against the Treaties.

The opponents of the Treaties have said, "We bought [the Canal] and paid for it. It's ours just as much as the Louisiana Purchase and Alaska are ours." They call the Canal "our sovereign territory."

The truth of the matter is that we don't own the Canal. We never did. We are only leaseholders, highly-privileged as we may be.

The 1903 Treaty, under which we currently operate, says we are given the "use" of the Canal Zone. It doesn't say we own it. It, in fact, states that "the sovereignty of such territory [is] vested in the Republic of Panama". The United States is only given authority as "if it were the sovereign". The language of the 1903 Treaty makes it unmistakeably clear that the United States is not the sovereign; Panama is.

For the use of the Canal and Canal Zone we have been paying an annual rental fee to Panama. Until 1935, the fee was $250,000 a year. For sixteen years thereafter we paid $1.9 million annually. We now pay $2.3 million a year, which is less than 1.4 percent of the total tolls of $165 million collected last year.

Evidence in other areas points to our own recognition that we do not own the Canal. For one thing, under our Federal Constitution, any person born on American soil is automatically an American citizen, regardless of parentage. However, a person born of non-American parents within the Canal Zone is not a citizen of the United States. You will recall that when Hawaii was still a Territory, a person born of alien parents in Hawaii automatically became a United States citizen. This is not the case in the Canal Zone.

In addition, the Canal Zone's ports are considered foreign ports for postal-mail purposes, and goods shipped from the United States to the Canal Zone are considered a part of foreign trade.

Opponents of the Treaties are saying the Treaties propose a "give away" of the Canal. We certainly cannot give away something that is not ours!

The opponents of the Treaties have also argued that they should not be ratified because they were signed by General Torrijos—a "tinhorn dictator".

General Torrijos may be a dictator—but he certainly is not a stereotypical dictator. He has the unmistakeable support of his people, and walks among them even without bodyguards or arms. I know because I was with him on a couple of his walks. And he does not use terror and torture to govern.

In fact, after signing the pending Treaties, he sought and obtained by a two-thirds majority vote, their ratification by his people through a plebiscite, watched over by United Nations observers.

Panamanians may not enjoy the same civil rights we Americans do. But their government under Torrijos does not systematically deny them their rights.

It is important to look, not only at Torrijos' failings, but at his accomplishments—not only at what he has not done, but what he has done.

As a "tinhorn dictator", Torrijos has done exceedingly well by his people. Since he came to power in 1968, he has doubled the number of schools. He has improved marketing facilities for small farmers, and built hydroelectric plants. He has institutionalized a low-cost housing program for poor in both urban and rural areas.

And he plans to do more. Under a provision of the second treaty we promise $50 million in foreign military sales credits to Panama over the next ten years. General Torrijos told our delegation of Senators that he does not plan to spend this money for weapons. He'll use it to send promising young Panamanians to college and to make them bilingual and trilingual so they can take over the complex operations of the Canal in the year 2000. He plans to buy helicopters and train pilots in each province of Panama to provide emergency medical aid.

Critics of the Treaties have floated the rumor that General Torrijos is a communist and that he plans to lead his country to communism.

I have been unable to find any truth in that rumor. When I was in Panama, I spoke to a cross-section of American residents and Panamanians. None of them believed Torrijos is a communist—not even his political rivals.

The President of Panama, Texas-educated Demetrio Lakas, who talks and acts like a Texan, is well-known for his anti-communist position. When asked about Torrijos, he said he was sure Torrijos was not a communist and he would be willing to stake his life on it. Sen. Barry Goldwater, one of the staunchest opponents of the Treaties, has repeatedly stated that he knows Torrijos is not a communist.

During one of our conferences, last November, General Torrijos was asked whether he might turn the Canal over to Cuba or Russia once the Treaties were ratified. His response was that he didn't want to see "Panamanian waters infested by communist sharks."

At another time, he told us he had strong feelings about the issue. "If I tried to lead my people to communism", he said, "they would throw me out, and if, despite my leadership, the people espoused communism, I would leave this country!"

Consider this fact, too, that under Torrijos' leadership Panama has not even recognized the Soviet Union or the People's Republic of China. No diplomatic relations exist between Panama and the two foremost communist nations. The undeniable truth is that the United States maintains friendlier relations with the Soviet Union and Communist China than does Panama.

Despite the controversy over the Treaties, my trip to Panama convinced me that the people of Panama are fond of Americans, and they tend to follow our leadership. In fact, most of Panama's leaders today, including General Torrijos, are American educated.

Having said this about communism and the people's leanings in Panama, I don't want to leave the impression that there is absolutely no danger of a communist takeover. There is.

I believe that a negative vote by the United States Senate on the pending Panama Canal Treaty would be the greatest possible boost for communism in Panama. The enormous frustration that the Panamanians would feel would help the communists convince them that the United States is an imperialist nation, bent on exploiting weaker nations.

Rights now the communists in Panama are the primary opponents working against the ratification of the Treaties. Their one issue will disappear after both Treaties are ratified. Our voting down the Panama Canal Treaty would give the Panamanian communists new life.

Let me turn now to another argument frequently raised against the Treaties—the lack of human rights in Panama. Basically, this issue is not relevant to the Treaties, except in the use of the Treaties in win concessions from Torrijos, which we have.

During our final meeting with Torrijos in Panama last November, we urged him to repeal the law that permits detention, without due process of law, of persons accused of committing any crime, political or otherwise. He said he would discuss the matter with his advisory council, and only a few weeks later he announced the law's repeal. He also promised to allow more freedom for the Panamanian press. In fact, shortly before the plebiscite last fall censorship of the press decreased significantly, a trend that has continued over the past months. Torrijos also assured us he would allow political exiles to return home after the Treaties have been ratified. I believe he will keep those promises, too.

These are major concessions. He made them because he wants us to approve the Treaties. In fact, he even said that he would be willing to resign from his present leadership position if such action would help in getting the United States Senate to ratify the Treaties.

It should be noted, too, that Amnesty International, the organization which recently won the Nobel Peace Prize for its human rights work, was not sufficiently concerned about the human rights situation in Panama to mount an effort there. There were more human rights problems in other Latin American countries. Amnesty International found few-prisoner violations in their investigation in Panama.

Amnesty International did find political exile violations. But, as I mentioned earlier, General Torrijos promised Senator Byrd and the other visiting Senators that he would allow those exiles to return to Panama after the Treaties have been ratified.

Another criticism lodged against the Treaties is that we will pay the Panamanians millions of American taxpayer's dollars to take the Canal off our hands. This is just not so.

During the period that we continue to operate the Canal, toll rates will be increased to make up for the added payments. We may be paying additional sums for the maintenance of military bases if we continue to maintain them in Panama—just as we do in Greece, Spain, Turkey, and the Philippines. In fact, we haven't paid Panama a cent for the use of our fourteen military bases there in 74 years.

We will be setting up a package of loans, loan guarantees, and credits for Panama. But most of these will promote trade and investment by American companies there, and the loans will be paid back to the United States government.

The one legitimate question raised against the Canal Treaties as originally signed was a military one. That question was: Does the United States have a right to intervene militarily if the neutrality of the Canal is at any time threatened? To clarify the language of the Neutrality Treaty, President Carter and General Torrijos agreed to a "Statement of Understanding" that the United States will indeed have that right, along with the right to have its warships and auxiliary vessels "go to the head of the line" in an emergency. This Statement of Understanding was incorporated into the Neutrality Treaty by an amendment offered by the leadership of the Senate.

To clarify the matter beyond any doubt, the Senate adopted amendments to the ratification resolution, in the form of reservations and understandings, which specifically repose in the United States the right to "use military force in Panama" after the year 2000, if necessary to keep the Canal open and neutral. By this action, the Senate eliminated the one and only legitimate argument against the Panama Canal Treaties.

There is no denying that there is something in us as a nation that wants to stand up and say, "We've had enough. We're not going to be pushed around by anyone any more! Let's have no more Vietnams!"

We want to take pride in the greatness and strength of our country—indeed, the greatest and strongest in the world.

But in introspection, we must remember that above all greatness and strength is the will to do that which is right.

We may not be ecstatic over the proposed Panama Canal Treaties. But we need to bear in mind that we can either ratify the Treaties, and guarantee our right to use the Canal, or we can vote them down and thereby virtually guarantee open warfare in the Canal Zone and the shutting down of the Canal.

We may not like the choice between these two alternatives. But they are the only alternatives.

I am not saying that the existing Treaty of 1903 is not valid. It is. But we must recognize that it smells of long-dead colonialism.

Since we signed and ratified that Treaty, many changes have occurred in the world. We must change with the times or pay the consequences.

To summarize:

First and foremost, we need to keep the Canal open.

Second, in our own best interest, we need to be concerned about how other nations see us. We need to be on good terms with the people of Panama, and we need to get going on a new Good-Neighbor Policy in Latin America.

Third, and even more importantly, we need to be concerned about how we see our own selves.

This great country of ours was born of a revolution for the right to self-determination. We have fought for other peoples' right to self-determination. Let us not deny that same right to the Panamanians; let us try to understand their yearning for self-determination and national dignity.

The understanding which is demanded of us now is the spirit of liberty that was once described by Judge Learned Hand as follows:

"The spirit of liberty is the spirit which is not too sure that it is right; the spirit of liberty is the spirit which seeks to understand the mind of other men and women; the spirit of liberty is the spirit which weighs their interests alongside its own . . ."

I ask for your support of the Panama Canal Treaty, so that we who proudly call ourselves Americans may prove to the world that we are indeed dedicated to the true spirit of liberty.

Thank you very much.

Mr. MATSUNAGA. Now, speaking on the amendment offered by the distinguished Senator from Alabama (Mr. ALLEN), I wonder what the Senator from Alabama would say if the Panamanians themselves would offer an amendment, the amendment just changing "Panama" to "the United States," which could read:

*Provided, however,* that within such 6-month period the people of the United States shall have approved this treaty in a national plebiscite called by the United States Government for the purpose of ascertaining the American national will on the question of approval or disapproval of the treaty.

We would not hear the end of it, that here is a tinhorn dictator imposing upon us a requirement that the people should approve the treaty in a plebiscite contrary to the Constitution of the United States.

Mr. ALLEN. Will the Senator yield at that point? I will be glad to answer it.

Mr. MATSUNAGA. I am happy to yield just briefly because the Senator spoke for over an hour.

Mr. ALLEN. It will be only 30 seconds.

The Panamanian Constitution requires a plebiscite. Ours does not.

All this would do would be to require that Panama complies with its own Constitution and that we do have a compact with the Panamanian people rather than with the dictator.

Mr. MATSUNAGA. Exactly. Exactly. And in accordance with article 274 of the Panamanian Constitution, the people of Panama did have the opportunity to vote for ratification of the treaties on October 23, 1977.

Let me, for the RECORD, read the article of the Panamanian Constitution. article 274, which says:

Treaties which are concluded by the Executive with respect to the existing canal, the zone adjacent thereto, and the defense of the canal, as well as to the construction of a new canal at sea level, or a third row of locks, must be submitted to a national plebiscite.

In accordance with that article of the Panamanian Constitution, the people of Panama went to the polls on October 23, 1974, and during the 6 weeks preceding the vote, all restrictions on political activities were lifted and a vigorous public debate of the issue took place.

The opposition was given free rein to express its views and made the most of the opportunity, under the tinhorn dictator, so to speak, an opportunity which seldom is given even declared democracies.

For several weeks, there was more antitreaty than protreaty material in the Panamanian media.

During the last week of the campaign, however, the government effected some reduction in the amount of anti-treaty material, or the media, to be honest about the matter.

Now, the results of that plebiscite, announced on October 28, showed 66.1 percent voting to ratify, 32 percent voting not to ratify, and only 1.9 percent of the ballots were voided. Of those eligible to participate, 95 percent actually did so.

Mr. ALLEN. Mr. President, will the Senator yield?

Mr. MATSUNAGA. I yield.

Mr. ALLEN. I ask the Senator one question: Have not the treaties been changed materially since that plebiscite?

Mr. MATSUNAGA. I am glad the Senator from Alabama asked that question, because the Senator knows that the treaties have not been changed substantially to necessitate another plebiscite.

As it has been repeatedly pointed out on this floor, the leadership amendment is the only amendment which was adopted to the treaty—that is, the Neutrality Treaty—and that leadership amendment merely incorporated into the treaty a statement of understanding between President Carter and maximum leader Torrijos, which had been put before the people of Panama even before the plebiscite was held.

As a matter of fact, I was privileged to see the tape of the broadcast which General Torrijos made, in which General Torrijos said to another to read that statement of understanding to the people, so that the people will know what it is all about and will know that this is part of the treaty and the understanding of what is included in the treaty.

According to all legal scholars we have had opine on the subject of the inclusion of that statement in the treaty, we have had practically unanimous agreement that the statement put forth as an amendment by the leadership does not in any way substantially change the treaty.

Returning to the legal effects of the inclusion of the joint statement, we have the opinion of the legal adviser to the Department of State. He said that in his view, on the basis of examination of available source materials and consultations with authorities available to them:

> We have reached the conclusion with respect to the October statement that another plebiscite would not be necessitated by insertion of the October statement into the Neutrality Treaty.

Further:

> We have been advised by the Panamanian Government and Panamanian legal authorities that they have reached the same conclusion.

So that the plebiscite which the Senator from Alabama calls for in his amendment is one which already has been held and one in which, by a better than two-thirds majority, the people of Panama indicated approval of the treaties.

Mr. ALLEN. Mr. President, will the Senator yield for a question?

Mr. MATSUNAGA. I yield.

Mr. ALLEN. This will be the last question. I appreciate the courtesy of the distinguished Senator in yielding.

I wonder whether the Senator named the counsel for the State Department who came up with that opinion. I ask if he is the same counsel who advised as to the acceptance of the DeConcini amendment on the floor.

Mr. MATSUNAGA. No. I am informed that he is not.

Mr. ALLEN. I am glad to hear that.

Mr. MATSUNAGA. Of course, the Senator from Alabama has implied that he would be forcing this treaty upon the people of Panama without a plebiscite. The truth of the matter is that unless we leave it to the people of Panama, themselves, as to how they should proceed to ratify the treaty, we are then forcing upon the people of Panama what we think is best for them.

We ratify the treaties in accordance with the provision of our Constitution. We would resent it if the Panamanians would say to us that we should ratify the treaties not by provisions of our Constitution but by plebiscite held among the people of the United States.

Likewise, we definitely are not to dictate, by treaty or otherwise, how the Panamanians should proceed to accept a treaty signed by their leaders.

As I have indicated, Mr. President, the treaties before us today have been ratified in accordance with the constitution of the Republic of Panama, by plebiscite.

I point out, further, that at the invitation of the Panamanian Government, the United Nations and 20 United States and Latin American universities sent representatives to Panama to observe the conduct of the plebiscite. Eric Sy, Under Secretary General and Legal Counsel, headed the United Nations team and subsequently submitted a report which contained the following comments:

> Thanks to the full cooperation and logistical support of the Panamanian authorities, the special representative and his team were able to perform their functions in the best conditions and in total independence. It is the feeling of the special representative that the plebiscite was extremely well prepared and took place in an atmosphere of calm and in accordance with the usual democratic standards.
>
> The special representative and his team covered as many areas and plebiscite stations as was humanly possible. They also witnessed preplebiscite campaigning and vote counting. Except for minor anomalies observed in some polling stations, which were often corrected on the spot, the special representative has come to the conclusion that the plebiscite of 23 October, 1977, took place in a normal way and that it was an example in democracy.

Probably the most significant aspect of the plebiscite was that of those who voted, 32 percent voted against the ratification of the treaties. This would seem to indicate that the claim on the part of opponents of the treaty that Panama is run by a tin-horn dictator may not be altogether true. Despite the presence of General Torrijos, 32 percent of those who voted did vote contrary to the wishes of the so-called dictator of Panama.

Mr. President, I ask unanimous consent to have printed in the RECORD an article on the Panama plebiscite written by Dr. Donald G. Herzberg, dean of Georgetown University's Graduate School, and Dr. Timothy S. Healy, president of the university.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ARTICLE ON PANAMA PLEBISCITE

(By Donald G. Herzberg and Timothy S. Healy)

On Sunday, October 23rd, at the invitation of the Government of Panama, we were official observers at a referendum held to measure popular support for the proposed Treaties with the United States on the ownership and operation of the Panama Canal. Our fellow-observers were the rectors and presidents of 20 Latin and North American universities. Deans and other senior officials from the National University of Panama were assigned to us as guides.

In our best judgment the vote that Sunday was a fair one. The electorate was large but defined, the ballot was secret and access to the polls was adequately controlled. There was both good order and good humor throughout the process. One of the unexpected signs of honesty was that the two-to-one endorsement of the Treaties (which would be a landslide in the U.S.) was less than had been predicted by both the friends and the enemies of the Panamanian regime.

The one-third negative vote, however, ought not to be read as showing any national division at all about the Canal. After talking with hundreds of Panamanians in the Capitol, its suburbs and in the countryside, all of us were convinced that while the vote indicated several varieties of political dissent, there is still near national unanimity that the time has come for Panama to begin taking responsibility for the Canal. That conclusion was hardly surprising. Other things we learned were more so.

Panamanians have a sense of urgency about these Treaties which is totally lacking in the United States and which has not been adequately reflected in our press. The Treaties have been in the process of negotiation for some 14 years. The object of all that talk is, moreover, a source of enormous national pride in Panama. To anyone who looks at it the Canal is awesome; and the pair of us gaped as we realized that the great clockwork locks were built in 1913 with no expectation of planned obsolescence. But this engineering wonder surprises Panamanians every bit as much as it does us. They show it off with pride and obvious pleasure. They resent that in 60 years only two Panamanians have been found qualified as pilots and take exception to the Canal Company's notion that it would take 14 years to train one. But these were details. Panamanians are aware of the international importance of the Canal. They are proud of it and care for it. We met no one who did not speak of it as a national trust well worth the keeping that it takes.

The Canal Zone is a wholly different matter. It cuts a foreign swathe, from ocean to ocean, from north to south, some ten miles wide across the country. Were we to have a similar zone in the United States, it would run 1100 miles from Duluth to Galveston and slice a band 64 miles wide through seven states.

"La Zona" is really a little U.S.A. It claims more scout troops and P.T.A.'s than any parallel stretch at home. Some of its civilian population boasts that they have never set foot on Panamanian soil. The Panamanians distinguish sharply between military and civilian Zonians. With Latin grace they concede to the former the warrior's tribute of isolation, pampering, PXs and some splendor. It is against the civilians that the rancor is felt. It is staggering to pass from the deep and crowded slums on one side of Central Avenue to the suburban fronts of the Chase Manhattan Bank, the UMCA and the Provident Loan Society on the other side, with their fresh paint, awnings and deep lawns. When the high school students who led the attack on the Canal Zone in 1964 set out, all they had to do to enter the enemy's territory was cross a street and scale a fence. Panama doesn't expect both sides of the street to be the same. It does want both sides to be Panamanian.

Another surprise was that everybody who spoke to us about the much agitated defense aspects of the Treaties was reassuringly realistic. The United States is acknowledged to be a great power and expected to act like one. Any threat to the Canal would auto-

matically provoke our intervention—and this is as understood as it is expected. Panamanians know well that there is no possibility of their defending either the Canal or themselves against a serious attack. The presence of Uncle Sam on the other end of a hotline is thus a reassurance and not a threat. Panamanians would not, indeed, much object to serving as a southern distant early warning system. One university dean remarked to us, "every now and then the little birds can warn the rhinoceros."

Panamanians are constantly reminded that the other nations of Latin America need the Canal as much as we do. Nobody gains if world trade is chased around Cape Horn. The government which did this would find both North and South America united against it. Panama is well aware of the pressures it will feel to guarantee the neutrality which both halves of the Hemisphere expect and demand of the owners of the Canal.

Every Panamanian schoolboy knows that the Canal depends not on the endless salt flow from either ocean but upon fresh water, agua dulce, in which alone the great locks can work. The fresh water can be shut off at the will of any Panamanian government. We found, however, in all our conversations with both ordinary people and with politicians, almost no posturing, no threats, no rattling of sabers or spigots. The appeal Panama makes to North America is for fair play. Perhaps it is not for nothing that one of our major exports to Panama was baseball. Again, and again, we heard the plea that the United States play the treaty game fairly and according to the best American rules. Panama has had the experience of dealing with northern bullies before and hardly cherishes the memory. One United States Senator facetiously spoke of our having "stolen the Canal fair and square." Latin Americans hear clearly the word "steal." We were repeatedly asked why in this one instance the United States could not be true to the best in our own history and tradition.

These questions took on added bite for both of us when they were presented in terms of President Carter's stand on human rights. At first our guard was up; but we soon found we were dealing not with sarcasm but with a real grasp of the reach of the President's dream. One astute Latin politician asserted that President Carter was so far out in front on this issue that the Washington establishment would try either to tame him or destroy him. When we asked which he thought would happen, he remarked, "Your new President does not seem to me to be the kind of man who tames easily." This was only one of the exchanges in which we saw how deeply the President's stand on human rights has reached and touched the hearts of many in Latin America.

In a surprisingly relaxed and salty exchange with the group of observers General Torrijos, the head of the Panamanian government also spoke of the United States and human rights. He said that he hoped the North Americans would hear, behind the vote of the Panamanian people, the voice of 300 million Latin Americans. Through these Treaties he clearly feels he is dealing with the growth of a symbolic relationship and an understanding that will set the tone of North-South American conversations for years to come. For many Panamanians more is at stake in these documents than the issue of who owns the Canal or even than the righting of an historic wrong.

As each voter dropped his sealed ballot in the box he was handed a large campaign-type button. It showed two young Panamanians scaling the chain-like fence that surrounds the Zone. It was meant to remind Panamanians of the assault and the deaths of 1964. It ought also to speak to North Americans. We have built too many walls in Latin America. We would do well to remember Robert Frost:

"Before I built a wall I'd ask to know
What I was walling in or walling out
And to whom I was like to give offense.
Something there is that doesn't love a wall . . ."

Mr. MATSUNAGA. Mr. President, there is no question that the amendment is one which runs contrary to our concept of democracy and against our concept of two free states dealing with each other that one should dictate to the other how and when the treaties should be ratified.

Mr. President, no thinking American would ask that we impose upon another nation what we ourselves would never have other nations impose upon us. For this reason, I urge the defeat of the amendment.

I move to table the amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ALLEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATSUNAGA. Mr. President, I withdraw my motion to table at this time and I ask unanimous consent that the Senator from Alabama (Mr. ALLEN) may be allowed to proceed for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATSUNAGA. Mr. President, I also ask unanimous consent that I be recognized after the Senator from Alabama has had his 10 minutes for the purpose of making a motion to table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLEN. I thank the distinguished Senator from Hawaii for making this request.

Of course, under the rules any time an amendment is pending any Senator getting recognition may move to table. It is also customary that that motion be withheld if another Senator wishes to make brief remarks with respect to the pending question. I do appreciate his courtesy in withholding his motion to table in order that I might make brief comments on some of the points made by him.

In the first place, he used the expression as though it had been the expression of some of us opposing the treaties in referring to dictator Torrijos as a tinhorn dictator. The Senator from Alabama has never referred to dictator Torrijos as a tinhorn dictator because he believes he is a very powerful dictator and a very able dictator, for that matter, one who did work out a most beneficial treaty for his government and for Panama with the American negotiators, and further his will has pretty well prevailed here in the U.S. Senate except the one slipup on the part of the managers of the bill wherein the DeConcini amendment was accepted which was contrary, of course, to Mr. Torrijos' wishes.

Further, the distinguished Senator spoke about the regularity with which the plebiscite back in October was held. No one is questioning that the plebiscite was handled properly. But that is not the point. The point is that the treaties have been changed tremendously since that time.

The apparent view of the people of Panama has changed with respect to the treaty. That is the reason a new plebiscite is needed.

Not only that, but the distinguished Senator spoke of our imposing a requirement on Panama that was not provided for by them, or words to that effect. But we are not imposing something on them that is not part of their regular constitutional process. Their Constitution says treaties must be approved by the people in a plebiscite.

The point I am making is their court has held that anything that has not been approved by plebiscite with respect to a treaty is unconstitutional. Therefore, they may be in position of claiming that these reservations are unconstitutional under their law, and that would provide for a further difference of opinion between our two countries.

I also read the opinion of the counsel for the State Department saying that another plebiscite is not necessary. Well, what did you expect the counsel for the State Department to say if he expected to hold his job? I just wonder if this was the same employee or same counsel to the State Department who gave advice to the administration on taking the DeConcini reservation.

If his opinion is no better on the DeConcini amendment, which has caused such a furor here in the Senate and in Panama, I would not expect too much of his opinion on whether a plebiscite is necessary in Panama.

We are not imposing, under this provision, something strange or foreign to the Panamanian people. That is part of their Constitution.

The only point is that we want to see that their constitutional processes are followed so that we will have a valid treaty.

We are not imposing somthing new or foreign on them but merely requiring that their constitutional processes be followed. That is all the amendment would do. It does not impose any great burden on the people, and it would give us a compact with the Panamanian people where, without that, all we have is a compact with the Panamanian dictator.

I hope the Senate will vote against the apparent motion to table the amendment.

I yield the floor, Mr. President.

Mr. MATSUNAGA. Mr. President, I move to table the amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ALLEN. I suggest the absence of a quorum.

Mr. MATSUNAGA. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. I ask for the yeas and nays.

Mr. MATSUNAGA. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Hawaii to lay on the table the amendment of the Senator from Alabama. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Indiana (Mr. BAYH), the Senator from Missouri (Mr. EAGLETON), the Senator from Louisiana (Mr. LONG), the Senator from Alabama (Mr. SPARKMAN), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BARTLETT), the Senator from New Mexico (Mr. DOMENICI), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. PACKWOOD), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico (Mr. DOMENICI), would vote "nay."

The result was announced—yeas 59, nays 29, as follows:

[Rollcall Vote No. 98 Ex.]

YEAS—59

| | | |
|---|---|---|
| Anderson | Hatfield, | McIntyre |
| Bellmon | Mark O. | Metzenbaum |
| Bentsen | Hatfield, | Morgan |
| Biden | Paul G. | Moynihan |
| Bumpers | Hathaway | Muskie |
| Byrd, Robert C. | Hayakawa | Nelson |
| Cannon | Heinz | Pearson |
| Case | Hodges | Pell |
| Chafee | Hollings | Percy |
| Chiles | Huddleston | Proxmire |
| Church | Humphrey | Ribicoff |
| Clark | Inouye | Riegle |
| Cranston | Jackson | Sarbanes |
| Culver | Javits | Sasser |
| Danforth | Johnston | Stafford |
| DeConcini | Kennedy | Stevenson |
| Durkin | Leahy | Stone |
| Glenn | Magnuson | Talmadge |
| Gravel | Mathias | Weicker |
| Hart | Matsunaga | |
| Haskell | McGovern | |

NAYS—29

| | | |
|---|---|---|
| Allen | Goldwater | Roth |
| Brooke | Hansen | Schmitt |
| Burdick | Hatch | Schweiker |
| Byrd, | Helms | Scott |
| Harry F., Jr. | Laxalt | Stennis |
| Curtis | Lugar | Stevens |
| Dole | McClure | Thurmond |
| Eastland | Melcher | Tower |
| Ford | Nunn | Wallop |
| Garn | Randolph | Zorinsky |

NOT VOTING—12

| | | |
|---|---|---|
| Abourezk | Domenici | Packwood |
| Baker | Eagleton | Sparkman |
| Bartlett | Griffin | Williams |
| Bayh | Long | Young |

So the motion to lay amendment No. 101 on the table was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. CLARK. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I hope that last vote would show that the Senate of the United States recognizes the sovereignty of Panama.

The PRESIDING OFFICER. Will the Senator please suspend? The Senate is not in order. Will the Senators who are conversing retire to the cloakroom?

The Senator from Vermont.

Mr. LEAHY. I thank the Chair.

Mr. President, that last vote, as I mentioned, shows that the Senate realizes the sovereignty of Panama. We realize the fact that they, alone, are masters of their own internal actions, their own laws, their own politics, their own mechanics involving treaties, or any other activity within Panama.

I hope that the people of Panama, of the sovereign country of Panama, realize that.

I mention this, Mr. President, because I wish to speak for just a few minutes regarding my friend and colleague from Arizona (Mr. DECONCINI).

As the Senate knows, I strongly and totally support both Panama Canal treaties. I have spoken out on behalf of them. I have engaged in the debate which has gone on here, and I have supported them both here and in my own State of Vermont. I have spelled out my reasons: The fact that these treaties will guarantee the neutrality that we wish to see in the Panama Canal, protecting U.S. interests and world interests, and they are matters of long overdue justice.

I have expressed different concerns from those of Mr. DECONCINI. I have expressed areas of concern where, if we look into the record, we can find where Mr. DECONCINI and I might differ. But, Mr. President, I am extremely concerned about the nature of some of the editorial attacks on Senator DECONCINI. I am extremely concerned by some of the attacks I have heard around the country regarding Senator DECONCINI.

Disagreement with his amendment—or any amendment that I might have introduced to any matter on the floor, or amendments introduced by any of the 100 Senators—is perfectly all right. It is within the nature of a body such as this. It is within the nature of the debate which is going on around the country. I do not think anyone would ask that such debate or disagreement regarding an amendment of any of us should be cut off.

But, Mr. President, I will not stand here and accept, in any way, an attack on Senator DECONCINI'S character. I will not accept, in any way, an attack on Senator DECONCINI'S integrity. I will not accept, in any way, an attack on Senator DECONCINI'S ability. These attacks are completely unwarranted.

I have known Senator DECONCINI for a number of years. We both served as prosecutors within our States. I know him to be completely honest. I know him to be a man of total and the highest integrity. I know that he is a man who has the highest motives of patriotism and has, as we all do, ultimately only concerns for the United States.

I know that he is active in this matter from his own conscience. That is a position which is not going to be changed by personal attack. Neither Senator DECONCINI nor, I would hope, any Member of the Senate would ever draw back from a position of conscience or a position about which he feels strongly because of a personal attack. I know I would not. I know the distinguished Presiding Officer would not. I know that none of us would.

So, Mr. President, I am saying there are those who disagree with Senator DECONCINI on the matter of his amendment. They can present their arguments, present them pro and con, and debate the issues. It is perfectly legitimate for anyone else in the country, and all of us will be affected by these treaties, to debate the issues on the basis of merit. We are either for it or against it, but debate it on the merits. Do not use personal attacks on a man of character, a man of integrity, who is trying to do his best. I know him all too well and that is not the way to go, because I know he would not be intimidated.

Mr. CHURCH. Will the Senator yield?

Mr. LEAHY. Certainly.

Mr. CHURCH. I commend the Senator from Vermont for his statement. I associate myself with everything he has said. The Senate is a place which not only welcomes, but cherishes diversity of opinion. It is also a place where the motivation of any Senator is never subject to question. We all believe in one another in terms of our common desire to serve the best interests of the country.

I also am acquainted with Senator DECONCINI. I know that his effort was motivated by his own strong sense of patriotism. Whatever difference I might have with any proposal he might make, or, for that matter, any difference I might have with any proposal which might be made by the Senator from Vermont, goes to the merits of the subject, and has nothing whatever to do with the motivation of the Senator offering an amendment.

I believe what the Senator from Vermont has said needs great emphasis in this Chamber. I am happy to join with him. I compliment him for his statement.

Mr. GOLDWATER. Will the Senator yield?

Mr. LEAHY. I yield to the distinguished Senator from Arizona.

Mr. GOLDWATER. Mr. President, I thank the distinguished Senator from Vermont for what he has just said about my junior colleague. I wholeheartedly concur in every word he has said.

I became so incensed this morning on reading the editorial in the Washington Post that I wrote a letter, not necessarily in defense of Senator DECONCINI, but objecting to the Washing-

ton Post—and I will include the New York Times—taking it upon themselves to censure any Member of this body for using what in their mind is their best judgment.

I have known Senator DECONCINI all of his life. Although I am a Republican, I have worked in politics with his father and his brothers, and I have great respect for them.

For the Washington Post and the New York Times to make the allegations they have made against this man today has me disturbed.

I am the first one on this floor who will defend the freedom of the press.

I long ago learned that you do not argue with newspapers; they own the typewriters. I shall defend the freedom of the press, but I am not going to defend the freedom of an editor to write what he well pleases about a Member of this body or, as far as that goes, about any other American when they are doing what they think is right.

I am opposed to this treaty, very strongly opposed. I should welcome the condition that I find the proponents in, but I do not like my junior colleague being beleaguered, especially when the President of the United States, who wants his treaty, I guess, more than he wants a good peanut crop, knew all about this and was ready to give in and did give in.

With all due respect to the Committee on Foreign Relations, I think they must have known the implications of this reservation. When I went to Panama, that was my reason for going; I was disturbed about the ambiguities found in the defense section.

As the Senators might recall, I related one day the extreme difference in the interpretation of the word, "intervention" in Spanish and in English. "Intervention" in Spanish is a very strong, powerful word. It implies that if you have the power of intervening, you have the power of going into the home, going into the business, of making arrests; while, in this country, intervention is something that, well, frankly, we engage in at almost every minute of every day and do it in a delightful way. That is not the way they look at it.

I visited with General Torrijos about this and I thought from his answers that he would welcome the help of the United States in any defense of the canal at any time. I shall not belabor this point of view.

I do want to thank my friend from Vermont for bringing this matter up. I hope the press, particularly the two papers I have mentioned, will realize that their hand in the foreign policy of the United States is confined to reporting it. God knows the trouble we would be in had we ever followed the advice of either paper.

Mr. LEAHY. Mr. President, I shall be happy to yield the floor in just a moment.

I have mentioned, Mr. President, that it is not my intention here to debate the merits of the DeConcini amendment, so-called; nor is it my intention to single out any particular newspaper. I do not do that, and I did not do that in my earlier comments. My only purpose was to say that if there were those who feel that Senator DECONCINI is acting out of anything other than a history of the highest integrity, acting out of anything but the most sincere motives for his country, they are wrong.

I also wanted only to say that, from whatever source attacks might come against Senator DECONCINI—and I name no particular paper, I name no particular person, I name no particular source—I would say only this: They are terribly misguided if they make them as personal attacks. I know Senator DECONCINI far too well to think that any of those attacks are warranted. As I say, he is a man of the highest integrity and most complete honesty, a man who is patriotic and dedicated to his country. Let us continue the debate on the merits of the amendment itself. Let us continue the debate on the merits of the treaties themselves. Let us not get sidetracked against personal attacks that are unwarranted and unjustified.

Mr. President, I yield back the floor.

(Mr. BENTSEN assumed the chair.)

Mr. HANSEN. Mr. President, earlier today, I took occasion to comment on the editorial that appeared in this morning's Washington Post. I shall refer in greater depth to that in just a moment, but first, I would be derelict if I did not join with others in expressing my appreciation to our good friend, the junior Senator from Vermont, for his expressions of appreciation and the high regard which we all share for the junior Senator from Arizona. I think we are overlooking a very important point, and it is a point that I made earlier this afternoon.

I deeply resent the editorial in the Washington Post for an entirely different reason than has been pointed out. It seems to me that the myopic writer of this editorial failed completely to understand the situation on the Senate floor. Let me relate, as I recall it, essentially what happened.

The administration and the President knew that it was going to be an extremely close voting situation here on the Senate floor. There was never any doubt that whichever side won would win by a very narrow margin. It was also well known, following the return of the junior Senator from Arizona, after having made the trip to Panama, I understand at his own expense, that he had misgivings about the ability of the United States to take such actions as it deemed necessary in order to insure the operation and the neutrality of the Panama Canal. This is all history. The President of the United States knew it and the people in the State Department knew it, and the leadership on the floor of the U.S. Senate, as well, knew it. No one can charge the junior Senator from Arizona with any duplicity or any mischievous intent in popping up at the last minute with an amendment. He called his shots well ahead of time.

For some very good reasons, as I shall point out, the administration, the State Department, the President of the United States agreed to accept, the DeConcini resolution. They did not like it. The State Department, if I may put words into their mouth, I would suspect was rather horrified that the junior Senator from Arizona would be offering the resolution he did. But when it got right down to the bottom line, each of these groups and individuals to which I have referred accepted it. The administration accepted it, the President did—and, of course, that, for most of us, is synonymous with the administration—as did the State Department, as did the leadership here on the floor. That included people on both sides of the aisle as it did my leader, the minority leader (Mr. BAKER), and the majority leader, the Honorable ROBERT C. BYRD.

It was for one very good reason. It was crucially important that this treaty have the support of the Senator from Arizona (Mr. DECONCINI) or they might not be able to pass the first treaty. That is exactly why it was accepted.

It is because of my knowledge and a very general knowledge among all of us here as to what happened, that I resent the Washington Post coming out, as it has done here, trying to say the mischief and the whims of Senator DENNIS DECONCINI imply for this crucially important treaty between the nations of Panama and the United States.

Let me quote what the Post says:

> Whether Mr. DeConcini can comprehend the dimensions of the mischief he has wrought is not altogether clear from his own observations.

In the first place, I wish that some of the editorial writers for the Washington Post were as perceptive as is Senator DECONCINI. He knew perfectly well what his concerns were. He was disturbed that we might not have the right, if the need should arise, to move in and take such action with the military as would be required to keep the canal open and to keep it operating. He was disturbed.

Many of us are disturbed, because, among other things, I know, as the distinguished occupant of the chair right now knows, that we are bringing oil from Alaska, and because we have said, among other things, that we cannot send any of that oil to Japan, and what moves to the east coast, for the most part, has to come through the Panama Canal. Those of us who can look back over a longer span of time know full well the important role that the canal played in World War II and in the Korean conflict by enabling ships to go from one ocean to the other.

In my office yesterday, from my State of Wyoming, was a good friend of mine, a former member of the U.S. Navy, who was on one of the islands in the Pacific Ocean. For 15 days, they had no support at all and it was only when they were able to get some shipments of supplies through the Panama Canal that they got relief there.

He lost a brother later on in the Korean conflict.

It is concerns of these kinds that impel me to support Senator DECONCINI, and I know that it is concerns of these kinds that motivated Senator DECONCINI to take the action he did.

I am fed up that having been apprised so long in advance as Senator

DECONCINI apprised the administration, apprised the State Department, apprised the leadership on this floor of his concerns, the Washington Post takes it upon itself to act like he is a bad boy. They just do not know what they are talking about.

The President signed off. He did not like it. I will grant that he did not like it. But I said a few weeks ago; "You can't have it both ways. You can't tell us on the one hand that we have the right to move in militarily, to intervene"—those were the words he used—"to take whatever actions as are necessary to secure the operation and the neutrality of the Panama Canal".

We cannot have that assurance on the one hand and then we cannot turn around on the other, as now the President of the United States and others are attempting to do, to placate Panama and say "cool it boys, forget it, we really don't mean that," and we are engaged in a very fine ploy here with words, trying to say words really do not mean what we understand them to mean.

There have been references about the Panamanians and the difficulties in interpretations between the Spanish and the English. One of the persons in Panama who has spoken out on this issue happens to be a very distinguished businessman down there. I understand he has a degree from Dartmouth University. I suspect that he understands pretty well what the English language means. He has read a lot on it. He has spoken a lot of it. These debates taking place on the Senate floor have been heard down there and no one need try to tell me, or Senator DECONCINI, either one, that our friends in Panama do not understand what we are talking about or do not understand what he was talking about.

He was just as honest and forthright and perceptive and frank as anyone could be in pointing out his concerns and drawing a bottom line and saying, as he did to the President of the United States and the people in the State Department and the leadership on this floor, exactly what he wanted.

Anyone who has read the debate or who has heard it, and I have not heard all of it, but I have heard enough to know one thing, there was no doubt in the minds of anyone as to what Senator DECONCINI meant.

So I am disturbed and I took the Washington Post to task. Now, I have been around here for 11 years and I have not yet seen my name in print in the Washington Post. I do not expect to now, and I am not concerned about that.

What does interest me, though, is that a Post that is accorded the wide readability and sometimes credibility that some people ascribe to the Post should take the bad shot at Senator DECONCINI they have here.

I appreciate what the Senator from Vermont (Mr. LEAHY) said in pointing out that by this last vote we know we do not want them to have a plebiscite down there. It is all perfectly clear that we do not mean to intervene in Panama.

I say that is not exactly right. I say that because I would like to read, if I may, a summary. I would like to read what this amendment says.

If I am not mistaken, I think this is the language that was added at the end of the resolution of ratification, and this is a summary of it:

subject to the condition, to be included in the instrument of ratification of the Treaty to be exchanged with the Republic of Panama, that, notwithstanding the provisions of Article V—

Prohibiting any troops, other than those of Panama, in that country after the year 2000,

or any other provision of the Treaty, if the Canal is closed, or its operations are interfered with, the United States of America and the Republic of Panama shall each independently have the right to take such steps as it deems necessary, in accordance with its constitutional processes, including the use of military force in Panama.

Let me repeat that, Mr. President:

Including use of military force in Panama, to reopen the canal or restore its operations, as the case may be.

Now, that is not precisely the language that is in the DeConcini amendment because it has been summarized and the unnecessary words have been deleted. But this was contained in the legislative notice that comes from Senator TOWER telling, essentially, what an amendment does.

Mr. President, I ask unanimous consent that the amendment as it was adopted by the Senate of the United States—and there were 75 of us, as I recall, who voted for it—be printed in the RECORD at this point in order that there can be no doubt in the minds of anybody as to what Senator DECONCINI meant.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

Before the period at the end of the resolution of ratification, insert the following: "subject to the condition, to be included in the instrument of ratification of the Treaty to be exchanged with the Republic of Panama, that, notwithstanding the provisions of Article V or any other provision of the Treaty, if the Canal is closed, or its operations are interfered with, the United States of America and the Republic of Panama shall each independently have the right to take such steps as it deems necessary, in accordance with its constitutional processes, including the use of military force in Panama, to reopen the Canal or restore the operations of the Canal, as the case may be".

Mr. HANSEN. Now, we can describe or try to explain what intervention means in all of the ways we want to.

I think the important point is to read the language of the DeConcini amendment to the resolution of ratification and use those words to understand what he meant.

I have done that and I think every Member of the Senate has done that, and they were well aware—they were well aware—and they were assured in great measure, at least about three-quarters of them, as to what that meant.

Given the understanding, given that assurance, armed with the sure and secure knowledge that the United States would have the right after the year 2000, if need be, to move militarily, that first treaty passed.

I state that as an undeniable fact. I challenge the leadership here, I challenge the President, I challenge the State Department, in fact I would challenge the world, to prove on this floor that, absent that amendment to the resolution of ratification, that vote would have turned out as it did.

If there be any doubt as to our trying to fine tune what words do not mean, when we know what they do mean, let someone come forward and strike the whole thing to say that we shall not intervene, if they want to bring the treaty back up again. Try that one on for size, and I think we will find out very clearly what the Members of the U.S. Senate feel.

I know one thing. I know that the Senator from Arizona was concerned, he was disturbed, and he went to all of the right people and told them long ahead of time what he intended to do, and the President of the United States and the people in the State Department knew at least 2 weeks—at least 2 weeks—before we voted on that issue what the reaction was going to be in Panama. They had gotten the word.

As a consequence, Mr. President, I am disturbed. At least, as far as I know, no one has come forward yet. Maybe there have been, because I have not been here all day. But I am not aware—at least I should say it that way—I am not aware of the President of the United States rallying to the defense of a man who is wrongly accused, the junior Senator from Arizona, to defend him when he deserves defense, because the President of the United States knew, as he has to know, what the reaction was going to be in Panama.

I think it is high time that we observe some of those old western traits that have made Texas and Arizona and other Western States the great place it is and the proud place that people claim allegiance to, by saying a man is a man of his word; and if he finds even his enemy is falsely accused and he knows differently, he will set the record straight.

It is about time that someone set the record straight; because if I have ever seen a loused up record that maligns a man who deserves better, I have seen it today.

I yield to my good friend from Virginia, Senator HARRY F. BYRD, JR.

Mr. HARRY F. BYRD, JR. I thank the Senator from Wyoming.

Mr. President, I think the Senator from Wyoming has made an excellent statement. Senator DECONCINI is being blamed from many sources for the adoption of the DeConcini amendment.

It is correct, is it not, I ask the Senator from Wyoming, that one Senator cannot adopt and amendment? It takes a majority of those present and voting to adopt and amendment.

Mr. HANSEN. That is certainly my understanding.

Mr. HARRY F. BYRD, JR. In this case—I have the rollcall before me—

75 Members of the Senate voted for the DeConcini amendment. Included in that 75 were the majority leader of the Senate, the minority leader of the Senate, the chairman of the Foreign Relations Committee, and the ranking Republican member of the Foreign Relations Committee.

Mr. HANSEN. And at the bottom of the totem pole, the senior Senator from Wyoming, I say to my good friend.

Mr. HARRY F. BYRD, JR. And even below the senior Senator from Wyoming is the senior Senator from Virginia.

I am pleased to have voted for the DeConcini amendment. I rise only to point out that while Senator DECONCINI is getting so much blame, he alone could not adopt this amendment. It was adopted by a vote of 75 Members of the Senate, including the leadership of the Senate on both sides of the aisle, including virtually every member of the Foreign Relations Committee, I believe, except one. I am sorry, two: Senator MCGOVERN and Senator CLARK. All the other members of the Foreign Relations Committee voted in favor of the amendment.

So 75 Members of the Senate must have thought it was a very good amendment. They must have thought it had merit. They must have thought there was good reason for voting for the amendment. Otherwise, those 75 would not have cast an affirmative vote.

I thank the Senator from Wyoming for his contribution.

Mr. HARRY F. BYRD, JR. subsequently said: A short while ago I made an error which I would like to correct. Inadvertently, in commenting on the 75 Members of the Senate who voted for the DeConcini amendment, I said that all but two members of the Committee on Foreign Relations supported it.

Well, in looking at the rollcall vote I was too quick in my glance. I was looking only at the Democratic side. Two Democrats opposed the DeConcini amendment as members of the Committee on Foreign Relations, but three Republicans also voted against the DeConcini amendment: Senator CASE, the ranking Republican; Senator GRIFFIN and Senator JAVITS on the Republican side; Senator CLARK and Senator MCGOVERN on the Democratic side.

I regret having glanced too quickly at the rollcall vote, and I wanted to immediately correct the erroneous statement that I made.

(Conclusion of subsequent statement.)

Mr. HANSEN. I thank my good friend from Virginia for his very perceptive and fair comments.

I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, the Panama Canal Treaty has been a difficult issue for Senators, as was the Neutrality Treaty. There has been a considerable division of opinion within the country, and great attention has been focused on the Senate during our lengthy—our very lengthy—consideration of the two treaties.

I believe that all Senators have taken their responsibilities seriously. As I said on the day the vote occurred on the neutrality treaty, those who were opposed to the neutrality treaty as well as those who supported the neutrality treaty sought in their consciences to find the truth. Every Senator, when he cast that vote, whether he was an opponent or a proponent of the treaty, found that he, having searched his conscience and weighed the evidence had reached a judgment that was the right judgment.

So each side, those opposed to the treaty and those supporting it, was working for what it thought was the best interests of the United States and thought that it had reached the conclusion that was in the best interests of our country and our country's continuing good relations throughout the world. As I indicated on that occasion, those decisions that were reached respectively by the two sides were not in accord. Senators took their responsibilities seriously, and they are taking their responsibilities seriously today, in trying to assure that the second treaty also reflects the best interests of the United States.

One of those who have taken a particularly active role in this regard, attempting to guarantee that the treaties do protect U.S. interests, while at the same time recognizing the legitimate need for a new treaty relationship with Panama, is the junior Senator from Arizona (Mr. DECONCINI). For his efforts, the Senator from Arizona, who I believe has acted in good faith and with the best of intentions, has been subjected in recent days to considerable criticism in the press.

I am not here to find fault with anybody. I am not here to criticize anybody today. I am like the man who was on his deathbed and who was asked whether or not he was ready to accept the Lord and renounce the devil, and he said that he was not in any position to antagonize anybody.

[Laughter].

I am in much the same position. I do not find fault with the editorials of any newspapers. I have had the same newspapers at times in the past take me out behind the woodshed and lay the heavy wood on me, and perhaps for good reason—at least, in their viewpoint. They have that right. I thought I was right on that occasion; they thought I was wrong. They wrote their editorials, and they may write them again at some point. I am not one to say that those editorials did not have any impact on me whatsoever. They may have had.

So I am not here to criticize anybody or any part of the media. I am just saying that those things happen to all of us. The media differ with all of us from time to time, and I recognize their right to do so.

I speak as a strong proponent of these treaties. I am convinced that the treaties do serve the interests of both the United States and Panama, and I want to see those treaties ratified. But I do not believe that the editorial criticism of Mr. DECONCINI is justified. He has to vote according to his lights. He has to vote according to his conscience. Each of us has the same responsibility. Each of us takes the oath of office, upon entering the office, to defend and protect the Constitution. Each of us has to go back before the voters of our States. One day I will have to face mine, as each Senator will have to face his, if he asks to be reelected.

Each of us has to weigh the evidence. I cannot weigh the evidence from the standpoint of another Senator. I do not know what his viewpoint is. I do not know what standard he applies in approaching his vote on a matter; how much weight he gives to this or to that or to something else. I do know, as I have stated before, that there is no political mileage in voting for these treaties.

I know that the majority of people who have written me from West Virginia are opposed to the treaties. But I continue to think that the majority of the people in West Virginia expect me, after weighing all the evidence at hand, to vote for what I think is in the best interests of the United States. I believe most of them would agree that I probably have more information concerning the treaties, the history of the treaties, and the committee reports, as well as the testimony of administration officials, the Joint Chiefs of Staff, and the leaders of our Defense Department, than they—the people—have. In the final analysis, I think that even though they may not agree with me on a given vote, they still expect me to vote for what I think is in the best interests of the United States.

I think every other Senator has to approach his decision from his own point of view and keeping in mind his own constituency which may differ in some respects from my constituency.

So I am not going to be critical of any Senator and I am not going to look behind his reasons, and I hope that I will be accorded the same respect and courtesy when I cast a vote. I think that Senator DECONCINI did what he thought was in the best interest of his country. I think what he did he did conscientiously, and he fully apprised the administration, he fully appraised the leadership on this side of the aisle as to what his reservation contained, and I was one of those who voted for the reservation. I did it with some misgivings. I would rather not have had the reservation but, nevertheless, I voted for it. And I would hope that we would all accord to each Senator the respect for his own good judgment and conscience as he views a matter and that we would not engage in further criticism of Mr. DECONCINI or any other Senator on this matter.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I think he approached the matter seriously. He acted conscientiously as he consistently does in the performance of his duties as a Senator for Arizona. I think he is a very able Senator. He is a Senator with courage, and he is a Senator who has integrity. I happen to know on the basis of some other matters that Senator DECONCINI is a man who carefully thinks things through. Then he makes a decision, and once he makes a decision you do not have to go back to him every day to find out if he is welching on it. I know he is a man who is able to withstand pressures. I knew that before the treaties came up, and I will not go any further into that, but I have great admiration for DENNIS DECONCINI and it is a personal admiration and it may be it is a personal reason that I have become acquainted to this extent with DENNIS DECONCINI.

So I have no hesitancy today to stand here and say what I have said about

Senator DECONCINI, and I say it with pride.

Yes, I yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I thank the Senator from West Virginia. Mr. President, I want to leave the subject temporarily of the Senator from Arizona (Mr. DECONCINI) and make a comment in a broader context, the context of the past 9 weeks of debate in the Senate which began about February 10, or thereabouts, as I recall. Of all the 100 Members of the Senate, none had a more difficult role than did the majority leader. He had probably as difficult a role to play as any majority leader has had to play in the Senate in maybe this century—I do not know—but certainly for a long time. The Senator from Virginia has been tremendously impressed with the skill, the ability, the fairness, and the reasonableness that the Senator from West Virginia has exercised in conducting the business of the Senate over this long period of time.

The leadership, if it had wanted to do so, had many parliamentary weapons that could have been used against the opposition, but not once during that long debate did the leadership do anything except give all the Members of the Senate, regardless of their views on the treaties, a full opportunity to present their views at whatever length each Senator thought desirable and necessary.

So as this debate begins to come to a close—there are 2 more days yet, of course, before the final vote will be taken—I did want to express the admiration of one Senator for the able majority leader and the very exemplary way that he has handled a very, very difficult matter in the Senate of the United States.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Virginia makes me very humble in his words, and I am extremely grateful for his overly generous characterizations of my efforts and my work, and it is appreciated. I thank him.

Mr. ALLEN. Mr. President, will the Senator yield an additional moment?

Mr. ROBERT C. BYRD. I yield the floor.

Mr. ALLEN. Before he yields the floor, before he takes up another matter, may I ask the distinguished majority leader to yield to me on the same subject?

Mr. ROBERT C. BYRD. I yield.

Mr. ALLEN. Mr. President, I, too, commend the distinguished majority leader for his fairness, his unfailing courtesy, and consideration for all Senators and certainly particularly with reference to those of us who have opposed his position on these treaties. He has treated the opposition with the utmost fairness, with unfailing courtesy and with great leniency, I will say, and though we have differed on our views on the treaties I respect him as the majority leader and I respect him for allowing us every right to present our case. I know not how the vote will come on Tuesday, but I will say to the distinguished majority leader he has given us every possible break in presenting our case not only to the Senate but to the entire country. We are satisfied with the treatment we have received, I say to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Alabama. The Senator from Alabama as always has waged a very honorable, upright, and resourceful battle. I have only the utmost respect for him and Senator HELMS, Senator HATCH, Senator BYRD of Virginia, Senator EASTLAND, and others, who have opposed the treaties. I always try to put myself in the shoes of those who stand on the opposite side. They have a right to speak, they have a duty to perform, and those who oppose today may be the very ones who tomorrow will support the leadership in a matter. So as we wage these battles from day to day, as far as I am concerned, they are never personal; they are always done as each Senator sees best in the good interests of our own country. We cannot all see alike. We do have to have our differences, but I respect those who differ with me. I expect them to accord me the same treatment.

I have found it to be so true so often, may I say to my good friend from Alabama, that those who oppose today may be the very ones tomorrow to whom the leadership will have to look for some help. It reminds me of a quotation which I should like to state at this point, if I can recall it:

> Fame is a vapor, popularity an accident, riches take wings. Those who cheer today may curse tomorrow. Only one thing endures—character.

I believe that that perhaps is the credo of the Senate.

The Senate has endured since 1789, and the character of the Senate, I believe, is such that it is the foundation of stone of our constitutional system, and for that Senate to have character that will endure through all of the storms, passions, and emotions of time, we who make up that Senate must always realize that the Senate is larger than the sum total of its parts.

If the Senate is going to have character those who make up its membership from decade to decade, from century to century, are going to have to demonstrate the same kind of character in their dealings with each other, first of all. Unless we do that we will not best serve the Senate or the Nation.

Mr. ALLEN. I thank the Senator.

Mr. HELMS. Mr. President, if the majority leader will yield, I think the Senator from West Virginia knows I concur in what my friend from Alabama and my friend from Virginia said about him. I might add that as I go around North Carolina I boast that we have three North Carolinians in the Senate, one of them being the distinguished majority leader.

I will say further to my friend from West Virginia not only is he a fair man, he is an enjoyable man with whom to work. I assert the privilege of saying, even though we differ, and differ strongly, on this issue, that he has been entirely fair to all of us.

Mr. ROBERT C. BYRD. I thank the Senator for his very, very charitable remarks.

I am going to yield the floor, but I thank all Senators who have come to the defense of our colleague today, whether we agree with him or not. As I say, I was not happy to vote for the reservation, but I voted for it. In any event, I think we have to accord Senator DECONCINI the same good faith each of us claims for himself.

Mr. HATCH. Mr. President, I wrote a letter to the Washington Post, but first I would like to associate myself with the remarks of the distinguished majority leader, the distinguished Senator from Virginia, the distinguished Senator from North Carolina, the distinguished Senator from Alabama, and also the distinguished Senator from Wyoming who made such a spirited defense of Senator DECONCINI.

The letter I wrote is as follows, and I just want to have it in the RECORD at this point:

EDITORIAL BOARD,
*Washington Post,*
*Washington, D.C.*

GENTLEMEN: I must confess that I tremendously enjoy reading your excellent newspaper. This is in spite of the fact that quite often we disagree on many principles, issues and procedures.

You probably will never print this letter, but your editorial of April 13, 1978, entitled "The Whims of Dennis DeConcini," was one of the most vicious, irresponsible, and demeaning editorials I have ever read. If, as commonly comes through your pages, you truly believe in liberal principles and fairness, the person or persons who wrote the editorial ought to be seriously reprimanded.

I am a Republican freshman Senator who cannot sit idly by and see an excellent fellow freshman Senator improperly maligned. Dennis DeConcini has been one of the most active, dedicated, fair and moderate Senators in the United States Senate. He is respected on both sides of the floor. His work in the Judiciary Committee has been energetic and responsible. He has been fighting for a better and more qualified federal judiciary. His other committee work has also been impressive. Senator DeConcini is, without question, one of the most ethical, decent, fine men in the Senate. He has intellectual capacities equal to many of those you have previously glorified on the editorial pages of your newspaper.

Responsible journalism mandates that people be treated with fairness and decency. For the most part, your newspaper realizes that responsibility. However, the above mentioned editorial falls woefully short of these high standards which I have come to expect of your great newspaper. I think Senator DeConcini and the United States Senate deserve an apology.

Very truly yours,

ORRIN G. HATCH.

Then I add a P.S.:

P.S.—Incidentally, how could a supposedly responsible major newspaper in effect delegate its power, in a matter as sweeping as this, to a lightweight editorial writer whom serious editorialists should regard as an institutional embarrassment? . . . Whether your editorial writer can comprehend the dimensions of the mischief he has wrought is not altogether clear from his own observations. There are some signs he realizes that he appears, to some of your readers, as well as fellow editorialists, ludicrous and irresponsible and hopelessly out of his depth. Finally, how was it, the historians may ask, that the treaties, with their immense diplomatic and political freight, came to hinge on the ill-informed whims of an apparently freshman editorialist of no previous renown, of no known international awareness, of little experience of any kind beyond minor editorial posts in Washington?

O. G. H.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from South Dakota and expresses his appreciation for the patience with which he has sought recognition for the last 45 minutes.

Mr. McGOVERN. I thank the Chair.

I might say, Mr. President, I have actually been here for a couple of hours trying to make a statement on the Panama Canal issue.

I want to make clear that I am not here today to comment on the moral character of the junior Senator from Arizona. It does not seem to me that is a debatable matter. There is not a single Member of the Senate whose character I would challenge or debate on this floor.

I am also not here to comment on the editorial judgment of the Washington Post. I think every reader can make his own judgment on that issue.

But it does strike me as interesting and, perhaps, all too typical of the debate on the Panama Canal issues that we have devoted most of the afternoon—at least during the time I have been here—to discussing those two personal matters, the editorial judgment of the Post and the moral integrity of Senator DECONCINI.

The distinguished majority leader made a humorous observation here a while ago about which we all chuckled, that in his role he could not afford to antagonize anyone, and I suppose none of us wants to needlessly antagonize any Member of the Senate, and that is not my purpose.

But I do have some criticism to offer, and in view of the assurances we have had from numerous Senators about the greatness of the Senate, I assume it will withstand a little critical commentary as well as all the praise we heaped on ourselves this afternoon.

I have expressed before my view that the Senate has been wasting precious time in prolonged and, I think, repetitious debate on these Panama Canal treaties, the same points made over and over again, delaying amendments of all kinds very similar in content; but we have, in effect, been tied up in this endless debate while the really urgent needs of the majority of the American people and, I think, the basic concerns of our constituents have been neglected.

Mr. President, I have expressed before my view that the Senate has been wasting precious weeks of time in prolonged and repetitious debate on these Panama Canal Treaties. We have been tied up pandering to the concerns of a narrow band of extremist opinion, while the urgent needs of the great majority of Americans—inflation, unemployment, energy, health, housing, and others—have been systematically neglected.

For the past several years the Congress has been asserting its right to a bigger role in the crucial decisions of Government. Yet here we are, in the midst of the season for evaluating national priorities through the new budget process, demonstrating that the Senate does not have the self-discipline to set rational priorities in budgeting its own time, let alone the resources of the United States.

Beyond that, it has now become clear that these long and tedious days have been spent in a manner that damages the international interests of the United States.

I was frankly amazed when I was told on March 16 that the administration would not oppose a reservation, attached to the Neutrality Treaty, proclaiming a unilateral American right after the year 2000 to use military force in Panama, without regard to the wishes of Panama or the circumstances, to reopen or restore operations of the canal. I thought it was just as much a "killer amendment" as many of the others we had already voted down, in the knowledge that adoption here would necessarily cause rejection of the treaties in Panama. It plainly raised the question which is most sensitive of all to a country that is concerned about its own sovereignty and independence. No self-respecting nation in the world could fail to resist a provision which, regardless of the purpose, gave another country the right to make a unilateral decision to send in troops.

But the reservation was adopted anyway, as if to make certain that the purpose of the treaties is to humiliate Panama rather than to demonstrate the fairness of the United States as a great power.

As related point, I wonder who among the supporters of this amendment is going to feel comfortable in the future protesting, say, the Soviet military presence in Eastern European countries as a violation of those nations' rights to independence and self-determination. Does anyone see a connection between what we condemn, quite properly, in Soviet behavior, and what we are demanding in Panama for ourselves? Certainly the circumstances are different. But I think the principle is similar.

I must say, however, that this amendment is not without precedent in our own diplomatic history. Indeed, it bears an uncanny resemblance to an amendment sponsored in connection with the grant of independence to Cuba in 1901. Senator Orville Platt of Connecticut was successful in writing in a provision that Cuba's government had to consent:

> . . . that the United States may exercise the right to intervene for the preservation of Cuban independence, (and) the maintenance of a government adequate for the protection of life, property, and individual liberty.

As long ago as 1934, however, our national leadership recognized that such a bald assertion of the power of intervention was inappropriate for the United States. It was a sign of the growing maturity of the United States when President Roosevelt abrogated the Platt amendment some 44 years ago.

In short recognized that a unilateral right of intervention is not consistent with the principles of national independence and self-determination for which the United States professes to stand.

Yet even at this late date, we apparently still feel a compulsion to show that our great Nation can, indeed, push a little country around. Never mind the fairly recent discovery that this is an interdependent world, and that the United States is dependent upon many smaller, emerging nations for commodities upon which our own prosperity depends. Never mind the widening recognition that the political contest between the Soviet system and our own centers in the smaller nations around the world that have—without exception—identified with Panama's cause. Those simple precepts of enlightened self-interest have been cast to the wind, all so we can throw out our chests and proclaim that the big stick is still in operation.

From the standpoint of our international posture, it seems to me that the Senate has undone in a couple of months' time much good accomplished by 13 years of diligent negotiation.

The original treaties would have greatly strengthened the United States in the eyes of Panama and throughout the hemisphere. They declared that the United States had become a mature, self-confident society. They affirmed and secured our identification with the cause of nationalism which is the most compelling single force in the world today.

But the Senate has been trying its best to announce that none of that is true. Instead the Senate has been using these hapless treaties as a vehicle for working off frustrations over the Vietnam debacle. They have been further used as a background for ventilating exaggerated and mean-spirited assaults upon a neighboring government which has been a dependable friend of the United States. The government and people of Panama have been insulted almost daily.

The United States has been depicted as a fearful, insecure—if not paranoid—nation shuddering at the prospect of yielding any symbol of its domination.

We do not know whether the Neutrality Treaty as it now stands can be accepted by our partner in these negotiations. Mr. Torrijos has been berated here in the Senate as an iron-fisted dictator. In reality he is in trouble in Panama, because of this change in the treaty. What kind of accomplishment is it if we succeed in generating a government in Panama that takes a much harder line toward the United States—one more in keeping with the emerging popular sentiment there?

I suspect that my Senators who voted for this reservation did so in reliance upon the administration's faulty intelligence concerning the probable reaction in Panama. Now we know better. And while we cannot admire the administration's handling of this matter, we can at least act on the basis of the more reliable information we have acquired so painfully through hindsight.

Beyond that, I have some hope that the events of the past several days will have a sobering influence on the Senate. Everyone recognizes that these treaties pose hard political choices. It is also true that the problem is easier for some of us than for others, who must face the electorate this fall. No politicians with any sense wants to offend any of his constituents—even the biggest crank—in an election year. But some risk does, after all, go with the job. As we contemplate the precarious condition of these treaties now, perhaps we will take more of our inspiration from colleagues like the Senator from New Hampshire (Mr. MCINTYRE), who made a courageous speech on political intolerance just a few weeks ago, or the junior Senator from Montana (Mr.

HATFIELD), or the senior Senator from Colorado (Mr. HASKELL), or the junior Senator from Maine (Mr. HATHAWAY), or Mr. BIDEN of Delaware, or Mr. PERCY of Illinois, or Mr. CLARK of Iowa, and others who have made the hard choice to vote their convictions and to accept an immediate political risk. In place of profiles in political panic or opportunism, we just may see more profiles in courage such as those.

That, at least, is my hope as we move into the last few days of debate on these contentious matters. For it is the only way now that they can be properly resolved.

So let us no longer treat these amendments and abuses as harmless hazing. Let us understand now that we are dealing with a real impact on our future.

It is my hope as we move into the last days of debate on these matters that we will think as carefully as we can and as soberly as possible about the standing of our country in the eyes of the world, that we will remember as we did 200 years ago that we are pledged to pay decent respect to the opinions of mankind.

I do not think it is just an accident that every government in Latin America, without exception, was here for the signing of these treaties to manifest their support for the treaties. Most of those governments are friendly to the United States. Most of them want to cooperate with us. They respect the institutions of constitutional government in this country. I would hope that we would live up to their expectations, and, more important than that, to live up to the ideals that we ourselves possess.

STUDY MISSION TO LATIN AMERICA

Mr. President, on another related note, I had the opportunity last December to make a study mission to Central America, especially to Panama, Costa Rica, Peru, and Venezuela. I was accompanied on that trip by Mr. Jeffrey Smith, of my staff, and Barry Sklar, the head of the Latin American Affairs Division at the Library of Congress, one of the Nation's best informed men in this field.

We concentrated all of our efforts over a period of some 2 weeks' time trying to evaluate the impact of the treaties not only on Panama but on the neighboring countries to which I have referred.

In these final days of debate before we vote on the Panama Canal Treaty, I feel it is appropriate to discuss the findings of my recent visit in December 1977 to four Latin American countries as they pertain to the canal issue. The issue, of course, dominated the discussions in Panama, but significantly the presidents of Costa Rica, Peru and Venezuela spoke of the bearing the Senate's decision will have on the future of U.S. relations with the nations of Latin America and the Caribbean. Discussions with the presidents as well as with ranking government officials in each of these countries reinforced my belief that the issue of the Panama Canal treaties is more than a bilateral one between the United States and Panama. It is also an issue which affects our relationship with Latin America and the rest of the developing world.

I think any Senator who has discussed these issues with the leaders of other developing countries recognizes that there is enormous respect for our negotiators and our Government in bringing these treaties about, and great hopes that the Senate will do its part in ratifying them.

My meetings with the great patriarchs of Latin American democracy—Jose (Pepe) Figueres in Costa Rica, Romulo Betancourt in Venezuela, and Luis Munoz Marin in Puerto Rico—convinced me that we now have the opportunity to show our neighbors that the United States has shed the last vestiges of colonialism in this hemisphere and truly believes in the principle of the self-determination of peoples.

I might say on this point, Mr. President, that one of the phrases which was used by General Brown, the former chairman of the Joint Chiefs of Staff and who has now been taken ill, which impressed me very much in his testimony, was his statement that as an American and as chairman of the Joint Chiefs of Staff, the top military officer in our Government, he supported these treaties principally because he wanted to see the United States put an end to any vestige or semblance of colonialism in Latin America.

I think he said that as a military man because he realizes that it will enhance our security, that it will improve our assured access to this Panama Canal if we have a friendly political climate surrounding that canal.

That is the testimony found every place I went on this Latin American tour.

I would like to highlight the findings related to the Panama Canal called from my draft of the trip report which I will submit to the Senate Foreign Relations Committee. I request that the full text of the draft of the Panama chapter of the trip report and those sections of the chapters on Costa Rica, Peru, and Venezuela which pertain to the Panama Canal be printed at the end of my statement so that my colleagues can get the full benefit of my discussions with the Latin American leaders.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McGOVERN. These comments on my visit to Panama should be understood as reflections based on my study mission rather than as my analysis of the issues involved in the treaties themselves. These are my observations based on discussions with the people most directly involved with this crucial issue.

Three days of discussions with Gen. Omar Torrijos, Canal Zone officials, including high-ranking military officers, and U.S. businessmen demonstrated to me that Senate ratification of the Panama Canal Treaty is in the best interests of the United States.

Much controversy has centered around Panamanian chief of government Gen. Omar Torrijos and the nature of his politics. After a full day with the general and his Foreign Minister, Gonzalez Revilla, as well as some time with other Panamanians and Americans, I have gained a certain perspective on this aspect of the issue. General Torrijos acknowledged that shortly after taking power in 1968, certain excesses took place, but since 1972 there has been constitutional government of a kind when a national assembly of 505 community representatives approved a new constitution and elected the President and Vice President of the country for 6-year terms.

The past few months have brought important political changes to Panama. After a moratorium of 9 years, the political parties are being allowed to reactivate themselves and hopefully the next election for the national assembly will see full participation. Just in the weeks before my arrival, the Torrijos government dropped the restrictions on freedom of assembly and freedom of expression. I feel that the fact that leaders of two opposition parties freely met with me to express critical opinions of the political situation and the government is a real indication that General Torrijos is moving in the right direction.

At separate meetings, leaders of the Panamanista Party and the Christian Democrats voiced strong suspicion and distrust of the government's recent political moves. These leaders argued that the opening toward democracy was not genuine and that it was directly tied to the Senate's consideration of the canal treaties. One of the leaders told me that this period is being termed by the opposition as "the little summer of liberty" and was designed to impress visiting U.S. officials and Senators. The opposition leaders felt that the political opening had not gone far enough and they expressed the view that political parties still felt restricted as far as freedom of expression and the press were concerned. On human rights, even the opposition leaders confirmed that there were no political prisoners in Panama and that there is an absence of violence and torture which is prevalent in other Latin American countries.

These opposition leaders felt that the larger than expected negative vote in the October 1977 referendum was an indication of dissatisfaction and lack of faith in the Torrijos government. On the treaties themselves, the opposition leaders felt that the terms favored the United States over Panama. They were especially critical of the Neutrality Treaty which they felt gave the United States the right to intervene forever. General Torrijos later told me that he believed the larger than expected negative vote was because many Panamanians do not want to wait until the year 2000 for full control. Many people in Panama feel that he has conceded too much to the United States.

The opposition leaders did not give too much weight to my arguments that Senate rejection of the treaties could result in a negative turn by the Torrijos government and that treaty ratification would permit the government to turn its efforts toward improvement of the economic situation. The argument that international considerations were part of the issue also did not seem to move the opposition leaders. After coming away from meetings with the political leaders, one has to have basic sympathy for their plight. I feel, however, that their grievances against the Torrijos government

have interfered with their judgment as to what is best for the Panamanian people. They see the economic benefit which would come to Panama with the acceptance of the treaties as a factor which would perpetuate the Torrijos government in power. On the other hand, discussions I had with Archbishop Marcos McGrath and U.S. officials in Panama left me with positive feelings that the government's opening toward more democratic rule would continue with ratification of the canal treaties.

During meetings with Canal Zone labor officials and other U.S. citizens of the zone, concerns were expressed over the treaties and the authoritarian nature of the Panamanian Government. Rather than voice objection to the terms of the treaties, the labor officials were concerned with the retirement provisions in the treaties and the implementing legislation being drafted. They want a liberal retirement policy but feel that the Department of Army, fearing a mass exodus of U.S. labor, wants a stricter policy.

It was evident after my discussions with Canal Zone residents that many of them feel insecure with the new arrangements provided in the treaties. It was obvious that there is distrust on both sides. General Torrijos told me that the Americans in the zone were absolutely essential to the continued efficient operation of the canal. He is going to need the support and cooperation of the present Canal Zone work force. The Canal Zone workers and residents deserve understanding. Even though negotiations have been going on for 13 years, the pending changeover seems to have come too fast for the majority of Zonians. They feel they are going from security to insecurity. As Archbishop McGrath expressed it, one must appreciate the feeling of the Zonians but the necessity for the treaties is the greater reality. "You can't hold history back," he told me.

The day I spent with General Torrijos at his home at Farallon and then in a small village in Cocle Province gave me a great opportunity to get to know and understand the Panamanian leader. He impressed me as a sensitive leader who, although a military officer, demonstrated a capacity for civilian leadership as well. I was impressed by comments from some, including experienced U.S. officials, that Omar Torrijos is genuinely concerned about his people and has been personally distraught over the effect of the poor economic situation on the average Panamanian citizen.

General Torrijos jested about the political labels that people place on him and he spoke seriously about his relationship with Cuba. From what I saw and heard during my stay, ideological labels simply cannot be applied to the General. He is a pragmatist implementing those measures best suitable for his country. His Cuban policy is an example.

In response to a question from a Panamanian television reporter, General Torrijos expressed admiration for what the Cubans had accomplished in the field of health care and education for the masses. He felt, however, that these gains were made at high social costs, and he would like to incorporate the best aspects of the Cuban system without incurring those "social costs." He felt that the Cuban system was not suited to the culture of Panama. One informed observer of Panamanian politics felt that the General's trip to Cuba in January 1976 turned him away from Marxism-Leninism. General Torrijos, during our discussion, was quick to point out that some of the reforms he had instituted in the fields of education and health were undertaken before his visit to Cuba. He was especially praiseworthy of those aspects of the Cuban system which benefited ordinary people. He noted that at the time of day we were talking all Cuban children had eaten a good breakfast and lunch while many children in Panama had not.

International politics did not dominate our conversations because General Torrijos was anxious to talk about both the accomplishments and problems of his government. He has brought the rural areas into the life of the nation and has worked to extend social reforms in education, health care, and other social services to all parts of the country. He mentioned infrastructure improvements such as expansion of the road system and electrical capacity. In 9 years school capacity has doubled, there are nine grades instead of six, and there are schools where previously none existed. The number of teachers has more than tripled during his government. In the health area, the Panamanian Government is attempting to provide every rural community with a nurse or paramedic.

General Torrijos took me by helicopter to see some of these accomplishments in the tiny agricultural cooperative of Coclesito in Cocle Province. Some enjoyable hours were spent there talking to students involved in work-study projects and to villagers and technicians involved in cattle and buffalo raising. In this village they are working to increase the ratio of cattle to hectare of land and also to increase the productivity of the land for raising grain, beans, yucca, corn, and other crops.

It was a treat to talk to the enthusiastic schoolchildren about the work-study system. In addition to academic subjects the students learn how to grow crops and make their own clothes. The school in Coclesito is one of 135 of its type established thus far. Eventually the government wants to make this a national system of education with 500 work-study schools.

I was impressed as to how articulate and knowledgeable the students and workers in the village were, especially on the Panama Canal issue. They and General Torrijos carried on a lively dialog to their questions regarding the chances for Senate ratification. During our talks at Coclesito, General Torrijos made an interesting comment on the use he planned to make of the $50 million military assistance package that would come to Panama as part of the arrangement. He told me that he is going to provide helicopter service in the provinces for transporting medicines and the sick. He noted during this discussion that Panama's present budget for defense is 10 percent of the national total, while the share for education is 30 percent.

My 3-day visit to Panama left me with many impressions but perhaps one of the most vivid was the realization that the solution of Panama's economic problems is so closely tied to the ratification of the treaties. I reached this conclusion after talking to Panamanian and U.S. officials as well as U.S. businessmen. The uncertainty over the question of ratification by the Senate has caused international and domestic investors to hold back the capital necessary to get the nation back on its feet. The national treasury is in bad shape and the national bank has no funds for financing other than short-term projects. The economy has been at a standstill for several years, not only because of the tenuous treaty situation but also because of the worldwide recession, the world price of oil, and the continuing problem of international commodity-pricing policies. The Minister of the Presidency spoke to me about the poor economic situation exacerbated by high unemployment. The Minister said that investors from the United States, Europe, and Japan have expressed willingness to invest once the treaty issue is resolved. The investment climate will be strengthened when the treaty settlement gives the international bankers confidence that the United States will be working closely with Panama. One high-ranking free enterprise-oriented Panamanian official related this period of uncertainty to a possible worsening political situation. He felt that if this situation remained unresolved for a long period of time, an opportunity would be presented for demagogs to turn the economic condition to political advantage.

Frankly, I left Panama with the strong impression that time is indeed running out for the Panamanian economy and that Senate ratification of the treaties this spring is not only desirable but imperative. General Torrijos said that:

> Until that time, we could make a soft landing; after that there is no more fuel.

I am strongly convinced that failure to ratify the treaties would seriously affect the economic future of Panama and have serious political repercussions.

There was much discussion during my visit of the possible effects of rejection on Panama's political life, on U.S. relations with Panama, and on United States-Latin American relations. On the bilateral level, frustrations are building so that responsible officials warn of angry and emotional reaction against the U.S. presence and ultimately the Canal Zone. The ugly prospect of bloody fighting between U.S. military and Panamanian civilians is not too remote. General Torrijos is a friend of the United States and wants to continue being one. I believe observers close to the scene who feel that his future economic policies will be moderate and compatible with the interests of U.S. business. Investment opportunities for U.S. citizens will be enhanced.

Politically, instead of utilizing a great opportunity to encourage General Torrijos to continue on the path toward opening Panama to democracy, the possibility was raised that he could react against the opposition. The General certainly has demonstrated in these past months that he is open and flexible to construc-

tive suggestions from his friends in the United States regarding the political system.

On the international relations side, the United States has the opportunity to enhance its prestige in Latin America and the developing world. Senate rejection would place our best friends in Latin America—those who have defended the United States on the treaty issue against critics in their countries—in great jeopardy. I say this with all the conviction of one who has spoken to these courageous Latin American leaders.

In Costa Rica, President Daniel Oduber himself initiated discussion of the Panama Canal question at our luncheon meeting. Oduber told me that if the Senate rejects the treaties, "I'm afraid that I will be literally stoned." He has gone so far out on the limb in support of the new treaties that he felt his leadership capability would be undercut by Senate treaty rejection. Our best friends in Latin America would have to desert us if they are to survive, according to the Costa Rican President.

During my memorable meeting with one of the fathers of Latin American democracy, Pepe Figueres, the former Costa Rican President, used the word "catastrophic" to describe the impact of Senate rejection of the treaties. Like Oduber, Figueres felt that Senate rejection would jeopardize the influence of friends of the United States.

The Panama Canal issue figured prominently in my discussions with Peruvian leaders and the press. It is interesting how the Peruvians view the issue on two distinct levels. On the international plane, they are in full support of the treaties because of the Latin American consensus and because they are in the best interests of close United States-Latin American relations. President Morales said that rejection would present serious difficulties for the United States in several countries.

On the domestic side, the Peruvians are concerned because their economy is directly affected by toll charges and other factors influencing the operation of the canal. A significant portion of Peru's foreign trade flows through the canal. The foreign minister hopes that a system of consultation could be established between Panama and the west coast countries regarding tolls and other matters.

Venezuelan President Carlos Andres Perez and his Foreign Minister were extremely supportive of the treaties. President Perez initiated discussion of the issue in our private meeting and said that Senate rejection would be a "catastrophe" and would cause violent reaction in Latin America. President Perez feared sabotage and possible U.S. retaliation which would have a negative reaction from the international community and would only benefit our Communist rivals. Former Venezuelan President Romulo Betancourt, the architect of Venezuela's vibrant democratic system, said that the Senate's approval would strengthen the position of the United States in the hemisphere. On the other hand, he saw great security problems for the United States in Latin America if the treaties were rejected.

Conversations with these close friends of the United States convinced me that Senate rejection of the Panama Canal treaties would be a severe blow to the progressive forces in Latin America which have stood with us. The only beneficiaries of defeat of the treaties would be the Communists and antidemocratic forces.

My study mission to Latin America reinforced my view that there is no alternative to ratification of this treaty. Developments in Panama support this thesis and our best friends in Latin America feel this way.

I hope that my colleagues noted that the Harris poll taken last week showed the American public in favor of the treaty. I feel I have presented evidence today warranting the Senate's support of the new treaty arrangement with Panama.

EXHIBIT 1

DRAFT REPORT OF STUDY MISSION TO PANAMA

PANAMA

(Revision by Senator McGovern, April 1)

My three days (December 3–6) of discussions with Panamanian leaders, Canal Zone officials and residents, United States officials, including high-ranking military officers, and United States businessmen served to reinforce my belief that Senate ratification of the Panama Canal treaties is in the best interests of the United States. I am convinced that the United States and Panamanian negotiators have worked out an arrangement that is fair to both nations. Our rights of passage and defense are guaranteed and our standing in the world and in Latin America will be strengthened.

In this section of the report are reflections on my visit to Panama as they relate to the Senate's consideration of the Panama Canal treaties. It is not intended that these few pages be interpreted as my analysis of the issues involved in the treaties; rather, they should be read as observations based on discussions with the people most directly involved with this crucial matter.

The issue of the Panama Canal treaties is more than a bilateral problem between the United States and the Republic of Panama. It is an issue which affects our relationship with Latin America as well as with the entire developing world. We now have the opportunity to show these nations that the United States has shed the last vestiges of colonialism in the Western Hemisphere and truly believes in the principle of the self-determination of peoples.

Aside from the major provisions of the treaties themselves, much controversy has centered around Panamanian chief of government General Omar Torrijos and the nature of his politics. Meetings with opposition political leaders, Panamanian government officials, including a full day with General Torrijos and Foreign Minister Gonzalez Revilla, as well as individual Panamanians and Americans, enabled me to gain a perspective on this aspect of the issue.

General Torrijos emerged as the dominant figure in Panama through his leadership in a National Guard coup on October 10, 1968, against Arnulfo Arias, whose presidential term began ten days earlier. General Torrijos, who now is also Commander of the National Guard, told me that the ruling elite had placed the National Guard in the position of assuring that the opposition candidate would not win the election. It had always disturbed him that the army was used by politicians for their own personal gains. He and other Guard officers felt they were being ordered to act against the will of the Panamanian people. They moved against Arnulfo Arias because he began to take vengeance against his opponents and terror was beginning to sweep the country.

General Torrijos acknowledged that he ruled at first by force, jailing and exiling those who opposed his changes. Constitutional government of a kind was restored in 1972 through the election of a National Assembly of 505 Community Representatives that approved a new constitution and elected the president and vice president of the country for six-year terms. In October, 1972, the Assembly also vested special executive powers in General Torrijos, among which were those giving him the authority to appoint Cabinet Ministers and to conduct foreign affairs. The judicial branch is comprised of a nine-member Supreme Court.

Since the coup of 1968 until a few months ago, a moratorium on political party activity had been in effect. Today the parties are being allowed to reactivate themselves—hopefully this will lead to full participation in the next election for the National Assembly. General Torrijos told me that he now realizes it is not feasible to abolish political parties by decree. He cited examples of the Peronista movement in Argentina and the Aprista movement in Peru. The General, however, did not think the political parties will be successful since they lack popular support. Party meetings are not well attended and Panamanian people despise the old political leaders. General Torrijos asserted that "the people do not want to go back to the old system".

In the weeks before my arrival, the Torrijos Government took major steps to create a more open political system. In addition to reactivation of the political parties, restrictions on freedom of assembly and freedom of expression were dropped. The fact that leaders of two opposition parties freely met with me to express their critical opinions of the political situation and the government is an indication that General Torrijos is moving in the right direction.

At separate meetings with leaders of the Panamanista Party and the Christian Democratic Party, however, strong suspicion and distrust of recent government moves were voiced. These leaders adamantly contended that the opening toward democracy was not genuine and was directly tied with the United States Senate's consideration of the Panama Canal treaties. One of the leaders stated that this period is being termed "the little summer of liberty" which began with the September 7, 1977, treaty signing in Washington. That event was designed to impress visiting American officials such as Assistant Secretary of State for Inter-American Affairs Terence Todman, Senate Majority leader Robert Byrd, and many Congressional visitors. Once the treaty is confirmed, it is felt that General Torrijos will once again adopt a repressive stance against the political parties.

The opposition leaders explained that the political opening has not gone far enough. They want popularly elected officials rather than the system which provides for National Assembly election of the president and vice president. One of the party leaders told me that the National Assembly had no power and he cast doubt on the party's participation in the National Assembly election even if General Torrijos permits it. One leader contended that the political parties still felt restricted as far as free expression was concerned. Opposition opinion was not printed in the government-controlled press. It was noted that government intimidation was responsible for the low attendance at a political meeting in Chiriqui Province.

These opposition leaders found fault with the treaties under consideration for several reasons and gave their interpretations of the results of the October, 1977, referendum held in Panama when one-third of the electorate voted against the treaties. They felt that the larger than expected negative vote was an indication of dissatisfaction and lack of faith in the Torrijos Government. The of-

ficial high voter turnout of ninety-five percent was a sign that the referendum results were fraudulent since Panamanians never before went to the polls in those numbers.

Their opposition to the treaties was also based on the feeling that the treaties favored the United States and were not in the best interests of Panama. It was felt that the treaties did not reflect Panamanian opinion because the political groups were not consulted on its provisions during the negotiation process. The belief was also expressed that the treaties represented a regression from the draft treaties negotiated in 1967 and earlier attempts to reach an agreement.

The leaders were especially critical of the neutrality treaty which they felt gave the United States the right to intervene forever. I expressed the opinion that the neutrality treaty was similar to the type of mutual defenese treaties which the United States maintains with other friendly nations. I also expressed the fact that without the type of provisions contained in the neutrality treaty, the treaties would not have any hope of passing the United States Senate.

General Torrijos, in a later conversation, told me that he believed the larger than expected negative vote was because many Panamanians do not want to wait until the year 2000 for full control. Many people in Panama feel that too much has been conceded to the United States. General Torrijos said the people must realize that he had to be realistic—without concessions, the Senate would never approve the treaties.

The opposition leaders did not seem to accept my statement that Senate rejection of the treaties could result in a negative turn by the Torrijos Government, or my hope to the contrary that successful conclusion of the treaty issue would then permit the government to turn its efforts to the improvement of the economic situation and continued improvement of the political situation. Neither did these democratic leaders in Latin America, who have risked so much by siding with the United States on the Panama Canal issue, seem to accept my caution that the international as well as the domestic considerations of the issue should be weighed.

One has to have basic sympathy for the plight of these political parties, basically inactive for the past nine years, and with their leaders in exile. It seems to me, however, that their grievances against the Torrijos Government have interfered with their judgment as to what is best for the Panamanian people. They see the economic assistance which would come to Panama as a result of the treaties as a factor that would perpetuate the Torrijos Government in power. The positive results of such assistance for the Panamanian people seem lost on these leaders. On the other hand, discussions with Archbishop Marcos McGrath and others, including United States officials in Panama, left me with positive feelings that the government's opening toward more democratic rule would continue with ratification of the Canal treaties

On the question of human rights, the political party leaders confirmed that there were no political prisoners in Panama. There is an absence of violence and torture which is all too prevalent in many other Latin American nations.

Archbishop McGrath, in response to my question regarding charges of anti-Semitism voiced by political opposition outside the country, explained that Panama's 6,000 persons of the Jewish faith enjoy complete religious freedom and Rabbi Klepfisz is on very good terms with General Torrijos. The Archbishop added that at least one of the Torrijos children attended the Jewish Day School in Panama, one of the top schools in the country.

Concerns over the treaties and the authoritarian nature of the Panamanian Government were also expressed during meetings with Canal Zone labor officials, as well as by other United States citizens in the Zone. Labor officials did not voice objection to the treaties as they related to the overall arrangement between the United States and Panama. Their major concerns, rather, were with the treaties' retirement provisions and the implementing legislation. They feel the Department of State favors a more liberal retirement policy, which they have been advocating, while the Department of Army favors a less beneficial retirement plan. The officials contend the Army fears that a liberal retirement policy would result in early mass resignations once the treaties and the implementing legislation are approved. They feel the Army wants to keep as much of the labor force intact as possible, while the State Department wants to reduce the amount of United States labor in the operation of the Canal as soon as possible. The labor leaders spoke of the loyalty of the Panamanian workers who came to work and guaranteed the operation of the Canal even during the bloody riots and confrontation in 1964. A large percentage of the Canal Zone work force is Panamanian, many of them born in the Zone. Organized labor feels an obligation to assure these workers fair treatment after the treaties go into force.

My discussions with Canal Zone residents left me with the impression that many of them feel very insecure with the new treaty arrangements. Talks with others, including General Torrijos and Canal Zone officials, convinced me that distrust is one of the major problems on both sides. General Torrijos, in answer to my direct question, responded that Americans in the Canal Zone were absolutely essential and necessary for the continued efficient operation of the Canal. He expressed frustration that the Zonians have been negative to his assurances of a more humane life under the treaties, with the possibility of full ownership of their homes which they do not have now. General Torrijos stated that the Canal had to remain efficient; therefore, he is going to need the full support and cooperation of the present Canal Zone work force, including both the Americans and Panamanians.

The Canal Zone workers and residents also deserve our understanding. Panamanian control undoubtedly means some basic changes in the system. Even though treaty negotiations have been going on between the United States and Panama for the past thirteen years, the pending changeover still seems to have come too quickly for the majority of Zonians. They feel that they are going from security to insecurity. As Archbishop McGrath expressed it, one must appreciate the feelings of the Zonians, but the necessity for the treaties is the greater reality. "You can't hold history back," he told me. I was heartened to hear expressions of faith in the Torrijos Government by close observers of the situation.

I had the opportunity to hear General Torrijos' point of view and to get to know him when I spent one entire day with him at his home at Farallon—near the Rio Hato military base—and at the small village of Coclesito, about fifty miles west of the Canal in Cocle Province. Omar Torrijos impressed me as a humane and sensitive leader who is concerned about the Panamanian people. He characterized his rule as a dictatorship of fondness and love for the people, especially the poor. This affection for the people was clearly evident during our stay in Coclesito. He related easily to the children who constantly surrounded him and followed us on a six kilometer walk on a jungle road, and to the older people of the village whom he greeted during our walk through this rural community. The General is a military leader but he also demonstrates a capacity for popular civilian leadership as well.

General Torrijos wants to make the government serve his people. One experienced United States official noted that the General spent more time with his people than any other national leader he has seen. Others told me that he is personally and emotionally torn by the effects of high unemployment on individual Panamanian families. General Torrijos is concerned with the negative effects of the current economic situation on the populace. He told me that his government was not indifferent to the suffering of the people. The Panamanian leader also said that he was not destined to be head of the nation—he was going to be chief of government only as long as the people want him to lead. If the referendum had been defeated in October, he would have stepped down.

At Farallon General Torrijos jested about the political labels that have been placed on him—from fascist to communist. He described himself as a little to the left of John F. Kennedy. From what I gathered during my three days in Panama, ideological labels simply cannot be applied to him. He is a pragmatist, incorporating into the Panamanian system those measures which he feels would be best for his country. According to General Torrijos, Panamanians of the extreme left and right live off the nation's problems, not the solutions. He said that "living off the problems is a full time job here", an expression he used several times during the day.

General Torrijos addressed himself to the question of his relationship with Fidel Castro and Cuba, especially as it relates to the type of system he wants for Panama. In response to the raising of the issue by a Panamanian television reporter, the General expressed his admiration for President Castro and what he has done in Cuba, particularly in the fields of health care and education for the masses. He underlined, however, that these gains were made at very high social costs, citing regimentation and overworking of the people. It seems that he would like to incorporate the best aspects of the Cuban system without incurring the "social costs". He felt that the system instituted by President Castro might be best for Cuba but was not suited to the culture of Panama. One informed observer of Panamanian politics thought that General Torrijos' trip to Cuba in June, 1976, turned him away from Marxism-Leninism. The General pointed out that some of the reforms he instituted in the fields of education and health were undertaken before his Cuban trip. His visit, however, reinforced his ideas to extend social reforms. He praised those aspects of the Cuban system which benefited ordinary people and he noted that at the time of day we were discussing this issue, all Cuban children had eaten a good breakfast and lunch, while many Panamanian children had not.

General Torrijos was critical of United States policy toward Cuba, saying that the economic and technological isolation of Cuba was an injustice worthy of Idi Amin. He said you cannot have xenophobia in technology; it is out of character for the United States who is known throughout the world as a great nation that helps others.

The Panamanian leader spoke of the shame that there are tractors in Cuba which are not in working condition, sugar mills which are not working efficiently, and the possibility of a tropical sugar disease, when the United States could be doing things to help. He agreed with me that President Castro would become more flexible when the United States begins to deal with him. He also agreed with me, and I made this point at my press conference in Panama, that situations improve as leaders begin to talk to each other. The General cited Sadat and Begin.

General Torrijos mentioned that President Carter recently sent a message to Fidel Castro urging removal of Cuban troops from Africa

as a test of good will for relations with the United States. I expressed my belief that we should be dealing with those issues on two different levels—with Africa on one level and with Cuba on another. On Cuba we should address those matters that were present before the African situation—property rights, reunification of families, and the release of prisoners. United States policy in Africa is a different issue.

International politics was not allowed to dominate our conversation since General Torrijos was anxious to talk about both the accomplishments and problems of his government. One of the major accomplishments has been to bring rural areas into the life of the nation. In the opinion of many observers, General Torrijos has done more for the countryside than any previous Panamanian leader. Great energies have been expended in making social reforms in education, health care, and other social services available to all parts of the country. Infrastructure improvements have been made, such as expansion of the road system and electrical capacity. School capacity has doubled under the nine years of the Torrijos Government; no Panamanian child is without school. The number of grades has been increased from six to nine, and there are schools where there previously were none. General Torrijos told me of his long walks to school as a child and how friends drowned while crossing rivers. Now schools are no further than a thirty minute bus ride in rural areas where there used to be few schools; in urban areas, they are no further than a five cent fare. When the General came to power there were only 7,000 teachers—now there are 25,000.

In the health area, the Torrijos Government is trying to provide every rural community with a nurse or paramedic. The nursing school is producing about one hundred nurses per year, many of them from rural communities.

The government's efforts in the tiny pueblo of Coclesito epitomized what they would like to do nationwide in the rural communities. In this agricultural cooperative, experimental work is being done in cattle and buffalo raising and increasing productivity of the land for raising grain, beans, yucca, corn, tomatoes and lettuce. General Torrijos was proud of the village's success with buffalos brought in from Trinidad and Tobago six years ago—the beginning buffalo population of twenty-one has now risen to forty-one. The buffaloes are used as beasts of burden and as providers of milk and cheese.

The cooperative has had much success with increasing the ratio of cattle to hectare of land. In this area, three head of cattle can be raised on one hectare of land, whereas in other regions of the country, only one head can be adequately raised on a hectare.

The National Guard first came into this area when Coclesito was devastated by floods in 1970. They began a type of rural electrification program as various government agencies undertook projects.

General Torrijos asked some of the school children and one of the teachers to explain the village's school system to me. Four hundred students are enrolled from preschool to ninth grade in work-study programs similar to the Cuban system. In addition to academic subjects, the students learn how to grow crops and make their own clothes. One of the students told of a typical school day which is to rise at 5:30, eat breakfast, and then go to the farm for agricultural work before beginning classes. After lunch the students continue their academic work until 5:30, then study after dinner until 9:30. Students come from other parts of the country to participate in this program. This school is one of 135 established in Panama—eventually there will be 500 of these work-study schools. The government wants to make this a national system of education.

The General asked the teacher about foreign language courses and she replied that students learn the dialects spoken in the region instead. He was a bit taken back by this response, saying he thought it was necessary for Panamanians to learn foreign languages. The teacher retorted that it was more important for them to learn the languages of the people in the region with whom they work.

I was very impressed as to how articulate and knowledgeable the students and workers of the village were. Those who spoke about cattle and buffalo raising demonstrated considerable technical knowledge. It was a delight to see how well versed they were on the Panama Canal issue and to listen to conversations on that topic between them and General Torrijos. With great concern, they asked me about my assessment of the chances for Senate ratification of the treaties, and were happy to hear my positive response. According to the General, television sets had been installed in the village so that the people could watch the treaty signing from Washington.

In one of his asides on the treaty during our talks in Coclesito, General Torrijos noted that much has been said about the $50 million military assistance package which would come to Panama over the next ten years as part of the arrangement. The military assistance would be used to attack underdevelopment and illiteracy. Helicopter service would be provided in the provinces for transporting medicines and the sick. One hundred helicopter pilots would be trained to perform this mission—the training alone would cost $5 million. The General stated during this discussion that Panama's present budget for defense is ten percent of the national total, while the share for education is thirty percent.

Although General Torrijos is proud of the accomplishments of his government, he is the first to admit that the nation has serious economic problems. One of the greatest problems is dealing with the cities. What particularly impressed me after talking with Panamanian and United States officials and businessmen is how closely tied the ratification of the Panama Canal treaties is to the solution of these problems. The uncertainty created by the question of Senate ratification, with the accompanying talk of ugly and violent reaction and references to a Vietnam type situation, have caused international and domestic investors to hold back the capital necessary to get the nation back on its feet economically. General Torrijos believed that the talk of crisis and a new Vietnam have killed the impulse of private investors to take a chance on Panama until the issue is resolved. The national treasury is in bad shape, while the National Bank has no funds to finance any project for any length of time. The Panamanian economy has been at a standstill for several years because of the tenuous treaty situation, as well as the worldwide recession, the world price of oil, and the continuing problem of international commodity pricing policies.

This situation was underlined for me by the Minister of the Presidency, Fernando Manfredo, at a breakfast meeting. The Minister cited figures showing that the country has experienced no economic growth in the past several years. From 1970 to 1973 the average GNP growth was 7.2 percent; the level of unemployment was about five percent. Since 1975 the growth figure has been frozen. The official unemployment figure is between ten and twelve percent, reaching twenty percent in urban centers. People in the 18–25 years age range are most seriously affected. University-educated people are willing to take on the most menial jobs at the minimum salary in order to gain employment. At Farallon, General Torrijos had referred to the paralyzed economy and the suffering of people as its result.

Minister Manfredo told me that the government has been in touch with investors from the United States, Europe and Japan who have expressed in writing a willingness to invest once the treaty issue is resolved. The level of foreign investment in 1973 was larger than it is today. General Torrijos had spoken of many projects in which outside bankers are ready to invest if they know that Panama's future will be a stable one. One observer mentioned a convention center project which is ready to go if OPIC (Overseas Private Investment Corporation) would guarantee the loan. This project alone would employ 1,000 people. Other projects concerned road building, housing, and Panama's copper resource.

Non-Panamanian observers close to the business community believe that settlement of the Canal issue would contribute to a feeling of confidence on the part of international bankers. Settlement will give them confidence that the United States will be working closely with Panama, thus strengthening the investment climate.

Panamanian officials believe that once the treaty issue is resolved the economy will improve, not only because of the investment situation but also because they will then have control of port facilities for trade. Panama's major port facilities are in the Canal Zone. Because of present port costs, imports are very high and export possibilities are not exploited. Minister Manfredo referred to a cement plant that is competitive with those of other nations; however, its bags have a charge of thirty-five cents added on because of port costs. Under Panamanian operation, the cost of the port will be reduced and Panama will then be more competitive in international trade.

Politically this period of uncertainty could do lasting harm, according to one high-ranking free enterprise-oriented official who said, "This worsening economic condition has served to ripen the possibility of pressures from non-capitalistic sectors to improve the lot of the masses at the expense of a sound free market system. Such a situation, if left unresolved over time, presents an opportunity for demagogues with opportunistic approaches to seize hold of this economic condition and turn it to their political advantage. Most specifically, it is an ideal circumstance for a communist government with ambitions for worldwide revolution to gain a definitive and strategic entry on the American continent."

Another factor complicating the economic picture and which is also tied into the treaty issue is Panama's sugar situation. Under the International Sugar Agreement signed in Geneva, for 1978 Panama was allotted 90,000 tons, which is considerably below its export capability. In the past two years, Panama has invested heavily in sugar production to create more jobs.

General Torrijos told me that Panama will produce as much as it can because many people can then be employed. As a result, Panama has an export capability of 250,000 tons. The United States and other nations such as Cuba, Japan, Australia, England and Brazil are working at Geneva to have additional allocations made to Panama from the emergency pool created for those countries that have capabilities beyond their allocation. The problem, however, is that the solution is not imminent. The result of experimentation on the conversion of sugar to alcohol, for which the Brazilians are providing technical assistance, also is not close at hand, nor is an international pricing agreement. The stark reality is that sugar is beginning to be harvested now. At the end of the harvest—in four months—20,000 sugar workers will be flooding Panama City and other urban centers looking for employment.

This situation, as well as the depressed state of the Panamanian economy which is

largely due to the uncertainty over the Canal treaty issue, has exacerbated the pressure on the Torrijos Government. Frankly, I left Panama with the strong feeling that time is indeed running out for Panamanian economy and that Senate ratification of the treaties this spring is not only desirable but imperative. General Torrijos said that "until that time, we could make a soft landing; after that there is no more fuel". I am strongly convinced that further delay—or worse, failure to ratify the treaties—would seriously affect the economic future of Panama and have serious political repercussions.

During my three days in Panama, there was much discussion surrounding the possible effects of rejection or delay on Panama's political life, on United States relations with Panama, and on United States-Latin American relations. The negative repercussions are clearly not in the best interests of our country.

On the bilateral level, frustrations are building to the point after all these years of trying to work out an equitable arrangement, that responsible officials, both United States and Panamanian, warn of angry and emotional reaction on the part of the Panamanian populace against the United States Embassy, United States business and, ultimately, the Canal Zone. In such a situation, the ugly prospect of bloody fighting between United States military and Panamanian civilians is not too remote. United States "control" in a hostile environment is a situation to be avoided.

General Torrijos is a friend of the United States and wants to continue being one. Observers close to the scene believe that his future economic policies will be moderate and compatible with the interests of United States business. Investment opportunities for United States citizens will be enhanced. The General realizes that one-half of Panama's trade is with the United States, major international investment is from the United States, and the economy in general is closely tied to ours. Many government officials feel close to this country and many of General Torrijos' Ministers send their children to our schools.

Politically, instead of utilizing a great opportunity to encourage General Torrijos to continue on the path toward opening Panama to democracy, the possibility was raised that he could react against the opposition, or even ally himself with anti-democratic elements in the country. Recent experience has demonstrated that General Torrijos is open and flexible to constructive suggestions regarding the political situation from his friends in the United States. He acknowledged during our Farallon discussions that some recent political moves were precipitated by talks he had with Senator Robert Byrd.

On the international relations side, the United States has the opportunity to enhance its prestige in Latin America and the developing world. Senate rejection would place our best friends in Latin America—those who have defended the United States on the treaty issue against critics in their countries—in great jeopardy. The defeat of the treaties is going to grossly affect the courageous democratic leaders throughout this Hemisphere. Violent reaction against United States business, cultural representatives, and other symbols of our presence in Latin America is certainly possible.

There was no doubt in my mind upon leaving Panama that Senate confirmation of the Canal treaties is overwhelmingly in the best interests of all concerned—above all, the United States.

COSTA RICA

(Draft of Section on the Panama Canal)

To a person, and this could be said of all the officials with whom I spoke on this four country mission, there was unflagging support for the Panama Canal treaties, with some officials voicing concern over the negative repercussions that would result if the Senate rejected a new arrangement. The Panama Canal issue was the principal subject initiated by Costa Rican President Oduber and Foreign Minister Gonzalo Facio at our luncheon meetings.

If the Senate rejects the treaties, President Oduber said he would be attacked by the left wing in his country. He said, "I'm afraid that I will be literally stoned. There is no way the left wing forces can be contained if the Senate rejects the treaties." President Oduber had gone so far out on the limb in support of the new treaties that he felt his leadership capability would be undercut by Senate treaty rejection. He felt that our best friends in Latin America would have to desert us if they are to survive; it would be difficult to support the United States if the treaties were rejected.

During my memorable meeting with one of the fathers of Latin American democracy, Jose Pepe Figueres, the former President used the word "catastrophic" to describe the impact of Senate rejection of the treaties. He voiced the opinion that it was in the United States' best interests to approve the treaties. Treaty ratification would end colonial rule in the Hemisphere and give the United States the opportunity to come out and stand for something that would give the people moral encouragement. Don Pepe remarked in a serious tone, "It would be disastrous for the Western Hemisphere and the world if this catastrophe occurs in the Senate." Similar to President Oduber's warning, Don Pepe felt that Senate rejection would jeopardize the influence of friends of the United States. On the other hand, Senate passage would strengthen the hand of the United States in Latin America. In answer to a question from Ambassador Weissman, the former President replied that no country in the world would support the United States in the event of trouble over the Panama Canal if the treaties were not approved.

All the presidential candidates with whom I spoke were unanimous in their concern over the pending Senate action. Conversations with these close friends of the United States convinced me that Senate rejection would be a severe blow to the progressive forces in Latin America that have stood with us. The only beneficiaries of the treaties' defeat would be the communists and anti-democratic forces.

A final note on the Panama Canal issue: I was honored to deliver a speech on United States-Latin American relations at a Costa Rican government-sponsored forum on "Development and Democracy" at the beautiful and historic National Theater in San Jose. The most enthusiastic audience reaction came after my remarks strongly supporting Senate ratification of the treaties.

PERU

(Draft of Section on the Panama Canal)

The Panama Canal issue figured prominently in my discussions with Peruvian leaders and the press. It was, in fact, the first topic of conversation initiated by Foreign Minister de la Puente and was dealt with at the start of my meeting with President Morales. The Peruvians view the Panama Canal issue on two distinct levels. On the international plane, they fully support the treaties because of Latin American consensus and also because they feel the treaties are in the best interests of close United States-Latin American relations. President Morales felt that Senate rejection would present serious difficulties for the United States in several countries. Foreign Minister de la Puente explained that a successful conclusion to the Panama Canal issue would be interpreted as a positive sign in Latin America, whereas if the treaties are not ratified another set of problems wil be opened up involving Panama and all of Latin America.

On the domestic level, the Peruvians are concerned about the Panama Canal because their economy is directly affected by toll charges and other factors influencing Canal operation. A significant portion of Peru's foreign trade flows through the Canal, as does the trade of its West Coast South American neighbors, Ecuador and Chile. Foreign Minister de la Puente expressed the hope that a system of consultation could be established between Panama and the West Coast countries in order for issues to be worked out equitably and fairly. For example, procedures could be arranged so there would be discussion over toll increases.

An interesting and different perspective on the Panama Canal issue was given by the APRA leaders. In response to my question, they answered emphatically that their party advocated many years ago that the Panama Canal should be Latin Americanized or internationalized. This is still the party's position. APRA leaders stated they are as much against Panama having full control as they were against full control by the United States. They feel that control of this vital international link is more dangerous in the hands of a small power than in the hands of a larger nation. APRA leaders also expressed concern over problems related to a possible war or dispute with Panama, underscoring this as a theoretical and highly unlikely occurrence. The Aprístas would like to see the formation of an OAS commission to act as a guarantor of Canal internationalization. They referred to a recent statement on this concept by party leader Haya de la Torre.

The APRA leaders respectfully heard my arguments against their idea but they felt that eventually the world would adopt the policy of internationalization of all international straits and waterways.

VENEZUELA

(Draft of Section on the Panama Canal)

Venezuelan leaders, especially President Perez and Foreign Minister Consalvi, were extremely supportive of the treaties negotiated between Panama and the United States. In private conversations, President Perez initiated discussion of the Canal treaties, saying that Senate rejection would be a "catastrophe" which would cause violent reaction in Latin America. He feared sabotage would result from treaty rejection and that ensuing events—possible United States occupation of Panama and the negative reaction from the international community—would only benefit our communist rivals.

President Perez revealed that Venezuela played a major role in influencing General Torrijos to take a more moderate international posture, and in so doing he was able to gain the unified support of the Latin American nations. The Venezuelan President shared the feelings I had about General Torrijos after my meeting with him. He felt the Panamanian leader has great respect and feeling for his people, and that the human rights situation was improving under his leadership. President Perez demonstrated an extraordinary interest in the development of the Panama Canal debate in the United States and mentioned that he receives regular reports on the issue.

Although some Venezuelan congressional leaders expressed skepticism regarding General Torrijos' political style, it did not diminish their support for the Canal treaties. Former President Betancourt said the Canal not only dissects Panama but also Latin America. Senate approval would strengthen the position of the United States in the Hemisphere. On the other hand, he saw great security problems for the United States and Latin America if the treaties were rejected or if ideas such as internationalization of the Canal under the United Nations were implemented.

Official concern for the treaties has had a strong effect upon the Venezuelan people who are conversant with the issue. The

treaties were the principal subjects of several newspaper interviews that I held, as well as one of the main topics of a popular television talk show on which I appeared.

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I yield to the Senator from Utah (Mr. HATCH).

Mr. HATCH. Mr. President, I would like to share with my colleagues some very important news this afternoon. As Senators will recall, the Circuit Court of Appeals for the District of Columbia recently ruled in the case of Edwards against Carter that the President of the United States has the authority to dispose of the Panama Canal by a self-executing treaty, thereby bypassing the House of Representatives. The decision was based on a 2-to-1 majority, the lone dissenter being Judge George McKinnon who wrote a 79-page dissent. Today, representatives of the Washington legal Foundation, who are representing 60 Congressmen in the suit, informed me that Chief Justice Warren Berger of the Supreme Court has referred the appellants' application for an injunction to the full court pending a petition for a writ of certiorari.

This is highly significant, of course, because it means that Chief Justice Burger, instead of rejecting the application for the injunction, has now put the matter before all the members of the Supreme Court. This, in turn, will prepare the way for the Court's consideration of this important constitutional issue on its merits. I consider this to be most encouraging news, Mr. President, and am pleased to learn that this important case against the abuse of the President's treatymaking power is now gaining the attention of our highest Court.

As I have repeatedly stated on this floor, there are no precedents, in my judgment, after studying the matter for many months, which would authorize the President of the United States to transfer the Panama Canal to the Republic of Panama without the concurrence of both Houses of Congress. I am extremely confident that the Supreme Court will agree once it has had an opportunity to study the matter.

I certainly urge and encourage that they do agree, because I think it is a matter of great importance, involving the separation of powers and an extension, in violation of the Constitution, of article IV, section 3, clause 2 of the Constitution by the President of the United States. So I think this is good news. I hope that we will have a result from the Court soon, and I am confident that the Supreme Court will agree with the contentions that we have made here on the floor of the U.S. Senate.

I am very grateful to my dear friend from Virginia, who yielded to me this very brief time.

Mr. HARRY F. BYRD, JR. I am delighted to have yielded.

Mr. President, the Carter administration has maintained that the proposed Panama Canal treaties provide the United States with adequate bases, facilities, and rights to defend the Panama Canal.

I believe, however, that these treaties are grossly inadequate in that regard. By withdrawing all U.S. military forces from Panama and surrendering to Panama control over all military bases by the year 2000, the United States would be relinquishing the capability to adequately defend the Canal.

Even before the year 2000, the treaties would require the United States to get out of many of the military facilities established to defend the canal and would also terminate the protective buffer of the Canal Zone.

So that my colleagues may have the benefit of seeing just how extensive U.S. military facilities in the Canal Zone are at present, and also how the proposed treaties would affect the future status of those facilities, I ask unanimous consent that a chart listing these facilities and their status be printed in the RECORD at this point.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

U.S. MILITARY FACILITIES IN THE CANAL ZONE AND THEIR STATUS UNDER THE PROPOSED TREATIES

[D/S—Defensite; M/C—Area of military construction]

| U.S. facilities/area (service) and current use | Status under new Canal treaty | Remarks |
|---|---|---|
| **PACIFIC SIDE** | | |
| Fort Amador (Army): | | |
| Bde headquarters | Panama [1] | Relocate to Fort Clayton. |
| Troop area | do [1] | Relocate to Fort Clayton/Corozal. |
| Family housing | M/C [2] | |
| Community facilities | M/C [2] | |
| Fort Grant (Army): Spt activities | Panama [1] | Limited facility use retained. |
| Fort Clayton (Army): | | |
| Troop area | D/S | |
| Tropic test headquarters | D/S | |
| Service support facilities | D/S | |
| Family housing | D/S | |
| Training area | M/C [2] | Slightly reduced size. |
| Curundu (Army): | | |
| DOD civilian housing | M/C | |
| Contractor housing | M/C [2] | |
| Curundu Heights military housing | M/C [3] | Quarters for Panamanian military. |
| Military housing (BOQ) | M/C | |
| Pacific Area Depot | M/C [3] | Phased relocation to defense site. |
| Inter-American Geodetic Survey Headquarters. | M/C [3] | Relocation to defense sites. |
| USAF Antenna Field | M/C [3] | Relocation to Howard AFB. |
| Corozal (Army): | | |
| Engineer and industrial facilities | D/S | |
| Troop housing and facilities | D/S | |
| Former antenna field | Panama [1] | |
| Albrook Army Airfield, East (Army): Aviation Bn operational and maintenance facilities. | Panama [1] military Helo and commercial development. | Relocation to Howard AFB (interim to Albrook West) |
| Quarry Heights: Headquarters SOUTHCOM; FAA microwave; military communications; family housing. | M/C | Location combined board, post reduced in size. |
| U.S. Naval Station, Panama (Amador) (Navy): U.S. Naval Station Headquarters; USN Communications Station, Balboa Headquarters; housing. | M/C | |
| Albrook Air Force Station (West) (Air Force): 1978th Comm., Gp; Inter American Air Force Academy; long range radar, family housing; Headquarters USAFSO. | D/S | |
| Howard Air Force Base (Air Force): Headquarters USAFSO; Howard Airfield; 24th Composite Wng; family housing fuel storage; ammunition storage; | D/S | Curundu antenna field relocates from Curundu; Permanent relocation site 210th Avn Bn |
| Fort Kobbe (Army): Tactical Bde Headquarters; training areas; troop facilities. | D/S | Slightly reduced. |
| Rodman/Cocoli/Farfan (Navy): USN Station (piers and Spt Facilities); USN radio receiving facility; family housing; marine barracks; small craft instruction and training team. | D/S | |
| Empire Range (Army): Training area; firing ranges | M/C | Small sections Panama T-Day. |
| Balboa West Air-to-Ground Gunnery Range (Air Force): Aircraft firing and bomb range. | M/C [2] | Transfer to Panama when alternate range is privided to U.S. Government. |
| Arrijan Tank Farm (Navy): Military fuel storage. | D/S | |
| Summit (Navy): USN Comm Station Balboa Transmitting Facility. | M/C | |
| Cerro Tigre/Cerro Pelado (Army): former ammo storage area. | Panama [1] | Rail ammunition transfer point retained as M/C. |
| **ATLANTIC SIDE** | | |
| Fort Davis (Army): Atlantic Spt Facs; ITT Cable and Transisthmian Microwave SCN radio/TV; troop facilities. | D/S | |
| Fort Gulick (Army): USA School of the Americas (USARSA); troop facilities; dispensary and dental facilities; family housing; ammunition storage. | M/C [4] | USARSA only 5 yr except as agreed; company size area to Panama in 3 yr; family housing, ammunition storage and community service areas retained as M/C. [3] |
| Coco Solo South (Army): Family housing | M/C [3] | |
| France Field (Army): Family housing | M/C [4] | |
| Fort Sherman (Army): Jungle Opns Training Center; Fort Sherman Air Strip; troop housing; training area. | D/S | |
| Fort Sherman Training Area (Army): Jungle training area. | M/C | Slightly reduced. |
| Fort Randolph: None (former coast artillery location). | Panama [1] | |
| Galeta Island (Navy): Communications facility. | D/S | |
| Semaphore (Air Force): Air Traffic Cntl | D/S | |
| Gatun Tank Farm (Navy): Military fuel storage. | D/S | |
| Isthmian Pipeline (Navy): Military fuel pipeline between Atlantic/Pacific | D/S | Possible joint use by Panama if agreed by U.S. Navy. |
| Gamboa (Army): Tropic test facility | Panama [1] | Subject to separate negotiations. |

[1] Transfer to Panama Treaty Day.
[2] Transfer sometime during treaty.
[3] Transfer to Panama in 3 yr.
[4] Transfer to Panama in 5 yr.

Note: Unless otherwise noted, post treaty status remains unchanged until Dec. 31, 1999.

Mr. HARRY F. BYRD, JR. Mr. President, on another subject, although it is not necessary to do so, I ask unanimous consent that I might be permitted to speak as if in legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE RISKS OF U.S. RHODESIAN POLICY

Mr. HARRY F. BYRD, JR. Mr. President, as Secretary of State Vance visits Rhodesia and Russia this week, this Senator would like to express the hope that he will take a realistic rather than an emotional approach to the agreement worked out by Rhodesian Prime Minister Ian Smith and the three moderate black leaders of that nation.

That agreement would bring about by the end of this year black majority rule in Rhodesia.

But the State Department, following the leadership of our extremist Ambassador to the United Nations, Andrew Young, is demanding that Marxist-oriented, terrorist guerrillas based in countries adjacent to Rhodesia be brought into the new Rhodesian Government. These guerrilla forces have been supplied with arms by the Soviet Union.

The Communist-backed rebels also have support in the United Nations. The U.N. Security Council, with Britain and the United States abstaining, voted recently to reject the Salisbury settlement, thus giving further international encouragement to the guerrillas.

A "no" vote by the U.S. representative—which I urged both to the President and the Secretary of State—would have killed this mischievous resolution.

Given this set of circumstances, Rhodesia could be the next African country to fall into Communist hands.

Most Americans do not realize the degree of Soviet and Cuban penetration in Africa.

As chairman of the Intelligence Subcommittee of the Senate Armed Services Committee, I conducted a hearing this week where detailed presentations were made by American intelligence experts.

The Deputy Director of the Central Intelligence Agency stated categorically that there is a determined and unprecedented campaign to expand Russian and Cuban influence throughout central and southern Africa.

The fact is there are Communist military personnel, mostly Russian and Cuban, in 18 African countries.

Cuba has nearly 40,000 military personnel in Africa; and Russian military equipment has been flown into Ethiopia and Angola faster than the local forces can utilize it.

Russian fighter aircraft have been sent to Ethiopia and Russian tank deliveries to that country exceed 400. Soviet military aid commitments to Ethiopia approach $1 billion.

In Angola, tons of Russian military hardware are on the docks at Luanda, and Soviet or Cuban advisers are found at every level of government.

Elsewhere in Africa, Soviet equipment has been delivered to various so-called liberation movements and self-styled revolutionary regimes, with either Russians or Cubans training the recipients in its use.

Two nations friendly to the United States, Rhodesia and South Africa, are surrounded by nations which have within their borders Russian and Cuban military personnel.

It is unfortunate that the State Department permits Andrew Young to call the shots in regard to African policy. He was an able Congressman from Georgia and was highly regarded by his colleagues in the Congress.

But as Ambassador to the United Nations he has done little to reflect credit on the United States. The latest denunciation of him came just 2 weeks ago from an unlikely source, former Prime Minister Harold Wilson of Great Britain.

The former Prime Minister, a Socialist, in commenting on Ambassador Young's Rhodesian policy said:

> What is particularly dangerous is Young's repeated assertions which can only be read as meaning that any Rhodesian settlement without bloodshed and massacres won't count.

These are strong words by the former British Prime Minister. But such an appraisal of Mr. Young's activities appears to be accurate.

The United States, in my judgment, is playing into the hands of the Communists—as well as courting bloodshed—by refusing to accept the agreement worked out by Prime Minister Smith and the three moderate black leaders of Rhodesia.

Hopefully, Secretary Vance during his African trip will see the folly of Ambassador Young's position in demanding that Marxist-oriented, terrorist guerrillas be brought into the new Rhodesian Government.

The present U.S. policy serves only to encourage the guerrilla forces, and enhance their hopes for eventual dominance, by continuing to insist that these Communist-backed forces be included in the government.

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## CHARTING A COURSE FOR THE NAVY

Mr. MATHIAS. Mr. President, the making of public policy involves choosing between alternatives. The choices on the major issues are often not easy ones. I appreciate the dilemma faced by President Carter in preparing his fiscal year 1979 Defense Budget. The national defense must be assured at an acceptable cost given many competing demands. I have been one who has argued long and hard in the past that if we do not have a strong economy at home, if the needs of our people are not met, then the very foundation of our real national security is threatened.

It is from this perspective then that I must announce my very real reservations about President Carter's proposals for the U.S. Navy both in his fiscal year 1979 budget and in the administration's just released 5-year shipbuilding plan. These proposals, which are subject to congressional modification, threaten to undercut the U.S. security.

The Chief of Naval Operations, Adm. James Holloway, has been quoted in the past as saying that the Navy needs a 600-ship fleet if it is to do the tasks assigned it in the 1980's. At present, we have 459 ships. In his fiscal year 1978 budget President Ford recommended a 5-year shipbuilding plan running from 1978 through 1982 and calling for 156 new ships and modernization of 20 existing vessels. This program would have brought us within range of what the Navy has indicated would be an acceptable number of vessels.

On February 2, 1978, Secretary of Defense Harold Brown issued the Department of Defense's annual report. In it he said that "a 600-ship active navy is not feasible in the next decade." The administration recommended funding for 15 ships in fiscal year 1979. This is a major reduction in President Ford's 5-year shipbuilding plan which called for 29 ships in fiscal year 1979. The Carter budget does not include funding for another carrier. It drops funding for the surface effect ships (SES). It cuts back funding for a nuclear-powered strike cruiser using the aegis system. It reduces the Navy's request for F–14's, substituting a few F–18's which the Navy did not request. Finally, the administration recommends taking a massive slice out of the Navy Reserve; cutting it by 35,000. All of these raise serious questions.

Ten days ago the Carter administration had some more unwelcome news for the U.S. Navy. The new 5-year shipbuilding plan was announced and it looks very different from that of President Ford. Instead of 156 new ships in 5-years the Carter administration proposes only 70. Instead of 20 refitted ships in 5 years the Carter administration proposes. 13. Instead of a fleet of over 600 ships we are told that this program will "allow us to maintain a fleet of at least 500 ships through the turn of the century."

What has changed in a year that would warrant such a different perception of what U.S. national security requires? Not very much that bodes well for the United States.

Gen. George Brown, Chairman of the Joint Chiefs of Staff, in his report entitled "United States Military Posture for FY 1979," says that:

> The Soviet Navy enjoys numerical advantage over U.S. naval forces in principal surface combatants (4:3) and especially in general purpose submarines (3:1). Moreover, Soviet surface naval units are generally more heavily armed than their U.S. counterparts.

He goes on to say very clearly and precisely—

> The U.S. Navy's greatest problem is too few surface combatants to perform all its missions simultaneously.

I am going to ask that General Brown's entire statement entitled "Naval Forces" be included in the RECORD because it is a good summary of the strength and weaknesses of the U.S. Navy.

What we must not forget is the context in which our Navy will have to operate in coming decades. Not only are the Soviets improving their naval capabilities but their interest in promoting mischief far from their borders also seems

to be increasing. We have all been disturbed by Soviet willingness to take risks in Africa. It is not impossible that they will be looking elsewhere for opportunities. Secretary of Defense Brown admits that "We cannot rule out the possibility that, as in 1973, the Soviets would consider sending forces (to the Middle East) to attempt to change the outcome of a renewed conflict." Increased Soviet activity in the Middle East would strike at the very core of our national security. Today the United States imports close to 50 percent of its petroleum needs. Approximately, 35 percent of our crude oil imports in 1977 came from the countries bordering the Persian Gulf. We have a lifeline which can be easily threatened.

We should be mindful of other possible problem areas as well. The President is quite right to focus on NATO. I am not sure, however, that enough attention is being given to NATO's flanks. Clearly, both in the Mediterranean and in the Baltic, the U.S. Navy has a role to play. As we withdraw from Korea, and indeed as our whole role in Asia is reviewed, the need for a strong Navy will increase in order to maintain our Pacific interests.

I see no adequate justification for curtailing this Nation's shipbuilding program in the manner the President is recommending. I would be the first to admit that in the past Navy programs have suffered from cost overruns and delays. I can appreciate that these problems may take some time to iron out, and doing so should be the focus of considerable administration effort. I cannot agree, however, that the President's proposals are the best way to insure the national security of the United States.

Once, during World War II, while I was serving as a "deck ape" on an amphibious command ship, we were steaming proudly on a northerly course through the South China Sea at the head of a great fleet of ships arrayed in parallel columns, with battle ensigns flying. Our ship, which began life as a merchantman hull, had been transformed by spit and polish, gray paint and millions of dollars worth of Navy gadgets. Its vitals were, however, still the same old merchant marine boilers. As we crested the swells of the China Sea, we "lost our load," our steam escaped, and we wallowed in the troughs while the fleet steamed on toward the horizon. It was not funny, but it happens when a ship gets old.

We must not run the risk that our sailors go to sea with less than they need to defend their country. I intend to work in the Appropriations Committee to insure that prudent revisions in the President's budget be made which will insure that this country has a strong Navy in the 1980's and beyond.

I ask unanimous consent that Gen. George Brown's statement "Naval Forces" included in his report entitled "United States Military Posture for FY 1979" be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

NAVAL FORCES

The present combat capabilities of Soviet naval forces can substantially influence Western naval operations in many key areas, and could dominate the initial stages of certain types of conflicts. Soviets surface ships, however, are considered particularly vulnerable to concerted Western air or submarine attack.

The Soviet Navy enjoys numerical advantage over US naval forces in principal surface combatants (4:3) and especially in general purpose submarines (3:1). Moreover, Soviet surface naval units are generally more heavily armed than their US counterparts. The United States has ASW capabilities superior to the Soviet Union's, reflected in the SSN 688 LOS ANGELES class which is the finest ASW platform in existence today; Sound Surveillance System (SOSUS); and land-based P-3 aircraft.

The US Navy enjoys a clear superiority in power projection capabilities, particularly as represented by aircraft carriers and US Marine amphibious forces. The United States possesses an advantage in mobility of naval forces typified by the nuclear powered task groups and high performance underway replenishment capabilities. The development of the HARPOON and TOMAHAWK medium and long-range antiship missiles, and the AEGIS air defense weapon system will improve the US Navy surface warfare capabilities provided the shipbuilding program continues to provide modern platforms, such as the guided missile destroyer (DDG-47) and the nuclear guided missile cruiser (CGN-42), in which to put these capabilities to sea.

The US Navy's greatest problem is too few surface combatants to perform all its missions simultaneously. The Soviet Union is, and has been, actively engaged in a major surface fleet modernization program. At present, US fleet modernization programs are being curtailed. Shipbuilding programs initiated a few years ago have been substantially reduced. These are disturbing trends considering the long lead times necessary to bring ship programs from early stages of development and design to full combat capability.

While the US Navy's capability to project and sustain sea-based power and the quality of its attack submarine force are superior to the Soviet Union's, current US capability to control the essential sea lanes, versus the Soviet Navy's capability to deny the use of these lanes, is more difficult to assess. In the event of a major conflict, by concentrating its effort and exploiting allied capability, the US could prevail in most situations, but both US and allied shipping would probably suffer serious losses in the early stages.

## S. 2867—TO REPEAL ACREAGE LIMITATIONS AND RESIDENCY REQUIREMENTS ON FARMS THAT RECEIVE WATER FROM FEDERAL RECLAMATION PROJECTS

Mr. MATHIAS. Mr. President, I joined with the distinguished Senator from Arizone (Mr. GOLDWATER) on Monday in introducing S. 2867, a bill to repeal acreage limitations and residency requirements on farms that receive water from Federal reclamation projects. The Department of Interior has announced intentions to draw up enforcing regulations for a long-ignored 1902 act that forces owners of more than 160 acres to sell the excess land or lose the water that makes farming possible. That act also prohibits nonresident owners from receiving any water.

These water projects have created an agricultural miracle in the Western United States. Economies of scale and technological advances have turned the arid land served by that water into one of the world's most productive farming areas. It would be absurd to destroy that structure by basing water policies on the principles of an antiquated law.

Agriculture is one of our most successful and important industries. It is a national industry with a major impact on the American economy. It is the best factor in our bid for exports and trade. The time is past when inefficiency need be accommodated. In most parts of this country single family farms are the most efficient production units, but even single families can manage over 500 acres with high productivity. In those parts of the West, where farms take advantage of economies of scale and corporate investments, our national interest lies in protecting those advantages. The families in Baltimore and Cumberland that feel the effects of increasing food prices would soon know of the wrong-headed economic decision if the administration goes ahead with its plans to enforce that law. Maryland and Massachusetts and Michigan would soon recognize a common interest.

The entire American economy has become dependent upon the productivity of our farms. Water and the efficiently sized farm unit are critical factors in that productivity for the Western farmer. The Bureau of Reclamation estimates that the value of all crops produced in 1976 with the aid of those water projects is $4.3 billion. The Department of Interior estimates that the net increase in business activity, total wages, and employment attributable to reclamation projects was over $12 billion in that same year. The very highest estimate of the total cost to the Federal Government of the reclamation projects calculated over the life of the projects amounts to $11 billion. Under any circumstances, the same year. The very highest estimate of moderate food prices, jobs, and international trade proves the wisdom of allowing water to be used as efficiently as possible.

I urge the Senate to join with Senator GOLDWATER and me in repealing the act that so tempts the administration to experiment in agricultural economics.

## THE PANAMA CANAL TREATY

The Senate continued with the consideration of the treaty.

Mr. LUGAR was recognized.

Mr. LUGAR. Mr. President, earlier, the distinguished Senator from South Dakota (Mr. MCGOVERN) has given an important statement of summary of his views on the Panama Canal Treaty debate. I should not presume to respond to all of what he has had to say. But I would simply comment that throughout his remarks he has mentioned that the people of Panama, in fact, the Government of Panama, might have felt insulted during many days of that debate by in-

sinuations that were made about that government, about affairs in Panama.

Certainly, that has not been the intent of those who are opposed to these treaties. As a matter of fact, it seems to me that many of us who are opposed to the treaties are very much in favor of a good number of things that might help the people of Panama to boost their economy, bring about greater stability of political institutions and, certainly, a much happier relationship with the United States of America in the years to come.

The difference of opinion, it seems to me, comes over whether this particular treaty, the route our negotiators have taken, was the most appropriate and the most propitious way of bringing about stronger friendship and, indeed, a stronger economy in Panama.

Clearly, those of us who are opposed have on occasion had opportunities to talk to Ambassadors Linowitz and Bunker, and we have appreciated those opportunities during the negotiations to express our viewpoints of where we might have headed.

I, for one, suggested that the emphasis needed to be on the economic issue, because only in the event that the Panama Canal became a more profitable venture would significant revenues ever accrue to the people of Panama, would significant changes ever be made in the health and welfare of people who might be served by that government.

I still feel that would have been a superior route to follow and, indeed, Ambassadors Linowitz and Bunker did not disagree with the importance of that point of view.

However, the gist of the treaty that is now in front of us has dealt with other measures as more important, questions of sovereignty and, indeed, of ownership, quite apart from how well the operation might prosper, regardless of sovereignty and ownership consideration that might be involved.

As a matter of fact, the economic issues have been subordinated and there is severe difference of opinion as to whether, in fact, the canal will even make a profit and be self-sustaining, although much evidence has been given both ways.

It just seems to me that the American public watching this debate, and it has been an important one, I believe, in terms of both its length as well as what has been said, the American public is still not convinced that, in a practical way, the United States of America will prosper in the event these treaties are finally ratified and, indeed, the people of Panama have felt a sense of hurt and harm as the discussion has proceeded.

It might have been the better course, as a matter of fact, to have come forward in a different way with an economic treaty and after some consensus in the American public had been found.

But what we are left now with, I think, is a severe question as to whether the American people will finally find at least some wisdom in these treaties and, indeed, there is substantial evidence that despite many weeks of debate the American public is now very skeptical, indeed, and wonders how two-thirds of the Senate could be of such a contrary view.

It just seems to me important to state that the people of the United States are not acting in a paranoid or an insecure manner, these words having been used by the Senator from South Dakota (Mr. McGOVERN). I see no evidence of paranoia or insecurity.

I do see evidence that many people in the United States of America simply feel that there is no particularly good reason for the giving up of property, a substantial property value created in the construction of the canal, unless there is sufficient quid pro quo for doing so unless there are substantial reasons for the United States, either in foreign or economic policy, to make that type of transfer.

Those clearly have not been demonstrated. As a matter of fact, if peace was our objective, by the time we come to the conclusion of these treaties, peace appears to be as illusory in Panama at the conclusion as it was at the beginning.

Indeed, I will submit as a prediction for history that until it is apparent that the canal is a profitable operation, that flows of money are going to go to the people of Panama, that the education and welfare of those people are likely to be upgraded, there will be substantial unrest, and it will continue quite apart from the arrangements and quite apart from the transition.

I make these comments simply to reply to the Senator from South Dakota, for whom I have great respect. There are many who will agree with his position and many who will agree with mine and those of us who have opposed the treaties. We do so simply because we believe the United States of America must prosper. The Government of Panama and the people of Panama, hopefully, should prosper. We believe, as a matter of fact, that we can still do better, and many of us hope that we shall still have that opportunity.

The treaties have not been ratified as yet. It is still a possibility, it seems to me, that down the pike we could come to arrangements that would be more satisfactory for our two nations.

Mr. President, I yield the floor.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that I may proceed as in legislative session.

The PRESIDING OFFICER (Mr. SARBANES). Is there objection? The Chair hears none, and it is so ordered.

## HAWAII MOURNS PASSING OF "MR. LABOR," ELMO SAMSON

Mr. MATSUNAGA. Mr. President, the working people of Hawaii lost one of their strongest champions a few days before Easter when labor leader Elmo "Sammy" Samson succumbed to a heart attack.

I was privileged to be a longtime personal and close friend of "Sammy" Samson, who was officially named "Mr. Labor" by the Hawaii State Federation of Labor in 1972. His untimely death, at age 62, brought to a close one of the most remarkable chapters in the history of the labor movement in Hawaii and he left behind not only a grieving family but a host of sorrowing friends, like myself, whose lives he had enriched.

A self-made man, Elmo Samson rose out of the depths of poverty and despair to become one of the most highly respected and beloved figures in the island State. He devoted his life to the welfare of the workingman, particularly those who used to be called "common laborers." Compelled by circumstances to drop out of school after the ninth grade, he rose to lead Hawaii's construction laborers and gain for them a new dignity, improved wages, and better working conditions. The fact that construction workers in Hawaii and the Pacific area today enjoy a more equitable share of the fruits of democracy is due in large measure to the sacrifices made by Elmo Samson and his family in the 1950's.

In those days, he could not even afford a car as he traveled around the island of Oahu, talking and listening to his fellow construction workers. As he struggled, with only a handful of helpers and without pay, to organize what is now Laborers Local Union 368, his dutiful wife, Stella, and their nine children were at times forced to seek assistance at the local welfare office.

The fledgling union was at the bottom of the totem pole in its early contract negotiations. But in 1960, an industry-wide agreement was signed and Elmo Samson personally made sure that the term "common laborer" was deleted from that and all future contracts. Today, construction laborers in Hawaii are classified as "Labor 1," "Labor 2," and so forth. During these busy years, he served as one of the founding vice presidents of the Hawaii State Federation of Labor and as president of the Hawaii Building and Construction Trades Council. At a testimonial dinner in his honor in 1972, Hawaii's late Gov. John A. Burns said:

> This is only the second dinner I have attended honoring a labor leader. The other was for Jack Hall.

Elmo Samson shared with Jack Hall, the world-famous organizer of Hawaii's International Longshoremen's and Warehousemen's Union, a profound love for his fellowmen and a deep belief in the dignity of honest labor and working people which was undiminished at the time of his death. In recent years, he also lent his name, his time, and effort to the Aloha United Way, the Special Olympics, and the International Guiding Eyes Corp., and organization which trains guide dogs for the blind.

The 3,500 members of Laborers Union Local 368, of the International Laborers Union have lost not only their great leader, but also their founder and father, and by his unexpected passing Elmo Samson leaves a vacuum which will be most difficult, if not impossible, to fill.

Mr. President, although I did attend Elmo Samson's funeral only 10 days ago in Hawaii, the inner pain which one must endure over the loss of a dear friend prompts me to pay this additional tribute to his memory, in the hope that those

who are within hearing distance of my voice and readers of the CONGRESSIONAL RECORD will be inspired to do good by the life-story of Elmo Samson.

Hawaii is a better place, because Elmo Samson lived there. We whose lives were enriched by knowing him owe a debt of gratitude to his widow, Stella; his sons, Norman, Stanley, Wayne, and Steven; his daughters, Janet, Marilyn, Charlotte, and Velma; and his grandson, Randy, for having unselfishly permitted us to share the love and care of a super human being.

## MESSAGES FROM THE HOUSE

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 10:19 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 9179. An act to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation.

H.J. Res. 578. A joint resolution authorizing the President to proclaim the third week of May of 1978 and 1979 as "National Architectural Barrier Awareness Week."

The enrolled bill and joint resolution were subsequently signed by the President pro tempore.

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At 1:25 a.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 3161. An act to amend title 5, United States Code, to improve the basic work-week of firefighting personnel of executive agencies, and for other purposes; and

H.J. Res. 770. A joint resolution to authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A.".

ENROLLED BILLS SIGNED

At 3:40 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the Speaker has signed the following enrolled bills:

H.R. 4979. An act to direct the Secretary of the Interior to convey certain public and acquired lands in the State of Nevada to the county of Mineral, Nev.

H.R. 6693. An act to promote the healthy development of children who would benefit from adoption by facilitating their placement in adoptive homes, to extend and improve the provisions of the Child Abuse Prevention and Treatment Act, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

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At 6 p.m., a message from the House of Representatives announced that the House agrees to the amendments of the Senate to the bill (H.R. 7744) to amend the acts of August 11, 1888, and March 2, 1919, pertaining to carrying out projects for improvements or rivers and harbors by contract or otherwise, and for other purposes.

## HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 3161. An act to amend title 5, United States Code, to improve the basic work-week of firefighting personnel of executive agencies, and for other purposes; to the Committee on Governmental Affairs.

## COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-3333. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the Fishery Conservation and Management Act of 1976 to include the Northern Mariana Islands; to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations, jointly, by unanimous consent request.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication from the Secretary of Commerce, relative to amending the Fishery Conservation and Management Act of 1976 to include the Northern Mariana Islands, be referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

EC-3334. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals, April 1978; to the Committee on Appropriations and the Committee on the Budget, jointly, pursuant to order of January 30, 1975.

EC-3335. A communication from the Administrator, Rural Electrification Administration, Department of Agriculture, reporting, pursuant to law, approval of an REA insured loan in the amount of $3,100,000 to L. & O. Power Cooperative, of Rock Rapids, Iowa; to the Committee on Appropriations.

EC-3336. A confidential communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Air Force's proposed Letter of Offer for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC-3337. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on 14 construction projects to be undertaken by the Air National Guard; to the Committee on Armed Services.

EC-3338. A communication from the Chairman, Interstate Commerce Commission, transmitting, pursuant to law, the 91st annual report of the Interstate Commerce Commission; to the Committee on Commerce, Science, and Transportation.

EC-3339. A communication from the Under Secretary of Energy, transmitting, pursuant to law, a report on the Barnwell nuclear fuels plant applicability study, April 1978; to the Committee on Energy and Natural Resources.

EC-3340. A communication from the Assistant Secretary of the Interior, transmitting, pursuant to law, the annual report on the anthracite mine water control and mine sealing and filling program; to the Committee on Energy and Natural Resources.

EC-3341. A communication from the Under Secretary of the Interior, transmitting a draft of proposed legislation to modify the authority of the Government comptrollers for Guam and the Virgin Islands, and for other purposes; to the Committee on Energy and Natural Resources.

EC-3342. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, the 11th report on abnormal occurrences at licensed nuclear facilities; to the Committee on Environment and Public Works.

EC-3343. A communication from the Acting Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a report entitled "Plan for Research To Improve the Safety of Light-Water Nuclear Power Plants," April 12, 1978; to the Committee on Environment and Public Works.

EC-3344. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within 60 days after the execution thereof; to the Committee on Foreign Relations.

EC-3345. A communication from the Chairman, Occupational Safety and Health Review Commission, transmitting, pursuant to law, a report relating to compliance with the Sunshine Act; to the Committee on Governmental Affairs.

EC-3346. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Crop Forecasting by Satellite: Progress and Problems," April 7, 1978; to the Committee on Governmental Affairs.

EC-3347. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Questionable Need for Some Department of Labor Training Programs," April 10, 1978; to the Committee on Governmental Affairs.

EC-3348. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Timeliness and Completeness of FBI Responses to Requests Under Freedom of Information and Privacy Acts Have Improved," April 10, 1978; to the Committee on Governmental Affairs.

EC-3349. A secret communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the major issues of the Status of the Navy's CAPTOR ocean warfare mining system; to the Committee on Governmental Affairs.

EC-3350. A secret communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the major issues of the Maverick/Close air support weapon systems program; to the Committee on Governmental Affairs.

EC-3351. A secret communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on measures which should be taken by the Department of Defense to improve the readiness of tactical nuclear weapons stored in Europe as well as the physical security safeguards to prevent the theft, capture, and unauthorized use of these weapons; to the Committee on Governmental Affairs.

EC-3352. A communication from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a report of a new personal data system; to the Committee on Governmental Affairs.

EC-3353. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Department of Defense's Continued Failure to Charge for Using Government-Owned Plant and Equipment for Foreign Military Sales Costs Millions," April 11, 1978; to the Committee on Governmental Affairs.

EC-3354. A communication from the Chairman, National Transportation Safety Board, transmitting, pursuant to law, a re-

port relating to requirements of the Sunshine Act; to the Committee on Governmental Affairs.

EC–3355. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a Defense Audit Service proposed new system of records identified as DAS 01, entitled "Defense Audit Service Management Information System (DAS/MIS)"; to the Committee on Governmental Affairs.

EC–3356. A communication from the Chairman, National Commission for Manpower Policy, transmitting reports on "The Need to Disaggregate the Full Employment Goal," "The Effects of Increases in Imports on Domestic Employment," and "The Transformation of the Urban Economic Base"; to the Committee on Human Resources.

EC–3357. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report of the Department of Health, Education, and Welfare for fiscal year 1977 on activities related to the Rehabilitation Act of 1973, as amended; to the Committee on Human Resources.

EC–3358. A communication from the Director, Office of Health Policy, Research, and Statistics, Public Health Service, Department of Health, Education, and Welfare, transmitting, for the information of the Senate, a document entitled "Hospital Cost Containment: Selected Notes for Future Policy"; to the Committee on Human Resources.

EC–3359. A communication from the Chief, Division of Bankruptcy, Administrative Office of the U.S. Courts, transmitting, pursuant to law, a document entitled "Tables of Bankruptcy Statistics for Statistical Year 1976"; to the Committee on the Judiciary.

EC–3360. A communication from the council, National Railroad Passenger Corporation, transmitting, pursuant to law, a report relating to compliance with the Freedom of Information Act for calendar year 1977; to the Committee on the Judiciary.

EC–3361. A communication from the Assistant Administrator, Office of Planning and Management, Law Enforcement Assistance Administration, Department of Justice, transmitting, pursuant to law, the ninth annual report of the Law Enforcement Assistance Administration; to the Committee on the Judiciary.

## PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions, which were referred as indicated:

POM–586. A resolution adopted by the Legislature of the State of Hawaii; to the Committee on Banking, Housing, and Urban Affairs:

"SENATE RESOLUTION No. 275

"Whereas, the National Flood Insurance Act of 1968 defines 'base flood' as the flood having a one-percent chance of being equaled or exceeded in any given year, and utilizes this definition in determining 'areas of special flood hazard' or 'coastal high hazard areas'; and

"Whereas, in order for communities to qualify for subsidized federal flood insurance under this Act, local governments must impose specific development restrictions and requirements for construction in locations designated as areas of special flood hazard or coastal high hazard areas; and

"Whereas, the 1973 Flood Disaster Protection Act effectively mandates community participation in the National Flood Insurance Program by denying flood relief funds from non-participating communities; and

"Whereas, it can reasonably be anticipated that the effect of new codes and ordinances which conform to these federal requirements will be to the economic detriment of the community at large, particularly in communities such as Hawaii where affected areas constitute a significant portion of populated and developable land; and

"Whereas, the State of Hawaii, plagued by spiraling housing costs and an absence of great amounts of developable land, can ill afford to restrict the availability of reasonably priced housing and opportunities for economic development by the application of unreasonable building limitations; and

"Whereas, the legislature of the State of Hawaii recognizes that the intent of these restrictions is to minimize the loss of life and property due to flood, storm surf or tsunami; and

"Whereas, the legislature of the State of Hawaii feels that the 100 year base flood zone constitutes an overly stringent standard by which to measure the likelihood of damaging or catastrophic floods; and

"Whereas, increasingly sophisticated early warning systems have significantly reduced the hazards of loss of life or personal injury from storm surf and tsunami in the State of Hawaii; and

"Whereas, a fifty year standard would more realistically represent the economic life of structures, reduce pressure of urbanization on agricultural and conservation lands, and reduce the detrimental effects of building restrictions while adequately protecting and preserving the intent of the Flood Insurance Act requirements; now, therefore,

"Be it resolved by the Senate of the Ninth Legislature of the State of Hawaii, Regular Session of 1978, that the Congress of the United States is respectfully requested to reduce the one hundred year base flood of the National Flood Insurance Act to fifty years; and

"Be it further resolved that certified copies of this Resolution be transmitted to the President of the Senate of the United States; the Speaker of the House of Representatives of the United States; The Honorable Daniel K. Inouye, U.S. Senator; The Honorable Spark M. Matsunaga, U.S. Senator; The Honorable Daniel Akaka, U.S. Representative; The Honorable Cec Heftel, U.S. Representative; the Honorable George R. Ariyoshi, Governor, State of Hawaii; the Council of Housing and Construction Industry; and the Hawaii Advisory Committee for National Flood Insurance."

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POM–587. A joint resolution adopted by the legislature of the State of Ohio; to the Committee on Environment and Public Works:

"HOUSE JOINT RESOLUTION No. 57

*"Be it resolved by the General Assembly of the State of Ohio:*

"Whereas, There are sixteen service plazas on the 241-mile-long-Ohio Turnpike which provide fuel and food to the traveling public and also contain Tourist Information Centers and shops wherein souvenirs and other appropriate items may be purchased by the traveling public, which service plazas were constructed and located on said turnpike prior to its opening to traffic on October 1, 1955, and prior to the creation of the Inter-State Highway System in 1956, and all subsequent development along the highway has occurred with these plazas in active service;

"Whereas, Pursuant to section 5537.21 of the Revised Code, said service plazas, which are now operated and maintained by the Ohio Turnpike Commission through strictly controlled contracts with concessionaires, will come under the control of and be a valuable asset of the State of Ohio and can in like manner provide significant service and produce substantial revenue for the State when the conditions of Section 5537.21 of the Revised Code have been fulfilled and the Ohio Turnpike becomes free of tolls. Conversely the removal or destruction of said service plazas would be a wanton and wasteful act which would result in the displacement of hundreds of jobs, the need to construct replacement facilities away from the road and possibly additional, otherwise unnecessary interchanges, all of which would ill comport with the pressing need of the State of Ohio for revenue, and the nation's need to husband its resources and conserve energy; and

"Whereas, Section 111 of Title 23 of the United States Code requires that the Secretary of Transportation refrain from entering into any agreement whereby any commercial establishment would be constructed or located on an interstate highway and said section has been administratively interpreted so as to deny other states, in some instances, the right to continue pre-existing service plazas on routes designated as interstate routes even though the intent of Congress may well be contrary to such administrative interpretation; and

"Whereas, It is therefore of great importance that Congress make known its intent with clarity and express itself definitely as permitting the retention of service plazas on roads now a part of the interstate system which were constructed prior to and existing at the time of the enactment of Section 111 of Title 23 of the United States Code so as to avoid the senseless waste which would otherwise result; therefore be it

*"Resolved,* That the members of the 112th General Assembly, in adopting this resolution, memorialize the Congress of the United States to amend Section 111 of Title 23 of the United States Code so as to provide clearly that publicly owned or controlled service plazas constructed and in existence prior to the enactment of said section may be retained on interstate highways or highways becoming a part of the interstate system without jeopardizing or precluding the use of federal funds in the improvement or reconstruction thereof; and be it further

*"Resolved,* That the Clerk of the House transmit duly authenticated copies of this resolution to the Speaker of the United States House of Represenatives; to the President of the United States Senate, and to the members of Ohio's Congressional Delegation."

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POM–588. A resolution adopted by the Legislature of Guam; to the Committee on Finance:

"RESOLUTION No. 270

"Be it resolved by the Legislature of the Territory of Guam:

"Whereas, the United States Congress is currently considering several bills which would provide tax credit for families who pay tuition for education; and

"Whereas, specifically, these bills are referred to as Senate Bill No. 2142, House of Representatives Bill No. 9332 and House of Representatives Bill No. 9442, and need support from all quarters in order to pass; and

"Whereas, on February 23, 1978, the Senate Finance Committee reported out with a favorable recommendation House of Representatives Bill No. 3946 with amendments which incorporate the objectives of Senate Bill No. 2142, House of Representatives Bill No. 9332 and House of Representatives Bill No. 9442; and

"Whereas, Guam residents whose students are attending non-public schools pay high fees for tuition on all educational levels—primary, secondary and University; and

"Whereas, the laws passed in the United States as a result of these aforementioned bills would benefit most families on Guam; and

"Whereas, implementation of these laws would greatly improve the chances of attaining educational equity for all; now, therefore, be it

"Resolved, that the Fourteenth Guam Legislature, on behalf of the peopleof Guam, respectfully requests the United States Congress to, after due consideration, enact said legislation; and be it further

"Resolved, that the Fourteenth Guam Legislature, on behalf of the people of Guam, respectfully requests the United States Congress to take the mose expedient action possible on House of Representatives Bill No. 3946, as amended; and be it further

"Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be transmitted to the President of the United States; to the Speaker of the U.S. House of Representatives; to the President Pro Tempore of the U.S. Senate; to Congressman Antonio B. Won Pat and to the Governor of Guam."

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POM-589. A resolution adopted by the Legislature of the State of New York; to the Committee on Human Resources:

SENATE LEGISLATIVE RESOLUTION No. 168

"Whereas, the plight of the elderly has been recognized and alleviated by several packages of legislation whose source was this Legislative Body; and

"Whereas, under existing Federal law, Title 6 of the Older Americans Act, the resources available to supply the homebound elderly are severely limited so that present care is constrained to assistance to the homebound elderly in shopping and food preparation only; and

"Whereas, The existing Federal program in the Bronx, New York (Project RAIN) is attempting to serve the needs of more than fifty homebound elderly above that Project's federally-funded allowance; and

"Whereas, H.R. 6337, The Federal, often referred to "meals-on-wheels", legislation would afford the homebound elderly previously prepared, nutritionally balanced, full meals delivered directly to their homes instead of mere assistance in food preparation; and

"Whereas, The House Subcommittee on Labor and Education has already recognized this great need of the homebound elderly by sending H.R. 6337 to the full House Committee on Labor and Education, where it now reposes; now, therefore, be it

"Resolved, That this Legislative Body respectfully urges the House Committee on Labor and Education to favorably report H.R. 6337 to the floor of the House of Representatives and memorializes the Congress of the United States to pass this legislation; and be it further

"Resolved, That copies of this resolution, suitably engrossed, be transmitted to the House Committee on Labor and Education, to the Speaker of the House of Representatives of the United States, to the President Pro Tempore of the Senate of the United States and to each Member of the Congress of the United States from the State of New York."

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POM-590. A resolution adopted by the Westchester County Board of Legislators, White Plains, N.Y., relating to the cost of college education; to the Committee on Finance.

POM-591. A resolution adopted by the Westchester County Board of Legislators, White Plains, N.Y., relating to the cost of college education; to the Committee on Finance.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. METZENBAUM, from the Committee on the Judiciary:

Special report—Citizens and Shareholders Rights and Remedies (Rept. No. 95-737).

By Mr. JACKSON, from the Committee on Energy and Natural Resources, without amendment:

S. Res. 429. A resolution to disapprove Energy Action DOE Numbered 1 (Rept. No. 95-738).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. DOLE (for himself, Mr. DOMENICI, Mr. CURTIS, Mr. YOUNG, Mr. BELLMON, Mr. SCHMITT, Mr. MCCLURE, Mr. PEARSON, Mr. WALLOP, Mr. TOWER, and Mr. ZORINSKY):

S. 2905. A bill to increase the target prices for the 1978 through 1981 crops of wheat; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. RIBICOFF (by request):

S. 2906. A bill to establish the position of Administrator, Economics, Statistics, and Cooperatives Service, Department of Agriculture at the Executive Level V; to the Committee on Governmental Affairs.

By Mr. CRANSTON (by request):

S. 2907. A bill to provide for the development and implementation of State programs for youth camp safety and health; to the Committee on Human Resources.

By Mr. JAVITS (for himself, Mr. KENNEDY, Mr. PELL, Mr. RANDOLPH, Mr. STAFFORD, Mr. RIEGLE, Mr. BAYH, Mr. CASE, Mr. CLARK, Mr. ABOUREZK, Mr. INOUYE, Mr. WILLIAMS, and Mr. HATHAWAY):

S. 2908. A bill to amend the Public Health Service Act to extend programs relating to venereal disease, and for other purposes; to the Committee on Human Resources.

By Mr. HASKELL:

S. 2909. A bill to authorize the Department of Commerce to retain title to and jurisdiction over a certain tract of land at the National Bureau of Standards site at Boulder, Colorado, to authorize the construction of certain facilities thereon, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KENNEDY (for himself, Mr. WILLIAMS, Mr. JAVITS, and Mr. HATHAWAY):

S. 2910. A bill to establish a program for developing networks of community-based services to prevent initial and repeat pregnancies among adolescents, to provide care to pregnant adolescents, and to help adolescents become productive independent contributors to family and community life; to the Committee on Human Resources.

By Mr. CANNON (for himself and Mr. LAXALT):

S. 2911. A bill to facilitate the coordination of programs for the protection, management, and control of wild free-roaming horses and burros, and other resources, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CLARK:

S. 2912. A bill to strengthen the economy of the United States through improved loan rates and target prices for producers of wheat, feed grains, and upland cotton; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HASKELL (for himself and Mr. HANSEN):

S. 2913. A bill to amend section 317(c)(1) of the Federal Land Policy and Management Act of 1976 to conform the interest rate therein to the yield on certain tax exempt bonds, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HASKELL (for himself and Mr. HANSEN) (by request):

S. 2914. A bill to amend section 317(c)(1) of the Federal Land Policy and Management Act of 1976 to conform the interest rate therein to the yield on certain U.S. obligations, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HATHAWAY (for himself, Mr. WILLIAMS, Mr. HATCH, Mr. JAVITS, and Mr. RIEGLE):

S. 2915. A bill to amend the Alcohol and Drug Abuse Education Act to extend the authorization of appropriations for carrying out the provisions of such Act, and for other purposes; to the Committee on Human Resources.

By Mr. HATHAWAY (for himself, Mr. WILLIAMS, Mr. HATCH, Mr. JAVITS, Mr. CRANSTON, and Mr. RIEGLE):

S. 2916. A bill to amend the Drug Abuse Office and Treatment Act of 1972 to extend the programs of assistance under that act for drug abuse prevention, education, treatment, and rehabilitation, and for other purposes; to the Committee on Human Resources.

By Mr. DOMENICI (for himself and Mr. SCHMITT):

S. 2917. A bill to amend the Internal Revenue Code of 1954 to provide tax incentives for investment in small corporations doing research in the area of energy development and conservation; to the Committee on Finance.

By Mr. DOLE:

S. 2918. A bill to permit marketing orders to include provisions concerning marketing promotion, including paid advertisement, of raisins and distribution among handlers of the pro rata costs of such promotion; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PROXMIRE (for himself, Mr. STONE, Mr. CHILES and Mr. MATHIAS) (by request):

S. 2919. A bill to encourage broader utilization of the condominium form of homeownership, to provide minimum national standards for disclcsure and consumer protection for condominium purchasers and owners and tenants in condominium conversions, to encourage States to establish similar standards, to correct abusive use of long-term leasing of recreation and other condominium-related facilities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself, Mr. DOMENICI, Mr. CURTIS, Mr. YOUNG, Mr. BELLMON, Mr. SCHMITT, Mr. MCCLURE, Mr. PEARSON, Mr. WALLOP, Mr. TOWER, and Mr. ZORINSKY):

S. 2905. A bill to increase the target prices for the 1978 through 1981 crops of wheat; to the Committee on Agriculture, Nutrition, and Forestry.

WHEAT TARGET PRICES

● Mr. DOLE. Mr. President, action in the House of Representatives last evening killed the Emergency Agricultural Act of 1978, passed by the Senate last week. The farmers of this Nation needed that bill. But it was killed by distortion by the Carter administration. The threat of veto by the President caused many Members of the House to vote against this bill.

Now, Mr. President, I am introducing a bill, the provision of which was stated by Secretary Bergland as the only thing that President Carter would approve as improvements to farm legislation this year. The bill is a simple one. It raises the target price for wheat to $3.50 per bushel, up from the $3 per bushel presently in law—$3.05 if crop is less than 1.8 billion bushels.

Since this was the top target price level and the only change Secretary Bergland could get approved, I want to make sure the farmers of this Nation get the benefit of this increase.

I shall ask the Senate Agriculture, Nutrition, and Forestry Committee to act promptly to report this bill at our executive session on April 19, and would hope we could have prompt action on the floor.●

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By Mr. RIBICOFF (by request):

S. 2906. A bill to establish the position of Administrator, Economics, Statistics, and Cooperatives Service, Department of Agriculture at the Executive Level V; to the Committee on Governmental Affairs.

● Mr. RIBICOFF. Mr. President, at the request of the Secretary of Agriculture, I am introducing legislation to establish the position of Administrator, Economics, Statistics, and Cooperatives Service, Department of Agriculture, at Level V of the Executive Schedule.

The Secretary of Agriculture advises that a new Economics, Statistics, and Cooperatives Service has been established in the Department by merging various related activities. The Secretary advises further that the new Service will carry out programs which are extremely important to the Department, producers, and consumers.

I ask unanimous consent that the bill and the accompanying statement of purpose and need for the legislation be printed in the RECORD.

There being no objection, the bill and the statement were ordered to be printed in the RECORD, as follows:

S. 2906

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 5316 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph (144) as follows:

"(144) Administrator, Economics, Statistics, and Cooperatives Service, Department of Agriculture."

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WASHINGTON, D.C.
*March 9, 1978.*

Hon. WALTER F. MONDALE,
*President of the Senate,*
*Washington, D.C.*

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a draft bill "To establish the position of Administrator, Economics, Statistics, and Cooperatives Service, Department of Agriculture at Executive Level V."

The Department recommends enactment of the draft bill.

A new Economics, Statistics, and Cooperatives Service has been established in the Department under the supervision of the Director of Economics, Policy Analysis and Budget by merging the activities of the Economic Research Service, Statistical Reporting Service, Farmer Cooperative Service, and the Economic Management Support Center. This Service will have responsibility for conducting economic research and service work relating to agricultural production, marketing and distribution; statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys; and research and service work relating to the economic and marketing aspects of farmer cooperatives.

The Economics, Statistics, and Cooperatives Service will carry out programs which are extremely important to the Department, as well as to producers and consumers. Implementation of these programs requires careful and sensitive administration. The responsibilities of the Service are comparable to those of other Departmental agencies whose Administrators are paid at Level V of the Executive Schedule.

Therefore, we recommend establishment of the position of Administrator of the Economics, Statistics, and Cooperatives Service at Executive Level V.

An identical letter has been sent to the Speaker of the House.

The Office of Management and Budget advises that there is no objection to the presentation of the proposed legislation from the standpoint of the Administration's program.

Sincerely,

BOB BERGLAND,
*Secretary.*●

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By Mr. CRANSTON (by request):

S. 2907. A bill to provide for the development and implementation of State programs for youth camp safety and health; to the Committee on Human Resources.

YOUTH CAMP SAFETY AND HEALTH ACT OF 1978

● Mr. CRANSTON. Mr. President, today I am introducing, at the request of the administration, S. 2907, the proposed Youth Camp Safety and Health Act of 1978. I ask unanimous consent that the letter of transmittal of April 3, 1978, from Joseph A. Califano, Jr., Secretary of Health, Education, and Welfare, and the bill be printed in the RECORD.

There being no objection, the bill and the letter were ordered to be printed in the RECORD, as follows:

S. 2907

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Youth Camp Safety and Health Act of 1978."

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to protect and safeguard the health and well-being of young persons in youth camps, by providing for the development of model standards for the safe operation of such camps, and to provide Federal grants, technical assistance, and leadership to the States in developing and implementing safety and health programs for youth camps, thereby providing assurance to parents and interested citizens that youth camps meet minimum safety and health standards. It is the intent of Congress that the States assume responsibility for the implementation and enforcement of effective youth camp safety and health standards and regulations.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "Youth camp" means any day camp, primitive or outpost camp, residential camp, travel camp, trip camp, or short-term group camp whether on public or private land, which is designed to be attended by 10 or more campers at the same time who are under 18 years of age. The terms include any program promoted or advertised as a youth camp and shall also include programs conducted on sites or facilities primarily designed for other purposes such as schools, playgrounds, resorts, wilderness areas, and government lands.

(2) "Day camp" means a camp operated for any part (but less than 24 hours) of the day for at least 5 days during a 2-week period. The term does not include day care centers as defined or licensed by the appropriate State agency.

(3) "Primitive or outpost camp" means a portion of the permanent premises of a camp or other site at which the basic needs of camp operations, such as places of abode, water supply systems, and permanent toilet and cooking facilities, are not usually provided.

(4) "Residential camp" means a camp operating on a permanent site at which the same campers remain for a period of at least 96 consecutive hours.

(5) "Travel camp" means a camp which provides care for not less than a 48-hour period and which uses motorized transportation to move campers as a group from one site to another.

(6) "Trip camp" means a camp which provides care for not less than a 24-hour period and which supervises campers as they travel, either on foot or by a transportation mode permitting individual guidance of a vehicle or animal from one location to another.

(7) "Short-term group camp" means a camp which provides care for more than a 24-hour period but less than a 96-hour period for troops, clubs, or groups of campers sponsored by an organization or person.

(8) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(9) The term "State" includes each of the several States, the District of Columbia, Puerto Rico, American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

YOUTH CAMP SAFETY AND HEALTH STANDARDS

SEC. 4. (a) The Secretary, after consultation with—

(1) appropriate State officials, and

(2) representatives of appropriate public and private organizations

shall, within one year after the enactment of this Act, develop model standards for youth camps directed toward assuring that such camps are operated in a manner which protects the health and safety of the campers and related to matters such as, qualifications for director and staff; ratio of staff to campers; sanitation and public health; personal health, first aid, and medical services; food handling and group feeding; water supply and waste disposal; water activity safety, including swimming and boating equipment and practices; vehicle condition and operation; building and site design; and condition of equipment facilities and density of their use. In developing such standards, the Secretary shall consider existing Federal guidelines, State and local regulations and standards, and standards developed by private organizations, applicable to youth camp safety and health and shall also consider the experience of State, local, and private agencies and organizations in implementing such regulations and standards, and such other information as may be available.

(b) The Secretary shall, within 30 days after development of the standards referred to in subsection (a), publish these standards in the Federal Register. The published standards may be revised from time to time as determined by the Secretary.

ASSISTANCE TO STATES

SEC. 5. (a) The Secretary may provide grants or technical assistance to any State planning to develop a comprehensive youth camp safety and health program. These grants or technical assistance may be used for the purpose of—

(1) coordinating existing education and enforcement activities relating to youth camp safety and health;

(2) creating or designating an appropriate State agency which will be responsible for administration of a youth camp safety and health program;

(3) developing and implementing safety and health programs directed toward specific camping activities such as, aquatics, water skiing, arts and crafts, archery, horseback riding, mountaineering, white-water canoeing and rafting, caving, and proper use of firearms;

(4) developing and conducting seminars and other short term training courses for State youth camp safety and health personnel and for camp health, safety, and supervisory personnel;

(5) designing and implementing procedures and systems for reporting of illnesses or injuries in youth camps within a State's jurisdiction and the keeping of State records of such reports; and

(6) developing programs to monitor compliance with State standards and regulations applicable to youth camp safety and health.

(b) The amount of any grant provided under this section shall not exceed 50 per centum of the costs incurred by the State to carry out the activities referred to in subsection (a). Federal funds made available under this section for any period will be used so as to supplement the level of State funds that would otherwise be made available for the activities described in this section, and will in no event replace such funds.

YOUTH CAMP SAFETY AND HEALTH PLANS

SEC. 6. (a) Any State desiring to authorize youth camps in that State to advertise compliance with the Federal model youth camp safety and health standards, shall submit to the Secretary a plan which provides—

(1) for the creation or designation of a State agency to be the principal agency in the State responsible for administration of its youth camp safety and health program;

(2) for State-supervised inspections of youth camps and certification of those camps found to be in compliance with the model youth camp safety and health standards developed pursuant to section 4;

(3) that camps certified as being in compliance with those standards will be authorized to advertise that fact through the use of the statement "This camp has been certified by (the appropriate State agency) as meeting the model Federal Youth Camp Safety and Health Standards.";

(4) that any camp not so certified will be prohibited, with penalties sufficient to assure compliance, from advertising or otherwise implying that it meets such standards; and

(5) that the State agency will make such reports and provide such information to the Secretary as he determines to be necessary to carry out his duties under this Act.

(b) The Secretary shall approve a plan submitted by a State if he finds that it meets the requirements set forth in subsection (a).

FAILURE TO COMPLY WITH STATE PLAN

SEC. 7. In the case of any State plan approved under section 6, if the Secretary, after reasonable notice and opportunity for a hearing to the State agency responsible for administering such plan, finds that the plan has been changed so as not to be in compliance with the provisions set forth in section 6(a) or that in the administration of the plan there has been a failure to comply substantially with any provision required by section 6(a) to be included in such plan, the Secretary shall suspend approval of the plan until he is satisfied there is no longer any such failure to comply, and shall so notify the State agency.

PENALTIES

SEC. 8. Whoever, being an officer, director, agent, or employee of a youth camp located in a State which does not have a plan approved pursuant to section 6 and who uses or causes to be used any advertisement or statement which indicates that such camp is in compliance with the model Federal youth camp safety and health standards is guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than $1,000.

ADMINISTRATION

SEC. 9. The Secretary shall prepare and submit to the President for transmittal to the Congress after the close of the second and fifth fiscal years for which this Act is in effect a comprehensive report on the administration of this Act, including any changes which are planned in the model youth camp safety and health standards.

AUTHORIZATION

SEC. 10. There are authorized to be appropriated to carry out the provisions of this Act $2,000,000 for the fiscal year ending September 30, 1979, and $2,000,000 for each of the five succeeding fiscal years.

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APRIL 3, 1978.

Hon. WALTER F. MONDALE,
*President of the Senate,*
*Washington, D.C.*

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a draft bill "To provide for the development and implementation of State programs for youth camp safety and health". The draft bill is intended to assure that Federal leadership will be provided to the States through the development of safety and health standards and the provision of grants and technical assistance, to assist them in developing programs which can provide assurance that youth camps meet minimum safety and health standards. The States, however, are to retain full responsibility for the implementation and enforcement of effective safety and health regulations.

The draft bill charges the Secretary of Health, Education, and Welfare with responsibility for developing model youth camp safety and health standards. In carrying this out, he must first consult with State officials and representatives of other concerned public and private agencies. Thereafter, but within one year of enactment of the draft bill, he must develop the standards and within the following 30 days, publish them in the Federal Register. These standards are models for the use of the States and have no regulatory effect until their adoption by one or more States.

The Secretary may also make grants and provide technical assistance to States for purposes such as developing new State programs for assuring youth camp safety and health and coordinating existing activities, developing and conducting training programs for State and camp personnel, designing systems for camps to use in reporting accidents or injuries and procedures for the States to follow in keeping records of these reports for later State and Federal use, and for creating or designating a State agency to implement the State's youth camp safety and health programs and, specifically, monitoring the compliance of individual camps with the State's standards. Grants can be made for no more than 50 percent of the cost of the activity, and are not to replace State money which would otherwise be available for these purposes.

If a State wishes to enable camps within its boundaries to advertise compliance with the model Federal safety and health standards, it must first have an approved State plan. The plan must provide for State supervised inspections of camps and for prohibiting a camp from advertising its compliance with the Federal standards unless it is appropriately certified by the State agency. The plan must also specify sanctions sufficient to deter uncertified camps from advertising that they meet the model Federal standards.

The Secretary is directed to report to the Congress on the administration of the Act after the second and fifth years of the program, and to include a statement of any changes which he is planning to make in the model standards.

The bill would authorize $2 million for carrying out the Act in fiscal year 1979, and a like amount for each of five fiscal years thereafter.

We urge the Congress to favorably consider this draft bill.

We are advised by the Office of Management and Budget that there is no objection to the submission of this legislation from the standpoint of the Administration's program.

Sincerely,

JOSEPH A. CALIFANO, Jr.,
*Secretary.*

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By Mr. JAVITS (for himself, Mr. KENNEDY, Mr. PELL, Mr. RANDOLPH, Mr. STAFFORD, Mr. RIEGLE, Mr. BAYH, Mr. CASE, Mr. CLARK, Mr. ABOUREZK, Mr. INOUYE, Mr. WILLIAMS, and Mr. HATHAWAY):

S. 2908. A bill to amend the Public Health Service Act to extend programs relating to venereal disease, and for other purposes; to the Committee on Human Resources.

VENEREAL DISEASE PREVENTION AND CONTROL ACT AMENDMENTS OF 1978

● Mr. JAVITS. Mr. President, I introduce today, together with my colleagues, Senators KENNEDY, PELL, RANDOLPH, STAFFORD, RIEGLE, BAYH, CASE, CLARK, ABOUREZK, INOUYE, WILLIAMS, and HATHAWAY, the Venereal Disease Prevention and Control Act Amendments of 1978 which would renew and expand the Nation's capability to deal with epidemic venereal disease. The Venereal Disease Prevention and Control Act of 1972, which I authored, marked the beginning of an expanded national effort against sexually transmissible diseases, and the Venereal Disease Prevention and Control Amendments of 1976 continued and strengthened that program.

The Federal effort against VD, in partnership with State and local programs, has been notably successful. Syphilis is now under control. New cases of syphilis occurring each year have been reduced to a manageable level, permitting more intensive efforts to achieve even greater reductions. Just this past year, for the first time since 1962, the reported incidence of gonorrhea was actually reduced.

Despite these benchmarks of progress, future VD control program efforts are hampered by the low priority often given VD as a public health menace and the dependence of VD programs on fluctuating National, State, and local support. It must be stressed, however, that in the case of VD control, unlike many other

disease control programs, there can be demonstrated a direct relationship between funding increases and incidence decrease. In addition, no public health effort in modern times demonstrates more dramatically, and more repeatedly than venereal disease control the results of failure to follow through on a successful program.

It is precisely in this period of declining incidence that programs must be maintained at full strength if we are to maintain control of, and hope to eradicate, venereal disease in this country. We must take great caution not to repeat the mistakes of the past, when on the heels of advances such as those we are now witnessing, we allowed our VD prevention and control capabilities to grow weak and feeble. For example, by 1963, after a period of decreased Federal support, gonorrhea in New York City had increased 104 percent over the 1955 low.

The bill we introduce today reauthorizes the Venereal Disease Prevention and Control Act for 3 years and, based on the past 6 years of program experience, targets renewed efforts to deal with the continuing national epidemic of veneral disease.

The bill includes the following provisions:

Continued emphasis on a broadened scope of venereal diseases.

Mandates an increase of venereal disease prevention and control epidemiologists, who are so desperately needed in communities throughout the Nation.

Improves the clinical management capabilities nationwide and particularly in high volume, public VD and related service clinics

Expands the project grant programs under which mass screening, case followup, contact tracing, disease surveillance, and intervention are carried out.

Expands capabilities to refine VD prevention and control technologies to build new, better targeted, more efficient, and effective techniques.

Extends and improves VD preventive education.

Substantially increases funding of venereal disease programs to levels of $60 million for fiscal year 1979, $68 million for fiscal year 1980, and $78 million for fiscal year 1981.

The bill specifically addresses several problems in the existing venereal disease prevention and control program:

First, existing law contains two authorities to fund VD grants—one for training, demonstration, research, information, and education programs, and another from grants to States for VD prevention and control programs. Unfortunately, the only funding to date has been for State-operated VD prevention and control programs.

Public awareness through education is a most potent technique for coping with epidemic VD in America. Therefore, the bill merges these two funding authorities into one, obligating 5 percent of all funds appropriated for VD in any fiscal year for programs of information, education, research, and demonstration. This effectively mandates the funding of these programs which are essential to the overall effort of VD prevention and control.

Second, a persistent problem in the VD program has been poor clinical patient management, including misdiagnosis, underdiagnosis, and therapeutic inadequacy, which is exacerbated by the increased complexity of the more than 20 venereal diseases now known. The bill directs attention to this problem by including a provision for "professional training and clinical skills improvement activities" to be funded through project grants. In so doing, the need programmatically to target and intervene on the increasingly worsening problem of poor clinical management through strong programs of professional education and training is emphasized as a key component of the total VD program.

Third, the number of Public Health Service advisers, venereal disease epidemiologists, who are employed and trained by the Center for Disease Control to work with and advise State personnel in VD prevention and control programs, has been drastically reduced by OMB from a former high of 725 advisers in 1973 (immediately after enactment of my legislation) to a current level of 425. The need and demand from the States for these experts far exceeds the present number, and my bill requires that a permanent corps of 850 public health advisers be maintained. I feel strongly that the role of these advisers is central to further advances in combating venereal disease.

Fourth, the bill repeals a provision in the existing law which permits the Secretary of Health, Education, and Welfare to transfer funds appropriated for VD for use in other disease control programs. The singular and categorical intent of this section of the Public Health Service Act is to authorize nationwide VD prevention and control activities and none other. We cannot afford to lose funds authorized for this public health problem to be used in other areas.

Finally, as I indicated earlier, the bill substantially increases the funding authorities to carry out the expanded mandates of the bill.

Two Federal agencies, the Center for Disease Control (CDC) and the National Institute of Allergy and Infectious Diseases (NIAID), are responsible for venereal disease programs and research. The principal concerns of CDC, which has been involved in VD control for many decades, are case-finding, case followup, contact tracing, interstate coordination and referral of epidemiologic data, professional and public VD education, operational and methodologic research, and VD screening. Syphilis, which was of primary concern to this Nation, was the control focus. Elaborate and well conceived epidemiologic models were developed and control efforts were successfully executed. As a result of case followup, widespread serologic screening and chemoprophylaxis, late symptomatic syphilis is virtually unheard of today.

The principal concern of NIAID is biomedical research. We must keep in mind that ultimately, perhaps many years from now, the permanent solutions to epidemic venereal disease will be in the form of vaccines. As such, biomedical research building toward such solutions must be seen as an integral component of a national effort to combat epidemic venereal disease. The National Institute of Allergy and Infectious Diseases, the primary focus for governmentally supported biomedical VD research in America, only expends roughly $5 million annually in this area.

VD remains the most under-researched medical problem in America, despite the fact that more people are affected in more serious ways by VD than by any other infectious disease, and despite the technological and scientific voids that have been illustrated. If one attempts to balance VD incidence and consequence with the NIAID dollar investment in VD biomedical research, one only finds that no such balance exists. A serotest for gonorrhea, curative agents for Herpes Type 2 and CMV, and vaccines for any of the venereal diseases must become realities and requires that NIAID invest considerably more than the insufficient sum of $5 million annually, and substantially depart from the current snail's pace VD research program.

Finally, I would like to raise one additional issue. In our country today there exists a most disturbing trend toward greatly increased adolescent pregnancy. But what is equally distressing although less publicized, is an unfortunate corollary—teenage venereal disease. The figures are shocking and sad. In 1976 it was estimated that 2.7 million teenagers between the ages of 15 and 19 were infected with venereal disease. That is, one out of every eight youths between 15 and 19 had VD. The hardship and tragedy of "children having children" is all the more tragic when some of these teenagers are becoming pathologically sterile or giving birth to congenitally infected syphilitic babies. As these diseases spread to younger and younger victims, VD programs, particularly those of education and information, are all the more crucial.

It is ironic that the American people have become alarmed (and justifiably so) by an outbreak of Legionnaire's disease, or measles, or Russian flu, but not by 10 million cases of VD, or by 100,000 women under 30 becoming sterile, or by 7,000 infant deaths as a consequence of herpes and group B streptococcal infection. The reason is that: this epidemic feeds on silence and social stigma. The solutions, however, are complex.

Despite the sheer enormity of the VD problem confronting us, despite technical difficulties and technological voids, and despite VD's singular unpopularity as an issue around which constituencies might otherwise rally, the progress enabled by the Venereal Disease Prevention and Control Acts of 1972 and 1976 has been notable. These real and significant advances notwithstanding, we must reaffirm our resolve to go beyond present successes. I look forward to a day when the harsh realities of epidemic VD are history. I firmly believe that the legislation introduced today will bring that day closer than it has ever been in the past. ●

By Mr. HASKELL:

S. 2909. A bill to authorize the Department of Commerce to retain title to and jurisdiction over a certain tract of land at the National Bureau of Standards site at Boulder, Colo., to authorize the construction of certain facilities thereon, and for other purposes; to the Committee on Commerce, Science, and Transportation.

● Mr. HASKELL. Mr. President, today I am introducing a bill designed to clarify and rectify a matter of great concern to the community of Boulder, Colo.

The city of Boulder, in 1950, donated approximately 200 acres of land to the U.S. Government. This land was purchased through the efforts of the Boulder Chamber of Commerce specifically for the purposes of providing a location for the National Bureau of Standards (NBS). Much to the benefit of Boulder and the scientific community at large, the NBS headquarters was constructed on the donated tract of land.

The National Oceanic and Atmospheric Administration (NOAA) and its predecessor agency the Environmental Science Services Administration (ESSA), has operated out of the NBS building since 1966. As the scope of NOAA's programs increased, so did its need for additional office and lab space. This situation eventually made it necessary for NOAA to lease office space out of eight separate buildings scattered throughout the Boulder area at a cost to the taxpayers of roughly $1 million a year.

To compound the problem even further, the General Services Administration, in 1974, surveyed the NBS land and determined that part of the land was not being used for program purposes. Accordingly, the General Services Administration declared 30 acres of this land surplus and subject to public disposal. The city of Boulder donated this land to the Federal Government in order to attract the NBS as a member of Boulder's growing scientific community, not to be auctioned off by the Government to private parties at a profit. Clearly, if this action is allowed to take place, it would be directly against the good intentions of the community that originally donated the land.

The legislation I am introducing today would address these problems without adding any additional tax burdens to the taxpayer. This bill would authorize the Department of Commerce, under which both the NBS and NOAA operate, to retain title to and jurisdiction over the Boulder site and also allow it to enter into a lease-purchase arrangement with a private contractor to provide for the construction of this needed facility. The funds that normally would have been expended for rent could be applied toward the lease of the facility. Under the terms of this lease-purchase provision, the title to this lab complex would pass on to the Government within 30 years. Instead of endlessly using limited revenues to cover rental payments, the lease-purchase authorized by this bill will provide for the Government's acquiring equity in the facility since a portion of the rental payment will go toward the purchase of the facility. The advantages of centralizing these facilities are numerous: It would increase the effectiveness of NOAA's operations by providing a building specifically for research programs, assist in maintaining the necessary security, and reduce the amount of duplicate facilities. Also, because of the vast distances between the various NOAA facilities, a shuttle bus system was established to carry mail, material, and personnel between the buildings. This system, although necessary under the present circumstances, contributes to air pollution and wasted time.

The Governor of Colorado, the mayor of Boulder, the Boulder Chamber of Commerce, and the communities involved support this legislation. It represents a logical approach to enhancing the important services that NOAA provides while at the same time protecting the interests of the local community, all without increasing the cost to the taxpayers.●

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By Mr. KENNEDY (for himself, Mr. WILLIAMS, Mr. JAVITS, and Mr. HATHAWAY):

S. 2910. A bill to establish a program for developing networks of community-based services to prevent initial and repeat pregnancies among adolescents, to provide care to pregnant adolescents, and to help adolescents become productive independent contributors to family and community life; to the Committee on Human Resources.

ADOLESCENT HEALTH, SERVICES, AND PREGNANCY PREVENTION AND CARE ACT OF 1978

Mr. KENNEDY. Mr. President, I am pleased to introduce today, on behalf of the administration, a bill that begins to address, in a comprehensive manner, the complex problems of teenage pregnancy. This proposal—"The Adolescent Health, Services and Pregnancy Prevention and Care Act of 1978"—has the strong support of President Carter and Secretary Califano. Cosponsoring this bill with me are my friends and distinguished colleagues Senators WILLIAMS, HATHAWAY, and JAVITS.

The problems of teenage pregnancy and adolescent sexuality are multifaceted and have serious health, social, moral, and economic implications, and they affect not only the immediate health of the mother and child but their whole future. In the United States today there are over 21 million young people between the ages of 15 and 19, and 11 million are sexually active. Over 1,000,000 young girls become pregnant each year and over 600,000 have live births.

On a national level, we have long been aware of the complexity of this problem. We attempted to address this issue 2 years ago when Senator BAYH and I introduced bills to provide support, counseling, and services for these teenagers. Unfortunately, many believed the legislation was not warranted and no action was taken. I believe we can wait no longer to develop a comprehensive program that can effectively improve the status quo for these young girls, and we should act now.

Mr. President, we hear statistics every day on many, many issues; however, the statistics on this particular issue are so alarming that I think they should be reemphasized today. They begin to describe the magnitude of the problem. There are 11 million sexually active adolescents—two out of five women and two out of three males between the ages of 15 and 19. In 1975, approximately 1,000,000 women under age 20 became pregnant—about 80 percent of these women were unmarried—and most of these pregnancies were unplanned. There were over 600,000 live births. Because of the more widespread use of birth control there was a decline—from 1966 to 1975—in the number of births to women over 20 by 14.4 percent. The decline for adolescents, however, was only 5 percent. This decline for adolescents, however, masks the difference between older and younger adolescents. The number of births to 18- and 19-year-olds decreased by 18 percent but the number for the 15- to 17-year-olds increased by 22 percent and even more alarming the births for those 14 and under increased by 56 percent.

There are many health hazards for the young mother and her child. There is a higher rate of toxemia and anemia for the mother. Young girls begin prenatal care later in their pregnancies than women 20 to 29. Only 46 percent of the pregnant 15- to 17-year-olds begin prenatal care in the first trimester while 81 percent of those between 25 to 29 start prenatal care in these crucial early months. Approximately 30 percent of adolescent pregnancies are terminated by induced abortions. However, adolescents are more likely to have abortions later in their gestational period and therefore expose themselves to additional risks.

Adolescent mothers are more likely to have a child with low birth weight than other women. Low birth weight is associated with many health problems in both infants and children including sudden infant death syndrome, cerebral palsy, epilepsy, mental retardation, and other birth defects.

Many of these young mothers are still children themselves, scarcely able to cope with childbearing and childrearing, which is a significant challenge even to the mature adult. Being so young themselves, many of these mothers have little appreciation of the general requirements of parenthood, as well as of the specific practices required to bring up and care for a young baby. As a consequence, many of the children of school-aged parents suffer from this lack of knowledge by their mothers. Many of them find their way into foster homes, and some, unfortunately, join that group of children who are neglected and even abused.

Here is certainly an area in which appropriate and timely counseling of the mother could result in significant improvement of the welfare of the child as well as the happiness of the family unit. In addition, the heavy burden of a young infant or child in the house makes it extremely difficult for the mother to continue her education, to find fruitful employment, and to lead an otherwise normal existence. The problems associated with child rearing are important because over 90 percent of teenage mothers keep their babies.

The bill that I am introducing today is designed to assist in preventing initial and repeat adolescent pregnancies; to assist adolescents who are already pregnant in order to assure them adequate health care and support services, to enable them to remain in school, and to help them become productive, independent contributors to family and community life; and to assist young parents who have, and desire to keep, their babies.

The Alan Guttmacher Institute has published an excellent booklet dealing with this serious problem, "Eleven Million Teenagers: What Can Be Done About the Epidemic of Adolescent Pregnancies in the United States." The Guttmacher Institute, Mr. President, is the research division of the Planned Parenthood Federation of America. Planned Parenthood has taken a long and active interest in this serious issue. They have done some of the best work in this country in the area of family planning and adolescent sexuality. After dealing with the many problems associated with adolescent sexuality the booklet offers some suggestions for a national program to deal with this issue. Many of their suggestions have been incorporated in this bill. Daniel Callahan, the well-known ethicist, wrote an excellent article for this publication, and Mr. President, I ask unanimous consent that this article be printed in the RECORD:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

The facts reported in this booklet cannot fail to be unsettling—to those of us who have or will have teenage children, to those of us who as citizens have responsibility for the next generation of adults, and to those of us who have some special professional obligation to do what we can to make ours a more humane society. Nor is it difficult for us as individuals to recapture (if we try) what it was like to be a teenager: easier for some and harder for others, but for everyone a difficult and troubling time of life. Surely the problem of being a teenager will never be solved—the only known antidote is time, which probably is why our most common piece of advice to young people—"Why don't you grow up!"—is the most useless. One of the main difficulties of being a teenager is sex, at once a great discovery, a great mess, a great pleasure, a great frustration, and an all around great muddle. We can't do much about that either, short of repealing the laws of human biology, which for some reason or other choose to introduce us to the subject before we have had a chance to figure out much about anything else.

But if we are never likely to solve for teenagers the problem of being a teenager, much less provide a perfect solution to the turmoil of teenage sex, we can certainly try to make adolescence a bit easier, a bit better, and a bit less troublesome. And clearly, it seems to me, we must try to do something about teenage pregnancy. Whatever other value judgments one may come to about the information assembled here, I doubt that anyone would want to say that it is a good thing that teenagers get pregnant. On that much, agreement can be assumed.

But that is the end of agreement on the subject. Which is no surprise. People differ notoriously on the way children should be raised, on sexual morality, on the role government should play in the lives of the young—in short, on just about everything connected with the subject. While it is perhaps too much to hope that perfect agreement could ever be reached, it is surely in this case worth the effort to see if the problem can at least be sorted out in some rational way.

The way I think it most fruitful to pose the ethical question is this: What obligations do we have toward those teenagers at risk of pregnancy, those who are pregnant, and those who have already given birth to children? Naturally, other obligations come into play also: our obligations toward the moral climate of the country, toward other pressing social needs, with their claims for money and attention, and toward other distressed groups in our population. Those are important obligations as well, but before we can turn attention toward them, we should first ask what, if anything, we owe to the teenagers themselves?

What, to begin at the beginning, is a teenager? A teenager is a person somewhere between a child and an adult, one who has passed some years ago what has been called the "age of reason," but one who is still growing and maturing, still finding his or her way around the world, not altogether in possession of that self he or she will eventually develop with maturity. Most teenagers are minors and dependents. While some leave home early, and some are remarkably self-directing for their age, it is the fact of dependency which looms large. Dependent upon whom? Dependent first upon their families, then upon the institutions which profess to educate them outside of the home or which control the services they might require, then upon the society at large, which provides them with the moral and social culture within which they must make their way. None of these things do they choose. They have no choice about the parents who gave birth to them, no choice about the schools which their parents and the state decide are good for them, and no choice about the nature of the society in which they live. It is strictly a one-way street. Whether teenagers like it or not—and I have yet to find one who is enthused about that state of affairs—it is simply the way things are and probably will always be.

Yet as adults we have to pay a high price for the kind of power we have. For we are thereby morally obliged to seek not our welfare but theirs. They are dependents, and they depend upon *us*. To be sure, they have some freedom. They can and do make choices and, despite what parents or society might like, they can make sexual choices—no way has ever been found to prevent them from so doing. Unfortunately, they do not always make very responsible choices, especially when it comes to as powerful a force as sex. Why should we expect them to? It is hard enough for us as adults to do so, and only after a much longer course of experience than they have had. The most we can do—because we are responsible for the world we live in—is to help them avoid those things we know will hurt them, help to reduce the impact of those acts (even of folly) which they have already done, help them in a word to make it through the teenage years with as little lasting harm as possible.

The facts reported in this brochure make eminently clear that teenage pregnancy is damaging, to the teenagers themselves, to many of those children they give birth to, and to the nation as a whole. What are our moral options?

We can ignore the problem, saying it is theirs and not ours. That course is open only if we are prepared to deny the self-evident reality of their dependency in every other sphere of life. And what about the children some teenagers bear? Are we lightly to dismiss their fate? Speak of dependency!

Or we might want to argue that, even though the problem is grave and sad, we have to think of the moral climate of the country as a whole. If we make sex education and contraceptives and abortion available to teenagers, and if we help those teenagers who decide to give birth to a child, will we not simply create a casual tolerance and permissiveness toward teenage sexual activities which in the long run will only make things worse? While I personally believe our society is too sexually casual, it became that way before we even thought of providing services and sex education and I have seen no evidence that providing education and help *does* make the problem worse.

But let us imagine that might be so. Would we thereby be relieved of our obligation to help those who here and now are damaging or may soon damage themselves? I do not see how we could be. For one thing, we could hardly have any certainty that the situation would not get worse in the future if we simply did nothing, much less that it would improve. We have already tried ignoring the problem, and what has that brought us? More teenage pregnancies. Nor can I see any justification for letting those presently suffering be ignored in the name of some higher good, at some unspecified date in the future, and by means which no one has yet devised. We are very good at victimizing children in the name of either our own private interests or the so-called higher interests of society, but it is not one of our more edifying traits. There are also those who contend that if adequate help is given to those teenagers who decide to bear a child, we will simply be aiding and abetting the problem of world population growth. There is no evidence for that either but, in any case, why should teenagers be sacrificed for the sake of what is the whole world's problem?

I do not think anyone, surely not a parent, could be overjoyed at the prospect of immature teenagers leading an active sexual life, becoming adept users of contraceptives and, contraceptives failing, be knowingly wise about how to get a quick abortion. Many teenagers simply are not emotionally ready for an active sexual life, even where there is no danger of pregnancy. But we have been saying that to teenagers for years, just as our parents said it to us. However wise and correct a perception some teenagers have always ignored it, and more seem to be doing so all the time. That may be unfortunate; but it would simply be compounding the problem to walk away from teenagers when they most need us. Some teenagers will get pregnant, no matter what the attitude of parents or society and no matter how much we try to educate them about the hazards of running that kind of risk.

What we are facing now, however, is an epidemic. Worse still, it is an epidemic about which something can be done but isn't being done. Teenage pregnancy can do through better education and preventive services, be if not altogether avoided, at least reduced, and through better maternity, abortion and social services, be reduced in its personal impact on the teenager who does get pregnant. Some may find one or more of the possible means morally repugnant. Life rarely presents us with perfect choices. If we do not provide teenagers with education and services, we surely now know that many will do great harm to themselves—that is both a present reality and a future prospect which cannot also fail to be morally repugnant. The difference between the two cases is this: the full moral question does not simply come down to the moral convictions and feelings of adults in power, whether as parents, medical professionals, teachers or legislators. That is by no means an irrelevant consideration, for surely adults also have an obligation to live by their own moral standards. But

I think the central question is what do we do for our teenagers in need, our dependent, often still-immature teenagers? At that point it is the value of their lives, not ours, which is critically at stake. Our greater obligation is toward their welfare; our other, and competing, convictions should give way at that point. At the very least, teenagers should have as much knowledge of sex, as many and as good services available, and as many choices open to them, as do adults. Adults hardly have all the knowledge they should have, or all the services they need. But whatever they have at least should be shared equally with teenagers. Like adults, teenage girls can get pregnant, and like adults, teenage boys can impregnate girls. Why then should they remain ignorant, unserved and uncared for?

Mr. KENNEDY. Mr. President, the Joseph P. Kennedy, Jr., Foundation, of which I am president, has been extremely active in assisting to establish and maintain comprehensive adolescent pregnancy care centers. One of the model programs is the Johns Hopkins Center for School-Aged Mothers and Their Infants. These programs have consistently been successful and have achieved high rates for the return of the young mother to school and for preventing subsequent unplanned pregnancies. Among the three key objectives of the bill that I am introducing today is the promotion of innovative, comprehensive, and integrated approaches to the delivery of services, and the bill will provide support for the establishment of those centers. An outline prepared by the Joseph P. Kennedy, Jr., Foundation spells out in detail the essential components in a comprehensive adolescent pregnancy center. I ask unanimous consent that this be printed in the RECORD at this point.

There being no objection, the outline was ordered to be printed in the RECORD, as follows:

ESSENTIAL COMPONENTS IN A COMPREHENSIVE ADOLESCENT PREGNANCY CENTER

Based upon the results of a limited evaluation effort at the Johns Hopkins Center for School Aged Mothers and Their Infants over a two year period and a survey of teenage pregnancy programs in the United States, the following seem to be essential components in a comprehensive adolescent pregnancy center. Further research may indicate that some components are more important than others. We do not believe, however, that any of the following components can be eliminated without degrading the effectiveness of a center.

The concept of pregnancy centers separate from existing programs in obstetrics and well baby care facilities is designed to provide specialized care for pregnant teenagers. Adolescents, because of their physical and socio-emotional immaturity, have specialized needs, and pregnancy only adds additional stress to the pressures and problems that they face. With centers such as the one at Johns Hopkins their needs can be met more successfully since the program is organized by people with an interest in and understanding of the problems of the adolescent.

1. Early Detection of Pregnancy.—

This is achieved by:

(a) Outreach workers from the program maintaining contact with schools, housing projects, hospitals, public health clinics, mental health centers and neighborhood health centers.

(b) Public education including discussions, lectures, TV/newspaper articles aimed at the local community and special groups, e.g., churches.

(c) Good coordination, accessibility and cooperation within the human services network in the community. This results in more effective referral mechanisms.

(d) Removal of barriers to the provision and reception of care. Adolescents need to be able to give consent for their own care, and care should not be denied because of inability to pay or because of ineligibility for medical assistance, etc.

2. Early and Continuing Prenatal Care.—This should include:

(a) Early detection of pregnancy (see above).

(b) Comprehensive health care.

Thorough medical evaluation and observation of the pregnancy.

Screening, diagnosis and treatment of prenatal and postnatal conditions. For the mother this should include medical, socio-emotional, educational/vocational care; for the child this should include physical, developmental and socio-emotional care.

Special referral to clinics for particular medical problems of diabetes, nervous disorders, etc.

(c) Special nutritional support by provision of food supplements for both mothers and infants, e.g., WIC.

(d) Health Related Education.

Management of pregnancy, i.e., physiology of pregnancy and reproduction.

Self-care, including nutrition and risk factors such as drugs, cigarettes, alcohol, etc.

Responsibility of parents.

Self-respect, including choices, moral values, etc.

Parenting, including infant care and child development.

(e) Social service emphasis should attempt to deal with the numerous problems of support, continued education and liaison with other community services and agencies.

3. Obstetrical Services.—Because of the high incidence of complications, e.g., prematurity, etc. these must be high quality services with back-up from a high risk neonatal unit.

4. Long Term Follow-up Services for a Minimum of Two Years.—This is an indispensable component because its quantity and quality directly influence the physical and psychological health of the infant and its parents. These follow-up services should include:

(a) Comprehensive health care for the infant.

Neonatal intensive care (if necessary).

Periodic medical examination.

Immunization.

Evaluation and care by parent.

Diagnosis and screening of such problems as nutritional deficiencies, visual and hearing defects, mental retardation, learning disabilities, and crippling and handicapping conditions.

Appropriate referral to specialized services when necessary, e.g., heart disease clinics.

(b) Comprehensive health care for mother.

(c) Parenting education.

(d) Counseling for parents.

(e) Family planning and sex education (see below).

5. Education with Special Focus on Staying in School and Vocational Training.—Most important because school dropouts and lack of vocation focus is directly related to incidence of repeat pregnancy.

6. Day Care Provided Through Voluntary Assistance and Work Sharing by Mothers and Fathers Themselves.

7. Family Planning and Sex Education with Focus on Moral Values.

8. Housing.—Adequate housing is vital to health and quality of life of parents and infant. This requires good liaison between the program and local housing authorities.

9. Responsibility of Father.—An adolescent pregnancy program should do its utmost to involve the fathers in the program.

10. Advocacy for Child and Parent.

11. Adoption Services.

12. Involvement of Supportive Community.—Many adolescent mothers and fathers are isolated and often socially alienated from their community. The adolescent pregnancy center should seek to involve the adolescent parents in a supportive community.

(a) Through counselling families of the adolescent, parents can be helped to recognize their importance in providing support.

(b) Much can be done through education and consultation to help the congregations of churches and synagogues to play a supportive role in caring for adolescent parents. This may involve providing low cost housing, day care services, respite care or just invitation to the adolescent family to participate in church activities.

13. Staff Training and Education.—The responsibilities of the center should include staff development at all levels. Adolescents are difficult for many people to deal with. A mix of a somewhat authoritarian approach, understanding of their needs and a warm acceptance of them is basic to establishing rapport. Staff members who can serve as role models contribute greatly.

14. Prevention of Adolescent Pregnancy.—Primary and secondary prevention are of utmost importance. The prevention of "repeated" pregnancy in the adolescent must be a major objective of a center program. The center staff should be concerned, however, with primary prevention—through the ripple effect reaching siblings, friends, etc. and through participation (on a consultant basis) in community efforts at prevention.

15. Evaluation.—A systematic evaluation is essential to determine success or failure in terms or numbers served, outcomes (perinatal death, low birth-weight, damaged infants, repeat pregnancy, school dropout, chronic welfare support, etc.)

Pages 6–13 of the Family Development Program submitted to Secretary Califano on March 17, 1977, by a Special Task Force composed of almost 90 noted doctors, ethicists, lawyers and other professionals contains a more detailed explanation of the content and characteristics of a comprehensive adolescent pregnancy center.

Mr. KENNEDY. In the comprehensive program at Johns Hopkins more than 1,400 adolescents have been enrolled over a 4-year period. The average age has been about 15½ with one-third between the ages of 12 and 16. Eighty-five percent of the young mothers were black and 14 percent white. Most are from the lower socioeconomic background which are at higher risk for adverse pregnancy outcomes—with inadequate housing, nutrition, education, and lack of primary medical care. Of these young mothers, although faced with great stress and hardship, 88 percent are in school compared with only 10 percent before the followup program.

Only 11 percent had a repeat pregnancy over the first 19 months. The experience nationally is that about 44 percent of adolescents who have their first child will be pregnant again within 1 year. Hence, the recidivism problem has been largely solved by the center.

More than 90 percent of their babies were evaluated as normal at their first birthday. Nationally, less than 80 percent of babies born to teenage mothers who are evaluated are classified as "normal" at this period. What is even worse is that nationally many babies are never evaluated at this important stage in their development.

These are only a bare handful of examples, but they indicate what the comprehensive program concept can accomplish when it is adequately funded and given the ability to follow up the young mother for 2 years or more.

In addition to Johns Hopkins there are other comprehensive centers including the Brookside Park Family Life Center in Jamaica Plains, a section of Boston. The family life center was established in 1970 by the model cities administration of Boston. In 1975, the family life center moved into a permanent facility. I was pleased to attend the formal opening as was Dr. Julius Richmond, now the Assistant Secretary for Health. It is clear to me that comprehensive adolescent centers like these are successful and more are needed throughout the country.

As I indicated earlier, Mr. President, the bill would also deal with family planning services for teenagers. In general, contraceptive usage has been increasing among teenage women. In 1971, only 18.4 percent of adolescent women consistently used a method of contraception, while in 1976, the figure had increased to 30 percent. However, and most alarming, is the fact that there has also been an increase in the proportion of those who never use contraceptives.

The family planning clinics supported by funds from title X of the Public Health Service Act deliver contraceptive services to many Americans. Frederick Jaffe, president of the Alan Guttmacher Institute, in his testimony before the House Select Committee on Population, spoke of the use of these family planning clinics:

> Between 1969 and 1976, the number of teenagers served by family planning clinics increased 600 percent. The 1976 Johns Hopkins Study found that nearly half of all teenagers who have ever used the pill—44% of whites and 58% of blacks—obtained their first prescription from a family planning clinic rather than a private doctor. This pattern is unprecedented in the U.S. health system, in which fewer than one-fifth of teenagers depend on clinics for health services. In our health system, virtually no one goes to a clinic if an alternative source of services is available to them. Physicians in private practice thus appear to be unable or unwilling to meet the fertility control needs of sexually active teenagers to the same degree that they meet other adolescent health needs, or teenagers may be hesitant to seek contraceptive services from private doctors. As a result, family planning clinics have emerged as the single principal point of entry to medical contraception for sexually active teenagers and have become indispensable to any serious national effort to do something about teenage pregnancy.

It has been argued that family planning clinics do not meet all the special needs of teenagers and we will certainly hear testimony about that; however there is no doubt that they have been effective in delivery of contraceptive care to a large number of teenagers.

Earlier this year, the House Select Committee on Population held 3 days of hearings on adolescent fertility and contraception. In 1975, I chaired a hearing on S. 2538, the National School Age Mother and Child Health Act and S. 2360, the Life Support Centers Act. Senator BAYH was the author of S. 2360, and I introduced S. 2538. From these hearings have come many excellent suggestions. Many of these have been incorporated not only in the bill being introduced today but in the whole initiative on adolescent pregnancy that President Carter announced with the 1979 budget. This includes not only the $60 million authorized in this bill for fiscal year 1979, but also includes other items such as: expanded medicaid coverage for low-income pregnant adolescents, special emphasis on family planning for teenagers, and family planning reimbursement through medicaid and title XX. Most significant is an additional $21 million for research at the National Institute of Child Health and Human Development.

Mr. President, I look forward to hearings on the bill that I am introducing today. I anticipate that the bill will be modified and I encourage the witnesses at the hearings and others to comment fully. One of the areas that we specifically will want to address is the protection of the confidentiality of the patient records. HEW has completed a report which includes the recommendations of the privacy study commission with respect to medical records and are presently drafting a bill which reflects these recommendations. We will study this carefully. Unfortunately, hearings are never able to accommodate all who wish to testify; I do, however, look forward to receiving thoughtful written comments which will then be included in the hearing record.

Mr. President, I ask unanimous consent that the bill, a transmittal letter to the President of the Senate, WALTER MONDALE, and a section-by-section summary be printed at this point in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2910

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Adolescent Health, Services, and Pregnancy Prevention and Care Act of 1978".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that:

(1) Adolescents are at a high risk of unwanted pregnancy;

(2) In 1975, almost one million adolescents became pregnant and nearly 600,000 carried their babies to term;

(3) Pregnancy and childbirth among adolescents, particularly young adolescents, often results in severe adverse health, social, and economic consequences, including: a higher percentage of pregnancy and childbirth complications; a higher incidence of low birth weight babies; a higher frequency of developmental disabilities; higher infant mortality and morbidity; greater likelihood that adolescent marriage will end in divorce; and higher risks of unemployment and welfare dependency;

(4) An adolescent who becomes pregnant once is likely to experience rapid repeat pregnancies and childbearing, with increased risks;

(5) The problems of adolescent pregnancy and parenthood are multiple and complex and are best approached through a variety of integrated and essential services;

(6) Such services, including a wide array of educational and supportive services, often are not available to the adolescents who need them, or are available but fragmented and thus of limited effectivenes in preventing pregnancies and future welfare dependency; and

(7) Federal policy therefore should encourage the development of appropriate health, educational, and social services where they are now lacking or inadequate, and the better coordination of existing services where they are available, in order to prevent unwanted early and repeat pregnancies and to help adolescents become productive independent contributors to family and community life.

(b) It is, therefore, the purpose of this Act:

(1) To establish better linkages among existing programs in order to expand and improve the availability of, and access to, needed comprehensive community services which assist in preventing unwanted initial and repeat pregnancies among adolescents, enable pregnant adolescents to obtain proper care and assist pregnant adolescents and adolescent parents to become productive independent contributors to family and community life;

(2) To expand the availability of community services that are essential to that objective; and

(3) To promote innovative, comprehensive, and integrated approaches to the delivery of such services.

TITLE I—GRANT PROGRAM

AUTHORITY TO MAKE GRANTS

SEC. 101. The Secretary of Health, Education, and Welfare (hereinafter in this Act referred to as "the Secretary") may make grants to public and nonprofit private agencies and organizations to support projects which he determines will help communities coordinate, and establish linkages among, services that will further the purposes of this Act and, where appropriate, will provide, supplement, or improve the quality of such services.

USES OF GRANTS

SEC. 102. (a) Funds provided under this Act may be used by grantees to:

(1) Link services to—

(A) prevent unwanted initial and repeat pregnancies among adolescents; and

(B) assist adolescents who are pregnant or who have already had their babies to obtain proper care, prevent unwanted repeat pregnancies. and become productive and independent contributors to family and community life;

(2) Identify and provide access to other services for adolescents to help prevent unwanted pregnancy and assist adolescents in becoming productive and independent contributors to family and community life;

(3) Supplement services and care not adequate in the community which are essential to the prevention of adolescent pregnancy and to assist adolescents in becoming productive and independent contributors to family and community life;

(4) Plan for the administration and coordination of pregnancy prevention and pregnancy-related services for adolescents which will further the objectives of the Act;

(5) Provide technical assistance to enable other communities to develop successful pregnancy prevention and pregnancy-related programs for adolescents; and

(6) Provide training (but not including institutional training or training and assistance provided by consultants) to providers of services, including skills in multi-disciplinary approaches to pregnancy prevention and pregnancy-related services for adolescents and in the provision of such services.

(b) For purposes of this Act, projects which link services means projects which enable the provision of a comprehensive set of services in a single setting or establish a well-coordinated network of services in a community, including outreach to adolescents, the making available of services in a

convenient manner and in easily accessible locations, and follow-up to assure that the adolescent is receiving appropriate assistance. The services which may be included in such projects include, but are not limited to family planning services, education at the community level concerning sexuality and the responsibilities of parenthood, health, mental health, nutrition, education, vocational, and employment counseling, prenatal and postpartum health care, residential care for pregnant adolescents, and services to enable pregnant adolescents to remain in school or to continue their education.

(c) Grantees may not establish income eligibility requirements for services paid for with funds under this Act, but grantees shall ensure that priority is given to the objective of making such services available to adolescents at risk of initial or repeat pregnancies who are not able to obtain needed assistance through other means.

(d) Grantees may charge fees for services paid for with funds under this Act, but only pursuant to a fee schedule, approved by the Secretary as a part of the application described in section 104, which bases fees charged by the grantee on the income of the service recipients or parents and takes account of the difficulty adolescents face in obtaining resources to pay for services.

(e) Except as provided in this subsection, in no case may a grantee under this Act use in excess of 50 per centum of its grant under this Act in any year to cover any part of the cost of services. The Secretary may grant a waiver of the limitation specified in the preceding sentence in accordance with criteria to be specified in regulations.

PRIORITIES, AMOUNTS, AND DURATION OF GRANTS

SEC. 103. (a) In approving applications for grants under this Act, the Secretary shall give priority to applicants who—

(1) serve an area where there is a high incidence of adolescent pregnancy;

(2) serve an area where the incidence of low income families is high and where the availability of pregnancy related services is low;

(3) show evidence of having the ability to bring together a wide range of needed services in comprehensive single-site projects, or to establish a well integrated network of outreach to, and services for, adolescents at risk of initial or repeat pregnancies;

(4) will utilize, as a base, existing programs and facilities, such as neighborhood and primary health care centers, children and youth centers, maternal and infant health centers, school educational programs, mental health programs, nutrition programs, recreation programs, and other ongoing pregnancy prevention and pregnancy-related services;

(5) make use, to the maximum extent feasible, of other federal, state and local funds, programs, contributions, and other third party reimbursements;

(6) can demonstrate a community commitment to the program by making available to the project nonfederal funds, personnel, and facilities;

(7) have involved the community to be served, including public and private agencies, adolescents and families, in the planning and implementation of the project.

(b) The amount of a grant under this Act shall be determined by the Secretary, based on factors such as the incidence of adolescent pregnancy in the geographic area to be served, and the adequacy of pregnancy prevention and pregnancy-related services in the area to be served.

(c)(1) A grantee may not receive funds under this Act for a period in excess of five years.

(2) The grant may cover not to exceed 70 per centum of the costs of a project assisted under this Act for the first and second years of the project. Subject to paragraph (3), in each year succeeding the second year of the project the amount of the federal grant under this Act shall decrease by no less than ten percent of the amount of the federal grant under this Act in the preceding year.

(3) The Secretary may waive the limitation specified in the preceding paragraph in any year in accordance with criteria to be specified in regulations.

REQUIREMENTS FOR GRANT APPROVAL

SEC. 104. (a) An application for a grant under this Act shall be in such form and contain such information as the Secretary may require, but must include:

(1) an identification of the incidence of adolescent pregnancy and related problems;

(2) a description of the economic conditions and income levels in the geographic area to be served:

(3) a description of existing pregnancy prevention and pregnancy-related services, including where, how, by whom and to whom they are provided, and the extent to which they are coordinated in the geographic area to be served;

(4) a description of the major unmet needs for services for adolescents at risk of initial or repeat pregnancies, the number of adolescents currently served in the area, and the number of adolescents not being served in the area;

(5) a description of certain core services to be included in the project or provided by the grantee, to whom they will be provided, how they will be linked, and their source of funding, to include some, but not necessarily all, of the following:

(A) family planning services;

(B) health and mental counseling;

(C) vocational counseling;

(D) educational services, which supplement regular school programs, to help prevent adolescent pregnancy and to assist pregnant adolescents and adolescent parents to remain in school or to continue their education.

(E) primary and preventive health services including pre- and post-natal care; and

(F) nutritional services, and nutritional information and counseling;

(6) a description of how adolescents needing services other than those provided directly by the grantee will be identified and how access and appropriate referral to those services (such as Medicaid; public assistance; employment services; infant, day and drop-in care services for adolescent parents; and other city, county and State programs related to adolescent pregnancy) will be provided;

(7) a description of any fee schedule to be used for any services provided directly by the grantee and the method by which it was derived;

(8) a description of the grantee's capacity to sustain funding as federal funds are phased down and out;

(9) a description of all the services and activities to be linked, the results expected from the provision of such services and activities, and a description of the procedures to be used for evaluating those results;

(10) a summary of the views of public agencies, providers of services, and the general public in the geographic area to be served, of the proposed use of the grant provided under this Act and a description of procedures used to obtain those views, and, in the case of applicants who propose to coordinate services administered by a State, the written comments of the appropriate State officials responsible for such services;

(11) a description of how the services and activities funded with a grant under this Act would be coordinated with existing related programs in the geographic area to be served by the grantee;

"(12) assurances that the applicant will make every reasonable effort to collect appropriate reimbursement for its costs in providing services to persons who are entitled to have payment made on their behalf for such services under any Federal or other Government program or private insurance program; and

"(13) assurances that the acceptance by any individual of family planning services or family planning or population growth information (including educational materials) provided through financial assistance under this title shall be voluntary and shall not be a prerequisite to eligibility for or receipt of any other service furnished by the applicant."

(b) Each grantee which participates in the program established by this title shall make such reports concerning its use of Federal funds as the Secretary may require. Reports shall include the impact the project has had on reducing the rate of first and repeat pregnancies among adolescents, and the effect on factors usually associated with welfare dependency.

AUTHORIZATION OF APPROPRIATIONS

SEC. 105. For the purpose of carrying out this title, there are authorized to be appropriated $60 million for the fiscal year 1979, and such sums as may be necessary for the fiscal year 1980 and the fiscal year 1981.

TITLE II—IMPROVING COORDINATION OF FEDERAL AND STATE PROGRAMS

SEC. 201. (a) The Secretary shall coordinate Federal policies and programs providing services related to prevention of initial and repeat adolescent pregnancies. Among other things, the Secretary shall:

(1) require that grantees under title I report periodically on Federal programs or policies that interfere with the delivery and coordination of pregnancy prevention and pregnancy-related services to adolescents;

(2) provide technical assistance to assure that coordination by grantees of Federal programs at the local level will be facilitated;

(3) modify program administration, or recommend legislative modifications of programs of the Department of Health, Education, and Welfare that provide pregnancy-related services in order to facilitate their use as a base for delivery of more comprehensive pregnancy prevention and pregnancy-related services to adolescents;

(4) give funding priority, where appropriate, to grantees using single or coordinated grant applications for multiple programs; and

(5) give priority, where appropriate, to providing funding under existing federal programs to projects providing comprehensive pregnancy prevention and pregnancy-related services.

(b) A State using funds provided under title I to improve the delivery of pregnancy prevention and pregnancy-related services throughout the State shall coordinate its activities with programs of local grantees, if any, that are funded under title I.

(c) The Secretary may set aside, in each fiscal year, not to exceed one per centum of the funds appropriated under this Act for evaluation of activities under titles I and II.

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DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
*April 13, 1978.*

HON. WALTER F. MONDALE,
*President of the Senate,*
*Washington, D.C.*

DEAR MR. PRESIDENT: Enclosed, for the consideration of the Congress, is a draft bill, the "Adolescent Health, Service and Pregnancy Prevention and Care Act of 1978."

Recent studies show that the number of adolescent pregnancies and births in this country is increasing. Approximately one million adolescents become pregnant annually, and almost 600,000 give birth. Such pregnancies are often unwanted, and are likely to have adverse health, social, and economic consequences for the individuals

involved. These consequences include a higher incidence of low birth weight infants; a higher percentage of pregnancy and childbirth complications; higher rates of school drop-out, unemployment, welfare dependency, and out-of-wedlock births; and a greater likelihood of an adolescent marriage ending in divorce.

The program which would be authorized by the enclosed draft bill is, therefore, designed to assist in preventing initial and repeat adolescent pregnancies; to assist adolescents who are already pregnant in order to assure them adequate health care and support services, to enable them to remain in school, and to help them become productive independent contributors to family and community life; and to assist young parents who have, and desire to keep, their babies.

The proposal is based upon four principal concepts:

—that the problems of adolescent pregnancy require a range of comprehensive services;

—that the Department of Health, Education, and Welfare should help local projects put existing services together, and supplement them, in order to provide a comprehensive array of needed assistance, either in a single setting or through a network of coordinated services;

—that funding of such projects should focus on preventing unwanted initial and repeat pregnancies, but also should assist adolescents who have their children; and

—that we need to experiment with a variety of innovative approaches to putting services together.

Under title I of the legislation, project grants would be provided to communities to assist them to link services together that are already available in the community but are not well coordinated, and to provide supplemental services related to problems of adolescent pregnancy. These services could include, but would not be limited to, education concerning sexuality and the responsibility of parenting; special education and social services to assist pregnant adolescents to remain in school; family planning services; primary health care; vocational, employment, mental health, nutritional, and other counseling; and residential services to pregnant adolescents.

Under title II, federal and state programs relating to adolescent pregnancy would be coordinated. Additionally, states would be cordinating their programs with the projects of local grantees in their state funded under title I.

The legislation is modeled on a small number of existing projects, including the "Brookside Family Life Center" in Boston, and the "Johns Hopkins Center" in Baltimore.

We urge the Congress to favorably consider this proposal.

We are advised by the Office of Management and Budget that enactment of this draft bill would be in accord with the program of the President.

Sincerely,

JOSEPH A. CALIFANO, Jr.,
*Secretary.*

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SECTION-BY-SECTION SUMMARY

The first title of the bill would provide the short title of the Act—the "Adolescent Health, Services, and Pregnancy Prevention and Care Act of 1978".

Section 2 of the draft bill would provide the findings of the Congress and purposes of the Act. The objectives are:

1. To establish better linkages among existing programs which assist in preventing initial and repeat pregnancies among adolescents, and which help adolescents who are pregnant or have babies become productive independent contributors to family and community life;

2. To expand the availability of community services where necessary to that objective; and

3. To promote innovative, comprehensive, and integrated approaches to the delivery of such services.

Section 101 of the draft bill would authorize the Secretary to make grants to public and nonprofit private agencies and organizations to support projects which he determines will further the objectives of the Act.

Section 102 specifies the uses which may be made of the funds granted under the Act. Principally, they are to be used to link services together so as to provide a comprehensive set of services in a single setting or establish a well-coordinated network of services in a community. Funds would also be used to provide access to other necessary services and, where necessary, to cover the cost of providing essential services not otherwise available in the community. Finally, funds could be used for planning, technical assistance, and training. Other provisions of this section specify that services funded under the Act could not be provided according to income-related eligibility requirements, although priority would be given to serving those least able to pay for services. Fees could be charged for services, but only pursuant to a fee schedule approved by the Secretary.

Section 103 would specify the priorities the Secretary must consider in awarding applications for funding under the Act. Preference would be given, among other things, to projects (1) in areas with a high incidence of adolescent pregnancy and a concentration of low-income families; (2) which have the ability to bring together a comprehensive array of services; (3) which use as a base existing services and programs; and (4) which have involved the community and can show a community commitment. Section 103 also specifies that funding of a project under the Act could not extend beyond five years, and that the federal share of project costs over those years would decline except where the Secretary grants a waiver of that requirement.

Section 104 would specify the application requirements. Among other things, the application would include (1) a description of the economic conditions and income levels in the geographic area to be served; (2) a description of existing related services in the area; (3) a description of the unmet need for services for adolescents who are pregnant or at risk of becoming pregnant; and (4) a description of the services which will be included in the project; (5) assurances that the project make every reasonable effort to collect reimbursement from third-party payers; and (6) assurances that family planning services would be voluntary.

Section 105 of the draft bill would provide the appropriations authorization for the program. There would be authorized $60 million for the fiscal year 1979, and such sums as may be necessary for the two fiscal years thereafter.

Section 201 of the draft bill would require the Secretary to coordinate Federal programs, and States to coordinate State programs, which are related to adolescent pregnancy. This section would permit the Secretary to set aside for evaluation up to one percent of the annual appropriations.

● Mr. WILLIAMS. Mr. President, it is my pleasure to join my colleague from Massachusetts, Senator KENNEDY, in introducing the Adolescent Health, Services, and Pregnancy Prevention and Care Act of 1978. This measure reflects the desire to help prevent unwanted pregnancies among the adolescent and to assist in providing an array of critical services to teenagers who become pregnant and decide to bear a child.

This $60 million legislative package is designed to assist in establishing a comprehensive network of services for adolescents to accomplish the following objectives: To assist in preventing adolescent pregnancy; to provide needed health and support services to teenagers already pregnant; and to assist these adolescents to become productive independent contributors to family and community life.

While certain services are now available to adolescents, they are limited, uncoordinated, and scattershot at best. This measure is fashioned to assist in providing the needed linkages to existing services, to supplement prevention and care services where they are needed, and overall to improve the coordination of these services.

Title I of the bill authorizes the Secretary of Health, Education, and Welfare to make grants to public and nonprofit private agencies and organizations to help communities coordinate services and to supplement health and social services relating to the problems of pregnancy. The range of services that could be provided include primary health care; family planning services; education concerning sexuality and the responsibility of parenting; special education and social services to assist pregnant adolescents to remain in school; vocational, employment, mental health, nutritional and other counseling; and residential services to pregnant teenagers. This bill would also authorize technical assistance for developing pregnancy prevention and related programs.

Title II of the bill would provide the Secretary with the authority to coordinate all Federal programs relating to adolescent pregnancy and provide technical assistance at the local level. In addition to coordinating Federal and State programs, the Secretary would be required to recommend appropriate legislative modifications of programs within HEW in order to facilitate the delivery of more comprehensive pregnancy prevention and pregnancy-related services to teenagers. Under this initiative. States would be responsible for coordinating their programs with the projects of local grantees that are funded under title I.

Mr. President, the need for this legislation is overwhelming. The number of adolescent pregnancies and resulting births in this country each year is frightening. According to statistics provided by the National Institute of Health Statistics and the Alan Guttmacher Institute, upwards of 11 million adolescents are sexually active, including over 4 million teenage women. Approximately 1 million of these young women become pregnant each year, with about 600,000 actually giving birth to a child. The characteristics of these teenagers are varied and represents all socioeconomic groups. Both the disadvantaged and affluent adolescent are in need of family planning and pregnancy-related services.

While societal patterns in the American family have been distinctly changing over recent years, an extract taken from

a publication of the Guttmacher Institute indicates that 80 percent of the women between the ages of 15 to 19 who became pregnant for the first time were single. An article in Family Planning Perspective gives overview of the growing dimensions of the problem. Between 1960 and 1975, the number of teenage premarital births rose from 2 to 7 percent of all U.S. births. Of these mothers who carry their children to full term, about 93 percent elect to keep their children.

There are many dimensions of the problem of adolescent pregnancy that we do not fully understand, but we do know that early childbearing may effect deleteriously the pregnant teenager as well as her offspring. Teens younger than 17 years of age are faced with the most critical biological and psychological risks. During pregnancy, toxemia, pre-eclampsia and prolonged labor are all more common among teenagers than among women in their twenties. Some of the difficulties can be the direct result of a poor diet or inadequate prenatal care. Others are related to the physical immaturity of the woman. Statistics also illustrate that both the adolescent mother and her baby are at greater risk of death than an older woman. Teenage mothers are also more likely to give birth prematurely, and are twice as likely to have children with developmental disabilities, mental retardation, epilepsy or cerebral palsy. A Johns Hopkins University study shows that children born to girls 16 years of age or less are four times more likely to have an IQ of 70 or below than the general populace, and only one-fifth as many children having IQ's of 110 and above as the general population.

Early pregnancy and birth too often have a negative impact on a teenager's life. Over 75 percent of pregnant teenage women drop out of school; adolescent pregnancy is the major cause of school dropouts for girls. In addition to significant health risks, teenage mothers are often forced to forego job training and other opportunities for economic advancement and all too often turn up on the welfare rolls.

These facts underscore the need to address adolescent pregnancy on two levels. First, we must upgrade and extend the range of compensatory assistance to teenages who become pregnant and decide to bear the infant. Second, we must provide "primary prevention" through expanded services to prevent adolescent pregnancy, allowing these young woman to postpone child bearing until they are prepared to establish a stable homelife for a child.

Scores of teenagers, already pregnant, need to be apprised of the alternatives available to them. The school age mother who gives birth to her child and desires to give that child every opportunity to be a healthy and happy baby needs a host of services to achieve this objective. This bill is designed to address the needs of this segment of the population and to assist in providing viable alternatives for the pregnant teenager. A range of health and social services, including education on parent responsibilities, primary health care services, special education and social services intended to assist pregnant teenagers to remain in school, could be provided under this proposal.

At the present time, there are a number of pilot programs that provide an array of services to the pregnant adolescent and in fact have made remarkable progress in amelio-rating some of the vicious problems that confront these teenagers. The valuable experience gained from programs, such as those at Johns Hopkins University and the Brookline Center in Massachusetts, could greatly assist in aiding these adolescents become productive, independent contributors to family and community life.

The concerns about adolescent childbearing are justifiable. The potential for negative consequences for the teenager, as well as society in general, are so great that this problem can no longer be ignored. For the pregnant teenager, the services to the adolescent need to be expanded and better linked together. For the sexually active teenager, education efforts on sexuality, reproduction, contraception, the effects of early childbearing, and services for teenagers need to be crucially augmented. Enactment of the Adolescent Health, Services, and Pregnancy Prevention Care Act of 1978 would substantially assist in accomplishing these objectives, and I invite my colleagues to join in the consideration of this important youth initiative.●

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By Mr. CANNON (for himself and Mr. LAXALT):

S. 2911. A bill to facilitate the coordination of programs for the protection, management, and control of wild free-roaming horses and burros, and other resources, and for other purposes; to the Committee on Energy and Natural Resources.

● Mr. CANNON. Mr. President, I introduce today for myself and for my distinguished colleague from Nevada (Mr. LAXALT) a bill to amend the Wild Horse and Burro Protection Act to improve its protection and management functions.

I was a strong supporter of the original legislation to protect the remnant herds of wild horses and continue to believe they represent a significant and visible link to the frontier west and the bold spirit of pioneer days. They also, like any wild animal population, have an intrisic right to our compassion and humanity and a right to their position in nature.

But it has become undeniably clear, Mr. President, that since passage of the original act, the numbers of these animals have grown to the point they represent a threat to meager range resources, to other indigenous wildlife, and, ultimately, to themselves. This wildlife resource frankly deserves more than to be merely protected. Like other forms of wildlife it should be managed. The West is no longer a vast undeveloped area of wide open ranges. There are competing interests on the land and unbridled wild horse increases simply are not good policy.

The proposed legislation defines "excess animals" as those which must be removed or have been removed from an area in order to preserve and maintain the habitat in a suitable condition for continued use, while also maintaining a thriving natural ecological balance and harmonious multiple use relationship in that area." Considerable controversy has developed over what numbers of horses constitute an optimum population level. This bill attempts to establish factors which should be generally applied to determine an acceptable level. Whether this will completely avoid the numbers controversy in improbable but reflects, I believe, an acceptable criteria.

The fact remains that the optimum has already been exceeded in many areas of the West. Horses have been rounded up out of necessity but their continued care and disposal has proved difficult. This legislation attempts to redress the problem by permitting transfer of adopted horses to their owners following a 1-year probation period and assurance that the animals have been humanely treated. The present adoption program has not worked as well as hoped because of reluctance by qualified individuals to assume responsibility for a horse to which they would never have title.

I believe we can provide better management for this resource without impairing the purpose of the original act or the intent of Congress. The bill is not inclusive, perhaps, of other provisions which might prove useful such as a research program on wild horse range requirements or fertility studies. I frankly do not believe the prohibition on the commercial use of horses which are destroyed for lameness, sickness and other appropriate reasons is good policy. With proper safeguards, it seems this resource should be used where it can accomplish some good. However, I believe the bill I am introducing provides a good basis for thorough review of the best means of managing and protecting our remnant wild horse herds.●

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By Mr. CLARK:

S. 2912. A bill to strengthen the economy of the United States through improved loan rates and target prices for producers of wheat, feed grains, and upland cotton; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL ACT OF 1978

● Mr. CLARK. Mr. President, I am today introducing a bill to increase target prices and loan levels for wheat and feed grains, and target prices for cotton. This bill would set loans for wheat for 1978 at $2.50 and target prices at $3.40. It would set 1978 corn loans at $2.20 and corn target prices for 1978 at $2.30. It would set the 1978 target price for cotton at 60 cents a pound.

The bill would amend the 1977 act, and as a result, the target prices would also be increased in 1979 through 1981 by the formula in that act, to cover farmers' increasing costs of production.

Even as I introduce this bill, Mr. President, I am aware that there is risk in coming forward with such a proposal.

Because it is a moderate proposal, it would help farmers much less than many would like. And, frankly, it provides less than I would like. I have worked consistently for price supports high enough so that they cover average production costs. For some farmers, the levels in this bill will still not cover costs.

But the important thing now, in my judgment, is to get Congress moving once again on a bill that will give farmers more help than they have now. It is too late in the planting and planning season to once again propose a stronger diversion program. About all we can do now, and about all that will have any hope of being in place in time to help this year, is a simple, straightforward increase in target prices and loan rates.

Why is this important? There are several reasons: The first and most obvious answer is that the current trend of strengthening prices may not last. As soon as we get our corn in the ground, market prices will depend primarily on the number of acres planted and on crop and weather conditions. These factors are unkown and unknowable just now. If it turns out that natural forces continue to push prices up, then these higher supports will not cost anything and will merely stand as insurance.

But if plantings and weather lead us to expect another good crop and markets fall, will need these increased protections very badly—in fact they may be a matter of life or death for many small farmers.

There is another reason. Increasing supports now will assure foreign customers that the price will not fall below that level. The increase is negligible in terms of any adverse impact on foreign cusomers over the long run. But it could have a positive impact for the short run if it convinces potential foreign buyers that U.S. grain will never be cheaper, and that this is the time to buy. I am told by some members of the trade that some foreign buyers have been waiting for U.S. prices to weaken; some with the intention of buying later. An increase in supports should convince them to buy now.

Increasing supports now could also help hog producers and other livestock producers. As I said time after time, corn that is too cheap can hurt livestock producers just as corn that is too expensive can. It overstimulates the livestock sector, leading to overproduction and lower livestock prices later on. If corn prices were to hold at around $2, or a little more, this could be a serious problem for livestock producers. Increasing the loan rate by some 20 cents for corn would help a little, and could take some of the steam out of the increases in hog and cattle production we are seeing just now.

Mr. President, as I said on the floor of the Senate last Monday, our farmers still face two very real and immediate needs. The first is to reduce the acreage planted for the 1978 crop. The second is for additional price supports and income to offset a very serious cost-price squeeze this year. For many farmers, grain prices are still below cost of production. The administration's recent initiatives to strengthen its set-aside program are a very positive step, in my judgment. The proposal I am introducing today should increase the incentive for farmers to participate in that program, and thus reduce the odds of overproducing again this year. The increased protections in the bill also give a little more protection against price disasters—protections to help farmers cover production costs in the event that good weather does cause overproduction again.

Mr. President, with this bill, we still have a chance to provide farmers with at least some of the additional protections they need this year. I believe that the time has come to put behind us the emotion and the politics that have marked our recent debates on the farm price problem. I hope that we can all work together—the administration, the farmers, and the Congress—to come up very quickly with a proposal that will help.

I do not pretend that this proposal is precisely that one. It is not set in concrete. I intend to talk with the President about it. I am discussing it with Chairman TALMADGE and Chairman FOLEY today. I expect that changes may be made—but I would hope that these changes would be few and that they would be constructive changes designed to help the legislation pass quickly. I hope that we can pass this bill quickly and send it quickly to the President. I believe that if we do send him something—a moderate, helpful bill, even if it is more than he wants now and even if it is less than many farmers want now—it can be signed into law. I intend to do my best to make that happen. I hope my colleagues in the Senate will support me in that endeavor.●

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By Mr. HASKELL (for himself and Mr. HANSEN):

S. 2913. A bill to amend section 317 (c) (1) of the Federal Land Policy and Management Act of 1976 to conform the interest rate therein to the yield on certain tax exempt bonds, and for other purposes; to the Committee on Energy and Natural Resources.

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By Mr. HASKELL (for himself and Mr. HANSEN) (by request):

S. 2914. A bill to amend section 317 (c) (1) of the Federal Land Policy and Management Act of 1976 to conform the interest rate therein to the yield on certain U.S. obligations, and for other purposes; to the Committee on Energy and Natural Resources.

● Mr. HASKELL. Mr. President, I introduce today two bills to amend section 317(c) of the Federal Land Policy and Management Act—one measure which the senior Senator from Wyoming, Mr. HANSEN, and I are sponsoring jointly and the other, an administration proposal which we are introducing by request.

The Federal Land Policy and Management Act is a landmark law. For the first time it provides a comprehensive and modern statement of authorities and responsibilities for our Nation's largest land manager, the Bureau of Land Management, which oversees approximately two-thirds of our publicly owned land. As the primary sponsor of this legislation in the Senate, I am pleased to see the Bureau taking pains to implement the law as swiftly as possible. Of course, we always hope for a quicker and smoother implementation process for new laws than can, in fact, occur. But, by and large, I believe the Bureau deserves good marks in its efforts to operate under this new comprehensive and complex statute.

Section 317(c) of the act has, however, not been implemented. This subsection was offered as an amendment during committee markup of the act by Senator HANSEN, and was supported by former Senator Lee Metcalf and me. The Mineral Leasing Act of 1920, as amended by section 317(a) of the Federal Land Policy and Management Act, provides State and local governments with 50 percent of the revenues received by the Federal Government from the leasing of energy minerals on the public lands.

In most circumstances, however, this money comes too late. The communities are required to provide more sewer and water facilities, greater police and fire protection, expanded park lands, new schools, and the other myriad facilities and services necessary to mitigate the adverse impacts of energy development long before that development produces the communities' share of Federal revenues sufficient to pay for the facilities and services. Section 317(c) provides for a loan program to the States and local governments to provide them the "front and money" to construct facilities and provide services in advance of the so-called energy boom. In essence, the State and political subdivisions would be borrowing now against future mineral royalty entitlements.

Unfortunately, as one of the final acts of the Ford administration, a proposal was submitted to the Congress by the Secretary of the Interior to repeal section 317(c). I am, of course, grateful that my colleagues concurred with me that this was simply a bad idea and that no action was taken on the measure.

President Carter, in submitting the fiscal year 1978 budget pledged support for section 317(c) but also made implementation of the program contingent upon the raising of the interest rate which the provision sets at 3 percent. On January 27, 1977, Senator HANSEN, Senator Metcalf, and I wrote Secretary of the Interior Cecil Andrus pledging our support for the raising of the interest rate if that were necessary to assure implementation of section 317(c).

On August 31, 1977, Assistant Secretary of the Interior Guy Martin submitted a draft bill to raise the interest rate. Not only do Senator HANSEN and I believe that the interest rate requested by the administration is too high—above the interest rate normally available to the State and local governments when they borrow money—but we also found numerous other proposed changes to limit the impact loan program's size, scope and, on our minds effectiveness. Although we introduce the administration's bill today, I want to emphasize we

introduce it by request. We do not favor the administration proposal.

Instead we are introducing our own bill which would raise the interest rate to a rate comparable to that now paid by State and local governments when they borrow money and to make other changes suggested by the administration or by other parties which do not reduce the impact loan program or otherwise alter the purposes of section 317(c). Mr. President, the senior Senator from Wyoming, Senator HANSEN, has been the leading proponent of the impact loan program. I am pleased to be able to join him as the sponsor of this bill. In his statement he outlines the provisions of the administration bill with which we disagree and provides for the record the documents of which I have spoken.

The senior Senator from Wyoming and I pledge our best efforts to achieve the early passage of our bill so that the impact loan program can be swiftly implemented. Mr. President, I ask unanimous consent that a March 12, 1978, resolution of the Public Lands Steering Committee of the National Association of Counties expressing support for my bill be printed in the RECORD at this point.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION—SUPPORT FOR MINERAL LEASING ACT LOANS

Whereas, the Federal Mineral Leasing Act was amended by the 94th Congress to provide for federal loans to local communities socially and economically impacted by mineral developments on federal lands;

Whereas, this provision is an important means to provide counties and other local communities with immediate funds for water, sewers, roads, schools, welfare programs, planning and other local facilities and services required where mineral development occurs; and

Whereas, the proposed federal budget includes $40 million to implement this loan program in FY '79 provided Congress enacts legislation for the interest rate on these loans to be established at the market level.

Now, therefore be it resolved by the NACo Public Lands Steering Committee that the Congress is urged to enact both enabling legislation and a regular appropriation to implement the mineral lease loan program for impacted local communities.

Adopted by the Public Lands Steering Committee, March 12, 1978.●

● Mr. HANSEN. Mr. President, the late distinguished Senator from Montana, Mr. Metcalf, the Senator from Colorado, Mr. HASKELL, and myself as sponsors of the mineral revenue sharing section of Public Law 94–579 were pleased to see the administration support this concept in principle.

Early last year we asked Secretary Andrus to seek funding for the loan provisions in section 317(c) of the Federal Land Policy and Management Act. We also asked that guidelines and regulations be written to help the many communities and political subdivisions obtain loans to address the multiple problems that face many of these areas as energy fuels are extracted from the Federal estate, State and private lands. The provision—section 317(c)—permits these communities to borrow against the future return of mineral royalties, and allows these areas access to the dollars needed "up front," when the need is the greatest, before production or extracting the revenue return.

Mr. President, we asked these questions in a letter, which I ask unanimous consent be printed in the RECORD, along with the Secretary's response of February 23, 1977, which indicated support of the concept.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C., *January 27, 1977.*

Hon. CECIL ANDRUS,
*Secretary of the Interior,*
*Department of the Interior,*
*Washington, D.C.*

DEAR MR. SECRETARY: As co-authors of the mineral revenue sharing section of Public Law 94–579, the Federal Land Policy and Management Act, we are writing to urge prompt implementation of the provision authorizing loans to states and subdivisions for impact alleviation projects (Section 317(c)).

This section permits states and political subdivisions to borrow now against future mineral royalty entitlements so that there will be available the necessary "front-end" money to deal with immediate and urgent impact problems. Section 317 also gives state legislatures more flexibility in deciding how this income will be spent.

The legislatures of several states experiencing impact problems are now in session or will be convening soon for limited periods of time. Proposals to allocate the states' 50 per cent share of royalties and to deal generally with energy impact problems will be high-priority concerns during these legislative sessions.

In order for members of these state legislatures to do the best job of applying the provisions of Section 317 to existing and anticipated impact problems in their states, they need to know how the impact loan program will be administered.

We urge you to develop federal guidelines, at the earliest possible date, that would indicate how the loan program would work.

Further, we urge you to recommend to the President that funding for the loan program be included in the revised Executive Budget.

The need for loan provisions is not lessened by increased mineral receipts. These increases are not realized immediately and the impact is being felt now. This is the whole rationale for the loan provision.

We are aware that the previous Administration felt the three percent maximum interest rate was too low. We would be prepared to support a change in the law to allow interest equal to the prime rate paid by the federal government.

With kind regards,

Sincerely,

CLIFFORD P. HANSEN,
LEE METCALF,
FLOYD HASKELL,
*U.S. Senators.*

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U.S. DEPARTMENT OF THE INTERIOR,
*Washington, D.C., February 23, 1977.*

Hon. CLIFFORD HANSEN,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR HANSEN: Thank you for your letter of January 27 concerning Section 317 of the Federal Land Policy and Management Act of 1976.

I agree with the principle of providing some form of assistance to States and their political subdivisions where activities under the Mineral Leasing Act create unplanned social and economic burdens. The problem is frequently magnified by the long delay in local tax revenue increases after the impacts have occurred.

As you know, the budget submitted by the previous Administration included no funds for Section 317(c) loans and proposed repeal of that subsection. However, implementation of Section 317(c) is currently under consideration by the Department of the Interior and the Office of Management and Budget as part of the process of developing 1978 Budget Amendments to be proposed by President Carter.

Officials of the Department have consulted with representatives of the Western Governors, the National Governors' Conference and local officials concerning Section 317(c) and other forms of impact assistance. These working relationships will be maintained throughout the design and implementation of a program pursuant to Section 317(c).

We will continue to keep you informed as we progress.

Sincerely,

CECIL D. ANDRUS,
*Secretary.*

Mr. HANSEN. On August 31, 1977, the administration sent draft legislation to Congress. I ask unanimous consent that the letter of transmittal be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
*Washington, D.C., August 31, 1977.*

Hon. WALTER F. MONDALE,
*President of the Senate,*
*Washington, D.C.*

DEAR MR. PRESIDENT: Enclosed is a draft bill "To amend section 317(c)(1) of the Federal Land Policy and Management Act of 1976 to conform the interest rate therein to the yield on certain United States obligations, and for other purposes."

We recommend that this proposal be referred to the appropriate Committee and that it be enacted.

Section 317(c) of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 2771; 43 U.S.C. 1701, 1747) generally authorizes the Secretary to make loans to States and their political subdivisions to meet the impacts of development of Federal mineral resources before sufficient State and local revenues are generated by such development to accommodate the impacts. It provides that all loans shall bear interest at a rate not to exceed 3 percent.

This Department has submitted a proposal to repeal Section 317(c) on January 18. However, the new Administration recognizes the States' need for funds to alleviate certain impacts of anticipated Federal mineral development and also recognizes that the money may help to remove certain obstacles to further necessary coal development under a Federal coal leasing program. Therefore, the Department is hereby withdrawing the proposal to repeal Section 317(c) and is submitting the attached bill in lieu thereof.

The interest rate of 3 percent currently provided for in Section 317(c)(1) is substantially below that at which Federal, State and local governments borrow. Thus, loans under Section 317(c)(1) would amount to a windfall to States and their subdivisions. This low interest rate would in effect create a subsidy. The Treasury would borrow that money at the prevailing interest rate, thus incurring a loss of the difference between a rate of interest up to 3 percent and the current cost of borrowing the funds. Any difference between the amount the Treasury would pay for money it is borrowing to make the loans and the 3 percent interest rate to the western States would be borne by the taxpayers of all of the States.

We therefore recommend that Section 317 (c)(1) of the Federal Land Policy and Management Act of 1976 be amended as shown in the attached draft bill to conform the rate of interest on a loan to the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding issuance of such note and other obligations.

In addition, the draft bill offers other provisions to afford the Secretary control over expenditures. These controls are felt to be necessary for responsible administration of a special purpose Federal loan program.

The bill would limit loans for relief from social and economic impacts resulting from minerals development on the public lands to amounts sufficient to finance construction of basic public facilities, and provision of public services for a reasonable length of time, up to five years. The draft bill would designate States alone as recipients of the loan funds. The Secretary's authority to make loans would extend only until 1988. Loans are to be made for 20 years or less. There are standard provisions for repayment, including a general claim on the States' revenues.

The draft bill also provides that financial assistance under the Act may be used as a matching share. The draft includes provision for modifying terms or refinancing the loan should mineral development not occur as predicted at the time of the loan. There are standard provisions included covering event of default. Assistance provided is to be allocated by States proportionate to the needs of the affected units of local government, with the procedure for so doing subject to the Secretary's approval.

Other provisions include standard requirements for accounting and audit, for equal opportunity, and for deposit of funds collected into the Treasury.

It should be noted that the proposed amendments are structured to fit within the scope of Section 317 as enacted. Implementation of the loan authority given the Secretary by Section 317 as thus amended can solve a number of the problems already evident from rapid development of minerals on Federal lands.

The Office of Management and Budget has advised that there is no objection to the enactment of this draft bill from the standpoint of the Administration's program.

Sincerely,

GUY R. MARTIN,
*Assistant Secretary.*

Mr. HANSEN. Mr. President, the administration's bill although supportive in concept, misses the mark in the opinion of myself and Senator HASKELL.

Because the administration's bill is deficient in a number of areas, Senator HASKELL and I have introduced a bill that addresses the problem.

The areas of disagreement between the administration bill, and the bill sponsored by Senator HASKELL and myself, are as follows:

We oppose the provisions in the administration bill that:

First. Would cut off the loan authority in 1988. We feel the need goes beyond that period.

Second. Would place a 5-year limit on the duration of public services which can be financed by the loans.

Third. Would place a 90-percent limit of loan funds on a given project to be financed by the loans.

Fourth. Would limit the loan maturity to 20 years or two-thirds of the estimated useful existing life of the facilities built by loan funds.

Fifth. Set the interest rates. We refer to the letter of Wyoming Governor Ed Herschler which is printed in the RECORD following.

Sixth. Would use revenue sharing and payments in lieu of tax payments to offset loan defaults.

Mr. President, I ask unanimous consent that a letter from Wyoming Governor Ed Herschler which outlines the need and suggested constructive changes that led to the introduction of the Haskell-Hansen bill be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE DEPARTMENT,
*Cheyenne, Wyo., October 6, 1977.*

HON. CLIFFORD P. HANSEN,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR HANSEN: I appreciate the opportunity to review your proposed amendment to the Federal Land Policy Management Act, Section 317(c)(1), and provide comments. As you know, this particular provision of the law provides some opportunity to alleviate the socioeconomic impact of energy development in Wyoming. However, there are a number of problems with the original statute, as well as with the proposed amendment, which deserves consideration.

The first concern with the proposed amendment is subparagraph five which specifies "the current average market yield on outstanding market obligations of the United States" as establishing the rate to be charged by the Treasury. This provision fails to recognize the dual market for government obligations; taxable obligations and tax exempt obligations. The State of Wyoming and the local units of government could issue debt instruments in the private market at a tax exempt rate of approximately 4½%. However, the interest rate on ten year federal securities issued today is approximately 7½%. Specifically, U.S. Treasury bills due in 1986 are currently priced at 7.13%; Federal Land Bank notes due in January 1987 are priced at 7.39% and FHDA insured notes due December 1987 are currently priced issued at 7.87%. It would be extremely unfortunate to force state and local governments to pay approximately three additional percentage points above the private market tax-exempt rate in order to take advantage of this loan program. The interest rate to be charged by the United States Treasury should be comparable to the interest rate on tax exempt municipal securities.

The second concern with the proposed amendment is state constitutional provisions which may prohibit state and local governments from utilizing the loan program. Given the constitutional prohibitions on indebtedness by these governments, it is necessary to structure the loan program to avoid such loans from being classified as "debt" under the Wyoming Constitution. Although the courts have not established an absolute "safe harbor" for such loans, it is generally an accepted rule that a revenue bond does not create a debt within the meaning of the constitution. Furthermore, a contingent obligation against the general property and taxing power does not create such a debt. Therefore, I would suggest that subparagraph four of the proposed amendment be altered to include, after the first sentence, the following language: "Provided, however, that loans made pursuant to this subsection shall be secured only by a pledge of the revenues received by the state or the political subdivision pursuant to Section 35 of the Act of February 25, 1920, as amended, and shall not constitute an obligation upon the general property or taxing authority of such unit of government."

My final concern is that the loan provisions not be used by local governments to finance projects which are not within the stated purpose of the Mineral Leasing Act. This concern is apparently shared by some members of the Senate. Furthermore, because the mineral royalties come directly to the state which subsequently distributes them pursuant to state law, it is imperative that future obligations not be incurred without some state participation. For these reasons, I believe that this section should be contain a provision requiring a unit of local government to receive the approval of the Governor prior to receiving a loan under this section.

Your continued efforts to amend Section 317(c)(1) to render it usable is appreciated.

Yours sincerely,

ED HERSCHLER.

Mr. HANSEN. Let me stress that our bill does not authorize massive new authorizations for funding the programs directed to relieving energy impact problems. Instead it provides a mechanism where those funds already allocated may be used when the need is greatest at the start of the energy development cycle and in the form of loans against the sure return of the mineral royalties as previously addressed by Congress.●

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By Mr. HATHAWAY (for himself, Mr. WILLIAMS, Mr. HATCH, Mr. JAVITS, and Mr. RIEGLE):

S. 2915. A bill to amend the Alcohol and Drug Abuse Education Act to extend the authorization of appropriations for carrying out the provisions of such act. and for other purposes; to the Committee on Human Resources.

ALCOHOL AND DRUG ABUSE EDUCATION AMENDMENTS OF 1978

● Mr. HATHAWAY. Mr. President. It is my pleasure to introduce the Alcohol and Drug Abuse Education Amendments of 1978. This bill would reauthorize the Alcohol and Drug Abuse Education Act for 3 years, give greater flexibility to the Commissioner of Education in establishing model programs, improve the visibility of the Office of Alcohol and Drug Abuse Education, focus additional emphasis on programs in rural areas, and require the Secretary of Health, Education, and Welfare to coordinate the prevention and education efforts among the Office of Education, the National Institute on Drug Abuse, and the National Institute on Alcohol Abuse and Alcoholism. Technical changes are also included.

Since I became chairman of the Subcommittee on Alcoholism and Drug Abuse over 3 years ago, no subject has been declared to be more essential than alcohol and drug abuse education and prevention. The disease of alcoholism now affects 10 million Americans directly, and the incidence is growing. For every alcoholic, another four individuals—family, friends, coworkers—are negatively affected. Alcohol abuse is found in alarming proportions among our Nation's youth. In fact, a 1977 Gallup poll revealed that 34 percent of American teenagers feel that alcoholism or drug abuse comprise the greatest problem facing their generation.

The situation facing us with respect to drug abuse is not a pleasant one either.

Drug abuse continues to be a national problem warranting ongoing effective Federal leadership. We must focus our attention not only on illegal use of narcotics, but on abuse of licit drugs, such as amphetamines, tranquilizers and barbiturates, which are used for nonmedical purposes by an estimated 7 to 8 million Americans. In addition, "poly drug" abuse or the use of more than 1 drug at a time, is of growing concern, especially among our Nation's youth. Finally, we must address the more recent and highly critical problem posed by the use of PCP, or "Angel Dust," a devastating drug and one which is becoming increasingly popular among American teenagers.

That alcoholism and drug abuse pose a serious threat to our Nation's well-being cannot be denied. The effects of these problems are widespread, and the costs to the Nation are substantial. In terms of health care, lost productivity, and so on, alcohol abuse costs our Nation more than $42 billion a year. Drug abuse adds another $10 to $17 billion in economic costs.

It is no wonder then, that cries are heard repeatedly for greater attention to education and prevention. Just 3 weeks ago, the subcommittee held hearings in Bangor, Maine to explore alcoholism and drug abuse among our Nation's youth and to investigate the manner in which school and community-based organizations attempt to approach these problems. Mr. President, I ask unanimous consent that excerpts from the opening statement I made at the Bangor hearing be inserted in the RECORD at this point.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

OPENING STATEMENT OF SENATOR WILLIAM D. HATHAWAY

Today we shall examine the problems of alcoholism and drug abuse among our nation's youth and explore community and school-based programs to alleviate these problems. In addition, we will focus on the needs of other underserved groups, including women, native Americans, and others. Particular attention will be paid to the needs of rural areas.

I am pleased that Senator Hatch is able to be with us here today. Senator Hatch is Ranking Minority Member of the Subcommittee. Senator Hatch and I, and Senator Harrison Williams—the other member of the Subcommittee and Chairman of the parent Human Resources Committee—enjoy working together on these Subcommittee hearings. We've explored some interesting issues in the past, and I expect we'll be hearing some enlightening information this morning.

Probably all of us here are aware of the alcoholism and drug abuse problems in our country, but I wonder how many people in the general population appreciate the nature and extent of these problems. Alcoholism is our nation's 3rd largest health problem in terms of fatalities. But in terms of costs to our society, alcohol abuse is in a class by itself. The disease of alcoholism affects over 10 million Americans. For each of these another 4 individuals—their family, friends and coworkers—are negatively affected. Alcohol abuse is costing our nation more than 42 billion dollars per year in health expenditures, lost productivity and so on. The costs in terms of human tragedy and family disruption are immeasurable.

Alcoholism is a contributing factor to our high divorce rate, to the abuse of children and incidence of battered spouses, and to the number of runaway children. At least 50% of juvenile delinquents have family members with drinking problems. Children of alcoholics—estimated as high as 28 million—run a high risk of becoming alcoholics themselves. At recent Subcommittee hearings on the fetal alcohol syndrome, we heard that children of mothers who drink during pregnancy may be deformed or mentally retarded or may suffer from minimal brain dysfunction.

Alcohol abuse is increasing in alarming proportions among our nation's youth. Last week the New York Times reported a study finding a sharp rise in the use of alcohol at colleges, especially among women. The report further revealed that 2,000 students surveyed at the University of Wisconsin, "more than a quarter suffered blackouts or loss of memory because of alcohol within the previous year" and "11% admitted going to class intoxicated or high."

The picture for drug abuse is no more glamorous. Counting narcotic-related crime, addicts' lost productivity, and treatment and prevention programs, the total cost to the nation has been estimated at between $10 and $17 billion per year. Other drugs, such as amphetamines, tranquilizers and barbiturates are actively used for non-medical purposes by an estimated 7 or 8 million Americans. And so-called "poly-drug" abuse or the abuse of more than 1 drug at the same time, appears to be reaching epidemic proportions, especially among our nation's youth. Abuse of PCP, or "Angel Dust" is reaching alarming proportions in many urban centers as well.

We cannot sit idly by and watch the problems grow. Since its inception, the Subcommittee has recognized the need to mobilize federal, state and local resources to curb the problems associated with alcoholism and drug abuse. We are aware that early intervention maximizes the chances for successful rehabilitation and a productive responsible life.

The Subcommittee has also been aware, since 1970, that prevention and education efforts are essential, especially among young people. Prevention appears to be far more cost-effective than treatment.

The Subcommittee has scheduled these hearings today to explore new strategies and approaches to the old problems. In 1976, when we renewed the Comprehensive Alcohol Act, we placed a statutory priority on programs for women and youth as well as other underserved populations. Today we shall examine whether these programs have made a difference.

A recent National Institute of Drug Abuse study revealed that there is a difference between rural and urban drug abusers and the drugs they abuse. This morning we shall also hear about the special needs of rural populations and how they differ from their urban counterparts.

The Subcommittee is delighted on this occasion to have the benefit of witnesses from all parts of the state, representing policy makers, service providers, educators and the beverage industry. All have devoted a great deal of attention to these issues, and each has much to contribute to today's proceedings.

Finally, I want to take this opportunity to thank those of you who have worked so hard to make this hearing possible.

Mr. HATHAWAY. Mr. President, during the hearing, both Senator HATCH, ranking minority member of the subcommitee, and I gained valuable insight into the nature and extent of the problem as well as the specific needs which must be addressed. We were most fortunate to have the benefit of testimony from educators, policymakers, service providers, and others from all parts of Maine who deal with these problems on a day-to-day basis. It is these individuals who are intimately familiar with the circumstances and needs, and we are very thankful for their contribution.

Of particular significance to us was the fact that witness after witness detailed the need for greater attention to prevention and education efforts. The feeling was well-expressed by John Blatchford, of the Maine Eastern Regional Council on Alcoholism and Drug Abuse, who testified:

What do I suggest to your Subcommittee? I suggest you give high priority to activities relating to education and prevention. National costs will be lower and our citizens better served if alcoholism and drug abuse can be nipped in the bud.

Mr. President, I fully concur with this sentiment so aptly articulated by Mr. Blatchford. Prevention of alcoholism and drug abuse means prevention of untold human suffering, ill health, family disruption and so on. In terms of dollars and cents, prevention can mean significant cost savings. It is clearly far more cost-effective to prevent alcoholism and drug abuse than to provide treatment and rehabilitation.

The next question, then, is how do we prevent alcoholism and drug abuse? What techniques work? Can their effectiveness be measured? Can they be replicated in another setting?

Mr. President, the Alcoholism and Drug Abuse Education amendments which I am introducing today are designed to address these questions. In this regard, the bill provides for model projects to demonstrate the most effective methods and techniques in alcoholism and drug abuse prevention, and to develop exemplary alcoholism and drug abuse prevention programs. At the same time, it requires thorough evaluation of projects that we may be able to determine if, in fact, a particular approach works.

In addition, the bill authorizes continuation and expansion of current Federal alcoholism and drug abuse education efforts. Evidence indicates that the Federal program, so ably directed by Dr. Helen Nowlis, is quite effective. Yet, this effort is severely limited because of totally inadequate appropriations. Of a current $34 million authorization ceiling, the program has received only $2 million per year for a nationwide program of critical importance. Consequently, the administrative decision was made to focus the program on cities where the concentration of students is larger. As a result, rural areas have been denied the attention which they too sorely need. This problem was also highlighted during our field hearing in Maine.

Based on these considerations, the bill I am introducing revises the authorization levels with a view toward increasing appropriations. While the new authorization levels are actually lower than existing levels, they are offered as a realistic assessment of what actually should

be appropriated. In addition, to correct the existing neglect of rural areas, I am including a provision to insure that at least 25 percent of the sums appropriated be used for programs in rural areas. One week from today, the subcommittee will be holding a hearing on this bill. I look forward to exploring these issues further at that time.

Mr. President, at this point I ask unanimous consent that a section-by-section summary of the bill be printed in the RECORD, along with the text of the bill.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 2915

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Alcohol and Drug Abuse Education Amendments of 1978".

SEC. 2. Section 2(b) of the Alcohol and Drug Abuse Education Act (20 U.S.C. 1001 (b)) is amended—

(1) by inserting after "encourage" the following: "the prevention of alcohol and drug abuse; to stimulate";

(2) by striking out "curricula on" and inserting in lieu thereof "approaches to";

(3) by striking out "problems of" the first time it appears therein and inserting in lieu thereof "prevention of alcohol and";

(4) by striking out "curricula" the second time it appears therein and inserting in lieu thereof "approaches";

(5) by striking out "curricla materials" and inserting in lieu thereof "successful approaches"; and

(6) by striking out "on drug abuse problems", and inserting in lieu thereof "on alcohol and drug abuse problems".

SEC. 3. (a)(1) Section 3(a) of the Alcohol and Drug Abuse Education Act (20 U.S.C. 1002(a)) is amended—

(A) by inserting after "carryout" a comma and the following: "throughout the nation in rural areas as well as urban areas,";

(B) by striking out "projects" the first time it appears therein and inserting in lieu thereof "programs, including programs of proven effectiveness";

(C) by striking out "projects throughout the nation" and inserting in lieu thereof "programs to develop local capability to meet problems of alcohol and drug abuse";

(D) by inserting at the end thereof the following new sentence:

"The Commissioner shall seek equitable distribution of available resources among the various regions of the country and seek to ensure that the special needs of rural areas are appropriately addressed.".

(2) Section 3 (b) (5) of such Act is amended by inserting "prevention" after "abuse".

(b) Section 3 (d) (1) of the Alcohol and Drug Abuse Education Act (20 U.S.C. 1002 (d)) is amended—

(1) by striking out "and" at the end of clause (C);

(2) by striking the period at the end of clause (D) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new clauses:

"(E) provides assurance that the applicant will coordinate its efforts with the appropriate State and local alcohol and drug abuse agencies, and educational agencies and organizations; and

"(F) provides a proposed performance standard to measure, or research procedure to determine, the effectiveness of the program or project for which assistance is sought.".

(c) Section (3) (e) (2) of such Act is amended by striking out "labor and Public Welfare" and inserting in lieu thereof "Human Resources".

Sec. 4. (a) Section 3 of the Alcohol and Drug Abuse Education Act (21 U.S.C. 1002) is amended by redesignating subsections (d) through (f) as subsections (c) through (i) respectively, and by inserting after subsection (c) the following new subsections:

"(d) In addition to the purposes described in subsections (b) and (c), from funds in an amount not to exceed ten per centum of the sums appropriated to carry out this Act, the Commissioner is authorized to make grants to State educational agencies, local educational agencies, institutions of post-secondary education, and other nonprofit agencies and organizations to support projects, including projects of proven effectiveness, to demonstrate the most effective methods and techniques in alcohol and drug abuse prevention, and to develop exemplary alcohol and drug abuse prevention programs. Not less than 25 percent of the funds expended under this subsection shall be used for grants to programs affecting populations in which more than fifty per centum of the population resides in areas which are not urbanized areas as defined by the Bureau of the Census.

"(e) (1) In order to carry out the provisions of this Act, there is established in the Office of Education an Office of Alcohol and Drug Abuse Education (hereafter in this section referred to as the 'Office'). The Office shall be headed by a Director.

"(2) The Director shall report directly to the Commissioner, and shall be compensated at a rate not less than the rate prescribed for GS–16 under section 5332 of title 5 of the United States Code.

"(3) The Office of Education shall provide the Office of Drug Abuse Education with sufficient staff and resources to carry out its responsibilities under this Act.

"(4) In carrying out the provisions of this Act, the Director of such Office shall consult with the Directors of the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse, and shall coordinate the activities of such Office with the activities of such Institutes to the extent feasible.

"(f) The Secretary shall assure cooperation and coordination between the Office of Education (acting through the Office of Alcohol and Drug Abuse Education) and the Alcohol, Drug Abuse and Mental Health Administration (acting through the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse) to identify and implement successful prevention programs and strategies, to identify research and development priorities, and to disseminate the results of such activities.".

(b) Section 3(h)(1) of such Act (as redesignated by subsection (a)) is amended—

(1) by striking out "may" and inserting in lieu thereof "shall"; and

(2) by striking out "not exceeding one percentum" and inserting in lieu thereof "of three percent".

(c)(1) The first sentence of section 3(i) (as redesignated by subsection (a)) is amended by striking out "and", and by inserting before the period at the end thereof a comma and the following: ", $10,000,000 for the fiscal year 1979; $14,000,000 for the fiscal year 1980; and $18,000,000 for the fiscal year 1981".

(2) Subsection 3(i) of such Act (as redesignated by subsection (a)) is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraphs:

"(2) Not less than 25 per centum of the amount appropriated for any fiscal year under this subsection shall be used for alcohol and drug abuse education programs and projects in areas that are not urbanized areas as defined by the Bureau of the Census.

"(3) Funds appropriated under this subsection shall remain available for obligation through fiscal year 1981 in order to permit multiple year funding of projects under this Act.".

SEC. 5. Section 8(c) of the Alcohol and Drug Abuse Education Act (20 U.S.C. 1007 (c)) is amended by inserting "the Northern Mariana Islands," immediately after "the Virgin Islands,".

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SECTION-BY-SECTION SUMMARY

Section 2 amends Section 2(b) of the Alochol and Drug Abuse Education Act by increasing the emphasis on prevention and by expanding the focus of the Act to include "approaches" to the prevention of alcoholism and drug abuse rather than limiting the scope to curricula.

Section 3 amends Section 3 of the Act by requiring that programs be carried out throughout the nation, in both rural and urban areas in an equitable fashion and be designed to develop local capability. In addition, applicants for assistance are required to coordinate their efforts with the appropriate state and local alcoholism and drug abuse agencies and educational agencies and organizations, and include an evaluation component.

Section 4(a) authorizes grants to state and local educational agencies, institutions of post-secondary education and other nonprofit organizations for model projects to demonstrate the most effective methods of alcoholism and drug abuse prevention and to develop exemplary programs. To ensure equitable distribution, at least 25 percent of the funds appropriated for model projects must be used for programs in rural areas.

Section 4(a) also officially establishes the Office of Alcoholism and Drug Abuse Education within the Office of Education, and mandates coordination with respect to prevention efforts among the director of the Office of Alcohol and Drug Abuse Education and the Directors of the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse.

Section 4(b) further amends Section 3 of the Act by requiring the Commissioner of Education to conduct an independent evaluation of the programs assisted under the Act, and increases the authorization of funds to conduct the evaluation.

Section 4(c) provides for a 3 year renewal of the Act, with authorizations of $10 million in fiscal year 1979, $14 for fiscal year 1980, and $18 million for fiscal year 1981. In addition, Section 4(c) requires that at least 25 percent of the sums appropriated be used for programs in rural areas. Finally, this section permits multiple year funding of projects under the Act.

Technical changes are also made.●

● Mr. WILLIAMS. Mr. President, I am happy to join with the able chairman of the Subcommittee on Alcoholism and Drug Abuse (Mr. HATHAWAY) in introducing the Alcohol and Drug Abuse Education Amendments of 1978.

Prior to the passage of this act in 1970, the subcommittee heard much criticism of some of the local drug education programs. These critics said that providing information about drugs and issuing dire warnings against them does not work, and may even arouse young people's interest in trying them. It was obvious that new methods had to be found to help our young people in coping with their problems without resorting to the use of drugs.

By 1974, when this legislation was renewed, it had become apparent that young people were misusing alcohol in larger and larger numbers. Responding to this new information, the Conrgess, in 1974, amended the legislation to include a focus on alcohol abuse.

Faced with the failure of many well-meaning but ineffective "education programs" the Office of Education designed a program which emphasizes people rather than substances. This program is based on the assumption that the most effective way to discourage destructive behavior is to engage the major institutions that influence the development of young people in programs to combat alcoholism and drug addiction, by promoting maximum positive growth and development.

The need to continue and to expand this program is obvious. The use of alcohol and other drugs by our young people has not declined. A recent study conducted on behalf of the National Institute on Alcohol Abuse and Alcoholism, indicates that the proportion of high school students who reported ever having been drunk was 19 percent before 1968 and 45 percent from 1966 to 1975. Studies of fatal automobile accidents also show increases in the frequency of alcohol intoxication among youths 18 to 20 years old and that 60 percent of all persons killed in automobile accidents are teenagers.

There are now estimated to be more than 10 million alcoholics in this Nation, 450,000 of them in their teens. And Dr. Robert DuPont, the Director of the National Institute on Drug Abuse, indicates that the number of heroin addicts may be twice his 1971 estimate—500,000 to 600,000 now compared to 200,000 to 300,000 then.

Greater efforts must be made to help these young people to learn to cope with their problems.

Since the passage of this legislation many communities have shown that with the help and guidance of the Office of Education positive results can be achieved. One of the most outstanding success stories is in Bergenfield, N.J. In Bergenfield the total community has been united to provide a support system for its youth. Two Bergenfield teams have been trained at the Adelphi University National Training Institute—a community team involving the police and a school-based team. Both teams have worked in a most productive manner and have extended their membership to over 300 people in the community and schools. The present philosophy in Bergenfield is to handle most problems in a way that not only prevents crime from occurring but also diverts minor transgressions from the courts and from police action to the schools and to the mental health center. Youngsters picked up for minor indiscretions are, in most cases, referred to the school team for action. The team then tries to assist the youngsters in resolving his or her difficulties. Rarely is a youngster incarcerated. When the police are called in by the school, they act in a supportive, rather than a threatening manner.

With an investment of less than $10,000 of Federal dollars, Bergenfield has become a model for other communities in their endeavors to help youngsters live productive and satisfying lives without resorting to alcohol and drugs.

In Bergenfield, children have learned to regard policemen as friends to whom they can turn for help. In Bergenfield, senior citizens work within the school system, helping to bridge the generation gap and helping children overcome problems of low self-esteem and poor school performance. In Bergenfield, children have challenging outdoor activities. Youngsters act as park leaders, running the parks at night for themselves. No arrests for loitering have occurred during the past 3 years, because such arrests are no longer necessary. In Bergenfield, vandalism remains consistently at a low level, while the rate in other towns steadily increases. In Bergenfield, young people have healthy and happy places to congregate with their friends. In Bergenfield, young people know what help is available to them in the community, whatever their problems. And those who live with alcoholic parents know about self-help groups such as Al-Ateen because they have been told about them in the schools.

Mr. President, the Alcohol and Drug Abuse Education Act is our only legislation primarily designed to reach those millions of young people who may be tempted to abuse drugs and alcohol. By continuing and expanding this effort, we will see success stories like Bergenfield duplicated across the Nation.

The legislation we are introducing today reauthorizes the act for 3 years, gives greater flexibility to the commissioner in establishing model programs, gives greater visibility to the Office of Alcohol and Drug Abuse Education, requires greater emphasis on programs in underserved areas, and requires the Secretary of Health, Education, and Welfare to coordinate the prevention education efforts of the Office of Education, the National Institute on Drug Abuse, and the National Institute on Alcohol Abuse and Alcoholism.●

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By Mr. HATHAWAY (for himself, Mr. WILLIAMS, Mr. HATCH, Mr. JAVITS, Mr. CRANSTON, and Mr. RIEGLE):

S. 2916. A bill to amend the Drug Abuse Office and Treatment Act of 1972 to extend the programs of assistance under that act for drug abuse prevention, education, treatment, and rehabilitation, and for other purposes; to the Committee on Human Resources.

DRUG AEUSE OFFICE, PREVENTION, AND TREATMENT AMENDMENTS OF 1978

● Mr. HATHAWAY. Mr. President, today I am pleased to introduce the Drug Abuse Office, Prevention, and Treatment amendments of 1978. This bill will extend for 1 year, through September 30, 1979, the authorization for the National Institute on Drug Abuse under the Drug Abuse Office and Treatment Act of 1972, and will place greater emphasis on prevention of drug abuse. I am gratified to be joined in this effort by the distinguished chairman of the Committee on Human Resources (Mr. WILLIAMS), the ranking minority member of the Subcommittee on Alcoholism and Drug Abuse (Mr. HATCH), the ranking minority member of the full committee (Mr. JAVITS), and the majority whip (Mr. CRANSTON).

Drug abuse continues to be a national problem warranting ongoing Federal leadership, attention, and resources. Counting narcotic-related crime, addicts' lost productivity, and treatment and prevention programs, the total cost to the Nation is an estimated $10 to $17 billion annually. Active nonmedical use of other drugs, such as amphetamines, tranquilizers, and barbiturates are estimated on the part of at least 5 percent of the adult population, or among at least 7 to 8 million Americans. So-called "poly-drug" abuse, or use of more than one drug at a time, appears to be reaching epidemic proportions. And the deadly drug PCP, or "Angel Dust," is increasingly becoming a most-favored chemical of abuse, especially among our Nation's youth.

While renewal of the Federal commitment to combat drug abuse is clearly needed, the bill I am introducing today will limit the reauthorization of Federal programs to 1 year. There are two reasons for this.

The primary reason for seeking a 1-year extension of this statute is to insure close congressional scrutiny of the planning and coordinative mechanisms of drug abuse policy at the highest level of the executive branch. Title II of the Drug Abuse Office and Treatment Act, as amended in 1976, provided such a mechanism in the Office of Drug Abuse Policy (ODAP), established within the Executive Office of the President.

As my colleagues will recall, in the President's Reorganization Plan No. 1, presented to Congress on July 15, 1977, the functions of ODAP were proposed to be transferred to the domestic policy staff.

This proposal was of great concern to me and to a number of my colleagues, including the distinguished Chairman of the Committee on Human Resources (Mr. WILLIAMS), the ranking minority member of the Subcommittee on Alcoholism and Drug Abuse (Mr. HATCH), the ranking minority member of the Committee on Human Resources (Mr. JAVITS), as well as to our colleagues on governmental affairs, who had worked with us in establishing ODAP, including that committee's distinguished chairman (Mr. RIBICOFF) and ranking minority member (Mr. PERCY).

On July 26, 1977, I testified before the Committee on Governmental Affairs on this matter, and as further background, I ask unanimous consent that excerpts from my testimony be printed in the RECORD at this point.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

TESTIMONY OF SENATOR WILLIAM D. HATHAWAY

Mr. Chairman, I appreciate having the opportunity to testify before your committee this morning regarding the President's reorganization proposal which was submitted to Congress on July 15 of this year.

I am pleased that this committee has seen fit to hold these hearings, and intends

to scrutinize carefully the President's proposal, as is required by the Reorganization Act of 1977.

As chairman of the Subcommittee on Alcoholism and Drug Abuse, I feel impelled to comment on one particular aspect of the proposal, namely the discontinuation of the Office of Drug Abuse Policy, and the transfer of its functions to a single senior advisor in the White House.

I realize that my questioning this proposal would lead some to conclude that I was simply protecting my own legislative turf and prerogatives. I obviously cannot categorically deny this charge. But at the same time, I believe that the legislative history of ODAP yields an inescapable conclusion that the Congress has clearly written this office and its functions squarely into Federal law, for sound reasons. And this office ought not to be discontinued, abolished, transferred, or whatever, unless we are properly convinced that this change of structure is necessary and beneficial, and not simply cosmetic.

Mr. Chairman, it was only a year and a half ago that I met with you and other distinguished members of your committee in joint conference with the House on the amendments to the Drug Abuse and Treatment Act of 1972. In those deliberations we drafted legislation establishing an Office of Drug Abuse policy within the Executive Office of the President.

In this legislation we stipulated a number of attributes for this office, and went into great detail. We required that the Director and Deputy Director of this office be nominated by the President, subject to the advice and consent of the Senate. This legislation stipulated the employment of other officers and employees, and listed the allowable civil service status of these individuals. Consultants were also to be employed.

The functions of the Director, and the office generally, were set forth in detail. Broadly, his function was to coordinate and evaluate all of the efforts of the various departments and agencies of the Federal Government, and to insure that a coherent Presidential policy emerged. An annual report had to be submitted to Congress.

All of these legislative actions were deemed necessary by us at that time to make sure that these matters received appropriate attention at the highest levels of the White House and to coordinate and rationalize the myriad programs in the drug abuse field.

Prior to our action in this regard, these functions had been undertaken by a task force of the Office of Management and Budget, and the special action Office on Drug Abuse Policy was phased out.

This task force was not subject to Senate confirmation, and therefore not accountable to Congress. We were concerned that without a clear, designated, identifiable individual in the White House itself, the most important issues of Drug Abuse Policy would be ignored or given extremely short shrift.

The notion of Drug Abuse Policy necessarily involves the interaction of a great number of Federal departments.

In treatment and prevention, the Department of Health, Education and Welfare comes to mind first, but the Veterans' Administration is also strongly involved, as is the Department of Defense. The Department of Labor is involved in vocational and rehabilitation programs, and so on.

On the enforcement side, since drug abuse is in many instances also a crime, the Department of Justice is the most clearly identifiable entity. But the Treasury Department and probably others are involved.

Drug abuse is also an international problem, so the State Department is involved. Treaties must be negotiated, and the United Nations is concerned.

Domestically, State and local officials are properly and justifiably concerned with our drug abuse policy, in both enforcement and treatment.

All of these elements make the problem of drug abuse a unique one in our Federal system and point out the need for the structure we established together in the early part of 1976.

President Ford signed this measure into law on March 19, 1976, and since that time ODAP has gotten off to a good start in its extremely difficult and complex task.

President Carter determined to implement this law early on in his administration. He submitted full-funding budget requests of $2 million per year over the next 2 fiscal years.

On March 14 of this year the President issued a memorandum on the activization of ODAP to the Secretaries of State, Treasury, Defense, Labor, HEW, Transportation, the Attorney General, the representative to the U.N., the Director of OMB, the Director of the CIA, and the Administrator of the Veterans' Administration asking for their full cooperation.

In this memorandum, the President set out the role he saw for ODAP:

"The Office of Drug Abuse Policy shall be responsible for carrying out the congressional mandate specified in the law. In addition, and to the maximum extent permitted by law, the Director of ODAP is hereby directed to fulfill the following responsibilities:

"(1) Recommend Government-wide improvements in the organization and management of Federal drug abuse prevention and control functions, and recommend a plan to implement the recommended changes;

"(2) Study and recommend changes in the resource and program priorities among all agencies concerned with drug abuse prevention and control;

"(3) Assume the lead role in studying and proposing changes in the organization and management of Federal drug abuse prevention and control functions, as part of my promise to reorganize and strengthen Government operations; and

"(4) Provide policy direction and coordination among the law enforcement, international and treatment/prevention programs to assure a cohesive and effective strategy that both responds to immediate issues and provides a framework for longer term resolution of problems."

Dr. Peter Bourne was confirmed as the first Director of ODAP in the late spring of this year. Since that time he has assembled an extremely competent and versatile staff, including, among others, the former counsel of the special action Office on Drug Abuse Policy, who also had experience working with the U.N. in Geneva, and the former police chief of Berkeley, California. Presently, the Office has a staff of 10 individuals.

The staff is in place and is prepared to fulfill the mandate established in Public Law 94-237. Already it has turned out a number of sound studies on the problem. But obviously, there is much more yet to be done.

The law and the accompanying reports clearly imply a strong professional staff which will be directly accountable to the Congress and to the Senate in particular. It also mandates that the Director be an individual with the ear of the President who will work solely on these vital problems.

Mr. HATHAWAY. Mr. President, based on these concerns and the concerns of my colleagues, there were a number of meetings with the staff of the President's Reorganization Project, and the Office of Management and Budget in an attempt to ameliorate some of these concerns and to insure that the new policy structure within the White House was responsive to our concerns.

As a result of these discussions, I received a letter from then-Acting Director of the Office of Management and Budget, Mr. James H. McIntyre, Jr., outlining further the new mechanism.

I ask unanimous consent that this letter be printed in the RECORD at this point.

There being no obection, the letter was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
*Washington, D C., September 28, 1977.*

Hon. WILLIAM D. HATHAWAY,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR HATHAWAY: I understand that you are concerned about the disposition of the Office of Drug Abuse Policy (ODAP) in Reorganization Plan No. 1. This letter explains the arrangements we plan to make for handling ODAP functions and answers questions that have been raised about it.

In proposing the abolition of ODAP as a statutory unit, the EOP reorganization group recognized the value of its work and made provision for each of its functions to continue:

ODAP's policy development and coordination functions will be handled within the new policy management system which is to be used for most domestic issues. The basis of the system is the formation of interagency working groups, coordinated by the Domestic Policy Staff, to recommend policy and handle specific problems. The system will link the skills and experience in line agencies with the Presidential perspective in the Executive Office. In the drug abuse area, Domestic Policy Staff members will work with the revitalized Strategy Council on Drug Abuse to make the system a reality. Because of the President's personal commitment to more effective action in the drug abuse area, a White House adviser will continue to provide strong policy guidance.

We anticipate that ODAP's current reorganization work will be completed in January 1978. However, the Office could continue until April 1 if additional time is needed to complete its work. After the Office is terminated, its reorganization responsibilities will be assumed by the President's Reorganization Project, in cooperation with the President's drug and health adviser.

The President's decision on ODAP is in no sense, an attempt to deemphasize drug abuse problems. He has asked Dr. Bourne to take the lead in formulating a comprehensive national drug abuse policy, including planning, enforcement and other critical issues. His August 2, 1977, message to the Congress on drug abuse stressed his continued deep personal concern about the effects of narcotics and the need to act. The President has also assured the Congress that Dr. Bourne will be available to testify as he has been.

In summary, we believe that the new arrangements for carrying out ODAP functions will improve the effectiveness of drug abuse policy development and coordination. The system will place the drug issue in the mainstream of Presidential decision making within the new policy management system and reorganization efforts, thus better integrating it with related concerns. By retaining a visible White House adviser, priority will be given to the issue and coordination will be assured. I hope that you and your colleagues will view the ODAP reorganization in the context of the new arrangements that the President proposes.

Enclosed are answers to commonly asked

questions. If I can provide further information, I will be happy to do so.

Sincerely,

JAMES H. MCINTYRE, Jr.,
*Acting Director.*

Mr. HATHAWAY. Mr. President, it was gratifying to learn that Dr. Bourne would continue to play a dominant role in the coordination of these policies, that he would continue to be available to testify before Congress, and that the administration continued to place greater emphasis on these issues.

At the same time, particularly since ODAP has only recently concluded its work, and this new structure has only been fully implemented as of April 1, I am reluctant, as is Chairman PAUL ROGERS of the House Subcommittee on Health and the Environment, to enter into a multiyear reauthorization of this important statute. Rather, we mutually agreed that Congress ought to pay close attention to this matter, and to consider these issues once again, 1 year from now, in a legislative context. At the hearing of the Subcommittee on Alcoholism and Drug Abuse to take place next Wednesday, I look forward to discussing these matters with Dr. Bourne and the other witnesses, with a view toward highlighting further their importance.

There are other reasons for seeking a 1-year extension. One year from now, we will also have the benefit of the report of the President's Commission on Mental Health, which will include recommendations relating to drug abuse. We will also have the benefit of the Federal Strategy on Drug Abuse, due in June of 1978. Under the leadership of the President and Dr. Bourne, the Strategy Council, first established in 1972 by this statute, has finally been implemented, and is meeting on a regular basis. Its recommendations on an integrated and coordinated Federal policy in this vitally important area should be most helpful to us in our future deliberations.

Mr. President, although the bill I am introducing today basically provides for a simple 1-year extension of the Drug Abuse Office and Treatment Act, other changes are included as well. Of primary importance is the greater focus on prevention. Prevention is far more cost-effective than treatment and rehabilitation. Revisions also include annual reporting requirements, program evaluation mechanisms, and coordination of State drug abuse activities with local drug abuse planning efforts. Finally, the bill mandates a special report on drug abuse in rural areas. The information provided in this report should be useful to the subcommittee when we reconsider the Drug Abuse Act next year.

I ask unanimous consent that a brief section-by-section summary of the bill be printed in the RECORD at this point along with the text of the bill itself.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 2916

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Drug Abuse Office, Prevention, and Treatment Amendments of 1978".

SEC. 2. (a) Section 1 of the Drug Abuse Office and Treatment Act of 1972 is amended by striking "Office" and substituting "Office, Prevention,".

(b) The first sentence of section 409 (a) of such Act is amended (1) by striking out "and" after 1977,", and (2) by inserting after "1978," the following: "and September 30, 1979,".

(c) Section 410 (b) of such Act is amended by adding at the end thereof the following: "For the fiscal year ending September 30, 1979, there is authorized to be appropriated (1) $153,000,000 for grants and contracts under paragraphs (3) and (6) of subsetcion (a) for drug abuse treatment programs, and (2) $24,000,000 for grants and contracts under such subsection for programs and activities (other than for grants and contracts under paragraphs (3) and (6) of subsection (a)).

(d) Section 503 of such Act is amended (1) by striking "and" after "1977"; and (2) by inserting after "1978" the following: "and $7,000,000 for the fiscal year ending September 30, 1979"

SEC. 3. (a) Section 405 (b) of the Drug Abuse Office and Treatment Act of 1972 is amended to read as follows:

"(b) The Secretary shall transmit a report to the President and the Congress with respect to each fiscal year on—

"(1) the health consequences and extent of drug abuse in the United States,

"(2) a description and evaluation of the effectiveness of the drug abuse prevention functions carried through any entity of the Department of Health, Education, and Welfare in the fiscal year for which the report is made,

"(3) a description of the manner in which such functions were carried out, the amount of funds expended, and a description and evaluation of the coordination within the Department of Health, Education, and Welfare in carrying out such functions,

"(4) a description and evaluation of the effectiveness of experimental methods and programs implemented in carrying out such functions, recommendations for implementation of such methods and programs by others in carrying out their drug abuse prevention functions, and a description and evaluation of the effectiveness of the means used to disseminate information respecting such methods and programs, and

"(5) proposals for changes in the drug abuse prevention functions carried out through the Department of Health, Education, and Welfare (including recommendations for legislation).

The report required by this subsection shall be transmitted not later than January 15 of each year.".

(b) Section 405 of such Act is amended by adding at the end thereof a new subsection (c) as follows:

"(c) Within 120 days of the date of enactment of the Drug Abuse Office, Prevention, and Treatment Amendments of 1978, the Secretary shall submit to the Congress a report on the extent and nature of drug abuse in rural areas, the special needs and circumstances which must be addressed in providing drug abuse prevention functions to these areas, and specific recommendations to alleviate drug abuse in rural areas. For purposes of this subsection, 'rural areas' means areas that are non-urbanized areas as defined by the Bureau of the Census.".

(c) Section 502(b)(3) of such Act is amended by striking "control and treatment" and substituting "prevention, control, and treatment".

SEC. 4. Section 303(2) of the Drug Abuse Office and Treatment Act of 1972 is amended by inserting immediately after "used" the following: "and shall include a mechanism to identify, provide for, and evaluate effective drug abuse prevention programs, especially for primary prevention designed to discourage persons from beginning drug abuse with equal attention to the needs of metropolitan areas and areas which are not urbanized areas as defined by the Bureau of the Census".

SEC. 5. (a) Section 409(e)(7) of the Drug Abuse Office and Treatment Act of 1972 is amended to read as follows:

"(7) provide assurance that the State agency will coordinate its planning with local drug abuse planning agencies, and with State and local health planning agencies and educational agencies, as appropriate;".

(b) The first sentence of section 409(e) of such Act is amended by striking "July 15" and substituting "July 31".

SEC. 6. Section 502 of the Marihuana and Health Reporting Act (Public Law 91-296) is amended by striking out "annually" and inserting in lieu thereof "biennially".

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SECTION-BY-SECTION SUMMARY

Section 1. Short title of bill.

Section 2(a). Amends the Drug Abuse Office and Treatment Act of 1972 by revising the title to read "Drug Abuse Office, Prevention, and Treatment Act of 1972;"

Section (b). Extends the state formula grant program through fiscal year 1979 and retains the authorization level of $45 million;

Subsection (c). Authorizes $177 million for special grants and contracts, with $153 million for treatment programs, and $24 million for prevention, demonstration and other programs; and

Subsection (d). Renews authorization of funds for certain research and development through fiscal year 1979 at the authorization level of $7 million.

Section 3(a). Requires the Secretary of Health, Education and Welfare to transmit an annual report to the President and Congress on drug abuse in the United States, including an evaluation and description of the drug abuse prevention functions carried on by the Department of Health, Education and Welfare;

Section 3(b). Requires a report to Congress on drug abuse in rural areas, including the special needs and circumstances which must be addressed.

Section 4. Amends section 303 of the Act to require the National Drug Abuse Strategy to include a mechanism to identify, provide for and evaluate effective drug abuse prevention programs, especially those designed to discourage persons from beginning drug abuse, with equal attention given to urban and rural areas.

Section 5. Amends Section 409(e)(7) of the Act, relating to the content of state plans, to require the state drug abuse agencies to coordinate their planning with local drug abuse planning agencies and state and local health planning and educational agencies, as appropriate; and changes the due date of state plans from July 15 to July 31.

Section 6. Amends Section 502 of the Marijuana and Health Reporting Act to require a biennial report instead of an annual report.

Other technical amendments are included.●

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By Mr. DOLE:

S. 2918. A bill to permit marketing orders to include provisions concerning marketing promotion, including paid advertisement, of raisins and distribution among handlers of the pro rata costs of such promotion; to the Committee on Agriculture, Nutrition, and Forestry.

● Mr. DOLE. Mr. President, last month the other body enacted useful legislation to permit amendment of the Fed-

eral marketing order governing raisins to authorize production and marketing research and development projects That bill, H.R. 6782, later became the vehicle of emergency farm legislation which was defeated by the other body yesterday.

The raisin marketing order provisions of H.R. 6782 are not controversial. In a sense, these provisions are the "innocent bystanders" in a controversy focusing on the flexible parity provisions of H.R. 6782—provisions that the Senator from Kansas sponsored and promoted. For this reason, I reintroduce the raisin marketing order provisions in the expectation that it will receive timely and favorable action by this body.

Specifically, this legislation amends section 8 of the Agricultural Marketing Agreement Act of 1937 to permit amendment of the Federal marketing order governing raisins produced in the United States to authorize production and marketing research and development projects, including paid advertising, and to permit handlers to deduct expenditures for brand name raisin advertising from assessments paid by them to finance such projects.

The amendment to the Federal marketing order could not be made until after first, notice and opportunity for a public hearing by the Secretary of Agriculture, and second, approval by two-thirds of the affected producers, or producers of two-thirds of the raisins, in a referendum conducted by the Secretary of Agriculture. In addition, the handlers of not less than 50 percent of the volume of raisins covered by the order must sign a marketing agreement reflecting the terms of the amendment to the order.

This bill would require the Secretary of Agriculture to submit a detailed evaluation report to the Agriculture Committees of Congress within 60 days following the second anniversary of its implementation. The report would include, but not be limited to. information on the issuance or amendment of any affected order, the annual amount of assessments collected, in the aggregate and by size and class of handler, the manner in which the assessments were collected, the amount of direct expenditures credited against the pro rata expense assessments of each handler, and the purpose to which the assessments and direct expenditures were devoted.

Mr. President, this legislation is supported by raisin producers as well as those involved in raisin marketing. To the extent that it facilitates efficient marketing, it conforms to the best interests of consumers. I commend this legislation to my colleagues, and ask for their support.●

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By Mr. PROXMIRE (for himself, Mr. STONE, Mr. CHILES, and Mr. MATHIAS) (by request):

S. 2919. A bill to encourage broader utilization of the condominium form of homeownership, to provide minimum national standards for disclosure and consumer protection for condominium purchasers and owners and tenants in condominium conversions, to encourage States to establish similar standards, to correct abusive use of long-term leasing of recreation and other condominium-related facilities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

CONDOMINIUM ACT OF 1978

Mr. PROXMIRE. Mr. President, at the request of the administration, I am introducing the Condominium Act of 1978. This bill would establish minimum national standards for disclosure and consumer protection in condominium sales and condominium conversions and would encourage States to establish and enforce similar standards. It is also intended to correct some of the consumer problems which have arisen in connection with long-term leases of recreational and other facilities in certain parts of the country.

In purchasing a condominium, a person acquires ownership of his individual dwelling unit plus an undivided interest in the common elements—lobbies, elevators, grounds, et cetera. The condominium form of ownership has become increasingly popular in recent years, and for good reason. Condominiums offer the tax and other benefits of homeownership, often at a more modest cost than for single family houses. In these days of smaller households, higher energy costs, and rapidly rising housing prices, condominiums provide an attractive option; and they are likely to make up a larger share of the housing market as time goes on.

For these reasons, I have long been concerned about the consumer problems that have arisen in connection with condominiums. In some cases, these problems appear to stem from lack of familiarity with the condominium form of ownership and lack of clear and concise disclosure of pertinent information. In other cases, there appear to be specific abuses and omissions on the part of condominium developers. In either case, I think it would be most unfortunate if condominiums were to get a bad reputation, because of these problems and if that reputation were to limit their marketability.

The legislation I am introducing today represents the administration's effort to remedy some of the problems that have been associated with condominiums. It is similar in many respects to a bill which I sponsored in the last Congress. I have questions about some of the provisions of the administration bill, and particularly about the ramifications of the section dealing with recreation leases. These matters should be explored in detail at such time as the Banking Committee undertakes formal consideration of the proposed legislation.

Mr. President, I ask unanimous consent that the bill and the explanatory material accompanying it be printed in the RECORD at the conclusion of the introductory statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1, 2, and 3.)

Mr. STONE. Mr. President, I am pleased to join in introducing the Condominium Act of 1978 on behalf of the administration. The bill was drafted by the Department of Housing and Urban Development (HUD) and would establish minimum national standards for consumer protection and disclosure requirements in the sale of new and converted condominium units.

I have followed the careful development of this bill to insure that it would address, on a national level, the common problems and abuses that have been associated with the sale and ownership of condominiums in the past. The national standards and disclosure provisions in the bill are patterned after the most advanced State condominium statutes, such as Florida's, and the Uniform Condominium Act (UCA) recently adopted by the National Conference of Commissioners on Uniform State Laws. Under the certification mechanism provided by the bill, the Federal minimum standards and disclosure requirements would apply only in States whose laws do not provide substantially equivalent or greater protection.

The bill also addreses problems that are prevalent in Florida with existing long-term leases and contracts which had to be accepted by condominium buyers as a condition of purchase.

Florida is a leader in the condominium form of homeownership, with more than 800,000 people living in over 400,000 condominium apartment units. The number of condominiums increased rapidly during the late 1960's and early 1970's before the State enacted stringent regulations to curb abusive practices. The wide-open market in condominiums enabled a few unscrupulous developers to take advantage of consumers, and senior citizens in particular, by tying the sale of condominium units to the acceptance of oppressive long-term leases which were entered into by the developer with himself while he controlled the condominium association. Typically, these leases would be for the use of a common recreation facility and would run for 99 years. Under the terms of the leases, the condominium unit owners pay all the costs of operating, maintaining, and repairing the facility, and all the taxes; in return for the payment he receives, the developer does nothing. The leases contain automatic rent increase clauses tied to a cost-of-living index which has no relationship to the developers' obligations. Nevertheless, it allows the developer to automatically raise the lease payments by the percentage increase in the cost of living. Since the lease payments are usually secured by a lien on the condominium apartments, owners who cannot afford the escalating lease payments on a recreation facility are exposed to the possibility of loss of their homes.

In the past few years, Florida has enacted strong and effective legislation dealing with condominium abuses. New leases containing escalator clauses are now prohibited. Repeated attempts, however, by the State to nullify escalator clauses in leases entered into before passage of this prohibition have been unsuccessful, because States are prohibited by the U.S. Constitution from impairing contractual obligations. Mr. President, it is clear that the Federal Government has the constitutional authority to deal with this most compelling problem.

The Condominium Act of 1978 would make unenforceable future rent increases called for under certain preexisting long term leases containing automatic escalator clauses which have no relationship to the developers' obligations under the lease. Thus these lease fees would be frozen at their levels on the date of enactment of the bill. Financial hardships would not result from this measure, since developers would continue to receive substantial returns on their investments.

In addition, the bill establishes equitable criteria for the courts to use in determining whether preexisting long term leases are unconscionable. It would enable unit owners, by a two-thirds vote, to challenge certain long term leases in Federal court. Upon a determination that a lease is so oppressive as to be unconscionable, the court could reform or rescind the lease, in whole or in part, to achieve a fair result.

The problem of long term leases tied to condominium sales affects citizens of many States in addition to Florida. Most of the purchasers of Florida condominiums come from other parts of the country, primarily the Northeast and the Midwest, to spend the winter in a second home or to retire in a sunny climate. Unfortunately, in their eagerness to settle in a comfortable environment, many have been victimized by some very sharp sales practices.

If properly regulated to prevent abuses, condominiums can become an affordable alternative to single family homeownership throughout the Nation. I have worked closely with HUD in the development of this bill, as have Senator CHILES and my Florida colleagues in the House of Representatives, who are introducing similar legislation, because I believe that Florida's experience with condominiums can benefit the whole country. The leaders of Florida condominium unit owners as well as the representatives of Florida developers consulted frequently with HUD as this bill was being fashioned. I know that the input they provided was very valuable.

Enactment of this legislation will prevent condominium abuses from occurring in the future and provide a remedy for the most serious problems that have already occurred. The most important lesson we have learned in Florida is that increasing consumer confidence in condominiums promotes condominium sales and benefits buyers and builders alike.

Mr. CHILES. Mr. President, I am extremely pleased to support the Condominium Act of 1978, along with Senators PROXMIRE and STONE. This bill is the product of many months of intense work on the part of the condominium task force at HUD to forge an effective, workable piece of legislation. I offer support for the general thrust of this bill to provide reasonable protection for the condominium buyer with the understanding that the administration's bill is subject to modification and amendment as we move through the legislative process. This bill is written in such a way as to encourage the growth of condominiums in all parts of the country by providing minimum standards for disclosure and consumer protection in new projects as well as in condominium conversions, by encouraging States to enact strong consumer laws of their own, and by correcting the abusive use of long-term recreational facilities.

The Condominium Act of 1978 should receive attention by the Congress both as a remedy for current problems and abuses in the sale of condominium units and as a preventive step to keep such abuses from developing elsewhere. The condominium is such a new form of ownership that very little was known at the Federal level until recently about who lives in them, the reasons for their enormous popularity, and the special problems these new homeowners are facing.

Generally speaking, a condominium project consists of individual units separately owned combined with joint ownership of the common elements of the complex. The common elements may range from lobby, grounds, and meeting rooms to extensive recreational facilities. It is the responsibility of the unit owners, or their owners association, to maintain these common facilities.

Condominiums are attractive to families because they offer many of the advantages of owning the home at an affordable price. Yet, they are also appealing since they offer numerous amenities and fewer responsibilities than the traditional family home. With the continuing upward spiral in prices for conventional homes, the condominium is sure to be increasingly popular among small families, young couples, and older people both as a primary residence and as a retirement or resort home.

RAPID GROWTH BRINGS MANY PROBLEMS

The growth of condominiums has been phenomenal during this decade. According to the Census Bureau's annual housing survey, there were more than 700,000 condominium units in the Nation in 1976 and most of these were built since 1970. Florida, California, New York, Ohio, Michigan, Illinois, and New Jersey experienced the heaviest growth in the early 1970's, but the increasing popularity of condominiums is already bringing dozens of other States into the picture.

In the Northeast region, the number of people living in either condominiums or cooperatives increased by 108 percent to over 250,000 units between 1970 and 1976. The figures are even more dramatic in the South and West, with increases of 266 percent and 363 percent, respectively, during that time period. In 1976, the South and West regions contained over 400,000 condominium owner-occupied units. Therefore, Mr. President, I want to stress to my colleagues that this is not a one-State or single-region concern. Condominium development and the attendant abuses that have come to light are national concerns and are compelling reasons why this legislation should be considered promptly.

HUD's 1975 study revealed some major problems associated with the development, sale, and ownership of condominium housing. These problems have been documented in nearly every State where condominiums represent a significant percentage of the single family housing stock. Advanced State laws have alleviated some of the problems but some glaring loopholes remain, particularly in States which have no significant condomonium buyer protection provisions.

Important information necessary for the buyer to make a rational decision about buying a condominium is often too complicated and difficult for the average person to understand. This bill requires developers to include a full and accurate disclosure statement in language that is simply stated and does not leave out important features about the condominium.

In some instances, construction is of poor quality and purchasers find themselves stuck without reasonable warranty protection. This bill requires that in condominium projects covered by the act, the developer must warrant and guarantee against defective workmanship in any of the units or common elements.

Owners committed by developers to long-term, escalating recreational facility leases will be given the right to seek a judicial determination that such leases represent unconscionable agreements. The bill sets forth certain conditions under which these leases should be found unconscionable. In addition, under specified conditions, payments on leases containing an automatic rent increase clause would be unenforceable in the future.

In some conversions of rental units to condominiums, tenants have not been given sufficient notice or the chance to purchase their apartments from the owner. This legislation requires that landlords give tenants plenty of notice to vacate and the first option to buy. Specific provision is made for disclosure of information about units for sale in a condominium conversion, because of the special circumstances involved in purchasing such a home.

FLORIDA EXPERIENCE HARBINGER OF NATIONAL PROBLEM

The State of Florida has been in the vanguard of the condominium expansion nationwide and I can speak from experience of the consumer nightmares that have been faced by purchasers in my home State. Many of these people are retirees who have moved to Florida for all or part of the year while maintaining their roots in their native States.

Here is one letter I received last year from an elderly condominium owner in Fort Lauderdale that is typical of the serious problem these owners face:

> The Land Lease situation is getting more and more out of hand. Our Land Lease which was $4,200 7 years ago and not obtainable when we purchased our condo has been sold recently for $7,000 and they are now asking $9,000. The monthly lease has gone from $35.00 to $40.85 and January 1, they are billing us for $65.00 which is hiway robbery. In our condo there are 118 apartments, and about 80 of us are asked to pay this exorbitant amount. 90% of us are retired for a number of years and on fixed income. I am 84 years of age and wife is 68 . . .
>
> As is usual we pay the taxes and upkeep on this land which we do not own. The owner has no expense and has practically received the original asking price of $4,200 in rents but still wants $65.00 a month for the next 5 years when it will again be raised.

Another Floridian wrote:

It would be a blessing if you could do something about our $53.70 we have to pay each month on our recreation building. We never use it. We have five 10-story buildings and the developer collects about $50,000 every month on these recreation buildings . . . He can get away with this for 99 years.

Recurring stories about developer misrepresentations, and so-called sweetheart deals in which the developer retains an interest in a management contract with the owners association, and long-term, escalating recreation leases—some for as long as 99 years—are examples of abuses which have been most flagrant but, with the exception of the 99-year lease, they are not confined to Florida.

In such a rapidly growing industry with limited public awareness of the problem, the potential for consumer fraud and abuse is still very strong. Some States have already moved ahead with comprehensive consumer protection and disclosure laws. But, a significant number of States have only minimal requirements, including four of the 10 States with the highest concentrations of condominium housing. Preventive Federal legislation is in order at this time to insure that we do not go through the same array of consumer housing problems in the 1980's that early growth States struggled with in the first part of the 1970's. Let us prove that we have learned from the considerable problems we have already encountered and act now to prevent those problems from recurring.

STATE LEGISLATION URGED

One of the most encouraging features of the Federal legislation we are proposing today is that it complements, rather than substitutes for, effective State law. States that already have similar consumer protection and minimum disclosure statutes in place would be certified by the Secretary of Housing and Urban Development. The Federal standards enumerated in this bill would apply in States that did not have consumer protection laws for condominium purchasers. Thus, States would be encouraged to enact laws of their own patterned after this bill and other State laws with advanced buyer protection provisions. But, in no instance would registration or filing of disclosure statements with the Federal Government be required. There will be no new paperwork emanating from Washington as a result of this law. In fact, the bill takes a positive step in the direction of eliminating duplicate or overlapping paperwork by providing that disclosures filed with the Securities and Exchange Commission are deemed to satisfy the disclosure requirements of this bill.

It is not only the consumer who suffers from the abuses in the condominium industry that have been so widely reported in recent years. Honest developers are tainted by the unfair and deceptive practices of less scrupulous developers and the extensive publicity given to the condominium abuses hurts the entire industry. We saw that happen several years ago when adverse publicity coupled with a major slump in the economy led to disastrous sales performances. With condominium development spreading into new areas of the country, as it surely will, this legislation will be instrumental in maintaining consumer confidence in the condominium form of ownership.

Mr. President, I would be remiss if I did not take this chance to personally thank the condominium owners who, through their homeowners' associations, have fought for years to put an end to the most egregious condominium abuses. Their persistence and dedication to this cause were the motivating forces behind the Condominium Act of 1978.

My appreciation also goes to the HUD Condominium Task Force, chaired by Dr. Charles Field. They had the arduous responsibility of producing a practicable condominium measure to present to Congress. That product, which we are introducing by request today, should be a valuable tool in the construction of urgently needed condominium legislation. The hundreds of thousands of condominium owners of this Nation deserve nothing less.

EXHIBIT 1

S. 2919

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Condominium Act of 1978".

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TITLE I

FINDINGS AND PURPOSE

SEC. 101. (a) The Congress finds and declares that there is a shortage of adequate and affordable housing throughout the Nation; that utilization of the condominium form of ownership can increase the supply of housing and expand the opportunities for homeownership particularly for low- and moderate-income and elderly persons and families. The Congress further finds that consumer abuses have occurred throughout the Nation in the condominium industry which have caused economic and social hardships for consumers, which threaten the continued use and acceptability of the condominium form of ownership and which interfere with the interstate sale of condominiums and that continuation of these abuses is a national problem requiring Federal action.

(b) It is therefore the purpose of this Act to establish national standards for consumer protection and disclosure together with appropriate enforcement procedures, to encourage States to adopt statutes which will provide substantially equivalent or greater consumer protection, and to correct and prevent continuing abuses including abusive use of long-term leasing of recreation and other condominium-related facilities.

TITLE II

DEFINITIONS

SEC. 201. As used in this Act the term—

(1) "affiliate of a developer" means any person who controls, is controlled by, or is under common control with a developer. A person "controls" a developer if the person (i) is a general partner, officer, director, or employee of the developer, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 per centum of the voting interests of the developer, (iii) controls in any manner the election of a majority of the directors of the developer, or has contributed more than 20 per centum of the capital of the developer. A person "is controlled by" a developer if (i) the developer is a general partner, officer, director, or employee of the person, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 per centum of the voting interests of the person, (iii) controls in any manner the election of a majority of the directors, or (iv) has contributed more than 20 per centum of the capital of the persons;

(2) "agent" means any person who reprements, acts for or on behalf of, or in concert with, a developer in selling or offering to sell any condominium unit in a condominium project, but such term does not include an attorney at law whose representation consists solely of rendering legal services;

(3) "association", "unit owners association" or "owners association" means the organization, whose membership consists exclusively of all the unit owners in the condominium project, which is, or will be, responsible for the operation, administration, and management of the condominium project;

(4) "automatic rent increase clause" means a provision in a lease permitting periodic increases in the fee due under the lease which is effective automatically or at the sole option of the lessor, and which provides that the fee shall increase at some percentage rate or the rate of a recognized index;

(5) "common elements" means all portions of the condominium project, other than the units;

(6) "common expenses" means expenditures made or liabilities incurred by or on behalf of the association, together with any allocations to reserves.

(7) "condominium instruments" means all documents or instruments and amendments thereto creating the condominium project;

(8) "condominium project" means real estate which (i) has portions designated as units for separate ownership and the remaining portions designated for common ownership solely by the owners of those units, each owner having an undivided interest in the common elements, and (ii) is or has been offered for sale or sold, directly or indirectly, through use of any means or instruments of transportation or communication of interstate commerce, or the mails;

(9) "conversion condominium project" means a condominium project containing any building that was, at any time before the first conveyance of a unit to a purchaser, wholly or partially occupied by persons other than purchasers and persons who occupy with the consent of purchasers;

(10) "convey" or "conveyance" means (i) a transfer to a purchaser of legal title in a unit at settlement, other than as security for an obligation or, (ii) the acquisition by a purchaser of a leasehold interest for more than five years;

(11) "developer" means any person who offers to sell or sells his interest in a unit not previously conveyed. Developer also means any successor of such person who offers to sell or sells units in the condominium project and who assumes special developer rights in the project including the right to: add, convert or withdraw real estate from the condominium project; maintain sales offices, management offices and rental units; exercise easements through the common elements for the purpose of making improvements within the condominium; or exercise control of the owners association;

(12) "developer control" means any right, arising under State law, the condominium instruments, the association's bylaws, charter or articles of association or incorporation, or power of attorney or similar agreement, through which the developer may control or direct the unit owners association or its executive board. A developer's right to exercise the voting share allocated to any unit which he owns is not deemed a right of developer control if the voting share allocated to that unit is the same voting share as would be allocated to the same unit were that unit owned by any other unit owner at that time;

(13) "executive board" means the body, regardless of name, designated in the condominium instruments to act on behalf of the association;

(14) "ground lease" means a lease, in a leasehold condominium project, of the real estate on or in which one or more of the units are located, the termination or expiration of which will terminate the condominium project or reduce the number of units in the condominium project;

(15) "interstate commerce" means trade, traffic, transportation, communication, or exchange among the States, or between any foreign country and a State, or any transaction which affects such trade, traffic, transportation, communication or exchange;

(16) "lease" includes any agreement or arrangement containing a unit owner's obligation, individually or collectively, to make payments for a leasehold interest or for other rights to use or possess real estate, not including mortgages or other such agreements for the purchase of real estate;

(17) "leasehold condominium project" means a condominium project in which all or a portion of the real estate is subject to a lease, the termination or expiration of which will terminate the condominium proj ect or reduce the size of the condominium project;

(18) "offer" means any advertisement, inducement, solicitation, or attempt to encourage any person to acquire any interest in a unit, other than as security for an obligation;

(19) "person" means a natural person, corporation, partnership, association, trust, or other entity, or any combination thereof;

(20) "purchaser" means any person other than a developer, who by means of a voluntary transfer acquires a legal or equitable interest in a unit, other than (i) a leasehold interest (including renewal options) of less than five years, or (ii) as security for an obligation;

(21) "real estate" means any leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests which by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. "Real estate" includes parcels with or without upper or lower boundaries, and spaces that may be filled with air or water;

(22) "sale of a condominium unit" means any obligation or arrangement for consideration for conveyance to a purchaser of a condominium unit, excluding options or reservations not binding on the purchaser;

(23) "Secretary" means the Secretary of Housing and Urban Development;

(24) "State" includes several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;

(25) "termination of developer control" means the date when the developer irrevocably relinquishes all rights of developer control or that date when all rights of developer control cease by operation of law or under the provisions of this Act;

(26) "unit" or "condominium unit" means a portion of the condominium project designated for separate ownership; and

(27) "unit owner" means (i) a developer who owns a unit, (ii) a person to whom ownership of a unit has been conveyed or (iii) a lessee of a unit in a leasehold condominium project whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the condominium project. Unit owner does not include a person having an interest in a unit solely as security for an obligation. If title to a unit is held in a land trust, "unit owner" means the beneficiary of the trust.

EXEMPTIONS

SEC. 202. (a) The provisions of this Act shall apply to all condominium projects and units except—

(1) a condominium unit sold or offered for sale by the Federal Government, by any State or local government, or any agency thereof; or

(2) a condominium project in which all units are restricted to nonresidential purposes or uses.

(b) The Secretary may by rules and regulations exempt any condominium projects or condominium units from any of the provisions of this Act, if and to the extent that the Secretary determines it to be necessary or appropriate in the public interest and consistent with the protection of consumers and the purposes intended by the policy and provisions of the Act.

PROHIBITIONS

SEC. 203. (a) It shall be unlawful for any developer or agent in selling or offering to sell any condominium unit in any condominium project—

(1) to employ any device, scheme, or atrifice to defraud; or

(2) to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made not misleading, or

(3) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon a purchaser.

(b) Any provisions in any lease or management agreement requiring unit owners or the owners association in any condominium project subject to this Act to reimburse, regardless of the outcome, the developer, his successor, or affiliate of the developer for attorneys' fees and/or money judgments, in a suit between unit owners or the owners association and the developer arising under the lease or agreement, are against public policy and void. It is the express intent of Congress that the provisions of this subsection shall apply to leases or agreements regardless of execution date.

COOLING-OFF PERIOD; RIGHTS OF PURCHASERS

SEC. 204. (a) Prior to conveyance of a condominium unit in a condominium project, the purchaser may elect to rescind any contract or agreement for the sale of the unit at any time during the period ending fifteen days after—

(1) the purchaser and developer have executed the contract, or

(2) the purchaser has been furnished with all information required under section 206, whichever occurs later.

(b) A purchaser may exercise the right to rescind under this section by hand-delivering notice or by mailing notice by prepaid United States mail to the developer or his agent, and the developer or his agent shall refund to the purchaser fully and promptly, without penalty, any deposit or other payment made by the purchaser.

(c) If the purchaser has not received all information required by section 206 by the time of conveyance, the purchaser may not elect to rescind the sale pursuant to this section but shall have the right to receive from the developer an amount equal to ten percent of the purchase price of the unit.

(d) Nothing in this subsection shall prevent purchasers from asserting any rights they may have under section 211. The provisions of section 211(c) shall apply in suits seeking to recover damages in excess of the amount recoverable under section 204(c).

NATIONAL STANDARDS FOR CONSUMER PROTECTION

SEC. 205. (a) In a condominium project subject to this Act, a developer—

(1) shall place any deposit made by a purchaser in connection with a sale of or an offer to sell a condominium unit in trust or escrow in an account designated solely for that purpose, by a licensed title insurance company, an attorney, an independent bonded escrow company, or an institution whose accounts are insured by a governmental agency or instrumentality, until delivered to the developer either at settlement or upon forfeiture by the purchaser, or returned to or otherwise credited to the purchaser;

(2) shall be liable to the owners association or unit owners for all losses suffered by the association or unit owners as a result of a tort or breach of contract committed by the developer or an affiliate of the developer during any period prior to the termination of developer control;

(3) shall establish a unit owners association not later than the time of conveyance of the first unit to a purchaser. The developer shall terminate any right to control the unit owners association not later than (i) sixty days after conveyance of 75 per centum of the units to purchasers, or (ii) five years after the date of the first conveyance of a unit to a purchaser, whichever occurs first. In any event, not later than sixty days after conveyance of 25 per centum of the units to purchasers, they shall be entitled to elect not less than 25 per centum of the members of the executive board of the unit owners association, and not later than sixty days after conveyance of 50 per centum of the units to purchasers, they shall be entitled to elect not less than 33⅓ per centum of the members of the executive board of the unit owners association. In determining the percentage of units which have been conveyed, the total number of units in the condominium project is presumed to include the units the developer has reserved the right to build in the recorded condominium instruments;

(4) shall pay all expenses of the unit owners association prior to the first common expense assessment and thereafter shall pay the common expenses for each unit that he owns;

(5) shall not convey to a purchaser an interest in a unit which may be used for residential purposes, unless (i) that unit is substantially completed as evidenced by a certificate of occupancy from a governmental entity or a recorded certificate of completion executed by a registered or licensed architect or engineer who is not an affiliate of the developer; or (ii) there is an executed construction contract for completion of the project and a performance bond of not less

than 100 per centum of the cost of completing that project;

(6) shall display or deliver to prospective purchasers advertising and promotional material only if that material is not inconsistent with the information required to be disclosed under section 206;

(7) shall, other than in a conversion condominium project, warrant and guarantee against defects in the plumbing, electrical, mechanical, structural, or any other components constituting any of the units or common elements. The developer shall assure that subcontractors providing such components are also liable to fulfill the warranties and guarantees under the terms and conditions of this paragraph. Such warranties and guarantees shall exist on a unit for at least one year from the date of conveyance of that unit by a developer to a bona fide purchaser and on all of the common elements for at least three years from the date of completion of each common element or the date of conveyance of the first unit to a purchaser other than an affiliate of the developer, whichever is later. Such warranties and guarantees by the developer shall be separate from, and in addition to, any warranties or guarantees provided by any other person or as otherwise provided by law;

(8) shall, in a conversion condominium project, warrant and guarantee against defects any repair, addition, or improvement which the developer or an affiliate of the developer makes to the plumbing, electrical, mechanical, structural, or any other components constituting any of the unit or common elements. The developer shall assure that subcontractors providing such components are also liable to fulfill the warranties and guarantees under the terms of this paragraph. Such warranties and guarantees shall exist on a unit for at least one year from the date of conveyance of that unit by a developer to a bona fide purchaser and on all of the common elements for at least three years from the date of completion of each common element or the date of conveyance of the first unit to a purchaser other than an affiliate of the developer, whichever is later. Such warranties and guarantees by the developer shall be separate from, and in addition to, any warranties or guarantees provided by any other person, or as otherwise provided by law;

(9) shall in the case of a conversion condominium project—

(i) give each of the tenants and any subtenant notice of the conversion no later than ninety days before the developer will require the tenants and any subtenant in possession to vacate. The notice shall set forth generally the rights of tenants and subtenants under this paragraph, and shall be hand-delivered to the unit or mailed by prepaid United States mail to the tenant and subtenant at the address of the unit or any other mailing address provided by a tenant. No tenant or subtenant may be required by the developer to vacate upon less than ninety days' notice, except by reason of nonpayment of rent, waste, or conduct which disturbs other tenants' peaceful enjoyment of the premises, and the terms of the tenancy may not be altered during that period. Failure of a developer to give notice as required by this paragraph constitutes a defense to an action for possession. Nothing in this paragraph permits termination of a lease by a developer in violation of its terms;

(ii) for sixty days after delivery or mailing of the notice described in (i) of this paragraph, offer to convey each unit or proposed unit occupied for residential use to the tenant who leases that unit. If a tenant fails to purchase the unit during that sixty-day period, the developer may not offer to convey an interest in that unit during the following one hundred and eighty days at a price or on terms more favorable to the offeree than the price or terms offered to the tenant. This clause does not apply to any unit in a conversion condominium project if that unit will be restricted exclusively to nonresidential use or if the boundaries of the converted unit do not substantially conform to the dimensions of the residential unit before conversion;

(10) shall make books and records of the association reasonably available for inspection and copying during the period of his control to unit owners and their authorized representatives, and so long as the units are being offered for sale by the developer, make available for such persons changes in disclosures previously made to purchasers;

(11) shall not enter into contracts or leases with himself or any affiliate of the developer or enter into any management contract, employment contract, or lease of recreational or parking areas or facilities on behalf of the unit owners association, unless those contracts or leases may be terminated by the owners association at any time after the termination of developer control, without penalty, upon not less than ninety days notice to the other party. This paragraph does not apply to any ground lease unless the real estate subject to that lease was submitted to the condominium for the purpose of avoiding the right of the association to terminate a lease under this paragraph.

(b) This section shall not apply to a condominium project in which the developer has conveyed, in an arms-length transaction, at least one unit to a purchaser other than an affiliate of the developer prior to the effective date of this section.

NATIONAL STANDARDS FOR DISCLOSURE

SEC. 206. (a) Not later than the time of sale, a developer of a condominium project shall provide to each purchaser of a condominium unit the following written information—

(1) the name and principal address of the developer, and of the condominium project;

(2) a brief narrative description of the condominium project, including, without limitation, (i) a precise statement of the nature of the interest which is being offered, (ii) the types and number of units presently planned to be built, and (iii) the total number of units that may be included in the condominium project by reason of action of the developer, such as by future expansion or withdrawal of real estate, and the expected effects which such future action would have on the purchaser's interest, and (iv) the nature and extent of any recreational facilities the developer has built or is obligated to build, and (v) a statement as to whether, and under what conditions, persons other than unit owners in the condominium project are entitled to use such facilities;

(3) a statement of the number of units the developer intends (i) to rent or (ii) to sell in blocks of units to persons who do not intend to occupy the units on a year-round basis;

(4) a statement disclosing whether any units or common elements in the condominium project may be used for commercial or industrial purposes, the nature and extent of such uses, and the effect of such uses, if any, on the condominium unit owners;

(5) the developer's schedule for start and completion of all buildings, units, recreation facilities, and other common elements, together with a statement of which portions of the condominium project he is obligated to build under the recorded documents and which portions need not be built;

(6) (i) copies and a brief narrative description of the significant features of the sales contract, the condominium instruments, the bylaws, rules, and regulations, and amendments thereof, (ii) copies of any contracts and leases to be signed by purchasers, (iii) a brief narrative description of any contracts that are subject to section 205(a)(12), and (iv) a statement disclosing whether or not the developer or an affiliate of the developer has an interest in such contracts or leases, and disclosing the extent of such interest, if any;

(7) the expected significant terms of any financing the purchaser is required to use by the developer, including the name of the lender, estimated interest rate, minimum downpayment and commissions, if any, the developer may receive for arranging the financing;

(8) the terms of warranties, if any, provided by the developer and subcontractors under section 205;

(9) the annual association balance sheet, if any, and a projected budget for the association covering the period of one year from the date the first unit is conveyed to a purchaser, and thereafter the current budget of the association, a statement of who prepared the budget, and a statement of the budget's assumption concerning occupancy and inflation factors. The budget shall include, without limitation: (i) a statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement, the items to be covered by the reserves and a statement of the basis for and the adequacy of the amount of the reserve, if any, (ii) a statement of any other reserves, (iii) the projected common expenses by category of expenditures for the association, (iv) the projected monthly common expense assessment for each type of expenditures for the association, (iv) the projected monthly common expense assessment for each type of unit and the formula for determining each unit's share of common expenses, (v) the projected income from common expense assessments and a statement identifying any other sources of income, and (vi) any current or expected fees or charges to be paid by unit owners for the use of the common elements and other facilities related to the condominium project.

(10) a statement disclosing any services provided by the developer which are not reflected in the budget, or any expenses he pays which he expects may become, at any subsequent time, a common expense of the association, and the amount of the additional cost which would be assessed at that time for each type of unit;

(11) a statement disclosing what utilities, insurance and taxes shall be paid for by the association and an estimate of the cost of utilities, insurance, and taxes to be borne by the unit owners individually;

(12) the amount of any initial or special fee due from the purchaser at closing, together with a description of the method of calculating the fee, the purpose to which the moneys will be put, the limitations, if any, on the use of the funds, and whether or not the fee is refundable upon sale of the unit by the purchaser;

(13) a description of any liens, defects, or encumbrances on or affecting the title to all or part of the condominium project;

(14) a statement of any judgments against the association or against the developer materially affecting the condominium project and the status of any pending suits material to the condominium project of which a developer has actual knowledge or to which the association or developer is a party;

(15) a statement of all restrictions or limitations on the use, occupancy, sale, or rental of any condominium unit;

(16) a statement of the purchaser's rights under section 204 of this Act;

(17) a statement that any deposit made by a purchaser in connection with the sale of any unit will be held in trust or escrow until delivered to the developer either at settlement or upon forfeiture by the purchaser, or returned or otherwise credited to the purchaser. The statement shall also contain the name and address of the trustee or escrow agent holding such escrow; and

(18) a statement of all unusual and ma-

terial circumstances, features, and characteristics of the condominium project.

(b) In the case of a conversion condominium project, the developer shall provide the following information in addition to the information required in subsection (a) of this section—

(1) a report, or a statement by the developer based on such report, prepared by an independent licensed architect or engineer, describing the present condition of all structural components and mechanical and utility installations which are material to the use and enjoyment of the condominium project;

(2) a statement by the developer of the expected useful life of each item reported on in paragraph (1) or a statement that no representations are made in this regard, and a statement of which items reported on in paragraph (1) are not covered by warranties disclosed under subsection 206(a)(8); and

(3) a list of any outstanding notices of uncured violations of building codes or other municipal regulations, together with the estimated cost of curing those violations.

(c) In the case of a leasehold condominium project, the developer shall provide the following information in addition to that required in subsections (a) and, if applicable, (b) of this section—

(1) a brief narrative description of the terms and significant features of the lease including, but not limited to (i) the amount of annual rent, (ii) the method of payment, (iii) the provisions pertaining to increases in rent, (iv) the date and place of recordation of the lease, (v) the expiration date, and (vi) the real estate subject to the lease;

(2) a statement describing any rights of unit owners to redeem or renew the lease and to remove any improvements, the manner whereby such rights may be exercised, or a statement that they do not have those rights;

(3) the formula for determining allocation of ownership interests, voting rights, and common expense liability upon termination of the lease; and

(4) a statement describing any right of the lessor to terminate the leasehold interest prior to the expiration of the lease.

(d) The developer, prior to conveyance, shall disclose to all purchasers any material change in the information previously furnished as required by this section.

(e) All information required by this section shall be in writing and fully, accurately, and simply stated.

(f) If a condominium project is composed of not more than twelve units and no power is reserved to a developer to make the condominium project part of a larger condominium project, group of condominium projects, or other real estate, the disclosures need not include the disclosures otherwise required by paragraphs (2) (ii) (iii), (3) (4), (5), (11), (12), (13), and (14) of subsection (a) of this section.

(g) This section shall not apply to a condominium unit restricted to commercial or industrial purposes.

(h) This section shall not apply to the sale of a unit in a condominium project in which the developer has conveyed, in an arms length transaction, one or more units to a purchaser other than an affiliate of the developer prior to the effective date of this section.

(i) If a condominium project is currently registered with the Securities and Exchange Commission of the United States, delivery to a purchaser of a copy of the prospectus files with the Securities and Exchange Commission, under the provisions of the Securities Act of 1933, satisfies the disclosure requirements of section 206 of this Act.

STATE CONDOMINIUM JURISDICTION

SEC. 207. (a) Nothing in this Act may be construed to prevent or limit the authority of any State or local government to enact and enforce any law, ordinance, or code with regard to any condominium project or condominium unit not in conflict with this Act. It is the intent of Congress to encourage the assumption and exercise by States of the authority and responsibility for the protection of condominium purchasers and owners.

(b) The Secretary, in the Secretary's discretion, may certify that standards and disclosure requirements in a State's laws applicable to condominium units or projects, taken as a whole, provide substantially equivalent or greater consumer protection than the national standards. Upon such certification the standards under the State's laws will apply for the purposes of this Act in lieu of the standards in sections 205 and 206. The Secretary may, in the Secretary's discretion, withdraw certification upon determination that a State's laws do not meet the requirements for certification.

INVESTIGATIONS, AND PROSECUTION OF OFFENSES

SEC. 208. (a) Whenever it shall appear to the Secretary that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this Act, or of any rule or regulation prescribed pursuant thereto, the Secretary may, in the Secretary's discretion, transmit such evidence as may be available concerning such acts and practices to the Attorney General who shall bring an action in any district court of the United States, or the United States District Court for the District of Columbia to enjoin such acts or practices, and, upon a proper showing, a permanent or temporary injunction or restraining order shall be granted pursuant to this section, without bond. The Secretary also may transmit such evidence as may be available concerning such acts or practices to the Attorney General who may institute the appropriate criminal proceedings under this Act.

(b) The Secretary may make investigations as the Secretary deems necessary to determine whether any person has violated or is about to violate any provision of this Act or any rule or regulation prescribed pursuant thereto, and may require or permit any person to file a statement in writing, under oath or otherwise as the Secretary shall determine, as to all the facts and circumstances concerning the matter to be investigated. The Secretary is authorized to publish information concerning any such violations, and to investigate any facts, conditions, practices, or matter which the Secretary may deem necessary or proper to aid in the enforcing of the provisions of this Act, in the prescribing of rules and regulations thereunder, or in securing information to serve as a basis for recommending further legislation concerning the matters to which the Act relates.

(c) For the purpose of any such investigation, or any other proceeding under this Act, the Secretary or any officer designated by the Secretary is empowered to administer oaths and affirmations, subpena witnesses and compel their attendance, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which the Secretary deems relevant or material to the inquiry. Such attendance of witnesses and the production of any such records shall be required from any place in the United States or any State at any designated place of hearing.

(d) In case of contumacy by, or refusal to obey a subpena issued to, any person, the Secretary may, in the Secretary's discretion, transmit evidence of such act or practice to the Attorney General who shall bring an action to invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records and documents. And such court shall issue an order requiring such person to appear before the Secretary or any officer designated by the Secretary, there to produce such records and documents if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court shall be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

OPERATIONAL TERMINATION OF SELF-DEALING CONTRACTS

SEC. 209. (a) Any contract that—

(1) provides for operation, maintenance, or management of a unit owners association or property serving the unit owners; and

(2) is between unit owners or the unit owners association and the developer or an affiliate of the developer; and

(3) is entered into prior to the termination of developer control of the unit owners association; and

(4) is for a period of more than two years

may be terminated without penalty by the unit owners or owners association.

(b) The termination may occur at any time following termination of developer control of the unit owners.

(c) The termination shall be by a vote of owners of not less than two-thirds of the units other than the units owned by the developer or an affiliate of the developer.

(d) Following the unit owners' vote, the termination shall be effective ninety days after hand-delivering notice or mailing notice by prepaid United States mail to the parties to the contract.

(e) It is the express intent of Congress that the provisions of this section shall apply to contracts regardless of execution date.

CIVIL ACTIONS; UNCONSCIONABLE LEASES

SEC. 210. (a) Unit owners may bring an action seeking a judicial determination that a lease or leases, or portions thereof, are unconscionable if each lease has all of the following characteristics:

(1) it was made in connection with a condominium project; and

(2) it was entered into before termination of developer control of the unit owners association; and

(3) it had to be accepted or ratified by purchasers or through the unit owners association as a condition of purchase of a unit in the condominium project.

Such suit must be authorized by the unit owners through a vote of the owners of not less than two-thirds of the units other than units owned by the developer, or an affiliate of the developer, and may be brought by the unit owners as a group or through the unit owners association.

(b) In making its determination of unconscionability, the court shall consider, but not be limited to—

(1) any gross disparity between the obligation incurred and the value of the benefit derived by the lessees, including consideration of (i) the obligations to pay rent, taxes, and insurance, and to maintain, repair, and replace the property, (ii) the value of the leased property, (iii) the price at which comparable property could have been acquired, and (iv) the lessor's rate of return on investment in the leased property and the condominium development as a whole;

(2) the unequal bargaining position of the parties to the lease;

(3) the adequacy of disclosure of the existence and terms of the lease to purchasers and the ability of purchasers to comprehend their rights and obligations thereunder; and

(4) the identity of interest, if any, of original parties to the lease.

(c) If it is established that, in addition to the characteristics of subsection (a) of this section, the lease—

(1) is for a period of more than twenty-one years or is for a period of less than twenty-one years but contains automatic renewal provisions for a period of more than twenty-one years; and

(2) contains an automatic rent increase clause or creates a lien subjecting any unit to foreclosure for failure to make payments; and

(3) contains provisions requiring the lessees to assume all or substantially all obligations and liabilities associated with maintenance and use of the leased property;

then the court, in making its finding, shall consider the lease to be unconscionable, unless proven otherwise by clear and convincing evidence under the standards in subsection (b).

(d) Upon finding that any lease, or portion thereof, is unconscionable, the court may exercise its authority to grant remedial relief as necessary to avoid an unconscionable result. Such relief may include, but shall not be limited to, rescission, reformation, restitution, the award of damages and reasonable attorney fees and court costs.

(e) The remedies provided by this section are to be liberally administered to the end that the aggrieved parties are put in as good a position as if the bargaining and terms had been fair.

(f) Notwithstanding the provisions of subsections (a) through (e) of this section, exercise of any automatic rent increase clause shall be unenforceable, against unit owners or the owners association, as to future increases in rental payments occurring after the effective date of this Act in a lease having all of the following characteristics:

(1) it contains provisions requiring the lessees to assume all or substantially all obligations and liabilities associated with maintenance and use of the leased property; and

(2) it was entered into before termination of developer control of the unit owners association; and

(3) it had to be accepted or ratified by purchasers or through the unit owners association as a condition of purchase of a unit in the condominium project.

(g) It is the express intent of Congress that the provisions of this section shall apply to leases regardless of execution date, except that subsections (c) and (f) shall not apply to—

(1) ground leases entered into prior to the enactment of this Act; or

(2) any ground lease which the lessor has entered into in an arms-length transaction with the developer, without there being an identity of interest between the lessor and the developer. Such identity of interest includes, but is not limited to, situations where the lessor is the developer, an agent of the developer, an affiliate of the developer, or is a member of the immediate family of the developer or affiliate of the developer.

CIVIL ACTIONS; ADDITIONAL REMEDIES

SEC. 211. (a) A developer, or agent or successor thereto subject to this Act, may be sued at law or in equity by any person aggrieved by a violation of this Act.

(b) In any suit authorized by this section for violation of sections 203, 205, or 206, damages may be awarded or such other relief granted as deemed fair, just, and equitable. The court in awarding relief shall consider, but not be limited to, the contract price of the unit, the amount paid by the purchaser on the contract, the cost of any improvements or necessary repairs paid by the purchaser, the fair market value of the unit at the time of sale to the purchaser, the fair market value of the unit at the time the suit was brought, and the fair market value of the unit at the time of judgment.

(c) In any suit brought by purchasers alleging misrepresentations or omissions of disclosure requirements in violation of sections 203(a) or 206, the plaintiff must prove that the misrepresentations or omissions were material and that the defendant acted intentionally or negligently.

(d) Unless otherwise specified, suits authorized under this Act may be brought by one or more purchasers on behalf of all purchasers in a condominum project or by the owners' association in its own right or as representing all or part of the members of such association. In a class action under this Act brought by one or more unit owners as representative of other unit owners in a condominum project, the complaint shall be verified and shall allege with particularity the efforts the plaintiff has made to have the owners association bring such action on behalf of all unit owners. The class action may not be maintained if plaintiff has failed to notify the officers of the association of the intention to file the suit, or if such owners association is seeking in a pending suit to enforce the rights alleged in the plaintiff's suit.

(e) Every person who becomes liable to make any payment under this section may recover contributions from any person who, if sued separately, would have been liable to make the same payment.

(f) The amounts recoverable under this section may include interest paid, reasonable attorneys' fees, independent engineer and appraisers' fees, and court costs.

CRIMINAL PENALTIES

SEC. 212. Any person who willfully violates section 203(a), 205, or 206 of this Act shall upon conviction be fined not more than $10,000 or imprisoned not more than five years, or both.

JURISDICTION

SEC. 213. The district courts of the United States, the United States courts of any territory, and the United States District Court for the District of Columbia shall have jurisdiction of offenses and violations under this Act and under the rules and regulations prescribed by the Secretary pursuant thereto and concurrent with State courts, of suits in equity and actions at law brought to enforce a liability or duty created by this Act without regard to amount in controversy. Any such suit or action may be brought in the district wherein the defendant is found or is an inhabitant or transacts business, or in the district where the offer or sale took place and process in such cases may be served in other districts of which the defendant is an inhabitant or wherever the defendant may be found. Suits by purchasers to enforce their rights under section 205 or 206 regarding condominium projects located in States certified pursuant to section 207(b) shall be brought in State court. No case arising under this Act and brought in any State court of competent jurisdiction shall be removed to any court of the United States, except where any officer or employee of the United States in his official capacity is a party. No costs shall be assessed for or against the Secretary in any proceeding under this Act brought by or against the Secretary in the Supreme Court or such other courts.

LIMITATIONS OF ACTIONS

SEC. 214. No action shall be maintained to enforce any right or liability in sections 210 and 211 unless brought within six years after such cause of action accrued except that an action pursuant to section 210 involving a lease in existence at the time of enactment of this Act must be brought within three years of enactment of this Act.

ADMINISTRATION

SEC. 215. (a) The authority and responsibility for administering this Act shall be in the Secretary of Housing and Urban Development who may delegate any functions, duties, and powers to employees of the Department of Housing and Urban Development.

(b) The Secretary shall have authority, from time to time, to make, issue, amend, and rescind such rules and regulations and such orders as are necessary or appropriate to carry out the purposes of this Act. For the purpose of rules and regulations, the Secretary may classify persons and matters within the Secretary's jurisdiction and prescribe different requirements for different classes of persons or matters. In the development of these rules and regulations the Secretary shall consult with representatives of the building industry, with appropriate public officials and organizations of public officials, with representatives of the lending community and with representatives of consumer groups.

(c) Any person who violates any provisions of this Act or any rule, regulation, or order issued by the Secretary thereunder may be subjected to a civil penalty, in a determination by the Secretary after opportunity for a hearing, not to exceed $5,000 for each violation. Each separate offense shall be a violation and, in the case of a continuing offense, each day shall constitute a separate violation. The determination of the Secretary shall be subject to review only as provided in subsection (d) below.

(1) Penalties assessed pursuant to this section may be collected in an action brought by the Attorney General or, if the Attorney General directs, by the Secretary in any district court of the United States. In such action the validity and appropriateness of the final determination imposing the penalty shall not be subject to review.

(2) The amount of such penalty, when finally determined shall be payable to the United States Treasury.

(d) All hearings pursuant to subsection (c) of this section shall be public and any determination after such hearing shall be based on the record made at such hearing which shall be conducted in accordance with the provisions of the Administrative Procedures Act. A person aggrieved by a final determination of the Secretary under subsection (c) of this section may request a judicial review thereof in the United States court of appeals nearest where the person does business or United States Court of Appeals for the District of Columbia within twenty days after the Secretary's determination. Technical review of the Secretary's determination shall be in accordance with section 706 of title 5, United States Code.

CONTRARY STIPULATIONS VOID

SEC. 216. Any condition stipulation, or provision binding any person to waive compliance with any provisions of this Act or of the rules and regulations of the Secretary shall be void.

REPORT TO CONGRESS

SEC. 217. The Secretary shall prepare and submit to Congress, a comprehensive report on the administration of this Act and the Progress of States in providing consumer protection for condominium purchasers. The report shall be due thirty months after the enactment of this Act.

CONSUMER RESEARCH, EDUCATION, AND INFORMATION

SEC. 218. The Secretary is authorized by contract or otherwise, to undertake research, education, information, and technical assistance activities designed to inform, assist, and protect consumers in the purchase of condominium units and management of condominium projects.

ADDITIONAL REMEDIES

SEC. 219. The rights and remedies provided by this Act shall be in addition to any and all other rights and remedies that may exist under Federal or State law.

APPLICABILITY OF OTHER PROVISIONS OF LAW

SEC. 220. (a) Compliance with the requirements imposed by or under this Act by a developer of a condominium project, not exempt under section 202, in which the units are in a building or buildings that are constructed or proposed to be constructed by the developer, shall be deemed to satisfy the requirements now or hereafter imposed under the Interstate Land Sales Full Disclosure Act with respect to a sale of or an offer to sell a condominium unit in a condominium project.

(b) Nothing in this Act shall affect the applicability of the Securities Act of 1933 and the Securities and Exchange Act of 1934.

(c) The provisions of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act (15 U.S.C. 2301 et seq.) shall be applicable in addition to warranty provisions of this Act, notwithstanding section 111(d) of that Act (15 U.S.C. 2311(d)).

AUTHORIZATION OF APPROPRIATIONS

SEC. 221. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEPARABILITY

SEC. 222. If any provisions of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

EFFECTIVE DATE

SEC. 223. This Act shall become effective upon enactment, except sections 205, 206, 208–210, 212, 213, and 220(a) shall become effective one year after enactment.

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EXHIBIT 2

CONDOMINIUM ACT OF 1978: SECTION-BY-SECTION SUMMARY

The first section of the bill would provide that, upon enactment, it may be cited as the "Condominium Act of 1978."

TITLE I

*Findings and purpose*

Sec. 101. This section, in part, would set forth Congressional findings that utilization of the condominium form of homeownership would expand homeownership opportunities particularly for low- and moderate-income and elderly persons and families, that abuses in the sale and operation of condominiums threaten the continued acceptability of condominiums by consumers and that these abuses interfere with interstate commerce. The section would also set for the purpose of the Act which is to establish national standards for consumer protection and disclosure, to encourage States to adopt statutes which will provide substantially equivalent or greater consumer protection, and to correct and prevent existing and continuing abuses in the sale and operation of condominiums.

TITLE II

*Definitions*

Sec. 201. This section would define terms used in the Act.

*Exemptions*

Sec. 202. This section would exempt from the Act, condominium projects in which all units are restricted to non-residential uses and a sale of or an offer to sell condominium units by a governmental agency. This section would also give the Secretary the authority to make other exemptions.

*Prohibitions*

Sec. 203. This section follows the language of the Securities Act of 1933 and the Interstate Land Sales Full Disclosure Act in making a developer liable for any fraudulent acts he commits in connection with a sale of or offer to sell a condominium unit.

Additionally, the section would provide that any provision in existing or future leases or management agreements, requiring unit owners to reimburse the developer or his successors for attorney's fees or money judgments, regardless of the outcome of the suit, are void.

*Cooling-off period*

Sec. 204. This section would give the purchaser the right to cancel the sales contract within 15 days after signing the contract or after receiving the disclosure material, whichever is later. If the purchaser does not receive disclosure material before conveyance, the purchaser has the right to receive an amount equal to 10 percent of the purchase price.

*National standards for consumer protection*

Sec. 205. This section sets forth the standards to be followed by developers. This section would, in part, require a developer to place any deposit made in connection with a reservation or sale of a unit in trust or escrow; terminate any right to control the owners association within five years; not display any advertising and promotional material which is inconsistent with the information in the disclosure statement; allow the owners association to terminate without penalty all employment or management contracts, recreation leases and any contract between the developer and the owners association made before termination of developer control; give a one-year warranty on the units and a three-year warranty on the common elements and also require subcontractors to be liable for their work; and in a conversion condominium give tenants 120 days' notice to vacate and a 60-day exclusive option to buy. This section would not apply to the sale of a unit in a condominium project in which the developer has conveyed in an arms length transaction at least one unit to a purchaser prior to the effective date of this Act.

*National standards for disclosure*

Sec. 206. This section would require a developer to disclose to purchasers, in a simple manner, circumstances and features of the condominium project including, in part: the name and address of the developer; the developer's schedule for starting and completing all of the facilities; a statement of all written warranties; budget and estimate of monthly assessments and other fees; a copy of all important documents; a statement of purchasers' rights; and special additional disclosures in the case of conversion and leasehold (ground rent) condominium projects. Some items of disclosure need not be given for condominium projects with 12 or fewer units. This section would not apply to the sale of a condominium unit in a condominium project where the developer had already conveyed a unit to a purchaser, in an arms length transaction, prior to the effective date of the Act, nor to a commercial or industrial condominium unit, nor to a condominium project registered with the Securities and Exchange Commission if the developer gives the purchaser an approved prospectus.

*State condominium jurisdiction*

Sec. 207. This section would state that the Act should not be construed to limit States and local governments from enacting or enforcing laws not in conflict with this Act. It expresses the intent of Congress to encourage the assumption and exercise by States of the authority and responsibility for the protection of condominium purchasers and owners. The section, further reflecting this intent, would allow the Secretary to certify standards and disclosures in a State's laws if the Secretary finds that such standards and disclosures, taken as a whole, provide substantially equivalent or greater consumer protection than the standards and disclosures of the Federal Act (Sections 205 and 206). Upon certification, purchasers would still have certain rights established by this Act, including rights to a 15-day cooling-off period and to bring actions on unconscionable leases or self-dealing contracts, as well as for fraud.

The effect of certification would be that the developer in a certified State would have to conform to the State requirements rather than the specific provisions of sections 205 and 206. The Secretary would have the power to withdraw such certification if it was later determined that the State laws do not contain substantially equivalent or greater standards.

*Investigations, injunctions, and prosecution of offenses*

Sec. 208. This section would provide the Secretary with powers to enforce this Act. The Secretary could make investigations, and subpoena documents and witnesses in such investigations. The Secretary would have authority to refer evidence of serious violations to the Attorney General for criminal prosecution or civil injunctions. The Secretary could also seek enforcement of subpoenas through the Attorney General.

*Optional termination of self dealing contracts*

Sec. 209. This section would allow the unit owners, by two-thirds vote, to terminate certain contracts made by the association with the developer or his affiliate while he was still in control of the unit owners association.

*Civil actions—Unconscionable leases*

Sec. 210. This section would allow the unit owners, by two-thirds vote, to seek a judicial determination that any lease or portions of leases are unconscionable if the lease was made in connection with the condominium project, was made while the developer was in control of the association, and had to be accepted or ratified by the purchaser or the association as a condition of purchase.

If the lease is for 21 years or contains provisions for automatic renewal for a period of more than 21 years, either contains an automatic rent increase clause or subjects the unit to foreclosure for failure to make payments, and contains provisions that the lessees assume all obligations and liabilities associated with the maintenance and use of the property, then the court shall consider the lease unconscionable.

Several factors are listed for the court to consider in determining unconscionability, including any gross disparities between the obligations incurred and the benefits received, the bargaining position of the parties and the adequacy of disclosures. Upon a finding of unconscionability, the court would have the power to grant remedial relief including rescission, reformation, restitution, the award of damages, attorneys fees and court costs.

In addition, this section would provide that any automatic rent increase clause would be unenforceable, as to future increases in rental payments, in a lease which was entered into prior to termination of developer control, had to be ratified by purchasers, and contains provisions that the lessees assume all obligations and liabilities associated with the maintenance and use of the property.

Ground leases in existence at the time of enactment, made in an arms length transaction, are exempted from the provisions setting out certain of the provisions dealing with unconscionability and as well as the unenforceable automatic rent increase clause provisions. However, ground leases are subject to judicial determinations of unconscionability.

*Civil actions—Additional remedies*

Sec. 211. This section would provide for other civil suits under the Act. A civil suit could be brought by any person aggrieved by a violation of the Act, including a purchaser or unit owners association, on its own behalf or as a class action. In any suit

alleging misrepresentation or omissions in connection with the disclosures or the standards, the plaintiff would be required to prove that the misrepresentation or omissions were material and that the defendant acted intentionally or negligently. In determining damages the court would consider several factors including the contract price of the unit, the amount paid by the purchaser, the cost of any improvements or repairs made by the purchaser, and the fair market price at the time of sale, at the time the suit was brought and at the time of judgment. Relief in such actions would include damages, attorneys' fees and other costs.

*Criminal penalties*

Sec. 212. This section would provide criminal penalties of up to five years imprisonment and/or $10,000 fine for willful violations of certain provisions of the Act.

*Jurisdiction*

Sec. 213. This section would give jurisdiction to district courts for suits under the Act, concurrent with state courts. Jurisdiction would apply without regard to the amount in controversy. Suits could be brought in a district where the defendant is an inhabitant or transacts business, or in a district where the offer or sale took place. However, actions seeking to enforce State standards and disclosures will be restricted to State courts in cases where the State law has been certified, and the condominium project is located in that State.

*Limitation of actions*

Sec. 214. This section would establish a statute of limitations of six years from the time of a violation, unless the action is under Section 210 and involves a lease in existence at the time of enactment of the Act, in which case it must be brought within three years of enactment.

*Administration*

Sec. 215. This section would give the authority and responsibility for administering this Act to the Secretary of Housing and Urban Development. The Secretary would have the authority to make rules and regulations, issue orders, and delegate functions, duties and powers to employees of the agency. In carrying out this rulemaking authority, the Secretary is required to consult with representatives of the building industry, lending community, consumer groups, and public officials. The section also provides for the imposition of a civil money penalty of up to $5,000 for each violation of the Act and sets up the administrative and judicial procedures thereunder.

*Contrary stipulations void*

Sec. 216. This section would void contract provisions waiving any purchaser's rights under the Act.

*Report to Congress*

Sec. 217. This section would require the Secretary to prepare and submit a report to Congress thirty months after the enactment of the Act.

*Consumer research, education, and information*

Sec. 218. This section would authorize HUD to carry out research, education, technical assistance and information activities such as preparation and distribution of a buyer's handbook, a sample "easy to read" disclosure statement, technical assistance on problems confronting condominium associations, lenders, and attorneys, as well as assist State and local officials wishing to adopt or amend condominium laws. HUD could also serve as a clearinghouse for consumer protection information and activities.

*Additional remedies*

Sec. 219. This section would make it clear that purchasers would continue to have rights to remedies which already exist under State or Federal laws.

*Applicability of other provisions of law*

Sec. 220. This section would limit overlap of Federal laws by providing that developers of most condominium projects, where the developer has built or plans to build the units, and who comply with this Act, would be deemed in compliance with the Interstate Land Sales Full Disclosure Act. The section also states that nothing in the Act affects the applicability of the Securities Act of 1933, the Securities and Exchange Act of 1934, and the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act.

*Authorization of appropriations*

Sec. 221. This section would authorize such sums to be appropriated as may be necessary for the administration of this Act.

*Separability*

Sec. 222. This section would allow any provision to be held invalid without affecting the remainder of the Act.

*Effective date*

Sec. 223. This section would provide that the anti-fraud cooling-off, civil action and limitation of action provisions become effective upon enactment. The balance of the Act becomes effective one year after enactment.

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EXHIBIT 3

CONDOMINIUM ACT OF 1978: EXPLANATION AND JUSTIFICATION

A bill to encourage the broader utilization of the condominium form of homeownership, to provide minimum national standards for disclosure and consumer protection for condomium purchasers and owners and tenants in condominium conversions, to encourage States to establish similar standards, to correct abusive use of long-term leasing of recreation and other condomium-related facilities and for other purposes

INTRODUCTION

Generally, the condominium form of ownership is characterized by the separate ownership of individual units combined with a share in the ownership of the common elements. Because condominiums offer many of the benefits of single family ownership at affordable prices and without the burdens of property maintenance, they have a particular appeal to small families on tight budgets—young couples, singles, and older people. Condominiums, therefore, have strong potential as a less expensive alternative to single family homeownership in and around metropolitan areas where land is at a premium necessitating higher densities.

The condominium form of ownership was first introduced in this country in the early 1960s, but it was not until the early 1970s that condominiums began to represent a significant segment of the housing market. By October 1976, the condominium inventory approximated 700,000 units, most of which were constructed during the previous six years.

As the number of units increased, however, so did reports of problems and abuses associated with the development, sale, and ownership of condominiums. Consumer confidence in this form of tenure began to wane and the sale of condominiums was affected adversely.

As a consequence of public concern about abuses, Congress mandated a HUD Condominium/Cooperative Study which was completed in 1975. The Study identified the following major problems associated with condominiums:

Documentation was too complicated and difficult for the average purchaser to understand.

Purchasers' deposit were not escrowed and were often lost if the developer went into bankruptcy.

Developers underestimated future maintenance costs.

Construction was often of poor quality and purchasers were not protected by adequate warranties on their units and the common elements.

Purchasers were unwittingly committed by some developers to long-term leases in recreational facilities at extremely high rates, often tied to cost-of-living indices.

Tenants were displaced without sufficient notice when the rental units were converted to condominiums.

Developers failed to pay common expense assessments on their units.

Unit owners associations encountered difficulties in operating condominium projects.

The study also showed that the laws governing the creation and operation of condominiums varied widely—as they still do—from State to State. Some State laws merely require a courthouse filing, while "second generation" State statutes have detailed requirements and, in some cases, provide for regulatory agencies. Only fifteen States and the District of Columbia have enacted such second generation statutes. All other States—including four of the ten States with the highest level of condominium development—still have minimal requirements and few, if any, consumer protections.

Recognizing that modern State law was essential to deal with advances in condominium development, the National Conference of Commissioners on Uniform State Laws has recently adopted a model State enabling statute, known as the Uniform Condominium Act (UCA), which is patterned after the most advanced second generation State statutes.

This proposed national legislation complements, rather than substitutes for, the UCA and other State enabling statutes. Under this bill, all States would have uniform minimum standards for consumer protection that are similar to those provided in the UCA. Since the proposed bill is designed to encourage the enactment of second generation statutes such as the UCA, it provides a mechanism for the Department of Housing and Urban Development to certify State standards and disclosure requirements, if the State law provides substantially equivalent or greater consumer protection. Existing State laws which meet this test would be certified as soon as possible after enactment of the bill. The Federal standards and disclosures would apply in those States with laws that do not meet this test. Any State that subsequently adopted the UCA or similar statute would meet the test and be eligible for certification. The protection in the Federal statute, other than the standards and disclosures, would be available in all States whether or not they are certified.

The proposed bill is designed to restore consumer confidence in condominium without unduly restricting the condominium market. It addresses major problems and abuses associated with the sale and ownership of condominiums including existing long-term recreation leases and "sweetheart" management contracts. The bill would establish national standards for consumer protection and national disclosure requirements in the sale of condominium units. Residential projects including time-share and recreational condominium projects would be covered by the Act, but industrial and commercial projects are exempt.

DISCLOSURES

Because of the complexity of the condominium concept, purchasers often fail to comprehend the ramifications of a decision to buy a unit. The proposed legislation would, therefore, require full disclosure to the purchaser of all documentation and information necessary to make an informed and prudent buying decision. This information includes narrative descriptions of the condominium, statements by the developer concerning what he is obligated to build, com-

pletion schedules, and a statement of the purchaser's rights. Budget figures for the owners association also would be disclosed with separate estimates of dues, fees and other costs.

Additional disclosures would be required in the case of condominium conversions because of the difficulty in assessing the structural condition of the building, especially when all or a part has been rebuilt or rehabilitated. These disclosures include engineers' reports and lists of outstanding code violations with estimates of the costs of correction.

In the case of leasehold condominiums (a condominium where the unit owners do not own, but rent the underlying land on a long term lease) the purchaser would also be furnished with such material information as the length of the lease and termination rights.

This section also contains a general clause requiring disclosure of unusual and material features which would affect a purchaser's buying decision, such as serious detrimental characteristics of the environment or location.

In order to avoid conflicts with State laws and a time-consuming approval process, Federal registration of the disclosure statement is not required by this bill In addition, unnecessary duplication and overlapping disclosure statements are prevented because disclosures made in a prospectus filed with Securities and Exchange Commission are deemed to satisfy the disclosure requirements of the proposed bill and, for most residential condominiums, disclosures made in connection with this bill are deemed to satisfy the requirements of the Interstate Land Sales Disclosure Act.

The bill would require developers to present the disclosure information fully and accurately, and simply stated, so that the disclosure is of maximum benefit to the purchaser. The Secretary would be authorized to prepare educational and informational materials beneficial to the purchaser, such as a model "buyer's handbook" and other information in layman's language.

PROHIBITIONS

Disclosure, in and of itself, is not adequate protection if the purchaser does not receive the information prior to settlement or in a timely fashion. Thus, the proposed legislation provides a fifteen-day right of rescission after the purchaser signs the sales contract or receives the disclosure information, whichever occurs later. If the purchaser does not receive the disclosure information before conveyance of the property, he would not be able to rescind the conveyance, but could receive an amount equal to 10 percent of the purchase price. Damages above this amount could be claimed in a civil suit. In addition, anti-fraud provisions would protect the purchaser from misstatements in the disclosure statement or in the advertising or promotional literature, or other fraudulent conduct.

The cooling-off and anti-fraud provisions of the bill would apply, whether or not a State's standards and disclosure sections are certified.

STANDARDS

The proposed legislation also establishes national standards for condominiums intended to alleviate the major problems and abuses disclosed by the HUD Condominium Study. For example, buyers' deposits would have to be placed in escrow accounts, a protection against loss due to project failure or willful misapplication of funds.

Some of the most common consumer complaints concern poor quality construction and the lack of warranties and engineers' reports. While these problems occur in all types of housing, they are aggravated in condominiums because of the interdependence of the unit owners and the impracticability of individual inspections of the common elements. The proposed bill would require the developer to warrant the common elements for at least three years and to give each purchaser a one-year warranty on the unit. As a further protection to unit owners, the developer would be required to assure that subcontractors are also liable to fulfill all warranties and guarantees for work that is performed.

It should be noted that these warranty provisions are not intended to take the place of any warranty or guaranty, express or implied, provided under any other Federal, State or local law.

Many of the problems associated with condominiums result from the way the developer operates the owners association. A condominium developer typically retains control over operation and maintenance of the common property until most, and in some cases all, units are sold. The developer's retention of control or influence past the time necessary to protect his interests can severely hamper future operation and management of the project. This bill protects the unit owners from acts or negligence of the developer while the owners association is under his control.

Many of the problems that beset the owners association when it assumes control of the project arise from the fact that the unit owners lack the necessary knowledge and experience. In order to provide the unit owners with an opportunity to participate and gain experience in the operation of the association, the unit owners would elect a minority of directors of the association prior to the transfer of control. The developer would be required, within five years, to relinquish any special rights to control the owners association.

The proposed legislation would also authorize the Secretary to provide technical information to unit owner associations to help them overcome operational and management problems which might jeopardize the economic viability of existing and future condominium projects.

UNENFORCEABLE AUTOMATIC RENT INCREASE CLAUSES

The bill also addresses problems with existing long-term leases and contracts which had to be accepted or ratified by the purchasers as a condition of purchase, and were entered into during the period of developer control. For example, a developer may have retained the ownership of the recreational facilities and leased them to the unit owners—on a noncancellable basis—for periods as long as 99 years. The unit owners would be required under the lease to directly bear all, or substantially all, of the operating and maintenance costs of the facilities. This type of net-net lease with an automatic rent increase clause tied to a cost-of-living index, which has no relationship to the developer's obligations under the lease, has become an abusive practice. The proposed legislation would make these automatic rent increases in net-net leases unenforceable as to future increases.

UNCONSCIONABLE LEASES

In addition, the unit owners can agree, by two-thirds vote, to seek a judicial determination that a lease is unconscionable. Subsection 210(a) lists certain characteristics that the lease must have in order to bring this action, such as the fact that it had to be accepted by the purchaser as a condition of purchase. Section 210(b) sets forth several standards for the court to consider in making a determination of unconscionability. These include any gross disparity between the obligations incurred and the value of the benefit derived.

If the lease has the characteristics listed in subsection (a), and the unit owners can prove that the lease is for a long term, has an automatic rent increase clause, and contains provisions requiring the lessees to assume all liability for operation and maintenance of the leased property, then the court shall find, under subsection (c), that the lease is unconscionable, unless the developer can prove otherwise by clear and convincing evidence. For example, the developer could show that the lease was not unconscionable under the standards set forth under subsection 210(b) by proving that there was a reasonable relationship between the rent payable under the lease and the value of the benefit received by the lessee. The developer also might present evidence that the lease was negotiated with full knowledge, on the part of the lessees, of the terms and the implications for future payments. If the unit owners could not meet the burden of proof for a court to find a lease unconscionable under the option in subsection (c), they would still have the opportunity to prove the lease unconscionable under the standards set forth in subsection (b).

Upon a finding of unconscionability under any of the provisions of this section, the court may, in its discretion, modify all or a portion of the terms of the lease in order to achieve a just result.

The unconscionability provisions would apply to a lease in existence at the time the Bill is enacted, but any action must be brought within three years of enactment.

OTHER LONG-TERM CONTRACTS

Long-term contracts that provide for the operation, maintenance or management of the association or property serving the unit owners, which are made between the developer, or an affiliate of the developer, and the owners association, while the developer still controls the association, may be detrimental to the interests of the unit owners. The unit owners by two-thirds vote would be permitted to terminate these self-dealing contracts without penalty after they assumed control of the project. This provision would apply to a contract in existence at the time the bill is enacted.

This section and the unconscionability provisions would apply in all States including those that are certified as to disclosures and standards.

The proposed bill also provides that, in addition to self-dealing contracts, the owners association can terminate certain contracts and leases which are critical to the operation of the condominium and to the unit owners' full enjoyment of their rights of ownership. If these contracts are made by the developer on behalf of the owners association while he still controls the association, the unit owners can terminate them without penalty after they assume control of the project.

CONVERSATIONS

An increasing number of rental accommodations are being converted to condominiums, particularly in urban centers, and the rights of tenants in conversions has received national attention. The proposed bill contains special provisions to protect the tenants in a proposed condominium conversion by affording a minimum of 120 days' notice to vacate and a 60-day exclusive right to buy the unit, and also requiring that all existing leases be honored.

ENFORCEMENT

In addition to the specific provisions noted above, basic enforcement of the provisions of the proposed legislation would be achieved through private rights of action, including class action in Federal court. Enforcement would be supplemented by criminal penalties for willful violation of some provisions of the law and by HUD authority to conduct investigations and seek injunctions for violations of the Act. It is contemplated that the Federal government would take action only in cases where there were severe abuses or flagrant violations of the Act or where the sales activities involved were of a sig-

nificant interstate nature. There would be no necessity for Federal action in cases where private rights under the Act were easily enforceable or where State agencies could act. Most actions in certified States would fall into these latter categories.

The bill would allow unit owners to bring suit in State courts and would require such action on standards and disclosures in certified States, thereby alleviating possible burdens on Federal district courts.

The standards and disclosure sections of the bill would not become effective until one year after enactment to facilitate early certification of eligible States, although the anti-fraud, cooling-off, civil action and limitation of action provisions become effective immediately.

In summary, it is anticipated that the proposed legislation will have a beneficial effect on condominium development because it will bolster confidence in this form of ownership by establishing minimum consumer protection standards on a national level. Wherever possible, the provisions are consistent with the Uniform Condominium Act so as to facilitate State adoption of that model law. It is hoped that, in the future, the Federal role in regulating the condominium industry will phase out as the States assume an active role in this field.

## ADDITIONAL COSPONSORS

S. 1783

At the request of Mr. ANDERSON, the Senator from Minnesota (Mrs. HUMPHREY) was added as a cosponsor of S. 1783, the Homemaker Retirement Act.

S. 2312

At the request of Mr. MCCLURE, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 2312, a bill to amend the Food and Agriculture Act of 1977 to further encourage and strengthen the Nation's commitment for the production and marketing of industrial hydrocarbons and alcohols from agricultural commodities and forest products.

S. 2369

At the request of Mr. ANDERSON, the Senator from North Dakota (Mr. YOUNG), and the Senator from South Dakota (Mr. ABOUREZK) were added as cosponsors of S. 2369, the Dutch Elm Disease Control Act of 1977.

S. 2371

At the request of Mr. ANDERSON, the Senator from Minnesota (Mrs. HUMPHREY) was added as a cosponsor of S. 2371, a bill to amend title 39 of the United States Code to provide that pledge reminders of charitable organizations may be mailed at third-class rates.

S. 2416

At the request of Mr. JAVITS, the Senator from Alaska (Mr. STEVENS), and the Senator from Arkansas (Mr. BUMPERS) were added as cosponsors of S. 2416, the Nurse Training Amendments of 1978.

S. 2507

At the request of Mr. ANDERSON, the Senator from Delaware (Mr. BIDEN), and the Senator from Arizona (Mr. DECONCINI) were added as cosponsors of S. 2507, a bill to authorize the Smithsonian to acquire the Museum of African Art, and for other purposes.

S. 2576

At the request of Mr. MCCLURE, the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from California (Mr. HAYAKAWA), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 2576, a bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of earned income of U.S. citizens and resident aliens from sources without the United States, and for other purposes.

S. 2626

At the request of Mr. BUMPERS, the Senator from Tennessee (Mr. BAKER) was added as a cosponsor of S. 2626, a bill to provide price and income protection for agricultural producers by assuring such producers a price for their agricultural commodities of not less than the cost of producing such commodities to assure consumers an adequate supply of food and fiber at reasonable prices, and for other purposes.

S. 2732

At the request of Mr. PERCY, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 2732, the Small Scale Energy Technology Programs Reorganization Act.

S. 2735

At the request of Mr. DURKIN, the Senators from Hawaii (Mr. MATSUNAGA and Mr. INOUYE), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 2735, a bill to facilitate the transition to an economy based upon solar energy.

S. 2819

At the request of Mr. MCGOVERN, the Senator from South Dakota (Mr. ABOUREZK) was added as a cosponsor of S. 2819, a bill to improve rail transportation and the transportation of passengers by common carriers and to foster and promote employment opportunities through surface transportation employment as covered by the provisions of this act.

S. 2835

At the request of Mr. PERCY, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 2835, a bill to amend the Export-Import Bank Act by creating an office to promote the export of solar and other renewable energy technologies.

S. 2895

At the request of Mr. BENTSEN, the Senator from Florida (Mr. CHILES), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. BURDICK) were added as cosponsors of S. 2895, a bill to amend the Meat Import Act of 1964.

SENATE JOINT RESOLUTION 122

At the request of Mr. ANDERSON, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of Senate Joint Resolution 122, a joint resolution to direct the Office of Technology Assessment to undertake a comprehensive evaluation of energy policy alternatives.

SENATE RESOLUTION 360

At the request of Mr. HATHAWAY, the the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of Senate Resolution 360, to amend the Standing Rules of the Senate to require committees to report on the legality of new or revised executive branch rules, regulations, and guidelines, to create a special counsel to the Senate, and for other purposes.

AMENDMENT NO. 1702

At the request of Mr. PERCY, the Senator from Nevada (Mr. CANNON) was added as a cosponsor of Amendment No. 1702 intended to be proposed to H.R. 7200, the Social Security Act.

AMENDMENT NO. 1709

At the request of Mr. DURKIN, the Senator from New Hampshire (Mr. MCINTYRE) and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of amendment No. 1709 intended to be proposed to the bill (S. 2467) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such act.

AMENDMENT NO. 1726

At the request of Mr. DURKIN, the Senators from Hawaii (Mr. MATSUNAGA and Mr. INOUYE), the Senator from Rhode Island (Mr. PELL), and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of amendment No. 1726 intended to be proposed to S. 2692, a bill to expand the fiscal year 1979 Department of Energy photovoltaics research, development, and demonstration program.

AMENDMENT NO. 1727

At the request of Mr. DURKIN, the Senators from Hawaii (Mr. MATSUNAGA and Mr. INOUYE), the Senator from Rhode Island (Mr. PELL), and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of amendment No. 1727 intended to be proposed to S. 2692, a bill to authorize in fiscal year 1979 a passive solar energy research, development, and demonstration program.

## SENATE RESOLUTION 433—SUBMISSION OF A RESOLUTION RELATING TO MAJOR LEAGUE BASEBALL IN WASHINGTON, D.C.

Mr. MCGOVERN (for himself, Mr. ABOUREZK, Mr. CANNON, Mr. GARN, Mr. HATHAWAY, Mr. HODGES, Mr. LEAHY, Mr. MATSUNAGA, and Mr. YOUNG) submitted the following resolution, which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 433

Whereas baseball is our national pastime and sport; and

Whereas since 1971 the Metropolitan Area of Washington, D.C. has been deprived of a major league baseball team: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that all efforts, both in the public and private sector, to bring major league baseball back to Washington, D.C. should be assisted and encouraged to the full extent it is proper to do so.

● Mr. MCGOVERN. Mr. President, I send to the desk a resolution and ask for its appropriate referral.

Mr. President, since 1971, the city of Washington has been without a major league baseball team. Many of us enjoyed following the Washington Senators and feel it is important to have our national sport represented in the Nation's Capital.

The Washington Senators, organized

in 1859, and then called the Washington Nationals, were the oldest baseball team in the United States. Their departure to Texas in 1971 where they became the Texas Rangers has left Washington without a major league team. Efforts to move the San Diego Padres, the Baltimore Orioles, and the San Francisco Giants to Washington have failed, and a city which for over 100 years has supported major league baseball, no longer has the opportunity to do so.

Whether or not baseball returns to Washington remains to be seen, but the Senate should express support for an effort which will bring our national sport back to this city. I ask my colleagues to join with me and Senators ABOUREZK, CANNON, GARN, HATHAWAY, HODGES and YOUNG in encouraging the establishment of a major league baseball franchise in our Nation's Capital.●

## AMENDMENTS SUBMITTED FOR PRINTING

### FOREIGN ASSISTANCE AUTHORIZATIONS, 1979—S. 2646

AMENDMENT NO. 1779

(Ordered to be printed and referred to the Committee on Foreign Relations.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill (S. 2646) to amend the Foreign Assistance Act of 1961 to authorize development assistance programs for fiscal year 1979, and for other purposes.

INTERNATIONAL DISASTER ASSISTANCE FUND

● Mr. KENNEDY. Mr. President, one of the most important provisions of the Foreign Assistance Act is the authorization it contains for international disaster assistance. Over the years it has been the clear intent of Congress that the United States should have the means to respond to international disasters wherever they may occur, and that this is an important expression of the humanitarian concern and tradition of the American people.

Recent experience around the world tells us that legislation supporting our Nation's effort to contribute to humanitarian emergencies created by natural or manmade disasters must be flexible and broadly defined in order to meet all needs that might arise. Regrettably, current law and practice fail to provide this flexibility. The law is both too narrowly defined and restricted in its application.

The "working amendment" I am introducing today attempts to strengthen the international disaster provisions of the Foreign Assistance Act, to assure that the United States can respond adequately and expeditiously to the full range of relief, rehabilitation, and reconstruction needs that may be caused by natural or manmade disasters.

Mr. President, the current authorization language is deficient in three important respects. First, it is too narrowly focused on "relief and rehabilitation" assistance, to the exclusion of medium or longer term "reconstruction" assistance—projects that might contribute to longer term developmental efforts even as they repair the damages of disaster. This has led, under present practice, to a series of restrictive congressional reports and confining AID regulations on the provision of international disaster assistance.

I believe it is self-defeating and counterproductive for the Congress to stipulate that international disaster relief funds must be utilized within 60 days, solely for relief and rehabilitation purposes, and barring any longer term programs. It is increasingly clear that important linkages exist between the provision of disaster assistance and longer term rehabilitation, reconstruction, and developmental goals. In many disaster situations the most useful form of assistance, beyond immediate relief supplies, is that which takes into account the implications for future developmental or reconstruction plans.

The most recent examples of this range from the natural disasters in the Sahel, Guatemala, Italy, and southern India, to the man-made disaster on Cyprus. In each case, disaster assistance to help provide housing and shelter, or restore public facilities, necessarily had to look beyond an arbitrary 60-day relief period.

It should not be necessary, Mr. President, for the Congress to pass special legislation every time there is a need for funds for rehabilitation and reconstruction assistance—such as in Lebanon today. We should not cause unnecessary delay in responding to international disasters by requiring that we amend the international disaster assistance provisions of the law every time there is a disaster. It should be a routine and well-established feature of our foreign assistance program that we can respond expeditiously and generously to international disaster programs.

The need to reform this aspect of our foreign disaster assistance program has been fully documented in an exhaustive study recently completed by the National Academy of Sciences. One of their principal recommendations is that there must be "stronger linkages between the AID/Foreign Disaster Assistance Office's disaster assistance program and the broader developmental programs at AID." Mr. President, I ask unanimous consent that the relevant excerpt from the academy's recent report be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPT FROM "THE U.S. GOVERNMENT FOREIGN DISASTER ASSISTANCE PROGRAM," BY THE NATIONAL ACADEMY OF SCIENCES, 1978

2. The development of stronger linkages between the AID/OFDA's disaster assistance program and the broader development programs at AID should be given careful consideration.

The relationship between AID's disaster assistance programs and its general development programs currently is conceptually confused. This is evidenced by attempts to make distinctions between (1) preparedness and prevention programs prior to disaster and (2) short-term relief and long-term recovery programs after the occurrence of disaster. Historically, the AID policy has been long-range and societally directed, whereas disaster assistance should be short-term and largely directed to the individual needs of victim populations. Since preparedness is geared to improve emergency response, it has been an assigned function of the AID/OFDA. Conversely, disaster prevention or mitigation has been seen as a development problem, suggesting that this is the responsibility of other elements of AID.[5] Policy has also directed that relief and rehabilitation programs sponsored exclusively by the AID/OFDA should not involve major capital projects of a developmental character.[6]

The Committee believes that strengthening the organizational linkages between AID's disaster assistance programs and its general development programs should produce a clearer conceptualization of the interrelationships between disasters and the development process that will be benficial to both types of programs. The precise nature and magnitude of the relationship between disaster and societal development are currently not known, but the theoretical possibilities merit careful study. For example, to the extent that safer physical structures and improved growth management are by-products of economic development, a society reduces its vulnerability to certain types of disasters. More broadly, perhaps the ultimate goal of development is improved economic and social well-being. The realization of that goal should be accompanied by a correlative improvement in a society's ability to cope with various forms of hazards and emergencies. Moreover, with effective disaster-response planning and preparedness measures a society can better respond to the impact of disaster as it develops economically. In many cases the impact of disaster may also serve as an important stimulant to economic and social development.

As stated previously, the AID/OFDA technical assistance program in disaster preparedness has disaster mitigation potential, although its present focus is narrow, its scale is quite small, and it is not currently linked to development assistance planning at the AID. The primary emphasis of the AID/OFDA activities is short-term emergency relief. We believe that this form of disaster assistance also has potential development consequences. On the negative side, unneeded and unwanted external assistance can divert attention away from development problems and within-country programs geared to reducing those problems. On the positive side, emergency assistance may have usefulness beyond the emergency period. For example, recent research indicates that externally provided temporary housing materials have frequently been used locally for permanent housing. This suggests that, with proper planning, emergency assistance and development programs can sometimes be directly linked. These potential linkages between disaster assistance and development assistance programs during both the pre- and postdisaster periods should be further explored.

Mr. KENNEDY. The second objective of my amendment is to strengthen the coordinating function and power of the special coordinator for international disaster assistance. My amendment creates a new coordinating committee within AID that includes the participation of the newly established Office of the Assistant Secretary of State for Human Rights

[5] An excellent case in point is the present AID program to prevent or to mitigate drought problems in the Sahel.

[6] However, some monies from the AID/OFDA's FY 1977 International Disaster Assistance Fund are being spent for a building construction program in Romania in the aftermath of the March 1977 earthquake. This is a clear exception to the historical policy.

and Humanitarian Affairs. This new bureau in the Department of State has important responsibilities in the humanitarian and refugee field, and refugees and displaced persons are frequent aspects of many disaster situations. In a much more systematic and meaningful way, this bureau should be called upon, where appropriate, to support and to participate in international disaster assistance programs administered by the special coordinator.

The amendment also strengthens the role of the special coordinator and gives him authority to call upon other relevant offices of AID to contribute to reconstruction or longer term disaster assistance programs.

Finally, my amendment establishes a permanent International Disaster Assistance Fund, to be drawn upon when necessary to meet relief, rehabilitation, and reconstruction needs caused by disasters. The appropriations process will, of course, monitor the replenishment of the Fund and, together with special reporting requirements, will adequately assure congressional oversight on the responsible use of the Fund. Such a Fund will eliminate the need for special legislation every time there is a disaster of any magnitude.

Mr. President, I ask unanimous consent that the text of my amendment be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1779

On page 15, line 4, strike out all thorough line 8, and insert in lieu thereof the following:

"SEC. 12. Sections 491 through 493 of the Foreign Assistance Act of 1961 are amended to read as follows:

"SEC. 491. POLICY AND GENERAL AUTHORITY.—(a) The Congress, recognizing that prompt United States assistance to alleviate human suffering caused by natural and man-made disasters abroad is an important expression of the humanitarian concern and tradition of the American people, affirms the willingness of the United States to provide assistance for the humanitarian relief, rehabilitation, and reconstruction of peoples and countries affected by such disasters. Such humanitarian assistance both symbolizes the concern of the United States for the welfare of people in need throughout the world, as well as constitutes an important element in the foreign relations and foreign assistance effort of the United States.

"(b) Notwithstanding any other provision of this Act or any other provision of law, the President is authorized to furnish assistance to any foreign country, international organization, or private voluntary agency, on such terms and conditions as he may determine, for international disaster relief, rehabilitation, and reconstruction, including assistance relating to disaster preparedness, and to the prediction of, and contingency planning for, natural disasters abroad.

"(c) In carrying out the provisions of this section the President shall insure that the assistance provided by the United States shall, to the maximum extent possible, reach those most in need of relief and rehabilitation as a result of natural and man-made disaster, and that reconstruction assistance shall relate to the greatest extent possible to the longer-term development needs of the countries and people affected by natural and man-made disaster.

"SEC. 492. INTERNATIONAL DISASTER ASSISTANCE FUND.—There is established an International Disaster Assistance Fund to carry out the purposes of section 491. There is authorized to be appropriated to the President from time to time such amounts as may be necessary for the Fund to carry out the purposes of section 491. Amounts appropriated hereunder shall remain available until expended.

"SEC. 493. DISASTER ASSISTANCE COORDINATOR.—(a) The President is authorized to appoint a Special Coordinator for International Disaster Assistance who, with the Administrator of the Agency for International Development and the Assistant Secretary of State for Human Rights and Humanitarian Affairs, shall constitute a Coordinating Committee for International Disaster Assistance. The responsibility of the Coordinating Committee shall be to promote maximum effectiveness and coordination by United States agencies and between the United States and other donors in response to foreign disasters. The Coordinating Committee and the Special Coordinator shall have the authority to draw upon the resources and personnel of other offices of the Agency for International Development in order to respond more effectively to international disasters, especially during the reconstruction phase of disaster assistance programs which have longer term developmental implications. Included among the Special Coordinator's responsibilities shall be the formulation and updating of contingency plans for providing disaster relief.

(b) Not later than six months after the date of enactment of this section, and at the end of each six month period of each fiscal year thereafter, the Special Coordinator shall transmit to the Speaker of the House of Representatives, and to the Committee on Appropriations and the Committee on Foreign Relations of the Senate, a report describing fully and completely the disposition and use of funds made available under section 492.".●

## RESERVATIONS SUBMITTED FOR PRINTING

RESERVATION NO. 15

(Ordered to be printed and to lie on the table.)

Mr. STONE submitted a reservation intended to be proposed by him to the resolution of ratification of the Panama Canal Treaty, Ex. N, 95–1.

● Mr. STONE. Mr. President, I am today introducing a reservation to the Resolution of Ratification of the Panama Canal Treaty to clarify paragraph 1 of article XIII of this treaty which states that the Panama Canal "shall be turned over in operating condition and free of liens and debts, except as the two parties may otherwise agree."

This reservation adds at the end of the Resolution of Ratification the following language:

The Panama Canal Commission may not incur any debt arising out of the operation or maintenance of the Panama Canal or encumber the Panama Canal with any lien, unless the United States of America by legislation authorizes the Commission to incur such a debt or encumber the Canal with such a lien.

During consideration of this treaty by the Senate Foreign Relations Committee, I had much concern with the language of paragraph 1 of article XIII because it is certainly conceivable that, as presently worded, this language would commit the United States to turn over the Panama Canal to Panama in the year 2000 clear of debts which may run into hundreds of millions of dollars. At that time, I asked Secretary of State Vance to inform me of the Canal Company's present debts. He wrote me on January 31, 1978, that presently the Panama Canal Company has used its legal authority to defer $9.3 million of certain statutorily required payments to the Treasury. It has already paid part of this deferred amount and will pay the remaining $3.9 million in fiscal year 1978. The Secretary states:

Once this payment has been made, the Company will have no outstanding long-term obligations and will have continued its record of meeting all its expenses for operating revenues.

The present statutory borrowing authority for the Panama Canal Company is found in the Panama Canal Code and is limited to borrowing only from the U.S. Treasury to a maximum amount of $40 million. The Commission will become a Government Corporation and is thus regulated by the Government Corporation Control Act (31 U.S.C. 849). This act allows private borrowing by Government Corporations. Indeed, Secretary Vance also stated in his letter to me that:

Our management authority under the Treaty is so broad that the United States could, for example, authorize the new Commission to borrow funds from private sources. Accordingly, it was considered appropriate to provide Panama the assurance contained in the quoted phrase that the United States would turn over the Canal free and clear, and not subject to a mortgage to which Panama did not consent.

While I agree with the concern of Secretary Vance, it also seems to me that we should not subject the taxpayers of the United States to a mortgage to which they did not consent. Indeed, the management authority of the new Panama Canal Commission is extremely broad and there is no procedure established either in the treaty or in the administration draft of the implementing legislation by which the Commission can enter into long-term debt.

Because of my concern with this article, I asked the Comptroller General of the United States to give me his views on a number of fiscal matters relating to the treaty, including the liens and debts question. He wrote me on April 4, 1978, that Secretary Vance's above mentioned statement concerning further outstanding long-term obligations is "not completely accurate." The Comptroller General stated that as of September 30, 1977, the Company had the following long-term obligations:

$15.1 million liability for retirement benefits to certain former employees and for employees' repatriations (The Canal Zone government had a comparable liability for $4.3 million.);

$72.3 million contingent liability for a 25-year contract effective May 9, 1969, with the Institute de Recursos Hidraulicos y Electrificacion, an autonomous agency of the Republic of Panama, for the purchase of electric power to be produced by that agency; and a

$26.6 million commitment under uncompleted construction contracts and unfilled purchase orders.

So we find that the Panama Commission is already encumbered to a certain degree with long-term obligations. Under this reservation, no further debt would be incurred and no liens would be encumbered by the Panama Canal Commission unless the Congress enacts legislation authorizing the Commission to incur such a debt or lien.

This reservation is necessary to insure that the broad borrowing authority of the new Commission, which encompasses both U.S. Treasury and private borrowing powers, will be subject to scrutiny by Congress. This perhaps would not be necessary were it not for the fact that all debts must be cleared as of the year 2000. Comptroller General Staats stated the problem in his letter as follows:

It is of course conceivable that the revenues of the Panama Canal Commission will not be sufficient to cover the expenditures of the Commission. Such a deficit would need to be offset either through borrowings or appropriations. Accordingly, it has been proposed that the $40 million borrowing authority under current legislation be retained. Since the treaty provides for the Canal to be turned over to Panama free of liens and debts (unless otherwise agreed), to the extent that such borrowing becomes necessary and could not be repaid from future revenues of the Commission the United States would either need to appropriate funds for the Commission or forgive the Commission's indebtedness to the Treasury under this line of credit.

This reservation will specify and clarify congressional oversight of the broad borrowing authority of the Panama Canal Commission. The clarification needs to be made as to the treaty rather than in the implementing legislation because the procedure for granting borrowing authority for this unusual Government corporation is an integral part of the treaty, affecting the condition of the canal—which will be turned over to Panama.

Because of the possibility that canal revenues will not meet expenses, or that capital improvements of a large scale will be necessary, this reservation is an important way of insuring that major debts will be incurred only with the full participation of the Congress. In this way, future U.S. taxpayers will have some input into the Commission's ability to incur debts which must be repaid in a lump sum. This reservation is a fiscal checkpoint which can be greatly helpful to our operation of the Canal Commission and to the taxpayers of the country.●

## UNDERSTANDING SUBMITTED FOR PRINTING

UNDERSTANDING NO. 16

(Ordered to be printed and to lie on the table.)

Mr. THURMOND submitted an understanding intended to be proposed by him to the resolution of ratification of the Panama Canal Treaty, Ex. N, 95–1.

## NOTICES OF HEARINGS

SELECT COMMITTEE ON ETHICS

● Mr. STEVENSON. Mr. President, I announce that on Thursday, April 20, 1978 at 1:30 p.m. the select committee will hold a public hearing to consider amendments to rule 46 on unofficial office accounts. More specifically, should rule 46 be clarified to preclude inkind contributions and should funds derived from a political committee be confined to a Member's principal campaign committee?

The committee will meet in S–126, the Capitol.●

DEPARTMENT OF EDUCATION HEARINGS

● Mr. RIBICOFF. Mr. President, the Committee on Governmental Affairs will resume hearings on S. 991, and related legislation, to establish a separate, Cabinet-level Department of Education in the Federal Government, on Tuesday, April 18, 1978, at 10 a.m. in room 3302 of the Dirksen Building.●

SUBCOMMITTEE ON ENERGY CONSERVATION AND REGULATION

● Mr. JOHNSTON. Mr. President, on Thursday, April 20, 1978 the Subcommittee on Energy Conservation and Regulation of the Committee on Energy and Natural Resources will hold a hearing to receive testimony from private witnesses on regulatory programs of the Department of Energy. This hearing will commence at 10 a.m. in room S–126 of the Capitol.

Question about this hearing should be addressed to Benjamin S. Cooper or James T. Bruce of the subcommittee staff at 224–9894.●

## ADDITIONAL STATEMENTS

## SHHH! IDAHO!

● Mr. McCLURE. Mr. President, well, the secret's out. The Washington Post sent reporter Ken Ringle to Boise, Idaho, in search of the reason why so many easterners are heading West. As Mr. Ringle notes, many of them headed for Idaho "seeking clear skies, clean streams, and an uncrowded way of life." And that's just what they found.

Those of us who have lived in this kind of environment all of our lives have, somewhat selfishly, I suppose—tried to keep the good news about Idaho a little quiet. After all, we didn't want the rest of you rushing out there, bringing your big city problems with you, to ruin our good thing. But thanks to the Post, the whole world is finding out just how great it is to live in Idaho, and I don't see any reason why I shouldn't now share the news with my colleagues in the Senate. It is not without its own irony, however. As the article points out:

While migrants who flock to cities for the advantages of "bigness" enhance that bigness, those who move to places like Boise for smallness help destroy, with each arrival, the qualities they came to find.

There is even a rumor—I don't know how much truth there is to it—that Mrs. Graham may now pack up and move the entire Post operation to Boise, in order to better enjoy the last remaining outpost where, as Mr. Ringle points out, the American spirit still prevails. If so, it may do wonders for her paper.

Mr. President, I ask that the article from last Sunday's Post be printed in the RECORD.

The article follows:

AMERICA'S AFFLUENT MIGRANTS

(By Ken Ringle)

BOISE, IDAHO.—The migrating American, that restless animal historians say has shaped the American spirit since the first wagon rolled west, is moving in a new direction that raises profound questions for the nation's future.

For the past decade, according to U.S. Census figures, an increasing number of Americans have been migrating not to the nation's metropolitan areas but away from them, reversing patterns of growth underway since the industrial revolution.

Their destination, more often than not, is a small town or city in a remote area of the South, Southwest or West—often the very sort of environment from which their parents fled to the cities a generation before.

But while those earlier migrants were usually the poor and dispossessed of the Dust Bowl seeking work of any kind, today's migrants include not only students and retirees but a new group of relatively educated and affluent urban fugitives in search of something else.

Spiritual heirs of the pioneers who fled the sound of a neighbor's ax, they move seeking clear skies, clean streams and an uncrowded way of life. And like the pioneer, whose own ax rang in the virgin woods where he sought refuge, they are changing by their very arrival the environment they came to find.

Boom towns are sprouting in lethargic, backwater regions whose isolation, once a drawback, is now a lure. Growth-spawned problems of land speculation, strip development and rising taxes are plaguing small communities whose major worry a few years ago was not too many people but too few.

Reaction to those inevitable pressures is proliferating in such communities as Petaluma, Calif., whose no-growth policies threaten to impede what some historians consider the freedom most essential to the American experience—the freedom to move on.

"It may be," writes population expert Peter Morrison of the Rand Corp., "that the true safety valve for . . . discontented Eastern masses was not the free lands of the West but a kind of frontier of the mind—the image of an 'elsewhere' with its idealized possibilities—created and sustained by a tradition of unhindered migration." To restrict that vision, Morrison suggests, is to tamper with the essence of what we are as a nation.

THE BOISE BOOM

Nowhere are the dynamics of the new migration more visible and dramatic than here in booming Boise (population: 150,000), the New Jerusalem for an influx of ex-urban pilgrims, many seeking the California life style they feel California no longer provides.

Here on the Snake River Plain, hard by the gransite peaks and crystal lakes of Idaho's savagely beautiful wilderness, they feel there's still a chance to do things right. Their bumper stickers shout the warning: "Don't Californicate Idaho!"

"I've seen it all happen on the coast," says Randall Morris, 30, a dentist who grew up in Los Angeles and now lives near here in Mountain Home. ". . . the trout streams dug up for freeways . . . the smog . . . the elk herd declining. It's the same old story of unplanned growth. It's happening here, but here there's still time."

The boom in Boise is merely the focal point of a statewide population explosion that has pushed once-somnolent Idaho into the nation's fourth fastest-growing state.

From 1960 to 1970, according to census figures, all but nine of Idaho's 44 counties were losing population. From 1970 to 1976, however, all but two gained population, in spite of a steadily declining national birth rate.

Boise itself, which loafed along at a 2 percent annual growth rate during the high-growth 1960s, mushroomed 24 percent in the past six years alone, becoming one of the nation's fastest-growing metropolitan areas and perhaps the most vivid example of the new migration phenomenon.

"It's just like San Jose in the 1960s," says Rand's Morrison. While a few places in the country, like Ft. Lauderdale, Fla., are growing faster, "we know what's happening there . . . it was happening in the 1960s. But these growth areas in places like Idaho, Ozarks and upper Michigan are something new—places which have never had much growth before and would not appear from their location to possess many of the prerequisites for urban greatness."

COMING FROM CALIFORNIA

Founded in 1863 as a cavalry fort during a gold rush to the nearby Boise Basin, Boise nearly lost its reason for being a few years later with the last of the gold.

The Oregon Trail passed nearby, but the city was snubbed by the railroad and slumbered in its sagebrush-covered foothills for nearly 30 years, a frontier town on the way to nowhere in particular.

The hatchet-shaped state of which it was capital stretched north to Canada in a network of emerald fir forests and snow-topped mountain ranges laced by the Continental Divide and by the sparkling white-water rivers that pour from its peaks. But its mountain passes were forbiddingly high and blocked by deep snow from November to June.

It was, in the words of the silver miners who lived in its remote and rarely accessible valleys, "a heaven of a place to live, but a hell of a place to make a living."

Boise itself sprawls at the foot of the Boise Range in Treasure Valley, an arid, dun-colored highland of mild winters and temperate Julys, where today Interstate 80 carries the progress that the railroad's absence so long delayed.

From the grounds of Maj. Pinckney Lugenbeel's original stockade, it stretches east and west along the knee-deep Boise River, its few blocks of Victorian buildings giving way to the ranch-style anonymity of the ubiquitous American subdivision and the roadside clutter of its commercial counterparts.

No one can say precisely why or when the boom in Boise and other small cities began, but John Mitchell, an economics professor at Boise State University, says "It appears that around 1968 all of a sudden the things that Idaho had—the wilderness, the wilderness and the mountains—began to be valued elsewhere." And elsewhere, other things were happening.

Howard Bradley, then 32, was riding his motorcycle near his home in Berkeley, Calif., that year when he smelled what he thought was the scent of flowers. When the smell persisted for several blocks, however, he realized it wasn't flowers at all: It was tear gas drifting off the nearby University of California campus from yet another riot of the turbulent 1960s.

"That did it," he recalled the other day in his office in Boise. Long disenchanted with the increasing crime, "bizarre" politics and generally deteriorating quality of urban life in general and Berkeley's in particular, Bradley and his wife had talked of moving to some area in the West more remote from people and the pressures they bring with them.

"The day I could no longer tell tear gas from flowers," Bradley remembers, "I knew it was time to leave."

The first step, he decided, was to acquire a transferable skill which might be in demand in a less urban area. Since he was a pilot and "pretty good with my hands," he left his job as a laboratory research technician, moved to Los Angeles and worked two years for Northrop Aviation to become an aviation mechanic. Then he and his wife loaded "the tent and the sleeping bags and a few other things" into their small plane and took off for the Pacific Northwest, not knowing where they would land.

"It was not a good time," he remembers. "The country was deep in recession and the layoffs at Boeing in Seattle had sent a flood of aviation technicians into the Northwest. We looked over Montana but that didn't look too good. We had a friend here in Boise so we decided this looked like a good place to start."

While Boise itself "doesn't have much personality as a city," and was already somewhat larger than they had hoped for, they discovered it offered many of the amenities they had left Berkeley to find. It had both an "appealing social stability and a college where they could continue their education.

Less than an hour away were mountains to climb and rivers to run and wilderness areas to backpack and camp in. An hour after work they could be skimming down one of 37 slopes at Bogus Basin, a community-run jewel of a ski area in the mountains overlooking the city.

"In California we had regularly driven four and five hours to Yosemite on weekends," Bradley remembers. "I never really minded the drive, but here all this was at our door."

So the Bradleys moved to Boise without even a job.

"The sacrifices at first were severe," Bradley remembers. "Even when we finally did get work we were bringing home at least 60 to 75 percent less than we'd been making in Berkeley. And Boise is not that cheap a place to live."

But his wife, a criminologist, found work in the state crime lab and Bradley moved from airplane engines into helicopter transmissions, formed one partnership, sold out and today a runs his own company repairing precision tools.

THE IMPORTANCE OF ENVIRONMENT

If the Bradleys are one of the more dramatic examples of in-migrainationto Boise, they are far from unique. A 1975 study of some 1,500 new families in the Boise area, conducted by economist Mitchell and the Boise Center for Urban Research found that 25 percent of those moving into Boise from out of state came from California—the largest percentage from any other state. Many, like Randall Morris, are the children or grandchildren of Idaho pioneers who followed the California dream westward in the 1930s to see that dream sour in a fouled nest of overbuilt subdivisions and freeways. Drawn by a combination of clean air and nostalgia, the children have retraced the journey.

Mitchell's study showed that more than 32 percent of those moving into the Boise area, like Bradley, had no job when they came, and 23 percent said they moved here "to enjoy the benefits of a smaller metropolitan area". Fully 44 percent—the largest single category in the sample—said they moved to Boise "to live in Idaho's environment".

The importance of Idaho's environment is hard to overemphasize. It dominates almost every discussion of why people move to the state. Gary Watson, managing editor of Boise's newspaper, The Idaho Statesman, says it affects not only the quality of his job applicants but their attitude once hired.

"This is a good little newspaper and we're proud of it but it's not The New York Times," he said. "Yet we're getting really fine people—guys in their 30s who've worked overseas with Newsweek or somewhere with The Wall Street Journal who want to come out here and work as reporters. These are people at the peak of their profession who've decided there is more to life than just a job. And for many of them a lot of those other things are here."

Watson said newspeople on his staff, given the choice between taking overtime pay or extra time off, almost invariably insist on taking the extra time—"to go backpacking or skiing or something". At any other newspaper where he's worked, he said, money was always king.

JOBS FOLLOW PEOPLE

There is more to the Boise boom than outdoor sports, however, as economists Mitchell is quick to point out. Despite its out-of-the way location, Boise has a number of economically stimulating factors, including unusually good air service for a city its size and the corporate headquarters of such business giants as Boise-Cascade and Morrison Knudson, the world's largest engineering firm.

Several factors, he says, combined to help the city over the 100,000 population mark, which he describes as "a threshold beyond which growth to some extent becomes self-sustaining".

One factor was the nation's general population shift to the West, which gradually has made it more and more practical for industries to locate a factory or a division or even a corporate headquarters west of the Rockies.

Another was the rapid growth in state government and of Boise State University, which ballooned in the 1970s from a two-year community college to a university of some 15,000 students.

A third included such intangibles as the interstate highway system, improved air service and television, which reduced the sense of isolation associated with many small towns and cities in previous decades.

But once a city hits the 100,000 mark, he says, a number of other growth spurs kick in automatically:

Restaurants and chain stores begin to look at the city as a suitable location for a branch or a franchise.

Businesses like insurance companies, which have serviced the area with a traveling representative located somewhere else, start thinking about opening a branch office.

Service industries in general, from boutiques to bowling alleys, proliferate to serve the population, triggering in turn more industries with more jobs to attract more people.

But environmental considerations and job opportunities often go hand in hand. Ray Smelek, 43, plant manager for the Hewlett-Packard Co., started a new division in Boise four years ago and now has some 750 people employed in the area making computer printers and memory discs. The decision to locate in Boise, he says, was prompted largely by three factors. One was overcrowding in the company's main base near San Jose, Calif. Another was the high productivity of the labor force in Idaho. The third was the environment around Boise.

"We're a company whose profitability depends to a great extent on attracting young engineers right out of college," Smelek says, "young people with bright ideas. We need them. Companies like ours discovered about 1970 that those kids don't want to locate in a big city. They want a place where they can get out into the mountains and the wilderness areas and leave their work behind."

Hewlett-Packard began experimenting, locating plants in places like Loveland, Colo., and Colorado Springs and was "very pleased with the results . . . it's more and more the trend."

The Boise area, he remarks, is so popular that Hewlett-Packard attracts some 75 percent of all young engineers to whom it offers positions at the plant here. Most plants or companies, he says, are very happy with a "hit rate" of 50 percent.

WANTING TO BE "THE LAST ONE IN"

The portraits of Boise's in-migrants as painted by people like Smelek, Watson and Mitchell coincide almost exactly with the characteristics of the new migrants nationwide sketched by demographers like Morrison at Rand. They are, in Mitchell's words, a "new educated elite who can afford the luxury of choice."

They are people like Bob Dews, 36, who decided to leave Washington State for Idaho "the day I was backpacking in the Cascades and 30 people passed my tent after I'd pitched camp." Or Renee Winn, a Pittsburgh-raised travel agent in her 30s from Burley, Idaho, for whom "the whole point in being out here is to load the kids in the camper, get up in the mountains and sit under a tree with a six-pack and drink and think."

"When I'm out camped in the wilderness at the end of the day," says Randall Morris, the Mountain Home dentist, "sitting by the fire watching the sunset and stirring my coffee, I say a little prayer—this is really true—I say a prayer for all those poor bastards in New York City."

But environmental satisfaction, as the new migrants ruefully acknowledge, is a fragile thing. While migrants who flock to cities for the advantages of "bigness" enhance that bigness, those who move to places like Boise for smallness help destroy, with each arrival, the qualities they came to find.

Already the debate over growth is raging in Boise, where morning traffic jams are being born and pollution taints the downtown air. "Shhhh! Idaho!" say the bumper stickers on the new migrants' cars.

Yet to keep Idaho as it is is to resist growth, to resist growth, in this era of falling birth rates, is to resist migration. And to resist migration is to raise such patently unconstitutional questions as "Who will be allowed to live where?" Or, perhaps more important, "Who will decide and by what criteria?"

Howard Bradley, for one, is already uneasy.

"You know," he says, "There's a particular place when you're driving west on Fairfield Avenue and where you look in the rear view mirror and see the miles of houses and the signs of the fast food joints and the used car dealers and the mountains in the sunlight above them. There's a spooky sense of *deja vu* about it. It looks exactly like the San Fernando Valley in the 1950s."

He's been thinking lately, he says, of packing his plane once more and moving on somewhere else. "It's an old story," he says. "Everybody wants to be the last one in." ●

## SENATOR CANNON ON AIRLINE DEREGULATION

● Mr. McGOVERN. Mr. President, I would like to express my appreciation to Senator CANNON, the distinguished and able chairman of the Senate Commerce Committee for his informative and detailed response to my concerns regarding the proposed airline deregulation legislation, which appeared in the March 21, 1978, edition of the CONGRESSIONAL RECORD.

I have great respect for Senator CANNON's views on aviation and, indeed, he is generally regarded as one of the leading experts in the Senate on matters of this kind. Under normal circumstances, I would be inclined to accept his judgment on what is good for the airline industry and the American traveling public. It is, therefore, with regret that I must again take issue with Senator CANNON's position, restating my reservations on airline deregulation within the context of Senator CANNON's remarks.

In point of fact his arguments and examples can easily provide a case against S. 2493. Specifically, I raised four points in my statement to which the Senator responded: First, deregulation can lead to industry concentration as smaller carriers are driven out of business by larger airlines having additional financial resources and excess fleet capacity; second, that this will result in fewer flights and ultimately higher fares; third, while the industry attempts to trim costs systemwide in order to maintain profitable routes, thousands of airline employees may lose their jobs; and fourth, small communities currently receiving scheduled service will experience service reductions and disruptions.

Senator CANNON and the proponents of deregulation argue that deregulation will not lead to increased domination of U.S. commercial air service by a few carriers. This argument is predicated on the assumption that beyond a relatively low threshold there is no advantage to size, and that vigorous competition by large carriers against small efficient carriers will not endanger the existence of the smaller carriers. According to the proponents, Pacific Southwest Airlines is an excellent case in point as it successfully competes against several federally certificated carriers.

I must question this example and consequently the case made for the smaller carriers. If PSA is thriving on this vigorous competition, why has the company reported a net loss for the fourth quarter of 1977 and have a year earlier net loss of $1.6 million? Presently, the company is planning to file a rate increase request with the California Public Utilities Commission, although PSA had just received a rate increase in December 1977. The company has also stated that 1978 earnings will suffer unless the California PUC acts promptly on their new rate request.

I fail to understand how the operations of the Pacific Southwest Airlines represents the small carrier's projected success in facing head-to-head competition with larger federally certificated carriers. In point of fact, this case is a strong indicator of the uncertain future of small carriers in the event of deregulation as mandated by S. 2493. As the smaller carriers are eventually driven out of their markets and a few larger carriers achieve market dominance my second major concern, that there will be fewer flights and ultimately higher fares, may be realized. The proponents of deregulation argue that with automatic market entry as provided by S. 2493, that carriers will be aware that all of their route will be vulnerable to new entry and subsequently will be motivated to keep their prices as low as possible on a systemwide basis to prevent such entry.

However, in order to effectively trim costs systemwide, airlines will have to cut their costs and services from other operations. Options they may elect include flight reductions and service elimination on less profitable routes, reducing employment of ground crews on such routes or reducing safety margins. This could result in unemployment with the airline and related industries, safety problems, and fewer flights or service eliminations on less profitable routes. Additionally, proponents of deregulation argue that S. 2493 would generate more jobs rather than create unemployment within the industry. This statement is based on the assumptions that lower fares will generate increased traffic which will in turn increase flights and service and generate employment.

Mr. CANNON indicates that Delta's Chicago Midway-St. Louis operation is a prime example. When Delta established this operation they had two flights daily to St. Louis. Under that structure the operation was losing money due to inadequate use of ground personnel and a variety of other factors. In 1977, Delta received approval to develop a third midday flight with low fares. Its traffic has increased fivefold and has been adding flights in this market, resulting in better service, lower fares, and more jobs. The proponents declare that this can happen throughout the country under S. 2493.

However, this already is happening throughout the country, without the benefit of deregulation legislation. The CAB has recently approved a variety of fare reductions and route applications indicating that it presently has the statutory authority to promote competition and better service within the industry. Why do we need legislation intended to accomplish what has already occurred? To return to the example, under this legislative proposal, other carriers would have the opportunity to enter Delta's profitable market and under the automatic market entry and flexible pricing provisions, perhaps drive Delta out of the market it developed. Ultimately, this could have a calamitous effect on Delta's employment regarding its Chicago-St. Louis operations. Moreover, under the proposed legislation, this could occur in a variety of markets throughout the country.

Of greater importance and concern than the specific issues addressed by Senator CANNON and other proponents of deregulation is the questionable necessity of the legislation at this time. This proposal was created in response to growing criticism from public officials, consumer groups, and others who contend that CAB regulation is inappropriate for a modern air transportation system and no longer functioned in the public's best interests. Proponents argue that the lower fares and route applications recently approved by the Board are representative of the actions this legislation will encourage. However, what has be-

come increasingly apparent is that under the threat of deregulation the Board has begun to operate, within their present statutory authority, in the best interests of the American traveling public and the industry. CAB has recently approved a variety of measures long awaited by industry and consumers. Consequently, the need for this legislation no longer exists as the Board is now operating in a manner to encourage the same policies as the proposed legislation.

However, I believe a reexamination of the Board's past actions are necessary in light of the fact that until recently, they have not acted in an appropriate manner with regard to the processing of applications and were not operating in accordance with their declaration of policy. The proponents of S. 2493 would have more efficiently addressed the problems of the Board by holding oversight hearings to determine the necessary alterations within the Board and its authority in order for it to operate in the public's best interests. However, oversight hearings have not been held on the CAB for the past 20 years. Obviously, such hearings are long overdue and would have mandated a variety of internal changes within the Board to allow them to function in a manner appropriate to our current transportation needs. Consequently, I remain convinced that this legislation, although well intentioned, is unnecessary in light of recent CAB actions. More importantly, S. 2493, if passed, will create havoc with the finest air transportation system in the world.●

## HEARINGS ON ACREAGE LIMITATIONS OF RECLAMATION LAW

● Mr. GOLDWATER. Mr. President, it was my pleasure to appear yesterday before the Senate Subcommittee on Public Lands and Resources to testify for the repeal of all acreage limitations and residency requirements in the reclamation law.

In my opinion, repeal is the only sure solution to the problems growing out of the antiquated 1902 Reclamation Act and its successor amendments. In short, the 1902 law imposes totally unrealistic restrictions on farming which take no account of the mechanization of farms or other inflationary costs of production, such as rising farm labor pay scales.

Mr. President, I am pleased that the bill, S. 2867, which I have introduced together with the senior Senator from Maryland, Mr. MATHIAS, to repeal the outmoded provisions of law was endorsed today in testimony presented to the Senate subcommittee by Mr. Allan Grant, president of the American Farm Bureau Federation. Also, I am delighted that the basic concept of my bill, which is elimination of the acreage and residency limits of reclamation law, has been approved by the Arizona Irrigation Districts Coordinating Committee.

Mr. President, in order to share with my colleagues the very practical problems which farmers have been experiencing under these restrictions of reclamation law, I ask that the following materials be printed in the RECORD: First, my statement on S. 2867; second, the testimony presented by the Farm Bureau in support of S. 2867; and third, the resolution on this subject adopted by the Arizona Irrigation Districts Coordinating Committee.

The material follows:

1. STATEMENT BY SENATOR BARRY GOLDWATER OF ARIZONA BEFORE THE SENATE SUBCOMMITTEE ON PUBLIC LANDS AND RESOURCES APRIL 12, 1978

Mr. Chairman, I applaud the prompt scheduling of your hearings on the acreage limitation provisions of Reclamation Law.

Mr. Chairman, I urge adoption of a simple, clean approach to the problem: repeal of the acreage limits and residency requirements.

Now, I have introduced a bill, with Senator Mathias, S. 2867, to do just that; and a companion bill, H.R. 11944, has been introduced by Congressman Stump in the House.

Mr. Chairman, I know there are alternative proposals before the Committee, some of which include excellent features, which I would strongly endorse, such as the payout provisions of S. 2606 and S. 2818. These provisions would allow reclamation districts to repay the full public investment and be exempted from the excess land laws.

But, Mr. Chairman, I feel so strongly about the need for correcting the 1902 Act that I believe the best solution is not to modify, but to repeal antiquated provisions from the law.

In my opinion, no magic figure will work.

We cannot apply a flat rule to every type of crop. And, even if we could come up with an average acreage needed for efficiency of production as to specific crops in specific areas of the country, today's figure might not be adequate for the future. Today's 1,000 acre efficient farm might be a 2,000 acre farm in the future due to changing technology and inflationary costs of production.

Mr. Chairman, one thing is clear. The current 160 acre restriction on individual ownership of irrigable land that can be supplied with Reclamation project water is absurd. Even if family ownerships are taken into account, an artificial rule of this kind is inadequate to modern agriculture.

Why should a farmer who does not have a large family be put at a disadvantage with his neighbors solely on the basis of childbearing capacity? And, what happens if a son or daughter moves away to become a teacher or doctor?

Mr. Chairman, let me present some specific example of the impact of these restrictions. Our most valuable crop in Arizona is cotton. Many persons do not realize this, but Arizona is the fourth largest cotton-producer in the nation.

The value of our cotton and cottonseed production was $355 million last year, 48% of the value of all crops grown in Arizona. When we add the usual multiplier effect to this value, we can see that the 1977 cotton and cottonseed income added approximately one and one-half billion dollars to Arizona's economy.

About 90% of our cotton is exported. These exports help to counter the massive deficit in our nation's trade account caused by fuel imports.

To these statistics, let me add that the minimum size of a cotton farm in Arizona dependent upon farm income is 1200 acres and on up. This will increase in the future as production costs go up.

Alfalfa and grain crops are also two major crops grown in Arizona. Arizona cash receipts for these crops in 1977 totaled about $160 million. Vegetables and melon production also exceeded $100 million last year. All these crops require expensive machinery and large acreage to run an economical operation. Even limiting leasing to 1,280 acres would put many of these operations out of business.

For example, an average size tractor with plowing, planting and cultivating equipment now costs $50,000. A two-row cotton picker costs about $65,000. A grain combine about $60,000. Haying equipment costs about $35,000.

So the large size of farms in producing these crops did not just happen. They grew out of necessity and they will have to grow larger to stay efficient as production costs rise.

Mr. Chairman, farm experts in my region of the country predict that if all the farms in the United States were broken into hundred sixty acre, or even three hundred twenty acre units, the cost of food and fiber to consumers in this country and to the export nations we supply, would at least double.

Back in 1902, farmers did most of their work with a team of horses. Horses burn hay, not gas.

But today, almost every aspect of farming is mechanized, along with the development of new higher-yield crops. Farm labor wages are going up and up. All of this costs a great deal of money and is generally more than the small farmer can afford.

So we have a choice. We either increase the cost of farm products way beyond the pocketbook of the average household, and at the same time we price ourselves out of the export markets, or we put some common sense into an archaic and restrictive farm law.

Mr. Chariman, I would close with a statistic developed recently by the Bureau of Reclamation. According to a study of 1976 data made by Denver Research Institute for the Bureau, there was a net increase in business activity, total wages and employment attributable to all reclamation projects of $12 billion in that one year alone. Of this total benefit to the economy, there was a $5 billion return from agriculture alone.

Mr. Chariman, I believe this answers anyone who disparages the reclamation program as a subsidy. This statistic proves that in two years time, the positive impact on the growth of our economy resulting from reclamation projects exceeds the maximum, Federal interest contributions, or so-called subsidy, that went into developing these projects.

These projects have boosted the economy and provided the American consumer with the widest availability of farm products and fibers, at the lowest prices, of any people in the world. If this be a subsidy, then I believe the public welcomes the results and will want no part in destroying the system that gave them this blessing.

2. STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION TO THE SUBCOMMITTEE ON PUBLIC LANDS AND RESOURCES OF THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES WITH REGARD TO S. 2867, A BILL TO AMEND THE ACREAGE LIMITATION PROVISIONS OF FEDERAL RECLAMATION LAW, PRESENTED BY ALLAN GRANT, PRESIDENT, APRIL 13, 1978

We are pleased to have this opportunity to express the views of Farm Bureau members concerning the acreage limitations applicable to Bureau of Reclamation projects. This topic is not only vital to those people who are served by reclamation projects, all agricultural land owners, and financial institutions with agricultural loans; it also ultimately affects all Americans who are dependent upon agricultural production.

Farm Bureau is the largest general farm organization in the United States with a membership of over 2.8 million families in 49 states and Puerto Rico. It is a voluntary

nongovernmental organization, representing farmers who produce virtually every agricultural commodity that is produced on a commercial basis in this country.

Farm Bureau policies are developed through study, discussion, and decision by majority vote at community, county, state, and national meetings. These comments are based on the following policies adopted by the voting delegates of the member State Farm Bureaus at the 1978 annual meeting of the American Farm Bureau Federation:

"The technology of modern agriculture has made the 160-acre limitation impractical and uneconomic. We support legislation to remove the 160-acre limitation. We oppose surcharges on water from state or federal projects used on land in excess of 160 acres in a single ownership."

The American economy, as well as that of other countries, is dependent on the ability of the American farmer to maintain his productive capabilities. Water is a critical factor if agriculture is to maintain its outstanding record of food and fiber production. Farmers and ranchers are, therefore, vitally interested in, and are the nation's foremost supporters of, wise and careful use of water resources. Recent Bureau of Reclamation statistics indicate that in 1976 the "gross value of all crops" produced with the aid of water from Bureau of Reclamation projects totaled $4.3 billion.

The acreage limitation feature of reclamation law, originally enatced in 1902, is completely out of date. The present situation is comparable to one where a state official discovered an obsolete law which says that "motor carriages" must pull over to the side of the road when they approach within 100 yards of any horse or horse-drawn vehicle. This state law had not been enforced for over 75 years. But when the state government proposed to enforce it, the legislature elected to increase the distance at which "motor carriages" must pull over from 100 to 500 yards, rather than to repeal this obsolete law.

We have the same situation in the acreage limitations of the 1902 act and subsequent acts. Some are suggesting that the basic limitation be increased from 160 acres to some other "magic" number. We, however, propose that this obsolete law be repealed. While its original purpose may have been meritorious, it has long since become unnecessary and counterproductive.

As presently interpreted by the courts, the acreage limitation provision of the 1902 Reclamation Act limits farm income, abuses private property rights, dictates to whom an owner can sell, sanctions a philosophy of land redistribution, limits farm operations to an arbitrary size, and discourages free enterprise. As Senator Wallop so succinctly said on March 10:

"The problems with the present excess lands law are many. One hundred sixty acres is no longer an economical farm unit for virtually all lands within reclamation projects. Variations in productive potential of various lands are ignored in all but a few isolated instances. Residency requirements are unduly strict. The limitations apply equally to those receiving only a supplemental supply of water, as well as those who are totally dependent on water from federal reclamation projects. Many irrigators are now being denied the benefit of payout contracts which they entered into in good faith. Their Government has breached its faith."

It is our conviction that the solution to the dilemma in which we find ourselves is the total repeal of the acreage limitation that has been placed on the amount of water a person may receive from federal reclamation projects. We, therefore, support S. 2867 as a comprehensive bill which would repeal the 160-acre limitation and remove the residency requirement.

One of the philosophical questions that has been posed is: Should the general taxpayer subsidize the delivery of water to farmers and others? We suggest to this Subcommittee that it is the general public which benefits from the delivery of water to agricultural land. These benefits come in the form of lower prices and the increased availability of products in the marketplace. Other indirect benefits include an improved local tax base, improved community services, increased stability of agricultural income, added employment in the transportation and processing of agricultural products, and increased purchases of agricultural production items, which are supplied from all regions of the nation. It also should be noted that the water for Bureau of Reclamation projects is often derived from large multiple-use projects, which also provide nonreimbursable benefits, such as recreational opportunities and improved habitat for fish and wildlife, to the general public.

Over 80 percent of all of the Bureau of Reclamation's investment has been or will be, repaid to the federal government. The only expenditure for irrigation purposes which is not repaid is interest on the money that is borrowed until the project is finally paid out. Completely accurate information on the level of subsidy to irrigation uses is not available. However, in an effort to get some idea of the magnitude of the "subsidy" to irrigation uses, we have selected the figure of $1,000 per acre for the life of a project. We have been advised by the Bureau of Reclamation that $1,000 per acre is a gross over-statement, as many older projects have much lower costs. Nevertheless, using $1,000 per acre as an assumed subsidy and calculating that approximately 11 million acres receive Bureau of Reclamation water, we come up with a total "subsidy" to irrigation users of $11 billion for the life of the projects.

The United States Department of Interior, in its latest estimates, has calculated the "net increase in business activity, total wages, and employment attributable to reclamation projects, 1976" at over $12 billion. The net increase in agricultural business activity in 1976 was over $5 billion.

Therefore, Mr. Chairman, in a single year the net increase in business activity due to Bureau projects is $1 billion greater than the maximum estimates of the total "subsidy" over the entire life of the projects now in operation. The increase in the agricultural business activity would exceed the "subsidy" in a little over two years. All things considered, the federal government is not subsidizing irrigation at all, but rather is making wise investments which yield high returns.

In conclusion, we wish to call to your attention the fact that California Rural Legal Assistance has obtained a federal grant of $155,000 to form a Reclamation Law Unit. This Reclamation Law Unit's stated purpose is to push for redistribution of excess lands to farmworkers and other rural poor. This grant was made by the Office of Economic Opportunity's Community Services Administration. We have information which indicates that Reclamation Law Unit attorneys will be lobbying with administrative agencies and the Congress, particularly with respect to bills introduced to change the Reclamation Act. We feel very strongly that this is a most inappropriate use of federal funds and one not contemplated by the Congress. This activity is illustrative of the efforts of certain individuals to use the acreage limitation as an excuse for social experimentation in land redistribution. We urge you to do everything in your power to limit the use of federal funds in this manner.

Mr. Chairman and members, the time has come to do away with the outdated and unnecessary acreage limitation provisions of reclamation law. S. 2867 will accomplish this objective. We urge you to enact it.

We appreciate the opportunity to present our views.

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3. ARIZONA IRRIGATION DISTRICTS COORDINATING COMMITTEE—RESOLUTION OF THE AIDCC

Whereas, the Congress included acreage limitations in the 1902 Reclamation Act to encourage the settlement of the West by family farmers; and

Whereas, the purpose of the Reclamation program and the economics of farming have changed since that time; and

Whereas, the Congress has recognized these changing conditions and has provided certain modifications and exceptions to the acreage limitation provisions for certain specific projects; and

Whereas, the Department of Interior, under court order, has proposed regulations to enforce acreage limitation provisions which. in the past, the Department of Interior has not determined to be necessary and realistic;

Whereas, the proposed rules and regulations are now being finalized to enforce the acreage limitation provisions of the 1902 Reclamation Act, which would have varied and unequitable impact on various projects;

Now therefore be it resolved, that the Arizona Irrigation Districts Coordinating Committee urges the Arizona Congressional Delegation and the United States Congress to assert its sole authority to legislate by not allowing the bureaucratic establishment to write the laws of the land; and

Be it further resolved, that Congress be urged to take the following action:

1. That the Congress of the United States amend the Reclamation Act of 1902 to eliminate the acreage and residency limitations contained in section five of such Act.

2. That, as an alternative to eliminating the acreage limitation, the Congress of the United States amend such Act to revise the acreage limitation substantially upward and to authorize acreage equivalency provisions to include consideration of farm economics, the availability of water and rights thereto.

Copies of this resolution shall be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives and to each Member of the Arizona Congressional Delegation. March 6, 1978.●

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## NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 43, PARAGRAPH 4 PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. STEVENSON. Mr. President, it is required by paragraph 4 of rule 43 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 43 which would permit Ms.

Beverly M. M. Charles, legislative assistant to Senator JAVITS, to participate in a program sponsored by a foreign educational organization, the American Institute of the University of Munich, of the Federal Republic of Germany, July, 1978.

It has been determined that participation of Ms. Beverly in the program in West Germany, at the expense of the institute to discuss human rights is in the interest of the Senate and the United States.●

## REDUCING THE HIDDEN COST OF BIG GOVERNMENT

● Mr. McCLURE. Mr. President, on April 11, Dr. Murray Weidenbaum, director of the Center for the Study of American Business at Washington University in St. Louis, testified before the Joint Economic Committee on the impact of Government regulation on the Nation's economy.

According to studies completed by the center, Government regulation adds over $600 to the price tag of an automobile and tacks on $1,500 to $2,000 to the cost of a new house.

Like the motorist and the homeowner, the businessman, the consumer, the worker, and the investor all feel the adverse effects of Government regulation. In Professor Weidenbaum's opinion, excessive regulation has cost the country dearly through many hidden taxes—lower productivity, reduced technological innovation, spiraling inflation, higher unemployment and, perhaps worst of all, the transfer of corporate decisionmaking away from local managers to Washington bureaucrats.

Weidenbaum predicts that there is likely to be even more Government intervention in internal business matters in the future. Regulation is clearly America's biggest growth industry today, with no end in sight. Federal outlays of 41 regulatory agencies grew from $2.2 billion in fiscal year 1973–74 to an estimated $4.8 billion in fiscal 1979. The aggregate cost of regulation, the direct administrative expenses of Government plus the costs of compliance in the private sector, should exceed $102 billion during the next fiscal year.

The need for reforming Government regulation is urgent, but the process will be slow and difficult. Dr. Weidenbaum suggests an agenda of change which I commend to my Senate colleagues as a reasonable and worthwhile regulatory reform program.

Among his recommendations is the requirement of an economic impact statement prior to the issuance of each new agency regulation. What is needed, he says, is not merely a cost benefit analysis but a test: Congress should enact legislation limiting the regulations of all Federal regulatory agencies—the independent commissions as well as the executive branch agencies—to those instances where the benefits exceed the costs to society.

Dr. Weidenbaum also argues persuasively for subjecting Government regulatory activities to the sunset mechanism as the best way to eliminate overlapping, conflicting, and unnecessary rules and regulations.

I concur completely with Dr. Weidenbaum. In fact, Mr. President, both of these proposals made by this distinguished economist are included in legislation which I am pleased to cosponsor, the Regulatory Reduction and Congressional Control Act, introduced last year by Senator SCHMITT. I call the Senate's attention to this bill, S. 2011, and urge its early consideration.

Mr. President, I ask that the complete text of Murray Weidenbaum's excellent statement before the JEC on "Reducing the Hidden Cost of Big Government" be printed in the RECORD.

The statement follows:

REDUCING THE HIDDEN COST OF BIG GOVERNMENT

(By Murray L. Weidenbaum)

The largest and most rapid increase in government power over the private sector is not in the areas of taxation or government spending. Rather, it is the expansion of government regulation of private economic activity which is affecting the citizen in so many important and costly ways. Although not generally appreciated, the process of government regulation generates many of the hidden costs of big government. It is a special source of concern in the present circumstances because excessive government regulation is increasing inflation and unemployment simultaneously.

Fundamental reforms of government regulation will be difficult. They will be opposed by a host of special interest groups, including many that have the conceit of automatically identifying their views as the sole expression of the public or consumer interest. But sensible reforms of government regulation could yield substantial benefits to the consumer, the motorist, the homeowner, the worker, the investor, and the taxpayer. It is the intent of this statement to lay the groundwork for such reform by showing how much is at stake for each of those major sectors of our society. Several initial reforms are suggested, not as panaceas, but as practical means of accelerating the process of constructive change.

THE VARIOUS COSTS OF REGULATION

The impacts of government regulation of business are being felt in every part of the economy:

1. The taxpayer feels the effect. Government regulation literally has become a major growth industry, an industry supported by the taxpayer. The cost of operating federal regulatory agencies is rising more rapidly than the budget as a whole, the population, or the gross national product. Outlays of 41 regulatory agencies are estimated to increase from $2.2 billion in the fiscal year 1974 to $4.8 billion in fiscal 1979, a growth of 115 percent over the five-year period.

2. The motorist feels the effect. Federally-mandated safety and environmental features increase the price of the average passenger car by $666 in 1978. When we consider that about 11 million cars are likely to be sold to Americans this year, that means that compliance with those regulations are costing American consumers $7 billion a year in the form of higher priced cars. In addition, the added weight of the cars is increasing fuel consumption perhaps by about $3 billion dollars annually. Thus, the American motorist is paying in the neighborhood of $10 billion a year to meet federal regulatory requirements in the two areas of environment and safety.

3. The businessman feels the effect. There are over 4,400 different federal forms that the private sector must fill out each year. That takes over 143 million man hours, the economic equivalent of a small army. The Federal Paperwork Commission recently estimated that the total cost of federal paperwork imposed on private industry ranges from $25 billion to $32 billion a year and that "a substantial portion of this cost is unnecessary."

It is hard to believe that most of those reports are even read by anyone in the government before they are filed in some federal storage area. Indeed, cases have been reported of a small company repeatedly sending in nonsense results, without receiving any criticism from the federal agency requiring the information. It is widely known, of course, that the smaller business is hit disproportionately hard by paperwork, as well as by other types of government regulation.

4. The homeowner feels the effect. Regulatory requirements imposed by federal, State, and local governments are adding between $1,500 and $2,500 to the cost of a typical new house. The government-imposed costs range from permit and inspection fees to wider and thicker required streets to time-consuming and excessively detailed environmental impact studies. Using the midpoint of the range of cost estimates ($2,000) and applying it to the two million new homes built in 1977 results in an added cost to the homeowner of $4 billion a year.

5. The consumer feels the effect. The costs of complying with government regulations are inevitably passed on by business to the consumer in the form of higher prices. On the basis of a conservative estimating procedure, the aggregate cost of complying with federal regulation came to $62.9 billion in 1976, or over $300 for each man, woman and child in the United States. The estimated $62.9 billion of costs imposed on the private sector is twenty times the $3.1 billion spent to operate the regulatory agencies in the same year. If we apply the same multiplier of twenty to the amounts budgeted for regulatory activities for more recent years, we can come up with approximations of the private sector's cost of compliance and thus with the total dollar impact of government regulation. On that basis, it can be estimated that the costs arising from government regulation of business (both the expenses of the regulatory agencies themselves as well as the costs they induce in the private sector) totalled $79.1 billion in the fiscal year 1977 and may reach $96.7 billion in the current fiscal year ending September 30, 1978.

On the basis of the federal budget estimate for the fiscal year 1979, the aggregate cost of government regulation may come to $102.7 billion, consisting of $4.8 billion of direct expenses by the federal regulatory agencies and $97.9 billion of costs of compliance on the part of the private sector.

6. The worker feels the effect. Government regulation, albeit unintentionally, can have strongly adverse effects on employment. The minimum wage law has priced hundreds of thousands of people out of labor markets. One increase alone has been shown, on the basis of careful research, to have reduced teenage employment by 225,000, with a disproportionately large impact on nonwhite youngsters, precisely the group reporting the highest unemployment rate. In addition, many industry facilities and entire factories have been closed down—with substantial but unmeasurable effects on employment—because of the high costs of meeting environmental, safety and other regulatory requirements.

7. The investor feels the effect. Approximately $10 billion of new private capital spending is devoted each year to meeting governmentally mandated environmental, safety, and similar regulations rather than being invested in profit-making projects. Edward Denison of the Brookings Institution has estimated that in recent years these

deflections of private investment from productive uses have resulted in a loss of approximately one-fourth of the potential annual increase in productivity. The result is to exacerbate the already strong inflationary pressures in the American economy.

8. The nation as a whole feels the effect of government regulation in a reduced rate of innovation and in many ways. The adverse consequences of government intervention in business decision making range from a slowdown in the availability of new pharmaceutical products to the cancellation of numerous small pension plans. In total, the aggregate response to the proliferation of government regulation is a basic bureaucratization of American business. These undramatic but fundamental effects occur because of the diversion of management attention from traditional product development, production, and marketing efforts designed to provide new and better products and services to meeting governmentally imposed social requirements. It is not inevitable that these various adverse effects flow from every regulatory activity, but it will take serious efforts to avoid or reduce these adverse side-effects.

THE NEED FOR REGULATORY REFORM

There are no simple approaches to reforming government regulation. It surely is not a question of being for or against federal regulation of business. A substantial degree of governmental intervention is to be expected in a complex, modern society. The need, rather, is to identify those sensible changes that can be made in the regulatory process so as to achieve the desired social goals (less pollution, fewer product hazards, etc.) with minimum adverse impacts on other important goals (more jobs, less inflation, etc.).

1. A new way of looking at the effects of regulation is needed for public policymaking. The pertinent question is not whether there are shortcomings in the private sector. Of course, the human beings involved in the operation of the American business system are fallible and the results of their activities do not always conform to the prevailing notions of what is in the public welfare. The serious question is whether, in view of the many goals of our society, government regulation in a particular instance is doing more good than harm.

A parallel can be drawn to macroeconomic matters, where important and at times conflicting objectives and trade-offs are made. Similarly, a cleaner environment is a very important national objective, but surely many sensible trade-offs must be made here, too (e.g., cleaner air versus cleaner water, ecological improvements versus energy conservation, etc.) Thus, the all or nothing approach, zero discharge of pollutants, is not a feasible objective or even a sensible goal to aim at. The same sense of balance is needed in each of the other regulatory programs.

2. An economic impact statement should be required prior to issuing each new regulation. The notion that policymakers should carefully consider the costs and other adverse effects of their actions as well as the benefits is neither new nor revolutionary. The Ford Administration's institution of economic impact statements for new regulations was an important and useful innovation. President Carter has recently made some changes in the procedures, particularly in providing more attention to existing as well as proposed regulations. Unfortunately, the Ford and Carter approaches are not up to the task.

The modest requirements currently imposed on some regulatory agencies need to be given a firm legislative mandate, and to be extended to all regulatory agencies of the federal government. There mere performance of benefit/cost analyses by a reluctant agency is not adequate. The key action needed by the Congress is to pass a law limiting the regulations of all federal agencies to those instances where the total benefits to society exceed the costs. Government regulation should be carried to the point where the added costs equal the added benefits, and no further. Overregulation—which can be defined as regulation for which the costs exceed the benefits—should be avoided. The failure to take those costs into account has resulted in the problem of overregulation that faces the United States today.

The implementation of benefit/cost analyses needs a great deal of attention. An agency not directly involved in regulation—such as the General Accounting Office or the Office of Management and Budget—should set government-wide standards, concepts, and methods of performing economic evaluations of regulations, including the estimation of benefits and costs. The determination of the interest rates to be used in discounting future costs and benefits, for example, should not be a matter left to the judgment of the agency which is attempting to justify its own action.

3. The federal budget process should focus more directly on regulatory activities. Unfortunately, because the requested appropriations for the regulatory agencies are relatively small portions of the government's budget, limited attention has been given to them in the budget preparation and review process. In view of the large costs that they impose on the American public, the appropriation requests of the regulatory agencies deserve far more attention than they are now getting. One possibility for making the regulatory agencies and their budget reviewers more sensitive to the costs being imposed on the public is for Congress to give the regulatory agencies "budgets" of private costs that they can cause to be incurred by their regulations.

Thus, not only would an agency be given a budget of $X million for operating costs, but also a ceiling of $Y billion of social costs that they can impose during the fiscal period. As a start, it would be helpful to include in the Special Analysis volume accompanying the federal budget, a section on the costs of government regulation similar to the existing special analyses on other extra-budgetary activities, notably "federal credit programs" and "tax expenditures." Such a special analysis would be an initial step toward incorporating regulatory costs into the federal government's annual budgetary and program review mechanism.

4. All government regulatory activities should be subject to a sunset mechanism. Each regulatory agency should be reviewed by the Congress periodically to determine whether it is worthwhile to continue it in light of changing circumstances. Many government programs, regulatory or otherwise, tend to prolong their existence far beyond their initial need and justification. In a world of limited resources, the only sensible way to make room for new priorities is periodically to cut back or eliminate older, superseded priorities. In the case of the older, one-industry regulatory agencies, such as the Interstate Commerce Commission and the Civil Aeronautics Board, the sunset mechanism could be an effective way of pursuing a "deregulation" approach.

Very frankly, it may be relatively easy to get the members of the Congress interested in correcting the shortcomings of the federal bureaucracy. Those shortcomings are real and important. Nevertheless, many of the fundamental problems in the regulatory area can be traced back to the legislation enacted by the Congress—the maze of overlapping, conflicting, and excessive regulation. Legislative changes are a key part of any serious regulatory reform effort.

5. Alternatives to regulation should be carefully considered. Government has available various powers other than regulation. Through its taxing authority, government can provide strong signals to the market; pollution control taxation may indeed provide a more effective and less costly mechanism than the existing standards approach in achieving desired ecological objectives. In the case of the traditional one-industry type of regulation of business (as of airlines, trucking, railroads, and natural gas), a greater role should be given to competition and to market forces. The more widespread provision of information to consumers on potential hazards in various products may, in many circumstances, be far more effective than banning specific products or setting standards requiring expensive alterations in existing products. The information approach takes account of the great variety of consumer desires and capabilities.

Surely, as we have found out, it just is not practicable for government to attempt to regulate every facet of private behavior. This statement, however, is not a plea for anarchy. Indeed, it is important that government do well the various important tasks that it undertakes. That makes it essential for the Congress to choose carefully those tasks that it does assign to government.

6. The role and importance of individual decision making should not be ignored. We all need to be cognizant of the fact that the massive extent of federal intervention in the economy—high levels of taxation, expenditures, and regulation—makes it difficult for the private sector to perform its basic functions. In important ways, the major contribution of the Congress could be in the form of reducing those burdens rather than adding to them, albeit with the best of intentions.

## PRIVATE SLOVIK

● Mr. McGOVERN. Mr. President, Pvt. Eddie Slovik was the only member of our Armed Forces executed for desertion during World War II. His widow, Antoinette Slovik, has been denied the proceeds of her husband's national service life insurance policy in spite of the highly unusual circumstances surrounding this case. In an article in Parade magazine, March 26, 1978, William Bradford Huie describes some of those circumstances.

While I do not condone desertion, it appears that the unique nature of this case makes it a matter of simple justice to see that Antoinette Slovik receives a payment of $70,000, which would be equal to the proceeds of the insurance plus interest.

I call my colleagues' attention to Mr. Huie's article and ask that it be printed in the RECORD.

The article follows:

THE UNITED STATES SHOULD PAY PRIVATE SLOVIK'S WIDOW

(By William Bradford Huie)

The proposal, backed by President Carter, that Congress pay Antoinette Slovik $70,000 in lieu of her husband's GI insurance plus interest pleases many Americans and displeases others. As author of the book *The Execution of Private Slovik* [published in 1954] and as one who has lived with this case for 33 years, I think Congress should pay this money, for I believe the execution was a mistake.

The execution was not illegal, for Eddie Slovik had "refused to bear arms in a combat zone," which is a form of desertion. The execution was ordered by General Eisenhower, who hoped he was doing right.

But I don't believe there was any point in shooting a U.S. Army deserter in France as late in the war as 1945. And if one of our thousands of deserters in Europe should have been shot as an example when the war was almost over, Slovik was the wrong one to pick.

The 28th Division's legal officer who approved Slovik's death sentence said to me, "I figured we were getting down close to shooting somebody for desertion. We were at the point where just *sentencing* deserters to death wasn't doing any good. No soldier thinking about deserting feared a death sentence that everybody knew wasn't going to be imposed. To slow the desertion rate, we had to shoot somebody. And I figured if one deserter had to be shot, the United States wouldn't be losing much if it was Slovik. He was weak as dishwater . . . about the nearest thing to nothing you ever saw."

"That's why he should not have been picked as the example," I said. I cited the FBI report on his civilian record which told how Slovik, when he was 12, was hungry in Detroit during the Depression; that he was sent to the Michigan Reformatory for petty theft and kept there for six years, not because he was bad but because of an 'unfavorable situation' existing at his home. Further, on May 30, 1942, he was classified 4–F . . . the Army didn't want him. But later he was reclassified, and the Army inducted him on Jan. 3, 1944, when it was scraping the bottom of the barrel for infantry replacements. He was never in combat. He refused to bear arms before he was put in the line.

"On the other hand," I continued, "we had young officers in France . . . college graduates . . . who, before their own troops, refused orders to lead night patrols and preferred to sit out the war under death sentence in a disciplinary center. If we had to shoot a deserter as an example in 1945, we should have picked a privileged officer, not a 'near nothing' like Slovik."

ORDERED BY IKE

When General Eisenhower decided to have a deserter shot, the Battle of the Bulge was raging, thousands of troops were deserting, and he hoped an execution would slow the desertion rate. He signed Slovik's death warrant on Dec. 23, 1944. But Slovik was not shot until Jan. 31, 1945. By then German resistance had collapsed, our troops were virtually unopposed, and nobody was deserting. On the day Slovik was shot to slow the desertion rate, there was no desertion rate to slow.

When Eisenhower made his decision, he thought the job would be done in a disciplinary center by the hangman who had executed 95 murderers and rapists. But the Standard Operating Procedure, dated 1862, said a deserter must be "shot to death with musketry" at the battle front, by the division he deserted, and there must be many witnesses. Eisenhower had ordered two other deserters to be shot after Slovik. But within minutes after the Slovik execution, officers who had witnessed it telephoned Supreme Headquarters and cried, "It's a mistake! It mustn't be done anymore!"

Eisenhower then canceled his orders to shoot the other two, thereby leaving Slovik in his unique position: the only American serviceman to be shot for desertion since the Civil War.

Slovik's execution was to have been announced to all American troops in Europe. Men thinking of deserting can't be deterred by an execution unless they are told about it. But the only troops who were ever told about Slovik's execution were those in the 109th Infantry Regiment, which was commanded by Lt. Col. James Earl Rudder, who had led the Rangers at Omaha Beach and witnessed Slovik's execution. When Rudder died in 1970, he was a major general and chancellor of Texas A & M University.

Had Rudder been in Eisenhower's place, the first American soldier to desert in Europe would have been shot, and his execution would have been announced to the world. "Then we wouldn't have had those other thousands of deserters," General Rudder said to me in 1954 after he read a proof copy of *The Execution of Private Slovik*.

If the Army didn't consider Slovik's execution a mistake, why didn't they tell his widow about it? Doesn't the next of kin of every American serviceman have the right to know the circumstances of his death? Six weeks after the execution, the Army wired Anne Slovik that her husband had "died" in Europe. That's all the Army ever told her. She never learned the circumstances until 1953, when I told her.

When she received the Army's wire, she naturally assumed that Eddie had died honorably. She so notified the supervisors at the Michigan Reformatory, who placed a gold star at Eddie's name on the institution's list of servicemen. Imagine Anne's humiliation when in 1954 the gold star had to be removed!

If President Carter ever hands Anne Slovik a check for $70,000 before television cameras, I hope that Somewhere Out There beyond the communications satellites, Father Carl Patrick Cummings will know it. He'll praise the Lord for it. When I found him in 1953 at St. Patrick's Church, Nicholson, Pa., and handed him an Army letter allowing him to discuss the Slovik execution with me, he said:

"I've wondered for eight years why I never heard from his widow. After the execution, I wrote her a letter which I thought would comfort her. I told her how Eddie and I spent his last hours together . . . how I gave him letters from her and watched him read them as tears rolled down his cheeks . . . how I heard his last confession and gave him the last rites . . . how I walked with him to the post in that snow . . . how proud I was of the courage with which he met his death . . . and how as the MP put the hood over his head I said to him, "When you get Up there, Eddie, say a little prayer for me.' I wrote all that to Mrs. Slovik, both because I wanted to tell her and because Army regulations required me to tell her. I wonder why she never acknowledged my letter?"

"She never received it, Father," I said. "I saw it last week. For eight years your letter has been buried in the secret Slovik file in the Pentagon."

His shoulders sagged under that blow. "Oh, my God," he sighed. "They had no right to intercept my letter!"

"They were scared," I said. "They had made a mistake, and they were trying to hide it."

"NEVER HAD MUCH CHANCE"

If payment is made, I hope, too, that somehow the late Maj. Gen. Norman D. Cota can hear of it. West Point never graduated a finer soldier than "Dutch" Cota. As commanding officer of the 28th Division, he convened the court that sentenced Slovik, he approved the death sentence, and he presided at the execution.

When I saw him at Bryn Mawr, Pa., in 1953, he said, "I've always been sorry about one thing and glad about another. I'm sorry that the one deserter we shot was a replacement infantryman. I hated our replacement system. Bringing up one man during the night and putting him under fire among strangers! Handled that way, not many men can fight with courage and skill. An American soldier deserves to go under fire with men he has trained with. He deserves to be led by officers he knows and trusts. I'll always be sorry that when we decided to shoot one deserter, we didn't choose a man who had had a better chance. Slovik never had much chance.

"But I've been glad of one thing," General Cota went on. "I had a premonition that the lot might fall on Slovik. If it did, I wanted his wife to get his insurance. I called in the lawyers and told them to change the wording of Solvik's death sentence. And I approved that death sentence only after the lawyer assured me that if Slovik was executed, his wife would get $10,000. I've always been glad I arranged for her to get that money."

"She didn't get it, General," I said.

He was startled. "She didn't?"

"No, sir, she didn't," I replied. "Officers in the Pentagon showed me the unusual wording you insisted on. But that wording didn't accomplish what you thought it would. Knowing that her husband had the insurance, after she was told by the Army that he had died, Anne Slovik wrote to the Veterans Administration. The VA lawyers replied that under the law the VA could not pay the insurance, for her husband's death had been the result of willful disobedience."

"Didn't she get a lawyer to help her?"

"No, sir," I said. "She wanted to keep secret what the VA had told her. She burned the VA letter, told people she had been paid the insurance money, and didn't try any further to collect it. That's the position she had been in for eight years when I found her last week."

"I hate to hear that," General Cota said. It disturbs me."

I then tried to get Congress to pay Anne Slovik $16,000, which would have been the insurance plus interest to 1954. Three U.S. Senators agreed to help: Homer Ferguson and Charles E. Potter of Michigan, and Paul Douglas of Illinois. Senator Potter was important to this effort, for he had lost both legs serving in the 28th Division.

But we failed. All three Senators were informed that our effort would be "an affront to President Eisenhower . . . it would look like you are accusing the President of making a mistake when he ordered that cowardly deserter shot!"

I wanted the story to be filmed, to try to affect far more Americans that I could ever affect with a book. A film producer went with me to the Pentagon. The Army agreed to cooperate in making a film. But the White House sent an officer to California to inform the major studios that a Slovik film would not serve the nation's best interest.

That delayed the film 20 years—until 1974, when a TV production was aired.

Now it's another day, another President, and another effort to persuade Congress to pay Anne Slovik. The cost will be $54,000 higher than it would have been in 1954. Delay is always expensive.

I hope Congress authorizes payment, and that when President Carter pays Anne Slovik the $70,000 he will emphasize that the money is being paid to signify to all mankind that the United States will never execute another criminal because the lot has fallen on him. Therefore, as long as this nation remains free, what happened in the Vosges Mountains in France at 10:05 a.m., Jan. 31, 1945, will not happen again.●

## SOUTH AFRICA

● Mr. GOLDWATER. Mr. President, during my recent visit to South Africa and Southwest Africa, the question I heard as often as any other one concerned the seeming advocacy of the United States of terrorism in the southern parts of Africa. I have no answers for them because, frankly, until I visited that part of the world on this occasion, while I knew trouble was brewing in Rhodesia and trouble was possible in Southwest Africa, I never realized the extent to which the fear had gone that the United States actually, probably

without knowing it, was advocating a state of terror throughout the countries that I have mentioned, and to those you can add Angola. A very good article on this that I know will provoke some controversy appeared in Government Executive magazine entitled "Why Does the U.S. Advocate Terrorism in Southern Africa?" It was written by C. W. Borklund, the publisher. Therefore, I ask that this article be printed in the RECORD following my remarks, and I hope that my colleagues will read it. What we have seemingly lost sight of or at least the State Department has lost sight of, is the disastrous effects of our pulling out of Angola and the subsequent attacks on the Horn of Africa and the mobilization of Cuban troops and Soviet advisers in Mozambique directed, apparently, against Rhodesia.

I would hope that before my Government pursues this disastrous course any further, which seems to me to be guaranteeing Soviet control over the whole of the continent of Africa that they will stop and study what they have been doing and hopefully change their approach.

The article follows:

WHY DOES THE U.S. ADVOCATE TERRORISM IN SOUTHERN AFRICA?

(By C. W. Borklund)

In South Africa, Government-legislated relations among ethnic groups requires some unfair, even atrocious, practices among citizens. That is not, of course, uniquely a South African characteristic. Any time any government anywhere dictates moral behavior, it invariably does an injustice to somebody.

But the unwarranted, even stupid, barriers to a more cohesive, stronger community of peoples in South Africa are being torn down: the political ones according to a seeming "game plan" which, over time, should satisfy the vast majority of whites and non-whites alike; the education and quality-of-life ones as fast as economic growth, largely, will allow.

In short, South Africa is working at least as hard to develop equitable inter-racial relations as the U.S. or any other world nation concerned about such things. That claim may seem incredible to an American public that has been so thoroughly brainwashed by its political leadership and its own gullible Press into believing the opposite, but by any fair comparison the claim is easily documentable nonetheless.

Realities?—Why then is the whole world, it frequently seems, trying to steamroller into subservience—if not annihilation—the present white government in Pretoria? For the political and military stability it brings to an otherwise volatile continent; for its strategic location on the aorta of oil shipments from the Middle East to the U.S. and Europe; for its huge mineral storehouse essential to the running of Western industry, South Africa ought, and wants, to be a close U.S. ally, militarily and economically.

Yet, since President Jimmy Carter pronounced his "Human Rights" campaign a year ago and apparent U.S. leadership stomped it on South Africa as hard as, or harder than, on anyone else, these essential military and economic facts have been ignored. Or have they? Is all this drumbeating over "oppressive violations of human rights" in South Africa really a cover?

"In politics," President Franklin Roosevelt once said, "nothing happens by accident. If it happens, you can be sure somebody meant it to happen that way."

Are the so-called race riots in Soweto, Port Elizabeth, Cape Town and Durban "spontaneous combustion;" or, in fact, carefully orchestrated tactics financed primarily by non-South Africans to gain very material ends of wealth and power? Even though he applies his vaguely defined "human rights" with a capricious inconsistency which undermines the merit of it, Carter may really mean the church-like intent of it. But are those exploiting it more in tune with Roosevelt?

For at least two years (and for some, longer than that) South Africans have been digging below the cover, looking for answers to those questions. The result is, South Africa's leadership has uncovered a complex collection of inter-locking motivations for the "Hate White South Africa" campaign as intricate as the plural society of South Africa, itself—virtually none of them would be laudable to the average American.

Among the ones:

The Organization for African Unity (OAU) member-nations owe the Western world and its banking institutions an estimated $100 billion. "Either this year, or certainly no later than next year," claims one South African, "those black African nations will announce they consider the loans a 'gift' which therefor will not be repaid."

Even the huge U.S. Treasury would shudder over default on a debt that big. The huge size and vulnerability of these "soft" loans is one reason for the dollar's declining value in world markets. The Chase Manhattan, whose boss, David Rockefeller, is also a key figure in the Trilateral Commission (see below), for one, has a big chunk of that weak paper.

And since the loans have not gone for economic development, as intended, but mostly for arms and current expenses; those impoverished countries are generating no dividends to pay even the loan interest—except in Nigeria where Western expertise is helping them pump wealth-producing oil.

Upshot of such a move would be, of course, a fiscal crisis in the West and a socio-economic "crash" at the African end, followed by a trapping of millions of Black people in old-style peasant existence. One alternative: a message to OAU creditors to "help us drive the white out of South Africa so we can take over those rich mines."

Though a black revolutionary's ability to run a mine is highly suspect, "Board members of the largest U.S. banks argue quite cynically," one U.S. banker told *The Citizen*, a South African newspaper, "that they could negotiate far more easily with a weak and possibly corrupt Black government in Pretoria than they can with a strong White one."

Already, Mozambique has claimed, and received from United Nations members, millions in grants to prop up its sinking economy. The trumped-up excuse: the forced closing of Mozambique's border with Rhodesia (a decision Mozambique made unilaterally) is the cause of Mozambique's economic woes. In fact, the cause is governmental incompetence—and the price being extracted from the UN far exceeds any reasonable estimate of what the border closing should have cost in the first place.

Similarly, Lesotho, a Basotho-nation independent "homeland" set up by the British smack in the middle of South Africa in 1964, flummoxed the UN into believing its economic growth had been shattered by the closing of its border with Transkei. (Lesotho, a product of British "Homelands" policy, is recognized by the UN. Transkei, a result of a virtually identical policy fostered by South Africa, is not, because the OAU claims it "perpetuates" the "hatred White apartheid.")

Though all Lesotho's main communications routes and all its foreign trade originates in or comes through South Africa, and not through Transkei at all, and even though 160,000 of its people work in South Africa (compared to 20,000 in Lesotho, itself), the fact is that none of the three border crossings into Transkei ever was closed. (Neither were any of the 33 crossings into South Africa.)

Yet, Lesotho asked the UN for, and received, some $90 million in compensation payments—a figure 30% higher than Lesotho's entire gross national product. A similar raid on world treasuries occurred when Zambia's Rhodesia border was closed. "And it takes no genius to predict more," says one South African, "if the UN agrees to the economic and investment sanctions the OAU wants to see imposed on our country."

According to a South African Schlesbusch Commission report of some three years ago, the American Friends Service Committee (AFSC) has developed a 60-page "Action Guide on South Africa." (This is the same group that battled to kill off the B–1 among other U.S. weapon systems; "has bitterly denounced anti-communism, according to *The Citizen;* urged the U.S. "to get rid of its military establishment"; has received funding support from the Ford and Rockefeller Foundations—in violation of their tax-exempt status—and, says the same source, "believes in One-World government.")

Some 74 organizations have pledged their backing to its "Group Action" master plan to wreck the South African economy. If they succeed even partially, say South Africans, "they will incite black revolution." The U.S. already exports more than $1.4 billion a year to South Africa; is surpassed only by Britain and Japan as a customer; and the 400-plus U.S. firms in South Africa represent 20 percent of all foreign investment in the country.

"Group Action" already has approached more than 1,000 anti-South Africa university, church, labor and community groups. Their plan, in simplest terms: arrange, sponsor and promote trade and sports boycotts; attack banks and finance houses dealing with South Africa; wreck sales of South Africa's Kruger Rand in the U.S.; picket, boycott and intimidate U.S. firms doing business in South Africa.

An anti-South Africa "Liberal-international wing," as The Citizen's Aida Parker calls it, has moved into key posts in the State Department and, now, the White House—more commonly called "The McGovernites" domestically when the subject of SALT talks or U.S. Defense expenditures comes up.

They trace some of their heritage, philosophically at least, to the Trilateral Commission, set up in 1973 by the Council on Foreign Relations (CFR) whose leaders, among its 1,000-plus members, have been called lately "America's invisible government." The Trilateral Commission consists of 80 members each from Western Europe, Japan and North America; hence, its name.

Created, according to intelligence sources, by David Rockefeller and Zbigniew Brzezinski, now Carter's foreign policy advisor, who coached him on the subject for three years ("It was like a private tutorial," says Carter), the Commission keeps a low public profile. But apparently, it is a "New World Order" group. Says one of its pamphlets: to prevent world nuclear and economic chaos, it is necessary to abolish "the narrow dictates of national interests" and create a new "world order."

Among the ways: control the ultimate military weapon, nuclear power, and the ultimate financial one, gold. South Africa is a major world supplier of uranium and the source of two-thirds of all the world's newly mined gold. So, as South Africa sees it, arrayed against her are not only communists and revolutionary terrorists (both black and white) but "One Worlders" as well.

In Washington, alone, according to South African intelligence sources, members of either the Trilateral Commission and/or the CFR read like a "Who's Who." Among the

prominent names: Carter, Vice President Walter Mondale, Brzezinski, State Secretary Cyrus Vance, Defense Secretary Harold Brown, Cabinet Secretaries Blumenthal, Califano and Harris and a batch of second-level State officials including Anthony Lake, director of the State Department Policy Planning staff and Richard Moose, Assistant Secretary of State for African Affairs.

Notes Cas de Villiers in his recent book, *African Problems and Challenges:* "Soviet policy towards Southern Africa is aimed at liquidation of the White governments . . . by toeing the Black nationalism line (and) putting the West in a very delicate dilemma where it can hardly support White governments without being branded allies of the so-called new-colonialist cause.

"Russia cashed in on what is wrongly portrayed as a Black/White power struggle on the sub-continent of Southern Africa, despite the fact that it became very clear in Angola that it is, in essence, a power struggle between moderate pro-Western and radical pro-Marxist elements, sponsored by Russia," and China.

Worse, notes former Secretary of State Henry Kissinger, "the Carter Administration is seeking to encourage the most radical of the terrorists and has no concern whatsoever for the White minorities." The same can be said for a lot of other American-based or American supported groups.

Item: The Lawyers Committee for Civil Rights Under the Law provides funds to pay for defense in almost every major treason and resistance in South African courts. They plunk down as much as a half million dollars a trial, dragging the litigation out because "extensive trials earn extensive publicity," says *The Citizen.*

Their funds, according to Schlebusch, come from the Africa-America Institute, the South African Council of Churches and a London legal firm. The Africa-American Institute (AAI), in turn, receives a lot of funding from the Ford Foundation, which Henry Ford recently left because he said it no longer encouraged the free enterprise goals for which it was founded. The real hooker, of course, is more people will try riskier, illegal things if they know large sums are found for their defense.

Church groups, through the South African Council, among others, have given more than $125 million to African terrorists in the past few years. Red Metrowich, author of *African Survey,* estimates, according to their own numbers, that the World Council of Churches alone sends "60% of the money it receives from Christian worshippers" to finance "those whose political weapon is not the ballot box but the knife, the hand-grenade and the machine gun."

Item: the U.S. State Department has financed a total of four grants, mainly to the Africa-American Institute to train Blacks to take over South African Governmental administration. They also are launching a program to "upgrade professional skills and experience of Black teachers (who) can play a significant role in community organization and social-political awareness." The "Catch-22" is that most applicants have to be approved by a "recognized liberation movement."

One such: Drake Koka, a militant Black trade unionist who fled South Africa after the Soweto riots of 1976: now reportedly has set up in Botswana a channel for Soweto "students" (they run in age about 20–28) to jump across the border and be sent north to such places as Dar es Salaam for training in terrorist tactics. They then try to infiltrate back into South Africa.

Item: Harry Winston, former chairman of the U.S. Communist Party, claims the now-banned (in South Africa) Pan African Congress "was formed in the luxurious offices of the USIS (United States Information Service) in Johannesburg," and Schlebusch says the offices have "frequently been used after hours for duplicating revolutionary pamphlets."

Item: USIS has opened a "library" in Soweto where many of the books, pamphlets, films, meetings and lectures compare the civil rights movement in the U.S. to potential "Black nationalism" moves in South Africa. State also has announced the setting up of four powerful new radio transmitters (television is embryonic in Africa and most Blacks are illiterate) to broadcast "the new U.S. initiative for Black rule on the continent of Africa."

Item: the South Africa Students Organization (SASO), of which the late Steve Biko was a former president, has a charter based entirely on the theories and concepts of Stokely Carmichael and Professor Charles V. Hamilton in their book, *Black Power.* When it fired up riots on U.S. campuses, *Newsweek* compared it to other "manifestoes—such as *Mein Kampf,* Mao's *Thoughts* or those written by Marx and Engels."

The basic theme: *Black Power* advocates must generate black-white polarization "in order to instigate confrontation." It was introduced in South Africa by the University Christian Movement shortly after the burnings started in U.S. universities. (UCM disbanded when SASO started. Most of its funding came from U.S. and European church groups.)

Some of the outfits raising this storm of hate and violence in South Africa are well-remembered by Americans from the 1960's. Among them: the Southern Christian Leadership Conference, Americans for Democratic Action, American Friends Service Committee, and the Ford Foundation—which Paul Pretorius, a former president of the National Union of South Africa Students (another forerunner of SASO), testified "also funded a host of other groups including SASO and the Christian Institute through the International University Exchange Fund in Switzerland."

Others just have new, grand-sounding names such as: the Carnegie Endowment for International Peace, which financed development of an amateur plan for blockade and invasion of South Africa; the Johnson Foundation of Racine, whose "Wingspread" conferences are run for the benefit of anti-South African zealots; the Interfaith Center for Corporate Responsibility; the U.S. Catholic Conference; World Council of Churches to Combat Racism; Task Force on Southern Africa; United People's Campaign Against Apartheid and Racism; World University Service, ACCES (American Coordinating Committee for Equality in Sport); American Society for African Culture; the Christian Institute etc., etc., etc.

Nearly all these outfits, and a few score more, have at least a leftward tilt to them. And a violent "Black liberation movement," whoever instigates it, is precisely what communism, Russian variety, wants. Notes J. A. Du Plessis in a Foreign Affairs Association monograph, *South Africa: The Link of Terror:*

"In fanning the flames of unrest in South Africa, the SACP (South African Communist Party) acts as an external manipulator of the situation, under the guidance of Moscow, relying on its liberation front, the African National Congress (an organization banned in South Africa) to operate the country. Moscow, and unfortunately, many in the Western world who should know better, claim that the ANC is the real representative of the Black peoples of South Africa."

In a trial of 12 persons under the Terrorism Act last year, South Africa's Government lawyers noted, almost in passing, that "the net effect of a successful ANC revolution would be that a white-dominated Russian-Marxist government would replace the present Government."

Noted a London *Times* columnist in May, last year, "While the American administration is painfully learning about the realities of African politics, the Soviet Union is poised to take advantage of every mistake and to exploit every opportunity to expand its influence. As a result, it has to be recognized that the alternative to White minority rule in southern Africa may not be simply Black majority rule—it may well be communist rule as well."

And, to the extent that the U.S. acts by design and not out of ignorance, its actions seems to be predicated on a belief:

A–That revolutionary overthrow of the whites is inevitable;

B–By out-doing Moscow in supporting the revolutionaries, the U.S. aim, when "the inevitable" happens, is to have their friends, not Moscow's, in Pretoria, and elsewhere.

Thus, Andrew Young, U.S. ambassador to the United Nations, apparently with the support of his Government, insists no peace can come to either Rhodesia or South West Africa unless communist-backed terrorists play the lead role in the transition to Black control. In effect, in spite of the fact that whites and moderate blacks (who in both countries represent the overwhelming majority of the people) are reaching agreements on a peaceful transition, of the U.S. continues to fan the flames of war.

Namibia Issue.—Snapped Roelof (Pik) Botha, South African Foreign Minister, in a recent CBS *Face the Nation* interview: By demanding that the present armed forces in the two countries be disarmed and/or incubated, the well-armed terrorists are "not interested in open, fair elections on a one-man, one-vote basis, but want to have (for themselves) an extra reserve of force if they should lose the elections."

The West, specifically the U.S., he added, apparently is backing "a new concept being introduced in international life and that is that the man who carries the gun is entitled to political power."

Demanded Richard Hottelet of CBS News: "Will you go ahead with your plan of moving Namibia (South West Africa) to independence by the end of this year, on your terms, and if you do, are you prepared to take the international consequences?"

Answered Botha, "This decision is for the people of South West Africa, not for us. . . . We are committed to give independence to (Namibia) by the end of the year unless their leaders decide otherwise."

"But is it clear to you," Hottelet persisted, "that if you reject the Western proposals for an internationally accepted formula for this transition, there will be action in the (UN) Security Council to put pressure on you through economic sanctions, through the withdrawal of investments, through the rupture of trade, (actions) which the Western five (U.S., Britain, France, Germany, Canada) are almost certain to join in . . . ?"

Botha: "Yes, Yes. We are aware of that, but my government is not prepared to buy international friendship . . . and the people of South West Africa are not prepared to pay for international recognition by voluntarily destroying themselves." And looking at some aspects of the Western proposal for government transition, he added, "there is a severe, a real danger of those people (in Namibia) being overrun and governed by a Marxist, terrorist organization, without any hope, ever, of one-man, one-vote or freedom of expression."

Yet, Western leadership persists in seeing no viewpoint but their own. And in many respects the threatened sanctions already have started—in violation of U.S. law which requires that such things be approved by the

Congress first. Nor is the U.S. getting a free ride by these State, mostly, unilateral actions.

A radar at the port of Richards Bay goes out for lack of a part which nine months later the British manufacturer still can't seem to find—and coal shipments to Japan and the U.S. have to be cut back.

The U.S. State Department denies an export license for computer software for Silver Mine, a vast underground maritime communications and surveillance center near the Simonstown naval base on the Cape of Good Hope, because "it could have military value." And two huge U.S.-owned oil tankers collide near East London.

And because the U.S. has forbidden U.S. ships using South African ports—a pressure ploy Black Africans view with immense indifference—one tanker has to be towed all the way to Singapore for repairs.

South African miners are considered the most expert in the world, particularly at deep mining. For years, the U.S. Bureau of Mines has been drawing on their research in mine health and safety—except in the last two years their contacts have been cut off.

The reason: under the Freedom of Information Act, some journalist might demand to see copies of the data exchange—and use its release to claim the Bureau of Mines is undermining Administration anti-South Africa policy. How many U.S. miners will pay with their lives for that freeze in communications no one will ever know

State Department is forbidding shipment to South Africa of the most elementary computers the U.S. sends even to Russia and Eastern Europe. Yet, South African weather stations are the best, if not the only, source of computer-analyzed weather data for the South Atlantic and their section of the Indian Ocean. And ship collisions in the South Atlantic are increasing—which means inevitably an increase in insurance rates, operating costs and the prices of the goods those ships carry.

While Russian naval vessels and merchant ships move persistently in rapidly increasing numbers south along the continent, finding friendly ports in Marxist-run countries as they go, the U.S. has been offered—and are refused to accept—use of South Africa's Simonstown naval base for free.

Defense Elements—Though the U.S. Navy doesn't think as highly of Simonstown for a surface fleet as South Africa does, "What it has going for it," says one recently retired Admiral, "is geography. Simonstown is a natural place for Soviet nuclear submarines. So, it is a natural place for U.S. ASW (Anti-Submarine Warfare.)"

In short, Navy non-politicans would like to have an airfield there to handle the operation of *ASW P-3* aircraft—but don't dare ask for it in today's U.S. political climate. They also would like to be able to refuel non-nuclear ships without having to send tankers down there to do it.

En-route refueling adds about two weeks transit time, sea captains say, to "get around the corner" and up to ports on the Persian Gulf. In addition, notes Miami University's Center for Advanced International Studies, the long journey is dangerous for destroyers because by the time they reach Lourenzo Marques they are well below 25 percent fuel capacity—"a low fuel level for a destroyer."

"Rough seas encountered while rounding the Cape could endanger the ship and crew because a ship low on fuel is less stable than a fully fueled one."

What really is at stake, points out Anthony Harrigan of the U.S. Strategic Institute, is not just the sea lanes over which travel most of U.S. and West European oil. "America also obtains many strategic minerals (beryllium, chrome ore, antimony, asbestos, copper, lead, nickel and uranium) from Africa. The U.S. is facing not only an energy but also a mineral crisis. Access to strategic minerals and materials will be an increasingly serious national concern in the latter part of this decade.

"The same situation applies, of course, to our NATO partners . . . the security of Indian Ocean routes is of prime importance to us all." Already, a study group in Britain has warned that country and Europe that they had best start stockpiling those essential minerals and materials on the same presumption as evidently accepted in the U.S. State Department, i.e. that the guerrilla infiltration already going on—as in Vietnam 20 years ago—is only the prelude to the "inevitable" fall of the White regime.

"There seems little doubt," says de Villiers, "that with China and Russia sailing the waters of the Indian Ocean and with apparent Western complacency about Communist power aspirations, tremendous demands will be placed in the near future on the lonely defenders of Western civilization at the southernmost tip of Africa."

Indeed, South African "Think Tanks" are beginning to realize that their strategic military location is their biggest chip in this international poker game. Naively (or maybe not so naively, considering what socialist forces are at work), the U.S. withdrawal of its Naval attache last year from South Africa was its way of saying, "South Africa is not all that important."

"If they (the U.S.) think, in the end, we have to be on their side, they could be mistaken. Since the arms embargo on us justifies it, we could just declare a neutrality policy," says one highly placed South African, "like Sweden or Switzerland. Then the oil routes would be what they really are anyway—a NATO problem."●

## NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

● Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Glen E. Robinson, of California, to be U.S. marshal for the northern district of California for the term of 4 years vice Frank X. Klein, Jr.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Thursday, April 20, 1978, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.●

## NUCLEAR WASTE MANAGEMENT

● Mr. SCHMITT. Mr. President, one subject that has been receiving increasing attention is the issue of nuclear waste management. It is a subject that is seriously impeding the continued growth of the nuclear industry.

Due to the Department of Energy's proposed waste isolation pilot plant, located in Carlsbad, N. Mex., has become a focal point for the nuclear waste issue. The Department of Energy has recommended the WIPP facility would be a pilot repository for "low-level" and transuranic wastes and experimentation with "high-level" wastes, to demonstrate the safe disposal of highly radioactive nuclear wastes.

However, the Department of Energy has changed the scope of WIPP several times. This is creating increasing distrust among the citizens of New Mexico, as well as citizens elsewhere in the country who are looking to New Mexico as a leader in this important issue. In an effort to dissuade the citizens of their fears, the Department is currently holding public hearings in New Mexico of the WIPP project. The first hearing was yesterday in Carlsbad.

Last night's edition of the Washington Star carried a front page article entitled "New Mexico Development Doubts on Nuclear Power." I submit the article for the RECORD.

The article follows:

NEW MEXICO DEVELOPING DOUBTS ON NUCLEAR POWER

(By John J. Fialka)

CARLSBAD, N.M.—A Department of Energy road show whose mission is to remove the mounting political obstacles facing nuclear power has opened here to decidedly mixed reviews.

The mission consists of convincing the citizens of New Mexico—once a vehemently pro-nuclear state—that they should accept the nation's first facility for the permanent storage of long-lived commercial nuclear power plant wastes.

But the star of the show, John O'Leary, the Energy Department's deputy secretary, learned last night that attitudes are changing in New Mexico, especially when it comes to becoming the first custodian of plutonium, uranium and other radioactive waste products that will remain dangerous for tens of thousands of years.

Some 400 people attending a hearing at a motel—the first of three Energy Department hearings in this state on the proposed waste project—were deeply divided on the issue.

Many of the local businessmen and politicians who had once been highly enthusiastic about the proposed $325 million facility were sitting on their hands.

O'Leary, accompanied by a team of other Energy Department officials, pressed the case hard, explaining that the evolving politics of the situation means the long-deferred question of how to deal with nuclear wastes can wait no longer.

California, O'Leary pointed out, recently passed a law that said no further nuclear power plants can be licensed unless a method of permanent disposal of nuclear wastes has been demonstrated. At the moment, it appears New York, Connecticut, Oregon and several other states may soon follow suit.

So in order to preserve nuclear power as an energy option, O'Leary said, the United States must "demonstrate to the whole country that we do know how to deal responsibly with our nuclear wastes."

To accomplish this, the Energy Department is proposing to take a small portion of existing commercial power plant wastes, 1,000 spent nuclear fuel assemblies, and store it in rooms dug out of deep salt beds under barren desert land, 27 miles east of here.

The Government has been interested in the salt deposits since 1972, but until last month the plan had been to use them as an experimental waste storage projects, concentrating on low and intermediate level wastes that would be "retrievable," that is, they could be removed from storage in case of difficulty.

Last month, however, Washington's game plan suddenly changed in a move which seriously disturbed many of the project's strongest political backers.

A team of Energy Department experts led by John Deutch, energy research director, revised a plan for the facility to include the high-level power plant wastes. The new plan also neglected to mention the part about the waste being retrievable.

Angry letters were fired off to Washington. Energy Secretary James Schlesinger attempted to mollify New Mexico's congressional delegation during a closed meeting on the Hill by promising that New Mexico would be given the right to veto the waste facility.

Since the nuclear age began in 1945 in a ball of fire from a secret government facility in a New Mexican desert, the federal government has handled most nuclear decisions by fiat and condemnation of land.

The New Mexico delegation was temporarily stunned by Schlesinger's offer of a veto.

"At first we didn't believe him," said one person who attended the meeting. "Then we got him to go out in the hall afterwards so he would say it to the press."

Yesterday O'Leary brought the message home. "I tell you that we will not go forward with this, even with a license in our hands, if the state of New Mexico doesn't want it to go forward. . . . How you make that decision is your business."

O'Leary also brought along a modification in the Deutch plan: The 1,000 spent fuel assemblies—the quantity of waste generated by approximately seven nuclear power plants in one year—would now be considered retrievable.

In case there were technical problems, O'Leary explained, the government would be able to haul them out during the first years of storage.

Carlsbad's mayor, Walter Gerrells, brightened at that point. However, he stuck by a joint statement prepared by the city, its chamber of commerce and its board of realtors. The statement said that Carlsbad supports the project "as originally proposed," hinting that the city fathers might withdraw their support "if there was any significant deviation.

"Some of our communications from Washington have not been as good as we would have liked," it said.

A State senator, Joseph Gant, said that he, too, had been troubled by the meaning of retrievable. "We need to find the truth on this matter," he said.

The truth, Deutch later explained, was that if there were any technical problems, the metal canisters of spent fuel could be retrieved from the storage rooms 2,600 feet below the surface.

After 15 to 25 years, however, salt would begin to corrode the canisters, he said, and the waste would eventualy fall into the salt, which is believed to be geologically stable.

At that point the government could still retrieve it by mining out contaminated salt, Deutch explained. "Of course, then your costs would go way up," he added.

One local witness at the hearing, Charles Hyder, a geophysicist, scoffed at Deutch's explanation, calling the retrievability statement a "bureaucratic joke." Hyder claimed the spent nuclear fuel could generate so much heat that retrieval might be "impossible."

"If you're going to do tests, why don't you test it with material that isn't so deadly," Hyder asserted.

With few exceptions, the younger witnesses at the hearings, those 40 and under, were opposed to the project, and those who were older were for it.

One of the exceptions was Alfred Schettler, a man in his 60s, who said "at my age I am not worried about 10 or 12 years from now, but I have a son who is 9 years old and I have to be representing him."

Because scientists disagree over the matter, Schettler said, "the only possible solution is to go with the group that says it isn't safe. Then we can still call our area the Land of Enchantment instead of someday possibly calling it the Land of Radiation."

Leonel Ceniceros, a young antipoverty lawyer, put it this way: "They say it's going to be retrievable for 15 years, but that's no time at all compared to 250,000 years."

William Adair Gossett, a former mayor of Carlsbad and a former state civil defense official, cautioned the audience to have faith in government scientists. He recalled witnessing an atomic bomb test in Nevada.

"I saw the heat and later felt the tremors. It did not affect me because I was told that they knew what they were doing."

Gossett told O'Leary: "The majority of the people of this area are not opposed to this project. If you are going to do something, say you are going to do it and they'll accept it."

Ben Alexander, a Hobbs, N.M., businessman agreed: "I think it's necessary that we restore a little of our faith in our government. If the salt beds in New Mexico are the best place to take care of this extreme problem, so be it."

The proposal to use salt beds as the ultimate disposal site for nuclear wastes has had its ups and downs—mostly downs—since the government began working on it 15 years ago.

The old Atomic Energy Commission prepared an abandoned salt mine near Lyons, Kans., for disposal during the late 1960s. In 1972, however, the project was abandoned. At the last minute the government discovered that a series of old, uncharted gas and oil drilling holes perforated the storage area.

Later, the state of Kansas invited the AEC to look for salt beds in another state. Michigan and Louisiana have also rejected proposals to use their salt deposits for waste disposal.

The drilling began near here in 1974, but the original site had to be abandoned after unsuspected pockets of brine and gas were found in supposedly dry, stable salt beds.

A second site was found which the Energy Department believes to be suitable, but two weeks ago another government agency, the U.S. Geological Survey, said that geologists still don't know exactly what would happen in the chemical interaction between the canisters, the waste heat and the salt.

One of the other assumptions the government is making here is that New Mexico will continue to be politically stable when it comes to nuclear projects. But the heat being generated by the proposed project has left many observers wondering whether New Mexico might use its veto.●

## WHY FARMERS ARE ANGRY

● Mr. McGOVERN. Mr. President, for those Members of this body whose constituencies are largely urban, I commend an article from the April 17, 1978, issue of U.S. News & World Report entitled "Why Farmers Are Up in Arms."

I hasten to point out that the article to which I have referred is, in my judgment, very restrained and very objective. Relying on facts rather than rhetoric, the editors point out that in a $124.5 billion home food industry coupled with a $55.5 billion restaurant industry, only a third of the food dollar trickled down to the farmers' pockets.

"Even so," the article states, "farmers are getting most of the blame from housewives as supermarket prices go up—by an unexpected 6 to 8 percent this year."

The truth of the matter is that the middleman gets 63 cents of the food dollar before the supermarket basket reaches the consumer's home. There are few who do not point with either pride or nostalgia to the virtues of the family farm. On the other hand, fewer and fewer Members of the Congress are inclined to support programs designed to aid farmers, as was reflected in the closeness of the most recent vote in this Chamber on this subject.

We are historically a nation of farmers. Though their numbers are now dwindling, the fundamental issue of farming as a foundation of the economy persists.

Mr. President, I ask that the text of the article to which I have referred be printed in the RECORD.

The article follows:

WHY FARMERS ARE UP IN ARMS

America's farm problem is again at the foreground of national concerns—as it has been off and on for the past two centuries.

In the aftermath of their angry demonstrations during the winter months, nearly all farmers again are preparing the soil for crops that will feed the nation. The drought in the West has broken, and most farming regions are enjoying favorable weather.

Spring's arrival, however, has not dulled the frustration that impelled thousands to drive tractors into the heart of metropolitan traffic. pelt Secretary of Agriculture Bob Bergland with eggs and invade the halls of Congess.

They are not excited by Jimmy Carter's March 29 promise of interim aid that would boost farm income by 3 to 4 billion dollars, with growers keeping idle about 25 million acres of wheat, corn, other grains and cotton land this year.

In Congress, a House-Senate conference committee has agreed on an emergency bill guaranteeing higher crop prices for farmers, despite threats of a presidential veto. Details of the proposed legislation appear on page 27.

These responses, politicians hope, will cool rural antagonism by making up some of the losses that farmers incurred in the price downslide in 1976 and 1977. But they fall short of what many farmers want most: legislation guaranteeing them 100 percent parity—a concept aimed at keeping commodity prices commensurate with production costs so that farmers keep their purchasing power at reasonable levels.

Since the beginning of America as a nation, a continuing procession of political leaders and scholars has paid homage to the importance of farmer as the embodiment of national well-being and virtue—even as urbanization eroded his political power and technology brought soaring risks along with bigger profits.

Periodic eruptions. Over a two-century span, the conflict between rural individualism and an urbanizing society has erupted periodically into violence. Debt-ridden Massachusetts farmers in 1786–87 staged Shays' Rebellion. Farm-belt discontent a century ago spawned a Populist revolt against Wall Street interests. In the 1930s Depression, farmers forcibly prevented foreclosure sales and destroyed crops in hopes of bolstering prices.

For all its turbulent history, U.S. farming in 1978 stands at the peak of its productive power—the envy of Soviet planners, the salvation of starving nations and a major export in the fight to curb the nation's rising trade deficit.

One American farmer produces enough food and fiber for 56 other people—more

than double the production power of agriculture in any other country. In no other nation do families spend as little of their disposable income on food as in the United States.

Yet a paradox is building up: Thanks to technology, farmers now are less at the mercy of nature than ever before—but more defenseless against the power and mysteries of international finance, commerce and government. Says Jim Emal, extension agent for Saline County, Nebr.: "Fellows my age, in their 30s, graduated from the universities when they were preaching 'Bigger is better.' Now it takes a quarter to a half-million dollars to start in farming. A 160-acre farmer can't make it."

REVOLUTION ON THE LAND

For farmers, bad times of the present are rooted in the good times of the early 1970s, when a rare combination of big harvests and high prices for U.S. farm products brought prosperity to most of the nation's individual farmers—and riches to some.

Year by year, new farmhouses dotted rural America. New-model tractors and combines rolled out of showrooms onto farmlands; newly affluent farmers snatched up any available land nearby to reap even bigger profits. Many used the inflated value of their land as collateral for rising debts. And thousands of young people deserted urban careers to seek the good and simple life they envisioned in the countryside.

Today, however, life on the farm is neither peaceful nor simple for the 8 million Americans who make their living from the soil. As prices for farm products soar, so do farming's costs. A tractor's cost rose from $14,500 in 1972 to $32,500 three years later. Prices of fuel, seed and fertilizers changed almost weekly—always up. Pacing the inflationary spiral is farmland itself. In the corn belt, for example, land values tripled from an average of $374 per acre in 1970 to $1,072 in 1977. In the wheat-growing areas of the southern Great Plains, land prices doubled during the same period Over all, farmland prices rose 105 percent in the last five years.

Much of the boom was a direct response of farmers to government exhortations for "fencerow to fencerow" plantings at a time of huge markets in a food-hungry world. But farmers complain that the boom in land prices now is being fueled by urban speculators and large agribusiness firms in search of tax shelters and long-term investments—and the still relatively low cost of U.S. farms in attracting more and more foreign investors.

Whatever the cause, the boom collapsed as suddenly as it began. In 1976 and 1977, good crops around the world brought a global surplus of grain. Other nations stopped buying at a time when record harvests were coming off U.S. farms—and prices plummeted. Even last year's drought failed to eat into massive stockpiles.

Commenting on the downturn, an Agriculture Department official says: "Somehow, farmers got sold a bill of goods that $12 [per bushel] soybeans, $6 wheat and $3 corn were going to be a normal thing for farmers. Someone planted the idea there would always be a Mother Russia with perennial crop failures and an inexhaustible capacity to take all the wheat and corn we could raise."

With income down, the farmer's borrowing ability is eroding. Now, farmers are holding huge debts and short tempers. "I'm deeper in debt than I've ever been," laments Harold Tonn, 65, wheat and cattle farmer in Arlington, Kans. "I'm broke. I'm paying interest on interest now."

THE ENDANGERED SPECIES

Investigators find evidence that the bucolic life envisioned by some city dwellers is largely illusionary. Many farmers, in fact, are beginning to see themselves as an endangered species in an increasingly urban nation.

Thousands of farmers annually quit the struggle. The Agriculture Department reports that the number of farms dwindled to 2.75 million in 1977, some 26,000 fewer than the previous year and less than half the 1950 total. Today the U.S., with a population of more than 217 million, has the smallest number of farms since 1870—when the population stood at less than 40 million.

Moreover, latest statistics show that a majority of U.S. farm families earn more money from working at jobs in nearby towns than they do from farming.

Rural America contains more than 50 percent of the nation's substandard housing and 40 percent of its poverty-line families. Education and health-care standards lag behind those in urban areas. Federal statistics show that crime is growing faster in rural areas than in cities.

HEAVY BLACK OUTFLOW

Among those who have deserted the farms in large numbers are blacks. While the South lost nearly 60 percent of its farms between 1945 and 1969, some 87 percent of all nonwhite-operated farms in the South disappeared. The Agriculture Department reports there are about 90,000 black families living on farms today, down from 925,000 in 1920.

Mose Thomas, 60, of Headland, Ala., knows of only three other black farmers in the area. He has watched the exodus all his life. "Public jobs pay pretty good," he says. "Most want to get out of the farm and into the city."

The once-powerful political influence of farmers has dwindled along with their numbers. In the U.S. House of Representatives, according to Bergland, urban congressmen outnumber rural and farm congressmen 400 to 35. In terms of voting power, farmers comprise less than 4 percent of the population, down from 25 percent in 1930.

Just as disturbing to many is the changing way of life on the farm as, year by year, holdings become larger in order to cope with rising production costs.

The number of farms with yearly sales of $100,000 more and increased from 23,000 in 1960 to 155,000 in 1976. Even in hard times such as these, it is not unusual to find grain farmers in the Midwest managing assets worth 1 million dollars and debts up to $300,000.

Too many rules? This trend has transformed farming in most parts of the country into big business, even for many individual owners who must handle many of the same problems that big corporations do: labor shortages and unrest, government red tape and environmental restrictions.

Les Hubbard, a Western Growers Association official, points out that when there is an increase in the cost of labor, taxes, land and water, farmers have to increase efficiency to survive. "To lower the unit cost, you replace people with machines," he said. "A tomato harvester can replace 100 people you need to pick 25 acres, but to use the machine efficiently, you should use it on 125 acres."

The heavy use of equipment has, in many cases, changed the nature of farm labor. "I don't spend too much time in the field," says Max Kellough, a Nebraska farmer. "Instead, I spend more time fixing and repairing equipment."

The more-successful farmers are beginning to make widespread use of computers. Radio networks provide farmers with the latest data on weather conditions, commodity prices and a variety of information from local agricultural extension services and colleges. It is not unusual to see a farmer whip out a pocket calculator and punch in some figures before answering a question.

This spring, the government will test a five-state computer network that allows farmers to dial up from their homes information ranging from weather data to market-price reports and advice on how to fight insects. A similar system already is operating in Nebraska. Making decisions that once were left to intuition and tradition, the computer tells farmers what and when to plant, how much fertilizer and irrigation to apply, and the per-acre cost of production—and analyzes their chances of making a profit. Nebraska farmer Bob Weber says: "Ten years ago, we spent no money on outside advice. This year, we'll spend $7,000 to $10,000 to help us make management decisions. Now I have to have a CPA and lawyers that we didn't need 10 years ago."

Despite its growing technical sophistication, farming remains essentially a family business. Some 95 percent of U.S. farms are family owned and operated. The Department of Agriculture estimates that firms with 10 or more shareholders account for under 3 percent of the total farm sales.

Some of the large companies that entered farming in the 1950's and 1960's—Gates Rubber Company, the Purex Corporation and Ralston Purina Company—have abandoned the business. Nat Scatena, who with his wife and two grown sons farms 1,500 acres near Stockton, Calif., comments: "The efficient family farm can do better than corporations that stack up layers of supervisors with no interest in costs."

SURVIVAL IN THE MASS SOCIETY

Assessing the current mood of farmers, Dick Reynolds, a farm-equipment dealer in Hutchinson, Kans., says: "Farmers feel used. They feel they are victims of the system."

This prevailing attitude is enforced by the nature of today's agriculture. It is a high-risk business. Weather, despite great advances in forecasting, can wipe out a year's work overnight. Insects and crop diseases are constantly mutating into new strains with more resistance to insecticides and pesticides.

Farmers get only a small portion of the profit trickling down from the intricate system that brings food from the fields to the dinner tables of America. Latest statistics show that less than one third of the 180 billion dollars consumers spent for food produced on U.S. farms went to farmers. The rest went to marketing costs—labor, packaging, transportation and corporate profits. In fact, labor costs came to 36 percent of the food bill—nearly 5 percent more than the farmer's share.

Even so, farmers complain, they are getting most of the blame from housewives as supermarket prices go up—by an expected 6 to 8 percent this year.

Key problem confronting officials. As some studies suggest, the basic problem confronting U.S. leaders is this: how to stabilize the farm economy without driving out the individualist who, historically, is the one most willing to cope with farming's risks.

Since the New Deal era, experts say, government action has been mostly of the stopgap variety—often seeming to work against the smaller farmer. Now they are waiting to see if the Carter administration will do any better.

During the past winter, Washington made several moves to alleviate the desperate lot of many farmers—ranging from a boost in dairy and sugar price supports to a reduction in foreclosures against farmers on past-due payments on loans from the Farmers Home Administration.

Over all, the government has paid farmers 1.8 billion dollars in subsidies in the past year in an effort to bolster the agricultural economy.

These measures are furthering the beneficial impact of a five-month upward swing in grain prices and rising receipts for dairy, livestock and pork products. Exports of wheat and corn are rising.

Agriculture Secretary Bergland predicts that net farm income in 1978 could jump as much as 3.5 billion dollars, to 24 billion

dollars—third highest on record. That figure, which is still far below the 30 billion dollars earned in 1973, would go a long way toward easing the financial crunch that now has farmers 119 billion dollars in debt, up 30 percent since 1976.

Given the diversity of American agriculture, the individualism of farmers, the unpredictability of weather and the complex workings of the U.S. economy, the farmers' woes are likely to continue to be a national concern—as they have been since the earliest days of the Republic.

Senator Herman E. Talmadge of Georgia observes: "We were founded as a nation of farmers. It remains true that the welfare of the whole community depends on the welfare of the farmer." ●

## WE'RE HEADED FOR ANOTHER DEPRESSION

● Mr. GOLDWATER. Mr. President, one of the most brilliant men in our country at this particular time in history is Dr. Jay W. Forrester whose writings and thinking cannot help but bring attention to the problems that we face. I have long been interested in his approach by modular computerization to the solving of our problems but, frankly, I was unable to get two former Presidents interested in it but maybe President Carter would pay him the courtesy of inviting him down to discuss his approaches to these problems. He has written an interesting article appearing in the January issue of Fortune magazine entitled it "We're Headed for Another Depression," and I ask that this article be printed in the RECORD.

The article follows:

WE'RE HEADED FOR ANOTHER DEPRESSION

Back in the Twenties, the Rusian economist Nikolai Kondratieff collected and published a set of statistics which seemed to indicate that all capitalist countries were subject to fifty-year cycles of growth and decline. He predicted the Great Depression, but because his long-wave theory suggested that capitalism would bounce back, it was heresy to Marxists, and Kondratieff ended up in Siberia. His theory was little better received in the West. Now, with the world economy recovering rather slowly from a severe recession, Kondratieff is gaining some converts.

One believer is Jay W. Forrester, who invented the random-access magnetic memory for computers and who is into a second career, examining the dynamics of social and economic behavior. A professor of management at the Massachusetts Institute of Technology and a member of the Club of Rome, he developed the computer models used in that now-famous volume, *The Limits to Growth*, and in his own *Urban Dynamics*. More recently, Forrester and his associates have put together a new model of the U.S. economy which suggests, he says, that we have again passed the peak of a "Kondratieff wave" and, if current policies prevail, will probably face a prolonged period of economic doldrums.

It seems rather a big jump from designing computers to disinterring the theory of a defunct Russian economist. How did you happen upon the work of Nikolai Kondratieff?

For the past two decades we have been developing a field called system dynamics using computers to simulate the behavior of complex systems. We found that the interactions between consumer sectors and capital-goods sectors can produce a long fluctuation of economic activity spanning forty-five to sixty years. The behavior was much like that described in the literature for the Kondratieff cycle. The cycle tends to exhibit a long growth phase for some thirty years, a rapid decline in capital spending occurring in a few years, and a decade of stagnation before the next growth phase starts.

The dynamics of the long wave can be seen by starting with the industrial economies in 1945. After the Great Depression and World War II, every aspect of capital plant was inadequate. Consumer durables, housing, office buildings, factories, transportation systems, and schools were old and inadequate. To rebuild the depleted capital stock in a short time, like twenty years, construction rose to a rate higher than would be needed in the long run to compensate for physical depreciation. And when adequate capital plant had been created, a time that may have occurred in the 1960's, tremendous forces persisted to sustain the process of capital accumulation. The result has been an unbalancing of the system, with too much capital and too much debt. Eventually, momentum falters as capital plant becomes more and more excessive. It is probable that enough capital plant now exists to sustain output for at least a decade with little additional investment.

But many people think that we have not an excess of capital but rather a capital shortage right now. How does this square with your notion that we are well on the road to 1929?

Those who see a capital shortage are looking at a few special industries or are simply extrapolating attitudes of the last three decades about growth in capital plant. I don't share the widespread expectation that the resumption of business investment will solve the existing economic problems. The current slowdown in investment is attributed by many to a lack of confidence. But that lack of confidence is produced by the underlying facts. Return on gross investment has been declining for the past decade and there is no longer a significant risk premium for investment. And as you look around the economy, there is a strong tendency toward excess capacity; you see it in office buildings, in the steel industry, and in airline seats. New tankers have been coming out of the shipyards and going immediately into lay-up. College graduates, who represent investment in human capital, find it increasingly difficult to get jobs.

You are aware, of course, that most academic economists don't give much credence to Kondratieff's theory.

Most academic economists still think only in terms of the short-run business cycle, to which they attribute almost all variations in economic behavior. This is perhaps natural. Business cycles are familiar; most people have experienced several, and changes during the business cycle occur fast enough to be readily observed. But familiarity is not equivalent to importance. As the business community and governmental authorities become more interested in the long-wave phenomena and as the evidence becomes more clear, I think economists will take the existence of a Kondratieff wave more seriously. Also, as we develop a theory of how the long wave is generated, evidence from real life becomes more understandable and persuasive.

Are you predicting then that the world is about to tumble into a 1930's-style depression?

Not necessarily. As we see it, the most basic characteristic of the long wave is a process in which the capital-goods sectors grow to a size that cannot be sustained and then collapse. But collapse does not always take the same form.

What actually happens depends on how the country reacts. I don't see the outcome as necessarily disastrous. It need not even reduce our standard of living if we understand the process and learn to encourage necessary changes rather than stand against them until the economy develops great internal stress. But if government actions are counterproductive, as I think has often been the case in the past, then the down phase will be one much like the Thirties—a time of great economic and social distress.

I think it is likely that the classical levers of monetary and fiscal policy are unable to deal with the kind of unemployment that comes from long-wave behavior. One might be able to sustain a peak period of production for two or three additional years by forceful use of monetary and fiscal mechanisms, but the result will only be a steeper drop when the inherent pressures accumulate. So the real trade-off of activist policies will not be between unemployment and inflation but between temporary and long-range solutions.

If you can't reduce unemployment by conventional economic policies, what can you do?

The most fruitful policies would probably be in the area of manpower allocation. We are beginning to examine alternative policies with respect to how people can be encouraged rather than inhibited in moving to sectors where there can be economic opportunity. People who are becoming unemployed in the capital-goods sectors probably cannot remain effectively employed in those sectors. If the country tries to solve such long-term unemployment through unemployment compensation and welfare, it will trap a whole generation of people as wards of the state.

The long wave is clearly coupled with major changes in technology. A unique technological infrastructure goes with each succeeding wave. For example, the infrastructure that supported railroads was incompatible with the one that grew up around airplanes. It is not possible to change that social and economic infrastructure quickly.

Historically, the down-slope of a Kondratieff wave has been a period in which the economy extracts itself from the old technology by using up the old capital plant, while the up-slope has been a period of rebuilding along new technological lines. The social and economic policies that will help alleviate the distress of the downturn might be ones that start the rebuilding earlier than would happen naturally.

For example, the kind of issue that now arises can be seen in the debate on energy. For several years there has been a controversy about whether or not a new energy system could be built without robbing capital-creating capacity needed by industry. One of the arguments against aggressive construction of a new kind of energy-producing system was that the economy cannot produce the necessary capital plant. But the concern is groundless if the capital sectors are no longer needed for the present industrial infrastructure.

So we face a major policy dichotomy: Does the government support those who are becoming unemployed in the capital sectors with welfare and unemployment compensation, or does it do what is done in wartime and redirect that capital-producing capability into an area that we are going to need in the future?

Does your theory have any message for corporate managers?

Those managers that still have room to maneuver should be reducing indebtedness and putting themselves in a position where they have future flexibility. Capital-goods producers in particular have a problem of deciding where they are going to go in the near future. Simply trying to hold on to a situation that is no longer viable may well be a losing battle. Rather than trying to simply perpetuate the past, they should look twenty years ahead and see the kind of economic activity into which they could fit; they should try to lay the groundwork for a future compatible with the next long wave

of capital creation and the new technological infrastructure that replaces the present one.

For example, General Motors went into the development of diesel locomotives around 1930, an investment that did not begin to pay off until after the Depression. One must look for a degree of innovation comparable to the development of television when radio was the major source of entertainment, or the development of the airplane when railroads were still the most important means of transportation. Those who correctly look across into the next technological upswing will be the ones who lay the foundations for success. Those who look across incorrectly and back the wrong vision of the future will be in difficulty.

The pressures are going to make people feel that they have short-range problems that must be solved immediately, when the real message is that they should take a long-range view.

Do you have any idea of the technological basis for the next major wave?

I am no more sure of the shape of the next technological wave than other people. I expect that energy will move toward renewable and more decentralized sources, not only because of the nature of new energy sources, but because of changes in our social system. If our society goes to still bigger and more centralized energy sources, as we have been doing in the past, we will produce a more and more vulnerable socioeconomic system. I expect that declining worldwide political stability with increasing unrest and sabotage will combine with the persuasiveness of decentralized energy sources—like solar and wind power and alcohol from farm products—to encourage decentralization. Energy networks with larger power plants are not, I think, the wave of the future.

Likewise, I believe we are at the end of the pendulum swing toward a tightly integrated world economy. Many stresses are now arising from excessive international coupling. Countries will realize that they can't solve all their problems outside their borders. Hence, the natural drift of political forces will be toward more economic nationalism. Now that is not necessarily bad. It will bring problems down to a more manageable scale. If individual countries can't understand and manage their economies, I doubt the likelihood of managing all countries simultaneously.

If the industrialized countries enter a decade of economic weakness, what will be the political effects? The Thirties, after all, were a period of great instability.

If the country moves into a major economic dislocation without public understanding of why problems are occurring, there may well follow a breakdown of political stability. A succession of progressively deeper recessions could lead to even greater mutual accusations between government, business, and the public. Actually, no one group is causing the problems. The stresses arise from how the socioecoonmic system has been functioning. Every segment of society has had a hand in creating that system. The group here at M.I.T. working on the System Dynamics National Model hopes to contribute thoughts and suggested alternative policies.

In reality, much conflict between the interests of different groups arises from misunderstanding. There is every reason for government, corporations, and labor to move in the same direction. But this requires a public grasp of the real nature of our economic distress. Rather than battles over ideologies and interests, what we need is a constituency for the future. ●

## THE FARM CRISIS

● Mr. McGOVERN. Mr. President, newspapers in the farm community have commented in varying ways and in varying attitudes toward the current farm crisis. One paper in my State, the Aberdeen American News on March 24, 1978, published a penetrating commentary on both the Senate-passed bill and the general economic position of the Nation's farmers.

Mr. President, I ask that the editorial, entitled "Senate Action on Farm Bill Gives Recognition to the Plight of Agriculture" be printed in the RECORD.

The editorial follows:

SENATE ACTION ON FARM BILL GIVES RECOGNITION TO PLIGHT OF AGRICULTURE

The observance of American Agriculture Day, earlier this week, attracted a great deal of attention, as it should .

South Dakota, which relies on farming and ranching for the major share of its economic livelihood, never underestimates the importance of agriculture.

People of this state have been joining with others in effectively describing the plight of farmers because of low prices for their crops at a time when production costs are rising drastically. They are encouraged that during the week in which American Agriculture Day was observed national interest was focused on agricultural problems by congressional action on an emergency farm bill.

What will become of the Senate-passed package of income-increasing measures to benefit farmers remains to be seen. The House will not act upon the farm bill until after the Easter recess of the Congress.

But the Senate's concession by a 67 to 26 vote that more generous government aid should be considered as a means of easing the farm problem is significant.

Obtaining national recognition of the farm problem, as the Senate vote succeeded in doing, is a necessary step toward remedying the problem.

The cost-price squeeze that is threatening some farmers with growing indebtedness if not bankruptcy is not generally of their own making. Many farmers willing or not, are the victims of government agriculture programs that have been badly blotched. Blaming the government for getting them into the present unprofitable situation, they are appealing to the government to guide them toward recovery of their losses.

The U.S. News & World Report commented appropriately:

"There must be something wrong with a system in which the prime producer's take goes down below cost while everybody else's goes up. The farmers have been the only people in the food-supply chain with no control over how much pay or profit they will work for.

"Up to now, we have taken the farmers for granted, and it has always seemed that they took themselves that way too. They have stood proudly individual and self-sufficient, in the role of Jefferson conceived for them nearly 200 years ago—the pillars of a free nation.

"Now the nation has changed. The farmers can no longer afford to take themselves for granted—nor will they let the rest of us do so. Like so many other self-interest groups, 'they have found out how the machine works.' "

The multibillion-dollar farm bill passed by the Senate may not be the solution to current farm ills but it puts some startling facts before the public.

Members of the U.S. Senate and U.S. House are faced with a challenge. The farm problem is real. ●

## THE PANAMA CANAL TREATY

● Mr. LUGAR. Mr. President, as the Senate debates the Panama Canal Treaty, I would like to call to the attention of my colleagues a concise, well-reasoned analysis offered by Lynton K. Caldwell, Bentley professor of political science at Indiana University. I believe that Professor Caldwell has made a significant contribution to the national dialog on this issue, and I ask that his statement be printed in the RECORD.

The statement follows:

SOME OBSERVATIONS ON THE PANAMA CANAL TREATIES

(By Lynton K. Caldwell)

The Panama Treaties now pending in Washington offer a lesson in how not to conduct foreign policy. Little good may be expected from whatever action is taken in the Congress. Changes in existing arrangements for the Panama Canal may have been overdue, but the proposed treaties, as negotiated by the State Department, have created a situation that is divisive at home and dangerous abroad. It is, moreover, a sheer act of faith to believe that the proposed treaties will accomplish their alleged purpose or that violence will be avoided, or that the Canal will be better protected by an American withdrawal from Panama.

Three courses of action are open to the United States Senate when it considers the treaties. It may ratify, reject, or require revision. Ratification of substantially the present text appears to be the only alternative acceptable to Panamanian Supreme Leader, General Omar Torrijos. The constitutional obligation of the U.S. President to seek the advice and consent of the Senate has been perverted (as on other occasions in the past) to lining up votes for ratification. Neither the Nation nor the Congress have been prepared during the years of negotiation to consider the issues at stake, nor to form independent judgments as to ways in which national interests in the Canal might best be served.

Whatever the merits of the treaties, the arguments for their ratification as advanced by the State Department and its supporters have been less than candid. There is only one valid argument for turning the canal over to Panama: continuing American presence can only be maintained by military force at an unacceptable cost in lives, dollars, and in ill-will against the United States. All other arguments are "window-dressing" and some—such as "seven Presidents have favored a new treaty with Panama"—are irrelevant to the present issue.

Many of the arguments for the treaties are misleading to the point of dishonesty. For example the Canal has been described as "obsolete," although more than 90 percent of world shipping can pass through it. There is in fact, a continuous flow of traffic through the Canal, but we are told that most of it is under foreign flags, little of it in American carriers. Yet this argument fails to note that American shipping is in any case a minor factor in world commerce, or in the flow of goods to and from the United States. Should the political authority controlling the Canal impede the passage of shipments to and from the United States, it would matter little what flag the goods were carried. Moreover, the controllers of the Canal could deny shipping to and from countries whose governments they wished to subvert. For example, a Marxist government in Panama might exercise its sovereign right to hinder passage through the Canal to anti-communist or non-communist governments—for example to Chile or Venezuela.

The argument that supertankers and the largest aircraft carriers cannot use the Canal is likewise misleading. The main routes for oil-carrying supertankers are *not* through the Canal, nor would they be even though the Canal could accommodate them. Oil from the

Middle East is carried to Europe, North America and Japan over more direct routes. If the largest aircraft carriers cannot pass through the Canal, and do not need to, there are many other naval craft that could. And who can assess the probability that they would never need to?

Military testimony regarding the defense of the Canal may puzzle Americans who forget that the President is Commander-in-Chief of the armed forces and that the Chiefs-of-Staff and active officers generally carry out the policies of their Commander. Retired officers may express independent opinions. But surely Americans are entitled to be puzzled by assertions that the Canal either could not be defended, or defended only at an unacceptable price while American forces control the Canal Zone, yet could be defended by the United States with American forces withdrawn and the Panamanians in control. Treaty advocates warn of another Vietnam should the United States attempt to remain in Panama. But this analogy is upside-down. Americans now control the terrain and if they could not hold it against whatever subversion or violence might be attempted against them, what confidence could be placed in American defense capabilities anywhere? How could we expect American military presence to be more effective elsewhere in the world? For example, how much faith could be placed in an American promise to guarantee a peace treaty in the Middle East, if our Nation appeared unable to or unwilling to defend its lawful and fortified position in the Canal Zone?

The most misleading argument on behalf of the treaties is that they appear to "guarantee" the right of the United States to use military forces to maintain right of access to the Canal, should that right be threatened in the future. Affirmation of this "right" by General Torrijos is a condition that some senators have set for their vote to ratify. But their constituents may be pardoned the suspicion that these Senators could be trying to simultaneously guard both their political fronts and rears—to have an alibi whatever the outcome in Panama. Should they vote to reject, they may be blamed if American lives are lost in defense of the Canal. Should they vote to ratify without "guarantee" they could be held at fault if a future regime in Panama obstructs American interests in the Canal. Except, of course, if the "guarantees" were known to be of such doubtful value as to be worthless, the Senators would have taken advantage of the proverbial naiveté of the American people regarding the promises of political leaders, foreign as well as domestic.

Three considerations bring any so-called "guarantee" into question. First, as a practical matter, General Torrijos cannot bind his successors, whatever the status of the treaties under international law. Second, once American withdrawal is well underway and American opinion resigned to departing from Panama, Panama could denounce the treaty as having been made under duress. General Torrijos has declared that Panama has made a great sacrifice in tolerating a gradual American withdrawal and in acknowledging any continuing American right to modify in any way the soverign control of Panama over the Canal. Third, the treaties promise that the United States will not intervene in the internal affairs of Panama. But once the Canal is firmly under Panamanian control what action could the United States take in relation to Panama, or the Canal, that could not be construed as intervention? For once the Canal is wholly Panamanian, does not any American intrusion in defense of the Canal, unless requested by Panama, become intervention in its internal affairs?

Persons who argue that to "return" the Canal to Panama is wise and mature statesmanship might appropriately be asked to assess the historical record of wisdom, maturity or stability of Panamanian governments. How reasonable is the prospect that Panama would or could honor its treaty commitments? In theory, Panama should be able to manage the technical operation of the Canal. In fact, General Torrijos has promised Panamanians three jobs for every job now held by a gringo. The Canal could easily become Panama's principal welfare project, with jobs being bought at the price of loyalty to the Supreme Leader. But optimists argue that responsibility for the Canal would induce responsibility in Panamanian politics—that the Canal, being Panama's greatest economic asset, would hardly be mismanaged by Panamanian governments.

There are at least three reasons for doubt that Panama could be counted upon to manage the Canal efficiently, even in its own interest. First is the pressure already noted, to make the Canal a sink for unemployed and largely unskilled Panamanian labor. The excessive birth rate in Panama relative to its resources creates a continuous and mounting pressure on Panamanian politicians, and explains in large measure their efforts to divert popular discontent to hatred of the gringo, along with their anxiety to obtain control of the Canal and the Canal Zone. One needs only compare conditions within and outside the Canal Zone to understand why General Torrijos cannot afford to wait twenty-two years to oust the Americans. But Panamanian poverty and fecundity may easily expand to fully occupy the Canal Zone—and what then?

A second consideration clouding the prospect for efficient Panamanian management is the "pot of gold" that the Canal would represent. Treaty proponents regard the Canal as economically unimportant to the United States. But what a prize and power-base for politics in Panama! Control of the Canal—its jobs and its revenues—would mean absolute control of Panama. Would such a temptation make for sober, business-like responsibility, or would it become the object of subversion, intrigue, and violence—possibly at the expense of the safety and economy of Canal operations.

And third would be a temptation, not confined to Panama. With the American pressure removed, other political interests would gain opportunities hitherto unavailable. Other Latin American states with ideological or economic interests in the Canal would almost certainly have a new stake in Panamanian politics. For example, Panama was formerly Colombian territory, and the Canal is a major avenue for communication between Colombia's Atlantic and Pacific ports. Even more hazardous to international relations would be the temptation which an unstable Panama would open to adversaries of the United States. A sovereign Panama would have the right to bring in whatever technical experts it pleased to help run the Canal. These could be Cuban, East German, or Soviet—and their peaceful presence in Panama would be none of the business of the United States. They might be more acceptable to Panama than a return of gringos for whom Torrijos has cultivated a contempt among his followers.

Finally, the argument that all Latin America and the Third World resents American "imperialism" and "colonialism" in Panama is not necessarily persuasive even if it should be true [which is debatable]. Should Americans retain control over the Canal, even with Panamanian consent, the United States could be attacked in leftist and extremist nationalist presses everywhere. Resolutions against the United States would doubtless be passed by overwhelming majorities in the General Assembly of the United Nations—most of whose members are nations only by international courtesy. But would anyone love the Americans more if they voluntarily relinquished the Canal? It is easy to generalize about public opinion where little is, in fact, known about it. Whatever their private convictions, Latin American statesmen are not likely to publicly approve a United States presence in Panama. It would, however, be a misreading of Latin American politics to believe that all Latin American people or their leaders do, in fact, want to see the United States turn over the Canal to Panama. Were the Canal to be administered by the Organization of American States, or even by the United Nations Security Council, an American withdrawal might be viewed with great equanimity.

America may like to think that "world opinion" (certainly an abstraction) will admire the generous and magnanimous act of a great power turning over the Canal, which has symbolized national pride in achievement, to a poor small neighbor. World opinion, however, may as easily interpret the gesture as an act of resignation and a failure of nerve—particularly in the face of the threats and boasts of Panama's Supreme Leader, General Torrijos. And would "world opinion" support an American attempt to return to Panama by force, should American security be threatened there?

Short of relinquishing American control over the Canal and the Canal Zone, much might have been done to have accommodated Panamanian sensitivities regarding the American presence. Ultimately, however, the insecurity and cupidity of Panamanian politicians would have demanded a complete ouster of Americans. At this point, a showdown might not have been avoidable. Perhaps a firm American posture along with sympathetic consideration of Panama's real needs could have over a period of time, brought Panamanians to a more realistic assessment of alternative futures. Unfortunately for everyone, the State Department's negotiators have now all but foreclosed this option.

It appears that unless the United States is "guaranteed" the legal right to defend the Canal, the pending treaties cannot win Senate approval. But should the United States agree to relinquish the Canal Zone and the Canal to Panama, it should be understood by Americans that they must, if need be, get along without the Canal in the future. The United States cannot go back without bringing about all and more of the disasters now predicted by treaty supporters should the treaties be rejected. And yet the United States cannot relinquish its claim to lawful intervention without openly inviting the indefinitely expanding influence of Cuba, the Soviet Union, or other adversaries into Panamanian affairs.

It may or may not be too late to make a better treaty with Panama. But it is not too late to prevent the State Department, on behalf of the President, from negotiating the Nation in the future into positions that its Congress and its people neither understand nor approve, and in a less tolerant age could have been regarded as treasonable. If the advice and consent of the Senate to treaties can be no more than a mere figure of speech, then perhaps a reexamination of the Presidential power to negotiate treaties is in order if treaties are to remain the supreme law of the land and if the American people are to act responsibly even though they may never be truly self-governing in relation to foreign affairs.●

## COMMISSIONER JOHN R. LARSON ON COMMODITIES MARKETS REGULATIONS

● Mr. ANDERSON. Mr. President, while I was Governor of Minnesota, I had the good fortune to appoint John R. Larson to the post of Commissioner of Securities.

Before his appointment, John Larson

had earned a reputation as a young, able attorney. Since assuming responsibilities as Commissioner of Securities, he has gained nationwide recognition for his knowledgeable assessment of securities matters.

On March 20, 1978, Commissioner Larson testified before the Agricultural Research and General Legislation Subcommittee of the Senate Committee on Agriculture, Nutrition, and Forestry. In his testimony, the commissioner discussed the Commodity Futures Trading Commission, its exclusive jurisdiction to regulate commodities markets, and the impact of the exclusive jurisdiction upon the public.

Mr. President, in order that my colleagues may benefit from John Larson's keen insight into the problems of commodities markets regulation, I submit for the RECORD the text of his testimony before the subcommittee.

The material follows:

STATEMENT OF JOHN R. LARSON

Thank you for the opportunity to be here today to discuss with you the performance of the Commodity Futures Trading Commission since its inception on April 21, 1975. I should point out that I have worked with the CFTC and followed closely their performance since their inception on April 21, 1975. I have done so in three different capacities: first as Commissioner of Securities for the State of Minnesota; second as Chairman of the North American Securities Administrators Association's Liaison Committee with the Commodity Futures Trading Commission; and also as a member of the CFTC's Advisory Committee on state regulation.

At the time Congress adopted the Commodity Futures Trading Commission Act of 1974, it was noted by Senator Herman E. Talmadge that:

"The act is designed to insure fair practices and honest dealings in the commodity exchanges and to provide a measure of control over those forms of speculative activity which often demoralize the markets to the injury of producers, consumers and the exchanges themselves. The fact that an independent regulatory commission will now regulate trading in existing futures contracts as well as any new futures trading contracts makes the law a matter of concern and interest not only to farmers, members of exchanges, attorneys, and investors, but to all consumers."

Not only did the Act establish an independent regulatory agency to oversee the commodity markets, but it granted such agency the authority to regulate the area exclusively. Such jurisdiction has been upheld in a number of court decisions which precluded the application of state securities laws to any transactions involving commodities. It is the nature of this exclusive jurisdiction, and the impact upon the public, that I wish to address today.

At the present time the total complement of the CFTC staff is approximately 460 persons. This is to regulate an industry which trades in excess of $1.2 trillion worth of commodities annually. A recent report by the CFTC to Congress dated January 20, 1978 indicates that there were 98 persons involved in the activity of enforcement during 1977. The question that must be asked is whether that number of people are able to effectively carry out the enforcement activities over a $1.2 trillion industry?

The Securities and Exchange Commission on the other hand has approximately 2,000 people on staff to regulate an industry smaller than the commodities industry. The various state securities administrators offices have an additional 1,500 to 1,700 people in securities regulation. In addition, the National Association of Securities Dealers has a substantial staff directed at many regulatory activities over the securities industry. Just from looking at the numbers it would appear that a comment made recently at public hearings in Boston concerning commodity options was accurate. The comment noted that "the police force was cut from fifty to one in the middle of the crime wave, and the only cop (CFTC) had no staff, no expertise and no regulations." The disaster that followed was predictable.

It should be apparent to everyone that the CFTC is not equipped to adequately regulate the commodities industry. But the state securities administrators are effectively precluded from assisting the CFTC in protecting the public. The CFTC has argued that the state attorney general can file an action based on the concept of *parens patriae* or can bring an action under general state anti-fraud statutes. There have been occasions when such enforcement activity have been used, the most notably were the actions by the states of Michigan and Massachusetts against Lloyd Carr and Co., Inc. The problem with such actions is that they are often slow processes or that the remedy does not address the wrong.

The concern of state securities administrators is the fact that state securities anti-fraud provisions are not available for the protection of the public. It seems inconsistent that one anti-fraud provision is available to address an investment fraud when another, and more appropriate, anti-fraud provision is not.

Over the years the state securities administrators have developed an expertise in many different types of investment schemes, some of which are fraudulent. Often the fraudulent investment scheme is similar with just the underlying product or object varying. For example, broiler room selling techniques similar to those used by Lloyd Carr and Company were used previously in selling coal syndications, interests in oil and gas offerings, and other securities. The method of investigating such activities is the same and the securities administrators provide that service at the state level.

Once a fraudulent investment scheme is discovered and investigated, the case is handled pursuant to the states administrative procedures act, or referred to the Attorney General or District Attorney for prosecution. In the latter cases our office must educate the attorney who is bringing the case. Typically the Attorney General or the District Attorney do not receive complaints, do not investigate such activities and are only familiar with the case prior to the law suit. The effect of the CFTC's exclusive jurisdiction, therefore, is to remove from protecting the public some of the people who are most familiar with fraudulent investment schemes.

At this point, I should note that I and all members of the North American Securities Administrators Association are supportive of the desire to eliminate duplicative and unnecessary regulation. To the extent that the CFTC has exclusive jurisdiction over commodities markets and the registration of persons engaged in the commodities business we have no quarrel, nor desire to regulate. We are committed to working with the CFTC, at whatever level it chooses, in establishing the regulatory framework for the commodities industry.

It is noted that CFTC Chairman William T. Bagley, in his letter of January 23, 1978 to the Honorable Jamie L. Whitten concerning the CFTC, cited some of their accomplishments by stating:

". . . the futures markets have grown and prospered as the Commision gave their new protective strength by requiring uniform exchange records and procedures; we have established an awareness that the exchanges are a public, not a private marketplace; we have imposed new economic tests to assure viability, and we have improved the spirit and the fact, of self-regulation by encouraging affirmative action in rule enforcement by responsible and independent exchange employees."

We support the CFTC in these accomplishments, but must point out that enforcement of the law and the rules is not cited as an accomplishment. In fact, Chairman Bagley admitted to the House Subcommittee that the CFTC's enforcement record "can hardly be described as successful".

Let us look at the aspect of commodities regulation that involves specific enforcement activities within the total regulatory framework. Let us address the issue of how the public will be protected from unscrupulous individuals engaging in fraudulent commodities investment schemes.

In testimony before Congress last year, Chairman Bagley stated that there were 29 attorneys and 25 investigators in the enforcement division. He noted that during the major potato default case of May 1976, 30 percent of the enforcement staff was occupied so that significant cases involving churning of customer accounts, prearranged and phoney trades, and other irregularities had to be dropped or put aside. In such a situation where the CFTC lacks adequate resources, they must make decisions concerning priorities and concerning which cases are most important. The effect of such decisions, coupled with exclusive jurisdiction, means that many unscrupulous operators and fraudulent schemes go unaddressed.

In a recent case in Arkansas, the Securities Commissioner brought an action against a commodities option dealer alleging "boiler room" selling tactics and making false and deceptive statements. An injunction was obtained in the Chancery Court and the decision was appealed to the Arkansas Supreme Court. At that point the CFTC filed an amicus brief on behalf of the commodities dealer noting that they had exclusive jurisdiction and the Arkansas Securities administrator lacked standing to obtain the injunction. The Arkansas Supreme Court upheld that position and dismissed the injunction on October 3, 1977. Without ever getting to the merits whether this company was engaging in fraudulent selling practices, the CFTC's action allowed this company to get back into business. Since that decision there has not been an enforcement action brought against this operator by any other agency, including the CFTC. One has to question if the public is being adequately protected in that case.

In mid 1976, the activities of an individual in Minnesota came to the attention of my office. We conducted an investigation and determined that this individual was engaged in fraudulent activities concerning commodities transactions. Recognizing the exclusive jurisdiction vested in the CFTC, we turned the entire file over to the Commission. By a letter dated September 1, 1976 I received notice from the Regional Counsel, Division of Enforcement for the CFTC concerning this matter with the letter stating in part:

"As Mr. Tyler indicated during that conversation, our staff believes that the matter of Jerry LaFavre and Interstate Marketing Associates should, more appropriately, be handled by either state or local authorities; therefore, we are referring it to you for appropriate disposition. We would appreciate being informed of the ultimate resolution of the case." (Emphasis added)

We were somewhat confused by this letter in light of the exclusive jurisdictional language of the Federal law. But since this matter was referred to us for appropriate disposition we commenced criminal proceed-

ings against Mr. LaFavre based on a violation of Minnesota Securities Law. Mr. LaFavre subsequently pled guilty to securities fraud and was sentenced to five years in prison. In handing down this sentence, the Judge indicated that LaFavre's actions "could be characterized in one word—deceit . . . I would have imposed a greater sentence if the law would have allowed me".

It was apparent to us that the Jerry LaFavre matter which involved only $31,000 in public losses, was too small for the CFTC to get involved with. Obviously it was not small to us nor to the people who lost the money.

A federal agency, such as the CFTC, has resources which are superior to state resources in certain large, complicated enforcement actions. However, it is not possible for that agency to become involved in smaller, more local problems. This is the area where states can supplement the activities of the CFTC, and the Jerry LaFavre matter is a perfect example.

It is for these reasons that I urge you to consider amending the exclusive jurisdiction of the CFTC and provide additional vehicles to protect the public against fraudulent activities.

I have taken the liberty to attach a copy of a proposed amendment to the Commodity Exchange Act which will allow state securities administrators to assist the CFTC in protecting investors without opening the door to inconsistent regulation and without increasing the bureaucracy at either the federal or state level. Also attached is a resolution unanimously adopted by the 27 member Midwest Securities Commissioners Association supporting the proposed amendment to the Commodity Exchange Act.

Thank you for the opportunity to share my comments with you. Should you have any questions, I would be pleased to respond.

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COMMODITY EXCHANGE ACT

SEC. 2. (a)(1) For the purpose of this Act, "contract of sale" shall be held to include sales, agreements of sale, and agreements to sell. The word "person" shall be construed to import the plural or singular, and shall include individuals, associations, partnerships, corporations, and trusts. The word "commodity" shall mean wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, Solanum tuberosum (Irish potatoes), wool, wool tops, fats and oils, soybean oil and all other fats and oils, cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products, and frozen concentrated orange juice, and all other goods and articles, except onions as provided in Public Law 85–839, and all services, rights, and interests in which contracts for future delivery are presently or in the future dealt in: *Provided*, That the Commission shall have exclusive jurisdiction with respect to accounts, agreements (including any transaction which is of the character of, or is commonly known to the trade as, an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty"), and transactions involving contracts of sale of a commodity for future delivery, traded or executed on a contract market designated pursuant to section 5 of this Act of any other board of trade, exchange, or market: *And provided further*, That nothing contained in this section shall (i) supersede or limit the jurisdiction at any time conferred on the Securities and Exchange Commission or other regulatory or law enforcement authorities under the laws of the United States or of any State to investigate and prosecute violations of this Act and of any other state or federal law to the extent such laws are not inconsistent with this Act, and, except as hereinabove provided, to exercise regulatory jurisdiction otherwise provided by law, or (ii) . . .

RESOLUTION

Whereas, the Midwest Securities Commissioners Association is an organization formed in 1961, and consisting of 27 states dedicated to the protection of the public and investors; and

Whereas, in the last three years members of the Association have witnessed numerous investment schemes relating to commodities, many of which involve the offer and sale of securities as defined by state law, and which were either fraudulent or sold without adequate or accurate disclosure; and

Whereas, the Commodity Futures Trading Commission has asserted that the authority of the state securities administrators to investigate and enforce the anti-fraud provisions of state securities law with regard to commodity related investments has been preempted by reason of the exclusive jurisdiction language of Section 2(a)(1) of the Commodities Exchange Act; and

Whereas, the CFTC lacks the staff and resources effectively to enforce the Federal Act or protect investors; and

Whereas, the State Securities Administrators have resources and staff available to assist in protecting the public from fraud and unfair dealings, and are anxious to do so;

Now, Therefore, Be It Resolved, that the Midwest Securities Commissioners Association urges Congress to amend the language in Section 2(a)(1) of the Commodities Exchange Act relating to "exclusive jurisdiction" to permit the states to take action under state law (including the State securities laws) against illegal sale schemes involving commodity related investments and to regulate margin and leverage contracts for gold or silver coin or bullion for the protection of their state's investors.●

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## EUROPE AND SOLAR ENERGY

● Mr. PERCY. Mr. President, a recent article in Business Week magazine details the progress made by the European solar energy industry. It is one of the fastest growing industries in Europe, and the real boom is yet to come.

Since Europe's present fuel difficulties presage this country's, we should learn from their initiatives. If cloudly Europe can profit from a strong commitment to solar energy, the sunnier United States should look very seriously to solar energy's ability to satisfy a large percentage of our energy needs.

Sun Day, the national solar energy celebration taking place May 3, should help turn the attention of this country to the Sun as a source of usable power. Sun Day activities are now planned in all 50 States and many foreign countries. The Congress has expressed its support by passing a resolution officially declaring May 3 Sun Day and urging the President to issue a public proclamation. He did so on March 27th.

Though the United States' oil and natural gas situation is much stronger than Europe's, it is in our best interests to match their progress in the use of solar energy. Mr. President, I submit for the RECORD the article appearing in the March 6 issue of Business Week entitled "EUROPE: A Burst of Energy in Solar Heating".

The article follows:

EUROPE: A BURST OF ENERGY IN SOLAR HEATING

Like the U.S., Europe has been socked this winter by blizzards and bone-chilling cold. For the Continent's fledgling solar energy industry, however, soaring fuel bills are good news. From West Germany and Sweden to France, Italy, and Switzerland, hundreds of companies are eagerly venturing into what its advocates tout as one of the hottest growth prospects of the late 1970s. Solar-market analysts foresee double-digit growth through 1985 in annual sales of home hot-water systems, heating and cooling units, and, ultimately, solar electric components.

Though the business is unfolding at varying rates across the Continent, West German and French companies are in the lead. Starting from scratch two years ago, some 500 West German producers, suppliers, and installers of solar collectors have mushroomed to annual sales of $20 million in 1977. "We are reckoning with double to triple that figure this year," says Axel Urbanek, an official of Munich's Solar Energy Association. Though most are tiny, local service companies, heavyweights such as Robert Bosch (which has designed a gas-assisted solar system for home heating and hot water) and Messerschmidt-Boelkow-Blohm are gearing up projects.

At least a dozen French companies also are working on solar power plants, home systems, and photovoltaics (direct conversion of sunlight to electricity). Their 1977 sales totaled roughly $15 million. One of the more advanced companies, La Radiotechnique-Compelec (RTC), a majority-controlled subsidiary of Philips of Holland, sold 5,000 of its photoelectric panels around the world last year at an average cost of $400.

USING THE SUN

Pierre-Marie Brun, RTC's solar product chief, says that most customers use the units to power remote radio beacons, highway telephones, navigation buoys, and aircraft warning lights, such as those on the mountaintop approaches to Saudi Arabia's Medina airport. RTC will soon have competition from Motorola Inc., which plans to retool part of its semiconductor plant in Toulouse to produce photovoltaics.

The key to the industry's continued growth, especially in the often cloudy regions of northern and central Europe, may be government incentives to sweeten solar's appeal. Germany is expected to enact a tax credit to meet 25% of solar costs, and a British parliamentary committee has urged cash grants of up to 50%. France is spending $30 million a year on research and development aimed at commercializing its solar industry. In Sweden, where half of all oil imports are used in home heating, the government underwrites 35% of the costs of home solar units up to a maximum of $650. That could broaden the still tiny market that chemical maker KemaNobel hopes to tap in a joint venture with Euroc, Sweden's largest maker of building components.

"There's a tremendous potential," says Ulf Liljestrand, KemaNobel's solar-project chief. "Stockholm gets more sunlight than Paris." He concedes two stiff obstacles: snow and "plumbers who don't like to go climbing around roofs."

BROAD INTEREST

Still, the vast increase in oil prices since 1973 has spurred many governments to action. In addition to national solar programs such as Germany's four-year, $60 million R&D effort, the European Community is putting $70 million into projects to commercialize solar collectors and sharply cut the cost of photovoltaics.

In Sicily, the EC is financing a $7 million solar electric plant built by a Europe-wide consortium to power a town of 800 by 1980. Italian companies now exploring solar projects include Fiat, Montedison, Zanussi, Ansaldo, and Metalli Industriale.

Even the snowcapped Swiss are stirring. Polisolar in Berne, one of a dozen small Swiss solar-energy companies, will "supply a $1 million solar heating and cooling system" this year at the Rome plant of Contraves Italiana, a Swiss-owned electronics and arms

maker in the Oerlikon-Buhrle empire. Polisolar's collectors are now being used for industrial processes, desalting, and small power plants by licensees in Spain, Sweden, and Austria.

Though the great sunbelt from Morocco to India is an enticing, already perceptible target, the largest market for Europe's solar entrepreneurs will be their 350 million fellow citizens. The French government foresees 200,000 solar-assisted homes and offices by 1981, and spokesmen for German industry project similar growth. Judging by the heady mood of solar's pioneers, the sky—the seat of the industry's principal "fuel source"—is the limit.●

## SAMUEL E. MESHKEN

● Mr. RIBICOFF. Mr. President, one of Connecticut's outstanding citizens recently died. Sam Meshken was an old and dear friend, going back a lifetime to my youthful days where both of us were brought up in New Britain, Conn. Sam was a man of outstanding character, ability, personality, and warmth. He was loved by his family, friends, and the entire community. On April 5, 1978, Joe Owens of the Bridgeport Telegram wrote a most perceptive editorial on Sam Meshken, and I ask that it be printed in the RECORD.

The editorial follows:

SAMUEL E. MESHKEN

We would be remiss in our duties if we failed to make note of the untimely death of Samuel E. Meshken.

He would not stand on formality, so our few words about him, we hope, will be in keeping with the manner of the man. Sam was a successful businessman, an individual unafraid to venture where angels fear to tread. For example, he conceived and operated the largest independent supermarket on the East Coast, the King Cole store.

Often he would donate a percentage of the receipts on a particular day to a worthy charity.

Youth held a high place on his roster of causes as did the Police Sick Benefit Association and the Connecticut Symphony Orchestra.

If the cash registers were not busy that day, Sam would go into his own wallet to make sure the donation was large.

In the world of politics, he walked with the Connecticut giants, Ribicoff, Dempsey, Grasso, etc. But always, to close friends and new acquaintances alike, he was just plain "Sam."

People in the Bridgeport area should consider themselves fortunate. We had Sam Meshken among us for many years and we were beneficiaries of the inborn characteristics of the man which enriched the lives of countless individuals and organizations.

What else can be said beyond "Sam, you were a great guy."●

## SUNSET LEGISLATION

● Mr. BELLMON. Mr. President, from time to time an individual Member of the Senate generates an idea which is of great importance to the body as a whole. It is from such ideas that many needed changes have come to the Senate and then translated into legislation of great importance to the country.

Such is the case with sunset legislation. This bill was introduced 2 years ago by the distinguished senior Senator from Maine. Joining with Senator MUSKIE were 59 Members of the Senate of which I was one.

On April 11, Senator MUSKIE discussed the sunset legislation issue and the hope it offers for restoring confidence in government during a speech at St. Joseph College, Philadelphia, Pa. Senator MUSKIE's comments are of great significance. They relate to the ongoing effort to bring order out of the chaotic way Congress has historically handled the public purse. Senator MUSKIE's remarks review the progress which has been made since the passage of the Budget Act and eloquently outlines the need for prompt action on the sunset bill. I believe the Senate will be well advised to heed Senator MUSKIE's warning.

I ask that a copy of his remarks be printed in full in the RECORD.

The remarks follow:

REMARKS BY SENATOR EDMUND S. MUSKIE

I want to talk to you today about the state of your Government in Washington—a Government of which I am now a part—and which your generation will inherit before the next decade is out.

The news I bring from Washington is mixed.

The good news is that for most of us, 1978 is a pretty good year. We are coming out of the worst recession since the 1930's. Unemployment is slowly but surely coming down. The economy is slowly but surely picking up steam. We are at peace abroad and at home. We have little immediate reason for complaint.

The bad news is that many of us are uneasy about the state of national affairs. Unemployment may be coming down, but inflation is heating up. Our most thorny problems—energy and inflation—defy easy solution. We are less certain in our optimism for the future—and more nostalgic for times now passed.

Much of our uncertainty is directed at government as the cause of all our ills.

The polls tell us that even with Vietnam and Watergate well in the past, Americans continue to have little confidence in their government in Washington. Three quarters of the people believe government is wasting their hard-earned money.

We in Congress get particularly low marks. Only a third of the public approves of the way we do our job.

But the public is not the only one who's frustrated with government these days.

For years, Presidents have complained that when they push a button to get something done, nothing happens. President Carter is learning this painful lesson now. He may be the President. But up against an entrenched bureaucracy, an independent Congress, and well-established special interests, he is not always in charge.

And, believe it or not, some of us Members of Congress are frustrated as well.

Over the last fifteen years, Congress has been at the forefront of tremendous economic and social change. Government has labored to produce a governmental remedy to every injustice and need under the sun.

Clearly, the Nation has made much progress as a result.

We have made tremendous strides toward racial equality.

We have raised the standard of living for many poor Americans.

And we have provided health care to many who previously could not afford it.

Surely, we all have reason to be proud.

Yet today, our Nation has many unmet needs. And they bear a striking resemblance to those we first addressed through government programs a decade ago.

Economic opportunities for blacks have increased dramatically. And yet unemployment among black inner city youth is a national disaster.

We have not yet eliminated poverty. Indeed, we have not even lessened the imbalance in income distribution between rich and poor to any great degree.

And we still have not cracked the fundamental heatlh problem—providing high quality care at a cost all can afford.

We have pursued these and other problems at no small cost to the Federal budget.

And we have reaped an even greater cost, in the form of massive frustration with government at every turn.

This frustration stems, I believe, not from government having tried to solve problems—but from not having solved them well enough.

It stems not from a disenchantment with the goals we've set—but with a government grown so large and ineffective that it is suffocating the very goals it seeks to achieve.

Finding a remedy for this frustration is the most important—and difficult—challenge to Government today. For we have little hope of solving the truly serious problems we face—from inflation to energy to jobs—as long as Government bears this burden of no trust.

And I am convinced that we cannot meet that challenge unless Government is prepared to change its ways.

In my view, the task of meeting this challenge must fall first of all to the Congress.

It is the Congress which is the arbiter of national priorities, through the legislation we enact.

It is the Congress which is vested with control over Government spending, through the constitutional power of the purse.

And it is the Congress which has generated most of the activities of Government which now give us both hope and despair.

If Government has become unresponsive to the people, it is the Congress which must bear much of the blame. For it is our job not just to take the credit for new programs, but to see to it that all tax dollars are well spent.

Today, I believe that Congress is failing to meet its responsibilities on both important counts. Instead, we find ourselves increasingly unable to respond to problems which arise. For to a surprising degree the hands of Congress are tied by legislative commitments we've made in the past.

A brief look at some numbers from the budget illustrates the reason for my concern.

President Carter's budget for next year will be at least $40 billion larger than last year's spending total.

Of that $40 billion increase, fully three quarters is automatically committed before the first budget decision is made. That $30 billion will be spent on programs we call "uncontrollable"—programs which mandate certain benefits regardless of cost, and over which neither Congress nor the President has any control save through amending or repealing existing law. Uncontrollable spending includes such programs as social security, veterans' benefits, medicaid, medicare and welfare.

Only $2.5 billion of the increase in next year's budget is available for all other domestic needs—education, housing, mass transit, pollution control and many more.

More shocking than these numbers is the budget trend they confirm. Over roughly the last ten years, uncontrollable spending has grown from about 55 percent of the budget to more than 75 percent of all federal spending for fiscal 1979. From 1968 to 1977, the budget grew from $180 billion to $400 billion. Of that increase, a staggering 37 percent went for three uncontrollable programs alone—social security, medicare and medicaid.

Meanwhile, other spending on which the public places a high priority has been

squeezed out. For example, federal spending for education has actually grown less than the budget as a whole over this same period.

Why doesn't Congress do something to rein in uncontrollable spending? Because most of these programs, in addition to being popular, are also permanent. They never come up on a regular basis, for thorough, top-to-bottom review.

To be sure, they are amended from time to time, to correct the worst examples of waste. But by and large, they are protected from normal political and budget pressures of our democratic process. So each year we watch them devour ever larger amounts of scarce resources. And each year we are left with less room in the budget to meet changing national needs.

To make a bad situation worse, the meteoric rise in uncontrollable spending is not the only factor tying our hands. Uncontrollable programs are the big ticket items, and so they command the greatest concern.

But the vast majority of Federal programs are relatively modest, short-term efforts aimed at a highly specific need. And today, these programs constitute a maze of government activity that no mere mortal can comprehend.

We have both health and community development programs in the hundreds—veterans and education programs in the dozens.

We have over a hundred different agencies with regulatory responsibilities, and twenty-two separate offices have health programs that they run.

In a single office in the Department of Housing and urban development, there is one program to promote development in inner cities, and another to encourage development in the suburbs.

Of the many health programs we have, there are 29 related to cancer prevention alone. That *ought* to be enough to meet any conceivable need. Yet a comprehensive cancer prevention plan proposed by the state of New Jersey early last year has yet to be funded, because individual Federal agencies couldn't get together in a joint effort to help the state.

Legislation to remedy this kind of problem has seldom been used, because each agency insists on going its own separate way. Only one state in the country, for example, has succeeded in untangling dozens of overlapping planning programs into a single, unified plan.

In 1973, the Federal Register contained 35,000 pages of rules and regulations governing the way Federal laws are carried out. Only four years later, the size of the register had almost doubled, to 65,000 pages.

Twenty-four states and 44 cities now have their own office in Washington to keep up with everything the Federal Government churns out.

And it's not hard to understand why.

Many programs overlap. Others work at cross purposes to each other.

No agency knows what any other is doing, and until recently, many congressional committees did not even know how many programs fell within their jurisdiction.

In sum, over the last fifteen years, Congress has created an array of programs so complex that government cannot deliver the very services we've enacted into law.

What good does it do us to have 29 different cancer programs when they can't work together to do the job?

What good does it do us to spend billions to revive our older cities and at the same time encourage people to leave the cities behind?

The answer is, of course, that it makes no sense at all.

Why then, doesn't Congress do something to make the system more sane?

The answer to that question lies in the way Congress works.

Over the years, Congress has responded to a host of individual problems and needs. We have done so with the best of intentions. But we have also done so one program at a time.

Today, our good intentions notwithstanding, we've accumulated so many programs that we have no idea how they all mesh. And we have even less idea how much the public's tax dollars have bought.

Pressure to continue all these programs is strong.

Support for reexamining them simply does not exist. Every agency, committee and lobby wants its own program to not only continue but grow. No one is willing to take the risk that fewer programs might be for the good.

As a result, we are all paying the price, in the form of government immobilized by the past.

As one who believes strongly in an active federal role, I am very much troubled by this situation we are in.

Our dilemma limits both present and future budgets—and the national priorities they define.

It denies Congress the money and the public support it needs to effectively carry out its legislative work.

It raises a particularly serious issue for your generation. For your future could be even more heavily mortgaged to the past, unless congress is willing to mend its ways.

And there is another, more tangible threat which concerns me very much. It is that if Congress cannot bring spending under control, government may well drive inflation through the roof.

In a recession, it is important for government to spend money to keep the economy from going dry. When unemployment is high, government spending replaces private consumption, which declines during hard times.

But as we head into an inflationary period—which by all accounts we are doing today—excessive government spending only makes inflation worse.

That means that over the next few years—or as long as inflation poses a threat—if we want to spend more money on a good program, we're going to have to throw a bad one out.

This is not lofty rhetoric about making government more effective. It is a hard fact of life—one that Congress can ignore only at substantial political peril to itself, and at devastating economic peril to the nation as a whole.

With all this talk of gloom and doom, where should Congress go from here?

For starters, Congress took an important step toward controlling government spending four years ago, when it adopted the Congressional Budget Act. In agreeing to budget reform, Congress for the first time committed itself to considering the budget as a whole—of setting spending limits each year and trying to abide by them.

As chairman of the Senate Budget Committee since that new process began, I can report that our experience so far has been mixed.

On the positive side, budget reform has dramatically increased the awareness in Congress of the costs of actions we take.

On the negative side, budget reform has not yet given us the discipline over spending that we need.

The temptation to always spend more on existing programs is irresistibly great. And in our yearly battle between the budget total and its individual parts, the parts always seem to win.

So the lesson of budget reform for me is that the process does not go far enough. For unless and until Congress gains control over the individual parts of the budget, we will never have truly effective control over the budget as a whole.

Two years ago, I introduced a bill in the Senate which I believe can help provide the kind of extra discipline that we need. Known as the "sunset" bill, this proposal embodies a very simple approach. First, it would require that all federal programs come up for review on a regular basis. Only those programs which Congress specifically decided to reenact would remain on the books.

Second, the bill would require that all programs of similar purpose come up for review at the same time. This provision would give Congress much needed perspective on the entire Federal effort in an area at once, instead of the usual one program at a time.

When the sunset bill was first introduced it had enormous political appeal. More than half the Senate and over a hundred members of the house added their names to the bill's support.

In the campaign of 1976, sunset was a ready-made issue for voters concerned about government out of control.

Today, that political climate has changed—and the outlook for sunset is bleak. Efforts are afoot in the Senate and House to do the bill in—and replace it with legislation which resembles sunset only in name.

And the closer we get to a vote, the harder it is to find the support we thought we had.

Opponents of sunset argue that it will create a workload too great for Congress to manage well. They argue that termination is too heavy-handed an approach to encourage program review.

I believe these arguments are a smokescreen for other, more political concerns.

The real opposition to Sunset, I believe, is rooted in the very system which makes Sunset such a good idea—a system that rewards policitians if we pass new programs, but not if we take some away.

And sunset, for all its ultimate promise, offers none of us the immediate acclaim we've come to expect.

Over the long haul, sunset can help free up scarce resources—and that will be a boon to us all. Indeed, that is the essence of my support and hard work for this idea for the last two years.

But others view the sunset idea as a threat to benefits they've fought hard to win.

I do not share their worry. And it concerns me very much.

Our national interests are not set in con crete, and we are not well served by a govern ment which is.

We have a great unfinished agenda—one begun two hundred years ago. To fulfill it we will need to call on every resource we have. Today, we may all have to forego something we want, so that tomorrow we will have the resources we need.

We cannot afford a government which does not spend our money well.

We cannot afford the inflation which will come if government does not tighten its belt.

And we cannot afford a continuing vote of no confidence from the people we are bound to serve.

Sunset offers us one of the few opportunities I've seen to respond to these various needs. It may not be a perfect answer—but I haven't heard anything better. And I think we ought to give it a try.

As widely as sunset is feared, it will not change the spending patterns of government overnight.

All it can do is open up the political process through which our democratic system works best—so that we can again have a government which reassures and unites the hopes of this great land.

## THE VIETNAM VETERAN

● Mr. McGOVERN. Mr. President, most Americans now realize the Vietnam war was a mistake, but the memory of that

tragedy cannot be erased by neglecting the needs of the Vietnam veteran. Their plight is a disgrace. They are faced with incredible difficulties—unemployment, physical and mental disabilities, drug related problems, discrimination—and the country that sent them to war seems unable or unwilling to help them now that that war is over. The Washington Star has published an excellent series by Donia Mills detailing the problems of the Vietnam veteran. I commend it to my colleagues and ask that it be printed in the RECORD.

The material follows:

[From the Washington Star, Mar. 26, 1978]

VIETNAM VETS: IS HELP COMING 10 YEARS TOO LATE?

(By Donia Mills)

For half a million survivors of the Vietnam war, scattered today throughout the country, the return to a normal life has not come easily.

For some it will never come at all.

Ten years since the peak war action of the Tet offensive, and five years since the withdrawal of American ground troops, government officials still have not dealt wtih the social, moral and psychological damage suffered by the men who fought the most controversial foreign war in the nation's history.

There is shockingly little detailed data on the depth of the problem, but authorities estimate that one in five of the 2½ million soldiers who fought in Vietnam still suffer some effects of postwar maladjustment.

Statistics also show that:

450,000 Vietnam-era veterans are jobless.

125,000 are incarcerated in state and federal prisons.

750,000 ex-soldiers are stigmatized by less-than-honorable discharges.

497,000 soldiers left the service with mental or physical disabilities, and 10,000 of them are still hospitalized in Veterans Administration facilities three years after the end of the war.

Fewer than one-fifth of those eligible for VA vocational rehabilitation had taken advantage of the program by the end of last year.

Now, five years after the last man came home, the Veterans Administration finally has commissioned a comprehensive study of this troubled minority.

"I guess you could say this is all happening 10 years too late," said Max Cleland, the severely disabled Vietnam veteran who became VA Administrator last year.

"On the other hand, maybe this is exactly the right time to act. Now, in 1978, we've been through several years of preliminary sifting and we're finally down to the veterans with the real hardcore problems. Now it may be easier to identify them and tailor programs to fit their particular needs."

In addition, it appears that the House Veterans Affairs Committee this year may finally approve a readjustment counseling program that was so badly needed a decade ago. Similar proposals have been defeated three times over the last five years.

And last month the Carter administration, no doubt pressured by a recent burst of publicity surrounding the 10th anniversary of the Tet offensive, initiated its own mini-survey of the situation.

In a directive issued by the president's domestic affairs adviser, Stuart Eizenstat, officials at the VA and departments of Labor, Justice, Defense and Health, Education and Welfare were given two months to come up with their own appraisals of the problem.

Frank Raines, the member of Eizenstat's staff assigned specifically to veterans affairs, was quick to suggest in a recent interview that the review is designed as a fulfillment of Carter's campaign promises to veterans rather than as an expression of unusual concern.

"The White House feels no more concern over veterans right now than over other areas," Raines said. "We spend a lot of money on vets—about $20 billion a year. Our main concern is that the money is being properly utilized. But there is no crisis in veterans programs at this time."

Veterans from older generations frequently gripe that the men who fought in Southeast Asia should not be singled out for special attention. War is hell, they say, whether the battleground is the fields of Shiloh, the beaches of Normandy or the rice paddies of Vietnam.

But most serious scholars of the Vietnam war and its political impact vehemently disagree.

In "The Forgotten Warrior Research Project", a three-year study funded by the Disabled American Veterans Association, John Wilson, a Cleveland State University psychologist, draws the following profile of the Vietnam soldier and the conflicts he encountered.

Typically, he was a high school graduate who entered the service believing that military duty was a proper and patriotic obligation.

After a period of basic traning designed to equip him for killing and survival, Wilson maintains, the soldier was flown into enemy territory where he soon encountered a number of factors that raised serious questions in his mind.

The guerrilla nature of the war, a lack of confidence in his superiors, the difficulty of recognizing the enemy, the apparent lack of South Vietnamese military and civilian commitment to victory, coupled with widespread signs of political and economic corruption, the fixed limits on his own tour of duty, the seemingly meaningless deaths of his friends—all these factors combined to cast the young soldier into deep ethical and spiritual conflict.

The final conflict occurred when the men discovered they were up against still another divided front when they returned home.

In place of victory parades these soldiers were greeted by apathy from one faction, who suggested they somehow hadn't done their jobs well enough, and by angry anti-war demonstrations from the other, who told them they were dopes to have taken on the job in the first place.

"Psychologically, the veteran was in an untenable position," Cleland says. "The war ended with no answers. The validity of his sacrifice was not there. He was forced to provide the answers for himself. This challenge was unique in U.S. history—the malaise, the sense of being a sucker.

"We all faced it. Most guys handled it okay. We should keep emphasizing the fact that 80 percent readjusted fine."

Among the 20 percent who didn't, the VA's Cleland conceded, the psychological impact often continued on through the years "like a series of secondary explosions."

Too many still bear the compound and inextricably linked effects of depression, alienation, divorce and alcohol dependency, unemployment and run-ins with the law.

The feelings of neglect and inequity and exploitation that stung then have continued to fester in the hearts and minds of veteran activists who refuse to let the issue die.

"The whole situation is atrocious," says Rusty Lindley, a former Green Beret captain who has become an outspoken advocate for down-and-out ex-GIs.

"The guys who went to college got degrees and good jobs. The guys who went to Canada got amnesty. But the guys who went to Vietnam—they've never yet gotten their share of the American dream they were told to go fight for."

In the seven years he has spent in Washington pestering political bureaucrats for legislative reforms, Lindley says, he has watched three different adminstrations pour billions of dollars into meaningless programs with no attempt to follow through.

"Society has succeeded in dehumanizing the veteran the way the military dehumanized the enemy in Vietnam," he goes on. "Now the government's attitude seems to be, 'Let's pity the poor vet as a new kind of social problem, let's appease the crazed dope fiend-psychopathic-sniper-rapist-mass murderers by throwing them multi-million-dollar programs scraped off the bottom of some welfare bill.'

"Well, these guys don't want dead-end public service jobs where you sweep streets and then end up out of work again after a year. And they don't want pity, and they don't want to stand in welfare lines or go whimpering to the VA. They want careers. They want a chance to prove themselves in good jobs at home the way they proved themselves under the gun in Vietnam."

Most authorities agree that a significant part of the problem for many veterans is their generalized disenchantment with Uncle Sam, their rejection of any more involvement with a government that sent them to Vietnam in the first place, whether it involves going to a VA hospital or registering with a state employment office.

Theoretically, the older veterans claim, the soldier returning from Vietnam was in good shape, dollar-wise—better shape than any previous generation.

On separation from military service he received from the VA a 71-page booklet detailing the multitude of benefits for which he was eligible: 45 months of educational payments under the GI bill, free medical care, free vocational rehabilitation training, plus additional cash compensation if he was disabled, low-cost loans and life insurance, and numerous federal veterans-preference laws that required he be given priority in job counseling, referrals and hiring.

While the majority of all veterans have taken advantage of at least a portion of their benefits, for many others the system short-circuited somewhere along the line and let them down.

Men who needed personal guidance and encouragement received instead booklets and form letters written in gobbledygook, or instructions from VA counselors that seemed to lead them through mazes of red tape only to terminate in Catch-22 barriers.

Those least able to maneuver through the minefields of application procedure were unfortunately the very men who needed support the most—the poor, undereducated and minority GIs who bore a disproportionate share of actual battle in Vietnam because they could neither afford nor qualify for the middle-class haven of college deferments.

One of the more persistent critics of the VA over the years has been Bobby Muller, a former Marine lieutenant who was transformed from a track star into a paraplegic in 1969, when he caught an enemy bullet in his spine on a hilltop near Con Thien.

He spent the next year in the notorious Bronx VA hospital that was described as a "medical slum" in a 1970 Life Magazine expose, and his sense of outrage has not dimmed much over the years.

Muller paused one day recently during an all-day siege of congressmen's offices, pulling his wheelchair over to a quiet corner of the Longworth Building to explain his latest mission.

"Would you like to know our biggest problem?" Muller asked a reporter. "It's a lack of statistical proof that there's really a prob-

lem. Incredible as it seems, the VA has never bothered to evaluate the billions of dollars worth of programs they run, and so nobody has any idea how effective or ineffective they may be."

Details become muddled, but the basic outline is clear: the Vietnam veteran has not been delibrately neglected so much as simply set on a back burner with low priority, in budget after budget, year after year, all the way down the line.

Max Cleland, the man occupying the VA hot seat at present, is an accomplished politician in an arena where politics is the name of the game.

Cleland was also an athletic star and academic achiever in his home town of Lithonia, Ga., before an errant grenade blew off his right arm and both legs in a bizarre noncombat accident at Khe Sanh.

Being a triple amputee did not keep him out of commission for very long.

At 34 he had already served two terms in the Georgia Senate, run unsuccessfully for lieutenant governor, and worked a year for the Senate Veterans Affairs Committee before Carter appointed him last spring to head the federal government's second largest bureaucracy.

Ranking only behind the Department of Defense in number of employees, the VA annually administers a $20 billion multibenefit program for 30 million veterans and their dependents.

But only 8 million of these served during the May 1964-August 1975 period officially designated as the Vietnam Era, and only 2½ million experienced actual duty in Southeast Asia.

This means that while the Vietnam veteran's readjustment difficulties may be more immediate, he is in the minority, and lacks the lobbying influence of his older World War II counterparts.

"What the VA system does is pit the older veterans against the younger veterans for a limited pot," says lawyer Stuart Feldman, an indefatigable lobbyist for veterans affairs. "And any agency naturally has to go with its majority constituency."

This generation, Feldman adds, is united under the powerful brotherhood of such old-guard organizations as the American Legion and Veterans of Foreign Wars, and is naturally more concerned with maintaining hospital care and pensions than with supporting the needs of young veterans whom they tend to identify with the dissident, long-haired generation.

Cleland readily admits that the VA has fallen behind where Vietnam veterans are concerned, but he insists that he has put things on the right track with the research project just commissioned.

"This will not be just another study, but the first really thorough analysis ever done of the Vietnam veteran in all his dimensions," Cleland said in a recent interview.

"What we're really doing is picking up and continuing an independent study begun three years ago by the Center for Policy Research in New York. This means we'll be able to wind up the first phase in about a year and a half, and should be able to give Congress the data they want. After another six months, we can begin to use the collected information to make our readjustment counseling program more effective.

Cleland's sharpest critics contend that his political ambitions have kept him from taking a hard and potentially unpopular stand for Vietnam veterans against the status quo.

But the entire issue is too complex and contentious for simple analyses.

The fact is that veterans affairs are under the domain of so many different political entities that any one can always legitimately pass the buck and the blame for inaction onto another.

The VA says it can't set up programs if they aren't funded by Congress, and Congress has to play ball with the Office of Management and Budget, which is guided by the administration.

When two congressmen recently attempted to put some teeth in the administration's ongoing interagency review of Vietnam veterans by requesting that a $200 million contingency fund be set aside to cover whatever proposals might come out of the study, the request was voted down 14-4 by the House Budget Committee. In the same session, its members voted favorably on a $931 million bill for VA pension reform.

The House Veterans Affairs Committee is swayed by the powerful old-guard veterans organizations, accuses the VA of failing to come up with the studies needed to justify expenses and lays the blame for unemployment squarely with the Labor Department, which can always point to the Civil Service Commission's recent proposal to do away with veterans preference in hiring.

"You can't look at these issues in isolation," cautions one longtime Capitol Hill observer of veterans affairs. "It's hard for the politicians in Washington to put over programs if the sentiments aren't with them back home in their constituencies.

"And Vietnam was simply never a war that American civilians felt they had any stake in. There was never the question of choosing between guns and butter, the way people had to do in World War II. During Vietnam we had guns and butter too."

At the same time, the man continued, legislators have come under increasing pressure from rival segments of society, such as women and minorities, who have developed a level of organization and lobbying power far beyond that of the Vietnam veterans.

"Instead of scoring a big victory and coming home all in one body like the World War II soldiers, the Vietnam soldiers came home singly, each when his 13 months was up, in a mood of defeat. And that's where they still are today—isolated and alone."

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JOBS: A BLIND ALLEY FOR MANY VIETNAM VETERANS

(By Donia Mills)

By 9 o'clock most Monday mornings, the reception area of the local Veterans Assistance Center on North Capitol Street is already crowded with men whose search for jobs has led them mainly down blind alleys and one-way streets.

A photograph of President Carter seated by a fireplace smiles down at them from a handbill posted on the bulletin board, underscored by his "fireside chat" statement of Feb. 3, 1977:

"The top priority in our job training programs will go to young veterans of the Vietnam war."

In this context, it is a bitter reminder of the gap that exists between the rhetoric and the reality on the issue of veterans' unemployment.

Many veterans of all ages were angered, if hardly surprised, earlier this month when the President proposed a 10-year limit on the long-standing policy of "veterans preference" as part of a general overhaul of the Civil Service Commission.

Because of the lengthy winding-down of the war, most of the men who actually saw combat in Southeast Asia will soon be past their 10-year limit and will no longer receive preference pointson Civil Service tests as veterans have since the 1940s.

According to Labor Department statistics for the last quarter, about 450,000 Vietnam era veterans, aged 20–34 are unemployed, and an additional 100,000 veterans over 34 are also out of work.

Roland Mora, appointed last year as deputy assistant secretary of Labor for veterans employment, thinks the actual figures are much higher. Based on personal observations, he estimates that for every veteran actively seeking work, two have given up in frustration.

Despite a 1972 federal law requiring state employment service personnel to give priority to veterans in job counseling and referral, Labor statistics show that fewer than one in five veteran applicants was placed in jobs, and only one in 20 received any counseling.

The Labor Department itself is far behind many other agencies. In 1976 only 0.8 percent of Labor's employees were Vietnam veterans, compared with 6 percent of the Treasury Department's, 5 percent of Justice's and 8.7 percent of the Civil Service Commission's.

Stan Williams, a counselor at the District's Veterans Assistance Center, ticks off a long list of obstacles facing jobseekers he sees, many of whom are undereducated, minority members who did much of the dirty work in the war and were hardest hit by the recession when they came home.

"Most of these guys graduated from high school and went right into the service, which means they come out and hit the job market with no experience to their credit," Williams explained.

Military experience, he added, usually counts for nothing with a civilian employer, which can mean a demoralizing step backward for a man who has mastered a specialty and enjoyed some job responsibility in the service.

"And to those looking for trades, the unions are extremely tough to get into," he said. "They have very few openings."

The jobs listed in the voluminous computerized job-bank books reveal more frustrations. Except for menial jobs such as porters' and dishwashers', most listings require at least 12 months of job experience.

Williams said the entries are updated daily, but men who have been through the process tell a different story.

"You start looking through the book and some of those jobs are three years old," one unsuccessful job hunter said bitterly.

The greatest foes of veterans preference would seem to be women and minorities, two groups that also claim that they deserve special consideration.

Most observers feel that the gains now being made by women and minority employees are losses for the veterans.

While the veterans community here was initially encouraged by the $1.3 billion jobs-for-vets programs announced with great fanfare by the administration a year ago, spokesmen for most veterans organizations now charge that the plans were poorly conceived and have been inadequately administered.

Putting it simply, they feel the President was throwing the veterans a bone to appease the growling that arose over his controversial amnesty decision announced just a few days earlier.

The administration in an attempt to alleviate the veterans unemployment last spring proposed three programs funded through Labor's Comprehensive Employment and Training Act (CETA):

One provision expanded the already existing Public Service Employment program, designed to provide unemployed people with temporary jobs in public and non-profit agencies, using CETA funds to pay their salaries.

A projected 250,000, one-year jobs, 35 percent of the total new jobs created, were earmarked for disabled and Vietnam era veterans.

Mora has acknowledged that the current level of veterans hiring under the program is only 28 percent, however. "I thing this is pretty much where we're going to end up," he said.

A second program, the Disabled Veteran Outreach Program, provided for the hiring of 2,000 men to be placed in local branches of

state employment offices where they would help develop jobs for other disabled veterans. The program was to provide jobs for 40,000 by the end of 1978, according to Labor.

Mora said this program is his favorite and repeatedly described it as "successful," though no one at Labor has been able to document how many disabled veterans have actually been placed.

But Ron Drach, employment director of the Disabled American Veterans, which did some spot monitoring on its own, said the group found several instances in which disabled veterans were prevented from counseling other veterans because they had been assigned by their office managers to do routine clerical jobs or to fill in elsewhere.

In addition, Drach said, many veterans in the program have discovered large discrepancies between the salaries they were promised and what they actually were paid.

For example, in Virginia, which has 44 disabled veteran counseling positions funded at $10,000 each, workers were paid between $7,000 and $8,000.

A spokesman for the Virginia State Employment Service explained that the remaining balance of the $10,000 was held out by the central office for "benefits and expenses," which included travel money for workers going out into the community on projects.

But because of a "communication breakdown" in the early months of the program, the spokesman added, local managers were not informed that there was travel money available. As a result, the veterans' activities were curtailed for a while.

"To tell you the truth, we've experienced a lot of turnover in this program," the spokesman said. "Because of the low salary scale, a lot of the DVOP counselors leave when a better job comes along. Then of course, we have to start all over again training someone new."

The third and most ambitious of the job programs is Help Through Industry Retraining and Employment (HIRE), a cooperative venture of government and private industry. The program is funded by $140 million in CETA funds used to reimburse companies for providing on-the-job training that would lead to permanent employment.

Disabled and Vietnam era veterans were to receive top priority in placement.

HIRE also has had a spotty record during its first year, largely because the program was originally aimed at large firms that represented only 1 percent of the nation's employers.

Last November when only two companies had signed up after four months, the guidelines were altered to encourage smaller companies to participate. The program is now picking up momentum, according to Charles Collins of the National Alliance of Businessmen (NAB), the marketing agent for the program.

But only $20.7 million of the original $140 million has been contracted out so far. The most recent Labor figures indicate that only 220 veterans have actually gone to work under HIRE.

A second, voluntary part of HIRE has fared somewhat better, according to NAB officials, who report that 20,000 veterans have been hired in private industry under a non-reimbursable provision that spares employers the governmental red tape of the reimbursable plan.

But because the 20,000 veterans represent only one-fifth of the original goal set for September 1978, the figure hardly indicates extra effort above and beyond normal hiring patterns.

To date, three local firms have signed HIRE job-training contracts: Southern Railroad, Interstate Van Lines and Peoples Drug Stores.

A closer look confirms what most veterans advocates have been claiming: When good opportunities come along, they are snapped up immediately.

Interstate's president and founder, Arthur Morrissette, said the HIRE trainees will be paid the program's minimum of $3.50 per hour, which is Interstate's normal starting salary anyway. The company will be reimbursed for half the training costs through CETA.

Morrissette acknowledged that he had learned about the HIRE program at a time that happened to coincide with his need for new employees. He said that his major concern was finding good workers, not hiring veterans.

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FOR MANY VIETNAM VETS, EDUCATION AID CAN BE A CATCH-22

(By Donia Mills)

Like many young veterans who returned from the war in Vietnam in the late 1960s, Steve Anderson found himself in a Catch-22 bind shortly after he enrolled in College on the GI Bill.

It provides a flat cash supplement for 45 months following separation from active service. But the payments from the VA, which netted a full-time, single student $175 a month in 1969, were not enough to cover Anderson's books, tuition, and living expenses, so he had to work part time.

This cut down on his course load and further reduced his payments.

"I had to make a choice," he says simply. "So I ended up quitting for a couple of years to work full time. I had to live."

He took courses intermittently after that. But at present, employed full-time by the VA as an education liaison officer and studying part-time at the University of Maryland, Anderson is still about two years away from a degree.

Cost-of-living increases passed by Congress over the years have raised the current benefit level to a record $311 monthly for single veterans, with graduated payments for those supporting dependents. But at the same time, inflation has driven tuition, books and living expenses to record levels.

And now, because of the 10-year limiting date attached to VA benefits, Anderson's time will run out in December before he has a chance to use the entire 45 months he is entitled to.

"Congress," he said, "had many opportunities to make the bill effective so the veteran could go back to school when and where he wanted, back during the years when there were huge numbers of guys who could have used a little extra help, but they dragged their feet and watered down every proposal that came along." He said these opinions are his own, and not the official VA position.

"The VA says that more Vietnam era vets have taken advantage of their benefits than vets of any other war—over 60 percent," he said. "But that only tells us how many enrolled initially. How many were actually able to hang in there long enough to get any good from it? There's no way of knowing."

Last year when a revision of the GI Bill was up for congressional consideration, veterans' advocates lobbied hard for administrative changes they thought would make the regulations more effective for certain groups of veterans.

For example, evidence was presented that indicated many were unable to use their benefits in the Midwestern and Eastern states because of high tuition costs.

Under the GI bill of World War II, the VA paid tuition directly to the schools, whatever the level might be, and an additional cash supplement to the veteran.

When that system led to such abuses as greatly inflated tuition fees at some institutions, Congress adopted the present procedure of paying a flat sum to the veteran.

Today, veterans living in Western and Southern states rich in low- or no-cost public colleges are at a distinct advantage. For instance, a Pennsylvania resident attending Temple University, which is public, finds that education expenses take 57 percent of his total yearly benefits, compared with 14 percent for a student attending a California State University campus.

The equitable-payment proposal was hotly debated before the House Veterans Affairs Committee but was ultimately defeated in favor of an across-the-board benefits increase of 6.6 percent, supplemented by a system of loans.

Congress also passed severely reduced versions of a measure that would have extended the limit for vets who still had a portion of their entitled benefits after the 10-year cutoff date.

Congress also passed another version that would have permitted accelerated payments for vets who wished to use up their benefits in half the time at twice the rate of payment. This would have been especially helpful, it was argued, for a man who simply wished to learn a marketable skill in a short, expensive, vocational program.

"The problem is now, the prime time for most of these guys has passed," Anderson said. "The average vet is 30 years old and has a family to support.

"I'm beginning to think that the ones who haven't gotten a start by this time are pretty hard core, and it's going to take a hell of a lot more to bring them back into the mainstream than most people realize—I mean knocking on doors and holding their hands and practically carrying them through the education process."

In terms of education, the hardest of the hard core are the 20 percent of Vietnam era veterans who had not completed high school when they entered the service.

James Finley Jr. is a good example: His government didn't teach him to read or write very well, but they found that he was a whiz when it came to shooting a gun.

Finley came home from Vietnam with an honorable discharge that listed pistol expert, rifle expert and firearms instructor among his accomplishments. Unfortunately for him, civilian employers were more interested in the reading and writing.

Now he's enrolled in Veterans Upward Bound, a high school equivalency course administered by Prince Georges Community College and paid for by federal Comprehensive Educational Training Act funds. He and 44 classmates in the same boat attend classes five days a week in a training center in the basement of a motel.

They receive weekly stipends of about $78 for full-time attendance in five subjects: reading, social studies, mathematics, English science. If they can pass their tests by the end of 24 weeks, they receive a high-school equivalency certificate.

When they miss a day, they don't get paid.

"The people in this country, they act like we're so almighty lucky to be getting that check from the government every month," Finley says bitterly. "But do they ever think what we put on the line to be getting that money today?"

These are the men with disadvantaged backgrounds who bore a disproportionate share of Vietnam combat duties and casualties because of a draft law that allowed college deferments for those who could afford it.

Ten years later, to no one's great surprise, the same men are bearing a disproportionate share of the unemployment and social problems. They share a growing feeling of hostility toward an inscrutable system that seems to block them at every turn.

"One thing I know for sure, this country don't want to hear about no Vietnam veteran," spoke up a man from the back of the room. "We lost the war, and they're still holding it against us."

"Yeah," grumbled another man, a former Army rifleman who has had trouble working

because of a nervous disability from the war. "Then you walk into a 7-Eleven, and there's some Vietnamese guy working behind the counter telling you, 'Hey you can't put that newspaper under your arm like that, you got to put it here in the bag,' all that stuff. Man! Who is he to be telling me what to do? We go over there and fight to save those people. Now they come over here and get our jobs."

The men were enthusiastic about the high school equivalency program and the personal interest the director, "Doc" Alfred Simons, has taken in them. But several had horror stories about the red tape at the VA: Records lost, checks delayed, counselors who all left for the weekend by 2 p.m. on a Friday, or GS-2 clerks who "run you around in circles like a chicken with its head cut off" while sipping coffee and chatting among themselves.

"It's hard to concentrate on the lesson when you're sitting there worried about things like the man going to come around for the rent check the first of the month, and where am I going to get it this time?" the man with the nervous disability said.

"You know, President Carter, he says he wants to help the veteran. Well, one day I'd just like to sit down man to man and talk with him. Like, maybe go to Sunday School and just sit down next to him and ask him what's really happening. I'd like to see if he can really do anything for guys like me."

Veterans are faring somewhat better at the Rockville Campus of Montgomery College, where their class schedules, grade point average and VA status are neatly computerized and can be called up at the drop of a switch by student-veteran counselors trained to steer through red tape.

Rick Bannerman, Ruth Ralston and Sandra Detmer say their main function is to keep the paperwork moving.

"When a guy comes in saying that the VA lost his check," Bannerman said, "chances are about 95 percent that the mixup is because he's failed to re-register himself or some such technical oversight. Believe me, Rick Bannerman's checks never get lost! Working in this office, it has become very real to me that the VA does things their way and you have to conform to them, not the other way around.

"It really freaks some of these vets out who couldn't wait to get discharged and get away from all the military red tape. They figure, 'Ugh, now the VA is going to control my life for 10 more years!' I think some of them come in here for counseling expecting to find us all dressed out in our fatigues."

Some veterans, the counselors say, get caught in a bind because of the three months of processing between the time they enroll and the time their benefit checks start arriving. This new policy replaced pre-payment last year after the VA lost $1 billion in "overpayments" during 1976 to students who had dropped out of classes.

It is the financially strapped student of 1977-78 who is now suffering from that little fiasco, Bannerman says.

"Sometimes," he said, "by the time a guy is all certified and his checks start arriving, he's had to drop part of his course load and take on a job to support himself in the interim, which means the benefit figure changes and we've got to start the whole thing all over again."

Many of the 700-odd veterans enrolled at Montgomery College find they have to work full-time to "afford" their GI benefits, the counselors add.

"It would be no problem to get by on the GI bill alone if you had a Podunk cost of living," says Detmer, who has sole support of her 5-year-old son. "But in Montgomery County, it's just about impossible. I live in a subsidized housing apartment in Gaithersburg, where they just raised the rent to $234 for us 'low-income' people. Two-thirds of my incomes goes for the rent."

But Sandra Detmer isn't complaining. In fact, hearing some of the stories about the readjustment struggles of the vets returning from Southeast Asia, she confesses that sometimes she feels a little guilty about drawing the same benefits as the combat veterans, even though her 18-month Vietnam era assignment was in a telecommunications office at the Pentagon.

"I know it's a good deal for me," she says. "Sometimes I wonder what I did to earn it."

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DISABLED VIET VETS: AFTER COPING, THEN WHAT?

(By Donia Mills)

Larry Roffee insists there is nothing to it, the elaborate maneuvering to get from his wheelchair into his car, a Jaguar he bought a couple of years ago and had specially modified with hand controls.

Relying solely on his muscular arms, Roffee positions the chair next to the car and hoists himself into the driver's seat, manually dragging his dead-weight legs in after, one at a time.

Then he folds up the wheelchair, hoists himself over onto the passenger side, slides the driver's seat forward so he can reach over and drag the wheelchair into the back seat, slides back to the driver's seat, hoists himself back into it again, and is ready to go.

"It's worse on my passengers than on me," Roffee says with a droll, Dennis-the-Menace grin. "They have to stand out in the rain or whatever till I finish going through the whole bit."

Currently working as executive director of the Paralyzed Veterans of America, based in Bethesda, Roffee was a 22-year-old Army artillery lieutenant when a bullet smashed into his spine during the invasion of Cambodia in 1970.

Paralyzed from the waist down, he spent the next two years in hospitals, first in Vietnam, then at a support base in Japan, then more military and VA hospitals back in the States.

"It takes a while to accept it," he said. "The doctors never really tell you that you're never going to walk again. They don't say either yes or no, really. They just tell you that you're young and strong and you can overcome a lot of obstacles.

"I think it was five or six months after I was wounded, one day during a rehabilitation session, when it finally dawned on me—hey, this is it, for the rest of my life.

"After that, it's just a matter of adapting and coping. I decided long ago that being bitter gets you nowhere. The most important thing is to get involved in something so you can keep your mind off your disability and hang onto the notion of your own self-worth.

"When you come right down to it, the good old-fashioned American work ethic is usually the best therapy."

Like many other disabled Vietnam veterans who have come to Washington to work on behalf of their fellow veterans, Roffee makes a great effort to create an image of a handicapped person who is capable and industrious on the job.

At the same time, he stresses that much remains to be done to bring the half-million men who left the service with mental or physical disabilities back into the mainstream of American life.

The Veterans Administration has some basic statistics: They can tell, for example, that as of last September over 497,000 disabled veterans, rated on a severity scale from 10 to 100 percent, were receiving compensation payments averaging $175 a month.

Thanks to improvements in medical technology, coupled with the fast and efficient rescue work of helicopter medivac teams in combat zones, severely wounded men in Vietnam stood twice as good a chance of survival as their World War II and Korean predecessors.

About 30,000 veterans are still considered 100 percent disabled five years after the end of the fighting. Because it was a booby-trap sort of war, more soldiers than might have been expected, 12,500, lost their lower limbs or use of them.

In terms of material compensation, the government has provided well for severely disabled veterans. Those with amputated limbs, paralysis, or loss of bodily functions that require them to have full-time custodial care receive nearly $1,900 a month, tax free, from the VA.

"That sounds like a lot, doesn't it?" Larry Roffee smiles, and then adds in a briefly wistful tone: "You wanna trade?"

What the VA cannot tell with much certainty is what becomes of these men after they are taught to cope with the basic needs of daily life—wheelchair travel, showering and dressing techniques and bowel and bladder care for paraplegics—and released from VA hospitals to start their lives over again as best they can within their own families and communities.

Most disabled veterans qualify for the VA's free vocational rehabilitation program under which the government will pay all expenses for whatever educational curriculum the veteran may choose, with no reduction in the regular compensation payments.

But a disturbingly small number of eligible veterans, only about one in five, have ever entered a vocational rehabilitation program as of last year.

And since the VA has not done followup studies on the use of benefits, there is no way to tell how many men may have completed rehabilitation and been able to parlay it successfully into a job.

"The VA did wonders for me," said John Fales, a former Marine captain who came home from the war totally blind. "But there's always room for improvement."

"For a guy who's got a disability, sometimes the difference is made by the GS-1 who answers the phone and is rude or unhelpful. You can have all the fantastic programs and facilities in the world, but somebody has to help you find out about them."

Fales lost one eye in 1967 when a mortar exploded in his face at Can Thien. The other eye deteriorated from side effects of malaria pills.

Now working as employment director for the Blinded Veterans of America, he demonstrated his virtuosity one day not long ago by escorting a reporter to lunch, leading the way to his favorite midtown restaurant through a formidable obstacle course of construction debris, traffic and lunch hour crowds.

"The big thing is breaking down attitudinal boundaries, the stereotypes of what a handicapped person can and can't do," he said.

Fales agreed with other veteran spokesmen that substantial discrimination against disabled people exists in the private sector and that the Labor Department should be doing more to enforce the affirmative action provisions already on the books.

Roffee and Fales both said that informal surveys indicated only 13 percent of their organizations' members were working. Estimates of unemployment among disabled veterans place the rate at 30-50 percent.

"You can give a person all the medical attention in the world," says Ron Drach, employment director of the Disabled American Veterans, "and all the training and education in the world, but unless you have a job, what good is it to get back on your feet? What has the VA really done for you?"

Bobby Muller, another paraplegic who has been a tireless veteran activist since his return from Vietnam, puts it more bluntly.

"The most neglected area of the VA is rehabilitation of the severely disabled," Muller says. "How the hell do you explain the fact that over 80 percent of these guys are shut-ins, even though they have absolutely nothing to lose by taking vocational rehabilitation?

"The VA may have the technical facilities to physically rehabilitate a man, but there is no follow-through, no attempt to motivate and give him confidence.

"The attitude is, 'Here, son—take your check and go home.' That's much easier, just give a guy a government check for $1,900 a month. That kind of money makes it hard to get sympathy on your side. People look at you funny when you go around pitching a fit about being neglected."

VA administrator Max Cleland, himself a triple amputee, admitted in a recent interview that a year-long study of the vocational rehabilitation service showed the entire system was badly in need of upgrading.

"The way it works now, we rehabilitate a man but then we have to turn him over to the Labor Department to find him a job," Cleland said.

"What I want to do is ask Congress to give us the authority to do the whole thing—from picking the guy up out of the hospital bed to finding him a job and then doing a followup check six months later."

Cleland suggested, however, that the incentive to work might not be too great for a severely disabled man, considering the generosity of the VA payments.

"It's quite possible to live very well indeed without ever hitting a lick," he said.

But the key issue, Muller insists, is one of emotional and social adjustment rather than mere physical maintenance.

"These guys' lives are human tragedies because they have no sense of accomplishment, without a meaningful occupation. Wouldn't you expect the goal of a rehabilitation program to put you back as close as possible to the place you were before, to restore your original sense of identify and worth?"

Drach said that the DAV had been discouraged by the Labor Department's failure to implement effectively a Disabled Veterans Outreach Program (DVOP) which the administration gave a rah-rah sendoff last spring.

Under this plan, 2,000 disabled veterans were hired and placed in state employment offices around the country and were supposed to develop job opportunities for 40,000 additional disabled veterans.

But DVOP workers reported that they've been hindered by lack of support from both the private sector and Labor agencies that are supposed to enforce affirmative action programs for hiring the disabled.

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"Too Flipped Out or Tranquilized"

(By Donia Mills)

Five more years have passed now since the poet, a former Marine corporal from Bethesda, took control over his mutinous mind long enough to put down those lines.

Today, at 28, the former Marine remains one of the hidden casualties of the Vietnam conflict, a 100 percent mentally disabled veteran whose wounds are not visible to the casual observer.

VA statistics on the Vietnam era, which extended officially from August 1964 to May 1975, reveal that more than 92,000 men left the service with diagnosed psychiatric disabilities. The figures for physical disability ran to more than 400,000.

In 1976, three years after U.S. ground troops left Southeast Asia, 19,000 ex-soldiers like the Marine from Bethesda were 100 percent disabled.

More than 6,000 of them remained in VA hospitals that year, outnumbering by two to one the general medical and surgical patients hospitalized.

The former Marine—let's call him Pete Meyer—considers himself one of the lucky ones because he has been able to leave the hospital and live independently with encouragement from his family and friends.

Nevertheless, after $20,000 worth of private psychiatric treatment, in addition to free VA care, his mental condition is still diagnosed as "chronic undifferentiated schizophrenia."

His psychotic symptoms are controllable only by heavy doses of two tranquilizers he must take morning and evening to maintain a facsimile of a "normal" life.

No doctor can tell him when or if he will ever be the way he was before the war.

Meyer joined the Marines in August 1967, fresh out of Walter Johnson High School and a comfortable middle-class home. Old friends describe him as alternately bookish and zany in those days, with a wide range of interests (from Future Teachers of America to folk-singing and model rocket club) and a flair for the dramatic that won him a lead part in his senior class play, "You Can't Take It With You."

College would have seemed the obvious choice for Meyer, except he wasn't quite ready to plunge into school again, and his parents agreed that if he joined the service, he could always go to school afterward on the GI bill.

And so he went "gung-ho" into boot camp at Parris Island, followed by more training at Camp Lejeune and jungle training in California.

He reached Vietnam in the spring of 1968, sent over in a batch of replacements for a 3rd Marine Division platoon that had just been wiped out in the Tet offensive.

Meyer speaks coolly, in a tone of quizzical amusement, about the events of the following 13 months, as if he were telling someone else's story.

"Most of the time we went out on 28-day operations. At times, we were getting shot at every day. I ended up on what they called a 'permanent point squad.' That meant we were always the first guys through the bush.

"In the year I was there, out of 14 guys, only two of us in the original bunch lasted the whole time. The rest were either killed or wounded and sent home.

"But I kind of liked the point squad, because you got certain benefits. Like, you would get six hours' sleep instead of four. You just get so tired in war—eating one meal a day, going a month at a time without a shower or a change of clothes, staying awake all night on watch, or when you do sleep, just rolling up in your poncho and sleeping on the ground.

"I stayed so tired and hungry and worn down the whole time I was there I just did what I was told. I was too tired to question anything."

Meyer got the nickname "Crazy Pete" when he volunteered to be radio operator. Everybody knew the antenna sticking up behind his ear was an easy target for the enemy.

After a couple of months in the bush, his weight was down to 125 pounds and he was carrying nearly 100 pounds of gear: an M-16 automatic rifle, 18 extra 18-round magazines of ammunition, a .45-caliber pistol, a light anti-tank weapon, a shotgun with 25 rounds, eight grenades and an incendiary grenade to destroy his radio if he were captured, plus the 30-pound radio and a few spare flares.

Soon he had another nickname—"The Next Man"—because in skirmish after skirmish, with his buddies going down all around him, Meyer somehow came through without a scratch.

"It got to be a real thing after a while. Everybody just knew I was going to take a hit next time around. I never did. I guess the worst time I can remember was in the Ashau Valley, when we went up Hill 1375—they were named after their altitude—and we have a new squad leader who couldn't read a map.

"We were all marching in single file and the first two guys went around a bend and got disintegrated from the waist up by land mines they had rigged in trees by the path.

"The third guy was shot in the side. The fourth guy was blinded by shrapnel. I was the fifth one in line and I wasn't touched.

"I helped wrap up the bodies of the guys that got blown to pieces, so the units that were following "behind wouldn't have to see them. Then we called up some artillery support and napalmed the enemy position.

"The funny thing about fighting over there was I never saw a live enemy soldier—except one time. Just saw a lot of dead ones."

It was about three months before his time was up, Meyer recalls, during a really rough campaign when nobody in his unit was getting more than 45 minutes of sleep at a stretch, that he started to hear the voices of his dead friends.

"I'd be standing watch and I'd hear the voice of a guy who had been a close buddy in the squad calling my name out behind me. I'd turn around and say, "What?" But of course there was nothing there.

"At that point, I'd been called Crazy Pete so long, I figured it had really happened. So after that, I just tried to stay real busy, to stay up near the front where things were happening. I didn't hear the voices unless things got slow."

Near the end of his tour, when Crazy Pete actually volunteered to spend another year in Vietnam, his superiors knew it was time to send him home.

Still revved up for combat, he reported to his new stateside assignment. They had made him a file clerk in the company office at Camp Lejeune, and for the first time the Marines had handed Meyer something he just couldn't swallow.

He had return to a different country from the one he had left a year before. When he went home on weekend passes, his friends were into the anti-war movement and the drug scene.

Within a few weeks, he had become just as gung-ho about wanting his country out of the war as he had been to get into it the year before.

Back at Lejeune, he says, he couldn't stand being stuck in an office with a bunch of know-nothing "boots" just out of basic training. He felt he had served his country honorably, and now they were playing around with him.

Meyer swears he had never before taken drugs, not even marijuana back in Vietnam where the weed grew so wild the troops sometimes used it for camouflage.

But after he got home, the way he figures it, he used drugs to "medicate" himself against the frustrations and conflicts he felt over the war.

"I started out sniffing typewriter correction fluid," he recalled. "Then I moved on to speed and began smoking pot. Then it was hashish, and finally acid. Also I started trying to put together a kind of underground newspaper at Lejuene, but counterintelligence caught me and threatened to throw me in the brig if I didn't cut it out."

Eventually, the combination of drugs and anti-war involvement got Meyer an early discharge for medical reasons, an honorable discharge to go along with the Silver Star and Navy Cross he had won for his combat duty.

He spent the next couple of years flipped out on drugs, hallucinations, and aimlessly wandering around Europe and North America. A botched suicide attempt—he didn't take quite enough Valium to do the job—led to the first of several periods of hospitalization.

"But all the hospital does is prevent you from killing yourself and keep you on your medication," Meyer says. "The best way is to live in the real world and get good counseling."

Meyer has been off acid and heavy drugs since 1973, and now lives alone in a one-bedroom apartment near his parents' home, controlling his psychosis with a powerful 400-milligram dosage of Thorazine each day.

Rated at a 100-precent disability level by the VA, he gets a monthly compensation of $754.

For six years he enrolled in courses at Montgomery College, trying at least to salvage the college education he had always planned to get on the GI bill.

"But after all that time, I only ended up with 50 credits. I'd go along fine and make straight A's during the semester, but the pressure of finals would make me flip out again right before the exams and then I'd hole up and be a recluse for several months before I could get up the nerve to register again."

Weekly sessions with a private psychiatrist and a therapy group, paid for by his parents' insurance, help Meyer to overcome the occasional attacks of anxiety that still plague him.

"On my next disability review the VA will probably downgrade me to 70 percent because I'm working," he says. "They'll take away some of the compensation, even though my take-home is only about $300 a month. But I don't care. I really enjoy working. For so many years, I was either too flipped out or too tranquilized to do much of anything."

Nine years ago, when Peter Meyer and thousands of other American youths were struggling alone with the demons of memory and conscience that have come to be known as "Post-Vietnam Syndrome," some of the more progressive Veterans Administration doctors here were trying to convince their recalcitrant colleagues of the need for a "transitional readjustment program" to provide counseling for returning veterans and their families.

But emotions about the controversial war itself were still so strong that the proposal became a victim of politics.

Despite a significant mental health pattern that was developing among Vietnam soldiers—they suffered the lowest rate of battlefield breakdowns of any war, but a high incidence after returning to civilian society—versions of the plan were defeated three times by congressional committees in the early and mid-'70s.

Now, says Dr. Charles Stenger of the VA's mental health division, the fourth revision, called the readjustment professional counseling bill, is pending before Congress.

"The problem is, you look like idiots seven or eight years later, still trying to get something like this through," Stenger said. "At this point, of course, the effect will be more one of repair than of prevention, as we initially designed it. We took care not to tag the program as 'psychological,' in order to avoid that kind of stigma in the men's minds."

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VETS EXPLAIN THE PATH FROM VIETNAM TO PRISON

(By Donia Mills)

The Monday night meeting of the Prison Organization for Veterans Affairs (POVA) was called to order, more or less, in an olive drab classroom at Lorton Reformatory where the day's lesson in prepositions and conjunctions was still scrawled across the blackboard.

A dozen men in jeans, Army fatigue jackets and knit skullcaps squeezed themselves into desk-top chairs, waiting for the discussion to begin.

Of 126 veterans at Lorton, 87 were in Vietnam. A visitor at the meeting asked a handful of the Vietnam veterans if they thought there was a connection between the time they had served over there and their current confinement at Lorton.

So they were each thinking back, trying to come up with something that would make some kind of sense.

"When a brother comes back home after fighting for his country and he can't find a job, that turns a man around," said Sammy Paige.

"And when a brother gets messed up on drugs, that turns a man around. When they come back sometimes, they're not the same man they were when they left."

"The average guy came out of that war not caring about nothing" added Carl Strong, a former infantryman drafted at 18. "I know me, I was just so young and wild. I think they should have planned some special training for the ground troops. I came home and I wasn't trained for anything."

Strong said he got an honorable discharge in 1970 although he did a lot of "bucking"—refusing to follow orders—in Vietnam.

"People was giving me orders that was going to get me killed. I could see that very clearly. Guys that followed orders was dead within a month. So when I was told to do something that looked wrong. I just didn't do it."

The pattern persisted after his return, Strong added.

"I guess you could say deep down inside I was still rebelling against the boss' orders," he said. "I tried a little of everything—messenger, porter, moving company. I even worked at the post office a while."

Sooner or later, his efforts failed. Strong just couldn't hold a job. In 1976 he held up a Safeway Store and was sentenced to 7 to 25 years for armed robbery.

"I served two tours in Vietnam," Henry Carter said. "I hear people say now, man, you was a fool to go over there. But while I was there, I never heard any of that. It's only since I been out on the street I learned any different.

"If you want to know what I think . . . I think the U.S. government used Vietnam as a testing ground to show the Communist world what they could do if they wanted to, which was kill a whole lot of people.

"Ha," Carter added as an after thought. "Then I come back and they put me in the penitentiary."

He was a good soldier the six years he served, Carter insists proudly. He was a machine operator in the Corps of Engineers, building roads along landing zones where a soldier had to check for mines every step of the way.

"I was an E-5. That don't mean anything today. Nobody recognizes military training out in the civilian world."

"Yeah," Carl Clark spoke up. "I came back well trained as a steam distribution engineer, but no employer here would trust me on the job. I mean, I ran a 150-pound pressure boiler over there. That thing was so powerful no building in Washington would have one because if anything happened, it would blow the whole place sky high."

As with a great number of the men now serving time in prison, Carter's downfall was drugs.

"Now, during the first tour, that was 1968–69, I never saw anything but marijuana. But the second time, 1970, the heroin was everywhere. Just about everybody was into it. I started smoking it a lot."

The smokable "smack" that flooded Vietnam during the early '70s was very pure and dirt-cheap, compared with stateside prices.

Back home and stationed at Fort Story, Va., Carter soon realized he was in over his head. His drug habit was eating up all his military pay, and to supplement it, he turned to robbery.

"At first I didn't seek medical help in the military because they just looked down on you," he said. "Once you tried to get help for drugs you were a marked man. After that, they wouldn't leave you alone.

"Once, I did go into de-tox for 11 days. That just got the monkey off my back. I felt they should have put me in a good drug program. They talked about 'drug amnesty,' but it was no real amnesty. The attitude of the military was not to help addicts, just get rid of them."

On his first robbery arrest, Carter was put on probation. He violated the probation and was subsequently found guilty on a burglary charge and sentenced to 9 to 27 years.

Carter pleaded innocent at the time, and after two years at Lorton, still claims he is innocent. His case is being appealed.

"They sure didn't consider I'd paid any dues at all with those six years in the service, did they?" he said quietly. "In the sentence that judge didn't go light on me at all. I got a wife and two children. I also got nine years. I don't see much hope she's still going to be around by the time I get out of here."

The lawyers and veterans groups who volunteer legal aid to incarcerated veterans seem to think there are very strong connections between poverty, Vietnam, drugs and prison for men like these.

In one government-sponsored survey of men returning from Vietnam in 1971, a year when both heroin use and troop reductions were at their height, more than three-fourths of the respondents reported that drugs could be had for the asking right in their own units, any time of the day or night.

Nearly half the men admitted they had tried narcotics during their tour of duty, saying they sought out the euphoric effects of drugs for reasons including boredom, homesickness, depression, insomnia and fear.

About one in five was addicted to heroin while in Vietnam.

Half of them still had their habits at the time of their return, though follow-up studies indicated a high rate of remission within a few months, supporting the notion that it was the nature of the war, and not the men, that was to blame.

"Over there, that stuff was as plentiful as cigarettes," explained Bobby Williams, a 37-year-old inmate who serves as a liaison between the prison office and the veterans group.

"A lot of guys over there used drugs to cope with the reality of what they were doing. Some of them were being ordered to shoot women and children, to fire into a building, and maybe they don't really know what's inside it.

"I mean, you look around here, these guys might have done some bad things in their lives, but everybody here has got some human standards."

The POVA program at Lorton, believed to be the first such organization in the country, was begun about four years ago to assist all veteran inmates with VA benefits and various legal matters, including appeals for upgrading of the less-than-honorable military discharges many are saddled with.

June Willenz, a director of the American Veterans Committee who has counseled several Lorton prisoners about their so-called "bad paper" discharges, sees a vicious circle of poverty, ignorance, substandard military behavior, less-than-honorable discharges, joblessness and crime at work in the men's lives.

"A lot of people," she said, "want to dismiss this group as society's losers, the guys who would have gotten in trouble anyway, war or no war. And yes, that may be the case with some of them. But those with the most disadvantaged backgrounds are the ones who most often ended up getting drafted and put in the front lines, and it's a mistake to assume that the uneducated can do all right in combat, if nothing else.

"With many of these men, their lives had simply not prepared them for the kind of discipline required in the Army. Believe it or not, having some degree of education does help an individual in adjustment to military life."

With the help of volunteer counsel, six inmates so far have succeeded in getting their

discharges upgraded, and 12 more are currently awaiting a decision from military review boards.

POVA secretary John Long explained that the organization also attempts to line up housing and job opportunities for veterans prior to their prison release date but admits that this effort is usually rough going.

"Most of the landlords are not receptive," he said ruefully. "Also, we help the men file job applications, starting with teaching them how to fill out the forms properly. But that's also kind of hit-and-miss. Jobs are hard enough for a free man out on the street to find, let alone a prison inmate."

A number of the men take courses offered in Lorton's education center by Howard and the University of the District of Columbia and paid for by the GI bill.

Carl Strong recalled, with a little amusement, the hassles he went through trying to go to school on the GI bill in between his job troubles and his trouble with the law.

"I bought a car and started studying TV repair at Columbia Tech, but I went six months before the VA sent my first check. I was dependent on those checks. By the time it would arrive each month, I owed it all back.

"Then I decided to change to a different course of study. But that stopped the checks again till they got the paperwork all changed. So I had to sell the car. Now the school was in Arlington, and I lived in the District and didn't have my car to get there."

It was about that time he robbed the Safeway.

"I guess I was just frustrated. It wasn't so much needing the money, really. Everything was going wrong and I didn't know what to do."

Now Strong is enrolled in University of D.C. courses at Lorton, but he's perturbed again because he wants to go to Lincoln Technical Institute if he can get out of Lorton before his 10-year benefits limit is up. The VA has told him there is a regulation that says a veteran can't change schools or programs more than three times or else he loses his remaining benefits.

The veterans said that their tuition and book expenses are deducted by the prison office from their monthly benefit checks and that they are allowed to send the rest home to their families or keep it in the bank as a nest egg to help them get a start after their release.

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ARE "BAD PAPER" VETERANS THE "ULTIMATE SCAPEGOATS OF WAR"?

(By Donia Mills)

In January 1977 when President Carter made amnesty for Vietnam draft evaders a top priority, it was a real blow to the 750,000 ex-soldiers who had left the service bearing the stigma of less than honorable discharges.

The number of these so-called "bad paper" discharges had escalated steadily over the decade of the war. By 1975 the pre-war norm of 5 percent had climbed to 11.2 percent.

Only about 1 in 10 of these men, however, were courtmartialed for serious offenses and given bad conduct or fully dishonorable discharges.

The majority received simple administrative discharges labeled "general" or "undesirable," offered to errant GIs by the service as a quick alternative to the extended ordeal of a court-martial.

The offenses ranged from charges of AWOL and insubordination to such behavioral aberrations as homosexual tendencies, smoking marijuana and a catch-all category called "personality disorders."

All those with discharges below the "general" level became ineligible for VA benefits. In addition, any man with a less than honorable discharge stood a good chance of being discriminated against by employers who would view him as a bad risk.

Statistics show that while blacks accounted for only 12 percent of the military population, they received one-quarter of all less than honorable discharges.

And recent surveys of veterans in prison revealed that nearly half had left the service with bad paper.

A several veterans activists have suggested Carter's amnesty decision made this group feel like "the ultimate scapegoats of the war"—getting punished by the military for exactly the same behavior they saw their collegiate and draft-dodging peers getting away with in civilian life.

But two months later, the president seemed to be giving the scapegoats their due when he announced a special discharge review program under which veterans could apply to have their discharges upgraded.

One of the first in line to apply for an upgrade a year ago was Mike Sarkin, a former Army electronics technician who went AWOL following his return from Vietnam and received an undesirable discharge in 1971.

Sarkin had joined the Army young and gung-ho in 1966. Two years later, at the age of 21, he had already attained the rank of staff sergeant and successfully completed a tour of duty as an instructor at Fort Monmouth, N.J.

He promptly re-enlisted and spent a year in Vietnam with a unit that was operating, repairing and defending a radio and TV facility on a hill-top near Pleiku, in the central highlands, under frequent Viet Cong fire.

"I think I re-enlisted just to go over there," Sarkin said dryly the other day, describing the unhappy nine years that followed his four-year military career.

"It sounded at the time like a real John Wayne thing to do—and of course, I figured if my country was doing it, it had to be right."

Sarkin says he changed his mind about the war during the Tet offensive, watching innocent civilians get blown apart just walking down the street.

"The worst thing about it was the way we were conducting the war," he recalled. "It was more like a diplomatic war—the government was sending us over there to get shot at, but then making us ask permission before we could shoot back."

Like many soldiers who held up during their tour in Southeast Asia, Sarkin had a delayed psychological reaction after he returned home.

During his absence, his four-year marriage to his high school sweetheart had disintegrated, and the anti-war movement was in full swing all around him.

"My friends who were in college looked at me like. 'Oh, there's Mike Sarkin, the killer.' I went around a couple of months trying to defend the war—but in 1969, that was about as dangerous as actually being in Nam."

Sent back to Fort Monmouth for the remainder of his tour, Sarkin balked at returning to the classroom.

"You know, when you get back from Nam you have a funny attitude," he reflected. "Like, all right ———, I went over and I did the job and I came back alive . . . now, the next time you tell me to do something, there better be a good reason for it."

Sarkin told his superiors he had no desire to teach any classes that were Vietnam-bound—an attitude his superiors refused to accept.

"I requested an early discharge, but they denied it," Sarkin continued. "So I took what you might call the chicken way out. I knew I would get an undesirable discharge if I accumulated 150 days of AWOL. I didn't really go anywhere—I just didn't report for duty.

"Eventually they transferred me to Fort Dix, where they had set up a special processing unit for guys who just wanted to check out, whatever it took. It was sort of an AWOL factory—we used to sit around the barracks at night counting off our days."

Sarkin said the men with undesirable discharges were told they could be eligible for VA educational benefits, but his application was denied by the VA the following year, and he began working in a series of menial electrician's jobs.

"After you've been a television engineer, installing light switches in apartment houses isn't too challenging," he said.

Last spring, he applied under Carter's special program, which looked like his last remaining hope to study electronic engineering under the GI bill.

Because he met several of the program's criteria—he had more than 24 months of honorable service previous to his behavior problem—the panel of review judges voted unanimously to upgrade his discharge to fully honorable.

By the end of the summer he had received his eligibility notice from the VA and enrolled in Essex Community College near Baltimore.

Told to expect his first VA check on Oct. 1, Sarkin began attending classes and in the same burst of optimism, married on October 7 a woman he had been dating for some time.

The very next day, he was crushed to learn that Carter had capitulated to Congressional hawks and signed Public Law 95–126, a Senate bill that held up payment of VA benefits to all 16,000 veterans with newly upgraded discharges.

Viewing the president's program as a "giveaway," Congress was demanding a second complete review of each individual case, to determine whether it would have met traditional military standards for upgrading.

Despite a clause affording 180 days of provisional payments to anyone who was already enrolled in school and receiving benefits before the bill's passage, Sarkin says he has yet to receive a penny from the Baltimore VA office—only administrative errors, delays, misinformation, and outright neglect.

The VA has also failed to explain to him satisfactorily why he can't receive benefits based on his first, honorable tour of duty.

"My wife has been marvelous about supporting me so I can keep going to classes until the VA comes through," he said. "But I know my mother-in-law looks at me and thinks, when is this freeloader going to start paying his own way?"

Another blow struck earlier this month when Sarkin's wife underwent emergency surgery and suffered ensuing complications which will keep her convalescing for a while.

Now, added to the overriding strain of personal worry, is Sarkin's discouraging realization that he will have to quit school within a month if he doesn't get his VA benefits.

"The whole system has been quite arbitrary," says David Addlestone, director of a military discharge review project set up by the American Civil Liberties Union to study cases like Sarkin's.

"Our position is that there are serious legal processing problems involved in the way many of these discharges were handled. Every case we've taken to court, we've ultimately won upgrades for. But the military still hasn't published any fixed set of standards applicable to review procedures.

"An Army officer once admitted to me that the decisions of the review board members are about 5 percent logic, 15 percent emotion and 80 percent gut reaction."

In January 1977 the ACLU and 21 veterans organizations won an out of court settlement against the military discharge review boards, insisting that "statements of findings and reasons" be written and made publicly available on each case reviewed.

And in a case sponsored by the ACLU, settled in U.S. District Court here in February, the Army agreed to review and probably upgrade 50,000 personality-based general discharges that Army officials admitted might have been misprocessed between 1958 and 1975.

Civil libertarians are still badgering the Defense Department for "published uniform standards," but the kind of 1-2-3 list they're asking for is simply not practical, according to Col. William E. Weber, current president of the Army Discharge Review Board.

"The ACLU people want precedent and judicial procedure, and it's not possible," Weber said. "We deal with intangibles, just like a civil court of law.

"The way the review board operates, each of the five members is a judge, and collectively, they're a jury. And how do you weigh a factor like family problems—do you assign it a numerical factor of 5? Of 10?"

Weber said the review board's workload has increased 1,000 percent over the past four years, partly because of the president's special program and the subsequent Congressional order to review again all the cases upgraded under the program.

At the same time, he asserted, the "almost unbelievable amount of discussion" generated on the subject of discharge review over the past few years really concerns a tiny and "insignificant" number of Vietnam veterans—less than 1 percent.

"Any program being administered by humans is going to have mistakes made," he said. "And during a time of trauma, the incidence of mistakes might escalate slightly. But there is nothing at all that supports the idea that because some discharges were unfair, all are automatically unfair."

He compared the difference between an honorable and "general" discharge to the distinction between an A and a C on a report card.

"What the general discharge says is, 'this individual served adequately, but held something back.' We don't have a cum laude discharge to distinguish the really superior soldier. So until we stop giving A's and B's and C's in civilian life, I imagine we will keep giving general discharges."●

## A GLOBAL APPROACH TO THE ENERGY CRISIS

● Mr. PERCY. Mr. President, since the 1973 Arab oil embargo and the OPEC oil price increases, numerous articles, pamphlets and books have been written about the effects of the energy crisis on the less developed countries (LDC's). There exists an overwhelming consensus that the development plans of the LDC's are in serious trouble without secure and reasonably priced energy supplies. One of the most concise and thoughtful expositions of this problem, and its possible solutions, was written by James Howe and William Knowland of the Overseas Development Council. Even though this article was published in December 1976, it still contains timely advice. The article is entitled "Energy and Development: An International Approach."

In their article, Mr. Howe and Mr. Knowland stress the vital link between energy and development. However, they caution against applying conventional energy solutions to the problems of the bulk of the developing world. For many of these nations, small-scale energy technology appropriate for the village level would be far more useful in lifting these people out of abject poverty than large centralized electric power grids.

Mr. Howe and Mr. Knowland urge a global approach to solving this problem. They stress that this is in the self-interest of all nations. In particular, they urge the United States to play a key role in global energy strategy by initiating and supporting a number of international programs. This is a responsibility we cannot shirk.

Mr. President, I ask that this excellent article be printed in the RECORD.

The article follows:

ENERGY AND DEVELOPMENT: AN INTERNATIONAL APPROACH

(By James W. Howe and William Knowland)

The immediate U.S. reaction to the shock of the 1973 Arab oil embargo and OPEC oil price increases was to seek national energy self-sufficiency—energy independence. But several years after the oil embargo, the United States is growing still more dependent upon OPEC oil and facing ever higher energy costs. It is time to reassess the situation and consider the possibilities of achieving energy security through a global approach that more clearly recognizes the realities and opportunities of our energy interdependence.

The energy problem for the United States and other developed countries is largely one of adapting to suddenly higher energy prices without a significant loss of economic welfare. But for over half the world's people living in the oil-importing developing countries, the energy problem is more fundamental. Despite low per capita consumption of oil in these countries, rising oil costs have forced many of them to choose between importing either less oil or less food, fertilizer, and other inputs essential to their economic development. Without support either to help pay their higher fuel bills or to increase their indigenous energy supplies, they are doomed to remain poor.

Taking the energy needs of developing countries into consideration would cost the United States and other developed countries relatively little but could yield significant benefits, including making the world's use of energy more efficient, more secure, and possibly even cheaper for all nations, rich and poor.

U.S. ENERGY INDEPENDENCE

The official U.S. energy strategy since 1973 has sought to reduce U.S. oil imports to a point where the United States would no longer be vulnerable to another embargo. The basic tactics of this policy—Project Independence—are to (1) reduce U.S. consumption of oil imports by 1 million barrels per day by 1985 (present U.S. consumption totals about 17 million barrels per day, of which about 7 million are imports), (2) greatly increase domestic production of fossil fuels and nuclear power, (3) build up an oil storage reserve equal to six to twelve months of oil imports, and (4) develop a standby rationing system that could be quickly implemented in the event of another embargo.

There is, however, a growing realization that the direct and indirect costs of fully implementing this program would be enormous. For the 1976–1985 decade, the U.S. Federal Energy Agency estimates that investment in the energy industry would approach $600 billion (in 1975 dollars); some private analysts expect the final figure to exceed $1 trillion. And after 1985, the program's costs would accelerate even more. In addition, the amount and type of energy growth projected (with an emphasis on electrification) would produce tremendous amounts of pollution and waste heat. Thousands of square miles of U.S. landscape would be irrevocably altered by strip mining, as would be the lives of many communities in coal and oil-shale areas or areas adjacent to offshore oil fields. Major development of nuclear power would present additional environmental, health, and political problems.

But even if the United States were willing and able to increase its domestic energy production and to achieve the other goals of Project Independence, it still would not be immune from a future embargo. As long as its major trading partners—Western Europe and Japan—are not similarly independent in energy supply, the entire world economy will remain vulnerable to the actions of the Organization of Petroleum Exporting Countries (OPEC). Despite the North Sea oil reserves now being tapped, neither Western Europe as a whole nor Japan has any short- or medium-term hope of ending its heavy reliance on Middle East petroleum.

These observations are not offered as a condemnation of the goal of energy independence. In fact, it would be ideal if the technology were developed to permit nations and even localities to be truly energy independent—i.e., to draw their energy needs from safe, clean, inexpensive, and renewable *local* sources such as sunshine, wind, or wastes. However, the best route to such eventual independence (if it is indeed technologically and economically feasible) is a cooperative international approach—without which there will be time-consuming and costly duplication of research and development and neglect of the potential of *all* nations to make the most efficient use of their resources.

ENERGY AND DEVELOPMENT

It is the oil-importing developing counties that suffer the most from rising energy prices. In order to purchase essential fuel, many have little choice but to borrow foreign exchange and go further into debt. And if developed countries reduce other imports to compensate for higher fuel costs, the developing countries will lose their export markets—and the ability to repay their debts.

Developing countries have two distinct energy sectors. The first is commercial energy such as oil, gas, coal, and electricity, which are bought and sold in large regional or national marketing and distribution networks. Many of the developing countries are attempting rapid industrialization and trying to meet the commercial energy needs of quickly growing and increasingly urbanized populations. The second sector is traditional or noncommercial energy such as firewood and draft animals, which are used on the spot by the producer and gathered or traded only within the traditional village context. Noncommercial energy is still very important in the developing world and represents the larger share of the total energy consumed. One source estimates that the amount of noncommercial energy consumed is comparable to the entire flow of crude oil among nations (about 30 million barrels a day). Yet *per capita* consumption of traditional energy is low; most individuals use no more than 15,000 calories daily for food, firewood, and animal power. (By contrast, the suburban American who lives 10–15 miles from work burns more than three times as much energy just driving to and from work.)

For the 50–80 per cent of the people in developing countries who still live in rural areas, relatively cheap and abundant energy is a prerequisite for development. The conventional answer to this need has been to slowly extend modern electrification networks. But for many Latin Americans and most Africans and Asians, this remains a dream for their grandchildren. Long before that dream can become a reality, however, it might be possible for small-scale technologies that utilize locally available energy sources to help in the performance of essential daily tasks. Among such small-scale options are the conversion of animal and human wastes and crop residue into methane gas and fertilizers; the use of windmills for water pumps and electricity; the use of small streams for electricity generation; and the

use of direct solar energy for heating, crop drying, and electricity generation. Most developing countries, however, lack the knowledge to create such technology or the capital to import it without outside help.

Throughout the 1950s and 1960s, the general economic development strategy of most poor countries was patterned after the economic model of the North. That model was largely urban-oriented and capital-intensive and emphasized the development of large-scale industry. It was assumed that the benefits of this approach would "trickle down" to the poor, even where the poor constitute the majority. Many scholars and policy makers in the developing countries are now challenging this approach and calling for a strategy to benefit the majority from the very start—a strategy that emphasizes agriculture more than industry, rural more than urban development, small-scale rather than large-scale technology, and labor-intensive rather than capital-intensive investments. Those countries which focus their development strategy on human needs may well find that an energy strategy that relies on small-scale renewable or inexhaustible sources (such as solar energy, wind, water, and bioconversion) would be more appropriate and less expensive—especially for rural areas—than one dependent on a centralized energy system.

A GLOBAL APPROACH

It is in the self-interest of all countries to pursue a global approach to the energy problem on several counts:

Cooperation can avoid time-consuming and costly national duplication of energy research and development. Thus it can help develop energy sources to meet global needs when oil, gas, and uranium supplies are depleted, as they are likely to be in a few decades.

Encouraging development of oil and gas, wherever they are found, is economically rational and will provide more time to develop alternative sources.

If developing countries have sufficient energy from other sources, they will be less likely to turn to the costly development of nuclear fission (with all that it also portends for weapons proliferation and terrorist activities).

To the extent that poor countries can develop their own energy resources economically, they can lessen their economic and political dependence on outside sources.

A global effort at cooperation on energy development and related problems might begin with the following steps:

1. Initiation of Global Analysis and Planning. The energy supply and demand picture for the United States and most developed countries is known in considerable detail, but for much of the world there is very little information available. The problem is similar to that which until recently existed for food. Thanks to the efforts of the U.N. Food and Agriculture Organization and the U.S. Department of Agriculture, we now have substantial information about global food supply and demand and the projections of the balance into future years. The same is needed for energy, yet there is no international energy agency to perform such an analysis. We need a World Energy Council—an international agency capable of coordinating the necessary data-gathering on energy use and supply, assessing that information, preparing and keeping current a global energy balance sheet, and performing special analyses that would be of use to national energy decision makers.

2. Cooperation in Exploration for Fossil Fuel Resources. Experts estimate that there may be between 1.7 and 5 times more oil in the earth's crust than already has been discovered. The U.S. Geological Survey estimates that about half of this oil will be discovered in the poor countries that are not now members of OPEC. Why hasn't this oil already been discovered? Some observers point to the lack of intensive exploration. There are vast areas of Africa and to a lesser extent Latin America and Asia that have not yet been adequately explored, even though they are geologically promising. For every well drilled in Africa, for example, 300 wells have been drilled in the United States on geologically comparable terrain.

The international oil companies have traditionally underwritten the high costs of petroleum exploration. But the oil companies now maintain they are reluctant to invest in developing countries because they cannot get sufficient guarantees for the security of their investments. Thus international action is needed to improve the investment climate. One possibility is to establish an international program to insure oil and gas companies against the political risk of contract abrogation. A variety of other steps are also worth considering, including the provision of technical assistance to developing countries to strengthen their ability both to negotiate satisfactory contracts and to confidently monitor the execution of these contracts by foreign companies.

In addition to oil and gas resources, which are the most important fossil fuels expected to be found in the developing countries, many developing countries almost certainly have significant reserves of coal and other fossil fuels. There has been even less exploration, on a worldwide basis, for coal, lignite, peat, shale oil, and tar sands than for gas and petroleum. Means should be sought through international cooperation to help developing countries find and develop these assets.

At the May 1976 session of the U.N. Conference on Trade and Development, the U.S. government proposed an International Resources Bank (IRB), which is still being discussed in a variety of forums. It would provide political risk insurance, such as was suggested above, for both energy and non-energy minerals. The IRB, or at least a variation of it which would deal exclusively with energy and would incorporate other actions designed to make the climate for investment more reliable for both developing countries and foreign companies, is worth pursuing.

3. Collective Consideration of the Nuclear Option. The euphoria of the 1950s over the promise of cheap, "clean" electricity from nuclear fission has deteriorated into a state of confusion. The scientific community is split over questions of safety. Businessmen, concerned with rising costs, cancelled or delayed plans in 1975 for 148 nuclear power plants in the United States alone. Manufacturers of such plants, however, are continuing efforts to sell nuclear plants abroad—an activity their governments encourage.

At the same time, there is growing citizen concern in the developed countries both over the further proliferation of nuclear weapons and over the environmental consequences of the spread of nuclear power. But as long as nuclear technology continues to grow in other nations, local or unilateral national opposition cannot ensure safe storage for radioactive residues, prevent the diversion of explosive materials into weapons, or avert the resort of terrorist groups to radioactive or explosive materials. All of these are issues that can be resolved only by global action. Thus the debate within industrialized countries over whether to go ahead with nuclear power needs to be complemented by an international dialogue on the same issue.

In many developing countries, the developed world's recent concern about the spread of nuclear technology—after years of Western promotion of the anticipated "blessings of the atom to mankind"—is viewed with considerable resentment. This feeling is strengthened by the fact that international discussions and decisions on nuclear matters often exclude the developing countries. These countries see the developed countries applying a "double standard" in the nuclear field: nuclear technology is judged to be "safe" when produced and used by other developed countries (capitalist or communist)—in spite of the fact that four developed countries use it to manufacture nuclear weapons—but not when used by the developing countries. There is also suspicion of the motives of developed-country spokesmen who advise the developing world that nuclear energy is not in its best interests. To some in the poorer countries, Northern talk about "appropriate energy technology" seems a ruse to keep the South from modernizing. But many specialists who are genuinely in favor of advancing the developments of the poor countries (including the authors of this communique) are convinced that a growing list of disadvantages (quite apart from proliferation of nuclear energy an unwise policy for most developing countries. Among the particular limitations of the nuclear option to the developing countries are the lack of capital, the shortages and high costs of skilled manpower and management, dependence on outside sources for fuel and technology, and the fact that most plants are too large to be cost-effective for the small national electrical grid systems now used in most of these countries.

Given the now widespread recognition of nuclear energy's many problems—which have highly undesirable implications for all countries, developed and developing alike—the United States and other developed countries should move to change their international positions on the development of nuclear energy. They should 1) discontinue the subsidies they presently offer in the form of government financing on favorable terms for a portion of nuclear exports; 2) revise the mandate of the International Atomic Energy Agency (IAEA) so that the Agency would end its advocacy of the use of atomic energy and instead concentrate its efforts on its second main task, that of regulating the production and handling of radioactive and explosive nuclear materials; 3) discourage the developing countries from following the nuclear path and actively help them find better alternatives to meet their energy needs; 4) offer to work closely with those developing nations which, despite advice to the contrary, do opt to follow the nuclear path, by extending technological support to them to make their development of nuclear energy as safe and environmentally sound as possible: and 5) search for an acceptably balanced mechanism to include representatives of the developing countries in discussions of international nuclear energy options and policy choices.

4. Making World Energy Research More Applicable to Development. Not surprisingly, most energy research and development is financed by and takes place in the industrialized countries. That research has three general characteristics. First, almost all of it is devoted to large-scale, centralized energy production units. More than 90 percent of U.S. energy research and development is devoted to such large-scale technologies as fission, fusion, fossil fuels, and geothermal electricity-generating facilities, even though a portion of modern energy use (such as the bulk of domestic and commercial water and space heating) could be more efficiently met by decentralized, "on-site" sources. For much of the developing world, where, according to World Bank estimates, nearly half of the people still will not be reached by centralized national electrification by the turn of the century, there is an urgent need to explore appropriate village-scale or farm-scale energy sources.

The second characteristic of energy research and development is that it is conducted mostly on a country-by-country basis, with all too little international cooperation. Yet international cooperation offers an opportunity to speed up research and develop-

ment and to reduce its costs. Internationally coordinated research has paid handsome dividends, for example, in the case of research on food grains, as is evidenced by the rapid spread of high-yielding varieties of rice, corn, wheat, and sorghum developed within internationally coordinated agricultural research networks. Similar networks might be formed for research on wind, waste, the sun, and other nonconventional energy sources.

Finally, all but a small fraction of energy research and development is devoted to depleting the remaining finite stocks of fossil and uranium fuels. Almost all energy authorities agree, however, that sometime before or near the turn of the twenty-first century, most conventional sources of energy (oil, gas, uranium) will be in short supply and that it will be necessary to have competitively priced inexhaustible sources of energy such as solar heating and solar electricity. Thus the hundreds of billions of dollars that are being invested in oil, gas, and nuclear fission are for a transitional period of perhaps 15 to 30 years until the technologies to tap inexhaustible and renewable energy sources become widely available. Yet in the United States today, only one energy research dollar out of twenty is spent on increasing the efficiency with which conventional fuels are utilized, and only one out of four is spent on the development of inexhaustible or renewable sources.

A number of prototype small-scale and renewable/inexhaustible energy technologies have already been developed. The problem is that they generally are not yet cost-effective, at least in the major market areas of the industrialized countries, which have well-established electrical transmission networks and traditional pricing practices favorable to conventional electric and fossil-fuel consumption. But the costs picture is shifting inexorably against the continued consumption of finite fuel reserves even in the developed countries. Meanwhile, in the developing countries some of these alternative technologies may already be competitive with conventional approaches, particularly for providing energy to the villages and farms that are not located near major electrical transmission lines. Studies and pilot programs comparing the cost and performance of conventional and alternative approaches in rural areas would be very useful.

As promising village-scale technologies are identified from these pilot programs, it may be warranted to extend aid to install them in village experiments on a wide scale and—if experience so indicates—eventually to finance their export to developing countries on a major scale through loans with favorable terms (as every country that exports nuclear fission facilities has done). This not only would help to meet an important need for rural development but also would provide a large market for small-scale energy technology. Recent experience with other technologies (e.g., the transistor radio and the pocket computer) suggests that this will lead to dramatic cost reductions which would benefit both developing- and developed-country consumers.

5. Convening a World Conference on Energy Alternatives. A World Conference on Energy Alternatives—organized along the lines of the 1974 U.N. World Food Conference—should be held to stimulate and symbolize the need for the kind of cooperation outlined in this paper. One or two years of comprehensive preparatory work by national and international groups and debates at international workshops would be needed in preparation for such a Conference.

THE U.S. ROLE

The United States clearly has an opportunity to play a cooperative role in a global energy strategy and should do so in a number of areas:

1. The United States should support the creation of an international World Energy Council to coordinate the collection of global energy facts, maintain an energy balance sheet, and perform global energy analyses and planning.

2. It should support and help underwrite a political risk insurance program and other actions to encourage increased exploration for gas, oil, and coal.

3. The United States should use its influence to assure serious collective consideration of the nuclear option. It should discontinue subsidies on nuclear exports: cooperate in revising the IAEA mandate to focus on regulating the production and handling of nuclear materials; help developing countries find better alternatives to meet energy needs; cooperate with those nations which decide to use nuclear energy to facilitate safe nuclear development; and seek institutional improvements that would represent developing countries in nuclear discussions.

4. It could play a significant role in improving world energy research and development activities by refocusing a portion of its energy research and development programs on small-scale renewable sources of energy. It should take the lead in creating energy research networks to gain the benefits of international cooperation; eventually it should subsidize the sale of suitable small-scale technologies to developing countries and help those countries develop their own energy hardware production facilities.

5. The United States should cooperate in initiating and planning a World Conference on Energy Alteratives.

6. In order to enhance its credibility in assuming a leadership role in a global energy strategy, the United States should—at the same time it takes action in the above areas—launch a government-supported program of domestic energy conservation. The per capita energy consumption of the United States and Canada is unique—nearly 40 per cent above that of West European countries with similar or higher standards of living. Energy conservation is less a question of making life-style changes than one of making all forms of energy use more efficient.

An interdependent approach in the energy field is not a threat to U.S. energy security. On the contrary, energy independence would be far more costly to the United States and could itself lead to exacerbated global economic confrontation. After three years of striving for an illusory energy independence, it is time to recognize the advantages implicit in a global approach emphasizing energy interdependence.●

## NATIONAL ARCHITECTURAL BARRIER AWARENESS WEEK

● Mr. ANDERSON. Mr. President, the 1968 Architectural Barriers Act and enforcement of the 1973 Rehabilitation Services Act offer new hope to all citizens impeded by physical barriers. Therefore, I am very pleased to note the Senate's passage this week of a resolution authorizing the President to proclaim the third weeks of May 1978 and 1979 as "National Architectural Barrier Awareness Week."

I commend my Minnesota colleague in the House, Congressman RICHARD NOLAN, and my Senate colleague, Senator RANDOLPH, for their leadership in this area. Without their commitment and concern, this special and much-needed observance could not become a reality.

It is my hope that this resolution will further compliance with the law requiring federally funded structures to be barrier free. Also, I hope more private businesses will become aware of the tax deductions currently available for creating accessibility in buildings for handicapped citizens. I ask that the committee statement accompanying House Joint Resolution 578 be printed in the RECORD.

The statement follows:

STATEMENT

The Architectural Barriers Act of 1968 (Public Law 94-480) committed the Government to remove all physical barriers from Federal buildings. The National Architectural and Transportation Compliance Board was created by the 1973 Rehabilitation Services Act and was given responsibility of enforcing compliance with Public Law 94-480. In April 1977, the Secretary of HEW issued regulations implementing the Rehabilitation Services Act by requiring all buildings constructed, significantly altered, or leased with Federal funds to be barrier free.

The Tax Reform Act of 1976 also recognized the plight of the handicapped by allowing a maximum $25,000 tax deduction for businesses who make facilities fully accessible to the handicapped. The deduction is available through 1979.

The dates specified in the bill also correspond to the week selected by the Easter Seals Society for observing National Handicapped Awareness Week throughout the country.●

## WESTERN AIRLINES SUPPORTS REFORM

● Mr. PERCY. Mr. President, Western Airlines, the ninth largest carrier in the United States, recently announced its support of airline regulatory reform. The Los Angeles-based airline thus joins the ranks of other major carriers supporting reform such as United Airlines, Pan American World Airways, Hughes Air-West, Frontier Airlines, Federal Express, Flying Tiger and virtually every commuter airline in this country. The enlightened move by Western Airlines is a significant development in the growing support for airline reform in this country. Western is a medium-sized airline that serves 41 cities in 15 States, Canada, and Mexico.

Previously Western was opposed to reform, but its corporate officers were sage in changing their minds and realizing that an aggressive and well-managed airline had little to fear from less Government regulation.

Western is one of the Nation's senior air carriers and is the ninth largest in revenue passenger miles, available seat miles, and total operating revenues. It has 10,000 employees.

Mr. President, I submit for the RECORD a statement in favor of reform by Cliff Madison, director, public affairs, Western Airlines, Inc., presented before the Subcommittee on Aviation of the House Committee on Public Works and Transportation on March 7, 1978.

The statement follows:

STATEMENT OF CLIFF MADISON

Mr. Chairman, Members of the Subcommittee, we appreciate the opportunity to appear before you today to give you our views on the "Air Service Improvement Act of 1978", H.R. 11145.

Western Airlines endorses H.R. 11145, and we commend you and the Members of the Committee for recognizing the need for a Reform Bill which is tempered by experience and by the realities of our air transportation system as it exists today. Moreover, H.R. 11145 maintains the essential concept

which has fostered the very best air network in the world; the recognition that the Federal Government has a responsibility to ensure air service to American cities—large and small, profitable and not so profitable.

This measure is designed to improve our air transportation system by moving toward a more competitive environment with less federal regulation and with a greater reliance on the market place to determine service and fares. In addition, the "Air Service Improvement Act" is intended to encourage efficient and well-managed carriers to earn adequate profits and attract capital. Western Airlines, as one of the air carriers with a good route structure, an experienced and able management team with 10,000 highly trained and skilled employees, welcomes the opportunity to operate in an even more competitive atmosphere.

As this Committee knows, Mr. Chairman, Western Airlines through Mr. Arthur F. Kelly, Chairman of the Board, has testified in opposition to proposed legislation which would rather drastically alter the regulatory framework which governs this industry. We have opposed those attempts primarily because of the provisions which would mandate a removal of all federal controls over entry into the air transportation system. It has been our view that large scale entry and exit to and from markets could create havoc and could produce incalculable harm to an air transportation system that all agree is the finest in the world.

If large scale entry were automatic, we—as one of the smaller trunk carriers—feel that a large carrier—with its extensive route system and almost unlimited resources—could enter a market where we have been successful; it could reduce prices and sustain losses—increase capacity to the point that both carriers have extremely low load factors, until we are forced out of the market. Then, the large carrier—when it has become the dominant carrier in the market—would reduce service, raise fares, and the traveling and shipping public would suffer.

Accordingly, the result of an expedited automatic market entry program would be to quickly destroy the progress made by the Civil Aeronautics Board during the past 25 years in its effort to strengthen the smaller carriers so as to reduce the imbalance in size which has existed between the largest 4 or 5 carriers and the remaining smaller carriers in the industry.

If entry were automatic, and an additional carrier entered a market served by Western, we might be forced to transfer more and more resources to that particular market in order to compete. Those resources would come from other parts of our system, and as a result, one area may have excessive capacity while another area may suffer from a shortage.

If entry were automatic, a carrier might cut corners in order to survive. While safety is today's highest priority, under a drastically altered system, its importance may decline.

Thus, for these reasons—industry concentration, uncertainty of service levels, and safety considerations—Western Airlines has opposed previous proposals which contained automatic market entry provisions.

The "Air Service Improvement Act of 1978," H.R. 11145, however, encompasses the philosophy that we have advocated which acknowledges the role of the Civil Aeronautics Board in controlling entry into and exit from the air transportation system, recognizing the need to preserve competition by strengthening smaller carriers.

This philosophy recognizes the cyclical nature of this industry which requires discretion and flexibility, rather than rigid standards established by law. We feel that maintenance of the basic structure which exists today and which brings scheduled, certificated service to approximately 500 American towns and cities is essential to our national welfare. Thus, we support the thrust of H.R. 11145 which directs the Civil Aeronautics Board to develop a program "to assure a phased and orderly transition to a more competitive air transportation system." In the development of such a program, the Civil Aeronautics Board will be able to further its long established program of strengthening the smaller carriers so as to assure a better balance among carriers in endeavoring to maximize competition.

We support this concept; however, we caution the Committee that this mandate to the Board is perhaps too broad and may not produce the desired results which to us are safety, improved service, lower fares, and avoidance of industry concentration. For example, in developing the program, is competition to be attained at the expense of safety? Is the encouragement of new carriers to be at the expense of existing ones? Is low cost transportation more important than frequent and dependable service?

These questions need answers, and we feel that Congress should give the CAB more direction by listing priorities to be followed in developing the program. In our view, the Congress should more explicitly spell out the goals, the desired results, of the program. Mr. Chairman, this Committee should direct the CAB to establish a program precisely along the lines of H.R. 11145, but with the mandate to place the highest priority on safety and then, in order of importance, a diverse industry with balanced competition among carriers without concentration of economic power, lower fares, better service and more competition.

The maintenance of a safe air transportation system is of the highest priority in our view. Next, we feel that a diverse industry with balanced competition and without industry concentration is of utmost importance if we are to encourage a variety of services and if the consumer is to realize the advantages of the competing firms. The Congress should realize the value of maintaining many strong competitors, rather than permitting, or even encouraging, the concentration of economic power. We feel that lower fares, better service and even more competition follow closely behind these priorities.

While the Civil Aeronautics Board should be given the requirement for developing this program, the Congress should establish guidelines, priorities and goals to be realized. Establishing the policy is no easy task, but we strongly feel that such a task should be undertaken in order to give direction to the Board in creating this program.

While we are confident that Western will continue to succeed under a more competitive environment, we feel that this Committee should consider and adopt provisions which will protect the employees of those carriers which may not succeed under such a change.

Mr. Chairman, we thank you for the opportunity to appear before you today. We commend you for the efforts that you have made to bring a fresh insight to the regulatory reform debate and we appreciate your desire to bring about improvements while preserving the successes of the past, which have produced the finest air transportation system in the world.●

## ISRAEL AS A DEMOCRACY

● Mr. RIBICOFF. Mr. President, the State of Israel is soon to celebrate its 30th anniversary. It has been 30 years of progress unequaled by any other nation in three decades. The people of this courageous country have much to fill it with pride.

It has enabled an inmigration of persecuted and homeless Jews from all over the world to live as free men. It has successfully fought four wars and repelled continental terrorist attacks. It has made the desert bloom into the Biblical land of "milk and honey." Its education, health, and science are among the foremost in the world. In art, music, literature, culture, and archeology it is not surpassed. In agriculture and industry Israel shows the entire underdeveloped world how to become a modern nation.

But above all its attributes Israel was born as a democracy, lives as a democracy, and will stay a democracy. It is the only democratic country in the Middle East. In spite of wars, troubles, and adversity Israel has remained true to democratic principles. Freedom of speech and discussion is a basic tenet of Israel's existence and faith whether in the Knesset, in the press, in the home, on the street, or in the field.

This is vividly caught in an article in the Wall Street Journal of April 12 by Felix Kessler. I ask that it be printed in the RECORD at the conclusion of my remarks.

It is, therefore, disturbing that there are those in this country who by pressure seek to throttle freedom of discussion in the United States. There can be no greater disservice to Israel, the United States, or the people of Jewish faith everywhere than to deny any American the freedom to speak out on any issue, a freedom so meaningful to Israelis and American alike.

In the quest for a real peace in the Middle East it is essential that there be full discussions on basic issues so that when peace comes it can be permanent.

The article by Felix Kessler follows:

[From the Wall Street Journal, Apr. 12, 1978]

ISRAEL'S DEBATE—BEGIN PRESSED TO EASE STANCE ON WEST BANK TO REVIVE PEACE TALKS

(By Felix Kessler)

TEL AVIV.—Yuval Neria is an authentic hero even among fellow Israelis who take valor and military daring for granted.

When Egyptian shells blasted his tank in the 1973 Yom Kippur war, he quickly climbed into another and continued the battle. Then, wounded and again knocked out of action, he found a third tank and kept fighting. His Sinai exploits earned him the army's top bravery medal—and six months in a hospital.

Now, the 26-year-old reserve captain has entered a new battle, against his government. Under a huge banner proclaiming "Better Peace Than Territories," Mr. Neria explains why he and fellow reservists became so disenchanted with Prime Minister Menachem Begin's policies that they organized one of Israel's largest rallies—police estimated the crowd at 30,000—to protest the Israeli government's peace stance.

"President Sadat's visit was only the first step," he says. "It now depends on Begin and our government to be more flexible, to know that peace can't be achieved without giving back some of the West Bank."

HARD LINE UNDER FIRE

The army reserve officers' movement obviously has touched a sensitive nerve. Israelis increasingly are attacking the Likud coalition government's hard-line proposals to retain control over all the territories Israel has occupied on the West Bank of the Jordan River since the 1967 war. Opposition politicians denounce the government's view that Israel isn't obliged to yield its claims to any of the Biblical lands of Judea and

Samaria, part of the West Bank, to conform with past Israeli willingness—and UN Security Council resolution 242—to withdraw in return for peace.

The mounting criticism follows, and is fed by, the U.S.-Israeli dispute over peace strategy that became clear during Mr. Begin's Washington visit last month. At that time, President Carter bluntly told the Israeli leader that territorial concessions were necessary "if the peace negotiations are to succeed," but Mr. Begin stood firm.

On another front, even Israelis convinced of the nation's overriding security needs are questioning the size of the invasion of Lebanon that followed a Palestinian terrorist raid claiming more than 30 Israeli lives. "How many were killed?" asks a Haifa housewife. "How many prisoners were taken? How many made homeless? We haven't been told enough."

BLUDGEON OR SCALPEL?

A resident of a northern kibbutz wrote the Jerusalem Post saying that for the first time he was "ashamed" of his country, because of the loss of life and the wounded, orphans and refugees produced by the invasion. Military writer Hirsh Goodman asks whether Israeli military power is being used as a "bludgeon rather than a scalpel."

"Perhaps the time has come to rethink our entire policy," Mr. Goodman suggests, "or at least to think of other solutions rather than massive retaliation of the kind exhibited in southern Lebanon."

Yet, for all the dissatisfaction and self-criticism, there is a muted quality to Israel's internal debate. Even Israelis at the big "peace rally" expressed grave fears over where negotiations might lead. "We can't take too big a chance," says Varda Cohen, 29. "We're only three million people, living in a tiny area, and we're the ones who are supposed to do all the giving and risk taking. One risk that's too great, and it's the end of us."

Such fears are reflected by the political opposition's reluctance to attack the government as wholeheartedly as might be expected. In part, this amounts to a form of Jewish tribal solidarity against a hostile or uncaring outside world. Opposition leader Shimon Peres says he refrained from seeking a recent no-confidence vote against Mr. Begin because it might be interpreted as siding with the U.S. against Israel.

CHIEF CULPRIT

Former foreign minister Abba Eban condemns Prime Minister Begin for refusing West Bank territorial concessions, but reserves his principal blame for Egypt—"the chief culprit"—and charges the U.S. with causing the present negotiating deadlock by seeming to lean toward the Egyptian position.

Critics inside the governing Likud coalition are even more reticent. Defense Minister Ezer Weizman's recent call for a national peace government was seen as implicit criticism of Mr. Begin's leadership, and it won Mr. Weizman the enmity of political friend and foe alike. He has refrained from further sniping at the government.

Indeed, Mr. Carter's suggestion that Israeli intransigence had hamstrung the peace talks was contradicted by Mr. Weizman's recent trip to Cairo. Though no progress was reported, the defense minister is scheduled to return to Cairo soon, amid some speculation that the two nations might be nearer agreement on a declaration of principles governing further peace talks.

The Middle East has a way of confounding realistic predictions of the way events will turn out. However, many Israelis wonder if Mr. Begin, with his ideological commitment to the boundaries of the historic land of greater Israel, will be able to modify his policies for meaningful negotiations. Some critics score his "wrong-headed" tactics of building new settlements while negotiating with Egypt, and say the prime minister may have poisoned the atmosphere of the talks.

Although the criticism doubtless has eroded Mr. Begin's position at home, there hasn't been a serious movement to displace him, despite—or perhaps because of—hotly denied rumors that the U.S. wants such a change. The government survived handily a vote in the Knesset, the parliament, on Mr. Begin's peace program.

Members of the Democratic Movement for Change, a dovish faction in the governing coalition, abstained, rather than voting against Mr. Begin. Amnon Rubenstein, a DMC member, says the government's credibility has been damaged by its settlement program, but doesn't believe his party should resign from the coalition.

Lining up against Likud, says Mr. Rubenstein, could be misintepreted as "letting the U.S. dictate Israeli policy." In the meantime, his party plans to work from within the government to change Mr. Begin's views. "The whole process—a new momentum toward either peace or war—should be clearer within a few weeks or months," says Mr. Rubenstein.

Israel has survived crises more serious than the present one, but the feeling is widespread that the Jewish state is approaching a watershed moment. Says one politician: "The question of whether—and how much—land to give up for peace is the most serious debate in our history."

Some politicians hope that protest movements like that led by the reserve officers will spark movement towards new policies. Shulamit Aloni, a Knesset critic of both the Likud and past Labor governments, thinks the protests are in response to "fanatic" Jewish nationalists who want to retain the West Bank for reasons of religious ideology, not for security.

"Not being ready to give back at least some of the West Bank means another war," she says. "We don't want to rule other people. It's better to have a smaller, Jewish country—and a democratic one—and to live in peace than to have a binational state."

THE BEGIN PACKAGE

Mr. Begin's peace plan, essentially unmodified since its rejection by Egyptian President Anwar Sadat, calls for Israel's continued military control of the West Bank and the Gaza Strip, whose 1.1 million Arab residents would be given limited self-rule, a form of autonomy that most Palestinians reject.

Under the plan, Jews would be permitted to buy land within the West Bank, and Palestinian Arabs would be given an option of taking Israeli citizenship and settling within Israel. Critics here say this soon would destroy the state's Jewish character. Because of the higher Arab birth rate, say the critics, the result would be a secular, predominantly Arab, binational state, which is the stated goal of the Palestine Liberation Movement (although Mr. Begin's plan wouldn't give real political power to the Arabs).

The government's proposals conform to the Likud party's ideological commitment to retain Judea and Samaria, and some critics are calling the prime minister a "prisoner of ideology," unable to modify his beliefs for the broader needs of national leadership.

Mr. Eban says, "The issues that divide us within Israel now coincide with those at the heart of the deadlock," between Israel and Egypt, and between Israel and the U.S. Since Mr. Sadat has recognized Israel's legitimacy, Mr. Eban asserts, Israel must face up to the question of renouncing part of its Biblical claims to occupied territories, in the context of peace.

A government that exludes the principle of West Bank territorial withdrawal, as the present one apparently has, "would find it very hard to build a bridge to America, still less to Egypt," says the former foreign minister.

LEGALISTIC HAGGLING

Opposition politicians like Mr. Eban stress the tactical errors made by Mr. Begin in alienating Israel's sole major ally, the U.S., over what many term legalistic haggling about a declaration of principles for future peace talks.

The opposition, and many foreign observers, believe that a Labor government might have avoided such a split with the U.S. at a preliminary negotiating stage. However, a showdown would be inevitable whatever the government in power if Israelis saw the U.S. as leaning too heavily toward the Egyptian position demanding near-total withdrawal from occupied lands.

Mr. Eban says President Sadat is under a "sincere illusion" that Israel's security concerns could be resolved through mere recognition, and he says the U.S. hasn't pressed the Egyptian leader to modify his views. (President Sadat has said, however, that he invites Israeli proposals for guaranteeing its future security.)

Likud politicians, rejecting U.S. criticism of Israeli intransigence, note that there is broad opposition inside Israel to a wide pullback from occupied lands. Yoram Aridor, a deputy minister close to Mr. Begin, sits in the Knesset restaurant and points a finger.

"You see those hills," he says, "How would you like to sit here and have King Hussein's artillery aimed at you from there?"

Many Israeli government officials reject the U.S. view that Israel should revert to its pre-1967 frontiers with only "minor" boundary changes. Israel must walk "a tightrope between security and making a deal toward peace with the biggest Arab nation," says Justice Minister Schmuel Tamir, a member of the Democratic Movement for Change.

MIDEAST MANHATTAN

Mr. Tamir agrees with the notion of some West Bank withdrawal for peace, but he says that Israel's physical narrowness—"about the same as Manhattan Island," he asserts, with some exaggeration—precludes a total return of territory.

Mr. Tamir worries about a peace settlement providing 10 or 15 years of tranquility, and then another war. "You are talking about a nation whose veins were dried up in the holocaust," he says. "We don't have a holocaust 'complex' but a reality, plus the reality of five wars in 30 years."

But other, more liberal, Israelis say the nation must wrench free of what leftist Knesset member Arye Eliav calls "the vicious circle of our holocaust trauma, our paranoia and all our fears" to revive the peace process. Mr. Eliav has demanded Mr. Begin's resignation over the peace stalemate and the Lebanese invasion, and claims that 20 to 30 "closet doves" in the Knesset support his position.

Mr. Eliav and some other Israelis believe that sustained U.S. pressure might yet force the Israeli government to amend its policies towards a more favorable negotiating posture. "A little pressure is very bad because we're immune to it," says David Shaham, a dovish magazine editor. "Only strong U.S. pressure could produce a reassessment of our policies. Basically, Israel doesn't want a U.S. confrontation." ●

## KEEP AMERICA VOTING

● Mr. MATHIAS. Mr. President, I would like to take this opportunity to call attention to the keep America voting program of the Mason-Dixon Council Boy Scouts and the Shawnee Council Girl Scouts Associations. It is a true display of grassroots interest and participation in our governmental processes. I want to

commend Donald R. Frush, chairman of the campaign, for his contributions in organizing this unique voter registration project in western Maryland.

A full page advertisement for the program, sponsored by the Republican and Democratic Central Committees in conjunction with interested businesses and organizations, appeared earlier this week in the Hagerstown Herald. In addition to the handsome advertisement, The Hagerstown Daily Mail carried a news story announcing the scouts' voter registration drive.

Mr. President, I would like to print the article, "Scout Council Announces Voter Registration Drive" in the RECORD, and in addition, I ask that the prospective voters mailing coupon printed in the advertisement be reproduced in the RECORD as an example of healthy political action that ought to be followed in every community in the Nation.

The article and coupon follow:

SCOUT COUNCIL ANNOUNCES VOTER REGISTRATION DRIVE

Area Boy Scouts and Girl Scouts don't plan to let apathetic citizens take the easy way out this election year.

The Mason-Dixon Council of Boy Scouts and the Shawnee Girl Scout Council—some 3,400 strong—are spearheading a campaign to get non-registered eligible voters on the voter rolls.

The scouts, with the sanction of the Washington County Election Board, secured a list of the county's registered voters.

By process of elimination the scouts will determine which eligible voters are not registered and on May 13 the scouts will canvass the homes of eligible voters and ask them to register.

Don Frush, chairman of the campaign, said that although the project has been approved by the local Democratic and Republican Central committees, the project itself is non-political, non-partisan.

Frush said that of the 85,700 eligible voters in Washington County, 43,000 of them are not registered.

On May 13, 10 election board units will be set up throughout the county where people can register. The scouts will bring registration forms to people's homes. CB operators will also be on hand to relay information from the home to the election board.

Eligible voters will also be given the opportunity to register on the spot.

The scouts, who will be accompanied by more than 1,100 adult leaders, are asking nonregistered adults to "Do it (vote) for us," Frush said.

On the project committee are representatives from the Washington County Board of Education, the local media, the Washington County Council of Churches, High Adventure, the League of Women Voters, the Washington County Parks and Recreation Department, area civic clubs and CB clubs and the local Girl Scouts and Boy Scouts councils and troops.

COUPON

Clip this coupon and mail in!!!!!

Are you registered ot vote?

If not, print in ink the following information. Application for Voter Registration will be sent to you.

Full name———.
Residence address———.
Address———.
Apt.——.
Post office———.
Zip———.
Date of birth———.
Sign your full name———.
Washington Co. Residents Mail To:
Board of Elections for Washington County, County Office Building, 33 W. Washington St., Hagerstown, Md. 21740.●

## JAYCEES

● Mr. NUNN. Mr. President, it is my pleasure to recognize the accomplishments of the U.S. Jaycees and the Jaycees International for their encouragement of citizen participation in community affairs. Every year these organizations direct major efforts to find solutions to the environmental, economic, and social problems of local communities.

The Jaycees are young men between the ages of 18 and 35 who are interested in individual growth and community service. Founded in 1915, the U.S. Jaycees is the largest member of the world organization with a membership of more than 325,000. The Jaycees International is composed of over 400,000 members from more than 80 countries. Each year the Jaycees International adopts a theme for its worldwide activity focusing on a universal problem.

The Jaycees have sponsored community action programs in the areas of environmental improvement, community health, poverty alleviation, criminal justice, youth recreation, and governmental affairs. They have also supported such noteworthy projects as the special olympics for mentally retarded children and big brother programs for orphans.

For their efforts, the Jaycees have been named recipients of numerous community service awards. The U.S. Department of Housing and Urban Development recognized the Jaycees with a certificate of appreciation for their project mainstream, the country's first successfully developed people-to-people approach toward the alleviation of poverty. The National Council on Alcoholism presented its "Bronze Key Award" to the Jaycees for their realistic and positive approaches to alcohol education. The National Multiple Sclerosis Society cited the Jaycees in 1973 as the organization in the United States that had contributed the most during the year to its efforts to eradicate the dreaded disease. The National Wildlife Federation has given its "Conservation Organization of the Year" award to the Jaycees in the past for their efforts in this area.

In these days of voter apathy and nonparticipatory citizenship, the Jaycees are actively involved in developing responsible citizenship among their members. The Jaycees sponsor an annual governmental affairs leadership seminar which promotes communication among members and Federal officials. "How to Get Involved With U.S." is a Jaycee program which encourages citizen participation at the local level. During the 1976 elections, many Jaycee chapters organized "Get out the vote" campaigns in their communities.

The U.S. Jaycees' current president, Robert A. "Bob" Rushton is an outstanding example of the aggressive, committed individuals involved in Jaycee activities. A native of Georgia, Mr. Rushton holds both a BBA and a MBA degree from the University of Georgia and heads Rushton Associates, a real estate development corporation specializing in the construction of shopping centers and single-family dwellings. He was named one of five outstanding young men of Georgia in 1972. Active in political affairs, he is listed in "Who's Who in American Politics."

The U.S. Jaycees are an outstanding example of Americans helping each other. Woodrow Wilson described the Jaycee's brand of patriotism with these words:

Patriotism is not a mere sentiment. It is a fine energy of character and of conscience operating beyond the narrow circle of self-interest. Every man should be careful to have an available surplus of energy over and above what he spends upon himself and his own interest to spend for the advancement of his neighbors, of his people, of his nation.

I am proud to take this moment to bring this outstanding service organization to the attention of my colleagues and to salute the Jaycees for their dedication to public service.●

## SOIL CONSERVATION BUDGET

● Mr. CLARK. Mr. President, I am deeply concerned by the lack of adequate funding in the President's fiscal year 1979 budget for soil conservation. Last February, after the details of the President's proposals became clear, I chaired a hearing of the Senate Committee on Agriculture, Nutrition, and Forestry to look into that budget.

The conclusion from that hearing is that the department has no adequate strategy for maintaining the extremely important soil conservation programs in the face of the massive budget cuts they are recommending. As a result, I conclude that the cuts should be restored.

I am also concerned about the President's proposal to abolish the farm safety and rural development programs administered by the Extension Service.

I am recommending to Senator EAGLETON, Chairman of the Subcommittee on Agriculture of the Senate Appropriations Committee, that these cuts be restored. Mr. President, I ask that my letter to Senator EAGLETON be printed in the RECORD.

The letter follows:

COMMITTEE ON AGRICULTURE AND FORESTRY,
*Washington, D.C., April 11, 1978.*

Hon. THOMAS EAGLETON,
*Chairman, Subcommittee on Agriculture, Senate Committee on Appropriations, Washington, D.C.*

DEAR TOM: I am writing to call your attention to two areas of the President's FY 1979 budget for agriculture. In both areas, I feel that the funding requested by the President is not sufficient to carry out program goals, and that the Congress must Act to correct the situation.

The first area concerns soil conservation programs. On February 24, I chaired a hearing in the Senate Agriculture Committee to examine the President's proposals in this area. We were concerned in that hearing with six major proposals:

The Soil Conservation Service Conservation Operations Program: Increase budget $10 million to $252 million, but reduce personnel by 955 persons, or approximately 10 percent. This is the largest of our soil conservation programs. Its primary function is to provide technical services—plans and as-

sistance—to farmers and others at the local level. The slight increase in funding proposed for it is meaningless when it is coupled with the personnel reduction also proposed. The amount of assistance the program can provide in the field will be significantly reduced without sufficient personnel to carry it out, regardless of the funds available.

The Agricultural Conservation Program: Cut funding nearly in half, from $190 million to $100 million. Administered by the ASCS, this program is designed to help farmers bear the cost of installing conservation practices on vulnerable land. Current appropriations for this program are already woefully inadequate when measured against the vast amount of work that needs to be done. The reduction proposed in this budget only adds insult to injury.

The Great Plains Program: Reduce total amount of funding available for projects in the Program area by $4 million, to $18 million. This program was established to fund long-term conservation projects designed to deal with wind erosion and other specific conservation problems in the Great Plains area. As with the ACP program, the need far outweighs already available funds. (Note: the budget proposes that the Great Plains Program itself be cut from $22 million to only $8 million. However, $10 million of the ACP program's $100 million is earmarked for work in the Great Plains Program area. This means a net reduction for the area of only $4 million, in effect.)

The PL 566 Small Watershed Program: No funding for any projects not already underway. The Purpose of this program is to identify problem watersheds and lay out plans for concentrated soil treatment measures on a watershed-wide basis. It has been very effective in abating flooding and erosion problems in many areas.

The Resource Conservation and Development Program: No funding for any projects not already underway. This program also identifies particular areas with soil or water problems, but it focuses on problems and solutions that have benefits related to economic development as well as soil stabilization. It has been an extremely popular and effective program, and has been extended to about 10 new projects each year.

The Rural Clean Water Program: No funding. This is a new program, authorized by Congress last year as part of the 1977 Amendments to the Clean Water Act. Based on legislation I introduced last spring, it is intended to formally link the nation's soil conservation practices that will be required in the near future to comply with federal water quality standards. The Congress has authorized some $600 million for this program in FY 1979 and 1980.

Assistant Secretary Rupert Cutler, accompanied by officials from the Soil Conservation Service, was the Department's principal witness. Our purpose was to find out how the Department intended to meet its large and increasing obligations to maintain and improve the productivity of our soil in view of the cuts recommended for these 6 programs.

My conclusion, after evaluating very carefully the Departments answers to our questions, is that these budget cuts were made entirely on the basis of budget considerations and without regard to the impact the cuts would have on the programs themselves, or on soil conservation.

During the course of the hearing, it was observed that the General Accounting Office last year completed two important studies relating to the subject of soil conservation. The first was a February, 1977 report entitled, "To Protect Tomorrow's Food Supply, Soil Conservation Needs Priority Attention." The second was a December, 1977 report entitled, "National Water Quality Goals Cannot be Attained Without More Attention to Pollution from Diffused or Non Point Sources."

The message from both these reports is similar. The first report found that 85 percent of the farms examined are losing topsoil at a rate which greatly exceeds the five tons per year loss that can be sustained without loss of productivity. The GAO recommended that soil conservation programs be therefore better focused, and that they be strengthened. The second report concluded that efforts to control non point sources of water pollution have been minimal, and that if these sources are not controlled, non point source pollution will prevent the nation from reaching the water quality goals set for 1983. The GAO therefore recommended changes in water quality planning efforts, and development of programs with additional resources to assist in the control of non point source pollution.

With the addition of the new Rural Clean Water Program contained in the Clean Water Act Amendments of 1977, the soil conservation programs currently in place constitute a substantial set of building blocks for construction of solutions to these problems. What remains is for the Administration to organize and focus these programs, and to request the support needed to effectively implement them.

But the inescapable conclusion to be drawn from the failure to fund these programs next year is that the Administration simply intends to defer soil conservation efforts; that these efforts are all of lower priority than everything else the Department proposes to do. I believe that it is an extremely serious mistake. We are wealthy in soil and water resources. Annual soil losses are small, relative to our abundance. But we cannot defer action on these problems forever. The fact is, we are losing topsoil at an alarming rate—almost three times as fast as we are replacing it. The cumulative effect of these losses amounts to the loss of half the topsoil in my own state in the last hundred years. The intensity of our farming is increasing far more rapidly than the intensity of our soil conservation efforts. Ignoring this situation is a penny-wise, pound-foolish policy.

The objectives of our soil conservation programs simply cannot be achieved without adequate funding. I hope that your Subcommittee will agree, and take the necessary steps to strengthen these programs to effective levels.

The second area of the President's FY 1979 budget which concerns me, is the President's proposal to cut some $7 million from the USDA's Extension Service budget. The Rural Development Program and the Farm Safety Program account for some $4.5 million of this reduction.

Both these programs are making valuable contributions and should be restored. The research and development programs under Title V of the Rural Development Act of 1972 provide funding for a broad range of research projects concerned with the problems of rural people and rural communities. These projects focus on special problems rural communities have in providing community facilities and other services. They concern rural housing and the problems of developing rural industry. There is almost no comparable research underway elsewhere on these important topics. If this title is not funded, this work will be terminated and the loss will be serious to rural towns and communities.

The Rural Safety program is also a very valuable program. It is voluntary. It sponsors workshops, schools, and materials that help young people be aware of the constant dangers of machinery and chemicals in use on farms. Especially now that OSHA has no responsibility for farm safety, these programs are doubly important.

I hope your Subcommittee will review these programs very carefully and will be able to restore them to their full funding levels of earlier years.

Sincerely,

DICK CLARK.●

## ECONOMIC IMPLICATIONS OF THE PANAMA CANAL TREATIES

● Mr. CRANSTON. Mr. President, as I see it, many people still have two primary concerns about the economic implications of the new Panama Canal treaties.

First, will the Panama Canal be self-sustaining under the new treaty arrangement? That is, will the Panama Canal Commission be able to meet its operating expenses, make needed capital improvements and assure the payments to Panama out of its operating revenues?

Second, what appropriations will have to be made by Congress to cover treaty-related costs until 2000?

Having reviewed the studies completed by reliable, independent consultants, by U.S. Government agencies, and by the U.S. treaty negotiating team, I have every reason to believe that the Panama Canal will generate enough revenue to cover all of its oprating expenses and obligations.

Modest toll increases should create the revenues necessary to cover costs. They will effect only minimally worldwide commerce and will have little, if any, real impact on the delivery cost to the U.S. consumer—a small fraction of 1 percent.

A study prepared by Arthur Andersen and Co. consultants estimated that the costs of the canal—including payments to Panama and inflation—would be somewhere between $238 and $246 million in 1980 and $237 and $262 million in 1983.

The findings of International Research Associates (IRA) on future canal traffic and revenue projections showed that tolls could be increased about 100 percent before revenues would start to fall off. IRA, a nongovernmental consulting group, found that the sensitivity of canal traffic to modest toll hikes is low. For example, losses of canal traffic, on a tonnage basis, were projected to range from 2.4 percent with a 15-percent toll increase to 11.8 percent with a 50-percent increase. Our U.S. negotiators estimate than an initial toll increase of only 30 percent would be sufficient to meet all costs and would generate about $250 million in revenues in 1980 and $254 million in 1984.

Even without the new treaties, of course, toll increases would be required to meet rising costs. Governor Parfitt, in testimony before the Senate Armed Services Committee, said that toll increases in fiscal year 1981 and 1984 amounting to 19.1 percent would be necessary. He estimated that additional increases of 10 to 11 percent every 3 years after 1984 would be needed under the present treaty.

An independent consultant to the Senate Armed Services Committee, American Management Services, concluded that:

The commission needs to raise its toll rates as its costs are rising (by cutting costs or increasing tolls). If it does this, there are ample opportunities for the commission to remain solvent and to run a small surplus even if very pessimistic traffic projections prove correct.

What about the costs to the United States under the new treaties? Will appropriated funds be necessary to cover the transition in the U.S. role over the life of the treaty? The administration has testified that there will be some budgetary implications associated with the changing U.S. role through 1999, although all payments to Panama will come out of toll revenues. One-time costs such as the relocation of certain defense installations and the transfer of health facilities and functions to DOD plus recurring requirements such as the early retirement program for Canal Zone employees and incremental costs for DOD schools and hospitals will be factors in the U.S. budget. But the total projected appropriations impact is not likely to go much above $350 million over 21 years—an annual average impact of about $17 million.

To give perspective to these figures, the Defense Department has confirmed that after 1999, when U.S. forces under the terms of the proposed treaty would have been withdrawn from Panama, that DOD should save approximately $76 million a year in operational costs (in fiscal year 1978 dollars) as a result of shifting these forces from Panama to CONUS. The money saved in the first 5 years alone after 1999 would exceed the total appropriations requirements estimated over the entire treaty period.

In addition, cost savings should be realized during the life of the new treaty as the Canal Zone government is phased out as are the commercial and retail facilities on which the government has relied. The annuity payments to Panama will also cease under the new treaty arrangement. American Management Services, the consultant to the Senate Armed Services Committee, has suggested that even larger cost reductions would be realized under the new treaties than those savings foreseen by the Panama Canal Company.

As a member of the Senate Budget Committee, I, too, have been concerned about the possible financial impact of the new treaties. With the best information available today, I am satisfied that the Panama Canal will be able to generate sufficient revenue to meet its obligations under the new treaties while continuing to operate as a viable link for world commerce. The financial impact on the United States will be small over the 21-year period, particularly compared with what we will save in just a few years after the treaty ends.●

## PROPOSED ADVISORY OPINION ON USE OF SENATE LETTERHEAD

● Mr. STEVENSON. Mr. President, pursuant to title II, section 206, Senate Resolution 110, 95th Congress, with respect to its issuance of advisory opinions, the Senate Select Committee on Ethics gives notice of a proposed advisory opinion. All interested parties have 14 days to submit their written comments on the proposed advisory opinion to the select committee.

The select committee has received numerous complaints concerning the use of Senate letterheads and envelopes by non-Senate groups, reflecting a Senator's endorsement of that group and in many instances containing a fundraising appeal on behalf of the group or organization.

These letters, which in some but not all instances, carry a disclaimer that no Government funds were used in the preparation or mailing of the letter, are reproduced, along with a Senate envelope, including the "Official Business" notation, and become part of direct-mail campaigns to persons whose names appear on computer-generated lists.

The complaints received by the select committee allege that the use of facsimiles of Senate letterhead and envelopes by non-Senate groups or organizations to generate money or other forms of support lead to the erroneous impression, in the mind of the recipient, that the appeals are sponsored or endorsed by the U.S. Senate. In addition, because the customary disclaimer, when used, is printed by the organization or group in small type at the bottom of the letter, and sometimes not at all on the accompanying envelope, the recipient is led to the erroneous impression that, first, the letter has been printed and mailed at Government expense, and, second, that the envelope contains an official Senate communication, despite the fact that the envelope bears a postage stamp.

Through this proposed advisory opinion, the select committee gives notice to the Senate and other interested persons that this practice tends to reflect discredit on the Senate. The select committee does not intend to restrict a Senator's duty to communicate with members of the public, nor his right to lend his name to causes of his choice. The select committee, through this proposed advisory opinion, advises Senators and the public that the use of facsimiles of Senate stationery and the phrase "Official Business," by non-Senate organizations for nonofficial business, cannot be authorized by a Senator since such an authorization to a non-Senate group or organization would constitute "improper conduct which may reflect upon the Senate."

Mr. President, the proposed advisory opinion is as follows: It is the opinion of the select committee that it is improper conduct which reflects upon the Senate for a Senator to authorize or allow a non-Senate individual, group, or organization to use the words "United States Senate" and "Official Business," or any combination thereof, on any letterhead or envelope. The use of a Senator's name followed by the words, "United States Senate", is not hereby deemed improper.

Mr. President, interested parties should submit their comments, in writing, to the select committee. This proposed advisory opinion will become effective 60 days after the date on which it, or any amended version thereof, receives final approval from the select committee.●

## FOREIGN AGRICULTURE INVESTMENTS

● Mr. PAUL G. HATFIELD. Mr. President, we all know the inflationary impact of the huge outflow of American dollars abroad—particularly to pay for foreign oil—which continues to afflict our balance of payments. What we do not know enough about, in my judgment, is how many of those dollars come back for speculative real estate investments by absentee foreign purchasers. Nor do we know precisely how such purchases affect the farm economy and the vitality of our Nation's rural areas.

Especially where purchases of prime agricultural land are involved, the consequences of sudden, large investments by those having no intention of residing on a farm may at least inflate land prices and could have a serious impact upon the health and vitality of our rural areas and family farms. For this reason, I believe we should have full disclosure of all such investments.

This is a subject Congress will want to examine more closely following release of a General Accounting Office report on foreign agricultural investments. That report should be available later this year.

I would like to call attention to a series of articles which appeared recently in the Lee Newspapers in Billings, Butte, Helena, and Missoula, Mont., and which bear directly on this point. The result of a 6-month investigation, these articles describe how difficult it is at present to determine who is really buying our farmland, and for what purposes. As you will see, these articles represent not only hard work but a serious attempt to bring to the public's attention a situation about which we all need to know more.

I compliment the Lee Newspapers for the series and ask that they be printed in the RECORD. The articles are as follows:

FOREIGNERS BUYING MONTANA: WHO, WHY

(By Shaun Higgins and Jeannie Cross)

They are the secret sharers in our agricultural wealth: Arabs, Frenchmen, West Germans and Venezuela's richest man.

In the past five years they have acquired title or rights to some 100,000 acres of Montana and Wyoming by investing millions of dollars in U.S. real estate.

They are now being joined by other foreign nationals whose money is being lured to here by advertisements placed in European newspapers such as the International Herald-Tribune in Paris and the Frankfurter Allgemeine in Germany.

Their presence disturbs many ranchers and farmers who feel ownership of land is a sacred trust—one that should remain in U.S. hands. But others indicate that the new money assures that agriculture will remain in the hands of people who can afford additional investments in ranch buildings and equipment.

The Standard State Bureau recently completed a six-month investigation of foreign ownership of Montana farmland. Among its findings:

At least three Montana ranches totalling more than 30,000 acres are now controlled by foreign investors. Another Montana ranch of about 32,000 acres was in foreign hands

three years ago but it has since passed back into domestic ownership.

Ranches with substantial backing from non-resident foreigners appear to hold lease rights, through U.S. partners, to an estimated 15,000 acres of federal land in Montana.

A large ranch near Cody, Wyo., has been sold, apparently to West German interests. That $5 million transaction involved 17,000 deeded acres and leases to an additional 10,000 of public land, according to a Montana land salesman familiar with the transaction.

Arabs, Canadians and West Germans have inquired directly about purchasing large tracts of land in at least six counties—Beaverhead, Madison, Pondera, Teton, Big Horn and Carbon.

Other overseas investors have inquired about land purchases here through Montana real estate agencies, two of which have advertised their services in European newspapers.

Foreign buyers have acquired land by four methods—direct purchase (the transfer of deed from Montana seller to foreign buyer); stock trading (purchase of domestic ranch corporation stock by non-U.S. corporations); trust purchase (made on behalf of non-U.S. buyers by the trust departments of large, out-of-state banking firms); and, purchase by limited partnership agreements in which the principle limited partners have been non-U.S. residents.

There is, of course, nothing new in the purchase of Montana land by non-resident aliens. During the late 1800's, English and Scot cattle companies covered the state's plat maps, their owners having been drawn here by the promise of riches set forth in books like Gen. James Brisbin's "The Beef Bonanza" and Baron von Richthofen's "Cattle Raising on the Plains of North America."

But the earlier investment was a regional phenomenon, largely confined to the northern plains; today's buyers are part of a nationwide trend that is putting millions of acres of U.S. farmland into foreign hands. Another difference: The earlier transactions were usually more open than today's, which are sometimes marked by efforts to conceal not only the names but also the nationalities of buyers.

Concern over such secrecy prompted the last session of Montana's legislature to consider a bill requiring nonresident aliens to file land ownership statements with the state. But the bill failed after both its effectiveness and constitutionality were questioned.

Only one state, Iowa, requires non-resident aliens to report their acquisitions. But Iowa officials report that the law presents no real barrier to owners who sincerely desire to conceal their identities.

Why do aliens buy U.S. farm land?

The reasons are as diverse as the nationalities of the investors.

Financially, U.S. farmland is a solid investment promising excellent capital appreciation. Politically, it represents a means of sheltering financial resources from government instability or economic reforms in their own countries. Psychologically, it is a way of turning the tables on the U.S. which has long been the leader in investing capital in foreign economies.

The financial promise of U.S. farmland is compelling. Land prices . . .

Many foreign investors lease their U.S. holdings back to the Americans from whom they bought, a procedure that protects them from the risks of crop failure while they reap the benefits of land appreciation.

Here are the details of recent alien land acquisitions in Montana and Wyoming:

Kemph Land and Livestock Co. (near Custer): The Kemph ranch begins 10 miles south of Custer, part of it in Big Horn, the rest in Yellowstone County. It was sold last June to United Industries (UI), Inc., a Panamanian corporation. The sale price of the 23,000-acre ranch exceeded $1.8 million, according to Morris P. Blakeley, a Livingston outfitter who now serves as UI's chief resident officer. Blakeley discussed the purchase last year with the Billings Gazette but has steadfastly refused to disclose the names of UI's investors. However, the State Bureau has discovered that the principal behind UI is Gustavo J. Vollmer, a self-effacing multimillionaire reputed to be Venezuela's richest citizen. (See related story)

Lion Head Guest Ranch (near Big Timber): The ranch is owned by Montroy Properties, Inc., a successor company to Lion Head Ranch Syndicate, a limited partnership formed in 1968. An amended statement of limited partnership filed with the Montana Secretary of State in 1973 included the following investors and the amount of their investments: A. Al Helaissi, 24 Kensington Place Gardens, London, England ($65,000); Banque Cantonale Vaudoise, Lausanne, Switzerland ($52,500); Olayan Properties, Curacao, Netherlands Antilles ($90,000); Richard Davis, Jr., Schwalback, West Germany ($42,300); Societe Finananciere et Immobiliere Franco-Africaine (SOFIFA), Paris, France ($252,500).

General partners in the arrangement were Montroy Ranch Industries and Jacquesroy, a native of Belgium who lives in Big Timber and now serves as president of Montroy Properties.

Total foreign investment represented about half of the syndicate's $1.1 million backing at the time the limited partnership was dissolved into Montroy Properties. The ranch includes about 5,000 acres and has rights to use additional federally-owned acreage.

The Andrew Buyer Farm (East of Brady): Earlier this year a West German citizen, Peter Sandel, purchased this 1,000-acre farm in Choteau County. Sandel bought Buyer's land in his own name, making the acquisition through a Canadian lawyer in Drumheller, Alberta. According to Buyer, Sandel and his family made their money in the dry-cleaning business, operating a franchise whose territory includes Frankfurt and Munich. Sandel has leased the farm back to the Buyer family, which is operating it just as they were before they sold. Buyer said Sandel is interested in acquiring more Montana farmland and has flown over area farms looking for suitable parcels. But Sandel apparently has no plans to live in Montana: his Drumheller attorney said his German client is planning to take up Canadian citizenship.

Curtis and Skogland Two-Dot Ranch (Near Cody, Wyo.): This 17,000-acre ranch was sold three years ago by its American owners, then resold a year later, according to Charles Curtis of Cody, one of the original partners in the ranch. Curtis and a Billings real estate agent believe West German money is bankrolling the new owners. When a State Bureau reporter called the ranch to inquire about that possibility, he was referred to a lawyer for Eastdil Reality, a New York City firm which caters to foreign nationals. (Last year an Eastdil agent boasted to Saturday Review magazine that his firm had sold 200,000 acres of western U.S. farmland to aliens during 1976 and claimed he would sell more than twice that much during 1977). Eastdil's lawyer was not in his office last week and the Bureau was unable to fully confirm West German ownership in the Two Dot venture.

Fair View Ranches (between Melville and Harlowton): This 32,000-acre property was acquired several years ago by the Helbent Co., whose board of directors includes three West Germans. Helbent is successor company to the Helena Chemical Co., an agri-chemical concern based in Arkansas. The ranch has since been divided and sold to domestic owners, according to area land records. "The Germans sank a helluva lot of money into the place—fixed up the headgates, new outbuildings, the whole show—and then sold it," one real estate agent told the State Bureau. An area rancher who now owns part of Fair View's property maintains that the former owners also "lost their shirts." He estimated that $5 million went down the drain, adding that the land was sold at roughly the same price for which it was bought.

In addition to these purchases, the State Bureau estimates that an additional 100,000 acres of Montana land may now be in foreign hands. At least one large trust company specializing in acquisitions for foreigners—Northern Trust Co. of Chicago—has had some dealings in Montana, according to a Billings land broker. But the true ownership of land held by trust companies is virtually impossible to trace: The owners could be Montanans, large U.S. or non-U.S. corporations or foreign nationals.

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BEAVERHEAD LIKES BUCKS

While many Montanans see something sinister in non-U.S. citizens buying U.S. farmland, at least one Montana rancher, John Morse of Beaverhead County, thinks foreign investment is a plus.

The son of a real estate salesman, Morse has contacts with both out-of-state and non-U.S. investors.

He says he has seen no evidence that foreign investors remove their land from production and thus contribute to agricultural unemployment. Rather, Morse says, they hire Montanans as farm managers and sink lots of new money into houses, herds, and outbuildings—all of which pumps money into local economies.

Morse told the Standard State Bureau of a German engineer who wants to pick up a ranch in Beaverhead County. Morse calls this man "Megabucks" because of the money he has earned in his Munich job and from investments in German real estate.

Since German banks are giving only two percent interest on savings accounts, Megabucks is in the market for a more lucrative investment.

That investment clearly is possible in Montana farmland, which even at $500 an acre costs only one-sixth as much as acreage in rural Germany. The U.S. inflation rate virtually guarantees that Megabucks will turn a healthy profit on a Montana ranch if he decided to sell, Morse says.

Furthermore, the German mark is valued at 30 percent more, in relation to the dollar, than it was two years ago. That means Megabucks' money goes 30 percent farther in the U.S. than in does in his homeland.

To boot, the U.S. and the Federal Republic of Germany have a tax treaty under which a German investor in the U.S. can escape capital gains taxes in both countries.

All these factors combine to put Megabucks in the market for a $600,000 to $800,000 ranch, according to Morse.

But Megabucks isn't the only one who will benefit if the deal comes through, Morse says. The German plans to hire both a farm manager and a house caretaker and intends to buy a car here for use when he visits his new property. Megabucks will deposit $100,000 with a local savings and loan association and use the eight percent interest it earns as spending money when he's visiting.

For convenience, he'll buy locally the food, furniture, clothing, and luxuries for use on the ranch.

"How can that possibly hurt the local economy?" Morse asks.

He contends that most foreign investors will not take their land out of production because that would limit property-value ap-

preciation. "If you have money"—the kind of money that will buy an $800,000 ranch—"you didn't get it by being stupid," Morse reasons.

He also contends that foreign investment's tendency to force land prices upward benefits U.S. farmers who, he feels, have long undervalued their land. While many Montana farmers decry this upward movement of prices because it jeopardizes their ability to acquire more land themselves, Morse claims it enhances their ability to borrow. "The ability to borrow is based on the market value of the land," he notes.

According to Morse, alien investment is an all-win situation: The investor shelters his money and also sees it appreciate at a good rate while the local economy benefits from an influx of outside dollars and land values rise.

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SECRET PURCHASE TRACED TO RICHEST VENEZUELAN

(By Shaun Higgins)

HELENA.—Most Big Horn county residents don't know it but one of their major taxpayers is Venezuela's richest man.

The Standard State Bureau has confirmed that the principal new owner of the Kemph Land and Livestock Co. is Gustavo J. Vollmer, a self-effacing Caracas multimillionaire whose fortune is based in sugar, broadcasting, motion pictures and land.

Vollmer's United Industries (UI) Inc. purchased the 23,000 acre ranch—called by its former owners 'the best in the state"—last June. United Industries is a Panama "offshore" corporation financed by Vollmer.

The ranch sale has been clouded in secrecy and the Standard State Bureau was able to trace true ownership only with the help of U.S. Sen. John Melcher, the U.S. embassy in Panama, the U.S. Commerce Department and the Caracas bureau of the Associated Press.

Panama often serves as a corporate "flag of convenience" for persons wishing to conceal their identity in international financial transactions, according to officials at the Commerce Department which maintains information on all foreign firms operating in the United States.

Livingston outfitter Morris Blakeley serves as the corporation's chief resident officer.

Past newspaper reports have speculated that the owners of the Panamanian company were Arabs or Japanese.

Here's a brief history of United Industries and Vollmer as pieced together by the Standard State Bureau from sources in Washington and Caracas:

United Industries was organized in the Republic of Panama on May 31, 1972, as an "offshore corporation," not permitted to operate within Panama. U.S. State Department sources indicate the company was given initial authority to issue stocks and bonds in the amount of $1 million. On Feb. 4, 1976, that authority was reduced to $550,000. (UI paid a reported $1.8 million for the Kemph ranch, a fact indicating that its authority has recently been increased or that it has attracted limited partners to the Kemph venture.)

UI's original incorporators were three Wall Street lawyers with the firm of Sullivan and Crownwell, but a note among UI's records, dated Jan. 15, 1976, designates Vollmer as the only authorized holder of all right-to-vote shares.

Vollmer is reputed to be Venezuela's wealthiest man and Fortune magazine calculated his wealth at more than $100 million 10 years ago. There are no recent estimates on his worth, which is based on family developed and owned sugar-growing, refining and allied industries, including rum production.

Vollmer heads Groupo Vollmer, which is involved in numerous other enterprises including television and motion pictures.

A contact in Caracas described Vollmer as a third or fourth generation Venezuelan of Dutch descent "who, unlike most wealthy Venezuelans, keeps a very low profile and rarely appears in the press."

Believed to be about 55 years old, Vollmer holds an engineering degree from New York's Cornell University and is active in the world Boy Scout movement. In 1959 he became a leader in Venezuelan scouting and from 1961–65 was chairman of the inter-American Regional Committee of the Boy Scouts World Conference.

In 1983 he was elected one of 12 members of the Boy Scout World Committee and has received one of Scouting's highest awards, the Silver Buffalo for distinguished service.

Vollmer, a Catholic and father of several children, is described by associates as a "devout family man."

One associate ranked him among Venezuela's most important men and said Vollmer is usually accompanied by a personal bodyguard. On trips within Venezuela he has sometimes been accompanied by a carload of government agents armed with submachine guns, the associate said. The reason: Vollmer is considered a prime target for a terrorist kidnapping attempt.

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SOME STATES CURB ALIEN OWNERS

Twenty states now have some form of legal restriction on alien ownership of agricultural land.

But loopholes, exceptions, constitutional mandates, and treaty provisions limit the effectiveness of the restrictions.

The laws regulate ownership with one or more of the following provisions:

Outright prohibition of ownership by aliens except those who reside in the U.S., are applying for U.S. citizenship, or are residents of "friendly" countries.

Limitations on the amount of acreage that can be owned or on the distance it may be located from a specific city.

Limitations on the length of time the alien can hold U.S. land.

One state, Iowa, also requires aliens to report their ownership. An alien not filing the required report is subject to a $1,000 fine but only if the state can prove that his failure to report was "willful." Iowa officials say this has been difficult to do.

In 1977, 23 non-resident alien owners reported to the Iowa Secretary of State. They included 14 Germans, three Britishers, two Austrians, two Guatemalans, one Irishman, and one Canadian.

Iowa, like several other states, has a law limiting the extent of alien ownership. In Iowa's case the limitation is 640 acres. But in 1974 three different Liechtenstein corporations, apparently backed by the same man, bought parcels of land totaling 1,400 acres. The letter of the law was kept because none of the corporations held over 640 acres. Another way to evade the intent of restrictive laws is for one corporation to buy out another's stock. When this happens, the ownership of the land changes hand without the public recording of a deed.

Besides loopholes and legally-granted exceptions, there are two major constitutional limits on laws restricting alien ownership.

The U.S. Constitution requires equal protection under the law for "any person." This applies to aliens. It also applies to corporations, which are legal "persons." Past case history indicates the U.S. Supreme Court would take a dim view of laws restricting ownership purely by nationality.

In addition, the constitution grants to the federal government complete control over foreign policy. Thus, any state law which could be construed as a hindrance to U.S. pursuit of foreign policy goals also could be construed as unconstitutional.

In pursuit of those goals, the U.S. has concluded treaties with many "friendly" countries which grant citizens of those countries the right to own U.S. land. In addition, many treaties give tax breaks to those citizens who do invest in U.S. land.

The treaties also allow U.S. businessmen and investors to operate freely within the "friendly" countries. That's one reason many U.S. goods are produced in foreign nations where production costs are cheaper.

A comprehensive overview entitled "State and Federal Legal Regulation of Alien and Corporate Land Ownership and Farm Operation," produced through the U.S. Department of Agriculture Economic Research Service, concludes that "only Federal legislation could take a comprehensive approach to alien investment" because state laws could simply divert alien investment into other economic sectors or states.

U.S. Sen. John Melcher (D-Mont.) said "legislation for disclosure of ownership of land is clearly in order" along the lines of Iowa law. Melcher, a member of the Senate Agriculture Committee, said the Iowa law, though not entirely successful, "can serve as an emerging pattern for identifying foreign owners."

Melcher believes disclosure laws are constitutional and could be required by either state or federal legislation. But, he said, "only in the case of a demonstrated national urgency where the states could not effectively accomplish disclosure would Congress consider adopting it as a federal law."

"An absolute denial of foreign investment is another matter," Melcher said. "(It) would be difficult to accept or enforce."

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FOREIGNERS FACE SELLER'S MARKET FOR MONTANA LAND

(By Shaun Higgins and Jeannie Cross)

HELENA.—As the owner of The Shining Mountains land development near Ennis, Pann Mallas has seen buyers come and go. But there are some who remain fixed in his memory.

"There was this one fellow," Mallas recalls. "He came in a trailer and was dressed in a dimestore cowbody outfit—if a rancher had seen him, he'd have laughed him out of state. He said he was buying ranches for some Germans."

Mallas couldn't help him; he sells only five to 30-acre parcels, designed for retirement and vacation homes.

Mallas also couldn't help the carload of West Germans—"They were, indeed, in a Mercedes Benz"—that showed up at his office on another day. Mallas explained to them, as he had to the rhinestone cowboy, that he just didn't have the kind of acreage they were interested in. But as they talked, he learned that the group had flown from Germany to San Francisco, then rented the luxury car to take a leisurely tour of the United States in search of land investments. They planned, they told Mallas, to end their trip some weeks later in Florida.

Mallas is only one of many Montanas approached in the last few years by aliens or their representatives seeking prime agricultural land in the Big Sky Country.

Many of those approached strongly oppose the idea of alien ownership.

One such person is Joyce Robinson of Choteau. A Canadian came to her spread last July and offered to buy it without even looking it over. "He said he knew everything about it, down to the last blade of grass," she recalls. But she and her children wouldn't sell despite the "large offer" he made.

An active member of the American Agricultural Movement, Robinson says she and her AM colleages are "trying to prevent this valuable land, this US of A, from being sold to West Germans and Japanese." They want to preserve the family farm.

"When you own the land, you own the country," she added.

Robinson's sentiments are common among the state's ranchers and farmers, although some think foreign investment provides great benefits for local economies and will boost land values while keeping farms in production.

The State Bureau has learned in a six-month investigation that encounters with alien representatives have occurred in at least six Montana counties during the last year. In addition, some 100,000 acres of prime ranchland in Montana and Wyoming have been sold recently to predominantly foreign-controlled investment firms.

Although the acreage sold is only a minute percentage of Montana's 50 million acres of privately owned land, aliens are eyeing the remainder as it becomes available. Furthermore they are willing to pay $500 and more an acre to get it.

"If you want to sell foreign, you can sell all you can find," on Missoula real estate broker said.

One firm which wants to sell foreign is Hall and Hall Realty in Billings. It has advertised its services in the International Herald-Tribune, a Paris-based newspaper with circulation throughout Europe. The agency has a special division that specializes in alien land investment and, according to one source close to the firm, has worked hand-in-glove with the Northern Trust Co. of Chicago—reputed by national media to be a major conduit through which foreign money acquires U.S. farms.

Hall and Hall is not the only Montana firm advertising in Europe. Morse Land Co. of Absarokee has been in the international market for 15 years and advertises its services in several European papers, including the Frankfurter Allgemeine of Germany.

One Montana broker explained that other firms probably will follow these companies' leads.

"It (selling abroad) is necessary," he told the Missoulian State Bureau. "An agency has an obligation to its clients to obtain the best possible price for land, and if the client wants to keep the land in one piece, we have to look for a buyer that will keep it together."

Foreign buyers "have the money to buy and pay the best price," he explained. "Most Montana ranchers can't pay as much—and wouldn't if they could.

"The alternative to large-scale corporation and foreign millionaire investment is subdivision. Most Americans want a quick return on their investment, and they're not going to be happy with the 3 or 4 percent from ranching. That's why they subdivide. But most of the foreign buyers are people whose wealth has been based in land and that's where they want to keep it. They don't care about high returns; they're comfortable just owning the land."

But another broker who specializes in the international market disagreed with his competitor. He said he had an order for land from a Greek he spoke with in Geneva. "He wanted to get into ranching but wanted a 27 percent return on his investment," the broker said. "Ranching can't do it. I told him he'd have to find something else."

There's no question that foreign investment is a seller's market. Inquiries outnumber available properties by a 100-to-1 margin, according to a Big Timber broker who says he won't deal with aliens.

But in some cases, land purchases by aliens have not resulted in the hoped-for profits. A case in point: Fair View Ranches, Inc. near Harlowton. The ranch was put together from smaller ranches purchased from local owners about three years ago by a group with West German connections.

According to area residents, the investors pumped a lot of money into the operation and also lost a lot of it. One rancher, who bought a portion of Fair View when the alien owners sold out, said he wasn't surprised.

"They (non-resident aliens) can't compete with people who are willing to work 14 to 15 hours a day for peanuts," he said. "If this country would allow a family farmer to make an honest living farms would stay family farms."

## PROPOSED REGULATIONS PURSUANT TO FOREIGN GIFT AND DECORATIONS ACT (5 U.S.C. 7342)

● Mr. STEVENSON. Mr. President, the Select Committee on Ethics on April 13, 1978, tentatively approved regulations pursuant to the Foreign Gifts and Decorations Act (as amended). Interested parties, including Members, officers, or employees of the Senate and the general public, will have 14 days from the date on which these proposed regulations are printed in the CONGRESSIONAL RECORD to submit their comments in writing to the select committee. These proposed regulations will become effective when finally approved by the Select Committee on Ethics after consideration has been given to any comments received.

Mr. President, I ask that a copy of the proposed regulations be printed in the RECORD.

The material follows:

PROPOSED REGULATIONS

1. Purpose of act and regulations:

(a) The U.S. Constitution (Art. I, Sec. 9, Cl. 8) prohibits a federal official from accepting any gift from a foreign government without the consent of Congress.

(b) The Foreign Gifts and Decorations Act ("the Act") (5 U.S.C. 7342) sets forth those gifts which Congress consents to being accepted by federal officials. The Act prohibits any officer or employee of the government, or his or her spouse or dependent, from:

(1) Requesting or otherwise encouraging the tender of a gift or decoration; or

(2) Accepting such gifts other than in accordance with the provisions of the Act as implemented for Members, officers, and employees of the U.S. Senate by these regulations. (5 U.S.C. 7342(b)).

(c) Under the Act Congress consents to:

"(1) The accepting and retaining by an employee of a gift of minimal value tendered and received as a souvenir or mark of courtesy; and

"(2) The accepting by an employee of a gift of more than minimal value when such gift is in the nature of an educational scholarship or medical treatment or when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States, except that—

"(A) a tangible gift of more than minimal value is deemed to have been accepted on behalf of the United States and, upon acceptance, shall become the property of the United States; and

"(B) an employee may accept gifts of travel or expenses for travel taking place entirely outside the United States (such as transportation, food, lodging and incidental entertainment) of more than minimal value if such acceptance is appropriate, consistent with the interests of the United States, and permitted by the employing agency and any regulations which may be prescribed by the employing agency. (5 U.S.C. 7342(c)).

(d) The Select Committee on Ethics is authorized by Title 5 U.S.C. Sections 7432 (a) (6) and (g) to prescribe such regulations as may be necessary to carry out the purposes of the Act. The purpose of these regulations is to establish standards and procedures for the acceptance and disclosure of decorations, gifts of more than minimal value and gifts of travel or expenses for travel taking place entirely outside of the United States when such are tendered by foreign governments to Members, officers and employees of the U.S. Senate.

2. Definitions:

(a) "Member, officer, or employee of the U.S. Senate" includes the spouse of such individual (unless such individual and spouse are legally separated or the spouse is also a federal employee) or a dependent of such individual (as defined in section 152 of the Internal Revenue Code) (5 U.S.C. 7342 (a)(1)(G));

(b) "Foreign government" means—

(1) any unit of foreign governmental authority, including any foreign municipal, local, State and national government; (examples: National Government—Dominion of Canada; State—Province of Quebec, Dominion of Canada; Municipal—City of Montreal, Province of Quebec, Dominion of Canada, etc.).

(2) any international or multinational organization whose membership is composed of any unit of foreign government described in subparagraph (1); (examples would include the United Nations, the Organization of American States, etc.).

(3) any agent or representative of any such unit of such organization, while acting as such; (examples would include the Secretary General of the United Nations, Secretary General of the Organization of American States, etc.) (5 U.S.C. 7342(a)(2)).

(c) "Gift" means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government. (5 U.S.C. 7342(a)(3));

(d) "Decoration" means an order, device, medal, badge, insignia, emblem, or award tendered by, or received from, a foreign government; (5 U.S.C. 7342(a)(4));

(e) "Minimal value" means a retail value in the U.S. at the time of acceptance of $100 or less. (5 U.S.C. 7342(a)(5)).

(f) "Employing agency" means the Select Committee on Ethics of the Senate, for Members, officers and employees of the Senate; (5 U.S.C. 7342(a)(6)(B)).

3. Acceptance of gifts:

The Act and these regulations permit Members, officers or employees of the Senate to accept the following gifts under the following circumstances:

(a) Gifts of Minimal Value. Members, officers and employees of the Senate may accept gifts of minimal value from foreign governments tendered and received as a souvenir or a mark of courtesy. Minimal value is defined as having a fair market in the U.S. of $100 or less. If a Member, officer or employee is in doubt as to the value of an object, then he shall obtain an appraisal. (5 U.S.C. 7342(c)(1)(A)). Any estimate by an appropriate embassy official will be sufficient appraisal unless the Member, officer or employee believe such is inadequate. In that case an appraisal may be obtained from any commercial firm qualified to give an estimate as to the fair market value of the object in question.

(b) Gifts of more than minimal value. A Member, officer or employee may accept tangible gifts of more than minimal value when refusal would be deemed likely to cause offense or embarrassment or otherwise adversely affect U.S. foreign relations. Guidance as to whether or not refusal is deemed likely to give offense or cause embarrassment will be provided by the State Department. Any such tangible gift is deemed to have been accepted on behalf of the U.S. and

upon acceptance becomes the property of the U.S. as hereinafter explained in Section 6 (5 U.S.C. 7342(c)(1)(B)).

(c) Gifts of Education, Scholarship or Medical Treatment. Members, officers or employees of the Senate may accept scholarships and medical treatment of more than minimal value from a foreign government. (Example: (1) emergency medical treatment provided to a Member, officer or employee by a foreign government; (2) educational scholarship provided by any foreign government as defined in Section 2).

(d) Travel or Expenses for Travel Taking Place Outside the U.S.:

(1) A Member, officer or employee of the Senate may accept from a foreign government gifts of travel or expenses for travel of more than minimal value taking place entirely outside of the United States (such as transportation, food, lodging and incidental entertainment) if such acceptance is appropriate and consistent with the interest of the U.S. Such travel is considered appropriate and consistent with the interests of the U.S. only when such travel or expenses for travel (which include transportation, food, lodging and incidental entertainment) relate directly to the official purpose of the trip or refusal would give offense. The travel or expenses for travel so accepted need not be for the same purpose as the original trip which brought a Member, officer or employee to a particular country. For instance, an individual can under this regulation, go to a particular country for one purpose and also travel elsewhere for an on-site inspection, briefing, etc., which is also in the interests of the U.S. and is for a different purpose than that of the original trip.

Travel (or expenses for travel) which takes place outside of the United States must be incidental to official business in a foreign nation(s). One may not travel to a foreign country for the purpose of accepting a trip provided by a foreign government which is unrelated to official business.

(2) A spouse or dependent of the Member, officer or employee may accept such travel or expenses for travel which takes place wholly outside of the United States. If the spouse is also a federal official, then the spouse's acceptance must be approved by the spouse's employing agency. (5 U.S.C. 7342(a)(1)(6)).

4. Acceptance of decorations:

(a) Congress has consented to Members, officers, or employees of the Senate accepting decorations in recognition of service in combat and other outstanding or unusually meritorious services, subject to the approval of the Select Committee on Ethics. Without prior approval by this Committee, any decoration is deemed accepted on behalf of the United States, and shall become the property of the United States and within 60 days shall be deposited with the Secretary of the Senate. (5 U.S.C. 7342(d)).

5. Gifts or decorations to spouses and dependents:

(a) Any gift or decoration tendered to a spouse and/or dependent of any Member, officer or employee of the Senate must be disclosed and reported in accordance with Section 7 of these regulations. This statute and these regulations apply in situations where it is apparent that the gift or decoration would not have been offered to the spouse and/or dependent but for that individual's relationship to the Member, officer or employee of the Senate. (5 U.S.C. 7342(a)(1)(G)).

6. Disposition or official use of gifts or decorations:

(a) Whenever any gift or decoration which has been accepted on behalf of the United States is required to be deposited with the Select Committee on Ethics, the Committee will decide whether the gift or decoration will be retained by the United States Senate for official use or will be disposed of in accordance with 5 U.S.C. 7342(e). No item shall be retained for official use or display in the offices, grounds, hallways, or other areas of the United States Senate unless the Committee on Rules and Administration consents to arrange an appropriate site for such use or display. Custody of and responsibility for any deposited item shall be in such place as is designated by the Secretary of the Senate. Upon notification by this Committee that the deposited item is not being returned or retained for official use, the Secretary of the Senate shall forward the deposited item to the Administrator of the General Services for transfer, donation or disposal in accordance with the Federal Property and Administrative Service Act of 1949. (5 U.S.C. 7342 (d) and (e).) If the object is located in a United States embassy, the Secretary of the Senate shall instruct the appropriate embassy to forward the object to the Administrator of General Services for disposition.

(b) The Secretary of the Senate shall maintain a list which describes each gift and its location when the Secretary is notified by the Ethics Committee that the object is retained for official use and display. If the gift is displayed in a Member's office it shall be the duty of the Secretary of the Senate to retrieve the object when the Member leaves the Senate. Once such object has been retrieved the Secretary shall forward it to the Administrator of General Services as stated in Paragraph 6(a) above.

7. Deposit and disclosure:

(a) Deposit of Gifts and/or Decorations. Within 60 days of accepting a gift of more than minimal value or a decoration (acceptance of such decoration not having been approved by the Committee) such gift or decoration shall be deposited with the Secretary of the Senate. (5 U.S.C. 7342(c)(2) and (d)).

Any Member, officer or employee, while traveling abroad, may leave any of the two above-mentioned items with a United States Mission. The Member, officer or employee shall notify the Secretary of the Senate of the object's location in the disclosure statements discussed in paragraph (b).

(b) Disclosure Statements. Members, officers or employees must file a disclosure statement for any tangible gift of more than minimal value and for any gift of travel (or expenses for travel) which takes place wholly outside of the United States and is provided by a foreign government. No disclosure statement is required for a decoration whether accepted with or without Committee approval.

(1) Tangible Gifts of More than Minimal Value. Within 60 days of accepting a tangible gift of more than minimal value the Member, officer or employee shall deposit such gift with the Secretary of the Senate and shall also report to the Secretary of the Senate the following information:

(A) the name and position of the reporting individual and recipient;

(B) a brief description of the gift or decoration and the circumstances justifying acceptance;

(C) the identity of the foreign government and the name and position of the individual who presented the gift, if known;

(D) the date of acceptance of the gift, the estimated value in the United States of the gift at the time of acceptance; and

(E) the disposition or location of the gift. (5 U.S.C. 7342(f)(2)).

(2) Gifts of Travel or Expenses for Travel. Within thirty days of the acceptance of travel furnished by or expenses for travel paid for by a foreign government and accepted by a Member, officer or employee of the Senate in accordance with Section 3(d) of these regulations, the Member, officer or employee shall report to the Secretary of the Senate the following information:

(A) the name and position of the reporting individual;

(B) a brief description of the gift and the circumstances justifying the acceptance; and

(C) the identity of the foreign government and the name and position of the individual who presented the gift. (5 U.S.C. 7342(f)(3)).

The 30 day period mentioned above does not being to run until the Member, officer or employee returns to the United States.

8. Publication of disclosure function. The Secretary of the Senate shall receive the disclosure statements required by these regulations and compile by January 31, 1979 and each January 31 thereafter a list of all statements filed during the preceding year by Members, officers and employees of the Senate. After compiling the above described lists, the Secretary shall transmit the list to the Secretary of State who shall publish a comprehensive list of all such statements in the Federal Register. Once published in the Federal Register the filings for that year may be destroyed by the Secretary of the Senate. (5 U.S.C. 7342(f)).

9. Exclusions. This Act does not apply to grants and other forms of assistance to which Section 108A of the Mutual Education and Cultural Exchange Act of 1961 applies nor does this Act apply to travel permitted under paragraph 4 of Senate Rule 43. (5 U.S.C. 7342(k)).

10. Violations and penalties. Allegations of violations of the Foreign Gift and Decorations Act which come to the attention of the Select Committee on Ethics will be referred to the Attorney General in accordance with the provisions of 5 U.S.C. 7342(g)(2)(A).

11. Effective dates. These regulations are effective ———. No filings are necessary for foreign travel approved by this Committee prior to the effective date of these regulations.●

Mr. PROXMIRE. Mr. President, I ask unanimous consent to be allowed to proceed as in legislative session for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MISMANAGEMENT IN THE NATIONAL STRATEGIC PETROLEUM RESERVE PROGRAM

Mr. PROXMIRE. Mr. President, Congress should not approve the Energy Department's plan to increase the strategic petroleum reserve from 500 million barrels to 1 billion barrels until the Department is able to estimate the full costs of the plan and has taken steps to correct the gross mismanagement in the program.

Congress passed the Energy Policy and Conservation Act in 1975 requiring the establishment of a strategic petroleum reserve equivalent to 500 million barrels.

On April 4, 1978, Congress received a plan from the Energy Department to increase the reserve to 1 billion barrels by 1985. Under the law, the plan automatically goes into effect unless the Senate or the House disapproves it.

The Energy Department estimates the cost of the 500 million barrel program at $7.5 billion to $8 billion.

It estimates that a 750 million barrel program will cost an additional $6 billion.

But the Energy Department fails to estimate the cost of a billion barrel pro-

gram. According to the agency, the cost of the fourth 250 million barrel increment in the reserve cannot be estimated because decisions have not been made regarding the type of storage facilities or the extent of Government and industry involvement in the storage.

This is like asking Congress to authorize 250 million pigs in a poke. We do not have any idea how much the pigs will cost or even the size of the poke.

The law is very clear on this point. It directs the agency to prepare a strategic petroleum reserve plan which shall include:

An estimate of the direct cost of the reserve, including the cost of storage facilities;

The cost of the petroleum products to be stored;

The cost of related facilities; and

The management and operating costs.

The agency's plan fails to provide a breakdown of these costs and should be rejected for this reason alone.

In addition, the law calls for a comprehensive environmental assessment, and the assessment in the new plan appears to me to be superficial and inadequate.

The agency should go back to the drawing board, finish its drawings and then show them to Congress.

There are other shortcomings in the program which lead me to conclude that it is being grossly mismanaged and is imposing millions of dollars of unnecessary costs on the taxpayer.

The Energy Policy and Conservation Act authorizes the use of oil from Federal offshore and onshore leases, from which the Government gets royalties, for the reserves. The act would also permit the use of the Navy's vast Elk Hills oil reserves which are being sold commercially.

Instead, the Energy Department has so far purchased oil for the reserves exclusively from foreign sources.

The General Accounting Office estimates the cost of the program can be cut by $1.1 billion if royalty oil is used for the 500 million barrel program. An additional $684 million could be saved with royalty oil for the 1 billion barrel program.

The decision to use foreign oil also seems strange in view of our balance-of-payments problems.

The Energy Department frequently admonishes the Nation to reduce oil imports partly because they contribute to the trade defict, but the Agency's decision to rely exclusively on foreign oil for the strategic reserve is running up our imports.

A year ago, the Energy Department requested and obtained congressional approval to accelerate the program from 150 million barrels by December 1978 to 250 million barrels by December 1978. Approval was also obtained to store 500 million barrels by 1980 instead of by 1982.

The Agency now has only 18.5 million barrels in storage and admits that it will not meet the December 1978 goal. The Agency claims it will have 125 million barrels stored by the end of the year, far short of the original goal.

One of the major reasons for the delay appears to be slippage in the construction of the temporary and permanent pipelines used to fill the storage facilities.

Additional delays have occured in the acquisition and testing of the salt domes and caverns that will be used for storage.

The Energy Department so far lists nine potential sites with storage capacity of 402 million barrels.

But the Government has made firm commitments for only about 275 million barrels of storage facilities. The remainder are still undergoing tests and environmental studies necessary to determine whether they can be used for crude oil storage.

The General Accounting Office has sharply criticized the Energy Department's handling of the storage facilities.

The salt caverns are formed bv brining operations in which water is injected into a salt mass dissolving the salt and forming a cavern.

To be suitable for storage the cavern must be of a desirable shape and condition so as to withstand the pressures at which crude oil will be injected and withdrawn.

But the Energy Department has been permitting the private mining firms to continue brining operations after legal acquisition and testing of the caverns.

When these caverns are actually turned over to the Government their shape and condition may have changed, and they may no longer be safe for storage.

Cave-ins of cavern roofs, cracks and leakage around pipeline casings could cost taxpayers millions of dollars through loss of crude oil and pollution of the surface above the caverns.

The Energy Department's decision to establish a wholly Government-owned and controlled reserve also raises serious questions about the management of the reserve program.

Under the act the Agency could establish an industrial reserve as part of the strategic petroleum reserve. This could be done by requiring oil importers and refiners to maintain stocks for use in an emergency.

U.S. oil companies have reported to the International Energy Agency that they already maintain oil stockpiles equivalent to 120 days of oil imports.

The establishment of an industrial reserve could result in large savings to the taxpayer and result in a more decentralized storage system.

I want to underline my support for the reserve program. Petroleum stockpiles are essential to reduce our vulnerability to another Arab embargo and to prepare for any kind of emergency.

Further, the next year or two may be the best time to fill the reserve in light of the excess supplies in the world oil market.

But haste may already have made waste. An inefficient, wasteful, unsafe program is no solution to the oil stockpile problem.

Last year's decision to accelerate the program has proven to be shortsighted.

This year's decision to double its size is premature in view of the many problems it faces.

Strategic stockpiles have often been a source of enormous waste in Government. We need to take special care that the petroleum reserve program does not add its name to this unfortunate record.

I ask unanimous consent to print in the RECORD at the close of my remarks the report prepared by the General Accounting Office entitled "Need To Minimize Risks of Using Salt Caverns for the Strategic Petroleum Reserve," dated January 9, 1978.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

NEED TO MINIMIZE RISKS OF USING SALT CAVERNS FOR THE STRATEGIC PETROLEUM RESERVE

Under the Energy Policy and Conservation Act, the Department of Energy is required to create a Strategic Petroleum Reserve to provide protection against future disruptions in U.S. energy supplies. The Department is committed to having 500 million barrels of crude oil in storage by 1980 and thus far has been storing the oil in salt caverns located in the gulf coast area.

GAO's review of the cost and feasibility of salt cavern storage raised questions concerning the need for better information to reduce risks and uncertainties regarding the suitability of caverns for storage:

Should the Department permit brining operations to continue in caverns after their testing and certifications as suitable for crude oil storage without plans for assuring that they will remain siutable for storage after brining?

Should crude oil be stored in caverns before adequate information on their long-term suitability for storage is obtained?

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U.S. GENERAL ACCOUNTING OFFICE,
*Washington, D.C.*

The SECRETARY OF ENERGY.

DEAR MR. SECRETARY: The General Accounting Office (GAO) has been monitoring the Federal Energy Administration's (FEA)[1] plans, actions and progress in developing the Strategic Petroleum Reserve. As part of this effort, we have been reviewing the cost and feasibility of salt cavern storage. This letter discusses two issues raised during our review which warrant your consideration.

The first issue relates to permitting brining operations to continue in Government-owned caverns after the caverns have been tested and certified by FEA as suitable for crude oil storage. This concerns us from two standpoints: first, FEA does not have a formal system for controlling brine production at these caverns; and secondly, FEA does not plan to retest the caverns after produtcion ceases.

The second issue pertains to pumping crude oil into certain caverns before completing an analysis of their long-term suitability for storage. Although FEA was not certain of the continued suitability of these caverns for storage until an analysis was completed of tests recently performed on an adjacent cavern, FEA decided not to wait for test results on the adjacent cavern and began oil fill.

In our view, FEA had no assurance that the caverns in question would continue to be suitbale for storage. This lack of assurance could have led to problems in recovering oil.

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[1] Although FEA is discussed throughout this report, our specific recommendations are addressed to the newly established Department of Energy (DOE) to which the functions of FEA were assigned on October 1, 1977, pursuant to the Department of Energy Organization Act (P.L. 95-91).

program delays, and unnecessary costs to the Federal Government.

BACKGROUND

The Energy Policy and Conservation Act (P.L. 94–163) requires FEA to create a Strategic Petroleum Reserve (Reserve), the purpose of which is to diminish U.S. vulnerability to the effects of a severe interruption in energy supplies and provide limited protection from the consequences of interruptions in petroleum product supplies. In December 1976, FEA submitted to the Congress a Strategic Petroleum Reserve Plan (Plan) which indicated that the Reserve would contain 150 million barrels of oil by December 1978 and 500 million barrels by December 1982. However, in his April 1977 energy message, the President called for an expansion of the program to 1 billion barrels. Subsequently, FEA's May 1977 Plan amendment set new storage targets for the Reserve of 250 million barrels by December 1978 and 500 million barrels by December 1980. FEA plans to further amend the Plan to expand the Reserve to one billion barrels.

FEA has determined that oil for the Reserve will be stored in caverns within salt domes and in salt and limestone mines. To date, nine potential sites—four salt domes, three salt mines, and two limestone mines—with existing capacities totaling 402 million barrels have been identified by FEA for storage. Of the four salt domes, FEA has acquired three through condemnation proceedings. Information on the salt domes obtained through condemnation is summarized below.

| | Salt dome | | |
|---|---|---|---|
| | Bayou Choctaw | West Hackberry | Bryan Mound |
| Location | Iberville Parish, La. | Cameron Parish, La. | Brazoria County, Tex. |
| Number of existing caverns planned for storage. | 10 | 5 | 4. |
| Existing storage capacity. | 74,000,000 bbl. | 60,000,000 bbl. | 63,000,000 bbl. |
| Estimated design and construction costs for existing caverns. | $126,700,000 | $62,500,000 | $52,600,000. |
| Previous operators. | Allied Chemical Co. | Olin Corp. | Dow Chemical Co. |

The existing caverns in these salt domes were formed over the years from brining operations. Brining is a process whereby water is injected into a salt mass, dissolving the salt and creating a cavern, with the dissolved salt (brine) being forced out of the cavern through injection of more water.

FEA's plans call for a series of tests to be run on all caverns selected for storage. The purpose of the tests is to determine the suitability of the caverns for crude oil storage. Such tests include a sonar survey to identify the shape of the caverns, to compute storage capacity, and to determine the condition of the cavern roof; and a casing and cavern pressure test to determine whether the casing and cavern will be able to withstand the pressures at which crude oil will be injected and withdrawn.

CONTINUED BRINE PRODUCTION IN APPROVED CAVERNS

As part of the condemnation proceedings, FEA permitted Allied Chemical Company and Olin Corporation to continue brine production at Bayou Choctaw and West Hackberry, respectively. The condemnation agreement for Bayou Choctaw does not specify the number of caverns which will be available for continued brine production; however, the project manager for Bayou Choctaw stated that the number was three. West Hackberry's condemnation agreement specifically stated that three caverns will be available. These six caverns have a storage capacity of over 62.3 million barrels, representing about 46 percent of the total existing storage capacity for the 15 caverns designated for storage in these two salt domes. At a national average composite price of $11.80 a barrel, the oil to be stored in these six caverns is estimated to cost the Government about $75 million. FEA officials told us that in order to assist in precluding further litigation which would delay the condemnation proceedings, FEA agreed to allow Allied and Olin access to caverns at Bayou Choctaw and West Hackberry for brine production. Based on the advice of the Corps of Engineers—the contractors hired to appraise the storage sites—FEA decided that depriving the chemical companies of brine supplies would subject the Government to significant damage claims. An FEA official advised us that no written documentation was prepared in support of potential damage estimates since they were so obvious.

The agreements that FEA signed with the chemical companies specify the length of time the chemical companies are to receive brine supplies. In Allied's case, it is until such time Allied develops a replacement brine supply of its own, but not beyond December 31, 1980. In Olin's case, it is until May 1, 1978. FEA officials told us that Allied's brining needs are about 30,000 barrels a day and Olin's average about 14,000 barrels a day. The agreements do not, however, specify the rate of production or the operating pressure at which the brine is to be produced.

At the same time that Allied and Olin are conducting brining operations, FEA plans to proceed with the design and construction necessary to prepare the sites for oil storage. Except for $6.2 million to be spent for drilling injection wells,[2] FEA has not determined how much of the estimated $189 million in design and construction costs for existing capacities at Bayou Choctaw and West Hackberry are attributable to the six caverns where brining operations will continue. Although we recognize that there are certain design and construction costs which will be incurred regardless of the number of caverns or barrels of storage capacity, we estimate the costs associated with the six caverns to be $87 million.[3]

FEA officials stated that there is no need to control brine production nor retest the caverns after brining is completed since they considered cavern damage to be low risk due to the experience of the chemical companies in producing brine and the small amount of brine to be produced. The contractor responsible for performing cavern tests for FEA agreed with FEA officials. However, these officials acknowledged that if a cavern is operated in excess of its maximum operating pressure, it could fracture causing it to be unsuitable for storage. For each cavern rendered unsuitable for storage, FEA would have to find a suitable replacement cavern or construct a new one. Either situation, particularly the latter, would result in program delays and additional costs. These officials stated that even with proper rates of production and operating pressures, brining could still damage the caverns. For example, if too much salt is removed from the cavern roof, the seal around the casing, through which the crude is injected and withdrawn, could begin to leak. Also fractures could develop in the caverns. Either type of change could result in the crude oil escaping to the caprock (the layer of rock strata directly above the salt dome) where it can be lost.

Officials of FEA's Strategic Petroleum Reserve Office, Office of Facility Construction, stated that they have no formal system to control the brining operations but indicated that it could be done with minimal effort and expense. We discussed the type of testing necessary to assure cavern suitability after brining is completed, length of time to retest, and costs with FEA officials and the contractor. They stated that two tests would be necessary—a sonar survey and a casing and cavern pressure test—which would take about two weeks per cavern and cost a total of about $90,000—$15,000 per cavern.

In discussing the possible loss of design and construction costs if the caverns were rendered unsuitable due to continued brine production, FEA officials stated that by delaying cavern design and construction until after brining operations are completed, the chances for loss of design and construction funds would be eliminated but other factors must be taken into consideration such as the price of oil and inflation. They added that postponing design and construction until after brining was completed would delay the program and possibly cause FEA to be unable to meet the administration's goal of having 500 million barrels of oil in storage by December 22, 1980. At the time of our review, however, FEA had not evaluated what the impact on meeting the goals would be due to delaying some or all of design and construction activity. They stated that such an analysis, although time-consuming, could be performed.

In a November 10, 1977, meeting with DOE officials to discuss a draft of this report, they disagreed with several aspects of the report relative to the continued production of brine at Bayou Choctaw and West Hackberry. These officials restated their view that cavern damage as a result of continued brining is low risk and that retesting is unnecessary. They stated that the reasons for this view are (1) caverns are being tested for the ability to withstand pressure well above the accepted industry standard pressure for brine production; (2) due to the large size of the caverns, brining at temporary short-term operating pressure will not cause the overall cavern pressure to rise to dangerous levels; and (3) DOE has re-installed blanket oil in the caverns after testing and will insure that adequate blanket oil is maintained to guard against salt being washed from the cavern roof. Furthermore, they cited the thickness of the salt roofs above the caverns as an additional factor that would guard against damage occurring.

The reasons cited above may minimize cavern damage. However, without a formal system to monitor brining operations, there is no assurance that safe operating pressures are maintained. FEA and its testing contractor have acknowledged that brining can cause cavern damage. This would appear to be substantiated by the failure of five other caverns at Bayou Choctaw, previously used for brine production, to pass casing and cavern pressure testing.

STORAGE PLANS AT BRYAN MOUND

There are five caverns at the Bryan Mound salt dome. FEA began storing crude oil in cavern 2 on October 7, 1977; in cavern 4 on November 14, 1977; and plans to use caverns 1 and 5 for storage. FEA considers the remaining cavern—cavern 3—to be too large for storage. In addition to being too large,

[2] Contractor reports estimate that it will cost an average of $692,000 to drill an injection well, and FEA plans to drill nine new injection wells in these six caverns.

[3] Design and construction costs for existing storage capacity at Bayou Choctaw and West Hackberry are $189 million—$127 million and $62 million respectively. On the basis of 135 million barrels of existing storage capacity, design and construction costs are equal to about $1.40 a barrel. This per barrel amount multiplied by the $23.5 million barrels for the three caverns at Bayou Choctaw and the 38.8 million barrels for the three caverns at West Hackberry equals a total of $87 million.

certain questions have been raised about the suitability of cavern 3 for the storage of crude oil. Although cavern 3 was not selected for storage, its suitability for storage is important because of its location in relation to caverns selected for storage. A cavern's exact location and distance are considered in cavern design analysis to determine if caverns will grow together and the impact of such growth resulting from crude oil displacement cycles. FEA is using five such cycles for planning purposes and is assuming the storage sites will have to be emptied as many as five times because of major supply interruptions. Cavern enlargement is expected to occur during each displacement cycle. FEA made an analysis of caverns at Bryan Mound to determine location and distance. In our opinion, FEA's analysis of cavern 3 prior to beginning oil fill in an adjacent cavern was not adequate to determine the extent to which cavern 3 would have compromised the other cavern's suitability for storage.

FEA first became aware of potential problems with cavern 3 in November 1976 when a preliminary design contractor submitted a report on the Bryan Mound storage caverns. The contractor's report proposed that FEA insure that no future brining operations are conducted in cavern 3 by acquiring the cavern and, if possible, perform a directional survey of the cavern. Although the directional survey is necessary to enable FEA to determine the potential for other caverns to penetrate cavern 3 and the consequences of such penetration, tests to gather information on cavern 3 were not performed prior to oil fill. The Bryan Mound Project Manager (Project Manager) told us that FEA decided testing cavern 3 was unnecessary because FEA's analysis showed it would not have any impact on the other caverns. However, we believe that questions remain as to the accuracy of this analysis which tends to be supported by the fact that FEA decided to perform further testing on cavern 3, as discussed below. FEA's analysis was based primarily on two documents; an aerial view diagram of the caverns and a table showing calculations of the effects of five displacement cycles on the diameters of Bryan Mound storage caverns 1, 2, 4, and 5. The aerial view diagram was obtained from Dow Chemical Company—the previous operator of cavern 3. While we do not disagree with the manner in which the analysis was performed, we do not believe the information used was adequate since FEA did not obtain sonar and directional survey data to verify the location of cavern 3 on the aerial view diagram.

In August 1977, both FEA and its contractor responsible for cavern testing and certification became concerned about cavern 3. In an August 23, 1977, meeting attended by FEA and the contractor, the contractor strongly advised that cavern 3 be tested. In a letter to FEA dated August 29, 1977, the contractor expressed concern that cavern 3 might be penetrated during future oil displacement from caverns 2 and 4. The contractor emphasized that an investigation of the cavern was imperative. In a letter to the contractor dated August 31, 1977, FEA asked the contractor to submit a proposal for performing sonar and directional surveys on cavern 3. The FEA letter also requested that the proposal include fluid samples from various depths in cavern 3. We were advised by the Project Manager that FEA was concerned over allegations that industrial waste had been dumped in cavern 3.

We first discussed cavern 3 with FEA on September 19, 1977. No tests had been run at that time; but, based on a discussion with the Project Manager, it was our understanding that oil would not be stored at Bryan Mound until cavern 3 had been tested and analyzed. Subsequently, the Project Manager advised us that there were never plans to delay oil fill until cavern 3 had been tested and analyzed .

As stated on page 7, FEA began storing crude oil in cavern 2 on October 7, 1977, and in cavern 4 on November 14, 1977. As of November 29, 1977, about 1.5 million barrels had been stored in these caverns. Cavern testing began on November 2, 1977, and was completed November 9, 1977. We last discussed the status of the tests with the contractor on December 13, 1977. The contractor stated that they had completed their analysis of the tests and had forwarded the test results to DOE on November 28 and 29, 1977. The analysis indicated a minimum distance between cavern 3 and caverns 2 and 4 of 300 feet. (According to the Project Manager, FEA's initial analysis indicated 500 feet.) Based on the 300-foot distance, the contractor concluded that caverns 2 and 4 would not penetrate cavern 3 after five displacement cycles. The contractor also concluded that there was no industrial waste stored in cavern 3.

We asked the Project Manager why FEA decided to have cavern 3 tested and also why FEA began oil fill before the tests were completed and analyzed. The Project Manager stated that the tests were made primarily to confirm FEA's prior analysis of cavern 3. Regarding oil fill, he advised that based on FEA's earlier analysis the risk was nonexistent. Specifically, he pointed out that FEA's calculations showed that after five displacement cycles there would still be an adequate distance between cavern 3 and adjacent storage caverns.

We asked the testing contractor if he had objected to FEA about beginning oil fill before the tests were completed and analyzed in view of his position stated in the August 1977 correspondence. The contractor stated that he did not object because he believed that caverns 2 and 4 would not penetrate cavern 3 in the short-term—i.e., the first displacement cycle. Consequently, he believed there was no reason for FEA to interrupt storage operations until after cavern 3 had been tested and the results analyzed.

We discussed the cavern 3 situation with a spokesman for the Dow Chemical Company. It was his contention that it was unlikely that cavern 3 would have any effect on the other caverns. Dow has been unable, however, to locate test documentation to substantiate this contention. Nevertheless, the Dow spokesman was able to discuss with us some aspects of the cavern's history. He stated that Dow stopped brining the cavern in November 1967 because it would not hold pressure; that is, water was being pumped in but brine was not returning to the surface. After testing the cavern in 1973, Dow concluded that it would not hold pressure because of a leak around the casing. The leak was considered to be too difficult to repair and the cavern was abandoned. The spokesman added that, to his knowledge, no industrial waste has been dumped in cavern 3.

After discussing this situation with FEA, FEA's testing contractor, and Dow Chemical, we believe that FEA proceeded with storage operations without first removing uncertainties pertaining to cavern 3. We believe that the initial analysis performed to determine the distances between cavern 3 and the storage caverns was inadequate due to lack of complete information to verify the location of cavern 3. This is further supported by the results of tests recently performed on cavern 3 indicating that the minimum distance between cavern 3 and caverns 2 and 4 is 300 feet—200 feet (40 percent) less than FEA's earlier analysis indicated. Furthermore, although it now appears that no structural damages or financial loss will result due to FEA's decision to begin oil fill before the tests on cavern 3 were performed and analyzed, we believe that FEA took an unnecessary risk in view of the structural damages and financial loss that could have occurred.

On November 10, 1977, we met with DOE officials to discuss a draft of our report. The officials still contend that there was no risk associated with beginning oil fill before performing tests on cavern 3. They stated that FEA's initial analysis was sufficient to determine the effects of five displacement cycles on the distances between cavern 3 and the storage caverns and that the tests which were recently completed were performed basically to confirm their initial analysis.

### CONCLUSIONS

FEA, after obtaining six salt caverns at Bayou Choctaw and West Hackberry, permitted the previous operators to continue production of brine after the caverns were tested and certified as suitable for crude oil storage. FEA, while acknowledging the possibility that brining can cause cavern damage, believes the risk of such damage occurring is extremely low. In line with this belief, FEA does not routinely plan to monitor the brining operations, impose restrictions on the rate of brine production and operating pressures, nor retest the caverns after brining has been completed before filling the caverns with crude oil.

Also, FEA began pumping crude oil at Bryan Mound before completing an analysis of tests recently performed on cavern 3 which would have provided reliable information on the location and any impact that cavern 3 may may have had on other caverns selected for storage. FEA determined from their previous analysis that there was adequate distance between cavern 3 and adjacent coverns and concluded risks associated with oil fill were non-existent. GAO believes that the information used by FEA to make this initial analysis was inadequate to indicate that the risks were nonexistent and, consequently, FEA should have delayed oil fill until the recent tests were completed and results analyzed. In our view, FEA did not have adequate assurance that the caverns where oil is being stored would not penetrate cavern 3. We believe FEA did not have that assurance until tests recently performed on cavern 3 were analyzed. This lack of assurance could have led to problems in recovering oil, program delays, and unnecessary costs to the Federal Government.

In order to preclude the potential problems associated with continued brining at Bayou Choctaw and West Hackberry, we believe the best alternative would be for FEA to negotiate with the chemical companies to eliminate continued brining operations. If negotiations are successful, FEA could then seek amendments to the condemnation agreements which would reflect the newly-agreed-upon terms concerning continued brining. If negotiations fail, FEA could directly petition the court for such an amendment, citing the failure of negotiations and argue that the potential serious damage the contiuned brining may cause to the caverns requires that it be eliminated. We recognize the costs for such an amendment could be substantial since it appears highly unlikely that the companies would relinquish rights to the brine production without some form of compensation in return. However, we believe FEA should explore what the costs will be and then make a determination of whether they ought to pursue negotiations.

Although FEA officials stated that they did analyze the costs for seeking such an amendment, they informed us that no written documentation was prepared in support of damage estimates since they were so obvious. If, in fact, the amendment is too costly, FEA should still make every attempt to impose controls on the chemical companies' rates of brine production and operating pressures to help assure that the caverns continue to be

suitable for storage. More importantly, as soon as brining operations are completed, we believe that FEA should retest the caverns to determine if they are still suitable for storage.

Concerning the Bryan Mound situation, we believe that FEA should not have begun oil fill until after tests on cavern 3 were performed and analyzed. We believe that there were uncertainties as to the long-range suitability of the other caverns for storage at the time FEA began oil fill and, consequently, unnecessary risks were taken by FEA in view of the possible structural damages and financial loss that could have occurred.

We recognize that tight time constraints were placed on FEA to complete the Strategic Petroleum Reserve Program and that, because of the newness and complexity of the program, some degree of risk will be involved in implementing most decisions. Whenever risk can be reduced through additional information, however. we believe such information should be obtained. Our recommendations are aimed at developing better information to reduce the risk involved in salt cavern storage. In addition to helping the Department of Energy minimize risk and uncertainty, this information should prove useful to the appropriations committees when considering requests for program funds, since it will highlight the risks involved.

RECOMMENDATIONS

We recommend to the Secretary, DOE, that in future oil fill decisions, every attempt be made to minimize risk and uncertainty, taking into consideration program delays and costs.

Specifically, with respect to Bayou Choctaw and West Hackberry, we recommend that the Secretary—

Determine the feasibility of amending the condemnation agreements to eliminate continued brining operations by the chemical companies;

Institute a formal system for controlling the brining operations if the agreements are not amended to assure that brine is not being produced in excess of safe rates of production and operating pressures; and

Retest the caverns after brining has been completed.

To minimize the financial loss to the Federal Government that could occur if any of the caverns at West Hackberry and Bayou Choctaw were rendered unsuitable for storage, we also recomemnd that the Secretary assess the feasibility of postponing some design and construction until brining is completed. In making this decision, an assessment should be made of the impact that such postponement would have on program delays and costs.

As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the Senate Committee on Government Affairs and the House Committee on Government Operations not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We appreciate the cooperation received during our review and would be glad to discuss the contents of this letter in further detail should you so desire.

Sincerely yours,

MONTE CANFIELD, Jr.,
*Director.*

## ARGUMENTS AGAINST THE GENOCIDE TREATY ARE INVALID

Mr. PROXMIRE. Mr. President, for the last 11 years, it has been my privilege to argue for a treaty which protects the most fundamental of human rights, the right to live. I am, of course, referring to the Genocide Treaty, which prohibits the intentional destruction of national, ethnic, racial, or religious groups.

The treaty is very specific in its enumeration of acts which are to be considered genocide. Nevertheless, some opponents of the treaty have expressed concern over the provision that "causing * * * mental harm to members of a group" be included as an act of genocide. It has been argued that this phrase is unnecessarily vague, and encourages specious charges and propaganda efforts. I am happy to report that such fears are ill founded.

It must not be forgotten that article II of the treaty stipulates that an intent to destroy a group must be present before anyone can be found guilty of genocide. Thus, for example, it would be wrong to assert that a public official would cause mental harm to a minority group by refusing that group a permit to assemble in a public area, and thereby be guilty of genocide because of that action. The necessity of proving "intent to destroy" would eliminate most of the spurious examples that opponents of the treaty advance.

Moreover, it is clear that the term "mental harm" refers only to serious alterations in mental faculties. This point has been clarified by a proposed understanding to the treaty that has been adopted by the Senate Foreign Relations Committee. The understanding states:

That the U.S. Government understands and construes the words "mental harm" appearing in article II(b) of this convention to mean permanent impairment of mental faculties.

Surely, we want to prohibit actions causing such permanent impairment.

The treaty and our proposed understanding clearly protect our citizens, as I have demonstrated. The article I have been discussing has withstood thorough scrutiny, as have all other articles of the treaty. There is no justifiable excuse for our continued failure to ratify the Genocide Treaty; and I hope the Senate will join me in seeking immediate ratification.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. MATSUNAGA). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AUTHORIZATION FOR CERTAIN ACTION DURING RECESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recess over until Monday, the Secretary of the Senate be authorized to receive messages from the other body and from the President of the United States, and that they may be appropriately referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the recess over until Monday, the Vice President, the President pro tempore and the Acting President pro tempore be authorized to sign all duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AUTHORIZATION TO FILE REPORT UNTIL MIDNIGHT SATURDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Budget Committee may have until midnight Saturday to file its report on the First Budget Resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

## REFERRAL OF A COMMUNICATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication from the Secretary of Commerce relative to amending the Fishery Conservation and Management Act of 1976 to include the Northern Mariana Islands be referred jointly to the Committees on Commerce, Science, and Transportation and Foreign Relations.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR RECESS TO MONDAY, APRIL 17, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 12 noon on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR THE RECOGNITION OF SENATORS, A PERIOD FOR ROUTINE MORNING BUSINESS AND MR. LONG TO CALL UP HIS AMENDMENT TO THE RESOLUTION OF RATIFICATION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent after the prayer on Monday Mr. PERCY be recognized for not to exceed 15 minutes, Mr. BAKER be recognized for not to exceed 15 minutes, and Mr. BARTLETT be recognized for not to exceed 15 minutes; and that there then be a period for the transaction of routine morning business for not to extend beyond the hour of 1 p.m. with statements limited therein to 3 minutes each; and at the hour of 1 p.m., when the Senate proceeds to the consideration of the resolution of ratification on the treaty. Mr. LONG be recognized to call up his amendment to the resolution of ratification dealing with the sea-level canal.

The PRESIDING OFFICER. Without objection, it is so ordered.

### ORDER FOR THE RECOGNITION OF MR. MORGAN, MR. HOLLINGS, AND MR. HEINZ ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, at any time after 3:30 p.m., the Senator from North Carolina (Mr. MORGAN) be recognized for not to exceed 1 hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at any time after 4 o'clock on Monday Mr. HOLLINGS and Mr. HEINZ be recognized to call up an amendment to the resolution of ratification.

The PRESIDING OFFICER. Without objection, it is so ordered.

### ORDER FOR RECOGNITION OF SENATOR MORGAN ON TUESDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday next, after the prayer, Mr. MORGAN be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so desired.

### EDUCATION DAY, U.S.A.

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 770.

The PRESIDING OFFICER laid before the Senate the joint resolution (H.J. Res. 770) to authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the joint resolution be considered as having been read the first and second time, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the joint resolution.

The joint resolution was ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. LUGAR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### ORDER FOR CONSIDERATION OF S. 2493 ON WEDNESDAY, APRIL 19

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at noon on Wednesday, April 19, the Senate proceed to the consideration of Calendar Order No. 575, S. 2493, the airline deregulation bill, with final disposition of the bill to be no later than 4 p.m. on Thursday, April 20, and that paragraph 3 of rule XII be waived.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

### DEADLINE FOR FILING OFFICE ACCOUNT REPORTS

Mr. ROBERT C. BYRD. Mr. President, I wish to remind Senators that part 113 of the Federal Elections Commission's regulations provide that office account reports shall be filed no later than Saturday, April 15, 1978.

The secretary of the Senate's Office of Public Records, 119 D Street NE, room A–623, Washington, D.C. (telephone numbers 224–0322) will be open from 9 a.m. to 12 noon on that day to receive such reports.

### ORDER FOR NO ROLLCALL VOTES BEFORE 2 P.M. ON MONDAY

Mr. LUGAR. Mr. President, will the majority leader yield for a question?

Mr. ROBERT C. BYRD. Yes, be glad to.

Mr. LUGAR. Could we have assurance that rollcall votes will not occur until after 2 p.m. on Monday?

Mr. ROBERT C. BYRD. Yes; I am glad the distinguished Senator from Indiana has reminded me of that.

Mr. President, I ask unanimous consent that, with the exception of any rollcall votes which may be necessary to establish a quorum on Monday, and I do not anticipate such, though nevertheless it could occur—that with that single exception, there be no rollcall votes on Monday prior to the hour of 2 o'clock p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. I thank the majority leader.

### RECESS UNTIL MONDAY

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 12 o'clock noon on Monday next.

The motion was agreed to; and at 6:05 p.m. the Senate, in executive session, took a recess until Monday, April 17, 1978, at 12 noon.

# HOUSE OF REPRESENTATIVES—*Thursday, April 13, 1978*

The House met at 11 o'clock a.m.

Dr. William B. Dublin, Jr., pastor, Reliance and Ridings Chapel United Methodist Churches, Reliance, Va., offered the following prayer:

We have struggled many years, O God, to make our Nation truly free. Help us to keep the honor and respect of those whom we serve by courageously defending and preserving our Constitution made possible by our forefathers.

Because of our inability to continually keep our sights focused upon the loving spirit best exemplified by Thy Son Jesus Christ, there are times when we may have lost true perspective of our mission in life.

With caring relationships for one another the ageless struggle for survival is possible. We pray, our Father, that solutions may be discovered for unemployment, housing, inflation, scarcity of food, energy, eradication of major disease including cancer, and continued due process of law.

May a new consciousness sweep across our land by ministering to the needs of all people that peace might prevail. Amen.

### CALL OF THE HOUSE

Mr. WRIGHT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 217]

| | | |
|---|---|---|
| Ambro | Dent | Leggett |
| Anderson, Ill. | Diggs | Lehman |
| Andrews, N.C. | Dingell | Long, La. |
| Archer | Dornan | Long, Md. |
| Armstrong | Eckhardt | McFall |
| Ashley | Fary | McKinney |
| Baucus | Foley | Meeds |
| Breaux | Forsythe | Murphy, N.Y. |
| Burke, Calif. | Garcia | O'Brien |
| Burton, John | Harsha | Ottinger |
| Chappell | Heckler | Pursell |
| Chisholm | Hefner | Rahall |
| Clausen, Don H. | Holland | Rodino |
| Clawson, Del | Howard | Rogers |
| Clay | Jones, N.C. | Runnels |
| Crane | Kelly | Ruppe |
| | Krueger | Santini |
| Sarasin | Steiger | Waxman |
| Scheuer | Teague | Whitley |
| Seiberling | Thone | Wiggins |
| Sharp | Thornton | Wilson, C. H. |
| Skubitz | Tucker | Wilson, Tex. |
| Spellman | Udall | Young, Alaska |
| Staggers | Van Deerlin | |

The SPEAKER. On this rollcall 364 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

### MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced

that the Senate agrees to the amendments of the House to the amendments of the Senate to bills of the House of the following titles:

H.R. 4979. An act to direct the Secretary of the Interior to convey certain public and acquired lands in the State of Nevada to the county of Mineral, Nev.; and

H.R. 6693. An act to amend the Child Abuse Prevention and Treatment Act to extend the authorization of appropriations contained in such act, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2597. An act to amend title 28, United States Code, to move the place for holding court for the District Court of the Eastern District of New York to Brooklyn and Hempstead, and for other purposes.

## PASTOR WILLIAM B. DUBLIN, JR.

(Mr. ROBINSON asked and was given permission to address the House for 1 minute.)

Mr. ROBINSON. Mr. Speaker, I would like to acknowledge and thank Pastor William B. Dublin, Jr., for our opening prayer today. Dr. Dublin serves as pastor of Reliance and Ridings Chapel United Methodist Churches in the Winchester District of the Virginia Annual Conference of the United Methodist Church.

He is also the interim director of the Lord Fairfax Interchurch Council, a five-county ecumenical program devoted to ministering to the needs of our people.

Dr. Dublin holds bachelor of science and master of recreation education degrees from Brigham Young University in Provo, Utah, a master of divinity degree from the Memphis Theological Seminary in Memphis, Tenn., and a doctor of ministry degree from Southeastern Baptist Theological Seminary in Wake Forest, N.C.

He is married and the father of four girls, one of whom served as a page in the Virginia House of Delegates in Richmond earlier this year.

Dr. Dublin has a keen interest in governmental affairs, and it is always a pleasure to visit with him about how best we here in the Congress can go about shaping wise public policies for the good of our Nation.

I might add, Mr. Speaker, that I am delighted that Dr. Dublin's wife, Mary Virginia, who holds a Ph. D. degree in botany from BYU, as well as his daughters and his mother from California, have been present to share with us his inspiring contribution to today's session of the U.S. House of Representatives.

## PERMISSION FOR COMMITTEE ON THE BUDGET TO FILE REPORT

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that the Committee on the Budget may have until noon, Friday, April 14, 1978, to file its report on the first budget resolution for fiscal year 1979.

The SPEAKER. is there objection to the request of the gentleman from Connecticut?

There was no objection.

## WHITE HOUSE PERSONNEL AUTHORIZATION

Mr. DODD. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1127 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1127

*Resolved*, That upon the adoption of this resolution it shall be in order to move, clause 7 of rule XIII to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11003) to clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. DODD. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON) for the purpose of debate only, pending which I yield myself such time as I may consume.

Mr. MICHEL. Mr. Speaker, will the gentleman from Connecticut yield?

Mr. DODD. I yield to the gentleman from Illinois.

(By unanimous consent, Mr. MICHEL was allowed to speak out of order.)

### LEGISLATIVE PROGRAM

Mr. MICHEL. Mr. Speaker, I have asked to speak out of order for the purpose of inquiring of the distinguished majority leader the program for the balance of the week and next week, if he will be good enough to advise us.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman.

Mr. WRIGHT. I thank the gentleman for yielding.

The program for the balance of this week will be the adoption of the rule and the bill under present consideration, White House authorizations.

We will postpone the Zuni Indians Court of Claims case until next week. Likewise, it is anticipated that the EPA measure will go over until next week.

There will be no session on Friday.

Let us talk briefly about next week. It will be my purpose at the conclusion of our colloquy to ask unanimous consent that we may come in at noon on Wednesday next for the express purpose of concluding next week's business on Thursday.

The House will not be in session on Friday the 21st out of respect for those Members of the Jewish faith who desire to be in their places of worship or with their families prior to sundown on Friday.

The precise schedule we anticipate for next week is as follows:

On Monday the House will meet at noon. There will be the Consent Calendar, and there are four bills scheduled for suspension:

H.R. 3489, Merchant Marine Academy nominations;

H.R. 10822, National Sea Grant Authorization Act of 1978;

H.R. 10823, authorizations for National Advisory Committee on Oceans and Atmosphere;

H.R. 11465, Coast Guard authorization. In addition, there will be H.R. 11495, providing for FAA R. & D. authorization for 1979. This comes under a 1-hour open rule.

On Tuesday the House will meet at noon. There will be the Private Calendar. There will be two bills under suspension, H.R. 8588, establishing Offices of Inspectors General, and S. 2452, the Humphrey Institute and Dirksen Center Act.

Following that on Tuesday we will take up H.R. 3787—Zuni Indians Court of Claims; and H.R. 11400—National Science Foundation Act for 1979. Both bills come under open rules in 1 hour of general debate.

On Wednesday, if unanimous consent is granted, we will come in at 12 noon and consider H.R. 8494, Public Disclosure of Lobbying Act of 1978, subject to the granting of a rule. The express purpose of coming in at noon is in order that we may conclude that bill on Wednesday and not have it spill over into the following day.

On Thursday we would meet at 11 o'clock and take up two bills. H.R. 11302. EPA authorizations for fiscal year 1979, with an open rule, 1 hour, and H.R. 11504, Agricultural Credit Act of 1978, subject to the granting of a rule.

Mr. MICHEL. I would just like to ask this further question: There are only five bills scheduled on Monday and four on Tuesday. Would there be any possibility of others being added to that list, and, if so, would we be given advance warning?

Mr. WRIGHT. Yes; there is that possibility and, yes, if it is done, we will give such advance warning as we are able to have ourselves.

Mr. MICHEL. Might we suggest this be put off until Tuesday, rather than Monday. I think the Members having a little bit of notice would appreciate it.

Mr. WRIGHT. That seems not an unreasonable suggestion, in that there are more on Monday than on Tuesday.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I wonder if the gentleman from Texas can tell the House what happened to the congressional ethics bill, which seems to have miraculously disappeared?

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield, it has been temporarily postponed.

Mr. BAUMAN. Until any particular date?

Mr. WRIGHT. That is not certain at this time, but we do expect to take that bill up and we expect that the bill will pass.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman from Texas.

Mr. MICHEL. Mr. Speaker, one further question. In view of our hope to conclude business next Thursday, Members should be prepared to work beyond 5:30 on Thursday if it takes an extended period of time to conclude consideration of the bills scheduled; is that correct?

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield, yes, that is possible, because I think all of us want to accommodate our colleagues who want to be at home for the Passover.

Mr. MICHEL. Mr. Speaker, I thank the gentleman from Texas and I thank the gentleman from Connecticut for yielding.

HOUR OF MEETING ON WEDNESDAY, APRIL 19, 1978

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that on Wednesday next the House shall convene at 12 o'clock noon.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DODD. Mr. Speaker, House Resolution 1127 provides for the consideration of H.R. 11003, the White House personnel authorization bill. This resolution provides for an open rule with 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service. Furthermore, it waives all points of order against clause 7 of rule XIII, and it provides for one motion to recommit.

The report accompanying the bill is only in technical violation of clause 7 of rule XIII insofar as the committee failed to officially approve the cost estimate provided by the Congressional Budget Office before it was included in the report.

Mr. Speaker, H.R. 11003 authorizes the appropriation of such sums as may be necessary each year beginning in fiscal year 1979 for expenses of the White House, the Executive Residence, the Office of the Vice President, the Domestic Policy Staff, and the Office of Administration. Included within this authorization are specified maximum levels of employment and rates of compensation for employees grade GS–18 and above. The bill also authorizes the Comptroller General to verify the validity of certain expenditures of the President and Vice President, and report his findings to the Congress.

This bill for the first time would provide a unified authorization for personnel and operations of the White House Office, the Executive Residence at the White House, the executive duties and responsibilities of the office of the Vice President, the Domestic Policy Staff and the Office of Administration.

Heretofore, language authorizing personnel and administrative expenses for these White House units has been included in annual appropriation acts. The inclusion of such authorizing language in an appropriation act subjects the entire appropriation act to a point of order on the floor under House Rule XXI, which states in part that no appropriation shall be reported in any general appropriation bill for any expenditure not previously authorized by law.

Mr. Speaker, under present practice, each President has requested and usually received whatever funds he feels are necessary to employ however many individuals he deems appropriate at rates of pay he alone determines.

While the bill retains the President's ability to hire unlimited staff at certain salary levels, the bill does establish limits on the numbers of individuals who can be employed at the highest staff levels. Under the bill, the President is authorized to appoint and fix the pay of not more than 25 employees at rates of pay not to exceed the rate of basic then currently paid for level II of the executive schedule; 25 employees at rates not to exceed level III of the executive schedule; and 50 employees at rates not to exceed the maximum rate of basic pay for GS–18 of the general schedule.

These provisions are simply ceilings on the number of employees at these levels that the President is authorized to employ and does not represent an increase in White House personnel at these levels being requested for fiscal year 1979.

Mr. Speaker, H.R. 11003 was ordered reported by the committee on March 8, 1978, by unanimous voice vote. The bill was brought to the floor under suspension of the rules on April 4, 1978, and failed to obtain the two-thirds majority for passage.

Mr. Speaker, I request that we adopt House Resolution 1127 so that we may proceed to the consideration of the bill.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, House Resolution 1127 provides for the consideration of H.R. 11003, the White House personnel authorization. The rule provides for 1 hour of general debate followed by an open amendment process. The only waiver in the rule is of a technical nature; the rule waives clause 7 of House rule 13 which requires a committee cost estimate in each report. The report of the Post Office and Civil Service Committee on this bill does contain a cost estimate from the Congressional Budget Office on pages 12 through 14 of the committee report, but there is no indication that this has been adopted as the committee's cost estimate. While this could be assumed, the Chair has ruled in the past that the committee must explicitly state this. So this waiver is necessary and I think it can be considered a technical waiver. The CBO estimate, by the way, is that this bill would cost an additional $48.7 million through fiscal year 1983.

Mr. Speaker, my colleagues will recall that this bill originally came up in the House on April 4 under suspension of the rules. It failed to receive the two-thirds majority vote necessary for passage under that procedure by 57 votes—207 to 188. While the bill did receive a simple majority, I think it failed the necessary two-thirds because Members were disturbed that such an important, and somewhat controversial bill was being brought up under that closed amendment procedure, with very limited debate. A number of Members did have serious amendments which they had wanted to offer. Under this rule they will now have that opportunity.

Mr. Speaker, I cannot let this moment pass without noting the irony in considering a bill to increase White House personnel and their salaries just 2 days after the President delivered his get-tough, anti-inflation speech. You will recall that in that speech the President said:

> The Federal Government must also act directly to moderate inflation,

And he went on to say:

> I am determined to take the lead in breaking the wage and price spiral by holding Federal pay increases down.

The President pledged to put a 5.5 percent cap on Federal pay increases this year, and, moreover, to—

> freeze the pay of all executive appointees and members of my senior staff.

And yet here we have before us today a bill which would permit the President to almost double the number of executive level and supergrade aides on his personal White House staff, from 55 to 100. It would also give the President open-ended authority to hire an unlimited number of consultants and borrow detailees from other agencies, and increase the executive and supergrade allotments for the Vice President, Domestic Policy Staff, and Office of Administration.

All this, keep in mind, being sponsored and pushed by a President who ran on the promise to reduce the size of the White House staff and to deimperialize the Presidency. All this from a President who just 2 days ago promised to take the lead and set the example in fighting inflation by freezing the White House staff. Oh, how quickly the spring thaw has come.

Oh, how quickly new bulbs are sprouting in the White House garden. One can almost hear the President singing those memorable lines from Gilbert and Sullivan's "Mikado": "The flowers that bloom in the spring, tra la, have nothing to do with the case."

Mr. Speaker, in the spirit of this beautiful springtime day I urge adoption of this rule so that the authors of this White House personnel authorization can explain and defend their blooming bill.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Speaker, I am most impressed by the eloquence of my friend, the gentleman from Illinois (Mr. ANDERSON), and I take it he will remain on the floor so that those of us who are supporting this measure can convince him that he should act properly and follow us in voting for final passage of the bill.

Mr. ANDERSON of Illinois. Mr. Speaker, actually I had planned to have some color photographs taken amid the

splendor of the cherry blossoms on the Tidal Basin, but in view of the gentleman's request, I shall indeed remain in the Chamber.

Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. DODD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would not even begin to try to top the eloquence of the gentleman from Illinois (Mr. ANDERSON) and his blooming speech.

I would just like to point out that this particular bill will for the first time set levels. We have never had this in the past; we have always in the past had to deal with this matter under appropriations legislation. I think this is a good step forward, and I urge adoption of the rule and passage of the bill.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 395, nays 1, present 1, not voting 37, as follows:

[Roll No. 218]

YEAS—395

| | | |
|---|---|---|
| Abdnor | Brooks | Danielson |
| Addabbo | Broomfield | Davis |
| Akaka | Brown, Calif. | Delaney |
| Alexander | Brown, Mich. | Dellums |
| Allen | Brown, Ohio | Derrick |
| Ammerman | Broyhill | Derwinski |
| Anderson, Calif. | Buchanan | Devine |
| | Burgener | Dickinson |
| Anderson, Ill. | Burke, Fla. | Dicks |
| Andrews, N.C. | Burke, Mass. | Diggs |
| Andrews, N. Dak. | Burleson, Tex. | Dodd |
| | Burlison, Mo. | Downey |
| Annunzio | Burton, Phillip | Drinan |
| Applegate | Butler | Duncan, Oreg. |
| Archer | Byron | Duncan, Tenn. |
| Armstrong | Caputo | Early |
| Ashbrook | Carney | Eckhardt |
| Aspin | Carr | Edgar |
| AuCoin | Carter | Edwards, Ala. |
| Badham | Cavanaugh | Edwards, Calif. |
| Bafalis | Cederberg | Edwards, Okla. |
| Baldus | Chappell | Emery |
| Barnard | Chisholm | English |
| Bauman | Clausen, Don H. | Erlenborn |
| Beard, R.I. | | Ertel |
| Beard, Tenn. | Clay | Evans, Colo. |
| Bedell | Cleveland | Evans, Del. |
| Beilenson | Cochran | Evans, Ga. |
| Benjamin | Cohen | Evans, Ind. |
| Bennett | Coleman | Fary |
| Bevill | Collins, Ill. | Fascell |
| Biaggi | Collins, Tex. | Fenwick |
| Bingham | Conable | Findley |
| Blanchard | Conte | Fish |
| Blouin | Conyers | Fisher |
| Boggs | Corcoran | Fithian |
| Boland | Corman | Flippo |
| Bolling | Cornell | Flood |
| Bonior | Cornwell | Florio |
| Bonker | Cotter | Flowers |
| Bowen | Coughlin | Flynt |
| Brademas | Cunningham | Ford, Mich. |
| Breckinridge | D'Amours | Ford, Tenn. |
| Brinkley | Daniel, Dan | Forsythe |
| Brodhead | Daniel, R. W. | Fountain |
| Fowler | McCormack | Rose |
| Fraser | McDade | Rosenthal |
| Frenzel | McDonald | Rostenkowski |
| Frey | McEwen | Rousselot |
| Fuqua | McFall | Roybal |
| Gammage | McHugh | Rudd |
| Garcia | McKay | Ruppe |
| Gaydos | McKinney | Russo |
| Gephardt | Madigan | Ryan |
| Giaimo | Maguire | Santini |
| Gibbons | Mahon | Satterfield |
| Gilman | Mann | Sawyer |
| Ginn | Markey | Scheuer |
| Glickman | Marks | Schroeder |
| Goldwater | Marlenee | Schulze |
| Gonzalez | Marriott | Sebelius |
| Goodling | Martin | Seiberling |
| Gore | Mathis | Sharp |
| Gradison | Mattox | Shipley |
| Grassley | Mazzoli | Shuster |
| Green | Metcalfe | Sikes |
| Gudger | Michel | Simon |
| Guyer | Mikulski | Sisk |
| Hagedorn | Mikva | Skelton |
| Hall | Milford | Skubitz |
| Hamilton | Miller, Calif. | Slack |
| Hammer-schmidt | Miller, Ohio | Smith, Iowa |
| | Mineta | Smith, Nebr. |
| Hanley | Minish | Snyder |
| Hannaford | Mitchell, Md. | Solarz |
| Hansen | Mitchell, N.Y. | Spence |
| Harkin | Moakley | St Germain |
| Harrington | Moffett | Staggers |
| Harris | Mollohan | Stangeland |
| Harsha | Montgomery | Stanton |
| Hawkins | Moore | Stark |
| Hefner | Moorhead, Calif. | Steed |
| Heftel | | Steers |
| Hightower | Moorhead, Pa. | Steiger |
| Hillis | Moss | Stockman |
| Hollenbeck | Mottl | Stokes |
| Holt | Murphy, Ill. | Stratton |
| Holtzman | Murphy, Pa. | Studds |
| Horton | Murtha | Stump |
| Hubbard | Myers, Gary | Symms |
| Huckaby | Myers, John | Taylor |
| Hughes | Myers, Michael | Thompson |
| Hyde | Natcher | Traxler |
| Ichord | Neal | Treen |
| Ireland | Nedzi | Trible |
| Jacobs | Nichols | Tsongas |
| Jeffords | Nix | Ullman |
| Jenrette | Nolan | Vander Jagt |
| Johnson, Calif. | Nowak | Vanik |
| Johnson, Colo. | O'Brien | Vento |
| Jones, Okla. | Oakar | Volkmer |
| Jones, Tenn. | Oberstar | Waggonner |
| Jordan | Obey | Walgren |
| Kasten | Ottinger | Walker |
| Kastenmeier | Panetta | Walsh |
| Kazen | Patten | Wampler |
| Kemp | Patterson | Watkins |
| Ketchum | Pattison | Waxman |
| Keys | Pease | Weaver |
| Kildee | Pepper | Weiss |
| Kindness | Perkins | Whalen |
| Kostmayer | Pettis | White |
| Krebs | Pickle | Whitehurst |
| LaFalce | Pike | Whitten |
| Lagomarsino | Poage | Wiggins |
| Latta | Pressler | Wilson, Bob |
| Le Fante | Preyer | Wilson, C. H. |
| Leach | Price | Wilson, Tex. |
| Lederer | Pritchard | Winn |
| Leggett | Quayle | Wirth |
| Lehman | Quie | Wolff |
| Lent | Quillen | Wright |
| Levitas | Rangel | Wydler |
| Livingston | Regula | Wylie |
| Lloyd, Calif. | Reuss | Yates |
| Lloyd, Tenn. | Rhodes | Yatron |
| Long, La. | Richmond | Young, Alaska |
| Long, Md. | Rinaldo | Young, Fla. |
| Lott | Risenhoover | Young, Mo. |
| Lujan | Roberts | Young, Tex. |
| Luken | Robinson | Zablocki |
| Lundine | Roe | Zeferetti |
| McClory | Rogers | |
| McCloskey | Rooney | |

NAYS—1

Kelly

ANSWERED "PRESENT"—1

Eilberg

NOT VOTING—37

| | | |
|---|---|---|
| Ambro | Clawson, Del | Foley |
| Ashley | Crane | Heckler |
| Baucus | de la Garza | Holland |
| Breaux | Dent | Howard |
| Burke, Calif. | Dingell | Jenkins |
| Burton, John | Dornan | Jones, N.C. |
| Krueger | Rodino | Thornton |
| Meeds | Roncalio | Tucker |
| Meyner | Runnels | Udall |
| Murphy, N.Y. | Sarasin | Van Deerlin |
| Pursell | Spellman | Whitley |
| Rahall | Teague | |
| Railsback | Thone | |

The Clerk announced the following pairs:

Mr. Foley with Mrs. Burke of California.
Mr. Teague with Mr. Krueger.
Mr. Dent with Mr. Howard.
Mr. Udall with Mr. de la Garza.
Mr. Murphy of New York with Mr. Rodino.
Mr. Thornton with Mr. Rahall.
Mr. Jones of North Carolina with Mr. Dingell.
Mr. Ambro with Mr. John Burton.
Mrs. Meyner with Mr. Ashley.
Mr. Van Deerlin with Mr. Roncalio.
Mr. Baucus with Mr. Del Clawson.
Mr. Tucker with Mrs. Heckler.
Mr. Whitley with Mr. Pursell.
Mrs. Spellman with Mr. Sarasin.
Mr. Breaux with Mr. Crane.
Mr. Holland with Mr. Thone.
Mr. Jenkins with Mr. Railsback.
Mr. Meeds with Mr. Runnels.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mrs. SCHROEDER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11003) to clarify the authority for employment of personnel in the White House Office and the Executive residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Colorado.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11003, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentlewoman from Colorado (Mrs. SCHROEDER) will be recognized for 30 minutes and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 30 minutes.

The Chair at this time recognizes the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Chairman, I really feel this is a little bit of déjà vu, that we were just here before, but in the springtime madness let me deal with some of the criticism of this bill that we heard last week when it was under the suspension of rules.

Mr. Chairman, H.R. 11003 amends various provisions of title 3, United States Code, which provide staff assistance to the President. The provisions are quite outdated. They now only permit the President 14 assistants.

Much of the criticism we noted last week under suspension of the rules was

based upon an unfounded presumption that H.R. 11003 would double high level White House Office staff. The bill contains authorization for 50 executive level and 50 supergrade employees when there are now 25 executive level and 30 supergrade employees at the White House Office. But there are authorization levels, not appropriation levels, in a permanent, not a year-to-year authorization bill.

Right now, the President could take the $18 million he has and by dividing it up differently, under his lump sum appropriation, hire 360 employees at $50,000 per year, or executive level. I fail to see how placing a lid well below his present opportunity level is going to promote any more than what he is doing now. Indeed the President's 1979 fiscal year budget request comes in at a quiet similar level to last year's.

Presidents have for years employed more than 14 assistants and have for years obtained authority for such hiring through legislative language in annual appropriation acts. However, any such language in an appropriation act is subject to a point of order on the floor of the House. Rule XXI, clause 2, provides that no appropriation shall be reported in any general appropriation for any expenditure which is not previously authorized by law. In recent years, points of order have been offered on the House floor. Although the Senate has restored the funds, and the funds have been retained through conference committee, less accommodating action by the Senate would leave a President with little or no staff.

H.R. 11003 is one sense a housekeeping measure. It will permit the House once again properly to consider appropriations for White House staff, within the limits it authorizes. All of my colleagues on the committees with legislative jurisdiction should have a good idea of what it contains since they all from time to time have acted on a similar bill for an agency within their jurisdiction.

Mr. Chairman, because H.R. 11003 does not deal with any old entity in the executive branch, my colleagues must consider the implications in the bill beyond its neatening up of the legislative process.

An authorization bill, much more so than an appropriation bill, establishes mechanisms for control and accountability. Certain provisions of H.R. 11003 will impose upon the President standards of reporting on his staff which have never before existed. New section 113, for example, will require the President to report to Congress on his employment of experts and consultants and long-term detailees from other agencies. Other provisions limit the amounts he may pay employees. Another section requires him to report on expenditures from his unanticipated needs funds. These provisions are all limitations upon the President's discretion to hire and spend. Right now, there are no effective limits on what he can pay employees, or how many employees he can employ. He does not have to tell anyone about his expert and consultant hiring. He can borrow, without paying for them, any number of detailees he might wish, and there is no oversight on his expense accounts. The bill changes all of this.

The central issue before us, in this regard, is whether the Congress should acquiesce in, and by implication, approve of, having Presidents who are unaccountable for their funds and their close staff. To oppose this bill is to oppose placing limitations upon the President's staff and to ignore the duty and power of Congress under article II, section 2, clause 2, of the Constitution to provide from time to time positions in the executive branch. This provision is one of the tensions which the Founders of our Nation put into the structure of the Federal Government. It must not be compromised by our inaction. It must be conscientiously exercised.

I believe that the provisions of H.R. 11003 are an appropriate exercise of this responsibility. Very simply, the bill places permanent limitations upon the President as to the taking of certain actions which have in the past been subject to abuse. Any employment of persons for unlawful activities, or personal use of Presidential funds would be subject to oversight. Moreover, Presidents will not be able to hide the true size of their staffs through the use of detailees, experts, and consultants. They will show up on the White House books.

The controls placed upon the President do not, however, represent a blunderbuss approach. The committee bill does not burden the President with writing us a letter every time he hires or fires an employee. It permits him to hire whom he wishes, and it permits, within generous boundaries, good wages to be paid. In essence, it places upon the President about the same criteria as we ourselves have for our own congressional staffs. Its system of controls on executive level and supergrade employees, with the numbers of lower level employees to be set by appropriations, is quite similar (with the exception that all the employees are statutorily excluded from the civil service appointment and compensation laws) to those which an executive branch agency or departmental head must contend. Consequently, there is sufficient leeway in the bill for any President in the foreseeable future to have effective help.

Mr. Chairman, I will offer only one further note on this bill. President Carter has personally reviewed it and fully supports it. It has taken a year of hearings, discussions, and drafting to develop H. R. 11003. I believe that the work which has gone into this bill has paid off in an effective and comprehensive bill.

I urge my colleagues to support H.R. 11003.

Mr. Chairman, I first want to yield to the gentleman from Virginia (Mr. HARRIS) who has been very interested in this bill and who is one of the originators of the bill and who has worked very hard on the legislation.

Mr. BAUMAN. Mr. Chairman, I wonder if the gentlewoman from Colorado (Mrs. SCHROEDER) would yield to me first before yielding to the gentleman from Virginia (Mr. HARRIS) so that I might ask the gentlewoman a few questions?

Mrs. SCHROEDER. Mr. Chairman, I would be delighted to yield to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, I thank the gentlewoman for yielding to me. Let me say that, first, I have read over the hearings on this bill held last year and this year and also the committee report, and have read the brief debate that we held last week and I still find it difficult to find the exact number of persons who are on the current White House staff including consultants, detailees, supergrades, and so on. I know that there were in excess of 500, according to the hearings, under President Ford, and under the current administration it is claimed there are 300 and some, but I do not think that takes care of those who were transferred away to the other offices but are still available to the White House. So I would ask the gentlewoman from Colorado (Mrs. SCHROEDER) how many actual employees of all types on the Government payroll are working for the White House now.

Mrs. SCHROEDER. If the gentleman from Maryland (Mr. BAUMAN) will look at part II of the hearings, on page 27 we have broken down the detailees from May 1, 1977, to February 1, 1978, and there were 44 people who were there for 1 month or less up to 1 person who was there for 9 months but less than 10 months.

If the gentleman would like, I will be glad to show it to him.

Also on page 50 we talk about the Office of the White House, the Office of Management and Budget, and the White House Office, and we indicate 3 in the Office of the Vice President, 139 in the Office of Management and Budget, and 134 in the Office of the White House.

I think the problem is, and the gentleman has put his finger on it, it is just like if we tried to compare my staff and the gentleman's staff. Each President has their own way of doing things, putting different labels on things and rearranging their offices, so that we want to be sure that we are not comparing oranges and apples and I believe this bill will try to get us to the point where it will be much easier to make comparisons. I also believe that all of us are a little bit demagogic about this and are playing politics on each side, and trying to make the other party look like their President had less employees and the other President had more employees, and so forth and so on.

I will be happy to show the gentleman these reports. This is about the people that we could break out on the staff all told that we have at the current time.

Mr. Chairman, I now yield to the gentleman from Virginia (Mr. HARRIS).

Mr. HARRIS. Mr. Chairman, the House today has a historic opportunity to place in law for the first time real controls on top-level staffing in the White House and to reaffirm our cabinet form of Government.

H.R. 11003 has three major provisions:

First, it places numerical ceilings on the number of top-level officials, exec-

utive levels and supergrade, on the White House staff;

Second, it requires the White House to reimburse agencies that detail employees to the White House, closing a funnel that could lead to adding staff out of funds other than those appropriated for the White House; and

Third, it requires full reports to Congress on the number and cost of detailees and consultants in the White House.

NOT A STAFFING INCREASE

There has unfortunately been some misunderstanding in the House on the issue of whether the bill increases the White House staff. The answer is no. The bill authorizes top limits; the current law limit is 14, dating back to 1939. Congress has over the years been routinely appropriating funds for the White House staff and operations without a sufficient authorization. Such a practice is in violation of our rules which provide that no appropriation for any expenditure not authorized in law can be in order.

Thus, effectively, there has been no staffing limit. We put in law executive level and supergrade staff limits for all other Federal agencies. We should do so for the White House and stop ignoring the defects in current law and abrogating our own rules.

The White House, in testimony and other communications with our committee, has advised us that there are no plans to increase staff in the units covered by the bill. In fact, there has been a dramatic 28 percent cut in the number of White House staffers and the House has already in essence approved this by approving the reorganization of the Executive Office of the President on October 14, 1977 when we approved House Resolution 688. I applaud the President for this cutback and for carrying out a campaign promise he made to the American people.

At this point, I would like to share with my colleagues a table showing staffing for the President since 1934, which will place this bill in its proper perspective.

WHITE HOUSE STAFF, 1934 TO PRESENT

| Fiscal year | Total [1] | Detailed employees [2] | Real total |
|---|---|---|---|
| 1934 | 45 | 120 | 165 |
| 1935 | 45 | 127 | 172 |
| 1936 | 45 | 115 | 160 |
| 1937 | 45 | 112 | 157 |
| 1938 | 45 | 119 | 164 |
| 1939 | 45 | 112 | 157 |
| 1940 | 63 | 114 | 177 |
| 1941 | 62 | 117 | 179 |
| 1942 | 47 | 137 | 184 |
| 1943 | 46 | 148 | 194 |
| 1944 | 47 | 145 | 192 |
| 1945 | 48 | 167 | 215 |
| 1946 | 51 | 162 | 213 |
| 1947 | 190 | 27 | 217 |
| 1948 | 245 | 23 | 268 |
| 1949 | 220 | 26 | 246 |
| 1950 | 223 | 25 | 248 |
| 1951 | 257 | 40 | 297 |
| 1952 | 252 | 31 | 283 |
| 1953 | 262 | 28 | 290 |
| 1954 | 250 | 23 | 273 |
| 1955 | 272 | 41 | 300 |
| 1956 | 351 | 59 | 392 |
| 1957 | 364 | 59 | 423 |
| 1958 | 352 | 51 | 403 |
| 1959 | 354 | 31 | 385 |
| 1960 | 355 | 33 | 388 |
| 1961 | 342 | 134 | 476 |
| 1962 | 309 | 123 | 432 |
| 1963 | 318 | 111 | 429 |
| 1964 | 306 | 125 | 431 |
| 1965 | 294 | 154 | 445 |
| 1966 | 256 | 219 | 478 |
| 1967 | 251 | 246 | 497 |
| 1968 | 250 | 206 | 456 |
| 1969 | 314 | 232 | 546 |
| 1970 | 345 | 287 | 632 |
| 1971 | 555 | 17 | 572 |
| 1972 | 550 | 34 | 584 |
| 1973 | 496 | 24 | 520 |
| 1974 | 506 | 47 | 553 |
| 1975 | 533 | 27 | 560 |
| 1976 | 474 | 25 | 499 |
| 1977 | 446 | 17 | 463 |
| 1978 | 351 | [3] 10 | [3] 361 |

[1] Total employees includes full-time employees and special projects employees. Full-time employees are the average number of employees as printed in the actual budgets for 1934 through 1962.
[2] Detailed employees are as of June 30 of each year.
[3] As of Mar. 1, 1978.

Finally on the question of a staffing increase, I would remind my colleagues that authorization measures set outside, upper limits. Appropriations actually determine number of staffers. The Treasury-Postal Service-General Government Appropriations Subcommittee, chaired by my distinguished colleague from Oklahoma, Mr. STEED, gives very close scrutiny to staffing patterns. And I am sure they will continue to do so. And we, through our votes on appropriations can continue to exercise our judgment on whatever staff level we think is appropriate. Appropriations measures in reality are the final controls.

COST INCREASES NOT INEVITABLE OR MANDATED

The cost estimates in the committee report, prepared by the Congressional Budget Office, warrant some explanation. The cost estimate for 1979 is $29.5 million for current staff levels in all five units. The comparable 1979 budget request is $31.7 million. CBO has also provided other estimates to show what cost increases would occur if ond only if staffing levels were upped to the maximum limits. But again, I repeat, the administration has no plans to increase to these upper limits.

Thus, a vote for this bill is not a vote to increase the White House staff. It is not a vote to increase White House spending. It is a government reform vote, going to the very fundamental principles of our form of government, reaffirming our Cabinet Government.

A TOUGHER BILL THAN PREVIOUS ONES

It has also been alleged that H.R. 11003 is weaker than White House authorization bills considered by Congress in the past. On the contrary, it is a tougher bill. Here are a few examples. In the last Congress, H.R. 6706 authorized 65 executive level positions for the President; H.R. 11003 authorizes 50; H.R. 6706 authorized 7 supergrades for the Vice President; this bill authorizes 3. For the Domestic Council, H.R. 6706, authorized 7 executive level positions; this bill authorizes 6.

Importantly, H.R. 11003 has a tougher requirement on the reimbursal of detailed employees by requiring reimbursal for all detailees who work in these units, out of their own agency, for a cumulative period of 180 days. H.R. 6706 in the last Congress required reimbursal for detailees who performed full-time continuing duty for any period over 6 months. This meant that employees could "go in and out" indefinitely and the White House or other units could avoid reimbursing the agencies. We have closed a real loophole. Finally, H.R. 11003 has a tougher requirement regarding GAO certification of expenditures. GAO must certify this certification to Congress; the previous bill did not have this requirement.

A 6-YEAR EFFORT

H.R. 11003 represents over 6 years of effort which I would like to summarize at this point. The Post Office and Civil Service Committee's interest in White House staffing patterns began in the early 1970's and resulted in a 1972 report prepared by Congressman UDALL entitled, "A Report on the Growth of the Executive Office of the President, 1955–1973." This report notes that the Executive Office of the President was created by reorganization plan 1, April 25, 1939; the order implementing that plan stated:

In no event shall the Administrative Assistants [to the President] be interposed between the President and the head of any department or agency.

The Executive Office of the President was in no way to subordinate or usurp the Cabinet Departments. The report details the gradual growth in staffing over 18 years and notes that "over 50 percent of the increase in the Executive Office of the President has occurred since 1970."

The committee's research also revealed that the law is deficient and obsolete. Briefly, the "current" law, dating back to 1939, authorizing six administrative assistants and eight other secretaries or assistants to the President. There is no requirement to reimburse agencies for employees detailed to the White House and many expenses of the White House are not authorized in law.

93D AND 94TH CONGRESSES

In both the 93d and 94th Congresses, White House staffing legislation was considered. H.R. 14715 in 1974 died in a conference committee; H.R. 6706 in 1975 died in the Senate. In the 94th Congress, in the Post Office and Civil Service Committee and in the House I offered a number of amendments to strengthen the bill.

On July 17, 1975, I offered an amendment to H.R. 8597 which contained appropriations for the White House in an effort to curb nonreimbursable details to the White House; the amendment failed. However, on September 1, 1976, I offered an amendment to H.R. 14886, the Presidential Transition Act amendments, which required that all detailees be paid from transition funds. This amendment was adopted.

Additionally, on June 14, 1976, I raised a successful point of order against the 1977 White House appropriations because I believed the appropriations violated House rule XXI which provides that no appropriation for any expenditure not authorized in law can be in order. Similarly, on June 8, 1977, I made another

successful point of order against the 1978 White House appropriation on the same ground. Both times, the Senate restored the funds. Clearly the rules of the House had been circumvented.

THE 95TH CONGRESS

Since we began the current Congress still without appropriate authorization in law, I introduced H.R. 6236 on April 19, 1977, after seeking the views of the administration. Hearings were held on April 26, 1977, and administration officials testified that they could not address the specific provisions of the bill until the President's reorganization of the Executive Office of the President was completed. A second hearing on my bill was held on September 3 1977. At this hearing, administration officials testified that a bill was being drafted. Reorganization plan No. 1 was approved by the House on October 14, 1977.

Over the next 5 months I and my fellow subcommittee members met numerous times with administration representatives and gradually developed H.R. 10657 which I introduced on January 31, 1978, cosponsored by Representatives UDALL, SCHROEDER, DERWINSKI, LEHMAN, SPELLMAN, and STEED. Hearings were held on this bill on February 7 and the administration testified, "President Carter strongly supports this White House Authorization Bill." The subcommitee approved the bill on a 6-to-1 vote on February 16, and reported a clean bill, H.R. 11003. The full committee ordered H.R. 11003 to be reported on March 8, 1978, by a unanimous voice vote.

In short, it has been a long, intense effort.

CONGRESS AND THE ADMINISTRATION HAVE NEGLECTED

The House of Representatives, despite several serious and notable attempts, has shirked its responsibilities. We have tolerated appropriation bill after appropriation bill without a legal authorization in place. I have and will continue to question the wisdom of spending public funds for purposes not specified in law. Clause 2 of House rule XXI prohibits legislation in appropriations bills. In this area, we have ducked our responsibility by approving spending measures without first determining with precision for what purposes these funds can be spent. I strongly believe it is wrong to write "blank checks" with taxpayers' money. The challenge here for Congress is one of legislative responsibility and integrity.

So today, this House and this administration are directly undertaking mutual responsibilities to get the central power base of our Government back on the right track.

WHO RUNS THE GOVERNMENT?

Mr. Chairman, my effort has not been a game of pointing a finger at any President or quibbling about numbers of staffers, be they 100 or 1,000. Staff growth is not inherently bad; as the problems of the seventies become more complex, surely staffing needs must adjust. The President needs flexibility. The fundamental point here is to make sure power is in the hands of accountable people: the Cabinet. Executive advisers and special assistants to the President have their proper advisory role. But our form of government does not vest in them unlimited powers. They are unelected and sometimes inaccessible. Quite simply, our Government should not be run by, and our President should not depend on, a "palace guard."

Centralized power in the hands of a few "anonymous" individuals is contrary to a democracy. This bill is a very fundamental policy measure reaching to the heart of our Government.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

My question is pertinent to the gentleman's comments with respect to the constitutionality of the separation of powers doctrine of this Government. In 1977 Mark Siegel was sent by the present Executive White House staff to North Carolina to set up a lobbying operation to lobby for the passage of a constitutional amendment in the North Carolina Legislature. I personally do not believe that anyone from the White House staff should be paid for by the taxpayers, authorized under the Executive White House budget, and then sent down to a State legislature to lobby for a constitutional amendment, no matter what the subject of the amendment is. I wonder if the gentleman would care to comment on that.

Mr. HARRIS. Mr. Chairman, I would be pleased to comment with regard to my colleague's question. This is exactly the type of situation that should receive proper overview by the committee that authorizes the staff. It is because we do not have an authorizing bill that we do not have the proper overview and these questions have not been properly explored. What we have to do when this question is raised in the proper substantive committee is to ask what part of the White House is served, how do we justify this with regard to White House staffing. I think this bill is the first step that has to be taken if we are going to have the proper type of overview which my colleague has suggested.

Mr. SYMMS. Mr. Chairman, I thank the gentleman very much.

Mr. DERWINSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, some 9 days ago when this legislation was called up under suspension of the rules it created a good deal of frustration because of the inability of Members to offer amendments and a fair amount of rhetoric resulted.

As a cosponsor of H.R. 11003 I urge my colleagues on both sides of the aisle to view this legislation in a nonpartisan and objective manner.

Granted there were some thinly veiled partisan objection when in the 94th Congress attempts were made to legislate White House staffing authority under the Ford administration. But I suggest to you that we lay those feelings aside and proceed in our most unbiased manner to provide the necessary staffing authorization for the most important governmental executive office in the world.

I think it is imperative that we give the President, regardless of his party affiliation, sufficient flexibility in determining what his needs are in the way of White House staff. Given the awesome responsibilities of the office, a President has to have considerable leeway in selecting and compensating responsible staff personnel.

I know the temptation is great to retaliate in kind against our friends on the other side of the aisle for their partisan opposition to the modest increase in staff request by President Ford. But it is my hope we will use this opportunity to show the public we can react in a positive, statesman-like manner.

Three years ago, when we considered similar legislation under a Republican administration, it was my position that the President should use full authority—and the responsibility and flexibility—to determine the nature of his White House staff.

It is heartening to see many Members on the other side of the aisle swinging to this philosophy and relaxing their legislative grip on the White House staff.

I hope we will not engage in quibbling over the size of the President's staff, for I believe it is pointless. H.R. 11003, as far as it goes, provides a good basic foundation for White House staffing. I urge the House to pass this legislation so that we can once and for all cease the charade of raising and then waiving points of order against White House appropriations.

H.R. 11003 deals with the White House staffing issue in a practical manner and deserves our approval.

Mr. Chairman, I now yield 5 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I am pleased that H.R. 11003, the White House authorization bill, is back on the House floor under an open rule that permits all Members the opportunity to offer perfecting amendments to this important legislation.

I intend at the conclusion of all debate on this measure to offer two amendments to strengthen the accountability of the use of White House staff.

I believe that these two amendments are urgently needed if Congress is to undertake proper oversight on the utilization, the employment and the pay of the White House staff.

My amendments will do two things: First, they will require the President to transmit annual reports to the Congress disclosing all vital staffing information, and secondly, will limit the permanent statutory authorization contained in this bill to a straight 4-year authorization, beginning October 1, 1978.

Mr. Chairman, I urge my colleagues to support these strengthening amendments.

Mrs. SCHROEDER. Mr. Chairman, it is with great pleasure that I now introduce the chairman of the Subcommittee on Appropriations, the gentleman from Oklahoma (Mr. STEED), who probably has lived with this more than any person

here and has been very supportive of what we have been trying to do.

I yield such time as he may consume to the gentleman from Oklahoma (Mr. STEED).

Mr. STEED. Mr. Chairman, I just do not believe any Member of this body is as happy to have this bill here as I am, because I have had to live with the lack of it for the last 18 years. In the last few years it has become a very difficult burden for our subcommittee to try to cope with this part of our bill.

As of now, without this bill and under the House rules, we have for the last 4 years operated with this situation. We have had absolutely no power at all to deal with the work force of the President of the United States. We have been at the mercy of what the other body would put in the bill, and then we could bring whatever its decision was back in disagreement and let the House vote on it. The only way we can escape from that situation is to enact this legislation today.

Let me explain to the Members what this bill does. This bill puts into law all those things that have through long experience been determined to be necessary for the President to carry out the most difficult job on the face of the Earth. I think the House should be reminded again that a large portion of the work the President has to perform and the reason he needs the manpower that is contained in this authorization comes about because the Congress of the United States has enacted 5,100 bills-plus which have language in them saying, "The President shall do" certain things.

So when we constantly place more and more work upon this office, it is totally incomprehensible to me that any Member of this body would then quibble about giving the President whatever manpower he needs to carry out those mandates.

The figures contained in this bill are limitations. As for any Members who have any concern about the numbers of people involved, let me assure them that when the appropriation bill comes on the floor, it will be subject to amendment, and if any Member thinks that the sums are too large or the numbers are too large, that Member will have a full and free opportunity, just as with all other items, to offer amendments to change them.

So if there is anything that any Member would reasonably want to say or do about the work force of the President of the United States, there is nothing in this bill that would take away that opportunity. As a matter of fact, this would be the first time that the Members of this House will have had the authority or an opportunity to make their wishes known in this field.

We are faced here with a very important issue. This is where the comity between the legislative and administrative branches of our Government comes into focus, and it is inconceivable to me that this House would want to belittle and demean itself by denying the President of the United States those tools of office which are necessary and which affect the lives of all the American people, as well as in many ways the affairs of people throughout the entire world.

So, Mr. Chairman, I do not think that we are so concerned here with numbers as we are making sure that the man who fills this awful responsibility has all the tools he needs to carry out these responsibilities.

Mr. HARRIS. Mr. Chairman, will my colleague, the gentleman from Oklahoma, yield?

Mr. STEED. I yield to the gentleman from Virginia, a member of the committee.

Mr. HARRIS. Mr. Chairman, if I may say this to my colleague, I want to express my appreciation for his patience and diligence in this matter. It is a most important constitutional question.

The problem with regard to the White House staffing has been a real problem for the past generation, not just for one term or another. I know something about the effort the gentleman from Oklahoma has made with respect to this matter. I know of the patience he has had to exercise on the floor.

I know of the hard work and the special efforts the gentleman from Oklahoma (Mr. STEED) has exerted to get this type of authorization bill to the floor, and I would like to say bluntly and publicly and for the record that this bill would not be here if it were not for the gentleman's diligence. This bill could not be passed if it were not for the firm support the gentleman from Oklahoma has given it.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. STEED. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman's yielding.

I, too, would like to express my appreciation to the gentleman from Oklahoma (Mr. STEED) for his patience as the chairman of the Subcommittee on Treasury-Postal Service-General Government Committee on Appropriations. The gentleman has had to deal with this problem continually over many years without really having any legislative direction from the House.

I have been one of those Members who have been critical of the Committee on Appropriations for being lenient many times on what I thought were unnecessary appropriations for salaries in the White House. This was especially true, as far as the gentleman's own party is concerned, during the Nixon and Ford years. There was great criticism over how many people were or were not there, and the gentleman from Oklahoma was very patient in trying to provide that delicate balance in the area of what control this House would have in determining the number of people authorized.

I would like to ask a question of the gentleman, because I know he has been very close to this subject.

In this bill we raise the number of executive level positions from 25 to 50, which is a fairly substantial increase. Would the gentleman comment on that and tell us, on the basis of his experience, whether that kind of an increase is needed?

We had great criticism from the gentleman's side of the aisle, as we know, during the Ford and Nixon years that they had ballooned the number of people in these higher positions in the White House.

Does the gentleman feel, on the basis of his years of observation, that those kinds of numbers are needed?

Mr. STEED. That is more than is currently being requested with the bill now before my subcommittee. But in the spread of the thing, there can be times when this many could be usefully used, and there are other times when a considerably smaller number could be used. It does fluctuate. If they do not have this authority, they would be forced under certain crisis conditions to go into the departments and borrow people in the departments to fill in. So I think you do not really save anything by curtailing this particular part of the President's staffing, because if there is any place on Earth where the top experts are needed, it is certainly here. This is, I think, the very inner part of the heart of the Government, to have the President to have this particular group of helpers.

Mr. ROUSSELOT. As the gentleman knows, there was a substantial amount of discussion on this issue every time the appropriation came up. And I do realize that many other Presidents have gone to the various agencies and then just had the desired personnel detailed to him for 2, 3, or 4 months. And that, as the gentleman has explained, is the issue which has been circumvented.

Mr. STEED. As the gentleman knows, all these years I have worked with Presidents of both parties, and I have always taken the same attitude toward all of them. If they needed this help, I thought it was incumbent upon us to help them get it. I have never known of a President to misinform us or to ask us for any consideration that was not justified. But we were always in a situation where, there being no meets and bounds and no authorization law, there was no way to have a starting point. This bill will give us that.

For the information of the gentleman, who intends to offer an amendment, I assure him that, with or without his amendment, all of the things that it will provide for will have to be done, and they are now being done before the Committee on Appropriations.

On this numbers game they are talking about, we are now in the process of trying to put in our hearing this year and in our report the information that so many Members around here want. And I think the present incumbent in the White House brought most of that on himself. We are just going to let the record speak for itself, whatever it is. When the bill comes on the floor for the appropriation, I am sure all of the information will be made available to us.

Mr. ROUSSELOT. I appreciate that. That was the next point I was going to make. Our current President made this a major issue in his campaign. He kept talking about the fact that he intended to reduce the staff. And now we find, in

fact, that there has been an increase of one-third. It was not really the gentleman or me who raised this issue; it was the President himself, as a part of his campaign promise.

Mr. STEED. As part of the problem, each President does some shifting around.

Mr. ROUSSELOT. This is certainly a major shift.

Mr. STEED. Nomenclature changes somewhat, and right now we are trying to put the figures in the proper slots so that we can have a proper comparison. But the reorganization that has been going on down there right now, we are making rechecks on it before we mark up the bill so that we know exactly what we are doing and where the funds are going and how they compare with what was there before. So we have no intention of trying to do anything except to give the House all of the information that we can dig up. And we are having, I must say, the fullest cooperation downtown. We have always had it. We had it from President Nixon, we had it from President Ford, and we had it from President Johnson. That is not the problem.

The problem has been that there has been no law on which to make any determination. And this is why this bill today is so utterly important.

Mr. ROUSSELOT. Mr. Chairman, I will not belabor the point. I, too, want again to express my thanks to the gentleman from Oklahoma for his effort in trying to be fair on this issue with all Presidents. It is difficult because there is a division-of-power issue that is before us whenever we consider this.

The chairman of the Committee on Appropriations has always tried to deal with this matter very openly, very candidly.

Mr. Chairman, I am delighted to hear that this admiinstration has been more than helpful in trying to explain what they need by way of adequate personnel to carry out its functions.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. STEED. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I would like to commend the gentleman from Oklahoma (Mr. STEED) not only for what he has said, but to say that from my own experience I know that he has always approached this matter in a nonpartisan way.

When I was a relatively new Member of this House and he had an appropriation bill before us dealing with the Presidential staff—and I was not exactly enthusiastic about President Nixon for various reasons, and he and I got into a little off-the-record discussion of the subject—he took the position that the President of the United States should be given whatever he needs to do his job.

I know he was not exactly a fan of President Nixon, and yet he took the position, which I think is the only position that we should take as Members of Congress, that whatever the President says or does, and whether he says he even wants the people that we authorize, we should at least make sure that he has the tools. That is our obligation, to give him the tools; and then from that point on it is his responsibility.

Again, Mr. Chairman, I want to commend the gentleman from Oklahoma (Mr. STEED) for approaching this bill in the spirit of what is good for the country and not in a partisan spirit. I think we all owe him a debt of gratitude for that reason.

Mr. STEED. Mr. Chairman, I want to take this opportunity to say a word of commendation for the members of the subcommittee who have brought this bill here today. I personally know that the chairman and the ranking minority member and the gentleman from Virginia have done a tremendous job in bringing together all the points and all the issues and all the difficulties.

Mr. Chairman, I think they have done an outstanding job, and they have brought a very fine bill here today. I would certainly hope that the Members of this House would show their appreciation to the members of the subcommittee for having done such a difficult job and such an important job by supporting them today in the adoption of this bill.

Mr. ROUSSELOT. Mr. Chairman, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, I asked a question earlier in this debate of the gentlewoman from Colorado (Mrs. SCHROEDER), and I did not receive an answer directly, nor have I received an answer in any of the subsequent debate that has occurred. How many people work at the White House?

So far as I can tell by reading from a memorandum which was prepared by the staff of the committee, there are now 662 employees at the White House, including the White House office, the Executive Residence, the Vice President's office, the Domestic Policy Staff and the Office of Administration.

Also, so far as I can tell from the hearings, reports and this memorandum, there are an unknown number of detailees working at the White House, in excess of 100. This is a sizable increase over the staff of former President Ford and former President Nixon during their administrations.

Mr. Chairman, in reading the hearings that were held on this legislation in 1977, I came across an interesting article which appeared in the New York Times on May 2, 1977, by Mr. William Safire, and from that I quote as follows:

> For over two years on the campaign trail, Mr. Carter railed at the swollen size of the White House staff. In his Feb. 2 fireside chat, he warmed our hearts with the report that "I am reducing the size of the White House staff by nearly one-third."
>
> The White House staff he inherited consisted of 510 people. Since his "nearly one-third" was translated into a directive ordering a 30 percent cut, the number—by his own announcement—should now be 357.
>
> Don't hold your breath. According to the White House press office, the size of the White House staff as of last week was not the targeted 357, not the Ford level of 510, but 608.

Mr. Chairman, I think that the White House has the same obligation to meet the standards of personnel requirements that any other agency has. I grant that it is a special situation, and I understand the need for flexibility.

I compliment the committee for their professed objective, but I have questions about whether their objective is being met by the pending legislation.

For instance, Mr. Chairman, we have the suggestion that instead of the present 55 supergrade and executive level employees, this legislation will create 100.

Now, the only comments that I have heard in the way of justification for that enormous increase in these high paid jobs at the White House is that from Mr. Hugh Carter—he of worm farm fame—that perhaps World War III might have come upon us and they might need the flexibility under those circumstances.

Yesterday's Washington Star carried a New York Times dispatch by Martin Tolchin, which I hope the committee members have read, because there he details specific plans to rearrange the White House staff considerably, and I assume from the gist of the story the plan is to increase the number of the top level aides; saying in essence that the White House now feels that it does not have enough help to do the job.

Well, if they need this, Congress ought to vote it for them. But I think they also ought to have to justify these added jobs. My concern is that in setting extremely high limits such as this bill sets—and indeed they are limits where none now exist—we may be setting them so high as to allow an open-ended invitation to the President and his staff to go literally hog wild in increasing jobs. The pending legislation authorizes a large amount of discretionary funds available to the President, and he could indeed use them to greatly increase his staff numbers.

I know there was a great deal of concern about the "imperial Presidency" under previous administrations. I and others offered similar amendments when our party's incumbents were in the White House, and I do not feel such amendments are necessarily partisan. All agencies ought to live within some restrictions and limitations.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, I wanted to help my colleague a little bit on the numbers he is referring to.

Mr. BAUMAN. I appreciate that.

Mr. HARRIS. The increase he talks about is simply not substantiated by the White House request for 1979. The 1979 request from the White House is for $16,907,000, and that compares to $17,162,000 which was requested and actually appropriated in 1977. So this year's request is actually decreased from that of 2 years ago.

The CHAIRMAN. The time of the gentleman from Maryland has expired.

Mr. ROUSSELOT. Mr. Chairman, I yield 2 additional minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. I might just at that point suggest to the gentleman that he would perhaps like to explain what I understand to be the Congressional Budget Office estimate that this bill now pending before us could, over a period of time, increase the White House budget to a level of about $39 million annually.

Mr. HARRIS. I think it is a complete misconception to indicate that and leave off the phrase, "If all these positions were filled."

Mr. BAUMAN. Yes, and that could happen.

Mr. HARRIS. The point the gentleman I am sure is cognizant of is that this does not fill new positions. This allows the Appropriations Committee to look at these positions in some sort of orderly fashion, and for the gentleman and our colleagues on the floor to pass on those positions in an appropriation bill. The 1979 request is for 351 personnel.

Mr. BAUMAN. Let me be more specific. If we take the unanticipated needs fund allowed the President in this bill together with the authorization for 100 supergrades—the highest level of pay in the Federal Government—it is conceivable that the President could use those funds to employ up to 100 supergrades. Is that not a possibility?

Mr. HARRIS. I do not want to correct the gentleman on this, but there is no authorization for 100 supergrades in this bill. The authorization is for 50 supergrades and 50 executive level positions.

Mr. BAUMAN. Excuse me, but rhetoric sometimes allows us to escape the point. On page 2 there are 100 executive level employees, one part of which is 50 supergrades.

Mr. HARRIS. We have two categories here with regard to top level staffing, and they are very important categories. We have executive level, which is executive level V through II. Then, that category of 50 requires that only 25 can be as high as executive level II. One can say that only 25 can be executive level II. One can put a cap on it, and they cannot take them and move them to executive level II.

I think, if my colleague would yield further, that between those two we have two categories, supergrades and executive level.

The CHAIRMAN. The time of the gentleman from Maryland has again expired.

Mr. ROUSSELOT. Mr. Chairman, I yield 2 additional minutes to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding to me.

Mr. Chairman, I understand the sophisticated arguments presented by the gentleman from Virginia, and the distinctions that are made in job classifications. The fact of the matter is that for a taxpayer in Maryland or suburban Virginia, $57,000 or $42,000 annual salaries for Government employees are all enormous amounts of money, and our taxes must pay those amounts. Whether we call them executive level I, II, III, or supergrades, this bill indisputably increases the number of this type of employee from the current number authorized under law to 100.

The President, for all I know, based on the Star story yesterday, is going to use them all.

We have a constitutional responsibility. After all, article 1 of the Constitution created the Congress of the United States and article 2 is the one that set up the Presidency, and that ought to give us some hint of the way the Founders viewed this. So I do not think the President should be discomforted if the Congress tries to cut down on White House spending. I will offer such an amendment to reduce the executive level of spending for these employees.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, the gentleman from Virginia says we are only authorizing and we do not necessarily have to fill the positions, but tell me any agency of the Government, including the White House, that does not take full advantage of any allowance the Congress gives them. That occurs very seldom, as the gentleman knows from being on this committee. I am not saying they always do, but that they generally do it.

Another point is that this President has said he was going to reduce the White House staff, but he is doing the opposite. However, that should not be a surprise to those of us who have realized that he is not keeping other promises either.

Mr. BAUMAN. The old siren song that it is only an authorization and not an appropriation is being repeated here, but that theme is the rock on which the balanced budget usually founders. That expenditures rise to meet income is one theory, and that expenditures rise to fill the authorizations is a proven theory.

Mr. ROUSSELOT. If the gentleman will yield further, I believe that we ought to keep the authorizations down to the level we consider appropriate for actual appropriations. The administration says "give us the authorization but we will not use it." I would remind Members that is what President Nixon said about wage and price controls, but he used them.

Mrs. SCHROEDER. Mr. Chairman, I have the great and distinguished honor of yielding now to a very famous author of a very distinguished bill around this House, the gentleman from California (Mr. KREBS).

Mr. KREBS. I thank the gentlewoman from Colorado, the chairman, for yielding.

Mr. Chairman, I would like to point out to the distinguished chairwoman of the subcommittee that I would just as well forget about the raisin bill, at least for the next 24 hours.

Mr. Chairman, I urge this committee to approve this bill. I voted against this bill the last time around when it came up under a suspension of the rules because I just did not feel it should have come up under suspension. However, on the substantive merits of the bill, I believe this bill would for the first time give us an opportunity in a business-like fashion to make decisions on White House staffing, a decisionmaking process that in the past gave those who were so inclined an opportunity to engage in legislative mischief making.

I urge approval of this bill.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mr. KREBS. I yield to the gentleman from Georgia.

Mr. BRINKLEY. Mr. Chairman, I thank the gentleman for yielding to me. I appreciate the remarks made by the gentleman from California (Mr. KREBS). I believe he has hit upon an essential point. I believe that this legislation will provide the President with the tools he will need. It also provides a maximum which will enable the White House to address itself to the enormous administrative work that it must do and for which it is responsible.

I wish to support the legislation. I thank the gentleman for his remarks and join him in them.

Mr. KREBS. Mr. Chairman, I thank the gentleman for the remarks he has made and I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I yield 2 minutes to my distinguished colleague, the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, I thank my distinguished colleague the gentleman from California (Mr. ROUSSELOT) for yielding to me in view of the fact that we do not have much time remaining on this side of the aisle.

Mr. Chairman, I would simply like to point out to my distinguished and very sophisticated colleague the gentleman from California (Mr. ROUSSELOT) that it would seem to me that he has been in political life much too long to believe in the promises made by politicians.

Mr. ROUSELOTT. The gentleman is right. I accept that.

Mr. DELLUMS. No. 2, since the gentleman has consistently raised the question of President Carter's promise to reduce his staff, I would also like to point out at this time that President Carter also promised to reduce the military budget by between $5 and $7 billion.

Mr. ROUSSELOT. I remember that also.

Mr. DELLUMS. However, once President Carter became President and gained experience he has announced he can only cut it by $2 billion and the gentleman said, "Aha, now that he has gained experience he has moved beyond that promise."

Mr. ROUSSELOT. I did not say anything about that. The gentleman never heard me talk about him that way on military defense. He cut it by $2 billion, he did all sorts of things that you have agreed to.

Mr. DELLUMS. I am simply pointing out that when he gained experience as the President he changed from his original promise to reduce the military budget by $7 billion, and many people on your side of the aisle who are making this argument now, you said he now has the benefit of experience.

Mr. ROUSSELOT. You have heard me complain about the military defense of our country.

Mr. DELLUMS. All right, let us get past that one.

Mr. ROUSSELOT. Yes, let us get to another area.

Mr. DELLUMS. The point is, no one who has not ascended to the high office of the Presidency except one who is the incumbent and has been reelected, understands the tremendous magnitude of what it takes to be the President of the United States.

Mr. ROUSSELOT. Amen.

Mr. DELLUMS. Will the gentleman agree with me on that?

Mr. ROUSSELOT. Certainly.

Mr. DELLUMS. Once a person becomes the President what happens is that through the rationale of logical reasoning based upon the experience that the President obtains he then moves from the campaign promises because they do not make that much sense. I believe we ought to be in a position to support the President because once he attains the experience it certainly is a clear indication that expanding his staff may be essential.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROUSSELOT. Mr. Chairman, I yield 2 additional minutes to the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, I thank the gentleman for yielding me the additional time.

Mr. Chairman, one last comment.

Mr. ROUSSELOT. Does the gentleman want me to respond to that?

Mr. DELLUMS. Yes.

Mr. ROUSSELOT. I believe he should keep his campaign promises if he really feels that that was a principle, or an idea whose time had come.

Now, what I was trying to say is that I admired him when he said that he was going to attempt to reduce the size and cost of Government, and especially the Federal bureaucracy. I believe that to be the issue that we have before us today. And I really sincerely believed he was going to do that, and I wanted to support him in that stand. I was merely saying that today he has surprised me because he has turned around on that one issue, an issue that he made a very big point out of during the campaign in various places around the country. Of course he has every right to reverse himself. I am not saying he does not have the right to reverse himself. I just think he made a mistake.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I will be glad to yield to my colleague the distinguished minority leader in one moment but first I wish to yield further to my distinguished colleague the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, again I thank the gentleman for yielding to me. I would like to make just one comment and then I will yield to my colleague on this side of the aisle if I have the time.

Mr. Chairman, let me say that the fact of the matter is that there are many arguments that could be made for using the taxpayers' money to raise the staffs of our offices, say from a 50 people staff to a 70 staff, but, remember, this is one of the most powerful nations in the world, one that is faced with complex international and domestic issues that our Government must address. The executive branch of Government is an important part of that. I am sure the gentleman will stipulate to that.

Mr. ROUSSELOT. Yes.

Mr. DELLUMS. I think it is false economy to come to the floor of the Congress and talk about saving a few taxpayers' dollars on staff people when that should not be the principal question. The principal question cught to be, Can the President function in the rapidly changing, very insecure world that we live in? He ought to have the necessary staff to do his job. It is not a high principle to say, Reduce the staff. That has no intrinsic value, isolated from any of the other realities of life.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROUSSELOT. I would be delighted to yield 1 additional minute to the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. I thank my distinguished colleague.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Georgia and then I will yield to the distinguished minority leader.

Mr. BRINKLEY. I thank the gentleman for yielding to me. The gentleman almost read my mind as I was going say that the issue before this Congress today is not what has transpired in the past, but the issue is what it will take over there to do a good, efficient job, one which we expect. Therefore, the issue is whether or not the slots which we are proposing are needed. We think they are, and we should address that head-on.

I think that when candidate Carter said he would reduce the bureaucracy, including the White House staff, it was a very valid goal. I think he intends to maintain that goal, but he must balance it against the actual work requirements. Just this morning it was mentioned at the leadership meeting that a White House deficiency in working with Congress was that of personnel.

Mr. DELLUMS. I agree with my colleague.

I now yield to the distinguished minority leader.

Mr. RHODES. I thank the gentleman from California.

I recall to the mind of the gentleman one of the most quoted political axioms. It is that every person elected to office should have two qualities. One is integrity, and the other is wisdom—the integrity to keep every promise that one makes, and the wisdom not to make all those foolish promises.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROUSSELOT. I yield 2 minutes to my colleague from Arizona.

Mr. RHODES. Mr. Chairman, I suggest to my friend, the gentleman from California (Mr. DELLUMS) that if we were to follow the line that I think he is suggesting, then we would be saying to the American people that never again must we trust the campaign promises of anybody running for the office of President of the United States. I do not think the gentleman means that, but I am under the impression that the impression gained by the people is just as I stated.

Mr. DELLUMS. That is not the point I was making. The question of how large a staff should be at the White House to me is not a matter of high principle. It is a technical question. It is an administrative issue. It seems to me once one becomes the President, then one looks at the realities and the dynamics of the world we live in, and what he has to do, and develops his staff on the basis of that reality, not in some vacuum.

Mr. RHODES. Of course, the gentleman from California knows full well that the thing that the gentleman from California (Mr. ROUSSELOT) and I are trying to point out is that I think the people on the other side have adopted a double standard. I remember very well when President Ford's appropriation was up—his authorization bill. There were many people who thought that he was asking for much too much, and there were great cries for economy from the other side of the aisle. I think it is important that there be those cries of economy. I think that we should do our very best to make sure that any President operates efficiently and operates for as small an amount as he possibly can.

Mr. DELLUMS. Mr. Chairman, will the gentleman from Arizona yield briefly to me?

Mr. RHODES. I yield to the gentleman from California.

Mr. DELLUMS. I thank the gentleman for yielding.

I think the gentleman has raised a good point, because certainly when President Nixon and President Ford were in office, there were many of us on our side of the aisle who were rather skittish as a result of the Watergate scandal. I think that many of us, if we did vote that way, voted so because the vote was dictated by our skittishness with respect to the whole issue of a President trying to steal.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROUSSELOT. I yield 1 additional minute to the distinguished minority leader.

Mr. RHODES. I might say to the gentleman from California (Mr. DELLUMS) his argument falls on rather deaf ears over here. I suppose that there are a lot of Republicans who are worried about the Marston case, the Lance case, and some other incidences we could mention, which would also bear on whether or not we want to take the Executive's absolute word.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

I think it should be repeated here that it was in February 1977 when President Carter went on national television with a fireside chat and told the American

people that he had reduced the White House staff by one-third. That was not candidate Carter.

Mr. RHODES. That is correct, and it was stated as a fact that there had been a certain percentage reduction which, if it ever occurred, I am at a loss to find.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Virginia.

Mr. HARRIS. I thank the gentleman for yielding.

I would like to read from the Executive Office of the President Budget, page 63, under "The White House Office," the number of personnel and total number of permanent positions.

Mr. RHODES. Mr. Chairman, I yield to the gentleman from Virginia, but very reluctantly.

Mr. HARRIS. Mr. Chairman, I appreciate the courtesy of the minority leader. I was about to quote from page 63 of the White House Office, Executive Office of the President, on the total number of positions. The total number of positions in 1977, which is Mr. Ford's budget, was 485. That was actual.

The 1978 estimate is 351, and the 1979 estimate is 351.

Full-time equivalent of other positions is 15 in all 3 years.

The average paid employment was 446 in 1977 and 371 in 1978.

The 1979 estimate is 351.

The average GS grade was 8.35 in 1977 and 8.90 in 1978 and estimated at 8.90 in 1979.

The average GS salary is $15,000, $18,000, and $18,000, respectively, for all 3 years.

Mr. ROUSSELOT. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman as the gentleman from Virginia knows, one of the reasons for those attractive figures is that in the early stages of this administration there was substantial detailing from other agencies, whereas President Ford was very up front with the number of people he had on the White House staff and, in many cases paid full-time salaries.

I think that is one reason for the necessity for this bill to put a better handle on identification of where the personnel are, where they are going to be, how many are being detailed. That is why I will support an amendment by my colleague, the gentleman from New York, which will require even greater accountability on this subject.

Mr. SYMMS. Mr Chairman, will the gentleman yield?

Mr. ROUSSELOT. I am delighted to yield to the champion of the farmer.

Mr. SYMMS. Mr. Chairman, this is one of the reasons I voted against the authorization bill, because I know that the White House dispatched under their executive appropriations bill a lobby team, if you will, to go to North Carolina to lobby for a constitutional amendment. This may be a way through the authorization bill that the Congress can direct the White House that we do want them to represent their staffing needs correctly.

Mr. ROUSSELOT. Mr. Chairman, that was not a constitutional amendment, but they made a constitutional effort on the way down.

Mr. SYMMS. I think we will make an effort to give the President some guidance and direction on the things he has to do.

Mr. ROUSSELOT. That sounds like a worthy amendment to me.

Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Chairman, I would rise in reluctant opposition to H.R. 11003, and find it incredible that the President strongly supports enactment of this legislation.

Not only has our President promised to reduce the White House staff by 30 percent if he were elected, but we now have a staff 30 percent larger than during the Ford administration. As of May 1977, the White House office had 565 people on the rolls, including detailees—people on the payroll of other agencies, but working at the White House. President Carter's explanation for his inflated staff was his enormous volume of mail, that required a temporary staff increase. However, of the approximate 129 detailees, only 31 are working in the mail room. What are the rest of these detailees doing?

Now President Carter wants more. If this bill passes, it would double the number of GS–16's at the White House and would cost the taxpayers $8.6 million a year. He would be able to employ an unlimited number of staffers below the GS–16 level, and borrow as many people from other agencies as he wants.

Tell it like it is, Mr. President, it is not the mail volume, but as your aide, Hugh Carter, Jr., so eloquently stated:

We wanted to have plenty of flexibility, in the event of an emergency like World War III or something.

Come to think of it, the way he is handling foreign policy, I can understand why he feels he needs to be prepared.

After the President's extremely tough anti-inflation speech the other day, I think the Congress owes it to the President by taking him seriously. And, even though he prepared his White House staff levels and budget requests before he decided what his policy would be on inflation, I think this is an excellent place to begin the war on inflation.

Mr. ROUSSELOT. Mr. Chairman, I yield back the balance of my time.

Mrs. SCHROEDER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 11003

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) sections 105 and 106 of title 3, United States Code, are amended to read as follows:

"ASSISTANCE AND SERVICES FOR THE PRESIDENT

"SEC. 105. (a)(1) Subject to the provisions of paragraph (2) of this subsection, the President is authorized to appoint and fix the pay of employees in the White House Office without regard to any other provision of law regulating the employment or compensation of persons in the Government service. Employees so appointed shall perform such official duties as the President may prescribe.

"(2) The President may, under paragraph (1) of this subsection, appoint and fix the pay of not more than—

"(A) 25 employees at rates not to exceed the rate of basic pay then currently paid for level II of the Executive Schedule of section 5313 of title 5; and in addition

"(B) 25 employees at rates not to exceed the rate of basic pay then currently paid for level III of the Executive Schedule of section 5314 of title 5; and in addition

"(C) 50 employees at rates not to exceed the maximum rate of basic pay then currently paid for GS–18 of the General Schedule of section 5332 of title 5; and in addition

"(D) such number of other employees as he may determine to be appropriate at rates not to exceed the minimum rate of basic pay then currently paid for GS–16 of the General Schedule of section 5332 of title 5.

"(b)(1) Subject to the provisions of paragraph (2) of this subsection the President is authorized to appoint and fix the pay of employees in the Executive Residence at the White House without regard to any other provision of law regulating the employment or compensation of persons in the Government service. Employees so appointed shall perform such official duties as the President may prescribe.

"(2) The President may, under paragraph (1) of this subsection, appoint and fix the pay of not more than—

"(A) 3 employees at rates not to exceed the maximum rate of basic pay then currently paid for GS–18 of the General Schedule of section 5332 of title 5; and in addition

"(B) such number of other employees as he may determine to be appropriate at rates not to exceed the minimum rate of basic pay then currently paid for GS–16 of the General Schedule of section 5332 of title 5.

"(c) The President is authorized to procure for the White House Office and the Executive Residence at the White House, as provided in appropriation Acts, temporary or intermittant services of experts and consultants, as described in and in accordance with the first two sentences of section 3109 (b) of title 5—

"(1) in the case of the White House Office, at respective daily rates of pay for individuals which are not more than the daily equivalent of the rate of basic pay then currently paid for level II of the Executive Schedule of section 5313 of title 5; and

"(2) in the case of the Executive Residence, at respective daily rates of pay for individuals which are not more than the daily equivalent of the maximum rate of basic pay then currently paid for GS–18 of the General Schedule of section 5332 of title 5.

Notwithstanding such section 3109(b), temporary services of any expert or consultant described in such section 3109 (b) may be procured for a period in excess of one year if the President determines such procurement is necessary.

"(d) There are authorized to be appropriated each fiscal year to the President such sums as may be necessary for—

"(1) the care, maintenance, repair, alteration, refurnishing, improvement, air-conditioning, heating, and lighting (including electric power and fixtures) of the Executive Residence at the White House;

"(2) the official expenses of the White House Office;

"(3) the official entertainment expenses of the President;

"(4) the official entertainment expenses for allocation within the Executive Office of the President; and

"(5) the subsistence expenses of persons in the Government service while traveling on official business in connection with the travel of the President.

Sums appropriated under this subsection for expenses described in paragraphs (1), (3), and (5) may be expended as the President may determine, notwithstanding the provi-

sions of any other law. Such sums shall be accounted for solely on the certificate of the President.

"(e) Assistance and services authorized pursuant to this section to the President are authorized to be provided to the spouse of the President in connection with assistance provided by such spouse to the President in the discharge of the President's duties and responsibilities. If the President does not have a spouse, such assistance and services may be provided for such purposes to a member of the President's family whom the President designates.

"ASSISTANCE AND SERVICES FOR THE VICE PRESIDENT

"SEC. 106. (a) In order to enable the Vice President to provide assistance to the President in connection with the performance of of functions specially assigned to the Vice President by the President in the discharge of executive duties and responsibilities, the Vice President is authorized—

"(1) without regard to any other provision of law regulating the employment or compensation of persons in the Government service, to appoint and fix the pay of not more than—

"(A) 5 employees at rates not to exceed the rate of basic pay then currently paid for level II of the Executive Schedule of section 5313 of title 5; and in addition

"(B) 3 employees at rates not to exceed the rate of basic pay then currently paid for level III of the Executive Schedule of section 5314 of title 5; and in addition

"(C) 3 employees at rates not to exceed the maximum rate of basic pay then currently paid for GS–18 of the General Schedule of section 5332 of title 5; and in addition

"(D) such number of other employees as he may determine to be appropriate at rates not to exceed the minimum rate of basic pay then currently paid for GS–16 of the General Schedule of section 5332 of title 5; and

"(2) to procure, as provided in appropriation Acts, temporary or intermittent services of experts and consultants, as described in and in accordance with the first two sentences of section 3109(b) of title 5, at respective daily rates of pay for individuals which are not more than the daily equivalent of the rate of basic pay then currently paid for level II of the Executive Schedule of section 5313 of title 5.

Notwithstanding such section 3109(b), temporary services of any expert or consultant described in such section 3109(b) may be procured under paragraph (2) of this subsection for a period in excess of one year if the Vice President determines such procurement is necessary.

"(b) In order to carry out the executive duties and responsibilities referred to in subsection (a), there are authorized to be appropriated each fiscal year to the Vice President such sums as may be necessary for—

"(1) the official expenses of the Office of the Vice President;

"(2) the official entertainment expenses of the Vice President; and

"(3) the subsistence expenses of persons in the Government service while traveling on official business in connection with the travel of the Vice President.

Sums appropriated under this subsection for expenses described in paragraphs (2) and (3) may be expended as the Vice President may determine, notwithstanding the provisions of any other law. Such sums shall be accounted for solely on the certificate of the Vice President.

"(c) Assistance and services authorized pursuant to this section to the Vice President are authorized to be provided to the spouse of the Vice President in connection with assistance provided by such spouse to the Vice President in the discharge of the Vice President's executive duties and responsibilities. If the Vice President does not have a spouse, such assistance and services may be provided for such purposes to a member of the Vice President's family whom the Vice President designates.".

(b) The items relating to sections 105 and 106 in the table of sections at the beginning of chapter 2 of title 3, United States Code, are amended to read as follows:

"105. Assistance and services for the President.

"106. Assistance and services for the Vice President.".

Mrs. SCHROEDER (during the reading). Mr. Chairman, I ask unanimous consent that section 1 of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

"Committee amendment: Page 5, strike out the period in line 3 and insert in lieu thereof the following: ", except that, with respect to such expenses, the Comptroller General may inspect all necessary books, documents, papers, and records relating to any such expenditures solely for the purpose of verifying that all such expenditures related to expenses in paragraphs (1), (3), or (5). The Comptroller General shall certify to Congress the fact of such verification, and shall report any such expenses not expended for such purpose.".

Mrs. SCHROEDER (during the reading). Mr. Chairman, I ask unanimous consent that both committee amendments be considered as read and printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

(The remaining committee amendment is as follows:)

Committee amendment: Page 7, strike out the period in line 1 and insert in lieu thereof the following: ", except that, with respect to such expenses, the Comptroller General may inspect all necessary books, documents, papers, and records relating to any such expenditures solely for the purpose of verifying that all such expenditures related to expenses in paragraphs (2) or (3). The Comptroller General shall certify to Congress the fact of such verification, and shall report any such expenses not expended for such purpose.".

Mrs. SCHROEDER. Mr. Chairman, let me give the Members a brief explanation of these two committee amendments.

These amendments basically came from the Committee on Government Operations, and the first amendment would allow the Inspector General to look at the expenditures for the care and maintenance of the Executive Residence of the White House, the official entertainment expenses of the President, and the Presidential staff travel expenses. This would be solely for the purpose of verifying the expenditures were properly within the three authorized categories.

The second committee amendment is identical to the first amendment, except it allows the GAO to look at the expenses for the Vice Presidential official entertainment expenses, staff travel expenses, and, again, it would require GAO verification.

Mr. Chairman, I urge that the committee adopt these committee amendments.

The CHAIRMAN. The question is on the committee amendments. The committee amendments were agreed to.

AMENDMENT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BAUMAN: On page 2, line 7, strike out the figure "25" and insert in lieu thereof "15";

On page 2, line 10, strike out the figure "25" and insert in lieu thereof "20"; and

On page 2, line 13, strike out the figure "50" and insert in lieu thereof "40".

Mr. BAUMAN. Mr. Chairman, this debate has centered around the need as expressed by Members on both sides of the aisle for legislation to limit the overall numbers of employees at the White House.

It has been made clear that this type of White House authorization bill has not been enacted for a number of years. In drawing up this legislation the committee decided that the proper number of the top level staff, highest paid grades at the White House should be set at 100.

Now, the President's staff members have protested that the likelihood of filling all these positions is very remote. But as I indicated, there is evidence in the press yesterday that still another major White House staff reorganization is about to take place.

So out of an abundance of caution my amendment would amend the section on page 2, lines 5 through 16, to reduce from 100 to 75 the total number of level II, level III, and GS–18 employees who would be authorized in this bill.

I think this is a modest suggestion in view of the fact that presently employees who fall into these categories at the White House, according to the White House itself, number 55. I draw the specific limitations on each of these levels so that no current employees would have to be dismissed or downgraded. I based the exact numbers on figures that were submitted by the White House staff to the committee as of February 1, 1979, for each one of these levels.

This is simply a modest attempt to draw a lower ceiling in the bill for these types of very highest paid employees in the White House. Nobody loses his job. The amendment is in keeping with what was referred to a moment ago as the need for fiscal restraint, to meet the inflationary problems that face the country, and provide a more realistic, I would suggest, level of employment.

So I hope that the committee will accept this amendment.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Mr. Chairman, I am a member of this committee, and I really do not think, on the basis of any testimony that I have heard, that this amendment would do any great damage to the present White House structure and staff. Your amendment provides a reasonable limitation. If a problem developed with some type of an emergency, I am sure we could amend it in another bill. We always have a great number of bills coming out of our committee. So we could change these ceilings. I think the gentleman is absolutely correct. It will do nothing to stifle or stop whatever the President is now doing to appropriately staffing the upper levels of his assistants.

Mr. BAUMAN. It would, of course, permit leeway, based on February 1 figures of employees at these levels, so 20 new slots can still be filled. I am not sure what the emergency would be that would require even that many more.

Mr. ROUSSELOT. I think the gentleman heard the discussion and the colloquy I had with the gentleman from Oklahoma the chairman of the appropriate Subcommittee of Appropriations that, to the best of his knowledge, it would do no great harm to anything now being recommended in the Appropriations Committee.

Mr. BAUMAN. I understand that is correct.

Mr. ROUSSELOT. I support the amendment.

Mr. HARRIS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as we look at numbers like this, I think we can realize how frankly foolish it would be if this committee does in fact get into a numbers game in regard to the White House staffing. It is absolutely true that the 25, 25, 50 figures in the bill now are not magic figures. They are caps, they are lids that we are trying to put on for the first time in modern history. They absolutely mean nothing more than the 15, 20, 40 do under the amendment. The only difference is that we are trying to define the numbers without the basis of knowledge and experience in the bill. I very much urge my colleagues to vote against this amendment and to go with the provisions in the committee bill so that the committee can in fact get a bill passed, get it signed by the President, begin its job of overview of the White House staffing, so that if in the future these numbers can and should be reduced and these numbers should be readjusted with regard to Executive level II, with regard to supergrades 16 through 18, or what have you, the committee can make proper adjustments. What we have here are broad caps on the type of personnel to be hired. I would hope that we would not have a process in this legislation where we play a numbers game.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Mr. Chairman, I do not think my colleague from Maryland is trying to play a numbers game any more than we were when we guessed 100 in the bill. I would say that at no time has any President used this many numbers. Even at the highest point of the Nixon administration, they did not use this many numbers. So the 75 is not an unreasonable number, is not an unreasonable cap.

Mr. HARRIS. Mr. Chairman, I think it is important to note here that this bill was carefully developed through the subcommittee and the full committee process. Such amendments were not made there. I have the highest regard for my colleagues on the committee who did use the restraint necessary to keep from making this same kind of a numbers game. That is why we were able to develop and why I think we find such good legislation in the full committee and in the subcommittee. This is why I think it is very unfortunate if we begin playing this kind of numbers game on the floor. There is no way one can substantiate these kinds of figures. The existing staffing levels in the White House for these categories are a great deal lower than the caps we are putting on. We are not trying to staff the White House. That is the President's job. We are trying to put top limitations on it. That is what the bill does. If we start tinkering around with numbers, reducing it from 40 to 25 or 15, there is no way to justify those numbers. If in fact they wish to interpret caps as figures, they can do it without regard to what I think are the facts of the bill.

Mr. Chairman, what we should do is to maintain the theory of this bill, establish the overview of the committee, and make sure that we can get the information through proper reporting requirements and not begin playing games as to whether the number should be 25 or 15 or 30 or what have you, with such figures.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN).

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 20, noes 27.

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Fifty-six Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Chairman, would it be in order to ask unanimous consent to withdraw the point of no quorum?

The CHAIRMAN. The Chair will state that at this point that request would not be in order.

Mr. BAUMAN. I thank the Chair.

The CHAIRMAN. Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the request of the gentleman from Maryland (Mr. BAUMAN) for a recorded vote.

Does the gentleman insist upon his request?

Mr. BAUMAN. I do, Mr. Chairman.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 180, noes 215, not voting 39 as follows:

[Roll No. 219]

AYES—180

| | | |
|---|---|---|
| Abdnor | Ginn | Mitchell, N.Y. |
| Anderson, Ill. | Glickman | Moffett |
| Andrews, N. Dak. | Goldwater | Moore |
| Archer | Goodling | Moorhead, Calif. |
| Armstrong | Gore | Mottl |
| Ashbrook | Gradison | Murphy, Pa. |
| Badham | Grassley | Myers, John |
| Bafalis | Green | Myers, Michael |
| Barnard | Guyer | Nichols |
| Bauman | Hagedorn | Panetta |
| Beard, Tenn. | Hall | Pettis |
| Bennett | Hammer-schmidt | Pickle |
| Broomfield | Hansen | Pike |
| Brown, Mich. | Harsha | Pressler |
| Brown, Ohio | Hefner | Pursell |
| Broyhill | Hightower | Quayle |
| Buchanan | Hillis | Quie |
| Burgener | Hollenbeck | Quillen |
| Burke, Fla. | Holt | Railsback |
| Caputo | Horton | Regula |
| Carter | Hubbard | Rhodes |
| Cleveland | Huckaby | Rinaldo |
| Cochran | Hughes | Risenhoover |
| Cohen | Hyde | Robinson |
| Coleman | Ireland | Rousselot |
| Collins, Tex. | Jacobs | Rudd |
| Conte | Jeffords | Ruppe |
| Corcoran | Jenkins | Satterfield |
| Coughlin | Johnson, Colo. | Sawyer |
| Cunningham | Jones, Tenn. | Schulze |
| D'Amours | Kasten | Sebelius |
| Daniel, Dan | Kelly | Shuster |
| Daniel, R. W. | Kemp | Skelton |
| Davis | Ketchum | Skubitz |
| Devine | Kindness | Smith, Nebr. |
| Dickinson | Kostmayer | Snyder |
| Dingell | Lagomarsino | Spence |
| Dornan | Latta | Stangeland |
| Downey | Leach | Stanton |
| Duncan, Tenn. | Lederer | Steers |
| Early | Lent | Steiger |
| Edgar | Levitas | Stockman |
| Edwards, Ala. | Livingston | Stump |
| Edwards, Okla. | Lloyd, Tenn. | Symms |
| Emery | Long, Md. | Taylor |
| English | Lott | Treen |
| Erlenborn | Lujan | Trible |
| Ertel | McClory | Vander Jagt |
| Evans, Del. | McCloskey | Walker |
| Evans, Ind. | McDade | Walsh |
| Fenwick | McDonald | Wampler |
| Findley | McEwen | Whitehurst |
| Fish | McKinney | Wiggins |
| Flowers | Maguire | Wilson, Bob |
| Forsythe | Marlenee | Winn |
| Fountain | Marriott | Wydler |
| Fowler | Martin | Wylie |
| Frenzel | Mazzoli | Yatron |
| Frey | Michel | Young, Alaska |
| Gilman | Miller, Ohio | Young, Fla. |

NOES—215

| | | |
|---|---|---|
| Addabbo | Annunzio | Benjamin |
| Akaka | Applegate | Bevill |
| Alexander | Ashley | Biaggi |
| Allen | Aspin | Bingham |
| Ambro | AuCoin | Blanchard |
| Ammerman | Baldus | Blouin |
| Anderson, Calif. | Beard, R.I. | Boggs |
| Andrews, N.C. | Bedell | Boland |
| | Beilenson | Bolling |

| | | |
|---|---|---|
| Bonker | Hanley | Pepper |
| Bowen | Hannaford | Perkins |
| Brademas | Harkin | Poage |
| Breckinridge | Harrington | Preyer |
| Brinkley | Harris | Price |
| Brodhead | Heftel | Rahall |
| Brooks | Holtzman | Rangel |
| Brown, Calif. | Ichord | Reuss |
| Burke, Mass. | Jenrette | Richmond |
| Burleson, Tex. | Johnson, Calif. | Roberts |
| Burlison, Mo. | Jones, Okla. | Roe |
| Burton, John | Jordan | Rogers |
| Burton, Phillip | Kastenmeier | Roncalio |
| Byron | Kazen | Rooney |
| Carney | Keys | Rose |
| Carr | Kildee | Rosenthal |
| Cavanaugh | Krebs | Rostenkowski |
| Cederberg | LaFalce | Roybal |
| Chisholm | Le Fante | Russo |
| Clausen, | Lehman | Ryan |
| Don H. | Lloyd, Calif. | Scheuer |
| Clay | Long, La. | Schroeder |
| Collins, Ill. | Luken | Seiberling |
| Conyers | Lundine | Sharp |
| Corman | McCormack | Shipley |
| Cornell | McFall | Sikes |
| Cotter | McHugh | Simon |
| Danielson | McKay | Sisk |
| de la Garza | Madigan | Slack |
| Delaney | Mahon | Smith, Iowa |
| Dellums | Mann | Solarz |
| Derrick | Markey | St Germain |
| Derwinski | Marks | Staggers |
| Dicks | Mathis | Stark |
| Diggs | Meyner | Stokes |
| Dodd | Mikulski | Stratton |
| Drinan | Mikva | Studds |
| Duncan, Oreg. | Milford | Thompson |
| Eckhardt | Miller, Calif. | Traxler |
| Edwards, Calif. | Mineta | Tsongas |
| Eilberg | Minish | Ullman |
| Evans, Colo. | Mitchell, Md. | Vanik |
| Evans, Ga. | Moakley | Vento |
| Fary | Mollohan | Volkmer |
| Fascell | Montgomery | Waggonner |
| Fisher | Moorhead, Pa. | Walgren |
| Fithian | Moss | Watkins |
| Flippo | Murphy, Ill. | Waxman |
| Flood | Murtha | Weaver |
| Florio | Myers, Gary | Weiss |
| Flynt | Natcher | Whalen |
| Foley | Neal | White |
| Ford, Mich. | Nedzi | Whitten |
| Ford, Tenn. | Nix | Wilson, C. H. |
| Fraser | Nolan | Wilson, Tex. |
| Fuqua | Nowak | Wirth |
| Garcia | O'Brien | Wolff |
| Gaydos | Oakar | Wright |
| Gephardt | Oberstar | Yates |
| Giaimo | Obey | Young, Tex. |
| Gibbons | Ottinger | Zablocki |
| Gonzalez | Patten | Zeferetti |
| Gudger | Patterson | |
| Hamilton | Pattison | |

NOT VOTING—39

| | | |
|---|---|---|
| Baucus | Heckler | Runnels |
| Bonior | Holland | Santini |
| Breaux | Howard | Sarasin |
| Burke, Calif. | Jones, N.C. | Spellman |
| Butler | Krueger | Steed |
| Chappell | Leggett | Teague |
| Clawson, Del | Mattox | Thone |
| Conable | Meeds | Thornton |
| Cornwell | Metcalfe | Tucker |
| Crane | Murphy, N.Y. | Udall |
| Dent | Pease | Van Deerlin |
| Gammage | Pritchard | Whitley |
| Hawkins | Rodino | Young, Mo. |

The Clerk announced the following pairs:

On this vote:

Mr. Butler for, with Mr. Krueger against.

Mr. Del Clawson for, with Mr. Cornwell against.

Mr. Conable for, with Mrs. Burke of California against.

Mr. Sarasin for, with Mr. Breaux against.

Mr. Thone for, with Mr. Gammage against.

Mr. Crane for, with Mr. Baucus against.

Mr. DRINAN changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments to section 1?

If not, the Clerk will read.

The Clerk read as follows:

SEC. 2. (a) Chapter 2 of title 3, United States Code, is amended by striking out section 107 and inserting in lieu thereof the following new sections:

"DOMESTIC POLICY STAFF AND OFFICE OF ADMINISTRATION; PERSONNEL

"SEC. 107. (a) In order to enable the Domestic Policy Staff to perform its functions, the President (or his designee) is authorized—

"(1) without regard to any other provision of law regulating the employment or compensation of persons in the Government service, to appoint and fix the pay of not more than—

"(A) 6 employees at rates not to exceed the rate of basic pay then currently paid for level III of the Executive Schedule of section 5314 of title 5; and in addition

"(B) 18 employees at rates not to exceed the maximum rate of basic pay then currently paid for GS–18 of the General Schedule of section 5332 of title 5; and in addition

"(C) such number of other employees as he may determine to be appropriate at rates not to exceed the minimum rate of basic pay then currently paid for GS–16 of the General Schedule of section 5332 of title 5; and

"(2) to procure, as provided in appropriation Acts, temporary or intermittent services of experts and consultants, as described in and in accordance with the first two sentences of section 3109(b) of title 5, at respective daily rates of pay for individuals which are not more than the daily equivalent of the rate of basic pay then currently paid for level III of the Executive Schedule of section 5314 of title 5.

"(b)(1) In order to enable the Office of Administration to perform its functions, the President (or his designee) is authorized—

"(A) without regard to such other provisions of law as the President may specify which regulate the employment and compensation of persons in the Government Service, to appoint and fix the pay of not more than—

"(i) 5 employees at rates not to exceed the rate of basic pay then currently paid for level III of the Executive Schedule of section 5314 of title 5; and in addition

"(ii) 5 employees at rates not to exceed the maximum rate of basic pay then currently paid for GS–18 of the General Schedule of section 5332 of title 5; and

"(B) to procure, as provided in appropriation Acts, temporary or intermittent services of experts and consultants, as described in and in accordance with the first two sentences of section 3109(b) of title 5, at respective daily rates of pay for individuals which are not more than the daily equivalent of the maximum rate of basic pay then currently paid for GS–18 of the General Schedule of section 5332 of title 5.

"(2) In addition to any authority granted under paragraph (1) of this subsection, the President (or his designee) is authorized to employ individuals in the Office of Administration in accordance with section 3101 of title 5 and provisions relating thereto. Any individual so employed under the authority granted under such section 3101 shall be subject to the limitation specified in section 114 of this title.

"(c) There are authorized to be appropriated each fiscal year such sums as may be necessary for the official expenses of the Domestic Policy Staff and the Office of Administration.

"ASSISTANCE TO THE PRESIDENT FOR UNANTICIPATED NEEDS

"SEC. 108. (a) There is authorized to be appropriated to the President an amount not to exceed $1,000,000 each fiscal year to enable the President, in his discretion, to meet unanticipated needs for the furtherance of the national interest, security, or defense, including personnel needs and needs for services described in section 3109(b) of title 5, and administrative expenses related thereto, without regard to any provision of law regulating the employment or compensation of persons in the Government service or regulating expenditures of Government funds.

"(b) The President shall transmit a report to each House of the Congress for each fiscal year beginning on or after the effective date of this subsection which sets forth the purposes for which expenditures were made under this section for such fiscal year and the amount expended for each such purpose. Each such report shall be transmitted no later than 60 days after the close of the fiscal year covered by such report.

"(c) An individual may not be paid under the authority of this section at a rate of pay in excess of the rate of basic pay then currently paid for level II of the Executive Schedule of section 5313 of title 5.".

(b) The items relating to sections 107 and 108 in the table of sections at the beginning of chapter 2 of title 3, United States Code, are amended to read as follows:

"107. Domestic Policy Staff and Office of Administration; personnel.

"108. Assistance to the President for unanticipated needs.".

Mrs. SCHROEDER (during the reading). Mr. Chairman, I ask unanimous consent that section 2 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

The CHAIRMAN. Are there any amendments to section 2?

If not, the Clerk will read.

The Clerk read as follows:

SEC. 3. (a) Chapter 2 of title 3, United States Code, is amended by adding at the end thereof the following new sections:

"DETAIL OF EMPLOYEES OF EXECUTIVE DEPARTMENTS

"SEC. 112. The head of any department, agency, or independent establishment of the executive branch of the Government may detail, from time to time, employees of such department, agency, or establishment to the White House Office, the Executive Residence at the White House, the Office of the Vice President, the Domestic Policy Staff, and the Office of Administration. Any such office to which an employee has been detailed for service to such office shall reimburse the detailing department, agency, or establishment for the pay of each employee thereof—

"(1) who is so detailed, and

"(2) who is performing services which have been or would otherwise be performed by an employee of such office,

for any period occurring during any fiscal year after 180 calendar days after the employee is detailed in such year.

"REPORT ON DETAILEES, EXPERTS, AND CONSULTANTS

"SEC. 113. (a) The President shall transmit to each House of the Congress, and make available to the public, reports containing information described in subsection (b) for each fiscal year beginning on or after the effective date of this section. Each such report shall be transmitted no later than 60 days after the close of the fiscal year covered by such report and shall contain a statement of such information for such year.

"(b) Each report required under subsection (a) shall contain—

"(1) the number of individuals detailed under section 112 of this title for more than 180 days to the White House Office, the Executive Residence at the White House, the Office of the Vice President, the Domestic Policy Staff, or the Office of Administration (in the aggregate and by office);

"(2) the number of individuals whose services as an expert or consultant are procured under this chapter for service in such offices, and the total number of days employed (in the aggregate and by office);

"(3) the total amount of appropriated moneys paid to procure such expert and consultant services (in the aggregate and by office); and

"(4) the amount of reimbursements made for employees detailed under section 112 of this title (in the aggregate and by office).

"GENERAL PAY LIMITATION

"SEC. 114. Notwithstanding any provision of law, other than the provisions of this chapter, no employee of the White House Office, the Executive Residence at the White House, the Domestic Policy Staff, or the Office of Administration, nor any employee under the Vice President appointed under section 106 of this title, may be paid at a rate of basic pay in excess of the minimum rate of basic pay then currently paid for GS-16 of the General Schedule of section 5332 of title 5.".

(b) The table of sections for chapter 2 of title 3, United States Code, is amended by adding at the end thereof the following new items:

"112. Detail of employees of executive departments.
"113. Report on detailees, experts, and consultants.
"114. General pay limitation.".

Mrs. SCHROEDER (during the reading). Mr. Chairman, I ask unanimous consent that section 3 of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

AMENDMENT OFFERED BY MR. GILMAN

Mr. GILMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GILMAN: Page 14, strike out line 3 and all that follows down through line 20 and insert in lieu thereof the following:

"(b) Each report required under subsection (a) shall contain—

"(1) the number of employees who are paid at a rate of basic pay equal to or greater than the rate of basic pay then currently paid for level V of the Executive Schedule of section 5216 of title 5 and who are employed in the White House Office, the Executive Residence at the White House, the Office of the Vice President, the Domestic Policy Staff, or the Office of Administration, and the aggregate amount paid to such employees;

"(2) the number of employees employed in such offices who are paid at a rate of basic pay which is equal to or greater than the minimum rate of basic pay then currently paid for GS-16 of the General Schedule of section 5332 of title 5 but which is less than the rate then currently paid for level V of the Executive Schedule, and the aggregate amount paid to such employees;

"(3) the number of employees employed in such offices who are paid at a rate of basic pay which is less than the minimum rate then currently paid for GS-16 of the General Schedule, and the aggregate amount paid to such employees;

"(4) the number of individuals detailed under section 112 of this title to each such office, the number of days each individual was detailed, and the aggregate amount of reimbursement made for such individuals; and

"(5) the number of individuals whose services as an expert or consultant are procured under this chapter for service in any such office, the total number of days employed, and the aggregate amount paid to procure such services.

The information required under this subsection to be in any report shall be shown both in the aggregate and by office involved.

Page 13, strike out line 18 and insert in lieu thereof:

"PERSONNEL REPORT

Page 15, in the matter below line 8, strike out the item relating to section 113 and insert in lieu thereof:

"113. Personnel report.

Mr. GILMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Chairman, this amendment amends section 113 of H.R. 11003. I propose to delete the language of section 113(b) and substitute in its place a new subsection (b) to require the President to transmit an annual report to the Congress disclosing—

First, the total number of staff employed by the Executive Office and the aggregate amount paid to such staff;

Second, the total number of individuals detailed to the Executive Office, the number of days so detailed, and the aggregate amount of reimbursement to agencies; and

Third, the total number of experts and consultants employed by the Executive Office, the number of days employed, and the aggregate amount paid to them.

All information required by the first and succeeding reports shall be shown both in the aggregate and by Office involved. That is, White House Office, Executive Residence at White House, Office of the Vice President, Domestic Policy Staff, and Office of Administration. This report must be transmitted no later than 60 days after the close of the fiscal year covered by the preceding report.

Mr. Chairman, this amendment is really self-explanatory. The purpose for offering this amendment is to insure the integrity of the oversight function of the Committee on Post Office and Civil Service by having available to us by law on a timely basis the information necessary to carry out our duty. In addition, it is vitally important that we have the data contained in these reports so that the Members and staff of the committee can properly evaluate the continuing efficacy of this legislation.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, I have personally gone over this amendment, and the gentleman and I discussed the amendment in committee.

The amendment reflects the legislative requirement that reporting of the type that the committee received this year would be mandated by legislation. I had some reservations before that this might require a type of reporting that would in fact jeopardize the bill in various aspects. But upon reviewing the amendment, it seems to me, since the reporting requirements are really the same as reflected by the reporting that we have gotten from the White House voluntarily this year, that perhaps the language would improve the bill.

Mr. Chairman, the amendment is acceptable to me.

Mr. GILMAN. Mr. Chairman, I want to thank the gentleman from Virginia (Mr. HARRIS) for his remarks and for accepting the amendment. I know of the gentleman's concern for making certain that we have adequate reporting so that we can have the proper oversight in this matter.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I wish to compliment the gentleman from New York (Mr. GILMAN) on his amendment. I certainly find the amendment acceptable.

Mr. GILMAN. Mr. Chairman, I thank the gentlewoman for her remarks, and I thank her for her support of my amendment.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, since the gentleman in his logic and eloquence has managed to obtain the approval of the floor managers on the other side for his amendment, we are certainly pleased to support the amendment on this side.

Mr. GILMAN. Mr. Chairman, I thank the gentleman from Illinois (Mr. DERWINSKI) for his support.

AMENDMENT OFFERED BY MR. PICKLE TO THE AMENDMENT OFFERED BY MR. GILMAN

Mr. PICKLE. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. PICKLE to the amendment offered by Mr. GILMAN: At the end of the amendment to page 14, insert the following new subsections:

"(c) In addition to the requirements of subsection (b), each report required under subsection (a) shall contain—

"(1) the name of every individual detailed to or employed in (including any expert or consultant whose services are procured under this chapter) the White House Office, the Executive Residence at the White House, the Vice President's Office, the Domestic Policy Staff; and the Office of Administration;

"(2) the amount of appropriated moneys paid to each such individual so employed;

"(3) the amount of reimbursements made for employees detailed under section 112; and

"(4) a general title and general job description for each individual so detailed or so employed."

At the end of the amendment add the following new provision:

Page 13, line 21, strike out "subsection (b)" and insert in lieu thereof "subections (b) and (c)".

Mr. PICKLE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. PICKLE. Mr. Chairman, this amendment simply adds one additional requirement of the report offered by the President, that is, that the report, when it is submitted, will contain the name of the individual employee, the amount of money appropriated, the general title and the general job description.

Mr. Chairman, I am not trying to make it burdensome, since the report will have these totals. I go one step further and require that the name and the general title and job description be added to the report.

I might add that this amendment has been passed by this House on two different occasions, in 1974 and in 1975. Since the legislation never passed in the Senate, it had not become law. But we have already passed this twice before.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from New York.

Mr. GILMAN. I think the gentleman for yielding.

Mr. Chairman, I have had an opportunity to examine the amendment, and I certainly accept the amendment. It is certainly worth while in adding this language.

Mr. PICKLE. I thank the gentleman.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. I thank the gentleman for yielding.

Mr. Chairman, I also wish to compliment the gentleman, and we certainly accept the amendment as part of the Gilman amendment. I wish to commend the gentleman for watching so closely.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Illinois.

Mr. DERWINSKI. I thank the gentleman for yielding.

Mr. Chairman, in the spirit of cooperation which is prevailing here, we are pleased to accept the amendment as a positive addition to the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. PICKLE) to the amendment offered by the gentleman from New York (Mr. GILMAN).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. GILMAN), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments to section 3? If not, the Clerk will read.

The Clerk read as follows:

SEC. 4. Section 103 of title 3, United States Code, relating to travel expenses of the President, is amended by striking out "$40,000" and inserting in lieu thereof "$100,000".

The CHAIRMAN. Are there any amendments to section 4? If not, the Clerk will read.

The Clerk read as follows:

SEC. 5. (a) Section 102 of title 3, United States Code, is amended by striking out "Executive Mansion" and inserting in lieu thereof "Executive Residence at the White House".

(b) (1) Section 109 of title 3, United States Code, is amended—

(A) by striking out from the section caption "EXECUTIVE MANSION" and inserting in lieu thereof "THE EXECUTIVE RESIDENCE AT THE WHITE HOUSE", and

(B) by striking out from the text "Executive Mansion" each place it appears and inserting in lieu thereof "Executive Residence at the White House".

(2) The item relating to section 109 in the table of sections for chapter 2 of such title 3 is amended by striking out "Executive Mansion" and inserting in lieu thereof "The Executive Residence at the White House".

(c) (1) Section 110 of title 3, United States Code, is amended—

(A) by inserting in the section caption, immediately before "WHITE HOUSE" the following: "THE EXECUTIVE RESIDENCE AT THE";

(B) by striking out "President's House" and inserting in lieu thereof the following: "Executive Residence at the White House"; and

(C) by striking out "White House" each place it appears and inserting in lieu thereof "Executive Residence at the White House".

(2) The item relating to section 110 in the table of sections for chapter 2 of such title is amended by inserting immediately before "White House" the following: "The Executive Residence at the".

(d) Section 202 of such title is amended by striking out "Executive Mansion and grounds" and inserting in lieu thereof "White House".

Mrs. SCHROEDER (during the reading). Mr. Chairman, I ask unanimous consent that section 5 be considered as read, printed in the RECORD, and open to amendment at any point.

Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

The CHAIRMAN. Are there amendments to section 5? If not, the Clerk will read.

The Clerk read as follows:

SEC. 6. (a) The amendments made by this Act shall apply to any fiscal year which begins on or after October 1, 1978.

(b) In the case of an individual—

(1) who is an employee of the Office of Administration as of the date of the enactment of this Act, and

(2) whose position would be terminated or whose rate of basic pay would be reduced (but for this subsection) by reason of section 107(b) of title 3, United States Code (as amended by this Act),

such employee may be allowed to continue to hold such position and receive basic pay at the rate in effect on the effective date of this Act during the period which begins on such date and ends 2 years after such date so long as such employee continues as an employee of the Office of Administration.

Mrs. SCHROEDER (during the reading). Mr. Chairman, I ask unanimous consent that section 6 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

The CHAIRMAN. Are there any amendments to section 6?

AMENDMENT OFFERED BY MR. GILMAN

Mr. GILMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GILMAN: On page 16, strike out line 25 and all that follows down through line 2 on page 17 and insert in lieu thereof the following:

SEC. 6. (a) (1) Except as provided in paragraph (2), the amendments made by this Act shall apply to the fiscal year beginning October 1, 1978, and to each of the following 4 fiscal years.

(2) The amendments made by section 5 of this Act shall take effect on the date of the enactment of this Act.

Mr. GILMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Chairman, my amendment strikes the language of section 6(a) of this bill, which authorizes for an indefinite period of time the employment of persons by the White House Office, Office of the Vice President, the Office of Administration, Domestic Policy Staff, and the Executive Residence at the White House up to the ceilings on the number and pay of Executive Office personnel imposed by this legislation.

In its place, I offer an amendment replacing the permanent statutory authorization of section 6 with a more limited 4-year authorization at the same ceilings specified in this bill. If accepted, this amendment would require the next President, consistent with the Congressional Budget Act of 1974, submit to the Congress, 1 year from the date of assuming his office, a new authorization request for Executive Office personnel and related expenses. This could easily be accomplished by the submission of legislation simply extending the time period specified in my proposed amendment. It would, however, force a President to periodically justify the size of the White House Office to the Committee on Post Office and Civil Service and to the Congress.

My amendment permits the incumbent President 4 years, or a new President a maximum of 1 year, to plan for the staff needs and expenses of his office. This, in effect, is no more than what the Committee on Post Office and Civil Service has demanded of President Carter, and I really believe, imposes no undue hardship on the President or impairs the flexibility he desires. However, without this amendment the committee's oversight function, I would suggest, will prove to be virtually meaningless in this area.

It should be noted that the strongest supporter of fixed period authorizations

and zero-based budgeting, which my amendment would certainly aid in, is the very same President who would be most immediately affected by this amendment.

Should this legislation be allowed to lapse, the current law of 1948 providing for a minimal number of staff—14—would automatically become available to the President until such time as he resubmits new authorizing legislation.

To sum up, then, this amendment—

Is totally consistent with, and in fact, aids in zero-based budgeting at the White House;

Asks no more in administrative planning by the Executive Office than is expected from any other executive agency; and

Tracks the budgetary process established by the Congressional Budget Act of 1974.

Mrs. SCHROEDER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I reluctantly rise in opposition to this amendment because the gentleman from New York (Mr. GILMAN) is a fine member of the committee and works very hard.

However, let me explain why I feel that I hope the House, in its wisdom, will turn this amendment down.

Mr. Chairman, this amendment, in essence, is a sunset provision; and I know that many people here are very interested in sunset provisions.

I come from a State which really initiated sunset provisions and became very famous for its sunset provisions. I support sunset provisions on any program on which we might want to stop at some point in the future so that we can take a look at it and analyze it and see if we are going in the right direction. However, I have great questions about whether we should put a sunset provision on the White House.

The problem is that if this bill sunsets, then all the reporting requirements and everything in the bill would stop, and we would go back prior to the law and be where we are now.

Mr. Chairman, I can imagine that each White House, whether now or in the future, is not going to be very excited about having the legislation we are passing now and the reporting requirements we have now. Therefore, I am not sure that there will be any great enthusiasm to start another bill like this one.

Consequently, Mr. Chairman, I have real questions about whether we, as the House of Representatives, want to sunset these kinds of provisions. I understand the very deep concern of the gentleman from New York about whether or not we are going to utilize all this information that we as a committee receive, as mandated by this bill; but I honestly think it is probably going to be some of the hottest reading on the Hill. We can almost guarantee that whoever is in the White House, the other side is at least going to want to look at it.

I would find it shocking that the congressional committees would not want to look at it. We heard earlier from the Appropriations Subcommittee chairman, the gentleman from Oklahoma (Mr. STEED), when he was telling about the problems of getting information and how much he would like this kind of help. I am sure he is going to be using this also.

So I think the information is going to be utilized and utilized very heavily. I have some questions as to whether or not it is even constitutional to make a sunset provision on the White House staff but even moving beyond that I question whether it is realistic because we are not talking about an agency or program but are talking about the whole third branch of the Government.

So I would urge my colleagues to vote against the amendment.

Mr. HARRIS. Mr. Chairman, will my colleague yield?

Mrs. SCHROEDER. I will be delighted to yield to the gentleman from Virginia.

Mr. HARRIS. In joining with my colleague's remarks I think in theory that any type of termination of authorization legislation can be supported but in this case what we are doing is ending an authorization which, in fact, is a limitation on appropriations.

While my colleague refers to the law of 1948, that was actually just a codification of the law of 1939. The authorization we are dealing with is actually 50 years old, and after having moved to the point of having an authorization law with regard to this very important area, to say that we are going to terminate it in 4 years, and then go clear through the process again of convincing a White House not to oppose it vigorously, or convincing our colleagues that we do need an authorization bill, I think would be counterproductive.

I hope very much that my colleagues would vote against this amendment, and that having taken 50 years to get an authorization bill for the White House staff, that we not terminate it arbitrarily.

I appreciate my colleague yielding to me.

Mr. GILMAN. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentlewoman for yielding to me. I appreciate the gentlewoman's concern about the lapsing of the entire measure, but I think it is extremely important that the White House, like any other agency, be requested to come back before the Congress to justify its staffing periodically.

Mrs. SCHROEDER. I think we can do that. Again, I remind the gentleman that this is an authorization bill under which we are collecting all sorts of data, and they have to go for an appropriation every single year. So, I would hope that our committee would be very diligent in combing through that and dealing with it.

Clearly, if they ever run outside those amounts, they will have to come in for an authorization, so that in a way there is almost an assured sunset unless we see Government going in a different trend—I cannot imagine it is going to start getting smaller, although a lot of people wish that it would. At that point, they would have to come for a new authorization, but I really hesitate to see the reporting stop, because it can be a very effective tool when we get to the appropriation process, which I think is very, very important.

Mr. GILMAN. I certainly would be the last one to want to limit that concept.

Mr. DERWINSKI. Mr. Chairman, I move to strike the last word, and I rise to oppose the amendment.

Mr. Chairman, this amendment would actually conflict with the very purposes of the bill. This bill properly provides for an authorization. It would then be followed logically by an annual appropriation. We have heard the gentleman from Oklahoma (Mr. STEED) indicate that his Appropriations Subcommittee will be able to make effective use of this measure before us, and that applying a sunset provision is unnecessary.

One should also note that of all the vehicles in Government, certainly the White House will always be with us, just as there will always be an England. Presumably, there will always be a White House, and the need for an effective staff. I think it is completely impractical to apply a sunset provision in this fashion.

I would suggest that we follow through and pass the bill. We have worked our way through in a very fine fashion. I would suggest that this amendment be rejected, and the appropriation process would more than take care of the needs.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate the gentleman's yielding to me. I am sure that the gentleman does not mean to imply that because we have termination dates on authorization bills, say as the Export-Import Bank, which we will soon consider here, that this automatically means that a program is terminated. My colleague from New York has not suggested that.

Mr. DERWINSKI. No.

Mr. ROUSSELOT. He has merely stated that his amendment would require that the White House return to the Congress and justify again these basic provisions of the legislation, something most everybody else has to do.

Mr. DERWINSKI. No, just a minute. I reclaim my time because the gentleman is misusing it.

I think the gentleman from California has to recognize there is a distinct difference between a malfunctioning bureaucracy and the Office of the President. The President is our Chief Executive. The President is a symbol of all the greatness, spirit, and majesty our country possesses. I really think it borders on pettiness for Members of Congress to take the position that they are going to be lord and master of the White House staff every 4 years.

Mr. ROUSSELOT. I do not think this legislation suggests that.

Mr. DERWINSKI. I think the scrutiny of the press and the scrutiny of the appropriations process will more than meet anyone's concern over how the White House is administered. I do not believe the sunset provision meets this need.

Mr. ROUSSELOT. Nobody is suggesting by this legislation that we will become the lords and masters of the White House. We are merely saying that the authorization should be subjected to review every 4 years. What is so difficult about that?

Mr. DERWINSKI. I suggest there is an annual review to be conducted by the Appropriations Committee. I also believe the Chief Executive, no matter who he is, should have the basic right to staff that office as he sees fit. If there is any criticism, if there is any abuse, do not worry, the press will take care of it. I do not believe the Congress, with its own record of administration in committees and individual offices, have knowledge of proper personnel use.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I think I have made my logical position against the amendment clear, but, yes, I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman from Illinois for yielding.

Certainly, I am not intending to become lord and master or for Congress to be wielding the whip over any department. However Congress does have a responsibility of authorization at the present time and of having some oversight function, and in order to properly fulfill that function, we are making a suggestion that the White House come before that authorization committee only once in 4 years, once in every 4 years, and do nothing more than the White House is suggesting that every agency in Government do.

Mr. DERWINSKI. The gentleman and I know there is an annual appropriations process to which the White House is subjected. I am certain the gentleman from New York would not want his own personal office personnel to be subject to White House scrutiny every 4 years.

Mr. GILMAN. Of course our personnel are subject to scrutiny monthly and we have to make a report and submit it for review.

Mr. DERWINSKI. The President is subjected to the appropriations process. Especially since we adopted the Pickle amendment, there will be names and titles and salaries and as clear-cut reporting as anybody could ask for.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. GILMAN).

The question was taken; and on a division (demanded by Mr. GILMAN) there were—ayes 24, noes 40.

RECORDED VOTE

Mr. GILMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 171, noes 232, not voting 31, as follows:

[Roll No. 220]

AYES—171

| | | |
|---|---|---|
| Abdnor | Bauman | Brown, Mich. |
| Anderson, Ill. | Beard, Tenn. | Brown, Ohio |
| Andrews, N. Dak. | Bedell | Broyhill |
| Archer | Bennett | Buchanan |
| Armstrong | Biaggi | Burgener |
| Ashbrook | Bowen | Butler |
| Bafalis | Breckinridge | Byron |
| | Broomfield | Caputo |
| Cederberg | Harsha | Myers, John |
| Clausen, Don H. | Hefner | Pattison |
| Cleveland | Hightower | Pease |
| Cochran | Hillis | Pike |
| Cohen | Hollenbeck | Pressler |
| Coleman | Holt | Pritchard |
| Collins, Tex. | Horton | Pursell |
| Conable | Huckaby | Quayle |
| Coughlin | Hughes | Quie |
| Cunningham | Hyde | Quillen |
| Daniel, R. W. | Ireland | Regula |
| Davis | Jacobs | Rinaldo |
| Devine | Jeffords | Risenhoover |
| Dodd | Jenrette | Robinson |
| Dornan | Johnson, Colo. | Rousselot |
| Drinan | Jones, Tenn. | Rudd |
| Duncan, Tenn. | Kasten | Ruppe |
| Early | Kelly | Russo |
| Edgar | Kemp | Santini |
| Edwards, Ala. | Ketchum | Satterfield |
| Edwards, Okla. | Keys | Sawyer |
| Emery | Lagomarsino | Schulze |
| English | Leach | Sharp |
| Erlenborn | Lent | Shuster |
| Ertel | Levitas | Skelton |
| Evans, Del. | Livingston | Smith, Nebr. |
| Evans, Ga. | Lloyd, Calif. | Spence |
| Fenwick | Lott | Stangeland |
| Findley | Lujan | Stanton |
| Fish | McClory | Steers |
| Flippo | McCloskey | Steiger |
| Florio | McCormack | Stockman |
| Flowers | McDonald | Stump |
| Foley | Madigan | Symms |
| Forsythe | Maguire | Treen |
| Fowler | Marks | Trible |
| Frenzel | Marlenee | Vander Jagt |
| Frey | Marriott | Volkmer |
| Gilman | Martin | Waggonner |
| Goldwater | Mazzoli | Walker |
| Goodling | Mikva | Walsh |
| Gradison | Miller, Ohio | Wampler |
| Grassley | Minish | Whitehurst |
| Green | Mitchell, N.Y. | Whitten |
| Guyer | Moffett | Wiggins |
| Hagedorn | Montgomery | Winn |
| Hall | Moore | Wydler |
| Hansen | Moorhead, Calif. | Wylie |
| Harkin | Mottl | Yatron |
| | | Young, Alaska |

NOES—232

| | | |
|---|---|---|
| Addabbo | D'Amours | Jones, Okla. |
| Akaka | Daniel, Dan | Jordan |
| Alexander | Danielson | Kastenmeier |
| Allen | de la Garza | Kazen |
| Ambro | Delaney | Kildee |
| Ammerman | Dellums | Kindness |
| Anderson, Calif. | Derwinski | Kostmayer |
| Andrews, N.C. | Dickinson | Krebs |
| Annunzio | Dicks | LaFalce |
| Applegate | Diggs | Latta |
| Ashley | Dingell | Le Fante |
| Aspin | Downey | Lederer |
| AuCoin | Duncan, Oreg. | Lehman |
| Badham | Eckhardt | Lloyd, Tenn. |
| Baldus | Edwards, Calif. | Long, La. |
| Beard, R.I. | Eilberg | Long, Md. |
| Beilenson | Evans, Colo. | Luken |
| Benjamin | Evans, Ind. | Lundine |
| Bevill | Fary | McDade |
| Bingham | Fascell | McEwen |
| Blanchard | Fisher | McFall |
| Blouin | Fithian | McHugh |
| Boggs | Flood | McKay |
| Boland | Flynt | McKinney |
| Bolling | Ford, Mich. | Mahon |
| Bonior | Ford, Tenn. | Mann |
| Bonker | Fountain | Markey |
| Brademas | Fuqua | Mathis |
| Brinkley | Garcia | Mattox |
| Brodhead | Gaydos | Metcalfe |
| Brooks | Gephardt | Meyner |
| Brown, Calif. | Giaimo | Michel |
| Burke, Fla. | Gibbons | Mikulski |
| Burke, Mass. | Ginn | Milford |
| Burleson, Tex. | Glickman | Miller, Calif. |
| Burlison, Mo. | Gonzalez | Mineta |
| Burton, Phillip | Gore | Mitchell, Md. |
| Carney | Gudger | Moakley |
| Carr | Hamilton | Mollohan |
| Carter | Hammer-schmidt | Moorhead, Pa. |
| Cavanaugh | Hanley | Moss |
| Chappell | Hannaford | Murphy, Ill. |
| Chisholm | Harrington | Murphy, Pa. |
| Clay | Harris | Murtha |
| Collins, Ill. | Hawkins | Myers, Gary |
| Conte | Heftel | Myers, Michael |
| Conyers | Holtzman | Natcher |
| Corcoran | Hubbard | Neal |
| Corman | Ichord | Nedzi |
| Cornell | Jenkins | Nichols |
| Cotter | Johnson, Calif. | Nix |
| | | Nolan |
| Nowak | Rooney | Taylor |
| O'Brien | Rose | Thompson |
| Oakar | Rosenthal | Traxler |
| Oberstar | Rostenkowski | Tsongas |
| Obey | Roybal | Ullman |
| Ottinger | Ryan | Vanik |
| Panetta | Scheuer | Vento |
| Patten | Schroeder | Walgren |
| Patterson | Sebelius | Watkins |
| Pepper | Seiberling | Waxman |
| Perkins | Shipley | Weaver |
| Pettis | Sikes | Weiss |
| Pickle | Simon | Whalen |
| Poage | Sisk | White |
| Preyer | Skubitz | Wilson, Bob |
| Price | Slack | Wilson, C. H. |
| Rahall | Smith, Iowa | Wilson, Tex. |
| Railsback | Snyder | Wirth |
| Rangel | Solarz | Wolff |
| Reuss | St Germain | Wright |
| Rhodes | Staggers | Yates |
| Richmond | Stark | Young, Fla. |
| Roberts | Steed | Young, Mo. |
| Roe | Stokes | Young, Tex. |
| Rogers | Stratton | Zablocki |
| Roncalio | Studds | Zeferetti |

NOT VOTING—31

| | | |
|---|---|---|
| Barnard | Gammage | Sarasin |
| Baucus | Heckler | Spellman |
| Breaux | Holland | Teague |
| Burke, Calif. | Howard | Thone |
| Burton, John | Jones, N.C. | Thornton |
| Clawson, Del | Krueger | Tucker |
| Cornwell | Leggett | Udall |
| Crane | Meeds | Van Deerlin |
| Dent | Murphy, N.Y. | Whitley |
| Derrick | Rodino | |
| Fraser | Runnels | |

The Clerk announced the following pairs:

On this vote:

Mr. Derrick for, with Mrs. Burke of California against.

Mr. Breaux for, with Mr. Krueger against.

Mr. Del Clawson for, with Mrs. Heckler against.

Mr. Crane for, with Mr. Sarasin against.

Messrs. GORE, STAGGERS, and WOLFF changed their vote from "aye" to "no."

Mr. LEVITAS changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. SYMMS

Mr. SYMMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SYMMS: On page 17, following line 15, add the following new section:

"SEC. 7. No personnel or funds authorized by this Act shall be used in any official capacity to engage in any activity for the purpose of influencing members of State legislatures with regard to ratification of proposed amendments to the Constitution of the United States."

Mr. SYMMS. Mr. Chairman, this amendment is very, very simple. It is self-explanatory in its own language.

It was brought to my attention that earlier this year Mr. Mark Siegel was dispatched by the White House to set up a lobbying operation at the North Carolina Legislature to lobby on behalf of a constitutional amendment.

It is my opinion that the taxpayers of the United States should not be required to pay for White House lobbyists to go to State legislatures and interfere with State rights and State policies with respect to our constitutional form of government. This would be applicable with respect to any constitutional amendment.

I can foresee that some day, when this Congress has a President Kemp or a President Crane to deal with, and they are out trying to lobby for a constitutional amendment on limitation of taxes for the country or a balanced budget amendment, then the administration would be precluded from trying to send White House lobbyists to State legislatures.

Mr. Chairman, I think it would be in the best interest of all concerned to accept this amendment with a minimum of controversy.

Mr. MARTIN. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from North Carolina.

Mr. MARTIN. Mr. Chairman, I want to thank the gentleman from Idaho (Mr. SYMMS) for bringing this matter to our attention regarding the lobbyists who had been sent to help the President work his will with the North Carolina Legislature.

As I understand it, though, Mark Siegel was actually the second choice. The legislature had actually wanted the President to send as his surrogate, Secretary Joseph Califano, and we regret very much that he was not able to comply with that request. He would have had a warm welcome in our State.

Mr. SYMMS. I thank the gentleman very much.

Mrs. SCHROEDER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think that this is clearly a constitutional issue again, and I think it is a limit on the President's ability to decide what his official duties truly are. We have the Hatch Act, which deals with employees, when it comes to anything that is partisan. But anything that is nonpartisan, when it comes to the White House staff, I think that is the President's idea and should be his prerogative to determine what they shall or shall not do. He is really the Commander in Chief of his staff, and I think, once he has been elected, he should have that option to determine that. We do not have these kinds of limitations upon ourselves in the House, and I think if we put this on the President we certainly should put it on the House.

I think there is an interesting censorship argument here, also. How are you going to define what persons did? It could be they could even make one illegal phone call during the day. There are all sorts of issues involved here, and I think it would not be very expeditious of the House to get into that at this time. I think that the President should be in charge of what his staff does, and we should be in charge of what our staffs do. Clearly, we have issues that deal with partisan things which will deal with that on another level. So I certainly hope that the House will vote down this amendment.

Mr. SYMMS. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentlewoman for yielding.

Mr. Chairman, I think the question is that the reason that this bill is before the House is that we have not heretofore had authorization for the White House budget in any direction from the legislative body. I think that the committee is to be commended for having brought this legislation forward, and what we are saying is that we want the White House to stay out of ratification battles, either pro or con ratification battles, on constitutional amendments.

Mrs. SCHROEDER. Mr. Chairman, I know what the gentlewoman is saying, but I think we should also then put those kinds of limitations on ourselves. I think the censorship issue and constitutional issues as to whether or not the legislative body can tell the President what his staff's legitimate duties should be becomes really a large question. I think we are stepping into that area, and it is very, very dangerous. I think what we are saying is, clearly, the staff is not to engage in partisan areas. But this is a nonpartisan area when there is an amendment that has nonpartisan cosponsorship. If the President sees that it is part of his duty as the Nation's leader and wants the staff to do that, they should. I would find it shocking if some Member or any Member of this House said they have never had a staff person call a State legislator or city councilperson or mayor or Governor, finding out what they are going to do. I think there is a fine line in that, and I think we should be very careful.

Mr. HARRIS. Mr Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Virginia.

Mr. HARRIS. I thank the gentlewoman for yielding.

Mr. Chairman, do I understand, if this amendment were adopted, that if a representative of the White House staff spoke on behalf of the President and indicated the President's support for or against the ratification of a constitutional amendment, this amendment would in effect prohibt the President from having the staff person doing that?

Mrs. SCHROEDER. That certainly is my understanding of the issue, that the staff people are muzzled in certain things; and we, the Congress, are going to define the staff people's duties rather than having the President do it.

Mr. HARRIS. I do not think it is constitutional for us even to try to do that.

Mrs. SCHROEDER. I agree with the gentleman from Virginia.

Mr. SYMMS. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, the exact language in the amendment is "in any official capacity." Therefore, this could not limit anyone from a personal point of view, but it would limit the President's taking someone and putting him on the taxpayers' payroll and going to North Carolina to lobby.

Mrs. SCHROEDER. Mr. Chairman, I would reclaim my time and say that that is the official capacity at the present time.

Mr. BAUMAN. Mr. Chairman, I move to strike the requisite number of words.

I think it is well to observe at this point the double standard the House is engaging in today. You talk a good game about wanting to cut back on inflation and spending, and yet you go right ahead and authorize more supergrades and more money.

You talk about wanting the White House staff not to engage in various sorts of activities under one administration, and you feel it is acceptable in the next.

Mr. Chairman, I can recall very well my predecessor from the First District of Maryland, who served with great distinction in this House and in several positions in the Cabinet of the President of the United States, and was appointed a counselor to the President of the United States on the White House staff. Because he supposedly was engaging part time in actions, regarding political matters, he was forced from the White House staff by many of the people who are opposing this amendment and other amendments today. They called for his dismissal, saying he was engaged in politics and the taxpayers' funds could not be used.

Mr. Chairman, if Rogers C. B. Morton could not be a counselor to the President of the United States because he might possibly engage in some political act during the course of his White House stay, it seems to me the restriction of the amendment of the gentleman from Idaho is not at all unreasonable. We know the White House has been using taxpayers' funds to advance political causes, and part of this has gone for promoting the ratification of various amendments to the Constitution.

If the President wants to do that on his own, that is his right; but he should not use the funds of taxpayers for political purposes. That is what the majority party of this House said a few years ago. If it was right then, it is right now.

Mr. GARY A. MYERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to ask the gentleman from Idaho (Mr. SYMMS) a question or two on this subject. Is it the gentleman's interpretation of this amendment that, an administration—and I am not making a suggestion that this administration would do this—but is it the gentleman's interpretation that if this amendment were adopted and if an administration were to use its staff to effect a boycott in the sense that it denies some States certain types of otherwise earned participation in Federal programs because of their action or inaction in response to a pending Constitution amendment, that that would violate this provision of the law?

Mr. SYMMS. Mr. Chairman, if the gentleman will yield, I thank the gentleman for bringing up that question.

I think that is something that would go beyond the scope of what this amendment would be able to do.

All this amendment would be able to do would be to prohibit engaging in bona fide lobbying activities with respect to constitutional amendments by State legislators in trying to advance their point of view.

With respect to what goes on right now, as the gentleman is suggesting when he

mentions that approach, I do not think we could stop everything. However, we could stop someone from going to North Carolina and setting up lobbying operations to lobby on behalf of or against a certain constitutional amendment.

Mr. GARY A. MYERS. It seems to me that this rather fair amendment does not go quite far enough, then. Certainly there are powers within the administration to deny the appropriate participation in Federal programs to those States which do not knuckle under on a particular administration's attitude with respect to a constitutional amendment.

I happen to personally feel that both the National Republican Party and the National Democratic Party erred in taking a national view of a particular constitutional amendment because I believe that in respect to the proper amending process of the Constitution, the Federal Government had already performed its function, and that the rest ought to be left up to the individual States. Therefore, I happen to differ with both my party and with the other party with respect to trying to totally federalize the procedure for amending the Constitution. Furthermore, I am concerned that some administration at some point in time might decide that it is a proper course to deny States their rightful participation in Federal programs if certain State legislators do not fall in line with a current administration's thinking on a constitutional amendment.

Further I am concerned that many Members will cast their votes on this particular amendment based on their opinions of the merits of the constitutional amendment currently pending before the States rather than the broader question of the proper use of Federal facilities in attempting to deny or supersede the States constitutional rights.

I would hope the Symms amendment would pass. I would hope that the proper interpretation would mean that any lobbying effort, direct or indirect, whether done in the State or outside the State by a Federal Government administration, would be illegal.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. SYMMS).

The question was taken; and on a division (demanded by Mr. SYMMS) there were—ayes 34; noes 64.

RECORDED VOTE

Mr. SYMMS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 85, noes 320, not voting 29, as follows:

[Roll No. 221]

AYES—85

| | | |
|---|---|---|
| Abdnor | Cochran | Gibbons |
| Archer | Collins, Tex. | Gilman |
| Armstrong | Corcoran | Grassley |
| Ashbrook | Daniel, Dan | Guyer |
| Badham | Daniel, R. W. | Hagedorn |
| Bafalis | Derrick | Hammer-schmidt |
| Bauman | Devine | Hansen |
| Bennett | Dickinson | Harsha |
| Bevill | Dornan | Hightower |
| Bowen | Duncan, Tenn. | Hubbard |
| Broomfield | Edwards, Okla. | Hyde |
| Brown, Ohio | English | Ichord |
| Burgener | Erlenborn | Kelly |
| Butler | Frey | Kemp |
| Ketchum | Moorhead, Calif. | Stangeland |
| Kindness | Mottl | Stump |
| Lagomarsino | Myers, Gary | Symms |
| Latta | Quillen | Taylor |
| Lent | Rhodes | Treen |
| Livingston | Risenhoover | Trible |
| Lott | Robinson | Vander Jagt |
| McDonald | Rousselot | Walsh |
| Madigan | Rudd | Wampler |
| Mann | Satterfield | Watkins |
| Marlenee | Schulze | Wilson, Bob |
| Marriott | Shuster | Winn |
| Michel | Snyder | Wydler |
| Miller, Ohio | Spence | Young, Alaska |
| | | Zeferetti |

NOES—320

| | | |
|---|---|---|
| Addabbo | Early | Lloyd, Tenn. |
| Akaka | Eckhardt | Long, La. |
| Alexander | Edgar | Long, Md. |
| Allen | Edwards, Ala. | Lujan |
| Ambro | Edwards, Calif. | Luken |
| Ammerman | Eilberg | Lundine |
| Anderson, Calif. | Emery | McClory |
| Anderson, Ill. | Ertel | McCloskey |
| Andrews, N.C. | Evans, Colo. | McCormack |
| Andrews, N. Dak. | Evans, Del. | McDade |
| Annunzio | Evans, Ga. | McEwen |
| Applegate | Evans, Ind. | McFall |
| Ashley | Fary | McHugh |
| Aspin | Fascell | McKay |
| AuCoin | Fenwick | McKinney |
| Baldus | Findley | Maguire |
| Beard, R.I. | Fish | Mahon |
| Beard, Tenn. | Fisher | Markey |
| Bedell | Fithian | Marks |
| Bellenson | Flippo | Martin |
| Benjamin | Flood | Mathis |
| Biaggi | Florio | Mattox |
| Bingham | Flowers | Mazzoli |
| Blanchard | Flynt | Metcalfe |
| Blouin | Foley | Meyner |
| Boggs | Ford, Mich. | Mikulski |
| Boland | Ford, Tenn. | Mikva |
| Bolling | Forsythe | Milford |
| Bonior | Fountain | Miller, Calif. |
| Bonker | Fowler | Mineta |
| Brademas | Fraser | Minish |
| Breaux | Frenzel | Mitchell, Md. |
| Breckinridge | Fuqua | Mitchell, N.Y. |
| Brinkley | Garcia | Moakley |
| Brodhead | Gaydos | Moffett |
| Brooks | Gephardt | Mollohan |
| Brown, Calif. | Ginn | Montgomery |
| Brown, Mich. | Glickman | Moore |
| Broyhill | Goldwater | Moorhead, Pa. |
| Buchanan | Gonzalez | Moss |
| Burke, Fla. | Goodling | Murphy, Ill. |
| Burke, Mass. | Gore | Murphy, Pa. |
| Burleson, Tex. | Gradison | Murtha |
| Burlison, Mo. | Green | Myers, John |
| Burton, John | Gudger | Myers, Michael |
| Burton, Phillip | Hall | Natcher |
| Byron | Hamilton | Neal |
| Caputo | Hanley | Nedzi |
| Carney | Hannaford | Nichols |
| Carr | Harkin | Nix |
| Carter | Harrington | Nolan |
| Cavanaugh | Harris | Nowak |
| Cederberg | Hawkins | O'Brien |
| Chappell | Hefner | Oakar |
| Chisholm | Heftel | Oberstar |
| Clausen, Don H. | Hillis | Obey |
| Clay | Hollenbeck | Ottinger |
| Cleveland | Holt | Panetta |
| Cohen | Holtzman | Patten |
| Coleman | Horton | Patterson |
| Collins, Ill. | Huckaby | Pattison |
| Conable | Hughes | Pease |
| Conte | Ireland | Pepper |
| Conyers | Jacobs | Perkins |
| Corman | Jeffords | Pettis |
| Cornell | Jenkins | Pickle |
| Cotter | Jenrette | Pike |
| Coughlin | Johnson, Calif. | Poage |
| Cunningham | Johnson, Colo. | Pressler |
| D'Amours | Jones, Okla. | Preyer |
| Danielson | Jones, Tenn. | Price |
| Davis | Jordan | Pritchard |
| de la Garza | Kasten | Pursell |
| Delaney | Kastenmeier | Quayle |
| Dellums | Kazen | Quie |
| Derwinski | Keys | Rahall |
| Dicks | Kildee | Railsback |
| Diggs | Kostmayer | Rangel |
| Dingell | Krebs | Regula |
| Dodd | LaFalce | Reuss |
| Downey | Le Fante | Richmond |
| Drinan | Leach | Rinaldo |
| Duncan, Oreg. | Lederer | Roberts |
| | Lehman | Roe |
| | Levitas | Rogers |
| | Lloyd, Calif. | Roncalio |
| Rooney | Smith, Iowa | Walgren |
| Rose | Smith, Nebr. | Walker |
| Rosenthal | Solarz | Waxman |
| Rostenkowski | St Germain | Weaver |
| Roybal | Staggers | Weiss |
| Ruppe | Stanton | Whalen |
| Russo | Stark | White |
| Ryan | Steed | Whitehurst |
| Santini | Steers | Whitten |
| Sawyer | Steiger | Wilson, C. H. |
| Scheuer | Stockman | Wilson, Tex. |
| Schroeder | Stokes | Wirth |
| Sebelius | Stratton | Wolff |
| Seiberling | Studds | Wright |
| Sharp | Thompson | Wylie |
| Shipley | Traxler | Yates |
| Sikes | Tsongas | Yatron |
| Simon | Ullman | Young, Fla. |
| Sisk | Vanik | Young, Mo. |
| Skelton | Vento | Young, Tex. |
| Skubitz | Volkmer | Zablocki |
| Slack | Waggonner | |

NOT VOTING—29

| | | |
|---|---|---|
| Barnard | Holland | Spellman |
| Baucus | Howard | Teague |
| Burke, Calif. | Jones, N.C. | Thone |
| Clawson, Del | Krueger | Thornton |
| Cornwell | Leggett | Tucker |
| Crane | Meeds | Udall |
| Dent | Murphy, N.Y. | Van Deerlin |
| Gammage | Rodino | Whitley |
| Giaimo | Runnels | Wiggins |
| Heckler | Sarasin | |

Mr. YOUNG of Texas and Mrs. SMITH of Nebraska changed their vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. If there are no additional amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11003) to clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes, pursuant to House Resolution 1127, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. DERWINSKI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 265, nays 134, not voting 35, as follows:

[Roll No. 222]

YEAS—265

| | | |
|---|---|---|
| Addabbo | Anderson, Calif. | Ashley |
| Akaka | Anderson, Ill. | Aspin |
| Alexander | Andrews, N.C. | AuCoin |
| Allen | Annunzio | Badham |
| Ambro | Applegate | Baldus |
| Ammerman | | Beard, R.I. |

| | | |
|---|---|---|
| Bedell | Gore | Perkins |
| Bellenson | Gudger | Pettis |
| Benjamin | Hamilton | Pickle |
| Bennett | Hanley | Pike |
| Bevill | Hannaford | Poage |
| Biaggi | Harkin | Preyer |
| Bingham | Harrington | Price |
| Blanchard | Harris | Pritchard |
| Blouin | Hawkins | Pursell |
| Boggs | Hefner | Quie |
| Boland | Heftel | Quillen |
| Bolling | Hillis | Rahall |
| Bonior | Hughes | Rangel |
| Bonker | Hyde | Reuss |
| Bowen | Ichord | Rhodes |
| Brademas | Jenkins | Richmond |
| Breaux | Johnson, Calif. | Roe |
| Breckinridge | Johnson, Colo. | Rogers |
| Brinkley | Jones, Okla. | Roncalio |
| Brodhead | Jordan | Rooney |
| Brooks | Kastenmeier | Rose |
| Broomfield | Kazen | Rosenthal |
| Brown, Calif. | Ketchum | Rostenkowski |
| Brown, Ohio | Keys | Rousselot |
| Burgener | Kildee | Roybal |
| Burke, Fla. | Kindness | Ruppe |
| Burke, Mass. | Krebs | Russo |
| Burlison, Mo. | LaFalce | Ryan |
| Burton, John | Leggett | Santini |
| Burton, Phillip | Lehman | Scheuer |
| Butler | Levitas | Schroeder |
| Carney | Lloyd, Calif. | Seiberling |
| Carr | Long, La. | Sharp |
| Cavanaugh | Lott | Shipley |
| Cederberg | Lundine | Sikes |
| Chisholm | McClory | Simon |
| Clausen, Don H. | McCloskey | Sisk |
| Collins, Ill. | McCormack | Skelton |
| Conable | McEwen | Slack |
| Conte | McFall | Smith, Iowa |
| Conyers | McHugh | Solarz |
| Corcoran | McKay | St Germain |
| Corman | McKinney | Staggers |
| Cornell | Madigan | Stanton |
| Cotter | Maguire | Stark |
| Danielson | Mahon | Steed |
| de la Garza | Mann | Steers |
| Delaney | Markey | Steiger |
| Dellums | Marks | Stockman |
| Derwinski | Mattox | Stokes |
| Dicks | Metcalfe | Stratton |
| Diggs | Meyner | Studds |
| Dingell | Mikulski | Taylor |
| Dodd | Mikva | Thompson |
| Downey | Milford | Traxler |
| Duncan, Oreg. | Miller, Calif. | Treen |
| Early | Mineta | Tsongas |
| Eckhardt | Minish | Ullman |
| Edwards, Calif. | Moakley | Vanik |
| Eilberg | Moffett | Vento |
| Evans, Colo. | Mollohan | Volkmer |
| Fary | Montgomery | Waggonner |
| Fascell | Moorhead, Pa. | Walgren |
| Findley | Moss | Wampler |
| Fisher | Murphy, Ill. | Watkins |
| Flood | Murtha | Waxman |
| Florio | Myers, Gary | Weaver |
| Flynt | Natcher | Weiss |
| Ford, Mich. | Neal | Whalen |
| Ford, Tenn. | Nedzi | White |
| Fountain | Nix | Whitehurst |
| Fowler | Nolan | Whitten |
| Fraser | Nowak | Wiggins |
| Frenzel | O'Brien | Wilson, Bob |
| Fuqua | Oakar | Wilson, C. H. |
| Garcia | Oberstar | Wilson, Tex. |
| Gaydos | Obey | Wirth |
| Gephardt | Ottinger | Wolff |
| Gibbons | Panetta | Wright |
| Gilman | Patten | Young, Mo. |
| Ginn | Patterson | Young, Tex. |
| Gonzalez | Pattison | Zablocki |
| | Pease | Zeferetti |

NAYS—134

| | | |
|---|---|---|
| Abdnor | Cochran | Edwards, Okla. |
| Andrews, N. Dak. | Cohen | English |
| Archer | Coleman | Erlenborn |
| Armstrong | Collins, Tex. | Ertel |
| Ashbrook | Coughlin | Evans, Del. |
| Bafalis | Cunningham | Evans, Ga. |
| Bauman | D'Amours | Evans, Ind. |
| Beard, Tenn. | Daniel, Dan | Fenwick |
| Brown, Mich. | Daniel, R. W. | Fish |
| Broyhill | Davis | Fithian |
| Buchanan | Derrick | Flippo |
| Burleson, Tex. | Devine | Flowers |
| Byron | Dickinson | Forsythe |
| Caputo | Dornan | Frey |
| Carter | Drinan | Glickman |
| Chappell | Duncan, Tenn. | Goldwater |
| Cleveland | Edgar | Goodling |
| | Edwards, Ala. | Gradison |
| Grassley | Leach | Rinaldo |
| Green | Lederer | Risenhoover |
| Guyer | Lent | Roberts |
| Hagedorn | Livingston | Robinson |
| Hall | Lloyd, Tenn. | Rudd |
| Hammer-schmidt | Long, Md. | Satterfield |
| | Lujan | Sawyer |
| Hansen | McDade | Schulze |
| Harsha | McDonald | Sebelius |
| Hightower | Marlenee | Shuster |
| Hollenbeck | Marriott | Smith, Nebr. |
| Holt | Martin | Snyder |
| Holtzman | Mathis | Spence |
| Horton | Michel | Stangeland |
| Hubbard | Miller, Ohio | Stump |
| Huckaby | Mitchell, N.Y. | Symms |
| Ireland | Moore | Trible |
| Jacobs | Moorhead, Calif. | Vander Jagt |
| Jeffords | Mottl | Walker |
| Jenrette | Murphy, Pa. | Walsh |
| Jones, Tenn. | Myers, John | Winn |
| Kasten | Myers, Michael | Wydler |
| Kelly | Nichols | Wylie |
| Kemp | Pressler | Yates |
| Kostmayer | Quayle | Yatron |
| Lagomarsino | Railsback | Young, Alaska |
| Latta | Regula | Young, Fla. |
| Le Fante | | |

NOT VOTING—35

| | | |
|---|---|---|
| Barnard | Heckler | Runnels |
| Baucus | Holland | Sarasin |
| Burke, Calif. | Howard | Skubitz |
| Clawson, Del | Jones, N.C. | Spellman |
| Clay | Krueger | Teague |
| Cornwell | Luken | Thone |
| Crane | Mazzoli | Thornton |
| Dent | Meeds | Tucker |
| Emery | Mitchell, Md. | Udall |
| Foley | Murphy, N.Y. | Van Deerlin |
| Gammage | Pepper | Whitley |
| Giaimo | Rodino | |

The Clerk announced the following pairs:

On this vote:

Mr. Krueger for, with Mr. Gammage against.

Until further notice:

Mrs. Burke of California with Mr. Giaimo.
Mr. Dent with Mr. Thornton.
Mr. Teague with Mr. Runnels.
Mr. Udall with Mrs. Spellman.
Mr. Murphy of New York with Mr. Rodino.
Mr. Pepper with Mr. Cornwell.
Mr. Van Deerlin with Mr. Baucus.
Mr. Foley with Mr. Tucker.
Mr. Jones of North Carolina with Mr. Clay.
Mr. Whitley with Mr. Del Clawson.
Mr. Luken with Mr. Emery.
Mr. Howard with Mr. Crane.
Mr. Barnard with Mrs. Heckler.
Mr. Mitchell of Maryland with Mr. Mazzoli.
Mr. Meeds with Mr. Skubitz.
Mr. Holland with Mr. Thone.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill, H.R. 11003, just passed.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

## AUTHORIZING CLERK TO MAKE CERTAIN CORRECTIONS AND CHANGES IN ENGROSSMENT OF H.R. 11003

Mr. HARRIS. Mr. Speaker, I ask unanimous consent that the Clerk may be authorized and directed to make such changes in section numbers, cross references, and other technical and conforming corrections in the engrossment of H.R. 11003 as may be required to reflect the actions of the House.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

## PERSONAL EXPLANATION

Mr. FOLEY. Mr. Speaker, on the last vote, I was unable to gain the Chair's attention. If I had been recognized, I would have voted "yea."

## PROJECTS FOR IMPROVEMENTS OF RIVERS AND HARBORS BY CONTRACT

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7744) to amend the acts of August 11, 1888, and March 2, 1919, pertaining to carrying out projects for improvements of rivers and harbors by contract or otherwise, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, line 21, after "fleet" insert "fully".

Page 2, line 21, after "operational" insert ", as determined by the Secretary,".

Page 4, lines 11 and 12, strike out "or replacement".

Page 4, lines 23 and 24, strike out "or replacement".

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. DON H. CLAUSEN. Reserving the right to object, Mr. Speaker, and I do not intend to object, would the gentleman from Texas be kind enough to explain this legislation to the House?

Mr. ROBERTS. If the gentleman will yield, Mr. Speaker, the purpose of this bill is to establish the policy that dredging work associated with Corps of Engineers navigation projects should be performed by contract if private industry has the capability to do the work and it can be done at reasonable prices and in a timely manner. The bill also clarifies the procedure to be used in preparing the Government estimate of the cost of doing a particular job.

The requirement that work shall be done by contract is to be phased in over a 4-year period. By the end of the 4-year period all work, other than that reserved for the minimum fleet, will be advertised for bids. As private industry demonstrates its capability to perform the work, the Corps' dredge fleet will be gradually reduced to a minimum fleet capable of performing emergency and national defense work. The Corps of Engineers is authorized to exempt work from the provisions of the bill and assign it to the minimum fleet so as to keep that fleet operational. The Corps can retain as much of the fleet over and above the minimum fleet as it determines necessary, for as long as it determines neces-

sary, in order to insure the combined Corps-private industry capability to meet national dredging needs. For this additional fleet, however, work may not be exempted from the provisions of the bill.

This bill passed the House by an overwhelming majority on September 27 of last year. The Senate made two minor amendments to it. One, of a technical nature, makes it clear that the minimum fleet is to be kept fully operational and that the determination of the amount of work necessary to accomplish this will be determined by the Secretary of the Army. The other amendment provides that in determining either the comparable cost of performing dredging work by Government plant or the cost of a well equipped contractor doing the work, a proper charge for depreciation, rather than for depreciation or replacement, will be taken into account. Our Committee has no objection to these amendments.

Mr. Speaker, I urge passage of H.R. 7744 as amended by the Senate.

Mr. DON H. CLAUSEN. Mr. Speaker, under my reservation of objection, I want to state that we, on the minority side, concur with the statement which the gentleman from Texas (Mr. ROBERTS) has presented.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

## PERSONAL EXPLANATION

Mr. PEPPER. Mr. Speaker, I reached the floor just as the last vote was concluded. Had I been present, I would have voted "aye."

## PRIVILEGED MOTION RELATING TO CLOSING TO THE PUBLIC CONFERENCE COMMITTEE MEETINGS ON H.R. 5289, RELATING TO NATURAL GAS REGULATION

Mr. MOFFETT. Mr. Speaker, I offer a privileged motion.

The Clerk read the motion as follows:

Mr. MOFFETT moves, pursuant to rule XXVIII 6(a) of the House rules that the conference committee meetings between the House and the Senate on H.R. 5289, relating to natural gas regulation, be closed to the public, provided however, that any sitting Member of Congress shall have the right to attend any closed or open meeting.

The SPEAKER. The gentleman from Connecticut (Mr. MOFFETT) has presented a privileged motion, and has control of the time.

The gentleman from Connecticut is recognized for 1 hour.

Mr. MOFFETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the motion before the House obviously relates to the processes being followed by the conference committee on energy. I want to say at the outset that I have been extremely proud to be a member of the conference, and have felt a great deal of respect for the way the Ad Hoc Committee on Energy was put together by the Speaker, and chaired by the distinguished gentleman from Ohio (Mr. ASHLEY). We know that everyone wants an energy policy to vote on, and the sooner the better, for political reasons, for international economic reasons, and for many other reasons. We all have different views about what that policy should be, especially with regard to the difficult issue of natural gas pricing.

This is not a motion that in any way intends to inhibit or prohibit any informal discussions in which no substantive conclusions are reached. But, this has clearly become a closed conference in violation of the House rules.

Rule XXVIII 6(a) reads:

Each conference committee meeting between the House and Senate shall be open to the public except when the House, in open session, has determined by a rollcall vote of a majority of those Members voting that all or part of the meeting shall be closed to the public.

Mr. Speaker, the conference on energy has met for many, many hours this year, members of the conference from both parties. There has been approximately 1 hour of discussion that has been open to the public and the press. Some Members have been excluded from the meetings. I am not one of those Members. I have taken part in some of those closed discussions.

Before Easter I told the distinguished chairman of the conference and the distinguished and able chairman of the Committee on Interstate and Foreign Commerce, on which I am proud to serve, that I felt I had to continue to raise objections to closed meetings, and that I was going to take my objections before my colleagues in the House. I think the issue here is, are we in violation of the House rules? I think the answer is clearly yes. Are we setting a dangerous precedent? The answer is clearly yes.

Let me present a chronology of the committee activities. On November 1, the conference committee completed action on most of the conversation proposals. Up to that point, most of the sessions had been held in public, with the minority having a good deal of participation. On November 11, the coal conversion portions were approved. On December 1, the utility rate reform portions were approved, and natural gas deliberations were begun.

During the first week of December the conference committee met in public session on December 1, 5, 6, and 7. The conference committee also met in public session on December 12 and 21. Since that time, December 21, there has been one public meeting of the conference committee. That occurred just before the Easter recess, on March 22, in which we had about an hour, all told, of discussion before the public, and where we did not have the opportunity, because of the brevity of the session, to ask important questions about the proposals before us.

It is so easy to say, Mr. Speaker and colleagues, that we need a bill so badly that if secret sessions will produce that bill, we ought to go that route.

We all yearn for a policy. But to have 1 hour of discussion before the public, when the intent of this body has been clear that we should do things before the public in the conference, unless there has been a vote of this body, is clearly I think a violation of the House rules. We have to abide by those rules and resist any attempt to institutionalize a secret conference by moving the conference downtown, which has happened in the last few days.

Clearly for the President to call the conferees or even key conferees to the White House is permissible and not something we want to discourage. Clearly it is proper for the President to exhort and recommend or even plead or scold conferees and that is not something we would seek to prohibit. But when the President moves the conference into the Roosevelt Room of the White House, out of view of the public and out of the view of many other conferees, we clearly have given up something in the legislative branch and set a bad precedent and moved the conference downtown.

So this has gone beyond the President taking an active role and saying, "Here are the parameters I could accept." We have Dr. Schlesinger there laying down proposals while the key conferees are sitting in the room. That is holding the conference in secret even though they have the key conferees in. It is not as though there are not alternatives. I in fact have moved in the small amount of time we have had in public conference that we report out the conservation pieces. But I don't intend to dwell on that approach nor do I intend to use time today to discuss my views on gas prices. That is not my intent and I do not think the intent of the gentleman from Ohio (Mr. BROWN) who is cosponsoring this with me.

Those who argue that secrecy is best must explain what secrecy has done for us in the past 5 months. What has it produced? We produced the coal and utility and conservation pieces, in public sessions and I know that the natural gas is tougher, but in 5 months of secret sessions the conference has not come any nearer to solution, so we are not that much closer. Members are not that much more informed and neither is the public.

I think open sessions would be more and not less helpful, but that is not the issue. But whether they are or are not more helpful, the House rules need to be upheld.

Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as I think all of my colleagues know, and all of my friends on

the other side who are colleagues of both the gentleman from Connecticut and myself know, the two of us do not often agree on issues of a basic philosophical nature, although we are good personal friends, but on this issue we see exactly eye to eye.

This body, the House of Representatives, which flows almost directly from the British Parliament, has certain physical characteristics that institutionalize world political history. One of the significant physical characteristics we meet in this room is the gallery where the press can come, along with the general public, and watch what we do, listen to what we say, and hold us accountable for the way in which we perform.

As a matter of fact, a few years ago, there was some disruption in the country and it was suggested that the gallery be closed off with glass or plastic or something that might protect us in case somebody in the public would decide he wanted to do us physical harm. To the credit of a previous Speaker and other leaders of Congress, the idea has never been put into effect. The gallery is open, and if our arms were long enough to reach, we could shake hands with the public in the gallery. And we could talk to the people in the press, as we do, and they could talk to us, although the rules suggest that is not appropriate.

We are all in the same room sharing the responsibility of Government.

There is another thing that is very significant in this room and that is the podium here from which the President or other heads of state speak when we meet in joint session. It is lower than the position of the Speaker of the House who represents us all in this body; lower than the chair that is brought in for the presiding officer of the Senate. And it is from that lower podium that the President of the United States, when he is invited—and only when he is invited—speaks to us as representatives of the people. He cannot come here at his own request. In the tradition of the British Parliament, the King or the Queen has no place in the parliamentary body. If invited, of course, he can come and present to us his views. And, constitutionally, the President must be welcomed to tell us about the state of the Nation at least once in each Congress.

That is symbolism but it is important.

The gallery is symbolism because we cannot get all the American people in here. But it is important.

What I see going on right now is that the conferees of this body and the other body have been taken down to the White House. Not all of them, just a few, just the selected ones. Whoever they are, they have been taken down there to craft some kind of an agreement between two opposing views that represent a compromise of some on the Senate side and a compromise of some on the House side the two versions do not agree and each body rejected the other's viewpoint. Now they have been brought down to the White House to the Roosevelt Room.

Now if some member of the press or some member of the public wanted to go to the Roosevelt Room in the White House he would be stopped immediately by one of the guards. He could not go in if he wanted to.

The press can go into the press room at the White House if they have the proper credentials but they cannot go into the Roosevelt Room so they cannot know what is going on.

I made the mistake of going into the Roosevelt Room the other morning when we as a group on my side of the aisle went to the White House to ask the President if he needed help from us in getting an agreement among the conferees, since progress seems to have been elusive for him by the method that has been used for the past months.

This process that has been used, the "behind closed doors" meetings among only selected conferees, has so far not been terribly productive of an agreement by the conference to give us anything that could provide us with an energy bill.

The gentleman from Connecticut (Mr. MOFFETT) is more fortunate than I. He could have participated in the closed conference. Perhaps he is also a little bit more stalwart than I because, as a matter of conscience, he chose not to do so. I would like to have been included because I was designated by this body as a conferee. I would like to be in on the agreement reached. I think any other Member who has ever been designated on a conference would like to feel that he had the right to sit in on the crafting of the agreement. Why not? It is our responsibility as Members of the Congress, majority or minority, when we are put on the conference to undertake such a responsibility.

As I say, maybe this was not a conference, maybe this was just a group meeting.

But presiding over this group, as I understand it, since I was not there, is the man who was designated chairman of the conference; my chairman, HARLEY STAGGERS, chairman of the House Committee on Interstate and Foreign Commerce.

Now, the gentleman from West Virginia (Mr. STAGGERS), presided over the first open conference we had on the energy issue, the EPAA bill. I served on that conference right after the Arabs embargoed the oil, and we had to act on the problem quickly. But we had an open conference. It was a different administration, but the conference was open. I dare say, had that administration, however, said to the chairman of the conference, "You bring some of the conferees down to the White House and we will work this out," that my chairman would have objected.

I would have objected, and so would the other members of the conference.

Mr. MOSS. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from California.

Mr. MOSS. I thank the gentleman for yielding.

As another member of that conference, I would say that if the gentleman from Ohio had not objected, I would have done so most vigorously.

Mr. BROWN of Ohio. Of course the gentleman would have. I know that is true, because the gentleman from California is one of the leaders in the Committee on Government Operations and was, before I ever came to this Congress, a proponent of sunshine legislation.

If this process were going on in a State capital, say, Columbus, Ohio, where I served as the president of the Sigma Delta Chi chapter, the professional society of journalists, I would have had that chapter meet, and we would have passed a resolution against this kind of behavior by a governor, Democrat or Republican, or a legislature that would submit to such things.

What has gone on here is more than a vamp meeting. The chairman of the conference is presiding. The ranking Senator on the conference is present, and some others. The Secretary of the Department of Energy is sitting in on the meeting and, as I understand, the chairman of an independent regulatory commission, the Federal Energy Regulatory Commission (set up to be independent) is also involved. The public? No. The press? No. The rest of us who are on the conference? No. Other Members of the Congress? I think they could probably get into the White House, but it might be a little embarrassing unless they were cleared that morning to get in to participate in the conference.

This is wrong. It not only is wrong but it raises serious questions of precedent for the future. It raises serious questions of propriety. It is not appropriate for deals to be made and an agreement to be crafted, and a majority of the conference to be put together and then have the rest of us told that we are being presented with a fait accompli.

The Republicans have been invited to come to a couple of such closed-door meetings and told what the agreement was that the House conferees would present to the conference. We have said that we could not support it. But, we did go to the closed meeting, so maybe we are slightly tainted.

Let me ask the Members, if it were the Committee on Appropriations and it was unable to reach agreement between the House and the Senate, and the President said, "Well, come down to the White House and we will talk about it—not all of you on the conference, now, just some of you. We will talk about what you are interested in and what I am interested in. Maybe we can work some things out here, and come to an agreement." How would the Members feel about that? Would they think that the Committee on Appropriations was fully working in the national interest? Or would they think some of the members of conference of the Committee on Appropriations were having a little more influence than some of the others on the conference. The Members might feel, and I might feel, very suspect at the product that came out of such a conference.

Both the gentleman from Connecticut (Mr. MOFFETT) and I oppose closing the conference, but the motion is only the formal vehicle for bringing these matters to the attention of the House. I vigorously protest the destruction of legitimate, open legislative processes. I think this is wrong. This resolution is the only

vehicle I can think of for us to bring it to the full House and let the House vote on whether it wants an open or closed conference. If you want an open conference, you must vote "no" on the resolution that has been presented. Then, hopefully, by being either a unanimous or overwhelming majority vote, we can say to the conferees, "Come back up here on the hill where the House of Representatives and the Senate belong, in the U.S. Capitol Building where the Executive can come only when invited, where the public can watch what we do, and the press can quote what we say." Then, whatever the results—whether the gentleman from Connecticut (Mr. MOFFETT), is satisfied with the results or whether I am, or whether we are both dissatisfied or whether we are pleased together on the results—at least the people will have some idea about how that occurred. They will know our arguments and they will make a decision about us, about the process, about the institution itself. We have some judgments being passed on this institution and its Members and about our products, the legislation that we pass. That is, pardon my saying it, the American way, a tradition that has been established over a long, historic struggle in many other nations of the world. It has been won over the years and brought us to the point where we have these rules and regulations now. It is either worth preserving the fruits of that struggle or it is not worth it. For me, it is worth it clearly. I could not let this process of secret meetings go on and simply ignore it. The issue is more important than even the energy bill itself.

Mr. MOFFETT. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Speaker, I rise to ask you to vote no on the resolution introduced by the gentleman from Connecticut and tell you at least what I think it means to those of us who are not conferees. In my case, I worked for some time on the tax portions of the bill in our committee. For many months, since that time, the bill has been a major topic of conversation. Now, as we come closer to a compromise, I think we've got to realize that, whether we like or dislike the compromise, it's going to come to the House floor like a whistle in a high wind, with minimum warning, and with pressure on all sides to pass it quickly.

If you recall with me, we debated that bill at least 3 days on the floor of the House. When it comes out of conference, we will get an hour. One hour. If the press and interested Members have not even been allowed to attend the negotiating sessions, I do not see how we can discharge our responsibility of making a sound judgment. Whether we ought to support the bill or parts of the bill or none of the bill, there just would not be enough time even to know what the bill says—let alone to decide whether we agree with it.

The question is raised, do I not trust the people negotiating? I have to say to my friends on the opposite side of the aisle that I did not trust Mr. Schlesinger when he was on their side, during the Vietnam war, and I do not believe that recruiting him into our camp lends him any certificate of honesty.

I think, obviously, we ought to have his views, and I think we should also get those of the oil industry. I don't trust them, either, but I would like to read the debate, study the compromises, and know how to vote when we finally see the bill. The only way I can do that is if the negotiations for compromise take place in the sunshine.

Mr. Speaker, I urge that we vote no and send the White House and the selected conferees a message, that we would like to know what is going on and make this activity a part of the deliberations of the whole House of Representatives.

Mr. MOFFETT. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. Mr. Speaker, like my colleagues, the gentleman from Connecticut and the gentleman from Ohio who are sponsors of this resolution, I am a member of the Subcommittee on Energy and Power of the Committee on Commerce. Those of us who have worked on energy issues over the last several years are dismayed over the turn of events we have had in the conference and the secret nature of negotiations surrounding the natural gas section of the National Energy Act.

We realize, of course, this is a very complicated issue involving highly technical questions, and that the close division of views on the Senate side has undoubtedly made the negotiation process very difficult.

We also appreciate the patience of the conferees, and the persistence that has been demonstrated by the conferees over the past several months in seeking to work out a reasonable compromise.

We also understand that closed caucuses are often necessary so that different sides can more freely explore policy or strategy options.

In nearly 4 months, however, as the gentleman from Connecticut indicated, there has only been one open conference session. And it was brief. It did not provide any opportunity for either a complete explanation or a discussion of the proposals that were offered. Since that time there has not been another session to which all conferees have been invited, although we understand there have been frequent meetings involving select groups of conferees.

Now, I, and I think I share these views with quite a number of other Members, feel that it is essential now that any further work be done in public session.

This is especially important because some of the House conferees have endorsed proposals that vary greatly from the House bill, and we are going to be dealing with these proposals when they come back to this body without a record of public debate if this process continues. We would expect a record of public debate to be available when we are asked to consider these matters on the floor.

What is at stake here is whether we are going to conduct the public business in public. We have had reforms in recent years providing that we should not finalize legislation behind closed doors. But that is what is going on here. We should not have the doors open only when it is convenient and only when it is not important. Those doors should be open, especially when matters of such urgency as these and of such national importance as these are debated and decided on.

So, Mr. Speaker, I plead with this House to support the notion of open conferences and of providing an open conference in this case.

Mr. MOFFETT. Mr. Speaker, may I inquire as to how much time I have remaining?

The SPEAKER. The gentleman from Connecticut (Mr. MOFFETT) has 19 minutes remaining, and the gentleman from Ohio (Mr. BROWN) has 18 minutes remaining.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I take this time to salute the effort that is being made this afternoon by the gentleman from Connecticut (Mr. MOFFETT) and the gentleman from Ohio (Mr. BROWN) to call attention to the manner in which the conference sessions of the Ad Hoc Committee on Energy have been conducted for the most part during the current session of Congress.

We do not want to use the term just employed by the distinguished gentleman from New Jersey (Mr. MAGUIRE). We do not want this Congress to go down in history as the "closed-door Congress" in which decisions were made without the full knowledge and participation of all those who ought to be entitled to participate in the deliberations of this body or of the committees of this Congress.

We all realize that it is necessary from time to time for committees to hold formal meetings and for various Members to get together in their offices or on the telephone to discuss developments as they relate to legislation or the business of the conference committee. However, it seems that in the practices of the Ad Hoc Committee on Energy we have begun to institutionalize the process. The kind of meetings that have been conducted has become so frequent, and the deliberations that have been conducted have become institutionalized by their frequency and by the importance of the decisions that are apparently being made.

I would suggest, Mr. Speaker, in closing that there is one still more important and further reason why it is important that we call a halt to this business that has been described. It may be necessary to take this action to save the ratification of the Panama Canal treaties. I do not know whether this will gain votes for or against the motion now pending, but I have just noted on the wire a statement by the junior Senator from South Dakota that he has called the White House to warn that he and other Senators opposed to deregulation may actually withhold their votes on the treaties and kill the treaties unless secret bargaining sessions on the energy bill are opened up to the press.

So I would suggest that there are some very important ramifications that

can flow from a continuation of these present practices.

Again, Mr. Speaker, I emphasize that I support this effort, and I would call for a "no" vote on the motion.

Mr. CHARLES WILSON of Texas. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Texas.

Mr. CHARLES WILSON of Texas. Mr. Speaker, I am trying to get some clarification of the parliamentary situation here.

I would interpret this as indicating that a vote for the Moffett motion could be construed to be a vote against the Panama Canal treaties. Would the gentleman agree with that interpretation?

Mr. ANDERSON of Illinois. Mr. Speaker, after some of the conclusions that were drawn with respect to several votes that I cast in this body in recent years as they relate to a recent primary, that could be entirely possible.

Mr. MOFFETT. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Speaker, I want to join the bipartisan effort of the gentleman from Connecticut (Mr. MOFFETT) and the gentleman from Ohio (Mr. BROWN) on this motion, and I urge a "no" on the motion.

Like the rest of us, I hope this conference will be settled. Since it has not been settled in closed session, maybe if we open it up, we will do better.

Furthermore, considerable doubt and frustration has crept into what the conferees are negotiating. What trades are being made as they individually or in subgroups either officially or unofficially try to perform their duties as conferees. This is very unfortunate. The public and the Congress are frustrated and suspicious about what the end product will be if any.

The conference must immediately act to reassure both its colleagues and the public that the negotiatons and tradeoffs are openly arrived at and understood.

Otherwise the situation certainly will be worse than it is. And the other thing that is serious, and that is that a very important principle has really been twisted. I do not think we ought to allow that to happen. We should not by technical indirection subvert the clear intent of the rules of the House. In a matter as sensitive as this has been in the Congress, it does not need the added burden of suspicion and more frustration than already exists. This conference and its negotiations ought to have the very careful and thorough scrutiny of the press and the public. I am not being derogatory about the conferees or their ability to negotiate. They can negotiate as well as we can. I think the important thing is the principle involved here, and I think the time has come to call a halt to an undesirable practice. In the next session, we ought to take a look at those rules and decide what the definition of a conference committee should be and perhaps we should require the Speaker to discharge conferees when there is a clear violation.

The argument is made that the conferees have met "formally" only once and that meeting was in public. But everyone knows that the conferees have been "meeting" for 4 months and have not been able to resolve the matter, therefore there have been no further "formal" meetings.

This is an unhappy circumstance and the rationale of rules compliance has been stretched.

The rule should be followed and "meetings, conferences, or discussions," of conferees should be "formal".

The results of the negotiations obviously will be made public but the public is also entitled to know, as much as it is in our power to do so, what underlying arguments and reasons were put forth, who advocated them and why a particular compromise was agreed to. This should occur not in the report of the conferees or by leaks to press, but in open session.

I urge a "no" vote on the resolution.

Mr. BROWN of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, as we all know, this past fall the Congress was placed in the position where we had to do something about energy. As a result of that, the House and the Senate did come forward with their legislative versions of a solution. Under our rules, we vested great authority in what is referred to as the conference committee. What we did not do is to sanction a conference committee of the conference committee. And that is what it has created. When one considers all of the vast powers that a conference committee has, to revest that in another body, unsanctioned and illegal under our circumstances, it becomes a serious situation which this body cannot tolerate. That is why I rise in opposition to the resolution. Let us look at what that conference committee has done, the one we have vested the power in this year. It has met once for 3 hours to do nothing but distribute two propositions as to what might be voted on. It has done nothing other than that. That is not what we intended it to do. What it has done by its action to lose the confidence of the people. It has also lost the confidence of this body as to its ability to do anything. We have heard so much about open government; and open government does have the function of building confidence in the public and the people.

Secret meetings behind closed doors by a few unsanctioned members to determine our destiny destroys confidence. If it did meet now, it could do something constructive. It could spin off those things which were already referred to by the gentleman from Connecticut which it has accomplished. It can allow those things to go forward, because if we do not do at least that, serious repercussions will result.

I have discussed this with the president of the Solar Energy Industries Association and found, alarmingly, that as a result of inaction, sales and requests for solar energy equipment have dropped precipitously from inaction. Everyone is waiting to see what is going to happen—are they going to get tax credits, are they going to get subsidized loans. This inaction results in a serious impediment to the development of the very thing we need to end the crisis, alternative sources.

Mr. Speaker, I would urge the Members to oppose this resolution.

Mr. GARY A. MYERS. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Speaker, the other day in the Committee on Science and Technology we had some solar industry representatives testifying on a bill. The solar industry representatives testified that the thing that would most rapidly stimulate the development of solar and renewable sources of energy was the immediate deregulation of prices for natural gas and oil.

Would the gentleman support that particular philosophy?

Mr. JEFFORDS. I would suggest that certainly if we precipitously raise prices on fossil fuel, naturally, it is going to stimulate alternate sources of energy. I do not necessarily agree with that proposition, however. It is the wrong way to approach the problem.

Mr. GARY A. MYERS. If the gentleman will yield further, that was the conclusion of solar industry representatives with respect to the developing of sources of solar energy. They testified before the Committee on Science and Technology. That was their opinion.

Mr. JEFFORDS. I am sure the gentleman is making a correct statement, for the current period. But prices of alternative energy technologies are dropping rapidly. They will continue to drop, and why we have to jack up gas and oil prices—and bleed the consumer even further than he has been bled would be a hard thing to justify.

I am concerned that the unresolved questions about natural gas pricing and the crude oil tax facing you have delayed enactment of the substantial body of provisions upon which you have already agree. The significance of the completed work on energy conservation, electric rate reform, coal conversion, as well as major noncontroversial sections of the tax provisions, is of such magnitude that we believe the time has arrived to move those already-completed agreements to the floor for action.

Every day that we delay implementation of these provisions retards the Nation's ability to reverse our dangerous dependency on foreign oil and resulting outflow of dollars. As you know, it has been estimated that these portions of the legislation comprise more than 90 percent of the total energy savings possible under the national energy plan. Although we all recognize this legislation will not in itself provide a final solution to the Nation's energy dilemma, the agreements already achieved should rightly be acknowledged as a major legislative success.

I particularly would like to stress the importance of separating out those parts

of the tax provisions which the conferees are close on and are relatively noncontroversial. The Nation is anxiously awaiting the tax credits for residential insulation and solar and wind projects, and there has been widespread reluctance on the part of homeowners to purchase these materials and devices before passage of the act. Passage now would end the logjam that the fledgling solar industry currently is experiencing.

It is abundantly clear that decisions concerning natural gas and the crude oil tax will not be moved forward at any greater pace as a result of holding the rest of the package in abeyance pending these decisions. Yet failure to pass the very significant agreements already achieved would be a disaster for all of us.

I urge that the motion be defeated. It can only help. We need action.

Mr. MOFFETT. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. Moss).

Mr. MOSS. Mr. Speaker, this resolution ought to be voted down and this House ought to tell its conferees that they should meet publicly so that we know what is going on and the public knows what is going on.

There is no way in which a conference report from this conference committee can be brought to this floor without a special rule because so many things have happened that are not in either the House or the Senate versions of the bills that were sent to conference.

It is important that we not be faced with a rush at the very last and be asked to act and act after having only a few days to study a very complicated piece of legislation. We should be able to follow it; but more importantly, we ought to insist on the integrity of the rules of this House. These rules bind the conferees and should be observed in good faith. There should be no getting around the letter and spirit of the rules by asserting that some of the meetings are just informal discussions when, in fact, they have every characteristic of a conference.

We should also insist that conferences take place here on this Hill where they can be controlled by the legislative branch and not the executive. We are not lackies. We are not subservient to the executive. We ought to insist on the full rights of the House, and the other body should make the same insistence on behalf of its Members.

After all, we are but trustees for the people, and our powers are basically their powers. Furthermore, we should not—must not— make them subservient to the executive.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. MARTIN).

Mr. MARTIN. Mr. Speaker, I want to say that I support the coalition which has brought before us here a resolution to authorize secret meetings of this executive committee of the Democratic Caucus of the conference committee on the energy legislation.

I would also join my colleagues in voting against the resolution which they have presented to us here this afternoon because I oppose what is taking place in the House—for instance, the sunshine and sunset laws, except where they pertain to the White House itself.

However, Mr. Speaker, it strikes me as curious in one other respect. We have heard several Members talk about the off-the-record meetings that are taking place. The gentleman from New Jersey, who spoke just a few moments ago, expressed his interest in being able to get a look at the record of the talks that were taking place there.

Mr. Speaker, I would want to ask the gentleman from Ohio (Mr. BROWN) whether he is aware of any evidence for or against the proposition that these meetings are, in fact, secret and are not subject to recordings.

The SPEAKER. The time of the gentleman from North Carolina (Mr. MARTIN) has expired.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 additional minute ot the gentleman from North Carolina, and I would ask him to yield so that I may respond.

Mr. MARTIN. Mr. Speaker, I would certainly yield to the gentleman from Ohio because I think if we can clarify this matter, it may help to sober up some of the discussions that have taken place.

Mr. BROWN of Ohio. Mr. Speaker, I never knew in any White House whether the substance of the conversation was being recorded.

I have been in this White House and I felt under the table, but I do not know that there is any evidence that any record is being made.

Mr. MARTIN. Is the gentleman sure?

Mr. BROWN of Ohio. I agree with the gentleman from New Jersey that it would be nice if we had a record of the debate that was going on on the compromises so that we might look at the record and see whether we agree with the arguments or not.

Of course, if they were up here in open conference, they might have been recorded and subject to public printing, but in the White House I do not suppose they are.

Mr. MARTIN. Mr. Speaker, I think the gentleman from Ohio (Mr. BROWN) and the gentleman from Connecticut make a good point. I intend to join with them in voting against the resolution.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. MARTIN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I have been listening with interest to all of this discussion. We hear this sort of thing all the time.

The SPEAKER. The time of the gentleman from North Carolina has again expired.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 additional minute to the gentleman from North Carolina (Mr. MARTIN).

Mr. ASHBROOK. I would like to know for the record, who is it that is more equal than the rest of us? We have not had any names. Who is down there? Could my good friend from Ohio tell me who it is that is going to the White House?

Mr. MARTIN. We do not know for a fact that there is anyone actually meeting there.

However, I will yield to the gentleman from Ohio for a further reply.

Mr. BROWN of Ohio. I have to say I do know for a fact that there is someone actually meeting there, because the other morning, when the Republican conferees from the House—the eight of us—went down to tell the President that if he needed help from us to get a bill out, we were available to offer that help and would like to go to the conference meetings, I was accidentally directed to the Roosevelt Room. I opened the door to the Roosevelt Room, and here were some of my colleagues, whom I recognized, with papers around the table, discussing the matter. But, I was so embarrassed at being in a place where I was obviously not welcome that I cannot identify anyone.

The SPEAKER. The time of the gentleman from North Carolina has again expired.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 additional minute to the gentleman from North Carolina.

Mr. MARTIN. I thank the gentleman.

Mr. BROWN of Ohio. They did not have stockings over their faces or anything like that. I cannot identify precisely who they are, but I suppose if I had the opportunity to go down there again, I would make better notes.

Mr. MARTIN. This is all very curious, and I am even more persuaded that the gentleman from Connecticut is correct.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. MARTIN. I yield to the gentleman from Idaho.

Mr. SYMMS. I was wondering if the gentleman from Ohio might make an inquiry and see if they have any tape recordings down there.

Mr. MOFFETT. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY. Mr. Speaker, oftentimes when we debate issues like this, we lose sight of some fundamentals about our Government. We govern with the consent of the governed, and unless they know what we are doing it is pretty tough to lead them or represent them in any practical manner.

I am upset and concerned that, whether we vote this motion down or not today, that the meetings will continue the way they have been continuing in an unofficial manner. Is there anyone here—and perhaps the gentleman from Connecticut could answer my question—or if the gentleman from Ohio, who is an important member of the House conference, could possibly answer this question for me I would greatly appreciate it: Whether or not if this resolution is defeated, will these meetings in the White House persist?

Mr. ASHLEY. Mr. Speaker, will the gentleman yield?

Mr. DOWNEY. I will be happy to yield to the gentleman from Ohio.

Mr. ASHLEY. The meetings in the White House, as they are characterized, have in fact been moved back to the Capitol, at least for the time being.

Mr. DOWNEY. So, are we to understand that the gentleman will open these meetings to the public, and that this will be a conference following rule XXVIII 6(a) of the House rules?

Mr. ASHLEY. Now, the gentleman would be mistaken or ill advised to assume that.

Mr. DOWNEY. Is the gentleman aware of the history of this rule? The author of the House rule is with us today, and I coauthored that with him. I have some understanding that this rule was instituted to prevent this situation. We were concerned that the House Armed Services Committee meeting with the Senate and dealing with matters of great import and tremendous sums of money, were meeting behind closed doors. It was our intention to insure that this did not happen in the future.

Why should the energy conference committee be exempt from this particular rule? Could the gentleman possibly answer why the energy conference should be in any way different or exempt from this rule?

Mr. ASHLEY. Speaking for myself, I do not believe that the conference is exempt from the rules of the House in any manner whatsoever. I think we are operating within the rules of the House, certainly as I understand them. Some of us have been here for a good period of time——

Mr. DOWNEY. Then, if I understand the gentleman correctly, tomorrow if myself and several of my colleagues would like to attend the conference committee, we will be welcome?

Mr. ASHLEY. What the gentleman does not seem to understand is that this conference has broken down and the conference on the national energy plan has not met in some several weeks, nor is it meeting these days. What is going on is that there are informal discussions among some of the Senate conferees and some of the House conferees. Those that represent the House are not a majority of the House conferees.

So what I think we are trying to get at or I am trying to get at is the distinction between a conference committee meeting and the informal discussions that are going on in an effort to reach the kind of preliminary possible areas of agreement that could lead us back into the sunshine of an open conference session.

Mr. DOWNEY. Well, the gentleman strikes a curious position. How is this to prevent every conference from meeting informally and then at some final date adopting at a pro forma session of the conference what the agreements have been? To do what the gentleman is doing today and has been doing for several weeks leads us down a very dangerous road where the precedents are that there shall be no more open formal conferences.

Mr. ASHLEY. If I can respond to that, I think the process that is being followed is consistent with the rules of the House, and if I may say so is the only opportunity, offers the only opportunity for us to act on a national energy plan during this session of Congress.

Mr. BROWN of Ohio. Mr. Speaker, I would like to be able graciously to yield more time to my respected colleague, the gentleman from Ohio (Mr. ASHLEY), but I have a request for time from the minority leader and of course I must honor that.

I would have to say first, if I could take 1 minute of my own time, that it is the argument we always get when there are closed meetings, that this is just a preliminary group, a rump group—I think I know where that expression comes from.

And the other problem we have is that this conference broke down because some of the wheels—and I do not mean a double meaning here—some of the conferees that were supposed to be on the conference were never used, that is the Republican members were never really given the opportunity for these private meetings that have been held, and while I do not want to characterize the Republicans as wheels in this conference, it is part of the difficulty that they could have been used if the majority cared to use them.

Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, I have thoroughly enjoyed this debate. I want to compliment the gentleman from Ohio (Mr. BROWN) and the gentleman from Connecticut (Mr. MOFFETT) for bringing this situation to a head.

Actually the rules of the House were not promulgated lightly. The rule which we are talking about was promulgated not only because of the desire to inform the American public as to what was going on, although that certainly is a worthy desire, but also to stop the kind of machinations which we have seen so frequently in conferences between the House and the Senate which have resulted in no legislation or bad legislation. It seems to me the thing that has happened on the energy bill is a perfect example of the reason why this rule was adopted. It would be my hope that the gentleman from Ohio, the chairman of the conference committee, would insist that the rules of the House be obeyed.

One of the reasons I was so much in favor of that rule when it came about was because of the number of years I spent on the Appropriations Committee. This is a great committee, but every time we passed a bill and the Senate passed a bill, we came to the conference and we sat there looking at each other for days because of some reasons that were possibly good and some reasons that were possibly bad, and quite often rather devious, as to why agreement could not be arrived at. Now those reasons would disappear—and have disappeared—if they were given in the light of day because there is no Member of the House or the Senate who is going to give an unworthy reason for a position he takes when the meeting is open to the press and to the public.

So I suspect—I could not prove this, of course, Mr. Speaker, but I suspect that there are some reasons why this conference has broken down that are somewhat less than worthy, that are reasons that probably would not be given or would not be adhered to if they really were in the open. I suggest, Mr. Speaker, that if the Members of this House really are sincere about wanting to have an energy bill—and I hope that we are—the best way to do it is to start right now with sessions, open sessions of all of the conferees, and let all of them have something to do with bringing out this bill.

Obviously the other way of doing it in the dark, and doing it in small groups, has not worked, it has not produced legislation. Why do we not try—and I repeat, why do we not just try to abide by the rules of the House which obviously were not put together without reason?

I have every confidence that the Members of the House when they really want to legislate, when they want to abide by the rules, can do so. I am satisfied that if this were accomplished, if we were to actually get down to some real sessions between the conferees on both sides that the result would be a bill in a very short period of time.

So again, Mr. Speaker, I support the gentleman from Ohio (Mr. BROWN) and the gentleman from Connecticut (Mr. MOFFETT) for bringing this up. I hope that the motion will be voted down.

Mr. MOFFETT. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. CARR).

Mr. CARR. Mr. Speaker, as the author of this particular rule that is under discussion here, I thought maybe the Members might be interested in some of the history behind the enactment of this rule.

At the time that this rule was offered before the beginning of this Congress, and indeed in the debate, particularly before the House Democratic Caucus, in support of this rule, I was mindful of the problem that we have here today. That there would be an attempt to evade the rule and go around the rule by "rump" sessions subcommittees, or whatever you want to call them. And that was part of the original rule that I wanted to introduce.

After consultation with a number of people, including people in the leadership of my party, people who have had a great deal more experience with parliamentary procedure in this House than I have had, and also after I talked to the Parliamentarian's office, I was informed that that was really unnecessary and that a conference committee is a conference committee whether you divide it in half, whether you divide it in sixths, or whether you divide it in quarters, a conference committee is a conference committee, and that rule says that conference committees shall meet in public.

The point is that the rule is being violated now by meetings between conferees of the House and the Senate. That is what the rule says.

Now if the House conferees want to get together informally and plan their strategy, that is not covered, but any time you get Senate and House Members who are members of the conference committee conducting conference committee business that is a conference committee and it seems to me that this rule applies. That certainly was the intent of this person who authored the resolution which was adopted by the House and is now part of the House rules. It seems to me,

Mr. Speaker, that we ought to insist on the observance of the rule by the distinguished chairman of the House conference committee on energy.

Mr. ASHLEY. Mr. Speaker, will the gentleman yield?

The SPEAKER. The time of the gentleman has expired.

Mr. MOFFETT. Mr. Speaker, I yield 1 additional minute to the gentleman from Michigan (Mr. CARR).

Mr. ASHLEY. Mr. Speaker, will the gentleman yield?

Mr. CARR. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Speaker, let me say that I fully appreciate what the gentleman from Michigan (Mr. CARR) has just said. There is a basic and fundamental difference as to the interpretation of the rule, namely what constitutes a meeting of the conference. It is my absolute conviction that the meetings that have been transpiring are not meetings of the conference but are informal expressions between Members on both sides in an effort to advance—I will concede—in an effort to advance the business of the conference, but as I read the rule, as we meet in the sessions we have had, we are not meeting in a conference meeting. The conference broke down—if the gentleman is interested—the conference broke down because one member of the conference, who did not want an energy bill, insisted that he have the opportunity to ask 75 questions and he proceeded to ask those questions.

All I am saying is that those meetings in open conference have not been quite as productive as has been suggested by previous speakers. It was because we went to an open conference, to an actual conference meeting under the gentleman's rule, that we are debating here today.

The SPEAKER. The time of the gentleman has expired.

Mr. MOFFETT. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Will the gentleman yield?

Mr. MARKEY. I yield to the gentleman from Connecticut.

Mr. MOFFETT. I thank the gentleman for yielding.

I want to take serious issue with the gentleman from Ohio (Mr. ASHLEY) in saying that the conference broke down because a Member had 75 questions. The distinguished chairman of the full conference, the gentleman from West Virginia, (Mr. STAGGERS) has it perfectly within his rights to give Members 5 minutes here and 5 minutes there. I think it is really unfortunate to say that the conference has broken down when the conference has not in fact broken down. It has been referred to in the newspapers, by the gentleman from Ohio and others, as the "conference" and the "conferees" right long.

Mr. MARKEY. I would like to call upon the distinguished gentleman from Ohio (Mr. ASHLEY) to answer another question. If the House this afternoon votes no on the motion to close the conference committee, will the chairman continue to hold meetings in the private manner which he has been following for the past 4 months? In other words, are we now engaging in a futile effort as far as he is concerned?

Mr. ASHLEY. If the gentleman will yield, I do not know whether I would characterize it as futile or not. I am trying to indicate in my response to the previous colloquy that there is a serious disagreement as to what constitutes a conference meeting for purposes of interpreting the rules by which we operate, so that if a majority vote no on this motion, I will not feel constrained to terminate the efforts that are going on at the present time to reach some tentative agreement which can be presented to the conference. Those efforts hardly constitute a formal conference.

Mr. MARKEY. The gentleman will not feel bound by what the House of Representatives is about to do here? The gentleman does not think that by voting no on this motion that the House is saying to the gentleman, sending a message to the chairman that the House wants the conference to meet on Capitol Hill, in the open, in public and now? I hope this is not what the gentleman is saying, for if it is, then we will continue to formulate vital public policy with the majority of the Members of this House and the citizens of this country not only underrepresented but unrepresented.

The SPEAKER. The time of the gentleman has expired.

Mr. MOFFETT. I yield 2 minutes to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. I would just like to add to the comments, Mr. Speaker, that the issue is not whether it is difficult to conduct a conference in an open session, but the issue is that the House rules demand that the conference be conducted in an open session.

We have conducted conferences around here that are very difficult, and we have just rejected a farm bill because the House did not participate in it. I suggest that the grounds for rejecting the energy bill may be that the House did not participate in it. I do not think that is the manner in which we put together a coalition when we know that we are dealing with a subject that has such diverse interests and such opposite interests because of the geography of this country. Because our people come from different sections—people who consume and people who produce—that brings about the widest discussion, and it is necessary to reach an agreement which this Congress can live with and, more importantly, which this country can live with. There will be no conference. There will be no moral equivalency of war. There will be no solution where the American people can believe that this Congress has led them in the right direction if it is done behind closed doors. I dare say that the Chairman by his answers to the gentleman from Massachusetts is suggesting that we have no alternative but to instruct the conferees to meet in open, because I think, as the author, the gentleman from Michigan (Mr. CARR) has pointed out, the purpose of this rule is to have conference meetings in the open, and always in the open. Unless the Congress as a whole decides otherwise, that probably will not be done, so the rule must be carried out not only when it is easy, not only when it is convenient, but all of the time unless the Congress as a whole speaks in the opposite direction. I do not think that will be done.

I urge my colleagues to oppose the motion.

Mr. MOFFETT. I yield 2 minutes to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Speaker, in my 14 years of legislative work I have always believed that the public's business should be conducted publicly, and the public has serious reason to worry when that is not the case. I, in every instance, have walked out of illegal, secret meetings, and while I was absent, nothing ever advancing the public interest took place. But I do know certain things advancing certain special interests took place in some of those meetings which took place while I served in the Michigan Legislature.

I supported the President on his energy package when it passed this House. I wanted an energy package then, and I want one now, but I want one that I can support. My primary loyalty lies not with the President of the United States, not with the conferees, but with the public. For that reason I want these conferences to be open.

Since it appears that the conferees are either abandoning the House position on the deregulation of natural gas, or at least are unable to reach agreement, I would hope that the three other parts of the bill would be separated and sent to us so that we could act on them.

We were told almost a year ago that the energy crisis is the moral equivalent of war. It has taken us almost a year to declare war. I would hope by separating this package we could soon act upon those three parts. I would urge a no vote on this resolution.

Mr. MOFFETT. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Speaker, I yield to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Speaker, I strongly support a no vote.

Mr. Speaker, there are two issues involved in this debate. Openness in Government is one issue, and for that reason we must open the conference.

But even more important is the substantive issue—passing an energy bill. This country is being ridiculed by the rest of the world for not passing an energy bill. This lack of energy bill is doing incalculable damage to this country, why no bill? Perhaps it is because of petty personality conflicts between Members, perhaps it is because of a failure in the exercise of Executive leadership, perhaps it is because of the complexity of the issues raised in the whole energy debate.

Whatever the cause, it is a national shame that we do not have a bill. Perhaps opening the conference to the public will help expedite the process—it is a little bit like chicken soup when you are sick; it may not help, but it sure would

not hurt. At a minimum, an open conference will produce responsible open democracy on this, our most important issue.

There is no other alternative; the conference must be opened to the public and a responsible bill passed quickly.

Mr. BEDELL. Mr. Speaker, I would like to address a question to the distinguished chairman of the conference committee. If there were a chairman of a conference committee who wanted to hold his own special conference committee so he could say that the committee was deadlocked and then invite to the committee meetings only those who he wanted to have there, including people not members of the conference, or even Members of the House, what would we need to do to prevent that—that is, those of us who think it is not proper to have that kind of operation in the House? Would the chairman have a suggestion of what action we should take if some of us think it is wrong?

Mr. Speaker, I think that the distinguished gentleman from Connecticut (Mr. MOFFETT) and the distinguished gentleman from Ohio (Mr. BROWN) have raised a very significant issue which should be thoroughly discussed by the House and brought to the attention of the American public.

For over a year, the Congress has been deadlocked on the policy issue of the deregulation of natural gas prices. Both the Senate and the House voted on this question, and, as part of the National Energy Act, it was referred to a conference committee for resolution.

We are all aware of the inability of that committee to reach a consensus on the natural gas pricing issue. However, what many of us—and most of the American public—may not be aware of is the nature of recent attempts to break the impasse.

In recent weeks, an unofficial group of select conferees has been meeting in secret with Secretary Schlesinger and other administration officials in an effort to cut a deal on this highly significant economic issue. In so doing, they have consciously excluded certain appointed members of the conference committee from these deliberations and included individuals who are in no way connected with the Congress.

House rule XXVIII states that—

> Each conference committee meeting between the House and the Senate shall be open to the public except when the House in open session has determined by roll call vote of a majority of those Members voting that all or part of the meeting shall be closed to the public.

The House has taken no such vote, and a select group of conferees has been meeting behind closed doors in contravention of traditional congressional procedure. In fact, in the past 3 months, the energy conferees have met in public session only once—on March 22, for less than 2 hours—and they adjourned with no resolution of pending disagreements.

This procedure is not only a violation of the rules of the House; it is also no way to make public policy. If we are ever to restore public confidence in the operation of Congress and democratic government, we must insist that congressional proceedings which do not involve national security issues are conducted in full public view.

Mr. Speaker, I am outraged at the way a select group of conferees have been attempting to resolve the impasse over the deregulation of natural gas prices. Their behavior is a clear violation of House rules. It contradicts the basic tenets of open government and the democratic process. And it is an affront to the American people.

The SPEAKER. The time of the gentleman from Iowa (Mr. BEDELL) has expired.

Mr. MOFFETT. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, obviously the choice that is here before the House is a choice of deciding between a rule regarding openness and the need to get an energy bill out. Unfortunately, there really is no choice. We have to stand by our rules. I regret that we have reached this point, however, because we are being diverted from the principal issue here, which is to get an energy bill out. This country needs an energy bill. That has to be the principal goal of the Congress and of the country. So, yes, let us vote down this motion. Let us get the conference out in the open; but for God's sake, let us get an energy bill out for this country.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Speaker, in the rays before government in the sunshine and before we had real legislative reapportionment, I had the privilege of serving in the Florida State Senate, which was controlled by a group of senators who called themselves "Pork Choppers". They represented about 10 percent of the people of the State of Florida, but they controlled the senate. One of the Pork Choppers was chairman of the senate finance committee. Most of the important legislation reported came from that committee, but they seldom had a meeting in public. The reporters could never find where the senate finance committee was, yet this committee was constantly reporting legislation to the floor. One time a reporter asked the chairman, "Senator, where does your committee meet?"

He said, "We meet in the mole hole."

I think that pretty well describes it. I hope the Federal Government is not going to be reverting to mole hole government like we had in Florida at one time. One way not to have mole hole legislation is to vote no on the resolution before the committee today.

Mr. MOFFETT. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. KOSTMAYER).

Mr. KOSTMAYER. Mr. Speaker, I do not think the energy bill is the question here anymore. I think, as the gentleman from Massachusetts (Mr. MARKEY) pointed out, the central question is: Is the House going to follow the rules?

I am disappointed and dismayed that my friend, the distinguished gentleman from Ohio (Mr. ASHLEY), is apparently not going to be responsive to the vote which will, I think, be overwhelming this afternoon.

Why do we have rules if we are not going to obey them?

Why do we have rules if we are not going to follow them?

Why are we here? "Big deal. Who cares?"

Why are we going to even vote if the gentleman from Ohio (Mr. ASHLEY) is not going to be responsive? I think that is the question here.

Mr. Speaker, I urge the Members to support the gentleman from Connecticut (Mr. (MOFFETT) and the gentleman from Ohio (Mr. BROWN) and vote "no" and let us open this thing up so that the people and the press can view it and so that we in the Congress can finally resolve it.

The SPEAKER. The Chair will state that the gentleman from Connecticut (Mr. MOFFETT) has 1 minute remaining and the gentleman from Ohio (Mr. BROWN) has 1 minute remaining.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself the remaining time at my disposal.

Mr. Speaker, I think it is very clear that we have involved here a fairly fundamental principle. The vote should be "no" on the motion offered by the gentleman from Connecticut (Mr. MOFFETT) so that we can clearly send a message to the conference leadership and to the White House saying that we think the conference ought to be conducted in public, with all the Members of the conference able to participate so that we will get legislation on which we at least feel we had a fair chance.

If we continue to meet in secret under the leadership of the executive branch and at its whim, Mr. Speaker, it seems to me that we do raise serious questions about the legislation.

Mr. MOFFETT. Mr. Speaker, I yield my remaining 1 minute to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, behind the desire for secrecy lies the assumption that we must have an energy bill at any price, and that is precisely why the deliberations of the conference must be exposed to the public.

The record of this debate is clear. Any meeting of any number of conferees on the energy bill will be bound by whatever the House votes, and if the House votes "no," then that will, by this record, bind the energy conference committee and its members.

Mr. MOFFETT. Mr. Speaker, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Connecticut.

Mr. MOFFETT. Mr. Speaker, I thank the gentleman for yielding.

In the few seconds remaining, Mr. Speaker, I want to say it is critical that we vote this motion down and reaffirm our belief in open conferences.

This has been a conference, there has been no question about that. Resolutions, amendments, and concepts have been offered on paper and negotiated. This is everything that a conference appears

to be, and I urge a "no" vote on the motion.

● Mr. ASHLEY. Mr. Speaker, there can be no question that formal meetings of the energy conference committee should have been and will be fully open to the public.

Let's look at the history of the energy conference to date. It was in open conference that the House and Senate conferees resolved some 1,400 separate issues in dispute between the House and Senate with respect to the conservation, conversion, and utility rate reform parts of the energy package.

After the conferees had completed work on these parts of the energy plan, it was in open conference that efforts were made, beginning last December, to resolve the enormously difficult, complex and emotional issues relating to natural gas. But let's face the facts, Mr. Speaker. It was in open conference that efforts to resolve the natural gas differences between the House and Senate broke down completely. The most recent efforts to resolve the natural gas issue in open conference resulted, by any honest assessment, in a complete debacle. Those who say that an open conference can always produce results should look at the record. It simply is not so in every instance.

When a conference breaks down, as in the instant case, it may be necessary in order to make it possible for the conference to pursue its business, for informal discussions to take place—discussions aimed at narrowing the differences between the House and Senate positions sufficiently that some hope for progress in open committee sessions is germinated.

The meetings which have been criticized during this debate are an attempt to be constructive at a very difficult and delicate juncture. In point of fact, they are necessary if there is to be a natural gas pricing law. Put another way, they are an attempt by certain members of the conference to draft tentative proposals for submission to, and consideration by, the full conference in open session. In my judgment, Mr. Speaker, these sessions are entirely consistent with the rules of the House of Representatives, and particularly the rule with respect to open conference sessions.●

The SPEAKER. All time has expired.

Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Connecticut (Mr. MOFFETT).

Under the rules of the House, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 6, nays 371, not voting 57, as follows:

[Roll No. 223]

YEAS—6

| | | |
|---|---|---|
| Burleson, Tex. | Poage | Stump |
| Murtha | Stratton | Waggonner |

NAYS—371

| | | |
|---|---|---|
| Abdnor | Anderson, Calif. | Applegate |
| Addabbo | Anderson, Ill. | Archer |
| Akaka | Andrews, N.C. | Ashbrook |
| Alexander | Andrews, N. Dak. | Ashley |
| Allen | Annunzio | Aspin |
| Ambro | Archer | AuCoin |
| Ammerman | Ashbrook | Badham |
| Bafalis | Ashley | Bafalis |
| Baldus | Aspin | Baldus |
| Bauman | AuCoin | Bauman |
| Beard, R.I. | Badham | Beard, R.I. |
| Beard, Tenn. | Bafalis | Beard, Tenn. |
| Bedell | Baldus | Bedell |
| Beilenson | Bauman | Beilenson |
| Benjamin | Beard, R.I. | Benjamin |
| Bennett | Beard, Tenn. | Bennett |
| Biaggi | Bedell | Biaggi |
| Bingham | Beilenson | Bingham |
| Blanchard | Benjamin | Blanchard |
| Blouin | Bennett | Blouin |
| Boland | Biaggi | Boland |
| Bolling | Bingham | Bolling |
| Bonior | Blanchard | Bonior |
| Bonker | Blouin | Bonker |
| Bowen | Boland | Bowen |
| Breaux | Bolling | Breaux |
| Brinkley | Bonior | Brinkley |
| Brodhead | Bonker | Brodhead |
| Brooks | Bowen | Brooks |
| Broomfield | Breaux | Broomfield |
| Brown, Calif. | Brinkley | Brown, Calif. |
| Brown, Mich. | Brodhead | Brown, Mich. |
| Brown, Ohio | Brooks | Brown, Ohio |
| Broyhill | Broomfield | Broyhill |
| Buchanan | Brown, Calif. | Buchanan |
| Burke, Fla. | Brown, Mich. | Burke, Fla. |
| Burke, Mass. | Brown, Ohio | Burke, Mass. |
| Burlison, Mo. | Broyhill | Burlison, Mo. |
| Burton, Phillip | Buchanan | Burton, Phillip |
| Butler | Burke, Fla. | Butler |
| Byron | Burke, Mass. | Byron |
| Caputo | Burlison, Mo. | Caputo |
| Carney | Burton, Phillip | Carney |
| Carr | Butler | Carr |
| Carter | Byron | Carter |
| Cavanaugh | Caputo | Cavanaugh |
| Cederberg | Carney | Cederberg |
| Chappell | Carr | Chappell |
| Chisholm | Carter | Chisholm |
| Clausen, Don H. | Cavanaugh | Clausen, Don H. |
| Clay | Cederberg | Clay |
| Cleveland | Chappell | Cleveland |
| Cochran | Chisholm | Cochran |
| Cohen | Clausen, Don H. | Cohen |
| Coleman | Clay | Coleman |
| Collins, Ill. | Cleveland | Collins, Ill. |
| Collins, Tex. | Cochran | Collins, Tex. |
| Conable | Cohen | Conable |
| Conte | Coleman | Conte |
| Conyers | Collins, Ill. | Conyers |
| Corcoran | Collins, Tex. | Corcoran |
| Corman | Conable | Corman |
| Cornell | Conte | Cornell |
| Cotter | Conyers | Cotter |
| Coughlin | Corcoran | Coughlin |
| Cunningham | Corman | Cunningham |
| D'Amours | Cornell | D'Amours |
| Daniel, Dan | Cotter | Daniel, Dan |
| Daniel, R. W. | Coughlin | Daniel, R. W. |
| Danielson | Cunningham | Danielson |
| Davis | D'Amours | Davis |
| de la Garza | Daniel, Dan | de la Garza |
| Delaney | Daniel, R. W. | Delaney |
| Dellums | Danielson | Dellums |
| Derrick | Davis | Derrick |
| Derwinski | de la Garza | Derwinski |
| Devine | Delaney | Devine |
| Dickinson | Dellums | Dickinson |
| Dicks | Derrick | Dicks |
| Dingell | Derwinski | Dingell |
| Dodd | Devine | Dodd |
| Dornan | Dickinson | Dornan |
| Downey | Dicks | Downey |
| Drinan | Dingell | Drinan |
| Duncan, Oreg. | Dodd | Duncan, Oreg. |
| Duncan, Tenn. | Dornan | Duncan, Tenn. |
| Eckhardt | Downey | Eckhardt |
| Edgar | Drinan | Edgar |
| Edwards, Ala. | Duncan, Oreg. | Edwards, Ala. |
| Edwards, Calif. | Duncan, Tenn. | Edwards, Calif. |
| Edwards, Okla. | Eckhardt | Edwards, Okla. |
| Eilberg | Edgar | Eilberg |
| Emery | Edwards, Ala. | Emery |
| English | Edwards, Calif. | English |
| Erlenborn | Edwards, Okla. | Erlenborn |
| Ertel | Eilberg | Ertel |
| Evans, Colo. | Emery | Evans, Colo. |
| Evans, Del. | English | Evans, Del. |
| Evans, Ga. | Erlenborn | Evans, Ga. |
| Evans, Ind. | Ertel | Evans, Ind. |
| Fary | Evans, Colo. | Fary |
| Fascell | Evans, Del. | Fascell |
| Fenwick | Evans, Ga. | Fenwick |
| Findley | Evans, Ind. | Findley |
| Fish | Fary | Fish |
| Fisher | Fascell | Fisher |
| Flippo | Fenwick | Flippo |
| Flood | Findley | Flood |
| Florio | Fish | Florio |
| Flowers | Fisher | Flowers |
| Flynt | Flippo | Flynt |
| Ford, Mich. | Flood | Ford, Mich. |
| Ford, Tenn. | Florio | Ford, Tenn. |
| Forsythe | Flowers | Forsythe |
| Fraser | Flynt | Fraser |
| Frenzel | Ford, Mich. | Frenzel |
| Frey | Ford, Tenn. | Frey |
| Fuqua | Forsythe | Fuqua |
| Garcia | Fraser | Garcia |
| Gaydos | Frenzel | Gaydos |
| Gephardt | Frey | Gephardt |
| Gibbons | Fuqua | Gibbons |
| Gilman | Garcia | Gilman |
| Ginn | Gaydos | Ginn |
| Glickman | Gephardt | Glickman |
| Goldwater | Gibbons | Goldwater |
| Gonzalez | Gilman | Gonzalez |
| Goodling | Ginn | Goodling |
| Gore | Glickman | Gore |
| Gradison | Goldwater | Gradison |
| Grassley | Gonzalez | Grassley |
| Green | Goodling | Green |
| Guyer | Gore | Guyer |
| Hagedorn | Gradison | Hagedorn |
| Hall | Grassley | Hall |
| Hamilton | Green | Hamilton |
| Hammer-schmidt | Guyer | Hammer-schmidt |
| Hanley | Hagedorn | Hanley |
| Hannaford | Hall | Hannaford |
| Hansen | Hamilton | Hansen |
| Harkin | Hammer-schmidt | Harkin |
| Harrington | Hanley | Harrington |
| Harris | Hannaford | Harris |
| Harsha | Hansen | Harsha |
| Hawkins | Harkin | Hawkins |
| Hefner | Harrington | Hefner |
| Heftel | Harris | Heftel |
| Hightower | Harsha | Hightower |
| Hillis | Hawkins | Hillis |
| Hollenbeck | Hefner | Hollenbeck |
| Holt | Heftel | Holt |
| Holtzman | Hightower | Holtzman |
| Horton | Hillis | Horton |
| Hubbard | Hollenbeck | Hubbard |
| Huckaby | Holt | Huckaby |
| Hughes | Holtzman | Hughes |
| Hyde | Horton | Hyde |
| Ichord | Hubbard | Ichord |
| Ireland | Huckaby | Ireland |
| Jacobs | Hughes | Jacobs |
| Jeffords | Hyde | Jeffords |
| Jenkins | Ichord | Jenkins |
| Jenrette | Ireland | Jenrette |
| Johnson, Calif. | Jacobs | Johnson, Calif. |
| Johnson, Colo. | Jeffords | Johnson, Colo. |
| Jones, Okla. | Jenkins | Jones, Okla. |
| Jones, Tenn. | Jenrette | Jones, Tenn. |
| Jordan | Johnson, Calif. | Jordan |
| Kasten | Johnson, Colo. | Kasten |
| Kastenmeier | Jones, Okla. | Kastenmeier |
| Kazen | Jones, Tenn. | Kazen |
| Kelly | Jordan | Kelly |
| Kemp | Kasten | Kemp |
| Keys | Kastenmeier | Keys |
| Kildee | Kazen | Kildee |
| Kindness | Kelly | Kindness |
| Kostmayer | Kemp | Kostmayer |
| Krebs | Keys | Krebs |
| LaFalce | Kildee | LaFalce |
| Lagomarsino | Kindness | Lagomarsino |
| Latta | Kostmayer | Latta |
| Le Fante | Krebs | Le Fante |
| Lederer | LaFalce | Lederer |
| Leggett | Lagomarsino | Leggett |
| Lehman | Latta | Lehman |
| Lent | Le Fante | Lent |
| Levitas | Lederer | Levitas |
| Livingston | Leggett | Livingston |
| Lloyd, Calif. | Lehman | Lloyd, Calif. |
| Lloyd, Tenn. | Lent | Lloyd, Tenn. |
| Long, La. | Levitas | Long, La. |
| Long, Md. | Livingston | Long, Md. |
| Lott | Lloyd, Calif. | Lott |
| Luken | Lloyd, Tenn. | Luken |
| Lundine | Long, La. | Lundine |
| McClory | Long, Md. | McClory |
| McCloskey | Lott | McCloskey |
| McCormack | Luken | McCormack |
| McDade | Lundine | McDade |
| McDonald | McClory | McDonald |
| McEwen | McCloskey | McEwen |
| McFall | McCormack | McFall |
| McHugh | McDade | McHugh |
| McKay | McDonald | McKay |
| McKinney | McEwen | McKinney |
| Madigan | McFall | Madigan |
| Maguire | McHugh | Maguire |
| Mahon | McKay | Mahon |
| Mann | McKinney | Mann |
| Markey | Madigan | Markey |
| Marks | Maguire | Marks |
| Marlenee | Mahon | Marlenee |
| Marriott | Mann | Marriott |
| Martin | Markey | Martin |
| Mathis | Marks | Mathis |
| Mattox | Marlenee | Mattox |
| Mazzoli | Marriott | Mazzoli |
| Metcalfe | Martin | Metcalfe |
| Meyner | Mathis | Meyner |
| Michel | Mattox | Michel |
| Mikulski | Mazzoli | Mikulski |
| Mikva | Metcalfe | Mikva |
| Milford | Meyner | Milford |
| Miller, Calif. | Michel | Miller, Calif. |
| Miller, Ohio | Mikulski | Miller, Ohio |
| Mineta | Mikva | Mineta |
| Minish | Milford | Minish |
| Mitchell, Md. | Miller, Calif. | Mitchell, Md. |
| Mitchell, N.Y. | Miller, Ohio | Mitchell, N.Y. |
| Moffett | Mineta | Moffett |
| Mollohan | Minish | Mollohan |
| Montgomery | Mitchell, Md. | Montgomery |
| Moore | Mitchell, N.Y. | Moore |
| Moorhead, Calif. | Moffett | Moorhead, Calif. |
| Moorhead, Pa. | Mollohan | Moorhead, Pa. |
| Moss | Montgomery | Moss |
| Mottl | Moore | Mottl |
| Murphy, Ill. | Moorhead, Calif. | Murphy, Ill. |
| Murphy, Pa. | Moorhead, Pa. | Murphy, Pa. |
| Myers, Gary | Moss | Myers, Gary |
| Myers, John | Mottl | Myers, John |
| Myers, Michael | Murphy, Ill. | Myers, Michael |
| Natcher | Murphy, Pa. | Natcher |
| Neal | Myers, Gary | Neal |
| Nedzi | Myers, John | Nedzi |
| Nichols | Myers, Michael | Nichols |
| Nix | Natcher | Nix |
| Nolan | Neal | Nolan |
| Nowak | Nedzi | Nowak |
| O'Brien | Nichols | O'Brien |
| Oakar | Nix | Oakar |
| Oberstar | Nolan | Oberstar |
| Obey | Nowak | Obey |
| Ottinger | O'Brien | Ottinger |
| Panetta | Oakar | Panetta |
| Patten | Oberstar | Patten |
| Patterson | Obey | Patterson |
| Pattison | Ottinger | Pattison |
| Pease | Panetta | Pease |
| Pepper | Patten | Pepper |
| Perkins | Patterson | Perkins |
| Pettis | Pattison | Pettis |
| Pickle | Pease | Pickle |
| Pike | Pepper | Pike |
| Pressler | Perkins | Pressler |
| Preyer | Pettis | Preyer |
| Price | Pickle | Price |
| Pritchard | Pike | Pritchard |
| Pursell | Pressler | Pursell |
| Quayle | Preyer | Quayle |
| Quie | Price | Quie |
| Rangel | Pritchard | Rangel |
| Regula | Pursell | Regula |
| Reuss | Quayle | Reuss |
| Rhodes | Quie | Rhodes |
| Richmond | Rangel | Richmond |
| Rinaldo | Regula | Rinaldo |
| Risenhoover | Reuss | Risenhoover |
| Robinson | Rhodes | Robinson |
| Roe | Richmond | Roe |
| Rogers | Rinaldo | Rogers |
| Roncalio | Risenhoover | Roncalio |
| Rooney | Robinson | Rooney |
| Rose | Roe | Rose |
| Rosenthal | Rogers | Rosenthal |
| Rostenkowski | Roncalio | Rostenkowski |
| Rousselot | Rooney | Rousselot |
| Roybal | Rose | Roybal |
| Rudd | Rosenthal | Rudd |
| Ruppe | Rostenkowski | Ruppe |
| Russo | Rousselot | Russo |
| Santini | Roybal | Santini |
| Satterfield | Rudd | Satterfield |
| Sawyer | Ruppe | Sawyer |
| Scheuer | Russo | Scheuer |
| Schulze | Santini | Schulze |
| Sebelius | Satterfield | Sebelius |
| Seiberling | Sawyer | Seiberling |
| Sharp | Scheuer | Sharp |
| Shuster | Schulze | Shuster |
| Sikes | Sebelius | Sikes |
| Simon | Seiberling | Simon |
| Sisk | Sharp | Sisk |
| Skelton | Shuster | Skelton |
| Skubitz | Sikes | Skubitz |
| Slack | Simon | Slack |
| Smith, Nebr. | Sisk | Smith, Nebr. |
| Snyder | Skelton | Snyder |
| Solarz | Skubitz | Solarz |
| Spence | Slack | Spence |
| Staggers | Smith, Nebr. | Staggers |
| Stangeland | Snyder | Stangeland |
| Stanton | Solarz | Stanton |
| Stark | Spence | Stark |
| Steed | Staggers | Steed |
| Steers | Stangeland | Steers |
| Steiger | Stanton | Steiger |
| Stockman | Stark | Stockman |
| Stokes | Steed | Stokes |
| Studds | Steers | Studds |
| Symms | Steiger | Symms |
| Taylor | Stockman | Taylor |
| Thompson | Stokes | Thompson |
| Traxler | Studds | Traxler |
| Treen | Symms | Treen |
| Trible | Taylor | Trible |
| Tsongas | Thompson | Tsongas |
| Ullman | Traxler | Ullman |
| Vander Jagt | Treen | Vander Jagt |
| Vanik | Trible | Vanik |
| Vento | Tsongas | Vento |
| Volkmer | Ullman | Volkmer |
| Walgren | Vander Jagt | Walgren |
| Walker | Vanik | Walker |
| Walsh | Vento | Walsh |
| Wampler | Volkmer | Wampler |
| Watkins | Walgren | Watkins |
| Waxman | Walker | Waxman |
| Weaver | Walsh | Weaver |
| Weiss | Wampler | Weiss |
| Whalen | Watkins | Whalen |
| White | Waxman | White |
| Whitehurst | Weaver | Whitehurst |
| Wiggins | Weiss | Wiggins |
| Wilson, Bob | Whalen | Wilson, Bob |
| Wilson, Tex. | White | Wilson, Tex. |
| Winn | Whitehurst | Winn |
| Wolff | Wiggins | Wolff |
| Wright | Wilson, Bob | Wright |
| Wydler | Wilson, Tex. | Wydler |
| Wylie | Winn | Wylie |
| Yates | Wolff | Yates |
| Yatron | Wright | Yatron |
| Young, Alaska | Wydler | Young, Alaska |
| Young, Fla. | Wylie | Young, Fla. |
| Young, Mo. | Yates | Young, Mo. |
| Young, Tex. | Yatron | Young, Tex. |
| Zablocki | Young, Alaska | Zablocki |
| Zeferetti | Young, Fla. | Zeferetti |
| | Young, Mo. | |
| | Young, Tex. | |
| | Zablocki | |
| | Zeferetti | |

NOT VOTING—57

| | | |
|---|---|---|
| Armstrong | Fowler | Rodino |
| Barnard | Gammage | Runnels |
| Baucus | Giaimo | Ryan |
| Bevill | Gudger | Sarasin |
| Boggs | Heckler | Schroeder |
| Brademas | Holland | Shipley |
| Breckinridge | Howard | Smith, Iowa |
| Burgener | Jones, N.C. | Spellman |
| Burke, Calif. | Ketchum | St Germain |
| Burton, John | Krueger | Teague |
| Clawson, Del | Leach | Thone |
| Cornwell | Lujan | Thornton |
| Crane | Meeds | Tucker |
| Dent | Moakley | Udall |
| Diggs | Murphy, N.Y. | Van Deerlin |
| Early | Quillen | Whitley |
| Fithian | Rahall | Whitten |
| Foley | Railsback | Wilson, C. H. |
| Fountain | Roberts | Wirth |

Mrs. SMITH of Nebraska, Messrs. CARTER, TSONGAS, and CONYERS changed their vote from "yea" to "nay."

Mr. STUMP changed his vote from "nay" to "yea."

So the motion was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the motion just defeated.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

## DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule on Wednesday of next week be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

## AUTHORIZING CLERK TO RECEIVE MESSAGES AND SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS NOTWITHSTANDING ADJOURNMENT

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that notwithstanding the adjournment of the House until Monday, April 17, 1978, the Clerk be authorized to receive messages from the Senate, and that the Speaker be authorized to sign any enrolled bills and

joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

## ADJOURNMENT TO MONDAY, APRIL 17

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

## FLOOR REMARKS OF THE HONORABLE CARROLL HUBBARD ON THE NEED TO SIMPLIFY INCOME TAX REPORTING

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HUBBARD. Mr. Speaker, April 15 has long been a day of dread for millions of American taxpayers shouldering their burdensome tax responsibilities. First, they must face the shock of their income tax liability. Second, they must grope their way through a labyrinth of confusing instructions and reporting requirements. This year, the day of dread has been changed to April 17. The miserable task of understanding our byzantine tax forms remains essentially the same, however, despite the enactment of so-called "tax reform and simplification" legislation. I fear that by using the terms "simplification and reform," Congress has shown itself to be as guilty as the Internal Revenue Service in deceiving and frustrating the American people.

Last night, I spoke with an eminent attorney from Louisville, Ky., who had just given up trying to prepare his own tax form, and in exasperation had turned to his accountant for help. The complexity of our income tax structure and our income tax forms not only boggles many of the best minds in the Nation, it apparently boggles the Internal Revenue Service. The General Accounting Office released a report last month showing that only 87 percent of the questions asked of IRS telephone-aid personnel were answered correctly. Leading tax specialists in the most reputable firms simply cannot comprehend the recent changes in estate taxation. They find themselves without guidance from the statutes Congress enacts or the regulations the IRS promulgates, if such regulations are promulgated at all.

The piecemeal approach Congress has taken toward income tax reform and simplification is not working. Repeated changes serve only to confuse people. This year, more than half of all taxpayers will seek help in filling out their Federal income tax forms. In light of the work now being done on a comprehensive tax reform bill by the House Ways and Means Committee, I implore my House colleagues to press for meaningful change in our tax structure and tax forms.

Federal taxes are already too high, and going higher. This is a painful fact in itself. It is senseless for Congress to sanction the continuation of a tax system which exasperates the American taxpayer who is honestly trying to bear his painful tax responsibilities.

## ALARMING DEVELOPMENTS IN NATIONAL DEFENSE PROCUREMENTS

(Mr. LUKEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUKEN. Mr. Speaker, I would like to bring to the attention of my colleagues in the House a most alarming matter.

The Department of the Navy has neglected its responsibility to maintain a secure mobilization base, and has allowed a Russian firm, Stankoimport, to produce machine tools used to build a tender for the U.S. missile carrying submarine, the Simon Lake. I would also like to remind my colleagues that the Department of the Army has recently awarded a contract for the production of the machine tool system for the new, secret XM–1 tank to the Mitsubishi Corp. of Japan.

These two contract agreements, one with the Soviet Union, the other with Japan, dramatizes the Armed Services utter neglect of the domestic machine tool industry—an industry which is critical to any mobilization plan, yet is plagued by increasing imports.

These are only two instances; once in 1976 and again in 1978. We do not know how many other instances have occurred. Nobody knows how many other occurrences exist in which vital and even classified defense weapon systems are produced by foreign-made machine tools. No one knows how dependent we are on Russia, Japan, China, or other non-NATO countries for our defense readiness. The terrifying fact is that no one will know until the mobilization alarm sounds, and then, it will be too late.

Although the Russian contract has been completed, we now have the opportunity to prevent a recurrence in the Mitsubishi contract. Surely, all of you will agree that in tank production, the engineering and technology for major machine tools should not reside in foreign countries. Also, the United States has the capability for this engineering and technology, yet we are relying on foreign-made machine tools for defense.

For this reason, I am proposing legislation to fight this award, and future awards of defense machine tool contracts to foreign countries. I will fight for this legislation to insure the health of our domestic machine tool industry, and the strength of our mobilization base.

## THE LATEST KILLING OF DOLPHINS BY JAPANESE FISHERMEN

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, it is with regret that I must again rise to express my outrage over the latest killing of dolphins in the waters of Japan. Two weeks ago, I watched the report of this bloody activity on a national network news program, which again offended my sense of rationality, as well as most of those watching. This time, the killing occurred in the prefecture of shimane, located in the Sea of Japan. The "kill" this time was 100 of these intelligent sea mammals. This compares with the 1,010 killed off the Japanese island of Iki 2 months ago. Mr. Speaker, I took the floor at that time to express my disgust over this needless, bloody activity. It was hoped that the vocal outcry of some Members of Congress, along with world opinion, would be effective in persuading the Japanese Government to utilize more humane methods of protecting their fishing industry. Indeed, the Japanese fishermen of Nagaski have employed a method whereby they catch the dolphins alive and transport them away from the immediate area of the domestic fishing activity. Why cannot this be universally employed? It seems to be the question that the Japanese officials cannot answer. Instead of encouraging this humane method, as well as other proven means of clearing the fishing area of dolphins, the Japanese officials persist in perpetuating this bloody activity, by issuing the permit and then paying the fishermen a bounty for each of their innocent dolphins they brutally slaughter. This not only disgusts and offends me and a number of my colleagues, it makes one question the real motive of the Japanese officials. Why don't they encourage, or actually subsidize, the humane transfer of these intelligent sea mammals? They are already subsidizing their killings. Such cruel, inhumane and bloody activity sanctioned by a civilized country must cease. What does it take for the Japanese to realize that the world opinion is mounting against them on this issue? What does it take for them to correct this situation?

As one Member of this body, I can assure the millions of concerned individuals throughout the world, who are offended by such repeated acts of irresponsible cruelty, that I will not ease up on my efforts to see that this activity is terminated. I only hope that the Japanese officials react quickly before this incident becomes a major, divisive, issue.

## THE CRUSHING OF THE EMERGENCY FARM BILL IS A SETBACK FOR THE NATION

(Mr. MOORE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOORE. Mr. Speaker, yesterday this body crushed the emergency farm bill.

This action has no doubt brought glee to President Carter, but it will, I predict, be a real setback for our country.

This farm bill was the result of months of hard work by many Members of Congress. It started as a Republican initia-

tive, first in the other body by Senator BOB DOLE of Kansas, and then was embraced by the House Republican Task Force on the Agriculture Emergency. Later it was introduced by a number of Republican and Democratic Members of the House.

Still later in the legislative process it was materially amended and finally emerged from the conference committee in a modified form carrying several key amendments by Democratic Members of this body.

Perhaps it was this Republican brand that was just too much for the Carter administration to swallow. Perhaps it was perceived as a threat to the "cheap grain—cheap food" policy that is the core of this administration's economic strategy. Perhaps it was something else.

But for whatever reason, the administration's heavy hand fell on House Democrats yesterday. By over a 2 to 1 margin the majority party stomped this bill. Clearly the President's threatened veto is what caused the measure's defeat and all responsibility for this defeat is on his doorstep. As an example of his undue influence, 101 Democrat Members voted "no" on this emergency farm bill who voted "yes" on April 22, 1975 on the emergency farm bill considered on that day while only 6 Republicans made this change.

In any event, I know thousands of farmers will share their disappointment in the political process that leads them on with large quantities of sympathy and promise, but fails to deliver when it counts.

Yes, we tried, and I am proud that we tried. And we will try again to structure our national farm programs in a way that will encourage the development of a market economy which rewards the producers of agricultural wealth in the market * * * a policy which rejects the "cheap food" philosophy because that ill-conceived notion is not only unfair but is ultimately impractical as well.

## WE MUST STOP FEDERAL AGENCY GUN CONTROL, LEST WE SURRENDER LEGISLATIVE POWER TO THE EXECUTIVE BRANCH

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, on March 21, the Bureau of Alcohol, Tobacco and Firearms issued a "proposed rulemaking" amounting to Federal firearms registration, which, the Carter administration has embraced as theirs. I say this, because the responsible administrator is a political appointee who, during congressional briefings, informed my staff that discussions had been conducted with responsible persons elsewhere in the administration before the BATF rule was announced.

There is an insidious movement about that should disturb every Member of Congress be they gun control advocates or not. Presidential power, funneled through the rulemaking process could serve to create a new power structure in this country. By issuing administrative directives through Federal agencies, the President could threaten to usurp the congressional legislative power authorized in the Constitution.

Whether a Federal "data bank" of firearms owners should be created in the United States is a question of policy that has stirred controversy for many years. It is a question which belongs in the Congress, subjected to the democratic give-and-take that it deserves, not tucked away in some bureaucracy, where it would be out of the sight of a concerned public. Additional Government supervision over actions of private citizens should be given the thought and consideration of Members of Congress in a public forum.

For the head of an administrative agency to move to implement a program requiring a Federal registration of firearms is a violation of article I of the Constitution and poses a threat to the liberties of the citizens of this country. The Congress has spoken loudly and clearly on the question of Federal registration of gun owners. Americans are opposed to any scheme that smacks of "big brotherism."

### CRITICISMS OF BATF RULE

First. Only Congress should decide whether any form of Federal registration of firearms sales should be permitted. On at least seven previous occasions, Congress has voted against registration and centralized recordkeeping.

Second. "Data bank" collections of information about citizens should be avoided if at all possible.

Third. Tracing of illegal firearms has been effective under present law.

Fourth. Cost of computerization. Thirty-five to 40 million transactions per year will be entered into Federal computers.

Fifth. Criminal penalties for dealers who fail to report gun thefts will be more severe than those imposed upon the thief.

I urge all of my colleagues to join me immediately in registering your disapproval. Congressmen SYMMS, WEAVER, SANTINI, and VOLKMER have joined in this effort, and have offered to sponsor similar resolutions to the one which I am introducing today. You may join us as cosponsors by contacting my office. Through the good efforts of Senator JIM MCCLURE, this cause will be fought in the other Chamber. The Senator and I hope to complete our work in the next 2 weeks as the agency deadline for completion of the public comment period is May 22.

I urge you to submit a letter to the Secretary of the Treasury protecting the BATF action.

### PREVIOUS HOUSE OF REPRESENTATIVES ACTION AGAINST GUN REGISTRATION

The House of Representatives defeated three proposals to require the registration of firearms during consideration of the 1968 Gun Control Act.

First. An amendment requiring all handgun purchasers to complete a registration form at time of purchase, said form to be filed with the Secretary of the Treasury, and all existing handguns to be registered in the same manner, was defeated on July 19, 1968, by a vote of 168 to 89;

Second. An amendment to the previous amendment, extending its terms to all firearms, was defeated the same day by a vote of 172–68;

Third. An amendment requiring a license to purchase a firearm, said license to be issued by federally licensed firearms dealers and to contain the person's name, address, photograph or fingerprints, with the information susbequently to be forwarded to the Secretary of the Treasury, was defeated on July 23, 1968, by a vote of 170 to 84.

### PREVIOUS SENATE ACTIONS AGAINST GUN REGISTRATION

The Senate defeated four proposals to require the registration of firearms during consideration of the Gun Control Act of 1968:

First. An amendment providing for the registration of all firearms, virtually identical to a combination of the first two amendments rejected by the House of Representatives, was defeated on September 17, 1968, by a vote of 55 to 31;

Second. An amendment requiring the States to establish a registration system and forward the information obtained from the system to the FBI, was defeated on September 18, 1968, by a vote of 48 to 35;

Third. An amendment requiring the registration of firearms at both the local and Federal level, and establishing a firearms inventory in the Treasury Department with the information obtained from the registration system was defeated on the same day by a vote of 53 to 31; and

Fourth. An amendment requiring all firearms purchasers to exhibit a federally approved State permit or a Federal gun license was defeated 49 to 35 on the same day.

### TEXT OF CONCURRENT RESOLUTION DISAPPROVING BATF RULEMAKING

Whereas, the Bureau of Alcohol, Tobacco, and Firearms of the Department of the Treasury has proposed regulations which, although called "quantity reporting of firearms disposition," would constitute centralized Federal registration of firearms; and

Whereas, the Congress has specifically rejected Federal gun registration and centralized recordkeeping in the 1968 Gun Control Act and on repeated occasions since then; and

Whereas, there has been no claim that the Bureau of Alcohol, Tobacco, and Firearms has been unable to trace firearms successfully under the present tracing system; and

Whereas, the increased paperwork, computerization, and cost of manufacture would be overburdensome to the taxpayer and the consumer; and

Whereas, the proposed regulations are an attempt to accomplish by regulation what Congress has refused to authorize by legislation: Therefore, be it

*Resolved by the United States House of Representatives (the Senate concurring)*, That the Bureau of Alcohol, Tobacco, and Firearms regulations proposed by the Department of the Treasury in the March 21, 1978, Federal Register, requiring the reporting of all firearms transactions in federally licensed commerce to be centrally maintained by the Federal Government, the placing of additional serial numbers on all firearms, and the implementation of certain other proposed changes, exceed powers con-

ferred on that Department by the Congress, and that the proposed regulations be withdrawn.

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DEAR SECRETARY BLUMENTHAL: I want to register my strenuous objection to the consideraton of proposed rule changes to 27 CFR, Parts 47, 178, and 179, which were published in the Federal Register by the Bureau of Alcohol, Tobacco and Firearms on March 21, 1978.

In requiring a centralization of all firearms sales to the BATF, the agency would set in motion a course of events that have already been debated and rejected by the Congress. The BATF proposes that computerization of firearms sales at all levels be implemented. The BATF, during congressional briefings stated that authority for this proposal derives from the language of the 1968 Gun Control Act, Section 926(g), and that the BATF would be legally authorized to collect the names of all firearms purchasers.

This announced interpretation of BATF authority is a dangerous move against previously documented Congressional legislative intent. On occasions, during gun control debate on the House and Senate Floors, as well as during Committee sessions, the question of whether the identity of firearms purchasers should be revealed was submitted to a vote. On each occasion, the separate Houses resolved the issue in the negative.

Whether or not a federal computer bank of firearms owners should be created in the United States is a question of policy that has stirred controversy for many years. It is a question which rightfully should be debated in a forum of elected public officials subjecting the issue to the democratic give-and-take that it deserves.

For an administrative agency to move to implement a program that even remotely resembles a federal firearms registry should clearly signal the need to the Department of Treasury to submit to Congress their plan for such a recordkeeping program. The additional governmental supervision over actions of private citizens, and the cost of implementing such a massive program should be given the thought and consideration of Members of Congress.

I oppose the continued consideration of these proposed regulations, and respectfully request that you instruct the BATF to cease its efforts to develop further its keeping of records of firearms purchasers.

Sincerely,

JOHN ASHBROOK,
*Member of Congress.*

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## THE PRESIDENT'S PROPOSED DECISION ON THE NEUTRON BOMB

The SPEAKER pro tempore (Mr. KILDEE). Under a previous order of the House, the gentleman from Alabama (Mr. DICKINSON) is recognized for 60 minutes.

Mr. DICKINSON. Mr. Speaker, I take this special order today, on which I have contacted my colleagues on the Committee on Armed Services and the Subcommittee on Defense of the Committee on Appropriations, to discuss the weapons system, the so-called neutron bomb and to express my concern over what is apparently happening to this country of ours today so far as disarmament is concerned. I, therefore, think it is a matter of some grave concern and something that we should pay some attention to.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 3 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I am happy to yield to my colleague the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Speaker, I thank the gentleman from Alabama (Mr. DICKINSON) for yielding me this time. I would like to compliment him very highly for his interest in this subject which has become a matter of real concern for our Nation.

Mr. Speaker, you would think that a new weapon that could be precisely targeted against enemy forces and limited in its destructiveness—but which would be totally effective—would be highly popular among policymakers and the public.

The neutron warhead is such a weapon.

We call it a bomb, but it is not really a bomb. Neutron critics injected that word into the debate in order to generate unnecessary emotionalism over the weapon.

The neutron warhead is a conventional nuclear device that can be used primarily as an enhanced artillery shell or missile against enemy tanks or emplacements.

If enemy forces have control of a building or village, a neutron weapon can be sent in to destroy them without killing innocent civilians and destroying property to the extent that is impossible to avoid with current weapons.

The fact that it is so effective is a primary reason to support the neutron weapon.

The fact that it can be used against enemy forces and installations in a limited way, without spreading unnecessary radiation and destruction among the civilian population of a war zone is further reason to deploy the neutron warhead.

The fact that its deployment would immediately put the United States and our Allies on a more equal footing with the Soviet Union and the Warsaw Pact is the major reason why we must go ahead with this weapon.

Mr. Speaker, with the neutron warhead, the United States will be able to deter hostile action or war initiated by the Soviets in Europe.

With the neutron warhead, we have a fighting chance to defeat the enemy if fighting or war should break out in Europe. But without it, there is little chance that Europe could be saved.

This is not scare talk. It is the facts.

Every strategic expert on our side recognizes that Soviet forces deployed in Europe are far in excess of what would be required either to deter an attack by NATO, or to assure continued servility on the part of their Warsaw Pact allies, the Iron Curtain countries of Communist Europe.

Changes in Soviet deployments over the past decade in Eastern Europe have substantially increased the Soviet potential for offensive operations in NATO territory.

The forward deployment of Soviet forces in East Germany, the deployment of large supplies of ammunition, fuel, and spare parts in forward Warsaw Pact depots, and the substantial increase in the number of Soviet-backed troops and equipment have all served to reduce the potential warning time available to NATO to prevent or stop a Soviet-Warsaw Pact mobilization.

We need the neutron warhead just to put us on a more equal footing to meet this threat.

We certainly do not have the manpower, tanks, and other weaponry to help save Europe in the event of a Soviet offensive without neutron weapons.

Just look at the current comparative strength of U.S.-backed NATO forces and Soviet-backed Warsaw Pact forces in Europe.

These are the most recent strength figures from the Library of Congress, which I received today from the Congressional Research Service's Foreign Affairs Division:

| | Nato | Warsaw Pact |
|---|---|---|
| Personnel | 1,408,000 | 1,600,000 |
| Number of divisions | 61 | 90 |
| Medium tanks | 7,400 | 22,000 |
| Tactical aircraft | 2,085 | 2,600 |
| Medium intermediate range ballistic missiles | 0 | 550 |

The comparative United States-Soviet component of the NATO and Warsaw Pact forces in Europe is as follows, according to the Library of Congress:

| | U.S. | Soviet Union |
|---|---|---|
| Personnel | 275,000 | 730,000 |
| Number of divisions | [1] 28 | 59 |
| Medium tanks | 4,300 | 18,000 |
| Tactical aircraft | 300 | 1,050 |
| Medium / intermediate range ballistic missiles | 0 | 550 |

[1] The 28 U.S. divisions comprise all U.S. forces, active and inactive, throughout the world. The 59 Soviet divisions in the Warsaw Pact, on the other hand, comprise only those Soviet forces actually locaed in Europe.

Mr. Speaker, the important question about the neutron warhead is, "what makes this enhanced radiation weapon different from any other weapons?"

First, it seems to frighten the Russians. How else can we explain the strong, almost hysterical opposition to deployment of the neutron warhead that has been officially voiced by the Kremlin?

With the almost 3-to-1 military advantage currently enjoyed by the Soviets in Europe, the only conclusion to be reached from this Soviet reaction to the neutron weapon is that the Soviets are afraid that it will stop or alter their already planned aggression there.

Second, possible deployment of the neutron weapon by the United States might actually cause the East European Warsaw Pact nations to think twice about an armored attack in central Europe.

This possible eventuality, which would interfere with current Soviet military intentions, is another reason for concern and pressure from the Kremlin.

The obvious answer for the United States to test the true intentions of the Soviet Union.

President Carter should formally inform the Soviets of our intention to deploy the neutron warhead, unless the Soviet Union agrees to reduce its forces to approximately the level of NATO Forces—a purely defensive posture—and to remove its poison gas weaponry.

If the Soviets refuse to do this, they will have publicly acknowledged their true hostile intentions, and deployment of the neutron warhead by the United States will be mandatory.

Mr. Speaker, I am pleased to join with my colleagues in urging the President to proceed with the production and possible deployment of enhanced radiation weapons.

We must test the true intentions of the Soviet Union.

Surely, if they fail the test, to deny our forces and those of our NATO allies the newest, most advanced weapons systems possible would be not only incomprehensible, it would be truly immoral as well.

Mr. DEVINE. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I am pleased to yield to my colleague the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Speaker, I thank the gentleman from Alabama (Mr. DICKINSON) for yielding to me. I also want to commend the gentleman for taking this time to have a special order on this very important subject. A lot of my constituents have written me expressing discomfort and alarm at the posture of the President in again taking a position where he is either reviewing or phasing out the neutron warhead because it reminds them of what he did on the B–1 bomber and the Minuteman Missile III, and they wonder if he is following a posture of unilateral disarmament or, to put it another way, doing great violence to our traditional American position of peace through strength.

I think the Members of this House would do well to pay attention to the remarks of the gentleman from Alabama (Mr. DICKINSON) who is so devoted to our American tradition of peace through strength.

Mr. DICKINSON. Mr. Speaker, the art of war, as it has often been called, is sometimes brutal, sometimes subtle. Trojan horses, loud noises, even trickery are sometimes more effective than the latest armaments. The outcome of a battle can be as readily influenced by what an opponent thinks he sees as by what is actually happening to him.

Psychology, or should I say psychological warfare can and does win battles. Take the case of the so-called neutron bomb. It has been depicted as the real estate agent's dream. It destroys people, but it does not damage property. Some would have us believe that the neutron bomb would replace the eviction notice.

How many Members are aware of the tremendous propaganda effect and effort that the Soviet Union has mounted to attempt to discredit this weapons system? The House Committee on Armed Services received 15 pounds—15 pounds—of petitions signed by what purported to be every schoolchild in Communist Germany, asking the United States not to manufacture the "neutronen bomben." Our colleagues on the Committee on Armed Services who recently returned from Russia stated their surprise at the intensity of the diatribe that they heard from the very high level Soviet officials on the U.S. proposal to build the so-called neutron bomb.

What is the neutron bomb, if it is a bomb, and what is wrong with it? The generic name for such systems is enhanced radiation-reduced blast nuclear weapons. They are thermonuclear, that is, fusion weapons systems, which produce far more neutrons when exploded than the ordinary fission weapons. This huge flux of neutrons interacts with matter and causes material changes. Believe it or not, the first enhanced radiation-reduced blast nuclear weapon entered the stockpile of the United States in the very early 1970's. It was the Sprint missile. Sprint and Sparton were the two parts of the U.S. antiballistic-missile system. Sparton was designed for use above the atmosphere. The Sprint weapon was for use up to 100,000 feet. It was designed to destroy an incoming enemy reentry vehicle by enveloping its fissile material and electronic components in a cloud of neutrons. This so altered the composition of the affected parts that the reentry vehicle warhead would no longer function. Why was the Sprint weapon so designed? It was going to be detonated over U.S. soil; that is why it was so designed. The entire game plan was, one, to keep the enemy weapon from detonating and destroying U.S. people and property, and, two, to assure that the collateral damage from our own weapons was at an absolute minimum. That collateral damage from our own weapon was averted by the development of this weapons system. A citizen who gets nuked by our own weapon, not by theirs, is dead just the same.

The Sprint, by the way, was called a strategic defense weapon. Neutron weapons designed for battlefield tactical use—be they rocket warheads or artillery shells—are necessarily of lower yield than an ABM weapon for a very simple reason. Tactical weapons are used very close to the ground, where collateral or undesired damage is assured, unless total yield is minimized while still obtaining the desired effects from the weapon.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from New York.

Mr. KEMP. I thank the gentleman for yielding.

I want to congratulate the gentleman from Alabama on his efforts for bringing the attention of this House and this body to this very important issue. The gentleman is talking about tactical weapons in Europe particularly. At this point I want to ask the gentleman: Is it not true that the Soviets have deployed a mobile intermediate range SS–20 missile which is aimed at targets in the NATO Pact countries?

Mr. DICKINSON. In very large quantities.

Mr. KEMP. Is it not true, according to the gentleman's knowledge—which is extensive in this area—that the Soviets have somewhere between 2½ to 3 times the number of tanks in the Warsaw Pact countries as opposed to the NATO countries?

Mr. DICKINSON. It is my recollection—and I could be wrong—that it is more than 3 to 1 compared to what the NATO countries can field, and they are more modern with their T–72's, and more effective than our most modern tanks, which we hope to have coming off of the assembly line in 1982.

Mr. KEMP. So in the face of this type of threat that NATO faces from the Warsaw Pact countries, it seems to me the gentleman is right on target in suggesting that the enhanced radiation weapon is a neutralizer against the tremendous odds that are now building up on the border of NATO by the Warsaw Pact countries. Is that not the gentleman's conclusion?

Mr. DICKINSON. It is. Whether we are talking about intermediate range missiles, whether we are talking about tanks, whether we are talking about artillery tubes, whether we are talking about people—put them in almost any category of 2, 3, or 4 to 1. I plan to develop this a little further, later. But, yes, if we are going to be faced with massed tanks, as the Soviet battle plan calls for, and as we have seen them deployed in the past in wave after wave, if we cannot match them 1 to 1, we must find some way to defend ourselves at least long enough so that troops and reinforcements from this country can reach NATO where the battle will be fought.

Mr. KEMP. Just to take it one step further—and I appreciate the gentleman's yielding because he is making a very important contribution to the public's understanding of this issue, and I commend him for it—it seems to me that while we are negotiating MBFR's—mutual balanced force reduction—and we are negotiating SALT, there is a pattern building up of kind of unilateral negotiations. Our negotiations are give and take. With the Soviets we give; they take. We unilaterally reduce and restrain ourselves.

There does not seem to be any parallel restraint on the other side; so it seems to me that in the least sense of the word if we are going to slow down or stop the production of the enhanced radiation weapon, it seems to me we should have gotten something for it. There should have been some equal or reciprocal reduction of the threat from the Warsaw Pact countries, in this case perhaps a dismantling or a nondeployment of the SS–20 or a reduction of this tremendous force that they have opposing the NATO Pact countries. Would

the gentleman agree that we should have gotten something for this?

Mr. DICKINSON. I agree 100 percent and the gentleman from New York is making a real contribution to my efforts here, because the gentleman does serve on the Subcommittee on Defense that deals with this. I will develop this later, but whether we are talking about cancellation of nuclear carriers, this is all since 1972, most since 1977, the cancellation of the B–1 bomber, the cancellation of the new full-fuzing option bomb, stretching out research on the ICBM or the MX and on and on, it seems to me there should be some quid pro quo, that we should not be surrendering or giving up our rights unilaterally and receiving nothing in return. When, as a matter of fact, we all know, and I see the very distinguished chairman of the Armed Services Committee, the gentleman from Illinois (Mr. PRICE), who has been intimately involved with this since the first bomb was built. That gentleman knows how we are concerned in our committee that we are getting nothing in return.

We have been told that at one time the Soviets even offered to cancel their Backfire bomber if we, in turn, would cancel the B–1. We refused in the previous administration. Now this administration canceled the B–1 and the Russians are building their Backfire bomber and they have a capability with fueled or nonfueled vehicles to reach any part of the United States.

Mr. Speaker, I am pleased to see our chairman here. I yield to the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Speaker, I appreciate the gentleman from Alabama yielding. The gentleman was an important and most knowledgeable part of the Committee on Armed Services. I want to commend the gentleman for the points the gentleman is making and the fact that the gentleman is trying to bring out this present matter of the so-called neutron bomb, which is an enhanced radiation weapon. As the gentleman mentioned a moment ago, some of our Members on the committee just returned from a trip to the Soviet Union. I do not know of anything that was more thoroughly discussed on that trip than the enhanced radiation weapon. Very little was said of the SS–20, the new Russian weapons system. No offer was made that they would trade that off against the neutron weapon, the enhanced radiation weapon.

My greatest concern is that we have given away a bargaining point. I am not adverse to disarmament. As a matter of fact, I favored about every disarmament program that has come along. I think the gentleman in the well has also supported them; but there should be, as the gentleman said, a quid pro quo. There should be a give and take. This is the latest weapons system in our arsenal. Before we even have a chance to find out what the other side might bargain for, we have given away that option.

Mr. Speaker, I personally regret that. I hope that perhaps the Soviets may still consider the fact that we have taken such action and might, out of the goodness of their hearts, give up their latest weapons systems.

Mr. DICKINSON. Mr. Speaker, I thank the eminent chairman of the Armed Services Committee for his contribution, and I agree with everything he said. As I mentioned before, the committee chairman is a very distinguished Member of the House. He serves as chairman of the Committee on Armed Services, and he was also chairman of the Joint Committee on Atomic Energy while that committee existed. The gentleman from Illinois (Mr. PRICE) has been knowledgeable in this field for many, many years and certainly knows whereof he speaks.

Mr. Speaker, as far as the enhanced weapon system is concerned, I think it is a misnomer to call it a neutron bomb. Everybody visualizes this bomb as similar to that which was dropped on Nagasaki or Hiroshima, but in fact what we are talking about here is a small nuclear device that can be fitted into an artillery shell or can be fitted into a short-range missile that will detonate and, hopefully, kill any incoming tanks rather than destroy them by heat or blast by the use of neutrons.

The United States and its NATO allies realize that any probability of war in Europe equates to a war starting on NATO territory. The major Soviet tactic is to attack with massed tank armies and armed personnel carriers. When you are outmanned, outgunned, and outtanked by four or more to one, direct confrontation is possibly hazardous to your health. The NATO plan is to meet any attack with conventional forces, probably head-on. But what can be done when numerical superiority starts to take its toll? The answer would be enhanced radiation-reduced blast weapons—artillery or rocket—from which the neutrons will destroy the tank crews. The reduced blast and sharply reduced heat will minimize damage beyond the radius of lethality to enemy forces. Our allies economic structure and population could survive that kind of nuclear battle. Now can you understand why the Soviets fear neutron weapons and why it would not make any sense for them to have neutron weapons?

Mr. DOWNEY. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Speaker, I thank my friend, the gentleman from Alabama, for yielding.

Rather surprisingly, I suspect, I support the gentleman's basic thrust that the enhanced radiation warhead is something that should be produced.

One thing that concerns me is this, however: I would just like to clarify my impression of what the neutron bomb would do, assuming it would be used against advances of Soviet armor. I think we run a real risk of identifying this weapon as a miracle weapon. It clearly is not a miracle weapon, because it is not going to stop Soviet advances.

If anything, this is a marginal improvement over the tactical or strategic balance that we already have in Europe.

Let me ask the gentleman if he would not agree that the best way to stop a Soviet advance would be through conventional methods and through either the deployment of tactical weapons or the use of something other than the neutron bomb.

Mr. DICKINSON. Mr. Speaker, I would say that if we had the capacity to do that, I would agree. The question is: Do we have the capacity to stop an onslaught in full battle array of Soviet tanks, artillery, APC's and planes with the conventional arms and weaponry that are either preplaced in NATO countries or weaponry that could be brought to bear?

Yes, the gentleman and I have no differences there. I think that would certainly be desirable. I think that if we have that capacity, then, these new weapons would never be employed.

One of the falacies that to me is ridiculous is that the people who shriek the loudest about our development of a neutron bomb which has a lethality through radiation rather than blast or heat do not consider the alternatives.

We know that all weapons kill. But if we would be doing the reverse, that is to say, if we had clean weapons there now and wanted to replace them with dirty weapons, the opposite of what we want to do now, I cannot imagine the outcries.

At least, if there is such a thing as humaness in a weapons system, I think the neutron weapon is somewhat better than what is already in place.

Mr. DOWNEY. I agree with the gentleman. If the gentleman will indulge me one more minute, I would simply suggest, though, that when we discuss the enhanced radiation warhead, we understand that it is an improvement over existing capability, but in no way is it going to alter the tactical or strategic balance of either country. I think people have a misunderstanding that without the neutron bomb we are helpless pawns in Europe to the Soviets.

No. 1, I do not buy that; and, No. 2, the neutron bomb may help, but it is not going to stop in any material way Soviet advances, if that is what they are intent upon.

Mr. DICKINSON. I think there is a divergence between the gentleman's opinion and mine. I think it is a very creditable weapon. It has created problems and will create more problems for the Soviets and it will give them more cause to pause than anything we have been developing recently. I think we are foolish not to go forward with the production of it.

I do not say we necessarily have to deploy it at the present time. I think we are certainly very shortsighted to think that the Soviets are not going forward in this area, as they are in many other areas where we are outclassed in numbers of three, four or five to one. To unilaterally and arbitrarily throw this away even as a bargaining chip I think is being shortsighted indeed.

Mr. ICHORD. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Missouri.

Mr. ICHORD. I thank the gentleman for yielding.

Mr. Speaker, I wish to commend the gentleman in the well, who is a ranking member of the Armed Services Research and Development Subcommittee,

for taking the floor of this House to discuss this very important subject which should be discussed and debated by all Americans.

As the gentleman in the well knows, the Research and Development Committee deals with this weapon and also many other programs to defend our country. We on the committee are well aware that our NATO forces are out gunned, they are outmanned, and they are outtanked, as the gentleman has so accurately stated.

I must differ to some degree with the gentleman from New York. I think he is right in many respects. I think the enhanced radiation weapon does have more capability than the gentleman from New York thinks that it will have. Certainly, we would be in a better position to use the enhanced radiation nuclear device.

I would state to the gentleman from Alabama that I was a member of the delegation which recently visited Russia, and I heard the diatribe delivered by a minister of the Supreme Soviet against our country particularly because we were building, as he stated, the neutron bomb. The minister quoted an article which I have not read. If the minister accurately quoted the article, written by Walter Pincus, I think that Mr. Pincus has done a great disservice to his country. The minister of the Supreme Soviet cited to us this article stating that the neutron bomb was designed to kill Russians. As the gentleman also stated, the Soviet Union does have a very strong propaganda campaign not only directed to NATO and the entire world, but also directed to their own people, using this article written by Walter Pincus that the neutron bomb was designed to kill Russians as a vehicle to spread that propaganda. Members of the U.S. Embassy and a journalist in Moscow, an American journalist in Moscow, told me that they had experienced several incidents where Russian friends came to them with tears in their eyes, handing them letters to be mailed to the President of the United States, and asking them to exert influence upon the President of the United States not to build the neutron bomb to kill Russians.

There is a very effective propaganda campaign going on.

I pointed out to the Supreme Soviet Minister that the neutron bomb by no stretch of the imagination was designed to kill Russians and that it would only be used to kill Russians if they constituted an invading aggressive army that would not be directed offensively against Russians or anyone else because it is purely a defensive weapon, as the gentleman well knows.

I am greatly concerned, as is the gentleman in the well, with the cancellation of the B–1 bomber and now the delay in the production of an enhanced nuclear radiation device.

Mr. Speaker, I would state to the gentleman in the well, and I am sure the gentleman from New York would concur, that I can well understand the frustration of the President of the United States at the failure of many of our allies to come to the front and speak out in the open in favor of the building of this enhanced radiation nuclear device. I think that some of our allies have been remiss in not speaking out because they are the ones most likely to be involved in a possible conflict between NATO and the Warsaw Pact and are the ones who certainly have more to gain than anyone else.

I hope that this is merely a delay and that we proceed as rapidly as we can to the production of this weapon.

Mr. DICKINSON. Mr. Speaker, I thank the gentleman very much for his contribution; and I certainly agree with what he says.

Mr. Speaker, if I might just finish a few prepared remarks, I will be glad to enter into any additional colloquy with Members present.

At this time, I would like to point out the obvious: All nuclear weapons cause damage—collateral or planned. All nuclear weapons produce three prompt, direct, potential sources of lethality and a few delayed, indirect sources. The direct effects are blast, heat, and nuclear radiation. The indirect effects which are possible are fallout and residual radiation. These latter two can be avoided if the explosion takes place high enough above the ground.

Let me make one point extremely clear—no matter how desirable or necessary an enhanced radiation weapon would be in the heat of battle, it will not be used without prior Presidential approval. Battlefield commanders and supreme commanders, including Gen. Al Haig, cannot unilaterally and independently order the use of any nuclear weapon. That order comes from the President of the United States, the Commander in chief.

The United States and its NATO allies realize that any probability of war in Europe equates to a war starting on NATO territory. The major Soviet tactic is to attack with massed tank armies and armored personnel carriers. When you are outmanned, outgunned, and outtanked by four or more to one, direct confrontation is possibly hazardous to your health. The NATO plan is to meet any attack with conventional forces, probably head on. But what can be done when numerical superiority starts to take its toll? The answer would be enhanced-radiation, reduced-blast weapons—artillery or rocket—from which the neutrons will destroy the tank crews. The reduced blast and sharply reduced heat will minimize damage beyond the radius of lethality to enemy forces. Our allies' economic structure and population could survive that kind of nuclear battle. Now can you understand why the Soviets fear neutron weapons and why it would not make any sense for them to have neutron weapons?

Let me repeat that it is only the President who can approve the use of any nuclear weapon, no matter how the battle might be progressing.

There are now tactical nuclear weapons—artillery and rockets—available to NATO forces. The artillery shells are not well matched to the new artillery tubes coming into inventory. New systems are needed and new systems should be developed, produced, and deployed. And they should be enhanced-radiation systems so that the Soviet and Warsaw Pact forces would want to give careful consideration before starting massive armored attacks.

Let me touch on the world around us. It is common knowledge that the Soviets have literally hundreds of intermediate-range ballistic missiles with megaton-yield warheads targeted on NATO. If the Soviets want to destroy Europe and take the chance of being destroyed in return, so be it. But if the Soviets hope to force capitulation of NATO and the capture of Europe through the use of superior armor and troop numbers, the enhanced-radiation weapons will give them pause to reconsider.

Now that I have expounded on why this country and its NATO allies need enhanced-radiation weapons, I might try to examine the other side of the coin to see why we might not need them. The other side of the coin is blank.

I would like to consider one other point that has been prominent in the media. That is the idea that enhanced radiation weapons could be used as a "bargaining chip" against some Soviet system. Let us examine the record of what the Soviets have fielded since SALT I was signed in 1972.

Four new ICBM systems, much larger than the ones they are replacing. One system, the SS–16, is a mobile system.

The new mobile IRBM system, the SS–20, aimed at NATO.

The backfire bomber with a refueled range that can easily reach the United States.

The IL–76 supercargo plane outfitted as a tanker. (The IL–76 is bigger than the USAF C–141.)

This is conjectural, but it seems that another ICBM system, a fifth-generation system, is about to be fielded.

What has the United States done since SALT I was concluded in 1972, mostly since 1977:

Canceled a few nuclear carriers.

Canceled the B–1 bomber.

Canceled the new full fuzing option bomb, the B–77.

Stretched out the research on a new ICBM system, the M–X.

Tried to lock the United States into a permanent second place (or maybe third place) with SALT II.

Now we hear that the enhanced radiation weapon has been offered as a "bargaining chip" for some yet unannouced future Soviet "draft" choice.

Through the years, efforts have been made to outlaw weapons. In recent times biological weapons have been outlawed by treaty. An effort is underway to outlaw chemical weapons. But how many people know that the Pope once outlawed a weapon? The following is from Lynn Montross' book, "War Through the Ages" (page 133). This is during the period of the crusades:

To these advantages may be added the development of an effective new weapon in the arbalest, or crossbow. Simply a ballista on a small scale, with the cord drawn back by a winch and released by a trigger, the crossbow shot bolts which pierced the best Eastern armor. More powerful than the ordinary bow of the

day, it differed also in that it could be fired from a reclining position, and the bolts were cheaper and less bulky than arrows. The crossbow was slower, however, since the winch must be wound while placing one foot on the steel arm supplying the force of propulsion.

The weaopn is mentioned at the battle of Hastings, but it remained a novelty until the Crusades. And even at this early date we have an example of the timeless horror of new fighting tools, resulting eventually in the prohibition of the crossbow by several Popes. There would seem to be little choice between being transfixed by a steel bolt and an ordinary arrow; but every age, including the present, has its prejudices. Despite this abhorrence of military change, no restriction has ever yet succeeded in abolishing a weapon which once proved its worth on the battlefield.

Under the Carter administration, the United States seems to be backing off from every reasonable chance to enhance our military posture so as to somehow counter the fantastic Soviet armaments buildup. We all realize that unilateral disarmament is a road to surrender. How many people realize that the path which this administration is taking—unilateral unarmament—could lead to the same conclusion—surrender or subjugation?

Mr. Speaker, the question is, Are we in danger of losing our democracy?

Mr. BADHAM. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from California, a fellow member of the Committee on Armed Services.

Mr. BADHAM. Mr. Speaker, I thank the gentleman for yielding.

I would sincerely commend the gentleman from Alabama (Mr. DICKINSON) for taking a special order on this most important subject to bring to the attention of the American people as to what the so-called neutron bomb is and what it is not.

Probably one of the most unfortunate misnomers of current events and current history is to call this enhanced radiation weapon a bomb at all.

But, while we know that, and my distinguished colleague knows that, and the members of the committee know that, the American people seem to be somewhat confused. We can bet our bottom dollar that the Soviet leaders know exactly what the neutron bomb is, and exactly what the neutron bomb can do. For that reason, while they know what it is, they would love to see this thing surrounded with a cloud of neutrons themselves so that the American people might think that this is some horrible new inhumane weapon, which it actually is not.

I think an important fact that we must point out is the fact that if it were the other way around and we had enhanced radiation weapons on station now in the European field, and we wanted to replace those with dirty weapons, as has been brought out by my distinguished colleague, a real and legitimate howl should go up. The real howl against this weapon, which is an excellent weapons system, which is a defensive weapons system, which is a weapons system that must be used for deterrence, is the fact that it is a weapons system that is wholly defensive in character, and would be used for that purpose only.

Mr. Speaker, a total lack of understanding is prevelant among some of the people of this great Nation as to what the so-called neutron "bomb" is and what it is not.

As I have already said, the first misnomer that must be corrected is that the neutron "bomb" is not a bomb at all, but rather an enhanced radiation-reduced blast nuclear weapon designed for use as a battlefield artillery shell. Although this weapon will produce all four lethal effects of nuclear explosions: blast, heat, radiation, and fallout, it will only produce about one-tenth the blast, heat, and fallout of conventional nuclear weapons, and being more precise than conventional nuclear weapons, the radius of its effects is more limited. Thus, the indiscriminate slaughter of innocent civilians that has so often accompanied war will be greatly diminished.

Despite this knowledge, the Soviets have been preaching about the inhumanity of the neutron weapons. I am pleased the Soviets have taken note of the potential of these weapons; however, I question the labelling of these weapons as inhumane. The Soviets should know by now that the United States has no intention of using this weapon unless given no alternative by an aggressor. Therefore, I contend that the neutron weapons are not weapons of inhumanity, but weapons of deterrence. If one takes the time to study this country's successful foreign policy over the last 15 years, he would discover that deterrence is the name of the game.

One other misnomer that should be cleared up is that the neutron weapons are not designed to give the United States and her allies a status of military superiority over the USSR. To the contrary, these weapons are designed to compensate for the massive Soviet arms build-up, especially in tanks, which has taken place over the past decade. These weapons would be the most effective defense for our allies against such armor, and it is truly the best way to offset our current disadvantage.

The President's decision, or more properly his indecision, to defer production of the enhanced radiation-reduced blast warhead is one that has already had severe repercussions, as witnessed by our now faltering relations with our ally, West Germany. I suggest we, as Members of Congress, exhibit the leadership that is needed, yet lacking from the White House, and push for deployment of the enhanced radiation-reduced blast warhead.

Mr. DICKINSON. I thank the gentleman.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. DICKINSON. I am very pleased to yield to my distinguished colleague from Mississippi, a member of the Armed Services Committee, who has just returned from Russia.

Mr. MONTGOMERY. Mr. Speaker, I would also like to join my colleagues in commending the gentleman from Alabama for taking this special order and giving Members the opportunity to comment on the neutron weapon.

As the gentleman in the well said, I have had the privilege of going, with the House Armed Services Committee, to Russia. Incidentally—and it might have been said here already—this was the first military committee from the Congress ever to be permitted to go into Russia. We did not see much military equipment or personnel, but we did meet with political leaders and military leaders of the Soviet Union. Every time we met with them, they were quite concerned about the neutron weapon.

After coming back to the United States, we learned that President Carter had considered, or had moved in delaying the building of the neutron weapon. That was quite disturbing to me, a fact which I brought to the attention of the House several weeks ago—my total concern—because if the Russians are so worried about the neutron weapon, it seems to me that this would give us a bargaining chip to work out a better solution to our military problems with the Soviets.

We canceled out the B–1 bomber, as I am sure has been mentioned here today, and now we are slowing down the building of the neutron warhead. I think it should be brought to the attention of the American people, that the main thing that our Soviet counterparts wanted to talk about was the neutron weapon. Now, we have slowed that down, and we have thrown away, in my opinion, a good bargaining chip.

Mr. DICKINSON. Well, let me reply to that, not meaning to cut the gentleman off.

Since 1972, the record shows that the Soviets have fielded four new ICBM systems much larger than the ones they were replacing. One system, the SS–16, is a mobile system.

The new mobile IRBM system, the SS–20, is aimed at NATO; the Backfire bomber, with a refueled range that can easily reach the United States; and the IL–76 supercargo plane outfitted as a tanker, which is bigger than our C–141. This is conjecture, but it seems that another IBM system, a fifth generation system, is about to be fielded.

So while we seem to be floundering and lacking a sense of direction and canceling one major system after another, the Soviets are not arguing about what they are doing: They are doing it.

Mr. MONTGOMERY. We have tried to point out that the neutron weapon was not aimed at the Soviet Union. It would be used against whoever happened to be, as my colleague the gentleman from Missouri pointed out, on the battlefield at the time. We tried to show the Russians that, as we all know, the Warsaw Pact tanks and personnel have greatly outnumbered the NATO forces. Actually the neutron weapons would be a balance and maybe would keep the Soviet Union from considering attacking and pushing our forces into the sea.

We tried to point out in our dialog with the Soviets that the SS–20's, which the gentleman mentioned, the great nuclear weapon or bomb or missile that the Russians have, are aimed today at the NATO forces, and the neutron warhead is not aimed at any city in Russia.

But I appreciate very much the gentleman giving me this opportunity. I want to leave this thought though, that I think after going to Russia, I believe they realize, as we realize, that if they were to have the first strike, the initial strike against the United States, that we would have the second strike against them, and we could virtually destroy both nations. I got the feeling from the Soviets that we must try to continue to talk and try to negotiate.

Mr. DICKINSON. The gentleman is right, but let me interrupt and say that if he is talking about the intercontinental ballistic missile exchange or a strategic strike by bombers, yes, this is true. But we are talking about with the neutron weapons, and what they are intended to do, is for tactical use on the battlefield to be used, if necessary against conventional forces as a defensive weapon. And because there comes a point when the credibility of an exchange between two superpowers no longer exists because they know we are not going to fire first and we believe they will not fire first, then anything we do short of triggering a strategic nuclear war would have to be withstood with nonstrategic means, and that is what this weapon is designed to do if necessary.

Mr. MONTGOMERY. I agree with the gentleman. I was in fact just finalizing my thoughts and remarks, that the Soviets do realize that we virtually could destroy both of the superpower nations. I guess my point to the gentleman in the well is that we are going to have to deal from a strong military defense in the United States, and our record is good in that we have not gone around jumping on and attacking people, and that we still need to keep the door open and we still need to continue to talk to the Soviets and work out some fair solution for both nations that will keep the peace of the world.

Mr. DICKINSON. I thank my colleague for his contribution, which is very meaningful.

Mr. Speaker, I have already gotten general consent for all Members, and at this time I yield back the balance of my time.

● Mr. PRICE. Mr. Speaker, I want to commend my esteemed colleague, Mr. DICKINSON, on his lucid statement on the factors involved in the consideration of the enhanced radiation weapon. His views and support have always been greatly valued in the Armed Services Committee on critical matters concerning our Nation's defense and security.

I understand and appreciate the President's desire to further the Nation's efforts toward the goal of arms control and peace throughout the world. I also believe the President sincerely believes that the cause of peace might be advanced by his proposed deferral of the production phase of this new development in the nuclear weapons field. On the other hand, I believe that after consideration of all the facts related to this matter, our interests would be better served if we proceeded with the production of these weapons. As the Secretary of Defense stated last Sunday, the actual availability of such weapons which, of course, requires entry into the production phase, best serves the Nation's military objectives. In addition, the clear defensive nature of these weapons cannot be questioned. Our potential adversaries, contrary to their published statements, understand this. This fact, along with the positive indication of our commitment to do whatever we consider necessary to assure our security should, in my view, further efforts by the Soviets to attain real disarmament objectives.

I believe the views set down in our recent letter to the President express the principal considerations relative to this matter. I would like to include this letter at this point in the RECORD.

The letter follows:

COMMITTEE ON ARMED SERVICES,
*Washington, D.C., April 5, 1978.*

The Honorable JIMMY CARTER,
*The White House, Washington, D.C.*

DEAR MR. PRESIDENT: On April 3, 1978, a delegation of members of the House Committee on Armed Services returned from a visit to the Soviet Union and to Geneva, Switzerland. Our members had the very rare opportunity to exchange views with high-level officials of the Soviet Foreign Ministry and the Ministry of Defense. We also had the opportunity to exchange views with members of the Soviet military establishment on numerous issues which are now the subject of bilateral and multilateral talks.

It was with a great deal of concern that, on the day of our return to the United States, we read newspaper accounts reporting that you had decided not to produce reduced blast/enhanced radiation weapons. The newspaper accounts indicated that you would make a formal decision on this matter later this month.

Mr. President, it is common knowledge throughout the free world that the leadership of the Soviet Union has mounted extensive worldwide propaganda campaigns against the so-called "neutron bomb," along with the cruise missile, Missile X, and any other improved strategic weapon intended for the arsenal of the United States. These propaganda campaigns, which also accuse the United States of unreasonable delays in concluding a SALT II agreement, and of sole responsibility for an arms race, are also aimed at the Soviet people. The gigantic Soviet buildup in conventional and nuclear arms aimed at NATO, and the introduction of new Soviet ICBMs and SLBMs during the period of SALT I, are explained away by simple quotations of Chairman Brezhnev to the effect that Soviet arms are intended only for "peaceful purposes." During our visit to the Soviet Union, and in our conversations with Soviet negotiators in Geneva, the rhetoric did not vary.

Based upon our experience during our visit to the Soviet Union, as well as the history of United States and Soviet arms control negotiations, we believe that a negative decision with respect to reduced blast/enhanced radiation weapons at this time would be a grave mistake. Such a decision would not only signal to the Soviets that they have won their propaganda battle, but it would also signal a loss of national will to our allies throughout the world. The confidence of our NATO allies, which you hoped to bolster through your Wake Forest speech, would be shaken if it became evident that the United States is not prepared to protect NATO forces in any contingency by the best means possible.

The undersigned are also Members of the Subcommittee on Intelligence and Military Application of Nuclear Energy and as such have participated in extensive hearings and discussions related to reduced blast/enhanced radiation weapons. We are aware that these weapons are tactical battlefield weapons that would reduce collateral damage if their use should become necessary. We do not believe such weapons would reduce the nuclear threshold.

Mr. President, this Committee, and the Congress, overwhelmingly supported your position on this issue last year. It is our judgment that a similar position would be supported again. There is everything to gain and very little to lose among our allies or domestically by a decision to proceed with production of these weapons. We, therefore, respectfully urge you to announce an affirmative decision at an early date.

Sincerely,

Melvin Price, Chairman; Bob Wilson, Ranking Minority Member; Samuel S. Stratton; G. V. (Sonny) Montgomery; Charles H. Wilson; and Marjorie S. Holt, Members of Congress.●

● Mr. MICHEL. Mr. Speaker, first it was the B–1 bomber. Now it is the neutron bomb. They are different weapon systems but their fate, so far as I can see, is the same. Each is essential to our national defense and the defense of the free world. Each provides a service that no other weapon or weapon system can provide. Yet each has been cast aside by President Carter without getting anything in return from the Soviet Union.

I realize that the official version of the President's decision is that we are holding off production in hope the Soviet Union will make a concession. But now we learn that the Secretary of Defense is saying the neutron bomb is "not vital." I believe we are being given a very strong hint as to where the administration is leading us.

There are hundreds of learned documents, thousands of hours of arguments, and many, many experts involved in this debate. But what it has come down to is the view of President Carter as to what is best for this country.

As much as I wish I could agree with him, the facts of the matter are, to me, absolutely compelling: NATO forces without the neutron bomb will be pushed back to the sea in a matter of days if the Soviet Union, with its overwhelming lead in tanks, decides to invade the West.

The Soviet Union's massive, well coordinated propaganda campaign against the neutron bomb and the advice of some of the President's senior officials have carried the day.

I wish I could say that this incident is one that can be written off as an accident, a mistake in judgment. But I fear it is not. I fear that it accurately reflects the Carter administration's views on national defense. The President evidently believes that if you make enough unilateral concessions to the Soviets, they will make concessions in return.

If that idea were not so tragic in its implications I would laugh.

The question is no longer one about the B–1 or the neutron bomb. The question is one about the competence, the philosophy, and the will of the administration in matters of national security.

Mr. Speaker, we are in trouble. Period.●

● Mr. CARR. Mr. Speaker, the course which President Carter has followed with respect to the neutron warhead is not

that which I recommended. In an individual letter I sent to him shortly before his decision, I urged him to proceed with production of the weapon at full speed, while at the same time inviting the Soviets to offer us an arms control proposal which would give us an incentive to trade it off.

Mr. Carter has not followed my advice. But it seems to me the course he has chosen does capture the essence of what those of us who supported the enhanced radiation warhead were trying to do. The initial stages of the program will now proceed at a vigorous pace. If the Russians respond by offering a satisfactory tank reduction or termination of the SS–20, we will be able to negotiate a termination of our neutron program. If they do not, we can and presumably will proceed to convert our new warheads to the neutron configuration.

Since Mr. Carter appears to have captured about 90 percent of the best of both worlds, it is my view that criticism of his decision on the grounds of weakening the defense of Europe, or of giving in to the Soviets, is inappropriate and not based on reality.●

● Mr. MITCHELL of New York. Mr. Speaker, it is with pleasure that I rise to express my concern with President Carter's decision to shelve the neutron bomb. That is cause for great alarm because it was to be a defensive weapon, a weapon to help compensate for the awesome numerical advantage of Warsaw Pact tanks. NATO forces are badly outgunned and outmanned.

I wonder who the President is listening to? The top defense and foreign policy advisers in the administration all favor continuing the program. Our key NATO allies share this view. So do I.

The Carter approach to defense seems to be to cut, cut, and cut some more.

Cancellation of the neutron bomb is a reversal of his recent warning to the Soviets when he said, "We will not allow any other nations to gain military superiority over us."

However, it is consistent with several recent defense cutbacks:

First, scrapping the B–1 bomber—America's only hope for a modern, effective penetrating bomber this decade;

Second, production of the M–X missile placed on the back burner;

Third, production line of the Minuteman III closed;

Fourth, funds for the *Nimitz*-class aircraft carrier and other ships cut severely; and

Fifth, removal of American troops from South Korea.

If the United States is unwilling to use its tactical nuclear weapon technology in defense of the NATO strategic doctrine, and this policy is recognized by the Soviet Union, the credibility of NATO's nuclear deterrent would be seriously imperiled. The effect of the neutron warhead is so concentrated that it can be used on the front lines without danger to friendly forces or civilians. If we have credible weapons then we have deterrence. If we do not have deterrence, then we may end up being forced to use the vastly more destructive weapons. By avoiding indiscriminate destruction, the neutron warhead represents a moral improvement in the conduct of war, rather than a regression. To deprive ourselves of this tactical weapon which would serve to deter Soviet encroachment would in effect result in deterring ourselves from responding to aggression.●

● Mr. DAN DANIEL. Mr. Speaker, I join with my colleagues in commending the gentleman from Alabama (Mr. DICKINSON) for taking this special order today.

I also believe that President Carter has been led into a grievous mistake. The decision against producing neutron weapons, coming as it did in the midst of an unprecedented Russian propaganda campaign, can only harm our relations with our allies.

The decision, unfortunately, not only tends to indicate a lack of resolve on our part, but it will give the Russians a reason to redouble their propaganda efforts against us on the cruise missile, SALT, and other matters.

In fact, Mr. Speaker, the decision on neutron weapons has caused adverse editorial comments from most major newspapers in the United States and in the NATO countries.

Even Tass, the Soviet Government's press agency, reacted in a negative way, as was the case with the B–1 cancellation. Tass described the decision as "a tactic without significance" by which President Carter is "attempting to gain concessions in other nonrelated matters."

It seems, Mr. Speaker, as if we now have the worst of both worlds—the confusion of our allies and the condemnation of the Soviet Union.

The Soviets are free to continue their worldwide propaganda campaign against defensive neutron weapons, using the U.N. Conference on Disarmament next month. However, we have seen no strong condemnation from the Carter administration of the Soviet move to deploy the offensive SS–20 against European cities.

We should be aware of two facts concerning this matter.

First, the purely defensive battlefield weapons now deployed in NATO would create neutron radiation in amounts equal to the so-called "neutron weapons," but with significant collateral damage.

Second, the purely offensive Russian SS–20 recently deployed against the NATO countries is thousands of times more destructive than the defensive neutron weapons the President has decided not to produce.

[From the New York Times, Apr. 1978]

SOVIET SCOFFS AT U.S. BOMB DECISION

Moscow, Reuters.—The Soviet Governments press agency, Tass, today dismissed President Carter's decision to postpone stockpiling the neutron bomb as a tactic without significance.

The agency carried Moscow's first reaction to the announcement yesterday that the United States would not produce the bomb for now. The Americans portrayed the delay as a challenge to Moscow to restrain its deployment of new weapons like the SS–20 mobile missile.

But Tass said in a dispatch from Washington that Mr. Carter's move "did not represent a significant renunciation of the neutron weapon." It added that Mr. Carter wanted to "gain concessions in other nonrelated matters, attempting to link renunciation of the weapon with measures to strengthen Soviet defense facilities."

"From the explanation of White House spokesmen, it is also clear that one of the main motives of the decision is the desire of the United States Government to create a maximum favorable atmosphere in public opinion for future deployment of the neutron weapons in Western Europe." Tass said. The decision, it added, was intended to "curb the powerful wave of protest against creation of these weapons, which increase the danger of nuclear war." ●

● Mr. SYMMS. Mr. Speaker, I would like to associate myself with the remarks of my colleagues in this special order and commend our colleague BILL DICKINSON for his efforts.

There has been so much confusion and misinformation and lack of information about the "neutron bomb" or "enhanced radiation" weapon that some clarification is necessary; if not for the administration, at least as a reference for some of my colleagues and those involved in the field of political-military science.

What is upsetting to me about the President's decision to defer the development of the neutron warhead is that for the first time in many years the United States had a weapon system that could be used in Western Europe to counter the massive armor component possessed by the Eastern bloc. The Soviet tanks, armored personnel carriers, and troops are designed and equipped to survive in a chemical and biological warfare environment, while U.S. and NATO forces are not so equipped. The enhanced radiation warhead through the use of high-energy neutrons could penetrate this specially equipped Soviet armor and affect the enemy troops within 10 minutes to an hour after the explosion; and due to the accuracy of the weapon and the fact that its residual effects are minimal an hour after the blast, the civilian population in the area would remain unharmed. Consequently, the enhanced radiation weapons provide the U.S.–NATO forces with the means of overcoming the Soviet-Warsaw Pact advantage and checkmating the ability of the Communist bloc to launch a nerve gas "blitzkrieg" against Western Europe.

The most frustrating aspect of this decision is that while we are weakening our strategic nuclear capabilities, we are at the same time depriving ourselves of any tactical deterrence capability. If these trends continue and we allow our NATO allies to become even more vulnerable to the massive buildups of Warsaw Pact forces in Europe, we will not only make the NATO alliance a worthless organization but we will encourage nuclear proliferation throughout Western Europe. And I believe this is exactly what the administration should be trying to prevent.●

● Mr. LIVINGSTON. Mr. Speaker, I feel it necessary to speak out on President's Carter's decision not to produce the neutron weapon. I believe that the President dealt another blow to America's national security in making this decision. In my opinion, this could prove

disastrous to our defense of Europe and disturbing to our NATO allies.

The bomb, though branded by its opponents as a weapon that destroys people, not buildings, is actually not a bomb, but a replacement warhead for nuclear artillery shells.

Neutron warheads are highly effective weapons against an attack by a massed tank formation. Their intense radiation would penetrate armor that otherwise might resist a blast.

However, neutron radiation is limited, so that ground forces could move in quickly behind the neutron warheads to continue the attack. Surrounding areas would be much less affected than by conventional nuclear weapons.

The President's wavering on the bomb decision—and his final word that he will not continue its development—had led to confusion and concern among our NATO allies. They expect leadership from America, not waffling, especially when it comes to defense of Europe.

NATO is known for its lack of tank power. While NATO forces can only deploy 6,755 tanks, its enemies in the Warsaw Pact nations can put 1,570 tanks in the field. This gap could be overcome by the use of neutron warheads.

The failure of the President to produce the neutron weapon is just one more in a series of episodes that weakens America's position in bargaining with the Soviet Union.

First, President Carter decided to cancel the B–1 bomber. Then he said he would reduce the range of the cruise missile. And he cut $1.1 billion from Navy shipbuilding funds, showing that he does not consider it important to have a strong Navy in case of conflict.

At the same time, the Soviets have started deploying a new air-defense system that will make us dangerously vulnerable to Soviet air defenses by 1985.

These decisions mean that, when the administration goes to negotiate arms control with the Soviets, it will be negotiating from a position of weakeness. We as a country can not afford that weakness.

These decisions, or lack of them, tell me—and the rest of the country—that President Carter is simply not the leader he portrayed himself to be during the 1976 campaign. He can not make the hard and fast decisions about national policy—and foreign policy—that must be made if we are to remain a world leader.

The President's mishandling of the neutron weapon decision is only the last in a series of fumbled opportunities to provide strong leadership in the world.

I am very much afraid that unless the President acts, and acts soon, America will lose its position of leadership and our allies will have nowhere to turn in their search for protection from the Soviet threat, not only in Europe, but throughout the world.

And I would hope, Mr. Speaker, that the Congress does not stand idly by while the decisions are taken—or not taken—that will bring about this loss of leadership for America.●

● Mr. McDONALD. Mr. Speaker, the subject of this special order today—the delay in the production of the neutron bomb—is extremely important in itself, but the significance of the Carter pronouncement goes far beyond that. We have sent the Soviet Union yet another message that we are on the road to strategic disarmament. Certainly Moscow does not need any more signals to confirm the trend. President Carter shut down the Minuteman II production line. He slowed down the production of the Trident submarine. He cancelled production of the B-1 bomber and has shown no urgency in proceeding with M–X missile. to name just a few of his more significant actions in that regard.

It is my belief that President Carter, by this particular decision also sent our Allies in Europe and around the world another sort of message—do not depend on the United States. This new weapon could have given us a chance at knocking out a possible Soviet blitzkreig of the West with minimal damage to Europe. These new small warheads are in reality "reduced blast weapons." While achieving the equivalent total high energy neutron output, the blast and heat can be reduced to one-tenth that of currently stockpiled NATO battlefield weapons. Due to the greatly reduced blast and heat effect, the new warhead can be used closer to friendly troops and civilian areas.

Specifically, it takes about 65 pounds per square inch of pressure to disable a modern Soviet tank. This is the equivalent to a wind of 1,000 miles per hour. To knock out tank armies with a standard blast type of weapon would mean tremendous damage to buildings, farms and civilians. The neutron warhead changes that.

The President stated he has elected to make a bargaining chip out of this weapon. The Soviets must be laughing all the way to the next Politburo meeting. Their worldwide propaganda campaign was successful beyond their wildest dreams. They will certainly use this delay to develop their own neutron bomb and then ask us what it is we wanted to negotiate.

If the Congress does not here today and now start standing up and exercising its constitutional duty to "provide for the common defense," we will go the way of Carthage and other past empires which would not make the necessary sacrifices to preserve freedom. Let us learn from the past and be prepared. The "neutron bomb" should be built now. President Carter's decision was wrong.●

## TREATY OF TEXAS ANNEXATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. COLLINS) is recognized for 30 minutes.

Mr. COLLINS of Texas. Mr. Speaker, President Jimmy Carter has moved expeditiously in renegotiations of foreign treaties. He has placed before the Senate at this time his revision which terminates the 1903 Treaty with Panama. It is anticipated this new treaty will be concluded next week by the Senate. I have written the President regarding the next appropriate treaty for review. In 1845 the United States annexed the Republic of Texas under a treaty after long heated and divided opinions.

I have reviewed the newspaper comments at that time. Their objective viewpoint states that this treaty was an overbearing move by the United States and represented a violation of human rights. With the State Department experience in working to return the Canal Zone to Panama, they can follow up smoothly with the Texas Treaty.

Let me quote for you some specific references from the foreign press as well as leading newspapers in the United States. These are direct quotes from the newspapers published reports of 1844 and 1845 on the Treaty of Annexation of the Republic of Texas.

London Britannia, April 1844: declared that the proposed take-over and absorption by the U.S. was ". . . one of the most flagrant offenses ever committed by a nation professing a respect for human rights."

London Times, October 1844: declared that it could "find no experessions too strong to convey our opinion of the enormous misstatements, the excessive bad faith, and the deplorable impolicy" of those who arranged the Texas Treaty, and deemed the annexation "the triumph of everything that is worst in American life."

London Morning Post, January 1845: "The designs of the United States upon Texas are merely a development of the savage instinct of the strong to tyrannize over the weak."

London Times: "One cannot view without pain the falsehood and the disregard of law chargeable to some Americans in this affair."

"Human nature itself has been lowered by the depravity of the Americans . . ."

". . . the extraordinary injustice of the annexation treaty is, if possible, surpassed only by the matchless impudence of the arguments used in defense of it." February 1844.

". . . as the territory proposed to be annexed had been acknowledged by foreign powers, the United States possessed no right to absorb it." June 1844.

Mr. Speaker, the American press of the day also took the lead in sounding off against the questionable manner in which the Texas Treaty was enacted to take advantage of the smaller country:

New York Tribune: "an unprecedented and unwarrantable outrage, a cheap, selfish speculation growing out of bonds and scrip, and out of land claims which would be dubloons or dimes according to the result." May 1844.

Newark Advertiser: "to take Texas . . . would violate our treaty obligations, which is wrong and dishonorable . . . the scheme is now urged for personal aims; the subject has not been fully considered and passed upon by the people; the whole course of the negotiations has been undignified and degrading . . . it would be an act of cowardice and oppression against a weaker nation." May 1844.

National Intelligencer: "the unauthorized and almost clandestine manner in which our government had approached Texas humiliated the nation." 1844.

Boston Atlas: denounced the Treaty of Annexation as a "mad project . . . irrational . . . preposterous . . . a contemptible scheme." March 1844.

Boston Post: "We would infinitely rather Texas would remain as she is . . . an independent nation." March 1844.

The Liberator: denounced the Texas Treaty as ". . . an amount of hypocrisy and villainy, of treachery and oppression, unexampled in the criminal history of any na-

tion, either in ancient or modern times. Truly, monsters rule over us." May 1844.

Mr. Speaker, there has been strong question as to the validity of the Texas annexation agreement itself. Unlike the Panama treaty revision today, where the House has been kept from voting, it carried by a joint resolution passing the Senate 31–14 and the House 141–56. The noted historian Arthur M. Schlesinger, Jr., has said of the Texas annexation effort:

Constitutional arguments were unavailing . . . the administration determined to avoid public debate over the acquisition of Texas, tried to sneak a treaty of annexation through the Senate in executive session . . . the government had withheld information from Congress and the people.

This questionable approach did not go unnoticed by the great Statesmen of the day. A careful reading of the CONGRESSIONAL RECORD of the time, in the January 1845 Congressional Globe reveals the statements of concern and outrage from Congressmen and Senators regarding the ratification of the Texas annexation treaty. The following are actual excerpts from the statements of the great leaders who spoke with such sincere conviction on the floor of Congress in early 1845:

Rep. J. R. Ingersoll (Pa.): "The annexation of Texas . . . would be the greatest calamity ever to occur to the rights of the individual on this planet."

Senator Miller (N.J.): "We have met this treaty . . . detected its fraud and denounced its object . . . all in the name of human liberty."

Rep. Winthrop (Mass.): "The proposed act of annexation is a scheme monstrous beyond all power of expression, a project contrary to the law of nations and in violation of the good faith of our own country."

Rep. Hudson (Mass.): "It (annexation) would be a foul stain upon our national character, and degrade us in the eyes of the Christian world."

Senator Pollock (Pa.): "Consummate this act (of annexation); trample upon the Constitution of our country, violate every principle of international law, disregard the plighted faith of the nation, tarnish her honor, insult the moral feelings and sentiments of a large portion of the American people, and record for posterity our nation's error and our nation's shame."

Rep. Rathburn (N.Y.): "Congress has no constitutional authority to annex Texas."

Rep. Dale Owen (Indiana): "This projected annexation is but an act of rapine, a trampling under foot of justice, morality, good faith, and international law."

Rep. McIlvain (Pa.): "The annexation is absurd . . . it is a mockery."

Rep. Severance (Maine): "The annexation of Texas . . . would be derogatory to the honor, injurious to the interests, and dangerous to the peace of both nations."

Mr. Speaker, the historical record clearly illustrates the suspicious and questionable manner in which Texas was taken over through U.S. "imperialism." Today under President Carter we have the open-mindedness of the United States as expressed through its policy of correcting past treaty inequities. This fresh approach following up after the Panama Canal Zone will eliminate the double standard with regard to the people of Texas. So I call upon the President to have Secretary of State Cyrus Vance review the 1845 Treaty to determine the rights and needs that may exist as to the reestablishment of Texas sovereignty.

There may be some question about the stand of today's citizens of Texas on whether they still prefer the U.S. presence and U.S. participation in Texas business and internal affairs, so I am calling on President Carter to receive the views and expressions of Texas citizens following the precedent established in Panama. For this top priority in the Human Rights campaign, we should provide a plebiscite in Texas asking whether the citizens of Texas want to continue as one of the States of the U.S. Federal Government or whether they prefer reversionary status to the free and independent Republic of Texas. No spokesman can speak for the people of the great Southwest area of Texas, but in President Carter's desire for human rights and a complete reevaluation of all past treaties, this plebiscite would provide the people's own expression of will, which is America's prime concern today with the United States' warm heart of deep understanding for international fair play and justice.

I cannot predict what the agenda will be for the negotiating team, but I know that the generous character of Texans would be most reasonable in the discussions.

Texas has the quality and strength needed as an independent nation. Its wonderful geographic diversity provides it with crops as divergent as wheat and citrus. It has the broadest ethnic base of whites, blacks, hispanics, Indians, and people of all backgrounds that live in any area in the world. The Republic of Texas would be slightly larger than France, and have a population comparable to Czechoslovakia or Kenya.

Renegotiation of the treaty with Texas should present none of the difficulties that have arisen in discussions on the Panama Canal Zone. No money was paid to Texas at the time the State was annexed into the United States. The United States did not absorb any of Texas' debts nor did they make any payments. Therefore, in this transition there would be no responsibility for any type of cash remuneration by the United States to the Republic of Texas. With the warm and close relationship that the people of Texas have with their neighbors in the other States, a permanent mutual defense pact would be welcomed with the joint security of airfields and ports.

I am asking that a U.S. negotiating team be appointed immediately to proceed completely independent of our humanitarian statesmen now clarifying the Panama Canal Treaty. I would ask that a plebiscite within the area of Texas be held of Texas citizens to determine if they desire to be a part of the union of United States or to again reestablish the Republic of Texas. And in conclusion, if Texas citizens favor the establishment of the Republic of Texas, I would ask that both the Senate and House in the U.S. Congress be provided the opportunity to confirm this transfer of authority to the Republic of Texas.

## EXPORT CONTROL AND ANTIBOYCOTT BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 10 minutes.

● Mr. WHALEN. Mr. Speaker, I had the privilege of testifying before the Appropriations Subcommittee on State, Commerce, Justice and the Judiciary on April 20, 1978, along with Congressman BINGHAM. We expressed our strong support for the administration's funding request for Commerce Department programs to implement and enforce export control and antiboycott requirements under the Export Administration Act.

On that occasion I referred to the International Relations Committee concern that Commerce be enabled to conduct the thorough reexamination of technology transfer, multilateral export control and other policy areas which we spelled out in the legislation.

I also pointed out that we in the Congress engaged in long and arduous negotiations to come up with fair and workable policy solutions to problems of boycotts intruding on American interests. I would hate to see a tough enforcement program fall by the wayside for lack of adequate resources in the Commerce Department. Anything less than full funding for the antiboycott policy implementation would be a disastrous signal to the U.S. business community and to the world at large. The U.S. Government would be perceived as carelessly disregarding its much fought-over laws and regulations. The money has a political importance which far transcends its apparent budgetary weight.

At this point I would like to insert the testimony of my colleague Mr. BINGHAM which I commend to all my fellow Representatives.

REMARKS OF HON. JONATHAN B. BINGHAM

Mr. Chairman, I appear before this Subcommittee today in support of increased funds and personnel requested by the Department of Commerce for programs to implement and enforce export control and antiboycott requirements under the Export Administration Act of 1969. As you know, the Subcommittee on International Economic Policy and Trade, which I chair, has jurisdiction over that Act. I am pleased to be joined by our colleague from Ohio, Mr. Whalen, ranking minority member of the Subcommittee. With your permission, Mr. Chairman, I would propose to yield some of my time to Mr. Whalen at the conclusion of my brief remarks.

The Department seeks additional positions to implement the improvements in export administration mandated by Title I of the Export Administration Amendments of 1977, and the foreign boycotts provisions of Title II of those amendments.

With regard to Title I positions, I think the main point to emphasize is that the number of Commerce Department employees engaged in export administration has declined over the years, while the number and complexity of export-licensing cases has increased. In 1971, the Office of Export Administration had 215 people, it now has 162. Yet these people have to handle a constantly increasing caseload. The Department now receives more than 60,000 license applications every year. That works out to over 200 per working day.

And these applications are getting more complex all the time. At the height of the cold war, under the old Export Control Act of 1949, there was little trade between the United States and the communist countries, so the task of the export licensers was relatively easy. Now, under the Export Administration Act of 1969, it is the policy of the United States to foster trade with the East consistent with the national security, foreign policy, and economic health of the United States. That mandate requires complex interagency calculations involving strategic capabilities, probable end use, likelihood of diversion, foreign availability, and other factors involved in the tradeoff between trade promotion and strategic controls. And the technological sophistication of the equipment proposed for export to communist countries is growing all the time, placing still further demands on the Department and its advisory agencies.

Mr. Chairman, the Department is not coping well with these increasing burdens on its diminishing staff resources. With respect to the large, complex cases, involving export of advanced technology to the East—major sales with a significant impact on jobs and our balance of trade—I would have to characterize the export-licensing system as being in a shambles. Only 70 percent of the communist country applications are decided within the statutory 90 days. There is currently a backlog of 596 cases which have been pending over 90 days, and that number is growing. Major sales go to our foreign competitors while our government sits on applications—and while we suffer a growing trade deficit which may reach a record of $35 billion this year. Requests by our allies for U.S. concurrence with their proposed exports to the East, which they voluntarily submit to us under the COCOM arrangement, are stalled in our bureaucracy for months. Distrust and dissatisfaction with the export control process on the part of U.S. business and our allies is increasing—not because of any lack of appreciation of the need for these controls, but because of a feeling that they are neither fairly nor efficiently carried out.

I would not pretend to this Subcommittee that more people alone will solve the problem. And if I believed that the proposed personnel increases were going to be used merely to perpetuate the old inefficiencies, I would not recommend them to you. But I believe we now have administrators of this program, in Mr. Weil and Mr. Marcuss, who are committed to the necessary reorganization and reform of the system. I think we should give them the tools they need to do the job. Cutting the staff in an attempt to force efficiencies has not worked before, and it will not work now.

Turning now to the Title II positions requested, the 1977 amendments added a major new dimension to the trade regulation and compliance responsibilities of the Commerce Department—namely, enforcement of provisions prohibiting American compliance with secondary aspects of foreign trade boycotts.

Prior to 1977, the law required only that American firms report to the Commerce Department requests received to comply with foreign boycotts. It was possible for the Department to assign a handful of existing staff to the processing of these reports and to limited compliance efforts.

With the Middle East Oil embargo, the historic growth of Arab oil wealth, and consequently increased Arab consumption of goods and services from the U.S., the number of reports coming into the Department grew from a trickle of about 5,000 in 1970 to a flood of more than 100,000 in 1976. This increase in the impact of the Arab boycott on Americans and American business led the Congress in 1977 to decide that reports were not enough—that we had to take action to protect American businessmen from foreign embargoes. With the support of the new administration, legislation was enacted in 1977, and is now in effect on the basis of detailed and carefully formulated regulations prohibiting American compliance with foreign boycotts.

The public, the Administration, and the Congress are clearly committed to fully implementing the new law. But the regulations are extremely complex, and the task of enforcement difficult. A maximum effort in the next 18 months seems to me essential to assure broad compliance, to resolve ambiguities in the legislation, and to find any loopholes or problems that will have to be addressed by the authorizing committees. The Department now requests of you the substantial resources required for this effort. Based on my consultations with the Department, I am convinced that the Department will be able promptly to recruit and put to work qualified people during the remainder of 1978 and the first half of 1979.

Mr. Chairman and members of the Subcommittee, I urge you to give the Department the funding it needs to show the world that this country is determined to enforce this law, and to protect its people from the discriminatory effects of foreign boycotts.

Thanks you for hearing me. ●

## FEDERAL AGENCIES ARE ATTEMPTING TO RESTRICT THE EXERCISE OF FREE SPEECH AND TO RIG THE COMPETITION OF IDEAS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

● Mr. KEMP. Mr. Speaker, ideas have consequences. For better or for worse, ideas rule the world. The recognition of that by our forebears lays at the very foundation of our history and traditions. It is reflected throughout the bill of rights and our legal framework.

It is the competition of ideas which brings forth public opinions. And, as a product of the force of ideas, those opinions are in a state of change, some gaining and others losing ground.

But now a move is afoot to rig the marketplace of ideas, to weigh one set of ideas against another, to give one set an unfair advantage over the other.

And who is at the heart of this attempt to rig that marketplace of ideas? Agencies of the Federal Government.

Mr. Justice Hugh Black, commenting on what freedom of speech really means, said:

> My view is, without deviation, without exception, without any ifs, buts, or whereases, that freedom of speech means that you shall not do something to people either for the views they have or the views they express or the words they speak or write.

Yet, these Federal agencies are attempting to "do something" against a major segment of American life. Why? Who really knows, but from everything I can gather, because the free speech the segment which is to be restrained is exercising is critical of Government or the policies it seeks to make dominant. In other words, free speech as an abstraction might be all good and fine to those within these Federal agencies, but the specific exercise of free speech in the form of criticism of Federal policies and programs or in the offering of alternatives to reliance upon the Federal Government is quite another matter.

The classical notion of government within a democratic society is that the government is made up of the people themselves, that it is an embodiment of those people. Yet what the recent actions of the Federal Government to rig the marketplace of ideas reflect is that those who would rig that marketplace see government as an entity unto itself, as a structure set off and distinct from the people. I abhor that kind of vision of government; it is exactly the kind of perspective which can bring forth despotic government.

What are these attempts to rig the marketplace?

They are:

First, an Internal Revenue Service ruling disallowing, for deduction purposes, expenses for advertising which gives the advertiser's point of view on public policy or legislative issues, and so forth.

Second, a Federal Trade Commission attempt to force advertisers to pay for commercials representing viewpoints opposed to those advertisers without any corresponding requirement for those opposing viewpoints.

Third, a Federal Communications Commission ruling that the Fairness Doctrine must be applied to public policy questions.

All of this is bound to have a "chilling effect" on all issue and image advertising, that "telltale chilling effect" which the Supreme Court of the United States has told us to watch for as a sign of abridgment of a freedom.

Why is this a rigging of the marketplace?

First, while the IRS will argue that all it is doing is disallowing the deductibility of such expenses, deductions being a matter of "legislative grace" and not constitutional or statutory right, the IRS has let remain in place all those regulations and rulings which allow the deductibility of expressions of noncorporate points of view. For example, an individual can still claim a full deduction for contributions to charitable, educational, and so forth, foundations and organizations, which then devote substantial amounts of their time and effort to directly and indirectly effecting public opinion. Thus, a major foundation could come out with a study and all contributions for its research, publication and distribution would be deductible, whereas a corporate response to that would not be. And contributions to government, which are often used for expressions of points of view, are deductible.

The IRS seems to be badly misinformed about the constitutionality of its position, too, at least that is my reading of the Virginia Pharmacy Board case on which the U.S. Supreme Court only recently handed down a decision. In this case, the high tribunal declared:

> . . . Speech does not lose its first amendment protection because money is spent to protect it, as in a paid advertisement . . .

In recent responses to press inquiries on its ruling, the IRS all but admitted that it had not thought through the ramifications of its ruling. Yet it was

made. And the Commissioner of IRS has announced a crackdown on companies and trade associations who might dare seek the same treatment for dealing in public policy questions that IRS gives to other points of view.

This is really an attempt to restraint the role of the private sector in the formulation of policy, a restraint initiated by its competitor quite frequently in that formulation, the public sector. Thus, Government has become both player and umpire, and that is not fair. I cannot find any footnote in the Constitution which says that the right of free speech is protected only for those promoting the public interest.

While this was going on at the IRS, the FTC said that it will be doing more to force advertisers to pay for commercials representing contrary viewpoints.

Why is this rigging the marketplace? Because while advertisers would have to pay for their own points of view, then turn around and also pay for opposing points of view, those opponents, if they ran commercials—and contributions to those opponents would be fully tax deductible in many situations, would not have to pay for the advertisers points of view to be presented. Thus the advertiser pays for both, while the opponents pay only for their own. And, of course, if the advertiser were paying for the opponents, the opponents would not have to pay for any of their own.

Last year the FCC ruled that Washington's WTOP-TV had violated the Fairness Doctrine by broadcasting an oil company's commercial against breaking up the oil companies. The FCC forced the station to air—without charge—30 spots by Energy Action which not only countered the commercials, but also attacked oil industry participation in other forms of energy and equated oil executives with muggers. My point here is not on the merits; The oil company or Energy Action may or may not be right.

But the point is that the FCC action rigs the marketplace of ideas in at least two ways. First, by having the advertiser pay and the opposing viewpoint not pay. Second, since the station and not the advertiser had to absorb the cost of the 30 free spots, it has had a restraining effect upon other TV stations accepting advertisements on public policy questions from advertisers. Thus, the FCC decision has had a chilling effect on the exercise of that form of free speech.

In order to comprehend truth, we must first hear all forms of speech, and the offering of those forms of speech must be on an equal footing. It is morally unfair, financially inequitable, and of questionable constitutionality to do otherwise.

If Federal agencies do not like being criticized, they should deal with it like anyone else—by better articulating their cases, not attempting to eliminate the competition.

Is it not unbelievable hyprocrisy that a government which says its actions are taken to preserve competition in our economy must resort to the restriction of competition in the marketplace of ideas in order to have hopes of prevailing with its points of view.

What shall we do?

If the IRS ruling were based on a provision of the code that restricts that advertising, we should change the code. We should incorporate a "reform" of that provision of the code in this year's tax reform bill.

If the agencies persist in issuing these kinds of regulations, we should enact title II of H.R. 3260, my Executive Agencies Reorganization and Operations Reform Act. That title would require all such regulations to be sent to Congress and Congress to act on them before they become binding.

There appeared in the April 3 issue of Barron's magazine a superb article on what is happening in the Federal Government to restrict the exercise of free speech. Written by that magazine's Washington correspondent, Shirley Scheibla, I commend it to the attention of all my colleagues:

GETTING THE MESSAGE

(By Shirley Scheibla)

WASHINGTON.—A Senate subcommittee has just launched a hunting expedition aimed against advertising which gives corporate views on controversial issues. It also includes ad campaigns designed to improve the corporate image. Specifically, the Senate Subcommittee on Administrative Practice and Procedure has subpoenaed mountains of material, much of it confidential and some involving trade secrets, from four major oil companies, Exxon, Gulf, Mobil and Texaco, and their four advertising agencies, Benton & Bowles; Doyle, Dane, Bernbach; McCaffrey & McCall, and Young & Rubicam. The chief executive officers of the eight firms have been ordered to appear, with the material, before the Subcommittee this Friday.

Stated purpose of the investigation is vague. According to Subcommittee Chairman James Abourezk (D., S.D.), it's to see whether the Internal Revenue Service, Department of Energy, Federal Communications Commission and Federal Trade Commission are carrying out their duties with regard to such advertising and exercising proper coordination in doing so. In fact it looks like a thinly disguised attempt to see whether the Subcommittee can find anything to pin on the oil companies in their effort to get across to the public their side of issues. On this score, of course, their position tends to differ from that of Chairman Abourezk, who last year co-sponsored legislation to break up 18 major oil companies. The Subcommittee reportedly also plans to extend its ad investigation to such food processors as General Foods, General Mills and Pillsbury.

Whatever the purpose of the Subcommittee's probe, it is bound to have a chilling effect on all issue and image advertising. The specter of subpoena of confidential information may haunt all future dealings with Madison Avenue. Among other things, the Subcommittee wants all tapes and movies for broadcast commercials and tearsheets for printed ads since 1973, tax records involving the ads, minutes of boards of directors' meetings and corporate correspondence setting advertising strategy. Thus, compliance in itself would be punitive, even if the Subcommittee finds nothing wrong. Contrariwise, failure to honor the subpoenas would involve substantial legal expense, as well as perhaps risking a finding of contempt of Congress.

Ominous enough in itself, the Subcommittee is only part of a growing and multifaceted federal attack on advertising, one which bodes ill for future freedom of expression. It also seems to run counter to several recent U.S. Supreme Court decisions, notably that involving the Virginia Pharmacy Board, in which the high tribunal declared: ". . . Speech does not lose its First Amendment protection because money is spent to protect it, as in a paid advertisement. . . ."

However, more than free speech for advertisers is involved. After all, the press keeps watch on government. To carry out that mission, it needs the financial support of advertisers (who obviously don't control it, or they wouldn't spend their ad money to express contrary views). Taken altogether, the federal attacks on advertising strike some observers as an attempt to undermine the financial foundations of the free press.

Over on the House side, the Subcommittee on Commerce, Consumer and Monetary Affairs is in the midst of an investigation of advertising; it expects to hold hearings later this month. The House effort is concentrating on what it views as the illegality of deducting issue and image advertising as a cost of doing business.

Peter Barash, staff director of the House Subcommittee, estimates that corporations spend $1 billion or more a year on advertising and mass mailings aimed at influencing public opinion on legislative matters. He cites particularly the ads of Mobil, the utility and shipping industries and mass mailings which seek to influence stockholders and/or employes. Many companies, he said, don't realize that because they constitute so-called grass roots lobbying, such expenses are not deductible. (Mobil told Barron's it takes no tax deductions for its political ads.) Barash adds that the Subcommittee so far has found inadequate IRS enforcement and significant non-compliance with the law.

IRS has gotten the message. Commissioner Jerome Kurtz, wrote the General Accounting Office last December that the agency will audit half the returns filed by large trade associations (and perhaps large firms later) to see if they are violating Section 162 of the Internal Revenue Code on issue and image advertising. Kurtz added: "We recognize our responsibility to audit this area because of its public policy implications, even though its revenue producing potential may be less than other issues."

Section 162 of the Code involves thorny issues concerning the difference between indirect lobbying, educational material and free speech. (The Code exempts the press.) It permits lobbying to be deducted as a business expense when it involves direct contact with the legislature, but stipulates that this "shall not be construed as allowing the deduction of any amount paid or incurred in connection with any attempt to influence the general public, or segments thereof, with respect to legislative matters, elections or referendums."

Stuart Siegel, chief counsel of IRS, told Barron's that so far as he knows, this has never been challenged constitutionally. Tax deductions, he said, are a matter of legislative grace. We pointed out, however, that the press is specifically exempted from Section 162. Doesn't this indicate that First Amendment rights are involved? "That is an interesting point; I really haven't thought it out," he replied. Siegel added, however, that newspaper and magazine stories and editorials deal with matters involving the public interest, whereas mass mailings, issue advertising and other forms of indirect lobbying deal with issues in the self interest of business, not the public interest. The Constitution, however, doesn't guarantee free speech only to those promoting the public interest.

Conceding gray areas in the Code, Kurtz wrote that IRS will publish clarifying rulings; it has issued four. These hold, in es-

sence, that corporate expenses are not deductible if they seek to influence legislation through stockholders (mailing testimony of a corporate president, for instance) or through newspaper and magazine ads. An association may deduct the expense of urging its members (but not prospective ones) to contact their Congressmen. It must not deduct the cost of urging its members to contact their employes and customers on legislative matters.

Uncle Sam already has financed propaganda against advertising through the National Endowment for the Humanities. It paid for a blistering tirade in one installment of Courses by Newspaper, the gist of which was that advertising is ripping off the public and should not be tax deductible as a business expense. While we read it in The Washington Post, some 400 newspapers publish the Courses, and over 250 colleges give credits to those who read them and pass tests on them.

Here's just one of the installment's many controversial statements: "The advertising subsidy that supports and guides the cultural industry is extracted through a levy on the price of all advertised goods and services. Some call this private taxation without representation. The price is hidden in the price of soap; I pay when I wash, not when I watch TV or read a magazine."

Such views, of course, run counter to elementary economics. Advertising is essential for large volume, which in turn, permits lower prices because of economies of scale. And advertising also encourages competition. The results, needless to add, have been a standard of living that is the envy of the world.

Spending all of one's adult life as a Washington journalist means encountering a lot of tortured reasoning. But our prize, one lollipop, goes to a 346-page study by the staff of the Federal Trade Commission, which persuaded the commissioners to vote unanimously for a rule-making proceeding to consider prohibiting or regulating advertising of sugared products on TV commercials aimed at children. A lot of money is involved, since FTC estimates expenditures of all kiddie commercials are around half a billion dollars a year. By law, the Commission has authority only to regulate unfair and deceptive trade practices. Accordingly, the study found that televising sweets commercials to children is unfair because it persuades them to consume products which are cariogenic (close in sound, but not in meaning, to the scare word, carcinogenic).

The study was especially concerned about the naivete of the extremely young. But two- and three-year olds don't go shopping on their own. That leaves it up to their parents. The staff said, however, that denying requests of babies for candy and such injures the parent-child relationship. If this establishes the precedent that the government has the obligation to step in to prevent parental discomfort in denying any request of a child, the implications are mind-boggling.

At the Commission meeting in late February, just before it voted to proceed with the rulemaking, it heard arguments from its staff. Liberally lacing their conversations with warnings about cariogenic dangers from sweets, staffers warned emotionally that tooth decay is growing pandemic because most recent surveys indicate that 20 million Americans have full sets of false teeth. What they neglected to mention in the oral presentation is that the "most recent survey" was taken in 1962.

FTC Director of Policy and Planning Robert Reich says that his agency will be doing more to force advertisers to pay for commercials representing contrary viewpoints, as well as "corrections." A case involving whether FTC can force the marketers of Listerine to pay for corrective commercials now is on its way to the U.S. Supreme Court.

Last year the FCC ruled that Washington's WTOP-TV violated the Fairness Doctrine by broadcasting a Texaco commercial against breaking up the oil companies. As a result, the station aired without charge 30 TV spots by Energy Action which not only countered the commercials but also attacked oil industry participation in other forms of energy and equated oil executives with muggers. According to William Hesse, president of the American Association of Advertising Agencies, "Our members feel restrained because of the Texaco thing."

Well they might—and because of other aspects, too, of the federal attack on advertising. Much soul-searching reportedly is going on now in corporate board rooms and executive suites over how to meet the onslaught. Like most inroads on freedom, the moves ostensibly have a noble purpose. What could be finer, for instance, than protecting children? What could be more popular than attacking Madison Avenue? But is it really chipping away at the financial foundations of the free press and threatening freedom of speech? If such attacks proliferate, questions like these someday may have a hard time finding their way into print.●

## THE STRATEGIC PETROLEUM RESERVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. CONTE) is recognized for 5 minutes.

● Mr. CONTE. Mr. Speaker, I was encouraged the day before yesterday, with the responsible actions of the Senate Energy Committee. The committee formally recommended the rejection of the Department of Energy's amendment No. 2, to the strategic petroleum reserve program. The amendment was necessitated when it was learned that the original plan excluded a reserve facility in the Northeast, whose residents were concerned over the obvious lack of a regional storage facility to assist our heavily import dependent region in the event of a severe disruption of this imported oil supply. The original plan called for the siting of this storage facility to be in the gulf area, where there are abundant salt domes which are ideal for this purpose. However, since the Northeast is almost totally dependent on imports of Petroleum products, unlike the rest of the country, we are in a particularly vulnerable position in the event of a disruption. In their most recent response to this serious situation, the Department submitted the second amendment which was unanimously rejected by the Senate committee, that amendment, still did not satisfy that vital need, since it places the storage facility in Canada, outside of our control. Thus, the Department was saying that, in order to free us from the unilaterial actions of one oil producing country, we are going to establish a reserve supply in another independent country. The situation really becomes silly. The intent of the act is to establish a reserve, within the jurisdiction and control of the United States, from which we can draw on in the event of an emergency. Currently, our relations with Canada are excellent. However, we cannot predict the outcome of events in that country, which may have a detrimental effect on the United States-Canadian relations. Thus, as the Senate committee concurred, we should not deliberately establish a future risky situation in our good-faith efforts to remove ourselves from our current risky situation. I hope the full Senate will concur in the Energy Committee's recommendation probably later today. I trust the Department will draft another amendment which truly reflects the intent of the act. We need to establish reserves within our boundaries, especially in the immediate region of the highest demand for this expensive foreign oil, in order to truly free ourselves from the whims of the oil production nations.●

## PANAMA CANAL GIVEAWAY: A LAWYER'S REPLY TO EDITORIAL DISTORTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

● Mr. FLOOD. Mr. Speaker, since the signing on September 7, 1977, of the two proposed giveaway treaties for the Panama Canal, interest in the subject has steadily increased with people of the United States overwhelming opposed to the surrender. In recent weeks, public interest has been animated with a steady flow of thoughtful letters to editors.

Among such letters was one on April 5, 1978, to the editor of the Oregon Journal of Portland, Oreg., by Bernard B. Kliks, a leading attorney of that city with a background of naval service during World War II.

Mr. Speaker, because of the timeliness and professional character of the indicated letter, I quote it as part of my remarks:

PORTLAND, OREG.,
*April 5, 1978.*

EDITOR,
*Oregon Journal,*
*Portland, Oreg.:*

Your lead editorial on April 5th concerning the Canal Treaty (the second one) literally screams for an answer and correction. You say "this country as much as stole the Panamanian strip" from Panama and urge the "giveaway" to "correct a grave heavy-handed American misdeed". Like most Americans you have probably been exposed to the State Department's revision of history over the last decade. I suggest you read the Encyclopedia Britannica's version. As a matter-of-fact, the Canal Zone is the most expensive piece of real property we ever purchased—More so than Alaska, the Gadsden Purchase, the Louisiana Purchase and the Virgin Islands combined. We paid the French 40 million dollars for their rights, 10 million to Panama, 25 million to Colombia, 400 million to build the Canal and approximately 6 billion dollars since. In addition to that we bought up every piece of private property within the Zone, even squatter's rights, and have thousands of deeds on record in Washington to prove it. This was not Colonialism. We took nothing from Panama, but have been giving to Panama constantly ever since. The Canal literally made Panama and turned it from a disease infested swamp to the highest standard of living in Central America and second in all of Latin America. We are not taking their assets, lumber, oil, or anything else. We are performing a reasonable service for all nations and have done so on a fair basis for 70 years. Our rates are half that of the Suez Canal, which is only a water level canal, not encumbered by expensive locks.

Since when is reference to the Constitution an effort "to muddy the waters by insisting that the House of Representatives have some say in the disposal of Federal property". Article 4, Section 3, Clause 2 of the Constitution provides "The Congress (both Houses) shall have the power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States". (Sioux Tribe vs. U.S., 316 U.S. 317 confirms that Congress exclusively has this power).

That we have the ownership and title has been held by the highest Court in Wilson vs. Shaw, 204 U.S. 24. As late as 1971 it was held "The Canal Zone is a unincorporated territory of the United States." (U.S. vs. Roach, 453 F.2d 1054 at 1057.)

Nor is it muddying the waters to state that "The treaty is financially too costly". We are asked to give away a 7 to 9 billion dollar asset, and pay 2½ billion over the next 22 years to Panama for that privilege. Sounds more like an unconditional surrender after a total military defeat than a treaty—complete even with reparations!

The people should also know that the new Treaty states: (b) "during the duration of this Treaty, the United States of America shall not negotiate with third states for the right to construct an inter-oceanic canal on any other route in the Western Hemisphere, except as the two Parties may otherwise agree".

Your readers are entitled to know these facts as well as your opinion.

Yours truly,

BERNARD B. KLIKS.●

## CONGRESSMAN BURKE TO RETIRE FROM HOUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the Honorable JAMES A. BURKE, the Congressman who has been representing the 11th District of Massachusetts for the last 20 years, has announced that he will retire at the end of the current 95th Congress. JIM BURKE has been my friend since I was elected to Congress in 1964, and I was sorry to learn, as so many of his friends, constituents, and acquaintances were, of his decision to retire from the Congress.

JIM has served his constituents and the people of this Nation wisely and with distinction and devotion. JIM BURKE'S long and distinguished career of public service will always be remembered by all of us who had the good fortune of knowing him and working with him.

Congressman BURKE became a self-educated expert on the social security system during his service in Congress as chairman of the Social Security Subcommittee of the House Ways and Means Committee. His outstanding dedication to high standards is an inspiration to his friends and fellow citizens, and his record of excellence and creative accomplishment is most commendable.

Mr. Speaker, I am proud to have worked with JAMES A. BURKE in the House of Representatives, and I shall always cherish the good counsel and advice that he has always so generously extended. An article from the April 10 edition of the Boston Herald on Congressman BURKE'S decision to retire follows:

BURKE: A JOB WELL DONE

Since he lost his right foot a year ago in a battle with diabetes, U.S. Rep. James A. Burke has displayed courage and determination in performing his duties in the Congress.

Confined to a motorized wheelchair, the Milton Democrat answered roll calls every day and fought for legislative goals close to his heart, such as using general revenue to finance part of the Social Security System and for "just" tax revisions.

In the past he has fought for Medicare and Medicaid, and he saw both programs implemented. To the elderly, he was a champion, and he won consecutive elections in 20 years in the Massachusets 11th Congressional District.

When he announced the other day that he will retire at the end of this year, the ailing 68-year-old former Boston city official and Massachusetts legislator chose the chambers of the U.S. House Ways and Means Committee to make the announcement.

In two decades Jimmy Burke rose to become the ranking Democrat on the powerful House Ways and Means Committee, Chairman of joint Internal Revenue Committee and Chairman of the House Social Security Committee. The man has done his Job and deserves praise for his performance and his statesmanship.

House Speaker Thomas P. O'Neill, Jr. spoke for all members of Congress when he told Burke, "You stood up with courage regardless of what the issue was. I have known no man who is more popular and held in higher regard by your colleagues than you."●

## LEGISLATION TO EXTEND COUNTERCYCLICAL REVENUE SHARING

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. HOLTZMAN) is recognized for 5 minutes.

● Ms. HOLTZMAN. Mr. Speaker, countercyclical revenue sharing is one of the most important methods by which the Federal Government has provided fiscal relief to State and local governments Because the present countercyclical program is scheduled to expire on September 30, 1978, I am introducing today a bill to reauthorize the program for 3 more years.

If the countercyclical revenue-sharing program is not extended, many States and localities will be faced with a cutoff of Federal funds specifically designed to help them deal with the sluggish national economy and soaring inflation. New York City alone will lose $94 million next year if the program is not reauthorized.

My bill also changes the present formula so that States and local governments will continue to qualify for countercyclical revenue sharing even if the rate of unemployment goes down, as it is expected to do. Under present law, countercyclical revenue-sharing funds are available only if national unemployment is above 6 percent. My bill allows countercyclical funds to be distributed as long as the national unemployment is above 5 percent. Since unemployment is expected to fall below 6 percent next October, the program will come to a halt unless the national unemployment trigger is changed.

These Federal funds added by my bill will save jobs and prevent reductions in police, fire, education, and other essential services. At a time when many of our cities including New York, are experiencing serious fiscal difficulties, it would be irresponsible for the Federal Government to withdraw this critical program.

President Carter called for an extension of this program in his urban policy. The administration, however, has not yet drafted its legislative proposal.

I strongly urge my colleagues' support for this legislation.

The text of the bill follows:

H.R. 12122

A bill to extend countercyclical revenue sharing for three years and to revise the unemployment percentage required for authorziation of such program

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 202 of the Public Works Employment Act of 1976 is amended—

(1) by striking out "five succeeding calendar quarters (beginning with the calendar quarter which begins on July 1, 1977)" in subsection (b) and inserting in lieu thereof "twelve succeeding calendar quarters (beginning with the calendar quarter which begins on October 1, 1978)";

(2) by striking out "6 per centum" in subsection (b)(2) and inserting in lieu thereof "5.0 percent";

(3) by striking out "the five successive calendar quarters beginning with the calendar quarter which begins July 1, 1977, exceed $2,250,000,000"; and inserting in lieu thereof "any fiscal year which begins on or after October 1, 1978, exceed $1,900,000,000"; and

(4) by striking out "6 percent" each place it appears in subsection (d) and inserting in lieu thereof "5.0 percent".●

## ISRAELI SETTLEMENTS NOT "CLEARLY ILLEGAL"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

● Mr. DRINAN. Mr. Speaker, the U.S. State Department and the President have called the Israeli settlements in the Sinai and on the West Bank of the Jordan "clearly illegal." This posture has served only to harden the Arab States in their belief that the United States can pressure Israel into yielding all land occupied after the 1967 war, a step which would constitute a severe threat to Israel's security. The American pronouncements on the settlements also encourage the Arab heads of state in their persistence on a commitment to total withdrawal as a precondition to peace talks. They perceive the United States as viewing any Israeli presence in these areas as illegal.

Procedurally, then, in terms of fostering negotiations, the U.S. interpretation of the settlements is counter-productive. If real negotiations on the salient issues are the goal, then the U.S. position should be to encourage the Arab States to adopt the Israeli position that everything is negotiable—and everything includes the settlements—rather than fostering within the Arab States the notion that Israel will accept major pre-

conditions to any negotiations—a notion which is false, and deservedly so.

But beyond the effects of the U.S. view of the Israeli settlements lies a more fundamental issue: According to international law, are these settlements clearly illegal? A careful reading of the law and the facts of this unique situation leads one to the conclusion that the legality of the settlements remains an open question, one upon which well-intentioned individuals with great expertise in international law can and do differ. The U.S. position on this issue is, therefore, both bad policy and bad law.

Before proceeding to an analysis of the legal issues, one must underscore one central fact: On no issue, including the settlements in the Sinai, Gaza, and West Bank, is the Israeli Government saying, as do the Arab States, "Take it or leave it; this is our position and it cannot be negotiated." On the contrary, the Begin government has repeatedly made it clear that the presence or absence of settlements is, like all other issues, fully negotiable. By labeling the settlements illegal, the United States, inadvertently or otherwise, places Israel in the position of the intransigent party. In reality, it is the Arab nations, with their insistence on major preconditions to further negotiations, who pose the obstacles to peace.

The Sinai settlements pose a somewhat different problem from those on the West Bank and in Gaza. Prime Minister Begin has already offered Egypt total sovereignty over the Sinai, including the few settlements in the Rafiah salient. He has done what no prior Israeli Prime Minister has done in removing the insistence on Israeli sovereignty over the port of Sharm al-Sheik, Israel's lifeline to the South, whose closing by Egypt was one of the acts of war which led to the 1967 hostilities. All Israel is asking in the Sinai is the right to defend a few settlements in the extreme north, whose area comprises roughly 2½ percent of the Sinai. In December, President Carter cited this policy as "a constructive approach and a long step forward."

Under every tenet of international law, Israel has the right to insist upon border rectifications in any peace treaty, since Israel's presence in the Sinai was the direct result of Egyptian aggression—the closing of the straits of Tiran—in 1967. But Prime Minister Begin did not insist upon such rectifications. He insisted only that the few settlements in the Rafiah area have the right to defend themselves. Nor did he insist on the exact number, character, or even existence of settlements on a permanent basis, as his position on this issue, like all others, is that it is open to discussion and modification during face-to-face negotiations with Egypt. These are not the policies of an expansionist or obstructionist government.

Let us turn now to the more difficult issue of the territories on the West Bank of the Jordan. A central fact, often forgotten, is the very real question of sovereignty over the West Bank after the dissolution of the Palestine Mandate. The Arab States categorically rejected the partition of the area as set forth by the United Nations. This rejection was manifested in acts of violence by the Arab States 12 hours after the U.N. General Assembly ratified the partition plan in November 1947.

After the Israelis repulsed the Arab attack of 1948, Jordan occupied the West Bank and in 1950 asserted sovereignty over it. Is is highly significant that only two nations, the United Kingdom and Pakistan, recognized this claim of sovereignty, which resulted from an aggressive war over the rejection of a United Nations partition plan which never was implemented or gained actual force. The other Arab States joined the rest of the world in denying Jordan's claim of sovereignty. Its annexation of the West Bank was unilateral.

As the use of force by the Arab States in a clearly aggressive war against Israel was patently illegal, it follows that such a war could not yield to the aggressors valid legal title to territory. The legal principle is succinct: "Ex injuria jus non oritur"—There cannot flow rights from a wrongful act. The armistice lines which resulted from the 1948 war thus remained precisely that: an agreement which was part of the termination of hostilities but which did not confer sovereignty. This was clearly the view of the Arab League, as stated on April 13, 1950:

> Annexation of Arab Palestine by any Arab state would be considered a violation of the League charter.

Prior to the Arab invasion in 1948, thriving Jewish communities existed in the West Bank. After the aggression by what was then known as Transjordan, Jews were expelled from the West Bank. It is illogical to apply the principle of "nonacquisition of territory by force" to a defensive war fought by Israel in 1967 and not an offensive war fought by Transjordan in 1948.

To put the matter simply, there is no clear answer to the actual legal status of the West Bank. A strong case can be made that Jordan has, legally, never enjoyed anything more than the status of a belligerent occupant. Jordan itself, ironically enough just 1 week prior to the commencement of the 1967 war, stated in reference to the West Bank:

> There is an armistice agreement. The agreement did not fix boundaries. It fixed the demarcation line. The agreement did not pass judgment on rights, political, military, or otherwise. I know of no boundary. I know only of a situation frozen by an armistice agreement.

The situation was "unfrozen" a week later when the Arab nation undertook acts of war against Israel. The task at hand now, as the Israeli Government has reiterated, is to fix secure and just borders, without preconditions and without stubborn insistence on non-negotiable demands based upon the rigid application of principles of international law whose relevance to the situation is unclear.

If one accepts the fact that Jordan was never a legitimate sovereign, then it follows Jordan's ouster did not confer upon it the panoply of rights enjoyed by a sovereign nation displaced from its territory.

Title to the West Bank is further clouded by the nature of Jordan's role in the 1967 war. There is no dispute that Jordan, after having received assurances from Israel that it would not be the subject of military action if it did not join with Egypt and Syria in their aggression, nevertheless invaded Israel on the morning of June 5, 1967. King Hussein himself has stated that Jordan initiated the hostilities.

Prof. Steven Schwebel, deputy legal adviser to the U.S. Department of State, said in 1970:

> Having regard to the consideration that Israel acted defensively in 1948 and 1967, and her Arab neighbors acted aggressively in 1948 and 1967, Israel has better title in the territory of what was Palestine than do Jordan and Egypt.

These points of international law could be argued almost endlessly, especially in view of the fact that title to territory is normally not based on a claim of absolute validity, but rather on one of relative validity. In a relative sense, it is the view of many that Israel's title to the West Bank is of a nature to permit the establishment of Jewish settlements, or, more accurately, the reestablishment of Jewish settlements destroyed by the Arab invasion of 1948.

Legal arguments aside, the fact now is that there exists an opportunity for peace in the Middle East which may never come again. With regard to the settlements as with regard to all other issues, the Israeli Government says, come, let us negotiate these issues, face-to-face, with no preconditions and no absolute demands. By branding the settlements illegal, the United States retards this process by fostering the impression that preconditions and absolute demands are legitimate; that Israel must concede totally on these points. Such a position might be understandable if the legal issues were clear-cut but, as we have seen, they are not. The presumption that Israel's settlements are illegal per se, as adopted by the United States, the putative neutral party acting to foster negotiations, cannot help but encourage the Arab States in their hope that the United States will wrest from Israel this and other key concessions before bargaining even begins.

Once again, it would seem, principles of international law are applied one way for Israel and another way for the other nations of the world. Once again, Israel is unfairly put on the defensive by being asked to defend the settlements, when the real obstacles to peace are the Arabs' refusal to negotiate without preconditions and their refusal to permit Israel to have the secure and recognized borders to which, after 30 years of aggression by her neighbors, she is entitled. The settlements, like everything else—in Israel's view—are subject to negotiation. The issue of total withdrawal and of a Palestinian state, in the Arab view, are nonnegotiable. By focusing on the narrow issue of the illegality of the settlements—a view which is open to dispute—the United States does a disservice not only to Israel, but also to the continuing search for peace in the Middle East.●

## NEEDED: A GREEN LIGHT FOR UPDATING MASS TRANSIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SOLARZ) is recognized for 5 minutes.

● Mr. SOLARZ. Mr. Speaker, New York City has one of the oldest rail mass transit systems in the country. Its first passengers were carried in October of 1904—and to hear some of my constituents some of that equipment is still riding around—dilapidated, dirty, uncomfortable, and unsafe.

The Congress will soon be considering the reauthorization of Federal aid to our highway and mass transit programs. As the Representative of a district dependent on mass transit for their daily activities, I would like to urge some improvements in the existing Federal programs.

This country desperately needs joint local and Federal planning that would develop rational transportation priorities that reflect the real needs of local communities and their citizens. As enlightened Federal transportation program would not force highway construction on communities that really would perfer to update and improve their mass transit systems, but do not want to lose any of their Federal funds. If Federal highway grants were 100 percent transferable to either highway or mass transit improvements, local governments would be free to choose which program would best meet the needs of their citizens for safe, efficient, and economical transportation. Full transferability would assist older cities like New York, Chicago, and Boston, to name a few, who are now hard pressed for funds to upgrade and improve their existing mass transit systems.

The current formula for operating subsidy assistance also hurts our older and larger systems. New York City's subways carry over 3.5 million passengers a day on 6,000 train trips. Yet with over one-third of the Nation's total passengers, NYC receives only 10 percent of the operating subsidies provided by the Urban Mass Transportation Administration. A new operating subsidy formula must be adopted that would provide subsidies on a more equitable basis—if New York has one-third of the passengers, then it should receive one-third of the subsidy. These subsidies were provided by the Government to assist operating transit systems to hold down fares and increase maintenance activities so that ridership can be maintained, and hopefully even increased.

The Congress should greatly expand the capital grant program to allow improvements and modernizations of existing systems. Transit riders today expect escalators, ramps, elevators, and well-lit train stations. This improved access would also benefit our senior citizens and handicapped who should be able to use our Nation's transit systems on a 24-hour-half-fare basis, instead of the current off-peak-hour half-fare system.

If we are serious about our desire to cut energy usage, to reduce traffic congestion and air pollution in our cities, then we must update and modernize our transit systems to attract additional riders and to improve the service already existing. An infusion of Federal funds is needed to replace wornout and dilapidated equipment, to upgrade safety systems and communication equipment, to reconstruct track beds and improve rights-of-way, and to extend existing service so that passenger rides will be both swifter, safer, and quieter.

In my district, as in many parts of this country, the subway lines are elevated and the noise both inside and outside the trains has become unbearable as old equipment passes over aged track and worn switches. A greatly expanded noise abatement effort is needed and a special office should be established within UMTA to spearhead that effort. Expenditures for research and development of noise-abatement equipment, particularly for devices to retrofit our Nation's fleet of older buses and trains, must be tripled. UMTA should provide grants to apply existing noise-abatement technologies to our older systems. Such grants would give a real boost to our older systems and their riders, to say nothing of what noise abatement would mean to the residents of areas served by elevated lines who now suffer daily from the screeches and groans of our outdated equipment. Some of our citizens are outraged that one branch of our Government tells them that subway and el noise are bad for their health and safety, while another branch tells them there are no funds to do anything about the problem. Surely a society that can put men on the moon can protect the hearing and sanity of its transit riders and those who must live alongside its tracks.

It is time for the Congress to signal the green light to our Nation's mass transit systems. The legislation which emerges from this Congress must no longer penalize cities like New York, Chicago, Boston, and Cleveland, to name a few, which have taken their responsibility to provide economical, efficient, and inexpensive mass transit seriously. For over 70 years the cities of this country carried the full burden of providing the transit systems which made the economic, social, political, and cultural life of this country possible. Now, due to the changes in our Nation's economy these older cities look to the Federal Government for a comprehensive program that will allow them to continue to provide first-rate mass transit. Let us work together for that goal.●

## STATEMENT OF CHAIRMAN ULLMAN, COMMITTEE ON WAYS AND MEANS, WITH RESPECT TO THE RULE TO BE REQUESTED ON H.R. 12050, THE "TUITION TAX CREDIT ACT OF 1978"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. ULLMAN) is recognized for 5 minutes.

● Mr. ULLMAN. Mr. Speaker, on April 12, 1978, the Committee on Ways and Means ordered H.R. 12050, the "Tuition Tax Credit Act of 1978," favorably reported to the House. The bill would provide a 25-percent tax credit for tuition paid at a college or post-secondary vocational school, with a maximum credit of $100 for 1978; $150 for 1979; and $250 for 1980.

I take this occasion to advise my Democratic colleagues as to the nature of the rule that I will request for consideration of H.R. 12050 on the floor of the House. The Committee on Ways and Means specifically instructed me to request the Committee on Rules to grant a modified closed rule for consideration of H.R. 12050 which would provide for:

The following three amendments, which would not be subject to amendment, if printed in the CONGRESSIONAL RECORD and if offered on the floor:

First. An amendment by Mr. Vanik to include elementary and secondary schools;

Second. An amendment to increase the credit from 25 percent to 50 percent of tuition expenses; and

Third. An amendment in the nature of a substitute by Mr. MIKVA providing for the deferral of income taxes for certain tuition expenses, rather than a tuition tax credit;

Committee amendments which would not be subject to amendment;

Pro forma amendments for the purpose of debate only;

Two hours of general debate, to be equally divided;

Waiving all necessary points of order; and

One motion to recommit with or without instructions.

The committee intends to officially report the bill and file its report on Monday, April 17, 1978. It is our intention to request a hearing before the Committee on Rules as expeditiously as possible.●

## "HANDS OFF"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HALL) is recognized for 5 minutes.

● Mr. HALL. Mr. Speaker, the chairman of the House Committee on Veterans' Affairs RAY ROBERTS of Texas, has taken a strong lead in the battle to prevent cutbacks in Veterans' Administration medical programs. Newspapers and magazines all over the Nation have published his warnings that the entire VA system is in danger.

Mr. ROBERTS is well-known to all of us as a fiscal conservative. We know he looks carefully at every Federal spending bill. But concerning the administration's fiscal year 1979 VA budget, Mr. ROBERTS asks, "Why is it always veterans who are asked to sacrifice when they start tightening the screws?"

Mr. Speaker, I do not think it is overstating the case to say that we are witnessing an uprising by America's veterans. We are in the middle of it. We need seek no further for its reasons than an interesting article by Chairman ROBERTS which appeared in the March issue of the Veterans of Foreign Wars national magazine. It is titled "Hands Off" and I recommend that Members

study it to discover why the volume of their mail from veterans is increasing and why so much of it is acrimonious:

HANDS OFF

(By Representative RAY ROBERTS)

If the welfare aristocracy establishes control of veterans' programs, veterans will gradually be lumped in with welfare recipients. VA hospitals, pensions and education programs will be opened to the needy.

You have heard these warnings before. The V.F.W. sounded the alert several years ago when an attempt was made to close some VA hospitals. Outstanding V.F.W. Commanders-in-Chief had the vision to foresee where the trends at that time were leading.

They said veterans' sacrifices and special service to their country had set them apart, that being merely poor should not serve as a qualification for right and entitlements granted to veterans.

This is a war without a final victory. A new generation of welfare aristocrats has decided to test the will of veterans, their organizations and friends in Congress.

Welfare aristocrats exercise great power in the government, yet they have no head or no membership list or by-laws, but they know each other on sight. Their public statements are nearly identical. They may be of either political party, from any region, of any race or religion.

Understandably, the VA medical program tempts them most. At a fraction of the cost per bed charged by private hospitals, VA's 172 hospitals provide health care second to none. VA researchers lead the world's scientific community in developing new methods of medical treatment. The VA has responded to the medical needs of the aging by constructing comfortable and humane nursing homes that are a model for the world. VA outpatient clinics are staffed and organized to assure effective treatment with a minimum of disruption to the veteran's life.

One can readily understand why such a system would stand as a constant affront to the welfare aristocrats who created the Medicare monstrosity, with its vast overpayments to physicians, payments to ineligible recipients and fraud at all levels. The scandal is so enormous that its dimensions can be only estimated.

The current campaign to control the VA system began with a recommendation by the National Academy of Sciences (NAS) that it be dismembered and merged with private and community hospitals. Ironically, this report was paid for by the VA.

The Committee which I chair had listened to testimony from the V.F.W. and other organizations requesting more and better staffing for VA hospitals. The VA said its medical facilities were adequately staffed. Because of these conflicting views, we decided an evaluation should be made by a qualified outside group. We authorized the VA to contract for a study. After being awarded the contract, NAS seized the opportunity to attack the VA system.

The Chairman of the Medical Facilities Subcommittee, Rep. David Satterfield III (Va.), has rejected the study in its entirety and asked for an audit to determine whether some of the $6 million the VA paid for it might be recovered by the government. Rep. Satterfield also dug out the relationship between NAS and the Department of Health, Education and Welfare.

"We learned that the staff director of the NAS study was a former employee of HEW," he said. "We also learned that an employee of NAS drafted guidelines for health systems agencies that were later proposed by the Secretary of HEW. The interrelationship of HEW with NAS raises in my mind serious questions about the objectivity of any position taken on health care matters by NAS and that part of the private medical care sector it represents."

We are dealing with a subtle force that appears in unexpected areas. The man President Jimmy Carter appointed Chairman of the Civil Service Commission, Alan K. Campbell, has recommended curtailing veterans' preference in federal employment. We have also learned that Campbell's staff is considering recommendations to reduce the retirement benefits of veterans who are federal employees by the amount they receive in compensation or pension payments.

If any VA program is immune from attack by welfare aristocrats, it should be GI education. Its success is well documented and widely acknowledged. But Rep. Olin E. (Tiger) Teague says the first shot already has been fired in a campaign to discredit this commendable VA effort. Rep. Teague believes attacks on GI education originate with representatives of institutions of higher learning who want veterans' tuition paid to them directly rather than to the veteran. Like the VA medical system, this cleanly administered program also stands as a silent rebuke to those who have made an incredible jumble of federal aid to higher education. Billions of dollars in federal funds are disbursed each year without rhyme or reason. HEW's scandalous student loan program has become the subject of newspaper exposes. There is no real federal policy or central coordination to guide aid to education.

To their everlasting shame, those who covet veterans' programs have gone so far as to attack Rep. Teague and ridicule his war record. Imagine directing diatribes against a seriously disabled combat veteran, the most decorated man in Congress and Chairman of the House Veterans' Affairs Committee when most of these VA programs were formulated and funded.

If you choose not to fight for these programs, you may find that VA hospitals along with your other rights and entitlements are not there when you need them. Here is how you can protect veterans' programs. Know your Congressman and continue writing letters to the Congressman who represents you in Washington. Posts and their auxiliaries should formulate goals and objectives, then write out their ideas in easy-to-understand language. Those letters are read and heeded in Washington. Participate at the Post level in discussions on the points I have raised here. This month your Department officers are meeting in Washington to present the V.F.W.'s legislative program to the Congress. Make sure they know how you feel. Make your voices heard.

You may be thankful that you have leaders equal to this new challenge in Dr. John Wasylik, Eric Sandstrom and Howard Vander Clute. Your organization also has knowledgeable, expert staffs in the Kansas City National Headquarters and in your Washington Office. Julian Dickenson and Cooper Holt have earned the respect of Congress. I recommend that you follow their advice and answer their call with strength and enthusiasm.

What is required in these times is a mighty voice from the towns, cities and states across this nation that will warn the grasping welfare aristocrats away from veterans' programs and medical facilities. The message is simple: "Hands Off."●

## "FIREMAN OF THE YEAR" AWARDS GIVEN TO THREE CALIFORNIA FIREMEN

(Mr. BADHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BADHAM. Mr. Speaker, it is my pleasure once again to invite the attention of my colleagues to the outstanding and dedicated services given by three firemen to three cities in the 40th Congressional District of California.

The men will be honored April 20, 1978, by the Newport Harbor, Costa Mesa Board of Realtors at the annual "Fireman of the Year" awards ceremony for their activities during the past year in the cities of Newport Beach, Irvine, and Costa Mesa.

Chosen for their distinguished service to the public are Jerry Strom of the Newport Beach Fire Department, Jerry Schorr of the Orange County Fire Protection Agency serving the city of Irvine, and Bob McClelland of the Costa Mesa Fire Department.

It is an honor for me to inform my fellow Members of the activities of these three outstanding citizens, who have demonstrated their interests in the public welfare for years by their selfless efforts above and beyond the call of their normal fire-fighting and public safety responsibilities.

Capt. Jerry Strom, who has been a member of the Newport Beach Fire Department for more than 13 years, has been a fire science instructor, Red Cross first aid instructor, and has spent many hours in fire department-related projects both on and off duty. He was fire company officer of the year in 1975 in Newport Beach and, in 1976, was given the outstanding service award by the Vocational Industrial Clubs of America.

Gerald Schorr, a fire apparatus engineer in Irvine, has been instrumental in promoting fire prevention in the city of Irvine, spending 2 years as chairman of the Irvine area program and serving as a member of the Orange County Fire Prevention Committee as well as chairman of the countywide poster committee.

In 1977 he arranged a program for engine companies to visit schools during Fire Prevention Week with 4,300 students either viewing demonstrations, visiting fire stations, or receiving class talks by firemen. Additionally, a booth at the Irvine Harvest Festival provided contacts with 2,000 residents.

Bob McClelland, a battalion chief in the Costa Mesa Fire Department, was chairman of the City Employees United Way Campaign for 1977, registration chairman for Costa Mesa's Junior All American Football Team, an assistant coach for both football and baseball teams.

He helped develop Costa Mesa's paramedic program, helped develop Orange Coast College's curriculum on emergency medical technician training, was on the regional paramedic advisory committee, and has taken an active role in other paramedic training programs.

It is with great pride that I point out to my colleagues in this honorable body the fine work which has been accomplished by Jerry Strom, Gerald Schorr, and Bob McClelland. I am proud to know that there are such men willing to give of their time above and beyond the call of duty for the benefit of the citizens of their communities.●

## SMALL BUSINESS ROLE IN THE AMERICAN ECONOMY TODAY

(Mr. BADHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BADHAM. Mr. Speaker, it is time, I think, to say something for the small businessmen of the United States.

Small businesses and the people who operate them, have a most important role in the American economy today and I need not remind my colleagues that it has been the private operator, the individual entrepreneur and the family business which set the pattern for the greatness of this country and, indeed, continues to show the way for all the world to see.

In our great free enterprise system, which has been under a steadily increasing level of attack by certain institutions and Government itself, the incentive, manifested in the American dream still lives on.

For in no other area of our Nation are the small businessman, private ownership, and self-employment such vivid examples and symbols of freedom, freedom for a small businessman or woman to sink or swim without fear of recrimination from any source whatever.

That is what the small businessman cherishes and that is what makes him fight even though he might be forced to acknowledge that his own flame of hope has died. Yet Americans by the millions are willing to accept the risks that go with owning and operating their own businesses. This can be seen every day in every community across the land.

Lest my distinguished colleagues in this body conclude that I am being overly effusive on behalf of the small businessman, let me recite some important factors which, taken as a whole, show the strength and vitality of small businesses and what they have done and are doing for the Nation.

By Small Business Administration definition, 96 percent of all businesses in the United States are small and the other 4 percent started small. More than half of the Nation's labor force is employed by small business and small business, directly or indirectly, provide livelihood for 100 million Americans. In this country, 80 percent of all business employs less than 10 people, yet small business accounts for 43 per cent of the gross national product and 48 per cent of the gross business product.

So it is easy to see that small busiesses are the backbone of the entire business world, because not only do they perform a vital role in our Nation's economy, a great percentage of small businesses grow up to become the successful big businesses of tomorrow. We, in government, must remember this as we mold the laws of the land.

Mindful of the important role played by small business in this country I would like to set forth a specific example for my colleagues so that we all can understand better the basic strength of the Nation's economic system.

In the city of Irvine, Calif., in the 40th Congressional District, which I have the good fortune to represent, there is an enterprising manufacturer of complex, printed circuit boards used in high reliability electronic systems which has been named the outstanding small business subcontractor for California, Nevada, Arizona, and Hawaii.

The company, Cirtel Inc., was one of the 40 small business subcontractors nominated for the award from the four-State region and by winning the award, Cirtel becomes one of the 10 outstanding small business subcontractors in the United States, and will be eligible for the top award in the country.

Cirtel's award was based on the company's outstanding record of maintaining delivery schedules, its ability to grasp and work out extremely complex technical problems and its continual growth and outstanding management since the company was started in 1972 by an engineer, a chemist, and a certified public accountant.

From the first days of the company in crowded quarters, the business has grown to occupy 30,000 square feet of space and from the original three on the payroll, now 85 gain their employment from the company.

I would like to take this occasion to rise to salute Cirtel Inc., the firm's president, M. W. Busby, and the other 84 employees and their families for their dedication in making the company successful during this short history of their firm and wish them luck in the future as they receive the award from the Small Business Administration.●

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## FIRST NATIONAL ALL UNIONS' CONFERENCE TO SHORTEN THE WORK WEEK, APRIL 11, 1978

(Mr. CONYERS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CONYERS. Mr. Speaker, on Tuesday, April 11, I had the privilege of participating in the First National All Unions' Conference To Shorten the Work Week, which took place at the Hyatt-Regency Hotel in Dearborn, Mich. The conference was called to launch a national campaign to enact a 35-hour work week as a principal means to reduce substantially the amount of unemployment in this country. On March 22, I introduced the Fair Labor Standards Amendments of 1978 (H.R. 11784) which provides for a gradual reduction in the standard work week to 37½ hours within 2 years of enactment and 35 hours after 4 years. This bill, in addition, raises the statutory premium for work in excess of 40 hours from time-and-a-half to double time and abolishes compulsory overtime.

The Shorter Work Week Conference was a tremendous success and generated more enthusiasm than I have seen in many years. More than 700 labor leaders representing 800,000 workers from across the Nation attended. Twenty-five international unions were represented, and over 100 union locals from 20 States. Doug Fraser, president of the United Auto Workers, spoke, as did Albert J. Fitzgerald, president of the United Electrical, Radio and Machine Workers. Frank Runnels, president of Cadillac Local 22, and one of the principal organizers of the conference, delivered the keynote. The conference could not have taken place without the superb organizational work and tremendous dedication of labor leaders from around the country, especially the efforts of the All Unions' Committee To Shorten the Work Week—Frank Runnels; Charles Barton; Alice Coleman; Frank Rosen; Russell Woodrick; William Andrews; and also, Fred Gaboury of the National Coordinating Committee for Trade Union Action and Democracy, who did great work in coordinating arrangements of the conference.

If this superb organizational work and enthusiasm continues, I predict that in the not-too-distant future, Congress will enact a shorter work-week bill.

Forty years have passed since the Fair Labor Standards Act, which established the 40-hour week. The reduction in the work week during that period accounted for substantial gains in employment. There is strong reason to believe today that a similar reduction in the workweek, coupled with stronger disincentives to employers to use overtime as a substitute for hiring new workers, would generate substantial new employment.

The legislation I have introduced addresses two trends that have contributed to the continuing high levels of unemployment in the private sector. The first is the considerable erosion of production employment during the postwar period, largely due to technologically induced gains in productivity. It is estimated, for example, that 13.6 million production workers today are creating 225 percent more than 13.3 million workers had produced in 1955. In the period from 1947 to 1977, an increase of 249 percent in factory production was accompanied by only a 27-percent increase in the total number of wage and salaried workers in industry, and a mere 9-percent increase in the number of production workers. During the last recession, in the period from June 1974 economists estimate that productivity employment declined by approximately 585,000 workers. United Auto Workers economists estimate that productivity gains in the auto industry in the future will displace auto workers at an even faster rate.

The second trend involves the tendency of private industry, especially during economic slowdowns and the first stages of recovery, to increase overtime hours among their existing workforce rather than hire new workers. In May 1977, 27.4 percent of all full-time wage and salary workers (18.2 million) were employed in excess of 40 hours, and over 11 percent of the full-time workforce received premium pay. A major reason for this is that nonwage benefits to workers have increased in relation to the cost

of the overtime pay requirements and, as a result, the existing overtime rate that was intended to encourage new hiring has not proved effectual.

The inadequacy of existing overtime provisions has led the Department of Labor to reexamine the probable effect of raising the premium rate of pay on creating new employment. In the study entitled, "The Employment Impact of Overtime Provisions of the FLSA," dated December 14, 1977, the authors concluded that—

Both our theoretical and statistical work confirm the hypothesis that an increase in the overtime premium would cause a reduction in average annual overtime hours.

Their date indicates that an increase in the premium rate to doubletime would cause employment to increase between 2 and 4 percent, or by 320,000 to 640,000 workers, depending on whether industry added to the workforce, substituted capital for labor, or reduced their workforce.

There is much evidence of a growing preference among the public for increased leisure time. Prof. Sar Levitan of George Washington University, a leading authority on manpower issues, recently stated that changes in the labor force, particularly the growing number of women, growth in the number of multiple paycheck families, coupled with the decline in family size, among other factors, have combined to strengthen preferences for a shorter workweek. His studies indicate that productivity gains permit a greater sharing of the dividends among a greater number of workers, both in the form of income as well as leisure.

The provisions of my fair labor standards amendments are the following:

Raises the statutory premium for work in excess of 40 hours from time-and-a-half to double the regular hourly rate;

Requires employers to obtain the consent of employees for overtime hours;

Reduces by stages the standard workweek from 40 to 37½ hours after 2 years of enactment and to 35 hours after 4 years;

Keeps in force for their duration existing collective bargaining agreements and provides for adjustments in income standards through the collective bargaining process; and

Empowers the Secretary of Labor to waive overtime consent provisions in cases of demonstrable economic emergency.

About 12 years ago Leonard Woodcock and the UAW raised before Congress the issue of the ineffectiveness of existing overtime provisions in the Fair Labor Standards Act. There has been no critical work on this problem since then. This is one labor standards area that needs renewed attention.

The bill I have introduced goes beyond the overtime problem. It calls for a reduction in the standard workweek to 35 hours. On the average, in 1977, more than 18 million employees worked in excess of 40 hours; 3.5 million worked 60 hours or more. Another 6 million worked between 49 to 59 hours. There is a basic question of justice and equity involved in this situation. When millions are unemployed and have been over a long period, is it fair for millions of others to work 60 hours. No one wishes to curb an individual's choice of how much and for whom he or she works. But we can, at least, raise employers' incentives to hire new workers.

There is, of course, no single solution to the unemployment crisis. It will require solutions on many fronts. The bill I introduced deals with the responsibilities of the private sector to generate more jobs and the responsibility of all of us to share work with others less fortunate, whenever possible.

I regard shorter workweek legislation as one important implementing bill within the context of the Humphrey-Hawkins Full Employment and Balanced Growth Act. But this bill deals only with cyclical unemployment, the layoffs of workers as a result of business cycles, the perennial ups and downs of our economy. Of equal importance is another type of substantive employment bill that addresses the critical issue of structural unemployment—the lack of adequate job training for youth and others; the lack of relevant job skills particularly among minority workers; the lack of jobs in central cities.

At a minimum, this legislation and the great organizing work of the All Unions' Committee for the Shorter Work Week will help generate much-needed debate on how to solve the No. 1 problem of unemployment.

Mr. Speaker, I include in these remarks newsstories on the All Unions' Shorter Work Week Conference, and the text of the keynote address by Frank Runnels, president of the All Unions' Committee for the Shorter Work Week:

KEYNOTE SPEECH OF FRANK RUNNELS

Brother Andrews; Congressman Conyers; UAW International President Fraser; Michigan State AFL–CIO President Marshall; U. E. General President Fitzgerald; Wayne County AFL-CIO President Turner, Distinguished Guests, Brothers and Sisters: It gives me great pleasure to welcome you to this, the first national all unions conference to shorten the work week.

This is indeed an historic occasion. Not in my life time has there been so many union leaders from such a cross section of the unions in this country come together under one banner to hammer out a program to do something about the horrifying unemployment rate. This meeting today did not just happen. It came about through a lot of hard work by a lot of dedicated people who realize that the torch has been passed to us and the responsibility for creating jobs for the unemployed in this country falls squarely on our shoulders.

The list of those who have helped to make this conference the success that it is, is too long to give the proper credits to the individuals who deserve it. But I want to thank the officers, the steering committee, and the staff of the all unions committee to shorten the work week for the great job they've done in helping to renew this movement and in setting up this conference.

I call your attention to the banner that quotes Samuel Gompers who said, "as long as we have one person seeking work who cannot find it, the hours of work are too long." It has been ninety-one years since Samuel Gompers made that statement. But those words are just as true today as they were when they were spoken.

As we meet here today. There are almost ten million people in this country who are underemployed or unemployed. Can anyone deny that the hours of labor are too long?

The drive for shorter hours has lain dormant since the Fair Labor Standards Act was enacted in 1938, creating the forty hour week.

Yes, there has been precious little shorter hours fruits in these last forty years, and statistics on every point show what a mistake it has been to neglect this most important issue.

Anyone who doubts this, only has to look at the long lines in front of the unemployment offices. Those lines didn't just happen. They are not there because people don't want to work. They are there because there are no jobs . . . they are there because new technology and slow economic growth have combined to deny decent jobs to ten million workers in our country.

Look around, not a single industry has escaped the onslaught. No union . . . not even the largest and best established . . . has been able to fully protect their members from the massive slaughter of jobs.

Let us take the transportation equipment industry; such as the automobile, aircraft, railroad equipment and ship building . . . between 1953 and 1977 . . . production in these industries increased by ninety three percent, while the number of production workers declined by sixteen percent.

That means in June of 1977, there were two hundred forty four thousand fewer employees building transportation equipment than there were in 1953.

The story goes on in every industry. The electrical equipment manufacturing industry: Between 1969 and 1977, production increased by twenty seven percent, and production employees declined by four percent.

There is the primary metals industry which includes the production of iron and steel: Between 1953 and 1977, production increased by fifty eight percent and the number of production workers declined by two hundred eighteen thousand; that's nineteen percent of the workforce.

Yes, the story is the same sad story in industry after industry . . .

One hundred thousand jobs lost at American Telephone and Telegraph since 1974.

The longshore workforce, in the port of New York, dropping from forty thousand to less than twelve thousand between the mid-fifty's and 1977.

Coal production up seven percent while two hundred twenty seven thousand coal miners . . . some fifty five percent of the workforce . . . lost their jobs.

Oh yes, we can go on:

A drop of twenty five percent in the number of production workers employed in the meatpacking industry between 1948 and 1976.

Eight hundred thousand jobs eliminated on the railroads since the end of World War II.

An over the road truck that hauls twice as much in half the time required thirty years ago.

Nor have the trades and crafts escaped. This is shown by the record unemployment of the members of the building and construction trades unions.

Let's not forget our brothers and sisters who are involved in the manufacturing of the very clothes we wear on our backs . . . and those from the retail clerks who sell them.

Nor can we close our eyes to the massive cutbacks of public employees' jobs. There jobs too have been slaughtered.

As we said before, no industry has escaped.

Over the span of a generation, the cumulative effect of job losses because of new technological changes, has been incredible and devastating.

Look at the statistics:

According to government figures, in the period from . . . 1955–1976 . . . productivity increases made it possible for a workforce

that grew by less than three percent to more than double production.

In other words, in 1955, we had a workforce of thirteen million two hundred eighty eight thousand factory production workers. . . . In 1976 that workforce produced one hundred percent more. . . . that's a twenty-one year period mind you . . . and the workforce had only grown by three hundred and thirty seven thousand.

It doesn't take a mathematician to see that with this type of job erosion, our economy cannot sustain a forty hour work week.

We must remember that every system on earth should benefit mankind.

When those systems become obsolete and no longer benefit us, we must cast them aside.

Just as sure as you and I are here today, the forty hour system has built a wall around our jobs . . . that wall has locked out ten million people . . . it is time to tear that old wall down!

I am not saying that the labor movement has not made an attempt to protect jobs . . . we have. We have negotiated all types of programs. But those programs have not effectively reduced the unemployment rate in this country.

The forty hour wall still stands; and there is no way that we are ever going to create the jobs that we must have, until stop pussyfooting around and reduce the hours of labor.

There are no short cuts . . . there are no cheap gimmicks . . . there are no substitutes. . . . The entire labor movement must renew the battle for shorter hours and we must begin now.

We must find ways to transform the demand and desire for shorter hours into campaigns of education . . . legislation . . . and collective bargaining, with enough muscle to win the battle.

We must renew the movement that has lain dormant for forty years; and some organization must take the lead in building that movement because there can be no end until there has been a beginning. . . . and today marks that beginning!

The First National All Unions Conference to shorten the work week marks a renewal . . . marks a rebirth . . . of a national movement to reduce the hours of labor in order that we may provide a decent job at union wages and conditions for all who need and want them. . . . the movement is born again!

To accept the challenge of building a new movement requires a sober look at the paths we must follow . . . at the mountains we must climb . . . and at the difficulties we will encounter.

Make no mistake about it . . . it is not going to be an easy task. The companies are not going to just give us a shorter work week. . . They are going to fight! . . . They are the richest, the best organized . . . And the most powerful force in this country . . . With the exception of an informed, aroused and concerned people

Yes, we must arouse our people, and we can only do this by meeting the corporations face to face . . . debating them point by point.

We must focus the attention of this Nation on the fact that our present system. . . With almost ten million unemployed . . . Is not free . . . or cheap . . . It's an expensive system.

It costs over eighteen thousand dollars per year in social programs and lost revenue for every unemployed person in this country. That is over one hundred billion dollars per year that our present system is costing.

The corporations have convinced a large number of people that the cost of shorter hours will be too high. The corporations whine that it's too expensive to let their machinery sit idle one hour a day . . . One day a week . . . or whatever.

But let them answer the human question: How expensive is it to let ten million people sit idle every hour of the day. Every day of the week? Let them answer that one.

Just last Friday, the latest unemployment figures were released, and it tells a sad tale. Official unemployment rose to six point two percent. . . . That's nearly six million people . . . not trees . . . not things . . . but living breathing human beings . . . human beings who laugh when they are happy . . . bleed when they are cut . . . feel pangs when they are hungry and like you and I, cry when they are sad.

Those same figures that were released last Friday show black unemployment grew from 11.8 percent to 12.4 percent: that black youth unemployment is thirty nine percent; that black adult women unemployment rose to 11.4 percent and black men's rate of unemployment is 11.2 percent.

A few short years ago, some of our Nation's largest cities, including Detroit, were torn apart by rioting in the streets . . . and by burning and looting. That looms there as a reminder to all of us, of what can happen when a Nation closes its' eyes to the realities of life.

Those same conditions that existed then are becoming even worse today.

We must do more than take note of this fact. We must do more than pay lip service . . . We must create the jobs that are needed to give every person in this country who desires to work a job where they too can draw a paycheck and live in dignity like you and I.

After these jobs are created, we must insure that they are available to all of the people on a fair and affirmative basis.

We must find jobs for those who are presently out of work . . . then we have to find jobs that will provide employment for at least two million young people who enter the workforce every year . . . then we have to provide jobs for some two and a half million workers who are displaced by new machinery and new technology every year.

When it's all added up, we have to provide over one hundred thousand jobs every week for the next four years to even approach full employment.

Those of us who organized the All Unions Committee to shorten the work week are absolutely convinced that the key to creating these jobs is to renew the movement of legislative and collective bargaining struggles. To reduce the hours of labor with no reduction in pay.

Many will ask why doesn't the established labor movement take on this fight? Why do we need a separate organization . . . and how does the All Unions Committee fit into the picture?

I think we can provide very simple and very straight forward answers to these questions.

The people gathered here help make up the labor movement, and it's just as much yours' and my responsibility to pick up this torch as it is anyone elses'.

The very nature of our labor movement makes an independent organization necessary.

No single union can concentrate its' energies exclusively on the issue of shorter hours.

No single union can coordinate the efforts to build a national movement.

No single union can win a reduction in hours for all workers.

No single union can win legislation to extend a reduction in hours to the unorganized workers of the Nation.

All of these problems are multiplied by virtue of the fact that there is no single trade union center in the United States today. Therefore, a new organization is required in order to fire the imagination and unleash the strength of the entire labor movement and to lead the next round in the struggle for shorter hours.

I submit to you that the All Unions Committee to Shorten the Work Week is that organization.

Our purpose, and I quote from our founders' resolution is to "help initiate, develop and coordinate in every local union a national movement to create jobs by reducing the hours of labor through the process of education . . . legislation and collective bargaining."

We elaborated on this in a letter I wrote the leaders of all international unions . . . to the officers of all state AFL–CIO councils and to the leaders of one hundred fifty of the largest AFL–CIO city bodies in this country.

I quote from that letter: "Ours is a program of positive action: but it's not a new program. What is different . . . what is new . . . is that our organization is working to bring together all unions without regard to industry, craft or affiliation.

"We are attempting to do this even though we know that every international union must have the flexibility they need to apply the shorter work week to their own set of circumstances.

"It is not our intention to tell any union how their program should operate . . . nor is it our intention for this movement to become involved in inner-union politics,"

So there is a need for all the unions committee to shorten the work week. Many precedents can be cited where independent labor organizations came into being because of a need.

There was the eight hour league.

There was the CIO (Committee for Industrial Organization), that pooled the resources of several international unions to support and direct campaigns to organize workers in basic industry.

There was the AFL Committee for Unemployment Compensation that led the campaign for unemployment insurance.

There was the black lung association, that initiated campaigns to enact black lung legislation at state and national levels.

Today we have the brown lung association.

We have the coalition of labor union women . . . we have the coalition of black trade unionists.

Since October 25, 1977, there has been the all unions committee to shorten the work week.

All are based in the labor movement . . . all are independent of the formal trade union structure . . . all came into being in response to specific needs . . . all are necessary . . . all contribute to the strength and to the unity of the labor movement.

Although this organization is based at the local union levels, and is led primarily by local union officers, we consider it extremely important that we be able to work with the leaders of international unions and with the leaders of other official labor bodies.

I call upon all unions represented here today . . . yes, on all unions of this country to put aside any differences they may have and walk with us in the spirit of brotherly love and solidarity in the search for decent jobs for everyone.

Yes, the all unions committee is a part of the labor movement, but we will not be . . we will not attempt to become . . . a substitute for any existing labor organization.

Our purpose is to renew the movement for shorter hours.

Our meeting here today is in the best tradition of the labor movement. We can trace our roots, not only to the earliest struggle of the labor movement, but we can trace our roots to the earliest days of the Republic

when in 1791, Philadelphia carpenters struck to reduce the work day to twelve hours.

Yes, ours is a heritage that can trace its' roots to the "factory girls" in the textile industries of New England; the coal fields of Pennsylvania, and to the building trades unions in a dozen cities who fought for a ten hour day in the first fifty years of the 1800's.

Yes, our gathering has its' history rooted in the giant struggles for the eight hour day in the 1884 decision of the Federation of Organized Trades and Labor Unions in the United States and Canada.

Yes, this movement goes back to May 1, 1886 and on through the many years and the many struggles between then and the CIO upsurge that forced enactment of the Fair Labor Standards Act of 1938.

Times may have changed and tactics may have varied, but the objective of the shorter hours movement remained . . . and remains . . . the same; to create jobs . . . to make life better . . . to obtain a greater share of the increased production made possible by new technology.

When the books are written about this movement, historians will take note of the fact that the supporters of shorter hours were often divided among themselves, and they will record that with the founding of the All Unions Committee, this weakness was overcome.

Can anyone disagree with the All Unions Committee when we say, "to be effective, the movement for shorter hours cannot get mired down into what are essentially useless arguments about how many hours should be cut off the work week."

If someone believes it should be thirty hours, and someone else believes it should be thirty-five hours, let's not fight over that . . . let's join together . . . let's raise our voices in unity with one battle cry . . . "Begin now to reduce the hours of work with no loss of pay down to where everyone who desires to work can have a decent job!"

We must renew the movement for shorter hours in this country to fight for and win the best measure of economic security for the employed and unemployed.

When I talk about a shorter hours movement, I am talking about shorter hours with no cut in pay.

I am talking about building a movement on two fronts . . . the collective bargaining front and the legislative-political front.

I am talking about a collective bargaining demand that will create jobs and increase the purchasing power of all people . . . that will make it possible for millions of workers to have jobs that they will not get in any other way.

I am talking about a collective bargaining demand that will provide our youth with the opportunity for the meaningful jobs that they must have if they and our nation are to progress.

I am talking about a movement that will bring back into the economic life of the nation, those millions of black, Latino and women workers who have been hit the hardest by the mass layoffs in the past several years.

I am talking about fighting on the political and legislative front. . . . I am talking about a campaign to win passage of Congressman Conyers' bill, H.R. 11784.

I am talking about a campaign that will take the demand for shorter hours to every candidate running for office.

I am talking about a campaign for shorter hours that will take the principles of H.R. 11784 into every city council, into every State legislature and to every board of county supervisors in this country.

I am talking about a campaign that will win legislation that will bring shorter hours without a cut in pay to millions of public employees and to the others in the workforce that are not members of unions and are thus unable to win this demand through the collective bargaining process.

I am talking about a legislative-political movement that will elect men and women into public office who know the hell of high inflation and the sinking feeling in the pit of the stomach that comes with a layoff slip.

To win the next round in the battle to reduce the work week will require that we raise the concept of trade union unity and labor solidarity to new levels of practice. It demands that we build a movement that reaches into every shop and local union in this country.

I am convinced that together we can do all that must be done, but none of us can do it alone.

I am convinced that we can meet the challenge of creating five million jobs a year.

Of course, it's going to be difficult . . . but because of the victories of those who have gone before us, we are strong and are equal to the challenge.

Consider what we have going for us.

The Fair Labor Standards Act of 1938, which was won by the movement for the eight hour day, firmly establishes the authority of government to set limits on the hours of labor.

In 1869 President Grant, by executive order, established the principle that income standards should not be cut as the hours of labor are reduced.

We don't have a President today that is willing to take the bold step that President Grant took in 1869, but presidential orders are not as critical today, as they were in 1869. Because we have built a strong labor movement in the basic industries of this country . . . and we do not have to solely depend on the goodwill of politicians.

We do not stand alone in the struggle against unemployment. Just last week there were strikes and demonstrations by twenty-five million of our brothers and sisters in every country of western Europe.

So the fight for shorter hours has become a world-wide campaign. Many times we have read in the history of the labor movement and in the history of our country, where people gathered together to organize movements. And then some years later, it was recognized that, that seemingly insignificant meeting was not insignificant at all; but it was a momentus occasion that in many instances completely changed the country and yes even the world.

I point this out so that we might all realize that we here today, do have the power to help tear down that old forty hour wall that has kept so many of our people in poverty.

Yes, we have the power to destroy that awful monster . . . unemployment. That power is the same power that our forefathers possessed when they organized the labor movement.

That power is persuasive power. . . .

We have the power to speak out . . . the power to organize.

The power to persuade our members . . . management . . . the community leaders and the leaders of our country.

Yes we have the power to persuade this great nation that we must reduce the work week . . . so that every person desiring a job will have an opportunity to work so that they and their families may live in dignity.

Thank you.

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[From the Detroit Free Press, Apr. 12, 1978]

LABOR URGES CUT IN 40-HOUR WEEK TO CREATE JOBS

(By Bob Calverley)

More than 700 labor leaders representing 800,000 workers from across the country met Tuesday formally to begin a fight to reduce the 40-hour workweek.

The meeting in the plush Hyatt Regency in Dearborn was characterized by table-thumping rhetoric and an enthusiastic audience that frequently interrupted speakers with standing ovations. Speakers said that reducing work hours is the only way to cut unemployment.

"Just as sure as you and I are here today, the 40-hour system has built a wall around our jobs," said Frank Runnels, president of the All Unions Committee to Shorten the Work Week and also president of Cadillac Local 22 of the UAW. "That wall has locked out 10 million people. It is time to tear that old wall down."

UAW President Douglas Fraser gave the new struggle his blessing and said it would be "won on the picket lines and the bargaining tables and not in the halls of Congress." But he tempered his endorsement by noting that the labor movement had other battles to fight as well.

"We can't do it (reduce work hours) to the exclusion of all other problems," he said, "We only go to the table every three years."

In a press conference immediately after his speech, Fraser said that reducing work hours and increasing "pensions ravaged and eroded by inflation" would probably be the two main goals of UAW bargainers in 1978.

"As sure as I stand here the American worker is going to have a four-day week," said Frazer. "It won't happen uniformly in every industry at once."

Rep. John Conyers of Detroit, who introduced legislation recently that would require employers to shorten the work week from 40 hours to 37½ hours in the next two years and to 35 hours in four years, gave what was perhaps the most colorful and well-received speech.

"I will work until hell freezes over to pass this bill," he said. "And I'll fight on the ice afterwards if necessary." Citing unemployment figures which show that blacks, especially young men, are more likely to be out of work, Conyers said reducing unemployment through short work hours was part of the civil rights struggle begun by the Rev. Martin Luther King.

"Black people had full employment up until the Emancipation Proclamation and during World War II everyone worked," he said. "How do you give everyone a job without going back to a slave economy or having another world war?"

Reducing work hours is an old cause for organized labor, as a quotation by Samuel Gompers of the American Federation of Labor, which was posted on the wall, illustrated:

"As long as we have one person seeking work who cannot find it, the hours of work are too long," Gompers said in 1887.

Labor leaders are not aiming for a specific goal, such as a four-day week, on a rigid deadline. Rather they want to shorten gradually the hours workers put in.

When asked by reporters if the four-day week could be achieved at the UAW's next bargaining session in 1979 Fraser said he thought that was too early. But he pointed to the 1976 agreement which gave workers additional paid days off as a model for other labor organizations to follow.

"Thousands and thousands of jobs were created," he said about the plan. "And thousands more could be created if we get control of the overtime."

Fraser said it was important to reduce hours in a manner that would not shut plants down.

"Everybody will work four days, but factories will work six days," he said.

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[From the Detroit News, Apr. 12, 1978]

DO NOT COUNT ON CONGRESS FOR SHORTER WEEK, LABOR TOLD

(By Mark Lett)

Organized labor's renewed drive for a shorter work week will be easier to achieve at the bargaining table than on Capitol Hill,

according to UAW President Douglas A. Fraser.

"Don't put all your shorter work-week eggs in the legislative basket," Fraser advised about 600 delegates yesterday at the first All-Unions National Conference to Shorten the Work Week.

"The fight is going to be won on the picket lines, and not in the halls of Congress. This is the story of the American labor movement."

The one-day conference at Dearborn's Hyatt Regency Hotel was attended by leaders of local unions from 25 states and at least a dozen unions.

While he favors amendments to the Fair Labor Standards Act, which would reduce the basic 40-hour work week, Fraser said he has little confidence that Congress will support the issue.

As evidence, Fraser pointed to the stiff resistance organized labor has faced over two cherished measures—the labor law reform package and the so-called Humphrey-Hawkins full employment bill.

The Humphrey-Hawkins measure, which would commit Congress to a broad program for reducing unemployment, has been passed by the House and is likely to gain Senate approval. The labor law revisions, which would improve unions' chances in organizing drives, also has House approval, but is given only a slight edge of clearing the Senate when it is voted on later this year.

Because legislation to trim the basic 40-hour work week would have an even more sweeping effect than those two measures, Fraser said it is unrealistic to think lawmakers will endorse the concept.

Giving the idea a legislative push, however, is Rep. John Conyers Jr., a Detroit Democrat. Conyers yesterday told union delegates that he has introduced measures which would amend the 40-year-old Fair Labor Standards Act to cut the standard work week to 37½ hours within two years of passage, and to 35 hours after four years.

The amendments also would require employers to obtain worker approval before assigning overtime and to pay double-time for all hours worked in excess of 40.

Conyers' announcement was met with cheers from the delegates, who soon will begin a petition drive to collect 250,000 signatures in support of the measure. Capitol Hill observers, however, said the bill most likely will receive scant attention by lawmakers this year.

Despite the obstacles, Fraser told delegates that "as sure as I'm standing here, the American worker is going to have a four-day week."

For the auto workers—who make up about half of his 1.4-million-member union—Fraser indicated the four-day week is likely to come during the 1980's. (Other members make farm equipment and other machinery.)

The UAW took a "giant step" toward the four-day week, Fraser said, when it negotiated a plan for personal holidays during auto industry contract talks in 1976.

Improvements to that plan—which gives workers 12 more days off over two years, in addition to holidays and vacations—will be a high-priority issue when the union returns to the Big Three bargaining tables next year, Fraser said.

While the personal-holiday system provides more leisure time for workers, Fraser said it also has boosted employment in the auto industry. "There's no question that as a consequence of the 1976 negotiations, thousands and thousands of jobs were created," Fraser said.

Fraser quickly added, however, that the union will not negotiate for additional worktime reductions to the exclusion of other contract issues. For example, he said union negotiators also will seek pension improvements.

"When we leave that bargaining table, we have to be able to say to our members and retirees that their pensions will be protected from the ravages of inflation," Fraser said.

Frank Runnels, president of UAW Local 22 in Detroit and president of the All-Unions Committee, called yesterday's meeting "historic."

"Never in my lifetime has such a cross-section of union leaders come together under one banner to hammer out a program to do something about the horrifying unemployment rate (6.2 percent nationwide)," Runnels said.

Runnels said the session "marks a rebirth of a national movement to reduce the hours of labor in order that we may provide a decent job at union wages and conditions for all who need and want them.

"The movement is born again," he enthused.

Delegates attended afternoon workshops, which offered union leaders "game plans" on how to push for shorter work time through bargaining and legislation.

## LEAVE OF ABSENCE

By unanimous consent leave of absence was granted to:

Mr. JONES of North Carolina (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LIVINGSTON) to revise and extend their remarks and include extraneous material:)

Mr. WHALEN, for 10 minutes, today.
Mr. KEMP, for 10 minutes, today.
Mr. ASHBROOK, for 15 minutes, today.
Mr. CONTE, for 5 minutes, today.

(The following Members (at the request of Mr. YOUNG of Missouri) to revise and extend their remarks and include extraneous material:)

Mr. FLOOD, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Ms. HOLTZMAN, for 5 minutes, today.
Mr. DRINAN, for 5 minutes, today.
Mr. SOLARZ, for 5 minutes, today.
Mr. ULLMAN, for 5 minutes, today.
Mr. HALL, for 5 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. CONYERS, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,231.88.

(The following Members (at the request of Mr. LIVINGSTON), and to include extraneous matter:)

Mr. JEFFORDS in two instances.
Mr. FINDLEY.
Mr. COLLINS of Texas in two instances.
Mr. ANDERSON of Illinois in two instances.
Mr. DERWINSKI in two instances.
Mr. ARCHER.
Mr. RHODES.
Mr. DON H. CLAUSEN in two instances.
Mr. SARASIN.
Mr. ROUSSELOT in two instances.
Mr. LAGOMARSINO.
Mr. KINDNESS.
Mrs. HECKLER.
Mr. ASHBROOK in two instances.
Mr. SYMMS in two instances.
Mr. DORNAN.
Mr. LIVINGSTON.
Mr. CONABLE.
Mr. HOLLENBECK.
Mr. TREEN.
Mr. BROYHILL.

(The following Members (at the request of Mr. YOUNG of Missouri) and to include extraneous matter:)

Mr. BOLAND.
Mr. EDWARDS of California.
Ms. MIKULSKI.
Mr. IRELAND.
Mr. MINETA.
Mr. KILDEE.
Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. HAMILTON.
Mr. FOLEY.
Mr. HAWKINS in two instances.
Mr. VENTO.
Mr. CARNEY.
Mr. ULLMAN.
Mr. GAYDOS.
Mr. MILFORD in two instances.
Mr. CONYERS in two instances.
Mr. JACOBS.
Mr. CHARLES H. WILSON of California in two instances.
Mr. OBERSTAR.
Mr. TEAGUE.
Mr. WEISS in two instances.
Mr. EILBERG.
Mr. DRINAN.
Mr. WAXMAN.
Mr. FRASER.
Mr. WRIGHT.
Mr. BYRON.

## SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2597. An act to amend title 28, United States Code, to move the place for holding court for the district court of the Eastern District of New York to Brooklyn and Hempstead, and for other purposes; to the Committee of the Judiciary.

## ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4979. An act to direct the Secretary of the Interior to convey certain public and acquired lands in the State of Nevada to the county of Mineral, Nev.; and

H.R. 6693. An act to promote the healthy development of children who would benefit from adoption by facilitating their placement in adoptive homes, to extend and improve the provisions of the Child Abuse Prevention and Treatment Act, and for other purposes.

## ADJOURNMENT

Mr. DOWNEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 42 minutes p.m.), under its previous order, the House adjourned until Monday, April 17, 1978, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3853. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain defense services to Iran (Transmittal No. 78–30), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

3854. A letter from the Deputy Under Secretary of State for Management, transmitting notice of two proposed new records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3855. A letter from he Deputy Assistant Secretary of Defense (Administration), transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3856. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense services to Iran (Transmitting No. 78–30), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

3857. A letter from the Assistant Administrator, Office of Planning and Management, Law Enforcement Assistance Administration, Department of Justice, transmitting an advance copy of the ninth annual report of the Law Enforcement Assistance Administration, pursuant to section 519 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (87 Stat. 214); to the Committee on the Judiciary.

3858. A letter from the Secretary of Commerce, transmitting the annual report for calendar year 1977 on the Central, Western, and South Pacific Fisheries program, pursuant to section 4 of Public Law 92–444, as amended (90 Stat. 809); to the Committee on Merchant Marine and Fisheries.

3859. A letter from the Secretary of the Army, transmitting a Corps of Engineers report on metropolitan Omaha, Neb.-Council Bluffs, Iowa, in response to resolutions of the Senate and House Committees on Public Works adopted May 6, 1971, and July 29, 1971, respectively; to the Committee on Public Works and Transportation.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California (for himself and Mr. SNYDER):

H.R. 12106. A bill to amend the Independent Safety Board Act of 1974 to authorize additional appropriations; jointly, to the Committees on Interstate and Foreign Commerce, and Public Works and Transportation.

By Mr. ANDERSON of California (for himself, Mr. BLANCHARD, Mr. JOHN L. BURTON, Mr. CORRADA, Mr. DRINAN, Mr. FARY, Mr. FLOOD, Mr. FOWLER, Mr. HAWKINS, Ms. MIKULSKI, Mr. MOTTL, and Mr. SOLARZ):

H.R. 12107. A bill to regulate the trapping of mammals and birds on Federal lands, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries, Interstate and Foreign Commerce, and the Judiciary.

By Mr. BENJAMIN:

H.R. 12108. A bill to amend the Urban Mass Transportation Act of 1964 relating to certain operating assistance under the act; to the Committee on Public Works and Transportation.

By Mr. BOLAND:

H.R. 12109. A bill to authorize appropriations for fiscal year 1979 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes; to the Select Committee on Intelligence.

By Mr. BROYHILL:

H.R. 12110. A bill to amend the Trade Act of 1974; to the Committee on Ways and Means.

By Mr. STEIGER (for himself, Mr. JENKINS, Mr. FRENZEL, Mr. JONES of Oklahoma, Mr. CONABLE, Mr. BURLESON of Texas, Mr. ARCHER, Mr. BAFALIS, Mr. KETCHUM, Mr. DUNCAN of Tennessee, Mr. HOLLAND, and Mr. WAGGONNER):

H.R. 12111. A bill to amend the Internal Revenue Code of 1954 to provide pre-1969 tax treatment for capital gains; to the Committee on Ways and Means.

By Mr. BUTLER:

H.R. 12112. A bill designating Gathright Lake on the Jackson River, Va., as Lake Moomaw; to the Committee on Public Works and Transportation.

By Mr. CLEVELAND:

H.R. 12113. A bill to amend the Federal Water Pollution Control Act relating to clean lakes; to the Committee on Public Works and Transportation.

By Mr. CONABLE (for himself, Mr. FINDLEY, Mr. FORSYTHE, Mr. GRADISON, Mr. LUJAN, and Mr. MCCLORY):

H.R. 12114. A bill to repeal the carryover basis provisions added by the Tax Reform Act of 1976; to the Committee on Ways and Means.

By Mr. CONABLE (for himself and Mr. RANGEL):

H.R. 12115. A bill to amend the Internal Revenue Code of 1954 to provide rules for the tax treatment of employees under certain profit-sharing plans; to the Committee on Ways and Means.

By Mr. DELLUMS (for himself, Mr. DIGGS, Mr. MCKINNEY, and Mr. FAUNTROY):

H.R. 12116. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to repeal the authority of the President to sustain vetoes by the Mayor of the District of Columbia of acts passed by the Council of the District of Columbia and repassed by two-thirds of the Council, to change the period during which acts of the Council of the District of Columbia are subject to congressional review, and for other purposes; to the Committee on the District of Columbia.

By Mr. DIGGS (by request):

H.R. 12117. A bill to transfer certain real property of the United States to the District of Columbia Redevelopment Land Agency; to the Committee on the District of Columbia.

By Mr. DUNCAN of Tennessee (for himself, Mr. SPENCE, Mr. BUCHANAN, Mr. MCDONALD, and Mr. PEPPER):

H.R. 12118. A bill to provide for a comparison study of the costs and other factors associated with the establishment of reimbursement guidelines for respiratory therapy; to the Committee on Interstate and Foreign Commerce.

By Mr. HAMILTON:

H.R. 12119. A bill to authorize the Commodity Credit Corporation to finance export credit sales of agricultural commodities and to authorize non-market-economy countries to participate in certain programs of the Commodity Credit Corporation; to the Committee on International Relations.

By Mr. HANNAFORD (for himself, Mr. PATTEN, Mr. CONYERS, and Mr. FLORIO):

H.R. 12120. A bill to amend the Department of Defense Appropriation Act, 1978; jointly, to the Committees on Appropriations, and Armed Services.

By Mr. HEFNER:

H.R. 12121. A bill to amend the Controlled Substances Act to provide increased penalties for illegal distributions of controlled substances in or adjacent to elementary and secondary schools; to the Committee on Interstate and Foreign Commerce.

By Ms. HOLTZMAN:

H.R. 12122. A bill to extend countercyclical revenue sharing for 3 years and to revise the unemployment percentage required for authorization of such program; to the Committee on Government Operations.

By Mr. JOHNSON of Colorado (for himself, Mrs. SCHROEDER, and Mr. MIKVA):

H.R. 12123. A bill to amend title 23 of the United States Code, relating to highways, to authorize a program to separate rail-highway crossings in certain impacted cases; to the Committee on Public Works and Transportation.

By Mr. LEHMAN (for himself, Mr. ASHLEY, Mr. ROGERS, Mr. PEPPER, Mr. FASCELL, and Mr. ROSENTHAL):

H.R. 12124. A bill to encourage broader utilization of the condominium form of homeownership, to provide minimum national standards for disclosure and consumer protection for condominium purchasers and owners and tenants in condominium conversions, to encourage States to establish similar standards, to correct abusive use of long-term leasing of recreation and other condominium-related facilities, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MILFORD for himself, Mr. MATHIS, Mr. JOHNSON of California, Mr. BOWEN, Mr. DAVIS, Mr. STEED, Mr. BURGENER, Mr. JONES of North Carolina, Mr. WON PAT, Mr. ROBERT W. DANIEL, JR., and Mr. GILMAN):

H.R. 12125. A bill to provide that Federal assistance under the Federal Housing Administration will not be denied for housing solely on the basis that such housing is located in an area identified by a Federal agency as an area subject to the highest noise level resulting from the air transportation conducted in connection with the operation of a nearby civilian or military airport, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

H.R. 12126. A bill to amend title 38 of the United States Code to provide that the Veterans' Administration will not deny financing assistance for the purchase of residential property solely because the property is located in an area identified by a Federal agency as an area subject to the highest noise level resulting from the operation of aircraft at a nearby civilian or military airport; to the Committee on Veterans' Affairs.

By Mr. MOAKLEY (for himself, Mr. MEEDS, Mr. DOWNEY, Mr. GOODLING, Mr. CONTE, Mr. BRODHEAD, Mr. MINETA, Mr. BENJAMIN, Ms. OAKAR, Mr. SOLARZ, Mr. CLAY, Mr. EDGAR, Mr. EARLY, Mr. FORD of Tennessee, Mr. RODINO, Mr. DUNCAN of Oregon, Mr. HOWARD, Mr. MOTTL, Mr. FINDLEY, Mr. CORMAN, and Mr. ZEFERETTI):

H.R. 12127. A bill to amend title XVIII of the Social Security Act to authorize payment under the supplementary medical insurance program for the cutting and removal of corns, warts and calluses and the reduction of club nails; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. MOTTL (for himself, Mr. BADHAM, Mr. EILBERG, Mr. EMERY, Mr. EVANS of Georgia, Mr. HILLIS, Mr. KETCHUM, Mr. KINDNESS, Mr. LAGOMARSINO, Mr. LEDERER, Mr. MCDONALD, Mr. MURPHY of Pennsylvania, Mr. SEBELIUS, Mr. SPENCE, Mr. CHARLES WILSON of Texas, and Mr. YATRON):

H.R. 12128. A bill to reduce the amount of paperwork required by Federal agencies and to increase congressional awareness of the increase in paperwork required by bills and joint resolutions under consideration by Congress; jointly, to the Committees on Government Operations and Rules.

By Mr. PRESSLER:

H.R. 12129. A bill to provide for improved controls over the labeling and inspection of meat and meat food products; and to enhance stability in the supply and price of meat and meat food products; jointly, to the Committees on Agriculture and Ways and Means.

By Mr. RICHMOND:

H.R. 12130. A bill to amend the Rehabilitation Act of 1973 to require that rehabilitation counslers hired under State plans approved under such act have certain minimum qualifications; to the Committee on Education and Labor.

By Mr. RISENHOOVER:

H.R. 12131. A bill to amend title XIV of the Public Health Service Act to provide Federal grants for small public water systems to meet national primary drinking water regulations; to the Committee on Interstate and Foreign Commerce.

By Mr. SIMON (for himself and Mr. SHIPLEY):

H.R. 12132. A bill to end the authorization of the Helm Reservoir project, Skillet Fork, Ill.; to the Committee on Public Works and Transportation.

By Mr. SNYDER:

H.R. 12133. A bill to amend the Occupational Safety and Health Act of 1970 to prohibit restrictions on work rules in locations in which there is hunting, fishing, or shooting sports, and for other purposes; to the Committee on Education and Labor.

By Mr. TRAXLER:

H.R. 12134. A bill to defer from income certain amounts deferred pursuant to State or local public employee deferred compensation plans; to the Committee on Ways and Means.

By Mr. BINGHAM (for himself, Mr. SEIBERLING, Mr. MURPHY of Illinois, Mr. CARNEY, Mr. SOLARZ, Mr. BENJAMIN, Mr. EDGAR, Mr. WEISS, Mr. WOLFF, Mr. BONIOR, Ms. HOLTZMAN, Mr. STARK, Mr. RANGEL, Mr. EDWARDS of California, Mr. METCALFE, Mr. ADDABBO, Mr. BEILENSON, Mr. FRASER, Mrs. CHISHOLM, Mr. MIKVA, Mr. NIX, Mr. GARCIA, Mr. RODINO, and Mr. STOKES):

H.R. 12135. A bill to amend title I of the Housing and Community Development Act of 1974 for the purpose of providing rehabilitation grants to metropolitan cities and urban counties; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FRASER (for himself, Mr. ADDABBO, Mr. DAN DANIEL, Mr. PRICE, Mr. EILBERG, Mr. LEHMAN, Mr. BRODHEAD, Mr. FLOOD, Mr. WEISS, Mr. PRESSLER, Mr. SEIBERLING, and Mr. NEDZI):

H.R. 12136. A bill to amend the Internal Revenue Code of 1954 to allow a credit against tax for the cost of removal of trees required by the United States or a State or local government to be removed to prevent the spread of a disease caused by pests; to the Committee on Ways and Means.

By Mr. JENRETTE (for himself, Mr. HEFTEL, and Mr. YOUNG of Alaska):

H.R. 12137. A bill to amend title 5, United States Code, to provide that certain air traffic specialists be considered as air traffic controllers for retirement and certain other purposes; to the Committee on Post Office and Civil Service.

By Mr. JOHNSON of California:

H.R. 12138. A bill to name a certain Federal building in Laguna Niguel, Calif., the "Chet Holifield Building"; to the Committee on Public Works and Transportation.

By Mr. JOHNSON of California (for himself, Mr. ROBERTS, and Mr. DON H. CLAUSEN):

H.R. 12139. A bill authorizing additional appropriations for prosecution of projects in certain comprehensive river basin plans for flood control, navigation, and for other purposes; to the Committee on Public Works and Transportation.

H.R. 12140. A bill to amend the Federal Water Pollution Control Act to provide additional authorizations for certain operating programs under the act; to the Committee on Public Works and Transportation.

By Mr. MILLER of California (for himself, Mr. CUNNINGHAM, Mr. DOWNEY, Mrs. HOLT, Mr. MURPHY of New York, Mr. PATTISON of New York, Mr. PRITCHARD, Mr. STUDDS, and Mr. TREEN):

H.R. 12141. A bill to amend the Longshoremen's and Harbor Workers' Compensation Act to clarify the act's coverage to employees engaged in the manufacture, repair, servicing, or sale of recreational boats; to the Committee on Education and Labor.

By Mr. MARRIOTT (for himself, Mr. ANNUNZIO, Mr. ARCHER, Mr. BADHAM, Mr. BALDUS, Mr. BEARD of Tennessee, Mr. BEVILL, Mr. BOLAND, Mr. BRODHEAD, Mr. BROWN of Ohio, Mr. BROWN of Michigan, Mr. CEDERBERG, Mr. DON H. CLAUSEN, Mr. DEL CLAWSON, Mr. COCHRAN of Mississippi, Mr. COHEN, Mr. CORCORAN of Illinois, Mr. CORNWELL, Mr. CORRADA, Mr. DAN DANIEL, Mr. EILBERG, Mr. ERTEL, Mr. EVANS of Indiana, Mr. EVANS of Delaware, and Mrs. FENWICK):

H.J. Res. 850. Joint resolution to authorize the President to issue a proclamation designating the week beginning on November 19, 1978, as "National Family Week"; to the Committee on Post Office and Civil Service.

By Mr. MARRIOTT (for himself, Mr. FRENZEL, Mr. GAMMAGE, Mr. GAYDOS, Mr. GRASSLEY, Mr. GARCIA, Mr. HAMILTON, Mrs. HECKLER, Mr. HEFNER, Mr. HEFTEL, Mr. HILLIS, Mr. HORTON, Mr. HUGHES, Mr. JOHNSON of California, Mr. KAZEN, Mr. KEMP, Ms. KEYS, Mr. KINDNESS, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. LENT, Mrs. LLOYD of Tennessee, Mr. LONG of Louisiana, Mr. LOTT, and Mr. LUNDINE):

H.J. Res. 851. Joint resolution to authorize the President to issue a proclamation designating the week beginning on November 19, 1978, as "National Family Week"; to the Committee on Post Office and Civil Service.

By Mr. MARRIOTT (for himself, Mr. MCCLORY, Mr. MCDADE, Mr. MCDONALD, Mr. MCHUGH, Mr. MADIGAN, Mr. MAHON, Mr. MANN, Mr. MAZZOLI, Mr. MURPHY of Pennsylvania, Mr. MURPHY of Illinois, Mr. NEAL, Mr. NICHOLS, Mr. O'BRIEN, Mr. PATTERSON of California, Mr. RISENHOOVER, Mr. RODINO, Mr. ROE, Mr. ROYBAL, Mr. SATTERFIELD, Mr. SEBELIUS, Mr. SIKES, Mrs. SMITH of NEBRASKA, Mr. SOLARZ and Mrs. SPELLMAN):

H.J. Res. 852. Joint resolution to authorize the President to issue a proclamation designating the week beginning on November 19, 1978 as "National Family Week"; to the Committee on Post Office and Civil Service.

By Mr. MARRIOTT (for himself, Mr. STOKES, Mr. WAXMAN, Mr. WINN, and Mr. WOLFF):

H.J. Res. 853. Joint resolution to authorize the President to issue a proclamation designating the week beginning on November 19, 1978 as "National Family Week"; to the Committee on Post Office and Civil Service.

By Mr. RINALDO:

H.J. Res. 854. Joint resolution expressing the determination of the United States with respect to the situation in Cuba; to the Committee on International Relations.

By Mr. ASHBROOK:

H. Con. Res. 558. Concurrent resolution disapproving proposed regulations of the Department of the Treasury requiring centralized registration of firearms and other matters; to the Committee on Ways and Means.

By Mr. WEAVER:

H. Res. 1131. Resolution providing for closed conference committee meetings on H.R. 5289; to the Committee on Rules.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. BONIOR introduced a bill (H.R. 12142) for the relief of Victor Manuel Romero, which was referred to the Committee on the Judiciary.

# EXTENSIONS OF REMARKS

## ELECTRIC UTILITY FUEL ADJUSTMENTS

### HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. BYRON. Mr. Speaker, during the recently completed Easter congressional recess I traveled to every county in the Sixth Congressional District in order to meet with constituents and exchange views on a wide range of issues. While the people of central and western Maryland expressed concern over many different issues, clearly the issue most on the minds of the people of the Sixth District is the very large increases in electricity bills being experienced this spring due to the effects of the coal strike. Despite conscientious efforts by many citizens to conserve energy as much as possible, the electricity bills received this year have been staggering. I have received many complaints from constituents who have experienced electricity bills in excess of $500 for the 2-month billing period. Some bills were even higher than $1,000.

I am sure that many of my colleagues in the House have also heard from citi-

zens who find it very difficult to pay these unexpectedly high electric bills, which in many cases exceed the monthly mortgage payment. Understandably, citizens are upset over the effects of the fuel adjustment charges, which permit hundreds of dollars to be added to the total of the electric bill even though the actual usage of electricity might be lower than previous bills.

The House of Representatives addressed this issue last summer when we passed the National Energy Act, which contained a strong section on utility rate reform. Included in the bill were restrictions on the ability of Federal and State utility regulatory bodies to approve fuel adjustment charges.

The enormous increases in the fuel adjustment charges being experienced by the residents of central and western Maryland this year have convinced me that the fuel adjustment charge is unfair to citizens already burdened with inflation, taxes, and the high cost of all forms of energy. Therefore, on March 22, 1978, I introduced H.R. 11783 to prohibit the use of fuel adjustment charges in electricity pricing systems. This bill would ban fuel adjustment charges from all electric rates, whether the electricity is subject to regulation by a Federal or State utility regulatory agency. The present Federal and State utility regulatory structure would be retained. The bill stipulates that all rates for electricity must be established in advance only after full public hearings which guarantee the opportunities for participation by the public in the ratemaking process. I invite the support of other Members of Congress in cosponsoring this legislation.

At the beginning of the 95th Congress in January 1977, I appointed a task force on energy made up of citizens representing a cross section of Maryland's Sixth Congressional District. These citizens met frequently last year, reviewed the national energy plan in detail, and submitted recommendations to me on energy policy and its impact on the people of central and western Maryland. The majority of the members of the task force feel that there is a need for utility rate reform on a Federal level and their views have been very helpful to me studying the effect of fuel adjustment clauses and in preparing this legislation. I am very grateful for the guidance of the thousands of constituents who have written to me on this subject, called me, attended one of the energy town meetings I held last year, or dropped by to visit with me to express their views with respect to this issue. I am indebted to each of the members of the energy task force; the cochairpersons are Sylvia Hancock and Barry Teach and the other members are Homer Berry, John Estes, Robert Gentry, John Hose, William McClean, and Joseph Sottile.

I think it is important to note that the Maryland General Assembly has recently passed legislation to protect utility consumers by limiting the ability of utility companies to pass increased fuel costs directly on to consumers and by strengthening the role of the Maryland Public Service Commission in reviewing increased fuel expenses and other practices of the utility companies. I commend the members of the Maryland General Assembly for their action and feel it underscores the important responsibilities of State government in the field of utility rate regulation. The Federal Government is very restricted in its ability to help individual citizens cope with high utility bills unless the State public service commissions also take strong action to effectively regulate public utilities.

Because of the tremendous increases in the cost of energy in recent years, the Federal Government must become more sensitive to the difficulties created for many citizens by our present utility regulatory practices. The House of Representatives recognized this fact last year when we approved the National Energy Act. The bill I have introduced, H.R. 11783, would further protect the interests of consumers by banning the use of fuel adjustment clauses in electric rate structures and mandating greater public participation in decisions affecting electricity rates. I would like to include a copy of this bill in the RECORD at this time. I would welcome the comments and questions of other Members of Congress who would like additional information about this bill or who may wish to cosponsor it.

A copy of the bill is inserted at this point:

H.R. 11783

A bill to prohibit fuel adjustment clauses in electric utility rate schedules

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

PROHIBITION OF FUEL ADJUSTMENT CLAUSES AND SUMMARY, EX PARTE RATEMAKING PROCEDURES

SECTION 1. (a) All utility rate schedules and parts thereof made lawful by a regulatory authority shall provide for the sale of electric energy at prices which have been subject to and ordered into effect after prior public notice and full hearing by the regulatory authority.

(b) As used in this section:

(1) The term "Commission" means the Federal Energy Regulatory Commission.

(2) The term "consumer" means any person, State agency, or Federal agency, to which electric energy is sold other than for purposes of resale.

(3) The term "hearing" means, in the case of a State regulatory authority, a proceeding (A) which includes notice to, and an opportunity for, participants to present direct and rebuttal evidence and a written decision based upon evidence appearing in the record of the proceeding, and (B) which is subject to review in accordance with the laws of each State. In the case of a Federal regulatory authority, such terms mean a proceeding on the record after agency hearing.

(4) The term "Federal agency" means any agency or instrumentality of the United States; but does not include the District of Columbia.

(5) The term "Federal regulatory authority" means any Federal agency which has ratemaking authority with respect to the sale of electric energy by any utility.

(6) The term "rate" means any rate, charge, or classification made, demanded, observed, or received with respect to sale of electric energy, any rule, regulation, or practice respecting any such rate, charge, or classification and any contract pertaining to the sale of electric energy.

(7) The term "ratemaking authority" means authority to fix, modify, approve, or disapprove rates.

(8) The term "rate schedule" means the rates which a utility charges consumers.

(9) The term "regulatory authority" means a State regulatory authority or a Federal regulatory authority. A State agency or a Federal agency which is a utility and which has ratemaking authority with respect to its own rates shall be treated as a regulatory authority only to the extent that no other regulatory authority has ratemaking authority with respect to such rates.

(10) The term "sale" includes an exchange of, or a charge for transmission of, electric energy.

(11) The term "State" means a State or the District of Columbia.

(12) The term "State agency" means any agency or instrumentality of a State or political subdivision thereof.

(13) The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electric energy by any utility.

(14) The term "utility" means any person, corporation, State agency, or Federal agency, which sells electric energy.

ENFORCEMENT

SEC. 2. (a) No utility may sell electric energy except in accordance with a rate schedule which has been fixed, approved, or allowed to go into effect by a regualtory authority. No regulatory authority may fix, approve, or allow to go into effect any rate schedule which violates section 1.

(b) If any person alleges that a regulatory authority's action, or failure to act, violates subsection (a)—

(1) in the case of a regulatory authority which is a Federal regulatory authority (or which is a State regulatory authority whose action or failure to act is not reviewable by a State of competent jurisdiction), such person may obtain review of such action or failure to act, insofar as it relates to a violation of subsection (a)—

(A) in any statutory review proceeding which is otherwise applicable to such action or failure to act, or

(B) if there is no such statutory review proceeding applicable to such action or failure to act, by commencing a civil action in the United States court of appeals for any circuit in which the utility sells electric energy, which court shall have jurisdiction to review such determination in accordance with chapter 7 of title 5, United States Code; and

(2) in the case of a regulatory authority which is a State regulatory authority, such action, or failure to act, insofar as it relates to a violation of subsection (a)—

(A) may be reviewed by any State court of competent jurisdiction, and

(B) if such action is reviewable by such a State court, may not be reviewed by any court of the United States, except by the United States Supreme Court on writ of certiorari in accordance with section 1257 of title 28, United States Code.

(c) If (but this subsection) no regulatory authority has ratemaking authority with respect to a utility, a Commission shall have ratemaking authority with respect to such utility for purposes of this Act.

EFFECTIVE DATE

SEC. 3. The provisions of this Act shall take effect six months after the date of enactment of this Act.●

## FOREIGN STEEL DUMPING

### HON. THOMAS N. KINDNESS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. KINDNESS. Mr. Speaker, while there is in my opinion ample evidence of the "dumping" of steel by foreign steel companies, for those who still are not convinced, the following article from the Sydney Morning Herald offers ample proof. And, it comes straight from the financial editor of one of Australia's leading newspapers, the Sydney Morning Herald in discussing the finances of BHP (Broken Hill Proprietary Co., Ltd.) a leading Australian steel producer:

BY ALL ACCOUNTS STEEL'S THE LOSER

(By Malcolm Wilson, Financial Editor)

It will now take a very major effort indeed for BHP to climb out of the deep hole into which it has fallen on its steel operations.

Steel continues to be BHP's big problem area and whichever way you prefer to do the accounting on the steel operations the result was a lot worse in the six months to November, 1977, compared with the previous corresponding period.

Yes, again, we find that the company has incurred a big loss on its steel operations. Using BHP's accounting methods, the loss was $35 million in the six months to November compared with a loss of $21.6 million in the previous corresponding period.

Adopting the more widely used accounting methods (which are less severe as far as depreciation is concerned) the company would have shown a profit on its steel operations of $10.5 million but even this would have been half the previous profit of the previous profit of $20.6 million.

The figures in the table below tell the real story of BHP's lacklustre profit performance in recent years. Looking at the domestic sales figures for the November six months period, we see that these figures have fallen significantly over the last three periods.

PROGRESSIVE FALL

Whereas local steel sales were, 2.490 million tons in the six months to November, 1974, the corresponding figures have fallen progressively to 2.167 million tons, then 1.986 million tons and now only 1.860 million tons.

While these steel sales to the Australian market are presumably priced to return BHP a good profit, the reduced steel demand has forced BHP to sell more and more of its steel on the export market.

The problem here is that just about every other steel producer in the world has been facing the same situation of declining demand in its own domestic market, there is a substantial surplus of steel available.

JUST COVERS COST

In order to clinch an export sale, BHP has had to pitch its price so low that it only just covers its marginal operating costs.

So there must be just about no profits at all in BHP's steel exports. And the table shows how these exports have risen in recent years to help maintain an overall steel production level at the rate of around 6 million tons a year.

In this situation, it is apparent that nothing would please BHP more than a resurgence of the Australian economy, as this would enable it to increase its sales in the domestic market and reduce them on the export market.

If this were to happen, BHP would gain significantly from the better prices it can get on the Australian market.

As it is, BHP appears to be in a good cash situation at the moment. Its cash flow after dividend payments increased to $147.4 million for the six-month period compared with $125.2 million in the previous corresponding period.

The company says that the continuing strength of the group's cash flow means that the group's liquidity has been maintained at a satisfactory level.

BHP's STEEL SALES

('000 tonnes)

| 6 months to | Exports | Domestic sales | Total |
|---|---|---|---|
| Nov. '74 | 835 | 2,490 | 3,325 |
| May '75 | 1,008 | 2,125 | 3,133 |
| Nov. '75 | 1,273 | 2,167 | 3,440 |
| May '76 | 1,277 | 1,894 | 3,171 |
| Nov. '76 | 1,573 | 1,986 | 3,559 |
| May '77 | 1,204 | 1,773 | 2,977 |
| Nov. '77 | 1,471 | 1,860 | 3,331 |

●

## QUAKERS URGE DISARMAMENT

### HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. FORSYTHE. Mr. Speaker, I wish to insert the following statement by the Friends World Committee of Consultation on the U.N. Special Session on Disarmament. I hope it stimulates discussion on this subject. For disarmament deserves earnest and deep consideration by our Nation and the other nations of the world. It is my belief that all nations should strive toward disarmament.

The statement follows:

FRIENDS WORLD COMMITTEE FOR CONSULTATION, RELIGIOUS SOCIETY OF FRIENDS (QUAKERS), FEBRUARY 21, 1978

The Religious Society of Friends (Quakers) with members in 27 countries, in expressing the belief in the value of every human being in the sight of God, has throughout its 300 years' history consistently worked for peace and against war and the preparations for it.

The escalation in the arms race and the increased destructiveness of modern weapons make the need for disarmament more imperative than ever before. The high level of armaments, held by most governments to be essential to security, is instead a major threat to peace. Armaments are also a tragic waste of human and material resources which should be used towards removing the extreme poverty in which most of the world's people still live. Effective disarmament agreements must be accompanied by other measures such as strengthening procedures for the peaceful settlement of disputes through the United Nations, developing international law and guaranteeing basic human rights.

The Special Session of the UN General Assembly on Disarmament to be held in New York in May/June 1978 is an historic opportunity for governments and peoples not only to proclaim the urgency of disarmament, but also to commit themselves to practical steps of disarmament and to ending the international trade in arms. Any government can take the initiative. We call on them to do so. The risks of disarmament are no greater than the risks of war. We urge that the Special Session should be used as a turning point for governments to respond to the yearning of people everywhere for a world free from war.●

## POMONA GRANGE SPEAKS OUT AGAINST GUN REGISTRATION

### HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. ASHBROOK. Mr. Speaker, members of the Pomona Grange of Coshocton, Ohio, have gone on record against the gun registration efforts of the Bureau of Alcohol, Tobacco and Firearms. In a letter to BATF Director Rex Davis, they declared they "are adamantly opposed not only to the idea of gun registration but also to the processes whereby gun controls are presently being used to force gun registration upon the people of the United States of America."

I agree wholeheartedly with their views. I am currently sponsoring a joint resolution disapproving the proposed BATF plan.

At this point in the RECORD I would like to include the full text of the Pomona Grange letter:

WEST LAFAYETTE, OHIO,
*April 5, 1978.*

Director REX DAVIS,
*Director of Alcohol, Tobacco & Fire Arms Division, Washington, D.C.*

DEAR DIRECTOR DAVIS: The Coshocton County Pomona Grange of Coshocton, Ohio hereby emphatically declares that its members are adamantly opposed not only to the idea of gun registration but also to the processes whereby gun controls are presently being used to force gun registration upon the people of th United States of America. Our Government is one Of The People, By The People, and For The People. Any rule, regulation, or law that is forced upon the people without the consent of the majority must be rejected.

Our elected representatives and appointed members of Government apparently see themselves as the Great Protective Father. This is a false idea. Any one who truly believes in our Representative Republic must know that you build character and responsibility in people by requiring that they shoulder their own problems by cooperative action in times of need.

Over protective governments build weak citizens and is the direct cause of the downfall of former governments. We only need to look at the history of past nations to see the results of ambitious governments. Let's not follow the example of Nazi Germany and Communist Russia.

Gun registration must not be dictated by some government individual bureau, or department. After all, it is not the majority of citizens that are using guns wrongly. It is the duty of government to control only the ones who use guns for the wrong purposes. When the laws, now on the books can be truly enforced, there will be no need for further limiting the freedom of law abiding citizens.

It is true that guns wrongly used kill many people but so do automobiles, drugs and alcohol, knives, clubs, electricity, and many other devices. We must not, in a freedom loving country, deny the people the free

choice of the benefits of these devices just because a small percent of the citizens are let go unpunished when they use them wrongly.

Very truly yours,

EDWIN C. LAPP,
*Legislative Agent.*
LLOYD J. FOWLER,
*Legislative Agent.*
ROBERT F. MCCLURE,
*Master.*●

## DEREGULATION DEBATE SHROUDED IN SECRECY

## HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. ARCHER. Mr. Speaker, I recently received a letter from Mr. David Cohen, president of Common Cause, which called attention to the manner in which the Democratic Caucus has disregarded the intent of House rules concerning open conferences on the natural gas deregulation issue.

Mr. Cohen's comments are of particular importance at this time because of the gravity of the issue at stake, and I would like to share them with my colleagues.

Certainly they reflect my own feelings on this issue of open meetings—as well as the continuing issue of how this energy legislation has been handled by the majority.

The letter follows:

Hon. BILL ARCHER,
*U.S. House of Representatives,*
*Washington, D.C.*

DEAR REPRESENTATIVE ARCHER: Common Cause strongly believes that the natural gas pricing conferences held after the Easter recess should be held in open session, as was the March 22 conference.

Common Cause has been concerned that the House and Senate Democratic conferees for a three month period chose to ignore House and Senate rules and exclude the public from critical deliberations and conduct its conferences in secret.

It is our understanding that these closed meetings were dealing with the heart of the natural gas pricing question and that substantive actions were being taken—offers made, counter-offers proposed, and decisions reached that will vitally affect every segment of American society. To conduct these sessions in secret is a clear violation of the public's right to know and totally contravenes the open meeting rules of the House and Senate.

Since the passage of strong Sunshine rules, open meetings in both the House and Senate have become a natural and productive way of doing business. A Common Cause study showed that in the first year after passage of the House open meetings rule in 1973, over 90% of House markups were open to the public. Although no similar statistics exist for the Senate, it is clear to those who follow the Senate that the closed meeting is the rare exception to a general rule of openness. In addition, both Democrats and Republicans in the House of Representatives have adopted rules opening their party caucuses to public observation.

The House rule governing open conferences states that all conferences must be open to the public unless a majority of the entire House votes to close the conference. The Senate rule requires open conferences unless a majority of the managers votes on the record in open session to close a conference.

Clearly these procedures have been flouted by Democrats meeting in closed conferences on the energy bill. The reason cited is that these meetings are not conferences but simply "Democratic Caucuses" where members meet for casual consulting. This claim is spurious, for major substantive issues were being discussed by Members of the two Houses of Congress, compromises formally offered and counter-offers discussed and debated. In fact, the future natural gas policy for the United States is being shaped, debated and probably decided in these secret so-called "Democratic Caucuses."

If these conferences are held in secret after the Easter recess, this basic violation of House and Senate rules places the entire bill in jeopardy. If rules are violated and proper procedures are ignored, points of order can legitimately be lodged against the legislation.

We strongly urge you to hold any future conferences on energy in open session. Controversial and sensitive matters are decided in public every day in Congress. This matter should not be treated any differently.

Sincerely,

DAVID COHEN,
*President.*●

## TRIBUTE TO CARPENTER'S UNION ED GALE

## HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. EDWARDS of California. Mr. Speaker, on May 5, 1978 hundreds of friends of Ed Gale will gather in San Jose, Calif., to honor him on the occasion of his retirement. Congressman MINETA and I feel that it is appropriate at this time to note the years of service which Ed Gale has dedicated both to the carpenter's union and to the community in which he lives.

Ed has served the carpenter's union in San Jose since 1946 in a variety of capacities, including business agent, financial secretary, recording secretary, and on countless committees. He has lent his efforts to encouraging and assisting young people through the Carpenter's Apprentice Committee and toiled for work place safety through his position as chairman of the Labor Committee of the Governor's Safety Conference Committee from 1965 to 1972. He has also worked for safety as a member of the planning committee for the Occupational Safety Conference of San Jose State University.

Ed has been a worker for human rights and brotherhood as a member of the San Jose Human Relations Commission from 1959 to 1965, and serves with a large number of fraternal, community, and civic organizations.

Ed Gale epitomizes the sort of commitment to trade unionism, community, family, and good government that makes our country vibrant and healthy. We owe him a round of thanks and both Congressman MINETA and I are pleased to recognize him and applaud him on the occasion of his retirement.●

## CONGRESSMAN FOLEY'S VOTING RECORD

## HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. FOLEY. Mr. Speaker, I hereby submit a compilation of my voting record for the month of March of the 2d session of the 95th Congress:

75. H J Res 554. D.C. Voting Representation. Adoption of the rule (H Res 1048) providing for House floor consideration of the joint resolution to amend the Constitution to provide for full voting representation in Congress for the District of Columbia. Adopted 386–21 March 1, 1978. Yes.

76. H J Res 554. D.C. Voting Representation. Edwards, D-Calif., motion that the House resolve itself into the Committee of the Whole for consideration of the joint resolution to amend the Constitution to provide for full voting representation in Congress for the District of Columbia. Motion agreed to 369–15 March 1, 1978. Yes.

77. H J Res 554. D.C. Voting Representation. Edwards, D-Calif., motion that the House resolve itself into the Committee of the Whole for further consideration of the joint resolution to amend the Constitution to provide for full voting representation in Congress for the District of Columbia. Motion agreed to 394–12 March 2, 1978. Yes.

78. H J Res 554. D.C. Voting Representation. Passage of the joint resolution proposing an amendment to the Constitution to provide for full voting representation in Congress (both in the House and the Senate) and to retain the right granted by the 23rd Amendment to vote for the election of the president and vice president (the resolution would repeal the 23rd Amendment). Passed 289–127 March 2, 1978. Yes.

79. Procedural Motion. Bauman, R-Md., motion to approve the House *Journal* for Thursday, March 2, 1978. Motion agreed to 304–20 March 3, 1978. Announced yes.

80. H Res 957. Veterans' Affairs Committee. Adoption of the resolution to authorize $400,000 for calendar year 1978 for expenses of investigations and studies of the House Committee on Veterans' Affairs. Adopted 336–1 March 3, 1978. Yes.

81. H Res 953. District of Columbia Committee. Adoption of the resolution to authorize $275,000 for calendar year 1978 for expenses of investigations and studies of the House Committee on the District of Columbia. Adopted 318–15 March 3, 1978. Yes.

82. H Res 1012. Rules Committee. Adoption of the resolution to authorize $49,500 for calendar year 1978 for expenses of investigations and studies of the House Committee on Rules. Adopted 321–13 March 3, 1978. Yes.

83. Procedural Motion. Ashbrook, R-Ohio, motion to approve the House *Journal* for Friday, March 3, 1978. Motion agreed to 331–11 March 6, 1978. Announced yes.

84. H J Res 715. Sun Day Designation. Lehman, D-Fla., motion to suspend the rules and pass the joint resolution to designate May 3, 1978, as "Sun Day" to promote and call attention to the possibilities of solar energy. Motion agreed to 348–7. March 6, 1978. Announced yes.

85. HR 10551. Education Act Waiver. Perkins, D-Ky., motion to suspend the rules and pass the bill to continue fiscal 1978 funding and waive some requirements of Title I of the 1974 Elementary and Secondary Education Act for 13 school districts that participated in demonstration programs to improve operation of Title I programs. Motion agreed to 404–0: March 7, 1978. Yes.

86. HR 11180. Debt Limit. Adoption of the rule (H Res 1056) providing for House floor consideration of the bill to increase the debt limit and revise procedures for establishing it in the future. Adopted 285–115. March 7, 1978. Yes.

87. HR 11180. Debt Limit. Bolling, D-Mo., amendment to delete title II, which would establish the debt limit through concurrent budget resolutions in the future. Adopted 277–132. March 7, 1978. Yes.

88. HR 11180. Debt Limit. Passage of the bill to increase the debt limit to $824 billion through March 1, 1979. Rejected 165–248. March 7, 1978. Yes.

89. H J Res 746. Power Supplemental Appropriations, Fiscal 1978. Passage of the joint resolution to appropriate $13.1 million for the operation of the Southwestern Power Administration for fiscal 1978. Passed 353–50. March 7, 1978. Yes.

90. H Res 1003. Public Works and Transportation Committee. Adoption of the resolution to authorize $2 million for calendar year 1978 for expenses of investigations and studies of the House Committee on Public Works and Transportation. Adopted 399–1. March 7, 1978. Yes.

91. Procedural Motion. Bauman, R-Md., demand for the yeas and nays on the question of dispensing with further proceedings under a quorum call. Proceedings dispensed with 372–34. March 8, 1978. Yes.

92. Procedural Motion. Dickinson, R-Ala., motion to approve the House *Journal* of Tuesday, March 7, 1978. Motion agreed to 377–26. March 8, 1978. Yes.

93. Procedural Motion. Bolling, D-Mo., motion to table the Zablocki, D-Wis., motion to reconsider the vote approving the *Journal*. Motion agreed to 313–91 March 8, 1978. Yes.

94. HR 50. Full Employment Act. Rousselot, R-Calif., demand for the yeas and nays on the Bolling, D-Mo., motion to order the previous question on the adoption of the rule (H. Res. 1057), providing for House floor consideration of the bill to promote full employment, balanced growth and price stability by economic planning and employment programs. Motion agreed to 371–36 March 8, 1978. Yes.

95. HR 50. Full Employment Act. Adoption of the rule (H. Res. 1057) providing for House floor consideration of the bill. Adopted 349–58: March 8, 1978. Yes.

96. HR 50. Full Employment Act. Bolling, D-Mo., motion to table the Long, D-La., motion to reconsider the vote adopting the rule providing for House floor consideration of the bill. Motion agreed to 368–29: March 8, 1978. Yes.

97. HR 50. Full Employment Act. Hawkins, D-Calif., motion that the House resolve into the Committee of the Whole to consider the bill to promote full employment, balanced growth and price stability. Motion agreed to 364–32: March 8, 1978. Yes.

98. Procedural Motion. Ashbrook, R-Ohio, motion to approve the House *Journal* of Wednesday, March 8, 1978. Motion agreed to 386–15: March 9, 1978. Yes.

99. HR 50. Full Employment Act. Wright, D-Texas, amendments, to the Sarasin, R-Conn., amendments, to require the president, beginning with the third year after enactment of the bill, to include in his annual economic report goals for reasonable price stability, and to formulate policies to reduce inflation. Adopted 277–143: March 9, 1978. Yes.

100. HR 50. Full Employment Act. Jeffords, R-Vt., substitute amendment, to the Sarasin, R-Conn., amendments, to require the president, beginning with the third year after passage of the bill, to include in his annual economic report goals for reasonable price stability, and to formulate policies for the reduction of inflation; and to define reasonable price stability as reduction of inflation to 3 percent within five years of enactment. Rejected 198–223: March 9, 1978. No.

101. HR 50. Full Employment Act. Jeffords, R-Vt., amendment to require the president's economic report to differentiate between employment in the private and permanent public sector and employment in temporary public service programs. Adopted 239–177 March 9, 1978. No.

102. HR 50. Full Employment Act. Quie, R-Minn., amendment to include maintenance of farm income at 100 percent of parity at the marketplace among the goals of the president's economic report. Adopted 264–150 March 9, 1978. Yes.

103. HR 10982. First Budget Rescission, Fiscal 1978. Passage of the bill to rescind $55,255,000 in fiscal 1978 appropriations: $40,200,000 in military assistance; $10,055,000 for the Federal Home Loan Bank Board; and $5,000,000 in international peacekeeping activities. Passed 318–0 March 10, 1978. Yes.

104. HR 6635. Retirement Bond Interest. Conable, R-N.Y., demand for a second on the Ullman, D-Oreg., motion to suspend the rules and pass the bill to allow the interest rates paid on U.S. retirement plan and individual retirement bonds to be increased to the rate paid on U.S. series E savings bonds. Second ordered 372–1 March 13, 1978. Yes.

105. HR 7814. Federal Employees' Flexible Work Schedules. Solarz, D-N.Y., motion to suspend the rules and pass the bill to authorize federal agencies to experiment with flexible and compressed work schedules. Motion rejected 242–141 March 13, 1978. Yes.

106. HR 10126. Federal Employees' Part-Time Employment. Schroeder, D-Colo., motion to suspend the rules and pass the bill to establish a program to increase part-time career employment within the U.S. Civil Service. Motion agreed to 294–84 March 13, 1978. Yes.

107. HR 9146. Postal Service Changes. Hanley, D-N.Y., motion to suspend the rules and pass the bill to provide for a one-house congressional veto within 60 days of proposed postal service changes submitted by the U.S. Postal Service. Motion agreed to 371–6 March 13, 1978. Yes.

108. H Res 1010. Judiciary Committee Funding. Ashbrook, R-Ohio, motion to recommit the resolution to the House Administration Committee with instructions to report it back with an amendment requiring that $300,000 of the $1,482,805 provided for the committee by the resolution for the remainder of the 95th Congress be earmarked for the committee's internal security functions. Motion rejected 161–216. March 13, 1978. No.

109. H Res 956. Assassinations Committee Funding. Bauman, R-Md., motion to recommit the resolution to the House Administration Committee with instructions to report it back with an amendment cutting funding for the committee to $600,000, from $2.5 million, and instructing the House Administration Committee to justify further funding for the Select Committee on Assassinations. Motion rejected 182–198. March 13, 1978. No.

110. H Res 956. Assassinations Committee Funding. Adoption of the resolution providing $2.5 million for the activities of the House Select Committee on Assassinations for the remainder of the 95th Congress. Adopted 204–175. March 13, 1978. Yes.

111. Procedural Motion. Michel. R-Ill., demand for the yeas and nays on the Sisk, D-Calif., motion that the House dispense with further proceedings under the quorum call. Motion agreed to 331–72. March 14, 1978. Yes.

112. Procedural Motion. Bauman, R-Md., motion that the House *Journal* for Monday, March 13, 1978, be read in full. Motion rejected 99–301. March 14, 1978. No.

113. Procedural Motion. Foley, D-Wash., motion to approve the House *Journal* for Monday, March 13, 1978. Motion agreed to 371–29. March 14, 1978. Yes.

114. Procedural Motion. Foley, D-Wash., motion to table the Edwards, R-Okla., motion to reconsider the previous vote. Motion agreed to 308–91. March 14, 1978. Yes.

115. S 1671. Absaroka-Beartooth Wilderness. Johnson, R-Colo., demand for a second on the Roncalio, D-Wyo., motion to suspend the rules and pass the bill to designate 904,500 acres of the Custer and Gallatin National Forests in Montana as the Absaroka-Beartooth Wilderness. Second ordered 380–20. March 14, 1978. Yes.

116. HR 810. Government Officials' Travel Expenses. Conable, R-N.Y., demand for a second on the Ullman, D-Ore., motion to suspend the rules and pass the bill to permit private foundations to pay foreign travel expenses of government officials under certain circumstances. Second ordered 387–2. March 14, 1978. Yes.

117. HR 2028. Home Production of Beer and Wine. Conable, R-N.Y., demand for a second on the Ullman, D-Ore., motion to suspend the rules and pass the bill to permit individuals aged 18 and older to produce limited quantities of beer and wine for personal and family use without incurring excise taxes or penalties. Second ordered 388–3: March 14, 1978. Yes.

118. S 1671. Absaroka-Beartooth Wilderness. Roncalio, D-Wyo., motion to suspend the rules and pass the bill to include 904,500 acres of national forest lands in the National Wilderness Preservation System and designate it the Absaroka-Beartooth Wilderness. Motion agreed to 405–7: March 14, 1978. Yes.

119. HR 810. Government Officials' Travel Expenses. Ullman, D-Ore., motion to suspend the rules and pass the bill to permit private foundations to pay foreign travel expenses of government officials under certain circumstances. Motion agreed to 372–38: March 14, 1978. Yes.

120. HR 3813. Redwood Park Expansion. Adoption of the conference report on the bill to provide for the immediate expansion of the Redwood National Park in northern California by 48,000 acres. Adopted 317–60 March 14, 1978. Yes.

121. Procedural Motion. Ashbrook, R-Ohio, motion to approve the House *Journal* of Tuesday, March 14, 1978. Motion agreed to 387–15 March 15, 1978. Yes.

122. HR 50. Full Employment Act. Hawkins, D-Calif., motion that the House resolve into the Committee of the Whole to consider the bill to promote full employment, balanced growth and price stability. Motion agreed to 380–19: March 15, 1978. Yes.

123. HR 50. Full Employment Act. Ashbrook, R-Ohio, amendment to the Baucas, D-Mont., substitute for the Ashbrook amendment to the bill. The Ashbrook amendment to the Baucus substitute would provide alternative language for the original Ashbrook amendment to the bill. Both Ashbrook amendments aimed to achieve a balanced federal budget within five years. Rejected 205–215: March 15, 1978. Paired against.

124. HR 50. Full Employment Act. Baucus, D-Mont., substitute, to the Ashbrook, R-Ohio, amendment, to declare that one of the purposes of the act is achievement of a balanced budget consistent with achievement of the unemployment goals enumerated in the bill. Adopted 411–3: March 15, 1978. Yes.

125. HR 50. Full Employment Act. Hawkins, D-Calif., motion to end debate at 5:45 p.m. on Title I of the bill and all amendments thereto. Motion agreed to 237–170: March 15, 1978. Yes.

126. HR 50. Full Employment Act. Quie, R-Minn., amendment to make specified permanent reductions in individual and corporate taxes a medium-term goal to be included

in the first Economic Report submitted by the president following enactment of the bill. Rejected 194–216: March 15, 1978. No.

127. HR 50. Full Employment Act. Hawkins, D-Calif., motion that the House resolve itself into the Committee of the Whole to further consider the bill to promote full employment, balanced growth and price stability. Motion agreed to 379–8: March 16, 1978. Yes.

128. HR 50. Full Employment Act. Jeffords, R-Vt., amendment to make removal of architectural barriers to the handicapped one of the explicit national priorities under the bill. Adopted 398–0: March 16, 1978. Yes.

129. HR 50. Full Employment Act. Pike, D-N.Y., amendment to exclude from the measurement of unemployment used under the bill persons unemployed because of strikes, those who have been unemployed less than four weeks, those who have jobs waiting but for their own convenience are not ready to enter employment, those who are not seeking full-time work, and those who voluntarily left their last jobs. Rejected 199–204: March 16, 1978. No.

130. HR 50. Full Employment Act. Wiggins, R-Calif., motion to strike the enacting clause and thus kill the bill. Motion rejected 106–310: March 16, 1978. No.

131. HR 50. Full Employment Act. Ashbrook, R-Ohio, amendment to require the president, in carrying out the purposes of the act, to consider the impact of all the provisions of the U.S. Code and Code of Federal Regulations on the national economy. Rejected 114–296: March 16, 1978. Announced no.

132. HR 50. Full Employment Act. Conable, R-N.Y., amendment, to the Rules Committee substitute to Title III of the bill, to permit the Joint Economic Committee to submit an amendment recommending economic goals to the first annual concurrent resolution on the budget, eliminating provisions that would permit the joint committee to report its own concurrent resolution each year. Adopted 259–153: March 16, 1978. Yes.

133. HR 50. Full Employment Act. Bauman, R-Md., amendment to terminate the provisions of the act Sept. 30, 1983, unless extended beyond that date by act of Congress. Rejected 196–216: March 16, 1978. Yes.

134. HR 50. Full Employment Act. Quie, R-Minn., substitute for the bill to set as national goals 4 percent unemployment and 3 percent inflation rates, 100 percent of parity in farm prices, a reduction in tax levels and a balanced federal budget; to prohibit use of public service jobs to meet the unemployment goal; and to establish a presidential task force on youth unemployment. Rejected 137–276: March 16, 1978. No.

135. HR 50. Full Employment Act. Passage of the bill to promote full employment, balanced growth and price stability. Passed 257–152: March 16, 1978. Yes.

136. HR 11274. Middle-Income Student Assistance. Erlenborn, R-Ill., demand for a second on the Ford, D-Mich., motion to suspend the rules and pass the bill to expand educational grant and loan programs for middle-income students. Second not ordered. 156–218: March 20, 1978. Yes.

137. H. Res. 996. International Relations Committee Funding. Adoption of the resolution to provide $375,000 for the expenses of investigations and studies by the International Relations Subcommittee on International Organizations through Oct. 31, 1978. Adopted 367–13: March 20, 1978. Yes.

138. HR 7700. Postal Service Act. Adoption of the rule (H Res 1078) providing for House floor consideration of the bill to reorganize the United States Postal Service. Adopted 387–0: March 20, 1978. Yes.

139. H Res 1082. Aldo Moro Kidnaping. Adoption of the resolution to condemn the terrorist kidnaping of former Italian Premier Aldo Moro on March 16, 1978, and to express the sense of the House that the president press for consideration of antiterrorism measures by the United Nations. Adopted 398–0; March 21, 1978. Yes.

140. HR 11518. Debt Limit Extension. Adoption of the rule (H Res 1092) providing for House floor consideration of the bill to extend the public debt limit. Adopted 314–80; March 21, 1978. Yes.

141. HR 11518. Debt Limit Extension. Passage of the bill to extend the public debt limit at its existing level of $752 billion through July 31, 1978. Passed 233–172; March 21, 1978. Yes.

142. HR 11315. Campaign Financing. Adoption of the rule (H Res 1093) providing for House floor consideration of the bill to amend the Federal Election Campaign Act, last amended in 1976, and to permit a floor amendment on the public financing of House general election campaigns. Rejected 198–209; March 21, 1978. Yes.

143. HR 5383. Mandatory Retirement Age. Adoption of the conference report on the bill to amend the Age Discrimination in Employment Act of 1967 to raise to 70, from 65, the age limit for protection of non-federal workers from age-based discriminatory practices, including mandatory retirement (except for certain high-level executives and tenured college and university faculty), and to eliminate the upper limit for most civilian federal employees. Adopted 391–6; March 21, 1978. Yes.

144. HR 7700. Postal Service Act. C. Wilson, D-Calif., motion that the House resolve into the Committee of the Whole to consider the bill to reorganize the United States Postal Service. Motion agreed to 364–2; March 21, 1978. Announced yes.

145. H J Res 796. Disaster Relief Appropriations, Fiscal 1978. Passage of the joint resolution to appropriate $300 million for the remainder of fiscal 1978 for disaster relief programs caused by the severe winter weather conditions throughout the country. Passed 393–4; March 22, 1978. Yes.

146. HR 9518. Shipping Act Amendmments. Adoption of the rule (H Res 1074) providing for House floor consideration of the bill to increase the penalties for illegal merchant marine rebating and to expedite the enforcement of the rebating laws. Adopted 365–33; March 22, 1978. Yes.

147. HR 9518. Shipping Act Amendments. Murphy, D-N.Y., motion that the House resolve itself into the Committee of the Whole to consider the bill to increase the penalties for illegal merchant marine rebating and to expedite the enforcement of the rebating laws. Adopted 376–0; March 22, 1978. Yes.

148. HR 9518. Shipping Act Amendments. Passage of the bill to increase the penalties for illegal merchant marine rebating and to expedite the enforcement of the rebating laws. Passed 390–1; March 22, 1978. Yes.

149. HR 6782. Emergency Farm Bill. Foley, D-Wash., motion to disagree with Senate amendments attaching emergency farm aid provisions to the House raisin promotion bill, and request a conference with the Senate. Motion agreed to 332–63; March 22, 1978. Yes.

150. HR 6782. Emergency Farm Bill. Foley, D-Wash., motion to table the Moore, D-La., motion to instruct House conferees to support a Senate amendment providing a flexible parity program of graduated target prices for wheat, corn and cotton for 1978. Motion agreed to 224–167; March 22, 1978. Yes.●

## STRUTHERS HIGH SCHOOL WOMEN'S BASKETBALL TEAM WINS CLASS AAA STATE CHAMPIONSHIP

### HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. CARNEY. Mr. Speaker, on the weekend of March 31, 1978, the city of Struthers, Ohio, was elated as over 3,000 citizens turned out to greet the Struthers High School Wildcats basketball team as the 1978 class AAA girls' Ohio State champions.

The Struthers Wildcats, cocaptained by Bonnie Beachy and Patty Fitzpatrick, defeated the Middletown High School girls' basketball team 53–51 at St. John's Arena in Columbus, to win the Ohio State AAA girls' basketball championship. With 23 straight wins and a 25–1 record, the Struthers team ended the season on a festive note, with a public celebration held on Sunday, April 1, 1978.

At the Sunday post-game rally, Mayor Centofante praised the team and presented Wildcats' Head Coach Dick Prest with a city proclamation. In addition, Struthers High School was presented with a commemorative resolution by Mahoning County Commissioner Tom Barrett. The Ohio General Assembly will present a commemorative resolution to individual team members.

The team is cocaptained by two outstanding players. The first is Bonnie Beachy, who was elected most valuable player in the AAA tourney at Columbus. Cocaptain Patty Fitzpatrick was chosen for the all-tournament team.

In their remarks, Beachy and Fitzpatrick stressed that the Wildcats' success was due to a real team effort, and that the close-knit team spirit extends beyond the court, too. Becky Hanna, a team member, reflected this spirit when she commented:

We're all friends. We all do things together. The love we have is genuine.

In addition, the team was further honored by a special school assembly. The Youngstown Vindicator of April 7, 1978, reported this event as follows:

STRUTHERS GIRLS FETED AT SCHOOL

It was a "banner day" today at Struthers High School as the newly-crowned State Class AAA girls' basketball champions were honored during a morning assembly.

Trophies, banners and proclamations earned by the team during the season were officially presented to the school. And the uniform worn by All-Ohio Bonnie Beachy was retired.

Head Coach Dick Prest and assistant coach Bill Minchin introduced players and made the presentations.

Members of the team and their families along with several members of the Struthers girls' state championship teams of 1925 and 1926 were honored at a luncheon in the school cafeteria.

I am proud of the Struthers Wildcats' accomplishment, and I am hopeful that their status as State champions will be maintained for many years to come. But just as important as the championship itself is the manner in which it was won. The Wildcats have established a reputation for their good sportsmanship that was recently commended in the Struthers Journal. The Wildcats are true champions in this respect as well.

In addition to Beachy, Fitzpatrick, and Hanna, team members include Cheryl Simko, Lisa Laughner, Colleen Karnes, Paula Ringos, Diane Shirilla, Virginia D'Altorio, Jamira Ellis, Jackie Beachy, and Cathy Miller. The assistant coach is Bill Minchin.

Mr. Speaker, the Wildcats' victory will serve to increase awareness of women in sports throughout the Mahoning Valley

and the entire State of Ohio. The acclaim surrounding the Wildcats' victory indicates that women are quickly taking their rightful place alongside of their male counterparts in the sports world. Hopefully, Bonnie Beachy, Patty Fitzpatrick, and the other stellar team members will be given opportunities to continue playing basketball in college to further develop their excellent skills and sportsmanship.

I join the residents of Struthers, Ohio, in congratulating each and every one of these women for their accomplishments and wishing them continued success in their sports career.●

## HATCH ACT REVISION

### HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. DERWINSKI. Mr. Speaker, I have been and continue to be opposed to repeal of the Hatch Act and I believe the House acted in folly and haste when it passed H.R. 10 last summer. I am more than pleased to see that my view is supported by one of the Nation's leading newspapers. The Washington Star, in an April 12 editorial, points out that President Carter's proposed reform of the Civil Service system strengthens arguments against repeal of this law. The editorial, which I commend to my colleagues, follows:

[From the Washington Star, Apr. 12, 1978]

HATCH ACT REVISION

President Carter's proposed reform of the Civil Service system already has produced one salutary development: it has strengthened arguments against repeal of the Hatch Act's ban on political activity by federal workers.

Opponents of Hatch Act revision have argued, and rightly so, that it could lead to politicization of the federal service. The danger would be compounded if it and the Civil Service reorganization proposed by Mr. Carter both were enacted.

The Hatch Act revision bill, which has passed the House and is before a committee in the Senate, would allow federal workers to run for office, work in political campaigns, raise funds for candidates and perform other political chores. Polls have indicated that a majority of federal workers want to keep the Hatch Act intact; rather than regarding it as an unwarranted restriction on their activities, they see it as a protection against political coercion.

President Carter's proposed overhaul of the Civil Service system is aimed at making it easier to fire incompetent federal employees and at making advancement in the federal service depend more on merit than time on the job. While there is much to commend Mr. Carter's approach, it would tend to make for less personal security in the federal service, especially at the top levels where the president would create an elite corps of managers called the Senior Executive Service.

If removal of the Hatch Act ban on political activity were combined with the loosening of job protection proposed under the Carter plan, it might well make the federal service as Sen. Charles Mathias, R-Md., warned the other day, "the most partisan it's been since U.S. Grant." The existing Civil Service system, which removes most federal jobs from direct political influence, is an outgrowth of the "spoils system" abuses of the Grant and other administrations of the 19th Century.

During a hearing before the Senate Government Affairs Committee, Sen. Charles Percy, R.-Ill., also expressed reservations about "moving the two [measures] together."

We hope the committee chairman, Sen. Abraham Ribicoff, D-Conn., was right when he told opponents that they didn't have to worry about the Hatch Act revision because it "isn't going anywhere." But we're not all that confident that supporters of the Hatch Act revision bill, principally the unions and the White House, won't find a way to maneuver the bill to the Senate floor around Senator Ribicoff's opposition.

As Senator Percy pointed out, President Carter could give his Civil Service reorganization plan a boost by pulling back on Hatch Act revision. We suspect that Mr. Carter is more interested in Civil Service reorganization than in Hatch Act revision. If so, we hope he got what seemed to be the clear message that reorganization and Hatch Act revision won't fly together.●

## A LASTING PEACE IN THE MIDDLE EAST

### HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. DORNAN. Mr. Speaker, as always, the first principle of our Nation's foreign policy ought to be that it be determined by what are our Nation's just, best interests. A genuine Middle East settlement to the express benefit of every nation concerned is certainly in our Nation's best interests, as it is to the best interests of peace and liberty everywhere.

The most recent bilateral initiative toward a final settlement begun by Israel and Egypt has certainly had its peaks and valleys. However, having had the opportunity to talk at length with key and participating officials of both sides, I sincerely believe that the quest for a mutually beneficial settlement by both Israel and Egypt is a genuine one.

What is alarming many informed Middle East watchers at the moment is the apparent Midas-touch in reverse demonstrated by the Carter administration in the current Middle East negotiations. It is a Midas-touch in reverse, because everything the administration touches turns to failure. In the space of only 4 months, the White House has succeeded in angering just about everyone with any stake in the current negotiations, whether representing the side of the United Arab Republic or of Israel.

An editorial in the Evening Outlook of Santa Monica, one of California's finer papers, provides an excellent analysis of the current problems Middle East peacemakers are having with the White House. Although dated March 27, the editorial is characteristically prescient. I encourage all of my colleagues to read it, and pass along the good word to any friends any of us might have in the administration.

The editorial follows:

CARTER'S SURRENDER

The following editorial supports Israel's position in the stalled Middle East peace talks.

Our conclusion that Israel is not acting irresponsibly—as is suggested by the Carter administration—is based in part on information assimilated by editor R. D. Funk during a recent 10-day tour of Israel. Funk was in the country when terrorists massacred 35 civilians on the road north of Tel Aviv.

We feel our readers should know, however, that the tour Funk participated in was sponsored by the American Zionist Federation. About 40 American news representatives were on the tour. As a result of the federation sponsorship, the cost to the participants was about half of what it would have been if each individual had paid regular rates for airfare, hotels and meals.

We ask our readers to accept our statement that this reduced cost has not influenced our decision to support Israel in the current dispute. Over the past several years, we have consistently believed Israel must retain defensible borders if she is to survive.

It's becoming increasingly clear that the blame for the breakdown in the Middle East peace talks rests squarely with the Carter Administration—and not with Prime Minister Menachem Begin.

What has happened, we believe, is that President Carter has scrapped the traditional United States interpretation of United Nations Resolution 242 in favor of the Soviet-Arab interpretation. This resolution was adopted by the United Nations in 1967 following Israel's stunning military successes in capturing the Golan Heights from Syria, the West Bank from Jordan and the Sinai Desert from the Egyptians.

It called for "withdrawal of Israel's armed forces from territories occupied in the recent conflict." But it also said that Israel was entitled to "secure and recognized boundaries."

Since 1967, the Soviet Union and the Arab states—and more recently, the Palestine Liberation Organization—have claimed that the resolution meant Israel should withdraw "all" her armed forces from "all" her occupied territories. The United States, Israel and other allied nations have argued successfully over the years that omission of the word "all" and "the" from the resolution gives Israel room to negotiate for "secure and recognized boundaries."

In other words, the resolution, which the U.S. helped write, didn't attempt to force Israel to return to her traditional (and implacable) enemies those areas from which they had shelled Israeli civilians and launched terrorist raids into Israeli territory.

Now, apparently, President Carter has told Begin that the old ground rules no longer apply—that as a price for continued U.S. military and moral support, Israel must relinquish control over much of the territory she considers to be absolutely vital to her safety.

This constitutes a major change in U.S. policy in the Mideast. We think it means that the Carter administration has lost control of events and is desperately trying to appease the Arabs and head off another oil price increase.

Saudi Arabia already has warned the United States that there soon may be a new oil price increase because of the declining value of the American dollar. The long slide in the dollar value has been due in large part, of course, to the unchecked flow of American dollars into foreign banks—principally into accounts of the oil-rich Arab states. This outflow of dollars for energy to keep our economy going is the direct result of the Carter administration's inability to deal with the energy crises in this country—to formulate a plan that will permit us to develop our own fossil fuel resources, to move ahead

with nuclear power, to bring on line more solar power, and to conserve our present resources.

As long as we have no strong domestic energy policy—a policy that will relieve us of dependency on foreign oil imports—the Arab nations can call the tune on events in the Middle East. And we think that is precisely why the Middle East peace talks are stalemated, and why they may collapse.

We can be sure that Egyptian President Anwar Sadat didn't initiate peace talks with Israel ever dreaming that Israel would give up the Golan Heights, the West Bank and the Israeli settlements in the Sinai Desert. He came to the Knesset saying, in effect, let's trade: The Palestinians need more autonomy, you need your security; both of us need peace. There's a middle ground somewhere.

Now, however, the Carter administration is telling Israel that this isn't a give-and-take matter—that the Israeli government will have to do all the giving.

Palestine Liberation Organization leader Yasser Arafat must be rubbing his bloodied hands together with glee.

Instead of helping the cause of peace in the Middle East, the president has seriously endangered it.

We think the Carter policy vis-a-vis Israel constitutes a surrender of the vital interests of both countries. We hope Mr. Carter recognizes this before it is too late.●

## ILLICIT DRUG IN SCHOOLS

### HON. W. G. (BILL) HEFNER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. HEFNER. Mr. Speaker, as many of my colleagues may remember, during the last Congress I sponsored legislation to combat one of the most serious problems facing our country and our schools—the increasing use of illicit drugs by our young people. In some schools the problem is reaching critical proportions, and I am again introducing this important measure in hopes that it will be acted upon quickly.

The very worst habit anybody can ever acquire is the use of drugs as a means of escaping from reality. Drugs all too often doom the lives of those young people who use them and rob the families of the drug users of their happiness and, in a large measure, of their hopes and dreams for their children.

Drug use which was once confined to the "street culture" has already become a feature of college life in our country and is increasing in our high schools. Now, even our elementary schools are being invaded by illicit drugs. Few schools are immune to the problem.

A part of this problem, and ample evidence exists to show it, is that many drugs are sold by nonstudents or other individuals who come onto school grounds or hang around school neighborhoods to supply their student customers. This is a cause of concern among law enforcement officers, school administrators, teachers, and parents. I share their concern.

I think we have to come to the realization that people who sell drugs to our young people are criminals and should be treated accordingly. I personally believe that the selfish individuals who traffic drugs should be given the harshest punishment the law knows.

Our main legal tool against the drug problem, the Controlled Substances Act of 1970, already provides penalties for persons who illegally distribute or dispense controlled substances. Furthermore, the act goes on to double these penalties for individuals selling drugs to persons under 21 years of age. This of course begins to deal with the problem of drugs in our schools.

The legislation I am introducing again today should carry this effort further. This bill would supplement the provisions of the Controlled Substances Act to identify specifically the problem of drugs being sold on or adjacent to school property and provide mandatory sentences for individuals convicted of this offense. I hope this will be a strong tool which will go directly to the problem of drug pushers in our schools.

More specifically, this bill says that a person, 18 years of age or older, who violates the Controlled Substances Act by manufacturing, distributing, or dispensing a controlled substance on or within 100 feet of the grounds of a public or private elementary or secondary school will receive certain additional penalties. Differing from the Controlled Substances Act, this bill prescribes a minimum as well as a maximum sentence. Further additional penalties are prescribed for second or subsequent convictions of the same offense. The bill also provides that these sentences may not be suspended and that probation may not be granted. Persons sentenced under this proposed law would not be eligible for parole until serving at least the minimum sentence prescribed by the bill.

The purpose of this bill is to deal with those persons who have no business in or around our schools except to sell drugs to students. I realize that the bill does not extend to the problem of drug traffic among the students themselves. And I understand that this too is a real and serious problem, but these matters are generally handled by school officials in cooperation with local law enforcement agencies. In addition, a harsh attitude toward outside drug pushers would not only be a warning to the student pusher, it would also go a long way toward drying up these students sources of illicit drugs.

I feel that an important part of this bill is that provision for mandatory sentences for violators. This harsh step is necessary because all too often the courts have failed to provide the necessary sentences for drug pushers. A questionnaire I recently distributed to my constituents showed that 53 percent of the respondents feel lenient courts are the principle cause of rising crime. And 96 percent of them feel that mandatory sentences for serious crimes, including drug violations, are a necessary step to deal with the crime problem. I believe the citizens of this country are calling for action.

I have consulted with law enforcement officers, educators, and parents in my district and State about the drug problem and possible solutions. I believe these concerned and involved people are in support of the bill I am introducing today. In fact, the attorney general of North Carolina has informed me that he would welcome such legislation as an aid to local and State efforts to deal with the problem of drugs in our schools.

I am certainly not interested in involving the Federal Government any more than it already is in the affairs of our schools, nor do I want to interfere with the work of our State and local law enforcement bodies, which, after all, are the front line in the war on crime of all sorts. This bill is not an intrusion into our schools or local law enforcement, but it is another tool, to be used where appropriate, to assist with the problem of drugs.●

## "PERSPECTIVES ON PROTECTIONISM," MONNETT CRYSTALIZES THE VIEW

### HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. GAYDOS. Mr. Speaker, the Department of Commerce recently announced the United States sustained a massive trade deficit of $4.5 billion in February—the 21st consecutive month our trade balance has been in the red.

Shocking? Yes. Surprising? No. It is merely the latest statistic to reflect the steady decline of the United States in world trade. A decade ago, the United States was the champion in that arena. Today it is just another struggling gladiator.

I submit one reason for this development is the traditional position of die-hard "free traders" and "protectionists" who have become an anachronism, refusing to recognize the international trade world of today is not what it was 100, 50, or 10 years ago.

Both concepts are out of step with time. A. A. Monnett, Jr., vice president of corporate planning for U.S. Steel Corp., demonstrated this in a recent speech before a seminar on the "Financial Strategies for Multinational Corporations" in Chicago, Ill.

Mr. Monnett contends the terms "free trader" and "protectionist" are artificial and emotional, having no place in a thoughtful analysis of the trade problems confronting the Nation today. Both positions are extreme and fail to include a key factor which, he believes, must be considered in formulating national trade policy.

Mr. Monnett recalls that while trade and/or tariff barriers were being lowered over the world and the economies of Western Europe and Japan were growing in sophistication and capability "a divergent political trend passed virtually unnoticed."

This trend consisted, Mr. Monnett observed, of the United States remaning committed to the market system for its economy, while its major free world partners increasingly brought government into direct or indirect management of industrial affairs. He used Japan and its steel industry to illustrate his point.

Steel, Mr. Monnett explained, is a world commodity with no secrets as to production. Raw materials, equipment, technology are available to any nation. But, steel is the critical industrial material for any manufacturing economy, he emphasized, and every nation must be concerned about its supply to support its industrial economy and to sustain its growth.

Japan early recognized the essentiality of steel and the economic policymakers selected it as a "target" industry. It was to be developed as rapidly as possible, along with some basic consuming industries, such as shipbuilding and automobiles, to capture a large share of the world markets.

The objective was to build an industrial base to utilize available manpower, help domestic industrial growth and through export earnings accumulate foreign exchange to purchase raw materials and other imports.

It takes money to build an industry so the Japanese Government backed commercial bank loans to the industry on a degree impossible for American producers to match in the private market. Because of the Government's support, Japan's steel production rose from 5 million tons in 1950 to 131 million tons in 1973. Last year it produced 113 million tons; yet its own economy could consume just 72 million tons.

To solve the problem of capacity far outstripping domestic demand, the Government turned to exporting its excess steel. In fact, Mr. Monnett notes, exports accounted for nearly two-thirds of steel growth in Japan during the last decade.

The fixed interest on debt, combined with a social policy of lifelong employment meant the Japanese steel industry had to have an extremely high break-even point. Production had to be maintained at a high level even if it meant selling steel at any price. Japan's steelmakers, Mr. Monnett points out, cannot show a profit unless they operate at full capacity. In exporting its steel, Japan, of necessity, also was exporting unemployment in the industry.

Mr. Monnett emphasizes it must be remembered, Japan's steel industry from the start was, and remains today, a creature of government. The country had no particular comparative advantage to be a major steel producer. It has no domestic iron ore, coal, oil, or gas, and technology was purchased. The industry would have had little capital if it were not for Government intervention.

Mr. Monnett asked:

Where is the natural and permanent comparative advantage (upon which the concept of free trade is based) that free traders would have us believe justifies accepting unlimited and uncontrolled amounts of Japanese steel into our markets?

The government's management of the steel industry in Japan so grossly distorted conditions of competition with the United States that the traditional basis for formulaing trade policy can no longer be applied, the U.S. steel official believes.

As a matter of fact, he states, competition with a government-managed steel industry abroad has forced the American steel industry to turn to its Government, which has intervened in the industry's affairs. In essence then, he says, the U.S. market system is eroded as a direct consequence of the political and economic policies of foreign nations. And, Mr. Monnett warns, one wave of Government intervention in industry leads to other waves in other industries.

The United States, he insists, must recognize the change in the world's economic system and strengthen and enforce its laws on injurious and predatory import practices and revise provisions of GATT to provide adequate and effective safeguards against domestic market disruptions.

Mr. Monnett observes we can neither be protectionists or supporters of the old theory of free trade in viewing the world economy of today.

. . . This issue . . . is now at the heart of the most crucial issue of all, the ability of America and its market system to co-exist, prosperously, with the new and different economic systems of friendly sovereign nations throughout the world

Mr. Speaker, Mr. Monnett admits he has no solution to the problem but he has crystalized the futility of the outmoded debate of "free trade" versus "protectionism." He has given all of us food for thought.●

## SETTING THE RECORD STRAIGHT ON HUMPHREY-HAWKINS

### HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. HAWKINS. Mr. Speaker, on March 16, 1978, my colleagues made crystal clear the determination of this Congress to attain full employment and reasonable price stability by overwhelmingly voting for passage of H.R. 50, the Full Employment and Balanced Growth Act of 1978. The vote, 257–152, shows a national consensus for enactment of the policies and programs set forth by the Humphrey-Hawkins bill, and serves as an encouragement for early Senate action.

Many efforts have been made to either confuse or minimize the significance of the gains made during floor consideration of the measure, and in order to set the record straight, I urge my colleagues to read the following informed account of the Floor activities on H.R. 50, a brief analysis of the provisions of the bill and related grassroots support activities.

The insertion follows:

HUMPHREY-HAWKINS BILL PASSES HOUSE

SETTING THE RECORD STRAIGHT

Thursday, March 16, 1978 marked an important day in the history of efforts to achieve a full employment economy in the United States. On that day, proving all the pundits wrong, the U.S. House of Representatives passed the Humphrey-Hawkins Full Employment and Balanced Growth Act overwhelmingly by a vote of 257–152. During four days of debate, the Full Employment Bill supporters were successful, in a series of record and non-record votes, in turning back amendments designed to weaken the legislation.

As the focus of attention moves to the Senate, it is important to assess the progress which has been made, particularly in light of continuing attempts to minimize the significance of the gains.

The House of Representatives began debate on March 8th on the Humphrey-Hawkins bill, described by Business Week magazine as one which "puts the nation's unemployment problem squarely at the center of economic policymaking for years to come," a bill which the chief New York Times economic correspondent described as "establish(ing) targets for economic activity and jobs involving a degree of specificity the nation has never known before."

That was the bill which was presented to the House of Representatives for action, and that was the bill which, with some refinements, was passed by the overwhelming margin. Opponents of the Full Employment Act, seeing the extent of support which the bill had received across the nation as people became more familiar with its provisions, decided not to make a head-on attack on H.R. 50, but instead to subvert the bill's purpose of achieving full employment with price stability by trying to write in other economic policies which could be used as distractions from the primary full employment goal.

H.R. 50 ANTI-INFLATION PROVISIONS

This was a clever strategy, but, unfortunately for its proponents, one which the House saw through, and one which the public will see through as well. The strategy was to introduce amendments labeled as "anti-inflation" amendments, a "permanent" tax cut amendment, and anti-government regulations amendments. The strategy of those offering these amendments was that anyone who voted against them could be called "for inflation", "against a balanced budget", "against tax cuts" and "for government regulation".

The distinction is crucial. Take, for instance, the question of inflation. The Full Employment and Balanced Growth Act contains the strongest program for price stability yet put forth during the current debate. But price stability is to be achieved at the same time as unemployment is lowered. rather than, as was done by the past two Administrations, maintaining high unemployment in the belief that it would keep inflation low.

Thus, When Congressman Ronald Sarasin (R-Conn.) offered an amendment to set a specific target for inflation in the Full Employment Act, he was offering a provision which could be used by economic policymakers in the future as an *excuse* for not implementing full employment policies. Instead Congressman James Wright (D-Tex.), the Majority Leader of the House, offered an anti-inflation amendment which made clear that price stability is to be achieved through policies which begin by focusing on achieving full employment. Wright's amendment was approved by the House by a vote of 277–143.

A BALANCED BUDGET AND BALANCED GROWTH

Similarly, an amendment designed to make a balanced budget a primary goal of national policy, introduced by Congressman John Ashbrook (R-Ohio), was soundly defeated in favor of an amendment by Congressman Butler Derrick (D-S.C.) and Congressman Max Baucus (D-Mont.), which made clear that a balanced budget was to be achieved through full employment policies. As more people work, more pay taxes, the government spends less on unemployment and other social insurance programs, and we move the nation toward a balanced Federal budget.

After the House had firmly rejected the effort to confuse the purpose of the Full Employment Act, and had instead adopted merely clarifying amendments, Congressman Charles Wiggins (R-Calif.) offered a motion to strike the entire bill, thereby killing it for the Session. He argued that the bill had been weighted down with amendments and

was like a Christmas tree and should therefore be killed. The House's resounding response to that contention was "no" by a vote of 106 to 310. Yet at least one commentator has tried to make the Wiggins effort into a major condemnation of the bill.

Those who remember the days, several years back, when the "experts" laughed when we said that Congress was going to pass a Full Employment bill, can now smile at the victory won in the House. Yet we must be clear-eyed that we still face a hurdle in getting the bill passed by the Senate, and we must always recognize that the Full Employment bill is the first step in pursuing full employment policies. The Administration must develop and implement the specific economic policies which will achieve full employment. It must look at every economic decision, every program, and tell us how each policy and program will move the nation toward full employment. With the resounding victory of the 257–152 vote in the House current, the Administration should begin the specific full employment policies.

Persons around the country must begin a campaign of support for the passage of the Full Employment bill by the Senate. Prospects are good for passage, and public support of the bill, and particularly opposition to weakening amendments, is necessary for final enactment. Full Senate action is expected in June.

WHAT THE RECENTLY PASSED HUMPHREY-HAWKINS BILL DOES

1. Recommits the Federal Government to the goal of creating conditions that assure meaningful employment to all who are able, willing, and seeking employment opportunities. The bill mandates interim goals towards this end, and provides for the availability of better jobs, training programs, opportunities for promotion and better job security.

2. Provides for the comprehensive integration of our fiscal and monetary policies and programs with structural programs to assist disadvantaged groups and reduce inflation.

3. Requires the President to set forth annual anti-inflation goals and to detail the policies and programs needed to reach reasonable price stability and full employment. The bill rejects the discredited "trade off" theory, which encouraged slowing down the economy to help promote price stability.

4. Provides for a coordinated and democratic economic policy decision-making process for the Federal Government. Requires annual and long-term projections to be made by the President and the Federal Reserve Board, and to be reviewed by the Congress. We would no longer have to react to one crisis situation after another (such as energy, food, recessions, etc.).

5. Specifies an interim numerical target for the reduction of unemployment to 4 percent overall within 5 years. This replaces the unacceptable notion that 6 percent unemployment, or higher, is "tolerable unemployment".

6. Establishes the Federal Government as the employer of last resort. It is possible that the last resort jobs may not be needed at all or only in limited amounts if the right policies and programs are undertaken.

7. Provides for the bedrock commitment of reducing the high unemployment levels of certain groups in the labor force (youth, minorities, women, elderly, veterans, and the handicapped) to the national average on an equitable and nondiscriminatory basis.

A full employment society provides: Better jobs, security and working conditions for the employed; meaningful jobs for the unemployed; markets for businessmen and farmers; lower taxes as a result of less welfare and more revenues from productive activities; more goods and services as reasonable prices for consumers; and less crime, social disease, and civil disorders.

A LOOK AT THE VOTE ON FINAL PASSAGE

H.R. 50 was passed by the House of Representatives on March 16, 1978, by a vote of 257 to 152.

The vote showed a national consensus for the enactment of the full employment bill, with votes from 42 states, including every state in the deep South and 24 Republicans, joining 233 Democrats from all over the country, in a resounding majority decision.

FULL EMPLOYMENT NATIONAL SUPPORT GROUPS

AFL-CIO.
Economy Policy Committee, AFL-CIO.
Industrial Union Dpt., AFL-CIO.
Building and Construction Union Dpt., AFL-CIO.
United Auto Workers.
National Farmers Union.
United Farm Workers of America, AFL-CIO.
National Association for the Advancement of Colored People.
National Urban League.
Leadership Conference on Civil Rights.
A. Phillip Randolph Institute.
Congressional Black Caucus.
Mexican American Political Assoc.
G.I. Forum.
National Congress of Hispanic American Citizens.
National Council of Churches.
U.S. Catholic Conference.
United Presbyterian Church.
American Jewish Committee.
National Council of Negro Women.
Coalition of Labor Union Women.
Full Employment Action Council.
National Conference on Public Service Employment.
National Women's Political Caucus.
U.S. Conference of Mayors.
National Association of Counties.
National Education Association.
National Council of Senior Citizens.
National Association of Social Workers.
National Federation of Settlements and Neighborhood Centers.
Americans for Democratic Action.
American Federation of Teachers.

COMMENTS ON THE FULL EMPLOYMENT BILL

Hobart Rowen—Chief economic writer for the Washington Post; "There is much more than meets the eye in the compromise Humphrey-Hawkins "full employment" bill . . . the vigor of the attack on this latest Humphrey-Hawkins version should suggest to the careful observer that the proposal would, in fact, have an impact on the economy and the way economic policy is made . . . Complying with the timetables would not be optional . . . The Humphrey-Hawkins bill, as it emerges now, with Carter's cooperation, is worthwhile."

Charles C. Killingsworth—University Professor, Economics and Labor, Michigan State Univ.; ". . . the Humphrey-Hawkins Full Employment Bill represents the straight line between two points. I believe that the approach set forth in this bill would activate a multiplicity of efforts in government and in the private sector which would give us a fairer society, a more compassionate society, a sounder society, and even a more prosperous society."

Bishop James Rausch—General Secretary U.S. Catholic Conference; "What happens to a nation that begins to accept the notion that it cannot use the talents and labor of all its people? What happens to us as a people as we watch families which have made the slow and painful climb up the economic ladder, only to be pushed down again into poverty by the loss of a job?"

The National Council of Churches in the U.S.A.—"We commit ourselves to the task of shaping a national policy of full employment which would provide the hopes for a better and more productive life for ourselves, our families and our neighbors. We call upon the Federal Government to make full employment the nation's number one priority."

Clayton Fritchey—Editorialist/Journalist; "The Humphrey-Hawkins bill, as introduced was based on the sound proposition that no matter how costly it is to put people to work, it is far more costly and wasteful to pay them not to work, as we do now with unemployment compensation and other benefits that run into many billions of dollars."

Carl Rowan—Editorialist/Journalist; "It does something very important: It establishes the right of all Americans to a useful job at fair wages. We have never before had such a specific national commitment . . . You ought to understand what I am sure Jimmy Carter understands: While the compromise gives the President some flexibility, he cannot change the 4 percent goal without Congressional agreement . . . I hope the Congress passes [the Humphrey-Hawkins bill]." ●

## RECOGNITION OF PRESIDENTIAL COURAGE

### HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. FINDLEY. Mr. Speaker, a recent article in the Christian Science Monitor by Joseph C. Harsch recognizes the courage displayed by President Jimmy Carter in taking actions unpopular with some segments of American public opinion, actions clearly in the best interests of the United States as a whole. The American people can benefit from the perceptive analysis contained in Mr. Harsch's article, and I include it in the RECORD:

THE MAKING OF A PRESIDENT

(By Joseph C. Harsch)

Just two weeks after President Carter became the first American President since the days of Dwight Eisenhower to say a firm "no" to Israel he startled Washington again by defying the Greek lobby.

No president would challenge either the supporters of Israel or the supporters of Greece if he thought he could avoid doing it. Israel enjoys the support in Washington of probably the strongest and most effective organization ever mobilized there on behalf of a foreign country. The Greek lobby controls nothing like the number of votes in Congress that Israel's friends can muster, but it probably ranks with Italian, Irish, and Polish lobbies in the second rank.

Certainly no president would want to disappoint both the Jewish and Greek communities at the same time, particularly if he was also trying to round up the votes necessary to carry his controversial Panama Canal treaties through to ratification in the Senate.

The fact that Mr. Carter did take steps distressing to Israel's friends and bitterly opposed by the Greeks, and within two weeks of time and while the Panama treaties are still in danger, shows how much importance he attaches to the steps he did take. One was to make clear to Israeli Prime Minister Begin his profound disappointment over Mr. Begin's response to the Sadat peace initiative. The other was the decision to ask Congress to lift the three-year embargo on the sale of American weapons to Turkey.

Political expediency would have counseled Mr. Carter to put off any confrontation with either the Israeli or Greek lobby at least until after he had had his final test in the Senate on the Panama treaties.

Obviously, Mr. Carter thinks that the last best chance for peace in the Middle East will

be lost unless Mr. Begin becomes more responsive to Mr. Sadat. And obviously, he thinks it essential to the welfare of the NATO alliance that the delivery of weapons to Turkey be resumed even though Turkey clings to a larger share of the island of Cyprus than most neutral onlookers think is fair or reasonable.

Here then are two cases where Mr. Carter has done what he believes to be in the best long-term interests of the United States regardless of immediate and inevitable short term disapproval by important and influential blocs of Americans. He is saying "no" to a lot of Americans with real political influence and real future voting power.

No president likes to have to do unpopular things. Mr. Carter did virtually no unpopular thing during his first year in office. He did all sorts of things which were immediately popular with the groups who obtained short-term benefits.

One of his first deeds was to raise White House salaries (extravagantly, in my opinion). That deed is coming home to roost now. It makes it difficult for him to oppose price and wage rises. Then he pleased a bigger chunk of Americans by agreeing to a rise in the minimum wage, and more by raising payroll taxes to support social security. He went along with higher farm price supports, and with import controls.

Every one of these actions was popular with some group of citizens, and every one was inflationary. Mr. Carter's first year was marked by permissiveness. He was the good guy who liked to say yes, and almost never said no. And it was not a year of spectacular success.

No one likes to say no, particularly a president who wants to be reelected. But it is a safe rule that by and large the great presidents are the ones who have done the hard, the difficult, the dangerous things which they would much rather not have done.

We cannot know yet whether Mr. Carter will from now on do many more things which he thinks ought to be done no matter how unpopular with some one or another important segment of the American population. But he has dared to disappoint two powerful constituencies and—so far—no roof has fallen in. And we do know that the inflation rate is dangerously high and that it will go higher unless Mr. Carter embarks upon a consistent anti-inflation program.

Presidents Nixon and Ford underestimated the momentum of inflation. Mr. Carter has obviously done the same. He is now the third president in line who has faced inflation and been unable to manage it. This is his moment at Armageddon. Can he learn to say no, and make it stick? If he does he can still be a successful president. If he does not, he will probably be just another one-term president. We may be watching the turning point in his presidency right now.●

## CONGRATULATORY MESSAGE TO LOCAL 599 HONOREES

### HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. KILDEE. Mr. Speaker, I want to take this opportunity to commend six persons who have distinguished themselves with 20 years each of service as elected union officials from UAW Local 599, which serves the workers of the Buick Motor Division plant in Flint, Mich. Special recognition also is being given three others.

Local 599 is one of the Nation's oldest UAW locals, receiving its charter on January 10, 1939, only 2 years after the sitdown strikes in Flint that led to the birth of the UAW–CIO. It has a long history of strong local leadership, and annually honors those elected union officials who have 20 or more years of elected service. The honorees receive the Walter P. Reuther Distinguished Service Award, which is an appropriate honor to be given in the name of the man who devoted his life to helping others obtain social justice and enjoy a better life.

Members of the United Auto Workers can take pride in the knowledge of belonging to a progressive union that is universally recognized for its social leadership as well as for its dedication to the well-being of its members.

I am proud to bring to the attention of my colleagues this year's winners of the Walter P. Reuther Distinguished Service Award from UAW Local 599. The honorees for 20 years of elected service as union officials are Danny D. Sain, Stan Marshall, Charles L. Weaver, John Neilson, Robert Dallas, and Lyman Turner. Mr. Sain is president of the Greater Flint CAP Council, former chairman of the Genesee County Democratic Party, former president of the Beecher Board of Education, and the 1975 recipient of the Liberty Bell Award from the Genesee County Bar Association.

A Walter P. Reuther Distinguished Service Award for community involvement also will be presented to Robin B. Owens by recommendation of local 599, and a special local 599 award will be presented to Lloyd and Mary Eckenrod for their involvement in retiree affairs.

All will be presented their awards at local 599's third annual retirees' banquet on Sunday, April 16, 1978, in Flint.●

## SECRET NEGOTIATIONS

### HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. CONABLE. Mr. Speaker, during the course of the campaign President Carter frequently indicated his belief in open government, or government in the sunshine. Last April when he proposed his national energy plan, and frequently since, he has also indicated his strong support for the rapid development of solar energy. Given that we apparently have a heliophile as President it is difficult to imagine how the natural gas pricing issue has been drawn into the shadows, into secret behind-closed-doors White House negotiations.

If the press reports are true, then yesterday and again today the President and his chief energy adviser are closeted with a select band of Members from the majority party in sessions which will presumably determine the fate of those that use as well as produce natural gas.

There is no need for these negotiations to be conducted in secret. They should be out in the open. In the words of then candidate Carter:

> Meetings of federal boards, commissions, and regulatory agencies must be open to the public, along with those of congressional committees. (The only exception should be those actually involving narrowly defined national security, those dealing with unproven charges similar to grand jury proceedings, and those whose preliminary knowledge might cause serious damage to our nation's economy.)

If these meetings are not open to public scrutiny, then, again in the words of then candidate Carter:

> The veils of secrecy have seemed to thicken around Washington.

It was, perhaps, a slip of the tongue when Senator HENRY JACKSON, one of the chief Senate negotiators on the natural gas issue stated:

> You can see why I have urged strongly that we have quiet diplomacy . . . I think the public get-togethers before we really have our ducks in a row create nothing but problems . . .

Yet this is the view of open government which the majority party has adopted in this vital area. Energy policy is all pervasive and it is unfortunate that President Carter feels that he must deal with it out of public view.●

## IS THE WHITE HOUSE FINANCING THE NEW LEFT?

### HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. DORNAN. Mr. Speaker, certainly the prevailing political climate is one in which citizens are demanding that their Government be held more accountable. The public demands more scrutiny by those who would spend taxpayers' dollars, and they are skeptical of how their money is used. I share this skepticism, and I encourage it.

In fact, I would like to see a systematic and comprehensive investigation of Federal spending at all levels, and especially by that part of our Government which is furthest away from the people—the Federal agencies. Unelected and too often unaccountable even to the President appointing them, the agencies need to be checked by the eternal vigilance of Congressmen who were elected to represent taxpayers everywhere. The Government Accounting Office does an excellent job, in my opinion. The GAO keeps close tabs on how much is spent.

But it ought to be the role of Congress to more closely evaluate these agency appropriations. We ought to be investigating not only how much is being spent, but closely determining why it is spent, and concluding whether or not certain line items are wasteful.

Perhaps the ACTION agency is a prime candidate for such heightened congressional scrutiny as I am proposing. If what Pat Buchanan describes in the following column is illustrative of agency activity in the Carter administration, we

are obliged to the taxpayer to begin a systematic review of agency spending now. As always, Mr. Buchanan lucidly cuts through to the core of the problem. Read for yourself, and sincerely ask yourself whether or not this core is rotten; whether or not House appropriations for ACTION are in fact being used to finance the new left.

Regardless of one's own identification for or against new left politics, it is only reasonable to ask that money collected from the taxpayers without their consent not be used for partisan political purposes. If indeed we are financing partisan political action at ACTION, then it is the responsibility of the Congress to take the necessary steps to "clean up its act."

The column follows:

IS ACTION CARTER'S RADICAL AGENCY?

Last year President Carter directed the U.S. delegation to the U.N. to drop its opposition to Hanoi's admission. It was, you might say, a red-letter day for U.S. Communists, fellow travelers, and radicals who had worked diligently for a decade or more for an American defeat in Southeast Asia.

When Hanoi's beaming delegates arrived at Manhattan's Beacon Theater for a welcoming party, the audience of thousands exploded with applause.

Present, and all choked up by the occasion, was Sam Brown, Carter's choice to head ACTION, the umbrella agency that contains the Peace Corps.

"I am deeply moved," Sam said. "It's difficult to describe my feelings—what can you say when the kinds of things that 15 years of your life were wrapped up in are suddenly before you."

Well, it's difficult to describe my feelings about that comment. What can you say about an American who spent 15 years helping bring to power a regime which seeks to extort our economic assistance by holding for ransom the bodies of dead American pilots?

Sam appears a mite more candid these days about the kind of peace he always sought for Southeast Asia. He is more candid about other matters as well.

In an interview in December Penthouse—that journalistic compost heap where radical politics is mixed evenly with softcore pornography Sam volunteered his views * * * colleagues at the FBI and CIA:

"I take second place to no one in my hatred of the intelligence agencies."

His indulgent interrogator wondered if perhaps the wealthy, the business community, and Republicans in general might not feel a bit threatened by what Sam was up to at ACTION.

"I assume they will and they ought to." said Sam. "If they don't then I'm not doing my job."

The budget for Brown's umbrella agency is around $200 million. And there seems little evidence to refute the charge of Illinois Republican Robert Michel that Brown is engaged in an "effort to transform ACTION into a tax-supported sanctuary for radical activists hired at outrageously high salaries."

Under Brown, ACTION is crawling with veterns of the "movement." Lee ——— one of the Chicago Seven. was brought aboard as a consultant at $180 a day. As director of VISTA, the domestic peace corps. Sam selected Margery Tabanian.

According to a recent conservative newsletter, Marge junketed to Hanoi at the height of the war, white American POW were down the street at the Hanoi Hilton being tortured in Uncle Ho's prisons.

She came home to declare, at a U.S. war crimes press conference, "It's no longer bridges, railroads and military targets that are being attacked, but 90-year-old men, and civilians who cannot run fast enough to bomb shelters."

Today, this Axis Sally of the Vietnam War takes home a higher federal salary than almost all the young American pilots she accused of war crimes six years ago.

Under her leadership VISTA has made a $400,000 donation to the Midwest Academy. Run by ex-SDSer Heather Booth, with the assistance of hubby Paul, the Chicago-based academy, by it's own admission, instructs radicals in confrontation tactics over such issues as government funding for abortion, and "redistributing social wealth and power."

Yet in a letter to The New York Times a month ago, Brown asserted his belief that "public funds should not be used to promote a political cause." His record in office belies that statement.

What is needed, and what appears to be coming, is a sweeping congressional investigation of ACTION. The nation has a right to know how under President Jimmy Carter an agency established to help the poor has become a burgeoning rabbit warren of the radical left.●

## THE FARM POPULATION

### HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. FRASER. Mr. Speaker, a recent editorial in the St. Paul Dispatch raises a fundamental question, "How long can the 'family farm' remain the 'family farm'?"

An increasing number of family farmers have to expand their farms in order to make an adequate return on their investment due to decreasing prices received for commodities tied to increasing costs of production. In Congress, we should look at the underlying reasons for the push to expansion as well as the result—larger farms run by fewer farmers.

The April 11, 1978, editorial is thought provoking and I hope my colleagues have an opportunity to read it.

The article follows:

THE FARM POPULATION

Fewer than 8 million Americans, out of a population of about 206 million, now live on farms, according to the Bureau of the Census.

Considering the annual surpluses produced by American agriculture, these figures could be considered a tribute to the farmer's efficiency—and so they are. We can take immense pride in the fact that with only about 3½ percent of our people engaged in growing crops, raising cattle and milking dairy herds, we vastly out-produce a country such as the Soviet Union, where nearly 50 percent of the people still are "on the land."

But the figures can be cause for concern, too. The decline in farm population in 1977—a decrease of 5.4 percent from the 1976 figures—was of course only a continuation of a long historical trend. Since 1970 alone the farm population has dropped an average of 3.1 percent per year.

Moreover, the figures are misleading, because the Census Bureau defines a farm as anything 10 acres or more producing $50 or more in agriculture products offered for sale. Considering that the average-sized farm is now 400 acres, it is obvious the actual number of real farm folks is much smaller than 8 million.

So what? What's to worry—so long as those left on the land are farming as much land as ever and can keep on outproducing everybody else in the world?

Well, how long can the "family farm" keep on expanding? The farmer who used to be able to handle no more than, say, 80 acres with his and his wife's labor and that of a hired hand, and two or three of his sons and daughters, now is, likely as not, farming 500 or 600 acres with only his wife to help. And doing a superb job. But is there not a limit to be reached? Is there not a point beyond which he cannot go even with the very latest and best and most powerful tractors and combines and multi-bottom plows? Isn't there a limit to the number of cows he can milk, no matter how efficient his all-electric operation?

How long can the "family farm" remain the "family farm"? That is the basic, and increasingly disquieting, question. That is a question that goes beyond (though it is related to) questions of parity, of seasonal fluctuations in prices, of the ever-increasing costs of production. Fundamental matters of production and distribution, involving changes that perhaps not even the best agricultural theorists can envision today, may be involved—indeed, will be involved if the farm is to remain a stronghold of individual initiative in the United States.●

## CONGRESSIONAL DECISIONMAKING PROCESS

### HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. HOLLENBECK. Mr. Speaker, there have been a number of issues throughout the 95th Congress involving major differences of opinion between the administration and members of the legislative branch. Those issues are well known to all of us—the B–1 bomber, the breeder reactor, the Panama Canal treaties, and Middle Eastern arms sales, to name just a few. When such issues arise, Members of Congress are faced with a multitude of pressures they must react to in arriving at their final voting positions. These include the views of their constituents, the views of other parties that may be affected by the legislation, their inclination (or disinclination) to support the President, and of course, the merits of the issue.

All too often this last item gets lost in the haze of conflicting arguments and pressures swirling about an issue. In some cases, due to overemphasis of certain arguments, such as potentially unfavorable reaction by the Executive to our legislative actions, we may fail to exercise our congressional mandates and responsibilities. It is for this reason that I want to call to your attention the remarks by my colleague, Congressman BARRY M. GOLDWATER, Jr., during a Science and Technology Committee markup session yesterday on an amendment concerning the Clinch River breeder reactor.

Mr. GOLDWATER'S thoughtful commentary goes right to the heart of the decisionmaking process that each of us,

as Members of Congress, must participate in on a daily basis. I commend these remarks to my colleagues, and congratulate Mr. GOLDWATER on his insight and, incidentally, on his contributions to a winning argument.

His statement follows:

STATEMENT BY CONGRESSMAN BARRY M. GOLDWATER, JR. ON THE AMENDMENT REGARDING THE CLINCH RIVER BREEDER REACTOR

Mr. Chairman, I am deeply disturbed by the gentleman's amendment, which apparently involves the termination of the Clinch River Breeder Reactor Project. The most striking feature of this amendment, in my opinion, is that it completely ignores the testimony that was presented to this Committee by the electric utility industry, reactor manufacturers and other participants in the nuclear program. What struck me most about that testimony is that the utility industry, which is responsible for keeping the lights burning in his country, came in here and told us that "the nuclear breeder reactor program is the backbone for our long-range capacity of providing a reliable source of electricity for the future generations of our society," and yet the amendment would destroy the keystone of that program.

We have also heard from the environmentalists, who are opposed to this amendment. Thus, we have a situation where both the nuclear advocates and critics are opposed to the approach now before us. Since it won't satisfy either of them, I don't see how we can proceed with it. We are, after all, meant to be a representative body, yet the decisions this amendment would make are not at all representative of the views they have expressed to us.

As to the views that were expressed by some of my colleagues here this morning, to the effect that they are for the breeder program but could not support Clinch River, I ask how we can ever expect to benefit from these energy technologies if we do not have the courage to build the plants that will show whether they are really practical? What is more, when I hear my colleagues say that we have to back off Clinch River because the President will veto it anyway, I ask if we are not abdicating our congressional responsibilities by this kind of approach. We have two independent branches of government in disagreement here, but if one, the Congress, refuses to exercise its duties due to fear that another, the Executive, will disapprove, then I say that we are ignoring our constitutional mandate to make ourselves heard.

Finally, perhaps the most striking feature of the Administration proposal to terminate Clinch River and establish a conceptual design study for a new, large breeder is that it seems to hold together on the surface, but analysis indicates that it has been thought out only to a point, beyond which it starts to unravel. This became apparent to me when I read the answers to the questions that I and other Members of this Committee submitted to the Department of Energy.

I don't know how many of my colleagues on the Committee have also taken the time to read these answers through, but I believe they contain several points which must be noted before we can act on the Administration proposal. They show, for example, that:

1. There is uncertainty within DOE as to exactly what the proposal would accomplish.

2. We may lose the utility industry as participants in future cooperatively-funded energy demonstration projects.

3. The Federal Government would be left with open-ended, unknown liabilities from the cancellation of Clinch River.

4. The number of people whose jobs would be lost would be at least twice that which we were told in testimony by the Administration.

5. Valuable licensing experience will be lost.

6. Unnecessary time will be lost in establishing the next breeder project, if it is ever established.

7. At least a ten-year delay will occur between the availability of the new breeder, if built, and the date when Clinch River was originally to be available.

8. Dangerous reliance will be placed on foreign technology, a situation which all previous Administration's and Congresses have rejected.

9. We are being given a snow job as to the "existence" of additional uranium supplies that might justify a delay in the breeder. There are no additional uranium supplies, at least not yet.

10. There are no firm criteria as to when the large breeder may be built, if at all.

It would seem to me as a matter of common sense, especially for all my colleagues who are "for" the breeder, that we should stop playing politics and vote this issue on its merits. And those merits, as the answers to my questions have shown, are clear—we still need Clinch River, and we will be greatly damaging the Nation's energy prospects if we meekly sit back and vote for its termination.●

## METAL INNOVATIONS

## HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. JACOBS. Mr. Speaker, new ideas are the stuff of which American industry is supposed to be made.

Therefore, I insert the following for the RECORD.

The article follows:

METAL INNOVATIONS CHIEF HIGH ON HIS NEW IRON POWDER PROCESS

(By Jim O'Connor)

STAMFORD, CONN.—M. D. (Doc) Ayers, president of Metal Innovations, Inc., here, is a man with an idea whose time he hopes has at long last arrived.

So far this year, he reports about a dozen companies have paid him a total of $60,000 to demonstrate his idea for production of iron powders and a variety of alloys through use of a water atomization process.

The resulting powders, as he has repeatedly shown, can be fed directly into a compacting mill, then into a sintering furnace and finally through a hot roll mill from which they emerge as strip ready for the fabricator.

"There is a worldwide need for strip and we could set up a 50,000 ton a year mill for $5-million . . . but no one wants to be first." he said during an interview last week.

"We can produce steel in gages ranging from 0.025 to 0.050 for about $100 a ton that would cost $200 a ton in the cold roll process," Ayers insists.

Moreover, he claims the finished strip will represent a 95 percent yield of the raw material, compared with about a 70 percent yield for a standard cold roll and anneal production.

The Ayers method can also be used to produce tool steel strip or billet from powder for conversion to rod with 50 percent better performance than conventional production methods, the inventor and holder of six patents declares.

In the Metal Innovations process, molten metal is poured from an electric furnace directly into a stream of water, the pressure and flow of which is carefully controlled.

Result is almost instantaneous atomization of the metal into a powder requiring no secondary annealing operation except drying before going to the compacting mill or, in the case of preforms, to the compacting press.

Among corporations Ayers says have looked at his process are General Motors, which was interested in stainless steel containers for the new catalytic converters and Westinghouse which was once interested in 42 percent nickel alloy for a controlled expansion alloy that could be sealed to glass.

Delay in the adoption of catalytic converters caused GM to postpone further stainless steel work and Westinghouse subsequently went out of the alloy business.

Last year, Ayers and his two-man staff produced 5,000 pounds of nickel powder for Sherritt Gordon at a rate of 1,000 pounds a day, but he is uncertain about that company's plans.

Because his equipment here is suited only to pilot size runs from 100 to 300 pound melts, demonstration strip is usually limited to 10 to 12 foot lengths and 3 to 6-inch widths.

However, conversion of melt to powder is so rapid that in a commercial model, Ayers is convinced that continuous strip production would be practical.

Sample strip produced has included low carbon, carbon, tool steel and silicon, nickel and copper alloys.

Ayers held supervisory jobs with U.S. Steel, Stelco, Wheeling Steel and with Kennecott Copper Corporation, where he was assistant to the president and later director of engineering before leaving in 1963 to pursue his powder process.

Since then, he has exhausted most of his personal funds and has raised some capital through sale of stock to members of his family to keep the pilot plant going.

"Our number one problem is to get the first powder plant and strip plant going commercially," he said. "We have the processes and plans to scale up to commercial production and can build it, but we don't have the money to do it."

"Our process involves low capital cost, low operating costs and eliminates eight or nine operations in standard steel production. Our second problem is to get some interested company to be first." Ayers said.

MAYBE GREATEST YEAR EVER AT OVER 150 MILLION TONS TO WIN BACK NO. 1 SPOT

(By Hi Howard)

PITTSBURGH.—The American steel industry has just about chalked up its greatest year in history.

By yearend, barring a most unlikely catastrophe, its production of raw steel will have reached an unprecedented 150-million tons-plus and its shipments of finished steel products will have hit an all-time high of at least 108-million tons and perhaps as much as 110-million tons.

In physical achievement—in the smelting of iron ore, in the coking of coal, in the rolling, processing and finishing of steel into myriad forms—many new records will almost certainly be established.

During 1972, for the first time in more than half a century, the United States lost world leadership in steelmaking to another nation. The Soviet Union actually poured more raw steel.

But this year American steelmakers will almost certainly win back the No. 1 position.

Almost every domestic mill is crammed with orders, and most are rigidly controlling their acceptance of additional orders, even from old customers.

In a market that appears stronger and broader than ever before, indications are that the producers of every kind of steel—stainless and alloy, as well as carbon grades—will be able to sell all they can make not only through the remainder of 1973, but deep into 1974.

It is obvious, currently, that the American steel industry doesn't have sufficient capacity to make all the finished steel that American consumers need and want.

The actual consumption of finished steel in the U.S. is expected to reach around 120-million tons by yearend.

But total domestic mill shipments including about 4-million tons into the export trade (mostly fulfilling long-term commitments) probably won't exceed 110-million tons even though the nation's steelmakers continue to run at full capacity.

To make up for most of the shortfall between actual consumption and domestic supply, steel imports this year will total from 14-million to 15-million tons, and may be even higher.

In general, the price tags on this imported metal have been as high or higher than those on domestic mill products. So it's generally agreed that the domestic mills could have sold considerably more if they had had it to sell.

Which raises a big question:

Why doesn't the American steel industry have enough capacity to meet at least domestic needs?

As part of the answer, as has already been brought out, U.S. steelmen point to their industry's poor profitability over recent years.

UPSURGE IN IMPORTS

But they also put much of the blame for the earnings lag on the tremendous upsurge in steel imports between the years 1965 and (expectedly) 1973—an upsurge which continued despite such feeble restraining moves as the so-called "voluntary quota arrangements."

Both parts of this answer, they explain, are intertwined. Since the imported steel was being offered at prices well below domestic mill prices, competition held down all steel prices and the domestic steel industry couldn't earn enough to spend enough.

At the same time, since foreign mills had captured such a large share of the American market, most American steelmakers couldn't boost their sales volume sufficiently to financially justify adding more capacity.

During the years from 1965 through 1972, the records show that steel consumption in the U.S. (as measured by the total purchases of steel) rose 6.4-million tons annually, while imports gained 7.6-million tons annually and domestic mill shipments to domestic consumers fell off 1.2-million tons a year.

In short, imports not only took all of the growth in total steel demand, but also cut into domestic mill sales.

IMPORTS REDUCING

During 1971, steel imports captured 18.4 percent of the total U.S. market for finished steel. During 1972, partly because of the dollar's devaluation, imports eased a bit but still gobbled up 17.2 percent of the whole market.

This year, with steel demand at a new peak not only in the United States but around the world, steel imports will be down again, probably to about 15-million tons, or about 12.5 percent.

But the import decline this year doesn't reflect any real improvement in the domestic industry's ability to compete against foreign mills.

Rather, it will mainly reflect the superstrong demand for steel in Europe, in South America and in the Orient, and the fact that world prices for steel have bounded up to levels as high or higher than in the U.S.

The foreign mills are simply selling more of their steel in their home markets. The Japanese mills, in particular, have a bigger home market, and also have found new and sometimes more attractive markets in other countries since the dollar's second devaluation and the imposition of price ceilings on American-made steel.

Practically gone from the marketplace are the "bargain" prices on steel formerly quoted by importers. And left in the lurch are a number of domestic steel users who were big customers of foreign-made steel while it was readily available at low prices.

Many of these have, of course, tried to turn back to domestic suppliers, but—understandably—aren't getting much sympathy or help.

What's obvious, of course, is that the foreign mill retreat from the American steel market has thrown the full burden of meeting this year's much-greater-than-expected upsurge in steel demand upon the domestic mills.

What consumers want to know is what can and should be done to make enough steel dependably available in the domestic market as soon as possible.●

## VERMONT LEGISLATURE SUPPORTS FEDERAL FUNDING FOR BARRIER REMOVAL FOR THE HANDICAPPED

### HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. JEFFORDS. Mr. Speaker, I would like to bring to your attention a joint resolution passed by the General Assembly of the State of Vermont regarding the Federal funding of special education. The Vermont State Legislature specifically endorses two bills on this issue: H.R. 7626 and H.R. 9761.

I introduced H.R. 7626 on September 7, 1977, as an attempt to focus congressional attention on the extremely unfair situation created by the wide-reaching section 504 of the Vocational Rehabilitation Act of 1973, which prohibits discrimination against the handicapped. This law was passed 5 years ago, and there has not been a penny of Federal money appropriated to help the States comply with the HEW regulations. A conservative estimate from an unofficial study done by HEW is that it would take $2.4 billion to correct current violations of this law. Others estimate the amount to be considerably higher; probably as high as $50 to $100 billion. Although my constituents know that I do not normally advocate this type of Government spending, H.R. 7626 would authorize $6 billion for the implementation of section 504. Otherwise, the burden will continue to fall, as it does now, at the State and local level, and will strain already tight resources. The Education and Labor Committee has begun to hold hearings on the reauthorization of this act, and I expect that this funding problem will be addressed, and hopefully alleviated in the near future.

The people in the State of Vermont recognize the need to do something for handicapped citizens. I think the State is addressing its responsibilities and is perceptively moving in the right direction. The resolution by the general assembly reflects a recognition of the problems they face. I can assure them, as well as my colleagues, that I will continue to work very hard to attempt to solve these problems.

The text of the resolution follows:

R–70. JOINT SENATE RESOLUTION RELATING TO FEDERAL FUNDING OF SPECIAL EDUCATION

J.R.S. 40

Whereas, the federal government, through the enactment of P.L. 94–142, the Education of all Handicapped Children Act of 1975, has required that the state guarantee a free appropriate public education to all handicapped children in Vermont by September, 1978; and

Whereas, despite the requirement in P.L. 94–142 that the state guarantee free appropriate special education services this year, the federal government proposes to phase in its financial commitment to support these services through 1982; and

Whereas, federal grants to provide special education services to handicapped children under P.L. 94–142 will only, at best, provide a fraction of the funds required of the states beginning at 5 percent of the average per pupil expenditure in the United States in 1978, and increasing to 10 percent in 1979, 20 percent in 1980, 30 percent in 1981 and reaching 40 percent in 1982; and

Whereas, the federal government, through P.L. 94–142, is attempting to achieve maximum control over state special education policies and procedures with a minimum of federal financial support; and

Whereas, the federal government, through section 504 of P.L. 93–112, the Rehabilitation of the Handicapped Act of 1973, has provided as a matter of civil right a federal action against discrimination on the basis of handicapping condition; and

Whereas, through the enactment of this "section 504" the federal government has exposed the state to potentially expensive civil liability, particularly with respect to architectural barriers to the handicapped in public buildings, yet has provided no federal financial contribution to meet this liability, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly of the state of Vermont endorses the laudatory purposes of P.L. 94–142 and "section 504" of P.L. 93–112 to provide a free appropriate public education to handicapped children and to remove any remaining discrimination against them, and be it further

Resolved: That the federal government must recognize its responsibility to provide an equitable share of the resources required to meet these commitments it has imposed, and be it further

Resolved: That the General Assembly of the state of Vermont petitions the Congress of the United States to enact legislation similar to that introduced by Vermont Congressman James Jeffords (HR 7626) to provide federal funds to assist states in complying with section 504 of the Rehabilitation Act of 1973, and to enact legislation (HR 9761) to increase the federal share of special education costs under P.L. 94–142 to 40 percent immediately, rather than moving up gradually from the 5 percent level as currently authorized, and be it further

Resolved: That a copy of this joint resolution be sent by the secretary of state to the President of the United States, the Secretary of the Agency of Health, Education and Welfare and the Vermont Congressional Delegation.

Approved: February 14, 1978.●

## NORTHEAST COUNCIL'S RESOLUTION ON ISRAEL

### HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. EILBERG. Mr. Speaker, on Thursday evening, April 6, I was privi-

leged to address a rally of several hundred persons in Philadelphia who came together to demonstrate their concern for the administration's policies in the Middle East.

The rally was organized by the Northeast Council of Synagogues, a coordinating body for 15 synagogues in northeast Philadelphia.

Those in attendance, Mr. Speaker, were unanimous in their feeling that the administration is making a serious error in proposing the sale of fighter-bombers to Saudi Arabia and Egypt. I joined other speakers in pointing out that the sales will create greater instability and more tension in the Middle East, and will lead to a higher level of violence should a conflict take place.

Participants in the program also urged President Carter to not apply pressure on Israel to make concessions which will endanger her security. At the conclusion of the event, the following resolution was adopted by acclamation. I would like to offer it for the RECORD and commend it to the attention of my colleagues:

A RESOLUTION

Whereas Israel is facing a crisis in the world arena more threatening and more deadly than any war she has ever fought, and

Whereas this conflict finds Israel being buffeted on one hand by an Arab diplomatic effort that includes oil blackmail and on the other hand by a most serious change in the position of the United States, and

Whereas Israel is a homeland, a nation, a heritage and a people brutalized by oppression but sustained by hope; driven through persecution but maintained by an eternal dream; challenged in war but proud in victory and prayerful for peace, and

Whereas Israel is a symbol of freedom of faith and of tradition to men of all religious beliefs, and

Whereas the survival of Israel demands the outward and public expression of concern and support by Americans of all religious beliefs and ethnic traditions,

Now, therefore, we the members of the Northeast Synagogue Council and the Northeast Jewish Community call for the Carter Administration to unite and give positive support to the State of Israel, its firmest ally in the Middle East.●

## CHARLES S. V. SANNER

### HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. BYRON. Mr. Speaker, I would like to take this opportunity to honor the memory of a native Frederick County Marylander and highly respected citizen of Frederick, Mr. Charles S. V. Sanner.

Certain individuals touch the lives of people around them with great influence, and Charles Sanner was a moving force in his community and State. It is with a great sense of personal loss that I note his passing.

Mr. Sanner was president of Sanner Realty Co., and had served as president of the Frederick Association of Insurance Agents, president of the Frederick Real Estate Board, chairman of the Frederick County Insurance Committee, chairman of the Agents Advisory Committee, director of the Montgomery Mutual Insurance Co., and on the agents advisory committee of the Travelers Insurance Co., Baltimore.

Giving tireless leadership and encouragement to the business and civic communities, Mr. Sanner was involved with the Frederick County Chamber of Commerce, Frederick Rotary Club, Frederick YMCA, Hood College, American Legion, and was particularly devoted to the Evangelical Lutheran Church.

Although Mr. Sanner's contributions are too numerous to list here, his services will long be remembered and appreciated. He will be greatly missed by his wife, Pat, and family, friends and coworkers. I know you join me in extending the official sympathies of the House in honor of this unselfish and patriotic American.●

## HUMAN RIGHTS IN IRELAND DAY PROCLAIMED IN KANSAS

### HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. BIAGGI. Mr. Speaker, I am pleased to report that the State of Kansas has joined the growing national movement concerned with ongoing human rights violations which occur in Ireland. Senate Concurrent Resolution 1688 proclaiming March 17, 1978, as Human Rights Day for Ireland was passed by the Kansas Senate on March 16 and the House on the 17th.

The more States which adopt these types of measures the more impetus will be placed on the Congress for hearings. The importance of hearings cannot be minimized. It can allow for constructive discussion of the major issues which divide Ireland as well as the various proposals which could bring peace.

At this point in the RECORD I wish to insert the Kansas resolution which was provided to me by President Jack Keane of the Ancient Order of Hibernians. I praise the Kansas legislators for this important initiative.

SENATE CONCURRENT RESOLUTION No. 1688

A concurrent resolution recommending that the Legislature declare March 17, 1978, as "Human Rights Day For Ireland"

Whereas, St. Patrick's Day is an appropriate time for all citizens to recall the many contributions made by the Irish people to the history and culture of the United States and to the State of Kansas. It is a source of pride, which all citizens can share in, that so many Irish men and women have helped to build and develop this great country; and

Whereas, Nine men who signed the Declaration of Independence were of Irish descent and thousands of Irish people fought in this young nation's Revolutionary Army; and

Whereas, The generosity, warmth and kindness of the Irish have made them a welcomed addition to the melting pot of America; and

Whereas, Ireland today is torn apart by violence. A country cannot be joined by such violence, but must be joined by a common effort by both the North and the Republic, by Catholics and Protestants to establish a system of government in which both communities will live in economic, political and social harmony. It is the love that each Irish man and woman has for their fine country that will create the foundation of a peaceful Ireland; and

Whereas, Not all Irish eyes are smiling on March 17: Now therefore,

*Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein:* That we hereby declare March 17, 1978, as "Human Rights Day for Ireland", to focus both world and state attention to the trouble in Ireland and to show that we are concerned about the human rights, justice and peace of all the people of Ireland; and

*Be it further resolved:* That the Secretary of State forward an enrolled copy of this resolution to Mr. B. M. Watters, President, Jackson County Ancient Order of Hibernians, 5850 Central, Kansas City, Missouri 64113, Mr. Jack Keane, National President of Ancient Order of Hibernians, 7648 Grant Haven Dr., Affton, Missouri 63123, Mr. John W. Duffy, National Secretary of Ancient Order of Hibernians, 235 Wadsworth Ave., New York, New York 10033, and Ambassador John G. Molloy, 2234 Massachusetts Ave. N.W., Washington, D.C. 20008.

I hereby certify that the above CONCURRENT RESOLUTION originated in the SENATE, and was adopted by that body March 16, 1978.

ROSS O. DOYEN,
*President of the Senate.*
LU KENNEY,
*Secretary of the Senate.*

Adopted by the House March 17, 1978.

JOHN CARLIN,
*Speaker of the House.*
GENEVA SEWARD,
*Chief Clerk of the House.*●

## HUMPHREY-HAWKINS: AN IMPORTANT FIRST STEP

### HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. HAWKINS. Mr. Speaker, the House passage of H.R. 50, the Full Employment and Balanced Growth Act of 1978, demonstrated a willingness of this Congress to begin the task of reactivating our economy, which for so long has squandered our most important resource—the talent and energy of the American people. I would like to submit to my colleagues an editorial by the Christian Science Monitor on the new House version of H.R. 50, as I feel it accurately summarizes the bill's scope and purpose:

Let us assume that the Senate will pass the Humphrey-Hawkins jobs bill as the House of Representatives did last week. Then comes the hard part: ensuring the legislation is carried out to the best of its intentions. It gives the White House a mandate all too easy to avoid unless the Congress and public insist that it be followed through in good faith.

The Senate should not pass the bill as a deserved monument to Sen. Hubert Humphrey but as what Sen. Muriel Humphrey calls "an essential first step in moving America toward a new era of full employment and vigorous, stable economic growth."

Seen in this measured way, the bill should escape the danger of raising false hopes about a federally guaranteed end to unemployment. (It is not a jobs bill in the sense of creating or funding jobs.) And the emphasis on "stable economic growth" is

a reminder that the bill does not forget the control of inflation while placing jobs for everyone willing and able to work at the center of government policy.

Note that jobs and growth are combined in the title of the Humphrey-Hawkins Full Employment and Balanced Growth Act. Unlike the landmark Employment Act of 1946, which neglected the problem of inflation, Humphrey-Hawkins makes price stability a goal along with its effort, three decades later, to fulfill the spirit of the earlier act.

To combat inflation Humphrey-Hawkins proposes such measures as stockpiling critical raw materials, strongly enforcing antitrust laws, and instituting early warning systems to prepare against industrial capacity shortages. Suppose the mandated jobs goals—3 percent adult unemployment and 4 percent overall unemployment within five years of passage—conflict with inflation control. Then the bill allows the president to propose modifications of the goals.

It suggests governmental avenues of attacking structural unemployment through such means as targeted revenue sharing and public works. But the main thrust is toward use of the private sector and appropriate government policies to foster it. Gone is the specter seen in the original bill of generous government jobs drawing people away from the private sector.

Doubters on one side now call Humphrey-Hawkins, as adjusted to satisfy President Carter, a "sanitized" or toothless document, a paper tiger. On the other side, there are estimates of the billions of dollars required if the unemployment reductions are seriously sought.

Yet is there any economic goal more worthy of investment than ensuring jobs for all who want to work, especially in view of America's traditional commitment to and benefit from the work ethic? And even the sanitized Humphrey-Hawkins takes the unprecedented steps of requiring the president each year to state explicit employment goals and recommend the fiscal and monetary policies to achieve these goals. The Federal Reserve System would have to submit a written report on how its monetary policies were designed to support the president's numerical goals for employment, prices, and production.

Would such statements and reports become just rhetoric and more rhetoric? Not in the hands of a responsible president, a cooperative Federal Reserve Board, and a Congress diligent enough to demand its legislation not be ignored and to follow through with action.●

## VIGIL FOR FREEDOM

### HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mrs. HECKLER. Mr. Speaker, I am pleased to participate in the "vigil for freedom" on behalf of Soviet Jewish families and individuals who are being refused permission to emigrate from the Soviet Union, but I am disheartened that the family for whom I spoke last year must again be the subject of my plea this year. The Inditsky family of Moscow is still waiting—for 7 years now—they are still waiting for permission from Soviet authorities to join their relatives in Israel.

Solomon Inditsky, his wife, Khana, their daughter, Isabella Novikova, and their grandson, Mark, have applied four times for permission to emigrate. Each request has been denied. Last year Mark became a Bar Mitzvah in a private apartment in Moscow. He could not be called to the Torah in the synagogue—authorities would not allow it because this 14-year-old is a refusenik.

Once again, I join with the pleas of their family that the Inditskys be allowed to emigrate and join their relatives in Israel.●

## ATTORNEY FEES AND EXPENSES IN CIVIL SUITS INVOLVING THE UNITED STATES

### HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. DRINAN. Mr. Speaker, under existing law, a private person who is involved in litigation with the U.S. Government or one of its agencies or employees must bear the fees and expenses of attorneys. Only under a handful of statutes may such private party recover its counsel fees. Indeed prior to 1966, a private person could not even recover its costs of litigation (as distinguished from counsel fees). In that year, Congress amended the law to allow courts to award costs (but not attorney fees) against the Government when a private litigant prevailed.

Since 1966, individuals and organizations representing a wide variety of interests have asked the Congress to take the second step of repealing the prohibition against the award of attorney fees against the Government. In a few limited areas, such as under the Freedom of Information Act, Congress has responded to such requests. In addition a number of bills have been introduced which, to varying degrees, would modify or totally abrogate the existing rule.

For the past 2 years, the Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice, on which I serve, under the able leadership of Chairman KASTENMEIER, has explored various proposals in the attorney fee area. In 1976 we reported the Civil Rights Attorney's Fees Awards Act of 1976, which became Public Law 94-559. More recently we have examined other possible corrective action, including the question whether the prohibition against awarding fees in Government litigation should be removed.

At the suggestion of Chairman KASTENMEIER, I have undertaken to study this matter in greater detail. After consulting with a large number of groups and individuals, I have concluded that legislative action should be taken to permit private parties to recover their attorney fees when they prevail in litigation with the Government. Consequently, yesterday I introduced H.R. 12088 which would authorize the courts to award attorney fees and expenses to a prevailing party, other than the United States, in any civil action brought by or against the Government or one of its agencies, officers, or employees.

The bill would codify the dual standard for recovering such fees and expenses which the Supreme Court adopted in Newman against Piggie Park Enterprises and Christiansburg Garment Co. against Equal Employment Opportunity Commission. The essence of the dual standard is that prevailing plaintiffs should ordinarily recover their counsel fees in the absence of circumstances which would render such an award unjust. In contrast, prevailing defendants would recover their fees only if they could show that the action of the United States "was brought without foundation, vexatiously, frivolously, or in bad faith." The quoted words, which are in the bill, are drawn directly from the Christiansburg Garment case.

The rationale of the dual standard rests on the proposition that, "when a district court awards counsel fees to a prevailing plaintiff, it is awarding them against a violator of Federal law," as the Supreme Court observed in Christiansburg Garment. In contrast, a prevailing defendant does "not appear before the court cloaked in a mantle of public interest," as the Third Circuit Court of Appeals noted.

The bill also codifies the emerging judicial doctrine that a prevailing plaintiff, at least in some circumstances, may recover counsel fees expended before an administrative agency in cases where the litigant must first appear before such an agency. In many instances a person seeking to challenge adverse agency action must first go to the agency to seek relief or to present its case. Only then can the person proceed into the courts to secure a judicial ruling on the correctness of the administrative determination. The bill gives the court discretion to award the fees spent before the agency when the judicial action arises directly out of the administrative proceeding.

In addition the bill codifies court decisions which allows the award of attorney fees and expenses at an interim stage of the litigation. Recognizing that some litigation does not come to a resolution quickly, the courts have awarded such fees at important stages of the case prior to the entry of a final judgment. For example, plaintiffs will often seek preliminary relief to protect their rights at an early stage of the litigation. Indeed, issuance of a preliminary injunction may effectively resolve the controversy even though a final order is never entered, or entered many months later. When a court enters an order which "determines substantial rights of the parties," it should have the discretion to award fees at that stage of the cause. In Bradley against Richmond School Board, the Supreme Court approved such interim awards.

Of course, a plaintiff who wins a preliminary ruling may not ultimately win the lawsuit. Thus, it may be argued, it is not fair to make the defendant pay an interim award when the defendant may eventually prevail. To guard against such unjust enrichment, the bill authorizes the courts, when they award interim fees, to require the plaintiff to post a bond covering the amount of the award. In this

manner the defendant's interests will be sufficiently protected while, at the same time, securing to the plaintiff its right to an interim award.

Once the court has determined that a prevailing party is entitled to attorney fees and expenses, then it must approve an appropriate amount. Because the circumstances of each case vary, the bill commits this decision to the sound discretion of the courts. It is noted, however, that the courts should recognize existing standards which have been developed through the years to guide the exercise of that discretion. In Johnson against Georgia Highway Express, Inc., for example, the Fifth Circuit Court of Appeals listed 12 factors to be considered in determining the reasonableness of awards, including the time and labor required, the novelty and difficulty of the questions involved, the skill needed to present the case, the customary fee for similar work, and the amount received in damages, if any. These standards are discussed at greater length in House Report 94–1558 and Senate Report 94–1011, which accompanied the 1976 Fees Awards Act.

H.R. 12088 also amends the Civil Rights Attorney's Fees Awards Act of 1976. It would repeal the Allen amendment which permits a private defendant in tax cases brought by the Government to recover attorney fees upon a showing that the case was brought frivolously, vexatiously, or in bad faith. Senator ALLEN himself has expressed his disagreement with the court decisions which have narrowly construed his amendment. H.R. 12088 would correct the deficiencies which Senator ALLEN perceives in the 1976 Awards Act. Because my bill would allow taxpayer plaintiffs who prevail in suits brought against the United States, including those in the tax court, to recover their attorney fees, the Allen amendment is no longer needed.

The bill corrects two other deficiencies in the 1976 Awards Act. That statute allows prevailing parties to recover their counsel fees in cases instituted under title VI of the Civil Rights Act of 1964 and title IX of the Education Amendments of 1972. Together those titles prohibit discrimination on the basis of race, color, sex, or national origin in certain federally assisted programs or activities. Title V of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975 have similar provisions which protect the rights of handicapped persons and older Americans. H.R. 12088 would add these two statutory provisions to the 1976 act so that civil suits brought under them would have the benefit of the Fees Awards Act of 1976. I should add that I recently joined my good friend Chairman PEPPER on his bill which would amend the Age Discrimination Act of 1975 to authorize private suits expressly and to provide for attorney fees in such actions.

H.R. 12088 does not repeal any existing statute which permits counsel fees to be awarded against the United States. There are presently about a handful of such acts. They would continue in force. If a prevailing party has an option of seeking fees under a current statute or under H.R. 12088, such party could choose the law under which fees are claimed, unless existing law expressly prohibited such option. For example, under the Social Security Act, 42 U.S.C. 406(b), the court may award an attorney's fee:

out of, and not in addition to, the amount of such past-due benefits. In case of any such judgment, no other fee may be payable or certified for payment for such representation except as provided in this paragraph.

H.R. 12088 would also require the Comptroller General to prepare an annual report for the Congress which would describe the nature and size of awards made under the law. This would permit the appropriate committees to evaluate the implementation of the statute to determine whether any modifications are needed. It would be a useful tool in exercising oversight responsibilities in this critical area.

Finally H.R. 12088 continues the existing rule regarding the award of costs in cases involving the United States. The prevailing party, including the Government, is entitled to recover its costs of litigation, such as filing and witness fees, certain transcript and deposition expenses, and similar items. The bill omits the reference to 28 U.S.C. 1920, contained in current law, because the courts have not restricted the award of costs only to the items listed in section 1920. Dropping the reference to section 1920 places the United States on an exact parity with the private litigant, which was the original objective of the 1966 legislation. This technical change conforms to the aims of the earlier amendment.

Chairman KASTENMEIER has advised me that hearings on H.R. 12088 will occur on April 26 and 27. Any person interested in submitting testimony on this matter should contact Ms. Gail Higgins Fogarty on the subcommittee staff (225–3926). A copy of the bill is inserted in the RECORD at this point:

H.R. 12088

A bill to amend title 28 of the United States Code to authorize the payment of reasonable attorney fees and expenses to the prevailing party (other than the United States) in any civil action brought by or against the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2412 of title 28 of the United States Code is amended to read as follows:

"§ 2412. Costs and attorney fees

"(a)(1) In any civil action brought by or against the United States, any agency thereof, or any official thereof acting in an official capacity, the court having jurisdiction of such action (including the Tax Court of the United States)—

"(A) may award costs to the prevailing party; and

"(B) may award reasonable attorney fees and expenses to the prevailing party (other than the United States or an agency or official thereof), except that the court may award reasonable attorney fees and expenses to a prevailing defendant only if the court determines that the action was brought without foundation, vexatiously, frivolously, or in bad faith.

"(2) Costs and attorney fees and expenses awarded under this section to the prevailing party in a civil action shall be paid by the opposing party, except that a non-Federal litigant joined with the United States as a party in such action shall not be liable for the payment of attorney fees and expenses.

"(b) A judgment in a civil action awarding reasonable attorney fees and expenses under this section may include any such fees and expenses which were incurred in any administrative proceeding which is the subject of review in such action or incurred in any appeal or other review of such action.

"(c)(1) Upon the entry of any order which determines substantial rights of the parties in a civil action brought by or against the United States, any agency thereof, or any official thereof acting in an official capacity, the court may award interim costs and reasonable attorney fees and expenses to the prevailing party (other than the United States or an agency or official thereof) if the court, upon application of the prevailing party, determines that such party is likely to prevail on the merits in the action.

"(2) The court in its discretion may require the posting of a supersedeas bond by a prevailing party awarded interim costs and reasonable attorney fees and expenses under this subsection.

"(d) Payment of a judgment for costs and reasonable attorney fees and expenses shall be as provided in section 2414 and section 2517 of this title for the payment of judgments against the United States.".

(b) The table of sections for chapter 161 of title 28 of the United States Code is amended by striking out "Costs." in the item relating to section 2412 and inserting in lieu thereof "Costs and attorney fees.".

SEC. 2. Section 2414 of title 28 of the United States Code is amended by inserting immediately after the first undesignated paragraph thereof the following new undesignated paragraph:

"At the end of each fiscal year, the Comptroller General shall submit a report to the Congress setting forth the amount of costs and attorney fees and expenses awarded during such fiscal year for payment by the United States (or any agency or official thereof) under section 2412 of this title or any other provision of law which authorizes such awards. Each such report shall describe the nature and amount of the awards, the claims involved in the civil action, and other relevant information which will aid the Congress in evaluating the scope and impact of such awards.".

SEC. 3. Section 722 of the Revised Statutes (42 U.S.C. 1988) is amended by striking out "or in any civil action or proceeding by or on behalf of the United States of America, to enforce, or charging a violation of, a provision of the United States Internal Revenue Code" and inserting in lieu thereof "title V of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975".

SEC. 4. Nothing in this Act shall affect any right of any person to recover costs and attorney fees and expenses under any other provision of Federal Law.●

## TEXAS UTILITIES COMPANY WINS EDISON AWARD FOR LIGNITE USE

### HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. WRIGHT. Mr. Speaker, my State of Texas sometimes is associated in the public mind with oil and gas, and not coal. And yet it is going to be necessary for utilities in Texas to convert to coal for power generation, as must utilities in other States.

Yesterday marked a significant step in that conversion process when the Edison Electric Institute presented its Edison Award to the Texas Utilities Co. system for innovative development of lignite fuel resources in the generation of electricity. The system includes Dallas Power & Light Co., Texas Electric Service Co., Texas Power & Light Co., Texas Utilities Fuel Co., Texas Utilities Generating Co., and Texas Utilities Services, Inc.

The Edison Award, highest honor of the electric utility industry, was presented to T. L. Austin, Jr., chairman of the board of Texas Utilities Co. at the 46th annual convention of the Edison Electric Institute, being held in Houston.

The text of the award reads as follows:

EDISON AWARD, 1978

For demonstrated foresight and aggressive action in reducing its dependence on natural gas from 100 percent of electric generation in 1971 to 66 percent in 1977, for development of lignite as a low-cost fuel alternative, and for conducting exemplary reclamation of the land mined for lignite, all representing highly constructive steps in making the best use of fuel resources, meeting energy needs and accomplishing environmental goals to the benefit of its customers and its service area, Texas Utilities Company System, consisting of Dallas Power & Light Company, Texas Electric Service Company, Texas Power & Light Company, Texas Utilities Fuel Company, Texas Utilities Generating Company and Texas Utilities Services Inc., is declared the recipient of the Edison Award for 1977.●

## GOVERNOR ROMERO OF PUERTO RICO TAKES A LEADERSHIP POSITION REDUCING UNNECESSARILY HIGH TAX RATES AND ENCOURAGING ECONOMIC GROWTH

## HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. KEMP. Mr. Speaker, this morning it was reported that our friend, Gov. Carlos Romero Barcelo of Puerto Rico, will soon propose a dramatic reduction in individual income tax rates, which go up as high as 83 percent in Puerto Rico. A key feature of the Barcelo program is a reduction in the highest rate from 83 to 50 percent. He notes that all the rates from 50 to 83 percent raise only $12 million per year for the Government and the Governor expects the increase in output which would result from such a rate reduction to make up the loss tenfold.

This is precisely the same point I have made in offering a 30-percent reduction in the U.S. tax rates. At present the 70- to 50-percent rates raise only about 6 percent of individual income tax revenue. But the cost of such high rates is to discourage work, investment, and entrepreneurship so that much more revenue is lost than gained.

I hope my colleagues will read this article about Governor Barcelo and join us in a similar effort to reduce tax rates and restore real growth to our economy.

[From the Wall Street Journal, Apr. 12, 1978]

PUERTO RICO ON THE MOVE

Believe it or not, one of the most popular fellows in Puerto Rico these days is Fred Martinez, director of internal revenue. Unlike our IRS director, Darth Vader, who likes to tax the wings off flies, Mr. Martinez a few weeks back let it slip to the San Juan Star that his boss, the governor, was planning some big tax-rate cuts on personal incomes to get the island economy off its bottom.

The Star rhapsodized editorially. After all, Puerto Rico has progressive personal tax rates that make U.S. rates look benign, rising to 83% at the top. A further clinker is a prohibition against separate returns by husbands and wives, which any taxi driver in San Juan can tell you encourages divorce.

The only trouble was that Gov. Carlos Romero Barcelo had not wanted the news to slip out before he had his legislative package designed and defensible. He issued a statement denying the Star article, and the Star, which is not especially cozy with his Republican administration, blasted him editorially for not coming through. The populace muttered about running Mr. Martinez for governor.

But Gov. Romero has now put himself clearly in the forefront of the tax cutting movement. On Monday First Boston Corp. hosted a breakfast seminar in Manhattan to hear the governor and his economic team outline their economic strategy. The wall-to-wall financiers heard Mr. Romero announce publicly that come Jan. 1, the legislature willing, there will be major reductions in the island's personal tax rates.

This is cheering news. There are still no specifics, but we would not be surprised if the proposal that does go to the legislature calls for a cut to 50% in the top bracket and adjustments across-the-board to bring the personal rates in line with the mainland's. Economist Arthur Laffer of the University of Southern California, a consultant to Puerto Rican Treasury Secretary Perez, has been urging such reductions. The theory embodied in the "Laffer curve" is that when tax rates are too high, reducing them will spur the economy and thus actually boost government revenue.

The highest rates—those at the top of the progressive schedule—produce almost no revenue for the Puerto Rican government, but stand simply as a barrier to productivity. What good does it do to attract financial capital from the mainland with business-tax holidays when top flight managerial talent flees the withering steepness of the personal taxes? Local professional talent bails out too, and there's nobody left to pay the top rates.

In 1975, with total island revenues topping $1.5 billion, the personal brackets from 50% to 83% produced a mere $12 million for the treasury over and above what a top rate of 50% would have yielded. Secretary Perez judges that the economy and tax base would expand so handsomely at the lower top rate that the implied revenue loss of $12 million would be made up tenfold.

It's all about time. The currency inflation of the last several years has been especially brutal to Puerto Rico precisely because its personal rates are so much more progressive than the mainland's. The economy has been barely limping along, with unemployment hovering around 20% for the last few years. The preceding Democratic administration made matters worse by trying to fight inflation with a 5% surtax atop all the other personal taxes. Gov. Romero peeled this away last year.

His commitment Monday to peel the personal rates further is an important breakthrough for Puerto Rico. The commonwealth is no stranger to tax incentives as a key to productivity, but until now it has been totally preoccupied with luring mainland capital and mainland enterprises. The lower personal rates for Puerto Ricans will invite internal generation of capital and enterprises.

The moves will be carefully watched throughout the Caribbean, and ought to be watched throughout the Third World, most of which has tax structures similar to Puerto Rico's. For that matter, the experiment ought to be watched here on the mainland too, as a controlled experiment, with the Laffer curve. If Gov. Romero does cut personal income tax rates, especially at the top, and it does boost the Puerto Rican economy, we all will have learned a great deal about economic expansion.●

## GREAT REDWOOD COMPROMISE

## HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. DON H. CLAUSEN. Mr. Speaker, legislation has recently been enacted almost doubling the size of the Redwood National Park. Many Members voted for this bill under the mistaken idea that the redwoods were endangered, and that park expansion was necessary to save the tall trees. While the environmental benefits of park expansion are of dubious value, the economic hardship and human suffering this legislation will inflict upon the people of Humboldt County is only beginning to manifest itself.

An article was recently published in New Times magazine and reprinted in the San Francisco Chronicle. It provides some sobering second thoughts on the "Great Redwood Compromise." I believe my colleagues will find the points of view expressed by the author, Arthur Zich, informative and thought-provoking:

THE GREAT REDWOOD COMPROMISE

(By Arthur Zich)

"A triumph for the majesty of redwoods," clarioned Senate majority whip Alan Cranston.

"A great tribute to the Sierra Club," declared Representative Philip Burton, the author of the bill in the House. "We now have a national park worthy of the name, that will preserve this treasure of trees for all humanity and for all generations to come."

And who could argue with that? After years of wrangling, the Redwood National Park expansion bill had finally cleared the House and Senate and was on its way for virtually certain signature by the President. No fewer than 48,000 acres has been added to the park. The Tall Trees Grove—repository of the world's first, third and sixth tallest trees—had been spared the depredations of rapacious loggers. *Sequoia sempervirens*, the noblest and most enduring symbol of man's concern for the land, had been spared.

Right?

Well, not exactly. Whatever else the bill eventually achieves, it has amply demonstrated that truth is the first casualty of politics.

The bill that rang such winning encomiums from its authors raises real ques-Humboldt county, an area economically bound to the timber industry and already bound to the timber industry and already beset with a chronic 12–14 percent unemployment rate. It removes a sizable chunk of the world's finest redwood timberland from

the public weal even as the House Agriculture Committee warns that the nation will soon be facing a critical timber shortage. It commits taxpayers to an initial outlay of some $400 million and an eventual much great expenditure.

All that might yet be tolerable if the bill did what it was supposed to do. Unfortunately, the bill of itself does nothing to remove the threat to the Tall Trees. And begging the congressman's pardon, it does not add 48,000 acres of redwoods to Redwood National Park.

The unhappy fact is that the threat to the Tall Trees comes from gravel deposits in Redwood Creek, which flows past the grove, and these are already in place—washed down from heavily logged, geologically unstable upland slopes. Says park superintendent George Von Der Lippe, "If all the logging operations in the watershed were to stop tomorrow, the threat to the trees, such as it is, would still be there."

As for the redwoods, less than 10,000 acres of old growth—the really big trees—are among the acreage the Burton bill will buy. The rest is either young second-growth timber or land that has been logged off entirely. The sad truth is that for the foreseeable future, Redwood National Park will remain the ecological B–1 it has always been—only bigger, more expensive and, in many places, uglier.

Since its establishment in 1968, the park has cost $172 million—not quite twice the $92 million Congress originally ponied up for it, but well over twice the price of all the other parks in the national park system combined. And it is not paid for yet; some $110 million is still hanging fire in the courts. The park has never drawn near the 950,000 visitor days its chief proponent, former Interior Secretary Stewart L. Udall, predicted.

Last year, visitor days totaled a scant 34,000—3.6 percent of the projection. That placed the park 32nd out of 37 national parks in terms of visitors; in terms of campers it ranked even lower. "Last year," says Von Dier Lippe, "we had 2259 overnights in Redwood Creek."

It was reverence for the redwoods that provided the cutting edge for the bill's swift passage. But a good deal of that veneration was better rooted in rhetoric than it was in reality. Contrary to popular notion, *Sequoia sempervirens* is neither rare, fragile nor slow-growing.

Some 400 million of the trees now stand along the 500-mile-long coastal corridor from southern Oregon to San Simeon. Botanists call it one of the ruggedest trees in the world. (It is no sooner cut than the stumps send out any number of sprouts, each of which is capabale of soaring into a full size tree.) The lumber companies are reforesting redwoods at a rate of around three million trees a year. And for good, sound business reasons: *Sequoia sempervirens* is the fastest growing conifer in North America—and its market price, even in California, is out of sight.

It was a bad political compromise that brought the park into being. The Sierra Club and other environmentalist groups wanted 78,000 acres encompassing most of the Redwood Creek watershed, then owned by Arcata National Louisiana-Pacific and Simpson Timber Company, plus the Jedediah Smith, Prairie Creek and Del Norte State Parks. Congress' $92 million ceiling whittled the size down to 28,000 confiscated acres; California refused to donate its parklands. And the Tall Trees, whatever serenity they provided for visitors, created one monstrous headache for park planners.

The problem was that the bulk of desired old-growth redwoods stood in a clump at the mouth of Redwood Creek, while the Tall Trees stood alone about eight miles upstream. To connect the two, park planners created "the Worm," a narrow strip of parkland running 14 miles upstream and about a quarter-mile out from each of the banks. In effect, the park had the creekbed with the Tall Trees intact; the timber companies held the watershed's uphill flanks.

To the public, it seemed a hard-struck balance between productive forestry and pristine preservation. To the Sierra Club, it was only round one.

The cutting, conservationists charged, brought down everything from landslides to streamside trees. But their principal concerns were two. First, it shattered the aesthetic experience of the park: patches of clear-cut hills above the Worm were denuded, scarred and all too visible from inside the park; the sometime whine of chain saws, crash of trees and rumble of trucks intruded on the serenity the park was supposed to provide. Second, and more ominous, the cutting process left barren hills to erode in winter rains, sending enormous quantities of silt and gravel cascading into Redwood Creek, where it piled up on the streambed above and alongside Tall Trees Grove.

The danger was threefold. The gravel build-up might be swept along on the periodic floods that inundate the Grove and gradually tear away the Tall Trees' bark and the life-sustaining cambium layer beneath. The floods might leave a dump of gravel around the trunks, which would in effect suffocate the trees. Or the creekbed gravel might cause the water table to rise beneath the trees, and drown their root systems.

The industry cried: Not so. But the state agreed, at least to the extent of tightening up on logging operations in the area. In 1974, the California Forest Practices Act—the toughest logging law in the nation—went into effect. And over the next two years the timber industry was foced into "voluntary agreements" with state and federal authorities that further restricted its autonomy.

Henceforth, wherever possible, timber men had to use cable-yarding instead of old tractor-yarding harvesting techniques. This meant that fallen trees would be slung on overhead cables to truck landings instead of being dragged by earth-gouging tractors. Clear-cut sites were strictly limited in acreage; adjacent stands would not be harvested for a minimum of three years. Within five years of a harvest, a logged-off piece of land had to be covered with three-year-old seedlings. "If those seedlings don't take the first year," says Fred Henschell, 40, the forester in charge of Louisiana. Pacific's big tree nursery near Little River, you'd better get your butt out replanting the next year or you'll soon be breaking the law."

The measures are working. "It's true," says park chief Von Der Lippe. "There's been a great deal of improvement in timber logging in this area." But the Sierra Club and related environmentalists scented all-out victory—and went for it. A flood of scarifying pamphlets poured out of environmentalists offices, complete with grisly photos of logged-off land, out-of-context excerpts from scientific studies, and the solemn, treacly poetry of Friends of the Earth chief David Brower. The thrust of it all: the timber men were cut-and-run land rapers; the redwoods were in imminent danger, the situation was critical.

It made good copy; it gave arm-chair environmentalists an uplifting cause that required neither thought nor action. And logging was undeniably ugly until second-growth took hold. But this view ignored several pertinent considerations. Over the previous decade, the cut-and-run land rapers had invested $160 million in new plant facilities in the area. The Sierra Club scheme meant seizure of thousands of acres of immensely productive property—private property at that. And there were alternatives.●

## MONTHLY LIST OF GAO REPORTS

### HON. JACK BROOKS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. BROOKS. Mr. Speaker, the monthly list of GAO reports includes summaries of reports which were prepared by the staff of the General Accounting Office. The February 1978 list includes:

NATIONAL DEFENSE

Additional Cost Of The All-Volunteer Force. FPCD–78–11, February 6.

Opportunities Exist For Substantial Savings In Administration Of Military Skill Training Programs. FPCD–78–13, February 14.

Management And Use Of Army Enlisted Personnel—What Needs To Be Done. FPCD–78–6, February 16.

Can The Army Provide Logistic Support For Its Troops In A Conventional Defense Of Free Europe? LCD–77–208, February 16.

Status Of The Navy's Vertical Short Takeoff And Landing Aircraft. PSAD–78–61, February 23.

Can The Army's $2.8 Billion Program To Modernize The CH–47 Helicopter Be Improved? PSAD–78–18, February 24.

Analysis Of Department Of Defense Unobligated Budget Authority. PAD–78–34, January 13.

Analysis Of The Need For Additional Family Housing At The Navy's Trident Submarine Base. CED–78–49, February 9.

Philadelphia Naval Regional Medical Center Is Badly Deteriorated And Unsafe. LCD–78–301, February 17.

Questionable Practices Of The Military Minor Construction Program. LCD–77–356, February 14.

*Letter reports*

How the Air Force awards contracts for repairing J75 afterburner cylinders. PSAD–78–78, February 16.

Work measurement system for real property maintenance used by the U.S. Army in Europe is of little value; improvements suggested. LCD–78–312, February 16.

The Navy should make sure that incentive provisions in noncompetitive contracts motivate contractors to keep costs at a minimum: the case of a contract awarded to Lockheed for two submarine tenders and related items. PSAD–78–82, February 21.

Answers to questions about the Reserve Officers Training Corps. FPCD–78–17, February 23.

Operation of housing on Walker Air Force Base, Roswell, New Mexico, by the Roswell Housing Authority. LCD–78–309, January 25.

INTERNATIONAL AFFAIRS

Impact On Trade Of Changes In Taxation Of U.S. Citizens Employed Overseas. ID–78–13, February 21.

How The United States Can And Should Improve Its Funding Of International Joint Commission Activities. ID–78–10, February 8.

Improved Management Needed Over The Agency For International Development's Operating Costs. ID–78–15, February 14.

East-West Center—Progress And Problems. ID–78–11, February 15.

The American University In Cairo: Alternatives For U.S. Government Support. ID–78–20, February 17.

GENERAL SCIENCE, SPACE, AND TECHNOLOGY

NASA's Resource Data Base and Techniques For Supporting, Planning, And Controlling Programs Need Improvement. PSAD–77–78, May 19, 1977.

The Maritime Administration's Evaluation Of The End Products Of Research And Development Contracts With Private, Profitmaking Firms. PSAD–78–4, January 27.

ENERGY

The Magnitude Of The Federal Solar Energy Program And The Effects Of Different Levels Of Funding. EMD–78–27, February 2.

Better Planning Needed To Deal With Shifting Regional Energy Demand. EMD–78–35, February 22.

NATURAL RESOURCES AND ENVIRONMENT

Improved Formulation And Presentation Of Water Resources Project Alternatives Provide A Basis For Better Management Decisions. CED–78–42, February 1.

*Letter reports*

The Department of the Interior should improve the accuracy of its recording and reporting of accounts receivable and improve followup actions on delinquent accounts. FGMSD–77–66, February 3.

Advantages and disadvantages of authorizing general water resources development plans rather than individual projects. CED–78–41, January 30.

AGRICULTURE

How Good Are School Lunches? CED–78–22, February 3.

Opportunities For Improving Internal Auditing In The Department Of Agriculture. CED–78–28, February 9.

*Letter report*

Progress of Agriculture's attempts to improve the national gain inspection system hampered by slow acquisition and training of staff. CED–78–23, February 27.

COMMERCE AND HOUSING CREDIT

New Interstate Truckers Should Be Granted Temporary Operating Authority More Readily. CED–78–32, February 24.

Ways To Increase The Number, Type, And Timeliness Of 8(a) Procurement Contracts. CED–78–48, February 1.

TRANSPORTATION

Is The Administrative Flexibility Originally Provided To The U.S. Railway Association Still Needed? CED–78–19, February 22.

Linking The Americas—Progress And Problems Of The Darien Gap Highway. PSAD–78–65, February 23.

*Letter reports*

Recommended changes in the Federal Aviation Administration's proposed regulations setting noise limits for supersonic aircraft. CED–78–52, January 31.

Use of helicopters by the Coast Guard to provide emergency medical services in inland areas. CED–78–54, February 10.

Information on the Coast Guard's accounting system. CED–78–35, January 10.

COMMUNITY AND REGIONAL DEVELOPMENT

The District of Columbia Needs A Program To Identify Vacant Houses And Get Them Back On The Market. GGD–78–25, February 22.

Stronger Federal Enforcement Needed To Uphold Fair Housing Laws. CED–78–21, February 2.

*Letter reports*

How planned reorganization of the Department of Housing and Urban Development will affect the State of Kansas. CED–78–53, February 13.

Problems encountered in construction of a HUD-sponsored multifamily housing project in Naugatuck, Connecticut. CED–78–40, January 31.

The Department of Housing and Urban Development should determine the extent of construction problems in Government subsidized housing projects. CED–78–39, February 14.

HEALTH

Need To Improve Administration Of A Carcinogen Testing And Carcinogenesis Research Contract. HRD–78–44, February 10.

The Consumer Product Safety Commission Has No Assurance That Product Defects Are Being Reported And Corrected. HRD–78–48, February 14.

Actions Needed To Improve The Nutrition Program For The Elderly. HRD–78–58, February 23.

*Letter reports*

Review of financial arrangements for and procedures followed in setting up the May 1977 White House Conference on Handicapped Individuals. HRD–78–47, February 1.

Reasons for errors in HEW's listing of physicians and group practices receiving over $100,000 in Medicare payments. HRD–78–32, February 7.

How the Department of Health, Education, and Welfare is carrying out requirements governing the use of Federal funds to pay sterilizations. HRD–78–74, February 27.

INCOME SECURITY

The Social Security Administration Needs To Improve Its Disability Claims Process. HRD–78–40, February 16.

Number Of Newly Arrived Aliens Who Receive Supplemental Security Income Needs To Be Reduced. HRD–78–50, February 22.

VETERANS BENEFITS AND SERVICES

Further Actions Needed To Resolve VA's Educational Assistance Overpayment Problem. HRD–78–45, February 17.

Constructing New VA Hospital In Camden, New Jersey, Unjustified. HRD–78–51, February 6.

ADMINISTRATION OF JUSTICE

The FBI's System For Managing Investigative Resources And Measuring Results—Improvements Are Being Made. GGD–78–1, February 15.

U.S. Attorneys Do Not Prosecute Many Suspected Violators Of Federal Laws. GGD–77–86, February 27.

Handgun Control: Effectiveness And Costs. PAD–78–4, February 6.

What Can Be Done About Overcrowding In Long-Term Federal Correctional Facilities. PAD–78–50, February 10.

Housing Federal Prisoners In Non-Federal Facilities Is Becoming More Difficult. GGD–77–92, February 23.

GENERAL GOVERNMENT

Voting Rights Act—Enforcement Needs Strengthening. GGD–78–19, February 6.

Personnel Restrictions And Cutbacks In Executive Agencies: Need For Caution. FPCD–77–85, February 9.

Improvements Needed In Processing Civil Service Retirement Claims. FPCD–78–10, January 30.

Problems With Federal Equal Employment Opportunity Guidelines On Employee Selection Procedures Need To Be Resolved. FPCD–77–54, February 2.

The Federal Government's Bill Payment Performance Is Good But Should Be Better. FGMSD–78–16, February 24.

Accounting For Automatic Data Processing Costs Needs Improvement. FGMSD–78–14, February 7.

A Range Of Cost Measuring Risk And Uncertainty In Major Programs—An Aid To Decision-Making. PSAD–78–12, February 2.

The General Services Administration's Consumer Information Center. LCD–78–412, February 2.

Leasing Of Social Security Administration District And Branch Offices By The General Services Administration. LCD–78–313, February 7.

Audit Of Financial Transactions Of The Sergeant At Arms For The 12 Months Ended June 30, 1977. GGD–78–40, February 28.

Audit Of The Stationary Revolving Fund For The Fiscal Year Ended June 30, 1977. GGD–78–33, February 22.

IRS Can Improve Its Programs To Collect Taxes Withheld By Employers. GGD–78–14, February 21.

*Letter reports*

Can the concept of "full funding"—providing funds for the total estimated cost of a program at its outset—be applied to more programs and activities in the Federal budget? FGMSD–78–18, February 23.

The General Services Administration should consider expanding the size of its internal audit staff. LCD–78–315, February 16.

Activities of the House of Representatives' Office Equipment Service for the year ended June 30, 1977. GGD–78–4, February 21.

GENERAL PURPOSE FISCAL ASSISTANCE

Impact Of Antirecession Assistance On 15 State Governments. GGD–77–69, February 22.

Impact Of Antirecession Assistance On 16 County Governments. GGD–77–60, February 22.

Impact Of Antirecession Assistance On 21 City Governments. GGD–77–70, February 22.

The Federal Government Should But Doesn't Know The Cost Of Administering Its Assistance Programs. GGD–77–87, February 14.

*Letter report*

Impact of small quarterly payments of antirecession assistance—under $2,000—on the ability of governments to provide basic services and reduce unemployment. GGD–78–30, February 22.

FEDERAL PROGRAMS FOR AMERICAN INDIANS

More Federal Efforts Needed To Improve Indians' Standard Of Living Through Business Development. CED–78–50, February 15.

Controls Are Needed Over Indian Self-Determination Contracts, Grants, And Training And Technical Assistance Activities To Insure Required Services Are Provided To Indians. CED–78–44, February 15.

The Bureau Of Indian Affairs Needs To Determine How Well Its Indian Training Program Is Working And Assist Tribes In Their Training Efforts. CED–78–46, February 13.

Bureau Of Indian Affairs Not Operating Boarding Schools Efficiently. CED–78–56, February 15.

Questionable Need For All Schools Planned By The Bureau Of Indian Affairs. CED–78–55, February 15.

Information On Organization Of The Indian Education Resources Center. CED–78–57, February 15.

Tribal Participation In The Bureau Of Indian Affairs Budget System Should Be Increased. CED–78–62, February 15.

More Effective Controls Over Bureau of Indian Affairs Administrative Costs Are Needed. FGMSD–78–17, February 15.

*Letter report*

How effective is coordination of Bureau of Indian Affairs activities with other Federal agencies? CED–78–47, February 8.

The Monthly List of GAO Reports and/or copies of the full texts are available from the U.S. General Accounting Office, Distribution Section, Room 4522, 441 G Street, N.W., Washington, D.C. 20548. Phone (202) 275-6241.●

## INFLATION: A NOTE TO MR. CARTER

### HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. BROYHILL. Mr. Speaker, the President recently issued an anti-infla-

tion statement which was long on rhetoric and short of real substance. The American people were expecting more than they received in his message. Inflation is creating a terrible burden on all the people in our country.

For example, if a person earned $10,000 last year and just received a 10 percent pay increase, he should not go out and spend that extra $1,000. After taxes and inflation erode the raise, the taxpayer will have only $102 in a real wage increase. Let us look at an example of a man and wife who both work and their combined earnings were $20,000 last year. If they should receive a combined raise of $2,000, they will have only $231 in a real wage increase.

Those are two examples found in a study on the effects of Federal taxes and inflation on wage increases conducted by the United States League of Savings Association.

To put it bluntly, salary increases and proposed tax reductions will not even keep up with inflation and higher social security taxes. When the added taxes resulting from the passage of the energy program, if it is ever enacted by the Congress are added into the overall picture, the situation worsens.

Huge deficits, costly Government regulations, more bureaucracy—these are just a few of the causes of inflation, but they are causes which we can do something about. I hope that each Member of Congress will keep that in mind during the days ahead.

Recently, I read an article, "Inflation: A Note to Mr. Carter," by Vermont Royster in the March 22 edition of the Wall Street Journal. I believe that my colleagues will find it to be of great interest as inflation continues to be the No. 1 problem facing this country today:

[From the Wall Street Journal, Mar. 22, 1978]

INFLATION: A NOTE TO MR. CARTER

(By Vermont Royster)

I read in the papers that you and your economic advisers are puzzled by the sagging stock market and the collapsing dollar abroad and are urging everybody not to worry.

After all, the stock market is supposedly a concern only for the rich and nobody understands it anyway. As for the drop in the dollar on foreign exchange markets, that affects only firms doing business abroad, a few GIs in West Germany and some tourists who might better spend their money in this country. Besides, business is good, employment is up and the inflation rate last year was only 6 percent.

I have even read that some in your administration think there's good to come from the declining dollar. It's supposed to help stimulate exports.

But there are millions of people all over this country who, I'm afraid, view these matters differently. These are the people—and their name is indeed legion—who have their little stake in union pension funds or who have just tucked away some money in savings accounts or who have bought U.S. savings bonds on a payroll deduction plan.

They are not rich people. They may not be clever enough to see the interconnection between that sagging stock market, the declining dollar abroad and our domestic inflation. They are simply good, hard-working thrifty people who would like to have something for their old age besides Social Security. But they can see clearly enough what's happening to them. And they can feel the pain.

Consider, to begin with, an individual who only five years ago thought he had a tidy nest egg in a union pension fund invested in American business. Five years ago confidence in America led him to expect his share in that fund would grow and he could look forward to the future without worry.

Quite the opposite has happened. In the intervening five years his share in that retirement fund has shrunk, not grown.

The shrinkage varies, but every fund I know of that has invested in the stocks of American business has shrunk. In one of the better managed, for one example, the loss in market value between December 31, 1972, and December 31, 1977, has been 10.3%. Others have fared worse.

SOME ECONOMIC JARGON

That loss is shared by each individual member of such a fund: His nestegg is smaller than it was five years ago. In the jargon of the economists he has suffered a *negative* compound interest rate, which is a fancy way of saying he has lost more money each year.

That should tell you what the sagging market has done to the ordinary pensioner—never mind what it has done to the rich. It may also give you an idea why people aren't rushing to invest in American business. In fact, the small investor has long since fled the stock market. From that you can deduce why capital formation is at such a worrisome low point and business is having to increase debt, rather than equity, to get money to replace equipment or for expansion.

That may strike you as puzzling, since in terms of dollars the earnings of most companies last year increased; why shouldn't that attract investors? The reason is that even unsophisticated people can see that those greater number of dollars apparently earned really buy less, whether or not they understand the earnings "deflator" that Charles Shultz computes over at the Economic Council.

In fact, the dollar loss in his pension fund isn't the only thing that has happened to the poor participant. Because of inflation, present dollars will buy only 68.4% of what those 1972 dollars bought. So in that particular example cited above, those 10.3% fewer dollars are worth only 68 cents each in the grocery store. That makes the poor pensioner's true loss of purchasing power well over a third, or about 38%.

If you take a longer span of time, say 10 years, the theft by inflation is worse. The dollar bill at the end of 1977 bought only about 57 percent of the same dollar in 1967.

Of course that affects not only those who, by pension funds or otherwise, have suffered in the stock market. Consider, for a different example, an individual who put his savings in a bank or savings and loan.

In some cases he thinks he is earning as much as 7 percent interest, which sounds like a lot. But on that 7 percent he has to pay taxes of 14 percent at the minimum rate: for someone with a modest $6,000 taxable income the tax is 20 percent.

Thus even the minimum income tax rate reduces his apparent interest return to zero: That is, it just about equals the loss of his dollars' purchasing power at a 6 percent inflation rate. If he's paying 20 percent or more in taxes he's going backwards at a rapid rate. He doesn't have to be very sophisticated to understand he's in a bind.

But what has all this to do with that other vexing problem, the decline of the dollar on foreign exchange markets?

For a clue, ask yourself why any foreigner—Japanese, German or Arab oil sheik—would want to hold U.S. dollars. There's only one answer: for what those dollars will buy of U.S. goods. Either the original holder intends to buy U.S. goods or sell his dollars to someone else who does. Either way, their value depends ultimately upon their purchasing power in this country.

With the purchasing value of the dollar steadily declining in our own country, why should we expect foreigners to be eager to buy or hold them? If it weren't for what's happening to the dollar at home we'd have less trouble with all those oil payments that so worry you. If it continues to decline we'll have worse trouble. Already the OPEC countries have begun to mutter about no longer accepting payment for their oil in dollars.

In short, everyone who has trusted the U.S. dollar—be he foreigner, pensioner or ordinary citizen-saver—feels cheated. That takes the mystery out of many things, from the stock market to the foreign exchange markets.

LONG-STANDING POLICIES, BUT

I am well aware that all these troubles can't be laid at your door. They are the consequence of long-standing policies reaching back to three Presidents before you, and the worst inflation occurred before you came to office.

But when you were running for President the country had the impression you were deeply concerned about all this. People thought you intended to do something about the size and cost of government, about the taxes this levied upon the people, about the inflationary effects of having to create money and credit to pay for huge deficits. They thought you would lift the burden of all this from the hard-working and thrifty, a class which includes those who labor as butchers, bakers and candlestick makers.

What we seem to have got instead is bigger government (that monstrous Energy Department), more costly government (a spending budget of over $500 billion), a vastly bigger deficit (over $60 billion) which assures continued inflation. Under the guise of Social Security payments this middle class even got a big tax increase, with more to come from your energy bill.

It may be, as we are told, that despite all this, future inflation can be held to "only" 6%. But even at that rate, as Dr. Schultze's computers can tell you, a 30-year-old will see the present dollar worth little more than a dime by the time he thinks of retiring at 65. He'll have to run very fast to keep ahead on his life insurance, his pension, his savings. If we have another eruption of double-digit inflation, he'll truly face a scary ride on a rollercoaster.

My guess is that people, here and abroad, are still bullish on America. I think they expect to see the stock market rise again, the dollar resume its trusted place in the world, their savings once more secure against erosion. At least they want to believe that with good leadership we will surmount these troubles as we have past ones.

But there is no puzzle about the stock market or the declining dollar, and it's no wonder people worry in the middle of the night.●

## CRIME SUBCOMMITTEE TO HOLD THIRD HEARING ON CIGARETTE BOOTLEGGING

### HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. CONYERS. Mr. Speaker, the Subcommittee on Crime of the House Committee on the Judiciary has scheduled its third hearing on H.R. 8853,

H.R. 10066, H.R. 10807, and related bills which address the problem of racketeering in the sale and distribution of cigarettes, for April 19, 1978, at 1:30 p.m. in room 2237, Rayburn House Office Building.

The purpose of this hearing will be to take testimony from the Members of Congress who have sponsored the major legislation on the subject of cigarette bootlegging.

Those Members wishing to testify or to submit a statement for the RECORD should address their requests to the House Committee on the Judiciary, Subcommittee on Crime, 207–E Cannon House Office Building, Washington, D.C. 20515 (telephone: 202, 225–1695.)●

## WHAT IS THE SOUL OF AMERICA?

### HON. ELFORD A. CEDERBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. CEDERBERG. Mr. Speaker, what makes some countries great and powerful and others less fortunate has been a topic of debate for centuries. Over the years, political philosophers have attempted to determine why countries repeatedly rise to power only to fall back into the wells of mediocrity. History has taught us many lessons that, if understood by countries such as America, could enable us to avoid the same pitfalls that eventually engulfed other world powers.

Mr. Vincent Murray, a long time Michigan resident and graduate of Manhattan College and the University of Detroit, recently addressed these subjects in a speech before the School of Government, Inc., in Detroit. I would like to take this opportunity to share with my colleagues his very timely words of wisdom:

"WHAT IS THE SOUL OF AMERICA?"

It is most fitting that your fine civic organization pauses between the birthdays of America's two greatest leaders to reflect on our nation's beginnings, its history, and its future. It has been said that, "Eternal vigilance is the price of liberty," and it is groups such as yours that must educate and inform on the responsibilities of good citizenship.

When the Declaration of Independence was completed and about to be announced to the world, a colonist in Philadelphia stopped Benjamin Franklin as he was leaving Independence Hall. He asked Franklin, "What have you given us, Sir?" He replied, "We have given you a Republic—if you can keep it!" Franklin meant exactly that—It was up to all of us to maintain our government. Well, more than two centuries later the Republic still stands, not a perfect instrument, but by far the finest ever devised since the dawn of history for the government of an enlightened citizenry. The key word there is "enlightened" because our government works best when the people actively participate and study its workings. And if it ever ceases to work, it is solely because we, the people, have not done our part. At times in our history its existence has been sorely tried by wars, racial strife, economic crises, labor turbulence, corruption, and social upheavals. We have not come easily to the present position of world leadership. The soul of America has been shaped and molded in the ideals of the founding fathers, in the toils and sacrifices of our pioneer ancestors, in the blood of heroes in world-wide wars, in the day-to-day life of ordinary people following ordinary pursuits, in our churches, our schools and in our homes.

How important is the soul of America? It is more important to the nation, its welfare, and its survival than our entire nuclear arsenal, or our industrial might, or our military forces. The will, the character, the national purpose, the self-discipline of our people count more than any tangible physical assets in the determination of our history and our future. That fact is proven by the rise and fall of world powers through-out history.

Some of us here can readily think back to the Spring of 1940. An invincible army stood behind an impregnable defence network, the Maginot Line. It was the largest, best-trained, finest-equipped military force in Europe, and it was considered by all military experts as a guarantee of security for France against all blows from the German forces. But what happened when the first blow came? Within a few weeks the political framework of France collapsed, and the military machine was ground to pieces with hardly a single major battle or a significant number of casualties. What had brought about such a debacle? To understand all the complex reasons why, and at the same time learn why the same thing could happen to us, it is highly recommended that you read "The Collapse of the Third Republic," by William L. Shirer. He has skillfully traced the roots of France's fall from greatness. Summed up briefly, it gives evidence of a nation so lacking in national will, so weakened by moral decay, and so divided within itself, that the soul of France had died. Germany did not win a military triumph, it was handed one.

Then in the summer of 1940 the scene shifted a few miles across the English Channel, where Great Britain stood alone, isolated, and almost unarmed, having abandoned its weapons on the beaches of Dunkerque. Britain's lifelines across the Atlantic and through the Mediterranean were under siege by the German U-boats, her cities were being pounded by the Luftwaffe almost daily, and her industrial machine was being destroyed. By every rational military standard Britain was already whipped, and further resistance seemed both futile and counter-productive. But the fierce pride in their heritage, the tenacity of its island people, the eloquent exhortations to "blood, sweat, toil, and tears" by Winston Churchill, motivated Britons to a strength and will that surpassed all understanding. In the battle of France, the once-great French nation had lost its soul. But only a few weeks later the Battle of Britain found the soul of that nation. To paraphrase Shakespeare the British taunt to German fury was: "Lay On!" And that defiance did not falter until final victory, five long years after their "darkest hour."

There is your study in contrasts—and the American nation has endured parallels to the British achievement of the 1940's. George Washington led a ragtail-army against the finest trained and equipped troops of the world's most powerful empire, in the American Revolution. Despite years of defeats, the desertion of thousands of troops, the betrayal by high commanders, the lack of basic resources and weapons, Washington's inspired leadership brought about the final victory and the creation of our national freedom. Then the founding fathers went to work to set up the "finest constitution ever framed by the hand of man" as Edmund Burke termed it. The basic premise of both the Declaration of Independence and the Constitution was that our freedoms are derived from our Creator and not from men. Thomas Jefferson stated it in these words: "The God who gave us life, gave us liberty at the same time". That recognition of the Almighty as the source of our basic rights is not only part of every great document of our heritage, it also appears in the writings of Washington, of Lincoln, of Dwight Eisenhower, and a host of other great national leaders.

The origins of our freedoms are extolled in our national hymn "America" which sings out its final verse:

"Our fathers God to Thee
Author of liberty
To Thee we sing;
Long may our land be bright
With freedoms holy light
Protect us by Thy might
Great God, our King."

Similar references to this nation "under God" are found in the National Anthem, in "America, the Beautiful", and in our Pledge of Allegiance. Who can doubt that this great tradition of freedom under God has shaped the character and fundamental essence of the soul of America?

It certainly shaped the determination of Abraham Lincoln to wipe out the institution of slavery, even at the cost of a great civil war. And it guided his thoughts for the reconciliation of the Republic after the torments of that war, a mission which he was never to carry out because of the assassin's bullet.

Despite the crimes of the Reconstruction era, the nation finally did overcome the bitterness and division to march forward to the new Promised Land. Yes, many of us are not far removed from other lands, but just as the Pilgrims in 1620 landed at Plymouth Rock seeking religious freedom and human dignity our forebears came to America in later years for those same goals. Their welcome to this land has been given from the base of the Statue of Liberty;

"Give me your tired, your poor, your huddled masses, yearning to be free. The wretched refuse of your teeming shore, send these; the homeless, tempest-tossed to me. I lift the lamp beside the golden door."

All of those millions of immigrants have shaped the character and the soul of America. In the 20th century America not only became the refuge for so many oppressed, it also extended itself in two World Wars to liberate many other lands from the oppressor. And after both conflicts it put forth its bounty and wealth to restore and feed the war-ravaged lands, and even the nations whose armies had marched against us, Germany, Italy, Japan. That magnamity, and willingness to forgive, sprang from the soul of America.

But great nations do not always remain constant in their loyalty to the national character that brought them to greatness. Witness the Roman Empire which lasted a thousand years as master of the known world. By its own internal moral decay and its inability to continue as a world leader, it collapsed under the blows of the barbarian hordes. The same fate has overtaken many other powerful nations and empires throughout history. Even in our own time we have witnessed the decline of great powers from their eminence. Can we regard the sad plight of Britain today as anything but a tragic contrast to the epical months of 1940 when "so many owed so much to so few?" Will the dictatorship of Marxism soon engulf France, Italy, Spain and Portugal? Will Canada toss away its national unity and its role as a model of democracy for small nations?

And if all those nations can lose their souls, what about the land we love? Can we continue to divide our country, class against

class, race against race, "haves" against "have-nots?" Can we recklessly fight for "liberation" of individual groups already free and equal by law? Can we seek ever higher scales of earnings without regard for economic productivity, inflationary consequences, and disastrous impact upon the body-politic? Can we demand an ever-increasing piece of an ever-diminishing pie? Can we fly in the face of the Creator by our ever-rising crime, corruption and moral decay? Will the blessings which this Republic has enjoyed be continued by a just God?

If we forget the sacrifices and labors that brought us to our present position, how long can our nation endure? Are the youth of our land ready to fight and even to die to preserve this great heritage? You can be certain that the youth of China, of Russia, of Cuba, of Vietnam, are ready to do so. How will we meet that challenge? We cannot wait for the blow to strike to frame our strategy. If our national will, our discipline and our courage are not plain to our foes, they will strike with a fury that this land has never felt before. We have to rediscover the greatness of America, find the soul of our nation, rekindle the torch of liberty, return to the things that shaped the national resolve in past crises.

When historians chronicle the record of these years, will their judgment be that America's decline from greatness started in our generation? Danger signs are all about us, and to continue on the present road is to "proceed at our own risk." How long can special interests or petty groups be allowed to force submission from the government by blackmail tactics, or violence, or economic anarchy? Government of the people must function for the common good not the private benefit of a minority. Our nation has lost much of the sense of community and neighborliness that gave life meaning and purpose in earlier years.

The courts have assumed a role never conceived by the founding fathers. Many of the ideals of majority rule with full consideration for minority rights, have been negated by the new powers assumed by the courts. They have made the schools of our land pawns in the struggles of segments of our society. And where the people who founded this nation certainly had put the Creator and His laws into the educational structure, the rule by courts has removed both. There is no longer reverence for a higher being, or a higher law, anywhere in our scheme of education. In fact there is hardly any real education left in the public schools. That is evident when academic illiterates are being graduated from high schools, and forced to be accepted in universities under quotas imposed by the courts.

All of these trends are causing the people to lose confidence in their government, to lose respect for their leaders, and to abstain from the governing process. So we are starting to forget Franklin's admonition: "a republic—if *you* can keep it!" The soul of our nation is at stake. When will we turn back from the road to our destruction? While we are faltering, America's foes are gathering strength. They witness our domestic torments, and delight in what they see. Are we counting on *our* "Maginot Line" to save us?

When the blow comes, will our disintegration be as rapid and as complete as the collapse of France? In the past few minutes many questions have been posed—the answers are not mine to give. They have to come from the national will, from the nation's soul, and from our firm reliance on the God of our Fathers. For the Book of Proverbs has told us:

"Righteousness exalteth a land, and sin is a reproach to its people."●



## F. JOSEPH (JIGGS) DONOHUE

## HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. BOLAND. Mr. Speaker, F. Joseph (Jiggs) Donohue, the former president of the Board of Commissioners of the District of Columbia, and for years a noted figure on the national political scene, passed away last week in his adopted city of Washington.

A native son of Massachusetts, he came to Washington after World War I to attend Catholic University, received his law degree, and later taught at the university's law school. He served as a special prosecutor for the Justice Department in the late 1940's and was Assistant Director in charge of enforcement in the Office of Price Stabilization during the Korean war.

President Harry S. Truman appointed him to the board of commissioners of the District of Columbia in 1951, and he served in that position with distinction and enthusiasm, fighting for racial tolerance, an end to segregated schools, and home rule for the District of Columbia.

Mr. Speaker, I include with my remarks an editorial in the Washington Post of April 6, 1978 in tribute to Jiggs Donohue:

F. JOSEPH (JIGGS) DONOHUE

Few partisan residents of this community look back with much fondness on the years when the District was entirely under the colonial thumb of Congress, with three presidentially appointed commissioners installed in city hall to mind the store as well as their municipal Ps and Qs. But if ever there was an exciting respite in the District Building back then, it was the two-year run of F. Joseph (Jiggs) Donohue as a commissioner and eventually as president of the board of commissioners. Mr. Donohue, who died here Tuesday at the age of 78, promptly won the hearts of Washingtonians with a nonstop barrage of blarney, boosterism and remarkably gutsy speeches in behalf of this city and its rightful desire for a measure of self-determination.

Mr. Donohue never was content to be a mere caretaker in the District Building. He plunged in quickly—making more than 400 speeches in his first year, initiating weekly radio and television reports to the people on the doings of government and encouraging citizen participation in their restricted local franchise. There was the time in February 1953, for example, when Mr. Donohue was sitting as a spectator at a session of the Senate District Committee, listening to members rattle off their ideas on how the city should be run. After they had finished, he was asked if he had anything to say. He proceeded to accuse Congress of "studied neglect" of the city, noting that the burden had become one that taxpayers could "no longer continue to endure."

Mr. Donohue also spoke bluntly to the Senators about the racial makeup of the city and its connection with the denial of voting rights here: "We look like Americans and dress like Americans. We pay taxes like Americans. When war comes we fight like Americans. But we have no rights as Americans either to vote for our local municipal officers, or to vote for the president or vice president of the United States."

With characteristic fervor, Mr. Donohue campaigned for larger federal payments to the city, improved personnel procedures, an end to segregated schools, greater economics development and home rule. Though his interest in home rule later turned to opposition, he will be remembered most for his stout devotion to the city at a time when it counted a great deal—and for bringing to the District Building the vitality it needed to press on for better local government.●

## DOUBLE STANDARD ON HUMAN RIGHTS

## HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. LAGOMARSINO. Mr. Speaker, I am most concerned over the apparent double standard which the Carter administration is applying toward the various Third World countries. In particular, I find the administration's human rights policy vis-a-vis the various Marxist dictatorships in Africa to be wholly inconsistent with its actions toward Brazil, Chile, the Philippines, and South Korea.

Mr. Speaker, I would like to bring to the attention of my colleagues the following editorial by Messrs. Evans and Novak which deals with the Carter administration's human rights policies.

The editorial follows:

DOUBLE STANDARD ON HUMAN RIGHTS

The state of Jimmy Carter's global human-rights campaign in its second year was reflected on his recent visit to Nigeria. There a vague, supercautious intimation that even African nations sometimes abuse their citizens was barely kept in his speech.

The original version of Carter's April 1 speech in Lagos contained a more candid statement opposing human-rights violations in Africa. But Richard Moose, assistant secretary of state for African affairs, fought to get it out. Presidential speechwriter James Fallows fought back, and the result was a watered-down compromise.

No such caution was shown at the President's previous stop in Brazil, which, like Nigeria, is under military rule. Carter did not hesitate to mention human-rights differences with the Brazilians and conferred with Roman Catholic Cardinal Paul Arns, a liberal dissenter against the regime.

The contrast is no accident. After early anti-Soviet emphasis, the Carter human-rights crusade has taken this peculiar course: While pulling no punches in assailing anti-communist dictatorships for their human-rights transgressions, Washington often looks the other way at abuses by neutralist dictatorships—particularly in black Africa.

That fits the global strategy charted by ideological young policymakers at the State Department but offends other liberals in the administration. "It gets hypocritical when we're attacking Brazil and Chile but close our eyes to human-rights violations in Africa," one presidential aide told us.

He and others did not believe Carter should ignore such violations on a continent where there is mass murder in Uganda, slave labor in Equatorial Guinea, political repression in a dozen other countries and freedom almost nowhere. So the draft of his Lagos speech contained a statement that, without men-

tioning Uganda or any other country by name, condemned what goes on.

But that violated the policy, sculpted by Moose and U.N. Ambassador Andrew Young, of courting black Africa at any price (including rejection of moderate biracial solutions in southern Africa). Moose contended that single statement would doom the president in Africa.

That's when speechwriter Fallows, a liberal young journalist from Texas, stepped in. There were reports he threatened to resign, though well-informed presidential aides tell us it never got that far. He finally managed to get these two watery sentences through Moose's censorship: "Our concern for human rights extends throughout this continent and throughout the world. Whatever [the] ideology or the power or the race of a government that abuses the rights of its people, we oppose those abuses." No names mentioned, of course.

The Moose-Fallows clash was fought without appeal to Carter, but the president himself is not immune. On April 2, he admitted to a press conference he had not mentioned Uganda's egregious Gen. Idi Amin or his anti-human-rights outrages to Lt. Gen. Olusegun Obasanjo, Nigeria's chief of state.

The president next declared "gratitude" that "the organization of African states" has condemned "black leaders" who "deprive persons of human rights." In fact, last year's meeting of the Organization of African Unity, which we attended, lionized Idi Amin and issued not one word of criticism against atrocities in Uganda or anywhere on the continent.

Carter wound up equating the United States and Nigeria in making "every effort to enhance human rights." Actually, non-ideological Freedom House calls Nigeria "partly free" and gives it a 5 rating in political rights out of a worst possible 7 (worse than Brazil's 4). The president was comparing the U.S. to a country where public executions are held, where American newsmen are excluded and where military rule still prevails.

Why that extraordinary treatment for Nigeria? One cynical, high-ranking U.S. official says there is a "three-letter answer": oil. But far more important than dependence on Nigeria as the second-largest oil supplier of the United States is its supposed leadership role in black Africa. If Nigeria wants to talk about the Cuban expeditionary force or black African repression, that is not viewed by Young, Moose & Co. as too large a price for friendship.

That actually supports the traditionalist view that foreign policy cannot be based strictly on human-rights performance. But why a double standard for leftish black Africa and rightish Latin America? Since it is hard to argue enlightened self-interest, the suspicion arises that ideological preferences at certain levels of the State Department now shape foreign policy, just as they did the speech at Lagos.●

## DEATH OF FORMER CONGRESSMAN J. HARDIN PETERSON, SR.

### HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. IRELAND. Mr. Speaker, I wanted to join with my colleagues from Florida in their sadness over the death of former Congressman J. Hardin Peterson, Sr.

Congressman Peterson represented the central west coast area of Florida for 18 years, spanning the time through the Great Depression and World War II. As chairman of the House Public Lands Committee, Mr. Peterson initiated the creation of the Everglades National Park, which has proved to be of immeasurable enjoyment not only to Floridians, but to all Americans.

Peterson also served as special counsel to the Territory of Guam; special counsel for the West Coast Inland Navigation District; and county solicitor and prosecuting attorney for Polk County.

He had also served as city attorney for the cities of Lakeland, Lake Wales, Frostproof, Hillcrest Heights, and Highland Park, Fla.

When he died, he left a wife, two children, grandchildren, and a record of long and devoted service to society.

The following article is a typical example of the esteem in which he was held in the area in which he served:

J. HARDIN PETERSON

The day J. Hardin Peterson died, the New York Times ran a major story on the strides Florida has made in protecting the environment.

Those two events Tuesday amount to something of an eerie coincidence—for Peterson was a recognized Florida environmentalist back in the days when that word wasn't in the dictionary.

James Hardin Peterson Sr. left Lakeland for Washington in 1933. He had just been elected Polk County's congressman in the U.S. House of Representatives. In those days, this was one of the country's largest congressional districts, stretching from Marion County in North Florida to the Dade County line in South Florida.

Polk County was no stranger to the halls of Congress when Peterson arrived. Herbert J. Drane of Lakeland—the man Peterson defeated by a mere 117 votes—had been a Congressman since 1917. Park Trammell of Lakeland, who had previously been governor, was serving as a United States senator.

Those were difficult times for the republic in '33. The depression was at its worst; banks were closing, the unemployed were standing in breadlines, and there was widespread despair that this country might never recover from its economic paralysis.

Under Franklin Delano Roosevelt's leadership, Peterson had a hand in shaping the eventual recovery from the depression—a feat in itself. But his singular achievement was the creation of the Everglades National Park, which had its beginnings in the House Public Lands Committee under Peterson's chairmanship. For his efforts on behalf of Florida's environment, he received a citation from the National Audubon Society, a Florida Wildlife Conservation Award, and was honored by the National Conference of State Parks.

Environment wasn't his only interest. He was a member of the House-Senate conference committee which drafted the GI Bill of Rights. He was a trustee of the National Trust of Historical Preservation, was board chairman of the Florida Heart Association, and served as special counsel to the Territory of Guam. Upon returning to Lakeland, he was involved in a myriad of civic pursuits.

During his later years, in his frequent addresses to local organizations, he would tell an opening story: "They've been recently repairing me. I have cataracts in one eye and have recently acquired a hearing aid. A few minutes ago the battery went out. But I was able to hear my introduction as a 'great statesman'."

To some, Peterson may have been a "great statesman." To others, he was merely a hard-working lawyer who served this district well in Congress for 18 years; who served his community for years thereafter.

When he died Tuesday, at the age of 84, he left what many men leave, a wife, children and grandchildren, and what most men don't leave—a record of service to his fellow humans.

But in leaving the Everglades National Park, J. Hardin Peterson belongs in the elite class which has given a lasting gift to generations to come.●

## ONE OF AVIATION'S REAL PAPPYS

### HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. MILFORD. Mr. Speaker, I would like to join the many friends of Pappy Spinks in wishing him a very happy 72d birthday.

Pappy is one of our Nation's true pioneers in Aviation and one of the most facinating and colorful aviators I know. A self-taught pilot and present owner of the Oak Grove Airport, Pappy has been flying airplanes since he was 16.

I share Pappy's interest in flying and building airplanes. I too have built my own airplane and can appreciate the success and satisfaction he must have felt as a teenage boy learning to fly an airplane he himself had built.

From his early barnstorming years in 1923, he has enjoyed an exciting career as an aviator. I place this article written by Barbara Holsomback of the Fort Worth Star Telegram in the RECORD at this point:

EARLY BARNSTORMING YEARS SHAPED FW AVIATOR'S CAREER

(Editor's note: This is "Pappy" Spinks' 72nd birthday. He was given a surprise party Sunday at Oak Grove Airport attended by friends from throughout the country. A helicopter towed a sign reading "Happy Birthday, Pappy" and he had a cake shaped like the airport.)

M. H. "Pappy" Spinks Sr. has a sign in his office at Oak Grove Airport that reads, "God does not deduct from man's allotted time the hours spent flying."

If God did, Spinks would have discovered the fountain of youth because he's been flying since 1922 when he was 16. It was that year Spinks soloed in the plane he built from junk parts of a Curtis Wright JN-4D (Jenny).

The wealthy Fort Worth aviator has had a flamboyance for controversy from the time he started smoking cigarettes at six until recently when the training of Ugandan pilots at his airport put him in the national spotlight.

Spinks got his first look at an airplane when pioneer aviator Cal Rogers landed his plane at a Fort Worth airport during a publicity tour for a soft drink company.

"When I saw the plane I ran to the airport," Spinks said. "My mother and father came after me in their horse and buggy. That day I told (my parents) I was going to be an airplane driver."

At the close of World War I, Spinks bought all the surplus airplane parts he could find, but there were not enough to construct a complete airplane. Undaunted, he obtained "Jenny" drawings from U.S. Army. "I won't say I got them legally or illegally," he said.

He started making plans to build an airplane half the size of a standard Jenny. His junior high school teacher let him work on the modifications in mechanical drawing class.

"I was learning far more from that than following the regular curriculum," he said. "All my life I was an extremely curious person, but never a good student. They (the teachers) went too slow for me."

While he was completing the airplane drawings he was "constructing the thing" at home in his barn. Spinks used hand tools and equipment he borrowed from school to shape exotic woods into the parts he was not able to get from the Army.

"My father objected (to the project), but my mother was for it and was my helper," he said. It took him one full year to finish. "After the plane was completed, my father put the wings in the hayloft and forbid me to use them."

But his father's efforts to stall his flying dreams were only successful for several months. At that time there were no manuals on flying. The Army provided the only schools. So Spinks started learning to fly by trial and error.

"I'd taxi the airplane around every weekend, after school or any time I wasn't in school. This went on until I'd flown the plane 200 hours. If I didn't have any money for gas, I'd drain some out of the cars at home."

Finally on a fall day in 1922 Spinks soloed 50 feet above the ground. He had not intended to fly so high, but lifted the plane skyward to avoid a fence, trees and houses. "I made a low circle and slowly descended to a landing," he said. "Once I got within a few feet of the ground I was in home territory because that's where I'd been flying all those months."

The teenager continued his flying until he tore up a wing by crashing into a car. "I never rebuilt it (the Jenny)," Spinks said. "But from that time until now I've never been without an airplane. I've been without an auto and food, but not an airplane."

At 17 he went into business at Aviation Gardens where he and his partners joined a growing number of barnstormers.

"We charged people $5 a head to take them for a ride, $2 if it was hard times," he said. "We'd cram two into an airplane at a time."

From then until World War II Spinks "worked all kinds of jobs," usually two or three at once. He purchased his first "modern aircraft," a Curtis Wright Pusher, in 1935 and was required by the Civil Aeronautics Administration to demonstrate his solo ability under the direction of a flight instructor.

It was in that airplane he hunted chicken hawks for ranchers around Abilene. "I charged a $1 bounty for each chicken hawk I shot with a shotgun," Spinks said. "When I'd shoot one I'd throw a yellow ribbon, tied to a rock, over the side of the plane. The ranchers counted the ribbons to see how much they owed me."

During World War II he taught aviation cadets to fly as a civilian instructor for the U.S. Army Corp civilian contract school. "I was too old to join the Army," Spinks said. "I never completed college, but I have passed tests to teach in universities."

He did just that during the war when he joined the physics department faculty at TCU. Through the years, Spink's reputation has grown in the aviation field and he stopped counting flying hours at 5,000.

In 1966, when he was 60, he became interested in aerobatics. "Aerobatics is the operation of an aircraft with high precision and at unusual altitudes," he said. "This is not an air show, but the pilot is graded on his ability to control the aircraft during predetermined maneuvers."

"I joined the Aerobatics Club of America when the U.S. Aerobatics Team was always down at the bottom in world competition. I got tired of us being the hindmost."

Within four years he became president of the aerobatics club and saw the U.S. team capture the world Aerobatic Championship, largely due to his efforts and after he built the Spinks Akromaster, a low-wing monoplane used in the aerobatics competition.

Today the father of a six-year-old son said, "I'm ready to retire." But if the number of phone calls coming into his office on the day he was interviewed by a Star-Telegram reporter is any indication, Spinks hasn't slowed down too much.

He not only owns Oak Grove Airport, but is chairman of the board of Spinks Industries.

"Crazy about the TV show 'Saturday Night Live,' " Spinks tapes each of those shows, works out in his gymnasium and has "really a little doctor's office" near his home. "These are my hobbies," he said.●

## COLUMNIST DISCUSSES MINNESOTA'S RECREATION AREA

### HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. OBERSTAR. Mr. Speaker, the Boundary Waters Canoe Area is currently the most widely discussed and controversial issue in my home State of Minnesota.

I expect that this House will shortly consider legislation providing for the future management of the area.

Outdoors Editor Hank Kehborn of the St. Paul Pioneer Press devoted his column last Sunday, April 9, 1978, to an analysis of the controversy and its impact on the people I represent in this House.

Hank's column is one of the best journalistic analyses of the issue I have seen. It expresses the sentiments of Minnesotans and of other Americans whose ways of life, economic welfare, and recreational opportunities are threatened by what Hank calls "absentee environmentalists and an absentee landlord—Uncle Whiskers."

The impact of eliminating current summer and winter recreational use of the BWCA will be enormous in both monetary and human costs. The additional layer of bureaucracy contained in legislation initially approved by a House subcommittee last week would impose an intolerable and unnecessary yoke on the people of the area.

Kehborn does not attempt to analyze the monetary cost, but he does offer an unusually sensitive understanding of the effect of this legislation on people. In that spirit, I commend Hank Kehborn's column to my colleagues:

ABSENTEES CALL SHOTS ON BWCA

If you have been following the Boundary Waters Canoe Area (BWCA) issue, it must be apparent by now northern Minnesotans don't know from borscht when it comes to wilderness areas.

It is obvious "wiser" heads prevail in such wilderness areas as the concrete canyons of New York City, Washington, D.C., St. Paul and Minneapolis and even Los Angeles.

Like it or not, the recreational future of the BWCA is in the hands of absentee environmentalists and an absentee landlord—Uncle Whiskers.

Like a doting parent, the absentees are determined to dictate the life-styles of residents, and visitors, to a 1,030,000 area of Minnesota which contains some 1,076 lakes and 1,200 miles of canoe routes.

Led by such veterans of the wilderness as Rep. Bruce Vento of St. Paul, Rep. Donald Fraser of Minneapolis and Rep. Phillip Burton of California, the absentees envision a private playground for the young of heart and strong of back.

This protectionist attitude eliminates the BWCA (Ban Woman, Children, Adults) from usage by the handicapped, the very young the aged and the weekend user.

There is no need to go into the economic impact.

That is for those who labor on the financial pages. However, it would be safe to say if protectionists have their way the BWCA will become an attraction as the nation's first wilderness ghetto.

It will become an isolated island despite Congressional hot air which promises a golden age because of compromise and promises of peripheral or portal privileges.

There is no such thing as compromise. It is a word often bandied about by politicans who suddenly find themselves on the hot seat.

The feeling is Burton-Vento-Fraser are very confused, not only about what wilderness is, but also about what Americans want in the way of outdoor recreational opportunity.

They seem to be unaware that designating lands as federal wilderness areas, and then filling the cup until it runneth over with restrictions, will not really increase the type of recreation they seem to seek.

Class legislation, opening the BWCA to young bucks with 75 pound packs and a canoe to match while shutting off all motors and closing resorts and homes, apparently is the answer to whatever these asphalt dwellers seek.

Yet, and this most certainly must hold true for the Burton-Vento-Fraser triumvirate, the word "wilderness" conjures up visions of virtually everything but true wilderness.

To many, Yellowstone National Park is a "true wilderness" despite the fact it does not fit any of the criteria for such a designation.

To be honest, most Americans are also confused, not only about what a wilderness is, but also about what most want when it comes to recreation.

The BWCA, left as it is, serves a purpose, for a wilderness is whatever an individual believes it is—an area which offers an opportunity to get away from the rat race.

To restrict this area to a "chosen few" because they are blessed with strong backs and sturdy legs is to deny the equal rights of thousands upon thousands of others less fortunate.

To many of us there was a time when a sojourn into BWCA country, laden with pack and canoe, presented no problem. It was a time when "living off the land" was a rugged and enjoyable challenge.

However, as the forest ages so do its inhabitants. The challenge is no longer attainable for some inhabitants. The forest, to be enjoyed, is still attainable.

But is it?

A visit to the BWCA today, because of the many restrictions, demands the use of a Philadelphia lawyer as a guide.

The one-time visitor is faced with a "long-term reservation system," filled-up entry points and disappointment during holiday weekends or more popular months of summer.

Perhaps that is as it should be. Control is the name of the game whenever Uncle Whiskers steps in to run the store.

However, it is time Uncle Whiskers and his clerks quit listening to powerful absentee environmentalists and permitted the local help to run the business—at least to some degree.

It is time to quit thinking total protection and give more thought to multiple use which will provide commercial and recreational opportunities compatible with wise land management.

Preservationists want all logging and mining stopped, all motors (outboard and snowmobile) banned, all resorts ad homes closed and all hunting halted.

Wiser, but not much wiser, heads have prevailed but only to the extent political reprisal lurks in the shadows.

There is no argument mining is compatible. It is not. It should be banned.

Outboard motors or snowmobiles?

Perhaps my hearing isn't what it used to be, but even in my younger days I cannot recall the sound of an engine, even on the most remote lake in the BWCA, ever shattering my serenity or whatever it was I was seeking back in the boonies.

Logging?

Preservationists are spouting a philosophy that favors natural processes, unaltered by man, to be superior to wise management, failing to recognize trees must be harvested for the benefit of man and wildlife.

Just how logging is to be controlled is open to debate but it is obvious to all but the preservationist we must retain variety and diversity and use our forests for the benefit of all.

Preservationists see nothing wrong with trees dying of old age or disease, or even being consumed by fire—as long as the tree's demise is by natural forces.

Some have even gone to the extreme of advocating natural fires be allowed to burn through thousands of acres of the BWCA without any attempt to stop it.

This, they say, is nature's way.

That may have been so when Columbus hit the beach but it would hardly be wise management today.

Although I may be persuaded to listen to arguments concerning commercial logging with its profit motivation, there is no reconciling another aspect of forest management—the perpetuation of habitat needed to sustain wildlife native to the BWCA.

There is universal agreement (except by preservationists) that deer cannot survive in a forest environment comprised mostly of old trees, where food has grown out of reach and a canopy prevents sunlight from reaching the forest ground to nurture young trees.

Obviously, preservationists do not fully comprehend what happens to the land—and the forests—and are unknowingly setting up a conflict which will ultimately destroy the things they profess to love most.

Regardless of what they preach, multiple-use management of the BWCA provides for recreational use and encourages wildlife habitat improvement, resulting in a happy marriage and a wise use of the environment.

Perhaps it is time our august legislators took a long, hard look at absentee environmentalists and their plans for Minnesota.

Minnesotans today—through the dictates of Uncle Whiskers' agents in that mausoleum called Congress—are already telling us where we can or cannot hunt ducks, harvest wild rice and even where to fish or not to fish.

It is even being suggested it is wrong to fish and hunt in wilderness areas because it "upsets the natural ecosystem."

The only thing this whole mess upsets is my stomach.

Don't write to me. Write to your Congressman.●

## FOOD, DRUG TESTS BECOME A BITTER PILL

### HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. CHARLES H. WILSON of California. Mr. Speaker, all of us are concerned that the food we eat, the medicines we use, and the substances we come in contact with, be free from hazardous side effects.

Yet, in determining what materials are safe, and which are not, the Federal Government has constructed a maze of regulatory agencies, which produce quite often, conflicting or contradictory conclusions.

Until uniform, responsible and realistic testing procedures are established, the public will continue to look in bewilderment at all the conflicting data available on the food, medicines and household products that all must use.

I submit for the RECORD a copy of a LOS Angeles Times article, "Food, Drug Tests Become a Bitter Pill." American industry has come a long way since the day when Theodore Roosevelt, after reading Upton Sinclair's "The Jungle," fought for the first pure food and drug laws. The responsibility for marketing safe products must not be lost in a maze of procedures.

FOOD, DRUG TESTS BECOME A BITTER PILL

(By Robert C. Toth)

WASHINGTON.—The American public shows signs of becoming as exasperated as the old Irish woman whose doctor took away one after another of her pleasures until she exploded: "Soon ye'll be taking away me dying!"

Saccharin, hair dye, cured meats like bacon, even drinking water have been cited within the last year as causes of cancer—at least cancer in small animals fed large doses of suspect chemicals.

The presumption is that these chemicals also cause cancer in humans when taken in normal doses. But there are two tenuous steps in that reasoning—going from large to small doses, and from lower to higher species. Moreover, the test animals used usually are chosen because they are cancer-prone.

But acting on presumption, government regulators move to ban or restrict such chemicals. The public—seeing familiar products taken off their tables or out of their medicine cabinets and being unpersuaded at best by the evidence—appears to have become increasingly skeptical and incredulous, particularly when test results and government actions cost consumers money and increase their anxiety, or worse.

Some horror stories:

In 1972 childrens' sleepwear was ordered treated with flame-retardant chemicals, raising sleepwear prices 20%. Last year the chemicals were banned because they can be absorbed through the skin and cause cancer.

Certain spray adhesives were banned when a researcher reported that their use by pregnant women could cause birth defects in babies. Seven months later the ban was rescinded. But in those seven months, some doctors said they recommended abortions to exposed women who were worried.

Two testing laboratories and a drug company were found to have distorted, even invented, test results. This "creative penmanship" included reporting that a larger number of animals were tested than actually were. Sometimes tests were designed to hide, rather than find, dangerous side effects of a drug or pesticide, according to reports to Congress by the Food and Drug Administration and the Environmental Protection Agency.

The first alarm of this kind, the Great Cranberry Scare of 1959, was blamed on the pesticide, amitrole, whose cancer-causing ability is still unproven, according to Edward W. Lawless, author of "Technology and Social Shock."

"The major evidence (of carcinogenity) is still a footnote in a preliminary report of a study," he writes, and is "still controversial."

There is no undisputed case in which a chemical was found to cause cancer in test animals and, when exposed human groups were examined, also was found to cause cancer in man. Saccharin may become the first if a recently announced $1.4 million 18-month study finds a correlation between bladder cancer and the sweetener's use. Several smaller-scale studies on man have been equivocal.

Observers, in and out of government, claim that the government's "bear-hug of protection" has become so stifling that reaction has set in. If so, that might help explain the defeat last week in the House of Representatives of a bill to create a new Consumer Protection Agency, atop the 33 existing agencies that have among them about 1,000 consumer-oriented programs.

Three years ago, Rep. John B. Anderson (R-Ill.) supported the measure, but last week voted against it. "The grass roots doesn't want it," he said. "They regard the government as a faceless bureaucratic intrusion in their lives."

Even the regulators admit they are in trouble. "There is a crisis of confidence in testing procedures and in regulation as well," said Dr. Donald Kennedy, the new commissioner of food and drugs.

Skepticism extends beyond the public into the ranks of experts. Dr. Emil M. Mrak, Chancellor Emeritus at UC Davis and an authority on food chemistry, was said to have bought huge jars of saccharin when the FDA moved against it so he would have an uninterrupted supply.

"Not true," Mrak said in a telephone interview. "I did that with cyclamate, the earlier sweetner, when FDA banned it in 1970. But I would have done it with saccharin, too."

Once a radical, Mrak is now viewed as a conservative in the field. He was among the first to urge tests on at least two different animal species, rather than just one, before a chemical or drug could be labeled safe for humans.

This concept was finally accepted "but now they call me an industry man because I think things have gone too far," Mrak said.

"We should apply more common sense in these cases, a better weighing of risks and benefits, fewer outright bans and more warning labels, perhaps."

Mrak and others believe there are thresholds below which chemicals do no damage or that any such damage is quickly repaired. But the government, partly because of the way the laws are written, operates as if there was no safety threshold.

Mrak also objects to testing with massive doses of chemicals and then extrapolating down to low dosages, as in the saccharin tests. In those tests, rats were fed diets consisting of 5 percent saccharin, a huge amount comparable to a man drinking 800 bottles of diet soda a day.

"You upset the whole metabolic process of the animal and weaken it with such doses," Mrak said. "It's almost bound to have some adverse effect."

FDA officials insist that large doses alone will not cause cancer in animals. Large doses may poison it but will not cause the genetic changes inside cells that are characteristic of cancer, according to several studies.

A test of 120 pesticides and industrial chemicals given to mice in large doses found that only 11 caused tumors, according to FDA science director Richard Bates. "And these chemicals were not randomly "selected," he emphasized. "The majority were picked (for testing) because they were already suspected of causing cancer."

Officials like Bates approach their regulatory responsibilities by seeking the most valid and practical scientific tests as the basis for their action.

To regulate the risks of food additives, drugs and environmental pollutants for humans, the most valid tests would be those done on humans. This is impossible for ethical reasons, but it also is impractical. Cancer takes as long as 40 years to show up. Many people might be dead from other causes before tests bore results.

Large primates like chimpanzees, even dogs and cats, would be next most suitable. But they cost too much to be fed and housed for their lifetimes.

So researchers favor rats, mice, hamsters and other small, short-lived, easily managed creatures that can be inbred to be genetically identical, generation after generation.

Still, it costs on average $750 to $1,000 per rodent per study. Each study requires at least 200 animals—half receive the chemical, half get identical treatment except no chemicals—and a full study costs at least $150,000. Hundreds, perhaps thousands of such studies are conducted each year.

To further cut costs, large doses of the chemicals are used rather than small natural occurring doses. With small doses, many thousands of animals would be needed to find one case of cancer. With saccharin, for example, 180,000 rats would have to be fed at a dose level comparable to one diet soda a day—rather than at the 800-a-day level of the test—to find one animal with bladder cancer.

And to increase the chances of finding carcinogens, the experiments use animals with a high natural cancer rate. (To use normal animals would risk missing a carcinogen, researchers say.) Such animals usually are prone to cancer in only certain organs, however, and are used for tests of chemicals that are suspected of causing cancer in other organs.

Thus, the National Cancer Institute's favorite mouse strain, B6C3F1, has an average spontaneous tumor rate of 15 percent in the liver of male animals. It would be used to test a chemical suspected of causing stomach cancer, and so forth.

The average natural cancer rate can vary greatly, however, according to Dr. Cipriano Cucto, a Cancer Institute toxicologist: The B6C3F1 mouse, with the 15 percent average, had shown a 55 percent spontaneous tumor rate at one time, he said. It is almost as if the strains are so highly inbred that they get cancer if looked at cross-eyed, he acknowledged.

Mathematics, however, compensate for using cancer-prone animals—or so it is believed. To obtain a real rather than chance result, statisticians insist that a test be 95 percent reliable—which means if it was repeated 100 times, the result would be the same 95 of those times.

This standard is very demanding. Consider test groups of 50 animals each. If three animals in the control group get cancer naturally, eleven in the group receiving the chemical must get cancer for the test result to be considered significant and real. Ten tumorous animals are not enough in this case. Obviously, much rides on whether one or two animals, more or less, get cancer out of a rather small test population.

Regulators would like to have more evidence than that on which to base policy decisions affecting hundreds of millions of people. If not more evidence, they would like more assurance that the evidence they have is valid.

To this end, at a former germ warfare arsenal in the rolling hills south of Little Rock, Ark., the National Center for Toxicological Research is completing a five-year, multimillion-dollar study to determine whether scientists can extrapolate from large to small doses, can use small test populations of animals and answer a host of other questions about testing procedures that disturb researchers as well as the public.

The center jokes about being "the biggest mouse factory in the world," and outside scientists refer to the study as a "megamouse"—meaning million-mouse—test. In fact, precisely 24,192 mice have been used, divided into 60 different groups of animals fed varying amounts of a chemical and sacrificed for examination over various periods up to a lifetime.

"It was the largest test ever done on dose-response relationships," Dr. C. D. Jackson, director of the Center's carcinogenesis division, said in an interview. "We looked at how soon tumors developed, whether we could sacrifice the animals early or had to let them live out their lives, and so on." Test results are expected later this year.

The center also is seeking other systems in which to test for chemicals that cause cancer, genetic changes, and birth defects. One possibility is a cell mixture which will undergo mutagenesis—genetic changes—in test-tube conditions. If it works, it could eliminate much of the costly animal testing.

But toxicology today is an imprecise science, and the suspicion is that politicians have been oversold, perhaps by themselves, on using it as the basis for regulating food additives, drugs, cosmetics, environmental pollutants and other chemicals affecting man.

Different chemicals are toxic to different degrees. Some are stronger carcinogens than others. Some endanger larger populations than others.

Saccharin is a weak carcinogen and if only a small population was exposed (say diabetics), the FDA would have had even a harder time explaining its action against the chemical sweetner.

Yet as the law is now written, the FDA has no authority to take into account the degree of risk or any countervailing benefit. The so-called Delaney Clause, added to the FDA's charter in 1958, states that "no (food) additive shall be deemed safe . . . if it is found . . . to induce cancer in man or animal."

"We are in a dilemma," acknowledged Steven D. Jellinek, assistant Environmental Protection Agency administrator for toxic substances. "We are at the cutting edge of science.

"If we wait 20 years for better test systems, lots of people may suffer. So we must act on the very inadequate science of the day, with the very inadequate statistics, to make the best decision we can on the evidence we've got at the time."●

## TRIBUTE TO LOUIS B. BERGNA

### HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. MINETA. Mr. Speaker, it gives me great pleasure to rise today to honor Mr. Louis P. Bergna, district attorney for Santa Clara County, who was honored with a testimonial dinner on April 12, 1978, by City of Hope, a private organization that conducts medical research on childhood diseases.

Lou is a native Californian. He received his undergraduate degree from Stanford University and his Juris Doctorate from the University of Santa Clara. After passing the bar in 1948, he went to work for the district attorney's office as a deputy and was appointed chief trial attorney in 1951. He returned to private practice in 1952 until he was appointed district attorney for Santa Clara County in September 1957.

In addition to his service as district attorney, Lou was an assistant professor at San Jose State University police school from 1949 to 1969. He represented California on President Kennedy's White House Conference on Narcotics and he was appointed by Governor Reagan to serve on the California Council on Criminal Justice in 1968. He is past president of the Santa Clara Bar Association and the California District Attorneys Association. During 1975–76 he was president of the National District Attorneys Association and is still an active member of that organization. He currently serves on the Regional Justice Planning Board.

Lou has been honored with the National District Attorneys Distinguished Service Award and the Distinguished Eagle Scout Award. And on April 12, 1978, Lou Bergna was awarded the Spirit of Life Award from City of Hope.

Mr. Speaker, I ask you and all my colleagues to join with me to say congratulations Louis P. Bergna for all his fine work. His contributions over the years have helped to make our valley a better place to live.●

## THE 75TH ANNIVERSARY OF ALHAMBRA, CALIF.

### HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. ROUSSELOT. Mr. Speaker, this is a season of jubilant celebration in the city of Alhambra which is located in the beautiful valley of San Gabriel in the Golden State of California. The people of Alhambra are observing the 75th Anniversary of their city's incorporation. It gives me great pride and joy as the elected representative of California's 26th Congressional District which includes the city of Alhambra to offer this tribute to a sturdy city which has, through private enterprise, grown from a small community of 600 residents 75 years ago to a thriving, important municipality with a population of more than 62,000 people within the city limits. The mayor of Alhambra, Hon. J. Parker Williams, and other civil leaders have set up the Alhambra Diamond Anniversary Committee under which several community activities are scheduled where the notable event of the incorporation of the city of Alhambra will be officially recog-

nized. The members of the Alhambra Diamond Anniversary Committee are: Mayor Parker, former mayor and city councilman Steve Ballreich, executive manager of the chamber of commerce Jackson B. Kuehnle, Alhambra Community Hospital Administrator David Jacobson, Alhambra Post Advocate editor and publisher Warner Jenkins, Alhambra central business district manager Richard Nichols, and businessman Pete Letournea. The first event will be on April 22 when the Alhambra Jaycees will sponsor the annual Hi Neighbor Day Parade. Luis Brambila is chairman of this 34th annual parade, and George Ramos is general chairman and international vice president of the Alhambra Jaycees. I am honored to participate in this event and on this occasion I will present this insert from the CONGRESSIONAL RECORD noting that I have made the celebration of this significant event a permanent part of the record of the U.S. Congress. On July 11 the Historical Society of Alhambra will have a mock period dress celebration on the date of this city's incorporation. On September 24 the city will hold a community picnic with fireworks.

Mr. Speaker, I would like to insert the following information about the history of Alhambra, the city called the Gateway to the San Gabriel Valley, as it appears in a publication distributed by the Alhambra Chamber of Commerce:

The principal part of the land within Alhambra's present boundaries was included in the 1771 grant made to Mission San Gabriel, five years before the birth of our Nation. There were no orchards or vineyards in the San Gabriel Valley then, only dry, uncultivated fields broken by arroyos and lowlying hills from the Mission San Gabriel west to the small Indian village called "Yang-na," which later became Los Angeles. According to 1784 records of individual land grants made by the Spanish Government, at least a portion of the land on which Alhambra was built was once part of 300,000 acres grant to Manuel Nieto.

One of the early founders was Benjamin B. Wilson, a 29-year old Tennessean who later held several political offices and became a State Senator. "Don Benito," as he was familiarly called, married Ramona Yorva. Don Benito's eldest daughter, Maria, married a young engineer from Baltimore, James de Barth Shorb, and they were given a section of land adjoining the Wilson property as a wedding present. Shorb called in "San Marino," the name of his boyhood home in Maryland. The Huntington Library Art Gallery stands on the side of the Shorb home. Don Benito's wife died and he later married a widow, Mrs. Margaret Hereford, and this is significant because they had four children, one of which was Ruth Wilson who became Mrs. George Patton, mother of the famous General George Patton, Jr. In 1874 Don Benito bought the land between the Arroyo and the Old Mill Wash paying the State $2.50 an acre. He divided the tract into five and ten acre lots. Mrs. Patton and Mrs. Shorb who had been reading *Alhambra*, Washington Irving's book of the legend of the Moorish Palace in Spain, suggested that Wilson name his venture "The Alhambra" because it was so romantic. There were several other subdivisions of property, some of which bear names from Don Benito's family, one of which is Mount Wilson where the Observatory is located.

No better description has been given of Alhambra than that of Rufus Fiske Bishop who recalled on the 50th Anniversary of his arrival in the 1880's that "within what are now the city limits, there was not a schoolhouse, a store or a blacksmith shop. We saw a valley, wide and open, yellow with stubble, shimmering in the summer haze to the eastward, stretching from the blue mountains to the brown hills, with here and there a green splotch of young orchards and vineyard toward Pasadena or the foothills. That first spring we marvelled to see the slope (Altadena) ablaze with poppies and were told that ships steered their course by the bright color."

Mr. Speaker, I ask that you and my other colleagues in the House of Representatives join with me to offer our congratulations to the city of Alhambra on the occasion of their 75th anniversary.●

## CRIMINAL CODE REFORM ACT STILL WRONG

### HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. WEISS. Mr. Speaker, serious threats to the fundamental rights of Americans are contained in legislation now being considered by a House subcommittee. Known as the Criminal Code Reform Act, this legislation (S. 1437/H.R. 6869) would greatly expand the Federal criminal law and would also undermine civil liberties protections established in the Bill of Rights.

I have previously introduced a resolution (H. Res. 10666) urging the Judiciary Committee to disapprove H.R. 6869 and to undertake a careful and thorough study of criminal code revision.

An editorial appearing in the February 20 Syracuse, N.Y., Herald-Journal incisively explains some of the principal problems with the legislation and it urges the House to examine the bill "with a fine-tooth comb and eliminate every provision that would in any way infringe on the constitutional rights of law-abiding Americans."

I wholly concur with the Herald-Journal's position on this legislation, and I urge my colleagues to study the paper's editorial which is reprinted below:

CODE STILL WRONG

After 12 years of writing and rewriting the legislation, and two earlier failures, the Senate finally passed the latest version of the Federal Criminal Code Reform Act.

The bill now is being considered by the House of Representatives.

It should not have gotten past the Senate. It must not be passed by the House.

The need for revision and organization of our federal criminal code was never in doubt. Back in the Lyndon Johnson administration, the National Commission on the Revision of the Federal Criminal Law began its task—with "liberal" goals in mind.

During the "law and order" days of the Nixon administration, the commission reversed direction and the resulting legislation, which came to be known simply as S1, was so repressive it was allowed to die a quiet death in committee.

But the seeds for reform had been planted. Supporters of the bill put their heads together to produce a compromise measure, discarding the most offensive sections. But they didn't go far enough.

As it stands now the legislation (HR6869) puts dangerously subjective powers in the hands of federal law enforcement officials and could silence the voice of popular dissent.

And even though some of the bill's harshest provisions were extracted on its way to passage in the Senate, the new code still contains a number of hedges against the First Amendment right to a free press.

For instance, it would allow the government to hold a reporter in criminal contempt for refusing to disclose confidential news sources, even under an order subsequently ruled invalid.

The code, as now written, also would authorize the government to prosecute a news reporter for hiding his notes in an effort to protect the identity of a confidential news source suspected of committing a crime.

HR6869 is stacked heavily against political expression through assemblies, demonstrations and picketing.

Section 1861 (Public Safety) would make it unlawful to disobey an order of a law enforcement officer or a public servant assigned public safety responsibilities where the order is issued in response to a fire, flood or riot. OK, so far. But the law also would extend to any "other condition that creates a risk of serious injury to a person or serious damage to property."

The phrase, "other condition," would put into the hands of every federal law enforcement official the authority to disperse any assembly, parade or picket line—anywhere in the U.S.

There are other provisions which, in the wrong hands, could be used to stifle dissent and should be considered serious threats to our own civil rights.

Before this legislation is approved by the House of Representatives, the members of that body have an obligation they must not ignore, to go through the massive piece of legislation with a fine-tooth comb and eliminate every provision that would in any way infringe on the constitutional rights of law-abiding Americans.

Until this is done, the bill must not be approved.●

## INFACT DAY

### HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. VENTO. Mr. Speaker, there is increasing awareness within the United States and especially Minnesota of the dangers associated with the improper use of infant formula in developing countries. This is of particular importance to me, as well as to all of you here, because the promotion of infant formula is primarily directed by companies headquartered in developed nations.

I am concerned about the promotional practices of these corporations. Conditions necessary for the safe preparation of infant formula products are rarely available in these countries. These promotional practices put unfair pressure on women to use infant formula. This is extremely hazardous to the child's health when unsterile water, inadequate hygenic standards, and insufficient income exist.

It is my hope that your action today and other actions across the Nation will result in the companies' examining their marketing practices in terms of human suffering.

I would like to take this opportunity to recognize the efforts of the people of Minnesota on this issue. The Center for Corporate Responsibility and the Infant Formula Action Council have been instrumental in alerting people to this issue for several years. The State of Minnesota has declared today Minnesota Infact Day, and together with the University of Minnesota, has committed the shares of American home products stock to the shareholders' action. The city of St. Paul has also declared this Infact Day in St. Paul, and the DFL has officially supported the shareholders' action. We can all take pride in the knowledge that the citizens of Minnesota are leaders of this issue,

On the national level, I have sent a letter to the corporate officers of the major infant formula manufacturers. This letter, cosigned by 13 of my colleagues, calls for these companies to address responsibly the problems resulting from the aggressive promotion of their products.

As a Nation, we can take pride in our democratic traditions which have made ours the most free and open society in the world. These traditions can be only maintained when individuals and corporations take responsibility for their actions.

The Sunday, April 9, 1978, New York Times published an excellent article describing the shareholders' action, which follows:

INFANT FORMULA: A PROXY ISSUE

WASHINGTON.—Baby formula is becoming a controversial topic during the 1978 annual-meeting season, reflecting the increasing sophistication and aggressiveness of activist shareholders.

Although the Interfaith Center on Corporate Responsibility, a coalition of 20 religious groups, has attempted to use the proxy process for four years to change the sales-promotion practices in developing nations by the American Home Products Corporation and other producers of infant formula, its resolution on A.H.P.'s 1978 proxy cards represents the center's first nationwide proxy solicitation campaign to win support for its infant-formula resolution.

Specifically, the New York-based Interfaith Center is calling upon A.H.P. to establish an independent 15-member committee to review its marketing and promotional practices in the third world, where, it contends, the misuse of infant formula, a fortified product fed to babies in bottles to supplement or replace breast milk, has contributed to infant malnutrition, disease and death. Church groups have provided growing documentation that often in poor countries mothers overdilute the formula or mix it with impure water.

The church coalition, which controls 82,690 shares (valued at more than $2.3 million) of A.H.P.'s more than 158 million common shares, represents the largest group of church investors cosponsoring a single resolution to any company this year.

Leah Margulies, the Interfaith Center's coordinator of the campaign, said in an interview that the group had recently sent more than 500 institutional investors a four-page proxy solicitation.

A.H.P., in response, is digging in its heels and ardently opposing the resolution, although infant formula accounts for less than 2 percent of its earnings. Previously company officials met most of the church groups' demands for disclosure before the group needed to resort to proxy solicitations. But they have flatly rejected the groups' claim that the company, through questionable promotional practices, pushes infant formula instead of breast milk.

"We do not compete with breast milk only with less suitable, less nutritious products," said Steven Bauer, vice president of Wyeth International, A.H.P.'s subsidiary that manufactures the infant formulas, SMA, S26 and S28.

Last week the company mailed its own statement on the controversy to institutional and large individual investors, opposing it on several grounds:

To vote for it is to accept the groups' allegations of improper marketing.

A watchdog committee would be "intrusive, cumbersome, expensive" and unnecessary in view of the company's practices.

The review committee is actually a challenge to the company's ability to manage its own business affairs.

"It's a question of principle," said Carol G. Emerling, A.H.P. secretary. "If it only takes a tiny minority of the shareholders to call into question the company's management, we're no longer fully in charge of the Company."

The company's arguments do not impress the church groups.

As part of the campaign, the Infant Formula Action Coalition, known as Infact, a sometimes overlapping confederation of more than 40 groups nationwide that are also concerned with the health impact of bottle feeding in the third world, is trying to build support for the resolution among the nation's institutional investors. In Minnesota, home of one of Infact's most active chapters, proponents said they expected the Minnesota State Board of Investments, which owns 260,000 A.H.P. shares, to endorse the proposal soon. Last week, the Minnesota University Committee for Social Responsibility in Investments, which advises the university's Board of Regents, endorsed the proposal. New Jersey groups are also studying it.

In addition, Infact groups are promoting a national boycott of products made by the Nestlé Corporation, an international conglomerate based in Switzerland, the world's leading exporter of infant formula to poor nations. April 13 will be "Infact Day" in several cities where demonstrations are planned.

But the shareholder resolution is still the focus of the groups' campaign against misuse of infant formula, and its supporters say they have already made headway against A.H.P. and other infant formula producers.

David Liff, director of the Investor Responsibility Research Center's task force on infant formula, credits the proliferation of shareholder resolutions with prodding the industry into the formation of a trade association, which in late 1975, adopted an ethical code to curb formula misuse.

Church groups have also proposed a resolution to the Carnation Company, for the first time, seeking disclosure of sales and marketing information, but the Interfaith Center canceled plans for a resolution aimed at the Borden Company, after the company agreed to withdraw all advertising suggesting that Klim, a powdered milk, could be substituted for infant formula.

In another case, the Sisters of the Precious Blood sued Bristol-Myers Inc. in 1976, charging that statements made in its proxy material regarding the company's promotional practices were false and misleading. In what Miss Margulies calls an "important victory" for the infant-formula campaign, Bristol-Myers settled the suit last January, agreeing to mail shareholders a special report on the controversy stating both sides' views and to meet regularly with the groups to discuss marketing practices. In return the church groups agreed not to file a shareholder resolution with the company this year.

The Interfaith coalition sought and won similar disclosures from A.H.P. in 1975 and 1976 in exchange for the withdrawal of shareholder resolutions.

Last year, the church groups did propose a resolution that would have required A.H.P. to change certain marketing policies and practices. The resolution, which the S.E.C. approved for inclusion on the company's proxy statement, was supported by 2.92 percent of the shares voted at A.H.P.'s annual meeting—just short of the 3 percent the S.E.C. requires for the resolution to be reintroduced automatically. This year the coalition again won S.E.C. approval for its resolution, and separately won the commission's approval to wage the proxy-solicitation campaign. Everything mailed to shareholders relating to a proxy dispute must pass commission scrutiny. Last year the church groups avoided this costly process by simply meeting informally with large shareholders and leaving the resolution to stand on its own among others.

Members of the Interfaith Center are bitter about last year's proxy dispute, because shortly before the annual meeting, the company sent a second proxy card to shareholders who had voted for the resolution, asking whether they had intended to support the resolution. The move led some shareholders to change their ballots, the company agreed.

"It apparently was legal," said Miss Margulies, "but we feel it was certainly unethical, very dirty pool."

Company spokesmen say the shareholders were resolicited because the company had presented the resolution with a series of management-supported resolutions. Some shareholders might have been confused, as a result, they said, and voted for it with the others.

Both last year and this year the S.E.C. rejected the company's requests for permission to exclude the church groups' proposals from its proxy statements. In 1977, the staff ruled that the company could omit the resolution because it dealt with a matter relating to the "conduct of the company's ordinary business operations." In a highly unusual move, the commission reversed the staff's ruling and permitted it.

This year, the staff sided with the church groups; the decision was upheld in an appeal by the commission.

Miss Margulies will not predict whether the Interfaith Center's proxy solicitation campaign, which cost slightly less than $5,000, will win the 3 percent support needed to raise the issue again next year. But she believes that because the process raises interest in her group's cause, the proxy fight is well worth the effort.

JUDITH MILLER.●

## THE AMERICAN FOOD MACHINE AND PRIVATE ENTREPRENEURSHIP

## HON. CHARLES E. WIGGINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. WIGGINS. Mr. Speaker, the House has recently focused its attention on the Nation's farmers. Although the conference report on the Emergency Agricultural Act of 1978 was defeated, the debate on farm policy is far from over. It is therefore appropriate, as a contribution to that debate, that membership read the views of a man who served for 5 years as

Secretary of Agriculture, Earl Butz. The remarks, printed below, were delivered at Hillsdale College, in Hillsdale, Mich., as a part of the school's Ludwig von Mises lecture series.

THE AMERICAN FOOD MACHINE AND PRIVATE ENTREPRENEURSHIP

(By Earl L. Butz)

The modern American Food Machine is perhaps the greatest single source of strength undergirding the unparalleled level of American living. It is also our number one single source of foreign exchange. At the same time, it is one of the real power bases undergirding our foreign policy.

The first claim of any society upon its total production resources is to produce enough food to keep the population alive and to reproduce itself. This is so evident that it is axiomatic.

We do this in the United States with less than four percent of our labor force on farms and with perhaps no more than another 10 or 15 percent engaged in the agricultural infrastructure—making agricultural production inputs purchased by farmers, and processing and distributing food and fiber produced by farmers.

As recently as a third of a century ago, early in World War II, one worker on American farms produced enough food for himself and about nine other people. Today one farm worker produces enough for himself and some fifty other people. On our more efficient commercial family farms, one worker produces enough to feed over 100 other people.

This remarkable growth in the efficiency and productivity of American agriculture in the last generation forms the real basis for the general affluence we take for granted in America.

Even though the cost of food is a widespread source of complaint, the plain truth is that we Americans buy more food for a smaller share of our working day than ever before, and for less than any other nation.

And we eat better than our fathers did—and better than any other people, everything considered!

As a nation, we now get our food for a little less than 17 percent of our take-home pay. That's 17 percent of what's left after the bite taken by federal and state taxes. This compares with 24 percent of take-home pay required for food just a quarter century ago, when the real level of wages was substantially lower than it is now.

Moreover, that 17 percent of take-home pay for food now buys a lot more services and "extras" than in former years. It includes all the built-in "maid service" in our modern food supply—frozen TV dinners, oven-ready pastries and rolls, processed potatoes, delicatessen items from the supermarket, and so on. And these things don't come for free.

On top of that, the 17 percent includes over one-third of our meals eaten outside the home. When you go out for dinner tonight and enjoy a nice meal that costs, let us say, $6.00, just pause to think that in that restaurant if the waitress put an empty plate in front of you, it would probably cost $4.00. That's for service and overhead. Yet, all this is included in the 17 percent of take-home pay we spend for food.

Because we spend only 17 percent of take-home pay for food, by definition, we keep 83 percent to spend on something else or to save.

That's why it's possible in the U.S. for well over 90 percent of our families to have a TV set, and about half to have 2 sets; for some 85 percent of our families to have an automobile, and over 40 percent to have 2 cars; for nearly all of our families to have electricity, indoor plumbing, radio, and a host of other things and services that were anything but commonplace a generation ago.

Why did this phenomenon of food abundance and economy occur here? Why not in Argentina, where in another hemisphere they have the same good soil and favorable climate we do? Why not in Russia where they have vast land resources and lots of people? Why not in Europe?

A major reason is that the United States is a nation of family farmers, in business for themselves, with their own capital invested, their own family labor involved, trying to make a little money and save some of it.

The American family farm represents entrepreneurship at its best. It is here that we find a direct relationship between personal profit (or at least the hope of profit) and investment, innovation, risk-taking, and just plain old-fashioned hard work and enterprise.

I have seen Russian farm experts come to this country and visit successful American family farms. They have taken back to Russia our large power units, our combines and our pickers, our well-bred livestock, and our high yielding crop varieties. But they don't seem to work very well on the Russian farms, because our Russian visitors never saw that invisible cement that held it all together on the American farm—the farmer and his family in business for themselves, in pursuit of a little more profit than would come to average performance or would result from central governmental direction.

The American farmer hasn't learned yet to punch the clock at 40 hours. If it rains today, tomorrow he rides the tractor 14 hours, with no questions asked. And Mamma drives the truck right beside him.

He hasn't learned yet to go out to the cow stable and say, "Look bossie, I'm going to be gone over the weekend. Let's shut it off for three days."

And, most important of all, he hasn't learned yet to put two drivers in his tractor cab, like in that locomotive that goes through this town.

He can neither afford nor tolerate those slow-down tactics; he's in business for himself—trying to make a little profit. This is the strongest possible motivation for change, for new investment, for rapid adoption of new technology, for increased efficiency, and for expanded output.

How fortunate we are that this is true. How fortunate that this great power base is ours, here in the United States. We must use care not to hobble it, not to impair it, not to diminish it.

We must not panic in our national farm programs in reaction to a temporary surplus situation. Last year was the first in four years that total world grain production exceeded total world grain consumption. For three years before that, we were drawing down inventory. Last year nearly the entire world experienced relatively good growing conditions.

This is unusual. The usual is to experience a major stress area or two somewhere in the world. This year such an area apparently is in mainland China. They have contracted to purchase 11.6 million metric tons of wheat in the next year. They had to be in a serious internal food situation, or else they would not have committed so large a chunk of their precious foreign exchange for that purpose.

In the United States, in the early months of the 1977 crop year, there was widespread concern about the low moisture situation in the Corn Belt and in the Great Plains states. The potential was present for a serious yield-reducing drought right in the very breadbasket of America. Fortunately, the rains came, and 1977 production was good. But the weather margin for us last summer was a narrow one.

Much of the world's turmoil can be traced to man's quest for food and the quest for land on which to grow that food. Potential food shortages, within a quarter-century, could serve as the catalyst for man's final act of self-destruction. The way in which we view agricultural production today, the priorities the world places on food, will hold the answers.

Agricultural science and development, investment and innovation, profit and incentive can't be turned on and off, willy nilly, in response to the vagaries of weather and production from year to year. Remember, it has been less than three years since we were all stirred up about the "World Food Crisis."

We are now face-to-face with the fact that the world's number one problem is how to feed 80 percent more people in the next quarter-century. Or, to put it another way, allow for slight improvement in individual diets, and the job becomes one of learning in the next 25 years how to feed as many more people as we've learned to feed since the dawn of history.

We must find the answers to this problem at a time when we have no new western hemisphere to discover, no new prairie sods to plow, no more virgin woods in temperate climates to clear and convert into farmland. Indeed, we must double food production at a time when many nations are losing arable land to urban sprawl, highway construction, and recreation.

Demographers predict that in 25 years earth's human population will be 6.5 to 7.0 billion, compared with 4.0 billion today.

Can we feed those 7 billion people 25 years from now?

The answer is simple. Yes, we can—or they won't be here!

The question is not can we feed them, but can we feed them well. For that part of the world's population that often goes to bed hungry, can we make eating an exciting experience? Can we make eating something more than a mere exercise in sustaining life inside the human body?

Can we produce and distribute enough food to generate the sort of happiness and satisfaction that will promote peace?

The answer to all these questions is a resounding yes, if we take positive action on two important fronts:

1. Continue to emphasize agricultural research and technology, both public and private.

2. Continue and strengthen a system of individual freedom and incentives that reach each and every farmer willing to strive for them.

The first of these two will be the less difficult to attain, both here and abroad. Modern technology is transferable; research results can cross oceans and mountains overnight. Scientific developments that have taken 20 years to perfect can be transported to other countries in months.

But the maintenance of incentive systems for the farmer is far more difficult. Yet, it is just as crucial—perhaps more crucial. This is true both here and abroad. Too often we have believed that the road to more food for the developing countries is paved only with science and technology. Yet, those techniques, when transplanted, have sometimes withered on the vine, almost before our own technicians could get out of the field.

Why? There was no real incentive for the farmer to take the risk to change. There was no prospect for profit.

Too few national governments have made the commitment to assure that changes in techniques would provide real incentives to the individual farmer.

Too many nations including our own, have an underlying, but powerful, urge to pursue a cheap food policy—making it difficult for the man on the land to reap the reward for the innovations he makes.

Consumers the world around welcome such a cheap food policy—and politicians respond, whether they're capitalist or communist. As nations become less agricultural and more urban, the incentive base for the farmer becomes less certain. It becomes more susceptible to political pressures and special interest dealings.

Even in this highly literate nation of our own, we have seen repeated attacks on the incentive system for farmers. True, these attacks are most obvious when food prices are in an upward posture, but they none the less persist today. It has only been five months since we had a well publicized "meatless dinner" in the Roosevelt Room of the White House—and that's about as close to the Oval Office as you can get without actually entering it. And this dinner was attended by, among others, the secretary of agriculture and his assistant secretary of agriculture!

It has only been three years since we had such campaigns as the beef boycott, eat one less hamburger per week, or Meatless Tuesdays. It has only been four years since political pressures forced us into a system of federally imposed price ceilings on meats and other food products.

Most of us have forgotten that it has only been three years since the American Bakers Association whipped up a scare campaign that bread would go to a dollar a loaf unless we imposed export controls on wheat.

It was only two years ago that the longshoremen refused to load Gulf port grain that was destined for Russia—on the pretext of keeping living costs under control—while they did some fancy maneuvering of their own to increase shipping subsidies.

Almost unnoticed by most of our people during May-August, 1977 was the official pleasure in Washington as farm prices declined four straight months in a row. The four-month decline of 15.2 percent in farm prices was heralded each month as presaging *only* modest rises in retail food prices. And that in the face of escalating farm production costs.

The drop in farm prices masked the rise in nearly every other price category and permitted Washington price watchers to interpret a slowing of the overall price gain as evidence that inflation was coming under control.

The consuming public liked this interpretation. It was consistent with their general support of a cheap food policy.

At a recent meeting I addressed, I walked through a group of young protesters carrying placards reading "Food is for people, not for profit." That prompted me to remark to my audience—"I have a message for those misguided youngsters. If there's going to be no profit in food, ultimately, there will be no food for people".

In recent weeks our government itself has taken direct action to curtail output through a requested 20 percent set aside for wheat in 1978, and a probable set aside for feed grains. We are placing our grains into a massive governmental loan and storage program, as we move inexorably toward again making the U.S. a residual supplier in the world grain markets, a primary granary for the world's warehousing, and the residual production adjuster for the world.

The sad part is that these negative signals, these arbitrary restraints, didn't happen in some distant land. They didn't happen in a dictatorial society. They didn't happen in a communist state. They didn't happen under a government dedicated to suppression of human rights. They didn't happen under a political system based almost completely on central planning.

They happened in the United States.

They happened in the world's greatest democracy.

They happened in a nation whose hallmark is freedom of choice and freedom of action.

They happened in a nation whose level of economic literacy is perhaps the highest in the world. They happened in a country where the legislative body reputedly reflects the will of the people better than in any other nation.

Now, we must ask, have we learned any lesson from taking those negative acts? Have we learned that if the United States is indeed to use its great food productive capacity, then the individual farmer must be free to produce and market his crops as he sees fit?

We must not dampen the incentives that have made our farmers the producers that they are. We must not signal to them in the language of price—the language they understand best—that we want less, not more.

We must not constrain their access to markets, both domestic and foreign by politically inspired prices and production directives that create the illusion, even in the short run, that a government warehouse constitutes an enduring market.

Our nation—and indeed every nation of the world—must make the commitment to move agriculture and food to the front burner. It must be moved higher on the scale of priorities in both national policy and in capital allocation.

To do less will be to condemn hundreds of millions of people to such a substandard level of living in a few years that peace will be difficult, if not impossible.

Hungry people will not remain invisible or silent. No matter how remote their village, they now hear of the outside world on transistor radios. They see affluent travelers from North America, Europe and Japan. They now realize that a better life is indeed possible. Increasingly they will not settle for less. They see a ballet of affluence dancing all around them—and they dream of a piece of the action.

Hunger is the stuff out of which revolution is born. And revolutions, once started, have a tendency to spread. They are like a pebble dropped into the pond; there is no way of knowing where the ripple will hit the shore.

The oceans on either side of us are no insulation. Four times in my own generation, the United States has been drawn into conflict away from our shores. There is no way we can avoid it the next time.

That is why this nation's agriculture now commands such a strategic position. That is why it must be kept free and incentive-oriented. Other nations may have Petropower, but we have Agripower—and we have it in abundance. It is to our door that nation after nation will come for food and for the know-how to grow better food.

To the extent that we can respond to those needs, we will lay the foundations of peace. America must help the world learn to grow more food. We must use our Agri-power wisely and with strength.

We must not be lulled into believing that somehow we will be able to exist as an Isle of Affluence in a Sea of Human Misery. A hungry world will not allow it. We must make a stronger commitment than ever to keeping our own farmers healthy, and to helping others help themselves.

The best way to accomplish this is through a strong system of incentives for the only one who produces food—the farmer on the land.

There is a synonym for this:

The word is profit.●

## CONGRESS NEEDS TO LOOK AT KEY ISSUES IN TITLE I OF ESEA

### HON. DAVID C. TREEN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. TREEN. Mr. Speaker, one of the major issues facing the 95th Congress is consideration of the renewal of the Elementary and Secondary Education Act (Public Law 89–10). This measure, adopted in 1965, has become the major Federal aid-to-education program.

The key element in ESEA has been title I which provided funds for school districts based on the number of children from poor families in the school district. The proponents of this act automatically identified children in poverty as underachievers and we witnessed a great outpouring of money from U.S. taxpayers into compensatory education programs. We are being asked to pour more money into title I programs.

I have been a critic of the supposed accomplishments of the title I programs. I recognize it is difficult to assess the impact of title I programs. Programs goals may differ from one area to another. Variations may be found in the type of instruction presented, the qualifications of teachers, and the services schools provide. Problems arise for comparisons when there are different methodologies being used and different kinds of students in programs. Yet, despite the unsure and even uncertain results of compensatory education, we are asked not only to continue funding this program but to fund it at higher levels.

Health, Education, and Welfare Secretary Joseph A. Califano observed that the most substantial change financially in title I is a targeting provision in which President Carter is requesting $400 million—

* * * to target on those school children that have high concentrations of poor, disadvantaged children, in rural areas and in urban areas.

He observed that the test for this aspect of the program would be a school district either with 5,000 poor children or more in it or a school district in which 20 percent of the schoolchildren were poor. The Health, Education, and Welfare Secretary estimated that this proposed change would add between 600,000 and 900,000 children to the participants in title I programs. If this change occurs, we will have between 6.2 million and maybe up to 6.5 million children participating.

What has been the result of this effort over the past 12 years? Even Secretary Califano admits that many students are not mastering the fundamentals of education. Recently, the Washington Post carried a story that a group of prestigious education researchers had warned the Health, Education, and Welfare Secretary against giving national or statewide minimum competency exams for high school seniors since so many students would fail that it would be politically unacceptable.

Despite the funds spent on compensatory education, the results are less and less satisfactory.

I raised many of my concerns with the title I program when I testified before the Subcommittee on Elementary, Secondary, and Vocational Education of the House Committee on Education and Labor on March 6, 1978. I was pleased to see that some of my thoughts were reflected in a perceptive editorial in the Chicago Tribune entitled "Dollarship and Scholarship," March 9, 1978. My colleagues should read this editorial carefully and seriously consider the issues it raises before they vote for additional authorizations under title I of the Elementary and Secondary School Act.

The editorial follows:

DOLLARSHIP AND SCHOLARSHIP

President Carter was right when he said we must do a better job of teaching basic reading, writing, and arithmetic skills to all children. But he should do a little more homework himself if he thinks that the way to accomplish this is to spend 24 per cent more federal money on education—$12.9 billion in the 1979 budget—as he proposes.

Lack of money for schools is not why so many children are failing to learn to read, write, and calculate adequately. Schools, generally, are not lacking for well-paid teachers, classrooms, or instructional materials—the kinds of problems money can alleviate. Raising school budgets has rarely resulted directly in better performance by pupils.

It may sound useful to urge more money for reading, especially when some funds are to be earmarked for poor urban areas and some spent to encourage state and local demonstration projects. But before throwing more money at the reading problem, it may help to look at some of the reasons the problem exists:

(1) Some children have trouble learning to read because they are taught by inefficient methods which don't give them the modern phonetic tools they need to decode written words at the very start of instruction. Although the evidence is overwhelming, too many old-fashioned teachers textbooks still insist on inefficient look-say or "combination" methods.

(2) Some children are handicapped because they come from homes where parents rarely read themselves or to their children, where newspapers and books are not valued, where language may not even be spoken well. Research shows that early intervention programs—particularly "visiting teachers" and child-parent centers—can make marked and lasting improvements if begun well before children reach kindergarten age.

(3) Specific learning disabilities make it impossible for some children to learn to read easily and well in school. This problem is still not well understood, despite considerable progress in the last decade. While remedial programs help many of these youngsters, they are not completely effective for all. Such children are likely to find the going even tougher, thanks to new laws that require the handicapped to be "mainstreamed" into regular classrooms by next fall whenever possible and regardless of money available for special teachers and programs. Many of them may simply get lost in regular classrooms, where teachers have neither the time nor the training to give them special help.

(4) Basic education suffers in some schools because it loses out to other priorities. Shifting teachers and pupils to satisfy arbitrary racial goals can easily interfere with sound teaching programs, and produces no measurable improvements in learning. Besides, too many administrators are forced to spend their time complying with nitpicking federal and state regulations rather than on upgrading and monitoring the learning that is supposed to be occurring.

(5) Lastly and perhaps most importantly, too many schools are reluctant to insist that their children do learn. Often promotions are given to avoid hurting egos, or out of administrative laziness, thereby almost guaranteeing that the children promoted will be unable to keep up in the higher grades for which they are unprepared.

The few school districts which have set up firm standards for promotion and graduation, and have held both teachers and students to them, have shown a notable improvement.

How many of these problems can more federal money solve? Not many. If funds go for well planned early learning programs that involve parents, more money could help. But billions of federal dollars won't remedy every problem, especially reading, and Mr. Carter is naive if he assumes so.●

## CHELSEA VEHICLE MAINTENANCE FACILITY

### HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. WEISS. Mr. Speaker, the Postal Service Act of 1977 (H.R. 7700) which was approved by the House April 6 contains a provision of special importance to many people in my district, particularly those residing in the Chelsea community.

This legislation should generally improve postal services throughout the Nation, and the specific provision directly affecting Chelsea should likewise prove valuable.

Under section 11 of H.R. 7700, any Postal Service capital project expenditure exceeding $9 million will have to be submitted for review to the appropriate congressional committees. This section further stipulates that the project cannot be initiated until the committees have transmitted a report on it to the Postal Service within a 4-month period.

If and when H.R. 7700 is enacted into law, such a congressional review procedure will be most helpful in assessing the merits of a Postal Service plan to construct a large vehicle maintenance facility in the Chelsea neighborhood.

A number of my Chelsea constituents have objected to the proposed garage which would be built on a square-block site that has stood vacant for several years. The Chelsea community is united in its advocacy for housing at this location, but valid questions about the environmental suitability of the facility have been raised and have not been satisfactorily answered. There is a real possibility that this huge garage would seriously exacerbate the already unacceptable pollution and traffic levels in the area.

I therefore welcome the review mechanism that would be established by H.R. 7700. Should this measure become law, I will urge my colleagues on the appropriate House and Senate committees to undertake a thorough study of the vehicle maintenance project.

Alternative sites for the garage have been proposed, and these should be considered in any review of the project. A serious housing crisis exists in Chelsea and, in fact, throughout the 20th Congressional District and the Postal Service plan must be carefully evaluated to determine the prospects for housing construction.

Until the capital project review requirement becomes binding, I will continue to work with my Chelsea constituents in finding a suitable solution to the many problems raised by the Postal Service proposal.●

## SUCCESS IN THE CITIES

### HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Ms. MIKULSKI. Mr. Speaker, I take a personal interest in the following article which appeared in the Baltimore Sun on Tuesday, April 4. This article details the successful experience of Baltimore, Md., with a combination of grassroots involvement and local banking institutions in the area of housing. It has been my privilege to take part in such active and successful grassroots movements.

Unresponsive bureaucracy, lack of local input and control, and massive, wasteful spending are frequent outcries in reaction to many so-called Federal answers to the problems of urban America. One alternative that has proved effective in coping with urban housing problems across the country is the Neighborhood Housing Service organization. Many other cities, in addition to Baltimore, have found the NHS model useful in combining the resources of local businesses and citizens with minimum Federal money or interference. The principle involved can certainly be applied to other problems where the Federal Government now plays too prominent a role.

I insert this article in the RECORD for the benefit of my colleagues:

MIRACLE IN BALTIMORE

(By Neal R. Peirce)

After more than 30 years in a row house in southeast Baltimore's Patterson Park area, Matilda Koval was set to move out. The neighborhood was on the slippery slope to slumdom: There was a fire a week; rats were everywhere; the alleys were so strewn with debris that sanitation trucks couldn't make their way through. European ethnic families like her own were leaving in droves. In her immediate neighborhood alone, 40 to 60 houses were abandoned and boarded up.

That was four years ago. "But nothing can make me move now," says Mrs. Koval, a local legend for Ukrainian pastries and indefatigable organizing talents. The reason: Local residents, led by Mrs. Koval and others, were able to make common cause with Baltimore's banks and savings and loans and city government in a Neighborhood Housing Services organization. And the NHS is performing small miracles in turning a declining neighborhood around.

Since January, 1975, when the NHS opened its doors, the rate of home ownership in many blocks of Patterson Park has risen from as low as 20 per cent to as high as 75 per cent. Residents have gone on a spectacular paint-up, fix-up spree. Loans totaling $4 million have been secured for people to purchase and rehabilitate their homes. The share of houses

meeting housing code standards has gone from 40 to 80 per cent.

Buoyed by a fresh confidence in their neighborhood, residents have stopped their outward flow and new people, including many young professionals, are moving in. But by channeling the newcomers into larger homes needing major investment, the NHS has been able to keep smaller units for poorer residents and prevent their displacement as renewal proceeds.

The Baltimore NHS is not alone. The same concept, pioneered in Pittsburgh in the late 1960s, is being tried in 52 neighborhoods in 46 cities around the nation, from Chicago (which has four in operation) to San Antonio, from Tampa, Fla. to Oakland, Calif. Twenty-nine new NHSs are now in development. Under a bill passed by the Senate and now awaiting House action, the total would be raised to some 200 by 1981.

But except for technical advice and a minimum of start-up funding, the NHSs have not depended heavily on the federal support. Quite to the contrary, the programs have succeeded because the "feds" are only peripherally involved, because the approach is grass-roots based and free of the layers of bureaucracy and regulations which plague so many government housing efforts.

Up to now, federal guidance has come from the Urban Reinvestment Task Force, a joint effort of the federal financial regulatory agencies and Department of Housing and Urban Development. The pending legislation would create a permanent Neighborhood Reinvestment Corporation. But it too would be a very independent, quasi-public organization, and doubtless would continue under the guidance of William Whiteside, the genial, bearded Californian who has spread the NHS from coast to coast.

Local NHSs succeed because they are based on a partnership between groups often at loggerheads. The citizens of a neighborhood agree, at least within NHS, to forsake rough confrontation tactics; the city government to provide essential services; the lending institutions to make reasonable risk loans in an area they may have redlined before.

In Baltimore, it was Matilda Koval's block club, working with Baltimore's Southeast Community Organization, one of the country's most broad-gauged and activist local citizens' groups, that formed the nucleus of resident participation. Robert Embry, then Baltimore's housing commissioner (and now an assistant secretary of (SHUD), pledged the city's co-operation for necessary improvements in sanitation, lighting and code enforcement. The lenders, originally very special, were brought into camp by Howard Scaggs, president of Baltimore's American National Building and Loan Association.

But before the Baltimore NHS was launched, 40 community residents, lenders and city officials held a two-day workshop on neutral turf—in Easton, on Maryland's Eastern Shore. There, says Mr. Scaggs, they let out their antagonisms, identified Patterson Park's problems, and finally determined "we should collectively attack the problems instead of each other."

After that the Ford Foundation donated $100,000. Mr. Scaggs and his savings and loan associates raised $200,000. The Urban Reinvestment Task Force lent staff support. Mrs. Koval and her friends kept the heat on the city government—and on any laggard neighbors to fix up their properties, by some blunt peer pressure and housing code enforcement.

The NHS operates as a friendly all-around broker. Recognizing that many lower-income people don't know how to approach a banker about a loan, it counsels them on how to do that, helps them apply for urban homesteading or government-sponsored low-interest loans, or where all else fails, offers them extremely inexpensive loans from its own high-risk revolving loan fund.

How widely can NHS projects be extended around America? Mr. Scaggs believes all of Baltimore, even its most devastated neighborhoods, could one day be covered.

What is clear is that race doesn't make much difference to the program's success. Patterson Park is overwhelmingly white and Catholic—Polish, Ukrainian, Greek, German, Irish, plus a sprinkling of Orientals and Lumbee Indians, and only 10 per cent blacks. But nationwide, 52 per cent of NHS neighborhoods have more than 50 per cent black or Hispanic residents, some close to 100 per cent.

Mr. Whiteside has repeatedly warned that the NHS concept shouldn't be expanded too rapidly lest the quality of staff work and sensitivity in stimulating local initiatives be lost—a rare modesty and aversion to empire-building among bureaucrats.

But he is anxious to experiment increasingly with fresh strategies to preserve and restore neighborhoods. Five efforts in neighborhood commercial revitalization have been started. An apartment improvement program, begun in Yonkers, N.Y., and soon to be tried in Hartford, enlists lenders, property owners and tenants in a partnership to upgrade deteriorated multi-unit buildings.

On the drawing boards—or at least in the embryonic stage—are experimental strategies to manage and market vacant buildings, to cope with neighborhood crime, to bring the schools into a closer partnership in community revival.

With the average big federal department, one would have to shudder at such an ambitious agenda. But as long as Mr. Whiteside and his colleagues can grow slowly and remain insulated from the greater Washington bureaucracy, acting simply as catalysts for actions that local people themselves must launch and maintain, the dangers may be minimal. Indeed, this may be one of the very few federally inspired efforts in which more—not less—is better.●

## STATEMENT OF CHAIRMAN AL ULLMAN, COMMITTEE ON WAYS AND MEANS, WITH RESPECT TO THE RULE TO BE REQUESTED ON H.R. 6853, RELATING TO THE PAYMENT OF EXCISE TAXES IN THE CASE OF FISHING EQUIPMENT

### HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. ULLMAN. Mr. Speaker, the Committee on Ways and Means has ordered H.R. 6853 favorably reported to the House with amendments. The bill relates to the timing of excise tax payments on the sale of fishing equipment.

I take this occasion to advise my Democratic colleagues as to the nature of the rule that I will request for consideration of H.R. 6853 on the floor of the House. The Committee on Ways and Means specifically instructed me to request the Committee on Rules to grant a closed rule for consideration of H.R. 6853 which would provide for (a) committee amendments which would not be subject to amendment; (b) 30 minutes of general debate, to be equally divided; and (c) one motion to recommit with or without instructions.

The committee expects to officially report the bill and file its report by April 21. It is our intention to request a hearing before the Committee on Rules as expeditiously as possible.●

## THE BACKFIRE BOMBER ARGUMENT

### HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. SYMMS. Mr. Speaker, in today's Washington Post the highly respected columnist George Will addresses the issue of the Soviet Backfire bomber and how it is to be counted in the SALT negotiations. It is an acknowledged fact that the Backfire is a strategic aircraft—that is, it has the range and capability to attack the continental United States. It has been designed for in-flight refueling.

In 1976 the CIA commissioned performance analyses of the Backfire from the three U.S. aircraft companies that have extensive experience with bomber aircraft—Boeing Co., General Dynamics, and North American Rockwell. All three, in separate independent analyses, estimated the range of the Backfire to be between 5,200 and 5,600 miles.

Another point, Mr. Speaker, is that even if the present operational range of the Backfire were to be no more than 3,500 miles as Mr. Herbert Scoville would have us believe, any improvements that the Soviets made in jet engine technology in the future could result in a 35- to 50-percent increase in operational range without making modifications to the aircraft itself. This would be completely unverifiable by the United States.

I would like to include the George Will column in my remarks and commend him for his thoughtful analysis:

BACK TO THE BACKFIRE ARGUMENT

Lawyers have an axiom: If you have the law on your side, argue the law; if you have the evidence on your side, argue the evidence; if you have neither, pound the table. In an overwrought letter in response to my recent column on the Soviet Backfire bomber, Herbert Scoville pounds the table.

Scoville once was a government disarmament adviser, and his arguments are of interest, if only because they are, in primitive form, arguments the Carter administration will use in defense of the strategic arms limitation agreement it is negotiating. Scoville's ill-temperedness is understandable: He has the unenviable task of defending the administration's position that Backfire is not a strategic weapon and so need not count against Soviet strategic-arms limits.

Scoville's bald assertion that Backfire cannot return to Soviet bases after striking targets in the United States is misleading because Backfire can be refueled, and it is irrelevant because Backfire can strike the United States and land in a third country, such as Cuba. (Many U.S. strategic bombers counted in SALT also would land in third countries. No U.S. strategic bomber can return to the United States after a strike against the Soviet Union without refueling.)

Scoville challenges the statement that the administration has accepted 600-kilometer range limits on cruise missiles. In fact, the administration has accepted such limits on all armed ground-launched cruise missiles, all armed sea-launched cruise missiles, and all armed air-launched cruise missiles except those carried on "heavy bombers."

Because of President Carter's unilateral and unreciprocated decision to cancel the B1 bomber, the only heavy bombers the United

States will have for the foreseeable future are the aging B52s.

Scoville suggests that if the United States insisted that Backfire count against Soviet SALT totals, the Soviets would insist on counting U.S. F111s and F4s based in Europe and on carriers. But F111s and F4s are hardly comparable to Backfires: They have much less range and much lighter payloads than Backfires have.

Of course, if the Soviets want to count U.S. planes deployed to defend our allies, the Soviets should be willing to count the enormous and expanding systems with which they threaten our allies. And, of course, Scoville knows, but does not care to dwell upon, the fact that the Soviets are unwilling to do so.

To understand why the Soviets are unwilling, consider the most recent argument from Arthur Cox, whose ringing defense of the Soviets' position on Backfire started this agreeable tempest. Cox, who is a paid consultant to the administration, says that if the administration had insisted that Backfire count as a strategic weapon, then the Soviets would have insisted that FB111s count against U.S. totals. Cox notes that the Soviets have not "demanded" inclusion of FB111s in strategic totals.

Perhaps Cox thinks that is an example of Soviet magnanimity. On the other hand, it could have something to do with the fact that the Soviets soon will have nearly three times more Backfires than the United States has FB111s.

Cox also notes that the Soviets have not "demanded" that we include our fighter-bombers based in Europe, Asia and on carriers. But it would be startling indeed if they did demand that theater forces be included in the equation.

Here is how the balance looks for medium-range missiles: U.S., 0; U.S.S.R., 600 (SS4s, SS5s) *plus* the new SS20s being deployed. And medium bombers U.S., 60 (FB111s); USSR, approximately 600 (Badgers and Blinders).

As to other nuclear-capable aircraft of less than intercontinental range, the Russians also have an advantage. In Europe alone they have roughly 1,400 against the United States' 400. (These figures are from the 1976 annual report of the U.S. Arms Control and Disarmament Agency.)

Cox's most revealing argument consists of quoting the Soviet statement that "to raise such questions would lead matters to a situation where there will be no agreement at all." And there you have the administration's negotiating posture. The Soviets determine the agenda for negotiations and then the substance of agreements, because they know the administration believes that almost any agreement is preferable to no agreement.

The final argument that will be heard from the administration before the Senate rejects the SALT agreement will be: This is better than nothing.

By a considerable margin, the Senate will disagree.●

## THE AGRICULTURAL TRADE EXPANSION ACT

### HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. HAMILTON. Mr. Speaker, events of the past few years, especially of the last several months, have American farmers worried about what 1978 will bring. The agricultural strike has shown this concern in the Nation's Capital and many other communities across the land. A large number of farmers who have decided not to strike are nonetheless restless and discontent. My contacts and correspondence with ninth district farmers have convinced me that the malaise runs very deep indeed. There is among them a widespread feeling that American agriculture has been dealt a severe blow. They are fretting about low prices at market, soaring production costs, a decreasing share of the consumer food dollar, a declining farm population, rising farm imports and sagging farm exports. Pessimists are even talking about the demise of a way of life that is older than the Nation itself.

THE CONCERNS OF FARMERS

A brief look at the 1977 statistics on the finances of American agriculture reveals that there is cause for some alarm. Under the influence of slackening world demand for our food and fiber, national farm income slipped to about $20 billion, a mere 60 percent of the record $33.3 billion earned in 1973. When adjusted for inflation, the 1977 income figure was the lowest in over 40 years. Return on farm equity, which averaged 3.3 percent during the 1960's and 6 percent between 1972 and 1975, dropped to 2 percent. Farm debt reached $116 billion, up 15 percent from 1976 and double the level of only 5 years before. The prices of key commodities such as corn and wheat, which sold for up to $4 and $6 a bushel just a few years before, fell sharply with many farmers failing to break even on average per bushel production costs of $2.20 for corn and $3 for wheat. In the first 9 months of 1977 alone, overall farm costs rose 4 percent while prices fell 7 percent. Approximately 10 percent of all farmers were caught in a cost-price squeeze described by the experts as "dangers". These were generally newer farmers who purchased their land and equipment, or older farmers who expanded their operations, in the "boom years" of the 1970's. Other farmers were getting by, but the prosperity they recently enjoyed seemed long gone.

There are other matters of grave concern to our farmers beyond the current cost-price squeeze. Many of them fear the long-term effects of their inability to control their prices and costs. Our modernized, energy-intensive agriculture carries with it the potential to produce unbelievable quantities of food—and bin-busting surpluses with no market outlet. History shows that our efforts to reduce the output of this efficient industry have not always met with success. Our agriculture also requires a greater dependence on high-cost services and goods. Farm products move to market in a transportation system that is increasingly costly to operate and always susceptible to the actions of labor. Shipping and loading costs sometimes loom as large as the expenses of planting and harvesting. The trucker, the railman, and the dockworker have become as important to the farmer as the hired hand. In addition, the costs and availability of fertilizer, fuel, machinery, and pesticides make long-range planning difficult. The only certainty is that these items will be more scarce and higher priced in future years. Farmers, just as many other businessmen, are now captive to the decisions of corporate managers, labor leaders, and oil ministers. Farming is no longer the free-standing, self-sufficient enterprise it once was.

Another issue of concern to our farmers is their decreasing share of the consumer food dollar. Many ninth district farmers have complained to me about the ever-increasing bite of the middlemen who stand between them and consumers. There can be no doubt that the middleman's share is enlarging at the expense of the farmers because there is no other way to explain the fact that prices in the supermarket have risen while prices on the farm have stabilized or fallen. The recent statistics are clear enough. Last year, personal food expenditures by Americans reached $218 billion. The farmer's share of the total was about $56 billion, or 30 percent. However, the share of the total that went to pay the labor costs of marketing was about $58 billion, or 31 percent. It has been pointed out that 1977 was the first year in which the farmer's share was smaller than the share of marketing labor. Should this trend continue, the farm-product component of food costs could become so insignificant that even the greatest changes in producer prices would have little effect on consumer prices. We do not need to be told about the ultimate consequences of dealing the farmer out of the free-market game of supply and demand. Suffice it to say that they would be dangerous for farmers, middlemen, and consumers alike.

Still another problem for our farmers is the declining farm population. According to figures based on regular surveys taken by the Bureau of the Census, farm population dropped by 1.4 million, or 14 percent, between 1970 and 1976. In the latter year it reached a new low of 8.3 million persons. Thus, fewer than 1 in every 25 Americans now lives on a farm, as opposed to one in every four in 1935, when the farm population numbered 30.5 million persons. The number of farms in the United States has fallen as well, from 6.8 million in 1935 to 2.8 million in 1976. The problem of fewer farmers and farms is not really one of production. The output of crops and livestock has actually climbed 20 percent since 1970. Rather, it is a problem of "political clout." Secretary Bergland, himself a former Member of Congress, is fond of remarking that the American farmer is outgunned 400 to 35 in the House of Representatives. Of course, less farm strength in the halls of Congress means that farmers have less opportunity to promote the legislation they need and less chance to block the legislation they do not want. Some observers have cited the meat price controls of 1973 and the various farm export restraints of 1973–75 as actions of an urban-oriented Congress too sensitive to food prices and not sensitive enough to farm problems. They believe that such controls and restraints could not have been put into effect when farmers were better represented.

A further difficulty faced by our farmers is the agricultural produce being im-

ported into the United States from abroad. Although many of the imports—such as coffee, cocoa, tea, spices and tropical fruits—are not produced in commercial quantities here at home, others—such as meat and meat byproducts—are. The import market thus reflects a consumer demand for foods and food preparations that could be satisfied at least in part by American farmers without any change in consumer preferences. The value of agricultural imports rose from $11 billion in 1976 to $13.5 billion in 1977. Much of the increase was due to higher unit prices, not greater volume, but there is little consolation in that fact since every consumer dollar committed to the purchase of imported food is a consumer dollar which escapes the grasp of our farmers. Because our market is one of the freest and most open in the world, the prospect is that agricultural imports will continue to climb in value.

THE PROBLEM OF FARM EXPORTS

A final concern of farmers is the uncertain export market for their produce. While the value of farm exports was up 5 percent in 1977 to $24 billion, volume was down 4 percent to 100 million metric tons. An export price index that averaged above its 1976 level accounted for the contrary trends. Besides lower export volume, farmers were troubled by the slippage of certain key commodities. The value of wheat exports plummeted 28 percent to $2.9 billion, with volume declining 8 percent to 25.5 million tons, the lowest volume since 1972. The average export unit value of wheat ($115 per ton) was more than one-fifth below its 1976 level. Exports of feed grains fell 19 percent in value to $4.9 billion, with volume down 6 percent to 48.5 million tons and average export unit value ($101 per ton) off more than one-tenth. Also, the value of exported vegetables and meats dropped 6 percent and 1 percent, respectively, to earnings of $674 million for vegetables and $617 for meat. As these statistics show, wheat and feed grains are the sore spots.

There can be no denying that the world grain situation has changed. The chronic shortfalls of the recent past have given way to huge surpluses. World production of wheat and coarse grains will probably reach 1.1 billion tons this year, only 4 percent below the record harvests of last year. This bounty comes at a time when immense stocks of these commodities are already on hand. By the end of this year, there should be about 165 tons of wheat and coarse grains in storage, enough to satisfy about 15 percent of world need. The United States will be holding about 45 percent of the surplus, but much of the remainder will be concentrated in the developing nations where grain deficits have been traditional. The case of India is a helpful illustration. Two favorable monsoons have boosted grain production to such an extent that government-held stocks are approaching 20 percent of annual consumption. Indian agricultural experts have considered the option of making India a grain exporter. It is apparent that the abundance of grain in India and other developing nations has closed those markets to the American grain farmer, at least in the short term.

The problems of the would-be grain exporter are especially acute, but we should not overlook the problems of exporters of other agricultural commodities. Farmers today are facing the prospect of increased competition in most world food markets. The chaotic fluctuations in supply and demand of the past few years are yielding to more stable conditions in which nations worry less about food shortages. Total world output of food in 1977 was up 1 percent over the previous year and per capita food production was only slightly below the 1976 record. Total output and per capita production were up 14 and 6 percent, respectively, over the critically low levels of 1972. Such prosperity in successive years is bound to complicate the life of the exporter. Many experts have forecast a mixed farm export scenario for 1978. The value of farm exports this year will range from $22 to $24 billion, either equal to or below last year's value. On the other hand, the volume of farm exports will be about 110 million tons, a 10-percent increase.

THE IMPORTANCE OF AGRICULTURE AND FARM EXPORTS

During one of my recent visits to the ninth district, a well-intentioned urban constituent asked me why there is so much talk about the farmer. "I know we couldn't eat without him," he said, "but every time I turn around the Congress is looking at another farm bill." This puzzled constituent failed to take account of the enormous economic significance of American agriculture. Like so many other people, he was thinking of how few farmers there are, not how much those few do. Farming, the largest American industry, is in fact the backbone of the national economy. Our 4.4 million farmworkers make up one-fifth of all private business in the United States. Last year farmers spent $40 billion to live and another $85 billion on agricultural production. In 1975, farmers spent $2.4 billion on tractors, $1.2 billion on cars and trucks for business use and $5.2 billion on other machinery and equipment alone. They maintain assets of $730 billion and pay interest on their substantial debt. This economic vitality is not limited to the farm itself. In one way or another, farmers provide a living for millions of merchants, bankers, schoolteachers, and others who serve the farm community. Also, the production, processing, and distribution of food account for one-fifth of the gross national product and employ more than 15 percent of the total civilian work force. Simply put, it is not possible to overestimate the economic importance of farming.

If agriculture is the backbone of the national economy then exports are the backbone of agriculture isasmuch as they provide the farmer with a good share of his market. Exports have other benefits, too. They reduce the trade deficit, stimulate growth in the agricultural sector and help the American consumer. Perhaps we can better understand our farmers' worries about exports if we consider briefly the various contributions that exports make.

Those who know agriculture well know that it depends on exports to sustain its production. Without exports farmers would constantly face the grim dilemma of staggering surpluses or drastic cutbacks in production. It is a truism that the American agricultural machine is much too efficient to be contained within the limits of the domestic market alone. In 1976 over 337 million acres were harvested—the most in two decades—and about 100 million of those acres produced for export. The latter figure represents twice the export acreage of the 1950's and half again that of the 1960's. Many farmers dedicate far more than this average ratio of land to export. For example, those who market wheat and soybeans export over half their produce. In cotton and rice the figure is over 40 percent. Sizable portions of other commodities—such as tobacco and feedgrains—also go abroad. All in all, today's farmer receives about one-fifth of his income from sales overseas. The view from Europe, Asia and South America is just as impressive. The American farmer is supplying about 16 percent of the value of all agricultural commodities that move in world trade, up from 12 percent in 1971. The breakdown of this percentage is striking. Of the major commodities being sold around the world, three-fourths of the soybeans, half the wheat, one-third the cotton and one-fifth the vegetable oils are American-grown. In addition, about 70 percent of all food aid originates on our shores. There can be no question of the great reliance of many nations on our high-quality farm products.

A second benefit of agricultural exports is the positive contribution they make to America's international trade account. Agriculture, which has contributed a surplus to that account every year since 1960, enables the country to import everything from oil and strategic raw materials to fully manufactured consumer items. The dollar would face disaster in international money markets and our rôle in the world economy would be compromised if we could not finance these imports properly. Of course, most people are well aware that our trade position has been deteriorating. The rapid rise in oil imports, our own economic expansion and the slower growth of the economies of our major trading partners resulted in $27 billion worth of red ink in 1977 and may be followed by a $25 billion to $30 billion shortfall this year—levels nearly triple the 1976 deficit of $9.2 billion. Our trade position is bad, but there is no telling how much worse it would be without the usual surplus of $10 billion or more registered by our farmers. It is apparent that we will continue to need all the "trade relief" we can get from the agricultural sector.

I have already mentioned that exports provide the farmer with a good share of his market. It should come as no surprise, then, that a third benefit of agricultural exports is the positive effect they have on the farm economy. Economists have taken note of the salient features of this

"export stimulus." The dollar that the farmer earns abroad moves quickly through the economy. Every such dollar he returns to the farm sector is more than doubled in the economy. The consequences for business activity and employment are quite remarkable. As concerns business activity, farm exports created nearly $50 billion worth as early as 1975—$30 billion in the agricultural sector itself and $20 billion in the support sectors of food processing, transportation, warehousing, wholesaling, retailing, and so forth. As concerns employment, about one-half million farmworkers are required to produce for export. Another half million people have jobs in the support sectors that are dependent on farm exports in one way or another. Farm sales in foreign countries are now, and will continue to be, the economic engine that drives rural America.

Expert commentators on the farm scene will go on and on where talk turns to the benefits of exporting American agricultural products. Beyond the three obvious benefits I have discussed, there are scores of additional ones. Farm exports make the American consumer one of the best fed in the world. Contrary to the popular belief that exports drive food prices up and despite a twofold increase in exports since 1970, the disposable income left over after food purchases has inched up—not down—to 83.1 percent of income since 1970, a rise of four-tenths of 1 percent. This means that the average American still spends more on his car than on his groceries. The economic mechanism at work here is no mystery: consumers benefit from exports because the exports allow farmers to be more efficient by maintaining full production at the lowest possible unit cost. Farm exports also carry tremendous weight in our foreign relations. Our food aid programs—especially those commonly called "concessional"—have helped countries to build their economies, to feed millions of hungry after devastation and to offset the detrimental effects of skyrocketing populations. Such generosity is not often forgotten, even in times of political turmoil and change in the recipient nations. Finally, farm exports save the taxpayers money because the farmer can depend on a market and not on the Government for his income. Although it is difficult to say just how much the Federal farm budget has been reduced by exports, there is general agreement that the reduction in the cost of the subsidy programs has been sharp.

The more we think about farm exports, the more important they seem to be. On a recent visit to the ninth district I watched a Hoosier farmer hard at work in his fields. It occurred to me that he might not realize just how indispensable he had become to people all over the world. The cares of the international community—peace and economic development—seemed very far away, but they were being decided right there where a plow cut the earth and a man cast an occasional glance toward the sky. Those of us who deliberate on policy would do well to ponder carefully what we can do to stabilize and encourage the export of our farm produce. This is an age of superlatives, but it is exaggeration to say that there are few issues of greater urgency.

WHY FARM EXPORTS HAVE GROWN

To better understand what we should do we must first understand why agricultural exports have assumed a central place in our economy. They have not always occupied such a place. Late in 1972, however, there began an "export surge" unprecedented in our history. A number of factors paved the way for it. Consider both the factors that are beyond our reach and those that we can control.

Bad weather in many parts of the globe was one of the forces behind the export surge. Drought and cold devastated crops and led to meager harvests in nations that traditionally produced enough to make farm imports incidental. In 1972, adverse weather in the Soviet Union and China sharply increased our farm exports to those countries through 1974. Similarly, poor weather on the Asian subcontinent in 1973 boosted our exports of rice and wheat to that region through 1975. Bad weather struck here at home in 1974, keeping the value of our exports up. The following year brought another marginal Soviet crop, and a severe drought hit Europe in 1976. Last year saw adverse weather in China, North Africa, and Asia. The weather has certainly been a key to the new found international stature of the American farmer. He is one of the few with sufficient strength to keep the crops growing and the exports flowing even when the weather would have it otherwise. Immense productivity may sometimes be a curse, but it may also be a blessing in disguise.

A second factor in the export surge was rising income and hope for a better life in much of the world. In the developed countries, average per capita income is expected to reach $4,000 per year in 1980, up 22 percent from the 1970 figure of $3,100. The large income gap between rich and poor shows few signs of narrowing, but the group of so-called middle-income developing nations—in North Africa, the Middle East, the Far East, and Latin America—has an average per capita income of $900 per year that has recently been increasing by as much as 4 percent to 6 percent annually. The 1 billion inhabitants of these nations are noticeably better off than they were just a few years ago. In addition, the developing world as a whole has an average per capita income that is growing about one-third faster than that of the industrial countries at a comparable stage of their development. Recent growth rates of developing countries have also been higher than in the developed world. Of course, the American farmer has benefited from these trends. More and better food is one of the first items on the "shopping list" of a family just beginning to enjoy some small increase of prosperity.

A final factor behind the export surge was our agricultural policy. By general consensus, our domestic farm programs of the past decade—unlike those, for example, of the protectionistic European Community have been sensitive to conditions of international trade and consequently have served to keep American farm commodities competitive in world markets. At the international level itself, the devaluation of the dollar, the existence of a foreign marketing base laid down in the 1960's, major trade negotiations and the opening of trade relations with Eastern Europe, the Soviet Union, and the People's Republic of China have all played a positive role. Trade relations with the non-market-economy nations are especially noteworthy since the United States in general—and American agriculture in particular—have been primary beneficiaries of the East-West link. In the period from 1970 to 1976, total trade between East and West almost quadrupled in value from $13 billion to $48 billion. Our entry into these previously untapped markets expanded our export volume and helped to move our trade account toward balance. As might have been suspected, the East-West link brought on massive growth in our farm exports to the East. Between 1970 and 1976, our farmer's shipments to the non-market-economy nations jumped in value from $210 million to $3 billion. In terms of "export mix," the agricultural share of our total exports to the East climbed from 50 percent in 1970 to 62 percent in 1976. Filling a void that these nations could not fill themselves was certainly in the best interests of our farmers. That it may also have been in the best interests of those who received our food is consistent with the spirit of détente.

THE FUTURE OF FARM EXPORTS

What does the future hold for the American farmer? We must be very concerned with his well-being this year, but we should not let the crush of present circumstances blind us to events a few years down the road. One of the most pressing questions in the longer term is clear enough: Will the farmer's export market expand or contract? That is, will farm exports continue the general upward movement that began late in 1972 or will they drop down toward the levels we knew before the surge? The answer is of critical importance because, as we have seen, exports are so essential to the farm economy. My survey of the literature on the future of agricultural exports convinces me that there are several factors which may prompt ever greater exports in the future. Again, some of these factors are beyond our reach while others can be controlled. Let us consider what they are.

The uncertainty of the weather must loom large in any consideration of the future of farm exports. Most meteorologists believe that the relatively good weather of the past few years cannot continue. They point out that such regions as the Asian rice bowl and the Russian wheatlands are places where bad weather tends to be the rule rather than the exception. A long drought in the former or a sudden freeze in the latter—events which have happened so many times before—could occur again, wiping

out the food reserves we think so large and putting a strain on the unparalleled productivity of the American farmer. In fact, many experts who have studied the matter must be described as quite pessimistic. They say that altogether probable variations in weather are bound to cause severe food shortages simply because the world supply is so precariously balanced. They caution us to base our agricultural policies on the possibility of weather extremes in any locale, not on optiumum growing conditions. Some of the experts have even gone so far as to predict long-range changes in climate—that is, changes in overall weather patterns—that could make American agriculture the permanent mainstay of the world food economy and the only hedge against starvation on a global scale. While we can only pray that such predictions are wrong, we should help our farmers prepare for the challenge that may lie ahead. What these experts are suggesting our farmers have known for sometime: Weather and climate can often mean more than all the agricultural policies of the world combined.

Any assessment of the future of farm exports must take into account the burgeoning world population. In this regard, the problems to be weighed are really two—food distribution and food production—though the former is the more immediate one. By most estimates the world already produces enough food to provide the entire human race with a nutritionally balanced diet of 65 grams of protein and 3,000 calories daily. The twin specters of malnutrition and starvation continue to stalk a quarter of the world's four billion inhabitants because the mechanisms to distribute the oversupply of food are not adequate to the numbers to be fed. However, this ironic situation will become worse before it becomes better. The more serious problem of food production may be upon us sooner than we think. With it may come difficulties in food distribution that would make our present mechanisms seem efficient. Many demographers anticipate that by the year 2000 the world's population will approach 6.5 billion. If certain of their fundamental assumptions are only slightly off, the population could reach a full 7 billion—as many as 2 billion more than were expected just a decade ago. World food needs will probably have doubled by the year 2010. Moreover, some 50 percent of all people will be living in cities more or less remote from the sources of food supply. The comparable figure today is 39 percent. The impending "food crisis" may make the energy crisis seem pale by comparison. In any case, the American farmer will certainly be called upon to step into the breach.

The recovery of the world economy from the 1974–75 recession is, despite its slow and painful character, another sign that our farm exports may pick up in the coming years. The pressure of double-digit inflation has eased to more acceptable levels and unemployment is beginning to edge down. Reasonably encouraging growth targets (4.5 percent for the Economic Community, 4.5 percent to 5 percent for the United States, and so forth) are being set. Resulting higher personal income abroad should attract our farm exports as foreign consumers choose to improve their diets. However, in our enthusiasm for better economic conditions we should not ignore the serious troubles that remain. Staggering balance-of-payments problems, brought on in large measure by costly oil imports, are causing national economic planners to proceed with caution. Many nations are reluctant to prime their economies for expansion out of fear of renewed inflation. World economic growth is not as strong as we would prefer since it is substantially below its prerecession levels, but a "growth recession" (as some economists have termed it) is better than a plain recession. It is hoped that policies of patience and prudence will pay off in the long run.

A fourth factor likely to affect our farm exports is the current round of trade negotiations—the so-called Tokyo round underway in Geneva. These negotiations, now in their final stages, are intended to free up world trade by reducing national trade barriers. Reductions in tariffs and nontariff barriers such as quotas are under consideration. Under a timetable agreed to last summer, major participants are aiming to reach a broad consensus this summer on the elements to be contained in a package of new multilateral trade agreements. The package may contain:

General tariff reductions of up to 40 percent to be phased in over a period of 8 to 10 years;

Agricultural trade rules to provide for greater market access, supply and price stability and safeguards against world famine;

Improved rules governing the use of temporary import relief;

New limits on the use of export subsidies and measures to counteract export subsidies;

Uniform customs valuation systems and tighter controls on quotas and licensing systems; and

A new "code of conduct" to prevent the abuse of anticompetitive domestic policies that affect exports.

Our farmers have a critical stake in these negotiations. It is essential that their export interests not be sacrificed in an attempt to gain trade advantages for other less efficient American industries. It is also essential that the protectionism of the large agricultural markets—the European Community and Japan, to name just two—be lessened. Our farmers will surely benefit from fairer international commerce. Their productivity alone gives them the power they need to compete head-to-head with any of the world's agricultural producers.

Yet another factor which will determine the future of our farm exports is our marketing policy. In today's competitive environment, an aggressive, well-funded policy is what we need. Our agricultural products will not sell themselves. On the contrary, they must be sold in conditions where buyers have a wide range of choices before them. This means that our marketing policy must be double edged; improved market development must go hand-in-hand with improved marketing technique. In the area of marketing policy we have some fierce competitors. Argentina, Australia, Brazil, Israel, South Africa, and other leading agricultural producers together spent more than $146 million on the promotion of farm products in 1976, a gain of 3.5 percent over the previous year and 56.9 percent over 1966. Leading the way were Israel (1.54 percent of export earnings spent) and Australia (1.1 percent of export earnings spent). By comparison, the United States spent $21.6 million for the promotion of farm products in the same year, 5 percent less than a year before and only 4 percent more than in 1970. This expenditure equaled a mere 0.1 percent of export earnings. There is ample room for improvement here.

A sixth item in the future of our farm exports is our relationship with the nonmarket-economy nations—specifically, the countries of Eastern Europe, the Soviet Union, and the People's Republic of China. As I mentioned before, American agricultural trade with these nations has increased dramatically in this decade. Eastern Europe bought American farm products valued at $1.2 billion in 1977, up from $100 million in 1969. Preliminary estimates put the 1977 value of our farm exports to the Soviet Union at $1.1 billion, up from $11.6 million 8 years before. China imported about $625 million worth of our farm products in 1973 and 1974, after which it ceased to be a significant market for us. However, it returned to the American farmer last year to purchase $66 million in soybeans and cotton. Summing these figures, we find that these non-market-economy nations made up 12.5 percent of our 1977 farm export market. Aside from the traditional factors that influence trade among nations, an increase of our farm sales in the East awaits change in two additional areas: improvement in overall diplomatic relations and removal of ideologically motivated barriers to trade.

The advent of détente, with its better East-West commercial relations, has done much to confirm the belief that trade fluorishes when mistrust and hostilities are reduced. Consequently, additional efforts to find points of accommodation with the Soviet Union and its Eastern Europe neighbors should provide positive results for our farmers. As we look forward to further trade benefits of diplomacy, however, our relationships with China stands out. If the diplomatic progress already made could be consolidated and momentum toward normalization recaptured, there would be a strong probability of large farm exports to that nation. China alone numbers among its population one-fourth of the world's inhabitants. Its desire to raise the standard-of-living of its people has been translated into purchases of wheat abroad. Annual import volumes of 9 million tons may be registered, but this wheat will come from Argentina, Australia, and Canada—not from the United States.

The removal of ideologically motivated barriers to trade with the East is just as important as an improvement in overall diplomatic relations. From the standpoint of the enterprising businessman, such impediments to trade can be more chilling than Government overregulation. One of the more prominent of these barriers is title IV of the Trade Act of 1974, a provision of law which prohibits the granting of most-favored-nation status and the issuing of Government credits to most Communist countries. At the present time, these restrictions are in effect for all Communist nations except Poland, Romania, and Yugoslavia. Thus, the nonmarket-economy giants—the Soviet Union and China, as well as some of the industrialized nonmarket-economy states, East Germany and Czechoslovakia—are denied full access to our markets and are kept from making credit purchases of our goods. The latter restriction hurts our farmers directly since credit sales cannot be made. The former hurts them indirectly since international traders who do not open their own markets cannot expect to find every market open to them. When all is said and done, trade is a two-way street.

The seventh, and final, item in the future of our farm exports is the condition of our Government credit programs. One of the principal initiatives—food for peace—has been used for more than 23 years to provide food and fiber to developing countries that do not have the funds on hand to pay cash. Under food for peace, American farm products are sent abroad on "concessional" credit extended for 20 to 40 years, in most cases at 3 percent interest. In all, some $26 billion worth of farm products have been shipped out bearing the food-for-peace emblem. Current volume is running at about 6.5 million tons per year. Although food for peace is intended primarily to alleviate hunger and reduce farm surpluses, another of its aims is economic development. The idea is to help a recipient nation so that it can eventually "graduate" from concessional food purchases to commercial ones. Boosters of the development aspect of the program point out that among the early recipients were post war Japan and 17 war-scarred nations of Europe, all of which became commercial importers by 1969. Those who are skeptical of this development aspect contend that the track record of the developing nations in the Third World is not nearly so strong.

The other principal initiative—the Commodity Credit Corporation export credit sales program—was designed to help the United States maintain its share of traditional markets and establish new outlets for farm products. This program provides short-term commercial credit to countries willing to buy American food but unable to put down cash. The normal term of credit is 1 year, though a 3-year period is allowed. Rates of interest have varied from 6.5 to 12 percent in recent years. Also, the supply from which the commodity is to be bought must be in excess of American domestic needs and export requirements, and the sale of the commodity must not displace normal commercial sales. From 1964 to 1974 the program accounted for 4 percent of all our farm exports. Its budget peaked in 1973 at over $1 billion, plunged sharply through 1975 and recovered after that. Credit totaling $1.7 billion will be available this year, a new record.

THE AGRICULTURAL TRADE EXPANSION ACT

As I have noted, the future of our farm exports will be determined to some extent by factors beyond our control. There are, however, things we can and should do to help insure that our farmers remain a potent force in world agricultural markets. Therefore, it is with great pleasure that I join my distinguished colleague from Illinois, Representative PAUL FINDLEY, and other Members of Congress in sponsorship of the Agricultural Trade Expansion Act. I am certain that this reasonable, measured response to the problem of farm exports would do much to keep the agricultural sector healthy in these trying times.

The first major provision of the bill would allow the Commodity Credit Corporation to extend credit over periods of 3 to 10 years to willing buyers of our farm products. This new "intermediate" credit initiative would bridge the gap between the generous concessional terms of Food for Peace and the strict commercial terms of the export credit sales program and would prompt more nations to graduate from concessional to commercial food purchases. Many countries might make such a move, but the most likely candidates for graduation would include nine concessional credit recipients with an annual per capita gross national product of more than $550: Israel, Jamaica, Jordan, Korea, Lebanon, Peru, Portugal, Syria, and Tunisia. Also, nations which were too rich to buy on concessional terms but too strapped to buy on present commercial terms would be encouraged to seek our farm export credit. Finally, an intermediate credit initiative would bolster our sales position by allowing the Commodity Credit Corporation to compete more evenly with such nations as Argentina, Australia, and Canada—all of which are able to provide farm export credit over a period of more than 3 years.

The second major provision of the bill would remove restrictions on the granting of Government farm export credit to nonmarket-economy nations. This new access to our capital would undoubtedly provide encouragement to those countries to buy our farm products, especially in times of oversupply. The export credit sales program has already met with success in Eastern Europe. Because three Eastern European states are exempt from the restrictions, short-term commercial credit granted in that region reached $250 million just 2 years ago. Potential for continued sales there is good because the traditional supplier—the Soviet Union—is not nearly as reliable as the United States. Of course, the huge economies of the Soviet Union and China and the industrialized economies of East Germany and Czechoslovakia have an even greater potential to absorb our farm products. I should point out that the extension of farm export credit to Communist nations—already a part of our policy—does not give those nations a "free ride" at our expense. They must meet high standards of credit worthiness just as other customers do. I should also point out that there is no law of politics to the effect that the best interests of traditional adversaries cannot sometimes be served together. In the final analysis, our failure to enter the food markets of the populous Communist nations is a disservice to ourselves alone. They will get the food they want from suppliers in the West, but we will not get their business.

Mr. Speaker, we know how important farm exports are and what must be done to increase them. The Agricultural Trade Expansion Act addresses a geninue need in a straightforward way. I commend the bill to the attention of my colleagues. I urge that you consider it carefully.●

## WYDLER FORECASTS "ATOMIC SPUTNIK"

### HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. TEAGUE. Mr. Speaker, the distinguished gentleman from New York (Mr. WYDLER), ranking minority member of our Science and Technology Committee, recently had discussions on nuclear energy with leading Soviet experts in Moscow and Kiev.

Upon his return, Mr. WYDLER wrote President Carter of his concern that this country has fallen behind in breeder reactor development and is slipping into second place in the nuclear club behind the U.S.S.R.

Although Mr. WYDLER and I do have some differences of opinion on what constitutes a strong breeder program, I feel that his letter makes for valuable reading. It is important that all the Members of the House have the benefit of Mr. WYDLER's perspective as the Congress prepares once again to vote on funding for nuclear technology development.

Therefore, Mr. Speaker, I submit Mr. WYDLER's letter to the President for the RECORD, as follows:

COMMITTEE ON SCIENCE
AND TECHNOLOGY,
*Washington, D.C., April 4, 1978.*

The PRESIDENT,
*The White House.*

DEAR MR. PRESIDENT: Today I am writing you from the perspective of a series of international energy discussions which I have just had with the Soviets. It is no exaggeration to say that we are on the verge of an "Atomic Sputnik" in terms of our nuclear policy vis-a-vis the Soviets. They are rapidly moving to build breeder reactor plants and deploy light water nuclear power plants so as to put us clearly in second place in the nuclear league. In particular, I discussed the status of breeder reactor development with Mr. Igor Morozov, Deputy Chairman of the Soviet State Committee for Atomic Energy. As you know, the critical question of which direction the U.S. Breeder program will take is before our Science and Technology Commit-

tee this week. I hope this letter will provide you additional insight on why our Committee is still concerned about the absence of a strong commitment in the U.S. program.

I am pleased that you have initiated an effort to come to some accommodation with the Congress on the breeder program and the Clinch River Reactor Project in particular. I share your view, as Secretary Schlesinger has related it, that continued confrontation on this issue is not in the best interest of the country. Chairman Teague has told me that you do feel that our nation needs a strong breeder program.

The fact is, however, that our program cannot really be strong without a demonstration of fast breeder technology in an operating plant. This plant does not have to be the one currently planned for Clinch River, but could incorporate more advanced breeder technology. However, until we make a larger commitment, we must keep the Clinch River Plant option open!

I have come to this conclusion about the breeder after my discussion last week with the Soviets in Moscow. I have also had extensive discussions with the International Atomic Energy Agency in Vienna and the French Atomic Energy Commission, all within the past year. In all cases the evidence is irrefutable. Other major developed nations are far ahead of us in breeder development. Our continuing technology program is simply not sufficient to keep this energy option open to the United States in a timely manner!

The Russians have no intention of slowing their already ambitious breeder program. They have been operating a 350 Megawatt plant on the Caspian Sea; this "Clinch River" plant has been on line for over 3 years. They plan to complete and begin operation of a 600 Megawatt plant in 1980. Thus within the next several years they will have accumulated operating experience of 6–8 years on two different breeder plant designs. Mr. Morozov told me that design of a 1600 Megawatt plant is about to begin and construction will start in the next few years. The Soviets expect that it will take only 7 years to build this commercial-sized plant!

Mr. President, I think you will agree that the Soviets are much farther down the road toward the breeder option than ourselves particularly when one considers the stringent U.S. requirements on breeder licensing. I'm afraid our fall-back position of an R. & D. Program is simply not enough. As we found in our space program, it is not enough to merely design successively more powerful rockets—one must build and fly them as well. We must tell the world we are a strong player in breeder development, and the only convincing way to do that is to build a plant and make a visible national commitment. The Russians' timetable calls for operation of a commercial size breeder reactor by as early as 1987. We cannot guarantee operation of the Clinch River Plant, which is far from commercial, by that date even if we "pulled out all the stops" on that project.

It is necessary, but not sufficient, to merely say that the United States will pursue a strong breeder program. That is a commitment to nothing. We cannot expect the Russians, French, British, Germans or Japanese to take it seriously. Mr. President, we either play the breeder ball game or become a spectator. What we have now, even if we keep the Clinch River team together, is only "half a program."

I think it is also important to tell you something about the Soviet commitment to light water reactor technology. The Soviets have decided to build and rely completely on nuclear-electric plants west of the Urals in the European sector of the USSR. This decision is based on the fact the Soviets are running out of oil, gas and good coal. Dr. Stanovmik of the Economic Commission of Europe said the Soviets have informed Eastern Bloc nations that they cannot count on any oil, and only on limited amounts of gas from the USSR. If one looks at Siberia as having potentially more resources than Alaska, I think it is inescapable to conclude that we face even a bleaker future than the Soviets for fossil fuel supplies. Yet we are limping indecisively on the nuclear option.

The Supreme Soviet of the Ukraine told me in Kiev that they will complete six large nuclear power plants in the next five years or so. The first unit is already on-line and facilities will be completed to reprocess nuclear fuel on-site to recover the precious energy stored in the uranium and plutonium.

I understand that you plan to make a strong public statement on the need to speed the deployment of light water reactors. I urge you to do so in the very near future so as to improve the climate for public acceptance of nuclear power. Your licensing bill was an important first step in this direction and I applaud you for it. I hope that you can accelerate a nuclear waste management program in the light of the recent DOE report on this issue. The technology for safe disposal of waste exists; the country is waiting for a program which matches the technology.

It seems to me, Mr. President, that you have brought about solidly constructive evaluation of the real concerns about nuclear weapon proliferation since last April. However, I believe that two basic facts remain unchanged. First, our cutback of the breeder program and lack of commitment to build a fast reactor plant is a clear signal to other nations that we are not serious about preserving this long-term option. Second, this country's indication that nuclear power is "a last resort" has undermined our credibility abroad and made us an unreliable nuclear partner. I think it has become clear that it should not require the arresting of our technology development to address your proliferation concerns.

The Soviets contend that they are just as serious as the United States about preventing the proliferation of nuclear weapons but "collective decisions" must be made on safeguards.

The CIVEX process appears an attractive route to blunting the terrorist threat for atomic weapons by a diversion-resistant fuel cycle for breeders. Reprocessing of light water reactor fuel could proceed in the near future under strict U.S. safeguards. Such activity could serve as a demonstration of U.S. concerns to the International Atomic Energy Agency (IAEA) and a basis for international safeguards agreements.

The Soviets clearly recognize the urgency of pursuing the breeder option based on world uranium reserves, common sense economics and the need for some degree of energy independence from fossil fuels. However, their goals for nuclear power go beyond the generation of electricity. The Soviets intend to satisfy one-third of all their energy requirements for heat and electricity thru nuclear power by the end of the century. They feel so confident about this that they are promising Eastern European nations all the electricity that these countries will require for future decades. The ambitious building program for atomic plants in the Ukraine is dramatic evidence of this commitment. I think you will agree that our own program pales beside the Soviets despite our clear need and technological edge. It is frightening to speculate on the degree of control of the world market they might achieve by implementing this program.

Mr. President, I think it is time we moved ahead on the nuclear option. We have spent the last year rethinking our nuclear future. We must now commit strongly to breeder technology including a demonstration plant to get valuable operating experience. We must also get many more nuclear power plants in place so that coal can be converted to critically needed liquids and gas. I hope you will move ahead boldly on both these fronts.

Sincerely yours,

JOHN W. WYDLER,
*Ranking Minority Member, Committee on Science and Technology.*●



## LOUIS SIDOLI—CITIZEN OF THE YEAR

### HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. SARASIN. Mr. Speaker, community involvement and public participation are the cornerstones upon which democracy stands and upon which our quality of life and social development depend. If anyone personifies these two qualities it is Mr. Louis Sidoli of Hamden, Conn., who is being named by the Hamden Italian-American Independent Club as its 1978 "Citizen of the Year." It is with great pride and appreciation that I join them in recognizing this fine community leader for his many outstanding contributions and endless generosity to the New Haven area for over 50 years.

A native of New York City, Mr. Sidoli attended the Seminary College, Bedonia, Parma, Italy, for 4 years. He was active in the wholesale beverage business from 1933 to 1962 and in 1965 became a director of the Hamden National Bank under its 1964 charter. He currently serves as director and consultant to that bank, which is now known as the American National Bank.

Over the years Mr. Sidoli has left a trail of accomplishments behind him and has received innumerable awards and citations from various civic, business, and educational organizations. His good will spread throughout the world and in 1954 he was made a Knight Commander in the Order of St. Sylvester. He was accorded this honor by the late Pope Pius XII for his many efforts and contributions toward the establishment of a home for the aged and orphans in Bedonia, Italy, near Parma, the home of his parents.

In 1957 he was the recipient of the Star of Solidarity from the Italian Government, followed by the Charles Carroll of Carrollton Award in 1958 from the John Barry General Assembly, 4th Degree, Knights of Columbus. He was again recognized in 1961 by the Italian Government when he was named Knight Commander of the Order of St. Agatha, San Marino, Italy, and was decorated a Knight, order of Merit by the Government.

His work in the community continued to receive acclaim throughout the sixties as he received the Veritas Award in 1965 from the Providence College New Haven Alumni Club and made a grand officer

for the Holy Sepulcher of Jerusalem, as well as a Knight Commander of the Italian Republic. Notre Dame University paid tribute to his service by awarding him the Golden Dome Award, and he was later named "Man of the Year" by the New Haven Evening Lions and the Humanitarian Award from the Knights of St. Patrick.

Mr. Sidoli remains active in the New Haven community and is presently State deputy of the Knights of Columbus, having served as their State treasurer and secretary. He is also a charter member and one of the founders of the Carmel Council of the Knights of Columbus in Hamden and assistant venerable of the New Haven Lodge No. 37, Sons of Italy. In addition, he is a former chairman of the Hamden Board of fire commissioners, and member of the board of finance of the State Labor Department's employment security board of review. He has also served St. Raphael's Hospital, Albertus Magnus College, Quinnipac College, Sacred Heart Academy, the Boys Town of Italy, and the Italian Legion of Merit in various capacities.

Indeed, it is rare in life that you find one who so selflessly gives of himself for the betterment of others. In a well-deserved tribute the community of Hamden is recognizing this gentleman, and it is with pleasure that I join them in applauding his commendable efforts.●

## HOW UNITED STATES IS HELPING IN HUGE ARMS BUILDUP BY SAUDI ARABIA

### HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. ROSENTHAL. Mr. Speaker, the United States is helping transform Saudi Arabia into "one of the leading military powers in the entire Middle East," according to an article in the April 17 issue of U.S. News & World Report.

Dozens of American corporations, hundreds of U.S. Government employees, and thousands of American civilian technicians are conducting this transformation, on which the Saudis may be spending as much as $30 billion or more by the mid-1980's.

Northrop Corp. is, in effect, operating the Royal Saudi Air Force; Raytheon Co., the missile air defense system; Avco Corp., the Saudi Coast Guard; Bendix, the Ordnance and Transport Corps; Vinnell Corp., the Saudi National Guard; and, of course, the U.S. Army Corps of Engineers is in charge of billions of dollars worth of military, military-related, and civilian construction.

We are building not only a viable military force for the Saudis but a national infrastructure as well. And it is being financed by our purchases of oil, which the Saudis have quadrupled in price over the past several years.

America has an important national interest in good relations with its leading source of foreign oil, but I have serious questions about the nature of that relationship. I do not believe it is in our best interest or the Saudis' best interest to see that nation transferred into a military power. It is one thing to protect an immensely valuable natural resource, but it is another matter to help change a country from backbench cheerleader and financier to frontline confrontation state in the Arab-Israeli conflict.

Saudi Arabia has never been a significant participant in previous Arab-Israeli wars, though it has sent soldiers and equipment. But with the multibillion influx of U.S. arms, it will be difficult if not impossible for the Saudis to stay out of any future wars.

At the very least, the Saudi role would be similar to that suggested in the U.S. News article:

. . . it could well play a key role as armorer for the Arabs who will have to shoulder the burdens of any fighting.

In my opinion, however, Saudi Arabia will have a difficult task confining its role solely to being the Arab arsenal. I suspect it will have a much larger role, whether it wishes to or not, particularly for its air force.

Saudi Arabia is not a tiny nation. It has more than double the population of Israel, its land mass is nearly 80 times larger, and its wealth is immensely greater.

Now the administration wants to sell Saudi Arabia 60 of our finest first-line advanced fighter aircraft—the F–15. These are to replace 37 British Lightning interceptors. A Pentagon study originally recommended selling only 40 replacement aircraft, and the Saudis agreed, asking for F–15's. The request was later increased, however, to 60 planes, and the administration accepted it. That number is 50 percent more than the amount of F–15's Israel would be permitted to purchase after the administration reduced Israel's request.

The Saudi Air Force does not need the F–15. This sale, in light of the across-the-board Saudi military buildup in general and the expansion of its air bases near Israel in particular, further threatens to alter significantly the balance of power in the Middle East and increase the danger to Israel. It raises important questions about the feasibility of Israeli withdrawal from its Sinai air base near Eilat at a time when Saudi Arabia is enlarging its own air base at Tabuk only a few minutes flying time to the southeast.

I am inserting in the RECORD at this point the U.S. News & World Report article on the Saudi buildup. This information should prove useful in the coming debate over the administration's Middle East aircraft sales proposals:

HOW UNITED STATES IS HELPING IN HUGE ARMS BUILDUP BY SAUDI ARABIA—A GROWING POWER

GUNS, PLANES AND TANKS MADE IN THE UNITED STATES FORM THE MILITARY MUSCLE, BUT THAT'S ONLY PART OF AMERICA'S OVERALL ROLE

DHAHRAN, SAUDI ARABIA.—An impressive combination of U.S. weapons and American know-how is helping turn this thinly populated kingdom into one of the leading military powers in the entire Middle East.

Billions of dollars' worth of U.S.-built planes, tanks, guns and other equipment are providing a much needed punch to a Saudi military machine charged with defending a country of about 7.5 million people in an area the size of the United States east of the Mississippi River.

The flow of military purchases from the U.S.—which could cost as much as $10 billion dollars during the decade that will end in 1984—is only part of the American connection here.

Hundreds of U.S. military advisers and thousands of civilians on the scene are engaged in a massive effort to modernize the Saudi armed forces.

Behind the tremendous push to develop a modern military force:

The conservative and firmly anti-Communist Saudis consider it necessary to keep pace with potential rivals in the Persian Gulf area—notably Iraq, ruled by radicals, and Iran, governed by a conservative Shah now but with an unpredictable future.

The Saudis also keep a wary eye on the Arab-Israeli conflict. Riyadh's direct involvement in possible future wars is considered unlikely, but it could well play a key role as armorer for the Arabs who will have to shoulder the burden of any fighting.

Finally, the Saudis are deeply concerned about Soviet activities in areas close to this kingdom. Moscow's decision to pour millions of dollars in arms into Ethiopia for a war with Somalia, plus the Cuban involvement in the fighting are cited here as evidence of the need to stay on guard against Communist expansion in the region.

However, the Defense Minister, Prince Sultan ibn Abdul Aziz, says Saudia Arabia has no intention of creating a large military establishment. That would hardly be feasible in a country with such a small population. The Army now numbers only 40,000.

What the Saudis are actually planning to build is a highly mobile Army with a strong mechanized and airborne capability. They also envisage a powerful Air Force and a sophisticated missile-defense system.

Currently, the Army consists of a single armored brigade, four infantry brigades and three artillery battalions, backed up by 300 AMX–30 French tanks and 250 American M–60 tanks. The Air Force has 110 Northrop F–5E's and 37 obsolete British Lightning interceptors. It hopes to augment those squadrons with 60 highly sophisticated U.S.-built McDonnell Douglas F–15s in the early 1980s.

CRITICS IN CONGRESS

There are serious doubts, as of now, whether Congress will O.K. the F–15 deal even though President Carter has given the green light. Congressional critics fear the new aircraft could tilt the military balance against Israel in the future.

Heart of the American military presence in Saudi Arabia is the mission headed by Air Force Brig. Gen. Carl H. Cathey, Jr. Some 250 uniformed U.S. advisers are training Saudi officers in a wide range of activities—from converting infantry to armor, to instructing combat pilots.

The mission includes another 750 Department of Defense civilians who train Saudis in the use and maintenance of the M–60 tanks. Naval officers also are assisting in the development of a 2,000-man, 28-vessel Navy.

The mission is only part of the total American involvement in the country's military buildup. In all, there are more than 6,000 U.S. civilian contract workers here engaged in a variety of assignments. For example:

More than 1,000 Northrop Corporation personnel help support the F–5E aircraft program. Raytheon Company assists in the deployment of the Hawk surface-to-air missile system.

Lockheed Aircraft Corporation is prime adviser on radar. Avco Corporation is working with the Coast Guard, Bendix Corporation with the Ordnance and Transport Corps.

Vinnell Corporation of California has contracts for one of the larger operations—a 77-million-dollar effort to strengthen the 26,000-man National Guard, the internal-security force responsible for protecting the oil fields and the royal family.

ENGINEERING EXPERTISE

The largest venture of all may be the huge construction program for which the U.S. Army Corps of Engineers is responsible. Total outlays for corps-directed projects could run as high as 17 billion dollars over a 10-year span.

Some 82 Army engineers and about 800 civilians—all paid by the Saudis—comprise the engineering contingent. In addition, the corps is responsible for subcontracting projects to civilian firms such as Bechtel Corporation, Fluor Corporation, Santa Fe Engineering, Lockheed, Raytheon, J. A. Jones, Blount Brothers and Aramco. To date, American companies have won some 43 percent of the contracts.

Actually, much of the work overseen by the corps is military only in a technical sense.

Morrison-Knudsen, for example, is helping to build a cantonment at Al Batin, northwest of Dhahran. The project calls for construction of facilities for 6,500 troops and their families, including schools, hospitals, mosques and markets. Eventually, Al Batin is expected to grow into a community of 70,000, with total construction costs running up to 7 billion dollars.

The U.S. is not the only Western power that the Saudis are calling on for help. France and Britain also have training missions here. But they are small compared with the tremendous American presence that shows every sign of becoming even larger in years ahead.●

## HOW OUR POLICY TOWARD NUCLEAR POWER BENEFITS THE KREMLIN

### HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. SYMMS. Mr. Speaker, the lack of a firm policy toward nuclear power by the United States and the attempts to somehow try and prevent other nations from developing nuclear power technology indirectly benefit the Soviet Union. This was discussed in the Evans and Novak column in the Washington Post today. It is pointed out that the formidable, richly financed anti-nuclear lobby (with its agents deeply ensconced inside the Carter administration) may cause the West to fall permanently behind the Communist bloc in nuclear power development.

The column reads as follows:

HOW OUR NUCLEAR POLICY BENEFITS THE KREMLIN

Partly obscured behind the shock waves of President Carter's neutron "bomb" decision, a crisis on nuclear power is building in the Western alliance over the creeping U.S. embargo against export of raw material for nuclear power plants, with the Soviet Union benefiting directly.

The limit on exporting U.S.-produced enriched uranium comes out of the new Nuclear Nonproliferation Act, with this unintended result: Soviet nuclear power becomes preeminent, Since breeder-reactor technology is regarded by oil-starved Europe as vital to future energy needs, our European allies may turn eastward for their enriched uranium and technology exchange.

Even without the new act, the president's abhorrence of the breeder reactor points to Soviet domination—as was pointed out in a confidential letter delivered to Carter April 4 from Rep. John W. Wydler of New York. The senior Republican on the House Science Committee, Wydler warned the president that "it is frightening to speculate on the degree of control of the world market [for breeder-produced nuclear power] that the Soviet Union might achieve by implementing" its fast-moving nuclear power program.

Economic and political stakes in the rush for nuclear energy by the Western democracies and Japan are awesome. Considering that, the Carter administration's nuclear nonpolicy could contribute to another global victory for the expansive masters of the Kremlin.

The Nuclear Nonproliferation Act, signed into law March 10 by Carter, adds to the danger. It gives the nine Western European countries who belong to EURATOM 30 days to start negotiations with the United States. The law bans U.S. exports of enriched uranium to Western Europe unless EURATOM agrees to U.S. control over spent fuel manufactured in European plants.

That is vitally important, giving Washington veto power over reprocessing spent fuel and, hence, over Europe's power to build breeder nuclar power plants. The breeder, making its own fuel as it manufactures power, is nearly indispensable to Europe's future power needs.

This unilateral change in existing agreements dating back to the mid-'60s infuriated the European nations. Forced to play the high-stakes nuclear power game the Washington way, their first reaction was symbolic retaliation. With the French taking the lead, they simply ignored the provision in the new U.S. law giving them 30 days to start negotiations for new licenses to import enriched uranium.

The EURATOM nations will surely agree, probably soon, to negotiate new enriched-uranium contracts. But thumbing their noses at starting the talks within the 30 days is a symbol of their anger.

Carter's deeply rooted fear is that reprocessed fuel—which is weapons-grade fuel—could be turned illegally into bombs. That is understandable when considered in a political vacuum. Unfortunately, however, the Soviet Union has no parallel concerns. The Soviets are far ahead of the breeder reactor curve today and picking up ever more speed.

Rep. Wydler drafted his warning to the president after talks with the International Atomic Energy Agency in Vienna, the French Atomic Energy Commission and finally with the Russians in Moscow last month. A congressional expert on nuclear power, Wydler predicted to Carter that we are "on the verge of an atomic Sputnik"—a sudden Soviet advance.

He warned the president that his opposition to the Clinch River experimental breeder reactor signals all other nations that the United States is not serious about preserving the breeder as a long-range option; that has undermined U.S. nuclear power credibility abroad "and made us an unreliable nuclear partner."

Over Carter's protest, Congress has kept the Clinch River "breeder" from dying a premature death. But that does not relieve the president from getting his act together and taking on the formidable, richly financed anti-nuclear lobby (with its equally formidable agents ensconced as officials deep inside his administration). Otherwise, the West may be doomed to fall behind the communist bloc, never to recover.

For example, the Soviets now operate a 350-megawatt experimental "breeder" on the Caspian Sea and will complete a 600-megawatt plant in 1980. Design is beginning for a 1,600-megawatt plant, which the Russians told Wydler would take only seven years to build.

No wonder, then, that the new law limiting export of U.S. enriched uranium is creating consternation. Following EURATOM's symbolic refusal to start new talks within the 30-day period, West Germany will soon increase its purchase of enriched uranium from the Russians. More attacks on the exposed flank of President Carter's nuclear power policy will surely follow.●

## THE B–1 GHOST; THE MISTAKE WHICH WILL COME TO HAUNT THE CONGRESS

### HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. CHARLES H. WILSON of California. Mr. Speaker, the President and, now, unfortunately, the Congress have made a serious mistake in halting the B–1 program.

I could accept the decision to terminate the B–1 program, if in fact, there were more cost-effective alternatives. My difficulty is in finding a single defense witness who will testify that this is the case. In the Department of Defense Bomber Modernization Study of April 29, 1977, the alternatives to the B–1 are described at length. Adding up the cost of these alternatives—the B–52 modernization program, the FB–111H, the cruise missile carrier and its complement of cruise missiles—you arrive at a grand total of nearly $26 billion. Each of these alternatives has been presented to the Congress as viable programs for which funding has been requested by the Department of Defense. I ask my colleagues to recall the fact that the total cost for completion of the entire B–1 program was about $18 billion. These "more cost-effective" alternatives will cost the American taxpayer about $10 billion more than the total cost of the B–1 program.

The evidence is rather clear that we will be building a follow-on manned strategic aircraft in the coming years. To date, we have spent over $7 billion developing a follow-on to the B–52, an aircraft described by the then Secretary of the Air Force, Harold Brown, on January 25, 1966, as a bomber which would be obsolete by 1975. Most importantly, if we initiate another research and development program to build a follow-on bomber, we will place a burden of some $5 billion or more on the American taxpayers and produce an aircraft that is identical to the B–1 in design and performance.

I submit for the RECORD, a copy of a letter recently received from Mr. Bob Anderson, president, Rockwell International, detailing the testing of the already built B–1 aircraft, and second, describing the additional layoffs necessitated by the decision of the House to halt work on aircraft No. 5 and No. 6.

Copy of letter follows:

ROCKWELL INTERNATIONAL,
*April 3, 1978.*

Hon. CHARLES H. WILSON,
*House of Representatives,*
*Washington, D.C.*

DEAR CONGRESSMAN WILSON: We at Rockwell International Corporation have appreciated your support for the B–1 program during these past seven years of development and want to thank you for your efforts to retain aircraft No. 5 and No. 6 in the flight test program.

Because of the House vote on February 22 the Los Angeles Division was forced to lay off 750 employees immediately. Lay off of an additional 2,250 will occur during the rest of the year as completion of the fourth B–1 nears in Palmdale, reducing employment at the Los Angeles Division to 3,500 by the end of the year. We have established a vocational counseling and job relocation center at the Rockwell Recreation Center in Los Angeles to assist those laid off in securing other employment.

I continue to believe that B–1 is the key to the perpetuation and modernization of the manned penetrator as the third leg of the TRIAD. We look forward to continuing the four aircraft research and development program through 1983. At the Los Angeles Division, to date, aircraft No. 1 through No. 3 have flown a total of 950 hours. We have completed six inert and two live SRAM launches and met or exceeded Air Force specifications in every instance. We expect to complete aircraft No. 4 early next year and begin its flight testing. Aircraft No. 4 will demonstrate and flight test the most complete and up-to-date offensive and defensive avionics systems in existence.

Both Buz Hello and Doc Blalock have asked me to convey to you their appreciation for your strong endorsement of the B–1 program in the past. We hope we can continue to count on your support for the four aircraft B–1 research and development program this year and in the future.

Sincerely,

ROBERT ANDERSON,
*President, Rockwell International.*●

## "DIRTY DOZEN": A DISCREDITED RATING SYSTEM

### HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 13, 1978*

● Mr. RHODES. Mr. Speaker, it is that time of the year again when various groups begin to issue ratings of Members, based on selected votes. These ratings can be very important for a Member because of the image they can convey to constituents and supporters, and because of the usually uncritical manner in which the media accepts and plays up these ratings.

No Member will object to a rating that is an accurate portrayal of a legislative record, and is based on appropriate votes. Unfortunately, however, some groups seem more interested in enhancing or damaging certain Members and so seek votes that will support their particular political bias without much regard for the accuracy of the image portrayed.

One such group is Environmental Action, which, as you know, has tried to do a job on me, as well as on a number of other Members. Last Saturday the Washington Post published an article by my good friend and distinguished colleague from New Hampshire (Mr. CLEVELAND), in which he very cogently describes the blatantly political manner in which this group develops its ratings.

He also describes the manner in which the media have swallowed virtually whole the propaganda of this group without questioning the way in which its ratings are developed.

JIM CLEVELAND's article is eloquent testimony to the need for someone to ask "who is rating the raters?" I commend it to my colleagues for their reading and ask that it be inserted in the RECORD.

[From the Washington Post, Apr. 8, 1978]

"DIRTY DOZEN": A DISCREDITED RATING SYSTEM

(By James C. Cleveland)

A group known as Environmental Action will soon issue its 1978 "Dirty Dozen" list of House members whose defeat it seeks on allegedly environmental grounds. Response by the press, if it repeats past performance, will be mixed. Most reporting will serve as the uncritical conduit for the charges, while some will provide probing news coverage and commentary discrediting the accusations and their source.

I observed both varieties of coverage as a member of the Dirty Dozen in 1976, which leads me to suggest that, next time around, the press stiffen its skepticism in handling political material from Environmental Action.

After the last election, National Journal's Michael J. Malbin examined charges by House Minority Leader John J. Rhodes (R-Ariz.), also on the 1976 hit list, that rating procedures of most groups were unfair and Environmental Action was the worst offender. Reviewing materials assembled by the Fair Campaign Practices Committee for a symposium on political rating groups, he concluded that they tend to support Rhodes' charges."

As to the press, Malbin observed, "the problem with all this is that it is easy in the heat of a political campaign for an opponent—or the news media—to latch onto a label and assume that there is something solid behind it." Added Chris Black, Washington correspondent of the Lowell (Mass.) Sun:

"The 'Dirty Dozen campaign' plays upon institutional weaknesses in the press. The gimmicky charge receives page-one play but the denial is buried on the obituary page. And the group uses the widespread assumption that environmental groups are somehow above politics and reproach, although Dirty Dozen proved to be quite different from this perception."

Unintended distortion came with initial coverage strongly suggesting that the 12 on the list were selected on the basis of their environmental voting records. That impression was conveyed by AP, UPI, The Washington Star and particularly The Post which plugged that line in its headline and lead paragraph. Yet those vote rankings were absolutely meaningless in Environmental Action's own selection process. I made the list although more than 100 others voted equally "wrong" or worse on the votes used. Environmental Action itself concedes that other factors are considered, a fact scarcely alluded to in Washington coverage.

A key factor was vulnerability. Environmental Action argued that it didn't waste time going after occupants of safe seats. But had reporters examined that factor, they would have learned that eight members of the 1976 list won elections in 1974 with a scant 53 percent of the vote or less; one won his 1974 primary with only 55 per cent of the vote and the general election with 53 percent, and faced another tough primary in 1976. Those members aren't just unsafe; they're the walking wounded.

Rhodes blasted the ratings, requesting the Fair Campaign Practices Committee to monitor and expose the unfairness involved. That received prominent, fair and balanced coverage in Washington and presumably elsewhere. Later, the press here and across the country gave good exposure to a study entitled "The Rating Game," by the House Republican Research Committee, which for all its overtly partisan origin was an excellent critique of rating groups in general and Environmental Action in particular.

Meanwhile, one of the most perceptive pieces I saw on an individual member was done by Paul Houston of the Los Angeles Times in the case of Burt Talcott (R-Calif.). He found "considerable evidence that, in placing Talcott on the list, Environmental Action had accused Talcott wrongly on several points." Houston added that "there is some merit to his claim that his low Environmental Action rating, which was based on 14 selected votes among dozens last year, distorted his record." (Talcott lost anyway, one of the three on the list to do so.)

Easily the worst in terms of swallowing Dirty Dozen propaganda whole were a patty-cake piece in The New Yorker and a column by Clayton Fritchey, appearing in The Post, which rhapsodized that the Dirty Dozen gimmick ought to be adopted by other interest groups.

In New Hampshire, my designation as one of the Dirty Dozen received prominent play that ultimately proved not damaging. Three solid editorials in New Hampshire dailies bracketing the political spectrum denounced my selection as a dirty deed. Then Chris Black of the Lowell Sun exposed the fact that the Dirty Dozen campaign coordinator had worked for my opponent-to-be in a McGovern campaign. They had discussed the list at least a month before it was issued with the general understanding that I would be included only if he were likely to run. Environmental Action claimed it was misquoted.

My opponent made no issue of the Dirty Dozen or my environmental record in the campaign; he walked away from the issue, saying the Dirty Dozen Campaign Committee was doing its own thing. (I later won with 61 percent of the vote).

In New Hampshire, Environmental Action's remaining credibility died. The group claimed to have enlisted a number of environmental organizations against me. That made headlines, as did subsequent disclosure that the claim was phony. (Environmental Action again claimed it was misquoted.)

Environmental Action seeks to be a continuing and credible presence on the scene, though it consists mainly of a magazine staff of roughly a dozen, lobbies sporadically and ineffectively, and has no membership. Its political operation is a floating media event. It thus deserves scrutiny in its own right in the interests of a cleaner political environment.●

# HOUSE OF REPRESENTATIVES—*Monday, April 17, 1978*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*The fruit of the Spirit is in all goodness and righteousness and truth.*—Ephesians 5:9.

O God, our Father, the strength of Your people in periods of prosperity and their refuge in times of trouble to You do we come committing our lives to Your sustaining spirit. We have erred and strayed from Your ways like lost sheep. We have done those things which we ought not to have done and we have left undone those things we ought to have done. Forgive us, we pray, help us to amend what we are and by your spirit direct what we shall be that touched by You we may live a sober, righteous life filled with good will.

Give to each one of us a sense of purpose. Lead us to help those in need, to go the second mile, to obey the Golden Rule, and to enlarge the horizon of our lives that every barrier of color, creed, and culture shall be pushed aside before the claims of our brotherhood in You—to whom be glory forever and ever. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C., *April 14, 1978.*

Hon. THOMAS P. O'NEILL, Jr.,
*The Speaker, House of Representatives, Washington, D.C.*

DEAR MR. SPEAKER: Pursuant to the permission granted on April 13, 1978, the Clerk has received this date the following message from the Secretary of the Senate:

That the Senate passed without amendment H.J. Res. 770, Education Day, U.S.A.

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr.,
*Clerk, House of Representatives.*

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement. Pursuant to the authority granted the Speaker on Thursday, April 13, 1978, he did on Friday, April 14, 1978, sign the following enrolled bills:

H.R. 7744. An act to amend the acts of August 11, 1888, and March 2, 1919, pertaining to carrying out projects for improvements of rivers and harbors by contract or otherwise, and for other purposes; and

H.J. Res. 770. A joint resolution to authorize and request the President to issue a proclamation deignating April 18, 1978, as "Education Day, U.S.A."

## CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

## AUTHORIZING RETIREMENT OF CERTAIN RESERVE ENLISTED MEMBERS

The Clerk called the bill (H.R. 10341) to amend title 10, United States Code, to authorize Reserve enlisted members of the Army and the Air Force to retire with 20 years of service.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. NICHOLS. Mr. Speaker, I ask unanimous consent that the bill, H.R. 10341, be stricken from the Consent Calendar.

The SPEAKER. Is there objection to the request of the gentleman from Alabama?

There was no objection.

## RECALCULATING RETIRED PAY OF CERTAIN SENIOR ENLISTED ADVISERS OF THE MARINE CORPS

The Clerk called the bill (H.R. 10343) to provide for recalculation of the retired pay of individuals who served as sergeant major of the Marine Corps before December 16, 1967.

The SPEAKER. Is there objection to the present consideration of the bill?

Ms. MIKULSKI. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

## CONVEYING U.S. INTERESTS IN ALASKAN LANDS TO FAIRBANKS NORTH STAR BOROUGH

The Clerk called the bill (H.R. 6997) to authorize the Secretary of the Interior to convey all right, title, and interest of the United States in and to a tract of land located in the Fairbanks Recording District. State of Alaska, to the Fairbanks North Star Borough, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

H.R. 6997

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior is authorized to convey all right, title, and interest of the United States in and to the following described real property, located in the Fairbanks Recording District, to the Fairbanks North Star Borough without payment of consideration:

THE WEST PORTION OF BLOCK 209

A tract of land situated in the northwest quarter, section 15, township 1 south, range 1 west, F.B. and M., also known as United States Survey 849 of the Homestead Claim of Stacia Rickert described as follows:

Commencing at corner north 3, United States Survey Numbered 849, thence south 89 degrees 57 minutes 14 seconds east, a distance of 2,300 feet, more or less; along a southerly line of said survey numbered 849 which lies between corners numbered 2 and 3; thence south 89 degrees 57 minutes 09 seconds east, a distance of 30 feet, more or less; thence north 0 degree 56 minutes 34 seconds west, a distance of 10 feet, more or less; to the true point of beginning; thence north 0 degree 56 minutes 34 seconds west, a distance of 337 feet, more or less; thence south 89 degrees 52 minutes 43 seconds east, a distance of 518 feet, more or less, thence south 0 degree 07 minutes 17 seconds west, a distance of 337 feet, more or less; thence north 89 degrees 57 minutes 09 seconds west, a distance of 510 feet, more or less, to the true point of beginning, and containing 173,218 square feet, more or less.

With the following committee amendment:

Committee amendment: Page 2, line 6, strike the word "north" and insert in lieu thereof the word "number".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## PROVIDING THAT CERTAIN LAND IN PINAL COUNTY, ARIZONA, BE DECLARED PART OF PAPAGO INDIAN RESERVATION

The Clerk called the bill (H.R. 8397) to provide that a certain tract of land in Pinal County, Ariz., held in trust by the United States for the Papago Indian Tribe, be declared a part of the Papago Indian Reservation.

There being no objection, the Clerk read the bill, as follows:

H.R. 8397

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following described tract of land located in Pinal County, Arizona, and held in trust by the United States for the Papago Indian Tribe, is hereby decared to be an addition to and a part of the Papago Indian Reservation:

Beginning at the northeast corner of parcel numbered 1 within section 3, township 5 south, range 9 east, Gila and Salt River meridian, Arizona, described as follows:

line AP 1—AP 2 south 81 degrees 55 minutes west, 2.443 chains,

line AP 2—AP 3 south 20 degrees 35 minutes east, 0.800 chains,

line AP 3—AP 4 south 66 degrees 31 minutes east, 1.434 chains,

line AP 4—AP 5 south 0 degrees 55 minutes east, 3.030 chains,

line AP 5—AP 6 south 89 degrees 05 minutes west, 2.879 chains,

line AP 6—AP 7 north 0 degrees 55 minutes west, 4.212 chains,

line AP 7—AP 8 south 74 degrees 10 minutes west, 3.036 chains (end of course, intersect the north and south centre line of the southeast quarter of section 3),

line AP 8—AP 9 (on the north and south center line of the southeast quarter) south 0 degrees 39 minutes east, 32.10 chains (end

of course, the east 1/16 section corner of sections 3 and 10),

line AP 9—AP 10 (between sections 3 and 10) north 88 degrees 55 minutes east, 6.69 chains,

line AP 10—AP 1 north 0 degrees 42 minutes west, 33.33 chains (end of course, the place of beginning); consisting of 20 acres.

In accordance with applicable Federal law and regulations, these lands, which were conveyed to the United States in trust for the Papago Indian Tribe under the provisions of section 5 of the Act of June 18, 1934 (48 Stat. 985), are to be treated as and receive the same benefits and protection as other tribal trust lands within the boundaries of the Papago Indian Reservation.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## PROVIDING FOR EXTENSION OF FEDERAL BENEFITS, SERVICES, AND ASSISTANCE TO PASCUA YAQUI INDIANS OF ARIZONA

The Clerk called the bill (H.R. 6612) to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

H.R. 6612

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the Pascua Yaqui Indian people who are members of the Pascua Yaqui Association, Incorporated, an Arizona corporation, are hereby recognized as, and declared to be, eligible for the services and assistance provided on and after the date of enactment of this Act to Indians because of their status as Indians by or through any department, agency, or instrumentality of the United States, including the Bureau of Indian Affairs in the Department of the Interior, or under any statute of the United States: *Provided,* That such Pascua Yaqui Indians shall not be eligible for the services or assistance provided to Indians because of their status as Indians by or through the Surgeon General of the United States Public Health Service or the Secretary of Health, Education, and Welfare under the Act of August 5, 1954 (68 Stat. 674; 42 U.S.C. 2001–2004), as amended, or any other statute of the United States, or for any other health services or assistance provided by or through Indian Health Service of the Department of Health, Education, and Welfare to Indians because of their status as Indians.

(b) The provisions of the Act of June 18, 1934 (48 Stat. 484), as amended, are extended to the Pascua Yaqui Indians as described in subsection (a) hereof, and such Indians shall be deemed to be Indians as such term is defined in section 19 of said Act.

(c) The Secretary of the Interior is directed, upon the request of the Pascua Yaqui Association, Incorporated, and without monetary consideration, to accept on behalf of the United States in trust for the Pascua Yaqui Indians, as described in subsection (a) hereof, the title to the real property conveyed by the United States to such association under the Act of October 8, 1964 (78 Stat. 1196), and such trust land shall be the reservation of the Pascua Yaqui Indians.

(d) The minerals identified in section 3 of the Act of October 8, 1964 (78 Stat. 1197), and owned by the United States are hereby declared to be held in trust for the Pascua Yaqui Indians, subject to all valid rights in existence on the date of enactment of this Act, and effective upon the date of the transfer of title provided for in subsection (e) hereof.

(e) Section 4 of the Act of October 8, 1964 (78 Stat. 1197), is hereby repealed.

With the following committee amendment:

Committee amendment: Page 1, beginning on line 3, strike out all after the enacting clause and insert in lieu thereof the following:

That (a) the Pascua Yaqui Tribe and its members, as determined pursuant to section 2 of this Act, are hereby recognized as eligible for the services and assistance provided to Indians because of their status as Indians by or through any department, agency, or instrumentality of the United States or under any statute of the United States. For purposes of section 2 of the Act of August 16, 1957 (71 Stat. 371; 42 U.S.C. 2005a), the Pascua Yaqui Indians are to be considered as if they were being provided hospital and medical care by or at the expense of the Public Health Service on August 16, 1957.

(b) Section 4 of the Act of October 8, 1964 (78 Stat. 1197), is hereby repealed.

SEC. 2. (a) For the purposes of section 1 of this Act, membership of the Pascua Yaqui Tribe shall consist of—

(A) the members of the Pascua Yaqui Association, Inc., an Arizona corporation, as of the date of the enactment of this Act;

(B) all those persons of Yaqui Indian blood who, within one year from the date of enactment of this Act, apply for, and are admitted to, membership in the Association pursuant to article VII of the Articles of Incorporation of the Association; and

(C) direct lineal decendants of such persons, subject to any further qualifications as may be adopted by the Association.

(b) Within eighteen months after the date of enactment of this Act, the Secretary of the Interior, in cooperation with the Association, shall compile a membership roll pursuant to the terms of subsection (a) of this section and shall publish such roll in the Federal Register. Publication of such roll shall not affect or delay the immediate eligibility of the members of the Association under section 1 of this Act.

SEC. 3. Solely for the purpose of this Act, the Pascua Yaqui Association shall be deemed an Indian tribe recognized by the United States and the lands conveyed to the Association by the Act of October 8, 1964 (78 Stat. 1196), subject to a restriction against alienation imposed by the United States, shall be deemed a Federal Indian reservation.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. That concludes the call of eligible bills on the Consent Calendar.

## PERSONAL EXPLANATION

Mr. LEDERER. Mr. Speaker, on rollcall No. 208, I voted "nay" when I intended to vote "yea." I ask that my statement appear in the permanent RECORD.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions, to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

## MERCHANT MARINE ACADEMY NOMINATIONS

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3489) to amend section 216(b) of the Merchant Marine Act, 1936, to entitle the Delegates in Congress from Guam and the Virgin Islands to make nominations for appointments to the Merchant Marine Academy, as amended.

The Clerk read as follows:

H.R. 3489

*Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,* That section 216(b) of the Merchant Marine Act, 1936 (70 Stat. 25; 46 U.S.C. 1126(b)), is amended as follows:

(1) The second sentence of paragraph (1) is amended by striking out ", Guam, American Samoa, and the Virgin Islands, and the Commissioners of the District of Columbia." and inserting in lieu thereof "and American Samoa.".

(2) The third sentence of paragraph (1) is amended by striking out "one vacancy each shall be allocated each year to Guam, American Samoa, and the Virgin Islands, to be filled by qualified candidates nominated by the Governors of Guam, American Samoa, and the Virgin Islands, and four vacancies shall be allocated each year to the District of Columbia, to be filled by qualified candidates nominated by the Commissioners thereof" and inserting in lieu thereof "one vacancy each shall be allocated each year to Guam, American Samoa, and the Virgin Islands, and four vacancies shall be allocated each year to the District of Columbia".

(3) Paragraph (5)(a) is amended by striking out "Alaska and Hawaii" and inserting in lieu thereof "the District of Columbia, Guam, and the Virgin Islands,".

(4) Paragraph (5)(b) is amended by striking out "the Territories of Alaska and Hawaii,".

The SPEAKER. Is a second demanded?

Mr. RUPPE. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from New York (Mr. MURPHY) and the gentleman from Michigan (Mr. RUPPE) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 3489, which was introduced by Mr. DE LUGO, is to allow the Delegates from Guam and the Virgin Islands, instead of their Governors, to nominate candidates for admission to the U.S. Merchant Marine Academy. The committee amendment also amends the law to specify that the Delegate from the District of Columbia, rather than the "Commissioners of the

District of Columbia," is to make nominations for the District of Columbia.

Prior to 1956 there were no congressional nominations involved in admission to the Merchant Marine Academy. In that year, the Congress amended section 216(b) of the Merchant Marine Act, 1936, providing that each Representative and Senator could nominate up to 10 candidates for admission to the academy, and requiring that the actual admission decisions be made on a competitive basis from among the nominees. The 1965 law gave the Resident Commissioner of Puerto Rico and the Delegates from Alaska and Hawaii the same ability to nominate candidates for admission to the academy as it gave to all other Members of the Congress.

In 1958, this section of the law was amended to allow nomination of candidates for admission to the Academy from the Canal Zone, Guam, American Samoa, the Virgin Islands, and the District of Columbia. Since none of them had representation in the Congress at that time, the 1958 amendment gave the nominating authority to their executive officials—the Governor in each case, except the District of Columbia, where the executive authority was exercised by Commissioners.

Since 1958, several events have taken place which necessitate the updating of section 216(b):

Alaska and Hawaii gained statehood;

The title of the chief executive officials of the District of Columbia changed twice; and

Guam, the Virgin Islands, and the District of Columbia all gained the authority to send Delegates to the Congress.

Since Alaska and Hawaii became States, their Representatives and Senators have been able to make nominations under the general provisions which apply to all States, and the references to the "Territories of Alaska and Hawaii" have been ignored. Although implementing regulations still place nominating authority for the District of Columbia in its Mayor, through on informal agreement the nominations have been made in fact by the Delegate from the District of Columbia in recent years. No such informal agreement exists for Guam and the Virgin Islands, however. So the law must be changed if the Delegates from Guam and the Virgin Islands are to have the nominating authority for the Merchant Marine Academy which was originally intended to be exercised by all Members of the Congress.

H.R. 3489, as amended, updates section 216(b) of the Merchant Marine Act, 1936, with respect to Alaska, Hawaii, the District of Columbia, Guam, and the Virgin Islands. In so doing it clearly authorizes the Delegates from Guam, the Virgin Islands, and the District of Columbia to nominate candidates for admission to the Merchant Marine Academy. The bill was ordered reported by a unanimous voice vote of the Committe on Merchant Marine and Fisheries, and I urge its passage.

Mr. RUPPE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3489. This is a simple bill which will bring the Merchant Marine Act of 1936 up to date in several respects.

First, it will allow the Delegates in Congress from Guam and the Virgin Islands to make nominations for appointment to the U.S. Merchant Marine Academy. At the present time, this nominating authority is entrusted to the Governors of Guam and the Virgin Islands. The bill will also allow the Delegate in Congress from the District of Columbia—instead of the Commissioners of the District of Columbia—to nominate candidates for admission to the Academy.

These changes are long overdue. In January 1973, the first popularly elected Delegates from Guam and the Virgin Islands took their places in Congress. At that time, the rules of the House were amended to give these Delegates the same rights and obligations enjoyed by their colleagues, with the exception of voting on the floor of the House. Since that time, one of the responsibilities of these Delegates has been to seek amendments to existing laws to reflect the change in territorial representation which put them in Congress. This bill is a part of that process.

Second, this bill removes several outdated references to the "territories of Alaska and Hawaii" from the Merchant Marine Act of 1936.

As I have said, these changes to the Merchant Marine Act are long overdue. This bill will make the act consistent with the present system of congressional representation for the citizens of the Virgin Islands, Guam, and the District of Columbia. I would like to respectfully urge my colleagues to support this measure.

● Mr. DE LUGO. Mr. Speaker, I rise in support of H.R. 3489, which would give the Delegates from the Virgin Islands, Guam, and the District of Columbia the authority to make nominations to the Merchant Marine Academy.

Prior to my arrival as the first popularly elected Delegate from the Virgin Islands in 1973, there was no direct representation of the islands in Congress. Thus, many of the powers which would normally be vested in the Representative, such as appointment powers, were given to the local government. This was true for Guam and the District of Columbia as well.

Since my arrival, part of my job has been to amend these laws to bring them into accord with the new realities of territorial representation. This bill is part of that process.

In 1956 the Merchant Marine Act was amended to allow the Senators and Representatives to make nominations to the Academy. In 1958 slots were made available to qualified young men and women from the U.S. territories. However, lacking a Representative in Congress, this power was vested in the Governor of the territory, and, in the case of the District, what later became the Mayor's office. It is clear, however, that the intent of Congress is to place this power with the Representatives.

In 1971, our distinguished colleague, WALTER FAUNTROY, took his place as the first popularly elected Delegate from the District. In 1973, he was joined by my good friend from Guam, TONY WON PAT. Now that all three jurisdictions have representation in Congress, I believe it is time to amend the Merchant Marine Act to fully carry out the intent of Congress.

Therefore, I urge my colleagues to pass this bill.●

● Mr. DERWINSKI. Mr. Speaker, I rise in support of H.R. 3489, which provides for a practical adjustment in the nominations system for the Merchant Marine Academy. I urge my colleagues to give it their support as well.

In the 20 years I have served in Congress, the privilege of designating young men as nominees for possible appointments to the service academies is something that I have treated with special consideration. Over the years, I have been proud of the young men, and now young women, from my district that have been appointees to the academies. I believe the system has worked well for the three service academies and the Merchant Marine Academy. The quality of cadets and midshipmen and their true diversity in coming from all parts of the country have been one of the very positive factors in the academies' turning out the caliber of leaders that they have.●

Mr. MURPHY of New York. Mr. Speaker, I have no requests for time.

The SPEAKER pro tempore. (Mr. MURTHA). The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 3489, as amended.

The question was taken.

Mr. MOTTL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

## NATIONAL SEA GRANT AUTHORIZATION ACT OF 1978

Mr. MURHPY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10822) to improve the operations of the national sea grant program, to authorize appropriations to carry out such program for fiscal years 1979 and 1980, and for other purposes, as amended.

The Clerk read as follows:

H.R. 10822

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the title heading of title II of the Marine Resources and Engineering Development Act of 1936 (33 U.S.C. 1101 et seq.) is amended to read as follows:

"TITLE II—NATIONAL SEA GRANT COLLEGE PROGRAM".

SEC. 2. (a) Section 201 of the National Sea Grant Program Act (33 U.S.C. 1121) is amended by inserting "College" immediately before "Program".

(b) Sections 202(a)(3), 203(3), 204, and 211 are each amended by striking out "national sea grant program" each place it appears therein and inserting in lieu thereof "national sea grant college program".

(c) The section heading of such section 204 is amended to read as follows:

"SEC. 204. NATIONAL SEA GRANT COLLEGE PROGRAM."

SEC. 3. The National Sea Grant College Program Act (as redesignated by section 2 of this Act) (33 U.S.C. 1121–1131) is amended—

(1) by amending section 204(d)—

(A) by striking out "and" at the end of paragraph (5),

(B) by redesignating paragraph (6) as paragraph (7), and

(C) by inserting immediately after paragraph (5) the following new paragraph:

"(6) accept funds from other Federal departments, agencies (including agencies within the Administration), and instrumentalities to pay for grants made, and contracts entered into, by the Secretary under section 205(a); and";

(2) by striking out the period at the end of the last sentence of section 205(a) and inserting in lieu thereof the following: ": except that this limitation shall not apply in the case of grants or contracts paid for with funds accepted by the Secretary under section 204(d)(6).";

(3) by amending the first sentence of section 206(c) to read as follows:

"There are authorized to be appropriated for purposes of carrying this section not to exceed the following amounts:

"(1) $5,000,000 for each of fiscal years 1977, 1978, and 1979.

"(2) $6,000,000 for fiscal year 1980.";

(4) by amending section 211—

(A) by striking out "ANNUAL" in the section heading and inserting in lieu thereof "BIENNIAL",

(B) by amending subsection (a) to read as follows:

"(a) BIENNAL REPORT.—The Secretary shall submit to the Congress and the President, not later than February 15, 1980, and not later than February 15 of every even-numbered year thereafter, a report on the activities of, and the outlook for, the national sea grant college program.";

(C) by amending the last sentence of subsection (b) to read as follows: "Such material shall be submitted to the Secretary not later than February 1 of the year in which the report concerned is to be submitted under subsection (a), and the Secretary shall cause it to be published as a separate section in such report."; and

(5) by amending the first sentence in section 212 to read as follows:

"There are authorized to be appropriated for purposes of carrying out the provisions of this title (other than section 206) not to exceed the following amounts:

"(1) $50,000,000 for each of fiscal years 1977 and 1978.

"(2) $55,000,000 for each of fiscal years 1979 and 1980.".

SEC. 4. Section 3 of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a) is amended—

(1) by striking out "National Sea Grant Program Act" each place it appears therein and inserting in lieu thereof "National Sea Grant College Program Act";

(2) by amending subsection (a)(2) to read as follows:

"(2) promote the exchange among the United States and foreign nations (including, but not limited to, developing foreign nations) of information and data with respect to the assessment, development, utilization, and conservation of such resources."; and

(3) by amending the first sentence of subsection (c) to read as follows:

"There are authorized to be appropriated for purposes of carrying out this section not to exceed the following amounts:

"(1) $3,000,000 for each of fiscal years 1977, 1978, and 1979.

"(2) $3,600,000 for fiscal year 1980.".

The SPEAKER pro tempore. Is a second demanded?

Mr. RUPPE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY) and the gentleman from Michigan (Mr. RUPPE) will be recognized for 20 minutes each.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly endorse passage of H.R. 10822, a bill to authorize appropriations for the national sea grant college program in fiscal years 1979 and 1980.

Sea grant is an integral part of this Nation's ongoing effort to improve mankind's understanding of the many vital processes that occur in the waters covering three-fourths of the Earth's surface. The value of this improved understanding will ultimately manifest itself in increased world supplies of food, energy, and minerals that can be expected from knowledge about how to explore, more efficiently develop, and better protect the complex ocean environment.

I might add that this kind of research money represents Federal spending that complements, rather than competes with, spending by private industry. Sea grant has worked closely with many elements of industry and has played a vital role both in increasing the productivity of existing marine industries and in launching highly innovated and highly competitive new commerce. I fully expect Sea grant's success in these endeavors to be even greater in the future and, in this light, find the authorization levels of $63 million for fiscal year 1979 and $64.6 million for fiscal year 1980 to be eminently justified.

Mr. RUPPE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 10822, which authorizes appropriations to carry out the national sea grant program. The national sea grant program is a unique Federal-State-university partnership which focuses upon research, education, and advisory services. The sea grant concept was patterned after the land grant college system, which was established in 1862, and has provided the basis for one of the most advanced agricultural production systems in the world. Through agricultural experiment stations and experiment services, in cooperation with many State universities, including Michigan State, which was one of the leaders, the land grant program was able to foster sustained economic development and technological innovation in the agricultural sector. Based on the hearings before the Oceanography Subcommittee this year, similar long-term contributions of the sea grant program in the area of marine research and development are becoming increasingly visible.

This authorization bill provides $55 million for fiscal years 1979 and 1980 for the basic matching program. The national projects program, which does not require matching funds from the States, is authorized at $5 million for fiscal year 1979 and $6 million for fiscal year 1980. And finally, the international cooperation assistance program is authorized at $3 million for fiscal year 1979 and $3.6 million for fiscal year 1980. I feel that these are responsible increments in the authorization levels, given the high expectations for the sea grant program in the years ahead, as this Nation looks increasingly toward the oceans for food, minerals, and energy.

H.R. 10822 also authorizes the National Sea Grant Office to act as an agent in applying nonmatching funds to marine-related problems which have been identified by other Federal mission-oriented agencies. The authorization bill also provides for a biennial report rather than an annual report, and amends the international cooperative assistance program to include developed countries as well as developing countries in the exchange of information relating to marine research and conservation and development.

Although this program is primarily aimed at increasing cooperation between U.S. marine scientists and many developing coastal nations, it was also felt that we should not preclude cooperative efforts with developed countries as well. It is hoped that this program will lead to strong multilateral marine research efforts.

Mr. Speaker, I strongly recommend the passage of this legislation, which establishes a strong marine research and development program based upon what I feel is a unique extension of a system which has provided for the efficient development of land resources to many natural resources of the future which will increasingly be found in the oceans.

● Mr. BREAUX. Mr. Speaker, I strongly support passage of H.R. 10822, a bill to authorize the national sea grant college program for $63 million in fiscal year 1979 and $64.6 million in fiscal year 1980.

I think that if we examine the recent history of the United States we find that one of the things that has made this Nation great is its willingness to pursue knowledge in all fields of science. Scientific research and development is an investment in the future welfare of the Nation and its importance is all too frequently underestimated—sea grant has been no exception in this regard.

The national sea grant program is much more than just another research program. It is an attempt to get the scientists who are doing the research together with the beneficiaries—the fishermen, the ocean farmers, or other entrepreneurs—and keep them communicating. The result has been research focused on the problems actually encountered in the field and increased productivity in many of the industries encountering these problems. The hearings we held in February demonstrated

to my satisfaction that the people administering the program have perceived that there is room for improvement and that these improvements are being pursued. I expect sea grant to ultimately evolve into a truly excellent program and one we can all be proud of.

Finally, we did make two changes that I feel will have payoffs in terms of program quality. The first allows funds appropriated to other Federal agencies for marine research pertaining to their missions to pass through the Office of Sea Grant free of sea grant's matching requirements. It was never intended that funds not specifically appropriated to sea grant be subject to the 66⅔-percent Federal ceiling. The change we have made clarifies this point and will encourage other Federal entities to make use of sea grant's expertise when allotting their own mission-oriented research funds.

The other change removes the implied prohibition against participation in international marine research projects that include developed foreign nations by U.S. scientists operating under the auspices of the sea grant international program. The original intent of this program was to foster goodwill in developing nations of the world and thereby lessen opposition against access to their coastal waters for purposes of marine research. It was never intended to be an aid program, nor is it clear that developing nations are the only nations where the United States must spread goodwill in order to gain access to coastal waters. Allowing developed nations to participate on a quid pro quo basis will both increase the program's cost effectiveness and insure that the goodwill of the United States may be spread to all the nations of the world.

I urge your support for this authorization bill.●

● Mr. ROGERS. Mr. Speaker, I rise in support of this legislation to extend the National Sea Grant Program Act through fiscal year 1980. Since 1966 when the legislation which Senator CLAIBORNE PELL of Rhode Island and I introduced to create the sea grant program was signed into law, I have remained a steadfast supporter. The sea grant program, patterned after the land grant college system, has an outstanding 12-year history of promoting the study leges and universities.

Now that our Nation has expanded its fishery conservation zone out to 200 miles and there is greater recognition than ever before of the potential benefits of aquaculture, it is imperative that a sound program of research, education, and advisory services be maintained. of marine resources by the Nation's col-

The national sea grant program is a Federal-State-university partnership. It encompasses all three functions of American universities: Research, education, and advisory services. The present funding mechanism provides Federal funding in the form of grants to provide up to 66⅔ percent of the total cost of the project to universities, colleges and private organizations and the remaining one-third is matched by State or local sources.

The sea grant program is a valuable component of our oveerall national program for dealing with marine science and technology and marine resources. Although entirely domestically oriented to date, sea grant contributes materially to the foremost position the United States holds internationally in these fields. A study conducted in 1975 concluded that a $5 to $10 million investment in the sea grant program would yield $122 million in sales in 1980. Such significant commercial results point up the economic advantages of this program, which are complemented by the continuing advances in the marine science field.

With these facts in mind, it is certainly regrettable that actual appropriations have lagged far behind the authorizations that the House Merchant Marine and Fisheries Committee has sought to obtain for this vital program.

It is my belief that sea grant has continued to live up to its original purposes and I recommend passage of the national sea grant program authorization to my colleagues at this time.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 10822, as amended.

The question was taken.

Mr. MOTTL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## NACOA AUTHORIZATION FOR FISCAL YEAR 1979

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10823) to amend the National Advisory Committee on Oceans and Atmosphere Act of 1977 to authorize appropriations to carry out the provisions of such act for fiscal years 1979 and 1980, and for other purposes, as amended.

The Clerk read as follows:

H.R. 10823

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the National Advisory Committee on Oceans and Atmosphere Act of 1977 (33 U.S.C. 857–13—857–18) is amended—

(1) by striking out "except that" and all that follows thereafter in section 3(b) and inserting in lieu thereof "except that of the original appointees, 6 shall be appointed for a term to expire on July 1, 1979, 6 shall be appointed for a term to expire on July 1, 1980, and 6 shall be appointed for a term to expire on July 1, 1981."; and

(2) by striking out "1978." in section 8 and inserting in lieu thereof "1978, and $572,000 for the fiscal year ending September 30, 1979.".

The SPEAKER pro tempore. Is a second demanded?

Mr. RUPPE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. RUPPE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 10823 as amended by the Committee on Merchant Marine and Fisheries. H.R. 10823 will provide necessary support to the National Advisory Committee on Oceans and Atmosphere (NACO).

The Merchant Marine and Fisheries Committee feels that NACOA serves a vital role both to the Congress and the executive branch. As required by law, NACOA is directed to:

First. Continuously review the Nation's marine and atmospheric policies and programs;

Second. Report to the President and the Congress annually and upon request; and

Third. Advise the Secretary of Commerce with respect to the National Oceanic and Atmospheric Administration.

In addition, because its membership is composed of individuals from outside the Federal Government, NACOA provides a valuable information link between the public and private sectors with respect to oceanic and atmospheric matters.

Last year Congress passed H.R. 3849 which abolished and then re-created NACOA with new membership. This act, which was signed into law on July 5, 1977, includes language that will insure that the membership of NACOA will be of the highest quality.

The new membership, appointed by the President in late January of this year, is composed of distinguished individuals representing a diversity of marine and atmospheric fields. NACOA members come from industry, academia, and State and local government. They comprise a body of wide geographical representation.

H.R. 10823, as amended, authorizes up to $572,000 to be appropriated to NACOA for fiscal year 1979. This level of funding is necessary to insure the effective continuation of this important advisory committee. I urge your support of this bill.

Mr. RUPPE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 10823, a bill which would authorize appropriations in the amount of $572,000 for the National Advisory Committee on Oceans and Atmosphere for fiscal year 1979. This amount exceeds the administration's request by $88,000. I feel that this is a responsible increment in NACOA's budget authority which accounts for increased costs due to inflation and a commitment to more frequent and timely NACOA action in the development of a national oceans policy.

H.R. 10823 also extends by 1 year the termination dates of the NACOA members appointed by the President in January 1978. Due to a 6-month delay in the

appointment process, it is necessary to extend this date in order to allow the 1-year appointees to become acquainted with and serve NACOA as intended by the act.

After hearing from the Chairman of NACOA of his plans for the establishment of subpanels which will address specific marine issues and report to the Congress and the President in a more timely manner, I am very encouraged that NACOA will play an important role in the development of marine and atmospheric science policy as we encounter several conflicts and controversial issues in these areas in the years ahead. The members of NACOA represent several disciplinary and geographical areas and will be able to provide decisive commentary and analysis on oceans and atmosphere issues as they arise in Congress and within the administration.

Mr. Speaker, I strongly support this legislation and the authorization level which is necessary for the effective operation of NACOA in the upcoming fiscal year.

● Mr. BREAUX. Mr. Speaker, I am in support of H.R. 10823. The National Advisory Committee on Oceans and Atmosphere—NACOA—serves an important function both to the Congress and the executive branch by providing advice and reports on issues concerning atmospheric and marine affairs.

The Stratton Commission back in the late 1960's conducted a comprehensive review and evaluation of this Nation's ocean and coastal programs. In its final report, "Our Nation and the Sea," the Commission strongly urged the creation of an advisory committee which would be composed of individuals from outside the Federal Government to monitor and evaluate the Federal Government's marine programs.

When Congress first created NACOA back in 1971, it perceived NACOA as being a vital complement to the National Oceanic and Atmospheric Administration and, therefore, atmospheric affairs was added to NACOA's purview.

NACOA's role has been enhanced since the enactment of H.R. 3849 last year by Congress. This act, which was signed into law on July 5, 1977, abolished the original NACOA and recreated it with 18 members. The new membership of NACOA is composed of outstanding individuals with expertise in a broad range of fields relating to atmospheric and marine affairs. The new Chairman of NACOA, Dr. Donald McKernan, has outlined a prodigious work schedule for the upcoming year. Operating under a different format, NACOA should be able to respond in a more timely manner on many issues of importance to the Congress relating to marine and atmospheric affairs.

Mr. Speaker, the bill under consideration today will help NACOA to carry out its important statutory responsibilities in two ways:

First, it will extend by 1 year the terms of the current NACOA members. As the law now reads, the terms of 6 of the 18 NACOA members will expire on July 1 of this year. The new NACOA members, however, were not officially announced by the President until January of this year. Thus, unless their terms are extended, one-third of the advisory committee's membership will be able to serve less than 5 months which leaves them little opportunity to fully participate in the work of the committee. The authorization bill supports this program.

Second, H.R. 10823 will authorize funding for NACOA for fiscal year 1979. The bill includes an authorization level of $572,000, an amount necessary to insure the effective operation of NACOA in the next fiscal year.

Mr. Speaker, NACOA is an important advisory committee and H.R. 10823 will insure that NACOA will continue to make a valuable contribution in helping to shape marine and atmospheric policies and programs. I urge your support of this bill.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 10823, as amended.

The question was taken.

Mr. MOTTL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

## COAST GUARD AUTHORIZATION—FISCAL YEAR 1979

Mr. MURPHY of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11465) to authorize appropriations for the U.S. Coast Guard for fiscal year 1979, and for other purposes, as amended.

The Clerk read as follows:

H.R. 11465

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That funds are hereby authorized to be apropriated for necessary expenses of the United States Coast Guard for fiscal year 1979, as follows:

(1) For the operation and maintenance of the Coast Guard, including expenses related to the Capehart housing debt reduction: $958,186,000;

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto: $379,954,000 to remain available until expended;

(3) For the alteration or removal of bridges over navigable waters of the United States, constituting obstructions to navigation: $34,603,000, to remain available until expended; and

(4) For research, development, test, and evaluation: $25,000,000, to remain available until expended.

SEC. 2. For fiscal year 1979, the Coast Guard is authorized an end of year strength for active duty personnel of 39,331: *Provided,* That the ceiling shall not include members of the Ready Reserve called to active duty under the authority of section 764 of title 14, United States Code.

SEC. 3. For fiscal year 1979, average military training students loads for the Coast Guard are authorized as follows:

(1) recruit and special training: 3,962 students;

(2) flight training: 95 students;

(3) professional training in military and civilian institutions: 436 students; and

(4) officer acquisitions: 952 students.

SEC. 4. The Coast Guard is authorized to enter into a long-term lease in excess of one fiscal year for the purpose of acquiring a site on the Quillayute Indian Reservation in the State of Washington so that the Quillayute River Coast Guard Station may be relocated: *Provided,* That any such agreement entered into pursuant to this section shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts. The Coast Guard is also authorized to expend, commencing with fiscal year 1979, appropriated funds for the construction of fixed facilities and improvements on such land leased from the Quillayute Indians.

The SPEAKER pro tempore (Mr. MURTHA). Is a second demanded?

Mr. RUPPE. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY) will be recognized for 20 minutes, and the gentleman from Michigan (Mr. RUPPE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to urge the passage of H.R. 11465, as reported by the Committee on Merchant Marine and Fisheries. This bill authorizes appropriations for the Coast Guard for fiscal year 1979.

In performing its annual review of the Presidential budget request for Coast Guard programs, the committee has run into the same problem that it has faced in each of the last several years. That problem relates to the adequate funding of the Coast Guard, funding sufficient in amount to enable the service to perform all the many duties which have been placed upon it.

Once again, the committee has noted that the budgetary request is not reflective of what the committee considers the Coast Guard's needs. As I have said before, as have other committee members, the Congress in recent years has imposed many new responsibilities on the Coast Guard, without guaranteeing the necessary additional resources to perform those responsibilities efficiently and effectively.

In addition to the traditional responsibilities for maritime search and rescue, the maintenance of aids to navigation systems, and the supervision of commercial vessel construction, the Coast Guard in recent years has been charged with new duties with respect to the enforcement of the Fisheries Conservation and Management Act, the Ports and Waterways Safety Act, the Federal Water Pollution Control Act, and amendments to the Tank Vessel Act.

Shortchanging Coast Guard needs has been standard practice. Despite some recent improvements—many of which have been initiated by the Congress, the Coast Guard is still flying planes of Korean

war vintage and operating vessels built prior to World War II. The number of personnel available to carry out its many duties has been continually constrained, and it's a wonder to me that the service has been able to accomplish as much as it has.

The bill before us today authorizes the appropriation of approximately $960 million for operating expenses—approximately $380 million for the acquisition and improvement of vessels, aircraft, and shore facilities—$34.6 million for the alteration or removal of obstructive bridges—and $25 million for research and development.

The total authorization in the four categories involved amounts to $1,397,743,000.

In reviewing the authorization legislation, the committee was interested to note exactly what the country is receiving for its expenditures. As an example, in fiscal year 1977—the last year for which a complete statistical compilation has been published—the Coast Guard:

Responded to 79,000 search and rescue cases;

Saved over 3,000 lives of persons actually in danger; and

Prevented 5,000 additional possible deaths of persons not already in danger.

Property loss prevention was calculated to be $285 million.

In the aids to navigation program during the same year, the Coast Guard maintained 59,000 fixed and floating aids, and provided navigational electronic coverage for 17 million square miles.

In the marine safety area, the Coast Guard:

Reviewed 15,000 casualty reports;

Processed 50,000 seamen's documents;

Supervised the construction of 600 commercial vessels;

Inspected 11,000 existing U.S.-flag vessels and 3,500 foreign-flag vessels;

Conducted 325,000 courtesy motorboat examinations;

Boarded 30,000 recreational vessels;

Inspected 92,000 waterfront facilities;

Supervised 2,400 loadings of hazardous cargoes;

Boarded 53,000 vessels and barges underway; and

Conducted 93,000 harbor safety patrols.

In the field of marine enforcement protection, the Coast Guard:

Conducted 1,200 aerial pollution patrols;

Processed 13,000 spill reports;

Conducted 8,000 pollution investigations;

Monitored 20,000 transfer operations;

Conducted 1,300 ocean dumping surveillance missions; and

Initiated 3,700 pollution removal opertions.

In maritime law enforcement, the Coast Guard:

Boarded 1,800 foreign fishing vessels;

Operated vessels on enforcement missions, for a total of 100,000 operating hours;

Conducted enforcement flights of aircraft of 13,000 hours duration; and

Seized 30 foreign violators.

In addition to the other activities, the Coast Guard:

Furnished 14,000 hours of domestic icebreaking assistance to over 3,000 vessels;

Supported polar ice operations;

Conducted the international ice patrol; and

Maintained its various units in a readiness posture by participating in Navy refresher training exercises and conducting over 20,000 independent exercises of its own.

As impressive as they may appear, statistics of this type mean little unless they are related directly to needs. In that connection, the Coast Guard admits that it cannot live up to the mission standards which it has established.

Recognizing that those standards are, in many cases, based on subjective reasoning, it still should cause major concern to this House—as it does to the Merchant Marine and Fisheries Committee—to know that the personnel and equipment available permits the Coast Guard to conduct only approximately 75 percent of the needed surveillance patrols—only approximately 80 percent of the needed vessel boardings—and only approximately 50 percent of the facility inspection goals.

The Committee on Merchant Marine and Fisheries is convinced that there are insufficient personnel in the Coast Guard to do all the things it should do. Despite a Coast Guard request for an increase of personnel to the level of 40,000 for fiscal year 1979, the Department of Transportation approved only 38,420 personnel as an end-of-year strength—and, in fact, directed the Coast Guard to reduce its existing personnel strength by almost 300.

DOT sent forward in the budget that reduction item, reflecting a savings of $5 million, and describing the reduction as "management efficiency." Why, may I ask, did they not propose the reduction of twice as many people, save $10 million, and be twice as efficient?

The Committee on Merchant Marine and Fisheries simply could not accept such an unjustified and arbitrary level for personnel strength. It has, therefore, authorized sufficient funds to restore the proposed reduction of 278 personnel and, in fact, added an additional 633 personnel, for a total personnel level of 39,331—approximately half-way between the Coast Guard's original request and the Department's decision.

In general, the increase of some $13 million in operating expense authorization above the presidential request reflects the money to pay those additional personnel who would be available to the Coast Guard to improve its activities in the fields of search and rescue, marine environmental protection, marine safety, and port safety.

In the acquisition, construction, and improvement item, the committee added approximately $100 million to the Presidential budget request. The greatest part of this addition reflects the committee's determination that the Coast Guard should move promptly toward the design and replacement of one of the existing icebreakers stationed on the Great Lakes—in order to provide for the necessary icebreaker escort assistance on the lakes during the winter navigation season—enabling that important segment of the national economy to operate at its maximum level.

The committee recognizes that this issue is one which is still pending in the fiscal year 1978 authorization, and it may well be that consideration being given in the Appropriations Committee of the other body will result in resolving that problem this year. This authorization for $60 million is included, however, should the present efforts not reach fruition prior to September 30, 1978.

The other features of the A.C. & I. item are really "bare bones" replacement items for aging and inefficient vessels and aircraft—many of which are rapidly approaching the end of their useful service life.

I urge the Members of the House to respond to this very conservative bill, reported by the Merchant Marine and Fisheries Committee. We might well have justified twice as much addition as we actually recommended, but we realize that—in the present state of inflationary pressures and needs to restrain Federal expenditures—we must be realistic and overcautious in our recommendations.

I can assure this House that, on a dollar basis, the taxpayer receives from the Coast Guard much more in benefits than he lays out in funds. This authorization bill deserves the support of every Member of the House, and I seek that support at this time.

I will now yield such time as he may consume to the chairman of the Subcommittee on Coast Guard and Navigation, the Honorable MARIO BIAGGI.

Mr. BIAGGI. Mr. Speaker, I thank the distinguished gentleman from New York (Mr. MURPHY) the chairman of the Committee on Merchant Marine and Fisheries, for yielding me this time.

Mr. Speaker, I rise in support of H.R. 11465 and urge its passage by the House, as reported by the Committee on Merchant Marine and Fisheries.

The bill authorizes appropriations for the U.S. Coast Guard for fiscal year 1979—

For the operation and maintenance of the Coast Guard;

For acquisition, construction, and improvement of vessels, aircraft, and shore facilities;

For the alteration or removal of bridges determined to be obstructions to navigation;

For research, development, test, and evaluation;

For authorized end-of-year military personnel ceilings; and

For necessary average military student training loads.

It also specifically authorizes the Coast Guard to enter into a long-term lease with the Quillayute Indian Tribe in the

State of Washington, to permit the relocation of a Coast Guard facility on the Indian reservation.

Before discussing the levels of the proposed authorization, there is an urgent matter of utmost concern that compels me to digress for a moment from the cold realities of budgetary figures in a ledger. That is, the inevitable, cumulative effects of continued underfunding of Coast Guard programs.

It is a natural human tendency to develop unrealistic expectations from a labor-intensive service organization like the Coast Guard which is so closely associated with the "can do," uniquely American frontier spirit. However, in the time I have been chairman of the Coast Guard Subcommittee, I have seen firsthand the effects of these stresses and strains reflected in Coast Guard hardware and personnel.

The causes of these are numerous—funding deferrals, service life extension programs, and acquisition stretchouts delaying replacement of aging equipment.

In personnel, the cycle begins with arbitrary ceilings imposed at prior-year levels—disguised "reductions to base" styled "management efficiency moves," with bureaucratic immunity forgetting those in travel, transfer, leave, or illness status—prolonged excessive overtime requirements—inadequate training programs (even in the fundamentals of seamanship)—the heart and soul of a seagoing regulatory agency—and chronic undermanning.

The effects are inevitable and can only result in reduced operational effectiveness.

This already deplorable situation snowballs as older equipment requires additional spare parts and more shipyard time (29 percent of the Coast Guard Fleet is 30–35 years old). Overworked and delapidated shore facilities, deteriorating military benefit packages, and extended at-sea periods due to ship retirements lead inexorably to personnel retention problems. (The Coast Guard has attempted in vain to reduce average search and rescue workloads from 80 hours to 68 hours, against an ever-constant tide of an annual 6 percent rise in case loads.)

Exacerbating this condition are the new programs (unavoidably favored in the ever-shifting allocation of resources by the agency): The 200-mile fishing conservation zone—pollution enforcement—deepwater ports. . . . I could go on ad infinitum. New programs require reprograming of funds originally slated to carry on existing responsibilities.

Research and development suffers. We mortgage tomorrow's mix of missions and hardware to accomplish them—to pay today's operating expenses—"robbing Peter to pay Paul." I have personally seen this sequence of events occur in New York City. I see it being repeated in the Coast Guard of today.

The "can do" spirit can only stretch overworked bodies so far until it threatens the safety of the rescuers themselves. The subcommittee has heard poignant testimony of Coast Guard personnel assisting in fighting marine fires (only a backup responsibility for them at all), without protective clothing and absent adequate pumping capability. This continued risking of lives only courts catastrophe—as may have occurred in the "Pearl C" disaster in Oregon.

Confronted with this responsibility, the subcommittee was faced with a choice. Should we restore the Coast Guard budget to realistic levels, indicating our priorities, aware of the pitfalls of earmarking expenditures—or should we simply endorse the decisions of OMB—decisions which do not adequately provide for sufficient resources to enable the Coast Guard to function in the effective manner which the Congress expects, and which the public interest demands?

Faced with this decision, the subcommittee deliberated with a mixture of restraint and resolve, and finally added resources in the two most critical budget items—with promise of the highest payoff for the investment of taxpayer funds.

These additions involved raising the authorization for personnel strength and for research and development funding. This mixed strategy is designed to accomplish today's many requirements while—in some measure—anticipating tomorrow's new demands which are likely to be placed upon the Coast Guard.

The administration requested an authorization for operating expenses in the amount of $944,800,000. The committee has added $13,386,000—for a total of $958,186,000. . . . reflecting additional personnel in the critical areas of marine safety—environmental protection—law enforcement—and search and rescue—plus additional personnel to man the cutter *Duane* to be maintained in active service throughout fiscal year 1979 while engaged in the all-important fisheries law enforcement.

Reduction of the general detail (those personnel budgeted over and above minimum manning levels to provide for absences for a variety of reasons) would only result in additional "hidden costs" in the reduction of necessary services or increased workloads for other personnel. Consequently, the committee raised authorized limits to replenish this personnel pool. Additional personnel were added to assure adequate safety inspection of offshore oil operations, particularly in frontier areas.

In the authorization for acquisition, construction, and improvement of vessels, aircraft, and shore facilities, the President requested $279,208,000. The committee increased that figure to $379,954,000. A major part of the increase is attributable to a one-time acquisition of a replacement icebreaker for the Great Lakes.

The committee was of a single mind that the congressional authorization last year should be insisted upon in order to provide for the construction of a new full-capability icebreaker for the Great Lakes—to guarantee extended navigation season requirements in that region, and permit winter navigation to be extended seaward through the St. Lawrence Seaway.

This repetition of last year's authorization is necessary in the event that the present action being considered for a supplemental appropriation for this project is not completed before the end of the present fiscal year.

In addition, the committee authorized the construction of a third medium-endurance cutter, cut from the Coast Guard's original request due to escalated acquisition costs. The acquisition of this vessel now would result in overall procurement savings.

Additional moneys were included for fast-current oil pollution recovery devices—Coast Guard air station fire protection systems—the completion of the Houston vessel traffic system—for additional radio beacons to aid small boaters—and to acquire presently leased land at Bates Field, Mobile, Ala.

For alteration or removal of bridges over navigable waters, the administration requested funding for completing two programs and for undertaking three new projects at a level of $34,603,000—and the committee concurred in that request.

In research, development, test, and evaluation, the committee added $5 million to the President's request of $20 million, still $15 million below the original Coast Guard request. Even this figure places the Coast Guard in the lowest relative position within the Department of Transportation in the ratio of research and development to operational costs, or to total obligating authority.

This increase would chiefly benefit the acceleration of research into high seas oil spill cleanup and containment capability, tragically highlighted in recent days with the grounding and breakup of the *Amoco Cadiz* on the coast of France.

The total authorization is for $1,397,743,000—which includes $958,186,000 for operating expenses—$379,954,000 for acquisition, construction, and improvement—$34,603,000 for bridge alteration—and $25,000,000 for research, development, test, and evaluation.

I will not reiterate my earlier remarks on the manifest need for these resources to enable the Coast Guard to perform the diverse range of missions which we, the Congress, have required of the service. The Coast Guard is the peacetime protector of the safety of our vital sealanes of commerce—while standing ready to assume a similar but expanded role in wartime.

While imported oil and exported wheat are vital to our national economy, and while more than 50 million of us take to the waterways seeking refuge from the complexities of today's living, we must not forget the vigilant who watches out for the watchman to insure that he is present, adequately equipped and ready to respond when he is neded? If not we, then who?

Mr. RUPPE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 11465, the Coast Guard authorization of

appropriations for fiscal year 1979. The bill would authorize $1,397,743,000 for the U.S. Coast Guard for the next fiscal year so that the service can properly carry out the duties and responsibilities assigned by law.

I have voiced my concern with respect to the inadequacy of the Coast Guard budget for years. It seems to me, and to others, that the executive branch has, in large measure, ignored the fact that over the past few years the Congress has greatly increased the missions of the service. In 1976, for example, the Coast Guard was vested with the enforcement responsibility of the 200-mile exclusive fishery zone. The administration has also ignored the fact that equipment necessary to perform the traditional responsibilities of the Coast Guard, such as search and rescue, becomes outmoded and must be replaced.

This year's budget review conducted by the Coast Guard and Navigation Subcommittee under the leadership of our colleagues, MARIO BIAGGI and DAVID TREEN, has been particularly thorough. This review again documented the inadequacy of the amounts contained in the President's budget request. Thus, the committee felt compelled to increase the amounts authorized to be appropriated to the Coast Guard by approximately $120 million.

Let us then examine some of the areas where the committee bill would authorize moneys in excess of those sought by the administration. First, in the area of operation and maintenance, the legislation authorizes $958,186,000. This is an increase of $13,386,000 over the President's request. The increase provides increased funding to allow the Coast Guard to inspect all manned fixed oil and gas offshore structures; increased personnel to perform search and rescue, port safety, marine safety, boatswain mate training, vessel traffic service, and pollution law enforcement tasks; and personnel to man the Cutter *Duane* through fiscal year 1979. This ship is needed for fisheries law enforcement.

Second, in the area of acquisition, construction, and improvement of facilities, the bill authorizes appropriations of $379,954,000. This represents an increase of $100,746,000 over the administration's request. The increase provides funding for the continuance of the medium endurance cutter, small boat, short range recovery helicopter, and medium surveillance aircraft programs. The $60 million authorized in fiscal 1978 for a replacement Great Lakes icebreaker is continued in the authorization for fiscal year 1979.

As to the icebreaker, I want to stress the committee's intention that this ship is to be designed and constructed for maximum efficiency in Great Lakes operations. The committee has, as in the past, adhered to the provisions of the Buy American Act in this procurement authorization. I also note the recent statement of Dr. William J. Perry, Under Secretary of Defense, in which he says that, with respect to our NATO allies. defense equipment design and procurement needs to be more of a two-way street and so the administration expects to introduce legislation that would waive the restrictions on the foreign construction of naval vessels. Adherence to the provisions of the Buy American Act are, in my judgment, consistent with that statement.

The Coast Guard has been developing plans for a major additional Great Lakes icebreaker. Based upon earlier projections of commercial vessel traffic, construction would have to begin in 1981, with a new vessel on scene in 1985. But time and events do not stand still in an area where productivity is absolutely essential to the economic well-being of the entire country. Almost in a state of emergency, some 30 vessels carried cargoes to various steel mills during this past winter. Advancing technology and the need to maximize productivity with reductions in cost demand that we keep pace with the times and advance the icebreaker construction schedule, as reflected in the bill before us today.

I congratulate the attention my committee colleagues have given to this legislation that is so vital to the maritime community of both the Great Lakes and other regions of the country. Accordingly, I urge passage of H.R. 11465.

Mr. Speaker, I yield such time as he may consume to the ranking minority member of the subcommittee, the distinguished gentleman from Louisiana (Mr. TREEN).

Mr. TREEN. Mr. Speaker, I thank the gentleman for yielding this time to me.

First, I wish to commend my good friend, the Chairman of the Subcommittee on Coast Guard and Navigation, the gentleman from New York (Mr. BIAGGI), for his leadership and his diligence in all of the matters involved in this authorization bill, and I rise in support of the bill.

Mr. Speaker, I would like to join my colleagues in supporting H.R. 11465, the Coast Guard authorization bill for fiscal year 1979. This bill authorizes appropriations for the operation and maintenance of the Coast Guard; for the acquisition, construction and improvement of vessels, aircraft, and facilities; for the alteration or removal of obstructive bridges; and for research, development, test, and evaluation. It authorizes military personnel ceilings and necessary average student training requirements.

The bill also authorizes the Coast Guard to enter into a long term lease agreement with the Quillayute Indian tribe for the purpose of relocating a Coast Guard station on the Quillayute Indian reservation, and for the expenditures of funds to construct fixed facilities and improvements on that land.

The Coast Guard's role in the area of marine safety and pollution prevention has been greatly expanded. In addition to its traditional functions of search and rescue, aids to navigation and marine and port safety, the Coast Guard has been charged by Congress with diverse responsibilities as: enforcement of marine pollution laws: oil and hazardous substance spill coentainment and clean up; enforcement of the 200-mile fishery conservation zone; and licensing of deep water ports. This bill provides the Coast Guard with the authorization necessary to meet these ever-increasing responsibilities.

The authorization includes a continuance of the medium cutter, small boat, short range recovery helicopter, and medium surveillance aircraft programs. It also reauthorizes the $60 million authorized in fiscal year 1978 for a replacement icebreaker for the Great Lakes.

The principal changes made to the administration's original request by the Committee on Merchant Marine and Fisheries involved increased funding to allow the Coast Guard to inspect all manned fixed oil and gas offshore structures; increased personnel to perform search and rescue, port safety, marine safety, bosun mate training, vessel traffic service, and pollution law enforcement tasks; and personnel to man the Coast Guard Cutter *Duane* through fiscal year 1979 to engage in fisheries law enforcement. The committee also increased the research and development funds by $5 million principally for the acceleration of research into high seas oil spill containment equipment.

I believe this bill provides the necessary personnel and equipment to enable the Coast Guard to carry out its enormous responsibilities. I urge your support of its passage.

Mr. BIAGGI. Mr. Speaker, will the gentleman yield?

Mr. TREEN. I yield to the gentleman from New York.

Mr. BIAGGI. I thank the gentleman for yielding.

Mr. Speaker, I would like on this occasion to commend my colleague, the gentleman from Louisiana (Mr. TREEN), for his diligence, his commitment, his very substantial contribution in the deliberations of this authorization bill, and all of the other members of that subcommittee who worked long and hard.

Mr. Speaker, I would like to make this observation:

Bearing in mind that the Coast Guard has a spartan attitude with relation to its budget request, the Coast Guard's original request was $1,485,906,000. The administration's request was $1,278,611,000. The committee request was $1,397,743,000, which was $88,163.000 less than the Coast Guard's original request. We added $119,132,000 because we try to comply with the administration's attitude of staying within the budget and being a little more frugal. But the areas in which we added the additional funds were, in our minds, critical.

Mr. HUGHES. Mr. Speaker, I rise in support of this legislation.

I would like to use this opportunity to comment on the $25 million authorized by this bill for the Coast Guard's research and development programs.

The Coast Guard, in its budget submission to the Congress, requested an authorization of only $20 million for its research program. In a broad overview, this amount represents only 2.1 percent

of the Coast Guard's operational budget. Research budgets for the other divisions of the Department of Transportation average nearly 13 percent of their operational budgets.

In all candor, this level of funding is simply inadequate. It would make it impossible for the Coast Guard to conduct vital research and development programs. Ultimately, it will waste the taxpayers' money in the future when the Coast Guard will not have the technology necessary to carry out the programs mandated by the Congress.

Consequently, the committee wisely decided to add $5 million to the Coast Guard's research authorization.

In adding this $5 million, the committee specifically made clear its serious concern over the Coast Guard's current lack of technology to handle oil spills in rough seas, such as are often found in the Mid- and North Atlantic. I want to emphasize that the committee expressly intends that Coast Guard use this added funding to develop more effective technology to clean up oil spills on the high seas. The Coast Guard is to give this project the highest priority.

As my colleagues know, the Federal Government has decided to permit the major oil companies to undertake full-scale development of the oil and gas reserves on the Outer Continental Shelf. The oil companies have recently begun operations in the Atlantic, where harsh weather and heavy seas are often the rule rather than the exception. The Government has sold several leases in the Mid-Atlantic region, and exploratory drilling is now being conducted approximately 60 miles off the shores of South Jersey, the area I am privileged to represent in the Congress. The government plans additional lease sales in the near future for the Georges Bank area in the North Atlantic and for areas off the Carolina coast.

In spite of this Government program to move ahead with OCS development in the Atlantic, our committee has discovered the Coast Guard does not have the technology to contain a major oil spill in heavy seas. In our hearings on its authorization, the Coast Guard testified that its current technology can handle spills only in seas of 5 feet with winds of 20 knots. My colleagues from the Atlantic Coast are fully aware that our weather is frequently much rougher than this.

In my own district, a major oil spill from the OCS development activities could be disastrous to the two mainstays of the economy: tourism and fishing. I am certain that I do not have to describe in detail the devastation that can follow from a major oil spill. For that, one need only to look to the massive pollution that resulted recently from the breakup of the Amoco Cadiz off the coast of France.

The Coast Guard, I am confident, can develop the necessary oil-containment technology, if it makes the immediate, top-priority effort mandated by this legislation. In the past, the Coast Guard had made major advances in oil spill containment technology. It has developed the ADAPTS system, which enables the Coast Guard to remove oil from grounded tankers and barges in ocean conditions of 5-foot seas and 20-knot winds. It also has developed a device to recover oil spilled on rivers and other inland waterways with currents of up to 10 knots.

I am hopeful that the development of a high seas oil-containment technology will meet with the same success.

Mr. RUPPE. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 11465, as amended.

The question was taken.

Mr. MOTTL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 3489, H.R. 10822, H.R. 10823, and H.R. 11465, on which the yeas and nays were ordered.

The Chair will reduce to 5 minutes the time for any electronic votes after the first vote in this series.

## MERCHANT MARINE ACADEMY NOMINATIONS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 3489, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 3489, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 357, nays 1, not voting 76, as follows:

[Roll No. 224]

YEAS—357

| | | |
|---|---|---|
| Abdnor | Barnard | Bolling |
| Addabbo | Baucus | Bonior |
| Akaka | Bauman | Bonker |
| Allen | Beard, R.I. | Bowen |
| Ammerman | Beard, Tenn. | Brademas |
| Anderson, Calif. | Bedell | Breaux |
| | Beilenson | Brinkley |
| Andrews, N. Dak. | Benjamin | Brodhead |
| | Bennett | Brooks |
| Annunzio | Bevill | Broomfield |
| Archer | Biaggi | Brown, Calif. |
| Armstrong | Bingham | Brown, Mich. |
| AuCoin | Blanchard | Brown, Ohio |
| Badham | Blouin | Broyhill |
| Baldus | Boland | Buchanan |
| Burgener | Hawkins | Nowak |
| Burke, Fla. | Heckler | O'Brien |
| Burke, Mass. | Hefner | Oakar |
| Burleson, Tex. | Heftel | Oberstar |
| Burlison, Mo. | Hightower | Obey |
| Burton, John | Hillis | Ottinger |
| Burton, Phillip | Hollenbeck | Patten |
| Caputo | Holt | Patterson |
| Carney | Holtzman | Pattison |
| Carr | Horton | Pease |
| Carter | Hubbard | Perkins |
| Cavanaugh | Huckaby | Pettis |
| Cederberg | Hughes | Pickle |
| Chappell | Hyde | Pike |
| Chisholm | Ichord | Poage |
| Clawson, Del | Ireland | Preyer |
| Cleveland | Jenkins | Price |
| Coleman | Johnson, Calif. | Pritchard |
| Collins, Tex. | Johnson, Colo. | Pursell |
| Conte | Jones, Okla. | Quayle |
| Corcoran | Jones, Tenn. | Quillen |
| Corman | Jordan | Railsback |
| Cornell | Kasten | Rangel |
| Cornwell | Kastenmeier | Regula |
| Cotter | Kelly | Reuss |
| Coughlin | Kemp | Rhodes |
| Cunningham | Ketchum | Rinaldo |
| D'Amours | Keys | Risenhoover |
| Daniel, Dan | Kildee | Roberts |
| Daniel, R. W. | Kindness | Robinson |
| Danielson | Kostmayer | Roe |
| Davis | Krebs | Rogers |
| Delaney | LaFalce | Rooney |
| Dellums | Lagomarsino | Rosenthal |
| Dent | Latta | Rostenkowski |
| Derrick | Le Fante | Rousselot |
| Derwinski | Leach | Roybal |
| Devine | Lederer | Rudd |
| Dickinson | Leggett | Ruppe |
| Dicks | Lehman | Russo |
| Diggs | Lent | Ryan |
| Dingell | Levitas | Santini |
| Dornan | Lloyd, Calif. | Satterfield |
| Downey | Lloyd, Tenn. | Scheuer |
| Drinan | Long, Md. | Schroeder |
| Duncan, Oreg. | Lott | Schulze |
| Duncan, Tenn. | Lujan | Sebelius |
| Early | Luken | Seiberling |
| Eckhardt | McClory | Sharp |
| Edgar | McCormack | Shipley |
| Edwards, Ala. | McDade | Sikes |
| Edwards, Calif. | McDonald | Simon |
| Edwards, Okla. | McEwen | Sisk |
| Emery | McFall | Skelton |
| English | McHugh | Skubitz |
| Erlenborn | McKay | Slack |
| Ertel | McKinney | Smith, Iowa |
| Evans, Colo. | Madigan | Smith, Nebr. |
| Evans, Del. | Maguire | Snyder |
| Evans, Ga. | Mahon | Solarz |
| Evans, Ind. | Markey | Spellman |
| Fary | Marks | Spence |
| Fascell | Marlenee | St Germain |
| Findley | Marriott | Staggers |
| Fisher | Martin | Stangeland |
| Fithian | Mathis | Stark |
| Flippo | Mattox | Steed |
| Flood | Mazzoli | Steers |
| Florio | Meeds | Steiger |
| Flowers | Metcalfe | Stratton |
| Flynt | Meyner | Studds |
| Foley | Michel | Stump |
| Ford, Tenn. | Mikulski | Symms |
| Forsythe | Mikva | Taylor |
| Fountain | Milford | Treen |
| Fowler | Miller, Calif. | Trible |
| Frenzel | Miller, Ohio | Udall |
| Fuqua | Mineta | Ullman |
| Gaydos | Minish | Van Deerlin |
| Gephardt | Mitchell, Md. | Vander Jagt |
| Giaimo | Mitchell, N.Y. | Vanik |
| Gibbons | Moakley | Vento |
| Gilman | Mollohan | Volkmer |
| Ginn | Montgomery | Waggonner |
| Glickman | Moore | Walgren |
| Gonzalez | Moorhead, Calif. | Walker |
| Goodling | | Walsh |
| Gore | Moorhead, Pa. | Wampler |
| Gradison | Moss | Watkins |
| Grassley | Mottl | Weaver |
| Green | Murphy, Ill. | Weiss |
| Guyer | Murphy, N.Y. | Whalen |
| Hagedorn | Murphy, Pa. | White |
| Hall | Murtha | Whitehurst |
| Hamilton | Myers, Gary | Whitten |
| Hammer-schmidt | Myers, John | Wilson, Bob |
| | Myers, Michael | Wilson, C. H. |
| Hanley | Natcher | Wilson, Tex. |
| Hannaford | Neal | Winn |
| Hansen | Nedzi | Wirth |
| Harkin | Nichols | Wolff |
| Harris | Nix | Wright |
| Harsha | Nolan | Wylie |

| | | |
|---|---|---|
| Yates | Young, Fla. | Zeferetti |
| Yatron | Young, Mo. | |
| Young, Alaska | Zablocki | |

NAYS—1

Fenwick

NOT VOTING—76

| | | |
|---|---|---|
| Alexander | Fish | Quie |
| Ambro | Ford, Mich. | Rahall |
| Anderson, Ill. | Fraser | Richmond |
| Andrews, N.C. | Frey | Rodino |
| Applegate | Gammage | Roncalio |
| Ashbrook | Garcia | Rose |
| Ashley | Goldwater | Runnels |
| Aspin | Gudger | Sarasin |
| Bafalis | Harrington | Sawyer |
| Boggs | Holland | Shuster |
| Breckinridge | Howard | Stanton |
| Burke, Calif. | Jacobs | Stockman |
| Butler | Jeffords | Stokes |
| Byron | Jenrette | Teague |
| Clausen, Don H. | Jones, N.C. | Thompson |
| | Kazen | Thone |
| Clay | Krueger | Thornton |
| Cochran | Livingston | Traxler |
| Cohen | Long, La. | Tsongas |
| Collins, Ill. | Lundine | Tucker |
| Conable | McCloskey | Waxman |
| Conyers | Mann | Whitley |
| Crane | Moffett | Wiggins |
| de la Garza | Panetta | Wydler |
| Dodd | Pepper | Young, Tex. |
| Eilberg | Pressler | |

The Clerk announced the following pairs:

Mr. Thompson with Mr. Anderson of Illinois.

Mr. Thornton with Mr. Bafalis.

Mrs. Burke of California with Mr. Fraser.

Mr. Richmond with Mr. Wydler.

Mr. Rahall with Mr. Tucker.

Mr. Jenrette with Mr. Rose.

Mr. Gammage with Mr. Holland.

Mr. Howard with Mr. Andrews of North Carolina.

Mrs. Boggs with Mr. Gudger.

Mr. Byron with Mr. Frey.

Mr. Eilberg with Mr. Krueger.

Mr. Jones of North Carolina with Mr. Butler.

Mr. Whitley with Mr. Long of Louisiana.

Mr. Teague with Mr. Goldwater.

Mr. Runnels with Mr. McCloskey.

Mr. Rodino with Mr. Livingston.

Mr. Ambro with Mr. Stockman.

Mr. Ashley with Mr. Ashbrook.

Mr. Breckinridge with Mr. Wiggins.

Mr. Jacobs with Mr. Pressler.

Mr. Kazen with Mr. Thone.

Mr. Mann with Mr. Stanton.

Mr. Panetta with Mr. Quie.

Mr. Moffett with Mr. Aspin.

Mr. Pepper with Mr. Don H. Clausen.

Mr. Roncalio with Mr. Lundine.

Mr. Applegate with Mr. Cochran of Mississippi.

Mr. Stokes with Mr. Shuster.

Mr. Traxler with Mrs. Collins of Illinois.

Mr. Waxman with Mr. Dodd.

Mr. Tsongas with Mr. Cohen.

Mr. Harrington with Mr. Conyers.

Mr. Garcia with Mr. Conable.

Mr. Ford of Michigan with Mr. de la Garza.

Mr. Alexander with Mr. Fish.

Mr. Clay with Mr. Crane.

Mr. Sarasin with Mr. Sawyer.

Mr. BROWN of Michigan changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend section 216(b) of the Merchant Marine Act, 1936, to entitle the Delegates in Congress from the District of Columbia, Guam, and the Virgin Islands to make nominations for appointments to the Merchant Marine Academy, and for other purposes."

A motion to reconsider was laid on the table.

## PERSONAL EXPLANATION

Mr. PEPPER. Mr. Speaker, I was unavoidably detained at a meeting and missed the vote on H.R. 3489. If I had been present I would have voted "yea."

## NATIONAL SEA GRANT AUTHORIZATION ACT OF 1978

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 10822, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 10822, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 341, nays 23, not voting 70, as follows:

[Roll No. 225]

YEAS—341

| | | |
|---|---|---|
| Abdnor | Coleman | Gilman |
| Addabbo | Conte | Ginn |
| Akaka | Corcoran | Glickman |
| Allen | Corman | Gonzalez |
| Ammerman | Cornell | Goodling |
| Anderson, Calif. | Cornwell | Gore |
| | Cotter | Grassley |
| Andrews, N. Dak. | Coughlin | Green |
| | Cunningham | Guyer |
| Annunzio | D'Amours | Hagedorn |
| Archer | Daniel, Dan | Hall |
| AuCoin | Daniel, R. W. | Hamilton |
| Badham | Danielson | Hammer-schmidt |
| Bafalis | Davis | |
| Baldus | Delaney | Hanley |
| Barnard | Dellums | Hannaford |
| Baucus | Dent | Harkin |
| Bauman | Derrick | Harris |
| Beard, R.I. | Derwinski | Harsha |
| Bedell | Devine | Hawkins |
| Beilenson | Dickinson | Heckler |
| Benjamin | Dicks | Hefner |
| Bennett | Diggs | Heftel |
| Bevill | Dingell | Hightower |
| Biaggi | Dodd | Hillis |
| Bingham | Dornan | Hollenbeck |
| Blanchard | Downey | Holt |
| Blouin | Drinan | Holtzman |
| Boggs | Duncan, Oreg. | Horton |
| Boland | Duncan, Tenn. | Hubbard |
| Bolling | Early | Huckaby |
| Bonior | Eckhardt | Hughes |
| Bonker | Edgar | Hyde |
| Bowen | Edwards, Ala. | Ichord |
| Brademas | Edwards, Calif. | Ireland |
| Breaux | Emery | Johnson, Calif. |
| Brodhead | Erlenborn | Johnson, Colo. |
| Brooks | Ertel | Jones, Tenn. |
| Broomfield | Evans, Colo. | Jordan |
| Brown, Calif. | Evans, Del. | Kasten |
| Brown, Mich. | Fary | Kastenmeier |
| Brown, Ohio | Fascell | Kelly |
| Broyhill | Fenwick | Kemp |
| Buchanan | Findley | Ketchum |
| Burgener | Fish | Keys |
| Burke, Fla. | Fisher | Kildee |
| Burke, Mass. | Fithian | Kindness |
| Burleson, Tex. | Flippo | Kostmayer |
| Burlison, Mo. | Flood | Krebs |
| Burton, John | Florio | LaFalce |
| Burton, Phillip | Flowers | Lagomarsino |
| Caputo | Flynt | Latta |
| Carney | Foley | Le Fante |
| Carr | Ford, Tenn. | Leach |
| Carter | Fountain | Lederer |
| Cavanaugh | Fowler | Leggett |
| Cederberg | Frenzel | Lehman |
| Chappell | Fuqua | Lent |
| Chisholm | Gephardt | Levitas |
| Clawson, Del | Giaimo | Livingston |
| Cleveland | Gibbons | Lloyd, Calif. |
| Lloyd, Tenn. | Nichols | Skubitz |
| Long, Md. | Nix | Slack |
| Lott | Nolan | Smith, Iowa |
| Lujan | Nowak | Smith, Nebr. |
| McClory | O'Brien | Snyder |
| McCormack | Oakar | Solarz |
| McDade | Oberstar | Spellman |
| McEwen | Obey | Spence |
| McFall | Ottinger | St Germain |
| McHugh | Patten | Staggers |
| McKay | Patterson | Stangeland |
| McKinney | Pattison | Stark |
| Madigan | Pease | Steed |
| Maguire | Pepper | Steers |
| Mahon | Perkins | Steiger |
| Markey | Pettis | Stratton |
| Marks | Pickle | Studds |
| Marlenee | Pike | Symms |
| Marriott | Poage | Taylor |
| Martin | Preyer | Traxler |
| Mathis | Price | Treen |
| Mattox | Pritchard | Trible |
| Mazzoli | Quillen | Udall |
| Meeds | Rangel | Ullman |
| Metcalfe | Regula | Van Deerlin |
| Meyner | Reuss | Vander Jagt |
| Michel | Rhodes | Vanik |
| Mikulski | Richmond | Vento |
| Mikva | Rinaldo | Waggonner |
| Milford | Robinson | Walgren |
| Miller, Calif. | Roe | Walker |
| Mineta | Rogers | Walsh |
| Minish | Rooney | Wampler |
| Mitchell, Md. | Rosenthal | Waxman |
| Mitchell, N.Y. | Rostenkowski | Weaver |
| Moakley | Rousselot | Weiss |
| Moffett | Roybal | Whalen |
| Mollohan | Rudd | White |
| Montgomery | Ruppe | Whitehurst |
| Moore | Russo | Whitten |
| Moorhead, Calif. | Ryan | Wilson, Bob |
| | Santini | Wilson, C. H. |
| Moorhead, Pa. | Satterfield | Wilson, Tex. |
| Moss | Scheuer | Winn |
| Murphy, Ill. | Schroeder | Wirth |
| Murphy, N.Y. | Schulze | Wolff |
| Murphy, Pa. | Sebelius | Wright |
| Murtha | Seiberling | Wylie |
| Myers, Gary | Sharp | Yates |
| Myers, John | Shipley | Yatron |
| Myers, Michael | Shuster | Young, Fla. |
| Natcher | Sikes | Young, Mo. |
| Neal | Simon | Zeferetti |
| Nedzi | Sisk | Zablocki |

NAYS—23

| | | |
|---|---|---|
| Armstrong | Gradison | Quayle |
| Beard, Tenn. | Hansen | Risenhoover |
| Brinkley | Jenkins | Roberts |
| Collins, Tex. | Jones, Okla. | Skelton |
| Edwards, Okla. | Luken | Stump |
| English | McDonald | Volkmer |
| Evans, Ga. | Miller, Ohio | Watkins |
| Evans, Ind. | Mottl | |

NOT VOTING—70

| | | |
|---|---|---|
| Alexander | Forsythe | Quie |
| Ambro | Fraser | Rahall |
| Anderson, Ill. | Frey | Railsback |
| Andrews, N.C. | Gammage | Rodino |
| Applegate | Garcia | Roncalio |
| Ashbrook | Gaydos | Rose |
| Ashley | Goldwater | Runnels |
| Aspin | Gudger | Sarasin |
| Breckinridge | Harrington | Sawyer |
| Burke, Calif. | Holland | Stanton |
| Butler | Howard | Stockman |
| Byron | Jacobs | Stokes |
| Clausen, Don H. | Jeffords | Teague |
| | Jenrette | Thompson |
| Clay | Jones, N.C. | Thone |
| Cochran | Kazen | Thornton |
| Cohen | Krueger | Tsongas |
| Collins, Ill. | Long, La. | Tucker |
| Conable | Lundine | Whitley |
| Conyers | McCloskey | Wiggins |
| Crane | Mann | Wydler |
| de la Garza | Panetta | Young, Alaska |
| Eilberg | Pressler | Young, Tex. |
| Ford, Mich. | Pursell | |

The Clerk announced the following pairs.

Mr. Thompson with Mr. Anderson of Illinois.

Mr. Thornton with Mr. Gudger.

Mrs. Burke of California with Mr. Butler.

Mr. Rahall with Mr. Don H. Clausen.

Mr. Jenrette with Mr. Long of Louisiana.

Mr. Gammage with Mr. McCloskey.

Mr. Howard with Mr. Quie.

Mr. Byron with Mr. Cohen.
Mr. Jones of North Carolina with Mr. Frey.
Mr. Whitley with Mr. Andrews of North Carolina.
Mr. Teague with Mr. Goldwater.
Mr. Runnels with Mr. Pressler.
Mr. Rodino with Mr. Cochran of Mississippi.
Mr. Breckinridge with Mr. Sarasin.
Mr. Harrington with Mr. Lundine.
Mr. Clay with Mr. Jacobs.
Mr. Ambro with Mr. Wydler.
Mr. de la Garza with Mr. Thone.
Mr. Eilberg with Mr. Stockman.
Mr. Ford of Michigan with Mr. Conable.
Mr. Panetta with Mr. Alexander.
Mr. Mann with Mr. Sawyer.
Mr. Kazen with Mr. Wiggins.
Mr. Krueger with Mr. Stanton.
Mr. Rose with Mr. Ashbrook.
Mr. Tsongas with Mr. Crane.
Mr. Tucker with Mr. Forsythe.
Mr. Stokes with Mr. Garcia.
Mr. Fraser with Mr. Holland.
Mr. Gaydos with Mr. Pursell.
Mr. Ashley with Mr. Railsback.
Mr. Aspen with Mr. Roncalio.
Mr. Conyers with Mr. Young of Alaska.

So (two-thirds having voted in favor thereof), the rules were suspended, and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## NACOA AUTHORIZATION FOR FISCAL YEAR 1979

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 10823, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 10823, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 317, nays 47, not voting 70, as follows:

[Roll No. 226]

YEAS—317

| | | |
|---|---|---|
| Abdnor | Brown, Calif. | Derrick |
| Addabbo | Brown, Mich. | Derwinski |
| Akaka | Brown, Ohio | Dickinson |
| Allen | Buchanan | Dicks |
| Ammerman | Burgener | Diggs |
| Anderson, Calif. | Burke, Fla. | Dingell |
| | Burke, Mass. | Dodd |
| Anderson, Ill. | Burleson, Tex. | Dornan |
| Andrews, N. Dak. | Burlison, Mo. | Downey |
| | Burton, John | Drinan |
| Annunzio | Burton, Phillip | Duncan, Oreg. |
| Applegate | Caputo | Duncan, Tenn. |
| AuCoin | Carney | Early |
| Badham | Carr | Eckhardt |
| Bafalis | Carter | Edgar |
| Baldus | Cavanaugh | Edwards, Ala. |
| Barnard | Cederberg | Edwards, Calif. |
| Baucus | Chappell | Emery |
| Beard, R.I. | Chisholm | English |
| Bedell | Cleveland | Erlenborn |
| Beilenson | Coleman | Evans, Colo. |
| Benjamin | Collins, Ill. | Evans, Del. |
| Bennett | Conte | Fary |
| Bevill | Corcoran | Fascell |
| Biaggi | Corman | Findley |
| Bingham | Cornell | Fish |
| Blouin | Cornwell | Fisher |
| Boland | Cotter | Fithian |
| Bolling | Coughlin | Flippo |
| Bonior | Cunningham | Flood |
| Bonker | D'Amours | Florio |
| Bowen | Danielson | Flowers |
| Brademas | Davis | Flynt |
| Breaux | Delaney | Foley |
| Brodhead | Dellums | Ford, Tenn. |
| Brooks | Dent | Forsythe |
| Fowler | Mahon | Roybal |
| Fuqua | Markey | Ruppe |
| Garcia | Marks | Russo |
| Gaydos | Marlenee | Ryan |
| Gephardt | Marriott | Santini |
| Giaimo | Mathis | Scheuer |
| Gibbons | Mattox | Schroeder |
| Gilman | Mazzoli | Schulze |
| Ginn | Meeds | Sebelius |
| Gonzalez | Metcalfe | Seiberling |
| Gradison | Meyner | Sharp |
| Green | Michel | Shipley |
| Guyer | Mikulski | Shuster |
| Hall | Mikva | Sikes |
| Hammer-schmidt | Milford | Simon |
| | Miller, Calif. | Sisk |
| Hanley | Mineta | Skelton |
| Hannaford | Minish | Skubitz |
| Harkin | Mitchell, Md. | Slack |
| Harris | Mitchell, N.Y. | Smith, Iowa |
| Harsha | Moakley | Smith, Nebr. |
| Hawkins | Moffett | Snyder |
| Heckler | Mollohan | Solarz |
| Hefner | Montgomery | Spellman |
| Heftel | Moore | Spence |
| Hightower | Moorhead, Pa. | St Germain |
| Hillis | Moss | Staggers |
| Hollenbeck | Murphy, Ill. | Stark |
| Holtzman | Murphy, N.Y. | Steed |
| Horton | Murphy, Pa. | Steers |
| Hubbard | Murtha | Steiger |
| Huckaby | Myers, John | Stratton |
| Hughes | Myers, Michael | Studds |
| Hyde | Natcher | Stump |
| Ireland | Neal | Taylor |
| Johnson, Calif. | Nedzi | Traxler |
| Johnson, Colo. | Nichols | Treen |
| Jones, Tenn. | Nix | Trible |
| Jordan | Nolan | Ullman |
| Kasten | Nowak | Van Deerlin |
| Kastenmeier | O'Brien | Vander Jagt |
| Kemp | Oberstar | Vanik |
| Ketchum | Obey | Vento |
| Kildee | Ottinger | Volkmer |
| Kindness | Patten | Waggonner |
| Krebs | Patterson | Walsh |
| LaFalce | Pattison | Wampler |
| Lagomarsino | Pease | Watkins |
| Le Fante | Pepper | Waxman |
| Leach | Perkins | Weaver |
| Lederer | Pettis | Weiss |
| Leggett | Pickle | Whalen |
| Lehman | Pike | White |
| Lent | Poage | Whitehurst |
| Levitas | Preyer | Whitten |
| Lloyd, Calif. | Price | Wilson, Bob |
| Lloyd, Tenn. | Pritchard | Wilson, C. H. |
| Long, Md. | Pursell | Wilson, Tex. |
| Lott | Quillen | Winn |
| Lujan | Rangel | Wirth |
| Luken | Regula | Wolff |
| McClory | Reuss | Wright |
| McCormack | Rhodes | Wylie |
| McDade | Richmond | Yates |
| McEwen | Rinaldo | Yatron |
| McFall | Roberts | Young, Alaska |
| McHugh | Roe | Young, Fla. |
| McKay | Rogers | Young, Mo. |
| McKinney | Rooney | Zablocki |
| Madigan | Rosenthal | Zeferetti |
| Maguire | Rostenkowski | |

NAYS—47

| | | |
|---|---|---|
| Archer | Fountain | McDonald |
| Armstrong | Glickman | Miller, Ohio |
| Bauman | Goodling | Moorhead, Calif. |
| Beard, Tenn. | Gore | |
| Blanchard | Grassley | Mottl |
| Brinkley | Hamilton | Myers, Gary |
| Broomfield | Hansen | Oakar |
| Clawson, Del | Holt | Quayle |
| Collins, Tex. | Ichord | Risenhoover |
| Daniel, Dan | Jenkins | Robinson |
| Daniel, R. W. | Jones, Okla. | Rousselot |
| Devine | Kelly | Rudd |
| Edwards, Okla. | Keys | Satterfield |
| Ertel | Kostmayer | Symms |
| Evans, Ga. | Latta | Walgren |
| Evans, Ind. | Livingston | Walker |

NOT VOTING—70

| | | |
|---|---|---|
| Alexander | Clay | Goldwater |
| Ambro | Cochran | Gudger |
| Andrews, N.C. | Cohen | Hagedorn |
| Ashbrook | Conable | Harrington |
| Ashley | Conyers | Holland |
| Aspin | Crane | Howard |
| Boggs | de la Garza | Jacobs |
| Breckinridge | Eilberg | Jeffords |
| Broyhill | Fenwick | Jenrette |
| Burke, Calif. | Ford, Mich. | Jones, N.C. |
| Butler | Fraser | Kazen |
| Byron | Frenzel | Krueger |
| Clausen, Don H. | Frey | Long, La. |
| | Gammage | Lundine |
| McCloskey | Rose | Thone |
| Mann | Runnels | Thornton |
| Martin | Sarasin | Tsongas |
| Panetta | Sawyer | Tucker |
| Pressler | Stangeland | Udall |
| Quie | Stanton | Whitley |
| Rahall | Stockman | Wiggins |
| Railsback | Stokes | Wydler |
| Rodino | Teague | Young, Tex. |
| Roncalio | Thompson | |

The Clerk announced the following pairs:

Mr. Thompson with Mr. Alexander.
Mr. Thornton with Mr. Gudger.
Mrs. Burke of California with Mr. Butler.
Mr. Rahall with Mr. Don H. Clausen.
Mr. Jennette with Mr. Long of Louisiana.
Mr. Gammage with Mr. McCloskey.
Mr. Howard with Mr. Quie.
Mr. Byron with Mr. Cohen.
Mr. Jones of North Carolina with Mr. Frey.
Mr. Whitley with Mr. Andrews of North Carolina.
Mr. Teague with Mr. Goldwater.
Mr. Runnels with Mr. Pressler.
Mr. Rodino with Mr. Cochran of Mississippi.
Mr. Breckinridge with Mr. Sarasin.
Mr. Harrington with Mr. Lundine.
Mr. Clay with Mr. Jacobs.
Mrs. Boggs with Mr. Wydler.
Mr. de la Garza with Mr. Thone.
Mr. Eilberg with Mr. Stockman.
Mr. Ford of Michigan with Mr. Conable.
Mr. Panetta with Mr. Stangeland.
Mr. Mann with Mr. Sawyer.
Mr. Kazen with Mr. Wiggins.
Mr. Krueger with Mr. Stanton.
Mr. Rose with Mr. Ashbrook.
Mr. Tsongas with Mr. Broyhill.
Mr. Tucker with Mr. Crane.
Mr. Stokes with Mrs. Fenwick.
Mr. Fraser with Mr. Frenzel.
Mr. Ambro with Mr. Hagedorn.
Mr. Ashley with Mr. Holland.
Mr. Aspen with Mr. Jeffords.
Mr. Conyers with Mr. Martin.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to amend the National Advisory Committee on Oceans and Atmosphere Act of 1977 to authorize appropriations to carry out the provisions of such Act for fiscal year 1979, and for other purposes.".

A motion to reconsider was laid on the table.

## COAST GUARD AUTHORIZATION—FISCAL YEAR 1979

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 11465, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. MURPHY) that the House suspend the rules and pass the bill H.R. 11465, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 357, nays 13, answered "present" 1, not voting 63, as follows:

[Roll No. 227]

YEAS—357

| | | |
|---|---|---|
| Abdnor | Andrews, N. Dak. | Badham |
| Addabbo | | Bafalis |
| Akaka | Annunzio | Baldus |
| Ambro | Applegate | Barnard |
| Anderson, Calif. | Archer | Baucus |
| | Armstrong | Bauman |
| Anderson, Ill. | AuCoin | Beard, R.I. |

| | | |
|---|---|---|
| Beard, Tenn. | Gaydos | Mollohan |
| Bedell | Gephardt | Montgomery |
| Beilenson | Giaimo | Moore |
| Bennett | Gibbons | Moorhead, Calif. |
| Bevill | Gilman | Moorhead, Pa. |
| Biaggi | Ginn | Moss |
| Bingham | Gonzalez | Murphy, Ill. |
| Blanchard | Goodling | Murphy, N.Y. |
| Blouin | Gore | Murphy, Pa. |
| Boggs | Gradison | Murtha |
| Boland | Grassley | Myers, John |
| Bolling | Green | Myers, Michael |
| Bonior | Guyer | Natcher |
| Bonker | Hagedorn | Neal |
| Bowen | Hall | Nedzi |
| Brademas | Hamilton | Nichols |
| Breaux | Hammer-schmidt | Nix |
| Brinkley | Hanley | Nolan |
| Brodhead | Hannaford | Nowak |
| Brooks | Hansen | O'Brien |
| Broomfield | Harkin | Oakar |
| Brown, Calif. | Harrington | Oberstar |
| Brown, Mich. | Harris | Obey |
| Brown, Ohio | Hawkins | Ottinger |
| Broyhill | Heckler | Patten |
| Buchanan | Hefner | Patterson |
| Burgener | Heftel | Pattison |
| Burke, Fla. | Hightower | Pease |
| Burke, Mass. | Hillis | Pepper |
| Burleson, Tex. | Hollenbeck | Perkins |
| Burlison, Mo. | Holt | Pettis |
| Burton, John | Holtzman | Pickle |
| Burton, Phillip | Horton | Pike |
| Caputo | Hubbard | Poage |
| Carney | Huckaby | Preyer |
| Carr | Hughes | Price |
| Carter | Hyde | Pritchard |
| Cavanaugh | Ichord | Pursell |
| Cederberg | Ireland | Quillen |
| Chappell | Jenkins | Railsback |
| Chisholm | Johnson, Calif. | Rangel |
| Clawson, Del | Johnson, Colo. | Regula |
| Coleman | Jones, Tenn. | Reuss |
| Collins, Ill. | Jordan | Rhodes |
| Conte | Kasten | Richmond |
| Corcoran | Kastenmeier | Rinaldo |
| Corman | Kelly | Risenhoover |
| Cornell | Kemp | Roberts |
| Cornwell | Keys | Robinson |
| Cotter | Kildee | Roe |
| Coughlin | Kindness | Rogers |
| Cunningham | Kostmayer | Rooney |
| D'Amours | Krebs | Rosenthal |
| Daniel, Dan | LaFalce | Rostenkowski |
| Daniel, R. W. | Lagomarsino | Rousselot |
| Danielson | Latta | Roybal |
| Davis | Leach | Rudd |
| Delaney | Lederer | Ruppe |
| Dent | Leggett | Russo |
| Derrick | Lehman | Ryan |
| Derwinski | Lent | Santini |
| Dickinson | Levitas | Satterfield |
| Dicks | Livingston | Scheuer |
| Diggs | Lloyd, Calif. | Schroeder |
| Dingell | Lloyd, Tenn. | Schulze |
| Dodd | Long, Md. | Sebelius |
| Dornan | Lott | Seiberling |
| Downey | Lujan | Sharp |
| Drinan | Luken | Shipley |
| Duncan, Tenn. | McClory | Shuster |
| Early | McCormack | Sikes |
| Eckhardt | McDade | Simon |
| Edgar | McDonald | Sisk |
| Edwards, Ala. | McEwen | Skelton |
| Edwards, Calif. | McFall | Skubitz |
| Edwards, Okla. | McHugh | Slack |
| Emery | McKay | Smith, Iowa |
| English | McKinney | Smith, Nebr. |
| Erlenborn | Madigan | Snyder |
| Ertel | Maguire | Solarz |
| Evans, Colo. | Mahon | Spellman |
| Evans, Del. | Markey | Spence |
| Evans, Ga. | Marks | St Germain |
| Evans, Ind. | Marlenee | Staggers |
| Fary | Marriott | Stangeland |
| Fascell | Martin | Stark |
| Fenwick | Mathis | Steed |
| Findley | Mattox | Steers |
| Fish | Mazzoli | Steiger |
| Fisher | Meeds | Stratton |
| Fithian | Metcalfe | Studds |
| Flippo | Meyner | Stump |
| Flood | Mikulski | Symms |
| Florio | Mikva | Taylor |
| Flowers | Milford | Traxler |
| Flynt | Miller, Calif. | Treen |
| Foley | Miller, Ohio | Trible |
| Ford, Tenn. | Mineta | Udall |
| Forsythe | Minish | Ullman |
| Fountain | Mitchell, Md. | Van Deerlin |
| Fowler | Mitchell, N.Y. | Vander Jagt |
| Frenzel | Moakley | Vanik |
| Fuqua | Moffett | Vento |
| Garcia | | |



| | | |
|---|---|---|
| Volkmer | Whalen | Wylie |
| Waggonner | White | Yates |
| Walgren | Whitehurst | Yatron |
| Walker | Whitten | Young, Alaska |
| Walsh | Wilson, C. H. | Young, Fla. |
| Wampler | Wilson, Tex. | Young, Mo. |
| Watkins | Winn | Zablocki |
| Waxman | Wirth | Zeferetti |
| Weaver | Wolff | |
| Weiss | Wright | |

NAYS—13

| | | |
|---|---|---|
| Allen | Duncan, Oreg. | Motti |
| Benjamin | Glickman | Myers, Gary |
| Cleveland | Jones, Okla. | Quayle |
| Collins, Tex. | Le Fante | |
| Devine | Michel | |

ANSWERED "PRESENT—1

Harsha

NOT VOTING—63

| | | |
|---|---|---|
| Alexander | Fraser | Rodino |
| Ammerman | Frey | Roncalio |
| Andrews, N.C. | Gammage | Rose |
| Ashbrook | Goldwater | Runnels |
| Ashley | Gudger | Sarasin |
| Aspin | Holland | Sawyer |
| Breckinridge | Howard | Stanton |
| Burke, Calif. | Jacobs | Stockman |
| Butler | Jeffords | Stokes |
| Byron | Jenrette | Teague |
| Clausen, Don H. | Jones, N.C. | Thompson |
| Clay | Kazen | Thone |
| Cochran | Ketchum | Thornton |
| Cohen | Krueger | Tsongas |
| Conable | Long, La. | Tucker |
| Conyers | Lundine | Whitley |
| Crane | McCloskey | Wiggins |
| de la Garza | Mann | Wilson, Bob |
| Dellums | Panetta | Wydler |
| Eilberg | Pressler | Young, Tex. |
| Ford, Mich. | Quie | |
| | Rahall | |

The Clerk announced the following pairs:

Mr. Breckinridge with Mr. Ammerman.
Mr. Howard with Mr. Butler.
Mrs. Burke of California with Mr. Don H. Clausen.
Mr. de la Garza with Mr. Dellums.
Mr. Eilberg with Mr. Frey.
Mr. Jenrette with Mr. Andrews of North Carolina.
Mr. Jones of North Carolina with Mr. Ford of Michigan.
Mr. Whitley with Mr. Goldwater.
Mr. Krueger with Mr. McCloskey.
Mr. Long of Louisiana with Mr. Quie.
Mr. Mann with Mr. Cochran of Mississippi.
Mr. Panetta with Mr. Pressler.
Mr. Rodino with Mr. Ashbrook.
Mr. Rose with Mr. Gudger.
Mr. Runnels with Mr. Jeffords.
Mr. Teague with Mr. Sarasin.
Mr. Stokes with Mr. Cohen.
Mr. Thornton with Mr. Thone.
Mr. Thompson with Mr. Kazen.
Mr. Tsongas with Mr. Tucker.
Mr. Rahall with Mr. Sawyer.
Mr. Gammage with Mr. Wiggins.
Mr. Conyers with Mr. Conable.
Mr. Clay with Mr. Bob Wilson.
Mr. Byron with Mr. Wydler.
Mr. Ashley with Mr. Stanton.
Mr. Aspin with Mr. Stokes.
Mr. Jacobs with Mr. Crane.
Mr. Fraser with Mr. Roncalio.
Mr. Alexander with Mr. Stockman.
Mr. Holland with Mr. Lundine.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bills H.R. 3489, H.R. 10822, H.R. 10823, and H.R. 11465.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no obection.

## PROVIDING FOR EXTENSION OF CERTAIN FEDERAL BENEFITS, SERVICES, AND ASSISTANCE TO THE PASCUA YAQUI INDIANS OF ARIZONA

Mr. UDALL. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 1633) to provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes, a bill similar to H.R. 6612 which passed the House earlier today on the Consent Calendar.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1633

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the Pascua Yaqui Indian people who are members of the Pascua Yaqui Association, Incorporated, an Arizona corporation, or who hereafter become members of the Pascua Yaqui Tribe in accordance with section (e) of this Act, are recognized as, and declared to be, eligible, on and after the date of the enactment of this Act, for the services and assistance provided to Indians because of their status as Indians by or through any department, agency, or instrumentality of the United States, or under any statute of the United States. For purposes of section 2 of the Act of August 16, 1957 (71 Stat. 371; 42 U.S.C. 2005a), the Pascua Yaqui Indians are to be considered as if they were being provided hospital and medical care by or at the expense of the Public Health Service on August 16, 1957.

(b) The provisions of the Act of June 18, 1934 (48 Stat. 484), as amended, are extended to such members described in subsection (a).

(c) The Secretary of the Interior is directed, upon request of the Pascua Yaqui Association, Incorporated, an Arizona corporation, and without monetary consideration, to accept on behalf of the United States and in trust for the members described in subsection (a), the title to the real property conveyed by the United States to such association under the Act of Ocober 8, 1964 (78 Stat. 1196), and such trust land shall be the reservation of such Pascua Yaqui Indians and shall be held as Indian lands are held.

Consent of the United States will be given to the exercise of criminal and civil jurisdiction by the State of Arizona pursuant to sections 1321, 1322, of title 25, United States Code: *Provided,* That the United States may effect a complete or partial retrocession within two years of enactment of this Act upon request of the Pascua Yaqui Tribe in consultation with the Governor of the State of Arizona: *Provided,* That acceptance of retrocession of all or any measure of civil or criminal jurisdiction, or both, by the United States, shall be effected by publication in the Federal Register which shall specify the ju-

risdiction retroceded and the effective date of retrocession.

(d) Section 4 of the Act of October 8, 1964 (78 Stat. 1197), is hereby repealed.

(e) Within one year from the date of enactment of this Act, the Pascua Yaqui Tribe shall adopt a constitution and bylaws or other organized governing documents and membership role. The Secretary of the Interior shall review such documents to insure that they comply with the provisions of this Act.

The membership of the Pascua Yaqui Tribe shall consist of—

(1) (A) All present members of the Pascua Yaqui Association who apply for membership within one year from the date of enactment of this Act, pursuant to the membership criteria and procedures provided for in the official documents of the Pascua Yaqui Indian Tribe.

(B) The direct lineal descendants of any person hereafter on the official Pascua Yaqui tribal membership role.

(2) Persons of Pascua Yaqui blood who are citizens of the United States who have demonstrated a significant relationship with the Pascua Yaqui Tribe in their application for membership as provided for in the official governing documents to be adopted by the Pascua Yaqui Tribe under authority of this Act.

MOTION OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. UDALL moves to strikeout all after the enacting clause of the Senate bill S. 1633, and to insert in lieu thereof the text of H.R. 6612, as passed by the House as follows:

That (a) the Pascua Yaqui Tribe and its members, as determined pursuant to section 2 of this Act, are hereby recognized as eligible for the services and assistance provided to Indians because of their status as Indians by or through any department, agency, or instrumentality of the United States or under any statute of the United States. For purposes of section 2 of the Act of August 16, 1957 (71 Stat. 371; 42 U.S.C. 2005a), the Pascua Yaqui Indians are to be considered as if they were being provided hospital and medical care by or at the expenses of the Public Health Service on August 16, 1957.

(b) Section 4 of the Act of October 8, 1964 (78 Stat. 1197), is hereby repealed.

SEC. 2 (a) For the purposes of section 1 of this Act, membership of the Pascua Yaqui Tribe shall consist of—

(A) the members of the Pascua Yaqui Association, Incorporation, an Arizona corporation, as of the date of the enactment of this Act;

(B) all those persons of Yaqui Indian blood who, within one year from the date of enactment of this Act, apply for, and are admitted to, membership in the Association pursuant to article VII of the articles of incorporation of the association; and

(C) direct lineal descendants of such persons, subject to any further qualifications as may be adopted by the association.

(b) Within eighteen months after the date of enactment of this Act, the Secretary of the Interior, in cooperation with the association, shall compile a membership roll pursuant to the terms of subsection (a) of this section and shall publish such roll in the Federal Register. Publication of such roll shall not affect or delay the immediate eligibility of the members of the association under section 1 of this Act.

SEC. 3. Solely for the purposes of this Act, the Pascua Yaqui Association shall be deemed an Indian tribe recognized by the United States and the lands conveyed to the association by the Act of October 8, 1964 (78 Stat. 1196), subject to a restriction against alienation imposed by the United States, shall be deemed a Federal Indian reservation.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 6612) was laid on the table.

## FAA RESEARCH AND DEVELOPMENT AUTHORIZATION ACT OF 1979

Mr. DODD. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1100 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1100

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11495) to authorize research, development, and demonstration projects relating to aviation, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Connecticut (Mr. DODD) is recognized for 1 hour.

Mr. DODD. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1100 provides for the consideration of H.R. 11495, the bill authorizing appropriations to the Federal Aviation Administration for research and development. This resolution provides for an open rule with 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology. It provides for one motion to recommit.

Mr. Speaker, H.R. 11495 would authorize $78.5 million in fiscal year 1979 appropriations from the airport and airway trust fund for FAA research, development and demonstration projects. The major part of that appropriation, $58.9 million, would be authorized for air traffic control projects, while $14 million would be authorized for navigation projects. The remainder of the appropriation would fund aviation weather and medicine projects and a technical advisory committee.

The FAA's original appropriations request would be increased $3.1 million by H.R. 11495. The Committee on Science and Technology unanimously agreed that a $3 million appropriation was necessary to pursue research and analyzation of the Navstar global positioning system (GPS) currently being developed by the Defense Department. There has been a lack of coordinated effort to examine the potential for GPS civilian application. This $3 million appropriation would accelerate the development of what promses to be a very beneficial navigational system for civilian transportation.

An additional $100,000 would be authorized above the original FAA request to fund a technical advisory committee which would establish a vehicle for user input in the FAA research and development process.

Mr. Speaker, despite the $3.1 million addition to the FAA request, the $78 million appropriation authorized by H.R. 11485 is still $6.5 million less than the fiscal year 1978 authorization.

H.R. 11495 would terminate the open-ended authorization and institute an annual authorization request for FAA research and development programs. This will give the Congress an opportunity to assess the progress and benefits realized from the FAA projects and to determine if they are worthy of continued funding.

Mr. Speaker, H.R. 11495 would authorize appropriations for research and development which will contribute to the safety of our transportation systems. I request that we adopt House Resolution 1100 so that we may proceed to the consideration of the bill.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1100 provides for the consideration of H.R. 11495, which authorizes appropriations to the Federal Aviation Administration. This is an open rule providing for 1 hour of debate to be controlled by the chairman and ranking minority member of the Committee on Science and Technology. The bill will then be open to amendment under the 5-minute rule. No waivers are contained in the rule.

Mr. Speaker, H.R. 11495 authorizes $78 million from the airport and airway trust fund for research and development projects. Five major areas of the FAA would be funded in fiscal year 1979. The major portion, $59 million, would be applied to air traffic control which seeks to improve the current airways system toward the dual goals of increased safety and efficiency; $14 million would be authorized to the second area, navigation. This program provides for the modernization, expansion and improvement of navigational systems in the United States and abroad. Development of various landing systems is also included.

The following three areas are designated to receive smaller portions of the authorized funds: Aviation weather, $4 million for a comprehensive weather information program in coordination with

NASA and the Departments of Commerce and Defense; aviation medicine, $800,000 to focus on the physical and mental health of air traffic control operators; and finally, $100,000 would be authorized to establish a technical advisory committee to allow greater user input into the FAA's overall R. & D. process.

The bill also contains a provision to change the process by which the FAA programs are funded. It would establish an annual authorization requirement and abolish the previously open-end authorization.

Mr. Speaker, I am aware of no opposition to the rule and recommend its adoption.

Mr. Speaker, I have no further requests for time.

Mr. DODD. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. FUQUA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11495) to authorize research, development, and demonstration projects relating to aviation, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FUQUA).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11495, with Mr. BENJAMIN in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Florida (Mr. FUQUA) will be recognized for 30 minutes, and the gentleman from Kansas (Mr. WINN) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill, H.R. 11495, authorizes research and development to the Federal Aviation Administration for fiscal year 1979.

The bill is a result of numerous hearings, briefings, and studies conducted by the Committee on Science and Technology, and more specifically, by the Subcommittee on Transportation, Aviation, and Weather, chaired by the gentleman from Texas (Mr. MILFORD).

I would like to congratulate the gentleman from Texas (Mr. MILFORD) and his subcommittee members for a job well done. In particular, I would like to thank the ranking minority member of the committee, the gentleman from New York (Mr. WYDLER), for his tireless efforts and fine contributions to the bill.

Mr. Chairman, because of the hard work done by Mr. MILFORD, Mr. WYDLER, and the subcommittee members, H.R. 11495 was reported out of the committee unanimously.

With this brief introduction, I would now yield to the gentleman from Texas (Mr. MILFORD) to explain the specifics of the bill.

Mr. MILFORD. Mr. Chairman, H.R. 11495 authorizes $78,473,000 from the airport and aviation trust fund to the Federal Aviation Administration for fiscal 1979 for research and development purposes.

This amount is $6,527,000 or 8 percent less than the $85 million recommended by the committee and authorized by the House last year.

While this authorization is very lean, it provides the funds necessary for the FAA to carry out a sound and balanced R. & D. program.

In order to insure such a solid, balanced program, the committee found it necessary to make certain changes to the FAA budget proposal.

The FAA request was $75,373,000. Of this amount, $58,949,000 was requested for air traffic control, $11,097,000 for navigation, $4,527,000 for aviation weather and $800,000 for aviation medicine.

The committee added $3.1 million to this request. Three million dollars was added to the navigation line item, bringing that total to $14,097,000, and $100,000 was added as a new line item to establish a technical advisory committee.

I would like to briefly explain the reasons for these actions:

The committee received a great amount of information in our air traffic control and FAA budget hearings supporting the civilian application of the NAVSTAR global positioning system (GPS) currently being developed by the Defense Department.

The FAA is currently examining NAVSTAR for potential civilian use, but tells us that they would not arrive at a decision in this area until 1982.

Just about every expert witness that we have had believes that this will be too late—that we need a decision in 1979.

If we wait until 1982, it will be too late to optimize the system for civilian aviation. In addition, by not thoroughly examining the potential of NAVSTAR, we may become locked into an inferior system or systems of navigation that would prohibit civil aviation from switching over to a more accurate and cost-effective NAVSTAR system.

It makes much more sense to invest a little seed money now to examine this potential of NAVSTAR.

Therefore, the committee added $3 million to accelerate NAVSTAR's efforts.

This money will be applied toward studying alternative system configurations of NAVSTAR for civilian use. The FAA will fund the studies; OMB and OTP will manage them. At least one study will be conducted by DOD, which has the most experience with the NAVSTAR configuration. Two other studies will be conducted by independent, private contractors.

Another study or group of studies will be directed toward a cost analysis of various navigation system mixes. Once again, FAA will fund these studies; OMB and OTP will manage them. Two or more independent, private contractors will conduct separate studies, looking at various civilian and military navigation systems from a cost-effectiveness as well as an accuracy standpoint.

These studies will be completed by September 30, 1979.

As I have noted, the committee also recommended $100,000 for the establishment of a Technical Advisory Committee.

The reason for the establishment of a Technical Advisory Committee is to create a better channel for used input and to therefore achieve a better balanced FAA R. & D. effort.

This is something that has been needed for quite some time.

Unfortunately, there have been many stumbling blocks in this effort. The administration have dragged their feet in this area leaving us no other choice but to legislate the establishment of this committee, and to specifically authorize funds for it.

Mr. Chairman, that completes my summary of the funding details of the bill. I would now like to elaborate upon two language sections in the bill.

Section 3 of the bill requires the FAA to submit quarterly progress reports to Congress concerning the microwave landing system (MLS) and the update of the national plan for MLS development by June 30, 1978.

We are requiring the FAA to do this, because of the difficulty some Members have experienced in seeking prompt and complete information from the FAA on the microwave landing system program.

Mr. Chairman, the MLS program has endured a long, difficult, and often bitter struggle.

The FAA has invented 10 years and $100 million in developing MLS. The FAA version of MLS, known as the time reference scanning beam—TRSB—has met with approval here in the United States and in the technical arm of the International Civil Aviation Organization (ICAO), ICAO is currently meeting in Montreal to examine the report of its technical panel and to make a selection of MLS.

Unfortunately a British manufacturer, Plessey Corp., which has repeatedly lost in the MLS competition, has decided to make a last-ditch effort to secure selection of its system to defeat the U.S. proposal.

Now, I can understand the determination of a manufacturer to win at all costs. And I can almost understand how such a zeal can drive them to attempt to undermine the ICAO deliberations, and to employ a lobbyist to spread half truths and total distortions in the U.S. Congress. But I certainly cannot and do not approve of such tactics.

These tactics, however, proved to be effective. By spreading one side of the MLS story, and by distorting technical details, the Plessey lobbyist was able to

cause a good deal of confusion among us laymen. To give himself an aura of respectability, he would try to convince uncommitted Members that he and Plessey had an altruistic motivation—that they were interested only in the cause of aviation and not the economic advantages that would accrue to the winner of the MLS selection process.

Try as I can, I have great difficulty in swallowing that.

If that were the case—if they indeed were interested in what was best for aviation, then why not support the system that was:

Selected by the ICAO technical panel in 1975;

Supported by the research arm of DOD;

Supported by NASA after test and examination;

Found to be superior in simulation tests run by MIT Lincoln Laboratory—tests that were verified here in the United States by Calspan and in Plessey's own country, England, by the Royal Aircraft Establishment.

The system that I am talking about, the one receiving this overwhelming technical support, is our own U.S. system.

Yet, this is the system that is "altruistically" being attacked by a highly paid lobbyist—a lobbyist who made a vaguely veiled threat to the head of our delegation at ICAO, who wildly tried to link the United States and Russia in a MLS espionage plot, who knowingly misinformed U.S. officials, who admitted before a congressional committee that his actions were "stupid, desperate, and exaggerated," and who is currently the subject of a Justice Department investigation.

When I am faced with the choice of believing such a lobbyist on the one hand, or the FAA, DOD, NASA, MIT, Calspan, the RAE, and the ICAO technical panel on the other, my decision is quite easy.

I am sorry for taking so much time on this subject, Mr. Chairman, but I believe that it is extremely important.

ICAO is presently making its first attempt ever to select a worldwide aviation system that has not already been implemented. I hate to see this bold effort go down the drain, because of the irresponsibility of a few individuals.

I think it is important to go on the record now that I and many other Members of Congress support the ICAO effort. We understand that difficulties are to be expected in such a precedent-setting effort. However, we should make very clear that the activities that we have witnessed—that of a losing company skirting ICAO procedures and trying back-door methods to overthrow the ICAO process—will only serve to harm and perhaps destroy the good intentions of ICAO.

Mr. Chairman, I have one final item to discuss. Section 4 of the bill establishes an annual authorization for FAA R. & D. programs. Because technological progress is so rapid in our society today, it is necessary for Congress to keep a much tighter grip on the R. & D. functions of the governmental agencies.

Presently, FAA operates under an open-ended authorization for R. & D. In other words, there is no requirement for the FAA to obtain authorization for its programs on an annual basis.

This section of the bill would terminate the open-ended process, establish an annual authorization, and permit Congress to maintain a closer handle on the dynamic area of research and development.

Mr. Chairman, this concludes my remarks concerning the bill.

Mr. WINN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my colleague from New York, the ranking minority member of the Committee on Science and Technology and the Subcommittee on Transportation, Aviation, and Weather is unable to be here today. He has asked me to request your support in his behalf and to submit his prepared statement to the record.

H.R. 11495 is virtually identical in purpose with H.R. 3965 which passed this House last year by the margin of 402 to 6. I wish to join with the gentleman from Texas and my colleagues on the Science and Technology Committee in urging your support for H.R. 11495 which we approved by the margin of 38 to 0.

Because the FAA's research and development funds are appropriated from the Airport and Airways Development Act trust fund rather than the general fund, they are now subject only to open ended reauthorization every 5 or 6 years. Because these R. & D. funds account for only 3 to 4 percent of the total FAA budget, they have received very little attention in the authorizing process. Moreover, it is well established that research constitutes the foundation upon which all systems are built, including the air transportation system.

In the reorganization of House committees beginning with the 94th Congress, the Committee on Science and Technology was assigned oversight jurisdiction for all ground and air transportation modes research and development. This consolidation has worked out quite well with the exception of the FAA R. & D. budget. Inadvertantly, this item was left with the Committee on Public Works and Transportation through the reauthorization of the airport and airways trust fund each 5 or 6 years.

Since the FAA R. & D. budget accounts for a very small portion, less than 4 percent, of the total FAA budget, it has not received the indepth scrutiny required.

I can also assure you that H.R. 11495 has the support of the Committee on Public Works and Transportation and I ask for your support.

Mr. Chairman, I submit herewith the statement of my colleague, the gentleman from New York (Mr. WYDLER), for printing in the RECORD:

● Mr. WYDLER. Mr. Chairman, I am pleased to join my colleague, the gentleman from Texas, in support of H.R. 11495.

For many years, the Federal Aviation Administration has conducted research and development on numerous programs considered important for aeronautical safety and effectiveness. Unfortunately the results of these programs have not been as rewarding as promised. Little of the funding and effort expended by FAA on R. & D. results in air transport system improvements. This appears true for safety, energy conservation, or environmental protection.

Together with many of our colleagues, I have attempted to obtain a more responsive attitude on the part of the FAA—continually urging greater action to meet the increasingly varied and complex requirements generated by our growing air transportation system.

An essential step in gaining improved congressional oversight of FAA R. & D. programs is annual authorizing jurisdiction. H.R. 11495 would close this small but significant loophole. Even with the reorganization of the committees of the House beginning with the 94th Congress, annual authorization jurisdiction over FAA R. & D. programs does not exist. While amounting to less than 7 percent of the FAA budget, research and development constitutes the cornerstone upon which the future aeronautical system must rest.

Last year, the House enacted H.R. 3965, virtually identical to this bill. H.R. 3965 passed the House by the margin of 402 to 6.

With the House reorganization, the Committee on Science and Technology was assigned oversight responsibility for R. & D. for all transportation modes. It is important to close the aviation gap.

We are assured by the Committee on Public Works and Transportation which has jurisdiction over FAA regulatory and operational functions, that there is no objection to this establishment of jurisdiction.

Although we know of no opposition to this objective, we are concerned that the other body does not share our recognition of the importance of this oversight responsibility. Despite the 402-to-6 margin last year, the Senate failed to consider H.R. 3965. We are hopeful this year our colleagues in the other body will move to consider this important legislation.

Therefore, I urge all who would help to obtain a more optimized air transport system join with the unanimous membership of the Committee on Science and Technology in supporting H.R. 11495. Thank you.●

Mr. FUQUA. Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Chairman, I appreciate the gentleman yielding.

Because of the very critical authorizing process that is built into this measure, I intend to support it.

Mr. Chairman, H.R. 11495—the Federal Aviation Administration research and development authorization—contains $8,697,000 under section 3 for research and development of the microwave landing system. The MLS is being developed by the FAA for approval by the International Civil Aviation Organization (ICAO) of the U.N. as a complete and advanced navigation system for modern air traffic.

Recently the General Accounting Office (GAO) at the request of Congresswoman HOLTZMAN released a report on

Federal efforts to protect the public from environmental nonionizing radiation (microwaves) exposure. In the cover letter from Director Henry Eschwege of GAO it is stated:

> Nonionizing radiation has became a subject of national concern because of the rapid increases in its use and its potential harm to public health. The population is receiving measurable exposures to nonionizing radiation. The sources are increasing, and the health effects of such exposures at low levels are controversial.

Section 102 of the National Environmental Policy Act of 1969 states that an EIS must be filed on "major Federal actions significantly affecting the quality of the human environment," with the EPA.

Thus the MLS represents a major Federal action which could have a potentially significant impact on the environment. And as the GAO study demonstrates there is a great deal of reason to prompt such a study.

As of April 11 the FAA, according to their congressional liaison office, has not filed an EIS on the microwave landing system with EPA.

In the House committee report filed with H.R. 11495 (H. Rept. No. 95-974) the House Science and Technology Committee states:

> The Committee, while supporting funding for the Microwave Landing System (MLS), believes that the FAA should provide the Committee with more data and information concerning the MLS development program in the future.

I would hope that the committee is also concerned with the question of the MLS' impact on public health and that their concern as reflected in the quote just stated will be met by FAA action to provide an EIS.

I stated my grave reservations with respect to the MLS in the CONGRESSIONAL RECORD on April 12 (page H2838). I do not believe that the MLS should be encouraged without a complete discussion and assessment of possible health hazards associated with the use of microwaves in the MLS.

I would like to point to three additional factions which mandate an EIS: First many will recall the discovery of Moscow's use of microwaves eavesdropping techniques on our Soviet embassy. The microwave exposure incident in the Soviet Union emphasized the health hazard associated with this technology. Second, in regard to another kind of navigation system for aircraft—the tactical airborne navigation (TACAN) system—three civilian employees engaged in the repair of the system have developed cancer. Two of these individuals died of cancer in 1970. Third, the GAO study which I referred to above states that the Federal Government has failed to live up to its responsibility in protecting the public from potential microwave health hazards.

While there may be no danger to the public in use of the MLS it is clear that there must be a thorough study of its potential impact on the public health before it is utilized in air traffic navigation.

I will vote for this measure, because of the very significant provision requiring annual authorization of FAA funding. However, if no EIS has been completed by the time the appropriation measure for FAA reaches this floor I will vote against that measure and will urge my colleagues to do likewise.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from Texas.

Mr. MILFORD. Mr. Chairman, I appreciate the concern of the gentleman from New York (Mr. WEISS). I would say to the gentleman, that there will be, before these microwave landing systems become operational, a full impact statement made. I believe this will relieve any concern the gentleman might have. There have already been studies to the point where we know there is no particular hazard concerning the microwave issue, as opposed to radar where we have done extensive studies, so that this would be akin, I might say, with associating a motorscooter and its operational effect with that of a big Mack truck, because the emissions from the microwaves compared to that of radar that we have studied for a long period of time are far less in the microwave landing systems than that of radar.

Mr. WEISS. I appreciate the comments made by the gentleman from Texas (Mr. MILFORD). I know of the gentleman's continuing concern in matters of this kind, and that is why, to some extent, I am reassured, but I would like to state, as the gentleman will probably recognize on reflection, that there have been some very serious questions raised about this.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MILFORD. I yield 1 additional minute to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Chairman, I appreciate the gentleman yielding me the additional time.

As I was saying, there have been some very serious questions raised about the potential hazards involved in this whole explosion of the utilization of microwave systems in various areas. Perhaps there is no harm in it, but we do not really know. All I am suggesting is that before the appropriation measure moves forward I would think that the FAA ought to abide by the legal requirements.

● Mr. GOLDWATER. Mr. Chairman, my colleague from New York, the ranking minority member of the Committee on Science and Technology has referred to the fact that H.R. 3965, virtually identical to H.R. 11495, passed this House last year by the margin of 402 to 6. I wish to join with my colleagues on the Subcommittee on Transportation, Aviation and Weather in urging your support for H.R. 11495.

Because the FAA's research and development funds are appropriated from the Airport and Airways Development Act trust fund rather than the general fund, they are subject now only to reauthorization each 5 or 6 years. Because these R. & D. funds account for only 6 to 7 percent of the FAA budget, they receive very little attention in the authorizing process. However, it is well established that research constitutes the foundation upon which all systems, including the air transportation system, are built.

Perhaps because I am also privileged to serve on the Committee on Public Works and Transportation and its Aviation Subcommittee, I can more readily perceive the increasing gap between technology availability and its application. This is becoming a growing problem, not only for aviation, but in all other areas of high technology.

To illustrate the dilemma in which I find myself with regard to the FAA, I will explain:

In response to my bill and companion legislation introduced in the Senate in 1973 to mandate implementation of a collision avoidance system, the FAA promised to adopt a CAS standard by July 1975, and air carrier implementation by July 1977. On the basis of this promise, these bills were withdrawn. Now, in 1978, we still do not have a collision avoidance standard, not to mention its implementation. What is most troubling is the knowledge that there is no lack of available technology. Nor is there a lack of willingness on the part of major user groups to acquire such a capability.

Illustrative of the unresponsiveness of the FAA to congressional mandates and of the difficulty we are experiencing in exercising oversight is the MLS program. In the report on H.R. 3965, the FAA was asked to coordinate and provide an update of the national plan for the development of the microwave landing system by September 30, 1977. An update of the national plan was to have been coordinated among the Departments of Defense and Transportation and NASA annually since 1971. In our hearings last month, we were told that the FAA had decided not to accomplish such an update. The reasons were obvious: To do so would have acknowledged that its MLS development program was over cost, under performance standards, and incapable of implementation. Stopping just short of removing all funding, you will note in H.R. 11495, that we have directed that FAA report quarterly on the status on the MLS development program.

During the last 2 years, I have inquired on numerous occasions of the details of the FAA developmental program for Synchronized-Discrete Address Beacon system. Synchron-DABS is basically an in-house design concept which was subsequently fabricated and tested by the Naval Weapons Center at China Lake, Calif., under contract to FAA. Synchro-DABS provides for a multitude of functions within one very low cost system. The largest aviation user community—general aviation—would thus be provided with electronic guidance capability far beyond their greatest hope at truly affordable cost. However, after extensive testing, demonstrating its capabilities and reliability, what do you think the FAA did? In October 1975, FAA headquarters ordered the Naval Weapons Center to cease testing, dissemble the

equipment and ship it to a warehouse. I am still hopeful of persuading Administrator Bond to restore Synchro-DABS to a test status and a more objective evaluation of its potential.

I hope you will support H.R. 11495, which would enable Congress to help achieve a safer and more efficient air transportation system.

Thank you.●

Mr. WINN. Mr. Chairman, I have no requests for time.

Mr. FUQUA. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. There being no further requests for time, the Clerk will read.

The Clerk read as follows:

H.R. 11495

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, notwithstanding any provision of law, there is authorized to be appropriated out of the Airport and Airway Trust Fund (established by section 208 of the Airport and Airway Revenue Act of 1970) to the Secretary of Transportation for the fiscal year ending September 30, 1979, for research, development and demonstration projects under section 312(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1353), and section 14(d) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714):

(1) $58,949,000 for air traffic control purposes,

(2) $14,097,000 for navigation purposes,

(3) $4,527,000 for aviation weather purposes,

(4) $800,000 for aviation medicine purposes,

(5) $100,000 for a technical advisory committee, and

(6) such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

Funds authorized by this Act shall remain available until expended.

SEC. 2. Notwithstanding the purposes for which funds are authorized in paragraphs (1) through (4) of the first section of this Act, funds authorized by such paragraphs may be used for any other program or project for research, development, or demonstration under section 312(c) of the Federal Aviation Act of 1958 or section 14(d) of the Airport and Airway Development Act of 1970 if notice of such program or project has been given to the Speaker of the House of Representatives, the House Committee on Science and Technology, the President of the Senate and the Senate Commerce Committee in a manner containing a full and complete statement of the proposed program or project and the facts and circumstances relied on in support of such program or project and (a) a period of thirty days has passed after the date such notice was received, or (b) each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

SEC. 3. The Federal Aviation Administration shall provide the Committee on Science and Technology with quarterly reports beginning June 30, 1978, concerning goals, milestones, obligations, pertinent correspondence with the State Department, and when requested, test data and evaluation of system performance concerning the Microwave Landing System (MLS) development program.

In addition, Federal Aviation Administration shall submit its uppdate of the 1971 National Plan for Development of the Microwave Landing System to the committee by June 30, 1978, and each ensuing year. The update shall include a program plan for the implementation of MLS and shall be coordinated with Department of Transportation, Department of Defense, and National Aeronautics and Space Administration, and State Department participation shall be sought. The implementation plan shall be submitted: *Provided,* That International Civil Aviation Organization has had an opportunity to select a system prior to that time.

SEC. 4. The second sentence of section 14 (d) of the Airport and Airway Development Act of 1970 is amended by striking out "and not less than $50,000,000 per fiscal year for fiscal years 1978 through 1980", and inserting in lieu thereof, "and $85,000,000 for fiscal year 1978".

Mr. FUQUA (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

TECHNICAL AMENDMENT OFFERED BY MR. MILFORD

Mr. MILFORD. Mr. Chairman, I offer a technical amendment.

The Clerk read as follows:

Technical amendment offered by Mr. MILFORD: On page 3, line 2, after the word "thirty" add the word "legislative".

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. MILFORD).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. M'FALL

Mr. McFALL. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McFALL: On page 2, line 23, after the word "Technology,", insert the following: "the House Committee on Appropriations."

And on page 2, line 23, after the word "Senate", insert the following: ", the Senate Committee on Appropriations".

Mr. McFALL. Mr. Chairman, this merely adds to the transfer process, which is described in section 2, a provision for notification of the House Committee on Appropriations and the Senate Committee on Appropriations.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. McFALL. I yield to the gentleman from Florida.

Mr. FUQUA. I thank the gentleman for yielding.

Mr. Chairman, we have no objection to the amendment. I think it is a constructive amendment and commend the gentleman for calling it to our attention. It follows the procedure that we follow in all similar actions of this type.

Mr. McFALL. I appreciate the gentleman's comments.

Mr. WINN. Mr. Chairman, will the gentleman yield?

Mr. McFALL. I yield to the gentleman from Kansas.

Mr. WINN. I thank the gentleman for yielding.

We have no objection to the amendment. It is definitely a clarifying amendment and a good amendment, and we agree to it.

Mr. McFALL. I thank the gentleman.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McFALL).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose, and the Speaker having resumed the chair, Mr. BENJAMIN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11495) to authorize research, development, and demonstration projects relating to aviation, and for other purposes, pursuant to House Resolution 1100, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks, and to include extraneous matter, on the bill just passed, H.R. 11495.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

## WHITE HOUSE OFFICIALS WHO WE CANNOT TRUST

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, we are informed by Rowland Evans and Robert Novak in today's Washington Post that Victor Utgoff, one of the President's key National Security Council officials, distrust the ability of U.S. leaders to use our strategic strength wisely, and is therefore promoting the policy of U.S. strategic inferiority to the Soviet Union.

How can the President entrust vital arms control and strategic policy functions to an official who holds such views, especially one who is involved in key negotiations with the Soviet Union at this very time?

Mr. Utgoff's views are diametrically opposed to the views of most Americans, who believe that the United States must maintain at least equal strength to the Soviets.

A current survey commissioned by the American security council shows that 88 percent of 108,384 people surveyed would support regaining U.S. military superi-

ority over the Soviets, even if it would cost $20 billion more a year.

I would like to include the Evans and Novak column at this point in the RECORD:

[From the Washington Post, Apr. 17, 1978]

THE UTGOFF PRINCIPLE

(By Rowland Evans and Robert Novak)

One of Zbigniew Brzezinski's key technical advisers, privately addressing fellow arms specialists over two months ago, propounded this principle: Better that this country not enjoy a clear arms superiority over the Soviet Union for fear we would sometimes misuse it.

Victor A. Utgoff, director of policy analysis on Brzezinski's National Security Council staff, thereby set off spirited debate within the small, contentious community of strategic experts. Although he complains off-the-record comments are being taken out of context, the Utgoff principle explains much about national security policy in the Carter administration.

His remarks reflect self-distrust among middle-level officials. Fearful that the United States will make no more principled use of military power than the Soviet Union, they are concerned not only about deterrence in Moscow but also self-deterrence in Washington. That mind-set among technical advisers may explain why even nontechnician Brzezinski, traditionally a hard-liner, has not escaped charges of softness toward the Kremlin.

Utgoff addressed 840 weapons experts in Monterey, Calif., Feb. 1 at a conference sponsored by the American Institute of Aeronautics and Astronautics. He refused to talk to us or give us the text of his speech. However, NSC staffers have corrected and amplified accounts given us by those present.

In no sense did Utgoff advocate unilateral disarmament. Describing the Carter administration's commitment to strategic arms control as an "article of faith," he called for "strategic equality . . . through adequately verifiable arms-control agreements." If that is "impossible," he advocated "whatever programs are necessary for our national security," adding, "We'll pay whatever price it takes."

What followed, however, began to raise eyebrows. "We cannot afford to allow ourselves to drift into significant strategic inferiority," Utgoff said. But what is "significant" inferiority? He soon argued that superiority is no blessing.

Losing superiority would "not be the end of the world," he said. "Some of our advantages are fading, and in some cases, it might be to our advantage to allow U.S. superiority to fade away," Utgoff said. Why? NSC staffers told us Utgoff feels losing U.S. superiority in submarine-based missiles might induce the Soviets toward fewer land-based missiles—a highly debatable proposition.

Utgoff's speech reaches the heart of what bothers him about U.S. weapons superiority: "I suspect we would occasionally use it as a way of throwing our weight around in some very risky ways." That is the essence of self-deterrence. If we do not have mobile missiles, neutron warheads and a superior Navy, we cannot be tempted to use them.

Those attending Utgoff's speech were instructed it was strictly off the record. Nevertheless, a set of surreptitious notes soon circulated in Washington, and was read at a conference at the Army-Navy Club here March 21. While those nonverbatim notes are incomplete, they do not differ in substance from the NSC official version given us.

Utgoff, 39, holds a doctorate in electrical engineering and was known as an advocate of "minimum deterrence" as a systems analyst at the Center of Naval Analysis before joining this administration. His newness to high-level policy-making explains what colleagues call his outrage that his speech (delivered to 840 people) leaked out. NSC officials told us Utgoff was "brainstorming," an unusual description for a prepared speech.

Nevertheless, he was back propounding the Utgoff principle March 27 in private conversation with a naval officer. While determined the United States should never be inferior, Utgoff added he equally feared being superior because it might encourage irresponsible U.S. conduct. An NSC go-between explained to us Utgoff meant that if either Washington or Moscow thought it had a strategic advantage, high-risk confrontation might result.

Utgoff's speech was not cleared by superiors and is not government policy, the NSC spokesman told us. Surely, it does not reflect the world view of Brzezinski. But as a nonexpert in the mysterious world of arms control, Brzezinski depends on technicians who share the considerably different world-view of Vic Utgoff.

For Utgoff is not unique. Middle-level officials, serach by the flame of Vietnam, cannot trust their country to handle power responsibly. They incline to Pogo's Vietnam slogan, "I have met the enemy and he is us" (posters of which have adorned walls of the U.S. Arms Control Agency). The Utgoff principle raises doubt whether officials carrying that national self-image can effectively negotiate with an adversary not similarly burdened.

## COMMUNICATION: THE MOST PRECIOUS CURRENCY OF A FREE SOCIETY

(Mr. VAN DEERLIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. VAN DEERLIN. Mr. Speaker, our mutual friend Charley Ferris has completed his first 6 months as chairman of the Federal Communications Commission.

Mr. Ferris, who worked more than a dozen years for the now retired Senate Majority Leader, Mike Mansfield, and who then spent a year as consultant to the House Speaker, was determined to devote himself fulltime to the FCC job for at least a half-year before making any public appearances.

His debut on the speech circuit occurred last Wednesday, at the "biggest ever" convention of the National Association of Broadcasters, in Las Vegas. I was privileged to be among some 3,000 members of that organization, and to hear them summoned by the commission chairman to a new level of public responsibility.

As one who has been immensely pleased by Mr. Ferris' performance thus far in a very challenging office, I append a copy of his remarks to the Nation's broadcasters.

REMARKS OF CHARLES D. FERRIS

I learned from Newton Minow that as he was leaving the podium after his first—and most famous—speech to the NAB, a delegate walked up and told him: "I didn't think that was a very good speech."

When Minow was half way out of the room, the same broadcaster accosted him again and said: "I didn't like that speech one bit."

Minow kept moving, but the broadcaster caught him a third time at the exit. Excitedly he shouted at Minow: "That was the worst speech I ever heard in my whole life." Then he turned and stalked away.

A few minutes later, another broadcaster who had witnessed these encounters approached Minow with a comforting comment. "Mr. Chairman," he said, "I wouldn't pay any attention to that fellow. Everyone knows he has no mind of his own. All he ever does is repeat whatever he hears."

Well, each new Chairman of the FCC seems doomed to repeat as well what the NAB has heard from his predecessors.

In 1965, Bill Henry spoke of the FCC's aim "to make room for as many diverse ideas in television as possible." Today too much programming is still the same from hour to hour, and channel to channel, with only the names of the networks changed to protect the appearance of competition.

In 1969, Rosel Hyde urged that television show "what it means to walk in the shoes of the poor, the hungry, and the disadvantaged." Today, a year after *Roots*—a program that brought a sense of heritage, a glimpse of history, and a means of understanding to millions of Americans—the Commission is firmly committed to enforcing a policy that television not only show and tell—but do: that a medium which in law belongs to all the people should not exclude the minority who are not white and the majority who are women from full participation in the lifestream of national communication.

In 1970, Dean Burch conceded that FCC procedures needed to be "revised and simplified." Today, as the new Chairman of the FCC, I am determined that we will solve that problem. The Commission's rules should be written in plain English. A nonlawyer should be able to read and understan them. Those who regulate communications at least ought to be able to communicate clearly. It might even mean fewer dollars for legal services and more money for program excellence.

Seventeen years ago in 1961, Newton Minow worried about "competition for ever higher ratings." Today, the tyranny of Nielsen's numbers has strengthened its hold. The only place in our Republic where points and point-spreads are given greater urgency than here in the casinos of Las Vegas are the corporate headquarters of the three networks in New York.

That arrangement cannot be acceptable to the American people and must not be acceptable to professional broadcasters. For as we have all learned, quantity is not synonymous with quality. More—as you and the Commission have both learned in the case of regulation—does not mean better.

For if television had—or has—its vast wasteland, it will not—and cannot—be made fertile by overlaying it with a vast swampland of regulations. Shortly after coming to the Commission, I instituted a study of the delays in license and comparative renewal cases. We need to establish procedures that are both faster and fairer—and we will.

Thus, much of what I have to say will contribute to the tradition of past Chairmen that it is not only television that puts on reruns. The speeches of FCC Chairmen, like your own industry, tend to the truth that the more things change, the more they stay the same. Living color cannot give life to programs that are reruns in all but title. Decades of invention and innovation in broadcasting have not resolved issues that were there from the start—from that first night when KDKA crackled across the airwaves with the election returns from the Harding-Cox campaign for President in 1920.

By this point, I'm sure, it's clear that one other thing has not changed about an FCC Chairman's speech to the NAB. As one of my predecessors put it twelve years ago: "My work is cut out for me today. You will not agree with everything that is said."

Indeed, I may not agree with all I say a year from now. I intend to be open-minded—and independent. I do not have rigid pre-

conceptions—but I do have convictions. And I do believe that all of us who are responsible for a communications medium that reflects, shapes, alters, and informs the national consciousness need convictions that transcend the bottom line of writing regulations or of counting profits and ratings.

The Commission's decisions on telephone tariffs have a far greater immediate economic impact on every American than our rulings about television and radio. But in terms of their social, psychological, and ultimately their economic effects, broadcasting's images and words are not cheap.

Communication is the most precious currency of a free society. It is not just a matter of billion dollar sales, but of over two hundred million finds: To a large extent, we are what we see of ourselves on television. We are content or we dissent because its technology permits us as never before in history to know or to disguise ourselves. Seeing, far more than reading, is believing.

Without broadcasting, Americans would not have witnessed Bull Connor, Birmingham or the march on Selma—and America might not have two of the most noble and fulfilling legislative achievements of this century, the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

Without broadcasting, America would not have heard the gunfire and seen the casualties at Kent State and Hamburger Hill—and young Americans who are alive today would be dead in a longer, even more bitter war.

Without broadcasting, the Watergate hearings and the impeachment proceedings might have been a matter of record, not reality—and the country might never have reached a consensus that the issue was a matter of principle, not partisanship.

News is the easy case to demonstrate the power of broadcasting. CBS News proved recently that broadcasting can even bring adversaries together in the cause of peace. But entertainment also informs us, in more subtle ways, about our lifestyles, our attitudes and our possibilities.

More people saw Elvis Presley in three appearances on "The Ed Sullivan Show" than in all the live concerts that he performed over the next twenty years. And what they saw influenced and expressed the feelings of the next generation. More people saw a single opera performance live from Lincoln Center last year than had seen it in person in all the performances in history. And that too may influence our national culture.

Your business is the business of America. Your role is so central that you can share credit for some of the best of our lives—from civil rights to political reform. And you also get blamed for much of the worst—for social problems ranging from violent street crime to lower college test scores. The average American citizen spends literally years of a lifetime watching or listening to television and radio. Your effect on values—and on institutions such as the school and the family—has become a national issue—like other issues concerning our national environment and national health.

At times broadcasting has been an easy scapegoat for other social failures. But not always—for this industry too, sometimes fails. When that happens, even when it brings with it commercial success, the public has a right to call you to a different account than the numbers on the balance sheet. Your private enterprise involves a public responsibility at least as serious as that of other industries not to degrade the physical environment. Americans worried about the quality of the air they breathe properly worry as well about the quality of the airwaves that penetrate their homes and saturate their children's minds.

The Communications Act is both an expression of that concern—and of the hope that public communication through many private sources can serve the public interest. The ideal is easier to state than to realize. It has its own internal tensions—for example, between overseeing the public interest in the use of the airwaves and avoiding interference on the basis of a public official's own program tastes or political interests.

As I have discovered, an FCC Chairman can be criticized for moving too slowly—or too fast. But recognizing both the proper limits and the possibilities of the Commission's role, I believe that it must move—that the next FCC Chairman should not be able to quote from his predecessors' speeches as though the lines were newly written. If you invite me back in some future year, I want to say different things to a later NAB convention.

Today, I would like to state five principles that I believe should determine how, and to what ends, the Commission will move.

First, the integrity and independence of the Commission's process is more important than any of its particular decisions. No industry we regulate will be regarded as a "constituent." By law, the Commission's only constituency is the public. We are independent of the Executive Branch. Our job as regulators is not to become agents of the regulated. Nor is it to reinforce public pressures that would impair your journalistic freedom.

But independence does not mean isolation. The FCC fully shares this Administration's commitment to regulatory reform. And we also have a commitment to listen seriously and sensitively to your concerns—and to the concerns of consumers.

Second, the Commission will be even-handed in enforcing its rules and in protecting the public interest. In the past, the FCC sometimes has been more attentive to abuses against your commercial clients—such as fraudulent billing of advertisers—than it has with the misuse of the medium in relation to your true clients—the public. The Commission must judge those who have shortchanged advertisers and those who shortchange the public even-handedly.

No longer should the Commission be tougher on smaller than on the larger licensees. And hopefuly we will be able to develop more effective ways to invoke the sanctions available to us. We will encourage licensees to correct mistakes on their own initiative rather than to await a Commission assessment of liability and punishment. Newspapers regard corrections and retractions as fit to print. When radio or television broadcasters mislead the public, they must set the record straight through corrective programming and advertising.

The demands on you to provide a public service and not simply to maximize profits are not the mere whims of federal regulators. It is the mandate of the law that binds us both. And its source of legitimacy comes from the American people directly. In fact, as well as in theory, your licenses cannot be viewed as a vested interest to be held in perpetuity. I intend to enforce the public interest standard for renewal.

Third, while I will carry out my responsibility under the law, I will not exceed my authority by intervening directly in your specific program decisions. Precisely because the pressures of society on broadcasting this past decade have never been more intense, the need for restraint by government has never been so great. Perhaps today the best definition of a democracy is that it resists the temptation and the pressure to control the mass media, even when they are controversial.

Instead we ought to encourage controversy. Broadcasters have the power to give access to competing ideas—and you can expect that the Congress, the courts, and the Commission will continue to require that you not deny the public access to those ideas. But this does not mean that broadcasters must bend with every breeze of public opinion. Your role as an independent and critical voice is too vital for that. You must, however, be sensitive to viewpoints and opinions of those who do not have FCC licenses.

The New York Times does not compromise its journalistic integrity by opening an Op-Ed page to alternative editorials. To an even greater extent—in broadcasting—the most pervasive form of communication—journalistic integrity means opening the medium to the many.

More local stations are offering that openness. And one network—CBS—recently started a program featuring viewer feedback. This convention has itself sponsored panels where minorities, women and consumer representatives have had their say. None of this marks the completion of the process. But it is perhaps the midpoint of a good beginning. Eventually television and radio can offer the technological equivalent of a New England town meeting.

Fourth, the FCC should seek to stimulate excellence through diversity—and diversity through competition. We need more than marginal improvements and minor adjustments in present regulations and procedures.

I favor a policy of zero-based regulation. We will rely on competition instead of rules whenever that is promising or possible. The marketplace can stimulate innovation, reduce costs, diversify audiences and raise the quality of your medium.

I do believe that the consumer's interest is paramount. And broadcasting is one of the most consumed commodities in this country. But I reject the myth that the consumer's interest and increased government intervention are identical. Less regulation can mean better broadcasting. It can mean that you spend less time on needless procedures—and more time on improved programing. It can mean fewer dollars for legal services—and more money for consumer services.

Government does more harm than good when it maintains a regulatory framework for ceremonial purposes alone. In regulating radio, we may be at that point. In some markets over fifty stations broadcast across a band of tastes as well as megacycles. By moving the dial an inch a listener can hear all the way from Rachmaninoff to Led Zepplin—from stations featuring all news to those preaching their own good news about religion. I doubt that regulation was the primary cause of this diversity. We must seriously consider replacing the current regulation of radio content with a structural, marketplace mechanism that still yields a public dividend for the privilege of having a place on the radio band. Thus we could recognize both that the radio spectrum is not so limited as it used to be—and that it is still not limitless.

Other reforms can blunt efforts to regulate television content. Some of that pressure expresses legitimate concerns. The Commission's rules against employment discrimination, for example, can be an effective alternative to direct FCC scrutiny of media "stereotyping." When you hire Blacks, women, Hispanics, and Asian Americans in responsible jobs, then the diversity of program choice will increase without any rule or agency telling you exactly what to broadcast.

I intend to enforce equal employment opportunity vigorously—and to urge a more nearly equal chance for minorities and women to hold broadcast licenses as well as broadcasting jobs.

A strong noncommercial television and radio service is another effective means of encouraging diverse services without more regulation.

Out of the iron grip of the ratings, where a single point within the range of statistical error can kill a show, public radio and public

television can satisfy needs and audiences that you do not reach. They can create a *Sesame Street*, cover the Senate debate of the Panama treaties, and carry the Metropolitan Opera from Lincoln Center to Lincoln, Nebraska. Public broadcasting has also pioneered in satellite delivery and captioning for the deaf.

You should recognize the contributions public broadcasting has made, and can make in the future, to stimulate a healthy national communications service and a freer broadcast marketplace. Public broadcasting can increase viewers' choices by meeting specialized needs not fully satisfied by an advertiser-based system.

A well-funded system of noncommercial television and radio can reduce the pressure for content regulation of broadcasting in general. It can also provide a useful "market place yardstick" and a competitive prod to you as commercial broadcasters to strive for excellence and experiment with new ideas and formats.

By setting its own high standards for children's programming, public television can raise the public's and your awareness of television's potential in a way the Commission could not or should not. During my term as Chairman, I will support a strong public broadcasting system, as well as a strong commercial broadcasting system.

Finally—and perhaps most importantly—I believe that the FCC should encourage new technology and service, rather than helping any vested interest to hold them back. Your industry exists because of those who saw things that never were—and it will not prosper now by explaining why not to advances in communications technology. These advances do present a challenge to you. But they are also a great opportunity—for broadcasting and for the public.

No one clearly envisions the sights, and sounds, and the possbilities of all the new technology. But we cannot look to the past, backwards to a passing status quo. We have to reexamine old assumptions and apprehensions. Technology will make us more—not less—dependent on the electronic transmission of information—the lifeline of a free society.

Electronic journalism and print journalism must strive to stand on an equal footing as we approach the end of the century. The pace of technological change is so quick and our dependence upon electronic news is increasing so rapidly that we must assure the independence of the electronic media from government control. We owe a commitment to this goal to our children and their children, for television will shape their lives even more than it has shaped ours.

But editorial freedom and independence go hand in hand with competition in the marketplace of ideas and in the marketplace for the attention of viewers and listeners. I do not think you can have one without the other. You cannot argue for less regulation of your own medium, and at the same time argue for more regulatory protection from competing information sources. For it is that competition of ideas and program sources that can help us begin to erect a new regulatory philosophy based upon abundant—not scarce—resources.

The Chicken Littles, who always think that the antennae are about to fall, predict that satellite delivery of multiple program services, fiber optics, and translators will make your industry obsolete. That could happen—if you regard change as an adversary and resist the chance for experimentation. But if you are as bold as a Sarnoff or a Paley when they put together the first networks, you can profit by multiplying the range of your services:

We do not have to wait for cable or fiber optics for Americans to get weather, sports and news on demand—or the capacity to use their television sets to retrieve other data. You can lead the nation into an era of individual choice in communications. The British have taken the first steps towards using broadcast signals for captioned information or teletext data retrieval. We can catch up.

You can make wider use of satellites to pick and choose from a wider number of program options, rather than permitting cable to gain a larger lead in this field. The booming market for syndicated shows proves that the product will be there when you have the means to receive it.

You can support the development of improved television sets to bring better UHF reception and more UHF channels to more people.

In short, your medium can provide a richer diversity with more convenience than any other. Commercial broadcasting can and must represent more than the survival of the tired, the timid and the imitative. And as you increase the options you offer to the public, you will relieve the public's pressure to regulate the content of a limited number of programs. And all this can mean higher profits as well.

In closing, I challenge each of you to ask the most important question that you can ask yourself: What special services are you providing that another licensee could not—or that another technology could not?

If you can answer that you put a major portion of your profits into strong local programming—or that you provide your community with access to a multiplicity of program sources—then you have a reasonable basis for seeking tenure as individual licensees—and as an entire industry. But if you are only flipping a network switch—or replaying an occasional movie package—then you have not made the case that you are essential to your community—or to the national communications system—in ways that a wired nation or direct satellite to home broadcasting would not provide.

Your answer, and your response to the rapid pace of new technology, is by far more critical than any action I will take, or speech that I will make, over my term as Chairman.

So far, broadcasting has more than profits to be proud of. It has, however, deficiencies to be remedied, technologies to be developed, and alternatives to be explored. And these are responsibilites that you could not escape even if you would. Edward R. Murrow said it a quarter of a century ago when your enterprise had one of its most shining moments—back in the drab days of black and white television. After showing Senator Joseph McCarthy browbeating citizens and mugging the Constitution, Murrow asked whose fault it was. "The fault," he answered, paraphrasing Shakespeare, "lies not in our stars, but in ourselves."

As a regulator charged with enforcing the law, I am ready to see and say when the fault lies with you. But I would rather see diversity and excellence thriving and then say: the credit lies not with the FCC, but with broadcasters themselves.

Thank you.●

## PRODUCT LIABILITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 5 minutes.

● Mr. WHALEN. Mr. Speaker, I wish to call my colleagues' attention to the Department of Commerce options paper on "Product Liability," released to the public on April 6. This report is the sequel to the interagency task force on product liability's exhaustive study, and it represents the latest refinement of the administration's thinking on this problem.

The options paper, after reviewing the nature and dimensions of the product liability insurance problem, divides its consideration of solutions into two categories: short term and long range. In the long run, according to the Commerce Department recommendations, the best course to follow is for the Federal Government to develop some form of model tort reform legislation to be adopted by the individual States. This closely follows the recommendation made in April 1977 by a bipartisan congressional panel I chaired.

More significantly, the paper zeroes in on the question of what the Federal Government can do in the short term to provide relief to the manufacturers who are unable to obtain or afford commercial insurance coverage for product liability risk. The options paper suggests:

The product liability problem might be alleviated for some businesses if they were permitted to set aside a portion of their pretax income to fund a specific reserve that would be a form of self-insurance for product liability claims. The fund would pay for settlements and judgments in product liability lawsuits and possibly defense and investigation costs. The Code would be amended so that specified contributions to this fund would be tax-deductible and the fund would not be subject to the accumulated earnings tax.

This is, of course, the same recommendation made last June when I introduced the Product Liability Insurance Tax Equity Act, H.R. 7711. At that time, I was jointed by a bipartisan group of six coauthors. The number of cosponsors today total 63, and the bill has been endorsed by 45 national trade and professional associations. On April 10, PLITE was introduced in the Senate by CHARLES MATHIAS and BIRCH BAYH, as S. 2864.

Our legislation has three key elements. First, it allows for the creation of tax-exempt reserve funds for liability self-insurance. Second, it permits the taking of business deductions for payments made into such funds. Third, it provides that regulations will be established to prevent the new reserve funds from being used as a means for tax avoidance.

In the House two other legislative proposals have been advanced by advocates of the tax reform approach to the product liability insurance crisis. These measures were authored by ABNER MIKVA and JOHN LAFALCE. All three proposals are pending in the Committee on Ways and Means, where they were referred to the Subcommittee on Miscellaneous Revenue Measures.

Congressmen MIKVA, LAFALCE, and I recently wrote to Committee Chairman AL ULLMAN, noting that our three different bills all embodied the same general principles and that the legislative proposal put forward in the Commerce Department options paper followed the same general outline. We urged the committee to move ahead and hold hearings on the concept before the end of this month, so that an amendment could properly be offered at the markup of

omnibus tax reform legislation, which will begin soon.

Mr. Speaker, I wish to emphasize the specific recommendation of the options paper. This is what the Commerce Department recommended to the President:

The Internal Revenue Code should be amended to permit qualified businesses to set aside a portion of their pre-tax income to fund a specific reserve for self-insurance against product liability and related costs.

Consequently, it is my hope that we soon will be able to count on the administration's support of our efforts to bring some relief to those suffering the most from the continuing product liability insurance dilemma. Prompt action by the Ways and Means Committee would be welcomed by thousands of small businessmen throughout the United States.

At this point in the RECORD, I wish to insert two sections of the Department of Commerce options paper on product liability. The first is the general discussion of the option of facilitating self-insurance. The second is the specific recommendation to do so. The text follows:

Option 4: Amend the Internal Revenue Code to permit qualified businesses to set aside a portion of their pre-tax income to fund a specific reserve for self-insurance for product liability claims.

The Internal Revenue Code permits a business to deduct a product liability loss from current earnings after a loss has been suffered. See Int. Rev. Code of 1954, § 165. Likewise, the payment of product liability insurance premiums is a tax-deductible expense. In contrast, if funds are set aside in a self-insurance trust, they are not deductible.

The product liability problem might be alleviated for some businesses if they were permitted to set aside a portion of their pre-tax income to fund a specific reserve that would be a form of self-insurance for product liability claims. The fund would pay for settlements and judgments in product liability lawsuits and possibly defense and investigation costs. The Code would be amended so that specific contributions to this fund would be tax-deductible and the fund would not be subject to the accumulated earnings tax. A model act (with section-by-section explanatory commentary) is set forth in Tab C.

PRO

This remedy will encourage small businesses that are now "going bare" to set aside funds in a self-insurance trust; thus, it will help assure that consumers obtain a full tort recovery.

It will permit small businesses that have a good safety record to obtain a practical benefit from that record. At present, most product liability insurers do not allow small businesses to benefit directly from a claim-free experience. See TFR at p. VI–26.

By stimulating greater use of self-insurance, it should reduce demand for product liability insurance (particularly for some adverse risks) and increase its availability, thereby reducing costs.

Perhaps the greatest benefit of the remedy is that it will permit businesses to make greater use of deductibles—this in turn will reduce their insurance costs.

It may encourage product liability loss prevention techniques since the manufacturer's own funds are at risk.

It will give companies more control over litigation, perhaps reducing settlements and actual costs.

Because bills already exist, this remedy could be implemented quickly.

It may encourage insurers to be more accurate in rate setting because of the potential competition of self-insurance.

A properly structured bill would involve less long-term expense than federal insurance or reinsurance programs.

This approach could be implemented without a new bureaucracy.

CON

The proposal will benefit only those small businesses with product liability problems that can afford to set aside funds in a reserve. (Approximately 40 percent; see National Federation of Independent Businesses Survey, p. 13, 1977).

Unless carefully designed with appropriate penalties, the device could become a new tax loophole.

The device could become a troublesome precedent for additional tax deductions for self-insurance against other risks.

Permitting reserves of this kind would not be in accord with the Financial Accounting Board Standards, which hold that financial statements can be misleading if a company establishes such reserves.

DEPARTMENT OF COMMERCE'S RECOMMENDATIONS

(The Internal Revenue Code should be amended to permit qualified business to set aside a portion of their pre-tax income to fund a specific reserve for self-insurance against product liability claims and related costs.)

Permitting qualified businesses to set aside a portion of their pre-tax income to fund a specific reserve for self-insurance against product liability claims and related costs has the potential of providing immediate relief to both small and large businesses affected by the product liability problem. The principal way it will help small businesses is by allowing them to utilize higher deductibles and thus lower the cost of their product liability insurance. This remedy will also encourage the use of product liability loss prevention and may, by reducing demand for product liability insurance, serve to reduce its price.

The remedy will not meet the needs of all small businesses—some of them have insufficient capital to utilize it. Also, unless carefully structured, it could establish a new loophole in the Internal Revenue Code. The Department has given very careful consideration to this aspect of the remedy and has drafted a model bill (with a section-by-section analysis) (Tab C). It has forwarded the bill to the Department of Treasury for a tax evaluation. The Department recommends that the Administration circulate the bill for commentary by all appropriate agencies.

There is strong congressional interest in this remedy and there may be an attempt to enact it in the Second Session. Therefore, the Department recommends that a prompt decision be made regarding its proposal.●

## PANAMA CANAL GIVEAWAY TREATY: LATEST COMMUNIST THREATS EXPOSED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

● Mr. FLOOD. Mr. Speaker as one of the principal crossroads of the world, the Panama Canal has long been an alluring subject for writers. One of these contributors is Allan C. Brownfeld, a well-known Washington journalist, who recently visited the isthmus and has provided information not well covered by other correspondents in connection with a current treaty proposal now under construction by the U.S. Senate.

In an article, published by Human Events, he emphasizes significant points in the isthmian situation, among them the following:

First. That control over the Panama Canal has long been an objective of the U.S.S.R.

Second. That the only authorized political party in Panama is the Communist Party.

Third. That its members have become increasingly aggressive and now hold high positions in the Government and school system of Panama and that one of them was a treaty negotiator.

Fourth. That Panama is now closely allied with Soviet Cuba and may quietly fall into its orbit.

Fifth. That responsible Panamanians have become disillusioned with the U.S. practice of boosting Communists.

Mr. Speaker, because the indicated article further exposes a major State Department fallacy in arguments for ratification of the proposed Panama Canal Treaty that would surrender the Canal Zone to Panama to "restore better relations" with all of Latin America, I quote it as part of my remarks:

[From Human Events Apr. 22, 1978]

MANY PANAMANIAN OFFICIALS ALARMED BY TORRIJOS' TIES WITH CASTRO

(By Allan C. Brownfeld)

PANAMA CITY, PANAMA.—Although the Carter Administration downplays the connection between Panamanian dictator Omar Torrijos and Fidel Castro, informed sources in Panama itself are concerned about where the close friendship between the two will lead. They are concerned, in addition, with the role being played in the Panamanian government by self-proclaimed Communists and point out a fact with which few non-Panamanians appear to be acquainted—that the Communists are the *only* real political party in today's Panama.

In a long conversation with this writer, held in the office of an American businessman in Panama City, a former high-ranking Panamanian diplomat, who must be un-named because of the very real possibility of reprisals by the Torrijos government, declared, "Torrijos is a good friend of Castro. The U.S. State Department says that Torrijos went to Cuba and was disappointed. But the fact is that Torrijos simply told the people in the U.S. what they wanted to hear."

"Under the Torrijos government, the Communists have become increasingly aggressive in Panama. Communists now hold the positions of Minister of Labor and Rector of the University. A known Communist was one of the negotiators of the canal treaties."

In Panama, this former diplomat pointed out, the Cuban Embassy is the largest of all. He noted that "It has its own equivalent of the U.S. AID program. It conducts sports programs in the rural areas. It is into everything. A great deal of money is coming into Panama to conduct these subversive activities. In 1969, most political parties in Panama were eliminated. The only party which is permitted to exist at the present time is the Communist party. Torrijos himself has no party. The Communists are entrenched in government, they are indoctrinating children in the schools. Our textbooks denounce the U.S. for what they call 'imperialism.'"

So filled with propaganda are the Panamanian public schools, it was reported, that the children of Panama's business community—and even many government leaders—attend the Jewish-sponsored Albert

Einstein Institute. Even Torrijos' own children attend this school.

Those Panamanians, such as this former ambassador, who seek a democratic Panama and oppose not only Torrijos' ties with Castro and communism but also his repression within Panama—his denial of free speech and free elections, are disillusioned with U.S. policy. President Carter's human rights policy, they argue, seems to be for everyone but Panama.

"The policy-makers in Washington," this critic declared, "are simply prepared to be conciliatory. Andrew Young boosts Castro. Democracy has proved to be so pussy-footing that people are fed up. Those who believe in a free society in Panama are strongly opposed to the manner in which the U.S. is handling itself. The U.S. has done nothing to get people on its side. The Russians have given 300 scholarships to Panamanian students to go to Russia to study. Many Panamanian families say, 'I must be a Communist, the Russians are educating my children.' The U.S. Embassy, on the other hand, only deals with the government. The U.S. State Department is constantly bringing enemies of the U.S. as guests to Washington. It makes no sense."

Another critic of President Torrijos, Alen Beliz, who formerly was a New York Times representative in Panama and served with the U.S. State Department—and is now in private business, says that Torrijos remains the dictator he has always been—despite some cosmetic changes. "Torrijos," he declared, "has eased up somewhat because President Carter persuaded him it was necessary to gain approval of the treaties. Torrijos is two-faced: pleasant abroad, and tough within Panama. Torrijos is backed by the U.S. government even though he is totally corrupt and closely tied to Castro. The President is concerned for human rights elsewhere, why not in Panama?"

It is very difficult for Panamanians, Beliz noted, to see President Carter refer to Torrijos as a "good dictator." Castro, he declared, "is trying to infiltrate Panama, and is succeeding. There is the play of the cat and the mouse between Castro and Torrijos. Usually, the cat ends up by eating the mouse."

American journalists, Beliz lamented, "too often simply take the State Department line. Why don't they talk to the Panamanian exiles, many of whom are in Miami? All of the officers who came to power with Torrijos have now been exiled. Political parties are still outlawed. President Carter says that Panama has free elections, but this is not true. Andrew Young has made many mistakes by underestimating Castro's influence and his purposes. The others around the President—Hamilton Jordan, Jody Powell, etc.—simply have no experience with any of this."

Other businessmen described the corruption in Panama in great detail, although they wished to remain anonymous. Torrijos, for example, is said to have spent $300 million to produce sugar mills and is now selling sugar below the world market price to the U.S.—and losing millions. Torrijos built the new Panama airport on a swamp, and it cost millions to fill it. Torrijos' own company got a contract for $67 million. A cement factory which could have been built for $12 to $18 million ended up costing $94 million—because of corruption. Businessmen say that it will never pay for itself.

An Australian journalist resident in Panama argues that Torrijos is really no Communist at all, but simply an opportunist, trying to use both Castro and the U.S. to his own advantage. "But," he noted, "the Cubans are here in force, and are spending a good deal of money propagandizing the people. The local Communists are tightly knit and well-organized, while the other factions are not. There is always the danger that Panama will slip into Castro's Communist orbit very quietly, without even meaning to do it."

Non-political Panamanians, such as a bank employe, educated in the United States, simply do not understand what President Carter, a firm advocate of human rights, has in common with Omar Torrijos, a dictator who has no respect for any of the elementary freedoms. "Everyone I know," she said, "is against Torrijos. If former President Arias ran in a free election, he would win overwhelmingly. The U.S. violates its own principles by its conciliatory attitude toward Torrijos."

The Communists in Panama have without question been the leading advocates of the removal of U.S. influence from the canal—and the country. Last August, the Communists of Panama said, "The U.S.A. was compelled to give in as the result of the struggle of the entire Panamanian people of the unity of the worldwide anti-imperialist forces and the broad international solidarity."

The canal has long been a goal of the Soviet Union. The official Russian view of the American construction, ownership and maintenance of the canal has been permeated with indignation—and prophecy of eventual U.S. downfall.

Volume II of the massive *Istoriya Diplomatii* ("History of Diplomacy") by V. M. Khvostov, issued by the State Publishing House of Political Literature in Moscow in 1963, presents the original canal treaty and subsequent building of the canal as sheer robbery and shameless exploitation by North Americans, exceeding even such "juicy fruits of imperialist diplomacy" as Imperial Germany's contract for the Baghdad Railroad.

Now, with the acquiescence of the Carter Administration, the U.S. appears on the brink of relinquishing the canal. What Washington seems not to be aware of, however, is the firm infrastructure which Castro and his supporters have thus far constructed within Panama and within the Panamanian government. "Is the U.S. blind or does it not give a damn?" one Panamanian asked. No one in Washington, at this time, seems prepared to answer.●

## ABUSES BY THE FBI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, a few weeks ago I reported to the House the fact of an exchange that was most distasteful, disturbing and rather chilling with the Federal Bureau of Investigation. Without losing sight of the reason why I had made a request of the FBI, it will be actually 1½ years from my original request. I bring up the fact that the reason I have requested the FBI files and had to resort to the Freedom of Information and Privacy Act to do so was because I wanted to know how this agency had investigated threats against me which they themselves have reported to me and which were very disturbing, because it was obvious that the FBI verbal and fragmentary report did not answer the most disturbing questions of all, which are still very relevant and very disturbing. Since it involved my skin and my safety, naturally I am concerned.

What I have found out since I received the original files that were not made available to me until this last Friday when the FBI complied with my second request was a file that reflected more interest in what I was politically than in criminal threats.

Mr. Speaker, I found a file containing clippings about my filibuster against segregationist bills; I found a file that debated whether or not I should get a letter of congratulations on my election to Congress; a file that inferred I was questionable because, unbeknownst to me the FBI believed I somehow received Communist support in two unsuccessful campaigns; I found a file containing such things as a transcript of an old Drew Pearson broadcast which predicted I would be elected; a transcript which, Hoover was assured by his minions, said nothing about him or the FBI.

I found a file that reflected the insidious corruption of the Nation's most powerful and most respected police agency. The FBI became more concerned about its image than its deeds. Its topmost officials concerned themselves more with making Hoover happy than in keeping the country safe from crime or foreign agents.

I found a file in which, if Hoover was unhappy or expected to be, with some word or act of mine, he would be assured that I had received Communist support; but if he was happy with me, the file would reflect that the FBI had cordial relations with me. I knew nothing about any Communist support; the FBI's own records showed that I knew nothing of this unwelcome assistance, but nevertheless I was labeled as questionable. In its treatment of me, the FBI was no different from the Russian KGB. If you were to read from the "Gulag Archipelago" and read from my own FBI file, you would see no difference in values or judgments. That is the most terrifying thing of all, an American police agency with the same mindless preoccupations and judgments and base values of the KGB.

I saw a file in which not only was I slandered, but even a member of my own staff was called a louse though that same staff member had earlier received some of the highest security clearances our Government can give—not once, but twice—one clearance for CIA employment, and another for visiting an AEC plant.

I was and am interested in how the FBI goes about the business of fighting crime and preventing terrorism—about how it can protect me or any other Member of Congress from threats of violence, or how it investigates actual incidents of violence.

What I found is not reassuring. What I found is terrifying, because I found an agency no different in any respect from the secret police of any totalitarian state—in its outlook, in its methods, and in its sycophantic treatment of the feared and regal director. And I found an agency that allowed its own bias, its own prejudice, its own judgments discolor its true mission. If crime blossomed, and if organized crime grew apace, that did not concern them so much as whether anyone realized it or not. And those who realized the corruption and inefficiency of the FBI were to be corrected by the FBI, were to be hounded, were to be excommunicated. Thus, did our protectors become our enemies.

I wish Director Webster well, and I wish the Attorney General well. The FBI

needs to be reformed, because it has been rendered into a horrible caricature of its own zealously created and jealously guarded image of an efficient, intelligent, crime-fighting organization. The FBI as it is shown in my own personal files, became an image from the funhouse, corrupted from the top by a man who ran his own private empire, without direction or guidance from Congress or even the President. Is it still this way? Is the FBI still an empire obeying the slightest whim of mad men on high? For the sake of the country, I hope not. We shall see.

At this point I include the aforementioned letter:

U.S. HOUSE OF REPRESENTATIVES,
*Washington, D.C., April 17, 1978.*

Hon. WILLIAM H. WEBSTER,
*Director, United States Department of Justice, Federal Bureau of Investigation, Washington, D.C.*

DEAR MR. WEBSTER: I received and have read with growing amazement the contents of FBI files maintained on me, personally.

It is clear that the FBI reflected the whims and prejudices of its Director, and that these were, in turn, registered in files concerning me.

For example, whenever I made remarks that were deemed offensive to the Director, so-called background statements on me would include comments such as "a recipient of Communist Party support in his election campaigns . . .". At the time of my election to Congress, a memorandum to Cartha De Loach advised the Director not to send me a letter of congratulations, "in view of his backing by the C.P." Even before that, the FBI placed in my file newspaper clippings regarding my acitvity in behalf of civil rights and I cannot imagine any reason for this since nothing could have been less subversive than attendance at a NAACP meeting in Seguin, Texas. Nor can I imagine why the FBI would have been interested in such prosaic items as a Drew Pearson broadcast that predicted I would be elected to Congress.

While the FBI carefully labeled me as one who had received Communist support whenever it was felt the Director would be unhappy with me, it did indicate that there were "cordial relations" whenever it was believed the Director would be pleased with what I had said or done. Thus, the Director—like the naked Emperor—was always to be told what he wanted to hear. I cannot imagine a more insidious behavior by a Federal police agency.

You indicate, as the files do, that I had no knowledge of whatever supposed support I ever received from any Communist. Yet, time after time, the files reflect that the FBI disapproved of me on the grounds of this supposed report which even the files show I knew nothing about, never solicited, and would not have have tolerated if I had known of it. Throughout the files these references are, indeed, statements that are subject to broad and erroneous interpretation and which therefore ought to be struck. Further, I am entitled to a complete apology.

If evidence is needed that the FBI was subject to the making of personal remarks and observations, you need only turn to a memorandum of December 31, 1970, in which a member of my staff was characterized as "a louse". Solely because that assistant declined to provide information that the Bureau wanted in order to check out a critical comment included in one of my speeches. I inquire specifically of you whether you believe it accurate to characterize a staff member as "a louse" when I am certain that FBI files on that individual will show that he is entitled to, and has received, some of the highest levels of security clearances of our government.

These are serious matters and thus far I have received only cavalier treatment from the FBI concerning them. This is not the kind of justice that I believe in and it is assuredly not the kind of justice that the FBI is supposed to stand for.

I am entitled to and again repeat—expect—that my records will be cleared, that derogatory statement in them will be deleted, and that I will receive an apology both full and public.

Sincerely yours,

HENRY B. GONZALEZ,
*Member of Congress.*

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FEDERAL BUREAU OF INVESTIGATION,
*Washington, D.C., April 12, 1978.*

Hon. HENRY B. GONZALEZ,
*House of Representatives, Washington, D.C.*

DEAR CONGRESSMAN GONZALEZ: Reference is made to your letter dated February 22, 1978, and my letter of March 2, 1978, concerning your Freedom of Information Act (FOIA) request.

Enclosed are documents consisting of 276 pages which were indexed to your name, most of which relate to investigations of other events, organizations or individuals. In these instances, you are being furnished those portions of the file which pertain to you as well as additional information, wherever possible, to show the context in which your name was mentioned. Excisions have been made from these documents in order to protect materials which are exempted from disclosure by the following subsections of Title 5, U.S. Code, Section 552:

(b)(1) information which is currently and properly classified pursuant to Executive Order 11652 in the interest of the national defense or foreign policy;

(b)(6) materials contained in sensitive records such as personnel or medical files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy of another individual;

(b)(7) investigatory records compiled for law enforcement purposes, the disclosure of which would:

(C) constitute an unwarranted invasion of the personal privacy of another person. This exemption was used specifically to delete FBI agents names and information pertaining solely to other individuals;

(D) reveal the identity of an individual who has furnished information to the FBI under confidential circumstances or reveal information furnished only by such a person and not apparently known to the public or otherwise accessible to the FBI by overt means;

(E) disclose an investigative technique thereby impairing its future effectiveness. The technique used involved a lawful means utilized by the FBI to obtain information without revealing the identity of the Bureau.

The only documents not processed were those materials previously released to you on Februaray 13, 1978, and references to the President's Commission on the Assassination of President Kennedy in which your name appears, Volume VI, page 118; Volume VII, page 475; Volume XV, pages 76, 78; and page 57 in the main report.

Documents originating with the Secret Service and the U.S. Air Force have been forwarded to them for direct reply to you. One FBI document containing information originating with the U.S. Air Force has been referred for consultation. You will be notified concerning the release of information in this document upon its return to the FBI.

Your letter dated February 22, 1978, expressed concern over the comment that you are:

". . . considered a liberal who has received communist support."

A review of our files indicates no participation or knowledge whatsoever on your part regarding receipt of communist support. However, there is considerable information as to the unsolicited backing and sympathy by the Communist Party in your political campaigns for Governor of Texas in 1958 and for the U.S. Senate in 1961. This information is included in the portion of the material withheld under the (b)(1) exemption which, as explained on the previous page, relates to classified data. The material is exempt from declassification as its disclosure would compromise the identities of intelligence sources and/or methods. I sincerely hope you understand our position in attempting to release as much as possible while upholding the FBI's investigatory responsibility toward our nation's national security.

In addressing your request for expungement and amendment of our files, I am having your file and references reviewed to determine if there are, in fact, inaccuracies and in particular, statements that are subject to broad and inaccurate interpretation. I will advise you promptly of what action is proposed upon completion of our review.

Your request for a waiver of fees has been considered in accordance with the provision of Title 5, United States Code, Section 552 (a)(4)(A). This provision permits an agency to waive or reduce fees in the public interest when furnishing the information is considered as primarily benefiting the general public. The FBI received over 18,000 Freedom of Information-Privacy Acts requests during 1977 alone. It is not felt that a distinction can be made between your request and those of others wherein the primary benefit is to the individual personally as opposed to the public at large.

Therefore, pursuant to Title 28, Code of Federal Regulations, Sections 16.9 and 16.46, please forward a check or money order in the amount of $27.60, payable to the FBI, to cover duplicating charges.

You may appeal the decision concerning waiver of fees or the withholding of information as claimed pursuant to the exemption provisions of the FOIA, by writing to the Deputy Attorney General (Attention: Office of Privacy and Information Appeals), Washington, D.C. 20530.

Sincerely yours,

WILLIAM H. WEBSTER,
*Director.*

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## A BILL TO CREATE A CENTER TO EVALUATE MEDICAL PRACTICE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. WAXMAN) is recognized for 5 minutes.

● Mr. WAXMAN. Mr. Speaker, the United States is the world leader in science and technology despite the fact our research and development expenditures are a much smaller part of the gross national product than 10 years ago. This country has created a superb biomedical research organization devoted to the development of new knowledge about the human body in health and disease. It does not, however, have an agency with the responsibility for analyzing the applications of this research and for assessing the effectiveness and costs of current medical practices.

The lack of a center for the evaluation of medical practices, procedures, and techniques hinders the development of national health policy. It makes more difficult the development of a rational strategy to improve the quality of medical care.

What this means is we are using up our Federal health dollars reimbursing procedures considered outmoded or of questionable usefulness when funds could be spent productively to improve patients' health.

Our Nation's ability to pay the national health bill has a limit, so we must make the best use of the funds we have. Because the Federal Government has delayed in doing technology assessment the private sector has led the way.

In February, for example, Blue Cross and Blue Shield of Greater New York began phasing out routine payment of 41 surgical and diagnostic procedures considered outmoded or of questionable usefulness. The phaseout follows a recommendation made last year by the Blue Cross Association, and covers procedures identified as being of doubtful value to patients by the BSA in consultation with several specialty groups.

Dr. Julius B. Richmond, M.D., Assistant Secretary for Health, recently testified before the Senate Subcommittee on Health and Scientific Research of the Committee on Human Resources that the Department of Health, Education, and Welfare, is deeply committed to developing a technology management capability. He readily conceded that HEW has failed to direct adequate resources to technology evaluation.

Our present health programs fail to assess medical technology issues in a comprehensive manner.

The PSRO program represents an attempt to permit physicians to set and enforce standards of medical care at the local level. Unfortunately, in many areas of medical practice, local PSRO's must set very arbitrary standards of care because the knowledge needed to develop criteria of proven validity is simply not available, and local PSRO's have neither the resources nor the expertise to do research on medical care effectiveness themselves.

As we move toward national health insurance we will need to develop wise and effective strategies to control health care costs. It will be possible to define rational systems for cost control, only when we know more about the cost effectiveness of various medical practices, procedures, and techniques. I do not mean to suggest that we will be able to know everything we need to or even most of it. Nor am I unaware that decisions on cost control provisions of a national health insurance bill must take into account social and political considerations, as well as scientific issues. Nevertheless, I believe that a better understanding of the benefits, risks, and costs of commonly used medical procedures and techniques, would be of great assistance in establishing and administering a national health insurance program.

Some areas of medical practice are already being intensively analyzed by the NIH. For example, the indications for coronary bypass surgery and radical mastectomy are currently being thoroughly investigated. However, these studies represent isolated instances where the issues are of particular scientfic interest and where public scrutiny has been intense. Such random studies are not a substitute for a single center which will look at medical care effectiveness, not from the sometimes narrow viewpoint of the research scientists, but from the broader perspective of the overall quality of the Nation's health care and the need to make our health care system more cost effective.

This Center can provide a sounder structure for our current practices in health maintenance and case finding. For example, we have relatively little knowledge about the effect of Pap smears on mortality from cancer of the cervix and uterus. For decades, we have assumed that an annual Pap smear was an essential component of a preventive medicine program. In fact, many gynecologists are now advising their patients to have Pap smears every 6 months. A recent study suggests that biannual examinations would be adequate. If 40 million American women were to get a Pap smear biannually instead of annually, at a cost of $10, the annual saving would be $200,000,000.

Many physicians advise annual sigmoidoscopy for their patients over 40 as a means of detecting rectal and large bowel cancer at a curable stage. Yet a much simpler and less costly test—examination of stool for blood—is also available. The NIH has funded its first study of the effectiveness of stool blood testing in reducing death from colon cancer. But there are no careful studies underway on the added benefit of sigmoidoscopy, for patients who are having their stool tested. Physicians generally charge about $25 for sigmoidoscopy. Under a comprehensive health insurance program, as many as 80 million Americans would qualify for annual sigmoicoscopy at Government expense at a potential cost of $2,000,000,000 a year. Yet, we have no information on the effectiveness of this procedure when added to a stool testing program.

The most expensive part of our health care system is the hospital. Yet, indications for hospitalization are not helpful in most cases.

Lengths of stay for some conditions vary by as much as 100 percent from one part of the country to another. We know very little about why this is true and whether such variation can be medically justified.

The need for more thorough evaluation of new techniques is well known. The rapid growth in the use of computed tomography has been well publicized. While reliable data are not available, it seems likely that the majority of patients currently undergoing CT scanning have poorly defined symptoms such as headaches without objective evidence of neurologic diseases. The role of CT scanning in this clinical situation is unknown. Furthermore, there is no assurance that CAT scanners enable us to do more than spend millions on technology that identifies diseases for which there is no available cure; thus the expenditures in no way improve American health care.

We know very little about the effect of many other new techniques on health outcomes. For example, in many medical centers patients with heart failure are now attached to a Swan-Ganz catheter to monitor the functioning of the heart and lungs. Costs involved in the use of the Swan-Ganz catheter include the capital cost of the equipment, the physician's fee for inserting the catheter and costs for monitoring and interpreting the data which the apparatus procedures. The total true costs are probably hundreds of dollars per patient. Several hundred scientific articles have been written about the Swan-Ganz catheter, but none have documented its effect on patient survival.

What we are seeing today is the proliferation of purchasing expensive equipment and the perpetuation of procedures of limited medical value.

A center to evaluate medical practice can address the full array of technology assessment issues in American health care. It can examine if technology is indeed the cause of spiralling health care costs, or if technology actually saves us money by diagnosing and treating diseases faster than was ever possible previously. We must find ways to reduce the time it takes to transfer medical discoveries into daily medical practice. We must prevent premature use of technology which may have unproven value, and which may trigger long-term side effects in the patient. We must solve the problem of maldistribution of medical technology, which like our physicians is highly concentrated in large metropolitan areas, denying access to equivalent treatment in rural areas.

I have given a few examples of areas where more knowledge is needed before we can improve the quality of medical care in this country and make our health care system more cost effective. Obviously there are many others. It is time that we create a single organization at the Federal level to be responsible for this kind of research.

Some have argued that the function of the center that I have described should not be part of the mission of the National Institutes of Health. They argue that the NIH should concentrate on basic biomedical research and that another agency should be responsible for evaluation of medical practice. I do not agree.

The NIH is already heavily involved in the evaluation of medical practice in the form of clinical trials. No other Federal agency has the expertise and the ties to academic medicine which will be needed to conduct extensive evaluations of medical practice.

Others believe that adequate evaluation of medical practice can be done at NIH within the existing organizational framework. I think that a separate center can accomplish this task more effectively. By establishing a separate unit with an advisory council that includes representatives of the Office of Technology Assessment, the PSRO program, the National Center for Health Services Research, and the Social Security Administration, it is more likely that the issues which have the greatest impact on the health care delivery system will be examined.

Furthermore, by establishing a separate center with a separate budget, the fight for funds between basic research

scientists and those examining medical care effectiveness will be reduced.

Finally, some have expressed concern that a center for the evaluation of medical practice could rapidly become a regulatory agency—an FDA for medical practice. I believe such a development would be undesirable. Therefore, my bill specifically prohibits the direct or indirect use of the center in the administration of title XVIII or XIX of the Social Security Act.

If this country is to develop a rational, equitable, and efficient health care system, it will need to discover much more information about the components of current medical practice and their effectiveness. I believe that the creation of a center for the evaluation of medical practice will move us toward that goal.

At this point I include the following bill:

H.R. 12166

A bill to amend the Public Health Service Act to establish within the National Institutes of Health the Center for the Evaluation of Medical Practice

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That title IV of the Public Health Service Act is amended (1) by redesignating part I as part J, (2) by redesignating sections 471 through 476 (and all references to such sections) as sections 481 through 486, respectively, and (3) by inserting after part H the following new part:

"PART I—CENTER FOR EVALUATION OF MEDICAL PRACTICE

"ESTABLISHMENT OF CENTER

"SEC. 471. The Secretary shall establish within the National Institutes of Health the Center for the Evaluation of Medical Practice (hereinafter in this part referred to as the 'Center'). There shall be a Director of the Center who shall be under the authority of the Director of the National Institutes of Health.

"FUNCTIONS

"SEC. 472. (a) The Secretary, acting through the Center, shall conduct and support (by grant or contract) research on the evaluation of the effectiveness of medical practice and evaluations of—

"(1) diagnostic and casefinding techniques including assessment of their specificity, sensitivity, frequency of application safety, and cost;

"(2) therapeutic procedures including assessment of their benefits, costs, risks, and indications for use;

"(3) the appropriate use of facilities, equipment, and technology including indications for hospitalization and length of stay; and

"(4) the relationship between educational and training requirements for providers and the quality of care provided by them.

The Center shall give priority to research respecting those aspects of medical practice which are costly or widely used or both.

"(b) The Secretary, acting through the Center, may make grants to and enter into contracts with public and nonprofit private entities for (1) research projects on the development of new or improved methods of evaluating any aspect of medical practice, and (2) for training in the evaluation of medical practice.

"(c) After the expiration of the one-year period beginning on the date of enactment of this part, the Secretary may administer through the Center programs or projects relating to the evaluation of medical practice which are authorized under other parts of this title. Sums authorized to be appropriated for fiscal years beginning after the expiration of such period under such other parts for such programs and projects may be appropriated for the administration of such programs and projects through the Center.

"(d) The Center may not participate, directly or indirectly, in the administration of title XVIII or XIX of the Social Security Act.

"ADVISORY COUNCIL

"SEC. 473. In carrying out this part, the Secretary shall consult with an advisory council which shall consist of eleven members appointed as follows:

"(1) The Secretary shall appoint one member of the advisory council from each of the following: The Office of Technology Assessment, the entity of the Department of Health, Education, and Welfare through which part K of title III of this Act is administered, the National Center for Health Services Research, and the entity of the Social Security Administration which administers title XVIII of the Social Security Act.

"(2) The Director of the National Institutes of Health shall appoint seven members. Of the members appointed by the Director, at least one shall be a distinguished physician, at least one shall be a distinguished scientist, and at least two shall represent the interest of consumers of health care.

The advisory council shall meet at least three times each calendar year, and it may hold such hearings and investigations as it considers necessary to enable it to advise the Secretary with respect to the administration of this part. Members of the Council who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the duties of the Council compensation at rates not to exceed the daily equivalent of the annual rate in effect for GS–18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States code, for persons in the Government service employed intermittently.

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 474. (a) To carry out this part (other than section 472(c) thereof), there are authorized to be appropriated $25,000,000 for the fiscal year ending September 30, 1979, $50,000,000 for the fiscal year ending September 30, 1980, and $75,000,000 for the fiscal year ending September 30, 1981.

"(b) Of the sums appropriated under subsection (a) for any fiscal year not more than 25 per centum of such sums may be obligated for grants and contracts under section 472 (b)(2) and at least 10 per centum of such sums shall be obligated for research conducted directly by the Center."●

## THE PAPERWORK REDUCTION ACT: A NECESSARY BEGINNING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 5 minutes.

● Mr. REUSS. Mr. Speaker, today I am introducing H.R. 12158, a bill entitled the Paperwork Reduction Act of 1978. This legislation will help reduce the excessive amount of paperwork which daily confronts both business and consumers.

Each of my colleagues is certainly familiar with the constant refrain of our constituents—cut out the redtape and relieve us of the paperwork burden. Obviously, there are those who oppose any regulation and paperwork. I have no sympathy for such sentiments and find them both unrealistic and, in many instances, self-serving. Regulation and the paperwork that necessarily accompanies it are not bad per se. Most Americans are willing to bear their share of regulatory responsibility.

But regulation and paperwork which fail to achieve congressional intent, or achieve the intended purposes at a price far in excess of the intended benefit, must be stopped. Recently, a city school system decided to forgo a $4,000 Federal grant, because it would have cost $6,000 in man-hours and paperwork to obtain such a grant. Fifteen employees of a small business firm lost their pension plans, because their company simply could not comply with the avalanche of Federal paperwork. We all know the examples could go on and on. However, these two examples, cited in the final report of the Commission on Federal Paperwork, are most telling.

Paperwork resulting from Federal legislation can be a form of "hidden taxation." To avoid this, the paperwork implications must be considered right from the beginning of any legislation that requires Federal regulation. The paperwork required must not be left solely to the determination of executive agencies anxious to protect themselves from criticism by overregulating, and Congress must continually reexamine each program it legislates. Only through a meticulous review of existing programs can we determine whether these programs have achieved their original intentions.

We must find a process to weigh the benefits of legislation against the cost of compliance, and the Paperwork Reduction Act of 1978 would be a good beginning. This act incorporates several of the recommendations of the Commission on Federal Paperwork. Title I would amend various sections of the Truth-in-Lending Act to reduce the paperwork burdens in consumer credit transactions. Title II would amend the House rules to require a paperwork assessment to accompany each bill reported from committee. Title III would establish procedures to eliminate duplicative and unnecessary Federal reporting requirements. Each of these titles would go far toward easing the burdens of Federal paperwork.

Title I focuses on the Truth-in-Lending Act, because it is one of the more obvious and pervasive examples of legislation that sought, and I believe achieved, a worthy social objective—to tell borrowers what their actual costs are. Truth in lending began as, and remains, a necessary effort to assist consumers in making informed credit choices. The basic problem with truth in lending at present is that its numerous disclosure requirements and technical regulations often achieve counterproductive results. Borrowers are confused by the number of forms accompanying what should be a simple transaction and, more importantly, are unable to digest and understand the information provided by these forms. Lenders, especially small business, complain that compliance is extremely difficult and costly. Inevitably,

the cost of compliance is passed on to the borrower.

Some small creditors have gone out of business, because they could not afford to change their credit forms every time the Federal Reserve Board changed or amended its regulations. Other small creditors have complained that no matter what they do, even after consulting with the Federal Reserve Board, they may still be in violation of the act and subject to its penalties. This bill would eliminate those kinds of horror tales by requiring a standard form to be issued by the Board. With that, the small business person, who remains the backbone of our economy, could be assured that he or she would be in compliance with the Truth-in-Lending Act.

This legislation would also provide that all consumer contracts and agreements subject to truth-in-lending requirements be written in clear, simple, and comprehensible language. We are all too familiar with contracts and disclosure agreements that are heavily laden with legal gobbledygook which requires a battery of lawyers to decipher. This bill attempts to end such obfuscation. Every consumer deserves to know what his credit obligations are, and should be able to determine such obligations from the face of the agreement without hiring a lawyer. Truth-in-lending does not need to be a lawyer's relief act. This legislation will redirect truth-in-lending to its original purpose—providing borrowers with all necessary facts in simple English.

I am not the first to recognize the need to simplify the Truth-in-Lending Act. Among others, our colleagues Representatives ROSENTHAL, SPELLMAN, and WYLIE have been champions in this cause. I salute their work, and am proud to add my support to their efforts. I know that when Representative ANNUNZIO, the distinguished chairman of the Consumer Affairs Subcommittee, considers amendments to the Truth-in-Lending Act he will look carefully at all the proposals that have been advanced to simplify the truth-in-lending laws.

Title II, requiring a paperwork impact statement with each piece of legislation, would force Congress to focus formally on the paperwork consequences of its legislative mandates. As the Paperwork Commission reminded us, "legislation is the root cause of paperwork." We in the Congress must take the lead to insure that each legislative requirement for information is both necessary and manageable, and that the reporting requirements we mandate are the least burdensome and least onerous ways to obtain this information.

Finally, title III would terminate the authority of Federal agencies to gather statistics, effective 5 years after enactment of this bill, unless the authority is reauthorized by Congress—in effect a "sunset law" for data-gathering. Certain exceptions are provided for national security areas and small operations costing less than $2,500 and requiring fewer than 25,000 respondents and for the census which is constitutionally required. Title III would also establish a catalog of Federal statistical activities so that requests for information gathering could be checked for possible duplication of existing requirements in any agency, and a computer processing system to keep the catalog up to date.

Recently, the American Statistical Association and the National Science Foundation conducted a study of Federal information gathering systems. The study concluded that many Federal surveys failed to meet their specific objectives. The 1970 census was a good example of a faulty survey which was certainly less than scientific and accurate in one case I am familiar with, the survey of the city of Milwaukee. Unfortunately, faulty census gathering results in improperly formulated programs and fails to provide an accurate basis for the allocation of funds to State and local governments. Title III is designed to prevent unnecessary, duplicative, or wasteful statistical exercises. It should also reduce the hazard of faulty information gathering by centralizing Federal statistical requests.

Of course, this legislation will not completely eliminate all of the paperwork that Americans must confront daily. But I do think this legislation begins, as we must do, to address this nagging and often frustrating feature of American life. I hope my colleagues will join me in this campaign to eliminate unnecessary Federal paperwork. A section-by-section summary follows:

SECTION-BY-SECTION SUMMARY

Title I. Section 101. Provides that the title may be cited as the "Truth in Lending Simplification Act".

Section 102. This section exempts agricultural transactions from the Truth-in-Lending Act.

Section 103. This section permits, for both open- and closed-end credit plans, a simple statement that a security interest is held in the property for which the credit was extended. It would no longer be necessary to include a long, technical and often confusing description of the security interest. Moreover, if the creditor acquires a security interest in property other than that for which the credit was extended, only a general description of that property would be required.

Section 104. This section amends the Fair Credit Billing Act to eliminate the semiannual notices required of creditors. Consumers would be advised of their rights at the time they receive their bills, when presumably they would be more likely to take notice.

Section 105. This section directs the Federal Reserve Board to issue model forms and clauses to facilitate creditor compliance with the Act. Creditors who properly use the appropriate Board-issued forms would be deemed to be in compliance with the Act.

Section 106. This section permits creditors to use disclosure forms which do not conform to new regulations for a period of time after the regulations are effective, requiring changes in forms only once a year.

Title II. This title amends the Rules of the House of Representatives to require paperwork evaluation statements to be included in House committee reports. These evaluation statements would indicate whether the paperwork requirements exceed the intended benefits of the new legislation.

Title III. Section 301. Provides that the title may be cited as the "Federal Statistical Activity Control Act of 1978".

Section 302. Provides that the purpose of the title is to coordinate Federal information gathering to ensure that the information gathered is necessary and provides the greatest return to taxpayers on their tax dollars. In addition, the title is intended to strengthen Congressional oversight with respect to Federal information gathering.

Section 303. This section adds a new chapter (summarized below) to title 13 of the United States Code entitled "Regulation of Federal Statistical Activity".

Section 401. Definitions of the following terms are provided in this section: "Federal statistical authority", "Federal statistical activity", "agency", "respondent", "statistical purposes".

Section 402. This section requires the President to establish a compilation of Federal statistical activities and submit the compilation and a report to Congress outlining the purposes of the activities, the authority for them, the number of respondents and the costs of the activities. The section also requires that the compilation be updated on a continuous basis.

Section 403. This section terminates the authority of Federal agencies to gather information after a five-year period unless the authority is reauthorized by Congress.

Section 404. The Bureau of the Census is directed to provide to any Member of Congress or committee any appropriate information to aid in the evaluation of existing or proposed Federal statistical authority.

Section 405. This section permits the Director of the Office of Management and Budget to exclude from the definition of Federal statistical activity any activity which has fewer than 20,000 respondents, involves the expenditure of less than $250,000 per year of Federal funds, and which does not have as a respondent any unit of State or local government. Exclusions made by the Director under this section may be vetoed by either House of Congress.

Section 304. This section requires that committee reports of bills which provide for new Federal statistical authority contain a detailed statement on the costs and benefits of the statistical activity authorized by the bill.●

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## FRAUD IN FEDERAL GOVERNMENT MAY EXCEED $12 BILLION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. FOUNTAIN) is recognized for 5 minutes.

● Mr. FOUNTAIN. Mr. Speaker, tomorrow the House will consider H.R. 8588, a bill to establish Offices of Inspector General in 12 Federal departments and agencies. The mission of these offices will be to conduct and supervise audits and investigations and to provide leadership and coordination for other activities designed to promote economy and efficiency and to prevent and detect fraud and abuse in Federal programs.

In this connection, I should like to insert in the RECORD and call to the attention of my colleagues articles which appeared in the New York Times yesterday and today concerning large-scale, systematic fraud against the Federal Government:

[From the New York Times, Apr. 16, 1978]

FRAUD IN FEDERAL AID MAY EXCEED $12 BILLION ANNUALLY, EXPERTS SAY

(By Anthony Marro)

WASHINGTON, April 15.—Fraud in Federal aid programs has grown to the point at which, some experts say, its annual cost may exceed $12 billion. But many agencies have not yet established the mechanisms to detect, let alone prevent, fraud in their programs.

That is the assessment of a cross section of prosecutors, Congressional investigators and Government officials who said in recent

interviews that the Federal Government has been so negligent in monitoring its own grants that it has permitted itself to become a major victim of white collar crime.

For the most part, the fraud is occurring in programs designed to provide services, training and aid to the disadvantaged: food stamps, health care, job training and housing aid.

But it is not the classic case of the welfare mother who cheats. Much of the fraud is committed not by the poor persons receiving the benefits, but by relatively well-to-do doctors, pharmacists and businessmen who have contracted with the Government to provide services and then set out to defraud it intentionally and systematically.

There are no precise figures for the amounts lost each year because of fraud. Mark M. Richard, chief of the fraud section of the criminal division of the Justice Department, says that the mechanisms for detecting fraud in many agencies are so weak that "the data base just isn't there."

"FRAUD, ABUSE AND WASTE"

But a recent report by the Inspector General of the Department of Health, Education and Welfare estimates that at least $6.3 billion to $7.4 billion was lost through "fraud, abuse and waste" last year in that agency alone.

And at a recent seminar on white collar crime, an official of the General Accounting Office, the investigative arm of the Congress, estimated that outright fraud in Federal economic assistance programs could amount from $12 billion to $15 billion a year and perhaps as much as $25 billion a year. The current annual budget of the State of New York is $12 billion.

Largely because of attention generated by a series of dramatic Congressional hearings and a string of critical audits by the accounting office, there has been a growing awareness of the extent of such fraud.

Among the problems and weaknesses cited repeatedly by persons familiar with fraud against the Government were these:

Relatively few resources have been committed to fight the problem. The fraud section, of the Justice Department's civil division, for example, has only 13 staff attorneys and three supervisors to handle a load of about 1,200 active cases and a backlog of about 4,000 referrals.

Although the great bulk of the money in these programs comes from the Federal Government, the primary responsibility for policing them is often left to state and local prosecutors, who may lack the resources and expertise, and sometimes the enthusiasm, to do it. 'The fact is that the public is more concerned with so-called street crime," Mr. Richard says.

With the exception of the Department of Housing and Urban Development, which was the victim of major program frauds in the early 1970's, few agencies have redesigned their programs to minimize the potential for fraud or to make detection easier.

DIFFERENCE ON SCOPE OF OFFENSES

There is some evidence that many of those engaged in fraud do not consider it theft, or at least see it as a crime less serious than robbery or mugging.

"There's a feeling that people have that they can rip off the Government and it doesn't matter, that it isn't really a crime," says John Ols, the G.A.O. official who cited the $12 billion to $15 billion estimate. "But the fact is that every dollar lost in this way is a dollar that doesn't go to someone who needs it and who is entitled to it."

Mr. Richard, the Federal prosecutor, says that fraud against the Government results in social costs beyond the money involved.

"It's not only a violation of law, but it's an attempt to subvert a program, and this sort of thing affects us all," he said. "When someone manages to subvert a Federal program, he's done something to undermine the integrity of the system over and above the actual dollar cost."

Some evidence of the extent to which the "integrity of the system" has been subverted can be seen in the report by H.E.W., in prosecutions and civil suits by the Justice Department, in Congressional hearings and in audits by the G.A.O.

THOUSANDS COMMITTING FRAUD

Taken together, they present a picture of thousands of persons—many of them well-educated, middle-class citizens—engaged in schemes that range from pennyante abuses of food stamp programs to alleged fraud in massive, multimillion-dollar grain deals.

They include William C. Sibert, a former employee of the Department of Transportation who was charged with embezzling some $856,000 by putting his own name on checks intended for the construction of a subway in Atlanta.

Asked by a judge how this could happen, the Federal prosecutor is said to have replied: "Your honor, he posed as a subway system."

The cases include that of a doctor who allegedly billed H.E.W. for seven tonsillectomies on the same patient; the daughter of a Civil War widow who continued to collect "widow's benefits" for two decades after her mother had died and the officials of a health plan in California who persuaded some people to sign enrollment forms by telling them that they were signing petitions to impeach Ronald Regan, who was then the Governor.

They also include the case of William F. Wilson, a dentist in South Carolina who is now in prison after being charged with, among other things, extracting healthy teeth from poor children so that he could collect fees from a Medicaid dental plan.

"It was just awful," said Joel W. Collins, the Assistant United States Attorney who prosecuted that case. He said the dentist had been found to have billed the Government for thousands of dollars worth of work not actually performed as well as for work that was not required.

"BROKE YOUR HEART"

"There was one girl about 13 years old who only had about three teeth left in her mouth," Mr. Collins said. "Looking at her just broke your heart."

Many of the cases disclosed in recent prosecutions and investigations are far more complex and involve larger sums of money.

Item: The Federal Government is trying to recover $24 million in damages from Cook Industries, which it contends defrauded the Government on grain shipments to 32 foreign countries. The suit, which is the largest civil suit the Justice Department is pressing in a fraud case, charges the company with having shortweighted, misgraded or adulterated grain shipments.

Item: The H.E.W. report, while saying that the estimates of dollars lost through "fraud, waste and abuse" might not have been more than 5.4 percent of its total budget of $136.1 billion, nonetheless concedes that the percentage was far higher in some programs. It said, for example, that at least 24 percent of its Medicaid funds had been misspent and concluded on the basis of a preliminary and hurried investigation that "criminal prosecution potential" exists in cases involving at least 290 physicians and 245 pharmacists.

Item: After paying nearly $5 million in vocational training benefits for veterans enrolled in a "barber's school!" in Puerto Rico the Veterans Administration discovered that the bulk of the 1,000 veterans it intended to aid had never actually taken the courses and that the "school" was little more than a store-front.

The proprietor, Romanita Garcia, eventually was jailed, and the Government has since recovered about $500,000 through a civil suit. But the rest was lost in what Federal prosecutors say was a classic case of fraud, much of it going to veterans who were not taking the courses they had reported taking, and much of it going to the businesswoman who was not providing the instruction she had promised.

Many fraud cases are fairly uncomplicated, relying less on careful planning than on the assumption that the Government cannot or will not audit its expenditures.

In many of the Medicaid fraud schemes, for example, doctors simply billed the Government for services not rendered or overcharged for services that were rendered. In many of the vocational education frauds, schools, sometimes with the aid of "students" who shared their Government benefit checks, simply enrolled veterans and billed the Government for training, even though the veterans never attended classes.

Often, this has involved some collusion with persons in the bureaucracy. In its investigation of prepaid health plans in California, a subcommittee headed by Senator Sam Nunn, Democrat of Georgia, discovered an official of H.E.W. who allegedly had accepted money and a car from a contractor whose grants he had approved. And as a result of an investigation of fraud in its educational training programs last year, the Veterans Administration, according to a recent report, meted out to its employees "one suspension, two demotions, 16 reprimands, 15 admonishments and 36 counselings."

FEW INSIDE ACCOMPLICES

Virtually all of those familiar with the programs agreed, however, that outsiders did not need, and in most cases did not have, inside accomplices to help them defraud the Government.

The fraud is not confined to social welfare and economic assistance programs. Although there are no estimates of fraud in military contracts and other forms of procurement, J. Roger Edgar, the head of the fraud civil division, estimates that fraud in defense contracts accounts for 30 percent to 40 percent of his workload.

One typical case handled by his office resulted in the Government's recovery of $600,000 from a contractor who had been accused of using scrap metal rather than new materials in the catapults that launch aircraft from the carrier U.S.S. *Forrestal*.

In the past, Government officials say, the public and law enforcement figures were more concerned with other crimes, particularly organized crime and narcotics and street crimes, and fraud was not perceived as a major problem.

Even where there was heavy policing of fraud programs, they said, it often focused on welfare mothers who were believed to be obtaining benefits to which they were not entitled rather than on calculated and sophisticated fraud.

According to Richard L. Thornburgh, a former head of the criminal division, the Department of Justice did not even have a strategy for dealing with program fraud before 1972 and thus failed to detect many of the schemes to defraud Federal programs that are now known to have taken place.

"ERROR" OR "ABUSE"

One reason that estimates of the amount of fraud are so vague, sources said, is that many Government officials refuse to call fraud what it is, preferring to dismiss it as "error" or "abuse."

Another is that Federal audit cycles are so long that often fraud is not detected until years after it has taken place. In the case of Mr. Sibert, who allegedly embezzled the $856,000 from the Department of Transportation, the program that the money was taken from was not scheduled to be audited until eight years later, though the applicable statute of limitations runs only five years.

"It was a fluke that we caught him," said one Federal prosecutor. "If he hadn't aroused so much suspicion by spending so much money, the statute of limitations would have lapsed before we even knew the money was gone."

According to many of the sources, the problem is not just with the agencies, but with a lack of commitment by the Justice Department.

An indication of this can be seen in the limited resources of the civil fraud section headed by Mr. Edgar. Last year, it managed to recover about $8 million through civil suits against persons accused of defrauding the Government. It won numerous other suits against persons who did not have the resources to pay.

This, according to colleagues in other parts of the department, was an impressive performance for so small a staff, though it accounted for only a tiny fraction of the billions estimated to have * * *.

"There are a lot of cases that are going to have to be handled, and I'd like to know who is going to handle them," said one recently retired prosecutor. "If you start talking about a $6 billion problem at H.E.W., where are the bodies going to come from?"

A number of prosecutors and former prosecutors agree, noting that last year H.E.W. found suggestions of fraud by more than 13,000 persons in one welfare program alone and that since then several other agencies have begun similar internal investigations.

Griffin B. Bell, the Attorney General, has said repeatedly since taking office 14 months ago that fraud against the Government is a major concern and will be a top priority of the Justice Department.

To date, he has assigned nearly 200 agents of the Federal Bureau of Investigation to audits of health care programs and has added 13 staff lawyers, at least temporarily, to the 33-person staff in the criminal fraud section headed by Mr. Richard.

Although most of those interviewed argued that many more resources would be needed at both the state and Federal level, Mr. Richard said that he believes a strong commitment has now been made.

"You're dealing with an area that has been virtually ignored over the years in deference to other priorities," he said. "We are playing catch-up ball, and it's not going to be done overnight."

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[From the New York Times, Apr. 17, 1978]

U.S. AGENCIES STARTING TO BOLSTER MEAGER DEFENSES AGAINST FRAUD

(By David Burnham)

WASHINGTON, April 16.—The Department of Transportation last year assigned only four inspectors to detect fraud and abuse in the $6 billion Federal highway program.

The Veterans Administration had only one auditor for every $238 million provided it by Congress.

The Labor Department devoted only three one-hundredths of one percent of its $23.5 billion budget to investigations and audit.

As these examples suggest, the Government's defense against fraud has been meager. But there are some preliminary signs that Congress and various agencies are beginning to move to stanch the annual flow of billions of tax dollars to dishonest executives, hospitals, schools, doctors, banks, welfare recipients and others who try to bilk the Government. Among these signs are the following:

The House of Representatives is expected to approve on Tuesday legislation mandating the establishment of a central, semi-autonomous office of inspector general in 12 Federal agencies that each year spend $100 billion.

Attorney General Griffin B. Bell, in his first year in office, has sought to increase the efforts of the Justice Department, the Federal Bureau of Investigation and the 94 United States attorneys to combat white-collar crime, particularly fraud against the Government. Although some experts believe that his personnel allocations have not kept pace with his statements, the Attorney General has emphasized this effort in a series of speeches in which he promised new attacks on white-collar crime. "One serious aspect of white-collar crime is fraud against the Government, including Medicare and Medicaid programs," he said in a speech to the bar association in Little Rock, Ark. "But fraud is too nice a term. It is theft of Government funds, and that really means stealing from the public."

In response to a law approved by Congress in 1976, largely at the urging of Representative L. H. Fountain, Democrat of North Carolina, the Department of Health, Education, and Welfare has created a unified and still growing Office of Inspector General, which has begun trying to improve the detection and prevention of fraud and mismanagement in the department's 320 programs.

The Law Enforcement Assistance Administration, a branch of the Justice Department, has made a series of grants to help local prosecutors improve their ability to deal with economic crimes and to assist states in adopting model laws on purchasing and contracts designed to reduce the opportunities to steal from the Government.

NEW EFFORTS TO REDUCE FRAUD

Interviews with a cross section of officials and former officials further indicate that a number of agencies, responding to the pressure developed by Mr. Fountain in hearings of his House Intergovernmental Relations Subcommittee, have begun to increase their efforts to reduce fraud.

Allan L. Reynolds, the recently appointed inspector general of the Veterans Administration, for example, is in the process of tripling his audit and investigation team, expanding it to 325 persons as against about 100 at the end of last year.

Secretary of Labor Ray Marshall announced last week the formation of a permanent office of special investigations to deal with fraud and mismanagement in his department's programs.

Despite these and other steps, however, many officials cited a variety of continuing psychological, sociological and programmatic pressures that mean the Federal Government is still an easy mark.

LACK OF BUILT-IN INCENTIVES

Simply put, the Government lacks some of the built-in incentives to protect itself from fraud that an individual or a business concern has.

An individual has limited resources to spend and normally is quick to notice when he is being cheated. Corporate managers must answer to stockholders if they are being cheated and must disclose the situation on their balance sheets.

But Government administrator's handle money that belongs to no one because it comes from everyone, and they often deal with people they have never seen and to whom they are not immediately accountable.

Charles F. C. Ruff, the fourth Watergate prosecutor, now the deputy inspector general of the Department of Health, Education, and Welfare, touched on the matter in a recent interview.

Some of the "inducements to heightened criminality," he said, include "very few controls on how the money is spent, no immediate victims" and low odds that an offender will be caught. He added: "No one is really being hurt."

Mark M. Richard, head of the fraud section in the Justice Department's criminal division, said, "The problem with fraud, and with most white-collar crime, is in showing the significance of what was done. It's not a sexy area."

Moreover, Government officials may be disciplined to root out corruption because to do so might reflect badly on their programs and ultimately damage their careers. Most of those interviewed said that program managers frequently had an allegiance to the clients or administrative system their programs were serving, a factor that often undermined efforts to improve accountability.

Mr. Reynolds, the inspector general at the Veterans Administration and for almost 25 years an auditor at H.E.W. and the Interior Department, said: "There is a motivation among many program people toward the client or industry—by this I mean a school or hospital system—that they are serving. They don't have a high level of concern, characteristically, about preventing fraud and abuse."

He emphasized that he had not been at the V.A. long enough to make generalizations about that agency.

Robert R. Elliott, the former general counsel of the Department of Housing and Urban Development, said that administrators of Federal programs had "a tremendous tendency" to decide that people stealing from the Government were doing so by accident rather than design. "It doesn't help a program if its constituents are viewed as frauds," Mr. Elliott said "Who wants to find his own program full of frauds?"

MEALS FOR 2.4 MILLION

Administrators of programs and the sponsors of them in Congress, tend to concentrate on the social problems their programs are designed to alleviate and sometimes look upon controls to prevent fraud as a hindrance.

The summer food service program for children, for example, in recent years has provided meals to 2.4 million children at more than 16,000 places throughout the United States.

But the General Accounting Office has investigated the program and uncovered indications of kickbacks, bribes, improper bidding procedures and questionable claims for payments.

Another explanation for the Government's failure to combat fraud more effectively is the sheer size and complexity of many programs. The Veterans Administration, for example, provides monetary benefits to more than six million people. In the fiscal year 1977, the Defense Department had $10,320,141 "procurement actions" in which it paid $10,000 or more for some item or service, according to Brent Rushford, who was recently named an assistant general counsel of the department with a specific mandate to reduce fraud.

Adding to this complexity is the fact that many Federal programs are run by state, county or city governments. The Labor Department's $15 million unemployment insurance program, for example, is administered by the 50 states. Its supervision at the Federal level consists of the part-time effort of six trained criminal investigators and 13 program analysts.

LETHARGIC ENFORCEMENT POSSIBLE

Such situations tend to breed lethargic enforcement. The experienced head of the fraud section in one Federal prosecutor's office said that if he was a local district attorney he would not be greatly concerned about the fraud against his city or county when as much as 90 percent of the funds lost came from Washington.

"I'd figure that if the Federal Government wants to throw away its money, let the

Federal Government prosecute the cases," he said.

Moreover, states and local governments are sometimes not eager to find corruption in the Federal programs because they might be held liable for the repayment of losses from their own budgets.

The General Accounting Office has suggested that Federal prosecutors, like their colleagues at the local level, frequently fair to prosecute those found to be stealing from the Government because of a lack of manpower.

According to one of its reports, almost two-thirds of the 1.2 million criminal complaints referred to Federal prosecutors in a recent six-year period were not prosecuted, at least in part for that reason. Furthermore, the G.A.O. found that in four sample offices 22 percent of the complaints on which the Government did not act "were considered prosecutable."

CONCENTRATION ON DETECTION

While the hearings by Representative Fountain's subcommittee and the statements of President Carter about the need for efficiency in Government appear to have heightened sensitivity to fraud against the Government, officials so far have concentrated on detection and prosecution rather than prevention. Yet it is in the area of prevention that many experts believe real improvements are possible.

For example, Mr. Richard of the Justice Department said that since neither the Federal nor state criminal justice systems could adequately cope with the fraud that existed, the Government should devise programs that were less subject to abuse.

Thomas D. Morris, H.E.W.'s inspector general, said that his office was beginning to get involved in shaping * * * they were proposed. Mr. Morris's deputy, Mr. Ruff, added that his hope was "to reduce fraud by simplifying government."

"If all we do is add new reporting forms, if all we do is make Government more complicated," Mr. Ruff said, "we might as well fold up our tent and go away."

But interviews with officials throughout the Government indicated that there was no concerted effort to prevent fraud.

NO PROJECT ON PREVENTION

Peter J. Petkas, director of the management staff of President Carter's Government reorganization project, said that this group had no across-the-board project concerning fraud prevention. Richard Berg, executive director of the United States Administrative Conference, an agency designed to improve Government procedures, said he could not recall any project by his agency aimed at reducing fraud.

And the Office of Management and Budget has repeatedly reduced the size of investigating and auditing branches in various agencies in the last few years.

According to a number of officials, one underlying explanation for the Government's broad failure to detect, prosecute and prevent fraud is that program managers frequently come from the constituencies they are serving, except to join them when they leave Government service or have financial interests in those areas.

"The revolving door is a contributing factor to this problem," Mr. Reynolds said. "Conflicts of interest in the sense of the ingrained biases of an administrator who comes from an industry he is responsible for, that is a tough problem."

Brent Rushford, who recently joined the Defense Department as an assistant general counsel to work on the fraud problem, agreed. "My own opinion is that while there are a lot of good reasons for cross fertilization, it creates serious problems," he said. "It is very hard to switch your loyalties, very hard to drop old loyalties."●

## NATIONAL INFACT DAY

(Mr. WEISS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. WEISS. Mr. Speaker, April 13, was National Infact Day. Infact is the Infant Formula Action Coalition, a national network of concerned individuals and groups mobilizing to halt the unethical promotion of infant formula by multinational corporations. The day was marked by rallies, vigils, and education programs in cities throughout the country, designed to call attention to these marketing practices and the resulting consequences of infant malnutrition.

At this time, I would like to share an article from Mother Jones' magazine, detailing the problem in more depth. I commend this article to my colleagues:

THE BOTTLE BABY SCANDAL—MILKING THE THIRD WORLD FOR ALL IT'S WORTH

(By Barbara Garson)

"In 1970, I visited a small town called Aliagua, in a very rural area of Luzon. . . . During my visit, an old friend of my family who knew that I was a doctor, approached me and asked me to visit his newborn child, who was very ill. The baby was less than ten days old. He was burning with fever, dehydrated and suffering from severe diarrhea. I asked the mother how she had been feeding the baby and she replied that she was using Enfamil. She told me that this had been given to her on discharge from the hospital in Cabanatuan where she had delivered the child. The milk was given to her by a nurse who told her that her milk was 'inappropriate' for the baby."

So writes Dr. Jesus T. De La Paz, who practices obstetrics and gynecology in the Philippines. According to Dr. La Paz, 80 per cent of the sick infants in the pediatric ward at his country's San Pedro Hospital are bottle fed. Why?

Throughout the Third World, from Haiti to Venezuela to Nigeria to the Philippines, new mothers are leaving maternity wards with tins of powdered milk—free samples—supplied by American, Swiss and Japanese companies. In an attempt to do what's modern, what's best for their babies, they abandon breast feeding. And then, like the family in Aliagua, they try to reconstitute a powdered formula where they have no clean water, no suitable pot for sterilizing, insufficient fuel to boil their one bottle and nipple several times a day, and no refrigerator for the milk.

Above all, they do not have money to keep on buying enough formula. A laborer in Uganda would have to spend 33 per cent of the average daily wage to feed an infant on powdered milk. In Pakistan the figure is 40 per cent. In Haiti a secretary, a relatively well-paid worker, spends 25 per cent of her salary for substitute infant food. And so what happens is that poor mothers start to "stretch" the formula. In 1969 the National Food and Nutrition Survey of Barbados asked mothers of bottle-fed infants two to three months old how long a can of milk lasted. The can contains a four-day supply. But 82 per cent of the mothers said they made it last anywhere from five days to three weeks.

Some mothers who have run out of formula have been found mixing corn-starch with water to give the baby something that looked like milk. Others use cocoa, tea, or simply sugar water to stop the crying, at least temporarily. The British charity organization War on Want found a Nigerian mother feeding her baby water alone. She had seen the bottle and nipple picture on a billboard and thought the manufactured items themselves provided the nourishment.

Unsterilized and diluted bottle formula exacerbates the two most common causes of infant sickness and death around the world: malnutrition and diarrhea. Actually, the two are "synergistic," as the doctors say: each makes the other worse. Underweight babies are prone to the infections that create diarrhea. And the baby with constant diarrhea receives less nutrition from what food it does get.

Since the late '60s, health officials in poor countries have been seeing these symptoms combined in a syndrome sometimes called Bottle Illness. In some hospitals in Africa these severely dehydrated babies are kept aside in beds labeled "Lactogen Syndrome" (Lactogen is the Nestlé Company's powdered formula). Dr. D. B. Jelliffe, a distinguished British pediatric nutritionist who now heads the UCLA School of Public Health's Division of Population, Family and International Health, has labeled the syndrome "commerciogenic malnutrition."

Whatever you call it, the syndrome involves no new diseases. The diarrhea results from the Third World's prevalent bacterial and amoebic infections, which can be contracted from drinking unboiled water. The malnutrition takes the form of marasmus (shown by the sunken eyes, prominent ribs, thin little arms and legs we've seen in the Bangladesh posters) and kwashiorkor (puffy face and feet, anemia and apathy).

What *is* new about "Bottle Illness" is the early onset of these poverty diseases in children. Ordinarily mother's milk, *even of an underfed woman*, will provide adequate nourishment for at least the early months. For a year to 18 months more it can sometimes provides a good protein supplement. Of course it is good for the mothers to eat well, but, unless the mother is virtually starving, the baby gets nourished.

Furthermore, mother's milk provides immunities against various diseases—something all the more important in countries with few public-health measures. No matter what water the mother drinks, the baby receives breast milk relatively free of the local infections. When poor people breast feed, malnutrition doesn't usually appear until well into the second year of life. Recently the Inter-American Investigation of Mortality in Childhood, conducted by the Pan American Health Organization, a branch of the World Health Organization, checked into the causes of some 35,000 deaths in 15 areas of the world, mostly in Latin America. The researchers found that because of the decline of breast feeding, childhood deaths from malnutrition now peak in the third and fourth months of life.

Of course death is only the extreme result. Milk companies would find little profit in distributing those free samples if every infant was going to die in two or three months. But one of the horrible aspects of this new form of malnutrition is that protein deficiency in the early months seems more likely to lead to permanent brain damage. We won't know the full effects of malnutrition that begins at birth until 15 or 20 years from now, for it had been relatively rare in the world until widespread bottle feeding came along.

For ghoulish family planners, let me stop to point out that bottle-baby deaths are not an effective population control. Rather, they tend to *increase* population. Study after study has shown that, regardless of the availability of birth control, people do not start having smaller families until they feel secure that their children will live to adulthood. When children die, people go on having big families in the hope that at least one or two children will survive. Furthermore, the decline of breast feeding may increase population, because there is some truth to the old wives' tale that you don't get pregnant while

you're nursing. It's not foolproof birth control, but lactating mothers do have children spaced farther apart than bottle-feeding mothers.

"FOODS YOU CAN TRUST"

The bottle baby problem really began in the late 1960s. By then it had become clear the U.S. birthrate was heading for an all-time low. Figures from Europe told the same story. Baby-oriented businesses throughout the developed world knew that they had to think of a strategy to cope with the baby bust.

Some companies diversified, but the big push went into finding new markets in the Third World. Ross Laboratories, for example, is the subsidiary of Abbott Labs, which manufactures Similac and Isomil. In 1969 the overseas portion of Ross' pediatric sales was 14.3 per cent; by 1973 it had risen to 22.2 per cent, amounting to $31.3 million. Following the same strategy, Bristol-Myers (Enfamil and Olac), American Home Products' Wyeth division (SMA, S-26, Nursoy) and, biggest of all, the Swiss corporation Nestlé (Lactogen) expanded like mad. Throughout Asia, Africa and Latin America, the airwaves and the billboards began filling with slogans like "Right from the Start—the Foods You Can Trust."

Some nutritionists began to object. After a series of meetings organized through the U.N., the companies agreed to modify their approach. Now their signs said things like: "The Next Best Thing to Mother's Milk." Their pamphlets spoke vaguely about the times when breast feeding is "inappropriate" or "unsuccessful." More important, in the last few years the milk companies have almost entirely dropped billboards and radio spots. They concentrate now on the most effective and direct approach to the new mother. The majority of the companies give out free samples, pamphlets, posters and contributions of equipment directly to hospitals; they give services to and sponsor conferences for the doctors and nurses. Thus, the woman from Aliagua was given Enfamil by the nurse when she left the hospital. In some countries (Guatemala, for instance) "milk banks" connected with the hospitals sell a supply of formula to new mothers at cut rates, so it takes them a couple of weeks before they have to buy it on the open market and realize how expensive it really is.

But Nestlé, Bristol-Myers and some of the others don't stop with the hospitals. Bristol-Myers, for instance, has hired former consumer activist Bess Myerson as a consultant; her name and photo adorn a new publicity brochure. More important, some milk companies now hire their own special "milk nurses." Dressed in nurse-like uniforms, they travel around in countries such as Jamaica or Malaysia visiting new mothers, providing gifts and advice, weighing the babies—and leaving infant formula samples. These "mothercraft personnel" or "milk nurses," incidentally, may or may not be medically trained. Indeed, the use of fully trained nurses as saleswomen is probably the more harmful practice, since it depletes a developing nation's small supply of medical personnel.

Dr. Roy E. Brown is a nutritionist and pediatrician, now at Mount Sinai medical school, who has practiced abroad for 11 years, including time in the Bangladesh refugee camps. (There, incidentally, he used a simple and successful technique to promote "relactation" among mothers who had previously ceased breast feeding.) He told me about a pediatric nurse he knew in Ethiopia in 1963:

"She was a beautiful woman who was not only an Ethiopian nurse but a nurse tutor. She had been to Sweden, where she got advanced training to teach other nurses. She was married and had one child of her own. She left the hospital when a milk company offered her three times what she was getting paid as a nurse.

"I saw her again in 1974. She had two children and was still employed by the milk company. I had become increasingly disturbed by what I had seen of bottle feeding around the world, and I tried to talk to her about it. She said she understood my point of view, but she wanted to make a good living. Her defense was that she did not advise people to stop breast feeding; she simply gave them information if they 'couldn't breast feed.' Besides, people were giving up breastfeeding anyway, so at least she would supply them with a wholesome product and instructions."

MAKE YOUR BABY WHITE

Mary Lee, a housewife in Malaysia, wrote this letter: "On 23rd August, 1976, I had an interview with a Bristol-Myers mothercraft nurse by the name of Mrs. Ho, who came to my house at my request. Mrs. Ho was wearing a white nurse's uniform and informed me she is a State Registered Nurse who trained here in University Hospital, Kuala Lumpur. On arrival Mrs. Ho presented me with a free sample tin of Enfamil powder infant formula without my asking for it. I told her I was thinking of weaning my baby from the breast, to which she said that Enfamil 'is just like breast milk.' She even pointed out on the sample tin the content 'choline,' which she assured me would make my baby's complexion beautiful and fair. In this community mothers feel it is very important to have fair skin. . . ."

Mary Lee happens to be a doctor's wife. She was not particularly impressed by the white uniform, nor was she intimidated when the nurse worriedly weighed her baby. And she doesn't seem interested in making her baby more white with Enfamil. But what about a poor and unsophisticated woman?

Or what about a not-so-poor and unsophisticated woman? During World War II, my mother, otherwise honest and patriotic, bought black market pork chops. This was because her pediatrician prescribed an exact diet for each baby he treated. Four ounces of lamb chop, two ounces of cereal, three ounces of mashed banana. And this I was fed (and re-fed) despite the fact that I threw up three times a day for three years.

Before I was ready for the scraped lamb chops and mashed banana, I was bottle fed with a formula that entailed much measuring, sterilizing and breaking of bottles. Worst of all, the doctor set me on a four-hour feeding schedule. My parents later told me how I cried stubbornly, sometimes for two and a half hours straight, while they sat in agony waiting for the scientifically determined moment when they could give me the bottle that would bring immediate silent satisfaction.

How could they do it? Why didn't they just pick me up and feed me the way their mothers had done? Well, my father's mother was dead and, besides, she had lost children while feeding the old way. And my mother's mother was an immigrant who spread newspaper on the floor after she washed it and kept live fish in the bathtub to make gefilte fish at Passover. I was going to get the best scientific chance in life.

And here's an even more sophisticated woman. When I was to deliver, I chose a hospital that allowed Lamaze and featured rooming-in. They brought me the baby after isolating her for 24 hours, and I nursed contentedly for a couple of days. Then the nurse said "The baby is not gaining any weight. Not an ounce after any feeding."

"But she's sucking." I insisted, "and she's not crying. Let me keep trying."

Then the doctor came in: "Not a single ounce."

I agreed reluctantly to let them start her on formula while I gave it a few more tries. But I knew the bottle would curtail the baby's sucking, and there wouldn't be too much hope after that.

While I was giving it that one more try, a woman who was cleaning the floor, with no white uniform, said to me: "That baby's not gettin' a thing."

"What do you mean?"

"Look," she said, pinching me roughly. "It's all clogged up." She showed me how to put a hot washcloth on my breast and squeeze hard. After an hour of hard work, milk started to flow. Apparently the 24-hour delay after the baby was born had caused the milk to "back up." I should have nursed right away or started squeezing the milk out by hand. If it weren't for the cleaning lady, I, like the woman in Aliagua, would certainly have found that under modern conditions I was one of the many who "couldn't nurse."

The same thing happens in the Third World. There, too, people are being cut off from their past, moving away from their families. The Green Revolution (*Mother Jones*, August 1977) sends former subsistence farmers off the land and into the *favelas*, barrios, and shanty towns in the city. There, with modern medical help, many will find breast feeding "unsuccessful" or "inappropriate." Some can't nurse because they work or hope to work. Most, however, will choose more freely not to nurse. What would they do if the baby cried on the bus? Some don't want to be bothered. But most want to do what's best for their babies. They want to give their children the start that will help them out of the *favela* and into the modern world. Like buying an encyclopedia.

In the scantiest slum store they will find the powdered milk promiently displayed. (A chart in the February 1977 issue of the Brazilian trade journal *Modern Supermarket* shows that baby formulas have a profit margin of 72 percent. This is three or four times higher than the profit margin for most other items.) On the labels of these products are pictures of plump, smiling children, And so, healthy mothers are feeding their babies watered-down imported milk in contaminated bottles in the hope we all share—to do the best by one's children.

THE NUNS GO TO COURT

The bottle baby problem has not gone unnoticed. Activists have been fighting Nestlé in Europe for some time, and in the U.S. the Interfaith Center on Corporate Responsibility (ICCR)—connected with The National Council of Churches—has been publicizing the issue widely, especially to church groups. Therefore, when the Sisters of the Precious Blood, a Catholic teaching order based in Ohio, realized several years ago that they owned stock in Bristol-Myers, they quickly made the connection.

The Sisters tired first to speak to corporate executives about the problem. They found Bristol-Myers more difficult to deal with than the other milk companies, who were, if nothing else, at least willing to talk politely. Eventually, unable to get satisfaction, the sisters submitted a stockholders' resolution asking for information about Bristol-Myers' sales policy abroad. In a proxy statement urging defeat of that resolution, the company said, among other things: "Infant formula products are neither intended, nor promoted, for private purchase where chronic poverty or ignorance could lead to product misuse or harmful effects."

Now it can in some cases be a violation of Securities and Exchange Commission (SEC) regulations to make misstatements in proxy material. After further frustrating dealings with Bristol-Myers, the Sisters of the Precious Blood eventually filed a lawsuit against the company on these grounds. The strategy of the suit was to expose the lie. The Sisters attempted to show, first, that the company *did* promote its Enfamil formula to chronically poor people, and, second, that the

people who bought it were too poor or ignorant to use it safely.

As all TV viewers know, court testimony must always be based on first-hand knowledge. You can't submit statistical reports or get up and say "as everybody knows . . ." So, the Sisters and ICCR painstakingly collected testimony from 15 countries. There are affidavits that read something like: "I, Dr. So-and-So, living in the town of Such-and-Such, Venezuela, or Indonesia, or Guatemala, went to the following grocery stores in poor neighborhoods where I personally saw cans of Enfamil on sale." One exhibit was an Enfamil ad on the back page of the Barbados phone book, as personally observed by the witness, of course.

There are personal interviews, like these taken by Dr. Arthur L. Warner in Guatemala, where one in four slum mothers he talked to was bottle feeding:

"Family B. A young mother of two living in a shanty hillside settlement of Guatemala City decided to wean her baby at ten days, because a friend told her the milk was no good and too weak. She purchased Enfamil on the suggestion of a doctor in the public health 'well-baby' clinic. Her husband earns $3 a day (of which she spends about 75 cents for the infant's milk). They are without safe water and beside an open sewer. Their shack has many openings for flies. They have no refrigeration. She is illiterate. She must haul water . . . from a community spigot."

"Family C. A mother of three, living in a shanty development in Guatemala City, decided to wean her baby at two months because the child wasn't gaining fast enough and was sickly. A clinic nurse had suggested her milk had gone bad. [Local] water, generally considered contaminated since the earthquake . . . Fuel costs are high . . . Boiling water."

A doctor in Jamaica reviews the cases of 37 patients referred to the Tropical Metabolism Research Unit for severe malnutrition. "Twenty-five received infant formula. Five died."

And so the Sisters of the Precious Blood compiled thousands of pages. In one way their brief is an impressive document, and in another it is almost pathetic—this patient piecing together of minute firsthand accounts to show the worldwide workings of imperialism. To show what everyone knows.

In May of this year the case was dismissed though the Sisters are appealing. The decision, by Federal Judge Milton Pollack, though a little difficult to read, appears to say:

The shareholders' resolution was only a request and wouldn't be binding on the board of directors even if it had passed. Therefore, it just doesn't matter. The court doesn't have to consider whether the proxy material contained a misstatement or whether the affidavits submitted by the Sisters are true, because no irreparable harm was done to any shareholder.

There is no law preventing corporations from doing irreparable harm to Third World babies.

BOTTLE ON THE GRAVE

Leah Margulies, small, lively and radical, heads the project on bottle feeding for the Interfaith Center on Corporate Responsibility. "I was hired with the general assignment to develop the * * * and world hunger—agribusiness, cash cropping, you know. But it is very difficult to make it graphic that the world is starving, not because of drought, or floods, but because of economic dependency."

"So you decided to use the baby bottle case as an example?" I suggested.

"I didn't really decide. It grew up around us," Margulies said. "I did extensive research on multinationals in the early '70s. I was anxious to show the effects of the *normal* operations of capitalism, not the big scandals.

"I read *Fortune, Harvard Business Review, Forbes,* annual reports, speeches by corporate executives.

"And I developed my thoughts about economic dependency. The corporations operate in the Third World in a way that creates overall economic dependency as horrifying, impoverishing and unnatural as the dependency of a healthy mother on expensive powdered milk. The import of unnecessary powdered milk—forget Coca-Cola—now takes about one *billion* dollars a year from the Third World.

"But I tell you the truth, even after documenting the entire lawsuit—the facts, the figures, the affidavits—sometimes I still don't believe myself. I don't believe the world could be starving, that babies could be sick and dying just for a little profit.

"Like you remember the story about the graves in Zambia?"

I remembered it well. The film *Bottle Babies,* used widely by the church groups, ends with a shot of a child's grave near Lusaka, Zambia. The small grave is decorated with a crushed milk can and a little baby bottle. The narrator says, "Mothers put empty Nestlé's Lactogen cans and feeding bottles on their dead babies' graves, for they believe to the end that powdered milk and feeding bottles were the most valuable possessions their babies once had."

"Well, last week," Margulies continued, "I happened to see the film *Last Grave at Dimbaza.* The film is about apartheid, not about bottle feeding. No mention was made of that. But it shows the poverty and the horrible infant mortality. The film ends with a shot of those infant graves. My heart jumped. There—you could make it out if you knew what it was—there was that little can of powdered milk.

"But still, when you immerse yourself back in our U.S. reality once again, you don't believe it. For instance, the president of American Home Products is a kindly, charming man. I go in there with a room full of church people. We are all middle class. And this lovely gentleman says, 'Do you believe we would deliberately harm babies?"

I questioned Margulies about the stockholders' approach. Did it make sense to ask corporations on their own to stop selling? Or limit their market to the tiny number of Third World mothers (certainly under five percent) who really can't nurse? She felt that the educational effect on the participating religious groups made it worthwhile. Also, the publicity can't hurt. And pressure here creates the climate for real regulation in the Third World. So far, though, the countries attempting to regulate milk companies are few. In Guinea-Bissau baby formula is available only by prescription. Paupa, New Guinea is cracking down on advertisements. In Jamaica, mothercraft personnel are forbidden to enter the hospitals, though it seems that some still do. And, in any case, they are active in all the slums. Malaysia and Guyana, among other countries, have launched national breast-feeding campaigns. But of course their resources are limited compared to milk company advertising budgets.

"I HAVE AN APPOINTMENT"

Like Margulies, I, too, found myself suffering bouts of doubt. Infants crying from hunger when there is all the milk they need? Maybe this is just a radical "cause." Something blown up out of proportion.

I must check it out, I felt, someplace more neutral and scientific. . . .

At the U.N. I spoke first to Dr. Jacob Schatan of the Protein Advisory Group. He is a mild, thin man, very reasonable sounding, but sad. He is Chilean.

"What is the scope of this bottle-feeding problem? Is it really so dangerous?"

"Everywhere there is a marked trend of decline of breast feeding." Dr. Schatan speaks in U.N. Reportese, though his gestures show concern. "It is a trend accompanying urbanization. I could not tell you the exact percentages for each country, but we can easily estimate the cost to the developing nations in the billions."

"Billions?" I asked. (He has an accent and he mumbles.) "Billions with a B?"

"With a B."

"Do you think there could be legislation restricting the companies?"

The Protein Advisory Group provides information from scientists to the U.N. system, not to countries. However, I would say you need legislation not in relation to sale, but legislation facilitating breast feeding for urban women. If a mother works eight hours, there should be a time and place to nurse at work. This is not done except in a few of the . . . uh . . ." (The pause is cautious, painful; finally, he gives up and uses the word.) ". . . socialist countries. And of course education. There must be an educational campaign."

Next I went to UNICEF, where I spoke to L. J. Tepley, senior nutritionist.

"How did the question of bottle feeding first come to your attention?" I asked.

"And just how could I be concerned with children's nutrition without its coming to my attention?" (Tepley, a stocky American, is as bluff and direct as Schatan is cautious.)

"Is it really as dangerous as some think?" I asked.

"Does any of those papers . . ." (He pointed to a bundle of charts, reports and articles I had been collecting all week and was now spilling on his office floor. They were from the Columbia Medical School, Mount Sinai Hospital, the U.N., the Consumer's Union, the Brookings Institute, the ICCR, the milk companies themselves.) "Does any of them say bottle milk is good for poor people? Here." (He handed me an enormous envelope for all my papers.)

"We know the effects. They are awful. No one doubts it."

"Then why is it spreading?" I asked.

"The causes are two. Ignorance and money. Not necessarily in that order."

"What can be done?" I asked. "Can the milk companies be regulated?"

"I have to go," said Mr. Tepley. (I had dropped in on him unannounced around lunch time.) "I have an appointment."

AND IN NEW YORK

A couple of years ago, the chief of the New York City Health and Hospitals Corporation announced proudly a money-saving contact with Ross Laboratories, the Abbott subsidiary that makes infant formula. Till then the city hospitals had been spending some $300,000 a year on Similac. But Ross was going to slash next year's price to less than $100,000, and in the third year of the contract the hospitals would be getting all the Similac they could use for free.

I decided to take a look around Lincoln Hospital in the Bronx. When I got to the maternity ward, it was feeding time. The sign in front of the swinging doors said, "No entry. Mothers with babies." While I waited, an orderly wheeled in a cart loaded with cases of Similac. Here they use the more expensive pre-mixed formula in individual disposable nursing bottles.

After a while I went down to the prenatal clinic. I asked the pregnant women, all black or Puerto Rico, whether they were going to breast feed or bottle feed. The answers were unanimous.

"What if I'm on the bus when the baby gets hungry?"

"If you're in the house with just your husband, okay. But if there are friends or fam-

ily, then you have to go into the other room."

"I eat a lot of junk. The baby would drain me."

"My milk wasn't good enough for my first one."

"What if you're out in the street? You can't just whip it out!"

In English, Spanish and sign language, the response was clear. Total repugnance at the idea of breast feeding.

I asked whether the nurses or doctors had said anything about breast feeding.

"They said Similac was just as good."

"They said you have to eat a certain diet, and I couldn't eat all those special vegetables."

"They give you pamphlets that say you should choose yourself."

The pamphlets handed out at the prenatal clinic are published by Carnation. The more detailed one, "You and Your Contented Baby," does indeed admit that "the breast-fed baby seems to have fewer digestive upsets than the bottle-fed baby." However, the seven-step instructions for breast feeding include language like "compress the nipple and the brown tissue horizontally," along with medical illustrations of areola and sinuses and indecipherable diagrams labeled "correct and incorrect positions for baby's jaw." This makes it all seem much more complicated than simply heating up a formula. Not to mention the fact that the picture of Carnation milk is in color and labeled "For over 35 years, millions of babies have thrived on Carnation Evaporated Milk formulas." A second, simpler pamphlet says nothing at all about the advantages of breast feeding.

Pamphlets notwithstanding, it is the official policy of the pre-natal clinic that breast feeding is best. The intake nurse told me that she is supposed to mention it to each mother. "But I know that they are going to say 'Ecch, I can't do that.' And then there is a language barrier. I can give directions in Spanish, but I cannot talk about personal things. I do mention it, though, when I think they may be interested. And if one woman a week says 'Yes, I'd like to try,' then I feel very rewarded."

Back up in the maternity ward, the babies had been put away. After an initial period of isolation, they are brought to the mothers every four hours, along with the bottles of Similac.

I stood with a group of new mothers in front of the nursery window talking about breast feeding, while we watched the nurse inside feed a newborn from a Similac bottle.

I asked the women if they knew what the formula would cost.

A couple said, "I have no idea." Some gave me a figure: "$5.50 a case," "$1.50 for the quart can of concentrate." One lady said, "I don't know what it will cost me because I don't know if they're giving mine Similac or Carnation." Apparently she was under the impression that she would have to continue to use whatever the hospital started the baby with.

But the majority of mothers said, "I won't have to pay for it because I'm on this program." The program was WIC (Women Infant Care), a federal program offering health care to mothers and well infants. One of the inducements to remain with the program is a monthly supply of baby products, including bottle formula.

"WILL YOU MAKE A PROFIT?"

"I called Bristol-Myers," I said to Leah Margulies.

"Yeah?"

"And they put me on to Ed Simon in the P.R. office."

"Oh, yeah?"

"I asked him if any of your charges had affected their sales promotions abroad."

"What'd he say?"

"First, he said I was obviously prejudiced because the question implied that the charges were true. Second, he said, 'While not acknowledging any of the claims, it is safe to say we've made every attempt to strengthen our control over the sale of infant formula.'

"And then he started to read me all the clauses from their guidelines:

" 'Detailed information on infant formula . . . will be directed only to physicians and medical personnel. . . .

" 'Mothercraft nurses will perform in a manner comparable to government-sponsored public-health nurses, with their primary concern the assistance of mothers in the proper care and feeding of their infants, whether breast or formula fed. . . .'

"I was busy scribbling, trying to get it all down as fast as I could. Finally, I said, 'With all those restrictions, do you sell more or less Enfamil?' "

"What did he say?"

"He said they couldn't discuss information regarding the sale of specific products."

"One of the Sisters of Mercy made the same point during our meeting with Abbott in Chicago," said Margulies. "They were being very agreeable about modifying their sales techniques. 'Use of mass media will be dropped . . . no radio, billboards . . .'

"Well, as we were about to leave, one of the Sisters said, "Tell me, if you stop selling to people who are too poor to use the product safely, will you still make a profit?'

"There was absolute silence. It must have been a full minute.

"Finally one of the corporate executives picked it up and said:

" 'That is the crux of the problem.' "

NOTE.—Barbara Carson is the author of "MacBird" and a book about routine work, now in paperback, "All the Livelong Day." ●

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. JONES of North Carolina (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

Mr. WHITLEY (at the request of Mr. WRIGHT), for this week, on account of medical reasons.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to addresss the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. KINDNESS), to revise and extend their remarks, and to include extraneous matter to:)

Mr. CORCORAN, of Illinois, for 5 minutes, today.

Mr. WHALEN, for 5 minutes, today.

(The following Members (at the request of Mr. PEASE) to revise and extend their remarks and include extraneous matter:)

Mr. FLOOD, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. WAXMAN, for 5 minutes, today.

Mr. REUSS, for 5 minutes, today.

Mr. FOUNTAIN, for 5 minutes, today.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BREAUX, and to include extraneous matter.

Mr. HUGHES, at the conclusion of the debate on H.R. 11465 today.

Mr. PEPPER, following the vote on H.R. 3489 today.

Mr. WEISS, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,149.75.

(The following Members (at the request of Mr. KINDNESS), and to include extraneous matter:)

Mr. ARMSTRONG.

Mr. MCCLORY in two instances.

Mr. STEIGER.

Mr. CUNNINGHAM.

Mr. VANDER JAGT.

Mr. WHITEHURST.

Mr. EDWARDS of Alabama.

Mr. MICHEL.

Mr. DORNAN in three instances.

Mr. GOODLING in three instances.

Mr. BOB WILSON.

(The following Members (at the request of Mr. PEASE) and to include extraneous matter:)

Mr. COTTER.

Mr. WAXMAN.

Mr. HAMILTON.

Mr. ANNUNZIO in six instances.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. BROWN of California in 10 instances.

Mr. DRINAN.

Mr. STARK in two instances.

Mr. PEASE.

Mr. STUDDS.

Mr. EILBERG.

Mr. EDWARDS of California in four instances.

Mr. MURTHA in two instances.

Mrs. SCHROEDER.

Mr. ROGERS in five instances.

Mr. TEAGUE.

## ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 7744. An act to amend the Acts of August 11, 1888, and March 2, 1919, pertaining to carrying out projects for improvements of rivers and harbors by contract or otherwise, and for other purposes; and

H.J. Res. 770. Joint resolution to authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A.".

## BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that

that committee did on the following dates present to the President, for his approval, bills and joint resolutions of the House of the following titles:

On April 13, 1978:

H.R. 4979. To direct the Secretary of the Interior to convey certain public and acquired lands in the State of Nevada to the county of Mineral, Nev.;

H.R. 6693. To promote the healthy development of children who would benefit from adoption by facilitating their placement in adoptive homes, to extend and improve the provisions of the Child Abuse Prevention and Treatment Act, and for other purposes;

H.R. 9179. To amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation; and

H.J. Res. 578. Authorizing the President to proclaim the third week of May of 1978 and 1979 as "National Architectural Barrier Awareness Week."

On April 14, 1978:

H.R. 7744. To amend the acts of August 11, 1888, and March 2, 1919, pertaining to carrying out projects for improvements of rivers and harbors by contract or otherwise, and for other purposes; and

H.J. Res. 770. To authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A."

## ADJOURNMENT

Mr. PEASE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 58 minutes p.m.) the House adojurned until tomorrow, Tuesday, April 18, 1978, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3860. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a list of revised dates of contract awards for the report covering the period March 15 to June 15, 1978, pursuant to 10 U.S.C. 139(b); to the Committee on Armed Services.

3861. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting a report of various warehouse and shop construction projects proposed to be undertaken by the Army National Guard, pursuant to section 10 U.S.C. 2233a(1); to the Committee on Armed Services.

3862. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting a report of various armory construction projects proposed to be undertaken by the Army National Guard, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

3863. A letter from the Principal Deputy Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), transmitting the second report on the program of Selected Reserve reenlistment bonuses, pursuant to 37 U.S.C. 308b(e) (91 Stat. 330); to the Committee on Armed Services.

3864. A letter from the Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend section 2107(a) of title 10, United States Code, to extend the age limitation on eligibility of students for the Reserve Officers' Training Corps financial assistance program to recognize active duty previously performed; to the Committee on Armed Services.

3865. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a report that the appropriation to the Small Business Administration for the "Disaster loan fund" for fiscal year 1978 has been reapportioned on a basis which indicates the necessity for a supplemental estimate of appropriation, pursuant to section 3679(e)(2) of the Revised Statutes, as amended; to the Committee on Appropriations.

3866. A letter from the Assistant Secretary of Defense (Comptroller), transmitting a report covering the first quarter for fiscal year 1978 on the disposal of surplus military supplies, equipment, material, and the production of lumber and timber products, pursuant to section 712 of Public Law 94–212; to the Committee on Appropriations.

3867. A letter from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to encourage broader utilization of the condominium form of homeownership, to provide minimum national standards for disclosure and consumer protection for condominium purchasers and owners and tenants in condominium conversions, to encourage States to establish similar standards, to correct abusive use of long-term leasing of recreation and other condominium-related facilities, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

3868. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council act No. 2–172, to amend the laws of the District of Columbia affecting children born out of wedlock in order to clarify that a child born out of wedlock claiming to a deceased parents' estate simply needs to establish a parent/child relationship, pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

3869. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council act No. 2–173, to endorse ratification of the Equal Rights Amendment (ERA) so that no person shall be denied equality of rights under the law on account of sex, pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

3870. A letter from the Director, ACTION; transmitting a draft of proposed amendments to legislation relating to the Domestic Volunteer Service Act Amendments of 1978; to the Committee on Education and Labor.

3871. A letter from the Chairman, Student Loan Marketing Association, transmitting the annual report of the organization for calendar year 1977, pursuant to section 439(n) of Public Law 92–318; to the Committee on Education and Labor.

3872. A letter from the Secretary of Housing and Urban Development, transmitting notice of a proposed new system of records (Neighborhood Housing Services) for the Department, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3873. A letter from the Secretary of Housing and Urban Development, transmitting notice of a proposed new system of records (Child Care Centers) for the Department, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3874. A letter from the Chairman, Federal Maritime Commission, transmitting a report on the Commission's activities under the Government in the Sunshine Act during the calendar year 1977, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3875. A letter from the Chairman, Marine Mammal Commission, transmitting a report on the Commission's activities under the Freedom of Information Act during the calendar year 1977, pursuant to 5 U.S.C. 552 (d); to the Committee on Government Operations.

3876. A letter from the General Counsel, Council on Wage and Price Stability, transmitting a report on the Council's activities under the Freedom of Information Act during the calendar year 1977, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3877. A letter from the Director, U.S. Water Resources Council, transmitting a report on the Council's activities under the Freedom of Information Act during the calendar year 1977, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3878. A letter from the Deputy Assistant Secretary of the Interior, transmitting notice of the Secretary's determination that certain lands in the States of Nevada, Idaho, and Colorado are not suitable for disposal under the provisions of the Unintentional Trespass Act, pursuant to section 214(b) of Public Law 94–579; to the Committee on Interior and Insular Affairs.

3879. A letter from the Assistant Secretary of State for Congressional Relations, transmitting copies of Presidential Determination No. 78–7, that the financing of the sale to Indonesia of certain aircraft is important to the national security, pursuant to section 4 of the Arms Export Control Act, as amended; to the Committee on International Relations.

3880. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to section 112(b) of Public Law 92–403; to the Committee on International Relations.

3881. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting a report covering the month of December 1977, on gasoline service station market shares pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

3882. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

3883. A letter from the Director, White House Conference on Balanced National Growth and Economic Development, transmitting workshop reports on issues addressed by the Conference; to the Committee on Public Works and Transportation.

3884. A letter from the Secretary of the Treasury, transmitting the 1976 annual report on the operation and effect of the domestic international sales corporation legislation, pursuant to section 506 of Public Law 92–178; to the Committee on Ways and Means.

3885. A letter from the Assistant Secretary of Agriculture for Food and Consumer Services, transmitting a draft of proposed legislation to amend, revise and consolidate the provisions of the child nutrition programs by the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended, and for other purposes; jointly, to the Committees on Agriculture, and Education and Labor.

3886. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to establish a program for developing networks of community-based services to prevent initial and repeat pregnancies among adolescents, to provide care to pregnant adolescents, and to help adolescents become productive independent contributors to family and community life; jointly, to the Committees on Education and Labor, and Interstate and Foreign Commerce.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on Apr. 13, 1978, the following report was filed on Apr. 14, 1978*]

Mr. GIAIMO: Committee on the Budget. House Concurrent Resolution 559. Concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal year 1979. (Rept. No. 95–1055). Referred to the Committee of the Whole House on the State of the Union.

[*Submitted Apr. 1', 1978*]

Mr. ULLMAN: Committee on Ways and Means. H.R. 12050. A bill to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition (Rept. No. 95–1056). Referred to the Committee of the Whole House on the State of the Union.

## REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. BINGHAM: Committee on International Relations. H.R. 9486. A bill to authorize a contribution by the United States to the Tin Buffer Stock established under the Fifth International Tin Agreements; with amendment (Report. No. 95–1057, Pt. I). Referred to the Committee on Armed Services and to the Committee on Banking, Finance and Urban Affairs for a period ending not later than June 1, 1978, for concurrent consideration of such provisions of the bill as fall within the jurisdictions of those committees under rule X, clause 1(c) and clause 1(d), respectively, and ordered to be printed.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. KREBS:

H.R. 12143. A bill to authorize appropriations for continuation of construction of distribution systems and drains on the San Luis Unit, Central Valley Project, California; to the Committee on Interior and Insular Affairs.

By Mr. ANDERSON of California (for himself and Mr. LEACH):

H.R. 12144. A bill to amend title 38 of the United States Code in order to provide for the payment of service pensions to veterans of World War I and for certain surviving spouses and certain children; to the Committee on Veterans' Affairs.

By Mr. BAFALIS (for himself, Mr. GOLDWATER, Mr. LIVINGSTON, Mr. WATKINS, and Mr. HUCKABY):

H.R. 12145. A bill to amend the Internal Revenue Code of 1954 to eliminate the adjusted gross income limitation on the credit for the elderly, to increase the amount of such credit, and for other purposes; to the Committee on Ways and Means.

By Mr. BRADEMAS (for himself and Mr. ROGERS (by request):

H.R. 12146. A bill to establish a program for developing networks of community-based services to prevent initial and repeat pregnancies among adolescents, to provide care to pregnant adolescents, and to help adolescents become productive independent contributors to family and community life; jointly, to the Committees on Education and Labor and Interstate and Foreign Commerce.

By Mr. CUNNINGHAM (for himself, Mr. FRENZEL, and Mr. COLEMAN):

H.R. 12147. A bill to amend the Internal Revenue Code of 1954 to exempt certain State and local government retirement systems from taxation, and for other purposes; to the Committee on Ways and Means.

By Mr. FISHER (for himself, Mr. CONABLE, Mr. HOLLAND, Mr. OTTINGER, Mr. PREYER, and Mr. ST GERMAIN):

H.R. 12148. A bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions; to the Committee on Ways and Means.

By Mr. GREEN:

H.R. 12149. A bill to prohibit discrimination on the basis of affectional or sexual preference, and for other purposes; to the Committee on the Judiciary.

By Mr. HARRINGTON (for himself, Mr. MITCHELL of Maryland, Mr. EDWARDS of California, Mr. EILBERG, Mr. JOHNSON of Colorado, Mr. STEERS, Mr. BONIOR, Mr. HARKIN, Mr. BAUCUS, Mr. BROWN of California, Mr. PHILLIP BURTON, Mr. BINGHAM, Ms. KEYS, Mrs. MEYNER, Mr. SIMON, Mr. WEISS, Mr. GARCIA, Mr. NOLAN, Ms. HOLTZMAN, Mr. MCCLOSKEY, and Mrs. COLLINS of Illinois):

H.R. 12150. A bill to allow the President to waive certain prohibitions on the furnishing of food assistance to foreign countries if he determines that such assistance would help needy people; to the Committee on International Relations.

By Mr. JONES of Tennessee (for himself and Mr. TUCKER):

H.R. 12151. A bill to amend the Consolidated Farm and Rural Development Act, provide an economic emergency loan program to farmers and ranchers in the United States, and extend the Emergency Livestock Credit Act; to the Committee on Agriculture.

By Mr. KREBS:

H.R. 12152. A bill to permit marketing orders to include provisions concerning marketing promotion, including paid advertisement, of raisins and distribution among handlers of the pro rata costs of such promotion; to the Committee on Agriculture.

By Mr. LAFALCE:

H.R. 12153. A bill to amend the Internal Revenue Code of 1954 to provide for cost-of-living adjustments in the amount of the personal exemption and in the individual tax rates; to the Committee on Ways and Means.

By Mr. LEGGETT:

H.R. 12154. A bill to amend the Longshoremen's and Harbor Workers' Compensation Act to clarify the act's coverage to employees engaged in the manufacture, repair, servicing, or sale of recreational boats; to the Committee on Education and Labor.

By Mr. MAZZOLI (for himself, Mr. LAGOMARSINO, Mr. DUNCAN of Tennessee, Mr. WHITEHURST, Mr. HYDE, Mr. HUGHES, Mr. HARRIS, Mr. EDGAR, and Mr. GARCIA):

H.R. 12155. A bill to amend section 541 of title 28, United States Code, to provide for merit selection of U.S. attorneys; to the Committee on the Judiciary.

By Mr. MIKVA (for himself and Mr. DRINAN):

H.R. 12156. A bill to amend the Social Security Act and the Internal Revenue Code of 1954 to provide that disability insurance benefits and the medicare program shall be financed from general revenues (pursuant to annual authorizations) rather than through the imposition of employment and self-employment taxes as at present, and to adjust the rates of such taxes (for purposes of financing the OASI program) accordingly; to the Committee on Ways and Means.

By Mr. NEAL:

H.R. 12157. A bill to amend and extend the Export-Import Bank Act of 1945; to the Committee on Banking, Finance and Urban Affairs.

By Mr. REUSS:

H.R. 12158. A bill to amend the Truth in Lending Act, the Rules of the House of Representatives, and title 13 of the United States Code to reduce the amount of paperwork required by persons subject to Federal regulations; jointly, to the Committees on Banking, Finance and Urban Affairs, Post Office and Civil Service, and Rules.

By Mr. ROGERS:

H.R. 12159. A bill to amend the Internal Revenue Code of 1954 to suspend the imposition of interest on deficiencies of income tax which result from erroneous assistance given by the Internal Revenue Service, and for other purposes; to the Committee on Ways and Means.

By Mr. SEBELIUS:

H.R. 12160. A bill to raise target prices and loan levels for wheat, and to raise to parity the price level at which grain reserves could be released; to the Committee on Agriculture.

By Mr. STAGGERS (for himself and Mr. ROONEY):

H.R. 12161. A bill to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations to the United States Railway Association for purposes of purchasing securities of the Consolidated Rail Corporation; to the Committee on Interstate and Foreign Commerce.

H.R. 12162. A bill to amend the Interstate Commerce Act to authorize additional appropriations for the Office of Rail Public Counsel; to the Committee on Interstate and Foreign Commerce.

By Mr. TEAGUE:

H.R. 12163. A bill to authorize appropriations to the Department of Energy in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and section 660 of the Department of Energy Reorganization Act, for energy research and development, and for other purposes; to the Committee on Science and Technology.

By Mr. VANDER JAGT:

H.R. 12164. A bill to amend the Internal Revenue Code of 1954 to increase the limitations on the deduction of expenditures by farmers for clearing land; to the Committee on Ways and Means.

H.R. 12165. A bill to extend until the close of June 30, 1981, the existing suspension of duties on certain metal waste and scrap, unwrought metal, and other articles of metal; to the Committee on Ways and Means.

By Mr. WAXMAN:

H.R. 12166. A bill to amend the Public Health Service Act to establish within the National Institutes of Health the Center for the Evaluation of Medical Practice; to the Committee on Interstate and Foreign Commerce.

By Mr. ARMSTRONG (for himself and Mr. KOSTMAYER):

H. Res. 1132. Resolution to amend the Rules of the House of Representatives; to the Committee on Rules.

By Mr. GREEN:

H. Res. 1133. Resolution to create a congressional senior citizen intern program; to the Committee on House Administration.

By Mr. HILLIS:

H. Res. 1134. Resolution expressing the sense of the House that the Secretary of Defense direct the Secretaries of the military departments to change the payment of the housing allowance to military personnel on duty outside of the United States to an actual average expense basis by grade; to the Committee on Armed Services.

## MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

371. By the SPEAKER: Memorial of the House of Representatives of the State of Hawaii, relative to federally mandated predeparture inspection requirements at airports in the State of Hawaii; to the Committee on Agriculture.

372. Also, memorial of the Legislature of the State of California, relative to "National Forgotten Victims Week"; to the Committee on Post Office and Civil Service.

373. Also, memorial of the Legislature of the Commonwealth of Massachusetts, relative to the proposed tuition tax credit; to the Committee on Ways and Means.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. EDWARDS of Alabama introduced a bill (H.R. 12167) for the relief of Island Trawlers, Inc., Frank F. Hall, and the estate of Oliver J. Clark, which was referred to the Committee on the Judiciary.

## PETITIONS, ETC.

Under clause 1 of rule XXII,

442. The SPEAKER presented a petition of the House of Representatives, Republic of Cyprus, relative to the proposed lifting of the embargo on the supply of military equipment to Turkey, which was referred to the Committee on International Relations.

# SENATE—*Monday, April 17, 1978*

*(Legislative day of Monday, February 6, 1978)*

The Senate met at 12 noon, on the expiration of the recess, in executive session, and was called to order by Hon. WILLIAM PROXMIRE, a Senator from the State of Wisconsin.

### PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

*The earth is the Lord's and the fulness thereof; the world and they that dwell therein.*—Psalms 24: 1.

O God of the universe, eternal and unchangeable, above all men and all nations, Thou art our God and Father of our spirits. Thou art infinite and we are finite. Thou art great and we are small. But Thou hast made us for Thyself and our hearts are restless until they rest in Thee. Help us to love this Earth which Thou hast given us for our home, to conserve it, to cultivate it wisely, to utilize its power prudently. Guide us by Thy spirit that we may so order our work, so discipline our speech, so elevate our thoughts that we may have a share in advancing Thy kingdom on Earth. Guide, strengthen, and uphold all persons who bear the burdens of government that justice and peace may prevail throughout the world.

In Thy holy name we pray. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., April 17, 1978.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin, to perform the duties of the Chair.

JAMES O. EASTLAND,
*President pro tempore.*

Mr. PROXMIRE thereupon assumed the chair as Acting President pro tempore.

## ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Illinois (Mr. PERCY) is recognized, as in legislative session, for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may vitiate the time that was allotted to Mr. PERCY and that I may control it.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the two leaders each have 5 minutes under their control before the orders.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I yield to the Senator from Arizona.

## REPORT ON SENATOR GOLDWATER'S AFRICAN TRIP

Mr. GOLDWATER. Mr. President, I recently returned from a trip to South Africa and Southwest Africa. As you know, Southwest Africa is now at a crossroads in terms of its future economic and political development. This month the United Nations will be considering how the territory should achieve its independence. In light of this, I would like to provide some information and impressions I gathered during my trip. In particular, Mr. President, I would like to draw the Senate's attention to the terrorist activities of the Southwest African Peoples Organization (SWAPO) and the puzzling support this organization draws from the U.N.

Since 1975 South Africa has been attempting to prepare Namibia, as the territory is known in the U.N. for elections leading to independence. In September of 1975 the South African Government convened a constitutional conference—the Turnhalle Conference—at Windhoek on the future of Southwest Africa. As a nationalist political party, SWAPO was invited to participate but refused and boycotted the conference, organizing sometimes violent demonstrations against it.

Last year when Judge Marthinus J. Steyn was appointed the territorial Administrator General he issued an open invitation to SWAPO leaders, both within and outside the territory, to discuss how the elections should be conducted, and how their party could participate. The expatriate SWAPO leadership in Zambia turned the invitation down cold. The convention drafted a constitution and began to implement a program that would culminate in complete independence by December of this year. But last April South Africa agreed to suspend implementation of the Turnhalle program under pressure from the U.N. which recognizes only SWAPO as the sole representative of black Southwest Africans.

South Africa agreed to delay their internal solution to give the U.N. Contact Group (United States, United Kingdom, West Germany, France, and Canada) a chance to work out another formula for independence. Late last month the Contact Group proposed its final package to SWAPO and the South African Government. It is not clear how either party will respond. We will have to wait and see. But while we are waiting I think we should have a close look at SWAPO which seems to enjoy such esteem at the U.N.

SWAPO, Mr. President, seems to be an organization with origins which have the appearance of legitimacy but which has proven quite recently to be a common terrorist gang. In defense of the U.N., it must be noted that SWAPO's true colors have only begun to show through in the last year or so.

The Southwest Africa Peoples Organization was first established in 1959 as the Ovamboland Peoples Organization. Sam Nujoma has held its presidency since the beginning. Although it has attempted to broaden its ethnic base, SWAPO remains dominated by Ovambo tribesmen. The organization is divided between its internal and external branches. The exiled leadership is based primarily in Lusaka. The external group has historically been the diplomatic arm of the organization. The internal wing is recognized by the South African Government, and legally operates within the territory. SWAPO's program for the territory calls for distribution of the country's wealth, a redistribution of agricultural holdings, a ban on absentee ownership, and an extensive nationalization program to include the two major industries—mining and fishing.

SWAPO has engaged, principally at the direction of the external branch, in guerrilla harassment activities against South African troops in the territory since its inception. Guerrilla activities, however, were very sparse until approximately 1974. In that year guerrilla forces were estimated at no more than 300. Last year the figure was approximately 2,000; this year it is 4,000. And the alarming thing is that they are Soviet equipped. Their leadership is coming under greater Soviet political influence. And the SWAPO guerrillas, operating out of Angola, are trained and advised by Cuban troops.

Most of the SWAPO guerrillas are based in Angola, where the Soviet and Cuban-backed MPLA grants them sanctuary. The others are in Cuba and Russia for training. They make raids, sometimes of a few days' duration, just a few kilometers into Southwest Africa and then immediately return across the northern border into their Angolan havens. Their activities include harassment of opposing political parties and ambushes on South African troops in the territory. They have been known to kidnap schoolchildren in attempts to expand the number of their recruits. They mine roads and bomb the enterprises of opposing politicians.

This violence in pursuit of political power is, of course, unacceptable to us and should be disdained by the U.N. Unfortunately the violence of the past is merely a taste of things to come.

While in the territory, Mr. President, I met with Clemens Kapuuo, who was the leading candidate for president of independent Namibia. Kapuuo was chief of the Hereros, considered the most politically astute of the ethnic groups. Kapuuo was well respected and his support reached beyond his own tribe to other ethnic groups. He was head of the National Union Democratic Organization. I was greatly impressed with his sincerity and his vision for this emerging country. Three days after I spoke with him he was assassinated. By all accounts in the territory the murder was one of a series in the latest SWAPO terrorist plan. Documents captured from SWAPO guerrillas reveal that the organization plans to expand their terrorism and commit more assassinations in the future. While I was in Southwest Africa I obtained copies of the SWAPO documents which clearly state the organization's intentions to "eliminate all prominent puppets, for example, Ndjoba, Kapuuo, et cetera." Mr. President, I ask unanimous consent that these documents be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. GOLDWATER. Mr. President, this alone would seem to be sufficient cause for re-examination of U.N. and American support for SWAPO. But other SWAPO policies are at least as frightening. Not content to confine their terrorism to Southwest Africa, SWAPO guerrillas are now engaged with the MPLA in fighting UNITA, the pro-Western faction in Angola. For the past year or so SWAPO guerrillas have engaged in limited combat against the UNITA forces fighting against the Soviet-backed MPLA. But in the last month SWAPO has dedicated significant forces to full-scale combat against UNITA. They now have some 1,000 SWAPO guerrillas fighting in Angola against UNITA troops. I can only guess at their motive, but it would seem that SWAPO's debt to the Soviets and Cubans has been called in. In the process SWAPO guerrillas will gain combat experience and on-the-job terrorist training that might later be put to frightening use in Southwest Africa.

Mr. President, I hope that this record of violence has not been overlooked at the U.N. I also hope that our own State Department did not overlook what the pro-Soviet publication African Communist printed about SWAPO's otherwise concealed objectives:

SWAPO is faced with a strategic problem similar to that facing the Zimbabwean liberation: to resist the ideological and financial pressure from the West, while exploiting to the full the Western powers' desire to accommodate to some degree, and for their own reactionary motives, the force for change in Southern Africa. And both these tasks have to be fulfilled while at the same time advancing the armed struggle . . . the only path to liberation.

There is, however, no evidence of a weakening of U.N. support for SWAPO. If the U.N. needed any further evidence of the nature of current SWAPO thinking it was provided by President Nujoma himself. While in New York recently for proximity talks, Nujoma clearly stated that he opposed major rule in Namibia, and that SWAPO was there to seize power for the benefit of all Namibians. There you have it from the horse's mouth.

But there is a little news from the U.N. Contact Group which met last month in Windhoek. All the groups say they were very concerned about the security situation. That would seem to be an understatement.

EXHIBIT 1

GROOTFONTEIN-BRANGE,
*S.W.A.P.O. of Namibia,*
*May 3, 1978.*

DEAR COMRADES: We would like to make use of this opportunity, although on short notice to give you the list of the names of the people who are in our way of struggle.

1. Christof the shopowner in the location, Grootfontein, H28.
2. Laeza Hoesib, S.A.P., D2.
3. Albertus Naseb DTA man S.
4. Christof Ge-sao S.A.P. S167.
5. Elizabeth Wimmert, O.15.
6. Lea Wimmert, H4.
7. Emma Wimmert, S.
8. Simon Petrus Boy Breker, O.16.
9. Nikodemus Nikode.
10. Fraus Shabaka, O.25.
11. Martin Oppermann.
12. Martin Ukongo.
13. Walter Gawak, ex S.A.P., S93.
14. Jeremias, S.T.A man, S92.
15. Thomas Gaogosels, H90.
16. Nichie Johannes Gurirab, security police, Tsumeb.
17. Ipumbu Israel, Mun. police.
18. Fredrika Nases, S12.
19. Jan. I. Goraseb, S.A.P., S.13.
20. Bernhard Geiseb, DA.T (chief) S.
21. Josef Muambola, O.4.
22. Kahdia police, O.112.
23. Titus Streidwolf, police, S17.
24. Elias Karegek, D.T.A. man, S195.
25. David Dinaar Kiesler.

There are still some others but these above mentioned puppets are very dangerous. Especially No. 1, 3, 8, 13.

Yours in struggle,

1. E. A. GAUSE, *Vice Chairman.*
2. ANNA KAJELEI, GR.
3. HELENA UWUHAIS, GR.
4. E. HAUR, (RUNDER).

P.S.—Comrades 1. Titus Amajenga, 2. Matheüs Samuel, 3. Jonias Shikueni, and 4. Jackson Amukua are our comrades. They were doing quite a good job in single workers. We really hope that they will be keep on doing so.

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THE 8TH MINUTES OF THE MILITARY COUNCIL

Present were Comrades: 1. Dimo, Chairman; 2. Shalli, Secretary; 3. Greenwell; 4. Haiduwa; 5. Lungada; 6. Pondo; 7. McNamara; 8. Mbulungonga; 9. Chikololo Ngoya; 10. Zulu; 11. Hailonga; 12. Shilongo; 13. Namoloh; 14. Andy Boy; 15. Kapuleko.

The meeting was officially opened by the Commander-of-the-Armed Forces.

Items on the Agenda were as follows:

1. The Introduction of Commanders, viz.
(i) Haiduwa.
(ii) Lungada.
(iii) Zulu.

2. The Tasks of the two Assistants and the Regional Commander cde Nandenga.

3. The moves of the Five Western Powers, the Contact Group at present towards the Independence of Namibia.

4. The Operational Zone of the Regional Commander, Mbulungonga.

5. The new operational Strategy of the Detachments of all Fronts.

6. Shitumba, Efitu, Omulemba, Omulola and Oshana to be directly supplied from Moscow CHQ.

7. The Swedish Journalists coming on the 15th January.

Planning committee agenda.

1. Operational Strategy.

2. The Supply System for comrades inside.

The Commander-of-the-Armed Forces began with the introduction as already mentioned above.

Comrade Lungada introduced as Assistant Commander-of-the-Armed Forces. New tasks to be carried out by him are as follows beneath:

(i) Will be the Chief Co-Ordinator between all Regions and the Command Post.

(ii) Will be stationed at *Shitumba* if not *Efitu*, so as to facilitate the job.

(iii) Will travel to and from respective regions; thus working in close co-operation with the Regional Commanders.

(iv) Will be in touch with cde Haiduwa from time to time, to exchange views and see what is needed inside.

(v) To forward the problems and requirements of all fronts to the CHQ, and what is beyond his power to be transferred to the Commander-of-the-Armed Forces, for final decision or approval.

Comrade Haiduwa was also introduced as Assistant Commander-of-the-Armed Forces. His new tasks are as follows:

(i) To operate right inside the country.

(ii) Will be the Chief Supervisor and Co-Ordinator inside.

(iii) Will have to assign missions to the cadres operating inside.

(iv) To take care of the underground work.

(v) To be given some money with which to commence the job.

(vi) To assure that the following targets are destroyed:

(a) Bridge between Otavi and Otjiwarongo.
(b) Okahandja Bridge.
(c) All power stations.

(d) To eliminate all prominent puppets, e.g. Ndjobo, Kapuuo, etc.

(vii) To establish special sabotage groups.

On the part of the underground work, members made strong emphasis on this point, ultimately reaching a conclusion that this was a technical problem to be tackled only by comrade Pondo, Chief of Intelligence and Reconnaissance.

Tasks of the Regional Commander Nandenga:—

1. To go back to his region.

2. To accompany cde Haiduwa for a week inside to assess the situation in person. Not to stay too long due to the work tailing behind.

3. For him to know the terrain and the situation of our cadres and the foes' movements in general.

4. To see to it that the so-called elections prepared by the enemy is completely disturbed.

5. To ——— that the seizure of a boer prisoner of war is made a " practice."

N.B. The last 2 numbers, e.i. 4 & 5 apply to all Regional Commanders.

The moves of the Five Western Powers.

Comrade Matongo, Chief Commissar, made a short and brief speech on this. Went on to explain the attitudes of the sides concerned. Proceeded by saying that despite imperialist maneuvers, SWAPO has reiterated and clarified its position, mainly that it was not going to participate in the elections as long as South African troops and police remained (in Namibia) on our soil.

The Party has thus called upon the intensification of the liberation war. The Party has made all the necessary arrangements with friendly countries; those prepared to give assistance in all forms.

However, the racists are going ahead with the so-called internal settlement, and should a puppet regime come into existence in Namibia, this will make the issue of independence delicate and crucial and may even prolong the war.

Following the intensification of the war, more troops should be sent into the country. Each and every member of PLAN should and must work more effortlessly and relentlessly.

The National Executive of SWAPO has hence decided to send in journalists to witness and act on our behalf.

Before closure, he warned MC-members that this was a very confidential issue and even a top secret. It was to be handled as such.

The Commander-of-the-Armed Forces made a short comment on this. He said and made it out-pointedly clear that PLAN is ready to fulfill the tasks set by the superior Body.

Also called upon the commanders to be more vigilant. He called for a big "PUSH".

Comrade Andrew (Commander inside) was called upon to brief the Council on the current situation in Namibia, e.i. inside.

"The situation there is under control. To generalise it, the enemy movements are numerous. Means of transport are helicopters, horses and vehicles including armoured cars and APC's. They don't travel by roads mostly. Inside we operate only in smaller groups comprising of 15–20 soldiers. The reason is food as we are supplied by the masses. Our units are mobile only. The situation does not yet allow or make provisions for use to create bases there. Fighting is continuing every now and then."

Nakada: Food is the main problem. Is there any possibility of getting enough food? I'm saying this because as soon as the war is intensified, people will start running away from the other side and secondly in case of a liberated area.

Matongoh—N.B. Very Confidential. Food is at present a problem but in future this will be overcome. The Party has even come as far as deciding to purchase its own Aircraft to transport all the necessities to and from within and without.

Chairman—Food is not only necessary but obligatory. Went on to say that the Party will do her uttermost to assure that all the requirements are made available.

On the question of comrado Haiduwa going inside, said that he was not going to change anything, but would rather recommend him to proceed.

Haiduwa: Had an objection regarding the situation which provides no room for a base inside. Said he views the essentiality.

Nakado: Finally proposed that comrado Haiduwa should go in to assess the situation in person and report back on the prospectives. (Motion overwhelmingly seconded.)

Matongo: Made a short remark: "If comrade Haiduwa refuses the order, this will make a bad impression even reputation; especially to his subordinates." The war should be intensified and right in the country, he said.

Hondo: Went on to generalise the situation inside. Finally put up a suggestion that more and more reinforcements should be sent in the country. The forces operating in the frontier zone should also undertake major operations as to make a "push", especially during the rainy season.

Chairman: The Swedish Journalists are coming. Called upon the Regional Commanders to make preliminary preparations. Their going into the country will depend entirely on the situation, he said.

Sabotage: Work should be intensified and even extended. Qualified personnel are required to blow up targets such as bridges, power stations.

Supply-Group: To be established to transport logistical supplies to comrade inside.

Re: Comrade Martin Iifo: The latter has been demoted cde Ndafongwe has taken over from him appointed as Regional Commisser and automatically member of the Military Council.

Recruits: In due course, training would be done locally at Oshens. There is no problem with supplies, he pointed out.

Prisoners of War: This should be put into practice. All PLAN combatants should be notified.

TASKS ASSIGNED

1. Intensification of sabotage in Northern, North Eastern and partly Southern.

2. Intensifying the battles inside and along the borders being in Namibia to clear the borders.

3. The post camps at the front to be no more in the hands of the Regional Commanders.

4. To make or have practice before an attack on the enemy target is undertaken.

5. The Detachments, Platoons and Sections to be issued specific orders of their units before the mission is accomplished.

6. Firing of the cadres to be controlled in battles.

7. Regional Commanders Mbulunganga to have this operational Area, partly North and partly North Eastern.

8. A/C.A.F. Haiduwa to be given his operational money with which to begin.

9. The Regional Commanders to be with Detachments from time to time and inspect their basements, terrain of basement, seriously push them inside.

10. The training of tank crews should involve those loyal to the leadership and the Party and should have experience in driving.

11. The training of Commanders should be thoroughly checked not to be selected by the Officers of the THTC, in Lubango.

The Regional Commanders, viz. Nakada and Mbulunganga presented their annual reports.

Joint requirements are—

1. Well qualified personnel, viz. engineers, medical men, Anti-Aircraft Gunners, Artillery Gunners.

2. Obligatory: Qualified Political Commissars.

3. Arms and Ammunitions:

(i) 60 mm Mortars & shells.

(ii) RPG–7 shells.

(iii) Mines.

4. Standardised Communication Systems,

5. Combat food.

6. Refreshment courses for commanders.

7. Logistical supplies, food, uniforms and boots. . .

All these were seen as main obstacles contained in the reports were the setbacks and successes experienced during the out-going year.

All the members vowed to intensify the war and to carry out the tasks set by the Party.

Time: 8:00 p.m.

Notes by Shalli/Secretary.

Approved: Chairman/Military Council.

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## PROFESSOR EMERITUS OF HISTORY ARTHUR BESTOR CONCLUDES AN ACT OF CONGRESS IS NECESSARY TO RELINQUISH U.S. PROPERTY TO PANAMA

Mr. GOLDWATER. Mr. President, I have just received a very important document which I wish to share with my colleagues in the Senate concerning the original intent of the framers as to the exclusive power of Congress to dispose of U.S. property to a foreign nation.

Professor Emeritus of History Arthur Bestor of the University of Washington has just completed and sent to me a thorough discussion of the intent of the framers in arranging the treaty power and imposing particular limitations on that power. I am very interested in his conclusion that the original intent of the Constitution was, as I have contended in earlier debates, that an act of Congress is necessary to the relinquishment of national property. He believes, as I do, that the Panama Canal Treaty alone cannot carry into execution the transfer of U.S. property to Panama.

Mr. President, Dr. Bestor has written a masterful paper, which is illuminated by considerable background explanation of the setting in which the Federal Convention of 1787 took place. He has reconstructed as well, I believe, as anyone could, the frame of mind of the makers of the Constitution and the important details which were well known to them, but are long forgotten to all but a few present-day scholars.

Mr. President, Professor Bestor's paper is the most original and authoritative discussion of the question which has come to my attention. Instead of straining for gnats, Dr. Bestor has kept his eye on the only decisive matter involved: The original intent of the framers. He has not attempted to discuss this or that treaty, which may be a possible precedent or not for the Panama Canal Treaty; nor has he waded through the thicket of dicta in court cases whose holdings are not directly on point.

Rather, Dr. Bestor focuses on the only question that really matters: How did the makers of the Constitution apportion the power to make treaties among the different departments of the new Federal Government and what limitations did they put on this power?

In brief, Professor Bestor distinguishes between the making of treaties and the execution of treaties. It is true the House of Representatives was excluded from direct participation in the making of treaties, but as Dr. Bestor writes, this "was never expected or intended to deprive them of the powers explicitly granted them in the Constitution."

In fact, Dr. Bestor finds:

The exclusion of the House of Representatives from treaty-making meant that safeguards against usurpation of legislative powers must be obtained through making even firmer the requirement that powers vested in the legislative branch should not be exercised in any other way than by Act of Congress.

In other words, Mr. President, the very fact that the framers omitted the Congress from a role in the making of treaties is all the more reason why the role of Congress must be protected in carrying out treaties that touch on legislative powers.

It is the treatymaking department, the President with the advice and consent of the Senate, who treats with foreign countries. The Congress itself cannot negotiate and enter into agreements with foreign nations. Thus, a treaty is required to make the initial agreement with another coutnry to perform a certain act. But, that agreement cannot be completed—it cannot be carried into operation—unless Congress performs the act necessary to execute the treaty.

As Professor Bestor reminds us, one of the outstanding characteristics of the Constitution, a characteristic that is too often taken for granted:

Is the specificity with which it assigns each of the powers or functions of government to a particular branch, and the care it takes to safeguard these distributions of power both against usurpation by other agencies and against attempts by one agency to by-pass another when joint action is required by the Constitution.

Thus, in vesting the powers of Congress, Dr. Bestor writes:

The framers proceeded on the assumption that the best guarantee against usurpation of legislative power was to specify as completely as possible the various powers that they intended to delegate to Congress, expecting this to suffice as a bar to their exercise in any other way than by a law enacted in accordance with the legislative procedure carefully spelled out in the Constitution.

Finally, Dr. Bestor states, that article IV, which assigns to Congress the power to dispose of the territory or property belonging to the United States, "is a delegation of power to Congress exactly like the delegations of power in article I, section 8."

He concludes:

It is thus a power that the framers expected to be exercised by act of Congress, according to the legislative procedure minutely specified in the Constitution. There seems to be nothing in the contemporary evidence to suggest that this power, anymore than the power to collect taxes or make appropriations, was intended to be exercisable by treaty alone, in the absence of complementary legislative action.

Mr. President, I might add that Professor Bestor is well-qualified to give an authoritative opinion on the constitutional question before us. He is unquestionably among the top rank of historians in the country and has devoted a lifetime of deep study to American history, especially the formation of the Constitution.

Without question, he is recognized as one of the preeminent living professors of history in America.

Dr. Bestor received his doctorate degree from Yale University in 1938 and also possesses an honorary law degree from Lincoln University. He has been an active professor since 1930 and was the recipient of the Albert J. Beveridge Memorial Award of the American Historical Association in 1946.

Professor Bestor has authored numerous highly acclaimed books and articles and has contributed to many others. At present, he is undertaking a monumental work on the separation of powers, which is the precise subject before us.

Mr. President, I believe Dr. Bestor has made a significant contribution to the present proceedings of the Senate and because of the high merit of his work and the fact that we are in the closing hours of debate on the treaty, I have had a copy of his paper placed on the desk of each Senator. I hope that my colleagues will consider the painstaking discussion of the Constitutional Convention which is set forth in Dr. Bestor's paper and heed his counsel as to the intent of the framers.

It is possible a declaration or a reservation to uphold the original intent of the framers will be offered before the final vote on the treaty tomorrow, and I hope that my colleagues will have an opportunity to review the paper by Dr. Bestor before we act on that declaration or reservation.

Mr. President, I ask unanimous consent that Dr. Bestor's paper may be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

RELINQUISHMENT OF NATIONAL PROPERTY BY TREATY ALONE: DID THE MAKERS OF THE CONSTITUTION CONSIDER AN ACT OF CONGRESS ALSO NECESSARY?

(An historical memorandum of Arthur Bestor)

(Prepared at the request of Senator BARRY GOLDWATER)

APRIL 12, 1978.

DEAR SENATOR GOLDWATER: I am happy to give my opinion on the constitutional questions raised in your letter of the 14th of March with regard to the necessity of an act of Congress before property of the United States within the Panama Canal Zone is transferred to Panama.

I should preface this memorandum with certain disclaimers. I am offering my opinion as an historian, not a lawyer. My concern, moreover, is with the original intent of the Constitution, in so far as that intent can be documented from the records of the Federal Convention and the State ratifying conventions, from the writings of the framers, and from actions taken in the years immediately following the inauguration of the new government. References to later court decisions, legal commentaries, and opinions of political leaders will be entirely incidental. This memorandum will not attempt a systematic study of developments that have taken place and interpretations that have been offered since the end of the founding period—that is, for present purposes, since the end of the eighteenth century.

I should add that I do not wish to express any opinion, pro or con, on the merits of the pending Panama Canal treaties themselves, but will confine myself entirely to procedural questions.

In my judgment, the original intent of the Constitution with respect to the matter under discussion, as understood by the majority of those concerned in its making, was summed up accurately in the first of two resolutions adopted by the House of Representatives on the 6th of April 1796. The grounds on which this opinion rests will be developed in the memorandum that follows. First, however, the text should be given in full:

*Resolved*, That it being declared by the second section of the second article of the Constitution, that the President shall have power, by and with the advice [1] of the Senate to make Treaties, provided two-thirds of the Senate present concur, the House of Representatives do not claim any agency in making Treaties; but, that when a Treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress, it must depend, for is execution, as to such stipulations, on a law or laws to be passed by Congress. And it is the Constitutional right and duty of the House of Representatives, in all such cases, to deliberate on the expediency or inexpediency of carrying such Treaty into effect, and to determine and act thereon, as, in their judgment, may be most conducive to the public good.[2]

This resolution was drafted by James Madison,[3] in many respects the most active and influential member of the Federal Convention of 1787 which had drawn up the Constitution. It was introduced by Thomas Blount, brother of another member of that Convention. The resolution was adopted by a vote of 57 yeas to 35 nays. Among the absentees were 6 congressmen who were considered favorable, and one who was presumably opposed.[4] The House at that time included four persons who had been members of the Federal Convention. One (Jonathan Dayton) was the speaker and did not vote. All three others voted for the resolution (Abraham Baldwin, Nicholas Gilman, and James Madison).

The resolution of 1795 expressed the sense of the House of Representatives only, for it was not a concurrent resolution. In subsequent years, however, the Senate has generally acquiesced in the principle enunciated in the resolution, in so far as treaty provisions requiring the appropriation of money or the alteration of tariff arrangements were concerned. The situations in which the Senate has indicated such an acceptance lie beyond the scope of the memorandum, but are adequately summarized by the Congressional Research Service of the Library of Congress in its compilation *The Constitution . . . , Analysis and Interpretation* (1973 ed.), pp. 487–498, and are more fully discussed in the Samuel B. Crandall (1904) and Elbert M. Byrd, Jr. (1960).[5]

Resolutions recently proposed in the House of Representatives differ from the one adopted in 1796 in that they have been drawn up as concurrent resolutions. In reaffirming the principle of the earlier resolution, moreover, the new ones apply it not to appropriations or tariffs but to the transfer or alienation of territory and other property belonging to the United States. For a proper understanding of the constitutional issues to be discussed herein, it will therefore be well to lay before the reader the text of one of these. House Concurrent Resolution 347, introduced on the 9th of September 1977 (a resolution that is identical in wording with a number of others that have also been filed) reads as follows:

Footnotes at end of article.

*Resolved by the House of Representatives (the Senate concurring)*, That it is the sense of the Congress of the United States that any right to, title to, or interest in the property of the United States Government agencies in the Panama Canal Zone or any real property and improvements thereon located in the zone should not be conveyed, relinquished, or otherwise disposed of to any foreign government without specific authorization of such conveyance, relinquishment, or other disposition by an act of Congress.

The constitutional issues to be discussed in the present memorandum involve three points:

(1) Whether the framers of the Constitution intended the treaty power to be subjected to the requirements that certain kinds of provisions would not be self-executing but would become operative only through action (previous or subsequent) by both houses of Congress;

(2) If so, whether the kinds of provisions that would require an act of Congress before becoming operative comprised (as the resolution of 1796 asserted) "regulations on any of the subjects submitted by the Constitution to the power of Congress";

And (3) Whether the framers intended to include, among the "subjects" requiring an act of Congress, the specific power "to dispose of . . . the Territory or other Property belonging to the United States," a power delegated to Congress by Article IV, section 3, clause 2 of the Constitution.

The three questions are intertwined, and can only be answered by tracing the development of the treaty clause in the context of the development of other clauses of the Constitution that in some way impinge upon it. To do this is the aim of the present memorandum, but limitations of time have prevented me from projecting the same kind of analysis forward into the debates over ratification.

### I. THE FEDERAL CONVENTION OF 1787

Under the Articles of Confederation (drafted in 1776–77 and ratified in 1781) the federal government consisted simply of a single-chambered Congress, with no separate executive and no system of independent courts. The present Constitution, of course, provides for two houses of Congress and for three branches of government, legislative, executive, and judicial. The Philadelphia Convention that drew up the Constitution in 1787 was therefore obliged to decide how the varied powers that had thitherto been concentrated in a single body, the old Congress—to say nothing of powers to be newly added—ought to be distributed among the several agencies of the complex government about to be established. Both the old and the new, moreover, were governments of limited powers. Hence the Convention had also to decide the particular limitations that should be carried over or newly added and the particular powers upon which they should operate.

Under the Articles, the old Congress possessed "the sole and exclusive right and power of determining on peace and war." [6]

This included, of course, the power of making treaties, and the latter was subjected to limitations of two sorts. In the first place, commercial treaties might not be made that would interfere with the power of each state to "impose such imposts and duties on foreigners, as their own people are subjected to," or with each state's power to prohibit "the exportation or importation of any species of goods or commodities whatsoever." [7] In the second place, treaties could not be entered into except with the assent of nine states—that is, the affirmative vote of two-thirds of all the states then in the union.[8]

Answers to three questions must be sought in examining the records of the Federal Convention. How did the framers of the Constitution distribute the power of making treaties among the several agencies of the new government? What limitations did they impose directly and specifically on the treaty power itself? Finally, how did they expect or intend the treaty power to be limited by provisions of the Constitution other than those dealing explicitly with treaties?

Detailed questions like these came under discussion mainly in the final part of the Convention. During the first nine weeks of the sixteen-and-a-half-week meeting the debates dealt primarily with general problems of governmental structure, with the extent of the powers to be granted, and with federal-state relations. When the time finally came for drawing up specific provisions to carry out the broad decisions already reached, the task was put into the hands of a Committee of Detail, and the Convention recessed to give the five members a solid week (plus the weekends before and after) to prepare a draft. The Committee reported on Monday, the 6th of August, precisely six weeks before the Convention finished its work and adjourned. Most of the major debates on foreign affairs occurred during this final stage of the Convention.

Within the Committee of Detail a first sketch of the projected Constitution—actually a detailed outline rather than a draft—was prepared by Edmond Randolph of Virginia.[9] At a mid-point in the document came a section that itemized the "legislative powers." In connection with each of its nineteen numbered clauses, space was provided for a listing of "certain exceptions" and another listing of "certain restrictions." Three consecutive clauses out of the nineteen are relevant to the present discussion.

The second item in the catalogue was the power "To regulate commerce," and three "Exceptions" were enumerated: "1. no duty on Exports. 2. no prohibition on Importations Inhabitants [a euphemism for slaves]. 3. no duties by way of such prohibition." Next came two "Restrictions," to wit: "1. A navigation act shall not be passed but with the consent of eleven states in the senate and 10 in the house of representatives. 2. Nor shall any other regulation—and this rule shall prevail, wherever the subject shall occur in any act." [10]

The next two items were concerned with treaties, and two types were separately discussed. The power "To make treaties of commerce" constituted item 3, and limitations were indicated simply by cross-reference: "Under the foregoing restrictions." Item 4 was the power "To make treaties of peace or alliance." Here there was both a cross-reference and an amplification: "Under the foregoing restrictions, and without the surrender of territory for an equivalent, and in no case, unless a superior title." [11] The matter of territory seems to have been much on Randolph's mind, for he got ahead of himself in composing the preceding clause (item 3). He first wrote the words "The lawful territory," and then, realizing that territorial questions belonged in the next clause, he scratched out the three words and proceeded to list the making of commercial treaties as item. 3.[12]

It is difficult to fathom the exact meaning of these rather cryptic phrases about "lawful territory" and "a superior title." But it is not at all difficult to recognize the importance that Randolph attached to adequate safeguards where use of the treaty power might involve transfer of territory. Concern about this matter became one of the important themes in the ensuing discussion of the treaty power on the floor of the Convention.

In the draft constitution finally submitted to the Convention on the 6th of August 1787, the Committee of Detail followed Randolph's lead by vesting the treaty power wholly in the Senate, with no provision for participation by either the President or the House of Representatives. So far as domestic legislation was concerned, the committee also recommended virtually the same restrictions that had been in Randolph's original sketch. Thus the committee's draft constitution forbade duties on exports and laws impeding "the migration or importation of such persons as the several States shall think proper to admit"—slaves, again. And for navigation acts it required a two-thirds vote—a slight relaxation of Randolph's stringent eleven-state requirement.[13] But the draft constitution applied none of Randolph's restrictions (or even the now obsolete restrictions of the Articles of Confederation) to the making of treaties, and thereby empowered the Senate to make treaties on its own unshared authority and by simple majority vote.[14]

Opposition to this weakening of the safeguard surrounding the treaty power began to form as soon as the Committee of Detail presented its draft. In his margin of the printed copy, George Mason of Virginia wrote: "As treaties are to be the Laws of the Land & commercial Treaties may be so framed as to be partially injurious, there seems to be some necessity for the same Security upon this Subject as in the . . . Section [which read: 'No navigation act shall be passed without the assent of two thirds of the members present in each House']." [15] Mason voiced his misgivings on the floor as early as the 15th of August, long before the Convention actually reached the treaty provision of the course of its clause-by-clause consideration of the draft constitution. Under discussion was a provision denying the Senate power to originate money bills. Mason supported the motion in a speech which Madison described as follows: "He [Mason] was extremely earnest to take this power from the Senate, who he said could already sell the whole Country by means of Treaties." [16]

This remark precipitated a debate—the very first on the newly formulated treaty clause—and the central issue in it proved to be the possibility that territory might be ceded by treaty alone without approval by the legislature as a whole. John Francis Mercer agreed "that the Senate ought not to have the power of treaties," which he was willing to transfer to the executive, on the seeming ground that the latter's role would be simply that of a negotiator. But, Mercer went on, "Treaties would not be final so as to alter the laws of the land, till ratified by legislative authority. This was the case of Treaties in Great Britain; particularly the late Treaty of Commerce with France." [17]

Mason concluded the discussion on this particular day with an elaboration of his views. He "did not say that a Treaty would repeal a law; but that the Senate by means of treaty might alienate territory &c. without legislative sanction. The cessions of the British Islands in W[est] Indies by Treaty alone were an example. If Spain should possess herself of Georgia therefore the Senate might by treaty dismember the Union." [18]

To explain three of the allusions in those speeches, a brief digression is in order. The "late Treaty of Commerce with France," to which Mercer referred, was the treaty of commerce and navigation signed at Versailles on the 26th of September 1786, which provided for significant reductions in British import duties on French wines and other products, with reciprocal benefits to British goods exported to France. Article XIV, however, recognized parliament's final authority in the matter by providing: "The advantages granted by the present treaty, to the subjects of his Britannic Majesty, shall take effect . . . as soon as laws shall be passed there for securing to the subjects of his most Christian Majesty [i.e., the king of France] the reciprocal enjoyment of the advantages which are granted to them by the present treaty." [19]

Footnotes at end of article.

When Mason countered with a reference to British cessions in the West Indies "by Treaty alone," he was presumably alluding to the treaty of peace between France and Great Britain at the end of the War of the American Revolution. This treaty, signed at Versailles on the 3rd of September 1783, provided for a reciprocal return of islands conquered during the war, but at the same time it also ceded to France the island of Tobago, which had been British before the war.[20]

In warning against the possible surrender of Georgia (to explain the third of the allusions) Mason was referring to the still-unsettled southern boundary of the United States, where Spanish claims, if they came to be recognized in a treaty, would strip Georgia of all but a small coastal area and relinquish vast territories in the west that were claimed by other southern states.[21]

On the 17th of August 1787 occurred a second brief debate on treaty-making, two days after the one just described. The subject that day was the war power of Congress and whether it should be defined as the power "to make war" or the power to "declare" it.[22] At the end of the day a motion was made (by Pierce Butler of South Carolina) "to give the Legislature power of peace, as they were to have that of war"—in effect, to give the House an equal share with the Senate in the making of peace treaties. Elbridge Gerry of Massachusetts seconded the motion, raising again the spectre of territorial cessions without full legislative approval. Gerry pointed out that as few as eight senators (or fourteen if all should be present) could exercise the treaty power, and he argued that they "may consequently give up part of the U[nited] States." Because the numbers were so few, he argued, "[t]he Senate are more liable to be corrupted by an Enemy than the whole Legislature." [23]

Full-scale debate on the treaty clause finally came about in the succeeding week, on the 23rd of August. The clause as drafted by the Committee of Detail still stood unchanged, with its exclusion of the House and the President from participation, and with a simple majority of the Senate empowered to make treaties. At the end of the day the section was referred back to the Committee of Detail, but only after a debate that focussed mainly on the role of the House of Representatives, and in the course of which, as Randolph observed, "almost every Speaker had made objections to the clause as it stood." [24]

The first suggestion made was so uncontroversial that it occasioned no discussion and involved no motion and no vote. It seems instead to have been silently adopted, almost as if the arrangement had been assumed from the beginning without ever being spelled out. The remark was by Madison and his notes alone reported it. He "observed that the Senate represented the States alone, and for this as well as other obvious reasons it was proper that the President should be an agent in Treaties." [25] By the end of the day Madison was referring to the power of the President & Senate to make Treaties," [26] and the Convention seems thereafter to have thought always of treaty-making as a joint responsibility. Far from representing a transfer of power from the senate to the president however, the change signfied the introduction of the president into the process as a nationally-minded counterbalance to the state-oriented membership of the Senate.[27] This was clear in Madison's initial statement, and two speakers on later occasions could refer to the president as a check upon the senate, not (as many commentators today would have it) the senate as a check upon the president. Comparing treaty-making procedure under the proposed Constitution with practice under the old congress, Nathaniel Gorham of Massachusetts said "There is a difference in the case, as the President's consent will also be necessary in the new Gov[ernmen]t." [28] Rufus King actually used the word "check," remarking "that as the Executive was here joined in the business, there was a check which did not exist in [the old] Congress." [29]

The burning issue in the debate of the 23rd of August was not the draft constitution's exclusion of the president from treaty-making, however, but its exclusion of the House of Representatives. Gouverneur Morris of Pennsylvania made the first actual motion for amending the clause, proposing to add "but no Treaty shall be binding on the U.S. which is not ratified by a law." Madison questioned the wisdom of so sweeping a provision, arguing that "treaties of alliance for the purposes of war" ought not to be exposed-to so open a procedure as legal ratification by the two Houses.[30] He was reviving the distinction that Randolph had made in the Committee of Detail between "treaties of commerce" and "treaties of peace or alliance." During the further course of the debate, Madison explained his own view more fully. He "hinted for consideration, whether a distinction might not be made between different sorts of Treaties—Allowing the President & Senate to make Treaties eventual [i.e., treaties that would go into effect in case of certain eventualities] and of Alliance for limited terms—and requiring the concurrence of the whole Legislature in other Treaties." [31]

At a later session (on the 7th of September) Madison offered a similar proopsal for differentiating treaties by subject. A revised treaty clause had been reported out by committee, and it provided for approval of treaties by two-thirds vote. Madison moved an exception whereby a simple majority would suffice to approve treaties of peace, "allowing those to be made with less difficulty than other treaties." [32] In opposing the motion, Elbridge Gerry of Massachusetts raised again the spectre of a relinquishment by treaty of territorial and other rights. Madison reported the speech as follows:

"Mr. Gerry was of opinion that in treaties of peace a greater rather then less proportion of votes was necessary, than in other treaties. In Treaties of peace the dearest interests will be at stake, as the fisheries, territory etc. In treaties of peace also there is more danger to the extremities of the Continent, of being sacrificed, than on any other occasions." [33]

Despite this objection, Madison's amendment was accepted.[34] But the issue did not die. Madison himself immediately prepared a draft that he hoped would meet the objections. It read as follows:

"But no Treaty shall be made without the concurrence of the House of Representatives, by which the territorial boundaries of the U.S. may be contracted, or by which the common rights of *navigation* or *fisheries* recognized to the U[nited] States by the late treaty of peace, or accruing to them by virtue of the laws of nations may be abridged." [35]

Madison did not actually present his proposal on the floor. Instead two deelgates from North Carolina, High Williamson and Richard Dobbs Spaight, moved an amendment of their own, providing that "no Treaty of peace shall be entered into, whereby the United States shall be deprived of any of their present Territory or rights without the concurrence of two thirds of the Members of the Senate present." [36] To New Englanders, concerned about the fisheries, this did not seem quite adequate, and Rufus King immediately spoke up, saying: "It will be necessary to look out for securities for some other rights, if this principle be established; he moved to extend the motion to —'all present rights of the U[nited] States..' " [37]

Argument on the same theme continued the next day (the 8th of September) after Rufus King moved to strike out the exception to the two-thirds rule that had just been voted for treaties of peace.[38] Gouverneur Morris favored retaining the exception, employing a rather involved argument which did at least high-light "the Fisheries" and "the Mississippi" as "the two great objects of the Union." Williamson added another, "the Western Territory." Finally Roger Sherman of Connecticut brought the discussion to a conclusion with a speech in which he announced that he "was ag[ain]st leaving the rights, established by the Treaty of Peace, to the Senate, & moved to annex a 'proviso that no such rights sh[oul]d be ceded without the sanction of the Legislature.' " [39] His motion, though seconded, seems not to have been put to a vote. But the Convention did vote to rescind the exception to the two-thirds rule which it had made in favor of treaties of peace.[40] This ended all attempts to treat differently from other treaties those that involved territorial and property rights.

The tracing of this theme to its negative conclusion has taken us ahead of certain other parts of the story. It is time to recur to the debate of the 23rd of August 1787, when Madison originally moved to distinguish between different sorts of treaties.

Before the Convention on that date was Gouverneur Morris's motion that "no Treaty shall be binding on the U.S. which is not ratified by a law" [41]—that is to say, by action of both Houses. James Wilson of Pennsylvania, a future justice of the Supreme Court, supported the motion with the following argument, as reported by Madison:

"In the most important Treaties, the King of G[reat] Britain being obliged to resort to Parliament for the execution of them, is under the same fetters as the amendment will impose on the Senate. It was refused yesterday to permit even the Legislature to lay duties on exports. Under the [treaty] clause, without the amendment, the Senate alone can make a Treaty, requiring all the Rice of S[outh] Carolina to be sent to some one particular port.[42]

Doctor William Samuel Johnson of Connecticut opposed the amendment,[43] and a debate ensued, the substance of which is clearer (in this instance) in the notes of James McHenry than in those of Madison. Wrote McHenry:

"It was motioned that no treaty should be binding till it received the sanction of the legislature.

"It was said that a minister could not then be instructed by the Senate who were to appoint him, or if instructed there could be no certainty that the house of representatives would agree to confirm what he might agree to under these instructions.

"To this it was answered [by Wilson] that all treaties which contravene a law of England or require a law to give them operation or effect are inconclusive till agreed to by the legislature of Great Britain.

"Except in such cases the power of the King without the concurrence of the parliament conclusive.

"Mr. Maddison [sic], the King's power over treaties final and original except in granting subs dies or dismembering the empire. These required parliamentary acts." [44]

In this speech, Madison (in concurrence with Wilson) was asserting as a rule of the British constitution they very same principle that he would apply to the American constitution in his House resolution of 1796—the principle that treaties are not self-executing when they involve appropriations or transfers of territory, or (if Wilson's views are assimilated to Madison's) when they require a law to give them operation.

The Convention concluded the day's session by voting overwhelmingly against giving the House a role in treaty-making.[45] At the same time, however, the treaty clause was sent back to the Committee of Detail, which meant that the question could be

Footnotes at end of article.

raised again when the committee reported a revised provision.

It was a successor committee that actually reported, on the 4th of September 1787, a revised text which read: "The President by and with the advice and consent of the Senate, shall have power to make treaties: . . . But no Treaty shall be made without the consent of two thirds of the Members present." [46] The two-day debate of the 7th and 8th of September has already been pretty fully discussed, for these were the sessions in which distinctions among various types of treaties were urged and rejected. The one point of importance that remains to be noted was the second and final rejection of the move (this time initiated by Wilson) to include the House as well as the Senate in the treaty-making power. The vote was even more decisive than the first, 10 states to 1, with none divided.[47] There followed a succession of attempts to make the two-thirds rule more stringent, by requiring the consent of two-thirds of all the Senators instead of two-thirds of those present.[48] None of the proposals were accepted, however, and the treaty clause emerged in the final Constitution with only verbal changes from the version reported on the 4th of September.[48]

The decision of the Convention to exclude the House of Representatives from direct participation in the making of treaties was deliberate and unmistakably clear. The reason, equally clear from discussions in the Convention and afterwards, was that the Senate was expected to act, more or less continuously, as a body of confidential counselors to the President, advising him on foreign policy at every stage, from the initial formulation of instructions to negotiators, through the final giving of consent to their handiwork. In performing a functionlike this, secrecy and dispatch are considered indispensable, and would not have been the case had the Senate's role been thought of as nothing more than debating the merits of, and giving final approval to, an already fully formulated treaty. The framers of the Constitution excluded the House of Representatives from the making of treaties because they did not see how the process they envisaged could be made to work if two separate bodies, comprising a large number of persons, were expected to serve as confidential advisers on delicate negotiations with foreign powers.

On domestic matters, where secrecy was neither necessary nor desirable, the makers of the Constitution intended the House of Representatives to be full partners with the Senate in the exercise of power—indeed to have certain stated responsibilities in money matters. To exclude the House from participation in the making of treaties was never expected or intended to deprive them of the powers explicitly granted them in the Constitution. And though some members of the Convention feared that this might happen, none of those who advocated the arrangement made by the Constitution ever argue that it *should* happen or was intended to happen.

An outstanding characteristic of the Constitution as we have it—a characteristic that is too often simply taken for granted—is the specificity with which it assigns some of the powers or functions of government to a particular branch, and the care it takes to safeguard these contributions of power both against usurpation by other agencies and against attempts by one agency to bypass another when joint action is required by the Constitution. To take one example, the Constitution requires the concurrence of the two Houses of Congress and the President to make a valid law, it spells out in detail the procedure involved in a presidential veto, and it goes on, in article I, section 7, clause 3, to prevent any by-passing of the President by attempts to legislate in any other way, such as by order or resolution without presidential action.

Now the last-mentioned precaution was first proposed in the Convention on the 15th of August 1787,[49] just a month and two days before it completed its work. Indeed, the task of distributing the powers of the federal government among its several branches can be said to have begun only with the Committee of Detail. The resolutions referred to it on the 26th of July were mostly in general terms; [50] the Randolph sketch (discussed above) was primarily an outline of the detailed powers that would be needed and the hands into which they should be put; [51] and the draft reported by the committee on the 6th of August emphasized detailed enumerations and specific distributions of power.[52] These were debated modified, strengthened, and surrounded with safeguards throughout the final six weeks of the Convention, at the very same time that warnings were being sounded on the floor against the danger that the treaty power might encroach upon or usurp the normal legislative authority of the two Houses of Congress.

The exclusion of the House of Representatives from treaty-making meant that safeguards against usurpation of legislative powers must be obtained through making even firmer the requirement that powers vested in the legislative branch should not be exercised in any other way than by act of Congress.

It is possible to do this by including both a positive delegation of power and a negative restriction on its exercise by others. Such a double-barrelled precaution is employed by the Constitution in connection with the distribution of powers between the states and the federal government.[53] It is employed once to prevent usurpation of the financial powers of Congress. Besides delegating such powers to Congress in Article I, section 8, the Constitution makes assurance doubly sure in Article I, section 9, clause 7, which begins: "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law."

The inclusion of this clause cannot possibly be construed as permitting the exercise of the rest of the powers of Congress in other ways than by law. Such a construction would be monstrous. The power of Congress "[t]o lay and collect Taxes" is certainly as exclusively in congressional hands (so far as federal taxation is concerned) as if another clause were present saying that no taxes shall be levied or collected except in accordance with law.

Except for the special provision regarding appropriations (the presence of which is explicable historically by reference to the special power of the House to originate bills for raising revenue), the framers proceeded on the assumption that the best guarantee against usurpation of legislative power was to specify as completely as possible the various powers that they intended to delegate to Congress, expecting this to suffice as a bar to their exercise in any other way than by a law enacted in accordance with the legislative procedure carefully spelled out in the Constitution.

Among the powers added to the legislative enumeration during the weeks when the treaty clause was under critical scrutiny was the one that now constitutes article IV, section 3, clause 2, beginning: "The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States." No such clause had been in the Articles of Confederation, but the old Congress had nevertheless proceeded to exercise the power in question by providing for the sale of lands in the west and the establishment of territorial governments there. The Committee of Detail failed to fill the gap in the extensive enumeration of powers it included in its draft of the 6th of August. On the 18th (three days after the first discussion of the treaty provision on the floor of the Convention) James Madison proposed a list of powers "proper to be added to those of the General Legislature." First in the catalogue was the power "to dispose of the unappropriated lands of the United States." [54]

Madison's proposals were referred to the Committee of Detail, but before the latter could report, Gouverneur Morris moved on the 30th of August a provision on the same subject that was much more far-reaching, employing the same phrases as those ultimately adopted. It gave the legislature power not merely to handle the unappropriated lands in the West (as Madison proposed) but the power "to dispose of . . . the territory or other property belonging to the United States." [55] The clause was adopted after very little discussion.

The proposal was made and adopted in the immediate context of a debate on the admission of new states. It came, however, just a week after its mover, Gouverneur Morris, had precipitated a debate on the treaty clause by moving to include the House in the procedure. It came, moreover, a day before a new committee undertook to sift and make recommendations concerning the various parts of the proposed constitution that had been postponed, including those relating to treaty-making. The issues under debate in this final period of the Convention were all interrelated. In particular the relinquishment of territory and of rights equivalent to property had figured prominently in the debate over the treaty power, as excerpts quoted above have shown. The clearest assignment to Congress of the power "to dispose of . . . the territory or other property belonging to the United States" had therefore a direct bearing on matters that had been central in discussions of the treaty power.

Despite its placement in Article IV (in juxtapostion with the section on the admission of new states), the territorial clause is a delegation of power to Congress exactly like the delegations of power in article I, section 8. It is thus a power that the framers expected to be exercised by act of Congress, according to the legislative procedure minutely specified in the Constitution. There seems to be nothing in the contemporary evidence to suggest that this power, any more than the power to collect taxes or make appropriations, was intended to be exercisable by treaty alone, in the absence of complementary legislative action.

FOOTNOTES

[1] The words "and consent" are omitted in the original.

[2] *Annals of Congress*, 4th Cong., 1st Sess., column 771.

[3] Madison, *Writings*, ed. Gaillard Hunt (9 vols., New York, 1900–1910), VI 263–164n.

[4] *Annals of Congress, cols.* 782–783.

[5] Samuel B. Crandall, *Treaties, Their Making and Enforcement* (New York, 1904); Elbert M. Byrd, Jr., *Treaties and Executive Agreements in the United States* (The Hague, 1960).

[6] Articles of Confederation, art. IX; in Winton U. Solberg, ed., *The Federal Convention and the Formation of the Union* (Indianapolis, 1958), p. 46.

[7] *Ibid.*

[8] *Ibid.*, p. 49.

[9] Max Farrand, ed., *The Records of the Federal Convention of 1787* 1937 revised ed. (4 vols., New Haven, 1937), IV, 37–51. The draft, in the handwriting of Edmund Randolph, was apparently used as the basis of the first discussions in the committee, for there are numerous alterations in the margin and elsewhere, including the notation "agr[ee]d" opposite certain clauses and the lining-out of others. Many of the amendations are in the hand of John Rutledge, the

chairman of the committee, who would be expected to hold the manuscript at a marking-up session. A facsimile of the manuscript is in William M. Meiga, *The Growth of the Constitution in the Federal Convention of 1787* (Philadelphia, 1900), plates I–IX, following p. 316.

[10] Farrand, *Records*, IV, 43–44; Meiga, *Growth*, plate V. Quotations in the text above are from manuscript as originally pened, without the committee emendations.

[11] *Ibid.*

[12] *Ibid.*

[13] Report of the Committee of Detail, 6 Aug. 1787, art. VII, secs. 4 and 6; in Farrand, *Records*, II, 177–189, at 183.

[14] *Ibid.*, art. IX, sec. 1.

[15] Farrand, *Records*, IV, 53; with cross-reference to II, 183.

[16] *Ibid.*, II, 297.

[17] *Ibid.*

[18] *Ibid.*, II, 297–298.

[19] George Chalmers, ed., *A Collection of Treaties between Great Britain and Other Powers* (2 vols., London, 1790, I, 517–544, at 528. On the background, see Samuel B. Crandall, *Treaties, Their Making and Enforcement* (New York, 1904), pp. 151–168, esp. 152–154.

[20] Chalmers, ed., *Collection of Treaties*, I, 495–504, at 499 (art. VII). When Great Britain recognized the independence of the United States by treaty of 1783, an act of parliament had previously approved the making of a peace or a truce and had authorized an annulment of the statutes that had related to the American colonies. See Sir William R Anson, *The Law and Custom of the Constitution*, 3rd ed. (3 vols., Oxford, 1908), vol. II, Part 2, p. 104; Crandall, Treaties pp. 160–167.

[21] See maps in Samuel Flagg Hamis, *Pinckney's Treaty* (Baltimore, 1926, esp, map III, opposite p. 77.

[22] For a full discussion of the alteration and its significance see the present writer's article "Separation of Powers in the Domain of Foreign Affairs," *Seton Hall Law Review*, V, 527–665, esp. 602–613 (Spring 1974).

[23] Farrand, *Records*, II, 319.

[24] *Ibid.*, II, 393.

[25] *Ibid.*, II, 392.

[26] *Ibid.*, II, 394.

[27] The eventual rephrasing, incorporated in the Constitution as art. II, sec. 2, clause 2, provides that the president "shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur." The phrase "advice and consent" was a long-familiar one in British statutes, colonial charters, etc., and signified continuous consultation ("advice") and, at the final point, approval ("consent"). As a constituent of the enacting clause of all British statutes it was simply shorthand for the entire process of legislative deliberation and decision. This point is treated at length in the article by the present writer already cited (in note 22 above), "Separation of Powers in the Domain of Foreign Affairs," esp. pp. 540–547, 652–660.

[28] Farrand, *Records*, II, 549 (8 Sept. 1767).

[29] *Ibid.*, II, 540 (7 Sept. 1787). See also note 34 below.

[30] *Ibid.*, II, 392.

[31] *Ibid.*, II, 394.

[32] *Ibid.*, II, 540.

[33] *Ibid.*, II, 541.

[34] Without dissent, according to Madison, *Ibid.*, II, 540. On the same day Madison made another motion, "to authorize a concurrence of two thirds of the Senate to make treaties of peace, without the concurrence of the President," arguing that the latter "would necessarily derive so much power and importance from a state of war that he might be tempted, if authorized, to impede a treaty of peace." Gouverneur Morris objected "that no peace ought to be made without the concurrence of the President, who was the general Guardian of the National interests." When put to the vote, Madison's amendment was rejected, 8 states to 3. *Ibid.*, II, 540–541 (Madison's notes; in editing the Journal, Farrand has confused the actions taken on the two motions of Madison, pp. 533–534).

[35] *Ibid.*, IV, 58. Madison first wrote "no Treaty of peace," but than scratched out the last two words, thus making the provision applicable to all sorts of treaties. The House, in other words, would have to concur whenever any treaty might have the result of surrendering territory or fishing rights or rights of navigation.

[36] *Ibid.*, II, 534; se also 543.

[37] *Ibid.*, II, 543.

[38] *Ibid.*, II, 547.

[39] *Ibid.*, II, 548.

[40] *Ibid.*, II, 549. The vote was 8 states to 3. Immediately thereafter the Convention voted to retain the two-thirds rule for all treaties, rejecting by 9 states to 1 (with one divided) a motion to strike it.

[41] *Ibid.*, II, 392.

[42] *Ibid.*, II, 393.

[43] *Ibid.*

[44] *Ibid.*, II, 395.

[45] *Ibid.*, II, 383, 384, 394. The vote was 8 states to 1, with one divided. Only Pennsylvania (whose delegates included Gouverneur Harris, the mover, and Wilson) voted in favor. The state with an evenly divided delegation was North Carolina.

[46] *Ibid.*, II, 495, 498–499.

[47] *Ibid.*, II, 532, 534, 538.

[48] Constitution, art. II, sec. 2, clause 2.

[49] Farrand, II, 295, 301–302, 303, 304–305.

[50] *Ibid.*, II, 129–134.

[51] *Ibid.*, IV, 37–51, cap. 39, 43–48.

[52] *Ibid.*, II, 177–189, cap. 181–183, 186–187.

[53] U.S. Constitution, art. I, secs. 9 and 10.

[54] Farrand, II, 321, 324.

[55] *Ibid.*, II, 459, 466.

## CROSSROADS IN HISTORY

Mr. ROBERT C. BYRD. Mr. President, we stand at a crossroads in history—not just the epic history of the Panama Canal, but the history of the U.S. Senate and the two nations which are the parties to these treaties. Approval of these treaties would be another step in America's proud history of world leadership, a proud moment for the Senate, for our country, and for Panama.

Rejection of these treaties would be contrary to our national principles and purpose, and would damage and undermine Panamanian national dignity.

Today marks the 37th day of debate in the Senate on the treaties. The debate which began here on February 8 was preceded by lengthy hearings by the Committee on Foreign Relations and additional hearings by other committees.

Further, many Members of the Senate visited Panama in order to become better informed about the issues involved in the treaties.

The debate in the Senate has been one of the lengthiest and most thorough in history. In Senate consideration of treaties, only the Treaty of Versailles in 1919 and 1920 consumed more time. This debate has also been historic in that, for the first time, the Senate's proceedings have been broadcast across the Nation by national public radio.

Prior to and during the debate on the treaties, serious and legitimate concerns have been raised about their content and meaning. We have attempted to deal with these concerns through amendments to the treaties and to the resolutions of ratification. This is totally consistent with the Senate's constitutional role and our responsibility to insure that the treaties are in the best interests of the United States.

That, in the final analysis, will be the basis for each Senator's decision—whether, in that Senator's perception, the treaties are in our best interests.

### NATIONAL INTEREST

As Benjamin Franklin wrote long ago:

> There is no science, the study of which is more useful and commendable than the knowledge of the true interest of one's country.

In describing the treaties as being in our best national interests, I am talking about a time-honored concept in American foreign policy. It was Franklin, our first Ambassador and one of our earliest statesmen, who said that our foreign policy should be based on the principles of mutuality and equity.

It is a matter of determining our mutual interests with other nations and acting together to protect those interests. This is what has sometimes been referred to as enlightened self-interest. As Franklin said, "In every fair connection, each party should find its own interest."

Those are the principles upon which this treaty, and the Neutrality Treaty, are based—mutuality and equity. These are sound principles, in the best American tradition; they represent the best interests of the United States and are the best means of assuring that the Panama Canal will continue to serve the nations of the world.

Under this treaty Panama would have an increased stake in the canal and in its efficient and unimpeded operation. However, the United States would retain a high degree of control over the canal through 1999, plus defense rights thereafter, as provided under the Neutrality Treaty. Thus, these two treaties will fully protect U.S. interests for both the near and the more distant future.

There has been a tendency by some to overlook this and to overlook the fact that treaties are between sovereign powers, not between individuals. Thomas Jefferson spoke to this point in 1793 when a treaty the United States had signed with France in 1778 was questioned. That treaty had been negotiated with the French monarchy under Louis XVI. Subsequently, of course, the monarchy and Louis XVI were replaced. Jefferson said:

> . . . The treaties between the United States and France were not treaties between the United States and Louis Capet (Louis XVI), but between the two nations of America and France; and the nations remaining in existence, though both of them have since changed their forms of government, the treaties are not annulled by these changes.

We would all do well to keep in mind Thomas Jefferson's point: Treaties are between nations. This is the case regardless of changes in the individual leadership. It should also be remembered that throughout the 75 years of our treaty relationship, the Panamanians, despite longstanding resentment in Panama of the 1903 treaty, have consistently honored it.

PANAMA

Let me turn for a moment to the Panamanians. In this lengthy and wide-ranging debate, numerous comments have been made about Panama, Panamanian history, the Panamanian people, and their government.

Panama, unlike our own richly endowed Nation, is not blessed with great natural resources. Its greatest assets are its people and its geographic location—the isthmus through which the world's two largest bodies of water have been linked.

A translated version of some of our debate has been broadcast on Panamanian radio and there has been extensive coverage in the Panamanian press. The canal is, of course, a matter of vital importance to Panama; it is the very lifeblood of that country. It is a subject about which Panamanians have felt strongly for decades. The Panamanians have taken understandable offense at some of the remarks made here, and some, I fear, have been misinterpreted or misunderstood.

I believe the Panamanians have exercised remarkable restraint, and want to commend them for maintaining their equanimity in this situation. The American people know, and I hope the people of the world understand that, in the tradition of the Senate, our debate has been free, open, and unrestrained. This is the genius of our system, which presumes that no individual, no group or party has sole access to the truth. Rather, through debate and argument, through the competition of ideas, we hope to arrive at a decision which serves the principles and the interests of this country. But when the vote is taken, when the decision has been made, we present to the world an undivided front: we speak with one voice abroad, although at home—before the time for decision—we not only tolerate but also encourage the free expression of differences.

INTERNATIONAL IMPLICATIONS

In addition to the intense interest in Panama, these treaties are viewed throughout Latin America as matters of great importance, and as symbolic of the United States' attitude toward its neighbors. The Senate's vote on this treaty may well determine the course of United States-Latin American relations for decades to come. Approval of these treaties is critical to our future relationships with the rapidly developing Latin American countries—countries whose destinies are closely intertwined with our own.

Furthermore, implementation of these treaties would be consistent with our role as a world leader. These treaties are evidence of wise and judicious use of power, of an attitude of compassion and cooperation, by the most powerful nation in the world.

Thus, the treaties not only serve our own world interests, but they also serve the interests of the rest of the world. A bilateral treaty, such as the one before us, attempts to reconcile the interests of both nations, as I believe this one does. However, these treaties serve the interests not only of Panama and the United States, but also of all the other nations of the world.

Let us not forget that the Panama Canal is an international canal—open to all nations. Construction of such an international canal was the goal of the original Senate resolution of 1835, requesting President Andrew Jackson to negotiate with nations of Central America for the purpose of opening "a communication between the Atlantic and Pacific Oceans, by the construction of a ship canal across the isthmus which connects North and South America, and of securing forever * * * the free and equal right of navigating such canal to all such nations, on the payment of such reasonable tolls as may be established."

This is the purpose of the Panama Canal. This was the motivation for that monumental effort to construct the canal. This is the purpose of these treaties: an international waterway open to peaceful transit by the vessels of all nations. And the actions taken by the Senate to improve the treaty have been with that same purpose in mind. Our actions have been directed at assuring that the canal will remain open, secure, and accessible. It is the canal, not the internal affairs of Panama, which is our concern.

These treaties are evidence of a maturing partnership, a constructive partnership, a relationship based on mutuality and equity. These treaties reflect the world of today and tomorrow—not the world of yesterday. We have an opportunity to show wisdom and foresight, to exercise forward-looking leadership. We must consider the needs of future generations.

It is a time for vision—a time for courage.

No matter how long one may serve in the Senate, there are few rollcalls that have greater portent than that which will occur tomorrow. Both the short- and long-term consequences of our actions will have momentous impact. It is not an overstatement, it is not an overdramatization to say that our action tomorrow may well influence the course of world affairs for years, indeed, for generations.

We are at a crossroads. We face a critical decision. I am hopeful that the Senate will choose the road that will bring credit and honor to this body and to this country. Approval of this treaty will be a proud moment for us, for our Nation, and for Panama.

Mr. President, I yield back such time as I may not have consumed.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Tennessee (Mr. BAKER) is recognized as in legislative session for not to exceed 15 minutes.

Mr. DANFORTH. Mr. President, it is my understanding that the Senator from Tennessee has yielded that time to me.

The ACTING PRESIDENT pro tempore. Without objection, then, the Senator from Missouri is recognized for 15 minutes.

SETTING THE RECORD STRAIGHT

Mr. DANFORTH. Mr. President, I wish to address some attention today to one of the most frequently heard comments I have received from my constituents about the Panama Canal treaties. Repeatedly, people have said to me something on the following order:

We do not mind giving Panama our canal, but why do we have to pay them to take it from us?

As a matter of fact, a radio commercial which was run in my State put the point this way:

If you agree with Senator Danforth and Jimmy Carter that we should pay Panama billions of dollars to take our canal, that is your privilege.

That is the point that I would like to address myself to today, because, in point of fact, that is not correct. Under the treaties, we are not paying Panama any money at all to take the Panama Canal, much less billions of dollars. As a matter of fact, under the existing treaty, the 1903 treaty, the United States is obligated to pay out of its Treasury to the Republic of Panama $2.3 million a year. That would be $50.6 million between now and the year 2000, that we, the American people, are obligated out of our Treasury to pay the Republic of Panama between now and the year 2000.

By contrast, under the treaty that is now under consideration, the so-called Panama Canal Treaty, the United States does not obligate itself to pay anything out of the Treasury of our country to the Republic of Panama. It is true that Panama will receive revenues pursuant to these treaties, but they will not be revenues paid out of our Treasury; they will not be revenues paid to Panama by the American taxpayers. They will be revenues derived from tolls, tolls charged to shippers who are using the Panama Canal. They will be tolls paid by shippers in some 65 countries.

Last January, when I visited the Panama Canal, there were numerous ships going through the canal at that time, many of them Japanese ships. I was told that one of the ships going through the Panama Canal during the day that I was there was a Cuban ship. Ships from Germany, ships from all over the world are using the Panama Canal. The additional revenues that would go to Panama under these treaties would be from tolls charged to those shippers.

It is true that American shippers also use the Panama Canal. However, we are not talking about Joe Doakes, the ordinary taxpayer in this country who is coughing up the money himself. We are talking about tolls that are being charged to Texaco, to Occidental Petroleum, to Atlantic Richfield, and to United Brands, which are four of the major users of the Panama Canal.

The United States will incur, pursuant to this treaty, certain incidental costs. The costs will take the form of interest which we would forgo, which is now payable from the Panama Canal Company to the U.S. Government. The Panama

Canal Company is, itself, an instrumentality of our Government. But it is true that we would forgo certain interest payments.

It is also true that the U.S. Government would incur certain other costs, most importantly the cost of providing early retirement for certain employees of the Panama Canal Company.

And these costs equal at the outside about $720 million over the period between now and the year 2000, or about $34 million per year on the average.

But the fact of the matter is that this $720 million or $34 million a year is not money we are paying to the Republic of Panama to take the canal from us. These are incidental expenses that are incurred. Not a penny of it is money that is payable to the Republic of Panama.

It is my understanding Senator PERCY will make some remarks later in the day which will take the view that a good portion of this $700 million or so will be recouped or can be recouped out of tolls.

So it is highly doubtful that this full amount of potential increased loss to the Treasury, which in no event would go to Panama, it is highly doubtful all of that would, in fact, be realized by the taxpayers of the United States.

However, looking at the worst case, looking at the absolute outside of the highest projected cost to the Treasury of the United States, what are we talking about?

We are talking about an average of $34 million per year. What does $34 million per year mean? What does it amount to?

It sounds like such a colossal figure, but we are looking now, next year, at a Federal budget for the United States of a half a trillion dollars.

Would that we would be able to debate every item in that budget as we have debated this particular item over a period of 2 months. Thirty-four million dollars in a budget of half a trillion dollars, that equals, Mr. President, 7/1000 of 1 percent of our 1979 budget. Not 1 percent or a tenth of a percent or one hundredth of a percent, but 7/1000 of 1 percent of our 1979 budget.

In this Government, the Federal Government, we spend money at a rate of $1 million every 63 seconds, 24 hours a day, 7 days a week, 52 weeks a year. We in the Federal Government are spending the taxpayers' money at a rate of $1 million every 63 seconds. That means that the $34 million that we have directed such terriffic attention to over the past 2 months, and that radio commercials have been bought to advertise, we are now in the business of spending $34 million every 36 minutes and, again, 24 hours a day, 52 weeks a year.

Mr. PERCY. Will my distinguish colleague, at some point in his comments, yield?

Mr. DANFORTH. I certainly will. I would like, for the matter of sequence, to finish a few points and then I will be happy to yield.

The $720 million which would be spread over 22 years would take the Federal Government 12 hours and 36 minutes to spend.

To put $34 million in context, I would just like to cite some other things we are spending money for in this place.

The State Department will spend $31.8 million just moving people around the world. The State Department will spend $40.1 million just moving the belongings of people around the world.

It costs $184.6 million to operate the U.S. Senate for a year, and that excludes the cost of postage, it excludes the cost of printing, it excludes the cost of maintenance and utilities; $184.6 million a year just to operate the U.S. Senate. How long do we go on debating that? Certainly not for a period of 2 months.

The Capitol police, the people who are in charge of pushing the tourists around will cost us next year $20 million. The cost just for routine maintenance of two Senate office buildings is $10.3 million. The Government Printing Office next year will spend $74 million just for printing things for Congress; $73 million will be spent by the National Archives primarily to file and save tons of bureaucratic paperwork.

So it seems to me that if we want to talk about $34 million for 2 months, that is just fine. But maybe we are straining at gnats and swallowing camels.

If we can recoup a good portion of that $34 million, as the Senator from Illinois, as I understand it, will suggest later today, that is a very fine solution.

But the one point that I would like to close with before yielding to my distinguished colleague is that even this $34 million, out of a half trillion dollar Federal budget, even that $34 million does not consist of one single penny that is payable out of the Treasury of our country to the Republic of Panama.

Mr. PERCY. I thank my distinguished colleague for yielding.

I first would like to say that I think he has put in perspective a very important point, the most important point being that all of those people that confronted me on this over a period of months now to say, "Why are we paying Panama for us to give this away to them?" Just do not understand. We are not paying Panama anything out of the U.S. Treasury. I think my distinguished colleague from Missouri has made that point very well.

The payments to Panama do come out of user's fees, and the shippers, and 65 nations actually make those payments.

What we are doing is just righting a wrong of 75 years standing and starting to pay them something close to the real worth of the rights they gave to us years ago. Because even today, after we negotiated those rates up three times, they still are less than 1 percent of the toll revenue of the canal.

But when my distinguished colleague mentions all these figures of $34 million and $720 million over a period of 22 years that we will continue to operate the canal, I am certain as a member of the Finance Committee he is in no way minimizing the value of money, even though it is just a few million or three-quarters of a billion.

I recall that my distinguished former colleague, Senator Dirksen, made the comment on the floor of the Senate one day: "A billion here and a billion there, and pretty soon you're talking about real money."

We are talking about real money—three-quarters of a billion dollars of cost which, as my distinguished colleague has said, we will be able to recover and should be able to recover, and it should not come out of the taxpayers' money. It should not come out of the Treasury.

That is broken down by the cost of these treaties: $276 million in civil service early retirement benefits. There is no reason why that money should come out of the Treasury.

I think the gesture we are making to the whole world now is a generous and a gracious gesture, but the right gesture for this country. However, we have costs involved in these treaties, and we should say that those costs will be absorbed over the next 22 years by the users of the canal and paid out of these fees.

The other costs we have, in a sense, are not what the State Department calls costs. However, as a former businessman, I say it is a cost of these treaties. We now get $22 million in revenue. We are losing that $22 million. I will speak later about how we can recover that $22 million a year, because that is $440 million over 20 years, and that is real money.

The ACTING PRESIDENT pro tempore. The time of the Senator from Missouri has expired.

## SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oklahoma (Mr. BARTLETT) is recognized, as in legislation session, for not to exceed 15 minutes.

## A COMPREHENSIVE TEST BAN

Mr. BARTLETT. Mr. President, the emotional, high-pitched debate surrounding the production decision on the neutron bomb suggests a poor climate within which to deal with the vital question of comprehensive limits on nuclear testing. For many antinuclear activists, a comprehensive test ban treaty is not simply another arms control measure. A CTB is viewed by them as a means to "cut the Gordian knot" of disarmament, more of a major step toward nuclear disarmament than just a means to reduce the development of new weapons and limit the growth of nuclear stockpiles. These activists recognize full well that an absolutely "comprehensive" test ban treaty would result in a loss of confidence in the reliability of the nuclear weapons stockpile of the United States.

If a decline in the reliability of the stockpiles of the two superpowers were equal, then theoretically nuclear stability would be enhanced in the beginning as each side lost confidence in its ability to deliver a disarming first strike against the other. Unfortunately, equal deterioration of unequal forces could derive one side of its assured retaliatory capability long before the other had lost its ability

to strike. This would be destabilizing, especially if the stronger side were to attempt to gain political advantage from the situation.

And, even if the loss in reliability of the weapons in the superpower stockpiles were equal, the United States would probably be at immediate disadvantage with respect to the Soviet Union. American nuclear weapons rely on a more precise degree of sophistication, and American nuclear delivery systems place a greater degree of importance on optimizing designs for small size and low weight. Furthermore, because the Soviet Union is closer to deploying its next generation of strategic systems than is the United States, Russia knows better what future warheads it will need. All of these factors would work against the United States during a comprehensive test ban. Thus, if the effect of a CTB were equal on the nuclear warheads of both the Soviet Union and the United States, the United States would have to have a sufficient lead in many aspects of its nuclear weapons structure to insure that whatever good is achieved through a CTB would not be overcome by the harm done to nuclear stability and the national interests of the United States.

In an open and democratic society like the United States, little chance exists that the United States could conduct secret nuclear testing designed to obtain an advantage over the Soviet Union. The same cannot be said about the Soviet Union. Large areas of Soviet Union are remote from overseas sensors and lie in regions which frequently have earthquakes which are difficult to distinguish from small, but very significant nuclear tests associated with tactical nuclear weapons and fission triggers for thermonuclear weapons. Existing verification techniques are simply not sufficient to prevent the Soviet Union from conducting those tests which permit maintaining the reliability of the nuclear weapons stockpile and some weapons modernization.

Nuclear weapons detectors and monitors inside the Soviet Union could offer some improvement in our ability to verify compliance with a Comprehensive Test Ban Treaty, but they could not completely prevent circumvention. Small tests could be completely hidden through various camouflage techniques and larger tests could be conducted on a limited scale. Identification of a limited number of larger tests would be very difficult because the United States would normally not have sufficient information to be able to assert, without doubt, that a given number of suspicious events were actually underground nuclear tests and not earthquakes.

Banning all nuclear weapons testing also suffers from a problem of definition. Many programs important to our Nation's energy research program involve technologies which are difficult to distinguish, technically, from what might be weapons related programs. This parallels the difficulties we experience with the Soviet Union which often seems willing to place certain limits on nuclear weapons testing while resisting equal restrictions on so-called peaceful nuclear explosions (PNE's) which serve many of the same functions as weapons testing.

Also, we should be careful not to commit ourselves to a CTB until we see what limits are placed on new delivery systems in a future SALT II agreement. For example, the United States may find itself heavily dependent on the air launch cruise missile (ALCM) as a result of the ongoing SALT process. As countermeasures are developed against ALCM's and as defenses are deployed against their carriers, the United States may find it necessary to reduce the size of the warhead in order to permit longer ranges and more sophisticated electronic equipment on board cruise missiles. This would require testing.

A CTB also impacts on the theater balance in Europe and on the mutual and balanced force talks. NATO still relies on its tactical nuclear weapons to counter both conventional and nuclear attacks from the Warsaw Pact. NATO seeks more modern weapons such as the enhanced radiation/reduced blast weapons which can reduce collateral damage in the defense of Europe. An improperly timed CTB could interfere with the development and deployment of these systems.

As more of our Nation's nuclear weapons are deployed in a mobile mode, we must insure that they are safe and secure. Take, for example, the ground-launched cruise missile. Unless major steps are taken to insure that the nuclear weapons mounted on some versions of the proposed GLCM are absolutely safe and tamperproof, the flexibility to be gained by deployment of this system will be reduced. Yet, the GLCM offers the hope of being able to target, from rapidly changing locations, a wide variety of targets including Soviet MRBM's and IRBM's.

One of the main arguments given for negotiating a CTB is that a CTB will help to prevent nuclear proliferation. This belief draws its strength from the statements of nations such as India, France, and the People's Republic of China to the effect that they can never feel free to restrain their freedom to conduct nuclear testing and activities until the United States, the Soviet Union, and Great Britain restrain their programs.

Those nations which may be capable of joining the nuclear club will make the decision to do so, if and when they do, on the basis of their perceived political and military needs, independent of whether the existing nuclear powers continue testing. Nations like South Africa, Israel, Taiwan, South Korea, Brazil, and others will make their decisions based upon complex political judgments which are outside the realm of a CTB to influence. Furthermore, they will do it with technologies upon which a CTB will have no influence. If the existing nonproliferation treaty is unable to provide sufficient protection against proliferation, there is little that a CTB can add to prevent its occurrence.

At the present time, we are seeing the development in certain political circles of intense psychological pressure for the conclusion of a Comprehensive Test Ban Treaty in the near future. However, we have not seen the emergence of any significant new reasons to commit ourselves to a CTB now, nor have we seen the emergence of any new breakthroughs in verification technology.

If and when the time comes to consider a Comprehensive Test Ban, I hope that the debate will take place in a climate far more reasonable than that which has surrounded the recent discussion of the enhanced radiation weapon. Perhaps, the best way to approach the problem of further restrictions on nuclear weapons testing is to take those incremental steps which are made possible by progress in our verification technologies. In that way, we may be able to avoid the idealistic euphoria and alternating hysteria that accompanied the "Ban the Bomb" movement and is now associated with many of the efforts against the enhanced radiation warhead.

There are reasonable agruments to be made on both sides of the CTB issue. I believe that it would be best to let each side attempt to prove its case incrementally. For starters, I would suggest the following: The Senate should first consider ratification of the pending Threshold Test Ban Treaty signed in 1974, and the PNE Treaty signed in 1976. This would give the Senate a chance to become familiar with the issues associated with nuclear test limitations.

The administration could then give consideration to reducing the ceiling on nuclear tests down to a range of perhaps 10 kilotons, or whatever can be verified. This would give us a chance to gain experience in living with rather severe restrictions on our nuclear programs. It would also give us a chance to develop confidence in the Soviet Union with a more limited nuclear test ban.

Following this period in which we would be living in a secure, but restrained, testing environment with the Soviet Union, we should be conducting those development programs which would give us more confidence in the long run reliability of our weapons and in our verification technologies. These are areas in which we should increase investment. At the same time, we would be making a reasonable gesture of restraint which might have some symbolic value in preventing proliferation. Simultaneously, we could continue to develop programs and policies designed to discourage both the ability and the need for other nations to develop nuclear weapons. Only then could we be comfortable with a truly comprehensive test ban treaty.

## ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. HODGES). Under the previous order there will now be a period for the transaction of routine morning business, as in legislative session, for not to extend beyond the hour of 1 p.m. with statements therein limited to 3 minutes.

## HOLOCAUST—WHY THE GENOCIDE TREATY SHOULD BE RATIFIED NOW

Mr. PROXMIRE. Mr. President, millions of Americans had an opportunity to see last night a spectacular program

on NBC Television on the terrible attempt by the Nazis to exterminate the Jews just before and during World War II in Europe.

That program called "Holocaust," is catching the interest, the imagination, and the concern of the American people, as well it should. It is a vivid and terrible reminder to us of how vicious mankind can become. That is a program that will continue tonight, tomorrow, and Wednesday. It is a 9½-hour program.

I raise that point because for 11 years now I have been rising on the floor of the Senate almost every day to plead to the Senate to ratify the Genocide Convention. "Holocausts" is what the Genocide Convention is all about.

It vividly tells the story of the attempt of the Germans to exterminate Jews in World War II. The United States led the fight in the United Nations. We won the approval of the United Nations for the treaty. After the treaty was ratified in the United Nations, some 85 countries, including every major country except the United States in the world, has ratified it. Every President of the United States since President Truman has called for us to ratify it. Yet the Senate of the United States has refused to act.

It is really shameful on our part that we have not recognized our responsibilities.

I earnestly hope that Senators will take this opportunity to watch this remarkable program on NBC and will examine their conscience and their heart and recognize the responsibility that we have here in the Senate to act, and I do hope that in spite of the fact we are moving along this year, and it is an election year, the leadership will be able to call that treaty up for action after 30 long years of waiting. That treaty has been pending since 1948.

## NEW YORK CITY

Mr. PROXMIRE. Mr. President, the New York City Comptroller, Harrison Goldin, has pointed to still another loss of millions of dollars the city has suffered through ineptitude in this case failure to enforce the penalty clauses in a contract.

The city lost at least $10.8 million because the city's transit authority has neglected to assess penalties against the Pullman Co., for being some 2½ years behind in the delivery of 745 subway cars, forcing the city to extend the use of 40-year-old cars.

Now, there is a penalty clause in that contract that requires Pullman to pay as much as $37,250 a day for 2½ years. Unfortunately, the city has permitted much of that to lapse. They can still collect $10.8 million if they act now.

Mr. President, this comes after other costs New York experiences that I have explained to the Senate recently.

For example. The State comptroller, Arthur Levitt, made an investigation reported a few years ago in which he found that park employees were typically—this was an investigation that took several months—typically 90 minutes late for work, instead of a half-hour that they are allowed, they took 1 hour and 15 minutes on the average for lunch and were only working productively 50 percent of the time.

Mr. President, it is clear that there are areas here in New York where substantial funds could be picked up if sweetheart contracts were eliminated, contract terms were enforced, and if some of the time spent loafing were eliminated.

If New York is to come before the Congress of the United States, as it is in the process of doing, and ask for extension of its Federal loan—and they are in the process of asking for something like 15 years, a $2 billion guarantee—I think we should take New York's efforts to help itself or the lack thereof into very careful consideration in asking whether to move ahead.

Mr. President, I ask unanimous consent that an article that appeared in yesterday's New York Times entitled "Goldin Calls Transit Authority Lax in Penalizing Tardy Contractor" be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 16, 1978]

GOLDIN CALLS TRANSIT AUTHORITY LAX IN PENALIZING TARDY CONTRACTORS

(By Glenn Fowler)

The New York City Transit Authority has failed to assess $10.8 million in contract penalties for delays in the delivery of new subway cars, City Comptroller Harrison J. Goldin charged yesterday.

"Pullman Inc. has been up to two and a half years behind on the delivery of 745 cars for the subway system, which is forcing the city to extend the use of 40-year-old cars that should have been retired, long ago," Mr. Goldin said following an audit by his staff.

Moreover, he said, "these relics are a major factor in service disruptions, and keeping them patched together adds substantially to the city's subway maintenance costs."

The Transit Authority contends that many of the delays in delivery are excusable under terms of two contracts that were signed in 1972 for the purchase of the R–46 passenger cars at a total cost of $208.5 million.

PENALTY OF $37,250 A DAY

Mr. Goldin said that the contracts provided for a penalty of $37,250 a day per car for late delivery, but that the Transit Authority "has written off all but $1.5 million out of an estimated total of $12.3 million worth of penalties that should be charged to Pullman."

The comptroller said also that it was impossible to charge Pullman for delays totaling $13.3 million more because "the authority failed to exercise proper enforcement of the contract." And $3.7 million more in penalties should not be sought because delays were unavoidable either by the authority or the manufacturer, Mr. Goldin declared.

"But to charge Pullman only $1.5 million is ludicrous," he insisted.

In its defense against the charges, the authority said that because the city had placed two purchase orders for additional R–46 cars beyond contract deadlines, the city could not penalize Pullman for the delays. However, Mr. Goldin's auditors found that the orders in question had actually been placed earlier than the dates claimed by the authority.

In one case an order for 135 additional cars was placed on Dec. 21, 1972. Mr. Goldin said, which was 10 days before the deadline. He said that a final order for 156 cars was placed on Aug. 9, 1973, six days before another specified deadline.

According to the Comptroller, the manufacturer felt it would have ample time to fill the orders by April 25, 1975, as called for in the contract. Penalties for delays beyond that date should be $3.9 million, he said.

Pullman should also be assessed $1.4 million for delays in testing the cars caused by malfunctions of motor-control units, Mr. Goldin contended. Finally, $5.5 million should be charged to Pullman for delays arising out of its failure to comply with design standards, he said.

"It's bad enough that the Transit Authority did not diligently expedite production in its approval of drawings, designs and changes by providing adequate" test specifications for some of the equipment, Mr. Goldin said, "but to compound damage by letting the manufacturer off the hook is beyond excuse."

He recommended that the authority stop current payments to Pullman and begin negotiations to assess the penalties. The city, he said, should either receive cash reimbursement or equivalent value in new subway cars or extra equipment.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. McGOVERN). Is there further morning business? If not, morning business is closed.

## THE PANAMA CANAL TREATY

The Senate resumed the consideration of Executive N, 95th Congress, 1st session.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the resolution of ratification of executive N, 95th Congress, 1st session, Calendar No. 2, which the clerk will report.

The assistant legislative clerk read as follows:

*Resolved* (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Panama Canal Treaty, together with the Annex and Agreed Minute relating thereto, done at Washington on September 7, 1977 (Executive N, Ninety-Fifth Congress, first session).

The PRESIDING OFFICER. Under the previous order, the Chair now recognizes the Senator from Louisiana (Mr. LONG) to call up an amendment.

AMENDMENT NO. 99

Mr. LONG. Mr. President, I call up my amendment No. 99 to the resolution of ratification.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG), for himself and others, proposes an amendment numbered 99:

Strike out the period at the end of the resolution of ratification and insert in lieu thereof a comma and the following: "subject to the condition that the instruments of ratification to be exchanged by the United States and the Republic of Panama shall each include provisions whereby each Party agrees to waive its rights and release the other Party from its obligations under paragraph 2 of Article XII.".

Mr. President, on behalf of myself and Senators NUNN, DECONCINI, TALMADGE, and CANNON, I offer this "condition" in the form of an amendment to the resolution of ratification of the Panama Canal Treaty.

This "condition" requires that the instruments of ratification to be exchanged between the Governments of the United States and Panama shall contain provisions whereby each party agrees to waive its rights and release the other party from its obligations under article XII, paragraph 2 of the Panama Canal Treaty.

As presently drafted, article XII, paragraph 2 unduly restricts the options of both the United States and Panama with respect to the construction of a sea-level canal until the year 2000.

It is my understanding that the Senate leadership, the administration, and the Government of Panama have each reviewed this proposed waiver of the reciprocal rights and obligations under this provision and have agreed to accept the "condition" I now propose.

Last week, Senator DOLE had offered an amendment to the text of the treaty that would have stricken article XII, paragraph 2. While I fully agreed with Senator DOLE's analysis that this provision is not in our best interest, nevertheless, I respectfully disagreed with the method he chose to accomplish his purpose. An amendment to the text of the treaty is objectionable to Panama and simply unnecessary in this case since article XII specifically allows the United States and Panama to make a subsequent agreement relating to each party's rights with respect to a new interoceanic canal. As the treaty contemplates, the "condition" I propose is such an agreement to cancel the rights and obligations imposed in this article at the time of the exchange of the treaty documents.

Mr. President, this provision is purported to contain restrictions on both the United States and Panama with respect to the construction of a sea-level canal. These restrictions are supposed to be a mutually beneficial quid pro quo. I submit that these provisions are more advantageous to Panama than to the United States.

Paragraph 2(a) purports to give the United States the option to build a sea-level canal in Panama until the year 2000. Our negotiators have interpreted this section to mean that the United States has the sole authority to build a sea-level canal in Panama until 2000; we would have to waive this option before a third nation could construct a canal. However, the language of paragraph 2(a) is less than precise and may be subject to a different interpretation. General Omar Torrijos has been quoted as saying this article gives the United States only a "first option" to build a new canal in Panama.

On the other hand, the United States' obligation under paragraph 2(b) is unequivocal by stating that the United States "shall not negotiate with third states for the right to construct an interoceanic canal on any other route in the Western Hemisphere" without the consent of Panama.

The logic escapes me which would illustrate the wisdom of renouncing our right to negotiate for a new canal. Apparently, based on the 1970 Interoceanic Canal Commission Study, our negotiators felt that Panama was the only economically feasible route for a new canal, and they wanted to prevent Panama from inviting another country to construct a canal. In return, we relinquished our right to build a canal elsewhere without Panama's consent.

It has been reported that these provisions were an 11th hour addition to the treaty at the suggestion of President Carter. With all due respect to the President, in my view, this language is simply a "bad deal" for this Nation. It is objectionable for the following reasons:

First, the imprecise language creating a dubious obligation on the part of Panama juxtaposed with the crystal clear restriction on our rights to negotiate with third nations is totally unacceptable.

Second, even if Panama continues to be the most economically viable location for a sea-level canal, these provisions give up our much-needed leverage with Panama. By giving up our right to negotiate with our other Latin neighbors, the United States has placed itself in an extremely poor bargaining position; thus, since we could not build elsewhere, Panama could demand a high price from us and give us little voice in the operations of a new canal or a third lane of locks.

Third, this arrangement obligates the United States for 22 years into the future based on recommendations of a technical study completed 8 years ago—the 1970 Interoceanic Canal Commission Study. What if the relative feasibility of routes is restudied and a better route is found? Circumstances can change. Technological and engineering advancements can occur. Political conditions can alter. Is it wise to rest our policy totally on this sort of technical evaluation which may become dated?

To show how opinions can vary, I noted some remarks in the CONGRESSIONAL RECORD of last Monday, April 10 by Senator GRIFFIN, citing a 1967 study sponsored by the Council on Foreign Relations. The study surveyed various options for a new canal and concluded at that time that the preferred route would be through Nicaragua and Costa Rica. The study observed:

Although the cost of construction bears on the final choices, it should not be the prime factor in making a decision on a new canal. A waterway which is less expensive in dollars may be most expensive in political consequences.

I agree with Senator GRIFFIN that even if Panama appears to be economically and technically the best location for a new canal, this Nation should not relinquish its right to approach Nicaragua, Costa Rica, or Colombia. Former Secretary of State, Henry Kissinger, in his testimony before the Senate Foreign Relations Committee, raised the question of whether it would be wise to place two canals in the same country. Dr. Kissinger stated that although reasonable men could differ on this question, if we did build a sea-level canal, we might want to consider having it in another country.

Finally, there are practical realities which would discourage any hostile foreign power from building a new canal in Panama. Under the proposed treaty arrangement, any canal built in Panama would be covered by the provisions of the U.S.-Panamanian Neutrality Treaty. Thus, the United States and Panama would be the guarantors of the neutrality of the new canal no matter who built it. Also, our historic influence in Central America would make it difficult for a foreign government to build a new canal in Panama unless we agreed. The United States is the overwhelmingly prevailing naval power at both the Atlantic and Pacific entrances to any interoceanic canal built through Central America.

Mr. President, I am of the belief that any treaty that is unfair to Panama is also not in the best interest of this Nation in the long run. Under the "condition" I am proposing, Panama and the United States are merely waiving their reciprocal rights and obligations under article XII, paragraph 2 of the Panama Canal Treaty—a waiver explicitly contemplated by the language of the treaty.

This change is fair to Panama; it is fair to the United States; and, it is a far better arrangement for the entire Western Hemisphere.

Mr. President, I ask that Senator HATFIELD of Montana be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRIFFIN. Will the Senator yield for a question?

Mr. LONG. I yield.

Mr. GRIFFIN. The Senator said the waiver was specifically contemplated in the treaty. In what respect is that so?

Mr. LONG. The treaty says: "During the duration of this Treaty, the United States and Panama shall not negotiate with third parties for the right to construct an interoceanic canal on any other route in the Western Hemisphere, except as the two parties may otherwise agree."

Well, by this condition in the exchange of documents we would agree that the two parties may negotiate with other countries. It just has the effect of agreeing as the section I have read specifically contemplates. It says unless the two parties agree. In this case, we would agree. In the ratification of the documents we would agree to waive the restriction that each places on the other in connection with that article.

Mr. GRIFFIN. Mr. President, I find this proposal by the distinguished Senator from Louisiana to be very interesting. Of course, I appreciate his reference to my earlier expressions of concern about

article XII, particularly section 2 thereof. I must say, though, that I am somewhat at a loss to understand why we would seek to correct the situation by reciting the waiver as an amendment to the resolution of ratification. With all due respect to the Senator from Louisiana, I do not understand why we would seek to waive something in advance of actually arriving at an agreement. It seems to me the appropriate thing to do here would be to change the agreement.

I am concerned about two things. I would like to express myself and perhaps the Senator from Louisiana would care to respond.

One, would the waiver, so-called, be binding on successor governments to Mr. Torrijos, or is this something that we would just be doing in connection with his regime? I guess part of really the same question is, Is it contemplated that this waiver would be approved by the people of Panama in a new plebiscite? If it is not to be approved in a new plebiscite, then it seems to me that it reinforces the concern that I have that all we are doing here is trying to waive in advance with the person who temporarily happens to be in power down there, Mr. Torrijos, a very, very crucial and important article of this treaty.

The Senator from Louisiana is so correct in his arguments against article XII. However, I am really concerned about the way he seeks to remedy the situation. I am at a loss to understand why it should be done in this way.

Mr. LONG. Let me just say to the Senator I do not have only doubt that if this treaty had been agreed between the United States and Panama, either the United States or Panama could waive this condition to permit the other to negotiate with anybody they care to negotiate.

This is something that the Government of Panama can agree to and it does not require a plebiscite. The Dole amendment would have required a plebiscite. It seems to this Senator that there is no point in requiring a further plebiscite in Panama when all we would need would be an agreement between the heads of state of the two countries. In this particular case, we do not change the documents, but both sides agree that we will waive the right to hold the other party to that particular provision. We would achieve what Mr. DOLE sought to do, but we would simply do it without requiring a plebiscite in Panama to bring that about.

I have looked into this matter myself, and I have also been advised by the legal authorities in the State Department and elsewhere that this is all we need. I do not see any point in insisting on a plebiscite in Panama if we can achieve the same result by a simple agreement between the two countries.

It is my understanding that Panama never asked for this provision to begin with, but this was an idea that came from the American side. I must say whosoever's idea it was, it seems to me like it was a very poor idea. While some think it is a good idea, including some in this body, to me it does not help at all. I think we could get a much better deal if we are going to go in and spend many billions of dollars building another canal, or even to expand upon what we have—I think there would be a far better deal if there was the power to negotiate among several different groups, looking at several routes. It would be a tremendous economic asset to a country through which the canal would be built in the future. Look at what we have to offer. I think that being the case, we could make a better deal.

I believe the Senator from Michigan believes so as well, does he not?

Mr. GRIFFIN. I think article XII puts us in a terrible position. It is one of the major concerns I have had about the treaty throughout.

The Senator from Louisiana has responded very forthrightly, indicating that a plebiscite by the people of Panama is not contemplated. One of the reasons it is offered in this way is to avoid a plebiscite.

Let me ask again the other question that I asked before. Is a waiver at this time by General Torrijos, who may not be in power forever in Panama, is the Senator from Louisiana satisfied that a waiver executed and accomplished in this way will then be binding on a successor government in Panama?

Mr. LONG. I would say it is. Keep in mind that, as far as we are concerned, what we want in this country is the right—which we have right now minus this treaty—to negotiate with anybody about a new canal. Here is a treaty that proposes to say that we do not have that right unless the two parties agree that we have that right. Well, we just agree right here and now that we do—that is, in the exchange of the documents. That being the case, we have the right to negotiate with anybody.

Having done so, unless we should agree later on—which we would be very foolish to do, because this is a provision that has the sanctity of the Congress, a condition in this ratification that we have a right to negotiate with others—that right could not be given away without the consent of Congress; that is, the Senate.

Mr. GRIFFIN. If I may respond, it is interesting that the Senator from Louisiana is recognizing that, on our side of the agreement, the concurrence of the Senate is necessarily involved, which is true under our Constitution. I might point out to the Senator from Louisiana that, under the Constitution of the Republic of Panama, their ratification process includes not only the head of state, but the people themselves, who act in the place of the Senate through a plebiscite. It seems to me what is sought to be accomplished by the Senator's amendment here is substantially and significantly to change the treaty without subjecting it to the ratification process of the Republic of Panama.

As much as I agree with the objection of the Senator from Louisiana to article XII, paragraph 2 thereof, I think this is the wrong way to go about correcting it and I am going to have to vote against his amendment. What needs to be done, of course, is to have a renegotiation of these treaties where Panamanians and Americans are on equal footing at a bargaining table. This particular provision, as well as other provisions, needs to be corrected. I think all the way through, the effort here, in the Senate, to rewrite the treaties and send them to Panama on a take-it-or-leave-it basis, as the Senate is seeking to do with respect to the DeConcini amendment, is the wrong way to go. We ought to send the treaties back for renegotiation. I think that was the proper course in handling the first treaty and ought to be the course that the Senate will follow in handling this treaty.

I thank the Senator from Louisiana for yielding.

Mr. LONG. Mr. President, I certainly hope that the Senator will not vote against what conditions and amendments make this a better deal for the United States merely because he hopes to defeat the treaty itself. It is my view that, insofar as we can improve on the treaty and can change it, something that is more appealing and more acceptable to the American people, then something that the people of Panama would be willing to accept, and then something the Government of Panama would be willing to accept, the better off we all will be. In my judgment, this corrects what I believe to be one of the most objectionable features of the treaty. I have no doubt that if this is agreed to, the Panamanians will go along with it and that will solve one of the serious problems involved.

Mr. ALLEN. Mr. President, I support this amendment to the resolution of ratification even though I believe it does not go far enough. Further, it should have been an amendment to the treaty rather than an amendment to the resolution of ratification. However, the time for offering amendments to the treaty has expired and all we have left is the opportunity to offer reservations in the form of amendments to the resolution of ratification.

Indeed, the reservation will leave us in worse shape than we are now before these treaties are agreed to because, under the 1903 treaty, we did have the right and we do have the right to negotiate with any other nation for another canal and to build that canal anywhere that we deem fit.

We also had and we still have the right to veto any further canal construction in Panama. We have a monopoly, as set forth in the 1903 treaty, and the 1955 treaty, for that matter. During the course of the debate on the treaty, when amendments were in order to the treaty, I offered an amendment which was defeated, as were all amendments to the treaty, that provided that the United States did not relinquish its right to negotiate with another nation for the construction of another canal outside of Panama and to actually construct and to operate and maintain that canal.

So, Mr. President, as the situation exists now, we can negotiate outside Panama and build a canal outside Panama—in Nicaragua, Mexico, or else-

where. We have that right. We also have a monopoly on canal construction, isthmian canal construction, in Panama. Under the treaty before us, we cancelled the 1903 treaty and the 1955 treaties, so that there are no prohibitions of any sort. Then, in order to get back our veto power on the construction of other canals in Panama, we had to give up our right to negotiate with other nations for the construction of a canal and to the actual construction and operation of a canal.

So, we already have a right and, under the treaty, we give up that right. In order to get it back, we have to agree not to negotiate for another canal in another country. A very sloppy job, I must say, by our negotiators.

We failed to amend the treaty to give us the right to negotiate for another canal outside Panama. Those amendments were defeated at the behest of the administration and the leadership. My amendments would have retained our veto right on other canal construction in Panama and would have given us the right to negotiate outside of Panama for another canal. What the amendment setting up a reservation to the resolution of ratification offered by the distinguished Senator from Louisiana (Mr. LONG) does is strike out the prohibition on the United States from negotiating outside Panama for a canal.

But it also removes our veto power over the construction of another canal in Panama. In other words, we give up our monopoly under the treaty provision.

The amendment or reservation, as it might be called, of the distinguished Senator from Louisiana (Mr. LONG), knocks out both of these provisions in the treaty. It allows us to negotiate elsewhere and it removes our monopoly from canal construction in Panama, thus giving Panama the right to negotiate with any other nation besides the United States and, indeed, including the United States, for the construction of a canal.

So even with the amendment of the distinguished Senator from Louisiana (Mr. LONG), we will be in worse shape than we are now, because now we can negotiate elsewhere and we can also forbid any other country from building a canal in Panama. We give up that latter right even under the amendment of the distinguished Senator from Louisiana (Mr. LONG). But it is better than the treaty, and that is the reason I support it.

It does return to us that which the treaty deprives us of. It does return to us the right to negotiate elsewhere for a canal.

But it gives Panama the right to negotiate with another country for the construction of another canal in Panama.

Mr. President, frankly, I do not believe another country is going to want to build a canal in Panama based upon the experience of the United States after creating an investment that is worth $10 billion and then be required to give it to Panama. I do not believe other countries, being somewhat more realistic and more pragmatic than the United States is, I do not believe there is any danger of their coming in and building a canal in Panama.

So I do not see that giving up that veto power is giving up too much. But the Long reservation does return to us the right to negotiate with other nations for the building of a canal.

I regret that it is being done in the form of a reservation. As the distinguished Senator from Louisiana pointed out, this reservation will not require another plebiscite. I wish they would hold another plebiscite because I believe that we need a compact with the people of Panama rather than a compact with Dictator Torrijos.

But, as I say, the time for filing amendments has expired. We have turned now to the resolution of ratification. Though I had an amendment that would return this right to us and retain the veto, it was defeated.

Personally, I wish an amendment had been adopted that would have called for another plebiscite. But with the present status of things, I believe this is the best that we can get for strengthening the treaty.

I would certainly agree with the distinguished Senator from Michigan that the preferable way to handle both treaties would be to return them to the negotiating table and to see if a treaty could be negotiated that would meet with the approval of the people of the United States and the people of Panama.

Right now, I do not believe either people approve this treaty and I would prefer to return both treaties to the negotiating table. That can be done under the parliamentary situation that we have.

But I say to the distinguished Senator from Michigan (Mr. GRIFFIN), I do not believe we can wait to see that that is going to be done because I have serious doubts as to whether the Senate is going to vote to send this back either to the committee or back to the President for further negotiations and we have to take each step as we come to it.

So I do believe the Long reservation would be an improvement over the treaty as we now have it before us, and I do plan to vote in favor of the Long reservation.

Mr. GRIFFIN. Will the Senator from Alabama yield?

Mr. ALLEN. I am glad to.

Mr. GRIFFIN. Of course, I highly respect the views of the Senator from Alabama. As he knows and I can understand, even though we are on the same side of the issue, I can see that reasonable people can differ as to what is the best thing to do in terms of the disposition of the Long reservation.

Let me just ask the Senator from Alabama, and I would direct the question to the Senator from Louisiana, but he is temporarily absent from the floor, could we go down through this treaty and change other provisions of it as well by having a reservation that would waive our right to enforce this and that, other provisions in the treaty?

Mr. ALLEN. I question whether that can be done, I state to the distinguished Senator from Michigan. But an amendment would have been preferable, and how by reservation can we go contrary to the express provisions of the treaty? This is all we have before us, I would point out to the distinguished Senator from Michigan.

Mr. GRIFFIN. Yes.

Mr. ALLEN. All that I feel the leadership will accept. Of course, they are in full charge of the amendments to the treaties. They can accept them or reject them.

I am pleased that they are willing to go this far because they failed in reference to past amendments.

I say that I do not believe we can risk waiting to see if the Senate is going to send the treaty back to the negotiating table or to return it to the committee. We have to face the situation as we find it. I would much prefer an amendment to the treaty. But this is better than nothing, in my judgment.

Mr. GRIFFIN. I thank the Senator from Alabama.

I think he put his finger on it when he said that he would much rather have a treaty with the people of Panama than just a treaty with the temporary ruler of Panama.

Mr. ALLEN. That is correct.

Mr. GRIFFIN. I not only would prefer that, I think it is essential that we have a new treaty relationship with the people of Panama, and that if we settle for a treaty only with the temporary ruler of Panama I do not think we are solving the problems that we have in our bilateral relations with the Republic of Panama at all.

I think we are creating new and more serious problem when we settle for a waiver or a change in the treaty that is effective only with the dictator in Panama.

This is a serious, substantial revision of the treaty. It goes to one of the most important articles in the treaty, and for the Senate to engage in a maneuver here that will circumvent by design the ratification processes of the Republic of Panama so that a very important article is, in effect, deleted, without giving the people of Panama any say in it, I think is going to create more trouble than it will solve.

Second, I seriously question whether any waiver under this procedure that General Torrijos gives us would be binding on a successor. And I wonder if anyone can answer the question of how long General Torrijos is going to be the ruler of Panama. It could be a short period of time. It could be a longer period of time.

But I do not think this is the way to proceed and I just respectfully have to register my views in the strongest way.

Much as I believe that article XII is wrong, this is not the way to deal with it; and, as I said before, I will have to vote against the reservation.

Mr. ALLEN. I thank the Senator for his comments. I agree with him.

I feel that if this reservation is added to the Resolution of Ratification, if the time ever came that we wanted to negotiate with Nicaragua or Mexico for another canal route, this reservation could well justify our entering into those negotiations, because we could point to this reservation as being a valid reservation and as authorizing us to negotiate.

I believe that world opinion certainly would support that effort on our part.

I seriously doubt that we are going to build another isthmian canal. I believe this is the last one that anybody will build. With the charge being made of unfair treatment toward Panama or any other Central American nation, with the demand for the facilities to be given to the country in which the route is located, I think that will effectively prevent the United States or any other nation from building another canal in the isthmus. It just would not pay.

Still, I believe we should reserve our right to enter into negotiations with another nation for the building of another canal, because we do not know what the future will hold. I do believe that the Long reservation, with its shortcoming, leaves us better off than we are today under the present treaties, because we now have the right to negotiate with other nations for a canal and we have a right to veto Panama from allowing another nation to build a canal in Panama. I do not believe we are giving up a great deal there; because if another nation wants to build a canal there and would agree to operate it on the same nonprofit basis that we are operating the canal, I would see very little objection to that. I certainly do not want to compete with any other nation to build a second canal in Panama. If we build another one, I would rather have it outside of Panama.

For these reasons, I hope the reservation will be agreed to.

I yield the floor.

Mr. LEAHY. Mr. President, in the course of the past few weeks, we in the Senate, and the people of the United States as a whole, have engaged in a debate over the future of the Panama Canal and the future of the relations between this country and our long-time friend and ally, the Republic of Panama. These debates have assumed a central focus in the discussion of American foreign policy that they do not, in reality, merit. We have used as an example, on the floor the fact that we have spent almost 3 months on this treaty. Yet, when we set up the NATO alliance, the most significant military alliance in recorded history, the Senate spent all of 12 days on it. I think the American people might question why so much time has been spent on this matter, when we have so many far greater matters facing this country.

Last Thursday, the Senator from New York (Mr. MOYNIHAN) pointed out that our concerns, and predominately those concerns the opponents to these treaties have tried to include in these documents, signify a deeper anxiety regarding our role in the world today and in the years to come. The canal is important; this treaty is important. However, neither should occupy this vast amount of attention at the center of American foreign policy today.

Our national will is not in the process of being tested solely today, but, rather, it is tested every day. Panama is our friend, and has been our friend since the birth of its Republic in 1903. We are not called upon to abandon the Panama Canal, but to redefine its operation and to act in the spirit of our long friendship with Panama. Mr. President, we are not being blackmailed or challenged by our friend; but rather, we are asked to rethink our relationship, to set things right. Our friends in Panama do not intend to stab us in the back. They realize how fruitless and dangerous such an action would be.

They have known for decades that the step we contemplate today is the just and honorable step that has been put off for so long. Panama takes comfort in knowing that we are committed by these treaties to underwrite the defense of the canal's neutrality, but our friends ask us to limit our interest to that possible future action and not to an unnecessary interference in their sovereign affairs. Panama's true interest in the canal is synonymous with our own—its neutrality, its continued unimpeded operation, and its legacy as a testament to the monumental effort of our two countries. Panama may very well not have been able to build the canal without us, but we could never have built it without Panama.

Mr. President, I wish to emphasize the points so eloquently expressed last week by my friend and colleague, DANIEL PATRICK MOYNIHAN. Our recent history—Vietnam, Watergate, Angola (indeed, Africa itself, and our dependence on foreign energy resources—has raised a number of questions for all Americans, and with these questions, fears as well. We are called upon, and will be called upon again and again in the years directly ahead, to define our role in the world, to resolve critical problems here in the United States, and to help resolve just as critical problems facing our fellow people throughout the world.

America, a great and powerful nation, may very well be called upon to commit her prestige and power to preserve this world and those nations which have strived with us toward freedom and prosperity. At the same time we are not called upon to exert our considerable power against our trusted friends in Panama. Let us make no mistake: Panama is in our camp, and has been for the entire duration of her independence. Let our two nations work together and let the United States exert her power where it is so desperately needed. Let us not waste her attention and her prestige in the way we seem to have been trying to do in over the past several months.

If we are to exert our strength, let us not manufacture a conflict which need not exist. We must direct our attention and our energies to the resolution of serious problems here and we must assist our friends in Panama with the resolution of their problems. The ratification of the treaty before us is a monumental step toward both of these goals. We cannot set our house in order until we accurately define the direction in which our power and influence must flow. Panama cannot set her house in order until she is able to exercise sovereignty over her entire territory.

We must not fall into the trap that many would argue we have already succumbed to. We must admit to ourselves and to the world that we know from which quarter we are threatened, that we know where our security interests lay, and that we will not tolerate unnecessary interference within the established limits of our security. The canal can run if we have troops there, and the canal can run if we do not have troops there. We can use the canal if we operate it, and we can use the canal if Panama operates it. We can defend the canal from bases in Panama, and we can defend the canal from bases in America. We can defend the canal by declaring to the world through ratification that we intend to turn the operations of the canal over to Panama, our friend and partner, and to no one else—no one else. We are insuring the smoothness of this transition by ratification of this treaty today just as we stated our intention to maintain the neutraliy of the canal with the help of our friend by ratification of the previous treaty in March. We, the United States, need only make it clear to the world, that we will not tolerate any action, covert or overt, that threatens the determination that we, together with our partner, Panama, have laid down in these treaties.

Mr. President, we cannot expect to protect the freedoms that we enjoy in our great republic at the expense of a sister republic. If we restrict another people's freedom, we undermine our own. This treaty is in the best interest of both countries. We have operated the canal for three-quarters of a century. By the end of this century, it will clearly be time to transfer canal operations to Panama. After a century, it must be right. It is a just symbol of our greatness and our generosity—not our weakness. These treaties seal our friendship with a proven friend who has stood by us throughout this century of conflict.

To those who would liken these treaties to a curtain falling on America's greatness, I will say today, and I will always say, that it is just the opposite. As I have said in Vermont, the curtain is rising on a new American era, one in which this great republic assesses her problems as well as her strengths and goes forward to resolve those problems, and in confidence, helps her friends resolve theirs. We are saying to the world through these treaties today:

> We know what our true interests are, and we know where those interests are threatened. We will not be confused by symbolism any longer. We will make a stand in Panama—with our friends in Panama.

Mr. President, there was an article in the Washington Post last week by Mr. Robert Kaiser. It is entitled, "What Is (and Isn't) Said in Canal Debate."

Mr. President, I ask unanimous consent that that article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 12, 1978]

WHAT IS (AND ISN'T) SAID IN CANAL DEBATE

(By Robert G. Kaiser)

If the Senate debate on the Panama Canal treaties had to sell tickets to stay in business, it would have closed weeks ago.

Sen. Patrick Leahy (D–Vt.) says the proceedings "resemble the plot line of a television soap opera. You could listen to the debate for several days, leave for a week or two,

and come back to it having missed very little. All the arguments are being forwarded again and again."

As a literal description, Leahy's is impossible to fault. But, in fact, the arguments that have been repeated again and again for almost two months do not cover many of the strongest senatorial emotions that appear to be covertly at work in the debate—judging from private conversations with senators.

Off the Senate floor, numerous senators acknowledge that the formal debate has often been a symbolic substitute for deeper issues that have rarely been addressed directly: the true lessons of the Vietnam War and the proper world role for the United States in the post-Vietnam era.

Sen. Robert C. Byrd, the majority leader, alluded to all that on the second day of the debate, nearly two months ago. Byrd spoke of those who feel that "we are sliding down the mountain of greatness, that the Vietnam War—and now the possibility of what some of the opponents refer to as 'giving up' the Panama Canal—are signs that our national fiber is being peeled away, that we are soft."

As usual, Byrd had a good sense of what was behind many senators' positions on the canal treaties. The hard core of opposition (20 to 25 senators) is obviously convinced that these are bad treaties, not in the best interest of the United States. But many of them are even more upset about the *symbolism* of giving up the canal.

For example, Sen. Orrin Hatch (R-Utah), a freshman member of the "new right" bloc in the Senate, said the other day—not in debate but in the Senate cloakroom—that "this is the culmination of that pattern of surrender and appeasement that has cost us so much all over the world."

Hatch, Sen. Jesse Helms (R-N.C.), Sen. James B. Allen (D-Ala.) and others in the hard core of opposition share a deeply pessimistic view about the course of U.S. policy and even the fate of the republic in the hands of its present leaders. That pessimism has an emotional flavor—it comes from more than political analysis. "Is America really going the way of Rome?" Hatch asks.

That pessimism sets the opponents apart from a large majority of their Senate colleagues. But the diehards are numerous enough to work coherently to prolong the debate.

They also have support in the treaty votes from Senators who do not share their world view, though exactly how many is hard to say. Sen. Charles Percy (R-Ill.) has told colleagues that he reckons a secret ballot would result in 85 affirmative votes. (The first treaty got 68.) Other senators privately put the number at 75 to 80. But even some of the opponents acknowledge that they have "political" votes on their side from senators who are nervous about reelection or who want to position themselves on "the right" in this fight.

Byrd has said publicly that three senators who voted against the first treaty had promised to vote for them had they been needed for two-thirds approval.

Publicly the opponents' protracted opposition to the treaties has been accepted with good manners by the majority and the Senate leadership. But privately their tactics—and the time they are consuming in a busy legislative year—have angered many senators. Some are furious at the amount of time being "wasted"—a word used by Sen. George McGovern (D-S.D.).

The anger has emerged vividly just once, in an impromptu exclamation of frustration from Sen. Daniel Patrick Moynihan (D-N.Y.). Moynihan was ignited by an amendment offered by Sen. Malcolm Wallop (R-Wyo.), another of the "new right" senators.

Wallop's amendment said, in effect, that if Panama failed to live up to the terms of the new treaties, then the existing treaties of 1903 and 1936, giving the U.S. virtually unlimited rights in the Canal Zone, would come back into force. That contradicted the first article of one of the new treaties, which explicitly declares that their adoption nullifies the 1903 and 1936 treaties.

The amendment was tabled, 50 to 37, and Moynihan rose soon after the vote. He noted that the Senate was then in its sixth week of the Panama debate:

"By comparison the North Atlantic Treaty occupied 12 days of the Senate's time. And we begin to enter into a period where standards are collapsing. The senator from Wyoming [Wallop] this afternoon . . . submitted an amendment to this treaty which was so inane, so devoid of intellectual competence or even rhetorical merit, as literally to silence the supporters of these treaties."

Moynihan was enraged by Wallop's attempt to ignore the first article of the treaty. "Now we are all at least supposed to have learned to read before we come into this chamber," he said.

"Are we to reduce this United States Senate to a playground, a playpen of juvenalia? . . . Are we going to ask the world to look down upon us as persons who have no standards of the integrity of an argument, of the logic of a sentence, of the empirical basis of an assertion of fact? . . . there is the reputation of the Senate involved. . . ."

Moynihan is a newcomer to the Senate, and his impatience is not shared by many of his senior colleagues. (Moynihan himself realized he had broken the rules, and his diatribe was much toned down for publication in the Congressional Record, which is less a record of what is said in Congress than of what members wish they had said.)

Wallop and his colleagues on the opposition side are not intimidated by remarks like Moynihan's. They realize that President Carter and the Senate's treaty backers failed to sell the treaties in the country as an unassailably good idea for the United States. So they have a license to assail the treaties—which happen to be the handiest available symbol of the "weakness" they deplore in American policy.

The length and repetitiveness of the debate are a measure of the proponents' failure to win over public opinion decisively. The issue of America's post-Vietnam world role is still an open one, at least in the U.S. Senate, and that gives the debate its importance, and even its legitimacy—boring and irrelevant as the discussion sometimes is.

Mr. LEAHY. Mr. President, the article points out, quite rightly I might say, that not all of the debate has taken place here on the floor of the Senate. The article points out, quite rightly, that there have been discussions within the cloakrooms and off the floor about whether somehow the ratification of these treaties spell a decline of America's greatness.

I cannot help but think, Mr. President, of the reaction in the country and other places after the end of the Vietnam war, the time when we somehow seemed to be able to take enormous pride here because we had had an indecisive clash with part of the Cambodian Navy at the end of that time. We seemed to indulge ourselves almost in self-flattery by ignoring the realities of the situation, ignoring the fact that when we left Vietnam we did something we should have done years before. We also were ignoring the fact that our true allies, in the areas where we had the greatest concern, such as in Western Europe with our NATO alliance, were all strongly in favor of the fact that we finally disengaged ourselves from a losing situation and could once more put our attentions back to the areas where America's influence and America's power is most greatly needed.

I think that that is certainly one of the best examples that we can give, the fact of the NATO alliance itself, the enormous strength that we have united there. And I wonder, Mr. President, how many of our allies who face the very real possibility of nuclear war on this planet, a nuclear war that they hope the United States will be able to preclude from ever happening, must feel when they see us so tied up over a matter that is of such minuscule moment as compared to the constant life-and-death-of-this-planet choices facing us in other areas.

Mr. President, I hope that the people of this country realize that the choice before us is of reaffirming the greatness of the United States or of showing, in effect, a pettiness and a failure that is not in keeping with this great country.

Mr. President, I yield back the floor.

Mr. GRAVEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. GRAVEL. Mr. President, I compliment my colleague from Vermont, the distinguished Senator, Mr. LEAHY, for a very, very fine statement and putting the matter before us in good perspective.

Before I launch into it I yield to my colleague, Senator CHURCH, the manager of the bill, for a comment.

I yield to Senator CHURCH.

Mr. CHURCH. Mr. President I very much appreciate the Senator yielding to me.

First of all, I want to commend my good friend, PAT LEAHY, for a remarkably fine statement. Second, I ask permission of the distinguished Senator from Alaska if I might put three questions to the sponsor of the reservation in order to better understand its meaning and to develop a legislative history that I believed should form a part of the Senate's consideration of the reservation.

Mr. GRAVEL. I am happy to yield to my colleague for that purpose.

Mr. CHURCH. I thank the Senator very much.

First of all, addressing the able Senator from Louisiana, does the reservation mean that the restrictions contained in paragraph 2 of article XII are nullified?

Mr. LONG. The reservation requires, as a condition to ratification of the treaty, that both the United States and Panama agree to waive the constraints with respect to negotiating with other parties for the construction of a sea-level canal. Specifically, it means that Panama is free to negotiate with any other country, including the United States, for the construction of a sea-level canal in Panama, and the United States is free to negotiate for the construction of a sea-level canal in any other country. There would be no bar in the treaty to the cosntruction of a new canal in Panama or by the United States elsewhere.

Mr. CHURCH. How is it possible that the reciprocal constraints expressed in paragraph 2 of article XII can be voided in a reservation?

Mr. LONG. Paragraph 2 of article XII provides that the United States and Panama may waive the respective restrictions placed on the other in this paragraph of the article. The phrases,

"or as the two parties may otherwise agree" and "except as the two parties may otherwise agree" permit each party to agree to remove the restrictions placed on the other. Acceptance of this reservation by both countries requires that each shall agree, in the instrument of ratification, to "otherwise agree", or waive the restrictions of paragraph 2, article XII.

Mr. CHURCH. Does the reservation void or negate all provisions of article XII?

Mr. LONG. No, it does not. The other provisions of article XII would remain in force. These include the requirement for a feasibility study by the United States and Panama concerning the possible construction of a sea level canal in Panama, the provisions of paragraph 3 which give the United States the right to add a third lane of locks to the existing canal, and the provisions of paragraphs 3 and 4 with respect to the additional lands and the use of nuclear excavation techniques. All these would remain in force should the United States either add the third lane of locks or construct a sea level canal in Panama.

Mr. CHURCH. I thank the Senator very much.

I think this exchange does, in fact, clarify the purpose of the reservation and makes it possible for the leadership to support the reservation offered by the Senator from Louisiana.

I thank him for his answers to the questions.

Mr. LONG. I thank the manager of the bill. We thought about this and discussed it, and I believe that with this amendment some of us can vote for the treaty who otherwise would find extreme difficulty in doing so.

Mr. CHURCH. I thank the Senator from Alaska for his courtesy.

Mr. GRAVEL. Mr. President, I think yielding for that kind of purpose is like handing somebody a switch to whip you with. I say that in good humor to my colleague.

Let me first address a statement to the leadership. I know the leadership plans to support the Long amendment, but I nurture the vain hope of being able to persuade my good friend from Louisiana that this is not a good idea. I know he has an open mind, and I am going to try my darndest right now. I hope similarly the leadership would keep an open mind. I think, with some of the information I will bring out, I may be able to make a case that could be persuasive.

First off, not as an admonition to the leadership but just as a statement, we find ourselves in some difficulties today on this issue for the very simple reason of accepting things we do not truly think out.

I would say that if the Long proposition is accepted, people will stand on this floor and gnash their teeth over that unfortunate decision, for the very simple reason that when you strip away from the issue of the Panama Canal the matters of sovereignty and justice to the Panamanian people, then—in the light of cold economic analysis—the most important item in these deliberations is to determine what will be in the enlightened economic self-interest of the United States.

I feel responsible for this section of the treaty. I went to the negotiators, to the President, and to the Secretary of State to press for language to cover this situation. If we put that language aside, there may come a day when our relationship with Panama may not be as strong as it is today. And I would say that if that day comes, certainly these debates will have contributed to it. If at that time you start from square one, that is, sort of a no-holds-barred situation, that is not in the best economic interest of the United States. I do not think it is in the best economic interest of Panama either, but it may not be viewed that way at that point in time.

Let us now look at what I think is the central point of my colleague from Louisiana, namely that we can look for a better deal elsewhere—may we have order, Mr. President?

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senate will be in order. Members will cease their conversation.

Mr. GRAVEL. I thank the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. GRAVEL. Because I know my colleague from Louisiana is experienced in business practices. It just strikes a chord of reasonableness that if you are going to try to negotiate something with Charlie over there, and he appears to have a bit of a monopoly, then your best tactic is to bring in Peter and John as possible participants in the deal so that you can play one off against the other and get the best deal. That is standard practice in any kind of dealing, any kind of human dealing, economic or noneconomic.

But I think in this particular case we have gone beyond that. That would have been the situation maybe in 1903. That might have been the situation before the facts available to us today occurred. It certainly would have been the situation prior to 1964.

But since 1964, when we launched upon a course of study to find out what to do with respect to a sea-level canal, and came to a conclusion in 1970, we have had facts before us, and those facts are known to the world—they are known to the Panamanians as well as to ourselves.

In fact, the United States of America spent $22 million studying where to put the Panama Canal, a sea-level canal, if one is to be built. So I think you cannot come in here now and say that we are going to make off as if that study never existed, and we are going to take some study that was off the back of somebody's envelope and say "maybe it could go in Costa Rica, maybe it could go here, so let us bring those into the picture." If those were real possibilities, I think my colleague from Louisiana would have a point. But I think they are not real possibilities, and I think anybody who has made any effort to ascertain the specific facts involved will be aware of this.

So I want to send over to my colleague from Louisiana a copy of the map of the proposed sea-level canal routes through Central America. Unfortunately, I do not have it in a large map. I have it in these small maps which each Member of the Senate may have if he likes.

I would offer one also to my colleague from Alabama so that he might follow these deliberations; one copy to my colleague from Michigan; one to the Senator from Maryland, if he might want to follow; and also to the Senator from Georgia, who might want to follow these deliberations.

The key matter here now is what did the study look for and what did the study find.

American taxpayers paid $22 million for this study—and I might add $14 million of that was spent on evaluating nuclear construction, whether or not we could use nuclear devices to construct a sea level canal. If you look at the map I have handed out to you you will see there were 30 sites that were studied all the way from Mexico into Colombia, touching Nicaragua, Costa Rica, Panama, and Colombia.

Of the 30 sites, 22 were essentially dismissed after preliminary investigation as being fairly out of the question, quite out of the question.

So the study, as is normal, narrowed down to eight possible sites. If you will follow with me on the map I will discuss those eight sites. The first site considered as a viable site of the eight was Route No. 5 in Nicaragua. It goes through Nicaragua and parts of Costa Rica.

Certainly Costa Rica—and I will just make political editorial comments on the side—is a fine representative government, excellent economy, good, solid-type people to have commercial dealings with.

I think if you look at Nicaragua—I will not editorialize too much—but I think the papers have been replete with considerable difficulties that they have internally. So since political stability is figured as such an item of issue with respect to Panama, which has a reputation for being a stable government since its founding, I can only surmise as to what the reactions of the Senate would be were we talking about a similar long-term commercial arrangement with Nicaragua.

The second one is site No. 8, and that also goes through Nicaragua and Costa Rica.

Then you have site No. 10 which goes through Panama; site No. 14 which goes thorugh Panama; site No. 15 which goes through Panama; site No. 17 which goes through Panama; site No. 23 which goes through Panama and Colombia; and site No. 25 which goes through Colombia.

Let us just cursorily look at each one of the sites and see why they were discarded, because it is really upon this that the case has to rest on whether there is a reasonable alternative to want to bring somebody else into the dealing process.

With respect to No. 5 through Nicaragua and Costa Rica, that was a lock canal, and that would cost some $6 billion. Now, a lock canal is no different from what you have right now. So obviously the only reason this was studied, and it was so stated in the report, was

so you could have a comparison, so you could have something to bounce your costs off of alternatively. It is a lock canal. You would not build that because you have one.

No. 8, in Nicaragua and Costa Rica, is a very long canal, as you can see, and the cost of that was $11 billion. In point of fact, that is just the cost of the canal. The support facilities would be in addition and, of course, you also have the difficulty of having no deep draught harbor in the area, which means the boats would not have a good approach. If you have been down to Panama, you know that what you do is aggregate the boats at either end of the canal, get ready, and then go through.

So having a deep harbor is pretty vital, very vital. But the cost here is just the cost of the canal and that is $11 billion. If you got in to try to build the port facilities where you would need to sort of warehouse the vessels until they could go through, then it gets to be out of reason.

The next, No. 10, is in Panama. That is the site that was selected by the commission, and that is going to cost $2.88 billion.

Now, mind you, compared to No. 8, which would cost $11 billion as opposed to not quite $3 billion, that is a substantial difference.

Now we go to No. 14. That is all in Panama. This is, in the commission's opinion, the second best site. The cost is $3 billion, which is slightly more than the one that was chosen, which would cost $2.88 billion. Its greatest difficulty is that you might have to close down the canal operations in order to build it; so if it took 5 years—the study talked in terms of 15 years, but I think that is unrealistic; we built the Alaska pipeline in 3 years, and I think they could do similarly with this kind of activity—or even if you got it down to 3 years, it would be very costly to world maritime activity to close it down. It would be very costly, for example, to the State of Louisiana, because the port of New Orleans is a very important port.

So, when you have added the cost of closing the canal, you can see why this was designated second choice instead of first choice.

Then we go to route No. 15, and that is a lock canal, which essentially is no different from the present canal.

I would like at this point to give my colleagues copies of the chart which I have been following; it has just been xeroxed, and we are having the charts passed out so that my colleagues can follow me on it.

Route No. 15, a lock canal, again was studied for comparative purposes. Obviously we have a lock canal, so nothing would be gained there, as this lock canal could not handle vessels larger than 150.000 deadweight tons. So there is no point in pursuing that, and of course the commission did not.

No. 17, in Panama, is unfeasible unless they go to nuclear excavation, at a cost of $3 billion. Seemingly this is out in the hinterlands, and would have no port facilities to bring it about.

Route No. 23, between Panama and Colombia, again is pretty much in the hinterlands; there are no construction support facilities. The cost would be $5.39 billion, and it would require excessive excavation.

Then Route 25, entirely in Colombia, is prohibitively expensive and would require nuclear excavation.

Let me say that with respect to Colombia, I met in Bogota with the chief engineer who represented Colombia on the study commission. We had breakfast together. We had sent him copies of our work, and he was very candid in telling me that there was just no way that any realistic person would make a decision to build a canal in his country. I did not solicit that, it was gratuitous. Here was the head guy for the Colombian interests, who readily admitted it would be preposterous.

So, that is not a group of people that you would want to bring into a deal. That goes back to the essence of the argument of our colleague from Louisiana: "Let us leave our options open to deal with someone else." The Colombians would laugh at us if we said to them, "Let's start dealing."

I also know the Costa Ricans find it most humorous. Maybe with Nicaragua you could make some kind of arrangement, but that would leave only the possibility of No. 8, and No. 8 would require the permission of Costa Rica.

So we cannot bring anybody else into the negotiation process but the Panamanians. Maybe we can close our eyes to the facts, but this is all from the study the American taxpayers spent $22 million for. We can say that we will close our eyes to the facts, and maybe someone will pop up from out of the woodwork with a feasible sea-level canal, but that would be like closing your eyes to the fact that day is day and night is night, hot is hot and cold is cold. You cannot close your eyes to those facts. These are also facts, and I would hope that my colleagues would be cognizant of that.

So, as to making a deal with someone else to play one off against another, there is nobody to play off. Reasonable people agree that the only place you can build a canal is in Panama.

Senators may say, "Well, the Panamanians may not be aware of that." All they have to do is hire a consultant to advise them as to what the economics are, and they would be saying, as I am standing here right now saying, that the United States of America has no reasonable alternative.

Let us look at what the fastest deal would be. Here I have to go back to the statement made by the Senator from Alabama that we presently have a monopoly right to build a sea-level canal in Panama today, under the 1903 treaty. Mr. President, that right does not exist. If anyone thinks that the situation in the world today would permit us to move construction equipment into Panama without their permission and start digging, affecting their environment, he would have to really see a psychiatrist. We do not have a monopolistic right; there is just no way you can exercise that kind of a situation today.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. GRAVEL. I am happy to yield to the Senator from Washington.

Mr. MAGNUSON. You skipped No. 9 in all your discussions.

The PRESIDING OFFICER. Will the Senator from Washington please use his microphone?

Mr. GRAVEL. The Senator asked me what the situation was with No. 9 as an alternative.

Mr. MAGNUSON. Right.

Mr. GRAVEL. No. 9 was not one of the eight selected. They started out studying 30 routes, and narrowed it down to eight that they thought were the most viable, and then analyzed the eight in greater depth. No. 9 they did not feel met the criteria that were set for the eight, and you can obviously see why. It is straight across Panama. It is a little bit out in the open country, with no support facilities, and I do not have a topographical map, but I would have to rely on the judgment made by the engineers that did not consider it in a class with the eight most feasible.

Mr. MAGNUSON. The reason I asked was that at one time there was a general discussion about a sea-level canal, which would be north of the present canal, about the same distance from the canal as No. 9. This area was considered an advantageous site because it was sparsely settled, would not pose great environmental problems, and it would be at sea level. Maybe it is not exactly that location——

Mr. GRAVEL. I think my colleague is referring to No. 10, because No. 10 is 10 miles due west of the present canal.

Mr. MAGNUSON. I have my directions confused. It is hard to realize that the canal goes from west to east.

Mr. GRAVEL. The Panama Canal actually goes from north to south.

Mr. MAGNUSON. Part of it goes from north to south. But it is this way, toward us from——

Mr. GRAVEL. That is right. This is closer to the United States, by going west.

Mr. MAGNUSON. And that is why the Senator did not discuss No. 9?

Mr. GRAVEL. Yes, No. 9 was left out by the commission.

For the information of my colleagues, I flew over with a helicopter at about 150 feet the entire route No. 10. It would not really impinge upon existing development. It is open terrain; that is, cleared farmland, and certainly the farms that would be taken for the construction could be swapped for other fertile ground, for the people in question.

The point I was coming to was the assumption that under the present treaty that we have a monopolistic right. In today's climate there is no way that Panama or, for that matter, any other nation which had given up such a right, would permit a foreign country to come in unilaterally and start digging a trench without their permission. So the fact of the situation is today that the 1903 right we think we have can only be exercised as the product of the good will of the Government of Panama and the people of Panama. That is the realistic situation today.

So we come to the next part. If we do not want to accept what is being pro-

posed here by the Commission's conclusions as to what our alternatives are from a construction point of view, then what are the other elements of an economic deal?

Those elements are sheer purely economic. That is, what would be the tolls?

If we still hold to the theory that the object of the exercise is to build the canal so that the tolls and the cost of transportation will be cheaper, then obviously the first thing we have to do is to build the cheapest canal because that will give the cheapest tolls. If No. 5 was built in Nicaragua and Cost Rica, that is twice the cost of route 10. So the tolls would obviously be twice as much. If the other canal was built through Nicaragua and Costa Rica, that is $11 billion. That is almost four times. So what we are talking about is going to the Panamanians and saying, "Look, we may have some disagreements, but why not you build the canal and we will pay you twice as much as you thought possible?" The parameters of discussions are what the other costs would be. Those are the parameters.

If one wants to open this up to more dealing, I suggest that it is not thoroughly thought out.

I would suggest that the best course of action is where we are today. That is recognition by the United States that Panama is the only legitimate location to have a sea-level canal and for us to forswear any intention that we would be the owners and builders.

The Panamanian people are going to own the sea-level canal, just as they will own anything of importance in their country. They have not gone through 70 years of semicolonialism to turn around and cut a new deal where we would be in charge. Of course not. That is preposterous. It is no more acceptable to the Suez or any other place where a country owns the geography in question. They are going to use that geography to their best economic self-interest. That is normal and to be expected.

So the premise that we begin with when we talk of a sea-level canal is that it has to be premised on the simple fact that it will be the Panamanians who will own it, and it will be the Panamanians who will build it. Now comes the crucial thing, that they cannot do anything without money. That is where we come into the picture, I say to my good friend from Louisiana. That is where we come into the picture because it is an important picture, an important picture to New Orleans, the State of Texas, the gulf coast area, to the east coast of the United States.

I can show this to Members with one very good map. Members can see this map now in my hand. When we see the location of Panama, the gulf coast, and the east coast, we can see how close all this is. We see Alaska, a little bit of a treasure chest for the United States. We see the west coast where we have timber that has to be moved to the east coast, and coal which has to be moved; we have the largest coal deposits in the State of Alaska known today.

How will that arrive in the East? Will it reach the East by crossing the continent? I can show figures where that is not economically feasible.

Obviously, what we do is breach the continent. That is what we are talking about. How do we breach the continent? We breach the continent at the smallest point. The smallest point suggested by this $22 million American taxpayer expenditure was route 10.

So we say to the Panamanians, "We do not have a deal for a sea-level canal or anything without it being used." Who uses the canal most today? We do, by one-third. Japan is second.

I am talking about the large world maritime powers, not the west coast powers of South America. It is more vital to them, but I am talking more in a global sense.

They cannot finance it with Ecuador. They cannot finance it with Costa Rica. They have to finance it with the United States, Japan, the OECD countries. That is how to finance that kind of a project.

It is very simple. The deal we are talking about is not a deal about whether we will construct it here or there, or whether we will own it or they will own it. The deal my good friend is talking about is the financing part of the whole arrangement. That is the deal that comes into the question.

We say with our economic ability, "OK, we will finance the canal. Then what will it cost us to go through the canal if we put up our money to finance it?"

That is where we begin to negotiate. That is where negotiations become serious. Japan could finance this. The Arab world could finance this. Germany could finance it. That is about it. Russia cannot finance it. Anyone who suggests they can is really not aware of their economic situation.

Those are the countries that can finance it. In point of fact, if we were intransigent, the Panamanians could go to the Japanese, to the Germans, or they could go to the Arabs. But those negotiations would be fruitless for the very simple reason that whoever is going to finance wants to get their money paid back. They will ask, "Who will use it?" The United States is one-third the user. Obviously, if we boycotted them—and we could, as all we would have to do is to pay the cost for breaching the Continent further north in the United States and boycott the Isthmus.

If somebody invested $10 billion to build the canal and the United States with malice aforethought was going to thwart that, all they have to say is, "We will not use it. We will pass a law here and subsidize our maritime interests to go somewhere else, or subsidize the railroads to carry it across." That is what we do right now. We subsidize the railroads at the expense of the port of New Orleans, of New York, and a few other ports on the east coast of the United States. That is our present national policy.

So the discussions, the negotiations, center on the financing.

Here is a very simple situation. The blue line on this map represents oil coming out of Alaska today, 1,400,000 barrels per day. Essentially, it goes to the west coast. If we do not develop the pipeline system from Long Beach to Midland, Tex., so the oil can go to the middle of the United States, the best project now to get the oil to market soonest, the alternative is to go to the present Panama Canal.

That is with the existing oil. We cannot even say grace over that on the west coast.

The red line on the map represents potential discoveries in 2 to 5 years, based on figures by USGS. It was their average or a little more conservative than average in their projections. I have it marked out here as 2 million barrels per day.

These black lines are existing imports, to scale, in the United States right now. That red one is after 2 to 5 years of discovery. We project that will push out imported oil. This white one is after 5 to 10 years of exploration. So, hopefully, in a decade, we would have in our inventory the potential coming out of Alaska of around 5.5 million barrels a day. If we cannot even say grace over 1.4 million barrels right now, we are not very provident in thinking out the future if we do not do something in that regard.

Arthur D. Little has done a study that compares the various alternatives for shipping the oil. If I could just point to the various alternatives, they are the trans-mountain reversal, which my colleague from Washington State was successful in thwarting the proposal of the company in question. I am very sympathetic to his position, because if I lived in the Puget Sound area and enjoyed the beauty of that, I would be very concerned about the possibility of supertankers coming into the Puget Sound area.

The other alternative is this Northern Tier pipeline, which would take it into the refineries in that part of the country. The problem with that is that the refineries can be very easily satiated with around 500,000 barrels a day. You could actually satisfy their needs with swaps through Maine, without even building one piece of pipe, but we have not gotten to the sensible policy of swapping oil as it used to be done in industry. The Government constructs impediments to that.

Another proposal is the Long Beach to Midland, Tex. route.

The other one is very significant and just got into the news. There was a wire service article on the Guatamalan pipeline as if it were something new. Somebody called me in Alaska and said, "Boy, have you heard about this?" I not only had heard about it, but I have been writing on it for 9 months. But it shows how thinking gets out of proportion sometimes.

Guatemala was important to analyze because D. K. Ludwig had suggested in 1969, when the discovery at Prudhoe Bay was made, that we ought to move oil in pipelines across Panama. This was never given serious consideration.

So when Arthur D. Little made an analysis, they came up with these figures. The Little study showed the throughput volume, the capital investments required and the cost of oil landed in either Houston, which would be the

equivalent of New Orleans, where the superports will be, or Chicago.

It showed that the trans-Guatemalan line, under these projections, was $2.16. That is pipelines, now. That is very critical to perceive at this point, that this chart is pipelines, except for the last two alternatives.

The transmountain reversal was $2.30 into Chicago; Northern Tier $2.78 into Chicago. The Sohio phase I was $2.06—there are two phases, because there are two pipes involved. The first phase would handle 500,000 barrels a day, the second phase would handle another 500,000. That first phase would handle the projected surplus on the west coast very well, but not the projected volume from expansion of the Alaskan pipeline.

Sohio filed a tariff in Alaska for this route which the study projected to cost $2.06. The actual filing in Alaska was over $3. So this study is very conservative.

Then going around the Cape is $3.14.

We asked Arthur D. Little if they would take the matrix of this computer run and add to that what it would cost for a supertanker—that would be a 250,000 dead weight tonner—to go from Valdez to Houston or to the east coast of the United States and compare that cost. They gave us back some figures. Then I superimposed upon that a toll.

The toll on a barrel of oil right now is 27 cents. We superimposed a toll cost of around 44 cents, so we almost doubled the toll. This is what results came back from Arthur D. Little's computer run. The first line on this chart is the pipeline system. That is the cheapest pipeline, Sohio, which takes the least amount of construction. That is $2.06 a barrel delivered to Houston. The Northern Tier, which would be the most expensive of pipelines, had a $2.78-a-barrel cost from Valdez. With a supertanker, almost double the toll, for 265,000 deadweight tons, it was $1.75. For the 150,000 deadweight tons, it was $2.18. Quite a sizable savings. We are talking about almost 50 cents—that would be the average per barrel, quite a considerable sum of money when we discuss how we are going to get oil more cheaply to the marketplace.

When you consider that $1.75, measure that against what is actually happening today with oil going through the canal at, let us say, $3. We are talking about over $1 we could save on a barrel of oil today.

The fact that that cost is being eaten by the State of Alaska today and the oil companies in question may not be very important, but let me submit that when we operate inefficiently anywhere in our society, whether it is private, public, what have you, we all pay in one degree or another. That is money that is wasted on inefficient transportation systems. That is money that cannot be used to find more oil or gas.

I submit that what would happen, using these very conservative projections, just on oil alone, is that we could probably pay for a new sea level canal.

Let me show one chart to demonstrate that we do not even need the new oil. When the study was done the Commission made some projections as to how you would pay off the sea level canal that they projected in 1970 would cost $2.8 billion. For this chart, I would truly love to have the attention of my good colleague from Louisiana because I think it is important for him to appreciate the facts of how we could pay for a new canal.

They made projections of a high, medium and low revenue picture. I took the average, the medium revenue picture. We took the projections for this period of time; that is, until 1980, this decade that we are in. Their projections show that with this line, you are able to amortize, with 60-year bonds at an interest rate of 6 percent, the cost of a sea level canal had it come into being instantly in 1970.

This line is the actual revenue picture of what the tolls have been in this part of the decade of the seventies. I think anybody can see that if the sea level canal had been brought into being instantly in 1970, we would have been able to pay for it very handsomely with what has gone through the canal. These great Alaskan oil finds which I used, which really set me on the trail of investigation, were not even in this picture. So you see from their own projections, it came out quite well. Of course, in there, you had the effect of toll increases. But you see that, even with the situation today, operating almost in a nonprofit situation you could have paid for the sea level canal.

Let me now jump to one point that is important to my colleague from Louisiana, and this is the reason that I hope he will join with me in recognizing that we should leave well enough alone in the treaty. My colleague comes from a maritime State, much more of a maritime State than the distinguished former chairman of the Committee on Commerce, who has been looked at as Mr. Maritime in this body. Senator LONG comes from the State of Louisiana. I believe the Port of New Orleans is probably the second most important port in the United States; certainly in the top five in the world, probably fourth place in the world. I believe Amsterdam would be No. 1. It is one in the Netherlands; I think it is Amsterdam. So, as a person with an economic interest in the maritime area and a constituency that has something vital at stake, I think the following will be very enlightening to him.

First let me show two charts here which sort of lead into where we are today.

When the Commission made its projections, it determined potential transits. This red line shows the average potential transits that it foresaw.

This blue line is the transits that actually took place. Other than the recession, it is quite obvious from a forecasting point of view, the projections were quite different from what actually occurred.

That is the first inkling that something unusual is happening in these projections.

The second is when we look at the tonnage that went through the canal. This red line represents their forecast of tonnage.

Now, this is a long-term forecast. When we look at the tonnage that actually went through, this blue line, we see it is quite on target.

So, we could say to the Commission that they are pretty far off on their transits, but right on target with respect to the tonnage.

What does that mean? Very simply, that the size of the vessels going through the Panama Canal was changing under their very eyes and it changed in this very short decade—less than a decade—7 years. It was changing right then and there.

So we look further and when we see the dynamics of what was going on in the world maritime fleet. Let's look first at bulk carriers. That is the second largest item in world maritime trade, and up until 1961 we see, literally, nothing was happening. Then, all of a sudden, in 1961, it took off like a skyrocket, to the point that now 19.6 percent of all the bulk carriers—that is in numbers—are over 60,000 deadweight tons.

That is the barrier of the present canal. Around 65,000 deadweight tons and we cannot go through the canal.

This must be translated into tonnage, which is the significant element in world commerce, not the number of ships. We could have a number of rowboats. There is no difference. It is the tonnage that counts, and we see our bulk tonnage today.

In 1975 43.8 percent of the bulk carriers, in tonnage, could not go through the Panama Canal.

So we could state very simply, that is an obsolescence factor. So the present obsolescence of the Panama Canal with respect to bulk carriers is 43 percent.

Then look at what happened with the largest item in world maritime trade, which is tankers. And I might say, the largest item going through the Panama Canal is oil. Look what happened and just see the chart and the way it goes.

Back in 1955 and 1956, 2.4 percent of the new tankers being built were 70,000 deadweight tons. By this period here, 1971–75, 66.7 percent were over 70,000 deadweight tons.

Mr. MAGNUSON. Which cannot go through the canal?

Mr. GRAVEL. That is right. At all. Could not go through the canal if we wanted to carry it.

Mr. MAGNUSON. No.

Mr. GRAVEL. But then we see what happened here on this chart. We see the line a different way. It shows that 76.5 percent of the world tonnage of tankers cannot go through the Panama Canal.

Now, we take those two figures and add to those two figures the balance of cargo in world trade, tonnage, and we see the tonnage available in world trade. We see 57.8 percent of all the vessels over 60,000 deadweight tons cannot go through the canal. So we arrive at our obsolescence figure in 1978, of obsolescence for the Panama Canal. We have to admit the present canal is 57 percent, almost 58 percent, obsolete. That is where we are today.

So if we take——

Mr. MAGNUSON. Does the Senator from Alaska think there is going to be any change in that, that in 1978—what did the Senator say, 57 percent?

Mr. GRAVEL. Yes.

Mr. MAGNUSON. Whatever it is, 57 percent.

Mr. GRAVEL. Yes.

Mr. MAGNUSON. Does the Senator not think that by the year 2000, if we want to go that far, that the canal is not going to be very functional at all?

Mr. GRAVEL. I want to disclaim any charge that the Senator and I conspired in this because he is just hitting me with the question straight out and I want to offer my next chart.

Mr. MAGNUSON. All right. I did not know that.

Mr. GRAVEL. I want the record to show the Senator did not know this next chart was coming up.

And that, very simply, is this, if we just reversed those figures—if I could really get the attention of my collleague from Louisiana on this one point, then I will not impose on him for his vital attention, but if I can just show him this, and my colleague from South Carolina, also—In 1966, 89.59 percent of the world tonnage was capable of using the Panama Canal. In 1977, that figure is 42.2 percent.

Now, that is a pretty rapid decline, as we see.

I did not want to be that severe. That is a 12-year period. In the next 20 years, we do not know what will happen, but let us be conservative and say only one-third of what happened in the last 12 will happen in the next 20. Only one-third of that performance. We see that by the year 2000 only 7.64 percent of the world maritime fleet will be able to use the Panama Canal.

This is disastrous for the port of New Orleans, or any port on the gulf or east coasts of the United States. It is disastrous for the Western Hemisphere.

This will be compounded by the fact that Suez Canal is going to be able to handle supertankers in 1981. They will be able to handle tankers of 250,000 deadweight tons.

So the barrier that every day is getting bigger for Louisiana, the silting-in—I know my colleague can understand this, this is one of the biggest problems in Louisiana, the silting-in, in New Orleans. It silts in. Well, it is not only the delta that is silting in, it is the present Panama Canal that is silting in, because every day that goes forward, this chart keeps going and it is like the port silting-in. We can use it less and less every year, with the fleet we have in the world.

Now, stop and think, if we can build a new sea-level canal and get with the program in a hurry, to catch up to what I think has been the only provident action in the United States today from an important maritime point of view, and that is the decision in the State of Louisiana to build a super oil port.

I want to compliment my colleague. I met with the people who are involved with that in the State of Louisiana, and they told me how it came about.

Senator RUSSELL LONG, the senior Senator from Louisiana, called his port people to Washington, sat them down in his office and said, "Hey, I think this is an idea you people want to get out and do something about."

They are now out doing something about it and will start construction in the next few months.

There will be only two superports in the United States. I am proud to say I beat him by a few days; that other superport is in Valdez, Alaska. The other is going to be off Louisiana.

They will be the only two ports that will be able to handle an oil cargo efficiently, and in the best interests of the consumers of the United States. One came about through his leadership, and one came about, I am proud to say, through my leadership, with his good support.

The question is, how do we get the oil from Alaska to use that port you are building? I know that you are not building it for Arab oil. It is for us. There is only one way to do that, and that is by breaching this isthmus.

We can talk of negotiating with Peter, Paul, and John. There is only one group we are going to negotiate with, and that is the Panamanians.

I started out with this report and my efforts to get this language in the treaty on the premise that if we treat the Panamanians right, they are going to treat us right. If we are going to put a dollar on the table and make a dollar, they are going to be as smart as we are to make that dollar. The only deal is going to be a good commercial deal—good for both parties. If it is good for only one party, it is not a good deal.

So, requisite to bringing about the breach of that isthmus is the good will and friendship of the Panamanian people and the leadership of Panama, whoever it is.

The language I press for, which I want to get in this treaty, states a very simple thing. The only figures available are what I have just presented. Obviously, I am proud of my work, but I do not think it is definitive. It needs a great deal more study, a great deal more negotiation.

Obviously, what we should do is study the situation. We will put up the money, and we will have a proposal before the Senate. I compliment the Senator from Washington in joining me and in offering his leadership to bring this about. I hope it will come about, regardless of what happens with the treaties. I hope it will come about in the near future; because with what is going on, we can make a decision here. What makes man different from animals is that we can anticipate that we are going to have a problem, and we do something about it before it is upon us.

So, shame on us if we have to wait until the year 2000 and say that 90 percent of the world maritime fleet cannot use the canal; therefore, let us study it. This treaty says that the United States and Panama will study it. It has to be with Panama. We are going to be studying something across their land, and it would be the height of arrogance to talk about the impact on their environment without involving them in the study. So we do it together. We are a wealthy country, and they are a poor country.

What happens when you want to make a deal with somebody? The Senator knows that if he has an oil lease and does not have the money to exploit it, he finds a guy with a few bucks who can finance the exploration of his oil lease; and if they find some oil, he is going to make a lot of money. If they do not find oil, he is not out of any money. But he is taking advantage of the geography he has to lease.

My colleague knows that kind of arrangement, and that is all I am suggesting under the study. They have the land; they have the potential canal site; we have the money. Let us study it with them and do it together. If something comes from it, and if somebody hits an oil strike on his leased land, he shares in the benefits of it, and so does the guy who drills the oil and sells it. Everybody makes a buck. With the Panamanians, we have the language in here, and we are going to study it, and then we are going to negotiate on what the deal is going to be. That is all the language amounts to.

It is punitive to say, "You can't do this and you can't do that." The "can'ts" are not important in this case because the "can'ts" in this treaty, on its language, are not the language itself. They are the realities of what exist in our society today. They have the best site; that is their "can." We have the money, and that is our "can." That is what our disciplines are.

So, to take the language out does not mean a hill of beans. What does count is that we stand up toe to toe with the Panamanians, as equals, and say, "My good friends, you have a piece of land that we think is important to the world maritime interests, ourselves included. Since we use the isthmus, since we are the biggest in the Western Hemisphere, we are interested in seeing that something comes about. Let's study it, and after we study it, let's negotiate." That is all there is to this language.

I know my colleague's interests. I know his interests are sincere and well-meaning, because there is much at stake for the gulf coast and the State of Louisiana. I know that motivates him in this regard. He wants to get the best deal for his people. The best deal for his people in this regard is for his people to have good relationships with the people of Panama. And they do. Louisianans have a great relationship with the people of Panama; and the people of Panama know that if there is a State in the United States to which they are economically bound, it is the State of Louisiana.

So it is upon that crucible of friendship that you want to build. You do not want to push it aside and say, "Let's deal potentially with somebody else." There is nobody else with whom to deal.

I hope that my colleague, upon reflection upon the facts I have brought forth, will see the wisdom of our not going backward. Let us not eradicate this language from the treaty, so that if the treaties are approved—and I pray they are—we wake up tomorrow and recognize that our economic interest is that we have to have a sea-level canal and have to start from scratch in talking about it, as though we have never had a conversation with them.

This conversation did not start with us and the Panamanians. It started with Charles V of Spain, in 1505. That is when the conversation started on breaching the Isthmus of Panama. He saw it then. That is how they could get the gold from the Spanish Main across to Europe. Then, when we had the gold rush of 1849, the Americans built a railroad so they could get the miners across the isthmus and to California.

Oviously, it is in our economic interest to have it in this location. I think that to pull out this language is to negate the $22 million. It is to tell the Panamanians, "We don't think you're very important." Unless we recognize that they are the ones to negotiate with—and from their point of view, we are really the only ones to negotiate with—we negate all the good will that is embodied in this section.

I know why the Panamanians were not enthusiastic about this section. At the time it was proposed, they did not understand it. I did not get a chance to brief the chief of state of Panama until the day he signed the treaty in Washington. I did not get a chance to go to Panama to make this presentation to the intellectual leadership of the University of Panama until December of this year.

So there is no constituency that is knowledgeable and enlightened about this in Panama.

Nobody has throught out with great detail that they cannot built the sea-level canal without us because it takes us to finance it and it must be used to make it worthwhile. All those things have not been thought out to develop a constituency—just as it has not been thought out and a constituency has not been developed in the United States.

I have made several presentations, but there has been no effort, other than on the Senate floor, to make the Nation privy to these facts. Yet, these facts have not been refuted by competent authority—whether it be a Panama Canal economist or a consulting firm that works for the Panama Canal or a consulting firm that works for world maritime interests I have briefed in Japan, Venezuela, Britain, and Norway. There has been no refutation of what I have put forward, and I think there has been universal acceptance that this is pretty interesting, pretty valid, and we should move forward with the study.

The yeas and nays have not been ordered. I hope my colleague will withdraw his amendment. If he does so, I think time will show that he acted in the best interests of the people of Louisiana, which is what is motivating him to do what he is doing.

He has been probably the most able person in their history to cut deals for his people. I know him. I have seen him do it, and I admire him for doing it. On this one, I can only say to my colleague that I have spent hundreds of hours on the subject; and I can tell him that what is in the interest of the people of New Orleans is in the interest of the people of Alaska and in the interest of the people of Panama, and that is for all of us to love each other, so we can sit down and cut a good commercial deal.

(Mr. NUNN assumed the chair.)

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. GRAVEL. I am happy to yield.

Mr. MAGNUSON. I was somewhat inclined to vote and maybe even cosponsor the amendment of the Senator from Louisiana for the simple reason that I thought if a person knows, as the Senator points out, in any business dealings that he is the only person you can bargain with, you are not as apt to get as good a deal as if there is some option.

I understand that the Panamanians do not particularly like to be tied up this way. I do not know. The Senator has had more experience with them than I have had.

But suppose that a consortium of maritime nations in the world decided that they needed the second canal. The Senator and I agree the quicker we get going on it, no matter what we do here, the better. I have talked about the need for a second canal since 1938, as I mentioned before, when Lyndon Johnson and I went down to make the first study for the Navy. But supposing the United States said to a group of maritime nations, Japan, England, Norway, Sweden, and some of the South American nations, "Well, we don't want this under the control of just one nation any more. It is an international canal, and if we need it, we are all going to put our share in." The United States would have to furnish most of the money because, as the Senator pointed out so well, we are going to be using the canal more than any other nation. Between the United States and Japan, I guess, they might account for almost half of the use of the canal.

Assume they all wanted to get together and each put in a share in some sort of an international loan deal. I do not want to mention the United Nations in this, but it could be similar to that. How would that happen if the amendment of the Senator from Louisiana were not adopted? Could the United States act for them?

Mr. GRAVEL. We would all lose our present posture. My colleague is entirely correct. I say to Senator MAGNUSON from the State of Washington that he is right on target. This should be financed really on a multinational basis. Each country, by and large, that uses it should buy some of the bonds for their use.

Mr. MAGNUSON. Yes.

Mr. GRAVEL. In that way, you have an international financing mechanism that would come into being. The Panamanians would own it. The tolls would be tied to the financing in question, and you would have yourself a very serious commercial venture. In my mind, that is how it should be done.

Mr. MAGNUSON. I shall ask two questions. First, can that be done the way the treaty stands now?

Mr. GRAVEL. Yes. In fact, the way the treaty stands now we are in that posture. In other words, first, we recognize that we are going to do the study with the Panamanians.

Mr. MAGNUSON. Yes. The Senator and I want to begin that study immediately.

Mr. GRAVEL. Immediately. It should have begun yesterday.

Mr. MAGNUSON. Yes.

Mr. GRAVEL. Second, after the study is in, that is when you make your decision of go-no go. You know what your costs are, you know what the economics are going to be, and you know who will be the beneficiaries. And then you just go structure the debt that will be involved. We, with the Panamanians, could take the initiative to say, OK, the study shows that Japan uses this canal for about 8 percent and so the Japanese ought to finance this share. We would negotiate with the Panamanians to set up a body to do this, or their own ownership body could do it. They could set up a Panamanian corporation. We would have a seat on the board of directors. Japan could have a seat on the board of directors. You could do all of this and yet the ownership would still be in the hands of Panama. The profits would still go to the people of Panama. But the rest of the world would be assured of a viable commercial undertaking.

We lose sight of the fact that when deLesseps built the Suez Canal, that was the hottest piece of commercial property in the world at that point in time, and that is the reason he was able to sell stock to go try and build the Panama Canal. I think it was several thousand percent that the stock appreciated in Suez. Once you make the breach, it is a very good venture, once you build a sea-level canal.

Mr. MAGNUSON. Everyone went broke, did they not?

Mr. GRAVEL. Oh, not in Suez, no. They went broke on this one because unfortunately Mr. deLesseps—and I might say it is almost 100 years back—made the calculated mistake of going for a sea level canal rather than a lock canal.

Engineers who thought of it recommended a lock canal, but he made a political decision on somewhat of an ego trip to build a sea level canal, and the technology was not there to do it at that point in time.

Mr. MAGNUSON. But under the present wording of the treaty, as it stands now, could that sort of consortium be arranged in the world?

Mr. GRAVEL. Yes. In fact, we have already——

Mr. MAGNUSON. But who would be the banker?

Mr. GRAVEL. That is not determined at this point, because under the treaty language what you have is that the United States and Panama must negotiate. If you take that language out there is no "must negotiate." I mean, we can sort of go our separate ways. They really cannot do anything. We cannot do anything. We cannot exercise that right of monopoly that my colleague inferred.

Mr. MAGNUSON. It does not bar anyone from negotiating right now, does it?

Mr. GRAVEL. Actually, it sort of forces them to negotiate. That is the beauty of this thing. It is that the two major elements in the world that have to come together with mutual agreement on what is to be done are Panama and the

United States. That is in this treaty. That was the language I was able to secure in here.

Mr. MAGNUSON. And we go out and float a loan.

Mr. GRAVEL. Exactly, or Panama would float the loan and we would undersign it.

Mr. MATSUNAGA addressed the Chair.

Mr. MAGNUSON. May I ask the second question? And then I will yield to the Senator from Hawaii.

Mr. MATSUNAGA. On this point, I might point out, if the Senator from Alaska will yield, that the language of the treaty itself is very clear, and we are now talking about article XII, paragraph 2, which reads:

The United States of America and the Republic of Panama agree on the following.

And this is where the Senator's question comes in and where the answer is implied, if not directly responded to:

(a) No new oceanic canal shall be constructed in the territory of the Republic of Panama during the duration of this treaty except in accordance with the provisions of this treaty or as the two parties may otherwise agree,

which means that the United States and Panama may agree to a consortium going into Panama to construct the sea-level canal. That is what the present provisions of the treaty provide.

Mr. MAGNUSON. There is no bar. Say that we went down to Panama and said, "We have a group of nations that are interested, and we would like to negotiate on behalf of those nations with you." If they agreed, there is no bar to that.

Mr. GRAVEL. Not at all.

Mr. MATSUNAGA. That is correct. So long as Panama will agree and the United States will agree to it there is no bar to the proposal put by the Senator.

Mr. MAGNUSON. I suppose we will take the initiative. We agree that something ought to be done.

Mr. MATSUNAGA. Then we need only the agreement.

Mr. MAGNUSON. And we would be able to go down and present this to Panama.

Under the Long amendment, there is no question that could be done also, is that not correct?

Mr. MATSUNAGA. That is correct.

Mr. GRAVEL. Except that under the Long proposal, you would no longer have the caveat in place that it is the United States and Panama. It could be Panama and anybody else.

Mr. MAGNUSON. I know that.

Mr. GRAVEL. So really we are going backwards if we take it out. Does the Senator see what the present part of the treaty is? It is a frame. You can take the frame out and you have the whole wide world to do whatever you want. This narrows the funnel down to a study done with us and Panama, and then after the study a decision that involves us and Panama, not Panama and Japan, or Panama and someone else.

Mr. MAGNUSON. I, at first, was very dubious about this provision in the treaty. I discussed with the Senator from South Carolina my concern that we would be tied down to Panama and they would be tied down to us. Naturally they do not mind because we are the only ones who could finance something or put together a consortium if it is necessary.

(Mr. ANDERSON assumed the chair.)

Mr. GRAVEL. Very much so.

Mr. MAGNUSON. I inquired of Mr. Bunker and others who negotiated this, "Why did you put this provision in the treaty at all? Why not just leave it open, say nothing, and you would not need the Long amendment."

Well, he said, "We were advised"—which the Senator from Alaska pointed out so well today—"that this was the only place you could construct a second sea-level canal and that, therefore, we must say something about it in the treaty."

I understand that the Panamanians are concerned about that provision because they did not want to be tied down.

I got to thinking about it, and I thought, well, this is not bad.

I thought, well, if the Panamanians are not tied to us and we are not tied to them, anybody could come along and they could deal with any country, including Russia.

So then I got to thinking maybe this is a good provision. The best engineering, I guess, came out of that commission. That was headed by Robert Anderson of Texas.

Mr. GRAVEL. Right.

Mr. MAGNUSON. Lyndon Johnson——

Mr. GRAVEL. Milton Eisenhower.

Mr. MAGNUSON (continuing). Created the commission because we had that experience, the two of us, in 1938, and he was very interested in this matter. As a matter of fact, we came back, not being engineers, either one of us, and recommended Nicaragua. We thought that was the best place. We had our eye on the Gulf of Tehuantepec, which was a safer place to build it than all the others. That would have been a shortcut to New Orleans. But that has become too costly, I understand, is that correct?

Mr. GRAVEL. Yes. That would cost about $6 billion to $11 billion.

Mr. MAGNUSON. I am driven by my deep desire after many, many years of talking about this and being a part of it to see that we get going on a second canal.

As a matter of fact, one of the reasons, I will confess, I am voting for this treaty is that I do not think we are giving them very much by the year 2000 anyway. I do not think this present canal is going to amount to much in the year 2000.

I am a little bit torn as to whether the best way to proceed is through the Long amendment or to follow the suggestions of my friend from Alaska. But either way I do not want to shut out a consortium because I think that may be necessary, a consortium where we pay our share.

So I want to thank the Senator from Alaska and the Senator from Louisiana, too, for bringing this up. I think it will clear the air.

I have introduced a resolution to begin negotiations immediately for the construction of a second canal. I was going to make it a reservation, but they advised me I should make it a resolution. The resolution was sent to the Committee on Foreign Relations, and there it is. When we complete action on the treaty, I hope the committee will consider this resolution. I think it is so important because time is running out, time is running out for the whole free world on this canal business.

I thank the Senator from Alaska and the Senator from Louisiana for bringing this important matter up.

I find a great number of people who are very dubious about the canal treaty. If you explain to them that the canal is going to be probably almost nonfunctional by the year 2000, and if we need a second canal, we are going to build a second sea-level canal, then they are quite a bit more relieved about voting for this treaty than they were before.

I thank the Senator for yielding.

Mr. GRAVEL. I really want to thank my colleague from Washington, who has provided leadership, and certainly given us historical perspective. His participation which goes back to 1938 with Lyndon Johnson on this whole canal issue.

Again I want to state that my good friend from Louisiana is right on target in recognizing that the canal has great import to his State and in fighting to the best of his ability for the interest of the people of his State. I think in a normal situation the best way to negotiate is with as many options as possible.

I think in this situation we have already eliminated many options over time, and that the option that is left to us is to locate a new canal in Panama. With the political realities that exist in the world today that can only take place with the good will and friendship and leadership of the Panamanian people and their government.

So it is important to us to get a treaty that will gain us that friendship, and then to step forward with them, make this study and, as this language says in the treaty, after we have made the study, to negotiate. We have to understand, regardless of what is done, it is going to take two to effect the canal under the realities of the situation, and it will take two to effect the canal under the language of this treaty, that is, it will take Panama and the United States.

To take that language out still leaves the reality of the situation. But when you do that, when you consciously take the language out, still leaving the realities, you leave great confusion because insult can be taken as a result of that.

So it is most unfortunate if we do take this out. I think some people who will not understand the exigencies of what the situation is in the world today will——

Mr. MAGNUSON. Mr. President, I wonder if the Senator will yield for one more thing?

Mr. GRAVEL. I would be happy to yield.

Mr. MAGNUSON. Can I have the attention of the Senator from Idaho? As long as he is on the floor and other distinguished members of the Committee on Foreign Relations are here, no matter what happens to this amendment, I hope I can get some kind of recognition from you people concerning the resolution that I have introduced to proceed immediately or as soon as possible

toward negotiations on a second canal. I hope I can get some assurance that the Committee on Foreign Relations will take this matter up.

Mr. CHURCH. If I understand the distinguished Senator correctly, he intends to introduce and press for early consideration of a resolution——

Mr. MAGNUSON. Yes.

Mr. CHURCH (continuing). That would urge the United States and Panama to commence negotiations——

Mr. MAGNUSON. Yes.

Mr. CHURCH (continuing). Looking toward the possibility of building a sea level canal; is that correct?

Mr. MAGNUSON. Yes, that is correct.

Mr. CHURCH. I can give the Senator every assurance that such a negotiation would attract the interest of the Committee on Foreign Relations. I see no reason whatever why the committee could not proceed to take up such a resolution and hold hearings on it in the near future.

Mr. MAGNUSON. I thank the Senator.

Mr. GRAVEL. I can only add that it would strike me as not very logical to at one moment have the Senate turn down a caveat in treaty language that requires us to negotiate with Panama, and then at the same time come in with a resolution saying "negotiate with Panama." I mean, you want to guarantee if that resolution is going to have any weight at all, you want to have this language in the treaty so that there will be only two parties to the negotiations to get them going, and that will be ourselves and Panama.

So I would hope the leadership would rethink its position on the efficacy of taking this language out. I think it would not be in the best interests of the United States or of the people of Panama and could really lead to some unfortunate misunderstandings down the road, because somebody will think that there are alternatives that are not there, and we will spend 3, 4, or 5 years hassling people with unrealistic proposals that had been set aside with the $22 million we have already spent.

Mr. CHURCH. The Senator always states a good case. But I see nothing inconsistent with the committee's consideration of the resolution proposed by the Senator from Washington and the adoption by the Senate of the reservation offered by the able Senator from Louisiana.

Even with the adoption of the reservation, the following words would remain in the treaty. I quote from section 1 of article XII:

> Consequently, during the duration of this Treaty, both Parties commit themselves to study jointly the feasibility of a sea-level canal in the Republic of Panama, and in the event they determine that such a waterway is necessary, they shall negotiate terms, agreeable to both Parties, for its construction.

That is what is contemplated by the resolution of the Senator from Washington, so I see no inconsistency in the two actions.

Mr. MAGNUSON. No, that is correct.

Mr. GRAVEL. The only inconsistency I see, and I call it most respectfully to my colleagues' attention, is that when you move to section 2 of article XII you do not have the simple words of good will, you have the definitive words that they are bound together.

We so often stand here on the floor of the Senate and make great statements, but it is just a statement thrown out there.

Section 1 of article XII is a statement thrown out there for good will. If we do not have that good will, we need something more than that; so we have section 2, which says that the Republic of Panama, during the duration of the treaty, cannot do anything without our agreement, and then, on the other side, in (b) it states that during the duration of the treaty the United States cannot do anything without Panama.

That is the beginning of the marriage. If we are going to have a marriage between the Panamanian people and the people of the United States, then we have entered into—we sort of have a betrothal here, and now we are looking forward to the marriage if we pass the blood test, so to speak.

What my colleague wants to do is become "unengaged," break the vows of the betrothal, and then say, "Let's get married."

Mr. President, I only know how to get married one way, and that is first to get betrothed, to think about it, and then to set it in motion. My friend wants to break the engagement. That, to my mind, would be very tragic. You do not continue with a happy love affair by breaking off the engagement.

Mr. CHURCH. I agree with the Senator. He is infatuated with the language of love. I have already told the able Senator from Alaska that he always makes a very persuasive case, though not always as ardently as he has today, but, nevertheless, effectively.

Senators know that it was a great Frenchman, Ferdinand de Lesseps, who first envisioned, then promoted, and finally managed the digging of the Suez Canal. It is quite possible that the distinguished Senator from Alaska is going to become the Ferdinand de Lesseps of the 20th century in his advocacy of a new sea-level canal.

Mr. GRAVEL. I might say at least the nationality is correct.

Mr. CHURCH. Yes, there is a French connection. [Laughter.]

But I would say to the Senator that if we adopt this reservation, it does not in any way inhibit the United States and Panama from jointly building a new sea-level canal across the isthmus, if that seems feasible. There is nothing in Senator LONG'S reservation that would discourage or deter negotiations between the two countries. Indeed, if the arguments of the Senator from Alaska are valid, and I think they are, the Panamanian Isthmus will prove to be the only practical place for such a canal to be built.

So, whether or not these provisions remain in the treaty, as a practical matter the United States and Panama will be the two countries involved in constructing any sea-level canal that connects the Atlantic and Pacific Oceans.

I hope the Senator from Alaska does prove to be the Ferdinand deLesseps of that great venture. His name will be emblazoned in glory and the people of Alaska, along with the people of the rest of the United States, will hold his memory dear. But——

Mr. GRAVEL. If my colleague will permit me to make a comment, it is getting pretty deep in here right now.

Mr. CHURCH. But the fact is that there are some Senators who do not think that the United States or Panama should covenant in this treaty not to negotiate with any other party in connection with building a sea-level canal in the future. And since they attach great importance to this reservation, I think the better part of wisdom is to accept it and elicit their support when the final vote comes on the treaties, with such a reservation included, particularly inasmuch as the Panamanian Government does not object to the reservation. Thus by accepting this reservation I can not see how the cause could possibly be hindered, but I can plainly see how it could be enhanced. And, I daresay, this observation is equally apparent to the able Senator from Alaska.

I am delighted with the Senator's charts. I have seen them twice now. I am thoroughly convinced by the Senator's arguments that the present canal is rapidly becoming obsolete. I am aware that, only 12 years ago, something over three-quarters of the world's maritime tonnage could pass through the canal, and that today, a short time later, something less than half of the world's maritime tonnage can pass through the canal. And I am aware of the Senator's projection which shows that, by the time we actually transfer ownership and operation of this canal over to Panama, less than 10 percent of the world's maritime tonnage will be able to pass through the canal.

Obviously, the Panama Canal is an old lady. Go down and look at her; she is 64 years old already, and she will be 86 years old when we turn her over to the Panamanians. Between now and then, it is obvious from any reading of the Senator's charts, that the needs of the United States and, indeed, the needs of international commerce will probably call for a sea level canal to replace the present lock canal. It is evident that the United States and Panama will have to get together.

One of the compelling reasons to adopt this treaty is that it will tend to preserve that close cooperation and friendship which will enable us to get together to build the kind of canal with which we can meet the needs of the 21st century.

Those of us who support this treaty look forward. Those who oppose the treaty look backward. That is the difference. I hope that tomorrow two-thirds of the Senators in the Senate of the United States will look forward to the needs of the future, and thus vote in favor of ratifying this treaty.

As manager of the treaty, I am prepared to support the reservation offered by the distinguished Senator from Louisiana. That reservation does not impede any eventual agreement to con-

struct a sea level canal joining the two great oceans at the Isthmus of Panama.

Mr. President, I would like to pose a unanimous-consent agreement.

Mr. HOLLINGS. Will the Senator withhold that for a moment? We are checking for Senator BELLMON.

Mr. CHURCH. May I just explain what the proposal might be?

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. GRAVEL. I will release the floor in just a moment. I just wanted to state that I think I made a fine presentation. But I failed to take account of the eloquence of my dear friend from Idaho. He agrees with what I have to say and then gives me a lecture in arithmetic, that 67 is more than 66. I will reserve any further comments I have because I am waiting very interestedly to head the distinguished Senator from South Carolina, who I know will shed some real light on this subject. I do want to hear him. I had a preview of this at the table, and I believe he joins me in furthering this approach. I would like to yield the floor and say that I will not carry my appeal any further to the leadership. I think they carry the burden of that leadership very well. I wish them well in the next 24 hours. I will make one final plea and appeal to my good friend from Louisiana, who I think, if he were to release his amendment, would absolve us of any difficulties. I do yield the floor and thank my good friend for his courtesies.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. CHURCH. Will the Senator yield?

Mr. HOLLINGS. I will be glad to yield to the Senator from Idaho.

Mr. CHURCH. First, I will ask the Senator from South Carolina if he wishes a rollcall vote on the reservation he will offer.

Mr. HOLLINGS. I am sure the Senator from Oklahoma and the Senator from Pennsylvania do wish a rollcall vote.

Mr. GRAVEL. And I will join in asking for a rollcall vote.

Mr. HOLLINGS. I am only checking to find out what time would be convenient. I think 5 o'clock would be convenient. Or we can speed it up.

I think 5 o'clock would be convenient.

Mr. CHURCH. I am waiting to hear from the Republican side.

Mr. President, I understand that it is acceptable with the Republican side of the aisle for a back-to-back vote to be arranged. The first vote will be on the Long reservation and the second vote on the Hollings reservation. Both votes will commence at 5 p.m. today, providing we can now proceed to a debate on the Hollings reservation.

Mr. HOLLINGS. Certainly no later than 5.

Mr. CHURCH. I think we are ready now to proceed with that debate. The prerequisites appear to be in order to make a unanimous-consent request feasible.

UNANIMOUS-CONSENT AGREEMENT

I ask unanimous consent, Mr. President, that at the hour of 5 p.m. today the Senate proceed to a rollcall vote on the Long reservation, after which it immediately will proceed to a rollcall on the Hollings reservation.

Mr. GRIFFIN. Reserving the right to object, Mr. President—

Mr. CHURCH. And that the time between now and 5 p.m. today be equally divided between the proponents of the Hollings reservation and the opponents.

The PRESIDING OFFICER. Does the Senator understand time has been set aside for Senator MORGAN.

Mr. CHURCH. Yes.

A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHURCH. Does the special order for Senator MORGAN read that he may claim his 30 minutes at any time after 3:30 this afternoon?

The PRESIDING OFFICER. That is correct.

Mr. CHURCH. Then the unanimous-consent request I have propounded is not inconsistent with the unanimous-consent agreement already entered into.

The PRESIDING OFFICER. The Senator is correct.

Mr. CHURCH. Mr. President, I ask unanimous consent that at the hour of 5 p.m. today the Senate proceed to a vote on the reservation offered by the distinguished Senator from Louisiana (Mr. LONG), following which the Senate then vote on the reservation offered by Senator HEINZ, Senator HOLLINGS, and Senator BELLMON, the time for debate on the latter reservation being equally divided between the proponents of the reservation and the manager of the treaty, and that the time begin running now.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RESERVATION NO. 14

Mr. HOLLINGS. Mr. President, my colleagues, Senator BELLMON and Senator HEINZ, are momentarily not on the floor. I only have a brief statement to make with respect to the reservation. I thought we ought to clear the air.

The PRESIDING OFFICER. Would the Senator like his reservation to be stated?

Mr. HOLLINGS. Let us call the reservation, but I will also have a word to say about the Long reservation.

Mr. President, I call up my reservation No. 14 and ask that it be stated.

The PRESIDING OFFICER. The reservation will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS), for himself, Mr. HEINZ, and Mr. BELLMON, proposes reservation No. 14.

Before the period at the end of the resolution of ratification, insert a comma and the following: "subject to the reservation, which is to be made a part of the instrument of ratification, that any accumulated unpaid balance under paragraph 4(c) of Article XIII at the termination of the Treaty shall be payable only to the extent of any operating surplus in the last year of the Treaty's duration, and that nothing in that paragraph may be construed as obligating the United States of America to pay after the date of the termination of the Treaty any such unpaid balance which shall have accrued before such date".

Mr. HOLLINGS. Mr. President, this is a reservation which is very similar to the measure by the Senator from Oklahoma (Mr. BARTLETT) which we debated some 10 days ago. At that time it was in the form of an amendment. We agreed with the misgivings of the Senator from Oklahoma (Mr. BARTLETT) but said it could be better handled by way of a reservation. There are no new records or arguments to be made, but I will make a more coherent record with respect to our proposal after I comment first on the proposal by the Senator from Louisiana.

It is not my intent in doing so to add to the burdens of the Senator from Idaho and the Senator from Maryland, the managers of these particular treaties. I think Senator CHURCH and Senator SARBANES have done a magnificient job throughout in handling all the difficulties, on and off the floor. It has been a thankless task in some measure. A lot of the good argument has gone on off the floor.

I find perhaps some of the misunderstanding to be that many people do not become more learned in the sense of the exact provisions of these treaties and how they work in the best interests of the United States. Instead they only take up the treaties in segmented fashion by way of amendment. Just a moment ago we heard the treaty called an old lady, and we had our good friend from Alaska (Mr. GRAVEL) talking about further negotiations and studies.

Let me bring into focus, if I can, the real study at hand that prompted President Carter to include article XII, section 2, that is to be stricken by the reservation of the Senator from Louisiana. I oppose the striking of that reservation. I oppose it for the very reason that President Carter included it in these treaties.

We go back to 1965 and, at that particular time, an interoceanic canal commission was formulated by Congress for which we appropriated, over the ensuing 5 years, some $22 million. The exact name was the Atlantic-Pacific Interoceanic Canal Study Commission. Amongst its various duties was trying to study other canal routes than the present lock system down at the isthmus—through countries like Colombia, Nicaragua, Costa Rica, wherever—and the alternatives of the regular excavation versus the nuclear excavation. This intent was foremost in the Canal Commission's mind throughout that 5-year study.

I quote from the record made before the Committee on Foreign Relations, part 4, on page 521, the testimony of John P. Sheffey. Colonel Sheffey, Mr. President, was the Executive Director of the Interoceanic Canal Commission. He presently serves as the executive vice president of the National Association for Uniformed Services, which group, as best I can tell, are not enthusiasts for the treaty. Certainly, Colonel Sheffey, individually, is very enthusiastic about the provisions included in article XII, section 2. He says, on page 521:

When we entered this study in 1965, one of our purposes was to prove that we could build a canal, a technically satisfactory canal, outside Panama because it would give us far

better negotiating leverage to renogiate our relationship with Panama.

So, at the very beginning. the Interoceanic Canal Commission study, amongst other ideas and intents and purposes, said, "Look, if we can really find another route, we ought to look with somewhat of a prejudice or favor for a canal somewhere outside of Panama, if at all possible, so we can better our leverage in negotiating with the Panamanians." It certainly was not a pro-Panama group, in other words.

Having studied it for some 5 years, I then go back to the original part of his testimony, and I read from page 511:

First, as the former executive director of the $22 million Sea-Level Canal Study of 1965–70, I assure you that there are no foreseeable circumstances in which the United States would be likely to consider building a new isthmian canal outside Panama. The only feasible routes are in Panama. The economic, technical, and political objections to the far longer routes in Colombia and Nicaragua eliminate them from practical consideration. Limiting the choice to Panama costs the United States nothing, and in return we get the commitment that other powers cannot meddle in this matter.

I quote again from page 521, when Senator SARBANES is questioning. The distinguished Senator from Maryland is asking then Colonel Sheffey:

"So what we give up"—this is the initial article XII, section 2—

'is that right to build a sea-level canal outside Panama, and we are really not giving up anything.

Colonel SHEFFEY. It is giving up nothing whatever, Mr. Chairman.

Senator SARBANES. The Panamanians, as I understand it, give up at least the right to allow some other power to come into Panama to build a canal.

Colonel SHEFFEY. It is an extremely valuable quid pro quo. We are getting something for nothing.

That, Mr. President, is a record that should be made and it should be finalized.

I might add, if someone really wishes to debate it, that Saudi Arabia with anybody else would be a consortium. When you have billions running around and you want to invest, you can pick up Ghana, Tanzania, Argentina, or anybody else and call that a consortium, inasmuch as they have some purpose or reason. There is plenty of money available for oil passage, for oil transport, over a sea-level canal.

I may also add, along this line, that Colonel Sheffey pointed out, rather than being an old lady as the treaty was called earlier, on page 511, he said:

Certainly, the foreseeable traffic cannot support two isthmian canals, and 95 percent of the world shipping forecast for the year 2000 will still be of sizes that can pass through the present canal. The 5 percent of superships that need a larger canal cannot possibly support its costs, even in Panama.

So, to many, it was not an old lady, nor was it to this Senator. But let us look at page 63, finally, of this large, voluminous report that you cannot see, of course, in the CONGRESSIONAL RECORD, but which measures 3 inches thick.

The choice of a feasible sea-level canal excavated by conventional means is limited to Routes 10 and 14.

This is quoting directly from page 63 of the study. In other words, Panama is the only feasible location.

I think that record ought to be made, because many people, in the very origins of this debate last August and September, were running around pellmell, saying let us do something with Nicaragua. The very same Senators that were saying that had forgotten that, as a result of this particular finding—that is, of the Interoceanic Canal Commission—the United States gave up its rights to build a sea-level canal in Nicaragua. Nicaragua had been pressing for some time, like the Panamanians, to rid itself of the last vestiges of colonialism. Certainly, written-in perpetuity was given under the Bryan-Chamorro Treaty in 1914, when then Secretary of State William Jennings Bryan under President Woodrow Wilson, got, in perpetuity, the exclusive right for the United States to build a sea-level canal in Nicaragua. The Canal Commission said, as I read on page 63, that a canal there is not feasible. It would be some 140 miles in length through Nicaragua, versus less than 40 miles in Panama. It would cost $11 billion—that is the 1975 findings—in Nicaragua, versus some $2.7 billion in Panama in 1970 dollars. It would displace some 370,000 inhabitants in Nicaragua; relatively little displacement in Panama. And, of course, Nicaragua is subject to earthquakes and Panama is not.

Having made that finding, it then summoned up by convention the Bryan-Chamorro Treaty and rescinded that right by a vote of 66 to 5 on February 21, 1971. I would like to see a little bit better institutional memory around this body so that when we do make the studies, we take advantage of them and we do remember the history made and we are not running pellmell down the road, as the opposition would picture it, just to please the Panamanians and the State Department.

So much for the Long reservation. I understand the leadership has worked its will. I would follow it. I would not have any misgivings about the judgment of the Senator from Idaho, but I think President Carter acted wisely when he had our negotiating team include article XII, section 2 (a) and (b) with a signoff by both parties for an exclusive right within the Republic of Panama for the sea-level canal.

Now, Mr. President, we have called up the reservation with respect to the contingent cost debate.

The treaty as written provides that the Panama Canal Commission shall pay a sum of $10 million annually to the Government of Panama from any surplus revenues that are collected. Not only should we pay annually $10 million but, insofar as revenues permit, an additional $10 million each year, to be carried over each year and be taken from the cumulative revenues during the remaining period between the date of ratification and the date of the treaty's expiration on December 31, 1999. The question is, should there be a residual liability to be paid by the United States from that amount, if any, that is carried over and that would apparently be due and owing in that we have not been able to satisfy them from a previous year's collection of some $10 million.

The treaty itself says, "As to be agreed."

We never have been able to see the agreement. I want to agree with Senator BARTLETT that I do not think that a statement by the distinguished Economic Minister, Nicholas Barletta, out in San Francisco, to the Commonwealth Club constitutes an agreement. I am glad San Francisco and the Commonwealth Club invited him and I am glad he made the statement. But we get letters from Secretaries of State and Defense, and everything else, saying, "No, it ain't so."

We have answers in an indirect manner through the Ambassador of Panama, Gabriel Lewis. "I am not going to answer your letter," says Omar Torrijos to Senator BARTLETT.

I want to look and see what Nicky Bartletta said out at the Commonwealth Club in San Francisco. But, I rather agree with Senator BARTLETT, I am sure Senator BELLMON agrees with him, that that does not suffice. We believe, however, a reservation does suffice.

Now, here is what we are trying to make certain of. I will read from the particular section of article XIII, 4(c):

(c) An annual amount of up to ten million United States dollars ($10,000,000) per year, to be paid out of Canal operating revenues to the extent that such revenues exceed expenditures of the Panama Canal Commission including amounts paid pursuant to this Treaty. In the event Canal operating revenues in any year do not produce a surplus sufficient to cover this payment, the unpaid balance shall be paid from operating surpluses in future years in a manner to be mutually agreed.

Now, when they agree and accept our ratification with this resolution of ratification, then they have agreed. We do not have to run around like a dog chasing its tail to find where in the dickens has the agreement gone. Because our reservation says it simply, and I refer now to the reservation by the distinguished Senator from Pennsylvania (Mr. HEINZ) and the distinguished Senator from Oklahoma (Mr. BELLMON), and myself. And I quote:

Before the period at the end of the resolution of ratification, insert a comma and the following: "subject to the reservation, which is to be made a part of the instrument of ratification, that any accumulated unpaid balance under paragraph 4(c) of Article XIII at the termination of the Treaty shall be payable only to the extent of any operating surplus in the last year of the Treaty's duration, and that nothing in that paragraph may be construed as obligating the United States of America to pay after the date of the termination of the Treaty any such unpaid balance which shall have accrued before such date".

We can see then what we are trying to do is make for the agreement as provided for in the body of the treaty in that expression, "in a manner to be mutually agreed."

We hear rumors. We hear whispers. We hear hints.

Go look at the Commonwealth statement. Look at the letter of the Secretary of State or the Secretary of Defense.

We hear, "Look at the Comptroller General who said he had misgivings and

now does not have misgivings." We say, "Look at all these things."

None of those, of course, constitutes an agreement. Any lawyer would advise us of that. It takes two parties to agree. With the resolution of ratification, with our reservation, if the Panamanians accept that particular ratification, then the two have agreed.

Mr. President, during the past few days, the distinguished Senator from Oklahoma (Mr. BELLMON) and I have looked anew at the understanding we have proposed to the Panama Canal Treaty concerning the contingent payments provisions under paragraph 4(c) of article XIII. With an eye to expediting the debate and offering the best possible approach, we have worked along with the distinguished Senator from Pennsylvania (Mr. HEINZ), who has a reservation dealing with the same section of the treaty. What we have done now is to combine the best features of Mr. HEINZ' reservation and the measure proposed by Mr. BELLMON and me.

Article XIII, paragraph 4(c) provides that the Panama Canal Commission shall pay a sum of $10 million annually to the Government of Panama from surplus revenues.

This contingency payment—contingent upon adequate surplus revenues—is in addition to other payments provided Panama under the terms of the treaty.

The paragraph goes on to say that in the event that there is insufficient revenue to make this $10 million payment, the obligation will carry over into subsequent years.

The issue is whether, in the absence of sufficient revenues to make some or all of these contingency payments, the United States would have an obligation to pay the accumulated deficiency upon the termination of the Panama Canal Treaty on December 31, 1999.

The Department of State argues that the United States would have no such obligation under the treaty.

However, the history of the matter discloses considerable uncertainty in other quarters, and this uncertainty is the origin of the reservation that Mr. BELLMON, Mr. HEINZ, and I are calling up.

The reservation is simple and to the point and reads as follows:

Before the period at the end of the resolution of ratification, insert a comma and the following: "subject to the reservation, which is to be made a part of the instrument of ratification, that any accumulated unpaid balance under Paragraph 4(c) of Article XIII at the termination of the Treaty shall be payable only to the extent of any operating surplus in the last year of the Treaty's duration, and that nothing in that paragraph may be construed as obligating the United States of America to pay after the date of the termination of the Treaty any such unpaid balance which shall have accrued before such date.

Mr. President, we have learned during our long deliberations on the Panama Canal treaties the virtues of clarity.

We have seen that differences of interpretation can cause serious disagreement.

When there is a difference of interpretation—or even the possibility of a future difference—the best recourse by far is to be specific now and settle the matter now, during the treaty ratification process.

And it is clear beyond doubt that unless this particular matter is clarified now, there could be a substantial difference of interpretation later on.

Oh, I know that there are all kinds of State Department assurances and White House assurances circulating through this Chamber to the effect that there is no such obligation.

And I have seen the letter from Comptroller General Staats saying that no understanding is necessary.

Yet last November 30, when he appeared before the Subcommittee on the Panama Canal of the House Marine and Fisheries Committee, the Comptroller General was not so certain about what our obligations were in this regard and he indicated that he had not yet formed an opinion on the matter.

Now he has—but that is not to say that everyone down in Panama agrees with him. And Governor Parfitt, Governor of the Canal Zone and President of the Panama Canal Company, in his February 1, 1978, testimony before the Senate Armed Services Committee, alluded to the possibility of differing interpretations on the contingency payment.

In other words, there is sufficient debate about what the treaty really means; that we have been sent running off to months-old testimony, scurrying to the files for copies of letters from various officials and departments, looking at old press clippings, and all the rest.

Imagine nearly a quarter of a century down the line, when those in charge of policy get out their copies of the treaty and start the debate all over again. Imagine the confusion, the disagreement, and the possibility for ill-will. Arguments like that at the time of the turnover could cancel out many of the other advantages accorded us by these treaties.

How much simpler then—and wiser, too—to deal forthrightly with the situation now. We can do so easily and effectively in the Resolution of Ratification. Then there can be no doubts at century's end. The Panamanians will know—we will know—what the terms of the treaty provide and what they do not provide.

There will be no possibility of false expectations in Panama or anywhere else. Instead of debate and discord in the year 2000, the transition can be consummated in an aura of friendship and cooperation that is the whole purpose of these treaties.

Mr. President, I do not believe the Senate needs or wishes to consume any considerable period of time discussing this matter. We had a rather full debate on the general issue week before last when Senator BARTLETT offered an amendment similar to our reservation.

The majority correctly decided that the matter could be effectively resolved by means other than an amendment. The reservation we propose today will solve the problem and clear the air. I ask the Senate's speedy approval of our reservation.

Mr. President, I am glad to yield to the distinguished Senator from Oklahoma. As he makes his way to his seat—we cannot have this on film, but those listening on radio should know—I wish to state my feeling. I have worked on this canal problem for more than 10 years. I have listened and I have learned and I have visited, and I continue to listen and try to learn even more. I believe that the most meaningful statement made about the Panama Canal treaties was a very sober, cogent, and unemitonal but very inspiring statement made by the Senator from Oklahoma (Mr. BELLMON). He studied every angle. It is not an easy question. It is complex. There is no clear-cut answer. These treaties are not going to settle every problem we have in Latin America or even with Panama.

Senator BELLMON, on the day of the ratification of the neutrality treaty, stood tall and strong in the U.S. Senate Chamber. He said, "I believe that the people of Panama would like to be treated the way we would like to be treated by them." As a result, he voted in favor of the treaty, and I thought it was downright eloquent. I admire him for it, and I am glad to be associated with him on this reservation.

Mr. BELLMON. Mr. President, I thank the Senator from South Carolina for his very kind and complimentary remarks. I am pleased to join Senator HOLLINGS and Senator HEINZ in sponsoring this reservation. I will be very brief. Senator HOLLINGS has made the case extremely well, and I have very little to add to what has been said.

Article XIII, section 4, paragraph c states:

An annual amount of up to ten million United States dollars ($10,000,000) per year, to be paid out of Canal operating revenues to the extent that such revenues exceed expenditures of the Panama Canal Commission including amounts paid pursuant to this Treaty. In the event Canal operating revenues in any year do not produce a surplus sufficient to cover this payment, the unpaid balance shall be paid from operating surpluses in future years in a manner to be mutually agreed.

Many of my constituents in Oklahoma who contacted our office to express opposition to the canal treaties had based their opposition on their fear that we are not only giving the Panamanians the canal but also are going to pay them a sizable sum of money to take it off our hands. They base this fear on what I consider to be misinformation that has been circulated, that this language from article XIII, section 4, means we are going to pay the Panamanians a lump sum after the year 2000.

The last sentence I read from paragraph c has given rise to different and potentially expensive interpretations. The Panamanian negotiators have claimed that a "rollover" effect is possible. A "rollover" effect is, quite simply, that if Canal toll revenues are not sufficient to pay Panama the $10 million stipulated under article XIII, section 4, paragraph c then the debt will roll over

to the following year. Under this interpretation it is conceivable that by the year 2000 the United States would have to pay Panama a lump sum of $220 million in order to turn the canal over to Panama in a state which is free of liens and debts as is called for in Article XIII, Section 1.

Our negotiators have stated unequivocally that, at the expiration of the Treaty, the U.S. will be under no obligation to pay any unpaid balance from previous years because of such a rollover. The $10 million payment is a contingent obligation based only on available toll revenue surplus. The reservation will lay to rest any varying interpretations of the article which might arise in future years.

My support of this reservation is intended to protect the American taxpayer from a future $220 million surprise should these treaties be ratified and should the revenues from tolls be inadequate to pay the extra $10 million a year.

Mr. President, I believe that the reservation which Senator HOLLINGS, Senator HEINZ, and I have offered to the Senate is a way of clearing up this possible misunderstanding, that it should help to remove some of the opposition that many people feel toward the treaties, and that this is in keeping with the intention of our negotiators at the time the negotiations were completed.

I urge that this reservation be adopted, so that this uncertainty can be cleared up and so that the fears and doubts which many Americans have can be removed.

Mr. HEINZ. Mr. President, I compliment the Senator from Oklahoma (Mr. BELLMON) on his very fine statement, and I commend the Senator from South Carolina (Mr. HOLLINGS), as well, for his remarks regarding the reservation that is now before the Senate.

The reservation is a joint effort of Senator HOLLINGS, Senator BELLMON, and me, in order to lay to rest the issue that my colleagues have addressed at considerable length. In their statements they have pointed out the problems involved in this matter.

There has been a great deal of interest in this reservation, and several other Senators have expressed a desire to join us in sponsoring it. For that reason, I ask unanimous consent that the names of Senator CANNON, Senator BROOKE, Senator DECONCINI, Senator PAUL HATFIELD, and Senator NUNN be added as cosponsors of the reservation.

Mr. HOLLINGS. Has the Senator included the names of the Senator from Nevada (Mr. CANNON) and the Senator from Massachusetts (Mr. BROOKE)?

Mr. HEINZ. I have included both in my request.

The PRESIDING OFFICER (Mr. GLENN). Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I offer this reservation, together with Senator HOLLINGS and Senator BELLMON, who have had similar concerns about this treaty. The content of the reservation is similar to the amendment offered by Senator BARTLETT some 10 days ago, on April 7.

Since this issue was thoroughly debated at that time, and since Senator HOLLINGS and Senator BELLMON have gone into considerable detail, I am not going to make an extensive statement at this time. Suffice it to say that I supported the Bartlett amendment because I believe it is vital that the Panama Canal Treaty be clarified with respect to the status of the $10 million per year contingency payment.

The Bartlett amendment was tabled, but the issue is still with us. However, since it is essentially one of interpreting the existing treaty language, I believe it can be as effectively handled by a reservation or an understanding as by an amendment, so long as such a reservation, as is the case with this one, is incorporated into the text of the Resolution of Ratification.

The objective of this reservation is to make clear that the $10 million contingency payment, which is to be paid only from surplus revenues, the so-called contingency payment specified in article XIII, paragraph 4(c), does not constitute—and I emphasize "not constitute" —a debt which in any way extends beyond December 31, 1999, and the expiration of this treaty, and therefore will not become an obligation to the American taxpayer.

Some doubt arose about this point because of ambiguities in the Treaty language and alleged statements by Panamanian officials indicating contrary expectations. Some of that confusion has since been cleared up. First, our Government has made clear its policy will continue to be to set tolls at break-even levels so as not to guarantee an annual surplus which would then be paid to Panama. Second, the Panamanian Government has made clear that its interpretation of the treaty parallels our own with respect to the status of these payments. The statement of the Panamanian minister of planning and economic development, Nicholas Barletta, in his February 28 speech in San Francisco has already been printed in the RECORD and those remarks have been cited in debate on several occasions, so I will not take the time to quote it now.

That statement, however, is helpful in that it clears up some concern about the current Panamanian view on this question. Of course, Dr. Barletta's comment remains only a statement of opinion. It is reassuring, it is welcome, but it is, nonetheless, not binding.

Similarly, the April 4 letter from the Comptroller General to Senator STONE, to which Senator HOLLINGS referred and which was also put into the RECORD on April 7, provides reassurance. Again, it is welcome reassurance, but it does not necessarily bind the Panamanians.

I believe it is important to lay this matter to rest once and for all, and to do that we need language which will have to be formally accepted by both the United States and Panama when the instruments of ratification are exchanged.

The reservation which we offer achieves that objective. The reservation defines and limits our obligation with respect to the payment described in article XIII, paragraph 4(c), and it limits our obligation in terms of both amount of money and duration. The reservation leaves no question that although unpaid balances may "roll over" or accumulate from year to year, at the time the treaty is terminated, that is to say December 31, 1999, any payment due may not exceed the amount of any surplus in the final year of canal operation under this treaty. Further, no payment may be made in any event after December 31, 1999.

So what this language does is to clarify and make a part of the resolution document two essential points. First, that the United States owes nothing after the treaty terminates; second, that we cannot be expected or required to pay an excessive amount, conceivably as much as $220 million, in the final days before the treaty terminates.

Mr. President, this reservation clearly limits the financial obligation of the United States and in doing so it limits the financial obligations of the taxpayers of the United States. This is, I believe, the way the negotiators on both sides intended to write the treaty. Unfortunately, in my judgment, that is not the way they did write the treaty. I think that the adoption of this reservation, therefore, is a necessary and responsible addition to the Panama Canal Treaty.

I am hopeful—indeed I am confident—that it will be acceptable to both proponents and opponents of the treaties, and I urge its adoption.

Mr. President, I reserve the remainder of my time.

I yield to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, I thank my distinguished colleague.

The Senator from Illinois wishes to make some comments that might run as long as 15 minutes or so. Is that perfectly all right?

Mr. HEINZ. Yes.

Mr. PERCY. Mr. President, when I returned from a visit to the Canal Zone in January——

The PRESIDING OFFICER. If the Senator will suspend, the Senator from Pennsylvania only has 4 minutes remaining.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. HEINZ. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HEINZ. How is the time divided and among whom? Who controls the remainder of the time?

The PRESIDING OFFICER. The time is divided between the Senator from Pennsylvania and the Senator from South Carolina on one hand and the floor manager of the treaty on the other.

Mr. HEINZ. Mr. President, I am not sure of the position of the floor manager of the treaty. Perhaps he will be willing to yield some time to Senator PERCY.

Mr. MATSUNAGA addressed the Chair.

The PRESIDING OFFICER. The Sentor from Hawaii.

Mr. MATSUNAGA. How much time does the manager have?

The PRESIDING OFFICER. Forty-one minutes.

Mr. MATSUNAGA. I thank the Chair.

Mr. President, the committee is not opposed to this reservation and is willing to accept the reservation, and in the interests of time I am willing to yield back all of our time.

Mr. HOLLINGS. Mr. President, have we had the yeas and nays ordered yet?

The PRESIDING OFFICER. The Senator may yield it to another Senator.

The vote on this does not come until 5 o'clock by previous agreement.

Mr. MATSUNAGA. That is correct. But I was about to ask unanimous consent.

The PRESIDING OFFICER. This comes after another vote that occurs first at 5 o'clock. This comes after that other vote.

Mr. MATSUNAGA. I understand that, Mr. President. But I was about to ask unanimous consent that inasmuch as there were no other Senators who wished to speak on this amendment——

Mr. STONE. Mr. President, I wish to ask unanimous consent if the Senator will yield for that purpose.

Mr. MATSUNAGA. I am happy to yield for a unanimous-consent request.

Mr. STONE. I thank the Senator.

Mr. President, I ask unanimous consent that my name be added as a cosponsor to the Long amendment, which is scheduled for vote this afternoon, and the Heinz amendment which is also scheduled for a vote this afternoon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATSUNAGA. Mr. President, if there be no other requests and if the cosponsors of the amendment are willing to yield back their time, I ask unanimous consent that the Senator from North Carolina (Mr. MORGAN) may proceed under a previous order of the Senate for a period not to exceed an hour but in no case beyond 5 o'clock, when the vote will be taken back to back on the amendments pending.

Mr. HEINZ. Mr. President, as I understand the request of the Senator from Hawaii, we will yield back the remainder of our time on the reservation, that is the Hollings-Heinz-Bellmon amendment, and the Senator from Hawaii will also yield back the remainder of his time.

I know at this point of no request for time to speak further on reservation 14. Does the Senator know of anyone?

Mr. HOLLINGS. No, I do not know of any. I would be prepared to yield back the time.

Mr. HEINZ. I would be more than prepared, with that understanding.

Mr. MATSUNAGA. Then, Mr. President, I make this unanimous-consent request.

The PRESIDING OFFICER. Does the Chair understand the Senator from Illinois was not speaking on 14; is that correct?

Mr. PERCY. The Senator from Illinois would like to speak on an unrelated subject of about 15 minutes' duration before 5 o'clock if it is at all possible, if there is no other pending business.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Hawaii? If not, it is so ordered.

The Senator from North Carolina is recognized.

Mr. MORGAN. Mr. President, we have been on this issue now for approximately 2 months, and I suspect that about everything has been said on behalf of these treaties that can be said, as well as all that can be said against the treaties, and I doubt that anything I could say this afternoon would change the minds of any of those who are prepared to vote.

But I would like to take a few moments of the Senate's time and state for the RECORD some of my thoughts about these treaties, some of the things I have studied, and some of my beliefs about them, and why I intend, barring any unforeseen developments between now and tomorrow afternoon at 6 o'clock, to cast my vote in favor of ratification of the treaty before the Senate, as I did for the Treaty of Neutrality which was ratified by the Senate some 2 or 3 weeks ago.

I would say in the beginning, Mr. President, that there are a lot of things in these two treaties with which I disagree, but I doubt that anyone can draft any treaties or that any treaties could be drafted with which I would agree completely and in totality. As a matter of fact, I doubt if treaties could be drafted that would be satisfactory to any Member of the Senate as well as the Government of Panama.

But, taken as a whole, I believe the treaties are in the best interests of the United States, the national security of this country and, therefore, I think they should be ratified.

I want to address my remarks primarily to three topics this afternoon in the debate, if time permits. I want to talk a little about the history, which has led me to the conclusion that the time for a new treaty arrangement with Panama is now. And then I want to address the tough questions which we all have to answer about the second treaty dealing with the Panama Canal. And, finally, I want to speak of my personal convictions about the canal issue and about my hopes for our country.

No issue to my recollection has aroused so much debate and controversy, and certainly no issue during my 4-year tenure in the U.S. Senate has generated so much mail from the American people. While at times the communications we have received have been less than pleasant, I am refreshed and I am reassured by the public debate on this issue.

I have just returned from a long weekend of travels back and forth across the State of North Carolina where I have talked to literally hundreds of people, and I am impressed with the knowledge of the people concerning the issues before us, and I am impressed with the willingness of what I believe to be the majority of the people of North Carolina to place their trust and their confidence in the majority of the Members of this Senate.

We have a great country, Mr. President, and I believe that the greatness of this country requires us to make some decisions that a lesser country could not afford to make. It is this time of decision which prompts me to speak about the Panama Canal treaties.

Let me say, Mr. President, that my concern about these treaties did not begin in August of last year when the President of the United States announced that an agreement had been reached between the Governments of Panama and of this country. My concern and my interest began during the first year that I arrived in the Senate.

Like so many of my colleagues and like so many of my constituents in North Carolina when I was first approached about the idea of a new treaty on the Panama Canal which might eventually turn over control of the canal to the Panamanian Government, I was repelled by the idea. Like more than a majority of the Members of this Senate, when asked in 1975 to join in a resolution expressing our displeasure and opposition to any kind of a new treaty with Panama, I joined in that resolution.

But like so many of my colleagues and my constituents I joined in sponsoring that resolution without first taking the time to ascertain whereof I was speaking.

Later on, in the latter part of 1976, on behalf of and at the behest of another committee on which I serve, the Select Committee on Intelligence, and at the request of my distinguished chairman, the senior Senator from Hawaii (Mr. INOUYE), I undertook a trip, along with my assistant, Mr. Ricks of that committee, to visit the Canal Zone, not for the purpose of talking about the Panama Canal Treaty but looking at the Southern Command of the U.S. military forces, looking at the defense intelligence agencies of that command.

It was while I was there and talking with the people in the defense intelligence agencies of our country, and talking with the American Ambassador, in going through the Canal Zone and meeting with the Citizens Association of the Canal Zone, and with the rank and file of the Panamanians, that I came home in January of 1977 and said to the people of my State that I felt that some adjustments and some rearrangements ought to be made with the people of Panama; that we had come a long way from the days of gunboat diplomacy, a diplomacy that was accepted by most all of the world when we acquired the right to build that canal, and that, if we expected to develop a relationship which would help us develop some kind of solidarity in the Western Hemisphere, we had to do what, in my mind, was right, and to arrive at a new relationship with the people of Panama. At the same time, we had to provide for the national security of this country, and provide that the canal would remain open for shipping not only for the United States but for all of the world.

I expressed my opinion through the media in North Carolina after that, having no idea that within the period of a few months an agreement would be reached between our two countries.

I can understand the frustrations of the Panamanian people, who, time and time again, since the day that the 1903 treaty was signed, have expressed their indignation and their displeasure at the terms of the 1903 treaty.

We cannot right all the wrongs that have been committed in this country, Mr. President, in years past, because if we did we probably would give this country back to the Indians. But I think that when wrongs have been committed, even though they were right in the eyes of the world at the time that they were committed, and they are still causing dissatisfaction, that we are big enough in this country to take a look at them and reexamine ourselves. We are a great enough and strong enough nation to do what is right, and to look at the facts.

The people on that little isthmus that now constitutes the country of Panama have long been a furiously nationalistic people, almost since the date when the country was discovered by the Spanish explorers in 1501, and since the days when Christopher Columbus visited it in 1502. The history of that isthmus did not begin with the United States. Some of my friends have said to me, "You know, after all, what Panama is, we in the United States made it."

I am not sure that is true. In 1529, over 400 years ago, the Explorer Cortez drafted a plan for a canal route. In 1534, again more than 400 years ago, the King of Spain ordered a survey for a ship canal. In 1535 there was a highway built across the Isthmus of Panama, where the Spaniards, having brought their gold up from the west coast of South America, offloaded it at this narrow 50-mile isthmus and carried it across the isthmus on land, and then put it on their ships which carried the gold to Europe. At one time, the three most thriving metropolises in the whole Western World were Panama City, Mexico City, and Lima, Peru.

What I am saying is that Panama has been a center of commerce for the world a long, long time and has been a most independent nation. In 1814, nearly 90 years before we began to get involved in the building of the canal, the Spaniards attempted to construct a canal, but they were interrupted by a revolt. Again in 1821, Panama, apart from the country of New Granada, severed relationships with Spain at the time of the Latin American independence movements. At that point, Panama joined the country of Colombia. From that time until the independence, which we helped bring about by revolution in 1903, time and time again these furiously nationalistic people tried to establish their own province, but time and time again their revolutions were put down.

I point that out to say that the nationalistic tendency in this part of the world is not something of recent origin, but something that has existed since the very founding of the Nation. It is something that we in this country have to recognize and ought to deal with. We have to deal with it, Mr. President, because I believe that it is in the national interest of this country that we remove some of the sources of irritation to our Latin American neighbors that have prevented us from building the kind of solid support there that we seek from those countries.

As I returned home from Panama in 1976, I stopped by for a day or two in Mexico City. While visiting there, I said to the American Ambassador,

How are our relations with Mexico? Do they trust us? Are they afraid?

He said to me,

Well, Senator, I think relations between Mexico and the United States are pretty good, considering the fact that on the 13th of September of every year the Mexicans have a national celebration in which they stand in Chapultapec Castle and read off the names of the young cadets that we Americans killed in storming that castle in Mexico City in the 1840's.

Three times since the turn of the century we have used military force in the country of Mexico. Thirty-eight times, or maybe 39, since 1891, we have used force in Latin American countries. No later than the last decade, we used military force in moving into the Dominican Republic.

So when we study the record of the United States, I think we can readily see why many of our Latin American friends to the south are somewhat dubious of us, and somewhat afraid to join into meaningful coalitions for the protection of all of the Western Hemisphere.

I was speaking with the Ambassador from Mexico who serves here in Washington sometime ago. He is a great friend of the United States, and he said to me, "Senator, did you know that your country had taken half or more than half of our country in the last 100 or so years?"

That astounded me. I knew we had annexed Texas. I did not fully realize we had taken Texas, New Mexico, Arizona, California, and the area covered by Nevada, all in the last 100 or so years.

You know, those of us who live down in the South are not quite over the Civil War yet. We live with our brothers from the North, we speak the same language, and yet I must confess to you that there are animosities in the South today against the people from the North. Can you imagine the kind of fear that must rest in the minds and hearts of these people who live to the south of us, who do not speak our language, and who have seen us time and time again, all in the interest of protection of American property or for the purpose of collecting levies, or for whatever reasons may have existed—can you imagine their fear when, we have used military force against them so often?

Mr. President, as I have examined all of these facts, I have concluded that it is time that we in this country let the world know and let our neighbors and friends in the Western Hemisphere know that we want to work together to build a unified front against the ever-expanding and increasing communism in this world. It disturbs me, Mr. President, when I look at a map of the world. If you will, visualize a map of the world and picture in your mind the countries that are controlled by Communist forces and under the influence of Communist forces. If you look at that map, you will see all across the top of the continent of Europe nothing but red: the Soviet Union, East Germany, Czechoslovakia, Romania, Yugoslavia, and I could go on. Picture in your mind's eye the map of Asia, and look at the great land masses of China, Vietnam, North Korea, and others. You know, there would not be a whole lot of land left where there is freedom, where there is a free and democratic society. Really, when you look at it, the Western Hemisphere is about all that is left, with only one spot of a Communist-dominated country. Mr. President, I believe it is in the interest of this country that we do something about it.

For example, we have 2,200 miles of common border with our neighbor to the South—Mexico, a great neighbor and a great friend. There are 60 million people in Mexico, and the population is expected to double in the next 19 years. They are living in crowded conditions. They are living on about 12 percent of the arable land.

Today, because of the great poverty in that area, we are constantly troubled by illegal aliens who cross the border and come into the United States. We cannot control that because of this 2,200 miles of border.

Thank goodness, I see no tendency despite this poverty of our neighbor to the South—Mexico—turning toward communism. But I will say this to you, Mr. President, that there is very little middle class in Mexico. As I drove through the suburbs of Mexico City I observed poverty, the likes of which I have never seen. There are people there who are just ripe for the picking by some Communist leader who has a knack for inspiring the people. If you were living in abject poverty, Mr. President, and had no hope under the present system, you would be a lot more inclined to follow any leader who might come along.

Yet, Mexico, with all of its poverty and all of its needs for economic assistance, is afraid of our country, with all its wealth. They are afraid of the "imperialistic" United States that has not only taken more than half of its country away from them, but also has, since the turn of the century, used military force on so many different occasions.

That is why it is important that we not only do something to improve our relations in Latin America, but also to improve our relations with the country of Panama, which I think has great affection for the United States.

Mr. President, I have heard a lot of talk about General Torrijos. I would say, in all fairness, that I think General Torrijos is a strong-armed Latin American leader, but I have heard very little said about other leaders of Panama.

On my visit, I sat in the office of the President of Panama for more than a half-day, a man named Lakas, a first-generation Panamanian whose mother and father came from Greece, a man who was not a political leader but a contractor, who accepted the challenge of the presidency of that country in order to try to do something to improve the quality of life and the plight of the people there.

President Lakas was educated in America. He spent 7 years at Texas A. & M., and if you closed your eyes, Mr. President, you could almost hear our late

President Lyndon Johnson speaking, or John Connally, or someone else with a typical Texas accent.

I went to the office of the Minister of Economics and Planning, a very important office in that country. I found there a man named Mr. Barletta, educated at North Carolina State University where he received a B.A. degree in agricultural economics; where he received a master's degree in agricultural economics, and from where he went on to get his doctorate degree at Chicago; a man who was schooled in the American system of free enterprise; a man who has been recognized by almost all who know him as one of the brilliant minds of all of Latin America.

No one can convince me that Mr. Barletta has any Communist leanings.

I visited with the Minister of Foreign Affairs, a man who was educated at La-Salle University and Stanford University.

These people know what life in America is like, and they are the people who literally run the country on a day-to-day basis. It is not to say that Torrijos is not a strong man. He came from a major's rank in the National Guard, and sometimes that frightens us.

I see a real desire on the part of the people of Panama and the government leaders. They want to be friends with us. They want to improve their plight.

Mr. President, I go back to what I said earlier, these people are furiously nationalistic. It did not begin with the time that we began negotiating the treaties. Some 53 times between 1846 and 1903 the people living in this small province of Panama tried to secede from Colombia, but they were not able to do so. It was only when we promised to protect them in their revolt that they were able to do it. I think there is no question but that we did protect them. Because of that, and because of their desire to be free, they were so very disappointed by the 1903 treaty.

What happened? The French company tried to build the canal from somewhere around 1878 to the time 1885. The company failed because of the loss of about 20.000 lives to malarial fever and yellow fever and had gone bankrupt. They wanted to salvage what they could from their venture. They approached us and asked us if we would pay them $40 million to take over their assets.

Of course we were interested. We had tried in the 1820's to get the right to build a canal. We had been turned down by Colombia because they were afraid of us. We tried again in 1846 to get the right to build the canal and were turned down because they were afraid of us, even though they did let us build a railroad on the condition that we agree to let them use the railroad to protect the sovereignty of the province of Panama.

I point out something I have not heard mentioned on the floor of the Senate. In 1868 the Secretary of State William Seward, negotiated a treaty with Colombia which would have given the United States the exclusive right to construct an isthmian canal. Again it was rejected by the Colombian Senate.

Nevertheless, when we were approached in 1902 and 1903, we were willing to bargain. What happened? We went to Colombia and said, "We want to negotiate a treaty to build this canal. We want to take over the assets." All we asked for was the right to construct the canal and to maintain it until the year 2000. We agreed to pay the French company, whose stock was held by a man named Bunau-Varilla, $40 million, to pay Colombia $10 million, and an annual annuity of a quarter million dollars.

Once we had done that, again the Senate of Colombia turned it down.

Mr. President, we had some idea they were going to turn it down, so we had been doing a little footwork in this country through Mr. Bunau-Varilla and through a lawyer in New York by the name of William Cromwell. We sort of expected it so we were laying the foundation to generate another rebellion.

Bunau-Varilla was very much interested in bringing this matter to a conclusion because his rights ran out in 1904. When the Colombian Senate rejected that treaty in August of 1903 his forces went to work. During August, September, and October, we helped to bring about a revolution. Bunau-Varilla led the people in the province to believe that if they would just declare their independence, American warships would appear off the coast to protect the revolutionaries and to prevent Colombia from putting down the revolution in their own country.

So on November 2 and 3, just as he had planned, the Panamanians declared their independence, just as they had been led to believe, our warships appeared off the coast. And just as they had been led to believe, we refused to comply with our commitments of the 1840's refusing to let the Colombians use our railroad to transport their troops.

So the revolution came about.

I do not think anyone can really say we fomented the revolution, but I think it is pretty obvious that Bunau-Varilla knew from us what was going to happen. After that, we recognized Panama as a nation within 3 days.

In less than 2 weeks, right here in Washington, Secretary of State Hay had negotiated a treaty with Bunau-Varilla. All that we asked of Bunau-Varilla, who had become, through his own devices, the new minister for the State of Panama, was to make a treaty with the State of Colombia. But this Frenchman, who had a great deal to gain if the treaty were passed and because we were going to pay his company $40 million—and he personally, as a stockholder, about $400,000—did not want the Senate to dillydally around. So when he got the treaty that Secretary Hay offered to him, he made it a little more agreeable than what we had even asked for. He struck out the 2000 year from the lease and put in "in perpetuity." He struck out the width of the Canal Zone of 5 kilometers and put in 10 miles. He gave us the right to control immigration and trade and even to disband their army—an agreement much more generous than anyone had hoped.

As a matter of fact, Senator Money of Mississippi, in 1904, claimed that the treaty "comes to us more liberal in its concessions * * * than we * * * ever dreamed of having . . . In fact * * * it sounds very much as if we wrote it ourselves."

The past president of the American Bar Association, a man by the name of James Carter, by the way, called the whole affair a "crime."

What I am trying to say is that the treaty with the new country of Panama was pretty generous to the United States and it was from the day that treaty was signed that the trouble began. When Mr. Bunau-Varilla met the Panamanian delegates down at Union Station, three or four blocks from here, he confronted Mr. Amador and another Panamanian, Mr. Frederico Boyd, and he said, "Oh, look, we have a treaty signed by the United States whereby they guarantee the independence of your state. After nearly 100 years of trying to become a free and independent state, your independence is guaranteed by this country."

Well, according to Mr. Bunau-Varilla's own statement, when Mr. Amador read that treaty, he almost fainted. What Mr. Bunau-Varilla did not tell in his autobiography was when Mr. Federico Boyd read the statement, he struck Mr. Bunau-Varilla, right across the face. And, Mr. President from that day until this, we have had continuous trouble with these extremely nationalistic people of Panama.

Some 8 or 10 times, we have had to use military force to put down riots and trouble in Panama. From time to time, we have tried to pacify those people. In 1936, the Senate agreed to a new treaty in which we said, "All right, we will not use any force to protect the canal except with the permission of Panama." And that is the way it exists now.

But in 1964, when the riots occurred and some 20 Panamanians were killed, some several hundred were injured and we lost four of our people, President Lyndon Johnson met with former President Eisenhower and former President Truman. They decided that it was time that we did something to reach an understanding with these people so that we could live in peace and harmony and grow together and also enjoy the freedom in use of this canal. I believe, Mr. President, that these treaties do that, although they do not do everything that I would like them to do.

Mr. President, these treaties remind me, this whole matter reminds me of the years when I used to practice law. I know some of my colleagues here have had these experiences. From time to time, during my years of practice, I would have a client come in who was having an argument with his neighbor over a land line. He would come in, mad as the dickens; he was mad as a wet setting hen, we used to say. He would implore me, "I want to defend this land line and I am not going to give 1 inch. By golly," he would say, "I will see him dead and in Hades before I'll give 1 foot. I'll take it to the United States Supreme Court."

But you know, after 3 or 4 years of litigation, going to court and taking depositions and picking juries and paying me a few legal fees, my client began to get a little more conciliatory, saying, "Maybe we ought to do something about it; maybe we ought to give a little bit; let's get this thing over so we can move on and live in peace and harmony."

I think that is exactly what Lyndon Johnson and Dwight Eisenhower and Harry Truman were saying in 1964: We would like to keep things as they are, but by golly, if it is going to mean a continuous disruption in relations between our country and Panama, let us do something about it. I think that is what we have done.

I. INTRODUCTION

I will speak specifically today to three topics in my remarks. I will address some of the history which has led me to the conclusion that the time for a new treaty arrangement with Panama is now. Next I will address the tough questions which we all have to answer about the second treaty dealing with the Panama Canal and, finally, I will speak to my personal convictions about the canal issue and my hopes for our country.

No issue to my recollection has aroused so much debate and controversy and none has generated so much mail from the American people. While at times the communications we received were less than pleasant, I am refreshed and reassured by the public debate on this issue. We have a great country and I believe that this greatness requires us to make decisions a lesser country could not. It is this time of decision which prompts me to speak about the Panama Canal treaties.

II. CHRONOLOGY OF PANAMANIAN HISTORY—1500–1820

Discovery and Development:

1501. Discovered by a Spanish explorer and explored the following year by Christopher Columbus.

1529. Explorer Cortez drafted a plan for a canal route.

1534. The King of Spain ordered a survey for a ship canal.

1535. The Camino Real, highway across the Isthmus, was in use; also about this time Panama was incorporated into the Vice Royalty of New Granada; Panama retained much of its independent identity; British interest as part of concern with Spain.

1814. Spanish attempts to construct a canal were interrupted by colonial revolts.

1820–46

1821. Panama, apart from New Granada, severed relations with Spain in the tide of Latin American independence movements.

Panama at this time joined with New Granada in the Republic of Greater Colombia.

1831. New Granada became an independent republic incorporating Panama as an independent state.

1841. Panama seceded from New Granada and maintained its independence for 13 months.

1846–1901, U.S. INVOLVEMENT

General—53 times, between 1846 and 1903, Panama attempted to secede from Colombia.

Unrest had always existed.

1846. After many years of interest, from the time of acquiring Florida, the United States sought to secure some form of rights in Panama. Fear of British business interests prompted the United States to negotiate the Bidlack Treaty with New Granada. Under the treaty, the United States promised to insure that transit over the Isthmus remained open and that New Granada would have its sovereignty over the area insured by the United States.

1850. United States signed the Clayton-Bulwer Treaty with England setting forth that neither the United States or Britain would exercise exclusive control over any canal over the Isthmus or fortify a canal.

1853. Panama again seceded from New Granada.

1856. U.S. troops were landed to protect the Panama Railroad, the first time U.S. troops were on the ground in the country.

1868–69. Secretary of State William H. Seward negotiated a treaty with Colombia which would have given the United States the exclusive right to construct a canal. It was rejected by the Colombian Senate.

1878. French efforts at constructing a canal got under way; no conclusive decision over the French involvement in a canal project was ever made.

1885. Revolution in Panama against Colombia.

1989. Beginning of 5-year revolt against Panama.

1901. Negotiation of the Hay-Pauncefote Treaty abrogating the 1850 Clayton-Bulwer Treaty and clearing the way for U.S. negotiations.

1901–03

1902. Herran, the Colombian negotiator, began talks concerning the canal route for Colombia; Hay threatened that delay would result in renewed negotiations with Nicaragua.

1903. Three days after the Hay-Herran Treaty was signed concluding a deal over a canal route, Herran received delayed instructions not to sign the treaty.

Hay threatened a break off in relations if the treaty was not ratified by Colombia; privately President Roosevelt indicated his awareness of the Panamanians' readiness to declare its independence. News reports to this effect were released by the press.

Hay made it clear to Panama that the $40 million set up by the Congress to secure a route would go to the French Company, headed by Bunau-Varilla, and only the $10 million in the treaty would go to Colombia.

August 12, 1903, Colombia rejected the treaty.

Efforts at fostering a revolution in Panama were begun by Bunau-Varilla and William Cromwell, a lawyer with interests in the Canal Company.

Cromwell tried to get a Panamanian to give $100,000 for a revolution, guaranteeing him the presidency of the new country—this was before Colombia had rejected the Hay-Herran Treaty.

Bunau-Varilla met with the Panamanian revolutionaries and encouraged their activities throughout September of 1903; in October he promised a complete package for the Panamanians—money, a constitution, a military plan.

On October 15, U.S. ships were ordered to sail on a routine exercise toward the isthmus. On October 16, Bunau-Varilla was made aware of this fact.

Bunau-Varilla secured a promise that, for his assistance, he would be appointed Panama's first minister to the United States. He called for a revolution on November 3, the day he calculated the U.S. squadron would appear off the coast of Panama.

On November 2, a U.S. ship, the *Nashville* arrived and the revolution commenced; orders were on board the *Nashville* to insure that the line of transit across the isthmus was kept open even against government—Colombian—troops. On November 3, the revolution was essentially completed. The only clear legal rule against which the U.S. action would be judged was the 1846 Bidlack Treaty which provided that the United States would insure Colombia's sovereignty over the Isthmus of Panama.

On November 6, the United States recognized the independence of Panama.

Negotiations began which led to the Hay-Bunau-Varilla Treaty. Bunau Varilla exerted the same pressure and threats against Panama as Secretary Hay had against Colombia.

Bunau-Varilla negotiated treaty and signed it; Panamanians were outraged; Federico Boyd, one of the negotiators who arrived too late, struck Bunau-Varilla across the face at Union Station.

Bunau-Varilla on his own sent a cable to Panama stating that if Panama did not ratify the treaty, the United States would withdraw its protection and sign a canal treaty with Colombia.

The terms of the treaty negotiated and signed on November 18 have been reviewed many times here in the Senate, but I believe they were best summarized by Senator Money, of Mississippi, when in 1904 he claimed that the treaty:

> . . . comes to us more liberal in its concessions . . . than we . . . ever dreamed of having . . . In fact, it sounds very much as if we wrote it ourselves . . .

The past president of the American Bar Association, one James Carter, called the whole affair "a crime."

1904–64

General—Period of unrest and dissatisfaction with the treaty.

Need for U.S. intervention in Panama eight times between 1904 and today, excluding the use of troops in the riots of 1959 and 1964.

United States has intervened 39 times in Latin America since 1891 with military force.

Interpretative problems arose immediately as in 1904, interpretation of treaty to allow United States to control custom-

houses; settled by famous Taft agreements.

In 1904 the United States forced Panama to include a right of U.S. intervention in the country's constitution.

Treaty used in 1920's as basis for intervention.

In 1921, Panama was threatening to invade Costa Rica in attempting to settle a border dispute which had existed since colonial days. Based on the 1903 treaty's call for the United States to guarantee Panama's independence, the United States forced Panama to withdraw.

In 1926, a new treaty was negotiated to soothe Panamanian anger but included provisions for U.S. intervention and was rejected by the Panamanian Assembly.

Through the 1920's and into the 1930's, there was unrest and dissatisfaction with the treaty. Finally, in 1936, a revision was made increasing the toll rates.

During the war, the United States secured additional bases in Panama, agreeing to withdraw within a year after hostilities ended. The United States was slow to withdraw. Post-World War II irritation had begun.

The central issues of the 1950's were over discriminatory policies within the Canal Zone which affected Panama.

Inadequate toll payments to Panama after the large increase in traffic through the canal.

U.S. commissaries within the zone which adversely affected Panamanian business.

Segregation in housing and schools within the zone.

Discrimination in pay, based on the "U.S. rate" and the "local rate."

In attempting to resolve some of these problems, President Eisenhower signed the 1955 treaty revising the original 1903 treaty.

Unrest and unhappiness continued until 1959 when the first of the "flag incidents" broke out. Panamanian students seeking some public recognition of their country's stake in the canal requested that their flag be flown along side the U.S. flag. Tempers flared and violence erupted.

On December 2, 1959, President Eisenhower stated: "I do—believe we should have visual evidence that Panama does have titular sovereignty" in the zone. Negotiations began at this point on measures which lead us up to the treaties we have today.

In 1964, riots over flag broke out and 25 deaths resulted; serious negotiations began which have led to the current treaties.

At this point, it is worthwhile to review some of the statements made by four of our Presidents about the canal issue:

THE 1960'S AND THE VIEWS OF THE PRESIDENTS

President Eisenhower spoke to the problem created by the treaties:

I think that not all of the difficulties that have come about have been entirely because of their demands. It is perfectly true there was a treaty made many, many years ago, more than 50, now. And the conditions of that treaty were changed from time to time as the whole condition of affairs in the world so demanded, just exactly like our Constitution has been amended 22 times.

President Kennedy, in 1962, arranged for the United States and Panamanian flags to be flown jointly in the Canal Zone. In 1961, he described our relationship with Panama based on the 1903 treaties:

My Government recognizes that differences will inevitably arise between even the friendliest nations, and believes that these differences must be discussed thoroughly and frankly, in order to clarify the interests and attitudes of both parties. It seems clear, therefore, that when two friendly nations are bound by treaty provisions which are not fully satisfactory to one of the parties, arrangements should be made to permit qualified representatives of both nations to discuss these points of dissatisfaction with a view to their resolution.

President Johnson had to deal with riots brought about by another flag-raising incident. The issue even went to the Organization of American States and the United Nations. He said of the canal and the treaties:

[The] life (of the Canal) is now limited. The canal is growing old, and so are the treaties for its management, which go back to 1903.

My advisers have recommended that we should propose a new treaty for the existing canal. After careful review with my senior advisers, I have accepted this recommendation.

* * * * *

These changes are necessary not because of failure but because of success; not because of backwardness but because of progress, The age before us is an age of larger, faster ships. It is an age of friendly partnership among the nations concerned with the traffic between the oceans. This new age requires new arrangements.

The strength of our American system is that we have always tried to understand and meet the needs of the future. We have been at our best when we have been both bold and prudent in moving forward.

President Nixon proceeded with negotiations begun under Johnscn and noted:

The world has changed radically during the 70 years this treaty has been in effect. Latin America has changed. Panama has changed. And the terms of our relationship should reflect those changes in a reasonable way.

For the past nine years, efforts to work out a new treaty acceptable to both parties have failed. That failure has put considerable strain on our relations with Panama. It is time for both parties to take a fresh look at this problem and to develop a new relationship between us—one that will guarantee continued effective operation of the Canal while meeting Panama's legitimate aspirations

III. TOUGH ISSUES

I would like to address the four major issues which I believe confront this body as we draw to a close on this most important and, I believe, well executed debate. In answering these issues, each Senator will determine how he views the facts and how he views the future.

These major points are:

Our defense considerations;

The provisions for a new canal;

The economics of the treaty; and

The ability of Panama to operate the canal.

1. DEFENSE

The primary concern in my mind is defense.

This centers on keeping the canal open which has been and is our primary national interest in Panama.

As President Nixon stated:

It is time for both parties to take a fresh look at this problem and to develop a new relationship between us—one that will guarantee continued effective operation of the Canal while meeting Panama's legitimate aspirations.

The Neutrality Treaty which we have hammered out goes a long way to resolve many defense concerns. Indeed, there are several improvements over the current treaties.

The treaty provides that the canal remain neutral permanently and this is part of a separate treaty independent of the business parts of the Panama Canal Treaty. This concept has been in every treaty governing thc isthmus since 1846 and secures our primary interest that the canal be open and that we be free to insure that fact.

The Neutrality Treaty improves our situation over the past and is an advance for U.S. foreign policy.

Under the 1936 Treaty, defense of the canal had to be undertaken after consultation with Panama. The new treaty leaves the determination of the need for action to each of the parties. The 1903 and 1936 treaties were vague on the rights of warships, while the new treaty is specific on the rights of U.S. warships to go to the head of the line. The earlier treaties were vague and employed many of the terms of international law; the new treaty is specific and uses the language hammered out by the President and the Congress.

I believe that the Neutrality Treaty satisfies the major concerns I have about defense.

The Panama Canal Treaty:

I feel that the treaty before us now has some advantages for the United States and Panama in the area of defense. Let me be specific.

The Panama Canal Treaty insures that for the next 22 years the United States, in no uncertain terms, has primary responsibility for the canal. As General Torrijos said after the September 7 signing:

We are now under the protective umbrella of the United States.

In addition, the new treaty contains a status of forces agreement which we have not had in the past. This agreement spells out the relationship of the U.S. military personnel outside of the Canal Zone with Panama for the next 22 years and is an important improvement.

The treaty also creates a combined board to regulate military concerns such as coordinated defense of the canal. I believe that it is clear that this board is a mechanism for coordination; it is not a joint command which would deny the United States the right to act independently.

Taken as a whole and in conjunction with the Neutrality Treaty, I believe that our defense interests are insured by the

new agreements. As a member of the Armed Services Committee, I sat through many hours of discussion and open debate over the merits of the treaty. On the whole, the discussion impressed me as favoring the new treaties insofar as military considerations are involved.

2. SEA LEVEL CANAL

There has been concern expressed about the Panama Canal Treaty's provisions for a new canal. The treaty provisions for a new canal. The treaty provides that the parties should jointly undertake a study of the feasibility of a new canal or a third set of locks. I believe that all the Senate agrees on the merit of this provision.

The treaty also provides that no canal should be built in Panama without the agreement of the United States. It also states that the United States should not negotiate with any other country to build a canal unless the parties otherwise agree. These provisions reflect the basic reality that there really is no other route for a canal. A $20 million study by the Presidential Inter-Oceanic Canal Study Commission came to just that conclusion a few years ago. In short, the new treaty simply states the obvious.

We have just accepted a reservation which directs the United States to waive its rights under article XIII by agreement with Panama. I am not adverse to this idea, although I believe it is a bit unnecessary.

3. ECONOMICS OF THE CANAL TREATY

I believe that some of the most important debate has taken place over the economic provisions of the second treaty.

The treaty provides for an increase in the payments made to Panama out of canal revenues, which has been long overdue. In addition, it provides for an additional payment if profits are high enough, an incentive for the Panamanians to keep the canal in smooth working order for the next 22 years.

I believe that the statement of Senator MUSKIE on the 28th of February answers many of the questions which have been posed about the economics of the treaty. In that address he spoke of fairer compensation to Panama with which I fully concur. The time has come to work more closely with our neighbor. The study conducted by the Budget Committee, chaired by Senator MUSKIE bear out his conclusions that the canal can provide sufficient revenue under raised tolls to meet the commitments undertaken by these treaties.

Payments for pensions and retirement plans and a reduction of costs by military consolidation were all dealt with ably by the Senator at that time.

Since February 28, we have seen many attempts to find any minor flaw in the treaty insofar as money is concerned. I can only say that the basic analysis of Senator MUSKIE still stands and I have faith in the work of the Budget Committee on this point. Second, I am sure that there are some flaws in any treaty, but none has been pointed out to me which would constitute sufficient cause to reject the entire package.

As I understand it, most of the costs incurred under these treaties will be handled by canal tolls and ordinary customary loans from internation development bodies will be sought. I believe that to be satisfactory.

For the United States, it appears that we are running no loss to our own economy. The canal's use has been diminishing constantly and less than 1 percent of our GNP goes through the canal today. I do not believe we are going to hurt this way.

4. CANAL OPERATION BY PANAMA

I am confident after visiting the Canal Zone and Panama in 1976 that the Panamanians can do the job. At present, they fill 80 percent of the canal jobs and I believe that the plans for training in the next 22 years will assure efficient canal operation. Panama's public commitment to do this is one which I believe will press them to provide the best service possible.

I feel that the same motives that prompt the Panamanians to seek control of the canal will likewise press them to keep the canal open and in good working order.

IV. CONVICTIONS

Let me address this body on some of the overall questions with which I have struggled during the course of the debate. I believe that in the answer to each of these questions, we can find the guidance for the decisions we must undertake here.

NATIONAL INTEREST

The first and most important question is whether the treaties signed by the President are in the best national interest of the United States. National interest is a vague term and many people give it a different content. I mean by the national interest decisions to which we are ready to make a commitment and which are vital to our national survival.

The statements by the distinguished majority and minority leaders before the passage of the Neutrality Treaty convinced me that they believe in these treaties and that the treaties will enhance the position of the United States in the world.

The change in relations between our two countries is vital to Panama's national interest as well. We have genuine interests in Panama and Panama must be aware of that. We have an obligation to see that the treaties we send to Panama are realistic and do not unduely infringe upon the national aspirations of Panama.

It is my responsibility to my State of North Carolina to insure that the national interest of the United States is furthered by what we do here and I believe that these treaties, yet to be finalized, go a long way in that direction.

RETREAT BY THE UNITED STATES

Is this effort a retreat for the United States?

Many among the American people fear that after Vietnam and inaction in Africa, we are retreating and pulling out of world affairs. Mr. President, no vote will ever be cast by this Senator which represents a retreat for our good and great country.

I have been against the pullout from Korea, I have been for a strong defense and in particular the B–1 bomber, I have expressed my fullest support for our friends in the Mediterranean and in particular our most important commitment in Israel. Commitment is a crucial word to me and I feel that five American Presidents have been committed to improving our relationship with the Republic of Panama, one of our best friends in Latin America. To cooperate with a friend and to honor a commitment is in no way retreat. It is the most direct sign a nation can give of its greatness.

Our greatness is not diminished by signing a treaty with Panama. It is enhanced by the demonstration of our moral will to deal fairly with even the smallest of countries.

THE FUTURE

During the course of the debate, we have all been asked to speculate about the future. I believe that after the extensive hearings before the Foreign Relations Committee and the investigations of the Armed Services and Intelligence Committees on which I sit, we have the best information before us. On the basis of that information, we are asked to cast our gaze toward the future. Senators on both sides of this issue have expressed their sincere concern for the possible repercussion of these treaties. Thousands of my constituents have addressed their fears and uneasiness about these new arrangements to me while others have expressed their great hope for the future. There has been a great outpouring of concern by the American people on this issue. Speculating about the future is always difficult.

I guess that I am an optimist. I believe that the future can best be served by the new treaties and the arrangements contained in them.

For the future, I believe we can see three possible benefits with Panama, there should be improved relations, a better guarantee that the canal will remain open and more stability for Panamanian politics. In Latin America, I believe we will see improvement in our relations with many states. Some will continue to be antagonistic, but for our friends this action will be a strong tool for them to resist Communist pressures within their own governments. In the world, I believe we will acquire the image of a great and moral country, one which practices what it preaches. To the small countries of Latin America, Asia, and Africa, we will stand as an alternate world to do the neocolonialism of the Soviet Union—a friend with whom one can work freely, not as a shackled slave.

We can always expect the worst and often we are not disappointed. On the whole, I believe that this body has taken into account as many possibilities as is humanly possible. At some point, with the debate as extensive as it is, the issue becomes a matter for the exercise of judgment, discretion, and experience. For myself, I believe that the future will be better served by the new treaties. These treaties are no panacea. Treaties are only as good as the commitments made to them. I would caution against to much optimism or too much pessimism. We

need a realistic view of the future and of what we can achieve.

IS THIS THE BEST COURSE

Let me conclude that I believe that the course we are taking is the best one for our country. I am guided by the words of Lyndon Johnson, who said of the Panama situation:

These changes are necessary not because of failure but because of success; not because of backwardness but because of progress. The age before us is an age of larger, faster ships. It is an age of friendly partnership among the nations concerned with the traffic between the oceans. This new age requires new arrangements.

The strength of our American system is that we have always tried to understand and meet the needs of the future. We have been at our best when we have been both bold and prudent in moving forward.

President Johnson set forth the challenge for all of us, that is to act with courage and with foresight. As men and women entrusted with the burden of making decisions for the future, we must utilize all the abilities at our command and act to protect and defend the interests of our great land. I plan to do no less.

Mr. MATSUNAGA. Will the Senator from North Carolina yield?

Mr. MORGAN. I am delighted to yield.

Mr. MATSUNAGA. I wish to congratulate and commend the Senator from North Carolina (Mr. MORGAN) for the courageous position he has taken. The Senator, being from the State that he comes from, where sentiment was overwhelmingly against the treaty, nevertheless took his position from the very beginning. That took a lot of courage. Now, the sentiment is going the other way and the polls indicate that the American people today favor the treaties. The Senator from North Carolina (Mr. MORGAN) can take much of the credit for it, because it was his courage that took him into his own State, as well as to other States by voice over national radio, and helped to convince the American people that what the Senate, at least two-thirds of the Senate, is attempting to do is the right thing to do.

Through the leadership of Senators like the Senator from North Carolina, I think we have convinced the people that it is much more important to the United States that we look upon ourselves as a Nation which strives to that which is right. We know that we have the greatest Nation on Earth. We know that we are the strongest on Earth. But we must use that strength in order to do that which is right and we are striving to do that which is right.

Again, I congratulate and commend the Senator from North Carolina for the leadership he has shown in this matter.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Senator from Florida (Mr. CHILES) be made a cosponsor of our reservation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. I commend the Senator from North Carolina. We have very little time and I hope he will continue after these two rollcalls.

I think the great disadvantage of this debate is that discusssion of something so important as the Panama Canal Treaty has been disjointed. Here we have one of the most comprehensive, cogent statements I have heard on the subject of the Panama Canal treaties. I congratulate Senator MORGAN, and I hope he will continue, because I shall have more to say on what he has said after these two rollcalls.

Mr. MORGAN. I thank my distinguished colleague.

Mr. CHURCH. Mr. President, I merely want to join in complimenting Senator Morgan for what I think is an exceptionally fine address. Though I was not actually in the Chamber. I was in the majority leader's office and I listened to him over the loudspeaker. I want him to know that I think he has taken an admirable stand and he has explained his position so lucidly that I am sure it will be taken to heart by the people he represents in his great State.

Mr. MORGAN. I thank my distinguished colleague.

Mr. President, in the 1 minute I have remaining, let me say that the founders of this great country of ours, in providing that treaties should be ratified by the Senate, understood that in dealing in foreign affairs, the issues would not always be easy and that, sometimes, the Members of the Senate would have to take stands that might appear to be contrary to popular opinion. That is why they provided that those of us in the Senate, who have 6-year terms, would be able to study the issues in depth. That is what Mr. Madison was writing about when he wrote the 75th Federalist papers.

I think, Mr. President, that that is our responsibility in the Senate. I shall try to continue my remarks after the votes.

The PRESIDING OFFICER. The hour of 5 p.m. having arrived, the question is on agreeing to amendment No. 99.

Mr. HOLLINGS. Do we have the yeas and nays?

Mr. CHURCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHURCH. Mr. President, for the information of the Senate, the leadership supports both of these reservations.

It is my understanding that the yeas and nays have not been ordered. I ask for the yeas and nays on both votes.

The PRESIDING OFFICER. Is there objection to ordering them on both votes on one motion?

Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Maine (Mr. HATHAWAY), the Senator from Rhode Island (Mr. PELL), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL), and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. BAKER. I announce that the Senator from Alaska (Mr. STEVENS), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announce that the Senator from Kansas (Mr. DOLE) is absent attending the funeral of a relative.

I further announce that, if present and voting, the Senator from Alaska (Mr. STEVENS) would vote "yea."

The result was announced—yeas 65, nays 27, as follows:

[Rollcall Vote No. 99 Ex.]

YEAS—65

| | | |
|---|---|---|
| Allen | Hansen | Nelson |
| Baker | Hatch | Nunn |
| Bartlett | Hatfield, Paul G. | Packwood |
| Bayh | Heinz | Pearson |
| Bellmon | Helms | Percy |
| Bentsen | Hodges | Proxmire |
| Brooke | Humphrey | Randolph |
| Bumpers | Inouye | Roth |
| Burdick | Jackson | Sarbanes |
| Byrd, Harry F., Jr. | Johnston | Sasser |
| Byrd, Robert C. | Laxalt | Schmitt |
| Cannon | Long | Schweiker |
| Chiles | Lugar | Scott |
| Church | Magnuson | Sparkman |
| Curtis | Mathias | Stennis |
| Danforth | Matsunaga | Stone |
| DeConcini | McClure | Talmadge |
| Domenici | McIntyre | Thurmond |
| Eagleton | Melcher | Tower |
| Ford | Morgan | Weicker |
| Garn | Moynihan | Young |
| Goldwater | Muskie | |

NAYS—27

| | | |
|---|---|---|
| Abourezk | Griffin | Leahy |
| Anderson | Hart | McGovern |
| Case | Haskell | Metzenbaum |
| Chafee | Hatfield, Mark O. | Riegle |
| Clark | Hayakawa | Stafford |
| Cranston | Hollings | Stevenson |
| Culver | Huddleston | Williams |
| Durkin | Javits | Zorinsky |
| Glenn | Kennedy | |
| Gravel | | |

NOT VOTING—8

| | | |
|---|---|---|
| Biden | Hathaway | Stevens |
| Dole | Pell | Wallop |
| Eastland | Ribicoff | |

So amendment No. 99 of the Senator from Louisiana was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LAXALT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on reservation No. 14. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

(Mr. BURDICK assumed the chair.)

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Maine (Mr. HATHAWAY), the Senator from Rhode Island (Mr. PELL), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. BAKER. I announce that the Senator from Alaska (Mr. STEVENS) and the Senator from Wyoming (Mr. WALLOP), are necessarily absent.

I also announce that the Senator from Kansas (Mr. DOLE) is asent to attend the funeral of a relative.

I further announce that, if present and voting, the Senator from Alaska (Mr. STEVENS) would vote "yea."

The result was announced—yeas 90, nays 2, as follows:

[Rollcall Vote No. 100 Ex.]

YEAS—90

| | | |
|---|---|---|
| Abourezk | Goldwater | Melcher |
| Allen | Hansen | Metzenbaum |
| Anderson | Hart | Morgan |
| Baker | Haskell | Moynihan |
| Bartlett | Hatch | Muskie |
| Bayh | Hatfield, | Nelson |
| Bellmon | Mark O. | Nunn |
| Bentsen | Hatfield, | Packwood |
| Brooke | Paul G. | Pearson |
| Bumpers | Hayakawa | Percy |
| Burdick | Heinz | Proxmire |
| Byrd, | Helms | Randolph |
| Harry F., Jr. | Hodges | Riegle |
| Byrd, Robert C. | Hollings | Roth |
| Cannon | Huddleston | Sarbanes |
| Case | Humphrey | Sasser |
| Chafee | Inouye | Schmitt |
| Chiles | Jackson | Schweiker |
| Church | Javits | Scott |
| Clark | Johnston | Sparkman |
| Cranston | Kennedy | Stafford |
| Culver | Laxalt | Stennis |
| Curtis | Leahy | Stevensor |
| Danforth | Long | Stone |
| DeConcini | Lugar | Talmadge |
| Domenici | Magnuson | Thurmond |
| Durkin | Mathias | Tower |
| Eagleton | Matsunaga | Weicker |
| Ford | McClure | Williams |
| Garn | McGovern | Young |
| Glenn | McIntyre | Zorinsky |

NAYS—2

| | |
|---|---|
| Gravel | Griffin |

NOT VOTING—8

| | | |
|---|---|---|
| Biden | Hathaway | Stevens |
| Dole | Pell | Wallop |
| Eastland | Ribicoff | |

So reservation No. 14 was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the reservation was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. CHILES). The Senator from Illinois.

Mr. PERCY. Mr. President, when I returned from a visit to the Canal Zone in company with some of my colleagues in January, I said at that time I would not vote to ratify the Panama Canal Treaties as they had been signed by President Carter and General Torrijos because they were flawed in a way subsequently acknowledged by the President.

Not satisfied with the clarification that was not legally binding, the Senators and I decided, and the leadership did, that the Neutrality Treaty itself would have to be amended to provide for the United States right to defend the canal against any aggression and to guarantee that U.S. warships in time of emergency can go to the head of the line and pass through the canal.

Now that these amendments have been incorporated, I support ratification of the treaty. With these amendments I believe the treaties serve the best interests of our country.

Nevertheless, our work will not be complete when we vote on the treaty on Tuesday. There will still be the implementing legislation to consider. In the context of the implementing legislation I shall want to pursue the concern I have already expressed about costs to the U.S. Government under this treaty.

Mr. President, there are on the floor of the Senate at this time members of the Armed Services Committee and members of the Committee on Foreign Relations who heard testimony on these treaties.

The Armed Services Committee clearly pointed out in their subsequent report that there would be a cost in excess of some $700 million to the Treasury of the United States and to the American taxpayers under the present plan.

Now, this cost is not of payments being made to Panama. They would not receive a penny. The only payments they will receive come from toll revenue. But the costs to the American taxpayer would be costs that were real costs in the form of interest income that would have to be given up and the cost of early retirement for civil servants, just to mention two items.

It is my firm belief that a significant percentage of these costs can be offset by higher tolls over the next 22 years, and I submit to my colleagues that this is a better way to deal with the costs than appropriating taxpayers' funds or just writing off canal revenues, which until now have gone to the U.S. Treasury.

Today I am providing further data on how the cost of the treaty to the American taxpayer can be reduced when the implementing legislation is considered by Congress.

Using the figures developed by the Senate Budget Committee and the Congressional Budget Office, it is presently estimated that the cost to the Government over the life of the proposed treaty is likely to be about $700 million more than it would under the revised 1903 treaty. One large component of this total is $276 million for a civil service early retirement system for eligible employees of the canal enterprise, figured to be $9.2 million per year over 30 years. The other involves the loss of an annual interest payment to the U.S. Treasury at a current rate of about 6.3 percent on the U.S. investment in the canal now about $20 million per year. The administration intends to recommend that this annual interest payment not be continued.

I have expressed my very strong objection to this to the State Department. I think it is a case of overlooking the fact that $20 million is a lot of money, and that is a cost to the American taxpayer, if that interest income is given up. It is my strong feeling that any actual loss of revenue to the U.S. Treasury should be reviewed as a true "cost" of the revised treaties.

The United States historically has operated the Panama Canal at tremendous benefit to the public by generally setting tolls just to cover operating costs. We have in a sense been subsidizing the canal users for 64 years. In real terms, toll rates for use of the canal are actually lower today than they were in 1914. No attempt was made to reap the kind of revenues which the canal would have been perfectly capable of generating, and which could have added hundreds of millions of dollars to the U.S. Treasury.

This was done by the Panama Canal Company with the full concurrence and support of the President of the United States, the executive branch of the Government, and the Congress of the United States. It was a policy that we had adopted, and it was one of the benefits that the world experienced as a result of the operation and ownership of the canal by the United States. This was our contribution to world trade.

But the rules of the game are being changed now. World opinion and a good bit of American public opinion feel that the injustices to Panama over a period of almost three-quarters of a century should be rectified. A nation that still today, after four upward revisions, still only receives less than 1 percent of the toll revenue raised by the Canal Company is not, in my opinion, being adequately compensated for a swath being cut right through the center of that country, as has been described so many times on the floor of the Senate.

We have now 22 more years during which the United States will operate the canal, but because of these treaties we have an additional cost to bear of some $700 million. As Everett Dirksen said on the floor of the Senate, and I repeated his comment earlier today, "A billion here and a billion there, and pretty soon you are talking about real money." Some $700 million, in my way of thinking, is enough money to be concerned about, and we have enough time to do something about it.

I would think, in a spirit of partnership, it would be our objective to increase revenues to cover as much as possible of those contingency payments. Even though they are not required, they are an expectation and a hope, and certainly the 65 nations using the canal, and the shippers of those nations, can afford to pay a reasonable increase and a reasonable toll so as to meet the expectations and needs of Panama as well as the liquidation expenses and costs to be borne by the United States.

Under the new treaty, Panama will receive a substantial payment from revenues in recognition that Panama's chief natural resource is its geographical feature which allows it to be a gateway between the Pacific and the Caribbean. Even today, after four upward revisions in payments to Panama since the original treaty, Panama receives annuities which represent less than 1 percent of gross revenues of the canal.

I believe that changing the present arrangements with Panama so that they have a greater stake in the canal is fair and just, and also serves our interest by giving Panama a real incentive to keep the canal open, secure and operating efficiently.

At the same time, I think it is reasonable to propose that the U.S. taxpayer not be asked to bear all the costs associated with the changeover of the control of the canal without serious consideration of alternatives. In the same way that annuities to Panama will be figured into the toll formula as operating costs, we should in the implementing legislation, direct that the maximum possible of U.S. costs of the changeover be met through tolls. From a business point of view, this means we are trying to minimize costs to the taxpayer by taking reasonable advantage of the revenue-producing capacity of the canal—particularly in the early years, when we are most confident about its ability to generate revenues in excess of expected operating costs.

Naturally, there are some disadvantages to such an approach. Higher tolls could reduce traffic from what it would be if tolls were increased more gradually.

This approach also will not appeal to some special interests. Some shipping lines would be affected more than others. Any decreases in traffic as a result of toll increases will adversely affect Panama's annuities based on tonnage. However, any loss of tonnage payments, particularly in the early years, would not be large, and could be offset through contingency payments to Panama, provided for in the revised treaties, from canal operating surpluses gained from a higher toll rate increase.

But this approach does have the clear advantage to us of having the adjustment costs shared by the actual users of the canal who receive direct benefits instead of being borne by the American taxpayer who only indirectly benefits—if at all. If, as I believe, this treaty will serve the interests of all nations in having a secure and open canal, then it is only reasonable that we ask the other user nations to share in the costs of protecting these interests.

Let me make clear that I am not suggesting that whatever we may choose to do be made part of the treaty through understandings or amendments. These issues are a matter of our own legislative prerogatives, and therefore should be dealt with in the legislation implementing the treaties. We will want to evaluate the various cost components and thoroughly consider the complex economics when deciding on what the toll formula will contain. We can also use the opportunity to look for more efficient ways of operating the canal. And we will want to closely consult with Panama in the spirit of our newly revised partnership.

I am suggesting that when the time comes, there will be options open to us regarding how we deal with the costs. We can decide exactly how much of the costs we may want to meet through tolls.

There is general agreement that tolls can and will be raised at the outset of the treaty period to cover the new annuities to Panama. The most recent study we have available, prepared by Arthur Anderson & Co., of cash requirements for running the canal under the proposed treaty, including the annuity payments to Panama, indicated that toll increase of 19 to 27 percent will be required at the outset for the first few years of the treaty. These calculations do not, I should point out, include continuance of the interest payments to the U.S. Treasury, nor would they attempt to assure payment to Panama of the $10 million contingent on surplus revenues. For purposes of our discussion, let us use a 25-percent figure.

According to the most current study available on toll revenues, prepared by Dr. Ely Brandes and Randall Chun of International Research Associates, a 25-percent toll increase would bring in about $47 million more than current toll rates would in the first year it was applied.

This $47 million is about equal to the additional revenue the Arthur Anderson study indicates that the Panama Canal Commission will need during the first year of operations under the new treaty.

Based on all the studies of future canal costs and revenue potentials, I believe that the toll levels can be set in such a way to not only cover the new annuities to Panama, but also to offset 75 to 80 percent of the potential costs to the U.S. taxpayer, without unduly affecting the long-term traffic patterns or economic viability of the Panama Canal. Let me outline such a program, with the proviso that the numbers I use should be considered preliminary and subject to further detailed analysis.

Let us begin with a 54-percent toll increase, instead of the 25-percent increase currently planned. This would, in the first 7 years of the treaty (including 1985) yield an additional $271 million in revenue over the 25 percent increase, with the largest increments occurring in the earliest years. I would suggest that this additional revenue, and that which would accrue beyond 1985, be used to insure the payment of all civil service early retirement adjustment costs, continuation of the interest payment to the Treasury—although on a reduced base as explained later—and to assure sufficient payment from the surpluses to Panama to offset any loss in the 30-cent-per-canal-ton annuity payment. This loss is the result of the decrease in traffic (about 8 percent by 1985) as a result of a 54-percent increase as opposed to a 25-percent increase.

Mr. President, I ask unanimous consent that three tables which are pertinent to my remarks be printed in the RECORD at this point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE I.—EFFECTS OF TOLL INCREASES ON REVENUE

| | 1979 | 1980 | 1985 | 1990 |
|---|---|---|---|---|
| TOTAL REVENUE (THOUSANDS) | | | | |
| Percent increase in tolls: | | | | |
| 0 | $194,044 | $197,485 | $209,933 | $223,631 |
| 25 | 240,873 | 243,392 | 251,090 | 267,572 |
| 50 | 280,943 | 281,993 | 278,954 | 297,304 |
| 54 | 286,539 | 287,325 | 282,186 | 300,796 |

| | 1979 | 1980 | 1985 | 1990 |
|---|---|---|---|---|
| INCREASES IN REVENUE (MILLIONS) | | | | |
| Comparison of toll changes: | | | | |
| 25 percent compared to 0 | 46.1 | 45.9 | 41.2 | 43.9 |
| 50 percent compared to 0 | 86 9 | 84.5 | 69.0 | 73.7 |
| 54 percent compared to 0 | 92.5 | 89.8 | 72.2 | 77.2 |
| 50 percent compared to 25 percent | 40.1 | 38.6 | 27.9 | 30.0 |
| 54 percent compared to 25 percent | 45.7 | 43.9 | 31.1 | 33.0 |

Source: Brandes, Ely M.; Panama Canal Traffic and Reserve Study: 1978–2000; International Research Associates, January 1978; tables 34–7, pp. IV–29–32.

TABLE II.—EFFECTS OF TOLL INCREASES ON PANAMA CANAL NET TONS TRANSITING CANAL

| | 1979 | 1980 | 1985 | 1990 |
|---|---|---|---|---|
| TOTAL NUMBER PANAMA CANAL NET TONS TRANSITING CANAL (THOUSAND NET PCT'S) | | | | |
| Percent increase in tolls: | | | | |
| 0 | 155,235 | 157,988 | 167,946 | 178,904 |
| 25 | 154,159 | 155,771 | 160,698 | 171,246 |
| 50 | 149,386 | 150,396 | 148,775 | 158,562 |
| 54 | 149,311 | 150,308 | 148,622 | 158,404 |

| | 1979 | 1980 | 1985 | 1990 |
|---|---|---|---|---|
| DECREASE IN NET PCT'S TRANSITING CANAL (MILLIONS NET PCT'S) | | | | |
| Comparison of toll changes: | | | | |
| 25 percent compared to 0 | 1.1 | 2.2 | 7.2 | 7.7 |
| 50 percent compared to 0 | 5.8 | 7.6 | 19.2 | 20.3 |
| 54 percent compared to 0 | 5.9 | 7.7 | 19.3 | 20.5 |
| 50 percent compared to 25 percent | (−3)4.8 | (−3)5.4 | (−7)11.9 | (−7)12.7 |
| 54 percent compared to 25 percent | (−3)4.8 | (−4)5.5 | (−8)12.1 | (−8)12.8 |
| Loss in $0.30 PCT annuity to Panama resulting from 54 percent toll increase compared to 25 percent toll increase (millions) | $1.4 | $1.7 | [1] $4.0 | [1] $5.6 |

[1] Based on 5 percent annual increase in wholesale price of manufactured goods index.

Source: Brandes, Ely M.; Panama Canal Traffic and Reserve Study: 1978–2000; International Research Associations, January 1978; table 38, p. IV–34.

TABLE III.—POSSIBLE USE OF ADDITIONAL REVENUE GENERATED BY A 54-PERCENT TOLL INCREASE

[In millions]

| Item | 1979 | 1980 | 1981 | 1982 | 1983 | 1984 | 1985 | 1990 |
|---|---|---|---|---|---|---|---|---|
| Additional revenue from a 50-percent toll increase over that of a 25-percent increase | $45.7 | $43.9 | $41.3 | $38.8 | $36.2 | $33.7 | $31.1 | $33.0 |
| Projected contingency payment—offset of loss in traffic-based annuity plus $2,000,000 | 3.4 | 3.7 | 4.2 | 4.7 | 5.1 | 5.6 | 6.0 | 7.6 |
| Remainder | 42.3 | 40.2 | 37.1 | 34.1 | 31.1 | 28.1 | 25.0 | 25.4 |
| Interest payment to Treasury | 18.3 | 18.3 | 18.3 | 18.3 | 18.3 | 18.3 | 18.3 | 18.3 |
| Remainder | 24.0 | 21.9 | 18.8 | 15.8 | 12.8 | 9.8 | 6.7 | 7.1 |
| Payment to civil service for early retirement benefits | 9.2 | 9.2 | 9.2 | 9.2 | 9.2 | 9.2 | 9.2 | 9.2 |
| Additional revenue available to establish civil service early retirement reserve fund to be invested at 6 percent minimum interest | 15.8 | 12.7 | 9.6 | 6.6 | 3.6 | .6 | −2.5 | −2.2 |

Mr. PERCY. In figuring the offset of tonnage-based revenue loss of Panama, with whom, after all, we are trying to forge a positive relationship, I have estimated the likely loss in revenue and added, above that, about $2 million per year to give some reasonable assurance to Panama.

Of course there can be no iron-clad guarantee to Panama that contingency payments will be made, since they are not required to be made under the treaty. We should, however, demonstrate our good faith by directing that revenues should be created to provide this offset.

I have then provided for an annual interest payment to the Treasury, because as I stated earlier, I view the loss of the interest payment as a cost of the treaty.

In the early 1950's, partly because the canal was for the first time consistently producing revenue over and above cost, the Bureau of the Budget placed a valuation of $373 million on the assets held by the Panama Canal Company as of June 30, 1951, and determined that the Canal Company should, when revenues permitted, pay the Treasury Department interest on that property. The interest level was based on a computed average effective coupon rate borne by all marketable Treasury bonds outstanding as of July 31 of each year.

Over the years, the original base figure of $373 million has been reduced, for three basic reasons: First, as a result of the 1955 treaty, about $23 million of this property was transfered to Panama. I should note that at that time the United States requested no compensation from Panama for the transfer. Second, over the years, the Panama Canal Company occasionally had revenues beyond those needed to pay interest. These funds were used to pay off some of the principal to the Treasury. Such payments of principal have amounted to $40 million since 1955. Finally, there have been several transfers of property between the Panama Canal Company and other U.S. Government agencies, particularly the Department of Defense, which have resulted in changes in the principal on which the Panama Canal Company pays interest.

The interest payment to the Treasury will amount to $20.1 million in fiscal year 1978.

However, annuity payments Panama now receives from the U.S. Government under the present treaty of $1.8 million (the Panama Canal Company pays an additional $.5 million a year) will cease under the new treaty. I see this as a real cost savings. Figuring in this saving, net revenues to the Treasury will amount to $18.3 million in fiscal year 1978. This $18.3 million interest payment is the figure I use in my calculations.

Upon implementation of the treaty, property valued at about $92 million will be turned over to Panama, reducing the principal on which interest has been paid in recent years from $319 million to about $227 million. If the payments to the Treasury were to be continued at the present interest rate (6.3 percent) on the reduced amount of property, the annual payment to the U.S. Treasury would drop to $14.3 million per year—in effect a loss of $4 million as result of the new treaty. Therefore, I suggest the following adjustment: I would propose that the interest rates be adjusted to reflect the current average cost of notes to the Treasury of a 12-year-or-greater maturity. This rate is currently about 8⅛ percent. On a principal of $227 million, this would produce an annual revenue of $18.4 million a year, or about the current level of Treasury income.

Even after deducting the $18.3 million from the additional revenues accrued from the 54 percent toll increase, and the offset contingency payment to Panama, there would still be a sizable flow of income, starting at $24.0 million the first year and flattening out to between $6.7 and $7.1 million by 1985–90. This income flow can be used to cover all of the additional civil service early retirement costs caused by the treaty.

The Civil Service Commission estimates the unfunded liability of these costs at $148 million, which under its normal procedures would be amortized over a 30-year period with annual payments of $9.2 million per year. Over 30 years, this amounts to a total dollar outlay of $276 million.

In the first 6 years of the treaty, the income from a 54 percent toll increase over and above the amounts needed for canal costs, regular annuities, payments to the Treasury, and a projected contingency annuity, would still exceed $9.2 million per year. These surplus funds could be deposited into a civil service early retirement reserve fund. Assuming a conservative return to this fund of 6 percent per year, over the 6 surplus years this fund would grow to about $62 million. In ensuing years, interest payments earned by the fund would be adequate to make up any shortfalls in annual revenues needed to meet the $9.2 million annual payment for early retirement costs. When the treaty terminates at the end of 1999, the fund would still have about $90 million (interest payments to the fund would exceed the annual outlay needed to top off income from tolls), which is more than adequate to fund the $8.2 million annual payment for an additional 9 years.

To summarize, I have suggested a program which generates $384 million in revenue, and thereby covers $276 million in projected civil service early retirement costs, and allows interest payments to the Treasury to continue over the life of the treaty at an $18.3 million level. This would leave us with a one-time appropriation for military consolidation of $43 million and an annual expense of $1 to $4 million in schooling and hospital costs for U.S. employees of the canal.

This seems to me—and I think will seem to the taxpayer—to be a reasonable package and a far better prospect than they now have if they face an added cost over the next 22 years of $700 million from the U.S. Treasury.

Naturally, there are many other options to choose from, depending on the level of toll increase deemed acceptable and the specific transition costs which we wish to offset through those increases.

The program I have outlined is based on the best projections we now have available. In the future should some unanticipated developments occur in the world economy or transport technology which would call into question the financial viability of the program I have outlined, then adjustments would have to be made. Likewise, over the next 22 years event may occur that would allow the canal to generate more revenue than is now anticipated and thus permit the covering of all U.S. transition costs. This degree of uncertainty would, of course, also hold true under the present arrangements for running the Panama Canal. We must maintain flexibility. After all, the primary U.S. economic interest regarding the canal is that it continue to be an economically viable enterprise serving our own, Panamanian, and world commerce.

I would also like to clarify one other major point. The Brandes study, and my proposed system, are based on how world commerce would react to a single toll change based on current conditions. Future increases will be necessary to offset inflation. Insofar as inflation affects

the cost of canal operations more or less equally as it affects alternatives to the canal, such periodic adjustments should be possible without damage to current traffic patterns, and in such a way so as to preserve the kind of real revenue projections made in the Brandes study and my examples.

Quite frankly, as a former businessman, I think I have only scratched the surface of what might be possible if we truly allow the Panama Canal Commission to conduct its operations like a business. For example, the Panama Canal Company is currently required to maintain a balance of about $45 million in the U.S. Treasury in a noninterest paying account, as is required for all U.S. Government corporations. This could be regarded as a subsidy to the U.S. Treasury. Considering we can hardly expect the Panamanians to follow this procedure when they manage the canal, we could in the implementing legislation allow the Commission to deposit these accounts in commercial institutions and use the revenues to meet expenses, thereby reducing the pressures on tolls or increasing revenue to further reduce costs.

I have suggested some preliminary thoughts on how, if the Congress chooses, transition costs could be dealt within the implementing legislation at the appropriate time.

I have believed, and continue to believe, that the treaties serve our most important economic, security, and political interests by assuring that the canal will be kept secure and open and operating in partnership with Panama, so long as Panama accepts the amendments and changes in the treaty language that have been adopted now by the Senate.

With regard to the long-range financial viability of the canal, we should realize that, regardless of whether there are new treaties, the expense of operating the canal can be expected to go up during the remainder of this century. Canal Zone Governor Parfitt noted in recent testimony before the Armed Services Committee that the canal would have to raise tolls in the next 10 years to cover regular operating costs even if there were no new treaties.

In the long run, uncertainties increase. We just do not know for sure what inflation rates will be or what technological developments in transportation could occur. It would be unwise to make absolute predictions 22 years into the future. The important point is that some financial uncertainties would exist, treaties or no treaties.

Under the treaty, we will have control until the end of the century in those areas where we can make a difference: Control over tolls, defense, and the important management decisions affecting canal operations.

We must also consider what costs we would incur if we reject these treaties or amend them so that they will be clearly unacceptable to Panama, which amounts to killing the treaties. I think it is crucial. Any meaningful analysis should include these costs as well.

If we reject these treaties, we had better be prepared to pay to defend ourselves against the unrest and the attacks against the canal from extremists which testimony has indicated will surely come. Just a couple of weeks ago, Gen. William Westmoreland predicted terrorist attacks against the canal if the treaties were rejected.

Even assuming that we can keep the canal open most of the time, its excellent reputation for reliability will have suffered, and any prudent shipper, importer, and exporter will think twice about using the canal. Insurance rates would certainly rise to reflect the increased risks.

General McAuliffe, commander of the U.S. Southern Command, with whom most of us have met and talked while visiting the Canal Zone, says a force level of 40,000 troops, at an annual cost of $20 million, would be needed if violence spreads from one end of the canal to the other. Even this, he warns, would not assure that we could prevent interruption of canal operations. If, in the worst situation, there is loss of life, how do you measure these costs, much less the costs in terms of our image as a great world power and of ourselves?

These costs are just as real as, and ultimately more important than, the dollar figure we eventually attach to an early retirement plan, or the value of a commissary building in the Canal Zone.

Nevertheless, we have a responsibility to the U.S. taxpayer to recover by means of toll increases as many additional financial costs as we can.

In this connection, during consideration of the implementing legislation, I intend to press for language requiring confirmation of the U.S. directors of the Panama Canal Commission, to assure that they will be sensitive to our own concern on the matters affecting taxpayer interest.

Let us approve the second treaty and deal effectively and prudently with the costs when we consider the implementing legislation.

(Senator PAUL G. HATFIELD assumed the chair.)

Mr. PERCY. Mr. President, as I indicated at the outset, on my return from a visit earlier this year to the Panama Canal, I would not have voted to approve or ratify or give advice and consent to the treaties assigned by the President and General Torrijos because they were flawed in two major respects, as was subsequently determined by President Carter himself. A statement from the White House, a reservation or an understanding, were not adequate to meet that situation. Amendments were required in the language of the treaty itself, amendments that provided first, for the right of first passage at the head of the line of any U.S. warship, any time it is determined that it is in our national interest for that warship to proceed. We do not have a two-ocean Navy. On occasion, we have had to move ships rapidly. No one, looking at this treaty, is going to sign, ratify, approve, or advise and consent to a treaty that will in any way endanger the security of the United States and the security of many countries that depend upon the mobility of our naval forces to provide an element of protection to them. The Senate of the United States has changed that language and we urge Panama to accept it.

We also have amended the treaty to provide that unilaterally, at any time in the determination of the United States that there is a real threat to the neutrality of the canal itself after the year 2000 into perpetuity, the United States can use is military forces to insure preservation of the neutrality of the canal. I have talked to General Torrijos, as have other of my colleagues. We have talked to other Panamanians. It is in their interest, and they know it, that as to outside intervention, the Panama Canal must be protected. They do not envision their ability at any time, probably, in the future to protect the canal against outside forces that may intervene. For that reason, I think they welcome an assurance from the United States that we feel the right for us to intervene to protect the neutrality is a right that, really, is not just protecting the interests of the United States and of Panama, but of world peace as well. An amendment to that effect has been adopted and we trust that it is acceptable to the Panamanians.

The final element that I have found, as I have toured Illinois and discussed from one end of the State to the other the Panama Canal treaties and my own position on them, is a great concern that we are incurring a considerable cost that is unnecessary. The suggestion that I have provided today as to how we can recover virtually all, if not all, of that $700-million cost, I think, removes another lingering doubt in the minds of many people that this is a fair and equitable agreement. We shall be managing the canal for the next 22 years. What I urge is having the American commissioners confirmed by the Senate, so that we can impart to them our strong feeling that this arrangement is only equitable and fair when it is equitable and fair to both parties.

We have reached out to make an arrangement that is fair and will provide a sound basis for a partnership with the Republic of Panama. So, too, I think it is in their self-interest to see that we manage this canal in the next 22 years so as to produce adequate toll revenue to meet operating and transition costs and maintain it in the condition in which we feel it must be maintained so as to turn it over in absolutely perfect condition to Panama.

Finally, just one word of advice to our friends in Panama. I should like to state publicly what I said to General Torrijos and to other officials in that country. There will be many demands made upon Panama and its Government for expenses. They have costs of health, they have costs of education, they have housing costs, they have road repair costs. I urge the Government of Panama, no matter who is managing the Government at that time, to give first priority and that first priority always and forever, to the revenue necessary to maintain the canal in absolutely top-flight operating condition. This is an old canal. The equipment is old. But it has been maintained exquisitely by the U.S. Govern-

ment. Its operation has been perfect and it is a miracle of engineering that must be preserved at all costs.

This is not a big bonanza, this canal. It is not a big revenue maker. The U.S. Government has never made money on the canal, nor will we even when we maximize revenue in the next 22 years. But there is enough revenue to provide some surplus over and above 100 percent of all the funds needed to maintain the canal in top operating order.

Panamanians are an intelligent, highly trained, well-educated people. Their pride in this canal will be very great, indeed. I receive every assurance from the highest levels all the way through government that they were well aware of this, that the pride they would have in the canal would induce them to take every step necessary to maintain it in perfect operating condition.

I look forward, Mr. President, should the Senate advise and consent to the second treaty tomorrow, to help work out a relationship with Panama and a partnership that will last into perpetuity.

This is a new era, a new day. It is a hard adjustment for many people emotionally. It took me a long time to come to the conclusion, using reason rather than emotion, that this was the right thing, the best thing, for the United States to do in the long run to keep the canal open and operating, and operating efficiently.

It is in that interest that I hope we will approve these treaties and that we will provide constructive oversight over the next 22 years, to insure that the basis for a strong and viable partnership is maintained.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

TIME-LIMITATION AGREEMENTS

Mr. ROBERT C. BYRD. Mr. President, I have been discussing the following request with Mr. LAXALT, Mr. CHURCH, Mr. BAKER, and others.

I ask unanimous consent that with respect to the three amendments by Mr. BROOKE and a substitute by Mr. MCCLURE, there be a time limitation, all inclusive, of——

Mr. LAXALT. In accordance with our discussions, for 10 minutes, if that is agreeable to the Senators. This would contemplate back-to-back votes.

Mr. BROOKE. Let me say to the distinguished majority leader and to our distinguished floor manager (Mr. LAXALT), I believe, certainly, within an hour, and I will try to be brief.

Mr. LAXALT. We are contemplating two rollcall votes in the package, are we not?

Mr. BROOKE. That is right. I think it would contemplate three rollcall votes. I would expect a rollcall vote on the substitute and I hope the substitute is passed, but, if the substitute is not passed, then there would be a rollcall vote on my reservation. So that would be two, and there is one second rollcall vote, a third reservation will not require a rollcall vote.

Mr. ROBERT C. BYRD. How much time?

Mr. BROOKE. Three rollcall votes, a total of 45 minutes.

I did not expect the Senator from Illinois. I thought we were going on at quarter of 6 and now we are really backed up. I would think we need no more than 30 minutes of discussion, depending on the time of the opposition.

Mr. ROBERT C. BYRD. Yes.

I ask unanimous consent that on the three amendments by Mr. BROOKE and the substitute by Mr. MCCLURE there be a total time limit for discussion of 30 minutes—how is it to be divided?

Mr. BROOKE. I yield to my distinguished colleague from Idaho (Mr. MCCLURE) as to how much time he would need out of that.

Mr. MCCLURE. I wonder if the Senator from Idaho might have 10 minutes on the substitute to the Brooke reservation?

Mr. BROOKE. That would leave me 10 minutes on one reservation, and 10 minutes on another.

Mr. ROBERT C. BYRD. If I understand, between the two Senators, they would want 30 minutes between them.

Mr. MCCLURE. Twenty minutes between the two Senators on the reservation and substitute, and he would have 10 minutes on the other two reservations.

Mr. BROOKE. Which is plenty.

Mr. ROBERT C. BYRD. A total of 30 minutes.

And how much, I ask one of the managers of the treaty, would we be agreeable to on this side?

Twenty minutes then to the distinguished Senator——

Mr. BROOKE. We might be able to shorten that time.

Mr. ROBERT C. BYRD. All right.

Mr. PERCY. If the Senator will yield, would it be possible to have a 10-minute rollcall on any of those rollcall votes?

Mr. BROOKE. Could we back them up and have the three—well, we have to vote on the substitute.

Mr. CASE. Why not vote now and then we can have the discussion.

[Laughter.]

Mr. ROBERT C. BYRD. I would suggest, if we can get an agreement on the time, we do that as of now.

Mr. BROOKE. All right.

Mr. ROBERT C. BYRD. Thirty minutes to the two Senators, the Senator from Massachusetts and the Senator from Idaho, and 20 minutes to the Senator from Maryland, on the three amendments and the substitute by Messrs. BROOKE and MCCLURE respectively.

The PRESIDING OFFICER (Mr. LEAHY). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Now, Mr. President, I ask unanimous consent that on the disposition of those amendments there be a time limitation on Mr. HELMS' amendment.

Mr. HELMS. One hour, equally divided, and we will not use that.

Mr. ROBERT C. BYRD. All right.

One hour, equally divided, with respect to the amendment by Mr. HELMS.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a 30-minute time limitation with respect to an amendment by Mr. CURTIS, to be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I would prefer not to take any more time and to let the distinguished Senator from Massachusetts proceed.

Mr. MCCLURE. Would the Senator from West Virginia yield for a question?

Mr. ROBERT C. BYRD. I beg the Senator's pardon.

Mr. MCCLURE. Would it be possible to ask unanimous consent that it be in order to order the rollcall votes on those reservations which the Senator from Massachusetts and the Senator from Idaho are going to offer so that we can get that ordered now?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on the amendments by Mr. BROOKE and Mr. MCCLURE and on any tabling motions that may be made with one show of seconds at this time.

The PRESIDING OFFICER. Without objection, it is so ordered. Is there a sufficient second? There is a sufficient second. The yeas and nays were ordered.

UP UNDERSTANDING NO. 26

Mr. BROOKE. Mr. President, I send to the desk an amended version of my understanding regarding foreign assistance in Panama and ask for its immediate consideration.

The PRESIDING OFFICER. The understanding will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE.), for himself and Mr. HARRY F. BYRD, JR., proposes an unprinted understanding numbered 26.

Mr. BROOKE. Mr. President, I ask unanimous consent that further reading of the understanding be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The understanding is as follows:

Before the period at the end of the resolution of ratification, insert a comma and the following: "subject to the understanding, which is to be made a part of the instrument of ratification, that nothing in the Treaty, in the Annex or Agreed Minute relating to the Treaty, or in any other agreement relating to the Treaty obligates the United States to provide any economic assistance, military grant assistance, security supporting assistance, foreign military sales credits or international military education and training to the Republic of Panama".

Mr. BROOKE. Mr. President, the change from the original understanding is technical in nature, altering the term "foreign military credit sales" to read "foreign military sales credits."

This understanding states that the United States has no obligation to provide any form of foreign assistance to Panama as a result of these treaties. The foreign assistance issue is to be handled independent of the treaties and their as-

sociated documents. In addition, the intent also is to indicate to Panama that no U.S. commitment exists regarding foreign assistance as a result of the negotiations that led to these treaties.

As the Senate has already agreed to an identical understanding during its consideration of the Neutrality Treaty, I do not believe there is any need to go into the matter in any depth. I understand that the floor manager of the treaty is prepared to accept this understanding and, therefore, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. Mr. President, the understanding to which the Senator addresses himself is the understanding that was added to the previous treaty. It is completely consistent and consonant not only with representations made to us by the Executive but also with our full understanding of the situation, and we therefore are happy to accept that understanding, for the reasons that the Senator has stated in his presentation with respect to it.

Mr. BROOKE. I yield back the remainder of my time.

Mr. SARBANES. Was time assigned to the reservation, Mr. President?

Mr. BROOKE. I am working under a time agreement.

The PRESIDING OFFICER. The Senator from Maryland has a total of 20 minutes.

Mr. SARBANES. With respect to all the reservations?

The PRESIDING OFFICER. With respect to all the reservations.

Mr. SARBANES. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SARBANES. Is it possible to go to a vote at this point on this amendment to the articles of ratification in the form of an understanding, without yielding back our time that is allocated for debate on other reservations?

The PRESIDING OFFICER. If the Senator is talking about a voice vote, yes.

Mr. SARBANES. I am prepared to go to a vote. If the Chair will put the question, I think we are prepared to vote.

The PRESIDING OFFICER. The question is on agreeing to the reservation offered by the Senator from Massachusetts.

The reservation was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the reservation was agreed to.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP RESERVATION NO. 27

Mr. BROOKE. Mr. President, I send to the desk an amendment to the resolution of ratification and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) proposes an unprinted reservation numbered 27 to the resolution of ratification.

Mr. BROOKE. Mr. President, I ask unanimous consent that reading of the reservation be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The reservation is as follows:

Before the period at the end of the resolution of ratification, insert a comma and the following: "Subject to the Understanding, which is to be made a part of the instrument of ratification, that before the first date of the three-year period beginning on the date of entry into force of this Treaty and before each three-year period following thereafter, the two parties shall agree upon the specific levels and quality of services, as are referred to in Article III, Paragraph 5 of the Treaty, to be provided during the following three-year period and, except for the first three-year period, on the reimbursement to be made for the costs of such services, such services to be limited to such as are essential to the effective functioning of such canal operating areas and such housing areas referred to in Article III, Paragraph 5 of the Treaty. If payments made under Article III, Paragraph 5 of the Treaty for the preceding three-year period, including the initial three-year period, exceed or are less than the actual costs to the Republic of Panama for supplying, during such period, the specific levels and quality of services agreed upon, then the Commission shall deduct from or add to the payment required to be made to the Republic of Panama for each of the following three years one-third of such excess or deficit, as the case may be. There shall be an independent and binding audit, conducted by an auditor mutually selected by both parties, of any costs of services disputed by the two parties pursuant to the reexamination of such costs provided for in this Understanding."

Mr. BROOKE. Mr. President, this understanding relates to the $10 million annual payment to Panama for services it is to provide to the commission as anticipated in paragraph 5 of article III of the treaty. It replaces the previous understanding I submitted for Senate consideration on the matter. I am joined by Senator HARRY F. BYRD, Jr., in offering this understanding.

As became apparent during hearings on this treaty and our consideration of it during the past month, a great deal of ambiguity existed regarding this payment for services. Estimates of the actual costs of the anticipated services in each of the initial 3 years the treaty would be in effect ranged from $4.4 million to $10 million or more. No provision existed in the treaty to insure that the quality of the services would be commensurate with need and stipulated payment. Nor was any attention given to establishing a procedure by which differences between the two parties regarding cost and quality of services could be settled in a reasonable way. To ignore these obvious problems would have been to tolerate unnecessarily one of several tension-producing deficiencies in this treaty. We should not do so in this instance. Thus, I am offering this understanding which, hopefully, will accomplish the following:

First, it will provide for prior agreement between the two parties as to the levels and quality of services that are to be provided by Panama to the Commission. Such prior agreement will be required before the beginning of each 3-year period set forth in paragraph five of article III.

Second, it will limit the services to be paid to those essential to the effective functioning of the canal operating areas and housing areas to be operated by the Commission. This limitation is necessary to avoid a situation where necessary services might be purchased during the first 3-year period the treaty would be in effect if ratified in order to avoid any controversy with Panama over whether or not the full $10.0 million annual payment had been earned.

Third, it provides for a mechanism by which an excess payment or an underpayment to Panama could be adjusted for in a succeeding 3-year period. Specifically, if an excess payment over actual cost of services took place in any of the first 3 years the treaty was in effect, the rate of payment during the next 3-year period would be reduced by the amount of the excess. Conversely, if an underpayment resulted a similarly appropriate adjustment would be possible. This satisfies the principle of reciprocity that should characterize treaties and ensures that the United States will receive appropriate value for dollar expended.

Fourth, it provides that any disagreement between the United States and Panama regarding the legitimate costs of the services actually provided would be settled by a binding audit by an independent auditor agreed upon by both parties. This should reduce the potential for lasting friction because of disagreements on this matter.

Mr. President, if the treaty is ratified. it will be important that we have taken every reasonable step to remove as many obstacles as possible to a successful U.S. effort to manage the Canal over the next 21-year period. This understanding is offered with that in mind. It imposes a necessary discipline on both parties.

I yield to the distinguished floor manager of the bill, and I reserve the remainder of my time.

Mr. SARBANES. Mr. President, the proposal which the distinguished Senator from Massachusetts has made is an evenhanded one. It addresses that consideration, in that the audit which will be made provides and the provision covers an excess or a deficit. Therefore, I think the Senator has come forward with an evenhanded proposal.

He also directs himself to the very important question of specific levels and quality of service.

We are prepared to accept the understanding which the Senator from Massachusetts has offered.

Mr. BROOKE. Mr. President, I have asked for the yeas and nays, but I ask unanimous consent that a vote on that understanding follow immediately the vote to be taken on the substitute motion by the Senator from Idaho (Mr. MCCLURE) and, if necessary, on the reserva-

tion I have offered, to which that substitute will be offered.

Mr. SARBANES. Did I correctly understand the Senator to say it would be immediately after?

Mr. BROOKE. Yes.

The PRESIDING OFFICER. The Chair is a little confused. Is the Senator from Massachusetts asking for a voice vote on the reservation he has just discussed?

Mr. BROOKE. No. The yeas and nays have already been ordered. I am asking unanimous consent that the vote not occur until immediately after a vote taken on the substitute motion of the Senator from Idaho (Mr. McCLURE) to the reservation that I will offer at this time; and, in fact, if the substitute motion is not agreed to, that there immediately follow a vote on the reservation.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP RESERVATION NO. 28

Mr. BROOKE. Mr. President, I send to the desk a reservation in the form of an amendment to the resolution of ratification and ask for its immediate consideration.

The PRESIDING OFFICER. The reservation will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. BROOKE) proposes an unprinted reservation numbered 28.

Mr. BROOKE. Mr. President, I ask unanimous consent that reading of the reservation be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The reservation is as follows:

Before the period at the end of the resolution of ratification, insert a comma and the following: "Subject to the reservation that exchange of the instruments of ratification shall not be effective earlier than March 31, 1979, and the treaties shall not enter into force prior to October 1, 1979, unless legislation necessary to implement the provisions of the Panama Canal Treaty shall have been enacted by the Congress of the United States of America before March 31, 1979."

Mr. BROOKE. Mr. President, this reservation relates to the linkage between the coming into effect of the Panama Canal Treaty, if indeed it does come into effect, and the necessary implementing legislation. This present version of the reservation replaces reservation No. 12 that I previously offered on this matter. Senator HEINZ and Senator HARRY F. BYRD, JR., also are sponsors of this reservation.

My original reservation would have forestalled the exchange of the instruments of ratification until such time as the appropriate implementing legislation had been enacted by Congress. However, upon further reflection, I have come to the conclusion that it makes sense to indicate certain time disciplines regarding the passage of the implementing legislation to which we will seek to adhere. What is suggested in this resolution would provide ample opportunity for us to act in a timely but not precipitous manner. By doing so, we could limit apprehensions that even after Senate ratification of the treaty, if we decide to take that action, Congress would not move with all due speed to place the United States in a position to fulfill its obligations under the treaty.

The reservation as I am now submitting it provides the following timetable:

First, the exchange of the instruments of ratification shall not be effective earlier than March 31, 1979. It need not take place even at that date.

Second, the treaties shall not enter into force prior to October 1, 1979, unless legislation necessary to implement the provisions of the Panama Canal Treaty shall have been enacted before March 31, 1979. This stipulation sets the earliest dates the treaties could come into effect. It does not require that it do so on a specific date.

The effect of the reservation is to provide Congress a maximum period of approximately 1½ years to enact the necessary legislation. This should be sufficient time to do the proper job on a very complex piece of legislation. Moreover, it would provide us an opportunity to monitor the drift of events in Panama and elsewhere that would have an impact on U.S. capacity to manage the canal over the next 20 years or so. Given the emotions that have been evoked by this issue, I see great merit in not feeling forced to proceed immediately with the implementing legislation if the decision is made to ratify the Panama Canal Treaty.

A relatively long time period between the decision to ratify, if it is made, and the effective date of the treaties is needed for several reasons. First, if the implementing legislation is needed, it will be extremely complex. Numerous statutes will be affected. All legal ramifications of the end to U.S. jurisdiction in an area we have controlled for three-quarters of a century will have to be explored. A new employment system will have to be established. In short, the passage of the Panama Canal Treaty of 1977 would entail a wholesale reorganization of the canal enterprise.

Second, any reasonable assessment of the legislative schedule for the rest of this year leads to the conclusion that it would be impossible to give the necessary in-depth attention to the implementing legislation it deserves this year. There is a backlog of important legislation on energy, farm problems, labor relations, and so forth. The administration, unwisely in my opinion, continues to talk about forwarding a SALT II Treaty to the Senate sometime in early summer. I use the term unwisely regarding SALT II because I have grave doubts that the proposals that have publicly surfaced so far are an acceptable basis for a SALT Treaty with an aggressive Soviet Union in seeking military superiority in the world.

Third, the implementing legislation would be of interest to many committees. This will inevitably add to the time necessary to consider it in an adequate manner.

Fourth, this is an election year. The necessity of campaigning will further restrict the capacity of Members to give the needed attention to this matter.

Fifth, there are likely to be many controversies between Congress and the executive regarding this legislation. For instance, it appears that the administration, in many of its calculations regarding the financial arrangements envisioned in the treaty, has assumed that the United States will forgo the interest payments on the U.S. investment that are presently going to the Treasury from canal revenues. I believe Congress would and should insist that those payments continue. And there are likely to be other financial items that are going to be handled in a manner different than presently contemplated by the administration. Such disagreements would naturally lengthen the time needed for consideration of the legislation.

There is, thus, ample reason to prolong the period before the treaties go into effect. Past experience with treaties indicates that what is contained in this reservation is not unique. For instance, in the case of the 1955 Panama Canal Treaty, Congress took 3 years in passing all the necessary legislation. It is true that the 1955 treaty entered into force at the exchange of the instruments of ratification. But the nature of that treaty and the means to implement it were far different than the one we are presently considering. In 1955, the United States kept all jurisdiction and the right to act as if sovereign in the Canal Zone. This meant that the implementation of the treaty was essentially a unilateral concern.

If the present treaty goes into effect, Panama will obtain general jurisdiction and will be intimately involved in all aspects of the new relationship. Failure of the United States to be in a position to implement its part of the agreement immediately when the treaty would go into effect would create a very difficult problem and greatly complicate the effort to manage the canal until the end of the century. This can only be avoided if there is an extended period before the treaty comes into effect to allow the enactment of the necessary legislation. The approximately 1½ years provided by this reservation should be sufficient for this purpose.

There is an additional important reason why sufficient time should be allowed to pass the implementing legislation. If the treaty came into effect before the United States had passed the legislation, we would find ourselves in the rather untenable position of being bound by a legitimate international obligation but unable to carry out our responsibilities under it. Such a situation would, at a minimum, be damaging to our international image. Moreover, it could precipitate a constitutional crisis if the executive acted to implement the treaties by Executive order rather than await the needed action by Congress. There is no reason to precipitate such a crisis if we can avoid it. By adopting the pending reservation, a major step will have been taken to lessen the likelihood that such a problem would develop.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). Who yields time?

Mr. SARBANES. Mr. President, I suggest to the Senator from Idaho that perhaps if he could proceed with his substitute I could then address both proposals together, since I have less time than was allocated, and I think it would make a more logical way to try and respond to the two proposals, if that is agreeable to the Senator.

Mr. McCLURE. Mr. President, I am happy to accede to the suggestion of the Senator from Maryland.

UP RESERVATION NO. 29

Mr. President, I have an amendment by way of a substitute to the reservation offered by the Senator from Massachusetts at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The reservation will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted reservation numbered 29 in the nature of a substitute for the Brooke reservation numbered 28.

Mr. McCLURE. Mr. President, I ask unanimous consent that the reading of the substitute reservation be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The substitute reservation is as follows:

Before the period at the end of the resolution of ratification, insert a comma and the following: "subject to the reservation that, before the date of exchange of the resolution of ratification, the legislation necessary to implement the provisions of the Panama Canal Treaty shall have been enacted by the Congress of the United States of America".

Mr. McCLURE. Mr. President, for the convenience of Members who may not have followed the preliminary discussions, I might simply refer to this as the text of the original reservation numbered 12 which was intended to be proposed by Mr. BROOKE. It is printed and on every desk in that form.

Mr. President, I support the direction which the Senator from Massachusetts has taken, and I support fully the arguments that he has made with respect to the anomaly in which our country could find itself, having adopted a treaty which had been consented to by action of the Senate and then Congress either failing or refusing to enact the implementing legislation, which would place us in the awkward, untenable, and embarrassing position of having agreed to an international obligation which we were powerless to implement because of the failure or the refusal of the whole Congress to agree to the terms of the implementing legislation.

I think the reservation which he has offered has the virtue of at least saying for a period of time we are not going to deliver the documents to the Government of Panama until Congress has had the opportunity to look at the implementing legislation and act on it.

It has two failures, however, in my judgment which the original reservation did not have.

That would be cured if the Senate would adopt the substitute which I have now offered; that is, that, first of all, in the meantime prior to the date established by the Brooke reservation the Congress could have either failed, because they simply did not get around to it, to pass the implementing legislation or they could have failed because by design they did not wish to.

Oftentimes there is a consensus that develops in an utterly negative way outside of a debate and discussion and vote on the floor of the House or the Senate; the failure to schedule it, the failure in the House of Representatives to grant a rule by which it can be considered on the floor, the failure of the proposals in the committee before it gets to the floor. There are any number of ways in which Congress can act negatively, outside of a primal vote on the legislation.

Second, it also has the anomaly of saying in the event it did get to the floor of Congress in either the House or the Senate and was specifically rejected by either body, that the President would then be free, following that date, to deliver the instruments of ratification and of the treaty which, I think, is the worst of all worlds, and, perhaps, even worse than the anomaly of now ratifying and agreeing to one which we would not later implement.

But I think it has perhaps a worse effect, this idea of establishing a fixed date by which Congress must act, because we are involved in the most delicate of negotiations with the Government and the people of Panama. Our negotiations are with the Government, the discussions are, perhaps, with the people in Panama. They are being asked to accept reservations and changes that we have enacted in both the original treaty and in this one, and they will have to have time to react to those suggestions.

There are those who believe that the reservations we have adopted will require a separate plebiscite in Panama under their law, and that they will have to have the time in which to conduct the discussions and have the vote in Panama before they can accept what we have decided upon here. I hope that is true. I hope it is that binding on them, and without getting into that argument as to whether it is or is not, does or does not require that plebiscite, it is possible that that time will be required.

Beyond that, we will be, in the implementing legislation, discussing any number of details of the relationships between our country and theirs and the obligations which our country may be faced with under the implementing legislation.

Those may be time-consuming. They may be very delicate in their timing and in the negotiations themselves. There should be given to the people who will be conducting the negotiations an ample amount of time to bring them to a happy conclusion rather than constricting the time in such a manner that it may precipitate a crisis at the very worst possible time.

Finally, Mr. President, it seems to me that, if you set a deadline for action, that deadline, that date itself precipitates a crisis because it is the standard against which all of the agreement must be broken or passed. It is the final point at which, if we pass that date, we have thrown down the gauntlet if we have not yet agreed.

It seems to me in this kind of negotiation we would be well served not to have a deadline. We should not draw a line with our toe in the dust and say, "Don't step over it." Neither should we set a time in which we say, "You must by this time have agreed or there will be no agreement."

So, for all of those reasons, Mr. President, I hope the Senate will accept the wisdom of the Senator from Massachusetts in his original formulation of this suggestion, which is the form in which I have offered it as a substitute.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, will the Chair advise me when I have used 3 minutes?

Mr. President, I understand that the reservation made by Senator BROOKE'S amendment is a reservation which we can live with. I understand the reservation made by Senator McCLURE'S amendment is a reservation which we cannot live with, and the reason is simply this: if the same procedure is engaged in respecting the implementing legislation, except more so, this treaty cannot take effect into some indefinite future, whatever that may be, and the reason is that vital elements in the implementation of the treaty, such, for example, as the appointment of the Panama Canal Commission, cannot be gone through with unless the implementing legislation is passed.

Now, it may very well be that the legal effect at the end of the road might be the same. But the failure to exchange instruments of ratification simply leaves the question wide open so that no matter what happens in Panama the treaty can be denounced before the instruments of ratification are exchanged. It is not a treaty in law until that happens, notwithstanding the action of the Senate.

So the implementation of legislation being up in the air, the whole question will be up in the air, and it could be for years, knowing how this body can, if it gets its teeth into it, operate.

This condition of instability and uncertainty is highly undesirable in such international affairs as involve our relations with Panama, and through this treaty to the whole of Latin America. It simply is an untenable position for us to get into and we should not permit ourselves to get into it.

One further thing, and that is that the implementing legislation which I have before me details with the question of the control of military forces in the Panama Canal Zone and conforms the dealing with the question of military forces and how they are dealt with according to the requirements of the treaty.

I cannot think of anything more unsettling to the relations, Mr. President, which we have with Panama than if this question is demagoged in Panama. That really, with one hand, means we are agreeing to this treaty, which puts certain emoluments, as it were, upon the sovereignty of Panama and corrects a problem which has remained with us since 1903 and, on the other hand, we hold it out because of the McClure reservation until such time as we actually make it legal by passing the implementing legislation.

So I think, Mr. President, on grounds of policy and on grounds of law the McClure reservation should be rejected.

As to the other one, I understand, as I say, that we can live with that and, therefore, what action the Senate takes will be up to individual Members. But I am very clear upon the fact that the substitute would be a grave mistake, and I hope it is rejected.

I thank my colleague for the time.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I want to contrast the approach which the Senator from Massachusetts has taken with that proposed in the substitute. It seems to me it represents a fuller consideration of the problems that are connected with the substitute.

The distinguished and able Senator from Massachusetts has been a very strong and effective spokesman addressing himself to the question of the implementing legislation. I think it is fair to say that we now know pretty well what the administration at least proposes to include in the implementing legislation, although, of course, it is up to Congress to enact the implementing legislation, and we will have the opportunity, we being both the Senate and the House of Representatives, to pass upon the implementing legislation and to shape or to mold it.

The substitute, in effect, would not allow the treaty to take effect at any point unless the implementing legislation had already been enacted and that, of course, opens the tremendous possibility of playing mischief with the implementing legislation.

It also, as the distinguished Senator from New York points out, really underscores simply holding out an empty promise to the other party to the treaty. I mean it is really almost an empty act, that may be impossible.

The proposal which the Senator from Massachusetts is now offering places the maximum impetus for arriving at the implementing legislation without making the treaty action an empty one or a hoax on the other party. He has calculated a timespan which I think is reasonable under the circumstances. It in effect embraces the balance of this Congress and, if we are really not able in that period of time to finally enact the implementing legislation, it gives us an opportunity at the beginning of the next Congress to have almost 3 months in which to enact the implementing legislation.

Furthermore, the provision he has now offered states that if the implementing legislation is enacted earlier than that, then we should proceed with the exchange of articles of ratification, and 6 months later, then, with the implementation of the treaty. However, it provides a safeguard against mischief with respect to the implementing legislation by saying that if we arrive at March 31, 1979, and have not been able to enact it, then the exchange of the article of ratification will take place and 6 months later the treaty will go into effect.

I am very frank to say to the Senator from Massachusetts that I find it a very imaginative and ingenious approach that he has taken to the problem to which he has repeatedly addressed himself on the floor of the Senate, and which he has underscored; and I think there is a very significant difference, a truly fundamental difference, between that approach and the approach taken in the substitute.

It is for that reason that I rise to articulate a position in opposition to the substitute and in support of the proposition which the Senator from Massachusetts has now placed before the Senate.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. SARBANES. I am happy to yield to the Senator from New York.

Mr. JAVITS. It seems to me that we have here the difference between acceleration and deceleration. I think the proposal of the Senator from Massachusetts accelerates the adoption of the legislation. I think by fixing no date, the Senator from Idaho (Mr. McCLURE) decelerates the adoption of the implementing legislation, and jeopardizes everything we have been doing in the last few months and until tomorrow.

I thank my colleague for yielding.

Mr. SARBANES. Mr. President, I reserve the remainder of my time.

Mr. McCLURE. Mr. President, how much time does the Senator from Idaho have remaining?

The PRESIDING OFFICER. There is 2 minutes remaining to the Senator from Idaho.

Mr. McCLURE. Mr. President, I think that 8 minutes I am supposed to have consumed must have included some minutes my friend from Massachusetts consumed, but I will not use up my time talking about that.

It is suggested that to adopt the substitute which I have offered will have the result of holding out an empty promise; but in truth and in fact precisely the opposite is true. To consent to the ratification of the treaties confessing the possibility that Congress will not adopt the implementing legislation is to do precisely what both the Senator from New York and the Senator from Maryland have suggested—promising something which Congress is not willing to fulfill, to put us in the position of having undertaken an obligation which Congress is unable or unwilling to discharge.

It has been suggested that it accelerates the adoption of the implementing legislation to have a time certain. That presupposes and presumes that Congress is going to adopt it. I would say to my friend from New York there ought to be at least some question about whether Congress has the right to debate it, and perhaps even the right to reject it. If as a matter of fact they have debated and rejected the implementing legislation prior to that date, we are then in the anomalous position of having rejected implementing legislation but having empowered the President to go ahead and ratify the treaty and allow it to go into effect after Congress has said, "No, we will not do what we had promised to do." That seems to me to be an anomaly which we should avoid by adopting the substitute, conditioning the delivery of the documents upon the adoption of implementing legislation.

I would suggest that when this matter was first brought up as an amendment to the treaty, I understood a number of the arguments against it to be that it ought to be involved with the delivery of the instruments, and not in the text of the treaty itself. Why, if it was an argument against the delivery of the treaty, do the proponents of the treaty object to doing, then, what would be an alternative?

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. SARBANES. I yield to the Senator from New York such time as he may require.

Mr. JAVITS. The point the Senator from Idaho makes is very adequately answered by the fact that any businessman will tell you, "If you want to settle something, give me an answer yes or no." The problem with his proposal is that it protracts it into the indefinite future. The virtue of Senator BROOKE'S proposition is that it gives you a definite time in the future, and you know whether you are on or off, and can do something about if the Senate rejects this legislation. Under the McClure reservation, it is forever, and you are out in the wild blue yonder and do not know what the result is going to be. Precisely for that reason it ought to be rejected.

Mr. SARBANES. Mr. President, I want to emphasize also the very perceptive point by the Senator from New York that one approach is acceleration and the other is deceleration. The implementing legislation deals with matters within our own jurisdiction, and some of those matters are of deep import. But I feel the likelihood that those matters will be resolved in a positive and constructive fashion is sensitive to a lot of concerns which Members of this body share on both sides of the treaty issue. You get the concerns involved in the rights of Americans who have worked in the zone, much of which is dealt with in the implementing legislation. The resolution

of those concerns is enhanced by the approach of the Senator from Massachusetts, because the sooner you can arrive at such a solution and enact the implementing legislation, the sooner you can move to the treaty arrangement.

Therefore, I think it will serve to help to structure the concerns of the implementing legislation in such a way that both the administration and Congress will be more responsive to some of the concerns the legislation seeks to deal with. The approach of the substitute holds out the prospect of no action whatever over an indefinite time and, therefore, carries with it, again, the possibility of making our action here an empty and vain one, and we really ought not to be seeking to do that by indirection if it cannot be achieved by direction, which I hope it cannot be.

For that reason, again, Mr. President, I oppose the substitute and support the proposal made by the Senator from Massachusetts.

Mr. BROOKE. Mr. President, unless the distinguished Senator from Idaho wishes to speak further on this issue, I am prepared to yield back my remaining time.

I ask unanimous consent that after the vote on the McClure substitute, the other two votes be 10-minute votes, if the other two are necessary. I know one will be necessary.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, I move to table the McClure substitute.

Mr. McCLURE. Mr. President, will the Senator withhold that just long enough for me to propound a parliamentary inquiry?

Mr. SARBANES. Yes.

Mr. McCLURE. What is the effect on the Brooke reservation if the McClure substitute is tabled?

The PRESIDING OFFICER. If the McClure substitute is tabled, then a vote will occur on the Brooke reservation.

Mr. McCLURE. It leaves the Brooke reservation untouched?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCLURE. I thank the Chair.

Mr. BROOKE. Mr. President, I yield back the remainder of my time.

Mr. SARBANES. Mr. President, I yield back the remainder of my time and move to table the McClure substitute. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there objection at this time to limit the rollcall votes to 10 minutes? Without objection, it is so ordered.

Mr. SARBANES. That is the votes subsequent to the vote on the McClure reservation.

Mr. McCLURE. The first vote will be 15 minutes.

The PRESIDING OFFICER. The first vote is 15 minutes and the subsequent votes will be 10 minutes.

The question is on agreeing to the motion to table. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Delaware (Mr. BIDEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Maine (Mr. HATHAWAY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. McGOVERN), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. BAKER. I announce that the Senator from Alaska (Mr. STEVENS), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. STEVENS) would vote "nay."

The result was announced—yeas 56, nays 31, as follows:

[Rollcall No. 101 Ex.]

YEAS—56

| | | |
|---|---|---|
| Anderson | Haskell | Metzenbaum |
| Baker | Hatfield, | Morgan |
| Bayh | Mark O. | Moynihan |
| Bellmon | Hatfield, | Muskie |
| Bentsen | Paul G. | Nelson |
| Bumpers | Hayakawa | Packwood |
| Byrd, Robert C. | Heinz | Pearson |
| Case | Hodges | Percy |
| Chafee | Hollings | Proxmire |
| Chiles | Huddleston | Randolph |
| Church | Humphrey | Riegle |
| Clark | Inouye | Sarbanes |
| Cranston | Jackson | Sasser |
| Culver | Javits | Stafford |
| Danforth | Leahy | Stevenson |
| Durkin | Long | Talmadge |
| Eagleton | Magnuson | Weicker |
| Glenn | Mathias | Williams |
| Gravel | Matsunaga | |
| Hart | McIntyre | |

NAYS—31

| | | |
|---|---|---|
| Allen | Ford | Melcher |
| Bartlett | Garn | Nunn |
| Brooke | Goldwater | Roth |
| Burdick | Griffin | Schmitt |
| Byrd, | Hansen | Schweiker |
| Harry F., Jr. | Hatch | Scott |
| Cannon | Helms | Stone |
| Curtis | Johnston | Thurmond |
| DeConcini | Laxalt | Tower |
| Dole | Lugar | Zorinsky |
| Domenici | McClure | |

NOT VOTING—13

| | | |
|---|---|---|
| Abourezk | McGovern | Stevens |
| Biden | Pell | Wallop |
| Eastland | Ribicoff | Young |
| Hathaway | Sparkman | |
| Kennedy | Stennis | |

So the motion to lay on the table was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to unprinted amendment No. 28. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Delaware (Mr. BIDEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Maine (Mr. HATHAWAY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. McGOVERN), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. BAKER. I announce that the Senator from Alaska (Mr. STEVENS), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. STEVENS) would vote "yea."

The result was announced—yeas 84, nays 3, as follows:

[Rollcall Vote No. 102 Ex.]

YEAS—84

| | | |
|---|---|---|
| Allen | Glenn | McClure |
| Anderson | Goldwater | McIntyre |
| Baker | Gravel | Melcher |
| Bartlett | Griffin | Metzenbaum |
| Bayh | Hansen | Moynihan |
| Bellmon | Haskell | Muskie |
| Bentsen | Hatch | Nelson |
| Brooke | Hatfield, | Nunn |
| Bumpers | Mark O. | Packwood |
| Burdick | Hatfield, | Pearson |
| Byrd, | Paul G. | Percy |
| Harry F., Jr. | Hayakawa | Proxmire |
| Byrd, Robert C. | Heinz | Randolph |
| Cannon | Helms | Riegle |
| Case | Hodges | Roth |
| Chafee | Hollings | Sarbanes |
| Chiles | Huddleston | Sasser |
| Church | Humphrey | Schmitt |
| Clark | Inouye | Schweiker |
| Cranston | Jackson | Scott |
| Culver | Javits | Stafford |
| Curtis | Johnston | Stevenson |
| Danforth | Laxalt | Stone |
| DeConcini | Leahy | Talmadge |
| Dole | Long | Thurmond |
| Domenici | Lugar | Tower |
| Eagleton | Magnuson | Weicker |
| Ford | Mathias | Williams |
| Garn | Matsunaga | Zorinsky |

NAYS—3

| | | |
|---|---|---|
| Durkin | Hart | Morgan |

NOT VOTING—13

| | | |
|---|---|---|
| Abourezk | McGovern | Stevens |
| Biden | Pell | Wallop |
| Eastland | Ribicoff | Young |
| Hathaway | Sparkman | |
| Kennedy | Stennis | |

So the amendment (UP amendment No. 28) was agreed to.

(Mr. HODGES assumed the chair.)

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). The question is on agreeing to unprinted amendment No. 27. On this question the yeas and nays

have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Delaware (Mr. BIDEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Maine (Mr. HATHAWAY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Rhode Island (Mr. PELL), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) and the Senator from Connecticut (Mr. RIBICOFF) would each vote "yea."

Mr. BAKER. I announce that the Senator from Alaska (Mr. STEVENS), the Senator from Wyoming (Mr. WALLOP), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska (Mr. STEVENS) would vote "yea."

The result was announced—yeas 84, nays 3, as follows:

[Rollcall Vote No. 103 Ex.]

YEAS—84

| | | |
|---|---|---|
| Allen | Goldwater | McIntyre |
| Anderson | Gravel | Melcher |
| Baker | Griffin | Metzenbaum |
| Bartlett | Hansen | Morgan |
| Bayh | Haskell | Moynihan |
| Bentsen | Hatch | Muskie |
| Brooke | Hatfield, | Nelson |
| Bumpers | Mark O. | Nunn |
| Burdick | Hatfield, | Packwood |
| Byrd, | Paul G. | Pearson |
| Harry F., Jr. | Hayakawa | Percy |
| Byrd, Robert C. | Heinz | Proxmire |
| Cannon | Helms | Randolph |
| Case | Hodges | Riegle |
| Chafee | Hollings | Roth |
| Chiles | Huddleston | Sarbanes |
| Church | Humphrey | Sasser |
| Clark | Inouye | Schmitt |
| Cranston | Jackson | Schweiker |
| Culver | Javits | Scott |
| Curtis | Johnston | Stafford |
| Danforth | Laxalt | Stevenson |
| DeConcini | Leahy | Stone |
| Dole | Long | Talmadge |
| Domenici | Lugar | Thurmond |
| Eagleton | Magnuson | Tower |
| Ford | Mathias | Weicker |
| Garn | Matsunaga | Williams |
| Glenn | McClure | Zorinsky |

NAYS—3

| | | |
|---|---|---|
| Bellmon | Durkin | Hart |

NOT VOTING—13

| | | |
|---|---|---|
| Abourezk | McGovern | Stevens |
| Biden | Pell | Wallop |
| Eastland | Ribicoff | Young |
| Hathaway | Sparkman | |
| Kennedy | Stennis | |

So UP amendment No. 27 was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from North Carolina (Mr. HELMS) is recognized for 1 hour to be divided between Senator CHURCH and Senator HELMS on his reservation.

Mr. HELMS. Mr. President, is there a unanimous-consent agreement in force with respect to a vote on this reservation?

The PRESIDING OFFICER. There is not.

Mr. LAXALT. Mr. President, we are in the process of attempting to work it out.

Mr. HELMS. I understand.

Mr. LAXALT. In any event, we are trying to work out a vote on the reservation, if it is acceptable to the Senator from North Carolina, in the morning.

Mr. HELMS. That is perfectly satisfactory to the Senator from North Carolina, and I thank my colleague from Nevada.

RESERVATION NO. 18

Mr. HELMS. Mr. President, I have a reservation at the desk which I call up and ask that it be stated.

The PRESIDING OFFICER. The reservation will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes reservation numbered 18.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the reservation be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The reservation is as follows:

Strike out the period at the end of the resolution of ratification and insert in lieu thereof a comma and the following: "subject to the following reservation:

"The Panama Canal Commission is obligated to pay to the Republic of Panama amounts under this treaty only to the extent that the operating revenues of the Canal exceed expenditures of the Panama Canal Commission. Any year in which expenditures exceed operating revenues, the Commission shall expend its funds, to the extent that funds are available, for the following purposes and in the following order—

"(a) operating expenses of the Panama Canal Commission;

"(b) capital expenses of the Panama Canal Commission;

"(c) payments to the Republic of Panama under paragraph 5 of article III;

"(d) payments to the Republic of Panama under paragraph 4(b) of article XIII;

"(e) payments into the Treasury of the United States of America of interest on the direct investment of the United States of America in the Canal;

"(f) payments into the Treasury of the United States of America representing amortization of the assets of the United States of America in the former Canal Zone before the date of termination of the Panama Canal Treaty;

"(g) payments to the Republic of Panama under paragraph 4(a) of article XIII; and

"(h) payments to the Republic of Panama under paragraph 4(c) of the article XIII.

No amount obligated to be paid by the Panama Canal Commission under the Treaty, except for payments made under paragraph 4(c) of article XIII, which, pursuant to this reservation, is not paid, may be paid in future years, except as the two Parties may agree."

Mr. HELMS. Mr. President, one of the greatest concerns of the American people about this Panama Canal Treaty is the cost of the giveaway. The people appropriately are asking: Why require the American taxpayers to pay to give something away? The proponents of the treaties pretend that the U.S. taxpayers will not have to pay; instead they say the payments will come out of the tolls charged by the canal. The users of the canal will pay, the proponents have assured us, not the taxpayer. Furthermore, the proponents say that the increase in toll rates required will result in negligible increases in cost to the U.S. consumer.

But to assert that the canal will earn all of the costs of operation and payments to Panama requires an incredible manipulation of accounting concepts. The canal will pay its way only—and I emphasize the word "only"—if the enormous costs are absorbed by the taxpayers of the United States.

These costs are almost equal to the payments which Panama is expected to receive over the life of the treaty. They amount to $60 million per year—or $1.32 billion over the 22-year life of the treaty now before the Senate.

Mr. President, if we look at the situation realistically, the United States pays twice. First, the U.S. Treasury forgoes the income from the canal, income which could be used to alleviate the burdens on the U.S. taxpayers. This alone amounts to some $66 million estimated for the first year alone; over the years, that amounts to $1.45 billion. The fact that that income belongs to the U.S. taxpayers would be even more evident if the implementing legislation provides for all revenues to be paid into the U.S. Treasury and disbursed by appropriation to Panama. We will be setting a dangerous precedent if we do not insist upon all payments going through the appropriations process in the Congress of the United States as the Constitution of the United States very clearly requires.

But then the United States pays again. The U.S. Treasury not only forgoes the payments made to Panama; it also forgoes the interest due on the net direct investment of the United States in the canal. The interest-bearing portion of this investment today amounts to $318.9 million. The annual interest is projected for the life of the treaty to be worth about $20 million. In addition, there is the question of the fixed assets of the canal organization, worth today about $567 million. About $92 million of these assets will be transferred on the effective date of the treaty, leaving assets of $475 million to be turned over in the year 2000. Unless the taxpayers—and I mean the U.S. taxpayers—are going to absorb that cost too, the U.S. Treasury must be reimbursed. Amortization of the $475 million would put $22 million in the U.S. Treasury every year.

Together, these two payments amount to $42 million every year which should be paid into the U.S. Treasury.

If that is the case, then why do not we provide in the implementing legislation for payments to the U.S. Treasury to be included in the toll base? The answer is that the canal cannot possibly earn enough to pay both Panama and the United States.

In fact, there is evidence that the canal will not even earn enough to pay Panama at the 19.5 percent toll rate in-

crease proposed by the administration. The assumptions that underlie the administration's projections of expenses do everything possible to understate the true cost.

For example, the projections assume that revenues from Alaskan oil will continue indefinitely; but even the Governor of the Canal Zone, Governor Parfitt, was deeply disturbed by such an assumption. If the proposed Los Angeles-Texas pipeline is built, the canal revenue projections would have to be reduced by $30 million every year.

Another assumption built into the propections is that the administration's target of reducing inflation to 5 percent will be met. The 5 percent target is an admirable hope, but it is hardly more than a pious wish. A much more conservative projection would be that inflation will continue to hover around 7 percent.

A third fallacious assumption by the administration and by the proponents of this treaty is that the necessary program of capital expenditures can be financed largely through depreciation. But the cash flow generated by depreciation on assets previously acquired and paid for has no relationship whatsoever to future expenditures for capital assets. That money is available for use for payment of any of the expenses of the agency; it does not reduce the total expenditures required, according to studies by one of the foremost experts in canal finances, Mr. W. M. Whitman. Mr. Whitman was Secretary of the Panama Canal Co. for over 20 years, and is presently a consultant with the House Merchant Marine Committee.

The capital program, therefore, should be built into the tolls structure and financed entirely through tolls. The danger is that, if this is not done, the cash will be used to make payments to Panama or for other expenses. It would be far better to use the money to make some return to the U.S. Treasury. However, by including the whole cost of the capital requirements in the toll base, rather than merely the cost in excess of depreciation, some $18 million per year must be added to operating expenses.

By truly stating the cost of the capital program, however, it is more difficult to project a balance sheet that looks good. For example, for the canal to break even would require a 28.5 percent toll rate increase, instead of the 19.5 percent increase proposed by the administration and the proponents of this treaty. This is another example of the understatement that has been used to try to convince Americans that the treaties are economically viable.

The Panama Canal cannot make enough revenue to pay both Panama and the United States. Yet it is not just and equitable that the United States should assume all the burdens of management, investment, and operation, while Panama gets only the benefits. The United States is taking the risk that the canal cannot even earn enough to pay Panama, yet alone the U.S. Treasury, the American taxpayers inevitably must pay through the nose. Yet Panama assumes no risk at all.

If we are going to have a meaningful partnership as so often discussed on this floor, a meaningful partnership, then Panama must share in the risks as well as the benefits. If Panamanians must be trained in proper management, they must learn the realities of finance. Moreover, something must be done to protect the taxpayers' interest.

My proposal with this reservation is this: to reverse the priorities of paying Panama and the United States. After making the two fixed payments of $10 million each to Panama, for a total of $20 million, we would then pay ourselves first to recover all costs of interest and amortization. Only after all costs to the U.S. Treasury were covered would Panama receive payments under the 30 cents a ton formula. It would be the understanding of the United States, added to resolution of ratification, that the United States would be obligated to make payments under the 30 cents a ton formula only to the extent that earnings were available after all costs to the U.S. Treasury were paid.

This would provide an equitable balance of risks and benefits between the two countries. Panama would be guaranteed $20 million a year, which is 10 times what she gets now; she would have a chance of earning up to $27 million more during the first years. The equities are a bit lop-sided when Panama is guaranteed up to $66 million a year, whereas the U.S. taxpayers are getting stuck for $60 million a year.

It must not be forgotten that the United States is bearing all the responsibility for investment, management, and operation. If a natural catastrophe or an act of war destroyed any of the locks and dams, the United States would be liable for replacement no doubt to the tune of hundreds of millions of dollars. If a severe depression hits the world economy and canal revenues slide as a consequence, the U.S. taxpayer has to make up the difference in the costs.

Panama takes absolutely no risk, contributes absolutely nothing to management policies, supplies absolutely no capital, and takes over the whole operation lock, stock, and barrel in the year 2000.

Mr. President, that is a bad deal for the taxpayers of the United States. Such a solution is neither businesslike nor moral. It is not fair to the United States and it certainly is not fair to the American taxpayer.

My proposal is a balanced proposal. To sum it up, this is what it would do:

One. It would provide that capital costs be included in the expenses to be paid by the toll base.

Two. After all operating expenses are paid, then Panama would be guaranteed $20 million—the $10 million for services under article III, paragraph 5, and the $10 million fixed payment under article XIII, paragraph 4(b).

Three. Once Panama was paid $20 million, then the U.S. Treasury would be paid approximately $20 million for interest on the U.S. direct net investment in the canal.

Four. After the interest was paid to the U.S. Treasury, a sum of approximately $22 million would also be paid to the U.S. Treasury representing the amortization of assets.

Five. Finally, after all the costs to the U.S. taxpayer have been paid, Panama would get any surplus up to an amount equal to that generated by the 30 cents a ton formula of article XIII, paragraph 4(a). On the basis of present information, this surplus would not be equal to the full payment under the formula ($46 million), because the canal simply can not earn that much. But it would be as high as $27 million, depending upon the level of toll rates. The toll rate would be the subject of consultation between the United States and Panama. Other factors would have to be considered beyond remuneration for Panama. The two parties doubtless would consider the impact of high toll rates on individual commodity markets, trade routes, regional economic associations, and individual countries.

This proposal is more fitting as a reservation rather than as an amendment, since it does not involve any active participation by the Republic of Panama. All that it requires from Panama is Panama's passive acknowledgement of our statement of intentions. The funds are wholly within our control at all times, and it is up to us—the United States Senate—to present the proper accounting and distribution of funds and to direct the Federal bureaucracy to do so.

Mr. President, detailed studies have gone into the preparation of this amendment to insure its feasibility and necessity. It would be pointless to attempt to give all the statistics orally in a general debate, but I have placed on every Senator's desk a detailed resume of the calculations which perhaps deserve a word or two of explanation. This objective study was prepared by the Institute of American Relations, and I am grateful for their thoughtful, nonpartisan work.

The first point to be noted is that there is a practical maximum, a ceiling which governs the limit of revenue that the canal can earn. The amount of potential business for the canal is expected to increase slowly over the years; but if this business is to be obtained by the canal, tolls must be competitive with other alternatives. If tolls are increased rashly, the potential business will be driven away.

International Research Associates has calculated that the maximum increase in revenue possible by increasing tolls is 40 percent. After that point, significant amounts of traffic would be diverted, lowering the amount of cargo tonnage which transits the canal. In other words, with excessive toll rates, the canal would receive more money per ton for fewer tons. You reach a point where the gain curve flattens out or begins to go down. The point of diminishing returns is reached somewhere between increases of 50 and 75 percent. Even increases of 100 or 200 percent would not provide more than a 40-percent net gain in total revenues.

The color chart on the first page of the study illustrates the components of fiscal year 1979 as color blocks stacked up according to the priorities presently rec-

ognized in the treaty. The first black line from the bottom represents the present level of revenue from the canal, $258.2 million. The second black line represents the level of revenue obtained by the proposed 19.5 percent toll increase. The yellow band across the page represents the amount of tolls that could be recovered by a 75-percent toll increase, namely $336.2 million. The red band represents the level of costs which are not recoverable, no matter how high tolls are raised.

The blue block, therefore, represents the operating expenses. The green block represents payments to Panama under the treaty. The chart makes it graphically clear that the cost of the payments to Panama would require revenues of $313.3 million, plainly exceeding the $296.2 million raised by the proposed toll increase of 19.5 percent. Interest payments and amortization payments to the U.S. Treasury could be made only partially, and then only if rates were raised excessively to 75 percent. The maximum possible revenue would require $336.2 million, whereas to pay all the true costs would require $357.3 million.

The second column shows what would happen if the priorities are balanced, with Panama guaranteed $20 million and the United States guaranteed $42 million before any payments are made to Panama under the 30 cents a ton formula. It would be possible to pay all costs for the $20 million to Panama and for the $42 million to the U.S. Treasury under a 28.5 percent increase. The amount left over for Panama would depend upon the level of toll increases.

In the succeeding pages and tables, detailed data is given not only for fiscal year 1979, but also for fiscal year 1980, fiscal year 1981, fiscal year 1982, fiscal year 1983, and fiscal year 1984. The study stops at fiscal year 1984, because the Panama Canal Company feels that accurate projections cannot be made further in the future.

Table I demonstrates that, just to pay Panama under the priorities set in the treaty, would require toll increases ranging from 28.2 to 43.2 percent, rather than the 19.5 percent suggested.

Table II demonstrates what would happen if the U.S. Treasury were given payment priority over payments to Panama under the 30 cents a ton formula. If Panama were guaranteed $20 million, and the U.S. Treasury were to receive $42 million, toll increases required would range from 25.8 to 35.9 percent, increases that are within the range of mathematical possibility. Of course, if the 30 cents a ton payments to Panama were added on top, the canal would be bankrupt.

Table III demonstrates the maximum revenue that would be available to Panama under the 30 cents a ton formula if such payments were made only from surplus. The maximum toll revenues possible by raising toll rates 75 percent for a net gain of 40 percent would range from $272.9 million in fiscal year 1979 to $291.3 million in fiscal year 1984. After expenses, the $20 million fixed payment to Panama would range from $27.7 million in fiscal year 1979 to $8.5 million in fiscal year 1984.

Mr. President, I ask unanimous consent that relevant portions of this study by the Institute of American Relations, including the three tables, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. I might add in closing Mr. President, that neither my calculations nor these studies by the Institute of American Relations have taken into account the so-called contingency payment of $10 million to Panama, if earned. It has been agreed by Governor Parfitt and all who have examined the situation that the Panama Canal Commission will set toll rates at a level so that the necessary surplus will never be earned. The United States has no intention whatsoever of producing a surplus that will be paid to Panama under article XIII, paragraph 4(c). My reservation, therefore, places such payments in the final category, after payments under the 30 cents a net ton formula. Since the canal cannot earn even enough to pay the 30 cents a net ton formula, there will obviously be no surplus for the contingency payment. That provision of the treaty is, in any case, a mere rhetorical flourish, and is not to be taken seriously.

EXHIBIT 1

BALANCING RISKS AND BENEFITS—ESTABLISHING PANAMA CANAL PRIORITIES

It is a cardinal article of faith among the arguments put forward in explanation of the Panama Canal Treaty that the proposed Panama Canal Commission will be self-supporting on the basis of tolls.

However, if the accounting put forth by the official spokesmen for the Administration is examined carefully, it becomes evident that there are a number of fallacies in the methods used. Indeed, if a proper accounting is made of all costs involved, the PCC can be "self-supporting" only if the U.S. Treasury absorbs certain costs, costs which are almost equal to the benefits given to Panama.

Among the difficulties with the official projections are:

Assumption of inflation at 5 percent, instead of a more realistic 7 percent

Assumption that Alaskan oil revenues will be assured indefinitely, whereas the Canal Zone Governor has testified that they are expected to drop sharply after 1981

Assumption that the program for capital expenditures can be financed largely through depreciation

Assumption that the United States should forego earned interest on its direct net investment in the Canal

Assumption that the United States need not amortize its investment, choosing merely to write off its investment in the year 2000.

When projections are recomputed in the absence of these assumptions, the financial picture changes dramatically. Instead of breaking even by raising tolls 19.5 percent, as officially proposed, the Canal could not break even in FY 79 without an increase in revenues of 49.8 percent. By FY 84, the necessary increase would be 63.3 percent over current revenues. The magnitude of the financial problem is evident when one understands that the maximum increase possible in Canal revenues is 40 percent, no matter how high the tolls are raised. Once toll rates increases reach the level of 50 percent to 75 percent, the curve of gain flattens out; the high rates begin to force traffic to be diverted to other routes, and tonnage drops. No matter how high the rates are raised, according to the sensitivity studies by International Research Associates, the net gain can never rise appreciably above 40 percent.

The result is, as the color chart demonstrates, that not even the 19.5 percent increase can make the Canal break even. It will take a 28.5 percent increase to pay the three major payments to Panama ($10 mil. for services, $10 mil. fixed payment, $46 mil. from the 30-cent a ton formula). For the U.S. Treasury to recover an additional $20 million for interest payments, tolls would have to be raised nearly 75 percent (for a 40 percent net). The $22 million in annual amortization payments would be virtually not recoverable.

The two columns on the color chart FY 79 figures reworked to reflect costs ignored in the official projections. The first column shows FY 79 operating costs, with blocks of components showing expenses, payments, and costs. The blue blocks are expenses of the company, the green blocks are payments to Panama, and the red blocks are costs assumed by the U.S. Treasury. The first black line from the bottom is the level of revenue with tolls at the present rates; the second black line is the proposed level at a 19.5 percent increase. The yellow band is the level at which excessive toll increases of up to 715 percent would be necessary. The red band is the level at which costs are not recoverable.

The second column shows FY 79 revised, so that the risks and benefits are equitably balanced between the United States and Panama in proportion to the contribution of each to the enterprise.

The priority of payments would be to pay Panama $20 million first, and then to reverse the order of payments to the U.S. Treasury and payments to Panama. This would allow the U.S. Treasury to be reimbursed for interest on the U.S. direct net investment and amortization, both to be paid out of tolls. Any surplus could then be paid to Panama under the 30 cents a net ton formula. The amount of surplus would depend upon the level of toll rates, and would be the subject of consultation between the two countries.

The tables which follow give the precise estimates of deficits under a true accounting, and the amount of toll increase necessary over present rates for each of the six fiscal years for which official base data is available. All revenues and expenses, except as otherwise stated, are from Panama Canal Company projections.

Table I demonstrates that if proper rates of inflation and proper accounting of capital expenditures are included, PCC deficits will range from $55 million in FY 79 to $89.9 million in FY 84. Just to pay Panama alone would require toll increases ranging from 28.2 percent to 43.2 percent in FY 84. In just six years, the costs of running the Canal and paying Panama would have bumped against the threshold of the Canal's maximum earning capacity.

However, when the costs to the American taxpayers are added in, that is, the payments to the U.S. Treasury for interest and amortization, the viability of the Canal is destroyed. Deficits at the present rate of tolls would range from $97 million the first year to $131 million by FY 84. To break even would require revenue increases rang-

ing from 49.8 percent in FY 79 to 63.3 percent in FY 84. Such increases substantially surpass the revenues that can be generated. The U.S. Treasury, of course, would have to sustain the loss.

Table II demonstrates what would happen if the U.S. Treasury were paid first, before any payments were made to Panama under the 30 cents a ton formula. It assumes, however, that Panama would receive the fixed $20 million payment before any such payments are made to the U.S. Treasury.

Thus if Panama receives $20 million per year in fixed payments and the U.S. Treasury receives $42 million per year for interest and amortization, all such costs can be paid comfortably out of tolls. The deficit at present toll rates would range from $50.2 million per year in FY 79 to $74.7 million per year in FY 84; the deficit would require toll increases ranging from 25.8 percent to 35.9 percent, all within the mathematical range of possibility.

Of course, if the payments to Panama under the 30 cents a ton formula are added on top, the Canal would be bankrupt, since the deficits and amount of impossible toll increases necessary are the same as at the bottom of table I.

Table III demonstrates the maximum revenue that could be paid to Panama under the 30 cents a ton formula if such payments were made only from surplus. The maximum toll revenues possible by raising toll rates 75 percent for a net gain of 40 percent would range from $272.9 million in FY 79 to $291.3 million in FY 84. After expenses, the $20 million fixed payment to Panama and the $42 million payment to the U.S. Treasury are subtracted from the maximum revenue, the surplus available to Panama would range from $27.7 million in FY 79 to $8.5 million in FY 84.

Of course, other considerations would come into play in setting the toll rates, including the impact of high tolls on certain commodities, regions, or countries.

NOTES.—No assumption was made in this study of a decline in Alaskan oil revenues, despite the fact that such a decline is a distinct probability by 1981 if a pipeline is built. If such revenues are lost, some $30 million would be added to the PCC deficits each year. The probabilities are impossible to guess.

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The assumptions about interest and amortization are taken from the analysis by Comptroller General Elmer Staats presented to the Senate Armed Services Committee, on February 1, 1978.

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The need to include capital expenditures as an additional expense rather than be reduced by depreciation charges is explained in a study prepared by Mr. M. M. Whitman, former Secretary of the Panama Canal Company, and a Consultant with the House Merchant Marine Committee.

Mr. Whiteman states: "In the Company's tabulation, capital costs are appropriately differentiated from 'operating expenses' but they are not reflected anywhere in the enumeration of costs except in the calculation of the deficiency of revenues to cover expenses 'including capital requirements in excess of depreciation.' This results in a misleading implication that new capital expenditures somehow are not costs until they exceed the amount of depreciation accruing on assets acquired with funds previously spent.

"Revenues include tolls, i.e., the charge made for the use of the canal, and under the tolls formula now provided by Act of Congress, depreciation on assets previously acquired (and paid for) is included as a cost to be recovered from tolls. This depreciation accrual, including in tolls revenue has no relationship to future expenditures for capital assets. However, such expenditures are regularly made. . . . The fact that the cash flow generated by depreciation on assets already required will be available to finance part of those expenditures in no way reduces the total of the expenditures required. The cash flow generated from inclusion of depreciation as an element of costs in the tolls formula is not earmarked for future capital expenditures. It is available for use for payment of any of the expenses of the agency or for repayment of the U.S. Government's investment in the Canal."

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All estimates for revenues, operating expenses, transition costs, and capital program are taken from the Panama Canal Company's Statement of Operations, February 1, 1978, and from the Company's Treaty Implementation Plan of the same date.

TABLE I: *Size of toll increases needed to pay all costs of Panama Canal (including payments to U.S. Treasury)*

Assumptions:

Panama is paid before the U.S. Treasury is paid.

Panama Canal Company projections of cost and income.

7 percent inflation factor.

GAO estimates on interest and amortization to U.S. Treasury.

W. M. Whitman study factor on capital program costs not recoverable by depreciation.

DEFICIT AS PERCENT OF TOLLS INDICATES SIZE OF TOLL INCREASE REQUIRED TO COVER ALL COSTS AS TRULY EXPRESSED

| | Fiscal year— | | | | | |
|---|---|---|---|---|---|---|
| | 1979 | 1980 | 1981 | 1982 | 1983 | 1984 |
| Toll revenues | 194.9 | 198.4 | 200.1 | 202.8 | 205.5 | 208.1 |
| Other revenues | 63.3 | 64.6 | 62.8 | 62.5 | 64.0 | 61.7 |
| Total revenues | 25.82 | 263.0 | 262.9 | 265.3 | 266.5 | 269.8 |
| Operating expenses | 219.8 | 218.6 | 211.0 | 206.6 | 205.9 | 209.8 |
| Transition costs | 7.8 | 3.5 | 4.9 | 2.5 | | |
| Inflation at 7 percent | | 11.2 | 22.2 | 32.5 | 43.5 | 52.2 |
| Capital program | 18.8 | 20.4 | 19.8 | 19.3 | 20.4 | 20.5 |
| Total operating and capital | 246.4 | 253.7 | 257.9 | 260.3 | 269.8 | 282.5 |

| | Fiscal year— | | | | | |
|---|---|---|---|---|---|---|
| | 1979 | 1980 | 1981 | 1982 | 1983 | 1984 |
| Surplus or (deficit)$_1$ | 11.8 | 9.3 | 5.0 | 2.6 | (3.3) | (12.7) |
| 3 payments to Panama* | 66.8 | 67.6 | 68.0 | 68.7 | 69.3 | 77.2 |
| Deficit$_2$ | (55.0) | (58.3) | (63.0) | (66.1) | (72.6) | (89.9) |
| Deficit$_2$ as percent of tolls | 28.2 | 29.4 | 31.5 | 32.6 | 35.3 | 43.2 |
| Deficit$_3$ ($D_2$ plus interest) | (75.0) | (78.3) | (83.0) | (86.1) | (92.6) | (109.9) |
| Deficit$_4$ ($D_3$ plus amortization) | (97.0) | (100.3) | (105.0) | (108.1) | (114.6) | (131.9) |
| Deficit$_4$ as percent of tolls | 49.8 | 59.6 | 52.6 | 53.3 | 55.8 | 63.3 |

*Payments to Panama include $10,000,000 fixed payment, $10,000,000 for services (no inflation factor included), and PCC estimates of amounts due under 30 cents per ton formula (7 percent inflation factor in fiscal year 1984).

Deficit$_2$ consists of deficiencies after payments to Panama, plus $20 million in interest on U.S. net investment paid to U.S. Treasury. Deficit$_4$ consists of deficiencies after payments to Panama, after interest payments to U.S. Treasury, plus $22 million in amortization costs paid to U.S. Treasury.

TABLE II: *Size of toll increase needed to pay U.S. Treasury before making payments to Panama under 30 cents per ton formula*

Assumptions:

Panama is paid $10 million fixed payment and $10 million for services before U.S. Treasury is paid for annual interest and amortization costs; thereafter Panama is paid under 30 cents per Panama Canal Net Ton formula.

Panama Canal Company projections of cost and income.

7 percent inflation factor.

GAO estimates on interest and amortization to U.S. Treasury.

W. M. Whitman study factor on capital costs not recovarable by depreciation.

| | Fiscal year— | | | | | |
|---|---|---|---|---|---|---|
| | 1979 | 1980 | 1981 | 1982 | 1983 | 1984 |
| Total revenues (table I) | 258.2 | 263.0 | 262.9 | 265.3 | 266.5 | 269.8 |
| Total costs (table I) | 246.5 | 253.7 | 257.9 | 260.3 | 269.8 | 282.5 |
| Surplus or (deficit) | 11.8 | 9.3 | 5.0 | 2.6 | (3.3) | (12.7) |
| 2 payments to Panama | 20.0 | 20.0 | 20.0 | 20.0 | 20.0 | 20.0 |
| Deficit$_2$ | (8.2) | (10.7) | (15.0) | (17.4) | (23.3) | (32.7) |
| Deficit$_2$ as percent of tolls | 4.0 | 5.4 | 7.5 | 8.6 | 11.3 | 15.7 |
| Interest to U.S. Treasury | 20.0 | 20.0 | 20.0 | 20.0 | 20.0 | 20.0 |

| | Fiscal year— | | | | | |
|---|---|---|---|---|---|---|
| | 1979 | 1980 | 1981 | 1982 | 1983 | 1984 |
| Deficit$_2$ ($D_2$ plus interest) | 28.2 | 30.7 | 35.0 | 37.4 | 43.3 | 52.7 |
| Amortization to Treasury | 22.0 | 22.0 | 22.0 | 22.0 | 22.0 | 22.0 |
| Deficit$_4$ ($D_3$ plus amortization) | 50.2 | 52.7 | 57.0 | 59.4 | 65.3 | 74.7 |
| Deficit$_4$ as percent of tolls | 25.8 | 26.6 | 28.5 | 29.3 | 31.8 | 35.9 |
| 30 cents per ton to Panama | 46.8 | 47.6 | 48.0 | 48.7 | 49.3 | *57.1 |
| Deficit$_3$ ($D_4$ plus 30 cents per ton) | 97.0 | 100.3 | 105.0 | 108.1 | 114.6 | 131.8 |
| Deficit$_3$ as percent of tolls | 49.8 | 50.6 | 52.5 | 53.3 | 55.8 | 63.3 |

* Includes 7 percent inflation factor adjustment per treaty in fiscal year 1984.

Note: Deficit as percent of tolls indicates size of toll increase required to cover all costs as truly expressed.

TABLE III: *Estimated funds available to Panama under 30 cents per ton formula, with tolls set at maximum and U.S. Treasury paid first*

Assumptions:

40 percent net increase in toll revenues is maximum attainable due to traffic diversion (with 75 percent increase in rate) based on International Research Associates sensitivity studies.

Panama is paid $10 million fixed payment and $10 million for services before U.S. Treasury is paid for annual interest and amortization costs; thereafter Panama is paid remaining surplus.

Panama Canal Company projections of cost and income without toll increase.

7 percent inflation factor.

GAO estimates on interest and amortization to U.S. Treasury.

W. M. Whitman study factor on capital costs not recoverable by depreciation.

$10 million contingent payment to Panama not paid.

| | Fiscal year— | | | | | |
|---|---|---|---|---|---|---|
| | 1979 | 1980 | 1981 | 1982 | 1983 | 1984 |
| Toll revenues (table I) | 194.9 | 198.4 | 200.1 | 202.8 | 205.5 | 208.1 |
| Maximum toll revenues | 272.9 | 277.8 | 280.1 | 283.9 | 287.7 | 291.3 |
| Other revenues (table I) | 63.3 | 64.6 | 62.8 | 62.5 | 64.0 | 61.7 |
| Maximum total revenues | 336.2 | 342.4 | 342.9 | 346.4 | 351.7 | 353.0 |
| Total expenses (table I) | 246.4 | 253.7 | 257.9 | 260.3 | 269.8 | 282.5 |

| | Fiscal year— | | | | | |
|---|---|---|---|---|---|---|
| | 1979 | 1980 | 1981 | 1982 | 1983 | 1984 |
| $20,000,000 to Panama | 20.0 | 20.0 | 20.0 | 20.0 | 20.0 | 20.0 |
| $42,000,000 to U.S. Treasury | 42.0 | 42.0 | 42.0 | 42.0 | 42.0 | 42.0 |
| Expenses plus payments | 308.5 | 315.7 | 319.9 | 322.3 | 331.8 | 344.5 |
| Surplus to Panama | 27.7 | 26.5 | 23.0 | 24.1 | 19.9 | 8.5 |
| Comparison with full 30 cents per ton formula | 46.8 | 47.6 | 48.0 | 48.7 | 49.3 | *70.0 |

*Includes 7 percent inflation factor adjustment per treaty in fiscal year 1984.

Note: Assumption of 75 percent toll increase (to achieve 40 percent net increase in toll revenues) does not take into account impact on U.S. economy or impact on sectors particularly sensitive to canal routes (e.g. agricultural products, petroleum, coal).

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. Mr. President, may I inquire of the Chair how much time remains on both sides on the Helms amendment?

The PRESIDING OFFICER. The Senator from North Carolina has 14 minutes and the Senator from Maryland has 23 minutes.

Mr. SARBANES. Mr. President, I will take just a few minutes to address the substance of the amendment offered by the distinguished Senator from North Carolina.

First of all, I think it is important to point out that much of what is covered in his proposed reservation can be dealt with by Congress in the implementing legislation. In other words, it is within our control. As I recall, in the course of making his statement the Senator touched on that fact, that that area of control is available to us.

I am very frank to say that I think that is much the better way to handle this problem. We obviously would have to make some judgments in working on the implementing legislation as to how we relate commitments undertaken in the treaty to the Republic of Panama with other payments that we may or may not decide should be realized from the toll revenues, and, of course, some of what the Senator has set out here—operating expenses, capital expenditures, for example—have to be realized. Other things that we may choose to do or not to do—amortization of assets, which is something we have not done in the past, or the interest payments, something we have only done for a limited period of time in the past, in terms of our own financial management of the Panama Canal—those matters can be handled in the implementing legislation. We have to make a judgment on how seeking to realize them out of the tolls would affect the tolls over the period of time we have the primary responsibility—I should not say primary, I should say the responsibility of operating and maintaining the Panama Canal through the Canal Commission, which is, of course, from the time these treaties take effect until the end of the century, or noon on December 31, 1999.

Given those considerations, it seems to me not advisable to seek to place into the treaty or into the articles of ratification through a reservation, which, of course, will require the concurrence of the other party to the treaty before we actually have a binding document—not to place there matters which we can control here through implementing legislation. We might choose, even if one were to take exactly the approach which the Senator has suggested, and I do not know that one would, but, even if one were to do it at the outset, one later might wish to change it and, if it becomes a part of the agreement between the two parties, the change could not occur, of course, without the concurrence of the other party to the agreement; whereas, if we handled the matter ourselves here through implementing legislation, then we can change it as we deem appropriate at any subsequent time. Thus, in a sense, we give away some of our own freedom or control.

The priorities for payment to Panama are a different question, but they are intermixed, of course, with these other payments which the Senator seeks to draw out of the tolls. As I have pointed out, some of those payments are payments that are not even realized now by the United States with respect to the burden we place upon the toll structure of the Panama Canal.

I have made this point before with respect to other proposals and, therefore, I do not want to repeat it at great length. I do think that the very important distinction which is made with respect to matters we can deal with in implementing legislation as opposed to putting them into treaties is an important one. It is my own view that to the maximum extent possible we should observe our own control over subject matter that need not be included in the treaty. If we include it in one way or another in the treaty—and, of course, there are different ways to do so—it then is part of the agreement between the two parties and any modification, revision, alteration, and so forth, with respect to it requires the concurrence of the other party.

If it is a subject matter which we can handle through the implementing legislation, it seems to me that is where we ought to handle it. That imposes complete and ultimate control in ourselves, ourselves being the constitutional bodies of the Government of the United States that are necessary in order to bring about implementing legislation which, of course, is not the Senate alone as it involves the whole statutory process.

For that reason, which is a consistent one I have advocated with a number of proposals which have been made for alteration in the treaty documents, I would oppose the amendment to the Resolution of Ratification offered by the distinguished Senator from North Carolina.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, perhaps my good friend from Maryland misunderstood the Senator from North Carolina. I intended to emphasize that we cannot count on the implementing legislation to cover the questions surrounding payments to the U.S. Treasury. Indeed I did raise the question of why we do not provide in the implementing legislation for these payments to the U.S. Treasury to be included in the toll base; but I raised it only to show that the question was irrelevant. The answer is that the canal cannot possibly earn enough to pay both Panama and the United States. If we wait for the implementing legislation, it will be too late.

Mr. President, the point is this: The Senate will make a grievous mistake if it delays the action that is sure to come on this question. Of course, the people who will pay for the mistake of the Senate in this connection will be the people who always pay for the Senate's mistakes—the taxpayers of this country.

I would say to the able Senator from Maryland that if the Senate accepts my reservation the United States can al-

ways decide later not to take payments to the U.S. Treasury first if circumstances warrant. I believe we will never have any difficulty with Panama, the other partner, as the Senator described it about that. But if we do not get authority to do it now, we will be unable to do it through implementing legislation. As for past practice, we did not have to take all of these payments in the past because we expected to own the canal in perpetuity, precisely as the 1903 treaty provides. As long as it was ours, we didn't have to worry about the cost of giving it away.

We will have to have a clear understanding with Panama at the time of ratification to agree to U.S. authority to pay the United States first; but I say again, Mr. President, that we had better face this question now instead of later, for later will be too late. We simply have to face the facts. The administration has cooked up some very pretty estimates in an attempt to show that the canal will be self-supporting, and that the treaty will not cost the taxpayers a dime.

When we look at the cold arithmetic of it, Mr. President, you are bound to come to the conclusion that, if you believe that, you will believe anything.

The only way that the administration and the proponents of the treaty can make the projections come out looking plausible is by understating the true cost. They understate the impact of the possible loss of Alaskan oil revenues. They understate the probable rate of inflation. They understate the cash needed for the program on capital expenditures. Even if the U.S. Treasury were to absorb the interest on the United States direct investment and the recovery of the cost of U.S. assets, there is very little likelihood that the proposed Panama Canal Commission can pay for itself.

Suppose there are several years of deficits, and tolls have already been raised to net the 40 percent maximum—a situation I have demonstrated is very likely to happen. It is not a "worst case" supposition, either; in the view of the Senator from North Carolina, based upon the economic analysis placed on every Senator's desk, it is the most probable supposition.

So suppose that there are chronic deficits and tolls have been raised to the maximum; what happens then? There are two alternatives: To borrow from the U.S. Treasury, or to come to Congress and seek appropriations. What kind of a choice is that? The taxpayers get socked in either case. It is not very likely that Congress could refuse to honor an international obligation.

And if deficits are remaining, debts of the Panama Canal Commission in the year 2000, then the Treasury simply will have to absorb them.

But then, as I have pointed out, the Treasury is already slated to absorb $20 million in interest a year and $22 million in amortization costs—a total of almost a billion dollars over the life of the treaty. That is not counting the capital costs of over $400 million, a grand total of $1.32 billion.

Let us not kid ourselves, Mr. President, the U.S. taxpayer will get the bill for all of the money involved. They will be getting the bill for any annual operating deficits, deficits that are bound to arise once the maximum toll increase has been achieved.

I suggest that we look objectively at the reality of the situation. Let us not talk about fairness to Panama. The Senator from North Carolina feels that we ought to have fairness to both sides, to Panama and to the taxpayers of the United States. My point in presenting this reservation is to attempt to balance the risks and benefits.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. MORGAN). Who yields time?

Mr. SARBANES. Mr. President, I have listened carefully to the distinguished Senator from North Carolina. As usual, he makes a forceful argument.

I think it is a fact of the matter that we will have to look very carefully, and the Canal Commission, established by this treaty will have to look very carefully, at the projected traffic, expenditure, revenues, the toll base.

I read carefuly the testimony before the able Senator's committee, the Armed Services Committee, which, for 1 full day, I believe, dealt with the economic aspects of the treaty. There was some very interesting testimony there which requires a lot of careful analysis, including, of course, the testimony of a management consultant which the committee itself engaged, who reached this conclusion:

> We have concluded that there may be opportunities for reducing some of the projected expenditures by some $30 to $40 million per year.

Governor Parfitt challenged that, or disagreed with that.

I must say to the Senator my own reaction to it was one of some surprise. It sounded to me like quite a large figure in terms of the opportunities for reducing projected expenditures. But that is the testimony and it was by an expert witness.

I only make that point to underscore, rather than now trying to take something that we can handle by statute and locking it into the treaty, the need for it to be dealt with by statute, by implementing legislation.

We earlier today adopted the proposal of the Senator from Massachusetts which, of course, means that there will be no exchange of instruments of ratification prior to March 31, 1979, unless the implementing legislation has been enacted prior to that date, in which case the exchange of the instruments of ratification would occur on that date.

We have now a very strong incentive, I believe, for enactment of the enabling legislation. It will give us a better reading of this entire issue.

Aside from the priority arrangements which the Senator has established, about which I think one could quarrel because we do have questions of which obligations you meet and in which order, I do think we ought to reserve this matter to be dealt with in the legislation.

The Senator has characterized that as delaying the agony; I think that was the phrase that the Senator used. All I can say to that is that there has been an awful lot of agony associated with the consideration of these treaties. But I hope that we could, in this instance, in effect, carry this issue over into the implementing legislation. We shall be back again.

I hazard to predict, and I want to make this point because I think it is important, that, assuming that the Senate does advise and consent to these treaties, when we come to the implementing legislation, I, first of all, expect far less division and controversy among the Members of the Senate on the issues involving implementing legislation. I also hazard to predict that, to the extent that there may be division and controversy, the lines and the alinement will be then quite different from the lines of division that have existed while we have considered these treaties.

Mr. President, I reserve the remainder of my time.

Mr. HELMS. Mr. President, of course, the Senator from North Carolina hopes that the Senator from Maryland is correct and that everything works out fine and the tolls do provide enough revenue. But I shall have to repeat the question: What if they do not? If they do not, then the taxpayers of this country get stuck.

Mr. President, in conclusion I want to pay tribute to a man who has been of immense help in analyzing these costs. There is probably no individual in the United States—perhaps in the world—who has had more high-level experience and knowledge about the Panama Canal financial operations than Mr. W. Merrill Whitman. Mr. Whitman was Secretary of the Panama Canal Company for over 20 years. He has participated intimately in the development of the Company from its reorganization in 1950. Not even any Governor of the canal, with all due respect for the high capability of someone like Governor Parfitt, has had the years of experience which Mr. Whitman has had.

Mr. Whitman is presently an active consultant on canal affairs with the House Panama Canal Subcommittee and the House Merchant Marine Committee. He has given very generously to me of his expertise and knowledge, making available his detailed studies. It is appropriate to make special reference to what he has said about the need to include capital expenditures as an additional expense rather than being reduced by depreciation charges, and hiding the costs in the budget.

Mr. President, I ask unanimous consent that Mr. Whitman's statement be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY MR. WHITMAN

In the Company's tabulation, capital costs are appropriately differentiated from "operating expenses" but they are not reflected anywhere in the enumeration of costs except in the calculation of the deficiency of revenues to cover expenses "including capital requirements in excess of depreciation." This results in a misleading implication that new capital expenditures somehow are not costs until they exceed the amount of depreciation accruing on assets acquired with funds previously spent.

Revenues include tolls, i.e., the charge made for the use of the canal, and under the tolls formula now provided by Act of Congress, depreciation on assets previously acquired (and paid for) is included as a cost to be recovered from tolls. This depreciation accrual, including in tolls revenue has no relationship to future expenditures for capital assets. However, such expenditures are regularly made. . . . The fact that the cash flow generated by depreciation on assets already required will be available to finance part of those expenditures in no way reduces the total of the expenditures required. The cash flow generated from inclusion of depreciation as an element of costs in the tolls formula is not earmarked for future capital expenditures. It is available for use for payment of any of the expenses of the agency or for repayment of the U.S. Government's investment in the Canal.

Mr. HELMS. Mr. President, may I ask the time situation?

The PRESIDING OFFICER. The Senator from North Carolina has 7 minutes. The Senator from Maryland has 12 minutes.

Mr. HELMS. I thank the Chair.

Mr. President, I reserve the remainder of my time.

ORDER FOR RECESS UNTIL 7:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I make the following unanimous-consent request after consultation with Mr. LAXALT, Mr. CHURCH, Mr. SARBANES, Mr. BAKER, and various other Senators involved, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 7:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, after the prayer tomorrow morning, the following Senators be recognized, each for not to exceed 15 minutes: Messrs. DECONCINI, ROBERT C. BYRD, LUGAR, and DOLE; and that at 8:30 a.m. the Senate resume consideration of the treaty; that, at that time, Mr. DOLE be recognized to call up his amendment to the Resolution of Ratification; that there be 30 minutes on that amendment, and that the time be divided in accordance with the usual form; that at 9 o'clock, Mr. THURMOND be recognized for debate on his two amendments, that there be 1 hour of debate on those two amendments, that the time be controlled in accordance with the usual form, and that the votes on the Dole amendment and the Thurmond amendment not occur at the close of the debate, but that, at 10 o'clock a.m., the vote occur with respect to the Helms amendment which has already been debated or is in the process of being debated; that there be a 15-minute rollcall; that immediately behind the disposition of the Helms amendment, the following votes occur, each to be a 10-minute rollcall vote; with respect to the Curtis amendment, the Dole amendment, and the first Thurmond amendment, then the second Thurmond amendment, and the amendment by Mr. DECONCINI; and that, following the aforementioned votes—and I have discussed all of this with the distinguished minority leader, as I pointed out earlier; that following the votes that I have just referred to, there then be 40 minutes for debate on an amendment by Mr. BARTLETT and that, at the expiration of that time or upon its being yielded back, a vote occur with respect to the Bartlett amendment; that then, the debate begin on the so-called leadership amendment, with 15 minutes of control on the leadership amendment allotted to Mr. MELCHER and with the remaining 2 hours and 15 minutes for debate on that leadership amendment to be controlled in accordance with the usual form; that the vote in respect to the leadership amendment not occur, however, at the expiration of that time; that at 2:30 p.m., Mr. ALLEN be recognized to call up his amendment No. 1—I shall refer to it as No. 1 because he has two amendments; his first amendment—that there be a 30-minute limitation on the Allen amendment and that a vote occur then with respect to the Allen amendment at the expiration of that time or when the time is yielded back; that upon the disposition of the first Allen amendment, Mr. ALLEN then be recognized to call up a second amendment; that there be 30 minutes for debate on that amendment, and that, upon the expiration of that time or its being yielded back, a vote occur in relation to the Allen amendment; following which the vote occur on the leadership amendment; following which, Mr. GRIFFIN be recognized to call up an amendment; that there be a 30-minute limitation to that amendment; and that upon the expiration of that time a vote occur in respect to the Griffin amendment; following which there be 1 hour of general debate to begin at 5 o'clock p.m. on the Resolution of Ratification; that the first 15 minutes of that 1 hour be under the control of the proponents of the treaty, the next 30 minutes under the control of the opponents of the treaty, the final 15 minutes to be under the control of the proponents of the treaty—and in each instance I may have overlooked the division and control of time—in each instance with respect to amendments, the division and control of time be in accordance with the usual form; which would mean, Mr. President, that the final vote would occur at 6 o'clock p.m. if we can hold all the rollcall votes without stretching any of them even a minute, and, hopefully, some of the time on one or more amendments can be yielded back, which will give us some much needed flexibility.

That completes my request.

Mr. BAKER. Reserving the right to object, Mr. President, and I will not object, I wanted, though, to take this opportunity to commend the distinguished Senator from Nevada, the Senator from Maryland, the distinguished majority leader, and others who participated in constructing this schedule of activities for tomorrow. I think it is of great value to the Members of the Senate.

I would inquire of the majority leader and the distinguished Senator from Nevada as to their feeling about providing, say, for a 20-minute vote, or even a 30-minute vote, on the final vote on the Resolution of Ratification.

I doubt it will be necessary since I fully expect every Member of the Senate to be present and on the floor. But we did that in the case of the first treaty. I wonder if that might be provided for on this one.

Mr. ROBERT C. BYRD. Mr. President, I am very receptive to that suggestion, as is Mr. LAXALT, and I would include that in the request with the understanding that the warning bells would sound after 12½ minutes have expired, and with the further proviso that the clerk announce after each vote is cast how the Senator casting that vote voted.

This enabled all Members to be at their desk, to keep a running tally, it enabled the guests in the galleries, the press, the media, and the people listening throughout America, to hear clearly how the votes were cast, and it was conducive to order and decorum. I ask that be included in the request.

Mr. CURTIS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. CURTIS. And I hope that I will not have to object. I understood that at a certain hour tomorrow morning there would be a vote on the Curtis amendment. That means a vote on the amendment and not a vote on a motion to table?

Mr. ROBERT C. BYRD. No. The request I made was with respect to or in relation to the Curtis amendment, which does not waive the right of Senators to make such motions as they desire.

Mr. CURTIS. It seems to me when we are short of time that they should forego the idea of tabling amendments because some of them might require two rollcalls.

Mr. ROBERT C. BYRD. Mr. President, the managers of the treaty may very well decide to have an up or down vote, but it was my thought after discussing this matter with the Senators that we would not waive the right of Senators to move to table, if they so desired at that time.

Mr. CURTIS. Of course, we all have rights.

Mr. ROBERT C. BYRD. Yes.

Mr. CURTIS. To object.

Mr. ROBERT C. BYRD. Yes.

Mr. CURTIS. But I am willing to waive that right, but I want some compensation. I want some consideration.

Mr. ROBERT C. BYRD. Well, I just hope the Senator will not object and maybe tomorrow morning the managers of the treaty would be willing to listen

to the persuasive powers of the distinguished Senator from Nebraska.

Mr. CURTIS. Well, if he will consider it overnight, I will consider overnight the unanimous consent.

Mr. ROBERT C. BYRD. That is certainly within the Senator's rights and I do not question that at all.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, might I inquire of the Chair, is it not so that under the rules and precedents and the form of this unanimous-consent request that in the case of the amendment to be offered by the distinguished Senator from Nebraska that no tabling motion could be made, in any event, until the expiration of the full time allowed under this proposal and that nothing could be done under this formulation to reduce or diminish the amount of time for debate, at least, that the distinguished Senator would have?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Further reserving the right to object, Mr. President, I must confess I am not acquainted with the substance of the distinguished Senator's proposed amendment. I would hope that we could arrive at some sort of accommodation on that point.

Might it be possible under this reservation of the distinguished Senator from Nebraska, would he give us some idea of what the amendment is?

Mr. CURTIS. Yes. I would be happy to.

This amendment adds to the resolution of ratification provision that subject thereto all outstanding claims by U.S. citizens or corporations owned and controlled by the U.S. citizens against the Republic of Panama for property belonging to such citizens or corporations which has been nationalized, expropriated, occupied, or seized by the Republic of Panama, such claims, and they were presented before September 7 last, shall be paid, or all grants, loans, guarantees provided under the treaty and related agreements shall be suspended.

I think it is important that the Senate go on record in favor or against insisting on these claims being paid. It will not call for a vote in the Republic of Panama. It imposes no impossible burden on them. It requires them to do what is now required by law, but the State Department has not forced them to do.

I do not think we are fair with these claimants or with the people we represent to have this disposed of by a motion to table. A motion to table carries with it a connotation that for some strategic reason or for some parliamentary reason, it should not be considered. In other words, it is a means of not facing the issue. I know the burdens on the leadership in trying to bring this to a conclusion, but it will not be me objecting. It will be those in charge of the bill forcing me to object. It is their responsibility, not mine.

Mr. ROBERT C. BYRD. Mr. President, may I state briefly the position in which the distinguished Senator from Nebraska puts the joint leadership, and I say this most respectfully.

If we agree that we will waive the rights of Senators to move to table the amendment by Mr. CURTIS, there are other Senators who, I think, would have justification for criticizing the leadership and for complaining that they were not given the same right of an up-and-down vote. That is the problem.

We do have only a limited time tomorrow. Mr. LAXALT, Mr. SARBANES, the minority leader, Mr. HELMS, and others have tried to work out a schedule which is very tight and very close, indeed, in order to give every Senator who has an amendment a chance to call it up and have a certain amount of time to debate it, so that no Senator, when 6 o'clock arrives, will have been deprived of the opportunity to call up an amendment and to have some time for debate on it.

So I hope that the distinguished Senator will not object. The problem outlined does represent a tremendous amount of work, especially on the part of Mr. LAXALT and Mr. SARBANES. I hope the Senator will not press his point, because if he does object, some Senator will conceivably be shut out of time for debate on their amendments tomorrow. If we were to consent to the Senator's request, we would put ourselves in a position of being criticized by other Senators who likewise would like to have up and down votes.

I hope we can leave it in the hands of the managers tomorrow, and the distinguished Senator from Nebraska may be able to discuss the matter with them, and it may be that they will not exercise their rights to move to table.

Mr. CURTIS. I say to the distinguished leader that it is not uncommon in unanimous-consent requests to agree that the amendment shall be disposed of by a direct vote. I do not think the request is unusual; I do not think it is without precedent. I do not like to object at all, and it will not be me objecting. It will be the leadership forcing me to object.

Mr. ROBERT C. BYRD. Before the Senator objects, I hope he will once again allow me to say this: It is not a precedent; the Senator is correct. But I do not believe there has been a single instance during the 37 days of debate on these treaties in which the right to table has been waived by unanimous consent.

Mr. CURTIS. I am sure they have not missed the chance to avoid facing an issue square on. I agree with the Senator.

Mr. SARBANES. Mr. President, if the Senator will yield, I think the point the majority leader is making is that in the course of this debate, on either treaty, he does not believe a Senator's rights in this regard were waived. There have been instances in which we have had up-and-down votes, as opposed to motions to table.

I appreciate the thrust of the Senator's argument, and we will certainly take a careful look at that. Of course, I have not studied his amendment, nor, even more important, have I listened to the Senator's argument with respect to it. It just seems to me that we have come this far in handling the matter in that regard, and I hope the Senator will allow us to proceed.

Mr. CURTIS. I return the compliment by saying I hope that the Senator will agree to what I seek and will allow us to proceed. It will take less time to waive the motion to table than it will take to have it.

Mr. ROBERT C. BYRD. Mr. President, I am advised that a request on the leadership amendment inadvertently was for a vote on the amendment. I change that to a vote in relation to the amendment.

Mr. CURTIS. Mr. President, further reserving the right to object, I am afraid that what the Senator is doing is heading for nothing but chaos here.

Any Member can exercise his right for a motion to recommit the leadership's amendment, and that will call for two rollcall votes. It will upset the Senator's schedule. I would expect cooperation in return for my cooperation and that I would be allowed a vote on my amendment.

For the purpose of orderly procedure in arriving at a vote and scheduling, and not cutting out the time of Senators, it would be my hope that the distinguished majority leader would switch the leadership amendment back to a vote up and down on it, because that is the one amendment that will take double time if there are two rollcall votes.

Mr. ROBERT C. BYRD. Mr. President, may I temporarily withdraw the request? I understand the Senator from North Carolina has the floor.

Mr. BAKER. Before the majority leader withdraws the request, I wonder if he will yield for a question.

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. In the course of propounding the request, was the time fixed for the final vote?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. To begin at 6 and to run how long?

Mr. ROBERT C. BYRD. That would be a 20-minute rollcall vote, beginning at 6 o'clock.

Mr. CURTIS. Mr. President, how much time remains on the Helms reservation?

The PRESIDING OFFICER. The Senator from North Carolina has 5 minutes remaining.

Mr. HELMS. Mr. President, I am prepared to yield back the remainder of my time if the Senator from Maryland is.

Mr. SARBANES. How much time remains to the managers of the treaty?

The PRESIDING OFFICER. The Chair is advised that all their time is used.

Mr. SARBANES. Mr. President, I am prepared to yield back my time, also, so the Senator from Nebraska, who has been waiting patiently, may proceed to call up his reservation and debate it.

So I have no further intention of debating the Helms reservation.

Mr. HELMS. Mr. President, I wonder if I might direct a question to my friend from West Virginia, the distinguished majority leader. Does the proposed

unanimous-consent request suppose that the yeas and nays will be obtained on all of these amendments or reservations?

Mr. ROBERT C. BYRD. Yes.

Mr. HELMS. That is so whether the author of the amendment or reservation is on the floor or not?

Mr. ROBERT C. BYRD. Yes.

Mr. HELMS. I thank the Chair.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HELMS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order at any time to order the yeas and nays on any of the amendments or any motions in relation to amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CURTIS. Beg pardon? May I hear that again?

Mr. ROBERT C. BYRD. I merely asked that it be in order at any time to order the yeas and nays on any amendments or on any motions in relation to the same.

Mr. CURTIS. No objection.

(The following proceedings occurred during the consideration of Mr. HELMS' reservation No. 18 and is printed at this point by unanimous consent.)

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH. Mr. President, will the Senator from Maryland yield?

Mr. SARBANES. I yield to the Senator from Missouri.

Mr. DANFORTH. Mr. President, I ask unanimous consent that I may be allowed to take up understanding No. 12 at this time. The statement accompanying it is two pages long. It will take about 5 minutes to read. I wonder if I could get unanimous consent to take it up at this time with the time not to be charged to either side on this particular reservation.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. A parliamentary inquiry, Mr. President: Do I have to ask unanimous consent? Do I need to ask unanimous consent to temporarily set aside the Helms amendment in order to take up the proposal of the Senator from Missouri?

The PRESIDING OFFICER. That is required.

Mr. SARBANES. I so ask unanimous consent.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. I ask unanimous consent that the Senator from Missouri be able to offer his amendment at this point and that it be in order that it be considered.

Mr. President, I am prepared to allow the time to come out of the time allocated to me on the Helms amendment and then I will, following the disposition of the Danforth amendment, return to the Helms amendment.

Mr. HELMS. Mr. President, reserving the right to object, and I shall not object, I would ask the Senator to stipulate that this interim activity be placed elsewhere in the RECORD.

Mr. SARBANES. I include that in the unanimous-consent request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UNDERSTANDING NO. 12

Mr. DANFORTH. Mr. President, I very much appreciate the courtesy of the Senator from North Carolina, the Senator from Maryland, and other Senators waiting to call up their amendments.

I call up my understanding No. 12.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes an understanding numbered 12.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the understanding be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The understanding is as follows:

Before the period at the end of the resolution of ratification, insert a comma and the following: "subject to the understanding, which is to be made a part of the instrument of ratification, that nothing in subparagraph 4(c) of Article XIII shall be construed to limit the authority of the United States of America through the United States Government agency called the Panama Canal Commission to make such financial decisions and incur such expenses as are reasonable and necessary for the management, operation, and maintenance of the Panama Canal. In addition, toll rates established pursuant to paragraph 2(d) of Article III need not be set at levels designed to produce revenues to cover the payment to Panama described in subparagraph 4(c) of Article XIII".

Mr. DANFORTH. Mr. President, one of the hoped for results of ratification of the Panama Canal Treaty is to establish a new, mature relationship between the United States and the Republic of Panama. The new arrangements governing the operation of the Panama Canal will promote improved harmony of interest between our two nations and substantially increase the desire of Panama to insure an efficiently run canal. However, I am concerned that a possible misunderstanding concerning the $10 million contingent payment provided in subparagraph 4(c) of article XIII may occur which would provide the basis for continuing conflict between the United States and Panama. Such a conflict could undermine the spirit of cooperation brought about by these treaties.

Our negotiators have told me that they and their Panamanian counterparts agree about the authority of the Panama Canal Commission and this payment. But I believe it is prudent to set forth this understanding for myself, Senator BAKER, and Senator BELLMON as a part of the instrument of ratification so that no confusion can occur at some later time.

I am concerned, Mr. President, that in the future, objections may arise to certain financial and management decisions which may be made by the Panama Canal Commission for the efficient operation and maintenance of the canal on the grounds that such decisions would reduce the Commission's surplus so that $10 million, or any lesser amount, would not be available for payment to Panama as provided in article XIII, section 4(c).

The Commission must be free to make expenditures which it deems are required to insure the same level of canal operations as existed under the Panama Canal Company. The contingent payment must not in any way act as a constraint on Commission decisions. This understanding makes it clear that the Commission's authority shall not be burdened or limited in any way by considerations of the contingent payment.

The understanding also makes it clear that tolls for users of the canal need not be set at levels designed to produce sufficient revenues to cover the $10 million contingent payment, or any portion thereof. The wording does allow Congress, if it so desires, to permit tolls to account for this payment. I have noted that the draft implementing legislation proposed by the administration does not allow for this payment in the toll base. But I do not want to bind this or some future Congress in this regard. I do, however, wish to establish the fact that the United States, through the Panama Canal Commission, is under no obligation whatsoever to compel canal users to bear explicitly this financial burden.

Mr. President, this understanding has been cleared by the administration and they have no objection to it.

Mr. SARBANES. Mr. President, I simply wish to say that I know a great deal of care and thought has gone into developing this understanding on the part of the very able Senator from Missouri. I know of his concern to assure that the canal shall be efficiently operated and maintained, a concern which I think is shared by all parties. After all, the canal is the fundamental entity here, and I think the Senator has very carefully worked out an understanding to accomplish that objective and has done it with a great deal of skill and a great deal of care. We are prepared to accept the understanding which the able Senator from Missouri has offered.

I am prepared to go to a vote on it at this time, if that is agreeable to the Senator from Missouri.

Mr. DANFORTH. That is agreeable.

The PRESIDING OFFICER. The question is on agreeing to the understanding (No. 12) of the Senator from Missouri.

The understanding was agreed to.

Mr. HELMS. I move to reconsider the vote by which the understanding was agreed to.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DANFORTH. I appreciate the courtesy of the Senator from North Carolina and the Senator from Maryland.

(This concludes proceedings which occurred earlier in the day.)

The PRESIDING OFFICER. The Senator from Nebraska (Mr. CURTIS).

UP RESERVATION NO. 30

(Subsequently numbered reservation no. 19).

Mr. CURTIS. Mr. President, I send a reservation to the desk and ask that it be stated.

The PRESIDING OFFICER. The reservation will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. CURTIS), for himself and Mr. HATCH, proposes an unprinted reservation numbered 30.

Before the period at the end of the resolution of ratification, insert a comma and the following: "subject to the reservation that if there are any outstanding claims by United States citizens or corporations owned or controlled by United States citizens against the Republic of Panama for property belonging to such citizens or corporations which was nationalized, expropriated, occupied or seized by the Republic of Panama, and such claims (a) were presented to the Republic of Panama prior to September 7, 1977, and (b) were found, or subsequently are found, by the Secretary of State of the United States to be compensable under international law, then all United States economic assistance to the Republic of Panama, including grants, loans, and guarantees, as provided under this treaty and related agreements, shall be suspended, and no further assistance may be made available to the Republic of Panama until such claims are compensated by the Republic of Panama. If the claimant and the Republic of Panama are unable to reach agreement on the amount of compensation to which the claimant is entitled, the Foreign Claims Settlement Commission of the United States (established pursuant to Reorganization Plan No. 1 of 1954, 68 Stat. 1279) shall, at the request of the claimant and within 60 days after submission of the request, evaluate the property, determine the amount of compensation to which the claimant is entitled, and transmit its determination to the Secretary of State. The amount of compensation which the Commission shall determine the claimant is entitled to shall be the fair market value of the property at the time of the nationalization, expropriation, occupation or seizure, which amount in no event shall be less than the book value of the property at such time determined in accordance with generally accepted accounting principles in the United States.

Mr. CURTIS. Mr. President, I call to the Senate's attention Panama's past seizure, without compensation, of property belonging to American citizens. In one of the two Panamanian expropriation cases I know of, a U.S. corporation had approximately 500,000 acres of land taken from it by the Government in 1970. Not one cent in compensation has been paid to date. Indeed, it was only because of the persistent intervention of the State Department that the Panamanian Government even agreed to discuss the case with the former property owner. More recently, I understand, the company was told by the Panamanian Government that no further discussion would take place until the treaties are ratified.

In the other case, in December of 1974, Panama seized all the assets of an American-owned citrus fruit company. The Government of Panama has yet to offer any semblance of just compensation for these assets, which it is operating today, and from which it is grossing millions of dollars annually. What are we going to do if someone decides to seize the Panama Canal?

Mr. President, we want to be fair to the Panamanians, but I think that they too have an obligation to be fair to us. Yet the treaty makes no provision for assisting American citizens who now have claims against the Panamanian Government. In my judgment, these treaties ought to contain some provision to help our citizens obtain from Panama the compensation to which they are legally entitled.

As Senators will recall, Senator HATCH recently offered an amendment to the treaty to protect American citizens from future expropriations of American-owned property. During the course of debate on that measure, Mr. CHURCH, the distinguished Senator from Idaho, stated that,

In our relations with sovereign governments, we have always recognized that those governments have the right of eminent domain. . . . We have only insisted, when other governments exercise the right of eminent domain as to us, taking over private property and converting it to public ownership, that the private owners, if they be American citizens, are fairly compensated.

It is well understood, then, that where American property has been expropriated by a foreign government, our policy has been to assist the private owners in gaining just compensation for their loss. Indeed, well established international law and U.S. law requires that when privately owned property is seized, the owners must be compensated.

For these reasons, Mr. President, I am offering a reservation to the resolution of ratification which provides that economic assistance to Panama, as provided for in connection with the treaty, shall suspend until Panama compensates American citizens for property it has nationalized, expropriated, occupied or seized.

In order to preclude multiple or spurious claims, the reservation would apply only to claims presented to Panama prior to September 7, 1977, the date on which the treaties were signed, which are found by the Secretary of State to be compensable under international law.

If the claimant and Panama are unable to agree on the amount of compensation, the Foreign Claims Settlement Commission of the United States would be authorized to determine how much compensation is due. Once Panama satisfies these claims, either in an amount agreed upon with the claimants or in an amount determined by the Commission, economic assistance to Panama would be resumed. The effect of this Reservation, in other words, is to assure that this treaty-related assistance to Panama is conditioned upon that country meeting its obligations, under international law, to American citizens whose property has been taken. As the treaty now stands, there are no conditions whatever attached to the economic assistance provisions of these treaties and related agreements. Unless the Senate approves this Reservation, past Panamanian treatment of the outstanding claims suggests that our citizens may never receive the compensation that is owed to them.

As we know, certain citizens can secure their rights of compensation against a foreign government only if the U.S. Government acts in their behalf. The acts of Congress which restrict or forbid aid to countries which seize the property of U.S. citizens without paying just compensation have been approved by Congress in recognition of this fact. It is in the same spirit of giving needed assistance to U.S. citizens who are seeking to secure their rights under international law that I urge my colleagues to approve this reservation.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield?

Mr. CURTIS. I would be happy to yield to the distinguished majority leader.

UNANIMOUS-CONSENT ORDER

Mr. ROBERT C. BYRD. Mr. President, I discussed earlier a unanimous-consent request with the distinguished manager of the treaty on my side, Mr. SARBANES. In view of the fact that most of the reservations tomorrow or most of the amendments tomorrow will be offered by Senators from the same side of the aisle the Senator from Nebraska is on, Mr. LAXALT, the leader of the opposition in this instance, has indicated to me that it is his judgment that other Senators who have amendments will understand the peculiar circumstances in which we find ourselves at the moment, and that they will not feel constrained to criticize the joint leadership and the managers, the opposing managers, of the treaty for revising the unanimous-consent request to allow for an up and down vote on the amendment of the Senator from Nebraska.

Mr. CURTIS. I thank the distinguished leaders. In that case I shall not object.

Mr. ROBERT C. BYRD. That being the case, I so revise the request.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered, and the unanimous-consent request is agreed to.

Mr. ROBERT C. BYRD. I thank all Senators, the minority leader, and Mr. LAXALT, in particular, and Mr. SARBANES.

Mr. CURTIS. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. Mr. President, with respect to the amendment which has been offered by the distinguished Senator from Nebraska, I think I ought to point out that there is an established procedure for dealing with such problems. The good offices of the U.S. Government are used in certain regards, and the resolution of claims through its inclusion in the treaty by amendment to the Resolution of Ratification would be, to say the least, extraordinary.

Now, late last year two American companies, Citricos de Chiriqui and Boston Panama—and, of course, I do not know whether it is the factual situation of either or both of these companies that may prompt the amendment—presented separate claims that their properties were expropriated without adequate compensation by the Government of Panama.

Each corporation formally requested that the Government of the United States invoke sanctions, which are presently required by U.S. law when an expropriation occurs and when the host government does not provide adequate compensation.

Another recently raised case is that of the Isthmian Timber Company claim which first came to the attention of the Department in 1941.

Now again I do not know whether that claim is in terms a factual basis for the perception that an amendment of this sort is called for, but at that time with respect to the claim of the Isthmian Timber Company, the Department of State found the claim to be wanting and requested the company to supply additional information.

The company has never substantiated its claim. It did again request the Department's assistance in the spring of 1977, even though it had not responded or followed up on the earlier request for information.

The Department then informed the company that because of this long delay it had really forfeited any rights it might have had under international law.

The U.S. law requires certain sanctions to be invoked against host governments which expropriate the property of U.S. citizens and fail to take appropriate steps to provide compensation as required under international law.

These sanctions are extensive. They include suspension of bilateral assistance programs, the so-called Hickenlooper amendment to the Foreign Assistance Act; they include votes against loans by international development institutions to the host government, the so-called Gonzalez amendment; and they require, and they include, suspension of GSP tariff status pursuant to the Trade Act of 1974.

Now, expropriation claims and other serious investment disputes are examined by an interagency group on expropriations. This group must determine if a host government action is expropriatory and, if so, whether the host government is taking appropriate steps to compensate the investor as required by United States and international law.

In addition, the interagency group coordinates U.S. Government action to insist on investors obtaining compensation.

Although the U.S. Goverment may become involved in detailed negotiations of a case, experience has shown that this is not usually desirable or necessary. Most often U.S. Government actions are limited to facilitate assistance such as arranging meetings for reminding the host government of its obligations to pay compensation or expressing concern over the lack of progress over resolution of a dispute.

So there is a procedure that is followed, including an interagency group on expropriations.

There are certain generalized sanctions in the law, and we really have established this process to get away from anything that may carry the overtones in effect of special legislation with respect to particular problems.

I think that is much the best way to proceed, and that is why this arrangement which I have outlined has been established.

Now, in the Citricos and Boston-Panama cases, it should be noted that both of these claims had remained dormant until the initiation of debate on the Panama Canal Treaties. The claims of both companies are now under review by the interagency group which are alluded to earlier, that had been established by our Government, and a legal review of each company's claim was started at a meeting in late February of the interagency group and is continuing.

Our Government has also encouraged the government of Panama to carry on negotiations with the companies. In the case of Citricos, negotiations have been underway since January, and the government of Panama has invited the company representatives to meet with the government commission on the 27th of April to establish the market value of the assets to be conceded.

With respect to Boston-Panama, meetings did occur with Government of Panama officials in February.

The Department of State is actively monitoring both claims, and, of course, can invoke existing legislative sanctions if and when appropriate, should it be determined that the obligations of the Government of Panama under international law to these investors have not been met.

I suggest to the Members of the Senate that it is both unnecessary and inappropriate to inject into the treaty ratification process issues which are adequately addressed under existing law with respect to the private interests of these two U.S. investors.

The State Department has encouraged the Government of Panama to resume negotiations with the representatives of these companies, and I, of course, have alluded to the meetings which have taken place and to one of the meetings which is scheduled to take place.

I think I also ought to underscore Panama's previous record for resolving expropriation disputes, and the fact that that record has been very good. Disputes involving United States, IT&T, Boise-Cascade, and the Panama Power and Light Company were each resolved in a manner fully acceptable to the company. In each instance, the U.S. Government played a facilitative role, but did not become directly involved in the merits of the dispute.

The U.S. Government recognizes the right of foreign governments to take over the property of U.S. investors so long as provisions are made for prompt, adequate, and effective compensation. As I indicated, negotiations are proceeding directly between the Government of Panama and the two parties of the only cases that have been brought to my attention, and the interagency committee established for this purpose in our own Government is monitoring this matter very closely.

In the light of those developments, and in the light of the existing statutory remedy, I do not think that the amendment which has been proposed to be added to the Resolution of Ratification to the Panama Canal Treaty is necessary or desirable.

Mr. President, I reserve the remainder of my time.

Mr. CURTIS. Mr. President, let us have the record clear. This reservation pertains only to those grants, loans, and guarantees as provided under the treaty and related agreements. It is relevant and pertinent to the treaty.

Also, the record should show that unless we take this action, the chances of American citizens being compensated are very, very dim.

This is an important principle. American citizens are urged to spend money all around the globe to help emerging countries to build up their economies. Unless the Senate goes on record tomorrow against the provision that if our property is expropriated they do not have to pay for it, it will be a sad day in the U.S. Senate.

Mr. President, I make no argument about some claim back in 1941 that there may have been laches and lack of diligence in presenting. That is not what is involved here.

I would also remind Senators that the very wording of my reservation causes it to deal with only those claims found by the Secretary of State of the United States to be compensable under international law. This is not taking advantage of Panama, or demanding anything that is not right. This will not destroy the treaties. This will not call for another plebiscite. This is a square-toed provision where the Senate will pass on the question of demanding that Panama pay. It is a square-cut choice. Tomorrow the Senate will vote for or against the principle that when Americans make investments in foreign countries and they nationalize, expropriate, or otherwise seize our property, they have to pay for it.

Maybe there will only be one vote for this amendment, but the Senator from Nebraska now speaking is not going to add to the retreat all around the world in protecting the interests of the United States, and say to the world, "You do not have to pay for our property if you seize it to nationalize it." That will be the only issue.

Mr. President, the distinguished Senator from Maryland has mentioned the Hickenlooper amendment, and says that there is provision in existing law to take care of this. Let us consider that. Why is not the proper remedy the invocation of the Hickenlooper and related amendments?

First, the Hickenlooper amendment to the Foreign Assistance Act provides that even in cases in which the Department has determined that an expropriation has occurred, the sanctions which are

prescribed may be waived by the President "on national interest grounds."

The Department has not been willing to provide assurances to the injured corporations that it will not waive these sanctions. For example—and I would like copies of this correspondence to be printed in the RECORD—the attorneys for one of the affected U.S. corporations wrote to the Department on March 9, 1978, specifically requesting assurances that these sanctions would not be waived on national interest or other grounds.

As you will note, the Department's tardy reply, dated April 11, 1978, does not provide these assurances, nor even address this issue.

The parties have sought to invoke the sanctions which are available to them, and to every U.S. citizen whose property has been expropriated without compensation to no avail for many, many months. For example, I hold here copies of letters from one of the affected corporations seeking the invocation of these remedies, dated May 10, 1977, and December 12, 1977.

It is not correct that these were dug up after the treaty was signed. It is not true at all.

The Department of State has simply and clearly dragged its feet in responding. I will place copies of these letters, plus an inconclusive reply to one of them, dated January 19, 1978, in the RECORD.

When the Senate voted to make the Hickenlooper amendment law, it meant that the Department of State was to enforce this law. It did not intend that the Department only enforce it when the bureaucrats there felt that enforcement was convenient to them.

The reservation is necessary to assure that U.S. citizens with meritorious expropriation claims receive the compensation due them. It is necessary because the Department of State is plainly unwilling to see to it that this is done. These U.S. citizens have no other remedy.

Mr. President, I ask unanimous consent to have the following letters printed in the RECORD: A letter from the attorney for the Boston Panama Co., dated May 10, 1977; another letter from the same parties dated December 12, 1977; a reply from the Department of State by Terence A. Todman, Assistant Secretary for Inter-American Affairs, dated January 19, 1978; a letter from the attorney for the same company dated March 9, 1978; and a reply from the same Assistant Secretary, dated April 11, 1978.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

HELLER & TEMPLE,
*Washington, D.C., May 10, 1977.*

Re Boston Panama Company,
TERENCE A. TODMAN,
*Assistant Secretary of State, Department of State, Washington, D.C.*

DEAR MR. ASSISTANT SECRETARY: I am writing in behalf of my client, the Boston Panama Company, a United States Corporation beneficially owned exclusively by United States Citizens.

As you are probably aware, the Company has long been seeking compensation for extensive Panamanian real property holdings expropriated without compensation by the Government of Panama. Until now, the Company believed that an amicable settlement with the Government of Panama could be reached through good faith negotiations. The Government, without providing any reasons, however, now indicates that it considers "the case closed". It has no intention of negotiating on the merits or compensating the Company.

The early history of this protracted controversy is summarized in a memorandum of September 20, 1974. A copy is attached hereto. Since October 1974, the Department of State has assisted the Company by encouraging the Government of Panama to enter negotiations.

In discussions throughout 1975–1976 with Panamanian officials, including the Ambassador to the United States, the Company was led to believe that if it could demonstrate that the expropriation by predecessor governments was unlawful and amounted to a denial of justice, that the current Government would consider the case on its merits and negotiate an equitable settlement. The Company has amply met this burden of proof.

In recent meetings between United States Ambassador Jordan and President Lakis of Panama, the President expressed an interest in equitably resolving this long-standing dispute. For this purpose, representatives of the Company, accompanied by Ambassador Jordan, met in Panama with President Lakis on May 3, 1977.

At this meeting President Lakis reiterated his interest in finding an equitable solution. However, he stated that the "political decision" as to whether the Government would enter into settlement negotiations rested with General Torrijos.

In subsequent discussions with Minister Manfredo and Doctor Reluz of the President's staff, Company representatives repeated their offer:

(1) to invest all compensation proceeds in Panama;

(2) to assure that the conduct of negotiations and the terms of any settlement would be held in strictest confidence; and,

(3) to accept compensation in any form convenient to the Government.

Minister Manfredo, who participated in its earlier phases, was familiar with the history of the case, and appeared confident that a solution was imminent. He too stated, however, that General Torrijos' concurrence was essential before negotiations could proceed.

The Company was thereafter advised by Minister Manfredo that General Torrijos was unwilling to negotiate a settlement and, moreover, as far as the Government of Panama is concerned, that "the case is closed". This decision was made upon "political grounds", without regard to the merits of the Company's claim.

It is with regret, therefore, that we now request the additional assistance of the Department of State.

We ask first that, pursuant to 22 UCS 2351, the Department review and commence to implement all measures reasonably available to it for discouraging the Government of Panama from the arbitrary course it has elected to follow. Among these measures, we ask that the Department formally express to the Government of Panama its strong dissatisfaction with its unwillingness to negotiate a settlement in good faith, and on its merits.

Second, we ask that the Department promptly initiate all steps, pursuant to 19 USC 2462, to assure that the Government of Panama be denied all benefits provided by the Trade Act of 1974.

Third, we ask that the Department promptly initiate all steps required under the Foreign Assistance and related Acts pursuant to 22 USC 283(r), 22 USC 284(j), and 22 USC 2370(e)(1), to assure that Panama is denied foreign assistance through AID, the IDB, and the IBRD.

Our request that the Department now invoke these drastic sanctions is made with reluctance and sorrow. We believe, however, that the Government of Panama's arbitrary treatment of this case as a "political" matter and its refusal to negotiate a settlement on the merits, has left us no alternative. Should the Department be successful in encouraging the Government to reconsider its position my client, of course, is prepared to resume negotiations at any mutually convenient time.

Sincerely,

JACK I. HELLER.

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HELLER & TEMPLE,
*Washington, D.C., December 12, 1977.*

Re: Boston Panama Co.
TERENCE A. TODMAN,
*Assistant Secretary of State, Department of State, Washington, D.C.*

DEAR MR. ASSISTANT SECRETARY: A copy of this letter was sent to you on December 6, but apparently was lost in the mail.

I am writing in behalf of my client, the Boston Panama Company, a United States Corporation beneficially owned exclusively by United States citizens.

This letter follows upon my letter to you dated May 10, 1977, a copy of which is attached.

In my May 10 letter I requested the Department of State to invoke all statutory sanctions against the Republic of Panama which become operable in the event of an uncompensated expropriation of property owned by United States citizens. Several days before that date the Government of Panama determined, on "political grounds," that the long standing expropriation case involving Boston Panama Company properties "was closed."

After delivery of my May 10 letter I subsequently agreed to forego pressing our request for the application of statutory sanctions pending the reopening of negotiations. Negotiations were resumed in mid October at a meeting in Washington attended by the Ambassador of Panama, his legal advisor, principals in the Boston Panama Company, and myself.

This meeting was cordial and productive. The Ambassador, who was unfamiliar with the details of the controversy, agreed to familiarize himself with its history. A number of avenues for achieving compensation were explored. We agreed that a second meeting would be called in the near future after the Ambassador had studied the matter.

To my best information the Ambassador, in fact, researched the background of the case. Among other matters he discussed its detailed history with Dr. Lopez Guevarra, the ranking legal advisor to the Panama negotiating team. Dr. Guevarra had also been legal counsel to the Boston Panama Company and is intimately familiar with the details of the case. He confirmed to the Ambassador the factual bases of the Company's claim.

Despite my repeated efforts since mid October to arrange a second meeting with the Ambassador, none has been held. And, on December 1, I was told by a senior official at the Embassy of Panama that no further meetings would be held. The position of the Government of Panama is that it will not discuss, no less negotiate, a settlement until after United States ratification of the Canal Treaties.

Given this latest arbitrary action by the Government of Panama, my client is left with no alternative but to request herein, that you now initiate all steps towards invoking the statutory sanctions requested in my letter to you of May 10, 1977.

Sincerely,

JACK I. HELLER.

DEPARTMENT OF STATE,
*Washington, D.C.*

Mr. JACK HELLER,
*Heller and Temple,*
*Washington, D.C.*

DEAR MR. HELLER: I refer to your letter of December 12 as well as previous correspondence on behalf of your client, the Boston Panama Company. You requested that the Department of State take steps against the Government of Panama to invoke all sanctions called for by United States law in the event of an uncompensated expropriation of United States citizen-owned property by a foreign government.

Responsibility for recommending whether United States legislative sanctions should be applied in cases of this kind lies with the Interagency Staff Coordinating Group on Expropriations. This Group, which includes representatives of the Departments of State, Treasury, Commerce, Defense, and other agencies, is charged with examining unresolved investment disputes involving United States citizens and in each case recommending appropriate United States Government action. The Group generally meets once a month.

Accordingly, I have requested that at its next meeting the Group review Boston Panama's dispute and determine either whether invoking lgislative sanctions is warranted or what further steps should be taken at this time.

If you have any additional information you believe would assist in the interagency review, please address it to the Group's Staff Director;

Mr. Michael P. Boerner, Director, Office of Investment Affairs, Room 2533A, Department of State, Washington, D.C. 20520.

We would like to continue our efforts to facilitate a mutually acceptable solution to this matter through direct contact between the parties concerned. We have therefore asked our Embassy in Panama to determine the Government's position in this regard. I hope you will agree that this approach might still be productive if the Government of Panama indicates a willingness to continue discussions.

Sincerely,

TERENCE A. TODMAN,
*Assistant Secretary for Inter-American Affairs.*

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HELLER & TEMPLE,
*Washington, D.C., March 9, 1978.*

Re: Boston-Panama Company
Mr. TERRENCE A. TODMAN,
*Assistant Secretary, Department of State,*
*Washington, D.C.*

DEAR MR. ASSISTANT SECRETARY: I am writing at the request of my client, the Boston-Panama Company to express the dissatisfaction of its officers and shareholders over inexplicable delays in the Department's consideration and disposition of the Company's request that statutory sanctions be applied against the Government of Panama because of that Government's failure to provide compensation for Company assets it has expropriated.

The Department has been aware of this controversy for many years. Our latest request for the application of sanctions was made to the Department on December 12, 1977. We have repeatedly emphasized to Department officials our concern that unless a disposition of this case is made before ratification of the Treaties now pending in the Senate, that the Government of Panama is unlikely ever to meet its obligations under international law to the Company.

Despite these repeated expressions of concern, the Department's lengthy familiarity with the case, and the fact that almost three months have elapsed since we made our request for the application of sanctions, the Department's progress towards achieving the disposition of this case is apparently still in its preliminary phases.

We believe that this desultory performance has materially jeopardized our chances of obtaining compensation due the Company from the Government of Panama.

I look forward to your assurances that this matter will now be vigorously pursued, and further, that once a determination is made that an expropriation has occurred, that the Department will not seek to waive the prompt application of the statutorily prescribed sanctions on either national interest or other grounds.

Sincerely,

JACK I. HELLER.

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DEPARTMENT OF STATE,
*Washington, D.C., April 11, 1978.*

Mr. JACK I. HELLER,
*Heller and Temple,*
*Washington, D.C.*

DEAR MR. HELLER: I am responding to your March 9 letter concerning Boston Panama's request that the United States invoke sanctions against Panama. I hope that the following information will be useful to you.

In response to your letter of December 12, 1977, which requested that statutory sanctions be applied against Panama, the Inter-Agency Staff Coordination Group on Expropriations considered Boston Panama's claim on January 24. The Group decided it would need a legal analysis of the claim before reaching any conclusion as to whether an expropriation had occurred or whether the sanctions requested by the company should be invoked. Responsibility for preparing such a report resides with the Office of the Legal Adviser. That office has presented its preliminary views to the Group and is continuing to pursue the difficult issues of fact and law upon which your case appears to turn. I understand you have been in contact with that office to provide additional documentation. The Department has also been in touch with the U.S. Embassy in Panama and with officials of the Panamanian Embassy in Washington to collect all relevant available information.

Three major areas of inquiry have been identified which the Inter-Agency Group feels must be fully explored before it can render a decision. In general terms, they are:

Was the uncultivated land tax levied against Boston Panama discriminatory in either its assessment or its enforcement?

To the extent that there may have been procedural irregularities in the manner of executing the tax lien, were they so serious as to have denied Boston Panama justice under applicable standards of international law?

Has Boston Panama exhausted all remedies which can be or could have been pursued in Panama?

Because of the nature of the questions involved, and because of the serious effect such a decision will have on all parties involved, it would not be appropriate to reach any decision before having the opportunity to consider the views of the Legal Adviser's Office on these issues.

Sincerely,

TERENCE A. TODMAN,
*Assistant Secretary,*
*Bureau of Inter-American Affairs.*

The PRESIDING OFFICER. The time of the Senator from Nebraska has expired.

Mr. CURTIS. Mr. President, I ask unanimous consent that I may proceed for 1 minute additionally.

The PRESIDING OFFICER. Is there objection?

Mr. SARBANES. I have no objection, Mr. President.

The PRESIDING OFFICER. Without objection, the Senator may proceed for 1 additional minute.

Mr. CURTIS. Mr. President, the parties have pursued the remedy provided by law. It is not adequate. This reservation must be passed for them to be compensated. The State Department has had ample time to promise that they would not waive the power that they have. They have failed to use that power. Tomorrow, without destroying the treaty, with compelling an election to be held in Panama, the Senate will have to take a position that American citizens should be compensated or take a position that it is not necessary. I thank my distinguished colleague for the extra 1 minute.

The PRESIDING OFFICER. The Senator from Maryland has 5 minutes.

Mr. SARBANES. I yield 1 minute to the Senator from Utah.

Mr. HATCH. I am grateful to the Senator from Maryland. I would like to say that I associate myself with the remarks of the distinguished Senator from Nebraska.

Mr. President, as a primary cosponsor of this reservation, I believe one point that must be made in this debate is that expropriation without payment of compensation is not only unjust and contrary to international law, but also it is, in fact, self-defeating and counterproductive for countries such as Panama.

Panama, like all other developing countries, needs private investment in its economy. Often the point has been made that no matter how much money Panama receives from the canal toll revenues, it is going to need the help of private enterprise to build its economy.

Frankly, I can think of nothing which more discourages foreign investment in a country than the fear that one's property may suddenly be seized, and that compensation will be given, if at all, only after years of haggling. Regrettably, in the expropriation of property which have been referred to, and in other acts, the Government of Panama has shown hostility to private enterprise, and I am certain the economy of Panama has suffered as a result.

Thus if this reservation causes the Government of Panama to be more cautious in its attitude toward foreign investment, and to live up to its obligations under international law regarding expropriated property, then I think, in the end, that it will be the people of Panama who will benefit.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I appreciate the Senator from Nebraska inserting the letters into the RECORD. It does clarify that the particular case which has brought forth this proposal involves Boston Panama. I therefore am not going to address the Citricos de Chiriqui Co., which, in fact, has been in contact with the Government of Panama and had been invited to a meeting on April 27 to establish the value to be compensated.

I do not want to bring them into this debate. They were referred to earlier. I think I would like to get them back out

of the debate. I am sure they probably would like to be back out of the debate.

Boston Panama has a claim it thinks ought to be paid. I do not think they ought to come in here now and seek to have it done through a reservation on the treaty. If there was any seeking of a heavy-handed remedy by Boston Panama, that is it.

In 1956, Dominick F. Antonelli and Kingdon Gould Jr. bought a controlling interest in the Boston Panama Co., which owned some 500,000 acres in Panama, much of which was uncultivated. At the time of purchase, they knew of an outstanding uncultivated land tax assesment of approximately $1.8 million; they bought on the assumption that the tax claim could be settled. Although the tax claim was subsequently reduced through administrative procedures to roughly $260,000, Boston Panama never paid and continued to protest the tax on the grounds that it was discriminatorily assessed and improperly calculated. Despite frequent negotiations, no agreement was ever finalized.

In September 1969, the Ministry of Finance decided to sell the land at public auction. In October 1969, the Government of Panama acquired the property as payment for back taxes, Boston Panama received no compensation whatsoever. Efforts of Boston Panama to protest or set aside the sale were either rejected or not acted upon by the Ministry of Finance or the courts.

Since the 1960's the U.S. Government has actively encouraged the Government of Panama to settle the dispute. It has also played a facilitative role in arranging for negotiations which have taken place several times since 1969. In May 1977 our Embassy assisted the company in arranging a meeting with the Panamanian Government's legal advisers. Negotiations were going well, but the meeting ended without an agreement. Boston Panama's counsel subsequently requested the Department of State to invoke legislative sanctions. However, this request was withdrawn when negotiations with the Panamanian Embassy were resumed. In December 1977, Boston Panama's counsel contacted the State Department and reported that because there had been no progress in negotiations with the Panamanian Embassy, he must again request that the State Department invoke legislative sanctions.

Of course, one of the reasons we have these interagency groups is to review these things and not to have a situation in which investors or their attorneys can, as it were, use the Government of the United States as an additional weight or prod in negotiations which are underway.

The Interagency Expropriation group began a review of the claim in January 1978. We also informally urged the Panamanian Government to resume negotiations with the company's representatives. Negotiations between the parties did resume as of February 11, and followup meetings are expected. I understand the Government of Panama has appointed a Presidential Commission, comprised of several cabinet members, to review the claim and conduct discussions with the company.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SARBANES. Mr. President, we have a procedure. We ought to stick to it. We ought to reject this amendment.

The PRESIDING OFFICER. All time having expired—does the Senator from Arizona seek recognition?

UNPRINTED UNDERSTANDING NO. 31

Mr. DECONCINI. Mr. President, I send to the desk an understanding and ask for its immediate consideration.

The PRESIDING OFFICER. The understanding will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI) proposes an unprinted understanding numbered 31.

Nothing in paragraphs 3, 4 and 5 of Article IV may be construed to limit either the provisions of paragraph 1 of Article IV providing that each party shall act, in accordance with its Constitutional processes, to meet danger threatening the security of the Panama Canal, or the provisions of paragraph 2 of Article IV providing that the United States of America shall have primary responsibility to protect and defend the Canal for the duration of this Treaty.

Mr. DECONCINI. Mr. President, the problem has arisen, to me, that article IV of the Panama Canal Treaty has some ambiguity as to the primary responsibility of the United States to defend the canal. Once again, to avoid any misunderstanding between the United States and Panama, or any other country, I find it necessary to clarify particularly paragraph 2. My understanding that is at the desk now, I shall take the liberty to read:

Nothing in paragraphs 3, 4 and 5 of Article IV may be construed to limit either the provisions of paragraph 1 of Article IV providing that each party shall act, in accordance with its Constitutional processes, to meet danger threatening the security of the Panama Canal, or the provisions of paragraph 2 of Article IV providing that the United States of America shall have primary responsibility to protect and defend the Canal for the duration of this Treaty.

What I want is to be sure that the reference to the United States having the primary responsibility to protect and defend the canal is paramount. This understanding makes that very clear.

Mr. President, of all the questions surrounding these treaties, few have troubled me as much as those involving our right to defend the canal. With regard to the period after 2000, the leadership amendments and the reservations attached to the Neutrality Treaty do now, it seems to me, sufficiently protect our right to take all necessary actions in order to protect the canal and keep it open, secure and accessible. With regard to the problem of defense rights under the Panama Canal Treaty, it would, at first glance, appear to be taken care of by the fact that we shall have a military presence in the Canal Zone area for the duration of this century. But, while we are given the "primary responsibility" to protect and defend the canal, it is unclear to me whether we can act independently in carrying out this obligation. Article IV, section 3 of the Panama Canal Treaty provides that:

In order to facilitate the participation and cooperation of the armed forces of both Parties in the protection and defense of the Canal, the United States of America and the Republic of Panama shall establish a Combined Board comprised of an equal number of senior military representatives of each Party.

It then goes on in section 3 to define the Board's function as follows:

The Combined Board shall provide for coordination and cooperation concerning such matters as:

(a) The preparation of contingency plans for the protection and defense of the Canal based upon the cooperative efforts of the armed forces of both Parties.

(b) The planning and conduct of combined military exercises; and

(c) The conduct of United States and Panamanian military operations with respect to the protection and defense of the Canal.

While coordination and cooperation in the preparation of contingency plans and the planning and conduct of combined military exercises are necessary prerequisites for an adequate joint defense of the canal, the treaty also mandates the combined Board to cooperate in the actual defense of the canal. This is certainly a laudable aim. It is also in agreement with the spirit of these treaties. If both Panama and the United States agree that the canal is endangered, then there is no problem.

But what if Panama concludes that it is not in her best interests to participate in defending against a particular action which we interpret as a direct threat to the canal? This phraseology can be construed as giving Panama the ability to veto our right to initiate any action. This, I find unacceptable.

It should be noted that, unlike the Panama Canal Commission, which has a majority of its members representing the United States, the joint board has an equal number of American and Panamanian senior military representatives. Thus, there is the real possibility of a deadlocked decision over whether or not to act to defend the canal. In times of crisis, this could be most detrimental to American interests.

The understanding which I am proposing is meant to deal with this problem. It guarantees that the United States, in carrying out its primary responsibility to protect and defend the canal, can act independently in fulfilling its obligation, by making clear that the joint board's authority in no way impinges on American defense rights.

The treaty proponents have argued that American rights in this area are protected by the provision which holds that:

Such combined protection and defense arrangements shall not inhibit the identity or lines of authority of the armed forces of the United States of America or the Republic of Panama.

I argue, however, that this provision might be construed to apply only after a military action is initiated. It does not, on its face, say that the United States can act independently against a threat to the canal. This understanding is meant to clarify that point.

Mr. President, the question of the exact extent of American rights in this most sensitive and important area has been a continuing source of controversy throughout these debates and, those of us who have proposed clarifications have sometimes been accused of somehow wishing to subvert the spirit of these treaties. Such is certainly not true in my case. I strongly endorse the concept of United States-Panamanian cooperation in this vital area. However, I have insisted all along that the responsibility conferred by the treaty upon our Government must be accompanied by an equivalent grant of authority to take all necessary and appropriate actions. It is with this in mind, that I commend this understanding to my colleagues.

Mr. President, I am prepared to have a voice vote on the understanding.

Mr. SARBANES. Mr. President, the understanding goes to the question which has been raised that the provisions in sections 3, 4, and 5 of article IV, which provide for a combined board between the United States and Panama by which we will consult and seek to develop cooperative protective and defense arrangements, somehow limits the provisions of sections 1 and 2 of article IV. This understanding is meant to clarify the fact that that is not the case, and I think a careful reading of article IV would indicate that that is not the case, although I can appreciate that the language with respect to the combined board contained in sections 3, 4, and 5 and the notion of coordination and cooperation in various matters may raise the question. What the understanding says is that nothing in paragraphs 3, 4, and 5 or article IV may be construed to limit the provisions of paragraph 1 of article IV or paragraph 2 of article IV. I should like to read those two paragraphs, because I think it does underscore the fact that the coordinating or the combined board does not, and this understanding makes that even clearer, does not impinge upon or limit those provisions.

Section 1 provides that "The United States of America and the Republic of Panama commit themselves to protect and defend the Panama Canal. Each Party shall act"—and I underscore "each party"—

> In accordance with its constitutional processes, to meet the danger resulting from an armed attack or other actions which threaten the security of the Panama Canal or of ships transiting it.

Section 2 provides:

> For the duration of this treaty, the United States of America shall have primary responsibility to protect and defend the Canal.

As the understanding states, it is designed to insure that nothing in paragraph 3, 4, and 5 of article IV—those are the paragraphs that deal with the combined board and the efforts of cooperation and coordination—that nothing in those paragraphs may be construed to limit either the provisions of paragraph 1 of article IV, providing that each party shall act in accordance with its constitutional processes to meet danger threatening the security of the Panama Canal, or the provisions of paragraph 2 of article IV, providing that the United States of America shall have primary responsibility to protect and defend the canal for the duration of this treaty. The treaty is clear that the United States has primary responsibility to protect and defend the canal and, in section 1, that each party shall act in accordance with its constitutional processes to meet danger threatening the security of the Panama Canal.

The understanding addresses the question that may be raised, that the subsequent paragraphs 3, 4, and 5, providing for the combined board and for coordination and cooperation somehow limit those two paragraphs. That is not the case, and the understanding is designed to make that clear. I am prepared, therefore, to go to a vote on the understanding.

The PRESIDING OFFICER. The question is on agreeing to the understanding.

The understanding was agreed to.

Mr. SARBANES. I move to reconsider the vote by which the understanding was agreed to.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP RESERVATION NO. 32
(SUBSEQUENTLY NUMBERED RESERVATION NO. 20)

Mr. DECONCINI. Mr. President, I send to the desk a reservation and ask for its immediate consideration.

The PRESIDING OFFICER. The reservation will be stated.

The assistant legislative clerk read as follows:

> The Senator from Arizona (Mr. DECONCINI) proposes unprinted reservation numbered 32.
>
> Strike out the period at the end of the resolution of ratification and insert in lieu thereof a comma and the following: "subject to the following reservation, which is to be made a part of the instrument of ratification to the Treaty:
>
> "Notwithstanding any other provisions of this Treaty, no funds may be drawn from the United States Treasury for payments under Article XIII, paragraph 4, without statutory authorization."

Mr. DECONCINI. Mr. President, while the question of American defense rights dominated the debates over the Neutrality Treaty, the questions concerning the economic implications of the Panama Canal treaties have been of primary concern to many of us over the last 4 weeks. I am cosponsoring an amendment which provides that the $10 million annual payment due Panama from surplus canal revenues will not accumulate over the next 22 years. This will prevent our owing Panama a $220 million lump sum payment at the termination of the basic treaty. But other problems still remain.

Of particular concern to me is the question of the U.S. Government's responsibility in meeting those obligatory payments set in article XIII, paragraph 4 of the Panama Canal Treaty. Under these provisions, Panama is expected to receive some $50 to $70 million annually. The administration has continually assured us that the pact does not obligate the United States to pay Panama any of these funds from the Treasury and that toll revenues will be sufficient to meet those financial obligations mandated by the treaty.

Yet the possibility of a deficit in canal operations, particularly after 1985, cannot be overlooked. According to a number of scholars, we are legally obligated to keep the canal open and operating. The general consensus appears to be that with toll increases and sufficient amounts of Alaskan oil, the canal will be solvent through 1984. Most analysts, however, do not want to project beyond that because there are too many unknowns, particularly technological developments in other modes of transportation. Dr. Ely Brandes, the authority who has written most extensively on canal toll matters, argues that his studies show that a toll increase of 25 percent would increase revenues by 19.6 percent; one of 50 percent, by 33 percent; and one of 75 to 100 percent would increase revenues the most—40 percent. Beyond this the concept of diminishing returns comes into play: Revenues will most likely drop because shippers will find alternative routes.

Furthermore, the construction of oil pipelines in the United States, or even in other parts of Latin America, such as the one proposed for Gautemala, could divert Alaskan oil bound for the east coast and thus upset the economic projections upon which many of the studies of the canal's economic viability are based.

If canal transits do fall short of what is currently estimated and there is a shortfall in revenues, then, according to Elmer Staats, the Comptroller General:

> The United States Government is likely to be required to provide financial assistance either through congressional appropriations or by allowing the commission to borrow from the United States Treasury.

This is the eventuality which concerns me and many American citizens the most—and it is this possibility which suggests the need for the present reservation. The reservation states:

> Notwithstanding any other provisions of this Treaty, no funds may be drawn from the United States Treasury for payments under Article XIII, Paragraph 4, without statutory authorization.

This provision assures, in a way that I feel the treaty does not, that in the event of a deficit, any payments made by the Panama Canal Commission which do not come from tolls but are necessary to keep the canal open and operating efficiently, will not be made without specific congressional authorization and appropriation. This will allow Congress, particularly through its oversight function, to exercise some discretion in determining where cost savings and operating improvements might be made. Thus, the taxpayers' interest in seeing that funds are used most efficiently will be protected.

Mr. President, one of the dominant images that Americans have with regard to these treaties is that we are paying the Panamanians to take the canal. You and I know that this is not correct, although they are gaining an enormously valuable economic resource. However, the rhetoric which has surrounded the treaties, particularly in the administration's attempt to show that these treaties

were the best which could be negotiated, important facts were not always made abundantly clear. Among these was the whole question of costs to the U.S. taxpayer incurred under the treaties. While it is no doubt technically true that toll revenues will be used for paying Panama and for operating the canal, it does not appear to be true, as Secretary Vance told the Senate Foreign Relations Committee, that—

> The treaties require no new appropriations nor do they add to the burdens of the American taxpayer.

Leaving out for a moment the $440 million in foregone interest payments, direct appropriations of some $318 million will most likely be paid out for early retirement and Department of Defense programs. This is a substantial sum and does put an extra burden on the taxpayer.

Mr. President, given the controversy then, which has surrounded this whole question, you must understand my being hesitant in accepting the position that this reservation is unnecessary—that congressional authorization is expected under the new arrangement. If any Treasury payments are to be made, I want an ironclad guarantee that Congress will make them. My reservation provides that guarantee, and I thus commend it to my colleagues.

Mr. President, I ask for the yeas and nays on this reservation.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SARBANES. Mr. President, I understand that under the unanimous-consent request that the yeas and nays on the Senator's amendment have been scheduled for tomorrow morning, at what time? At 10:55 tomorrow morning?

Mr. DECONCINI. That is agreeable.

Mr. SARBANES. We are going to a vote. There will not be debate then. I simply want to say the Senator is addressing himself here to an important issue.

The PRESIDING OFFICER. The yeas and nays have been ordered to be held, according to the previous order of the Senate, at 10:55.

Mr. SARBANES. I thank the Chair.

Mr. CURTIS. Mr. President, reserving the right to object, may I inquire and direct a question to the distinguished Senator from Arizona, does this matter now offered have anything to do with the——

The PRESIDING OFFICER. The Chair will remind the Senator from Nebraska there is no request for unanimous consent at this time.

Mr. CURTIS. Then, Mr. President, I ask the distinguished Senator to yield to me for a question.

Mr. DECONCINI. I yield to the Senator from Nebraska.

Mr. CURTIS. I would like to inquire, does the matter now offered by the distinguished Senator from Arizona have anything to do with the DeConcini reservation to the first treaty?

Mr. DECONCINI. I would have to ask the Senator from Nebraska to define anything to do with the DeConcini amendment.

This does not apply or make any reference to the Neutrality Treaty.

Mr. CURTIS. Does it modify in any way the DeConcini reservation?

Mr. DECONCINI. No. To my judgment, it does not, and I would not support it if it did, or offer it.

Mr. CURTIS. I thank the Senator.

Mr. SARBANES. Mr. President, the amendment which the Senator from Arizona has offered deals with the question of payments under article XIII, paragraph 4. It is my view that those payments are to come solely from tolls and toll revenues and that that is the only source to which we would look for those payments. But this amendment is to guard against the possibility, as I understand it, that someone would contend that funds had to come from the Treasury to meet those payments. Therefore, it specifically provides that no such funds could be drawn from the Treasury without statutory authorization. It prevents that from happening in any automatic fashion and requires statutory action in order to do that.

In that regard, it seems to me that the amendment is an appropriate safeguard. Therefore, I intend to support the amendment when it comes before the Senate tomorrow morning for a vote.

Mr. CURTIS. Mr. President, Citricos de Chiriqui, S.A. ("Citricos") was established on November 11, 1960, as a Panamanian company located in the Province of Chiriqui, Republic of Panama, and was wholly American-owned and controlled. The purpose of establishing Citricos was to develop and operate a citrus plantation in Panama and to process orange juice into concentrate for export to world markets.

Approximately 11,000 acres of land were acquired from private sources on which more than 370,000 citrus trees were planted and a citrus concentrate plant and attendant facilities were constructed having a capability of producing 450,000 gallons of concentrate per year. Over $17,500,000 in private funds was expended in this effort between 1962 and 1974.

Because of adverse agricultural and economic conditions, Citricos reluctantly determined in 1974 that it could not continue operations, and it so informed the Government of Panama by letter dated September 17, 1974, in accordance with the terms of an agreement previously entered into with that Government. Thereupon Citricos and the Government entered into negotiations with respect to the orderly termination of operations by Citricos, severance payments by Citricos to its workers, which was done, and the possible transfer of the assets of Citricos to the Government of Panama for a term of 1 year, without cost to the Government, in order for the Government to determine whether it was feasible for it to purchase the Citricos assets at the end of that time and continue operations.

In early December 1974, the Government unilaterally terminated those negotiations and the President of Panama issued decree No. 119 on December 5, 1974, pursuant to which it physically seized all of the Citricos facilities and assets. Thereafter, from time to time, certain Panamanian Government officials participated in negotiations with Citricos for purposes of arriving at a fair price to be paid for the seized property. On September 11, 1975, the Government offered to pay United States $3,847,968 in full settlement, which offer was refused by Citricos. Two weeks later, on September 25, 1975, the Government, through its vice president, Mr. Gerardo Gonzales, who had been charged by General Torrijos with negotiating a fair price, revised the offer upward to United States $5.9 million. Citricos accepted this offer, subject to working out details of the method of payment. The Government of Panama subsequently reneged on this commitment, and in June 1976, 9 months later, the Government of Panama, acting through its Minister of Planning and Economic Policy, Mr. Nicolas Ardito Barletta, at the direction of General Torrijos, offered to settle for the total sum of United States $1 million. This offer was summarily rejected by Citricos. Since September 1975, the Government of Panama failed to engage in any serious or good faith negotiations with representatives of Citricos until after representations on behalf of Citricos were made to the U.S. Department of State in December 1977.

BOSTON-PANAMA CONTROVERSY

This controversy between the Government of Panama and the Boston-Panama Co. is one among several in which that Government has refused to pay compensation for assets which it has expropriated. Although sporadically entering into settlement negotiations in the past, the Government has been unwilling to sustain these talks, and currently appears to have no serious intention of equitably settling the matter.

General Torrijos, in the populist euphoria of the early days of his rule, announced on national television, radio, and in the press in mid-October 1969, that he had "confiscated" the company's land.

To accomplish this confiscation, the Government illegally, and without notice to the company, first substituted the company's attorney of record (registered on the National Registry) with a Government attorney. Next, without notice to the company, ostensibly acting for the company, this attorney facilitated a tax foreclosure by the Government of the company's properties. Upon learning of these events, the company's actual counsel attempted to stay these unlawful proceedings through petitions to all of the courts and tribunals, including the Supreme Court, with jurisdiction in such cases. Contrary to law, and presumably under political duress, the courts and tribunals refused to accept his petitions. Subsequent petitions, letters, and telegrams to the courts and relevant Government officials requesting that the company be permitted to examine the foreclosure documents (and the assessments which underlay them) were also ignored. The company has never been served, nor seen, these documents.

The underlying controversy was based upon a tax assessed upon the company's land in 1949 pursuant to the "Uncultivated Land Tax." This very old tax, al-

ways a dead letter in Panamanian law, has never been enforced except for collections of $216 in 1954, $88 in 1957, $2,700 in 1958, and $100 in 1959. The tax billed against the company's property in 1949 was $2,935,726. This discriminatory levy resulted directly from the tax denunciation of an attorney then representing parties interested in purchasing the company's land.

Apart from being wholly discriminatory, the tax levied was plainly unlawful. The levy ignored the statutory exemptions formula which exempts property according to the amount of land in use, in woodlands, et cetera.

The company long ago exhausted all of its administrative and legal appeals.

Mr. President, I would again point out that the reservation I have offered provides that the claim must be found by the Secretary of State of the United States to be compensable under international law.

UNDERSTANDING NO. 7

Mr. SARBANES. Mr. President, I call up understanding No. 7, proposed by Mr. SPARKMAN.

The PRESIDING OFFICER. The understanding will be stated.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. SARBANES), for Mr. SPARKMAN, proposes understanding No. 7:

Before the period at the end of the resolution of ratification insert a comma and the following: "subject to the following understanding:

"Any agreement concluded pursuant to article IX, paragraph 11 with respect to the transfer of prisoners shall be concluded in accordance with the constitutional processes of both parties".

Mr. SARBANES. Mr. President, I ask unanimous consent to have printed in the RECORD a statement from the report of the Committee on Foreign Relations dealing with this matter, concerning prisoner transfer agreements, and explaining in detail the understanding, which makes clear that any such agreement shall be concluded in accordance with the constitutional processes of both countries.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

C. UNDERSTANDING REGARDING THE REQUIREMENT TO CONCLUDE A PRISONER TRANSFER AGREEMENT (ARTICLE IX (11), PANAMA CANAL TREATY

The Committee recommends that the resolution of ratification to the Panama Canal Treaty be amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "subject to the following understanding:

"Any agreement concluded pursuant to article IX, paragraph 11 with respect to the transfer of prisoners shall be concluded in accordance with the constitutional processes of both parties."

STATEMENT OF INTENT

Article IX (11) of the Panama Canal Treaty provides as follows:

11. The Parties shall conclude an agreement whereby nationals of either State, who are sentenced by the courts of the other State, and who are not domiciled therein, may elect to serve their sentences in their State of nationality.

The Committee intends, through the above understanding regarding this provision, to make clear (1) that any agreement negotiated on this subject be submitted to the Senate as a treaty for its advice and consent to ratification; and (2) that should the Senate not give its advice and consent to the ratification of such an agreement, the United States will not be in violation of this provision.

As paragraph 11 of article IX is drafted, it can be construed as authority for the President to enter into a prisoner transfer agreement with Panama as an executive agreement. This, in the Committee's judgment, would be undesirable; United States practice with respect to such agreements, limited though it is, has been that they be concluded as treaties. Sound policy reasons underlie this procedure. Prisoner transfer arrangements are significant international agreements; they involve important foreign policy judgments regarding the criminal justice systems and human rights practices of the countries proposed as parties to such arrangements. The Treaty Clause requires that, normally, significant international commitments be made with the concurrence of two-thirds of the Senate. Acting on the basis of this sole constitutional authority, the President would be without the power to enter into such an agreement. By removing any possibility that this provision may be relied upon as a source of authority for the conclusion of such an agreement, and by requiring that the agreement be entered into "in accordance with the constitutional processes" of the United States, this addition to the resolution of ratification will state the understanding of the Senate that any such agreement must be submitted to the Senate as a treaty, which is the mode contemplated by our "constitutional processes".

The understanding will, moreover, clarify the international commitment undertaken by the United States in this provision. As paragraph 11 has been drafted, it could be construed as requiring the United States to enter into a prisoner transfer agreement, and would thereby place the United States in violation of this treaty should the United States elect not to do so. Obviously, the authority of the Senate to advise and consent to a treaty is meaningless if it is required to be given; the authority to disapprove is implied if our "constitutional processes" are to be upheld. The effect of the reference to "constitutional processes" is thus to make clear that a right of choice is maintained. Although this understanding should not be interpreted as suggesting a disinclination to advise and consent to such a treaty, paragraph 11 should not be construed, pursuant to it, as circumscribing the authority of the Senate to exercise the full measure of its constitutional discretion.

Mr. SARBANES. Mr. President, I am prepared to vote on the understanding.

The PRESIDING OFFICER. The question is on agreeing to the understanding.

The understanding was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the understanding was adopted, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNDERSTANDING NO. 10

Mr. SARBANES. Mr. President, I call up understanding No. 10, for Mr. SPARKMAN.

The PRESIDING OFFICER. The understanding will be stated.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. SARBANES), for Mr. SPARKMAN, proposes understanding No. 10:

Before the period at the end of the resolution of ratification insert a comma and the following: "subject to the following understanding:

"The President shall include all amendments, reservations, understandings, declarations, and other statements incorporated by the Senate in its resolution of ratification respecting this Treaty in the instrument of ratification exchanged with the Government of the Republic of Panama".

Mr. SARBANES. Mr. President, this understanding, providing that the President shall include all amendments, reservations, understandings, declarations, and other statements incorporated by the Senate in its resolution of ratification, in the instrument of ratification exchanged with the Government of the Republic of Panama, was included as an understanding to the prior treaty and was adopted by the Senate without any dissent.

I ask unanimous consent that material from the report on the Committee on Foreign Relations discussing this understanding be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

F. UNDERSTANDING REQUIRING THE INCLUSION OF SENATE ACTIONS IN THE INSTRUMENT OF RATIFICATION OF THE PANAMA CANAL TREATY

The Committee recommends that the resolution of ratification of the Panama Canal Treaty be amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "subject to the following understanding:

"The President shall include all amendments, reservations, understandings, declarations and other statements incorporated by the Senate in its resolution of ratification respecting this Treaty in the instrument of ratification exchanged with the Government of the Republic of Panama."

STATEMENT OF INTEREST

The Committee intends, through the above understandings which it recommends be added to the resolutions of ratification of each treaty, to make clear that any material included by the Senate in its resolution of ratification for each treaty be included in the instrument of ratification for that treaty given to the government of the Republic of Panama.

This understanding has its origins in assertions made by representatives of the Department of State, following Senate approval in 1976 of the resolution of ratification respecting the Treaty of Friendship and Cooperation Between the United States and Spain, that the President possessed the authority to exclude from the instrument of ratification respecting that treaty the five-part declaration attached by the Senate to that resolution of ratification. (Members of this Committee advised that, in their judgment, no such discretion existed the declaration was incorporated by reference in the instrument of ratification, although its text was set forth in an annex to the instrument.)

It remains the position of the Committee that the President is without such authority. Although the Treaty Clause of the Constitution does not expressly address this question, neither does it expressly authorize the Senate to condition its advice and consent to treaties. Traditional United States practice has nevertheless been that the Senate may grant its approval conditionally, just as traditional United States practice has been that, when conditions are attached, those conditions are transmitted as an integral part of the instrument certifying Senate and Presidential approval. That such conditions must be so included is as much a part of

customary constitutional law in this country as the right of the Senate to grant conditional consent.

Accordingly, it is not the intent of the Committee to recommend the inclusion of an understanding such as this as a part of the resolutions of ratification respecting future treaties. The Committee was pleased to receive the assurance of the Department of State that the United States instruments of ratification of the Panama Canal Treaties would include all amendments of the treaties and of the resolutions of ratification that the Senate includes in the resolutions of ratification (letter from Douglas J. Bennett, Assistant Secretary for Congressional Relations, to John J. Sparkman, Chairman, Committee on Foreign Relations, January 26, 1978; hearings, part 5). The Committee does not doubt the Administration's good faith; it hopes that future presidents will adhere to this Administration's position, and thus wishes to establish no precedent with the recommended understandings. Nevertheless, the Committee believes that these understandings should be added to the resolutions of ratification respecting both treaties as a firm demonstration that the Senate will not countenance any interference with its constitutional prerogative of advice and consent and will take steps to counteract such interference on the part of any future Administration.

Mr. SARBANES. Mr. President, I am prepared to vote on the understanding.

The PRESIDING OFFICER. The question is on agreeing to the understanding.

The understanding was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the understanding was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mr. SARBANES assumed the chair.)

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the order for the quorum will be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANNOUNCEMENT OF POSITION ON LONG AMENDMENT NO. 99

Mr. DOLE. Mr. President, earlier today the Senate considered the so-called Long reservation No. 99 and also the Heinz reservation, and the Senator from Kansas was attending a funeral for a member of his family and was unable to be here.

Had I been present I would have certainly supported the amendment to the Resolution of Ratification offered by the distinguished Senator from Louisiana (Mr. LONG).

Mr. President, I want to take a few moments to speak in support of the amendment to the resolution of ratification offered by the distinguished Senator from Louisiana, Mr. LONG.

This proposal is similar in purpose to the treaty amendment I offered 1 week ago, in that it would eliminate the restriction that prevents the United States from negotiating with any country other than Panama, for the right to construct a new interoceanic canal in the Western Hemisphere. At the same time, it eliminates the corresponding provision which purports to prevent Panama from allowing any country other than the United States to build a new canal through her territory.

While I would have preferred to see this important amendment adopted to the treaty itself, rather than to the separate resolution of ratification, the Long amendment should satisfy this Senator's concern so long as both parties agree to abide by resolution modifications as well as treaty amendments.

The Dole amendment, which received 40 Senate votes on April 10, was resisted by the administration and protreaty floor managers primarily because it was offered as a direct amendment to the language of the treaty. However, because there is such widespread concern about the restrictions placed upon the United States in article XII, I remain hopeful that we may have enough votes to adopt the same principle now as a treaty reservation, or "amendment" to the resolution of ratification.

THREE PROBLEMS

As I indicated on April 10, the Senator from Kansas feels there are at least three major problems involved with paragraph 2 of article XII, which has originally initiated by the Carter administration during treaty negotiations last year.

First, the mutual commitment is not balanced. Under article XII, the United States clearly cannot negotiate with any country other than Panama for a new canal site, unless Panama specifically authorizes us to do so. The Panamanian commitment, on the other hand, is imprecise and open to differnt interpretations. General Torrijos interprets the Panamanian commitment as giving "priority (not exclusiveness, for the building of a sea-level canal" to the United States. He says we are only given "the first option," and if for any reason we do not take that option at the time it is offered, Panama may let any other nation construct a new canal through her territory.

The second major flaw is this: Even if the United States does decide it wants to build a new canal in Panama during the next 22 years, Panama is under no obligation to permit it. My colleagues should note that article XII does not guarantee the United States a unilateral right to decide to build a new canal in Panama. In such a situation, we are stuck with the fact that we cannot build a new interoceanic canal anywhere other than Panama, and yet we cannot build a canal in Panama because Panama objects.

The third major flaw is that no other country in the world is bound, as the United States will be, from constructing a new interoceanic canal anywhere it wants in the Western Hemisphere. If the Soviet Union or the Arabs or any other nation should decide to build a new canal through Nicaragua or Colombia—for either economic or strategic reasons—they would naturally be free to make the appropriate gestures to the country in issue. The United States could not, because of this commitment in article XII. We would not even have the right to propose a competitive offer to Nicaragua or Colombia.

BASIC QUESTIONS

Why, then, should we voluntarily bind ourselves, as no other nation in the world is bound? Most Americans probably agree that it would be ridiculous to even think of building a new canal in Panama after all the trouble we have been given over the present one. But, even if we wanted to build a new canal through Panama for any reason, it would work to our advantage to have freedom to negotiate. It would provide us leverage in bargaining with Panama over construction costs and conditions.

Mr. President, all of the elements of good sense suggest that we should eliminate this restriction from the treaty. There is not likely to be any significant objection from the Panamanian Government over this move, for the Panamanian Government has already indicated that it does not like this "quid pro quo" arrangement either. So I just suggest that the Senate should adopt this modification, and thereby act on behalf of America's own interests in this situation.

Mr. President, I ask unanimous consent that the RECORD reflect that had I been present the Senator from Kansas would have voted "aye" on the so-called Long amendment and "aye" on the amendment of the distinguished Senator from Pennsylvania, Senator HEINZ.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. Mr. President, over the past several months my constituent, Mr. Charles H. Breecher of Rehoboth Beach, has done a great deal of work on the question of the constitutionality of the Panama Canal Treaty. His study has led him to conclude that this treaty, if ratified, would eventually be declared unconstitutional by the Supreme Court and that the draft implementing legislation fails to correct its glaring constitutional defects.

In an address before the School of Law of the Washington and Lee University on March 2, Mr. Breecher outlined his views on three principal constitutional issues: First, the disposition of property issue; second, the "purse strings" issue, that is, the question of the role of Congress in appropriating payments by the Panama Canal Commission to Panama; and third, the "citizenship" issue, regarding the constitutionality of the appointment process of Panamanians to the Panama Canal Commission.

Because the third of three issues had not received much attention in the debate, I asked the Congressional Research Service to prepare an analysis of Mr. Breecher's arguments, and I also asked the Department of State for comments. I regret to say that the Department of State has so far failed to respond to my request.

So that all Senators may have an opportunity to acquaint themselves with the implications of the "citizenship issue" prior to the April 18 vote on this treaty, I ask unanimous consent that there be printed in the RECORD an excerpt on this question from Mr. Breecher's address at the Washington and Lee University, a copy of the CRS's analysis, and a related study on the constitutionality of limiting the scope of the President's

choice in nominating officers, a copy of comments on the CRS analysis by Mr. Breecher, and a statement by Mr. Breecher summarizing his arguments regarding the constitutionality of this treaty.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXCERPT FROM AN ADDRESS, "ARE THE PANAMA CANAL TREATIES CONSTITUTIONAL?"

(By Charles H. Breecher)

But now let me come to the third cluster of issues which I call the Citizenship issue, and let me say right away that in my view nothing can cure that one except a basic revision of the treaties. Also, if I may be pardoned to whet your appetite, none of the reasonably numerous and prominent lawyers with whom I have discussed that issue in the last few weeks has yet offered me any counterargument.

Let me read to you Art. III Sec. 3 (a) of the Panama Canal Treaty : It provides for a United States Government Agency of nine members called the Panama Canal Commission . . . and now I quote: four of whom shall be Panamanian nationals proposed by the Republic of Panama for appointment to such positions by the United States of America in a timely manner:. End quote. The U.S. can apparently not reject such Panamanian nominees for appointment and can remove them only, and here I shall quote again "after consultations in advance in order to reach agreement on such removal".

Now if this language in the treaty means anything, it means that the President of the United States can only appoint the nominees of the Panamanian Government, that he must appoint them "in a timely manner," that the United States Senate cannot reject or bottle up their appointment, and that the President cannot remove them without the consent of the Panamanian Government. Agreed?

Let us repeat that we are talking here about a United States Government Agency. We are not talking about some mixed Commission or about some private corporation. To give you an idea about the level of the appointees, on page 430 in the Hearings I cited, Part I, Richard Cooper, our Under Secretary of State says that he and the Under-Secretary of the Treasury, Anthony Solomon, would be two of the five U.S. members of that Commission, which is the Governing Board of the Panama Canal Commission, appoints the General Manager, fixes the tolls and exercises other Governmental functions.

This particular provision of the Panama Canal treaty then raises some fascinating questions under the U.S. Constitution:

Article II, Sec. 2, clause 2 of the Constitution provides that the President shall appoint all officers of the United States, with the advice and consent of the Senate. The Panama Canal Treaty restricts this right of appointment and advice and consent to a purely ministerial function. Can the President's right to appoint be so restricted by Treaty? Can the right of the Senate to give advice and consent? Can the recognized right of the President to remove officers of the United States be restricted?

Can an alien, particularly a non-resident alien, be appointed an officer of the United States? The Constitution prescribes various length of citizenship requirements for the President and Vice President, Senators and Representatives, but is silent on civil and military officers. U.S. Government practice is well known to restrict appointments to citizens, until recently various jobs were not even open to naturalized citizens until they held citizenship for a certain number of years, and to my knowldge that's still true of the U.S. Foreign Service. As to the constitutional requirement, though not spelled out, Art II Section 4 says: ". . . all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors." How can an alient commit treason? How can the U.S. which has no jurisdiction over a non-resident alien, convict him of bribery, high crimes and misdemeanors? It seems to me that the Constitution does not envisage aliens, particularly non-resident, as civil officers of the United States.

Further, the 5th and 14th Amendment protects the privileges and immunities of citizens of the United States and forbids depriving them of property without due process of law. These provisions raise the constitutional question whether United States citizens, you and me, can be excluded from consideration for appointment to the Panama Canal Commission because they are U.S. citizens and not Panamanian nationals. Can it be made a condition for appointment to a U.S. Government Agency that the prospective appointee not be a U.S. citizen, but the citizen of a foreign country?

Without wanting to belabor the point too long, similar questions arise under Art. III, Sec. 3 (c) and (d) with regard to the Administrator or Deputy Administrator of the Canal Commission, with appointment restricted to Panamanian nationals. Then there is Art. X, par. 2 of the Panama Canal Treaty that establishes a system of preference for Panamanian nationals, to be employed by a United States Government Agency. Will this system stand up as due process under the U.S. Constitution, although it discriminates against U.S. citizens because of their citizenship? I respectfully question it.

Now this citizenship issue (so-called) is not just a legalistic point. What's involved in practice, is the defacto control of the Panama Canal Commission. As a practical matter, can you imagine all five U.S. appointees, including the ex officio U.S. Government appointees, standing fast against Panamanian demands? Say for sharply increased tolls? Or for hiring more Panamanians?

Let me conclude by saying what I think would be the worst of all possible worlds as far as the Panama Canal is concerned. Say the U.S. Senate ratifies, the treaties go into effect, and then the first shipowner charged increased tolls sues on the grounds that the Commission imposing the tolls is illegally constituted. I submit he would have a good chance to win, and the Supreme Court would declare the Panama Treaties unconstitutional. Then what? The Treaties still stand in international law under the Vienna Convention on Treaties of 1969, whether or not that one has been finally ratified by the U.S., but are invalid in U.S. municipal law.

It would seem that before any more consideration is given to the Panama Canal Treaties, the Senate and the Administration should assure themselves that they could with reasonable assurance pass a court test. Constitutional questions have been raised, I hope jurists will agree that they are not frivolous, and indeed that you will. The next step should be for the Attorney General of the United States to give his opinion if and why the treaties are constitutional with regard to the issues outlined. The Senate and Administration will then be in a better position to judge what to do and what risks are acceptable.

Thank you very much for your attention and interest.

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MARCH 27, 1978.

To Honorable William V. Roth; Attention: Charles Morrison.

From American Law Division.

Subject Constitutionality of Proposed Panama Canal Commission

The following information is submitted in response to your request for an analysis of the constitutional arguments presented by your constituent, Charles Breecher, in opposition to the proposed Panama Canal Commission which would be established under Article III, § 3 of the Panama Canal Treaty.

The language in question provides:

ARTICLE III

*Canal operation and management*

3. Pursuant to the foregoing grant of rights, the United States of America shall, in accordance with the terms of this Treaty and the provisions of United States law, carry out its responsibilites by means of a United States Government agency called the Panama Canal Commission, which shall be constituted by and in conformity with the laws of the United States of America.

(a) The Panama Canal Commission shall be supervised by a Board composed of nine members, five of whom shall be nationals of the United States of America, and four of whom shall be Panamanian nationals proposed by the Republic of Panama for appointment to such positions by the United States of America in a timely manner.

(b) Should the Republic of Panama request the United States of America to remove a Panamanian national from membership on the Board, the United States of America shall agree to such request. In that event, the Republic of Panama shall propose another Panamanian national for appointment by the United States of America to such position in a timely manner. In case of removal of a Panamanian member of the Board at the initiative of the United States of America, both Parties will consult in advance in order to reach agreement concerning such removal, and the Republic of Panama shall propose another Panamanian national for appointment by the United States of America in his stead.

Mr. Breecher has raised several objections to the above provisions. Basically he feels that they violate the "Appointments Clause" of the Constitution (Art. II, Sec. II, cl. II) and also that it would be unconstitutional for a foreign national to serve on a U.S. agency such as that envisioned above.

As a preliminary point it should be noted that the treaty specifically provides that the Commission "shall be constituted by and in conformity with the laws of the United States of America." Also, if the treaty is adopted, implementing legislation, again in conformance with U.S. law, must be enacted before the Commission can come into existence. But even at this point it does not appear that any serious constitutional challenge can be raised to the quoted language.

The Appointments Clause provides:

The President shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States whose Appointments are not herein otherwise provided for, and which shall be established by Law; but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

Thus this clause specifically provides that the President may by law be authorized to appoint officers without Senate consent (as provided in the treaty, and, presumably, in its implementing legislation). A Congressional Research Service multilithed report, "Statutory Positions Requiring Appointment by the President Showing Term, Compensation, and Any Other Special Provisions" (No. 76–26A, 586/226; January 1976) lists literally hundreds of Presidential appointments where no Senate confirmation is required. These include the Chairman and members of the Postal Rate Commission (39 U.S.C. § 3601); and members of the National Transportation Safety Board (49 U.S.C. § 1902). In most instances Congress would be free to require Senate confirmation of such appointees; see, for example, 28 U.S.C. § 532, enacted 82 Stat.

236 (1968), requiring Senate confirmation of F.B.I. Directors following the end of J. Edgar Hoover's term. This option might not be available with regard to members of the Panama Canal Commission without amending the actual treaty.

There is similarly no requirement that "Officers" of the United States be United States citizens. In its discussion of the Appointments Clause, "The Constitution of the United States of America—Analysis and Interpretation" (S. Doc. 92–82) notes that Congress may establish a "great variety" of qualifications for a particular office, including citizenship (see discussion at 523–24). U.S. citizenship is in fact required for holding many positions, such as Federal Aviation Administration Administrator (49 U.S.C. § 1652(e)) or General Trustees of the John F. Kennedy Center for the Performing Arts (72 Stat. 1698, 78 Stat. 4). The citizenship requirement may be added to other offices, as well. But nothing mandates that this be done.

Also, again depending to some extent on the implementing legislation, it is possible that the Panamanian members of the Commission would not be considered as "Officers of the United States" at all, if the Panama Commission is considered to be more of a Joint [i.e., intergovernmental] Commission. (It is stressed that this would have to be set forth in the implementing legislation.) For example 22 U.S.C. § 2281 establishes Joint Commissions on Rural Development. Each such commission is composed of one or more citizens of the United States appointed by the President and one or more citizens of the country in which the Commission is established, but a majority of the members of each such Commission must be citizens of the country in which it is established. No removal procedures are specified, whereas under the Panama treaty the United States and Panama would negotiate over the removal of a Panamanian citizen the United States found objectionable. Members of joint commissions retain their loyalty to their country of citizenship while working together on questions of mutual concern.

The only provision which we would foresee as possibly vulnerable to an attack on constitutional grounds would be that which requires the President to name members of the Commission "proposed by the Republic of Panama". Earlier this year a constitutional objection was made to a provision in S. 1437, 95th Congress, the Criminal Code Reform Act of 1977, which would require the President to appoint three members of the United States Sentencing Commission from a list of seven names to be submitted to him by the National Judicial Conference as violating the Appointments Clause (124 Congressional Record, Daily Edition, pp. S.281–8, 1/27/78). Although this question has never been considered by the judiciary, a Congressional Research Service report, "Constitutionality of Limiting the Scope of the President's Choice in Nominating Officers," dated January 30, 1978, concludes, "We think that the courts would answer this question [as to the unconstitutionality of the appointment process] in the negative" (p. 1). We are enclosing a copy of this report because of its lengthy Appointments Clause discussion and possible application to the Panama treaty.

Mr. Breecher's comments are herewith returned. We hope this information will prove helpful.

RITA ANN REIMER,
*Legislative Attorney.*

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CONSTITUTIONALITY OF LIMITING THE SCOPE OF THE PRESIDENT'S CHOICE IN NOMINATING OFFICERS

Chapter 38 of S. 1437, the Criminal Code Reform Act of 1977, proposes the creation of a United States Sentencing Commission which would have the responsibility of establishing sentencing policies and practices for the entire Federal criminal justice system. As originally reported, three of the seven members of the Commission would have been appointed by the Judicial Conference of the United States. A constitutional objection was raised during Senate floor consideration of this reported provision on the ground that the method of appointment did not comply with the requirements of Article II, section 2, cl. 2 of the Constitution, the Appointments Clause, as interpreted by the Supreme Court in *Buckley* v. *Valeo*, 424 U.S. 1 (1976).[1] In apparent response to this objection, the provision was amended to provide that the President would designate three members of the Commission from a list of seven names to be submitted to him by the Judicial Conference.[2] The question is raised whether this method of selection unconstitutionally interferes with the presidential prerogative of appointment under the Appointments Clause by limiting his choice of potential designees. We think that the courts would answer this question in the negative.

The appointments clause of the Constitution, Article II, section 2, clause 2, designates the manner by which certain government officials shall be nominated and appointed. That clause provides that:

"The President shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments."

Since the adoption of the Constitution there have been relatively few cases involving the import or reach of the language of the clause and none until 1976 which could be said to have rendered a definitive judicial explication of its text. Indeed, during the period from 1920 to 1975, which saw an enormous growth in the Federal bureaucracy and a concomitant extension of the President's power of appointment to thousands of major and minor offices and positions, the most significant rulings relating to the clause involved the question of the limits of the Chief Executive's removal power.[3]

However, in *Buckley* v. *Valeo*, 424 U.S. 1 (1976), the Supreme Court presented its first detailed analysis of the Appointment Clause. In that case the Court ruled that the manner of appointment (designation by congressional officers and approval by both Houses) of the voting members of the Federal Election Commission, in whom primary and substantial responsibility had been vested for administration and enforcement of the Federal Election Campaign Act of 1971,[4] as amended,[5] was unconstitutional. During the course of its decision the Court wholly redefined the constitutional concept of Federal officer and for the first time supplied substantive meaning to the constitutional terminology.

Specifically, the Court in *Buckley* greatly expanded the class of "officers of the United States." It did so by giving that term substantive content, defining it to include all these persons exercising some significant governmental authority. Such authority would include duties and functions relating to the administration and/or enforcement of public laws but would not encompass duties or functions which operate merely in aid of the legislative function such as investigations or information gathering. The Court also took pains to make it clear that such offices could be located elsewhere than under the hierarchical control of the cabinet departments. If it is found that a person is exercising the requisite quantum of "significant authority pursuant to the laws of the United States," he must have been appointed in the manner prescribed by Article II, section 2, clause 2, i.e., appointment by the President with Senate consent, or by the President alone, the courts, or the head of a department except where a selection is governed by a constitutional provision other than the appointments clause. Under this standard the Court struck down provisions of the Act which allowed for appointment of two members of the Commission by the President pro tempore of the Senate, two by the Speaker of the House, and two by the President, all of whom had to be confirmed by a majority of both Houses of Congress.

The *Buckley* decision, however, did not cast any doubt on the congressional power to establish offices. That the Constitution distinguishes between the *creation* of an office and *appointment* thereto has never been questioned. The former is *by law* and takes place by virtue of Congress' power to pass all laws necessary and proper for carrying into execution the powers which the Constitution confers upon the government of the United States and its departments and offices. As an incident to the establishment of an office Congress also has the power to determine the qualifications of the officer and in so doing necessarily limits the range of choice of the appointing power. Since the earliest days of our nation it has laid down a great variety of qualifications for holding office including citizenship, residence, professional attainments, occupational experience, age, property, and such sound habits as a demonstrated temperance in the use of alcohol, among others. It has required that appointees be representatives of a political party, of an industry, of a geographic region, or of a particular branch of government. It has confined the President's selection to a small number of persons to be named by others[6] and at times has contrived to designate a definite eligibility, thereby virtually usurping the appointing power.[7] Further, Congress has very broad powers in regulating the conduct in office of employees of the United States, especially regarding their politicial activities. *United Public Workers* v. *Mitchell*, 330 U.S. 75 (1947) (Hatch Act held constitutional); see also, *Arnett* v. *Kennedy*, 416 U.S. 134 (1974) (removal to promote efficiency of service not as unconstitutionally vague standard).

Some specific statutory enactments limiting the choice of the President may be noted. In establishing the original Railway Labor Board in 1920 Congress provided that the President would appoint three members from six nominees named by employees and three from six nominees named by carriers. 41 Stat. 456, 470 (1920). In establishing a commission to sell coal and asphalt deposits in Indian lands, two members of the commission were required to be Indians. 32 Stat. 641, 654 (1902). In establishing a Women's Bureau in the Department of Labor, Congress required that the director of the Bureau be a woman. The Civil Service Act of 1883 left the appointing officer the right to select from "among those graded highest on the result of" the competitive examinations for which the act provides, and executive orders and amendatory legislation have customarily restricted choice to the three highest. See, e.g., 5 U.S.C. 3317 (1970). Section 10 of the original Federal Reserve Act established a five member board to be appointed by the President, no more than one of whom could be from any single Federal Reserve district, and at least two of whom had to be experienced in banking and finance. 38 Stat. 251 (1913). In 1922

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Footnotes at end of article.

the Act was amended to provide that one member be appointed who was representative of agricultural interests. 42 Stat. 620 (1922).

There have been no court decisions directly construing these or similar limitations. Dicta may be cited which indicates that presidential choice may be narrowed but not eliminated. Thus, Chief Justice Taney stated that while Congress may create offices, it "could not, by law, designate the persons to fill those offices." *United States* v. *Ferreira*, 54 U.S. (13 How.) 40, 51 (1851). Similarly, Chief Justice Taft noted that congressional prescription of qualifications for office does not conflict with the President's appointment power, "provided, of course, that the qualifications do not so limit selection and so trench upon Executive choice as to be in effect legislative designation", *Myers* v. *United States*, 272 U.S. 52, 128 (1926).

However, the distinction between the appointment authority and congressional power to set qualifications and preconditions for holding office was early and clearly recognized by the Supreme Court. In *United States* v. *Le Baron*, 60 U.S. (19 Row.) 78 (1856) the question was raised whether a postmaster was validly appointed so that a surety company would be liable on its bond of the appointee. In the course of its opinion the Court clearly recognizes that establishing preconditions for taking possession and acting in an office by Congress is distinguishable from the constitutional appointment process and that such preconditions do not burden that process (60 U.S. at 78):

"When a person has been nominated to an office by the President, confirmed by the Senate and his commission has been signed by the President, and the seal of the United States affixed thereto, his appointment to that office is complete. Congress may provide, as it has done in this case, that certain acts shall be done by the appointee before he shall enter on the possession of the office under his appointment. These acts then become conditions precedent to the complete investiture of the office; but they are to be performed by the appointee, not by the Executive; all that the Executive can do to invest the person with his office has been completed when the commission has been signed and sealed; and when the person has performed the required conditions, his title to enter on the possession of the office is also complete."

*Le Baron* and the above recited historical congressional practice appear to support the constitutional validity of a congressional requirement that the President designate three Sentencing Commission members from a list of seven nominees submitted by the Judicial Conference. In light of the specialized character of the functions of the Commission, the qualification prescribed is not so narrow as to, in effect, leave the President no freedom of selection at all. All that appears to be required by the Appointments Clause is that some choice, however small, must be left to the appointing authority. Congress cannot usurp the appointing function. *Buckley* v. *Valeo*, supra. The appointment provision under consideration would thus appear to be within constitutional limits.

FOOTNOTES

[1] Daily Congressional Record, January 20, 1978, pp. S. 198–201.

[2] Daily Congressional Record, January 27, 1978, pp. S. 287–285, 286–283.

[3] See, *Myers* v. *United States*, 272 U.S. 52 (1926); *Humphrey's Executor* v. *United States*, 225 U.S. 602 (1935); *Wiener* v. *United States*, 357 U.S. 349 (1958).

[4] Pub. L. 92–225, 86 Stat. 3.

[5] Pub. L. 93–433, 88 Stat. 1263.

[6] See citations collected in *Myers* v. *United States*, 272 U.S. 52, 240, 265–274 (1926) (Brandeis, J., dissenting). See also L. Mayers, The Federal Service, 39, 40–64 (1922); Note, 42 Harv. L.R. 426 (1929).

[7] See data in E. Corwin, The President: Office and Powers 1787–1957 4th ed. (1957), 363–365. See also, Schwartz, The Powers of Government: The Powers of the President, Volume II (1963), pp. 43–45.

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COMMENTS TO CRS LETTER MARCH 27, 1978, SIGNED BY RITA ANN REIMER, LEGISLATIVE ATTORNEY, SUBJECT: CONSTITUTIONALITY OF PROPOSED PANAMA CANAL COMMISSION

1. Limitation of Presidential Appointment Power.

We do not even have to examine whether a treaty (rather than a law) can limit Presidential Appointment power at all.

The Memo by Martin Rosenberg, Legislative Attorney, CRS, 30 Jan. 1978, cited as authority by Reimer, concludes:

"All that appears to be required by the Appointments Clause is that some choice, however small, must be left to the appointing authority. Congress cannot usurp the appointing function".

The Panama Canal Treaty leaves no choice whatever to the President regarding the four Panamanian nominees. He must appoint them in a timely manner. This is contrary to the U.S. Constitution.

Similarly, the right of the Senate to confirm cannot be restricted to a ministerial function.

2. Limitation of Presidential Removal Power for non-judicial appointees serving an indefinite term.

No such limitation appears permissible, least of all through a treaty. The Reimer letter does not mention the subject at all.

According to the Treaty, and the Summary prepared by the U.S. Department of State, Panamanian approval is required for the President to remove any Panamanian on the Commission. That seems contrary to the U.S. Constitution and Court decisions.

3. Excluding the Senate's right to give advice and consent to appointments to the Panama Canal Commission.

(a) Art. 3 of the Panama Canal Treaty purports to do that. The Reimer letter says the implementing legislation can so provide. That's doubtful (see below). However, how can the Treaty force that option of excluding Senate confirmation on the Congress?

It is pertinent to cite here another CRS opinion (on the disposition of property issue), this one signed by Kenneth Merin, Legislative Attorney (123 Cong. Rec. S14932, daily ed. Sept. 15, 1977):

"It is clear that Congress has often asserted an exclusive right to dispose of federal territory and property. It is also apparent that both the Executive Branch and the Senate have recognized that claim in past dispositions of property in the Canal Zone to Panama. Therefore, while it is impossible to make a categorical assertion that Article IV Section 3, Clause 2 is either exclusive or concurrent, it appears that those powers have been recognized as exclusive for purposes of disposal of property in the Canal Zone to Panama. . . .

*It is a very serious matter for the treaty-making power to enter into an engagement calling for action by Congress unless there is every reason to believe that Congress will act accordingly.*" (Italic supplied)

(b) Reimer says: "This option (i.e. Senate confirmation) might not be available with regard to members of the Panama Canal Commission without amendment of the actual treaty". Agreed. But it then follows that if a treaty purports to abridge a right the Senate has under the U.S. Constitution, the Treaty is unconstitutional until suitably amended. Suitable amendment would however have to provide for outright Senate confirmation, or else the Treaty would bar the right of a future Congress to impose Senate confirmation. Or else the Treaty would have to recognize that right.

(c) Moreover, it is questionable whether implementing legislation could vest appointing authority in the President alone. The Constitution says this can be done by law for "inferior officers". Are civil officers at the Undersecretary of State level inferior officers?

4. Requirement that four members of the Commission be Panamanians.

(a) Can a treaty require that officers of a United States Agency may not be U.S. citizens? Can Congress, by law, exclude U.S. citizens from appointment to a United States Governmental Agency *because* they are U.S. citizens?

This Treaty Provision appears to violate the due process clause and the Privileges and Immunities clause. The issue is not as much as addressed by Reimer.

(b) Can a Treaty require that Congress make a non-resident alien a civil officer of the United States? Can Congress implement that provision, even if it wants to?

All civil officers of the United States are subject to impeachment. How can the U.S. impeach non-resident aliens over whom the U.S. has no jurisdiction and who are not subject to U.S. law?

That issue also is not addressed by Reimer.

(c) Trying to contend that the Panama Canal Commission might (sic) be more (sic) of a Joint Commission (i.e. Intergovernmental) is without merit, considering the unequivocal language of the Treaty, the similarily unequivocal language of the draft implementing legislation, and the Supreme Court definition of civil officers in *Buckley* v. *Valeo*. On the latter, the CRS 30 January Memo says:

"Specifically, the Court in Buckley greatly expanded the class of "officers of the United States." It did so by giving that term substantive content, defining it to include all those persons exercising some significant governmental authority."

In the light of the above, it seems futile to contend that members of the Panama Canal Commission are not civil officers of the United States.

One subsidiary question: Does the U.S. appoint the non-American members of a Joint Intergovernmental Committee?

Conclusion: On several important constitutional issues, the Reimer memo says nothing. On others, it admits non-constitutionality in the discussion, but fails to do so in the conclusion. On a third group of issues, Reimer admits that implementing legislation is needed to cure obvious defects in the treaty, which is another way of saying that ratification of the treaty absent such prior legislation runs the risk of being unconstitutional in U.S. municipal law.

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STATEMENT BY CHARLES H. BREECHER ON THE CONSTITUTIONALITY OF THE PANAMA CANAL TREATY OF 1977

Before the Senate considers the Panama Canal Treaty of 1977, I believe we should examine in some depth whether it is in consonance with the Constitution of the United States. Let me say at the outset that I have arrived at the view that it is not, and that if ratified it would eventually be declared unconstitutional by the Supreme Court of the United States. Far from removing my doubts, the implementing legislation of 3 March 1978 as drafted by the Administration almost makes it appear that the Executive Branch might want to cover up what appear of their face to be grave constitutional defects in the Panama Canal Treaty.

The most glaring constitutional defect in this treaty might be termed the "citizenship issue". Let me read to you Sec. 3(a) Art. III of the Panama Canal Treaty. It provides for a United States Government Agency called the Panama Canal Commission managed by a board of nine members. . . . and now I quote: "four of whom shall be Panamanian Nationals proposed by the Republic of Panama for appointment to such positions by the United States of America in a timely man-

ner." The U.S. can apparently not reject such Panamanian nominees for appointment and can remove them only, and here I shall quote again, "after consultation in advance in order to reach agreement on such removal".

Now if this clear and unequivocal language in the Panama Canal Treaty means what it says, it means that the President of the United States can only appoint the nominees of the Panamanian Government, that he must appoint them "in a timely manner", that the United States Senate cannot reject or bottle up their appointment, and that the President can remove them only with the consent of the Panamanian Government, but not at his pleasure.

Let me repeat that this Panama Canal Commission is a United States Government Agency. It is not some Mixed Commission, nor an Advisory Commission nor a private corporation. To give an idea about the level of the appointees, on page 430 of the Hearings before the Committee on Foreign Relations, United States Senate, Part I, September 29, 1977, Richard Cooper, U.S. Undersecretary of State, says that he and Anthony Soloman, Undersecretary of the Treasury, would be two of the five U.S. members of that Commission, which is the Governing Board of the Panama Canal Commission, fixes the tolls and exercises other Governmental functions in operating the Canal.

Just so there should be no doubt about the nature of this United States Government Agency, Section 2(c) (3) & (4) of the draft implementing legislation make the Panama Canal Commission the successor to the present Canal Zone Government and the Governor of the Canal Zone, in addition to being the successor to the Panama Canal Company. And Sec. 201 of that legislation establishes the Panama Canal Commission "as a body corporate, and as an agency and instrumentality of the United States".

This provision in par. 3, Art. III of the Panama Canal Treaty raises the following serious questions under the U.S. Constitution:

1. Can the President's right to appoint officers of the U.S. Government be restricted by treaty? Article II, Sec. 2, clause 2 of the U.S. Constitution provides that the President shall appoint all officers of the United States, with the advice and consent of the Senate. The Panama Canal Treaty restricts the President's right of appointment to a purely ministerial function in the case of the nominees of the Republic of Panama.

2. Can the Senate's right to give advice and consent to Presidential appointments be restricted to a ministerial function, to be performed "in a timely manner"?

3. Can an alien, and in particular a non-resident alien as these Panamanian nominees would be, be appointed an officer of the United States? The U.S. constitution prescribes various length of citizenship requirements for the President, Vice-President, and members of the Congress, but is silent on civil and military officers. Past U.S. Government practice restricts to my knowledge appointments to citizens. As to any constitutional requirement, Art. II, Sec. 4 of the U.S. Constitution says: ". . . all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors." How can an alien commit treason?

How can the United States which has no jurisdiction over a non-resident alien, convict him of bribery, high crimes and misdemeanors? It would seem that the makers of the U.S. Constitution did not envisage that non-resident aliens could become civil officers of the United States.

4. Can U.S. citizens be excluded under the U.S. Constitution from appointment to four of the nine positions on the Panama Canal Commission, a United States Government Agency, because they are U.S. citizens and not Panamanian nationals? The 5th and 14th Amendment protect the privileges and immunities of citizens of the United States and forbids depriving them of property without due process of law. Can it be made a condition for appointment, by treaty, that the prospective appointee be not a U.S. citizen but the national of a foreign country? Is that type of a classification permissible under the U.S. Constitution? I should think this type of a quota is not.

Without wanting to belabor the point too long, similar constitutional questions arise under Sec. 3 (c) and (d), Art. III of the Panama Canal Treaty, with regard to the Administrator or Deputy Administrator of the Panama Canal Commission, because appointment is restricted by the treaty to Panamanian nationals. Then there is par. 2, Art. X, of the Treaty that established a system of preference of Panamanian nationals, to be employed by a United States Government Agency. Will this system stand up as due process under the U.S. Constitution, although it discriminates against U.S. citizens because of their citizenship? I respectfully question that it will.

It is interesting that Sec. 307(b) of the implementing legislation does not exactly highlight the discrimination against U.S. citizens in employment by a United States Government Agency. I quote: "(b) The Panama Canal Employment System shall: (1) subject to and as limited by the Panama Canal Treaty of 1977 and related agreements, be based on the merit of the employee or individual and upon his qualifications and fitness to hold the position concerned." That sounds like the merit system of the U.S. Civil Service, whereas in actual fact Panamanians are given preference over better qualified U.S. citizens. One more case of style over substance in the implementing legislation.

Mr. President, I want to stress that this "citizenship issue" is not just a fancy legalistic point. On the contrary, it is of the greatest significance and goes to the heart of the Panama Canal Treaty. What's involved here is the actual control over the Panama Canal Commission and over the Canal, right after the treaties are ratified, not 22 years from now. To illustrate, can one realistically imagine that all five U.S. appointees, including the ex officio State Department appointee, will stand fast against any Panamanian demands? Say for sharply increased tolls, to make up for past alleged exploitation of Panama's resources by the U.S.? Or for the decline in the purchasing power of the U.S. dollar? Or for hiring more Panamanians even faster?

One further explanation what's really in this Article III. Dictators are not usually renowned for their sense of humor. But if General Torrijos possesses it, once the treaties are ratified, he might name his brother Moises to the Panama Canal Commission, to vindicate the honor of his family in the eyes of the United States public and of the world. And there is not a thing the United States President and the Senate could do except appoint Mr. Moises Torrijos in a timely manner, no matter that he is under criminal U.S. indictment. What's more, he could not be removed by the President, whatever more evidence should come to light, unless the Panamanian Government agreed to that removal.

The Administration keeps telling the American people that the U.S. will retain control over the Panama Canal until the year 2000. Legally and from a practical point of view, that is simply untrue. As the sovereign, Panama gains ultimate legal control the minute the treaties come into effect and the sovereign rights of the U.S. are thereby extinguished. And from the practical point of view, even if that Commission with a U.S. majority is allowed to function by Panama, that's like one person holding 45 percent of the stock in a corporation when the other 55 percent are not firmly in one other hand. The fellow with the 45 percent controls the board of directors and the corporation.

How does the implementing legislation read? It reads just fine on this crucial point, as if the U.S. Constitution were fully observed, that is unless one can recall exactly what's in the treaty. Here's Sec. 205(a) of the proposed legislation:

"(a) A board of directors shall manage the affairs of the Panama Canal Commission. The President of the United States shall appoint the members of the board in accordance with paragraph 3 of Article III of the Panama Canal Treaty of 1977, and neither this chapter nor any other law prevents the appointment and service as a director, or as an officer of the Commission, of an officer or employee of the United States, or of a person who is not a national of the United States. Each director so appointed shall, subject to paragraph 3 of Article III of the Panama Canal Treaty, hold office at the pleasure of the President, . . ."

Why, may I ask, did the Administration in the implementing legislation not repeat the short phrases of par. 3, Art. III of the Panama Canal Treaty? Who can guess from this artful language, unless he has the Treaty in front of him and refers to it, that the President and the Senate are restricted in appointing and confirming, and that the Panamanian appointees serve at the pleasure of the Panamanian Government, not at the pleasure of the President of the United States? Is this just poor drafting technique so that one has to refer to two documents, or is this an attempt to conceal in particular from the media and the public what this draft legislation really says?

It is my view that this citizenship issue alone is more than sufficient to cast the most serious doubts on the constitutionality of the Panama Canal Treaty. If the Administration or individual Senators disagree with me, I hope they will speak up now and tell me why they think par. 3, Art. III would stand up in U.S. Supreme Court.

But there is another very serious issue under the U.S. Constitution which should be mentioned and which can be called the Purse String Issue.

This Purse String Issue involves the powers of the full Congress, including the House of Representatives. Art. I, section 9, clause 7 of the U.S. Constitution says "no money shall be drawn from the Treasury but in consequence of appropriations made by law". However, par. 5, Art. III and par. 4, Art. XIII of the Panama Canal Treaty provide for certain payments to be made by the Panama Canal Commission, a United States Government Agency, to Panama.

To my knowledge, it is the weight of authority that no valid obligation can be imposed on the United States by a treaty to pay any money unless such obligation is not at least already authorized by the Constitution itself or by statute. Whether in international law such a treaty obligation would be binding, thus giving the Congress the choice to violate international law or to appropriate the money, is not relevant here when we examine the constitutionality of the Treaty in U.S. municipal law. What is relevant is that it appears under the U.S. Constitution that any such obligation in a treaty is not self-executory and that the prior authorization of the Congress must be sought.

Here I would like to quote from Attorney General Griffin Bell's testimony Sept. 29, 1977, Hearings before the Committee on Foreign Relations, United States Senate, pge. 200 ff. Part. I.

"Similarly, the President and the Senate may be powerless to accomplish by treaty what the Congress can accomplish by statue. . . . Some lower courts and many serious students of the law have expressed the view that certain matters are subject to regulation by Congress only; and that—a

treaty, if it purports to deal with such a matter, can be given effects only to the extent that it may be authorized or implemented by statute. The two matters that are frequently mentioned in this regard are the raising of revenue and the appropriation of funds. . . ."

The Panama Canal Treaty attempts to escape this apparent constitutional requirement by providing that the payments under Art. XII shall be made out of "Canal operating revenues." However, even this feeble need of an excuse is not available for the $10 million payment under Art. III which according to testimony by Administration witnesses would have to be made even if the Canal were closed say by an earthquake, and there are no "canal operating revenues."

Section 204 of the implemeting legislation seeks to cure this glaring defeat by providing:

"(h) Payments by the Commission to the Republic of Panama for providing public services in accordance with paragraph (5) of Article III of the Panama Canal Treaty of 1977 shall be treated for all purposes as an operating cost of the Commission."

That's a nice try, but does not change the language of the treaty. It also does not appear to change the fact that as long as this implementing legislation has not been passed, par. 5 Art. III is in violation of the U.S. Constitution, by the weight of legal authority cited by the Attorney General of the United States.

It would also appear that all this reference to "canal operating revenues" does might be to give Panama a claim to be paid ahead of other creditors of the Panama Canal Commission. But for the U.S. liability, it appears to be a distinction without a difference to talk about paying with "canal operating revenues" or with a check drawn on the U.S. Treasury. Revenues collected by a United States Government Agency are held to become miscellaneous receipts of the United States, similar e.g. to interest payments received by the Export-Import Bank, or repayments on past loans received by the Agency for International Development.

They could not be drawn on by the Panama Canal Commission (by Treasury check, I presume) except pursuant to authorization and appropriation by the U.S. Congress. If it were otherwise, the Congress would lose its control over the purse strings of the United States.

It is interesting to compare the language in the Panama Canal Treaty which omits in the case of payments to Panama any reference to Congress, with the carefully drafted, legally required language for certain Executive Branch promises thoughtfully called "Economic and Military Cooperation". That language is on page 575, Part I of the Hearings before the Senate Foreign Relations Committee I cited above. It provides for large-scale U.S. aid to Panama outside the Treaties through Federal guarantees of a few $100 Million and military credit sales, and now I quote "within the limits of applicable U.S. legislation, and subject to compliance with applicable legal requirements, and where necessary, to the availability of appropriated funds." This raises the interesting question whether Senate ratification of a treaty can do away with all these requirements imposed by the full Congress under its authority in the U.S. Constitution.

Again, the drafters of the implementing legislation may not have been unmindful of these constitutional questions. In Section 203 of the implementing legislation I find a word of art "directly" which is not in the Treaty, to wit that "the Panama Canal Commission shall pay *directly* from Canal operating revenues to the Republic of Panama. . . ." Perhaps this is designed that the Panama Canal Commission shall not pay by Treasury check so it ostensibly does not draw money from the U.S. Treasury. But how can these devious provisions be squared with the language in the treaty and the U.S. Constitution? There is a great difference, in my view, between the citizenship issue and the Purse String issue. The citizenship issue cannot be cured except by renegotiating the Panama Canal Treaty. The purse string issue could probably be cured retroactively by the full Congress if it passed the implementing legislation. But suppose the House of Representatives, pursuant to its rights under the U.S. Constitution, refuses to have its hand forced in a fashion which a majority of the members of the House may consider illegal? Then we would be left with ratified treaties that are invalid under U.S. municipal law and can't be executed. This would create the most horrendous international legal and diplomatic problems to which I shall come in a moment.

A third serious constitutional issue is already in our courts. It may be called the "Disposition of Property Issue" and arises under Art. IV, Sec. 3, clause 2 of the United States Constitution which reads: "(Congress) shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States . . .". A suit has been brought in the District Court for the District of Columbia (Civil Action No. 77–1733) by sixty Congressmen. Briefly, the suit contends that the power of the full Congress (including the House of Representatives) is exclusive, and that prior Congressional approval is required before the Treaties can be ratified. The suit may or may not go down in history as Edwards v. Carter.

The Administration contends that the President's Power to make Treaties is concurrent with that of Congress to dispose of U.S. property, and that the Treaties (only the Panama Canal Treaty is directly involved) are self-executory. It should be stressed that what is at issue is how property, title of which is now in the United States and which the U.S. has acquired by means other than a treaty, can be transferred to Panama. Any rights we obtained in the 1903 Treaty can of course be transferred or extinguished by a new treaty.

In testimony before the Senate Foreign Relations Committee and in Court, Attorney General Griffin Bell has presented a reasoned, respectable case for the President. He relies in the main on certain Indian treaties, much older than the 1903 treaty with Panama. It seems an involved case and I would not hazard to predict the outcome with any assurance. At present, the U.S. District Court has denied the standing of these 60 Congressmen to bring the suit, and an appeal on this procedural issue is going to the Court of Appeals for the District of Columbia.

There are two facts however, which I would like to stress in relation to the merits of this suit:

1. A substantial majority of the members of the House of Representatives seems to share the views of the 60 members that brought the suit. A House Resolution to this effect has reportedly already more than 218 sponsors and seems assured of passage in the near future.

2. There is the respectable authority of 34 United States Senators, under the leadership of the Senior Senator from South Carolina, expressed just three years ago in S. Res. 97, of 4 March 1975 which states explicitly that the U.S. Constitution requires the prior approval by the full Congress including the House of Representatives for the disposition of U.S. Property.

Let me cite from that Resolution which is entitled: Resolution Urging retention of undiluted United States sovereignty over the Canal Zone, 94th Congress, 1st Session:

"Whereas the United States, in addition to having so acquired title to and ownership of the Canal Zone by constitutional means, purchased all privately owned land and property in the zone making it the most costly United States territorial possession. . . .

"Whereas under Article IV, section 3, clause 2 of the United States Constitution, the power to dispose of territory or other property of the United States is specifically vested in the Congress, which includes the House of Representatives; and . . . "Now, therefore, be it

RESOLVED, That it is—the sense of the Senate of the United States of America that—(3) there be no recession to Panama, or other divestiture of any United States-owned property, tangible or intangible, without prior authorization by the Congress (House and Senate) as provided in article IV, section 3, clause 2, of the United States Constitution."

The distinguished Majority Leader cosponsored this Resolution. I regret that in his case as in that of some other Senators, I have not been able to ascertain exactly what new legal knowledge they acquired in the last three years which they did not possess in 1975 so that they now hold the precisely opposite view on an important provision of the United States Constitution.

I have dealt with three major constitutional issues which appear to point out clearly that the Panama Canal Treaties could not survive a court test. Now let me now deal in conclusion with a vital legal point which may not be all that widely known.

It might be said by some: So what? Suppose the Treaties are really eventually declared invalid by the U.S. Supreme Court. Then we just have to go back to Square 1, to new negotiations, as with the Federal Election Law. That's no different than if the treaties are not ratified, so that's better than rejecting the treaties.

Oh no! Once the treaties are ratified, the ball game is over in international law. For one, all U.S. rights under the 1903 treaty would be gone forever. The treaties would be perfectly valid in international law, even though declared invalid in U.S. municipal law.

On some reflection, this is not as startling as it may sound. The 1969 Vienna Convention on the Law of Treaties which is declaratory of customary international law, provides that once a treaty is ratified be competent legal authority, it cannot be undone by a decision of a domestic court. The reason for this rule of international law is obvious: there are just too many Governments throughout the world that might find it perfectly feasible to have their Supreme Court declare any treaty unconstitutional and void once the Government itself changed its mind on the continued desirability of that treaty.

So here is what could happen on the Panama Canal Treaties. Say the U.S. Senate ratifies, our rights under the 1903 Treaty are gone, and then the first shipowner charged increased tolls uses on the grounds that the Panama Canal Commission is illegally constituted under the U.S. Constitution. I submit he would stand an excellent chance to prevail and that the U.S. Supreme Court would have no choice but to declare the Treaty in violation of the U.S. Constitution and therefore void. Then what? Unless Panama kindly lets the U.S. off the hook by also declaring the treaties null and void ab initio, we would have on our hands what can only be described as a first-class legal and diplomatic mess. Panama would not mind, I think, they'd have the Canal and could charge whatever they wanted, being the sovereign with nothing to constrain them. How could anyone want to run the very real risk of that major calamity?

Most constitutional questions are controversial and the outcome is difficult to predict with any degree of assurance. But I would

submit that the legal case against the Panama Canal Treaties is extremely strong, as I have outlined it. For instance, how many Senators would agree that under the U.S. Constitution their right to give advice and consent to Presidential appointments can be abridged by a treaty?

We should also not be surprised that the treaties are drafted so as to be in conflict with the U.S. Constitution. The negotiators were given an impossible task if they were to reach agreement with the Panamanians. The Panamanians wanted to be absolutely certain that any money promised to them under the Treaties would not be contingent on a vote by the full Congress, it would seem. It would equally seem that the Republic of Panama, perfectly logically from their point of view, insisted on getting actual control over the Canal right now, not in the year 2000, but were willing to go along with some sort of arrangement under which the U.S. would still seem to have legal control in style, though not in substance. The U.S. Constitution, with its elaborate system of checks and balances, just does not seem to lend itself to these propositions, however ingenious the drafters of the treaties might be.

● Mr. MATHIAS. Mr. President, since the debate over ratification of the Panama Canal Treaty is rapidly drawing to an end, it is a good time to consider the elucidating comments of one our country's most distinguished elder statesmen, the Honorable John J. McCloy. Having devoted much of his life to the service of our country, as Assistant Secretary of War during World War II and later, as High Commissioner for Germany, his perceptions are clearly worthy of note. His expertise and erudition in the area of foreign policy is well known, and give his words extra weight.

The Panama Canal issue is one of vital importance, not only in its implications for our diplomatic and strategic posture, but also in its effect on our relations with Latin America and the rest of the world. We have exhaustively considered all sides of the question here on the floor, and so I am certain that my colleagues as they marshall their thoughts and summarize the arguments will profit from a review of the refreshingly lucid comments of the Honorable John J. McCloy.

The statement follows:

A FRESH VIEW ON PANAMA

My name is John J. McCloy and by way of qualification for having a view on the pending Panama Canal treaties before the Senate let me say that during World War II, I was The Assistant Secretary of War and I had from time to time occasion during that war to give thought to the place the Panama Canal played in our overall strategic and security policy. Moreover, I have been on a number of occasions an advisor to the President and other Government agencies dealing with defense matters relating to the country and the North Atlantic Treaty Organization. Following the war I was the U.S. Military Governor of Germany and acted later as U.S. High Commissioner for Germany in which capacity I was in frequent contact with problems relating to our and our Allies' defense problems. I was an advisor on disarmament policies during the Kennedy, Johnson and some part of the Nixon Administrations in which connection I obtained a rather comprehensive view of our entire defense posture. In World War I, I served as a junior officer overseas in the A.E.F. and later in the then U.S. army of occupation in Germany.

I have read the proposed treaties and a considerable amount of comment on them, but I have not followed in any detail the course of the negotiations leading up to the draft of the proposed treaties.

I do have some rather well defined views, however, regarding the timeliness of the proposed treaties and the advantageous role I think they could play in our overall diplomacy and strategic position at this stage in our history.

In the first place, let me say a word as to my view of the continued strategic importance of the Panama Canal to the United States and its national interests. I do not minimize the present economic and military importance of the Canal. I do not think it particularly significant that the big ships cannot now transit the Canal due to its present size and depth. Nor do I presume to predict that role the Canal will play in the world strategic developments of the future. I assume that with the geographic composition of the Western Hemisphere the Canal is bound to pay, or at least we are bound to assume that it could play, an important element in our defense and that of the Free World. I served through two World Wars when it did play an important part and I believe it would be most presumptous for anyone to take the position that it would not play an important role in the future. The trend, as I see it, is to move from larger to smaller ships in today's naval strategy. The frigates with their nuclear tipped missiles may be a more important surface weapon than a big carrier for all that I can predict. In short, I believe the Canal may well play quite as large a role in the future as it has in the past. I certainly would not assume a significantly lessened strategic value for the Canal in the future and for that reason accept a really less secure arrangement for our relations to it.

Next let me say I repeal any suggestion that we are in any sense under obligation to compensate for, or much less atone for, anything we or Theodore Roosevelt did in the past in the way of creating, building and making the Canal available to world trade. It was one of the great engineering, economic and political feats of all time and it was a boon to North America, Central America, South America and to the world.

In short, because I believe the Canal is, or could be, of great importance to us in the future, that I think we should adopt measures designed to remove any unnecessary irritations in regard to our present control over it. And I believe the time has come when we should commence preparations to remove the foreign enclave character of the present arrangement. It is probably an outdated arrangement under present international trends in the Free World. I believe that there may have been some deliberate and largely undeserved propaganda efforts made to charge American exploitation of Panamanian interests in connection with the Canal. Yet I think the time has come to remove any possible reflection on the dignity, full maturity or independence of Panama. I believe, with a suitable "break-in" period. Panama will, as a nation, be capable of efficient operation of the Canal and will have added interest in its own defense of it.

The military, I believe, have testified as to the difficulties of defending the Canal and its installations against local guerilla and sabotage attacks. They could be harassing and damaging, but they probably could be dealt with. To have United States forces in place prepared to resist such attacks might be advantageous militarily, but it would be far better if we could rely on the cooperation and goodwill of the Panamanians and their neighbors to afford the defense against such tactics than to rely solely on any on-site United States capacity to do so.

Moreover, there is another aspect of this matter which appeals to me as being most persuasive. That is the need we have as a country to reestablish the confidence, goodwill and cooperation of our Latin American neighbors which we have had through such a long part of our history. Not long ago we were able to count on a very solid weight of support from South and Central American states in the United Nations. For one reason or another that support seems somewhat eroded, although our respective political bases have much in common, the Panama Canal or at least the enclave aspect of it with its uniformed forces and rather preferred types of residences for the foreigner have furnished a symbol of colonial administration that is distasteful and it is a distaste which is shared by a substantial element in neighboring countries. The ratification of these treaties is not going to set in train a sudden reversal of U.N. voting or the elimination of all anti-American feeling in all Latin America, but it could be an eloquent example of non-dominating behavior which could lead to a greater recognition by the Western hemisphere states of our essential unity and common interest.

If the treaties should be rejected, I believe it might be a serious setback to the growing realization that most members of the Free World sense of the need for improved cooperation with the United States in the face of what appears to be growing Communist threats in under developing areas of the world. In a real sense I believe we could be losing an encouraging opportunity to restore in significant part our Western hemisphere sense of unity and common purpose. Therefore, both from a positive and a negative point of view I believe it is to our national advantage to enter into these treaties. First because it is a better way to defend the Canal than to hang on to the enclave concept with armed forces in place very likely provoking guerrilla tactics and sabotage and second because if rejected, we might well lose an opportunity which now seems aborning to revive the united political support of our hemispheric neighbors which has recently been somewhat lacking.

There is one other element in this matter which appeals to me as being of added weight in considering the value of ratification. It arises from my experience with the reopening of the Suez Canal after the first Suez crisis. You will recall the Egyptians seized the Canal and all its installations sinking a substantial number of ships in the Canal as they did so. The Canal was closed to all transit and world trade suffered as a result. In due course it came time to give thought to reopening the Canal and Mr. Hammarskjold of the United Nations asked me to organize the operation. The general feeling was that the Egyptians would not prove capable of operating it. The French installations in Ismaila of a rather elaborate character had given rise to the same sort of irritating enclave atmosphere which seems to be resented at least to some degree in Panama.

At any rate with the help of General Wheeler, an excellent engineer and an old World War I and II colleague of mine who had at one time commanded the Panama Canal Zone, the ships were raised, the canal reopened and the cost of it paid for out of the traffic, with the Egyptians assuming full charge of all operations. The results, as I recall, were somewhat spectacular in terms of lowered cost and increased use. The point I wish to make here is that the Egyptians quickly began to take great pride in their operation of the canal which it turned out was quite as efficient, as far as one could judge, as that of the prior foreign administration. The canal became an increased factor in the Egyptian economy and all local efforts were directed toward its successful operation. I do not see why the Panamanians could not do the job in Panama as well as

the Egyptians did it in their country although the lock system may present greater complications. I am sure it does require certain skills, discipline and training but once the local people at Suez got the responsibility they reacted well to it and I believe we would see the same phenomenon take place in Panama. The fact that so many other Latin American states have closely associated themselves with the conclusion of these treaties may also be a stimulating factor in Panama's safe and efficient operation of its canal.

In summary, I would favor ratification of the treaties. I believe the original drafts have been improved by the understandings which I believe are being accepted by both sides and I am satisfied from a military and defense point of view that we would not be jeopardizing our national interest or our good future use of the Canal if the treaties were ratified and concluded in the form which I believe they are now being considered. Indeed, I believe our interests could well be advanced.

Whether we use our right to defend the Canal will depend on our will to act whenever the freedom of the Canal is threatened. I do not think our will to defend it would or should depend on whether the present arrangement were in effect.●

● Mr. HARRY F. BYRD. The New York Times today published an excellent profile on the splendid Senator from Nevada, Mr. LAXALT, and the important role played by him in the 9 weeks of debate on the proposed new Panama Canal treaties.

PAUL LAXALT, in my judgment, is an outstanding Senator.

TOP ADVERSARY OF CANAL FACTS

(By Adam Clymer)

WASHINGTON, April 16.—Although he was campaign chairman for the Presidential candidate who brought audiences to their feet by reciting "We bought it, we built it, and we're going to keep it!" Senator Paul Laxalt avoids slogans and emotions when he talks about the Panama Canal.

But his work as leader of the Senate opposition to the canal treaties, which as frequently involves the cautioning of overenthusiastic partisans as attempts to persuade the uncommitted, has put him even more in the conservative limelight than he was in Ronald Reagan's 1976 campiagn.

However the final vote on the second canal treaty comes out on Tuesday, Mr. Laxalt has won as much respect from the pro-treaty forces as from his own side, not only for his openness in dealing with his fellow senators but also for his recognition, not shared by all the treaty opponents, of the sensitivities of the Panamanians.

For example, he voted against a treaty reservation asserting the United States right to send troops anywhere in Panama, feeling that an open statement of interventionist policy would needlessly anger Panama. His sympathy for Panamanian nationalism sounds sincere, but is overridden by his view that "it's absolutely essential that we retain the canal for security purposes, or else it might become a Russian choke-point."

SWIMMING AGAINST THE TIDE

Paul Dominique Laxalt (the middle name was the first name of his father, a Basque immigrant) comes by his conservatism naturally. . . . He is a Republican because his father, unlike most of the Basque shepherds who emigrated to Nevada, was one. "Pop just loved to swim against the tide," he said in an interview.

Born in Reno on Aug. 2, 1922, he spent summers on the sheep range with his father, who was away from the family's home in Carson City, the state capital, much of the year. Mr. Laxalt recalls an upbringing emphasizing "total respect for institutions and the family," and early fights with "the American kids" who picked on him for not knowing English until he went to school.

Although his mother ran a family-style restaurant that brought all the state's politicians into their home while he was growing up, Mr. Laxalt did not become interested in politics until after he had graduated from Denver University and its law school in 1949. He was elected district attorney for Ormsby County in 1951, then city attorney for Carson City, and in 1962 lieutenant governor.

He was elected Governor of Nevada in 1966, and encouraged Howard Hughes, whom he dealt with by telephone and memorandum, to buy heavily into the state's gambling industry. He praises Mr. Hughes, and said his influence helped get gangsters out of the casinos, as did legislation he pushed successfully to allow corporations to come in—legislation that has brought chain hotels with adequate capitalization into Las Vegas and Reno.

BRIEF FAREWELL TO POLITICS

That and the establishment of a community college system were the major concerns of his term as governor, but he decided not to run again. "I had a gut full of politics," he said. "My kids were nearly strangers to me. My marriage was breaking up." So he quit politics and opened a family-owned hotel venture.

He said that period, 1971 to 1974, had two main values. While his first marriage did end in divorce (in January 1976 he married his secretary, Carol Wilson), he re-established himself with his six children, three of whom are adopted—Gail Laxalt, 28 years old, Mrs. Sheila Lokan, 27, John Paul Laxalt, 25, Michelle Laxalt, 23, Mrs. Kevin Bernard, 22, and Mrs. Nina Thompson, 21.

It also helped him see that what politicians did was not going to change the world suddenly. He said he could go for weeks in Carson City without a politicial discussion "unless I started it." "That was an amazing insight into how importantly we take ourselves," he said.

But in 1974, despite Watergate and a divorce, he was persuaded to jump back in. He defeated the Democratic Lieutenant Governor, Harry Reid Sawyer, in the Senate race after "we were able to get him into a position where he appeared to endorse repeal of right to work." It was the only Democratic Senate seat Republicans won that year.

Mr. Laxalt walks a lot and plays tennis and, when he gets home to Nevada, he will be off into the Sierras, sleeping on the ground, rising at dawn, reading, hiking, then collecting with others at a central tent for "talking, eating and drinking."

Mr. Laxalt's role in the canal fight has increased the ranks of conservatives who urge him to run for President some day. But while the Nevadan says he is a "fatalist in politics," believing that things just happen to politicians, those close to him believe him when he says "the Presidency just has no appeal to me—not for a comment would I begin to seek it." ●

## ROUTINE MORNING BUSINESS

(Routine morning business transacted and additional statements submitted today are as follows:)

## MESSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

Under authority of the order of April 13, 1978, the Secretary of the Senate, on April 14, 1978, received a message from the President of the United States submitting the nomination of William B. Edmondson, of Nebraska, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of South Africa, which was referred to the Committee on Foreign Relations.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGE FROM THE HOUSE RECEIVED DURING THE RECESS

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Under authority of the order of April 13, 1978, a message from the House of Representatives was received on April 14, 1978, stating that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 7744. An act to amend the acts of August 11, 1888, and March 2, 1919, pertaining to carrying out projects for improvements of rivers and harbors by contract or otherwise, and for other purposes; and

H.J. Res. 770. A joint resolution to authorize and request the President to issue a proclamation designating April 18, 1978, as "Education Day, U.S.A."

The enrolled bill and joint resolution were subsequently signed by the Vice President.

## MESSAGE FROM THE HOUSE

At 12:30 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 11003. An act to clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet anticipated needs, and for other purposes.

## HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 11003. An act to clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet anticipated needs, and for other purposes; to the Committee on Governmental Affairs.

## CHANGE OF REFERENCE

Mr. ABOUREZK. Mr. President, I ask unanimous consent that S. 2854, a bill to amend certain provisions of titles 18 and 28 of the United States Code relating to jurisdiction over certain Indian country, be rereferred to the Select Committee on Indian Affairs. This has been cleared on both sides with the Judiciary Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

## REPORTS OF COMMITTEES RECEIVED DURING RECESS

Under authority of the order of April 13, 1978, the following reports of committees were received on April 14, 1978:

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Con. Res. 80. An original concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal year 1979 (together with additional and minority views) (Rept. No. 95–739).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HOLLINGS:

S. 2920. A bill to amend the Trade Act of 1974; to the Committee on Finance.

By Mr. BARTLETT:

S. 2921. A bill to amend the Internal Revenue Code of 1954 to reduce the excise tax based on investment income of private foundations; to the Committee on Finance.

By Mr. BARTLETT (for himself and Mr. BELLMON):

S. 2922. A bill to revise present nursery exemption in section 447(a), title 26, U.S.C., to apply regardless of form of business or present method of accounting; to the Committee on Finance.

By Mr. ABOUREZK:

S. 2923. A bill for the relief of Romeo K. Aboo; to the Committee on the Judiciary.

By Mr. ABOUREZK (for himself and Mr. MCGOVERN):

S. 2924. A bill to amend the payment formula for grain sorghum and barley for the 1977 crop of such commodities; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ABOUREZK (by request):

S. 2925. A bill to supplement and clarify the Federal reclamation laws, to promote the settlement of family farmers in Federal irrigation projects, to provide for acreage equivalency between class 1 lands and lands of lesser productive capability, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEAHY:

S. 2926. A bill to authorize and direct the Secretary of Agriculture to provide cooperative forestry assistance to States and others, and for other purposes; to the Committee on Agricuture, Nutrition, and Forestry.

By Mr. CASE:

S. 2927. A bill for the relief of Edna Kalenik; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 2928. A bill to amend the International Investment Survey Act of 1976, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HELMS:

S. 2929. A bill to provide for the safeguarding of taxpayer rights, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 2930. A bill to authorize the home production of beer and wine; to the Committee on Finance.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOLLINGS:

S. 2920. A bill to amend the Trade Act of 1974; to the Committee on Finance.

● Mr. HOLLINGS. I am today introducing legislation to protect America's vital textile industry from the danger of tariff cuts and increased foreign imports. My measure is simple and to the point and amends the Trade Act of 1974 so that textiles can qualify, as so many other goods qualify, for relief under that act.

Section 127(b) of the Trade Act of 1974 automatically excludes from tariff reductions any items accorded import relief under the "escape clause" of the Trade Act or the Trade Expansion Act of 1962 or import relief under the "national security clause" of the latter legislation.

Textile goods have been accorded certain relief under section 204 of the Agricultural Act, but relief under that measure has not been recognized as a basis for exempting products from the tariff-cutting process. This makes no sense. If a product such as textiles qualifies for relief, then it is nothing short of folly to entertain the prospect of cutting tariffs on such an endangered product. In short, it is inconsistency of the worst kind for such products to receive import relief and then have that relief vitiated by cutting the tariffs on such products. The measure I introduce today adds to the list of articles which the President must reserve from tariff-cutting talks those articles with respect to which action has been taken pursuant to section 204 of the Agricultural Act of 1956.

As the situation stands today, goods such as shoes, television sets, stainless steel, and so on have been exempted from these negotiations, because they are covered under the Trade Act. My measure simply puts textiles and apparel on an equal basis with those other commodities.

Mr. President, the merits of the case are clear. Our U.S. textile industry faces serious danger. And textiles are of such importance to our economy that any injury they suffer sends shock waves reverberating everywhere. The textile-apparel complex is the largest employer of manufacturing labor in the United States—accounting for one of every eight manufacturing jobs. It is a $70 billion a year business, with 2,300,000 paychecks going out every payday. And these paychecks go to critical areas of our economy and our work force. They go at double the national average to women and minority groups, who comprise such a large and disproportionate share of our unemployment problem. And they go to rural area and inner city, where jobs are scarce and where dislocation has wreaked such terrible economic and social havoc. In terms of what this industry produces, of whom it employs, of where the work is actually done, we are talking about something fundamental to the well-being of America.

Yet this vital industry has had to face one obstacle after another. It has been confronted with dire threat from continuing high rates of imported goods. From 1967 through 1977, the value of textile and apparel imports jumped from $1.5 billion to nearly $6 billion, a staggering increase of 300 percent. And while these are just figures to some, they mean jobs and livelihoods to others. Import levels today have displaced 400,000 American jobs.

Mr. President, since the Second World War, the United States has been on a binge. We have exported our jobs, our dollars, our technology. We have exported our economic preminence, and we have been without a realistic trade policy for longer than I can remember. Here is an industry declared by the Defense Department to be the second most important to our national defense—coming only after steel. And yet we allow plants to close, jobs to disappear, and we have opened the floodgates to a suffocating tide of foreign imports. And now, Mr. President, comes the administration with proposals for cutting tariffs. It is enough to make the mind boggle.

The United States is currently involved in trade talks of the utmost significance to the future of American textiles. Proposals envisioning tariff reductions have been tabled at the Tokyo Round in Geneva which, if approved, would confront us with an additional burden which should not have to be borne. Our American textile industry can be completely competitive in a fair trade environment. It has modernized its facilities; its plant and equipment enable it to hold is own—if we do not completely stack the deck in favor of other countries. And that is what we have unfortunately been doing. To be free, trade needs also to be fair. But when foreign governments underwrite and subsidize and in dozens of ways support their own home textile industries, then we must ask where the equity is. And when we are talking about low-wage countries to boot—with the Korean textile worker receiving hourly compensation of 55 cents while our textile worker gets $4.53—the situation becomes just about impossible. You can call that free trade if you want to—as for me, I see it as a giveaway whereby we give the freedom, and they get the trade.

Mr. President, I think it is as clear as anything can be that America's textile and apparel industry cannot withstand the shock of deep tariff cuts. Nor should it be asked to, given its fundamental importance to our economy, and given its own efforts to modernize and remain competitive. Tying its hands, is in fact, tying America's hands.

Let us head straight down the right road for a change. It makes no sense to spend billions to create jobs and then turn right around and pursue a trade policy that eliminates them faster than they can be created. No one else in this world is going to look after America's

well-being. It is our job to do. We still have the chance, late in the day though it is. But if we keep going down the dangerous road of giveaway and of cave-in to the one-sided trade policies of our competitors, then we court peril for our Nation. And I say this not to be dramatic, but to express my very genuine concern. We pay all too little heed to our trade situation. We have proposals and initiatives and bills for just about every conceivable approach to cure our country's ills—but where is our trade policy, where are the bills to develop exports, where is the willingness to use some plain business sense to put in place the kind of realistic trade policy which America must have if it is to remain competitive and prosperous?

With these concerns in mind, and asking the earnest consideration of my colleagues for this measure, I introduce my bill to amend the Trade Act to protect our textile goods from the unconscionable burden that tariff reductions would impose.●

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By Mr. BARTLETT:

S. 2921. A bill to amend the Internal Revenue Code of 1954 to reduce the excise tax based on investment income of private foundations; to the Committee on Finance.

TAXATION OF PRIVATE FOUNDATIONS

● Mr. BARTLETT. Mr. President, today I am introducing a bill to reduce from 4 to 2 percent the excise tax on investment income of private charitable foundations. This bill, if enacted, will significantly add to the total amount of funds available for charitable purposes.

In my own State of Oklahoma there are approximately 200 private charitable foundations with a wide array of beneficial purposes. They range from specific grants for student education to actual treatment of medical disabilities. Recently, I received information from some 34 of these foundations indicating that their annual taxes amounted to approximately $600,000. This may seem an insignificant figure when compared to the Federal budget, but when applied as direct assistance to individuals or local beneficiaries even a few thousand dollars can mean the difference between continued operation and failure.

The excise tax on private charities was designed to cover administrative costs of Government audits on foundation books. However, the present 4-percent tax can represent several hundred thousand dollars annually on large charities. Obviously, this is far in excess of the amount necessary to maintain annual audits.

The 2-percent tax provided in this bill will more than cover all administrative costs of supervising private foundations. They are fulfilling on a voluntary basis functions which Government would otherwise have to finance and perform.

It is my hope that, after all of the hearings that have been held on this matter for the past several Congresses, the issue of this particular tax reduction can be resolved in favor of this country's foundations, and I look forward to the Finance Committee's inclusion of this provision in upcoming tax legislation.●

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By Mr. ABOUREZK (by request):

S. 2925. A bill to supplement and clarify the Federal Reclamation laws, to promote the settlement of family farmers in Federal irrigation projects, to provide for acreage equivalency between class 1 lands and lands of lesser productive capability, and for other purposes; to the Committee on Energy and Natural Resources.

RECLAMATION LANDS OPPORTUNITY ACT

● Mr. ABOUREZK. Mr. President, I am introducing today, by request, a bill drafted by National Land for People. The bill would reform reclamation law, particularly with respect to the law's acreage limitation provisions. While I am a sponsor of S. 1812, a bill dealing with the same subject, and do not agree with all that this bill suggests, I do believe that their approach merits consideration. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2925

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act, divided into titles and sections in accordance with the following tables of contents, may be cited as the "Reclamation Lands Opportunity Act".

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TITLE I—FINDINGS, PURPOSES, DEFINITIONS
Sec. 101. Findings and purposes.
Sec. 102. Definitions.
TITLE II—ACREAGE LIMITATIONS AND EQUIVALENCY
Sec. 201. Lands other than class 1 lands—acreage equivalency.
Sec. 202. Purchase of land for dependents of qualified purchaser.
TITLE III—EXCESS LANDS AND IRRIGATION RIGHTS
Sec. 301. Rights to water and termination or suspension of rights; moratorium on sale of excess lands.
Sec. 302. Disposition of excess lands.
Sec. 303. Speculation and profiteering prohibited.
TITLE IV—REPAYMENT OF PROJECT COSTS
Sec. 401. Project cost repayment provisions of contracts.
TITLE V—LEASING OF CERTAIN EXCESS LANDS
Sec. 501. Purchases of excess lands by the Secretary in order to lease these lands to family farmers.
Sec. 502. Leasing of Lemoore Naval Air Station land to family farmers.
TITLE VI—MISCELLANEOUS
Sec. 601. Guarantees by Department of Agriculture of loans made by private lenders to qualified leaseholders.
Sec. 602. Copies and explanations of this Act to be freely available.
Sec. 603. Negotiations of project contracts to be conducted in open sessions following public notice.
Sec. 604. Secretary's rules and regulations to be published.
Sec. 605. Department of Agriculture programs for family farmers.
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TITLE I—FINDINGS, PURPOSES, DEFINITIONS

FINDINGS AND PURPOSES

SEC. 101. (a) The Congress finds that:

(1) a populous, prosperous rural society is essential to the preservation of the national character, and rural prosperity must be based on a pattern of broadly distributed ownership and operation of productive agricultural land;

(2) the purpose of reclamation law is and has been to encourage the settlement of federally irrigated land by family farmers living on or near their land;

(3) the administration of a substantial amount of the acreage currently affected by reclamation law has not accomplished and is not likely to accomplish the statutory policy of settling family farmers on the land;

(4) the construction of reclamation projects, by law, involves substantial subsidies to landowners; and the subsidies are intended to provide landowners with an incentive to sell excess land, presumably to family farmers, but too often land has been sold instead to nonfarming investors;

(5) there are large numbers of potentially successful family farmers, both with and without financing, who, as a consequence of practices approved by the Secretary of the Interior for the sale of reclamation land, are unable to move onto the land and thus fulfill the original purposes of reclamation law;

(6) appraisal techniques to determine the approved selling prices of excess land do not fully exclude enhancements in value attributable to projects;

(7) while vendors of excess land can dispute price approval decisions of the Bureau of Reclamation, no procedure exists for prospective purchasers to challenge these decisions; and

(8) due to a variety of weather conditions, soil qualities, and other natural characteristics affecting the productivity of farmland, it is inequitable to apply the same acreage limitations to every parcel of land.

(b)(1) It is the purpose of this Act to reaffirm as law and policy that:

(A) the congressional intention in reclamation law is and has been to foster the settlement of bona fide family farmers living on or near the land in Federal irrigation projects;

(B) those who do not comply with this purpose should be excluded from the right to receive federally supplied water;

(C) the intent of the law is to exclude project benefits from the price at which excess land initially receiving federally supplied water is sold;

(D) there should be established procedures to assure sounder repayment practices from those receiving federally supplied water; and

(E) the Federal irrigation project benefits should be distributed as widely as possible.

(2) It is the further purpose of this Act to provide that—

(A) the limitation shall be applied to less productive lands in a manner, and in accordance with clear regulations, that will compensate for their less productive quality; and

(B) federal financial assistance shall be provided to potential family farmers who would otherwise be unable to own or operate the land.

DEFINITIONS

SEC. 102. As used in this Act, the term—

(1) "family farm" means a farm (A) owned and operated or leased and operated by a family farmer or family farmers; (B) of a size small enough to be maintained and operated by such family farmers with members of their families or with hired labor and in no event larger than six hundred and forty acres except as provided for in section

201; (C) which provides sufficient income by itself in average or better agricultural years to enable the farmer to meet necessary family and operating expenses, including the maintenance of essential chattel and real property and the payment of debts; and

(2) "family farmer" means an individual who (A) owns and operates, or leases and operates for his or her own account, a farm of no more than six hundred and forty acres except as provided for in section 201; (B) lives on or within fifteen miles of the land which constitutes the farm; and (C) derives a major portion of his or her income during periods of normal agricultural productivity from the operation of that farm. The term does not include an individual whose participation in farming operations is primarily limited to management decisions with respect to land operated by or leased to another person; but the term many include an individual, otherwise meeting the provisions of this definition, who operates a family farm in the partnership, corporate, or other form of business organization, as long as each partner, officer, trustee, shareholder, owner, or other interest holder is a family farmer as defined by this section and does not own, operate, lease, control, or have any interest in, more than six hundred and forty acres of land receiving Federal irrigation water.

(3) "qualified purchaser" means any individual, partnership, corporation, group of individuals, or other legal entity who (A) is eligible under the Federal reclamation laws to purchase lands; (B) would be eligible, after having made such a purchase, to receive from a project or division, water for the land purchased; (C) certifies that lands purchased pursuant to the Federal reclamation laws, including this Act, will be used as a family farm, that the individual, partnership, corporation, group of individuals, or other legal entity will operate that farm as a family farm, that each partner, shareholder, owner, officer or other interest holder shall live on or within fifteen miles of said land within a year of purchase, shall make farming his or her principal occupation as defined by section 102(2)(C), and shall not be a partner, shareholder, owner, lessee, or other interest holder in any other farming operation receiving Federal irrigation water, unless the total acreage, including the acreage being purchased, in which an ownership or other interest is held is less than six hundred and forty acres.

(4) "qualified leaseholder" means any individual who (A) is eligible under the Federal reclamation laws to purchase excess lands; (B) would be eligible, after having made such a purchase, to receive from a project or division water for the lands purchased; (C) certifies that lands leased pursuant to this Act will be used as a family farm, and that that individual, group of individuals or legal entity, will operate that farm as a family farm; (D) does not have the financial resources necessary to purchase a farm of an economically feasible size; (E) has been unable to obtain adequate financing to purchase such a farm; (F) has the ability to farm those lands as a family farmer; and (G) who obtains the land through the lottery system.

(5) "blood relative" means a grandparent, parent, child, brother, sister, aunt, uncle, niece, nephew, or spouse;

(6) "Secretary" means the Secretary of the interior;

(7) "Federal reclamation laws" means the Act of June 17, 1902 (32 Stat. 388), as amended (43 U.S.C. 391), and Acts amendatory thereof or supplementary thereto, including this Act;

(8) "project" means a Federal irrigation project authorized by or subject to the Federal reclamation laws;

(9) "division" means a substantial irrigable area of a project designated as a division by order of the Secretary;

(10) "Administrator" means the Administrator of the Farmers Home Administration; and

(11) "class 1" land: has the meaning defined in paragraph 2.5.2, "Class 1", of chapter 2.5, "Land Classes", of part 2, "Land Classification", of volume V, "Irrigated Land Use", of the United States Department of the Interior Bureau of Reclamation Manual, or comparable definition contained in a subsequent manual that is officially designated as the successor in function to that manual.

(12) "Federal irrigation water" shall include underground water supplemented by a Federal irrigation project and all water commingled with Federal irrigation water.

(13) "Land sale" shall include the sale of any mineral rights on the subject parcel owned by the seller.

## TITLE II—ACREAGE LIMITATIONS AND EQUIVALENCY

### LANDS OTHER THAN CLASS 1 LANDS—ACREAGE EQUIVALENCY

SEC. 201. (a) Notwithstanding any other provisions of law, the Secretary, for purposes of administering Federal reclamation laws, may establish the acreage of land held in private ownership by any one individual owner or group of owners, which is eligible as nonexcess lands to receive project water from, through, or by means of project works, at six hundred and forty acres of class 1 land, or the equivalent thereof in other lands of lesser productive potential and also growing seasons of less than 180 days: *Provided*, That in no case and for no class of land shall the equivalent acreage exceed nine hundred and sixty. Standards and criteria for the determination of land classes pursuant to this authority shall be based, where possible, on land classification surveys that have been made or shall be made in feasibility studies at or before the time the project involved was begun. Where previous land classification surveys do not exist, the Secretary may establish acreage equivalency formulas on a project-by-project basis. In any classification for equivalency purposes, including those cases where preproject surveys already exist, the Secretary shall hold public hearings in the area affected before promulgating regulations. The regulations will go into effect sixty days after their final promulgation. This section shall not apply to any project, unit, or division of a project, or repayment contracting entity located in an area in which the average frost-free growing season, as determined from published Department of Commerce records, exceeds one hundred and eighty days.

(b) The Secretary is authorized upon request of the holder of an existing contract under Federal reclamation laws to amend the contract to conform to the provisions of subsection (a) of this section, and to otherwise perform any and all acts appropriate to carrying out the purposes of this Act. All such amendments shall be negotiated and executed in keeping with the purposes and procedures set forth in sections 602, 603, and 604 of this Act.

## TITLE III—EXCESS LANDS AND IRRIGATION RIGHTS

### RIGHTS TO WATER AND TERMINATION OR SUSPENSION OF RIGHTS; MORATORIUM ON SALE OF EXCESS LANDS

SEC. 301. (a) One year after the date of enactment of this Act, no water from any project or division shall be delivered to any lands unless (1) those lands comprise a family farm, (2) those lands are described in subsection (b) of this section, or (3) those lands are within a project or division which prior to the enactment of this Act had been exempted by statute from the limitation. The Secretary, through the Commissioner of Reclamation, shall take appropriate steps to insure that water deliveries to lands not in compliance with the preceding sentence are terminated.

(b) In addition to lands comprising family farms, the following lands shall be entitled to receive or continue to receive Federal irrigation water:

(1) land currently under recordable contract;

(2) land parcels of less than six hunderd and forty acres for the period during which they are held by the owners of record at the date of enactment of this Act.

(3) land owned by a family farmer or former family farmer who otherwise conforms and complies with the provisions of this Act, but who leases that land through the lottery system, or in instances approved by the Secretary on the basis of extreme hardship to that family farmer, for no more than two years of a ten-year period, except that the lessee at the date of the enactment of this Act of an absentee owner holding less than six hundred and forty acres may continue to lease said parcel (i) indefinitely if he or she is a family farmer as defined in Section 102(2), (ii) for three years if he or she is not a family farmer as defined in Section 102(2);

(4) subject to the provisions of subsection (c) of this section, land acquired by foreclosure or other process or procedure in satisfaction of a mortgage or any other legal instrument securing a creditor's rights;

(5) subject to the provisions of subsection (c) of this section, land acquired by inheritance or devise; and

(6) subject to the provisions of subsection (c) of this section, land not under recordable contract purchased prior to the date of enactment of this Act and actually receiving or lawfully entitled to receive water on that date.

(c) Lands that receive or are entitled to receive water pursuant to clause (4), (5), or (6) of subsection (b) of this section shall cease to receive or be entitled to receive water from any project or division unless those lands are sold to the Secretary pursuant to section 501 or to a family farmer to be operated as a family farm—

(1) in the case of lands described in clause (4) or clause (5) of subsection (b), one year after the date of acquisition of title to or other possessory rights in those lands by a person or persons not family farmers or for operation otherwise than as a family farm; and

(2) in the case of lands described in clause (6) of subsection (b), five years after the date of enactment of this Act.

(d)(1) Not less than sixty days prior to terminating deliveries or entitlement to deliveries of water to any lands pursuant to this section, the Secretary shall give notice by personal service or by certified mail to the record owner or owners of those lands, to any person or persons known to have a leasehold or other lawful possessory or security interest therein, and to the head or heads of any household or households of persons known to be resident thereon. The notice shall specify the legal reason or reasons for and the intended date of the termination. Each person having a right to receive such notice shall have a right, within the period after notice and prior to termination, to present to the Secretary or his delegate oral or written argument that those lands are in compliance with this section and that deliveries of water accordingly should not be terminated.

(2) The Secretary, by regulation, shall establish procedures, for the settlement of contested rights to water under this section. Those procedures shall provide for final determination of such rights at the administrative level not later than one year after the issuance of the sixty-day notice of intended termination. While any such contest is pending, lands involved in that contest may receive water for the duration of the growing season during which the intended termination date fell. After that growing season has ended, no deliveries of water shall be made to those lands during the pendency of the contest at the administrative level or in the courts: *Provided,* That, if the Secretary shall upon inquiry find and by order declare that, in a particular case, the termination of deliveries of water would cause hardships to the recipients of water that substantially outweigh the benefits to enforcement of the policy and purpose of this Act, the date of suspension of deliveries of water during the pending contest may be deferred for not to exceed one additional growing season. Thereafter, no water shall be delivered to those lands until they have been duly found or adjuged to be in compliance with this section.

(e) Not later than three months after the enactment of this Act, the Secretary shall publish proposed regulations for the administration of this section and shall provide for hearings on those proposed regulations during the following six months. There shall be at least one day's public hearing in each region of the Bureau of Reclamation. The Secretary shall also provide for the filing of written comments on the proposed regulations during the six-month period following their publication. The Secretary shall promulgate final regulations, taking into account testimony heard and suggestions received, not prior to six months, not later than one year, after the date of enactment of this Act.

(f) No excess lands in any project or division receiving or eligible to receive federally supplied water shall be sold for a period of one year following the date of enactment of this Act: *Provided,* That, if the Secretary, upon inquiry finds and by order declares that, in a particular case, the moratorium on the right to sell land would cause hardships to the owner or owners of that land which substantially outweigh the benefits of the moratorium to achievement of the policy and purpose of this Act, the moratorium on land sales shall be waived in that case.

DISPOSITION OF LANDS

SEC. 302. (a) A seller of land shall have the right to determine to which purchaser or beneficiary he or she will sell, give, or devise six hundred and forty acres of land if said purchaser or beneficiary is a blood relative of said seller: *Provided,* That, only qualified purchasers of that land may receive federally supplied water therefor under this Act, and Federal reclamation laws. If the seller is unable or unwilling to sell, give, or devise his or her land to a blood relative, or in the sale of land of more than the six hundred and forty acres sold, given, or devised, the purchaser shall be determined by lot, in accordance with subsection (b)

(b) The Secretary shall determine by lot which of two or more offers from qualified purchasers for the same parcel land shall be accepted by the seller. The Secretary shall promulgate regulations for the conduct of lotteries for that purpose. Those regulations shall provide that—

(1) An applicant for the lottery system, whether as individual, partnership, corporation, or other legal entity, directly or indirectly shall be entitled to one and only one chance in that lottery in any one year if that prospective occupant is a qualified purchaser.

(2) Lands to be sold through the lottery system shall be divided by the Secretary on an annual basis into parcel sizes of from twenty to six hundred and forty acres. The average size of said parcels shall be no more than two hundred acres in Federal irrigation project areas with more than 210 frost free days.

(3) Lottery chances shall not be transferable in any manner.

(4) The parcels of land to be sold or leased through the lottery system shall be announced on January 1 of each year and shall be chosen on April 1 of each year. Purchase lottery winners must obtain financing and complete all other legal transactions to take title to the land no later than August 1 of the year in which they drew the successful lot. If the purchaser fails to obtain financing by August 1 the subject parcel may be placed in the purchase lottery for the following year or it may be placed in a special October 1 lease lottery for rental commencing the following January 1. The seller may not impose terms on the purchase other than a demand for cash payment. Purchasers and lessees shall take possession in the following January 1.

(5) The lottery system shall be conducted to facilitate land transfers between season and to avoid disruption and delay in planting and harvesting operations. Adequate notice shall be given to sellers, buyers and lessees. Sellers shall provide lottery purchasers and lessees timely and reasonable access to the land after the harvesting to prepare it for planting of the following year's crops. However, sellers shall retain their existing water and property rights until the buyers or lessees take possession of the land.

(c) The appraisal of lands for sale thereof shall be made without reference to any chattel, fixture, or other property which can be liquidated by the seller in a sale unrelated to the sale of lands, such as tractors, trucks, leasehold rights, securities and other items or materials, nor shall the purchase of any such items be a condition of sale. In all cases the price for land shall be no higher than the price the Secretary determines would result from taking the fair market value of the land without reference to the Federal irrigation project benefits.

(d) Disagreements between the seller and a qualified purchaser of lands as to price or any other condition of sale shall be resolved by arbitration. The Secretary shall promulgate regulations, pursuant to section 604, for the conduct of such arbitration.

SPECULATION AND PROFITEERING PROHIBITED

SEC. 303. Between the date of enactment of this Act and the date upon which the allocated costs of a Federal irrigation project have been fully repaid, no owner of land receiving or entitled to receive water from that project or division who purchased that land at a price limited by the Federal reclamation laws shall sell that land at a price greater than that owner's costs for the land, indexed by the Consumer Price Index for the period between that owner's purchase and sale of the land.

## TITLE IV—REPAYMENT OF PROJECT COSTS

PROJECT COST REPAYMENT PROVISIONS OF CONTRACTS

SEC. 401. (a) Notwithstanding any other provision of law, the Secretary, in the case of water right contracts or amendments to contracts entered into after the date of enactment of this Act, shall be required to stipulate in any such contracts that all rates and assessments to be paid by the contracting entity or the landowners in that entity shall be renegotiated every five years. The repayment capacity studies on which such rates and assessments may be based shall also be conducted every five years.

(b) Notwithstanding any other provision of law, the Secretary, in case of water right contracts or amendments to contracts entered into after the date of enactment of this Act, shall require that repayment for the distribution infrastructure systems shall commence for each section of the system when it begins regularly and permanently to deliver water. No section of the system shall be used to deliver water for more than one year unless repayment for that section has commenced.

## TITLE V—LEASING OF CERTAIN LANDS

PURCHASES OF LANDS BY THE SECRETARY IN ORDER TO LEASE THOSE LANDS TO FAMILY FARMERS

SEC. 501. (a)(1) During the fiscal year beginning October 1, 1978, and each succeeding year, the Secretary is authorized and directed to utilize all moneys appropriated for that purpose to purchase five thousand acres or twenty percent of the irrigated land in a Federal irrigation project service area, whichever is greater, and fixed equipment thereon, for lease to family farmers in accordance with the provisions of this section. Such purchased land shall be divided by the Secretary into parcel sizes of from twenty acres to six hundred and forty acres for lease to new farmers who neither own nor operate for themselves any farm receiving Federal irrigation water. Said lottery shall be conducted as provided for in section 302(b).

(2) There is authorized to be appropriated for the fiscal year commencing October 1, 1978, and for each of the next following four fiscal years, the sum of $10,000,000 to carry out the provisions of this subsection.

(b)(2) Each such lease shall contain a requirement that the leasehold will be used as a family farm and the leaseholder will farm the lands as a family farmer.

(c) In determining the amount of rent which a leaseholder shall be required to pay, the Secretary shall charge the going market rate for land in the area absent project benefits. The Secretary, in determining the amounts, shall be authorized to adopt variable rental schedules in order to take into account both bountiful and natural-disaster conditions.

(d) Leases under this section shall not exceed, originally or by any extension or extensions, a total term of seven years, and in no case shall any such lease be issued for a term of less than two years. No leaseholder shall sublease lands covered by his or her lease unless approved by the Secretary on the basis of an extreme hardship to that leaseholder.

(e) The Secretary shall be authorized to terminate any lease for any failure to pay rents or other substantial violation thereof by the leaseholder in accordance with such regulations as he shall prescribe.

(f) In accordance with such regulations as the Secretary shall promulgate, a leaseholder shall be authorized, during the term of that lease, to make improvements within a five-acre area approved by the Secretary for that purpose. Upon the termination of that lease, the Secretary shall compensate the leaseholder for such improvements in an amount not to exceed the fair market value thereof.

(g) In those cases where two or more qualified leaseholders make application for lease of the same tract of land, the Secretary shall determine which of those applicants shall be entitled to that lease by lot in the same manner as provided under subsection (b) of section 302 of this Act.

(h) In any case in which a qualified leaseholder certifies in a manner satisfactory to the Secretary that he or she does not have the financial resources necessary to operate

the lands covered by that lease as a family farm, including nonfixed assets, such as tractors, trucks, and other items or materials, the leaseholder shall be entitled to receive financial assistance in accordance with the provisions of section 601 of this Act.

(i) In any case in which the Secretary determines, on the basis of a qualified leaseholder's use of the lands covered by his or her lease during the term thereof and such other factors as the Secretary, by regulation, shall prescribe, that that leaseholder can successfully manage and operate the lands covered by the lease as a family farm, the the Secretary shall, upon application of that leaseholder submitted to the Secretary within six months prior to the expiration of the term of that lease, sell those lands to that leaseholder at the same price the Secretary paid for the land at the time of its acquisition indexed by the Consumer Price Index for the period between acquisition and sale of the land and minus the lease payments. If the leaseholder certifies in a manner acceptable to the Secretary that he or she does not have and has been unable to obtain adequate financial resources to make the purchase, the leaseholder shall be entitled to receive financial assistance in accordance with section 601 of this Act. All proceeds of those sales shall be placed in a fund to be administered by the Secretary for the purpose of purchasing additional lands for lease under the provisions of this title.

(j) Upon the purchase of land pursuant to subsection (i), the former leaseholder shall be subject to all of the conditions, limitations, and restrictions imposed by the Federal reclamation laws, including in particular title III of this Act, on excess lands and qualified purchasers thereof.

(k) Notwithstanding any other provision of law, a qualified leaseholder shall be entitled to contract for water for lands covered by the lease in the same manner and to the same extent as if that leaseholder were the owner of those lands.

(l) In any action of the Secretary involving the denial or rejection of an application for a lease under this title, the Secretary shall require that the applicant be notified of that action by both oral and written communications. If the applicant believes that the Secretary has wrongfully denied or rejected the application, the applicant shall have thirty days following that denial or rejection within which to file a petition for review of the application and denial. By regulations promulgated pursuant to section 604, the Secretary shall establish procedures for the initial processing, granting, and denial of those applications, and, following rejection, for review thereof by a different authority.

(m) If the leaseholder does not purchase the land, it shall be placed in the lottery for the year in which the lease terminates. Said leaseholder shall not be eligible to enter any future lottery conducted pursuant to this Act either as an individual's partner, shareholder, leasee, or other interest holder, unless a special exemption is granted by the Secretary.

LEASING OF LEMOORE NAVAL AIR STATION LAND TO FAMILY FARMERS

SEC. 502. Within ninety days following the date of enactment of this Act, the Secretary of the Navy shall transfer to the Secretary of the Interior administrative jurisdiction over the leasing of all lands owned by the Secretary of the Navy within the Westlands Water District which qualify as excess lands, for purposes of leasing those lands pursuant to this title. The Secretary of the Navy shall, however, be permitted to issue such rules and regulations as he may deem necessary for the operation of the Lemoore Naval Air Station, and the Department of the Navy shall retain title to the land. On and after that transfer, those lands shall be available to the Secretary of the Interior for disposition under this title in the same manner and to the same extent as those lands purchased by the Secretary pursuant to section 501, except that those lands with respect to which the Secretary of the Navy retains title under this section shall not be available for purchase in accordance with subsections (i) and (j) of section 501. Notwithstanding the provisions of section 501(d) of this Act, the Secretary of the Interior is authorized, upon the expiration of any such lease, to renew the lease for a further term or terms.

## TITLE VI—MISCELLANEOUS

GUARANTEES BY DEPARTMENT OF AGRICULTURE OF LOANS MADE BY PRIVATE LENDERS TO QUALIFIED LEASEHOLDERS

SEC. 601. (a) In order to furnish financial assistance for purposes referred to in section 302 and subsections (h) and (i) of section 501, the Administrator may, in accordance with the provisions of this section, guarantee loans made by non-Federal lenders to qualified leaseholders for those purposes. No loan guarantee under this section for any such purpose may apply to so much of the principal amount thereof as exceeds 90 per centum of the cost of carrying out any such purpose.

(b) Individuals seeking guarantees of loans under this section shall submit to the Administrator applications, in a form which the Administrator shall prescribe, containing such information and assurances as may be required by the Administrator. The Administrator may approve any such application only if—

(1) there are in the application satisfactory assurances that the applicant will, if the loan is granted, keep those records, and afford such access thereto, and make those reports in the form and containing the information, as the Administrator may reasonably require; and

(2) the Administrator determines, in the case of a loan for which a guarantee is sought, that the terms, conditions, maturity, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable and in accord with regulations, including a determination that the rate of interest does not exceed the per centum per annum on the principal obligation outstanding as the Administrator determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States.

(c) In the case of any such loan guaranteed under this section, the United States shall be entitled to recover from the applicant the amount of any payments made pursuant to any such guarantee, unless the Administrator for good cause waives the right of recovery, and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

(d) Guarantees of loans under this section shall be subject to such further terms and conditions as the Administrator determines to be necessary to assure that the purposes of this section will be achieved, and, to the extent permitted by subsection (e), any of those terms and conditions may be modified by the Administrator to the extent he or she determines such modification to be consistent with the financial interest of the United States.

(e) Any guarantee of a loan pursuant to this section shall be incontestable in the hands of an applicant on whose behalf the guarantee is made, and as to any person who makes or contracts to make a loan to the applicant in reliance thereon, except for fraud or misrepresentation on the part of the applicant or such other person.

(f) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this section is authorized to be any amount not in excess of $50 million.

COPIES AND EXPLANATIONS OF THIS ACT TO BE FREELY AVAILABLE

SEC. 602. The Secretary, on request of any individual, shall furnish without cost to that individual a copy of this Act, together with a summary explanation of the provisions thereof written in simple English or in simple Spanish, as the requesting individual desires.

NEGOTIATIONS OF PROJECT CONTRACTS TO BE CONDUCTED IN OPEN SESSIONS FOLLOWING PUBLIC NOTICE

SEC. 603. After the date of enactment of this Act, all contract negotiations involving construction, reconstruction, enlargement, operation, repayment of costs, excess lands, rights to water, or other aspects of any project or division existing under or subject to the Federal reclamation laws, or any combination of those subjects, shall be conducted in public sessions and pursuant to public notice given in a form and manner calculated to provide the widest practical actual notice to interested parties. All parties conducting such negotiations, including but not limited to the Secretary and his delegates, shall share responsibility for implementing the policy of this section, to assure notice to and participation or observation by the public in all negotiations involving contracts, including amendatory and supplemental contracts, affecting projects or divisions.

SECRETARY'S RULES AND REGULATIONS TO BE PUBLISHED

SEC. 604. Beginning not later than one year after the date of enactment of this Act, the Secretary shall take no action pursuant to or in implementation of the Federal reclamation laws, except in accordance with published, formal rules and regulations promulgated by the Secretary. Those rules and regulations shall, in addition to other matters, be explicit in making provision for the disposition of excess lands. All such rules and regulations shall be published in the Federal Register not less than thirty days before becoming effective. All such rules and regulations, including amendments thereto, shall be subject to the provisions of subchapters I and II of chapter 5 of title 5, United States Code.

DEPARTMENT OF AGRICULTURE PROGRAMS FOR FAMILY FARMERS

SEC. 605. In order to facilitate the successful operation of the other titles and purposes of this Act, the Secretary of Agriculture is authorized and directed to make available, to the maximum extent authorized by law, to family farmers in each irrigation district, those benefits provided to farmers and stockmen under programs administered by the Farmers Home Administration, the Agricultural Stabilization and Conservation Service, the Soil Conservation Service, the Federal Crop Insurance Corporation, the extension service, and by such other agencies and offices of the Department of Agriculture as may be appropriate.

AUTHORIZATION OF APPROPRIATIONS

SEC. 606. For the fiscal year beginning October 1, 1977, and each fiscal year thereafter, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

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By Mr. INOUYE:

S. 2928. A bill to amend the International Investment Survey Act of 1976,

and for other purposes; to the Committee on Commerce, Science, and Transportation.

● Mr. INOUYE. Mr. President, today I am introducing a bill to amend the International Investment Survey Act, which is the basic statutory authority for the collection and dissemination of information on foreign investment in the United States and American investment overseas.

When I introduced the original bill, an authorization of $1 million annually for fiscal year 1978 and fiscal year 1979 was provided. However, it has come to my attention that the Departments of Commerce and Treasury believe that this sum is inadequate to carry out the responsibilities authorized by the act.

The bill which I am introducing today increases this authorization to reflect the Treasury and Commerce requests. In the case of the Commerce Department, the figures have been adjusted to reflect an inflation rate of 6 percent per year. I have attached the correspondence from the two Departments with the proposed adjustments and an addendum to this statement showing the breakdown of figures.

Section 4(d) of the 1976 act also authorized the President to conduct a feasibility study of establishing a system to monitor foreign direct investment in agricultural, rural, and urban real property. As the tempo of foreign investment in American land has increased, this study has taken on new importance.

Regrettably, no request for funding this project was made until this year, and consequently there are no funds available for this study at the present time although a supplemental appropriation is now pending. However, the late start of the study will impinge upon the final reporting date, which was to have been October 11, 1978. Consequently, rather than have a hastily prepared report by the Department of Agriculture, I believe it would be in our best interests to amend the act to make the Department submit only an interim report by October and to extend the final reporting deadline by 1 year to October 11, 1979.

Finally, this bill takes cognizance of growing public concern by many Americans about large-scale purchases of agricultural land by foreign investors. It has been estimated that approximately $800 million was invested in real estate by foreigners in 1977, and it has been further suggested that the rush to land investment is the biggest, continuing wave of investment in American farmland since the turn of the century.

Nor does it appear that sales are slowing significantly. One reads constantly of large real estate purchases, many in urban areas as well, and brokers appear to have increased their activities abroad. A drastically devalued dollar and international political instability are contributing to a rush toward real estate investments in the United States.

As a result of foreign investment, land prices in some parts of the United States have increased rapidly. Transactions formerly tended to be concentrated in Corn Belt States, but recently have spread to other States such as Missouri, Arkansas, Kansas, and Nebraska. Opponents of foreign investment have contended that price increases have pushed land purchases out of reach of family farmers and young farmers. If this is so, it ought to be of concern to the entire country.

There is some evidence that foreign investors are in a superior position partly because of tax breaks either in their home countries or in tax havens. Some supporting documentary evidence has been produced, and this subject should be studied at greater length by the Departments of Commerce, Treasury, and Agriculture. To the extent this is true, possible remedies should be evaluated by the Congress and the executive agencies.

The publicity surrounding foreign investment in American real estate should not obscure several facts. First, and most important, is the fact we actually do not know how much land is being purchased by foreigners. Only one State, Iowa, has a reliable monitoring system. It is simple in other States for both foreigners and domestic purchasers to be the beneficial owners without being the holders of record.

Without accurate recording or monitoring systems, it is simple for rumors to germinate and thrive. Moreover, much of the investment has taken place in urban areas for shopping centers, single-family houses, apartments, and offices, so aggregate figures or guesses may be deceptive.

Second, it is unclear what the benefits and drawbacks of foreign investment in real estate are. We know that in the manufacturing sector foreign ownership can bring in new technology, new ideas, improved management, and so forth. In agricultural real estate, although land prices may be driven up, there could be concomitant beneficial results from foreign ownership.

Third, the surge of foreign investment may be a temporary phenomenon which will subside. We should not react with panic if the investments will be limited to a short duration.

There are 7 States with general prohibition on ownership by nonresident aliens; 5 States with substantial restrictions; 8 with minor restrictions; and 30 with no restrictions. As I stated earlier, only Iowa has in place an accurate monitoring system which traces the beneficial owner. Certainly other States can take steps to improve their recording and monitoring programs to obtain improved information about foreign investments in their own borders.

Land use planning and recording have traditionally been within the jurisdiction of the States. It would be an undesirable precedent for the Federal Government to intrude on this authority.

This bill, therefore, establishes a limited program to enable the Federal Government to assist the States in the following: First, to establishh or improve their own monitoring and data collection programs; second, to assist States in the enforcement of their own laws where such aid might be feasible; third, to provide legal information to States on the international implications of their activities. For example, with respect to this last point, some actions taken by the States may adversely affect our relations with friendly countries. The Federal Government, through the Department of State, could offer advice and assistance on this issue.

Finally, the bill would authorize the President to establish a clearinghouse of information to share with the States and general public. Ideally, this clearinghouse function could be given to the Office of Foreign Investment in the United States, which is located in the Department of Commerce. There is already a body of information and expertise in that Office, and I think that it could be readily used to carry out this provision, for example, by improving its State liaison program; increasing its real estate expertise by hiring knowledgeable experts; improving data on real estate transactions; and serving as the focal point for information on current Federal and State government activities and research into this area. In short, there need be no drastic changes as a result of this provision.

I should emphasize that this program is not designed in any way to predetermine the study being conducted by the Department of Agriculture. Several States have begun to act even without the study, and if enacted, this limited Federal program would assist those which are making decisions about foreign investments in farmland. It would further express the Congress' determination that the Federal Government work closely with the States to assist them in their deliberations. Moreover, this program is limited in scope and would still leave to the study such issues as the feasibility of establishing a nationwide multipurpose land data system.

I ask unanimous consent that the budget figures, the bill, and articles on this subject be printed in the RECORD at this time.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

Fiscal Year 1979

| | |
|---|---|
| Commerce | $2,538,000 |
| Treasury | 1,725,000 |
| Total | 4,263,000 |

Fiscal Year 1980

| | |
|---|---|
| Commerce | *2,690,000 |
| Treasury | 2,338,000 |
| Total | 5,028,000 |

Fiscal Year 1981

| | |
|---|---|
| Commerce | *2,852,000 |
| Treasury | 1,132,000 |
| Total | 3,984,000 |

*Includes a 6-percent inflation adjustment

S. 2928

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That—

SECTION. 1. Section 4 of the Act (22 U.S.C. 3103) is amended by inserting the following new subsection (e) and redesignating subsections (e) and (f) as (f) and (g) respectively:

"Sec. 4. (e) The President is authorized to establish a program to assist officially designated State agencies, including academic institutions, in establishing or improving land data collection or monitoring systems, in improving State enforcement of laws regarding real estate purchases, and in providing legal assistance and advice on international law on the treatment of land purchases by nonresident aliens. The President is further authorized to establish a Federal clearinghouse of information on significant real estate investments by nonresident aliens whose information may be shared with the States and general public."

SEC. 2. Section 4(d) is amended to read as follows: "(d) The President shall conduct a study of the feasibility of establishing a system to monitor foreign direct investment in agricultural, rural, and urban real property, including the feasibility of establishing a nationwide multipurpose land data system, and shall submit an interim report of his findings and conclusions to the Congress not later than two years after the enactment of this Act and a final report not later than three years after the enactment of this Act.

SEC. 3. Section 9 is amended to read as follows:

"SEC. 9. To carry out this Act, except for section 4(e), there is authorized to be appropriated $4,300,000 for the fiscal year ending September 30, 1979; $5,000,000 for the fiscal year ending September 30, 1980; and $4,000,000 for the fiscal year ending September 30, 1981. There is authorized to be appropriated to carry out section 4(e) of this Act $1,250,000 for the fiscal year ending September 30, 1979; $1,500,000 for the fiscal year ending September 30, 1980; and $1,750,000 for the fiscal year ending September 30, 1981."

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U.S. DEPARTMENT OF COMMERCE,
*Washington, D.C., March 31, 1978.*

Hon. DANIEL K. INOUYE,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR INOUYE: I am writing in response to a telephone inquiry from Eric Lee of your staff. He has requested information on the Department of Commerce costs for activities conducted as part of the International Investment Survey Act of 1976 (P.L. 94-42) for 1979, 1980 and 1981.

The Bureau of Economic Analysis (BEA) and the Industry and Trade Administration (ITA) perform duties under the Act. The estimated costs are as follows:

[Dollar amounts in thousands]

| | 1979 | 1980 | 1981 |
|---|---|---|---|
| BEA | $1,552 | $1,552 | $1,552 |
| ITA | 986 | 986 | 986 |
| Total | 2,538 | 2,538 | 2,538 |

The estimates reflect the 1979 budget request submitted to Congress and the planning targets for 1980 and 1981. The planning targets do not include any projected inflationary costs.

Sincerely,

ELSA A. PORTER,
*Assistant Secretary for Administration.*

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AUGUST 15, 1977.

DEAR MR. CHAIRMAN: Thank you for taking the time to discuss with us the problems of the foreign portfolio investment surveys required under the International Investment Survey Act of 1976 on August 2; we very much enjoyed meeting with you and Mr. Lee.

You asked me to lay out some alternative approaches to these surveys, together with their estimated costs, for your consideration, in order that you and other members of the Commerce, Science, and Transportation Committee could consider the implications for possible amendment of the 1976 Act.

It seems to me that there are only two major questions to resolve: that of coverage of the surveys, and that concerning authorization of funds (section 9 of the 1976 Act) and appropriations. The two interact, since the more elaborate the surveys, the higher the costs.

I shouldn't think it would be necessary to amend the Act to address the coverage question, since the legislation appears to provide sufficient flexibility for the President to determine the scope under the phrase "to the extent he determines necessary and feasible" in Section 4(c). Under this authority, I believe it is possible to select the definition of portfolio investment most appropriate for the ultimate users of the survey.

Basically, three approaches to coverage are implied by three variant definitions of "portfolio investment". These three definitions are (a) the market definition (essentially stocks and bonds), (b) the balance of payments definition (essentially the 1974 approach, which covered other financial instruments, and provided about 12 percent more data than the market definition but at an additional survey cost of 15 to 25 percent), and (c) the definition contained in the 1976 Act, which added in short-term flows such as bank loans and deposits, short-term corporate claims and liabilities, and Treasury bills and certificates.

I enclose a table showing the three definitions of portfolio investment as reflected in the 1974 inward survey and other data collected by the Treasury at that time. As can be seen from this table, the traditional market and balance of payments definitions have included only long-term instruments, which account for about 40 percent of all portfolio investment as defined in the 1976 Act. The Act, by including short-term instruments as well, more than doubled the amounts defined as portfolio investment.

We believe, however, that the regular monthly and quarterly Treasury International Capital (TIC) surveys provide adequate coverage for all but the securities market flows, and certain obscure items accounting for about four tenths of one percent of the whole, e.g., partnership interests, capitalized leases, and conditional sales agreements. The TIC reports give us good monthly and quarterly figures on the levels of all other foreign portfolio investment. In the case of securities, we have monthly reports on transaction flows with foreign residents, but not on levels of foreign investment. It is thus these data which require the calibration of a benchmark survey, partly because of the inherent uncertainty of estimates of fluctuations in market value.

We would thus propose that the benchmark survey collect information on levels of securities market instruments only, and that we supplement the survey with the data collected on levels of ownership of financial market instruments from our existing monthly and quarterly TIC surveys. We believe this would meet the analytic requirements of almost all potential users of the survey, and at the same time result in significant cost savings.

Turning more directly to the subject of costs, our budget estimates are based on the experience of the 1974 inward survey, and on the assumption that the same staff will be able in sequence to handle the outward survey, despite its apparently greater complexity. Our estimates have also been posited on our being able to begin work in the near future on the inward survey, which would be done on the basis of investment positions as of December 31, 1977. This would enable us to complete this analysis in 1979, in time to undertake collection of outward survey data as of December 31, 1979. Such a schedule would enable us to complete the analysis of the second (outward) survey by October 11, 1981. If, as now seems likely, we are unable to begin the first survey as of December 1977, we will be forced back to 1978, which would require additional resources during 1979 and 1980, thus increasing our budgetary requirements for those two fiscal years.

These are our present budget requirement estimates under various coverage options:

1977 AND 1978 SURVEYS

I. Coverage by market definition (stocks and bonds):

Fiscal year:

| | |
|---|---|
| 1977 | $76,732 |
| 1978 | 967,397 |
| 1979 | 1,460,974 |
| 1980 | 1,539,241 |
| 1981 | 1,132,255 |
| Total | 5,177,099 |

II. Coverage by balance-of-payments definition (1974 pattern):

Fiscal year:

| | |
|---|---|
| 1977 | $76,732 |
| 1978 | 1,138,702 |
| 1979 | 1,713,793 |
| 1980 | 1,810,872 |
| 1981 | 1,332,065 |
| Total | 6,077,164 |

III. Coverage by 1976 act definition (includes short-term):

Fiscal year:

| | |
|---|---|
| 1977 | $76,732 |
| 1978 | 1,405,703 |
| 1979 | 2,121,815 |
| 1980 | 2,235,484 |
| 1981 | 1,644,407 |
| Total | 7,484,141 |

1978 AND 1979 SURVEYS

IV. Coverage by market definition (stocks and bonds):

Fiscal year:

| | |
|---|---|
| 1978 | $325,343 |
| 1979 | 1,725,125 |
| 1980 | 2,337,839 |
| 1981 | 1,132,255 |
| Total | 5,520,562 |

V. Coverage by balance-of-payments definition (1974 pattern):

Fiscal year:

| | |
|---|---|
| 1978 | $325,343 |
| 1979 | 2,029,559 |
| 1980 | 2,750,399 |
| 1981 | 1,332,065 |
| Total | 6,437,366 |

VI. Coverage by 1976 act definition (includes short-term):

Fiscal year:

| | |
|---|---|
| 1978 | $325,343 |
| 1979 | 2,505,449 |
| 1980 | 3,395,312 |
| 1981 | 1,644,407 |
| Total | 7,870,511 |

We feel option IV is the most practical and efficient and the least burdensome on the public. It is probably too late to be able to undertake the first survey as of December 1977, since we would have to obtain appropriations, recruit staff, design survey forms (a well-considered forms design process, embodying research proposals, consultations with the public, etc., can take several months), and mail them out with sufficient

lead-time before the date as of which the data are to be collected.

The figures suggest that the $1 million authorized in Section 9 to "carry out this Act" should be amended. These figures, of course, do not include Commerce and Agriculture requirements, and you will undoubtedly want to consult directly with those Departments on their financing requirements.

If you or your staff would like to discuss any aspect of this further with me or Mr. Keyser, we would be more than happy to be of assistance in any way we can.

Sincerely yours,

DANIEL H. BRILL,
*Assistant Secretary for Economic Policy.*

COMPARISON OF SURVEY COVERAGE OF FOREIGN PORTFOLIO INVESTMENT IN THE UNITED STATES BY INSTRUMENTS

[1974 basis; billions of dollars]

| Instruments (percent of total in parentheses): | | 1974 Survey | 1976 Act | Current Treasury Coverage |
|---|---|---|---|---|
| Common and preferred stock and other equity | $24.7 (14.7%) | X | X | 14.5% |
| Bonds and debentures | 34.1 (20.3%) | X | X | 20.3% |
| Total portfolio (market definition) | 58.8 (35.1%) | X | X | 34.9% |
| Long-term notes and loans | 6.9 (4.1%) | X | X | 4.1% |
| Long-term CD's and other private long-term debt | 1.4 ( .8%) | X | X | .6% |
| Total other long-term debt | 8.3 (4.9%) | X | X | 4.7% |
| Total long-term portfolio (BoP definition) | 67.1 (40.0%) | X | X | 39.6% |
| Short-term bank deposits and other liabilities | 59.1 (35.2%) | -- | X | 35.2% |
| U.S. Treasury bills and certificates | 35.7 (21.3%) | -- | X | 21.3% |
| Non-bank liabilities (ST bank loans, trade payables, etc.) | 5.9 (3.5%) | -- | X | 3.5% |
| Total short-term | 100.7 (60.0%) | -- | X | 60.0% |
| Total portfolio (1976 Act definition) | 167.8 (100.0%) | -- | X | 99.6% |

By Mr. HELMS:

S. 2929. A bill to provide for the safeguarding of taxpayer rights, and for other purposes; to the Committee on Finance.

TAXPAYERS' BILL OF RIGHTS ACT

Mr. HELMS. Mr. President, tonight at midnight is the deadline for the American people to file their individual Federal income tax returns, and I have selected this evening as symbolically appropriate to send to the desk a bill entitled the "Taxpayers' Bill of Rights Act."

It is now 3½ months into the year but it will not be for another 3 weeks that Americans will start working for themselves for 1978. All this year, up to 3 weeks from now, the American taxpayers will have been working to pay their taxes. In other words, it will take the average American until May 6 of this year to earn enough money to pay his share of the cost of Government.

The Tax Foundation, an organization that publishes some outstanding analyses of tax issues has calculated that taxes on all levels will consume the output of the average working American for the first 4 months and 6 days of 1978. Thus, "Tax Freedom" day will be on May 6.

The massive size of the Federal tax alone is sufficient to make many citizens regard it as confiscatory and unconscionably high. It is indeed too high. It discourages initiative. It encourages unemployment. It makes savings and investment unattractive and it rewards consumption and indebtedness.

Since the Federal Government began taxing income, the rates have grown bit by bit, but they have grown until the total bite is of massive proportions. The procedures that might have been proper for the relationship between the Government and the taxpayer when the rates were 2 or 3 percent, are still being used.

It is my view that the procedures must be changed when the Government takes from the American taxpayers 20 or 30 or 40 percent, or more, of their earnings—using the coercive power of the Federal Government.

"MIRANDA" RIGHTS

One of the basic freedoms afforded individuals when they are arrested by the police is the notification that they can have an attorney, that they have a right to remain silent, and that anything said might be used in later action against them. This was the result of the Supreme Court's Miranda decision. Up until now, that right has not been granted to taxpayers.

The taxpayers' bill of rights requires IRS officials to fully inform taxpayers at the beginning of any interview or conference that the taxpayer has the right to have an attorney present during any meeting in which the taxpayer's liability is discussed. Further, the bill also provides that at any time during the conversation if the taxpayer decides he does not want to continue the conversation without the counsel of an attorney, then the taxpayer has the right to refuse to answer any further questions.

In short, the taxpayers' bill of rights provides a modified "Miranda warning" for taxpayers during their meetings with IRS officials. However, unlike the application of the Miranda warning in the criminal context when a suspect is undergoing questioning during a custodial interrogation, IRS would not be required to provide an attorney or to exclude any statement made by the taxpayer because such a warning was not given completely.

Mr. President, certainly it is not my intent to transform every communication between IRS officials and taxpayers into an adversary confrontation. Rather, the affirmative duty of informing each taxpayer of his rights at the beginning of any meeting should do much to convince the taxpayer of the fairness in which his case is being handled, and therefore, do much to reduce the adversary nature of such meetings.

The present law provides strong criminal penalties for anyone who makes and signs a materially false statement to IRS officials in order to evade the payment of any tax.

TAXPAYER SERVICES

The bill, the Taxpayers' Bill of Rights Act, would set up a special office with the rank of Assistant Commissioner of the Internal Revenue Service for Taxpayer Services. At this time there is a small office within IRS that is supposed to provide for aids to taxpayers. The magnitude of the problem is such, however, that a major Division should be established.

The office would not only help a taxpayer find an answer to a question and help taxpayers fill out required forms, but it would serve as a complaint office and an ombudsman to the taxpayer. Today, some taxpayers give up in despair of ever obtaining correct settlements of some bills. Months can be spent trying to track down a lost check or an incorrect computer entry. The new Office of Taxpayer Services would provide vital help in these cases.

In connection with certain cases, there have been instances of the seizure of a taxpayer's assets resulting in great harm to the taxpayer. My bill would provide for taxpayer assistance orders which would postpone seizures or actions that would impose undue hardships on taxpayers.

NOTIFICATION OF TAXPAYER'S RIGHTS

Perhaps one of the most basic needs is the assignment in the bill, of the responsibility to assure that taxpayers know their rights. This would probably be the most widely recognized new service performed by the IRS. It would require that clearly written pamphlets be provided outlining the taxpayers' rights. It would require that the taxpayers' rights be spelled out in cases of audits, assessments and appeals.

The IRS already provides some information on these topics but presently a full notification of rights and a clear explanation of them is not required.

LIMITS ON INVESTIGATIONS

My bill would prevent the IRS from conducting investigations of individuals and organizations unless the investigations have to do with the enforcement of the laws under the perview of the IRS. In other words, the IRS would be strictly forbidden to conduct harassment investigations.

The exceptions to this rule would be in cases of an individual seeking employment with the IRS, in cases where a person or organization sought IRS contracts, and in cases of otherwise lawful

investigations concerning organized criminal activities.

The taxpayer who believed his rights under this provision were denied could seek civil penalties against individuals in the IRS who violated this provision.

TAXPAYER'S ATTORNEYS FEES

My bill would extend an established principle of civil law to cases involving a taxpayer and the IRS. It would provide that in cases before the tax court, a taxpayer who wins his case to be awarded attorney's fees.

This is an important consideration, because today, a taxpayer who believes he is in the right may just give up the fight rather than incur the legal costs of fighting the matter.

The skyrocketing costs of litigation today are well known, and my bill would simply go a little way toward giving the two parties to a legal question before the tax court equal footing.

Any taxpayer today who faces losing $1,000 in attorney's fees to fight what he considers to be an unjustified claim against him of $900 just could not "win." My bill would provide that if the court found in his favor, he would also be awarded reasonable attorney's fees.

INTERVIEWS AT TAXPAYER'S CONVENIENCE

Today, the IRS has the authority to call up a taxpayer and demand an interview at the IRS office inconvenient to the taxpayer, or at a time inconvenient to the taxpayer. The IRS by this method puts another "tax" on certain taxpayers. It is a tax of added time and expense to the taxpayer that is never reimbursed.

The IRS contends that an interview on Government property makes a taxpayer more cooperative. My bill would not prevent such interviews in IRS offices, but it would stipulate that the taxpayer could, if he wished, have the interview at his home or office and at a reasonable time of his choosing.

GAO AUDIT OF IRS

Finally, my bill provides that the General Accounting Office has authority to conduct audits and investigations of IRS operations. The IRS has denied the authority of the GAO to conduct such audits although most legal scholars believe the GAO already has such authority. My bill clears up this situation and would require an annual report on the efficiency, uniformity, and equity of the administration of the internal revenue laws.

TAXPAYER'S BELIEF IN EQUITY OF SYSTEM

Mr. President, it is a widely acknowledged fact that the success of the Internal Revenue Service in obtaining needed funds for the operation of our Federal Government is in large part due to the fact that the great majority of American people pay their taxes promptly and without hesitation.

Unfortunately, the size of the tax bite, the complexity of the tax code, and the appearance of arbitrary administration have all undermined much of the faith the average taxpayer has put in his Government. The procedures outlined in my bill would require added services at some cost to the IRS. It would, however, restore some of the faith the taxpayer has had in the equitable administration of our tax laws by aiding the taxpayer in his struggle with the complex, and unintelligible tax code. In this regard the bill might reduce long-run costs of the IRS, by increasing the taxpayer's confidence in the equity of IRS operations.

A FREE SOCIETY AND EQUITABLE TAXES

A free society depends on a government that is both limited and equitable. In order for our tax system to be regarded as equitable, reforms must be made. If people are going to be treated equally under the tax code, we must act to insure better service to the taxpayer.

Taxes represent the greatest influence of government on the lives of the average American. The Government chooses how a major percentage of the output of the taxpayer will be utilized. This great confiscation of economic resources—if it is justifiable at all—is only justifiable if it is rational and if it is fair. When government grows too complex for anyone to understand, and when taxes are regarded as incomprehensible and inequitable, then we do not have government for the people. We have government for some people. We have government for the aggrandizement of government.

As I stated, a free society can only exist when government is both limited and equitable. If it is possible to have equitable government when government is as massive as ours, then it is vital that the small step I have proposed be taken. I believe the "taxpayers' bill or rights" is an overdue, needed reform.

Certainly, the early supporters of the income tax would be shocked if they learned that the average working person devoted the output of his efforts from January 1 until May 6 just to pay taxes.

The massive confiscation of resources, and indirectly, of the time of working men and women in America via taxation has been likened to involuntary servitude. Perhaps some of the authors of the constitutional amendment which authorized income taxes would look upon today's tax bite in the same manner. It is as if the first 4 months of every year are spent under sentence by the Internal Revenue Service. Unlike the criminal proceedings, the first offender does not get off with a suspended sentence and there is no time off for good behavior.

The massive amount of money taken by the Federal Government today requires that the taxpayers' right be spelled out.

In conclusion, the "taxpayers' bill of rights" would extend for the first time to law-abiding taxpayers rights that the Supreme Court has said must be given to common street criminals. A taxpayer would be told that he has a right to an attorney, that he has a right to remain silent, and that any statement made might be used against him.

My bill would set up a new Commissioner of Taxpayer Services to serve as an ombudsman to the harried taxpayer. It would establish a right that a taxpayer that wins a suit against the IRS be awarded reasonable attorneys fees.

This bill would help insure taxpayers are treated equitably and fairly. The big-spending Federal Government should give the best treatment possible to the fellow who picks up the tab.

Mr President, I ask unanimous consent that the bill, The Taxpayers' Bill of Rights Act, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2929

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the "Taxpayers' Bill of Rights Act".

SEC. 2. AMENDMENT OF 1954 CODE; MEANING OF TERMS.

(a) 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

(b) MEANING OF TERMS.—For purposes of this Act, terms used in this Act which are also used in such Code shall have the same meaning as when so used.

SEC. 3. DISCLOSURE OF RIGHTS AND OBLIGATIONS OF TAXPAYERS.

(a) IN GENERAL.—The Secretary of the Treasury shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, prepare brief but comprehensive pamphlets which set forth in simple and nontechnical terms—

(1) the rights and obligations of a taxpayer and the Internal Revenue Service (hereinafter in this section referred to as the "Service") during an audit;

(2) the procedures by which a taxpayer may appeal any adverse decision of the Service (including administrative and judicial appeals);

(3) the procedures for prosecuting refund claims and filing of taxpayer complaints; and

(4) the procedures which the Service may use in enforcing the internal revenue laws (including assessment, jeopardy assessment, levy and distraint, and enforcement of liens).

(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—The Secretary of the Treasury shall transmit drafts of the pamphlets required under subsection (a) (or proposed revisions of any such pamphlet) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day. Any draft (or any revision of a draft) of a pamphlet may not be distributed under subsection (c) until 90 days have elapsed from the date it was transmitted to such committees.

(c) DISTRIBUTION.—The pamphlets prepared in accordance with subsections (a) and (b) shall be distributed by the Secretary of the Treasury to any taxpayer upon request, and notice of the availability of such pamphlets shall be displayed prominently in all public offices of the Service. Copies of appropriate pamphlets shall be provided to any taxpayer with the first communication from the Service to the taxpayer regarding the taxpayer's liability for tax for a taxable year, if such communication occurs during a meeting or is in writing. If such a communication is by telephone,

copies of the appropriate pamphlets shall be mailed to the last known address of such taxpayer within 24 hours after such a communication.

SEC. 4. ASSISTANT COMMISSIONER FOR TAXPAYER SERVICES; TAXPAYER ASSISTANCE ORDERS.

(a) ASSISTANT COMMISSIONER FOR TAXPAYER SERVICES.—

(1) IN GENERAL.—Section 7802 (relating to Commissioner of Internal Revenue) is amended by adding at the end thereof the following new subsection:

"(c) ASSISTANT COMMISSIONER FOR TAXPAYER SERVICES.—There is established within the Internal Revenue Service an office to be known as the Office of Taxpayer Services to be under the supervision and direction of an Assistant Commissioner of Internal Revenue. The Assistant Commissioner shall be responsible for—

"(1) providing to taxpayers—

"(A) assistance in obtaining easily understandable tax information and information on audits, corrections, and appeals procedures (including pamphlets prepared under section 3 of the Federal Taxpayers' Rights Act of 1978);

"(B) assistance in answering questions on tax liability and preparing and filing returns; and

"(C) assistance in locating documents or payments filed with or submitted to the Internal Revenue Service by taxpayers;

"(2) providing personnel in local offices of the Internal Revenue Service to receive and evaluate complaints of improper, abusive, or inefficient service by Internal Revenue Service personnel and, with due regard for the rights of both the taxpayer and the Internal Revenue Service personnel and under regulations prescribed by the Secretary, to take action to correct such service;

"(3) surveying taxpayers to obtain their evaluation of the quality of the service provided by the Internal Revenue Service;

"(4) compiling data on the number and type of taxpayer complaints in each internal revenue district and evaluating the actions taken to resolve such complaints;

"(5) issuing Taxpayer Assistance Orders under section 6306; and

"(6) carrying out such other functions which relate to assisting taxpayers as the Secretary may prescribe.

The Assistant Commissioner shall submit an annual report to the Ways and Means Committee of the House of Representatives, the Finance Committee of the Senate, and the Joint Committee on Taxation on the activities of the Office of Taxpayer Services.".

(2) SALARY.—Section 5109(c) of title 5, United States Code, is amended to read as follows:

"(c) The positions held by employees appointed under subsections (b) and (c) of section 7802 of the Internal Revenue Code of 1954 are classified at GS–18, and are in addition to the number of positions authorized by section 5108(a) of ths title.".

(b) TAXPAYER ASSISTANCE ORDERS.—Subchapter A of chapter 64 (relating to collections) is amended by adding at the end thereof the following new section:

"SEC. 6306. TAXPAYER ASSISTANCE ORDERS

"(a) AUTHORITY TO ISSUE.—Upon application filed by a taxpayer with the Office of Taxpayer Services, in such form, manner, and at such time as the Secretary shall by regulations prescribe, the Assistant Commissioner for Taxpayer Services may issue a Taxpayer Assistance Order if, in the determination of the Assistant Commissioner, the taxpayer is suffering from an unusual, unnecessary, or irreparable loss as a result of the manner in which the internal revenue laws are being administered by the Secretary.

"(b) EFFECT OF ORDER.—The Secretary may not take any action adverse to such taxpayer under—

"(1) chapter 64 (relating to collection).

"(2) chapter 70 (relating to jeopardy, bankruptcy, and receiverships),

"(3) chapter 78 (relating to discovery of liability and enforcement of title), or

"(4) any other provision of law, which is specifically described by the Assistant Commissioner in such order during such period (not to exceed 60 days) of time as may be so specified in such order.".

(c) CONFORMING AMENDMENTS.—

(1) The section heading for section 7802 is amended to read as follows:

"SEC. 7802. COMMISSIONER OF INTERNAL REVENUE; ASSISTANT COMMISSIONER."

(2) The table of sections for subchapter A of chapter 80 is amended by striking out the item relating to section 7802 and inserting in lieu thereof the following:

"Sec. 7802. Commissioner of Internal Revenue; Assistant Commissioner."

(3) The table of sections for subchapter A of chapter 64 is amended by adding at the end thereof the following new item:

"Sec. 6306. Taxpayer Assistance Orders.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 90th day after the date of the enactment of this Act.

SEC. 5. AUTHORIZING, REQUIRING, OR CONDUCTING CERTAIN INVESTIGATIONS, ETC.

(a) PROHIBITION, ETC.—Section 7214 (relating to offenses by officers and employees of the United States) is amended by redesignating subsection (c) as subsection (d) and by inserting immediately after subsection (b) the following new subsection:

"(c) AUTHORIZING, REQUIRING, OR CONDUCTING CERTAIN INVESTIGATIONS, ETC.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an officer or employee of the United States acting in connection with any revenue law of the United States shall not knowingly authorize, require, or conduct—

"(A) any investigation into, or surveillance over, any person or records regarding the beliefs, associations, or activities of any individual or organization which are not directly related to such revenue laws, or

"(B) the maintenance of any records containing information derived from such an investigation or surveillance.

Any person violating the preceding sentence shall be fined not more than $10,000, or imprisoned not more than 2 years, or both.

"(2) EXCEPTION.—The provisions of paragraph (1) shall not apply with respect to any otherwise lawful investigation, including investigations concerning organized crime activities, of any individual who is an applicant for, or who holds, any position in the Internal Revenue Service or any position in the Government the duties of which relate to the administration or enforcement or internal revenue laws of the United States, or who is a contractor, or prospective contractor, with the Internal Revenue Service.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) INVESTIGATIONS.—The term 'investigations' means any oral or written inquiry directed to any person, organization, or governmental agency.

"(B) SURVEILLANCE.—The term 'surveillance' means—

"(i) the monitoring of persons, places, or events by means of electronic interception, overt or covert infiltration, overt or covert observation, or photography, and

"(ii) the use of informants.

(b) CIVIL REMEDIES.—

(1) IN GENERAL.—Subchapter B of chapter 76 (relating to judicial proceedings) is amended by redesignating section 7430 as section 7431 and by inserting immediately after section 7429 the following new section:

"SEC. 7430. CIVIL CAUSE OF ACTION FOR VIOLATION OF SECTION 7214 (c).

"(a) REMEDIES.—

"(1) DAMAGES.—Whoever violates any provision of section 7214(c) (relating to certain offenses by officers and employees of the United States) shall be liable for damages to any individual or organization which, as a result of such violation, has been the subject of a prohibited investigation, surveillance, or recordkeeping, in an amount equal to the sum of—

"(A) any actual damages suffered by plaintiff or $100 per day for each day the prohibited activity was conducted, whichever is greater;

"(B) such punitive damages (not in excess of $1,000) as the court may allow; and

"(C) the costs of any successful action, including reasonable attorney fees.

"(2) EQUITABLE RELIEF.—Any individual or organization which has been the subject of any investigation, surveillance, or recordkeeping in violation of section 7214(c), may bring a civil action against the United States for such equitable relief as the court determines appropriate to enjoin and redress such violation.

"(b) VENUE.—An individual or organization may bring a civil action under this chapter in any United States district court for the district in which the violation occurs, or in the United States district court for the district in which such person resides or conducts business, or has his principal place of business, or in the United States District Court for the District of Columbia.

"(c) JURISDICTIONAL AMOUNT.—Any Federal court in which a civil action under this section is brought pursuant to subsection (b) shall have jurisdiction over such action regardless of the pecuniary amount in controversy.".

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by striking out the item relating to section 7430 and inserting in lieu thereof the following new items:

"Sec. 7430. Civil cause of action for violation of section 7214(c).

"Sec. 7431. Cross references.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that such amendments shall not apply with respect to the maintenance of records during the 90-day period beginning on such date of enactment if such records were in existence on such date.

SEC. 6. AWARD OF COSTS TO PREVAILING TAXPAYER.

(a) RECOVERY OF COSTS.—Part II of subchapter C of chapter 76 (relating to Tax Court procedure) is amended by adding at the end thereof the following new section:

"SEC. 7465. RECOVERY OF COSTS.

"(a) IN GENERAL.—In any proceeding before the Tax Court for the redetermination of a deficiency, the prevailing party, unless the prevailing party is the United States, may be awarded a judgment of costs in connection with such proceeding and any administrative proceeding relating to such deficiency to the same extent as is provided in section 2412 of title 28, United States Code, for civil actions brought against the United States.

"(b) JUDGMENT.—A judgment of costs entered by the Tax Court under subsection (a) in favor of the prevailing party shall be

treated, for purposes of this subtitle, in the same manner as an overpayment of tax. No interest or penalty shall be allowed or assessed with respect to any judgment of costs.

(b) CLERICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 7465. Recovery of costs.".

(2) Section 2412 of title 28, United States Code, is amended—

(A) by inserting "(a)" before "Except", and

(B) by adding at the end thereof the following new subsection:

"(b) In any civil action which is brought by or against the United States for the collection or recovery of any internal revenue tax, or of any penalty or other sum under the internal revenue laws, and in which the United States is not the prevailing party, a judgment for costs may include reasonable attorney's fees.".

(c) EFFECTIVE DATE.—The amendments made by this section shall only apply with respect to civil actions and proceedings for the redetermination of deficiencies commenced after the date of the enactment of this Act.

SEC. 7. CIVIL ACTION FOR DEPRIVATION OF RIGHTS BY INTERNAL REVENUE SERVICE EMPLOYEES.

(a) IN GENERAL.—Any officer or employee of the Internal Revenue Service who, under color of any Federal law, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

(b) CONFORMING AMENDMENT.—Section 1343 of title 28, United States Code, is amended—

(1) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new paragraph:

"(5) To recover damages or to secure equitable or other relief under section 7 of the Federal Taxpayers' Rights Act of 1978.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions arising on or after the date of the enactment of this Act.

SEC. 8. PROCEDURES INVOLVING TAXPAYER INTERVIEWS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7518. PROCEDURES INVOLVING TAXPAYER INTERVIEWS.

"(a) IN GENERAL.—Upon request of any taxpayer, any officer or employee of the Internal Revenue Service in connection with any interview with such taxpayer in connection with the assessment of a deficiency shall—

"(1) conduct such interview in the principal residence or place of business of the taxpayer, and at a reasonable time convenient to the taxpayer, and

"(2) allow the taxpayer to make a recording of such interview.

An officer or employee of the Internal Revenue Service may record any such interview if he informs the taxpayer of such recording prior to the interview and provides the taxpayer with a transcript of such recording upon the request of the taxpayer and reimbursement for the cost of reproduction of such transcript.

"(b) SAFEGUARDS.—An officer or employee of the Internal Revenue Service shall prior to any interview described in subsection (a) warn the taxpayer—

"(1) he has a right to remain silent;

"(2) any statement he makes may be used against him; and

"(3) he has the right to the presence of an attorney.

The taxpayer may waive the rights described in the preceding sentence if such waiver is made voluntarily, knowingly, and intelligently. If, however, he indicates in any manner and at any time during the interview that he wishes to consult with an attorney or that the interview be discontinued there can be no questioning regardless of whether he may have answered some questions.".

(b) CONFORMING AMENDMENT.—The table of sections for such chapter is amended by adding at the end thereof the following new item:

"Sec. 7518. Procedures involving taxpayer interviews.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interviews conducted on or after the date of the enactment of this Act.

SEC. 9. PROPERTY EXEMPT FROM LEVY.

(a) IN GENERAL.—Section 6334(a) (relating to property exempt from levy) is amended by adding at the end thereof the following new paragraph:

"(10) INCOME PRODUCING PROPERTY.—Any property of such individual from which income is derived to the extent that such income is taken into account under paragraph (9) as part of the applicable exempt amount of such individual.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to levies made after the 90th day after the date of the enactment of this Act.

SEC. 10. GENERAL ACCOUNTING OFFICE OVERSIGHT OF THE ADMINISTRATION OF THE INTERNAL REVENUE LAWS.

(a) AUDITS AND INVESTIGATIONS.—The Comptroller General shall establish a program to provide for a continuing audit and investigation of the efficiency, uniformity, and equity of the administration of the internal revenue laws of the United States.

(b) ANNUAL REPORTS.—The Comptroller General shall annually prepare and transmit to the Congress a report on the program established under subsection (a), together with such recommendations for legislation as the Comptroller General may consider necessary or appropriate. Such report shall include a statement by the Comptroller General on—

(1) the type and extent of assistance which the Internal Revenue Service (hereinafter in this section referred to as the "Service") provides to taxpayers in the preparation of returns, and the accuracy and consistency of any advice which the Service provides in connection with such assistance;

(2) the adequacy of the procedures by which the Service responds to taxpayer complaints, and the number and nature of such complaints;

(3) the equity of the procedures by which the Service conducts audits, collections, and taxpayer appeals, the means by which the taxpayer is advised of such procedures, and the adequacy and consistency of such advice;

(4) the uniformity of the Service's administration of the internal revenue laws, including the uniformity of the standards and legal interpretations it employs;

(5) the number and specific circumstances of disclosures, if any, of returns or of information derived from such returns which the Comptroller General determines to be in violation of law;

(6) the investigation and prosecution by the Service and the Department of Justice of alleged civil and criminal violations of the internal revenue laws;

(7) the implementation by the Service of section 552 of title 5, United States Code (relating to freedom of information); and

(8) any other matter which the Comptroller General determines to be necessary or appropriate.

(c) OTHER INVESTIGATIONS.—The Comptroller General shall conduct any special audit or investigation of the administration of the internal revenue laws requested by any committee of the Congress or any Member of Congress. The Comptroller General may conduct any other audit or investigation of the administration of the internal revenue laws which he considers appropriate.

(d) DISCLOSURE OF INFORMATION TO THE COMPTROLLER GENERAL.—The Comptroller General, for purposes of conducting any audit or examination under subsection (a) or (c), shall have access to any Federal agency's books, documents, papers, and records on the administration, operations, and effects of the internal revenue laws and to inspect returns. Requests for such inspection of returns must be made in writing and must specify the identity of each taxpayer whose return is to be inspected.

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By Mr. MOYNIHAN:

S. 2930. A bill to authorize the home production of beer and wine; to the Committee on Finance.

HOME PRODUCTION OF BEER AND WINE

● Mr. MOYNIHAN. Mr. President, I am today introducing a bill permitting production, without incurring the beer and wine excise taxes, of limited amounts of beer and wine for personal consumption. This bill eliminates the registration requirement for home wine production, simplifies administration of the law, and reduces paperwork, both for the public and the Government. An identical bill, H.R. 2028, was introduced by Representative BARBER CONABLE, of New York, on January 19, 1977, and passed the House of Representatives on March 14, 1978. The Departments of Treasury and Justice advised the House Ways and Means Committee that they did not object to passage of this bill.

Mr. President, in a small and entirely appropriate way this bill reduces the intrusion of the Government in the lives of our citizens. I urge my colleagues to support it.●

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## ADDITIONAL COSPONSORS

S. 1967

At the request of ROBERT C. BYRD, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1967, a bill to amend section 218 of the Social Security Act to require that States having agreements entered into thereunder will continue to make social security payments and reports on a calendar-quarter basis.

S. 2020

At the request of Mr. CRANSTON, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 2020, a bill to amend the Longshoremen's and Harbor Workers' Compensation Act to clarify the act's coverage.

S. 2369

At the request of Mr. ANDERSON, the Senator from New Hampshire (Mr. DURKIN) was added as a cosponsor of S. 2369, the Dutch Elm Disease Control Act of 1977.

S. 2533

At the request of Mr. CHURCH, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 2533, a bill to provide for the use of of alcohol produced from renewable resources as a motor vehicle fuel.

S. 2565

At the request of Mr. MATHIAS, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of S. 2565, a bill to provide for further research and services with regard to victims of rape.

S. 2600

At the request of Mr. RANDOLPH, the Senator from Washington (Mr. MAGNUSON) and the Senator from Michigan (Mr. RIEGLE) were added as cosponsors of S. 2600, the Rehabilitation Amendments of 1978.

S. 2605

At the request of Mrs. HUMPHREY, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2605, the National Infant Screening Act of 1978.

S. 2626

At the request of Mr. BUMPERS, the Senator from Georgia (Mr. NUNN) was added as a cosponsor of S. 2626, a bill to provide price and income protection for agricultural producers by assuring such producers a price for their agricultural commodities of not less than the cost of producing such commodities; to assure consumers an adequate supply of food and fiber at reasonable prices, and for other purposes.

S. 2722

At the request of Mrs. HUMPHREY, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of S. 2722, a bill to amend the Mental Retardation Facilities and Community Mental Health Centers Act of 1963 to establish State mental health advocacy programs.

S. 2730

At the request of Mr. WILLIAMS, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 2730, a bill to establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution and to establish a trust fund to provide a stipend for such fellowship.

S. 2733

At the request of Mr. MCINTYRE, the Senator from Indiana (Mr. LUGAR), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), and the Senators from Michigan (Mr. GRIFFIN and Mr. RIEGLE) were added as cosponsors of S. 2733, the Small Business Energy Loan Act.

SENATE JOINT RESOLUTION 21

At the request of Mr. WILLIAMS, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of Senate Joint Resolution 21, to authorize the President to proclaim annually the last Friday of April as "National Arbor Day."

SENATE JOINT RESOLUTION 65

At the request of Mr. KENNEDY, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of Senate Joint Resolution 65, to amend the Constitution to provide for representation of the District of Columbia in the Congress.

SENATE JOINT RESOLUTION 117

At the request of Mr. GARN, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of Senate Joint Resolution 117, designating the fourth Wednesday of October as "Seventy-Plus in High School Day."

SENATE JOINT RESOLUTION 122

At the request of Mr. ANDERSON, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of Senate Joint Resolution 122, to direct the Office of Technology Assessment to undertake a comprehensive evaluation of energy policy alternatives.

SENATE CONCURRENT RESOLUTION 79

At the request of Mr. MCCLURE, the Senator from Idaho (Mr. CHURCH), the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), and the Senator from Pennsylvania (Mr. HEINZ) were added as cosponsors of Senate Concurrent Resolution 79, disapproving proposed regulations of the Department of the Treasury requiring centralized registration of firearms and other matters.

## SENATE CONCURRENT RESOLUTION 80—ORIGINAL CONCURRENT RESOLUTION REPORTED DURING RECESS SETTING FORTH THE 1979 BUDGET

Mr. MUSKIE, from the Committee on the Budget, reported the following original concurrent resolution, which was placed on the calendar:

S. CON. RES. 80

*Resolved by the Senate (the House of Representatives concurring)*, That the Congress hereby determines and declares, pursuant to section 301(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1978—

(1) the recommended level of Federal revenues is $443,300,000,000 and the amount by which the aggregate level of Federal revenues should be decreased is $29,200,000,000;

(2) the appropriate level of total new budget authority is $566,100,000,000;

(3) the appropriate level of total budget outlays is $498,900,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $55,600,000,000; and

(5) the appropriate level of the public debt is $853,800,000,000, and the amount by which the statutory limit on such debt should accordingly be increased is $101,800,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 301(a)(2) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1978, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):

(A) New budget authority, $129,800,000,000;

(B) Outlays, $116,600,000,000.

(2) International Affairs (150):

(A) New budget authority, $12,800,000,000;

(B) Outlays, $7,200,000,000.

(3) General Science, Space, and Technology (250);

(A) New budget authority, $5,200,000,000;

(B) Outlays, $5,000,000,000.

(4) Energy (270);

(A) New budget authority, $10,200,000,000;

(B) Outlays, $10,100,000,000.

(5) Natural Resources and Environment (300);

(A) New budget authority, $13,700,000,000;

(B) Outlays, $12,500,000,000.

(6) Agriculture (350):

(A) New budget authority, $12,400,000,000;

(B) Outlays, $7,800,000,000.

(7) Commerce and Housing Credit (370):

(A) New budget authority, $5,900,000,000;

(B) Outlays, $3,600,000,000.

(8) Transportation (400):

(A) New budget authority, $19,500,000,000;

(B) Outlays, $17,500,000,000.

(9) Community and Regional Development (450):

(A) New budget authority, $10,400,000,000;

(B) Outlays, $9,000,000,000.

(10) Education, Training, Employment, and Social Services (500):

(A) New budget authority, $31,600,000,000;

(B) Outlays, $31,200,000,000.

(11) Health (550):

(A) New budget authority, $52,700,000,000;

(B) Outlays, $49,500,000,000.

(12) Income Security (600):

(A) New budget authority, $192,500,000,000;

(B) Outlays, $159,900,000,000.

(13) Veterans Benefits and Services (700):

(A) New budget authority, $21,000,000,000;

(B) Outlays, $20,800,000,000.

(14) Administration of Justice (750):

(A) New budget authority, $4,300,000,000;

(B) Outlays, $4,200,000,000.

(15) General Government (800):

(A) New budget authority, $4,100,000,000;

(B) Outlays, $4,100,000,000.

(16) General Purpose Fiscal Assistance (850):

(A) New budget authority, $9,700,000,000;

(B) Outlays, $9,600,000,000.

(17) Interest (900):

(A) New budget authority, $46,800,000,000;

(B) Outlays, $46,800,000,000.

(18) Allowances (920):

(A) New budget authority, $700,000,000;

(B) Outlays, $700,000,000.

(19) Undistributed Offsetting Receipts (950):

(A) New budget authority, —$17,200,000,000;

(B) Outlays, —$17,200,000,000.

## AMENDMENTS SUBMITTED FOR PRINTING

### FEDERAL INCOME TAX RETURN FILING METHODS—S. 2747

AMENDMENT NO. 1780

(Ordered to be printed and referred to the Committee on Finance.)

Mr. HASKELL submitted an amendment intended to be proposed by him to the bill (S. 2747) to provide for a study of methods by which individuals could be aided in filing their Federal income tax returns.

● Mr. HASKELL. Mr. President, on March 15, 1978, I introduced S. 2747, a bill to provide for a study of methods by which individuals could be aided in filing their Federal income tax returns.

As chairman of the Subcommittee on Administration of the Internal Revenue Code, I recently chaired a hearing on the subject of tax simplification. During this hearing, a very disturbing problem came to light.

Many people in our country who have income withheld from their paychecks deserve refunds, but for many reasons, never file for the refund. They do not file tax returns, because they cannot understand the forms. They are afraid of the Internal Revenue Service, and the cost of using a commercial preparer to help fill out the forms is prohibitive. Very often, these people are poor, not well educated, and sometimes cannot understand written English at all. Often, these are the people who are eligible for the earned income credit.

There are of course difficulties in having the correct amount of money withheld at the source of employment rather than adjusting by filing a return; for instance, the problem of the multiple employer. But, they can conceivably be worked out. And, there might be some administrative advantage to the Internal Revenue Service to not having to deal with the earned income credit tax form.

I think it is incumbent upon this body to study the feasibility of working into the withholding tables a means of taking into account the earned income credit so that these people who rightfully deserve and need this money can have it returned to them in the simplest manner.

I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1780

On page 2, line 25, insert the following:

(a)(7) the feasibility of adjusting the income tax withholding tables to take into account the earned income tax credit.●

### AIR TRANSPORTATION REGULATORY REFORM ACT OF 1978—S. 2493

AMENDMENTS NOS. 1781 THROUGH 1785

(Ordered to be printed and to lie on the table.)

Mr. MCGOVERN submitted five amendments intended to be proposed by him to the bill (S. 2493) to amend the Federal Aviation Act of 1958, as amended, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes.

### LABOR LAW REFORM ACT OF 1978—S. 2467

AMENDMENT NO. 1786

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to the bill (S. 2467) to amend the National Labor Relations Act to strengthen the remedies and expedite the procedures under such Act.

### NAVIGATION DEVELOPMENT ACT—H.R. 8309

AMENDMENT NO. 1787

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON submitted an amendment intended to be proposed by him to amendment No. 1689 intended to be proposed to the bill (H.R. 8309) authorizing certain public works on rivers for navigation, and for other purposes.

### PANAMA CANAL TREATIES, EX. N, 95–1

AMENDMENTS NOS. 104 THROUGH 106

(Ordered to be printed and to lie on the table.)

Mr. ALLEN (for himself, Mr. THURMOND, and Mr. HELMS) submitted three amendments intended to be proposed by them, jointly, to the resolution of ratification of the Panama Canal Treaty, Ex. N, 95–1.

## RESERVATIONS SUBMITTED FOR PRINTING

RESERVATIONS NOS. 16 AND 17

(Ordered to be printed and to lie on the table.)

Mr. CANNON submitted two reservations intended to be proposed by him to the resolution of ratification of the Panama Canal Treaty, Ex. N, 95–1.

RESERVATION NO. 18

(Ordered to be printed.)

Mr. HELMS proposed a reservation to the resolution of ratification of the Panama Canal Treaty, Ex. N, 95–1.

RESERVATION NO. 19

(Ordered to be printed.)

Mr. CURTIS proposed a reservation to the resolution of ratification of the Panama Canal Treaty, Ex. N, 95–1.

RESERVATION NO. 20

(Ordered to be printed.)

Mr. DECONCINI (for himself, Mr. PAUL G. HATFIELD, and Mr. HODGES) proposed a reservation to the resolution of ratification of the Panama Canal Treaty, Ex. N, 95–1.

## NOTICES OF HEARINGS

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

● Mr. INOUYE. Mr. President, the Committee on Commerce, Science, and Transportation has scheduled hearings on foreign investment in American real estate. The hearings will commence at 9:30 a.m. on Wednesday, April 19, 1978, in room 235 of the Russell Senate Office Building.

For further information, interested parties may call (202) 224–6742.●

SUBCOMMITTEE ON AGING

● Mr. EAGLETON. Mr. President, the Subcommittee on Aging of the Human Resources Committee will hold a hearing on S. 2850 and S. 2609, legislation to revise and extend the Older Americans Act on Friday, April 21, 1978, from 1 to 3 p.m. in room 457, Russell Senate Office Buildings.

## ADDITIONAL STATEMENTS

### ALL-AMERICA CITY

● Mr. HOLLINGS. Mr. President, I am extremely proud today to announce to my colleagues the fact that my hometown of Charleston, S.C., has recently been named an "All-America City" by the National Municipal League.

I doubt that there is another city in America so rich in heritage and tradition as Charleston. I know of no other city that has been as successful as Charleston in preserving its historical treasures, as anyone who has ever toured its antebellum landmarks can attest.

But that is half the story of Charleston.

For while my city celebrated its tricentennial in 1970, and while it has a firm commitment to preserving its past, it has its face turned determinedly toward the future. The fact that Charleston has been named an All-America City testifies not only to the commitment and dedicated work of its citizens in preserving the old, but to their imagination and innovative approach to creating the new.

Charleston is a major city. It contains one of the Nation's busiest seaports. And it has experienced the same problems of growth, financial strain, and population shift as our major urban centers, though possibly to a lesser degree.

But it has been blessed with good leadership and good citizens, and together

they have designed and implemented a variety of programs to improve the quality of life for all. A few of these programs—such as the East Side redevelopment and preservation project and Trident 2000—are covered in the league's National Civic Review publication which contained the announcement information.

There are many, many other programs and organizations which are working in tandem to make Charleston a remarkable 20th-century town.

I congratulate Mayor Joseph P. Riley, Jr., the members of the city council, and to the people of Charleston who have joined together as partners to make our city a real success. And I would like to extend an invitation to all who have not visited there to travel to Charleston to see for themselves why it is so deserving of the designation as an "All-America City."

Mr. President, I also ask to include in the RECORD Mr. George Gallup's letter to me announcing Charleston's selection, along with the information concerning the "All-America City" awards to 11 other municipalities which is contained in the National Civic Review.

The material follows:

APRIL 5, 1978.

Hon. ERNEST F. HOLLINGS,
*Russell Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR HOLLINGS: It is my great pleasure to inform you that an All-America City citation has just been awarded to Charleston, South Carolina.

The award is conferred for the imaginative and vigorous action its citizens have taken to improve their community, thus demonstrating an example of effective citizenship to the nation. We believe their effort is even more important today, for it illustrates the potential that responsible action of citizens in their home communities has for rebuilding confidence in our total system.

As you may be aware, the awards are sponsored annually by the National Municipal League to recognize and encourage constructive citizen action. The 1977–1978 program selected twelve communities in open competition from a wide field of entrants.

The names of the winners will be released officially by the media on Thursday, April 13, and articles highlighting the award winning stories will appear nationally in the April issue of the NATIONAL CIVIC REVIEW and forthcoming issues of AMERICAN CITY MAGAZINE.

The National Municipal League is proud to announce the 1977–1978 All-America City award communities. I am enclosing an advance set of sheets from the NATIONAL CIVIC REVIEW article which summarizes the basis on which this well deserved honor was awarded. I am sure that you will want to join us and send along your own congratulations to the Mayor of Charleston on behalf of all its citizens for their outstanding achievements.

Sincerely,

GEORGE H. GALLUP,
*Forman, All-America Cities Jury, Chairman, NML Council.*

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THE 1977–78 ALL-AMERICA CITIES

What's in a name? COUL in Anniston. Trident 2000 in Charleston, The Heights Community Congress in Cleveland Heights, Priority Boards in Dayton, the Dennis Growth Policy Committee, I–35 Citizens Advisory Committee in Duluth, Goals and Policies Committee in Lincoln, the Marquette Neighborhood Association in Madison, ACT in Mankato, Riverside Neighborhood Association in Oklahoma City, the Ottumwa Area Task Force and the Medical Mobilization Group in Ravenna. These groups represent the "vital signs" of civic America and show how organized citizens can be effective change agents surmounting serious community problems.

The 12 award winning communities in the 29th annual All-America Cities program reveal how neighborhood, community-wide and regional issues are confronted. Moreover, they show the importance of understanding the linkages among community problems and how these determine resolution strategies.

The 1977–1978 winners were chosen tentatively from among a group of 22 finalists following formal presentations to the All-America Cities jury last November in Denver, Colorado. Subsequent field verifications confirmed the selections.

These stories demonstrate the critical role of the voluntary sector in helping to chart direction for effective community governance. As innovator, researcher, convenor, fund raiser, communicator, the citizen organization does things which other elements of the public and private sectors may be constrained from doing.

These communities do not represent civic perfection. They are examples of fortitude, persistence and risk taking to create processes or "machinery" which can provide a consistency that transcends changes in the other sectors of the community's life.

The accomplishments of the winners are outlined briefly below.

Anniston, Alabama (population 34,533). Anniston is located about midway between Birmingham and Atlanta and as the central city of its SMSA is a manufacturing, trade and service center.

The costs of civil rights and social action in Anniston during the 1960s included the burning of a Freedom Rider bus, overt racial demonstrations and a dramatic murder. The immediate response to these events was swift justice for the guilty and establishment of a biracial committee to deal with the results of generations of inequality. As issues of social justice and equal opportunity became more complex, emotions again heated to the point of near riot in 1971. In response, the broadly representative Committee of Unified Leadership (COUL) was formed to provide a public forum to address critical community issues. Through its intervention and crisis management roles, COUL has dealt with subjects as diverse as assuring water service to low-income families, mediating local labor disputes and increasing the involvement of minorities in local government.

Other people were working on cultural issues. Growing from the ideas and action of a small group of citizens, the Alabama Shakespeare Festival now involves an elaborate organization in which 300 to 600 hundred people participate each summer in the producion of four plays. The festival supports itself through ticket sales, donations and state grants.

In 1976 the Southern Christian Leadership Conference held its annual meeting in Anniston and cited the community for its advances in racial relations. At the same time the Alabama Shakespeare Festival presented what was a nationally acclaimed production of King Lear.

Currently, COUL and public officials are addressing problems related to improved housing conditions and capital improvements for drainage, fire protection, airport expansion, downtown redevelopment and more adequate recreation facilities.

Cleveland Heights, Ohio (60,767). An older, inner ring suburb. Cleveland Heights was an All-America City for 1975–1976. At that time the city council in consultation with the community's leadership drafted and approved a resolution pledging Cleveland Heights to continued efforts to overcome such problems as racial isolation in schools, deterioration of housing stock, neighborhood resegregation, racial steering and financial disinvestment.

The Preferred Agents Program works to educate and orient real estate agents about the advantages of the Heights life style. Agent participation indicates a commitment to maintain integration, and people in the housing market are encouraged through advertising programs to patronize those agents. Program quality is monitored by the citizen based Heights Community Congress.

Initiated by the League of Women Voters and the Congress, the Financial Institutions Advisory Committee comprised of bankers, educators, city officials and citizen organization representatives promotes private sector investment and reinvestment. Among other issues, by research and action the committee has established a substantial home improvement loan program for the elderly, monitored lending practices of 19 financial institutions and studied the feasibility of developing a housing preservation center.

Other fair housing achievements include the incorporation of the previously volunteer Heights Housing Service into the city's division of real estate programs; approval of ordinances and creation of a housing board to counter unfair real estate practices; and introduction of a systematic house interior inspection program and strengthened enforcement of city codes. An evaluation committee periodically measures the results.

There has been a 25 percent increase in housing values since 1975, approval of new bond and tax measures, organization of block clubs in 60 percent of all streets, creation of a new city department of human services and reduction of crime for two consecutive years.

A magnet school concept is to be implemented to overcome racial isolation, crime reduction measures continue, studies of more efficient fire and refuse services are under way and a comprehensive commercial redevelopment plan was adopted by the city council.

Charleston, South Carolina (68,149). Charleston is the state's second largest city and a major deep water port. Founded in 1670, the city, according to representatives, is more known for what it has preserved and maintained than for innovation and change.

Change, has affected the city dramatically, however. Since 1950 white flight to the suburbs has resulted in the loss of 24,000 people from the inner city with all the economic and social consequences produced by such movements—high unemployment and crime rates in some sections of the city, and inequality in education. Charleston's citizens turned its unique ambiance into the springboard for revitalization.

The East Side Redevelopment and Preservation program is treating a blighted ghetto area through housing improvement and capital improvements for community facilities, clean up and landscaping, better police-community relations, development of summer work programs for the young and strong code enforcement programs. Effective-

ness is attributed to the fact that residents did the planning and a citizen based commission oversees the programs. Community development block grant funds and low interest loans and grants from the city are the backbone of program funding.

The success of the East Side project prompted action in another declining area where a Neighborhood Housing Service program will be initiated, to be run in part by the residents.

A citizens group called the Human Services Council created Trident 2000 in 1975 to provide a perspective on the future and involve a broad cross section of citizens in deciding its shape. Through surveys, citizen task force studies, group meetings and workshops, recommendations have been produced on education, transportation, government process, land use, communications, criminal justice and others. A priority recommendation for the creation of neighborhood councils has been implemented by the city.

Dayton, Ohio (243,601). Situated between Cincinnati and Columbus, Dayton's economy is based primarily on manufacturing, principally automotive production.

Dayton shares the ills affecting other aging centers: population loss, shrinking tax base, older housing in disrepair, serious unemployment and rising crime rates. Those left behind decided to organize. Citizen participation mechanisms have been evolving for more than a decade, beginning with an informal network of neighborhood councils and growing to the present system of six priority boards. The boards work on budget development and other major policies. Board leaders meet weekly to discuss problems and solutions, which they communicate in periodic meetings with the city manager.

An Administrative Council of representatives from the city's major operating divisions has been constituted in each priority board area. It meets monthly to review and act on neighborhood issues. The priority boards are assisted by staff assigned to neighborhood offices. Complementing the priority boards is the Downtown Dayton Association whose director meets weekly with the board leaders.

The existence of the boards and about 120 neighborhood organizations has facilitated work in six neighborhoods on rezoning, subsidies for home and business improvement, changing traffic patterns, improving neighborhood identity and upgrading public facilities. The boards prepare an annual assessment of neighborhood needs and recommend necessary changes in city programing.

Attention to crime prevention is reflected in two programs. The Neighborhood Assistance Officers are a volunteer police auxiliary. Dispatched by the police, their duties include responding to traffic accident calls, checking playgrounds and vacant homes, patrolling school areas, etc. Also, 90 neighborhood watch groups have been formed in the last year. The police give orientation on crime patterns and security measures. Since the program's inception there has been a 12 percent decline in burglaries.

Neighborhood organizations were helpful during implementation of a busing program to achieve racial balance in local schools. The program operated without incident in 1976 and 1977.

Dennis, Massachusetts (6,500 permanent, 45,500 est. summer). Located on Cape Cod, 85 miles from Boston. Dennis confronted a rising growth rate intensified by seasonal population changes. One-third of its 20-square-mile area was unzoned, and as hundreds of new homes were built valuable natural resources were lost.

People became aware that government by a full-time, three-member citizen board of selectmen was not sufficient to deal with the growth. Following election of a reform candidate to the board a government study committee was formed resulting in a change to a five-member, part-time board and a professional administrator as executive secretary.

The selectmen created 37 committees with more than 300 members to deal with issues, many of which focused on different aspects of historic preservation, land use planning and natural resource conservation. Two historic districts covering a large part of the town have been created and neighborhood representatives review all proposed new buildings. The town has purchased two historic houses which are open as museums.

Several citizen committees, working with the planning board, recommended steps to upgrade zoning, developed a master plan for future development, conducted a natural and visual resources inventory, brought almost 1,000 acres of important land under town ownership and supervision, provided for protection of well-head sites for the future, and purchased additional land for resident and visitor recreation. Other committees at work on issues related to health, low-income housing for the elderly and budgeting practices. These measures have encouraged even more people to come to Dennis.

Duluth, Minnesota (100,578). Duluth is located 150 miles north northeast of the Twin Cities. It is confined largely to an area between steep hillsides and waterways. Three-quarters of its major development is along Lake Superior and the St. Louis River. Duluth is a commercial and industrial service center for parts of three states and Canada.

As important natural resources which fed many of Duluth's industries dwindled, industrial and commercial activities shut down. With a decline in the availability of iron ore and lumber, rail consolidations and military cutbacks, the city lost 10,000 jobs within a decade.

Improving the economic outlook became the mission of the Northeastern Minnesota Development Association. The corporation, with the help of the Chamber of Commerce, has brought six major industries to the city in the last three years. Citywide organizations conduct studies of neighborhood relocation problems and the environmental impact of the new facilities. In some cases residents assist in evaluating plant location to minimize the impact on the neighborhood.

In efforts to strengthen cultural life, citizen organizations recycled the abandoned railroad station to house eight organizations, including theater, dance, music, art and specialized museums in what is now the St. Louis County Heritage and Arts Center (The Depot). Adjacent to the Center will be a $6-million public library. (It took much spirited public debate and a special citizen study committee to locate the library there.)

An aging downtown and a stalled urban freeway studied by citizens. A freeway advisory committee developed and gained support for an alternative to taking the road out of the downtown area. At the same time, business, labor and public officials formed the Downtown Development Corporation. Projects planned and being executed include development of commercial, hotel and parking facilities to be called the Lyric Block; Lake Superior Plaza, a multi-million dollar commercial and office facility; and Skywalk, a climate controlled pedestrian concourse linking a nine block area. Also in planning stages is a project to locate a new retail activity on a platform over the new freeway.

A housing task force is investigating ways to develop more favorable home construction costs. A nonprofit sponsor is working to create new and rehabilitated units for low and moderate income families in the city.

Lincoln, Nebraska (149,518). The state capital, Lincoln has a strong economic base in agriculture, office activity, manufacturing and government.

Community development in Lincoln has focused on neighborhoods, downtown and the region. To date, 24 neighborhood associations have developed goals and implemented improvement programs. City hall created a Neighborhood Assistance Office. Citizens are largely responsible for planning improvements and city hall joins to lend technical and financial assistance, including loans and grants for housing rehabilitation, upgraded public facilities, new housing construction and a code enforcement program. An appointed citizen task force reviews neighborhood proposals and annually submits recommendations to the mayor and council. In addition to these activities supported by block grant funding, neighborhood organizations have influenced city zoning policy, modified street widenings, improved health and transportation services for the elderly and held special activities for all residents.

Complementing the work of neighborhood associations, the Downtown Advisory Committee has worked since 1973 to execute the Lincoln Center Development program, a major undertaking combining beautification, street rearrangement, new office and commercial activity, and special cultural and entertainment events. The plan has been made possible by strong public-private sector cooperation, owner involvement and the efforts of citizen task forces.

Citizens have participated for seven years in the development of a comprehensive regional plan. In 1970, a Goals and Policies Committee was formed by representatives of 425 organizations and other citizens. Goals were established through household attitude surveys, newspaper ballots and video town meetings. The goals statement was approved by officials and served as the basis for the development of the plan. These steps were repeated for different elements of the plan. The Goals and Policies Commitee is monitoring implementation and helping to develop new zoning regulations. The plan reconciles agricultural and urban needs, promotes neighborhood preservation, and provides for a variety of housing types and transportation elements.

Efforts are underway to encourage the private sector to become more involved in housing rehabilitation and the city is examining the feasibility of joint facilities for some services, while bond issues are being planned to finance capital improvements.

Madison, Wisconsin (171,769). The state capitol, Madison is located eight miles from Milwaukee. The city serves as a center for wholesale and retail trade, government, education, medicine, insurance and finance.

Meeting special housing needs, public transportation access, neighborhood improvement and downtown redevelopment all are part of the Madison story.

Karabis, named for a leader for rights of the handicapped, is a 20-unit apartment designed for young adults confined to wheelchairs. Potential tenants and three citizen organizations worked to plan and finance construction. The Methodist Hospital Retirement Center, consisting of 210 apartments, provides comprehensive health care and social services to its residents who represent various ethnic groups and income levels.

Transportation access is difficult. An almost bankrupt bus system and strangulating auto traffic set the stage for several citizen

groups to move for modernizing service. Through legislation the system was made public and advocates highlighted advantages of using it. In the past decade, ridership has increased by 100 percent. Specialized transportation has been set up for women at night and for the elderly and handicapped.

A school closing triggered action and subsequent mobilization of citizens in the Marquette Neighborhood Association to develop a comprehensive plan. Old homes are being rehabilitated and younger people are moving into the area. Most recently, the association got a traffic diverter established to keep nonlocal traffic off neighborhood streets.

The Central Madison Committee, a coalition of 150 businesses, labor, government, religious and student leaders, identifies specific goals and objectives for the downtown area. Ultimately, 700 people were involved in making decisions on plans for integrated pedestrian and transit malls. Renovation of the Civic and Art Center building, once an old theater and vacant store, continues.

Mankato, Minnesota (30,895). Mankato is situated 80 miles southwest of the Twin Cities. It is one of the largest agri-business centers in the southern part of the state and the home of Mankato State College.

In 1965, in the process of recovering from a serious flood, citizens began to see that there was more than those damages to deal with: the tax base was weakening as the central area declined, long-range planning was absent, water pollution control was posing serious problems, housing supply was inadequate, traffic congestion was frustrating, flood control work was needed, and park and recreation needs were unfulfilled.

Active Community Thought (ACT) was formed in 1965 and 1,000 people appeared for its first meeting. In following meetings, problems were identified, priorities were set and plans took form.

One of the top priorities was renewed retail activity downtown. Plans were set for a multimillion-dollar, bilevel mall which is now under construction. It will house 18 new and 16 relocated businesses.

Federal urban renewal provided the financial momentum. While the business community was involved heavily in making financial commitments, citizens also participated in design.

Others in the downtown area worked to preserve and restore Mankato's "Old Town." Tradition was preserved and enhanced when street rearrangements threatened to divide the local historical society's properties. The society, along with government, managed to consolidate its buildings on one site and add a new Victorian garden.

Bond issues have been approved for water pollution control and park expansion, housing for the elderly is being built, an airport has been completed and land for business expansion has been reclaimed. There is now consolidated hospital care, areawide assistance for the disabled and a million dollar renewed "Y". Formerly separate functions of social services, mental health, corrections, welfare and counseling have been brought together in one agency.

Oklahoma City, Oklahoma (366,253). The state capital, Oklahoma City is the second largest city (635 square miles) in the nation in terms of land area. It serves as a transportation, light industrial and retailing hub.

The city faced increasing demands to extend services to fringe areas and at the same time to preserve and service older neighborhoods.

For almost two years, the city conducted a comprehensive planning process in which individual citizens and community organizations played leading roles. A broadly representative citizens steering committee was organized. Citizen and professional planners conducted surveys and research, and held meetings with neighborhood representatives and community groups. A full range of communications techniques was used.

The Preservation Policy and Action Program was adopted with emphasis on older neighborhood revitalization and cost effective suburban growth policies. Forty percent of community goals listed related to the involvement of citizens in public decision making. The process also served a civic training function. New leaders are emerging and neighborhood organization has grown from fewer than 20 to almost 90 in three years time. The Oklahoma City Plan Advisory Committee (the Steering Committee's successor) will soon begin monitoring implementation.

The Neighborhood Preservation Project, run by residents, has as its objectives central city rehabilitation, training unemployed residents, and removing abandoned housing and recycling useable materials. The selective program is funded through HUD and the comprehensive employment training act. The neighborhood association reviews applications for home repair and evaluates rehabilitation work and training activities. The Demolition Materials Recycling Program removes hazardous structures identified by neighborhood associations and recycles materials for use in home repair and revitalization projects.

The Southeast Area Health Clinic was developed in a place where such services were virtually non-existent. The Southeast Area Council, composed of representatives from six low income neighborhoods, worked for two years to improve health care delivery. The full service clinic was set up in a former fire station and with inkind services and financial donations, Clinic administrators meet monthly with the area council's health committee to review program.

Ottumwa, Iowa (29,610). Located 80 miles southeast of Des Moines, Ottumwa serves as a center for the region which also covers northeastern Missouri.

Traditionally, a one industry town relying on meat packing and with an image for poor labor relations, dramatic change was triggered by the closing of the John Morrell plant and the loss of more than 3,500 jobs in 1973. A committee of 45 people formed to develop what is now the Ottumwa Area Task Force. This umbrella group mustered enough support to research and promote employment opportunity and commercial and industrial development. Fourteen new industries have been attracted to the area and unemployment, once at 13.4 percent, was down to 4.1 percent late last year.

The victim of two serious floods (the last one in 1954 covered 700 acres), city residents supported a $16-million bond program for flood protection, road relocation, and construction of a modern water supply plant and sewage treatment facility. The former flood plain has been partially developed for industrial and business expansion, and another part has been reserved for recreation.

Downtown redevelopment and neighborhood revitalization are being acted on concurrently. Urban renewal has provided a new pedestrian mall and, through strong citizen efforts, a neighborhood development program covering 700 acres is nearing completion.

Property value increased from $159 million in 1973 to $204 million in 1977, tax rates have been reduced, three new schools have been constructed and one completely remodeled. Housing starts are double the rate of a year ago.

Ravenna, Nebraska (1,360). Situated 130 miles west of Lincoln, Ravenna is in an area of diversified farming, including large cattle raising and feeding operations.

With 65 percent of the town's population over age 65, the loss of its doctor became a central issue. The nearest doctor was 16 miles away and the closest health care facility 30 miles. Citizens formed the Medical Mobilization Group to recruit a new doctor and supply the office. Enough money was raised to purchase the former doctor's furniture and equipment.

Environmental concerns also play an important part in community activity, from assuring conformance with EPA water quality standards to participating in recycling drives and beautification efforts. A new senior citizen park has been developed and facilities in other parks have been improved.

Students in the trades and industry class in the local high school and members of the Future Homemakers of America are embarked on a homebuilding and decorating program with the help of a local contractor.

The Mid-Nebraska Community Action Program was organized to deal with problems of the elderly, those with low incomes and young people. It provides legal service, health services, a women and children food supplement program, outreach and counseling, referral services, summer work and recreation programs, a chore service, crisis intervention and home winterization.

Included among new and improved public facilities and service delivery are a new fire house and second emergency unit, the local library building, new equipment for police and public works and street improvements. New homes are being built and three light industries have moved into the community.

THE 1977–78 ALL-AMERICA CITIES

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|---|---|
| Anniston, Alabama | 34,533 |
| Charleston, South Carolina | 60,767 |
| Cleveland Heights, Ohio | 66,945 |
| Dayton, Ohio | 243,601 |
| Dennis, Massachusetts | 6,500 |
| Duluth, Minnesota | 100,578 |
| Lincoln, Nebraska | 149,518 |
| Madison, Wisconsin | 171,769 |
| Mankato, Minnesota | 30,895 |
| Oklahoma City, Oklahoma | 366,253 |
| Ottumwa, Iowa | 29,610 |
| Ravenna, Nebraska | 1,360 |

THE 1977–78 HONORABLE MENTION

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|---|---|
| Arvada, Colorado | 51,838 |
| Burbank, California | 88,871 |
| Chambersburg, Pennsylvania | 17,315 |
| Lansing, Michigan | 131,546 |
| Santa Cruz, California | 32,100 |
| Saugatuck-Douglas-Saugatuck, Michigan | 3,089 |
| Springfield, Massachusetts | 163,905 |
| University City, Missouri | 47,511 |
| Wilmington, North Carolina | 46,169 |
| Xenia, Ohio | 25,373 |

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THE PROCESS OF CITIZEN INVOLVEMENT

(EDITOR'S NOTE. The following is an excerpt from the forthcoming *Profiles of Participation*, a workbook on citizen organization and research, and community decision making, to be published by the National Municipal League later this year.)

How do citizens get involved in their community? It is difficult to define this process. It is the result of accumulated feelings about an issue, a problem or a project. Citizen involvement also has a lot to do with perceptions about the threats or benefits that a particular project or issue embodies.

Each person works out involvement according to his or her own idea of effectiveness. The resources each brings to bear, the

culture in which he or she lives and the amiability of the social structure all affect the "how" in involvement. The motive for being involved may never be clear cut—a general "call to civic duty," enlightened self-interest, moral outrage, the need to help a neighbor or any combinations.

Intense preoccupation with local decision making in our early history did not mean that all groups were participating in those decisions. Ironically, as more and more people overcame the legal obstacles that bound them as second-class citizens, trends and forces distracting them from staying involved in the local arena.

Changing technology and economic patterns helped to destroy strong identity with neighborhoods or communities. With the development of a national rather than local economy people followed their careers from city to city. With increasing vertical and horizontal mobility, people lost a sense of place.

Although low-income residents who remained in older urban neighborhoods had the legal rights to participate in local affairs, they often failed to have the necessary skills and social and political clout. Modern government seemed too distant and complex to allow them access. This began to change in the 1960s.

Official attempts to cope with the problem of reshaping society into something that works for us all have been reflected in a variety of national programs—"The New Frontier," "The Great Society," "New Federalism." The economic opportunity act of 1964 required that the community action program provide maximum feasible resident participation. The model cities program of 1966 required widespread citizen participation and the 1968 urban renewal program required project area committees composed of neighborhood residents. Revenue sharing and community development blocks grants represent refinements in program and process to ensure greater citizen impact in public decision making.

It is against this backdrop that the character of involvement is changing. Now we are left with established communities, as new pioneers who must reshape old frontiers. Unlike the earlier pioneers who moved to new ground when resources were exhausted, we are challenged to reform what is in place in a way which recognizes humanness in coping with competing demands, scarce resources and conflicting values.

The healthy functioning of a democratic society relies on the effective execution of the office of citizen in which individual views are respected and citizens have some control over their fate, particularly in shaping the immediate environment that affects them. Out of this process is developed a sense of community, a mutual support system. Public decisions reached by authentic involvement of those who are affected are enriched by that involvement. On the one hand involvement is a means to an end, but it also can be an end in itself.

California Governor Edmund G. Brown, Jr., has said about the problem of humanizing government that involvement is not a luxury but a necessity for a civilized society that truly wants to meet its human needs. In a speech before the Voluntary Action Center and Junior League in San Jose, reported in *The New York Times*, June 6, 1977, he said: "And when we have to expand it in a dramatic way across a broad front of government and human activity, we have to find some way to recreate the spirit of neighborliness and mutual self-support that existed before the mobility and anonymity and increasing information flow that has been the product of this very prosperous society."

Assuming that healthy communities allow for a wide range of involvement, there must be careful cultivation of values that support the concepts of equal access for all citizens regardless of race, sex or income level. A foundation for this is a quality educational system that cultivates the capacity for citizens to express their needs and desires and to develop their abilities to share their concerns. This must be backed up by a structure capable of accommodating many views and ideas. And, finally, there must then be an organization structure to carry out plans.

In developing this process of citizen involvement, communities must be careful to avoid forces that work against it—unmediated competition among unbalanced forces. Certain groups without property, access to education and jobs remain at a decided disadvantage. And unbalanced reliance on experts can never fully describe the feelings and wishes of people to be directly affected by a project or policy.

Much work is being done in urban neighborhoods and rural communities across the country to look beyond professionalism and into the hearts and minds of citizens. Local officials, established civic groups and newly emerging activists are learning that they must talk together to develop and find common values so that they can work together to build communities that meet all their members' needs.

The paradox, however, is the tension that this process implies. Achieving citizen involvement has its attendant risks for a group as well as its individual members. But, conflict is a regular part of the change process, not an aberration. Much of the creative energy which fuels the process is absent without it.●

## MR. REES-MOGG ON BEING A PRODUCTIVE MORMON

● Mr. GARN. Mr. President, on March 29, the chamber of commerce on the Salt Lake Area held a dinner for Elder Nathan Eldon Tanner. Elder Tanner, who serves as the first counselor in the presidency of the Church of Jesus Christ, of Latter-day Saints, has long been active in government, business, and civic affairs. His service is in the best tradition of Mormonism, which has long taught its members to devote a considerable portion of their time and energy to the community at large. President Tanner's service prompted this award dinner in his honor, and attracted as the principal speaker the editor of the London Times, Mr. William Rees-Mogg.

As was appropriate in a speech honoring a man whose life has been dedicated to productive work, Mr. Rees-Mogg spoke of the motivation for work. In the course of his speech, he said a number of things which are of interest to us in the United States, as well as to his own countrymen. No doubt the recent British experience has provided Mr. Rees-Mogg with ample opportunities to observe bad economic policies, and he has profited by the experience.

At the base, a dedication to productive work comes through self-discipine, but there can be no question in my mind that outside, objective impulses play a very important part. Significant is the degree to which hard work results in real benefits to the worker. Increasingly, in the United States as in Great Britain, hard work results in higher tax rates, with no perceived link between the tax rates and the services of Government is supposed to provide. The result is a terrific diversion of energy out of productive labor and into a search for tax shelters, or a shift to a barter economy which by definition is less efficient than a money economy. As Mr. Rees-Mogg points out, that result always follows when governments give less attention to keeping their economic houses in order and more to placating the political demands placed upon them. The budget deficits we have come to know in the United States are one result; another is the inflation which drives taxpayers into higher and higher tax brackets.

Mr. President, so that others may profit from the wisdom of Mr. Rees-Mogg, I ask that the full text of his speech in honor of President Tanner appear at this point in the RECORD.

The material follows:

MOTIVE FOR WORK TERMED GREATEST ECONOMIC PROBLEM

(The following is an address by William Rees-Mogg, editor of The Times of London, at the Salt Lake Area Chamber of Commerce award dinner honoring President N. Eldon Tanner as "A Giant in Our City":)

Mr. Chairman, President Kimball, President Tanner, ladies and gentlemen:

I feel very touched and flattered to have been invited here this evening. Touched particularly because it is so much a domestic occasion of your community. It is a very happy day on which you honor someone with President Tanner's historic career in government and business and in service to the community. You are indeed fortunate to have such a man of honor and I am fortunate to be invited here on the occasion on which you are honoring him.

It has also been a delight to me to come to Utah and to Salt Lake City. It is a very remarkable place. Perhaps even more remarkable than you who live here fully realize. I, myself, have some American blood on both my parents' side. My mother is American, was born in New York, and my father had some rather more remote American ancestry. And that has given me an understanding of what the people who were building America in the last century had in mind, what their ideals were. I know what my own ancestors believed in, why those who came to America chose to come, and what they hoped they would achieve and this nation would achieve. And I think I know what there is about the modern United States which they would most have admired and what there is which they would not have admired all that much. And in visits to the United States, going back now for nearly thirty years and extending to most parts, I have never come across any place where it seemed to me that the traditional ideals which the American ancestors sought had been more fully realized than where I now am. I think that makes a great contribution to your whole nation and country.

I've been asked to discuss the economic questions of the world and I must say I rather agreed with the heading that was put on the lead story in the Deseret News today, which was: "Economy Baffles the Economists." It seemed to me to be a good prelude to talking to you about economic affairs and to be absolutely correct. Up till a few years ago economics seemed fairly simple. On the whole, between the end of the war and the

early 1970s, there were no economic problems that we did not feel that we were able to solve. Of course, it's true that some things were not right. We had inflation running at some terrible level like 2 percent in the bad years. We occasionally went through a year in which the economy of the United States or Great Britain did not actually expand very fast. But there was consistent development, high employment, and pretty stable prosperity for most of the period of 25 years after the end of the war.

We now find that since 1973, since the world went into the recession of '74 and '75, that most countries have not made a full recovery and that those countries which have made a full recovery are facing problems much more severe than the problems that they had to face in the post-war period earlier on. We now face challenges to the world of the most important and serious kind.

We face the challenge of working out a world system of currencies that does not impose intolerable strains and burdens on individual countries. We face the closely related challenge of bringing under control and keeping under control the threat of inflation with all the damage that that does to national economies and at the same time to individual lives we face the problem, eased a little at the present moment, perhaps, of the future energy supplies of the world, which are finite and which we know to be finite in the forms which we most substantially use at present. We face a problem of a complete new order of world competition, of countries competing with cost structures and advantages which put the older established industrial economies in a position of the greatest difficulty. And we face, though I should like to go, if I may, briefly through these problems, we face a problem which may well be much more profound, much more serious, much more difficult to solve than these specific problems. And that is the problem of finding ideals which make men feel that it is worth their while to work on the development of their economies. The motive for work, the absence of an adequate motive for work, can be the one problem which can destroy a national economy if no solution is found to it.

First of all, one has to look at the currency problem. It is the problem very much in the center of our minds at the present time. It is a problem which we in Britain have been facing earlier and perhaps more acutely (In my view, if that is so, it must have been our own fault.) than most other nations. Now we have made some recovery, partly thanks to more cautious policies, partly thanks to the benefits to our balance of payments of North Sea oil. Though even now when you are worried about your rate of inflation rising, we have not quite got our rate of inflation down to the level at which yours is now. But at present, for the moment, and without making any specific forecasts about the future, it is not the pound, but the dollar, which is the currency which is in the center of the battle. And there's one difficulty about that, there's one disadvantage in world terms, and that is that the pound is a much smaller currency in total amount, and therefore the aid that can be given to stabilize the pound by the power of other currencies is proportionately that much greater. It is difficult when the dollar gets sick precisely because the dollar is such an enormous currency, representing what is such a powerful section of the world's economy. And sums which would have seemed, in the days when we were supporting the pound, to be colossal sums, can be and are now spent in supporting the dollar in a few days.

I believe, myself, that the problem which used to afflict the pound and the problem which does now afflict the dollar is in essence a simple one. It is a matter of choice. It is possible either to give your economic priority to having stable money or to give your economic priority to meeting whatever other demands are put upon you. If countries choose to run large budget deficits and if countries choose to expand their money supplies, they will create a situation in which their currencies are in excess supply and when currencies are in excess supply, they will fall in terms of their internal purchasing power and they will fall also in terms of their exchange value into other currencies. That is an inevitable consequence of policies of budget deficit and money supply expansion.

There is a choice here to be made and it is not an easy choice. It is a choice which we in Britain have made reluctantly and late and repeatedly under the pressure of events, and have never quite been able to convince ourselves that we should make, in the splendid Swiss style, permanently and securely and absolutely. Yet, it is only nations who pursue the economic policies of Switzerland that will get the benefit in terms of stable and strong currencies that the Swiss enjoy. That is the essential character of the dollar problem now as it was the essential character of the sterling problem only a short time ago. Of course, you could learn from our mistakes, but I will forecast that you will not. It is rare enough for nations to learn from their own mistakes and absolutely unknown for them to learn from the mistakes of other people.

The eventual solution for the problem of world reserves will, I believe, lie in taking it out of the field of national currencies. No national currency can be an ideal reserve medium because the requirements imposed on a national government by its political situation must always mean that a national currency is only as good as its last election or its next election. We need to restore an international system of currency. It is my view that that world currency will need either to be based on gold or linked to it, but it is at least theoretically possible to create an international currency which is controlled by limited issue by some international agency.

The second problem the world has to face is the problem of energy. Here too, I believe, that it is the rule of the market which should be the determining factor. We do not, I think, have to fear that energy will run out, if we are prepared to allow the market to determine the price at which energy supplies are sold. There can, however, be no excuse for a policy which sells energy more cheaply than its international market price because such a policy, while it may appear to be helping the people of one country or another, is in fact a policy of subsidizing the wastage of a scarce resource, and of subsidizing the wastage of a resource which must in the course of things become scarcer. If we are prepared, and granted that in periods of recession this does not necessarily mean that energy prices will be leaping upwards, if we are prepared to pay the market price of energy, that will have the effect of encouraging people to use energy in the most careful way and waste it, on the one hand, and encouraging people to discover and develop new supplies of energy on the other.

And if we take only the conservation effect, there is one very remarkable example of a country which enjoys one of the highest standards of living in the world with an energy use substantially lower than the international average. This country is Sweden. There they had an acute shortage of energy supplies during the war, and they adopted energy-saving policies because the energy wasn't coming through and they enjoy now a standard of living per head equal, roughly, to that of the United States and they use about half as much energy per head, although they have a very cold climate, as the United States is currently using. So, it shows what can be done and the obvious way to achieve this objective is to allow the forces of the market to work their own essentially benevolent effect.

The next problem, the next challenge we have to grapple with and deal with is, I think, going to be the problem of world competition. We all know about the problem of competition from Japan, how they have built up the most remarkable industrial economy in a very short time, a very short time in its later stage of development, by concentrating in succession on certain industries where they could establish very efficient, very large scale production. But Japan is perhaps a form of competition which we're now relatively used to, though still exerting very substantial pressure on certain industries. What is worrying, and I think has not yet been sufficiently widely understood is what is happening in those nations who have read the lesson of Japan, who are taking advantage of all the work that the Japanese have done, who are taking as their starting point the methods of production which the Japanese have developed and are basing it all on costs of labor which are way below the Japanese, way below the European, and, of course, way below those of the United States. In these countries the rates of pay range between $2 and $5 a day. That is the situation in Taiwan, in South Korea, and on your own borders it is, though to a lesser degree, the situation in Mexico and in Latin America and in Brazil. The Brazilians claim behind that of Japan. That is their current estimate. Which means that taking Brazil alone, and the Brazilian population is about the same as the Japanese and their raw material supplies are much better, we have the potential of another competitor on the scale of Japan coming in by about the end of the 1980s. And that is only one of the countries of the hyper competitive developing countries which are moving into world markets, and are likely to move in at an accelerating rate.

I think, in these circumstances, that it is more or less inevitable that we are going to have increasing world pressures, indeed we are already getting increasing world pressures, for protection. Protection is only of limited value. It may give you time to adjust. It may give us time to adjust, if Europe moves in the same direction at about the same pace as the United States. But one always has to remember that there is no way in which one can protect one's export markets and that while one's home market may be protected, one may all the time be allowing the gap in real efficiency and real costs to be moving against one. If we do have protection, if we do have an increase, we must make every effort to see that it does not have the effect of the protectionist movements between the wars of crippling world trade. A limited movement toward protection may not be desirable, but may be unavoidable, but if so, it must be based on the planned expansion of world trade and not on allowing world trade to fall back.

These problems are all problems which are going to present the most serious challenge to our industrial world and there is the challenge too of beginning to rebuild the confidence which the world had after its 20–25 good years and which it lost and has not yet regained in the period of the 1970s. But I would like to come back to something which seems to me to be more important yet. It is the question of what makes men work.

Now we have very real problems in Britain about productivity. But I sense an

unease in most of the industrial countries which one visits, not I think in Japan where they are still riding the crest of their first great industralization, though even there the riots opposed to the idea of opening the new Tokyo Airport are not signs that they are free from the strains and stresses of modern industrial life. But I come again to this feeling of the ideals which our society in Britain and in the United States developed first of all together and then in parallel in the years after the 1630s and coming down through the development of our free history and our democratic institutions. There was this ideal, still I thing the most hopeful and important ideal that there is in the world, which rested itself on the democratic organization of free men and it depended upon something particular about the character of those men. Freedom is not something which just happens to a community, nor is it something which is preserved by accident. It is not a privilege which is ever long retained by those who are idle, who lack responsibility, who lack self-discipline. Those who prefer state discipline to self-discipline lose their freedom in the end and usually before very long. How stands this ideal of the free society with free men depending upon their own self-discipline to maintain the responsibility which the community requires if it is to survive? It is still in existence. If it were not in existence we should not be here. But it is impossible to pretend that it exists with the same vigor and self-confidence as it did a generation, or two generations, ago. There are those who wish to erode it, who wish to make their attack upon it. There are those who do not share this ideal. But, I believe more insidious are those who would in fact pay some sort of shrugging lip service to this ideal but are not remotely prepared to pay the price which it involves.

I find coming here that there is running through your community the idea that self-disciplined people must take responsibility for community affairs and take that responsibility as free men. That I believe, is the principle which gave your nation its greatness in the world and made it, perhaps, the most successful experiment in political soceity that the world has even seen. When I am here I know that that spirit is still strong. Long may it remain so, and long may its enemies be confounded.●

## HUMANITARIAN ASSISTANCE TO LEBANON

● Mr. KENNEDY. Mr. President, reports from Lebanon continue to underscore the need for additional relief and reconstruction assistance in the wake of the recent conflict in southern Lebanon. In addition, there remains an urgent need to more actively support, under international auspices, the voluntary and orderly return of displaced civilians to their home areas.

Some return movement has already been achieved under the protection of the United Nations, and I commend the efforts of the administration for contributing some $2 million in humanitarian assistance to date. More clearly needs to be done, and I am confident that Congress will support whatever additional funds may be required for the United States to contribute to peace and relief in southern Lebanon.

Mr. President, I would like to share with the Senate the most recent situation report on conditions in Lebanon, and the status of international assistance, prepared by the Office of U.S. Foreign Disaster Assistance in the Agency for International Development. I submit the text of this report for the RECORD.

The material follows:

[From Office of U.S. Foreign Disaster Assistance, Situation Report No. 5—Friday, Apr. 14, 1978]

LEBANON—DISPLACED PERSONS

Date: Beginning March 14, 1978.

Location: Southern Lebanon Four cazas of Bint Ibeil, Nabatiyeh, Marjoyoun, and Tyre), Sidon Beirut, and Bekaa Valley.

People Affected: Population of the Disaster area of southern Lebanon—450,000 (majority Lebanese); Affected—400,000; Dead (civilians)—50–176 (reliable updates not yet compiled); Injured (civilians)—120–392 (reliable updates not yet compiled); Displaced—estimated 250,000 (Lebanese and Palestinian).

GENERAL SITUATION

A large part of the population of southern Lebanon fled their homes as a result of an Israeli military campaign aimed at punishing Palestinian terrorists. The city of Tyre, for example, was deserted by about 45,000 of its 50,000 inhabitants. It is still unclear exactly how many people were displaced by the recent fighting since some "old" displaced persons (i.e., those displaced during the civil strife) mixed with the "new" displaced persons to receive assistance in relief centers. The Lebanese government has used the figure 30,000 families or 210,000 people, counting seven people to a family, in its calculations of how many were displaced recently. In its resettlement plans, however, the government has used the figures 50,000 families (including 20,000 families that remained in the South) and 250,000 people (which would be only five to a family).

Lebanese displaced from southern Lebanon fled to the following areas: Beirut (50,000 displaced persons), Sidon (15,000), Chouf (60,000), and Baalbeck-Hermel (40,000).

Palestinians displaced from their camps in southern Lebanon numbered about 65,000. Some 34,000 of these fled to Sidon and 5,000–10,000 went to Beirut.

With the introduction of the United Nations Interim Force in Lebanon (UNIFIL) and the subsequent pull-back of Israeli forces, some of the displaced persons have begun to return to their homes in the South. Many have been reluctant to go until assured that security will be provided. To date, about 20,000 to 25,000 Palestinians and about 50,000 Lebanese are reported to have returned.

Priority needs (as defined by the Government of Lebanon) to support the returning displaced persons for one month include some of the items requested for the emergency period and may duplicate some of the items already distributed to the displaced. The requirements for the return-to-village period include the following: blankets (180,000), mattresses (100,000), water jugs (50,000), sugar (1,500 MT), bulgur (3,300 MT), lentils (1,500 MT), cheese (2,000 MT), chicken (1,500 MT), sardines (2,000 MT).

Current fighting between Lebanese Christians and the Syrian deterrent force cannot but complicate the return of the displaced persons.

ACTION TAKEN BY THE GOVERNMENT OF LEBANON (GOL) AND LEBANESE GROUPS

An Interministerial Committee on Relief (IMCR) was formed on March 15, 1978, consisting of Ministers Rizk, Salman, Cheaito, and Bizri. The Committee has overseen all relief activities including those of the GOL Office of Social Development and the High Relief Committee. The GOL has been concerned primarily with displaced Lebanese, leaving displaced Palestinians in the case of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).

Control registration points were set up to register families displaced by the most recent fighting. Of the estimated 30,000 displaced families, only 3,000 had registered by April 7, 1978.

Temporary housing (tents and prefabricated buildings) have been provided in Beirut at the municipal stadium and golf club camps and in and near Sidon at the Awal, Sidon Hotel, and Ghazzia camps. All of the camps are equipped with water and sanitation and are organized by village of origin. In addition to the above, mosques, churches, schools, local universities, and finished and unfinished buildings have been used for temporary shelter. About 10,000 persons have been housed in the camps where food is generally distributed daily.

Twenty centers to distribute supplies to displaced persons have been set up in Beirut and its suburbs. Three additional centers are located in Chouf, Aley, and Bekaa. These centers give families enough food for 15 days plus comfort items such as blankets.

Through the combination of camps and centers, the distribution system has reached 50,300 families (41,000 in Beirut, 1,350 in Chouf and Aley, 7,500 in Sidon, and 450 in Bekaa). If only 30,000 families were displaced by the recent fighting, then some "old" displaced persons were served as well.

All hospitals were instructed to provide care for all patients and to bill the Ministry of Health if necessary. The American University Hospital in Beirut has supplied a medical team to each relief camp each afternoon. The League of Private Hospitals also called upon hospital operators to offer assistance.

Estimated costs to the GOL of the relief provided so far are LL 2 million (US $682,-593.85). The GOL has allocated LL 100 million (US $34.1 million) to relief operations.

Resettlement plans are being handled by three bodies—the Military Commission to Facilitate Return, the High Relief Committee, and a newly formed Council for South Lebanon. The Lebanese Army is registering returnees at the distribution centers by village or origin. Bus transportation is to be arranged from three locations in Beirut and from two locations in Sidon with an emergency vehicle repair point in Zahrani. The High Relief Committee is in charge of distributing support commodities which consist of one month's ration of food, kitchen utensils, blankets, and temporary shelter. Returnees will also receive support for housing repair. The Council for South Lebanon will handle reconstruction projects and income replacement schemes (e.g., an income advance for tobacco farmers). Total costs of resettlement/reconstruction are estimated to be LL 32 million (US $10.9 million).

The Ministry of Public Works has begun repair of roads, bridges, and public buildings.

Arab Insurance Company—$5,085 to the IMCR.

Association of Industrialists—500 cases of canned meat.

Association of Social Works—$8,475 to the IMCR.

Beirut Chamber of Commerce—$33,900 to the IMCR.

College Patriarchal—$1,015 to the IMCR.

Employees of North Lebanon—decision to contribute 15% of their salaries for the displaced persons.

General Union of Palestinian Women—distribution of food and blankets and assistance in camps.

Lebanese Mothers' Committee—distribution of food.

Lebanese Red Cross—first-aid and evacuation services.

Lions Club—3,000 undergarments to the Sidon authorities and assistance in distribution.

Makassed Association—$8,475 to the IMCR.

Middle East Council of Churches—milk powder, cheese, and used clothing from its stocks sent to Sidon; purchase of an anesthesia machine for the Palestinian Red Crescent Hospital in Sidon; reactivation of local committees formed for relief during the recent civil strife.

Municipality of Beirut—fund of LL 300,000 (US $102,389) for urgent measures related to displaced person support in Beirut; fund of LL 500,000 (US $170,648) for IMCR disposition.

Organization of Overseas Lebanese—appeal for assistance.

Palestinian Red Crescent—medical assistance to the injured.

Students of the American University in Beirut—volunteers in distribution centers.

YMCA—volunteers to erect tents in Sidon and Beirut.

YWCA—500 blankets and 1,000 cans of soup.

Self-help reported to date—$34,429,987.*

ASSISTANCE PROVIDED BY THE UNITED STATES GOVERNMENT (USG)

In response to a request for USG assistance from Lebanese Prime Minister Salim Al Hoss, the U.S. Ambassador to Lebanon, Richard Parker, declared a disaster on March 19, 1978, and exercised his $25,000 discretionary disaster relief authority.

From the Italy stockpile of the Office of U.S. Foreign Disaster Assistance (OFDA), the following have been provided: tents (1,850), tent flys (1,850), wool blankets (30,823), cotton blankets (13,756), muslin sheets (2,976), plastic sheeting (20 rolls), five-gallon water jugs (2,200), tetracycline capsules (200,000), penicillin tablets (120,000), multi-vitamin tablets (250,000), cooking stoves (50), and gas cans (50). The value of these commodities, including air transportation, is estimated to be $930,672. These supplies were consigned to the GOL; however, the GOL promised 500 of the tents to UNRWA.

From its Singapore stockpile and from California, OFDA has provided additional tents and flys (217 each), cotton blankets (15,504), wool blankets (26,572), and six ICOSA prefabricated shelters. The value of these commodities, including air transportation, is estimated to be $679,346.

Transportation for the replacement of the above items will cost about $404,426.

Technical assistance in disaster relief and prefabricated shelter construction has cost $7,826.

Total USG assistance to date—$2,047,270.

ASSISTANCE PROVIDED BY U.S. VOLUNTARY AGENCIES

The American National Red Cross has airlifted ten cases of sterile bandages donated by Johnson and Johnson.

American Near East Refugee Aid has granted $5,000 each to the Lebanese Red Cross and the Palestinian Red Crescent.

Baptist World Relief has sent $5,000 to the Southern Baptist Mission in Lebanon.

*Partial figure since services have not been valued.

Catholic Relief Services/New York has sent $25,000 to its representative in Lebanon to purchase relief goods for 800–1,000 displaced persons camped on the outskirts of Beirut in a Caritas/Lebanon Camp.

Church World Service has advanced $25,000 to the Middle East Council of Churches (MECC) for its relief activities. An appeal for $70,000 to meet CWS's share of a World Council of Churches (WCC) appeal ($200,000) has been made. To date, CWS has received $25,000 in cash and $58,000 in pledges in response to its appeal. Five tons of canned meat, donated by the Church of the Brethren and valued at $9,480, have been shipped to Lebanon. Other groups which have responded to the CWS appeal are the Episcopal Church, Presbyterian Church in the U.S., Reformed Church in America, United Methodist Church, United Presbyterian Church USA, United Church of Christ, and CROP/CWS.

The Community Development Foundation/Save the Children Federation has alerted the other members of the Save the Children Alliance (U.K., Canada, Norway, Denmark, and Austria) to needs. Their training center in Lebanon is being used as a standing area for relief supplies and 5,000 displaced persons are being cared for.

Lutheran World Relief has granted $10,000 to the Middle East Lutheran Ministry in Beirut.

The Mennonite Central Committee has allocated $50,000–$60,000 for baby food, canned food, blankets, and mattresses to be distributed through the Sidon provincial government. In addition, 8,000 pieces of bedding, five tons of beans, and five tons of canned beef are being distributed through the MECC.

Seventh-day Adventist World Service has distributed blankets and clothing from their 40 tons in stock in Beirut. An additional 400 bales of clothing will be shipped to Lebanon.

Total assistance reported to date—$134,480.*

ASSISTANCE PROVIDED BY THE INTERNATIONAL COMMUNITY ORGANIZATIONS

The Arab League—$150,000 for medicaments and supplementary medical services.

The Arab Ministries of Health—$3,000,000.

The European Economic Community (EEC) will authorize 20,000 MT of cereals as a supplement to its regular program. In addition, 100,000 MUA (US $125,000) have been contributed to the International Committee of the Red Cross (ICRC) appeal.

The International Committee of the Red Cross is using its staff currently in Lebanon (15 Swiss delegates and 25 local employees, N.B. one delegate has been killed in a car accident) to care for the displaced persons in its region and to carry out village-by-village assessments of damage and numbers displaced. An appeal was made for baby milk (180 tons), cash to purchase medical supplies (400,000 Swiss francs), blankets (20,000), and cash for operational expenses (900,000 Swiss francs). The financial part of the appeal has been met.

The International Union for Child Welfare—$10,170 to the IMCR.

Up to $500,000 is available for this emergency from the United Nations Special Trust Fund for Lebanon. An appeal for supplementary funds to benefit all U.N. agencies in Lebanon, except UNRWA, is expected.

UNHCR—$100,000 to the IMCR.

UNICEF—blankets (44,900), soap (825,000 bars), layettes (7,000), water containers (20,000), kitchen sets (11,350), water tanks (9), Halazone tablets (500,000), children's clothing (22,800 sets), plastic sheeting (195 rolls), basic drugs (500 sets), water piping, and medical supplies (4.5 MT). A portion of the cost of this assistance is $689,097.

UNRWA made an urgent appeal on March 23, 1978, for cash ($30,000 per week), foodstuffs, tents (3,000), blankets (30,000), and clothing and shoes for 8,000 children. In Sidon, UNRWA has been feeding 34,000 displaced Palestinians. UNRWA classrooms have been used as temporary shelter.

The World Council of Churches launched an appeal for $200,000 to purchase locally: blankets (18,000), kitchen Utensils (4,000 sets), plastic sandals (15,000 pairs), high protein food, dry beans, and milk. Distribution costs ($65,000) would also be covered. WCC has received $116,500 in cash and has forwarded $125,000 to Lebanon.

GOVERNMENTS

Algeria—two planeloads of medical supplies for the Palestinian Red Crescent.

Argentina—nature and value of assistance not reported (N. R.).

Australia—$227,275 through the World Food Program.

Belgium—N. R.

Brazil—N. R.

Canada—$1 million (Canadian dollars) to ICRC. Three churches in Toronto have sent $11,000 (Canadian dollars) to Lebanon.

Egypt—12-member medical team and $150,000 to the IMCR.

France—8,000 MT of wheat.

Germany (Democratic Republic)—N. R.

Germany (Federal Republic)—two planeloads of blankets, clothing, baby food, and medicines all valued at DM 1 million (US $499,900) and $200,000 to UNRWA. Within the scope of EEC aid, Germany plans to allocate 2,275 MT of powdered milk; 1,240 MT of butter oil; and 25,000 MT of cereals.

Iran—3,500 blankets, clothes for 4,600 displaced persons, and two planeloads of relief supplies such as oil, sugar, tea, and flour.

Iraq—21 truckloads of relief supplies and a medical team.

Jordan—assessment team of six physicians, four truckloads of medicines, and 1,200 bottles of blood.

Kuwait—medical team of ten doctors and nurses, ten ambulances, and 25 trucks.

Morocco—medicines, plasma, and medical equipment for the Red Crescent.

Netherlands—9,500 blankets; 1,000 cases of food; 6,000 bottles of powdered milk; and $455,000 to the IMCR.

Norway—187,260 to the IMCR.

Senegal—N. R.

Syria—7,000 MT of wheat.

United Arab Emirates—medical mission, composed of 20 doctors, 40 nurses and pharmacists, and ten administrative staff and drivers to Syria and $300,000 to the IMCR.

United Kingdom—5,000 blankets and 150 tents.

VOLUNTARY AGENCIES

Australian Council of Churches—$5,000 through WCC.

Austrian Save the Children Fund—$3,000.

Caritas/France—N.R.

Caritas/Germany—N.R.

Caritas/United Kingdom—N.R.

Catholic Fund for Overseas Development (United Kingdom)—$980 to ICRC.

Christian Aid (United Kingdom)—$9,500 through WCC.

Danchurchaid (Denmark)—40 tons of milk powder, fish, beef, and cheese to Beirut by truck.

*Only a partial figure since some assistance in kind not valued as yet.

Danish Save the Children Fund—$10,000.

Das Diakonische Werk (Germany)—$50,000 through WCC and airfreight of 4,000 blankets and six tons of milk powder.

HEKS (Switzerland)—$52,000 through WCC.

Middle East Lutheran Ministry—distribution of 8,000 blankets, 90 bales of clothing, and 1,100 pounds of medical and surgical supplies.

Nordaid (Norway)—$20,000 through WCC.

Norwegian Red Cross—$203,390 to the IMCR.

Norwegian Save the Children Fund—$100,000.

Oxfam (United Kingdom)—$4,890 to ICRC.

Primates Relief Fund (Canada)—$5,000 through WCC.

Swedish Lutheran Federation—100,000 krona (US $21,673) through WCC.

Switzerland (Caritas, Protestant League, Swiss Red Cross, World League)—$101,010 to the IMCR.

United Kingdom Red Cross—$1,960 to ICRC.

Total reported to date—$7,668,105.*

ANNE C. MARTINDELL,
*Director.*●

## SOIL CONSERVATION

● Mr. HART. Mr. President, while soil conservation is one of our most important national priorities, it is an expensive undertaking. There is no guarantee that a rural landowner or farmer who implements such practices will recover, through the prices he receives for his products, his investment of time, labor, and money.

Recent reports underscore the serious nature of the soil erosion problem. Several studies indicate that we are less effective in controlling erosion today than we were 15 years ago, and several prominant geologists have reported that, by the middle of the next century, the typical farm may not have any topsoil left.

An equally serious aspect of this problem is the water quality degradation that results from poor soil management. A recent GAO report concludes that over half of the pollutants entering this country's waterways comes from "nonpoint" or diffused sources, chiefly agricultural runoff, and that continued inattention to this problem will prevent the achievement of the water quality goals set out in the Clean Water Act.

To solve both of these problems, Senator CULVER, during last year's consideration of the Clean Water Act, successfully proposed an amendment establishing a cost-sharing program to help fund soil conservation measures that reduce agricultural runoff. This amendment was widely supported by both environmental and agricultural interests, and authorizes $200 million for fiscal year 1979 and $400 million for fiscal year 1980.

Recently, in an address to the 32d annual convention of the National Association of Conservation Districts, Senator CULVER outlined both the urgent need for effective soil conservation and the importance of the new cost-share program.

Mr. President, in order to bring this important subject to the attention of my colleagues, I ask that Senator CULVER'S speech be printed in the RECORD.

The speech follows:

As an Iowan who has long believed that soil conservation is our most under-rated national priority, I am privileged to participate in this thirty-second annual convention of the National Association of Conservation Districts.

In my state, I am proud to say, conservation of our natural resources has been a religion since anyone can remember. Since our state is blessed with a large portion of the Grade A farmland in the nation, it is plain that, next to our people, our fertile land is our principal resource.

I don't recall ever talking to a farmer who didn't profess to believe in sound soil conservation practices. But in our state, as in other states, there are a lot of farmers and other rural land-owners who talk good conservation but don't practice it. Only one third of Iowa's 27 million acres of cropland is adequately protected against soil erosion—despite the fact that we have conservation programs that are second to none.

The truth is that farmers and certainly the general public do not recognize the urgency of the need. Recent planted cropland increases have equaled, if not exceeded, the additional acres of land each year that were protected by sound conservation.

We hear a great deal—and properly so—about the energy crisis. We should also be excited and concerned about the soil crisis—which is a less complex and more manageable problem for our country than devising an effective energy program.

I think a useful comparison can be made between the oil reserves of the OPEC countries and our own "black gold" in the form of topsoil.

Neither their oil nor our topsoil is inexhaustible. The oil producers export their oil at a profit to us and the other nations of the world. We export, at no profit and horrendous loss, more than 200 million tons of the world's finest topsoil from Iowa alone to the Gulf of Mexico each year through soil erosion and agricultural runoff. Ironically, the natural forces that rob us of our irreplaceable topsoil cause the major pollution to our waterways.

When the Arab wells are some day depleted, the game will be over permanently. But sound conservation practices can save our soil and protect its quality for generations to come.

The situation is getting worse, rather than better. Modern farm technology and the shift away from soil-conserving crop rotation has taken a heavy toll from the soil. A report by the Council for Agricultural Science and Technology (CAST) found that Corn Belt farmers are less effective in controlling erosion than they were 15 years ago. CAST, which has its headquarters at Iowa State University, also found that the United States lost 4 billion tons of topsoil in 1972 as compared to 3 billion in 1934.

I remember going back to Iowa in the spring five years ago and noting that farmers, for the first time, were plowing clear up to the fencerows. Federal agriculture policy called forth maximum production, the farmers responded, and, as a result, the plow was put to land that hadn't been turned in years—if ever.

And then the rains came. Millions of tons of topsoil were lost even from land that had been treated with careful conservation practices for years. And from the land that saw its first plow in that year, the loss was twofold and threefold. On the unprotected land, a loss of 15 to 20 tons per acre was not unusual, and some farms lost in excess of 50 tons.

We should have learned from this experience, but the sense of urgency is still not there.

I know that saying these things to you conservationists is like quoting scripture to members of the clergy. But somehow, between those of us who see the grim prospects of the future if we continue wasting one of our most valuable resources, we must find a way to wake up the nation to the critical need.

Effective conservation measures are admittedly expensive, but when you compare them with many other governmental expenditures in terms of size of outlay and probable public good, they are one of the soundest investments we can make. The total amount spent for soil conservation for the entire country is only a miniscule fraction of the bills the Pentagon routinely spends on a single weapon system. Yet when it is budget-cutting time in Washington and the state capitals, soil conservation programs are among the most vulnerable.

For as many years as most of us have been involved in soil conservation, federal costs sharing assistance has hovered around $200 million. Most of this money came through the Agricultural Conservation program and the Great Plains Conservation program. As you well know, sustaining even this amount has been a hard fought battle, year after year.

The Administration's budget proposal for Fiscal Year 1979 recommends only $100 million for both the ACP and the Great Plains program. In addition, the budget proposes to combine these two programs under the ACP and phase out funding for resource conservation and development projects.

I hardly need to tell you that I don't like, nor do I plan to accept, this meager level of funding. More money is needed, and I am convinced that Congress will provide it.

While we are disappointed with this meager funding proposal for important soil conservation programs, perhaps we should take a hint from our late, beloved friend, Senator Humphrey, and look on the bright side of things. After all, this is only the second time in my fourteen years in the Congress that there have been any funds for these programs in the President's budget proposal. Maybe OMB is finally getting soft in its war on soil conservation assistance.

A related topic is the proposed natural resources reorganization that is being considered by the Administration. As you know, in the December 19, 1977, Federal Register, the office of Management and Budget outlined a wide range of options and asked for public comments on the various alternatives being evaluated.

Some of these alternatives involve shifting functions out of the Department of Agriculture into other departments and agencies. Others proposed consolidating a wide range of activities within the USDA.

I believe natural resource protection programs need to be strengthened. I am not yet persuaded that reorganization is the best way to accomplish that objective.

Specifically I flatly oppose the proposal to move the Soil Conservation Service functions from the USDA.

Any contemplated reorganization should take into consideration the vital linkage between production programs and natural resource protection programs. For the farmer, resource protection and the production of food are simply two sides of the same coin. Any attempt to separate these functions

*Only a partial figure since much of the assistance in kind and in services has not been valued as yet.

within the governmental structure promises no more success than an attempt to separate them in the farmer's field.

Agriculture remains in the bankbone of our economy. It needs and deserves a strong federal agency that can coordinate interlocking activities affecting the farm economy, encourage exports, protect the competitive forces in American agriculture that have generated efficiency and innovations, and safeguard our natural resource base.

I believe these goals can be best served by strengthening, not dismembering, the U.S. Department of Agriculture. I do not question that some reorganizational changes within the department may be in order and useful, but I do not see any advantage in transferring major components of the agriculture department to other agencies.

I believe modest progress in awakening public attention to the urgency of conservation needs will result from some of the events of the past year.

The Land and Water Resource Conservation Act, which was vetoed in 1976, and signed into law last year should significantly increase our knowledge of soil and water conservation needs. In the past, we were aware of the problems, but we had no effective national mechanism for evaluating progress or lack of it. When the first results of the Department of Agriculture's appraisal, under this act, of our land and water resources is presented to the Congress, I believe it will send some shock waves across the nation with regard to the urgency of these needs.

On another front, there has been an increased effort, stimulated by Section 208 of the Water Pollution Control Act of 1972, to determine the scope and severity of the nonpoint pollution problem. This effort, I believe, is providing substantial support to the soil conservation cause.

I think most of you are familiar with the agricultural cost sharing amendment to the Clean Water Act which I sponsored in the Congress last year.

As you know, this amendment establishes a cost-sharing program to assist farmers and other rural land owners in controlling nonpoint source pollution.

Congress authorized $200 million for fiscal year 1979 and $400 million for FY 1980, for technical and financial assistance in carrying out these rural clean water projects.

Responsibility for setting local priorities for those projects was given to the soil conservation districts working together with the Department of Agriculture. National and local priorities for assistance are to go to those areas and sources of pollution that cause the most severe water quality problems.

Overall responsibility for the program lies with the Secretary of Agriculture. In addition, important aspects of the program are given to the Administrator of EPA, the Section 208 management agencies in each state, state water quality and soil conservation agencies, and to the conservation districts.

Last Friday, Secretary Bergland announced that the Soil Conservation Service will be given the primary responsibility for administering the program. Under the Secretary's announcement, the ASC county committees, with the technical advice of the local soil conservation service agents, will assist the districts in establishing local priorities.

This decision may not meet everybody's ideal concept for administering the new program. But I am convinced that it is an arrangement that will work and that all parties can live with. The thing that impresses me is that it establishes a maximum of local input into the most important aspect of this program—what is to be done with the limited resources available. In principle, I commend the Secretary for his decision. A great deal will depend, of course, upon the regulations which will be published and open to comment and suggested change.

The new program combines the talents and expertise of all three of the major arms of our national conservation effort—the conservation districts, the county ASCS committees and the SCS.

I would hope that the frictions and rivalries that have existed within this triad in the past can now be buried in the common purpose. For every state represented here today, the stakes are high.

I know that you people will do your part. I know of no group of public servants who have worked with more energy and devotion to a cause than you people and the SCS field representatives have. I think, moreover, there is no area in which federal, state and local officials have worked more closely in harmony and cooperation.

I congratulate you on this new responsibility and know you will handle it well.

Adequate funding for natural resource protection, as you all know, is still a staggering, uphill problem.

We are all familiar with the traditional arguments against the ACP program. The farmer benefits from good soil conservation; therefore he should pay for it.

The farmer does benefit from the conservation of his soil. But so does everyone else. If the farmer were able to recapture through higher prices for his products the money he invests in soil conservation, he could spend the money with the assurance that he could recover his investment. But he has no such assurance.

As a member of Congress, I strongly support the concept of investing public funds in cost-sharing programs for soil conservation. In the long run, the land is essentially a public resource and its protection is a public as well as private responsibility.

In the Federal Soil Conservation Service's pamphlet, "How Will We Use Iowa's Land," is a marvelous quotation from a Nigerian Chieftain that tell it all. "I conceive," the Chieftain said, "that land belongs to a vast family of which many are dead, few are living, and countless numbers are unborn."

Some critics have argued that the rural water quality program is a duplication of existing services provided under the ACP. This, I am sure you recognize, is not so. While the two programs can, and should, complement each other, neither can substitute for the other.

If priorities under the ACP were turned too heavily toward water quality, many areas of the country with severe wind erosion problems would not receive adequate attention. The same would hold for lands where runoff moves large quantities of soil but does not deposit that soil in streams and lakes.

On the other hand, a program which allocates funds to areas and projects on the basis of pure soil erosion criteria will never adequately meet the water quality problem. The rural water quality program provides, for the first time, a formal institutional linkage among three vital goals: food production, soil conservation and water quality.

It would be the fulfillment of a great dream for all of us if the period between now the year 2000 could turn into a golden age of natural resource conservation. To achieve this conservationists, farmers, environmentalists and other concerned citizens will need to combine their forces to communicate the message of urgency to the general public.

Admittedly, communication is a delicate art, as Dr. John Melcher, a colleague of mine in the Senate recently found out. A single word can make a difference. A few weeks ago, Senator Melcher began receiving an avalanche of angry letters from cattle producers in Montana whose cause he had long supported. Melcher simply couldn't understand what his constituents were angry about. Finally, he found the cause. In a syndicated feature about him in Montana newspapers, the article meant to say Senator Melcher is a veterinarian. It come out "vegetarian".●

## HERE COMES THE JUDGE

● Mr. HOLLINGS. Mr. President, in the April issue of RF Illustrated, the official publication of the Rockefeller Foundation, there is an article appropriately titled "Here Comes the Judge."

I found the article particularly interesting, because the judge in this case is the Honorable Arthur McFarland. He is 28 years old, black, and a municipal judge in my hometown of Charleston, S.C.

Now those facts alone speak volumes about the direction South Carolina and the South as a whole have taken in the last two decades in relations between blacks and whites, and it is a healthy direction indeed. But they also reflect new attitudes about the capabilities of young people and their dedication to justice and equality, and they also point to the abilities of people to very quietly but very effectively adapt to changing conditions.

Judge McFarland is a Charleston native who compiled a very distinguished academic record and was an Earl Warren Fellow and who decided to take his talents back home to help his people—and by helping them, help us all.

I am proud of his decision and the work he is doing, and I ask that the article in RF Illustrated be printed in the RECORD for the benefit of my colleagues.

The article follows:

HERE COMES THE JUDGE

(By Sylvia Kronstadt)

Judge Arthur Cecil McFarland looks dapper as he strides into Charleston, South Carolina's municipal building wearing a suit the color of peach ice cream. Neither the courthouse nor the judge blends into the lush fabric of southern splendor and entrenched power that drapes Charleston like spanish moss on a grand old tree. The new building is about as elegant as a high school cafeteria. The judge, moreover, is a lanky, unpretentious, 29-year-old lawyer. And a black man.

As Judge McFarland—who came back to Charleston in 1974 as an Earl Warren Fellow—makes his way toward his chambers, the greeting, "Mornin' judge," flutters at him from white lips all along the way. He signs a stack of arrest warrants and billows into the courtroom in his judicial robes, preceded by a middle-aged redhead who declares, with genuine hospitality, "Good mornin' ladies and gentlemen! The municipal court is now in session, Judge Arthur McFarland presiding."

For the first few months after he was appointed to the bench, McFarland's entrance into the courtroom provoked a medley of reactions: policemen smirked, prosecutors muttered, onlookers gasped.

"They couldn't believe I was the judge; it wasn't until I handed down a few sentences that the credibility set in," McFarland recalls.

One morning a defendant was brought before him charged with criminal trespass. The man took one look at McFarland and began shouting, "Let me out of here! I ain't going to let no black judge try me! He ain't no judge! Help me . . . get me out of here!"

"We eventually got him settled down to where we could proceed," McFarland says. "The incident really only bothered me in one

respect. That particular defendant was black."

DOING JUSTICE

A year after his appointment, it is clear that Charleston's youngest municipal judge has had an impact on the style and substance of justice in this tradition-drenched city. There has been a dramatic improvement in the quality of arrests as a result of his "throwing out cases right and left" when he first assumed office.

"I also take pains to bring out the defendant's side of the story . . . to let him know that I don't just assume the policeman is right," McFarland says.

The judge has ordered officers in open court to cease referring to defendants by their first names. He has irritated law enforcement officials by suspending sentences on marijuana possession charges and by sentencing youthful offenders to spend Saturday mornings observing courtroom proceedings. Recently he outraged Charleston's upper crust by fining one of its aristocratic ladies $200 for a housing violation.

"Nobody would have dreamed that anything could happen to her," a local white lawyer observes. "Not only did Arthur fine her; he got the city behind him and made it stick."

On this particular morning the corporation counsel is attempting to enforce the housing code in a different, more run-of-the-mill fashion. Charleston neighborhoods that are now all black have become highly desirable because of their historic significance, and selective, beefed-up, housing code enforcement is being used to force blacks out of these properties. The corporation counsel is posing his standard argument to a middle-aged black defendant—that the required repairs will cost more than the defendant can afford, that he is better served by selling the property than demolishing it. In fact he just happens to have the name and address of someone (white) who wants to buy.

"What is my responsibility to black people in these circumstances?" McFarland asks later. "Am I participating in a legal rip-off? Have I become the guardian of the oppressor?"

If McFarland feels insecure about the implications of what he does, it is not evident when he is on the bench. He has jurisdiction over all offenses punishable by up to $200 and thirty days in jail, and he listens to the procession of accusers and accused with grace and attentiveness. Today, McFarland hears cases involving illegal possession of drugs and weapons, public intoxication, destruction of government property, and traffic violations. One defendant, a short, stocky, black man, trembles uncontrollably during his questioning and McFarland quietly tells him that he needn't be afraid. Another—when asked how he wishes to plead—sniffles, hiccups, and slurs, "Drunk Yeah, I been drunk. I still *am* drunk." McFarland suspends a jail sentence on condition that the man seek treatment in an alcohol abuse program.

NEW FACES

Judge McFarland is carefully watched by black colleagues as well as white. One of them is Bernard Fielding, who returned to Charleston after law school back in the 50's, when courtrooms in the South were segregated and black lawyers were banished to the black spectator section, far from the venerable proceedings of the bench. Today, Fielding—who barely escaped going to jail for "being sassy with the judge" in the past—is himself an associate judge—the first black in South Carolina's probate court.

"There's been tremendous cosmetic change in the South," Fielding says. "But there are still deep-seated efforts to minimize the number of black lawyers and diminish their impact.

"There is great pressure on young black lawyers to succumb, to become wheeler-dealers, scheming and conniving with whites to suppress the black community for their own gain," he adds. "That's why Art McFarland is so valuable to Charleston. He practices with dignity. He's a scholar and a skilled practitioner."

"Arthur's a real catalyst here," says Joseph Shine, a young black who was recently named Charleston City Prosecutor. "He had a major impact on my decision to come back here after law school."

Tony O'Neill, another young black attorney, adds, Arthur is demonstrating to the black community that you don't need to be afraid to bring your business to a black lawyer. As judge, he's showing them that we're competent . . . and that we possess a special understanding of their problems."

McFarland is a judge three mornings and two afternoons a week. The remainder of his time is spent on the other side of the bench—as one of the nineteen practicing black lawyers in Charleston.

Recently he represented two black students expelled for a fight on the basis of a written statement from the principal, who didn't witness the fight. McFarland's expression of outrage over the expulsions was extensively quoted on television and in the local press. He lambasted the Trustees of the School Board for "the incredible abridgement of due process that is these, students' constitutional right.

"Here you are, an arm of the state . . . that can affect a student's whole lifetime . . . that can deprive him of his future," he declared.

At the 66th annual commencement ceremonies of Burke High School, he spoke in equally strong terms of graduating seniors. outrage over that expulsions was extensively

"Today I stand before you—22 years after the *Brown* decision—and this that was all black then remains all black," he said. "The responsibility is ours and no one else's . . . to demand our rights. To decide not to get involved is a decision for continued discrimination, continued oppression, continued second class citizenship."

ROOTS

Arthur McFarland grew up in government-subsidized housing projects, one of nine children. His father was a janitor at the local Chamber of Commerce for nearly forty years. Heady though his judgeship, his appearances in Federal Court, and his inclusion on various boards and commissions must be, he has not, as he puts it, "forgotten from whence I came."

"My personal progress is all to naught if I don't use what I've gained for the benefit of my people," he says.

So one Saturday afternoon McFarland drove fifteen miles outside of Charleston, to a two room shack surrounded by forests. There was an outhouse and a water pump, chickens pecking among the wild orchids, and a dirt path lined with seashells leading up to the front door.

McFarland had come to convey the intricacies of estate law to the Queelay family. There are 71 acres of land at stake here—the original owner of which died forty years ago without leaving a will. His children have come and gone, and there is now a list of heirs that looks like a pyramid. On this Saturday afternoon several of them were gathered in the dark and musty room eating red rice and fried chicken, listening while McFarland proposed the formal, contractual division of the property.

"We're family, man," an old one with one leg says from his bed. "No need to cut up the land and sign things."

But McFarland leans forward and in his warm animated voice tells stories of folks who felt the same way, and how they lost their land, or couldn't sell it when they wanted to. The formalities of the law, need not be an affront to personal relationships. Indeed, they can protect them by helping to prevent conflict.

By the time McFarland leaves the Queelays, he has untangled a complex family tree, reconstructed the chronology of a tempestuous past, and secured an aspect of the future for people who never had a lawyer before. The Queelays realize they can no longer ignore the reality that life today is permeated by law. And it's lucky for them, when they decide to venture into that wilderness, that there is an Arthur McFarland in Charleston.

THE EARL WARREN FELLOWS

Only about 1.7 percent of the nation's lawyers are black, many of them are young, and virtually all the newcomers to the profession find it hard enough getting started without taking on the additional burdens of practicing in the South. But a few young lawyers are determined to practice where the need is greatest. Arthur McFarland is one of just nineteen practicing black lawyers in Charleston, South Carolina.

The Earl Warren Fellowships, funded by the NAACP Legal Defense and Educational Fund with the help of a $300,000 grant from The Rockefeller Foundation in 1974 were begun to help young black law school graduates who were interested in legal careers in places where the black population is large and black lawyers are in short supply. The Fellows are given a year of intensive training in civil rights law, followed by an additional three years of part-time training. Judge McFarland was in one of the original classes assisted by the RF grant.●

## MS. MARIANNE MEANS ON FULL VOTING REPRESENTATION IN CONGRESS FOR THE DISTRICT OF COLUMBIA

● Mr. KENNEDY. Mr. President, recently on "Spectrum," the CBS network radio program, Marianne Means warmly praised the recent action of the House of Representatives in approving a constitutional amendment to provide full voting representation in Congress for the District of Columbia.

In her comments, Ms. Means also spoke eloquently about the historical injustice that has been perpetrated on the 700,000 citizens of the District by the denial of their right to vote for Members of the Senate and House of Representatives.

The House measure, House Joint Resolution 554, is now awaiting action by the Senate. Today, Senator BAYH's Subcommittee on the Constitution began its hearings on the companion Senate resolution, Senate Joint Resolution 65, which I introduced with Senator BAYH and eight other Senate cosponsors last year.

Mr. President, I believe that all of us concerned about this issue will find Marianne Means' comments of interest, and I ask unanimous consent that they may be printed in the RECORD.

(CBS Radio Network, March 14, 1978)

MARIANNE MEANS ON "SPECTRUM"

I'm Marianne Means.

I'm most obliged to the House of Representatives for kindly voting to allow me—and the other 700,000 residents of the District of Columbia—the right to full voting representation in Congress.

Self-determination for the nation's capital has been painfully slow in coming, but bet-

ter late than never. It is an outrage that the people who live in the District have been singled out and forbidden, on the basis of residence, to participate in the political process just like all other citizens do.

It has only been for three years that we have been allowed to vote for our own city officials. Before that, they were appointed by the President. And it's only been six years that we've had the right to elect a unique delegate to the House of Representatives, where the poor fellow has a voice but cannot vote.

The District has historically been disenfranchised because of its dual role as both a national and local entity. The federal government has more than a passing interest in the city's security and stability. The government owns most of the city's valuable real estate. In return, the city received $749 million in benefits last year from the federal treasury.

But the injustice of the present arrangement has finally begun to soak in. The population of the District of Columbia, after all, is larger than that of seven states. City residents pay one billion dollars a year in federal taxes. It's a little unrealistic to pretend we aren't here.

Two years ago, the House defeated a similar effort to win congressional representation for the District, but this time the measure passed that body handily. It now goes to the Senate, where the outcome is in doubt. Some Senators are reportedly not eager to see their elite club expanded from a tidy 100 to 102. The change requires a constitutional amendment, so, if passed by the Senate, it must then be ratified by 38 states within seven years before it can go into effect.

In the past, the issue of representation for the District has been complicated by racial discrimination. The vast majority of residents are black, and they will almost certainly elect black liberal Democrats as their congressmen. This time, however, the District's racial composition may be more of an asset than a disadvantage. Even conservative white Southern senators now appeal for the votes of blacks as well as whites. Sympathy for the District's plight may just win for them some black votes back home.

It would really be satisfying, at my advanced age, to cast a ballot for a United States senator for the first time in my life.

This is Marianne Means for Spectrum.●

## SALT II TREATY

● Mr. HART. Mr. President, one of the key features of any acceptable SALT II Treaty will be its verifiability. Since arms control agreements are, by their very nature, forged between adversaries, the principals will not, and indeed, should not, entrust their security to the good intentions of each other. We must be sure that we have the ability to independently verify and monitor those aspects of the agreement that are essential to maintaining strategic balance.

To determine whether we can carry out this task, we must first identify the aspects of the agreement for which verification in detail is essential; those for which it is useful, but not essential; and those for which detailed monitoring is not crucial. We then will need to make a careful technical assessment of our ability to achieve satisfactory levels of monitoring assurance for each of these items, an effort in which the technical specialists of the defense and intelligence communities will, of course, play a special role.

One of our colleagues in the House of Representatives, LES ASPIN, has opened this aspect of the debate by preparing a thoughtful, perceptive analysis of the verification requirements inherent in SALT II and of the kinds of capabilities that will be needed to monitor compliance with SALT II provisions. His report entitled "SALT Verification: Prudence and Paranoia," released last month, points the way to the kind of assessment that the Senate must undertake when the treaty comes before us.

I commend Mr. ASPIN's report to the attention of my colleagues, and ask that it be printed in the RECORD.

The report follows:

SALT VERIFICATIONS PRUDENCE & PARANOIA

(By Representative LES ASPIN)

The keystone of any Strategic Arms Limitation Treaty is our ability to be sure the Russians stick to it. Without verification, SALT is bound to collapse. But as the SALT II agreement is emerging from the negotiating cocoon, charges that the Russians will seek to evade its provisions are beginning to be heard. These charges raise the fundamental questions of verification:

How could the Russians go about cheating;

Could we uncover violations by the Soviets; and

What would the Russians gain and we lose if they did violate the agreement.

Figure 1 outlines the components of the SALT II package as they have been negotiated so far. There is a treaty lasting through 1985 and a protocol lasting through 1980.

This study will look at each one of these components in turn to ascertain just what the verification problems are:

FIGURE 1.—*The anticipated SALT II package*

(As outlined through March 1978)

PART I: THE TREATY (VALID THROUGH 1958)

(1) Ceiling on total launcher numbers: (Launchers include land-based ICBMs, submarine launched ballistic missiles (SLBMs) and long range bombers. The Soviet Backfire bomber is excluded.)

| | |
|---|---|
| At ratification | 2,400 |
| By 1980 (US proposal) | 2,160 |
| By 1982 (US proposal) | 2,250 |

(2) Limits on MIRVed missiles plus bombers armed with cruise missiles:

| | |
|---|---|
| Total | 1,320 |
| Subceiling on MIRVed Missiles | 1,200–1,250 |
| Subceiling on MIRVed mis-ICBMs | 820 |
| (3) Total number of modern large ballistic missiles | 308 |
| (4) Rapid reload systems | banned |

PART II. THE PROTOCOL (VALID THROUGH 1980)

(1) Ban on deployment of mobile ICBM launchers and on the flight testing of ICBMs from such launchers.

(2) Ban on the flight testing and deployment of cruise missiles capable of ranges in excess of 2,500 kms (1,550 statute miles) and on the deployment of cruise missiles on sea- or land-based launchers with a range in excess of 600 kms (370 statute miles).

(3) Limitations on the flight testing and deployment of new types of ballistic missiles.

PART II. THE TREATY

(1) Ceiling on Total Launcher Numbers.—The Treaty includes an initial aggregate ceiling of 2,400 strategic systems, to be reduced to an agreed number between 2,160 and 2,250 during the term of SALT II.

The Soviets could attempt to evade this limit in three ways by:

(a) deploying new strategic systems;

(b) deploying more of their existing systems; or

(c) converting non-strategic or theater systems into strategic ones.

(a) Deploying new strategic systems is the least feasible and most easily detectable way of violating SALT II. Producing a new strategic weapon involves five stages: research, development, testing, production and deployment. At each of these stages, our ability to detect clandestine activity varies from fair to excellent. The key point is that the odds the Soviets could successfully disguise all of these actions are extremely remote.

Consider just our ability to monitor the third step, testing. Line-of-sight radars read the distinctive "signature" that the body of each missile type reflects. Over-the-horizon radars can penetrate deep into the Soviet Union and recognize the signature each missile type makes when it disturbs the ionosphere.[1] Early warning satellites, designed originally to detect an ICBM attack by the Soviets, make instant readings of missile tests as well; the infrared sensors on these satellites can detect the rocket-exhaust plumes of a missile being test-fired. On top of this there are sensors and photographic gear carried by ships and planes which monitor missile test impact areas on the periphery of the Soviet Union and in the open oceans.[2]

Our methods of reading Soviet missile tests are multiple, redundant and complementary. They provide a capability to detect all long-range missiles fired from test sites in the USSR.[3] They are, in fact, far better than most human intelligence, which may come second hand and filtered or which might even be false, planted information.

Yet testing is only one of the five steps involved when a new weapons program is launched. Other means of detection could uncover Russian preparations to evade the treaty during the research and development phases before testing, not to mention the production and deployment stages afterwards.

(b) A second method of cheating on the overall ceiling—deploying more of existing systems—is more difficult to detect than the first, but our detection capabilities are still extremely good.

Our capabilities are especially good in detecting the production and deployment of additional missiles aboard submarines and in detecting the deployment of additional heavy bombers.

Strategic submarines displacing 8,000 to 9,000 tons and measuring longer than a football field are very hard to hide. Moreover, there are only two shipyards that currently produce such complex equipment,[4] and other potential sites for strategic sub construction are closely monitored. Even if built under impenetrable cover (with simultaneous disguising of support activities) a submarine must eventually leave its shipbuilding ways. From that point on, there would be innumerable occasions for observation. Deploying more missiles aboard submarines cannot go undetected.

Similarly, the detection of additional heavy bombers is a relatively simple task. The production lines for the two existing Soviet types—the Bear and the Bison—have long been closed. Renewed production could be detected with a high degree of confidence, as is evident from our ability to monitor production of much smaller pieces of equipment like tanks.[5]

Added deployments of heavy bombers would also be hard to hide. There are only a limited number of existing heavy bomber airfields (fewer than 10); all are closely monitored. If the Soviets decided to construct new airfields equipped to handle such planes, that would be readily detectable; runways can't be hidden underground. If, as some

Footnotes at end of article.

anticipate,[6] the USSR deploys a new heavy bomber by the early 1980s, that would also be readily detectable.

Detecting the additional deployment of land-based missiles is only a bit more difficult. With current Soviet practices, the United States can verify ICBM silo construction and the transport of missiles to deployment sites through satellite photography and can verify the emplacement of command and control systems and associated support equipment.[7]

Should the Soviets attempt to hide these activities, they would probably have more luck than with strategic submarines. Land-based ICBM launchers are individually smaller and, unlike submarines, there are vast areas of the Soviet Union in which they might be built or based.

But even with ICBMs the likelihood of a successful large scale deception is very small. The Soviets might try to build more ICBM launchers in the open, hoping that the vastness of their country would hide the violation, but the United States has photographic coverage of the entire country.[8] The Russians could deploy ICBMs under camouflage or at night, but U.S. satellites are equipped with multispectral and infrared sensors that can detect or penetrate camouflage and monitor nighttime activity.[9]

Because of the nature of these systems and the time it takes for the United States to process data from them, small-scale violations would be hard to detect. However, any sizable effort to cheat—a clandestine addition of, say, 100 ICBMs—would be detected.

(c) The third means of cheating on the overall ceiling—converting non-strategic or theater systems into strategic ones—poses a more challenging verification problem.

There are two examples of weapons that are theater systems but which could be made strategic: the Backfire bomber and the SS–20 intermediate range ballistic missile.

There is little disagreement within the intelligence community that the primary purpose of the Backfire is to perform peripheral attack, i.e., attacks against nations on the periphery of the Soviet Union, such as China, theater and naval missions.[10] (Roughly half the Backfires have been assigned to naval aviation, the rest are part of the medium bomber force.) However, there is also little question that the bomber has some intercontinental capability—specifically on one-way missions with recovery in a third country, on round trip attacks against the western United States, and if refueled.[11]

SALT II will exclude Backfires from the count of strategic launchers, but reportedly it will contain a variety of assurances—perhaps as part of a unilateral statement—limiting the strategic value of the aircraft. These might include:

Limits on production and deployment of the aircraft;

Restrictions on employment of the bomber in conjunction with tankers;

Limits on Backfire range and payload.

Of these assurances the easiest to detect would be production and deployment limits—even assuming deception—because of the size and complexity of these activities. This is as true for the Backfire as it is for the Bear and Bison bombers already discussed.

Verifying tanker restrictions is a little harder. U.S. Air Force pilots testify to the difficulty of midair refueling. It is extremely doubtful that the Soviets would actually try to refuel Backfires during a war without having attempted some practice runs. Practices can be monitored by such means as listening in on aircraft communications and detecting the distinctive signatures of tankers and Backfires. But if the Russians wanted to take their chances and attempt wartime refuelings without rehearsals, there is no iron-clad means of verifying restrictions on tanker employment.

The most difficult assurances to verify concern the plane's characteristics, such as range and payload. Even with unhindered observance, there has already been some dispute among American analysts over the range of the Backfire.[12] Against skillful and determined cheating, both range and payload could probably be disguised.

The other theater system that might be converted to a strategic system is the SS–20 intermediate-range ballistic missile (IRBM). This SS–20 is not covered by SALT II since its range (3,000 kms or 1,860 miles) is under the 5,500-km (3,420-mile) floor used to define ICBMs.[13] The problem stems from the fact that the SS–20 comprises the first two stages of the three-stage SS–16 ICBM and the mobile launcher for the SS–20 is identical to that for the SS–16.[14] This poses the "breakout" potentiality. By surreptitiously stockpiling SS–16 third stages and payloads, the Soviets might be in a position to upgrade SS–20s into –16s on short notice. This could provide a significant increase in numbers of ICBMs with a minimum of warning.

The SALT II agreement reportedly would ban further production, testing and deployment of the SS–16 ICBM and existing SS–16s would be dismantled. So if the Soviets were to augment their ICBM force by adding the third stage and a different payload to the SS–20, making them SS–16s, they would be doing it with no ability to test them. Even the existing SS–16s have not undergone tests for over a year and the last test was apparently a failure.

So the issue of upgraded SS–20s is really a testing issue. To have any confidence in upgraded SS–20s, especially enough confidence to satisfy traditionally conservative Russian planners, the Soviets would have to test some. And, as we have already seen, surreptitious testing by the Soviets is a practical impossibility.

The problem of preventing the Soviets from converting theater systems into strategic systems is complicated by one other factor—the existence of 90 to 10 Soviet reconfigured heavy bombers.[15] They have been modified for reconnaissance and antisubmarine warfare roles, but they still retain their bomb bays. The status of these variants is still under negotiation; the American position is to include them in launcher counts while the Soviets want to exclude them.

If the Russian position prevails, a detection problem could arise. Any permanent change in the configuration of these aircraft could be detected over time.[16] However, about a dozen of these planes are built in such a way that they could be rapidly converted into heavy bombers at their airfields—making verification extremely difficult.

(2) Limits on MIRVed Missiles plus Bombers Armed with Cruise Missiles.—Besides limits on the number of launchers, SALT II contains numerical limits on missiles equipped with multiple independently-targetable reentry vehicles (MIRVs) and bombers equipped with strategic air-launched cruise missiles (ALCMs). The sum of these two types of systems must not exceed 1,320. No more than 1,200–1,250 MIRVed missiles will be allowed and MIRVed ICBMs would be limited to 820.

There are four ways the Soviets might try to increase their MIRV/ALCM capability beyond the treaty limits:

(a) constructing new MIRVed missile silos or subs;

(b) substituting MIRVed missiles for unMIRVed ones in existing silos or subs;

(c) deploying MIRVed payloads onto unMIRVed missiles in existing silos or subs;

(d) placing strategic cruise missiles on additional bombers.

(a) Constructing new MIRVed missile silos or subs would be one way the Soviets might try to exceed the MIRVed ceiling. But, as previously discussed in 1 (a) and (b) above, any cheating on numbers of launchers can be detected with a very high degree of confidence.

(b) A second way the Soviets might try to exceed the MIRV ceilings is by substituting MIRVed missiles for unMIRVed ones in existing silos or subs. The Soviets have a number of silos and subs containing unMIRVed missiles. Detecting their surreptitious replacement with MIRVed missiles depends on our knowing which Soviet missiles are MIRVed and what silos and subs contain which missiles.

In SALT II both sides have agreed that all missiles of a type that has been tested in a MIRVed mode or fired from a launcher with a MIRVed warhead will be counted against the MIRV ceiling. The United States proposed this counting rule precisely because it assures verification. We already know from extensive obervation which of today's Soviet missiles are MIRV capable.[17] Future MIRV-capable ICBMs and SLBMs can be detected at the test stage.[18]

But while we know which Soviet missiles are MIRVed, the question arises: Can we tell which subs and silos contain which missiles? The answer is again provided by the differences among missile systems. First, Soviet silos carrying MIRV-capable missiles are significantly different from ones carrying unMIRVed missiles.[19] Second, MIRVed launchers require different command and control systems, support equipment, and other facilities, all of which are observable to U.S. satellites.[20] The "signatures" tell the story again.

Similar to ICBM silos, ballistic missile submarine tubes can be identified. An attempt to retrofit existing MIRVed Soviet SLBMs onto submarines with unMIRVed systems would require alterations in launching tubes, replacement of fire control systems, and other extensive modifications. These would take time; after all, even a routine overhaul of a nuclear submarine takes 30 to 36 months. The changes would be detectable.[21]

(c) Another method of evading the MIRVed missile limits is to take an unMIVed missile and replace just its warhead. Deploying MIRVed payloads onto unMIRVed missiles in existing silos or subs would be very hard to detect. Fortunately, no such transferable payloads exist now and new Soviet missiles have design characteristics that make it virtually impossible to transfer MIRV payloads from the current generation of MIRVed missiles to old unMIRVed ones (e.g., from SS–19s to SS–11s).[22]

(d) A final method of evading the MIRV ceiling involves placing strategic cruise missiles on additional bombers. The treaty places a ceiling of 1,320 on the number of MIRVed missiles plus bombers equipped with air-launched cruise missiles (ALCMs). Can the Soviets exceed that ceiling by producing more than the allowable numbers of ALCMed bombers?

For the foreseeable future, the United States can tell which Soviet bombers are equipped with cruise missiles, since Russian cruise missiles are externally mounted and therefore visible. Internal mountings would pose a problem, but as yet the Soviets have none. Internally mounted cruise missiles would best be detected at the time they are introduced because the aircraft involved would presumably have to be sent to some central facility to be modified and because we follow activities at rework facilities quite closely.

Verification of internally mounted cruise missiles could be eased considerably by the adoption of a "type" rule: if one bomber of a given type carries ALCMs, all bombers of

Footnotes at end of article.

that design would be counted as ALCMed bombers. This rule is expected to be included in the SALT II accord.

However, counting which bombers have cruise missiles is not the same as verifying which bombers are strategic. Bombers might be fitted with cruise missiles that had short ranges, which would not qualify them as bombers armed with strategic cruise missiles. Also, bombers might be fitted with long-range cruise missiles carrying nonnuclear payloads.

Thus, a separate and far more complicated problem is determining whether cruise missiles on bombers have strategic ranges (600+kms or 370+miles) and strategic payloads.

Under normal conditions, we can obtain adequate if rough estimates, but there is no systematic way to verify cruise missile ranges. Significant differences will be revealed neither by the missile's exterior nor by its flight test.[23] In contrast to ballistic missiles, cruise missiles need not be tested at or near full range for a country to have confidence in their performance. Like aircraft, they can be flown for a limited time under cruise conditions and their range estimated based on the amount of fuel consumed.[24] Fortunately, the Joint Chiefs of Staff have good estimates of the range of existing Soviet missiles and the Soviets do not yet have air-to-surface missiles of strategic range. Nor are the Soviets expected to have many long-range ALCMs for a number of years,[25] so it is unlikely they could exceed the numerical restrictions in the treaty before it expires.

As for the payloads of cruise missiles, there is no way to distinguish a nuclear cruise missile from a non-nuclear one by external observation. But once again, the Soviets are not expected to have either nuclear or conventional warhead long-range ALCMs for a number of years, so violations of the treaty before it expires are unlikely.

Assuming the Russians do perfect strategic ALCMs, the United States would not be totally at a loss. If the Soviets began refitting existing aircraft with new ALCMs, our suspicions would be aroused and we would be aware of the potential for cheating. If a new bomber were equipped with ALCMs, and even if the Soviets falsely claimed it was not strategic and we were not able to contradict them, it is doubtful that more than 70 to 120 bombers would be available before 1985 [26]—the expiration date of the treaty.

(3) Modern Large Ballistic Missiles.—SALT II is also expected to contain a sublimit on the number of Soviet modern large ballistic missiles (MLBMs). Any missile larger than the SS–19 (throw-weight: about 8,000 lbs.) will count as an MLBM; any missile larger than the largest ICBM currently in the Russian inventory (the SS–18, with a throw-weight of roughly 16,000 lbs.) will be prohibited. The debate over the substitution of SS–19s for SS–11s after the signing of SALT I gives evidence of the sophistication of U.S. monitoring techniques. The dispute involved whether the placement of SS–19s into SS–11s silos violated SALT I provisions covering the substitution of "heavy" missiles for "light" ones. The consensus after that debate was that the Soviet substitution did not violate the SALT I treaty, but was inconsistent with one of our unilateral statements. But the point is that discussion revealed the United States knew precisely how much larger the SS–19 was compared to the SS–11 missile.[27]

(4) Rapid Reload Systems.—Finally the treaty reportedly will also prohibit rapid reload systems. The purpose of this provision is to protect against the possibility that the Soviets would stockpile extra ICBMs and fit them into existing launchers once a first salvo had been fired. Loading a 100,000-plus pound missile into a silo is a bit more complicated than putting a bullet into a rifle. The elaborate equipment around existing silos necessary for such a system—along with storage sites for extra missiles—would certainly be detectable through satellites.[28] The Soviets could scatter the equipment and extra missiles far from the silos and probably avoid detection, as long as they didn't test them. But then they wouldn't have a rapid reload capability anyway, so there wouldn't be a violation.

PART II: THE PROTOCOL

Besides the treaty lasting until 1985, SALT II contains a protocol lasting until 1980. There are verification issues in the protocol too.

(1) One part of the protocol would ban the deployment and testing of mobile ICBM launchers. The potential for violation of this section lies in the use of the existing Soviet SS–16 ICBM in a mobile mode; no other mobile ICBM is expected before the protocol expires. There is no question of our ability to detect that the Soviets have deployed a mobile land-based system.[29] However, under certain deceptive basing schemes, such as "multiple aim point" options (involving the construction of hundreds or even thousands of shelters, a small portion of which contain missiles—in other words, a strategic shell game) verifying the number of missiles deployed would be very difficult.

(2) The proposed protocol also bans flight testing and deployment of cruise missiles capable of ranges in excess of 2,500 kms (1550 miles). Since ranges could not be determined accurately, in the event of conscious deception, such a ban is not verifiable.

However, flight testing of American long-range cruise missiles has only recently started and their Initial Operational Capability (deployment in militarily significant numbers) is not scheduled until 1981,[30] after the protocol expires. The Soviets are unlikely to be able to test—let alone deploy—a cruise missile capable of a range in excess of 2,500 kms (1,550 miles) until after the protocol expires. Current Soviet cruise missiles are very primitive technologically. The United States has advanced compact warhead, computer guidance, and turbofan engine technologies that make possible small but very long-range cruise missiles. The Soviets are years behind in all of these fields.[31]

For the same reason, the protocol ban on the deployment of sea- or land-based cruise missiles of strategic range has largely voided the problem of verification. There are, however, some existing Soviet sea-launched cruise missiles that exceed the 600-km (370 mile) limit by up to 250 kms (155 miles).[32] Fortunately, because of their primitive design, they are very large.[33] Since any attempt to begin new deployments is observable, and since the Soviets have no capability to deploy new, long-range, ground-launched and sea-launched cruise missiles until after 1980, there is virtually no potential for violation.

(3) Finally, the protocol is expected to include some limitations on the flight testing and deployment of new types of ballistic missiles. While a verification assessment would depend on the details of such limitations, there is reason for optimism. As previously discussed, new ballistic missiles can be detected at the test stage and added deployments of new missiles would be one of the easiest treaty violations to detect.

The Potential for Violation.—The following chart summarizes the potential for individual violations of a SALT II agreement.

FIGURE 2.—*Verification Capability*

(Potential for undetected activity)

I. Treaty:
(1) Ceiling on Total Launcher Numbers:
a. Deploying new strategic systems, nil.
b. Deploying more of existing systems:
i. SLBMs, nil.
ii. Heavy Bombers, nil.
iii. ICBMs, +100 maximum.
c. Converting non-strategic systems:
i. Backfire assurances:
(a) Production, deployment, nil.
(b) Tankers, minor.
(c) Range, payload, sizable.
ii. SS–20 upgrade, minor.
iii. Bomber Variants, a dozen (if Sov. position). nil (if U.S. position).
(2) Limits on MIRVed Missiles Plus Bombers: Armed with Cruise Missiles
a. Constructing new MIRVed missile silos or subs, nil.#
# Other than 1 –b–iii above.
b. Substituting MIRVed missiles for un-MIRVed ones in existing silos or subs, nil.
c. Deploying MIRVed payloads onto un-MIRVed missiles in existing silos or subs, nil w/present systems potentially large with future systems.
d. Placing strategic cruise missiles on additional bombers, none in near future minor in early 1980s.
(3) Upgrading non-MLBMs to MLBMs, nil.
(4) Rapid reload systems, nil.
II. Protocol:
(1) Mobile ICBMs, nil.
(2) Cruise Missiles:
a. Test/deploy 2,500 km + range, nil during protocol.
b. Deploy strategic GLCMs or SLCMs, nil during protocol.
(3) Ballistic missile developments, probably nil, but depends on specifics.

The table shows that our ability to detect potential violations falls into three broad levels of confidence.

First, there are the numerous areas where our verification capabilities are excellent and the possibility of cheating remote. These include all the areas where major violations could upset the balance of terror. For example:

deployment of new strategic systems;

additions of even small numbers of bombers and SLBMs;

ICBM deployments on a moderate or large scale;

an upgraded SS–20 system unless never tested;

MIRVed missile and ALCMed bomber deployments, in the absence of radically different systems;

upgrading smaller missiles into modern large missiles;

the existence of rapid reload systems.

Second, there are several areas where our verification capabilities are weak today. In all these cases the problem is not militarily significant, as explained later in the text. These include:

small scale ICBM deployments;

monitoring the operational characteristics of the Backfire;

verifying that an untested SS–20 upgrade system does not exist;

verifying the status of a limited number of bomber variants, (under the Soviet position).

Third, there are a few areas—involving cruise missiles and transferable MIRV payloads—where we may face very serious verification problems in the next generation of SALT negotiations.

Soviet cruise missiles today are primitive. But with future systems it will be virtually impossible to determine whether the range of a cruise missile is strategic. Nor will we be able to determine whether its payload is nuclear or conventional. Furthermore, counting cruise missiles will be most difficult.

At present Soviet MIRV payloads are so different from their single warhead payloads that the MIRVs cannot be backfitted on the old missiles. Should the Soviets eventually develop a transferable warhead, we would face a very serious verification problem.

The issues of strategic cruise missiles and

Footnotes at end of article.

transferable payloads are not problems of any magnitude for SALT II. But down the road, if we seek a SALT III pact in the mid-1980s, the verification problems are certain to be much larger.

Conservative Nature of Assessment.—United States detection capabilities as shown in figure 2 are almost certainly underestimated. That is because this assessment considers only the intelligence collection methods that can be firmly relied upon, such as satellite photography.

There is, in fact, a great deal of other information that the intelligence community receives but which cannot be guaranteed in advance. For example, U.S. monitoring of internal Soviet communications and signals might pick up evidence of activity that was not detectable by satellite photography. At the extreme, an undetected violation might be revealed by a defector, whose defecton could never be assumed in advance. Data obtained under fortuitous circumstances—while not predictable—would undoubtedly reduce even further the potential for violations.[34]

The potential for violations is also overstated because inordinately skillful cheating by the USSR has been assumed. An adroit effort to cheat must be assumed in assessing our verification capabilities. It is not necesarily a realistic asumption because even the best-laid plans can go awry.

Take, for example, the one known case where the Soviet Union undertook a significant, covert strategic buildup. That was in Cuba before the missile crisis of October 1962. Although the Soviets almost surely wanted to hide the imposition of offensive missiles,[35] they were quite inept at doing so. On several occasions, standard operational procedures and routines—necessary for the functioning of any large organization and notoriously inflexible—betrayed Russian plans.[36]

For cheating to be successful, everything must go perfectly. But in the real world, unforeseen events upset plans. To be sure, we cannot count on any particular plot going awry, but the Soviets would be foolish to count on that not happening.

We have already had a heated debate with respect to Soviet violations of the SALT I agreement. That experience has raised a number of questions about Soviet compliance with existing treaties, but not about our ability to monitor what the Soviets are doing. Indeed, the basis for allegations of violations is the detailed data we have gathered on Soviet actions since SALT I was signed. The debate has centered on what Soviet actions mean, not on what the Soviet activities have been. If the Russians had engaged in illegal behavior that had gone unnoticed, this would obviously raise doubts about our detection capabilities. But no one has even hinted that this might be the case.

The Likelihood of Violations.—Thus far, only the potential for undetected violations has been examined. An equally important issue is whether the Soviets would attempt to cheat if they felt they could get away with it. While the potential for evasion is small, the likelihood of violations seems even more remote.

First, the SALT II framework now under discussion provides enormous leeway for both sides to pursue strategic programs without cheating. While the Soviets without SALT II would be able to build substantially larger forces, they can still do much under treaty terms. They can junk existing missiles and replace them with more reliable and more accurate models. They can greatly increase their inventories of multiple warhead missiles. They can pump more effort into areas not prohibited by SALT II that could be very threatening, such as antisubmarine warfare.

Second, even if the Russians became disgruntled with SALT II after signing, they would still not necessarily cheat. Several alternatives might seem at least as attractive, if not more so: requesting a renegotiation of a provision; seeking to modify the terms in SALT III negotiations; reneging on a part of the treaty (or even, at the extreme, withdrawing from the treaty); partially modifying their programs to comply; and so on.

Third, there is the question of what benefits accrue to the Soviet Union from cheating. There could be no political gain unless the Soviets made public their transgressions. No one is scared by weapons they don't know exist. Yet if the Soviets did make public the fact of their cheating there would be an enormous political backlash. The U.S. government, for example, would find itself conducting an unprecedented arms buildup in response to an incensed American public.

The dangers from Soviet violations of SALT II arise if there is a significant military advantage to be gained by cheating—if the Russians could cheat for a few years and then unveil a devastating superiority that would force our immediate surrender. But that is impossible. The United States under SALT II will have a very formidable strategic arsenal: almost 2,000 launchers and roughly 10,000 independently targetable warheads.—To upset the balance of terror would require very large numbers that would be impossible for the Soviets to acquire without cheating on so massive and pervasive a scale as to be detectable with certainty.

It helps to consider a plausible "worst case" where the Soviets could actually cheat and evade detection.

The Soviets might add up to 100 ICBM launchers clandestinely, but this would be less than a 5 percent increase in their launcher force and would provide no discernible edge. In fact, the Soviets now have over 2,440 missiles and bombers.[37] Under SALT II this would drop to at most 2,250—a cut of about 200. So cheating would be more than outweighed by the reduction in forces required by the treaty.

The Soviets might be able to divert some Backfires to strategic missions in case of war. This would add marginally to their second-strike forces. But it would diminish their most threatening naval anti-ship capability and would undercut their capability against bordering enemies [38]—hardly a fair trade.

The Soviets may have an untested SS–20 upgrade potential. Even if this potential were realized, the resulting SS–16 missiles are the least accurate and powerful ICBM of the current generation. Diversion of SS–20s to intercontinental attack missions would substantially cut the threat to Europe and China.[39]

The Soviets might convert a handful of naval aircraft variants into bombers. Again, this would marginally increase their strategic retaliatory strength while diminishing the threat to our Navy.

The Soviets might develop an untested, non-rapid reload capability. The benefit from having a launcher reloaded at the very best 12 hours after a first firing [40] is questionable; the silo could be destroyed in the interim and by that point the missile is likely to be no more than a "rubble-bouncer."

In other words, even if the Soviets cheat in every single way that might evade detection, they will add little to their strategic power, and may actually reduce their military strength elsewhere.

In sum, the ability to verify compliance with the accord is essential to a successful SALT agreement. But upon investigation, we find that the "problems" of verification are more imagined than real.

Our multiple and duplicative methods of detection are sufficient to detect any cheating on a scale sufficient to threaten us militarily.

Small violations of the treaty could very possibly be made by the Russians without detection—but a handful of additional missiles or bombers add too little to their arsenal to be militarily significant.

In the political realm, the Russians stand to lose more than they would gain by violating the most important single treaty they would have with a foreign power.

Where verification problems could become critical is in the future. Technological advances—particularly with respect to cruise missiles and transferable MIRV payloads—will stretch our monitoring capabilities once the protocol and treaty expire. Dealing with these systems under a SALT III agreement may well require a substantial lowering of our standards of confidence for detecting violations. At that point, a renewed examination of verification will be amply justified.

FOOTNOTES

[1] See detailed discussion in Ted Greenwood, "Reconnaissance and Arms Control," *Scientific American*, CCXXVIII (February 1973), pp. 22–23.

[2] Soviet impact areas are on the Kamchatka Peninsula, in the North Pacific northwest of the Midway Islands, and in the Pacific southwest of Johnston Island. Photographic and other information from these sources can also distinguish new from old missile types.

[3] Greenwood, *op. cit.*, p. 22.

[4] Dept. of Defense, Coordinator of the Shipbuilding, Conversion and Repair, "Annual Report on the Status of the Shipbuilding and Ship Repair Industry of the United States 1976," Report DD–I & L (A) 1141, April 26, 1977, p. 4–10.

[5] In general, see William E. Colby's testimony in *United States/Soviet Strategic Options*, Hearings before the Senate Foreign Relations Subcommittee on Arms Control, Oceans and International Environment, 95 Cong. 1 Sess., (1977), p. 122. For an example of specific figures, see Donald H. Rumsfeld, *Annual Defense Department Report FY1978*, January 17, 1977, p. 114.

[6] Gen. George S. Brown, *United States Military Posture For FY1979*, January 20, 1978, p. 32.

[7] Greenwood, *op. cit.*, p. 20. On launcher verification, see also Paul C. Warnke's testimony on *H.R. 8390 and Review of the State of U.S. Strategic Forces*, hearings before the House Armed Services Committee, 95th Cong. 1 Sess. (1977), p. 117.

[8] If our suspicions were aroused by photographs of larger areas, "close-look" cameras could examine the area in more detail. High resolution cameras have a theoretical capability to photograph clearly a one-square-foot area from an altitude of 100 miles, so we would not be at a loss for evidence of Russian activity.

[9] Infrared sensors are particularly good at detecting silos that are underground or may be camouflaged. As long as the ground immediately around the object in question is at a different temperature or has emission characteristics different from those of the surrounding terrain, an underground silo will stand out in an infrared picture. See, e.g., Greenwood, *op. cit.*, p. 20.

[10] Harold Brown, *Department of Defense, Annual Report Fiscal Year 1979*, Feb. 2, 1978, p. 47.

[11] Gen. George S. Brown, *United States Military Posture for FY 1978*, Jan. 20, 1977, p. 20.

[12] See discussion, William D. O'Neal, "Backfire: Long Shadow on the Sea-Lanes," *United States Naval Institute Proceedings*, CIII (March 1977), p. 29.

[13] See Harold Brown, *op. cit.*, p. 50 and Gen. George S. Brown (1978) *op. cit.*, p. 25.

[14] *Ibid.*

[15] Paul H. Nitze, "Current SALT II Negotiating Posture," November 1, 1977, pp. 2–3.

[16] Jan Lodal, "Verifying SALT," *Foreign Policy* (Fall 1976), p. 56.

[17] As evidenced by the discussion of Soviet missile capabilities in the annual Defense Department and Joint Chiefs of Staff posture statements.

[18] Using the same systems involved in monitoring tests. For instance, in 1971 the Department of Defense released a photograph of a multiple-warhead test of an SS–9 missile that had been launched from Tyuratam.

[19] Lodal, *op. cit.*, p. 50.

[20] *Ibid.*, pp. 50–51.

[21] Especially since the treaty will probably establish agreed procedures for the performance of such conversions to assist verification.

[22] Lodal, *op. cit.*, p. 51.

[23] Fred Charles Ikle, "What to Hope For, and Worry About, in SALT," *Fortune* (October, 1977), p. 186.

[24] Capt. Walter Locke, *H.R. 8390* Hearings, p. 59.

[25] William Clements, while Deputy Secretary of Defense, stated that U.S. cruise missile technology was "ten years ahead of the Russians" and that U.S. cruise missiles under development are "two or three generations" ahead of what the Russians have. See DoD Transcript of News Conference, San Diego, Calif., June 7, 1976, p. 2.

This year Harold Brown, *op. cit.*, p. 51 indicated that the Soviets could *develop* an ALCM similar to ours "within the next five-to-ten years." Thus, it should be several years before these systems are *deployed* in even small numbers.

[26] The *total* Soviet heavy bomber force is only projected to be about 80 aircraft by 1965 (see CIA testimony in *Allocation of Resources in the Soviet Union and China—1976*, Hearings before the Joint Economic Subcommittee on Priorities and Economy in Government, 94 Cong. 2 Sess. (1976), p. 72), and only a portion of these would be likely to carry long-range ALCMs. See also fn. 25.

[27] See, e.g., testimony of James P. Wade, *Overall National Security Programs and Related Budget Requirements*, Hearings before the House Armed Services Committee, 94 Cong. 1 Sess. (1975), p. 270.

[28] At least, if it had undergone testing or were deployed reasonably close to missile silos (if not, the system would hardly provide "rapid" reload).

[29] Lodal, *op. cit.*, pp. 54–55.

[30] Harold Brown, *op. cit.*, p. 119.

[31] See fn. 25 above.

[32] Gen. George S. Brown (1978), *op. cit.*, p. 33. Shaddock missiles, with a reported range of about 550 miles, were deployed on approximately 30 Echo II class Soviet submarines. (See John W. Finney, "Cruise Missiles Provoke Conflict Within the Military As Well As With Soviet," *New York Times*, Jan. 21, 1976, p. 26.)

[33] On the large, slow and vulnerable nature of these designs see, e.g., R. T. Pretty and D. H. R. Archer (eds.) *Jane's Weapon Systems 1974-5* (New York: Franklin Watts, 1974), pp. 52–56 and 119–120.

[34] Colby, *op. cit.*, p. 122.

[35] Graham T. Allison, *Essence of Decision: Explaining the Cuban Missile Crisis* (Boston: Little, Brown and Co., 1971), p. 107.

[36] For example, medium- and intermediate-range ballistic missile (MRBM and IRBM) sites constructed in Cuba were built "according to the book" and thus looked exactly like MRBM and IRBM sites in the Soviet Union. The latter consisted of four launch pads, grouped in two pairs, 750 feet apart, served by a central control bunker. Each launch pad had a launch ring and flame deflector at the center. A fenced, 114-foot-by-60-foot nuclear warhead storage bunker was positioned at the side. It was the established Soviet four-slash "signature" of excavations for concrete revetment and associated equipment that alerted American intelligence agents to the IRBM deployments.

By the time the U.S. quarantine was imposed, which was ten days after U–2s had confirmed the existence of the missiles, the USSR had managed to set up just six MRBM sites with a total of 24 launchers (and 42 missiles) and had under construction three IRBM sites with a total of 12 launchers (no IRBMs reached Cuban soil.) This total was all that was accomplished against detection techniques that were downright primitive when compared to today's capabalities. Moreover, since a U–2 had been captured in 1960, the Soviets undoubtedly knew a great deal more about our detection capabilities then than they do today. Yet, they were not able to design a complete operation to thwart them.

See Allison, *op. cit.*, Chapter 4.

[37] Harold Brown, *op. cit.*, p. 47.

[38] E.g., on the naval threat posed by the Backfire, see Statement of Adm. James L. Holloway concerning the FY 1979 Military Posture and Navy Budget to the House Armed Services Committee, 1978, p. 67.

More generally, the Soviet has an aging and declining force of Badger medium bombers (305, according to the International Institute for Strategic Studies) and Badgers assigned to naval forces (280, according to the IISS.) The Badger was first deployed in 1955 and is becoming obsolete. The void caused by the departure of these and similar aircraft will eventually need filling, and Backfire is ideally suited for filling it.

[39] IISS figures show 620 aging intermediate- and medium-range ballistic missiles now in the Soviet inventory; these were first deployed around 1960 and are about due for replacement. Without SS–20s, the expected decline in non-intercontinental ballistic missiles would not be offset.

[40] See information supplied for the record by Harold Brown, *H.R. 8390*. Hearings, p. 208.●

## RESOLUTIONS OF THE KENTUCKY GENERAL ASSEMBLY

● Mr. FORD. Mr. President, the Kentucky General Assembly recently concluded its legislative session. The State legislature adopted several resolutions that were directed to be transmitted to the Congress.

On behalf of Senator HUDDLESTON and myself, I ask that these resolutions be printed in the RECORD.

The resolutions follow:

HOUSE RESOLUTION No. 12

Whereas, the U.S. Environmental Protection Agency has taken steps which could result in a prohibition against the use of maleic hydrazide or MH, an active ingredient used for tobacco sucker control; and

Whereas, the cancellation of MH would place in jeopardy a dependable supply of high quality tobacco to tobacco products companies; and

Whereas, the cost of labor, even if available, to hand sucker tobacco would be prohibitive at present crop values; and

Whereas, the loss to Kentucky tobacco farmers could be as much as $76 million annually without MH; and

Whereas, the cancellation of MH would generally disrupt the tobacco industry in Kentucky and the country;

Now, therefore,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. That the members of Kentucky's Congressional delegation work for the continued registration of MH.

SECTION 2. That the members of the delegation inform the Environmental Protection Agency what effect cancellation of MH would have on the economy and a very important crop and industry in Kentucky.

SECTION 3. That a copy of this resolution be sent to each member of Kentucky's Congressional delegation and the Environmental Protection Agency.

HOUSE RESOLUTION No. 14

Whereas, the nation has become increasingly dependent on imported oil, and now imports about one-half of the oil it consumes; and

Whereas, gasohol, a mixture of alcohol from domestic grain and gasoline, can be used as a substitute for pure gasoline and thereby can lessen our need for imported oil; and

Whereas, Kentucky grain production has doubled since 1969, and grain has become a mainstay in the agricultural economy of the state; and

Whereas, the United States Secretary of Agriculture has requested four pilot projects to produce and test gasohol;

Now, therefore,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. That the members of the House of Representatives support Governor Carroll's efforts to obtain a pilot gasohol project for Kentucky.

SEC. 2. That a copy of this resolution be sent to the Governor of the Commonwealth, the President of the United States, the U.S. Secretary of Agriculture, and members of Kentucky Congressional delegation.

HOUSE RESOLUTION No. 21

Whereas, approximately one-third of the world's population is undernourished; and

Whereas, the health and welfare of our nation depend to a large degree on the American farmer; and

Whereas, the net farm income in Kentucky in 1976 was $4,200 per farm and the poverty level set by the federal government for a farm family of four persons is $4,980 in net annual income, meaning that many Kentucky farm families are living below a poverty level of existence; and

Whereas, the ratio of prices received by the American farmer to the prices he pays is about ninety percent, making farming unprofitable; and

Whereas, American farming is a high-risk occupation because of volatile fluctuations in the market; and

Whereas, farming in Kentucky accounts for an annual gross income of about $2,000-000,000; and

Whereas, it is imperative for the prosperity, and ultimately the survival, of the nation that the American farm economy be healthy;

Now, therefore,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. That the "American Farm Movement" be supported wholeheartedly in its efforts to strengthen the American farm economy.

SEC. 2. That a copy of this resolution be sent to the President, to Kentucky's Congressional delegation, to the Secretary of the U.S. Department of Agriculture, and to the Kentucky Commissioner of Agriculture.

SENATE RESOLUTION No. 52

Whereas, during the past 5 years there have been 85 floods in Kentucky causing actual damages amounting to $181,848,000 according to the U.S. Army Corps of Engineers; and

Whereas, it is estimated that the floods of April 4–7, 1977 caused property damages well

over $100,000,000 to 15 southeastern Kentucky counties and took the lives of 10 persons; and

Whereas, it is estimated that the floods of April 4–7, 1977 injured 2,255 persons, caused property losses to 9,715 families, and destroyed or severely damaged 4,507 homes and businesses; and

Whereas, the large number of floods, the actual damages caused by the floods, and the sociological damages to persons requiring rehabilitation or relocation evidence the necessity for immediate design and construction of flood control measures to prevent or reduce future damages from floods in the Commonwealth; and

Whereas, the benefit/cost ratio can be arbitrarily applied so that costs exceed benefits and deny construction of flood control measures for counties of the Commonwealth subject to flooding;

Now, therefore,

*Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:*

SECTION 1. That the United States Congress is hereby requested to enact legislation prohibiting the U.S. Army Corps of Engineers, when determining the necessity for flood control measures, from applying the benefit/cost ratio to flood control projects in the Commonwealth of Kentucky.

SEC. 2. That the Clerk be directed to send copies of this resolution to the President of the Senate, Speaker of the House, and members of the Kentucky delegation of the United States Congress.

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HOUSE RESOLUTION No. 128

Whereas, the Republic of China was a founding member of the United Nations and has always been a law abiding member of the community of nations; and

Whereas, the Republic of China is an important trading partner of the United States; and

Whereas, President Jimmy Carter has repeatedly stated that he will pursue an open and just foreign policy, base on morality; and

Whereas, President Jimmy Carter has also repeatedly stated that he will not compromise the freedom and security of the people of the Republic of China and will stand by the U.S. commitments to that country;

Now, therefore,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. That this Body strongly endorses the positions of President Jimmy Carter as stated above.

SEC. 2. That the Government of the United States is hereby strongly urged to maintain its diplomatic relations and the Mutual Defense Treaty with the Republic of China.

SEC. 3. That the Clerk of the House of Representatives is hereby authorized and directed to transmit an appropriate copy of this resolution to the President and the Secretary of State of the United States of America, the members of Congress from the state of Kentucky and the Ambassador of the Republic of China to the United States.

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HOUSE RESOLUTION No. 142

Whereas, sodium nitrate is used in the preservation of red meat to keep it free of botulism and safe for human consumption; and

Whereas, the U.S. Food and Drug Administration has threatened to ban the use of sodium nitrate and, further, this proposed ban has been endorsed by Assistant Secretary of Agriculture Carol Foreman; and

Whereas, such a ban would sharply increase the cost of fresh meat to consumers and would thereby be likely to reduce consumption of fresh meat, which is important to human health and nutrition; and

Whereas, the agricultural economy of Kentucky depends on the production and sale of hogs, sheep and cattle as well as the production and sale of grain used in raising cattle, and such economy would suffer if a ban on sodium nitrate were imposed; and

Whereas, test results indicate that a one hundred fifty-four-pound man would have to consume the equivalent of 46,000 pounds of bacon daily in order to show any harmful effects from sodium nitrate consumption;

Now, therefore,

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. That the House of Representatives does hereby urge members of Congress, the President and the Secretary of Agriculture to oppose any ban on the use of sodium nitrate as a fresh meat preservative.

SEC. 2. That the House of Representatives does further call upon the President to replace immediately Carol Foreman as Assistant Secretary of Agriculture with someone who is more in sympathy with the needs of Kentucky's and the nation's farmers.

SEC. 3. That the Clerk is hereby directed to forward copies of this resolution to the President, the U.S. Secretary of Agriculture and each member of Kentucky's congressional delegation.

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SENATE RESOLUTION No. 72

Whereas, sodium nitrate is used in the preservation of red meat to keep it free of botulism and safe for human consumption; and

Whereas, the U.S. Food and Drug Administration has threatened to ban the use of sodium nitrate and, further, this proposed ban has been endorsed by Assistant Secretary of Agriculture Carol Foreman; and

Whereas, such a ban would sharply increase the cost of fresh meat to consumers and would thereby be likely to reduce consumption of fresh meat, which is important to human health and nutrition; and

Whereas, the agricultural economy of Kentucky depends on the production and sale of hogs, sheep and cattle as well as the production and sale of grain used in raising cattle, and such economy would suffer if a ban on sodium nitrate were imposed; and

Whereas, test results indicate that a one hundred fifty-four-pound man would have to consume the equivalent of 46,000 pounds of bacon daily in order to show any harmful effects from sodium nitrate consumption;

Now, therefore,

*Be it resolved in the Senate of the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. That the Senate does hereby urge members of Congress, the President and the Secretary of Agriculture to oppose any ban on the use of sodium nitrate as a fresh meat preservative.

SEC. 2. That the Senate does further call upon the President to replace immediately Carol Foreman as Assistant Secretary of Agriculture with someone who is more in sympathy with the needs of Kentucky's and the nation's farmers.

SEC. 3. That the Clerk is hereby directed to forward copies of this resolution to the President, the U.S. Secretary of Agriculture and each member of Kentucky's congressional delegation.

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HOUSE RESOLUTION No. 7

*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:*

Section 1. That the Congress of the United States be, and hereby is, requested to call a convention for the sole purpose of proposing the following article as an amendment to the Constitution of the United States:

ARTICLE

SECTION 1. With respect to the right to life, the word person as used in this article and in the Fifth and Fourteenth Articles of Amendment to this Constitution applies to all human beings irrespective of age, health, function, or condition of dependency, including their unborn offspring at every stage of their biological development.

SEC. 2. No unborn person shall be deprived of life by any person, provided, however, that nothing in this article shall prohibit a law permitting only those medical procedures required to prevent the death of the mother.

SEC. 3. The Congress and the several states shall have the power to enforce this article by appropriate legislation.

Section 2. That this application by the General Assembly of the Commonwealth of Kentucky constitutes a continuing application, in accordance with Article V of the Constitution of the United States, until at least two-thirds of the legislatures of the several states have made similar applications.

Section 3. That a duly attested copy of this resolution be immediately transmitted by the Clerk of the House of Representatives to the Secretary of the Senate of the United States, the Clerk of the House of Representatives, to each member of Congress from this Commonwealth, and to each house of each state legislature in the United States.

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## NEW DIPLOMATIC ALTERNATIVES NEEDED FOR CYPRUS

● Mr. KENNEDY. Mr. President, a great deal has been said in recent days about the President's evolving policy toward the Eastern Mediterranean area—and especially about his key recommendation that Congress lift the arms embargo on Turkey.

I have carefully reviewed the administration's proposals. And as a Member of the Senate, who has closely followed developments in the Eastern Mediterranean, I share the administration's concern over the festering problems in that part of the world. I also recognize the many complex issues at stake. And I fully appreciate the urgent need to resolve these issues and to revitalize our relations with the countries of the area.

I shall not belabor the record at this time with any lengthy comment on the administration's recommendations. But as Congress begins its consideration of these recommendations—especially the appeal to lift the arms embargo on Turkey—I do want to comment on the Cyprus priority in pursuing our objectives in the Eastern Mediterranean.

Whether American diplomats like it or not, real progress toward an honorable and just resolution of the Cyprus problem is crucial in repairing and revitalizing our traditionally good relations with the people and Governments of both Turkey and Greece. And real progress on the Cyprus problem is also crucial in bolstering and stabilizing our security interests in the Eastern Mediterranean. It is illusory to assume that these relations can be fully repaired and our interests fully stabilized without real progress on Cyprus.

Cyprus is the issue at hand, and not the arms embargo on Turkey.

Mr. President, over the next few weeks, as Congress considers the administration's recommendations, there is time enough for our own country and others to give the Cyprus problem the priority it needs and deserves. There is time enough for all sides on this troubling issue to show some good faith. There is time enough for some real progress in resolving the problems that divide this troubled island.

But what will give new priority to Cyprus? What is good faith? And what is real progress?

I submit that the answers to these questions do not lie in the expression of new optimism. They do not lie in the rhetoric of new promises. And they do not lie in good intentions and the routine exchange of new proposals for settlement. Such answers merely repeat the tired patterns and failures of the past—and give false hope and little comfort to a beleaguered people, both Cypriot-Greeks and Cypriot-Turks; for their plight remains unchanged, and their country is still torn apart.

But the answers may lie in new initiatives, to promote concrete actions in the field.

I firmly believe that the coming weeks offer an unusually good opportunity to promote real progress on Cyprus. The Government of Cyprus and the Cypriot Turkish administration seem prepared for serious negotiations. Both Greece and Turkey have responsible leaders, with a longstanding and serious interest in contributing to the peaceful development of the eastern Mediterranean. And their readiness to take risks for peace was clearly demonstrated in the recent Geneva discussions between Prime Minister Caramanlis of Greece and Prime Minister Ecevit of Turkey.

And so today I appeal to the President to seize the opportunity at hand. I appeal to the President for a major diplomatic initiative in behalf of the people of Cyprus—an initiative which will bring real progress toward restoring the full independence, sovereignty and territorial integrity of the island Republic.

Such an initiative should be carried out in full cooperation with the United Nations, under whose auspices intercommunal talks have been held in the past. And I want to pay special tribute to Secretary General Kurt Waldheim, who will visit Cyprus later this week, for his tireless efforts in behalf of the Cypriot people and peaceful development in the Eastern Mediterranean.

The immediate objective of these new diplomatic initiatives should be an early statement of negotiating principles agreed to by the parties concerned—concrete agreements, in principle, which would lay the basis and define the perimeter of an overall settlement on the future of Cyprus.

The statement of principles should cover four areas of concern to the people of Cyprus and those who share their goal of justice and peace:

First, a concrete argeement, in principle, over territorial issues, which fully recognize the ethnic composition of the Cypriot people;

Second, a concrete agreement, in principle, over constitutional issues—especially the national responsibilities of a strong Federal Government;

Third, a concrete agreement, in principle, over the Cypriot people's right of free movement, freedom of settlement and right of ownership; and

Fourth, a concrete agreement, in principle, on new arrangements, under international auspices, for the future security of a unified Cyprus and the people who live there.

Mr. President, 1978 must finally bring a new priority to the Cyprus problem in American diplomacy, and a new determination by our Government to work with others in facilitating real progress in normalizing the life of the Cypriot people.

The imperative for American diplomacy has rarely been more clear, and, if we fail to act, so too is the threat of further erosions in our relations and interests in the eastern Mediterranean.

We must finally put peace ahead of arms in this conflict-ridden part of the world.●

## PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I submit for the RECORD the notification I have just received.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., April 13, 1978.*

In reply refer to: I–7877/77ct.

Hon. JOHN J. SPARKMAN,
*Chairman, Committee on Foreign Relations, U.S. Senate,*
*Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78–30, concerning the Department of the Navy's proposed Letter of Offer to Iran for other than major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $45.6 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERICH F. VON MARBOD,
*Acting Director.*

TRANSMITTAL NO. 78–30

(Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act)

(i) Prospective Purchaser: Iran.

(ii) Total Estimated Value:

| | Millions |
|---|---|
| Major Defense Equipment* | $ 0.0 |
| Other | 45.6 |
| Total | 45.6 |

(iii) Description of Articles or Services Offered: Provides capitalization of supply support arrangement to support the Iranian F–14/PHOENIX weapon system.

(iv) Military Department: Navy.

(v) Sales Commission, Fees, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: April 13, 1978.

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).●

## PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that four such notifications were received on April 12, 1978.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S–116 in the Capitol.

The four notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., April 12, 1978.*

In reply refer to: I–13430/77ct

Mr. WILLIAM RICHARDSON,
*Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR MR. RICHARDSON: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Northeast Asian country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERICH F. VON MARBOD,
*Acting Director.*

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., April 12, 1978.*

In reply refer to: I–13428/77ct

Mr. WILLIAM RICHARDSON,
*Professional Staff Member, Subcommittee on Foreign Assistance Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR MR. RICHARDSON: By letter dated 18 February 1976, the Director, Defense Se-

curity Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Northeast Asian country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERICH F. VON MARBOD,
*Acting Director.*

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., April 12, 1978.*

In reply refer to:
I–13480/77ct
Mr. WILLIAM RICHARDSON,
*Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR MR. RICHARDSON: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Exports Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Northeast Asian country for major defense equipment tentatively estimated to cost in excess of $7 million.

Sincerely,

ERICH F. VON MARBOD,
*Acting Director.*

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., April 12, 1978.*

In reply refer to:
I–13429/77ct
Mr. WILLIAM RICHARDSON,
*Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR MR. RICHARDSON: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Exports Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Northeast Asian country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERICH F. VON MARBOD,
*Acting Director.*●

## THE CONSUMER AND AGRICULTURE PROTECTION ACT OF 1978

● Mr. SASSER. Mr. President, today I am declaring my support for S. 2626, the Consumer and Agriculture Protection Act of 1978.

I have joined my distinguished colleagues, Senators BUMPERS and HODGES, as a cosponsor of this important bill. I believe that S. 2626 can provide the long-range solution to the basic problems that confront the farmer, while at the same time protecting the interests of the consumer.

There is no question that a great American institution inherent in the social and economic fabric of our Nation—the family farm—is in trouble. There is no question but that Congress must seek a solution to the problems facing American farmers. There is no question that the inability of farmers to make a fair return on their investment is the bedrock problem.

The farmer has too long been the victim of inflationary pressures without recourse to the marketplace. The cost of production has increased while the farmer's return on investment has decreased. The bottom line on the farmer's ledger is written in red; he is losing money.

The agricultural movement of the past months marks a reawakening of the rural economy. The American farmer understands the importance of his position, and he has taken steps to shape his own destiny.

There has never been representation in Washington by the farmer like that we have seen this year. I welcome that representation, and I appreciate the opportunity to better understand the problems of Tennessee farmers as Congress deliberates on farm policy decisions.

Mr. President, this bill will provide for grassroots participation in the decisions regarding farm policy. It will also allow the agriculture economy to operate within the free market in much the same manner as other sectors of the economy do. Basically, S. 2626 will:

Create an Agricultural Board of Governors with the authority and responsibility to advise Congress and the administration on farm policy and problems. The Board will be composed of growers and producers and will be independent of the Department of Agriculture.

Guarantee a cost of production price for commodities. The factors which will be considered in setting the cost of production include the costs of labor, management, machinery, and use of land. Commodity loan levels will reflect the entire cost of production based on these factors.

It is imperative that the Senate begin work now to devise a farm program for next year and for subsequent years. As the Agriculture Committee considers its legislative options, I hope that it will include the provisions of the Consumer and Agriculture Protection Act of 1978.

The agriculture movement in Tennessee has endorsed the concepts embodied in S. 2626. I have studied the situation very carefully, and I agree that the proposals in the bill are in the best interests of farmers and consumers alike. I urge my colleagues to give serious consideration to the approach, and I hope that Congress will act soon in an effort to protect the American family farm and the viability of the American rural economy.●

## SENATE CONCURRENT RESOLUTION 79 DISAPPROVING PROPOSED FIREARMS REGULATIONS

● Mr. HEINZ. Mr. President, recently, the Bureau of Alcohol, Tobacco, and Firearms proposed regulations to require a centralized reporting system for all firearms sales. In effect, BATF proposes a national firearm registration system which it waves, like a red flag, in the face of Congress.

Despite this obvious disregard of the will of Congress, as expressed on numerous occasions, let us look at some of the other features of these regulations.

First, BATF claims it needs these regulations to improve the tracing of firearms used in crimes. Yet in 1975, an official of BATF told Congress that firearms could be traced in 27 minutes under the existing system. How much improvement does BATF want?—at what cost?

Cost is another issue. BATF estimates that it could establish this system with $5 million which it will redirect from other BATF programs. However, past estimates point to a cost of from 7 to 20 times that amount. How much is this system really going to cost? Where will the money come from? How will those programs which will be stripped of all this money suffer? Mr. President, does Congress no longer have a voice in how the money it appropriates will be spent?

Third, what about the paperwork burden? As a member of the Congressional Paperwork Reduction Group, this is a special concern of mine. Under the proposed system, 688,000 additional pieces of paper per year will be required of 172,000 Americans. This is outrageous.

Mr. President, Congress, with my support has repeatedly gone on record against any national gun registration scheme. I believe the Congress properly recognizes that the concepts we have seen are unworkable, ineffective, restrictive and invade a constitutionally protected freedom: the right to bear arms. Despite these facts, in clear violation of the will of Congress, BACT proposes just such a system. While there are undoubtedly differing points of view among my colleagues concerning Federal gun control, I believe all Senators should be united against the creation of an unjustified, wasteful, unneeded and unwanted bureaucuracy by executive fiat. It is Congress that must have the final say in such matters. BATF proposes an unauthorized expansion of both its powers and its bureaucracy. We must say no to both, or resign ourselves to yielding our responsibilities and the rights of our constituents to the whims of unelected agency administrators.

Therefore, I join with my distinguished colleagues in cosponsoring Senate Concurrent Resolution 79, disapproving the proposed firearms regulations, introduced by the distinguished Senator from Idaho. I ask that the text be printed at this point.

The text of Senate Concurrent Resolution 79 follows:

TEXT OF CONCURRENT RESOLUTION

Whereas, the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury, has proposed regulations which, although called "quantity reporting of firearms disposition," would constitute centralized federal registration of firearms; and

Whereas, the Congress has specifically re-

jected federal gun registration and centralized recordkeeping in the 1968 Gun Control Act and on numerous occasions since then; and

Whereas, there has been no claim that the Bureau of Alcohol, Tobacco and Firearms has been unable to trace firearms successfully under the present tracing system; and

Whereas, the increased paperwork, computerization, and cost of manufacture would be overburdensome to the taxpayer and the consumer; and

Whereas, the proposed regulations are an attempt to accomplish by regulation what Congress has refused to authorize by legislation:

Therefore, be it

*Resolved by the United States Senate (House of Representatives concurring)*. That the Bureau of Alcohol, Tobacco and Firearms regulations proposed by the Department of the Treasury in the March 21, 1978, Federal Register, requiring the reporting of all firearms transactions in Federally licensed commerce to be centrally maintained by the federal government, the placing of additional serial numbers on all firearms, and the implementation of certain other proposed changes, exceed powers conferred on that Department by the Congress, and that the proposed regulations be withdrawn.●

## OTTUMWA—AN ALL-AMERICAN CITY

● Mr. CULVER. Mr. President, this past weekend I had the pleasure of visiting the city of Ottumwa in my State of Iowa. It gave me the opportunity to extend personally my congratulations to Mayor Paul Derby and other civic leaders. Just 2 days earlier Ottumwa had received an All-American City citation from the National Municipal League.

This award—1 of 12 given in the entire Nation—salutes the citizens of Ottumwa for "the imaginative and vigorous action" they have taken "to improve their community, thus demonstrating an example of effective citizenship to the Nation."

I believe that Ottumwa's experience shows what can be achieved when imaginative public officials work together with an active, involved, and dedicated citizenry for the betterment of their community.

Ottumwa's success story can be measured by the changes which have occurred in the last 4 years:

Unemployment has been cut from 13 to 4 percent through the attraction of 14 new industries to the area;

Property value has grown by almost 30 percent while tax rates have been reduced;

Three new schools have been constructed and one remodeled;

A new pedestrian mall, construction of modern water supply and sewage treatment facilities, flood protection, and neighborhood development programs offer additional signs of the city's progress. It is understandable that this statistical and physical evidence is prominently cited to demonstrate what Ottumwa has accomplished. The Iowans who live there know, however, that it is only symptomatic of less tangible but more important features—community spirit, determination to overcome adversity, imagination, and a confidence in the future—which characterize their city. In Ottumwa these qualities have become virtual mandatory residence requirements.

As a Senator from Iowa, I take great pride in the achievements of Mayor Derby, the members of the Ottumwa area task force, and the citizens of this fine city. I ask that an editorial from the Ottumwa Courier, "A Reason To Brag," be printed in the RECORD.

The editorial follows:

A REASON TO BRAG

(By Jim Crane)

If we Ottumwans brag a little today, maybe the rest of the world will overlook that fault.

We're officially an "All America City," in the view of the National Municipal League.

Imagine that.

Ottumwa, the city that has been beset by floods, unemployment and urban decay.

Ottumwa, the city where jobs got so scarce just a couple of years ago that an estimated 14 out of 100 people who wanted work couldn't find it.

Ottumwa, the city where municipal efforts to demolish old downtown buildings in hopes of attracting new enterprises caused a storm of controversy.

Now, it's an All America City.

Of course, even in the darkest hours good things continued to happen, mainly because the local residents never quit pulling themselves up by the bootstraps.

If an employer pulls out? Organize a local, volunteer group to build new industrial sites and entice new employers to locate here. A lot of new employers came.

If floods periodically damage the city? Pass local bond issues to pay for a system of protective levees. The result—the claim that the city is virtually flood-proof.

If the downtown is decaying? Devise an urban renewal plan and halt the decline. The result—an attractive mall, new retail stores and new hope.

Ottumwa is an All American City today because Ottumwans never gave up on their community, because they cared and tried and kept trying.

And now it's official—All American City.

It has a nice ring to it, doesn't it? ●

## ARSON

● Mr. DURKIN. Mr. President, arson is one of the most pressing, persistent criminal problems confronting our Nation today.

In recent years, according to estimates, approximately 1,000 lives and $1 billion in property were lost in fires that are deliberately set to collect on the insured value of real estate.

And the trend seems to increase unabated for one simple reason: It is difficult to apprehend suspects and convict them in court because often the evidence normally associated with the commission of this crime is destroyed in the blaze.

There is a common misconception that arson is confined to blighted buildings in decaying urban areas. But New Hampshire is experiencing an ever-increasing incidence of arson.

The New Hampshire State fire marshal's case load for arson investigations has doubled in the past 4 years, and that still does not provide a total picture of arson problems in the State, since larger communities like Manchester and Concord have the personnel in their own fire departments to investigate suspicious fires.

These fires in New Hampshire cause an undetermined amount of property damage and, more important, they subject our courageous firefighters to unnecessary hazards in an already dangerous line of work.

Because I recognize the need for effective legislation to combat this very serious crime, I am pleased to join in the antiarson efforts of some of my Senate colleagues.

I am cosponsoring Senate bill 1882, which gives local law enforcement agencies the needed funds to bring persons responsible for burning buildings to justice.

This bill would permit the Law Enforcement Assistance Administration (LEAA) to make grants to local programs to detect arson and prevent it from happening.

Another section of this same bill was included in the new U.S. Criminal Code when it was approved by the Senate earlier this year. It permits the FBI to classify arson as a major crime and include it in the uniform crime reporting system, making it easier to coordinate arson investigations.

In addition, I am pleased to say that the Senate Commerce Committee—of which I am a member—authorized funds yesterday for a National Fire Academy here in Washington.

The Fire Academy will not only provide valuable training and guidance for upper level fire department personnel throughout the United States, but it will also place special emphasis on skills related to the investigation of suspicious fires.

A former school campus was purchased by the Federal Government last year to house the academy, and committee authorization of $6 million for startup costs and $1.2 million for operating expenses represents the first step toward getting the work of the Academy underway.●

## BARRING THE BACKDOOR TO FEDERAL FIREARM REGISTRATION

● Mr. CHURCH. Mr. President, the Treasury Department has recently announced proposals which are a major step toward Federal firearm registration, despite the fact that the Congress has repeatedly rejected these very measures. Unable to go through the front door by the legislative process to achieve their ends, the forces for Federal gun control are now trying to sneak through the back door by Federal fiat. The Senate must stand firmly against such misguided maneuvering, and I have joined in cosponsoring Senate concurrent Resolution 79, which would reaffirm the Senate's long-held position on this matter.

The Treasury Department's primary proposal would require unique serial numbers on all firearms and extensive recordkeeping on every licensed firearm transaction, all of which would be transmitted to a centralized Federal computer. On April 3, I wrote to the Treasury

Department voicing my strenuous opposition:

I believe that this proposal in its entirety is beyond the authority granted to the Department by the Congress. The unique serial number which would be required on all firearms would enable the planned central computerized record-bank to have all of the information necessary for Federal firearm registration by owner. Such registration proposals have been consistently defeated by the Senate.

One of the basic arguments against registration has been the amount of paperwork it would require, and that amount of paperwork is exactly what these proposals would generate. In rejecting registration, the Senate has reaffirmed that this paperwork is not desirable. Furthermore, although the Department's press release contains typical bureaucratic assurances of savings under these proposals, there have been some estimates that the registration they signify could cost more than $100 million for handguns alone.

Mr. President, I have helped lead the fight against Federal gun controls throughout my years in the Senate. Federal gun controls are an anathema in my State of Idaho, and State and local programs where they have been tried are proven failures. The Senate has repeatedly recognized the folly of firearm registration and voted in support of my position. In fact, the Senate has specfically voted to defeat the very Federal firearm inventory that the Treasury now seeks to establish, and to deny the kind of licensing it would accomplish. As I wrote to the Treasury:

The basic fact of this matter is that these proposals are tantamount to the Federal licensing of gun ownership without the license. The licensees will be numbers instead of names. Numbers are the language of computers, and I do not trust yours to preserve the people's right to keep and bear arms.

I am hopeful that the Congress will pass the resolution I have cosponsored and thus send this message to the Treasury Department. The Congress has tightly shut the legislative front door to firearm registration, and the Treasury should understand that the regulatory backdoor is also barred. I must admit, however, that it may be necessary to nail these bars down by legislative amendment. The appropriations bill for the Treasury Department will provide the nail holes, and I, for one, will have my hammer in hand.●

## THE HUMPHREY-HAWKINS BILL: A TOOL THAT IS ONLY AS GOOD AS THE PEOPLE WHO USE IT

● Mrs. HUMPHREY. Mr. President, after years of hearings, negotiations, revisions, condemnation, praise, attack, defense, torrents of rhetoric, cries of alarm, demands for action, and political maneuvering that would sustain the interest of the most jaundiced political science teacher—after all of this and more, the Humphrey-Hawkins Full Employment and Balanced Growth Act is nearing its final stage of congressional consideration.

The bill, following 3 days of often heated debate, has been amended and approved in the House. Hearings have been completed and markup has begun in the Subcommittee on Employment, Poverty and Migratory Labor of the Senate Human Resources Committee. The Senate Banking, Housing and Urban Affairs Committee will hold its hearings in May.

One would think that after all this attention, the resulting familiarity with the legislation would dampen the uproar surrounding it and promote calm and thoughtful examination of the bill's provisions. It is true the volume of sound has been turned down a few degrees, but the measure is still seen by some people as a threat to the Nation's economy, an empty promise, or something between these two extremes, and the clamor continues.

Mr. President, the Full Employment and Balanced Growth Act is neither threatening nor empty. Equally important, it is not an automatic panacea spelling an instant end to the Nation's recurring recessions and structural unemployment. Basically, the legislation sets forth the framework and the procedures to enable the administration, Congress, and the Federal Reserve Board to develop and implement comprehensive, coordinated policies and programs to achieve and sustain full employment and balanced growth. In a very real sense, it provides a cohesive, consistent way of using the fiscal and monetary policy and program tools that have always been at hand to do a better job of reaching and holding prosperity.

The question of whether the goals of the Humphrey-Hawkins Full Employment and Balanced Growth Act are ever achieved will depend on the caliber of leadership in the White House, on Capitol Hill, and at the Federal Reserve Board. Seen in this perspective, the Humphrey-Hawkins Full Employment and Balanced Growth Act provides those who lead Government with a better way of approaching and resolving our economic problems.

Mr. President, a recent article in the Christian Science Monitor clearly recognized this fundamentally important fact. In it, the newspaper emphasizes the point that the legislation does not have a life apart from those who form and lead our Government. I ask that the article be printed in the RECORD and I urge my colleagues to read this concise and brief comment on Humphrey-Hawkins.

The material follows:

AFTER HUMPHREY-HAWKINS

Let us assume that the Senate will pass the Humphrey-Hawkins jobs bill as the House of Representatives did last week. Then comes the hard part: ensuring that the legislation is carried out to the best of its intentions. It gives the White House a mandate all too easy to avoid unless the Congress and public insist that it be followed through in good faith.

The Senate should not pass the bill as a deserved monument to Sen. Hubert Humphrey but as what Sen. Muriel Humphrey calls "an essential first step in moving America toward a new era of full employment and vigorous, stable economic growth."

Seen in this measured way, the bill should escape the danger of raising false hopes about a federally guaranteed end to unemployment. (It is not a jobs bill in the sense of creating or funding jobs.) And the emphasis on "stable economic growth" is a reminder that the bill does not forget the control of inflation while placing jobs for everyone willing and able to work at the center of government policy.

Note that jobs and growth are combined in the title of the Humphrey-Hawkins Full Employment and Balanced Growth Act. Unlike the landmark Employment Act of 1946, which neglected the problem of inflation, Humphrey-Hawkins makes price stability a goal along with its effort, three decades later, to fulfill the spirit of the earlier act.

To combat inflation Humphrey-Hawkins proposes such measures as stockpiling critical raw materials, strongly enforcing anti-trust laws, and instituting early warning systems to prepare against industrial capacity shortages. Suppose the mandated jobs goals—3 percent adult unemployment and 4 percent overall unemployment within five years of passage—conflict with inflation control. Then the bill allows the president to propose modifications of the goals.

It suggests governmental avenues of attacking structural unemployment through such means as targeted revenue sharing and public works. But the main thrust is toward use of the private sector and appropriate government policies to foster it. Gone is the specter seen in the original bill of generous government jobs drawing people away from the private sector.

Doubters on one side now call Humphrey-Hawkins, as adjusted to satisfy President Carter, a "sanitized" or toothless document, a paper tiger. On the other side, there are estimates of the billions of dollars required if the unemployment reductions are seriously sought.

Yet is there any economic goal more worthy of investment than ensuring jobs for all who want to work, especially in view of America's traditional commitment to and benefit from the worth ethic? And even the sanitized Humphrey-Hawkins takes the unprecedented step of requiring the president each year to state explicit employment goals and recommend the fiscal and monetary policies to achieve these goals. The Federal Reserve System would have to submit a written report on how its monetary policies were designed to support the president's numerical goals for employment, prices, and production.

Would such statements and reports become just rhetoric and more rhetoric? Not in the hands of a responsible president, a cooperative Federal Reserve Board, and a Congress diligent enough to demand its legislation not be ignored and to follow through with action.●

## THE IMPASSE AT THE LAW OF THE SEA CONFERENCE

● Mr. MOYNIHAN. Mr. President, it is now two decades since the nations of the world under the auspices of the United Nations began an attempt to write a new body of international law governing the oceans of the globe. And the most recent manifestation of the effort, the Third Law of the Sea Conference, is now in its seventh session in Geneva. Since early last year, the U.S. delegation thereto has been headed by one of our most distinguished citizens and certainly one of the most experienced of all our public officials, Ambassador-at-Large Elliot L. Richardson.

These are important negotiations with profound long term consequences. Therefore when a man of Ambassador Richardson's reputation and judgment tells us that this international undertaking is now in jeopardy we must take heed. I shall ask that there be printed in the RECORD an article from the Washington Post of April 14 wherein Ambas-

sador Richardson describes the current impasse at the conference. I must say that the article is accompanied by a photograph of the Ambassador with an uncharacteristically grim expression on his face. I dare suggest his mien is indicative of his determination to defend American interests and to carry on to a successful conclusion. Because I believe the issues before the Law of the Sea Conference deserve greater public understanding, I ask that the Washington Post article be printed in the RECORD and that a speech I delivered on the Law of the Sea Conference almost a year ago be printed also.

The material follows:

[From the Washington Post, Apr. 14, 1978]

U.S. AMBASSADOR PESSIMISTIC ABOUT AGREEMENT ON SEAS

(By William Claiborne)

The decade-old U.N. Law of the Sea Conference has bogged down in internecine squabbling without substantive work on its agenda and faces the "probability" of failure, Special Ambassador Elliot L. Richardson said yesterday.

"We have to recognize the possibility, indeed the probability, that we won't succeed," Richardson, head of the U.S. delegation, said in an interview during a brief visit in Washington. The conference is already in the third week of a scheduled seven-week final session in Geneva.

Richardson said there have been a few encouraging signs—notably a renewed determination on the part of many delegates to bridge the gulf between The Third World and the industrial nations—but he noted the conference now has little enough time in which to finish.

"It's about a wash," Richardson said, reiterating his belief the conference has about a one-in-three chance of reaching agreement on the key issues, particularly on a system of governing the exploitation of vast mineral resources on the oceans' floors.

Repeatedly, Richardson sought to put as good a face as possible on the future of the conference, saying that new procedural ground rules make it less likely that contentious delegates among the 147 nations attending can scuttle the session unilaterally. But just as emphatically, Richardson offered what seemed to be pessimistic odds.

"When you say there is a one-in-three chance of success, you have to say there is a probability of failure under those circumstances," Richardson said at one point. At another, he said, "If the odds are worse than 50-50, you have to use the word 'probably' when you talk about failure."

For 10 years, the Law of the Sea Conference has been engaged in a global tug-of-war, trying to reach agreement on a treaty whose foundation is based on the principal that all resources under the sea are the common heritage of mankind.

At stake is the sharing of what could be trillions of dollars worth of potato-sized nodules of minerals lying at depths of up to 15,000 feet, mostly in the Pacific beween Hawaii and Mexico.

The negotiations have mired in disputes over and international authority that would control exploitation of the rich deposits of nickel, cobalt, manganese and copper, and manage the distribution of profits among nations.

Generally, the Third World has favored the creation of an operating body, called "The Enterprise," that would harvest the minerals for all nations, while the United States and other industrialized nations favor a dual system under which "The Enterprise" and private mining firms would operate simultaneously.

But the conference has not even reached those issues as it approaches the midway point.

For two weeks, delegates fought bitterly over the election of a president. Shirley Amerasinghe of Sri Lanka, and a number of Latin America nations staged a brief walkout in protest. Then the delegates began fighting over procedures and the wording of the agenda, prompting Amerasinghe to complain, "We will look ridiculous if we go on like this."

Displaying increasing frustration Richardson told the conference he did not see how substantive negotiations would be influenced by the wording of an agenda, and then he headed home for previously scheduled testimony before the House Ways and Means Committee.

In yesterday's interview, Richardson said the conference conceivably could adjourn at the end of the seven weeks and resume next year, providing it was close to agreement and only peripheral issues remained unresolved.

However, many observers believe the present session is a last chance to set seabed mining guidelines, and Richardson previously has said as much. Several consortiums of mining firms already have begun experimental seabed mining, and a few are poised to begin fullscale operations, having invested up to $50 million each in research and development.

If there is to be another session, Richardson said, "it would only be justified by demonstrating that enough progress had been made in this session to leave only residual points to be cleared up."

Apart from the question of seabed minerals, one of the most difficult issues the conference faces is the right of access of landlocked and "geographically-disadvantaged" nations to predetermined "economic zones" in the oceans.

Diplomatic sources said, in fact, that this issue has nearly eclipsed the seabed mining controversy in the minds of some of the delegates from developing nations.

Once the United States accepted a dual system of exploitation, the conference sources said, the Third World seemed satisfied that they had established several basic principles pointing vaguely to a new economic order: world acceptance of the principle of common heritage of resources, acceptance of international authority and a socialist "Enterprise" and acquiescence by industrialized nations to at least some level of transfer of technology to lesser developed nations.

As the conference continues, the House is working on a bill that would authorize and encourage U.S. mining companies to unilaterally begin seabed mining operations.

Conference sources said some delegates have been warning that if the bill is passed during the Geneva session, it would destroy the chances for a treaty. But, it is unlikely the Senate will act before then.

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ADDRESS BY SENATOR DANIEL PATRICK MOYNIHAN

Trying to describe what Venice meant to the Mediterranean world of the 15th or 16th Century, the French historian Fernand Braudel writes: "Venice dominated the 'Interior Sea' as New York dominates the western world today."

We welcome this newest dimension to our influence, the nuclear attack submarine *New York City*. I would like to take this occasion to comment on developments now in evidence at the United Nations Law of the Sea Conference, now underway in New York City.

It will seem odd, perhaps, but my thoughts on the occasion go back three years almost to this day when I found myself sitting on the bank of the Thimphu Chu River which flows past the palace in the Himalayan kingdom of Bhutan, where I was attending the coronation of His Majesty Jigme Sinye Wangchuck. It was a memorable occasion on several scores. Of the greater personal significance was the day's fishing. A Scotsman devoted the first quarter of this century getting brown trout into those incomparable streams, but the Bhutanese, as Buddhists, won't kill them. So there they were awaiting me, and for the first and last time in my life I caught all the fish I could hope for. Indeed I grew weary of the work, and fell into conversation with the young Foreign Minister of Bhutan who was watching, tolerantly, from the stream bank. How much, I said, I would regret leaving this incomparable country, at the very top of the world, touching the heavens if any country could be said to do, the very outermost reach of human habitat. The Foreign Minister remarked that he, too, was sorry that he would be leaving. For what, I enquired? Why, for the Law of the Sea Conference, he answered.

That was indeed a bright confident morning, and it seems so far past. In 1970 the United Nations Seabed Committee declared that the resources of the seabed and the ocean floor were the "common heritage of mankind." The United States, far from resisting this proposal, embraced it in the most forthcoming manner. President Nixon's statement on U.S. Oceans policy of that year supported the concept, and the United States entered the negotiations which led to the opening of the Law of the Sea Conference in Caracas, Venezuela on June 20, 1974.

Three years have passed, however, and confidence is fading. Just this week our chief negotiator Elliot L. Richardson, who has played a singular role in American government over so many years now, and who commands a unique respect among the American people and in the United States Congress, spoke of stalemate, and warned that the entire effort "now hangs in the balance."

This is not good news. Not for the seafaring nations of the world; not for the landlocked, not for those, as it were, in between. For the assertion that the seabeds were a common heritage gave to nations everywhere a common interest—Bhutan no less than Iceland, Hungary as much as New Zealand—in how this common heritage is shared.

Nor is it good news that the Soviets appear to have judged that the prospects for failure are sufficiently strong that they should no longer invest any energies in pursuing success. For a long period the Soviets in effect acknowledged that they shared the common interests of the seafaring and technologically advanced nations in getting a good treaty. Now they appear to have cut any ideological losses that might have occasioned, and are routinely supporting the most counterproductive demands of the Group of 77. Thus if the Conference fails, they will have been on the side that will blame us for the failure. If it succeeds, we will have won for them the terms they desire.

Let me state that the United States negotiators do not at all share the Soviet view. Ambassador Richardson's statement on June 13 had the desired effect of bringing forth a new draft which could be described as very substantially improved—from, that is, its predecessor which was plain unacceptable.

Some general comment might accordingly be of use from someone who was marginally involved in these negotiations at an earlier stage, and who will be one of those assessing the final result if, hopefully, a treaty is agreed upon at an early date and sent to the Senate for ratification.

I speak now to the Group of 77, now 114 countries in all, and I shall speak to what I believe to be the two principal questions involved here.

First, do the developing nations under-

stand that by entering into these negotiations, and remaining faithfully with them, the United States and the western nations generally have agreed to negotiate for and, in the bargaining sense, to pay for rights which exist in the absence of a treaty? We did not have to do this; we wanted to do it. We wanted to do it, among other reasons, because we wanted to establish a regime for the use of the resources of the seabed which would produce resources that would be shared with the farmers of the Thimpu Chu River in Bhutan—and the Yangtze, and the Congo, and the Amazon. We did not have to do this. We have under existing international law, including as Dr. S. Fred Singer has noted, the 1958 Geneva Convention, the perfect right to extract mineral resources from the deep ocean beyond the continental shelf. Moreover, we have the technology to do so.

I remember at the United Nations I had breakfast one morning with officers of the Kennecott Corporation, which has its headquarters on 42nd Street in New York. We spoke of the matter, and I asked the company's President: if it were decided to go into deap sea mining that day, how long would it be before manganese nodule copper would be used in lamps on sale in Brooklyn? 1985 was his reply. That was two years ago, and so I assume his answer today would be 1987. We have lost two years and the developing world has lost two years also.

And, we need some of those metals. We now import 82 percent of our nickel and manganese, 72 percent of our cobalt. We are dependent on other nations for minerals which verge on the strategic. And we would not have to be—we could quickly become almost wholly self-sufficient—if we simply went ahead to do what we have the right to do and the know-how to do.

What we do not have to do is to bog down in an endless parley in which every concession we make is instantly transformed into the next item to be negotiated.

There is a second and larger question. It is well known that the greatest obstacle to agreement at this point has to do with the nature of the Seabed Resource Authority. How will it be run? Will it have complete control over who may or who may not undertake seabed mining, or will there exist a right of access by all parties, public and private?

The Group of 77 clearly opts for an all powerful international authority. Their newest draft states: "All activities in the area shall be conducted on the Authority's behalf." ". . . All activities in the area shall be conducted, organized, and controlled by the Authority . . ." We resist this. We want to make sure, among other things, that the seabeds will be open to private businesses which meet internationally agreed standards for such operations. We remind ourselves of Grotius' great dictum: the oceans "can neither be seized nor enclosed." (*Mare Liberum*)

Here once again we glimpse what my senior colleague Senator Javits, in a brilliant address to the Senate reporting on the recent (and failed) North-South conference in Paris (the Conference on International Economic Cooperation), termed "the abyss of difference between the developing countries and the developed world."

There is a simple point to be made here. The members of the Group of 77 will not like hearing it, but if they really want a Law of the Sea Treaty they are going to have to try to understand us, just as we must try to understand them.

The simple point is this: Most of us in the West—not all of us, by any means, but most of us—regard free economic activity as an indispensable condition of free political activity. We know that most nations in the Group of 77 do not believe this, or don't think it matters. We do not ask them to change their views. But we do ask them to understand that we do believe this and we do think it matters.

It comes to this: Of the 114 nations in the Group of 77, the Freedom House survey can find only sixteen that could be listed as Free, which is to say, these are nations in which citizens enjoy free political activity. Now obviously for many of the governments of the other 98 nations free economic activity—after a point at least—poses as much a threat to their way of doing things as would free political activity. And so they will not have it. Which is all well and good.

But they must not tell us that we cannot have it. For to do so is to tell us that we must risk losing the political freedoms that are precious to us beyond all things.

The Group of 77, so adept at asserting principles, must understand that for us, too, there is an issue of principle at stake in these negotiations.

We will not abandon the economic and political principles that have created our society in order to provide ideological sanction for the dictatorships of the Group of 77. I speak not as a negotiator of course, but as a Senator. I speak in the desire that there should be a treaty, but in the conviction that nothing would be worse than a bad treaty. I speak as one who wholly supports the efforts of Senator Lee Metcalf of Montana to make it possible for American firms to get on with the job pretty soon now, treaty or no treaty.

We want a treaty. We want a regime of shared responsibility and shared resources. But we remind the new nations of the world that by law the seas are free today, and we are not about to negotiate away that freedom in order to provide international sanction for political systems that are so painfully different from and usually opposed to our own. Do not suppose we do not understand you on this. We understand you well enough.

Do not suppose it is going to come as any surprise to us when some regime accuses a Woods Hole survey of stealing vital secrets of its continental shelf. The freedom of science is as threatening to repressive regimes as is any other freedom.

But this does not mean we cannot work together. It means only that we must seek agreement in open awareness of the complexity of each other's concerns.

At whatever cost in the small change of diplomatic niceties, the Group of 77 must acquaint themselves with the full range of our interests in this negotiation and the steadfastness of purpose with which we will pursue these interests.●



## PRODUCT LIABILITY INSURANCE

● Mr. EAGLETON. Mr. President, the increasing cost of product liability insurance coverage is a source of concern to the entire business community. While all businesses are affected to some extent, I believe the problem has reached crisis proportions for small businesses.

In my own State of Missouri, the State legislature has been quite active in seeking a workable solution to this problem. In addition, the Missouri Division of Insurance has just recently implemented the market assistance program, which is a voluntary participation scheme whereby product liability insurance coverage is made available to all businesses in need of it.

While I am heartened by this activity on the State level, I believe that it is imperative for the Federal Government to involve itself in providing some financial relief from the burden of product liability insurance for small businesses. Three major measures have been introduced in the Senate to provide this relief. Our colleague from Indiana, Mr. LUGAR, has introduced S. 1706, known as the Emergency Product Liability Act. This measure provides for a statute of limitations on product liability claims, alters the manufacturer's liability where a product has been altered after leaving his hands and provides for a state of the art defense, among other things, S. 527, a bill authorizing the Small Business Administration to furnish reinsurance for property liability insurers for small business concerns which would not otherwise be able to obtain product liability insurance on reasonable terms has been proposed by our able colleagues, Mr. CULVER of Iowa and Mr. NELSON of Wisconsin. A third measure, and one which I personally favor, is a self-insurance program that would allow manufacturers to deduct from Federal income tax certain funds and to transfer them to a product liability loss reserve. This bill, S. 1611, was introduced by Mr. CULVER, of Iowa.

Mr. President, I believe that the time has come for the Congress to seriously consider these proposals and to enact some positive legislation on the product liability problem. Therefore, I wish to bring to the attention of my colleagues the timely announcement of the Department of Commerce's recommendations regarding Federal action that should be undertaken to address the product liability problem. I think it is important to note that the Commerce Department's options paper favorably mentions a tax set-aside program as an effective short-range solution to the high price of product liability insurance. I ask that a summary of the Department's recommendations be printed in the RECORD at this time, along with a copy of the bill proposed by the Department.

The material follows:

COMMERCE PROPOSES SET-ASIDE OF PRE-TAX INCOME AS RESERVE FOR PRODUCT LIABILITY CLAIMS

The U.S. Department of Commerce today proposed an amendment to the Internal Revenue Code that would permit qualified businesses to set aside a portion of their pre-tax income as a reserve for self-insurance against product liability claims.

The Department also recommended that the Administration establish an interagency council to develop a consistent overall policy with respect to compensation to victims of accidents and crimes.

Speaking at a news conference at which the Commerce Department released an options paper on product liability and accident compensation issues, C. L. Haslam, General Counsel, said:

"A set-aside is an admittedly short-range solution to the high price of product liability insurance but we think it will be effective. It will lead to lower premiums by encouraging small businesses—which find product liability a heavy burden—to use higher deductibles and by stimulating greater efforts to reduce product liability loss. Furthermore, as another kind of product liability insurance it may also promote a more competitive rate structure."

Mr. Haslam emphasized that the Commerce Department recommendations are currently under review by the Executive

Branch and are being released to allow the public to comment.

Mr. Haslam also emphasized that the Treasury Department has primary responsibility within the Executive Branch for evaluating tax policy. Commerce has forwarded a model bill to Treasury in order to obtain its expert evaluation.

The Commerce Department options paper prepared under the guidance of Professor Victor E. Schwartz, Chairman, Working Task Force, Interagency Task Force on Product Liability, resulted from the findings of the Interagency Task Force on Product Liability which issued its final report in November 1977.

That study, Mr. Haslam said, "highlighted the *ad hoc* method by which the Federal Government tends to address issues relating to accident compensation and insurance. Problems relating to accident compensation are unlikely to fade away within the next few years—in point of fact, all signs suggest that they will grow worse.

As the options paper outlines, there is already a multiplicity of Federal legislative and research initiatives being undertaken in the area of accident compensation and insurance. While the Administration through the Office of Management and Budget makes every effort to coordinate these initiatives, there is a clear and present need to have more specialization and analysis on an ongoing basis."

The Interagency Task Force, in which the Commerce Department was the lead agency, identified insurer rate-making procedures, uncertainties in the tort system and unsafe manufacturing procedures as the chief causes of rising costs of product liability insurance.

With respect to these longer-term problems, the Commerce Department options paper called for:

A report including draft standards for rate-making and recommendations on the extend to which rate-making should be subject to Federal regulation.

Development of a model product liability law that could be implemented at the Federal level or utilized by the states;

Provision in Federal standards currently being prepared at the Department of Labor that Worker Compensation at increased rates be made the sole source of monetary compensation to workers injured in product-related work-place accidents. In light of the fact that most workers will receive benefits under such standards, the approach is intended to balance the interests of manufacturers, employers and workers while cutting costs of bringing product liability suits, and

A Federal program for more effective distribution of product risk information to manufacturers, distributors and retailers, as a means of helping industry. Much information available to Government agencies, the report said, is not "necessarily consolidated or shared with companies that might use it effectively."

In addition, the options papers recommended a study of a no-fault liability system for consumer products; legislation to facilitate formation of captive insurance agencies by trade association and small business groups and development of Federal administrative or legislative guidelines to help private insurers form voluntary insurance pools.

The Commerce Department's "Options Paper on Product Liability and Accident Insurance" is being printed in the *Federal Register* of April 6, 1978. Copies at 75 cents each may be obtained by writing the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

OPTIONS PAPER: SYNOPSIS OF RECOMMENDATIONS

*A. Short-term solutions*

1. The Internal Revenue Code should be amended to permit qualified businesses to set aside a portion of their pre-tax income to fund a specific reserve for self-insurance against product liability claims and related costs.

2. The Department recommends that the Administration not pursue either a federal insurance or a reinsurance program relating to product liability.

*B. Long-term solutions*

1. Prepare a report that would include draft product liability insurance regulation standards. The report should indicate whether and to what extent direct federal regulation of product liability insurance is warranted.

(a) Indicate what data should be supplied by product liability insurers.

(b) Indicate whether premiums should be based in part on an insured's past loss experience and/or implementation of product liability loss prevention techniques.

(c) Establish a mechanism that would assure that product liability insurance rates and premiums are fair, non-discriminatory, and reasonably related to product risk.

(d) Indicate how insurers should report profit and loss specifically for product liability.

(e) Indicate whether it is necessary to regulate insurers in regard to their providing loss prevention assistance to their insureds.

2. Draft a model product liability law that could be implemented at the federal level or utilized by the states.

3. Draft legislation for federal standards in the area of Worker Compensation should include a provision that would render Worker Compensation a sole source of monetary recovery for workers injured in product-related accidents.

4. A study should be conducted to determine whether a practical no-fault product liability system can be developed, in whole or in part, for consumer products.

5. A program should be developed whereby the Federal Government more effectively distributes product risk information to manufacturers, distributors, and retailers.

6. A special loan program that would permit qualified small businesses to obtain product liability loss prevention technical assistance.

7. Legislation should be drafted that would permit the formation of captive insurance companies in the area of product liability.

8. Administrative or legislative guidelines should be developed that would assist private insurers in the formation of voluntary insurance pools. Legislation that would require insurers to pool product liability insurer risks should not be developed at this time.

9. The Administration should establish an Interagency Council on Accident Compensation. The Council would have the initial responsibility for reviewing and coordinating federal initiatives in the area of accident compensation.

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A bill to amend the Internal Revenue Code of 1954 to provide for a deduction for certain amounts paid into a reserve for product liability losses and expenses, to provide a deduction for certain amounts paid to captive insurers, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

SEC. 1. This Act may be cited as the "Product Liability Self-Insurance Act of 1978".

SELF-INSURANCE FOR PRODUCT LIABILITY LOSSES

SEC. 2. Section 165 of the Internal Revenue Code of 1954 (the Code) (relating to losses) is amended by redesignating subsection (i) as (j) and by inserting after subsection (h) the following new subsection:

"(i) SELF-INSURANCE FOR PRODUCT LIABILITY LOSSES AND EXPENSES.—

"(1) GENERAL RULE.—In the case of a taxpayer engaged during the taxable year in a trade or business which involves the manufacture, importation, distribution, lease, or sale of a product with respect to which the taxpayer may incur any product liability, at the election of the taxpayer, there shall be allowed as a deduction under subsection (a)—

"(A) Amounts transferred by the taxpayer for such taxable year to his product liability loss reserve account, and

"(B) Amounts paid by the taxpayer for such taxable year to a captive insurer with respect to the product liability of the taxpayer.

"(2) DETERMINATION OF AMOUNT.—

"(A) For a taxpayer which qualifies as having a severe product liability insurance problem (as set forth in paragraph (11) below), the amount of the deduction allowed by paragraph (1) shall not exceed the lesser of—

"(i) Five percent of the gross receipts of the taxpayer for such taxable year from the manufacture, importation, distribution, lease, or sale of such product,

"(ii) the amount which, when added to the sum of the balance of the taxpayer's product liability loss reserve account and the net contributions of the taxpayer to his captive insurer, if any, equals 15 percent of the taxpayer's average yearly gross receipts from the manufacture, importation, distribution, or sale of such product during the base period, or

"(iii) $100,000.

"(B) For a taxpayer who does not qualify as having a severe product liability insurance problem, the amount of the deduction allowed by paragraph (1) shall not exceed the lesser of—

"(i) Two percent of the gross receipts of the taxpayer for such taxable year from the manufacture, importation, distribution, lease, or sale of such product,

"(ii) the amount which, when added to the sum of the balance of the product liability loss reserve account and the net contributions of the taxpayer to his captive insurer, if any, equals 10 percent of the taxpayer's average yearly gross receipts from the manufacture, importation, distribution, lease, or sale of such product during the base period, or

"(iii) $25,000.

"(C) For the purpose of paragraph (2), the term "base period" shall mean the shorter of:

"(i) the period during which the election under paragraph (1) continuously applies; or

"(ii) the five years ending in the taxable year for which the current deduction is taken.

"(3) DISALLOWANCE OF DEDUCTION FOR CERTAIN LOSSES.—In determining the amount of the deduction allowable for the taxable year under subsection (a), no deduction shall be allowed for any product liability loss paid or incurred by the taxpayer during the taxable year except to the extent that the aggregate amount of such losses during such year exceeds the sum of—

"(A) The amount in the product liability loss reserve account of the taxpayer at the beginning of such taxable year, plus

"(B) The aggregate amount of payments by the taxpayer to such account within the taxable year which are allowable as a deduction under paragraph (1).

"(4) USE OF FUNDS OF ACCOUNT FOR INAPPROPRIATE PURPOSE.—

"(A) IN GENERAL.—If any amount in a product liability loss reserve account is, during a taxable year, used for any purpose which is inconsistent with the provisions of paragraph (9) below—

"(i) an amount equal to the amount so used shall be included as taxable income (without regard to other income or deduc-

tions) to the taxpayer for the taxable year in which such use commences, and

"(ii) the liability of the taxpayer for the tax imposed by this chapter for such taxable year shall be increased by an amount equal to 50 percent of the amount so used.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to amounts paid out of any product liability loss reserve account not later than the last day prescribed by law (including extensions thereof) for filing the taxpayer's return with respect to the tax imposed by this chapter for the taxable year to the extent the amount of such payment is not more than the excess of—

"(i) the aggregate amount of payments by the taxpayer to such account for the taxable year, over

"(ii) the maximum amount of such payments which may be deducted under paragraph (2).

"(5) TIME WHEN PAYMENTS TO ACCOUNT DEEMED MADE.—For the purposes of this subsection, a taxpayer shall be deemed to have made a payment to his product liability loss reserve account on the last day of the preceding taxable year if the payment is made on account of such taxable year and not later than the last day prescribed by law (including extensions thereof) for filing the taxpayer's return with respect to the tax imposed by this chapter for such taxable year.

"(6) PAYMENTS TO ACCOUNT TO BE IN CASH OR CERTAIN OTHER ITEMS.—No deduction shall be allowed under paragraph (1) with respect to any payment to a taxpayer's product liability loss reserve account other than a payment in cash or in items in which the assets in said account may be invested under paragraph (10) below.

"(7) SPECIAL RULE FOR CONTROLLED GROUPS.—

"(A) IN GENERAL.—For the purpose of paragraph (2)—

"(i) In the case of any taxpayer who, during a calendar year, is a component member of a controlled group of corporations, only gross receipts properly attributable under section 482 to such taxpayer for such year shall be taken into account; and

"(ii) the aggregate deductions under this subsection taken by all of the component members of a controlled group of corporations for each taxable year shall be limited to the amount that would be permitted under paragraph (2) if all the component members of such group were considered to be a single taxpayer.

"(B) DEFINITION OF CONTROLLED GROUP.—For the purpose of subparagraph (A), the term 'controlled group of corporations' has the meaning given such term by paragraphs (1), (2), and (3) of subsection (a) of section 1563, except that the determination of whether a taxpayer is a component member of a controlled group of corporations at any time during a calendar year shall be made on December 31 of such year.

"(C) CONTROLLED GROUPS CONTAINING PERSONS OTHER THAN CORPORATIONS.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraphs (A) and (B) shall be applied to groups of taxpayers under common control where one or more of such taxpayers is not a corporation.

"(8) ELECTION AND DISSOLUTION OF ACCOUNT.

"(A) The Secretary shall prescribe by regulations—

"(i) the time and manner in which the election under paragraph (1) shall be made by a taxpayer; and

"(ii) the time, manner, and conditions under which a taxpayer may terminate his product liability loss reserve account, and the funds accumulated therein, if any, may be distributed to the taxpayer without being subject to the penalty described in paragraph (4).

"(B) The regulations prescribed by the Secretary regarding the election under paragraph (1) shall require the taxpayer to indicate whether he is electing to transfer all, or any portion, of the net income earned on amounts previously transferred to his product liability loss reserve account to that account. Net income so earned which the taxpayer does not elect to transfer to his product liability loss reserve account shall be withdrawn from that account without penalty under paragraph (4).

"(9) DEFINITIONS.—For purposes of this subsection—

"(A) PRODUCT LIABILITY.—The term 'product liability' includes liability for damages arising out of operations after the operation has been completed or abandoned and for damages arising out of physical injuries to persons or property attributable to negligence in, breach of warranty regarding, or defects in a product manufactured, imported, distributed, leased, or sold by the taxpayer.

"(B) PRODUCT LIABILITY LOSS.—The term 'product liability loss' means any loss attributable to the product liability of the taxpayer.

"(C) PRODUCT LIABILITY LOSS RESERVE ACCOUNT.—The term 'product liability loss reserve account' means any trust—

"(i) established in writing which is created or organized under the laws of the United States or of any State (including the District of Columbia) for the taxpayer;

"(ii) the trustee of which is a bank (as defined in section 581) or another person (other than the taxpayer or any component member of a controlled group of corporations, within the meaning of paragraph (7), of which the taxpayer is a component member) who demonstrates to the satisfaction of the Secretary that the manner in which that other person will administer the trust will be consistent with the purposes for which the trust is established;

"(iii) the exclusive purpose of which is to satisfy, in whole or in part, the product liability losses sustained by the taxpayer and the expenses incurred in the investigation, settlement, and opposition of any claims for compensation against the taxpayer with respect to his product liability, and to pay administrative and other incidental expenses of such trust in connection with the operation of the trust and the processing of claims against the taxpayer;

"(iv) the assets of which will not be commingled with any other property other than in a common trust fund and will only be invested as permitted in paragraph (10); and

"(v) the assets of which may not be borrowed, used as security for a loan, or otherwise used by the taxpayer for any purpose other than those described in subparagraph (9)(C)(iii).

"(D) CAPTIVE INSURER.—The term 'captive insurer' means any insurer wholly or partially owned, directly or indirectly, by the taxpayer which is licensed to provide product liability insurance to the taxpayer under the laws of a State of the United States.

"(E) NET CONTRIBUTIONS OF TAXPAYER TO CAPTIVE INSURER.—For the purpose of paragraph (2), the term 'net contributions of taxpayer to his captive insurer' shall mean the greater of: (i) the sum of all premiums paid by the taxpayer to his captive insurer for product liability insurance, less all amounts paid by his captive insurer for claims against the taxpayer for compensation with respect to the product liability of the taxpayer, or (ii) zero.

"(10) RESTRICTIONS ON INVESTMENT OF ASSETS.—Investment of the assets of a taxpayer's product liability loss reserve account shall be limited to—

"(A) public debt securities of the United States,

"(B) obligations of a State or local government which are not in default as to principal or interest, or

"(C) time or demand deposits in a bank (as defined in section 581) or an insured credit union (as defined in section 107(6) of the Federal Credit Union Act) located in the United States.

"(11) SEVERE PRODUCT LIABILITY INSURANCE PROBLEM.—For the purpose of paragraph (2), a taxpayer shall qualify as having a severe product liability insurance problem for a taxable year if, for such taxable year, either—

"(A) the taxpayer was unable to obtain a premium quotation for product liability insurance, with coverage of up to $1,000,000, from any insurer other than a captive insurer; or

"(B) the lowest insurance premium quotation for product liability insurance, with coverage of up to $1,000,000, obtained by the taxpayer was equal to more than 3 percent of the gross receipts of the taxpayer for such taxable year.

"(12) DEDUCTIBILITY OF AMOUNTS PAID TO CAPTIVE INSURER AS AN ORDINARY BUSINESS EXPENSE.—The deductibility, in whole or in part, of amounts paid by a taxpayer to a captive insurer for product liability insurance coverage under this subsection shall not affect the deductibility of such amounts under Section 162 (relating to ordinary and necessary business expenses), except that such amounts shall not be deducted more than once.

"(13) DISCHARGE OF INDEBTEDNESS OF TAXPAYER BY PRODUCT LIABILITY LOSS RESERVE.—For the purpose of Section 61 (relating to gross income), the payment by the trustee of a taxpayer's product liability loss reserve account of product liability losses sustained by the taxpayer, expenses incurred in the investigation, settlement, and opposition of any claims for compensation against the taxpayer with respect to his product liability, or other expenses permitted to be paid by the trustee of such account under subsection 165(1)(9), shall not be included in the gross income of the taxpayer.

ACCUMULATED EARNINGS TAX

SEC. 3. Section 537 of the Code (related to the accumulated earnings tax) is amended by redesignating paragraph (b)(4) as (b)(5) and by inserting after paragraph (b)(3) the following new paragraph:

"(b)(4) Amounts accumulated in a taxpayer's product liability loss reserve account and amounts paid by a taxpayer to his captive insurer for liability insurance shall be treated as amounts accumulated for the reasonably anticipated needs of the business of the taxpayer to the extent those amounts are deductible pursuant to Section 165(1). Amounts so accumulated or paid which are not deductible pursuant to Section 165(1) remain subject to the burden of proof set forth in Section 534.

SEC. 4. The amendments made by this Act apply to taxable years beginning after December 31, 1977.●

## SISTER HELEN FRANCES

● Mr. CHURCH. Mr. President, one of Idaho's most remarkable women, Sister Helen Frances, died recently in Lewiston.

Sister Helen Frances was the administrator of St. Joseph's Hospital in Lewiston. But she was known as one of the most influential leaders in Idaho medical circles for more than two decades. Her contributions to medical care in her home community and in the State at large were many, and were marked not only by great administrative skill, but by devotion and warmth.

The death of this great woman is a loss to all of Idaho.

I submit for the RECORD, an article from the April 3 issue of the Lewiston Morning Tribune.

ST. JOSEPH'S SISTER HELEN FRANCES DIES

(By Cassandra Tate)

Sister Helen Frances, administrator of St. Joseph's Hospital and a leader in Idaho medical circles for more than 20 years, died at 7:05 p.m. Sunday.

She died at age 67 in a room at the hospital she had helped forge into a multimillion dollar regional health care center, of the breast cancer she had battled for more than a year.

John Ernsdorff had been named acting administrator last month, but Sister Helen Frances continued working in an advisory role until the day before she died.

"When I was told I had cancer, I accepted it," she said in an interview in September. "And I thought, all right, other women have gone through it, why can't I? Why don't I accept it? And just keep on doing what I'm doing as long as I can?"

Ernsdorff, her associate administrator for many years, spoke for the hospital staff in expressing "a deep, personal sense of loss."

"She was a tremendous lady," he said. "She deserved and earned the respect of the entire medical community."

She had been hospitalized in December, but she spent more time in her office than in her hospital bed at first. Dr. Burton Stein, her longtime personal physician, said she often refused pain killers in order to keep her mind clear. When she could no longer walk down to her office, she insisted on being taken there in a wheelchair.

Work, she said often, is the best therapy.

She came to Lewiston as supervisor of orthopedic and pediatric nursing in 1957 and was appointed director of nursing services in 1958. She had served as administrator and president of the board of directors since 1966.

The hospital, operated by the Sisters of St. Joseph of Carondelet, employs about 350 and operates on an annual budget of $6 million. The administrator and members of the board are appointed by the order's provincial council in Los Angeles.

The council is not expected to name a replacement for Sister Helen Frances for three to six months. Ernsdorff will serve as administrator in the interim.

Sister Helen Frances was born Jan. 13, 1911 in Hancock, Mich., to Guido and Mabel Campioni and baptized as Constance Mary Campioni. She grew up in Hancock, attending parochial and public schools there. She completed nurses' training at St. Joseph's Hospital School of Nursing in Hancock in 1934.

She worked as a surgical nurse for an orthopedic surgeon in Hancock for 4½ years, until contracting tuberculosis. She spent three years in a tuberculosis hospital in Arizona. After her release, she worked as a private duty nurse for a short time and then she returned to the hospital—as an instructor in its school of nursing.

During the summers, she attended classes at Mount St. Mary's College in Los Angeles, graduating with a bachelor's degree in science in 1944. A short time later, she fulfilled a lifelong ambition by entering the order of the Sisters of St. Joseph.

Sister Helen Frances served as director of nursing at St. Mary's Hospital School of Nursing in Tucson, Ariz., for 19 years before being transferred to St. Joseph's Hospital in September of 1957.

She brought with her a master's degree in education, earned during summer schools at the University of Arizona.

She served on the board of dozens of various health care and civil groups, and helped organize a few of them. She inaugurated the Lewis-Clark State College nursing school. She established a program of periodic refresher classes for nurses in the Lewiston-Clarkston area. She served a five-year term as a director of the Lewiston Chamber of Commerce.

She was president-elect of the Idaho Hospital Association, a member of the American College of Hospital Administrators and a fellow in the American Academy of Medical Administrators.

The highlight of her professional life was the completion last year of a four-story new wing to the hospital complex. She had wanted that wing to include a cancer radiation therapy unit. That it did not was her biggest professional disappointment.

The hospital has applied to various state health planning agencies for permission to build such a unit. The plans calls for a $650,000 unit equipped with a $250,000 linear accelerator, operating on an annual budget of $180,000. It would be named after her.

Sister Helen Frances is survived by two brothers, Louis J. Campioni of Hancock and Paul J. Campioni of Huntington Park, Calif., and numerous nephews, nieces and grandnephews and grandnieces. Another brother, Joseph Campioni preceded her in death.

Funeral services are pending at Vassar-Rawls Funeral Home.

It was Sister Helen Frances' wish that any memorials in her honor be made to the Radiation Therapy Center Fund.●

## OVERLAPPING SENATE COMMITTEE JURISDICTIONS WITH RESPECT TO TAX SPENDING AND DIRECT SPENDING PROGRAMS

● Mr. KENNEDY. Mr. President, one of the most important but least understood aspects of Federal spending is the role of tax expenditures and their relationship to direct expenditures.

Both types of Federal spending deserve close scrutiny by Congress in this era of increasingly intense competition for scarce Federal budget dollars. Yet tax spending continues to receive far less rigorous examination than direct Federal spending, even though tax spending is simply another form of spending Federal dollars to achieve Federal goals.

An analysis of tax subsidies that I have prepared illustrates the serious overlap between tax-spending and direct-spending programs, and equally serious overlaps between the jurisdictions of the Senate committees handling the two types of Federal spending.

In fact, this analysis of tax subsidies demonstrates a "crazy quilt" pattern of Federal spending through the Internal Revenue Code, and wholesale intrusions by the tax-writing committees into the jurisdictions of other congressional committees.

The heart of the problem is the chaotic jurisdictional rules in the House and Senate that allow the tax-writing committees to legislate Federal tax-spending programs in areas traditionally within the expertise of other congressional committees. The result is that committees with well-developed legislative experience in critical areas like energy, housing, urban policy, education, and health care have no voice in the spending of tens of billions of Federal dollars in these areas by the Finance Committee in the Senate and the Ways and Means Committee in the House of Representatives.

The analysis lists 85 existing tax-spending programs, as identified by the Treasury Department and the congressional Joint Tax Committee. Under the analysis, each of the tax-spending programs is recast into an alternative form as a direct spending program. The result demonstrates that every Federal tax subsidy goal could also be achieved by a nontax approach involving grants, low-interest loans, loan guarantees, or other well-known types of Federal subsidies.

There is no mystery about tax spending. Once the complexities of the tax code are stripped away, tax subsidies become simply another way of spending Federal dollars.

Especially at this time of year, when millions of taxpayers are racing the deadline to file their tax returns, it is essential for Congress to resolve to do a better job of policing tax spending and justifying the ways in which the taxpayers' hard-earned tax dollars are being spent. Direct Federal spending is already on the griddle. It is time to subject tax spending to the same rigorous scrutiny that direct spending now receives.

The last of the big-time spenders in Congress are the tax spenders. Tax dollars are not "funny" dollars. They are real dollars that cost real taxpayers real money. It is ironic that so many in Congress who call themselves fiscal conservatives and who consistently vote against increased direct spending for basic Federal programs are so often among the first to propose costly new spending programs through the tax laws.

All tax-spending programs come under the sole jurisdiction of the Finance Committee in the Senate and the Ways and Means Committee in the House of Representatives. For each tax-spending program, the analysis shows the Senate committee that would have jurisdiction over the program if it were a direct subsidy.

For example, the analysis shows that in the Senate, with revenue figures based on fiscal year 1979:

The Finance Committee is running 33 different Federal spending programs for the Human Resources Committee, totaling $47.7 billion, and involving areas like health care, aid to education and old-age assistance.

It is running 14 spending programs for the Commerce Committee, totaling $42.4 billion, and including incentives areas like health care, aid to education for research and development, and for consumer credit.

It is also running 14 spending programs for the Banking Committee, totaling $22.6 billion, and ranging from incentives for housing construction and homeownership to subsidies for commercial banks, for U.S. savings bonds, and for State and local government bonds.

The current congressional controversy over tax credits for tuition costs in colleges and secondary schools is only the latest example of the overlap between

the Finance Committee and other committees of the Senate—in this case, the Human Resources Committee, which has traditional jurisdiction over Federal education policy. However, the current controversy is also the best example so far of the increasing awareness by Congress that tax credits are simply one form of Federal spending, and that alternative forms of Federal aid to education must also be considered.

The most costly single tax spending program is the $15 billion a year investment tax credit, which allows individuals and corporations to reduce their taxes by an amount equal to 10 percent of their annual purchase costs for business equipment and machinery. The analysis shows that this tax subsidy could be recast as a grant in the same amount, obtainable from the Department of Commerce.

The question is why this investment program should be run by the Internal Revenue Service, when it could just as easily be carried out by a Federal agency—the Commerce Department—with far greater experience in the area. The Commerce Department spending program would be no more bureaucratic than the tax spending program. In fact, it would be more efficient, since firms making equipment purchases could obtain their grants immediately from the Commerce Department, instead of waiting until their tax returns are filed with the IRS. The Commerce Department program would also be more equitable, since the 10-percent investment rebate would be available to all purchasers, not just those who happen to have enough tax liability to take full advantage of the tax credit.

These arbitrary limitations are among the most serious defects of tax spending programs. If Congress decides it wants a subsidy for business investment, the subsidy ought to be broadly available to all businesses, without the arbitrary limitations that are inherent in the Tax Code but that have nothing to do with the purpose of the subsidy. By using tax credits to subsidize investment, the subsidy is irrationally being denied to thousands of firms that purchase equipment each year but fail to meet the irrelevant tests of the tax laws.

Mr. President, the current analysis is not intended as an attack on the Ways and Means Committee or the Finance Committee, but as a plea to Congress to understand the problem of tax spending and to put its houses in order, so that committees with expertise in particular areas will have a role in all Federal spending programs in these areas.

It is humanly impossible for the 18 members of the Finance Committee and the 37 members of the Ways and Means Committee to be Renaissance men and women in employment, commerce, energy, health, education, housing, banking, State and local finance, transportation, investment, the cities, shipping, agriculture, foreign trade, life insurance, the environment, military personnel, veterans, the elderly, the handicapped, and all the other areas in which tax spending programs are now being used and in which expertise in the areas is obviously required.

The problem is deeply ingrained in the history of the income tax laws and the failure of both Congress and the executive branch until recent years to understand that tax subsidies have little or nothing to do with the proper role of the Internal Revenue Code. Such subsidies are simply Federal spending programs, carried out through the tax laws and designed to encourage various social and economic goals of the Federal Government.

In each case, tax subsidies can be transposed into direct spending programs designed to achieve the same goals, such as encouraging home ownership, providing aid to charities, stimulating business investment, or promoting the production of oil and gas. The fact that these Federal subsidies are now designed as tax spending programs is a result of various factors, including the aggressive development of tax spending programs by the Finance Committee and the Ways and Means Committee, the adeptness of lobbyists and special interest groups in drilling new loopholes into the Internal Revenue Code, and the failure of other Senate committees to undertake adequate oversight responsibility over all types of Federal spending in their traditional areas of jurisdiction.

The analysis could also be used in reverse. Direct spending programs now within the jurisdiction of various congressional committees could be recast as tax spending programs within the jurisdiction of the Ways and Means Committee and the Finance Committee. In that case, the other congressional committees could be abolished, and we could all become members of the tax-writing committees.

The three basic questions in each case are whether a Federal subsidy is needed at all, which form of subsidy should be used, and whether the benefits of the subsidy are fairly distributed.

The description of the tax spending programs illustrates the fact that many of the programs are ostensibly for worthwhile goals that should be supported by the Federal Government. The problem, however, is that these same goals are also being addressed by other programs fashioned by other congressional committees. At best, in many cases, the tax spending programs are duplicative of other efforts and, therefore, wasteful of Federal dollars. At worst, the tax spending programs may be diametrically opposed to the objectives sought in direct spending programs. As a result, the fact that a tax-spending program has a useful goal tells nothing about whether the tax program is needed, is equitable and efficient, and is coordinated properly with other programs.

The congressional committee system works much more effectively in answering these questions of need, program design, and equity in the case of direct spending programs than it does in the case of tax-spending programs. In both the Senate and the House, direct spending programs must survive the scrutiny of two committees—the authorizing committee with jurisdiction to propose the subsidy, and the Appropriations Committee with jurisdiction to fund the program in light of competing demands for Federal dollars.

In the case of tax spending, however, there is no second committee. The Ways and Means Committee and the Finance Committee are both the "proposing" and "disposing" committees in their respective Houses. Since tax spending is not part of the appropriations process, the tax-writing committees act as both judge and jury over tax-spending programs, and no coordination with other spending programs is achieved.

In November 1977, I introduced a Senate resolution, Senate Resolution 326, to require tax spending bills reported by the Finance Committee to be referred for a 2-week period to the Senate Appropriations Committee and to the Senate authorizing committee with jurisdiction over the subject matter. In this way, Senate committees with experience in areas for which tax spending is proposed will have the opportunity to review the proposals before they are sent to the full Senate. Senate Resolution 326, which is cosponsored by Senators HOLLINGS, ANDERSON, and FORD, is now pending in the Senate Rules Committee.

Mr. President, tax spending programs in fiscal year 1979, which begins October 1, 1978, will total $136 billion, or 27 percent of the $500 billion in direct spending proposed by President Carter in his January budget message to Congress. In other words, the real Federal spending level for fiscal year 1979 is actually $636 billion, with $136 billion of that total representing Federal spending through the Internal Revenue Code. That amount is far too large for Congress to tolerate the ineffective review procedures that have governed such spending for so long.

Mr. President, I ask that the text of Senate Resolution 326 may be printed in the RECORD. I also ask that two tables may be printed in the RECORD. The first table describes the 85 current Federal tax spending programs under the jurisdiction of the Senate Finance Committee and shows how they can be recast as direct spending programs under the jurisdiction of other Senate committees. The second table groups the tax spending programs according to the authorizing committees of the Senate which would have jurisdiction over the counterpart direct spending programs.

The material follows:

S. RES. 326

*Resolved,* That rule XXVI of the Standing Rules of the Senate is amended by adding at the end thereof the following new paragraph:

"4. (a) Whenever the Committee on Finance reports a bill or joint resolution which, as reported, contains or extends one or more tax expenditure provisions, or whenever an amendment which contains or extends one or more tax expenditure provisions is proposed by floor amendment on behalf of, at the direction of, or with the approval of the Committee on Finance, such bill or joint resolution or such amendment shall be referred to—

"(1) the Committee on Appropriations, for consideration of the tax expenditure provisions contained or extended in such bill or joint resolution or such amendment; and

"(2) each other committee of the Senate which has legislative jurisdiction over the subject matter of any tax expenditure provi-

sion contained or extended in such bill or joint resolution or such amendment, for consideration of such tax expenditure provision.

"(b) Each committee to which a bill or joint resolution or an amendment is referred under subparagraph (a), shall report it to the Senate, together with its recommendations, within 14 calendar days (or such lesser number of days as the Senate may order) after the day on which such bill or joint resolution or such amendment is referred to it. In the event that any such committee fails to report such bill or joint resolution or such amendment within the specified period, it shall automatically be discharged from further consideration of such bill or joint resolution or such amendment.

"(c) For purposes of this paragraph, the term 'tax expenditure provision' means any provision of the Internal Revenue Code of 1954, or of any other law, which allows a special exclusion, exemption, or deduction in determining liability for any tax or which provides a special credit against any tax, a preferential rate of tax, or a deferral of tax liability.".

TABLE 1.—OVERLAPPING SENATE COMMITTEE JURISDICTION BETWEEN TAX SPENDING PROGRAMS AND DIRECT SPENDING PROGRAMS

| Tax spending program | Budget function | Committee with jurisdiction over tax spending program | Tax spending program recast as direct spending program | Committee with authorizing jurisdiction over direct spending program | Committee with appropriation jurisdiction over direct spending program | Annual cost of tax spending program fiscal year 1979 (millions) |
|---|---|---|---|---|---|---|
| 1. Exclusion from income of Armed Forces personnel of: in-kind benefits (quarters, meals); cash allowances for such purposes; combat pay; etc. | National defense | Finance Committee | Increased pay by Department of Defense for Armed Forces personnel to defray such costs. | Armed Services Committee. | Appropriations Committee | $1,370 |
| 2. Exclusion from income of disability pensions for Armed Forces personnel. | do | do | Increased disability pensions by Department of Defense for armed services personnel. | do | do | 120 |
| 3. Exclusion from income of certain income earned abroad by U.S. citizens. | International affairs | do | Grants by Department of Commerce to firms to provide additional compensation of U.S. employees working abroad. | Banking, Housing, and Urban Affairs Committee. | do | 385 |
| 4. Deferral of tax on income earned from exports by domestic international sales corporations (DICS). | do | do | Interest-free loans by Department of Commerce to firms to promote exports. | do | do | 1,335 |
| 5. Deferral of tax on income earned by foreign subsidiaries of U.S. multinational corporations. | do | do | Interest-free loans by Department of Commerce to provide financial assistance to U.S. corporations that build plants and conduct operations overseas. | do | do | 665 |
| 6. Special rate for U.S. corporations operating solely in the Western Hemisphere. | do | do | Grants by Department of Commerce to provide financial assistance to U.S. corporations that conduct operations in the Western Hemisphere. | do | do | 15 |
| 7. Immediate deduction, rather than amortization, of research and development costs. | General science, space, and technology. | do | Interest-free loans by Department of Commerce to promote research and development. | Commerce, Science, and Transportation Committee. | do | 1,550 |
| 8. Immediate deduction, rather than amortization, of intangible costs of exploration, drilling and development. | Energy | do | Interest-free loans by Department of Energy to encourage discovery of oil and gas and other resources. | Energy and Natural Resources Committee. | do | 1,265 |
| 9. Percentage depletion allowance for production of oil and gas and other minerals. | do | do | Grants by Department of Energy to encourage production of oil and gas and other minerals. | do | do | 1,580 |
| 10. Capital gains treatment of royalties on coal. | do | do | Grants by Department of Energy to encourage coal production. | do | do | 75 |
| 11. Exclusion from income of interest on State and local government pollution control bonds. | Natural resources and environment. | do | Interest subsidy by Environmental Protection Agency for State and local pollution control bonds. | Environment and Public Works Committee. | do | 395 |
| 12. Exclusion from income of payments to public utilities for the construction of water or sewage disposal facilities. | do | do | Interest-free loans by Environmental Protection Agency to public utilities to construct water or sewage disposal facilities. | do | do | 10 |
| 13. 5-yr amortization of pollution control facilities. | do | do | Interest-free loans by Environmental Protection Agency for construction of pollution control facilities. | do | do | −45 |
| 14. 5-yr amortization, accelerated depreciation, and charitable deductions for preservation of historic structures. | do | do | Interest-free loans and matching grants by Department of Interior for preservation of historic structures. | Energy and Natural Resources Committee. | do | 10 |
| 15. Capital gains treatment of timber income. | do | do | Grants by Department of Agriculture for timber production and conservation. | Agriculture, Nutrition, and Forestry Committee. | do | 295 |
| 16. Capital gains treatment of royalties on iron ore. | do | do | Grants by Department of Interior to encourage production of iron ore. | Energy and Natural Resources Committee. | do | 20 |
| 17. Cash method of accounting for farmers, and immediate deduction, rather than amortization, for certain conservation costs. | Agriculture | do | Interest-free loans by Department of Agriculture for farmers. | Agriculture, Nutrition, and Forestry Committee. | do | 535 |
| 18. Capital gains, rather than ordinary income, treatment of sale of farm assets. | do | do | Grants by Department of Agriculture for farmers. | do | do | 375 |
| 19. Deduction for noncash patronage dividends and other items of farm cooperatives. | do | do | Grants by Department of Agriculture to encourage farm cooperatives. | do | do | 340 |
| 20. Exclusion from income of $100 ($200 on joint return) of dividends received from domestic corporations. | Commerce and housing credit. | do | Grants by Department of Commerce to encourage purchase of dividend-paying corporate stock. | Commerce, Science and Transportation Committee. | do | 505 |
| 21. Exclusion from income of interest on State and local industrial development bonds. | do | do | Interest subsidies by Department of Commerce to private industry for industrial construction. | do | do | 405 |
| 22. Exemption of credit union income | do | do | Grants by Department of Commerce to credit unions to encourage savings. | Banking, Housing and Urban Affairs Committee. | do | 90 |
| 23. Bad debt deductions of banks and other financial institutions in excess of actual losses. | do | do | Grants by Department of Commerce to assist banks and other financial institutions. | do | do | 790 |
| 24. Homeowner's deduction for mortgage interest. | do | do | Matching grants by Department of Housing and Urban Development to encourage residential construction and home ownership. | do | do | 5,530 |
| 25. Homeowner's deduction for property taxes. | do | do | Matching grants by Department of Housing and Urban Development to encourage home ownership and for aid to State and local governments. | do | do | 5,180 |

TABLE 1.—OVERLAPPING SENATE COMMITTEE JURISDICTION BETWEEN TAX SPENDING PROGRAMS AND DIRECT SPENDING PROGRAMS—Continued

| Tax spending program | Budget function | Committee with jurisdiction over tax spending program | Tax spending program recast as direct spending program | Committee with authorizing jurisdiction over direct spending program | Committee with appropriation jurisdiction over direct spending program | Annual cost of tax spending program fiscal year 1979 (millions) |
|---|---|---|---|---|---|---|
| 26. Consumer's deduction for interest on credit purchases. | do | do | Grants by Department of Commerce to encourage consumer purchases. | Commerce, Science and Transportation Committee. | do | $2,350 |
| 27. Immediate deduction, rather than amortization, of construction period interest and taxes. | do | do | Interest-free loans by Department of Housing and Urban Development to encourage construction. | Banking, Housing and Urban Affairs Committee. | do | 615 |
| 28. Excess 1st year depreciation on small business property. | do | do | Interest-free loans by Small Business Administration to encourage investment by small business. | Small Business Committee. | do | 205 |
| 29. Accelerated depreciation on rental housing. | do | do | Interest-free loans by Department of Housing and Urban Development to encourage construction of rental housing. | Banking, Housing, and Urban Affairs Committee. | do | 360 |
| 30. Accelerated depreciation on buildings other than rental housing. | do | do | Interest-free loans by Department of Commerce to encourage nonresidential construction. | Commerce, Science, and Transportation Committee. | do | 245 |
| 31. Asset depreciation range (ADR) method of accelerated depreciation. | do | do | Interest-free loans by Department of Commerce to encourage purchase of business assets. | do | do | 2,775 |
| 32. Capital gains treatment of income from sale of stock and other assets (other than farming, timber, iron ore, and coal). | do | do | Grants by Department of Commerce to encourage investment in stock and other assets. | do | do | 8,565 |
| 33. Deferral of capital gains on the sale of a residence, when a new residence is purchased. | do | do | Interest-free loans by Department of Housing and Urban development to encourage investment in homes. | Banking, Housing, and Urban Affairs Committee. | do | 980 |
| 34. Nontaxation of capital gains at death. | do | do | Grants by Department of Commerce to encourage investment in stock and other assets. | Commerce, Science and Transportation Committee. | do | 8,975 |
| 35. Corporate surtax exemption (lower tax rates on the 1st $50,000 of corporate income). | do | do | Grants by Small Business Administration to assist small business corporations. | Small Business Committee. | do | 3,540 |
| 36. Investment tax credit (10 percent credit for investment in equipment and machinery). | do | do | Grants by Department of Commerce equal to 10 percent of purchase price for equipment and machinery. | Commerce, Science and Transportation Committee. | do | 15,045 |
| 37. Deduction for nonbusiness State and local gasoline taxes. | Transportation | do | Grants by Department of Transportation to State and local governments to defray highway maintenance costs, and to reduce the cost of gasoline to drivers. | do | do | 840 |
| 38. 5-yr amortization of railroad rolling stock. | do | do | Interest-free loans by Department of Transportation to modernize railroad equipment and reduce freight car shortages. | do | do | —40 |
| 39. Deferral of tax on income used for construction of new vessels by shipping companies. | do | do | Interest-free loans by Maritime Administration in Department of Commerce for ship construction. | do | do | 85 |
| 40. 5-yr amortization for expenses of low-income housing rehabilitation. | Community and regional development. | do | Interest-free loans by Department of Housing and Urban Development for low-income housing rehabilitation. | Banking, Housing and Urban Affairs Committee. | do | 10 |
| 41. Exclusion of income from scholarships and fellowships. | Education, training, employment and social services. | do | Grants by Department of Health, Education, and Welfare to supplement scholarships and fellowships. | Human Resources Committee. | do | 330 |
| 42. Parents' $750 exemption for students age 19 or over. | do | do | Grants by Department of Health, Education, and Welfare for aid to parents with children in college. | do | do | 790 |
| 43. Exclusion from income of meals and lodging provided employees (other than military). | do | do | Grants by Department of Health, Education, and Welfare to defray employee costs for meals and lodging. | do | do | 325 |
| 44. Exclusion from income of contributions to prepaid legal services plans. | do | do | Grants by Legal Services Corporation to encourage prepaid legal service plans. | do | do | 15 |
| 45. 1 percent investment credit for employee stock ownership plans (ESOP's). | do | do | Grants by Department of Commerce to firms to encourage employee investment in employer's stock. | Commerce, Science, and Transportation Committee. | do | 305 |
| 46. Deduction for contributions to educational institutions. | do | do | Matching grants by Department of Health, Education, and Welfare for contributions to educational institutions. | Human Resources Committee. | do | 930 |
| 47. Deduction for contributions to noneducational and nonhealth institutions. | do | do | Matching grants by Department of Health, Education, and Welfare for contributions to noneducational and nonhealth institutions. | do | do | 5,203 |
| 48. Maximum 50 percent tax on earned income. | do | do | Grants by Department of Commerce to high income executives, doctors, lawyers, and others, in lieu of other subsidies. | Commerce, Science. and Transportation Committee. | do | 800 |
| 49. Credit for expense of child care and dependent care. | do | do | Grants by Department of Health, Education, and Welfare for child care and dependent care. | Human Resources Committee. | do | 575 |
| 50. Credit for employment of AFDC recipients and public assistance recipients under work-incentive programs. | do | do | Grants by Department of Health, Education, and Welfare to encourage firms to hire welfare recipients. | do | do | 20 |
| 51. New jobs credit tax credit | do | do | Grants by Small Business Administration to encourage small businesses to hire additional employees. | Small Business Committee. | do | 1,895 |
| 52. Exclusion from income of employer contributions for health insurance premiums and health care. | Health | do | Grants by Department of Health, Education, and Welfare to defray cost of health care. | Human Resources Committee. | do | 7,225 |
| 53. Deduction for medical expenses | do | do | do | do | do | 2,655 |

TABLE 1.—OVERLAPPING SENATE COMMITTEE JURISDICTION BETWEEN TAX SPENDING PROGRAMS AND DIRECT SPENDING PROGRAMS—Continued

| Tax spending program | Budget function | Committee with jurisdiction over tax spending program | Tax spending program recast as direct spending program | Committee with authorizing jurisdiction over direct spending program | Committee with appropriation jurisdiction over direct spending program | Annual cost of tax spending program fiscal year 1979 (millions) |
|---|---|---|---|---|---|---|
| 54. Immediate deduction, rather than amortization, of expenses of removing architectural and transportation barriers to the handicapped. | do | do | Interest-free loans by Department of Health, Education, and Welfare to defray cost of removing architectural and transportation barriers to the handicapped. | do | do | $10 |
| 55. Deduction for contributions to health institutions. | do | do | Matching grants by Department of Health, Education, and Welfare for contributions to health institutions. | do | do | 1,145 |
| 56. Exclusion from income of social security benefits for disabled persons. | Income security | do | Increased disability benefits paid by Social Security Administration. | do | do | 605 |
| 57. Exclusion from income of social security benefits for retired workers. | do | do | Increased retirement benefits paid by Social Security Administration. | do | do | 4,700 |
| 58. Exclusion from income of social security benefits for dependents and survivors. | do | do | Increased retirement benefits for dependents and survivors paid by Social Security Administration. | do | do | 1,040 |
| 59. Exclusion from income of railroad retirement benefits. | do | do | Increased railroad benefits paid by Railroad Retirement Board. | do | do | 280 |
| 60. Exclusion from income of workman's compensation benefits. | do | do | Supplements paid by Department of Labor for State workman's compensation benefits. | do | do | 970 |
| 61. Exclusion from income of special benefits for disabled coal miners. | do | do | Increased benefits paid by Department of Health, Education, and Welfare for disabled coal miners. | do | do | 50 |
| 62. Exclusion from income of unemployment insurance benefits. | do | do | Supplements paid by Department of Labor for unemployment insurance benefits. | do | Human Resources Committee. | 1,135 |
| 63. Exclusion from income of public assistance benefits. | do | do | Supplements paid by Department of Health, Education, and Welfare for public assistance benefits. | do | Appropriations Committee. | 360 |
| 64. Exclusion from income of sick pay | do | do | Grants by Department of Health, Education, and Welfare to provide benefits for sick employees. | do | do | 60 |
| 65. Exclusion from current income of contributions by employers to pension and profit-sharing plans. | do | do | Interest-free loans by Department of Health, Education, and Welfare to employees to encourage savings for retirement. | do | do | 11,33 |
| 66. Exclusion from current income of contributions to pension plans for self-employed persons or through individual retirement account (IRA) plans. | do | do | do | do | do | 1,920 |
| 67. Exclusion from income of employer contributions for group term life insurance. | do | do | Grants by Department of Health, Education, and Welfare to employees to reduce the cost of life insurance. | do | do | 955 |
| 68. Exclusion from income of employer contributions for accident and disability insurance. | do | do | Grants by Department of Health, Education, and Welfare to employers to reduce the cost of accident and disability insurance. | do | do | 80 |
| 69. Exclusion from income of income from trusts to finance supplementary unemployment benefits. | do | do | Grants by Department of Health, Education, and Welfare to employees to reduce the cost of supplementary unemployment benefits. | do | do | 10 |
| 70. Exclusion from income of interest on life insurance savings. | do | do | Grants by Department of Health, Education, and Welfare to individuals to encourage savings. | do | do | 2,225 |
| 71. Exclusion from income of capital gains on home sales for persons age 65 and over. | do | do | Grants by Department of Health, Education, and Welfare for elderly homeowners who sell their homes. | do | do | 70 |
| 72. Additional $750 exemption for persons age 65 and older. | do | do | Grants by Department of Health, Education, and Welfare for persons age 65 or older. | do | do | 1,215 |
| 73. Additional $750 exemption for blind persons. | do | do | Grants by Department of Health, Education, and Welfare for blind persons. | do | do | 20 |
| 74. Deduction for personal casualty losses over $100. | do | do | Grants by Small Business Administration to provide relief for casualty losses. | Small Business Committee. | do | 395 |
| 75. Tax credit for the elderly | do | do | Grants by Department of Health, Education, and Welfare for elderly persons with retirement incomes. | Human Resources Committee. | do | 255 |
| 76. Nonrefundable tax credit for earned income of low income workers. | do | do | Grants by Department of Health, Education, and Welfare for low income workers. | do | do | 265 |
| 77. Refundable tax credit for earned income of low income workers. | do | do | do | do | do | 900 |
| 78. Exclusion from income of veterans disability compensation. | Veterans benefits and services. | do | Increased veterans disability compensation paid by Veterans' Administration. | Veterans' Affairs Committee. | do | 830 |
| 79. Exclusion from income of veterans pensions. | do | do | Increased veterans benefits paid by Veterans' Administration. | do | do | 40 |
| 80. Exclusion from income of veterans GI bill benefits. | do | do | Increased veterans GI bill benefits paid by Veterans' Administration. | do | do | 170 |
| 81. Tax credit or deduction for political contributions. | General government | do | Matching grants by Federal Election Commission to political candidates. | Rules and Administration Committee. | do | 75 |
| 82. Exclusion from income of interest on general purpose State and local government bonds. | General purpose fiscal assistance. | do | Optional interest subsidy by Department of Treasury for State and local government bonds. | Banking, Housing, and Urban Affairs Committee. | do | 6,015 |
| 83. Deduction for State and local sales, income and personal property taxes. | do | do | Increased revenue sharing grants by Department of Treasury to State and local governments. | Governmental Affairs Committee. | do | 9,440 |

TABLE 1.—OVERLAPPING SENATE COMMITTEE JURISDICTION BETWEEN TAX SPENDING PROGRAMS AND DIRECT SPENDING PROGRAMS—Continued

| Tax spending program | Budget function | Committee with jurisdiction over tax spending program | Tax spending program recast as direct spending program | Committee with authorizing jurisdiction over direct spending program | Committee with appropriation jurisdiction over direct spending program | Annual cost of tax spending program fiscal year 1979 (millions) |
|---|---|---|---|---|---|---|
| 84. Tax credit for corporations doing business in U.S. possessions. | do | do | Grants by Department of Commerce to firms doing business in U.S. possessions. | Energy and Natural Resources Committee. | do | $520 |
| 85. Deferral of tax on interest on savings bonds. | Interest | do | Higher interest rate paid by Department of Treasury on savings bonds. | Banking, Housing, and Urban Affairs Committee. | do | 670 |

TABLE II—*Senate committees with jurisdictions overlapped by tax spending programs**

(Annual cost of tax spending program fiscal year 1979)

[In millions]

Agriculture, Nutrition, and Forestry Committee:

| | |
|---|---|
| 15. Capital gains treatment of timber income | $295 |
| 17. Cash method of accounting for farmers, and immediate deduction, rather than amortization, for certain conservation costs | 535 |
| 18. Capital gains, rather than ordinary income, treatment of sales of farm assets | 375 |
| 19. Deduction for noncash patronage dividends and other items of farm cooperatives | 340 |
| Total | 1,545 |

Armed Services Committee:

| | |
|---|---|
| 1. Exclusion from income of Armed Forces personnel of: in-kind benefits (quarters, meals); cash allowances for such purposes; combat pay; etc | 1,370 |
| 2. Exclusion from income of disability pensions for Armed Forces personnel | 120 |
| Total | 1,490 |

Banking, Housing, and Urban Affairs Committee:

| | |
|---|---|
| 3. Exclusion from income of certain income earned abroad by U.S. citizens | 385 |
| 4. Deferral of tax on income earned from exports by Domestic International Sales Corporations (DISC) | 1,335 |
| 5. Deferral of tax on income earned by foreign subsidiaries of U.S. multinational corporations | 665 |
| 6. Special deduction for U.S. corporations operating solely in the Western Hemisphere | 15 |
| 22. Exemption of credit union income | 90 |
| 23. Bad debt deductions of banks and other financial institutions in excess of actual losses | 790 |
| 24. Homeowner's deduction for mortgage interest | 5,530 |
| 25. Homeowner's deduction for property taxes | 5,180 |
| 27. Immediate deduction, rather than amortization, of construction period interest and taxes | 615 |
| 29. Accelerated depreciation on rental housing | 360 |
| 33. Deferral of capital gains on the sale of a residence, when a new residence is purchased | 980 |
| 40. Five-year amortization for expenses of housing rehabilitation | 10 |
| 82. Exclusion from income of interest on general purpose state and local government bonds | 6,015 |
| 85. Deferral of tax on interest on savings bonds | 670 |
| Total | 22,640 |

Commerce, Science and Transportation Committee:

| | |
|---|---|
| 7. Immediate deduction, rather than amortization, of research and development costs | 1,550 |
| 20. Exclusion from income of $100 ($200 on joint return) of dividends received from domestic corporations | 505 |
| 21. Exclusion from income of interest on state and local industrial development bonds | 405 |
| 26. Consumer's deduction for interest on credit purchases | 2,350 |
| 30. Accelerated depreciation on buildings other than rental housing | 245 |
| 31. Asset depreciation range (ADR) method of accelerated depreciation by reducing useful life of assets | 2,775 |
| 32. Capital gains treatment of income from sale of stock and other assets (other than farming, timber, iron ore and coal) | 8,565 |
| 34. Nontaxation of capital gains at death | 8,975 |
| 36. Investment tax credit (10-percent credit for investment in equipment and machinery) | 15,045 |
| 37. Deduction for nonbusiness state and local gasoline taxes | 840 |
| 38. Five-year amortization of railroad rolling stock | —40 |
| 39. Deferral of tax on income used for construction of new vessels by shipping companies | 85 |
| 45 One-percent investment credit for employee stock ownership plans (ESOP's) | 305 |
| 48. Maximum 50-percent tax on earned income | 800 |
| Total | 42,405 |

Energy and Natural Resource Committee:

| | |
|---|---|
| 8. Immediate deduction, rather than amortization, of intangible costs of exploration, drilling and development | 1,265 |
| 9. Percentage depletion allowance for production of oil and gas and other minerals | 1,580 |
| 10. Capital gains treatment of royalties on coal | 75 |
| 14. Five-year amortization, accelerated depreciation, and charitable deductions for preservation of historic structures | 10 |
| 16. Capital gains treatment of royalties on iron ore | 20 |
| 84. Tax credit for corporations doing business in U.S. possessions | 520 |
| Total | 3,470 |

Environment and Public Works Committee:

| | |
|---|---|
| 11. Exclusion from income of interest on State and local government pollution control bonds | 395 |
| 12. Exclusion from income of payments to public utilities for the construction of water or sewage disposal of facilities | 10 |
| 13. Five-year amortization of pollution control facilities | —45 |
| Total | 360 |

Governmental Affairs Committee:

| | |
|---|---|
| 83. Deduction for State and local sales, income and personal property taxes | 9,440 |

Human Resources Committee:

| | |
|---|---|
| 41. Exclusion of income from scholarships and fellowships | 330 |
| 42. Parents' $750 exemption for students age 19 and over | 790 |
| 43. Exclusion from income of meals and lodging provided employees (other than military) | 325 |
| 44. Exclusion from income of contributions to prepaid legal services plans | 15 |
| 46. Deduction for contributions to educational institutions | 930 |
| 47. Deduction for contributions to noneducational and nonhealth institutions | 5,205 |
| 49. Credit for expense of child care and dependent care | 575 |
| 50. Credit for employment of AFDC recipients and public assistance recipients under work-incentive programs | 20 |
| 52. Exclusion from income of employer contributions for health insurance premiums and health care | 7,225 |
| 53. Deduction for medical expenses | 2,655 |
| 54. Immediate deduction, rather than amortization, of expenses of removing architectural and transportation barriers to the handicapped | 10 |
| 55. Deduction for contributions to health institutions | 1,145 |
| 56. Exclusion from income of social security benefits for disabled persons | 605 |
| 57. Exclusion from income of social security benefits for retired workers | 4,700 |
| 58. Exclusion from income of social security benefits for dependents and survivors | 1,040 |
| 59. Exclusion from income of railroad retirement benefits | 280 |
| 60. Exclusion from income of workman's compensation benefits | 970 |
| 61. Exclusion from income of special benefits for disabled coal miners | 50 |
| 62. Exclusion from income of unemployment insurance benefits | 1,135 |
| 63. Exclusion from income of public assistance benefits | 360 |
| 64. Exclusion from income of sick pay | 60 |

*This table groups the tax spending programs in Table I according to the Senate committees that would have authorizing jurisdiction if the tax spending programs were recast as direct spending programs. The numbers in the left hand margin identify the tax spending programs in Table I.

TABLE II—*Senate committees with jurisdictions overlapping by tax spending programs**—Continued

(Annual cost of tax spending program fiscal year 1979)

[In millions]

| | |
|---|---|
| 65. Exclusion from income contributions by employers to pension and profit-sharing plans | $11,260 |
| 66. Exclusion from income of contributions to pension plans for self-employed persons or through individual retirement account (IRA) plans | 1,920 |
| 67. Exclusion from income of employer contributions for group term life insurance | 955 |
| 68. Exclusion from income of employer contributions for accident and disability insurance | 80 |
| 69. Exclusion from income of income from trusts to finance supplementary unemployment benefits | 10 |
| 70. Exclusion from income of interest on life insurance savings | 2,225 |
| 71. Exclusion from income of capital gains on home sales for persons age 65 and over | 70 |
| 72. Additional $750 exemption for persons age 65 and older | 1,215 |
| 73. Additional $750 exemption for blind persons | 20 |
| 75. Tax credit for the elderly | 255 |
| 76. Non-refundable tax credit for earned income of low income workers | 265 |
| 77. Refundable tax credit for earned income of low income workers | 900 |
| Total | 47,750 |
| Rules and Administration Committee: | |
| 81. Tax credit or deduction for political contributions | 75 |
| Small Business Committee: | |
| 28. Excess first year depreciation on small business property | 205 |
| 35. Corporate surtax exemption (lower tax rates on the first $50,000 of corporate income) | 3,540 |
| 51. New jobs tax credit | 1,895 |
| 74. Deduction for casualty losses over $100 | 395 |
| Total | 6,035 |
| Veterans' Affairs Committee: | |
| 78. Exclusion from income of veterans disability compensation | 830 |
| 79. Exclusion from income of veterans pensions | 40 |
| 80. Exclusion from income of veterans GI bill benefits | 170 |
| Total | 1,040 |

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## ORDER FOR RECOGNITION OF MR. MORGAN ON WEDNESDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order that was previously entered for tomorrow for the recognition of the distinguished Senator from North Carolina (Mr. MORGAN) be vitiated and that it be restored for the following day, Wednesday, immediately after the prayer.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ATLANTA CONSTITUTION WRITER, GENE THARPE, ANALYZES COAL STRIKE

Mr. HELMS. Mr. President, as in legislative session, the so-called labor reform bill which may be considered by the Senate in the coming months has always enjoyed the support of President Carter and his administration. However, in this matter—as in so many other matters of late, such as the giveaway of the Panama Canal and opposition to tuition tax credit legislation—the administration's position seems to be out of touch with the views of the American people.

There is little doubt that the majority of the American people oppose the granting of enormous new power to the big labor bosses. Indeed, surveys show that even the majority of union members believe that union leaders have too much rather than too little power.

If there was any doubt, the recent coal strike has resolved that doubt in the minds of many Americans. That strike brought home once again just how devastating the misuse of union power can be and how many innocent persons suffer in its wake. Abusive union power has largely contributed to the erosion of industrial power in the Northeast and Midwest. Our national economy cannot afford to have this unchecked power unleashed to stifle the budding industrial development of the South and West.

It is noteworthy, therefore, that an article appearing in a Georgia newspaper, the Atlanta Constitution, grasps the essence of what is happening: That the coal strike is but a harbinger of things to come if this dangerous so-called labor reform bill should be enacted into law.

Mr. President, I ask unanimous consent that an article entitled "Thanks, Dear Coal Miners, for Striking" appearing in the March 16 edition of the Atlanta Constitution be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THANKS, DEAR COAL MINERS, FOR STRIKING

(By Gene Tharpe)

Many thanks for the coal strike, which is 101 days old today. It's teaching us a good lesson badly needed, and from it we likely shall reap a blessing.

And the lesson isn't that children and teachers in northern states enjoy wearing coats in classrooms cold because of reduced heating because of dwindling coal supplies. And it's not that industrial workers, facing food and mortgage bills, enjoy working reduced hours or being laid off because their plants are running out of coal.

And the blessing isn't that the miners may soon be going back to work, if they accept the current offered contract which provides a 35–40 percent boost in pay and benefits over the next three years, which will translate into nicely increased inflation for us all since the price of energy passes right through the economy down to John and Jane Consumer.

And the blessing isn't that the Teamsters a year from now may decide it can get a generous new contract simply by waiting for a trucking shutdown to create an air of national crisis. Or that postal workers might do the same when their contracts expire this summer, or that railroad workers might do the same when their contracts expire Dec. 31.

And the lesson isn't that the nation certainly can count on coal miners (who apparently can't develop sufficient initiative and education on their own to help their sons, if not themselves, escape their coal mine dungeons) to be very concerned about helping America escape impending economic collapse by making our energy transfer from oil to coal any easier or less costly.

No, the lesson and blessing aren't any of the above, although they are true or probably will prove true.

The lesson is that Big Labor, such as the United Mine Workers, has grown far too strong, so strong that it can thumb its nose at an act of Congress, the Taft-Hartley Act, break the law and get away with it, so strong that a group of workers who carry rifles and shotguns in their pickup trucks can use violence to person and property to force other workers not to work, so strong that a few thousand workers can dictate to millions of Americans.

But from the lesson, most likely, shall flow the blessing.

And the blessing, it is hoped, is that strikes such as the coal strike are going to fan the embers of anti-union feeling that have begun to glow in recent years into prairie fire, burning into a widespread resolve to stop unions from gaining further life-and-death power over the nation.

And the place for that blessing to begin is for the Senate to kill Big Labor's pet legislative project now awaiting action—the Labor Law Reform bill. The House version of the bill has already been passed, but the illegal, unfair, and ignorant actions of the coal miners during the past three months should stop Senate passage of the measure.

The labor bills aim at "reforming" the Wagner Act of 1935, the prime federal labor legislation which outlawed what was considered unfair labor practices by employers and required an employer to bargain in good faith with a union which his employers chose to be their collective bargaining agent. It also set up the National Labor Relations Board to adjudicate violations of the Wagner Act. The unions contend that it's too easy for companies to violate or skirt around Wagner Act regulations, and so it needs strengthening to "fulfill the promises made" by the act.

But the labor reform bills—which, unfortunately, have the support of the Carter administration—go far beyond fulfilling such promises. There may well be need to streamline some activities of the NLRB, but the current measures go too far. They significantly tilt the balance of labor-management relations toward unions in election and first-contract situations, plus placing the government too much on the side of labor in organizing attempts. In brief, the bills stack the deck toward labor.

Every high school student has studied—at least read about—the "checks and balances" of American government, the division of power between the legislative, executive and judicial branches, an arrangement which, despite some drawbacks, has served us well over the years. In today's complicated America, there's another system of checks and balances—Big Government, Big Business, and Big Labor. It's a system that, delicately balanced, would serve us well.

But the delicate balance is all important, Big Labor, as so ably demonstrated by the coal strike, has too much power now—and is moving toward monopoly power. The labor reform bills would give unions more power than ever.

Thanks to the striking coal miners, those bills are almost certainly dead in the Senate. If our senators have any sense, the bills are dead for sure.

## APRIL IS POULTRY AND EGG MONTH IN NORTH CAROLINA

Mr. HELMS. Mr. President, it gives me great pleasure to take this occasion to commend the many citizens of my State who earn their livelihood in the poultry industry.

It is very fitting that April is officially declared "Poultry and Egg Month" in North Carolina. The contribution poultry makes to our State and to the employment of so many thousands of our citizens is substantial and increasing every year.

Poultry is North Carolina's fastest growing food industry. In terms of gross farm income it has increased from about $90 million in 1947 to $625 million in 1977—almost a 700 percent increase in 30 years. Additionally, nearly $150 million worth of marketing services have been added to this farm value thereby increasing the gross economic impact to approximately $775 million.

Payment for these marketing services provides jobs for countless thousands of our people in poultry and egg processing plants, markets for carton and packing material manufacturers, trucking, and shipping just to name a few.

Obviously, our poultry industry is a fine example of the free enterprise system at work. Let me illustrate:

Last year, North Carolina poultry farmers provided consumers with approximately 966 million pounds of dressed, ready-to-cook poultry with the highest quality in history.

The retail price of chicken is about the same as it was 20 years ago—while consumer prices in general have doubled.

Tar Heel consumers have the opportunity of purchasing the freshest poultry available because they live within one of the largest broiler producing areas of the country.

And other States benefit as well. North Carolina's broiler industry ships more than three-quarters of its production to out-of-State markets meeting the needs of 18 million consumers in addition to the 5.5 million consumers within North Carolina. Turkeys shipped from North Carolina graced the tables of 24 million consumers—and North Carolina is now No. 3 in turkey production nationally.

Mr. President, the egg aspect of the poultry industry is just as impressive as broiler and turkey production. In 1977 North Carolina poultrymen sent almost 3 billion eggs to market. And eggs continue to be one of the best buys among protein foods. A dozen large eggs weigh 1½ pounds. When their price is 72 cents a dozen, the consumer is paying only 48 cents a pound for a high quality, nutritional food.

The North Carolina poultry industry has many dedicated leaders who are recognized nationally. The North Carolina Poultry Federation is a very effective promotion arm of the industry, and all poultrymen receive tremendous support from the North Carolina Department of Agriculture and Agricultural Extension Service.

We are proud of our citizens who earn their livelihood in the production of broilers, turkeys, and eggs, and who have proven that the American free enterprise system does work and will benefit producers and consumers with a plentiful supply of quality products at a very reasonable price.

I commend the North Carolina poultry industry and congratulate them for a job well done.

## DR. CARROLL T. MANN III—EFFECTIVE LEADER AND SPOKESMAN FOR SAFARI CLUB INTERNATIONAL

Mr. HELMS. Mr. President, as in legislative session, this past Friday, a good friend and a splendid North Carolinian, Dr. Carroll T. Mann III, of Raleigh, came to Washington to testify before the Senate Subcommittee on Resource Protection in connection with oversight hearings on the Endangered Species Act of 1973. He was accompanied by an equally distinguished North Carolinian, C. Allen Foster, Esq., of Greensboro.

Dr. Mann is a highly-regarded neurosurgeon and currently serves as president of Safari Club International. Under his leadership, the Safari Club has been turned from a largely social organization into a highly effective group expressing the concerns and viewpoints of hunters and sportsmen everywhere. His appearance before the subcommittee is evidence of the new efficacy of Safari Club International.

Dr. Mann is also the past president of the North Carolina Wildlife Federation and is a member of such diverse outdoor organizations as the Alaska Professional Hunters Association and the Society for the Conservation of Bighorn Sheep. His articles have appeared in Outdoor Life, American Rifleman, National Sportsman's Digest, Friend O'Wildlife, Wildlife in North Carolina, and Safari.

Mr. C. Allen Foster, a Greensboro attorney who appeared with Dr. Mann, has developed an excellent knowledge of the intricacies and variations of game laws throughout the world and with that knowledge has become a valuable member of Safari Club International. A magna cum laude graduate of Harvard Law School, he is also a member of the National Panel of Labor Arbitrators of the American Arbitration Association and a public member of the North Carolina Tax Review Board.

American sportsmen could not hope to have two better representatives, and I am very proud of them. It is unfortunate that too often we hear from only the extremist elements of the environmental lobby. Frankly, at least up until now, they have done a much better job of advocating their viewpoint in the media and before the Congress. There is another viewpoint—a sensible and serious viewpoint—that needs to be heard, and it is a most fortunate development that there are those, like Dr. Mann, who are willing to take on that task.

Thus, it is fitting that the highly articulate and excellent prepared testimony given by Dr. Mann before the Resource Protection Subcommittee be available for public perusal. Therefore, Mr. President, I ask unanimous consent that the prepared statement of Dr. Carroll Mann III before the Resource Protection Subcommittee of the Senate Committee on Environment and Public Works on April 14, 1978, be printed in the RECORD at this point.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF DR. CARROLL MANN

Mr. Chairman, members of the committee: My name is Dr. Carroll Mann of Raleigh, North Carolina. Professionally, I am a neurosurgeon, but I am also a wildlife biologist and President of the Safari Club International. I am appearing today on behalf of the Safari Club International, the Safari Club International Conservation Fund and The American Hunters Educational and Legal Protection Fund. Details with regard to the background of these organizations are attached as Exhibit 1 to the written statement of my testimony. With me is C. Allen Foster, an attorney from Greensboro, North Carolina, who is the Managing Director of The American Hunters Educational and Legal Protection Fund and who has prepared the legal portion of this statement.

The groups on behalf of whom I am appearing have a membership in excess of 1 million American citizens and, through their activities, represent over $60 million other Americans who are active hunters, fishermen, trappers and target shooters, these statistics being reflected in the Fish & Wildlife Service Survey on Outdoor Recreation.

These groups wish initially to express their support for the concept of wildlife management, including the full spectrum from seasonal harvest by sportsmen and others to, where necessary, short-term species protection, all leading to the maintenance of viable, balanced populations at levels consistent with available habitat. As a result, these groups supported the passage of the Endangered Species Act of 1973 and, subject to the suggested modifications of statutory language and administrative interpretation set forth in this statement, support the extension of appropriation authorization which is before this Committee.

Because the groups on behalf of whom I am appearing represent sport hunters all over the world, they have probably had as much practical experience with the Endangered Species Act and the species listed thereunder as any other group. As a result, we hope that the following comments concerning the substance of the Act and its implementation will be helpful to this Committee.

1. We believe that the Act should be amended to exempt from its prohibitions hunting trophies which are taken by sports hunters in compliance with the laws of foreign jurisdictions in which the species in question is found. There are a number of reasons why such an exemption is both appropriate and would also further the Act's goal of long term conservation or preservation.

First, there are many people who question the propriety of Americans' determining the conservation status of species which do not occur within the boundaries of the United States. The reaction of foreign governments to the International Convention on Trade in Endangered Species would seem to indicate that our government seriously overestimated the international support for such activities.

Moreover, the administrators who implement the Endangered Species Act have little or no knowledge of the local conditions peculiar to the countries of origin of the listed species. As a result, American legislation and regulation creates foreign resentment which detrimentally affects the very goals we are seeking to achieve. For example, in a recent paper presented to the 43rd North American Wildlife and Natural Resources Conference on March 20, 1978, a copy of which is attached as Exhibit 2, Messrs. Teer and Swank, who had been employed by the Department of the Interior to conduct a status review of the leopard, stated:

"In our recent study of the leopard practically every representative of natural resources agencies that we contacted in Africa expressed the opinion that the United States was presumptive in making rules and regulations which vitally affected their internal affairs * * * They wished to make it clearly understood that they were quite capable and surely had more knowledge of their resources than any person or government whose contact and tenure in their country was usually short and desultory." (Pg. 13)

Second, it is common knowledge, and the Endangered Species Act recognizes, that the primary forces which present danger to the survival of certain species are (1) habitat deterioration and (2) overutilization for commercial purposes. As to the former, hunters have historically been, along with federal and state governments, the *only* source of funds for habitat acquisition and improvement. I know I need not cite to this committee the use of the Pittman-Robertson and Dingell-Johnson Funds in wildlife management nor the activities of Ducks Unlimited in habitat acquisition. It is difficult to name even one group which opposes sport hunting but which has made any significant contribution to the solution of the problem of habitat deterioration. As to commercial overutilization, it is well known that sports hunters are not involved in their activities for monetary gain; in fact, such considerations impinge upon their self-perceptions of the value and meaning of their trophies. More important from the regulatory context, the relationship of sport hunting to commercial activity becomes even more remote when one considers the almost negligible number of trophies involved annually in comparison to species populations. For example, in the case of the African elephant, as to which a proposed threatened listing is now pending before the Office of Endangered Species, trophy hunting in 1977 comprised approximately of 577 animals or less than .04 percent of the minimum population estimate with regard to the species. The scientific evidence is that elephant populations can sustain an annual offtake of 2.6 percent to 5.7 percent, over 100 times the annual offtake by trophy hunters. The same thing is true with regard to virtually every other species which is listed as endangered or threatened under the Act.

Third, the parallel regulatory framework represented by the International Convention on Trade in Endangered Species is not, in the vast majority of signatory countries, interpretated to encompass sport hunters within the prohibitions thereunder, even with regard to species which are listed as endangered. The contrary interpretation of the United States is in a tiny minority. The organizations which I represent have urged the Department of the Interior to institute a reexamination of the United States' position which was developed during a prior administration, and it is my understanding that such a reexamination may even be currently underway.

Fourth, even current regulations promulgated by the Secretary with regard to species listed under the Act as threatened recognize sport hunting as a legitimate utilization of wildlife resources and an appropriate exception to generalized prohibitions of taking or even sale. For example, the grizzly bear which is listed as threatened in the 48 contiguous states, can be hunted in limited numbers in certain portions of its range. More substantially, the alligator may be hunted in portions of its range subject only to the regulations imposed by the local wildlife authorities, in this case the state of Louisiana. We submit that this is precisely the type of exemption which should be generalized for hunting trophies under the Act. Surely, the local authorities are the most able to determine population goals and levels of annual offtake.

Finally, an exemption for sports hunters would actively promote the goals of long-term species conservation. As pointed out above, sport hunting has a negligible impact on population levels. Even more important, in many cases the presence of sport hunters in remote areas, helps to control illegal poaching. As Mr. A. L. Archer of Kenya, a knowledgeable observer of the situation regarding the elephant in that country, recently commented:

"The majority of the uniformed overseas critics do not realize that many of the major elephant hunting areas offer little else other than elephants to hunt, therefore through banning elephant hunting one is playing directly into the poacher's hands by at once removing a controlling factor in the presence of the professional and his often influential and vocal overseas client. The field is thus left wide open for large scale and unreported poaching activities."

Innumerable members of Safari Club International report annually of their own personal efforts toward the control of poaching, ranging from the removal of hundreds of snares in a single day to actually chasing and apprehending the poachers themselves. Furthermore, sports hunting provides a major source of funds for the economies and wildlife programs of affected countries. A game trophy has a far greater economic value as such than any other economic utilization of the resource. The organizations which I represent have recently compiled statistics in this regard concerning trophy hunting of the African elephant. In 1977, the approximately 577 elephants taken by sports hunters produced in excess of $750,000.00 in license fees and taxes all or most of which was used in the affected countries' conservation programs, an average of $1,360.00 per elephant. In addition, the same approximately 577 elephants contributed to total of over $9 million dollars to the economies of the affected countries, an average of $14,373.00 per elephant. Thus, the total economic value per elephant was $15,733.00.

I would again like to quote from the Teer and Swank paper attached to my testimony as Exhibit 2,

"Many developing countries are abysmally poor in GNP and budgets for conservation are likewise very poor. Thus agencies charged with administering and managing wildlife resources have in the past earned funds to operate their programs through licensing systems and sales of animal products. Often these funds provide for an infrastructure in the capital city but almost nothing is left for program implementation through a professional field force.

"Funds urgently needed for conservation work have been cut off by the closure of hunting seasons and by gazetting of species such as the leopard to endangered status. Admittedly, the amount of financial loss attributable to the removal of a game species from game status may be small, but relatively speaking, it is an important loss to an agency whose budgets are already small. Moreover, it is unlikely that any money will be forthcoming from general revenue to offset this loss. The leopard can be taken legally in several countries in Africa, but its present status as an endangered species prevents it from being imported into countries which are the primary sources of hunters for safares in Africa. In addition to economic losses to wildlife agencies the losses of revenue to local people engaged in these commercial enterprises can be substantial.

"The potential economic return from many game animals provides an incentive to the private landowner to protect and manage them for commercial purposes. On the other hand, if the animal is a predator, real or imagined, of the landowner's livestock, or depredator on his crops, and if he has no way to profitably market the animal, the result is almost surely the elimination of the animal on that ranch or farm despite its status as endangered to the conservationst.

"In short, the market place can be the most important preservation technique available to conservationists when wildlife species are present on private lands. The placement of a species of economic importance on a protected list can defeat efforts to protect or save it in some contexts." (Pgs. 15–16)

I would again emphasize that the authors of this paper were employed by the Department of the Interior to conduct a status review of the leopard, and these are their comments about the detrimental effect of banning the importation of leopards as sports hunting trophies.

Two recent comments in this regard concerning the situation of the elephant in Zambia and Botswana are particularly instructive. As for Zambia, the following telegram was received:

"U.S. Authorities dumb if elephant put on threatened list banning trophy imports from Zambia. So abundant recent UNFAO Luangua Valley Reports stated elephants causing excessive damage habitat. Advocated cropping some 1,000 annually for six years. Not implemented due to lack funds. Foreign revenue to Zambia annually exceeding $2,750,000.00. Ban exceeding detrimental and lost employment underprivileged rural areas. Disastrous. Ban will not affect poaching."

Similarly, a letter regarding Botswana:

"Should the bill to treat these animals as endangered species be successful, it would prevent the very person who is able to generate the money which will motivate people to keep more elephants, from hunting in this country—the American sportsmen. The Botswana government places great store on the foreign currency they receive from hunting licenses and in fact this easily gleaned revenue frequently offsets public pressure to put land to better use—i.e., ranching with domestic stock."

Thus, the groups which I represent submit that the Endangered Species Act should be amended to exempt from its restrictions the trophies of sportsmen who obtain the same under legal hunting licenses issued by the country of origin of the species.

2. The second primary comment which these organizations would like to present is that listings of species as endangered or threatened under the Act, have, in the past, been made in a manner which violates both the letter and the spirit of the Act. 16 U.S.C. § 1533(b)(1) clearly provides that "the Secretary shall make determinations [with regard to endangered or threatened listings] on the basis of the best scientific and commercial data available to him . . ." We have concrete proof that the listing of the leopard as endangered was based upon hysterical emotion instead of scientific and commercial data as required by the Act. Again citing the statement of Messrs. Teer and Swank to the 43rd North American Wildlife and Natural Resources Conference:

"In spite of the fact that the leopard is the symbol of the rare and endangered species movement and is featured as a species brought to the verge of extinction by commercialization, our conclusion was: The

placement of the leopard on the list of endangered species of the International Union for the Conservation of Nature and the U.S. Fish and Wildlife Service, and its assignment to Appendix I of the International Convention of Trade in Endangered Species of Wild Fauna and Flora is not defensible. The leopard is not endangered under commonly used definitions that endangered status implies, and it has been improperly gazetted to that status."

Similarly, a 1976 report by Dr. Randall L. Eaton, a member of the Cat Specialist Group of the International Union for the Conservation of Nature, which report was presented to the Department of the Interior as part of a Petition to delist the leopard as endangered, concluded:

"I was ashamed for having so readily adopted and further contributed to the now widespread belief that the leopard is endangered in Africa. Such a belief was and is scientifically unfounded, and by all present evidence, entirely false. Such action by myself and others can only foster division between scientific conservation and the concerned citizens and societies whose responsibility it is to manage their wildlife resources. Scientifically based conservation has lost credibility; it cannot withstand succumbing to faultless emotionalism and its repercussions if it is to play the necessary role it should."

The organizations which I represent submit to the Committee that there are numerous additional species which have been listed as endangered or threatened under the Endangered Species Act which did not then nor do they now fit the Act's definition of such status. It is our information and belief that numerous species have been listed as endangered or threatened without any scientific information whatsoever. I am pleased to report to this committee that, through the efforts of Safari Club International and the American Hunters Educational and Legal Protection Fund, litigation is being instituted to compel the Secretary of the Interior and his administrators to delist these species which have been listed illegally and to enjoin the Secretary from further listings in the absence of the statutorily required scientific and commercial data.

We would submit, however, that this Committee should be concerned that it became necessary for interested citizens to initiate litigation to compel governmental officials to comply with the explicit provisions of the statute under review. It is difficult for me to envision how the statute could be amended to make its commands more explicit. What is needed at the present time is a congressional insistence that the administrators in question fulfill their legal responsibilities.

We do not however, lay all the blame at the door of the Department of the Interior. There exists in this country a small but vocal minority of persons who would like to preclude any utilization of wildlife resources which includes mortality other than from natural causes. These groups have mounted well-financed and publicized campaigns not to promote habitat acquisition or scientifically controlled utilization, but instead to inflame emotions, frequently with exaggerated rumors or downright misrepresentations, leading to absolute protection measures. These groups manipulate public opinion to produce a constant and unrelenting pressure upon the Department of the Interior to make these listings which are not based upon scientific data. We submit that this Committee and the Congress can and should by resolution communicate the insistence of our citizens and their representatives that administrative action be taken pursuant to the requirements of the Act for scientific evidence and not because of baseless, albeit well-articulated, emotionalism.

I might add that the same absence of scientific data in connection with species listing has existed with respect to the International Convention on Trade in Endangered Species. Just recently, a Working Group established under the Endangered Species Scientific Authority considered the biology and management of the bobcat, the lynx and the river otter in the face of urgent pressures from preservationist groups to move these species from Appendix II (threatened) to Appendix I (endangered) status under the Convention. The draft report of this Working Group, a copy of which is attached hereto in full as Exhibit 3, makes the following poignant points:

"It became clear early in the deliberations of the Working Group that members felt extremely uncomfortable about their charge. This discomfort arose from the feeling that the bobcat, lynx and river otter had been placed on Appendix II from political rather than biological reasons. Furthermore, concern was voiced by several members that neither status nor recognized authorities on the status of the subject species were consulted before the inclusion of the species in Appendix II. In view of this sentiment the following resolutions were passed:

"Whereas species of Lutrinae and Felidae have been included on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, and are thereby subject to regulation in international trade, and

"Whereas these taxa in the United States were listed on Appendix II without adequate consideration of the available biological information, and

"Whereas the Working Group expresses its dissatisfaction with the manner in which they were listed on Appendix II, and

"Whereas the available data indicate that there are regional differences in populations of river otters and bobcats and that individual states' management programs differ markedly, and

"Whereas seven members of the Working Group believe that the river otter and bobcat are clearly not currently threatened by unregulated international export (5 abstentions; no negative votes), but 5 members believe that the lynx is clearly currently threatened by unregulated international export (seven abstentions; no negative votes)

"Now therefore be it resolved that the Working Group expresses its reservations about the appropriateness of the blanket inclusion of these species on Appendix II, and recommends that as soon as possible the management authority examine all available information pursuant to this question and re-evaluate the inclusion of these species in Appendix II." (Passed ten-zero, one abstention)

Mr. Chairman, and members of this Committee, where have we come in this country when a panel of scientists appointed by the government of the United States is forced to pass a resolution such as this criticizing the "political rather than scientific" basis for the decisions of our governmental officials?

3. A problem, parallel to the foregoing comments with regard to scientifically unfounded listings, exists in connection with the Secretary's failure to abide by 16 USC § 1533(c)(1) which requires that—

"Each list . . . shall specify with respect to each such species over what portion of its range it is endangered or threatened."

The organizations which I represent submit that the Secretary has no discretion to do what has been done in the past—listing a species as endangered or threatend throughout its range when the "best scientific and commercial data avaliable" indicates that it does not have that status except in certain areas.

We would invite the Committee to review the list of endangered and threatened wildlife contained in 50 CFR § 17.11. Of the over 800 species listed as endangered or threatened, all but three are listed as having the specified status in their entire range. It is simply not intellectually comprehensible or believable that all of these species are actually endangered or threatened throughout their entire range. In his testimony before the Committee on Merchant Marine and Fisheries of the United States House of Representatives in its hearings on the elephant as a potentially endangered species, Mr. Assistant Secretary Herbst explicitly recognized the statutory requirement of limited listing:

"The fact that there are a number of distinct populations of the elephant in Africa raises the possibility of different listings for elephants from different countries. This has been done in this country with the American alligator and the bald eagle. Elephants in some areas might be listed as endangered, those in other areas as threatened, and those in still other areas might not be listed at all. This alternative might reflect most closely the actual status of the elephant in Africa."

In the face of the clear command of the statute and the recognition of Assistant Herbst of the proper method of listing species, one can only conclude that actual listings which violate these principles are the result of administrative sloppiness, political pressure or craven desires for ease of enforcement, or some combination of the three. I have already spoken to the first two points; as to the question of ease of enforcement, the groups which I represent recognize that detailed treatment pursuant to the statutory command will potentially increase administrative workloads and make enforcement more difficult. Our government, however, should not curtail its citizens' liberties and privileges merely to make its own tasks less troublesome. When ease of administration is in the balance with individual liberties, the latter should always prevail except when the enforcement difficulties are utterly unsurmountable. And that is not the case here. The Endangered Species Act and the regulations thereunder, specifically 16 USC § 1533 (e) and 50 CFR § 17.52, explicitly contemplate regulatory mechanisms to deal with similarity of appearance cases and the enforcement problems created thereby. Again, Mr. Assistant Secretary Herbst recognized this option:

"The Act makes provision for similarity-of-appearance situations and allows non-endangered or non-threatened species to be listed as such to better protect the listed species."

We respectfully submit that these mechanisms can just as easily be applied when some species populations are not listed at all; at the very least, populations as to which the scientific and commercial data does not support an endangered or threatened status should be listed only under the similarity-of-apperance provisions so that permits will be available under 50 CFR § 40.52. In addition, candor compels me to say that such permits should not be accompanied by the calculated inattention and predetermined disinclinations to issue same that have characterized permit applications under 50 CFR § 17.22, e.g. permit applications for import of specimens taken for scientific research and for enhancing the propagation and survival of the species.

The only objection which I have heard voiced to the foregoing flexible approach to listing, that is, listing only within those portions of their ranges in which species are actually endangered or threatened, is that, in the absence of regulation either by the Endangered Species Act or by the International Convention, the otherwise applicable mechanisms under the Lacey Act and the Tariff Classification Act are inadequate. The allegation is that, because certain foreign governments are in complicity with the violation of their own laws, the documentation required under the Lacey and Tariff Classification Acts is not worth the paper it is printed on. The groups which I represent submit that such fears are groundless in all

but a few, well-known and specific instances. In such cases, in the event that the Fish and Wildlife Service determines that the documentation is unreliable from a country in which a species has not been listed as endangered or threatened, a listing can be proposed under 16 USC § 15.33(a)(1)(4)—"the inadequacy of existing regulatory mechanism". The "ham-handed" approach previously used by the Department of the Interior to list species throughout their range abandons the flexibility under the Act for distinguishing among countries based upon the effectiveness of their management schemes. It is the regulatory equivalent of using an atomic bomb to drive a nail, and results in profit to no one except our federal administrators while causing extreme detriment to millions of American sport hunters.

4. Another area in which the administration of the Act has been contrary to both its language and spirit is in the requirement that, prior to listing a species as endangered or threatened, the Secretary shall consult with the states or countries, as the case may be "in which the species concerned is normally found . . .". In actual fact, there has been little, if any, communication in the ordinary bilateral sense of that word. Instead, what we have had is really a notification from Interior to the state or country that such-and-such action is being taken. A case in point is the listing of the leopard as an endangered species which was accomplished by a mere notification to the countries involved wih an effective date so quickly after the notification that any meaningful exchange of views was impossible.

At the present time, the proposed listing of the elephant as threatened has been met with empassioned objections from at least four African countries in which large numbers of elephants are found. These countries, together with other commenting organizations, have furnished the Department of Interior with detailed evidence relating to the biological and commercial status of the elephant, all indicating that the elephant is neither endangered nor threatened in many countries. We all await with interest the action of the Department of the Interior from which we will know whether the statutory command of consultation has any meaning to the Department other than bare notification of unilateral American action.

Nor is the statutory requirement of consultation merely a placebo inserted to soothe the affected countries or states; instead, it is a provision with a realistic purpose. As Messrs. Teer and Swank state in the presentation attached hereto as Exhibit 3,

"Familiarity with the local scene and personnel can be most helpful in sorting out motives and values. It is often useful to make contracts with field and research scientists in addition to state spokesmen when positions of government are to be evaluated."

Similarily, the draft report to the Endangered Species Scientific Authority by the working group, quoted above, deals directly with the problem I am addressing here:

"Whereas U.S. diplomatic contracts between nations and to international bodies are traditionally accomplished by political appointees and career diplomats with extensive legal, economic and political experience or training; and

"Whereas those delegations often deal with conventions or agreements which affect wildlife species; and

"Whereas it is generally accepted that states possess management responsibility for resident wildlife species; and

"Whereas, U.S. National Delegations usually fail to include state representatives or even seek information and concurrence from them; and

"Whereas persons with pertinent professional, biological expertise are seldom included in these delegations, and adequate biological imput is thereby not provided;

"Therefore, this working group recommends that in the future the U.S. National Delegations to conventions affecting wildlife seek adequate consultation, ensure flow of information, and invite state and/agency participation to guarantee a balanced, biologically sound, and documented presentation by the U.S. delegation. (Passed unanimously).

Throughout the Endangered Species Act, there is a theme of proposed consultation and cooperation between the Department of the Interior and affected states and countries which, as is demonstrated by the foregoing, simply has not been the case in fact. As a result, the groups which I represent recommend an amendment to the Act of substitute concurrence and consent to the part of affected states and foreign countries for the current language of conference and cooperation. Only when the respective parties are truly equal in power can there be a realistic expectation of meaningful cooperation and governmental interaction.

5. I have briefly mentioned above the total disinclination of the Department of the Interior to issue permits for importation of certain listed species, despite the clear contemplation of and provision for such permits under the act and the regulations issued thereunder. In particular, 50 CFR § 17.52 contains detailed provisions for the issuance of permits for the importation of species which have been listed as endangered or threatened due to similarity of appearance. Because of the broad-brush approach taken by the Department of the Interior in listing species as endangered or threatened throughout their range, rather than in those portions of their range in which they are actually endangered or threatened, the Department has administratively nullified this flexible provision. The effect upon sport hunters is to effectively eliminate such species from utilization even though, in certain areas, they may be no more endangered or threatened than the common housefly.

Similarly, 60 USC § 15.39(a) provides that the Secretary may issue permits for otherwise prohibited acts "for scientfic purposes or to enhance the propagation or survival of the affected species." While the terms "for scientific purposes" and "to enhance the propagation or survival of the affected species" are not specifically defined in the Act, 16 USC §15.32(2) does define "conservation" (which would certainly seem to be a term even more restrictive than the conditions for the issuance of a permit for scientific purposes) to include regulated taking "where population pressures within a given ecosystem cannot otherwise be relieved . . .". To our knowledge, however, the Secretary has never issued a permit for the importation of an endangered or threatened species under the permit provisions of 16 USC § 15.39(a). As a specific case in point, one member of Safari Club International obtained a permit issued by the Mexican government for the regulated taking of a jaguar in an area where the population pressure of jaguars was in excess of the carrying capacity of the ecosystem. Such permits are issued annually by the Mexican government in order that the specimens collected may be examined and recorded to further the scant scientific information available with regard to the species as to growth rates, preferred diet, presence or absence of various disease organisms and other similar scientific inquiries. In each case, a Mexican government official and staff biologists accompanies the permittee to gather and record the foregoing and other information. Despite the obvious scientific purposes which are the object of the permit letting and the indubitable beneficial effect upon the long range propagation and survival of the jaguar as a species, the Secretary has consistently declined to issue permits for the importation of this and other similarly situated species.

Mr. Chairman and Members of the Committee, the inaction and refusal to act on the part of the Department of Interior in these permit cases speaks loudly and clearly to the sportsmen of America. The Department is under the thumb of persons who are opposed to the scientific management of wildlife, including regulated sports hunting. The Department is the handmaiden of the few but vocal and wealthy so-called "preservationists" who look upon hunting as immoral and who would prefer to have the surplus population of a species die the painful and wasteful death of starvation rather than be usefully taken and consumed by Americans in pursuit of their traditional heritage of sport hunting. We do not think that this is the attitude that was intended by Congress when it adopted the Endangered Species Act of 1973, nor do we think that this is the attitude of Congress today or of the vast majority of the American people. We respectfully invite and urge this Committee to take whatever action may be necessary to redress the highhanded way in which the Department of the Interior is perverting the language and the spirit of the Act.

6. The groups which I represent feel that they must also bring to this Committee's attention the inconsistent, deceptive and sometimes even apparently malicious action of agents of the Fish and Wildlife Service in enforcing the Endangered Species Act. Some of the most egregious cases seem to have arisen in the case of lechwe. One hunter inquired of the Fish and Wildlife Service for a ilst of all endangered and threatened species so that he could be certain not to shoot any such species. He was provided such a list by the Los Angeles office of the Service and the list did not indicate that there were any prohibitions with regard to the lechwe. As a result, the hunter in question proceeded on his safari and, in the course of it, took a red lechwe pursuant to a valid hunting license issued by the government of Botswana. On his return, his trophy was confiscated. Upon checking, the hunter discovered that he had been sent an out-of-date endangered species list by the Fish and Wildlife Service and that the Service was still sending out such outdated lists from their offices in Houston, Sacramento, Denver and Washington, D.C., a full year after the lechwe had been added to the endangered species list. Nor had any notice been given to potentially affected parties, such as the largest taxidermy firms in the world, of over 200 new animals which had been added to the Endangered Species list. Under these circumstances, one might have anticipated that the Service would have revised its list and would have granted permit exceptions to all hunters in the meantime. Instead, however, the Service assessed a civil penalty of $200 and insisted upon a signed acknowledgement of guilt and abandonment of the hunter's trophy. The citizen in question has been forced to pursue his rights to clear his good name in an administrative proceeding which is costing him thousands of dollars and in which the result is still not yet known.

Perhaps an even more offensive case involves a hunter from the Northeast who took a lechwe one or two days after the animal had been added to the Endangered Species list and sometime after his safari had already begun. In other words, this hunter was on safari in Africa when the lechwe was added to the list by publication in the Federal Register. I am sure I do not need to tell this Committee that the citizen in question was not having copies of the Federal Register shipped to him in Botswana so that he could be aware of administrative actions while he was on his hunting trip. Upon returning to the United States, this hunter imported his trophy which passed through customs and Fish and Wildlife clearance without difficulty. As the case later developed,

the Fish and Wildlife agents who examined his trophy upon importation were as unaware of the addition of the lechwe to the endangered species list as the citizen was. Some time later, the sportsman was contacted by officials of the Fish and Wildlife Service who asked to see the lechwe horns to identify them. The hunter agreed after receiving a promise from the agent that it was not his intention to seize the horns. At the appointed time, however, the agent appeared at the hunter's home with a search warrant and demanded the horns, which were confiscated. Throughout the hunter and representatives of Safari Club International had been in personal contact with the Department of the Interior under the understanding that the Department and its agents would cooperate in reaching a mutually acceptable solution. In fact, the hunter agreed that he would not contact his attorney and begin a legal proceeding under the Act because of this understanding. Needless to say, there is at least one American who is convinced that he was defrauded by his own government.

Unfortunately, I can cite you other examples of similar conduct. Government by regulation pursuant to publication in the Federal Register is offensive enough to the ordinary citizen who is constrained thereby, but when not even minimal efforts are made by the agencies in question to disseminate accurate information concerning regulations appearing in the Federal Register, it becomes intolerable. The groups which I represent submit that the Act should be amended to suspend any prohibitions resulting from listing a species as endangered or threatened for at least one year following such listing to allow the adequate dissemination of the information thereof to potentially affected persons and firms. In this way, government agencies and agents can enforce their rules and regulations consistently and fairly and the public trust of the citizen in his government can be restored.

7. Finally, the groups which I represent believe that the provisions of the Act and regulations thereunder dealing with legally held captive, self-sustaining populations do not now operate to further the purposes of the Act. Obviously, the existence of legally held captive, self-sustaining populations tends to enhance the potential for survival of a species because of the scientific research, controlled breeding and protective care available to these populations. Furthermore, the more widely distributed the captive species are, the less likely additional ones will be taken either legally or illegally from the wild. Thus, the Act and the regulations should encourage captive populations and the further dissemination thereof.

At the present time, intra-state transactions in captive, self-sustaining populations are not regulated by the Act, but interstate transactions are. As a result, the vast majority of all transactions in species held in captive, self-sustaining populations are regulated. 50 CFR § 17.33 allows a permit to be issued allowing any activity otherwise prohibited in the case of such captive, self-sustaining populations. Unfortunately, however, the permit procedure is typically involved, and delays in issuance or refusal to issue the permits are the rule rather than the exception.

As a result, we would submit that the Act should be amended to exempt captive, self-sustaining populations from its prohibitions. At the very least, the Act should be amended to exempt the progeny of captive, self-sustaining populations which existed on December 28, 1973 (the effective date of the Act) which are themselves exempted pursuant to 16 USC § 15.38(b) so long as the same were not held in the course of commercial activity. We would also submit that the condition of the exemption—noncommercial holding—should be eliminated because of the beneficial effect that these captive, self-sustaining populations have upon the particular endangered or threatened species. In the event that no amendment is made, the permits available under 50 CFR § 17.33 should be granted expeditiously and generously, for the same reasons.

Mr. Chairman, members of the committee, the groups which I represent sincerely appreciate this opportunity to present our views to your committee. I would be happy to answer any questions which you might have.

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## DISAPPROVAL OF ENERGY ACTION DOE NO. 1

Mr. MATSUNAGA. Mr. President, as in legislative session, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 429, Calendar No. 673. This matter has been cleared with the majority leader, the minority leader, and Senator JACKSON.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 429) to disapprove Senate action DOE numbered 1.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MATSUNAGA. Mr. President, I rise in strong support of Senate Resolution 429 to disapprove energy action DOE No. 1, a proposed amendment to the strategic petroleum reserve plan.

Energy action DOE No. 1 proposes: (1) an overall expansion of the reserve size from 500 million barrels to 1 billion barrels, as authorized by the Energy Policy and Conservation Act; (2) an implementation plan for storage of the third 250 million barrels; and (3) storage of 20 million barrels of petroleum product for the U.S. East Coast, including New England.

Let me state at the outset that I strongly support the expansion of the size of the reserve to 1 billion barrels.

Mr. President, passage of the Energy Policy Conservation Act, which established the strategic petroleum reserve, was a major accomplishment in the area of energy by the 94th Congress. Few decisions made by Congress on the wide variety of topics covered in this omnibus piece of legislation were as widely accepted as the concept of establishing a national strategic petroleum reserve. It fulfilled an urgent need to assure protection against the severe impact of any future disruptions in foreign petroleum supply. There is no better, more cost effective way to remove the threat of another embargo than to establish this reserve. A billion barrel reserve represents the minimum level of security acceptable to our country.

My opposition to the administration plan is based on the fact that it does not adequately address the question of regional storage. While the plan expressly states that it does not consider the question of whether or not noncontiguous storage should be provided in the State of Hawaii or in Puerto Rico, the imposition of an arbitrary cap on storage costs, as implied in the plan, would most certainly lead to no storage outside of the central storage located along the gulf coast.

In considering the requirement for storage in New England, the plan states that "20,000 barrels of product will be stored for the east coast at sites whose costs are approximately the same as gulf coast salt dome storage; higher cost storage will not be considered." Thus, approval of the plan will foreclose the possibility of any regional storage, since it is an accepted fact that no storage facility outside of the gulf coast can meet this criteria.

Mr. President, while I concede that cost is an important consideration, the primary purpose of the strategic petroleum reserve is to provide security of supply in an emergency.

The people of Hawaii are deeply concerned about this matter because of their overwhelming dependence on petroleum for satisfying their energy requirements, and their unique vulnerability to any disruptions in supply. The economic sanctions with the pain and suffering endured during the 1973–74 Middle East oil embargo are still too poignant in their memory. Hawaii, as you know, lies over 2,000 miles from the west coast, and its economy and lifestyle are heavily dependent upon importation of nearly all vital necessities, including over 97 percent of its energy supply. Locating Hawaii's component of the strategic reserve on the gulf coast would be just as unsatisfactory as asking the Eastern States to rely on storage in the Middle East, which would be a comparable distance away.

In enacting the legislation to establish the SPR, Congress was quite specific with respect to noncontiguous areas such as Hawaii, when it set forth under section 154(d) of the Energy policy and Conservation Act:

The Strategic Petroleum Reserve Plan shall be designed to assure, to the maximum extent practicable, that each noncontiguous area of the United States which does not have overland access to domestic crude oil production has its component of the Strategic Petroleum Reserve within its respective territory.

Elsewhere, it is stated that the intent of the legislation is that such areas are to be assured "ready and nondiscriminatory access" to the reserve.

Mr. President, the Department of Energy has failed to demonstrate that storage in Hawaii is not practicable. On the other hand, the State has supplied ample evidence to prove that the installation of a component of the SPR in Hawaii is not only practicable, but that it can be cost effective and responsive to the basic objectives of the SPR.

In voting unanimously to support Senate Resolution 429 to disapprove the administration plan, the Senate Committee on Energy and Natural Resources made clear that it was in full accord with the expansion of the reserve, but took strong exception to the proposed regional storage plan. Let me quote the committee report supporting the resolution introduced by the Senator from Massachusetts, Mr. KENNEDY, which states:

The Committee's concern, shared by the

sponsors of the resolution, is directed to that part of the proposed Amendment to the SPR Plan pertaining to the regional storage scheme. Specifically, the Committee feels that the Congress should not agree to the principle that a reserve established to guarantee national security must be judged solely on the basis of a uniform cost, using as a ceiling the least expensive sites available. Although the estimated costs of regional and noncontiguous storage constitute an important criteria in the formulation of a national security plan, the Committee believes that they should not be the overriding consideration in the decisionmaking process. The lowest-cost storage sites might or might not be the optimum storage sites that would provide the nation with the requisite national security and protection from the impacts of future oil supply interruptions. The Department should carefully review the regional storage concept with due consideration to all relevant factors, not just cost.

The report furthermore goes on to express the committee's view on storage for Hawaii and Puerto Rico, by stating "* * * the committee is greatly concerned about the absence in the current SPR plan of any planned storage components within the State of Hawaii and Puerto Rico."

Mr. President, the administration plan is in complete disregard of the basic purpose of the Energy Policy and Conservation Act as clearly intended by Congress, and should be rejected. I urge this adoption of Senate Resolution 429.

Mr. President, I ask unanimous consent that statements by Senator HASKELL, Senator KENNEDY, and Senator DURKIN be printed in the RECORD at this point, together with attachments.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. HASKELL

Senate Resolution 429 is a proposed rejection of an energy action and, as such, is the prescribed procedure for taking such action contained in section 551 of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6421), the statute that authorized the creation of the Strategic Petroleum Reserve.

The statute requires that any proposed amendments to the Strategic Petroleum Reserve Plan be transmitted to the Congress for its review. Amendments become effective and may be implemented if neither the Senate nor the House of Representatives approves a resolution stating in substance that it does not favor such action. Such a resolution of disapproval must be passed prior to the end of the first period of 15 calendar days of continuous session of Congress after the date on which the energy action is transmitted. The proposed energy action was transmitted to Congress on April 4, 1978, therefore the statutory deadline for Congressional action of disapproval is April 19, 1978.

Senate Resolution 429 was considered by the Committee on Energy and Natural Resources on April 11, 1978. By a vote of 16-to-0, the Committee reported the resolution to the Senate with a recommendation that it be approved.

The resolution, introduced on April 7, 1978, by Senator Kennedy, is co-sponsored by Senators Brooke, Stafford, Hathaway, Pell, Durkin, Leahy, Chaffee, Javits, Ribicoff, McIntyre, and Muskie. It would disapprove Energy Action DOE No. 1, which is a proposed Amendment to the Strategic Petroleum Reserve Plan. The Amendment would authorize an increase in the size of the Reserve from 500 million barrels to one billion barrels and would also establish a 20 million barrel regional storage component for New England users.

A hearing on the Strategic Petroleum Reserve and Energy Action DOE No. 1 was conducted by the Subcommittee on Energy Production and Supply on April 10, 1978. We heard testimony from the Department of Energy and from Senators Kennedy and Matsunaga, who expressed their views and concerns regarding the program for creating a viable national stockpile of petroleum.

As the report of the Committee on Energy and Natural Resources clearly indicates, a Strategic Petroleum Reserve of one billion barrels is strongly supported by the Committee. Doubling the size of the Reserve would greatly enhance the nation's protection against damaging effects of any future emergency or interruption of oil imports.

I hope that no one will misinterpret the Committee's steadfast support for the concept of a viable Strategic Petroleum Reserve. Such a Reserve must be large enough to provide the United States with a meaningful stockpile of petroleum for use in any future emergency situation.

The proposed Amendment is objectionable to the Committee only with respect to its provisions relating to the establishment of a regional petroleum products component designed to meet the needs of the New England area. This proposed regional storage component would consist of 20 million barrels of residual fuel or substitutes therefor. These petroleum products would be stored, for the most part, either in the Gulf Coast or in storage sites located on the east coast of Canada.

The regional storage proposal is not acceptable to the Committee, because it is nothing more than a premature plan. Definite locations of the storage sites that would be utilized are not identified in the proposed Amendment. The United States and Canada are currently engaged in a joint study of the feasibility of using Canadian sites for the storage of SPR petroleum, but negotiations which might lead to an agreement for such storage are still some months away. As a matter of fact, negotiations on an agreement are dependent upon the outcome of the joint study and I understand that it will not be finalized until sometime later next month. The Department of Energy also indicated to the Subcommittee that it is still assessing the possibility of utilizing some storage sites in the New England area.

In addition to being premature, the proposed regional storage scheme outlined in the Amendment contains what the Committee considers an arbitrary pre-condition for any regional storage. The approach taken by the proposed regional storage component for New England would not allow any storage sites to be considered unless the costs of such storage would be approximately the same as for salt dome caverns in the Gulf Coast. The Committee feels strongly that the Congress should not agree to the principle that a Strategic Petroleum Reserve established for the purpose of providing national security must be judged solely on the basis of a uniform cost. Costs are important, but they should not be allowed to constitute the most important criterion in decisions regarding essential storage components of the Reserve.

In taking its action on the resolution, the Committee also expressed its concern that the current SPR Plan does not provide for the creation of any storage sites in the State of Hawaii or Puerto Rico. The proposed Amendment did not purport to address the noncontiguous area storage question, because that subject is still being studied by the Department of Energy. Rejection of the proposed pre-condition that regional storage costs must not exceed the costs of Gulf Coast salt dome storage may assist the Department in making its current reexamination of noncontiguous storage more objectively.

In recommending favorable action on the resolution and therefore, the disapproval of the proposed Amendment to the SPR Plan, the Committee is convinced that it is not delaying the development of a strong Strategic Petroleum Reserve. The schedule for filling the Reserve to its 500 million barrel target is now delayed by about 6 months and the Department of Energy will have ample time to re-submit another Amendment to double the size of the Reserve.

The Subcommittee on Energy Production and Supply intends to conduct periodic oversight hearings regarding the status of the development program of the Strategic Petroleum Reserve. Our hearings will also monitor closely the progress made by the Department of Energy in over-coming a myriad number of obstacles and problems which have resulted in dangerous delays insofar as the fill-rate of storage is concerned. We also intend to stay abreast of any proposals to remedy the current lack of any regional or noncontiguous storage components of the Reserve.

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STATEMENT BY MR. KENNEDY

I support Senate Resolution 429 which I offered on the Senate floor on April 7, for the purpose of disapproving energy action number one submitted by the Department of Energy on behalf of the President on April 4. I am pleased that the Senate Energy and Natural Resources Committee has so quickly held hearings, unanimously approved my resolution and brought it back to the Senate floor in less than a week.

Speed was important. Under the Energy Policy and Conservation Act the Congress has 15 days in which either House could disapprove energy action submitted by the President. The committee has shown extraordinary diligence and speed and has demonstrated a very deep concern for the welfare of the people of New England as well as for the success of the National Strategic Petroleum Reserve program.

I want to thank particularly Senator Haskell who has done an outstanding job in examining every aspect of this problem, and Senator Jackson whose leadership has made possible the rapid disposition of my resolution. I offer them my appreciation and that of the co-sponsors of my resolution: Senators Brooke, Stafford, Hathaway, Pell, Durkin, Leahy, Chaffe, Javits, Ribicoff, Muskie and McIntyre.

When I testified before Senator Haskell's Subcommittee on Energy Production and Supply on Monday, April 10, I said that it was not my contention, nor my reason for submitting the resolution of disapproval, to oppose the establishment of a one billion barrel strategic reserve. On the contrary, I, and members of the Energy Committee, approve the concept and want to see establishment of the reserve move forward with the greatest possible speed.

Nor do I oppose the designation of 20 million barrels of petroleum product as a strategic reserve to supply the needs of the northeast, for whom this reserve is intended. I support both the amount and the fact the storages in the form of product, as opposed to crude. This is precisely what we need in New England in a time of emergency.

Rather, I said, my concern was that the energy action stipulated that this reserve must be established at one uniform cost: that of storage in salt domes in the gulf coast. It is my contention that imposing the uniform cost of storage, no matter what the needs of each region, no matter whether the storage is of crude or petroleum product, is a serious mistake. I regard the decision of the Department of Energy to send up this energy action at this time as arbitrary and indefensible.

I said in my testimony before the Haskell subcommittee Monday that, at the very least, this submission is premature. It has been submitted before the studies have been completed on storage within New England. Nor have studies been completed on the possibilities of storage in Canada.

Mr. Jack O'Leary, the Deputy Secretary, met with Senators Hathaway, Chafee and I on January 26th and asked us to delay our pressing of our real interest of New England until these studies were completed. Yet before the studies were finished, this energy action has submissed.

Although I have by letter requested it, I have not been able to get the details of all the proposals which the Department has in hand to store oil in New England. I want to know their location and cost but I have not received that information.

Without the studies completed on New England and on Canada for the Department to come in here and suggest that we should impose the cost standard of the Gulf States is, at the very least, premature and, in my opinion, arbitrary and indefensible.

When the last embargo hit in New England we experienced price jumps of five, six and seven times in the course of a month. In a shortage market, with hoarding going on, the same thing could occur in some future emergency. Unless petroleum product is sitting in the region and can be put on the market by the United States Government, there is every chance that price explosions will take place and New England consumers will be badly hurt. It is possible that we could experience widespread and disastrous curtailments simply because transportation is not available.

We do not have to go into all the scare tactics and possible scenarios and weigh every possibility to make the claim that the Department of Energy must come back to the Congress with a plan which includes products storage within the region. That is the clear messages of the Committee's action. That is the message which we will send to the Department with our vote today.

We do not intend to force every possibility or ask for more than we need. We want only the minimum. I said this in committee and I say it again today.

As Chairman Jackson said Tuesday we can now expect the department to go back and prepare a separate plan and a separate energy action for storage within the New England region and work out a plan for Hawaii. We do not want another incomplete package before the Senate. The department must now work with the States and the congressional delegation to come up with a plan which includes a substantial amount of storage within the region. If this takes until the end of the year to get it right, that should be acceptable. We want all deliberate speed. We want the storage in place as soon as possible, certainly early in the 1980's. But above all we want a well-conceived plan.

Beyond the regional interest, I would also like to draw the attention of the Senate to certain other national aspects of the strategic reserve program which has concerned me and has concerned Senator Haskell, namely the manner in which the reserve is being filled.

Before submitting the resolution I tried to determine whether the entire United States petroleum reserve of one billion barrels could be reasonably and economically stored in a few sites in Louisiana and Texas. That is what the administration proposes. I must say I have grave concern that the reserve may fall short of its goals and its timetable. More important, in filing the reserves as we are doing we may be missing a significant opportunity to initiate important national policy strategies the opportunity for which may never come again.

I believe the strategic reserve offers an unparalleled opportunity to investigate new ways of bringing oil into the market place. It is entirely possible to purchase portions of the strategic reserve in such a way as to minimize the control of OPEC and demonstrate how a governmental presence in the marketing process could not only influence price favorably for American consumers but improve our bargaining position in regards to OPEC for some years to come.

The Federal Government is not negotiating on a government-to-government basis to find the best price and make large purchases in frontier areas or those areas or in those countries where we might expect a substantial price break. The Government is not auctioning off the right to import oil. Instead, just like any other trader, it is going into the market place and buying on the spot market.

I believe this policy deserves serious review and it is my understanding that Senator Haskell intends to continue this review and to ask the crucial questions about whether we do not have other opportunities to achieve foreign policy and national security goals as well as fill the reserve. I commend the distinguished senator from Colorado for this course of action. I think he is doing the right thing. I support him. And I hope as he pushes through on this he will be able to report that some changes are in the wind.

Likewise, I question whether we have adequately explored the possibility of using the national treasury we have in Alaska to fill the strategic reserve. I have said many times that it was a mistake to build a pipeline to Valdez and my prediction has been borne out. We now have a surplus of crude on the west coast. Yet we have chosen not to sell that crude to the Japanese or otherwise put it on the world market, as we might; instead we are contending with a west coast "glut". On the basis of the information I have so far, I am not satisfied that every effort has been made to use that glut to fill the strategic reserve.

We are told that the character and composition of that oil is in question. If, for technical reasons, the oil does not meet the needs and the national security is endangered, obviously we should not use that oil supply. I am not yet convinced that is the case and I am not convinced that every option has been explored.

By the same token I question whether we have done all that we could to explore ways of putting Alaskan oil on the world market particulary by using authority of the Federal Government, which must approve all exports of oil, to auction off that supply.

I would hope that the energy committee could explore these possibilities thoroughly and that the administration would understand the seriousness with which we regard all the elements of this plan.

In order to amplify the reasons for our concern over this issue and to provide a better understanding of the energy committee's decision I ask that there may appear at the end of my remarks the testimony I submitted on Monday.

May I again extend my thanks and congratulations to Senator Jackson, Senator Haskell, to the members of the committee and to the ranking minority member, Senator Hansen. I urge adoption of resolution number 429.

STATEMENT BY SENATOR EDWARD M. KENNEDY

Mr. Chairman and members of the Subcommittee, I appear before you today to ask your support for a Senate Resolution Number 429 disapproving Energy Action Number One which I submitted on March 9 and which has now been referred to your Subcommittee. I make this appeal on behalf of Senators Brooke, Stafford, Hathaway, Pell, Durkin, Leahy, Chafee, Javits, Ribicoff, Muskie, McIntyre and the people of New England.

Our concern about this Energy Action is a limited one. We applaud the decision, embodied in this document, to establish a one billion barrel strategic reserve. We applaud the recognition that for our region to be protected in time of emergency we will need, in readily available storage, at least 20 million barrels of petroleum product—as opposed to crude—which would supply our utilities and industries.

Our concern is focused on the requirement stipulated in the Energy Action that the storage of this reserve must be at one uniform cost: that of storage in salt domes in the Gulf Coast.

It is our contention that this principle of equal cost for storage, no matter what the needs of each region, is at best premature and at worst injurious to the national security which an emergency reserve is designed to protect. It is penny wise and pound foolish, placing economy over the overriding purposes of the strategic reserve.

Specifically, we contend that this standard completely eliminates the possibility of storage within the New England region. It leaves open the possibility of storage in Canada but long before the facts about that option are known. By failing to disapprove this Energy Action the Congress will endorse the principle of storage only at Gulf Coast costs, leaving only the uncertain Canadian alternative available.

Under the terms of Title V, Section 551, of the Energy Conservation Policy and Conservation Act each house of the Congress must disapprove of an Energy Action within the 15 day statutory period or the Energy Action becomes effective. But it may not amend the submission. We ask that this Energy Action be disapproved but with report language which indicates the limited extent of the objection. In this manner, the document could be resubmitted and quickly receive approval.

In the remainder of my statement I will discuss three reasons why the Energy Action should be disapproved:

First, it is premature on a national basis;

Second, it is premature on a regional basis;

Third, it is unwise public policy which could do substantial injury to New England in time of emergency.

AN UNCERTAIN NATIONAL PICTURE

My first contention is that the Energy Action should be disapproved for reasons of national concern that have nothing to do with New England. It is, I contend, far too early to stipulate one uniform cost for storing petroleum. In fact, the actions of the Department of Energy make this abundantly clear.

We have no assurance that the petroleum reserve will reach the 250 million barrel goal established for the end of this year. On the contrary, it would be surprising if that goal were achieved. No less than seven lawsuits have been filed against the federal government in the area of storage where the salt domes are located. Condemnation rights are in dispute. Environmental problems have yet to be overcome. Technical problems which could lead to seepage out of the salt domes have yet to be overcome.

As a consequence of these problems and delays all along the line, the Department of Energy is actively searching for other sites. They are searching for defense facilities, private sites, and even sites out of the country.

To its credit, the Department is trying to work with the government of Hawaii to find some protection acceptable to the citizens of that state. But certainly we must understand that storage in or for Hawaii would not be available at the estimated for the Gulf Coast facilities.

The entire search for alternatives *must*, therefore, be predicated on differential, rather than uniform, costs of storage. To approve a uniform cost criteria at this time is to lock in not only the Congress but the Department of Energy to a standard which probably cannot be met over the seven year life of the reserve-fill program.

PREMATURE JUDGMENT ON REGIONAL STORAGE IN THE NORTHEAST

As for New England, I hope the Committee will understand that this issue has been

important to us for many years. In 1976 the Congress accepted my amendment requiring regional storage as part of the national reserve system. That amendment enjoyed strong and universal support in our region. As prices have risen and two Administrations have warned of dwindling oil supplies, concern about this issue has continued to increase.

For example, when the Director of the SPERL office met last week with representatives of the governors from the New England states plus New York and Pennsylvania, every state took the position that storage within the region was necessary and that reliance on storage in Louisiana would be a mistake. These strongly held feelings cannot be dismissed. They are based upon our experience in 1973 and fears of a re-run in the future.

In this atmosphere insistence on the Gulf Coast cost standard is premature and mistaken. My own experience bears this out.

On January 26th, Senator Hathaway, Senator Chafee and I met with Deputy Secretary of Energy, Jack O'Leary, on regional emergency storage. The meeting was called to discuss our concern for the New England states. Mr. O'Leary, however, spoke favorably of the possibility of storage in Canada and detailed for us Vice President Mondale's negotiations with Prime Minister Trudeau. He asked for our understanding during the 90 days of a joint study to be undertaken by the two governments.

Now, with the study scheduled for completion a month late—in mid-May—the Department sends up an energy action which locks in a single cost standard.

If Mr. O'Leary and the Department of Energy are offered New England storage in Canada as an alternative to Louisiana, it does not help the cause to submit the Energy Action at this time. The storage sites in Canada are subject to environmental and technical problems. The Wabana iron mine site, for example, runs under water and may be subject to leakage. What obligations and rights the Canadian government will assume and how it would guarantee United States access to this oil in time of emergency is unclear. Also, the two governments have tied this issue to the supply of Canadian oil to the Northern Tier refineries in the Upper Midwest, another uncertainty. We know little about transportation from these sites to the Northeastern states in time of emergency.

Surely no one should expect New England to be content that storage in Canada will satisfy our needs and allay our fears when so many uncertainties are outstanding. The study to be completed in May will not even answer all of these questions and a second study, to be completed in the fall, will be necessary and may not, itself, be dispositive.

THE INSURANCE POLICY NO ONE WOULD BUY

Now I turn to the heart of our long-time concern, the risks New England runs during an oil emergency and the insurance system we are being asked to buy to cover those risks.

To appreciate our point of view, the Committee should realize that New England is far and away the most oil dependent region of the United States. Seventy percent of our energy is supplied from oil which comes entirely by sea.

You must also understand that during the 1973 embargo prices went above 25 dollars a barrel. As stocks declined, ships lay at anchor in Boston Harbor waiting for the price to get sufficiently high to bring the oil ashore.

There are some Irish in Boston who remember the Battle of the Boyne as if it were yesterday although it occurred four hundred years ago. You can be sure we remember the lessons of 1973.

We are being asked to buy an insurance policy in the form of oil stored, in the best case, in Canada and, in the worst case, in Louisiana. We are really being asked to buy a pig in a poke.

I have already discussed the uncertainties surrounding the Canadian sites. Uncertainties also cloud the Louisiana option.

We are told that oil could be delivered readily to New England. But what if the emergency should occur in the middle of a severe winter? How can we be sure what the United States tanker capacity will be and where those ships will be located at a time of emergency five or ten years from now?

We have been assured that if U.S. tankers are not available, foreign tankers can be utilized. But the Jones Act requires the use of United States tankers and would surely apply to the transportation of oil owned by the government. In a time of any shortage, transportation costs at the margin could easily multiply five or ten times, adding as much as $10 to a barrel of oil.

We are told the Jones Act could be waived. Is this so self-evident? No such waiver policy has been outlined or established and ship owners and maritime unions will want clear assurances about the emergency circumstances which would have to surround the departure from a clearly defined national policy as that which favors U.S. bottoms.

Thus we are being asked to sign the insurance policy before another major risk has been defined and satisfied.

We are likewise told that the price equalization laws would be utilized to insure that the costs of an emergency would be spread uniformly over the country through the entitlements system. Yet anyone who is close to the situation knows that the entitlements systems is extremely complex and that changes occur with all the speed of a spring thaw in mountain lakes. We have been assured constantly that the Administration wants to improve or eliminate the entitlements systems but I find little reason to believe we can know what the entitlements system will look like five or ten years from now or that it will be utilized with dispatch.

Now let us turn to the cost issue.

As a threshold question, we in Massachusetts raise doubts about the Department's cost estimates. Mr. O'Leary told us the cost of storage in New Englad would be from $6 to $10 more per barrel than Louisiana storage. However, our information indicates that storage in rock caverns in New Bedford, Massachusetts, could be obtained for $4.50 per barrel over Louisiana costs, taking the Administration at its word for the costs in the Gulf.

But, more to the point, how can cost alone be the basis for a national security decision?

The total cost of the emergency oil reserve will be in excess of $15 billion dollars, and probably much more, by 1985. Yet the cost of providing the Northeast with the protection it needs would in no event exceed $100 million. Storing ten million barrels in rock caverns would, for example, cost an extra $30 million by our estimates. This would amount to .2% of the total cost of the program.

Stated another way, if we established a reserve of 997 million barrels instead of one billion barrels, the Northeast would have at least a minimum level of protection.

It is important to stress, as well, the effect of in region storage on the psychology of the market. In an emergency a hoarding mentality is inevitable and price gouging an ever-present temptation. At the onset of an embargo, for example, the uncertainty of the availability of delivery from Louisiana would tend to drive up the price. With the storage sitting in the middle of market this would be far less likely. Release of the reserve by the government could immediately influence price.

Without such assurance the savings to the government by storage in Louisiana would quickly evaporate. The government would be protected but consumers would not. Excess profits would accrue to tank owners and anyone who held oil at the time.

This is our case, Mr. Chairman and members of the Subcommittee. We hope you will consider it carefully and provide us the remedy we seek.

THE STRATEGIC RESERVE AND OPEC

Before closing I would like to discuss briefly with you a related question which has concerned me for several years and that is the manner in which the strategic reserve is filled.

I have contended that the reserve should be filled by sealed bid. I have said that particular emphasis should be paid to purchase from frontier areas not in OPEC and, as a second line, to those non-Arab countries which are most likely to supply oil on a competitive basis.

I believe this course is necessary in order to introduce as much price competition as possible into the OPEC dominated market.

More than seventy percent of the oil imported into the United States enters through integrated, multi-national oil companies. These companies give OPEC assured access to our market on a long-term basis yet they are bound to honor prices set by the OPEC countries. This arrangement is a substantial factor in assuring the continued health of the cartel.

Only by dealing with those countries which do not have such assured access and which are anxious to sell an extra volume of oil can we introduce price competition and bring down the price at the margin.

I do not believe this approach has been pursued aggressively so far but for the remaining 90 percent yet to be purchased I respectively suggest that your committee impress upon the Department of Energy the importance of sealed bids. This is my conclusion after several years of investigation in both the Anti-Trust Subcommittee and the Subcommittee on Energy of the Joint Economic Committee and it was also the judgment of the Multi-National Corporations Subcommittee of the Senate Foreign Relations Committee.

I thank you for the speed with which you have convened these hearings and your concern for a national strategic reserve which truly protects all of our citizens.

STATEMENT OF SENATOR JOHN A. DURKIN

I support the resolution opposing the Administration's amendment to the Strategic Petroleum Reserve Plan. Every member of this body recognizes the Strategic Petroleum Reserve's vital role in ensuring against the devastating effects of import disruptions of our vital petroleum supply. That is why I support the concept, embodied in the Department of Energy's SPR amendment No. 1, of increasing the reserve from 500 million to one billion barrels. This increase is necessary to protect the United States against the disasterous effects of an interruption in our growing imports of OPEC oil.

Equally important to the Nation's security and economic well-being is the problem of regional distribution of the reserve. In event of a supply disruption, stocks of petroleum must be equitably distributed throughout the country. Otherwise, the price gouging and gasoline lines of the 1974 embargo are bound to recur. The Senate recognized the problem of regional distribution when legislating the Strategic Petroleum Reserve in 1976 by requiring regional storage as an integral part of the SPR program. Unfortunately, the latest SPR amendment fails to adequately comply with Congressional intent regarding regional storage. For these and other reasons which are discussed below, I must oppose the SPR amendment under consideration.

The Administration's failure to address regional storage problems is especially acute in New Hampshire and New England.

New England is more dependent on foreign fuel than any other region. In effect, the Administration's SPR amendment continues the federal energy policy of discrimination against New Hampshire and New England. The security needs of New England require that oil be stored in the region, not thousands of miles away, to guard against another oil boycott, and all its attendant adverse economic effects.

Storage of petroleum product in Louisiana for use in New Hampshire and New England cannot be condoned or tolerated. In event of a supply disruption, weather, tanker unavailability, or other problems could delay the shipment of needed oil to New England from the Gulf Coast.

Furthermore, the cost of this transportation to New England, particularly during an embargo when tankers may be scarce, belies the basic premise of lower costs the Administration has used to justify Gulf Coast storage. It certainly isn't worth the lower cost of Louisiana storage, if the oil cannot be shipped to New England in an economic and timely manner. And it is certainly not clear that it can be in event of supply disruption. It would make far more sense to store petroleum product in New England where the availability and costs of transportation would not be at issue.

The Administration's option of storage in Canada is at best presumptuous and premature because it is uncertain that Canadian storage will be proven feasible or economic. The Canadian proposal is still undergoing joint study, which will not be completed until next month. At that time the question of Canadian storage should be addressed, not now when the facts are not all in. It is presumptuous to assume that Canadian storage is feasible when questions regarding sharing of the reserve, transportation, security of supplies, and technical problems, still remain unanswered.

The incredible cost of the Strategic Petroleum Reserve Program—over four billion dollars next fiscal year alone—demands that we give this program every chance of success. But it will not be successful if regional needs are ignored, if storage is thousands of miles from where the oil is needed, or if stored oil cannot be transported to where it is needed. These considerations must enter into the development of the SPR plan. Unfortunately from the looks of this amendment, they have not and until these concerns are addressed. Congress must reject the amendment under consideration.

Even though I strongly support the doubling of size of the reserve to a billion barrels, I must oppose the SPR amendment on the grounds that it does not provide adequate protection for New England, and I urge my colleagues to support the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 429) was agreed to, as follows:

*Resolved*, That the Senate does not favor the energy action numbered DOE Number 1 transmitted to Congress on April 4, 1978.

## QUORUM CALL

Mr. MATSUNAGA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mr. MATSUNAGA assumed the chair.)

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RECESS UNTIL 7:30 A.M. TOMORROW

Mr. SARBANES. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess, as in executive session, pursuant to the previous order entered, until 7:30 a.m. tomorrow.

The motion was agreed to; and at 10:02 p.m., the Senate, in executive session, recessed until Tuesday, April 18, 1978, at 7:30 a.m.

## NOMINATIONS

Executive nomination received by the Senate April 14, 1978, pursuant to the order of the Senate of April 13, 1978:

DEPARTMENT OF STATE

William B. Edmundson, of Nebraska, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of South Africa.

Executive nominations received by the Senate April 17, 1978:

IN THE AIR FORCE

Lt. Gen. Charles E. Buckingham, U.S. Air Force (age 54), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

Lt. Gen. Thomas W. Morgan, U.S. Air Force (age 56), for appointment to the grade of lieutenant general on the retired list pursuant to the provisions of title 10, United States Code, section 8962.

The following-named officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

*To be lieutenant general*

Maj. Gen. Richard Charles Henry, [redacted], U.S. Air Force.

Vice Adm. Donald C. Davis, U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of admiral while so serving.

IN THE AIR FORCE

The following-named officers for promotion as a reserve of the Air Force, under the appropriate provisions of chapters 35 and 837, title 10, United States Code.

LINE OF THE AIR FORCE

*Lieutenant colonel to colonel*

Bennett, Richard E., [redacted].
Carr, William H., [redacted].
Daly, Joseph C., [redacted].
Holland, Clifford D., [redacted].
Kazek, Joseph A., [redacted].
Neal, William O., [redacted].
O'Connor, John J., Jr., [redacted].
Poythress, Carl C., Jr., [redacted].
Weston, James A., Jr., [redacted].
Wissinger, Robert F., [redacted].

MEDICAL CORPS

Bone, Robert C., [redacted].
Cooper, Samuel L., [redacted].
Meyers, John E., [redacted].
Sell, Dean J., [redacted].

IN THE AIR FORCE

The following officer for appointment in the Regular Air Force, in the grade indicated, under the provisions of Section 8284, Title 10, United States Code, with date of rank to be determined by the Secretary of Air Force:

LINE OF THE AIR FORCE

*To be major*

Schammel, Thomas F., [redacted].

The following officer for appointment in the Regular Air Force, in the grade indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title, United States Code, to perform the duty indicated, and with date of rank to be determined by the Secretary of the Air Force:

MEDICAL CORPS

*To be lieutenant colonel*

Coolidge, Thomas T., [redacted].

The following persons for appointment as reserve of the Air Force in grade indicated, under the provisions of section 593, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated:

MEDICAL CORPS

*To be lieutenant colonel*

Chapman, Frank C., [redacted].
Dorn, Ronald V., Jr., [redacted].
Driscoll, Timothy J., [redacted].
Hawley, William J., [redacted].
Lively, Edmund P., [redacted].
Pardo, Jorge M., [redacted].
Richardson, Stephen R., [redacted].
Sampler, Jacob D., [redacted].
Welsh, George, [redacted].
Willis, Marshall, [redacted].
Yeakley, Robert A., [redacted].
Zimmerman, Alvin, [redacted].

DENTAL CORPS

*To be lieutenant colonel*

Kaiser, David A., [redacted].

The following persons for appointment as reserves of the Air Force (ANGUS) in the grade indicated, under the provisions of sections 593 and 8351, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indi-indicated:

MEDICAL CORPS

*To be lieutenant colonel*

Salita, Conrad C., [redacted].

The following officer for appointment as a Reserve of the Air Force (ANGUS), in the grade indicated under the provisions of sections 593, 8351, and 8392, title 10, United States Code:

LINE OF THE AIR FORCE

*To be colonel*

Wilson, John A., III, [redacted].

The following officers for promotion in the Air Force Reserve, under the provisions of sections 8376 and 593, title 10, United States Code:

MEDICAL CORPS

*Lieutenant colonel to colonel*

Bauer, Edward C. R., [redacted].
Delemos, Robert A., [redacted].

LINE OF THE AIR FORCE

*Major to lieutenant colonel*

Rovell, Charles A., Jr., [redacted].
Tinney, Frederick N., [redacted].

CHAPLAIN CORPS

Quinn, Howard X., [redacted].
Wallace, John E., [redacted].

MEDICAL CORPS

Anderle, Lawrence J., [redacted].
Drews, Genevieve A., [redacted].
Jacobs, Robert L., Jr., [redacted].
Mullins, James D., [redacted].
Schmitz, George F., [redacted].

NURSE CORPS

Cleghorn, Prudence A., [redacted].
Kevan, Edith M., [redacted].

IN THE ARMY

The following-named scholarship students for appointment in the Regular Army of the United States in the grade of second lieutenant, under the provisions of title 10,

United States Code, sections 2107, 3284, 3286, 3287, 3288, and 3290:

Adams, Benjamin F., xxx-xx-xxxx.
Adrian, Burton R., xxx-xx-xxxx.
Aguilar, Victor, xxx-xx-xxxx.
Ahern, Daniel J., xxx-xx-xxxx.
Aiello, Mark A., xxx-xx-xxxx.
Alano, Kevin B., xxx-xx-xxxx.
Alcorn, James M., xxx-xx-xxxx.
Allen, Andrew S., xxx-xx-xxxx.
Anderson, David R., xxx-xx-xxxx.
Anderson, Jeffrey J., xxx-xx-xxxx.
Anderson, Kenneth E., xxx-xx-xxxx.
Anderson, Philip C., xxx-xx-xxxx.
Anderson, Robert E., xxx-xx-xxxx.
Andrews, Craig D., xxx-xx-xxxx.
Anschuetz, Norman C., xxx-xx-xxxx.
Anthony, Douglas M., xxx-xx-xxxx.
Archer, Dale E., xxx-xx-xxxx.
Avera, Stephen R., xxx-xx-xxxx.
Avila, Fernando T., xxx-xx-xxxx.
Axtell, Thomas L., xxx-xx-xxxx.
Badalucco, Joseph P., xxx-xx-xxxx.
Baer, Randolph A., xxx-xx-xxxx.
Baird, Gerald R., xxx-xx-xxxx.
Ball, Phillip G., xxx-xx-xxxx.
Ballard, Larry G., xxx-xx-xxxx.
Barbour, Wesley E., xxx-xx-xxxx.
Barnard, Paul L., xxx-xx-xxxx.
Barnes, David R., xxx-xx-xxxx.
Barnett, Audy D., xxx-xx-xxxx.
Barrineau, James A., xxx-xx-xxxx.
Barlett, David P., xxx-xx-xxxx.
Baxter, Nathan F., xxx-xx-xxxx.
Bazan, Jose R., xxx-xx-xxxx.
Belmont, Dimitri M., xxx-xx-xxxx.
Bembry, Stanley W., xxx-xx-xxxx.
Bennett, Brant A., xxx-xx-xxxx.
Bennett, James G., xxx-xx-xxxx.
Berl, James F., xxx-xx-xxxx.
Bienvenu, Jeffrey M., xxx-xx-xxxx.
Birdwell, Robert E., xxx-xx-xxxx.
Birmingham, Lee A., xxx-xx-xxxx.
Blaes, Michael A., xxx-xx-xxxx.
Blattam, William K., xxx-xx-xxxx.
Blazek, Donald L., xxx-xx-xxxx.
Boertje, Gregory I., xxx-xx-xxxx.
Bolger, Daniel P., xxx-xx-xxxx.
Boone, Morris H., xxx-xx-xxxx.
Borchardt, Randy L., xxx-xx-xxxx.
Borders, Michael R., xxx-xx-xxxx.
Botard, Thomas E., xxx-xx-xxxx.
Brady, Timothy P., xxx-xx-xxxx.
Bragdon, Robert O., xxx-xx-xxxx.
Braswell, David N., xxx-xx-xxxx.
Braunstein, Michael R., xxx-xx-xxxx.
Brazil, Matthew J., xxx-xx-xxxx.
Breakiron, Richard, xxx-xx-xxxx.
Breen, Barry N., xxx-xx-xxxx.
Breitmayer, Robert, xxx-xx-xxxx.
Brewer, Mitchel T., xxx-xx-xxxx.
Brewer, Richard J., xxx-xx-xxxx.
Brice, Kevin J., xxx-xx-xxxx.
Brisky, Larry A., xxx-xx-xxxx.
Brislawn, Cornelius, xxx-xx-xxxx.
Brockus, Gerald K., xxx-xx-xxxx.
Brockway, David A., xxx-xx-xxxx.
Brooks, Robert, xxx-xx-xxxx.
Brosk, Frederick J., xxx-xx-xxxx.
Brown, Dallas C., xxx-xx-xxxx.
Brown, Douglas R., xxx-xx-xxxx.
Brown, Harry D., xxx-xx-xxxx.
Brown, Neil T., xxx-xx-xxxx.
Brunow, Steven E., xxx-xx-xxxx.
Bryan, Judkins M., xxx-xx-xxxx.
Bryan, William J., xxx-xx-xxxx.
Bryant, William G., xxx-xx-xxxx.
Buchanan, Eric S., xxx-xx-xxxx.
Buchmiller, George, xxx-xx-xxxx.
Bullock, Donald A., xxx-xx-xxxx.
Bungarden, John R., xxx-xx-xxxx.
Burr, Kevin M., xxx-xx-xxxx.
Burroughs, Dennis R., xxx-xx-xxxx.
Bush, Kenneth W., xxx-xx-xxxx.
Bute, Bradley G., xxx-xx-xxxx.
Butler, Clinton, xxx-xx-xxxx.
Butterbrodt, Jay T., xxx-xx-xxxx.
Bryne, Michael A., xxx-xx-xxxx.
Byrne, Richard T., xxx-xx-xxxx.
Cain, Mark J., xxx-xx-xxxx.
Call, Mark J., xxx-xx-xxxx.
Campbell, Dana N., xxx-xx-xxxx.
Campbell, Donald M., xxx-xx-xxxx.
Campbell, Kevin H., xxx-xx-xxxx.
Canerday, Jon J., xxx-xx-xxxx.
Cannon, Patrick M., xxx-xx-xxxx.
Cano, Amador L., xxx-xx-xxxx.
Cardillo, Richard G., xxx-xx-xxxx.
Carney, Ritche L., xxx-xx-xxxx.
Carpenter, Patrick, xxx-xx-xxxx.
Carpenter, Robert F., xxx-xx-xxxx.
Carretto, Jose A., xxx-xx-xxxx.
Carroll, Colus L., xxx-xx-xxxx.
Carter, Roy A., xxx-xx-xxxx.
Catt, Michael S., xxx-xx-xxxx.
Cayce, Lyle W., xxx-xx-xxxx.
Chaffin, Kevin D., xxx-xx-xxxx.
Chapman, David W., xxx-xx-xxxx.
Charters, Alan S., xxx-xx-xxxx.
Chase, George G., xxx-xx-xxxx.
Check, Paul J., xxx-xx-xxxx.
Chmelik, Frank J., xxx-xx-xxxx.
Chrishon, James E., xxx-xx-xxxx.
Cianchetti, Mark A., xxx-xx-xxxx.
Ciarella, David J., xxx-xx-xxxx.
Cintron, Eddie, xxx-xx-xxxx.
Clark, Duane A., xxx-xx-xxxx.
Clark, James D., xxx-xx-xxxx.
Clark, James R., xxx-xx-xxxx.
Clark, Julius E., xxx-xx-xxxx.
Cleary, David M., xxx-xx-xxxx.
Cleary, Michael T., xxx-xx-xxxx.
Clow, Todd R., xxx-xx-xxxx.
Cobb, Aaron L., xxx-xx-xxxx.
Cockerham, Kenneth, xxx-xx-xxxx.
Coe, Donald A., xxx-xx-xxxx.
Coffman, Bryan S., xxx-xx-xxxx.
Collier, Marvin S., xxx-xx-xxxx.
Collier, William W., xxx-xx-xxxx.
Collins, Richard F., xxx-xx-xxxx.
Colpini, Anthony W., xxx-xx-xxxx.
Conklin, Steven J., xxx-xx-xxxx.
Connelly, Kevin T., xxx-xx-xxxx.
Connor, William J., xxx-xx-xxxx.
Conormon, Todd C., xxx-xx-xxxx.
Cook, James T., xxx-xx-xxxx.
Cooney, William F., xxx-xx-xxxx.
Cooper, Kim B., xxx-xx-xxxx.
Coppedge, Joie, xxx-xx-xxxx.
Cordell, Ronald C., xxx-xx-xxxx.
Corona, Vincent J., xxx-xx-xxxx.
Coufal, Richard L., xxx-xx-xxxx.
Coumes, David J., xxx-xx-xxxx.
Courtemanche, Joel, xxx-xx-xxxx.
Cox, Philip W., xxx-xx-xxxx.
Cox, Richard S., xxx-xx-xxxx.
Cox, Robert D., xxx-xx-xxxx.
Craig, Mark B., xxx-xx-xxxx.
Crane, Carl D., xxx-xx-xxxx.
Crocefoglia, Larry W., xxx-xx-xxxx.
Crowder, Kenneth E., xxx-xx-xxxx.
Crutchfield, Raymond, xxx-xx-xxxx.
Cummings, Timothy J., xxx-xx-xxxx.
Curling, Carl A., xxx-xx-xxxx.
Cutshall, Samuel W., xxx-xx-xxxx.
Cvach, Gordon F., xxx-xx-xxxx.
Dail, Gerry J., xxx-xx-xxxx.
Daniel, Jesse J., xxx-xx-xxxx.
Davieau, Gerald J., xxx-xx-xxxx.
Davis, Rodney M., xxx-xx-xxxx.
Davis, William H., xxx-xx-xxxx.
Delgado, Ramon L., xxx-xx-xxxx.
Dellarocco, Genaro J., xxx-xx-xxxx.
Dengel, Joseph J., xxx-xx-xxxx.
Depase, Charles A., xxx-xx-xxxx.
Dewitt, Robert L., xxx-xx-xxxx.
Dietrick, Charles J., xxx-xx-xxxx.
Dilullo, Victor, xxx-xx-xxxx.
Dissinger, Frederick, xxx-xx-xxxx.
Dittmann, Robert L., xxx-xx-xxxx.
Dixon, David J., xxx-xx-xxxx.
Dobson, Wayne B., xxx-xx-xxxx.
Doyel, William G., xxx-xx-xxxx.
Drake, Gordon C., xxx-xx-xxxx.
Drake, Richard R., xxx-xx-xxxx.
Drerup, Karl A., xxx-xx-xxxx.
Driscol, John, xxx-xx-xxxx.
Dugan, Christopher, xxx-xx-xxxx.
Dugger, Floyd A., xxx-xx-xxxx.
Duiguid, Jerome A., xxx-xx-xxxx.
Dunbar, John E., xxx-xx-xxxx.
Duncan, Bradford A., xxx-xx-xxxx.
Duncan, Truman E., xxx-xx-xxxx.
Dunham, Steven R., xxx-xx-xxxx.
Durant, Anthony G., xxx-xx-xxxx.
Dwan, Edward R., xxx-xx-xxxx.
Easterwood, John L., xxx-xx-xxxx.
Eberhart, Scott M., xxx-xx-xxxx.
Eccles, Richard L., xxx-xx-xxxx.
Eck, Michael J., xxx-xx-xxxx.
Egbert, Daniel J., xxx-xx-xxxx.
Eikmeier, Dale C., xxx-xx-xxxx.
Eisenbarth, Henry L., xxx-xx-xxxx.
Elder, Michael G., xxx-xx-xxxx.
Elkins, Craig E., xxx-xx-xxxx.
Ellis, Richard T., xxx-xx-xxxx.
Enders, David C., xxx-xx-xxxx.
Escalera, Miguel A., xxx-xx-xxxx.
Evans, Duane T., xxx-xx-xxxx.
Evans, Michael J., xxx-xx-xxxx.
Everett, Steven L., xxx-xx-xxxx.
Eyre, Dana P., xxx-xx-xxxx.
Ezell, James S., xxx-xx-xxxx.
Fambro, Carl G., xxx-xx-xxxx.
Farina, Kenneth J., xxx-xx-xxxx.
Feeley, Timothy E., xxx-xx-xxxx.
Felts, Kenneth D., xxx-xx-xxxx.
Fernandez, Orland J., xxx-xx-xxxx.
Fields, Dennis E., xxx-xx-xxxx.
Finlayson, Kenneth, xxx-xx-xxxx.
Fiscko, Kurt A., xxx-xx-xxxx.
Fisher, James L., xxx-xx-xxxx.
Fleming, James M., xxx-xx-xxxx.
Fletcher, Payton W., xxx-xx-xxxx.
Flippen, Robert J., xxx-xx-xxxx.
Flynn, Michael R., xxx-xx-xxxx.
Fortune, Kenneth, xxx-xx-xxxx.
Foster, James F., xxx-xx-xxxx.
Foster, Michael E., xxx-xx-xxxx.
Fountain, Frank W., xxx-xx-xxxx.
Fox, Steven G., xxx-xx-xxxx.
Franco, Jose A., xxx-xx-xxxx.
Frazier, Richard D., xxx-xx-xxxx.
Freeland, Paul T., xxx-xx-xxxx.
Freeman, Geoffrey, xxx-xx-xxxx.
French, Mark R., xxx-xx-xxxx.
Freytag, Gerald, xxx-xx-xxxx.
Frisk, Joseph T., xxx-xx-xxxx.
Gabrys, Bruce J., xxx-xx-xxxx.
Gallant, Christophe, xxx-xx-xxxx.
Gannon, Michael K., xxx-xx-xxxx.
Garcia, Alfonso, xxx-xx-xxxx.
Garcia, Francisco, xxx-xx-xxxx.
Garcia, Melfred S., xxx-xx-xxxx.
Garibay, Randy J., xxx-xx-xxxx.
Garner, Kermit C., xxx-xx-xxxx.
Garrett, Grady B., xxx-xx-xxxx.
Gay, Francis H., xxx-xx-xxxx.
Gay, Robert, xxx-xx-xxxx.
Gebhart, Richard P., xxx-xx-xxxx.
Geishecker, Alan W., xxx-xx-xxxx.
Gentry, Michael H., xxx-xx-xxxx.
Gerber, Roger A., xxx-xx-xxxx.
Gessner, John A., xxx-xx-xxxx.
Giannola, Leo A., xxx-xx-xxxx.
Gilpin, Christopher, xxx-xx-xxxx.
Girvin, James E., xxx-xx-xxxx.
Goetz, Michael V., xxx-xx-xxxx.
Golder, Lance G., xxx-xx-xxxx.
Gomez, Eduardo, xxx-xx-xxxx.
Gonzales, Arthur J., xxx-xx-xxxx.
Gordon, Jay M., xxx-xx-xxxx.
Gordon, Wayne H., xxx-xx-xxxx.
Gothard, William J., xxx-xx-xxxx.
Grandy, Sherman L., xxx-xx-xxxx.
Gray, David R., xxx-xx-xxxx.
Green, Luke S., xxx-xx-xxxx.
Greeno, Scott B., xxx-xx-xxxx.
Greer, William L., xxx-xx-xxxx.
Griffiths, John W., xxx-xx-xxxx.
Groeber, Vernon L., xxx-xx-xxxx.
Gryska, David W., xxx-xx-xxxx.
Guba, Anthony, xxx-xx-xxxx.
Guyton, Michael B., xxx-xx-xxxx.
Gwock, Eddie J., xxx-xx-xxxx.
Haas, Michael, xxx-xx-xxxx.
Haid, Thomas C., xxx-xx-xxxx.
Hall, Dywane A., xxx-xx-xxxx.
Hall, Leslie T., xxx-xx-xxxx.
Hall, Thomas W., xxx-xx-xxxx.
Hamm, Brent V., xxx-xx-xxxx.
Hammer, Michael H., xxx-xx-xxxx.
Hampton, David R., xxx-xx-xxxx.
Hampton, Jack W., xxx-xx-xxxx.
Hampton, Mark W., xxx-xx-xxxx.
Han, Gregory L., xxx-xx-xxxx.

Haney, Douglas C., xxx-xx-xxxx.
Harris, Charles M., xxx-xx-xxxx.
Harris, Lawrence, xxx-xx-xxxx.
Harris, Thad W., xxx-xx-xxxx.
Harvey, Daniel, xxx-xx-xxxx.
Hatter, Mark B., xxx-xx-xxxx.
Healy, Scott A., xxx-xx-xxxx.
Heemstra, John J., xxx-xx-xxxx.
Heimbigner, Jeff L., xxx-xx-xxxx.
Helms, Edward J., xxx-xx-xxxx.
Henderson, Thomas H., xxx-xx-xxxx.
Hendrix, Donald J., xxx-xx-xxxx.
Hendrix, Mark A., xxx-xx-xxxx.
Henley, Crawford W., xxx-xx-xxxx.
Henscheid, Mark R., xxx-xx-xxxx.
Hermanson, Ronald E., xxx-xx-xxxx.
Herrington, Karl H., xxx-xx-xxxx.
Hess, Larry J., xxx-xx-xxxx.
Hetmansky, Andrey, xxx-xx-xxxx.
Heuler, Ronald, xxx-xx-xxxx.
Hewitt, James E., xxx-xx-xxxx.
Hickman, William R., xxx-xx-xxxx.
Hill, James R., xxx-xx-xxxx.
Holahan, Eugene, xxx-xx-xxxx.
Hollingsworth, Glen, xxx-xx-xxxx.
Hollingsworth, William, xxx-xx-xxxx.
Holloway, Reginald, xxx-xx-xxxx.
Holt, Laurence D., xxx-xx-xxxx.
Holtzapple, Mark T., xxx-xx-xxxx.
Horne, Matthew B., xxx-xx-xxxx.
Howard, Gerald G., xxx-xx-xxxx.
Huleatt, William J., xxx-xx-xxxx.
Humphreys, James W., xxx-xx-xxxx.
Humphries, John T., xxx-xx-xxxx.
Hungerford, Dale A., xxx-xx-xxxx.
Hunt, David A., xxx-xx-xxxx.
Hurley, John F., xxx-xx-xxxx.
Hussey, Andrew J., xxx-xx-xxxx.
Jackson, Douglas L., xxx-xx-xxxx.
Johnson, Carl M., xxx-xx-xxxx.
Johnson, John D., xxx-xx-xxxx.
Johnson, Theodore E., xxx-xx-xxxx.
Johnston, Glenn T., xxx-xx-xxxx.
Johnston, Thomas R., xxx-xx-xxxx.
Jones, Jeffrey W., xxx-xx-xxxx.
Jones, Reuben D., xxx-xx-xxxx.
Jones, William E., xxx-xx-xxxx.
Jordan, Leslie M., xxx-xx-xxxx.
Kainz, Edward J., xxx-xx-xxxx.
Kallam, Jerry C., xxx-xx-xxxx.
Kauchak, Mark A., xxx-xx-xxxx.
Kaufman, Barry W., xxx-xx-xxxx.
Kaufmann, Edward J., xxx-xx-xxxx.
Keller, Steven M., xxx-xx-xxxx.
Kelley, Robert J., xxx-xx-xxxx.
Kelley, Stanley J., xxx-xx-xxxx.
Kempinski, Bernard, xxx-xx-xxxx.
Kempinski, Robert M., xxx-xx-xxxx.
Kennerson, Patrick, xxx-xx-xxxx.
Kenyon, Robert W., xxx-xx-xxxx.
Kerr, Scott W., xxx-xx-xxxx.
Kienle, Frederick, xxx-xx-xxxx.
Kilian, John R., xxx-xx-xxxx.
Kimball, Mark D., xxx-xx-xxxx.
Klein, Milton J., xxx-xx-xxxx.
Klemens, John D., xxx-xx-xxxx.
Knight, Lee F., xxx-xx-xxxx.
Knox, Brian K., xxx-xx-xxxx.
Koepke, Dennis F., xxx-xx-xxxx.
Kolditz, Thomas A., xxx-xx-xxxx.
Kosinuk, Gary W., xxx-xx-xxxx.
Kump, Howard J., xxx-xx-xxxx.
Kupferer, Richard L., xxx-xx-xxxx.
Kurmel, Thomas D., xxx-xx-xxxx.
Lacross, Thomas L., xxx-xx-xxxx.
Ladner, John S., xxx-xx-xxxx.
Lambert William C., xxx-xx-xxxx.
Lamon, James R., xxx-xx-xxxx.
Larkin, Donald J., xxx-xx-xxxx.
Larsen, Donald L., xxx-xx-xxxx.
Lawrence, Wade B., xxx-xx-xxxx.
Lay, David M., xxx-xx-xxxx.
Lazo, Dale A., xxx-xx-xxxx.
Leadbetter, Howard, xxx-xx-xxxx.
Leblanc, Roger W., xxx-xx-xxxx.
Ledbetter, Lynn R., xxx-xx-xxxx.
Leech, James J., xxx-xx-xxxx.
Lennon, John T., xxx-xx-xxxx.
Lewandowski, Richard, xxx-xx-xxxx.
Lewis, Michael C., xxx-xx-xxxx.
Licameli, Francis, xxx-xx-xxxx.
Lincourt, Jeffrey, xxx-xx-xxxx.
Lington, Evan R., xxx-xx-xxxx.
Listoe, Kent R., xxx-xx-xxxx.
Lockhart, Frazer R., xxx-xx-xxxx.
Logan, James N., xxx-xx-xxxx.
Longoria, Ernesto, xxx-xx-xxxx.
Lord, Edwin G., xxx-xx-xxxx.
Loughran, Jose, xxx-xx-xxxx.
Lovett, Troy L., xxx-xx-xxxx.
Maggio, Michael, xxx-xx-xxxx.
Majewski, Jon A., xxx-xx-xxxx.
Mandrell, Warren H., xxx-xx-xxxx.
Maney, Matthew S., xxx-xx-xxxx.
Mann, Kendall L., xxx-xx-xxxx.
Mansfield, Jerry C., xxx-xx-xxxx.
Martin, Charles V., xxx-xx-xxxx.
Martin, Gregory L., xxx-xx-xxxx.
Mason, Dawayne H., xxx-xx-xxxx.
Matthews, James T., xxx-xx-xxxx.
McBride, John T., xxx-xx-xxxx.
McCaffree, Michael, xxx-xx-xxxx.
McCallister, Larry, xxx-xx-xxxx.
McCarthy, Thomas C., xxx-xx-xxxx.
McCasland, Richard H., xxx-xx-xxxx.
McClellan, Harry, xxx-xx-xxxx.
McCollum, David T., xxx-xx-xxxx.
McCrea, Richard E., xxx-xx-xxxx.
McCurdy, Ronald J., xxx-xx-xxxx.
McDonald, Edward, xxx-xx-xxxx.
McGowan, Robert C., xxx-xx-xxxx.
McKinnon, Michael, xxx-xx-xxxx.
McLeod, John F., xxx-xx-xxxx.
McMahon, Patrick, xxx-xx-xxxx.
McMurrer, John S., xxx-xx-xxxx.
McNamara, Timothy M., xxx-xx-xxxx.
McNeal, William A., xxx-xx-xxxx.
Mehroff, Loyal A., xxx-xx-xxxx.
Meoni, Mark A., xxx-xx-xxxx.
Merenich, John A., xxx-xx-xxxx.
Merrick, Michael B., xxx-xx-xxxx.
Metrz, Monty G., xxx-xx-xxxx.
Milford, Robert W., xxx-xx-xxxx.
Miller, Gerald R., xxx-xx-xxxx.
Miller, Glen E., xxx-xx-xxxx.
Milne, Robert W., xxx-xx-xxxx.
Minton, Calvin R., xxx-xx-xxxx.
Mirr, Steven R., xxx-xx-xxxx.
Mocello, Gerald A., xxx-xx-xxxx.
Mollica, Mark A., xxx-xx-xxxx.
Monds, David L., xxx-xx-xxxx.
Monical, Robert B., xxx-xx-xxxx.
Moore, Brian L., xxx-xx-xxxx.
Moore, Thomas R., xxx-xx-xxxx.
Moran, James P., xxx-xx-xxxx.
Morgan, Kent L., xxx-xx-xxxx.
Morgan, Mark A., xxx-xx-xxxx.
Morris, Lawrence J., xxx-xx-xxxx.
Mosberg, James F., xxx-xx-xxxx.
Moxley, Thomas T., xxx-xx-xxxx.
Mueller, Eric J., xxx-xx-xxxx.
Mullen, Sean P., xxx-xx-xxxx.
Murphy, Mark J., xxx-xx-xxxx.
Murphy, Peter M., xxx-xx-xxxx.
Nally, Michael P., xxx-xx-xxxx.
Nathaniel, Duane, xxx-xx-xxxx.
Newman, James A., xxx-xx-xxxx.
Ney, John E., xxx-xx-xxxx.
Nicholas, Theodore, xxx-xx-xxxx.
Nichols, George P., xxx-xx-xxxx.
Nielsen, Rocky K., xxx-xx-xxxx.
Nix, Allen E., xxx-xx-xxxx.
Nolte, Edward L., xxx-xx-xxxx.
Norman, Raymond K., xxx-xx-xxxx.
Norton, Scott A., xxx-xx-xxxx.
Nosal, Andrew, xxx-xx-xxxx.
Oates, James R., xxx-xx-xxxx.
Oberle, William P., xxx-xx-xxxx.
Olmscheid, Melvin G., xxx-xx-xxxx.
Ordonio, Laurencio, xxx-xx-xxxx.
Oseles, Robert J., xxx-xx-xxxx.
Ouellet, John E., xxx-xx-xxxx.
Owen, Steven L., xxx-xx-xxxx.
Palkoska, Frank A., xxx-xx-xxxx.
Palmer, Ronald J., xxx-xx-xxxx.
Parker, William A., xxx-xx-xxxx.
Patenaude, Michael, xxx-xx-xxxx.
Paternostro, Anthony, xxx-xx-xxxx.
Peters, John T., xxx-xx-xxxx.
Petersen, Gregg E., xxx-xx-xxxx.
Petty, Frank S., xxx-xx-xxxx.
Pfaff, James A., xxx-xx-xxxx.
Pierce, Lawrence S., xxx-xx-xxxx.
Pino, Albert M., xxx-xx-xxxx.
Pohl, John, xxx-xx-xxxx.
Porter, William Y., xxx-xx-xxxx.
Powell, Douglas A., xxx-xx-xxxx.
Prestipino, Samuel, xxx-xx-xxxx.
Princehouse, Henry, xxx-xx-xxxx.
Quimby, Roger C., xxx-xx-xxxx.
Rakett, Wayne P., xxx-xx-xxxx.
Ramos, Rosendo F., xxx-xx-xxxx.
Ramsey, Lawrence, xxx-xx-xxxx.
Rea, Robert H., xxx-xx-xxxx.
Redfern, Robert S., xxx-xx-xxxx.
Redmond, John G., xxx-xx-xxxx.
Rehberger, Wayne M., xxx-xx-xxxx.
Reid, Gregory R., xxx-xx-xxxx.
Ressler, Richard L., xxx-xx-xxxx.
Reukauf, William A., xxx-xx-xxxx.
Reyenga, Robert L., xxx-xx-xxxx.
Richards, Kenneth, xxx-xx-xxxx.
Rider, Robert T., xxx-xx-xxxx.
Rilley, Frederick, xxx-xx-xxxx.
Rinehart, Marcus A., xxx-xx-xxxx.
Ring, David F., xxx-xx-xxxx.
Rivas, Leopoldo A., xxx-xx-xxxx.
Rivers, Lawrence, xxx-xx-xxxx.
Robare, Gerald M., xxx-xx-xxxx.
Roberts, Paul E., xxx-xx-xxxx.
Robinson, Alan L., xxx-xx-xxxx.
Robson, Richard J., xxx-xx-xxxx.
Rochon, Roy B., xxx-xx-xxxx.
Rogerts, Gregory N., xxx-xx-xxxx.
Rohm, Robert A., xxx-xx-xxxx.
Rooker, Stanley V., xxx-xx-xxxx.
Rose, David W., xxx-xx-xxxx.
Rose, Thomas, xxx-xx-xxxx.
Rosenbaum, Michael, xxx-xx-xxxx.
Roth, Charles N., xxx-xx-xxxx.
Rowe, Steve A., xxx-xx-xxxx.
Rowland, George K., xxx-xx-xxxx.
Roy, David R., xxx-xx-xxxx.
Rubel, Eric J., xxx-xx-xxxx.
Rudd, Kenneth A., xxx-xx-xxxx.
Rudzinski, Michael C., xxx-xx-xxxx.
Runyon, Gregory L., xxx-xx-xxxx.
Rupp, David R., xxx-xx-xxxx.
Russell, Daniel J., xxx-xx-xxxx.
Ryan, James P., xxx-xx-xxxx.
Ryskamp, Richard P., xxx-xx-xxxx.
Sadler, Leroy, xxx-xx-xxxx.
Saiz, Joseph E., xxx-xx-xxxx.
Santerre, Phillip E., xxx-xx-xxxx.
Savelkoul, Brian L., xxx-xx-xxxx.
Sawyers, Michael C., xxx-xx-xxxx.
Saylor, Ronald S., xxx-xx-xxxx.
Scheibel, Paul P., xxx-xx-xxxx.
Scherer, Jack V., xxx-xx-xxxx.
Schloemer, James F., xxx-xx-xxxx.
Schmidt, Matthew M., xxx-xx-xxxx.
Schnorf, Richard C., xxx-xx-xxxx.
Schooley, Scott M., xxx-xx-xxxx.
Schroer, David, xxx-xx-xxxx.
Schutz, Donald J., xxx-xx-xxxx.
Sechler, Richard T., xxx-xx-xxxx.
Segovis, Mark H., xxx-xx-xxxx.
Seiter, Jan P., xxx-xx-xxxx.
Sellers, Charles M., xxx-xx-xxxx.
Serino, Robert M., xxx-xx-xxxx.
Serra, Jeffrey R., xxx-xx-xxxx.
Shaffer, Robert W., xxx-xx-xxxx.
Sharples, Thurman P., xxx-xx-xxxx.
Shelton, Wendell K., xxx-xx-xxxx.
Shields, Guy T., xxx-xx-xxxx.
Shorter, John E., xxx-xx-xxxx.
Shorthill, William B., xxx-xx-xxxx.
Sieminski, Gregory C., xxx-xx-xxxx.
Sierra, Carlos R., xxx-xx-xxxx.
Simchick, Carl T., xxx-xx-xxxx.
Simpson, David L., xxx-xx-xxxx.
Singh, Dalip, xxx-xx-xxxx.
Singleton, Warren C., xxx-xx-xxxx.
Skelton, James R., xxx-xx-xxxx.
Slemko, Stephen J., xxx-xx-xxxx.
Smith, David M., xxx-xx-xxxx.
Smith, Jeffrey W., xxx-xx-xxxx.
Smith, Rickey E., xxx-xx-xxxx.
Smolen, Harry G., xxx-xx-xxxx.
Snyder, James C., xxx-xx-xxxx.
Snyders, Paul L., xxx-xx-xxxx.
Solernou, Ramon, xxx-xx-xxxx.
Sorenson, Robert E., xxx-xx-xxxx.
Sossamon, Richard M., xxx-xx-xxxx.
Sowell, Leonard W., xxx-xx-xxxx.

Spears, Jerome V., [redacted].
Spurlock, Virgil K., [redacted].
Stalf, Dale A., [redacted].
Stanko, Michael L., [redacted].
Stanoch, Guy K., [redacted].
Stashak, Frank J., [redacted].
Steen, Norman E., [redacted].
Stein, Kevin M., [redacted].
Steiner, Ralph E., [redacted].
Stephens, Bryan K., [redacted].
Still, Kerry M., [redacted].
Stone, Robert M., [redacted].
Stringer, Mark G., [redacted].
Strong, John L., [redacted].
Studebaker, Harry D., [redacted].
Subbie, John P., [redacted].
Sulka, Daniel V., [redacted].
Summers, Kim L., [redacted].
Supervielle, Manuel, [redacted].
Susong, William M., [redacted].
Sutton, Mark S., [redacted].
Swain, Barry L., [redacted].
Sweeney, James M., [redacted].
Tarver, Courtney W., [redacted].
Tarvin, Michael D., [redacted].
Taylor, Thomas, [redacted].
Termotto, Thomas A., [redacted].
Thacker, Charles P., [redacted].
Thomas, Charles E., [redacted].
Thomas, George W., [redacted].
Thorson, Kevin G., [redacted].
Tillson, Scott E., [redacted].
Timberlake, Beau, [redacted].
Tindall, Randall E., [redacted].
Todd, Larry J., [redacted].
Todd, Robert C., [redacted].
Trexler, Mark A., [redacted].
Trower, Jeffrey L., [redacted].
Tucker, William K., [redacted].
Tuttle, Nicholas H., [redacted].
Uyeno, Donald H., [redacted].
Vandersommen, Timothy, [redacted].
Vanhorn, Steven B., [redacted].
Vaughn, Timothy F., [redacted].
Vawter, Michael D., [redacted].
Velasco, Mathais R., [redacted].
Victorine, Rodney W., [redacted].
Vonada, Danny L., [redacted].
Vorderbruegge, William, [redacted].
Voss, Deward H., [redacted].
Wagner, Dwayne K., [redacted].
Wagner, Walter A., [redacted].
Wakefield, Bradley, [redacted].
Walker, Steven R., [redacted].
Wallace, Steven R., [redacted].
Walton, Alexander, [redacted].
Webb, Larry D., [redacted].
Weiss, Morris B., [redacted].
Werner, Timothy R., [redacted].
Whalen, John K., [redacted].
Whipple, Mark G., [redacted].
White, Michael S., [redacted].
Whiteford, Curtis G., [redacted].
Whyne, Conrad F., [redacted].
Wierichs, Jeffrey S., [redacted].
Wilkes, Richard W., [redacted].
Williams, Charles A., [redacted].
Williams, Frank, [redacted].
Williams, Guy T., [redacted].
Wilson, Christopher, [redacted].
Wirth, Adolph J., [redacted].
Wolfe, Terrence E., [redacted].
Woolf, Randy L., [redacted].
Wooster, Harley K., [redacted].
Yaeger, Jeffrey W., [redacted].
Ybarbo, John W., [redacted].
Youmans, William C., [redacted].
Young, Daniel D., [redacted].
Young, Morris M., [redacted].
Yount, Randy N., [redacted].
Zaborowski, Michael, [redacted].
Zamora, Joel R., [redacted].
Zanol, James E., [redacted].
Zielinski, Lester, [redacted].
Zurcher, Robert P., [redacted].

The following-named scholarship students for appointment in the Regular Army of the United States in the grade of second lieutenant under the provisions of title 10, United States Code, sections 2107, 3284, 3286, 3287, 3288, 3290 and 3311:

Bogardus, Anneke J., [redacted].
Burr, Virginia S., [redacted].
Christian, Tracy L., [redacted].
Denny, Carolyn S., [redacted].
Dooge, Anne T., [redacted].
Erwin, Kay, [redacted].
Fall, Kimberlee L., [redacted].
Fischer, Diana L., [redacted].
Fitzpatrick, Marjorie A., [redacted].
Harris, Tamar I., [redacted].
Hasty, Deborah L., [redacted].
Hauver, Revecca L., [redacted].
Hawk, Roberta J., [redacted].
Hedrick, Melanie M., [redacted].
Hennessy, Barbara A., [redacted].
Hill, Jane E., [redacted].
Holl, Jane E., [redacted].
Hudson, Janet S., [redacted].
Hitchins, Jane C., [redacted].
King Karen R., [redacted].
Kulpa, Rebecca L., [redacted].
Lee, Katherine M., [redacted].
Lott, Lynn R., [redacted].
Luster, Sheila, [redacted].
Maniscalco, Mary E., [redacted].
Minkinow, Kim A., [redacted].
Mitchell, Pamela S., [redacted].
Moffitt, Mary A., [redacted].
Ogilvie, Margaret K., [redacted].
Polk, Galia M., [redacted].
Scott, Terry S., [redacted].
Spearman, Patricia, [redacted].
Stone, Kathryn, [redacted].
Swanson, Linda D., [redacted].
Triffiro, Michele M., [redacted].
Webster, Linda K., [redacted].
Westgard, Krisma D., [redacted].

The following-named distinguished military students for appointment in the Regular Army of the United States in the grade of second lieutenant, under the provisions of title 10, United States Code, sections 2106, 3284, 3286, 3287, 3288 and 3290:

Abbott, George W., [redacted].
Acevedo, Mario H., [redacted].
Adams, James E., [redacted].
Adkins, Kenneth W., [redacted].
Ainsworth, Breeman N., [redacted].
Albritton, Jeffrey W., [redacted].
Alexander, Winfred B., [redacted].
Allen, Daniel T., [redacted].
Allen, Henry F., [redacted].
Alphin, Charles E., [redacted].
Alvarado, Mario H., [redacted].
Ammel, Michael D., [redacted].
Andersen, Chris T., [redacted].
Appleby, Robert F., [redacted].
Arata, Joseph F., [redacted].
Arocho, Hector, [redacted].
Asher, Kent C., [redacted].
Assmann, Jeffrey R., [redacted].
Atwater, Gary L., [redacted].
Bacoat, Isaac E., [redacted].
Baez, Gilbert E., [redacted].
Bailey, Don W., [redacted].
Baker, Mark O., [redacted].
Baldridge, Dennis, [redacted].
Ball, Stephen C., [redacted].
Ballard, Albert E., [redacted].
Bankhead, William, [redacted].
Barber, Gary A., [redacted].
Barker, John L., [redacted].
Barnett, Robert L., [redacted].
Barone, Renard O., [redacted].
Barrett, William, [redacted].
Barron, Lawrence F., [redacted].
Basile, David J., [redacted].
Batten, Kevin C., [redacted].
Bauknight, David D., [redacted].
Beal, James M., [redacted].
Beck, Gregory A., [redacted].
Bedford, John T., [redacted].
Beer, Patrick J., [redacted].
Belter, John D., [redacted].
Benavides, Rodolfo, [redacted].
Bennett, Douglas S., [redacted].
Bennett, William L., [redacted].
Berry, Alton G., [redacted].
Beson, Dennis B., [redacted].
Beutlich, John S., [redacted].
Beverly, Alfred W., [redacted].
Bilyeu, John M., [redacted].
Blackwell, David L., [redacted].
Blackwell, Ronald W., [redacted].
Blair, Henry F., [redacted].
Blalock, Steven V., [redacted].
Blaney, Scott A., [redacted].
Blankemeyer, Carl S., [redacted].
Block, Theodore, [redacted].
Boardman, James W., [redacted].
Bohm, Robert L., [redacted].
Boltuc, Henry, [redacted].
Bonner, Michael B., [redacted].
Bonner, Michael J., [redacted].
Boone, Robert D., [redacted].
Brannon, Charles A., [redacted].
Braxton, James J., [redacted].
Brehler, Michael, [redacted].
Brown, Ernest L., [redacted].
Brown, James T., [redacted].
Brown, Robert E., [redacted].
Brown, Robert W., [redacted].
Brown, Ronnie L., [redacted].
Brunner, Timothy J., [redacted].
Buck, Charles F., [redacted].
Buhl, Michael G., [redacted].
Burke, Kenneth M., [redacted].
Busby, Thomas E., [redacted].
Bush, Jerry A., [redacted].
Butler, Jody P., [redacted].
Butler, Rickey C., [redacted].
Byars, Robin M., [redacted].
Calhoun, John C., [redacted].
Callahan, James R., [redacted].
Campbell, Donald E., [redacted].
Campbell, Leroy A., [redacted].
Cannon, Lawrence A., [redacted].
Canty, Lenzo R., [redacted].
Carey, James, [redacted].
Carmichael, Steven, [redacted].
Carroll, Daniel L., [redacted].
Carroll, Gerald A., [redacted].
Cartledge, David T., [redacted].
Cassidy, David B., [redacted].
Castle, Edwin S., [redacted].
Cellucci, Keith D., [redacted].
Cerny, James W., [redacted].
Chamberlin, Brook B., [redacted].
Chance, Gerald L., [redacted].
Chancellor, Richard, [redacted].
Chase, Frank S., [redacted].
Chereb, James E., [redacted].
Chinea, George, [redacted].
Christie, Scott W., [redacted].
Christoff, Nicholas, [redacted].
Christopher, James, [redacted].
Churm, Stephen B., [redacted].
Clark, David A., [redacted].
Clark, David L., [redacted].
Clayton, Gerald H., [redacted].
Clerihew, James A., [redacted].
Cole, Barry L., [redacted].
Cole, Dennis, [redacted].
Cole, Jerry, [redacted].
Collins, Alfred C., [redacted].
Collins, George A., [redacted].
Connors, Kevin, [redacted].
Cook, David P., [redacted].
Cook, Edward M., [redacted].
Cook, John D., [redacted].
Cooper, Willis J., [redacted].
Copeland, George N., [redacted].
Corcoran, Michael F., [redacted].
Corda, Mark, [redacted].
Cotter, James W., [redacted].
Cox, Clifford N., [redacted].
Cox, Gregory B., [redacted].
Cranmer, Robert W., [redacted].
Crawford, William C., [redacted].
Crayton, Hulon E., [redacted].
Croson, Stoney L., [redacted].
Crutchley, Todd H., [redacted].
Cuff, Oliver K., [redacted].
Cuneo, Edward T., [redacted].
Dabadie, Stephen C., [redacted].
Dafonte, Richard J., [redacted].
Daly, Duane W., [redacted].
Dames, Edward A., [redacted].
Daniels, Don J., [redacted].
Dautremont, Brian L., [redacted].
Davidson, Martin A., [redacted].
Davis, Gary J., [redacted].
Davis, Gregory P., [redacted].
Davis, Michael W., [redacted].
Davis, Robert, [redacted].
Dedic, Robert C., [redacted].

Degnan, Edward J., [redacted].
Dehaan, Richard W., [redacted].
Dehaas, William D., [redacted].
Dehnel, David D., [redacted].
Dicker, Mark A., [redacted].
Dickerhoff, David G., [redacted].
Diehl, Gregory D., [redacted].
Dillon, Peter J., [redacted].
Diloreti, Joseph D., [redacted].
Dodson, Dennis E., [redacted].
Doerr, Jeffrey L., [redacted].
Donnelly, Michael P., [redacted].
Dotson, Harold, [redacted].
Dowling, Michael J., [redacted].
Drumm, Mark W., [redacted].
Duffy, Robert, [redacted].
Dugan, Joseph L., [redacted].
Duncan, Richard L., [redacted].
Dunham, John H., [redacted].
Eaton, Beverly M., [redacted].
Eckhardt, Anthony L., [redacted].
Edmonds, Roy F., [redacted].
Elliott, Markham R., [redacted].
Ellis, Christopher, [redacted].
Emerson, Donald L., [redacted].
English, Thomas H., [redacted].
Engman, Gregory L., [redacted].
Erickson, Gerald L., [redacted].
Estes, Michael N., [redacted].
Evans, Leighton J., [redacted].
Falck, Steven, [redacted].
Falkenbury, John W., [redacted].
Felty, Rodney J., [redacted].
Fessenden, David B., [redacted].
Festing, Thomas E., [redacted].
Finley, Mark S., [redacted].
Flora, Jonathan S., [redacted].
Fontanella, Joseph, [redacted].
Ford, William D., [redacted].
Fowler, Barry J., [redacted].
Fox, Michael E., [redacted].
Frazer, Jeffrey M., [redacted].
Fritts, Herbert P., [redacted].
Frost, Michael W., [redacted].
Garland, David W., [redacted].
Garrity, Edward R., [redacted].
Gaudin, Kirby W., [redacted].
Gentle, Anthony B., [redacted].
Getz, David R., [redacted].
Gill, Henry A., [redacted].
Gilliam, Leon, [redacted].
Ginocchi, Francis A., [redacted].
Girard, Marc G., [redacted].
Glover, Carlos R., [redacted].
Goede, Jeffrey D., [redacted].
Goggin, John P., [redacted].
Goldstein, Michael, [redacted].
Good, Ted M., [redacted].
Goodman, William G., [redacted].
Gordon, Carl, [redacted].
Gordon, Garrett, [redacted].
Gourdine, Larry D., [redacted].
Grace, David R., [redacted].
Graham, Archie L., [redacted].
Graham, Harry D., [redacted].
Greenwade, John, [redacted].
Greer, John F., [redacted].
Grimes, William C., [redacted].
Haas, Christopher, [redacted].
Haggray, Wilbert J., [redacted].
Hagle, Wayne D., [redacted].
Hammond, Jeffrey W., [redacted].
Hanna, Bobby G., [redacted].
Hanna, Jonathan C., [redacted].
Hardin, John M., [redacted].
Hardy, Markus D., [redacted].
Harper, Forest T., [redacted].
Hartnett, Robert P., [redacted].
Hawkins, Michael A., [redacted].
Hawkins, Richard M., [redacted].
Hawkins, Roy, [redacted].
Hawkinson, Brian P., [redacted].
Hayes, Raymond, [redacted].
Heath, Duncan C., [redacted].
Hemann, Mark S., [redacted].
Henderson, David S., [redacted].
Henderson, Fernando, [redacted].
Henson, Kent, [redacted].
Herbin, Connie V., [redacted].
Hernandez, Marshall, [redacted].
Hileman, Milton M., [redacted].
Hill, James H., [redacted].
Hines, Dennis J., [redacted].
Hoachlander, Jeffre, [redacted].
Hobson, Fred C., [redacted].
Hoh, Billy C., [redacted].
Holt, Richard P., [redacted].
Horn, Paul, [redacted].
Horner, Scott G., [redacted].
Hough, Harvey L., [redacted].
House, Robert L., [redacted].
Houston, Thomas D., [redacted].
Huber, Richard C., [redacted].
Hudley, Michael W., [redacted].
Hudson, Rodney E., [redacted].
Hunter, Bryan K., [redacted].
Hunton, James, [redacted].
Hutchings, Eric, [redacted].
Ikemeier, George J., [redacted].
Ilku, James, [redacted].
Ingram, William C., [redacted].
Irish, Kenneth M., [redacted].
Irvin, Ivory L., [redacted].
Italiano, Robert A., [redacted].
Jackson, Richard E., [redacted].
Jacobson, Daniel J., [redacted].
Jarmusz, Douglas P., [redacted].
Jarrett, Victor W., [redacted].
Jennings, Corwin K., [redacted].
Jensen, Randy G., [redacted].
Johnson, James M., [redacted].
Johnson, Jeffrey L., [redacted].
Johnson, Ralph W., [redacted].
Johnson, Russell A., [redacted].
Johnston, John G., [redacted].
Jones, Kenneth, [redacted].
Jones, Louie, [redacted].
Jones, Robert P., [redacted].
Jordan, John J., [redacted].
Joye, Maxie L., [redacted].
Judd, David M., [redacted].
Julian, Don L., [redacted].
Kalil, Emile T., [redacted].
Kamena, Gene C., [redacted].
Keating, Michael R., [redacted].
Keefer, Laris D., [redacted].
Keeper, Curtis B., [redacted].
Kelly, James H., [redacted].
Kidwell, Gregory T., [redacted].
Kinter, Kevin L., [redacted].
Kirkpatrick, Rex A., [redacted].
Kiszka, Donald W., [redacted].
Kongquee, Geoffrey, [redacted].
Kovarik, Daniel E., [redacted].
Kowalski, Allan E., [redacted].
Kruegler, Thomas A., [redacted].
Kuenning, Robert W., [redacted].
Kullman, Patrick C., [redacted].
Kumpe, William E., [redacted].
Laclede, John J., [redacted].
Lacroix, Joseph W., [redacted].
Ladd, Jon S., [redacted].
Lambert, Richard T., [redacted].
Langdorf, Kim A., [redacted].
Langenwalter, Kurt L., [redacted].
Lapetoda, Clifford, [redacted].
Larkin, William C., [redacted].
Lasch, Thomas C., [redacted].
Laster, James E., [redacted].
Latham, George A., [redacted].
Lavalle, Michael E., [redacted].
Leavenworth, William, [redacted].
Leblanc, Leroyal, [redacted].
Lee, Robert, [redacted].
Lentz, Peter C., [redacted].
Leonard, James L., [redacted].
Lewandowski, Brian, [redacted].
Lewis, Brian, [redacted].
Lewis, John A., [redacted].
Lindstrom, Robin H., [redacted].
Livsey, Timothy D., [redacted].
Lopez, Ramon B., [redacted].
Lovett, James, [redacted].
Lucier, Thomas J., [redacted].
Lundin, James, [redacted].
Lynch, Gerard M., [redacted].
Lyons, Robert C., [redacted].
Mackey, William L., [redacted].
Mactaggart, Steve S., [redacted].
Macwilliams, Glen, [redacted].
Maguire, Thomas R., [redacted].
Mahone, Scotty, [redacted].
Mallory, Michael J., [redacted].
Mallow, Brittain P., [redacted].
Mantooth, Lealon J., [redacted].
Mapp, Thomas F., [redacted].
Marceau, William, [redacted].
Marchessault, Gregg, [redacted].
Marks, Tommy L., [redacted].
Marrero, William, [redacted].
Martin, Lawrence A., [redacted].
Martin, Paul R., [redacted].
Martin, William C., [redacted].
Mason, Raymond V., [redacted].
Matthews, Kevin E., [redacted].
Mayer, Larry P., [redacted].
Maynard, Larry D., [redacted].
McAdams, Stephen D., [redacted].
Mcanelly, Gene C., [redacted].
McCahon, Tommie J., [redacted].
McCann, Douglas B., [redacted].
McCarter, William R., [redacted].
McClinton, Gregory, [redacted].
McCool, Thomas J., [redacted].
McGruder, Julio, [redacted].
McIntire, Roy S., [redacted].
McKinley, Michael J., [redacted].
McLain, Earl L., [redacted].
McLaughlin, James A., [redacted].
McLaurin, Chirley F., [redacted].
McLendon, Jesse E., [redacted].
McManus, Keith E., [redacted].
McNeely, Kurt A., [redacted].
McNulty, Stephen P., [redacted].
Medlin, James R., [redacted].
Menard, Donald A., [redacted].
Mendoza, Martin E., [redacted].
Merrell, Keith P., [redacted].
Merriweather, Brennan, [redacted].
Meyer, Timothy M., [redacted].
Miller, Robert M., [redacted].
Missler, Richard D., [redacted].
Mitchel, Michael F., [redacted].
Mitchell, David L., [redacted].
Mitchell, Keith M., [redacted].
Montano, Joe, [redacted].
Moody, James S., [redacted].
Morgan, Terry A., [redacted].
Moriarty, Michael T., [redacted].
Morse, Paul, [redacted].
Moss, Lawrence G., [redacted].
Motley, Arthur D., [redacted].
Mullen, Steven F., [redacted].
Murchison, David B., [redacted].
Murnahan, Earl, [redacted].
Musgrave, Mark N., [redacted].
Muske, John E., [redacted].
Myers, Alvin Z., [redacted].
Neely, James P., [redacted].
Neubert, Frederick, [redacted].
Newell, Henry C., [redacted].
Newman, Hubert W., [redacted].
Newton, James D., [redacted].
Nielson, Randy, [redacted].
Nix, Ralph R., [redacted].
Norris, Alan G., [redacted].
O'Brien, Peter M., [redacted].
Ogg, Robert D., [redacted].
Olmstead, John V., [redacted].
Overton, Stephen E., [redacted].
Owens, Richard G., [redacted].
Painton, Anthony, [redacted].
Palma, Emilio J., [redacted].
Panek, Stephen J., [redacted].
Pape, William E., [redacted].
Parker, Larry B., [redacted].
Parker, Richard M., [redacted].
Parrish, Gary L., [redacted].
Patterson, Patrick, [redacted].
Pattillo, David A., [redacted].
Paxton, Larry W., [redacted].
Pearson, Danny R., [redacted].
Pence, James M., [redacted].
Perez, Orlando J., [redacted].
Perry, Emmett E., [redacted].
Peterson, Bryan F., [redacted].
Pettigrew, James C., [redacted].
Pharr, Thomas L., [redacted].
Phelps, William H., [redacted].
Phillips, Ronald D., [redacted].
Poindexter, Ken L., [redacted].
Polczynski, Richard L., [redacted].
Polson, John D., [redacted].
Pomerleau, James B., [redacted].
Ponder, Roy K., [redacted].
Porter, Ernest E., [redacted].

Powell, Walter S., [redacted].
Pratt, William D., [redacted].
Pratt, William H., [redacted].
Price, John E., [redacted].
Pryor, Claude, [redacted].
Pyck, Jeffrey S., [redacted].
Rackley, Duane T., [redacted].
Rae, David L., [redacted].
Ratcliffe, Edward, [redacted].
Raugh, Harold E., [redacted].
Ray, Justin L., [redacted].
Realini, James, [redacted].
Reid, William A., [redacted].
Reinold, Craig, [redacted].
Renton, Thomas R., [redacted].
Rhoden, Richard C., [redacted].
Richards, Kerry T., [redacted].
Richmond, Vance T., [redacted].
Ritchie, Steven M., [redacted].
Ritz, Michael, [redacted].
Rivera, Agustin, [redacted].
Robards, James A., [redacted].
Roberts, Duane A., [redacted].
Robertson, Larry D., [redacted].
Robinson, Undra, [redacted].
Robinson, Wayne, [redacted].
Rodriguez, Albert, [redacted].
Rolla, Michael F., [redacted].
Roser, John F., [redacted].
Rountree, Stephen, [redacted].
Roupas, Mark S., [redacted].
Rozell, David A., [redacted].
Ruggley, Larry D., [redacted].
Russell, Frank, [redacted].
Rybka, Timothy A., [redacted].
Sanders, David R., [redacted].
Sanders, William M., [redacted].
Sanford, Douglas W., [redacted].
Sargeant, Mark T., [redacted].
Swayer, Jerald W., [redacted].
Scanlon, Brian J., [redacted].
Scates, Steven E., [redacted].
Schaefer, Ronald T., [redacted].
Schewe, Bruce V., [redacted].
Schimsa, David W., [redacted].
Schneider, Thomas, [redacted].
Schroeder, Weichen, [redacted].
Schwartzman, Robert D., [redacted].
Seymore, Sammie E., [redacted].
Shaddrix, David G., [redacted].
Shaw, Patrick M., [redacted].
Sheridan, Andrew, [redacted].
Sherlock, Daniel T., [redacted].
Shero, Joseph B., [redacted].
Shrader, John N., [redacted].
Simon, Paul J., [redacted].
Simpson, Robert H., [redacted].
Simpson, Stewart A., [redacted].
Singleton, Lewis, [redacted].
Slaga, John M., [redacted].
Slattery, Terrence, [redacted].
Smalls, Leon P., [redacted].
Smith, Brion C., [redacted].
Smith, Bruce C., [redacted].
Smith, Charles L., [redacted].
Smith, Dennis L., [redacted].
Smith, Frederick R., [redacted].
Smith, Gregg A., [redacted].
Smith, James A., [redacted].
Smith, Jeffrey B., [redacted].
Smith, Leverock G., [redacted].
Smith, Robert D., [redacted].
Snider, John C., [redacted].
Snyder, Robert L., [redacted].
Sommerkamp, Thomas, [redacted].
Stafford, Richard J., [redacted].
Stallworth, Eddie L., [redacted].
Stanislaw, Robert A., [redacted].
Steadman, Daniel L., [redacted].
Stein, Henry J., [redacted].
Stein, Michael J., [redacted].
Stevenson, John D., [redacted].
Stirnaman, Steven E., [redacted].
Stone, Stephen C., [redacted].
Stout, Lawrence M., [redacted].
Stuart, Steven R., [redacted].
Summe, Jack N., [redacted].
Sundell, Dennis R., [redacted].
Sutherland, Donald, [redacted].
Swagler, Bruce M., [redacted].
Swan, Robin P., [redacted].
Sweet, Michael S., [redacted].
Sykes, Alvin C., [redacted].
Talley, Alexander C., [redacted].
Tanner, Thomas V., [redacted].
Taylor, Carl E., [redacted].
Taylor, Daniel L., [redacted].
Taylor, Gregg S., [redacted].
Taylor, Stephen P., [redacted].
Terry Ernest H., [redacted].
Terry, James L., [redacted].
Texter, Carl A., [redacted].
Thomas, Timothy E., [redacted].
Torrence, John N., [redacted].
Trice, William S., [redacted].
Turner, Kelly C., [redacted].
Tyler, Charles S., [redacted].
Valine, Karl K., [redacted].
Vance, Jackie L., [redacted].
Vandenbeldt, Jack R., [redacted].
Veach, Johnny E., [redacted].
Vega, Roberto, [redacted].
Vevon, Gerald N., [redacted].
Vick, Charles D., [redacted].
Vila, Pablo, [redacted].
Volk, Mark, [redacted].
Wadsworth, Michael W., [redacted].
Waits, David D., [redacted].
Walden, Joseph L., [redacted].
Waldo, James E., [redacted].
Walker, Russell L., [redacted].
Walker, Sim, [redacted].
Wallace, Jonathan S., [redacted].
Wallin, William, [redacted].
Wardlaw, Vincent O., [redacted].
Washington, Cornelius, [redacted].
Washington, Michael, [redacted].
Webb, James M., [redacted].
Weeks, Lindell, [redacted].
Weeks, Robert L., [redacted].
Weissinger, Jerrold, [redacted].
Wells, Stanley M., [redacted].
West, Roy J., [redacted].
West, Stephen K., [redacted].
Whelan, Kevin B., [redacted].
White, Samuel D., [redacted].
Weideman, Randolph, [redacted].
Williams, Floyd D., [redacted].
Williams, Kevin D., [redacted].
Williams, Maurice, [redacted].
Williams, Reginald, [redacted].
Williamson, Thomas, [redacted].
Winbush, James E., [redacted].
Wise, Charles J., [redacted].
Wojcik, Peter V., [redacted].
Wolf, David R., [redacted].
Womack, Gordon W., [redacted].
Wood, Keith A., [redacted].
Woulfe, James P., [redacted].
Wozniak, Bruce J., [redacted].
Wrenn, Curtis L., [redacted].
Wright, Jack L., [redacted].
Yoe, Jeffrey R., [redacted].
Yoshida, Rodney M., [redacted].
Young, Harry D., [redacted].
Young, Robert S., [redacted].

The following-named distinguished military students for appointment in the Regular Army of the United States in the grade of second lieutenant under the provisions of title 10, United States Code, sections 2106, 3284, 3286, 3287, 3288, 3290 and 3311:

Allen, Cynthia A., [redacted].
Anderson, Kathleen J., [redacted].
Arnold, Joan C., [redacted].
Black, Kristen S., [redacted].
Bruno, Janice E., [redacted].
Chapman, Camellia D., [redacted].
Chauvaux, Pamela M., [redacted].
Chisolm, Stephanie, [redacted].
Cox, Victoria A., [redacted].
Dowdy, Karla A., [redacted].
Doyle, Teresa M., [redacted].
Ellithorpe, Rita R., [redacted].
Feather, Susan M., [redacted].
Fink, Michelle H., [redacted].
Fletcher, Evelyn E., [redacted].
Fong, Heather J., [redacted].
Gainey, Kathleen M., [redacted].
Gloninger, Anne L., [redacted].
Goetz, Janet L., [redacted].
Haidle, Susan L., [redacted].
Hamilton, Priscilla H., [redacted].
Handfield, Margaret, [redacted].
Hanna, Lynn D., [redacted].
Hayes, Marcella A., [redacted].
Henson, Dinah M., [redacted].
Hoganson, Carrie C., [redacted].
Holmes, Sharon L., [redacted].
Hughes, Deloris A., [redacted].
Jameson, Mary A., [redacted].
Johlin, Deborah L., [redacted].
Johnson, Beth E., [redacted].
Johnson, Holly J., [redacted].
Johnson, Teresa E., [redacted].
Jordan, Barbara L., [redacted].
Kelly, Marybeth, [redacted].
Knickerbocker, Deborah K., [redacted].
Kruse, Ruth K., [redacted].
Lake, Robbie D., [redacted].
Langevin, Debra L., [redacted].
Lee, Stella W., [redacted].
Maybank, Pauline, [redacted].
McAndrews, Laurie, [redacted].
McAninch, Michele A., [redacted].
McKillop, Sandra K., [redacted].
McLaughlin, Donna J., [redacted].
Miller, Judy A., [redacted].
Minigell, Patricia A., [redacted].
Mostrangeli, Nora E., [redacted].
Naffziger, Phyllis J., [redacted].
Pelkey, Heidi M., [redacted].
Piriano, Barbara A., [redacted].
Ramsey, Virginia B., [redacted].
Randolph, Chandra J., [redacted].
Ruffin, Paulette F., [redacted].
Schweinsberg, Anita J., [redacted].
Smith, Linda R., [redacted].
Tarrant, Anne E., [redacted].
Thompson, Brenda J., [redacted].
Vaishvila, Chris A., [redacted].
Verruso, Janis, [redacted].
Wallace, Mary E., [redacted].
Watkins, Gayle L., [redacted].
Williams, Cynthia L., [redacted].
Woodard, Donna K., [redacted].
Yarchak, Maryagnes, [redacted].

IN THE NAVY

The following-named (Naval Reserve Officers Training Corps candidates) to be permanent ensigns in the line or staff corps of the Navy, subject to the qualifications therefor as provided by law:

Wade A. Armstrong
Donna M. Hawkins

The following-named (U.S. Navy Reserve officers) to be appointed permanent commanders in the Medical Corps in the U.S. Navy, subject to the qualifications therefor as provided by law:

Cdr Stephen B. Lewis, MC, USNR.
Cdr William A. O'Neil, MC, USNR.

The following-named (U.S. Navy Reserve officers) to be appointed permanent lieutenant commanders in the Medical Corps in the U.S. Navy, subject to the qualifications therefor as provided by law:

Lcdr Dante A. Baral, MC, USNR.
Cdr Michael L. Cowan, MC, USNR.
Lcdr Sally K. Cowles, MC, USNR.
Lcdr Sylvia R. Gunnett, MC, USNR.
Cdr Robert B. Halder, MC, USNR.
Lcdr Delroy Hire, MC, USNR.
Cdr Yu-Jin Lee, MC, USNR.
Lcdr Bruce J. McIntosh, MC, USNR.
Lcdr Harry L. Parlette, III, MC, USNR.
Lcdr Joseph M. Ricciardi, MC, USNR.
Cdr Jerome J. Roche, Jr., MC, USNR.
Lcdr Cheryl D. C. Rosenblatt, MC, USNR.
Lcdr Elias S. Rosenblatt, MC, USNR.
Cdr Jay S. Smith, MC, USNR.
Lcdr Eugene J. Wolski, MC, USNR.
Lcdr Lance K. Wozniak, MC, USNR.
Cdr Dennis I. Wright, MC, USNR.

The following-named temporary chief warrant officer to be appointed a permanent chief warrant officer, in the U.S. Navy, subject to the qualifications therefor as provided by law:

Roger A. Lovitt

The following-named (U.S. Navy Reserve officers) to be appointed temporary commanders in the Medical Corps in the U.S.

Navy, subject to the qualifications therefor as provided by law:

Cdr Michael L. Cowan, MC, USNR.
Cdr Robert B. Halder, MC, USNR.
Cdr Yu-Jin Lee, MC, USNR.
Cdr Jerome J. Roche, Jr., MC, USNR.
Cdr Jay S. Smith, MC, USNR.
Cdr Dennis I. Wright, MC, USNR.

The following-named temporary chief warrant officer to be appointed a lieutenant (junior grade) in the U.S. Navy, for limited duty, for temporary service, in the classification indicated, subject to the qualifications therefor as provided by law:

Roger A. Lovitt, Engineering/Repair-Surface.

The following-named Navy enlisted candidates to be appointed temporary chief warrant officers, W-2, in the U.S. Navy, subject to the qualifications therefor as provided by law:

Donald J. Bondzio
Michael E. Butler
Edwin H. Castle, Jr.
James A. Conlon
Jerry R. Gabbard

The following-named (U.S. Navy Reserve officer) to be appointed a temporary commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Robert E. Hain

The following-named (U.S. Navy officer) to be appointed a temporary commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Graham Gilmer, III.

# EXTENSIONS OF REMARKS

## VETS DESERVE BETTER

### HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. EDWARDS of California. Mr. Speaker, if the Carter administration and our colleagues in the Congress want to know the subject of conversation in grassroots America they need only glance at the front pages of Midwest newspapers.

I have in my hand a sheaf of clippings from them and I would like to read some banner headlines.

From the Grand Island, Nebr., Daily Independent:

Budget Cuts Hit VA Hospitals . . .

Representative JOHN CAVANAUGH of Nebraska is quoted as saying he will fully support House Veterans' Affairs Committee Chairman RAY ROBERTS of Texas in his fight to restore full funding to the VA medical program.

From the Wichita, Kans., Eagle:

Kansas VA Centers Facing Budget Cuts.

The Director of the VA Center in Wichita is quoted:

I'm very discouraged about how we'll be able to continue our excellent medical health services to veterans.

From the Ypsilanti, Mich., Press:

VA Hospital Could Lose Beds.

Local VA hospital officials and veterans groups say they are worried that cutbacks in the Ann Arbor VA hospital will reduce the quality of medical care.

From the Madison, Wis., Press Connection:

VA Could Lose $1 Million; Cuts Would Hit Patient Beds, Staff, Labs.

This story quotes the VA hospital's Assistant Director as saying the city's VA hospital will lose $500,000 in patient care funds and $400,000 in research appropriations.

Mr. Speaker, these newspaper clippings are representative of hundreds more. They tell a story of the American people's deep concern about administration plans to reduce the VA medical program. One of the most eloquent protests was an editorial in the Mankato, Minn., Free Press. It was headed, "VA Hospital Cuts—Vets Deserve Better." I request permission to reprint this editorial in the RECORD.

VA HOSPITAL CUTS—VETS DESERVE BETTER

Much has been written about proposed federal hospital guidelines that threaten the closing of some vitally needed rural hospitals, including some in Minnesota.

But too little has been said about how Minnesota stands to also lose 64 VA hospital beds in the Veterans Administration budget for fiscal year 1979. The beds in question would be cut from VA facilities in Minneapolis, according to the Disabled American Veterans (DAV), whose nationwide membership totals 550,000 (and whose past national commander is Lyle Pearson, N. Mankato).

The 64 beds slated for reduction in Minnesota are only a small part of the picture; 3,132 beds are scheduled to be trimmed, nationally. As well, 36 major construction projects have been eliminated, a 67 percent cut in grants for construction of state extended-care facilities has been set, and further reductions in the VA's medical research program have been earmarked. There is no question that the quality of care provided the nation's two-and-a-half million disabled veterans has been slipping, in the last decade. Yet the DAV has learned that the administration plans a further reduction of 2,100 hospital beds in the 1980 fiscal year. One Democratic congressman from Texas has said that "If the President's budget is permitted to stand, the VA's decline into mediocrity will rapidly gain momentum," perhaps even "sink into a medical slum."

The war in Vietnam may well be over, and a lot of Americans might like to forget it permanently. We have peace, now; but we cannot be at peace with ourselves if we let the unpopularity of our last major war make us callous to the continuing needs of people seriously injured or afflicted in that war, and earlier ones.

There are other ways of reducing the federal budget than by kicking people who are already down, and whose only "crime" was service to country.●

## AN ODE TO INCOME TAX DAY

### HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. DORNAN. Mr. Speaker, with this being the final day on which one can legally file to satiate the tax collectors with IRS, it is only fitting that we should have read into the RECORD Dr. Milton Friedman's brilliant essay, "Is Tax Reform Possible?"

It is said of angels to illustrate their perfection that they can divine the history of knowledge and write it on the head of a pin. For mortals, the trick is to condense it into a paragraph. Dr. Milton Friedman has always been the most learned of the practical men of economics this side of eternity. He says in an essay what most others are not able to say in a book, and he says it better and clearer.

In the essay which I now read into the RECORD, Dr. Friedman concludes that tax reform is possible; that it is possible without having to disavow prosperity or tax ourselves out of existence. Though the present tax code remains a Rube Goldberg inspired house of mirrors, Dr. Friedman's concise analysis gives us a road map through the maze. It is as much an inspiration as a revelation, and I hope that all of us will reflect on its implications:

IS TAX REFORM POSSIBLE?

(By Dr. Milton Friedman)

(NOTE.—Dr. Friedman is generally acknowledged to be one of the foremost economists in the world today. In 1976 he was awarded the Nobel Memorial Prize in Economic Science. This text is abridged from his address to Americanism Educational League.)

Everyone in this country today has a deep, personal interest in tax reform . . . for we are all involved in devoting about 40% of our working lives to supporting governmental activities. And very few of us believe that we are getting our money's worth for the 40% of our incomes being used to support government!

Yet, that percentage keeps growing. Now we do have a democratic system. We have elected representatives. They do what the public at large wants. And year by year they vote on our behalf to spend more and more of our money. What is it that produces a result not in line with the wants of the people?

Everybody agrees on the desirability of tax reform . . . but is it possible? My answer is that it is possible, but not by the usual route. We are not going to get tax reform by Congressional committees in Washington, or committees in the State houses of this nation, voting for an improved tax structure. It is the way we've been trying for years on end. That way is hopeless!

The only effective tax reform is tax reduction. But even that is too ambitious a target now. In my opinion, the most we can hope for in the near future is to stop the steady increase in the percentage of our income being spent by government. And I believe that the only feasible way of stopping tax increases is by a Constitutional limitation on government spending and taxing!

To render this view plausible, we must clear away some of the misconceptions about taxes. There are three main sets of such erroneous ideas. They involve (1) the use of Orwellian "new-speak"; (2) the idea of what

really constitutes fiscal responsibility; and (3) the view that tax simplification is possible, rather than a pipe dream. Let's examine these errors, one by one:

(1) Orwellian "New-speak." This is the government's saying one thing when the substance of it is the opposite. In the book "1984", one of the chief devices used by the government to keep its citizens in line was "new-speak." The great example in the book was the slogan "War is Peace."

That is the kind of talk that always emamates from Washington. An immediate example is the talk about proposals to cut taxes. The Administration says it is proposing a $25 billion cut in taxes. Other politicians are trying to outbid this figure. The plain fact is that nobody is really proposing to cut taxes, but simply to *shift* taxes from one kind to another.

In the first place, the proposed increases in social security and energy taxes will between them amount to more than the proposed income tax cut. In the second place, without anybody voting for it, your taxes are going to go up, because inflation will inevitably drive more and more of your income into higher brackets. The increase in the taxes our people will bear, as the indirect result of inflation, will be more than the tax cut that President Carter is talking about.

But even that isn't the whole story. . . . because the real tax that the American people bear is not measured alone by those payments that are called "taxes." The real tax on the American people is what government spends.

If the government spends $60 billion more than it takes in—which is roughly what President Carter proposes—who do you suppose pays that extra $60 billion? You are going to pay it, because it does have to be paid. But instead of direct taxes—such as income, excise or payroll taxes—it will be paid for indirectly in the form of inflation. There is no other source. The proposal to cut explicit taxes is simply a proposal to raise less money by income taxes and more money through the hidden tax of inflation!

(2) Now let's turn to the second erroneous view that I think impedes proper tax reform. It is the idea—held by so-called fiscal conservatives—that the real test of fiscal responsibility is whether you have a deficit or not. Many well-meaning citizens have been seeking a Constitutional amendment to require a balanced budget. Now, I am not against a balanced budget. But I submit that in emphasizing primarily the deficit, the fiscal conservatives have ended up being the front men for the big spenders.

The big spenders have voted government expenditures that produce a deficit. The fiscal conservatives have said, "That's terrible, we mustn't have a deficit" . . . and so, they have worked for higher taxes to balance the budget. And . . . as soon as taxes have been increased, the big spenders are off again! And the end result is more and more government spending! Remember the real tax is what the government spends, not what it collects in so-called taxes. The real problem is not the deficit. The real problem is not government debt. The real problem is government spending!

I would much rather have a government budget of $200 billion with a $100 billion deficit than to have a government budget of $400 billion with no deficit . . . because the government budget of $400 billion is simply twice as much taken from the disposition of the citizens and spent on their behalf by government.

(3) Now let's turn to the third set of erroneous views—that somehow tax simplification is possible. Why is it that the tax system is so complicated? Why does the system have so many rules and regulations that nobody can possibly know them all? Why do rates go from 14% for an individual up to 70%? Why do we have such a system?

Some people say that this is for equity. That is not so. Hardly anyone in the political spectrum, from left to right, will say that our present personal income tax system is equitable. People in fundamentally the same economic position will pay very different taxes according to all sorts of accidental elements.

Well then, if this complex and highly graduated system is not for equity, it must be for revenue. Not so! It doesn't yield much additional revenue. Suppose the tax law is changed to replace every tax rate higher than 25% with a 25% ceiling. No other changes are made. You might think that would cost the Treasury a lot of money. Not so! If everybody reported exactly the same amount of income he now reports, tax receipts would go down only 7½%.

But that would be just the first step. If the top rate were 25%, would it pay you to spend 50 cents on the dollar to get a tax shelter? Would it pay you to hire expensive tax lawyers and accountants? No! If you had a top tax rate of 25%, the amount of income reported for tax purposes would go up sharply. If you will take the time to look at the detailed figures, you will agree that a top rate of 25%, with the law otherwise the same, would yield more revenue than the present law.

If the top tax rate were 25%, nobody would get hurt . . . except for two important groups, and this is why tax simplification is impossible! Who are these two groups? One is obvious—the tax lawyers and accountants. The other is less obvious, but more important. It is the members of Congress!

With a 25% top tax rate, what would Congressmen have to sell in order to raise campaign funds? If you are a Congressman, you have to engage in activities that will enable you to get re-elected. One of the most important activities is to make the tax system more complicated. By this means you get people who are willing to contribute to you to get a special privilege that will benefit them. Also you will have people willing to contribute in order to avoid having a special burden placed upon them. If you had a simple tax system, that possibility would disappear!

How can we proceed? Why is it that we have a situation, in a democratic society, with government spending that keeps going up as a percentage of income even though very few voters feel they are getting their money's worth? I believe that the fundamental explanation is that there is a defect in our political structure. I believe the fundamental defect is the way in which our government budgets are constructed—by voting individual pieces and then adding them up.

With each individual piece there is a group that feels very strongly about it. They are going to make a big effort to get it included in the budget. The cost is comparatively small and spread over all taxpayers. And nobody makes a real effort to stop it. But when you get one little piece piled on top of another, and another, the total adds up to more than the public at large wants to spend.

How can this defect be remedied? There is only one fundamental way: by political change in the form of Constitutional provisions setting a limit on government spending. What we need to do is give our legislators a budget—to say "This much and no more." Then the special interests can fight with one another instead of ganging up on you and me. That's the fundamental, first step toward making tax reform possible! ●

## BILL FOR THE RELIEF OF ISLAND TRAWLERS

### HON. JACK EDWARDS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. EDWARDS of Alabama. Mr. Speaker, I am introducing legislation today for the relief of Island Trawlers of Mobile, Ala., and others, from payment of social security taxes alleged to be owed for the years 1966 through early 1968.

For years, American fishing vessels have operated under an arrangement whereby members of the crew of each vessel take a percentage of the vessel's catch as compensation for work. There is no guaranteed income, as this is actually a joint venture rather than an employment situation; and the crew's size and members vary with each fishing trip. Because of this unique arrangement, it is difficult, if not impossible, to require boat operators to keep the necessary records to calculate tax and social security obligations as employers. For that reason, in the Tax Reform Act of 1976, we agreed to clarify the status of independent fishermen to allow crewmembers to be treated as self-employed for purposes of income tax and social security laws. These provisions were extended to prior years (to services performed after December 31, 1971) to prevent the assessment of sizable, retroactive tax deficiencies, and to cover the period of disagreement. The retroactive date was intended to cover all situations still open under the statute of limitations. We understood at that time that no taxes for past years would be collectable with this retroactive effective date.

In the case of Island Trawlers, however, their statutory period of limitation was voluntarily extended and their tax deficiency is, therefore, still in question. The IRS agrees that it was the intention of Congress to relieve the taxpayers of these social security obligations, but argues that in this particular case where the statutory period of limitation was voluntarily extended they still have a right to collect the tax. This is clearly contrary to the intention of the Congress in adopting the provisions of the 1976 act. The Senate Finance Committee, in fact, has recognized that the Tax Reform Act of 1976 did not finally solve the problem for all cases, and has recommended that the provisions affecting independent fishermen in that act be extended even further, to cover all services performed after 1954.

In view of the fact that the Congress clearly intended for the provisions of the Tax Reform Act of 1976 to settle this issue once and for all, I believe that it is entirely inequitable for Island Trawlers to be singled out to pay these taxes. My bill would relieve the corporation of this alleged tax deficiency and allow the repayment of any such taxes which are collected before my bill becomes law. I urge that my bill be acted upon favorably and in a timely manner.●

## DEVELOPMENT ADVOCATES SORELY NEEDED IN CARTER ADMINISTRATION

### HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. BOB WILSON. Mr. Speaker, the United States has always been a nation on the move. "Progress" and "America" are all but synonymous in the minds of both our citizens and those of other countries. Working today for a better tomorrow is not just a slogan to us, but a way of life.

That is, until recently. In less than two decades, our goals as a Nation have become confused, our purpose muddled. A prime example is our tack on energy policy. We are told on the one hand that we are running out of oil and gas, but rather than attack the problem and solve it, we equivocate. I cannot fathom why we do this, but perhaps one reason is suggested by the following editorial from the April 3d issue of the Oil and Gas Journal and I commend it to my colleagues for their consideration:

DEVELOPMENT ADVOCATES SORELY NEEDED IN CARTER ADMINISTRATION

Once upon a time, there was in Washington a cabinet-level department committed to development of U.S. natural resources. It operated under the philosophy that one of its primary functions in administering the vast realm of federal lands and waters was to see that they contributed energy supplies to help fuel a growing U.S. economy which would provide jobs and a better standard of living for a growing population. Development advocates often held top jobs in this department. It was called the Department of Interior.

Actually, it's still called that. But it shouldn't be. A better name, we suggest, would be the Environmental Department of Interior. No development advocates hold top jobs there now. The key positions are occupied by environmentalists.

This is the lineup that is advising Interior Sec. Cecil Andrus on withdrawal of federal lands from the multiple-use category, on putting great hunks of them in the sacrosanct wilderness grouping, on where and when offshore lease sales should be held or not held, and on how operators should be required to operate in the federal domain.

With some incredulity we've heard spokesmen for Interior contend—along with some like-thinking congressmen—that withdrawing certain lands with mineral potential from multiple use isn't damaging to the U.S. energy effort, because exploration of such lands could always be approved by Congress sometime in the future if the U.S. ever should really need the oil and gas! The dollar is coming unglued all over the world thanks largely to a U.S. oil-import bill last year of $42.1 billion which resulted in a record trade deficit of $26.7 billion. Admittedly those figures will worsen the way things are going. But it seems glaringly obvious that the U.S. desperately needs the oil and gas right now.

Interior officials contend they have carefully screened lands considered for wilderness designation to keep open those areas with good oil and gas potential. If so, the screening process uses a very wide mesh. As one instance, Interior opposes any exploration of the Arctic Wildlife Refuge in Alaska which contains a multitude of promising structures—one of them a Prudhoe Baysized feature, the Marsh Creek anticlinal trend.

These officials and Andrus himself insist that Interior is trying to strike a balance between energy needs and environmental goals. They may well be sincere. But their concept of "balance," as one might expect, is a far cry from the balance that would result if development advocates had meaningful input.

Proof of the actual imbalance is that every major Interior policy move since Andrus's appointment has had the effect either of restricting access to the federal domain or adding further delay in exploration and development.

There are some signs at last that Andrus may realize he's gone overboard on the environmental side. He has met with oil men twice recently and reportedly promised to respond to their complaints. We hope this isn't just window dressing and that he not only responds but also takes remedial steps.

The problem with having an Environmental Department of Interior is that this makes it unanimous. We now have an Environmental Federal Government, encompassing such as the Environmental Protection Agency, an Environmental Department of Energy (which is pressing hard for solar and wind energy while holding oil prices even below legal limits under control), an Environmental Department of Transportation (Have you tried to build an oil superport recently?), and all the rest.

Isn't it about time someone in Washington pressed for development of the only kind of energy—fossil fuels—that could ease the country's energy/fiscal plight during the next 10–20 years?●

## SENATE PRAISES HOUSE ACTION ON PEOPLE'S RIGHT TO VOTE

### HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. VANDER JAGT. Mr. Speaker, as far as I know from my years of service in the Congress it is unprecedented for the Members of the Senate to adopt a resolution praising the action of Members of the House. I therefore insert in the record for the benefit of my colleagues a resolution adopted by the Republican Members of the Senate of the United States applauding our minority leader, JOHN J. RHODES, and all Republicans in the House for a stalwart defense of the people's right to vote without governmental intimidation and control in their opposition to H.R. 11315.

The resolution follows:

RESOLUTION

Whereas the House of Representatives did, on March 21, 1978, resoundingly defeat legislation inimical to the American people and dangerous to our system of two-party government, and

Whereas the Republican Members of the House of Representatives stood steadfast, to a man, in opposing that legislation, the purpose of which was as transparent as the air over Flagstaff, and

Whereas the Minority Leader of the House of Representatives, John Rhodes of Arizona, led his troops through a legislative wasteland as thorny as a stand of saguaro cactus, and

Whereas future elections will be more open, more competitive, and more receptive to the will of the American people because of Congressman Rhodes' leadership against the brazen attempt of the House Majority Leadership to steamroll malevolent amendments to the Federal Elections Commission law, Now, Therefore, Be It

Resolved that the Republican Members of the Senate of the United States applaud Congressman Rhodes, our fellow Republicans in the House (and those of their Democratic colleagues who voted to put fair and free elections above party considerations and partisan guile) for a stalwart defense of the people's right to vote without governmental intimidation and control.

Done in the United States Senate this 4th day of April, 1978.

CARL T. CURTIS,
*Senate Republican Conference Chairman.*

JOHN TOWER,
*Senate Republican Policy Committee Chairman.*

HOWARD H. BAKER, JR.,
*Senate Minority Leader.*

CLIFFORD P. HANSEN,
*Senate Republican Conference Committee Secretary.*

TED STEVENS,
*Senate Minority Whip.*●

## LEGISLATION TO CURB "PERKS"

### HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. KOSTMAYER. Mr. Speaker, my colleague, BILL ARMSTRONG of Colorado, and I are introducing a resolution today to curb some of the "perks" provided Members of Congress, and thereby save the taxpayers a considerable amount of money.

While many of the benefits we receive—for staff, district offices, research materials, et cetera—are worthwhile, many of the "perks" we receive are not, and have justly been the subject of innumerable articles criticizing the excesses of Congress. It is several of these perquisites, especially publications, that the resolution addresses.

The grossest excesses are in the area of Government publications available to Members for mass distribution to constituents over the frank. Walking through the halls of the House office buildings, I am amazed at the huge quantities of printed material being mailed by Members. The Legislative Appropriations Subcommittee to its credit has over the past few years been reducing free material to Members. Unfortunately, far too much waste continues.

Last year during consideration of the legislative appropriations bill I offered an amendment to delete funds for the 2,500 free calendars given each Member annually. Last year over 1 million calendars at a cost of over one-half million dollars (not including postage) went out. I shall offer that amendment again this year.

Like so many other publications, the calendars cost the taxpayer, and lack a genuine business purpose. These publications serve us precisely for the reason our critics contend they do—they help us politically. Rather than increase our standing, they only reduce it.

While the resolution will not directly "stop the presses," it will require Members to reimburse from their official expense allowance the cost of publications

intended for mass distribution. This printed material is not "free," Mr. Speaker, at least not to the taxpayer—and if Members want to mass mail calendars and other items, they should use their allowances to cover the costs, and the Clerk of the House should so inform the public in his quarterly reports.

I trust the House will respond favorably to the rule change, Mr. Speaker, and support us in our effort to eliminate a few of our wasteful and excessive habits.●

## DENIAL OF HUMAN RIGHTS TO FBI AGENT KEARNEY—AND OTHERS

### HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. McCLORY. Mr. Speaker, as this administration touts itself on advancing the cause of human rights, the public should take careful note of the flagrant abuse of human rights by the Justice Department and other agencies of our Federal Government—inflicting irreparable injury on loyal American citizens.

The well-publicized indictment and eventual dismissal of charges against former FBI agent John J. Kearney are but one example of numerous unjustified attacks which strike at the very roots of our free society.

While President Carter has made a big issue of the imprisonment of numerous individuals in other countries—without trial—he should be reminded of the virtual conviction of many innocent Americans who have been tried and condemned by administration publicity and leaks in the most unfair and unjustified actions during my Washington experience.

Mr. Speaker, the highly questionable, more recent attacks upon present and former FBI officials may satisfy the appetites of some who are intent upon attributing wrongdoing to virtually all who have public responsibility, but the injury to individual reputations as well as the nurturing of disrespect for law enforcement officials at the highest levels impinge upon our entire concept of traditional human rights.

Mr. Speaker, the courageous and perceptive Bob Wiedrich of the Chicago Tribune devoted his columnn on Friday, April 14, to the matter of FBI agent John J. Kearney and subsequent developments which now involve former acting FBI Director L. Patrick Gray and other former high-ranking investigative officials in the FBI.

Mr. Speaker, I am attaching Bob Wiedrich's revealing column for the edification of my colleagues and all who have occasion to gleam these pages of the CONGRESSIONAL RECORD:

[From the Chicago Tribune, Apr. 14, 1978]

THE WRONG PEOPLE ARE INDICTED AGAIN

(By Bob Wiedrich)

Former FBI agent John J. Kearney should be honored to have served as the unwitting foil for Griffin Bell's apprenticeship as United States attorney general.

Otherwise, there doesn't seem to be much else to salvage from what appears to have been one of the more deplorable chapters in the annals of American justice.

Bell now admits that he erred in authorizing the indictment of Kearney last year for having allegedly conspired to deprive others of their civil rights in the hunt for fugitive leaders of the radical Weatherman Underground.

He has ordered the charges against Kearney dropped. And he begs that the indictment was a mistake born of inexperience as the nation's leading lawyer.

Perhaps he is right. The indictment, after all, was returned in New York City only shortly after Bell took office last year as President Carter's appointee.

However, I thought when you got into those big leagues, you already knew your business before you got the job.

And that there wasn't any need for on-the-job training for an attorney who already had served 15 years on the federal appellate bench.

Now, that appears to have been a false premise. Bell admits that he and his prosecution team of last year were wrong in not having indicted somebody else.

So Bell has substituted former Acting FBI Director L. Patrick Gray and two other former high-ranking Federal Bureau of Investigation officials as scapegoats for illegal eavesdropping practices that were privately sanctioned by American Presidents from Dwight D. Eisenhower on through John F. Kennedy, Lyndon B. Johnson, and Richard M. Nixon.

Kearney, I suppose, should feel proud that he has rendered a public service by helping to hone the attorney general's understanding of the grand jury process and the selection of targets for indictment.

But that should be small consolation to the retired FBI man after having suffered the anguish, indignity, public embarrassment, and financial stresses of being a professional lawman under indictment for violating the law.

It makes you wonder how many other inept or inexperienced prosecutors have improved their skills at the expense of the reputations of others.

It may be true, as some of Bell's close associates have claimed, that Bell regretted his decision to seek Kearney's indictment and felt the prosecution team had misled him.

It is a matter of record that the original bunch of government lawyers assigned to investigate allegations of illegal FBI mail openings, break-ins, and wiretaps in the Weatherman hunt did quit in a huff last December in a dispute with Bell.

It also is possible that as the fledgling attorney general, Bell was subtly sandbagged by ambitious civil rights division lawyers with a longtime antagonism toward the FBI.

The Justice Department, after all, is a big shop. There are a lot of things that can happen there without the boss being aware, especially if he is new on the job.

But to say the least, Bell's remarks about the Kearney case were clumsy. They suggested a serious flaw in the grand jury system. And raised questions about how many more may have been gored.

A person's reputation, after all, is a delicate thing. It bruises easily. And an indictment in the case of a man in Kearney's position is almost like a conviction. When you've been a cop, the exoneration is not remembered as clearly as the original charge. It often turns up in a guy's obituary.

In announcing the dropping of the charges against Kearney, Bell noted that he was not condoning Kearney's alleged activities. He said, however, that it would not be just to prosecute the ex-agent for acts done at his level and for activities that Bell said would not be permitted today, "given present attitudes."

He made it clear he wanted the blame attached to those who authorized the illegal actions, not those who allegedly carried them out. That may be charitably selective prosecution.

It ignores, however, ample evidence in the Justice Department's own files that members of the President's Foreign Intelligence Advisory Board during the Kennedy and Johnson administrations were aware of domestic mail openings by the Central Intelligence Agency and the FBI.

And that those Presidents would have had to have been blind not to know what was going on.

These facts were included in a quixotic Justice Department report last year that absorbed CIA agents for having opened mail in search of foreign intelligence plots, but did not give a pass to the FBI agents hunting down domestic subversives accused of having blown up buildings.

If, in fact, there were implied presidential sanction of the acts viewed as illegal today, then Bell again has indicted the wrong people. He ought to instead keelhaul four deceased Presidents in absentia. And make a public spectacle out of them.

Better yet, he ought to forget the whole thing instead of trying to apply today's standards retroactively to men who thought they were working in the best interests of their country with White House approval.●

## NATIONAL OCEANS WEEK

### HON. JOHN B. BREAUX

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. BREAUX. Mr. Speaker, pursuant to Senate Joint Resolution 124, the week of April 16 through 22 has been designated as "National Oceans Week." The purpose of Oceans Week is to increase public awareness of the importance of the oceans to this country.

Over 70 percent of the Earth's surface is covered by water. We rely upon the oceans as a vital source of food, energy, and recreation as well as a medium for transportation and waste disposal.

Today, the ocean's enormous store of wealth remains relatively untapped. As the world's terrestrial resources become depleted and more costly to develop and utilize, mankind will be forced to rely even more on the oceans as a source of world nutrition, energy, and minerals.

The United States, being the world's greatest scientific and technologically developed country in the world, will play an important role in helping to discover and implement new and better ways to develop and utilize the vast resources of the ocean for the benefit of mankind.

Oceans Week is an attempt to bring to the attention of the public and especially the youth of this country our important national efforts to rationally develop, utilize, and conserve our marine resources.

In support of designation, the American Oceanic Organization has scheduled a series of interesting events. The celebration will feature ship visits, aquatic art and craft shows, Government and technical exhibits, public discussion forums, waterside concerts, and AOO's Neptune Awards Banquet.

The Nation's Capital was chosen for the Oceans Week celebration in recognition of the key role national policy, legislation, and regulation play in the development and preservation of our ocean

and coastal resources. Coastal States are also joining in the effort to illustrate what has been done in the oceans, and what must be done to best utilize marine resources for the benefit of society.●

## SELF-DIRECTED PLACEMENT

### HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. EDWARDS of California. Mr. Speaker, Mr. Charles D. Hoffman, president of Self-Directed Placement of San Diego, has a unique method for solving a part of our unemployment problem. I say unique, because Chuck's methods work.

In Self-Directed Placement, Chuck teaches the unemployed to get their own jobs, boosting their sense of self-esteem and worthwhileness. You really cannot argue with results. According to an informal survey by a Labor Department official, he now has the best job placement percentage in the country. Over a period of 1 full year, 83 percent of his students found their own jobs in private industry, and they did is in an average of 93 hours. That is hours, not days. The average starting salary was $3.46 an hour, and the dropout rate was 10 percent.

These are startling figures for a job assistance program and bear marked tribute to Chuck's job placement philosophy. A more detailed insight into the program is given in the following series of articles and I seriously recommend it to the attention of my colleagues as a possible solution to our employment problems.

On November 21, 1977, the Business and Finance section of the Los Angeles Times carried an article by staff writer Margaret Kilgore. Part of the article is as follows:

To be uneducated, unskilled, out of work and perhaps have a criminal record is more than enough to destroy a person's confidence.

Enter the Self Directed Placement Corporation of San Diego, a pioneer government funded effort to give potential job seekers the attitudes and know-how to personally apply for a job and, with luck, be successful.

The corporation is headed by Charles D. Hoffman, former Vista volunteer, who mixes a fair amount of positive thinking and how-to-win friends into the short courses he teaches federal CETA (Comprehensive Employment Training Act, which governs the major federal hiring program) participants.

His suggestions, although perhaps elementary to the disciplined worker, mirror the gripes many employers have against their help.

"I tell them right off that they have to be on time whether it's work or class," Hoffman says. "If an employee is 25 minutes late every day, an employer should fire him or her. That person is unreliable."

He also teaches his classes such basics as how to use a telephone in a polite and businesslike manner, how to approach a personnel department officer by phone to ask for a job (don't give "yeah" and "nope" answers to questions); be aggressive, but polite.

Hoffman's theory of job placement is: why use a middleman to find a job? He is critical of most federal and state job placement programs which hire a battery of job finders to search for jobs which, he says, the applicant should find for himself.

"Our philosophy is incredibly simple," Hoffman says. "We strongly believe the unemployed can be taught self job placement methods. If one can take a person with no experience, and teach that person how to be a job placement specialist, why not bypass that middleman and directly teach the applicant?"

Hoffman has incredible success. Of the 400 people who have passed through the program within the past two years, 83% have been successfully self-placed into full-time jobs in the private business sector with a later drop out rate of 10%, he says. He adds that the average placement time period is 93 hours, including 35 hours of classroom instruction.

An article in "Worklife," the U.S. Labor Department magazine says "Statistically, the program has been working well for everyone, including minority group members, young adults, older workers and clients for whom English is a second language. A program for ex-offenders already is under way." The experimental program is being considered by state officials and Hoffman hopes to interest Los Angeles County officials in it.

As the month-long class and job search program progresses, effective interviewing is covered in detail, but traditional job-related skills are minimized as a means of "selling" the interviewee to the employer. The students learn to recognize and communicate their positive personal attributes.

"At the entry level and sometimes beyond, employers hire people, not only skills," says Hoffman. "Enthusiasm, reliability and the ability to get along with others are vital. Plenty of our students who don't even meet an employer's minimum requirements are hired with a promise of training."

Self Directed Placement Corporation, a San Diego-based operation, was created four years ago by the originator of the self-directed approach, Charles D. Hoffman. This incredibly successful method is now being evaluated from Atlanta to San Francisco, from Chicago to Dallas, and in both large cities like Washington, D.C. and small, fishing and lumber coast towns like Arcada, California.

Old myths are being destroyed in the process, such as "You can't teach these people how to get a job. They simply don't want to learn," and finally, "Even if you could teach them how to help themselves, they won't; because you can't motivate them." All these myths and more are left broken by the roadside after the student goes through a self-directed placement program. People who didn't think they could help themselves, and in some cases had indeed never had any control over their own destinies, and were devoid of any confidence, have responded with great enthusiasm and realized tremendous success.

Staff writer Michael Grant, of the San Diego Union, who himself monitored the program wrote the following article that appeared in the Union on July 31, 1977:

Last week, Robert, an illiterate young man with more jail than jobs on his resume, landed himself a position . . . indoor painting at $4.50 per hour. The first job he had ever acquired without assistance. Robert was bouncing off the walls.

"Man, I'm GOOD," he strutted. Others in the job search room at Self Directed Placement Corporation were glad for him and left their own telephones to come and shake his hand.

Then Chuck Hoffman, to whose office the word had been flashed, entered the room. Robert swaggered over, swept Hoffman off his feet and spun him about. They clapped each other on the back.

Hoffman is the president of SDP, which is in the business, mostly through contracts with social agencies, of teaching people how to get jobs. Many of the students, like Robert, are rather on the down-and-out side.

Robert is 27 years old. His intemperate ways have had him in and out of jail—mostly in—for the past eight years. He last was released in June.

He can't read or write, Hoffman said, not even his own name. Sometimes he misunderstands the spoken word as well, and it was by this that he lost a job interview earlier in the week. At that point, Robert's spirits bottomed out. He began talking, Hoffman's aides told him, of going back to making a living on the street. First, he would need a gun.

But he stuck to the phone for two more days, and now he had got himself a job. Nobody did it for him. His self-stock had skyrocketed.

"Man, I'm proud of ME!" he squeaked, jutting his chest forward to meet his jabbing forefinger. SDP has contracts with the Regional Employment and Training Consortium, and with Project JOVE, the agency that offers job counseling to "model ex-offenders." Robert was a referral from the latter, Hoffman accepts very few applicants off the street.

The classroom work—it's closer to an encounter group, actually—takes five full days. The written material, Hoffman said, is copyrighted, but it's impossible to copyright the give-and-take, which becomes a weave of self-analysis, confrontation, confession (either open or inward), practice in self-assertion, frank critique and blunt challenge.

First the instructor assumes an employer's role and, in front of a videotape camera, interviews each student. At week's end, he will interview them again. Generally, the contrast between the two tapes is remarkable.

The first couple of days, Hoffman concentrates on establishing his credibility, or more accurately, erasing the skepticism that, with some of his students, amounts to defiance.

To do this, he comes on straight and hard, talking to them at almost, but from slightly above, their level. He is facile at fitting one-on-one exchanges into the class context. He is adept at touching nerves without pinching them.

He softens these realities with a delivery in the Don Rickles style and, though one recent class included nine women, he swears smoothly, without hesitation.

Most of his students don't take the entire week to find work. Robert took 18 days, but he was a hard case.

Statistics like these eventually attracted the attention of the state, and last week its Employment Development Department gave Hoffman a contract to put two groups of 25 welfare recipients through the course on a pilot basis. Hoffman expects to match his track record, though this is a slightly different proposition.

"You tell me what they draw in welfare, food stamps, and so on," he said. "If they are receiving X amount of dollars now, it means they will have to make X amount of dollars on their job."

This hints at a sort of work evangelism, with salary the salvation. Its potential is intriguing.

"Not only would the ones who gets jobs no longer be drawing (welfare), they would be paying in, in income taxes," Hoffman said. "The success factor (of a job discoveries) can be incredibly small to be incredibly valuable to the government."

SDP has grown slowly since it opened in mid-1974. A second full-time instructor David Flack, has been hired, and Hoffman is looking about for larger quarters He would seem to have an inside track for a continued agreement with RETC, which is in the process of receiving contract bid for the new fiscal year beginning October 1.

Tom Nagle, formerly with the League of National Cities, now Executive Director of the San Diego Regional Employment and Training Consortium, which distributes approximately 83 million dollars into the San Diego economy each year, stated:

"Mr. Hoffman has been retained as a

contractor for 'Job Search' under our Title I activities for the past two years.

"Doing business as Assertive Training Institute, and most recently as Self Directed Placement Corporation, Mr. Hoffman has performed an excellent service. More than meeting his contractual obligations, however, Mr. Hoffman has introduced a concept of exceptional value into training programs. We have, for too long, been restricted in our vision to the design of programs previously instituted. The structure of a program, its duration, its conformance with past techniques, have too often become more important than the client.

"The process has become an outcome in itself. Mr. Hoffman deals with people, their strengths, weaknesses, moderations and limitations. He deals with issues that transcend structural unemployment and challenges the individuals to help themselves and develop the necessary skills to realize their own capabilities. We have found through experience that training alone, without the necessary motivation of the individual willing and able to benefit from that training, can become just another form of welfare. Mr. Hoffman attempts to break through this cycle with considerable success. He has taken individuals who have been trained and yet have failed to be placed and in a very short, intensive format, has motivated these individuals to seek employment.

"I would expect the initial efforts by Mr. Hoffman to be duplicated in other areas as more people become aware of his results. He has a good product and a proven record.

"I am available to discuss these issues in more detail as desirable."

Any of the many different types of training programs that are now in operation around the country would be well-advised to take a closer look at the very old, yet dramatically new, method that continues to score incredibly high self-placement figures as developed by Charles D. Hoffman of Self Directed Placement Corporation, 3010 Cowley Way, San Diego, Ca. 92117.●

## VOTES FOR SALE

### HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. DORNAN. Mr. Speaker, on Monday, April 10, I read into the CONGRESSIONAL RECORD a recent broadcast by Dean Manion and Mr. Clay J. Claiborne, the national director, National Black Silent Majority Committee. The topic of the broadcast was Mr. Claiborne's recent trip to Panama and his many conversations with Panamanians and Zonians.

I have recently received a copy of the transcript of another Manion Forum broadcast which I would like included in the RECORD at this time. This supplement was broadcast on April 2 and deals with deals * * * the kind that have been struck between the White House and certain Senators in return for their "aye" votes on the Panama Canal Treaties. I quote it here as part of my remarks:

No. 1513—VOTES FOR SALE

DEAN MANION: If an ordinary citizen is caught selling his vote to a candidate at the polling place, both will be humiliated, and in some jurisdictions both buyer and seller might be prosecuted. Nevertheless, a United States Senator may cast his vote for the ratification of a treaty against the wishes of his constituents in return for a gift by the President of the United States and be publicly lauded for his courage.

It is no longer a secret that the Senate's approval of the first Panama Treaty was thus made possible by the generous intercession of President Carter. The *Wall Street Journal* revealed all of the sordid details in its March 16 editorial entitled "Let's Make A Deal." It concludes:

"The money thus used to buy (Senate) votes has to come from American citizens. . . . It is especially galling to see that even if the Administration loses, the rest of us have to pay. The next Panama Treaty ought to give us some protection. The text ought at least to stipulate that if it is not ratified by the United States Senate, all political promises offered to secure its passage become null and void."

According to the figures stated by the *Journal*, the result of its suggested nullification clause would save American taxpayers more than onee billion dollars. Incidentally, that is approximately one-tenth of what the President proposes to give Panama for taking the Canal off our hands.

After due consideration of how badly he was short-changed, I am sure that Senator Moynihan of New York will be glad to return the Havana cigar that he received from Fidel Castro.●

## 1978 WORLD REFUGEE REPORT

### HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

Mr. DRINAN. Mr. Speaker, the United States Committee for Refugees, a private, nonprofit organization, has recently published its 1978 World Refugee Report. The survey attempts to answer three questions: First, how many refugees are there and where are they coming from? Second, what political situations are causing large numbers of people to flee from their homelands? Third, what is the response of the international community to the plight of the world's refugees?

The United Nations defines a refugee as one who is outside the country of his or her nationality and is unable or unwilling to return to that country because of persecution or a well-founded fear of persecution based on race, religion, nationality, or political opinion. The World Refugee Report surveys this group as well as those who are stateless and those who have been displaced within their own countries or fled abroad because of war or civil strife. The report estimates that 13 million people are included in these categories.

The concern of the U.S. Committee on Refugees is not merely the gathering of statistical information but also, in their own words, "(to) generate a movement that would see the political and human rights of refugees guaranteed in international law and respected by all nations in the human community."

An active concern for human rights throughout the world has become a central part of our foreign policy. Yet what we say about human rights violations in other nations is not matched by how we provide in our laws for the admission of refugees. United States law does not yet recognize the United Nations definition of a refugee, and no orderly process exists for the admission of groups of refugees. The Judiciary Subcommittee on Immigration has held hearings on formulating a refugee admission policy for the United States. Central in those discussions is the task of determining what our role should be as a humanitarian society, as signatory to the United Nations Protocol concerning protection of refugees, and as an advocate in the world community for human rights including the right of immigration.

The 1978 World Refugee Report is a valuable contribution to these discussions and I commend it to all of my colleagues. Over the next few days I shall highlight segments of the report. Following is a look at existing protections for refugees within the international community and a summary of present procedures followed by the United States for the admission of refugees.

The report follows:

I. INTERNATIONAL LEGAL PROTECTION

Under traditional international law, a state is free to admit or exclude aliens, including refugees. Thus, those refugees who lack the protection of a state, have no guarantee that their basic human rights and freedoms will be protected. The 1951 Convention relating to the Status of Refugees is a milestone in the field of refugee protection, for it codifies internationally, a "bill of rights" for refugees. It sets forth a definition of a refugee, provides for an international refugee travel document and strictly forbids the forcible return of refugees to their country of exile (refoulement). In addition, the Convention states that refugees should be given the same basic human rights and freedoms as nationals of the country of asylum.

But the 1951 Convention only obliges its Contracting Parties to apply its provisions to persons who had become refugees before January 1, 1951. Furthermore, Signatories have the option of limiting the Convention's provisions to refugees from Europe.

In 1967, an international Protocol was adopted to remove the time limitation of the 1951 Convention and thus extend its provisions to future refugee groups. Though the adoption of the 1967 Protocol has broadened the scope of refugee status in the body of international law, there are many refugee groups which are not protected by its provisions. The Protocol accords refugee status to persons who are outside their homeland because of a "well-founded fear of being persecuted." This definition, however. excludes persons who have been uprooted because of civil strife, a major cause of large-scale refugee migration in recent years.

It should be noted, however, that in 1959, the United Nations General Assembly passed a resolution authorizing the High Commissioner to use his "good offices" in the transmission of contributions for assistance to refugees who are outside the definitional limits of the 1951 Convention and the 1967 Protocol. In practice these persons are referred to as "displaced persons" rather than refugees. The term "refugee" in international parlance is usually reserved for those persons who meet the definitional requirements of the 1951 Convention and the 1967 Protocol.

Neither the 1951 Convention nor the 1967 Protocol requires nations to take in refugees who reside outside their territory, only those who have already entered. There exists no provision affirming the refugee's right to cross borders in quest of asylum.

In Africa, a continent of frequent mass refugee migrations, the Organization for African Unity (OAU) Convention Governing Specific Aspects of Refugee Problems contains important provisions which are absent from the 1951 Convention and 1967 Protocol. First, this

Convention broadens the categories of persons to be accorded the refugee status by including individuals generally seeking refuge from violence of any kind of foreign occupation, whether or not they are in fear of persecution. Secondly, the Convention specifically states that the granting of asylum should not be regarded by any state as an unfriendly act and that no person should be subjected by a member state to rejection at the frontier, or return or expulsion to a territory where life, liberty or physical integrity would be theatened.

The absence of international legal instruments relating to diplomatic and territorial asylum—the respective right of a refugee to be granted asylum at a diplomatic post or in the territory of another state—constitutes a major gap in international law. A report by the World Peace Through Law Center, an international association of jurists, concludes that diplomatic asylum is not a practice sanctioned by international law but a regional practice which has a long tradition in Latin America and Western Europe. The report encourages United Nations efforts to adopt conventions on diplomatic and territorial asylum.

A U.N. Conference on Territorial Asylum, attended by representatives of ninety-two nations, was held in Geneva from January 10, 1977 to February 4, 1977. Although it proved to be the most far-reaching intergovernmental exchange on the subject in recent years, the conference failed to adopt a Convention on Territorial Asylum. At the heart of the debate was the delicate task of reconciling the individual's claim to be granted asylum with the sovereign prerogative of the state. It is expected that another conference will be convened at some future date.

Less than half of the U.N. membership has even formally acceded to existing instruments of international legal protection. In Asia, an area of massive refugee migration, not a single nation has ratified either the 1951 Convention or the 1967 Protocol. The lack of refugee protection in this part of the world has been dramatically exemplified by the plight of the Vietnamese "boat people" who have been refused asylum in many Asia ports and left to the perils of the sea.

Under a grant from the United Nations High Commissioner for Refugees (UNHCR), the World Peace Through Law Center undertook a project from 1974 to 1976 to increase awareness of the rights of refugees, and press for their implementation. A Permanent Committee on Refugee Law was established for this purpose in countries which either had not ratified the Convention and the Protocol or had ratified them with reservations.

At the World Law Conference in Manila in August of 1977, Resolution No. 9 was adopted concerning the international legal protection of refugees. The resolution deals with five areas: (1) international legal instruments relating to refugees; (2) asylum; (3) family unity; (4) the implementation of the legal rights of refugees and (5) international solidarity in support of refugees.

The resolution calls on nations to accede to the Convention and the Protocol and to withdraw any geographical limitations or reservations to these instruments. It reaffirms the granting of asylum as a peaceful, humanitarian act which should not be regarded as unfriendly by any state and the principle that no person should be forcibly returned to a country where he may be subject to persecution. Finally, the resolution expresses the hope that governments will take all necessary steps to reunite separated families and within the framework of international solidarity share the responsibility to seek permanent humanitarian solutions to the problems of refugees. These resolutions, of course, do not have the force of law, and it is up to the individual states to adopt such measures in their national laws.

A. MAJOR INTERNATIONAL CONVENTIONS RELATING TO REFUGEES

THE GENEVA CONVENTION RELATING TO THE STATES OF REFUGEES OF JULY 28, 1951

Defines a refugee as any person who "as a result of events occurring before January 1, 1951, and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership in a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it." The Convention requires the Contracting States to accord to refugees, without discrimination, freedom of religion, access to courts, and exemption from legislative reciprocity after three years. It also sets minimum standards for treatment of refugees as to gainful employment, housing, education and welfare.

THE 1967 PROTOCOL RELATING TO THE STATUS OF REFUGEES

The Protocol broadens the scope of the 1951 Convention by removing the time limitation from the definition of a refugee. It incorporates all the substantive provisions of the 1951 Convention and requires the Contracting States to cooperate with the Office of the United Nations High Commissioner for Refugees.

THE 1954 CONVENTION RELATING TO THE STATUS OF STATELESS PERSONS

The purpose of this Convention is to supplement the 1951 Convention relating to the Status of Refugees by regulating the status of previously unprotected "stateless persons." A "stateless person" is one "who is not considered a national by any state under the operation of the state's laws."

THE 1961 CONVENTION ON THE REDUCTION OF STATELESSNESS

This convention is designed to eliminate the perpetuation of statelessness. Provides for the acquisition, by operation of law, of the nationality of the Contracting State by the children born of stateless parents in its territory.

THE 1967 HAGUE AGREEMENT RELATING TO REFUGEE SEAMEN AND ITS 1973 PROTOCOL

Parties agree to issue refugee seamen travel documents and admit them to their territory. The 1973 Protocol extends the agreement to those seamen who became refugees after 1951.

1949 GENEVA CONVENTION RELATIVE TO THE PROTECTION OF CIVILIAN PERSONS IN TIME OF WAR

In May of 1977, Article 64 of Protocol I to the Convention was adopted by a Diplomatic Conference to include refugees in the category of "protected persons" governed by the Convention. The Article specifically states that "persons who, before the beginning of hostilities were considered as stateless persons or refugees under the relevent international instruments accepted by the Parties concerned, or under the national legislation of the States of refuge or State of residence shall be protected persons within the meaning of Parts I and III of the Fourth Convention, in all circumstances and without any adverse distinction." The Article was prepared by the International Committee of the Red Cross and the United Nations High Commissioner for Refugees.

UNITED STATES OF AMERICA

The Local Director of the Immigration and Naturalization Service, under the Department of Justice, makes the determination of refugee status. The decision of the District Director is not subject to appeal. But if the Director proposes to give a negative decision, he must first seek an advisory opinion from the Department of State. If the District Director of the INS chooses to deny the application despite a favorable recommendation of the Department of State, the application is then referred to the Regional Commissioner of the INS for a final decision.

The UNHCR representative in New York maintains periodic contact with the Department of State Office of Refugee and Migration Affairs on questions relating to the determination of refugee status. The State Department also refers certain groups of asylum cases to the UNHCR for advisory opinion on the merits of the individual application.

Refugees whose applications have been approved are issued an I–94 form in which their status as "parolee" for the purposes of political asylum is indicated. In addition, the INS may issue a Refuge Travel Document in accordance with the provisions of the 1951 Convention relating to the Status of Refugees. This document is valid for one year.

A refugee is admitted to the United States on the basis of the conditional entry provision of U.S. Immigration Law or under the "parole authority" of the Attorney General.

To qualify for conditional entry, a person must have fled from a country where he or she fears persecution, and this country must either be Communist or fall within the general area of the Middle East. Under this provision, the Middle East is defined as follows: from Libya in the west to Pakistan in the east, and from Ethiopia in the south to Turkey in the north. In addition, persons who have been uprooted by natural disasters, such as earthquakes and typhoons, qualify as conditional entrants, if they are unable to return to their normal place of residence.

An applicant for conditional entry to the U.S. may apply at any of the U.S. immigration posts abroad, located in Austria, Belgium, France, Germany, Greece, Hong Kong, Italy and Lebanon. The officer in charge of each immigration office in authorized to approve an application for conditional entry. After two years' residence in the U.S., the refugee is required to appear before an immigration officer to determine eligibilty for permanent residence. There is presently a limit of 10,200 persons who may be admitted as conditional entrants from the Eastern Hemisphere and 7,200 from the Western Hemisphere. It should be noted that most refugees from the Western Hemisphere who would otherwise seek conditional entry to the United States are precluded from doing so because of the statutory requirement that they be fleeing from a communist or communist-dominated country.

In addition to refugees admitted under the conditional entry provision, the Attorney General of the United States may, at his discretion, authorize the admission on a parole basis of refugees in an emergency situation who otherwise would not be admissible to the U.S. There is technically no limit to the number of parolees the Attorney General may admit to the U.S. at a given time. However, in practice, the Attorney General usually consults with Congress on the numbers who are to be admitted. This authority was originally used for individuals in emergency circumstances. But, in recent years, it has been used to admit large groups of refugees from Cuba, Hungary, and Indochina. In all of these cases, the refugees met the criteria for conditional entry, but their numbers were far greater than the annual quota. In the case of Cuba, there was no conditional entry provision under the immigration regulations governing the Western Hemisphere. The parole authority has also been used to admit a small number of refugees from non-communist countries, including 1,000 Uganda Asians, 400 Chilean heads of households, plus family members and 2200 Latin Americans from Argentina, mostly Chilean, along with their family members. After two years' residence, each parolee's status is reviewed. An Act of

Congress is required to change their status to that of permanent resident.

A large network of private U.S. voluntary agencies provides sponsorships and resettlement assistance for refugees.

In addition to its contributions to the United Nation's High Commissioner for Refugees, and the International Committee of the Red Cross, the United States operates several refugee programs of its own. The U.S. Refugee Program, which began in 1952, assists refugees from Eastern Europe (Albania, Bulgaria, Czecheslovakia, Hungary, Poland, Romania and the Soviet Union) who seek asylum in Western Europe, the Middle East and elsewhere. Its objective is to provide supplementary assistance for the temporary care and maintenance of these refugees, and facilitate their permanent resettlement as promptly as possible. About 8,000 refugees are registered for USRP assistance through voluntary agencies.

The Far East Refugee Program, established in 1954, assists Chinese refugees from Hong Kong through temporary care and maintenance, local resettlement and counseling for emigration to the U.S., for those refugees who qualify under the conditional entry provisions of U.S. immigration law. This program is administered through contracts with several voluntary agencies, including: Catholic Relief Services (CRS), Hong Hong Christian Service (HKCS), the International Rescue Committee and International Social Service (ISS).

A program for assistance to Soviet Jews, who resettle in Israel, was authorized by the U.S. Congress in 1972. The funds are administered in the Department of State by the Office of Rights and Humanitarian Affairs. U.S. funds to Israel for this program are channeled through the United Israel Appeal, a voluntary agency. The expenditures cover care and resettlement assistance, scholarships, vocational training, etc.

The U.S. also operates educational and training programs for refugee students from Southern Africa, both in the U.S. and in independent African countries.●

## TRIBUTE TO ALBERT C. CARRINGTON

### HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. STARK. Mr. Speaker, I would like to take a moment to pay tribute to Albert C. Carrington on the occasion of his 90th birthday.

While most of us are content to rest on our laurels after a few years of public and community service, Mr. Carrington continues his extraordinary service to the communities of the east San Francisco Bay area. He is presently serving as a director of the East Bay Municipal Utility District having only recently completed 31 years service with this agency. Twenty of those thirty-three years on the board of directors were spent as vice president of the board.

In addition to this remarkable record of leadership, he has also served his community in a wide variety of other ways:

As a member of the Alameda City Council.

As president of the Alameda Chamber of Commerce.

As president of the board of trustees of the Alameda Hospital.

As associate guardian of Bethel 12 of Job's Daughters.

As a member of the American Red Cross and the Community Chest.

Mr. Carrington is a respected member of the business community and served his associates there as a director of the California State Manufacturers' Association.

## PLIGHT OF THE PEOPLE OF EAST EUROPE

### HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. DERWINSKI. Mr. Speaker, Rev. Joseph Prunskis, director of information of the Lithuanian American Council, is a leading and most knowledgeable spokesman for the Lithuanian people held captive in the U.S.S.R.

In a featured column in the April 11 Chicago Tribune, Rev. Prunskis discusses the plight of the people of Eastern Europe. The conditions there have existed for too long. It is time for the Carter administration to direct the necessary attention to the most consistent application of our national foreign policy in this area in regard to human rights. The article follows:

EAST EUROPE: A JAIL THAT KEEPS PEOPLE IN, KNOWLEDGE OUT

The population of American workers is like a colorful mosaic composed of representatives of many nations. A considerable part of the immigrants came to this country without family, having in mind to establish themselves first, to entrench themselves in stable work, to assure proper income and lodging, and then to bring their families from overseas.

There is no problem with those who came from Western Europe. However, workers who emigrated from Central and Eastern Europe, from the countries now dominated by totalitarian Communists, meet insurmountable difficulties when they try to bring their families from behind the Iron Curtain. For 10, 20, 30, and more years they continue to send official invitations, as required by the Soviet Union, but to no avail.

Many of these workers in the United States are getting old. They need their wives and children to alleviate the hardships of their old age, their loneliness. However, the Soviet Union pays no attention to the humanitarian requirements and denies permission to reunite family members with their husbands and fathers. That is a kind of oppression which is unknown in the more civilized world.

The living and working conditions for legal immigrants in the U.S. are mostly excellent—much better than in the majority of the countries throughout the world. Because of such working opportunities, the U.S. has problems with persons who enter illegally—in contrast with the situation in the Soviet Union, which has to construct walls of shame to keep its people inside, as if in jail.

Therefore, American workers are against communism. Making good incomes, American workers can travel, even to foreign countries. Many of them indicate an interest in their roots and take vacation trips to the lands from which they or their ancestors came. Unfortunately if they travel to countries which are under the control of a Communist dictatorship, their movements are considerably restricted. For example, those who travel to Lithuania are allowed to stop only in the capital, Vilnius, to take part in conducted tours directed by Soviet guides. They might be allowed to visit a few other cities such as the second largest city, Kaunas, historical Trakai, or the resort, Druskininkai, but they do not have the freedom to visit their home towns, the graves of their parents, or even their relatives residing in rural areas.

The propaganda of the Soviet Union speaks about great progress, prosperity, and unanimous acceptance of the Communist system by the inhabitants. However, such restrictions on travel are indicative that this is a lie, that Moscow is ashamed to show under what oppression the people are living and how many difficulties they encounter in their daily life.

Goodhearted and prosperous American workers are eager to help their old, sickly parents or other living in their native lands. However, last year the Soviet Union imposed such enormous customs duties on gift parcels that payments greatly exceed the value of articles sent. And this is a real robbery of people who want to brighten what may be the last days of their parents or other relatives. No other civilized country has such adverse regulations concerning gift parcels. Only Moscow practices such injustice.

Many workers in the U.S. have high school educations or more. In many instances they would like to brighten the horizons of knowledge of their relatives and friends in the countries from which they came. If those countries are behind the Iron Curtain, American workers cannot send books, magazines, or newspapers printed in the free world. Not even prayerbooks or religious articles can be sent. They are confiscated at the border.

These and many other restrictions are against the civilized norms of life. They are against humanitarian principles and even against the United Nations Declaration of Human Rights, against the Helsinki Agreement, and against International postal stipulations. They show under what oppression people are living behind the Iron Curtain and how Moscow acts against the humanitarian aspirations of the American workers.●

## TRIBUTE TO MAYOR BOB BROWNE

### HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. EDWARDS of California. Mr. Speaker, I want to bring to my colleagues attention the outstanding record of Mayor Bob Browne of Milpitas, Calif. Bob is retiring this year after serving the people of Milpitas for 12 years. Bob was first elected to the Milpitas City Council in 1966, reelected in 1970 and 1974. He was Vice-Mayor 1970–76 and Mayor 1968–70 and 1976–78. He has been President of the Santa Clara County Inter-City Council and is presently Vice-President of the Santa Clara County Planning Policy Committee.

Bob has been serving the people of Milpitas since 1966 when Milpitas was a small town of 19,831 souls. He has helped to shape the future of this fine city until today it is a thriving, alive and proud city of 32,800. Bob goes back to the time when Calaveras Boulevard was a two lane country road and ranchers were driving cattle down Calaveras across the expanse of railroad track and into the

railyards. Mayor Browne's administration has seen the completion of city hall, the Calaveras Overpass, new fire stations and the geological survey of the hills.

We certainly can be justified in honoring Bob for his accomplishments with the planned growth of Milpitas. However, I believe Bob's major contributions have to do with his sense of commitment to service to the people of his community. Bob said it best, "I'm proud to have been a part of the overall long-term planning process, but most importantly to lend in whatever way I can to the stability and decorum of the conduct of the government's business." I know Bob is looking forward to more time with his wife, Victoria and their 5 children and two grandchildren. I'm sure that Bob will continue to serve and participate in community affairs as private citizen, Bob Browne.●

I am most pleased to join Mr. Carrington's many admirers and associates in honoring this fine record of service. It sets a standard for excellence that few, if any, can match.●

## HOW A BILL BECOMES LAW

### HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. MICHEL. Mr. Speaker, those of us in Congress are so close to the legislative process that we sometimes forget that the way in which a bill becomes law is not clearly understood by many of our fellow Americans. I receive inquiries from time to time about this question. I have prepared a brief summary of the process in the hope it may be useful to anyone who is interested in the machinery of Government.

At this point in the RECORD, then, I would like to insert, "How a Bill Becomes Law":

HOW A BILL BECOMES LAW

Ours is a government "of the people, by the people, for the people." It is not a pure democracy. It is a republic in a democracy. It is a representative democracy.

Our laws are the embodiment of the wishes and wants, the ideas and ideals of the American people as expressed through their representatives in the Congress: 435 in the House of Representatives and 100 in the Senate. Any Member of the House or Senate may introduce a bill embodying a proposed law or revision of existing laws, at any time when his respective house is in session. When introduced the bill will be entered in the Journal of the house, and the title and sponsors of it printed in the Congressional Record of that day.

Each bill introduced is assigned a number by the Clerk of each house and referred to the Committee having jurisdiction over the subject matter by the presiding officer, i.e., the Speaker of the House or the President of the Senate. Copies of the bill are printed by the Government Printing Office and made publicly available from the congressional document rooms.

Acting through its Chairman, the Committee decides whether a bill should be taken up by the full Committee or referred to a subcommittee for its initial consideration. The Committee's deliberations are the most important stage of the legislative process. It is here that detailed study of the proposed legislation is made and where people are given the right to present their views in public hearings. When the Chairman has set a date for public hearings it is generally announced by publication in the Congressional Record.

Copies of the bill under consideration by the Committee are customarily sent to the Executive Departments or agencies concerned with the subject matter for their official views to be presented in writing or by oral testimony before the Committee. The number of witnesses, pro and con, heard by the Committee is largely dictated by the importance of the proposed legislation and degree of public interest in it.

The transcript of the testimony taken is available for inspection in the individual Committee offices. Quite frequently, dependent on the importance of the subject matter, the Committee hearings on a bill are printed and copies made available to the public.

After conclusion of the hearings the Committee proceeds to meet in Executive Sessions (sometimes referred to as "mark-up" sessions) to discuss the bill in detail and to consider such amendments as any member of the Committee may wish to offer. Each Committee has its own rules of procedure but they generally conform to the rules of the House itself.

By a formal vote of the Committee, it decides whether to report favorably to the House the bill with or without Committee amendments. A Committee report must accompany the bill, setting forth the nature of the bill and reasons for the Committee's recommended approval. The Report sets forth specifically the Committee amendments and, in compliance of the rules of each house, indicate all changes the bill would make in existing law. Any Committee member, individually or jointly, may file additional supplemental or minority views to accompany the majority Committee Report. The Committee Report, accompanying the bill, is viewed by the courts and the administrative agencies as the most important document as to the intent of the Congress in the proposed legislation.

When a bill is reported by the Committee it is placed on the appropriate calendar. The Majority Leadership decides how and when the bill will be considered on the Floor. In general the bill is allowed to remain on the Calendar for several days to enable members to become acquainted with its provisions.

In both the House and the Senate innumerable measures of relatively minor importance are disposed of by unanimous consent. In the Senate, where debate is unlimited, major bills are brought up on motion of the Majority leader and in the House are called up under a privileged resolution reported from the Rules Committee which fixes the limits of debate and whether amendments may be offered from the Floor. The Rules Committee resolution is called a "rule" for consideration of a bill: a "closed rule" if no amendments are allowed, as is generally the case in tax bills, and an "open rule" if amendments can be offered.

While there are distinct differences between the House and Senate procedures, in general a bill is debated at length with the proponents and opponents presenting their views to acquaint the membership, as well as the general public, with the issues involved, and all with a view to arriving at the consensus. Amendments are frequently offered to make the measure more in conformity with the judgment of the majority. In the course of consideration of the bill there are various parliamentary motions, in both the House and the Senate, which may be offered to determine the sentiment of the members with respect to the pending legislation. The measure may be postponed to some future date or referred back to the Committee which reported it.

With the conclusion of general debate and the reading of the bill for amendment, the question becomes whether the House or Senate, as the case may be, will pass the bill in its final form. The Congressional Record of the day the bill was under consideration will set forth the verbatim debate on the bill and the disposition made of such amendments as were offered.

With the passage of a bill by either body it is messaged to the other with the request that they concur. If no action has been taken on the like measure by the body receiving the message the bill is usually referred to the appropriate committee of that body for consideration. Hearings are again held and the bill reported for Floor action. On relatively minor or non-controversial matters the Senate or the House accepts the measure as messaged to it by the other body.

If there are substantial differences between the House and Senate versions of a given bill, the measure is sent to a Conference Committee which is appointed by the Speaker and the President of the Senate from the ranking Committee members of each body having original jurisdiction over the bill. The object of the Conference Committee is to adjust the differences between the two bodies, and to report back to each its agreement. The report of the Conference Committee must be in writing and signed by those agreeing thereto and must have the signature of the majority of the conferees of each house.

The report of the Conference Committee cannot be amended and must be accepted or rejected by each house as it stands. If either house finds itself unable to accept the Conference Committee report a further conference is usually requested.

When the bill has been agreed to in identical form by both bodies a copy of the bill is enrolled, signed by the Speaker and by the President of the Senate, for presentation to the President. The bill becomes law with the President's signature of approval, or it may become law without his signature if he does not return it, with his objections, to the Congress within 10 days of its presentation to him.

If the President should return the bill, with his objections, to the originating body of the Congress, his "veto" may be overridden by two-thirds of both the House and Senate respectively voting to have the measure become law the President's objections to the contrary notwithstanding. Both the President's veto Message and a record of the vote of the individual members in the motion to override are required by the Constitution to be set forth in the Congressional Record.●

## ST. MARY'S RIVER WILDERNESS AREA

### HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. WHITEHURST. Mr. Speaker, today I received a copy of House Joint Resolution No. 134, which was enacted by the 1978 Virginia General Assembly. It was sent to me by Mr. Joseph H. Holleman, Jr., clerk of the Virginia House of Delegates and keeper of the rolls of the State.

Since the St. Mary's River area is one of those which would be placed in the National Wilderness Preservation System under the provisions of H.R. 7970

which I have introduced, I am particularly gratified by this endorsement, and I am pleased to take this opportunity to share it with my colleagues.

Thank you, Mr. Speaker.

The resolution follows:

HOUSE JOINT RESOLUTION No. 134

Whereas, the Commonwealth of Virginia has long recognized the great blessings with which it is endowed by nature, and has regularly sought to protect those natural resources for the continuing benefit of the people; and

Whereas, an opportunity has been called to the attention of the General Assembly of Virginia to permanently assure to the people the continuing benefits now available on publicly-owned wild land which possesses extraordinary natural values in the way of scenery, sparkling clear streams, native trout fishery, wildlife habitat, rare mountain bogs and forested mountains offering high-quality outdoor recreation; and

Whereas, this tract of land, identified as the St. Mary's River Watershed, consisting of approximately 10,695 acres, is located entirely on the George Washington National Forest in Augusta County, Virginia and involves no privately owned lands; and

Whereas, this tract of land contains the St. Mary's River which has been studied and recommended to the Virginia General Assembly for inclusion in the State's Scenic River System, due to its outstanding scenic, natural and recreation values; and

Whereas, by placing this area in the National Wilderness Preservation System under the Wilderness Act (while remaining a part of the National Forest System and administered by the U.S. Forest Service), we can assure that the outstanding natural values of the area will be maintained unimpaired for present and future generations, while at the same time permitting their free use by citizens in ways which neither consume these values, nor interfere with the normal processes of nature; and

Whereas, encroachment on this area by the construction of roads, buildings, dams and logging or any other works of man prohibited under the Wilderness Act, would severely damage its existing high-quality natural values and so deprive the public of their increasingly scarce, natural benefits; and

Whereas, the protection of the Wilderness Act will enhance the valuable scientific study of nature's process in this area, by preventing intrusions upon, or interruptions of such studies, and will assure a genetic reserve of plant and animal species which elsewhere are being altered or destroyed; and

Whereas, increasingly, men and women are seeking temporary escape from the noise and speed of machines, the confines of steel and concrete, and the crowding of man upon man, protective wilderness, as herein proposed, will provide a place for humans to go when the need is felt to be in harmony with nature and to know its peace and beauty, undisturbed by the things of man; and

Whereas, wilderness, being the unique heritage of the American nation, the character of its people having been forged in the wilderness, it is fitting that appropriate portions of our remaining wilderness be preserved as a reminder of that heritage, just as we commonly preserve other historic shrines for the benefit and enjoyment of the people; now, therefore, be it

Resolved by the House of Delegates, the Senate concurring, That the Virginia General Assembly hereby endorses the placement in the National Wilderness Preservation System under the Wilderness Act, the St. Mary's River Watershed, located within the George Washington National Forest, in Augusta County, on the west slope of the Blue Ridge Mountains, about twenty miles south of Staunton, consisting of approximately 10,695 acres; and, be it

Resolved further, That the Clerk of the House of Delegates is hereby instructed to send copies of this resolution to the members of the Virginia Congressional Delegation and all other members of the 95th Congress, to actively support and vote for appropriate legislation to this end.●

## CONSUMER-CHOICE HEALTH PLAN

### HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. WAXMAN. Mr. Speaker, yesterday's CONGRESSIONAL RECORD contained the first installment of an article in the March 30 issue of the New England Journal of Medicine on Dr. Alain Enthoven's consumer choice health plan proposal. The second installment is reprinted below. While I do not at this time endorse Dr. Enthoven's plan, I feel it is a fresh approach to the national health insurance issue which deserves our serious study.

The article follows:

CONSUMER-CHOICE HEALTH PLAN

INCREMENTAL CHANGES

CCHP is not an immediate radical replacement of the present financing system with a whole new one. Rather, it is a set of incremental "mid-course corrections" in the present financing and regulatory system, each one of which is comparatively simple and familiar taken by itself, but whose cumulative effect is intended to alter the system radically, but gradually and voluntarily, in the long run. CCHP corrects the faulty incentives produced by present government programs, and seeks to correct known market imperfections. CCHP preserves flexibility. If these changes do not produce the desired results, after experience has been gained, more corrections can be made. CCHP recognizes that there is no "final solution" to problems of health-care financing, as experience in countries with national health insurance clearly demonstrates. CCHP is not necessarily incompatible with some proposed regulation such as health planning, hospital-cost controls and physician-fee controls. On the contrary, CCHP would increase the effectiveness of the Health Systems Agencies by giving them the incentives to control costs that they now lack. But CCHP would reduce the need for such regulation and, if successful, render it superfluous.

CCHP can be thought of in two related parts: a financing system and rules to create a socially desirable competition.

THE FINANCING SYSTEM

Actuarial Categories and Costs—The flow of government subsidies to individuals to help them buy health insurance in CCHP would be based on actuarial cost—i.e., the average total costs of covered benefits (insured and out-of-pocket) in the base year, updated each year by a suitable price index, for persons in each actuarial category. For persons not covered by Medicare, the actuarial categories might be the single and familiar three-part structure of "individual, individual plus one dependent, and individual plus two or more dependents." However, in a competitive situation, this classification might give health plans too strong an incentive to attempt to select preferred risks by design of benefit packages (e.g., good maternity benefits to attract healthy young families), location of facilities, or emphasis in specialty mix (strength in pediatrics, weakness in cardiology). Carried to a logical extreme, such a system could lead to poor care for high-risk persons (though open enrollment—described below—would always assure the right of high-risk persons to join any qualified health plan). So experience might show that a more complex set of actuarial categories is desirable. For example, the three-part structure might be supplemented by special categories for persons 45 to 54 and 55 to 64 years of age. In the limit, one might go to a structure based on individual age (e.g., in 10-year steps) and sex, though I doubt whether this development would be necessary.

Actuarial cost would also reflect location, because there are large regional differentials in health-care costs. The appropriate geographic unit would probably be the state. However, regional differences in real per capita subsidies based on actuarial cost would be phased out over a decade.

The appropriate price index for updating actuarial cost would probably be the "all-services" component of the Consumer Price Index.

The average per capita cost for physician and hospital care in 1978 will be about $200 for people under 19, and about $475 for people 19 to 64 years of age (1976 costs inflated to 1978 at 10.3 per cent per year[20]). So, if these are the covered benefits, actuarial cost for a "typical" family of four would be $1,350. A higher or lower amount, based on a more or less generous benefit package and on broad political judgments about priorities, might be chosen.

In CCHP, premiums would be set by each health plan for each actuarial category and benefit package, on the basis of its own costs and its own judgment of what it can charge in a competitive market. Thus, persons in more costly actuarial categories would pay higher premiums. This step is desirable because we want competing plans to be motivated to serve them and is made socially acceptable by giving such people higher subsidies through tax credits or vouchers.

Tax Credit—The present exclusion of health-insurance premium contributions by employers (and health and welfare funds) from employees' taxable incomes, and the deductibility of individual premium contributions, would be replaced by a refundable tax credit equal to 60 percent of the family's actuarial cost. (The deductibility of direct medical expenses would be limited to those in excess of 10 percent of adjusted gross income instead of today's 3 percent.) Tax withholdings would be adjusted to make the taxpayer's estimated net remaining tax liability at the end of the year approximate zero, so that he would not have to wait until the end of the year to receive the cash. Employers and health and welfare funds would continue contributing to employee health insurance under existing agreements, but they would report such contributions as part of total pay on W–2 forms. The tax credit is allowed only if spent on premiums for a qualified health plan. To the ordinary employee, then, CCHP would appear initially as a quite simple change in the way in which his compensation is taxed.

Consider a typical employee with a family whose employer is contributing, say, $1,600 per year to his health-benefits plan. Under CCHP, his personal income tax would increase roughly $480 because of the inclusion of the $1,600 in taxable income (assuming he is in the 30 per cent bracket), and decline by $810 (60 per cent of the estimated actuarial cost of $1,350) because of the tax credit, for a net saving of $330. The $330 would, of course, have to be financed through some combination of special taxes and federal general revenues. The importance of the change is that the $810 subsidy would be the same for people with higher and lower incomes (above the welfare line), and that the

subsidy would not increase if the employee chose a more costly health plan.

The choice of 60 per cent of actuarial cost as the level for the tax credit is based on a judgment that balances a number of factors.

The first is that if the tax credit were too low (e.g., below 25 per cent of actuarial cost), many low-risk employee groups might find it advantageous to form a nonqualified plan and stay out of the system. For the incentive effects of the system to be pervasive, most people must find it to their interest to join qualified plans. Moreover, a tax credit at least as large as the tax benefit in the present law for middle-income taxpayers would help to minimize political opposition to the change from that group. Secondly, if the tax credit were too high (e.g., over 80 per cent of actuarial cost), the incentives of health plans to be truly efficient would be weakened. There would be no point in plans reducing premiums below the tax-credit level. But Medicare experience suggests that prepaid group practices can deliver comprehensive health-care services for an average of 73 per cent of the cost of their fee-for-service counterparts. Similarly, if the tax credit were too high, middle-class consumers would see too little of their own money going into premiums to be motivated to shop for or help form more efficient systems. A tax credit at 60 per cent of actuarial cost would limit the potential for people to manipulate the system to their advantage by taking a minimum-cost "catastrophic insurance" plan when they expected to be healthy, and then switching to a full-benefit plan when they anticipated elective surgical procedures or pregnancy. This level approximates the FEHBP, which has worked well. However, other levels could be chosen, depending on the availability of funds. For example, it could start at 30 per cent, with higher levels phased in as revenues permitted.

Vouchers for the Poor—The poor need more subsidy to assure their access to an acceptable plan. CCHP would provide them with a voucher usable only as a premium contribution to the qualified plan of their choice. It should be administered through the reformed cash-assistance welfare system proposed by the Carter Administration, or whatever program is chosen to assist low-income people. The value of the voucher should be related to family income on a sliding scale that preserves work incentives. Here is one example. The Carter Administration welfare reform would guarantee a family of four a minimum cash income of $4,200; the cash assistance would be reduced 50 cents for each dollar of earned income until it reached zero at a family income of $8,400 (the "cash assistance breakeven" point). Related to this, one could set the health-insurance premium voucher at $1,350 for a family with a total income, including cash assistance, of $4,200 (i.e., zero earned income), and phase it down to $810—the tax-credit level for nonpoor families—at a total income of $8,400. The result would be a "benefit-reduction rate" (i.e., the cents worth of cash assistance and voucher lost for each additional dollar earned of 56 per cent, which would not be inconsistent with the goal of preserving work incentives underlying the Administration's proposed welfare reform. (If the voucher exceeded the family's health-insurance premium, the extra money could be used to buy additional health benefits such as dentistry, or left on deposit to offset cost sharing.) The voucher system can be integrated with the tax system and the unemployment-insurance system.

To illustrate how the voucher system might work, support that the rate now in effect for childless couples in the California Public Employees' health-benefits plan were the rates in effect in CCHP. They include $55.88 per month for Kaiser Northern California, $73.17 for the Family Health Program, $92.00 for the United Foundations for Medical Care, $93.15 for Blue Cross-Blue Shield, and others. Suppose a couple were totally dependent on reformed welfare. Using the Administration's proposed amounts for welfare plus CCHP, they would receive a voucher worth $79.17 per month ($950 per year) for health premiums, and cash assistance of $183.33 per month ($2,200 per year). They could elect the Kaiser plan and have $23.29 per month left over for additional health benefits (such as copayments, dentistry and eyeglasses), elect Family Health Program and have $6 per month for such additional benefits, or elect the Foundations plan and have to contribute $12.83 per month out of their cash assistance. If, instead, their income were at or above the "cash assistance breakeven" for childless couples of $4,400, their voucher could be worth $47.50 per month, and they would have to contribute $8.38 per month of their own money to join Kaiser, or $44.50 to join the Foundations plan. (These numbers are illustrative; the actual voucher level might be different, depending on such factors as political judgments and regional cost levels, and I would expect competition to narrow the difference in premiums.)

Medicare would be retained for the aged, disabled and victims of end-stage renal disease. Eligibility would be expanded to all legal residents 65 years of age and over for Part A (institutional service) and Part B (physicians' services). The benefits should be expanded to conform to the benefits for the rest of the population. The 150-day limit on hospital days should be removed—in effect providing catastrophic coverage. Better still, an annual limit on out-of-pocket expenses on covered benefits by any individual subscriber should be enacted.

The most important change needed in Medicare is a freedom-of-choice provision that would permit any beneficiary to direct that the "Adjusted Average per Capita Cost" (AAPCC) to the Medicare program for people in his actuarial category be paid to the qualified plan of his choice in the form of a fixed prospective periodic payment. If done properly, this change would end the Medicare subsidy to those who choose a more costly system of care, and would permit beneficiaries to reap the benefit of their economizing choices in the form of reduced cost sharing or better benefits.

For example, I pointed out in the first part of this article that in 1970, Medicare paid $202 per capita on behalf of beneficiaries cared for by Group Health Cooperative of Puget Sound, but paid $356 on behalf of similar beneficiaries in the same area who got their care from the fee-for-service sector. Nevertheless, as far as Medicare was concerned, the Group Health members were liable for the same deductibles and coinsurance and limitations on covered hospital days as their fee-for-service counterparts. They received no reward from Medicare for choosing a less costly system. If CCHP had been in effect, they would have been allowed to designate that $356 be paid by Medicare as a premium contribution on their behalf to Group Health or other qualified health plan. In a competitive situation, Group Health would have been able to pass on the extra $154 to the beneficiaries in the form of reduced or eliminated coinsurance and deductibles, removal of the limitation on hospital days covered, increased scope of benefits (e.g., outpatient drugs (or reduction in supplemental premium, as an inducement for those beneficiaries to join Group Health. In CCHP, this option would be available to Medicare beneficiaries not only with respect to HMO's, but with respect to any qualified health plan.

About 7.7 million aged, blind and disabled persons receive Medicaid supplements to assist with costs not covered by Medicare. (Medicare pays about 71 percent of hospital costs and 55 per cent of physician costs for aged beneficiaries.) Under CCHP, these supplements for acute care would be replaced by a voucher similar to that for the nonaged poor. This substitution would assure the ability of the poor Medicare beneficiary to pay the premiums for a policy to supplement Medicare. In 1978 the average per capita hospital and physician costs for the aged not covered by Medicare will be about $385. This would be an appropriate level for the full voucher.●

## SECRETARY SCHLESINGER OUTLINES ENERGY NEEDS

### HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. MURTHA. Mr. Speaker, Energy Secretary James Schlesinger appeared recently before the Interior Appropriations Subcommittee and I believe his testimony is extremely important to the national energy debate.

I felt there were four key points in his remarks, and I would like to share them with the full House.

1. ECONOMY

In his prepared remarks, Secretary Schlesinger addressed the economic implications of the Government's energy decisions. He talked about the worldwide production and need for oil:

In the face of growing demand, these figures underscore the need for adaptation in American society before the early or mid-1980s, when the worldwide shortage in petroleum availability will make itself felt. At that time, the principal oil exporting nations are likely to have severe difficulties in supplying all the increases in demand expected to occur throughout the 1980s in the U.S. and other countries.

When this occurs, unless our Nation has planned wisely and well, it will face difficulties as severe as anything we have experienced since the 1930s. Avoiding these difficulties will demand the best of every American.

During questioning, I said to the Secretary, "We know the dollar is not stable. We know that the imports are part of the problem. I don't see any way we can avoid a massive disruption of our economy." He replied:

That is the threat, and that is the purpose that the President has laid these plans before the Congress. What we are trying to do is to push off that day of reckoning. Sooner or later, we are going to face that. If we conserve, if we get more fuel-efficient, if we move towards coal, we can push this point off to the later 1980s.

2. OIL

I also asked, "I understand the projections are that we will reduce the imports of oil this year by a small amount, but then it will go right back up again the following year. Is that accurate?"

The Secretary responded:

It depends on the action that the Congress takes. I think it will go up somewhat in 1979 and 1980, indeed. The longer term depends upon the incentives and regulations that the Congress establishes to move toward stationary sources, towards coal and coal-derived products.

3. ENVIRONMENT/PART I

A problem I have grown extremely concerned about is the uncertainty of

environmental laws and regulations which makes it difficult for industries to complete the type of long-range planning they must. "Now, the President said the other day to the Steel Caucus that we have to stabilize the environmental controls so that industry knows what it is doing," I said at the hearing, and asked the Secretary for his assessment.

I think that if we are to have industrial investment we are going to have to stabilize the rules of the game. There is no question about that.

Industry cannot make major investments with the prospect that each year they will be forced to make additional outlays as the rules are ratcheted.

4. ENVIRONMENT/PART II

It is extremely important to note that I do not equate a call for environmental stabilization with any rollback from the progress we have made in cleaning the Nation's air and water, or any reduction in the commitment we must make to future improvements. I just do not feel "we are getting enough emphasis on the fact that we have to have a stabilized situation so industry will be prepared to invest." I went on to ask, "Is this a priority with the President."

I don't think that in the past that has been one of the highest priorities, Mr. Murtha, but I shall have to review what the President and the Administration attitude is.

I think that all across the board if we are to have adequate levels of investment we must have stable rules of the game for industry.

I congratulate Secretary Schlesinger for his candor with the Interior Appropriations Subcommittee and for his efforts over the past year. I do not feel the year of debate over the President's energy proposals has been wasted; in fact, I feel it has been a constructive period. The key is to move from the debate to the implementation of a national energy plan that will set us on the right course for the remainder of this century.●

## COMBATING TERRORISM

### Hon. John E. "Jack" Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. CUNNINGHAM. Mr. Speaker, the grim face of international terrorism appears to be a factor in international relations as never before. Mr. Michael Novak, syndicated columnist, commented in the April 16, 1978, edition of the Washington Star that "it is hard to see why anyone believes that terrorism can be appeased by surrendering to it."

Whether in Rhodesia, the Middle East, Italy, or South America, terrorists constantly kill and kidnap, making demands on legitimate governments of the world. The West responds slowly to the threat from international terror merchants. Occasionally, governments even pay the price demanded by the murderers and kidnapers.

In balancing U.S. response to terrorism, I am naturally fortunate that so little of their brutal disruption has landed here. I deeply regret that there are those who, in hoping for the best, believe that we can close our eyes to this worldwide reality. They believe that appeasement of terrorists may succeed, but as Mr. Novak points out, the goal of terrorists is "instability and disruption * * * when your goal is to bring down democracies, terrorism pays."

Mr. Speaker, we must make certain that terrorism does not pay. Joshua Nkoma and Robert Mugabe, Yasir Arafat, the Baader-Meinhof gang, the Red Brigades, the Japanese Red Army, and others must be stopped.

To this end, I have joined colleagues in sponsoring three pieces of legislation directly aimed at combating international terrorist warfare. House Concurrent Resolution 492, sponsored by Congressman LESTER WOLFF of New York, expresses the sense of the Congress that the President actively seek an international convention which has as its goal a multilateral treaty to deny sanctuary to international terrorists. Such sanctuary is currently available in parts of Lebanon, Iraq, Libya, Algeria, Mozambique, Zambia, Angola, Botswana, and elsewhere.

The second bill, H.R. 10804, is sponsored by Congressman JIM LLOYD of California, seeks to strengthen Federal programs and policies for combating international and domestic terrorism.

Finally, H.R. 10295, whose sponsor is DON CLAUSEN of California, would amend the Federal Aviation Act of 1958 relating to aircraft piracy and to provide a method of combating terrorism.

Passage of these three bills would go a long way toward making sure that the United States had a positive record regarding terror. Inexplicably, the policymakers of our country seem to be all too willing to treat the goals of terrorists as legitimate. We actually heard our President glowing about a Palestinian homeland in recent months. Again quoting Mr. Novak, "by rewarding the PLO for terrorism the United States is blowing life into the agents of its own sworn and resolute enemy."

Mr. Novak is referring to the Soviet Union. In fact, he refers to terrorism as "the number one weapon in the Soviet arsenal."

It is for this reason, Mr. Speaker, that I have joined ABNER MIKVA of Illinois in sponsoring H.R. 11747 which would reduce the U.S. contribution to the United Nations for the purpose of funding a division concerned with the "legitimate rights of the Palestinian people."

Immune from terrorism itself, the Soviets are ready to utilize any forum or procedure to assist terrorists if the goals are the same as their own. For, again according to Mr. Novak, "terrorism is a threat only to democratic states and to authoritarian states that are not yet totalitarian. Totalitarian states totally eliminate it, are impervious to it."

Mr. Speaker, I call upon this Congress and the administration to enact effective legislation to counteract the surge of international terrorism. The bills and resolutions I have mentioned are, I believe, constructive steps. I would also call upon the administration, in its conduct of foreign policy, to avoid cozy associations with known terrorists, such as those active in the PLO and in Southern Africa. Finally, I would call for a thorough study to determine the extent of Soviet funding, encouragement, and supplying of terrorist organizations worldwide.●

## PROF. ARTHUR LAFFER EXPLAINS HOW TAX POLICY AFFECTS ECONOMIC GROWTH

### HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. KEMP. Mr. Speaker, as most of my colleagues know I am a great supporter of reducing the tax and regulation barrier between individual effort and after tax rewards, that barrier is known as the wedge. The larger the wedge is, therefore, less opportunity there is for work and investment. Since taxes are going up daily, as inflation pushes people into higher tax brackets thus the wedge is growing as well. The result is stagflation, contraction and frustration.

The main academic proponent of supply side economics is Prof. Arthur Laffer of the University of Southern California. I am very happy to see that his work has come to the attention of Business Week magazine, which did a profile of Prof. Laffer and his views in its April 24 issue. I offer it to my colleagues in the hope that it will lead to an improvement in congressional tax policy.

The article follows:

HOW TAX POLICY DAMPENS ECONOMIC GROWTH

While the mid-April tax deadline will give millions of Americans the worst kind of Saturday night fever, signs are hinting at a refreshing new swing in tax policy. The House Democratic Caucus voted last week to defer next year's scheduled increases in Social Security taxes, passed only six months ago. And Congress is increasingly receptive to the evidence, now being marshaled by many economists, strongly supporting tax cuts but arguing that to spur economic growth and employment the Administration should pitch these cuts more heavily toward the business sector.

These economists are concerned about what they call "the wedge." They argue that over the years, increased taxes have driven a larger wedge between the cost of labor or capital—as measured by the price paid by the employer or borrower—and the aftertax receipts of the worker or investor. "The decision whether or not to work or invest depends on aftertax income," says the University of Southern California's Arthur B Laffer, a prominent spokesman for this new wave in public tax policy. "And more precisely, it's a matter of the effective marginal tax rate. That's the one people base their decisions on, the rate at the margin."

So the bigger the bite taken by taxes, the less incentive there is for working, saving, or investing. These reduced incentives result in slower economic growth and higher unemployment, Laffer argues.

EFFECT ON SAVINGS

The sheer magnitude of the federal sector's tax needs—amounting to some $400 billion in fiscal 1978—means that the impact of the wedge on total output could be enormous. Michael J. Boskin of Stanford University, in an analysis soon to be published in

the prestigious Journal of Political Economy, estimates that the tax wedge in capital markets alone—the difference between what it costs companies to raise capital and the after-tax income to those who save and provide the capital—cuts saving and capital accumulation by a mind-numbing $40 billion to $50 billion a year. Boskin's estimate of this wedge amounts to some 20% of business investment. "My model is the first to show that taxes have a significant effect on the saving rate," he notes. Since higher-income groups save more than lower-income groups, to the extent that the Administration's tax proposals emphasize taxing higher incomes, they could further magnify the nation's capital shortage. "The investment tax credit and accelerated depreciation are usually thought of as breaks for big business," Boskin says, "but that's drastically off the mark. They narrow the capital-market wedge, spurring productivity and employment."

Boskin is not alone in arguing that the tax wedge hits saving and capital formation hardest. "We've got to get productivity up, and that takes capital formation," says Washington consultant Charls E. Walker. "But in this country we've taxed savings, what with all the layers of corporate and personal taxation, as if it were a sin." Walker, a former Treasury Under Secretary, hopes that Congress can be persuaded to approximately double the four-percentage-point cut in corporate tax rates proposed over the next three years by the Carter Administration.

LONG-TERM GOALS

Congress may be open to persuasion because of a mounting body of evidence, derived from new data and improved statistical techniques, which indicates that many kinds of tax cuts would involve far smaller revenue losses to the government than had previously been thought. Indeed, in the case of tax cuts for capital, Walker suspects that it may be possible to produce that Nirvana of economic philosophy—the free lunch. "I think we may well be on the upper part of the curve, where tax cuts on saving would actually generate higher government revenues," he says. In other words, the higher rates of return to business that result from tax cuts could stimulate so much more investment and output that total government receipts would ultimately rise above the level obtainable at the higher tax rates. As chairman of the American Council for Capital Formation, Walker recently hired Laffer to construct a revenue-forecasting model to capture such long-run effects.

Laffer, for his part, will also be looking closely at the effects of the tax wedge in labor markets, where the entire spectrum of employer and employee contributions for such items as unemployment compensation workmen's compensation, and Social Security go hand-in-hand with income taxes to create a yawning gap between what it costs a company to employ a worker and what the worker actually gets in aftertax income. "I don't even want to say at this point that it's savings that are hit worst," Laffer says. "The disincentives for unemployed inner-city residents are really among the highest, because they often lose social welfare benefits by taking a job, as well as having to pay taxes on the earnings." Laffer maintains that jobs and output would receive a major direct stimulus if the employment wedge could be reduced, particularly for those currently receiving benefits and for teenagers, housewives, and others whose earnings are subject to high marginal rates because of the earnings of other family members.

But at least until midyear, when Laffer expects to obtain his preliminary results, the data seem clearest on taxation of investment income. Another model started by the University of Chicago's Arnold C. Harberger for the National Association of Manufacturers, and recently completed under contract by Washington consultant Norman Ture, estimates that corporate tax reduction would result in significantly higher federal revenues 10 years later. Presenting his results to a recent hearing of the House Ways & Means Committee, Ture said that an effective rate reduction averaging 5.5% would cost the Treasury $8 billion in direct loss during its 10th year—but by that time would have generated sufficient growth in sales, investment, and employment to account for $17 billion in "feedback" revenue gains, netting out to a plus of $9 billion for Treasury coffers.

SHORTSIGHTED ESTIMATES

Boskin, however, is not sure just how to interpret the gains claimed by Ture and anticipated by Walker and Laffer. "If 1988 revenues are higher," he asks, "how do you discount that back to 1978? How much is it worth right now?" But Boskin has no qualms about the fundamental message of the current reasearch: The estimates of revenue loss that are presented to Congress by the Treasury concerning each year's tax reduction proposals have been seriously overstated. The estimates have generally been limited to first-year impacts, Boskin explains, and they simply do not allow sufficient time for the full stimulative effects on the nation's economic activity and the size of the tax base to show up.

This is largely the result of a kind of limitation common to all of the major forecasting models now available for the U.S. economy, according to the new wave of federal tax theorists. As they see it, the models, from the oldest Wharton vintage to the latest from Chase Econometrics, have never outgrown their preoccupation with forecasting the next year or two of the current business cycle. This is no small challenge in itself, but it has led modelers to neglect longer-run interaction within the economy.

CONGRESS RESPONSE

Broad data on the overall economy that show little detail about how individuals behave have usually been adequate for short-run forecasting purposes. This contributed, the wedgers argue, to such mistaken views as the insensitivity of savings to the interest rate. "In fact, the saving rate has looked pretty stable a lot of the time," Boskin concedes. "But that was brought about by a great number of offsetting developments." Boskin maintains that data covering the savings, work, and consumption decisions of different age and sex groups within the total population make it clear that saving does respond significantly to changes in the after-tax rate of interest.

According to Walker, whose own experience at the Treasury should be a guide, the evidence from the new model will have a major effect on the legislative outlook "Congress puts a lot of weight in its tax decisions on the expected revenue effects," he says. "If the models show that past assumptions have been wrong, Congress will respond." ●

## HOLY TRINITY EVANGELICAL LUTHERAN CHURCH MARKS DIAMOND JUBILEE

### HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. McCLORY. Mr. Speaker, a most noteworthy event is taking place on Sunday, April 23 in Elgin, Ill., in my congressional district, when Holy Trinity Evangelical Lutheran Church celebrates its 75th anniversary.

Mr. Speaker, this great religious institution is commemorating this anniversary under the theme "To God alone be glory." Special events which are planned include Youth Sunday, Marriage Renewal Service, and special musical/choir programs—all under the general direction of Holy Trinity's Pastor, Glenn G. Gilbert and committees serving under him.

Mr. Speaker, the festive morning service will feature Rev. Paul E. Erickson, president of the Illinois Synod of this denomination and a former pastor of the church, Robert J. Schenck.

As part of the anniversary observance, an extensive property improvement program is planned, including repairs and renovation which should help prepare Holy Trinity for the next 25 years and beyond.

Mr. Speaker, it is my plan to attend Holy Trinity's Diamond Jubilee celebration and hopefully to join in the congregational dinner to follow.

Mr. Speaker, I am confident that my colleagues in this Chamber are grateful to know of this significant event and join with me in extending gratitude for the spiritual blessings which have been spread throughout the entire community as a result of Holy Trinity Church's influence and service. Also, we can all join in extending to Holy Trinity Evangelical Lutheran Church of Elgin our good wishes for many more years of service as this congregation is rededicated to a fulfillment of the jubilee theme "To God alone be glory."●

## JUSTICE FOR MEXICAN-AMERICANS

### HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. EDWARDS of California. Mr. Speaker, I would like to take this opportunity to commend the Justice Department for its decision to challenge the leniency of the sentences received by three former Houston police officers who were convicted of civil rights violations in the death of a young Mexican-American man named Joe Campos Torres.

U.S. District Court Judge Ross N. Sterling awarded the men suspended 10-year sentences on the felony conviction and placed them on 5 years probation.

In seeking a review of these sentences, the Justice Department rightfully takes the position that imposition of probation in a case such as this only further nutures the view that minorities, in general, and Hispanics, specifically, continue to be the victims of unequal application of the laws.

I concur with the view stated in a recent Christian Science Monitor editorial when it expressed the hope that the Justice Department's action, "signals the start of a new, more vigorous campaign to protect the civil rights of Hispanics, who too long have been forced to endure second class citizenship."

If we expect to foster respect for the laws by all segments of the community, then it is of paramount importance that

the laws be fully and unequivocally implemented, especially against those charged with their enforcement.

The editorial follows:

[From the Christian Science Monitor, Apr. 7, 1978]

JUSTICE FOR MEXICAN-AMERICANS

Let's hear it for the Justice Department. Americans of all races ought to welcome the refusal of government lawyers to quietly go along with a federal district judge's slap-on-the-wrist sentencing of former Houston police officers conviced of civil-rights violations in the death of a Mexican-American in their custody. In filing for a review, the Justice Department called the one-year sentences "entirely inappropriate" in light of the serious nature of the offenses involved. The three law enforcement officers, dismissed after their conviction, had been found guilty of physically abusing a young Mexican-American and forcing him to swim in a bayou where he drowned.

Hispanic leaders in the U.S. Southwest have complained of an "epidemic" of "official police violence" against members of their communities in recent years, and increasingly they have turned to the Justice Department for help. Until now, they feel, the government has largely been unresponsive. In the past year alone nine lawmen in Southwestern states have been tried, or are in the process of standing trial, on charges resulting from the deaths of Mexican-Americans. The Mexican-American Legal Defense and Education Fund cited 30 highly publicized cases of possible police misconduct in a recent plea to Attorney General Bell for assistance.

The Justice Department reaction to the sentences in Houston, it is to be hoped, signals the start of a new, more vigorous campaign to protect the civil rights of Hispanics, who too long have been forced to endure second-class citizenship. In its formal motion for a review of the sentences, the Justice Department stated, "The United States has grave concern that the imposition of probation in this case will cause citizens of all races and backgrounds to believe that the sentence was a result of the continuing inequality of treatment accorded to minorities. . . . The public perception of inequality and the belief that the life of a Mexican-American citizen has little value can only do damage to the respect for the laws and for the belief in justice." We wholeheartedly concur.●

## THOUGHTS ABOUT THE DEFENSE BUDGET

**HON. DONALD J. PEASE**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. PEASE. Mr. Speaker, earlier this month the Christian Science Monitor carried a thought-proviking guest column by Sandy Gottlieb. The point of the article is to illustrate that heavy defense spending can, and does, distort our national economy.

The emphasis of the column is on the fact that Federal dollars spent on expensive weapons systems create fewer jobs than if equivalent amounts were spent in the civilian sector. This is a point that was raised 2 years ago by my predecessor, Charles Mosher, when he opposed development of the B–1 bomber.

Of course, I am not advocating that we disband the Defense Department or that we stop buying military equipment. But I do think that we must give greater consideration to the economic consequences of our defense policies.

As we will soon be debating the defense budget again, I commend to my colleagues' attention the article by Mr. Gottlieb. He is on the staff of the foreign policy citizens organization, New Directions. The text follows:

TURNING WARPLANES INTO HOUSES—AND JOBS

The summer of '43 I managed a Good Humor ice cream stand at Coney Island. The $50-a-week pay was almost princely at the time; the fringe benefits, including a swim after work, were attractive. I supervised five employees. How did an untrained teenager not yet 17 attain such a level of pay and responsibility?

World War II did it. Some 12 million citizens were in the armed forces. Millions more entered defense plants, among them the ex-housewives symbolized by Rosie the Riveter, precursor of today's working women. It was the war effort that cured the swollen unemployment of the Great Depression, and in the process, opened the jobs to young people like me.

To my generation it became an article of faith that war—or, failing that, a high military budget—wards off joblessness. We somehow overlooked the millions in uniform at meager pay, but our belief was firmly rooted in actual experience. Our faith has survived, unshaken, through three decades of swift-paced change.

How realistic is that certainty today? Not very. Study after study, private and governmental, has in recent years reached the conclusion that a variety of civilian activities would generate more jobs than the same dollar volume of military spending. For example:

2.1 million new jobs would result from a 30 percent cut in military spending, provided the savings were shifted to specific domestic programs.

A public housing program and a tax cut would each create more jobs than the equivalent sum spent on the B–1 bomber over a 10-year period.

Education revenue-sharing and state and local government projects both finish ahead of Pentagon programs in jobs created per billion dollars spent.

Something funny happened to Pentagon job-creation on the way to the cold war. In World War II General Motors could retool its assembly line to manufacture tanks, hire three shifts a day, seven days a week, and then retool again after V-J Day to manufacture Chevrolets. That work was labor-intensive, requiring lots of semi-skilled blue collar workers. But the research, development, testing and production of today's strategic weapons are in a different league. They require large amounts of raw materials, sophisticated laboratories and technology, relatively more scientists and engineers, and many fewer blue collar workers. Defense work today is capital-intensive. It costs a whole lot more but employs fewer hands.

Military spending is not only less of a boost to employment than in World War II, but it imposes an unnecessary burden on the economy through the Defense Department's procurement practices. Most of the big Pentagon contracts are let without benefit of advertised competitive bids. The large defense contractors get paid for what they spend, not what they produce. In the old days this was known as "cost plus." Today, it hides behind other names, but the effect is the same. These companies can usually count on the Pentagon to pick up the tab cost overruns and all. Cost-effectiveness thus becomes a rare commodity. Why cut costs when this also cuts your profits? And when a conscientious official like Ernest Fitzgerald blows the whistle on a hidden cost overrun, he, not Lockheed, is punished.

There's good news and bad news in this picture. The good news is that we can afford to stop fearing or worrying about the effect successful SALT agreements might have on the unemployment rolls. With advance planning, the federal government could produce new jobs by shifting funds to civilian programs, implementing a tax cut, or both.

How many and what kinds of jobs would depend on the precise combination of governmental actions and the economic conditions at the time. *New jobs stemming from civilian programs* would presumably be geared to meeting public needs such as health care, housing, transportation, education and environmental controls. New jobs that come from a tax cut would be determined by the decisions of millions of individual taxpayers about how to spend the bonanza. Although a tax cut might prove politically irresistible, as a job stimulant it would have certain limitations. The tax-cut option could not be directed at helping the specific regions most affected by a decrease in defense spending, as new civilian programs could, and it would take longer to have an impact.

The bad news is that the big defense firms are woefully unprepared to shift to civilian production. Many of them may also be unable to compete in civilian markets, after years of maximizing their costs and delivering their expensive products to one sure customer. The government should not continue subsidizing inefficiency. It should encourage and assist these firms to plan for the day when their defense contracts dip, and to provide help of various kinds to individuals who lose their jobs through defense shifts or arms reduction agreements.

Planning is best done at the local level, close to the work place. It should involve not just the management but also the unions, local government, and local business groups that function in the civilian sector. In short, planning should involve all the groups in the community that will be affected by cuts in military spending and stand to benefit if these cuts are converted into opportunities for economic development. Concerned citizens in defense-dependent communities—and elsewhere—can help the process by encouraging the creation of joint local committees to plan for new economic activities.

One model for helping laid-off workers is the aid offered by the Trade Expansion Act of 1962. To workers hurt by lowered tariffs, the legislation provides adjustment allowances, counseling and job placement services, retraining, and relocation to another area. It has not worked well, however. The federal and state bureaucracies have been slow to move, and workers often know nothing of the services available. Still, when a Rhode Island rubber plant gave one year's advance notice of a closing, the union in the plant applied for adjustment assistance and the state employment agency set up a retraining service. In that case the act worked well to ease the transition.

As Jimmy Carter said during the 1976 campaign, national security decisions should be made for national security reasons and economic decisions for economic reasons. It hasn't always worked that way. When Treasury Secretary John Connally testified before the Senate in 1971 on the federally guaranteed bank loan to Lockheed, manufacturer of the ill-fated C–5A cargo plane, he declared: "What do we care whether they perform? We are guaranteeing them basically a $250 million loan . . . so they can hopefully minimize their losses, so they can provide employment for 31,000 people. . . ."

The fear of job loss in the defense sector has been one of the engines driving an arms race that contributes nothing to our security. Now we know that mutual disarmament and higher employment could be achieved simultaneously. There's much work to be done in a nation groping for the moral equivalent of war.●

## TRIBUTE TO TORRANCE UNIFIED SCHOOL EMPLOYEES

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. ANDERSON of California. Mr. Speaker, our Nation and its democratic society have produced many testaments showing its strength, foresight, and responsiveness to the needs of its people. Yet nowhere are these attributes more evident—and more vitally necessary—than in our educational systems.

In schools across our country, the young men and women who will be the leaders of tomorrow are taking the first steps toward developing into productive members of our society. The men and women who serve in our educational systems—administrators, teachers, secretaries, custodians—collectively bear one of the greatest responsibilities possible. For it is they, more than any other segment of society, who work toward the future of our Nation.

On May 5, 1978, the Torrance Unified School District will honor those employees who are retiring after many years of dedicated service to their community. I would like to take this opportunity to congratulate them on making the Torrance Unified School District the outstanding educational system that it is today.

For an educational system is more than school buildings, books, and classrooms. It is the men and women who use those facilities—and the students who benefit from them—that make our educational systems vital, dynamic centers of human knowledge and experience.

The philosophical tenets of the Torrance Unified School District describe education as "* * * a dynamic, evolving relationship with subject matter the means, man the product, and society the result."

That is truly an eloquent—and accurate—assessment of our system of learning. For a society is shaped by the individuals who live, work, and contribute to it. Today's youth will determine, in the years to come, the direction our Nation will take during its third century of existence.

What they will become, and the extent to which they will influence the shape of future American society, will be influenced greatly by the knowledge and experience to be gained in our Nation's schools.

Mr. Speaker, the following men and women certainly deserve our gratitude as they retire after many years in education:

Mr. Kenneth J. Christofferson; Mrs. Mary P. Clark; Mr. Merlin R. Cook; Mr. Charles J. Duffy; Mr. William C. Fuller; Mr. Charles E. Cummins; Mr. Clarence A. Geringer; Mr. Rollins W. Harwell; and Mr. Alvin E. Koch.

Mr. Woodrow W. Krutsinger; Mrs. Katherine M. Ley; Mrs. Bernice M. Lowry; Mrs. Leonora M. Maxwell; Mr. Bernard W. Murray; Mr. Luke C. Nickol; Mr. Leroy D. Papa; Mrs. Winifred M. Parchen; Mr. David G. Paton; Mr. Gerald F. Pizer; Mr. Harold D. Rawnsley; Mrs. Nora S. Reese; Mrs. Beverly V. Sampson; Mr. Vernie T. Vanderpool; Mr. Alvin J. Watrin; Mrs. Mary G. Whitesel; and Mr. Herbert E. Whittle, Jr.

Mrs. Helen M. Clark; Mrs. Elinor C. Courtney; Mrs. Claire V. Crain; Mrs. Wealtha S. Godsell; Mrs. Alice B. Hammond; Miss Phyllis I. Kesselring; Mrs. Mary D. Ruckle; Mrs. Helen R. Ryan; Mr. John L. Tucker, Mrs. Margaret M. Bereskin; Mrs. Sunga K. Greisman; Miss Evelyn C. Hilden; Miss Elaine J. Nunnally; and Mr. Thomas I. Bray.

Mrs. Catherine S. Cason; Mr. Walter A. Cason; Dr. Lloyd G. Jones; Mrs. Ludmila N. Raisters; Mrs. Genevie M. Rosin; Mrs. Ernestine B. Dunlap; Mr. Melvin Grogitsky; Mrs. Carole M. Schmohl; Mr. John H. Wiegand; Miss Catherine G. Fitzgerald; Mrs. Josephine J. MacZuga; Mr. Henry B. Dolan; Mrs. Alice K. Jones; Mrs. Mary E. Golden; Mrs. Kathryn M. Dill; and Mrs. Martha J. Coburn.

Special mention should be given to the following four individuals for having completed 30 years of service with the Torrance Unified School District:

Mr. Robert E. Fulton; Mr. Charles F. Conze; Mrs. Lynn S. Bramhall; and Mr. Lester I. Foster.

Mr. Speaker, the contributions made by these men and women to our society cannot be measured. However, they will continue to be felt for many years to come, as the young people they served so well take their place as contributing members of our American way of life.

My wife, Lee, joins me in offering our heartiest congratulations to these individuals as they enter retirement, and in wishing them much happiness in the years ahead.●

## THE ENERGY CRISIS: VALUES IN CONFLICT

### HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. HAMILTON. Mr. Speaker, I recently participated as a panelist in the Energy Fair 78 Forum at Indiana University Southeast in New Albany, Ind. The text of my opening remarks, entitled "The Energy Crisis: Values in Conflict," is inserted into the CONGRESSIONAL RECORD for the benefit and use of my colleagues.

INTRODUCTION

It is a pleasure for me to be a panelist in this year's Energy Fair 78 Forum, The intended topic of discussion—is one of critical interest to everyone here.

Of course, I would like to *approach the topic from the point of view of a legislator* who must debate the broad issues of energy policy and cast votes on energy legislation. I hope that my remarks will be helpful in advancing the discussion. I know that many of you are more expert than I in the field of energy.

THE ENERGY CRISIS

What is the energy crisis? Although you will not find two people who describe it in exactly the same way, there are certain facts that most people agree on.

The days of readily available, cheap energy in the United States are drawing to a close. As a result, America faces a new energy reality. Proven domestic reserves of oil and natural gas, our nation's predominant energy sources since World War II, have been dwindling since 1970. Even if there are great undiscovered reserves to be found, these fuels and substitutes for them are expected to become increasingly costly. At the same time, demand for energy is surging ahead. This is something that we have come to accept. Our high standard of living—a standard enjoyed by so many people—is squarely based on the "energy-intensiveness" of industry and agriculture and can only be sustained with ever greater use of energy.

This imbalance between rising demand and limited domestic production lies at the heart of the energy crisis. Our temporary response has been to import the difference to correct the imbalance. Imports have bought us time. They have also cost us money.

ENERGY GOALS

Although it may seem like an elementary question to some, perhaps we should begin our discussion of values in conflict by asking what the goals of our energy policy should be.

It is clear that our energy problem could be managed if we were to implement Draconian conservation measures of the sort seen only in times of war. It has been estimated that such a radical conservation effort could trim 13 percent from our consumption of gasoline, 15 percent from our consumption of heating oil and 15 percent from our consumption of electricity, but the resulting social and economic dislocation would not be acceptable to us. A better energy policy would be one that combined conservation with a broad array of other measures to

Reduce dependence on foreign oil in the near term and minimize the potential effects of supply disruptions, thereby maintaining the security and independence of the nation;

Prepare the American economy to withstand the effects of higher energy prices while still providing an adequate and secure supply of energy at affordable prices;

Develop renewable and essentially inexhaustible sources of energy so that styles of life remain a matter of choice and are not limited by the unavailability of energy;

Assure that energy policies and programs are fair, equitable, and fiscally sound so that we can maintain a strong and healthy economy which provides adequate employment opportunities;

Contribute to world stability through a concerted attack on the energy problem with other nations; and

Protect and improve the quality of the environment.

I will be the first to admit that this is quite a "shopping list" of goals. The very number of goals is a genuine matter of concern. I sometimes think that our energy problem is like our economic problem. In the area of economy we have three basic targets: full employment, stable prices and sustained growth.

It is easy to hit anyone of the targets if we ignore the others: full employment could be achieved by a massive public jobs program, stable prices could be achieved by very restrictive money measures and sustained growth could be achieved by drastic tax cuts for business.

However, the pursuit of any of these policies would have unbearable consequences for us. The trick is to hit all the targets simultaneously. It is no easy matter to come up with a comprehensive economic policy "for all seasons." I do not see that energy policy is any different. In energy, just as in economy, there are values in conflict.

ENERGY POLICY

The six general goals just set out are fine in theory, but you may well ask what has been done to reach them in practice.

Regrettably, too little. Despite repeated warnings from the President, endless debates in Congress and volumes of public and private studies, a comprehensive national energy policy is not yet in place. I do not need to tell you that an attempt to put one in place is still floundering in a conference

room in the Capitol building. But I am not one of those to look only on the dark side of things. In energy, as in many other areas of public policy, the fervent desire to formulate quick but satisfactory solutions to problems can sometimes cloud our vision.

In a very real sense, we do have a national energy policy. Now—do not misconstrue what I say. We certainly have not prompted enough change, but we should not overlook the change that has already taken place. We have the rudiments—one might better say the foundations—of the energy policy we seek.

The politician, the private citizen and the press have found the change easy to neglect in the hoopla surrounding the National Energy Act. There is a further reason for the neglect: Part of the change has very little to do with legislation. It has rather to do with the much-maligned—and underestimated—free market.

What are the dimensions and features of the change I am referring to? Consider first the broad outline. Without any major energy law to require it, Americans already are well on the way toward accomplishing some of the major goals of the Carter energy proposal—from converting industry to coal-fired powerplants to cutting back automobile fuel consumption to insulating homes and factories. Indeed, the progress has been quite startling even to many critics.

Of course, the single most important force behind this progress has been the sharp rise in energy prices over the past 3½ years. Despite controls, average prices of domestic crude oil have risen 10% a year, while the average retail price of natural gas soared 88% in the three years ending last July. As a result, Americans have cut consumption significantly.

There are specific data to support the general claim:

The National Coal Association says that hundreds of utilities have shifted back to coal in the past two years, and 241 new coal boilers are now on the drawing boards. Boiler industry officials report that not one oil- or gas-fired boiler has been ordered since late 1975.

In the basic manufacturing industries, coal-fired boilers are now taking 60% of the market, as opposed to 20% in 1974. Industry leaders say that this trend is accelerating.

The auto industry has shifted to more fuel-efficient cars and buyers are more conscious of gasoline consumption. The major auto makers now offer a larger selection of small cars—a sure sign of a growing market.

Americans' push to insulate their homes has been so intense that there now is an acute shortage of insulation materials. In fact, the home insulation industry has asked Congress not to pass an insulation tax credit for fear of exacerbating the situation.

Conservation of electric power and other energy by industry and consumers has improved significantly in the past few years. Reports from around the country show that people and businesses are making significant savings by cutting consumption.

In spite of licensing and siting delays, industry projections reveal that nuclear is likely to triple its share of the electricity market by 1985.

Finally, new exploration for oil has been steadily increasing. Industry statistics show that new rigs are being brought into use at a high rate. Also, recent increases in natural gas prices have spurred new exploration in the gas fields. Experts think it unlikely either trend will taper off very soon.

The results of all this have been fairly dramatic. While the Nation's economy has grown by some 13 percent since 1973, demand for petroleum has increased at about half that pace—7.1 percent. On a day-to-day basis, petroleum demand is running at about 17.5 million barrels a day on a seasonally adjusted basis—virtually unchanged from its level in 1973. Oil imports are up 23 percent since 1975, but this year imports are running at about 8 million barrels a day compared with 9.9 million barrels a day in 1977, when the country was plagued with a severe winter. Increased outlays for oil are due as much to higher import unit prices as to higher import volume.

There can be no denying this simple fact: The free market can be a remarkable instrument for the futherance of public goals. It behooves us to learn more about it so that we can exploit its potential more fully.

Let me backtrack for a moment. I am not about to give all the credit for progress to private enterprise. Another much-maligned and underestimated institution—the United States Congress—has had some role. Many of us—myself included—are perturbed at the present "energy paralysis" on Capitol Hill. But we should not be blind to what Congress has done to better our energy posture:

Congress has passed the Federal-Aid Highway Act which authorizes $22.9 billion over three years for mass transit systems. Another measure, the Urban Mass Transportation Act, provides a direct operating subsidy from the Federal Assistance Program for mass transit. The Energy Supply and Environmental Coordination Act requires the Secretary of Transportation to submit a plan for expanding and improving mass transit systems and encouraging increased ridership as alternatives to automobile travel.

To increase efficiency in the use of gasoline, Congress has enacted a law which set a national speed limit of 55 miles per hour.

Congress has passed legislation requiring that all cars made in 1985 and subsequent years get 27.5 miles per gallon.

In the same bill, Congress mandated standards for the increased energy-efficiency of home appliances.

Congress has authorized $150 million to assist states in developing and administering energy conservation programs.

Congress has ordered all federal agencies to develop 10-year plans for energy conservation.

The Energy Conservation and Production Act provides a strong program to encourage conservation in residential and commercial buildings.

Congress has raised the composite price for old oil, established a high "second-tier" price for new oil and deregulated the price of "stripper" oil.

The Federal Coal Leasing Act Amendments are aiding states in the development of soil shale reserves. Under the amendments, states receive a substantial rebate for oil shale mining on federal lands.

The Solar Energy Research Development and Demonstration Act is providing the impetus for the establishment of a national solar energy program. It is the purpose of the law to set us on a vigorous course of solar energy research and development and to demonstrate the benefits of solar power to the public. The Solar Heating and Cooling Demonstration Act expresses a commitment to the economic viability of solar heating and cooling for buildings and establishes a program to demonstrate this viability by 1979. The increase in funding for solar energy development has been dramatic.

The most attractive sites for the exploitation of geothermal power are on Federal lands in the western United States. The sites are being made available for prospecting and development under the Geothermal Steam Act. Congressional interest in geothermal energy resources culminated in the Geothermal Energy Research, Development, and Demonstration Act of 1974. This measure placed an aggressive geothermal energy program under the jurisdiction of the Energy Research and Development Administration, now part of the Department of Energy.

Congress has passed a law authorizing increased production at the Elk Hills Naval Petroleum Reserve in California.

Congress has mandated the creation of a 500-million-barrel strategic petroleum reserve. The reserve is slowly but surely coming into being.

A bill to enable the careful development of our off-shore oil and gas reserves just recently passed the Congress. The new law will expedite off-shore production because it establishes the "legal ground-rules" necessary for the effort.

Congress recently passed a bill to consolidate the energy agencies of government into a single department. The consolidation of previously separate functions is bound to have positive effects.

The list of congressional energy initiatives is really quite remarkable when it is set out in full. I should add that my enumeration is not complete and that all the bills I have mentioned, with one or two exceptions, were passed subsequent to 1972. Contrary to popular belief, Congress has not been "sitting on its hands" in the area of energy.

THE NATIONAL ENERGY ACT

Notwithstanding such progress and congressional action, we are faced with the matter of the deadlocked National Energy Act. All private and public moves towards coherent energy production and use are appreciated, but we want to know what has happened to the measure that was, and still is, intended to be the keystone of our energy policy, A brief look at the bill—what it would do and where it is stalled—should bring us back to the topic of values in conflict in an energy crisis.

You are all well acquainted with the basic content of the President's proposal. As initially written, it provided for:

A crude oil equalization tax on existing domestic production to raise the price of petroleum products to their replacement value;

An industrial oil and natural gas consumption tax on certain industrial and utility use to accelerate the conversion to facilities that use coal and other nonpetroleum fuels and to stimulate greater conservation;

A new oil and natural gas pricing policy that would encourage the development of new domestic supplies and eliminate the distinction between interstate and intrastate natural gas markets;

An automobile fuel-efficiency tax to encourage fuel conservation;

A regulatory program to prohibit the use of new oil-and gas-burning equipment in certain industrial and utility facilities;

Individual tax credits for insulating residences and installing solar energy equipment;

Business tax credits to promote investment in more energy-efficient equipment;

New or more stringent energy-efficiency standards for buildings and appliances;

Reform of utility rates to promote more efficient use of electricity; and

Weatherization grants for schools, hospitals and low-income housing.

The President's proposal arrived in Congress on April 20 of last year. Its first days were cause for optimism. On August 5, the House of Representatives, by a vote of 244–177, passed the Carter energy plan. Aside from some minor modifications here and there, only on the issue of gasoline taxes did the House refuse to go along with the President.

There was no such smooth sailing in the Senate. The President's package was broken up into five separate bills and to avoid the possibility that a filibuster might hold up the whole measure. As things turned out, it was not worth the bother. The Senate weakened, and in some cases gutted, all but a few of the major provisions.

A very rough-and-tumble conference ensued. To date, agreement has been reached

except for natural gas pricing and the tax provisions. The real stumbling block is natural gas pricing—whether to extend controls or to deregulate. The tax conference is simply awaiting the final holding of its non-tax counterpart.

What are the prospects? The two natural gas pricing plans are not so far apart. Both envision a form of gradual price deregulation. However, the Senate coalition is so shaky that predictions are risky. We can say that there are two alternatives: either the conference agrees on natural gas pricing soon, or the pressure will mount, as it has already, to report out the three main parts of the energy plan that have been approved. This smaller piece of legislation is generally referred to as the "mini-package."

VALUES IN CONFLICT IN AN ENERGY CRISIS

It is apparent that Congress has had a difficult time with the National Energy Act. The American public has watched for almost a year as their national legislature has grappled with a politically explosive, technically complex and highly important bill. The struggle is not yet finished, but it already has some lessons for us. The lessons are that values are in conflict.

We have learned that there is nothing approaching a consensus in the nation on whether there is an energy crisis. In spite of the progress that has been made, too many Americans continue to act as if the energy crisis were a figment of someone's imagination. This conflict is between the believers and the disbelievers.

We have learned that there is nothing approaching unanimity of opinion on the nature of the energy crisis even among those who agree that it is real:

On the one hand, some experts say that supplies of fossil fuels, especially oil and natural gas, are dwindling and may be exhausted by the end of the century. They advocate research and development of alternative sources of energy which can eventually be used to take up the slack.

On the other hand, many economists believe that the primary problem is not one of supply but of price—the cost of getting oil and natural gas out of the ground and into the market. They argue for continued reliance on traditional sources of energy, with increased incentives for the oil and natural gas industries to supply customers at competitive prices.

This conflict is between the "soft technologists" and the "hard technologists."

We have learned that it is one thing for a President to propose an energy policy, but quite another for an independent, free-thinking Congress to accept it. The natures of the Presidency and the Congress are distinct: the former recommends and acts, the latter deliberates and permits. This conflict is between governmental institutions with different duties.

We have learned that Congress is a more representative body than most Americans generally acknowledge. With no consensus on energy in the country, there is no consensus on energy in the Congress. Things go slowly as members strive to convince one another of their points of view. This conflict is between the need to act and the need to allow differences of opinion to be represented.

We have learned that Congress can be hindered in its task by its own organization. The energy bill was handled by more than a dozen committees. Delay and jurisdictional squabbles were common. This conflict is between the traditional way of doing things and the need for reform.

We have learned that Congress can have difficulty when it attempts to deal with technically complex matters. Members of Congress tend to be generalists, not specialists. Like most of their constituents, they are stronger on broad issues and weaker on technical issues. This conflict is between democracy and technocracy.

Finally, we have learned that today's problems are impossible to solve in a way that satisfies everyone. In the matter of energy, consumers are pitted against producers, proponents of regulation stand against proponents of the free market, and residents of the northeast oppose residents of the southwest. In a democracy, solutions to problems are politically feasible—or else they are not solutions. This means that no one will get all of the things he wants. This is the conflict between adamancy and compromise.●

## FREE BOOKLET ON "ENERGY AND YOUR HOME"

### HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. GOODLING. Mr. Speaker, I want to take this opportunity to commend a firm in my district for taking the initiative in promoting energy conservation.

The York Division of Borg-Warner Corp. has just published a free booklet which gives detailed information on how each of us can conserve our precious energy resources in this time of scarce supplies.

I have found the brochure to be objective and thought provoking and would recommend "Energy and Your Home" to anyone interested in cutting energy costs. I also would like to encourage other businesses and individuals in my district, and for that matter nationwide, to undertake similar projects for public dissemination.

Mr. Speaker, I offer the press release from Borg-Warner which more fully details the booklet "Energy and Your Home" and which gives the address of where more copies of the same can be obtained:

FREE BOOKLET GIVES HOME ENERGY TIPS

What are the big energy guzzlers in a home? They are not the lights and small appliances, not even ranges, ovens and dryers. From 75 to 90 percent of all the energy used in the home goes for three essentials, heating, cooling and hot water.

This is one of the many facts and insights to be found in a new, free booklet, "Energy and Your Home," edited by noted science writer Isaac Asimov. It deals with basics, but also contains guidelines and tips for the homeowner interested in saving energy and money.

It says, for example, that if all of the air leaks in a poorly caulked and weatherstripped house were gathered in one spot they could equal a one-square-foot hole in the wall.

To find out if a window leaks, the booklet suggests that you take a piece of thin plastic over it on a windy day and see if it billows.

The booklet says that as much as one-quarter of our heating dollars can be carried off by heat escaping through windows and doors. Sealed double (insulating) glass reduces the loss by half, it says, and storm windows do somewhat better by trapping a deeper layer of insulating air and covering leaks in the frames.

With the rise in fuel prices, triple glazing—double panes plus storm windows—pays for itself in the colder areas.

The booklet calls insulation "the No. 1 priority" in saving energy and it gives basic rules and a zone map of the United States with the latest insulation recommendations for roofs, walls and floors.

Although published by a manufacturer, York Heating and Air Conditioning, the 28-page booklet is non-commercial excerpt for a listing of products at the end. It even emphasizes the importance of not buying a larger furnace or air conditioner than you need.

In the case of air conditioners, it says that an oversize one will have shorter "on" periods that will prevent it from doing its important job of removing humidity. An oversize furnace, the booklet says, will cost more to operate and give less comfort. That's because it will have short "on" and "off" periods, allowing too wide a temperature range and air stratification in the rooms.

Asimov, in his introduction, refers to the potential catastrophe of the fuel shortage in coming decades. "For every person who reads and acts," he says, "there will be a small extension of the deadly deadline that faces America and the world. And if enough people act, as a result of reading this booklet or for any other reason, the deadline may be lifted forever."

For a free copy of "Energy and Your Home," write to York Division of Borg-Warner Corp., Dept. 14, Box 1592, York, Pa. 17405.●

## LOBBY DISCLOSURE BILL'S IMPACT ON CONSTITUTIONAL RIGHTS

### HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. EDWARDS of California. Mr. Speaker, in the next few days the members of the House will be called upon to consider and vote on H.R. 8494, the "Public Disclosure of Lobbying Act of 1978". This measure has been the subject of extensive hearings by both the Subcommittee on Administrative Law and Governmental Relations as well as by the full Judiciary Committee in the 94th and the 95th Congress.

I think that the tremendous amount of controversy and debate which has surrounded the bill is a reflection of the fact that it seeks to force disclosure and reporting of activities which are protected by the Constitution. The first amendment guarantees to every American the right to petition the Government for a redress of grievances. Those who exercise this right by communicating with their Representative or Senator are sometimes referred to as lobbyists. However, regardless of the term applied to them, their activities are constitutionally protected and form a vital part of our political process.

I hope that my colleagues will keep in mind the constitutional aspect of this issue during the debate. It is extremely dangerous in my view, to tamper with this form of protected speech. The bill reported by the House Judiciary Committee meets minimal constitutional standards in this area and I support the measure in its present form. However, I urge my colleagues to resist efforts to tack on amendments which will expand the bill's coverage and thereby burden the right of all Americans to contact their Government.

The American Civil Liberties Union has prepared what I think is a fine anal-

ysis of the most important issues involved in this legislation. I hope that my colleagues will take a moment and review the ACLU views prior to the debate on the measure:

ANALYSIS OF H.R. 8494—PUBLIC DISCLOSURE OF LOBBYING ACT OF 1978

The House Judiciary Committee has reported out a lobbying disclosure bill, H.R. 8494. This memorandum will briefly summarize the Constitutional questions and public policy issues raised by this proposal.

THRESHOLDS FOR REGISTRATION AND REPORTING

Under H.R. 8494, organizations which spend $2500 on directly communicating with Congress and either retain an outside lobbyist or have at least one salaried employee who engages in lobbying communications on all or part of each of thirteen days in a quarterly filing period would have to register as lobbyists.

This threshold is a substantial improvement over prior thresholds and should not be lowered. The $2500 expenditure requirement means that small, local organizations, especially those heavily relying on volunteers, will not be forced to register under the Act. For those organizations compliance would be so burdensome that many would be deterred from lobbying.

For example, under H.R. 8494, each registered organization would have to file quarterly reports including information on approximately 25 separate items. Moreover, every registered organization would have to maintain extensive records and institute intricate accounting and internal reporting procedures in order to prove compliance. The need to centralize recordkeeping and to track expenditures on lobbying will be too intimidating and too costly for many organizations. The threat of criminal sanctions is even more intimidating, especially to small or inexperienced citizens groups venturing to lobbying.

The $2500 expenditure requirement assures that only groups that expend substantial sums of money for lobbying will have to register. Presumably these are organizations which are well enough organized so that the registration and reporting requirements are not so bewildering, intimidating or costly that they would consider refraining from lobbying. The thirteen days threshold insures that the organization employs at least one person whose regular duties include lobbying. Under a prior version of the threshold these contacts were aggregated from all employees. This would have placed an overwhelming burden on organizations to monitor the lobbying activities of employees.

REPORTING REQUIREMENTS

Any organization required to register under the Act will have to file quarterly reports on its lobbying activities and gift-giving to Members of Congress and staff. The reports will include a specific identification of the organization, the total expenditures on direct lobbying activities, an itemized listing of all gifts over $35 and all reception costs over $500 for Members of Congress or staff, specific identification of lobbyists and the total money spent to retain or employ them, a description of issues which the organization lobbied, and each known "direct business relationship" between the organization and a member of Congress or staff.

Although these reporting requirements will produce some burdens on organizations required to register, they are not so onerous as to deter the organizations from lobbying. The information disclosed will provide Congress and the public with the knowledge of those organizations which are engaging in substantial efforts to affect the legislative process and how much money they are spending to do so. Several reporting requirements which would have infringed on the privacy of the organization and its individual members have been eliminated from the bill.

DIRECT VS. INDIRECT LOBBYING

The House Judiciary Committee overwhelmingly adopted an amendment by Congressman Don Edwards (D–CA) deleting a requirement that activities known generally as "lobbying solicitations" be disclosed. This provision should not be reinstated. "Lobbying solicitations" typically include the efforts by organizations to require, encourage or solicit others to make direct contacts with Members of Congress and their staffs. Under the provision that was deleted any organization required to register under the Act would have had to provide on a quarterly basis a detailed description of all lobbying solicitations which were "reasonably expected" to reach 500 or more persons, 25 or more officers or directors, 100 or more employees or 12 or more affiliates. The description would have included (1) the means employed to make the solicitation, (2) the issue with which the solicitation was concerned, (3) an identification of any person retained to make the solicitation, (4) an indication whether the recipient was in turn asked to solicit others, and (5) the approximate number of individuals and organizations solicited or, if the solicitation was a paid advertisement, an identification of the publication or television or radio station, and the total amount expended on the advertisement if it exceeded $5000.

The Supreme Court has never permitted such extensive government regulation of indirect efforts to influence the legislative or elective process. Decisions of the present Court as well as a line of earlier cases over a twenty year period strongly indicate that the Court would strike down Congressional efforts to regulate lobbying solicitation.

In *United States* v. *Rumely*, 345 U.S. 41 (1953), the Court held that the authority of a Congressional committee investigating lobbying was limited to the investigation of direct efforts to influence legislation, that is, contacts with Members of Congress. Similarly, in *United States* v. *Harris*, 347 U.S. 612 (1954), the Supreme Court construed the Federal Regulation of Lobbying Act, in accordance with the First Amendment, to reach only "lobbying in its commonly accepted sense—direct communication with Members of Congress on pending or proposed federal legislation". Recently, in the Federal Election Campaign Act (FECA) litigation, the United States Court of Appeals for the District of Columbia Circuit invalidated a portion of FECA which would have required the disclosure of indirect efforts to affect the electoral process. The Supreme Court approved this aspect of the decision below in *Buckley* v. *Valeo*, 424 U.S. 1 (1976), and this implicity precluded compulsory disclosure of activities addressed to the general public covered by H.R. 8494.

As previously drafted, H.R. 8494 would have required citizen organizations to disclose and register with the Government their political literature and private communications with their own members if the literature or communication contained a request to write to Congress. Moreover, criminal sanctions would have attached for failure to do so. This type of government regulation and surveillance of lawful political activity would have been unprecedented. The Supreme Court has never permitted it, and Congress has never enacted legislation of this scope. Organizations which communicate their members regarding federal legislation are performing the vital function of encouraging citizen participation in the legislative process. The response to a lobbying solicitation is the purest form of the right to petition the government, and the regulation of lobbying solicitation dampens the free exercise of the right. Accordingly, the Judiciary Committee eliminated disclosure of lobbying solicitations from H.R. 8494.

CONTRIBUTOR DISCLOSURE

The Subcommittee on Administrative Law and Government Relations eliminated the contributor disclosure provision from H.R. 8494. The Judiciary Committee did not consider such a provision. It should not be reinstated, since, in our view, any contributor disclosure provision is unconstitutional.

The Supreme Court first recognized the right of associational privacy in *NAACP* v. *Alabama ex rel. Patterson*, 357 U.S. 449 (1958), where it reversed a conviction for contempt for failure to disclose the membership list of the NAACP. Speaking for a unanimous court, Justice Harlan said that the inviolability of privacy in group associations may in many circumstances be indispensable to the preservation of freedom of association.

The holding of *NAACP v. Alabama* has been consistently affirmed by the Supreme Court. In *Buckley* v. *Valeo*, the Court, narrowly construing the Federal Election Campaign Act in accordance with the First Amendment, made it clear that it would not tolerate a disclosure statute that affected the funding of every conceivable general interest organization engaged in political activities. (For a detailed case analysis, please refer to the enclosed supplemental memorandum on Contributor Disclosure, dated June 21, 1977.)

Finally, enforcement of any contributor disclosure provision presents additional constitutional problems. The Comptroller General is required to determine whether an organization is complying with these reporting provisions regardless of the figures involved in the contribution. To do so, he will have to have access to the entire membership list of an organization. The enforcement provisions, therefore, present the very constitutional problems encountered in the *NAACP* cases, and could not survive constitutional attack.

SANCTIONS

H.R. 8494 permits criminal sanctions to be imposed for a knowing and willful violation of the Act. We believe that a sentence of imprisonment is entirely inappropriate for this Act. In effect, violators would be incarcerated for exercising their constitutionally protected rights. If the purpose of the Act is "disclosure," then the sanctions should be related to that purpose. Accordingly, injunctive relief to compel reporting coupled with fines for not doing so are sufficient sanctions.

Another problem the sanctions provision of H.R. 8494 poses is that Sec. 11(a) of the Act permits a civil penalty of up to $10,000 to be imposed for a "knowing" violation of the Act or any rule or regulation promulgated thereunder. This would mean that an individual or organization could be penalized for a mere paperwork violation of the Act. For example, a small local organization, unfamiliar with the regulations, misinterprets the definition of expenditures and knowingly omits a certain expenditure. The organization could be subject to a $10,000 fine. This would cripple many smaller organizations. More importantly, the threat of being penalized for paperwork violations is very intimidating and might cause some organizations to forgo their lobbying. We submit that if a sanction is to be imposed, it must be only for a knowing and wilful violation of the Act.

LOBBYING DISCLOSURE GENERALLY

Requiring the public disclosure of lobbying affects a number of fundamental constitutional rights: Freedom of speech, freedom of association, privacy and the right to petition the government. The Supreme Court subject legislation affecting these rights to exacting scrutiny. It is well established constitutional law that Congress bears a heavy burden in enacting such legislation: there must be (1) a compelling governmental interest, (2) a substantial correlation be-

tween the compelling interest and the information sought to be disclosed, and (3) even if there is compelling interest and the information sought is substantially related to that interest, the legislation must employ the least drastic means.

In drafting H.R. 8494, Congress has not met this burden. In the voluminous testimony and record in both the House and the Senate, there is no evidence that Congress has investigated and identified an abuse in the lobbying process. The general view that people have a right to know about lobbyists and private organizations which spend money on lobbying is not a substitution for a factual record establishing a compelling governmental interest. Further, with no factual basis from which to proceed, Congress cannot prove that the legislation utilizes the least drastic means. Without this factual record, we submit that any public disclosure of lobbying bill cannot withstand the scrutiny of established constitutional tests. As presently drafted, H.R. 8494 has fewer constitutional problems but the chilling effect of this legislation has not been entirely eliminated.●

## OTHER HALF OF THE F-15 STORY

### HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. EILBERG. Mr. Speaker, as the Congress waits the submission of the administration's letter of intent to sell the F-15 fighter-bomber to Saudi Arabia, we are being told by the White House and State Department that the Saudis will use this aircraft as a defensive weapon.

But the following news account shows that this argument is seriously flawed.

On April 13, 1978, the Philadelphia Inquirer reported that the defensive aspect of the F-15 is "only half the story."

The Inquirer's article reinforces the view that this aircraft in Saudi hands will be a great destabilizing factor in the Middle East. The F-15 will be capable of striking deep into Israeli territory, and will mean the establishment of a fourth confrontational state on Israel's borders—on a front which up until now has been quiet.

The Inquirer reports that the Air Force's own fact sheet on the F-15 says that even though the aircraft was developed as an air fighter, "it contains the structural ruggedness, flight characteristics, survivability features, and equipment essential for the attack mission without modification."

Further, the story points out the ease with which the F-15 can be equipped with bomb racks and other necessities for ground attack:

"All the equipment could be bought on the open, commercial market in the United States," writes reporter James McCartney.

Finally, the Inquirer reports that according to Air Force pilots interviewed for this story, there is considerable doubt "that the capabilities of the F-15 could be limited to any notable extent by agreements to base it far from the Israel border."

I commend the following account to my colleagues, and suggest that we review it quite carefully as we prepare to consider the administration's proposal to embark on a new wave, selling sophisticated arms to Saudi Arabia:

F-15's DEFENSIVE, BUT THAT'S ONLY HALF THE STORY

(By James McCartney)

HAMPTON, VA.—Etched on the fuselage of an F-15 fighter plane parked on the tarmac at Langley Air Force Base there is the slogan, "The Meanest Man."

There is every indication that the description is apt.

The Carter Administration is trying to persuade members of Congress that the F-15 it plans to sell to Saudi Arabia is a "defensive" weapon and thus no direct threat to Israel.

But a close-up look at the sleek, silver craft and interviews with the men who fly it for the 27th Tactical Fighter Squadron tell a different story.

They present a graphic picture of the world's finest fighter plane, a plane that not only can "defend" if called on, but also can attack at blinding speed.

"It is blatantly obvious," said Maj. Steve DeMuth, a pilot and Vietnam veteran, "that it can be used for either offensive or defensive purposes.

"It is a political question. It depends on how it is used."

That is likely to be a key question in what may become one of the major battles of the year in Congress.

The proposal to sell 60 F-15s to the Saudis for $42 million each is the most controversial part of a $4.8 billion administration aircraft "package" for the Mideast. Other elements include 50 far less sophisticated F-5Es for Egypt and 15 F-15s and 75 smaller, but highly sophisticated, F-16s for Israel.

The F-15s for the Saudis, however, have touched the most sensitive nerve. Israel and its friends in Congress have mounted a major campaign against the sale on grounds that it would raise tensions and upset the military balance in the Mideast.

Israeli lobbyists, in a lengthy memorandum for members of Congress, state flatly: "The F-15s would enable Saudi Arabia to strike deeply into Israel."

The Saudi ambassador to Washington has insisted in reply that the F-15s will be used only defensively. The country "Must rely on sophisticated modern weapons such as the F-15 to defend itself," he has said.

U.S. Secretary of State Cyrus Vance has contended that the sale is necessary to maintain good relations with the oil-rich Saudis and that it would not disrupt the military balance of power. He called the Saudi request "reasonable and in our interest to fulfill."

Since this war of words has opened, few in Congress have stopped long enough to take a close look at the plane itself, at what it can and cannot do.

There are 72 F-15s at Langley, the only combat-ready base in the United States that has the plane. The men here know it well. They fly it every day.

Though the airmen have no desire to be dragged into political arguments, they are familiar with the issues that already have emerged:

What kind of plane is it? What was it designed for and what does it do best?

If the plane is sold for defensive use, how hard would it be to equip it to take the offense?

Does it make any difference where and how the plane is based? If planes were based far from Israel, for example, would that provide some guarantee that they could not be used against the Israelis?

The F-15, built by McDonnell Douglas Corp. of St. Louis, is a pilot's dream. "It drives like a Cadillac," says Capt. Don Waddell.

It was designed to be what the Air Force calls an "air superiority" fighter, which means, as Waddell puts it, "to fight and destroy any other aircraft, to control whatever air space you want to control."

It is fast, able to go 2½ times the speed of sound (approximately 1,800 miles an hour), and powerful, with two giant turbofan engines, each generating 25,000 pounds of thrust. It will fly straight up. It is highly maneuverable, capable of tight turns without losing air speed.

In modern aerial combat it is agility, not speed, that counts most. Therefore, the plane is designed for quick turns and rapid acceleration, because as was demonstrated in Vietnam, much dogfighting takes place at low to medium altitudes and at subsonic speeds.

The basic armament on the F-15 are guns and missiles to destroy other aircraft. The F-15s at Langley, which defend the East Coast of the United States, are equipped with air-to-air weapons.

State Department officials say the F-15s for Saudi Arabia would be for only this purpose: To defend air space over that country.

But in designing the F-15 as a highly maneuverable, powerful, air combat weapon, the Air Force also created a plane with superb capabilities as an attack aircraft, for air-to-ground strafing or bombing missions. The F-15 can carry 15,000 pounds of bombs and bullets for ground attack.

As the official Air Force fact sheet on the plane states it, even though the F-15 was developed "as an uncompromised air superiority fighter, . . . it contains the structural ruggedness, flight characteristics, survivability features, and equipment essential for the attack mission without modification."

Administration officials have suggested to some members of Congress that the United States might refuse to sell the Saudis gear that would enable the plane to go on ground attack missions.

But converting any F-15 for ground attack missions "would not be difficult if they decided they wanted to spend the money," said Col. Neil Eddins, commanding officer of the First Tactical Fighter Wing here. He and others explained that bomb racks are fairly simple in design and easily fabricated, as are other necessities for ground attack.

All the equipment could be bought on the open, commercial market in the United States.

Col. Eddins said that an F-15, if equipped to drop bombs and to strafe, "would be as good" as the F-4 "Phantom" and probably better.

In addition, pilots here doubt that the capabilities of the F-15 could be limited to any notable extent by agreements to base it far from the Israeli border.

A particular issue has been whether F-15s bought by the Saudis might be based at the Tabuk air base, about 125 miles from the southern Israel port city of Elat.

Israeli lobbyists have pointed out that this is only six minutes' flying time from Israel proper for an F-15, and that the Saudis have other air bases 10 and 12 minutes away.

Vance and the Saudis have sought to assure Congress that the Saudis would not want the planes at Tabuk, or other forward bases, for fear they would provide an inviting target for an Israeli pre-emptive strike.

But pilots here do not believe it would matter much if the planes were based as far away as Riyadh, the Saudi capital, which is more than 800 miles from Jerusalem, or in the oil fields at Dharan, about 900 miles away.

The F-15 has a flight range, without refueling, of 2,800 miles, and could be flown to a combat zone in a few hours, at most. The planes and all the necessary support

are easily redeployed for combat. Therefore, planes based at Riyadh could be moved to Tabuk and ready for battle within 24 hours.●

## WIFE ABUSE

### HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. COTTER. Mr. Speaker, the March 27 edition of the Hartford Courant carried a thought-provoking article on the societal attitudes and myths about wife abuse that up to this time have precluded effective action against this form of violence. The article provokes the reader to thoughtfully reexamine his or her own personal feelings about this issue, and offers another perspective from which to analyze the pervasive problem of domestic violence. I wish to take this opportunity to share this news item with my colleagues and the readers of the CONGRESSIONAL RECORD:

[From the Hartford Courant, Mar. 27, 1978]

WOMEN BEATEN, BATTERED, BRUISE US ALL

(By Betsey Karl)

Few people would come right out and say that a battered woman deserves to be beaten.

Many, however, feel that if a woman really wanted to leave she could do so.

I heard a judge recently who reasons that, if some women manage to leave their battering situations, then all women must somehow be able to get out rather than endure it. This kind of reasoning is tantamount to saying if you stay in the battering situation then you are getting what you deserve.

It demonstrates an unwillingness to look at the reasons a person can get locked into violence and an unwillingness to help the battered woman change these conditions and end violence happening to her and others in her family. It is not constructive to blame these women because it does nothing to help stop the violence that is occurring.

Recently when I spoke with a thoughtful and peace-loving group of people, I pointed out that "no one wants to be beaten." I was quite amazed to hear the difficulty they had accepting this. I was told stories about children who relished physical punishment because it was better than no attention at all. I heard stories about adults who had been raised in violent conditions and now demanded that they be handled violently. The intent of my statement is that battered women do not like or want to be hurt. I have to wonder when even the peaceful members of our society have to use such examples to support a sadomasochistic value that exists in our culture.

My involvement with victims of violence for the past four years has given me a sad realization. Most of us have adopted certain mental views that help us accept violence as it occurs in our culture rather than being truly appalled by it.

A study by Pagelow examines institutional responses to battered women through an in-depth interview process. The attitude toward battered women of those in marriage counseling, legal and medical systems was found to be closely similar to the description given by battered women of the treatment they received. The responses was not unlike that of family and friends who say "You made your bed now lie in it."

Pagelow's findings: Attorneys speak of the battered woman as a "greedy bitch." Marriage counselors attempt to get her to bring her spouse in so she can learn more effective ways to communicate with him. Religious counselors offer prayer as a solution. Physicians offer tranquilizers when she needs to be alert to possible siege at any moment. Emergency room staff reflect the attitude that the women are stupid. The police blame her for not pressing charges, don't even write up the calls and feel she is bringing on the attack. The prosecutor has his political career at stake—he is looking for a "win" record. The judge gives the husband a verbal slap at best with little thought to what the woman has experienced from this man. Battered women receive child support payments only 10 percent of the time.

Naturally, the people in this study never intended to sound this way, yet it came through to the interviewer (and to the battered women). Most people do view battered women in a negative light, yet don't think of themselves as doing so. Nine out of ten times when the subject is brought up in public, a joke is made about wife-beating.

It's time for everyone to examine his attitudes and attempt to face the realities of this disturbing concern. I have some suggestions about how to do this.

First. Chances are, there is a victim of some form of violence right in your family or close circle of friends. Talk to them about their experience, listen carefully to what they have to say about their fears, their choices, ways they could and could not handle the situation. They will probably be willing to talk to you if they know you are serious.

Second. Start to notice the number of times homemakers are put down or taken for granted for the housework they do. Or the number of times they are put down for being women.

Third. React to the violence you see on TV, in movies and in other graphic forms. Notice the effect it has on you, once you become aware of it as violence and not just as entertainment. Think about the multiple effects of all of this on millions of people.

Fourth. Learn facts about domestic abuse. There is ample information available to counteract the myths that exist. Fact: there is a large number of violence cases in affluent communities.

Wealthy Montgomery County, Md., received more than 650 calls in a one-year period. A 1970 study shows as many cases reported in Norwalk as in West Harlem, N.Y. Like child abuse, the battering of women is by no means a lower class phenomenon. Fact: abuse can involve severe physical harm. A study of 274 abused women in north central Connecticut found that 74 percent of the abuse described fell into the two most serious categories (kicking, punching, choking, hurt with weapon, broken bones, requiring stitches). Fact: women remain in the violent home because they have no other place to go. How is she realistically going to make a living for herself and her children? Fact: Hartford Interval House for Battered Women received 50 crisis calls last month from battered women requesting immediate assistance. In March the calls are already 25 percent higher in number than February, without advertising the hotline service. Fact: the police do not respond by arresting the assailant. Just ask them. Last week a Hartford police commander told a training group of shelter volunteers that "arrest never solves anything in a domestic case." Fact: the Hartford Salvation Army Shelter turns away several battered women every day.

Fifth. Be aware of the resources available to help deal with battering. Hartford Interval House is opening a shelter on April 15 to house 20 women and children. Four other shelters will be operating by April 1 in New Britain, Meriden, New Haven and Putnam. Legal referrals, support groups and other support services are available as well.

The shelters offer much more than just a safe haven with their child-care programs (children are harshly affected by a violent home even if they are not beaten—although they are, at least 40 percent of the time) share common support, job preparation, skills learning and advocacy.

A stay at such a refuge is designed to not only heal her wounds but to help the battered woman grow strong enough to leave behind the terrible nightmare that was her former life.

(Betsey Karl is a coauthor of the Connecticut Task Force On Abused Women Household Violence Study and is presently coordinator of the Connecticut Shelter Network.)●

## INNOVATION TO MEET AMERICA'S NEEDS

### HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. DORNAN. Mr. Speaker, recently, I had the opportunity to tour a fascinating new plant in my district that reflects the ultimate response to the free enterprise system: innovation to meet America's needs.

Reserve Synthetic Fuels, Inc., with the first plant of its kind in Palos Verdes, Calif., is making pipeline-quality methane gas from a Los Angeles County landfill.

The plant is amazing, the process technologically sophisticated, and the risks are great. It was explained to me by Mr. Robert Collins, president of Reserve Synthetic Fuels, and Mr. Frederick Rice, director of business development, that the process is possible because the refuse in urban sanitary landfills begins to decompose and generate contaminated methane gas from 6 months to 2 years after its placement on the site. The contaminated methane (approximately 55 percent methane, 44 percent carbon dioxide, 4 percent water, plus other trace contaminants) forms as a result of the decomposition of organic material. This gas can be collected through a series of underground wells and delivered to an innovative processing plant such as Reserve Synthetic Fuels, Inc., has developed, which separates the contaminants from the methane gas. The result is essentially pure methane available for sale to any natural gas user, normally a local gas company.

This process is not just an engineer's dream; it is a reality, right now, in my district. Reserve Synthetic Fuels, Inc., is producing gas equivalent to the amount required to heat 2,000 homes—and all from a previously untapped resource, a Los Angeles County landfill.

This process can be a reality near virtually every major city. Already, Reserve Synthetic Fuels, Inc., has examined site possibilities for development of this alternative energy source in the following States: Arizona, California, Colorado, Hawaii, Illinois, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Missouri, North Carolina, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Washington, and Wisconsin. This list is just the beginning, because the resource is a manmade one and landfills are an in-

creasingly popular and necessary method of removing wastes without polluting our oceans, lakes, or air.

The Palos Verdes plant was totally developed with private capital. It is a clean industry and obviously has tremendous potential as an alternative energy source.

It is my purpose with these brief comments to suggest to the Congress that one of the best ways we can foster this alternative energy source is to allow it to develop free from unnecessary governmental restraints.

This opportunity exists now with the energy conferees' work on the natural gas bill which has, of course, been in conference for many months now. I am pleased to report that the conference committee's most knowledgeable members aware of this alternative energy source, agree that we should encourage the development of this new energy by avoiding any price controls on this unusual type of methane gas production.

The purpose of avoiding unnecessary price controls on this gas is to encourage the development of this high-cost landfill recovery. Avoiding price controls is highly desirable for several essential reasons. Importantly, there is no problem in justifying the cost involved, which far exceeds normal natural gas recovery. Rather, the cost is considerably higher because the capital investment for the underground pipeline system and the decontamination processing plant greatly exceeds the capital and technology required for normal natural gas production. A study by the Environmental Protection Agency, Pacific Gas & Electric, and the city of Mountain View, Calif., recently concluded, in testimony before the Public Utilities Commission of California, that the estimated cost for landfill gas recovery would be $2.79 per mm/BTU in 1977. (See application No. 57626, Pacific Gas & Electric Co., report on the impact of the decline in natural gas supplies and the need for and timing of supplemental supply projects, before the Public Utilities Commission of the State of California, December 20, 1977.)

The cost involved for these new facilities has also been recognized by the Joint Committee on Taxation, as they have stated:

The primary impediment to the full development and utilization of energy from biomass appears to be the enormous capital costs involved . . . *The primary obstacle of capital requirements for a successful bioconversion process is the cost of a facility for the conversion of biomass into methane.* Generally, such facilities would have to be newly constructed, and designed to produce, collect, and purify the gases generated, as well as provide for the recirculation of effluents, and the controls of pollution. (emphasis supplied)—Energy Tax Provisions, Committee Print No. 6, Joint Committee on Taxation, September 23, 1977 (p. 51).

In short, there is no dispute that pursuing this alternative energy source will be an expensive endeavor. The critical problem is to avoid any Federal controls on this type of gas which would impose unnecessary and significant delay in pursuing this resource.

I have been informed by the companies involved that Federal price controls would add anywhere from 1 year to 18 months to the development of any processing plant for the development of any processing plant for the recovery of methane gas from landfills. Avoiding price controls avoids this time loss, and avoids the unnecessary cost to the consumer that would be added because of the bureaucratic entanglements.

Are these reasons compelling enough to avoid delay? Normally, perhaps not. But in the case of recovery of landfill gas, the delay has disastrous consequences for three reasons:

First, every day the decomposition of the refuse into methane gas occurs whether or not that gas is recovered. That gas naturally diffuses through the ground and into the air. In short, every day landfill gas is not recovered, it is lost forever.

Second, every day, this diffused gas is a serious pollutant.

Third, every day, this contaminated methane gas can migrate underground into buildings, causing explosion and death. Only a few months ago, an AP wire story from Denver told of 2 deaths and 11 serious burns from explosions caused by methane gas seeping from buried garbage. This type of explosion periodically occurs throughout the United States.

These three reasons make it absolutely essential to avoid any unnecessary delay in pursuing the recovery of methane gas from urban sanitary landfills.

As I have mentioned, the benefits of methane recovery from landfills are many. Importantly, the Senate Finance Committee has also recognized that the benefits are significant:

Where municipal and other wastes are converted into energy, *disposal problems, particularly pollution, are diminished significantly* * * *. A 1971 EPA study estimated that bio-conversion of municipal wastes could generate the *energy equivalent of 248 million barrels of oil annually* by 1980 * * * Moreover, bio-conversion processes may yield valuable by-products suitable for use in various industrial, commercial, and food production processes. For example, biomass conversion may generate both methane and carbon dioxide. While the methane can be used as a natural gas substitute, the carbon dioxide can be used as refrigeration or in some petrochemical processes. (emphasis supplied)—Energy Tax Provisions, Committee Print No. 6, Joint Committee on Taxation, September 23, 1977 (p. 52).

The Carter administration, too, has supported the encouragement of alternative fuel sources. As stated in the President's national energy plan of April 1977:

The use of non-conventional sources of energy must be vigorously expanded * * *. A national energy plan cannot anticipate technological miracles. Even so, non-conventional technologies are not mere curiosities. Steady technological progress is likely, breakthroughs are possible, and the estimated potential of non-conventional energy sources can be expected to improve. Some non-conventional technologies are already being used, and with encouragement, their use will continue. Because non-conventional energy sources have great promise, the government should take all reasonable steps to foster and develop them. (emphasis supplied)—The National Energy Plan, April 29. 1977, Executive Office of the President, Energy Policy and Planning.

As these comments illustrate, there are many advocates for this unique alternative energy source. Certainly, now it is appropriate for all of us to be such advocates. I say this because for every barrel equivalent of a new energy source that we can develop domestically, we are one barrel closer to coming to grips with our energy problem.

If the energy conferees, and subsequently the Congress, ultimately adopt a natural gas bill, it is my strong hope that the Congress will foster the development of methane gas derived from sanitary landfills by wisely excluding such unique gas production from the jurisdiction of any price controlling governmental bodies such as FERC. It is my understanding that this is the conference committee's intention and I commend their judgment and join with them as an advocate of this alternative energy source.●

## SENATOR JOHNSTON'S CASE FOR CLINCH RIVER

### HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. TEAGUE. Mr. Speaker, I urge your attention, and the attention of all of our colleagues, to a very forceful letter addressed to Secretary James Schlesinger of the Department of Energy from Senator J. BENNETT JOHNSTON of Louisiana.

Senator JOHNSTON's letter states the case for continuing vigorously the Clinch River breeder reactor project.

UNITED STATES SENATE,
*Washington, D.C., March 24, 1978.*

The Hon. JAMES R. SCHLESINGER,
*Secretary of Energy,*
*Washington, D.C.*

DEAR JIM: Even though the Congress has repeatedly voted to continue the Clinch River Breeder Reactor (CRBR) Project, the President has reiterated his desire to terminate the Project. The Comptroller General, in a series of opinions dating from last June, has made it clear that the President does not have the statutory authority to terminate the CRBR Project. Thus, the Administration and the Congress appear to be at an impasse with regard to the future of the Clinch River reactor.

The completion of the CRBR Project would facilitate the possibility of future commercialization of breeder reactors should this technology become necessary. This could occur, for example, if the Nation's uranium resources are found to be less abundant than current estimates, or if electricity demands for the future are greater than the Administration projections.

While the design of the CRBR Project may not be the most optimal from a commercial standpoint, it appears that the design is adequate to provide the necessary information to build a full-scale commercial breeder facility, and a considerable investment in time and resources has already been made. In that sense, it serves the same purpose that the Shippingport Atomic Power Plant served for the light water reactor. The project is also extremely important in maintaining our technological leadership in the safe use of nuclear energy throughout the world since it would demonstrate our technological capabilities and provide the operational

experience from an actual facility rather than from paper studies. To stop the CRBR Project and to initiate a new project could result in a delay of ten years or more from the development schedule which Congress had planned in determining whether the breeder reactor option is viable in this country. Under this schedule, the Clinch River reactor would have been completed by the mid-1980s.

It appears to me that we have lost sight of the purpose and objectives of the CRBR Project; that is, to demonstrate the licensing, design, construction and operation and maintenance of the liquid metal breeder technology. Therefore, I am still convinced that the CRBR is the appropriate interim step, and I believe it should be continued.

On the other hand, it is very clear that any successful demonstration of a major and controversial technology will require the constructive and willing efforts of the Executive Branch. The situation brought about by the controversy over the Clinch River demonstration is not an encouraging climate for objective and effective technical evaluation.

I have been informed by Congressional staff that the Administration through you, Mr. Secretary, has entered into negotiations with the members of the House Committee on Science and Technology. Based upon the information I have thus received, it appears to me that your proposed compromise falls far short of the level of commitment to a breeder option that should be forthcoming if the Congress is realistically to consider an alternative to the CRBR.

The critical need to assure our future energy supply is the most important single issue in the Nation. The best information and expert testimony indicate that the contributions from alternative energy sources cannot be counted on to meet the growth in national energy needs in the foreseeable future. Thus, it is imperative that the Nation aggressively pursue its nuclear energy option, and this option must include a viable liquid metal breeder reactor.

I believe that, at a minimum, the following elements are essential to any alternative proposal to the CRBR:

(1) The Administration should commit itself to complete a number of major components of the CRBR project, including heat exchangers, pumps, steam generators and turbine generators for testing at either LMEC or FFTF. This effort becomes especially important if we should decide to undertake a new project significantly larger than the CRBR Project.

(2) A strong base program in breeder technology should be pursued (the FY 79 budget contains serious reductions in the base program). Without the CRBR Project, an aggressive base technology program becomes even more important. We should also proceed with many of the auxiliary facilities such as SAREF, LMEC modifications, HPFL, FMEF and other related projects.

(3) Finally, and most important, the President should make a public commitment to the construction of another fast breeder reactor demonstration project. The technology and size should be determined by the Administration, but the commitment should contain a target date for completion as soon as technically possible (but not later than the early 1990s). The Administration's commitment should establish a budgetary matrix, schedule, and a critical path for all of the studies, decision making and construction on an accelerated basis.

I am anxious to work with you and the Administration and to avoid another impasse with the Congress. I would appreciate having your comments on my suggestions at the earliest possible time to facilitate my participation in the decision on both the Appropriations Subcommittee on Public Works, which I chair, and on the Committee on Energy and Natural Resources.

Sincerely,

J. BENNETT JOHNSTON,
*United States Senator.*●

## CONGRESSMAN STUDDS' FINANCIAL STATEMENT

## HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. STUDDS. Mr. Speaker, I wish to insert in the RECORD a copy of my 1977 financial statement, as follows:

CONGRESSMAN GERRY E. STUDDS' 1977 FINANCIAL STATEMENT

PART I—INCOME 1977 (SUMMARY)

| | |
|---|---|
| Salary | $54,275.00 |
| Rental income—apartment, Provincetown, Mass. | 1,575.00 |
| Dividends—see part II for detailed explanation | 980.33 |
| Interest—see part III for detailed explanation | 704.93 |
| Newspaper fees—Boston Globe, for columns written (given to Globe Santa) | 150.00 |
| Total income | 57,685.26 |

PART II—DIVIDEND INCOME 1977

*Security and shares*

| | |
|---|---|
| Burlington Industries (40) | 56.00 |
| Exxon (174) | 520.00 |
| Gulf Oil (80) | 148.00 |
| W. R. Grace (67) | 118.33 |
| Middle South Utilities (100) | 138.00 |
| Total income | 980.33 |

PART III—INTEREST INCOME 1977

*Security and bond value*

| | |
|---|---|
| Loew's Theater's 6⅞ debenture ($3,100) | 213.13 |
| A.T. & T. 7¾, 1982 ($3,333) | 258.33 |
| U.S. Treasury 7⅝, Feb. 15, 2007 ($1,666) | 125.00 |
| Savings: | |
| First National Bank of Cape Cod | 15.44 |
| Cape Cod Five Cents Savings Bank | 5.86 |
| First National Bank of Boston | 55.39 |
| C. Millicent Chatel, interest on real estate purchase deposit | 31.78 |
| Total | 704.93 |

PART IV—ASSETS

1. Beatrice Studds Irrevocable Trust.

My brother, Colin A. Studds, my sister, Mrs. Howard Babcock, and I have placed the following securities—owned jointly by the three of us—in an irrevocable trust for our mother, Beatrice Studds, with my brother as trustee. All income from these securities goes to our mother for as long as she shall live. My brother, my sister, and I each own one-third of the securities—and they will revert to us upon the dissolution of the trust at our mother's death. The following represents my one-third interest in the trust. (Colin A. Studds, III, Trustee, Beatrice Studds Irrevocable Trust, Under Agreement Dated August 1, 1973.)

*Security and market value as of 4–11–78*

Seaboard World Airlines cvt 5's, due 4–1–86 ($3,000), $2,295.

B. F. Goodrich 9¾% notes, due 1982 ($3,333), $3,467.

U.S. Treasury 7¾% note, due 6–30–79 ($3,333), $3,341.

*Common stocks*

West Point Pepperell (67) $2,300.
Chessie System (67) $2,025.
Liggett & Myers (92) $2,749.
Freeport Minerals (60) $1,245.
UMC Industries (100) $1,650.

2. *I own the following securities:*

*Security and market value as of 4–11–78*

Bonds

Loew's Theater 6⅞ Debenture ($3,100) $2,356.
AT&T 7¾, 1982 ($3,333) $3,312.
U.S. Treasury 7⅝, 2/15/2007 ($1,666) $1,537.

Common Stocks:

*Security and shares (market value) as of 4–11–78)*

Burlington Industries (40) $760.
Exxon (174) $7,800.
Gulf Oil (80) $1,920.
Middle South Utilities (100) $1,600.
W. R. Grace (67) $1,733.

3. Our family home in Cohasset, Massachusetts, with an estimated market value of approximately $75,000 is owned jointly by my brother, my sister and me. My interest in the house, therefore, is roughly $25,000.

4. Savings Accounts: a. NOW account, First National Bank of Cape Cod, $321.25; b. Savings account, Cape Cod Five Cents Savings Bank, $114.55; c. NOW account, First National Bank of Boston, $850.

5. One bedroom cooperative apartment, Washington, D.C. Estimated market value, $85,000.

6. Two room condominium apartment, Provincetown, Mass., $62,000.

7. 1975 Chrysler Newport Sedan.

8. 1974 Saab.

PART V—LIABILITIES 1977

1. Mortgage, one bedroom cooperative apartment, Wash., D.C., approximately, $19,800.

2. Secured loan, Rockland Trust Co., Rockland, Mass., approximately, $52,000.

3. Mortgage, condominium apartment, Provincetown, Mass., Cape Cod Five Cents Savings Bank, approximately, $48,000.

4. Automobile loan, Sergeant at Arms Bank, House of Representatives, approximately, $1,375.

PART VI—1977 TAXES PAID

Federal income tax, $11,085.79.
Massachusetts income tax, $2,528.29.
Local property taxes, $2,394.11.
Automobile excise taxes, $141.90.
Total Taxes, $16,150.09.

PART VII—CAPITAL GAIN ON SALE OF TWO BEDROOM HOME, WASHINGTON, D.C.

(Reinvested in purchase of one bedroom cooperative apartment, Wash., D.C.), $684.●

## THE LAST MILE (KILOMETER) TO THE METRIC SYSTEM

## HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. MURTHA. Mr. Speaker, in my recent districtwide questionnaire, I asked individuals in the 12th Congressional District, "Would you like to see the U.S. adopt the metric measurement system?"

The results showed 22 percent favored; 74 percent opposed; and 4 percent with no opinion.

These results parallel a Gallup survey on the question. The Gallup research also showed only 13 percent could correctly convert from inches to meters, 2 percent from gallons to liters, and 1 percent from miles to kilometers.

Congress has debated stimulating the

national metric conversion, but these polls again indicate the public support is not present for the switch. Without that support, any effort is doomed to fail.

I believe we should keep these results in mind as we continue to debate the possibility of metric conversion.●

## THE KEMP-ROTH TAX REDUCTION ACT WOULD HELP ELIMINATE THE SUBTERRANEAN ECONOMY

### HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. KEMP. Mr. Speaker, in the April 15 issue of the New York Times Mr. Peter Passell wrote about the growing underground or subterranean economy in the United States, which was first brought to public attention by Prof. Peter Gutmann of Baruch College.

This underground economy results when people make economic transactions outside the view of Government, largely through cash. Although much of this underground economy results from criminal activity, the largest part of it results from people wishing to avoid paying taxes.

Consequently, the underground economy can be in large part reduced by lower tax rates, which would make it no longer worthwhile to deal in the underground economy in lieu of normal economic channels. As Mr. Passell put it:

With Federal income tax rates, say, one-third lower, the incentive to break the law would be much diminished. Revenues lost thereby would, at least in part, be made up at the expense of the subterranean economy.

Since the Kemp-Roth proposal would reduce all individual income tax by roughly one-third, it would cause many people to be pulled out of the subterranean economy—and out of tax shelters as well—thereby expanding the tax base and leading to new revenues at all levels of government.

As Mr. Passell so articulately points out the very fabric of our society is at stake in restoring credibility and equity to our tax code.

[From the New York Times, Apr. 15, 1978]

THE UNDERGROUND ECONOMY

(By Peter Passell)

It seems that everyone but the authorities who "accidentally" discovered $600,000 in small bills in the suitcases of some visiting Colombians has a pretty good idea of what the money was for. The visitors to New York City might have been planning only to eat at the Palace restaurant or to take a cab from midtown to Newark. More likely, though, the cash was destined for a Latin American cocaine connection. To the surprise of almost nobody, drugs, prostitutes, and gambling generate billions in revenues that are never recorded by Federal statisticians.

What may surprise many, however, is the fact that organized crime represents only a modest proportion of a vast subterranean economy that exists beyond the reach of tax collectors, safety inspectors and labor laws. It includes skilled workers who moonlight on the sly, accepting less than the union wage but more than making up the difference by keeping Uncle Sam's share. It includes babysitters, gardeners, physicians, housekeepers and other service workers who insist on payment in cash, the better to avoid income and Social Security taxes. It includes small businesses that pay their bills in barter, offering steaks and suits and furniture in return for accounting and plumbing and security services. Taken as a whole, in the estimate of Prof. Peter Gutmann of Baruch College, this invisible world created about $195 *billion* in income last year.

Professor Gutmann may have erred on the high side in his calculations; other economists dispute both his research method and his finding. But government evidence compiled by Business Week magazine suggests that *at least* $100 billion worth of income eludes the Feds each year, and that the amount may be growing rapidly. The public policy implications of these staggering sums are only beginning to be assessed.

The official unemployment and poverty statistics may be overstated. If just one-tenth of the $100 billion is earned by those now counted as unemployed, then a million "unemployed" workers may each be bringing home a tax-free $10,000 income. The true unemployment rate might thus be 5 percent or less, instead of the recorded 6 percent plus. Roughly 25 million Americans, moreover, are estimated to be living below the poverty level. But just $16 billion a year (carefully distributed) would eliminate Government-defined poverty entirely.

Conservatives take great comfort from these seat-of-the-pants extrapolations, arguing that poverty and unemployment deserve less of our attention. But there is another way to look at the same evidence. We seem to have achieved an uneasy, hypocritical peace with our economic underclass, providing inadequate education, job opportunities and welfare assistance, while allowing it easy access to the subterranean economy. The poor may do better for themselves than the official figures show, but only by working outside the elaborate system of social protection—worker's compensation, Social Security, anti-discrimination laws—that is offered to the majority.

The tax system may be in deep trouble. Despite the example of the Gynecologist From the Country Club Who Spent Six Months in Allenwood to help keep folks honest, income tax collection in the United States still depends on voluntary compliance. The I.R.S. estimates that more people are cheating than ever before. Even worse, such cheating on taxes is becoming socially acceptable.

Serious tax reform might restore the good name of the income tax; it would at least undercut the rationalization that cheating only compensates for the unfairness of the system. Probably a more effective (and politically more realistic) means of deterring tax cheating would be to pare personal income taxes across the board. With Federal-tax rates, say, one-third lower, the incentive to break the law would be much diminished. Revenues lost thereby would, at least in part, be made up at the expense of the subterranean economy. The rest could be recaptured in easily collectible indirect taxes on production, a practice in West Europe.

The subterranean economy is, by definition, a hidden problem. We have been ignoring it for decades, and, one supposes, we can go on ignoring it a few more years without great social upheaval. If we are smart, though, we will take its growth as a warning. The social contract that binds us together is showing some serious signs of fraying at the edges.●

## ACCOUNTING FOR THE "FREEBIES"

### HON. WILLIAM L. ARMSTRONG

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mr. ARMSTRONG. Mr. Speaker, today I am introducing a resolution which will make Members of the House accountable for a variety of "free" items and services provided to Members at taxpayer expense. I am pleased to be joined in this resolution by my distinguished colleague from Pennsylvania, Congressman PETER KOSTMAYER.

The most expensive and by far the most questionable of these "freebies" is the flood of Government publications made available to Members of Congress for mass distribution to constituents. Each year, millions of copies of calendars, agriculture yearbooks, pamphlets, and books flow from Government printing shops, through congressional offices, and on to the voters. From time to time * * * and particularly in an election year * * * the halls of House office buildings are clogged with stacks of publications awaiting shipment to the voters, "Compliments of * * *." Apart from the cost, which runs in the millions, this practice has too large a measure of campaign gimmickery and deserves to be curbed.

The resolution we are introducing today will require that House Members, committees, and other House organizations reimburse from official expense allowances the cost of all such "free" publications intended for mass distribution to constituents. Under this amendment to House rules, Members will make their own determination about whether they wish to receive or send out such materials. However, if they choose to do so, then they must reimburse the cost from their official expense allowances and, this expenditure will show up on the quarterly expense listing prepared by the Clerk of the House and made available to the public.

We believe this reform will also serve to cut back on the excessive spending by Congress and Government agencies. Currently there is no incentive to carefully evaluate a particular publication * * * so the printing presses roll on and on, providing Congress with more and more in the way of handouts to friends and voters. One hundred free copies of "Art in the U.S. Capitol" (a book sold to the public through Government bookstores for $12.55 a copy); 400 free copies of the Agriculture Yearbook (sold to the public for $6.50 a copy); and, thousands upon thousands of free copies of smaller publications, calendars, and pamphlets (all sold to the public at varying prices up to a dollar or more).

Under our reform proposal, Members will be forced to allocate funds from their office budgets to pay for such mass distribution materials. There will be an incentive for exercising some control over the flood of free Government publications and, we believe we will soon see a dramatic reduction.

This resolution also amends House

rules to apply the same reimbursement procedures to several other items and service * * * shipping trunks from the Clerk of the House; plants from the Botanic Garden; and, picture framing services from the Architect of the Capitol. While these are not as sizable a drain on the tax dollar as publications, they are representative of an approach to public service which has too high a component of private convenience.

This resolution is timely; and, it seeks to correct an abuse which is important in and of itself and which is also symbolic of the kind of practices which undermine public confidence in the Congress. We commend this proposal to our colleagues and urge their serious consideration and speedy approval.●

## PERSONAL EXPLANATION

### HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Monday, April 17, 1978*

● Mrs. SCHROEDER. Mr. Speaker, on Thursday, April 13 I was absent for rollcall No. 684. Had I been present I would have voted "nay." ●

## SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meeting as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committees scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, April 18, 1978, may be found in Daily Digest of today's RECORD.

### MEETINGS SCHEDULED

### APRIL 19

9:00 a.m.
Armed Services
Research and Development Subcommittee
To resume hearings on S. 2571, military procurement authorizations for FY 79.
224 Russell Building

Environment and Public Works
Water Resources Subcommittee
To consider proposed water resources legislation.
4200 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the reauthorization of the International Investment Survey Act (P.L. 94-472).
235 Russell Building

Foreign Relations
International Operations Subcommittee
To hold hearings on S. 2863, FY 79 authorizations for the Department of State.
4221 Dirksen Building

Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings on S. 2916, FY 79 authorizations for the Office of Drug Abuse and for drug treatment programs.
4232 Dirksen Building

Judiciary
Juvenile Delinquency Subcommittee
To resume oversight hearings on the Drug Enforcement Administration's efforts to control drug trafficking on U.S. borders with Mexico.
424 Russell Building

Judiciary
Antitrust and Monopoly Subcommittee
To hold hearings on competition in the oil refining industry.
5110 Dirksen Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
To hold an open business meeting.
324 Russell Building

Appropriations
Interior Subcommittee
To continue hearings on proposed budget estimates for FY 79 for the Department of the Interior.
1114 Dirksen Building

Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the FAA, Department of Transportation.
1223 Dirksen Building

*Appropriations
State, Justice, Commerce, the Judiciary Subcommitee
To receive testimony from Attorney General Bell on budget estimates for FY 79 for the Department of Justice.
S-146 Capitol

Armed Services
Military Construction and Stockpiles Subcommittee
To resume hearings on S. 2636, FY 79 authorizations for military construction.
212 Russell Building

Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue hearings on S. 2096 the Right to Financial Privacy Act, and S. 2293, to modernize the banking laws with regard to the geographic placement of electronic funds transfer systems.
5302 Dirksen Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Environment and Public Works
Transportation Subcommittee
To hold hearings on the status of proposed construction of a Federal Interstate Highway near Memphis, Tennessee.
4200 Dirksen Building

Finance
To consider H.R. 8149, the proposed Customs Procedural Reform Act.
2221 Dirksen Building

Governmental Affairs
To resume hearings on S. 2640, proposing reform of the Civil Service laws.
3302 Dirksen Building

Judiciary
To continue hearings on FY 79 authorizations for the Department of Justice.
2228 Dirksen Building

Rules and Administration
To resume hearings on S. 2 and S. 1244, to require periodic reauthorization of Government programs, and to consider other legislative and administrative business.
301 Russell Building

10:30 a.m.
Commerce, Science, and Transportation
To resume hearings on H.R. 9370, S. 2762, and S. 2582, to provide for the development of aquaculture in the United States.
1202 Dirksen Building

11:00 a.m.
Select Intelligence
To resume hearings on S. 2525, to improve the intelligence system of the U.S. by establishing a statutory basis for U.S. intelligence activities.
357 Russell Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To receive testimony on budget estimates for FY 79 for the FBI, and on supplemental appropriations for FY 78.
S-146, Capitol

Armed Services
General Procurement Subcommittee
To mark up general procurement provisions of S. 2571, FY 79 authorizations for military procurement.
212 Russell Building

### APRIL 20

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To resume oversight hearings to examine the possible development of aquaculture in the United States.
324 Russell Building

*Appropriations
Agriculture Subcommittee
To resume hearings on budget estimates for FY 79 for the Department of Agriculture and related agencies.
1224 Dirksen Building

Judiciary
Citizens and Shareholders Rights and Remedies Subcommittee
To hold hearings on S. 2390, the Citizens' Access to the Courts Act.
6226 Dirksen Building

9:30 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To resume markup of S. 2692, FY 79 authorizations for the Department of Energy.
3110 Dirksen Building

Environment and Public Works
Nuclear Regulation Subcommittee
To consider proposed nuclear regulation legislation.
4200 Dirksen Building

Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings on S. 2915, authorizing funds through FY 1981 for the Alcohol and Drug Abuse Education Act.
4232 Dirksen Building

Judiciary
To hold oversight hearings on the application and enforcement of the FBI Charter.
2228 Dirksen Building

Judiciary
Criminal Laws and Procedures Subcommittee
To resume hearings on S. 2013, to require the additional labeling of explosive materials for the purpose of identification and detection.
5110 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on budget estimates for FY 79 for NASA.
1313 Dirksen Building

Appropriations
Interior Subcommittee
To continue hearings on proposed budget estimates for FY 79 for the Department of the Interior.
1114 Dirksen Building

Armed Services
Manpower and Personnel Subcommittee
To markup manpower and personnel provisions of S. 2571, FY 79 authorizations for military procurement.
212 Russell Building

Banking, Housing, and Urban Affairs
Financial Institutions Subcommittee
To continue hearings on S. 2096, the Right to Financial Privacy Act, and S. 2293, to modernize the banking laws with regard to the geographic placement of electronic funds transfer systems.
5302 Dirksen Building

Commerce, Science, and Transportation
To resume consideration of S. 1381, setting standards for State no-fault benefit plans to compensate motor vehicle accident victims.
235 Russell Building

Energy and Natural Resources
Energy Conservation and Regulation Subcommittee
To resume hearings on S. 2692, FY 79 authorizations for the Department of Energy.
S–126, Capitol

Foreign Relations
Arms Control, Oceans, and International Environment Subcommittee
To hold hearings, followed by markup of S. 2703, FY 79 authorizations for the Arms Control and Disarmament Agency.
4221 Dirksen Building

Governmental Affairs
To continue hearings on S. 2640, proposing reform of the Civil Service laws.
3302 Dirksen Building

Select Indian Affairs
To resume hearings on S. 2375, to establish guidelines to be followed by the Department of the Interior in response to petitioning Indian tribes seeking an acknowledgment of a Federal relationship.
318 Russell Building

1:30 p.m.
Select Ethics
To hold hearings on Rule XLVI (46) Unofficial Office Accounts, to be followed by a business meeting.
S–126, Capitol

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To continue hearings on budget estimates for FY 79 for the Department of Justice.
S–146, Capitol

APRIL 21

9:00 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To hold hearings on S. 2278, S. 2641, and S. 2869, the International Emergency Food Reserve Act.
324 Russell Building

9:30 a.m.
Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To hold hearings to receive a report on Federal policies and programs relating to tourism.
235 Russell Building

Commerce, Science, and Transportation
Surface Transportation Subcommittee
To hold hearings on S. 2897 and S. 2898, authorizing funds through FY 1980 for the Federal Railroad Safety Act and to coordinate activities between State and Federal inspectors by permitting State agencies to enforce safety rules in U.S. district courts.
1202 Dirksen Building

Environment and Public Works
Resource Protection Subcommittee
To consider proposed resource protection legislation.
4200 Dirksen Building

Human Resources
Education, Arts, and the Humanities Subcommittee
To resume markup of S. 1753, authorizing funds through FY 83 for the Elementary and Secondary Education Act.
155 Russell Building

Judiciary
To resume hearings on S. 1874, to allow consumers and other parties who have not dealt directly with an antitrust violator to recover their damages under the antitrust laws.
2228 Dirksen Building

Judiciary
Criminal Laws and Procedures Subcommittee
To continue hearings on S. 2013, to require the additional labeling of explosive materials for the purpose of identification and detection.
5110 Dirksen Building

10:00 a.m.
Appropriations
HUD–Independent Agencies Subcommittee
To continue hearings on budget estimates for FY 79 for NASA.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To continue hearings on proposed budget estimates for FY 79 for the Department of the Interior.
1114 Dirksen Building

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To continue hearings on budget estimates for FY 79 for the Department of Justice.
S–146, Capitol

Energy and Natural Resources
To hold hearings on pending nominations.
3110 Dirksen Building

Finance
International Trade Subcommittee
To hold hearings on proposed FY 79 authorizations for the International Trade Commission.
2221 Dirksen Building

Foreign Relations
International Operations Subcommittee
To resume hearings on S. 2863, FY 79 authorizations for the Department of State.
4221 Dirksen Building

Select Indian Affairs
To resume hearings on S. 2712, proposed Indian Program Evaluation and Needs Assessments Act.
457 Russell Building

1:00 p.m.
Human Resources
Aging Subcommittee
To hold hearings on S. 2850 and S. 2609, proposed Older Americans Act amendments.
457 Russell Building

1:30 p.m.
*Human Resources
Handicapped Subcommittee
To mark up S. 2600, to extend certain vocational rehabilitation programs and to establish a comprehensive services program for the severely handicapped.
4232 Dirksen Building

2:00 p.m.
Select Intelligence
Collection, Production, and Quality Subcommittee
Closed business meeting.
S–407, Capitol

APRIL 24

9:00 a.m.
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To mark up S. 2570, to extend the Comprehensive Employment Training Act (CETA).
4232 Dirksen Building

9:30 a.m.
Environment and Public Works
Regional and Community Development Subcommittee
To consider proposed regional and community development legislation.
4200 Dirksen Building

Judiciary
To resume consideration of S. 1874, to allow consumers and other parties who have not dealt directly with an antitrust violator to recover their damages under the antitrust laws.
2228 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Department of Commerce, and on supplemental appropriations for FY 78.
S–146, Capitol

Banking, Housing, and Urban Affairs
To hold oversight hearings on monetary policy.
5302 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on S. 2832, FY 79 authorizations for the Fishery Conservation and Management Act, and S. 2878, authorizing funds through FY 82 for the Central, Western, and South Pacific Fisheries Development Act.
235 Russell Building

Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 2876, authorization ceilings and boundary modifications of units of the National Park System.
3110 Dirksen Building

Energy and Natural Resources
Public Lands and Resources Subcommittee
To hold oversight hearings on the implementation of the Surface Mining Act (P.L. 95–97).
6226 Dirksen Building

Finance
Taxation and Debt Management Subcommittee
To hold hearings on S. 2738, to provide for the indexation of certain provisions of the Federal income tax laws, and related bills.
2221 Dirksen Building

Foreign Relations
Foreign Assistance Subcommittee
To resume hearings on FY 79 authorizations for foreign assistance programs; S. 2420, proposed International Development Cooperation Act; and to mark up proposed FY 79 authorizations for the Peace Corps.
4221 Dirksen Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To continue hearings on budget estimates for FY 79 for the Department of Commerce, and on supplemental appropriations for FY 78.
S-146, Capitol

APRIL 25

9:00 a.m.
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To continue markup of S. 2570, to extend the Comprehensive Employment Training Act (CETA).
4232 Dirksen Building

9:30 a.m.
Environmental and Public Works
To consider proposed highway legislation.
4200 Dirksen Building
Judiciary
To resume oversight hearings on the application and enforcement of the FBI Charter.
2228 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To receive testimony from Secretary of Commerce Kreps on budget estimates for FY 79 for the Department of Commerce.
S-146, Capitol
Banking, Housing, and Urban Affairs
To continue oversight hearings on monetary policy.
5302 Dirksen Building
Energy and Natural Resources
To resume hearings on S. 499, 1500, 1546, 1787, and 2465, to designate or add certain lands in Alaska to the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, and National Wilderness Preservation Systems.
3110 Dirksen Building
Finance
Public Assistance Subcommittee
To resume hearings on S. 2084, to replace the existing Federal welfare program with a single coordinated program.
2221 Dirksen Building
Foreign Relations
Foreign Assistance Subcommittee
To continue hearings on FY 79 authorizations for foreign assistance programs, and on S. 2420, proposed International Development Cooperation Act.
4221 Dirksen Building

1:00 p.m.
Select Small Business
To resume hearings on the nomination of Milton D. Stewart, of New York, to be Chief Council for Advocacy, SBA.
424 Russell Building

1:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To continue hearings on budget estimates for FY 79 for the Department of Commerce, and on supplemental appropriations for FY 78.
S-146, Capitol
Banking, Housing, and Urban Affairs
Securities Subcommittee
To hold hearings on H.R. 8331, the Securities Investor Protection Act.
5302 Dirksen Building
Judiciary
To resume hearings on FY 79 authorizations for the Department of Justice.
2228 Dirksen Building

APRIL 26

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings to examine the science and technology aspects of the Federal Research and Development budget.
5110 Dirksen Building
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To continue markup of S. 2570, to extend the Comprehensive Employment Training Act (CETA).
4232 Dirksen Building

9:30 a.m.
Environment and Public Works
Regional and Community Development Subcommittee
To resume consideration of proposed regional and community development legislation.
4200 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on budget estimates for FY 79 for the Federal Home Loan Bank Board and the National Institute for Building Sciences.
1318 Dirksen Building
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Arms Control and Disarmament Agency, Foreign Claims Settlement Commission, Japan-U.S. Friendship Commission, and the Legal Services Corporation.
S-146, Capitol
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for ConRail and the U.S. Railroad Association.
1224 Dirksen Building
Commerce, Science, and Transportation
To hold oversight hearings on the Fishery Conservation and Management Act (P.L. 94-265).
235 Russell Building
Energy and Natural Resources
To consider pending calendar business.
3110 Dirksen Building
Environment and Public Works
Nuclear Regulation Subcommittee
To mark up FY 79 authorizations for the Nuclear Regulatory Commission.
S-126, Capitol
Finance
Public Assistance Subcommittee
To continue hearings on S. 2084, to replace the existing Federal welfare program with a single coordinated program.
2221 Dirksen Building
Foreign Relations
Foreign Assistance Subcommittee
To continue hearings on FY 79 authorizations for foreign assistance programs, and on S. 2420, proposed International Development Cooperation Act.
4221 Dirksen Building
Rules and Administration
To resume hearings on S. Res. 166, to reorganize administrative services of the Senate, and to consider other legislative matters.
301 Russell Building
Select Indian Affairs
To hold hearings on S. 2358 and S. 2588, to declare that the U.S. hold in trust for the Pueblo tribes of Zia and Santa Ana respectively, certain public domain lands.
6226 Dirksen Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the National Transportation Safety Board and the ICC.
1224 Dirksen Building
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the FCC, Federal Maritime Commission, FTC, International Trade Commission, and on supplemental appropriations for FY 78.
S-146, Capitol

APRIL 27

9:00 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To hold hearings on S. 2385, S. 2405, and S. 2504, bills to authorize the Commodity Credit Corporation to finance export credit sales of agricultural commodities.
324 Russell Building
Judiciary
Constitution Subcommittee
To resume hearings on S.J. Res. 65, to amend the Constitution so as to provide for representation of the District of Columbia in Congress.
5110 Dirksen Building

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To resume consideration of proposed resource protection legislation.
4200 Dirksen Building
Judiciary
To hold hearings on S. 1382, to establish criteria for the imposition of the sentence of death.
2228 Dirksen Building

10 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Civil Rights Commission, EEOC, and on supplemental appropriations for FY 78.
S-146, Capitol
Energy and Natural Resources
To hold hearings on pending nominations.
3110 Dirksen Building

10:30 a.m.
Commerce, Science, and Transportation
To continue oversight hearings on the Fishery Conservation and Management Act (P.L. 94-265).
235 Russell Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Renegotiation Board, SEC, and on supplemental appropriations for FY 78.
S-146, Capitol

APRIL 28

9:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 65, to amend the Constitution so as to provide for representation of the District of Columbia in Congress.
5110 Dirksen Building

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To continue consideration of proposed resource protection legislation.
4200 Dirksen Building

Judiciary
Improvements in Judicial Machinery Subcommittee
To resume hearings on S. 1314, to provide that State and Federal prisoners may petition Federal courts in a writ of habeas corpus.
2228 Dirksen Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To continue hearings on S. 2385, S. 2405, and S. 2504, bills to authorize the Commodity Credit Corporation to finance export credit sales of agricultural commodities.
324 Russell Building

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To receive testimony on budget estimates for fiscal year 1979 for the Departments of State, Justice, Commerce, the Judiciary, and related agencies.
S-146, Capitol

Banking, Housing, and Urban Affairs
To markup proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
5302 Dirksen Building

Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 88, to add additional lands to the Sequoia National Park, California.
3110 Dirksen Building

Finance
Public Assistance Subcommittee
To resume hearings on S. 2084, to replace the existing Federal welfare programs with a single coordinated program.
2221 Dirksen Building

Foreign Relations
Foreign Assistance Subcommittee
To resume hearings on fiscal year 1979 authorizations for foreign assistance programs, and on S. 2420, proposed International Development Cooperation Act.
4221 Dirksen Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for fiscal year FY 79 for the Minority Business Resource Center.
1224 Dirksen Building

MAY 1

10:00 a.m.
Foreign Relations
To resume hearings on FY 79 authorizations for foreign assistance to Korea related to the withdrawal of U.S. forces, and on S. 2420, proposed International Development Cooperation Act.
4221 Dirksen Building

MAY 2

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the Office of the Secretary, DOT.
1224 Dirksen Building

Banking, Housing, and Urban Affairs
To continue markup of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
5302 Dirksen Building

Finance
Public Assistance Subcommittee
To continue hearings on S. 2084, to replace the existing Federal welfare programs with a single coordinated program.
2221 Dirksen Building

Foreign Relations
To continue hearings on FY 79 authorizations for foreign assistance to Turkey and Greece, and on S. 2420, proposed International Development Cooperation Act.
4224 Dirksen Building

Judiciary
Constitution Subcommittee
To resume hearings on S. 35, the proposed Civil Rights Improvements Act.
6226 Dirksen Building

MAY 3

9:00 a.m.
Governmental Affairs
Governmental Efficiency and the District of Columbia Subcommittee
To hold hearings on proposed new criminal code for the District of Columbia.
3302 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S. 35, the proposed Civil Rights Improvements Act.
1202 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 2883 and S. 2901, authorizations for the Corporation for Public Broadcasting for fiscal years 1979–1983.
1224 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue markup of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
5302 Dirksen Building

MAY 4

8:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings on the status of nonfarm, nonfood, and fiber rural development research with USDA and the State land grant system.
322 Russell Building

9:00 a.m.
Governmental Affairs
Governmental Efficiency and the District of Columbia Subcommittee
To continue hearings on proposed new criminal code for the District of Columbia.
3302 Dirksen Building

9:30 a.m.
Commerce, Sciences, and Transportation
Communications Subcommittee
To continue hearings on S. 2883 and S. 2901, authorizations for the Corporation for Public Broadcasting for fiscal years 1979–1983.
1224 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue markup of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
4200 Dirksen Building

MAY 5

8:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To continue hearings on the status of nonfarm, nonfood, and fiber rural development research with USDA and the State land grant system.
322 Russell Building

9:30 a.m.
Veterans' Affairs
To resume markup of S. 364, to provide for the judicial review of administrative decisions promulgated by the Veterans' Administration, and to allow veterans full access to legal counsel in proceedings before the VA; S. 2398, to extend the period of eligibility for Vietnam-era veterans' readjustment appointment within the Federal Government; H.R. 5029, authorizing funds for hospital care and medical services to certain Filipino combat veterans of WW II; and S. 2836, to amend the Veterans' Administration Physican and Dentist Pay Comparability Act.
412 Russell Building

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 1979 for the St. Lawrence Seaway Development Corporation, and the Research and Special Programs Directorate, Department of Transportation.
1224 Dirksen Building

Banking, Housing, and Urban Affairs
To continue markup of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
5302 Dirksen Building

MAY 8

9:30 a.m.
Human Resources
To mark up S. 2600, to extend certain vocational rehabilitation programs and to establish a comprehensive services program for the severely handicapped.
4232 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 2211, the International Maritime Mobile Satellite Telecommunications Act.
235 Russell Building

MAY 9

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the Office of the Secretary of Transportation.
1224 Dirksen Building

MAY 16

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the Department of Transportation.
1224 Dirksen Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings jointly with the Senate Banking Subcommittee on International Finance on technology exports and research and development investments.
6226 Dirksen Building

MAY 17

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings in connection with restrictions employed by foreign countries to hold down imports of U.S. goods.
5302 Dirksen Building

MAY 18

9:30 a.m.
Veterans' Affairs
Housing, Insurance, and Cemeteries Subcommittee
To hold hearings on S. 1643 and H.R. 4341, to eliminate the requirement for inspections of the mobile home manufacturing process by the VA, and S. 1556, authorizing funds through FY 81 to assist States in establishing and maintaining VA cemeteries.
457 Russell Building

CANCELLATIONS

APRIL 18

10:00 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To mark up S. 2692, FY 79 authorizations for the Department of Energy.
6202 Dirksen Building

# HOUSE OF REPRESENTATIVES—*Tuesday, April 18, 1978*

The House met at 12 o'clock noon.

Rabbi Moshe E. Bomzer, Young Israel of Hollywood, Fort Lauderdale, Fla., offered the following prayer:

I offer this prayer on the day which has been proclaimed by the President of the United States and both Houses of Congress as Education Day, U.S.A., in celebration of the 76th birthday of the illustrious and revered leader of world Jewry—the Lubavitcher Rebbe. Shlita, whose selflessness and devotion have been a model for the education of all mankind.

In these trying times we beseech You, our God, to grant us the wisdom, kindness, patience, and understanding to educate ourselves and our children in Your divine ways. Bestow upon us the knowledge to differentiate between right and wrong, good and evil, sanctity and impurity. Cast the rays of Your divine guidance upon the President, the Vice President, the Members of the House of Representatives, and all the leaders of our beloved country. Enable them to find solutions for the problems which plague our country and the world. As Jews throughout the world prepare for the holiday of freedom, dedicated to the concepts of human rights and devotion through education as stated in Exodus 13: 15 "And you shall teach your children," let this message of peace and freedom resound through the Halls of this great Capitol of ours. Make Your divine prophecy come to pass when "nations shall beat their swords into plowshares and their spears into pruning hooks;" when "nation shall not lift sword against nation, neither shall they learn war anymore."

Let us learn to teach the world and educate our youth so that we may merit to live in a world permeated with love, honesty, ethics, and morals and to the realization of our potential to establish a world built on peace and knowledge. Amen.

## CALL OF THE HOUSE

Mr. WYLIE. Mr. Speaker, under rule I, clause 1, of the rules of the House, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 228]

| | | |
|---|---|---|
| Alexander | Dingell | Pursell |
| Ammerman | Drinan | Rangel |
| Andrews, N.C. | Eilberg | Rodino |
| Archer | Evans, Colo. | Rose |
| Armstrong | Fisher | Runnels |
| Aspin | Ford, Mich. | Scheuer |
| Bedell | Gammage | Shuster |
| Beilenson | Garcia | Skubitz |
| Biaggi | Guyer | St Germain |
| Blanchard | Heckler | Stockman |
| Bonker | Hefner | Teague |
| Burke, Calif. | Howard | Thone |
| Burton, John | Hubbard | Thornton |
| Burton, Phillip | Jones, N.C. | Tucker |
| Cederberg | Kazen | Udall |
| Clausen, Don H. | Krueger | Ullman |
| | Long, Md. | Vander Jagt |
| Cochran | McCloskey | Walgren |
| Collins, Ill. | McDonald | Walker |
| Conyers | Martin | Whitley |
| Davis | Mathis | Wolff |
| Dellums | Miller, Calif. | Young, Tex. |
| Dent | Pike | |
| Diggs | Pressler | |

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). On this rollcall 365 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

## MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 649. Joint resolution to authorize the President to call a White House Conference on the Arts, and to authorize the President to call a White House Conference on the Humanities.

The message also announced that the Senate had passed a resolution of the following title:

S. RES. 429

*Resolved*, That the Senate does not favor the energy action numbered DOE Numbered 1 transmitted to Congress on April 4, 1978.

## IN MEMORY OF GORDON E. CASEY

(Mr. MAHON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAHON. Mr. Speaker, last Friday, April 14, Gordon Casey, who was a member of the professional staff of the Committee on Appropriations, died unexpectedly as a result of an accidental fire in his home.

Gordon had worked since 1973 on the Defense Subcommittee and during that time he provided invaluable assistance and advice to its members in the course of deliberating on the Department of Defense's research and development budget. I know of no other person who has the depth of knowledge that Gordon Casey had in this area. Previous to working for the committee, he had worked for the General Accounting Office.

In both positions he served his country well. His advice and counsel will be sorely missed.

The members of the committee and particularly the Defense Subcommittee extend our heartfelt sympathy to Gordon's parents and his brother and sister in this sad moment in their lives.

Under permission to revise and extend, I am inserting excerpts from the article which appeared in the Washington Post following Gordon's death.

The article follows:

Gordon Eldon Casey, 34, a staff member of the defense subcommittee of the House Appropriations Committee, died of asphyxiation yesterday in an accidental fire at his home in Falls Church.

Mr. Casey came to Washington in 1973 as a temporary staff member of the subcommittee and became a full-time employe the following year. He was responsible for reviewing the research and development budget of the Defense Department.

Born in Lovell, Wyo., Mr. Casey grew up in Casper. He attended Casper Junior College, and graduated from the University of Wyoming in 1965.

He then joined the General Accounting Office as an auditor, working in the Denver regional office until 1970, when he was transferred as supervisory auditor to the Far East branch in Honolulu. He traveled extensively to Korea, Okinawa, Taiwan, South Vietnam and Kwajalein Atoll in the Marshall Islands, conducting GAO audits.

He is survived by his parents, Mr. and Mrs. Eldon A. Casey, and a brother, Curt John, of Casper, and a sister, Karlene Virginia Richards, of Denver.

## ATTORNEY GENERAL GRIFFIN BELL

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Speaker, our illustrious Attorney General must feel like a beekeeper without protective clothing. He is being stung from all sides on his administration of the Justice Department. Now, he has walked into another hornet's nest.

Based on press reports, Polish-Americans are demanding an explanation of what they consider a "Polish slur" by Attorney General Griffin Bell. The source of their irritation is an item which appeared in the April 10 issue of New York magazine. The magazine said Bell was responsible for the punch line to the question: "How would the Poles have handled the Marston affair?" His answer: "The same way we did."

Bell denies telling the joke, but the magazine is sticking to its guns. Meanwhile, various Polish-American groups are incensed. Some want an apology; others are talking about demanding a resignation. Some groups, as a penalty, reportedly are suggesting that the Attorney General be assigned responsibility for making a daily interpretative briefing on the President's foreign and domestic program.

It is difficult to determine who the authentic spokesmen are for the Polish-American community. I certainly have no illusions about claiming that role.

But I feel it would be a serious mistake to take disiplinary action against Attorney General Bell. That would put the State Department in the position of having to retaliate against Georgia jokes which have been in vogue in Poland ever since the President was accompanied on his state visit there by his now famous interpreter.

Poles in Warsaw are chuckling over the joke that it requires three Georgia peanut farmers to change a light bulb in a peanut warehouse. As the Polish version goes:

One peanut farmer holds the light bulb while two companions turn him counter clockwise.

With the humor balancing itself out, I think we should let well enough alone. Our Attorney General has enough problems to occupy his time. He is the most controversial of the Carter Cabinet members. Of course, this is predictable since he is a Georgian. Polish-Americans can make light note of that fact.

## THE RELEASE OF JACOB TIMERMAN

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. CONTE. Mr. Speaker, I rise today with great news. I have learned that Mr. Jacob Timerman has just been released from prison in Buenos Aires. As my colleagues may remember, I spoke on the House floor 1 month ago concerning the plight of this brave individual. The news of his release comes almost 1 year to the day of his imprisonment. I truly believe that this situation would have dragged on indefinitely had the plight of Mr. Timerman not been made the focus of world attention.

Yesterday, I received the good news, Jacobo Timerman has been released. His year-long suffering, and that of his family, is about to end.

Unfortunately, Mr. Speaker, although Mr. Timerman was released from his prison cell, I also learned that he was placed under house arrest until the Government officially clears him of suspicion of economic crimes. This arrest places this persecuted individual in a highly dangerous position, since he has been the focus of numerous threats.

The obvious, preferable solution to this volatile situation is to forgo further proceedings and allow Mr. Timerman and his family to leave Argentina immediately.

In the interest of administering long-overdue justice to this individual as well as avoiding personal danger to Mr. Timerman and his family, I again urge the leaders of Argentina to allow Mr. Timerman and his family to leave Argentina immediately. The time has come, and gone, to right this grevious wrong. I appeal to the conscience of these leaders to exercise wise judgment in this case. Let them be assured, the rest of the world is watching closely. We must not let this "just" victory turn into a disaster.

## VIGIL FOR FREEDOM

(Mr. BALDUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALDUS. Mr. Speaker, almost a year ago, I brought to the attention of the House the plight of a refusenik family living in Moscow, Boris and Natalya Katz. Today, once again, I wish to speak about the Katzes.

I am sorry to report that since I spoke about them last June, their situation has steadily worsened. Last October, Mrs. Katz had a baby daughter, Jessica, who has been seriously ill with a digestive disorder. The three are now living in a one-room apartment with no bathroom and are trying to make ends meet on an annual income of $1,800, which is considered low by Soviet standards. Boris is a very sensitive and lonely person, who is isolated by his plight. These feelings of frustration are compounded by the fact that he must travel 75 miles to work; as a result, he can come home only on weekends. You can imagine the sense of loneliness that Boris must feel what with the ferocity of Moscow's winters and the forced separation from Natalya and Jessica.

Boris and Natalya are totally alone in the Soviet Union. His mother and two brothers have emigrated to the United States and now live outside of Boston. Thus, there is no one to give Boris and Natalya the moral support that they now need so desperately.

The Katz family has been denied visas for emigration to Israel many times now. They were rejected for the fifth time on January 25. They have reapplied once more, but there seems to be little chance that they will be granted permission to leave.

Surely there is ample reason, both in the spirit and provisions of the Helsinki Accord, for Soviet authorities to make a favorable decision on the Katzes' application for emigration. Once more, I express my hopes that Boris, Natalya, and now their baby, Jessica, will be reunited with their family without delay.

## PRIVATE CALENDAR

The SPEAKER pro tempore (Mr. MURTHA). This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

## KWONG LAM YUEN

The Clerk called the bill (H.R. 1798) for the relief of Kwong Lam Yuen.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

## MORRIS AND LENKE GELB

The Clerk called the bill (H.R. 3084) for the relief of Morris and Lenke Gelb.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland,

There was no objection.

## HABIB HADDAD

The Clerk called the bill (H.R. 3995) for the relief of Habib Haddad.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## IRENE HOFFMAN

The Clerk called the bill (H.R. 5612) for the relief of Irene Hoffman.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MARTINA NAVRATILOVA

The Clerk called the bill (H.R. 10210) for the relief of Martina Navratilova.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

## CONFIRMING CONVEYANCE OF CERTAIN PROPERTY BY THE SOUTHERN PACIFIC RAILROAD CO. TO M. L. WICKS

The Clerk called the bill (H.R. 7588) to confirm a conveyance of certain real property by the Southern Pacific Railroad Co. to M. L. Wicks.

There being no objection, the Clerk read the bill, as follows:

H.R. 7588

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the conveyance described in section 2(a) of this Act involving certain real property in Los Angeles County, California, is hereby confirmed in the successors in interest to M. L. Wicks, the grantee in such conveyance, with respect to all interests of the United States in the surface rights to the real property described in section 2(b) of this Act. Portions of the real property described in such section 2(b) formed part of the right-of-way granted to the Southern Pacific Railroad Company, a corporation, by the United States by the Act entitled "An Act to incorporate the Texas Pacific Railroad Company, and to aid in the Construction of its Road, and for other purposes", approved March 3, 1871 (16 Stat. 573).

SEC. 2. (a) The conveyance confirmed by this Act was made by a deed dated May 4, 1887, by the Southern Pacific Railroad Company, a corporation, and D. O. Mills and Gerrit L. Lansing, Trustees, to M. L. Wicks and recorded on May 9, 1887, in the office of the county recorder of Los Angeles County, in the Book of Official Records, Book 222 at page 172.

(b) The real property referred to in the first section of this Act is certain real property in the northwest quarter of the northeast quarter of section 15, township 7 north, range 12 west, San Bernardino Meridian, in Los Angeles County, California, more particularly described as follows:

Beginning at the intersection of the easterly line of Sierra Highway (formerly Antelope Avenue) 90 feet wide as shown on county surveyor's map numbered 8200 on file in the office of the surveyor of said county with the easterly prolongation of the northerly line of Jackman Street (formerly 8th Street); hence easterly along said prolongation to the westerly line of the right-of-way, 100 feet wide, as reserved in that certain deed dated May 4, 1887, from Southern Pacific Railroad Company, a corporation, and D. O. Mills and Gerrit L. Lansing, trustees to M. L. Wicks, recorded May 9, 1887, in Book 222 at page 172, official records of said county; thence northerly along said westerly right-of-way line 624.34 feet more or less to the southerly line of Avenue I (formerly Sierra Madre Road); thence westerly along said southerly line of Avenue I to the easterly line of said Sierra Highway; thence southerly along said easterly line of Sierra Highway to the point of beginning.

With the following committee amendments:

Page 1, line 7, delete the word "surface";

Page 3, following line 9, insert the following new section:

SEC. 3. (a) Nothing in this Act shall—

(1) diminish the right-of-way referred to in the first section of this Act to a width of less than fifty feet on each side of the center of the main tract or tracts established and maintained by the Southern Pacific Company on the date of the enactment of this Act; or

(2) validate or confirm any right or title to, or interest in, the land referred to in the first section of this Act arising out of adverse possession, prescription, or abandonment and not confirmed by conveyance made by the Southern Pacific Company before the date of the enactment of this Act.

(b) There is reserved to the United States all oil, coal, or other minerals in the land referred to in the first section of this Act, together with the right to prospect for, mine, and remove such oil, coal, or other minerals under such rules and regulations as the Secretary of the Interior may prescribe.

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## VALIDATING CONVEYANCE OF CERTAIN LAND IN CALIFORNIA BY THE SOUTHERN PACIFIC TRANSPORTATION CO.

The Clerk called the bill (H.R. 7971) to validate the conveyance of certain land in the State of California by the Southern Pacific Transportation Co.

There being no objection, the Clerk read the bill, as follows:

H.R. 7971

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, subject to section 3, the conveyances executed by the Southern Pacific Transportation Company and described in section 2, involving certain land in San Joaquin County, California, forming a part of the right-of-way granted by the United States to the Central Pacific Railway Company under the Act entitled "An Act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes", approved July 1, 1862 (12 Stat. 489), as amended, are hereby legalized, validated, and confirmed, as far as any interest of the United States in such land is concerned, and shall have the same force and effect as if the land involved in each conveyance had been held, on the date of conveyance, under absolute fee simple title by the Southern Pacific Transportation Company, subject to a reservation to the United States of the minerals therein.

SEC. 2. The conveyances referred to in the first section of this Act are as follows:

(1) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Stokely-Van Camp, an Indiana corporation, as grantee, on March 2, 1973, and recorded as instrument numbered 55797 on December 3, 1973, book 3822, page 586, of the Official Records of San Joaquin County, California, describing the following lands: That certain parcel of land situate in the county of San Joaquin, State of California, being a portion of the west half of section 12, township 3 north, range 6 east, Mount Diablo base and meridian, described as follows:

The easterly 125 feet of the westerly 150 feet of lots 66, 67, 68, 69, the westerly 150 feet of lot 70 and the easterly 100 feet of the westerly 150 feet of lot 71, as said lots are shown on the map of the Lodi-Barnhart Tract, recorded November 5, 1906, in volume 3 of Maps and Plats, page 48, records of said county.

Excepting therefrom that portion of said lot 68 lying easterly of the easterly boundary of the land described in the deed dated August 27, 1962, to Stokely-Van Camp, Incorporated, recorded September 5, 1962, in book 2592, page 385, of Official Records, records of said county, and southerly of the easterly prolongation of the northerly boundary thereof.

(2) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Bernardino Barengo, a married man, as grantee, on June 27, 1973, and recorded as instrument numbered 37943 on August 9, 1973, book 3792, page 21, of the Official Records of San Joaquin County, California, describing the following lands: That certain parcel of land situated in the county of San Joaquin, State of California, being a portion of the southwest quarter of section 24, township 4 north, range 6 east, Mount Diablo base and meridian, described as follows:

Commencing at the intersection of the original located center line of Southern Pacific Transportation Company's main track (Stockton to Sacramento) with a line that is parallel with and distant 20.00 feet northerly, measured at right angles, from the south line of said southwest quarter of section 24, said parallel line being the north line of Acampo Road (formerly Main Street);

thence north 88 degrees 36 minutes 00 seconds west, along said parallel line, 140.71 feet to a line that is parallel with and distant 135.00 feet westerly, measured at right angles, from said original located center line and the true point of beginning of the parcel of land to be described;

thence north 14 degrees 58 minutes 30 seconds west, along last said parallel line, 883.19 feet;

thence south 75 degrees 01 minutes 50 second west, at right angles from last said parallel line 9.40 feet to the southeasterly corner of the lands of Dino Barengo as described in deed recorded September 29, 1961, in book 2462, page 290, Official Records of said county;

thence northerly along the easterly line of said lands on the following four courses: (1) north 14 degrees 58 minutes 30 seconds west, parallel with said center line, 14.60 feet, (2) north 11 degrees 33 minutes 30 seconds west 100.00 feet, (3) north 9 degrees 39 minutes 30 seconds west 50.00 feet, (4) north 8 degrees 29 minutes 30 seconds west 27.60 feet;

thence south 67 degrees 42 minutes 00 seconds west, along the northerly line of last said lands 69.88 feet to a line that is parallel with and distant 200.00 feet westerly, measured at right angles, from said original located center line, last said parallel line being the westerly line of the 400-foot right-of-way granted by Act of Congress to the Central Pacific Railroad Company;

thence south 14 degrees 58 minutes 30 seconds east, along last said parallel line, 1046.81 feet to said north line of Acampo Road;

thence south 88 degrees 36 minutes 00 seconds east, along said north line, 67.75 feet to the true point of beginning, containing an area of 1.565 acres, more or less.

(3) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and Calvin Clark III, a married man, as grantee, on November 4, 1974, and recorded as instrument numbered 56311 on December 9, 1974, book 3934, page 640, of the Official Records of San Joaquin County, California, describing the following lands:

That certain real property situated in the county of San Joaquin, State of California, being a portion of section 24, township 4 north, range 6 east, Mount Diablo base and meridian, more particularly described as follows:

Commencing at the point of intersection of a line parallel with and distant 30 feet westerly, measured at right angles, from the easterly line of Sycamore Street, with the westerly prolongation of the northerly line of an alley in block 4 as said street, alley and block are shown on the map of the town of Acampo;

thence south 88 degrees 36 minutes 00 seconds east along said prolongation, northerly line and its easterly prolongation thereof, 474.05 feet to a point in the southwesterly line of land (400 feet wide) of Southern Pacific Transportation Company;

thence north 14 degrees 58 minutes 30 seconds west along said southwesterly line being parallel with and distant 200.0 feet southwesterly, measured at right angles, from the original located center line of said company's main track (Tracy-Polk), 166.38 feet to a point in the northerly line of land of Dino Barengo as described in deed recorded September 29, 1961, in book 2462 of the Official Records, page 290, Records of San Joaquin County and the actual point of beginning of the parcel of land to be described;

thence continuing north 14 degrees 58 minutes 30 seconds west along said southwesterly line, 693.8 feet to a point in the southerly line of land now or formerly of George L. Keeney and E. M. Keeney;

thence south 88 degrees 57 minutes east along the seconds west along said southwesterly line, 693.8 feet to a point distant 74.08 feet westerly, measured at right angles, from said center line of main track;

thence south 6 degrees 42 minutes east 96.05 feet;

thence south 8 degrees 29 minutes 30 seconds east 559.88 feet to a point in said northerly line of Dino Barengo, being distant 151.12 feet westerly, measured at right angles, from said center line;

thence south 67 degrees 42 minutes 00 seconds west along last said northerly line, 49.29 feet to the actual point of beginning, containing an area of 1.343 acres, more or less.

(4) The conveyance entered into between the Southern Pacific Transportation Company, grantor, and the city of Lodi, a municipal corporation, as grantee, on November 6, 1974, and recorded as instrument numbered 57584 on December 17, 1974, book 3937, page 183, of the Official Records of San Joaquin County, California, describing the following lands: That certain strip of land 125.00 feet in width, situate in the south half of section 36, township 4 north, range 6 east, Mount Diablo base and meridian, county of San Joaquin, State of California and described as follows:

A strip of land 125.00 feet wide lying contiguous to and easterly of a line parallel with and distant 75.00 feet easterly, measured at right angles, from the original located center line of Southern Pacific Transportation Company's main track (Stockton to Polk), and extending from that certain course described as "south 80 degrees 47 minutes west 200 feet, more or less" in the northerly boundary of the land described in deed dated July 13, 1967, from Southern Pacific Company to Jay Loveless recorded October 10, 1967, in book 3158, page 339, Official Records of San Joaquin County, northerly, to the northerly line of the 3.6-acre parcel of land described in deed dated May 22, 1915, from H. Bechthold et ux, to city of Lodi recorded June 25, 1915, in book "A", volume 266 of deeds, page 3, San Joaquin County Records, said northerly line being described in said deed as following the meanders of the southern bank of the Mokelumne River.

(5) The easement entered into between the Southern Pacific Transportation Company, grantor, and the city of Lodi, a municipal corporation, as grantee, for roadway purposes, on November 21, 1974, and recorded as instrument numbered 5528 on February 7, 1975, book 3952, page 203, of the Official Records of San Joaquin County, California, describing an easement upon the following property: That certain strip of land situate in the south half of section 36, township 4 north, range 6 east, Mount Diablo base and meridian, County of San Joaquin, State of California, and described as follows:

A strip of land 25.00 feet in width lying contiguous to and easterly of a line parallel and concentric with and distant 75.00 feet easterly, measured at right angles and radially, from the original located center line of Southern Pacific Transportation Company's main track (Stockton to Polk), and extending from the northerly line of the 20,480 square foot parcel of land described in Indenture dated August 24, 1960 from Southern Pacific Company to city of Lodi recorded September 12, 1960 in book 2334, page 421, San Joaquin County Records, northerly, to that certain course described as "south 80 degrees 47 minutes west 200 feet, more or less," in the northerly boundary of the land described in deed dated July 13, 1967, from Southern Pacific Company to Jay Loveless recorded October 10, 1967 in book 3158, page 339, Official Records of San Joaquin County, said 25.00 foot wide strip hereinabove described being also contiguous to and westerly of the westerly line of the 100.00 foot wide strip of land quitclaimed to Jay Loveless by said deed.

Reserving unto grantor, its successors and assign, the right to construct, maintain, and use railroad, pipeline communication, and transportation facilities in, upon, over, along, and across said property.

(6) The conveyance entered into between the Southern Pacific Transportation Company grantor, and Edward W. Le Baron and Mable B. Le Baron, his wife, Donald Reynolds and Constance E. Reynolds, his wife, and Robert Reynolds and Carolyn W. Reynolds, his wife, as grantees on March 22, 1977, and recorded as instrument numbered 34048 on June 2, 1977, book 4267, page 458, of the official records of San Joaquin County, California, describing the following lands: That certain parcel of land situated in the southeast quarter of section 23 and southwest quarter of section 24, township 4 north, range 6 east, Mount Diablo base and meridian, County of San Joaquin, State of California, and more particularly described as follows:

Commencing at the point of intersection of a line parallel with and distant 30 feet westerly, measured at right angles, from the easterly line of Sycamore Street with the westerly prolongation of the northerly line of an alley in block 4, as said street, alley, and block are shown on the map of the town of Acampo;

thence south 88 degrees 36 minutes 00 seconds east, along said prolongation, said northerly line and its easterly prolongation, 474.05 feet to a point in the southwesterly line of land (400 feet wide) originally acquired by Central Pacific Railroad Company by virtue of Act of Congress dated July 1, 1862;

thence north 14 degrees 58 minutes 30 seconds west, along said southwesterly line, being parallel with and distant 200.0 feet southwesterly, measured at right angles, from the original location center line of main track (Tracy-Polk) now of the Southern Pacific Transportation Company, a distance of 860.18 feet to the northwesterly corner of the 1.343-acre parcel of land described in quitclaim deed dated November 4, 1974 from Southern Pacific Transportation Company to Calvin Clark III recorded December 9, 1974 in book 3934, page 640, Official Records of San Joaquin County, and the true point of beginning of the parcel of land to be described;

thence continuing north 14 degrees 58 minutes 30 seconds west, along said southwesterly line, parallel with and distant 200.0 feet southwesterly, measured at right angles, from said center line of main track, a distance of 1,000 feet, more or less, to the north line of said southeast quarter of said section 23;

thence easterly along last said north line, 130.3 feet, more or less, to a point in a line parallel with and distant 74.08 feet southwesterly, measured at right angles, from said center line of said transportation company's main track;

thence south 14 degrees 58 minutes 30 seconds east, last said parallel line, 1,000 feet, more or less, to the northeasterly corner of said 1.343-acre parcel of land described in said deed dated November 4, 1974 to Calvin Clark III;

thence north 88 degrees 57 minutes west, along the northerly line of last said parcel, 131.02 feet to the true point of beginning, containing an area of 2.89 acres, more or less.

SEC. 3. (a) Nothing in this Act shall—

(1) diminish the right-of-way referred to in the first section of this Act to a width of less than fifty feet on each side of the center of the main track or tracks established and maintained by the Southern Pacific Company on the date of the enactment of this Act; or

(2) validate or confirm any right or title to, or interest in, the land referred to in the first section of this Act arising out of adverse possession, prescription, or abandonment, and not confirmed by conveyance made by the Southern Pacific Company before the date of the enactment of this Act.

(b) There is reserved to the United States all oil, coal or other minerals in the land referred to in the first section of this Act, together with the right to prospect for mine, and remove such oil, coal, or other minerals under such rules and regulations as the Secretary of the Interior may prescribe.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

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## AUTHORIZING SECRETARY OF THE INTERIOR TO CONVEY CERTAIN LANDS IN PLACER COUNTY, CALIFORNIA, TO MRS. EDNA C. MARSHALL

The Clerk called the bill (H.R. 4243) to authorize the Secretary of the Interior to convey certain lands in Placer County, Calif., to Mrs. Edna C. Marshall, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

H.R. 4243

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior is hereby authorized and directed to convey to Edna C. Marshall, Auburn, California, all right, title, and interest of the United States in and to a tract of land in Tahoe National Forest, Placer County, California, more particularly described as the northeast quarter northwest quarter of section 28, township 14 north, range 11 east, Mount Diablo base and meridian, California, consisting of forty acres,

more or less. Such conveyance shall only be made if Edna C. Marshall makes application therefor, and within one year after the date of this Act, makes payment of the fair market value of the land as of the date of this Act, less any enhancement in value brought to the land by Edna C. Marshall or her predecessors on the land, as determined by the Secretary of the Interior, Edna C. Marshall shall bear any administrative expenses, including appraisal, filing, and recording fees arising from the conveyance.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## BALL STATE UNIVERSITY AND THE AMERICAN ASSOCIATION OF COLLEGES FOR TEACHER EDUCATION

The Clerk called the bill (H.R. 1415) for the relief of Ball State University and the American Association of Colleges for Teacher Education.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## CHARLES P. ABBOTT

The Clerk called the bill (H.R. 3994) for the relief of Charles P. Abbott.

There being no objection, the Clerk read the bill, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $———— to Charles P. Abbott of Glendora, California, in full settlement of all his claims against the United States, arising out of the following actions by the Small Business Administration from March 1957 to June 1959:

(1) their negligent delay in processing his small business loan application numbered L–102,045–BOS for Cape Cod Manor, Incorporated (also known as the Royal Megansett Hotel), of North Falmouth, Massachusetts;

(2) their delay is disbursement of the loan moneys, once the above application was approved, directly contributing to the failure of the aforesaid business; and

(3) their arbitrary, prejudicial refusal to fully consider, and their rejection of this bid to repurchase the hotel property in June 1959.

With the following committee amendment:

Strike out all after the enacting clause and insert:

That any debt owed the United States by Charles P. Abbott of Glendora, California, arising from the judgment of the United States District Court for the District of Massachusetts in *United States* v. *Abbott* (Civil Action No. 60–800–W), entered September 29, 1964, is hereby extinguished.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## CERTAIN FORMER EMPLOYEES OF WESTERN AIRLINES

The Clerk called the resolution (H. Res. 83) to refer, H.R. 1394, a bill for the relief of certain former employees of Western Airlines, to the Chief Commissioner of the U.S. Court of Claims.

There being no objection, the Clerk read the resolution, as follows:

H. RES. 83

*Resolved,* That H.R. 1394 entitled "A bill to provide for the relief of certain former employees of Western Airlines", together with all the accompanying papers, is hereby referred to the Chief Commissioner of the United States Court of Claims pursuant to sections 1492 and 2509 of title 28, United States Code, for further proceedings in accordance with applicable law.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## FIRST BAPTIST CHURCH OF PADUCAH, KY.

The Clerk called the Senate bill (S. 422) for the relief of the First Baptist Church of Paducah, Ky.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the Senate bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. This concludes the call of the Private Calendar.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions, to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

## ESTABLISHING OFFICES OF INSPECTOR GENERAL

Mr. FOUNTAIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 8588) to reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Energy Research and Development Administration, the Environmental Protection Agency, the Federal Energy Administration, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes, as amended.

The Clerk read as follows:

Strike out everything after the enacting clause and insert in lieu thereof the following:

PURPOSE; ESTABLISHMENT

SECTION 1. In order to create independent and objective units—

(1) to conduct and supervise audits and investigations relating to programs and operations of the Department of Agriculture, the Department of Commerce, the Department of Housing and Urban Development, the Department of the Interior, the Department of Labor, the Department of Transportation, the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration;

(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy and efficiency in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations; and

(3) to provide a means for keeping the head of the establishment and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action;

there is hereby established in each of such establishments an Office of Inspector General.

APPOINTMENT OF OFFICERS

SEC. 2. (a) There shall be at the head of each Office an Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. Each Inspector General shall report to and be under the general supervision of the head of the establishment involved or, to the extent such authority is delegated, the officer next in rank below such head, but shall not be under the control of, or subject to supervision by, any other officer of such establishment.

(b)(1) There shall also be in each Office within the Departments of Agriculture, Housing and Urban Development, Labor, and Transportation, and in the Veterans' Administration, a Deputy Inspector General appointed by the President, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. Each Deputy shall assist the Inspector General in the administration of the Office and shall, during the absence or temporary incapacity of the Inspector General, or during a vacancy in that office, act as Inspector General.

(2) In each Office in which no Deputy Inspector General is provided or in which such position is vacant, the Inspector General may designate a staff member to act as Inspector General during the absence or temporary incapacity of the Inspector General. If no such designation is made, the senior Assistant Inspector General shall act as Inspector General during the absence or temporary incapacity of the Inspector General. The senior Assistant Inspector General shall also act as Inspector General in the event of a vacancy in that position in any Office in which no Deputy Inspector General is provided or in which such position is vacant.

(c) An Inspector General or Deputy may be removed from office by the President.

(d) For the purposes of section 7324 of title 5, United States Code, no Inspector General or Deputy Inspector General shall be considered to be an employee who determines policies to be pursued by the United States in the nationwide administration of Federal laws.

(e) Each Inspector General shall, in accordance with applicable laws and regulations governing the civil service—

(1) appoint an Assistant Inspector General for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations of the establishment, and

(2) appoint an Assistant Inspector General for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations.

DUTIES AND RESPONSIBILITIES

SEC. 3. (a) It shall be the duty and responsibility of each Inspector General, with respect to the establishment within which his Office is established—

(1) to supervise, coordinate, and provide policy direction for auditing and investigative activities relating to programs and operations of such establishment;

(2) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out of financed by such establishment for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;

(3) to recommend policies for, and to conduct, supervise, or coordinate relationships between such establishment and other Federal agencies, State and local governmental agencies, and nongovermental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, programs and operations administered or financed by such establishment, or (B) the identification and prosecution of participants in such fraud or abuse; and

(4) to keep the head of such establishment and the Congress informed, by means of the reports required by section 4 and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of programs and operations administered or financed by such establishment, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

(b) In carrying out the responsibilities specified in subsection (a)(1), each Inspector General shall have authority to establish standards for the use of outside auditors and to take other appropriate steps to insure the competence and independence of such auditors.

(c) In carrying out the duties and responsibilities provided by this Act, each Inspector General shall give particular regard to the activities of the Comptroller General of the United States with a view to avoiding duplication and insuring effective coordination and cooperation.

(d) In carrying out the duties and responsibilities provided by this Act, each Inspector General shall report expeditiously to the Attorney General whenever the Inspector General has reasonable grounds to believe there has been a violation of Federal criminal law.

REPORTS

SEC. 4. (a) Each Inspector General shall, not later than April 30 and October 31 of each year, prepare semiannual reports summarizing the activities of the Office during the immediately preceding six-month periods ending March 31 and September 30. Such reports shall include, but need not be limited to—

(1) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of such establishment disclosed by such activities during the reporting period;

(2) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified pursuant to paragraph (1);

(3) an identification of each significant recommendation described in previous semiannual reports on which corrective action has not been completed;

(4) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted;

(5) a summary of each report made to the head of the establishment under section 4(c) during the reporting period;

(6) a summary of each report made to the head of the establishment under section 5(b)(2) during the reporting period; and

(7) a listing of each audit and investigative report completed by the Office during the reporting period.

(b) Semiannual reports of each Inspector General shall be furnished to the head of the establishment involved not later than April 30 and October 31 of each year and shall be transmitted by such head to the appropriate committees or subcommittees of the Congress within thirty days after receipt of the report, together with a report by the head of the establishment containing any comments such head deems appropriate.

(c) Each Inspector General shall report immediately to the head of the establishment involved whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations of such establishment. Each Deputy and Assistant Inspector General shall have particular responsibility for informing their respective Inspector General of such problems, abuses, and deficiencies.

AUTHORITY; ADMINISTRATION PROVISIONS

SEC. 5. (a) In addition to the authority otherwise provided by this Act, each Inspector General, in carrying out the provisions of this Act, is authorized—

(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to the applicable establishment which relate to programs and operations with respect to which that Inspector General has responsibilities under this Act;

(2) to make such investigaitons and reports relating to the administration of the programs and operations of the applicable establishment as are, in the judgment of the Inspector General, necessary or desirable;

(3) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this Act from any Federal, State, or local governmental agency or unit thereof;

(4) to require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this Act, which subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: *Provided*, That procedures other than subpenas shall be used by the Inspector General to obtain documents and information from Federal agencies;

(5) to have direct and prompt access to the head of the establishment involved when necessary for any purpose pertaining to the performance of functions and responsibilities under this Act;

(6) to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(7) to obtain services as authorized by section 3109 of title 55, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS–18 of the General Schedule by section 5332 of title 5, United States Code;

(8) to the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for audits, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this Act.

(b)(1) Upon request of an Inspector General for information or assistance under subsection (a)(3), the head of any Federal agency shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency from which the information is requested, furnish to such Inspector General, or to an authorized designee, such information or assistance.

(2) Whenever information or assistance requested under subsection (a)(1) or (a)(3) is, in the judgment of an Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the head of the establishment involved without delay.

(3) In the event any record or other information requested by the Inspector General under subsection (a)(1) or (a)(3) is not considered to be available under the provisions of section 552(b)(1), (3), or (7) of title 5, United States Code, such record or information shall be available to the Inspector General in the same manner and to the same extent it would be available to the Comptroller General.

(c) Each head of an establishment shall provide the Office within such establishment with appropriate and adequate office space at central and field office locations of such establishment, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

TRANSFER OF FUNCTIONS

SEC. 6. (a) There shall be transferred—

(1) to the Office of Inspector General—

(A) of the Department of Agriculture, the offices of that department referred to as the "Office of Investigation" and the "Office of Audit";

(B) of the Department of Commerce, the offices of that department referred to as the "Office of Audits" and the "Investigations and Inspections Staff" and that portion of the office referred to as the "Office of Investigations and Security" which has responsibility for investigation of alleged criminal violations and program abuse;

(C) of the Department of Housing and Urban Development, the office of that department referred to as the "Office of Inspector General";

(D) of the Department of the Interior, the office of that department referred to as the "Office of Audit and Investigation";

(E) of the Department of Labor, the offices of that department referred to as the "Direc-

torate of Audits and Investigations" and the "Office of Investigation and Compliance";

(F) of the Department of Transportation, the offices of that department referred to as the "Office of Investigations and Security" and the "Office of Audit" of the Department, the "Offices of Investigations and Security, Federal Aviation Administration", the "External Audit Divisions, Federal Aviation Administration", the "Office of Program Review and Investigation, Federal Highway Administration", and the "Office of Program Audit, Urban Mass Transportation Administration";

(G) of the Community Services Administration, the offices of that agency referred to as the "Inspections Division", the "External Audit Division", and the "Internal Audit Division";

(H) of the Environmental Protection Agency, the offices of that agency referred to as the "Office of Audit" and the "Security and Inspection Division";

(I) of the General Services Administration, the offices of that agency referred to as the "Office of Audits" and the "Office of Investigations";

(J) of the National Aeronautics and Space Administration, the offices of that agency referred to as the "Management Audit Office" and the "Office of Inspections and Security";

(K) of the Small Business Administration, the office of that agency referred to as the "Office of Audits and Investigations"; and

(L) of the Veterans' Administration, the offices of that agency referred to as the "Office of Audits" and the "Office of Investigations"; and

(2) such other offices or agencies, or functions, powers, or duties thereof, as the head of the establishment involved may determine are properly related to the functions of the Office and would, if so transferred, further the purposes of this Act,

except that there shall not be transferred to an Inspector General under paragraph (2) program operating responsibilities.

(b) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of any office or agency the functions, powers, and duties of which are transferred under subsection (a) are hereby transferred to the applicable Office of Inspector General.

(c) Personnel transferred pursuant to subsection (b) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions except that the classification and compensation of such personnel shall not be reduced for one year after such transfer.

(d) In any case where all the functions, powers, and duties of any office or agency are transferred pursuant to this subsection, such office or agency shall lapse. Any person who, on the effective date of this Act, held a position compensated in accordance with the General Schedule, and who, without a break in service, is appointed in an Office of Inspector General to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

CONFORMING AND TECHNICAL AMENDMENTS

SEC. 7. (a) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(122) Inspector General, Department of Health, Education, and Welfare.

"(123) Inspector General, Department of Agriculture.

"(124) Inspector General, Department of Housing and Urban Development.

"(125) Inspector General, Department of Labor.

"(126) Inspector General, Department of Transportation.

"(127) Inspector General, Veterans' Administration.".

(b) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(144) Deputy Inspector General, Department of Health, Education, and Welfare.

"(145) Deputy Inspector General, Department of Agriculture.

"(146) Inspector General, Department of Commerce.

"(147) Deputy Inspector General, Department of Housing and Urban Development.

"(148) Inspector General, Department of the Interior.

"(149) Deputy Inspector General, Department of Labor.

"(150) Deputy Inspector General, Department of Transportation.

"(151) Inspector General, Community Services Administration.

"(152) Inspector General, Environmental Protection Agency.

"(153) Inspector General, General Services Administration.

"(154) Inspector General, National Aeronautics and Space Administration.

"(155) Inspector General, Small Business Administration.

"(156) Deputy Inspector General, Veterans' Administration.".

(c) Section 202(e) of the Act of October 15, 1976 (Public Law 94-505, 42 U.S.C. 3522), is amended by striking out "section 6(a)(1)" and "section 6(a)(2)" and inserting in lieu thereof "section 206(a)(1)" and "section 206(a)(2)", respectively.

DEFINITIONS

SEC. 8. As used in this Act—

(1) the term "head of the establishment" means the Secretary of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, or Transportation or the Administrator of Community Services, Environmental Protection, General Services, National Aeronautics and Space, Small Business, or Veterans' Affairs, as the case may be;

(2) the term "establishment" means the Department of Agriculture, Commerce, Housing and Urban Department, the Interior, Labor, or Transportation or the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, or the Veterans' Administration, as the case may be;

(3) the term "Inspector General" means the Inspector General of an establishment;

(4) the term "Deputy" means the Deputy Inspector General of an establishment;

(5) the term "Office" means the Office of Inspector General of an establishment; and

(6) the term "Federal agency" means an agency as defined in section 552(e) of title 5 (including an establishment as defined in paragraph (2)), United States Code, but shall not be construed to include the General Accounting Office.

EFFECTIVE DATE

SEC. 9. The provisions of this Act and the amendments made by this Act shall take effect October 1, 1978.

The SPEAKER pro tempore (Mr. MURTHA). Is a second demanded?

Mr. WYDLER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. FOUNTAIN) will be recognized for 20 minutes, and the gentleman from New York (Mr. WYDLER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. FOUNTAIN).

Mr. FOUNTAIN. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, I would like to begin expressing the opinion that this is one of the most monumental pieces of legislation this or any other Congress has ever considered, because of the billions of dollars it may well save through increased economy and efficiency and a reduction in fraud and program abuse.

Mr. Speaker, H.R. 8588, which was approved unanimously by the Committee on Government Operations, will consolidate existing audit and investigative units in 12 additional Federal departments and agencies into Offices of Inspector General similar to those already established for HEW and the Department of Energy.

The Offices would be headed by Inspectors General appointed by the President, subject to Senate confirmation, without regard to political affiliation and solely on the basis of integrity and demonstrated ability. Each Inspector General would report to and be under the general supervision of the agency head or the officer next in rank below the head, but would not be under the control or supervision of any other officer of the establishment involved.

In addition to conducting and supervising audits and investigations, each Inspector General would have a key role in other activities designed to promote economy and efficiency and to prevent and detect fraud and program abuse. Moreover, the Inspector General would have responsibility for keeping the agency head and the Congress informed about serious problems and deficiencies and for recommending necessary corrective action.

The executive departments and agencies covered by this bill have generally endorsed the Inspector General concept. However, some of them have objected to one or more specific provisions of the bill as reported out by the committee. The amendment to the bill makes several minor modifications which, in our judgment, will meet some of these objections without impairing in any way the ability of Inspectors General to accomplish the purposes of the bill.

The primary effect of the modifications is to substitute semi-annual reports to Congress for the annual, quarterly, and special reports required under the present language of the bill. Although the timing will be different, the semi-annual reports will contain all information which would be required under the bill as reported.

We have been assured by the Office of Management and Budget that the administration will support the bill with these modifications.

The departments and agencies covered by this bill are responsible for expenditure of around $100 billion annually, and have more than 600,000 employees.

The need for Offices of Inspector General in these establishments was clearly

demonstrated by an extensive subcommittee inquiry, which included 9 days of hearings.

We found serious deficiencies in auditing and investigative organization, procedures, and resources, such as—

Multiple audit or investigative units within a single agency, organized in fragmented fashion and without effective central leadership;

Auditors and investigators reporting to officials who were responsible for the programs under review or were devoting only a fraction of their time to audit and investigative responsibilities;

Lack of affirmative programs to look for possible fraud or abuse; some agencies did not even require employees to report evidence of irregularities;

Instances in which investigators had been kept from looking into suspected irregularities, or even ordered to discontinue an ongoing investigation;

Potential fraud cases which had not been sent to the Department of Justice for prosecution; and

Serious shortages of audit and investigative personnel, even though such personnel more than repay their cost in savings and recoveries.

Several agencies admitted they had only one-third to one-fifth the number of auditors or investigators needed.

One Department (Labor) had only six trained criminal investigators to look into irregularities in the expenditures of some $25 billion annually.

Other agencies had audit cycles as long as 20 years; some activities had never been audited.

These and other serious deficiencies are fully documented in the committee report (H. Rept. 95–584) and the subcommittee hearings.

Enactment of this bill will—

Insure that each covered agency has a high-level official with no program responsibilities, required by law to give undivided attention to promoting economy and efficiency and combating fraud and program abuse;

Help to coordinate, within each agency and throughout the Government, the work of numerous audit and investigative units which are now disorganized and without effective leadership; and

Help to insure that agency heads and the Congress receive information needed to promote economy and efficiency and to combat fraud and abuse.

Even though the HEW Office of Inspector General, after which this bill is patterned, has been in operation for less than a year, it has already been responsible for substantial and very badly needed progress in improving HEW's administrative operations.

Details concerning the work being done by the HEW Office of Inspector General can be found in the first annual report of that Office, which has just been submitted to Congress. This 191-page report describes a wide variety of audits, investigations, and other initiatives undertaken by that Office, and estimates that losses from fraud, abuse, and waste at HEW have totaled more than $7 billion annually.

Waste, inefficiency, fraud, and abuse in federally financed programs is impairing the accomplishment of program objectives and imposing an intolerable and inexcusable burden on this country's taxpayers.

It is time for Congress to do something about it.

I urge passage of this badly needed legislation.

Under leave to extend my remarks, I am including at this point material from pages 2 through 7 of House Report 95–584 which summarizes the major provisions of H.R. 8588 and describes the extremely serious deficiencies disclosed by subcommittee hearings which the bill is designed to correct.

I am also including a brief summary of the modifications made by the amendment offered today. The revised language of H.R. 8588, as amended, can be found in H.R. 12053.

PURPOSE AND SUMMARY

H.R. 8588 would consolidate existing audit and investigative units in the Departments of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor and Transportation, and the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans Administration into newly established Offices of Inspector General.

These offices, which would have no program responsibilities, would conduct and supervise audits and investigations relating to programs and operations of the above establishments. The offices would also provide leadership and coordination and recommend policies for activities designed to promote economy and efficiency in the administration of, and to prevent and detect fraud and abuse in, such programs and operations.

In addition, the offices would provide a means for keeping agency heads and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action.

Each office would be headed by an Inspector General appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the basis of integrity and demonstrated ability, in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. The Inspector General would report to and be under the general supervision of the agency head (or, to the extent such authority is delegated, the officer next in rank below the head), but would not be under the control of or subject to supervision by any other officer of the establishment involved.

A Deputy Inspector General would be appointed in the same manner as the Inspector General in the Departments of Agriculture, Housing and Urban Development, Labor, and Transportation, and in the Veterans Administration. The Deputy would assist the Inspector General and serve as Inspector General during a vacancy or the absence or temporary incapacity of the Inspector General. In establishments not having a Deputy, the Inspector General could designate a staff member to act as Inspector General during the IG's absence or temporary incapacity; in the event of a vacancy, the senior Assistant Inspector General would act as Inspector General.

Inspectors General or Deputies could be removed from office by the President. The Comptroller General would promptly investigate and report to each House of Congress on the circumstances of any such removal.

Each Inspector General would have responsibility for conducting audits and investigations and for coordinating other activities designed to promote economy and efficiency and to prevent and detect fraud and abuse. The Inspector General would also have responsibility for relationships between the department or agency involved and other Federal State and local government agencies and nongovernmental entities with respect to such matters.

The Inspectors General would have specific responsibility for recommending corrective action concerning fraud and other serious problems, abuses and deficiencies and for reporting to agency heads and the Congress on the progress made in implementing such corrective action.

In addition to an annual report to the agency head and the Congress on activities of the office, each Inspector General would make quarterly reports identifying significant recommendations for corrective action on which adequate progress was not being made. Each Inspector General would report immediately to the agency head and within 30 days thereafter to appropriate congressional committees whenever their office became aware of particularly serious or flagrant problems, abuses or deficiencies.

In order to prevent lengthy delays, resulting from agency "clearance" procedures, reports or information would be submitted by each Inspector General to the agency head and the Congress without further clearance or approval. Copies of annual and quarterly reports would, insofar as practicable, be submitted by each Inspector General to the agency head sufficiently in advance of the due date for submission to Congress to provide a reasonable opportunity for comments of the agency head to be appended to the reports when submitted to Congress.

In carrying out provisions of H.R. 8588, each Inspector General is specifically authorized to obtain necessary information by subpoena and to request necessary information or assistance from any Federal, State, or local governmental agency or unit thereof.

H.R. 8588 further provides for each Inspector General to have direct and prompt access to the agency head when necessary for the performance of the duties of the office.

Existing audit and investigative units of each department or agency would become component parts of the establishment's Office of Inspector General. Additional units or functions related to the duties of the Office of Inspector General could be transferred to the office by the agency head, with the consent of the Inspector General, but no program operating responsibilities could be so transferred.

COMMITTEE ACTION AND VOTE

H.R. 8588, as amended, was reported by the Committee on Government Operations by a unanimous vote, with a quorum present.

HEARINGS

H.R. 8588 is a clean bill incorporating minor changes made by the Intergovernmental Relations and Human Resources Subcommittee in H.R. 2819, an earlier bill to establish Offices of Inspector General in a number of Federal departments and agencies. Nine days of hearings were held on this legislation, with testimony from representatives of 14 departments and agencies. Dates of each hearing, together with the names of departments or agencies whose representatives testified, are listed below:

May 17, 1977—Department of Agriculture.

May 24, 1977—Department of Commerce and Department of Housing and Urban Development.

June 1, 1977—Department of Interior and Department of Labor.

June 7, 1977—Department of Transportation and Environmental Protection Agency.

June 13, 1977—General Services Administration and National Aeronautics and Space Administration.

June 21, 1977—Small Business Administration and Veterans' Administration.

June 29, 1977—Community Services Administration.

July 25, 1977—Department of Justice.

July 27, 1977—Department of Health, Education, and Welfare.

DISCUSSION

*Background*

An extension investigation by the Intergovernmental Relations and Human Resources Subcommittee, which began in late 1974 and continued for more than a year, disclosed serious deficiencies in the resources and procedures used by the Department of Health, Education, and Welfare for the prevention and detection of fraud and program abuse. These deficiencies were described in a report issued by the committee on January 26, 1976.

The subcommittee's investigation and its further studies led to unanimous approval by the committee of legislation to establish an Office of Inspector General for the Department of Health, Education, and Welfare. The legislation was subsequently approved unanimously by both House and Senate, and signed into law by President Ford.

H.R. 8588, a clean bill incorporating changes to H.R. 2819, would establish similar Offices of Inspector General in 12 additional Federal departments and agencies. These establishments, as detailed below, are responsible for expenditure of nearly $100 billion annually and have over 600,000 employees.

| | Estimated outlays fiscal year 1977 (millions) [1] | Number of employees, April 1977 [2] |
|---|---|---|
| Department of Agriculture | $13,691 | 115,580 |
| Department of Commerce | 3,040 | 38,905 |
| Department of Housing and Urban Development | 7,673 | 16,787 |
| Department of Interior | 3,491 | 80,163 |
| Department of Labor | 23,468 | 16,647 |
| Department of Transportation | 12,774 | 74,890 |
| Community Services Administration | [3] 512 | 1,077 |
| Environmental Protection Agency | 5,295 | 11,948 |
| General Services Administration | 176 | 36,905 |
| National Aeronautics and Space Administration | 3,706 | 24,870 |
| Small Business Administration | [4] 722 | 4,910 |
| Veterans' Administration | 18,370 | 222,300 |

[1] Table 4, U.S. Budget in Brief, fiscal year 1978.

[2] Table 1, U.S. Civil Service Commission, Federal Civilian Workforce Statistics, June 1977.

[3] The Budget of the U.S. Government, fiscal year 1978, p. 341.

[4] The Budget of the U S. Government, fiscal year 1978, p. 358.

*Deficiencies in organizational structure*

Subcommittee hearings disclosed that auditors and investigators at a number of departments and agencies report to different officials, rather than being under the same leadership. In other instances, there is no unit with agencywide audit or investigative jurisdiction; the Department of Transportation reported having 116 separate audit and investigative units.

Almost without exception, auditors and investigators are reporting to officials who either have responsibility for programs subject to audit or investigation or are unable to devote full time to their audit or investigative responsibilities.

In some instances, auditors or investigators stationed outside Washington report to and are supervised by regional program managers, rather than agency headquarters.

*Deficiencies in procedures*

Serious deficiencies in auditing and investigative procedures were disclosed during the subcommittee hearings.

Most of the departments and agencies included in the bill have no affirmative programs to look for possible fraud or abuse; instead they rely primarily on complaints. In some cases, agency regulations do not even require employees to report evidence of irregularities. Other agencies have not prepared annual audit plans, even though preparation of such plans is required by OMB circular 73–2.

Even when complaints are received, investigators in some agencies are not permitted to initiate investigations without clearance from officials responsible for the programs involved. The chief of the Community Services Administration's Inspection Division testified that he had been denied clearance to investigate allegations of wrongdoing on several occasions; in one of these cases, according to his testimony, a later investigation by another law enforcement agency resulted in 22 indictments.

The CSA Inspection chief also testified that he had been ordered to discontinue one investigation which had already been initiated; the subject of that investigation, who was suspected of embezzling $10,000, subsequently became a fugitive.

A supervisory investigator for the Small Business Administration testified that an office inspection program which might have resulted in earlier detection of irregularities in SBA's Richmond office had been terminated some years ago.

Justice Department officials responsible for prosecuting fraud against the Government testified that, with some exceptions, working relationships with other Federal departments and agencies on fraud matters are far from optimum. They also told the subcommittee that coordination would be easier if all agencies had a single high-level official devoting full time to overall direction of both audit and investigative activities. The Justice Department's most effective working relationship, according to the witnesses, are with the Departments of Agriculture, HUD and HEW. (HEW, of course, has a statutory Office of Inspector General; HUD has a nonstatutory OIG, and the Department of Agriculture had one for many years before that office was dismantled in 1974.)

Although Justice Department witnesses endorsed direct referral of fraud cases to Justice by investigators, some agencies require that all such referrals be cleared by their Office of General Counsel. In some instances, potential fraud cases were never referred to Justice by agency Offices of General Counsel. A partial review of Agriculture Department files disclosed that, during a 2-year period, 24 cases referred by the USDA Office of Investigation were held for more than 6 months in the Office of General Counsel before being sent to the Department of Justice; one case was held for more than 2 years.

Although some agencies testified that it was their policy to voluntarily inform Congress concerning serious problems, the subcommitee found no evidence that any formal procedures existed to insure such reporting.

Other testimony indicated that program officials frequently ignore recommendations of auditors.

*Deficiencies in resources*

The hearings disclosed serious deficiencies in the resources devoted to auditing and investigations.

Internal audit cycles (the length of time it takes for all activities to be audited) are incredibly long. General Services Administration representatives testified that it would take as long as 20 years to audit all activities with that agency's present resources. Other lengthy audit cycles reported were 13 years for the Department of Commerce, 9 or 10 years for Interior, and 10 years for the Department of Transportation. The Small Business Administration and the Veterans' Administration estimated their audit cycles as 12 to 14 and 10 to 12 years, respectively.

Witnesses from the Department of the Interior and the Department of Transportation acknowledged that their departments have never audited some activities.

Many agency representatives told the subcommittee that their audit and/or investigative manpower is only a fraction of the amount needed to do an adequate job. Interior Department witnesses said their audit manpower is sufficient for only about half of the agency's priority workload, with no resources available for affirmative programs to detect fraud.

Representatives of the Department of Labor and the Small Business Administration testified that they have only one-third the audit manpower they need. Community Services Administration witnesses indicated their audit resources are even less than one-third the amount needed.

According to testimony from Labor Department witnesses, that department has only six trained criminal investigators to look into irregularities in the expenditure of some $25 billion annually. Veterans Administration officials told the subcommittee they have less than one-fifth the number of investigators they believe they need.

The severe shortages of manpower at many agencies are particularly ironic in view of uniform testimony that additional auditors and investigators would more than repay their cost through savings and recoveries. National Aeronautics and Space Administration officials estimated their auditors recover three to four times the amount spent. According to Veterans Administration witnesses, their internal auditors saved or recovered more than $14 million at a cost of less than $3 million. GSA officials estimated their agency's ratio of savings to costs at 20 to 1.

The importance of adequate auditing and investigative personnel was emphasized by Justice Department officials, who testified that the bulk of Government fraud cases originate through referrals from program agencies; if agency investigative operations are ineffective because of lack of personnel, potential fraud cases will not be referred.

SUMMARY OF CHANGES MADE BY AMENDMENT

1. Requirement for automatic GAO investigation of circumstances in event of removal of IG removed; however, such an investigation could—and undoubtedly would—still be

carried out on the basis of Congressional requests.

2. Phrase "fully and currently" deleted from requirement that IG keep agency head and Congress informed about problems, abuses and deficiencies, since compliance might be very burdensome if strictly interpreted. Another section still declares that a broad purpose of the bill is to provide a means for keeping the agency head and the Congress fully and currently informed.

3. Inspectors General are given authority to "establish standards" for use of outside auditors, rather than specifically approving or disapproving their use. IG's also have broad authority to "take other appropriate steps to insure the competence and independence of such auditors".

4. Inspectors General are specifically required to report expeditiously to the Attorney General whenever they have reasonable grounds to believe there has been a violation of Federal criminal law. This provision broadens an existing statutory requirement that suspected law violations involving Federal employees be so reported.

5. The prior requirement for annual, quarterly, and special reports to the Congress has been changed to a system of semi-annual reports. Although the timing will be different, the semi-annual reports will contain all information which would be required under the bill as reported. It should be noted that each IG would continue to be specifically authorized to make such investigations and reports as the IG considers necessary or desirable.

6. Language has been added to clarify the intent of the Committee that subpoenas not be used by IG's to obtain information and documents from Federal agencies. Other provisions of the bill call for Federal agencies to provide information or assistance requested by IG's insofar as practicable and for the IG to report unreasonable refusals of such requests to the agency head and Congress.

7. The requirement that an IG must consent to transfer of additional units, functions, powers or duties to the Office of Inspector General has been eliminated. This should not create any problems, since

(a) Program operating responsibilities cannot be so transferred;

(b) It is unlikely that an IG would object to a proposal to transfer more resources and authority to the Office; and

(c) It is unlikely that an agency head would want to make such a transfer over an IG's objection.

In addition to the above, several editorial and technical changes are made.

Revised language of H.R. 8588, as modified by the amendment, can be found in H.R. 12053.

Mr. WYDLER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I want to commend both the distinguished chairman of the committee and the gentleman from New York for their work in bringing this measure to the floor. I think it is an extremely important measure. It is going to help us do away with a great deal of waste and abuse in Government. I strongly support the measure and I urge my colleagues to do the same.

Mr. Speaker, I thank the gentleman for yielding and I welcome this opportunity to address myself to the need for the Offices of Inspector General in 12 Federal departments and agencies. H.R. 8588, introduced by my esteemed colleague the gentleman from North Carolina (Mr. FOUNTAIN) creates the Office of Inspector General in 12 Federal departments to audit programs, to investigate fraud and abuse and to correct actions which may be deemed abusive and fraudulent.

I had the privilege to testify before the Government Operations Committee in June 1976, in behalf of legislation which I cosponsored creating an office of Inspector General in the Department of Health, Education, and Welfare. I felt then, as I feel now, that such an office is not only beneficial, but also serves to enhance the workings of any department or Federal agency of which it becomes a part. The Inspector General, responsible for investigations of fraud and abuse, is a symbol to the Congress and the public, that any department or agency desires efficiency and honesty within its ranks, and is symbolic of an agency's willingness to tighten up on fraud in any of its programs.

The Congress was very disturbed to hear instances of abuse within the welfare system, and was gravely concerned about the widespread nature of such abuse. It is imperative that each department and agency report to an independent office to insure that the workings of each agency and department are in keeping with the values of efficiency and accountability.

I am very pleased that the distinguished chairman of the Intergovernmental Relations Subcommittee, the gentleman from North Carolina (Mr. FOUNTAIN) and the ranking minority member, the gentleman from New York (Mr. WYDLER) have seen fit to bring this legislation to the floor for our consideration. It is important legislation which must and should be passed. This measure is a necessary first step in the process of Government accountability, and is a necessary gesture for encouraging public trust. We owe our constituents the peace of mind which the passage of this legislation will bring—peace of mind that their Government and its numerous agencies are functioning with a minimum of fraud and abuse, and that their representatives have seen fit to enhance accountability.

Accordingly, I urge my colleagues to join with me in supporting this legislation and want to take this opportunity to commend the Office of Inspector General in HEW for the good work that it has done to date.

Mr. WYDLER. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. HORTON).

Mr. HORTON. Mr. Speaker, I want very briefly to say that I support H.R. 8588 as amended and recommend its approval here today. I join my colleague, JACK WYDLER, in expressing relief that the inordinate and unnecessary 7-month delay in bringing this bill to the House floor has finally come to an end. The need for this legislation has been clearly documented, not only in the thorough subcommittee hearings led by the distinguished gentleman from North Carolina (Mr. FOUNTAIN), but also by the continuing abuse of Federal programs in many agencies and departments of our Government.

The creation of an Office of Inspector General in a number of these agencies and departments will probably not completely eradicate the abuses that we have heard so much about in recent years, but it will be a step in the right direction. At least we will have in place a series of offices whose sole responsibilities would be the detection and prevention of fraud and abuse and the promotion of economy and efficiency within its particular agency or department. That is a great deal more than we have now.

Mr. Speaker, I urge my colleagues to support this important piece of legislation.

Mr. Speaker, I am glad we are here at last. This bill has been a long time in finally getting acted on by this House of Representatives. It could have been acted on a long time ago. But we are moving it forward, finally and at last, and that is something that we can all be happy about. I particularly appreciate the efforts made by the gentleman from North Carolina (Mr. FOUNTAIN), the chairman of the subcommittee, who really put this bill together and guided it through the committee and here on the floor of the House. Although I rise in support of H.R. 8588, as amended, and urge its prompt approval, I do want to point out some things about the history of this legislation that I think is important for the House to know.

The bill originally was studied very carefully and extensively at the subcommittee level, and it was unanimously approved by the full Committee on Government Operations in August of last year. The bill was on the House Calendar last September 27. It was withdrawn at the last minute because of opposition by the Carter administration. Mr. Speaker, why the President should have been opposed to the concept of an Inspector General to fight fraud and abuses in Government programs has never been clear to me, but I am pleased that finally, after some 7 months of unnecessary and tedious negotiations, the President has agreed to support the bill.

This bill to establish an Office of Inspector General in various Federal departments is clearly necessary, and it was a year ago. Its need has been recognized by everyone who has studied the issue of fraud and abuse in Government programs.

When we think, Mr. Speaker, that the estimates are that we are losing currently, through fraud and abuse, approximately $1 billion a month in our Federal programs, we can understand what 7 months of delay, unnecessary, unjustified delay, on this program has cost the American taxpayers. I think somebody has to be held responsible for that delay.

Mr. Speaker, the changes that have been made by the subcommittee to satisfy the administration are generally very

minor changes; but every one of them without exception, is a change that weakens the bill or undermines to some extent the independence of the Inspector General whose office we are setting up. They are not constructive changes; they are really weakening amendments, and I think we would be better off if we did not have them in the bill. However, apparently, that is the price we are going to have to pay to get this type of Inspector General established in the Federal Government.

In my view, Mr. Speaker, we have too long neglected the concept of an Inspector General, even in the face of mounting evidence year after year of abuse and fraud in a wide range of Government programs. This legislation will correct that oversight on our part and will be a significant first step in an effort to promote economy and efficiency as well as the detection and prevention of fraud and abuse. Those two objectives, after all, are inextricably linked to each other. We cannot realize economy and efficiency unless we deal in an effective manner with the problem of fraud and abuse.

It is important, Mr. Speaker, to remember and to realize that this new Office of Inspector General will have absolutely no policy responsibility. The new IG's are to be totally independent and free from political pressure. If I have any reservations at all, they are concerned with that independence. I would merely suggest that we keep an eye on these IG's and see to it that they have the freedom to operate independently.

That reservation aside, Mr. Speaker, I wholeheartedly support H.R. 8588, and I urge my colleagues to do likewise.

Mr. Speaker. I recommend this bill's approval even at this late date.

Mr. RONCALIO. Mr. Speaker, will either gentleman yield to me for a question?

Mr. WYDLER. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Speaker, it has been reported, according to the Department of Health, Education, and Welfare, that the medicaid-medicare accounts of physicians in this country run $500 million a year.

Yet, I find that this bill would consolidate existing audit and investigative units of the Inspector General only in the Departments of Agriculture, Commerce, Housing and Urban Development, Labor and Transportation, the Community Services Administration, the Environmental Protection Agency, NASA, the Small Business Administration and the Veterans' Administration, but that that would not apply to HEW.

Why is that?

Mr. WYDLER. The reason is very important. If the gentleman remembers, we have already established an Inspector General in the Department of Health, Education, and Welfare. That has already been done. We did that first. It has been operated very successfully in HEW; and of course, is the model which shows why we need it in the other agencies of the Federal Government.

Mr. RONCALIO. Mr. Speaker, I am happy to know that, and I thank the gentleman.

Mr. FOUNTAIN. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BROOKS), the distinguished chairman of the full Committee on Government Operations.

Mr. BROOKS. Mr. Speaker, I thank my distinguished friend for yielding.

Mr. Speaker, this bill will provide appreciable benefits to the American people by improving the administration of Federal programs and reducing losses of taxpayers' money due to waste, inefficiency, and fraud.

We had a good example just the other week of the important role an Office of Inspector General can play in an executive department when the annual report of the Inspector General of the Department of Health, Education, and Welfare was released. It found that $7 billion a year is being lost or wasted at HEW through mismanagement and fraud. That report is bound to have quite an impact on the people who run those programs. They are going to have to make sure they do not show up in next year's report.

With H.R. 8588, we will establish similar offices in six other executive departments and six Federal agencies. These offices will not have any program responsibilities. They will be set up solely to conduct and supervise audits and investigations of programs. And the Inspector General, who will be appointed by the President, will not be under the control or supervision of anyone but the head of the agency.

After the Committee on Government Operations reported this bill last year, the administration raised some objections to it. They did not like certain parts of the reporting provision, which they felt raised a "separation of powers" problem. We agreed to sit down and try to work it out with them. We have done that. After many discussions and meetings we agreed on new language for the reporting section. Now the reports from the Inspector General will go to the head of the agency; but they must be transmitted to Congress by the head of the agency within 30 days without any change, but including any comments the agency head wants to make.

The administration is satisfied with this language. The President supports the bill. The Committee on Government Operations reported the original bill unanimously. The amendments have been approved by the ranking members on both sides and have been circulated among all the other members and we have heard of no objection.

This is a good bill, Mr. Speaker. It will strengthen the administration of our Federal programs and improve their integrity. It should be overwhelmingly approved by the House.

Mr. FOUNTAIN. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I rise in support of H.R. 8588 which establishes Offices of Inspectors General within 11 executive departments and agencies. The need to establish such offices having overall responsibility for detecting fraud and program abuse within these various agencies and departments has been clearly documented. The American people are sick and tired of seeing their hard-earned tax dollars go down ratholes in waste and abuse of programs or line the pockets of thieves who defraud and steal from the Government.

My Government Operations Subcommittee on Intergovernmental Relations conducted extensive hearings both in this Congress and the last Congress. As a result of the hearings in the 94th Congress, an Office of Inspector General was established within the Department of HEW. Although only in operation for a year or so, the HEW Office of Inspector General has begun to prove itself to be effective in fighting fraud and abuse, and promoting Government efficiency and economy. A similar Office of Inspector General was set up in the Department of Energy created last year.

During the course of the subcommittee hearings, I repeatedly asked representatives of the various agencies whether the problem of fraud ran into billions of dollars. While acknowledging that fraud was a serious problem, no one was quite willing to admit the loss of billions of taxpayer dollars and preferred to say probably in the millions. However, the facts belie the situation. A recent report by the HEW Inspector General estimates that at least $6.3 billion to $7.4 billion was lost through fraud, abuse, and waste last year in that agency alone. GAO estimates that fraud in Federal economic assistance programs could amount from $12 billion to $15 billion a year and perhaps as much as $25 billion a year. I think those figures are still too low.

Present auditing and investigative capacity within the departments and agencies is woefully inadequate. The Department of Labor has only six trained criminal investigators to look into irregularities in expenditures of approximately $25 billion annually. The Department of Transportation assigned only four inspectors to detect fraud in the $6 billion Federal highway program last year. The Veterans' Administration had only one auditor for every $238 million in its budget. Moreover, the Justice Department which would prosecute cases of alleged fraud has only 13 attorneys and 3 supervisors within the fraud section of the civil division to handle about 1,200 active cases and a backlog of 4,000 referrals.

In addition, serious deficiencies are evident in auditing and investigative procedures used by the departments and agencies. Most of the investigators within the departments and agencies respond to complaints, as opposed to having affirmative programs to look for possible fraud and abuse. In some agencies, investigators may not initiate investigations without clearance from the administrators of the programs involved. Obviously, administrators have an allegiance to their programs and are not inclined to pursue efforts that may reveal fraud and reflect badly upon their pro-

grams. Who wants to be identified with a program that is full of cheaters?

Mr. Speaker, I would like to bring to your attention a series of articles which have appeared in the New York Times the past 3 days concerning fraud and abuse in Federal programs. These articles point out that Government defenses against fraud and abuse are meager. It appears to be easy to steal from the Government. This was again brought home to me when it was recently discovered that a DOT employee stole $856,000 in construction funds from the Atlanta rapid transit system. How was this done? The employee merely put his name on the checks and cashed them. Moreover, I understand that it was a fluke that this employee was even caught since an audit of the program from which the money was taken was not scheduled until 8 years later.

The bill we are considering today, H.R. 8588, will not rectify all problems. of fraud and abuse within or against Government agencies, but it will be a significant step in the right direction. The Inspectors General to be appointed by the President with the advice and consent of the Senate will first of all be independent and have no program responsibility to divide allegiances. The Inspectors General will be responsible for audits and investigations only. They will report directly to the agency head and to Congress to alert them to particularly serious or flagrant problems, abuses or deficiencies. Their offices will also coordinate and recommend policies to promote economy and efficiency in the administration of programs and operations.

Moreover, the Offices of Inspector General would not be a new "layer of bureaucracy" to plague the public. They would deal exclusively with the internal operations of the departments and agencies. Their public contact would only be for the beneficial and needed purpose of receiving complaints about problems with agency administration and in the investigation of fraud and abuse by those persons who are misusing or stealing taxpayer dollars. As one who is committed to limiting the size of the bureaucracy and making it work better, the establishment of Offices of Inspector Generals can accomplish this by streamlining and coordinating various investigative units within the departments and agencies and consequently achieving better results.

I urge you to join with me in supporting H.R. 8588. This bill will not create more government, but actually cut back on it and make certain that taxpayers get a dollar's value for a dollar spent. It will save money and will also assure that the funds which are spent end up where they are supposed to go.

Mr. BAUMAN. Mr. Speaker, will the gentleman from North Carolina yield for a question?

Mr. FOUNTAIN. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, in the course of consideration of the committee before reporting of this bill, did the committee hold any hearings that touched upon the abolition of the Office of Inspector General for the foreign aid program in the State Department?

I ask this question since a distinguished constituent of mine, Mr. John Shaw, served in that capacity until recently and was the last Inspector General of Foreign Aid. It is my impression, from discussions I have had with him and reports that he filed in that capacity, that if any program in the Government or any department needs an Inspector General, it is the foreign aid program and the State Department. Last year Congress abolished that position in a little noticed provision in the foreign aid authorization. Now we are legislating to extend the principle to other departments.

Mr. FOUNTAIN. I would like to respond to the gentleman by saying that the fact that the foreign aid program was not included in this legislation by no means should be construed to indicate that the subcommittee reached any conclusion that there should not be an Inspector General for Foreign aid.

We did not include an Inspector General for the State Department and for foreign aid in the bill because we felt these international operations involved some significant differences from the activities of the 12 domestic agencies included in the bill. This was also true of the Department of Defense, which has military rather than civilian operations, and also one or two other agencies.

We felt that the time available for hearings would not permit us to do a thorough job on any more than the 12 departments and agencies covered by the bill. This certainly does not preclude or prejudice our looking at other agencies in the future.

I can assure the gentleman that I would be glad to take a look at the operations of the State Department.

Mr. BAUMAN. I appreciate that assurance from the gentleman from North Carolina. Based on the critical reports that I read which were filed by Mr. Shaw during his service as Inspector General of the foreign aid program, apparently he was too effective and he stirred up much concern on the part of the higher-ups in the department. The net result was that the Office of Inspector General was abolished by this Congress, written into the foreign aid conference report last year.

This may be something that the gentleman's committee should watch very closely, the fact that if these ladies and gentlemen become too effective, they get bounced out of office.

Mr. FOUNTAIN. The gentleman makes an excellent point. As a matter of fact, the Department of Agriculture at one time, as a result of an investigation by our subcommittee of the operations of Billie Sol Estes administratively established an Inspector General. Secretary Butz abolished it. Also, there are some other agencies that have them. That is why we wanted to make it statutory so that Offices of Inspector General could not be abolished administratively.

Mr. BAUMAN. I thank the gentleman.

● Mr. FUQUA. Mr. Speaker, I am very pleased that the House of Representatives is today considering this important legislation which was reported out unanimously by the Committee on Government Operations.

I was proud to cosponsor the legislation, now public law, which created the post of Inspector General within the Department of Health, Education, and Welfare and supported the inclusion of an Inspector General in the legislation creating the Department of Energy.

The Inspector General at HEW has recently issued his first annual report and I believe this report clearly demonstrates the valuable contribution this position can make in our efforts to curb bureaucratic fraud, abuse, and inefficiency.

The Inspector General at HEW discovered that nearly 5 percent of that Department's budget is, in one form or another, mishandled and never goes to assist any of the people we are all dedicated to helping. It is shocking to learn that we are throwing away $7 billion but it would be even worse to go on without knowing what money is being wasted and where.

Congress continues to have a critical role to play in agency oversight investigations but the Federal Government has grown far too large for Congress to effectively police it without the benefit of an on-the-spot watchdog such as an Inspector General.

The Inspector General will be in a unique position to advise Congress as to areas which merit prompt attention and we will be much more successful in reducing, and hopefully eliminating, program fraud and abuse.

Let us face the simple fact that we cannot begin to take necessary legislative actions to curb abuses if we do not have a frame of reference as would be provided by the Inspector General.

Let no one think, however, that the Inspector General within these agencies will be a "tool" of Congress or a "spy." He or she, as a Presidential appointee, will be able to assist their agency heads and the President in determining what intra-agency actions can and should be taken to immediately correct problems. The President can direct improvements in many respects by Executive order but, like Congress, he needs up-to-date information and data.

The Inspector General will also be able to assist in determining what matters should be referred to the Justice Department for possible criminal action.

The costs of this legislation are modest . . . extremely modest when one considers the potential for savings to the taxpayer.

I am extremely enthusiastic about H.R. 8588 and I call upon my colleagues to join me in demonstrating to the American public that we in Congress are quite serious when we say we intend to do something about controlling the costs of the Federal Government and improving Government's efficiency. I wholeheartedly endorse this bill and urge its acceptance.●

● Mr. BEDELL. Mr. Speaker, I rise in support of H.R. 8588, and ask permission to revise and extend my remarks.

H.R. 8588 would establish Offices of Inspector General in the Departments of Agriculture, Commerce, HUD, Interior, Labor, and Transportation, and in the Community Services Administration, the EPA, GSA, NASA, SBA, and the Veterans' Administration, by consolidating existing audit and investigative units in each department and agency. These offices would conduct and supervise audits and investigations of their respective establishments and recommend policies to promote economy and efficiency and to prevent fraud and abuse, under the direction of Inspectors General who have been appointed by the President and confirmed by the Senate. The Department of Health, Education, and Welfare and the Department of Energy already have statutory Inspectors General.

I believe that H.R. 8588 is a much-needed piece of legislation. The 12 departments and agencies covered by the bill are responsible for the annual expenditure of almost $100 billion. They have in their employ over 600,000 individuals, here in Washington and throughout the country.

Through congressional hearings, media news stories and piecemeal official investigations, we have been made aware that so much money and too little accountability have provided irresistible temptations for thousands of individuals of various socioeconomic backgrounds to systematically cheat the Federal Government and the American taxpayer. It has been estimated by the General Accounting Office, the investigative arm of Congress, that outright fraud, occurring primarily in Federal economic assistance programs, could amount to between $12- to $15-billion per year through "white collar" crime.

Up until now, we have allowed ourselves to slip into a pattern of institutional negligence which has enabled the Federal Government to become too easily cheated on a massive scale. An all too frequent example of insufficient investigative efforts is the $6 billion Federal highway aid program to which the Department of Transportation last year assigned only four inspectors to root out fraud and abuse.

The resources devoted to auditing as a means of uncovering illegalities have been consistently inadequate to the task. According to the House Committee on Government Operations, in its report on the deficiencies in resources devoted to auditing and investigations:

> Internal audit cycles (the length of time it takes for all activities to be audited) are incredibly long. General Services Administration representatives testified that it would take as long as 20 years to audit all activities with that agency's present resources. Other lengthy audit cycles reported were 13 years for the Department of Commerce, 9 or 10 years for Interior, and 10 years for the Department of Transportation. The Small Business Administration and the Veterans Administration estimated their audit cycles as 12 to 14 and 10 to 12 years respectively.
>
> Witnesses for the Department of the Interior and the Department of Transportation acknowledged that their departments have never audited some activities.

Unfortunately, these audit cycles extend far beyond the applicable statutes of limitations, and most of these crimes, if they are indeed ever discovered, can thus not be prosecuted.

The House Government Operations Committee found many further cases of investigative resource deficiencies: The Veterans Administration's assignment of only one auditor for every $238 million in authorized program spending, and the Labor Department's budgeting of only three one-hundredths of 1 percent for investigations and audits out of almost $25 billion in annual expenditures, to list only two.

This shortage of personnel and money invested in the search for abuses is doubly unfortunate since many agencies have stated that additional auditors and investigators would more than repay their costs through savings and recovery of funds. With the auditors they do have on their payroll, the Veterans' Administration, for example, has saved or recovered more than $14 million at a cost of less than $3 million. The General Services Administration estimates its ratio of savings to cost at 20 to 1. The National Aeronautics and Space Administration estimates a ratio of savings to cost at 3 or 4 to 1.

Unfortunately, because of inadequate auditing and investigative efforts, the prevailing practice within most departments and agencies has been to passively wait for complaints to rise through the layers of bureaucratic hierarchy to a level where they may or may not be dealt with. Often, because of indifference, a lack of resources or a fear of rocking the boat and doing harm to the status of one's own program, little, if any remedy to the problem is found.

Occasionally, if a problem of fraud or abuse is widespread enough, it is discovered not within the Federal department or agency involved, but rather in the media. This was the case with the medicaid program, where abuses are now believed to have resulted in the misspending of 24 percent of medicaid funds. Criminal prosecutions are now expected in cases involving at least 290 doctors and 245 pharmacists.

There are many other recent examples of similar cases, most of them complex and involving large sums of money. In one, the Government is trying to recover $24 million from Cook Industries which, through short weighting, misgrading, or adulteration of grain shipments, defrauded the Government on grain sales to 32 foreign countries. While Cook Industries gained $24 million from the Government through fraud, it was the American farmer, already enduring the effects of a reduced return for his crops in the marketplace, as well as the hungry citizens of our Third World customers who were the real victims of this white-collar crime.

Mr. Speaker, beyond the enormous monetary costs of these thefts, there are also extremely significant social costs. Such crime does great harm to the programs established and implemented on the authority of the Congress to meet real and pressing national needs. When the integrity and effectiveness of these programs are damaged, those truly in need as well as those who must rely on the honesty and integrity of their Federal Government become the true victims. To my mind it has been demonstrated that there is solid ground for the growing apprehension among our people that waste has been allowed to run rampant and that a few, if they are dishonest and clever enough, have clear opportunities to steal from the Federal Government and the American people. I believe that if we are going to restore integrity in Government and at the same time stem the draining of billions of dollars in tax revenues away from their intended uses, we should implement and fully support offices of Inspectors General in the various Federal departments and agencies.●

Mr. FOUNTAIN. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. FOUNTAIN) that the House suspend the rules and pass the bill H.R. 8588, as amended.

The question was taken.

Mr. LEVITAS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## HUMPHREY INSTITUTE AND DIRKSEN CENTER ACT

Mr. FORD of Michigan. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2452) to authorize funds for the Hubert H. Humphrey Institute of Public Affairs and for the Everett McKinley Dirksen Congressional Leadership Research Center, as amended.

The Clerk read as follows:

S. 2452

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Hubert H. Humphrey Institute of Public Affairs and the Everett McKinley Dirksen Congressional Leadership Research Center Assistance Act".

SEC. 2. (a) In recognition of the public service of Senator Hubert H. Humphrey, the Commissioner of Education (hereafter in this Act referred to as the "Commissioner") is authorized to make grants in accordance with the provisions of this Act to assist in the development of the Hubert H. Humphrey Institute of Public Affairs, located at the University of Minnesota, Minneapolis-Saint Paul.

(b) In recognition of the public service of Senator Everett McKinley Dirksen, the Commissioner is authorized to make grants in accordance with the provisions of this Act to assist in the development of the Everett McKinley Dirksen Congressional Leadership Research Center, located in Pekin, Illinois.

SEC. 3. No payment may be made under this Act except upon an application at such time, in such manner, and containing or accom-

panied by such information as the Commissioner may require.

SEC. 4. (a) There are authorized to be appropriated such sums, not to exceed $5,000,000, as may be necessary to carry out the provisions of section 2(a) of this Act.

(b) There are authorized to be appropriated such sums, not to exceed $2,500,000, as may be necessary to carry out the provisions of section 2(b) of this Act.

(c) Funds appropriated pursuant to this Act shall remain available until expended.

(d) This Act shall take effect October 1, 1978.

The SPEAKER pro tempore. Is a second demanded?

Mr. BAUMAN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan (Mr. FORD) will be recognized for 20 minutes, and the gentleman from Maryland (Mr. BAUMAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2452 is the Senate-passed version of legislation which has earlier passed the House to authorize a one-time appropriation of $5 million for the Hubert H. Humphrey Institute of Public Affairs at the University of Minnesota. In honor of our late Vice President, this institute was founded last year "to perpetuate the innovative, creative, and humane approach to public service exemplified by the career of Senator Hubert H. Humphrey—a center for the education, stimulation, and recruitment of bright young men and women for positions in public and community service."

The Humphrey memorial bill was introduced on January 30 and was cosponsored by my distinguished colleague, the ranking minority member of the Education and Labor Committee (Mr. QUIE). It was reported unanimously from committee on February 8. It is a truly bipartisan proposal with close to 50 House sponsors.

The Senate passed it with an amendment on March 22 by a voice vote. The House version was adopted under suspension on February 21 by a vote of 356 to 53.

This gift from a grateful nation will provide a portion of the funds necessary to support the institute which Senator Humphrey asked to be his memorial. Through the institute, this living memorial will provide substantial scholarships to attract and train creative young people for leadership positions in public service and will offer programs of continuing education to professionals in the private and public sectors and to the general public.

The institute, Mr. Speaker, will create professorial chairs in public affairs and planning, graduate fellowships, public service internships, and lectureships. It will provide a curator and reference service for the Humphrey archives and will provide for a continuous updating and expansion of the Humphrey library collection.

The fund will make grants to faculty and advanced students for research projects in public policy and planning and support the development of applied research projects for local officials and political units. Finally, the institute will help support the university's weekly forum on public affairs.

In recognition of the international stature of Senator Humphrey and his role as a great statesman, other nations are planning to make significant contributions to the institute with the belief that there will be created at the University of Minnesota a center of great value to the international community.

Certainly, it is fitting for his colleagues to adopt this legislation joining other governments of the world in honoring the memory of this great American by contributing to the establishment of an institute to perpetuate the dedication to our democratic system demonstrated by former Vice President Humphrey during his entire public career which stretched over four decades.

The amendment added in the Senate authorizes $2,500,000 to assist in the development of the Everett McKinley Dirksen Congressional Leadership Research Center in Pekin, Ill. According to the board of directors, the goal of this center is "to serve as an educational institution * * * for the art and science of American politics and American government, in particular the role of the United States Congressional Leadership."

Mr. Speaker, there are certainly ample precedents for legislation of this sort. In memory of the late Senator Allen J. Ellender, Congress provided funds for grants in the form of fellowships to support the Close-Up program. Legislatioin was enacted to support the Wayne Morse Chair of Public Affairs at the University of Oregon in honor of the late Senator. To house the late Speaker's papers, Congress provided up to $1 million in aid to the Sam Rayburn Library in Texas. Our late Presidents are also honored in similar fashion.

Mr. Speaker, I hope we can demonstrate our gratitude to Hubert Humphrey by giving this legislation unanimous approval today.

Mr. PERKINS. Mr. Speaker, will the distinguished gentleman from Michigan yield?

Mr. FORD of Michigan. I yield to the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, I rise in support of S. 2452, a bill authorizing $5,000,000 for the Hubert H. Humphrey Institute of Public Affairs at the University of Minnesota; and $2,500,000 to assist the Everett McKinley Dirksen Congressional Leadership Center in Pekin, Ill.

S. 2452 passed the Senate on March 22, 1978, with strong bipartisan support. Earlier this year, Mr. Speaker, on February 21, by a vote of 356 to 53, the House passed H.R. 10606 providing $5,000,000 for the Humphrey Institute.

The House bill, which enjoyed such wide support, paid tribute to the late Senator from Minnesota in what I consider a most appropriate way.

I want at this point to compliment Mr. WILLIAM D. FORD, chairman of our Subcommittee on Postsecondary Education, for his efforts in guiding this legislation through the House. I would also like to commend Mr. QUIE, the ranking minority Member, and members of the committee on both sides of the aisle for their bipartisan support of this worthwhile legislation.

Mr. Speaker, the Senate provision honoring the late Senator from Illinois, is a most appropriate one—since it is concerned with the subject of congressional leadership. The Senate provision will add $2,500,000 to an endowment established by Senator Dirksen's estate for the Center for Congressional Leadership.

I am sure the provision added by the Senate is quite acceptable to my colleagues on this side, because of the man whose memory is honored in this way.

I want to assure my colleagues that these types of memorials are not without precedent—for the Congress has seen fit to enact memorials such as the Allen J. Ellender Fellowships; the Herbert Hoover Memorial; the Harry S. Truman Memorial Scholarship Act; and the Wayne Morse Chair of Law Politics.

Because both provisions in S. 2452—the Humphrey Institute and the Dirksen Research Center—will aid research and study leading to greater excellence in our public leaders, I believe every Member of this body can vote in favor of the bill.

I therefor urge unanimous approval of S. 2452.

Mr. FORD of Michigan. Mr. Speaker, I thank the gentleman from Kentucky (Mr. PERKINS) for his contribution today and for his total cooperation in making possible the early consideration of this legislation. We were faced, frankly, with a situation where people outside of the country were showing a response faster than we were. Had it not been for the gentleman from Kentucky (Mr. PERKINS) insisting on rapidly moving this calendar before his committee, we would not be here today.

Mr. BAUMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Speaker, I join with the gentleman from Michigan (Mr. FORD) in support of the motion to take from the Speaker's desk S. 2452 and agree to the same with an amendment. As one of the original authors of the Hubert H. Humphrey Institute of Public Affairs at the University of Minnesota Twin Cities Campus bill, I am very pleased at the swift action of the Congress in dealing with this legislation. I support the action of the other body in adding an authorization for the Everett McKinley Dirksen Congressional Leadership Research Center in Pekin, Ill.

I am hopeful that the Subcommittee on Labor-HEW of the House Appropriations Committee will act in its mark-up session early next month to include the $5 million authorized in this legislation for the Humphrey Institute.

As I have often said before, Hubert Humphrey was a remarkable individual. His contributions to the Nation and his native State of Minnesota are legion and known to us all. There can be no more fitting memorial for him than the furtherance of an institute directed at public service in the preparation of professionals to enter into that field. The location of the institute at the University of Minnesota is an ideal choice and will make the programs of the Institute available to a wide variety of people from around the Nation and the world. The $20 million fundraising drive, of which the Federal share will be only one-quarter, will accomplish the following, according to information supplied by the university:

HOUSING FOR THE INSTITUTE

A central campus location has been selected as the site for a new building to house the institute. This facility will provide adequate space to accommodate the institute's programing objectives. It also will provide display and public reception areas.

PROFESSIONAL CHAIRS

The endowment will provide for the creation of at least three chairs in public affairs and planning, designed to bring a broad spectrum of knowledge to the institute. A major effort will be made to attract persons of national and international stature, recognized for their thinking, writing and activities on the large questions of public concern.

TEN GRADUATE FELLOWSHIPS

The topnotch students will be attracted to the institute by the most prestigious fellowships.

FIVE PUBLIC SERVICE INTERNSHIPS

As part of the institute's degree programs, all students must complete an internship to augment their academic training with job experience in public affairs work. Normally, interns are paid for their services. A portion of the endowment will be used to support interns who work for those public agencies and quasi-public and private nonprofit organizations that cannot afford to provide remuneration.

LECTURESHIPS

In the past, the public affairs school annually has appointed more than a dozen planners, governmental officials, and professionals in private practice to offer courses and workshops in their specialties. These programs are offered both for degree-seeking and continuing education students. To expand this outreach program of continuing education and professional training, the need for three additional lectureships has been identified for the institute.

HUMPHREY ARCHIVES

An extensive collection of Senator Humphrey's papers will be cataloged and maintained by the Minnesota Historical Society. The institute will provide a curator and reference service for the documents.

HUMPHREY LIBRARY COLLECTION

To serve the expanded programs of the institute, the endowment will provide for a continuous updating and expansion of the public affairs library collections.

DISPLAY AREA

While the bulk of the Humphrey papers will be housed at the Minnesota Historical Society, a selection of the papers and Humphrey memorabilia will be displayed at the institute. Situated nearby will be a public reception area.

PROBLEM SOLVING THROUGH RESEARCH

A fund will be established to make grants to faculty and advanced students needing support for research projects in public policy and planning. The fund also will support the development of applied research projects for local officials and political units.

PUBLIC AFFAIRS FORUM

Currently, the university produces and sponsors a weekly forum on public television which provides an indepth analysis of major public issues by key policymakers. Moneys from the institute endowment will help support the continuation of this forum and expansion of its programing.

As I noted when the House considered this legislation in February, there is ample precedent for this legislation. I urge my colleagues to join with me in supporting the motion of the gentleman from Michigan.

Mr. BAUMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I thank the gentleman from Maryland for yielding.

I want to take the opportunity here first to thank my friend, the chairman of the subcommittee, the gentleman from Michigan (Mr. FORD), and the ranking minority of the subcommittee, the gentleman from Minnesota (Mr. QUIE), for their kindness in accepting the language which was added by the Senate which for all practical purposes took on the text of the bill, H.R. 11000, which I had introduced here in the House. Unfortunately, there was not enough time for a hearing on my proposal so that it could have been included at the time we in the House originally considered this bill in honor of Hubert H. Humphrey.

Mr. Speaker, I think it is very appropriate, now that we have the two tied together. Both Senator Humphrey and Senator Dirksen were towering figures in the other body. They were leaders in the finest sense of the word. Both were regarded as official spokesman for their parties and every President from Roosevelt on relied heavily on their advice. Both were eloquent and noted for their ability to speak at length. They were at their best in debate. Both were witty and never at a loss for an appropriate anecdote.

Someone asked me why if we were honoring both men we should have only half of the money in the measure for Dirksen that we do for Hubert H. Humphrey. My answer to that question quite frankly is that if both men were supporting essentially the same program Ev Dirksen's solution would have cost the taxpayers half of Hubert Humphrey's solution.

It is unfortunate that we could not have the two men here to debate the merits or demerits of these different figures. They would have us in stitches, I am sure.

As I said, Mr. Speaker, I am very happy that the subcommittee has seen fit to marry the two proposals together.

Everett McKinley Dirksen was elected eight times to represent the people of the district I now have the honor of representing. He was elected U.S. Senator four times. He always remained a man who never forgot the basic principles of the people he represented.

That is why this grant of $2.5 million to the Dirksen Congressional Leadership Research Center in Pekin, Ill. is such a fitting tribute to his memory.

The Dirksen Center will honor the memory of the Senator in a way he himself would heartily approve. As Dirksen himself envisioned this center, it will be a place where students of government, political science and of history, from here and abroad, will come to inquire, to learn, to understand, and, hopefully, to be inspired.

The institute will be a place full of life and energy and the spirit of youth and idealism, a spirit Dirksen never lost throughout his life. Perhaps most important, it will be devoted to the study of politics and congressional leadership in particular, two subjects about which there can be no doubt concerning his expertness.

The center got its seed money from the estate of the late Senator, when he died in 1969 and an endowment was established to perpetuate the center located in Pekin, Ill. Approximately $1.5 million has been raised through private fundraising to date.

The long-range goals of the center are:

To serve as an educational institution . . . for the arts and sciences of American politics and American government, in particular the role of the United States Congressional leadership.

Current activities and planning for the Dirksen Center include:

Educational programs for all levels, from secondary to post-gradaute, including the American public at large;

Timely seminars throughout the United States on current public policy issues;

Publications and other projects to encourage a better understanding of the Congress; and

Expansion of research materials available at the center for the study of Congress and congressional leadership.

If Everett Dirksen were here, I am certain he could conclude these remarks with some typically wry and witty story and that he would leave us all a bit happier and a bit more informed than we were before he spoke.

He was unique and irreplaceable. So I just want to express my thanks, the thanks of the people of the 18th Congressional District of Illinois and the people of the State of Illinois. Although the center is located in the land and

among the people he loved and knew best, Ev Dirksen would, I am sure, want everyone to know that the center will serve all Americans who want to know more about the way we govern ourselves.

Mr. BAUMAN. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I assume that in the flood of Federal spending that this is considered only a small droplet containing, as it does, about $7½ million. However, Mr. Speaker, I objected to the consideration of this bill originally because I do not feel it is an appropriate form of remembrance for any national figure. I know that some former Presidents have had Federal funding used to finance their libraries. But the honor bestowed upon them is now being extended to Vice Presidents and Senators and on and on. As I say, I do not feel it is the proper way in which to honor these men. I believe that their public careers should be their own monuments rather than to ask the public to pick up the cost of these projects out of tax dollars. I believe that this does a disservice to the taxpayers. Especially in view of the fact that when the legislation was originally before us it was only for the former Vice President Hubert H. Humphrey. Now it comes back from the other body adding $2½ million for the Everett McKinley Dirksen Congressional Leadership Research Center in Pekin, Ill., a classic example of political back scratching. I suppose another grant such as this does not greatly affect the Congress of the United States, except for its significance as a measure of your seriousness in fighting inflation.

We were told that this was to be the monument to Senator Humphrey, a grant to the University of Minnesota. Now I notice that the Committee on House Administration has reported out the Hubert H. Humphrey Fellowship in Social and Political Affairs that we will be asked to vote on for another $1 million for spending. Where is this going going to end? The possibilities are almost endless in which the taxpayers will be asked to fund projects for every deceased statesman. I think it is inappropriate. For that reason I oppose the legislation.

Mr. FORD of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I can appreciate the concern expressed by the gentleman from Maryland. I regret that the gentleman seems to miss the point of this action being taken by the House and the action that was taken by the other body. All we are talking about here is the authorization of an expenditure of moneys to educate young Americans and to do that under circumstances that will honor the people who for many years respected the need for the Federal Government to support education and the need for the broadening of our cultural attainments in this country by the use of Federal resources.

This is not a new procedure from the precedents which the Members can find if they will look in the report of our committee, or if Members review the list which I will insert at this point in the RECORD.

Precedents: The Congress has authorized appropriations for memorials to several outstanding public servants—including Presidents, Senators and Members of the House of Representatives.

Allen J. Ellender Fellowship Program (1972): Fellowships to disadvantaged secondary school students and their teachers to participate in a Washington public affairs program (Close-Up Foundation). Now $1 million per year.

Grants to Eisenhower College and Rayburn Library (1974): $10 million authorized.

Authorizes the Secretary of the Treasury to give one-tenth of all moneys derived from the sale of $1 proof coins (Eisenhower Silver Dollars) to the Eisenhower College (provided that the Eisenhower College transfers one-tenth of all the money received pursuant to this Act to the Rayburn Library in Texas).

Herbert Hoover Memorial (1975): ($7 million.)

To establish an appropriate memorial to the late President . . . grants to the Hoover Institution on War, Revolution and Peace at Stanford University.

Harry S. Truman Memorial Scholarship Act (1975): $30 million to a scholarship fund for "persons who demonstrate outstanding potential for and who plan to pursue a career in public service."

Wayne Morse Chair of Law and Politics (1976): $500,000 to pay up to 50 percent of the cost of establishing the chair at the University of Oregon.

For instance, the Allen J. Ellender fellowship program, which includes the Close-Up Foundation program that many of the people here on the floor have participated in. Others are grants to the Eisenhower College and to the Rayburn Library; the Herbert Hoover Memorial, some $7 million; the Harry S. Truman Memorial Scholarship Act, which is a $30 million program; the Wayne Morse Chair of Law and Politics; and the L. B. J. intern program. None of these programs are for the purpose of building a monument or buying a piece of stone. They are for perpetuating a continuing process of providing access to education in fine institutions of this country for this and future generations of Americans.

Mr. Speaker, I now yield to the senior gentleman from Minnesota (Mr. FRASER) such time as he may consume.

Mr. FRASER. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the bill to authorize funds for the Hubert H. Humphrey Institute of Public Affairs. This institute will be a magnificent monument to the work of Hubert Humphrey. During the last months of his life he spoke of the institute as one of his dreams. This new effort was important to him because it would help prepare young people for a career of public service. For him there was no more important calling, and he knew that the institute would, in a small but significant way, help our democratic society function more effectively.

I can think of no better way to perpetuate Hubert Humphrey's commitment to social, political, and economic justice than to provide a strong and permanent foundation for this important new educational institution that will bear his name.

Mr. FORD of Michigan. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. NOLAN).

Mr. NOLAN. Mr. Speaker, I first want to commend our colleague, the gentleman from Michigan (Mr. FORD) for his leadership in bringing forth this legislation to the House.

Mr. Speaker, I rise in support of the bill. Hubert Humphrey never sought the kind of memorial that could only be visited and photographed. He never sought the kind of memorial that gains its dignity and its beauty from quiet. On the contrary, Hubert wanted a noisy memorial full of people, full of books, full of debate, full of history, and full, also, of the promise of this country and the promise of our people.

He sought, in short, a memorial that epitomized the kind of individual that he himself was: devoted to education, devoted to solutions, and devoted to young people with his commitment to a workable, compassionate, problem-solving, people-oriented government.

Before he was a politician and a statesman, Hubert was a teacher and an educator.

He never gave a speech without attaching a little lesson to it.

If there was something to learn, Hubert tried to learn it;

If there was something to teach, Hubert tried to teach it.

Almost every effort he made in public life was an effort to help someone or encourage someone to live up to full potential: to contribute, to seek solutions, to exchange ideas, and to see not only the kind of world we do live in, but to envision and build the kind of world we ought to live in.

The Humphrey Institute for Public Affairs and the Dirksen Leadership Research Center continue the efforts, the commitments, the vitality, and the promise of new Hubert Humphreys and Everett Dirksens, individuals with the ability not only to make history in America and throughout the world, but to foresee it.

Mr. Speaker, I urge my colleagues to pass this legislation overwhelmingly.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. NOLAN. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I thank the gentleman, and I commend the gentleman for his efforts and leadership.

It is truly fitting that we establish the Hubert H. Humphrey Institute of Public Affairs at the University of Minnesota. I say this not just because I represent Minnesota or because Hubert Humphrey was my colleague and friend.

The institute stands on its own merits. It is being established in tribute to the late Senator, but its reason for existence goes beyond that.

The institute was founded to "perpetuate the innovative, creative, and humane approach to public service exemplified by the career of Senator Hubert Humphrey, and to be a center for the education, stimulation, and recruitment of bright young men and women for

positions in public and community service."

The institute will be unique. It is for students who want to be administrators and legislators. And it is structured to meet the needs of our changing times and changing policies.

The lessons that Hubert Humphrey taught us during his four decades of leadership and public service—lessons of decency, integrity, courage, and compassion—will help form the basic philosophy underlying the institute's curricula and programs. Hubert Humphrey's record, his style, his optimistic approach to the gigantic problems of this world, will provide the backdrop against which these bright young men and women who attend the institute will learn and grow.

We need the Hubert Humphrey Institute of Public Affairs because we need to continue the tradition and contributions that marked the late Senator's life. The good that will come from this institute benefits not just us, but nations throughout the world. I am proud to speak in behalf of the institute and I hope you will join me in supporting this country's gift to it.

Mr. FORD of Michigan. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. FORD) that the House suspend the rules and pass the Senate bill (S. 2452), as amended.

The question was taken.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

## GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks with respect to the Senate bill (S. 2452).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 8588 and S. 2452, on which the yeas and nays were ordered.

The Chair will reduce to 5 minutes the time for any electronic votes after the first vote in this series.

## ESTABLISHING OFFICES OF INSPECTOR GENERAL

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 8588, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. FOUNTAIN) that the House suspend the rules and pass the bill H.R. 8588, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 388, nays 6, not voting 40, as follows:

[Roll No. 229]

YEAS—388

Abdnor
Addabbo
Akaka
Allen
Ambro
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Carter
Cederberg
Chappell
Chisholm
Clawson, Del
Clay
Cleveland
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Cornell
Cornwell
Cotter
Coughlin
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Emery
English
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Frey
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Goodling
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kelly
Ketchum
Keys
Kildee
Kindness
Krebs
LaFalce
Lagomarsino
Latta
Le Fante
Leach
Lederer
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Motti
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
Oakar
Oberstar
Obey
O'Brien
Ottinger
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quie
Quillen
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Roncalio
Rooney
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Russo
Ryan
Santini
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shipley
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Symms
Taylor
Thompson
Traxler
Treen
Trible
Tsongas
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Waggonner
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitten
Wiggins
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—6

Early
Gore
Jeffords
Kostmayer
McKay
Panetta

NOT VOTING—40

Alexander
Ammerman
Armstrong
Aspin
Bonker
Burke, Calif.
Cavanaugh
Clausen, Don H.
Cochran
Conyers
Corman
Crane
Dellums
Eilberg
Evans, Colo.
Gammage
Goldwater
Hefner
Howard
Hubbard
Jones, N.C.
Kazen
Kemp
Krueger
Leggett
Mollohan
Rahall
Rodino
Rose
Runnels
Ruppe
Teague
Thone
Thornton
Tucker
Vander Jagt
Walgren
Whitley
Wilson, C. H.
Young, Tex.

The Clerk announced the following pairs:

Mr. Howard with Mr. Armstrong.

Mrs. Burke of California with Mr. Vander Jagt.

Mr. Gammage with Mr. Ruppe.

Mr. Walgren with Mr. Goldwater.

Mr. Ammerman with Mr. Hefner.

Mr. Dellums with Mr. Evans of Colorado.

Mr. Krueger with Mr. Aspin.

Mr. Thornton with Mr. Bonker.

Mr. Rodino with Mr. Cavanaugh.

Mr. Rahall with Mr. Kemp.

Mr. Eilberg with Mr. Leggett.

Mr. Kazen with Mr. Don H. Clausen.

Mr. Teague with Mr. Corman.

Mr. Runnels with Mr. Hubbard.

Mr. Rose with Mr. Cochran of Mississippi.

Mr. Charles H. Wilson of California with Mr. Crane.

Mr. Jones of North Carolina with Mr. Mollohan.

Mr. Whitley with Mr. Conyers.
Mr. Alexander with Mr. Tucker.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes."

A motion to reconsider was laid on the table.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Pursuant to the provisions of clause 3(b)(3) of rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

## HUMPHREY INSTITUTE AND DIRKSEN CENTER ACT

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill S. 2452, as amended.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. FORD) that the House suspend the rules and pass the Senate bill, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 267, nays 127, not voting 40, as follows:

[Roll No. 230]

YEAS—267

| | | |
|---|---|---|
| Abdnor | Bonior | Coleman |
| Addabbo | Bowen | Collins, Ill. |
| Akaka | Brademas | Conte |
| Allen | Breckinridge | Corcoran |
| Ambro | Brodhead | Cornell |
| Anderson, Ill. | Brooks | Cornwell |
| Andrews, N.C. | Brown, Calif. | Cotter |
| Andrews, N. Dak. | Brown, Mich. | Coughlin |
| | Brown, Ohio | D'Amours |
| Annunzio | Broyhill | Danielson |
| Applegate | Buchanan | Davis |
| Ashley | Burgener | de la Garza |
| Baldus | Burke, Mass. | Delaney |
| Baucus | Burlison, Mo. | Dent |
| Beard, R.I. | Burton, John | Dicks |
| Bedell | Burton, Phillip | Diggs |
| Benjamin | Byron | Dodd |
| Bennett | Caputo | Downey |
| Biaggi | Carney | Drinan |
| Bingham | Carr | Duncan, Tenn. |
| Blanchard | Carter | Early |
| Blouin | Cederberg | Eckhardt |
| Boggs | Chisholm | Edgar |
| Boland | Clay | Edwards, Calif. |
| Bolling | Cohen | Emery |
| Evans, Del. | McFall | Richmond |
| Evans, Ind. | McHugh | Rinaldo |
| Fary | McKinney | Roberts |
| Fascell | Madigan | Roe |
| Fenwick | Mahon | Rogers |
| Findley | Markey | Roncalio |
| Fish | Marks | Rooney |
| Fithian | Marlenee | Rosenthal |
| Flood | Martin | Rostenkowski |
| Florio | Mazzoli | Roybal |
| Foley | Meeds | Ruppe |
| Ford, Mich. | Metcalfe | Ryan |
| Ford, Tenn. | Meyner | Santini |
| Forsythe | Michel | Sarasin |
| Fraser | Mikulski | Sawyer |
| Frenzel | Miller, Calif. | Schroeder |
| Fuqua | Mineta | Schulze |
| Gaydos | Minish | Sebelius |
| Gibbons | Mitchell, Md. | Seiberling |
| Gilman | Mitchell, N.Y. | Shipley |
| Goldwater | Moakley | Simon |
| Gore | Moffett | Sisk |
| Gradison | Moore | Skelton |
| Grassley | Moorhead, Pa. | Skubitz |
| Green | Moss | Slack |
| Gudger | Motti | Smith, Iowa |
| Hagedorn | Murphy, Ill. | Smith, Nebr. |
| Hammer-schmidt | Murphy, N.Y. | Solarz |
| | Murphy, Pa. | Spellman |
| Hanley | Murtha | St Germain |
| Hannaford | Myers, Gary | Staggers |
| Harkin | Myers, John | Stangeland |
| Harrington | Myers, Michael | Stanton |
| Harris | Natcher | Stark |
| Hawkins | Nedzi | Steed |
| Heckler | Nix | Steers |
| Hightower | Nolan | Steiger |
| Hillis | Nowak | Stockman |
| Holland | Oakar | Stokes |
| Hollenbeck | Oberstar | Stratton |
| Horton | Obey | Studds |
| Jeffords | Ottinger | Thompson |
| Johnson, Calif. | Panetta | Traxler |
| Johnson, Colo. | Patterson | Treen |
| Jones, Okla. | Pattison | Tsongas |
| Jones, Tenn. | Pease | Udall |
| Jordan | Pepper | Ullman |
| Kastenmeier | Perkins | Van Deerlin |
| Kemp | Pettis | Vanik |
| Kildee | Pickle | Vento |
| Kindness | Pike | Wampler |
| Krebs | Poage | Waxman |
| LaFalce | Pressler | Weaver |
| Lagomarsino | Preyer | Weiss |
| Le Fante | Price | Whalen |
| Leach | Pritchard | White |
| Lederer | Pursell | Whitehurst |
| Lehman | Quie | Wilson, Bob |
| Lloyd, Calif. | Quillen | Wolff |
| Long, La. | Rahall | Wright |
| Lundine | Railsback | Young, Alaska |
| McClory | Rangel | Young, Mo. |
| McCloskey | Regula | Zablocki |
| McCormack | Reuss | Zeferetti |
| McDade | Rhodes | |

NAYS—127

| | | |
|---|---|---|
| Anderson, Calif. | English | Kostmayer |
| | Erlenborn | Latta |
| Archer | Ertel | Lent |
| Ashbrook | Evans, Ga. | Levitas |
| AuCoin | Fisher | Livingston |
| Badham | Flippo | Lloyd, Tenn. |
| Bafalis | Flowers | Long, Md. |
| Barnard | Flynt | Lott |
| Bauman | Fountain | Lujan |
| Beard, Tenn. | Fowler | Luken |
| Bellenson | Frey | McDonald |
| Bevill | Gephardt | McEwen |
| Breaux | Giaimo | McKay |
| Brinkley | Ginn | Maguire |
| Broomfield | Glickman | Mann |
| Burke, Fla. | Goodling | Marriott |
| Burleson, Tex. | Guyer | Mathis |
| Butler | Hall | Mattox |
| Chappell | Hamilton | Mikva |
| Clawson, Del | Hansen | Milford |
| Cleveland | Harsha | Miller, Ohio |
| Collins, Tex. | Heftel | Montgomery |
| Conable | Holt | Moorhead, Calif. |
| Crane | Huckaby | |
| Cunningham | Hughes | Neal |
| Daniel, Dan | Hyde | Nichols |
| Daniel, R. W. | Ichord | O'Brien |
| Derrick | Ireland | Patten |
| Derwinski | Jacobs | Quayle |
| Devine | Jenkins | Risenhoover |
| Dickinson | Jenrette | Robinson |
| Dingell | Kasten | Rudd |
| Dornan | Kelly | Russo |
| Edwards, Ala. | Ketchum | Satterfield |
| Edwards, Okla. | Keys | Scheuer |
| Sharp | Trible | Wilson, Tex. |
| Shuster | Volkmer | Winn |
| Sikes | Waggonner | Wirth |
| Snyder | Walker | Wydler |
| Spence | Walsh | Wylie |
| Stump | Watkins | Yates |
| Symms | Whitten | Yatron |
| Taylor | Wiggins | Young, Fla. |

NOT VOTING—40

| | | |
|---|---|---|
| Alexander | Eilberg | Rodino |
| Ammerman | Evans, Colo. | Rose |
| Armstrong | Gammage | Rousselot |
| Aspin | Garcia | Runnels |
| Bonker | Gonzalez | Teague |
| Burke, Calif. | Hefner | Thone |
| Cavanaugh | Holtzman | Thornton |
| Clausen, Don H. | Howard | Tucker |
| | Hubbard | Vander Jagt |
| Cochran | Jones, N.C. | Walgren |
| Conyers | Kazen | Whitley |
| Corman | Krueger | Wilson, C. H. |
| Dellums | Leggett | Young, Tex. |
| Duncan, Oreg. | Mollohan | |

The Clerk announced the following pairs:

Mr. Rodino with Mr. Jones of North Carolina.
Mr. Howard with Mr. Whitley.
Mrs. Burke of California with Mr. Alexander.
Mr. Gammage with Mr. Thornton.
Mr. Dellums with Mr. Walgren.
Mr. Ammerman with Mr. Aspin.
Mr. Krueger with Mr. Mollohan.
Mr. Eilberg with Mr. Garcia.
Ms. Holtzman with Mr. Duncan of Oregon.
Mr. Teague with Mr. Conyers.
Mr. Runnels with Mr. Bonker.
Mr. Rose with Mr. Leggett.
Mr. Hubbard with Mr. Vander Jagt.
Mr. Corman with Mr. Tucker.
Mr. Gonzalez with Mr. Charles H. Wilson of California.
Mr. Hefner with Mr. Don H. Clausen.
Mr. Kazen with Mr. Cavanaugh.
Mr. Cochran of Mississippi with Mr. Armstrong.

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to authorize funds for the Hubert H. Humphrey Institute of Public Affairs and for the Everett McKinley Dirksen Congressional Leadership Research Center."

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. FOUNTAIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 8588, establishing Offices of the Inspector General.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

## PERMISSION FOR COMMITTEE ON RULES TO FILE PRIVILEGED REPORT

Mr. SISK. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file a privileged report.

The SPEAKER pro tempore. Is there

objection to the request of the gentleman from California?

There was no objection.

## ZUNI INDIANS COURT OF CLAIMS CASE

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 1126 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1126

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3787) to direct the Secretary of the Interior to purchase and hold certain lands in trust for the Zuni Indian Tribe of New Mexico; to confer jurisdiction on the Court of Claims with respect to land claims of such tribe; and to authorize such tribe to purchase and exchange lands in the States of New Mexico and Arizona. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 3787, the Committee on Interior and Insular Affairs shall be discharged from the further consideration of the bill S. 482, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 3787 as passed by the House.

The SPEAKER pro tempore. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT) pending which I yield myself such time as I may consume.

Mr. Speaker, this is a very simple 1-hour open rule dealing with a problem in New Mexico in connection with the Zuni Indians.

Mr. Speaker, I want to just take this opportunity to pay a special tribute to the Zuni Indian Tribe and the Zuni people. Those of us in the West who represent national forests and forest areas throughout the West are particularly appreciative of the great deeds of the Zuni Indians. They are probably the greatest fire jumpers in this world. We use them in California from time to time in connection with our own forest fires. They come in and they are dropped from airplanes into the midst of areas where a fire exists. They have done a tremendous job in forest firefighting throughout the years. I simply want to take this opportunity to pay tribute to them, although I do not represent the Zuni Indian Tribe, as do our friends the representatives from New Mexico, but I do want to take this opportunity to express my deep appreciation for the great contribution that these people have made to the people in the western part of our Nation.

Mr. Speaker, House Resolution 1126 provides for the consideration of H.R. 3787, the Zuni Indians Land bill.

This is a simple, open rule providing for 1 hour of general debate with the time equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs.

The rule further provides that upon passage of H.R. 3787 the Committee on Interior and Insular Affairs will be discharged from further consideration of the bill, S. 482, the Senate companion measure. It shall then be in order in the House to move to strike out all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions of H.R. 3787 as passed by the House.

Mr. Speaker, H.R. 3787 seeks to address certain problems confronted by the Zuni Indian Tribe of New Mexico. Basically the bill does two things. It direct the Secretary of Interior to acquire, through purchase or exchange, 618.41 acres of land including the Zuni Salt Lake in New Mexico and to hold the land in trust for the Zuni Indian Tribe. This lake is the most sacred shrine of the Zuni Indians and plays a very prominent role in the present religion and culture of the Zuni people. It is located about 18 miles south of the existing reservation boundary. The Zuni Indians have made repeated efforts to purchase the lake and have recently acquired lease rights to the area from the State of New Mexico which holds title to the land.

The bill also provides that the Zuni Indian Tribe may file any claims they may have against the United States in the U.S. Court of Claims. The Zuni Indians are currently prohibited from filing land claims in court because they did not file their claims by 1951, the cutoff date mandated by the Indian Claims Commission Act. Until recently the Zuni Indians were legally represented by the Bureau of Indian Affairs. Due to certain misunderstandings, the tribe, apparently, was not aware of rights to file land claims with the Indian Claims Commission during the appropriate time frame. This bill simply allows the Zuni Indians to go to court to pursue their claims.

Mr. Speaker, again I say, although I do not represent the Zuni Indians, I am aware, as are many of my western colleagues, of their very fine reputation as firefighters. The Zuni Indians are renowned for their bravery in parachuting into forest fires to put out hot spots. The Zuni Indians are owed a debt of gratitude by all of us for the valiant service they have performed over the years in helping to protect our national forest resources.

Mr. Speaker, H.R. 3787 is a bill worthy of consideration by this House, and I would urge my colleagues to adopt House Resolution 1126 so that we might begin deliberations on this matter.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a 1-hour, open rule allowing consideration of H.R. 3787, legislation involving the Zuni Indian Tribe of New Mexico. The rule also provides that after passage of this bill, the Interior and Insular Affairs Committee is discharged from further consideration of S. 482; it will be in order to move to strike the Senate language therein and substitute the text of H.R. 3787 as passed by the House.

As reported, H.R. 3787 directs the Secretary of the Interior to acquire, either through purchase or exchange, from the State of New Mexico approximately 618 acres of land which encloses the Zuni Salt Lake, the most sacred shrine of the Zuni Tribe. Title to the lands is to be taken by the United States and held in trust for the benefit of the Zuni Indians. In addition, the bill confers jurisdiction on the U.S. Court of Claims to hear and render judgment on land claims arising prior to August 13, 1946, which the tribe has against the United States. Any award made by the Indian Claims Commission with respect to these lands located in New Mexico and Arizona is not to be considered as a defense, estoppel, or setoff to these claims.

The cost of acquiring the 618 acres outright is estimated at $30,000. If there is an exchange, no budget impact will occur. The costs of the land claims is dependent upon the judgment of the court.

I know of no objection to the passage of this rule.

Mr. SISK. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. RONCALIO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3787) to direct the Secretary of the Interior to purchase and hold certain lands in trust for the Zuni Indian Tribe of New Mexico; to confer jurisdiction on the Court of Claims with respect to land claims of such tribe; and to authorize such tribe to purchase and exchange lands in the States of New Mexico and Arizona.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wyoming (Mr. RONCALIO).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 3787, with Mr. PEASE in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Wyoming (Mr. RONCALIO) will be recognized for 30 min- and the gentleman from Colorado (Mr.

JOHNSON) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 3787 provides for the acquisition of certain lands of religious significance to the Zuni Indian Tribe and for the filing of Zuni land claims against the United States.

Section 1 of the bill directs the Secretary of the Interior to acquire for the Zuni Tribe 600 acres of land in New Mexico surrounding and containing the Zuni Salt Lake. The lake is a sacred, religious shrine of the Zuni traditional religion, but was excluded from the Zuni Reservation. The land is currently in the ownership of the State of New Mexico which is willing to sell or exchange the land.

The lands were leased by the State for development as a salt mine. This desecration of the shrine was an affront to the Zuni who have continuously sought to recover ownership of the lake. Recently, the tribe paid $250,000 for the lease rights to the lake to prevent further desecration. The appraised value of the land itself is only $30,000. This bill provides for the acquisition of the lake to prevent any possibility of further desecration and to secure to the Zuni their right to religious worship.

Section 2 of the bill authorizes the Zuni Indian Tribe to file its land claims against the United States with the Court of Claims notwithstanding the limitation contained in the Indian Claims Commission Act of 1946.

Mr. Chairman, as I stated to the Rules Committee on two occasions, it is not the intent of the Interior Committee to upset the underlying policy of the Indian Claims Commission Act to bring to an end these old land claims of the Indian tribes. Nor is it our policy to reopen the floodgates to these kind of claims.

There are only a few claims remaining. It is the committee's policy to review each of these requests on an individual basis and on their individual merits. Where we find that the failure to timely file was clearly not the fault of the tribe; where an outside factor contributed to that failure; and where a denial of permission to file would be a denial of elementary justice, we will recommend an exception.

The committee strongly feels that these factors are present in the Zuni case.

The committee report sets the case out in detail and I will only stress the central point in our decision.

Recognizing that many Indian tribes of that day were relatively unsophisticated in these matters, Congress imposed a positive burden on the Commission and the Bureau of Indian Affairs to notify the tribes of the provisions of the act and to advise them of their rights.

Documents submitted to the subcommittee and testimony taken not only show that the BIA agency superintendent failed in this positive duty, but actually prepared a letter for the signature of the Zuni chief denying any knowledge of claims against the United States.

Mr. Chairman, this default is even more inexcusable when you realize that the Zuni people and their leaders, at that time, were not organized; had no employees or staff of their own; had no legal counsel; were illiterate in English; and were entirely dependent upon the Bureau of Indian Affairs for advice and assistance.

There is a section 3 which the committee recommends be stricken. I will offer that amendment and another committee amendment at the appropriate time.

Mr. Chairman, I urge passage of the bill, as amended.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield such time as he may consume to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Chairman, I might inform the Members that this bill has already been passed by the Senate. Of course, it is awaiting House action.

Mr. Chairman, this bill would accomplish two objectives of genuine importance to the Zuni Indian Tribe of New Mexico:

First, it would direct the Secretary of the Interior to obtain by land trade with the State of New Mexico 618 acres upon which is located the Zuni Salt Lake, the most sacred shrine of the Zuni people. Though there is minimal commercial value to the desert land involved—approximately $30,000—New Mexico law prohibits the State from selling land to anyone but permits land transfers to the Federal Government. Hence, the shrine legally lost by the tribe many years ago, but cared for by them ever since, can only be restored to the tribe by Federal action.

Second, the legislation would permit the Indian tribe to file with the U.S. Court of Claims for compensation for land lost due to the Federal Government's failure to protect them in their ownership. The filing deadline under the Indian Claims Act expired in 1951.

In hearings before the House Indian Affairs Subcommittee in 1976 and again in 1977, and before the Senate in 1976, the Zunis set forth convincing evidence which I strongly believe justifies this waiver of the statute. It is clear to me that the Bureau of Indian Affairs not only failed to perform its trustee obligation to the tribe, but there is a clear inference in the evidence that the local BIA agents misled the tribe as to their rights and their obligations to act to protect their interests before a deadline. As a consequence, no claim was ever filed.

According to the Bureau of Indian Affairs in testimony offered by the Ford Interior Department in 1976 and the Carter Interior Department in 1977, this case is unique among possible other claimants because of the evidence of BIA trusteeship failure. The Interior Department testified this past June in favor of passage of this legislation, urging that the Zunis be authorized to file their land claim.

This claim would be adjudicated by the court of claims with any eventual recovery dependent on the affirmative case of aboriginal ownership which the tribe could prove, on the same basis on which other tribes who filed in a timely manner have made claims before the Indian Claims Commission.

Mr. JOHNSON of Colorado. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I think the only question to which we should alert the Members of this body about which there is any disagreement on this subject is the extension of time on this claim. All claims were to be filed by 1951. We are not particularly setting a precedent in granting an extension of 3 years for the Zunis because these are unique circumstances and we do not know of them having been repeated elsewhere. There are, however, perhaps somewhere between 10 to 15 other claims of various Indian tribes, we do not know exactly how many, that might wish to come in and ask for an extension of time to file long past the 1951 filing deadline.

Those of us who have had some experience with this particular problem perhaps are biased. Perhaps we are not as objective as we should be; but it seems to me that those extensions which we have brought to the floor of the House, the first was the Wichitas and the Zunis are the second one, are justified by their own peculiar circumstances.

I do not wish to speak for the chairman of the subcommittee or anyone else on this side of the aisle, but when facts are brought to our attention as in the cases of the Wichitas and the Zunis, I believe justice to the tribes involved should be our first consideration. We may have another 10 to 15 claims for extensions and I think they should be considered on a case-by-case basis. I realize that the deadline for filing was 1951, 27 years ago, but we must not allow the current anti-Indian bias to prevent us from seeing that the intent of the act of 1946 be carried out. The intent of the act was to compensate tribes for the violent taking of their lands, and once and for all extinguish all aboriginal claims. It was a worthy aim, and we are in the process of achieving it; but we have not achieved it yet. There may be some other justifiable claims and there may not. I cannot assure Members on that point, I am urging that we pass this bill to see that the Zunis receive a hearing to which they are entitled, and approach any future claims by other tribes with open minds not befuddled by the prejudice and demagoguery which is presently prominent in discussion of Indian affairs.

In other words, as each tribe presents its claim, we should consider it individually, not with regard to either this treatment or the treatment of the Wichitas as being a precedent which is binding on any subsequent claims that might arise.

Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. RONCALIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to take an additional minute or two to state for

the record my further support of the bill, reinforcing the support of my colleague, the gentleman from Colorado (Mr. JOHNSON).

There is nothing in the record that would indicate that the superintendent of the agency did anything to promulgate or make known the contents of the Indian Claims Commission Act to the Zuni people. In fact, there are affidavits in the hearings before the subcommittee that indicate there never were any public meetings held to discuss the Indian Claims Commission Act and that the content of the letter from the Indian Claims Commission was never made public, translated or otherwise made known to the Governor, the tribal council, or to the people in general.

The record further indicates that officials of the BIA having jurisdiction over the Zuni Tribe prepared a letter for the Governor's signature wherein the Governor had no knowledge of any claim which the Zuni Tribe may have had against the United States.

The Governor who signed the letter stated in an affidavit that when he signed the letter denying knowledge of the claims, he did not know what he was signing but assumed that it had something to do with the Homestead Act. The prepared letter was then forwarded to the Indian Claims Commission.

It should be noted that other than the Bureau of Indian Affairs, the Zuni Tribe had no offices, no employees, no tribal counsel, nor any other person in a position to provide it with information about the Indian Claims Commission Act, and it ill-behooves the guardian to benefit from a transaction which has been done as a violation of a stated trust responsibility, not only on the part of the superintendent of the Zuni people but in fact by the people of America, as it related to any amount of acreage.

So, Mr. Chairman, I urge the adoption of H.R. 3787.

● Mr. SKUBITZ. Mr. Chairman, I rise in support of H.R. 3787 which provides for the acquisition or trade with the State of New Mexico of 618 acres of an area of "historical and religious" significance to the Zuni Indian Tribe known as "Salt Mother," to be held in trust for the tribe.

This legislation also provides the following: A 3-year time limit for the Zuni Indians to assert their claim before the Indian Claims Commission, and confers jurisdiction for the court of claims.

This legislation recognizes past injustices and the efforts we must make to correct them. Taking all aspects of this bill into consideration, I feel my affirmative support shows compassion for the Zuni Indian Tribe at an extremely nominal cost to the American taxpayer.●

Mr. RONCALIO. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. If there are no further requests for time, the Clerk will read.

The Clerk read as follows:

H.R. 3787

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall acquire, through purchase or exchange, the lands described in subsection (b).

(b) The lands to be acquired under subsection (a) are lands in the State of New Mexico upon which the Zuni Salt Lake is located and which are more particularly described as follows: Lots 3 and 4, east half southwest quarter, west half southeast quarter, section 30, township 3 north, range 18 west, lots 1 and 2, east half northwest quarter, west half northeast quarter, section 31, township 3 north, range 18 west, southeast quarter southeast quarter, section 25, and east half northeast quarter, section 36, township 3 north, range 19 west, all of the New Mexico principal meridian, New Mexico, containing approximately 618.41 acres, more or less.

(c) Title to the lands to be acquired under subsection (a) shall be taken and held in trust in the name of the United States for the benefit of the Zuni Indian Tribe of New Mexico (hereinafter in this Act referred to as the "tribe"), and such lands shall be exempt from State and local taxation.

SEC. 2. (a) Notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Act of August 13, 1946 (60 Stat. 1052; 25 U.S.C. 70k), jurisdiction is hereby conferred upon the United States Court of Claims to hear, determine, and render judgment on any claims of the tribe against the United States with respect to any lands or interests therein in the State of New Mexico or the State of Arizona held by aboriginal title otherwise, which were acquired from the tribe without payment of adequate compensation by the United States. Such jurisdiction is conferred notwithstanding any failure of the tribe to exhaust any available administrative remedies. Any party to any action under this subsection shall have the right to have any final decision of the Court of Claims reviewed by appeal to the Supreme Court of the United States.

(b)(1) Any award made to any Indian tribe other than the Zuni Indian Tribe of New Mexico before, on, or after the date of the enactment of this Act, under any judgment of the Indian Claims Commission or any other authority, with respect to any lands that are the subject of a claim submitted by the tribe under subsection (a) shall not be considered as a defense, estoppel, or setoff to such claim, and shall not otherwise affect the entitlement to, or amount of, any relief with respect to such claim.

(b)(2) Any award made to the tribe pursuant to subsection (a) shall not be considered as a defense, estoppel, or setoff to the claims pending before the Indian Claims Commission on the date of the enactment of this Act in docket 196 (filed August 3, 1951) and docket 229 (filed August 8, 1951), and shall not otherwise affect the entitlement to, or amount of, any relief with respect to such claims.

SEC. 3. (a) For purposes of making additions to the Zuni Indian Reservation, the tribe may, subject to approval by the Secretary, purchase or otherwise acquire any lands within the State of New Mexico or the State of Arizona which are contiguous to such reservation.

(b) The tribe may, subject to approval by the Secretary, exchange any lands held by such tribe which are not contiguous to the Zuni Indian Reservation for lands of equal or comparable value held by any person, any State, any agency or political subdivision of a State, or any agency or department of the United States.

(c) Title to any lands which are—

(1) acquired by the tribe under subsection (a), or

(2) acquired by the tribe under subsection (b) and which are contiguous to the Zuni Indian Reservation, shall be taken and held in trust in the name of the United States for the benefit of the tribe. Any such lands shall be considered for all purposes as part of such reservation, and shall be exempt from State and local taxation.

(d) Title to any lands acquired by the tribe under subsection (b) which are not contiguous to the Zuni Indian Reservation shall be held in the name of the tribe.

Mr. RONCALIO (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request from the gentleman from Wyoming?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 17 through page 3, line 6, strike the present text and insert in lieu thereof the following:

Sec. 2. (a) Notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Act of August 13, 1946 (60 Stat. 1052; 25 U.S.C. 70k), jurisdiction is hereby conferred upon the United States Court of Claims to hear, determine, and render judgment on any claims of the Zuni Indian Tribe of New Mexico against the United States with respect to any lands or interests therein in the State of New Mexico or the State of Arizona held by aboriginal title or otherwise which were acquired from the tribe without payment of adequate compensation by the United States: *Provided,* That jurisdiction is conferred only with respect to claims accruing on or before August 13, 1946, and all such claims must be filed within three years after approval of this Act. Such jurisdiction is conferred notwithstanding any failure of the tribe to exhaust any available administrative remedies.

Mr. RONCALIO (during the reading). Mr. Chairman, I ask unanimous consent that both committee amendments be considered as read, printed in the RECORD, and that the committee amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

The remaining committee amendment is as follows:

Committee amendment: Page 4, line 14 through page 5, line 12, strike all of section 3.

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

The CHAIRMAN. Are there further amendments to the bill?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. PEASE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3787) to direct the Secretary of the

Interior to purchase and hold certain lands in trust for the Zuni Indian Tribe of New Mexico; to confer jurisdiction on the Court of Claims with respect to land claims of such tribe; and to authorize such tribe to purchase and exchange lands in the States of New Mexico and Arizona, pursuant to House Resolution 1126, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HILLIS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 347, nays 48, not voting 39, as follows:

[Roll No. 231]

YEAS—347

| | | |
|---|---|---|
| Abdnor | Burton, Phillip | Evans, Ind. |
| Addabbo | Byron | Fary |
| Akaka | Caputo | Fascell |
| Alexander | Carney | Fish |
| Ambro | Carter | Fisher |
| Anderson, Calif. | Cederberg | Fithian |
| | Chappell | Flippo |
| Anderson, Ill. | Chisholm | Flood |
| Andrews, N.C. | Clawson, Del | Florio |
| Andrews, N. Dak. | Clay | Flowers |
| | Cleveland | Ford, Tenn. |
| Annunzio | Cohen | Forsythe |
| Applegate | Coleman | Fountain |
| Armstrong | Collins, Ill. | Fowler |
| Ashley | Collins, Tex. | Fraser |
| Bafalis | Conable | Frenzel |
| Baldus | Conte | Frey |
| Barnard | Corcoran | Fuqua |
| Baucus | Corman | Garcia |
| Beard, R.I. | Cornell | Gaydos |
| Beard, Tenn. | Cornwell | Gephardt |
| Bedell | Cotter | Giaimo |
| Beilenson | Coughlin | Gibbons |
| Benjamin | Crane | Gilman |
| Bennett | D'Amours | Ginn |
| Bevill | Danielson | Glickman |
| Biaggi | Davis | Goldwater |
| Bingham | de la Garza | Gonzalez |
| Blanchard | Delaney | Gore |
| Boggs | Dent | Grassley |
| Boland | Derrick | Green |
| Bonior | Derwinski | Gudger |
| Bowen | Dickinson | Hagedorn |
| Brademas | Diggs | Hall |
| Breaux | Dingell | Hamilton |
| Breckinridge | Dodd | Hanley |
| Brinkley | Dornan | Hannaford |
| Brodhead | Downey | Harkin |
| Brooks | Drinan | Harrington |
| Broomfield | Duncan, Tenn. | Harris |
| Brown, Calif. | Early | Hawkins |
| Brown, Mich. | Edgar | Heckler |
| Brown, Ohio | Edwards, Ala. | Heftel |
| Broyhill | Edwards, Calif. | Hightower |
| Buchanan | Edwards, Okla. | Hillis |
| Burgener | Emery | Holland |
| Burke, Mass. | English | Hollenbeck |
| Burleson, Tex. | Erlenborn | Holt |
| Burlison, Mo. | Ertel | Holtzman |
| Burton, John | Evans, Ga. | Huckaby |
| Hyde | Moakley | Schulze |
| Ireland | Moffett | Sebelius |
| Jacobs | Mollohan | Seiberling |
| Jeffords | Montgomery | Sharp |
| Jenkins | Moore | Shipley |
| Jenrette | Moorhead, Pa. | Shuster |
| Johnson, Calif. | Moss | Sikes |
| Johnson, Colo. | Murphy, Ill. | Simon |
| Jones, Okla. | Murphy, N.Y. | Sisk |
| Jones, Tenn. | Murphy, Pa. | Skubitz |
| Jordan | Murtha | Slack |
| Kasten | Myers, John | Smith, Iowa |
| Kastenmeier | Myers, Michael | Smith, Nebr. |
| Kemp | Natcher | Solarz |
| Keys | Neal | Spellman |
| Kildee | Nedzi | Spence |
| Kostmayer | Nichols | St Germain |
| Krebs | Nix | Staggers |
| LaFalce | Nolan | Stanton |
| Lagomarsino | Nowak | Stark |
| Latta | O'Brien | Steed |
| Le Fante | Oakar | Steers |
| Leach | Oberstar | Steiger |
| Lederer | Obey | Stockman |
| Lehman | Ottinger | Stokes |
| Lent | Panetta | Stratton |
| Levitas | Patten | Studds |
| Livingston | Patterson | Symms |
| Lloyd, Calif. | Pattison | Teague |
| Lloyd, Tenn. | Pease | Thompson |
| Long, La. | Pepper | Traxler |
| Long, Md. | Perkins | Treen |
| Lott | Pettis | Trible |
| Lujan | Pickle | Tsongas |
| Luken | Pike | Udall |
| Lundine | Poage | Ullman |
| McClory | Pressler | Van Deerlin |
| McCloskey | Preyer | Vanik |
| McDade | Price | Vento |
| McEwen | Pritchard | Volkmer |
| McFall | Pursell | Walker |
| McHugh | Quayle | Walsh |
| McKay | Quie | Wampler |
| McKinney | Quillen | Watkins |
| Madigan | Rahall | Waxman |
| Maguire | Rangel | Weaver |
| Mahon | Regula | Weiss |
| Mann | Reuss | Whalen |
| Markey | Rhodes | White |
| Marks | Richmond | Whitehurst |
| Marlenee | Rinaldo | Whitten |
| Marriott | Risenhoover | Wilson, Bob |
| Martin | Robinson | Wilson, Tex. |
| Mathis | Roe | Winn |
| Mattox | Roncalio | Wirth |
| Metcalfe | Rooney | Wolff |
| Meyner | Rosenthal | Wright |
| Michel | Rostenkowski | Wylie |
| Mikulski | Roybal | Yates |
| Mikva | Ruppe | Yatron |
| Milford | Russo | Young, Alaska |
| Miller, Calif. | Ryan | Young, Fla. |
| Miller, Ohio | Santini | Young, Mo. |
| Mineta | Sarasin | Zablocki |
| Minish | Sawyer | Zeferetti |
| Mitchell, Md. | Scheuer | |
| Mitchell, N.Y. | Schroeder | |

NAYS—48

| | | |
|---|---|---|
| Allen | Findley | Meeds |
| Archer | Foley | Moorhead, Calif. |
| Ashbrook | Goodling | |
| AuCoin | Gradison | Mottl |
| Badham | Guyer | Myers, Gary |
| Bauman | Hammer-schmidt | Roberts |
| Burke, Fla. | | Rousselot |
| Butler | Hansen | Rudd |
| Carr | Harsha | Satterfield |
| Cunningham | Hughes | Skelton |
| Daniel, Dan | Ichord | Snyder |
| Daniel, R. W. | Kelly | Stangeland |
| Devine | Ketchum | Stump |
| Dicks | Kindness | Taylor |
| Duncan, Oreg. | McCormack | Wiggins |
| Evans, Del. | McDonald | Wydler |
| Fenwick | Mazzoli | |

NOT VOTING—39

| | | |
|---|---|---|
| Ammerman | Evans, Colo. | Rogers |
| Aspin | Flynt | Rose |
| Blouin | Ford, Mich. | Runnels |
| Bolling | Gammage | Thone |
| Bonker | Hefner | Thornton |
| Burke, Calif. | Horton | Tucker |
| Cavanaugh | Howard | Vander Jagt |
| Clausen, Don H. | Hubbard | Waggonner |
| | Jones, N.C. | Walgren |
| Cochran | Kazen | Whitley |
| Conyers | Krueger | Wilson, C. H. |
| Dellums | Leggett | Young, Tex. |
| Eckhardt | Railsback | |
| Eilberg | Rodino | |

The Clerk announced the following pairs:

Mr. Howard with Mr. Aspin.
Mr. Rodino with Mr. Blouin.
Mrs. Burke of California with Mr. Cavanaugh.
Mr. Gammage with Mr. Conyers.
Mr. Dellums with Mr. Eckhardt.
Mr. Ammerman with Mr. Thornton.
Mr. Krueger with Mr. Charles H. Wilson of California.
Mr. Eilberg with Mr. Railsback.
Mr. Runnels with Mr. Leggett.
Mr. Rose with Mr. Bonker.
Mr. Jones of North Carolina with Mr. Hubbard.
Mr. Whitley with Mr. Evans of Colorado.
Mr. Waggonner with Mr. Rogers.
Mr. Kazen with Mr. Don H. Clausen.
Mr. Hefner with Mr. Walgren.
Mr. Ford of Michigan with Mr. Horton.
Mr. Flynt with Mr. Vander Jagt.
Mr. Tucker with Mr. Cochran of Mississippi.

Mr. DUNCAN of Oregon changed his vote from "yea" to "nay."

Mr. MAHON changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to direct the Secretary of the Interior to purchase and hold certain lands in trust for the Zuni Indian Tribe of New Mexico, and to confer jurisdiction on the Court of Claims with respect to land claims of such tribe.".

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the provisions of House Resolution 1126, the Committee on Interior and Insular Affairs is discharged from the further consideration of the Senate bill (S. 482) to direct the Secretary of the Interior to purchase and hold certain lands in trust for the Zuni Indian Tribe of New Mexico; to confer jurisdiction on the Court of Claims with respect to land claims of such tribe; and to authorize such tribe to purchase and exchange lands in the States of New Mexico and Arizona.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. RONCALIO

Mr. RONCALIO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. RONCALIO moves to strike out all after the enacting clause of the Senate bill, S. 482, and to insert in lieu thereof the provisions of H.R. 3787, as passed by the House, as follows:

That (a) the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall acquire, through purchase or exchange, the lands described in subsection (b).

(b) The lands to be acquired under subsection (a) are lands in the State of New Mexico upon which the Zuni Salt Lake is located and which are more particularly described as follows: Lots 3 and 4, east half southwest quarter, west half southeast quarter, section 30, township 3 north, range 18 west, lots 1 and 2, east half northwest quarter, west half northeast quarter, section 31, township 3 north, range 18 west, southeast quarter southeast quarter, section 25, and east half northeast quarter, section 36, township 3 north, range 19 west, all of the New Mexico principal meridian, New Mexico, con-

taining approximately 618.41 acres, more or less.

(c) Title to the lands to be acquired under subsection (a) shall be taken and held in trust in the name of the United States for the benefit of the Zuni Indian Tribe of New Mexico (hereinafter in this Act referred to as the "tribe"), and such lands shall be exempt from State and local taxation.

SEC. 2. (a) Notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Act of August 13, 1946 (60 Stat. 1052; 25 U.S.C. 70k), jurisdiction is hereby conferred upon the United States Court of Claims to hear, determine, and render judgment on any claims of the Zuni Indian Tribe of New Mexico against the United States with respect to any lands or interests therein in the State of New Mexico or the State of Arizona held by aboriginal title or otherwise which were acquired from the tribe without payment of adequate compensation by the United States: *Provided*, That jurisdiction is conferred only with respect to claims accruing on or before August 13, 1946, and all such claims must be filed within three years after approval of this Act. Such jurisdiction is conferred notwithstanding any failure of the tribe to exhaust any available administrative remedies.

(b)(1) Any award made to any Indian tribe other than the Zuni Indian Tribe of New Mexico before, on, or after the date of the enactment of this Act, under any judgment of the Indian Claims Commission or any other authority, with respect to any lands that are the subject of a claim submitted by the tribe under subsection (a) shall not be considered as a defense, estoppel, or setoff to such claim, and shall not otherwise affect the entitlement to, or amount of, any relief with respect to such claim.

(b)(2) Any award made to the tribe pursuant to subsection (a) shall not be considered as a defense, estoppel, or setoff to the claims pending before the Indian Claims Commission on the date of the enactment of this Act in docket 196 (filed August 3, 1951) and docket 229 (filed August 8, 1951), and shall not otherwise affect the entitlement to, or amount of, any relief with respect to such claims.

Amend the title so as to read: "An Act to direct the Secretary of the Interior to purchase and hold certain lands in trust for the Zuni Indian Tribe of New Mexico, and to confer jurisdiction on the Court of Claims with respect to land claims of such tribe."

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to direct the Secretary of the Interior to purchase and hold certain lands in trust for the Zuni Indian Tribe of New Mexico, and to confer jurisdiction on the Court of Claims with respect to land claims of such tribe.".

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3787) was laid on the table.

## GENERAL LEAVE

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

## AUTHORIZING APPROPRIATIONS TO THE NATIONAL SCIENCE FOUNDATION

Mr. DODD. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1099 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1099

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11400) to authorize the appropriation of specified dollar amounts for each of the National Science Foundation's major program areas (and certain subprograms), and to provide requirements relating to periods of availability and transfers of the authorized funds. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. KILDEE). The gentleman from Connecticut (Mr. DODD) is recognized for 1 hour.

Mr. DODD. Mr. Speaker, I yield 30 minutes to the gentleman from California (Mr. DEL CLAWSON) for the purpose of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1099 provides for the consideration of H.R. 11400, the bill authorizing appropriations to the National Science Foundation. This resolution provides for an open rule with 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology. It provides for one motion to recommit.

Mr. Speaker, H.R. 11400 would authorize $934.4 million in fiscal year 1979 appropriations to the National Science Foundation. Out of this total, $928.4 million would be authorized out of money in the Treasury, while the remaining $6 million would be in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States.

The National Science Foundation supports scientific education and research which is of vital importance to the present and future well-being of the United States. The Committee on Science and Technology urges that because of the importance of the Foundation's work, the full $934.4 authorization in the bill be appropriated. Indeed, the Nation's scientific community could well use more money than this bill appropriates, but as the President and the committee agree, the Nation, at this time, cannot afford a larger investment.

Mr. Speaker, two specific appropriations authorized by H.R. 11400 deserve particular notice. First, of the funds authorized for applied science and research applications, $2 million would be authorized to establish a science and technology program focused on the problems of the disabled. In my work in the Congress I have been particularly concerned about the problems of the handicapped, and I am pleased to see this appropriation which will further our commitment to the handicapped.

Second, the funding level for the U.S. Antarctic program has been raised by the committee by $2.4 million above the NSF request of $50.7 million. Through the Antarctic program, the United States can maintain an active and influential presence in the Antarctic. United States involvement helps insure observance of the international treaty which suspends territorial claims and keeps the Antarctic open for scientific research. Increased funding for the Antarctic program will support study of Antarctic fisheries.

Mr. Speaker, H.R. 11400 authorizes appropriations for the National Science Foundation and will allow this valuable organization to carry out educational and research activities of vital importance to the United States. I request that we adopt House Resolution 1099 so that we may proceed to the consideration of this bill.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1099 provides for the consideration of H.R. 11400, the National Science Foundation Authorization Act. This is an open rule allowing for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology. The bill will then be open to amendment under the 5-minute rule.

Mr. Speaker, H.R. 11400 authorizes appropriations to the National Science Foundation for fiscal year 1979. A total of $934.4 million is authorized for the NSF's major program areas. The Foundation maintains many laboratories and educational facilities in the United States as well as other countries. Their programs explore many diverse subject areas from the bottom of the sea to the stars in the heavens, some of which may be of questionable value depending upon individual preferences and points of view.

Mr. Speaker, to my knowledge there is no objection to the rule.

Mr. DODD. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Speaker, research and development activities are

vital to the survival and prosperity of the United States. Without a strong, ongoing program of scientific research and development, the high standard of living enjoyed by the citizens of our country would be impossible. Indeed, our national security is dependent on the continued probing of the frontiers of science.

The National Science Foundation has been at the forefront of these activities. Accordingly, I support the general thrust of the bill before the House today in order to insure a strong and viable program of research and development. I do, however, have some reservations about the conduct of the advisory commissions attached to the National Science Foundation.

As you know, Mr. Speaker, the President has set a goal of reducing these advisory commissions. I recently conducted a study to ascertain how effective the President has been at reaching this goal. This study generally showed that the President has made some progress in cutting back on the numbers of such commissions. Nevertheless, it did point up several disturbing trends in this area that deserve more study by both the executive branch and Congress.

The conduct of the National Science Foundation's advisory commissions mirrors some of the conclusions of this study. I would like to include a chart compiled from this study to illustrate some of the problems in this area:

ADVISORY COMMITTEE ACTIVITY IN THE NATIONAL SCIENCE FOUNDATION

| | 1972 | 1973 | 1974 | 1975 | 1976 | 1977 |
|---|---|---|---|---|---|---|
| Number of committees | 41 | 43 | 45 | 48 | 51 | 21 |
| Number of members | | | 494 | 1,190 | 2,241 | 2,464 |
| Actual staff support years | | | 8.11 | 9.19 | 19 | 23 |
| Projected staff support years | | | | | 12.19 | 17 | 18 |
| Actual cost (dollars) | 231,297 | 341,183 | 450,388 | 552,300 | 1,248,970 | 1,745,055 |
| Projected cost | | | | 701,100 | 1,315,369 | 1,088,484 |

As you can see, Mr. Speaker, while the number of committees decreased by one-half between 1972 and 1977, the membership on these committees increased by 400 percent. Moreover, the costs associated with the functions of these committees increased by 7,400 percent from 1972 through 1977.

In effect, more people are serving on fewer commissions, and it is costing the Government more to maintain the commissions. This trend is disturbing enough, but I also fear that certain imbred regional bias may have crept into these commissions. My study revealed a trend in other Cabinet-level departments to weight commissions toward one section of the country, or toward one special interest group. I am fearful that the commissions serving the National Science Foundation may have fallen victim to a similar problem. These commissions and committees pass on thousands of applications for research and grants. I am sure all Members of Congress would want to insure that every applicant gets a fair hearing before these commissions. It is my hope that the Congress and the executive branch will continue to monitor the activity of the Commissions to insure that they perform their tasks competently and fairly. The Federal Government should not be subsidizing an overbloated or unfair system that so vitally concerns our national well-being.

Mr. DODD. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. TEAGUE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11400) to authorize the appropriation of specified dollar amounts for each of the National Science Foundation's major program area—and certain subprograms—and to provide requirements relating to periods of availability and transfers of the authorized funds.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. TEAGUE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11400, with Mr. DANIELSON designated as Chairman, and Mr. PANETTA (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN pro tempore. Under the rule, the gentleman from Texas (Mr. TEAGUE) will be recognized for 30 minutes, and the gentleman from New Jersey (Mr. HOLLENBECK) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. TEAGUE).

Mr. TEAGUE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the chairman of this subcommittee is the gentleman from Arkansas (Mr. THORNTON), who has done a wonderful job of holding hearings.

Mr. Chairman, getting this bill to the House floor took a little bit of time for committee members, but it took months of hard work by the staff. I want to thank the staff for their dedication to the committee and to scientific advancement. As chairman of the Committee on Science and Technology, I have always insisted on hiring and promotion on the basis of merit alone. And I want to tell you that is a good policy because it has produced one of the best committee staffs in Congress.

We are lucky on our committee to have good cooperation between the minority and majority. The best proof of this is my friend, the Honorable Charlie Mosher. After retiring as ranking minority member of the committee, Charlie was kind enough to accept my offer to be staff director. Charlie had done a magnificent job of running the committee this year, and I thank him for it.

I also want to thank Phil Yeager, counsel to the committee and staff director of the Subcommittee on Science, Research, and Technology. Phil and his people do the legwork that gets the NSF bill to the floor, and they do it well.

It has been a real pleasure for me to work with those people, and I just wanted to get a few words of appreciation on the record.

Mr. Chairman, I yield such time as he may desire to the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Chairman, I support the bill, H.R. 11400. Before I describe the principal features of the bill, I would like to express my appreciation to members of the Committee on Science and Technology.

Foremost among those who have made it possible to bring this bill to the floor is Chairman TEAGUE. Congress and the Nation will lose the service of a fine man and a staunch supporter of scientific research with the retirement of Chairman TEAGUE at the end of this Congress. If I were more eloquent I might find fitting words of praise for the gentleman from Texas to convey my regard for him. But words, however eloquent, would only be words. TIGER is a man of action. The only sufficient tribute to Mr. TEAGUE is to be the kind of legislator and leader he has been and let action carry the message. That would be the best praise, and I encourage you all to give it.

Another Member who will not be in the House next session is RAY THORNTON, chairman of the Subcommittee on Science, Research, and Technology. I would like to thank Chairman THORNTON for delegating his authority over this NSF authorization bill to me.

Finally, the gentleman from New York (Mr. WYDLER), ranking minority member of the Committee on Science and Technology, and the gentleman from New Jersey (Mr. HOLLENBECK), ranking minority member of our subcommittee, have both been extremely helpful. I thank them for their cooperation in bringing to the floor a truly nonpartisan bill, a bill which passed the Committee on Science and Technology with not a single dissenting vote.

In consideration of this bill, H.R. 11400, the Committee on Science and Technology held hearings beginning on January 24, and ending on January 31 to review NSF performance over the past year, and the Foundation's request for fiscal year 1979. Testimony was taken from Foundation officials and individuals representing education and research organizations. The hearings covered all

aspects of the Foundation's budget request. On many other occasions over the past year representatives of NSF have testified at committee hearings.

In addition to hearings, extensive investigations and site visits have been carried out by committee members and staff, several General Accounting Office and Congressional Research Service studies of NSF operations have been used by the committee, and other forms of oversight have been performed.

The bill itself, H.R. 11400, authorizes the appropriation of $934.4 million for National Science Foundation programs in fiscal year 1979, almost the exact amount requested by the President. The net difference between the request by the President and the total in this bill is a $400,000 increase. In addition to the amount authorized by the bill, NSF plans to defer the obligation of $6.9 million from fiscal year 1978 to fiscal year 1979. Thus, total NSF obligations would be $941.3 million in fiscal year 1979. The $934.4 million authorized by the bill represents an 8-percent increase over the plan for NSF obligations in fiscal year 1978.

The Committee on Science and Technology believes that the scientific community could effectively use larger amounts of NSF money than authorized by this bill, but the committee intentionally held the total near the President's request. The committee concurs with the President's judgment that the Nation cannot afford a larger investment at this time. Because of the importance of scientific work to the Nation, however, the committee urges that the full amount authorized be appropriated.

Roughly three-fourths of the NSF budget is devoted to basic research. For fiscal year 1979 the President's policy for basic research is to increase total Federal support by an amount sufficient to provide 5 percent real growth over 1978 with inflation taken into account at 6 percent. The total amount budgeted by the President for basic research support from the Federal Government in fiscal year 1979 is $3.6 billion, an 11-percent increase over 1978. The NSF percentage increase was somewhat less than the Federal agency average. This means that several of the mission agencies exhibit slightly larger increases than the Federal average. The committee applauds the basic research policy of the President which seeks to maintain a balance of support for basic research across the Federal Government.

As I stated earlier, the committee felt that the total amount requested by the President for NSF was reasonable, so we did not change the total very much. The request was for a $940.9 million program, and the committee reported $941.3 million, a tiny increase.

We have shifted the emphasis on a few of NSF's programs from the request. Science education and the Antarctic program were increased while two of the basic research directorates were decreased in order to hold the total down.

First let me explain the two increases. The science education increase of $4.4 million is intended to help NSF put more emphasis on an area that the Science and Technology Committee has supported for years but which has been held down by the Office of Management and Budget. The $82 million in H.R. 11400 is the same amount that NSF asked OMB for at the beginning of the budget process.

The Antarctic increase follows on close oversight of the Antarctic program. I visited Antarctica in December, reviewed NSF's activities there, and the subcommittee came to the conclusion that the program should be increased. The committee agreed, and the program budget has been raised by $2.4 million from NSF's request.

As for the decreases recommended by the committee, the $3.2 million decrease from mathematical and physical sciences and engineering is not aimed at any specific program. It is only 1.2 percent of the requested amount of $268.3 million and leaves that category with $265.1 million, which is still $19.1 million or 7.8 percent above the 1978 program level.

The $3.2 million decrease from astronomical, atmospheric, Earth, and ocean sciences is specifically aimed at a new deep-sea drilling program. In taking this action the committee has not judged that deep-sea drilling is a bad idea; it may be an extremely good idea. However, it is our opinion that NSF has not presented adequate justification for the project.

To complete my remarks, Mr. Chairman, I would like to draw the Members' attention to the fact that the bill is quite brief this year. The reasons for this are that we are trying to keep the authorization simple and many of the provisions of last year's act do not need repetition either because they have been codified as permanent law or because they pertained only to last year's act.

That ends my remarks. I am submitting a budget table for the RECORD. This is a good bill, and I urge its passage by the House.

NATIONAL SCIENCE FOUNDATION BUDGET COMPARISONS, ACTIONS BY THE COMMITTEE ON SCIENCE AND TECHNOLOGY

[In millions of dollars]

| | Current plan, fiscal year 1978 | Budget request, fiscal year 1979 | Committee recommendations, fiscal year 1979 | Increase of committee recommendations over fiscal year 1978 current plan | | Change of committee recommendations from fiscal year 1979 request | |
|---|---|---|---|---|---|---|---|
| | | | | Amount | Percent | Amount | Percent |
| Mathematical and physical sciences and engineering | 246.0 | 268.3 | 265.1 | 19.1 | 7.8 | −3.2 | −1.2 |
| Astronomical, atmospheric, Earth and ocean sciences | 210.1 | 227.3 | 224.1 | 14.0 | 6.7 | −3.2 | −1.4 |
| Biological, behavioral, and social sciences | 142.2 | 158.0 | 158.0 | 15.8 | 11.1 | | |
| U.S. Antarctic program | 48.2 | 50.7 | 53.1 | 4.9 | 10.2 | +2.4 | +4.7 |
| Basic research stability grants | 4.5 | 0 | 0 | −4.5 | | | |
| Science education | 74.0 | 77.6 | 82.0 | 8.0 | 10.8 | +4.4 | +5.9 |
| Applied science and research applications | 57.9 | [1] 67.0 | [1] 67.0 | 9.1 | 15.7 | | |
| Scientific, technological, and international affairs | 24.6 | 24.3 | 24.3 | −.3 | −1.2 | | |
| Program development and management | 52.0 | 54.8 | 54.8 | 2.8 | 5.4 | | |
| Special foreign currency appropriation | 5.4 | 6.0 | 6.0 | .6 | 11.1 | | |
| Total | 864.9 | [1] 934.0 | [1] 934.4 | 69.5 | 8.0 | +.4 | 0 |

[1] It is planned to defer $6,900,000 for ASRA from fiscal year 1978 to fiscal year 1979. This will not change the fiscal year 1978 current plan shown, but will increase the ASRA budget to $73,900,000 and the NSF total recommended by the committee to $941,300,000.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, I want to commend the gentleman from Iowa (Mr. HARKIN) for the fine job he did in conducting the hearings this year on this very important matter. The gentleman did a very excellent job, and from that effort we have brought to the floor a bill that I think basically every Member can support. I commend the gentleman and also commend the ranking minority Member, the gentleman from New Jersey (Mr. HOLLENBECK), for his cooperation in getting this bill to the floor.

Mr. Chairman, I am pleased to support the fiscal year 1979 authorization for the National Science Foundation's Science Education Directorate. The Science and Technology Committee has increased the authorization for science education by $4.4 million, to a total of $82 million. We were disappointed in the small budget request for science education, an increase well below the inflation rate and below the authorization figure for last year. Since 1970, the science education funding has been declining both absolutely and in terms of its percent of the entire NSF budget. With the committee increase, science education will represent approximately 8.7 percent of the total NSF budget.

The Foundation's Science Education Directorate has the important mission of initiating and supporting programs to strengthen science education programs

at all levels. This mission is carried out through programs to promote public understanding of science, research and development in science education, information dissemination for science education, precollege teacher development, undergraduate instructional improvement, undergraduate research participation, minority institutions science improvement, science for citizens, graduate fellowships, student-science training, and comprehensive assistance to undergraduate science education.

Mr. Chairman, these programs are designed to assure that the Nation's science education establishment can successfully meet the changing scientific needs of a dynamic society. The Foundation provides support to educational institutions in order to improve their capabilities to teach science and engineering and to facilitate needed innovations in science education. To help insure the availability of high quality science personnel to meet out Nation's future needs, the Foundation provides support, through a highly competitive process, to well qualified individuals who wish to pursue careers in advanced science and engineering. This is accomplished by awarding graduate and post-doctoral fellowships. NSF supports programs of research and development in science education to develop new knowledge which will allow the Nation's science education activities to improve. Finally, NSF's science education directorate supports programs which seek to reach beyond formal educational institutions and make available, to the general population, information about science and the scientific process.

Dr. James Rutherford, the Foundation's able new assistant director for science education, has told our committee that NSF hopes to greatly intensify two new thrusts:

First. The improvement of science learning for all, particularly minorities and women, by emphasizing junior high school science and mathematics, and

Second. Research and development related to all aspects of science education in and out of schools.

NSF data suggests that it is in the junior high school grades that women and minorities tend to turn away from the pursuit of careers in science and engineering. It is at this level that the improved teaching of science can lay the foundations for a broader understanding of science for as many students as possible and also attract many talented individuals who may have chosen other careers.

The Foundation supports programs in science for students at the high school level through enrichment projects of the student science training program, for college undergraduates through undergraduate research participation, for graduate science and engineering students by awarding graduate fellowships, and for advanced studies in research through post-doctoral fellowships. Through this broad-based approach, NSF directly reaches thousands of science and engineering students throughout the Nation at the high school, college undergraduate, graduate, and post-doctoral levels. The future of our Nation depends on our ability to capitalize on the talents of this Nation's youth in maintaining scientific leadership.

Through the Foundation's CAUSE (comprehensive assistance to undergraduate science education) program, support is provided to strengthen the undergraduate science education at both the 2- and 4-year colleges and universities. To date, 128 awards have been made through CAUSE to institutions in 41 States, the District of Columbia, and Puerto Rico. The Foundation projects 85 CAUSE awards in fiscal year 1978, and our authorization bill supports a program for 90 awards totaling $14.9 million in fiscal year 1979.

The CAUSE program was established by the Science Committee 3 years ago. More than half of the awards have gone to smaller colleges and universities with less than 5,000 students and 28 percent of the awards have gone to 2-year junior colleges. It is the smaller colleges and the rapidy growing 2-year institutions that are feeling the worst of the college financial crisis. The CAUSE program is an important element in helping maintain the strength of our Nation's colleges.

Mr. Chairman, I strongly endorse the Foundation's science education authorization contained in H.R. 11400. We have increased the authorization to $82 million for fiscal year 1979, and on my motion the committee report directs NSF to support the undergraduate research participation program at a $2 million funding level. With this science education authorization, the foundation can carry out one of its most central and traditional responsibilities, that of maintaining an effective scientific and engineering community for America.

In closing, I wish to point out that NSF's science education programs are substantially people programs that reach students of high ability and potential throughout the country. I urge approval of the bill authorizing these programs.

Mr. HARKIN. Mr. Chairman, I thank the gentleman from Florida (Mr. FUQUA) for his remarks, and I yield back the balance of my time.

Mr. HOLLENBECK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to take this opportunity to point out the leadership Mr. HARKIN has demonstrated in preparing H.R. 11400 for presentation today. Throughout our hearings and later markups, he set the tone by emphasizing the important role played by basic research in the future economic and scientific health of the Nation. I also wish to express my appreciation to my colleague from New York (Mr. WYDLER) for his support and assistance. On numerous occasions, he has expressed the conviction, which I share, that support for basic research is vital if we are to solve the pressing problems such as energy and materials shortages. The solutions to these problem will surely involve a great change in outlook over the next generation and it is the understanding provided by basic research which will be a major factor in determining that outlook.

Mr. Chairman, I rise in support of H.R. 11400, to authorize appropriations for the National Science Foundation for fiscal year 1979. In so doing, I wish to commend the Foundation's Director, Dr. Atkinson, as well as other members of the Foundation, for the strong program they have put forward. Over the years, the Foundation has been a major source of support for innovative basic research. Years later, much of this research bears fruit.

H.R. 11400 authorizes appropriations of $934,400,000 for the Foundation for fiscal year 1979. While I know, from the testimony we heard, that there are many exciting and extraordinary scientific projects which should be undertaken and which could easily use substantially greater funding, there are limits to financial resources. Therefore, it is doubly important that the Foundation make every effort to allocate its resources over the long term for the most effective pursuit of scientific research.

If there is one area in which I would slightly fault the foundation—and this is by no means to belittle its generally excellent programs—it is that there does not appear to be sufficient effort devoted toward truly long-range planning of investment in research facilities as well as in the training of young scientists. The committee report expresses this in one way by pointing out the controversy over the relative allocation of resources between "big science" and "little science." As part of that debate. the committee recommends, and I concur heartily that the funding for the conversion of the *Glomar Explorer* for ocean margin drilling be reduced from the $4.2 million requested to $1 million. I concur not because the research that may be performed would not be worthwhile, but I am uncertain, and I do not believe the foundation has sufficiently examined the alternatives. This project would require a $540 million commitment, in capital construction and operating costs over a 10-year period. Yet, it is not apparent to me that this is the best program for the expansion of knowledge of the ocean floor which could be undertaken. This research is vital as we seek to expand our understanding of basic geological processes; it has direct commercial application; and it may lead to greater understanding about the process by which mineral and energy deposits are laid down. But the decision to proceed with detailed design does not seem warranted until a more comprehensive examination of the understanding of the future of ocean drilling and Earth sciences is formulated.

This problem faces not only the Earth sciences, it faces other areas such as physics and astronomy, and, to a lesser extent, atmospheric sciences. It is essential that the foundation prepare longer range plans—plans which would extend throughout the lifetime of facilities to determine whether construction is in the

best interest of the sciences concerned, and to determine how scientific discovery will proceed most rapidly between different scientific fields accordingly as major projects are undertaken.

The need for long range planning is also apparent in the training of young scientists. In the late 1950's and throughout the 1960's, we trained large numbers of PhD's. Now, as the support for basic research levels off in proportion to the number of trained researchers, young scientists who are entering the job market find it very difficult to obtain steady employment in their chosen field. This problem is particularly acute in astronomy.

Training young people for science without thought to their future support is itself but a further example of the need for long range planning. It is a waste of talent and of resources to train people for careers which they cannot pursue. In sum, planning of scientific facilities and the training of scientists must be undertaken over a long term commensurate with the lifetime of the facilities and with the careers of the scientists. I strongly urge the foundation to make greater efforts in this direction and I would hope that the next year the foundation will be able to shed some further light on these problems.

Mr. Chairman, I would also draw my colleagues' attention to the increase of $4.4 million for science education. In particular, I am heartened by the innovative programs which the director of the Science Education Directorate, Dr. Rutherford, has undertaken. The committee's increase, in part, reflects the desire to fund some of the programs such as the science equivalent of Sesame Street for elementary school children which Dr. Rutherford wishes to pursue. More generally, I think his emphasis on broadening the basis of scientific understanding in the general population is terribly important. In an era when science and technology pervade all aspects of our daily life, it is important for everyone to have some knowledge about the major concepts of science and the principles of scientific inquiry.

This knowledge will provide the basis for general understanding of the changes in outlook which will occur as the Nation moves to solve its pressing problems. For instance, complex interactions between the use of energy, agricultural practices, and climate change may determine our ability to use fossil fuels in the future, or to continue the expansion of food producing lands, particularly in the developing countries. These interactions are comprehensible only to someone who is aware of the complex web of relationships which extend throughout the natural environment. But this understanding can only come with some familiarity—familiarity acquired at an early age—with the general principles and objects of scientific research. For this reason, I support the committee's recommended increase in funds for science education.

In closing, I urge my colleagues to join me in supporting H.R. 11400. Let me say that while I have pointed out a need for greater diligence in the foundation's planning, its overall effort appears to be successful. The witnesses at our subcommittee hearings made apparent, as never before, that we are undergoing an amazing scientific revolution—a revolution which is fully equivalent to the total change in outlook which occurred during the 16th and 17th centuries. This revolution extends through all sciences from particle physics to cosmology to atmospheric sciences, oceanography and to the social sciences as well.

Mr. Chairman, I yield 5 minutes to the ranking minority member, the gentleman from New York (Mr. WYDLER).

Mr. WYDLER. Mr. Chairman, I rise in support of H.R 11400, to authorize appropriations in the amount of $934,400,000 for the National Science Foundation for fiscal year 1979.

First, let me thank the gentleman from New Jersey, my colleague Mr. HOLLENBECK, for his generous remarks and let me congratulate him for the outstanding work he has done as ranking minority member on the Subcommittee on Science, Research and Technology in helping to bring this bill to the floor. I think he has done a superb job in understanding some of the basic challenges in complex areas of scientific research. This is a difficult task, and his efforts have been of great assistance to the committee.

Mr. Chairman, the National Science Foundation has more than proved itself as a leader in the support of innovative basic research. But there are limits to available resources. For this reason, as last year in my remarks, I would continue to stress the importance of long range planning for research programs—programs which through their understanding of the physical world, the environment, and of the impact of human activities upon the environment will aid us in constructing a vision of the future which will enable us to see beyond the difficult problems facing this Nation in the coming years.

Mr. Chairman, programs supported by the National Science Foundation are extremely varied. Some, such as the understanding of reactions in the interior of the Sun, carried out in the solar physics program, may enable us to understand better the behavior of materials under extreme conditions and thus may enable us to obtain fusion reactions here on Earth. The same program may lead us to a greater understanding of the effects of the solar winds and the solar magnetic fields upon the Earth's climate.

That could be of great importance to our understanding of climate change with which the combustion of fossil fuels and agricultural practices are intimately connected. In the areas of mathematics and of computer sciences, we are beginning to approach a time when we can ask with reasonable precision what are the limits of problems which can be solved by computers. In the area of materials research, techniques are being developed which will be of enormous value in electronics. Advances in ocean science may teach us the process by which mineral deposits and petroleum, natural gas, and coal fields are laid down. This knowledge could tell us, on the one hand, where to uncover new resources, but it may also make us aware of possible limits on the availability of resources regardless of the expenditure of energy.

Mr. Chairman, these are just a few examples of the important research being supported by the National Science Foundation. As my colleague, Mr. HOLLENBECK, mentioned—and as I noted earlier—it is important for the foundation to undertake much greater efforts in long-range planning for the training of young scientists and for the construction of major research facilities. I hope that the foundation, over the coming year, will make a greater attempt in this direction. I urge my colleagues to join me in supporting H.R. 11400.

Mr. TEAGUE. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington (Mr. MCCORMACK).

Mr. MCCORMACK. Mr. Chairman, I rise in support of this bill, and I commend all those who have worked to prepare it.

Mr. Chairman, as the Members know, I have been studying the possibility of harnessing solar energy. The Sun, upon which all life on this planet depends, holds almost unlimited potential as a future energy source. Scientists and engineers are just beginning to learn how to use solar energy to heat and cool our homes efficiently, and someday, clean, unending, inexpensive solar energy will surpass fossil fuels as an energy source.

Today, however, I would not like to speak only of those scientists and engineers working to convert solar energy from a dream to a reality. While considering the fiscal year 1979 National Science Foundation authorization, I would like to point out that some of the money the House will authorize today will provide support for fundamental research in solar physics and astrophysics, two scientific disciplines that are essential to a better understanding of the Sun and consequently, to our future progress in using solar energy. To harness the Sun effectively, we must first understand how it works, and this is precisely what NSF-supported scientists are trying to accomplish.

In laboratories and observatories from Arizona to South Dakota, from Colorado to Massachusetts, the National Science Foundation has been responsible for work that is changing our whole outlook on how to study the Sun. There have been exciting new discoveries in solar and astrophysics in recent years, and these scientific breakthroughs will have a profound impact on our knowledge, not only as it relates to the Sun, but as it contributes to such diverse fields as climate and communications.

For almost 100 years, scientists have studied the Sun by dissecting its parts. Interpretations of miniscule bits and pieces of information have led to a credible, although not very comprehensible, solar model. Recently, however, some scientists have decided it was time

to approach the study of the Sun from a different perspective: Study it not as a composition of independent parts, but rather as an entity, as a star. Instead of considering the Sun to be the sum of its parts, scientists are now saying that perhaps we should study the Sun as a whole. The results have been dramatic, and in some ways, unexpected.

For example, scientists from the University of Arizona, the National Center for Atmospheric Research in Boulder, and the University of Colorado, in seeking to measure precisely the diameter of the Sun, were frustrated by small perturbations in the Sun's edge. These perturbations, or changes, in the Sun's diameter seemed to indicate that the entire Sun was oscillating. Is the Sun really ringing like a gong, constantly changing shape? If so, it is like the Earth pulsating during a violent earthquake. While this theory of solar oscillation still remains questionable, if confirmed, it will be a new and fundamental discovery in solar—and stellar—science.

Another exciting new area of solar science is the case of the missing neutrinos, or the "neutrino deficiency," as it is sometimes termed. Neutrinos are very tiny, uncharged, and, for practical purposes, massless particles of matter which rarely react to anything. Scientists have determined that studying neutrinos emitted by the Sun can provide them with the opportunity to measure events taking place inside the Sun itself.

A single neutrino can pass through the Sun, and since the number of neutrinos produced by the Sun varies with the temperature of the thermonuclear reaction, scientists should be able to draw significant conclusions about the reactions occurring in the Sun's core by counting the number of neutrinos emitted toward the Earth. Even with sophisticated, Earth-based neutrino counters, such as the one located in South Dakota and operated by Brookhaven National Laboratories, counting these elusive particles is not easy. Counts have shown significant quantities of neutrinos to be "missing." Perhaps, as some postulate, the Sun is altering these neutrinos before they reach the Earth; or perhaps, the solar oscillations are cooling the thermonuclear furnace, and therefore, reducing the production of neutrinos. Whichever one of these, or any other as yet unconceived theory proves correct, the foundation of astrophysics could change because of the "neutrino deficit."

As Beverly Lynds, assistant director of Kitt Peak Observatory in Tucson, Ariz., said,

> The lack of neutrinos is an indication that something (in our understanding of the sun) is wrong. Is it with our theory of the sun's structure or with that of atomic reactions? If it is the model of the sun, then the whole theory of stellar evolution could be wrong.

A third puzzle that NSF supported solar scientists are attempting to unravel is the inconsistent nature of the Sun. Mathematical and computer modeling have become favorite tools of scientists who must deal with situations that cannot be reconstructed in the laboratory. Clearly, scientists cannot build a miniature Sun or Earth, and because of its inconsistency, the Sun has yet to be represented by an accurate computer model. One way astronomers are seeking to solve this problem is to search the universe for a solar twin in a different phase of its life in order to learn more about solar cycles. Another possible solution is, of course, to study and learn as much about the solar cycles and the Sun's differential rotation, sunspot activities, and magnetic cycles. Changes in the Sun can have profound effects on life here on Earth, ranging from variations in the world's climate with its subsequent impact on food production and energy consumption, to disruptions in worldwide communications, and electrical power blackouts.

Mr. Chairman, the mysteries of science can only be unraveled by the hard work of dedicated scientists. By focusing on a single research area—astrophysics—I have attempted to show my colleagues in the House how the basic scientific research as supported by the NSF can provide both short-term and long-range solutions to a variety of problems. Solar research, especially as it relates to solar energy development, is a popular subject today. What we should keep in mind is that research into the functioning of the Sun, as expressed by solar astronomers, and astrophysicists, can have an equal, if not greater, long-term impact on the world. However, this impact may not be felt for decades or even centuries. NSF's programs in these areas have been on the frontier of an exciting discipline, one with huge potential payoffs, and one that often goes unnoticed by those of us whose primary concerns are the immediacy of the current situation. NSF and the scientific community should be commended for their patience and dedication.

Mr. HOLLENBECK. Mr. Chairman, I yield 5 minutes to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Chairman, I have been troubled by the sizable yearly increases in the National Science Foundation's budget, and this year is no exception.

The overall increase in this year's authorization is 8 percent above the foundation's' current budget plan.

NSF basic research support, which has increased an average of 18.4 percent per year since 1969, is increased again by 10 percent in this bill's authorized levels.

I would like to include for the RECORD a table that shows these increases for each budget activity:

NATIONAL SCIENCE FOUNDATION—SUMMARY OF FISCAL YEAR 1979 BUDGET BY PROGRAM AND FUNDING

| | Actual, fiscal year 1977 | Current plan, fiscal year 1978 | Budget request, fiscal 1979 | House Science and Technology Committee mark | Difference, fiscal years 1979 and 1978 | Percen. differencet fiscal years 1979 and 1978 |
|---|---|---|---|---|---|---|
| Research and related activities: | | | | | | |
| Mathematical and physical sciences and engineering | $224,419,502 | $246,015,000 | $268,300,000 | $265,100,000 | +$19,085,000 | +7.7 |
| Astronomical, atmospheric, earth and ocean sciences | 188,230,077 | 210,080,000 | 227,300,000 | 224,100,000 | +14,020,000 | +6.7 |
| U S Antarctic program | 45,295,316 | 48,233,000 | 50,700,000 | 53,100,000 | +4,867,000 | +10.1 |
| Biological, behavioral and social sciences | 126,607,209 | 142,215,000 | 158,000,000 | 158,000,000 | +15,785,000 | +11.1 |
| Basic research stability grants | 0 | [1] 4,500,000 | 0 | 0 | −4,500,000 | |
| Applied science and research applications | 62,358,910 | 57,903,261 | 73,900,000 | 67,000,000 | +9,096,739 | +15.7 |
| Scientific, technological, and international affairs | 20,661,511 | 24,555,031 | 24,300,000 | 24,300,000 | −255,031 | −1.0 |
| Program development and management | 45,530,012 | 52,014,457 | 54,800,000 | 54,800,000 | +2,785,543 | +5.3 |
| Subtotal | 713,102,537 | 785,515,749 | 857,300,000 | 846,400,000 | +61,394,313 | +7.7 |
| Science education activities: | | | | | | |
| Scientific personnel improvement | 30,912,605 | 32,221,397 | 29,800,000 | (29,800,000) | (−2,421,000) | (−7.5) |
| Science education resources improvement | 28,196,055 | 28,156,000 | 29,700,000 | (30,700,000) | (+2,144,000) | (+7.6) |
| Science education development and research | 11,066,833 | 8,193,000 | 11,700,000 | (14,000,000) | (+5,807,000) | (+70.9) |
| Science and society | 4,088,062 | 5,388,000 | 6,400,000 | (7,400,000) | (+2,012,000) | (+37.3) |
| Subtotal | 74,263,555 | 73,958,397 | 77,600,000 | [2] 82,000,000 | +8,042,000 | +10.9 |
| Special foreign currency | 4,403,426 | 5,434,055 | 6,000,000 | 6,000,000 | +565,945 | +10.4 |
| Total NSF funding [3] | 791,769,518 | 864,908,201 | [4] 940,900,000 | 934,400,000 | +69,491,799 | +8.0 |

[1] NSF has received committee approval to reprogram these funds into fiscal year 1978 basic research activities, following an administration deferral on this item. See p. F–1 of NSF budget estimate to the Congress.

[2] This science education total is $500,000 more than NSF expected to receive when it provided the parenthetical figures for each subactivity in answer to a subcommittee question concerning earmarking of funds with a 5-percent increase (to a total of $81,500,000) in the requested amount for fiscal year 1979. The subcommittee did not object to the proposed NSF increases, but did not earmark the additional $500,000 in the ultimate $82,000,000 mark for any specific purpose. (Parenthetical figures were provided by NSF congressional liaison.)

[3] These totals do not reflect unobligated balances, carryovers, and a total of $952,754 of unused funds that NSF returned to the U.S. Treasury at the end of fiscal year 1977. These items are displayed on p. A–8 of the fiscal year 1979 NSF budget estimate tc the Congress.

[4] The budget request includes a $6,900,000 administration deferral from fiscal year 1978.

Sources: National Science Foundation (fiscal year 1979 budget estimate to the Congress) House Committee on Science and Technology (staff).

Mr. Chairman, there are other troubling areas with the National Science Foundation.

There is the continuing demonstrated discrimination against certain areas of the country in the geographic distribution of NSF funds.

Only five States last year received more than 42 percent of all NSF research awards, while nine other States in the South received a combined total of only 6.4 percent of all NSF support.

The Foundation has done nothing to correct this discrimination in the way that research support is allocated.

In fact, I have recently been provided an internal Foundation memorandum which states that the Foundation should not acknowledge or give credibility to complaints or charges that such geographic discrimination is being practiced, when the facts are plain that it is, which indicates a refusal of NSF to do anything real to correct the problem.

Another problem I have with the Foundation's program is its failure to audit and monitor projects it supports with millions of taxpayers dollars.

The Department of Health, Education, and Welfare recently audited a number of large universities receiving Federal R. & D. support, and found blatant misuse and waste of Federal funds.

Mr. Chairman, I have discussed these and other problems in my dissenting views on this bill, which is included in the committee's report on H.R. 11400.

I hope that we will be able to solve these problems soon.

I would like to include my views from the committee report at this point in the RECORD:

DISSENTING VIEWS OF REPRESENTATIVE ELDON RUDD

There are several disturbing trends and questionable assumptions that have marked the history of National Science Foundation budget authorizations over the past 10 years.

I strongly hope that closer consideration will be given to these matters in future congressional action on the NSF budget and programs, as part of our important legislative oversight responsibilities.

1. The steady upward trend of NSF budget increases since 1969 cannot be justified by the impact of inflation on academic science research efforts, or the Foundation's record of support to strengthen and uplift the Nation's scientific community.

This bill authorizing $941.3 million (including a $6.9 million deferral from fiscal year 1978) is $76.4 million more than the Foundation's current fiscal year 1978 plan, an increase of 8.8 percent. This on top of the 9.2 percent increase over the fiscal year 1977 program.

The bill includes $751 million for basic research, a 10 percent increase over the current fiscal year 1978 plan, which itself is an 11.5 percent increase over the fiscal year 1977 amount. NSF is the leading Federal supporter of basic research at colleges and universities, and funds for this purpose comprise about 80 percent of the Foundation's total budget.

The Foundation's basic research project support has increased an average of 18.4 percent per year since fiscal year 1969, and will have increased a total of 203 percent in just 10 years if this bill is approved at its current proposed level.

In constant (1969) dollars, using a Consumer Price Index deflator to adjust for inflation, NSF basic research project support has had a real increase between fiscal year 1969 and fiscal year 1977 of more than 8.4 percent above what is necessary to account for inflation.

The following table accurately summarizes NSF basic research budget trends since fiscal year 1969:

NATIONAL SCIENCE FOUNDATION BASIC RESEARCH BUDGET INCREASES, FISCAL YEARS 1969–79

[Dollar amounts in millions]

| Fiscal year | Amount | Dollar increase | Percent increase | Total increase since fiscal year 1969 Amount | Total increase since fiscal year 1969 Percent |
|---|---|---|---|---|---|
| 1969 | [1] $247.6 | | | | |
| 1977 | [2] 612.0 | +$364.4 | +147.0 | +$364.4 | +147.0 |
| 1978 (current plan) | [3] 682.6 | +70.6 | +11.5 | +435.0 | +175.0 |
| 1979 (committee mark) | [4] 751.0 | +68.4 | +10.0 | +503.4 | +203.0 |

[1] NSF fiscal year 1971 budget to Congress (fiscal year 1969 actual column).
[2] NSF fiscal year 1978 budget to Congress ("Budget in Brief," p. 12).
[3] NSF fiscal year 1979 budget to Congress ("Budget in Brief," pp. 14, 30).
[4] This is $4,400,000 less than NSF's request, which was transferred by the committee into science education programs.

The tremendous increase in NSF basic research support since 1969 is underscored by the fact that creation of the Energy Research and Development Administration in 1975 resulted in the transfer of about $52 million of NSF-funded energy research to that agency.

THE REAL IMPACT OF INFLATION ON R. & D.

In years past, Congress has been told that these increases in NSF basic research support to colleges and universities were justified by the impact of inflation on academic institutions. Last year, based on Joint Economic Committee projections, the staff of this committee told members after the subcommittee had marked up the fiscal year 1978 NSF authorization that a $15.1 million increase in basic research support was needed to account for a 7 percent inflation rate in this area. A chief reason given for this increase was that faculty salaries were reported to be moving up faster than the general rate of inflation.

The committee approved the increase, despite questions by several members about this assumption of a 7 percent inflation impact. A study of inflation at academic institutions by D. Kent Halstead of the National Institute of Education now shows that this inflation projection was erroneous.

The Halstead study of inflation at colleges and universities since 1971 shows that the average rate of inflation for all areas associated with basic research is 5.3 percent. The actual inflation rate for NSF-supported research would be lower than 5.3 percent, since manpower costs—faculty salaries and support for graduate and research assistants—which comprise more than 50 percent of NSF awards have increased at an average rate of only 4.8 percent per year since 1971, not at a rate higher than inflation generally as the committee was led to believe.

A breakdown of rising prices paid by colleges and universities for goods and services associated with basic research, as shown by Halstead's NIE study, is as follows:

*Average percentage increase per year since 1971*

*Basic research item*

| | |
|---|---|
| Manpower costs: | |
| Faculty salaries | 4.7 |
| Graduate and research assistants | 4.9 |
| Services: | |
| Data processing | 3.9 |
| Communication | 5.3 |
| Transportation | 6.0 |
| Printing and duplicating | 6.5 |
| Supplies and materials | 5.1 |
| Equipment | 5.3 |
| Administration and institutional services | 6.4 |

This error in adjusting NSF's annual basic research budget to compensate for inflation has resulted in the authorization of $12–$15 million more each year than was intended, in order to give the Foundation a real growth of 2 to 3 percent per year. This is an added bonus of $36–$45 million just since the fiscal year 1977 authorization.

COMPARATIVE R. & D. EXPENDITURES

Another justification offered for the substantial increases in NSF's basic research budget over the years has been the comparative R. & D. investment of other nations whose scientific and technological advances pose an economic or strategic threat to the United States.

It has been suggested that since the Soviet Union devotes a larger portion of its Gross National Product to R. & D. than the United States, and because such nations as Canada, France, West Germany, Japan, and the United Kingdom also devote a large proportion of their GNP to R. & D., that the U.S. Government should increase its spending in this area.

These arguments, while persuasive, are designed to deceive. If these nations are outstripping the United States in research and development, it is not because of a greater investment than the United States. It is because of the application of criteria for supporting research that is of national importance, wiser allocation of funds and resources, better fiscal management, and supporting a wider range of superior talent.

The United States is allocating 64.5 percent more funds to R. & D. efforts each year than the Soviet Unon, even though our investment is a smaller proportion of GNP. U.S. R. & D. expenditures in 1975 were $35.2 billion, compared to $21.4 billion for the Soviet Union.

The United States is spending $5.3 billion more each year on R. & D. than the combined total of all funds being spent by Canada, France, West Germany, Japan, and the United Kingdom. U.S. investment is 17.9 percent more each year in R. & D. than the total investment of these five nations in this area.

The following statistical tables compare the Gross National Product and annual R. & D. expenditures of the United States and these other competitive nations. (The statistics are from the National Science Board's Science Indicators—1976, pages 185–186, and were converted into U.S. dollar equivalents at the average annual exchange rate by the Congressional Research Service of the Library of Congress.):

R. & D. EXPENDITURES

[In billions of dollars at average annual exchange rate]

| Year | Canada | France | West Germany | Japan | United Kingdom | United States | U.S.S.R. | Year | Canada | France | West Germany | Japan | United Kingdom | United States | U.S.S.R. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1961 | 0.41 | 0.9 | NA | NA | 1.9 | 14.3 | 4.2 | 1969 | 1.15 | 2.6 | 3.3 | 3.0 | 2.5 | 25.7 | 9.6 |
| 1962 | .43 | 1.1 | 1.13 | 0.9 | NA | 15.4 | 4.7 | 1970 | 1.11 | 2.7 | 4.1 | 3.8 | NA | 26.0 | 11.2 |
| 1963 | .47 | 1.3 | 1.4 | NA | NA | 17.1 | 5.4 | 1971 | 1.17 | 3.2 | 5.5 | 4.9 | NA | 36.7 | 12.5 |
| 1964 | .56 | 1.6 | 1.6 | NA | 2.1 | 18.9 | 6.0 | 1972 | 1.20 | 3.6 | 6.0 | 5.9 | 3.3 | 28.4 | 15.1 |
| 1965 | .69 | 2.0 | 2.0 | 1.4 | NA | 20.1 | 6.4 | 1973 | 1.33 | 4.4 | 7.7 | 8.2 | NA | 30.4 | 18.2 |
| 1966 | .81 | 2.2 | 2.2 | 1.6 | 2.5 | 21.9 | 7.0 | 1974 | 1.48 | NA | 8.6 | 9.3 | NA | 32.3 | 18.7 |
| 1967 | .95 | 2.5 | 2.4 | 1.9 | 2.3 | 23.2 | 8.0 | 1975 | 1.75 | 5.2 | 9.5 | 8.8 | 4.6 | 35.2 | 21.4 |
| 1968 | 1.03 | 2.7 | 2.7 | 2.4 | 2.4 | 24.7 | 8.7 | 1976 | NA | NA | 9.6 | NA | NA | 38.1 | NA |

NATIONAL EXPENDITURES FOR PERFORMANCES OF R. & D. AS A PERCENT OF GROSS NATIONAL PRODUCT (GNP) BY COUNTRY, 1961–76

| Year | Canada | France | West Germany | Japan | United Kingdom | United States | U.S.S.R. | Year | Canada | France | West Germany | Japan | United Kingdom | United States | U.S.S.R. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1961 | 1.01 | 1.38 | NA | NA | 2.69 | 2.74 | NA | 1969 | 1.34 | 1.96 | 2.02 | 1.71 | 2.63 | 2.75 | 2.62 |
| 1962 | .95 | 1.43 | 1.25 | 1.48 | NA | 2.73 | 2.18 | 1970 | 1.29 | 1.88 | 2.16 | 1.86 | NA | 2.65 | 2.79 |
| 1963 | .95 | 1.53 | 1.40 | NA | NA | 2.87 | 2.37 | 1971 | 1.25 | 1.87 | 2.36 | 1.88 | NA | 2.50 | 2.85 |
| 1964 | 1.05 | 1.78 | 1.56 | NA | 2.62 | 2.97 | 2.42 | 1972 | 1.17 | 1.83 | 2.31 | 1.89 | 2.39 | 2.43 | 3.13 |
| 1965 | 1.17 | 1.99 | 1.72 | 1.55 | NA | 2.92 | 2.40 | 1973 | 1.11 | 1.73 | 2.22 | 1.92 | NA | 2.33 | 3.19 |
| 1966 | 1.21 | 2.07 | 1.80 | 1.50 | 2.68 | 2.91 | 2.42 | 1974 | 1.09 | NA | 1.23 | 1.99 | NA | 2.29 | 3.13 |
| 1967 | 1.33 | 2.16 | 1.97 | 1.55 | 2.69 | 2.91 | 2.55 | 1975 | NA | 1.48 | 2.25 | NA | NA | 2.32 | 3.18 |
| 1968 | 1.33 | 2.12 | 1.95 | 1.51 | 2.65 | 2.84 | NA | 1976 | NA | NA | 2.13 | NA | NA | 2.25 | NA |

Note: The ruble is not traded on foreign exchange markets. Therefore, the official rate has been used. This may not reflect the real exchange value of the ruble.

GROSS NATIONAL PRODUCT

[In billions of U.S. dollars at average annual exchange rate]

| Year | Canada | France | West Germany | Japan | United Kingdom | United States | U.S.S.R. | Year | Canada | France | West Germany | Japan | United Kingdom | United States | U.S.S.R. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1961 | 40.8 | 65.3 | 83.3 | 54.9 | 68.7 | 523.3 | NA | 1969 | 85.6 | 130.1 | 164.0 | 174.0 | 95.3 | 935.5 | 366.2 |
| 1962 | 45.7 | 74.9 | 90.0 | 60.4 | 71.4 | 563.8 | 219.1 | 1970 | 86.6 | 146.4 | 187.9 | 204.3 | 104.1 | 982.4 | 402.9 |
| 1963 | 49.7 | 84.0 | 96.6 | 70.7 | 76.3 | 594.7 | 229.7 | 1971 | 93.7 | 172.1 | 233.1 | 259.1 | 124.8 | 1,063.4 | 438.7 |
| 1964 | 54.0 | 93.2 | 105.8 | 82.7 | 82.3 | 635.7 | 248.0 | 1972 | 103.0 | 198.6 | 261.5 | 381.4 | 137.3 | 1,171.1 | 484.1 |
| 1965 | 59.6 | 99.9 | 114.9 | 90.9 | 88.3 | 688.1 | 269.0 | 1973 | 120.4 | 256.6 | 346.8 | 426.2 | 155.2 | 1,306.6 | 572.5 |
| 1966 | 67.0 | 107.4 | 123.4 | 94.9 | 92.6 | 753.0 | 289.0 | 1974 | 136.2 | 273.1 | 384.7 | 467.6 | 175.2 | 1,413.2 | 596.2 |
| 1967 | 71.8 | 116.9 | 123.9 | 125.1 | 84.2 | 796.3 | 313.3 | 1975 | 157.4 | 355.1 | 423.9 | 517.9 | 207.3 | 1,516.3 | 674.6 |
| 1968 | 77.9 | 127.1 | 135.0 | 162.9 | 89.9 | 868.5 | NA | 1976 | 187.3 | NA | 450.8 | 554.6 | NA | 1,691.6 | NA |

GEOGRAPHIC DISTRIBUTION OF NSF AWARDS

Another disturbing aspect of NSF support for basic research at colleges and universities throughout the Nation is the apparent consistent favoritism for institutions in several large States, and discrimination in the award of funds to institutions in other parts of the country.

The statistics on the geographic distribution of NSF basic research funds speak for themselves.

Institutions in only four States received more than 42 percent of all funds awarded by NSF in fiscal year 1977. Those States—California, Colorado, Massachusetts, and New York—accounted for $290.9 million of the $685.1 million awarded by the Foundation that year.

Yet nine other States—Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee—received a combined total of only $44.3 million, which is only 6.4 percent of all fiscal year 1977 NSF expenditures. These States received only 15.2 percent of the amount awarded to the four preferred States above, and only slightly more than twice the amount awarded to only one institution—Massachusetts Institute of Technology, which alone received $20.9 million.

Unlike the Department of Defense and other Federal mission agencies that support basic research on a solicited basis with national priorities and objectives in mind, the National Science Foundation awards unsolicited research proposals under the legislative mandate to support and uplift science throughout the United States.

Apparently, NSF is violating that mandate by failing to distribute grant awards equitably.

Statistics on NSF's geographic distribution of awards and on the geographic success ratio for proposals submitted to the Foundation both suggest a conscious policy of discrimination in the way that NSF decisionmakers award funds to academic institutions around the country.

Other factors, including the makeup of NSF's top management, which is heavily dominated by former administrators and researchers from institutions favored by NSF funding patterns, or who have returned to those institutions after serving in management positions at the Foundation, pose serious questions about NSF's geographic distribution of awards and its failure to comply with congressional mandates against undue concentration of awards in only a few institutions or States.

Unfortunately, the actions proposed by NSF to achieve a greater geographic distribution offer no relief in a reasonable period of time. It is extremely doubtful in view of the positions taken by the National Science Board and the Foundation's management that Congress will see any progress made on a more equitable distribution of NSF support in fiscal year 1978. There is also only a remote possibility that there will be any improvement in fiscal year 1979.

It appears clear that Congress must take some positive legislative action to correct this problem of discrimination in the geographic distribution of NSF research awards, in order to reaffirm the original purpose for which the Foundation was created.

That purpose was to be a source of Federal funds to benefit research and development efforts among a large array of researchers throughout the U.S. scientific community, and to uplift science rather than support just elite science, for the benefit of the entire country.

The history of NSF's budget increases over the years, and the inequitable geographic distribution of R. & D. funds by the Foundation, suggest that NSF has abandoned the mandate of its organic act and subsequent actions of Congress in order to become a source of large and continuing subsidies for the administrative costs primarily of some of the Nation's larger, prestige institutions.

2. Recent Federal audits disclosing careless and unauthorized use of Federal research funds by recipients of NSF grant awards demonstrate the need for improved and more vigilant management practices and greater accountability by both grantees and the National Science Foundation.

A widespread pattern of careless bookkeeping, alleged misuse of funds by research grant recipients, and other abuses involving hundreds of millions of dollars awarded by NSF and other Federal agencies has been discovered in audits of colleges and universities by the Department of Health, Education, and Welfare.

Some of the discovered irregularities include: (1) Failure to document work performed on Federal contracts; (2) Permitting researchers to spend less time on projects than specified in grant proposals and contracts; (3) Allowing unauthorized transfer of funds between projects; (4) Paying more than once for the same work; (5) Using Federal funds to pay for work not related to the awarded proposal; (6) Not accounting for equipment and supplies; (7) Receiving Federal funds to perform research work that has already been done by the applicant with funds from another source; (8) Abandoning a project once Federal funds have been

awarded for specific work, and not returning the funds.

In light of these HEW audit revelations, I would like to have seen an opportunity for the full committee to discuss with Foundation officials their efforts to detect and eliminate such abuses in NSF-supported research projects. However, this was not possible since for the first time in many years the traditional NSF Director's posture briefing before the full committee was not held this year.

The Foundation has established a new Office of Audit and Oversight in response to concerns that had been raised about its management of Federally-funded R. & D. projects. But it is not apparent that the Foundation has taken adequate steps to provide this new office with adequate resources and an aggressive mandate that are necessary to perform a sufficient number of on-site audits of ongoing projects to find and eliminate these widespread abuses.

The Foundation should adopt a positive attitude in establishing effective accountability over funds entrusted to it by the Congress. Colleges and universities and other NSF grantee institutions should be made to meet certain minimum management standards in order to qualify for participation in NSF support.

For example, academic institutions which do not have a complete inventory of their scientific equipment, or which take no action to demonstrate that they are making good efforts in establishing research management practices, should not be qualified for NSF support.

The National Science Foundation should also take steps to insure that research supported is in fact carried out. Under the present system, there is no guarantee that NSF support will actually go for research described in the research proposal, since colleges and universities commingle the funds for R. & D.

I personally cannot vote in favor of the Foundation's authorization until this management situation has been improved, and the Foundation can demonstrate to Congress and the public that current abuses are being eliminated.

Because of the uniqueness of the Fondation's program, I believe that Congress should carefully review the current practice of relying on the Department of Health, Education, and Welfare to perform fiscal and program audits for most NSF activities.

In view of the Foundation's approaching $1 billion annual budget, it would seem to dictate that the Foundation establish and play a direct and significant role in auditing functions for which it is responsible.

This would not preclude HEW's continued role as the lead audit agency for Federally-supported R. & D. projects, and would still be supplemented when deemed advisable with audits by the General Accounting Office.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. RUDD. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I want to commend the gentleman from Arizona (Mr. RUDD) for his minority views, which I have had occasion to read. I know that his is a very difficult position to take because of the enormous scientific and educational establishment that has been built up over the years, largely financed with Federal funds.

Certainly we need continuing research and other scientific activities, but as the gentleman eloquently states in his additional views, the question is, How much shall be spent and is the money being properly spent?

Mr. Chairman, there have been a great many figures in public life in recent years who have made a political career out of monthly criticism, unjustly perhaps, some of the expenditures by the National Science Foundation; and certainly I have been very critical on occasion. However, I have also noticed that when "push comes to shove", as it is said in the vernacular, the same public leaders are almost never willing to make the hard decisions and impose the restrictions on these agencies that are really needed.

In fact, Mr. Chairman, I have read articles in major magazines about all the things that should be done to limit NSF, but they are not done. I think the responsibility lies right here in the Congress; and the gentleman from Arizona (Mr. RUDD), as a member of this committee, certainly can take credit for pointing out the deficiencies in the operation of the National Science Foundation and the lack of justification for the continual increases in that agency's budget. Certainly also the people who sent him here should know of the role he has played in this instance.

Mr. RUDD. Mr. Chairman, I thank the gentleman from Maryland (Mr. BAUMAN) for expressing his views.

There is always room for dissent in our system of Government. That, however, does not detract from the great job which the gentleman from Texas (Mr. TEAGUE) has done or that our minority leader, the gentleman from New York, has done.

Mr. TEAGUE. Mr. Chairman, I yield such time as he may consume to the gentleman from Alabama (Mr. FLIPPO).

Mr. FLIPPO. Mr. Chairman, I rise in support of H.R. 11400. The National Science Foundation's budget, which this bill would authorize for fiscal year 1979, is an important "balance wheel" in the context of the entire Federal research and development system. Basic research supported by the NSF is often vital to the solution of national problems which you might expect to fall primarily under the responsibility of the mission agencies. That is not by any means the result of faulty planning of research efforts on the part of the mission agencies. On the contrary, this situation exists because we often do not know what research is going to pay off in the long run. We need a pluralistic yet cooperative system which involves different approaches by different agencies.

For example, 3 years ago Illinois experienced the most severe outbreak on record of an insect pest called soybean thrips. This pest had the potential for dramatically reducing the soybean crop that year and causing enormous financial losses across the State. This potential loss of the soybean crop was further complicated by two other factors—a common herbicide used in weed control was toxic to the soybean seedlings, and the below normal temperatures that year resulted in slow growth early in the season.

Very little basic information was available on the insect pest—the soybean thrips. However, the NSF and the Department of Agriculture had jointly sponsored a large project which had previously determined that the soybean plant has a large capacity to compensate for severe injury, provided that the injury is inflicted during early vegetative growth. This information led to a logical recommendation to the farmers in Illinois: Hold back on insecticides unless the seedling soybean plants were actually being killed by the thrips.

Extension service scientists and county agents were successful in persuading most farmers to hold back on the use of insecticides, which at that point would have been expensive, unnecessary and possibly very harmful to the crop and to the natural enemies of the thrips. As a result, soybean yield was not impaired, and the risk of this pest's becoming a serious threat in the region—by the destruction of its natural enemies by insecticides—was averted.

Mr. Chairman, we could go on and on giving examples like this of the importance of the knowledge obtained from basic research. Although at first glance some of the projects may seem to be unrelated to real problems, it may only be years later that these projects prove invaluable for the solution of real problems. I encourage my colleagues to support basic research and the important role of the NSF in basic research by voting for this bill.

Mr. Chairman, I have been concerned that the National Science Foundation should follow the charge in its statutory authority to avoid undue concentration of science in the United States. I particularly want to see more even geographical distribution of NSF funds. I was very pleased, therefore, to see that the Foundation is initiating a program to increase geographical distribution of its funds. States which have little science activity of Federal science funds will be eligible for the program. Each State which is funded will determine for itself how scientific activity best be encouraged and how the State's competitive ability for getting Federal funds might be improved.

This is important to insure that the important diversity of research be achieved and that the full potential of scientific resources throughout the Nation be utilized. I look forward to the contributions which will be made by my home State of Alabama, which will be eligible for this program. I am sure that bringing the scientific community of all regions into the mainstream of research will significantly benefit the basic research which this bill supports. This is another of the many reasons to support H.R. 11400.

● Mr. BROWN of California. Mr. Chairman, the Breaux amendment to add $3.2 million to the National Science Foundation authorization for the purpose of doing an engineering feasibility study on refitting the *Glomar Explorer* poses a few problems for me.

I most wholeheartedly endorse exploring and gaining further understanding of the continental margins, and I generally view our exploration of the oceans as a burgeoning scientific venture, and deserved so. Such a program has signifi-

cant scientific and practical benefits and would greatly complement the vast amount of important knowledge accumulated through the present deep sea drilling project.

This program to extensively explore the continental margins represents a significant change in the DSDP, as indicated by the need to have a research vessel with new drilling capabilities. My concern, and that of the Science and Technology Committee, is that we fully understand this commitment and that we take the proper approach to fullfilling it. That is, we should consider how this new program is to fit into the overall NSF program, what priority it is to have, how well the NSF can meet the goals of the program, and whether or not another agency, such as DOE or the Interior's Geological Survey, should be involved in the research. On page 16 of the report which accompanies H.R. 11400 it states:

> There is no indication that the National Science Board, NSF's policymaking body, has authorized the project. There is no request for Congressional approval of the project itself. There is no discussion of what other "Big Science" projects will have to be foresaken if the deep sea drilling project goes ahead.

I feel the Science and Technology Committee is correct in these observations.

Therefore, despite my real desire to see this type of research conducted, and although I understand and respect the opposing arguments of my friends and colleagues, I believe the long-term health of scientific planning and therefore science itself, would best be served by supporting the views of the Science and Technology Committee and voting against this amendment. And, Mr. Chairman, I urge my colleagues to do likewise.●

● Mr. KRUEGER. Mr. Chairman, to maintain our preeminent position in international science and the resulting benefits to the economy and to the quality of American life, it is imperative that we continue to provide funds to the National Science Foundation. The NSF was established in 1950 to benefit scientific endeavors for reasons of national security and economic well-being. Since that time the NSF has used these funds to support basic research and science education and, more recently, to aid applied research on selected national problems. Over the years the NSF has been most effective in stimulating scientific research and education programs. Through the programs of this agency we have made many advances, whether by individual students in various educational programs or for all mankind through radio telescopic discoveries in the universe.

The NSF budget request was well within reason; in fact, many thought the budget request for scientific programs was too small. The only major changes from the President's budget resulted from the committee's belief that the additional funds were needed for science education, which was increased from $77.6 million to $82 million, and for the U.S. Antarctic program, increased from $50.7 million to $53.1 million. The other changes were made to reduce the budget to an acceptable level. It would have been preferable to allocate more funds for the advancement of science; however, this would have caused an even greater budget deficit than we currently face. The NSF authorization recommended by the Science and Technology Committee is reasonable and worthy of our support, with only a $0.4 million difference between it and the President's request.

H.R. 11400 was reported unanimously by the committee, and the report makes recommendations which should result in more efficient allocation of NSF funds. The progress of American science is important to the future of America and adequate funding for the NSF is the most important method of promoting our science and insuring its continued success.●

● Mr. LEGGETT. Mr. Chairman, I am pleased this afternoon to voice my support for the amendment being offered by my distinguished colleague from Louisiana (Mr. BREAUX).

The President, in his proposed fiscal year 1979 budget, included $4.2 million in budget authority for the initiation of studies necessary to determine the economic and technological feasibility of converting the *Glomar Explorer* for deep ocean research.

As an oversight, I am sure, the Science and Technology Committee approved only $1 million of that request. This amount is woefully inadequate and obviously would not provide the National Science Foundation with the funding they will need to do the evaluation.

My colleagues will no doubt recall the *Glomar Explorer* was constructed by the Summa Corp., a Howard Hughes company, under contract from the Central Intelligence Agency. It was built at an estimated cost of $240 million. Its one and only mission was the recovery of a sunken Soviet submarine from the bottom of the Pacific Ocean.

At this very moment, the *Explorer* sits idle in my congressional district with the mothball fleet at Suisun Bay, Calif. This is indeed an unfortunate waste of the taxpayer's dollars for the construction of this vessel, not to mention the waste of its superior deep ocean research capability.

As chairman of the Subcommittee on Fisheries, and Wildlife Conservation and the Environment, I have been working for several years to get this most remarkable ship back to sea as an active participant in our rapidly expanding national ocean exploration and mineral development effort.

Mr. Chairman, I had the pleasure last summer of personally inspecting the *Glomar Explorer* moored at Suisun Bay. I found the vessel to be in surprisingly excellent condition and with the proper modification, I understand, quite seaworthy.

The amendment offered today would reinstate an additional $3.2 million authorization which would allow the National Science Foundation to proceed with their detailed engineering studies. These studies are needed to determine the type of drilling string and well support system modifications necessary in the conversion of the *Glomar Explorer*.

The proper utilization of the *Explorer* is an essential component in our proposed $450 million ocean margin drilling program for the next decade. This vessel can maintain position for deep water drilling under the oceanographic conditions far better than a new "large" ship. The vessel motions are less than those of "large" drilling ships now operating in the same environmental conditions. This vessel's size allows for the incorporation of all needed laboratory and scientific accommodations on board.

We must be deliberate and cost-effective in our actions. Since this vessel is already in the U.S. Government inventory, the cost of operating the *Explorer*, even with the needed modification, would be significantly less on a daily basis than a contractor-owned large drilling ship.

We cannot and should not neglect the *Glomar Explorer*'s potential beyond utilization as a drilling ship. Obviously, its use for deep sea exploration and underwater recovery has been established. But what of the other possibilities—they defy the imagination! How many ships have been lost at sea through the years? How many billions of dollars worth of treasure have been lost on the ocean bottom? This ship most certainly has potential as a deep sea treasure hunter.

The stakes in deep ocean mining alone are gigantic. In the region between Hawaii and Central America, just north of the equator, an estimated 1.5 trillion tons of manganese-rich nodules lie on the ocean floor at depths of about 15,000 feet. These nodules contain about 29 percent manganese, which is essential in making steel. We are now totally dependent upon imported supplies of manganese, which come largely from Brazil and the African Nation of Gabon. The nodules also contain about 25 percent cobalt, a metal particularly important in the manufacture of alloys used in the electrical and aerospace industries. We today import all of our cobalt—almost all of it—from Zaire. The possibilities for undersea mining are endless.

To allow this superb vessel, with its magnificent capabilities, to remain idle and to deteriorate with the remnants of our World War II fleet in Suisun Bay, is absurd. We have within our grasp the ability to make monumental progress in deep sea development. Rejection of this amendment would slow that momentum to a crawl. Support would reaffirm our national commitment to expand our mineral resource in that great unexplored and undeveloped frontier—the sea. The technology is at hand, the time is at hand. I urge you to join me in support of this amendment and in support of H.R. 11400.●

Mr. HOLLENBECK. Mr. Chairman, I

have no further requests for time, and I reserve the balance of my time.

Mr. TEAGUE. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

The CHAIRMAN. There being no further requests for time, the Clerk will read.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "National Science Foundation Authorization Act for Fiscal Year 1979".

SEC. 2. (a) There is hereby authorized to be appropriated to the National Science Foundation for the fiscal year 1979 for the following categories:

(1) Mathematical and Physical Sciences and Engineering, $265,100,000.

(2) Astronomical, Atmospheric, Earth, and Ocean Sciences, $224,100,000.

(3) United States Antarctic Program, $53,100,000.

(4) Biological, Behavioral, and Social Sciences, $158,000,000.

(5) Science Education Programs, $82,000,000.

(6) Applied Science and Research Applications, $67,000,000.

(7) Scientific, Technological, and International Affairs, $24,300,000.

(8) Program Development and Management, $54,800,000.

(b) Of the total amount authorized under subsection (a)(6)—

(1) $2,000,000 is authorized for a "Handicapped Research Program"; and

(2) $250,000 is authorized for the design of a program in Appropriate Technology.

SEC. 3. Appropriations made under the authority provided in sections 2 and 5 shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making the appropriations.

SEC. 4. From appropriations made under this Act, not more than $5,000 may be used for official consultation, representation, or other extraordinary expenses upon the determination of the Director of the National Science Foundation, and his determination shall be final and conclusive upon the accounting officers of the Government.

SEC. 5. In addition to the sums authorized by section 2, not more than $6,000,000 is authorized to be appropriated for the fiscal year 1979 for expenses of the National Science Foundation incurred outside the United States, to be paid for in foreign currencies that the Treasury Department determines to be excess to the normal requirements of the United States.

SEC. 6. Funds may be transferred among the categories listed in section 2(a), but neither the total funds transferred from any category nor the total funds transferred to any category may exceed 10 percent of the amount authorized for that category in section 2, unless—

(A) thirty legislative days have passed after the Director of the National Science Foundation or his designee has transmitted to the Speaker of the House of Representatives, to the President of the Senate, to the Committee on Science and Technology of the House of Representatives, and to the Committee on Human Resources of the Senate a written report containing a full and complete explanation of the transfer involved and the reason for it, or

(B) before the expiration of thirty legislative days both the Committee on Science and Technology of the House and the Committee on Human Resources of the Senate have written to the Director to the effect that they have no objection to the proposed transfer.

Mr. TEAGUE (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. BREAUX

Mr. BREAUX. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BREAUX: On page 2, line 2, strike "$224,100,000" and insert in lieu thereof "227,300,000".

After line 18 on page 2 add the following new subsection:

"(c) Of the total amount authorized under subsection (a)(2), $14,400,000 is authorized for the Ocean Sediment Coring Program of which $4,200,000 is authorized for ocean margin drilling, planning and evaluation.".

Mr. BREAUX. Mr. Chairman and members of the committee, first I want to start off by saying that I have a great deal of respect for the Committee on Science and Technology, and the work it has done on this authorization bill. I think the efforts that committee has put into it indicates that it is basically a sound bill, and I do support the authorization, with one amendment.

I can also say that I have discussed my amendment with the chairman of the full committee, the gentleman from Texas (Mr. TEAGUE), for whom I have a great deal of respect. While I cannot say that the gentleman enthusiastically supports my amendment, I think he understands it but does oppose it. However, I think it is necessary, and I will tell the Members why.

I think, very seriously, that the committee's authorization is being penny-wise and pound foolish. By that I simply mean that they are seeking in their bill funds for an oceans program bill, over which the Oceanography Subcommittee, which I have the privilege of chairing, has joint jurisdiction. We have had one day of hearings on that particular aspect of the bill.

What we have found out is something that is very interesting. As a deep sea drilling program, they have come up with the idea of converting a ship called the *Glomar Explorer,* which we were told at one time was used as a drilling ship but which was actually used to try and pick up Russian submarines. They have come up with the idea that the *Glomar Explorer* can be a very effective vessel to do this deep sea drilling operation.

However our Government placed it in moth balls. I, along with many other Members of Congress, very loudly criticized the decision to mothball the ship in the first place. I said, "Do not mothball it. Later on you are going to find some use for it, and it is going to cost us a lot of money to demothball it."

Here is where we find ourselves today. We are in the process of trying to recommission this ship for a very worthwhile purpose. The Committee on Science and Technology has authorized $1 million. The budget of the President of the United States recommends $4.2 million. The Office of Management and Budget has cleared it. They recommend $4.2 million. They think it is going to be a four-step process to do engineering studies and other evaluations to determine whether this is a feasible proposition or not.

So, my argument is, if it is going to cost us $4.2 million, let us go ahead and authorize the $4.2 million; and not trickle it out; not say, "All right, we will give you a million dollars this year, and then if you do all right, come back and we will give you a little bit more, and eventually the entire authorization."

If we are going to make the decision, let us make it. If it is $4.2 million, fine, here is the authorization.

In our hearings Dr. Robert White, former Administrator of the National Oceanic and Atmospheric Administration, said:

Failure to authorize and appropirate the money in FY '79 will cause a delay in making major program decisions with a consequent impact on the total funding of the program. It is our estimate that the delay of a single year can amount to a total increase in the cost of the program of some $28 million.

So what I have a great deal of fear about is simply this: that if we trickle out the authorization, if we say we will give them a little bit at a time in order to save money, we are not going to save money at all but it is going to end up costing more money and delaying the project. I think the responsible decision is to go ahead and authorize the $4.2 million.

The total project the ship is going to be used for is going to cost eventually $450 million, and we are talking about an increase in the authorization of $3.2 million. That is money well spent. It is money in the long run that will be a savings.

Dr. John Slaughter, the Assistant Director of the National Science Foundation said the same thing:

Rather than experience the kind of delay in moving ahead that could occur, which might cost us as much as $25 to $30 million to recover, it is essential to have the kind of funding in fiscal year '79 to allow us to complete those studies and to make an assessment of the proper places to drill.

The whole project I am talking about has four steps. The Committee on Science and Technology has made a determination to authorize only the first two steps. I say we should go ahead and take all four steps now, because before this decision can be made all four steps have to be taken. Let us give them the money now and I think in the long run we are going to end up saving money.

Mr. PRITCHARD. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Louisiana (Mr. BREAUX).

This country is desperate for oil and

there are strong indications that there are large deposits of oil off the margins, but it does mean some very difficult drilling. This ship will allow us to go down some 3 miles, that is 18,000 feet. We have this ship in mothballs. It would be a crime not to put it into operation. We should not get behind on the timetable.

We talk about the impact of oil imports in this country, and when we have justification to believe there are large amounts of oil in the margins off of this country's coast, I think, as the last speaker stated, it would be penny wise and pound foolish for us to delay this program.

So I, as a member of the Subcommittee on Oceanography that went into this problem in detail, believe I can honestly ask the Members to come up with that additional $3 million, because I think it is definitely in the interest of this country. To delay the program, as the gentleman from Louisiana Congressman BREAUX said, would certainly cost us many millions of dollars more. The estimate from Dr. Robert White, president of the Joint Oceanographic Institute, Inc., was $20 million. So I would ask the members of the committee to give us some support on this project. It is an additional $3 million but it would be money well spent.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, will the gentleman straighten me out on this? I am under the impression that ship is being used at the present time for drilling operations in the Atlantic. If it is not that ship which is being used, what ship is it they are using?

Mr. PRITCHARD. I think the gentleman is mixed up. That is another ship.

Mr. BREAUX. Mr. Chairman, if the gentleman will yield, the gentleman might be referring to the *Glomar Challenger*, which is a smaller ship that the National Oceanographic Service is using.

Mr. WYDLER. And the larger sister ship is in mothballs at the present time?

Mr. BREAUX. Yes, sir.

Mr. WYDLER. I thank the gentleman.

Mr. HARKIN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, our subcommittee cut the $3.2 million out of this not lightly in any way. We had the National Science Foundation people up 1 day on extensive hearings on this project.

What we are talking about is not drilling for oil or anything else. That would be something subsidiary that might come along, but what we are talking about is drilling very deeply in what is called the margins, where the plates meet, where the crust of the Earth is subsiding underneath another plate and they want to drill down into that area and get some scientific data. There might be some subsidiary benefits in oil, and so on, but they would be subsidiary benefits.

We are talking about a very big project. The estimates range from $450 million to $540 million. This project would use the *Glomar Explorer*, the existing ship.

Our subcommittee felt at this time the NSF had really not justified this expenditure of money.

We do not know if we are going to go ahead with this $450 million to $540 million project. We have not made that decision as yet. And, Mr. Chairman, when I say "we" I mean the National Science Foundation has not made that decision. We have not come to the Congress for that kind of money.

Further, Mr. Chairman, we want to hold the line on the budget, just as I mentioned in my opening remarks we only increased it by $400,000, but we left in the $1 million for this purpose for the feasibility study and for the preliminary design cost estimates studies. We still do not have an indication of how much the whole thing will cost or whether it is feasible.

For that reason, Mr. Chairman, I think the $1 million represents sufficient money for the use of the National Science Foundation to continue the studies and to come back after the preliminary studies are made and decide whether or not this project should go ahead.

Mr. Chairman, I might add one other thing and that is that the National Science Board, which is required by law to approve any projects costing more than half a million dollars, have to give their approval of these projects, and they have not given their approval to this project as yet, although the Board did authorize the appropriation of this money for the preliminary studies.

So, Mr. Chairman, we believe that the $1 million is sufficient to go ahead with the preliminary design and study concept.

The only items, I am told, that will not be funded, the items that will go unfunded with this cut, are the design of the drill string and the site surveys.

We do not believe that delaying these two items will delay the overall project.

Finally, Mr. Chairman, I might speak to the amount of the $28 million that has been referred to by two previous speakers, telling us that if we delay this a year that the total cost will be increased by $28 million. Let me say that this estimate came from Dr. Robert White, president of the Joint Oceanographic Organization and that is the group that will receive the bulk of the money if this project is approved.

But, Mr. Chairman, I think the responsible thing to do is to give the money to the National Science Foundation that is needed to make the preliminary studies so as to know what the cost estimates are so that we will know what we are talking about in next year's bill.

Mr. FUQUA. Mr. Chairman, if the gentleman will yield, is it not true that in the testimony before the committee it was made pretty clear that the National Science Foundation really was not sure it could spend the additional funds that the amendment offered by the gentleman from Louisiana, Mr. BREAUX's amendment provides? Therefore, I believe that we should approve the approach of using the $1 million, then if the NSF comes back with the information that they can carry on with the project and have the facts and figures in a more definitive outline, then we can go ahead in the next authorization bill and grant it. But there is serious question with regard to the total funds, whether the $4.2 million could be actually expended in this fiscal year.

Is that correct?

Mr. HARKIN. The gentleman is right. That is why I feel the responsible thing for us to do is to provide the $1 million for this project now. Speaking for myself and, I believe, for the subcommittee and the full committee, none of us are opposed to the project, but, rather we want to proceed in an orderly and responsible manner.

Mr. HOLLENBECK. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from New Jersey.

Mr. HOLLENBECK. Mr. Chairman, I heard the subject of drilling for oil mentioned earlier in the debate.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. HARKIN was allowed to proceed for 3 additional minutes.)

Mr. HOLLENBECK. Mr. Chairman, if the gentleman will yield further, it seems to me that all of the testimony was aimed at the fact that the current plans for this drilling were purely scientific and not for oil exploration and the like. Is that the recollection of the gentleman from Iowa?

Mr. HARKIN. Yes, that is my recollection. That is what the National Science Foundation testified to.

Mr. BREAUX. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Chairman, I have just a couple of points that I would like to cover.

First of all, on the position of the National Science Foundation, let me say that the assistant director of the National Science Foundation, Dr. John Slaughter, when I asked him in the hearings whether he thought the money was necessary said:

> We feel very strongly about the need for the $4.2 million to do the kind of job we think is important to do.

He continued to clearly express how it was to be used and what the timetable for it was going to be, and he said:

> Rather than experience the kind of delay in moving ahead that could occur, which might cost us as much as $25 million to $30 million to recover, it is essential to have the kind of funding in fiscal year 1979 to allow us to complete those studies and to make an assessment of the proper places to drill.

And he was referring to this year.

So at least in their testimony before the subcommittee they said the money was necessary, that they could use it, and if we were to delay it would end up

costing everyone a whole lot more money than that.

Mr. HARKIN. I thank the gentleman. I would just respond to that by again saying that certainly those people in NSF want, of course, to keep their budgets up as much as possible in the different directorates, but again I think the responsible way to proceed is to make them justify the program first. We have not had that kind of justification for a half-billion-dollar project to move ahead as rapidly as they want. We feel that the million dollars for the study is sufficient for this year. Of course, we will be back next year with their feasibility study and with their cost estimates. Then we will have a firmer handle on just how we are going to proceed on it, and at that time this committee can again take it up.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Louisiana (Mr. BREAUX).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BREAUX. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

The Chairman announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN pro tempore. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from Louisiana (Mr. BREAUX) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 111, noes 291, not voting 32, as follows:

[Roll No. 232]

AYES—111

| | | |
|---|---|---|
| Addabbo | Cunningham | Gradison |
| Alexander | D'Amours | Green |
| Anderson, Calif. | Davis | Hagedorn |
| | de la Garza | Hammer-schmidt |
| Andrews, N. Dak. | Derwinski | Hannaford |
| | Dickinson | Harsha |
| Archer | Dicks | Hawkins |
| Armstrong | Dodd | Huckaby |
| Badham | Dornan | Hughes |
| Blouin | Edwards, Ala. | Jenrette |
| Boggs | Erlenborn | Johnson, Colo. |
| Breaux | Evans, Ga. | Ketchum |
| Brown, Mich. | Fascell | Kindness |
| Brown, Ohio | Fish | Lagomarsino |
| Burgener | Foley | Leggett |
| Burton, John | Ford, Mich. | Lehman |
| Carney | Forsythe | Lent |
| Carter | Fraser | Livingston |
| Clawson, Del | Garcia | Long, La. |
| Cleveland | Gilman | Lott |
| Conable | Ginn | Lujan |
| Cotter | Goldwater | McClory |
| McEwen | Pritchard | Stark |
| McKinney | Pursell | Stratton |
| Mahon | Quie | Studds |
| Mathis | Railsback | Treen |
| Meeds | Risenhoover | Van Deerlin |
| Mikulski | Rooney | Vander Jagt |
| Miller, Calif. | Rousselot | Waggonner |
| Moore | Roybal | Walsh |
| Moorhead, Calif. | Russo | Whalen |
| | Santini | Wiggins |
| Moorhead, Pa. | Sarasin | Wilson, Bob |
| Murphy, N.Y. | Schroeder | Wilson, Tex. |
| Nolan | Sebelius | Young, Alaska |
| O'Brien | Seiberling | Young, Fla. |
| Oberstar | Spence | Zeferetti |
| Patterson | Stangeland | |

NOES—291

| | | |
|---|---|---|
| Abdnor | Evans, Del. | Markey |
| Akaka | Evans, Ind. | Marks |
| Allen | Fary | Marlenee |
| Ambro | Fenwick | Marriott |
| Anderson, Ill. | Findley | Martin |
| Annunzio | Fisher | Mattox |
| Applegate | Fithian | Mazzoli |
| Ashbrook | Flippo | Metcalfe |
| Ashley | Flood | Meyner |
| AuCoin | Florio | Michel |
| Bafalis | Flowers | Mikva |
| Baldus | Flynt | Miller, Ohio |
| Barnard | Ford, Tenn. | Mineta |
| Baucus | Fountain | Minish |
| Bauman | Fowler | Mitchell, Md. |
| Beard, R.I. | Frenzel | Mitchell, N.Y. |
| Beard, Tenn. | Frey | Moakley |
| Bedell | Fuqua | Moffett |
| Bellenson | Gaydos | Mollohan |
| Benjamin | Gephardt | Montgomery |
| Bennett | Giaimo | Moss |
| Bevill | Gibbons | Motti |
| Biaggi | Glickman | Murphy, Ill. |
| Bingham | Gonzalez | Murphy, Pa. |
| Blanchard | Goodling | Murtha |
| Boland | Gore | Myers, Gary |
| Bolling | Grassley | Myers, John |
| Bonior | Gudger | Myers, Michael |
| Bowen | Guyer | Natcher |
| Brademas | Hall | Neal |
| Breckinridge | Hamilton | Nedzi |
| Brinkley | Hanley | Nichols |
| Brodhead | Hansen | Nowak |
| Brooks | Harkin | Oakar |
| Broomfield | Harrington | Obey |
| Brown, Calif. | Harris | Ottinger |
| Broyhill | Heckler | Panetta |
| Buchanan | Heftel | Patten |
| Burke, Fla. | Hightower | Pattison |
| Burke, Mass. | Hillis | Pease |
| Burleson, Tex. | Holland | Pepper |
| Burlison, Mo. | Hollenbeck | Perkins |
| Butler | Holt | Pickle |
| Byron | Holtzman | Pike |
| Caputo | Horton | Poage |
| Carr | Hyde | Pressler |
| Cavanaugh | Ichord | Preyer |
| Cederberg | Ireland | Price |
| Chappell | Jacobs | Quayle |
| Chisholm | Jeffords | Quillen |
| Clay | Jenkins | Rahall |
| Cohen | Johnson, Calif. | Rangel |
| Coleman | Jones, N.C. | Regula |
| Collins, Ill. | Jones, Okla. | Reuss |
| Collins, Tex. | Jones, Tenn. | Rhodes |
| Conte | Jordan | Richmond |
| Corcoran | Kasten | Rinaldo |
| Corman | Kastenmeier | Roberts |
| Cornell | Kelly | Robinson |
| Cornwell | Kemp | Roe |
| Coughlin | Keys | Rogers |
| Crane | Kildee | Roncalio |
| Daniel, Dan | Kostmayer | Rosenthal |
| Daniel, R. W. | Krebs | Rostenkowski |
| Danielson | LaFalce | Rudd |
| Delaney | Latta | Ruppe |
| Dent | Le Fante | Ryan |
| Derrick | Leach | Satterfield |
| Devine | Lederer | Sawyer |
| Diggs | Levitas | Scheuer |
| Dingell | Lloyd, Calif. | Schulze |
| Downey | Lloyd, Tenn. | Sharp |
| Drinan | Long, Md. | Shipley |
| Duncan, Oreg. | Luken | Shuster |
| Duncan, Tenn. | McCloskey | Sikes |
| Early | McCormack | Simon |
| Eckhardt | McDade | Skelton |
| Edgar | McDonald | Slack |
| Edwards, Calif. | McFall | Smith, Iowa |
| Edwards, Okla. | McHugh | Smith, Nebr. |
| Emery | McKay | Snyder |
| English | Madigan | Solarz |
| Ertel | Maguire | Spellman |
| Evans, Colo. | Mann | St Germain |
| Staggers | Trible | Whitehurst |
| Stanton | Tsongas | Whitten |
| Steed | Ullman | Wilson, C. H. |
| Steers | Vanik | Winn |
| Steiger | Vento | Wirth |
| Stockman | Volkmer | Wolff |
| Stokes | Walker | Wright |
| Stump | Wampler | Wydler |
| Symms | Watkins | Wylie |
| Taylor | Waxman | Yates |
| Teague | Weaver | Yatron |
| Thompson | Weiss | Young, Mo. |
| Traxler | White | Zablocki |

NOT VOTING—32

| | | |
|---|---|---|
| Ammerman | Eilberg | Rose |
| Andrews, N.C. | Gammage | Runnels |
| Aspin | Hefner | Sisk |
| Bonker | Howard | Skubitz |
| Burke, Calif. | Hubbard | Thone |
| Burton, Phillip | Kazen | Thornton |
| Clausen, Don H. | Krueger | Tucker |
| | Lundine | Udall |
| Cochran | Milford | Walgren |
| Conyers | Nix | Whitley |
| Dellums | Rodino | Young, Tex. |

Mr. DICKINSON and Mr. STRATTON changed their vote from "no" to "aye."

Mr. GONZALEZ changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: On page 2, line 5, strike $158,000,000 and insert $152,000,000.

Mr. ASHBROOK. Mr. Chairman, since first being elected to Congress I have been deeply dismayed by the tremendous waste in Government spending. Every year millions and millions of taxpayers' dollars go down the drain without serving any useful purpose.

Congress must bear a large share of the responsibility for this waste. All too often funds are appropriated and then there is no follow-up to see that the money is being wisely spent.

Research grants given out by Federal agencies such as the National Science Foundation are an area of particular abuse. Highly questionable projects will be funded to the tune of tens or even hundreds of thousands of dollars.

Perhaps some of you saw the segment on CBS–TV's "60 Minutes" program a few weeks ago, called "Bugs Are a Negative Factor." It discussed NSF's incredible $918,000 project in Big Sky, Mont., which resulted in a report so full of academic gobbledygook that about the only intelligible finding was that people who go camping don't like bugs and mosquitoes. As one man on the show stated; "I know a little bit about hunting and fishing and camping and stuff like that, and for $900 I could tell them the same thing they spent $900,000 to find out."

The CBS story properly credited NSF with supporting much good research. But it also noted that many NSF grants are nothing more than "intellectual welfare." They support research that the public doesn't need, that only satisfies a researcher's eccentric fancy, and whose results are then wrapped up in

lots of academic double-talk in an attempt to fool us into believing that the project was worthwhile, when most likely it was not.

Other examples abound. NSF gave $40,000 for research of "Spider Distributions Associated With Prey Density." Then there was the NSF-funded study "Social Behavior of Prairie Dogs" and the investigation of "The Socio-Sexual Behavior of the Dabbling African Black Duck." Or how about $19,370 spent to study "Epiphytic Vegetation of Brazilian Amazonia."

Another $40,700 grant went to study "Interpersonal Attraction in the Laboratory and in Educational Settings." Others included $36,500 to study "Evolution of Songlearning and Consequences in Parasitic Finches," and $25,000 for a series of experiments including one to gauge people's reactions when shown a picture of an octopus in a barnyard.

Just looking at NSF grants for March and April, I came across one for $107,827 for studying "Coordinated Activities in the Middle-Ear and Laryngeal Muscles of Echo locating Bats." There was also $35,600 for "Gene Action and the Development of Pigment Patterns in Mice" and $34,900 for "Magmatic Evolution at Active Volcanoes in El Salvador and Nicaragua." In addition, $33,439 was awarded for "Factors of Non-breeding Habitat in Shorebird Social Systems."

Crazy grant titles are far from being the major problem. It is the muddy, often totally wasteful research that is behind the titles as well. The following grant summary quoted during Senate hearings on NSF appropriations tells the story:

This research continues substantive work on problems of internal representation and concurrent related methodological work on problems of external representation. The emphasis in the substantive work is upon experimental paradigms that yield structurally rich information bearing on questions of the extent to which internal representations and mental operations upon these are in some sense isomorphic to or analogous of their corresponding external objects and transformations.

No wonder taxpayers are angry, and I share their belief that Congress should do something concrete to stop this kind of foolish Federal spending. By all means let us encourage and support good basic research. But let us also strike a blow for commonsense by sending a message to NSF that it is time to stop awarding Federal research funds for "intellectual welfare."

That is why I am offering an amendment to NSF's fiscal year 1979 authorization bill to reduce the foundation's $941 million budget by $6 million in the area where many of the questionable grants are funded. This cut will come out of the NSF's $158 million line item for biological, behavioral, and social sciences research, which has been increased a whopping 11.1 percent over its current fiscal year 1978 budget plan. The social sciences element of this area, where a very large number of questionable esoteric grants come from, has been increased 22.5 percent over the current fiscal year 1978 budget in that area. My amendment provides a modest cut, and still allows more than $9 million increase in biological, behavioral, and social sciences basic research support over fiscal year 1978. It is less than a 1-percent cut in the total NSF basic research budget proposed for next year, which this bill increases 10 percent over last year.

But the amendment is designed to send a message to the National Science Foundation, without hurting support for good and worthwhile basic research, that Congress will not continue to authorize funds for unreasonable basic research, and that Federal research granting agencies should apply criteria of public importance to projects they support.

I urge your "yes" vote for my amendment to H.R. 11400.

Mr. RUDD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this amendment.

I have studied NSF programs with some interest, and I am concerned about the bad image being given to Federal R. & D. efforts by some of the frivolous and unnecessary projects that are being funded by the foundation.

These projects get a lot of adverse publicity.

We have all seen news reports and television exposes about some of the more outlandish ones, such as projects to research the sociology of spider webs.

This amendment would sound a needed bell for some fiscal responsibility by NSF along these lines, in one budget area where much frivolous research gets funded, without hurting other good research efforts.

We cannot expect NSF to think seriously in terms of real public importance in the funding of research projects if we continue to authorize huge annual increases for esoteric and low-priority research.

I want to include a table in the RECORD which shows the huge increases authorized by this bill in the budget area that this amendment seeks to reduce:

NATIONAL SCIENCE FOUNDATION—SUMMARY OF FY 1979 BUDGET FOR BIOLOGICAL, BEHAVIORAL, AND SOCIAL SCIENCES RESEARCH SUPPORT

| | Actual fiscal year 1977 | Current plan fiscal year 1978 | House S.&T. Committee mark | Difference fiscal year 1979/78 | Percent difference fiscal year 1979/78 |
|---|---|---|---|---|---|
| I. Physiology, cellular, and molecular biology: | | | | | |
| Number of awards | 1,169 | 1,220 | 1,190 | −30 | −2.4 |
| Average dollars per grant | $43,920 | $47,000 | $51,500 | $4,500 | +9.5 |
| Level of funding: | | | | | |
| (a) Biochemistry | 7,715,000 | 8,720,000 | 9,220,000 | +500,500 | +5.7 |
| (b) Biophysics | 9,333,049 | 9,800,000 | 10,400,000 | +600,000 | +6.1 |
| (c) Cell biology | 4,400,000 | 4,400,000 | 5,180,000 | +780,000 | +17.7 |
| (d) Developmental biology | 5,304,000 | 6,900,000 | 7,400,000 | +500,000 | +7.2 |
| (e) Genetic biology | 7,916,002 | 9,010,000 | 9,600,000 | +590,000 | +6.5 |
| (f) Human cell biology | 3,004,000 | 3,000,000 | 3,100,000 | +100,000 | +3.3 |
| (g) Metabolic biology | 7,542,000 | 8,485,000 | 9,000,000 | +515,000 | +6.0 |
| (h) Regulatory biology | 6,128,002 | 7,000,000 | 7,400,000 | +400,000 | +5.7 |
| Subtotal | 51,342,073 | 57,315,000 | 61,300,000 | +3,985,000 | +6.9 |
| II. Behavioral and neural sciences: | | | | | |
| Number of awards | 619 | 700 | 760 | +60 | +8.5 |
| Average dollars per grant | $38,459 | $40,400 | $43,500 | +$3,100 | +7.6 |
| Level of funding: | | | | | |
| (a) Neurobiology | 5,614,840 | 7,250,000 | 8,650,000 | +1,400,000 | +19.3 |
| (b) Sensory physiology and perception | 3,957,700 | 4,600,000 | 5,600,000 | +1,000,000 | +21.7 |
| (c) Memory and cognitive processes | 1,758,700 | 2,000,000 | 2,250,000 | +250,000 | +12.5 |
| (d) Psychobiology | 3,261,400 | 3,600,000 | 3,850,000 | +250,000 | +6.9 |
| (e) Social and developmental psychology | 2,797,908 | 3,250,000 | 3,800,000 | +550,000 | +16.9 |
| (f) Anthropology | 4,550,144 | 5,600,000 | 6,600,000 | +1,000,000 | +17.8 |
| (g) Linguistics | 1,865,600 | 2,000,000 | 2,350,000 | +350,000 | +17.5 |
| Subtotal | 23,806,292 | 28,300,000 | 33,100,000 | +4,800,000 | +16.9 |
| III. Environmental biology: | | | | | |
| Number of awards | 587 | 600 | 600 | | |
| Average dollars per grant | $51,403 | $54,300 | $57,000 | +$2,700 | +4.9 |
| Level of funding: | | | | | |
| (a) Ecology | 4,169,401 | 4,600,000 | 5,000,000 | +400,000 | +8.7 |
| (b) Ecosystem studies | 10,791,968 | 11,100,000 | 11,300,000 | +200,000 | +1.8 |
| (c) Systematic biology | 6,901,633 | 6,700,000 | 7,000,000 | +300,000 | +4.4 |
| (d) Research resources | 4,596,230 | 5,600,000 | 6,000,000 | +400,000 | +7.1 |
| (e) Population biology and physiological ecology | 3,714,310 | 4,600,000 | 4,900,000 | +300,000 | +6.5 |
| Subtotal | 30,173,542 | 32,600,000 | 34,200,000 | +1,600,000 | +4.9 |

NATIONAL SCIENCE FOUNDATION—SUMMARY OF FY 1979 BUDGET FOR BIOLOGICAL, BEHAVIORAL, AND SOCIAL SCIENCES RESEARCH SUPPORT—Continued

| | Actual fiscal year 1977 | Current plan fiscal year 1978 | House S.&T. Committee mark | Difference fiscal year 1979/78 | Percent difference fiscal year 1979/78 |
|---|---|---|---|---|---|
| IV. Social sciences: | | | | | |
| Number of awards | 375 | 400 | 430 | +30 | +17.5 |
| Average dollars per grant | $56,761 | $60,000 | $68,400 | +$8,400 | +14.0 |
| Level of funding: | | | | | |
| (a) Economics, geography, and regional science | 9,722,250 | 10,600,000 | 12,300,000 | +1,700,000 | +16.0 |
| (b) Sociology, social indicators | 5,507,510 | 5,800,000 | 7,000,000 | +1,200,000 | +20.7 |
| (c) Political science, law, and social sciences | 3,265,752 | 3,800,000 | 4,500,000 | +700,000 | +18.4 |
| (d) Special projects | 1,330,390 | 2,200,000 | 3,700,000 | +1,500,000 | +68.2 |
| (e) History and philosophy of science | 1,459,400 | 1,600,000 | 1,900,000 | +300,000 | +18.7 |
| Subtotal | 21,285,302 | 24,000,000 | 29,400,000 | +5,400,000 | +22.5 |
| Total, biological, behavioral, and social sciences: | | | | | |
| Number of awards | 2,750 | 2,920 | 2,980 | +60 | +2.0 |
| Average dollars per grant | $46,039 | $48,700 | $53,000 | +$4,300 | +8.8 |
| Level of funding | $126,607,209 | $142,215,000 | $158,000,000 | +15,785,000 | +11.1 |

How can we possibly justify a 22.5-percent increase for social science research projects, which are funded by the Federal Government on an unsolicited basis?

NSF is not a mission agency, like NASA and the Commerce Department.

Researchers submit proposals to NSF for funds to research some idea that they want to develop. These projects are not necessarily vital to the public interest, and often do not justify taxpayer support.

Obviously NSF must toe the line on some of this over-generous spending for questionable research. The best way to accomplish this is to slightly cut the Foundation's budget in an area where much of the trouble lies. This may prompt NSF program officers to use more discretion in the projects they support.

NSF should not be in the business of using taxpayer dollars to finance the research hobbies of academic Ph.D.'s who have some time on their hands and some esoteric idea that they would like to develop at public expense.

This amendment will help us to accomplish the objective of limiting this practice, of injecting some fiscal sanity into the support of basic research.

I urge adoption of the amendment.

Mr. HARKIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. More than 100 years ago, a distinguished U.S. Senator by the name of Simon Cameron rose in the Senate Chamber and declared, "I am tired of all this thing called science. We have spent millions on that sort of thing for the last few years and it is time it should be stopped."

Cameron was venting his frustration in 1861 over a $6,000 request by the Smithsonian Institution for funds to be used for scientific endeavors. How forunate we are that Senator Cameron's views were in the minority. I shudder to think what the state of the world might be now if the U.S. Congress had decided, in 1861 to cease its encouragement and support for scientific research.

Today the House is being asked to approve a bill to authorize funds for NSF for next year. While no responsible Member would now suggest that the Government terminate its support for scientific research, some may begin to question why we have to spend all this money, over $940 million to the NSF. To those of my colleagues who would even begin to think such thoughts, I would like to point out that in the 117 years since Senator Cameron spoke those words, science has eliminated most of the diseases and pestilences that have plagued mankind from prehistoric times; has made giant strides to provide a better understanding of the fundamental laws of nature; has provided the United States with the capability to have the highest standard of living in the world, and one with unlimted potential.

I would like to talk about the amendment which is offered and some of the comments just made about studying "gay sea gulls." We have heard a lot of discussion about studying homosexual sea gulls. The title of this project is really the "Etho-Endocrinology of Female Pairs of Western Gulls." Somebody wrote a newspaper article about it and titled it "Gay Gulls Discovered."

What is this study? This is a study of hormones. Endocrinologists study the glands which secrete hormones and the mechanisms by which hormones are made.

Ethology is the study of animal behavior and in 1973 the Nobel Prize in physiology and medicine was awarded to three men who many regarded as "Mere Animal Watchers."

Two of these men, Dr. Lawrence and Dr. Ben Bergen studied the behavior of birds. This study we are funding now for $62,300 is to continue that kind of study. What kind of hormone differences are making these birds act the way they do?

You know, we get a lot of talk in this Chamber about silly sounding grants and about why they are funded. Let me give you an example of silly sounding grants and what they do. Here is one titled, "The Excretion of Urine in the Dog." How many members would like to go on record as voting for funds to study the excretion of urine in the dog?

Then there is, "The Excretion of Insulin by the Dogfish." Such studies seem rather remote from human concerns.

Yet the results of this study by Dr. Shannon led to vital information on the function of the human kidney and the relationship of hormones to kidney functions. In 1975 Dr. Shannon was awarded this Nation's highest honor in science, the National Medal of Science, for his research in this area.

How about rat skins and pigeon hearts? How many Members would like to vote for funds for a study of the "Spectroflurometry of Rat Skins" and "Aerobic Reduction of Cytochrome in Pigeon-Hearts?" Again, what do they have to do with all the pressing problems that face us today?

The answer is that the work done on these 2 studies by Dr. Chance—and again he too was awarded the National Medal of Science in 1975—led to developing methods of identifying what factors were crucial to the performance of the lungs and the blood in supplying oxygen to body tissues.

Here is really a good one: How many Members would like to vote to spend some of their taxpayer's dollars on a study that is titled "Concerning the Inheritance of Red Hair"? Do the Members think their taxpayers would approve spending money on that? The answer is yes, if they are told the full truth about this study.

This study was done by Dr. James Neel of the University of Michigan Medical School, and he won the National Medal of Science for his work. That research increased our understanding of sickle cell anemia, a disease that follows genetic patterns of inheritance.

So these are funny-sounding titles, but the amount of information we have gained from the studies has increased by a thousandfold our understanding of what is happening in human nature. They all go together to make up this great jigsaw puzzle in our study of the science of human behavior and human nature. These studies may sound silly; they may sound like a waste of money.

The CHAIRMAN pro tempore. The time of the gentleman from Iowa (Mr. HARKIN) has expired.

(By unanimous consent, Mr. HARKIN was allowed to proceed for 2 additional minutes.)

Mr. HARKIN. Mr. Chairman, as I say, these titles may sound silly. Some of them may not bear fruit, but they are all very important.

I want to leave the Members with this one thought about how important one of these projects may be, even though it sounds silly. How many Members in the past would have voted for money to study the "Growth of viruses in monkey kidney cells"? Probably not very many.

But this project alone won the Nobel Prize for Dr. John Enders of Harvard University some years ago. The study had no practical use at that time, but it laid the foundation for the development of the first polio vaccine by Dr. Jonas Salk. The silly sounding title of a basic research project today may be the cancer cure of tomorrow.

Mr. Chairman, I yield back the balance of my time.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I appreciate the fact that my distinguished colleague, the gentleman from Iowa (Mr. HARKIN) has now told us why he thinks these specific grants in this section on biological, behavioral, and social sciences are so important. The gentleman mentioned that he could tell us something about them, and I think he said something about the fruitful results that have occurred.

Was the gentleman speaking of the gay gulls, or just what did he have in mind when he spoke about "fruitful results"? Can the gentleman tell us what the results were?

Mr. Chairman, I think the taxpayers would be glad to know that some Members from the gentleman's side of the aisle hissed when we were trying to find out how this $158 million was to be spent. Let the RECORD show that.

But can the gentleman tell us what fruitful results we are to have from this specific research?

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Chairman, as I understand it, the study was just started last June. I do not know that we have any results yet.

Mr. ROUSSELOT. It started last June, and we do not have any idea what end results we can expect?

Mr. HARKIN. Of course not. With many of these studies we will not know the end results for years. Again, this may be just one little part of the jigsaw puzzle.

Mr. ROUSSELOT. For years we will not know the result? Not even a guess?

Mr. HARKIN. We may not know for years.

Mr. ROUSSELOT. Mr. Chairman, the gentleman knows full well that our colleague, the gentleman from New York (Mr. DOWNEY) constantly demands of the Defense Department that we have an accountability on future research. Yet the gentleman is asking us to vote against this amendment because it will cut out what the gentleman from Ohio (Mr. ASHBROOK) feels are unnecessary authorizations. This is the place to reduce something before we get started.

So would the gentleman tell us again what grand results we are going to have from these studies?

Mr. MCCORMACK. Mr. Chairman, if the gentleman will yield, perhaps I can be of help to him.

Mr. ROUSSELOT. Yes, I yield to the gentleman. We do need a lot of help.

Mr. MCCORMACK. Mr. Chairman, in the first place, we never set out on basic research with the promise that we are going to have some immediate profitable results. Basic research is established as a search for truth, and many pieces of truth from many different sources may, over a long period of time, interlock together to the benefit of society.

Let me give the gentleman several simple examples.

This particular study that he is questioning really has to do with the relationship between hormones in animal bodies and animal behavior. This is something we do not understand, and it has perplexed medical science for many years. There are thousands of questions which flow from such relationships.

Mr. ROUSSELOT. Mr. Chairman, if I could interrupt for just 1 minute, the gentleman from Iowa stated that there were going to be, or hoped to be, some very concrete results to come from this research. What are they?

Mr. MCCORMACK. If the gentleman will yield for a moment longer, and allow me to finish my comments, I will answer his question. We have known for many years, for instance, that secretions—or the lack of them—in the body influence diabetes, our ability to metabolize sugar, that they influence gout, our ability to metabolize amino acids. We have learned that they influence schizophrenia and epilepsy.

Mr. ROUSSELOT. Have we learned this from the gay gulls?

Mr. MCCORMACK. We have learned this from basic research.

Mr. ROUSSELOT. What basic research?

Mr. MCCORMACK. Basic research similar to the research that is being carried out today in thousands of different experiments, such as the one gentleman has picked to make fun of.

Mr. ROUSSELOT. I am not trying to make fun of it. I want to understand it.

Mr. MCCORMACK. The point I am making is that these relations between chemical secretions in any animal body—and many of them are extremely subtle—are related to all sorts of behavioral patterns. We are now learning that minute traces of new chemicals produced in the body, and found with new methods of detection, may influence our ability to learn, our general health, our resistance to disease, the aging process, and many similar and important human activities. All research in these and related areas may interlock, and lead to important discoveries for mankind.

Mr. ROUSSELOT. I must say to my colleague, if I could recapture some of my time, that I do not think he is really contributing an answer to the question.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to my colleague, the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

Mr. Speaker, I think we ought to put this in its proper perspective.

Mr. ROUSSELOT. Does the gentleman think that is possible?

Mr. ASHBROOK. My friend, the gentleman from Iowa, compared my amendment to an amendment offered some 100 years ago. The scope of that amendment was to cut out research altogether. I think anybody who has read my amendment can see that we are cutting from $158 million to $152 million. I leave it to your own best judgment whether the $152 million will be spent in basic proper applied research. I myself might have some doubt. You might not.

The CHAIRMAN. The time of the gentleman from California (Mr. ROUSSELOT) has expired.

(By unanimous consent, Mr. ROUSSELOT was allowed to proceed for 2 additional minutes.)

Mr. ASHBROOK. Mr. Chairman, if the gentleman will yield further, the other side of the argument of my colleague, the gentleman from Iowa, implicit in his argument is that everything they have spent is proper, he would support, and somewhere, someplace, sometime it is going to help man and mankind. If you believe that, then go ahead and vote my amendment down. But if you have just one little inkling somewhere in some dark, deep passage of your mind you will do otherwise. The gentleman talked about schizophrenia. Maybe he is talking about balanced budgets and voting against amendments like this. Who knows, maybe they ought to study that. But if you have any doubts whatsoever about the overall expenditures of the National Science Foundation, then a cut of $6 million in no way is going to hurt them in their good purposes. I would suggest that we vote for this amendment.

Mr. ROUSSELOT. I thank the gentleman for his comments and want to emphasize just one fact. The Ashbrook amendment would delete $6 million from the "Biological, behavioral and social sciences" section of the bill thereby reducing the program in fiscal year 1979 to $152 million. This is no meat-ax cut—all we are suggesting is a restraint on the increase over last year's budget. In fiscal year 1978 this same category was budgeted at $142 million. Putting the fiscal 1979 level of funding at $152 million would still be a 6.8 percent increase over last year.

Mr. TEAGUE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, our committee has taken note of the problems of the National Science Foundation. I confess I do not know anything about the sex life of seagulls, but I do know a little about cattle. A few years ago on this floor it was proposed that we study the sex life of the fly, and everybody laughed and everybody thought it was ridiculous. But anybody in this House who knows anything about cattle knows that we got rid of the screw worm by studying the sex life of the fly. So it is not good to ridicule every kind of proposal that comes up here.

Mr. GARY A. MYERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I attempted to ask the gentleman from Iowa (Mr. HARKIN) to yield briefly because I thought the point ought to be made that there is a set of priorities which every agency has to deal with.

I think the question which the Ashbrook amendment goes to is the question of whether or not the National Science Foundation has always acted wisely in the selection of basic research projects.

It bothers me that during the committee hearings on one occasion I did ask the NSF representatives to describe some of their failures to me. Their response was that they believe there were no failures. It appears that their attitude is as long as they spend money and they generate some information, there is no failure involved.

I reject that attitude because of the fact that a serious need has been demonstrated for the application of basic research. Perhaps $150 million is not adequate, and the $6 million is necessary. However, the question that this Congress has to address itself to is as to whether it is going to apply sufficient pressure and oversight on NSF to justify those basic projects which they have funded. I do not think we can accept out of hand the attitude from this agency that just anything they do has been successful.

I personally think that they probably had some failures in that they have overlooked some of the greater needs when they have applied money to some of the lesser needs. It is that sort of attitude we have to get at.

Mr. Chairman, I tend to agree with the gentleman that with respect to this line item there has been a significant increase in funding.

I voted for the bill when it came out of committee, with reservations, much the same as those which the gentleman has expressed. Even if I object to his amendment, I will continue to have a concern that the attitude in this agency prevails that they have not failed and they cannot fail as long as some information is generated. That is a little narrow-minded, and I would hope they would change their attitude in that respect.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Washington.

Mr. McCORMACK. I thank the gentleman for yielding. I suggest to the gentleman that I do not think anyone in this Chamber would pretend that everything the National Science Foundation does is perfect, or that NSF personnel do not make errors in judgment in making grants. However to criticize on that plane is Monday morning quarterbacking.

I suggest to the gentleman that one of the greatest failures in the last 100 years of experimental history was the Michelson-Morley experiment, when two of the outstanding optical scientists of the world set out to measure the speed of the Earth through what was then called the ether. After years of extremely careful work they reported that they could find nothing.

The scientific world was dumfounded. The whole experiment was a colossal failure. Everyone asked why. It was that failure—and why it occurred that led Albert Einstein to develop the theory of relativity.

Mr. Chairman, even failures produce information and, in some cases, valuable information.

Mr. GARY A. MYERS. If I may respond to the gentleman, Mr. Chairman, my point was that I asked a representative of NSF this question: "Looking back on the projects to which you have already applied money, can you identify some information or some project that you would not have funded if you had better insight?"

They indicated in response to that that they had no failures.

Mr. Chairman, it seems to me that if they do not have a good way of evaluating past funding, that would make it very difficult to determine which are the most reasonable projects to go forward with.

There is a judgmental consideration, and all I was trying to get at is, What are the ground rules? What are the criteria which they attempted to project in a solicitation for a grant? What would be the proper funding for an appropriate project at the time?

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Chairman, I thank the gentleman for yielding.

The gentleman knows that not every proposal which comes into NSF is funded, not by any stretch of the imagination. They do have to make their determination, after peer review, in justifying the proposals.

When they do that, I would say that anything after that point which is regarded as basic research, anything that adds to the storehouse of knowledge that mankind has, is not a failure.

Mr. GARY A. MYERS. Of course, the gentleman then supports the attitude that NSF ought not to have any oversight applied to it by this Congress. It would seem to me that that is what the gentleman said in his original premise.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GARY A. MYERS) has expired.

(By unanimous consent, Mr. GARY A. MYERS was allowed to proceed for 2 additional minutes.)

Mr. GARY A. MYERS. Mr. Chairman, I agree, and the gentleman from Iowa (Mr. HARKIN) obviously agrees that there are more opportunities to fund than there are funds to apply, and that demands some level of competence in selecting the most worthwhile projects. Mr. Chairman, the question which I think it is proper for the Members of the House to ask is, "What criteria can you identify under which you selected projects when you would, in looking back, have felt that something else was more appropriate?"

Mr. HARKIN. Will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Iowa.

Mr. HARKIN. Our purpose is not to sit as an authority and pick one project over another. Our oversight authority and responsibility is to make sure that the procedures are fair and equitable, but not to sit in authority to pick one project over another.

Mr. GARY A. MYERS. The gentleman states my case, if I may reclaim my time. I think that is important. It was the procedure by which they work which I was trying to get at; procedures by which they apparently work so that they have no failures as long as some information is generated. That is what concerns me about their attitude. Their procedures indicate that they say, "Yes, there was some inappropriate application of funds, and we are taking corrective steps."

Mr. HARKIN. I would agree that there have been some projects that have been funded that maybe have not produced a tangible result, something we can grab hold of, but that research has added to the basic storehouse of knowledge we have, and it may produce results in the future. But, even if it does not, it adds to the total picture of our understanding of nature and human behavior.

Mr. GARY A. MYERS. It seems obvious to me that in the number of projects the National Science Foundation has made in any given year, there is great potential for advantage to pursue it. If, in fact, less potential has been selected, NSF has in fact experienced some sort of failure.

Mr. DOWNEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, to my colleagues who are anxious to vote, I promise that I will not take the full 5 minutes.

To my friend from Ohio who has, I believe, the taxpayers' interests at heart, and who I know is careful in his scrutiny of oversight, I issue this challenge to him:

If the gentleman is concerned with the $150 million or so R. & D. money that is spent in this committee, what I would hope he would do with me, when the $12 billion authorization for research and development for the military comes up, is that he will be as vigilant as he is with the National Science Foundation and take a look at some of the projects that we deal with in R. & D. in the Armed Services. For instance, we have the $3.1 million for food radiation, and we have spent almost $50 million for bombarding meat and potatoes with neutrons which the Army, by the way, has never been able to get FDA approval for.

Mr. ASHBROOK. I absolutely agree with that.

Mr. DOWNEY. I hope the gentleman is willing to take a hard look at the R. & D. budget, and take a look at some of these projects so that we might deal effectively with the National Science Foundation, and also the military, because I suspect that there are many, many hundreds of millions of dollars that we let slide by every year.

Mr. ASHBROOK. Mr. Chairman, if the gentleman will yield, I agree with him 100 percent on that particular point, as he well knows, because we conferred on it. As a matter of fact, I am one of those who thinks that it takes a considerable amount of talent to spend as much money on defense as we do, and have as little defense as we have.

Mr. DOWNEY. If the gentleman takes that stand, I am well pleased.

Mr. MARTIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I make this motion reluctantly. I was even reluctant to stay here when I was listening to the debate that has taken place. I oppose the Ashbrook amendment.

I would say to the Members that if the purpose of the Member who moved this amendment is to exercise fiscal control, to provide some change in the rate of increase in funding for scientific research, then I would say the evidence is there; he had made his case. Unfortunately the debate got far beyond that because we then began to indulge in a sort of amateur oversight in the area of science which, in real life as I have said before, was dear to my heart. The House got into an exercise of fun and games.

I would say to the Members that if what they seek to do is not just to exercise fiscal restraint, but rather to discourage basic research, fundamental research, research for which we do not know whether there will be a public benefit or a public payout, then I would say that they are threatening the technological superiority of our country. I would say to the Members that they are undermining the technological basis of our scientific society.

I have heard some of my colleagues talk disparagingly of esoteric research.

I have heard some of theim refer contradictorily to basic applied research, as though there were such a thing. I have heard those who criticize research which was not vital to our public interest.

What they are talking about there is basic research, basic fundamental studies, pure research, the investigation of fundamental scientific questions for which it may not be known until after, perhaps long after, the experiment is concluded whether there was any public benefit, until after the experiment was concluded.

I think I would have to say they are on dangerous grounds.

In general it can be shown that most scientific breakthroughs come not from applied research. Most scientific breakthroughs come not from practical applied studies but from fundamental research, where we do not know in advance whether or not we are going to find anything. In fact, it is difficult to decide, looking at the particular topic, whether there is going to be any benefit at all. That is why it is important for us to rely on the peer review system that is used for deciding which projects are going to be funded.

It seems to me some of our colleagues want to fund only applied research. I want to make a point about that. There we are talking about research where practical results are pretty well known in advance, where the public benefits are clearly perceived in advance. I want to suggest to the Members that if indeed, such benefits can be clearly perceived in advance we may not even really need to have Government fund that kind of research. If there are going to be marketable benefits we are going to find there will be numerous interests willing to pay for that kind of research, in order to enjoy the royalties and other benefits of patent rights.

Rather it is in the field where we cannot tell whether there will be any monetary rewards where the public support is much more important; where it is much more important for public policy to provide a climate for that kind of research. That is where we must seek to enable our best minds to study, not what we as politicians think they ought to be studying, but what they from their scientific training are led to be curious about, what they want to question, what they want to probe in a scientific way.

I would hope our Members would be very careful in considering this amendment before us today. If what we want is fiscal control, that is one question. That ought to be applied to all agencies, as we have indicated. But if what we want is to abolish fundamental studies as opposed to practical applied research, then I would urge the Members to be very careful because we are treading on very dangerous ground, indeed.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. MARTIN. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I want to congratulate my colleague for his excellent statement. Let me ask him if he would not agree that when we are pursuing basic research, really we are hoping to uncover facts. We are seeking scientific facts which by themselves may be confusing or of little present value; but which, taken together with what may result from various other experiments, may in time fit together into a new understanding of nature. It is when these new understandings are subsequently applied that we later produce valuable tools which may be of great benefit to human society?

Mr. MARTIN. The gentleman has put it very well. I thank him for his contribution.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

(By unanimous consent, Mr. MARTIN was allowed to proceed for 1 additional minute.)

Mr. MARTIN. Mr. Chairman, often it is when our most capable scientific minds are investigating matters, which their training and the training of their colleagues enable them to study in ways that the rest of us cannot do, that they are often able to find discoveries that they had not anticipated. Those discoveries would not have been found if lesser minds were looking in those areas. It is only when we have our best minds which are studying a matter of curiosity to them that we have that kind of unexpected discovery known as serendipity. If we discourage our best talent from studying purely scientific questions which they can perceive but which you or I might ridicule, if instead we direct them to study only questions which the untrained mind can understand, society will lose.

I ask my colleagues to resist the temptation of this amendment and vote it down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 174, noes 229, not voting 31, as follows:

[Roll No. 233]

AYES—174

| | | |
|---|---|---|
| Abdnor | Fountain | Mitchell, N.Y. |
| Allen | Fowler | Moakley |
| Andrews, N. Dak. | Frenzel | Moliohan |
| Applegate | Frey | Montgomery |
| Archer | Gaydos | Moorhead, Calif. |
| Armstrong | Gilman | Mottl |
| Ashbrook | Ginn | Murphy, Ill. |
| AuCoin | Glickman | Murtha |
| Badham | Goldwater | Myers, Gary |
| Bafalis | Goodling | Myers, John |
| Barnard | Grassley | Neal |
| Bauman | Guyer | Nichols |
| Benjamin | Hagedorn | O'Brien |
| Bennett | Hall | Poage |
| Bevill | Hamilton | Pritchard |
| Bowen | Hammer-schmidt | Quayle |
| Breaux | Hansen | Quillen |
| Brinkley | Harsha | Regula |
| Broomfield | Heckler | Rinaldo |
| Brown, Mich. | Heftel | Risenhoover |
| Brown, Ohio | Hightower | Roberts |
| Broyhill | Hillis | Robinson |
| Buchanan | Horton | Rousselot |
| Burke, Fla. | Huckaby | Rudd |
| Burleson, Tex. | Hughes | Ruppe |
| Butler | Hyde | Russo |
| Caputo | Ichord | Santini |
| Clawson, Del | Ireland | Satterfield |
| Cleveland | Jeffords | Schulze |
| Collins, Tex. | Jenkins | Sebelius |
| Corcoran | Jenrette | Sharp |
| Cornwell | Jones, N.C. | Shuster |
| Coughlin | Jones, Okla. | Skelton |
| Crane | Kasten | Slack |
| Cunningham | Kelly | Smith, Nebr. |
| D'Amours | Kemp | Snyder |
| Daniel, Dan | Ketchum | Spence |
| Daniel, R. W. | Kindness | Staggers |
| Davis | Lagomarsino | Stangeland |
| de la Garza | Latta | Steed |
| Dent | Lederer | Stockman |
| Derrick | Lent | Stump |
| Derwinski | Levitas | Symms |
| Devine | Livingston | Taylor |
| Dickinson | Lott | Treen |
| Dingell | Lujan | Trible |
| Dornan | McDonald | Vander Jagt |
| Duncan, Tenn. | McEwen | Waggonner |
| Early | McKay | Walker |
| Edwards, Ala. | Madigan | Walsh |
| Edwards, Okla. | Mahon | Watkins |
| English | Marlenee | Whitehurst |
| Evans, Del. | Marriott | Whitten |
| Evans, Ga. | Mathis | Wilson, Tex. |
| Evans, Ind. | Mattox | Wydler |
| Findley | Michel | Yatron |
| Florio | Miller, Ohio | Young, Fla. |
| Forsythe | Minish | Zeferetti |

NOES—229

| | | |
|---|---|---|
| Addabbo | Anderson, Calif. | Baldus |
| Akaka | Anderson, Ill. | Baucus |
| Alexander | Annunzio | Beard, R.I. |
| Ambro | Ashley | Beard, Tenn. |
| Ammerman | | Bedell |

| | | |
|---|---|---|
| Beilenson | Green | Patterson |
| Biaggi | Gudger | Pattison |
| Bingham | Hanley | Pease |
| Blanchard | Hannaford | Pepper |
| Blouin | Harkin | Perkins |
| Boggs | Harrington | Pettis |
| Boland | Harris | Pike |
| Bolling | Hawkins | Pressler |
| Bonior | Holland | Preyer |
| Brademas | Hollenbeck | Price |
| Breckinridge | Holt | Quie |
| Brodhead | Holtzman | Rahall |
| Brooks | Jacobs | Railsback |
| Brown, Calif. | Johnson, Calif. | Rangel |
| Burgener | Johnson, Colo. | Reuss |
| Burke, Mass. | Jones, Tenn. | Rhodes |
| Burlison, Mo. | Jordan | Richmond |
| Burton, John | Kastenmeier | Roe |
| Byron | Keys | Rogers |
| Carney | Kildee | Roncalio |
| Carr | Kostmayer | Rooney |
| Carter | Krebs | Rose |
| Cavanaugh | LaFalce | Rosenthal |
| Cederberg | Le Fante | Rostenkowski |
| Chappell | Leach | Roybal |
| Chisholm | Leggett | Ryan |
| Clay | Lehman | Sarasin |
| Cohen | Lloyd, Calif. | Sawyer |
| Coleman | Lloyd, Tenn. | Scheuer |
| Collins, Ill. | Long, La. | Schroeder |
| Conable | Long, Md. | Seiberling |
| Conte | Luken | Sikes |
| Corman | Lundine | Simon |
| Cornell | McClory | Skubitz |
| Cotter | McCloskey | Smith, Iowa |
| Danielson | McCormack | Solarz |
| Delaney | McDade | Spellman |
| Dicks | McFall | St Germain |
| Diggs | McHugh | Stanton |
| Dodd | McKinney | Stark |
| Downey | Maguire | Steers |
| Drinan | Mann | Steiger |
| Duncan, Oreg. | Markey | Stokes |
| Eckhardt | Marks | Stratton |
| Edgar | Martin | Studds |
| Edwards, Calif. | Mazzoli | Teague |
| Emery | Meeds | Thompson |
| Erlenborn | Metcalfe | Traxler |
| Ertel | Meyner | Udall |
| Evans, Colo. | Mikulski | Ullman |
| Fary | Mikva | Van Deerlin |
| Fascell | Milford | Vanik |
| Fenwick | Miller, Calif. | Vento |
| Fish | Mineta | Volkmer |
| Fisher | Mitchell, Md. | Wampler |
| Fithian | Moffett | Waxman |
| Flippo | Moore | Weaver |
| Flood | Moorhead, Pa. | Weiss |
| Flowers | Moss | Whalen |
| Flynt | Murphy, N.Y. | White |
| Foley | Murphy, Pa. | Wiggins |
| Ford, Mich. | Myers, Michael | Wilson, Bob |
| Ford, Tenn. | Natcher | Wilson, C. H. |
| Fraser | Nedzi | Winn |
| Fuqua | Nolan | Wirth |
| Garcia | Nowak | Wolff |
| Gephardt | Oakar | Wright |
| Giaimo | Oberstar | Wylie |
| Gibbons | Obey | Yates |
| Gonzalez | Ottinger | Young, Mo. |
| Gore | Panetta | Zablocki |
| Gradison | Patten | |

NOT VOTING—31

| | | |
|---|---|---|
| Andrews, N.C. | Gammage | Shipley |
| Aspin | Hefner | Sisk |
| Bonker | Howard | Thone |
| Burke, Calif. | Hubbard | Thornton |
| Burton, Phillip | Kazen | Tsongas |
| Clausen, Don H. | Krueger | Tucker |
| | Nix | Walgren |
| Cochran | Pickle | Whitley |
| Conyers | Pursell | Young, Alaska |
| Dellums | Rodino | Young, Tex. |
| Eilberg | Runnels | |

The Clerk announced the following pairs:

Mr. Rodino with Mr. Don H. Clausen.
Mr. Howard with Mr. Tucker.
Mrs. Burke of California with Mr. Cochran of Mississippi.
Mr. Krueger with Mr. Hyde.
Mr. Phillip Burton with Mr. Pursell.
Mr. Gammage with Mr. Luken.
Mr. Walgren with Mr. Bonker.
Mr. Thornton with Mr. Fascell.
Mr. Shipley with Mr. Ford of Michigan.
Mr. Nix with Mr. Hefner.
Mr. Dellums with Mr. Sisk.
Mr. Eilberg with Mr. Tsongas.
Mr. Mazzoli with Mr. Runnels.
Mr. Conyers with Mr. Aspin.
Mr. Kazen with Hubbard.
Mr. Whitley with Mr. Thone.

Mr. MAHON and Mr. LIVINGSTON changed their vote from "no" to "aye."

Mr. WIRTH changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. If there are no further amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. PANETTA, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11400) to authorize the appropriation of specified dollar amounts for each of the National Science Foundation's major program areas (and certain subprograms), and to provide requirements relating to periods of availability and transfers of the authorized funds, pursuant to House Resolution 1099, he reported the bill back to the House.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. RUDD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 364, nays 37, not voting 33, as follows:

[Roll No. 234]

YEAS—364

| | | |
|---|---|---|
| Abdnor | Brademas | Corman |
| Addabbo | Breaux | Cornell |
| Akaka | Breckinridge | Cornwell |
| Alexander | Brinkley | Cotter |
| Allen | Brodhead | Coughlin |
| Ambro | Brooks | Cunningham |
| Ammerman | Broomfield | D'Amours |
| Anderson, Calif. | Brown, Calif. | Daniel, Dan |
| | Brown, Mich. | Daniel, R. W. |
| Anderson, Ill. | Brown, Ohio | Danielson |
| Andrews, N.C. | Buchanan | Davis |
| Andrews, N. Dak. | Burgener | de la Garza |
| | Burke, Fla. | Delaney |
| Annunzio | Burke, Mass. | Dent |
| Applegate | Burleson, Tex. | Derrick |
| Archer | Burlison, Mo. | Derwinski |
| Armstrong | Burton, John | Dickinson |
| Ashley | Butler | Dicks |
| AuCoin | Byron | Diggs |
| Badham | Caputo | Dingell |
| Baldus | Carney | Dodd |
| Baucus | Carr | Dornan |
| Beard, R.I. | Carter | Downey |
| Beard, Tenn. | Cavanaugh | Drinan |
| Bedell | Cederberg | Duncan, Oreg. |
| Beilenson | Chappell | Duncan, Tenn. |
| Biaggi | Chisholm | Early |
| Bingham | Clay | Eckhardt |
| Blanchard | Cleveland | Edgar |
| Blouin | Cohen | Edwards, Ala. |
| Boggs | Coleman | Edwards, Calif. |
| Boland | Collins, Ill. | Emery |
| Bolling | Conable | English |
| Bonior | Conte | Erlenborn |
| Bowen | Corcoran | Ertel |
| Evans, Colo. | Levitas | Regula |
| Evans, Del. | Livingston | Reuss |
| Fary | Lloyd, Calif. | Rhodes |
| Fenwick | Lloyd, Tenn. | Richmond |
| Findley | Long, La. | Rinaldo |
| Fish | Long, Md. | Risenhoover |
| Fisher | Lott | Roberts |
| Fithian | Lujan | Roe |
| Flippo | Lundine | Rogers |
| Flood | McClory | Roncalio |
| Florio | McCloskey | Rooney |
| Flowers | McCormack | Rose |
| Flynt | McDade | Rosenthal |
| Foley | McEwen | Rostenkowski |
| Ford, Tenn. | McFall | Roybal |
| Forsythe | McHugh | Ruppe |
| Fountain | McKay | Russo |
| Fowler | McKinney | Ryan |
| Fraser | Madigan | Santini |
| Frenzel | Maguire | Sarasin |
| Frey | Mahon | Sawyer |
| Fuqua | Mann | Scheuer |
| Garcia | Markey | Schroeder |
| Gaydos | Marks | Sebelius |
| Gephardt | Marlenee | Seiberling |
| Giaimo | Marriott | Sharp |
| Gibbons | Martin | Sikes |
| Gilman | Meeds | Simon |
| Ginn | Metcalfe | Shuster |
| Glickman | Meyner | Skubitz |
| Goldwater | Michel | Slack |
| Gonzalez | Mikulski | Smith, Iowa |
| Gore | Mikva | Smith, Nebr. |
| Gradison | Milford | Solarz |
| Grassley | Miller, Calif. | Spellman |
| Green | Miller, Ohio | Spence |
| Gudger | Mineta | St Germain |
| Guyer | Minish | Staggers |
| Hagedorn | Mitchell, Md. | Stangeland |
| Hall | Mitchell, N.Y. | Stanton |
| Hamilton | Moakley | Stark |
| Hammer-schmidt | Moffett | Steed |
| | Mollohan | Steers |
| Hanley | Montgomery | Steiger |
| Hannaford | Moore | Stockman |
| Harkin | Moorhead, Calif. | Stokes |
| Harrington | | Stratton |
| Harris | Moorhead, Pa. | Studds |
| Hawkins | Moss | Teague |
| Heckler | Murphy, Ill. | Thompson |
| Heftel | Murphy, N.Y. | Traxler |
| Hightower | Murphy, Pa. | Treen |
| Hillis | Murtha | Trible |
| Holland | Myers, Gary | Udall |
| Hollenbeck | Myers, John | Ullman |
| Holt | Myers, Michael | Van Deerlin |
| Holtzman | Natcher | Vander Jagt |
| Horton | Neal | Vanik |
| Huckaby | Nedzi | Vento |
| Hughes | Nichols | Volkmer |
| Ireland | Nolan | Waggonner |
| Jacobs | Nowak | Walker |
| Jeffords | O'Brien | Walsh |
| Jenkins | Oakar | Wampler |
| Jenrette | Oberstar | Watkins |
| Johnson, Calif. | Obey | Waxman |
| Johnson, Colo. | Ottinger | Weaver |
| Jones, N.C. | Panetta | Weiss |
| Jones, Okla. | Patten | Whalen |
| Jones, Tenn. | Patterson | White |
| Jordan | Pattison | Whitehurst |
| Kasten | Pease | Whitten |
| Kastenmeier | Pepper | Wiggins |
| Kelly | Perkins | Wilson, Bob |
| Kemp | Pettis | Wilson, C. H. |
| Ketchum | Pickle | Wilson, Tex. |
| Keys | Pike | Winn |
| Kildee | Poage | Wirth |
| Kostmayer | Pressler | Wolff |
| Krebs | Preyer | Wright |
| LaFalce | Price | Wydler |
| Lagomarsino | Pritchard | Wylie |
| Le Fante | Quayle | Yates |
| Leach | Quie | Yatron |
| Lederer | Quillen | Young, Mo. |
| Leggett | Rahall | Zablocki |
| Lehman | Railsback | Zeferetti |
| Lent | Rangel | |

NAYS—37

| | | |
|---|---|---|
| Ashbrook | Evans, Ga. | Rousselot |
| Bafalis | Evans, Ind. | Rudd |
| Barnard | Goodling | Satterfield |
| Bauman | Hansen | Schulze |
| Benjamin | Harsha | Skelton |
| Bennett | Ichord | Snyder |
| Bevill | Kindness | Stump |
| Broyhill | Latta | Symms |
| Clawson, Del | McDonald | Taylor |
| Collins, Tex. | Mathis | Young, Alaska |
| Crane | Mattox | Young, Fla. |
| Devine | Motti | |
| Edwards, Okla. | Robinson | |

NOT VOTING—33

| | | |
|---|---|---|
| Aspin | Gammage | Runnels |
| Bonker | Hefner | Shipley |
| Burke, Calif. | Howard | Sisk |
| Burton, Phillip | Hubbard | Thone |
| Clausen, Don H. | Hyde | Thornton |
| | Kazen | Tsongas |
| Cochran | Krueger | Tucker |
| Conyers | Luken | Walgren |
| Dellums | Mazzoli | Whitley |
| Eilberg | Nix | Young, Tex. |
| Fascell | Pursell | |
| Ford, Mich. | Rodino | |

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. HARKIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to extend their remarks, and to include extraneous matter, on the bill just passed, H.R. 11400.

The SPEAKER pro tempore (Mr. BROWN of California). Is there objection to the request of the gentleman from Iowa?

There was no objection.

## CHARLES H. WILSON ATTACKS PHONY INVOICE FRAUDS

(Mr. CHARLES H. WILSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. CHARLES H. WILSON of California. Mr. Speaker, in recent months there has been a good deal of attention focused on fraud schemes which involve so-called false billings or phony invoices.

In these cases a fraudulent operation will mail materials to an organization or business in the form of an invoice or bill. Actually these are solicitations, not bills, but an organization's central accounting office is often misled, and taken in by the sham, and the "invoice" is paid.

This problem has fortunately received needed publicity as a result of the work of the Postal Consumer Protection Office, business and labor groups, and the determined efforts by several of my colleagues in the Congress, most notably Senator JOHN GLENN, of Ohio, and Congresswoman BARBARA MIKULSKI, of Maryland.

This issue is particularly important to me for two reasons. First, I am chairman of the Postal Personnel and Modernization Subcommittee, which has legislative jurisdiction over this issue. Secondly, many of these frauds, according to the Postal Service, operate out of the Los Angeles vicinity.

In light of this, I am today introducing identical legislation to that offered by Senator GLENN, and will be scheduling hearings on the issue in the near future. Specifically, the bill would increase Postal authorities ability to investigate and stop these illicit operators.

I am confident that with prompt congressional action we can enact into law this year a satisfactory deterrent to these obnoxious schemes.

At this point, I include the text of the bill to be entered into the RECORD:

H.R. 12190

A bill to amend the provisions of title 39, United States Code, relating to the mailing of solicitations disguised as invoices or statements of accounts

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 3005(a) of title 39, United States Code, is amended—

(1) by inserting "including the mailing of matter which is nonmailable under section 3001(d) of this title," after "false representations,"; and

(2) by adding at the end thereof the following: "For purposes of the preceding sentence, the mailing of matter which is nonmailable under such section 3001(d) by any person shall constitute prima facie evidence that such person is engaged in conducting a scheme or device for obtaining money or property through the mail by false representations.".

## AFRICA UPDATE: RHODESIANS, REVOLUTIONARIES AND RUSSIANS

(Mr. ICHORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ICHORD. Mr. Speaker, as Secretary of State Vance is now in Africa and has met with guerrilla leaders Joshua Nkomo and Robert Mugabwe and I believe is now meeting with the established transitional Government of Rhodesia, I would encourage my colleagues to read the firsthand report of another highly respected American, Lt. Gen. Daniel O. Graham, former head of the Defense Intelligence Agency, titled, "Update: Rhodesians, Revolutionaries and Russians." It is regrettable that there are few Members in this body who have not personally journeyed to Rhodesia to survey conditions as they exist thus permitting them to make informed and unbiased judgments.

Having been one of the few Members of the House to have visited Rhodesia, I have a basis for comparison and evaluation. I find General Graham's observations totally consistent with my own and while what he has to say is not highly complimentary of our policy with respect to Rhodesia, his comments are deserving of the attention of all Members. It is indeed strong language to state that a coalition of black Rhodesian moderates and the white Rhodesian minority are confronting a coalition of Marxist black terrorists, supported by the Soviet Union and incredible as it may seem—the United States and Great Britain, but unfortunately this is true.

It takes a big man and a great nation to admit that a mistake has been made. America is a great Nation and we can and should make such an admission at this time.

We can play a significant and positive role in the peaceful transition to majority rule, let's take the proper step in that direction, now.

Mr. Chairman, I would ask that General Graham's remarks be printed in the RECORD at this point.

The remarks follow:

AFRICA UPDATE: RHODESIANS, REVOLUTIONARIES AND RUSSIANS

(By Lt. General Daniel O. Graham, U.S. Army (Ret.))

The essence of the situation in Rhodesia today is this: A coalition of black Rhodesian moderates and the white Rhodesian minority are confronting a coalition of Marxist black terrorists supported by the Soviet Union and incredible as it may seem—the United States and Great Britain! This situation is made even more grotesque by the atrocities committed against defenseless black tribesmen by the US–UK supported side in the struggle for control of Rhodesia.

The recent political agreement inside Rhodesia between the whites led by Prime Minister Ian Smith and the moderate blacks represented by Mssrs. Chirau, Sithole and Muzorewe presents the United States and the British with a chance to make sense of policy toward that country and toward Southern Africa as a whole. This is the so-called "internal solution" to the problem of majority rule in Rhodesia. It quite simply excludes the participation of the Marxist "Popular Front" led by Joshua Nkomo from neighboring Zambia and Robert Mugabwe in neighboring Mozambique.

Both London and Washington have been insisting that no settlement in Rhodesia would be tolerated that did not include these "external" factions. Surprisingly, the British government softened its stand almost immediately after the new Salisbury agreement was announced, leaving the U.S. State Department alone in condemning the agreement out of hand. However, Washington registered second thoughts a few days later and took a more neutral stance toward the "internal solutions" in Rhodesia. It remains to be seen whether these faint indicators actually herald a return to common sense in U.S. policy toward critically important Southern Africa.

As one American who has visited Southern Africa, I certainly hope that our government takes advantage of the current opportunity to discard immoderate and immoral politics toward Rhodesia and South Africa. Once an American is brought face-to-face with the realities of Southern Africa, he finds it difficult if not impossible to explain his government's policies, let alone defend them. He finds the United States wide open to charges of blatant hypocrisy, of playing into our enemy's hands, and of pushing the black populations which we profess to defend backwards toward the Stone Age. The American in Southern Africa finds himself using the lame excuses of "American naivete" or "deference to British policies" to explain our blind hostility toward the Rhodesians and South Africans.

There is one other escape from the problem of trying to defend indefensible U.S. policy—to attack the obvious flaws in South African and Rhodesian societies. It is the easiest escape, because the American visitor can point the finger of outraged supermorality at the gross disparity of numbers between the powerful white factions and the politically deprived black population. He can in South Africa point with scorn at the "Whites Only" and "Nonwhite Only" signs which bedeck the country's facilities. (He can't do this in Rhodesia.) An American can lash out at the all too obvious disparity between Rhodesian and South African societies and the ideals (not the reality) of Western democracy.

Many Americans and Europeans take this tack when addressing Southern Africa. But to do so requires rejection of a fundamental reality—Rhodesia and the Republic of South Africa are in Africa, not in Europe or North America. The condemnation and subsequent pariah status of these two coun-

tries can be justified only by the unjust practice of comparing them with European states, e.g., Holland or France. If we judge them in the African context, Rhodesia and South Africa—for all their flaws—are exemplary states. This is true not only in terms of the material and social well-being of their black populations, but even in terms of the black populations.

The stark reality of Africa is that only a handful of its 52 nations are not totalitarian or authoritarian dictatorships. Some are ruled by incredibly brutal regimes such as that of Idi Amin's Uganda or Mengistu's Ethiopia. With the exception of four or five countries—Rhodesia and South Africa being prominent among those exceptions—no political opposition is allowed; no opposition newspapers, no meaningful elections. Most of these dictatorships are drifting backwards into tribalism, sometimes accompanied by massive slaughter of weaker tribes by the dominant one, e.g., 100,000 opposition tribesmen slaughtered in Burundi. Political repression in many of these countries makes the limited franchise of Rhodesia and South Africa appear benign and liberal.

These lame excuses are not a comfortable refuge from black and white Southern African questioners of U.S. policy. There is no escaping the fact that in Rhodesia black men are volunteering to defend the government in numbers too great to be accommodated with salary and arms, while on the other side, that of the "Patriotic Front", black recruits are collected at gun point and forced into the terrorist movement. Yet the U.S. government insists that the terrorist "Patriotic Front" represents Rhodesian blacks! There is absolutely no doubt that the "Patriotic Front" is supported by the U.S.S.R. and Cuban troops while the much-abused black and white Rhodesians plead for the support of the West. Yet we insist on joining our enemies against our friends. There is no doubt that the "confrontation states" of Zambia, Mozambique and Tanzania are destroying their own economies and reducing their black populations to misery while Rhodesia and South Africa offer the black person a far better life. We join the edeologues of black power to the detriment of black people. These realities which loom starkly to any American visiting Southern Africa make it awkward indeed to explain his government's attitudes.

The human misery in a country like Mozambique makes the economic condition of a black Rhodesian look utopian by contrast. Prior to the accession of black nationalists in Mozambique, the country exported foodstuffs. Today the population teeters on the brink of starvation, with utter famine ironically held at bay by food imports from the "enemy"—Rhodesia and South Africa. The once-great game herds of Mozambique are being slaughtered for food. Endemic diseases nearly obliterated by the Portuguese have returned in epidemic proportions.

These are African realities, and U.S. policies ignore them. We cannot pretend to a higher morality when we support totalitarian regimes over imperfect democracies. We deserve the appellation of hypocrites when we support the butchers and oppressors of black people simply because they are also black while condemning two African nations simply because the dominant "tribe" there is white, ignoring if not thwarting their progress toward our own political ideals.

The whites and moderate blacks of Rhodesia have given us a rare opportunity to shed our image as hypocrites. At a minimum we should drop our insistence that those who have perpetrated vicious atrocities against Rhodesian black people must be part of a settlement. How can we in good conscience insist that the terrorist leaders Nkomo and Mugabwe enter the Rhodesian government when their henchmen have hacked off the noses and genitals of black men and made their wives cook and eat the severed parts? Is this the road to political power we condone? Does our support of Soviet-backed terrorists who lock black women and children in huts and set fire to them signify U.S. concern for the black people of Rhodesia or contempt? Honest answers to these questions would prompt a U.S. change of policy toward support of the black-white settlement reached recently in Rhodesia which should be followed by a lifting of economic sanctions to give a promising effort by men of good will in that part of the world a reasonable chance of success.

## THE FINANCIAL PLIGHT OF JUNIOR ENLISTED PERSONNEL OVERSEAS

(Mr. HILLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIS. Mr. Speaker, the financial plight of many of our junior enlisted personnel stationed overseas—particularly in Germany—has received considerable attention in the news media of late. Remarkably, junior enlisted personnel are not reimbursed if they move their families to overseas stations. To his credit, the President has requested funds to transport the dependents and household goods of service members overseas. If they are appropriated, I believe many of the financial problems of junior enlisted men will be alleviated. It is not fair to ask our military personnel to be separated from their families unless absolutely necessary.

Moving expenses are not the only cause of financial problems among junior enlisted personnel overseas. Once there, the service member stationed in certain areas receives a housing allowance and a cost-of-living allowance to offset the higher cost of living in these areas. Although these allowances are fairly responsive to changes in the difference in the cost of living due to the changes in the currency rate of exchange and in the general rate of inflation, the housing allowance, in particular, is calculated under a number of different formulas. Some of these formulas more closely approximate the actual housing expense than others.

Since housing expenses make up a major portion of the service member's income, it is especially important to insure that they are computed accurately and adjusted in a timely manner.

The "normal" housing allowance system in effect at most overseas locations requires annual surveys of members living on the local economy. The survey records rents, initial occupancy expenses, and utility costs. These are averaged for each pay grade, and housing allowances are set up to make up the differences between basic allowances for quarters and the average expense. As a result of the averaging, some members in a given grade draw housing allowances greater than their expenses and some draw less than their expenses. Further, annual reviews of housing expenses do not account for rapid changes in the exchange rate such as has been experienced during the last year with the fall of the dollar on the world market.

Several special systems have been designed for specific overseas areas to prevent the overpayments and underpayments resulting under the "normal" allowance system.

When military personnel secure off-base housing in Tehran, Iran, they must check with military housing officials to see if the proposed rental charges and the conditions of the quarters are justified, based on the individual's grade and family composition. If local housing officials approve, the individual can draw the difference between the BAQ and the actual rental expenses. The allowance is decided on a case-by-case basis.

The Air Force is testing a "five-tier" housing allowance program to combat the high cost of off-base quarters in the area around Yokota Air Base in Japan. Under this system, the range of rents paid by officers and enlisted personnel is divided into five segments (or tiers). The housing allowance is then determined depending on which tier the member's rent falls in. The higher tiers result in a larger housing allowance.

I believe that a system similar to the five-tier method used by the Air Force at Yokota Air Base or the actual expense method used in Tehran, Iran, would more accurately compensate our service members, particularly those in the low pay grades, for housing costs.

If we expect young men to make the military a career, we must make absolutely sure that they are adequately compensated for their efforts and sacrifices. We cannot expect military personnel to stay in the service if they cannot maintain an acceptable standard of living. To this end, I introduced a House resolution yesterday, House Resolution 1134, that would encourage the Department of Defense to implement a system of housing allowances outside the United States computed on an "actual average expense basis by grade." Although this type of system would be more cumbersome to administer, I think that this would be a small cost to incur to insure equitable treatment of our most junior personnel.

## THE AGING VETERAN POPULATION

(Mr. ROBERTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. ROBERTS. Mr. Speaker, the administration is proposing that during the next fiscal year, the Veterans' Administration close 3,132 operating beds in various hospitals throughout the country. I have notified every Member where these beds are scheduled to be closed.

According to a recent study conducted by the Veterans' Administration, there were 1.15 million veterans between the age of 65 and 70 years. The number will about double by 1980—2.22 million. By 1985 the number will have increased to 4.10 million veterans.

Is this a time to be closing beds? Is not the demand for inpatient and outpatient care greater than ever before?

The answer is obvious, Mr. Speaker. Many World War II veterans have reached the age where their medical needs are increasing. The aged veteran is subject to a number of health problems which are characteristic, and are related to age or the aging process.

According to the VA study, currently, veterans comprise 45 percent of all American males over the age of 20 years. Because of the large number of veterans of World War II and the Korean war, by 1990 more than half of U.S. males over age 65 years will be veterans, and by 1995 veterans will exceed 60 percent of the total. It is important to bear in mind that veterans will comprise the major portion of the male aged population for the remainder of this century. To the veteran, the VA is a comprehensive health service resource provided as a prepaid benefit and available as eligibility is achieved. It represents a catastrophic or last resort source of care for thousands of needy veterans throughout the country.

It is for these reasons that veterans everywhere are questioning our budget priorities. They seek answers as to why in fiscal year 1979 the Office of Management and Budget is requiring the VA to close 3.132 hospital beds at a time when bed demand by World War II veterans is rapidly escalating. If VA study results show that within the next 2 years our aged veteran population between the ages of 65 and 70 will have doubled since 1975, does it make sense to start closing beds?

Mr. Speaker, I can understand OMB's desire to reduce the budget deficit. I can understand the Budget Committee's desire to reduce the budget deficit. I want to reduce the budget deficit. I am simply asking why should we do it at the veteran's expense? It is a question of priorities and apparently to some people benefits and services for war veterans and their families do not rate so high. Let me cite an example. The administration is proposing more than a billion dollar increase in education programs administered by HEW—much of it going to individuals whose family income exceeds $30,000 or $40,000 per year. Yet, not a penny is proposed by the administration to offset inflation for those going to school under the GI bill.

The President's foreign aid budget request represents major increases in bilateral assistance and in contributions to international financial institutions; yet, the administration proposes to terminate research programs in more than 50 VA hospitals this year.

The President recommended $250 million to fund the controversial Legal Services Corporation. The Budget Committee increased the amount by $50 million; yet, it did not include enough in its first resolution for cost-of-living compensation increases for service-connected disabled veterans; cost-of-living increases for our needy, elderly disabled veterans drawing pension and DIC benefits; and cost-of-living increases for Vietnam veterans going to school under the GI bill.

The administration dropped more than $200 million in VA construction projects from the 1979 budget. These projects have already been approved by Congress and preliminary plans are completed or will have been completed by September 30 for most of them. They are now "on the shelf" waiting to be funded. These projects are desperately needed to: First, help relieve the crowded conditions existing at most VA ambulatory care units and outpatient clinics; Second, provide more nursing home and extended care units for our aged needy veterans; third, provide additional clinical laboratory facilities to relieve the long waiting period to receive services; and fourth, to relieve the critical parking situation at several hospitals throughout the country. The timely construction of these projects could mean thousands of jobs for many unemployed Vietnam veterans out of work. The Budget Committee only increased the medical budget by some $50 million. Yet, the committee increased the funding for community and regional development by $2 billion to create more public works jobs.

Mr. Speaker, I propose that we include the funds for the construction of these VA facilities, and in doing so, eliminate the problems existing at so many VA medical facilities. At the same time, it will provide jobs for veterans and give them some hope for the future. It is the least we can do.

I hope we will review our priorities and make the necessary adjustments. Let is not forget those who fought and died for our freedom.

## THE RELEASE OF JACOB TIMERMAN FROM THE PRISON OF ARGENTINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. CONTE) is recognized for 30 minutes.

● Mr. CONTE. Mr. Speaker, I was elated to inform the House earlier today, of the release from prison of Mr. Jacob Timerman. Mr. Timerman has been incarcerated in an Argentine prison for over a year, while the government tried to substantiate the accusations made against him. Recently, I had the privilege of visiting Mr. Timerman in his prison cell, and listened to the events which befell this persecuted individual. Mr. Timerman was arrested at his home by a score of civilian-dressed, well-armed, men, who later turned out to be Army officers. Then the long ordeal began, where the government tried in vain to substantiate the weak accusations that Mr. Timerman was involved in some economic crime. The long, drawn-out events became what can only be described as a "Catch 22" situation, with the officials keeping Mr. Timerman locked-up until something that justified his arrest was discovered; the less that was "discovered," the longer he remained under lock and key. I truly believe that this situation would have continued indefinitely had the plight of Mr. Timerman not been made the focal point for world opinion. During my visit with Mr. Timerman, I outlined my efforts in his behalf to date, and assured him that I would redouble these efforts in order to focus the necessary attention on this example of political injustice.

Upon my return, I discussed this depressing case with the Argentina Ambassador to the United States. Additionally, I personally corresponded with the leaders of the Argentina junta, and discussed this injustice with my colleagues on the floor of the House. I have kept the pressure of the Congress and the concerned public on the appropriate officials to facilitate the release of this individual. Last Friday, the word was that Mr. Timerman was about to be released, due in part to the Argentine leaders realizing that his continued cruel incarceration would only serve to injure the Government's relationship with the rest of the free world. Yesterday, I received the good news, Jacobo Timerman has been released. His year-long suffering, and that of his family, is about to end.

Mr. Speaker, however, I have also learned that the Argentine officials are reportedly going to still persist in one act of continued cruelty. The latest information that I have received is that Mr. Timerman was released from his prison cell, but was placed under house arrest until the Government officially clears him of charges of economic crimes. This house arrest will place this persecuted individual in a highly dangerous position even with the security precautions the Government is instituting. Ever since his unsubstantiated arrest, Mr. Timerman has been the focus of numerous threats from the so-called right wing sympathizers. However, their attempts on his life have been frustrated due to the secure prison atmosphere. However, it now appears that Mr. Timerman will not be allowed to leave the country, thus he becomes a walking target for these extreme groups. This situation is most unacceptable and places all the economic accomplishments of the Government, as well as Mr. Timerman's own fate in serious jeopardy. By forcing Mr. Timerman and his family to remain in Argentina until the official public process of a hearing is completed by the Commission for National Patrimony, the officials are embarking on yet another form of injustice. I hasten to add that this situation will place the Argentina Government in the most vulnerable position, the same position Mr. Timerman will find himself in.

If anything regrettable should occur to either Mr. Timerman or his family, the consequences would be swift and punative to the up-to-now promising future for Argentina's political stability and economic prosperity. I believe I can state with a high degree of confidence, that any injury that befalls Mr. Timerman will result in the serious reconsideration of our preception and the resultant relationship with that country. Such a price is too high for one country to pay in order to detain one individual until he is "processed" merely for public consumption.

Mr. Speaker, I understand that the

docket for this hearing process is lengthy; however, I also understand that the exact order whereby an individual is scheduled to appear is flexible. I therefore strongly suggest that if the Argentine officials are so adamant in pursuing the public hearing procedure, that they schedule Mr. Timerman's hearing immediately, and allow him to leave the country on the same day.

The obvious, preferable answer to this volatile situation, is to forego the public hearing and allow Mr. Timerman and his family to leave Argentina immediately. Such a course of action will allow Mr. Timerman to elude the dangerous position incurred by waiting for his hearing process to occur, and also would allow the Government of Argentina to avoid an explosive situation. Such a course of action would be to the best interests of both valid concerns.

Mr. Speaker, I implore the Argentine officials to utilize the rational approach to this situation. Nothing can be served by detaining this individual while the slow, bureaucratic clearance process works its inevitable will. The time has come for the responsible officials to realize the serious, explosive nature of this situation and to allow Mr. Timerman and his family to leave in safety at the earliest possible time. Anything short of this prescribed humane action is not in keeping with Argentina's pledge to return to its people their basic human rights. Only "ill" can be served by this continued delay.

Mr. Speaker, I look forward to reporting to my colleagues of the safe emigration of the Timermans. Such a speech will give me great, personal satisfaction that "justice" as we know it is slowly returning to that great country—Argentina.

Thank you, Mr. Speaker.●

## NO REDUCTION IN STATUS OF MAIL DELIVERY DURING 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 5 minutes.

● Mr. CORCORAN of Illinois. Mr. Speaker, last Friday, April 14, our new Postmaster General, William F. Bolger, gave me some good news concerning the future of Saturday mail delivery.

In responding to may letter of April 3 regarding the future of Saturday deliveries, Mr. Bolger indicated that there there would be no reduction in the present status of mail delivery during 1978, stating:

> With the press of other important matters, there will be no action taken in 1978 toward discontinuing Saturday mail service.

This is indeed good news. Postmaster Bolger's thoughtful and prompt reply to my inquiry and the overall tone of his letter encourages me to believe that he is off to a good start by showing a primary concern for the postal needs of the American people.

This attitude, combined with the recently passed postal reform bill (H.R. 7700), bodes well for the future of the U.S. Postal Service. Action taken by the House on H.R. 7700, culminating in its passage on April 6, would return to Congress policy and fiscal accountability controls over the Postal Service. I hope the other body will move soon to address itself to the problems of the Postal Service and support H.R. 7700 substantially in its present form.

Mr. Speaker, at this point in the RECORD, I would like to share with my colleagues the aforesaid correspondence:

CONGRESS OF THE UNITED STATES,
*Washington, D.C., April 3, 1978.*

Mr. WILLIAM F. BOLGER,
*Postmaster General, U.S. Postal Service, Washington, D.C.*

DEAR Mr. BOLGER: Congratulations on your recent appointment to the position of Postmaster General of the U.S. Postal Service.

Your new position carries with it a great responsibility to the public. It was to serve the public that the Post Office Department and, most recently, the Postal Service were formed. In light of this obligation to meet the needs of the American people, I hope that you will reconsider your predecessor's position regarding six day mail delivery.

In letters, in hearings, and in person the public has made clear their desire to see six day mail delivery continued and their unwillingness to accept the proposed reduction in service. In a post card poll in my district, 89% of the respondents indicated that they would not accept five day mail delivery, and at the Saturday mail hearing in my district, people were unanimously opposed to eliminating the sixth day of delivery.

As a member of Congress, it is my obligation to make you aware of my constituents' feelings. As Postmaster General, it is your obligation to be responsive to these feelings. I would greatly appreciate it if you would institute a new policy for the U.S. Postal Service—a policy of responsiveness to public needs and support for six day mail delivery.

Sincerely,

TOM CORCORAN,
*Representative in Congress.*

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WASHINGTON, D.C.,
*April 12, 1978.*

Hon. TOM CORCORAN,
*House of Representatives, Washington, D.C.*

DEAR CONGRESSMAN CORCORAN: Thank you you for your letter of April 3, concerning six-day mail delivery. I appreciate your good wishes on my appointment as Postmaster General.

I feel very strongly that we have an obligation to give the people and businesses of this country the postal service they want. It is their postal service, not mine. Likewise, it is also my responsibility to make clear to the public the costs associated with providing the level of service they want and what cost benefits would be obtained if certain changes in postal activities are made. Once these facts are known by the people and they elect to continue service levels and forego the savings involved then it is up to the Postal Service to render this service and raise the monies to fund it.

It is this type of reasoning that caused us not to make a decision on the subject of Saturday delivery and we will not do so until we are satisfied that we understand what level of postal service the people want and what price they are willing to pay for such service. We are currently trying to determine the answers to these questions.

With the press of other important matters, there will be no action taken in 1978 toward discontinuing Saturday delivery service.

Sincerely,

WILLIAM F. BOLGER,
*Postmaster General.*●

## IT'S THE PEOPLE WHO GET HURT AS NEW YORK TIGHTENS ITS BELTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GREEN) is recognized for 5 minutes.

Mr. GREEN. Mr. Speaker, as many of my colleagues are aware, the New York City Seasonal Financing Act of 1975 expires on June 30 this year.

Within the next 2 weeks, the Subcommittee on Economic Stabilization of the House Committee on Banking, Finance and Urban Affairs is tentatively expected to begin to markup H.R. 11753, the New York City Financial Assistance Act of 1978. Also before the subcommittee is the administration's draft proposal, the New York City Loan Guarantee Act of 1978. The exact schedule for the subcommittee will be influenced by assessment of the budgetary impact of existing and proposed labor settlements between the city and its unions.

Much has been written about the question of Federal assistance to New York City. Certainly, avid readers of the pages of the CONGRESSIONAL RECORD have had the benefit of many statements on the issue.

In the midst of the debate about labor contracts, loan guarantees, and pension funds, the human side of the New York City financial situation sometimes tends to get lost. Yet it is the individual on the street in New York whose life is directly affected by layoffs, transit cutbacks, and budgetary service reductions.

Ms. Susan Jacoby, a resident of the 18th district which I represent, graphically captured this human dimension of the New York City fiscal crisis in article which appeared in the Washington Post on April 16. In the interest of furthering understanding of the problems we New Yorkers face, I commend Ms. Jacoby's observations to the attention of my colleagues:

IT'S THE PEOPLE WHO GET HURT AS NEW YORK TIGHTENS ITS BELT

(By Susan Jacoby)

W. MICHAEL BLUMENTHAL,
*Secretary of the Treasury.*
Senator WILLIAM PROXMIRE,
*Committee on Banking, Housing and Urban Affairs, Washington, D.C.*

I see by my morning paper that New York City is, once again, in trouble with Washington. In a letter to our mayor, Mr. Blumenthal said New York has almost no chance of receiving loan guarantees from the federal government unless the city and its unions reach a "reasonable" labor settlement long before the expiration date of the union contracts. This short-circuiting of the normal collective bargaining process is supposed to give Sen. Proxmire and his colleagues time to consider the loan guarantee legislation. Unfortunately for New York, the Senator has said he doubts Congress will approve the guarantees with or without a "reasonable" labor agreement.

Words like "outrageous" and "incredible" have been floating around Capitol Hill since the announcement of a tentative pact that averted a New York City bus and subway strike scheduled for April Fool's Day. This "incredible" settlement guarantees the city transit workers a 6 percent pay raise over a two-year period, with thhe possibility of an additional 3 percent in cost-of-living in-

creases, to be paid for through increased productivity. No one is in a better position than the Secretary of the treasury and the chairman of the Senate Banking Committee to realize that such a settlement will not even begin to keep pace with inflation.

According to the Bureau of Labor Statistics, New York is the third most expensive metropolitan area in the country (topped only by Honolulu and Boston). In the fall of 1976, the Bureau set an "intermediate budget" for a family of four at $18,866. The comparable figure for Washington was $16,950.

In spite of what it costs to live here, New York's municipal workers—including the men and women who keep subways and buses running—are not "the highest paid in the nation." This accusation has been leveled so often and so loudly that it has achieved the status of a Big Lie.

In total compensation—which includes employer pension contributions, health insurance and overtime as well as basic salaries—New York bus drivers rank 6th among their counterparts in the nation's largest cities. Police officers and firemen also rank 6th, while computer operators rank 9th. The purchasing power of these workers is, of course, much lower because New York is so much more expensive than most other cities. When wages are adjusted to take the cost of living into account, a New York bus driver ranks 16th and a computer operator ranks 22nd.

Let's take a look at the maximum compensation for an ordinary white-collar municipal worker—a computer operator—in cities with more than half a million people. New York ranks 9th, with total compensation of $17,736. That includes an annual employer pension contribution of $3,776, and health insurance of $794. Just for the record, the computer operator receiving the biggest package, including a pension contribution of $4,901, works in Washington. His compensation totals $23,114.

You two gentlemen are, of course, familiar with these figures. They appear in a meticulous report submitted in December to Sen. Proxmire's committee by Program Planners, Inc. Program Planners is a highly respected New York consulting firm with clients that include businesses, unions and municipal governments throughout the country. The statistics in the report, current as of last December, are drawn from city governments, the Bureau of Labor Statistics, the Census Bureau and other appropriate federal agencies. The figures check out.

I mention the salaries of Washington bus drivers not because I think they are making too much but because I am tired of seeing the working people of New York—those who use city services and those who provide them—depicted as a bunch of big spenders and freeloaders. There has been a great deal of fire and brimstone surrounding the debate over New York's fiscal crisis by Washington officials who ought to know better. According to this line of thought, New York has sinned and been wasteful and New Yorkers must quit gorging themselves in order to be saved.

I don't think this misconception stems as much from ill will as it does from an understandable difficulty that arises when Washington residents try to envision daily life in New York. I spent half of my adult life in Washington, and I found when I moved to New York that there could scarcely be two more different cities within an hour's shuttle flight of each other. This difference was underlined for me by a conversation with a congressional aide before the April 1 transit strike deadline. "Of course a strike would hurt you," he said, "but you could double up in cars. After all, we got along in Washington before there was a subway."

This comment embodies a fundamental misperception of New York's daily reality. Washington, like most areas of the United States, is a place where nearly every middle-class person owns a car. New York is the only city in the nation in which substantial numbers of middle-class residents depend entirely on public transportation for access to jobs, schools and cultural institutions. If we all owned cars, business and traffic would come to a standstill on the island of Manhattan. Two million of us ride the subways every day. A transit strike is not merely an inconvenience in this city; it is a social and economic disaster.

The day before the transit strike deadline, I was trapped for about 15 minutes in a train beneath Lexington Avenue. The Lexington Avenue line, opened in 1904, is the oldest in the city; the wonder is not that the subway breaks down so often, but that it usually runs on time. As we were waiting for the train to lurch forward, a woman next to me began to cry. I thought at first that she was just afraid, a victim of the claustrophobia that hits some subway riders when a train is stuck.

But no, she told me, she was terrified that there was going to be a transit strike the next day. She lived in the Bronx and worked a 4 p.m. to midnight shift as a nurse's aide at a hospital in Brooklyn, an hour and a half subway commute from her home. She wept softly and said, "I'm supporting my three kids. Where will I find a car pool to take me home at midnight? The mayor says every city worker's supposed to be on the job, strike or not. How will I get there? What will I do if I lose a week's pay?"

The same sort of misconception that underrated the dangers of a transit strike has been applied to New York's overall fiscal crisis by most Washington analysts. Of course there has been (and continues to be) waste and mismanagement by the city—just as there is waste and mismanagement in federal agencies and large corporations. Bookkeeping gimmickry and overly generous labor settlements under the administration of former mayor John Lindsay and Comptroller (subsequently mayor) Abraham Beame were part of what led New York to the brink of bankruptcy at the end of 1974. The most important element in the crisis has not been as widely publicized. That is the steady decline in the quality of life for the middle class and for the "working poor" who aspire to middle-class status for themselves and their children. The decline is related to a complicated interaction of federal, state and city policies.

To avoid going bankrupt during the past three years, New York has made major cuts in city services. Those cuts have, ironically, fallen most heavily on the middle class and have contributed to a continuing erosion of the middle-class population and the city's tax base. The cuts have not merely gotten rid of excess fat; they have sliced to the bone and muscle of ordinary working people. Only millionaires are unaffected by a budget crisis that has cut 50,000 jobs from the city workforce.

Let me tell you about the human reality behind the statistics. In 1975, I met a girl I will call Sharon Ambrose while I was doing a story on her high school in Queens. Sharon, now 18, is black, bright and beautiful. She lives in the South Bronx, a destitute area that has been accurately compared to bombed-out Dresden after World War II.

It has long been the custom in this city for bright kids to take the subway out of their neighborhoods when they enter high school. In this respect, the subway is not only an instrument of geographical mobility but a source of and a metaphor for the social mobility that is essential to any great city. Sharon did not want to go to the high school nearest her home: It was too full of junkies and kids who were, as she put it, "walking around more dead than alive." So she chose to attend a school with safer halls and a better academic reputation. In order to get to and from the school, she spent approximately 2½ hours a day on the subway.

Between the beginning of 1975 and the spring of 1977, subway service was cut back 22 percent—a statistic which means more crowded cars and longer waits between trains. For Sharon Ambrose, the subway cuts meant she had to spend an additional 45 minutes a day commuting. A small inconvenience? It might be a small matter if Sharon lived in a safe neighborhood, but she lives near a subway stop where extra time spent waiting for a train means frightening extra exposure to crime. Sharon was especially scared because the guard in her local subway station was no longer on duty in the afternoon.

This is not the sort of story that gets told at congressional hearings. A bright girl is working hard to get out of the South Bronx and into college; she has to spend extra time traveling to and from school; she is frightened by the loss of a subway guard. This is the "fat" that has been cut out of the subway system.

Then there are the cuts in the schools. Frank D'Amico is the principal of a junior high school in Chinatown, where more than half of the students are children of immigrant families. As a result of changes in the federal immigration laws, a new wave of Chinese immigrants has quadrupled the population of Chinatown—from about 30,000 to more than 120,000—during the past decade. The new Chinese immigrants live in the buildings that were occupied by immigrant Jews and Italians 75 years ago.

Frank D'Amico grew up in an immigrant home on the Lower East Side and he chose to work in the schools of his old neighborhood. When I interviewed him in the summer of 1976, he had lost all but one of his Chinese-speaking teachers. He was dispirited, because he had encouraged his former Chinese students to return to the neighborhood and work with the new immigrant children.

When layoffs began, the young Chinese-speaking teachers were the first to go. "We say to these kids, 'Fulfill the American Dream, get an education, go to college, become a professional,'" D'Amico observed sadly. "Then they do all that, and they're working at a job that desperately needs doing, and they get laid off."

The teacher layoffs cast a particularly interesting light on what the budget crisis has meant to many middle-class professionals in New York. Last year, new federal funds became available to hire back some of the teachers. Notices were sent to 9,000 who had been laid off but only 2,500 were interested in returning. The teachers' union did a survey and found that substantial numbers of those who were laid off had simply left the city—some of them for better-paying jobs in nearby suburban school systems.

Before I introduce you to another human casualty of the budget crisis, I must provide you with some facts about one of the greatest institutions this country has ever produced: the City University of New York.

Today it is difficult for us to imagine how revolutionary it must have seemed in 1847 for a city to establish a tuition-free college. Around the turn of the century, when immigrants were sending their children to school in unprecedented numbers, there was no other city in the world where children of a comparable economic class could obtain a free higher education. Throughout this century, the free colleges of New York City continued to take the children of the poor and give them a chance to become distinguished scientists, scholars and artists. In 1974, in spite of the fact that many of its entering

freshmen were the graduates of a deteriorating elementary and secondary school system, the City University was still fulfilling its historic function.

The budget crisis has brought about an irreversible change. Tuition was imposed in the fall of 1976: $775 a year for freshmen and sophomores and $925 for juniors and seniors. Do those fees sound low? More than 74 percent of the students came from homes with incomes of under $12,000 a year. (Remember—that same year, the federal government set $18,000 a year as an "intermediate" budget for a family of four in New York.)

Since 1975, student enrollment has dropped by nearly 28 percent. During the same period, part-time enrollment has fallen by nearly 50 percent. This is an extremely significant figure, because the City University has always had an unusually high proportion of part-time students who are working adults.

Although nearly two-thirds of the remaining City University students receive some tuition aid from the state, there is almost no money available for part-time students.

One victim of cutbacks and tuition is Alice Capraro, a 42-year-old mother of four. I have known Mrs. Capraro (not her real name) since 1973, when I was writing a story on the formation of a small feminist group in her neighborhood in Brooklyn.

Mrs. Capraro's husband, Joe, is a construction worker. When she told him she wanted to go to college and become a teacher, he was all for it. He was making about $20,000 a year with overtime, their children were growing up and he understood his wife's desire for work of her own.

Then Joe Capraro got laid off. Unemployment in the construction industry—another product of the city's poor economic condition—is about 10 per cent. Joe Capraro has been out of work about half of the time during the past three years. Alice found a job as a typist with an insurance company to help pay the bills. She went on going to school part-time because it was free, she loved her classes and she still wanted to be a teacher.

In 1976, when tuition was imposed, Alice Capraro had to quit college. The family income had dropped to $12,000 a year and there was no extra money for her tuition. Alice looked into the possibility of financial aid and found there was no money for a middle-aged woman.

"I feel sad all the time, just cheated," she says. "Joe was even talking about going to school part-time—he saw how interested I was. It's like we were reaching for opportunity but no matter how hard we were willing to work, we couldn't have it."

It does not take a financial genius to figure out that the destruction of such hopes erodes the initiative of people whose efforts are vital to any true economic restoration of this city.

At some point during the next month, Sen. Proxmire's committee will consider a proposal to provide long-term loan guarantees for the city. The city's unions which have kept New York from going bankrupt during the past three years by massive investments in city notes from their pension funds, cannot continue to risk their money without the assurance that they will get it back. Millions of New York workers are worried not only about losing their jobs but about losing their future pensions.

The city is not asking for a handout—it is not asking for any money at all—but for a government backup while it puts its own house in order. A long-term guarantee for city notes would do what the city cannot do by itself: restore the confidence of private investors. I am sure there would be no controversy over this backing if Washington, not New York, were the economic capital of the nation. But historic circumstances have dictated that we have two capitals—Washington for government, New York for finance and culture. It should be as unthinkable for the federal government to let New York go bankrupt as it would for Congress to let the District of Columbia go bankrupt—as unthinkable as it would be for England to let London go bankrupt or for the Soviet Union to abandon Moscow.

The federal government has the right and the responsibility to demand strict financial accounting and better management in return for guaranteeing the city's notes. But I hope that legislators and federal officials will refrain from talking about "fat" in the city budget as though everyone in New York were a millionaire or a "welfare cheat."

Some of the budget cutting of the past few years has been nothing more than a new kind of bookkeeping gimmickry—this time, at the insistence of Congress and New York state officials. When you cut 50,000 jobs from the city payroll, it is obvious that both the state and federal governments are spending a good deal of money for social security, unemployment compensation and welfare to support the people who have, as they say in bureaucratic jargon, been "excessed." The city and federal government are, of course, losing substantial tax revenues when fewer people are working. It's a vicious circle: cut jobs and services to the middle class and you may balance the budget in the short run, but you speed up the loss of energy and money that is at the heart of the city's fiscal crisis.

I could go on, as bankers and city officials are prone to do, about the need to prevent New York from going broke because of the potentially disastrous impact on our image and our economic influence in the rest of the world. I could go on about the domestic economic consequences of collapse by a city that the rest of the country loves, hates and—above all—needs. I could go on about New York's past generosity to immigrants from the poorer areas of this country as well as from abroad.

All of these things are true, but they are not the main reasons why you should affirm the national government's stake in the survival of New York City.

You should do it because of Alice and Joe Capraro and Frank D'Amico and Sharon Ambrose. They are the kind of ambitious, hard-working people who built this city. They deserve better from you (and from their own city and state officials) than they have been getting. Give them something better and they will help restore the stability and economic vitality of this incomparable city.

Sincerely yours,

SUSAN JACOBY.

## A CASE FOR ENERGY ALLOCATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 5 minutes.

● Mr. WHALEN. Mr. Speaker, when Department of Energy representatives briefed Congress last week on the department's proposal for a "standby emergency gasoline rationing plan," few people noticed. Only a handful of Members or staff were in attendance, little press coverage was given, and frankly, nobody cared.

The proposed plan would go into effect in an emergency energy shortage—upon Presidential declaration and congressional approval. Eligibility for a ration would be based on motor vehicle registration records maintained by State departments of motor vehicles. Car owners would receive an entitlement through the mail, which then would be cashed at a local bank for the actual coupons. State governments and the Department of Energy would receive ration reserves to be used for issuing hardship allotments.

The impetus for the rationing scheme is part of Public Law 94–163, the Energy Policy and Conservation Act, passed by Congress in 1975. Reacting to the then recent Arab oil embargo, Congress decreed that the United States would have an emergency gasoline rationing plan ready to take effect should a similar shortage occur. The DOE proposal responds to that mandate.

Although the shock of the Arab embargo, and the shortages and disruptions that it caused are virtually forgotten, the tenuous state of our energy dependence warns that the situation is not so distant. Violence in the Middle East, as we have seen so recently in Lebanon, could bring with it another cutoff of OPEC oil, which now supplies one-fourth of total U.S. energy demand. Such an embargo could come at any moment.

But the DOE plan is significant, not for its purpose in emergency situations, but for its use right now to reduce U.S. oil imports, to stem our growing balance-of-payments deficit, to support our falling dollar, and to ease inflation here at home. It is significant because it brings home the fact that rationing—or quotas, allotments, or allocation—is the most effective and most equitable means of reducing consumption.

I have favored, the "concept" of mandatory allocation as an alternative to energy price increases for a number of years. While this type of program is not included in the stalled National Energy Act, I still believe that if we are serious about conserving energy by reducing our usage, then rationing is the best way to achieve that goal. Rationing has three strengths.

First, it provides certainty in terms of quantities consumed. Inherent in a fuel allocation program is the simple guarantee that an ascertained amount of fuel will be used.

Second, rationing is not inflationary since no price increases are mandated. The administration of the program itself will not significantly contribute to inflation. Further, since mandatory allocations will effectively reduce our dependence on foreign petroleum, inflationary pressures will be eased.

Third, and most important, rationing will permit equitable distribution based on need, rather than ability to buy. No one contends that it will be possible to implement a perfect rationing system in a nation with 200 million people and massive industrial output. But, of all the alternatives for combating the energy crisis, rationing is the fairest.

The problem with gas rationing is its administration. Those who favor an allotment approach in theory, are taken aback by visions of bureaucratic entanglements, a U.S. black market in stolen or counterfeit coupons, or rampant speculation on energy supplies.

The importance of DOE's new emergency rationing program is that it does deal with the administration of such a plan. And, progress has been made and

problems have been solved. Although the emergency proposal only provides a crude organizational framework, it does demonstrate that an allocation plan could be rationally implemented and likely could be fine-tuned to work effectively.

The standby emergency gasoline rationing plan is just that—for emergencies. It is to be utilized when the United States must forcibly cutback on consumption.

The question is how close are we now to that point? How long can America go on consuming unreasonable amounts of energy at high inflationary prices before we admit that it is, in fact, an emergency?

Historically, rationing has been used only during time of war or national crisis. Yet, President Carter has declared America's energy problem "the moral equivalent of war" and our dangerous dependence on foreign energy supplies with its damaging effect on the U.S. economy indicates that we have a crisis.

No energy program will be worth its salt until it mandates reduced consumption based on predetermined quantities of fuel. Neither present energy law nor the new National Energy Act are equipped to carry out such a program. I argue they should be.●

## WHEAT GROWER PRESERVATION ACT OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. SEBELIUS) is recognized for 5 minutes.

Mr. SEBELIUS. Mr. Speaker, yesterday, I introduced legislation entitled the "Wheat Grower Preservation Act of 1978." In Great Plains wheat country, the grain producer is still in the midst of the worst economic crisis since the Great Depression.

As I have indicated to my colleagues in a personal letter following the defeat of the emergency farm bill, the economic conditions that prompted the recent farm movement remains the real issue and these conditions continue to exist. Today, the price of wheat in western Kansas is $2.66 at the country elevator. At the same time, a farm management association within Kansas State University has determined the current cost of production between $3.07 and $3.46 depending upon the farmer's operation. These figures are subject to considerable debate in farm country due to cost-of-production definition, evaluation and inflation problems. Suffice it to say, the market price for wheat remains depressed far below the cost of production and the situation has been made even more severe due to the current boxcar shortage resulting in grain price discounts to the farmer up to 15 cents a bushel.

Despite the threat of a Presidential veto in regard to the emergency farm bill, I believe the administration at least acknowledged this continuing economic problem when the Secretary of Agriculture said an increase in the wheat target price as much as $3.50 per bushel would be acceptable. Mr. Speaker, at this juncture some help is better than none.

In addition, without additional assistance, the grain producer has no real alternative or hope other than the much talked about grain reserve program. However, during the debate on the emergency farm bill what has been virtually ignored is that the reserve program is little more than a sophisticated form of price controls. As it stands now, wheat in the reserve can be released when the national average market price reaches $3.15. As cost of production estimates clearly show, that figure is well below what it costs many farmers to grow their grain.

For this reason, the legislation I have introduced would not only raise the target price and loan for wheat but also would raise to parity the price level at which reserves would be released.

I wish to point out that under the current system, the grain reserve release prices are tied to the price support loan level. As I indicated, in my bill the loan level is increased from the current $2.25 per bushel to $2.50. That would make the reserve release trigger $3.50 per bushel or at least close to cost of production estimates and it would allow hard-pressed farmers to make ends meet before the Government glutted the market with grain from the reserve.

In addition, my bill also raises the target price for wheat to $3.55 per bushel if the 1978 crop is 1.8 billion bushels or less and to $3.50 per bushel if the 1978 crop exceeds that figure. I believe these figures are in keeping with what the administration may accept.

Mr. Speaker, during the debate on the emergency farm bill many of my colleagues considered that legislation little more than an inflationary, consumer ripoff. I do not intend to "rehash" that debate except to say the worst enemy of the farmer is inflation. I do not think we can slow down and halt inflation by making the farmer a whipping boy. It has been the farmer who has suffered the most from inflation and whose economic problems are unprecedented.

I solicit the consideration of my colleagues in regard to this legislation. I wish to reiterate and underscore the fact the social and economic problems in farm country that brought the farmer to Washington in the first place have not gone away and over the short term will not go away without paying a tremendous human and economic cost that will have repercussions throughout our Nation.

## CONSTITUTIONALITY OF CONTRIBUTOR DISCLOSURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. RAILSBACK) is recognized for 5 minutes.

● Mr. RAILSBACK. Mr. Speaker, tomorrow when the House takes up H.R. 8494, the lobby disclosure bill, recently reported by the House Judiciary Committee, I plan to offer an amendment to require registered lobbying organizations to identify their major financial backers; that is, those who contribute $3,000 or more annually.

Those who oppose this type of amendment have raised concerns about the constitutionality of such a contributor disclosure requirement. To me, these contentions are simply unsupported by the holdings of the Supreme Court. To provide my colleagues with a better understanding of the constitutional issues involved and why I very strongly believe that the type of contributor disclosure called for in my amendment meets the criteria set out by the Supreme Court, I would like to place in the RECORD today immediately following my remarks a legal memorandum written by Kenneth Guido, the general counsel, and Ellen Block, a staff attorney at Common Cause:

THE CONSTITUTIONALITY OF REQUIRING THE DISCLOSURE OF THE IDENTITIES OF CONTRIBUTORS TO LOBBYING ORGANIZATIONS

(By Kenneth J Guido, Jr., general counsel and Ellen Block, staff attorney)

The Railsback-Kastenmeier amendment on disclosure of contributors to lobbying organizations requires the identification of each organization or individual who contributes an annual aggregate of $3,000 or more in dues or contributions which was expended in whole or part for lobbying communications or lobbying solicitations. Only organizations that meet the requirements of the Judiciary Committee bill, H.R. 8494, as lobbying organizations [1] *and* whose expenditures for lobbying exceed one percent of the organization's annual income are required to disclose the identity of their contributors. Even when the organizations qualify, the disclosure requirements may be waived by the Comptroller General if disclosure would violate the privacy of the contributor's religious beliefs or otherwise impose an undue hardship or expose the contributor to harassment.

The Judiciary Committee Report on H.R. 8494, H.R. Rept. No. 95–1003, 95th Cong., 2d Sess. 51–53 (1978), expressed concern about the constitutionality of requiring disclosure of the identity of contributors. It is our view, however, that the Judiciary Committee's analysis of the constitutionality of requiring the disclosure of the identities of large contributors to lobbying organizations contains three basic errors:

1. The Committee incorrectly states the constitutional criteria for requiring disclosure of such information;

2. The Committee makes an unwarranted distinction between making substantial contributions to a lobbying organization and supporting its lobbying efforts; and

3. The Committee ignores Supreme Court and other court decisions upholding the constitutionality of disclosing the identities of contributors to lobbying organizations.

I. The Proposed Amendment Fulfills the

[1] An organization is subject to the bill's registration and reporting requirements only: (1) if the organization retains a law firm, consulting firm, independent contractor, or an individual who is not an employee of the retaining organization, and pays the retained individual, firm, or organization more than $2,500 in a quarterly filing period to lobby on its behalf; and or (2) if one of more of the organization's own employees makes oral or written lobbying communications on all or part of each of 13 or more separate days in a quarterly filing period, or two employees each make such communications on all or any part of each of seven separate days or more and the organization spends in excess of $2,500 during the filing period to make lobbying communications.

Supreme Court's Criteria for Contributor Disclosures:

The Committee Report states that requiring the disclosure of contributors to lobbying organizations "is unwise constitutionally." Report at p. 53. It relies for this conclusion on the language of the Supreme Court in *Buckley* v. *Valeo*, 424 U.S. 1 (1976). Unfortunately, the Committee's references to the *Buckley* case are extremely misleading, as the quoted passages do not refer to constitutional limitations on statutes requiring disclosure of contributions.

At pp. 52–53 of the Report, the Committee states that *Buckley* requires that "independent contributors . . . required to disclose must have given contributions earmarked for political purposes or authorized or requested by a candidate or his agent . . ." and that money disclosed under the campaign law, must be "solicited, given and expended for the clear and express purpose of electing or defeating an identifiable candidate." The portion of the *Buckley* opinion relied upon by the Committee in those passages does not deal with contributions to political organizations or committees; it deals instead with expenditures made by individuals or groups on behalf of a candidate, which the Court sharply distinguished from contributions to political committees. *Id.* at 78–79.[2]

This important distinction is distorted by the Committee, which incorrectly applies the constitutional considerations from the *Buckley* expenditure discussion to the matter of contributions to lobbying organizations. When the *Buckley* contribution discussion is applied, as it should be, it is clear that requiring the disclosure of contributors to lobbying organizations meets the constitutional test.

In *Buckley*, the Court summarized its holding as follows:

"We construed [contribution] to include not only contributions made directly or indirectly to a candidate, political party, or campaign committee, and contributions made to other organizations or individuals but earmarked for political purposes, but also expenditures placed in cooperation with or with the consent of the candidate. . . . So defined, "contributions" have a sufficiently close relationship to the goals of the Act, for they are ocnnected with a candidate or his campaign." *Id.* at 78.

Thus, in *Buckley*, the Court's discussion of contributions to a campaign committee, the portion of the election law most directly analogous to the issue of contributions to lobbying organizations, is ignored in the Committee Report.

In *Buckley*, the Court held that all contributions to campaign committees (groups that spend a significant amount—defined as more than $1,000 per year—to influence the outcome of federal elections) must be disclosed regardless of whether they are specifically earmarked for an electoral purpose. *Id.* at 78.[3] Similarly, the Railsback-Kastenmeier amendment only requires disclosure of contributions to organizations, which the committee has determined engage in a significant amount of lobbying. Consequently, lobbying organizations, like the political committees in *Buckley*, consist of only those lobbying groups which spend more than a threshold amount of lobbying.[4] Thus, contrary to the Committee's assertion, *Buckley* supports the disclosure of contributions to lobbying organizations that engage in more than a minimal amount of lobbying activity.

II. There is a Substantial Relationship Between Making Large Contributions to a Lobbying Organization and Supporting the Organization's Lobbying Activities:

The Committee has expressed concern that "there is no rational relationship between the mechanical formula used to trigger disclosure and the purpose that disclosure in general is supposed to serve: the disclosure of significant amounts spent to directly influence the legislative process." Committee Report at p. 53. Although the disclosure requirement is limited to "major backers" of the lobbying organization, the Committee felt that there was not a connection between the giving of money to a particular organization and the contributor's intent to influence legislation for which that organization might lobby.

The Committee, in focusing narrowly on the contributors' motives, has distorted the purposes for which disclosure is needed. Disclosure of contributors is necessary so that the public and their representatives can know whose interests are being represented by lobbying organizations. While the immediate source of the funds an organization expends for lobbying is its own bank account, the ultimate sources are the contributors to that organization. For the Committee to adopt the view that it is only necessary to require the disclosure of expenditures to ascertain the influences brought to bear on Members of Congress is to ignore the essential fact that lobbying organizations represent those from whom they receive their funds. It is these interests that the Railsback-Kastenmeier amendment seeks to disclose, a kind of disclosure which the Supreme Court, in decisions overlooked by the Committee, has consistently found to be constitutionally permissible.

III. The Supreme Court and Other Courts Have Upheld the Constitutionality of the Disclosure of Contributors to Lobbying Organizations:

In *United States* v. *Harriss*, 347 U.S. 612 (1954), the Court held that the compelling governmental interest in maintaining the integrity of the legilative process supported the disclosure requirements in the 1946 Federal Regulation of Lobbying Act, 2 U.S.C. § 261, *et seq.*, which included contributors' identities, against a claim that the act infringed upon First Amendment rights.

In *Harriss*, the Supreme Court reasons:

"Present-day legislative complexities are such that individual members of Congress cannot be expected to explore the myriad pressures to which they are regularly subjected. Yet full realization of the American ideal of government by elected representatives depends to no small extent on their ability to properly evaluate such pressures. Otherwise the voice of the people may all too easily be drowned out by the voice of special interest groups seeking favored treatment while masquerading as proponents of the public weal. This is the evil which the Lobbying Act was designed to prevent.

'Toward that end, Congress has not sought to prohibit these pressures. It has merely provided for a modicum of information from those who for hire attempt to influence legislation or who collect or spend funds for that purpose. It wants only to know who is being hired, *who is putting up the money, and how much*. It acted in the same spirit and for a similar purpose in passing the Federal Corrupt Practices Act—to maintain the integrity of a basic governmental process. *See Burroughs v. United States*, 290 U.S. 534, 545, 54 S.Ct. 287, 290, 78 L.Ed. 484." *Id.* at 625. (Emphasis added).

In upholding the Act's reporting requirements, including disclosure of the identities of contributors of more than $500 per quarter to lobbying organizations, the Court concluded that:

"Under these circumstances, we believe that Congress, at least within the bounds of the Act as we have construed it, is not constiutionally forbidden to require the disclosure of lobbying activities. To do so would be to deny Congress in large measure the power of self-protection." *Id.*[5]

The Supreme Court has recently confirmed this decision, in sustaining a state court decision upholding the disclosure of major contributors to lobbying organizations. In *Fritz v. Gorton*, 83 Wash. 2d 275, 517 F. 2d 911 (1974), *appeal dismissed*, 417 U.S. 902 (1974), the Supreme Court of Washington state, citing Harris, held that lobby disclosure provisions of the state's political reform measure which included the disclosure of contributors of more than $500 annually to a lobbying organization, were constitutional:

"[The political reform law] was created by the people for the expressed purpose of fostering openness in their government. To effectuate this goal, it is important that disclosure be made of the interests that seek to influence governmental decision making. Thus, the requirements of registration . . . and reporting . . . are designed to exhibit in the public forum the identities and pecuniary involvements of those individuals and organizations that expend funds to influence government.

"Informed as to the identity of the principal of a lobbyist, the members of the legislature, other public officials and also the public may more accurately evaluate the pressures to which public officials are subjected. Forewarned of the principals behind proposed legislation, the legislator and others may appropriately evaluate the "sales pitch" of some lobbyists who claim to espouse the public weal, but, in reality represent purely private or special interests." 517 P. 2d at 931.

The United States Supreme Court's dismissal of the appeal in *Fritz* operates as a decision on the merits, thus affirming the opinion of the Washington court.[6]

As these opinions make clear, the compelling governmental interest in making both the public and the legislators aware of the interests which lobbying organizations represent has been determined to outweigh the incidental infringements upon the First

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[2] Surely a provision requiring disclosure of those who give contributions to lobbying organizations should be viewed as analagous to one requiring disclosure of those who *contribute* to political committees, not those who *spend* money on a candidate's behalf.

[3] Only where money is contributed to a group other than a campaign committee (a group that spends less than $1,000 per year to influence the outcome of federal elections) does the Court require specific political earmarking before disclosure can be required. *Id.* at 80.

[4] It should be noted that, while under *Buckley*, it would be constitutionally permissible to require groups who do not spend the threshold amount to disclose the identities of those contributors who have earmarked their donations for lobbying, the proposed amendment does not go so far.

[5] The Court's reference to its own construction of the statute relates to the exclusion of mere public issue debate from the scope of the statute's registration and reporting requirements, 347 U.S. at 620–21. The Flowers-Railsback amendment would also exclude such activity from its definition of lobbying while including grassroots lobbying efforts.

[6] *See also New Jersey State Chamber of Commerce* v. *New Jersey Election Law Enforcement Commission*, Nos. A–199–75, A–350–75, A–366–75, Slip Op. at 8–12 (Super. Ct. App. Div. Dec. 20, 1977) ("No one in this case deprecates the important public interests served by reasonable legislative requirements of public disclosure of receipts and expenditures in the twin areas of elections and lobbying.")

Amendment rights of speech and petition. Similarly, in upholding campaign finance disclosure requirements in *Buckley* v. *Valeo*, the Court noted the potential threat to First Amendment rights inherent in disclosure statutes, but nevertheless acknowledged that:

"[D]isclosure requirements . . . appear to be the least restrictive means of curbing the evils of campaign ignorance and corruption that Congress found to exist." *Id.* at 68.

The Committee Report at p. 53 attempts to draw a distinction between the governmental interests to be served by campaign finance disclosure and those served by lobby disclosure. As stated above, any such distinction is artificial, for the Court has declared, in similar language, that both kinds of disclosure ultimately serve the purpose of insuring the integrity of "basic governmental processes," the electoral and legislative processes. *See Harriss, supra* at 625 and *Buckley, supra* at 66–68.

Just as the campaign disclosure provisions upheld in *Buckley* were narrowly drawn so as to constitute the least restrictive means of achieving a compelling governmental interest, so the Railsback-Kastenmeier amendment is equally narrowly drawn. The proposed disclosure requirement does not require a lobbying organization to disclose its membership list. Only major contributors must be revealed. While large contributors are no less subject to the potential chilling effects of disclosure than are small contributors, *see* Committee Report at p. 53, the interests in disclosure are more compelling for the former than for the latter.

In addition, only large contributors to organizations actually engaged in lobbying are affected by the amendment. Contributors to organizations which are merely involved in attempting to change community sentiment without contacting or urging others to contact legislators are not affected. *See United States* v. *Rumely*, 345 U.S. 41 (1953).

Finally, and very importantly, the amendment explicitly provides for a waiver of the disclosure requirements under certain circumstances of religious privacy, undue hardship, and potential harassment. This provision embodies the Court's concern for personal and religious privacy by incorporating the standards set out in *Buckley, supra* at 74.

IV. *Conclusion:*

While the Supreme Court has been, and should be, protective of the First Amendment right to associate by joining advocacy groups, *see, e.g., NAACP* v. *Alabama*, 357 U.S. 499 (1958), it has specifically upheld the validity of statutes requiring the disclosure of contributors in the political arena. The disclosure of significant contributors to lobbying organizations is essential for the electorate and governmental officials to be fully informed as to whose interests the organization is espousing. As the Court has noted in the *Harriss* and *Buckley* cases, the disclosure of contributors to lobbying organizations serves the same purpose as the disclosure of campaign contributors and does not unconstitutionally infringe upon First Amendment rights.●

## FEDERAL GUN CONTROL BY THE BACK DOOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. BAUMAN) is recognized for 5 minutes.

Mr. BAUMAN. Mr. Speaker, every one of us in this Chamber today share a concern that transcends all political alinements and philosophical positions. That concern is with the increase in the rate of violent crimes against innocent citizens in every part of this country. In spite of the determined efforts of law enforcement personnel, from the ranks of local police all the way through to the Federal authorities, the crime rate nationwide continues to spiral ever upward.

For this reason, I find it particularly perplexing that the advocates of more restrictive gun controls continue to seek new methods to implement their proposals on the Federal level. I am perplexed by these continuing efforts because gun control does not equal crime control. Registering the firearms of the innocent will not halt the violence of the guilty. Quite to the contrary, history, logic and commonsense all suggest that more restrictive gun control will serve only to make it that much more difficult for the innocent to protect themselves, their loved ones and their property.

New York City has for many years tried to enforce the Nation's toughest gun control statute, the famous Sullivan Law. In spite of the law on the books and the determination of New York authorities to enforce the law strictly, criminals in New York City are probably among the best armed and deadliest in America. Criminals by definition care not one whit for what the statute books say about the ownership of firearms. We do not call them "criminals" because they observe and respect the laws, but because they willfully violate the laws. To conter d that a new, more restrictive gun control approach will result in the wholesale conversion of criminals to a new-found respect for the law, even Federal law, is to draw upon a kind of logic "reason knows not of."

In addition to the history of New York's efforts to control firearms, the history of other localities in regard to this issue denies the contention of the gun control lobby that their proposals will reduce the crime rate. Since passage of the Federal Firearms Control Act of 1968, the national homicide rate has skyrocketed. Consider also the results of an innovative program attempted in Baltimore in 1974. That city offered to purchase firearms in an effort to get the guns off the streets. After several weeks of intensive publicity about the program, it was revealed that the number of gun-related murders actually rose by 50 percent during the program's existence.

It is my view that no gun control program, short of total confiscation of all private firearms such as is characteristic of totalitarian regimes, has ever or will ever operate as effectively as the advocates of such laws claim would be the case. Unfortunately, in spite of the facts and all logic, the gun control advocates are with us still and show every sign of having resolved to be with us until they have their way. Only now, instead of seeking to impose their will through the Congress, which seeks to represent the people and which has so often rejected gun control bills, the advocates now want the Federal bureaucracy to decree their proposals by executive fiat.

On March 16 of this year, Richard J. Davis, Assistant Secretary of the Treasury for Enforcement and Operations, announced the proposal of new firearms regulations which, if implemented, would amount to the creation, by bureaucratic regulations, of a national firearms registry.

These proposed regulations, published in the Federal Register of March 21, would require all federally licensed firearms dealers, manufacturers and importers to file quarterly reports on the production, acquisition and disposition of all firearms connected with their respected businesses with the Bureau of Alcohol, Tobacco and Firearms of the U.S. Treasury Department.

The introduction of this reporting requirement would amount to the creation of a national gun registration system, even though congressional history indicates that one of the two Houses of Congress or a committee thereof have specifically rejected Federal gun registration 13 times in the last decade.

On April 11, John M. Snyder, director of Publications and Public Affairs for the Citizens Committee for the Right to Keep and Bear Arms, of which organization I am honored to be a congressional adviser, and Morgan Norval, national director of the Firearms Lobby of America, met with Assistant Secretary Davis and his Special Assistant, Catherine Milton, and indicated that the proposed Treasury antigun regulations conflicted directly with publicly expressed congressional intent in this matter.

Mr. Snyder informs me that Secretary Davis simply denied that this recent Treasury action was in fact a gun registration scheme. Davis did admit, however, that the records kept by the Treasury Department, if the proposed regulations take effect, could be used by agents of the Bureau of Alcohol, Tobacco and Firearms to trace purchasers of firearms through the dealers' quarterly reports. During a later conversation with a member of my staff, Ms. Milton also acknowledged that the addition of private purchasers' names to the proposed regulations "was considered" before publication on March 21 and that such an action would be the next logical step in the computerized system.

Snyder's meeting with Davis and Milton would seem to confirm a fact which we in Congress have long been aware of; namely, that Federal bureaucrats, with no authority from the people or from Congress, continually seek to harass multitudes of law-abiding citizens of this Nation with more and more onerous and burdensome rules and regulations. Undoubtedly, it will be claimed that these rules and regulations will assist law enforcement personnel in their efforts to track down murderers. I would like to believe that, however, I do not see how a Federal computer in Washington, D.C., is going to help police in Los Angeles to track down the killer of an innocent person when the criminal used a gun illegally manufactured in New York and smuggled, again illegally, into California.

American citizens have until May 22 to protest these latest attempts to impose massive new restrictions on the

right to keep and bear arms. Letters should be addressed to Mr. Rex D. Davis, Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20026. Before writing, I would encourage all citizens to examine the fact sheet on these regulations which follows my remarks. Prepared by the staff of the Institute for Legislative Action of the National Rifle Association, the fact sheet demonstrates that the proposed regulations will only cost the taxpayers more millions of their hard-earned tax dollars while doing little to improve existing crime fighting capabilities among our law enforcement personnel.

The fact sheet follows:

NRA FACT SHEET—TREASURY DEPARTMENT PROPOSED FIREARMS REGULATIONS

The U.S. Department of the Treasury has published regulations (March 21 *Federal Register*) to establish a national computerized central firearms registration system.

The regulations, if allowed to go into effect, would require all transactions of all firearms within existing Federally licensed commerce to be reported quarterly to the Bureau of Alcohol, Tobacco and Firearms. Reporting would cover all dealer sales to individual citizens, as well as all transactions between manufacturers, importers, exporters, wholesalers, jobbers, distributors and dealers.

Based on BATF estimates of the 5.2-million new firearms in commerce in fiscal year 1977 and BATF claims that an average of four transactions occur before a dealer sale to an individual citizen occurs, the reporting requirements would conservatively total at least 25-million separate computer entries.

When used firearms are included in the equation, the number of firearms transactions which would be computerized would total between 35 and 40 million.

The system would require 688,000 quarterly reports yearly from 172,000 holders of Federal Firearms Licenses. BATF estimates that the paperwork costs to dealers would be $8-million yearly.

The Treasury Department claims that the startup cost of this massive system would run about $5-million, and, according to Assistant Secretary Richard Davis, funding would neither have to be appropriated nor authorized by Congress, but would be simply "re-directed" from existing BATF funding.

However, that $5-million estimate does not begin to jibe with past BATF firearms registration cost estimates. BATF Director Rex Davis has previously estimated a national handgun registration system would call for a $35 to $100 million startup cost, followed by $20-million per year in operational costs. This proposed registration by regulation would cover all firearms—rifles, shotguns, and handguns.

In both the March 16 Congressional and public briefing on the proposals, Richard Davis, Assistant Secretary of the Treasury declared that the regulations would give BATF authority to call in and computerize all existing Federal form 4473's (which list the name and address of each firearms purchaser) which have been filled out by individual firearms buyers since enactment of the 1968 Gun Control Act. Secretary Davis qualified that declaration in the Congressional briefing by saying that such an action today would be "politically unrealistic."

Assistant Secretary Davis's predecessor, David R. MacDonald, told Congress during 1975 House Judiciary Committee hearings that Treasury should not act to centralize existing dealer records without Congressional authority. Also in 1975, BATF estimated they could trace a firearm in 27 minutes under the existing recordkeeping system if it is a "priority". There can be no justification for the proposed centralization other than expansion of bureaucratic authority and a desire to in fact register firearms.

Although Treasury says the reporting requirements do not include the names and addresses of individual private firearms purchasers, officials maintain they can easily obtain such information under the proposed regulations with a telephone call from BATF to the dealer making such a sale.

The regulations would also order institution of a new "unique" system of identifying firearms with a common 14 digit serial code. With this serial number, which would be required for all firearms manufactured after the regulations are placed into effect, the BATF could computerize information as to make, model, barrel length, caliber and individual number of all firearms. With this information, the Treasury Department could locate the purchasers of any firearms or category of firearm it might declare prohibited in the future. BATF estimates that the cost to consumers would be $5 million for retooling.

Other provisions in the regulations include redefinition of import and export regulations (a detailed summary of this provision will follow), and a requirement that all firearms lost or stolen while in Federally licensed commerce be reported within 24 hours of discovery. Failure to record or report such loss or theft to the satisfaction of BATF would be a felony, punishable by 5 years in prison, and a $5,000 fine. In many instances, the failure to report a theft of a firearm could exact a far harsher penalty on a dealer than on the thief.

There are literally no provisions of these regulations which can be supported by the National Rifle Association, its membership and affiliates.

During the debate of the 1968 Gun Control Act, the issue of national gun registration was raised and soundly defeated by better than a 2 to 1 margin. Since that time, Congress has rejected all national gun registration schemes ,which have been proposed. Clearly, Congress has refused to give the firearms control bureaucracy this authority.

This proposed regulation—whether called registration or "reporting"—amounts to the same thing: centralized national firearms registration. It is the very clear policy of the National Rifle Association that we are unalterably opposed to firearms registration at any level of government.

(Printed in the March 21 *Federal Register*, the proposed regulations will be open to public comment until May 22, 1978. Comments must be submitted in *duplicate* to: Director, Bureau of Alcohol, Tobacco and Firearms; Washington, D.C. 20226; Attention: Regulations and Procedures Division.)

## DICKEY-LINCOLN SCHOOL LAKES HYDROELECTRIC PROJECT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. COHEN) is recognized for 15 minutes.

Mr. COHEN. Mr. Speaker, one of the most important decisions facing the Congress this session is to decide the fate of the proposed Dickey-Lincoln hydroelectric project. As many Members of the House know, this project has a long and controversial history dating back to 1965 when it was initially authorized.

The Army Corps of Engineers and the Department of Energy have now filed the long-awaited draft environmental impact statements on Dickey-Lincoln. These extensive documents clearly provide the Congress with the requisite information upon which to base an informed and responsible decision on the project. I believe that the evidence presented in these statements demonstrates beyond question that the projected benefits of building Dickey-Lincoln are far outweighed by the environmental, economic, and social costs of the project.

On April 12, I appeared before the House Public Works Appropriations Subcommittee and requested that no further funds be provided for Dickey-Lincoln. I am inserting my testimony in the RECORD so that each Member of the House will be fully apprised of my reasons for opposing construction of the dams. My testimony follows:

STATEMENT OF CONGRESSMAN WILLIAM S. COHEN

Mr. Chairman and Members of the Subcommittee, I appreciate this opportunity to comment on the President's budget request for fiscal year 1979. I would like to begin by discussing the request for the Dickey-Lincoln School Lakes hydroelectric project.

As the members of this subcommittee know, the Dickey-Lincoln project has a long and controversial history dating back to 1965 when it was initially authorized. Post-authorization planning and design for the project were initiated in late 1965, and continued until late 1967 when activities were terminated due to lack of additional appropriations. A total of $2,154,000 was spent on this earlier effort.

In 1974, the energy crisis stimulated renewed interest in the Dickey-Lincoln project. With the support of this subcommittee, Congress approved funds for resuming planning and design. Since the fall of 1974, a total of $6,640,000 has been appropriated for the project, with the bulk of these funds earmarked for the completion of an environmental impact statement (EIS) as mandated by the National Environmental Policy Act of 1970.

Separate draft environmental impact statements (DEIS) have now been filed by the Army Corps of Engineers and the Department of Energy. With this information in hand, the Congress is now in a position to make an informed and responsible decision on the future of this controversial project. I fervently hope that the decision will be to terminate the project by rejecting the Administration's budget request for fiscal year 1979 for $1,756,000 for advance engineering and design, as well as any future requests for funding.

Mr. Chairman, the case against building the Dickey-Lincoln project is overwhelming. An objective review of the draft environmental impact statements can only lead to one conclusion: the economic, environmental and social costs of the project are too severe to justify its construction. Let me catalog for the subcommittee some of the project's most significant adverse impacts:

Construction of Dickey-Lincoln would severely erode the forest resource base of Maine. Nearly 111,000 acres of prime forest land would be taken out of commercial production, and another 196,400 acres would be effectively isolated from Maine by the lake created during construction. One report estimated that the expected income losses in Maine's forest economy as a result of the Dickey-Lincoln project would approach $1 billion.

278 miles of free flowing rivers and streams plus 30 lakes and ponds would be permanently destroyed by Dickey-Lincoln. In the words of the Regional Administrator for the Environmental Protection Agency, "there can be no more profound alteration of a free flowing river system than to impound 287

miles of its most significant reaches under 88,000 of flat water. The ecosystem of the free river is destroyed and replaced by an impoundment." The Regional Administrator also correctly noted that the excellent brook trout fishery in portions of the St. John River will be eliminated, and the wildlife under the impoundment totally destroyed. Finally, the recreational potential of the area will be permanently altered from a high quality fishery and national recognized wild river canoeing resource to a flat water lake with an unattractive shore line.

An estimated 161 families and 16 commercial facilities would have to be relocated as a result of the project. Unavoidable economic, physical, pyschological and social hardships would inevitably occur, and destroy the sense of community which now exists in the affected area.

Construction of Dickey-Lincoln would have a major lasting negative effect on the esthetics of this distinctive region. The visual quality of this portion of the St. John River Valley would be lost forever. The effects of construction would scar the region permanently.

The cultural resources of the region would be adversely affected by the project. Salvage of known archaeological and historical sites would be required to mitigate a total loss of these irreplaceable resources.

Some price inflation is likely to occur in the affected area due to the large infusion of funds into the economy during construction. Additionally, it is possible that municipalities which expand services to meet short-term needs during construction would not be fully compensated for these efforts. This could spell a tax increase for the permanent residents of the area.

According to EPA projections, the water quality of the impoundments will be poorer than that of the river and other comparable lakes in Maine. It is possible that violations of federal water quality standards will occur both during and after construction.

Critical as these findings are, there are additional factors which lead me to conclude that we should pursue other less costly and less damaging alternatives than the Dickey-Lincoln project. Not the least of these factors is the economics of the project.

At March 1977 price levels, the minimum federal investment required to build Dickey-Lincoln would be roughly $757.5 million, using a 3¼% interest rate which is clearly unrealistic. Given the fact that the actual costs of money for projects such as Dickey-Lincoln now approach 7%, coupled with the inevitable inflation and cost-overruns which would occur during construction, it is not unreasonable to conclude that the project, if built, would cost the federal government as much as $1 billion. For $1 billion, the federal government would be building a project which will provide only about 1% of New England's power needs in the middle of the next decade. By anyone's definition, that's mighty expensive energy. It is also a gross misallocation of federal tax dollars—dollars which are becoming increasingly scarce.

Mr. Chairman, it is particularly crucial that the impressive-sounding figures about Dickey-Lincoln's energy potential be carefully scrutinized. According to the draft environmental impact statement prepared by the Army Corps of Engineers, the project has the potential to replace 2.3 million barrels of oil annually. But by the year 1985, a year before Dickey-Lincoln would be completed, the United States will be consuming an estimated 25 million barrels of oil each day. In other words, the power Dickey-Lincoln would produce in a year would amount to little more than two hours' worth of our national needs.

For Maine, the measurable economic benefits of the Dickey-Lincoln project outweigh the costs by about $53 million over the 100-year lifetime of the project, according to a report prepared by the Commissioner of the Maine Department of Conservation. This amounts to about 50 cents per year in benefits for each living Maine resident for the life of the project. I feel confident that the vast majority of Maine citizens would prefer to forgo the 50 cents in benefits to keep the St. John River Valley in its present state.

It is worth noting that at a public hearing in the St. John River Valley on the draft environmental impact statement, 90 percent of those testifying opposed the project.

An additional important consideration which prompted me to oppose the Dickey-Lincoln project is my belief that there exist alternatives to the project which are less costly in all respects. As the Environmental Protection Agency observed in its comments on the draft environmental impact statement, "the peaking power segment of our energy demand is clearly the element which is most responsive to various load management and pricing alternatives." Dickey-Lincoln is, first and foremost, a peaking facility.

A recent Bangor Daily News editorial weighed the costs and benefits of conservation against those of Dickey-Lincoln. It is instructive to summarize the editorial:

"Assume that the $1 billion cost of Dickey were diverted instead to conservation by investing in $1,000 worth of insulation for each of 1 million homes. If the average savings for these 1 million homes was 500 gallons of fuel (about a third of what the average home in Maine burns annually), the total savings by investing in conservation would be 12 million barrels of oil per year. This is the equivalent of five times the energy output of Dickey-Lincoln. It also represents a savings of $250 million—enough to pay back the $1 billion conservation investment in just four years. A reduction in consumption of just 300 gallons of oil per home would work out to a savings of 7.2 million barrels of oil per year, or three times the annual output of Dickey-Lincoln. Even if the average home could save just 100 gallons of oil with a $1,000 investment, an unrealistically low figure, the total savings translated into kilowatt hours would still be equal to the expected output of Dickey-Lincoln, without the permanent loss of hundreds of thousands of acres of timberland. In addition, thousands of long-term jobs would be created in manufacturing and service industries, compared to the estimated 68 permanent jobs which would be created should the project be built."

Conservation is not the only attractive alternative to Dickey-Lincoln. Throughout New England, there are hundreds of existing small dams which can be economically put to work producing energy. In Maine, there are nine sites, excluding Dickey-Lincoln, which have a combined capacity potential of 675 megawatts and 1.3 billion kilowatt hours of energy annually. At current prices, these sites have the potential to save Maine consumers tens of millions of dollars in energy costs each year again without the massive destruction Dickey-Lincoln could cause. Our great forests in Maine and New England are yet another vast untapped source of energy for both home consumption and for powerplants. In Passamaquoddy Bay, we have the best potential site for a tidal power project in the United States.

Clearly, we do not face a choice of Dickey-Lincoln or nothing. We have viable alternatives which are less costly in every respect—alternatives which will preserve the natural resources options of future generations, rather than paying sole allegiance to the energy needs of today's society.

Mr. Chairman, in approving the necessary funds to complete the environmental impact statement on Dickey-Lincoln, the Congress said, in essence, let's give this much-debated project its rightful day in court. We have now fulfilled this obligation, and it's time to render a verdict. The funds requested by the President for Dickey-Lincoln are not needed to complete the environmental impact statement. To the contrary, these funds represent the initial commitment to construction—an action which is opposed by the vast majority of Members from New England.

Mr. Chairman, the citizens of Maine and New England expect and deserve a final decision on Dickey-Lincoln this year. No further studies are necessary, nor are they justified. The evidence has been presented, and the project has been found wanting. It's time to terminate Dickey-Lincoln and direct our attention to developing alternatives which are affordable and responsible. I look forward to working with the Members of the subcommittee in this critical effort.

## THE CONTINUING DANGERS OF UNILATERAL DISARMAMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. SIKES) is recognized for 30 minutes.

Mr. SIKES. Mr. Speaker, last November 1, I took 30 minutes of the time of the House to discuss what I described as "the dangers of unilateral disarmament." At that time there was much concern and trepidation over information reported in the media concerning the levels to be proposed by the administration in the Defense budget for fiscal year 1979. Since this was to be the first comprehensive budget proposed by President Carter, it was viewed, and probably appropriately so, as a benchmark in gauging the direction of our defense capabilities for the next 4 years. At that time, the official proposals had not come to Congress. I reported my concern, however, at the low levels which the administration was expected to propose.

Just before the end of the year, Congress was given the administration's proposed budget for defense. In the view of many, myself included, it was even worse than the reports. Statements prior to and since its release that the administration would maintain a 3-percent growth rate in defense spending simply cannot be substantiated. This budget does not meet that goal—and 3 percent would be insufficient. In real terms, it increases spending for national defense by 2.7 percent, very little of it for modernization and procurement of weapons. People costs are the principal ingredient. In the words of the present Secretary of Defense, "The fiscal 1979 budget is an austere but adequate defense budget * * *." Austere is an optimistic word for this proposal.

As has been suggested on other occasions, however, perhaps it is not sufficient to analyze a defense budget, or any program, on the basis of funds allocated in previous budgets. It is more important to assess our needs based on the goals this Nation seeks and the commitments it must keep. We must have a national defense program adequate to meet the standards necessary to insure our security. Those standards, in

turn, can only be assessed on the basis of the threat to our national security from nations that seek world domination or who would change our way of life to one more compatible with theirs. Obviously the only real threat now is by the Soviet Union. An assessment of its capabilities, its improvements in technology, and increases in numbers of weapons by Russia should be a fair indication of what our Nation must do to meet the threat. As I said in my statement of November 1, "We do not need to keep step-for-step pace with Soviet military expenditures," but we must insure that our ability to protect ourselves both physically and economically is maintained.

Has the Soviet capability lessened or been enhanced? Have their outlays for armed forces been reduced? Everyone knows the answers. In the past 5 years the Soviets have achieved rough equivalence in strategic forces with the United States. In the past 2 decades the Soviet Union has virtually doubled its military spending. Their budget has gone up 3 or 4 percent each year since 1960, while ours has decreased to a level lower than it was 18 years ago. Years ago defense ceased to be the biggest spender in our Government. Inferior technology, by the Russians, heretofore the major factor keeping the United States in a position of superiority, is rapidly achieving comparability with our own. A report in U.S. News & World Report recently assessed the statement which Dr. William Perry, Under Secretary of Defense for Research and Engineering, made to the Congress on United States-Soviet technological comparison. The overall conclusion of the Pentagon study was that "our qualitative lead may have declined to the point where, in some cases, it may not offset the Soviet numerical superiority." Those areas where the Soviets presently equaled or have surpassed the United States include surface-to-air missiles, ICBM throw-weight, antimissile missiles, infantry combat vehicles, chemical warfare, antiship cruise missiles, mine warfare tanks, and the survivability of command/control/communications systems.

Given all of these factors, certainly well known to the President and the administration, what does this present defense budget propose to accomplish vis-a vis the Soviet buildup? In positive areas it proposes to beef up the NATO forces to a slight extent, adds substantially to the Army budget, begins procurement of the XM–1 tank, calls for continued procurement of the F–14 air superiority fighter. Overall aircraft procurement is up over $1 billion over fiscal year 1978. One billion dollars does not buy many first line fighters on today's market. On the negative side, the Navy's shipbuilding plans are reduced to levels which show a total lack of commitment to a Navy superior to all others on the oceans of the world. Instead of 30 ships as envisioned, we are left with 15. This disregards the fact the Russians are building 60 to 70 naval vessels per year.

The proposed budget calls for an overall drop of some 20,000 active military personnel, slashes away at Reserve forces, postpones timely development of important MX mobile missile, and calls for production of only one Trident ballistic missile launching submarine. The important new neutron bomb is left hanging in midair. The Russians are only a step away from a new submarine which will approximate the Trident in size and capability. With the strategic capabilities of the Soviet Union rising dramatically each year, the budget provides no funds for the Minute Man II upgrade program and does not increase by even one unit the number of available ICBM's.

Does such an overall program provide for the adequate defense of this Nation and our security? Listen to the Chairman of the Joint Chiefs of Staff, General George S. Brown in his report to Congress on the fiscal year 1979 defense budget:

> . . . In light of the extensive growth in the military capabilities of the Soviet Union, it is questionable whether what has been done is enough to assure the security and well being of our country in the coming years.

Recently the President seemed to be getting the message on what may be required for adequate defense of this Nation. His much-acclaimed speech at Wake Forest University was a tough and blunt statement of what U.S. intentions should be and the actions we must take while the Soviets continue to build up their forces. In my March 23 newsletter to my constituents I expressed satisfaction at the President's statement.

My article was as follows:

A Message the Russians Understand

At Wake Forest University in Winston-Salem recently, President Carter said the United States is determined not only to maintain a strategic balance with the Soviets but also is developing forces to counter any threats to our allies and our vital interests in Asia, the Middle East, and other regions of the world.

He stated further, "We will match, together with our allies and friends, any threatening power through a combination of military forces, political efforts and economic programs. We will not allow any other nation to gain military superiority over us."

This is a welcome statement. I applaud the President for his forthright stand. Regretfully, it is one that is long past due. It expresses an attitude which is not borne out in the current Defense budget, nor in the Defense budget for last year. Nevertheless, if vigorously followed through by appropriate action in the Administration and in Congress, it will again place our nation in position to earn the respect of the free world and to provide the leadership which is so desperately needed. Expanding areas of communist control throughout the world must be contained or countered.

The President's statement got the attention of the Soviets. It is language they understand. Their quick response through the Soviet News Agency Tass demonstrates their concern about the ability of the U.S. to be strong and to act strong, and our willingness to use procedures more effective than the meaningless notes which heretofore have been our characteristic response to Soviet aggression.

It is also very important that specific proposals for strengthening America's military defenses be taken now. Paper airplanes that school children manufacture from note paper are not formidable weapons. Speeches not backed by action are like paper airplanes.

Unfortunately, the Nation had to wait less than 1 week to find whether the President would back his words with action. On March 23 the administration revealed the long overdue 5-year Navy shipbuilding plan. It was intended to provide executive guidance to the Congress and the Nation on where our shipbuilding priorities belong.

To recapitulate, this year's budget proposal had cut shipbuilding in fiscal year 1979 from 29 or 30 ships to 15. In tough questioning the Secretary of the Navy told congressional committees that while this year's plan is lower than he would have preferred, it is a 1-year plan which he can live with. Asked about future years, the Secretary made it clear that additional years must see an increase in the shipbuilding plans. The number for the next budget has been estimated at 38 ships. Why not 30 this year? It takes years to build a modern warship. The administration's 5-year proposal? It will cut in half the Navy's previously stated requirements.

There are many experts who feel this program would reduce the Navy's ocean-controlling capability to a coastal protection role. In the face of an unabated Soviet shipbuilding program, this 5-year plan would provide 70 ships instead of the 156 envisioned by the Navy as critical to their needs. It reduces a previous goal of an 800-ship fleet in the 1980's to one of approximately 525 ships by the mid-1980's. There simply is no way to describe the plan as "adequate and realistic" or to feel that it would improve the Nation's ability to adequately deal with the Soviet threat. Fortunately, there are strong advocates of a more adequate program. They will provide more realistic plans when asked by the Congress for recommendations on the 5-year plan.

This is much more than a disappointing period for those of us who view the increasing Soviet threat with serious concern. It is a time when we must question the direction in which our defense capabilities are proceeding. One only has to review the lessons of the past four or five decades to see where this Nation could find itself in the not too distant future. World War I was described as the "war to end all wars." A generation of Frenchmen had perished in the conflict with Germany. No one in his right mind wanted to go through another war like that one. Yet, during the period of time from the signing of the Treaty of Versailles to the usurpation of power in Germany by Adolf Hitler, the allied nations had ample opportunity to prevent the second holocaust. But beginning with the peace treaty itself, the Allied nations consistently deluded themselves into believing that continued reticence in providing adequate armed forces would somehow invoke the same action in Germany. This policy did not prevent a war—it caused one. The delusion that peace is built through unilateral disarmament and the belief that opposing forces will show similar restraint is ludicrous. Nations throughout history have never ascribed to such a view and survived.

Winston Churchill provides an unmistakable lesson of the results of such folly in his incomparable narrative of World

War II, the first book of which is "The Gathering Storm." In describing the inactivity of the allies toward the continual German buildup, together with its ominous results he says:

There can hardly ever have been a war more easy to prevent than this second Armageddon. I have always been ready to use force in order to defy tyranny or ward off ruin. But had our British, American, and Allied affairs been conducted with the ordinary consistency and common sense usual in decent households, there was no need for Force to march unaccompanied by Law; and Strength, moreover, could have been used in righteous causes with little risk of bloodshed. In their loss of purpose, in their abandonment even of the themes they most sincerely espoused, Britain, France, and most af all, because of their immense power and impartiality, the United States, allowed conditions to be gradually built up which led to the very climax they dreaded most. They have only to repeat the same well-meaning, shortsighted behaviour towards the new problems which in singular resemblance confront us today to bring about a third convulsion from which none may live to tell the tale.

Commonsense today must tell us that our situation is deteriorating. When the Chairman of the Joint Chiefs openly questions our ability to defend our interests, what more do we need to hear? Until the Soviet Union ceases the escalation of the arms race, the United States must insure that our Defense Establishment is capable of maintaining our national security. Our forces must be adequate without question. They must be able to carry out and support our policies in all areas of national interest. Today's defense policies are invitations to disaster, perhaps not tomorrow or the next day, but somewhere in the years ahead, and not too far ahead.

John F. Kennedy summarized our national defense needs quite well:

The primary purpose of our arms is peace, not war—to make certain that they will never have to be used—to deter all wars, general or limited, nuclear or conventional, large or small—to convince all potential aggressors that any attack would be futile—to provide backing for diplomatic settlement of disputes—to insure the adequacy of our bargaining power for an end to the arms race.

It is highly regrettable that we continue in these dangerous times to be confronted by the dangers of unilateral disarmament.

## FBI MISCONDUCT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized from 5 minutes.

Mr. GONZALEZ. Mr. Speaker, back in 1964 most Americans probably thought of the FBI as a completely honest, straightforward and uncorruptible organization. This was the image that was portrayed on the television screen in the "FBI" show, a program that was produced with the active cooperation of the FBI. Director Hoover and his staff were careful to assure that the TV program always portrayed his outfit as handsome, clean, kind, courteous, brave—and not least, well-dressed and cleanshaven.

But the truth was that the FBI was Hoover's private empire, and if he did not get the conclusions he demanded, there was a fearful price to pay. If Hoover thought that it was midnight at noon, woe betide the individual who dared tell him otherwise.

So it was that in 1964 Hoover finally received a contrite memo from William Sullivan, who proposed a program of action to discredit Martin Luther King and replace him with some "suitable" leader acceptable to the FBI. This was to be done by discrediting King's moral integrity, which was the foundation and basis of his whole movement.

Hoover replied, "I am glad to see that the 'light' has finally, though dismally delayed, come to the Domestic Intelligence Division." Hoover insisted that, "I struggled for months to get over the fact that the Communists were taking over the racial movement.* * *"

Eleven months later the FBI mailed an anonymous letter to King, which was nothing more nor less than old-fashioned blackmail. This letter indicated that the sender had information about King that would destroy him; King read it as an invitation to suicide.

But Hoover was not just interested in King; he wanted to know everything about anybody who took part in or supported the civil rights movement.

For instance, on the afternoon of November 2, 1964, the San Antonio FBI office sent a teletype marked urgent to Hoover, himself. What was this urgent message? It was this:

On night of November 1 last (deleted) East Side politician and active CORE member in San Antonio, Texas, held open house honoring Congressman Henry B. Gonzalez. (deleted)

This was also routed to Sullivan, who at that time was heading up Hoover's blackmail campaign against King. Further, this teletype was reduced into a memorandum which the FBI marked "Confidential" and either distributed or intended to distribute to other agencies. The evidence that it was in fact distributed is persuasive—but to whom and for what purpose I can only guess. But I believe that since Hoover wanted to discredit people he disapproved of, this applied to me as much as anyone else, and he thought that sending out a phony confidential item on me would convince someone that I was less than honorable. In fact, of course, the event I attended was open and public and no surprise to anyone and no more subversive than a family picnic. It just happened that Hoover thought it might be used against me somehow.

It was crazy for the FBI to use its resources in such a way, when it should have been concentrating on real threats to public safety, but that is clearly what happened. the FBI mindlessly obeyed the dictates of the Director, who could do no wrong, and who had no master save his own decaying self.

Have things really changed? I have yet to receive any assurance that the FBI will clean up the files it has gathered on me, and delete the slanderous references that are in those files. I have renewed my request with the new Director, and include that request with my remarks.

HOUSE OF REPRESENTATIVES,
*Washington, D.C. April 17, 1978.*

Hon. WILLIAM H. WEBSTER,
*Director, U.S. Department of Justice, Federal Bureau of Investigation, Washington, D.C.*

DEAR MR. WEBSTER: I received and have read with growing amazement the contents of FBI files maintained on me, personally.

It is clear that the FBI reflected the whims and prejudices of its Director, and that these were, in turn, registered in files concerning me.

For example, whenever I made remarks that were deemed offensive to the Director, so-called background statements on me would include comments such as "a recipient of Communist Party support in his election campaigns. . . ." At the time of my election to Congress, a memorandum to Cartha De Loach advised the Director not to send me a letter of congratulations, "in view of his backing by the C.P." Even before that, the FBI placed in my file newspaper clippings regarding my activity in behalf of civil rights and I cannot imagine any reason for this since nothing could have been less subversive than attendance at a NAACP meeting in Seguin, Texas. Nor can I imagine why the FBI would have been interested in such prosaic items as a Drew Pearson broadcast that predicted I would be elected to Congress.

While the FBI carefully labeled me as one who had received Communist support whenever it was felt the Director would be unhappy with me, it did indicate that there were "cordial relations" whenever it was believed the Director would be pleased with what I had said or done. Thus, the Director—like the naked Emperor—was always to be told what we wanted to hear. I cannot imagine a more insidious behavior by a Federal police agency.

You indicate, as the files do, that I had no knowledge of whatever supposed support I ever received from any Communist. Yet, time after time, the files reflect that the FBI disapproved of me on the grounds of this supposed report which even the files show I knew nothing about, never solicited, and would not have tolerated if I had known of it. Throughout the files these references are, indeed, statements that are subject to broad erroneous interpretation and which therefore ought to be struck. Further, I am entitled to a complete apology.

If evidence is needed that the FBI was subject to the making of personal remarks and observations, you need only turn to a memorandum of December 31, 1970, in which a member of my staff was characterized as "a louse." Solely because that assistant declined to provide information that the Bureau wanted in order to check out a critical comment included in one of my speeches. I inquire specifically of you whether you believe it accurate to characterize a staff member as "a louse" when I am certain that FBI files on that individual will show that he is entitled to, and has received, some of the highest levels of security clearances of our government.

These are serious matters and thus far I have received only cavalier treatment from the FBI concerning them. This is not the kind of justice that I believe in and it is assuredly not the kind of justice that the FBI is supposed to stand for.

I am entitled to and again repeat—expect—that my records will be cleared, that derogatory statements in them will be deleted, and that I will receive an apology both full and public.

Sincerely yours,

HENRY B. GONZALEZ,
*Member of Congress.*

## DEFENSE PROCUREMENT: A FIRST-CLASS RECORD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. CHARLES H. WILSON) is recognized for 5 minutes.

● Mr. CHARLES H. WILSON of California. Mr. Speaker, each year it is my pleasure to cosponsor, along with local chambers of commerce, a Federal procurement conference designed to acquaint businessmen and women in the Los Angeles area with the opportunities available to them through buying and selling to the Federal Government.

Featured at each conference is a prominent guest speaker who brings his own particular expertise and knowledge in the area of industry and Federal procurement procedures. This year, it was an honor to have as guest speaker, Dr. Allen E. Puckett, president of Hughes Aircraft Co. Dr. Puckett is a well-known and highly respected member of the industry. He has been in key management positions with Hughes for nearly three decades and has been honored on several occasions by his peers in the aerospace community. I am pleased today to submit for the review of my colleagues in the Congress a copy of Dr. Puckett's remarks at the conference. In addition, I would like to particularly make note of his comments on the success of defense procurement.

As he mentions, defense procurement is often cited as unnecessary and wasteful Government spending or as excessive profits for the defense industry. However, in comparison to other industries, aerospace and defense can take a great deal of pride in the strides they have made in the past 20 years.

The superior technical accomplishments of those years have not only strengthened our national defense effort, but have contributed to the economy in general—largely as a result of business participation in the procurement process.

Dr. Puckett's perspective on Federal procurement is sometimes lost in criticisms over high costs and error, but I urge all Members of Congress to take a close look at what he has to say on the beneficial relationship between Federal procurement in the defense area and the business community.

The speech follows:

### FEDERAL PROCUREMENT

(By Allen E. Puckett)

Each year this symposium on Federal Procurement, sponsored by Congressman Charles H. Wilson, presents a remarkable opportunity for the business people of this area, whether they represent large business or small, to meet and exchange ideas on their problems and their opportunities. You have been, and will be, exposed to a large amount of detailed and technical information on the problems of doing business with the Government. No doubt many of you feel as I do—that I wish doing business with the Government were not so complex. I wish there were not so many rules and regulations—so many forms and reports to fill out. If everything else were equal, we might even prefer, on occasion, to do business with someone other than the Government. But everything else is not equal, and doing business with the Government, particularly in the area of national defense, offers some very remarkable opportunities for a very satisfying and rewarding participation in a very special segment of U.S. industry.

This symposium also presents an opportunity to look philosophically for a moment at the nature of the Federal procurement system, and at the role of both industry and Government in that process. The magnitude of the Federal procurement budget is indeed enormous by any standards. The Defense Department procurement, which constitutes the largest part, will be about $32 billion in the 1979 budget. I should really add to that the research and development budget of $12 billion, which is another special type of procurement, making a total of $44 billion. The only industry in the country which exceeds that volume is the automobile industry—and not by much.

The dollars that are spent in this procurement program are taxpayers' dollars—yours and mine. The dollars are authorized and appropriated by members of Congress—such as Charlie Wilson, who plays a very special role as a ranking member of the House Armed Services Committee. These men, and in turn the officials in the Defense Department who must supervise and administer the expenditure of funds, bear an awesome responsibility to protect the public interest. They must not only get the most mileage out of every dollar, but they often have the incredibly difficult task of making the selection of which programs to pursue and which to abandon in the best interest of national defense and within an affordable budget.

It should not be surprising therefore, and indeed as taxpayers we should welcome the fact that the Federal procurement system is a target of constant scrutiny by an endless variety of committees, panels, various agencies of the Government, as well as self-appointed unofficial critics. We have had one after another blue ribbon panels, committees on Federal procurement, and similar groups, each of whom has wrestled conscientiously and agonizingly with the problem of devising a perfect and foolproof system of managing Federal procurement. It should not be surprising that each new group or committee discovers some better way to do the job, and invents a slightly different system. Each system, of course, involves rules and procedures, decision points and forms to be filled out, checks and balances to minimize errors in judgment and to insure that the Government gets its money's worth.

This intensive and completely appropriate effort to protect the taxpayer sometimes creates another unintended effect—the appearance or the suggestion that the procurement system is in trouble. There are critics who lose no opportunity to allude to "wasteful Government expenditure" on the one hand, or "enormous and excessive defense industry profits" on the other hand. We hear references to the "military-industrial complex" as though this were some evil team of conspirators determined to fleece the American public. It is time, I think, to correct the record, and to look at the real facts regarding the industry in which we are engaged.

The fact is, in my opinion, that the Federal procurement system, particularly in the defense area, has been remarkably efficient and effective. In order to reach such a conclusion, we must examine the results in relation to the nature of the job to be done. We must ask whether any other segment of the American industrial community has undertaken more difficult tasks with better results.

The most important feature of the national defense procurement program is that the very nature of national defense presents problems that are at the very limit of human capability and ingenuity to solve. Our objective is to preserve the security of the United States, and that requires that our means and methods of defense must match or exceed the best that our potential enemies may possess. This is truly a competition which we cannot afford to lose. It is a competition which will not necessarily be won by vast expenditure of money and materiel, but which can be won by the exercise of superior ingenuity and technical skill. As a result, the defense industry has been challenged by some of the most difficult technical assignments ever undertaken in our modern society. We have come to expect as a way of life the establishment of technical goals which are at the edge of the impossible. We undertake as a normal procedure the incredible process of scheduling inventions, and trying to estimate the price of doing something that no one really knows how to do at all.

Let us look at a few of the achievements of the last 20 years—mind blowing accomplishments which not too long ago were literally presumed by many wise men to be impossible. At the end of World War II, the Germans had a crude ballistic missile with a range of a few hundred miles and almost no accuracy worth mentioning. Today our ICBMs fly thousands of miles across the ocean and arrive at a designated target with incredible accuracy. At the end of World War II, no aircraft had flown at supersonic speeds, and the "sound barrier" was still a mystery. Today, we have operational military aircraft routinely flying at supersonic speeds. At the end of World War II there were a very few experimental electronic computers—incredibly clumsy and expensive, using vacuum tubes and large amounts of power. Today, almost every device that we build for military use has an electronic computer imbedded somewhere in its insides. The computer may help guide an ICBM, or control an aircraft, or process logistics data, or control the functions of a communications system. You and I can buy a pocket-size electronic computer which provides essentially all of the functions of a roomful of computer equipment in the 1950s. Our pocket computer is about 100,000 times smaller, 10,000 times cheaper, and 10,000 times more reliable than that computer of the 1950s.

In the 1950s, the only satellite we knew of was the moon. Today we have literally hundreds of satellites in orbit around the earth—some providing communications, some observing the weather, and still others observing a wide variety of things on the surface of the earth. We design these satellites to operate for a period of three to 10 years in space—with no opportunity to make repairs or replace parts. Where 25 years ago "space" was simply a word in the science fiction books, today it is a commonplace part of our everyday life.

The great pressure for technical superiority has lead to all of these achievements in the defense area—as well as to many more. The technological advances that have emerged in these various programs have also found their way into many aspects of the civilian economy, and indeed have created new industries. All of these remarkable and useful results have come out of the operation of our Federal procurement system, for all its complexities and shortcomings.

Other results have emerged that are less visible, but no less important. As military equipment has become more complicated, the need for greater reliability in complex equipment has multiplied accordingly. The procurement system very properly has imposed on us increasingly difficult standards of quality and reliability in everything we make whether it be a small component or an assembly of thousands of parts. We have complained and agonized over new and increasingly rigorous requirements which we must meet, but somehow we meet the challenge. We are rarely as good as we would like to be, but it is a fact that the reliability

of our equipment today is far beyond our wildest dreams of the 1950s. The new methods of manufacture, quality control, and testing that are required to achieve these high standards have in turn reflected into new higher standards and better products in much of the civilian economy.

We have, of course, in this industry had our share of mistakes. We have occasionally attempted something which truly could not be done at all, or for which the technology was not yet ready. We have occasionally been overly optimistic in projecting time schedules or cost. I do not excuse or condone our mistakes—but I suggest that if we did not occasionally overreach, we might not be reaching high enough.

As another measure of our performance, perhaps we should look at other more conventional industries and inquire what they have achieved and how they have performed in the same time period. Let us consider the housing industry—home construction, for example, which is a subject familiar to all of us. I do not detect any dramatic breakthroughs in the last 20 years—in fact, home construction has stayed pretty much the same. One even hears occasionally such comments as "They don't build houses like the used to."—And that does not mean that they are better today. When we come to schedule and price, any new home owner today will describe to you at great length how completion was three to six months behind schedule, and price was 20 percent above the original plan. And yet the house contained no new inventions, no surprises, no item of hardware which could not be priced to within one percent at the local hardware store. I do not intend to single out the construction industry for any special criticism, but merely to suggest that in most of our economic dealings we are accustomed to something less than the perfection which we demand in the areas of federal and specially defense procurement.

The theme of this story, of course, is that at the same time that our procurement system is being scrutinized and often criticized, we—the industry and the Government—have much to be proud of. Our record, on the average, is one of significant achievement. We might pause occasionally, as the difficulties of our business surround us, to take some quiet satisfaction in what we have accomplished.

An important factor in this record, I believe, is the spirit of teamwork which has generally existed between small business, big business, and the Government. No doubt operators of small business occasionally regard their big business customer as demanding and difficult to work with. The big business customer on the other hand must regard small business as his partner and his team member. We cannot exist and work together with an adversary relationship. The problems of small business must become the problems of its larger customer. The survival and the success of small business are essential to the health of the larger companies which they supply, and in turn to the Federal Government which procures their products directly or indirectly.

In the same way, the relationship between all of industry and Government must contain an element of partnership and teamwork. The problems which we must solve are far too difficult ever to be attacked successfully by two adversaries, each of whom is concerned primarily with how to obtain some advantage over the other. It is sometimes suggested in certain quarters that any appearance of partnership between industry and Government is somehow dangerous and conspiratorial. I reject categorically that concept, and suggest instead that some sense of partnership must exist in order for us to survive at all. The representatives of the Government must protect the taxpayers by ensuring equitable dealings between industry and Government, but the minute we forget that we are partners working together for the good of our nation we will have lost our greatest strength.

Men of good will, with common objectives, have historically worked together in the solution of our defense problems and have still managed to deal fairly and equitably with each other in a business sense.

The American free enterprise system does not need to be, and in fact cannot be a competitive jungle with every player like a predatory animal struggling only for his own survival. The survival of each of us is best protected by the survival of all others who can contribute to our common goals. That is why both Government and big business must have special concern for the health and opportunities of small business and of minority businesses. That is why the relationship between Government and industry must have an underlying pattern of teamwork to maximize our chance of survival.

At the same time the best insurance that each of us in industry has for our own success is our ability to perform. It must be our ingenuity, our efficiency, and our dependability that makes us successful suppliers to the Government. We may expect to be surrounded from time to time by new and apparently burdensome Government regulations and procedures. We should consider their purpose before we complain. We should protest when we believe the Government is paying more for paperwork than for hardware. But above all we must remember the great burden of responsibility that rests on both parties, and we in industry must respond to the limit of our ability as a member of the team.●

## VETERANS ARE CALLED TO ACTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. CARNEY) is recognized for 5 minutes.

● Mr. CARNEY. Mr. Speaker, there is no man in the country more knowledgeable about veterans' needs, the laws concerning veterans' benefits and their administration, than the national commander of the Disabled American Veterans, Oliver E. Meadows.

As staff director of the House Committee on Veterans' Affairs for almost 25 years, Oliver played a major role in putting together every veterans' program implemented since World War II.

Oliver is a severely disabled veteran—having sustained his wounds in combat during World War II. When he says the VA medical system is in deep trouble, we all should listen. Members of the Disabled American Veterans, the American Legion, the Veterans of Foreign Wars, the Veterans of World War I, the AMVETS, and others are very concerned with funding levels being proposed by the administration and the House Budget Committee for benefits and services for veterans and their families. I certainly share their concern.

Commander Meadows recently issued a "Call to Action" in the April issue of the DAV magazine to all members of his organization. His comments follow:

CALL TO ACTION

If ever there was a time when all DAV and DAV Auxiliary members should act in unison to protect the VA medical system from sweeping, insensitive budget slashes, that time is right now!

If we don't take immediate action—every single one of us—we can be assured that the Administration and its Office of Management and Budget will further encroach on the scope and quality of VA health care we have earned the right to expect.

Right now a VA budget is being considered by the Congressional Appropriations Committees that would carve into the very muscle of the VA health care system with severe and damaging consequences. Of acute concern to us are cutbacks that would include:

Trimming 3,132 operating beds from the VA hospital system, a move that would result in a monetary loss of $32.3 million and the loss of 1,500 full-time jobs.

Elimination of medical, prosthetic, and rehabilitative research activities at 64 VA medical facilities, representing a monetary loss of $18.3 million, loss of 245 full-time jobs, and indirect creation of some rather grim problems in physician recruiting and other areas crucial to providing quality health care; and

A $236.5-million shortfall in programs for hospital construction and improvement of nursing care, outpatient, and domiciliary facilities.

These are serious problems. Each one of us must write to our Congressman and Senators, protesting these cutbacks in the strongest terms.

To make sure the DAV and DAV Auxiliary mount a stern and effective counter offensive against these frightening threats to the future of the VA medical system, I have initiated a program of action for our organizations. I have written to the leaders of the DAV and DAV Auxiliary at the Chapter, Unit, Department, and National levels, explaining the situation and what needs to be done.

But, your action—as an individual member—will be required also if we are to win this critical battle.

Write to your Congressman and Senators today. Don't put it off. It's urgent that you act immediately.

BED CUTBACKS

The reduction of 3,132 VA hospital operating beds that is proposed in the Carter Administration's budget amounts to the equivalent of eliminating six 500-bed hospitals. Hardest hit states are California, which is scheduled to lose 600 beds at nine VA medical facilities; New York, threatened with the loss of 317 beds at six installations; Michigan, facing the loss of 175 beds at four locations; and Illinois, which could lose 171 beds at six medical facilities.

Noting that the Administration is already discussing a cutback of an additional 2,100 beds in Fiscal Year 1980, I can only view the cutbacks proposed in the Fiscal Year 1979 VA budget as part of a master plan to destroy the VA health care system as a separate entity devoted exclusively to veterans.

This proposed reduction of more than 5,000 operating beds in a two-year period follows the loss of some 14,000 beds over the past decade. The situation is especially grave, since the demands placed on the VA medical system have increased steadily during this entire period of cutbacks.

I'm alarmed that such massive reductions could be seriously considered at a time when veterans of World War II are approaching retirement age in large numbers. Needless to say, the medical needs of this group of veterans are escalating rapidly, as is the severity of the service-connected disabilities suffered by 1.3 million World War II veterans.

I fail to see how the VA can possibly meet the mushrooming demands that the future will surely place on its medical system if one Administration after another insists on shrinking the system's size and capability.

I find the VA's arguments that these bed

closings are necessary to eliminate overcrowding, improve patient privacy, and correct fire and safety hazards completely unconvincing. In a limited number of cases, this may be true. But overall, I see these excuses as a smoke screen designed to disguise an attempt to weaken the VA medical system, making it an easy mark for predators in other Federal agencies.

Also unconvincing to me are the arguments of those VA officials who say they will be able to handle more patients with fewer beds because of increases in staff-to-patient ratios and further reductions in the length of patient stay. In fact, I think there may be a touch of subterfuge in the VA's very optimistic projections in these areas.

First, the VA says it will increase staff-to-patient ratios in its hospitals to 196 staff to each 100 patients during FY 1979. Taken at face value, that would seem a welcome improvement, though it still doesn't compare favorably with the approximate 250 staff to each 100 patients in most community general hospital systems.

According to figures released by the National Academy of Sciences in its "Health Care for American Veterans" report last summer, staff-to-patient ratios then stood at one staff member for each patient in VA psychiatric facilities and 1.5 staff for each patient in VA general hospitals. Considering the monumental problems the VA has in recruiting and keeping doctors on hospital staffs, it would be a real feat if they boosted these figures all the way to 1.96 staff for each patient by the end of FY 1979.

With the scheduled bed reductions and the resulting cut of 1,500 in staffing, it seems to me that the VA could only increase staff-to-patient ratios by decreasing the number of patients treated.

Our best calculations indicate that the VA will be able to reduce the average length of patient stay in its general medical hospitals from 19 to 18 days, and this will allow treatment of an increased number of patients. However, the impact this will have on the VA's ability to keep up with demand while reducing the number of available beds is not at all clear.

It's quite possible that increases in demand on the medical system will entirely outstrip the increases in available beds brought about by further reductions in the average length of patient stay.

Until something is done about bureaucratic problems such as this—problems that relate most indirectly to patient care—it seems unlikely that realistic and meaningful change on a large scale will be possible.

To keep you informed about how VA medical facilities in your area will be affected, I have included with this column a list of those hospitals that face bed closings and the number of beds scheduled to be cut at each. However, even if VA facilities in your area are not affected, you should still contact your Congressman and Senators, protesting the cutbacks in other areas.

Remember that such cutbacks, continued over the past ten years and into the years to come, will eventually decrease the quality as well as the quantity of medical care across the board in the entire VA health care system.

SLASHES IN RESEARCH

I've also included a list of the 64 VA medical facilities at which the Administration wishes to halt research activities. The elimination of this research will produce consequences that far outweigh the savings of $18.31 million that the VA budget proposes to accomplish with these cuts.

With funding in the current fiscal year of $111 million, the VA's health care research program is far and away the largest research effort of its kind in the nation. To continue this research at its current level in Fiscal Year 1979 would require approximately $130 million, while the Administration proposes to spend only $112 million. Funding cuts come to $2.2 million in rehabilitative research, $15.5 million in medical and prosthetic research, and $570,000 in other areas affecting health care research.

Like the cutbacks in operating beds, these funding reductions represent continuation of a trend that has carried over from past Administrations. If this trend continues, the medical professions and their clients . . . you and I . . . will not be able to expect the constant flow of high quality, innovative research that has flowed out of the VA medical system since World War II.

Curtailments of research into the causes and treatment of a number of service-connected disabilities are planned, and such curtailments will have an obvious and immediate effect on the disabled veteran population. But, I'm also deeply concerned that the declining quality of VA medical research programs will significantly inhibit VA efforts to attract the most talented doctors and other health care professionals into a system that doesn't pay competitive salaries.

Many of the VA's finest doctors have already left the system. And those who remain charge that it grows more difficult each year to attract young doctors and doctors of exceptional ability into the system. Without the incentive of money, the VA can only offer opportunities for rewarding research and the stimulation of the high intellectual atmosphere that quality research fosters in a hospital.

As these secondary incentives dwindle it's no wonder the VA finds it difficult to attract and keep its doctors. These concerns were expressed by Dr. Herbert Rose, president of the National Association of VA Physicians, with whom we'll work closely to get VA health care research funding restored to adequate levels.

The fact that two VA medical researchers were awarded the Nobel Prize last year attests to the value of the VA's health care research program—not only to veteran patients, but to everyone in our country and around the world. VA research is a national resource. It would be heinous to allow this crucial program to be ruined by a callousness that places budget savings at a higher premium than human needs.

SHORTFALLS IN CONSTRUCTION

An astonishing total of 36 major construction projects, including a badly needed general medical and surgical hospital in Camden, N.J., are slated to be eliminated in the VA's FY 1979 budget. The budget also includes a 67-percent cut in grants for construction of state extended care facilities.

You'll find a breakdown of the shortfalls in construction programs in a box with this column. Of course, the DAV will fight to have this funding restored. And, it's just as important that each of you write to your Congressman and Senators about this problem as well as the cutbacks in operating beds and medical research.

The major question I find myself asking when I consider these shortfalls in construction is this: What do these cutbacks mean in terms of the Administration's long-term commitment to the integrity of the VA medical system?

Quite frankly, I think these cutbacks show that commitment to be very weak, if it exists at all.

WHY MEDICAL PROGRAMS?

You're probably asking yourself why the Office of Management and Budget decided to descend on the VA's medical programs like a pack of hungry wolves? With Federal funds as tight as they are there is constant pressure on the Administration to cut back programs wherever it can get away with it.

When it comes to the VA budget, we find most of the outlays fixed by law. Disability compensation, pension, DIC, educational allowances, and the like must be paid at the rates set by Congress. Therefore, the only large segment of the VA's operations that offers any budgetary flexibility is the medical program, which thus becomes the natural target for the budget cutters.

The Veterans Administration can do very little to defend itself against cuts in its budget. The agency is, in fact, required to support the Administration budget before the Appropriations Committees of Congress—regardless of the private views of VA officials.

WE MUST ACT NOW!

Thus, the job of protecting the VA budget from unmerciful slashing falls upon us. We must let the budgeteers know that they can't get away with chopping our medical program away to nothing.

In the final analysis, it all comes down to a phrase all of us have heard before: The President proposes, but Congress disposes. The Administration will not get its way on these budget cuts if we put enough pressure on our representatives in Congress, presenting our case firmly and convincingly.

Congressman Ray Roberts (D-Tex.), chairman of the House Committee on Veterans' Affairs, has already taken the lead in this battle. Senator Alan Cranston (D-Calif.), who chairs the Veterans' Affairs Committee in the Senate, has always fought for adequate VA medical appropriations, and can be counted a firm ally in the current situation.

We have other staunch friends in Congress too. But, we must back them up with solid grassroots support. It's urgent that all of us act now! Write to your Congressman and Senators today! ●

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## "FRIENDLESS" ERITREAN NATIONALISTS HAVE EARNED MEASURE OF RESPECT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 5 minutes.

● Mr. REUSS. Mr. Speaker, the nationalist forces of tiny Eritrea have now been fighting for independence from Ethiopia for 17 years. Today, with Cuban and Soviet forces involved on the side of Ethiopia, whereas once they sided with the Eritrean nationalists, the Eritrean Peoples Liberation Front and the Eritrean Liberation Front are not surprisingly cynical and disillusioned about just who their friends are in the outside world—and indeed, whether they really have any friends, including the United States which the Eritreans regard as having favored absorption into Ethiopia in the past.

In a story in the Washington Post, Sunday, April 9, 1978, an EPLF spokesman was quoted as commenting that "the whole world is against Eritrea."

With all the blood and mayhem in Africa these days, I am reminded of an occasion involving a constituent of mine, when the Eritrean nationalist leaders showed themselves to be decent and compassionate toward innocent victims of the fights over territory, and set an example that some other national leaders could well follow today if they wish to establish credentials as responsible members of the international community.

In July of 1975, James Harrell of Milwaukee and another American were kidnaped from the Kagnew naval communications unit in Asmara, Eritrea. They were technicians innocent of any political involvement, and were simply caught

up in the conflict between Eritrea and Ethiopian occupation forces. I made extensive efforts through our State Department to secure the release of the two men, and was dismayed at the lack of interest on the part of our Government.

Subsequently, I contacted Osman Saleh Sabbe, leader of the Popular Liberation Front, in Damascus, Syria, and brought the plight of these two men to his attention. At the time, Mr. Sabbe wrote me:

We do not consider kidnapping innocent people who have not been involved directly against our people as a correct action. The history of our revolution has a clean record as far as its abiding by laws and regulation is concerned.

He promptly secured the release of these two men and restored them to their families in the United States.

Let the Eritrean nationalists know that I for one, and everyone involved in that affair, remember their attitude gratefully and wish to assure them that they are not without friends in the United States.●

## WAYS AND MEANS TRADE SUBCOMMITTEE EXTENDS DATE FOR SUBMITTING RECOMMENDATIONS FOR AMENDMENTS TO INTERNATIONAL TRADE PRACTICE LAWS

The SPEAKER pro tempore. Under a previous orders of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

● Mr. VANIK. Mr. Speaker, the Subcommittee on Trade, Committee on Ways and Means, today announced that the subcommittee is extending to May 15, 1978, the deadline, as previously announced in the press release of February 6, 1978, for all interested parties to submit recommendations on how U.S. laws (and regulations pursuant to such laws) should be amended to provide more expeditious, effective, and equitable relief for domestic industries from unfair practices affecting import competition.

The subcommittee is interested in recommendations for:

First. Amending the Antidumping Act of 1921, as amended by section 321 of the Trade Act of 1974;

Second. The countervailing duty statute (sections 303 and 516 of the Tariff Act of 1930, as amended by section 331 of the Trade Act of 1974):

Third. Provisions to deal with unfair methods of import competition (section 337 of the Tariff Act of 1930, as amended by section 341 of the Trade Act of 1974); and

Fourth. Responses to foreign export subsidies under section 301 of the Trade Act of 1974.

I hope that this extension will permit all interested parties sufficient time to complete statements and recommendations. It is my intention to schedule hearings late this spring based on the recommendations submitted to the subcommittee, and in particular to invite testimony from expert practitioners in this important area of trade law and regulations.

All comments and recommendations should be submitted to Mr. John M. Martin, Jr., Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515; telephone: (202) 225–3625 by May 15, 1978.●

## THE ROSE AS OUR NATIONAL FLOWER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. HANLEY) is recognized for 5 minutes.

● Mr. HANLEY. Mr. Speaker, once again, as we all enjoy the great beauties of spring. I would like to express my strong support for House Joint Resolution 654, which would designate the rose as our national flower.

I have read recently a statement by Carter Lee of the New England Rose Socity, which I think states quite clearly the strong case for selecting the rose as the most appropriate national flower.

I offer that statement now for the consideration of my colleagues:

THE ROSE AS OUR NATIONAL FLOWER

Why should the rose be our national flower? Because it is both native and immigrant, simple and sophisticated, delicate and sturdy, persistent and adaptable, grown in a hundred forms from miniature to climber in all fifty states, typifying the qualities that make this country what it is.

Before the first settlements were made on American shores, the Reverend Jones Rosier, in the ship Archangel, touching at Monhegan Island in 1605, found "gooseberries, strawberries, wild pease and wild rose bushes." Edward Winslow reported from Plymouth in 1621, "an abundance of Roses, white, red and damask, single but very sweet indeed," and when the Puritans came to Salem in 1629, what did they find? "Ripe strawberries and gooseberries and sweet single roses." (Higginson's Journal)

The Encyclopedia Britannica lists 35 native American species of rose, and these are scattered throughout the length and breadth of the land—Rosa blanda and Rosa virginiana on our east coast, Rosa setigera, the prairie rose, and Rosa californica, to name but a few. And then there are such roses as R. laevigata, the Cherokee rose, imported from China, but so much at home here that it was first described botanically from American plants and is as southern as fried chicken.

The modern American rose is a hybrid product of many species so interbred as to make it hopeless accurately to trace their ancestry. Are we mistaken in believing that this very characteristic, far from making it alien, is rather typically American? The fact is that George Washington himself helped the process along, growing a hybrid derived from R. setigera, which was named Mary Washington and sold commercially. It is also true that while many species, native and imported, grow wild in the meadows, swamps, and hedgerows of this tremendously varied country of ours, the high centered, fashionably dressed hybrid tea is accustomed to a high standard of living. Who would dare say that this is un-American?

Finally, those who think of the rose as a foreign flower because of celebrated immigrants like "Peace" are forgetful of the genius of American hybridists like Eugene Boerner of New York, Herbert Swim, Walter Iammerts and Robert Lindquist of California, the Brownells of Rhode Island, Horvath of Ohio, the late great Dr. Van Fleet of the U.S.D.A., Griffith J. Buck of Iowa, and many others who have combined to put American roses at the top of the world's production in both quantity and quality.

Our founding fathers saw no reason why the American Eagle should worry because the Roman eagle preceded him. Shall we be more concerned about the English rose? Or shall we recognize the modern American rose, call it Hybrid Tea or Floribunda or Grandiflora or what you will, the very essence of the American spirit, which takes from all the world, mixes with native American soil and diversity of resource, and comes up with a progeny which is adaptable to all occasions, rich and beautiful beyond compare?

CARTER LEE.●

## TREASURY'S POSITION ON PROVISIONS OF SAFE BANKING ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

● Mr. ST GERMAIN. Mr. Speaker, today I am introducing legislation which incorporates the Treasury Department's current position on banking reform and improvements in the Federal regulatory structure.

This bill is the product of weeks of negotiations, study, and consultation between the Treasury Department and myself in an effort to broaden the consensus behind key provisions of the Safe Banking Act. This effort was begun shortly after the markup of the Safe Banking Act (H.R. 9600) was terminated near the end of the first session of the 95th Congress.

While I have placed the highest priority on moving the Safe Banking Act, I have delayed a rescheduling of the markup in this session to allow the Treasury Department and others in the administration to study the issues and to develop—as they see it—the best remedies to the defects in our present regulatory structure and current banking practices. At the outset of this task, we realized that there would undoubtedly be areas where we would be forced to continue to disagree, but I have felt that the work—and the wait—were well worth it if we were able to shore up support for so much as a single title.

As it turns out, we have done much better than that—although we will continue to agree to disagree on some very major areas.

Mr. Speaker, I am particularly pleased with the Treasury's strong position on two key titles. One of these gives the regulatory agencies specific authority to disapprove changes of control of banks when unsavory, fly-by-night operators attempt to move in. Treasury also endorses our strong recommendations for greater disclosure to the regulators of material facts when a takeover is attempted. In view of the evidence collected by the Financial Institutions Subcommittee in its investigation of the Texas Rent-A-Bank schemes and other bank takeovers. I am gratified that the Treasury has given its full endorsement to providing more tools for the regulatory agencies in this important area.

Even more important to the overall purposes of the safe banking legislation is the Treasury's support of new and

more meaningful disclosures by commercial banks in the areas of insider activity. This has been a key feature of the Safe Banking Act and I remain convinced that the "sunshine" provided in the disclosure section will have a very salutary effect on efforts to curb insider abuses. I am also pleased that the Treasury Department is willing to support disclosure of final "cease and desist" agreements and orders. The public and the stockholders should have this information and not be required to learn of it only through rare accidents and agency leaks.

Both the disclosure title and the change of control title, as proposed in the Treasury draft being introduced today, have been worked out in long discussions with the Treasury. The language, in my opinion, meets the basic thrust of the Safe Banking Act.

The Treasury has come up with a workable compromise which assures the full application of Clayton Act standards to interlocks among depository institutions and between depository institutions and other companies, including insurance companies.

Working with the subcommittee staff, the Treasury has developed new language on correspondent accounts prohibiting preferential terms on borrowings by insiders and requiring full disclosure of any loans where correspondent accounts exist.

The Treasury has also given its backing to the Safe Banking Act's title calling for the establishment of an Examination Council which provides for the development by the three Federal banking agencies of uniform standards and approaches to bank supervision.

Unfortunately, the Treasury draft does not address some key titles—those dealing with conflicts of interest in the regulatory agencies; Federal charters for mutual savings banks; tightening of holding company administration; and privacy of bank records.

The Treasury fails to address the conflict of interest question—the effort to slow down the revolving door between the regulators and the banking industry—on the grounds that the administration is supporting a general conflict of interest statute which would apply to all departments and agencies. It takes much the same position on the privacy question, preferring to await completion of pending efforts to develop a Government-wide approach to the issue. The Treasury does not oppose Federal chartering for mutual savings banks in principle; it states that it prefers, however, to deal with the question in the broader context of the role of thrift institutions. In addition, Treasury believes that bank holding company legislation should be deferred pending a further study of this area.

Mr. Speaker, it will be necessary for the subcommittee to address all four of these titles. They are issues which have been before the Banking Committee for many years and there is growing support for action. With all due respect to our friends in the Treasury, these four issues cannot be further delayed. Their time has come and we will have a vote on each of them during the safe banking markup.

Mr. Speaker, I regret to disagree with the Treasury's position on the insider limitations and most particularly its statutory definition of an insider. We were not able to convince the Treasury on our Safe Banking Act approach and, in all candor, I must state that I feel the administration fails to meet the issue head on—to the degree I think is required by the magnitude of the problem.

We have wrestled with the problems created by insider activity in banks for many years and we know that the overwhelming majority of failed and problem banks exhibit serious insider dealing. And I feel strongly that excessive insider dealing—particularly by directors—deprives banking institutions of the independent oversight of an objective board unencumbered by massive business dealings with the bank.

The Treausry draft fails in three respects in this area: First, it does not include limitations on borrowings by directors unless they are major stockholders or executive officers; second, it does not provide an overall limitation on aggregate borrowings by all insiders; and third, it does not include a specific and mandatory prohibition on the use of overdrafts by insiders. The Treasury argues that their proposals for general limitations on borrowings by executive officers and major stockholders and general prohibitions against preferential treatment are sufficient to deal with the overdraft problem.

I am happy, however, that the Treasury draft does incorporate the Safe Banking Act's language on new supervisory powers on removal of officers and that it includes limitations on loans to "political committees" controlled by insiders—as provided in H.R. 9600.

The Treasury draft also includes the Safe Banking Act's proposals for restructuring the National Credit Union Administration and the so-called FDIC "housekeeping" amendments. It also provides additional language on Comptroller of the Currency's "housekeeping" questions.

Mr. Speaker, the receipt of the Treasury's draft now opens the way for a resumption of markup. It is my intention to call an early caucus and then move immediately to markup of H.R. 9600. Where appropriate, the new language offered by Treausry will be considered as we reach the various titles in H.R. 9600. As we left the markup in October, we were on title I and I hope we will be able to move rapidly so that the legislation may be sent to the full committee and the House without delay.

While we do not agree with all the points, I am pleased with the fact that the Treasury Department, and particularly Deputy Secretary Robert Carswell and his staff, have been willing to listen to our arguments for a strong reform bill. Secretary Carswell has been open and fair in this process and I am happy that we have been able to be persuasive in some key areas. We are pleased to have Treasury moving with the basic outlines of safe banking on these points and, of course, we reserve the right to disagree on other areas.

Faced with the multiheaded Federal supervisory structure and its various constituencies, the Treasury has performed a difficult, and in many respects, rewarding job. It has made the effort, and the Carter administration should be commended for the manner in which it has approached congressional initiatives.

Mr. Speaker, I remain convinced that safe banking must be a priority item for this Congress. We should not adjourn without action in this area. In an election year, I realize that there will be many who believe that peace with the banking lobbies is preferable to dealing with the hard issues of reform. But, the public interest demands more than cosmetic efforts and peaceful coexistence. The public has not forgotten the banking problems that have received increasing media attention in recent years and weeks. The public expects action.●

## THE 82D BOSTON MARATHON—CONGRESSMEN ALEXANDER AND BYRON RUN WITH THE BEST OF THEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 5 minutes.

● Mr. MOAKLEY. Mr. Speaker, two of our colleagues joined the legion of long-distance runners assembled in Boston yesterday for the running of the 82d Boston Marathon. The gentleman from Arkansas (Mr. ALEXANDER) and the gentleman from Maryland (Mr. BYRON) rubbed elbows and blisters with international champions, Olympic hopefuls and weekend runners who qualified for the grueling event of more than 26 miles.

I am proud to report that both of our colleagues finished the race. The gentleman from Arkansas clocked a time of 3 hours, 53 minutes and 26 seconds, while the gentleman from Maryland finished in just over 4 hours. The finish of the gentleman from Arkansas was good enough to place him 3,792d in the field of 4,700.

Both competitors paid homage to the spectators at the annual event. The gentleman from Arkansas, in his first entry into the race, noted that—

> I have never experienced more enthusiastic spectators. To run in the Boston Marathon is to pay tribute to the people of greater Boston.

The gentleman from Maryland echoed those sentiments. "The good and zestful people of the Boston area who line the streets make the race the great amateur event it is. This was my sixth appearance and I am once again grateful for their enthusiastic urgings which carried me over Heartbreak Hill and on to the finish line."

Mr. Speaker, never let it be said that Members of the House of Representatives do not run with the best of them.●

## JAMES RESTON PRAISES CARTER'S DECISION ON NEUTRON WEAPONS

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

• Mr. SEIBERLING. Mr. Speaker, a recent article by the distinguished New York Times writer Mr. James Reston, reprinted in the Akron Beacon Journal of April 11 is one of the most thoughtful and sensible statements yet about the controversial "Neutron Bomb" issue.

Mr. Reston points out that President Carter has been criticized here recently for "hesitating" to order the production of control warheads. As Reston says:

Why shouldn't he be troubled and "hesitant" when he considers where this alarming competition will end?

A half starved world is already spending over $350 billion a year on weaponry, and if Jimmy Carter is committed to anything—politically and philosophically—it is to try to get this arms race by the throat.

TO HESITATE

Mr. Reston points out that good military arguments can be made both for and against the neutron warhead but that in political and philosophical terms, it is hard to quarrel with Mr. Carter's caution and delay. Mr. Reston points out that the West Germans still have their doubts about deploying the use of weapons on their soil and that Secretary Vance is going to Moscow to renew the delicate negotiations for a second SALT Treaty. As Reston says:

The big question is not what is to be done about this particular weapon, but what is to be done about the whole reckless and expensive process of the world arms race.

The text of Mr. Reston's column follows these remarks:

ON NEUTRON "BOMB"—CARTER HAD REASON
(By James Reston)

WASHINGTON.—President Carter has been criticized here recently for "hesitating" to order the production of neutron artillery weapons. Even some members of his own White House staff and cabinet have wondered why he seems so troubled about giving the order to go ahead.

Why shouldn't he be "troubled" and "hesitant" when he considers where this alarming competition will end?

A half-starved world is already spending over $350 billion a year on weaponry, and if Jimmy Carter is committed to anything—politically and philosophically—it is to try to get this arms race by the throat.

So after hearing all the arguments for and against these handy little atomic weapons, he pauses, and temporizes, and thinks about compromising. And a good thing too.

If the Soviets go ahead with every devilish new device their science and imagination can conceive—and they have just about done this—and we do the same to match them, and then they raise the ante to match us and so on, who will break the ring?

And how will the nations ever progress toward a safer and more rational world?

As I understand all the fuss over whether Carter decided against the neutron weapons and then pulled back under pressure from his colleagues and allies, it is this philosophic question that has held him up.

Besides, what's the rush?

A good argument can be made on military terms for producing neutron shells—they are tank-killers that would minimize and maybe even neutralize an attack by the excessive communist forces in eastern Europe.

A counterargument can also be made, again on military terms, for not introducing them into the arsenal of the western alliance on the ground that, if used against a communist invasion, they might lead to an uncontrollable nuclear world war.

But in political and philosophical terms, it is hard to argue with caution and delay.

The West Germans still have their doubts about the wisdom of deploying these weapons years from now on their soil. They want the Dutch and the Belgians to approve such deployment, though it is not clear that the neutron weapons now on the drawing boards, with a range of less than 10 miles, could be used effectively from anywhere but West Germany.

Also, Secretary of State Vance is going to renew the delicate negotiations for a second strategic arms limitation treaty. So why decide the issue one way or another before he gets there?

Carter was not confronted by an either-or decision to produce or not produce these weapons.

There are many different stages in production of neutron weapons, with or without their neutron warheads. And many options on how and where and when they might be deployed after they were produced years from now.

So it is possible for him to compromise without banning the neutron weapons or rushing ahead with them. He could keep the neutron option open without rushing into it before Vance got to Moscow or the Allies had made up their minds.

The big question is not what is to be done about this particular weapon, but what is to be done about the whole reckless and expensive process of the world arms race. And here Carter no doubt differs with some of his advisers.

For him, the ever-expanding development of weapons is not only a military and political but a moral question.

He is more willing than his colleagues in the Defense Department to take risks for peace, even if he has to hold up the development of some new weapons in order to demonstrate his good faith and encourage the Soviets to do the same.

In his view, as I understand it, he can indicate his opposition to producing whatever new atomic weapon comes along, and then, if the Soviets insist on going ahead with all their own weapons, he can always, if reluctantly, go ahead with whatever new weapons he chooses.

Also, there are some political maneuvers going on in all this.

Carter has recently made a very tough speech about U.S.-Soviet relations.

He made clear at Winston-Salem, N.C., last month that Moscow could have a second strategic arms treaty, but not if they continued to use their conventional weapons and their Cuban mercenaries to change the political map of Africa.

Having done so, he also wanted to indicate that if there were a genuine reduction of tensions, the question of producing U.S. neutron weapons could be discussed.

At the same time, he wanted the West Germans to know that the neutron question was an Allied and not solely a U.S. decision. If West Germany wouldn't deploy it, there wasn't much point in Washington's producing it.

There is a great deal to be said about this neutron issue on all sides, but maybe it is not quite as urgent as it seems.

There is a long lead time in producing these weapons, and it will be longer still before they are put in place, if they ever are.

Meanwhile, Carter has a lot to discuss with Soviet leader Brezhnev after the Vance mission to Moscow about the larger question of the arms race and the political rivalries in the Middle East and Africa. And this also looms in Carter's mind, larger than the present dispute over this one important weapon.•

## EVEN WITH NEW PANAMA CANAL TREATY HOUSE WILL RETAIN POWERS UNDER CONSTITUTION'S ARTICLE IV, SECTION 3, CLAUSE 2

(Mr. METCALFE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

• Mr. METCALFE. Mr. Speaker, this evening the Senate of the United States will cast an historic vote on the Panama Canal Treaty of 1977. While the outcome of that vote is still in doubt at this hour, there is a distinct possibility that the United States will enter into a new relationship with Panama regarding the canal.

As I have stated on many occasions in this Chamber, I think that a new treaty relationship with Panama is essential for U.S. prestige around the world, and no less important, is a fair and just action for this country to take.

Despite my support for the Panama Canal treaties signed last September 7, there is one constitutional issue with the new treaty relationship that continues to concern me and the Subcommittee on Panama Canal, which I chair. The difficulty is that the 1977 Panama Canal Treaty makes no provision for subjecting the transfer of U.S. property in the Canal Zone to legislative authorization. The absence of such a provision contradicts the provision of the Constitution which specifically assigns to the Congress the power to dispose of U.S. property or territory, article IV, section 3, clause 2.

I hope that all appropriate officials, the general public, and above all, the Members of this legislative body, will not think that the House of Representatives has acquiesced or should acquiesce in the interpretation of the Constitution that property of the United States may be disposed by treaty alone and without any participation by the House of Representatives. There has been an adverse Senate vote on this question on April 5, there has been an adverse decision by the Court of Appeals for the District of Columbia Circuit on April 6, and, of course, the very wording of the treaty was adverse from the viewpoint of the House in that there was no provision for House consideration of the property issue. But, despite the recent actions of these other branches of Government in derogation of the powers of the House of Representatives, the only official actions that have emanated from the House or its committees continue to support the rightful role of the House in disposal of property.

Mr. Speaker, it is my personal conviction that the Constitution vests in Congress exclusive jurisdiction with regard to the disposal of U.S. property. This is based upon a careful evaluation of the testimony of numerous witnesses (pro and con) who have appeared before various committees of Congress during recent years and my own personal study of the issue.

Acting pursuant to my own convictions on the meaning of article IV, section 3, clause 2 of the Constitution, and acting pursuant to the expressed opinions of members of the Subcommittee on Panama Canal, I have consistently urged that the role of the House be respected.

In a speech on the Panama Canal Treaty issue given on May 19, 1977, I spoke in some detail on the property transfer issue. In the summer of 1977, I met with members of the House leadership and with Ambassadors Bunker and

Linowitz on this issue, and urged them to respect the role of the House in the transfer of U.S. property. In August, when the final drafting of the Panama Canal treaties was being done, I sent a telegram to President Carter conveying the same message, urging that the rights of the House under article IV, section 3, clause 2 be respected. In October 1977, I submitted a resolution and made a floor statement on the issue. The resolution stated that the Senate ought to pass the Panama Canal Treaty, but with a reservation which would subject the transfer of U.S. property, among other things, to a vote in the House. In January, during the Senate Committee markup of the Panama Canal treaties, I wrote to Senator SPARKMAN and members of the Senate Foreign Relations Committee urging them to respect the House role under article IV.

Mr. Speaker, I am happy to report that yesterday the Subcommittee on Panama Canal of the Committee on Merchant Marine and Fisheries unanimously endorsed a report on the meaning of article IV, section 3, clause 2 of the Constitution. The thrust of the report is that the power to dispose of U.S. property or territory is exclusively invested in the Congress, and that property of the United States in the Canal Zone may be transferred only by the legislative authority of the Congress.

The subcommittee report evaluates the important property disposal issue, which relates to the very fabric of the Constitution—the principle of separation of powers. If the House is to be circumvented in the transfer of U.S. property interests by treaty in this instance of the canal, you can be assured that the executive departments will invoke this standard whenever it deems it expedient to avoid the authority of the House of Representatives in the future.

Is it fair to assume that the constitutional framers, when they expressly granted to Congress the power to dispose of U.S. territory and property, ever contemplated that a disposition of billions of dollars of U.S. property could be conveyed without approval from the House of Representatives? I think not.

Could they have conceived of a situation where a majority of the Members of the House expressed in one fashion or another their desire to exercise their right to vote on the issue of disposal of U.S. property and their expressions went unheeded by the President and the Senate? I think not.

Could they have conceived of a situation whereby treaties involving the disposal of major U.S. property interests were subjected to a plebiscite in the recipient nation while the U.S. House of Representatives is denied the right to vote on the property disposal therein? I think not.

In my view, the report of the Subcommittee on Panama Canal is not an unusual assertion of the powers of the House of Representatives. The House of Representatives has continuously asserted its right to participate in the disposition of territory and property by treaty.

For example, in 1816, there was legislation concerning regulation of commerce between the United States and Great Britain. In consideration of the conference report on the legislation, the House conferees reported that their Senate counterparts agreed that treaties alone could not, among other things, cede territory.

In 1871, the practice of recognizing Indian interest in land by treaty was terminated by Congress. This resulted from a protest by House Members who felt that no interest in Federal lands could be decided without legislation.

In 1887, the House Judiciary Committee wrote a detailed report advancing the distinctions between the treaty advice and consent functions of the Senate on the one hand, and the treaty implementating functions in which the House must inevitably participate on the other.

As you can see, this is far from the first occasion on which it has been necessary to uphold the rights of the House.

While the Panama Canal subcommittee report strongly endorses the exclusive right of the Congress to dispose of U.S. property, I want to make clear that I do not view this constitutional issue as a device to defeat the Panama Canal treaties or emasculate them in any way. On the contrary, if the House were to vote today on the land disposal contemplated by the treaty, I would support the disposal. Of course, as I said, I strongly support the treaties. But the political and diplomatic necessity of the treaties does not overturn the Constitution.

The Panama Canal Subcommittee felt it was imperative to act yesterday so that the record for the House would be clear prior to the passage of the canal treaties. The House cannot afford to lose its power to dispose of U.S. property. The loss of this power would have adverse repercussions. We are trustees of the powers of the House of Representatives. If we fail to protect those powers, history will be our judge, and the judgment rendered may be none too favorable.

The report of this subcommittee, which received unanimous approval in the subcommittee, follows:

THE CONSTITUTIONAL ROLE OF THE CONGRESS IN THE DISPOSAL OF U.S. PROPERTY IN THE CANAL ZONE

(Mr. Metcalf, from the Subcommittee on the Panama Canal of the Committee on Merchant Marine and Fisheries, submitted the following report approved April 17, 1978)

LIST OF SUBCOMMITTEE MEMBERS

Ralph H. Metcalf, Ill., Chairman, John M. Murphy, N.Y. (Ex Officio), Robert L. Leggett, Calif., David R. Bowen, Miss., Carroll Hubbard, Jr., Ky., Bo Ginn, Ga., Leo C. Zeferetti, N.Y., Philip E. Ruppe, Mich. (Ex Officio), Gene Snyder, Ky., Robert K. Dornan, Calif.

(Pursuant to rule X(n)(8) of the Rules of the House of Representatives.)

CONCLUSION OF THE STUDY

The Subcommittee on Panama Canal exercises, on behalf of the Committee on Merchant Marine and Fisheries, legislative jurisdiction over the Panama Canal and the maintenance and operation of the Panama Canal, including the administration, sanitation and government of the Canal Zone. In consideration of its appropriate role in the implementation of a new Panama Canal Treaty, the Subcommittee has considered the authority of the Congress to dispose of property or territory as expressed in Article IV, Section 3, Clause 2 of the Constitution. The Subcommittee has also considered the authority to make treaties as bestowed in Article II, Section 2 of the Constitution. After studying the relationship between these two powers, the Subcommittee concludes that, because the power to dispose of U.S. property or territory of the United States is vested exclusively in Congress, U.S. property interests in the Canal Zone may not be transferred to the Republic of Panama by treaty, unless the full Congress enacts legislation enabling such a transfer.

RATIONALE FOR REPORT

Because of its responsibilities in connection with the operation and maintenance of the Panama Canal, the Subcommittee is frequently compelled to deal with the nature and distribution of U.S. operational authority regarding the waterway. Property rights are material to the manner and the extent to which such authority is exercised, and thus the Subcommittee has a vital interest in the substance of property rights and the constitutional procedures that govern their transfer. This is one key reason for the Subcommittee's interest in the authority exercised by Congress under Article IV, Section 3, Clause 2 of the Constitution.

Another compelling reason for the Subcommittee's interest stems from the overall importance of the Panama Canal to the United States and the magnitude of investment in connection therewith. Property of the United States in the Canal Zone has a book value of $1.5 billion,[1] and the replacement value of the improvements in that jurisdiction has been estimated at $9.8 billion.[2] All or nearly all of the property of the United States in the Canal Zone is related to the Canal itself due to the long-standing policy of this country, as declared in the Panama Canal Act of 1912, that "all land and land under water within the limits of the Canal Zone is necessary for the construction, maintenance, operation, sanitation or protection of the Panama Canal . . ."[3]

An issue of greater importance than the role of the Subcommittee, or even the Panama Canal itself, is connected with the contemplated disposal of the Panama Canal and the U.S. property within the Canal Zone by the year 2000. That issue is whether the transfer of such U.S. property interests by treaty alone and without the rightful participation of the House of Representatives will violate the separation of powers doctrine that is integral to our form of limited government.

The transfer of Panama Canal property by treaty—without enabling legislation—could well have a major impact on the future of United States foreign policy decisions as they relate to the domestic life of the country. In the future, increasing personal and political contacts across national boundaries may lead the United States to use with greater frequency treaties as instruments of policy. Since money and territory have long been the staples of some of the most important international agreements, and since there is no reason to believe these matters will not continue to be subjects of negotiation some time in the future, agreements dealing with U.S. property and territory could reoccur. Without the participation of the House of Representatives, those agreements attempting to transfer property or territory would not be subject to the will of the most democratic national body. It is important to recall that there is only one elected official in the foreign policy machinery of the Executive Branch, and that the Members of the Senate represent disproportionate numbers of persons.

In short, the Subcommittee is concerned

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Footnotes at end of article.

and surprised that the Executive Branch has defended so strongly the concept of transferring Panama Canal property by treaty alone when the prior practice of the United States has generally included House and Senate authorization of transfer. If property is transferred by treaty alone in this instance, it may well become the established standard of the Department of State to avoid the authority of the House of Representatives whenever possible. The next obvious extension of the Executive encroachment on the rights of the Congress through the treaty power could be in the area of appropriations.

There is a danger that absent a record protesting transfer of property by treaty, the House of Representatives could be relegated to a purely second-class role in the dealing of the United States with other nations. This the Constitution never intended.

EXAMINATION OF THE ISSUE

In arriving at the conclusion that U.S. property interests in the Canal Zone may not be transferred to the Republic of Panama without the enactment of authorizing legislation, the Subcommittee divides the entire issue into two subsidiary questions: (1) Does the United States in fact have Article IV, Section 3, Clause 2 "property or territory" on the Isthmus of Panama to be transferred to Panama? (2) Does the Constitution give exclusively to the Congress, including the House of Representatives, the power to transfer property or territory?

U.S. PROPERTY INTERESTS IN THE CANAL ZONE

There does not appear to be serious dispute over whether the United States does possess in the Canal Zone "property or territory" which falls within the ambit of Article IV, Section 3, Clause 2 of the U.S. Constitution.

In the recent court case involving a suit brought by 60 Members of Congress against the President (*Edwards* v. *Carter*, No. 78-1166, U.S.C.A.D.C., April 6, 1978, hereinafter referred to as *Edwards*) to obtain a declaratory judgment that Congress alone may dispose of U.S. property, Department of Justice counsel for the defendant did not contend that property to be transferred by the Panama Canal Treaty of 1977 was other than U.S. property. The United States Court of Appeals for the District of Columbia Circuit therefore assumed the property belonged to the United States (*Edwards*, opinion of the Court, note 3, at page 5).

In the Senate debate on the Panama Canal Treaty of 1977, during discussion of an amendment to require the enactment of enabling legislation prior to disposal of Canal property, opponents of the amendment did not dispute the existence of U.S. property interests.[4]

In hearings, speeches and papers following the September 7, 1977 signing of the Panama Canal Treaties, the Executive Branch has not sought to deny the property interests of the United States in the Canal Zone, although some officials have denied that the U.S. had sovereignty over the Zone.[5] The Subcommittee takes this opportunity to note that who holds theoretical "sovereignty" over the Canal Zone is immaterial to whether the United States has property interests under Article IV of the Constitution.

Indeed, there are several court opinions which address the existence of U.S. property interests in the Canal Zone. In the important case of *Wilson* v. *Shaw* (204 U.S. 24, 33, 1907), the U.S. Supreme Court observed—

"It is hypercritical to contend that the title of the United States is imperfect, and that the territory described does not belong to this Nation, because of the omissions of some of the technical terms used in ordinary conveyances of real estate."

In the recent case of *United States* v. *Husband R (Roach)* 453 F. 2d 1054 (5 Cir. 1971), cert. denied 406 US 935 (1972), the Fifth Circuit Court of Appeals asserted that, "The Canal Zone is an unincorporated territory of the United States."

The statements of the courts and the Executive Branch are acknowledgements of the abundant historical evidence and legal precedent demonstrating the considerable property interest of the United States in the Canal Zone. Indeed, the history of United States policy to construct and operate an interoceanic canal across the Americas is bound up with efforts to acquire and maintain the property rights necessary for the major investment and national and international responsibilities that such a canal entailed. In fact, the act pursuant to which President Roosevelt had negotiated the Hay-Bunau Varilla Treaty of 1903 was the 1902 Spooner Act, legislation which authorized the President to *acquire* the property of the New Panama Canal Company and to acquire from Colombia *control of a strip of land* for the construction of an interoceanic canal (emphasis supplied).[6]

In order to make the record as clear as possible concerning U.S. interests, the Subcommittee notes that property interests of the United States in the Canal Zone includes 647 square miles of land and land under water and improvements acquired at a total cost of $1.6 billion, of which about $171 million represents the cost of the real property and about $1.4 billion represents adjuncts.[7]

The derivation of title or interest of the United States to the real property in the Canal Zone is as follows:

| *Type of title or derivation* | *Area (sq. mi.)* |
|---|---|
| 1. Fee titles purchased from French Canal Company pursuant to authorization of articles VIII and XXII of the 1903 treaty | 101 |
| 2. Fee titles purchased from Panama Railroad Company pursuant to authorization of articles VIII and XXII of the 1903 treaty | 104 |
| 3. Private titles of miscellaneous owners purchased under authority of articles VI and XV of the 1903 treaty | 83 |
| 4. Usufruct in Public Lands of Republic of Panama granted by articles II and III of the 1903 treaty | 359 |
| Total area | [8] 647 |

In its desire to obtain clear legal rights to the real property in the Canal Zone, the United States has paid deadly. The United States paid $40 million to the French Canal Company for its assets in 1904. Payments to Panama for the grants contained in the 1903 Treaty include a lump sum payment of $10 million, annual payments through 1977 of $58.9 million, and transfers of real property with a total value of $34.7 million. In addition, the United States has paid Colombia $25 million under a 1922 treaty for the settlement of differences arising out of the 1903 events involved in the construction of the canal in Panama. Finally, the United States paid $4,728,889 to private landowners, landholders and others, including squatters, who claimed property interests in the Canal Zone. The total amount of these payments stands at $173,346,775.[9]

Of the $1.4 billion in improvements and assets in the Canal Zone, the acquisition cost of property (other than real property), plant and equipment of the Panama Canal Company and Canal Zone Government is shown on the books of those agencies as $958,134,622. Other assets of the two agencies are valued at $103,913,359.[10]

Appropriations for military construction[11] in the Canal Zone from 1904 to 1977 are reported as $321,201,000, bringing the total original cost of U.S. Government property in the Canal Zone and the value of other assets to $1,556,595,756.

The property, plant and equipment of the two agencies include the following principal categories.[12]

[Cost in millions]

| | |
|---|---|
| Panama Canal Company: | |
| Canal excavations, channels, etc | $323.8 |
| Locks | 111.5 |
| Vessel repair facilities | 16.4 |
| Dams and spillways | 10.1 |
| Marine bunkering facilities | 9.2 |
| Harbor terminals | 19.5 |
| Housing | 52.2 |
| Retail stores | 11.4 |
| Railroad | 13.3 |
| Electric power system | 43.8 |
| Water system | 15.8 |
| Communications system | 8.6 |
| Warehouses | 2.2 |
| Schools | 29.2 |
| Roads, streets, and sidewalks | 21.5 |
| Hospitals and clinics | 17.3 |

A significant element in the value of many of the properties of the Panama Canal Company is that they are elements of going business-type, revenue producing activities.

All of the property interests cited, in both the sphere of real property as well as that of improvements, are to be transferred to the Republic of Panama under terms of the Panama Canal Treaty of 1977. The language of the Treaty would attempt to transfer these interests without reference to enabling legislation. Further the Executive has given clear indication that the exchange of treaty ratification instruments with Panama, six months after which the Treaty would take effect, would not be dependent upon legislation to authorize transfer of U.S. property.

Paragraph 2 of Article XIII of the Panama Canal Treaty states:

"The United States of America transfers, without charge, to the Republic of Panama all right, title and interest the United States of America may have with respect to all real property, including non-removable improvements thereon, as set forth below:

"(a) Upon the entry into force of this Treaty, the Panama Railroad and such property that was located in the former Canal Zone but that is not within the land and water areas the use of which is made available to the United States of America pursuant to this Treaty. However, it is agreed that the transfer on such date shall not include buildings and other facilities, except housing, the use of which is retained by the United States of America pursuant to this Treaty and related agreements, outside such areas.

"(b) Such property located in an area or a portion thereof at such time as the use by the United States of America of such area or portion thereof ceases pursuant to agreement between the two Parties.

"(c) Housing units made available for occupancy by members of the Armed Forces of the Republic of Panama in accordance with paragraph 5(b) of Annex B to the Agreement in Implementation of Article IV of this Treaty at such time as such units are made available to the Republic of Panama.

"(d) Upon termination of this Treaty, all real property and non-removable improvements that were used by the United States of America for the purposes of this Treaty and related agreements and equipment related to the management, operation and maintenance of the Canal remaining in the Republic of Panama."

THE CONSTITUTIONAL IMPERATIVES REGARDING TRANSFER OF U.S. PROPERTY AND TERRITORY

Having established that there are U.S. property interests in the Canal Zone which are of great interest to the Subcommittee and which fall under the aegis of Article IV of the U.S. Constitution, an examination of

Footnotes at end of article.

the arguments which have been raised concerning transfer of U.S. property by treaty is in order. Prior to examination of the arguments, the Subcommittee notes (1) the superior procedure involved in submitting a treaty for effectuation by legislation and (2) the ability of the Congress to vitiate the effect of a treaty by subsequent legislation.

Assuming arguendo that the Executive Branch is proceeding on a constitutionally sound basis in attempting to dispose of U.S. property interests to Panama without the consent of the House of Representatives, there is nonetheless no question that the passage of legislation by the Congress to dispose of U.S. property is a democratically superior procedure. The advantages of a more democratic procedure to the body politic are self-evident. Justice MacKinnon, in his dissenting opinion on April 6, 1978 in *Edwards* v. *Carter* (as to what provisions the treaty should have with respect to effecting property transfer) stated: "If there is any policy inherent in this decision, it should be to determine that at least a majority of the nation's representatives who have been elected on a one man-one vote apportionment support the property disposition portions of the treaty." (dissenting opinion, p. 13)

In order to emphasize the importance of the Congress subsequent to the ratification process, we need only note that Acts of Congress may supersede treaties. Article VI of the Constitution considers both treaties and statutes to be the Supreme Law of the land. In the event of a conflict between a treaty and a statute, the most recent is controlling.

Although completion of the ratification process and the subsequent exchange of ratifications will bind the United States to a treaty with a foreign nation in terms of international law—a treaty's effectiveness as domestic law will, in some cases be dependent upon passage of implementing legislation. Such legislation is required either (1) when terms of the treaty call for passage of legislation, or (2) in the more nebulous situation that exists when a treaty affects a power exclusively delegated to Congress.

If the treaty affects a power not in either of the above categories, the treaty is self-executing: that is, such a treaty is effective, as a matter of domestic law, upon ratification. While the Supreme Court has never issued an opinion comprehensively specifying the exclusive powers of Congress, the Executive and Senate have traditionally sought House consent (through implementing legislation) for those treaties that require appropriations or changes in revenue laws.

The Subcommittee recognizes that the scope of the treaty power is very broad, extending to all matters usually considered to be the subject of negotiation and relations between nations. Treaties have addressed political, military, economic, cultural and scientific, and a host of other matters. The Constitution contains no express limitations on the treaty power. However, the Supreme Court has indicated on numerous occasions that the treaty power is limited, in the sense that ". . . a treaty cannot change the Constitution or be held valid if it be in violation of that instrument." [13]

This Subcommittee does not contest the power of the Executive Branch to negotiate with other nations. Nor does the Subcommittee suggest that the House may intrude upon the advice and consent powers of the Senate. But House as well as Senate approval of the disposition of U.S. property must be obtained prior to the transfer of U.S. property as necessitated by the concepts, cited above, that the treaty power is limited by other parts of the Constitution and that treaties may not violate the Constitution and still be valid.

The Subcommittee views the Article IV power to dispose of and make all rules and regulations for U.S. property and territory as a distinct limitation on the effect of the treaty power despite testimony given by the Departments of State and Justice before the Committee on Merchant Marine and Fisheries on January 17, 1978.[14] On that date the Departments repeated and embellished arguments made previously by departmental representatives before the Committee on August 17, 1977 [15] and before the Panama Canal Subcommittee on November 29 and December 2, 1971.[16] As will be discussed, the testimony of the Departments on these four occasions contradicts many assertions of the Executive in previous years. The recent testimony of the Departments that the power to dispose of U.S. property by treaty is "concurrent" with that of the Congress was based upon selective case law dicta, general interpretations of the intention of the constitutional framers and some inapplicable prior treaty practices.

*The constitutional text*

The two provisions of the Constitution which relate to the constitutionality of transferring U.S. property by treaty are Article II, Section 2, Clause 2 which provides:

"He [the President] shall have the power, by treaty and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur;" and Article IV, Section 3, Clause 2, which states:

"The Congress shall have Power to dispose of and make all Rules and Regulations respecting the Territory or other Property belonging to the United States; . . ."

It is the position of the Executive Branch that the "treaty power" of Article II, because of the arguably permissive manner in which it reads and the location it enjoys in the Constitution, authorizes the disposition of United States property interests in the Canal Zone despite the fact that such interests fall squarely within the ambit of Article IV, Section 3, Clause 2 of the Constitution.

The Subcommittee believes the constitutional text itself, the plain language of the Constitution, gives no reason to assume that the power to dispose of property may be exercised other than by statute.

Witnesses from the Executive Branch and some others before the Committee on Merchant Marine and Fisheries and other committees, have asserted that the wording of the disposal power is indicative of its supposed "concurrent" nature.[17] These witnesses contrast the permissive language of Article IV, Section 3, Clause 2 ("The Congress shall have the Power . . .") with the more mandatory language used in the grants of power recognized as exclusive.

Thus, "All bills for Raising Revenue shall originate in the House of Representatives; . . . ", and, "No Money shall be drawn from the Treasury, but the Consequence of Appropriations made by Law; . . .". While these witnesses assert the disposal power is phrased in permissive language, they ignore the power of the Congress under the same clause of Article IV to make "all Rules and Regulations".

Those who believe that the disposal power is "concurrent" in nature readily admit that for certain purposes the effectuation of a treaty must depend upon the enactment of a statute because those powers are invested in the Congress by the Constitution. Yet, these theorists overlook the fact that the text in the Constitution governing such powers, e.g., to impose taxes or to declare war, is no different from the textual framing of the Article IV power.

The language of Article I, Section 8, Clause 1, "The Congress shall have the Power to levy and collect taxes . . ." is no broader than the text of Article IV, Section 3, Clause, 2, "The Congress shall have Power to dispose of and make all needful Rules and Regulations . . . " Similarly, the Article II general power of Congress "To declare war . . ." is not textually stronger than that of the disposal clause under Article IV.

The Subcommittee on Panama Canal is not persuaded that the wording of individual grants of power in the Constitution can or should be used to categorize the nature of those powers. Indeed, even the President's treaty power is phrased in the permissive "He shall have the power . . .". Certainly much firmer evidence is needed in order to categorize any power as either concurrent or exclusive.

If the permissive wording of the treaty power is broad enough to encompass the right to dispose of United States property then it can likewise be argued that the Congress can be circumvented in the declaration of war, the right to levy taxes, and in the matter of appropriations, because these powers are written in permissive terms. The very fabric of the Constitution is at stake since the issue goes to the entire question of separation of powers.

Another argument posed by Executive witnesses is that the "concurrent" nature of the disposal power permits disposal to take place by treaty or statue.[18] This interpretation of the Constitution leaves it to the whim of the Executive as to which method of disposal (by treaty or Act of Congress) shall be utilized. This textual interpretation is difficult to accept because it seems just as proper, if not more proper, to recognize the specific grant of the disposal power to Congress in Article IV as an implied limitation on the treaty power. The general rule of statutory construction set forth in *Swiss National Insurance Co.* v. *Miller* [289 F. 570, 574 (DCC 1923)] seems applicable here.

Thus, "The specific power of disposition, in which the House of Representatives must concur, governs the general provisions authorizing the President and Senate to make treaties", by virtue of the settled rule that a specific provision must govern as against a general provision. Second, "The grant of the disposition power to Congress . . . excludes its exercise by Senate and President" by reason of the canon that "express mention signifies implied exclusion." [19]

It would be an easy matter for this Subcommittee to state that the Constitution clearly declares that the disposal power is exclusive, and to support that statement with selectively culled statements from the Constitution and the writings and records of the framers. Some of the general rules of construction support exclusivity. We prefer, however, to recognize the uncertainty that pervades this area. To state that the Constitution's text clearly provides that the disposal power is clearly concurrent or exclusive, would be highly misleading, and this Subcommittee will not take that approach. It is this Subcommittee's opinion, then, that the sources and text of the Constitution do not provide a clear statement of the nature of the disposal power.

*Location in the Constitution*

Although it has been argued by Department witnesses and others that the disposal power in Article IV is not applicable to an international situation because Article IV deals with federal-State relationships,[20] this argument belies the fact that neither the Supreme Court nor constitutional scholarship in general deems location in the Constitution to be any determinant of exclusivity.

If the contention were to be allowed that the location of the disposal power somehow restricts it as against the effect of treaties, then it could also be contended that the treaty power could encroach upon other powers granted to Congress outside Article I. Under this specious reasoning, could not the powers granted under Articles II and III

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to declare punishment for treason, regulate the Supreme Court's appellate jurisdiction, or to choose electors be invaded?

Indeed, the contention regarding location in the Constitution has arisen as a defense of the "concurrent" theorists against the exclusivity of the disposal power, because there are so many strong court opinions which make the disposal power unlimited. It appears significant to the Subcommittee that no court (save the recent Circuit Court of Appeals for the District of Columbia) has ever limited the disposal power so as to not include the treaty power.

The Supreme Court of the United States and the lower Federal courts have repeatedly and consistently affirmed the exclusivity of Congress' power to dispose of U.S. territory. Reference to just a few of the decisions that have been handed down by the Supreme Court over the years will amply demonstrate this constitutional principle.

Thus, in *Wisconsin Central RR Co.* v. *Price*, 133 U.S. 496, 504 (1890), the court declared that Article IV, Section 3, Clause 2 "implies an exclusion of all other authority over the [public] property which could interfere with this right [of Congress] or obstruct its exercise."

In the case of *Sioux Tribe of Indians* v. *United States*, 316 U.S. 317, 326 (1942), the Supreme Court flatly asserted that—

"Since the Constitution places the authority to dispose of public lands exclusively in Congress, the Executive's power to convey any interest in the lands must be traced to congressional delegation of its authority."

Referring to the territorial clause of Article IV, Justice Hugo Black stated for the Court in *United States* v. *California*, 332 U.S. 19, 27 (1947), that—

"The constitutional power of Congress in this respect is without limitation. Thus neither the courts nor the executive agencies could proceed contrary to an act of Congress in this congressional area of national power."

See also *Gibson* v. *Chouteau*, 80 U.S. (13 Wall.) 92, 99 (1872), where the Supreme Court stated that this "power is subject to no limitations."

And, in *Utah Power & Light Co.* v. *United States*, 243 U.S. 389, 404 (1916), a unanimous Supreme Court attested that—

"The settled course of legislation, congressional and state, and repeated decisions of this court, have gone upon the theory that the power of Congress to dispose of United States territory is exclusive, and that only through its exercise—in other words, Congress' exercise—in some form can rights in lands belonging to the United States be acquired."

Although the case law cited is material which falls under the judicial precedents yet to be discussed, the opinions of the court in major cases do not view the disposal power in restrictive terms.

In the recent divided opinion of the United States Court of Appeals for the District of Columbia Circuit in the case of *Edwards* v. *Carter*, the Court made reference to one of the cases cited [*Wisconsin Central RR Co.* v. *Price County*, 133 U.S. 496, 504 (1890)]. The majority opinion implied the location of the disposal power was important in stating: "We think that the most reasonable interpretation of such dicta, occurring in the context referred to, is that there is a lack of any constitutional basis for exercise of authority by individual states over United States property." (*Edwards*, opinion of the court, p. 17). The Court did not make reference to the long line of cases on exclusivity, nor did it bring forward analysis to support its statement.

Why does the disposal power appear in Article IV of the Constitution? This is a difficult question to answer definitively, because it must be remembered that the vagaries of the history of the Convention leave much in doubt.

One reason for the placement of the disposal power in Article IV may be its effect of protecting the Federal legislature. The first paragraph of Section 3 of Article IV protects the integrity of the state boundaries by forbidding the formation of new states out of territory of existing states without the consent of the state legislatures involved. In the next sentence (Article IV, Section 3, Clause 2) the framers apparently applied the same theory by analogy to the territories and property of the United States, i.e., property of the United States cannot be disposed of without the consent of the legislature involved, the Congress.

It is the Subcommittee's conclusion that there are exclusive powers of Congress in articles other than the first of the Constitution, and that the disposal power is one of those.

The Subcommittee finds support for this view of applicability of the disposal power in the *Federalist Papers*. James Madison, long recognized as our prime source of information as to the events at the Constitutional Convention, placed the disposal power in a miscellaneous category of powers, rather than in the category concerning restrictions on state authority.[21] Madison's placement of the disposal power seems to provide weight for the view that the disposal power is exclusive.

*Intention of the framers*

It is difficult to discern the intention of the authors of the Constitution with precision, because the entire debates and proceedings were not transcribed. The history of discussion on the treaty power and property clause is sparse and indecisive as to their relationship and a study of the unofficial transcripts as reported by distinguished delegates does not shed much additional light on the relationship of the two clauses.

With this caveat in mind, it is perhaps noteworthy to point out that James Madison, who more than anyone else is entitled to the name the "founder of the Federal Constitution",[22] was adamant that the scope of the treaty power does not include the disposal power. The following statement was attributed to Mr. Madison in the debate during the Virginia Convention:

"The king of Great Britain has the power of making peace, but he has no power of dismembering the empire, or alienating any part of it. Nay, the king of France has no right of alienating part of its domain to any power whatsoever. The power of making treaties does not involve a right of dismembering the Union." [23]

During the discussion at the Constitutional Convention of the question of the power of the Legislature to dispose of territory and property of the United States, no mention was made of *an exception* for disposition under the treaty power.

This Subcommittee does not find references to the debates at the Constitutional Convention to provide evidence supporting the "concurrent" nature of the disposal power. To be certain, while there was some limited debate over the disposal power at the Constitutional and State Ratifying Conventions, it hardly seems possible to make a categorical assertion as to the intentions of the Founding Fathers on this issue. Indeed, a close study of the entire debate over the disposal—not an examination of individual sentences selected out of context—indicates that it is more likely that the Framers intended that the disposal power be exercised exclusively by the Members of Congress most close to their constituents, i.e., Members of the House of Representatives.

The recent majority opinion of the District of Columbia Circuit Court of Appeals leans heavily on the intent of the constitutional fathers, and concludes that "the disposition of property pursuant to the treaty power and without the express approval of the House of Representatives was both contemplated and authorized by the makers of the Constitution." (*Edwards*, opinion of the court, p. 16) The Court took this view even though some of the most ardent advocates of the "concurrent" theory have found the debates filled with references setting the alienation of territory above all other drastic effects which could be obtained through an unbridled treaty power. There is no discussion in the Court opinion which has not been raised and replied to with equally valid precedents on behalf of exclusivity. For example, at page 12 of the decision, the Court noted comments of a Mr. Grayson, using his remarks to prove the limited nature of Article IV, Section 3, Clause 2. The Court remarked:

"This issue arose in a debate over the treaty clause that was not unlike the controversy before this court. Governor Randolph of Virginia stated that he could 'conceive that neither the life nor property of any citizen, nor the particular right of any state, can be affected by a treaty.' He then argued that Art. IV, Sec. 3 must be intended to protect against the dismemberment of the Union. Mr. Grayson replied that [t]his clause was inserted for the purpose of enabling Congress to dispose of, and make all needful rules and regulations respecting, the territory, or other property, belonging to the United States, and to ascertain clearly that the claims of particular states, respecting territory should not be prejudiced by the alteration of the government, but be on the same footing as before; that it could not be construed to be a limitation on the power of making treaties." [*Elliot's Debates in the Several State Conventions on the Adoption of the Federal Convention*, 504–05 (1907).]

In fact, Mr. Randolph was urging adoption of the Consttiution and was defending the scope of the treaty power. On June 17, 1788, Mr. Grayson and Patrick Henry selected the Article IV power as one that might be unwisely exercised under the treaty power. James Madison replied that the treaty power did not include the power to dismember the empire. Governor Randolph concluded that day's debate by referring to Article IV as one that would save the Union for dismemberment.

The next day, June 18, 1788, Mr. Grayson referred to the previous day's debate. He stated his belief that Article IV did not limit the treaty power since, in his belief, the power referred only to back lands owned by the United States. In fact, Grayson claimed that no power should permit cession of U.S. territory. Mr. George Mason commented that the power to cede territory must rest somewhere in the governmental structure—but that the power should not rest with the President and Senate alone, and further that a vote of three-fourths of *both* the House and Senate should be required for such action. Mr. Corbin commented that in the case of the dismemberment of the Mississippi Territory the cession should occur only by common (self-executing) or commercial (non-self-executing) treaty. Corbin concluded that an attempted cession by self-executing treaty would be void, and if none by non-self-executing treaty, argued Corbin, then legislative interference would be secured.[24]

Therefore, we reiterate that events at the Constitutional Convention may not be seen as providing a clear answer to this issue.

*Judicial precedents*

As indicated previously, the Supreme Court has decided in many cases that the power of the Congress to dispose of property is "exclusive" and "without limitation." [25] In none of these cases is such language quali-

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fied, *nor does the Court even suggest that the Article IV power is not "without limitation" when it conflicts with the treaty power.* Although these cases did not directly deal with the treaty power, they clearly and unequivocally express the rule in the broadest and most encompassing terms (i.e., "Exclusive" is "exclusive" is "exclusive.")

Except in the recent case of *Edwards* v. *Carter*, which is now being appealed to the Supreme Court, no court has ever held that the congressional disposal power under Article IV, Section 3, Clause 2 is not exclusive. Nor has any court, save one, ever sustained the "concurrent" theory propounded by the Executive. The Executive Branch relies heavily on the dicta in *Holden* v. *Joy*, [17 Wall (84 US) 211 (1872)] but Professor Raoul Berger referred to this as "the purest, shearest unadulterated dicta," because the case dealt with a *congressionally* authorized Indian treaty which did not even involve a disposal of United States property, but rather a purchase and sale or an exchange of property.[28] Furthermore, the cases cited in *Holden* to sustain the dictum were either irrelevant or concerned "reserves" where no title passed to the United States, but was, in fact, retained by the Indians.

The only other major case often cited to sustain the "concurrent power" theory is *Jones* v. *Meehan*. (175 US 1, 1899. This case involved the leasing by Chief Moose Dung, the younger, of a 10-foot strip of land out of "lands of an Indian tribe" *reserved* to Chief Moose Dung, the elder. This area was part of a reservation set apart for the Chief in exchange for his ceding by his mark to the United States of a large tract of land in Minnesota. This case is insufficient authority indeed to support an assertion so important as to sustain a limitation on the Article IV powers of the Congress.

The continuous reference to Indian treaties by those who believe that the disposal power is concurrent is marred by the several factors which fundamentally distinguish such cases from the transfer of U.S. property in the Canal Zone to the Republic of Panama. The Indian treaty cases play a unique role in U.S. case law because the principals in those cases have a unique status.

These cases constitute a recognition of pre-existing Indian rights and do not involve a disposition of United States property. Most of these cases involved "reserved" lands under which no title passed to the United States, but remained in the Indians. It was the tribe that ceded land to the United States.

Further, the status of the Indians was unique, since they were treated as "wards of the nation," "in a state of pupilage," and "dependent political communities."[27]

Even if the Indians had fee title in some of the cases cited, the United States maintained its residual right of eminent doman which is not the case in a clear transfer of property to a foreign government, such as that which would be effected by the Panama Canal Treaties of 1977.

The acquiescence of Congress in agreements with the Indian treaties constituted an implied delegation by Congress of its authority. Such acquiescence was oftentimes celarly expressed by statute, as with the Cherokee Treaty of 1835.[28] Such acquiescence has never been exhibited as regards the dispositions of United States property in the Canal Zone. In fact, the House has consistently been aware of its role in such matters and the Senate has supported a role for the House in the disposal of property.

Finally, the practice of concluding treaty agreements with the Indians on land matters ceased with the Indian Appropriations Act of 1871. The Congress was well aware of its prerogatives in the disposal of U.S. property in bringing a halt to the treaty practice with Indians.[29]

The aforementioned ruling of the Court of Appeals in the case of *Edwards* v. *Carter* deserves attention because it concerns the very issue the Subcommittee is addressing, i.e., whether *Congress* alone has the authority to alienate U.S. property in the Canal Zone. The majority opinion of the three-member Court found that the power to dispose of U.S. property was "concurrent" and therefore allow transfer of the Canal Zone by treaty. This opinion contained many unexplained contentions. It is interesting to note that the dissenting opinion contained extensive supportive documentation. Although the Court recognized the dependence of many treaties on legislation, no distinction was made in the majority opinion between the negotiation and ratification of a treaty so as to make a binding international agreement on the U.S. on the one hand, and the constitutional procedure to make a treaty effective in domestic law on the other hand. The blurring of this distinction will hopefully be avoided when the Supreme Court hears the issue.

While case law presents persuasive evidence of the exclusivity of the disposal power, there are several opinions written by officials of the Executive, which currently is propounding the "concurrent" doctrine of property disposal, that lend additional weight to our view.

In 1899, the Attorney General of the United States, John Grigg, declared in a formal opinion: "The power to dispose permanently of the public lands and public property in Puerto Rico rests in Congress, and in the absence of any statute conferring such power, cannot be exercised by the executive department for the Government." (22 Op. Atty. Gen. 544, 545.) Attorney General Harlan Fiske Stone, who later became Chief Justice of the Supreme Court, declared in 1924, that—

"Property once acquired by the government may not be sold, or title otherwise disposed of, except under the authority of Congress . . . This authority may be generally expressed or may be specifically granted to permit the disposition in whole or in part of particular property rights. But until that power is given by Congress expressly or impliedly, the Executive is without power to act." (34 Op. Atty. Gen. 322–23.)

The 1977 opinion of the Attorney General indicating that the President may dispose of the Canal Zone without the participation of the House of Representatives, is at variance with the thrust of earlier opinions of the Attorney General.[30]

*Treaty practice*

Although the Constitution is not amended by practices inconsistent therewith, the Executive Branch continuously alludes to a "practice" of disposing of United States properties by reference to certain treaties with foreign nations. If such precedents were meaningful to the constitutional question involved, they are all nevertheless clearly distinguishable from the disposal of property contemplated by the Panama Canal Treaties of 1977.

This Subcommittee will note each of the cases which have been listed by the Department of State as an instance whereby property or territory has been disposed without authorizing legislation. This Subcommittee has thoroughly examined the treaties and finds no merit in such a contention. In fact, most of the cited treaties do not even involve disposals of what was clearly U.S. property, but rather were in the nature of settlement of disputed claims.

1. The Cherokee Treaty of 1835.—

Article III of this treaty stated that the lands were conveyed ". . . according to the provisions of the Act of May 28, 1830." The State Department urges that an 1872 Supreme Court ruling (to the effect that the particular disposal exceeded the scope of the Act) be taken as evidence of a disposal without congressional consent. Such reasoning is specious. The Executive Branch inserted statutory justification for the disposal in the treaty. The Court noted that the intent and purpose of the Act and treaty were the same. Therefore, the clearly expressed intent of the President to rely on statutory authority, later found to be misplaced, does not indicate a disposal without reliance on Act of Congress.

2. The Chippewa Treaty of October 2, 1863.—

The State Department claims that this treaty demonstrates an occasion of the conveyance of land to an individual Indian without Act of Congress. Given the unique status of the Indian Tribes in relation to the United States Government, and understanding that transfers of territory between sovereign nations do not usually affect rights of individual property owners, it is difficult to understand how this treaty can be considered a disposal. The Indians reserved property out of lands they were ceding to the United States. The United States had previously recognized that the Chippewa possessed use and occupancy rights over the land. Since the Indians did not believe in the concept of individual property ownership, the reservation seems an attempt to confirm U.S. recognition of certain rights the Indians were entitled to under international law. At most, this is a clearing of title.

3. The Spanish Treaty of 1819 (12 Bevans 528).—

The 1819 treaty with Spain was an exchange whereby the United States received substantially all of Florida in return for the relinquishment of our claim to disputed territory west of the Mississippi. The said territory was never in American possession and Spain never agreed that it belonged to us. Furthermore, the Act of March 3, 1819 was passed "for the purpose of executing the treaty, in all those parts which are susceptible of immediate execution, and for establishing a provisional government in Florida."[31] Similar legislation was reenacted by Congress in 1821. This treaty, like many others cited by the Department of State for the proposition of disposal of property by treaty alone, actually involved a boundary dispute. It is well settled that "A treaty for the determination of a disputed line operates not as a treaty of cession, but of recognition."

4. Treaties with Great Britain in 1842 (12 Bevans 82) and 1846 (11 Bevans 95).—

These treaties settled our northern boundary with Canada. As they involved the settlement of a disputed boundary, they too are not cessions of property in the terms of Article IV. The disputed property allocated to Great Britain in the Webster-Ashburton Treaty of 1842 did not even belong to the United States but to Maine and Massachusetts. The Webster-Ashburton Treaty was expressly conditioned upon the consent and compensation of these states.

In the 1846 Treaty, conflicting claims in the Oregon territory were settled with Great Britain at the 49° parallel boundary. The 1848 Act of Congress implemented the settlement by providing for the organization and government of the newly defined Oregon Territory.

5. Treaties with Mexico in 1933 (9 Bevans 976), 1963 (15 UST 21) and 1970 (23 UST 371).—

The lands transferred as the result of these treaties were at the time of the signing of the treaties not owned by the federal government. All three treaties recognized that the lands would have to be acquired by the respective governments prior to the transfer. Prior to the transfer, Congress passed legislation authorizing the acquisition of those lands. Therefore, nothing in these transfers supports the view that the disposal power

Footnotes at end of article.

is "concurrent." Further, these treaties were called for as a result of a physical change in the course of the Rio Grande River, a situation that is distinctly different from that of the Panama Canal.

6. Treaties with Japan (23 UST 447) and Honduras (23 UST 2631).—

The 1971 treaty with Honduras was a treaty of recognition not disposition—the United States claiming through the Guano Act and Honduras claiming title through Spain. There was no congressional opposition since the Swan Islands had no intrinsic value to the United States.

The congressional act upon which the United States' claim was based by virtue of guano deposits also provided that nothing in it obliged the United States to retain possession "after guano have been removed from the same." It was pursuant to this statutory authority that the Honduran claim was recognized long after the guano operation had closed. The Senate Foreign Relations Committee described the islands in the following manner in minimizing their value:

"The Swan Islands are rock keys located in the Caribbean about 98 miles off the coast of Honduras. The islands have no intrinsic value to the United States and the largest of the two islands is only two miles long and one-half mile wide. The only U.S. interest in these islands is the operation and maintenance of a meteorological observation and telecommunications facility and an air navigation beacon. The islands are populated by approximately six Americans who operate the facilities and a dozen Honduran nationals and British subjects who work for the United States facilities or raise cattle." (S. Rept. No. 92–94, 92d Cong. 2d Sess., 1 (1972).) Similarly, the Ryuku and Daito Islands were returned to Japan pursuant to the 1971 treaty, apparently in reliance upon statutory authority. The United States never claimed ownership nor was there any congressional opposition to the reversion of these islands to Japan. It is also interesting to note that certain United States property interests were "sold" to Japan for some $320 million.

7. The 1955 Treaty between the United States and Panama (6 UST 2283).—

Much has been made of the fact that the legislation authorizing the transfer of property under the 1955 Treaty with Panama failed to include specific reference to the transfers contemplated by Articles VI and VII of the treaty, although all the transfers in Article V were mentioned in the authorizing legislation. Since the Department of State had expressed the view at the Senate hearings on the treaty that legislative authority was required for all the property transfers including those contemplated by Articles VI and VII, the failure to include the latter in the 1957 Act could have been an oversight.

When the Assistant Secreary of State for Inter-American Affairs testified before the Senate Committee on Foreign Relations on implementing the 1955 Treaty, the following language was contained in the written text:

Legislation Required to Implement Proposed New Agreements with Panama.—

Legislation will be required to implement the following provisions of the treaty and memorandum of understanding reached:

(5) Articles V, VI, and VII, of the treaty and item 2 of the memorandum.—

Transfer of certain lands and improvements to Panama.—Authorizing legislation is required.

Necessary replacements would require appropriations.[32] Despite the likelihood of oversight in the treaty implementing bill, these Articles dealt with boundary changes between the Canal Zone and Panama established by a prior Executive Agreement and it can be concluded that essentially these Articles are matters of recognition rather than disposition.

Thus, the Executive in the cases it has cited, has not substantiated the proposition that the treaty practice of the United States supports the "concurrent" nature of the disposal power. As a matter of fact, many of the treaties cited by the State Department show exactly the opposite: That is, the House of Representatives has been involved in many previous cessions of territory and property.

*Historical precedent—Panama*

Assuming arguendo that there are conflicting practices, case law and textual interpretations of the Constitution are unable to resolve the issue of the exclusivity of the disposal power, the best guideline for determining the constitutional procedure for relinquishing the Canal Zone would be the past practice concerning the disposal of Panama Canal properties. A study of this practice demonstrates a complete reliance on Congress for authority to transfer property to Panama.

In 1932, in order to build a legation building on land that had been a part of the Canal Zone, Congress authorized the Secretary of State to modify the boundary line between Panama and the Canal Zone. Even in connection with a boundary line modification between Panama and the Canal Zone, an Act of Congress was obtained.[33]

The Act of July 10, 1937 authorized the Panama Railroad Company to sell certain lands and release reversionary interests of Panama.[34]

In 1942, a House Joint Resolution permitted the transfer to Panama, free of cost, of the sewers and waterworks systems of Colon and Panama City, as well as certain railroad lots. This Resolution was passed in the Senate despite some objection that the transfer should have been accomplished by treaty without House participation. In the debate that confirmed this important legislative requirement, the then Chairman of the Senate Foreign Relations Committee, Senator Connally, stated:

". . . under the Constitution of the United States, Congress alone can vest title to property which belongs to the United States. The Constitution itself confers on Congress specific authority to transfer territory or lands belonging to the United States . . . The House of Representatives has a right to a voice as to whether any transfer of real estate or other property shall be made either under treaty or otherwise." [35]

Again, in the 1955 Treaty providing, among other things, for the transfer of real property to Panama, Article V states:

"The United States of America agrees that, subject to the enactment of legislation by the Congress, there shall be conveyed to the Republic of Panama free of cost all the right, title and interest held by the United States of America or its agencies in and to certain lands and improvements in territory under the jurisdiction of the Republic of Panama when and as determined by the United States to be no longer needed for the operation, maintenance, sanitation or protection of the Panama Canal or of its auxiliary works, or for other authorized purposes of the United States in the Republic of Panama."

and Congress did in fact pass legislation.[36]

CONCLUSION

The Subcommittee's conclusion, from a study of the available analysis, case law and historical precedent is that the evidence strongly supports the view that the power to dispose of U.S. property and territory is exclusively vested in Congress, and that transfer of the Canal Zone and Canal-related property by treaty alone would be an unwholesome precedent for the separation of powers in our Government.

In upholding the view of the disposal power as exclusive, this Subcommittee's actions are historically consonant with those of many previous Congresses.

The claim that the House has a right to involvement in disposals of Federal territory and property is not a new concept. As long ago as 1816, that view was acknowledged by the Congress. In February of that year, House managers sought to explain the differences between Senate and House Conferees on a bill concerning the regulation of commerce between Great Britain and the United States. In their report, they noted some areas of common understanding. House Conferees reported that their opposite numbers appeared:

. . . to acknowledge the necessity of legislative enactment to carry into execution all treaties which contain stipulations requiring appropriations, or which might bind the nation to lay taxes, to raise armies, to support navies, to grant subsidies, to create States, *or cede territory*, if indeed this power exists in the government at all.[37]

Later in the ninteenth century, during a debate over a provision in the Indian Appropriations Act of 1872 that ended the practice of concluding treaties with the Indian tribes, supporters of the legislation vigorously asserted that the power to dispose of territory was vested exclusively in Congress, and that the treaty power did not encompass the authority to cede land.[38]

We have already cited the assertion of congressional prerogatives in connection with previous disposals of portions of Panama Canal property. We must recognize as earlier Congresses did that we are the trustees for the preservation of the powers vested in us.

We agree with the actions of previous Congresses which consistently called for House participation in transfers of Panama Canal properties. In such instances relatively unimportant properties were transferred and yet House approval was sought. No less should be required when we are dealing with the disposal of the major United States property interests in Panama involving billions of dollars.

Considering past treaty practice generally (in which implementing legislation was required), and in particular considering the nature of previous disposals to Panama in the Zone area, we have sufficient reason for finding the power to dispose of Federal territory and property to be exclusively vested in the Congress. Considering that this view has been long held by our predecessors in the House, we feel an obligation to this body to state our conclusion firmly and clearly. Any attempt to transfer U.S. interests in the Canal Zone without congressional authorization, must be considered as being beyond the scope of the treaty power and therefore unlawful.

FOOTNOTES

[1] From data in paper of W. Merrill Whitman, August 8, 1977 in Hearings of Subcommittee on Panama Canal of the Committee on Merchant Marine and Fisheries, *U.S. Interest in Panama Canal*, pp. 391–410.

[2] From paper on Miscellaneous Values of the Panama Canal, by the Panama Canal Company, September, 1977, as attached to Memorandum from the Assistant Secretary of State to Members of Congress/Legislative Assistants, September 19, 1977.

[3] Public Law No. 337, 62d Congress.

[4] See particularly the remarks of Mr. Church of Idaho, *Congressional Record*, April 3, 1978, p. S4629.

[5] See, among others, Statements of Ambassador Sol M. Linowitz, August 19, 1977.

[6] Public Law No. 183, 57th Congress.

Footnotes at end of article.

[7] Whitman paper, supra, note 1.

[8] From data in paper of W. Merrill Whitman, "Property Interests of the U.S. in the Canal Zone", paper prepared for the Committee on Merchant Marine and Fisheries, 1977; entered into the *Congressional Record*, March 16, 1978, p. E1393 by Hon. George Hansen.

[9] Whitman paper, supra, note 8.

[10] Annual Report of the Panama Canal Company, 1976, pp. 26 and 138.

[11] From statement of the Hon. Daniel J. Flood, *Congressional Record*, December 5, 1974, p. 38294 with addition of statement in *Congressional Record*, April 4, 1978, p. H2448.

[12] Annual Report of the Panama Canal Company, 1976, p. 30.

[13] The Cherokee Tobacco 11 Wall (78 U.S.) 616, 620 (1871); *Doe* v. *Braden* 16 How. (57 U.S.) 635, 656 (1853); *Geofroy* v. *Riggs* 133 U.S. 258, 267 (1890); *Asakura* v. *City of Seattle* 265 U.S. 332, 341 (1924); *Reid* v. *Covert* 354 U.S. 1, 17 (1957).

[14] Statements by Herbert J. Hansell, Legal Adviser, Department of State, and John M. Harmon, Assistant Attorney General, Office of Legal Counsel, Department of Justice, before the Committee on Merchant Marine & Fisheries, January 18, 1978.

[15] Statements by Herbert J. Hansell, Legal Adviser, Department of State, in *New Panama Canal Treaty*, Hearings of the Committee on Merchant Marine and Fisheries, August 17, 1977, on pp. 27 to 49.

[16] Statements by Carl F. Salans, Legal Adviser, Department of State, on November 29, 1971 and Ralph E. Erikson, Office of Legal Counsel, D.O.J., on December 2, 1971, at Hearings of Subcommittee on Panama Canal, *Panama Canal Treaty Negotiations*, Serial 92–30, pp. 12–16 and 95–100.

[17] Statements of Hansell and Harmon, notes 14 and 15, supra, including Opinion of the Attorney General of the U.S., August 11, 1977, appearing on pp. 31–48 of *New Panama Canal Treaty*.

[18] Note 17, supra.

[19] Statement of Raoul Berger in Hearings before the Committee on Merchant Marine and Fisheries, January 18, 1978, p. 3.

[20] Note 17, supra.

[21] Federalist Papers No. 41–44.

[22] I Farrand xv–xix indicates that Madison's notes of the Constitutional Convention are the best available.

[23] 3 Elliot's *Debates on the Federal Constitution* at p. 501.

[24] See 3 Elliot's *Debates* at pp. 500–515.

[25] *Sere* v. *Pilot* 6 Cr. (10 U.S.) 332 (1810); *American Insurance* v. *Canter* 1 Pet. (26 U.S.) 511 (1828); *United States* v. *Gratiot* 14 Pet (39 U.S.) 526 (1840); *Cross* v. *Harrison* 16 Har. (57 U.S.) 164 (1853); *Gibson* v. *Chouteau* 13 Wall (80 U.S.) 92 (1872); *Sioux Tribe of Indians* v. *United States* 316 U.S. 317 (1942); *United States* v. *California* 332 U.S. 19 (1947); *Federal Power Commission* v. *Idaho Power Co.* 344 U.S. 17 (1952); *Alabama* v. *Texas* 347 U.S. 272 (1953); *Sierra Club* v. *Hickel* 433 F. 2d 24, 28 (9th Cir. 1970) aff'd. 405 U.S. 227 (1972).

[26] See Statement of Raoul Berger, note 19, supra.

[27] *Cherokee Nation* v. *Southern Kansas Railway Co.* 135 U.S. 641 (1890); *Worcester* v. *Georgia* 6 Pet. (31 U.S.) 515 (1832); *Johnson and Graham's Lessee* v. *McIntosh* 8 Wheaton (21 U.S.) 543 (1823).

[28] Act of May 28, 1830 (21 Stat. 411).

[29] 16 Stat. 544, 566, c. 120, 41st Congress, 3d Session, March 3, 1871.

[30] See note 17, supra.

[31] 3 Stat. 523 and 3 Stat. 637.

[32] Hearings Before the Senate Foreign Relations Committee on the Panama Treaty, Exec. F., 84th Cong., 1st Sess., pp. 60-61.

[33] H.R. 7119, 72d Cong., 1st Sess., 72 Cong. Rec. 4652–4657 (1932). The legislation was approved, 72 Cong. Rec. 4657.

[34] —.

[35] 88 Cong. Rec. at 9267.

[36] H.R. 6709, 85th Cong., P.L. 85–223, 71 Stat. 509.

[37] 29 Annals of Congress 1019 (1816) emphasis added.

[38] 97 Cong. Globe 764, 766–767, January 26, 1871, 41st Cong., 3rd Sess., and 99 Cong. Globe at 1811–1812, 1821–1825, March 1, 1871.●

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## FOOD RESEARCH—INVESTING IN THE FUTURE

(Mr. JENRETTE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. JENRETTE. Mr. Speaker, the House Agriculture Subcommittee on Investigations, Oversight, and Research, chaired by my good friend and colleague Congressman DE LA GARZA, has been looking at the implications of the reduced funding levels for agricultural research that have been presented in the administration's fiscal year 1979 budget. The budget levels proposed are highly inconsistent with the strong mandate that the Congress has provided to increase the Federal support for agricultural research. The congressional intent of title XIV of the Food and Agricultural Act of 1977 stresses the important role and the necessity of investing in the future by providing more funds for food and agricultural research.

I should like to call to the attention of the Congress an article that appeared in the AFL–CIO Federationist magazine entitled "Food Research: Investing in the Future." It seems very appropriate to remind the Congress of the substance of this article. It was well received and has been reprinted in several magazines ranging from the Catholic Digest to, most recently, the Virginia Tech Report on Agriculture and Forestry in their fall 1977 issue.

It is particularly noteworthy that this, the first issue of Virginia Tech Report,, chose to lead their publication with Mr. Cordaro's article on food research. Mr. Cordaro's skill for conveying technical information in easily understandable terms is to be commended. His article warns that unless adequate funds are made available for food and agriculture research, the United States and the world will not be able to meet the challenge of producing adequate amounts of good-quality food for the present and future population.

I know that the ranking minority member of the House Agriculture Committee, Congressman WAMPLER, will appreciate this article, as he has been the leader for increased support for agricultural research funding. Mr. Speaker, I encourage my colleagues to read this article so that they might appreciate the necessity of providing increased funds to match the congressional intent to support agricultural research. U.S. national security and global policy depend upon our capability to produce food and to make sure that the backbone of that system—namely, our agricultural research network—continues to be strong and viable. We must look ahead. Today's decision will shape tomorrow; our future capability to produce food depends upon whether the 95th Congress takes the steps to restore the integrity of title XIV of the 1977 Food and Agricultural Act. Let us make it work.

The article follows:

FOOD RESEARCH—INVESTING IN THE FUTURE

(By J. B. Cordaro)

Fluctuations in world food supply over the last decade resemble the path of a roller coaster, up and down from year to year, country to country and crop to crop.

In the mid 1960s, severe droughts threatened starvation on the Indian sub-continent, but U.S. food surpluses helped to save millions of lives. Some prophets saw worldwide famine as inevitable by the mid-1970s. However, shortly thereafter, the effect of the "Green Revolution," the increased yield of wheat and rice obtained by using new seed and technology, spread an euphoric glow across the globe. Much of the increased yield came in areas of need—Pakistan, India, Turkey, Indonesia, North Africa, and about 20 other developing countries.

A decade later, the euphoria has passed. The difficulty of reforming the agriculture sector and improving food production is fully exposed. Following production drops in 1972–1973, worldwide stockpiles of grain were reduced to their lowest point in 21 years, barely a month's supply. However, two bumper crops in South Asia have since averted a serious famine and bought more time to solve the problem.

Now, unlike the 1960s, countries do not feel the United States always can be counted on as the supplier of last resort. Nearly all of U.S. arable land has been brought into production, and with the next severe dip of the roller coaster the United States may be hard pressed to bail out other countries.

Present technologies place a limit on U.S. food production capability. The U.S. seems to be realizing these production levels, while also having to recognize new constraints. The energy costs of machine-powered farming, the environmental costs of chemicals to control weeds and pests, and the sheer availability and expense of fertilizers produced from petroleum—all present serious problems. In short, the very elements that furnish the backbone of the modern farming systems are being challenged. To complicate matters further, climatic fluctuations, which are beyond U.S. control, create both uncertainty and unease.

The world faces the challenge to produce adequate amounts of good quality food for its present population while at the same time preparing for a future world whose population is expected to double sometime early in the 21st Century.

This will not be as easy now as it has been in the past. But at least these goals must be sought:

Developing technologies which use the least possible amounts of non-renewable resources such as water, land, energy, and fertilizer.

Holding environmental damage to a minimum and improving the environment when possible.

Improving the nutritional quality of food and encouraging better dietary habits.

Assuring a more equitable distribution of food.

The food production system we count on to achieve these objectives is enormously complex. In crop production, for example, land, water, seed, fertilizer, machinery, credit, and hard work all go into the first stage, with uncertain weather mixed in. After harvest, transportation, marketing, processing, packaging, wholesaling and retailing are added before food gets to the consumer. If the commodity goes abroad new factors of international trade, tariffs, port facilities, market development and politics are involved. Throughout the process, such matters as regulations, taxes and subsidies must be dealt with.

Science, at the heart of this complex, has previously met our needs. Agricultural research has laid the golden eggs of increased production. For instance, research has demonstrated that hens which once laid 100 eggs a year can now lay about 250, with 300 to come soon. One new vaccine alone cut poultry losses from disease by 70 percent and saved consumers $200 million a year. Introducing hybrid corn and adding other improvements have enabled the United States to increase corn yields almost fivefold in 40 years, from 22 to nearly 100 bushels per acre. It would have required twice the acres, five times the labor, and 50 percent more machinery to produce the same crop without the research breakthrough. The list of benefits could go on and on.

But research can be a slow process. It may take a long time to make and adapt useful discoveries—24 years to develop hybrid corn, for example. Then too, yields have leveled off in several important commodities, indicating there are natural limits to what can be accomplished. Moreover, we are becoming more aware of the complicated process of getting food from seed to the consumer's stomach, particularly in developing countries. Problems with the cost of energy and fertilizer, the availability and use of patterns of land and water, and the loss of food through poor processing, storage, and pest control are of paramount importance; yet little research is going on in these areas.

In terms of purchasing power, the United States has been investing less and less in food research for more than a decade, but it is still recognized as the finest system in the world. This is the system that has reduced the time it takes to produce a bushel of corn from 130 to 6 manhours and built a $24 billion export industry. American farmers outproduce their French counterparts four to one, and as a consequence U.S. consumers still have among the least expensive food supplies in the world, although the amount of income spent on an adequate diet will continue to rise.

BASIC RESEARCH

Research can be divided between applied and basic research. Applied research consists of studies and demonstrations that have immediate utility; for example, how to adapt corn to a particular climate or soil or how to combat an infestation of insects. Basic research, on the other hand, probes into the unknown, seeking knowledge, not immediate results. Basic research is the wellspring from which has come the food-growing miracles of the past.

The system is also dependent on a network which moves the research results to the farmers. Without this component research would collect dust on shelves.

The lead time required to make basic research pay off is often 10, 15 or more years. Thus, the system demands a constant stream so that the well continues to run deep. The productivity of our food system for the year 2000 depends upon research begun today. If, as many believe, the storehouse of "on the shelf" knowledge from the past basic research is about exhausted, very serious consequences to present and future populations can be expected.

The U.S. continues to provide the most support among all nations for research and development of all types. But that's not true in agriculture, where support has declined steadily since 1960. At present, it is about 2 percent of the total federal research budget. Among foreign governments which do provide funds for agricultural research, only Italy, with 1 percent, provides a smaller proportion of its centrally appropriated funds than the United States. Canada, at 19 percent, is the leader.

A study by the congressional Office of Technology Assessment reveals that, while funds for overall research have barely kept pace with inflation over the last decade, funds for basic research have actually declined substantially.

Most other countries have recognized the need and made the commitment to increased funding for agriculture research. In the United States, federal funding for overall research and development has increased from $21 billion in 1976 to $28 billion requested for 1978. However, agriculture's share of this 33 percent increase has been small, showing an increase from $444 million in 1976 to only $496 million in 1978. This equals one half of 1 percent (0.5 percent) of the value of farm sales and only one quarter of 1 percent (0.25 percent) of what Americans spent on food in 1975. Discussions in Congress in 1976 concluded that a substantial boost in agricultural research funding was urgently needed. It was noted that while very real problems of world malnutrition and hunger attract attention, much less attention is paid to agricultural research, the foundation on which efforts to feed a hungry world must be based. It was also stressed that in 1940, 40 percent of the federal research and development funds went for agrricultural research. In 1970, less than 2 percent went to agriculture. General Motors spends twice as much on its private research. The national defense research budget for fiscal year 1977 was almost $10.5 billion—about 20 times the amount spent on agricultural research.

In agricultural research, the areas of greatest potential are research on direct food production—from plants, animals and fish—and research on such indirect but essential factors as weather, energy, water, and the processing of foods.

PLANTS

Among all of these, making plants more productive is still the most important and promising place to begin, since plants provide, directly or indirectly, 95 percent of the world's food supply. Cereal grains alone constitute 60 percent of the world's calories and 50 percent of the world"s protein.

Many scientists cite three ways to make dramatic breakthroughs in plant productivity: first, improve the process by which plants convert light into food and energy (photosynthesis); second, improve the way plants collect and use nitrogen (nitrogen fixation); and third, improve the quality of plants through genetic engineering research.

Two important sources of food in America, corn and soybeans, display the potential. Corn yields have increased fivefold since the 1930s because of the application of nitrogen fertilizer and the development of new, disease-resistant hybrids through genetic improvement. Yields of soybeans, on the other hand, have been nearly static for two decades, at roughly 30 bushels per acre.

Simply put, if each of these plants could learn from the other, food production could improve dramatically. Soybeans are fairly lazy plants. They photosynthesize during one part of the day, then take the rest of the day off. Corn, on the other hand, goes on photosynthesizing all day. Scientists believe it is possible to increase the efficiency of the photosynthesis process in soybeans. If they could achieve a 50 percent increase, food cost savings could amount to $1 billion per year in the United States alone.

Soybeans, however, are very efficient in their use of nitrogen because they gather and absorb nitrogen from the environment and are therefore not dependent on expensive nitrogen fertilizers. Corn is very inefficient and doesn't even use the applied fertilizers very well. Modifying corn to use nitrogen in nature and in fertilizers more efficiently could cut costs, increase productivity and give poor countries a food source they cannot now afford.

As it is, breakthroughs made with hybrid corn have already been the single most spectacular scientific achievement in agriculture. Hybrid corn has provided increases in yields ranging from 200 percent in Mexico between 1945 and 1965 to 500 percent in the United States since the 1930s. Similar gains occurred in West Germany and other northern European countries.

New high yield varieties of rice and wheat also showed remarkable production increases between 1965 and 1975, although there have been some problems recently in such second generation products of the Green Revolution.

Hybrid wheat is becoming a reality. High yielding, hard-winter types with good milling qualities are now being produced and marketed on a limited scale from the winter wheat regions of Texas, Oklahoma and Kansas. The anticipated yield increases of about 20 percent would be another major breakthrough for U.S. agriculture.

A man-made cereal, triticale, seems close to being used by farmers around the world. The best selections of both durum and bread wheat, triticale types now out-produce older strains of wheat by 15 to 20 percent.

Similar future enhancements of yield are near in other major crops such as sugar cane, soybeans, potatoes, sugar beet, sorghum, millet, pigeon peas and peanuts. Such oil seeds as cottonseeds, sunflour, safflour, rapeseed, sesamie seed and palm, olive and coconut oils offer other opportunities to increase the total amount of food available.

LIVESTOCK, POULTRY AND FISH

Since many of these plant varieties can also be used as grain feeds, their development has a potential effect on the production of livestock and poultry—which provide about 25 percent of the protein requirements and about 10 percent of the calories for people around the world.

The number of livestock in the world is more than double the human population. Domestic animals produce meat, milk and eggs from nutrients derived from crops, forages, and byproducts that have less value elsewhere. In the United States alone, they produce two-thirds of the protein, one-half of the fat, one-third of the energy, four-fifths of the calcium, and two-thirds of the phosphorous consumed by man.

Ruminant livestock, the cud-chewers like cattle and sheep who have complicated, four-part stomachs, provide one of the major sources for more food. To increase their role, three interrelated research efforts must be pursued simultaneously with stepped up attention to production and utilization of feeds, animal health and genetic improvement.

One food area in which the U.S. lags far behind is in fishery products. Elsewhere, fish provide a large part of the non-vegetable diets—40 percent in China; 38 percent in India; 22 percent in Indonesia. But in the United States fish provide about 5 percent and a relatively small amount of research effort has been devoted to improving that percentage.

Improved crop and livestock productivity—while ranking very high—is only part of the story of better food production. Besides, the problems of feeding people are far more complicated than just increased food production; there are other concerns in that long process from plant seeds to the consumer's stomach.

CLIMATE

The remarkable increase in U.S. food production over the last 20 years is rightly attributed to improved technology, founded in agriculture research. But these have also been years of unusually favorable climate in the United States, which is also blessed with good soils.

Stephen Schneider, climatologist and author of The Genesis Strategy, writes: ". . . many argue that our technologies had not been put to an adequate test of determining the vulnerability of our crops to weather fluctuations. In fact, in 1974 corn yields were reduced by 20 to 30 bushels per acre due to weather fluctuations."

Schneider argues that we have every reason to believe that the climate of the immediate future will be more variable than the past and that we must take steps such as improving soil conservation, increasing water storage and building reserves to protect against an uncertain future.

Research must play the essential part. To cite one example, researchers at a U.S. Department of Agriculture (USDA) research facility in Peoria, Ill., have developed "super slurper," a blend of manmade materials and starch that can absorb 5.300 times its weight in distilled water. Seeds can be coated with "super slurper," enabling them to germinate even in dry conditions. Better "greenhouse" agriculture and chemicals that speed up or slow down growth would also help.

ENERGY, LAND AND WATER

Energy, particularly from fossil fuels, is another major contributor to modern agriculture that must be re-evaluated. Dr. John Steinhart of the University of Wisconsin has demonstrated how food production has virtually leveled off in the United States despite substantial increases in energy uses. This may suggest that, at least when it comes to energy, the U.S. agricultural system is becoming less efficient and approaching the point of diminishing returns. Research could help to discover means of reducing dependence on energy in food production in this country while helping poorer countries avoid the expense of the American system.

Land is a good investment, the old joke says, "because they ain't making any more of it." The same is true of fossil fuels—a fact we've known for a long time but has been forcefully brought home to us only in recent years.

As a result, efficient use of land and energy are important parts of future U.S. agricultural plans. Annually, more prime agricultural land base is disappearing into non-agricultural uses and is being seriously degraded by erosion. In the United States alone, more than 3.6 billion tons of topsoil were eroded in the one year of 1976.

Also, the need to use energy more efficiently dictates new technologies for crop irrigation. Ninety percent of all water that is withdrawn from U.S. streams and ground water storage is consumed in irrigated agriculture. Irrigation is vital since it is used in the production of 81 percent of sugar beets, 70 percent of fruits and vegetables, 40 percent of cotton and sorghum, 30 percent of alfalfa, 25 percent of barley, and 10 percent of corn and wheat produced in the United States. Globally, up to 30 percent of the food consumed by mankind is produced on 12 to 15 percent of the cultivated lands that are irrigated. Major world countries like China, Russia and India all have a higher percentage of their crop land under irrigation than the United States does.

Drought, a major factor in the instability of U.S. food supplies, can be offset somewhat with adequate research into new techniques such as drip or trickle irrigation, which can also help in preserving water and energy while increasing output. These new methods have reduced by as much as 50 percent the amount of water now used through conventional irrigation systems. They also facilitate the use of marginal land, making it possible to use more low quality water, as well as ending the waste of land from building irrigation ditches. Two environmental problems—nutrient leaching and water pollution—are also reduced by the new irrigation methods.

In the South, sub-surface water levels are dropping and soil moisture is low. At the same time the supply of water from mountain snowfields in the West is, in some places, 15 percent of normal. Moreover, some climatologists believe more drought conditions are on the way.

Research could help "teach" crops to live on less water. Also, irrigation systems can be improved to prevent the return of chemically affected water to our rivers. Irrigation systems that demand less fossil fuel must be developed. While water management is a political question, research could help make the tough decisions on the horizon a little less ominous.

FERTILIZER AND NUTRITION

As fertilizer becomes more expensive, it must be stretched further; yet plants are comparatively inefficient in absorbing fertilizer. Only 50 percent of the nitrogen and less than 35 percent of the phosphorus and potassium applied as fertilizer in the United States are now being used by crops. In the tropics only about a quarter to a third of the nitrogen applied to rice is actually used. It is possible to increase the efficiency of fertilizer through research, but a concerted, coordinated effort is lacking.

Just as plants are inefficient and wasteful of food, so are humans; and for some reason we know less about the nutritional needs of our own bodies than, for example, those of chickens. Animal research is easier than human research, being free of many of the ethical questions involved in human experimentation. With humans, habits and prejudices get in the way. It is known, for instance, that obesity and overconsumption are U.S. health problems, but we know very little about the chemical and psychological factors that inspire overeating. Nutrition and nutrition education are other areas where research is needed.

HOME GARDENS

Food expert Sylvan Wittwer of Michigan State University believes the greatest unexploited area for food production in the United States is in home gardening. Today 51 percent of U.S. families are involved in the nation's 37 million garden plots—the highest participation rate since World War II. This may be the only trend that is running counter to U.S. agriculture development into a large-scale, capital-intensive industry.

Wittwer is concerned that too few of the many scientific developments from commercial food crop production have been adapted to home gardening. One notable area of neglect has been the use of plant varieties that are high quality, disease resistant, high yielding and early maturing, as hybrid carrots, squash, tomatoes and sweet corn.

For all the achievements in agricultural research in the United States, the nation is still in the midst of an agricultural food production revolution, with much more to be accomplished. Modern food production technology has barely touched vital areas like tropical and sub-tropical agriculture, which offer great potential. Many major food crops of the earth—seed legumes, sweet potato, cassava and the millets—have received only token attention. The science of home food gardening, small-scale agriculture and farming systems have scarcely been addressed. In the developing countries, some of the technologies needed will be labor-intensive, with a minimum need for resource capital—quite the opposite of the U.S. story. And in some areas, the technologies must be created from scratch.

Waste can be eliminated at every step, from nitrogen loss in the field to food quality loss from improper packaging. With present knowhow, scientists project only a 5 to 20 percent improvement in crop yields but a 35 percent saving in energy consumption. Food losses from pests, predators, disease and the like could account for as much as a third of the world food output. New methods of pest control focus on using less energy and harming the environment less by finding chemicals that can be used on a large scale but in extremely low doses. Overall elimination of waste could save as much as 50 percent, about what would be needed to fill in the gap in calorie consumption for the world.

FEDERAL FUNDING

Still, the realization of the U.S. potential rests on adequate federal action, especially increased funding.

Primary funding of the U.S. food research system is provided by the federal government, private sources and state government, about $2 billion a year in all. About half of that $2 billion comes from state and federal government; the other half from private industry. While the federal funding provided to the states is only about one-fourth the total, it is vital because as in so many other U.S. undertakings, federal funding is the catalyst.

In fiscal year 1977, for example, $450 million was provided by USDA to agricultural research. From that, the states were given $129 million, with that investment generating another $400–500 million of additional research money from other sources.

Eighty-five percent of federal food research appropriations go to USDA, where five agencies perform agricultural research: the Agricultural Research Service, the Forest Service, the Farmer Cooperative Service, the Economic Research Service and the Statistical Reporting Service. A sixth USDA agency, the Cooperative State Research Service, administers federal funds for the agricultural research that is conducted nationwide at 55 state agricultural experiment stations, 15 schools of forestry, the 16 land grant universities of 1890, and Tuskegee Institute.

The remaining 15 percent of federal food and agricultural research appropriation is distributed by the National Science Foundation, National Institutes of Health, the U.S. Agency for International Development, the Departments of Commerce, Interior, Labor and Defense, the Environmental Protection Agency and the Food Drug Administration.

Dr. Jim Anderson, director of the experiment station at Mississippi State University, cites several reasons why the state agricultural experiment stations (SAES) have not done very well over the last 10 years in securing adequate federal funding for agricultural research. He says the SAES have not been able to convince Congress and the Office of Management and Budget that they are efficient, well-coordinated and capable of eliminating duplication when necessary. Consequently they have not been able to sell the benefits of proposed new research. Instead of lining up allies in support of an overall agricultural research program, Anderson says the SAES tend to pull apart in promoting their own individual projects.

Like all researchers in quest of federal funds, agricultural interests must make their case in terms of cost-benefit. One study of the benefit from public investment in food and agricultural research, made by Dr. Robert Edelman, also of Mississippi State, notes that growth in U.S. agricultural output from increased efficiency in resource use has been about 1.8 percent annually since 1939, mostly from application of new and improved technologies. These can be very expensive to develop and disseminate well enough to assure widespread acceptance and use.

Such research is short term in its payout and only long range in its return, but Edelman concludes that "not only does agricultural research pay off in benefits to people in all walks of life, but it pays very well. The results compare very favorably with other types of public investments. Future productivity growth in U.S. productions of agriculture will depend to a large extent on the level of research and education expenditures that the federal government and the states are willing to support."

The wait is particularly long on returns from basic research, or efforts in new areas, in contrast to the returns from applied research on established practices. For example, research to develop hybrid corn produced nothing for 24 years, but then returned

$700 for every $1 spent in a short period as discovery was rapidly adopted around the country. One University of Chicago study by T. W. Schultz puts the benefit from applied research at 30 to 40 percent of the investment, while basic research can yield returns as much as 17 to 23 times greater than the returns from applied research.

A report by the Joint Economic Committee of Congress in October 1976 included a study in which Dr. Edwin Mansfield reviewed a number of projects and found rates of return from agricultural research of 53, 57, 50 and 42 percent, with the average rate generally in the neighborhood of 40 to 50 percent. Mansfield stresses the risk in oversimplification of these numbers, but concludes that the available evidence suggests the rate of return from agricultural research and development has been high.

The declining share of funding for the U.S. research system shows in the decline of professional personnel in the USDA's Agricultural Research Service (ARS), the state experiment stations and extension service complex. Much of the loss is among junior level scientists, whose departure robs senior scientists of efficiency for today and of replacements for tomorrow. Thus the amount of time scientists can spend in important research areas has declined as the research system has been caught between a stagnant budget and rising costs.

Another telling indicator is the condition of federal research facilities. A survey of ARS facilities in 1975 found that only 49 percent were in satisfactory condition. More than 50 percent needed significant repair and 14 percent were in such bad shape as to be a safety hazard. Many of the 55 state agricultural experiment stations are experiencing similar problems.

Any complex of the size and scope of the U.S. agricultural network invites its share of criticism. However, the studies cited and others, while noting deficiencies, tend overall to prove the system is healthy and serving the U.S. and world consumers well. It's the future that worries agricultural researchers and the situation in world food supply dictates that support levels for research be increased; that closer scrutiny be given to the impacts of agriculture and food processing on the environment and society; that the role of agricultural scientists be upgraded and that the coordination between researcher and the ultimate food user be improved.

More funds must be directed to basic research and to previously neglected areas such as energy use, climate and home gardening; more work in the United States should be tied to developing countries; and clearly younger men and women who look to the future must be brought into the system.

At present, a novel "target" concept is being considered. This funding idea establishes the sense of Congress that at least one half of one percent (0.5) of the total value of personal consumption expenditures for food in the United States, plus one half of one percent (0.5) of the gross value of agricultural exports for the preceding calendar year would be available each year for agricultural research funding. If it had been in effect for 1976, the base funding level for food and agriculture research would have been over $1 billion instead of $450 million.

The funds derived from this formula would be used to support existing agencies and programs and to initiate new program activities throughout the federal government's food and agriculture research and extension system.

Expanded funding, through this vehicle or some other, is essential if agricultural research is to focus on human needs—for it is the human family's nutritional needs that are ultimately served.

The United States must also consider the quality of food, nutritional concerns and public health consequences. The U.S. recognizes that its greatest malnutrition problem is obesity and that over-consumption is a contributor to six of the 10 leading causes of death—heart disease, cancer, cardiovascular disease, diabetes, arteriosclerosis, and cirrhosis of the liver.

U.S. researchers have done quite well with animal work because it's so much easier than researching human nutrition needs. For example:

Human nutrition involves more than "maximum feed efficiency," the single objective that makes animal research easier;

The population is more heterogeneous than typical animal populations;

Humans are among the very few omnivorous animals, which adds additional variable to the research effort than with animals who eat only meat, or no meat;

Human nutrition on the theoretical level is concerned with sustenance but in reality human food selection and consumption is far more complicated;

Human experimentation is a very sensitive issue.

With human beings, efficiency cannot be the only goal. Social considerations demand human beings not become just a "trade-off" or various types of research. Thus nutritional needs must be adjusted to the world in which the human lives—involving the cultural preferences necessary to a democracy, but also the environment, energy supplies and the weather.

The declining commitment to agricultural research can perhaps be traced to concern about overproduction. While the government was paying farmers not to produce, it was understandable that no great emphasis was given to find ways to produce more.

The miracle of U.S. agricultural research has been based more in technology than in science. Science has not been extensively tapped. But the present is and the future will be fundamentally different. To meet the demands on the food system will require that science be more effectively employed—that the mysteries of photosynthesis, nitrogen fixation and other areas that require a scientific breakthrough be given increased attention.●

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CORMAN (at the request of Mr. WRIGHT), between 12:45 and 2 p.m. today, on account of official business.

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

Mr. DELLUMS (at the request of Mr. WRIGHT), after 1:15 p.m. April 17, this week on account of a death in the family.

Mr. JONES of North Carolina (at the request of Mr. WRIGHT), for today, on account of official business.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARKS) to revise and extend their remarks and include extraneous matter:)

Mr. CONTE, for 30 minutes, today.

Mr. CORCORAN of Illinois, for 5 minutes, today.

Mr. GREEN, for 5 minutes, today.

Mr. WHALEN, for 5 minutes, today.

Mr. SEBELIUS, for 5 minutes, today.

Mr. RAILSBACK, for 5 minutes, today.

Mr. GOLDWATER, for 5 minutes, today.

Mr. BAUMAN, for 10 minutes, today.

Mr. COHEN, for 15 minutes, today.

(The following Members (at the request of Mr. BARNARD) to revise and extend their remarks and include extraneous matter:)

Mr. SIKES, for 30 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. CHARLES H. WILSON of California, for 5 minutes, today.

Mr. CARNEY, for 5 minutes, today.

Mr. REUSS, for 5 minutes, today.

Mr. VANIK, for 5 minutes, today.

Mr. HANLEY, for 5 minutes, today.

Mr. ST GERMAIN, for 5 minutes, today.

Mr. RYAN, for 60 minutes, April 19.

## EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. METCALFE, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,053.

Mr. JENRETTE, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $958.50.

(The following Members (at the request of Mr. MARKS) and to include extraneous matter:)

Mr. FINDLEY.

Mr. BURKE of Florida.

Mr. BROYHILL.

Mr. CUNNINGHAM.

Mr. WAMPLER.

Mr. SARASIN.

Mr. GILMAN in three instances.

Mr. WALSH.

Mr. MOORE.

Mr. HAGEDORN in two instances.

Mr. HOLLENBECK.

Mr. GOLDWATER in two instances.

Mr. BEARD of Tennessee.

Mr. QUILLEN.

Mr. MCCLOSKEY in two instances.

Mr. DORNAN in four instances.

Mr. ROUSSELOT in three instances.

Mr. SPENCE.

Mr. BAFALIS.

Mr. CEDERBERG.

Mr. YOUNG of Florida in two instances.

Mr. HANSEN.

(The following Members (at the request of Mr. BARNARD) and to include extraneous matter:)

Mr. MAZZOLI in three instances.

Mr. CHARLES H. WILSON of California.

Mr. EDWARDS of California in two instances.

Mr. JENRETTE.

Mr. TEAGUE in two instances.

Mr. OTTINGER.

Mr. MILFORD.

Mr. WAXMAN in two instances.

Mr. CLAY.

Mr. GEPHARDT.

Mr. MCDONALD.

Mr. APPLEGATE in four instances.

Mr. BARNARD.

Mr. ROSENTHAL.

Mr. KRUEGER.

Mr. PATTISON of New York.
Mr. STARK in two instances.
Mr. FASCELL in two instances.
Mr. RYAN.
Mr. RICHMOND in two instances.
Mr. SOLARZ.
Mr. DOWNEY.

## ADJOURNMENT

Mr. SIKES. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 12 minutes p.m.), under its previous order, the House adjourned until Wednesday, April 19, 1978, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3887. A Communication from the President of the United States, transmitting proposed supplemental appropriations for fiscal year 1978 for the Small Business Administration (H. Doc. No. 95–321); to the Committee on Appropriations and ordered to be printed.

3888. A letter from the Chairman, Advisory Council on Historic Preservation, transmitting a draft of proposed legislation to amend the act of October 15, 1966 (80 Stat 915), as amended, establishing a program for the preservation of additional historic properties throughout the Nation, and for other purposes; to the Committee on Interior and Insular Affairs.

3889. A letter from the Chairman, Development Coordination Committee, transmitting the 1977 annual report of the President on actions of the United States affecting the development of low-income countries, pursuant to section 640B(d) of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

3890. A letter from the Secretary of Transportation, transmitting the eighth annual report on operations under the Airport and Airway Development Act of 1970, pursuant to section 24 of the act; to the Committee on Public Works and Transportation.

3891. A letter from the Acting General Counsel of the Treasury, transmitting notice of the determination of the Secretary of the Treasury to temporarily waive countervailing duties on nonrubber footwear imports from Uruguay which are subject to bounties or grants, together with the reasons therefor, pursuant to 88 Stat. 2051 (19 U.S.C. 1303(e)) (H. Doc. No. 95–322); to the Committee on Ways and Means and ordered to be printed.

3892. A letter from the Deputy Fiscal Assistant Secretary of the Treasury, transmitting the 22d annual report on the financial condition and results of the operations of the highway trust fund, covering fiscal year 1977, pursuant to section 209(e)(1) of the Highway Revenue Act of 1956, as amended (H. Doc. No. 95–323); to the Committee on Ways and Means and ordered to be printed.

3893. A letter from the Deputy Fiscal Assistant Secretary of the Treasury, transmitmitting the seventh annual report on the financial condition and results of the operations of the Airport and Airway Trust Fund, covering fiscal year 1977, pursuant to section 208(e)(1) of the Airport and Airway Revenue Act of 1970, as amended (H. Doc. No. 95–324); to the Committee on Ways and Means and ordered to be printed.

3894. A letter from the Secretary of Agriculture, transmitting the fiscal year 1978 global assessment report of food production and needs, pursuant to section 408(b) of Public Law 83–480, as amended (91 Stat. 552); jointly to the Committee on Agriculture and International Relations.

3895. A letter from the Comptroller General of the United States, transmitting a report on the National Aeronautics and Space Administration's Landsat project (PSAD–78–58, April 17, 1978); jointly, to the Committee on Government Operations and Science and Technology.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MAHON: Committee on Appropriations. H.R. 9279. A bill to amend title 5, United States Code to provide for retention of grade and pay for certain employees, and for other purposes (Report No. 95–991, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASTENMEIER: Committee on the Judiciary. H.R. 9400. A bill to authorize actions for redress in cases involving deprivations of rights of institutionalized persons secured or protected by the Constitution or laws of the United States; with amendment (Rept. No. 95–1058). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 5551. A bill to suspend for a 3-year period the duty on 2-Methyl, 4-chlorophenol; with amendment (Rept. No. 95–1059). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 11005. A bill to provide authorization of appropriations for the United States International Trade Commission for fiscal year 1979; with amendment (Rept. No. 95–1060). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 11711. A bill to improve the operation of the adjustment assistance programs for workers and firms under the Trade Act of 1974; with amendment (Rept. No. 95–1061). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMPSON: Committee on House Administration. H.R. 10392. A bill to establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution and to establish a trust fund to provide a stipend for such fellowship (Rept. No. 95–1062). Referred to the Committee of the Whole House on the State of the Union.

Mr. MEEDS: Committee on Rules. House Resolution 1139. Resolution providing for the consideration of H.R. 8494. A bill to regulate lobbying and related activities (Rept. No. 95–1063). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. Senate Joint Resolution 106. Joint resolution to provide for the reappointment of A. Leon Higginbotham, Jr., as a citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 95–1064). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. Senate Joint Resolution 107. Joint resolution to provide for the reappointment of John Paul Austin as a citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 95–1065). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. Senate Joint Resolution 108. Joint resolution to provide for the appointment of Anne Legendre Armstrong as citizen regent of the Board of Regents of the Smithsonian Institution (Rept. No. 95–1066). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. S. 2220. An act to authorize the Secretary of the Treasury to designate an Assistant Secretary to serve in his place as a member of the Library of Congress Trust Fund Board (Rept. No. 95–1067). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California (for himself, and CHARLES H. WILSON of California):

H.R. 12168. A bill to amend title 28 of the United States Code to provide that the U.S. District Court for the Central District of California may be held at Long Beach; to the Committee on the Judiciary.

By Mr. ANDERSON of California (for himself, Mr. ALLEN, Mr. ASHLEY, Mr. BINGHAM, Mr. FORD of Tennessee, Mr. GREEN, Mr. HANLEY, Mr. HANNAFORD, Mr. RANGEL, and Mr. WON PAT):

H.R. 12169. A bill to regulate the trapping of mammals and birds on Federal lands, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries, Interstate and Foreign Commerce, and the Judiciary.

By Mr. BRODHEAD (for himself, Mr. Moss, Mrs. BURKE of California, Mr. STARK, and Mr. DELLUMS):

H.R. 12170. A bill to provide for reimbursement to States experiencing high rates of insured unemployment; to the Committee on Ways and Means.

By Mr. BROOKS:

H.R. 12171. A bill to strengthen the right of access of the Comptroller General to public and certain private records, to allow for limited auditing of unvouchered expenditures, and for other purposes; to the Committee on Government Operations.

By Mr. CONABLE:

H.R. 12172. A bill to amend the Internal Revenue Code of 1954 to permit a church plan to continue after 1982 to provide benefits for employees of organizations controlled by or associated with the church and to make certain clarifying amendments to the definition of church plan; to the Committee on Ways and Means.

By Mr. CONABLE (for himself, Mr. ARCHER, Mr. BURKE of Massachusetts, and Mr. SCHULZE):

H.R. 12173. A bill to reinstate the tax treatment with respect to annuity contracts with reserves based on a segregated asset account as they existed prior to issuance of Revenue Ruling 77–85; to the Committee on Ways and Means.

By Mr. ROBERT W. DANIEL, JR.:

H.R. 12174. A bill to provide for the addition of Eppes Manor to Petersburg National Battlefield, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GAYDOS:

H.R. 12175. A bill to provide special consideration by CETA prime sponsors for Opportunity Industrialization Centers to provide, in cooperation with private industry, new preskills training and skills training opportunities, and to other national community-based organizations, to provide comprehensive employment services, to create new training and job opportunities in the private sector; to the Committee on Education and Labor.

By Mr. GEPHARDT (for himself, Mr. HOLLAND, Mr. STEIGER, Mr. FRENZEL, Mr. FORD of Tennessee, Mr. TUCKER, and Mr. DUNCAN of Tennessee):

H.R. 12176. A bill to amend the Internal Revenue Code of 1954 to clarify standards for determining status of individuals for em-

ployment tax purposes; to the Committee on Ways and Means.

By Mr. GRASSLEY:

H.R. 12177. A bill to postpone for 1 year (until January 1, 1979) the effective date of the recently enacted provision which eliminates the monthly earnings test under section 203 of the Social Security Act; to the Committee on Ways and Means.

By Mr. LEACH:

H.R. 12178. A bill to limit the validity of passports issued to Federal officers, employees, and their dependents, for use in their official duties, to the period of the officer's or employee's official status; to the Committee on International Relations.

H.R. 12179. A bill to amend the Internal Revenue Code of 1954 and the Social Security Act to provide an exemption from coverage under the social security program, through a tax refund procedure, for employees who are members of religious faiths which oppose participation in such program, and to provide a similar exemption on a current basis (pursuant to waiver certificates filed in advance) for employers engaged in farming and their employees in cases where both are members of such faiths; and to make the existing exemption for self-employed members of such faiths available to certain additional individuals; to the Committee on Ways and Means.

By Mr. MATHIS (for himself and Mr. HALL):

H.R. 12180. A bill to insure a comprehensive, periodic review of U.S. participation in the World Bank and the International Monetary Fund; to the Committee on Banking, Finance and Urban Affairs.

By Mr. NEAL:

H.R. 12181. A bill to recognize the importance of small business by providing the Administrator of the Small Business Administration with the attributes of members of the Cabinet of the President and by including the Administrator in Cabinet meetings; jointly, to the Committees on Government Operations, and Small Business.

By Mr. PICKLE:

H.R. 12182. A bill relating to tax treatment of qualified dividend reinvestment plans; to the Committee on Ways and Means.

By Mr. RAHALL (for himself, Mr. CLAY, Mr. CHAPPELL, Mr. VENTO, and Mr. STOKES):

H.R. 12183. A bill to amend title 5 and title 28, United States Code, to provide for the reclassification of positions of deputy U.S. marshal, to include supervisory and managerial or specialists positions, and for other purposes; jointly, to the Committees on the Judiciary, and Post Office and Civil Service.

By Mr. ROE (for himself, Mr. LONG of Maryland, Mr. PEPPER, Mr. ROYBAL, Mr. CHAPPELL, Mr. DAVIS, Mr. AUCOIN, Mr. MOFFETT, and Mr. WEAVER):

H.R. 12184. A bill to increase the authorization for the Local Public Works Capital Development and Investment Act of 1976; to the Committee on Public Works and Transportation.

By Mr. STEERS:

H.R. 12185. A bill to provide for unbiased consideration of applicants to medical schools; to the Committee on Interstate and Foreign Commerce.

By Mr. STOCKMAN:

H.R. 12186. A bill to amend the Internal Revenue Code of 1954 to provide for tax reform, and for other purposes; to the Committee on Ways and Means.

By Mr. STUMP (for himself, Mr. RUDD, Mr. JOHNSON of Colorado, Mr. LLOYD of California, Mr. KRUEGER, Mr. BADHAM, Mr. HIGHTOWER, Mr. KETCHUM, Mr. EVANS of Georgia, Mr. ROBERTS, Mr. BEVILL, Mr. HANSEN, Mr. SYMMS, Mr. WATKINS, Mr. ENGLISH, Mr. GOODLING, Mr. MARRIOTT, and Mr. SEBELIUS):

H.R. 12187. A bill to remove residency requirements and acreage limitations applicable to land subject to reclamation law; to the Committee on Interior and Insular Affairs.

By Mr. UDALL (for himself, Mr. SIMON, Mr. STEERS, Mr. RICHMOND, Ms. MIKULSKI, Mr. KEMP, Mr. EDWARDS of California, Mr. LUKEN, and Mr. BRADEMAS):

H.R. 12188. A bill to amend title 5, United States Code, to promote proper and efficient activities of the Government, and to protect Federal employees disclosing situations in which such activities are not proper or efficient; to the Committee on Post Office and Civil Service.

By Mr. WAMPLER (for himself, Mr. HIGHTOWER, Mr. THONE, and Mr. SKELTON):

H.R. 12189. A bill to provide for the regulation by the U.S. Department of Agriculture of transactions in, and the movement of, biological control organisms in the United States so as to prevent and eliminate hazards to the agricultural community and to enhance the production of food and fiber, to the Committee on Agriculture.

By Mr. CHARLES H. WILSON of California (for himself and Mr. NIX):

H.R. 12190. A bill to amend the provisions of title 39, United States Code, relating to the mailing of solicitations disguised as invoices or statements of accounts; to the Commmittee on Post Office and Civil Service.

By Mr. YATRON:

H.R. 12191. A bill to amend the Railroad Retirement Act of 1974 to eliminate the reduction of Railroad Retirement annuities by amounts payable as social security benefits in cases of persons who had current connections with the railroad industry, had at least 5 years of service, and had attained the age of 65 as of the effective date of such act; to the Committee on Interstate and Foreign Commerce.

By Mr. YOUNG of Missouri (for himself, Mr. BURLISON of Missouri, Mr. GEPHARDT, Mr. ICHORD, Mr. VOLKMER and Mr. COLEMAN):

H.R. 12192. A bill to add mileage to the Interstate System for a route along a segment of Missouri Route 725; to the Committee on Public Works and Transportation.

By Mr. ANNUNZIO:

H.R. 12193. A bill to amend the Consumer Credit Protection Act to establish rights, remedies, and responsibilities for all participants in the utilization of electronic funds transfer services; and to protect consumers in the utilization of credit cards; and for other purposes; to the Committee on Banking, Finance, and Urban Affairs.

By Mr. BEDELL (for himself, Mr. BINGHAM, Mr. BONIOR, Mr. EDGAR, Mr. GIBBONS, Mr. LAGOMARSINO, Mr. LENT, Mr. PATTISON of New York, Mr. STARK, and Mr. CHARLES WILSON of TEXAS):

H.R. 12194. A bill to create a solar and renewable energy sources loan program within the Small Business Administration; to the Committee on Small Business.

By Mr. BIAGGI (for himself, Mr. ZEFERETTI, and Mr. MILLER of California):

H.R. 12195. A bill to amend the Rehabilitation Act of 1973 to improve the formula for State allotments under part B of that act, and for other purposes; to the Committee on Education and Labor.

By Mr. BROOKS:

H.R. 12196. A bill to provide for cost-of-living adjustments in the annuity of a retired Comptroller General and for other purposes; to the Committee on Government Operations.

By Mr. BUTLER (for himself, Mr. GAMMAGE, Mr. KILDEE, Mr. LEVITAS, Mr. MAGUIRE, Mr. RINALDO, and Mr. STANTON):

H.R. 12197. A bill to require the preparation of small business impact statements in connection with Federal agency rules, and for other purposes; to the Committee on Small Business.

By Mr. CEDERBERG:

H.R. 12198. A bill to amend the Tariff Schedules of the United States to provide a temporary suspension of the duty on polystyrene foam; to the Committee on Ways and Means.

By Mr. HARSHA:

H.R. 12199. A bill to regulate and restrict the use of fuel adjustment clauses by federally regulated, and State regulated, electric and gas utilities, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HOLLAND:

H.R. 12200. A bill to amend section 422 of the Internal Revenue Code of 1954; to the Committee on Ways and Means.

By Mr. HOLLAND (for himself, Mr. BROYHILL, Mr. DUNCAN of Tennessee, Mr. STUDDS, Mr. HEFNER, Mr. FLYNT, Mr. QUILLEN, Mr. JONES of Tennessee, Mr. JENKINS, Mr. ZEFERETTI, Mrs. LLOYD of Tennessee, Mr. DAVIS, Mr. BARNARD, Mr. BEARD of Rhode Island, Mr. BURKE of Massachusetts, Mr. DAN DANIEL, Mrs. HECKLER, Mr. BAFALIS, Mr. NICHOLS, Mr. YATRON, Mr. MCDADE, Mr. WAGGONNER, and Mr. VANDER JAGT):

H.R. 12201. A bill to amend the Trade Act of 1974; to the Committee on Ways and Means.

By Mr. JEFFORDS (for himself, Mr. BINGHAM, Mr. BONIOR, Mr. CORNELL, Mr. EDGAR, Mr. FORD of Michigan, Mr. GIBBONS, Mr. LENT, Mr. OTTINGER, Mr. PATTISON of New York, Mr. PRICE, Mr. RANGEL, and Mr. STARK):

H.R. 12202. A bill to authorize the Secretary of State to implement solar energy and other renewable energy projects in certain buildings owned by the United States in foreign countries; to the Committee on International Relations.

By Mr. JEFFORDS (for himself, Mr. BINGHAM, Mr. BONIOR, Mr. EDGAR, Mr. FORD of Michigan, Mr. GIBBONS, Mr. LENT, Mr. OTTINGER, Mr. PRICE, Mr. RANGEL, Mr. STARK, and Mr. VAN DEERLIN):

H.R. 12203. A bill to direct the Secretary of Commerce to carry out a global market survey with respect to American-made solar energy technology equipment; to the Committee on Interstate and Foreign Commerce.

By Mr. MCCLOSKEY:

H.R. 12204. A bill to abolish the Federal Maritime Commission; to the Committee on Merchant Marine and Fisheries.

By Mr. NOLAN:

H.R. 12205. A bill to amend the State and Local Fiscal Assistance Act of 1972 to exempt certain small governmental units from certain public hearing requirements; to the Committee on Government Operations.

By Mr. POAGE (for himself, Mr. MATHIS, Mr. MARLENEE, Mr. WHITEHURST, Mr. BAUCUS, Mr. FLOOD, Mr. BALDUS, Mr. MONTGOMERY, Mr. QUIE, Mrs. SMITH of Nebraska, Mr. ANDREWS of North Dakota, Mr. ROBERTS, Mr. VOLKMER, Mr. GOODLING, Mr. HALL, Mr. ALEXANDER, Mr. NOLAN, and Mr. MCCORMACK):

H.R. 12206. A bill to modify the method of determining quantitative limitations on the importation of certain articles of meat and meat products, to apply quantitative limitations on the importation of certain additional articles of meat, meat products, and livestock, and for other purposes; to the Committee on Ways and Means.

By Mr. ROONEY:

H.R. 12207. A bill to amend the Trade Act of 1974; to the Committee on Ways and Means.

By Mr. ST GERMAIN (by request):

H.R. 12208. A bill to strengthen the supervisory authority of Federal agencies which regulate depositary institutions, to prohibit interlocking management and director rela-

tionships between depositary institutions, to amend the Federal Deposit Insurance Act, to control the sale of insured financial institutions, to regulate the use of correspondent accounts, to establish a Bank Examination Council, and for other purposes; to the Committee on Banking, Finance, and Urban Affairs.

By Mrs. SPELLMAN:

H.R. 12209. A bill to promote the domestic recruiting of teachers for teaching positions in overseas dependents' schools of the Department of Defense, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 12210. A bill to amend title 5, United States Code, to provide special allowances to certain physicians employed by the United States in order to enhance the recruitment and retention of such physicians; to the Committee on Post Office and Civil Service.

H.R. 12211. A bill to amend title 5 of the United States Code to extend from 2 days to 4 days the number of days per 30 calendar days during which crews of vessels may be granted leaves of absence and to remove the restriction that such leaves of absence be applicable only to service on extended voyages; to the Committee on Post Office and Civil Service.

By Mrs. SPELLMAN (for herself, Mr. ANNUNZIO, Mr. AKAKA, Mr. MITCHELL of New York, Mr. EDWARDS of California, Mr. MCCORMACK, Mr. WHITEHURST, Mr. BEDELL, Mr. GUYER, Mr. MOTTL, Mr. MITCHELL of Maryland, Mr. EILBERG, Mr. MURPHY of Pennsylvania, Mr. OTTINGER, Mr. DOWNEY, Mr. CORMAN, Mrs. MEYNER, Mr. HARRINGTON, Mr. MARKEY, Mr. YOUNG of Alaska, Mr. GILMAN, Ms. MIKULSKI, Mr. RICHMOND, Mr. SOLARZ, and Mr. RYAN):

H.R. 12212. A bill to amend the Truth in Lending Act to require that contracts and agreements respecting credit transactions subject to the act be written in clear and understandable language; to the Committee on Banking, Finance and Urban Affairs.

By Mrs SPELLMAN (for herself, Mr. STARK, Mr. LIVINGSTON, Mr. FLOOD, Mr. THOMPSON, Mr. STOKES, Mr. PATTERSON of California, and Mrs. COLLINS of Illinois):

H.R. 12213. A bill to amend the Truth in Lending Act to require that contracts and agreements respecting credit transactions subject to the act be written in clear and understandable language; to the Committee on Banking, Finance and Urban Affairs.

By Mr. WHITEHURST (for himself and Mr. DORNAN):

H.R. 12214. A bill to amend the Internal Revenue Code of 1954 to provide tax-savings incentives for savings accounts established for the purpose of purchasing a home; to the Committee on Ways and Means.

By Mr. GREEN:

H.J. Res 855 Joint resolution extending the deadline for the ratification of the equal rights amendment; to the Committee on the Judiciary.

By Mr. MITCHELL of New York:

H.J. Res. 856. Joint resolution to declare June 4 through 10, 1978, to be National Neighborhood Week; to the Committee on Post Office and Civil Service.

H.J. Res. 857. Joint resolution to authorize and request the President to proclaim May 7 of each year as a National Day of Prayer; to the Committee on Post Office and Civil Service.

By Mr. RHODES (for himself, Mr. RINALDO, Mr. MCCLORY, Mr. MCDONALD, Mr. GOODLING, Mr. MURPHY of Pennsylvania, Mr. REGULA, Mr. MICHEL, Mr. LENT, Mr. HILLIS, Mr. WATKINS, Mr. KASTEN, Mr. NEAL, Mr. ROSE, Mr. HUGHES, Mr. QUIE, Mr. FORSYTHE, Mr. HUCKABY, and Mr. OBERSTAR):

H.J. Res. 858. Joint resolution to designate the week commencing with the third Monday in February of each year as "National Patriotism Week"; to the Committee on Post Office and Civil Service.

By Mr. BAUCUS:

H. Con. Res. 560. Concurrent resolution disapproving proposed regulations of the Department of the Treasury requiring centralized registration of firearms and other matters; to the Committee on Ways and Means.

By Mr. HAWKINS:

H. Con. Res. 561. Concurrent resolution authorizing the printing as a House document the folder "The United States Capitol"; to the Committee on House Administration.

By Mr. KEMP (for himself, Mr. GILMAN, and Mr. CAVANAUGH):

H. Con. Res. 562. Concurrent resolution urging the Canadian Government to reassess its policy of permitting the killing of newborn harp seals; to the Committee on International Relations.

By Mr. MITCHELL of Maryland (for himself, Mr. AUCOIN, Mr. BENJAMIN, Mrs. BURKE of California, Mrs. COLLINS of Illinois, Mr. CONTE, Mr. CONYERS, Mr. CORMAN, Mr. DELLUMS, Mr. DRINAN, Mr. EDWARDS of California, Mr. FLOOD, Mr. GARCIA, Mr. GREEN, Mr. HUGHES, Miss JORDAN, Ms. KEYS, Mr. LEDERER, Mr. MCHUGH, Mr. MARKEY, and Mr. MINETA):

H. Con. Res. 563. Concurrent resolution to provide special recognition in April 1978 to the National Fair Housing Law, title VIII of the 1968 Civil Rights Act; to the Committee on Post Office and Civil Service.

By Mr. MITCHELL of Maryland (for himself, Mr. OTTINGER, Mr. PANETTA, Mr. PATTERSON of California, Mr. RANGEL, and Mr. ROW):

H. Con. Res. 564. Concurrent resolution to provide special recognition in April 1978 to the National Fair Housing Law, title VIII of the 1968 Civil Rights Act; to the Committee on Post Office and Civil Service.

By Mr. GAYDOS:

H. Res. 1135. Resolution providing for the consideration of the bill H.R. 2777 to provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes; to the Committee on Rules.

By Mr. HAWKINS:

H. Res. 1136. Resolution providing for the printing of a booklet entitled "Duties of the Speaker"; to the Committee on House Administration.

By Mr. YOUNG of Florida:

H. Res. 1137. Resolution to reaffirm the use of our national motto on coins and currency; to the Committee on Banking, Finance and Urban Affairs.

H. Res. 1138. Resolution to reaffirm the use of the phrase, "Under God", in the Pledge of Allegiance to the Flag of the United States; to the Committee on Post Office and Civil Service.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of California:

H.R. 12215. A bill for the relief of Mrs. Bessie E. Baldwin; to the Committee on the Judiciary.

By Mr. HAMILTON:

H.R. 12216. A bill for the relief of Foundry United Methodist Church; to the Committee on Ways and Means.

By Mrs. SPELLMAN:

H.R. 12217. A bill for the relief of Dana D. Browdy; to the Committee on the Judiciary.

## AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1

By Mr. WIGGINS:

On page 13, strike lines 9–25 and on page 14 strike lines 1–5.

Insert on line 9:

"(C) The Comptroller General shall review each year, on a randomly selected basis, not less than 5 per centum of the reports filed in that year under section 4."

H.R. 8494

By Mr. GARY A. MYERS:

Page 39, insert the following after line 7:

(8) If any lobbying communication was made on the floor of the House of Representatives or adjoining rooms thereof, or on the floor of the Senate or adjoining rooms thereof, a statement that such lobbying communication was made.

By Mr. RAILSBACK:

At page 38, lines 24–25 and page 39, lines 1–2, strike existing subsection (6) and substitute the following new subsection (6):

"(6) a description of the issues concerning which the organization filing such report engaged in lobbying communications and upon which the organization spent a significant amount of its efforts, disclosing with respect to each issue any retainee or employee identified in paragraph (5) of this subsection and the chief executive officer, whether paid or unpaid, who engaged in lobbying communications on behalf of that organization on that issue. However, in the event an organization has engaged in lobbying communications on more than 15 issues, it shall be deemed to have complied with this subsection if it lists the 15 issues on which it is spent the greatest proportion of it efforts. For purposes of this paragraph the term "chief executive officer" means the individual with primary responsibility for directing the organization's overall policies and activities;"

On page 39, after line 7, add a new paragraph:

(c) The report covering the fourth quarter of each calendar year shall also include a separate schedule listing the name and address of each organization or individual from which the registered organization received an aggregate of $3,000 or more in dues or contributions during that calendar year and listing the amount given, where (i) the dues or contributions were expended in whole or in part by the registering organization for lobbying communications and solicitations and (ii) the total expenditures reported by the organization under section 6(b)(2) during the year preceding the year in which the registration is filed exceed 1 percent of the total annual income of the organization: *Provided*, That the organization may, if it so chooses, instead of listing the specific amount given, state the amount, in the following categories: (A) amounts equal to or exceeding $3,000, but less than $10,000; (B) amounts equal to or exceeding $10,000, but less than $25,000; (C) amounts equal to or exceeding $25,000, but less than $50,000; (D) amounts equal to or exceeding $50,000. *Provided further*, That any organization registered under this Act or any organization or individual whose contribution to a registered organization would otherwise be disclosed under this paragraph may apply for, and the Comptroller General may grant, a waiver of the reporting requirements contained in this paragraph upon a showing that disclosure of such information would violate the privacy of the contributor's religious beliefs or would

be reasonably likely to cause harassment, economic harm, or other undue hardship to the contributor."

By Mr. SANTINI:

Page 32, line 21, strike out "organization" and all that follows through "employees)," on page 33, line 5.

Page 33, line 6, insert the following after "individuals": ", except that the term "organization" does not include any organization of State or local elected or appointed officials, any Federal, State, or local unit of government (other than a State college or university as described in section 511(a)(2)(B) of the Internal Revenue Code of 1954), any Indian Tribe, any national or State political party or any organizational unit thereof, or any association comprised solely of Members of Congress or Members of Congress and congressional employees".

By Mr. WIGGINS:

On page 38, line 4, after the word "event" insert "to the reporting organization".

On page 38, line 21, after the word "expenditures" insert "for the purpose of engaging in the activities in section 3(a)".

By Mr. YOUNG of Florida:

On page 35, line 4, insert the following:

(3) An identification of any individual who has contributed $2,500 to the organization or an affiliate during any calendar year and who spends all or part of 13 days in any quarterly filing period engaged in lobbying activities described in section 3(a) on behalf of that organization.

On Page 39, after line 7, insert the following:

(8) A listing of the names of each Federal officer or employee whom such organization has sought to influence respecting any activities described in section 3(a).

On page 39, line 8, insert the following:

LIMITATIONS OF LOBBYING IN AREAS PROXIMATE TO THE HOUSE OR SENATE CHAMBERS

SEC. 7. (a) No person who is—

(1) an ex-Member of the House of Representatives or the Senate;

(2) a former Parliamentarian of the House or Senate; or

(3) a former elected officer or minority employee of the House or Senate,

shall, in violation of rule XXXII of the Rules of the House of Representatives, appear in the Hall of the House or adjacent rooms as a representative of an organization which is required to register under this Act during the consideration of a measure in which they have a direct interest.

H.R. 11504

By Mr. VOLKMER:

On page 24 of title II, insert in subsection (d) after "*Provided, however,*" the following: "that such limitation shall be reduced to the extent of the principal of any loans outstanding to the borrower under Title I of the Consolidated Farm and Rural Development Act: *Provided, further,*".

H.R. 11941

By Mr. WIGGINS:

Strike "candidates for Congress," in the title of H.R. 11941.

On page 2 lines 3–4 strike "and any individual who becomes a candidate in any election for the office of Member".

On page 2 lines 14–15 strike "other than an individual who becomes a candidate in any election for the office of Member,"

On page 2 strike line 25 and on page 3 strike lines 1–25.

On page 4 lines 1–2 strike "or an individual who is a candidate for the office of Member"

On page 14 strike lines 21–25 and on page 15 strike lines 1–6. On page 15 strike lines 14–17.

On page 15 line 7 redesignate 2 as 1 on line 9, 3 as 2, on line 18(5) as (3), on line 21(6) as (4), on line 23(7) as (5), and on page 16 line 10 redesignate (8) as (6), on line 11(9) as (7), on line 14(10) as (8), and on page 17 line 11 redesignate (11) as (9).

On page 6, line 5, after the word "than" insert "current employment income received".

On page 7, line 2, after the word "source" insert "(other than from the United States Government)".

On page 7, line 6, strike "$2,500" and insert "$5,000".

On page 7, lines 15–16, strike "any loan secured by an automobile" and insert "any loan secured by household furniture or appliances."

On page 8, line 2 after the word "year" insert ", excluding any deposit in a personal savings or checking account which bears interest."

On page 8, line 4, after the word "property" insert "which was used primarily for commercial or investment purposes," and on line 6 after the word "property" insert "which was used primarily for commercial purposes,".

On page 8, line 9, after "sale" strike all that follows through line 15.

On page 8, line 15, after the word "individual" insert the new paragraph:

"(8) The identity of all positions held as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, and any educational or other institution: Provided, that this paragraph shall not require the reporting of positions held in any religious, social, fraternal, charitable, or political entity."

On page 8, line 15, after "individual". insert:

"(9) A description of the date, parties, to, and terms of any agreement or arrangement with respect to: (A) future employment; (B) a leave of absence during the period of the reporting individual's Government service: (C) continuation of payments by a former employer other than the United States Government; and (D) continuing participation in an employee welfare or benefit plan maintained by a former employee."

On page 8 strike lines 21–25 and on page 9 strike 1–3. Insert in lieu thereof:

(1) not more than $2,500,

(2) greater than $2,500, but not more than $5,000,

(3) greater than $5,000, but not more than $10,000,

(4) greater than $10,000, but not more than $25,000,

(5) greater than $25,000.

On page 10, strike lines 16–25, and on page 11 strike 1–4.

On page 11, lines 16–17 strike the words "may be required" and insert in lieu thereof "shall be required".

On page 11, line 17, after the word "name" insert ", occupation,".

On page 11, line 17, strike the word "and".

On page 11, strike lines 16–24. On page 12, strike lines 1–3. On page 12, strike lines 7–14.

On page 12 strike lines 4–6 and insert:

"(d)(1) Any report filed under this title shall be available for public inspection for a period of five years, so long as the reporting individual remains in a position designated in section 2, after which the report shall be destroyed;

"(2) If the individual who filed the report is no longer within any position designated in section 2 and so notifies the office designated in section 6 holding his report, the report shall, one year after such notification, no longer be available for public inspection. Such report shall be retained by the office designated in section 6 for the remainder of the seven-year period after which it shall be destroyed;

"(3) If the individual specified in subsection d(2) returns to any position designated in section 2 during such seven-year period, his report shall again be made available for public inspection for the remainder of that seven-year period."

On page 12, line 7, strike "inspect,".

On page 12, line 8, strike "or".

On page 12, line 10, after the word "purpose" strike the semicolon, insert a comma and the language "other than by news and communications media for dissemination to the general public;".

On page 12, line 14, after the word "any" strike "political, charitable or other".

On page 12, line 14, after the word "purpose" strike the period, insert a comma and the language "other than for a political purpose."

On page 12, line 19, after "$5,000." insert the following new paragraph:

"(f) This section does not require public availability of information pertaining to the holdings and sources of income of a trust or other financial arrangement designed to insulate the reporting individual, his spouse, or dependent child from knowledge of the holdings and sources of income of such trust or arrangement if such trust or arrangement has been approved under regulations prescribed by the Civil Service Commission, with the concurrence of the Attorney General, as necessary to avoid potential or apparent conflicts of interest under section 208 of title 18, United States Code, and other applicable laws and regulations: *Provided*, That if reported, the instrument or agreement establishing the trust or arrangement and the identity and category of value of assets initially placed in the trust or arrangement shall be made available to the public under this section."

On page 13, line 8, after "reported" insert:

"(c) In order to carry out their responsibilities under this Act the Committee on Standards of Official Conduct of the House of Representatives, and the Select Committee on Ethics of the Senate, have power, within their respective jurisdictions, to render any advisory opinion, in writing, to persons covered by this title.

"Notwithstanding any other provisions of law, the individual to whom an advisory opinion is rendered in accordance with this paragraph, and any other individual covered by this title who is involved in a fact situation which is indistinguishable in all material aspects, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of such act, be subject to any sanction provided in this act."

On page 14, line 7, after "SEC. 8." strike all that follows through "(b)" on line 12.

On page 14 line 18 strike "$5,000" and insert in lieu thereof "$10,000".

H.R. 12050

By Mr. MIKVA:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tuition Tax Deferral Act of 1978".

SEC. 2. DEFERRAL OF INCOME TAX FOR CERTAIN TUITION.

(a) IN GENERAL.—Subchapter B of chapter 62 of the Internal Revenue Code of 1954 (relating to extensions of time for payment of tax) is amended by adding at the end thereof the following new section:

"SEC. 6168. EXTENSION OF TIME FOR PAYMENT OF TAX WHERE TAXPAYER HAS PAID CERTAIN TUITION.

"(a) EXTENSION PERMITTED.—In the case of an individual who pays tuition for the calendar year in which the taxable year begins to one or more eligible educational institutions for himself, his spouse, or any of

his dependents, such individual may elect to pay in installments part or all of so much of the tax imposed by chapter 1 for such taxable year as does not exceed such tuition.

"(b) DOLLAR LIMITATIONS—

"(1) PER YEAR.—The maximum dollar amount of tuition which is paid for any calendar year for any individual and which may be taken into account under subsection (a) shall not exceed the applicable amount determined under the following table:

| "In the case of a calendar year: | The applicable amount is: |
|---|---|
| Beginning after 1977 but before 1982 | $1,000 |
| Beginning after 1981 but before 1986 | 1,500 |
| Beginning after 1985 | 2,000 |

"(2) AGGREGATE AMOUNT.—The aggregate amount of tuition for any individual which may be taken into account under subsection (a) for all taxable years may not exceed $6,000.

"(c) DEFERRED INSTALLMENT PAYMENTS.—

"(1) IN GENERAL.—The amount of tax for any taxable year which a taxpayer elects to pay in installments under subsection (a) and which is attributable to tuition for any one individual shall be payable in 10 equal annual installments. The first such installment shall be paid on or before the 15th day of the 4th month of the first taxable year following the first taxable year (after the taxable year for which the taxpayer makes the election) during which the individual is not a full-time student. Any succeeding installment shall be paid on or before the date which is one year after the date prescribed by this paragraph for payment of the preceding installment.

"(2) INTEREST AT RATE OF 3 PERCENT.—Interest on any tax payable in installments under this section (including any deficiency prorated to installment payable under this section) shall be paid at a rate of 3 percent (in lieu of the rate specified by section 6601 (a)) for any period before the date such tax is required to be paid under this section. For purposes of section 6601(b)(1), any election to pay tax in installments under this section shall be treated as an extension of time for payment of such tax.

"(3) DETERMINATION OF UNDERPAYMENTS AND OVERPAYMENTS.—In determining the amount of any underpayment or overpayment for the taxable year, any amount payable in installments in subsequent taxable years by reason of this section shall not be treated as tax due for the taxable year.

"(d) TUITION PAYMENTS TAKEN INTO ACCOUNT.—

"(1) WHEN PAYMENTS MUST BE MADE AND EDUCATION FURNISHED.—Payments of tuition shall be treated as paid for any calendar year—

"(A) FOR 1978.—In the case of calendar 1978, if such payments—

"(i) are made on or after August 1, 1978, and before February 1, 1979, and

"(ii) are for education furnished on or after August 1, 1978, and before January 1, 1979, or

"(B) AFTER 1978.—In the case of calendar 1979 or any calendar year thereafter, if such payments—

"(i) are made during such calendar year or during the 1-month period before or the 1-month period after such year, and

"(ii) are for education furnished during such calendar year.

"(2) GRADUATE STUDENTS EXCLUDED.—

"(A) IN GENERAL.—Tuition attributable to a course of instruction which is not a general course of instruction shall not be taken into account under subsection (a).

"(B) GENERAL COURSE OF INSTRUCTION DEFINED.—For purposes of subparagraph (A) the term 'general course of instruction' means a course of instruction for which credit is allowable toward a baccalaureate or associate degree by an institution of higher education or toward a certificate of required course work at a postsecondary vocational school but does not include any course of instruction which is part of the graduate program of the individual.

"(3) INDIVIDUAL MUST BE FULL-TIME STUDENT.—

"(A) IN GENERAL.—Amounts paid for the education of an individual shall be taken into account under subsection (a) for any calendar year only if such individual is a full-time student for such calendar year.

"(B) FULL-TIME STUDENT DEFINED.—For purposes of this section, the term 'full-time student' means any individual who, during any 4 calendar months during the calendar year, is a full-time student at an eligible educational institution.

"(4) TUITION FOR FIRST YEAR EXCLUDED.—Tuition paid for any individual which is attributable to education furnished during the first year of a general course of instruction shall not be taken into account under subsection (a).

"(5) ELECTION.—Amounts paid for tuition for any individual for any calendar year may be taken into account by the taxpayer under subsection (a) only if (and only to the extent) the taxpayer elects to apply this section to such tuition.

"(e) TUITION DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'tuition' means tuition and fees required for the enrollment or attendance of a student at an eligible educational institution, including required fees for courses.

"(2) CERTAIN AMOUNTS NOT INCLUDED.—The term 'tuition' does not include any amount paid, directly or indirectly, for—

"(A) books, supplies, and equipment for courses of instruction, or

"(B) meals, lodging, transportation, or similar personal, living, or family expenses.

"(3) AMOUNTS NOT SEPARATELY STATED.—If an amount paid for tuition includes an amount for any item described in subparagraph (A) or (B) of paragraph (2) which is not separately stated, the portion of such amount which is attributable to such item shall be determined under regulations prescribed by the Secretary.

"(f) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means—

"(A) an institutfon of higher education, or

"(B) a postsecondary vocational school.

"(2) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution described in section 1201(a) or 491(b) of the Higher Education Act of 1965 (as in effect on January 1, 1978).

"(3) POSTSECONDARY VOCATIONAL SCHOOL.—The term 'postsecondary vocational school' means—

"(A) an area vocational education school as defined in subparagraph (C) or (D) of section 195(2) of the Vocational Education Act of 1963 (as in effect on January 1, 1978), which

"(B) is located in any State.

"(4) DEPENDENT.—The term 'dependent' has the meaning given to such term by section 152.

"(5) MARITAL STATUS.—The determination of marital status shall be made under section 143.

"(6) TAX IMPOSED BY CHAPTER 1.—The term 'tax imposed by chapter 1' means the tax imposed by chapter 1 reduced by the sum of credits allowable under subpart A of part IV of subchapter A of chapter 1 (other than the credits allowable under sections 31, 39, and 43).

"(g) SPECIAL RULES.—

"(1) TREATMENT OF CERTAIN SCHOLARSHIPS AND VETERANS' BENEFITS.—

"(A) IN GENERAL.—For purposes of this section, any amount received as a nontaxable scholarship or educational assistance allowance with respect to any individual—

"(i) shall reduce the limitation applicable to such individual under subsection (b)(1) for the calendar year in which such amount is received and

"(ii) shall be treated as used on a ratable basis for all expenses of the recipient for which such scholarship or allowance may be used, with the amount so used for tuition treated as an amount not paid by the taxpayer.

"(B) NONTAXABLE SCHOLARSHIP OR EDUCATIONAL ASSISTANCE ALLOWANCE DEFINED.—For purposes of subparagraph (A), the term 'nontaxable scholarship or educational assistance allowance' means—

"(i) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) or similar award which is not includible in gross income, and

"(ii) an educational assistance allowance under chapter 32, 34, or 35 of title 38, United States Code.

"(2) TAXPAYER WHO IS A DEPENDENT OF ANOTHER TAXPAYER.—Amounts paid for any calendar year for tuition for the taxpayer may not be taken into account under subsection (a) by such taxpayer if such taxpayer is a dependent of any other person for a taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

"(3) SPOUSE.—Amounts paid for any calendar year for tuition for the spouse of the taxpayer may not be taken into account under subsection (a) by such taxpayer unless—

"(A) the taxpayer is entitled to an exemption for his spouse under section 151(b) for the taxable year beginning in such calendar year, or

"(B) the taxpayer files a joint return with his spouse under section 6013 for such taxable year.

"(h) DENIAL OF PERSONAL EXEMPTION AND CERTAIN TAX DEDUCTION.—

"(1) DENIAL OF PERSONAL EXEMPTION.—If the taxpayer elects for any taxable year to take into account under subsection (a) tuition paid for any dependent, no exemption shall be allowed under section 151(e) to such taxpayer for such taxable year with respect to such dependent.

"(2) DENIAL OF DEDUCTION.—If any tuition is taken into account under subsection (a) by the taxpayer, no deduction shall be allowed under chapter 1 for such tuition.

"(i) Acceleration of Payments; Etc.—

"(1) ACCELERATION OF PAYMENTS.—If—

"(A) the taxpayer dies during the taxable year, or

"(B) any installment under this section is not paid on or before the date prescribed for its payment (including any extension of time for the payment of such installment),

the unpaid portion of the tax payable in installments under this section shall be paid on notice and demand from the Secretary. If the tax payable in installments under this section is attributable to any taxable year for which the taxpayer made a joint return under section 6013 with his spouse, subparagraph (A) shall not apply if the spouse survives the taxpayer.

"(2) PRORATION OF DEFICIENCY TO INSTALLMENTS.—If an election is made under subsection (a) to pay any part of the tax imposed by chapter 1 in installments and a deficiency has been assessed, the deficiency may (at the election of the taxpayer and subject to the limitations provided by this section) be prorated to the installments payable under subsection (a). The part of the deficiency so prorated to any installment the date of payment for which has not arrived shall be collected at the same time as, and as a part of, such installment. The part of

the deficiency so prorated to any installment the date for payment of which has arrived shall be paid upon notice and demand from the Secretary. This paragraph shall not apply if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intend to evade tax.

"(3) ELECTION.—Any election under this section shall be made at such time and in such manner as the Secretary may prescribe.

"(j) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section."

(b) SUSPENSION OF RUNNING OF PERIOD OF LIMITATIONS.—Section 6503 of such Code (relating to suspension of running of period of limitations) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) EXTENSION OF TIME FOR PAYMENT OF TAX WHERE TAXPAYER HAS PAID CERTAIN TUITION.—The running of the period of limitations for the collection of any tax payable in installments under section 6168 shall be suspended for the period during which there are any unpaid installments of such tax."

(c) DISREGARD OF EXTENSION OF TIME FOR PAYMENT OF TAX.—Any election by an individual to pay tax in installments under section 6168 of the Internal Revenue Code of 1954 shall not be taken into account for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program of educational assistance or under any State or local program of educational assistance financed in whole or in part with Federal funds.

(d) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 62 of such Code is amended by adding at the end thereof the following new item:

"Sec. 6168. Extension of time for payment of tax where taxpayer has paid certain tuition."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after August 1, 1978.

SEC. 3. STUDY

The Secretary of the Treasury or his delegate and the Secretary of Health, Education, and Welfare or his delegate shall each conduct a study of the operation and effects of section 6168 of the Internal Revenue Code of 1954 (as added by this Act), and prepare and transmit to the Congress, during the first quarter of calendar 1980 and during the first quarter of calendar 1982, a report containing the results of such study with respect to the period elapsing before such quarter during which such section 6168 was in effect. Each report transmitted to the Congress under the preceding sentence shall be published in the Federal Register.

Amend the title so as to read: "A bill to amend the Internal Revenue Code of 1954 to provide a deferral of income taxes where the taxpayer pays certain tuition."

# SENATE—*Tuesday, April 18, 1978*

*(Legislative day of Monday, February 6, 1978)*

The Senate met at 7:30 a.m., on the expiration of the recess, in executive session, and was called to order by Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota.

## PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, who in former times didst lead our fathers, we bow in Thy presence once more to offer ourselves—souls, minds, and bodies, in Thy service, knowing that when we first love Thee we best serve our country. Give us clean hands and pure hearts. Deliver us from sham and pretense and hypocrisy. Conquer our weariness. Refresh our spirits. Keep our motives pure, our purposes worthy of a great and good people. In these days which try men's souls may we submit ourselves to Thee, discern what is Thy will and do it. With Thy benediction upon us may we face what we must face this day with clear thinking, honest dealing, and the inner assurance we have done our best to do justly, love mercy and walk humbly with our God, in whose holy name we pray. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U. S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., April 18, 1978.*

*To the Senate:*

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair.

JAMES O. EASTLAND,
*President pro tempore.*

Mr. BURDICK thereupon assumed the chair as Acting President pro tempore.

## SPECIAL ORDERS

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may yield my 15 minutes under the order to Mr. DECONCINI.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask Mr. DECONCINI if he will yield a couple of minutes to me.

Mr. DECONCINI. Yes, I yield.

## THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, as in legislative session, the legislative Journal be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, there is one joint resolution on the calendar which, I understand, is cleared. I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 672.

Mr. BAKER. Mr. President, reserving the right to object, and I will not object, that item is cleared on our calendar, and we have no objection to proceeding to its consideration at this time.

## WHITE HOUSE CONFERENCES ON THE ARTS AND ON THE HUMANITIES

The joint resolution (H.J. Res. 649) to authorize the President to call a White House Conference on the Arts, and to authorize the President to call a White House Conference on the Humanities, was considered, ordered to a third reading, read the third time, and passed.

● Mr. HASKELL. Mr. President, today I am pleased to join with my colleagues in support of House Joint Resolution 649 which creates a White House Conference on the Arts and the Humanities.

The purpose of the Conference will be to develop recommendations relating to the appropriate growth of the arts and humanities in all parts of the Nation.

I am a representative from a part of this country that was once considered by inhabitants east of St. Louis to be a barren outpost for those seeking cultural endeavors.

Opera houses and repertory theaters born in western gold rush towns and frontier farming communities were not always recognized as significant contributors to America's budding cultural and artistic reputation.

Today we all recognize the strength and variety of our artistic accomplishments and resources throughout the Nation. Colorado is particularly grateful for the Federal assistance we have received in recent years for a broad spectrum of artistic activities. Federal funds have assisted us in the continuation of our cultural traditions as well as in the initiation of new artistic expressions. Coloradans may enjoy activities ranging from mountain arts and crafts fairs to the superior Denver symphony now at home in the new and architecturally innovative Boettcher Concert Hall in downtown Denver.

House Joint Resolution 649 provides for State conferences from which delegates will be sent with their recommendations to the National Conference.

Colorado will be proud to host such a conference and will endeavor to explore and examine meaningful ways to support and develop the arts and the humanities throughout the Nation.●

Mr. KENNEDY. Mr. President, today we are considering a resolution which

calls for separate White House Conferences on the Arts and Humanities. As a member of the Senate Subcommittee on Education, Arts and Humanities, I am especially pleased to lend my support to this measure.

In recent years, public interest in the arts has grown at a tremendous rate. In communities all over the country, audiences and arts groups have increased dramatically, demonstrating vividly that the arts are no longer supported only by a small elite, but by a broad, cross section of enthused Americans. Unfortunately, however, available financial and moral support have not always been sufficient to help that interest thrive.

We long ago recognized that if the arts are to flourish in our society, the active support and participation of our Federal, State, and local governments are necessary. The White House conferences we are considering today will help define what public role should be developed to deal with the Nation's cultural issues. The Conferences will focus public attention on what supportive action—in both the public and private sector—is necessary and appropriate, by serving as forums where priorities in cultural policy can be examined and from which new recommendations and fresh insights can emerge. Of particular importance, the resolution before us today calls for preliminary State conferences which will assure the nationwide and diverse participation of those concerned with the arts and humanities—artists, community cultural groups, educators, local arts administrators, and other interested individuals.

President Kennedy said:

If we can make our country one of the great schools of civilization . . . then on that achievement will surely rest our claim to the ultimate gratitude of mankind . . . I am certain that, after the dust of centuries has passed over our cities, we will be remembered not for our victories or defeats in battle or politics, but for our contributions to the human spirit.

The White House Conference on the Arts and Humanities will demonstrate the importance our Nation places on its cultural life and I urge my colleagues to give it their support.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-736), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE LEGISLATION

House Joint Resolution 649, as amended, calls upon the President to convene a White House Conference on the Arts and a White House Conference on the Humanities both to be held in 1979.

The President would appoint a National Conference Planning Council for each of the White House Conferences. The task of the two Councils would be to direct the planning of the two Conferences.

Each Department and agency of the Federal Government shall provide such cooperation and assistance to the Councils, including the assignment of personnel, as may be necessary.

Grants may be made to each State, upon application, to assist the State in the cost of conducting the Conferences within the State. In order to receive a grant, however, the State must assure broad and maximum public participation.

The Councils will submit reports on the Conference to the President and to Congress no later that 180 days following the dates on which the final Conferences, to be held in Washington, D.C., are called. The reports will include recommendations for any legislative actions necessary to implement the recommendations in the reports.

BACKGROUND

The National Foundation on the Arts and the Humanities Act established, in 1965, the National Endowment for the Arts and the National Endowment for the Humanities to encourage and support cultural activities in the United States. Since that time Federal assistance for the arts and the humanities through these two agencies has grown considerably. During their first year, the Endowments each received an appropriation of $2.5 million to carry out their programs. Now in their 13th year, the Arts Endowment is funded at $123.5 million (appropriations for fiscal year 1978) and the Humanities Endowment has a funding level of $121 million (appropriations for fiscal year 1978).

While Federal support for the arts and the humanities has expanded, public interest in and enthusiasm for cultural programs have risen. Witnesses testifying on the legislation under consideration spoke of the growth in audiences at plays and concerts, the extension of informal education programs at libraries and universities and the increased numbers of Americans visiting museums as examples of the expanding interest in cultural activities in the United States.

During its hearings, the committee noted that in addition to support from the National Endowment for the Arts and the Humanities, assistance was also provided for the arts and humanities from programs of other Federal such as those of the Office of Education, the Art in Architecture program of the General Services Administration, the activities of the Institute of Museum Services, and others.

The effect of this support is considerable; however, the committee found that there are many issues concerning the future of the arts and the humanities in American life that remain to be discussed and analyzed. A White House Conference on the Arts and a White House Conference on the Humanities should, the committee believes, give concerned individuals the opportunity to exchange ideas about and propose approaches to dealing with these issues.

## TREATY BETWEEN THE UNITED STATES AND THE REPUBLIC OF BOLIVIA—REMOVAL OF INJUNCTION OF SECRECY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the injunction of secrecy be removed from the Treaty between the United States of America and the Republic of Bolivia on the Execution of Penal Sentences which was signed at La Paz on February 10, 1978 (Executive G, 95th Congress, second session), transmitted to the Senate by the President on Friday, April 14, 1978; and ask that the treaty be considered as having been read the first time, that it be referred to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The message from the President is as follows:

*To the Senate of the United States:*

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty between the United States of America and Bolivia on the Execution of Penal Sentences which was signed at La Paz on February 10, 1978.

I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty would permit citizens of either nation who had been convicted in the courts of the other country to serve their sentences in their home country; in each case the consent of the offender as well as the approval of the authorities of the two Governments would be required.

This Treaty is significant because it represents an attempt to resolve a situation which has inflicted substantial hardships on a number of citizens of each country and has caused concern to both Governments. The Treaty is similar to those with Mexico and Canada, to which the Senate gave advice and consent last year. I recommend that the Senate give favorable consideration to this Treaty at an early date.

JIMMY CARTER.

THE WHITE HOUSE, *April 14, 1978.*

## THE PANAMA CANAL TREATY

Mr. ROBERT C. BYRD. Mr. President, the final hour of debate on the Resolution of Ratification for approval of the treaties will begin at 5 p.m. today.

UNANIMOUS-CONSENT AGREEMENT

Mr. President, I ask unanimous consent that if there is any time prior to 5 o'clock that is available for debate, in other words, if time has been saved prior to that time, prior to the hour of 5, so that a few minutes exist, in addition to the 1 hour, that those minutes be equally divided and placed under the control of Mr. LAXALT and Mr. SARBANES.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, has the final hour of debate today, which will run between 5 and 6 o'clock, been divided, and, if so, how?

The ACTING PRESIDENT pro tempore. The first 15 minutes are allotted to the proponents of the treaty, the next 30 minutes are allotted to the opponents, and the final 15 minutes to the proponents.

Mr. ROBERT C. BYRD. I thank the Chair and I thank the distinguished Senator for yielding to me.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Arizona (Mr. DECONCINI) is recognized, as in legislative session, for not to exceed 30 minutes.

Mr. ROBERT C. BYRD. Mr. President, I have taken 2 minutes of the Senator's time, but I yielded him 15 minutes in the beginning.

## CLARIFICATION OF AN ASPECT OF SENATE DEBATE ON PANAMA CANAL TREATIES

Mr. DECONCINI. Mr. President, I ask this Chamber's indulgence for a few moments to help clarify an aspect of the Senate debate on the Panama Canal treaties that has become, in my view, extremely distorted.

An amazing amount of controversy has surrounded the language I asked the Senate to add to the resolution of ratification on the Neutrality Treaty. The language, which has become known as the DeConcini amendment, is meant to clarify certain rights that the United States retains under the new arrangement that will govern the Panama Canal.

What puzzles me, Mr. President, is that suddenly the public debate has focused on whether it is appropriate for the United States to retain the right to keep the canal open regardless of the reasons that may lead to its closure. Frankly, I believed that there was no disagreement in principle on this point. I believed that it was accepted by the Panamanians, that it was accepted by the administration, and that it was accepted by the Foreign Relations Committee and the Senate leadership. It has come as quite a shock to me that this is apparently not the case.

Let me be more specific, Mr. President. On February 3, the Senate Foreign Relations Committee ordered its report on the Panama Canal treaties to be printed and distributed to Members of the Senate to aid them in their consideration of the treaties. Since only Senator GRIFFIN dissented from the report and appended minority views, I must assume—as I believe all of us assumed—that the rest of the Foreign Relations Committee agreed with the report.

As it turns out, Mr. President, a number of Senators who are fairly senior members of that committee have publicly raised serious questions about the principle behind the DeConcini amendment. The reason why this is perplexing, Mr. President, is that the Senate Foreign Relations Committee report on the treaties endorsed that principle.

On page 6 of the "star print," the committee begins its discussion of the so-called leadership amendments to the treaty. After stating that the committee recommended the adoption of the "leadership amendments," it goes into a statement of the intention behind those amendments.

The report states:

> The meaning of these amendments is plain. The first amendment relates to the right of the United States to defend the Canal . . . It allows the United States to introduce its armed forces into Panama whenever and however the Canal is threatened. Whether such a threat exists is for the United States to determine on its own in accordance with its constitutional processes. What steps are necessary to defend the Canal is for the United States to determine on its own in accordance with its constitutional processes. When such steps shall be taken is for the United States to determine on its own in accordance with its constitutional processes. The United States has the right to act as it deems proper against *any* threat to the canal, internal or external, domestic or foreign, military or non-military. Those rights enter into force on the effective date of the treaty. They do not terminate.

How much plainer could the report of the Foreign Relations Committee be? One thing is certain, however. The Foreign Relations Committee—and, again, I assume that includes all its members save Senator GRIFFIN—asserts broader rights than were asserted in the DeConcini amendment. In other words, the Foreign Relations Committee report goes beyond the rights asserted by my simple clarification.

Perhaps, it could be argued that these rights asserted by the Foreign Relations Committee are partially eliminated by the second paragraph of the "leadership amendment" which reasserts the American intention not to intervene in the internal affairs of Panama. Here again, the Foreign Relations Committee report makes it clear that such is not the case. Referring to the paragraph I just quoted, the report says:

> The above-described rights are not affected by the second paragraph of the amendment, which provides that the United States has no 'right of intervention . . . in the internal affairs of Panama,' and which prohibits the United States from acting 'against the territorial integrity or political independence of Panama.'

The report goes on to be more specific. It states that:

> The prohibitions set forth in the second paragraph do not derogate from the rights conferred in the first.

It then asserts that:

> Even if a conflict were somehow to arise between the two paragraphs, because the United States has the right to act against "any . . . threat directed against the Canal", there is no question that the first would prevail. The rights conferred therein are stated in absolute terms and must therefore be construed as controlling.

It is interesting, Mr. President, that the principle endorsed by the Foreign Relations Committee is now being called into question. The impression in some segments of the media is that these American rights are novel inventions of the DeConcini amendment.

Quite frankly, although I am flattered by the attention of the media during the last few days, I believe it is quite unwarranted. What I proposed in the DeConcini amendment was merely a clarification of the principle articulated by the Foreign Relations Committee. It was my feeling—and the feeling of a number of my colleagues—that the "leadership amendment" was not sufficiently clear. Regardless of what the intent of the amendment was, the actual words seemed to be subject to a variety of interpretations. Because it was merely a clarification and not a change in American policy—policy apparently agreed to, according to the Foreign Relations Committee report, by the Panamanians themselves—none of the parties involved, including the administration or the Senate leadership had much difficulty accepting my amendment to the instrument of ratification.

It was only after the amendment was accepted overwhelmingly by the Senate that the controversy arose. Reports from Panama have indicated that the amendment ran counter to the meaning and intent of the treaty, and the Panamanian Goverment took the unusual step of circulating a note among the members of the United Nations implying that the rights asserted by the DeConcini amendment were possibly outside the scope of the United Nations Charter.

In response to the Panamanian reaction, the administration, the Senate leadership, and individual members of the Foreign Relations Committee have suggested that it is imperative that the DeConcini amendment be somehow moderated or modfied, or the treaty would either become unacceptable to the Panamanians or to certain members of the Senate who do not want to be associated with the notion that the United States has the right to act independently to keep the canal open.

It seems to me, Mr. President, that the only truly legitimate area of debate is whether the wording of the DeConcini amendment is or is not necessary to achieve the objectives described by the Foreign Relations Committee and which I have extensively quoted. It seems to me that those objectives are not in question. The American people and the majority of Senators believe that we have those rights and that they are both legitimate and sanctioned by the Panamanian Government. It is unfortunate that so much time has been expended debating an issue which should not be in contention.

Let me, Mr. President, restate my concerns. What led me to introduce—and what I believe led the Senate to accept—my reservation was a sense that the "leadership amendment" was somewhat unclear on a number of points, most especially those relating to American rights to keep the canal open if the threat to it were internal rather than external. Now, it should be noted, once again, that this right is asserted by the Foreign Relations Committee as inherent in the leadership amendment, and is endorsed by them. Thus, the question is whether the actual treaty and amendment language makes this right sufficiently clear.

At the time that I introduced my amendment, I made the following statement:

> I believe I speak for all Senators in stating that it is not our expectation that this change gives to the United States the right to interfere in the sovereign affairs of Panama. The United States will continue to respect the territorial integrity of that Nation. My amendment to the resolution of ratification is precautionary only; and it is based on the long history of American stewardship of the canal. It recognizes the very special relationship that the Panama Canal has to American security. I certainly hope, Mr. President, that if this right is attached to the treaty it will never need to be exercised. Yes, it is important that the American people know that should the need arise, the United States has sufficient legal sanction to act.

Those, Mr. President, were my words at the time the amendment was introduced and acted upon. They continue to be my sentiments today. Furthermore, I know there is nothing in my reservation that goes beyond the words of the Foreign Relations Committee, and I believe those words reflect the intent of the Congress. My only quarrel today as well as in the past has been what I perceive as

ambiguity in the drafting of the leadership amendment. The Foreign Relations Committee report believes that the leadership amendment accomplishes the stated objectives; I do not. However, I assert no new right, but neither will I accept any changes in those words that derogate from the rights we have clearly established in our action on the Neutrality Treaty.

I thank the Chair, I yield back the remainder of my time, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## ORDER FOR RECOGNITION OF CERTAIN SENATORS ON TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow Mr. JAVITS, Mr. PERCY, Mr. STAFFORD, and Mr. MATHIAS each be recognized for not to exceed 15 minutes following the prayer.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, that will be after the recognition of Mr. MORGAN, for whom an order has already been entered for tomorrow.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

## CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, without prejudice to the orders for Senators to be recognized.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the Senator from Indiana (Mr. LUGAR) is recognized for not to exceed 15 minutes.

## S. 2931—URBAN HOMESTEADING LEGISLATION

Mr. LUGAR. Mr. President, strong neighborhoods, conservation of urban housing stock, pride of homeownership, improved Federal-local relationships are among the goals of many Americans who are seeking strong alternative policies for our cities.

One alternative comes from the success of a HUD experiment, the urban homesteading program. This program, which has encouraged ongoing, self-help housing programs, has enjoyed a 3-year history of success. It provides an inexpensive, lasting method for restoring housing stock and improving blighted neighborhoods and engendering a pioneer spirit among individual homesteaders with the opportunity for homeownership.

In urging the expansion of the urban homesteading program, I seek to boost a program that I know from personal experience is practical and successful. As mayor of Indianapolis, I initiated an urban homesteading program. The Indianapolis program chose three neighborhoods: Forest Manor, Brookside, and Fountain Square. Each of the neighborhoods were good neighborhoods weakened by housing abandonment. The city of Indianapolis recognized the strength of those neighborhoods and was able to use the urban homesteading program to attack successfully the abandonment problem.

The program in Indianapolis has worked well, but it can work better. It needs to be expanded. It needs to have a more certain source of rehabilitation funds, and it needs to include properties that are not owned by HUD. S. 2931 addresses all of those problems and provides attractive incentives for cities of all sizes to participate in the urban homesteading program.

The Nation's cities need homeowners establishing roots in neighborhoods. This has become increasingly difficult as median home prices have risen above $54,000. Housing prices have risen twice as fast as incomes. Low- and middle-income families have diminishing hopes for buying houses in today's market. Young families find it difficult, if not impossible, to accumulate enough savings for downpayments and "point" requirements.

Urban homesteading offers an opportunity for young, lower income families to purchase homes. The experience so far has shown that the average homesteader is young, 33.5 years old, and has an income significantly below that of the typical homebuyer. Homesteader incomes averaged $12,300 for the 23 demonstration cities.

Homeownership is an important ingredient for healthy neighborhoods and the urban homesteading program has been able to provide that homeownership. It has provided renovation and stability in deteriorating neighborhoods. Sound concept and effective administration have led to the success of the urban homesteading program. Nevertheless, there still are difficult problems to be resolved if this helpful program is to be expanded and enhanced.

The urban homesteading program can and should be expanded. There is enthusiasm across the Nation for the program. Currently 39 cities participate in the HUD program, but another 61 have applied for participation or have begun the application procedure. Many of these cities run non-HUD urban homestead programs, but have only been able to establish small, limited programs due to difficult obstacles facing implementation.

Not only is there institutional support from the cities for the program, but thousands of individuals have shown their support. When the first demonstration cities advertised for urban homesteaders, the cities received over 22,000 applications for 881 properties. In city after city there is growing enthusiasm for this program that has shown success with problems that have sometimes seemed intractable.

The urban homestead program as currently administered transfers abandoned houses acquired by HUD through foreclosures to local governments. The local government locates families who are willing to rehabilitate the abandoned houses and to live in the houses for at least 3 years. These homesteaders receive the houses for as little as one dollar and are responsible for the rehabilitation and the cost of the rehabilitation.

Mr. President, today I, along with Senators BROOKE, GRIFFIN, HEINZ, and GARN introduce S. 2931 to help solve some of the very difficult problems that have confronted urban homesteaders and the cities that have utilized this program.

This bill will expand the present program to include Veterans' Administration foreclosures, city-owned foreclosures, and predictable levels of funding for rehabilitation and administration.

This expansion is vital if we are to capitalize upon the success of this program and to make this a significant housing program nationwide.

As of January 1978, HUD and VA had inventories of over 20,000 houses suitable for homesteading. S. 2931 would provide funds for 3,500 HUD and VA transfers per year. By increasing the funding under this section from an average of $5,000 per property to $7,500 per property, more of this bulging inventory of abandoned housing can be renovated economically.

Administrative costs for urban homestead programs can be a problem for already strained city budgets. Successful programs demand close attention to every aspect of home renovation and financing. Participating cities have had to utilize their already overburdened community development entitlements to finance these costs. This bill provides grants of up to $60,000 per year per city to spur the establishment of more than 100 new programs in cities across the country.

As important as the HUD and VA properties are to the homestead program, the most important abandonments are those that could be or have been acquired already by city tax foreclosures. There are more than 300,000 abandoned houses that could be converted to safe and sound housing for low- and moderate-income families. There are many obstacles to the successful renovation of these houses, but cities have shown remarkable creativity and diligence in overcoming these obstacles. To aid cities in acquiring those properties and to avoid undue loss of tax revenues, S. 2931 will pay back taxes and other legitimate liens on properties ac-

quired for homesteading. Payments up to $5,000 per property could be paid after proper certification has been made to HUD.

Finally, this bill addresses the most important obstacle confronting urban homesteading programs—predictable, adequate rehabilitation funding. Such funds are essential to a successful program. S. 2931 provides $148 million of additional section 312 loan authority which is to be used to provide an $8,000 reservation for each urban homestead.

This reservation of rehabilitation funds provides a linkage between the successful urban homesteading program and the successful section 312 loan program. Since 1964, the section 312 loan program has provided $450 million in loans for rehabilitation of housing in blighted neighborhoods. Loans have been initiated, not grants, for rehabilitation, and these loans have been repaid on a sound basis. Out of the $450 million of outstanding loans, HUD has declared only $128,000 worth of the loans as uncollectable, only $128,000 in bad loans in spite of HUD's admission that little has been done to service the loans or to insure repayment.

Under this new legislation, a city would establish an urban homestead program. If it transferred 20 houses in the first year, it would be entitled to $160,000 in section 312 funds. As an incentive to arrange private sector funding, cities could transfer their reserved funds to other suitable section 312 purposes on a dollar-for-dollar basis. For instance, if an urban homestead house needed $8,000 worth of repairs and the city was able to locate $4,000 in private loans, then the city could utilize $4,000 of the section 312 loan reservation for another urban homestead unit or for a regular section 312 loan. Predictable financing encourages urban homesteading. Permitting the transfer of the section 312 loan reservation encourages private financing of inner city rehabilitation.

The cumulative effect of this bill will be to expand the urban homesteading program from a budget request level of less than 2,000 units per year of HUD-owned transfers to 18,500 units per year of HUD, VA, and city-owned properties. The program will expand from participation by 39 cities currently to participation by 150 cities.

This bill is important for the Nation, for the cities, and for individual families. As housing costs continue to rise, individual initiative will grow in importance as families search for alternatives to suburban tract houses which they cannot afford. The best Federal housing policy will be one which encourages this individual initiative for prospective homeowners to do much of their own construction and renovation in cities.

The Federal Government does not have the resources or the ability to solve the Nation's housing problems on its own. One of its best roles will be to facilitate housing development and rehabilitation by individuals taking pride in homeownership of houses that would otherwise be abandoned and would contribute to a loss of hope in cities.

Mr. President, I ask unanimous consent that a list of cities currently participating in the urban homestead program be printed in the RECORD following these remarks; and, second, that a list of cities which have applied or expressed interest in participating in the urban homestead program be printed in the RECORD following these remarks.

There being no objection, the lists were ordered to be printed in the RECORD, as follows:

CITIES CURRENTLY PARTICIPATING IN THE URBAN HOMESTEAD PROGRAM

Phoenix, Ariz., Compton, Calif., Los Angeles, Calif., Oakland, Calif., Wilmington, Del., Atlanta, Ga., Decatur, Ga., Chicago, Ill., East St. Louis, Ill., Joliet, Ill., Rockford, Ill., Gary, Ind., Indianapolis, Ind. and South Bend, Ind.

Baltimore, Md., Boston, Mass., Springfield, Mass., Minneapolis, Minn., Kansas City, Mo., St. Louis, Mo., Omaha, Nebr., Jersey City, N.J., Newark, N.J. and Plainfield, N.J.

Freeport, N.Y., Hempstead, N.Y., Islip, N.Y., Nassau County, N.Y., New York, N.Y., Rochester, N.Y., Cincinnati, Ohio, Cleveland, Ohio, Columbus, Ohio, Dayton, Ohio, Toledo, Ohio, Philadelphia, Pa., Dallas, Tex., Tacoma, Wash., and Milwaukee, Wis.

CITIES WHICH APPLIED FOR OR EXPRESSED INTEREST IN PARTICIPATING IN THE URBAN HOMESTEAD PROGRAM

Lafayette, La., Buffalo, N.Y., Youngstown, Ohio, Inkster, Mich., Cordele, Ga., Memphis, Tenn., Grand Rapids, Mich., Louisville, Ky., Washington, D.C., Huntington, N.Y., Waco, Tex., Chattanooga, Tenn., Pontiac, Mich., Romulus, Mich., Columbia, Mo., Stockton, Calif., Houston, Tex., Fort Wayne, Ind., Las Vegas, Nev., New Haven, Conn., Camden, N.J., St. Paul, Minn., Flint, Mich., Menlo Park, Ga., Ft. Worth, Tex., Muskegon, Mich., Riverside, Calif., Pomona, Calif., Brunswick, Ga., Ann Arbor, Mich., Saginaw, Mich., Waukegon, Ill., and East Chicago Heights, Ill.

King County, Wash., Detroit, Mich., Tampa, Fla., Orlando, Fla., Clearwater, Fla., St. Petersburg, Fla., Orange County, Fla., Sanford County, Fla., Augusta, Ga., Columbus, Ga., Ft. Lauderdale, Fla., Pittsburgh, Pa., Harrisburg, Pa., Chester, Pa., Lancaster, Pa., Reading, Pa., Los Angeles County, Calif., Hartford, Conn., Bridgeport, Conn., Portland, Oreg., Seattle, Wash., Inglewod, Calif., New Brunswick, N.J., Brown County, Ohio, Ironton County, Lorain, Ohio, Euclid, Ohio, and Cuyahoga County, Ohio.

Mr. LUGAR. Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2931

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 810 of the Housing and Urban Development Act of 1974 is amended—

(1) by redesignating subsection (g) as subsection (j)); and

(2) by inserting after subsection (f) the following:

"(g) The Secretary is authorized to make a grant of not to exceed $60,000 to each unit of general local government, State, or designating agency participating in the urban homesteading program under this section to cover administrative costs incurred by that unit of general local government, State, or designated agency in carrying out its urban homesteading program.

"(h) The Secretary is authorized to make grants to facilitate the homesteading of properties acquired by communities as a result of abandonment, tax foreclosure, or otherwise. The amount of any grant under this subsection to any unit of general local government, State, or designated agency for any fiscal year shall not exceed the product of $5,000 and the number of properties described in the preceding sentence which are made available to the urban homesteading program during that year. The aggregate amount of grants under this subsection shall not exceed $75,000,000.

"(i) The Secretary is authorized to acquire from the Administrator of Veterans' Affairs title to any property held by the Administrator which is suitable for inclusion in the urban homesteading program, and to reimburse the Administrator in an amount to be agreed upon by the Administrator and the Secretary for each such property.".

(b) Subsection (j) of such section, as redesignated, is amended by adding at the end thereof the following: "In addition, to carry out subsections (g) and (h), there are authorized to be appropriated not to exceed $110,000,000 for fiscal year 1979.".

SEC. 2. Section 312(d) of the Housing Act of 1964 is amended by adding at the end thereof the following: "In addition, there are authorized to be appropriated for fiscal year 1979 not to exceed $148,000,000, which shall be available solely for loans of $8,000 for each property conveyed in connection with an urban homesteading program under section 810 of the Housing and Community Development Act of 1974. Any amount available to a unit of general local government, State, or designated agency under the preceding sentence but not used for such purpose shall be available for not to exceed one year for the rehabilitation of other properties in accordance with this section.".

Mr. GRIFFIN. Mr. President, today I join with Senators LUGAR, BROOKE, and HEINZ in introducing the Urban Homesteading Act Amendments of 1978—a measure designed to expand opportunities for homeownership now denied to many thousands of Americans.

It was 29 years ago that Congress first set forth the national housing goal of "a decent home in a suitable living environment for every American family."

In reality, of course, no act of Congress was required to establish such a goal—because the aspiration for a better place to live is deeply engrained in the American character.

A vital part of that goal and aspiration is the dream of homeownership. It is a dream which has now become a reality for two-thirds of all American families.

But for many families among the other third—those who aspire to homeownership but have been unable to afford or achieve it—having a place of their own remains at best a distant dream.

And the dream becomes more distant year by year as the costs of homeownership continue to climb at alarming rates:

The median price of all new homes sold in the last quarter of 1977 reached $51,600, up 13.4 percent in just 1 year.

The median price of existing homes sold in the same period was $44,340, an increase of 14.1 percent from the previous year.

Home values in major metropolitan areas have been increasing almost twice as fast as the incomes of their owners.

The startling conclusion is that most people who now own their own homes could not afford to buy them at today's prices. And too many of the families who are on the outside looking in, face staggering obstacles in achieving homeownership.

Paradoxically, however, even as the costs of homeownership continue to climb, our Nation faces a severe problem of deterioration and abandonment in its housing stock:

Nationwide, it is estimated that over 300,000 homes stand vacant and abandoned.

The U.S. Department of Housing and Urban Development, now the Nation's largest landlord, owns over 28,000 abandoned properties.

Almost 6,000 of these properties are located in my own State of Michigan.

In the city of Detroit alone—not counting empty lots or homes scheduled to be demolished—HUD owns approximately 2,000 dwellings that are vacant and barricaded.

In 1974, drawing on the experience of a number of forward-looking local governments which had initiated programs of their own, Congress established a nationwide urban homesteading demonstration program.

The demonstration program as currently administered works like this:

HUD transfers abandoned houses from its inventory to selected participating cities.

The local government then locates families who are willing to "homestead" the abandoned houses, rehabilitate them, and live in them for at least 3 years.

These homesteaders receive the houses for as little as $1 and are responsible for the work and the cost of rehabilitation.

The local government provides technical assistance and essential city services to the homesteaders, many of whom have undertaken the rehabilitation work themselves in the time-honored tradition of "sweat equity."

The urban homesteading demonstration program, although limited at present to only 39 cities, has compiled a 3-year record of remarkable success.

It has provided an inexpensive, lasting method for restoring housing stock and improving blighted neighborhoods. And it has tapped and encouraged a pioneering spirit of self-help among the individual homesteaders to whom it has provided a long-awaited opportunity for homeownership.

Urban homesteading has offered an especially attractive opportunity for young, low- and moderate-income families to own their own homes. The average homesteader is young—33.5 years old—and his average income of $12,300 is significantly below that of most home buyers.

The current urban homesteading program, because it was designated as a demonstration, has been relatively small and limited in scope. Yet if there is one chief complaint about the demonstration, it is that it has not been large enough to meet the demand for the opportunities it offers.

Beyond the 39 cities now participating, another 61 have applied or are applying. In fact, in my own State, none of the nine cities that have sought to participate in the demonstration program—including Detroit, with the Nation's largest inventory of HUD-owned properties—have been chosen.

And when the first demonstration cities advertised for urban homesteaders, the cities were flooded with over 22,000 individual applications for the total of 881 properties that were available.

Based on its success and popularity to date, the urban homesteading program is ripe for expansion. That is the purpose of the bill we introduce today.

The bill, S. 2931, would permit expansion of the present program from 39 cities to as many as 150 cities.

It would allow the transfer of 18,500 homes to homesteaders each year instead of just 2,000, by bringing into the program not only HUD-owned properties but also units owned by the Veterans' Administration and city government.

And to raise the quality of federally owned houses to be transferred to homesteaders under the program, the bill contemplates payments to the insurance reserve fund of $7,500 per property transferred, rather than the present $5,000.

The bill also would make it easier and more attractive for more cities to develop meaningful urban homesteading programs.

For example, administrative costs for homesteading programs can be a problem for already strained city budgets. Successful programs demand close attention to every aspect of home renovation and financing. Participating cities have had to utilize their already overburdened community development entitlements to finance these costs. Accordingly, this bill would provide grants of up to $60,000 per year per city to defray administrative costs.

As important as the HUD and VA properties are to the urban homesteading program, by far the greatest bulk of the Nation's 300,000-plus abandonments are those that could be or have been acquired by city tax foreclosures. To aid cities in acquiring such properties and to avoid undue loss of tax revenues, S. 2931 would provide for payment of back taxes and other legitimate liens on properties acquired for homesteading. Payments up to $5,000 per property could be made after proper certification has been made to HUD.

Finally, this bill addresses the most important obstacle confronting urban homesteading programs—securing the predictable, adequate rehabilitation funding which is essential to a successful program. S. 2931 provides $148 million of additional section 312 loan authority which is to be used to provide an $8,000 reservation for each urban homestead.

This reservation of rehabilitation funds provides a linkage between the successful urban homesteading program and the successful section 312 loan program. Since 1964, the section 312 loan program has provided $450 million in loans for rehabilitation of housing in blighted neighborhoods, of which only $128,000 has been declared uncollectable.

Under the proposed legislation, if a city transferred 20 houses in the first year of its urban homestead program, it would be entitled to a special reservation of $160,000 in section 312 funds. As an incentive to arrange private sector funding, cities could transfer their reserved funds to other suitable section 312 purposes on a dollar-for-dollar basis. For example, if an urban homestead house needed $8,000 worth of repairs and the city was able to locate $4,000 in private loans, then the city could utilize the other $4,000 of the section 312 loan reservation for another urban homestead unit or for a regular section 312 loan. Predictable financing encourages urban homesteading. Permitting the transfer of the section 312 loan reservation encourages private financing of inner city rehabilitation.

Mr. President, a program that is clear and simple in its concept—that takes a resource now being wasted and puts it to productive use—that improves the living environment of our cities and their deteriorating neighborhoods—that encourages self-help and opens doors of opportunity to families who have been on the outside looking in—such a program surely deserves our attention and support.

Indeed, an approach that can accomplish so many things at once becomes more than a program—it becomes a policy that holds great promise for contributing to the solution of many of our Nation's urban ills.

For the words of the ancient Greek poet Alcaeus are as true today as when they were written over 2,500 years ago:

> Not houses finely roofed or the stones of walls well-builded, nay nor canals and dockyards, make the city, but men able to use their opportunity.

Mr. LUGAR. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## SENATOR HAYAKAWA'S VIEW OF AMERICA'S FOREIGN POLICY

Mr. HELMS. Mr. President, regardless of how the distinguished Senator from California (Mr. HAYAKAWA) votes on the treaty later today, I think the American people should have as a matter of record a splendid letter that the Senator wrote to the President of the United States, bearing the date of April 13, in which the able Senator from California discussed a very broad view of the foreign policy of this Nation.

So that this letter will indeed be a matter of record, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
*April 13, 1978.*

The PRESIDENT,
*The White House,*
*Washington, D.C.*

MY DEAR MR. PRESIDENT: Believing as I do in bipartisanship in foreign affairs and believing also that the Panama Canal treaty of 1903 is hopelessly out of date, I have up to now faithfully supported the Canal treaties presently under discussion, despite the fact that I am not satisfied with them in all respects. They are, however, a vast improvement over what now exists; conse-

quently I have continued to support them despite enormous pressure from my home state.

At this juncture, I want you to know how very difficult it is for me to continue to support your foreign policies. I was appalled to learn in the past three days of your decision to postpone (cancel?) the neutron bomb program—a humane weapon (if any war weapon can be said to be humane) in that it makes possible the destruction of enemy troops without at the same time killing tens of thousands of civilians, as was done in Dresden and Hiroshima.

The postponement of the neutron bomb, along with the cancellation of the B–1 bomber program, has at least thrown away a valuable bargaining chip. It has also probably destroyed what technological advantages we had over the Soviets to offset their advantage in manpower, tanks, and proximity to their major target, which presumably is Western Europe.

I have been equally appalled at your support of the guerrilla movements led by Joshua Nkomo and Robert Mugabe and your characterization of the coalition being formed by Ian Smith and Bishop Abel Muzorewa and their allies as "illegal". Illegal under what laws, Mr. President? The world has witnessed with horror the disaster that befalls newly independent African nations when they have insisted on instant "majority rule," which has meant throwing the British out of Nigeria, the Belgians out of the Congo, the Portuguese out of Angola. In instances like these, the immediate result has been chaos and civil war, along with genocide—one tribe systematically exterminating another—a kind of genocide that the United Nations never condemns, or seems to notice.

Whatever may be the faults of Ian Smith and Muzorewa and their allies, they have remained in the country to try to solve its problems by peaceful evolution rather than violent revolution. They have agreed on a plan for the orderly transfer of power from whites to blacks, with shared authority during the transitional period. The plan could work, given moral support by the United States and Great Britain. Why then does the U.S. support Joshua Nkomo, who refuses to join the coalition unless the present Rhodesian army is disbanded and he is invited to re-enter Rhodesia with his own army? Why does the U.S. give aid and comfort to Robert Mugabe, who openly boasts of his Marxism-Leninism and vows to create in Rhodesia a "socialist" society, whatever he may mean by that?

Why is the Administration silent about the more than a billion dollars' worth of military equipment and the 12,000 (15,000?) Cuban troops which are being supplied to Ethiopia by the U.S.S.R.? If a war between Ethiopia and Somalia is none of America's business, it is none of the Soviet Union's business either—and still less Cuba's business.

Why are we anxiously conducting SALT talks with the Soviet Union, while the Soviet Union steadily enlarges its empire: Angola, Ethiopia, Rhodesia next, and military advisers in twenty or more African nations? Why do we find no more to criticize in the Soviets' behavior than their treatment of Sharansky?

And Cambodia! One of the world's great bloodbaths has been going on there ever since the Communist takeover of that unhappy nation. Even the left-wing New York Review of Books was viewing this slaughter with alarm almost a year ago. But the Administration, with all its concern for human rights in friendly countries like Chile and Brazil, appears to be looking the other way.

The greatest objection to the Panama Canal treaties is the charge that the "give away" is a revelation of American weakness—of the decay of national pride and national purpose. I have tried to argue that the new arrangements regarding the Canal show the strength and self-confidence of a great nation that is willing to change an old and unequal treaty in order to treat the Republic of Panama as a partner and equal in the family of nations. But how can I maintain this position, Mr. President, when there is nothing in our foreign policy that shows anything but silence or timid acquiescence in the face of determined Communist aggression?

I await your reply with great anxiety and concern.

Respectfully yours,

SAM HAYAKAWA.

## SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Kansas (Mr. DOLE) is recognized until 8:30 a.m.

## THE INTERNATIONAL SCOPE OF REHABILITATION

Mr. DOLE. Mr. President, since coming to the Senate in 1969, it has been my custom to speak annually on April 14 addressing some topic of concern regarding the handicapped. Unfortunately, the Senate was not in session this year on April 14, so I could not deliver this on the customary date. It was on April 14, 1945, that I was injured and began to learn firsthand what it meant to be disabled.

Last year on this date, I introduced a bill to set up teletypewriters in the Capitol for deaf constituents to use when calling their Congressmen. I am pleased that my amendment was accepted to this year's Senate legislative appropriations bill to allow for the purchase of these machines. The sergeant-at-arms is making progress in his arrangements to set up a teletypewriter communications center.

This year, I want to address again a problem in communications, only one which deals not so much with discussion between individuals, but between countries. The World Health Organization estimates there are 400 million disabled persons in the world. If this figure is correct—and some experts say there are even more—it means that 10 percent of the Earth's population is disabled. Because of the enormity of these figures, there is no question but that diagnosis, treatment, and rehabilitation for these individuals is of critical importance.

### U.N. DECLARATION

In recognition of the problems involved, in 1975 the United Nations General Assembly approved a "Declaration on the Rights of Disabled Persons." This declaration set forth the basic human rights which handicapped individuals are entitled to. These include the right to respect for human dignity; the right to medical, educational, social, and vocational rehabilitation; the right to employment opportunities; and the right to protection from discrimination.

More recently, the U.N. General Assembly voted to proclaim 1981 as the "International Year for Disabled Persons." Again, the purpose of this declaration is to draw attention to the fact that many handicapped persons are not accorded full citizenship rights, because of their disability.

I support these basic rights, and believe the United States has an obligation to support a worldwide effort to rehabilitate the handicapped. Many years ago, Congress passed the International Rehabilitation Act. It is my understanding that this bill was designed to promote and coordinate rehabilitation research overseas. Regretably, it was never funded.

I am not advocating that the United States should underwrite foreign research, but it has been brought to my attention that there is too little exchange of information between foreign countries on the subject of rehabilitation. There are persons dedicated to this goal, however. One organization, Rehabilitation International, has worked for years promoting the exchange of information in areas involving international rehabilitation efforts.

### REHABILITATION INTERNATIONAL

Rehabilitation International serves 62 different countries, and is the only international organization that deals with all aspects of disability and rehabilitation. Rehabilitation International, U.S.A., is based in New York City, and provides international rehabilitation services to the United States, in addition to supporting Rehabilitation International. I am pleased to serve on its board of directors.

Because of my association with RUISA, I am familiar with the successes and difficulties they have encountered when working in the field of rehabilitation. Rhode Island has six standing commissions to deal with rehabilitation from a medical, vocational, educational, social, technical, and administrative approach.

### ICTA

Of these commissions, probably none has surpassed the achievements of the commission on technology. Called the International Commission on Technical Aids, Housing and Transportation—ICTA—it has focused its work on developing aids and facilities for use by those with motor disabilities. It also provides information on new developments in science, technology, and technical aids. ICTA is working to promote this exchange of information so that duplication of efforts can be avoided.

In any one country, there will be only a limited market for aids for handicapped consumers. Many experts feel that to stimulate production of technical aids, a worldwide market should be developed. In order to promote the efficient production of rehabilitation devices, there is a clear need for coordination of effort between companies and countries.

### BENEFITS TO UNITED STATES

I think it would be beneficial for the United States to participate more actively in such endeavors. While we have amassed a wealth of technology, by no means do we have a corner on the market. It is not just the lesser developed countries which stand to benefit from such an exchange. For instance, Germany is regarded as having developed the most advanced orthopedic devices.

Great Britain has created total hip and knee replacements, which would be of immense help to many persons with lower limb mobility problems, whether they live in the United States or in Africa.

As an example of this type of cooperation, I call attention to the successful development of the myoelectric arm. It is a prosthetic device which uses brain waves to increase the current generated from thought to operate the electrical device which moves the artificial arm. This project has been accomplished since World War II, with the United States, the U.S.S.R., Canada, Austria, Italy, and other countries all contributing to its creation. This is the type of exchange that needs to be carried out.

CENTER INDUSTRIES

Another example which is somewhat closer to me deals with the success story of Center Industries in Sydney, Australia. Center Industries is able to employ severely disabled individuals, because it learned to adapt industrial equipment to fit the capabilities of handicapped persons. In 1972, Australia hosted the 12th World Conference of Rehabilitation International. Jack Jonas, of Wichita, Kans., was one of the delegates, and while there, he visted Center Industries. Jonas was so impressed with their production that he went back to Kansas and started another Center Industries.

Center Industries in Wichita has also been a tremendous success, and attracts visitors from all over the United States, as well as from England, India, Mexico, and other countries. Because of the successfulness of the Wichita employment project, many handicapped workers have been attracted to the city. A new housing project is under construction so that these employees can have accessible housing. The Wichita experience is proving that handicapped persons make good workers. Center Industries is a perfect example of the benefits of shared information.

BEDFORD INDUSTRIES

Also located in Australia is Bedford Industries, which offers an array of rehabilitative services to 800 clients. The main division is situated on 7½ acres of land, where several workshops offer training in 70 different occupations. Training is offered not only for repetitive work skills, but also for professional skills such as marketing, accounting, industrial engineering, social work, and public relations.

Other components of Bedford Industries include a resort hotel for handicapped guests; a public seaside hotel operated by handicapped workers; an independent living center; and Gorge Farm. Gorge Farm is a 200-acre farm where clients are rehabilitated through agricultural and horticultural training. There is a large almond grove and vineyard, plus a purebred sheep breeding ranch on the farm.

Out-of-season fruits and vegetables are grown in hothouses, and the farm sells canned and processed foods under its own label. It is quite an impressive operation.

Elsewhere in the world, the Ghana Society for the Blind operates a home training program for rural blind women who are unable to leave their homes for institutional training. A London-based organization has set up a "toy library" for handicapped children, so that rehabilitative toys can be used constructively by the disabled child at play. The United States and Yugoslavia have worked together on projects using external electrical stimulation. Now, this knowledge is being used to stimulate functional patterns of movement for a number of persons with mobility problems.

CONCLUSION

These are but a few examples of projects being carried on around the world. The results of these experiences need to be shared with other persons and organizations working in the field of rehabilitation, so that more persons can benefit from shared information. In the Congress, we take pride in the fact that legislation affecting the handicapped is one of the few nonpolitical issues we deal with. Even in a global setting, disabilities should transcend national differences, for the handicapped have needs, struggles, and goals in common. I firmly believe that a vigorous effort to synchronize rehabilitation efforts should be made, and hope that the United States will take the lead in a renewed commitment to the area of international rehabilitation.

## COMMITTEE MEETINGS

(The following proceedings occurred later in the day.)

Mr. ROBERT C. BYRD. Mr. President, the time has run out for three committees to meet today. Will the Senator yield me 30 seconds?

Mr. SARBANES. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate today, to hold hearings on S. 1896, the Hazardous Materials Transportation Act; that the Subcommittee on Environment and Pollution of the Committee on Environment and Public Works be authorized to meet during the session of the Senate today from 11 a.m. until 1 p.m., to hold hearing on oil spill liability legislation; that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to consider fiscal year 1979 Department of Energy authorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Judiciernmental Affairs Committee be authorized to meet during the session of the Senate today to consider S. 991, the Department of Education Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Judiciary Committee be authorized to meet until 12 noon during the session of the Senate today to consider the Justice Department authorization bill, which must be reported to the Senate by May 15 under the Budget Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate today to consider the military procurement authorization bill, which must be reported to the Senate by May 15 under the Budget Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Small Business be authorized to meet from 11 a.m. until 1 p.m. during the session of the Senate today to hold hearings on S. 2259, the Small Business Procurement Expansion and Simplification Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Health and Scientific Research Subcommittee of the Human Resources Committee be authorized to meet until 1 p.m. during the session of the Senate today to consider National Science Foundation nurse training and health services extension legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Employment, Poverty, and Migratory Labor Subcommittee of the Human Resources Committee be authorized to meet until 1 p.m. during the session of the Senate today to consider the community services authorization.

The PRESIDING OFFICER. Without objection, it is so ordered.

## THE PANAMA CANAL TREATY

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now resume consideration of the resolution of ratification of the Panama Canal Treaty which the clerk will state.

The legislative clerk read as follows:

*Resolved* (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Panama Canal Treaty, together with the Annex and Agreed Minute relating thereto, done at Washington on September 7, 1977 (Executive N, Ninety-Fifth Congress, first session).

The Senate resumed consideration of the resolution of ratification of the Panama Canal Treaty.

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized to call up a reservation on which there will be 30 minutes of debate equally divided between the Senator from Kansas and the manager of the treaty with vote in relation thereto to occur at 10:25 a.m. this morning.

The Senator from Kansas.

UP RESERVATION NO. 33

Mr. DOLE. Mr. President, I send to the desk an unprinted treaty reservation for the resolution of ratification and ask that it be stated.

The ACTING PRESIDENT pro tempore. The reservation will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes unprinted reservation No. 33.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the reservation be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The reservation is as follows:

Strike out the period at the end of the resolution of ratification and insert in lieu thereof the following: "subject to the following reservation:

"Before the date of exchange of the instruments of ratification of the Treaty, the two Parties shall have agreed that the Panama Canal Commission shall reduce the amount of the annuity payable to the Republic of Panama under paragraph 4(b) of Article XIII of the Treaty by the product of such amount and a fraction, the numerator of which is the number of days during the calendar year the Canal is not navigable and the denominator of which is 365.".

Mr. DOLE. Mr. President, very briefly and very quickly, because the Senator from Kansas knows there is a mountain of work ahead of us today before the final vote on the Panama Canal Treaty, as my colleagues are well aware, article XIII of the Panama Canal Treaty provides, for the Government of Panama, "a fixed annuity of 10 million U.S. dollars to be paid out of canal operating revenues." The reservation I am proposing would simply condition Senate ratification on the following point—that this fixed annual annuity shall cease during any period in which the canal is inoperable. That is, the annuity would be reduced by an amount proportionate to the number of days of the year that the canal is not open for transit.

Mr. President, it would clearly be unfair and irresponsible to guarantee continued payments to Panama during a time in which the canal is closed, since that payment is understood to come from canal toll revenues in the first place. This is a logical reservation on our part, and one that I am sure any rational Panamanian would understand.

There are any number of reasons why the canal could be closed for temporary periods during the next 22 years. It could be a result of a natural catastrophy, such as an earth slide or earthquake. It could be due to a functional breakdown involving the intricate machinery of the lock system. Or it could be the result of intentional sabotage by either internal or external sources. Certainly, we hope none of these conditions develops. But if they should it is likely that the canal would be closed to all traffic for several days, during which time there would be no operating revenues derived from the canal. Why, then, should the Panama Canal Commission be held financially liable by the Government of Panama, just as though the canal was operating as usual?

ECONOMIC BURDEN

In any such instance where the canal should be closed, the United States would almost certainly be expected to bear the major economic burden of reopening the canal. Whether or not this liability would be binding in a legal sense, there is no question that we would feel duty-bound to pay the costs of reopening it for our own defense and economic purposes. Panama certainly would not bear the economic burden.

Furthermore, let me remind my colleagues of all the other economic benefits Panama will continue to receive under the terms of this treaty, regardless of whether or not the canal remains open: Panama receives free title to all real property in the Canal Zone, with an estimated replacement value of $9.8 billion. Panama receives $10 million annually for public services in the former Canal Zone, including police and fire protection, street maintenance, and garbage collection. And, of course, the administration has proposed a separate economic and military assistance package totaling $345 million. So, Panama does quite well, financially, beyond the fixed annuity proposed under article XIII.

It simply does not make sense to promise to continue paying Panama for a passage route that is temporarily nonexistent. The present treaty makes no provision for such a contingency, and both the United States and the Panama Canal Commission must be protected on this point. This reservation may even help discourage any intentional sabotage of the canal. Under the provisions of this proposal, if the canal is shut down for 1 month, the $10 million annuity will be reduced by one-twelfth.

This is fair, this is logical, this is rational, and this is justified. It is something the American people can understand, and the Panamanian people can understand. It does not involve rewriting the treaty, but only attaches a "condition" to our ratification of the treaty.

I trust that there will be appropriate support for the reservation.

Mr. President, I reserve the remainder of my time.

Mr. SARBANES addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Mr. SARBANES. Mr. President, I rise in opposition to the reservation. In explaining that opposition I want to detail the nature of the payments to be made to Panama.

There are two other payments to Panama that would be directly affected in a very negative way by any disruption of canal activity. One is the payment of 30 cents per Panama Canal net ton which is directly related to the amount of tonnage which moves through the canal. So to the extent that the canal is not functioning that payment would be immediately impacted. The other is the contingency payment, which again is related to producing sufficient revenues in excess of expenditures, to have enough money left over in order to make that payment.

So both of those payments are directly related to the amount of tonnage moving through the canal which is, of course, related to the canal operating to the maximum extent possible.

Under the present arrangement we pay Panama a fixed annuity, and there is no provision under the present arrangement for any discounting of that fixed annuity. That annuity is $2.3 million, but it has not been adjusted in over 20 years for inflationary impact. It is a flat payment that is now made.

The $10 million that we are talking about here that is contained in paragraph 4(b) of article XIII of the treaty is comparable to the fixed annuity now paid to the Republic of Panama.

That figure is well within the capacity of the Panama Canal Commission, or will be well within its capacity. You have a fixed annuity partly to make sure that you do not have total shock or extreme up and down fluctuations in the revenues to be received by Panama since it will be relating its own activities to such revenues.

However the bulk of what they expect to receive from the canal operation will, in fact, be affected by an interruption of service. If there is such a disruption there will be a severe diminution in what they will be receiving as a consequence of the disruption.

To seek to extend that loss even further, to go to the basic $10 million annuity payment, it seems to me, is to overreach in the sense of the balance which this treaty has struck between ourselves and the Republic of Panama.

Furthermore, the amendment as it is worded would result in the discount even if after a closure period you more than made up for what had been lost through intensive operation of the canal for the open period of time. In other words, you could have an earth slide which threw the canal out of operation for a short period of time. You could make that up subsequently. In fact, you might run the canal on such an intensive basis that you had a better year financially even though there had been a closing down for a limited period of time than you might have in a year in which there was no closing down, and yet even though there was such a better year you would have to discount the fixed annuity payment. It would simply be required by the terms of this amendment. If you think about that it is not really a fair arrangement. It, in fact, impedes trying to obtain maximum operation and maximum functioning of the canal.

I want to touch on one other point which was made by the distinguished Senator from Kansas. He said $345 million of separate military and economic assistance would be provided. I emphasize the point that this is simply a proposal on the part of the administration. None of that assistance is provided for by these treaties. In fact that point has been made very clear by amendments to the articles of ratification, both to the Neutrality Treaty and to the Panama Canal Treaty. Such aid, if it is to be given and in the amounts it is to be given, is subject to congressional review and, if we choose to act, subject to congressional action.

So that simply is a proposal that exists separate and apart from the treaties. It is not a proposal that will be implemented or effectuated by the treaties. In fact, the amendments added to the articles of ratification make it very clear that will not be the case.

That is something we can address separately and make our judgments accordingly at the time that we do so.

So for all of those reasons, Mr. President, I oppose the amendment which the Senator from Kansas has proposed, and I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time? If no one yields

time, time runs equally against both sides.

Mr. DOLE. Mr. President, I think the issue here has been presented, I hope, thoughtfully and, I think, it has been answered thoughtfully, and I do not know of any reasons to take additional time. It is not a major issue, but it is one I felt should be addressed.

I have been trying to suggest that maybe somebody else might come over and start the next proposal. But, in the absence of that, I think it is significant that if we just try to isolate $10 million, that in itself is no great amount. But there is a long time between now and the year 2000, and you would get up to a pretty good chunk of money, about $220 million, which is a little more than pocket change even in Washington.

But it is possible, whether it be some internal strife or strike or landslide or earthquake or whatever, of course, and it could be closed for a long period of time and we would continue to pay.

There is a great deal of resentment still in America about the treaty, and even some who favor the treaty itself feel we have been less than—maybe responsible is not the right word—but less than cautious as a business proposition in some of the provisions in the treaty itself.

This Senator would assume that the treaty will pass despite all the rumors and all the posturing and other things that may be going on. It seems to me the votes are here to pass the treaties, and I am just suggesting that if that is the case then we should be as certain as we can that we are not going to be asked to make payments when the canal is not in operation.

But having said that and having made the case, the Senator from Kansas is willing to suggest the absence of a quorum out of my time. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOLE. Mr. President, will the Senator from Maryland yield?

Mr. SARBANES. I yield to the Senator.

Mr. DOLE. I assume at some appropriate time the yeas and nays will be ordered on all the amendments; is that correct?

Mr. SARBANES. I think we obtained unanimous consent yesterday that it should be in order at any time to order the yeas and nays, and I think at an opportune time we will do that.

Mr. President, I ask unanimous consent that it be in order to proceed to the Thurmond amendments.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

UP RESERVATION NO. 34

Mr. DOLE. Mr. President, on behalf of the distinguished Senator from South Carolina (Mr. THURMOND) I send an unprinted amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk proceeded to read the amendment.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

Strike out the period at the end of the resolution of ratification and insert in lieu thereof a comma and the following: "subject to the following reservation:

"The President shall not exchange the instrument of ratification of the Treaty if, after the date of adoption of this resolution of ratification, the Republic of Panama includes in its instrument of ratification of the Treaty or of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal a reservation which must be accepted by the United States of America to become binding on the United States of America or any amendment to either Treaty, unless the Senate of the United States of America has given its advice and consent to such amendment or such reservation."

Mr. DOLE. I only say as a matter of preliminary explanation that the amendment is being called up for the distinguished Senator from South Carolina in order to expedite the business before the Senate. It is my understanding that the distinguished Senator from Maryland will speak in opposition to the reservation, and by the time that is concluded the distinguished Senator from South Carolina will be present to speak in favor of it.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Mr. SARBANES. Mr. President, I understand that the able and distinguished Senator from South Carolina will be here shortly and will speak to his amendment.

In anticipation of some of his arguments—although I must confess I am sufficiently respectful, of his powers of argument and persuasion to recognize I cannot fully anticipate his arguments—I would like to point out that under American law and practice there is no way that another country could, in effect, make amendments or reservations of any substance to the instruments of ratification and, therefore, in effect, change the treaty which the Senate has advised and consented to it without those changes having to be returned to the Senate for its further advice and consent.

That requirement of Senate advice and consent, which is necessary with respect to all treaties, would in fact be missing under a procedure whereby the other party, the other country, attached substantive changes to the instruments of ratification. The only way the United States then could enter into a changed arrangement from what had received the advice and consent of the Senate would be for the Senate to again have the matter under consideration, and to advise and consent to it including such changes.

For that reason, it seems to me that this amendment is clearly not necessary.

There are a number of examples throughout our history of cases in which treaties were returned to the Senate for its advice and consent in the light of substantive changes which the other party sought to make in the instruments of ratification through substantive reservations, amendments, or understandings. Of course, that is the standard practice and fully protects the position of the Senate with respect to the treaty-making power, and therefore enables the Senate to fully protect the interests of the Nation.

For that reason, I would oppose the amendment to the articles of ratification which has been called up by the distinguished Senator from Kansas on behalf of the distinguished Senator from South Carolina.

Mr. President, since the distinguished Senator from South Carolina is now here, I will reserve the remainder of my time on this amendment, and yield the floor so that the Senator may have an opportunity to speak directly to his proposed amendment.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. THURMOND. I thank the able Senator from Kansas (Mr. DOLE) for calling up my amendment.

Mr. President, this reservation would make clear to the President to the United States that this treaty must be resubmitted to the Senate under certain conditions.

The condition referred to in the reservation would include the addition to the treaty by Panama of any amendment or reservation binding on the United States.

Mr. President, it is my understanding that the addition of an amendment by Panama would require the resubmission of the treaty to the Senate. But whether or not a reservation added by Panama would require its resubmission is apparently at the discretion of the President.

In looking back over the debate during the close of action on the Neutrality Treaty a number of the membership gave great weight to several reservations passed by the Senate. In view of the weight given reservations by this body, it seemed the wisest step to have the Senate simply affix to the treaty a condition that it be resubmitted if Panama adds a reservation.

Of course, Panama is free to act as it chooses on any reservations, amendments, or understandings this body might add to the treaties.

However, as matters stand now the President and others with whom he may choose to consult could decide whether or not to resubmit the treaties if Panama adds a reservation binding on the United States.

They may feel the reservation is not of sufficient importance for resubmission, whereas there may be many in the Senate who would disagree.

Therefore, to avoid any such conflict, I propose to add a reservation requiring the President to resubmit the treaties if a reservation or reservations are added by Panama and are binding on the United States.

In this manner the Senate can evaluate the reservation and decide if it has changed the treaty in a meaningful way, and if so, whether that change is sufficient to require further Senate action.

This approach will remove from the President the burden of having to decide

what to do and possibly making a decision which would not serve the cause of good relations with Panama.

Mr. President, there should be no objection to this reservation, as it is binding only on the United States and does not require any action by Panama.

I urge my colleagues to evaluate it carefully, and once having done so, I believe it can be fully supported by all.

I would be surprised, Mr. President, if those proposing these treaties would not accept this reservation. It is a reasonable reservation, it should be accepted, and I hope that it will be.

The PRESIDING OFFICER (Mr. MORGAN). Who yields time?

Mr. CHURCH. Mr. President, this reservation, proposed by the Senator from South Carolina (Mr. THURMOND), is utterly unnecessary. Should Panama, by any action it takes, attempt to effect any substantive change in the treaty, the question of whether or not that substantive change is acceptable must necessarily be considered by the President and by the U.S. Senate. So the reservation is superfluous. It constitutes nothing more than a reiteration of the existing state of the law with respect to the ratification treaties.

The Senate, in connection with its ratification of the Neutrality Treaty a month ago and while considering the pending treaty, adopted certain amendments to the articles of ratification. Some of these amendments have the effect of conditioning the Senate's consent, if that consent is granted by this afternoon's final vote upon the acceptance of those amendments by the Government of Panama. That acceptance would take the form of the instrument of ratification that is exchanged with the United States.

Just as Panama must decide whether or not they will accept the conditions that the Senate has attached to the resolution of ratification, so the United States, through its constitutional process, would have to accept or reject any substantive change made by the Government of Panama. Since our Constitution requires the Senate to consent to any treaty before it takes full force and effect, it necessarily follows that any substantive change that might be proposed by the Government of Panama would come back to the Senate for its advice and consent.

I have received from the administration not only a confirmation of that statement of the law, but also a commitment on the part of the administration to submit any such reservation to the Senate in accordance with the law. The letter comes from the Office of the Legal Adviser of the Department of State. It is addressed to the Honorable JOHN J. SPARKMAN, the chairman of the Senate Commitee on Foreign Relations. It is signed by Herbert J. Hansell, the Legal Adviser, Department of State, and is dated April 18, 1978. It confirms what I said with reference to the law and the procedures that will be followed in the event that Panama were to adopt a reservation to this treaty.

I ask unanimous consent, Mr. President, that the full text of this letter be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXHIBIT 1

THE LEGAL ADVISER,
DEPARTMENT OF STATE,
*Washington, April 18, 1978.*

Hon. JOHN J. SPARKMAN,
*Chairman, Senate Foreign Relations Committee, U.S. Senate.*

DEAR MR. CHAIRMAN: This will confirm our prior advice to you that under United States law, substantive amendments and reservations to the Panama Canal Treaties put forth by Panama that would affect United States rights or obligations under the Treaties cannot be accepted by the United States unless approved by the President and the Senate.

The American Law Institute, in the Restatement of the Law (Second) of the United States Foreign Relations Law, at page 423, states:

"If the other state has made a reservation at signature or at ratification prior to the President's transmittal of the treaty to the Senate, in all likelihood the Senate will have official notice of the reservation in the message of transmittal and take it fully into account in acting on the treaty. The situation may arise, however, in which the Senate has given its consent to the treaty before the other state makes its reservation. In such a case Senate consent to the acceptance of the reservation is required."

I trust the foregoing provides the information you desire.

Very truly yours,

HERBERT J. HANSELL.

Mr. CHURCH. For that reason the reservation proposed is objectionable. I see no purpose to be served in arguing the matter, since, on its face, it is clear that what the Senator proposes to do would happen automatically if the Government of Panama made any substantive change in the treaty.

Mr. President, it is pointless for the Senate to adopt this reservation, and I would hope that the Senate will reject it.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without object, it is so ordered.

Mr. THURMOND. Mr. President, how much time remains on this reservation, and then how much time is there on the next reservation? The next item is an understanding.

The PRESIDING OFFICER. There is a total of 1 hour on both.

Mr. THURMOND. Mr. President, I would just like to make the point that the Senate has adopted two amendments and four or five reservations, but Mr. Torrijos will not hold a plebiscite so his people can address those changes which the leadership says change the treaty.

We feel in this matter the President having the discretion of whether to submit it back here is going too far. We think if there is any change, it should be submitted back to the Senate.

The distinguished Senator from Alabama had something to say. Was it on this reservation or on the understanding to be taken up next?

Mr. ALLEN. I would like to address my remarks to the amendment having to do with the requirement that the Senate pass on any reservation.

Mr. THURMOND. Mr. President, I yield 5 minutes to the distinguished Senator.

Mr. ALLEN. Will the Senator yield 10 minutes?

Mr. THURMOND. I do not believe I have that much time.

Mr. ALLEN. Very well, 5 minutes.

Mr. President, I support the reservation of the distinguished Senator from South Carolina (Mr. THURMOND).

The procedure after the Senate approves the treaty, if it does—and that is by no means a certainty at this time as I feel there is an excellent chance that the treaty will be defeated by the vote this evening—in the event the Senate does approve the treaty, the reservation of the distinguished Senator from South Carolina (Mr. THURMOND) would require that if Panama in the exchange between the heads of state of the two countries should put reservations in their note of ratification qualifying their acceptance of the Senate's reservations, then the reservations of Panama would have to be submitted to the Senate for approval.

This is only logical, it is only fair, it is only in accord with regular procedure and other. The Senate of the United States has the right to advise and consent with respect to treaties, and then if Panama should seek to nullify the reservations which the Senate of the United States has placed in the resolution of ratification, the Senate would be deprived of its right and duty to advise with respect to the treaty. It could nullify the action of the Senate.

If Torrijos does not submit the treaty to another plebiscite—and clearly, he should, because it has been changed greatly—if he accepts the resolution of ratification with its possibly 10 or more reservations but he qualifies his acceptance by adding reservations of his own, the President should not be allowed to accept those reservations without the consent of the Senate. Otherwise, the Senate would be circumvented in the discharge of its duty and its obligation. So this is a reasonable reservation. It would require submission to the Senate for its approval of any reservations that Panama might add to their note of ratification.

Mr. President, speaking generally on the treaties, we were assured that these treaties were necessary for the conduct of a good neighbor policy with Panama; that if we did not approve these treaties there would be demonstrations and riots in Panama. But we find that just the opposite is the case. We find that they are rioting and demonstrating in Panama in prospect of these treaties being approved by the Senate. So it is an anomalous situation. What was supposed to create an era of good feeling between the United States and Panama is turning into just the opposite. It is quite clear, Mr. President. that these treaties are opposed by the majority of the people of the United States and they are opposed by a majority of the people of Panama. Yet we are being called upon the approve these treaties.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. ALLEN. I thank the Chair and I thank the distinguished Senator from South Carolina for yielding.

The PRESIDING OFFICER. Who yields time?

UNDERSTANDING NO. 16

Mr. THURMOND. Mr. President, I just have 19 minutes remaining now. I wish to call up the understanding I have offered and I ask for its immediate consideration. It is understanding No. 16.

The PRESIDING OFFICER. The clerk will state the understanding. The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes an understanding numbered 16.

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The understanding is as follows:

Strike out the period at the end of the resolution of ratification and insert in lieu thereof a comma and the following: "subject to the following understanding, which is to be made a part of the instrument of ratification of the Treaty:

"The United States of America, in exercising its right under paragraph 2(d) of Article III to establish and modify tolls for the use of the Panama Canal—

"(1) shall examine the economic effects of any proposed toll increase on each of the ports of the United States of America, and on each type of commodity transported to or from such port; and

"(2) shall prescribe systems and levels of such tolls which will minimize any disproportionate effect on the commerce of any port of the United States of America, on any regional group of ports, or on a particular type of commodity.".

Mr. THURMOND. Mr. President, this understanding relates to the need for the commission to evaluate the effects of tolls on U.S. ports and commodities.

This understanding, which requires no action by Panama and in fact should be highly acceptable to them, reads as follows:

The United States of America, in exercising its right under paragraph 2(d) of Article III to establish and modify tolls for the use of the Panama Canal—

"(1) shall examine the economic effects of any proposed toll increase on each of the ports of the United States of America, and on each type of commodity transported to or from such port; and

(2) shall prescribe systems and levels of such tolls which will minimize any disproportionate effect on the commerce of any port of the United States of America, on any regional group of ports, or on a particular type of commodity.

Mr. President, what is the economic situation relating to the canal today? Although the canal opened 63 years ago, canal toll rates did not increase until 1974. During those 60 years toll rates actually declined, as no adjustment was made even for inflation. The higher canal costs were met because traffic through the canal was rising faster than expenses. That is no longer the case.

Canal traffic has declined 6 percent annually for the past 3 years, as tolls were increased 40 percent since 1974. Further, the canal has experienced deficits for the first time in its history.

If canal costs continue to inflate at current rates, the American Management System study states the canal will soon become insolvent despite attempts to cut costs and despite one or two toll hikes of 25 to 50 percent.

Mr. President, much has been said as to how much tolls will have to be raised to pay Panama plus meet rising operating costs. Last week I offered an amendment to the treaty to require operating costs be paid prior to payments to Panama, but only 39 Senators opposed tabling my amendment,

The Senate must recognize, regardless of one's position on the treaties, that likely toll increases may cause severe economic dislocations in this country.

BENEFITS ALL

This understanding should benefit all parties concerned about the effect of the treaties, that is, the ports, the shippers, those who export and import goods using the canal, and Panama herself. It is not a proposal which Panama would find troublesome because it merely urges that the United States and the Canal Commission consider a tolls approach which will not destroy the traffic upon which the economic life of the canal depends.

Some commodities are toll sensitive, others are not. Some ports, especially the gulf coast and Atlantic coast ports, could be more adversely affected by the treaties than, say, west coast ports.

DOES NOT SET TOLLS

The understanding does not attempt to set toll rates or place upon the United States or the Commission an arbitrary guideline. It merely advises that in setting toll increases the United States should carefully examine the economic effects on U.S. ports and commodities moving to and from those ports. It provides that the United States prescribe systems and levels of such tolls which will minimize any disproportionate effect on the commerce of any port, group of ports or particular commodity.

The essence of the understanding is that it would insure that any toll increase would be studied carefully as to its effect on the ports and commodities it might impact upon.

Gov. H. R. Parfitt, head of the Canal Zone Government, testified before the Senate Armed Services Committee, laying out the fact that the treaty would force tolls higher. He testified that a Canal Company-State Department study indicates that—

Canal traffic is sensitive to toll increases beginning at 15% up through the maximum increase possible of between 75% and 100%, the point where diminishing returns set in. Sensitivity also increases over time with the full impact of the increase occurring about seven years following its implementation.

Governor Parfitt continued;

Increases of more than 50% would result in little additional revenue. In fact, it is estimated that the very maximum amount of additional revenue obtainable is about 40%, and this would require a toll increase of between 75% and 100%.

TOLL HIKES INEVITABLE

Mr. President, in the face of the inevitable toll increases, vast amounts of trade between east and gulf coasts and the Pacific Basin countries, could shift to rail and truck movement from west coast ports across the United States. Declining business in these ports could seriously impact on the economies of the ports and States involved.

OIL REVENUES QUESTION MARK

The hope of holding toll increases to a modest level until 1984 is dependent upon movement of oil from the Alaska fields by tankers through the canal. However, the approximately $40 million annually these ships will be bringing the canal is likely to decline in 1984 when a mid U.S. pipeline is expected to become operational for transit of the Alaska oil.

A number of question marks impact on the quantity of oil moving through the canal after 1984. It could continue at a high level if the pipeline is not built, or it could decline if it is built. Of even greater adverse consequence would be a change in the law which now prohibits the sale of Alaska oil to Japan.

BRANDIS STUDY

The Ely Brandis study by International Research Associates, so often quoted by proponents of this treaty, focuses on how much tolls can be increased without losing too much business. It is no study of costs and income. The 1974 study by Brandis deals with the impact of tolls on South America as a region and individual countries in South America.

This study points out that a toll hike of 50 percent by 1985 would cost South American countries an additional $5 million for imports and $8 million for exports, most of the latter cost to be borne by the recipient countries.

At least three types of commodities involved in South American exports and imports are sensitive to toll changes.

PETROLEUM

Petroleum is sensitive to increases and the IRA study predicts that, in case of a 50 percent increase, the reduction in traffic would be substantial. The study estimates such an increase would reduce shipments from the west coast to the east coast via the canal by as much as 2.6 million tons.

IRON ORE

Iron ore, mainly from Chile and Peru, would also be sensitive to toll increases. Mr. Brandis estimates a 50 percent toll increase would reduce iron ore exports in 1985 via the canal from 2.3 to 1.7 million tons. Even lesser toll increases will result in some traffic losses.

BANANAS

Exports of bananas are quite sensitive to toll increases. Shipments are expected to more than double by 1985, assuming no toll hikes. These shipments are from Ecuador to the U.S. east coast and Europe.

However, a 50 percent toll increase by 1985 is expected to cut exports 400,000 tons. Dut to competition, all the increases could not be passed on to customers, as tolls already represent a significant portion of the value of bananas.

Mr. President, of course, the Senate recognizes that when toll increases are fixed, the additional cost must be paid by either the buyer or the seller of the tonnage moved through the canal. With respect to South American exports and imports, the study estimates most of the

tolls are likely to be paid by the buyers or importers.

TOBACCO

Tobacco, one of many commodities exported from my State out of the Port of Charleston, could be placed in a competitive situation by these higher tolls. Some 33 percent of the South Carolina tobacco crop is exported and agricultural exports overall from South Carolina amount to 29 percent of production.

TOLL IMPACT ON U.S. PRODUCTS

Mr. President, the U.S. Department of Agriculture has reported that $8.5 billion of total agricultural exports of $23 billion go to Asian markets. Of these exports, 70 percent pass through the Panama Canal. The price of these products in markets in the Orient depends upon both reliable service through the canal and low tolls, so that shippers down the Mississippi River can compete with Canadian exports out of their Pacific coast port of Vancouver and Australian foodstuffs sent north over open seas.

HIGHER FREIGHT RATES

In a study produced by the Economic Research Service of the Agricultural Department, Floyd D. Gaibler states quite bluntly that—

Provisions in the new proposed Panama Canal Treaty have caused concern over probable impacts they will have on agricultural commodities transported from U.S. Atlantic and Gulfports through the Canal to Asian markets.

Dr. Gaibler believes the new payments to Panama will immediately "add approximately 2 percent to the freight rate for transporting heavy grains from the U.S. Atlantic and gulfports to Japan." Of course, the higher cost in transporting goods reduce their competitive position and lower still further the very narrow profit margin on foodstuffs. Dr. Gaibler further notes that with the inflaticnary escalator clauses in the treaties, tolls could rise up to eight additional times in the next 22 years and after 1999 Panama will have complete discretion over what they desire to charge customers.

Mr. President, these same concerns have resulted in opposition to the treaties by a number of groups such as the Gulf Ports Association, the Mid-Gulf Seaports Marine Terminal Conference, and the Port of New Orleans.

Representing these groups in House testimony, Herbert R. Haar, Jr., associate port director, told the Panama Canal Subcommittee:

It is strongly recommended that the Senate not ratify the new proposed Panama Canal treaty unless it is amended so that there will not be an adverse economic impact on American shipping and the American consumer.

More specifically, Mr. Haar stated—

The major commodities to and from our area that would be impacted by an increase in tolls are petroleum, coal, grain, steel and bauxite.

He also pointed out that the Government had directed industries to convert to coal and he anticipates importation of large quantities from Australia to both New Orleans and Texas ports. On the other hand, the Port of Mobile is concerned because higher costs of exporting coal through the canal may affect the competitiveness of this coal with Australian and Canadian coal going to Japan.

GROWING BURDEN

Mr. President, there is no end to the concerns expressed by U.S. leaders as to the economic impacts of the treaties. James J. Reynolds, president of the American Institute of Merchant Shipping, expresses similar concerns. He predicts "a greater and greater burden on those operators and cargoes for which there is no alternative to using the canal."

Melvin Shore, representing the American Association of Port Authorities, favored payment of the diplomatic costs of the treaties be placed on the Government and not shippers and others. He said this should be done "in recognition of the adverse impact that drastic toll increases will have upon our ocean commerce and consequently the ports of the United States."

DISASTER FOR EAST COAST

W. J. Amoss, Jr., chairman of the Liner Council of the American Institute of Merchant Shipping, warned the proposed toll increases spell "sheer economic disaster for operators east of the canal."

Mr. President, I wonder if the Members of the Senate realize there is no cost and income study on the effects of this treaty for the period beyond—I repeat, beyond—1983? The State Department and the administration are the proponents of this treaty, it is their responsibility to show it will break even and deficits will not have to be paid from the pockets of the American taxpayer.

NO STUDY PAST 1983

Figures provided by the administration have not shown that the proposed Panama Canal Commission will be able to break even after 1983.

The most important study commissioned by the administration, that made by the International Research Associates, is a study of revenues only during the 1978–2000 period. It does not attempt to project Commission costs and does not estimate profits or deficits at all.

The Arthur Anderson study for the State Department covered only Commission costs and income for the period 1979 to 1983. It does not provide any basis for the conclusions concerning the period after 1983.

STUDIES LIMITED TO 1979–83

Likewise, the memorandum signed by Secretary of State Cyrus Vance, Defense Secretary Harold Brown, and Army Secretary Clifford Alexander of February 10, 1978, and the later reply from the State Department deal only with the Commission's ability to break even in the years 1979 to 1983.

Mr. President, I am convinced if these treaties pass, there will either be significant toll increases before and after 1985 or the United States will have to absorb a sizable operating deficit for the canal.

My understanding merely lets the Canal Commission know the Senate desires that the effects of tolls on U.S. ports and commodities of all nations be evaluated carefully.

The Panama Canal will need ships to keep it open and viable. We cannot afford to let it die an economic death. To do so would injure our own economy and deny us a vital defense waterway essential to our strategic policy.

An economically dead canal is no better than a closed canal. I urge the Senate to accept this understanding. It will benefit the Panamanian people as well as U.S. citizens.

The PRESIDING OFFICER. Who yields time?

If neither side yields time, the time is charged equally to each side.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland (Mr. SARBANES).

Mr. SARBANES. Mr. President, I think the concern which the Senator has expressed regarding the possible impact of toll changes is one that I share and which is shared widely in the Senate. But it is a concern that has already been addressed by the distinguished Senator from Louisiana (Mr. LONG) by the understanding which he offered to the Neutrality Treaty and which was accepted to the Neutrality Treaty.

That proposal dealt with this matter of the regional impact of toll changes. It, in fact, would require the United States and Panama to consider other economic factors, such as the maintenance of the domestic fleets of the two countries, the competitive position of the canal in relation to alternative means of transportation, the interests of both nations in maximizing their international commerce, and the impact of any adjustment in tolls on the various geographical areas of each of the two parties.

That understanding was added to the Neutrality Treaty and, as a consequence of being added to the Neutrality Treaty, it has the advantage that it is permanent in its application since the Neutrality Treaty is permanent.

Second, the Neutrality Treaty takes effect simultaneously with this treaty and, therefore, the provision which was offered by the able Senator from Louisiana on this issue would come into play right away, at the time that the treaties first came into play, and would continue indefinitely into the future.

In that sense, it is far more protective of our interests than the proposal which is before us, and I think it is extremely important to underscore that.

Finally, during the life of the Panama Canal Treaty, which is from now, from the time it takes effect until the end of the century, the setting of tolls will be done by the Panama Canal Commission. That Commission will be controlled by the United States.

Its board will consist of nine members—five Americans and four Panamanians—all appointed by the United States. It will have the power to set tolls. Congress, through legislation, will have the power to impact on the work of the Commission and the board. So that is an additional protection available to us during the remainder of this century.

Our protection is first of all, in terms of the composition of the board and the Commission and the authority it has; second, a protection which flows from the power of Congress to deal with cer-

tain of these matters through legislation; third, and most important, the protection which already has been provided to us by the understanding, the very carefully worked-out understanding, offered by the able Senator from Louisiana, which was incorporated into the articles of reservation of the Neutrality Treaty and which therefore applies from the moment these treaties take effect, indefinitely into the future.

For all those reasons, Mr. President—the greater protections that are afforded to us under that approach—I oppose the understanding which has been offered by the Senator from South Carolina.

I again stress that the concerns to which this understanding is addressed is one which I and many others share, but we feel that this concern has been fully and adequately responded to by the understanding of the Senator from Louisiana, by the arrangements for the Panama Canal Commission, in the sense that it will be controlled by the United States of America and by the fact that Congress, through its legislative power, retains the authority to impact on this question through statutory enactment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, the distinguished Senator from Maryland has said that they already have accepted the amendment of the distinguished Senator from Louisiana, which is similar to this. I point out that, generally, that amendment and this understanding have a similar purpose. That is true. However, the Long understanding speaks to the adjustment of tolls in a general sense, while my understanding is more specific. My understanding is more specific in that it speaks directly to the point of evaluating the economic effects of toll increases on, first, each port of the United States; second, regional or groups of ports; and, third, commodities transiting the canal.

The Thurmond understanding also suggests that other methods rather than the current method for setting tolls be considered. My understanding suggests that rather than merely raising tolls based solely on tonnage, new systems and levels may be used to avoid harm to U.S. ports and commodities.

So there is a difference. This understanding is specific. It certainly can do no harm, and it might do a lot of good. I hope the distinguished Senator from Maryland will see fit to accept it.

Mr. SARBANES. Mr. President, I will respond very briefly to the Senator from South Carolina.

The breadth of the Long understanding is an advantage, not a disadvantage, because it encompasses the matters which the distinguished Senator from South Carolina has put forward, as well as other matters. Therefore, it is to our advantage not to seek to limit or restrict it or cut it down. It serves our purposes, very frankly, to have a broad, general criterion of matters to be considered.

As I pointed out, the Long understanding applies not only in the period from now to the end of the century but beyond that as well; therefore, it provides protection for these matters indefinitely into the future. That is of extreme importance, because during the period ahead of us, from now to the end of the century, which is the period to which the understanding of the Senator from South Carolina is addressed, we in fact control the Panama Canal Commission and the setting of tolls and, therefore, the factors which they will consider. Congress, through legislation, can impact upon the decisionmaking process of the Commission.

Therefore, while I am sensitive to and share the concerns which the Senator has outlined, I think this approach may needlessly limit or restrict our control to act in this matter. It is for that reason, as I indicated earlier, that I oppose the Senator's understanding.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from South Carolina has 1 minute remaining.

(Remarks by Mr. DOLE at this point are printed later in today's RECORD.)

The PRESIDING OFFICER. The Senator from Maryland has 7 minutes remaining.

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there objection?

Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESERVATION NO. 15

Mr. STONE. Mr. President, I call up my reservation and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Without objection, the reservation will be stated.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. STONE) proposes on behalf of himself, Mr. PAUL G. HATFIELD, Mr. DECONCINI, and Mr. BROOKE, a reservation numbered 15.

Strike out the period at the end of the resolution of ratification and insert in lieu thereof a comma and the following: "subject to the following reservation:

"The Panama Canal Commission may not incur any debt arising out of the operation or maintenance of the Panama Canal or encumber the Panama Canal with any lien, unless the United States of America by legislation authorizes the Commission to incur such a debt or encumber the Canal with such a lien.".

Mr. STONE. Mr. President, this amendment will require that before the new canal agency can encumber the canal property, the agency property, with liens or with debts that both Houses of Congress would be required to act. In other words, the agency would have to obtain the concurrence of Congress. I am not certain that either the present law or the current draft of the proposed implementing legislation is sufficiently explicit to insure that Congress will have that authority to control the borrowing powers of the to-be-established Panama Canal Commission.

This is of particular concern to me because under article XIII of the Panama Canal Treaty the United States would turn over the canal property to Panama free of all debts and liens.

Mr. CHURCH. Mr. President, I thank the able Senator from Florida for raising the proposed amendment.

First of all, let me say that the Panama Canal Commission would be an agency of the U.S. Government subject to the laws of the United States and immune from the jurisdiction of the Republic of Panama.

The proposed amendment, therefore, deals solely with the internal law of the United States, and I respectfully suggest would be better addressed in the legislation implementing the treaty.

Now, the draft implementing legislation prepared by the administration does, in fact, provide for the continuing application to the Commission of current law under which expenditures and obligations of the Panama Canal Company as a wholly owned U.S. Government corporation are subject to the control and approval of Congress.

Nonetheless, I understand the Senator's concern, and it can be accommodated.

I have spoken to the responsible officials in the administration, and they are agreeable to including language similar to the Senator's amendment in the legislation which will be submitted and considered by Congress for purposes of implementing these treaties.

I can say on the part of the floor managers that we also will do everything in our power to endeavor to guarantee that this step will be taken.

Mr. President, I do hope this will vitiate the need for the amendment offered by the able Senator from Florida. I sincerely believe that the best way to take care of his concern is through the enactment of appropriate provisions in the implementing legislation.

Mr. STONE. I thank the distinguished floor manager, the Senator from Idaho.

I am gratified, as are the cosponsors of this amendment, to receive the assurances not only of the floor managers but of the administration that this prior consent of both houses of Congress, before allowing the new agency to create liens or debts, would be accomplished in the implementing legislation.

I would say further that the reason for the need for this is that just as the people of Panama have asked for assurances that prior to any transfer there are no unwarranted encumbrances put on there just in order to encumber the property otherwise turned over, so the taxpayers of the United States need that same protection.

If it is in the implementing legislation they can get that protection, and with the assurances, therefore, of the floor managers and the administration, I will ask that the amendment be withdrawn.

Mr. CHURCH. I thank the Senator very much, and I commend him for the

responsible course he has taken in this matter.

Mr. STONE. I thank the distinguished Senator.

The PRESIDING OFFICER. The amendment is withdrawn.

UP RESERVATION NO. 35

The PRESIDING OFFICER. The Senator from Nevada (Mr. CANNON).

Mr. CANNON. Mr. President, I call up my unprinted reservation No. 35 and ask that it be stated.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

Mr. CANNON. Mr. President, I ask unanimous consent that the reading of the reservation be dispensed with, and I will explain very briefly what it does.

The PRESIDING OFFICER. Without objection, it is so ordered.

The reservation is as follows:

Strike out the period at the end of the resolution of ratification and insert in lieu thereof the following: "subject to the following reservation:

"After the date of entry into force of the Treaty, the Panama Canal Commission shall be obligated to reimburse the Treasury of the United States of America, as nearly as possible, for the interest cost of the funds or other assets directly invested in the Commission by the Government of the United States of America and for the interest cost of the funds or other assets directly invested in the predecessor Panama Canal Company by the Government and not reimbursed before the date of entry into force of the Treaty. Such reimbursement of such interest costs shall be made at a rate determined by the Secretary of the Treasury of the United States of America and at annual intervals to the extent earned, and if not earned, shall be made from subsequent earnings. For purposes of this reservation, the phrase 'funds or other assets directly invested' shall have the same meaning as the phrase 'net direct investment' has under section 62 of title 2 of the Canal Zone Code.".

Mr. CANNON. Mr. President, the subject of my reservation is interest payments and recovery of the U.S. investment. I was privileged to chair hearings in the Senate Armed Services Committee on the financial impact of the proposed Panama Canal Treaty. One of our witnesses was Elmer B. Staats, Comptroller General of the United States, who discussed the financial issues. He made the assumption that the forthcoming implementing legislative package will relieve the Panama Canal Commission of the obligation to pay interest to the Treasury on the interest-bearing portion of the U.S. investment. This assumption is in line with the administration's statements that the commission will be relieved of this obligation. The U.S. investment in the canal is sizeable and amounts to about $318 million. When figured at the rate of long term treasury bonds the interest amounts to around $20 million a year. The Panama Canal Company has the statutory obligation to pay. At $20 million per year over 22 years this would amount to a $440 million loss to the Treasury over the life of the treaty. I might note that Comptroller General Staats, stated that this $20 million estimated annual interest payment "could be substantially more" per year over the next 22 years. Since the interest rate is based on the U.S. Treasury average rate for long-term issues and "as that portfolio turns over, these rates are bound to go up, and I do not believe that this has been fully taken into account in these projections." According to an Armed Services Committee staff study, Mr. Staats estimated the total loss to the Treasury over the next 22 years at $505 million.

I have quite a problem accepting the forgiveness of this obligation. As a matter of fact, I cannot accept it. On February 1, 1978, President Carter in a nationally televised address to the American people stated:

Are we paying Panama to take the canal? We are not. Under the new treaties payments to Panama will come from tolls paid by ships which use the canal.

On December 28, 1977, the President said:

We wanted a treaty that did not put a financial burden on the American taxpayer, and we got it.

On September 26, 1977, Secretary of State Vance in testimony before the Senate Foreign Relations Committee stated concerning the cost of the treaties:

The treaties require no new appropriations nor do they add to the burdens of the American taxpayer.

Well in line with this spirit of not imposing upon the taxpayer, I submit my reservation to not relieve the Panama Canal Commission of this statutory interest obligation because if the Commission is relieved of that obligation obviously it would impose a burden on the American taxpayer by the loss of those revenues of at least $20 million a year for the next 22 years.

So, Mr. President, I submit my reservation.

(Mr. ZORINSKY assumed the chair.)

Mr. SARBANES. Mr. President, I assume we will address this reservation later in the day when we can pick up additional time. I simply want to make this one additional comment: We have reserved full control over this matter in this legislation in the Congress, and we can do as we choose about it.

RESERVATION NO. 18

The PRESIDING OFFICER. The hour of 10 o'clock having arrived, under the previous order, the Senate will proceed to vote on the question of agreeing to the reservation (No. 18) of the Senator from North Carolina.

Mr. CHURCH. Mr. President, I move that the reservation be laid on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota( Mr. ABOUREZK), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Rhode Island (Mr. PELL), the Senator from Georgia (Mr. TALMADGE), the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

The result was announced—yeas 56, nays 39, as follows:

[Rollcall Vote No. 104 Ex.]

YEAS—56

| | | |
|---|---|---|
| Anderson | Gravel | Mathias |
| Baker | Hart | McGovern |
| Bayh | Haskell | McIntyre |
| Bellmon | Hatfield, Mark O. | Metzenbaum |
| Bentsen | Hathaway | Moynihan |
| Biden | Hayakawa | Muskie |
| Bumpers | Heinz | Nelson |
| Byrd, Robert C. | Hodges | Pearson |
| Case | Hollings | Percy |
| Chafee | Huddleston | Proxmire |
| Chiles | Humphrey | Ribicoff |
| Church | Inouye | Riegle |
| Clark | Jackson | Sarbanes |
| Cranston | Javits | Sasser |
| Culver | Kennedy | Sparkman |
| Danforth | Leahy | Stafford |
| Durkin | Long | Stevenson |
| Eagleton | Magnuson | Stone |
| Glenn | | Weicker |

NAYS—39

| | | |
|---|---|---|
| Allen | Goldwater | Packwood |
| Bartlett | Griffin | Randolph |
| Brooke | Hansen | Roth |
| Burdick | Hatch | Schmitt |
| Byrd, Harry F., Jr. | Hatfield, Paul G. | Schweiker |
| Cannon | Helms | Scott |
| Curtis | Johnston | Stennis |
| DeConcini | Laxalt | Stevens |
| Dole | Lugar | Thurmond |
| Domenici | McClure | Tower |
| Eastland | Melcher | Wallop |
| Ford | Morgan | Young |
| Garn | Nunn | Zorinsky |

NOT VOTING—5

| | | |
|---|---|---|
| Abourezk | Pell | Williams |
| Matsunaga | Talmadge | |

So the motion to lay on the table reservation No. 18 was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. HOLLINGS. Mr. President. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I ask unanimous consent that Miss Maureen Norton of the staff of Senator HUMPHREY may have the privileges of the floor during the remainder of today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I ask unanimous consent that Joy Shub of my staff be accorded the privileges of the floor throughout the proceedings on the Panama Canal Treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESERVATION NO. 19

The question is on agreeing to the Curtis Reservation No. 19. The yeas and nays have not been ordered.

Mr. CURTIS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the reservation of the Senator from Nebraska (Mr. CURTIS). The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

The result was announced—yeas 33, nays 65, as follows:

[Rollcall Vote No. 105 Ex.]

YEAS—33

| | | |
|---|---|---|
| Allen | Glenn | Schmitt |
| Bartlett | Goldwater | Schweiker |
| Burdick | Hansen | Scott |
| Byrd, Harry F., Jr. | Hatch | Stennis |
| | Helms | Stevens |
| Cannon | Johnston | Talmadge |
| Curtis | Laxalt | Thurmond |
| DeConcini | Lugar | Tower |
| Dole | McClure | Young |
| Eastland | Morgan | Zorinsky |
| Ford | Randolph | |
| Garn | Roth | |

NAYS—65

| | | |
|---|---|---|
| Anderson | Haskell | Melcher |
| Baker | Hatfield, Mark O. | Metzenbaum |
| Bayh | | Moynihan |
| Bellmon | Hatfield, Paul G. | Muskie |
| Bentsen | | Nelson |
| Biden | Hathaway | Nunn |
| Brooke | Hayakawa | Packwood |
| Bumpers | Heinz | Pearson |
| Byrd, Robert C. | Hodges | Percy |
| Case | Hollings | Proxmire |
| Chafee | Huddleston | Ribicoff |
| Chiles | Humphrey | Riegle |
| Church | Inouye | Sarbanes |
| Clark | Jackson | Sasser |
| Cranston | Javits | Sparkman |
| Culver | Kennedy | Stafford |
| Danforth | Leahy | Stevenson |
| Domenici | Long | Stone |
| Durkin | Magnuson | Wallop |
| Eagleton | Mathias | Weicker |
| Gravel | Matsunaga | Williams |
| Griffin | McGovern | |
| Hart | McIntyre | |

NOT VOTING—2

| | |
|---|---|
| Abourezk | Pell |

So the reservation (No. 19) was rejected.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the reservation was rejected.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP RESERVATION NO. 33

The PRESIDING OFFICER. Under the previous order, the question now is on the unprinted reservation of the Senator from Kansas (Mr. DOLE), unprinted Reservation No. 33.

The yeas and nays have not been ordered.

Mr. CHURCH addressed the Chair.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

Mr. CHURCH. I move to lay the unprinted reservation on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the unprinted Reservation No. 33 of the Senator from Kansas (Mr. DOLE). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK) and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 106 Ex.]

YEAS—56

| | | |
|---|---|---|
| Baker | Haskell | Matsunaga |
| Bayh | Hatfield, Mark O. | McGovern |
| Bellmon | | McIntyre |
| Bentsen | Hatfield, Paul G. | Metzenbaum |
| Biden | | Moynihan |
| Bumpers | Hathaway | Muskie |
| Byrd, Robert C. | Hayakawa | Nelson |
| Case | Heinz | Nunn |
| Chafee | Hodges | Pearson |
| Chiles | Hollings | Percy |
| Church | Huddleston | Ribicoff |
| Clark | Humphrey | Riegle |
| Cranston | Inouye | Sarbanes |
| Culver | Jackson | Sparkman |
| Danforth | Javits | Stafford |
| Durkin | Kennedy | Stevenson |
| Eagleton | Leahy | Weicker |
| Glenn | Long | Williams |
| Gravel | Magnuson | |
| Hart | Mathias | |

NAYS—42

| | | |
|---|---|---|
| Allen | Goldwater | Sasser |
| Anderson | Griffin | Schmitt |
| Bartlett | Hansen | Schweiker |
| Brooke | Hatch | Scott |
| Burdick | Helms | Stennis |
| Byrd, Harry F., Jr. | Johnston | Stevens |
| | Laxalt | Stone |
| Cannon | Lugar | Talmadge |
| Curtis | McClure | Thurmond |
| DeConcini | Melcher | Tower |
| Dole | Morgan | Wallop |
| Domenici | Packwood | Young |
| Eastland | Proxmire | Zorinsky |
| Ford | Randolph | |
| Garn | Roth | |

NOT VOTING—2

| | |
|---|---|
| Abourezk | Pell |

So the motion to lay on the table UP reservation No. 33 was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP RESERVATION NO. 34

The PRESIDING OFFICER. Under the previous order, the Senate will now vote on unprinted reservation No. 34, offered by the Senator from South Carolina. The yeas and nays have not been ordered.

Mr. CHURCH. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were orderd.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK) and the Senator from Rhode Island (Mr. PELL), are necessarily absent.

The result was announced—yeas 58, nays 40, as follows:

[Rollcall Vote No. 107 Ex.]

YEAS—58

| | | |
|---|---|---|
| Anderson | Hart | McIntyre |
| Baker | Haskell | Metzenbaum |
| Bayh | Hatfield, Mark O. | Moynihan |
| Bellmon | | Muskie |
| Bentsen | Hathaway | Nelson |
| Biden | Hayakawa | Packwood |
| Bumpers | Hodges | Pearson |
| Byrd, Robert C. | Hollings | Percy |
| Case | Huddleston | Proxmire |
| Chafee | Humphrey | Ribicoff |
| Chiles | Inouye | Riegle |
| Church | Jackson | Sarbanes |
| Clark | Javits | Sasser |
| Cranston | Kennedy | Sparkman |
| Culver | Leahy | Stafford |
| Danforth | Long | Stevenson |
| Durkin | Magnuson | Stone |
| Eagleton | Mathias | Weicker |
| Glenn | Matsunaga | Williams |
| Gravel | McGovern | |

NAYS—40

| | | |
|---|---|---|
| Allen | Goldwater | Nunn |
| Bartlett | Griffin | Randolph |
| Brooke | Hansen | Roth |
| Burdick | Hatch | Schmitt |
| Byrd, Harry F., Jr. | Hatfield, Paul G. | Schweiker |
| | | Scott |
| Cannon | Heinz | Stennis |
| Curtis | Helms | Stevens |
| DeConcini | Johnston | Talmadge |
| Dole | Laxalt | Thurmond |
| Domenici | Lugar | Tower |
| Eastland | McClure | Wallop |
| Ford | Melcher | Young |
| Garn | Morgan | Zorinsky |

NOT VOTING—2

| | |
|---|---|
| Abourezk | Pell |

So the motion to lay on the table UP reservation No. 34 was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNDERSTANDING NO. 16

The PRESIDING OFFICER. Under the previous order the Senate will now proceed to a vote on understanding No. 16 of the Senator from South Carolina (Mr. THURMOND). The yeas and nays have not been ordered.

Mr. CHURCH. Mr. President, I move to lay that amendment on the table, and call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table understanding No. 16 of the Senator from South Carolina (Mr. THURMOND).

On the question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK) and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 108 Ex.]

YEAS—56

| | | |
|---|---|---|
| Anderson | Biden | Case |
| Baker | Bumpers | Chafee |
| Bayh | Burdick | Chiles |
| Bellmon | Byrd, Robert C. | Church |

| | | |
|---|---|---|
| Clark | Hodges | Moynihan |
| Cranston | Hollings | Muskie |
| Culver | Huddleston | Nelson |
| Danforth | Humphrey | Packwood |
| Durkin | Inouye | Pearson |
| Eagleton | Jackson | Percy |
| Glenn | Javits | Proxmire |
| Gravel | Kennedy | Ribicoff |
| Hart | Leahy | Riegle |
| Haskell | Mathias | Sarbanes |
| Hatfield, Mark O. | Matsunaga | Sparkman |
| Hathaway | McGovern | Stafford |
| Hayakawa | McIntyre | Stevenson |
| Heinz | Melcher | Weicker |
| | Metzenbaum | Williams |

NAYS—42

| | | |
|---|---|---|
| Allen | Griffin | Roth |
| Bartlett | Hansen | Sasser |
| Bentsen | Hatch | Schmitt |
| Brooke | Hatfield, Paul G. | Schweiker |
| Byrd, Harry F., Jr. | Helms | Scott |
| Cannon | Johnston | Stennis |
| Curtis | Laxalt | Stevens |
| DeConcini | Long | Stone |
| Dole | Lugar | Talmadge |
| Domenici | Magnuson | Thurmond |
| Eastland | McClure | Tower |
| Ford | Morgan | Wallop |
| Garn | Nunn | Young |
| Goldwater | Randolph | Zorinsky |

NOT VOTING—2

| | |
|---|---|
| Abourezk | Pell |

So the motion to lay on the table understanding No. 16 was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Florida is recognized by the Chair for a unanimous-consent request.

Mr. STONE. Mr. President, I ask unanimous consent that a member of my staff, Mr. Barry Schochet, may have floor privileges during the consideration of this treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESERVATION NO. 20

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the DeConcini reservation No. 20. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. CHURCH. Mr. President, the managers do support this reservation.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK) and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

The result was announced—yeas 92, nays 6, as follows:

[Rollcall Vote No. 109 Ex.]

YEAS—92

| | | |
|---|---|---|
| Allen | Byrd, Robert C. | Domenici |
| Anderson | Cannon | Eagleton |
| Baker | Case | Eastland |
| Bartlett | Chafee | Ford |
| Bayh | Chiles | Garn |
| Bellmon | Church | Glenn |
| Bentsen | Clark | Goldwater |
| Biden | Cranston | Gravel |
| Brooke | Culver | Griffin |
| Bumpers | Curtis | Hansen |
| Burdick | Danforth | Hatch |
| Byrd, Harry F., Jr. | DeConcini | Hatfield, Mark O. |
| | Dole | |
| Hatfield, Paul G. | Mathias | Sarbanes |
| Hathaway | Matsunaga | Sasser |
| Hayakawa | McClure | Schmitt |
| Heinz | McGovern | Schweiker |
| Helms | McIntyre | Scott |
| Hodges | Melcher | Sparkman |
| Hollings | Morgan | Stafford |
| Huddleston | Moynihan | Stennis |
| Humphrey | Muskie | Stevens |
| Inouye | Nelson | Stevenson |
| Jackson | Nunn | Stone |
| Javits | Packwood | Talmadge |
| Johnston | Pearson | Thurmond |
| Laxalt | Percy | Tower |
| Leahy | Proxmire | Weicker |
| Long | Randolph | Williams |
| Lugar | Ribicoff | Young |
| Magnuson | Riegle | Zorinsky |
| | Roth | |

NAYS—6

| | | |
|---|---|---|
| Durkin | Haskell | Metzenbaum |
| Hart | Kennedy | Wallop |

NOT VOTING—2

| | |
|---|---|
| Abourezk | Pell |

So Mr. DECONCINI's reservation No. 20 was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LAXALT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. CHILES). Under the previous order, the Senator from Oklahoma (Mr. BARTLETT) is recognized to call up an amendment, with the time until the hour of 11:45 a.m. to be equally divided thereon.

RESERVATION NO. 3

Mr. BARTLETT. Mr. President, my reservation to the resolution of ratification of the Panama Canal Treaty withholds consent of the Senate to ratification until the President of the United States has determined that the people of Panama have approved by a plebiscite all of the changes, reservations, and limitations which have been attached to the Panama Canal Treaty. This reservation is similar to the reservation which I proposed earlier to the treaty of neutrality. As I shall point out, the wisdom of that earlier reservation, designed to reduce tensions between Panama and the United States, is made clearer each day as Panama expresses its dissatisfaction with changes made by the United States to that earlier treaty.

Let me remind my colleagues of the issue. For many years, there has been dissatisfaction in Panama over the 1903 Panama Canal Treaty which gave the United States the right to operate and protect a transoceanic canal in the Canal Zone across the Isthmus of Panama. Since 1903, the Governments of Panama and the United States have negotiated several treaties designed to meet some of the demands of the Panamanians while also insuring that the Panama Canal would be maintained efficiently and securely for the use of the world.

The PRESIDING OFFICER. Will the Senator send his amendment to the desk?

Mr. BARTLETT. I have not called up my amendment yet. I thought I would call it up later.

In recent years, Panama has mounted a major diplomatic effort to secure a treaty with the United States which would grant sovereign rights and operational control of the canal to Panama. Anticipating such a treaty, and remembering the dissatisfaction with the manner in which the 1903 treaty was negotiated, the new Panamanian Constitution of 1972 provided that treaties relating to the Panama Canal must be approved by a plebiscite of the people of Panama. On the 23d of October last year, the people of Panama gave their approval in a plebiscite to the versions of the two Panama Canal treaties originally negotiated. At the time of that plebiscite, the people of Panama were not voting on future amendments, reservations or other changes which might be made by the U.S. Senate.

I would like to remind my colleagues also that the White House, the State Department, and the leadership of this body have consistently made a major effort to avoid most perfecting amendments, some, in part on the ground that they would require a second plebiscite in Panama. Fear of a second plebiscite in Panama grows out of apprehension that the people of Panama might reject the changes made to the treaties or that they might even reject their own government for having inadequately represented their interests.

Nevertheless, there are many of us who feel that good relations with Panama will be possible only when there is agreement and satisfaction as to the terms of the new treaties. We are also concerned that a treaty improperly ratified will be found wanting under international law or under the law of Panama. Furthermore, we feel that changes in the Panama Canal treaties should be dealt with in a straightforward and honest manner, by both nations.

Let us take a closer look at the provisions of the Panamanian Constitution to which I refer. Article 274 of the 1972 Constitution of Panama reads as follows:

> Treaties which may be signed by the Executive Organ with respect to the Panama Canal, its adjacent zone, and the protection of the said Canal, and for the construction of a new Canal at sea level or of a third set of locks, shall be submitted to a national plebiscite.

This requirement for a plebiscite applies only to treaties dealing with the old Panama Canal or a new canal, but not to other types of treaties. It reflects the simple fact that the Panama Canal is as important to the people of Panama as it is to the people of the United States. The detail with which this article of the Panamanian Constitution sets out the kind of treaties which are covered shows that the highest national interest of Panama centers around the geographical importance of Panama's location on the narrow isthmus separating two great oceans.

The 1946 Constitution of Panama, which preceded the 1972 Constitution, contained no such detailed instructions as to treaties dealing with the Panama Canal. That earlier Constitution was written just 1 year after the conclusion of the Second World War. During that war, all Panama could see that great naval powers were involved around them

and that the Western democracies found the canal vital to carrying on a two-front war. Those times were very different from the circumstances preceding the 1972 Constitution.

The 1972 Constitution was written to provide a legal basis for the strongman rule of Gen. Omar Torrijos. Four years before, Torrijos had seized power with the help of the Panamanian National Guard and had established a so-called revolutionary government. Much of Torrijos' strength grew from his promises to wrestle control of the Panama Canal from the United States. In the previous 10 years, there had been several instances of violence as a result of the red hot canal issue, and Panama had even rejected a treaty negotiated with the United States during the Johnson administration. Thus, when the 1972 Constitution of Panama was being drafted, the possibility of a revolutionary, new treaty governing the Panama Canal was foremost in the minds of everyone in Panama.

The provision requiring a plebiscite for ratification of any new Panama Canal treaties clearly reflects the concerns of many Panamanians that a treaty might be negotiated which was unacceptable. Certainly, many Panamanians have expressed the view that the 1903 Treaty was negotiated in an irregular manner. Their fears that a new treaty might also be presented in a less-than-straightforward manner can only have been increased by efforts on the part of the Governments of Panama and the United States to prevent a second plebiscite on changes in the proposed Panama Canal treaties.

Failure to present changes in the proposed treaties to a plebiscite of the Panamanian people raises the possibility that the Supreme Court of Panama might void the treaties on the ground that they were not ratified in accordance with the Constitution. Under the 1972 Constitution, there have thus far been no legal cases dealing with the treaty ratification process. However, much of the 1972 Constitution is modeled after the 1946 Constitution, and there, precedent does exist. As recently as the 1960's, there were three court cases which dealt with the constitutionality of the ratification process. In fact, the "Geneva Convention of August 12, 1949" was declared unconstitutional on the grounds that the text considered during ratification debate in the National Assembly was "truncated and therefore incomplete."

In the case of the present treaties, we have seen changes made which were not a part of the documents and understandings being considered at the time of the October plebiscite. Much has been made of the fact that the joint statement by General Torrijos and President Carter was made public in Panama prior to the plebiscite. That is true. But the joint statement was not included in the document considered. In fact, it was excluded because only documents concluded on September 7, 1977, were considered. Certainly, if the Supreme Court of Panama could declare the entire Geneva Convention of August 12, 1949, void on the grounds that the summary of it presented in the official Gazette was not complete, that court could easily find that agreements not considered during the plebiscite would also not be constitutional.

That view has been expressed by several professors of law in Panama, notably Drs. Julio Linares and Cesar Quintero. Both made it clear that the two so-called leadership amendments to the first Panama treaty, the Treaty of Neutrality, were not a part of the original treaty and could not be considered binding under Panama's Constitution. They have repeated that view most emphatically with respect to the now famous DeConcini reservation. Dr. Quintero's interpretation, widely publicized in Panama, holds that the Government of Panama may reject the treaties, but only a second plebiscite can approve the added reservations and amendments. Quintero, who is dean of the Law and Political Science School of Panama University, is not alone in this opinion. On March 28, one Panamanian editorial expressed the situation this way:

> We want to be totally clear regarding the reservations, understandings, and amendments to the treaty which have passed the great test before the U.S. Senate. In light of the constitutional provisions which authorized the plebiscite for approving or disapproving the Torrijos-Carter treaties we consider that any addenda to those treaties made by the the U.S. Senate will have to be submitted to a plebiscite in Panama. (FBIS, 29 Mar. 78, N1).

Logic points inescapably toward the view that changes to the proposed Panama Canal treaties, whether technically in the form of amendments, reservations, or understandings, should, in accordance with article 274 of the Panamanian Constitution, be submitted to a plebiscite of the people. Not to do so would leave the treaties open to challenges in the Panamanian courts and to widespread popular dissatisfaction in Panama. I believe there is also some question as to whether they would be binding under international law.

Some members of this body have said that the question of a second plebiscite is strictly an internal matter of interest only to Panama. That view is clearly incorrect. My reservation directs the President to determine whether the treaties as altered are ratified in Panama in accordance with their proper procedures for ratification because the failure to ratify these treaties properly could prevent them from being binding under international law. We have reviewed this issue during discussion of the Neutrality Treaty, but let me briefly highlight the problem again.

International law recognizes that treaties are usually made by heads of state and that the source of power to negotiate may come from a constitution or from some force of arms, as in some dictatorships. Thus, international law tends to avoid consideration of the internal affairs of states. But, with respect to certain issues such as the ratification of treaties, international law does not divorce itself completely from the consideration of domestic law. In his classic "International Law", Professor Oppenheim summarizes the situation:

> Sec. 497. Although the Heads of States are regularly, according to International Law, the organs that exercise the treatymaking power of the State, such treaties concluded by Heads of States or other organs purporting to act on behalf of the State, as violate constitutional restrictions do not bind the State concerned. This is so for the reason that the representatives have exceeded their powers in concluding the treaties.

Some members of this body have cited article 46 of the 1970 Vienna Convention on the Law of Treaties as supporting the notion that we should not be concerned about the ratification procedures of the Panamanians, but again I believe they have been misled. Article 46 reads as follows:

> 1. A state may not invoke the fact that its consent to be bound by a treaty has been expressed in violation of a provision of its internal law regarding competence to conclude treaties as invalidating its consent unless that violation was manifest and concerned a rule of its internal law of fundamental importance.
>
> 2. A violation is manifest if it would be objectively evident to any State conducting itself in the matter in accordance with normal practice and in good faith.

First, I should comment that the United States has not yet ratified the 1970 Vienna Convention and that, under the terms of that convention, it does not apply to any treaties concluded by parties prior to ratification by those parties of the Vienna Convention. Nevertheless, article 46, I believe, actually supports my case.

According to article 46, a treaty could be invalid if a violation of internal law were "manifest and concerned a rule of its internal law of fundamental importance". Article 46 defines manifest as follows: "A violation is manifest if it would be objectively evident to any State conducting itself in the matter in accordance with normal practice and in good faith."

The requirement for a plebiscite is stated very clearly in the "fundamental law" of Panama, namely, in article 274 of the Panamanian Constitution. Panama's chief negotiator, Romula Escobar has even called the requirement for a plebiscite with respect to the treaties "an essential requirement" and "a basic condition". That a failure to have a second plebiscite to consider changes involving the treaties would be a manifest violation is made clear by the testimony of Panamanian jurists and at least one Panamanian negotiator.

Mr. President, international law is a complex field, but its basic principles are similar to the contract law that citizens in both Panama and the United States understand. In business transactions, each side puts forth offers which are either accepted or rejected by the other side. An agreement or deal is consummated when both parties agree to the same terms and express that agreement in language acceptable to both. Basically, the same applies to treaties.

In altering the treaty language as originally negotiated and as originally approved in Panama by plebiscite, the Sen-

ate is, in effect, rejecting an offer from Panama while at the same time countering with an offer of its own. As I see it, Panama may either reject the offer, or submit it to the people of Panama for ratification by plebescite. This view is supported by one of Panama's negotiators, Carlos Alfredo Lopez Guevara, in his discussion with Panamanian media representatives of the significance of the reservations which the Senate has attached to the proposed treaties. Let me quote one Panamanian television account.

Lopez Guevara explained the meaning of the word reservation, as it is used in international law. He said that it means a counterproposal made by one party to the other. This counterproposal can be accepted, rejected or negotiated upon by the other party. If one of the parties rejects the counterproposal or reservation and at the same time presents another, this must be done before the exchange of notes because one cannot participate in the exchange ceremony with reservations.

This was reported on the 30th of March, and the account continues:

In giving his opinion as a lawyer, he stressed that if the amendments and reservations introduced by the Senate and included in the ratification resolution involve substantial changes to the treaties approved by the Panamanian people, then another plebiscite would have to be held.

The PRESIDING OFFICER. All the time of the Senator from Oklahoma has expired.

Mr. BARTLETT. Mr. President, according to the clock, I have used 15 minutes. It is my understanding that there are 40 minutes equally divided.

The PRESIDING OFFICER. The time was until 11:45, the time to be equally divided.

Mr. SARBANES. Mr. President, I yield to the Senator 5 minutes.

Would 5 additional minutes accommodate the Senator from Oklahoma?

Mr. BARTLETT. Yes, that will do it.

Mr. SARBANES. I yield the Senator 5 additional minutes.

Mr. BARTLETT. I thank the Senator.

Mr. CHURCH. Mr. President, will the Senator yield to me for a question?

Mr. BARTLETT. Yes.

Mr. CHURCH. For 30 minutes now, I have been trying to oblige the Senator from Texas, who wanted to use 2 minutes of our time. I wonder if the Senator from Oklahoma would object if he might use those 2 minutes, with the understanding that anything he says will appear at another place in the RECORD. Then the Senator might proceed. It is just an accommodation to the Senator from Texas.

Mr. BARTLETT. I shall be happy to accommodate the Senator from Texas just as soon as I finish in 1 minute.

Mr. CHURCH. I thank the Senator.

Mr. BARTLETT. Lopez Guevara is supported by the best legal scholarship. For example, Prof. J. L. Brierly's "The Law of Nations" expresses it this way:

In accepting a treaty a state sometimes attaches a "reservation", that is to say, it makes the acceptance conditional on some new term which limits or varies the application of the treaty to itself. Such a qualified acceptance is really a proposal for a treaty different from that agreed on, and if the reservation is persisted in and is not accepted by the other states concerned it amounts to a rejection.

Or, in the words of Professor Oppenheim:

That occasionally a State tries to modify a treaty while ratifying it cannot be denied; but conditional ratification is not ratification at all, but is equivalent to refusal of ratification coupled with a fresh offer which may or may not be accepted.

Clearly, to give the proposed Panama Canal treaties their maximum legitimacy, they must be submitted along with all changes to the people of Panama in accordance with article 274 of the Panamanian Constitution of 1972. Failure to take this step would leave the treaties vulnerable to refutation by subsequent Governments of Panama, or for that matter the United States, and might reduce the binding effects of the treaties under international law. In my opinion, such a loophole could work to the advantage of Panama in the future.

Although the government of Panama is undoubtedly a dictatorship, the rule of law has not completely ceased in Panama. Article 274 of their constitution clearly requires a plebiscite prior to ratification of any treaty dealing with the Panama Canal, and the present government of Panama has already acted once in accordance with that provision. Certainly, when confronted with a changed document, the right of the present government to rule would be seriously called into question if the new language were not submitted to a plebiscite.

But above all, it is important that we not commit ourselves to an irreversible treaty, parts of which some Panamanian Government, present or future, might repudiate. Differences between the 1946 and 1972 Panamanian Constitutions underscore the importance of getting the treaties off on the correct legal footing. Article 4 of title I of the 1946 Constitution read quite simply:

The Republic of Panama respects the rules of international law.

Article 4 of title I of the 1972 Constitution reads quite ominously:

The Republic of Panama respects the universally recognized rules of international law which are not prejudicial to the national interest.

In this language is contained great danger for Panamanian-American relations in the future. Clearly, we must insure that any new treaties are made legitimate under Panamanian law. I believe that this means a second plebiscite on the Panama Canal treaties.

The seriousness of this issue can be illustrated by two questions: Do you believe that Panama would accept a treaty that had not been ratified by the U.S. Senate in accordance with our Constitution, when such ratification is required by the language of the treaty itself? And would you, as an elected representative of the American people, give your consent to ratification of a treaty whose language has been changed subsequent to first consideration of the document? I think that the answer to both of those questions is no.

It would be an injustice to the people of the United States if the Senate were to ignore its treaty responsibilities, and it would be an injustice to the people of Panama, about whose human rights and democracy we have been greatly concerned, not to expect that the treaties as amended would be resubmitted to a plebiscite of the people of Panama.

The reservation I propose makes consent to ratification "subject to the reservation that before the date of the exchange of the instruments of ratification the President shall have determined that the Republic of Panama has ratified the treaty, as amended, in accordance with its constitutional processes, including the process required by the provisions of article 274 of the Constitution of the Republic of Panama."

In effect, the reservation I propose makes clear to the President that the Senate does not consent to ratification of a potentially invalid treaty. It instructs the President to determine that the Republic of Panama has properly considered our amendments as required by the Constitution of Panama.

In short, the reservation I propose makes explicit the recognition that a new plebiscite is required in Panama to deal with changes already made or pending to the Panama Canal Treaty. A new plebiscite in Panama is necessary to:

First. Conclude a new agreement between the United States and Panama in the manner of a contract, which we all understand;

Second. Guarantee United States and Panamanian rights under the treaty;

Third. Comply with international law;

Fourth. Reduce the likelihood of misunderstandings with the Panamanians;

Fifth. Reduce the chances that subsequent Panamanian regimes will refute the treaty;

Sixth. Comply with the Panamanian Constitution and insure that the Supreme Court of Panama does not void the agreement;

Seventh. Support our policy of standing up for political and human rights around the world; and

Eighth. Show the American people that the "reservations" passed by the Senate are not a political maneuver designed to camouflage real flaws in the treaties so that General Torrijos and the administration will not suffer political embarrassment and defeat.

Panamanian-American diplomatic relations are unlikely to be smooth in the years ahead. Our interests and policies are simply too diverse on too many issues. For example, in 1976, on 36 issues before the United Nations in which the Soviet Union and the United States were on opposite sides, Panama voted with the Soviet Union 31 times and with the United States only 5 times. I understand that the record last year was even worse. Ambiguities in the Panama Canal Treaty and uncertainty over the impact of the implementing legislation are likely to lead to additional problems. For these reasons, I believe that the United States should protect itself by insuring that it does not commit itself to an irreversible treaty which may fall apart before it has

run its course. My reservation on a second plebiscite in Panama will help prevent some of those problems that can be avoided.

Mr. President, I reserve the remainder of my time.

Mr. BENTSEN. Mr. President, even in a Senate clearly and deeply divided over the Panama Canal treaties, I think we could establish a broad consensus on at least one important point: our overriding national interest in Panama is to keep the Panama Canal open, neutral, operating efficiently, and accessible to U.S. vessels at all times.

The basic question we have been debating for the past 2 months is whether this objective is best served by a new order in the Canal Zone or by clinging desperately to the status quo.

Mr. President, no treaty, past or present, can guarantee the future of the Panama Canal. In the final analysis the future of the canal, and our ability to use it freely, will be determined by the degree to which Panama and the United States of America are prepared to work together to achieve mutually acceptable objectives.

The treaties before the Senate give us a framework, an acceptable framework in my opinion, for future cooperation with the Government and people of Panama. The treaties are not an indication of the decline and fall of the United States. They are, instead, an important symbol of our willingness, as the most powerful and compassionate nation in the world, to deal with lesser powers from a position of fairness and mutual respect.

The Panama Canal treaties, as originally negotiated and sent to the Senate, were vague on the important questions of canal neutrality and priority passage for U.S. vessels in time of need. The Senate amended the treaties to provide appropriate assurances on these important points. The significance of these amendments has been fully appreciated by the American people.

Poll after poll, in Texas and across the country, has demonstrated that when the people understand the assurances contained in the leadership amendments to the treaty, the majority of them support treaty ratification. Without the leadership amendments such support would be clearly lacking.

I have heard about the Opinion Research Organization being quoted time and time again here on the floor and it is a fine research organization. But they did not quote the figures for Texas, I notice. Those figures for Texas show that 79 percent of Texans in February were opposed to that treaty; only 11 percent for it, until something very important happened. When the two amendments were attached to it, as approved by the leadership and by the Senate, a dramatic shift in public opinion in Texas occurred. After that, 49 percent approved the treaty with those two amendments attached. Thirty-three percent were then opposed and the rest were undecided.

Like many Members of the Senate, I traveled to Panama and Latin America earlier this year to learn firsthand about the treaties and their ramifications. I came away from my meetings with American and Panamanian officials, with Archbishop McGrath of Panama City, with the Presidents of Costa Rica, Venezuela, and Colombia, firmly convinced that those would rejoice most at Senate rejection of the Panama Canal treaties would be Communist and leftist elements in Latin America opposed to our interests and our friends in the area. That they would use the charge of colonialism to advance the cause of Castro and other Communist elements throughout Latin America and the Caribbean.

I came away with the conviction that one of the best ways to keep the Panama Canal open is to give the people of Panama an economic self-interest in its continuing operation and to relieve nationalist strains in Panama with a new treaty that is consistent both with our national interests and Panamanian national pride.

There are risks inherent in Senate approval of the Panama Canal treaties, Mr. President. Let us acknowledge this fact honestly and openly. But there are also risks—in my opinion greater risks—in Senate refusal to approve the treaties. Our choice today is not between the new treaties and the status quo in the Canal Zone. Rather, it is between the treaties as negotiated and amended by the Senate and the potential Panamanian reaction if the treaties are rejected.

Mr. President, I support Senate approval of the Panama Canal treaties because I believe ratification is in the best interest of the United States of America, because I am sincerely convinced that the treaties, as amended by the Senate, provide adequate assurances for our vital national security and economic interests; because I believe the treaties will serve to keep the canal open and accessible to U.S. vessels; and finally, because I feel this Nation is strong enough, confident enough, and decent enough to conclude such an agreement.

Mr. CHURCH. Mr. President, I do not believe that the distinguished Senator from Oklahoma has called up his amendment. I ask him at this time if it is his purpose to call up the amendment so that the Senate may proceed to a vote at 11:45.

Mr. BARTLETT. Yes, my purpose is to call it up and have a vote.

Mr. CHURCH. I have not seen the amendment in its final version. I wonder if the Senator would send it to the desk so I can read the amendment before commenting on it.

RESERVATION NO. 3

Mr. BARTLETT. Mr. President, I call up my amendment, reservation No. 3.

The PRESIDING OFFICER. The reservation will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT) proposes a reservation numbered 3:

Before the period at the end of the resolution of ratification, insert a comma and the following: "subject to the reservation that before the date of the exchange of the instruments of ratification the President shall have determined that the Republic of Panama has ratified the Treaty, as amended, in accordance with its constitutional processes, including the process required by the provisions of Article 274 of the Constitution of the Republic of Panama".

Mr. CHURCH. Mr. President, this reservation would require that the President of the United States certify to the U.S. Senate that the Government of Panama has complied with the laws of Panama.

I have little doubt how we would react if a similar reservation was adopted by Panama and directed toward the United States. We would regard it as the height of presumption.

Furthermore, there is no way that the President of the United States can positively certify that Panama has complied with Panamanian laws.

This is a matter that can be authoritatively determined only by the Government of Panama, and, furthermore, it is the business of Panama.

Now, article II of the treaty provides as follows:

This treaty shall be subject to ratification in accordance with the constitutional procedures of the two parties.

I submit, Mr. President, that this language is all the guarantee we need. In the normal course of comity between nations, Panama would certify that its own constitutional processes, its own laws, had been complied with, and we in turn would certify that our laws had been complied with.

I do not think that it is within the competence of the Presidency or of the Senate to construe or to interpret Panamanian law for the Panamanians.

It has been argued that since the Senate has adopted certain reservations to these treaties it is necessary to hold a second plebiscite under Panamanian law. Mr. President, that is for the Panamanians to determine.

The PRESIDING OFFICER. The time of the Senator from Idaho has expired. The Senator from Oklahoma has 1 minute.

Mr. CHURCH. Therefore, the time having expired, I hope that the Senate rejects this amendment. It is my plan to make a motion to table the amendment as soon as the time of the Senator from Oklahoma has expired.

Mr. BARTLETT. Mr. President, my reservation simply says that before it gives consent to this treaty, the Senate advises the President that he take precautions to insure that it is a valid treaty.

We want to know legally what the Panamanians do believe the understanding to be. We do not want a pig in a poke. We want to know what they believe in a legal manner according to international law.

As it stands now, we know that there are those in Panama who believe there should be a plebiscite. There are those in Panama who believe that provisions, reservations, amendments, understandings added to the treaty have not been done so with the support of Panamanians, that the Panamanians do not support those provisions that have been added in the Senate.

So I think it is important that we be assured legally that we and the Pana-

manians have the same understandings so that there will not be a confrontation down through the years as we approach the end of the year 1999.

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. BARTLETT. Mr. President, I ask for the yeas and nays.

Mr. CHURCH addressed the Chair.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CHURCH. Mr. President, I move to lay the amendment on the table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table reservation No. 3 of the Senator from Oklahoma (Mr. BARTLETT). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Wyoming (Mr. WALLOP) is necessarily absent.

The result was announced—yeas 63, nays 35, as follows:

[Rollcall Vote No. 110 Ex.]

YEAS—63

| | | |
|---|---|---|
| Anderson | Haskell | Moynihan |
| Baker | Hatfield, | Muskie |
| Bayh | Mark O. | Nelson |
| Bellmon | Hathaway | Packwood |
| Bentsen | Heinz | Pearson |
| Biden | Hodges | Pell |
| Bumpers | Hollings | Percy |
| Byrd, Robert C. | Huddleston | Proxmire |
| Case | Humphrey | Ribicoff |
| Chafee | Inouye | Riegle |
| Chiles | Jackson | Sarbanes |
| Church | Javits | Sasser |
| Clark | Johnston | Sparkman |
| Cranston | Kennedy | Stafford |
| Culver | Leahy | Stevenson |
| Danforth | Long | Stone |
| DeConcini | Magnuson | Talmadge |
| Durkin | Mathias | Weicker |
| Eagleton | Matsunaga | Williams |
| Glenn | McGovern | Zorinsky |
| Gravel | McIntyre | |
| Hart | Metzenbaum | |

NAYS—35

| | | |
|---|---|---|
| Allen | Goldwater | Nunn |
| Bartlett | Griffin | Randolph |
| Brooke | Hansen | Roth |
| Burdick | Hatch | Schmitt |
| Byrd, | Hatfield, | Schweiker |
| Harry F., Jr. | Paul G. | Scott |
| Cannon | Hayakawa | Stennis |
| Curtis | Helms | Stevens |
| Dole | Laxalt | Thurmond |
| Domenici | Lugar | Tower |
| Eastland | McClure | Young |
| Ford | Melcher | |
| Garn | Morgan | |

NOT VOTING—2

| | |
|---|---|
| Abourezk | Wallop |

So the motion to lay on the table reservation No. 3 was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, Jr.). The Senator from Maryland has the floor.

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The following occurred earlier in today's proceedings and are printed at this point by unanimous consent:)

Mr. DOLE. Mr. President, I wonder whether the Senator from Kansas can have some time. I have a noncontroversial matter, just to make some nonlegislative history, which will take about 3 or 4 minutes.

Mr. THURMOND. I yield the 1 minute I have remaining to the distinguished Senator from Kansas, if that will help.

Mr. DOLE. I thank the distinguished Senator from South Carolina.

Mr. President, I ask unanimous consent that the statement I am about to make appear following the six votes at 10 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator ask that this time not be charged against the amendment?

Mr. DOLE. That it be charged against the amendment, but that the comments made by the Senator from Kansas appear following the votes.

The PRESIDING OFFICER. The time of the Senator from South Carolina has expired, and the Senator from Maryland would have to yield time.

Mr. DOLE. Will the Senator from Maryland yield 3 minutes, so that I may make some legislative history? It is not on the amendment.

Mr. SARBANES. I yield 3 minutes to the Senator.

### PROTECTION OF LAND HELD BY MASONIC LODGE IN CANAL ZONE

Mr. DOLE. Mr. President, I call the attention of my colleagues to a small, but not insignificant aspect of the current Panama Canal Treaty debate, which should not go unnoticed before we complete our work on this matter. It involves the unique situation of the only privately owned real property lying within the present Panama Canal Zone—land purchased and held continuously by Sojourners Lodge of the Ancient Free and Accepted Masons for 57 years.

Sojourners Lodge, located in Cristobal, Canal Zone, and under the jurisdiction of the Grand Lodge of Massachusetts, holds clear title to a tract of land and a building which sits upon it, at the southwest corner of the intersection of Bolivar Avenue and Eleventh Street. Its purchase of the property from the Panama Railroad Company in 1921 was authorized by an act of Congress the previous year (41 Stat. 948). In fact, all other real property in the Canal Zone is owned by the Government of the United States, and will be transferred to the Government of Panama under the provisions of the treaty now under consideration.

Naturally, there has been concern among the members of Sojourners Lodge about the possible effect of the new treaty upon their legal right, and their practical ability to retain ownership of their property and their building once all surrounding land in the Canal Zone has been turned over to Panama.

The draft treaty of 1967, which never reached the Senate floor for a vote, contained specific reference to the understanding that the Lodge's title to this property would not transfer to the Republic of Panama. Despite the fact that this matter was again brought to the attention of the U.S. negotiating team last year, no similar provision was contained within the present Panama Canal Treaty proposal.

Although State Department officials have stated their clear understanding that the new treaty in no way alters or affects the property title held by Sojourners Lodge, the members have sought a precise statement to this effect by the Government of Panama itself.

With the cooperation of our State Department and the Embassy of Panama located in Washington, D.C., the Senator from Kansas has been able to secure a clear, precise, and unambiguous commitment from an authorized representative of the Panamanian Government that the private deed to this property in Cristobal will continue to be honored in perpetuity. This statement conveys the understanding that Panama will in no way attempt to induce Sojourners Lodge to vacate their land or building, nor levy any charge for their continued occupancy of the property. I am advised that this commitment has been cleared with the highest authorities in the Government of Panama.

So that there may be no question on this point now, or at any future date, I believe this should be made a matter of record in the legislative history of the Panama Canal Treaty now proposed for ratification. Therefore, Mr. President, I ask unanimous consent that the letter from the chargé d'affaires to the State Department legal adviser, dated April 14, 1978, be printed in the RECORD at the conclusion of my remarks, along with correspondence from the State Department and Panama Canal Zone Government confirming their agreement with this position.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APRIL 14, 1978.

Mr. HERBERT J. HANSELL,
*Department of State,*
*Washington, D.C.*

DEAR MR. HANSELL: In response to your verbal inquiry, I hereby notify you that we recognize the validity of the title now held by the Sojourners Lodge, of the Ancient Free and Accepted Masons, to the tract of land comprising lots numbered 641, 643, 645 and 647 located on the southwest corner of the intersection of Bolivar Ave. and 11th Street in Cristobal and to the improvements thereon. The entry into force of the Panama Canal Treaty of 1977 will not in any way impair the validity of this title.

I avail myself of this opportunity to renew to you the assurances of my consideration.

R. A. BILONICK PAREDES,
*Chargé d'Affaires, a.i.*

DEPARTMENT OF STATE,
*Washington, D.C., February 21, 1978.*

Mr. WHITFIELD W. JOHNSON,
*Tremont Street,*
*Boston, Mass.*

DEAR MR. JOHNSON: The Secretary has asked me to respond to your letter of January 27, concerning the effect which approval of the Panama Canal Treaty of 1977 would have on title held by the Sojourners Lodge A.F. and A.M. to a tract of land in Cristobal.

Your letter correctly notes that the 1977 Treaty does not specifically confirm the Lodge's ownership of the tract in question. Contrary to your assumption, however, the Treaty does not divest the Lodge of its title or convey title to the Republic of Panama.

Article XIII(2) conveys to Panama (with certain exceptions) all right title and interest of the United States in real property located in the Canal Zone. This provision does not purport, nor was it intended to disturb in any way the present title of the Sojourners Lodge.

Nor is the Lodge's title affected by the termination of the 1903 Treaty. Prior to entry into force of the 1903 Treaty, title to the tract deeded to the Masons was held by the Panama Railroad Company; accordingly, the rights it held (and ultimately conveyed to the Masons) did not arise under the provisions of that agreement, and would not be affected by its termination.

The provisions of the Panama Canal Treaty of 1977 concerning applicable law and law enforcement insure that the present title of the Lodge will not be subject to question under Panamanian law. Under paragraph 1 of Article XI of the 1977 Treaty, Panama agrees that its law "shall be applied to matters or events which occurred in the former Canal Zone prior to the entry into force of this Treaty only to the extent specifically provided in prior treaties and agreements." It seems clear, therefore, that the validity of the 1921 conveyance would not be subject to question under Panamanian law, since it concerns a matter or event occurring prior to entry into force of the 1977 Treaty, the regulation of which is not specifically provided to Panama under earliest treaties. Accordingly, it does not appear that there should be any serious difficulty in obtaining recognition by Panama of the Masons' deed to their land in Cristobal. Upon entry into force of the Teraty, the Lodge should register its deed with the Panamanian authorities in order to formalize their ownership under Panamanian law.

If you require any further information or assistance in connection with this matter, feel free to contact me.

Sincerely,

MICHAEL KOZAK,
*Acting Assistant Legal Adviser for Inter-American Affairs.*

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OFFICE OF THE GOVERNOR.

CERTIFICATE

I, Joseph J. Wood, Chief, Administrative Services Division (Agency Records Officer) and legal keeper of the records of the Panama Canal Company and Canal Zone Government, do hereby certify that the attached document, described herein, as a true and correct copy of the official record of such document contained in the files of the Panama Canal Company and Canal Zone Government:

Signed and notarized copy, dated April 19, 1921, of the indenture made between the Panama Railroad Company and officers of Sojourners Lodge of the Ancient Free and Accepted Masons of Cristobal, Canal Zone, for the building known as the Masonic Temple and the land upon which the building rests.

I further certify that the office of the Agency Records Officer possesses no official seal.

In witness, here I have hereunto set my hand at Balboa Heights, Canal Zone, on this 17th day of February, A.D. 1978.

JOSEPH J. WOOD,
*Chief, Administrative Services Division, Agency Records Officer, Panama Canal Company, Canal Zone Government.*

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OFFICE OF THE GOVERNOR,
*September 23, 1977.*

Mr. JAMES E. BREDENKAMP,
*Chairman, Building Committee, Sojourners Lodge, A.F. & A.M., Cristobal, Canal Zone*

DEAR MR. BREDENKAMP: This is in response to your letter of September 19 concerning omission in the proposed Panama Canal Treaty of 1977 and related agreements of specific treatment of lots 641, 643, 645 and 647 in Cristobal, Canal Zone which were conveyed to Sojourners Lodge, A.F. & A.M. by the Panama Railroad Company pursuant to Congressional authorization (41 Stat. 948). As requested, this will confirm that the singular status of title to the lots was brought to the attention of the United States negotiations team. With regard to our conversation, this will also confirm that specific treatment was accorded this property in the 1967 draft treaty.

Sincerely yours,

J. PATRICK CONLEY,
*Executive Secretary.*

(Conclusion of proceedings which occurred earlier.)

UP AMENDMENT NO. 36

Mr. ROBERT C. BYRD. Mr. President, on behalf of myself, the distinguished minority leader, Mr. DECONCINI, Mr. CHURCH, and Mr. SARBANES, I send to the desk an amendment to the resolution of ratification and ask that it be stated by the clerk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for himself and Mr. BAKER, Mr. DECONCINI, Mr. CHURCH, Mr. SARBANES, Mr. SPARKMAN, Mr. JAVITS, Mr. LEAHY, and Mr. GRAVEL, proposes an unprinted amendment numbered 36.

Before the period at the end of the resolution of ratification, insert a comma and the following: "subject to the reservation that: Pursuant to its adherence to the principle of non-intervention, any action taken by the United tSates of America in the exercise of its rights to assure that the Panama Canal shall remain open, neutral, secure, and accessible, pursuant to the provisions of this Treaty and the Neutrality Treaty and the resolutions of advice and consent thereto, shall be only for the purpose of assuring that the canal shall remain open, neutral, secure, and accessible, and shall not have as its purpose nor be interpreted as a right of intervention in the internal affairs of the Republic of Panama or intereference with its political independence or sovereign integrity."

Mr. ROBERT C. BYRD. Mr. President, this amendment reaffirms the principle of nonintervention, a principle which is and should remain a cardinal principle of U.S. foreign policy.

The amendment would make absolutely clear that the United States does not claim and does not seek any right of intervention in the internal affairs of Panama. The United States respects the sovereign integrity and the political independence of Panama.

Our interest is an open, secure, neutral, and accessible canal. We have no interest in the internal affairs of the Republic of Panama.

Mr. President, the language contained in this amendment is the result of many, many hours of discussion, involving many Senators on both sides of the aisle. These discussions have involved Senators who have adverse viewpoints, diverse viewpoints, and differing viewpoints.

The final text of the amendment represents a consensus which developed out of those discussions with the many Senators on both sides of the aisle.

On this Sunday, the past Sunday, together with the distinguished floor managers of the treaties, Mr. SARBANES and Mr. CHURCH, met with the Panamanian Ambassador, Mr. Gabriel Lewis, in the company of Warren Christopher, the Deputy Secretary of State, and showed to the Panamanian Ambassador the proposed text of the amendment.

Following our discussion, Ambassador Lewis relayed the contents of the proposed amendment to his government. Later in the day, Mr. SARBANES and Mr. CHURCH, and I were informed through the State Department that the Panamanian Government considered the amendment to be a "dignified solution to a difficult problem."

Mr. President, as I have said throughout the course of this debate, these treaties are consistent with the best and most worthy of American values and principles. They serve and promote our national interests.

This amendment is totally in accord with those goals and principles, and it demonstrates our respect for and our concern for the pride and sensitivities of the people of Panama.

This amendment is the concrete expression of policy based upon respect for the sovereignty of our treaty partner.

This amendment and these treaties represent a fair and honorable course for our country and for Panama. I strongly urge the adoption of the amendment.

Mr JAVITS. Mr. President, will the Senator yield?

Mr. ROBERT C, BYRD. Yes, I yield.

Mr. JAVITS. I think it more appropriate for the Senator to yield to Senator BAKER.

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. BAKER. Mr. President, I thank the Senator from New York. I will not take very long, and I thank the majority leader for yielding.

Mr. President, I support this proposal. I would point out, as my colleagues know, that it is a product for much effort, as the majority leader indicated, following in the wake, as it did, of expressed discontent by the Panamanian Government and many people of the Republic of Panama, of the text and tone of the so-called DeConcini reservation.

Early on I conferred with the distinguished majority leader and I indicated to him at that time it was my view that the so-called leadership amendment to the Neutrality Treaty had in many respects the same equivalent effect in that it provided that the United States has the right to protect the regime of neutrality and the free, open access of this

canal to American traffic on a priority basis, and traffic of all nations permanently, but that I would have no objection to some effort to devise language, which would be consistent with the leadership amendment, which did not significantly diminish the rights of the United States to protect that regime of neutrality, and that I would await the negotiations that might be conducted on the majority side of the aisle and, indeed, with the Government of the Republic of Panama.

The majority leader very kindly kept me advised of the progress of those negotiations, and following the course of those negotiations, as described by the majority leader, I indicated to him that I found this language acceptable, and I would be pleased to cosponsor it.

I do not believe this language diminishes in any respect the rights of the United States, nor does it impugn the authority of the Republic of Panama. I think it materially improves the potential for a good relationship between the countries, and I think it is a constructive measure that I hope will be adopted by the Senate.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished minority leader both for his support of the amendment, his cosponsorship of it, and his supporting statement.

Mr. President, before I yield to the distinguished Senator from New York, I ask unanimous consent that the distinguished chairman of the Committee on Foreign Relations (Mr. SPARKMAN) be added as a cosponsor.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, Jr.). Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I would like to make the same request, that I be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I have always believed very deeply that this was a test of the American policy, certainly the Americas, for the foreseeable future. I hope it lasts for a century or more.

It involves very deeply our relations with the other countries in the Americas, and the formula which you have used in this amendment "open, neutral, secure, and accessible" is the proper formula to be used, and the formula respecting intervention is taken almost verbatim from the words of the Carter-Torrijos agreement, an understanding upon which we based our ratification of the first treaty.

Mr. President, I think a very creditable job has been done for our country in dealing with what I believe were the very legitimate objections to the original DeConcini amendment which, in my judgment, gave a hunting license to any American President, and had to be unacceptable to the people of Panama.

I voted against it; a number of others voted against it, who have been constant and indefatigable supporters of the treaty, because I believe it nullified—not the words, not the agreement, but nullified—the purpose, the intent, and the motive for the United States entering into this treaty.

Nobody pretends this is an advantageous treaty to the United States over and above 1903. But, Mr. President, it is a necessary agreement, an engagement by the United States that we live in 1978, not in 1903, and that in this time even the rights of small nations have to be respected and regarded as sovereign and equal in significance and solemnity with the respect with which we expect to be accorded to the sovereignty of big nations, including superpowers like the United States.

So I believe this reservation has now dealt in the most practical and direct way with the two problems: First, the real purpose of the United States to have a canal which is open, neutral, secure, and accessible, and I hope these words will ring in history—they are exactly the right test; and, second, that under no circumstances are we going to allow any American President or any American Congress to dream up some incident which will enable us to determine how Panama should be run or who should govern it.

For those reasons, Mr. President, I very strongly support this reservation.

Mr. President, I ask unanimous consent that article II of the Panama Canal Treaty and article VIII of the Neutrality Treaty be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

PANAMA CANAL TREATY

ARTICLE II

RATIFICATION, ENTRY INTO FORCE, AND TERMINATION

1. This Treaty shall be subject to ratification in accordance with the constitutional procedures of the two Parties. The instruments of ratification of this Treaty shall be exchanged at Panama at the same time as the instruments of ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, signed this date, are exchanged. This Treaty shall enter into force, simultaneously with the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, six calendar months from the date of the exchange of the instruments of ratification.

2. This Treaty shall terminate at noon, Panama time, December 31, 1999.

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TREATY CONCERNING THE PERMANENT NEUTRALITY AND OPERATION OF THE PANAMA CANAL

ARTICLE VIII

This Treaty shall be subject to ratification in accordance with the constitutional procedures of the two Parties. The instruments of ratification of this Treaty shall be exchanged at Panama at the same time as the instruments of ratification of the Panama Canal Treaty, signed this date, are exchanged. This Treaty shall enter into force, simultaneously with the Panama Canal Treaty, six calendar months from the date of the exchange of the instruments of ratification.

Done at Washington, this 7th day of September, 1977, in duplicate, in the English and Spanish languages, both texts being equally authentic.

The PRESIDING OFFICER. Who yields time?

Mr. LAXALT. Mr. President, will the Senator yield for a question or two?

Mr. JAVITS. Certainly.

Mr. LAXALT. If I understand the Senator from New York's observations, the so-called DeConcini reservation was objectionable to the Senator on the basis that it granted the United States a so-called hunting license.

Mr. JAVITS. Right.

Mr. LAXALT. I gather that whatever is being expressed in the new reservation propounded by the leadership changes that results; is that correct?

Mr. JAVITS. That is correct.

Mr. LAXALT. Is the Senator saying to all of us then that the effect of this reservation is to diminish the effect of the DeConcini reservation?

Mr. JAVITS. Not at all. On the contrary, it is to lay down the ground rules by which it should be used, and which are the only ground rules that are practicable for a nation like our own.

What concerned me about the original DeConcini reservation is that it was susceptible to abuse, and this, the ground rules here laid down, it seems to me, removes that danger.

Mr. LAXALT. To the extent then this is a limiting factor, a moderating factor, certainly at least to that extent then it has to diminish the thrust of the DeConcini amendment or do I misunderstand the observations of the Senator from New York?

Mr. JAVITS. I think the Senator does misunderstand my observations. It diminishes nothing. It increases our stature, but it diminishes absolutely nothing about what the purpose of the agreement between Carter and Torrijos, which was incorporated in the previous treaty, was intended to attain, and that is under any circumstances, even if it means stepping upon the territory of Panama, under any circumstances, even if it means guerrillas or organized troops who are operating out of Panama, we have the obligation to keep that canal open, neutral, accessible and secure.

Mr. LAXALT. But——

Mr. JAVITS. If I may just finish, the Senator asked me a question.

Mr. LAXALT. Yes, sure.

Mr. JAVITS. What it does prevent is the abuse of that particular provision for some national purpose which is unworthy of us and which is not within the purpose or intent of this agreement or the reason why I am hopeful the Senate will ratify it today. It simply is a protection against abuse.

May I give the Senator an example—

Mr. LAXALT. Surely.

Mr. JAVITS. —because I know we would like to be very precise about this.

I go out of town, I have a lawyer, I give my lawyer a power of attorney. I tell him, "Look, I am giving you this power because I want you to pay my bills; when the dog has to go to the vet I want you to take the dog and pay the vet," and so forth. I do not give him any power of attorney to empty out my safe deposit box but, nonetheless, he does.

Now, Mr. President, is that a limitation on his power if I write in the power of attorney, "I am sorry but I do not want you to empty out my safety deposit box," or is it simply to prevent abuse? That is what I am saying.

I am saying that we are adopting now a reservation which will prevent the

abuse of a reservation we previously adopted, which was susceptible of abuse.

Mr. LAXALT. The Senator used the power of attorney example. If I may say so, knowing the Senator's reputation for careful and precise language, I was intrigued by his choice of words, particularly of the term "hunting license."

To me, that indicated, if we are going to talk about the analogy of a power of attorney, something akin to a general power of attorney.

What we have here, if I understand the thrust of this amendment, is a limited and special power of attorney, so that you have begun with a general power of attorney, but have now come in with a reservation seeking to limit that to a special power of attorney; is that not correct?

Mr. JAVITS. I do not agree with that at all, and I think it is a complete misreading of the intent of this particular reservation.

The PRESIDING OFFICER. The Chair would inquire as to who is yielding time at this point.

Mr. LAXALT. The Senator from Nevada is yielding time at this moment. May I ask a further question?

Mr. JAVITS. On your time, yes.

Mr. LAXALT. This treaty expires, does it not, on December 31, 1999?

Mr. JAVITS. That is correct.

Mr. LAXALT. The DeConcini reservation to the Neutrality Treaty takes effect, under its terms, on January 1, 2000, does it not?

Mr. JAVITS. Correct.

Mr. LAXALT. I fail to understand, since this discussion has arisen, how in the world a provision of this kind can be operative on the first treaty, when, by the terms of the pending treaty, it expires on December 31, 1999.

Mr. JAVITS. The reservation expresses a policy of the United States, and a policy which we believe now, from what the majority leader has said, is acceptable as the policy which will guide United States actions under these treaties toward the Republic of Panama.

It seems to me, therefore, that the purpose and intent of the reservation being clear to both parties, if acceptable to both parties, it may be incorporated in this document without vitiating its effectiveness, because really it is binding on us.

In other words, what it is is a guideline as to the actions of the President of the United States, the Commander in Chief of our Armed Forces——

Mr. LAXALT. Well, Senator——

Mr. JAVITS. If I may just finish, I think, notwithstanding the fact that this treaty runs out, as it were, under its terms, in respect of this activity it is a totality. Both treaties are a totality and a link. One treaty does not become effective until the other treaty becomes effective, and the terms of each treaty say that. Therefore that link, it seems to me, fully justifies the wording of this reservation.

Mr. LAXALT. Without being elementary or fundamental here, as a matter of simple contract law, is it not true that the treaties are tantamount to contracts?

Mr. JAVITS. I can agree to that.

Mr. LAXALT. All right. Is it not also true that under the terms of the treaty now under consideration, it expires on December 31, 1999? How in the world can this reservation be operative in a treaty that takes effect after this treaty expires?

Mr JAVITS. I just explained that, Senator. Both treaties are linked as a unit by the provision in each treaty that neither treaty shall be effective unless the other is. It is because of that link, in my judgment, that we have a right to adopt this reservation and this reservation is, in my judgment, binding.

If the two treaties were absolutely insulated one from the other, the Senator's question might have some pertinence; but even then, I doubt that the argument would be effective, because this represents a guideline to the President of the United States and to future Congresses.

It seems to me that that question is completely resolved, even on the texts of the treaties, by the relation between the two contracts.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. LAXALT. Surely

Mr. McCLURE. Certainly the Senator from New York has again demonstrated the validity of the comment I made to him yesterday, that if I have a very weak case in court I want him as my lawyer, because he is capable of making a very good argument where there is no possibility of a valid argument. I commend him for that, but certainly the Senator from New York knows the difference between a general power of attorney and a limited or special power of attorney. I think the Senator from Nevada is precisely correct, that this is a limitation and a reduction in the scope of the original DeConcini amendment.

I think it is also worthy of noting that the Senator is exactly correct with regard to the expiration of the terms of this treaty at the end of this treaty. The Senator from New York is now arguing that the two are linked, when the managers of the treaties refused to allow a linkage between the two treaties when that was discussed, and when amendments were offred earlier to do precisely that. So there is not the linkage now being argued; there is a separation, and an ending of the first treaty. I commend the Senator from Nevada for having made those points.

Mr. SCOTT. Mr. President, will the Senator yield briefly?

Mr. LAXALT. I am pleased to yield to the Senator from Virginia.

Mr. SCOTT. I appreciate the Senator's yielding.

I voted against the original DeConcini reservation because I had doubt that it would have any valid or binding effect upon the treaty; and to me this amendment to the reservation merely expresses a concern for the people of Panama.

I would think that we, as U.S. Senators, should be concerned about the people of the United States far more than we should be concerned about the people of Panama. They demonstrate a little bit in the street and we fly to pieces about it; but the American people are opposed to this treaty, and I believe the important thing here is to do what is best for the United States. The distinguished Senator from New York spoke of enhancing the American image by adopting something of this nature. The American image and the American leadership in the free world will be shown by strength; and we are not becoming stronger by giving away this vital artery of commerce.

I am retiring from the Senate, as Senators know, at the end of this term. In my judgment, other Senators will retire involuntarily come the general election in November.

Mr. HELMS. Mr. President, I yield to the able Senator from Alabama.

Mr. ALLEN. I thank the distinguished Senator from North Carolina for yielding to me.

Mr. President, I do not know why the amendment before the Senate now has been shrouded in such secrecy. I was able to obtain a copy of this amendment at 12 minutes after 12, to have an opportunity to study it. Why the need for all this secrecy? What has become of the old principle of "open covenants openly arrived at"?

What this amendment seeks to do is to get this treaty and the other treaty off the horns of a dilemma caused by the administration and the leadership themselves. They accepted the DeConcini reservation. They embraced it, they endorsed it, and in fact it became a leadership-administration amendment.

Now they seek to water down, in this treaty which expires on January 1 of the year 2000, a reservation to the other treaty, which is in perpetuity.

The distinguished Senator from New York spoke of the words here being the words of the memorandum between the President and the dictator, which later became the leadership amendment. That is true. The Neutrality Treaty did have the leadership amendment. This amendment now is a pseudo-leadership amendment. It seeks to graft onto this treaty, which expires at the end of this century, the provisions of the leadership amendment.

That being true, let us see what the DeConcini reservation says: notwithstanding the provisions of article V or any other provision of the treaty, if the canal is closed, or its operations are interfered with, the United States has a right unilaterally to take whatever action is necessary to keep the canal open and operating even to the point of using military force.

The Neutrality Treaty had the leadership amendment in it. Yet the DeConcini amendment says irrespective of the leadership amendment, irrespective of that limitation, this unilateral right to use military force to keep the canal open will be a right that the United States reserves under the treaty.

So, Mr. President, how could you, by inserting a provision in this treaty, affect the provisions of the DeConcini amendment which is not effective, even by the terms of the leadership amendment which forms part of the Neutrality Treaty?

How can you put something in another treaty that is not effective to diminish the

DeConcini rights reserved to the United States which are contained in the very treaty as to which the DeConcini reservation was made?

Obviously, with the treaty before us, the Panama Canal Treaty, giving the canal away, with that expiring on the dawn of the 21st century, anything contained in this treaty falls. It is dead. It has become functus officio. It has performed its function. It has no further standing.

What we are doing here, Mr. President—and I hope all will understand, all on both sides of this treaty—is we are seeking to placate the Panamanians without angering those of us who want to see that we do have a right to keep the canal open. It is something in the nature of a sop, a sop to the Panamanians. It is a mighty weak effort, it seems to me, to try to tie, in effect, the leadership amendment to the Neutrality Treaty also on the Panama Canal Treaty. If those words are not effective in the Neutrality Treaty, how in the world can they be effective in the Panama Canal Treaty, which is an entirely different document?

The difficulty that the administration and the leadership are having in diminishing the DeConcini amendment is that the Neutrality Treaty has been acted upon by the Senate. The leadership and the administration had absolute control of every single word that went into that treaty, and this treaty as well. They had absolute control. They controlled every single word that went into both of these treaties here on the floor of the Senate. Now they are seeking to tear down the force and effect of the DeConcini amendment.

But the DeConcini amendment cannot be touched. That Neutrality Treaty has been acted upon by the Senate. The time for reconsideration of the action by the Senate has expired. It has become part of history, Mr. President.

I am reminded of the verse from the Rubaiyat of Omar Khayyam as to the Neutrality Treaty.

> The Moving Finger writes; and having writ moves on; Nor all your Piety nor Wit Shall lure it back to cancel half a Line Nor all your Tears wash out a Word of it.

So, Mr. President, that is the effect of the Neutrality Treaty and the DeConcini amendment. It is there. It is part of history. It is a fait accompli.

The moving finger of history has written, and having written moves on. "Nor all your Piety"—and I think that is an apt word to use under the state of affairs with respect to this effort—"nor all your Piety nor Wit Shall lure it back to cancel half a Line Nor all your Tears wash out a Word of it."

So, Mr. President, it would seem to the Senator from Alabama if the Panamanians took offense at the DeConcini reservation, and they obviously did because they are demonstrating down in Panama right now against it, the matter has not been rectified by this language.

I know the leadership will pass the amendment. There is no doubt about that. I have a couple of amendments to offer to it later on in the day.

It can be passed. As I say, they have control of every word going into the treaty. But not a line of the DeConcini amendment can be changed by any action on this treaty which expires on January 1, in the year 2000.

So this is a sop and a mighty poor sop to the Panamanians. The administration got itself into this difficulty and they are now saying that this will solve things. Well, it will not solve a thing. The Panamanians are expecting the United States to back off the DeConcini amendment when it cannot be done.

This is, as I say, a mighty poor sop for the Panamanians.

Do Senators wonder where the word "sop" comes from? It is something that puts you in mind after the roast is gone, after the meat served at a meal is gone. Then when you sop up the gravy on a biscuit and hand that to the Panamanians, that is what is being given here to the Panamanians. It is not the real thing which is being given to them; it is just a sop to Panama.

I am reminded of something Jesus said in the sermon on the mount:

> What man of you if his son asks for a loaf will give him a stone? Or if he asks for a fish, will give him a serpent?

So, Mr. President, even though the leadership has the power to put this reservation in, it is giving a might poor sop to the Panamanians, because the moving finger has written and it has moved on.

The DeConcini reservation, accepted by the leadership, endorsed by the leadership and the administration, has become a part of history. These little assaults on the DeConcini reservation are going to fall—not by vote of the Senate, because the Senate is going to approve this or anything else that is recommended by the leadership. But what will it accomplish? It will accomplish nothing, because the rights reserved to the United States in the DeConcini amendment will continue to be reserved.

I have two amendments that I shall offer later. I hope that Members of the Senate will register their protest to this reservation, which was negotiated, certainly, in secrecy from the rank and file Members of the Senate, its contents carefully guarded, Members unable to get copies of the reservation.

What did they fear? Was it the bright light of logic? Did they fear that? I rather believe so.

Did they fear the bright light of scrutiny? I believe so.

But the DeConcini reservation, impervious as it is to the leadership amendment in the Neutrality Treaty, will be impervious to efforts in this treaty to water down or to diminish it. It is going to be part of the treaty between the United States and Panama, no matter what we do in this treaty.

I hope that those on both sides will understand that that is the case. I hope the Panamanians, looking for a way out and expecting more than this little sop from the administration and from the leadership, in order to give the Panamanians some reassurance, will vote this amendment down, will vote the treaty down, which would cause the defeat of the Neutrality Treaty and will allow these treaties to go back to the negotiating table so that treaties acceptable to Panama and the United States can be agreed upon. Because, as I see it, neither the people of the United States nor the people of Panama approve of this treaty. I hope the so-called leadership amendment, which was pointed out as being so defective when it was added to the Neutrality Treaty and which is just as defective now, will be voted down by the Senate.

I yield the floor.

Mr. LAXALT. I thank the Senator from Alabama. I yield to the Senator from Utah.

Mr. HATCH. I thank the distinguished Senator from Nevada. I should like to ask some questions in order to establish some legislative history concerning this particular reservation. Maybe I can ask them of the floor manager of the treaty, the distinguished senior Senator from Idaho.

Does this reservation mean that the United States may not use military force to defend the canal?

Mr. CHURCH. No.

Mr. HATCH. Does the United States have the unilateral right, pursuant to this reservation, to send troops to keep the canal open under this reservation, or must the Panamanians agree to such sending of troops?

Mr. CHURCH. Each country, under the treaty, has the obligation to keep the canal open and, in accordance with the terms of the leadership amendments as well as the terms of the pending reservation, that choice can be made by each government.

Mr. HATCH. Can it be made unilaterally is my question; and can we, without Panama's permission, send in troops?

Mr. CHURCH. I think I answered the question.

Mr. HATCH. Specifically, I think I interpret your answer to be that we can.

Mr. CHURCH. The Senator is correct.

Mr. HATCH. If the canal were to be closed and the Panamanians were to be opposed to an effort to send in troops, would this amendment prevent us from sending such troops?

Mr. CHURCH. This reservation does not undo the previous action of the Senate. It clarifies the purpose for which the United States would act. I do not envision a circumstance where the canal was actually threatened, and where the Government of Panama was unable to cope with the character or the magnitude of the threat and did not ask for the assistance of the United States so that both governments could fulfill their mutual obligation under these treaties.

Mr. HATCH. However, in order to establish legislative history here, if Panama were opposed—and that may be hypothetical and probably is, in nature, and I hope so; I hope that they will not be. But if they were opposed to an American effort to send troops to Panama to open the canal, would this reservation prevent us from sending troops into Panama to keep the canal open?

Mr. CHURCH. The answer is no, but the purpose for which the United States would act, and, therefore, the character of its action, would be limited strictly to the obligation that it assumes under the treaty; namely, to keep the canal open,

neutral, secure, and accessible. This is the same obligation that the Government of Panama undertakes. I think it is only reasonable to assume that both governments would act in concert to adhere to their mutual obligation under the treaty.

In fact, if either government refused to keep the canal open, neutral, secure, and accessible, that, in itself, would constitute breach of treaty.

Mr. HATCH. I am glad to have that information. With regard to that precise issue, if American troops land on Panamanian soil solely for the purpose of keeping the canal open, neutral, secure, and accessible pursuant to this reservation, and the Panamanians oppose the landing of our troops, would such a landing constitute an intervention into the internal affairs of Panama?

Mr. CHURCH. I think the answer to that question is expressly written into the terms of this reservation.

Mr. HATCH. What would the answer be, yes or no?

Mr. CHURCH. I quote from the terms of the reservation as follows:

> Any action taken by the United States of America in the exercise of its rights to assure that the Panama Canal shall remain open, neutral, secure, and accessible, pursuant to the provisions of this Treaty and the Neutrality Treaty and the resolutions of advice and consent thereto, shall be only for the purpose of assuring that the canal shall remain open, neutral, secure, and accessible, and shall not have as it purpose nor be interpreted as a right of intervention in the internal affairs of the Republic of Panama or interference with its political independence or sovereign integrity.

Mr. HATCH. That is fine, except that I have added a little element to it, which is that if the Panamanians oppose our entry and we assert that the entry is in the exercise of our rights to assure that the canal shall remain open, neutral, secure and accessible, the language of the reservation in question, would such a landing under those circumstances constitute an intervention into the internal affairs of Panama?

Mr. CHURCH. The answer is "No."

Mr. HATCH. I appreciate the Senator's candor.

If the Government of Panama were to fall under the control of an anti-American dictatorship or other type of political leadership and the quality of service for the transit of the canal declined to the point that, although the canal remained open in theory but closed in essence, would the United States be free under this reservation to open the canal with military force and contrary to the expressed wishes of the Panamanian Government?

Mr. CHURCH. I say to the Senator that it is difficult to speculate on all of the hypothetical situations that may be conjured up. I can only say that whatever may develop will be judged at that time by the Governments of the United States and Panama in relation to the obligations each has assumed under these treaties.

Now, I cannot foretell the future and neither can the Senator from Utah. Therefore, it is impossible for me to answer every hypothetical question.

When the time comes, if it ever comes, and that I doubt very much——

Mr. HATCH. Let us assume the time does come—excuse me.

Mr. CHURCH (continuing). That the United States is called upon to keep the canal open, neutral, secure, and accessible, our Government then will decide whether the facts of the case warrant an action by the United States pursuant to the terms of this treaty.

I cannot speak for any future President. I can only say that he will make his assessment of the situation in the light of the provisions of this treaty and, in compliance with the terms of the treaty, do what he feels is in the best interests of the United States.

Mr. HATCH. I am not asking the distinguished Senator from Idaho to speak for the future, but I am asking him to speak for the present, as the distinguished floor manager of this treaty, and that is, assuming that there is an anti-American government—to make it easier to understand, an anti-American subversive government in Panama, and that because of it considerable service to the canal may not be shut down to the point——

Mr. CHURCH. I will say to the Senator that he now has the floor. I will speak for this reservation on my time, but I am not going to start interpreting what constitutes a shutdown of the canal when he himself cannot define it in a credible manner.

Mr. HATCH. I will be glad to define it.

Mr. CHURCH. The words to which both countries will adhere are controlling. And the words specify that the canal shall remain open, neutral, secure, and accessible.

Those are the test words against which future Presidents will measure any decision or action they might take in accordance with our rights under the treaty.

I will be happy to take the floor in my own right in a few minutes and explain my understanding of this reservation. But I can go no further than the guidelines actually set forth in the treaty, or use words different from the words in the treaty. Certainly, the Senator would not ask me to do so.

Mr. HATCH. I am not asking the Senator to do that, but I am asking the Senator to assist me in formulating the legislative history with regard to this.

But let me move on to the next question.

If the Panamanians are unable to operate the canal, for any reason, would the United States have the right under this reservation to come into the canal and operate it even if the Panamanians oppose our entry?

Would the distinguished Senator from Idaho answer that question for me?

Mr. CHURCH. In the first place, Mr. President, we shall control the Commission that operates the canal from now until the end of the century.

It shall be our responsibility to see to it that Panamanian personnel are adequately equipped and trained to maintain and operate the canal in order to effect an orderly transition at the end of the century.

So I do not envision any circumstance which would leave the Panamanians unable to operate the canal. I think it is an unreasonable and unrealistic presumption.

Furthermore, if the Senator believes that we can operate the canal by moving in the Marines under some fanciful circumstance in the future, then I invite his attention to a recent article in the Washington Post in which our own military authorities point out that neither our own Marine Corps nor our own Army have the competence to do so.

Mr. HATCH. I am willing to accept that.

Mr. CHURCH. Therefore, I feel that the question the Senator poses can be answered in no other way.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Will the Senator yield to me?

Mr. CHURCH. I am happy to yield to the distinguished Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I learned long ago that when the judge rules with you, do not question the ruling. It is in that spirit that I accept this amendment drawn by the leadership.

I commend the leadership working out the language which would satisfy those who had misgivings about the DeConcini amendment down in Panama, and some of us who have been supportive of the DeConcini amendment up here.

It has been a very tenuous task to get the parties together. I think Senator CHURCH, Senator SARBANES, Senator ROBERT C. BYRD, and Senator CRANSTON have done an outstanding job.

So I intend to support this language. But I think it behooves us at this particular moment in the record to clear the record with respect to the DeConcini amendment. This was really an emphasis of the leadership amendment, and the leadership amendment in turn was only an emphasis of those amendments submitted by the Foreign Relations Committee. They were withheld by the committee at the request of the leadership, although the committee was ready to adopt them.

The genesis of the Foreign Relations Committee amendments dated back to October 14 when President Carter and Gen. Omar Torrijos met at the White House to clarify the misunderstandings. I should remind everyone of the record at that particular time. The chief Panamanian negotiator was stating publicly, and some of his colleagues down there, in the press and the media, that we had no such rights under article IV of the Neutrality Treaty to go in on our own initiative. The question of invitation was what was in issue at the particular time. It was so obscured and confused that it was then that President Carter asked General Torrijos to come by the White House on his return from London.

We sat in the Foreign Relations Committee room that afternoon with Ambassador Sol Linowitz and he submitted then the language of clarification.

At that particular time, it was thought that the language of clarification stating the intent of article IV, would put to rest

all concern. But on that very evening at 8 o'clock General Torrijos on his arrival back in Panama said publicly:

Look, I signed nothing. I didn't even give them an autograph.

It was then that I reduced down to black and white the particular understanding between the President and the general. I did so in the form of an amendment.

Mr. President, I ask unanimous consent to have my amendment No. 9 printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the end of article IV of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, add the following: "Panama and the United States assume the responsibility to assure that the Panama Canal will remain open and secure for ships of all nations. The United States and Panama shall, each in accordance with its respective constitutional processes, defend the Canal against any threat to the regime of neutrality and each shall have the right unilaterally or collectively to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal. This shall not be interpreted as a right of intervention in the internal affairs of Panama but as a right of the United States to take such action, military or otherwise, for the sole purpose of insuring that the Canal will remain open, secure and accessible. Such right shall never be exercised against or directed against the territorial integrity or political independence of Panama.".

At the end of article VI of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, add the following new section 2: "The vessels of war and auxiliary vessels of the United States and of Panama will be entitled to transit the Canal expeditiously. This is intended and it shall be so interpreted to assure the transit of such vessels through the Canal as quickly as possible without any impediment, with expedited treatment, and in case of need or emergency as determined by either party to go to the head of the line of vessels in order to transit the Canal rapidly.".

Add the following article VIII to the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal and renumber accordingly: "The rights and responsibilities under this neutrality treaty shall supersede any obligation or prohibition that the parties may have under the Rio Pact, the Hay-Pauncefote Treaty of 1901, the charter of the Organization of American States and the charter of the United Nation.".

Mr. HOLLINGS. That amendment was joined in over the fall period by the Senator from Minnesota (Mr. ANDERSON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Missouri (Mr. EAGLETON), the Senator from Georgia (Mr. NUNN), and others. We submitted to the Foreign Relations Committee the need for this being understood without any confusion.

The Foreign Relations Committee, in its report, recommended that these amendments be adopted, in their 14-to-1 vote, and then explained in the Foreign Relations Committee report, on page 6, the statement of intent of these amendments, which now, in essence, is a statement of intent of the leadership amendments.

I ask unanimous consent to have printed in the RECORD page 6, page 7, and the top part of page 8, that section of the Panama Canal treaties report of the Committee on Foreign Relations to the U.S. Senate, dated February 3, 1978.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF INTENT

The Committee's intent in recommending the adoption of these two amendments to the Neutrality Treaty is that the Carter-Torrijos Joint Statements of October 14, 1977, be made an integral part of the treaty with the same force and effect as those treaty provisions submitted to the Senate initially for its advice and consent.

The Committee had originally voted to include the Joint Statement in a single amendment which would have added as a new article IX to the treaty. Upon being advised by the State Department—contrary to previous advice—that this placement could require a new Panamanian plebiscite, the Committee voted to reconsider the proposed article IX and voted instead to recommend the addition of that same material, in two parts, to articles IV and VI. This did not represent a "flip-flop"; in each instance the substantive wording was identical to that of the Joint Statement, and each provision—whether placed in one article or in two—would have had precisely the same legal effect, being equally binding internationally. The difference is purely one of cosmetics. If a negligible change in form, with no change whatsoever in substance, could obviate the need for a new plebiscite—an eventuality which could complicate vastly the ratification process—then the Committee concluded that it would happily oblige.

The meaning of these amendments, which together constitute the entire Joint Statement, is plain. The first amendment relates to the right of the United States to defend the Canal. (It creates no automatic obligation to do so. See p. 74 of this report.) It allows the United States to introduce its armed forces into Panama whenever and however the Canal is threatened. Whether such a threat exists is for the United States to determine on its own in accordance with its constitutional processes. What steps are necessary to defend the Canal is for the United States to determine on its own in accordance with its constitutional processes. When such steps shall be taken is for the United States to determine on its own in accordance with its constitutional processes. The United States has the right to act if it deems proper against any threat to the Canal, internal or external, domestic or foreign, military or non-military. Those rights enter into force on the effective date of the treaty. They do not terminate.

The above-described rights are not affected by the second paragraph of the amendment, which provides that the United States has no "right of intervention . . . in the internal affairs of Panama", and which prohibits the United States from acting "against the territorial integrity or political independence of Panama." The Committee notes, first, that these provisions prohibit the United States from doing nothing that it is not already prohibited from doing under the United Nations Charter, which proscribes "the threat or use of force against the territorial integrity or political independence of any state" (article 2(4)). The Committee never supposed that the United States, in entering into the Neutrality Treaty, intended to obtain powers that it had previously renounced. The Committee thus does not believe that the provision in question substantively alters existing United States commitments to Panama.

Second, the prohibitions set forth in the second paragraph do not derogate from the rights conferred in the first. The Joint Statement recognizes that the use of Panamanian territory might be required to defend the Canal. But that use would be for the sole purpose of defending the Canal—it would be purely incidental to the Canal's defense; it would be strictly a means to that end, rather than an end in itself; and it would not be carried out for the purpose of taking Panamanian territory. The concepts of the territorial integrity and political independence of Panama are, in short, an integral part of the treaty, so that action directed at preserving the regime of neutrality set forth in the treaty would never be directed against Panama's territorial integrity or political independence.

For these reasons, use of Panamanian territory to defend the Canal would clearly be permissible under the portion of the Joint Statement incorporated in Article IV. This is made clear in an opinion presented to the Committee by the Department of Justice (hearings, part 1, p. 332):

"A legitimate exercise of rights under the Neutrality Treaty by the United States would not, either in intent or in fact, be directed against the territorial integrity or political independence of Panama. No question of detaching territory from the sovereignty or jurisdiction of Panama would arise. Nor would the political independence of Panama be violated by measures calculated to uphold a commitment to the maintenance of the Canal's neutrality which Panama has freely assumed. A use of force in these circumstances would not be directed against the form or character or composition of the Government of Panama or any other aspect of its political independence; it would be solely directed and proportionately crafted to maintain the neutrality of the Canal."

Finally, even if a conflict were somehow to arise between the two paragraphs, because the United States has the right to act against "any . . . threat directed against the Canal", there is no question that the first would prevail. The rights conferred therein are stated in absolute terms and must therefore be construed as controlling.

The meaning of the recommended amendment to article VI is equally clear. This provision—extracted verbatim from the Joint Statement—confers upon United States warships and auxiliary vessels the right to go "to the head of the line" in an "emergency". What constitutes an emergency, and when one exists, is for the United States and the United States alone to determine. The provision could hardly be more explicit.

Like the recommended amendment to article IV, this amendment, if adopted by the Senate, will become an integral part of the treaty, of the same force and effect as all other provisions. The Committee is informed by the Department of State that the Government of the Republic of Panama has concluded that no new plebiscite will be required for the approval of the two amendments. Together, they comprise the verbatim text of the Joint Statement, which was read by General Torrijos to the people of Panama live on national television three days before the October 23 plebiscite. (See p. 478 of part 1 of the hearings for a list of Panamanian newspapers in which the Joint Statement appeared prior to the holding of the plebiscite.) It thus is clear that the Panamanian people were fully apprised of the Joint Statement prior to the plebiscite, and were accorded a full opportunity to consider its provisions before approving the treaties.

Mr. HOLLINGS. Mr. President, I think that statement of intent was what persuaded the Senator from South Carolina and other to join the Foreign Relations Committee and the leadership in the leadership amendments. So I did not

have any of the feel or understanding that the distinguished Senator from New York (Mr. MOYNIHAN) had about the DeConcini amendment.

I want to make clear my esteem for the Senator from New York. Incidentally, he was one of the first on board. I think in August he received, as we all did, a telegram from the President of the United States urging support for these treaties. If not the first, he was one of the first who wired back that he did support the treaties. His experience in the field of foreign affairs is unrivaled in this body. I know we all have enjoyed his eloquent statements with respect to raising our debate to a higher level, and explaining that the true test of greatness of the United States was not how we treated our strong and mighty adversaries or friends but how, in foreign policy, we treated the weaker of the parties involved. I have followed, with great admiration, Senator DANIEL MOYNIHAN in the statements he has made.

However, over the weekend, I say in the Washington Post of Sunday, April 16, a squib from the DeConcini remarks on the right to protect the canal, and a section from the remarks by Senator DANIEL MOYNIHAN in the Senate on April 13.

Senator MOYNIHAN begins by saying:

We cannot get anywhere by imposing symbolic subjection upon the Panamanians.

I want to try to explain the difference that the Senator from South Carolina has with the Senator from New York on this particular score. I quote from Senator MOYNIHAN:

I suggest that the world will think we have acted from fear. The world will see our effort to impose complex and meaningless and unnecessary conditions on our relations with Panama as the reverse of the Angola coin; because the Senate, when it faced the prospect that some serious opposition might be encountered, would have none of it. The Senate stood up and said one thing after another which at that time visibly was not so—that Angola was just having a tribal civil war. . . . That is what one distinguished Senator described the Soviet invasion of Angola as—a tribal civil war. Nobody in Central Africa thought it was a tribal civil war. They thought it was a Russian invasion. We would not help the people who would face it.

Then he said:

Having shown our fear there, are we not also expressing our fear here? Should we not say we are a confident and decent people?

Farther down, he said:

Why make Panama the object for expressions of fears which should be confronted on their own?

If there are people in this body—and I hope there are—who are fearful of the U.S. position in the world, fearful of the positions of the free nations in the world, concerned for freedom, let us confront that. Let us not sublimate it by imposing upon Panama—friendly, proven, trustworthy Panama—conditions which are inappropriate to a republic.

Let me indicate what I do agree with. I agree that the Panamanians are friendly, that they are proven, and that they are trustworthy. With respect to that, I agree with the Senator from New York. I think, in a way, some of the debate on the floor of the U.S. Senate has been demeaning to the people of Panama.

Yesterday, I was about to join the Senator from North Carolina in elaborating somewhat in the RECORD the historical record. The Senator from North Carolina brought it from 1856 to 1903. I wanted to show that it was we who were doing the reneging, not carying through from 1903 until 1977, when these treaties were submitted; that we had misgivings about the United States' record, not the record of the Panamanians. So I do consider them friendly, proven, trustworthy, and I hope they continue to be. These treaties will make the basis for mutual trust.

I return now to my historian friend, Senator MOYNIHAN. I was in the Senate at the time of the Angola debate. It was a tribal civil war in Angola. In fact, we had dealt with the People's Republic of China, and we had been in there for a year and a half, trying to help a side in the tribal civil war, but we were not winning. The question, after spending hundreds of millions of dollars, was whether we were bogging down into another Vietnam, whether or not we could back a side that could prevail.

But then the Senator goes on with a misstatement of history—because I was in the Senate at the time—by saying, "having shown our fear here."

Our fear is not of Panama. Our fear is not our greatness. Our fear, I believe, is the same as that of the Senator from Nevada (Mr. LAXALT), the Senator from North Carolina (Mr. HELMS), my colleague from South Carolina (Senator THURMOND), and others. It is a fear of the U.S. Congress.

Somebody should tell the Washington Post what is going on in this world. It is the U.S. Congress that the people are fearful of.

I happen to believe that under the present 1903 treaty, repudiated by two Republican Presidents and two Democratic Presidents, we had no chance to protect ourselves.

I favor the new treaties, and I favor the DeConcini amendment, because I have the same fear of this Congress, which the senior Senator from New York (Mr. JAVITS) a moment ago said would dream up some incident to abuse the DeConcini reservation or abuse Panama. I am fearful that there are those in Congress who would dream up some language that would say it was a domestic incident down there and we had no right.

I am realistic enough to know that no language is going to force us in and no language is going to force us out. We cannot jockey here for the exact wording each Senator would want. We all have to agree that no language will force us in or force us out. It depends on the measured judgment at the particular time—the intent, the steel, the determination, and the will of a national Congress.

The lack of confidence in the Presidency has been due to his vacillation, to the frequent change of signals. The lack of confidence in the U.S. Congress is because of its marching up and down the Hill: Do social security, now take it back; do the neutron bomb, take it back; do the B–1 bomber, take it back. People cannot get a focus on the people's representative body.

So, yes, they say now, on this important matter, let there be no understanding, let there be no shenanigans; let them not try to obscure an intransigence down there, such as a failure to operate with a strike, and call it a domestic thing, so that we do not intervene. We will never intervene. I do not worry about intervening down there. We have a tough time getting an honor guard to go to the Unknown Soldier's grave. We do not vote any money to go anywhere militarily. That is my misgiving; that is what I worry about.

But we do not want either an unfriendly government to change the signals or to use a sitdown strike, or something of that kind, to say that we do not have the right.

All Senator DECONCINI has been saying is let us be honest, clear, open, and aboveboard and state it like it is, and like our defense chiefs say they understand it, like the Commander-in-Chief, the President, says he understands it—and not how the Washington Post understands it in its editorial that same day, or how Senator MOYNIHAN understands it, because we are not worried about Panama. We do not say in the DeConcini amendment we are unfriendly to you, or you are not proven, or you are not trustworthy. We say we do not trust ourselves. That is what we are saying.

We would like to see a little bit more steel, more will, more determination and stability within this wishy-washy Congress—a Congress going off in all directions when it comes to our national defense.

I have supported the treaties from the very word "go." I would be glad to debate it. But I thought that the Washington Post and other media representatives running around loose wondering what kind of man is DECONCINI, and he is a freshman, and is he trying to get headlines, and all—I find that totally unjustified and unwarranted, and frankly on the verge of insulting. Somebody should stand up who understands the truth and understands this Congress and who has been here a little while and say, "Mr. Washington Post, and anybody else of a similar mind, we have no fear of Panama. We have no fear of our true greatness. But we are a little worried about the U.S. Congress."

Like Pogo, we have met the enemy and it is us.

And I think that is what DENNIS was trying to tell us all, and I think he told us just as clearly as anybody possibly could, and that does not detract in any way from anyone else.

I support Senator CHURCH and the particular language submitted, and I will be glad to debate it, but I wanted to make a true record.

It was Omar with his own shenanigans, it was Bethancourt, his chief negotiator, and all that other crowd that is listening on public radio who got us into this. We are not playing games. We respect the Republic of Panama as a nation. We respect the people of Panama as a people. But it was some of their own statements

that got us into this particular leadership amendment. The DeConcini amendment, and the clarifications thereof.

And I think in accepting that somewhere, sometime, they should read the record, read nothing less than the statement of intent, 14-to-1, by the Senate Foreign Relations Committee, and they will see what the Senator from South Carolina has in mind in supporting both this particular clarification and the DeConcini amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Idaho.

Mr. CHURCH. Mr. President, a few minutes ago when I returned to the Chamber I heard the distinguished Senator from Alabama quoting from the Rubaiyat. I heard him say:

The Moving Finger writes;
And having writ moves on;
Nor all your Piety nor Wit
Shall lure it back to cancel half a line
Nor all your tears wash out a Word of it.

He was telling us that we could not undo the DeConcini reservation since the Senate had already enacted it and attached to it the articles of ratification of the Neutrality Treaty.

With all respect to the Senator from Alabama, it makes no sense whatever to claim that the Senate cannot enact a reservation to this treaty, which would be controlling on both treaties. We do that all the time. Congress never can take an action on one day that cannot be undone the next.

But that is not the purpose of the leadership amendment. We have not introduced it today either to erase a word that has been writ or to shed any tears over those words.

For more than a week now the DeConcini reservation has been rolling around like a loose cannon on a heaving deck. Everybody has interpreted it in their own self-serving way. Some have even gone so far as to suggest that the DeConcini reservation repudiated our long-standing commitment to a policy of nonintervention in the internal affairs of other countries.

The DeConcini reservation did not do that. The sponsor of the reservation made it celar that was not his purpose. Yet the confusion that emerged was so serious it become necessary for us to clarify the purpose of that reservation as it was intended by its sponsor and by those of us who voted for it.

In other words, Mr. President, it became a matter of cardinal importance to get hold of that loose cannon and fasten it down in its intended place, which is what this leadership amendment is designed to do.

Let it be clear, both from the language of this leadership reservation and from the legislative record being made in this debate, that neither the United States of America nor the Senate has any desire whatever to set aside the policy of nonintervention which we have upheld for more than 40 years. Neither the United States nor this Senate has any intention of calling into question the pledge that Franklin Roosevelt made when he inaugurated a new era in the relations between this republic and our neighbors to the south which became known as the Good Neighbor Policy.

We pledged nonintervention in the internal affairs of any other country in the United Nations Charter, in the Rio Pact, and in the principal treaties involving the members of the Organization of American States.

And we stand by the policy of nonintervention in the internal affairs of any other country. That most certainly applies to the Republic of Panama.

Mr. President, the people of Panama have a reason to be sensitive about this matter. There was a time in the years before Franklin Roosevelt's Good Neighbor Policy when the United States rather habitually interfered in the internal affairs of small countries in the Caribbean and in Central America. Indeed, for many years we did so unilaterally under the sweeping provisions of the Platt amendment by which the United States asserted the authority to move its troops at its pleasure anywhere in Panama, in Central America and in the Caribbean whenever we chose, whenever a government displeased us.

That was the 20th Century version of the Brezhnev doctrine as it is applied today to Eastern Europe. To my knowledge, it is only the Soviet Union, alone among the countries of the world, which today claims the right to move its troops anywhere it pleases in Eastern Europe whenever a government there displeases the Politburo. We saw them do it in 1968 when the Soviet Army moved into Czechoslovakia because the internal actions of the Czechoslovakian Government were not approved in Moscow.

So, Mr. President, far from repudiating what has been the centerpiece of American policy towards Central and South America since the days of Franklin Roosevelt, we hereby reaffirm it, and we do so in words that make it unmistakably clear that the United States shall claim no right to intervene in the internal affairs of the Republic of Panama or to interfere with its political independence or sovereign integrity.

That is the purpose of this leadership amendment. I proudly support it, and I am confident that the great majority of Senators will proudly support it, because it will make clear to all the world that the United States wants no part of the Brezhnev doctrine; and that the United States shall not use its power, as the Soviet Union claims the right to use its power, to interfere in the internal affairs of our neighboring states. That is all there is to it.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. CHURCH. That is why I am confident that this leadership amendment will be approved not only in the Senate but in Panama as well. It does, in fact, represent a dignified solution to a difficult problem that arose in the first place out of a misunderstanding we can now correct by supporting this amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LAXALT. The Senator from Nevada yields time to the Senator from New Mexico for a question, as I understand it, 2 minutes.

The PRESIDING OFFICER. The Senator from New Mexico has 2 minutes.

Mr. SCHMITT. Mr. President, I generally admire and concur in the remarks of the distinguished leader of this treaty debate, the proponents of this treaty debate, here on the floor, Mr. CHURCH. I think he has stated the fundamental position of the United States very well.

My concern, however, is that, not being an international lawyer, but having only logic as a tool, I see an inconsistency in the reservation that has been presented to us by the leadership and, as I understand it, the distinguished Senator has already indicated that if a revolution in Panama threatened the canal we would have the right to intervene.

My first question is, Is that true?

My second question is, Is not a revolution the internal affair of Panama?

If I read the reservation that actions taken by the United States of America shall be only for the purpose of assuring that the canal shall remain open, neutral, secure, and accessible and shall not have as its purpose or be interpreted as a right of intervention in the internal affairs of the Republic of Panama, then I am afraid I do not understand the situation.

I am the last to advocate interference in the internal affairs of any country. But I think if we are going to put a reservation on the treaty we had better have it a consistent reservation. I would like very much to have Senator CHURCH respond and educate me, if he would.

Mr. CHURCH. Well, I respond to the Senator by saying he finds in the language of the leadership's proposal a problem that I do not see there.

It is conceivable, of course, that a revolution could occur. Normally that would not be our affair, and we claimed——

The PRESIDING OFFICER. The time of the Senator from New Mexico has expired.

Mr. LAXALT. I will yield 1 additional minute.

The PRESIDING OFFICER. The Senator may proceed.

Mr. CHURCH. We claim no right to interfere to put down a revolution or otherwise decide for the Panamanians what kind of government they should have. Our only claim runs to discharging our obligation under the treaty to keep the canal open, secure, accessible, and neutral.

If, under some circumstances, the Panamanian Government is no longer capable of doing that, as it has pledged itself to do, then the United States, as the other party to the treaty, reserves the right to do so. But the purpose would be limited to the canal itself and would not be directed toward determining for the Panamanians who shall govern them or what form of government they should adopt for themselves.

Mr. SCHMITT. Mr. President, I think the inconsistency is there whether the Senator sees it or not, and he is concerned about it. Of course, that was the basis for trying to encourage the Sen-

ate to look toward hemispheric management of the canal to remove just these kinds of inconsistencies.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LAXALT. Mr. President, I yield at this time 5 minutes to the Senator from Alaska (Mr. STEVENS).

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, let me state at the outset again I am one who originally sought to find a way to make these treaties acceptable to the people of the United States through amendments, and I find it unfortunate that it is necessary to vote against the treaties because it is my conclusion that they are so ambiguous that they can only lead to a prolonged period of misunderstanding and disputes between the United States and Panama, and that this leadership amendment is one of those things that is going to cause the trouble.

We are again left in the position where we are leaving a legacy to future generations that can be solved only by force.

It seems to me that the very least the United States can do is to assure that the relationships it has with foreign countries through treaties are not subject to misinterpretation or, even worse than that, are not subject to one interpretation in the foreign country and another in our country.

Mr. President, the original DeConcini amendment, which I voted against because it was capable of being ignored that is the Panamanians are capable of ignoring it under their constitutional domestic law, at least stated that the United States independently had the right to take such steps under our own constitutional processes, including the use of military force, to reopen the canal or restore the operations of the canal.

As I said, our research showed that the Panamanians could ignore that. As a matter of fact, I think that is what General Torrijos has done by going to foreign nations with his letter. He has set the stage to ignore it.

The leadership amendment now attempts to amend the DeConcini amendment to the Resolution of Ratification on the treaty that does not become effective until the year 2000. At least that is this Senator's opinion, and I would like to propound a parliamentary inquiry to the Chair.

The PRESIDING OFFICER (Mr. FORD). The Senator will state it.

Mr. STEVENS. Is the neutrality treaty, or the Resolution of Advice and Consent thereto, before the Senate?

The PRESIDING OFFICER. The opinion of the Chair is that it is not.

Mr. STEVENS. I would make another parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Is that Resolution of Ratification, the advice and consent resolution to the neutrality treaty, subject to amendment by an amendment at this time?

The PRESIDING OFFICER. In the opinion of the Chair it is not.

Mr. STEVENS. Then, Mr. President, I am constrained to make a point of order, and I do make a point of order, that this amendment is an amendment to the Resolution of Ratification to the Neutrality Treaty, which has already passed and is not before this body.

I make that point of order specifically on the ground that the DeConcini amendments specifically says that each nation, the United States and the Republic of Panama, shall have the right independently to take such steps as deemed necessary in accordance with its constitutional processes, and this amendment states specifically that it is an amendment to the provisions of this treaty and the Neutrality Treaty and the resolutions of advice and consent thereto, and it is intended to be at least a limitation on the action previously taken by the Senate in adopting the Resolution of Ratification to the Neutrality Treaty, as amended by the DeConcini amendment.

I make that point of order.

The PRESIDING OFFICER. A point of order is not in order until the proponent's time on the reservation has been used or yielded back.

Mr. STEVENS. I ask unanimous consent that it be in order now.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered.

The PRESIDING OFFICER. The Chair is prepared to rule.

As the Chair has stated, the Resolution of Ratification of the Neutrality Treaty is not before the Senate. The one on the Panama Canal Treaty is. Under the rules and the precedents of the Senate, the nature and scope of amendments or reservations are not defined and even though his reservation may incorporate the Resolution of Ratification of the Neutrality Treaty by reference, that is not proscribed by the rules.

Therefore, the Chair holds the point of order not well taken.

Mr. STEVENS. Mr. President, I can only say that, having confused the people of Panama before, the Chair has certainly confused them once again. At least he certainly has confused this Senator. I know there will be trouble when they try to translate this amendment to the Resolution of Ratification of the Panama Canal Treaty as it affects the Resolution of Ratification of the Neutrality Treaty into Spanish so that the Panamanians can understand it.

There is no question in my mind but that this is a precedent of the Senate that needs the total consent of a majority of the Senate to understand. I can only appeal the ruling of the Chair, and I do so.

I think it is incumbent upon the Senate to understand that it is setting a new precedent, that if you have two treaties and you have previously acted on one Resolution of Ratification and given advice and consent of the Senate, when the next one comes along all you have to do is hang an understanding as to the first treaty on it, and that is binding on us. Is that also binding on Panama?

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. STEVENS. I appeal from the ruling of the Chair, and I ask for the yeas and nays.

The PRESIDING OFFICER. The Chair would like to state that the Chair's ruling was made as to form and not substance.

Mr. STEVENS. I beg the Chair's pardon; I specifically stated the conflict in substance between this amendment and the previous DeConcini amendment, and pointed out that it specifically amends the Neutrality Treaty. That is a point of order of substance, and not of form.

The PRESIDING OFFICER. The Chair was attempting to state that the Chair is not supposed to interpret possible effect but only to rule as to form.

The question is on the appeal from the ruling of the Chair.

Mr. ROBERT C. BYRD. Mr. President, I think that the Chair is preeminently correct in its ruling. I say so with all due respect—and when I say "due respect," I mean great respect—to the distinguished Senator from Alaska (Mr. STEVENS).

I move that the appeal be laid on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the appeal from the ruling of the Chair. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Arkansas (Mr. BUMPERS), and the Senator from South Dakota (Mr. MCGOVERN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE) is necessarily absent.

The result was announced—yeas 74, nays 22, as follows:

[Rollcall Vote No. 111 Ex.]

YEAS—74

| | | |
|---|---|---|
| Allen | Hart | Metzenbaum |
| Anderson | Haskell | Morgan |
| Baker | Hatfield, Mark O. | Moynihan |
| Bayh | Hatfield, Paul G. | Muskie |
| Bellmon | Hathaway | Nelson |
| Bentsen | Hayakawa | Nunn |
| Biden | Heinz | Pearson |
| Burdick | Helms | Pell |
| Byrd, Harry F., Jr. | Hodges | Percy |
| Byrd, Robert C. | Hollings | Proxmire |
| Cannon | Huddleston | Randolph |
| Case | Humphrey | Ribicoff |
| Chafee | Inouye | Riegle |
| Chiles | Jackson | Sarbanes |
| Church | Javits | Sasser |
| Clark | Johnston | Sparkman |
| Cranston | Kennedy | Stafford |
| Culver | Leahy | Stennis |
| Danforth | Long | Stevenson |
| Durkin | Magnuson | Stone |
| Eagleton | Mathias | Talmadge |
| Eastland | Matsunaga | Weicker |
| Ford | McIntyre | Williams |
| Glenn | Melcher | Young |
| Gravel | Metzenbaum | Zorinsky |
| | Morgan | |
| | Moynihan | |
| | Muskie | |
| | Nelson | |
| | Nunn | |
| | Pearson | |
| | Pell | |
| | Percy | |
| | Proxmire | |
| | Randolph | |
| | Ribicoff | |
| | Riegle | |
| | Sarbanes | |
| | Sasser | |
| | Sparkman | |
| | Stafford | |
| | Stennis | |
| | Stevenson | |
| | Stone | |
| | Talmadge | |
| | Weicker | |
| | Williams | |
| | Young | |
| | Zorinsky | |

NAYS—22

| | | |
|---|---|---|
| Bartlett | Hansen | Schweiker |
| Brooke | Hatch | Scott |
| Curtis | Laxalt | Stevens |
| DeConcini | Lugar | Thurmond |
| Domenici | McClure | Tower |
| Garn | Packwood | Wallop |
| Goldwater | Roth | |
| Griffin | Schmitt | |

NOT VOTING—4

| | | |
|---|---|---|
| Abourezk | Dole | McGovern |
| Bumpers | | |

So the motion to lay on the table was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I have spoken with the distinguished Senator from Nevada (Mr. LAXALT). It has been agreed between us that the time for the rollcall vote that has just been taken should be divided equally between both sides. I ask unanimous consent that that may be the case.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. GRIFFIN. Mr. President, on behalf of the Senator from Nevada, I yield to the Senator from Massachusetts 6 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 6 minutes .

Mr. BROOKE. Mr. President, let me take just another tack from that that was taken by my distinguished colleague from Alaska. No one knows whether this treaty is going to be ratified, but in the event the treaty is ratified, I think we ought to be as clear as we can be without any ambiguity, if we can avoid it, as to just what is meant by the so-called DeConcini condition.

I think that it is well and proper that we seek to reassure the Panamanian people that no slight to their dignity has been intended during our debate. I personally hold a deep affection for the Panamanian people and understand and sympathize with their desire to obtain legitimate national aspirations. I believe the American people, armed with the facts, will support justified efforts to help the Panamanians achieve those aspirations.

I am troubled, nevertheless, by the intensity of the controversy that has arisen over the so-called "DeConcini condition." As a result of that controversy, on April 11 I wrote the President and asked the following question:

> Under the so-called DeConcini condition does the United States reserve to itself the option to take whatever actions are necessary, including the unilateral decision to use military force on the territory of Panama if necessary, to ensure that the Canal will be available for the passage of U.S. vessels, regardless of whether the threat to the Canal comes from any source external to Panama or from any internal source within Panama?

Last night I received a reply from the President that stated, and I quote, "The answer to that question is affirmative."

Therefore, regardless of what is contained in the language offered by the majority leader today, I believe it is clear that the United States retains the option to use military force on Panamanian territory, by unilateral decision if necessary, to keep the canal open even if the threat is from a source internal to Panama.

To be sure, this is a discrete right, to be exercised in a limited way and for a limited purpose. But it exists and there should be no equivocation about its meaning.

I do not and would not support an interpretation of the "condition" that claimed for the United States a wide-ranging right to intervene in the internal affairs of Panama. We do not intend in any way to challenge the political independence of Panama. We do not wish to control Panamanian affairs. Therefore, I believe the so-called leadership language may be a useful explanation. But I do not believe that it in any way limits our right to take whatever steps are necessary to maintain U.S. access to the canal in the face of a threat from whatever source. As the President also wrote in his letter:

> It is abundantly clear, therefore, that the United States can, under the Neutrality Treaty, take whatever actions are necessary to defend the Canal from any threat regardless of its source.

That is, so to speak, the bottom line.

I readily admit that the "condition" is a unique qualification. It has come about because of a very unique situation. It would be foolish to ignore that this is the case. The United States is being asked to give up title to property that it clearly owns, without recompense. It is being asked to forfeit unique "rights" it presently possesses under a binding international agreement. As I have said previously, I am not adverse to legitimate changes in our relationship to the canal and to Panama. They are needed, they are justified. I will vote for this treaty. But, to say this does not diminish the uniqueness of the situation and the likelihood, indeed perhaps the necessity, for unique initiatives such as the "DeConcini condition."

I personally want to assure our Panamanian friends who are listening to this debate that I, for one, deeply desire a continued close relationship between our two peoples.

I think others of my colleagues, perhaps all of my colleagues, want to do that.

I must admit to no particular regard for the present Government of Panama which follows practices that are inimical to the principles I believe should govern the relationship between a government and its constituents. But to say that I have a dislike for the Panamanian Government is in no way intended as an insult to the Panamanian people. That I would never do, for I deeply desire that the affinity of our two peoples for each other will continue and deepen as we seek acceptable solutions to difficult problems of concern to both countries.

I again want to make it clear that the "DeConcini condition" should be understood by the Panamanians as well as by us to mean that if there is a threat to the canal arising from within Panama, the United States will have the right to go in and keep that canal open. That is what we have said in this "condition." That is what the President says in even more forceful language in his letter, and I think this ought to be understood clearly by the Panamanians, or else we are going to have great difficulty down the road.

I ask unanimous consent, Mr. President, that both my letter addressed to the President, dated April 11, 1978, and the President's letter addressed to me, dated April 17, 1978, be printed in full in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, D.C., April 11, 1978.*

President JIMMY CARTER,
*The White House,*
*Washington, D.C.*

DEAR MR. PRESIDENT: For the past several months, I have tried in my activities relating to the Panama Canal debate to reduce the level of ambiguity and potential for misunderstanding inherent in both of the treaties. While with my colleagues I feel comfortable in claiming a modest degree of success, the events of the past week indicate that the potential for tension and future debilitating rancor between Panama and the United States is high.

I am particularly disturbed over the controversy that has arisen regarding the so-called "DeConcini condition" attached to the resolution of ratification of the Neutrality Treaty. When the Senate acted upon this matter, I believe the prevalent assumption was that Panama had been informed of the substantive nature of the "condition" and had not indicated any deep reservations regarding it. That does not appear to be the case in light of the Panamanian communications to the Secretary-General of the United Nations and Heads of State of various countries.

Now, we are faced with the spectacle of various members of the Senate and the Administration trying to tell the Panamanians that the "DeConcini condition" does not reserve to the United States the option to act unilaterally with military force on Panamanian soil to keep the Canal operating in the face of an internal threat from Panama while at the same time trying to assure various Senators that that is its impact. I do not believe we can act responsibly on this matter and leave the door open to such ambiguity.

Therefore, I would deeply appreciate it if you would provide me with your thinking regarding the following question. Your answer could do much to clear the air on this matter and would indicate to both the Senate and Panama what interpretation the Administration will consider binding.

"Under the so-called DeConcini condition, does the United States reserve to itself the option to take whatever actions are necessary, including the unilateral decision to use military force on the territory of Panama if necessary, to ensure that the Canal will be available for the passage of U.S. vessels, regardless of whether the threat to the Canal comes from any source external to Panama or from any internal source within Panama?"

It would greatly assist me in my decision regarding the Panama Canal Treaty if I could receive an answer to this question before April 17th.

With warm personal regards, I am

Sincerely,

EDWARD W. BROOKE.

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THE WHITE HOUSE,
*Washington, D.C., April 17, 1978.*

Hon. EDWARD W. BROOKE,
*U.S. Senate, Washington, D.C.*

SENATOR EDWARD BROOKE: I appreciate your thoughtful letter of April 11, raising the question whether the United States reserves to itself the option to take any necessary action to ensure that the Panama Canal will be available for the passage of U.S. vessels. The answer to that question is affirmative.

Article IV of the Panama Neutrality Treaty gives to each of the Parties ". . . the responsibility to assure that the Panama Canal will remain open and secure to ships of all nations" and provides that each Party ". . . shall have the right to act against any aggression or threat directed against the Canal or against the peaceful transit of vessels through the Canal." The first "Condition" included by the Senate in its Resolution of Ratification reaffirms this right of the Parties.

In his letter to me dated March 15, General Omar Torrijos noted that, to clear up any confusion in this regard, he and I had earlier prepared a Memorandum of Understanding "which clearly interpreted the unilateral capability of each one of our countries to protect the regime of neutrality against threats, attacks, or a closing of the Canal. . . ".

It is abundantly clear, therefore, that the United States can, under the Neutrality Treaty, take whatever actions are necessary to defend the Canal from any threat regardless of its source.

The correlative part of the Memorandum of Understanding, embodied in the leadership amendment to the Neutrality Treaty, makes it quite clear that action of this character must be confined to the stated objective alone, and that it will not be interpreted as a right of intervention in the internal affairs of Panama.

Thus, the provisions of the Neutrality Treaty are clearly consistent with our existing international obligations concerning non-intervention. We have no interest in or intention of intervening in the internal affairs of Panama. Our position in this regard should be clearly understood in both countries.

I am confident you will agree that the Panama Canal Treaties protect the interests of both parties and that they serve the highest national interests of the United States.

Sincerely,

JIMMY CARTER.

The PRESIDING OFFICER. Who yields time?

Mr. GRIFFIN. Mr. President, on behalf of the Senator from Nevada, I yield the remaining time on this side to the Senator from North Carolina. May I ask how much time that is?

The PRESIDING OFFICER. The Senator from Nevada has 3 minutes.

Mr. GRIFFIN. I yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, I think it is essential to read into the RECORD a paragraph from the letter of the President of the United States to Senator BROOKE, to which the able Senator has added. I quote:

It is abundantly clear, therefore, that the United States can, under the Neutrality Treaty, take whatever actions are necessary to defend the canal from any threat, regardless of its source.

"Regardless of its sources." I submit, Mr. President, that the President of the United States has, in fact, with those words, introduced a new element into the debate by including the phrase "regardless of its source."

At least he is candid to that extent, but he is not quite so candid, I would say to the Senator from Massachusetts, when he says that such intervention will not be interpreted as intervention in the internal affairs of Panama.

Now, I anticipate that the Panamanians will interpret this differently. I pray, of course, that the objection to this flawed treaty will not result in violence in Panama. But this treaty is an engraved invitation to agitators. This Senate will make a grievous mistake if it does not send these treaties back for renegotiation.

Mr. President, here we are in the final day of debate on the Panama Canal treaties, and this reservation, submitted so late, in such a state of frenzy, and drafted in such secrecy, shows clearly that we are no nearer to a consensus on the meaning and importance of the treaties than when we started. It is still the generally accepted wisdom that the decisions of two or three Senators today, the last day, will decide the ultimate disposition of the matter.

Mr. President, why is it that the President of the United States, the entire foreign policy apparatus, the power structure of academics, businessmen, and bankers, and the most powerful voices of the media have been unable to convince the American people that these treaties are in the best interests of the United States? Why is it that in the last 2 weeks or 10 days that even the supposed beneficiary of these treaties, the Republic of Panama, has balked at accepting the work of the Senate?

The fact is, Mr. President, that these treaties are still under a cloud. They originated under a cloud, they were negotiated under a cloud, they have been debated under a cloud.

The result is that it will be virtually impossible for the United States and the Republic of Panama to work out a mutually acceptable and productive relationship, whether the treaties pass or whether the treaties fail. The threat of violence and disagreement was the ostensible reason for negotiating these treaties; yet the threat of violence and disagreement still hangs over the future, even if the treaties are ratified.

The Senator from North Carolina was one of the first Senators to visit Panama after the treaty drafts were announced. On August 19, when I arrived at the airport, the press asked why I had come. I said then, and I repeat it now, that my intention was nothing but that of good will toward the Panamanian people. I said that I stood ready, should the treaties fail, to work together to help the Panamanian people; that, indeed, opposition to the treaties was not to be interpreted as hostility toward the Panamanian people.

I repeat that today because I feel that these treaties are not in the best interests of the Panamanian people. If they fail today, there will be bitterness and disappointment, and it will be difficult to pick up the pieces. But if the treaties are ratified, it may well be the beginning of the disintegration of Panamanian freedom and independence.

For it has already been demonstrated that the treaties are fatally flawed. There is already bitter disagreement between Panama and the United States as to the meaning and interpretation of the most significant passages. Once the treaties go into effect, should they be ratified, the practical application of these terms and requirements will inevitably continue, destabilizing Panamanian economic and social structures. I have demonstrated on this floor that Panamanians will lose jobs, not gain them as a result of the treaty. And when this new unemployment is added to the present economic stagnation, the climate will be ripe for political agitation.

Why are these treaties under a cloud? Why are they fatally flawed? They are fatally flawed because there has never been a meeting of the minds on the fundamental problem, which is the transfer of sovereignty. Now I realize that the notion of sovereignty has been ridiculed on this floor from the beginning, as something of no importance. But if the treaties founder, they will do so because that issue was never resolved. Sovereignty was not the issue, we were told over and over again; yet it is the issue upon which, even if the treaties succeed, we will come to grief.

For sovereignty is the question of ultimate power. It answers the question: Who has the right to decide what actions may take place within a defined territory? As long as the United States is free to exercise all the rights of a sovereign within the territory of the Canal Zone, there was no doubt that we could do whatever was necessary to defend it. There was no question of intervention in the internal affairs of Panama. There was no question of violating the territorial integrity of Panama.

But the moment that the United States surrenders its sovereign rights, then every thing that we do, every action, is subject to the will of Panama. It is as simple as that. When Panama is sovereign, Panama decides.

At the root of the problem is a fundamental unresolved contradiction that our negotiators failed to solve. The treaties are an attempt to paper over that contradiction.

The ultimate issue in sovereignty, of course, is the right to use force. That is what sovereignty is all about. There may be disputes about actions of a lesser level, but in the end, they come down to the issue of who has the right to use force.

The treaties attempt to pretend that there will never be any division of opinion between the United States and Panama on how the ultimate right to use force will be exercised. But that is an absurd supposition It is an insult to the people of Panama. It assumes that they will be forever subservient to the desires of the United States.

That is why the people of Panama have been so disturbed over the past few

weeks. The United States has made it clear that, despite the pretence of handing back sovereignty, we intend to keep the ultimate right to use force, even against the Panamanian people if necessary. There can be no other interpretation.

The President of the United States has said in writing that we intend to use force against any threat to the canal. I repeat, against any threat to the canal. From the standpoint of the United States, I applaud his intention; but from the standpoint of the people of Panama, it can only mean that the President of the United States intends to use force against the people of Panama if the President decides that the people of Panama are the threat.

Let us not pretend that it does not mean that. It does mean that. The DeConcini reservation simply makes manifest what is implicit in the formula of the treaties. The DeConcini reservation brings out into the open what is merely implied. And the attempt of the leadership to hide the true meaning of the treaties does a disservice to the people of the United States and the people of Panama.

The Senator from North Carolina knows full well that some of his colleagues have adopted a cynical attitude. They have been saying to him privately that the problem is not in the concept of the treaties, but in stating it openly. In other words, they say that it is all right for the dictator of Panama and the President of the United States to have a private understanding that the United States has the right to exercise the ultimate sovereign power of force, but that it is wrong to state it in writing.

Indeed, when the Senator from North Carolina spoke to President Lakas of Panama, even President Lakas attempted to make the same proposal.

But the Senator from North Carolina rejects that concept as unworthy of two great nations, one large, and one small. It can only be described as deception. Furthermore, it is a violation of every international agreement that we have ever signed. Indeed, Panama is absolutely right in asserting that the DeConcini reservation is a violation of the U.N. Charter, the Rio Pact, and the OAS Charter. But if the DeConcini reservation is such a violation, so are the basic treaties if you make their implicit logic explicit.

Nor is the Senator from North Carolina raising this issue belatedly I raised it in the hearings of the Senate Armed Services Committee, and received replies from Admiral Holloway that made it crystal-clear that our military leaders had an imperfect understanding of our rights under international law. I am almost embarrassed to read his reply. He said:

> The relationship of the Canal to the national security of the United States is such that the independent introduction of military forces into the territory of Panama by the United States in response to a reasonably perceived threat to the neutrality of the Canal, likewise would constitute a reasonable exercise of the inherent right of individual self-defense by the United States and so would be permitted by the (UN) Charter.

Now I want to make it clear that I agree wholeheartedly with the sentiment that the canal is so important to the national security of the United States that defense of the canal is tantamount to the defense of the United States. But the point is that we are hamstrung in exercising such defense once sovereignty is turned over to Panama because of other agreements which take precedence over the Panama Treaty, namely, the UN Charter and the OAS Charter. I think that it was unwise to agree to the restrictions of the UN and OAS Charters; but we did agree. If we are going to keep our word, then Admiral Holloway's reply is sheer nonsense.

Nor did the Senator from North Carolina fail to attempt to highlight the fundamental contradiction in the treaties. On the very first day of debate, I introduced a substitute for the leadership amendment to the Neutrality Treaty, a substitute that would make explicit our right to intervene. When that substitute was debated, I pointed out that only by such explicit language, agreed to by Panama, could the right of intervention have the color of legality. In a lengthy colloquy with the distinguished Senator from Utah, Mr. HATCH, the whole issue of sovereignty, intervention, and their relationship with our international obligations was developed at length and in detail for the edification of the Senate.

The Senator from North Carolina proposed the retention of an enlarged Galeta Island base under the terms of the 1903 treaty; such a base would have preserved the sovereign jurisdiction of the United States, including the sovereign right to use force, without violating the internal affairs of Panama. But the Senate, in its apparent wisdom, also turned that down.

During the debate on the final passage of the Neutrality Treaty, the Senator from North Carolina warned that the leadership amendment failed to meet the problem posed by the transfer of the exercise of sovereignty back to Panama. I stated at that time:

> Once the transfer takes place, then the United States has no right to assert its interpretation of treaty rights over another sovereign state. The Senator from North Carolina pointed out that our obligations under the United Nations Charter, the Rio Treaty, and the OAS Charter precludes us from using force or the threat of force for any purpose except individual or collective self-defense. Since the Canal will no longer be defended as part of U.S. territory, it is manifestly absurd to hold that we could defend the canal as part of our own self-defense; we could only defend the canal as part of collective self-defense with the Republic of Panama.
>
> Once the canal falls under Panamanian sovereignty, then Panama is the sole judge of any treaty right or of any interpretation of the regime of neutrality. The Treaty proponents are in the position of claiming that the United States has the unilateral right to invade the territory of another nation in order to assert our own interpretation of a treaty right. . . .
>
> In any case, the introduction of U.S. troops into the territory of Panama, without Panama's permission, in order to assert our interpretation of the treaty would be a blatant violation of Panama's territorial integrity and Panama's political processes. Whatever political process Panama would use to come to her interpretation of the impact of the treaty on events or situations on her sovereign territory obviously would be violated.

Mr. President, the issue remains unresolved today. The President has written to the distinguished Senator from Massachusetts, and he attempts to assert both sides of the contradiction at the same time. He says, and I quote:

> It is abundantly clear, therefore, that the United States can, under the Neutrality Treaty, take whatever actions are necessary to defend the Canal from any threat regardless of its source.

That is what the President of the United States says: Any threat. Any threat. The President does not exclude threats which arise from the internal affairs of Panama. The President does not exclude threats which arise from within the integral territory of Panama. How can he exclude such threats? Is it not possible that such threats may be the most likely of all threats?

So the President is not excluding actions when the threat arises from Panama's internal affairs.

Nevertheless, the President has not abandoned the agreed-upon doubletalk. He says:

> The correlative part of the Memorandum of Understanding, embodied in the leadership amendment to the Neutrality Treaty, makes it quite clear that action of this character must be confined to the stated objective alone, and that it will not be interpreted as a right of intervention in the internal affairs of Panama.

What the President is saying is that any intervention in the internal affairs of Panama for the sake of defending the canal will not be interpreted as an intervention in the internal affairs of Panama.

Well, of course, the United States will not so interpret our intervention in the internal affairs of Panama; but can anyone have any doubt that Panama will interpret it as an intervention in the internal affairs of Panama?

The terms of the argument are contradictory. The President is trying to reconcile two opposites by declaring that they are not opposites. But the two propositions are mutually exclusive. And if the Senate of the United States attempts to assert both propositions at the same time, our whole relationship with Panama inevitably will come to grief.

It is far better to have the language explicit, rather than attempt to sort things out later when our only choice would be to use force against Panama. Our only choice would be the much discussed "gunboat diplomacy." Unless of course, we simply surrendered our rights and our best interests and withdrew.

Therefore, no one is doing a favor, either to the people of the United States or to the people of Panama by insisting that the right to intervene against "any threat regardless of source" does not include threats whose source is the internal affairs of Panama. Of course it includes threats from Panamanians. Of course it includes threats that arise from social conditions, including strikes, riots, and demonstrations. Of course it includes intervention against any decision

of the Government of Panama that threatens the operations of the canal. What else could it mean?

And if it does not mean these things, what good does it do to issue a declaration that intervention against any of these internal affairs will not be interpreted as intervention in internal affairs? I submit that the President of the United States has, in fact, introduced a new element into the debate by including the phrase "regardless of its source." At least he is candid to that extent; but he is not candid when he says that such intervention will not be interpreted as intervention in the internal affairs of Panama.

That phrase "any threat regardless of source" may well be sufficient reason for Panama to reject the treaty, in whole or in part, either now or in the future. There is no way in which any person who understands the English language can interpret that as a nonintervention pledge. Rather, it is the opposite; it is a pledge to the people of the United States that the United States will intervene in Panama.

So, Mr. President, I say again that if this Senate acts with wisdom, it will return these treaties to the negotiating table so that we can come up with a solution that will be acceptable to the Panamanians and acceptable to the American people, 72 percent of whom are in strong objection to these treaties.

The PRESIDING OFFICER (Mr. RIEGLE). Who yields time?

Mr. CHURCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, earlier in this debate I spoke to the leadership amendment and emphasized that its purpose was to underscore the fact that the United States remains firmly committed to a policy of nonintervention in the internal affairs of the other countries of this hemisphere.

I alluded to an earlier policy of the United States, often described as the gunboat diplomacy of the 1920's, and also to the mentality of the Platt amendment through which we sought to enforce our authority inside Panama whenever we chose to do so.

Mr. President, the Platt amendment was repealed by the Congress of the United States in 1934.

Ever since that time, consistent with the Good Neighbor Policy enunciated by Franklin Delano Roosevelt, the United States has firmly committed itself to respect the rights to self-determination of our neighboring countries.

But I did not mean to suggest in my earlier remarks that the United States alone practiced a policy of interventionism in the early years of this century.

I think that Ambassador Jorden, the U.S. Ambassador to Panama, put this whole matter in proper perspective when he testified before the Foreign Relations Committee. I think his testimony ought to read into the RECORD at this point. This is what Ambassador Jorden had to say on the sensitive question of interventionism, as it is seen by Latin Americans:

Now, intervention in Panama and in the minds of the Latin Americans has a very special meaning. When Latin Americans think about intervention they think of foreign troops coming in, killing their people, removing their government or replacing their government, taking over and running the show, and that is the context of intervention for the last 50 years in Latin America.

They remember the Spanish, they remember the French in Mexico, they remember Haiti and Nicaragua and all the rest of it. When they talk about intervention that hits a very sensitive nerve and it is bloody difficult for any Panamanian to say, "Yes; we have given the United States the right to intervene."

Now, when we are talking about intervention we are talking about a very different thing. We are talking about fulfilling a specific treaty obligation to protect the Panama Canal, not to destroy Panama or replace the government but to protect that canal. I think that most Latin Americans would not have any problem with that because the canal is important to them, to Peru and Ecuador and Nicaragua. All these countries that use the canal want to have it protected, want to have it open and safe, and would be quite happy if the United States did protect it.

Now, the Ambassador said everything that needs to be said on this score and, clearly, this is what the language of the leadership amendment accomplishes.

Mr. President, I reserve the remainder of my time.

Mr. GRAVEL. Will the Senator yield to me?

Mr. SARBANES. Mr. President, how much time is left to the managers of the bill?

The PRESIDING OFFICER. The Chair would advise that the managers of the bill have 7 minutes remaining.

Mr. SARBANES. We need to reserve about 5 minutes. I yield 2 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska (Mr. GRAVEL) is recognized for 2 minutes.

Mr. GRAVEL. Mr. President, just briefly, when the heads of state came to Washington to witness the signing of the treaty by Jimmy Carter and Omar Torrijos, we Senators had a reception in the Russell Office Building, a luncheon, to receive these gentlemen.

I was fortunate enough to be seated at my table next to the President of the nation of Colombia, whose name is Lopez Michelsen.

I was struck by the intellect of this gentleman and felt very proud to be associated with him. I was impressed that South America would have this kind of a leader.

I had previously met Carlos Andres Perez of Venezuela, who I thought was similarly a great intellect and a great leader.

So I would like at this time to have printed in the RECORD a statement made by President Michelsen with respect to the issue of intervention at the recent dedication, in the last few days, in his country, and it deals with the subject most cogently.

I think it is something that should be part of this RECORD because of the fine statements already made by others.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SPEECH BY PRESIDENT MICHELSEN

(Excerpts of speech delivered by the President of Colombia, Alfonso Lopez Michelsen, on Sunday, April 16, at a ceremony of the laying of the cornerstone for the museum Jose Eliecer Gaitan, named after the liberal leader assassinated in Bogota, Colombia, during the signing of the "Bogota Charter" also known as "The Charter of the Organization of American States," which spell out very clearly the principle of nonintervention.)

President Lopez Michelsen praised Gaitan's opposition to any type of intervention and the adoption by OAS of the "Charter of Bogotá", under which for the last three decades the right of non-intervention by a foreign power is guaranteed.

"Gaitán's struggle", he said, "was not against the United States, but against the type of imperialism, that we, as Latin American countries, have to stand united against."

"What a strange coincidence that precisely when we are commemorating the end to the unilateral intervention of the United States in our countries, an amendment of the U.S. Senate, in the treaties that set forth the autonomy and sovereignty of Panama, would want to protocolize again, after 30 years, the U.S. right to intervene in our territories."

He advised the foreign powers not to set foot on "the sacred soil of Latin America." (Quote: "That the foot of a foreign country never be set on the sacred soil of Latin America.")

"It can't be that today under the pretext of assuring transit through the Canal, or tomorrow under the pretext of fighting drug traffic, or the day after tomorrow in the name of man's right against one or other ideology, it is justified that a country, unilaterally, acquires the right of intervention."

Mr. GRAVEL. I ask unanimous consent to have printed in the RECORD a statement made by the Prime Minister of Great Britain, James Callaghan, as to the interest that his nation places with respect to Panama.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY BRITISH PRIME MINISTER JAMES CALLAGHAN

Britain has vital interests in the Panama Canal. Our ships are the second largest users. We have made an exhaustive study of the texts of the new treaties, which we unreservedly support as a permanent and stable solution to the future of the canal.

In our view, the treaties will insure the maintenance of the canal as a major international waterway, free and open to all nations.

Mr. GRAVEL. Mr. President, how much time do I have?

The PRESIDING OFFICER. Fifteen seconds.

Mr. GRAVEL. I do not think I can read what I have in 15 seconds so I will try to get another 15 seconds or a minute later on in the discussion.

I thank my colleagues.

The PRESIDING OFFICER. Who yields time?

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana (Mr. MELCHER).

PANAMA'S SUCCESSFUL ECONOMY AND THE IMAGE OF THE UNITED STATES IN LATIN AMERICA

Mr. MELCHER. Mr. President, although I am one of the minority who opposed the Neutrality Treaty and who, therefore, opposes this treaty, I have asked for this time to summarize my concerns on economic matters of Pana-

ma operating the canal as contrasted with our image in Latin America.

Many supporters of the treaties expound that a strong and powerful United States can demonstrate its greatness by giving all of the canal facilities to Panama, and they espouse it as the proper act for us to salvage or enhance our prestige in Latin America. Accompanying that proposition is the administration admonition that there should be no strings attached, no amendments to the treaties other than those of Baker-Byrd, and no reservations of substance such as the DeConcini reservation. Can the assumption that this gift to Panama will enhance our image in Latin America bear analysis?

It is not my purpose to argue ownership, sovereignty or the propriety of the 1903 treaty. The facts concerning these three points are relevant, but they are not the central issue concerning the adoption of the treaties.

There are several points that I would stipulate to in the old or new treaties. Our original purchases of the land in the Canal Zone—both from the individual owners of parcels of land (about one-third of the total), and the balance from the Government of Panama—may have been at prices that were too cheap. I would have further stipulated that the annual return to Panama for the operation of the canal and the Canal Zone should be much higher and that the restricted use of the land within the Canal Zone has been unreasonable and harmful to Panama. These stipulations could and should have been remedied more than a generation ago. The treaties do correct those inequities in a strange mixture.

Gradually over the next several years we give up control of the land in the Canal Zone. Likewise, gradually over the next several years we give up control of the canal's operation but continue for 22 years to participate in the management. During this period of time—22 years—we provide funds for Panama to assure—I repeat—to assure—make certain—guarantee, if you will—that the canal's operation will be efficient and effective. So the economic and land injustices for Panama are corrected.

If there were no more to the treaties than that, or if the treaties provided some form of a beneficial partnership for Panama and the United States beyond 1999, I would not fault them—I would vote for them. But there is much more.

Under the treaties, after 1999 we cannot participate in the canal's operation. This apparently is the price we are to pay for Panama to accept the complete ownership of the canal's facilities, the railroad, the buildings, homes, land, and military facilities. In 1976 dollars the fair market value of all of this is $10 billion. We will further assist in military sales of $50 million; help in up to $200 million of Export-Import Bank credit; $75 million in housing guarantees; and participate in $20 million through the Overseas Private Investment Corporation. There will be $43 million cost to us for transfer of military, and $165 million spread over 20 years for early retirement of Canal Zone employees.

Will this generosity be an enhancement of our prestige in Latin America? To turn over the $10 billion in assets to provide the other monetary assistance, it is rationalized by the administration, will show how strong and fair a nation we are.

Actions of benevolence by the United States during the past two decades have not necessarily enhanced our world prestige, which has slipped during this era while we have been generous with foreign aid. It is an old axiom that one cannot buy friends, and our foreign aid efforts in Latin America have borne that out.

The per capita value of all that goes with the treaties is about $6,000 for every man, woman, and child in Panama. Naturally, the individual people will not see much of it, because the bulk is in assets connected with the canal's operation. They have benefited from that operation and will continue to do so. The per capita loss to each man, woman, and child in the United States of about $46 will not be felt directly, because the canal for us has been a principal asset only in the sense of facilitating world commerce—an indirect but important benefit and, therefore, if the canal continues to operate efficiently, the benefit continues, and no actual loss is felt by Americans.

For the Panamanian people to benefit in the long run from the canal depends on its continued successful operation in the future. It is at this point that I believe the treaties falter and demonstrate not U.S. strength, but clearly demonstrate weakness in our lack of practical planning and our willingness to subjugate ourselves to the clamor of the administration that beyond 22 years there should be no concern about the canal.

That argument—after 22 years everything will work out fine—is a very tempting lyric from a tune orchestrated by the entire administration. All of us in the Senate have extremely pressing problems for our individual States. Indeed, collectively Congress and the administration are well aware that our own domestic problems are so grave and urgent that we should not be spending great amounts of time on the Panama Canal Treaty debates while the U.S. economy stagnates, basic American industries founder, the dollar shrinks from inflation, and millions of Americans cannot find a job. So the temptation of the treaties is to say "yes" and get them behind us. But that, I believe, is the true weakness of the United States—the willingness of the executive branch—three Presidents—and their State Department to concede unreasonably, to believe that all will work out for the best in the treaties, and to assert that the cash and canal assets turned over to Panama will show us to be a truly strong nation.

Their faulty concession is that U.S. money backup and comanagement is essential for 22 years, but after 1999 neither will be required at all. We are dealing with a small country under a pretty tough dictator. Panama surely does not now have the economic base to operate the canal efficiently without our help.

It takes patience and persistence by us to work out long-range practical comanagement of the canal with Panama. Both sides of the negotiators—probably for political reasons—bargained and stalled for years and never reached a reasonable comanagement arrangement. The politics on the Panamanian side involved the symbolic removal of the United States from their country—get out, period. Getting rid of us has become the focal point for General Torrijos' national guard to gain a "liberation" image that helps their control over Panama. For the United States to abruptly abandon all interest or participation in the canal would be a startling event for individual Americans. Hence, the limbo period of 22 years of comanagement. It is a "Catch-22"—long enough so Americans are not to worry about what happens to the canal's operation after that, and short enough so the Panamanians can see complete control of the canal without a U.S. presence.

It has been argued by some on one side of the issue that there is a threat of Communist takeover by Cuba or Russia. It has been argued by some on the other side that failure to agree—here and now—to these treaties precipitates another "Vietnam" requiring 100,000 or 200,000 American troops guarding the canal. There is neither any sign of a Communist takeover nor a new "Vietnam." For Cuba, Russia or any aggressor to disrupt the canal's operation brings down the solid wrath of all the world's countries that use the canal. As for the "new Vietnam" argument, that assumes the Panamanians have given up on negotiating and have reversed their generally peaceful nature to become warriors without weapons to destroy that which provides their best economic base—the canal's operation itself.

Rather than view a form of comanagement of the canal as an infringement on the country of Panama, I view it in a business sense, as the sensible procedure to help Panama in a meaningful way. For the very same reasons that continued financial help for Panama is necessary for 22 years to operate and maintain the canal, we need some arrangements for the same joint responsibility after 1999.

Panama has attracted foreign capital through banking and insurance laws that are looser than most countries. They have attracted foreign capital for other reasons—principally because of their close ties to American business with the solid backing of the U.S. Government. Panama's share of U.S. investment in the Latin American Republics is 42 percent. That is the lion's share. Almost half of all business investment by U.S. interests in Latin America is in Panama. It amounts to $1.8 billion. That is, indeed, close business ties between Panama and the United States.

The Panamanians argue that with the treaties they will be on even more solid ground for continued opportunities to secure outside capital. However, it is important to note that Panama is overextended now, paying 28 percent of their annual revenue for interest due on their debts. They, in particular, need the financial gains the treaties guarantee

them to even hold their own shaky economy together.

If foreign investment at decent interest rates are to be available for Panama over a period of time, the complete absence of American participation in the canal's operation will be a disadvantage to Panama's credit. Efficient operation of the canal is the cornerstone of Panama's economy, and assured financial backup for effective maintenance and management is their best collateral to attract capital. That is the basis to attract long-term, long-line credit, which has been available to Panama partly—or, perhaps, largely—because of its close ties to the United States. With annual annuities and other funds backed by the U.S. Government for 22 years, Panama's credit for that period of time should be good. After 1999, without the financial backup from the United States and without our comanagement of the canal, the Panamanians are less likely to attract outside capital to expand their economy.

I believe world bankers, as a group, are more conservative and careful on investments than most of us, but I ask of you: Would any of you care to invest in long-term bonds for Panama to mature after 1999? In short, I believe that the business world outside of Panama and the business community within Panama rely on the backing of the United States both for credit and for a responsible government in Panama and, from that, a growing economy can possibly be nurtured.

The existing government under General Torrijos' national guard denies so much that is basic in a democracy that I believe their government will either be deposed or gradually reshaped. Torrijos has succeeded for 10 years, because of our solid backing. Substantial U.S. backing cannot continue if Torrijos and the national guard continue to deny democratic elections, an independent judiciary, and a government run by fairly elected officials rather than elections rigged by the national guard, and government officials subservient to the national guard.

The treaties do not affect that directly but, because they do not continue a form of active cooperation in the canal's operation after 1999, there is a likelihood that U.S. business investment will decrease then. Since the canal is the basic part of Panama's economy, any slippage in its efficient operation damages them first in lost revenue then, second, in credit rating. Inadequate funding works against the best interests of the canal's operation. We share that interest with the rest of the world who use the canal.

We have a special relationship with Panama, because of our development of the canal and our responsible operation of it. Although we have negotiated with Panama for a long period of time to reach the point where we now are, in my judgement the treaties do not produce a satisfactory long-term arrangement with and for Panama.

With more negotiation there is every reason to believe the treaties could become a firm and productive arrangement between Panama and ourselves. As they are, Panama receives a big gift but we, by the treaties terms, remove our backing and all responsibility after the year 1999. That gift and withdrawal is not necessarily a sign of strength. Rather, it would be a stronger United States that patiently but pointedly renegotiated arrangements with Panama to back up, assist and participate in the continued management of the canal's operation.

Negotiations to reach such a treaty would provide a sensible, sound leadership position helpful more to Panama than ourselves. That would provide an assurance of continued efficient operation of the canal, basic to Panama's economy, and an important advantage for world commerce, which is of great significance for all of Latin America—probably more beneficial to them collectively than to us.

But, then, that is the true sign of greatness and that is what is now lacking in the treaties.

Renegotiated treaties could retrieve it for us.

Mr. President, if I have any time remaining I reserve the remainder of it.

The PRESIDING OFFICER. The Senator is advised that he has 2 minutes remaining and it is so reserved.

Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Illinois seek recognition?

Mr. PERCY. Mr. President, will the Senator yield 1 minute?

Mr. SARBANES. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Chair advises that the proponents of the amendment have 5 minutes remaining and the opponents have 1 minute remaining.

Mr. SARBANES. I yield 1 minute.

Mr. PERCY. Mr. President, I supported the DeConcini amendment.

The pending reservation before us now does not diminish the DeConcini amendment, or anything else in the treaty, as many Senators opposing the treaties have been arguing. In my judgment, it simply interprets what we mean in the treaties. It states that our purpose in taking any action will be to keep the canal open, not to intervene in the internal affairs of Panama.

This is a clarification, not a weakening of the treaties or the DeConcini amendment.

I am pleased to be a cosponsor of the reservation.

Mr. President, I indicated I would support the treaties only conditioned upon our accepting amendments that would make it possible for U.S. warships in perpetuity to go to the head of the line and that would make it possible to protect the neutrality of the canal from outside intervention at any time there was a threat to the canal. I think the leadership reservation improves the DeConcini amendment by clarifying that the objective and purpose of all of us, including Panama, is to keep the canal open. The United States stands ready to help and assist in that regard, whenever it is threatened, working in partnership with Panama.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. SARBANES. Mr. President, I yield 1 minute to the Senator from Arizona.

Mr. DECONCINI. Mr. President, I support the leadership amendment.

I am rising to speak, Mr. President, on behalf of an amendment to the instrument of ratification which bears the name of the majority leader, the minority leader, a number of other distinguished Senators, and myself. This amendment is designed to clarify a few very simple concepts that apparently have been misunderstood by the Panamanians and some Members of this Chamber. The misunderstanding centers around what has become known as the DeConcini amendment to the Neutrality Treaty.

Let me begin by indicating that I have approached these treaties negatively from the outset. After my visit to Panama which included numerous discussions with Panamanian leaders, including General Torrijos himself, I came away with the very distinct impression that Americans and Panamanians had radically differing perceptions of these treaties and the rights they conferred on the United States and Panama. Since that time, I have stated publicly and privately that I would not support the treaties unless certain questions were satisfactorily answered. Of most concern to me was the Americans' right to keep the canal open after the year 2000 should it be closed for any reason.

I should add that I have never been an opponent of the idea of new treaties with Panama. I sincerely believe that our relationship with that nation needs to be redefined in order to reflect the changed values of the 1970's. In all too many ways, the present treaty arrangement reflects a bygone era.

However, I have also felt that any new treaties must protect the special and historic American interests in the canal.

Quite frankly, Mr. President, it was my intention to vote against these treaties, although I held out the option of voting "yea" if certain changes could be incorporated. It was not until it became apparent to the administration that my vote might be crucial that serious overtures were made to accommodate these concerns. After a period of serious negotiations with the administration in which the Senate leadership played a key role, agreement was reached on both the form my amendment would take—that is, as a condition to the instrument of ratification—and its content.

Although there have been conflicting reports on this point, it appears that the administration may have been unaware that the wording of the DeConcini amendment would cause profound consternation in Panama. At least, we can say for sure that on March 16, none of us in the Senate believed that it would cause much protest from the Panamanians. And the reason for this is quite simple. The DeConcini amendment asserted no right that had not already been asserted in the report of the Foreign Relations Committee. On page 6 of that report an unequivocal American right to use force to protect and defend the canal was clearly stated to be the intent of the

"leadership amendments." At one point, the report says:

The United States has the right to act as it deems proper against any threat to the Canal, internal or external, domestic or foreign, military or non-military. Those rights enter into force on the effective date of the treaty. They do not terminate.

In other words, Mr. President, the DeConcini amendment in no way sought to go beyond the rights already asserted by the Senate Foreign Relations Committee. My amendment was specifically addressed to the question of whether those rights were actually conferred by the language of the treaty itself and the subsequent leadership amendment. In my view—and in the view of a number of my Senate colleagues—the actual language was insufficient to sustain the rights asserted. Thus, we sought at the time to remedy the situation, not by creating any new rights, but by less ambiguously stating those rights we were told by the Foreign Relations Committee already existed.

The amendment we have before us now is an attempt to reassure the Panamanian people that the United States is not asserting, nor has it ever asserted, a right to intervene in the internal affairs of Panama. I would like to reiterate my words at the time the original amendment was introduced and passed:

I believe I speak for all Senators in stating that it is not our expectation that this change gives to the United States the right to interfere in the sovereign affairs of Panama. The United States will continue to respect the territorial integrity of that Nation. My amendment to the resolution of ratification is precautionary only; and it is based on the long history of American stewardship of the Canal. It recognizes the very special relationship that the Panama Canal has to American security. I certainly hope that if this right is attached to the treaty it will never need to be exercised. Yet, it is important that the American people know that should the need arise, the United States has sufficient legal sanction to act.

It is unfortunate that so many Panamanian people and their leaders have misconstrued the original DeConcini amendment. I believe that the misinterpretation may, in part, have been the result of considering the amendment in the context of a sometimes intemperate Senate debate on the canal treaties. In the heat of debate, we have occasionally used phrases or words that do not truly reflect the high regard we have for the Panamanian people and the respect that we have for every sovereign state. That, however, is the price we pay for openness and democracy. I sincerely believe, Mr. President, that not viewed in the context of this debate, the Panamanian people surely would not have reacted as they did to my amendment.

But that does not change the facts. This negative impression has been fostered by certain segments of both the American and Panamanian press. Thus, Mr. President, what we are doing today is asking the Senate to adopt an amendment to the resolution of ratification that was carefully worked out with all parties. Its purpose is to put to rest Panamanian fears that the United States is asserting in the DeConcini amendment a right to intervene in the internal affairs of the Republic of Panama. But—and this is equally as important—we are leaving intact the thrust and purpose of the DeConcini amendment which is to allow the United States to retain the right to keep the canal open.

I am satisfied, Mr. President, that the amendment we have before us today accurately reflects American policy. It restates our traditional view of nonintervention in the internal affairs of other nations, and it makes clear that in the exercise of our rights to keep the canal open we shall never have as our purpose the interference in the internal, sovereign affairs of the Republic of Panama. On the other hand, we also make it clear in the words of this amendment that the right to keep the canal open is unaffected. We are saying, simply, that in the exercise of that right we shall clearly have as our objective only the keeping open of the canal and not any other objective, such as interfering in Panama's internal politics.

Let me say, Mr. President, that the majority leader has shown great wisdom, restraint and patriotism in his handling of the delicate discussions that have led to this amendment. He has displayed an even-handedness toward each party and a respect for the interests of each party that sets him apart as a true leader. I believe this Nation owes him the deepest debt of gratitude.

I thank the Chair.

Mr. SARBANES. Mr. President, I simply wish to underscore, as we close out our time on the leadership amendment that these treaties represent an opportunity for the United States and for Panama and for the peoples of both countries to join together in a constructive and positive partnership. It offers the opportunity to assure that the canal will remain open, secure, accessible, and neutral. It will continue to serve as a great international waterway, at the same time that it gives assurances to the people of Panama that there will not be intervention in their internal affairs, that their sovereign integrity or their political independence will not be interfered with, that the very things which the able Senator from Idaho mentioned as being encompassed within the term "interventionism" in the thinking of Latin America will not take place.

Mr. President, much has been said over the course of this debate and as a consequence reactions have been prompted both here and in Panama. One would hope, as we come to the closing minutes, that should these treaties take effect, then both parties would seize the opportunity which is presented to develop a new relationship and to enhance the strength of both the United States and the Republic of Panama. These treaties are fair treaties. They are treaties designed to respond to the interest of both parties and to do so in such a way that fully recognizes and accords the respect that peoples are entitled to.

The leadership amendment, which is before us, is an important contribution to this objective just as the other amendments which have been made to the resolutions of ratification have been important contributions as the Senate has carried out its role of advising and consenting to these treaties.

The PRESIDING OFFICER. The time of the proponents has expired.

Mr. MELCHER. Mr. President, I have no further requests for time. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from North Carolina has 1 minute remaining.

Mr. HELMS. Mr. President, I yield that 1 minute to the distinguished Senator from Alabama. I see him shaking his head. So in that case, I yield it back.

The PRESIDING OFFICER. All time has been yielded back.

AMENDMENT NO. 104

Under the previous order, the hour of 2:30 p.m. having arrived, the Senator from Alabama (Mr. ALLEN) is recognized to call up an amendment on which there shall be 30 minutes debate with vote thereon to follow the debate.

Mr. ALLEN. Mr. President, I ask that the amendment be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN) for himself, Mr. THURMOND, and Mr. HELMS, proposes amendment numbered 104.

At the end of the amendment, add the following:

This reservation shall not be construed as limiting, detracting from, or diminishing the rights reserved to the United States in the DeConcini Reservation to the Neutrality Treaty to take action to keep the Canal open and operating.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 10 minutes.

Mr. ALLEN. Mr. President, the pending leadership amendment to which this amendment is offered is brought to us by the same people who brought the leadership amendment to the Neutrality Treaty, an amendment that was found to be so deficient and so full of holes, in the judgment of many here in the Senate, and it is brought to us by the same people who brought the DeConcini amendment.

I say that after the DeConcini amendment was offered, the leadership embraced the amendment, recommended it to the Senate, and it was approved by the President of the United States.

So a moment ago, when a point of order was raised that the leadership amendment was out of order, because it sought to amend the DeConcini amendment in the other treaty, I voted with the leadership in moving to table that appeal, because I do believe that the leadership can offer amendments and get anything added onto this treaty that they see fit, because they do have a majority who follow their recommendation with respect to approval or disapproval of amendments.

But that does not remove the fact that no matter what is placed in this treaty as an amendment or as a reservation, it cannot alter the terms of the DeConcini

amendment. That is there to stay. It is frozen into that treaty, because it has already been passed on by the Senate. The time for reconsidering the vote has expired.

It was an amendment that was recommended to the Senate by the leadership.

But I must say, Mr. President, that since the Panama Canal Treaty has been under consideration, the main thrust of the leadership has been to undercut or dilute the provisions and the meaning of the DeConcini amendment.

But, Mr. President, if the DeConcini amendment can withstand, as it apparently has, the provisions of the first two leadership amendments, and the present leadership amendment is on all fours with the first leadership amendment in the Neutrality Treaty, but if it can withstand the provisions of the leadership amendment to the Neutrality Treaty by the wording in the DeConcini reservation saying that "Notwithstanding the provisions of article V or any other provision of the treaty, if the canal is closed or its operations are interfered with, the United States can take whatever means, including military action, to keep the canal open," if the DeConcini amendment has survived the leadership amendment in the Neutrality Treaty, certainly it is going to survive the leadership amendment offered to a treaty that expires with the end of this century when the DeConcini amendment takes over. So no matter what the leadership adds to the Panama Canal Treaty, the DeConcini amendment will still be there, and you may rest assured that the United States is going to use the DeConcini amendment to assert any right it may need to assert in order to keep the canal open and to keep it in operation, notwithstanding the leadership amendment in the Neutrality Treaty and notwithstanding the present leadership amendment that is now pending.

So, Mr. President, there being so much doubt and so much ambivalence in the amendments that have been offered heretofore, since the leadership now is trying to dilute the DeConcini amendment, they had control over the DeConcini amendment, they accepted it, they assured the Senators that that is what they needed and what they wanted—never mind that it was to get sufficient votes to approve the treaty—but it, in effect, was also a leadership amendment, so, Mr. President, that being the leadership amendment also, and there being so much confusion caused by that amendment, can we now depend upon the second leadership amendment as a solution of the dilemma that we find ourselves in as a result of the action of the leadership?

Mr. President, I submit we need to clarify just what the leadership is driving at in this amendment. What do they say? The amendment was not made available to Senators, the rank and file Senators, I will say, until after 12 o'clock today, after the amendment was offered. What does it mean? It cannot interfere with the DeConcini amendment and, as I read it this morning, quoting from the Rubaiyat of Omar Khayyan—I guess, Mr. President, that is where the dictator got his first name from Omar Khayyan, Omar Torrijos—but I do not believe he would approve of this paragraph from the Rubaiyat, because it is very pertinent as to the standing of the DeConcini amendment. It stands there and it is going to stand there as a part of history.

Reading from the Rubaiyat:

The Moving Finger writes; and, having writ, moves on:

So we have moved on from the Neutrality Treaty—

Nor all your Piety nor Wit

I do not know whether they are talk-about the Senator from Idaho or the Senator from West Virginia or the Senator from Maryland when they speak "nor all your Piety nor Wit":

Shall lure it back to cancel half a Line.

So you can talk about diluting the DeConcini amendment all you want to, but the Rubaiyat is proof that that cannot be done:

Nor all your Tears wash out a Word of it.

So no matter what we do here on this treaty which expires with the year 2000 it is not going to affect the Neutrality Treaty and the DeConcini amendment which starts with the year 2000.

When the year 2000 comes this treaty and the leadership amendment are going to fall and we are going to take up with the Neutrality Treaty and the Deconcini amendment.

This amendment I have offered, along with the distinguished Senator from North Carolina (Mr. HELMS) and the distinguished Senator from South Carolina (Mr. THURMOND) would merely state—and I think it is necessary to help the leadership here to advise the Senate and advise the country of just what they mean by their amendment—this amendment we are offering will help them define what they mean by their amendmet. It does say:

This reservation—

That is, the leadership amendment—

shall not be construed as limiting, detracting from or diminishing the rights reserved to the United States in the DeConcini reservation to the Neutrality Treaty to take action to keep the canal open and operating.

That is what the reservation would be defined as if this amendment to the leadership reservation is agreed to.

Mr. President, I reserve the remainder of my time, and I now yield 5 minutes to the distinguished Senator from Kansas (Mr. DOLE).

The PRESIDING OFFICER. The Senator from Kansas (Mr. DOLE) is recognized for 5 minutes.

Mr. DOLE. Mr. President, I thank the distinguished Senator from Alabama.

Mr. President, I believe, having participated in some of the debate, and having offered amendments, some the Senator from Kansas thought were meritorious, and having had those amendments rejected, that in the years to come all of us will grow more aware of the importance of the treaty guarantees proposed by the distinguished junior Senator from Arizona (Mr. DECONCINI).

The so-called DeConcini reservation to the Neutrality Treaty, which has already been approved by the Senate, was the vital assurance of America's right to take independent action as it deemed necessary to insure that the Panama Canal shall always remain open for the transit by ships of all nations.

The DeConcini reservation to the second treaty, which was adopted last evening, will provide the very important guarantee that any decision our country makes with regard to the defense of the canal may not be vetoed by the Panamanians who sit on the Combined Military Board created by the treaty. This provision also preserves our right to act independently—not to intervene in Panama's internal affairs—that was never the intent—but to protect and defend the canal whenever its operations are threatened in any way.

Mr. President, I support the DeConcini reservation to the Panama Canal Treaty now under consideration, just as I supported the DeConcini reservation to the Neutrality Treaty last month. I believe that both of them are necessary preconditions to Senate ratification of the treaties even though they do not, in my opinion, make the treaties entirely acceptable.

The real significance of these assurances, however, is that they underscore the inherent weaknesses of both treaties as originally proposed by the administration. When the text of the two Panama Canal treaties was first released last September, the Senator from Kansas thought he recognized some very basic and some very fundamental weaknesses in the defense provisions of the negotiated accords.

There were conflicting interpretations of America's rights to protect and defend the Panama Canal, despite the fact that President Carter told us the provisions were "clearly understood" by the leaders of our two nations. These conflicting interpretations were not dreamed up by anyone on this floor. They were stated by witnesses before the committee. It was indicated that there was some difference of opinion by former Panamanian negotiators, and on the strength of that, the Senator from Kansas as well as others offered amendments as far back as last September. Our Nation's military leadership, which had endorsed the treaties, expressed their interpretation that "if neutrality is violated, then the United States has the responsibility to intervene in Panama and restore the neutrality regime of the canal." This was Adm. James Holloway's testimony before the Senate Armed Services Committee on January 24.

But Gen. Omar Torrijos continued to state his interpretation that "it is necessary for the United States to be committed so that when we ring the bell here, when we push the button, a bell rings over there, and the United States comes in defense of the Panama Canal." General Torrijos' interpretation obviously contradicted that of our own military leaders, who had been led to believe by our administration that our decision to defend the canal would be unilateral in nature.

At the outset, the Senator from Kansas

stated that the only way to resolve the ambiguity, and to resolve the concerns of the American people, would be to clarify the treaty language as forthrightly as possible.

DOLE AMENDMENTS

Last September 23, I introduced an amendment which I felt could help resolve the problem. My amendment No. 5 to the Neutrality Treaty was designed to specifically guarantee our authority to intervene militarily on behalf of the canal whenever we alone determined its neutrality to be threatened. At the time, the administration complained that my amendment was unnecessary. They suggested that the Senator from Kansas was trying to be an obstructionist.

But I might add that within 2 weeks, on October 14 of last year, the administration itself released a "joint statement of understanding" reached by President Carter and Gen. Omar Torrijos, thereby underscoring the fact that there was a difference in interpretation.

Even though the Senator from Kansas did not feel that the "Carter-Torrijos understanding" was a perfect answer to the problem, I took the administration at its word and proposed that the statement of understanding itself be incorporated as part of the treaty. I introduced treaty amendment No. 7 for that purpose. Again, the administration and other treaty proponents complained that the Senator from Kansas was trying to "kill" the treaties. They said it was unnecessary to put the statement of understanding directly into the treaty.

I do not believe that those Senators who supported the two DeConcini reservations will now consent to any dilution or diminishment of those guarantees. Yet, I share the concern already expressed by my colleagues from Nevada, Alabama, and Idaho, that the so-called leadership reservation does, in fact, limit the scope of the DeConcini reservation. If this were not so, there would be no purpose in offering it.

The leadership has told us time and time again how unnecessary it is to attach modifications to these treaties, because certain guarantees and limitations are "understood" by the leaders of the two countries. That was the reason originally set forth last fall, for opposing the defense amendments proposed by the Senator from Kansas. If the new leadership reservation in fact makes no change in the treaty, and simply reflects aspects already implicit in the articles, then perhaps the leadership reservation is unnecessary.

In any case, I support the Allen amendment of the second degree, to the leadership reservation, providing that it shall not limit, diminish, or detract from the rights of defense guaranteed by the DeConcini reservation, to keep the canal open and operating.

The American people and many of my colleagues disagreed with the leadership position. Momentum and support for the amendment was building, and in January of this year, the administration capitulated and agreed to give its blessing to an amendment of this type. The majority and minority leaders of the Senate agreed to introduce a new amendment to that effect, and it became known as the leadership amendment. It passed by an overwhelming majority vote, and made an important improvement in the treaty, but was not enough in itself to fully guarantee our basic defense rights.

And so, on January 19 and March 2 of this year, the Senator from Kansas introduced two additional amendments designed to protect our base rights in Panama during the future. The first of these proposed that the United States and Panama work together to find a mutually acceptable arrangement under which we might retain a military presence into the next century. If such an arrangement was not completed before December 31, 1999, we would retain the right to keep our present bases until a separate agreement was reached. The second amendment, which was similar in nature, would simply have added 10 words to the Neutrality Treaty, to hold open the possibility that Panama and the United States could agree at some point that a continued American military presence would be necessary.

The junior Senator from Arizona, Mr. DECONCINI, cosponsored both of these amendments. He, like many others in this body, shared a valid concern about our ability to protect the canal after the year 2000. Of these last two amendments offered by the Senator from Kansas, the first received 34 votes and the second, 37 votes. So the handwriting was on the wall at that point. More than one-third of the U.S. Senate—enough to deny ratification of the treaties—expressed strong support for efforts to strengthen the defense provisions in the neutrality treaty.

Therefore, it should have come as no surprise to anyone when the DeConcini reservation was adopted 1 week later, on March 16. Given the political situation, it was probably necessary for a so-called "swing Senator" to be the one to achieve victory with such a strengthening amendment, and I commend the junior Senator from Arizona for his ability to accomplish this. We know that the administration, and the pro-treaty leadership on the Senate floor, would have fought the same reservation if it had been offered by any except the "undecided Senators." The Senate leadership, along with the floor managers of this treaty, would have argued that the vital DeConcini reservation was "unnecessary" because U.S. defense rights were already "understood." They would have said it was "redundant" to spell out those rights because President Carter and General Torrijos already had implicit understandings along those lines.

Fortunately, those voices were silent during consideration of the DeConcini reservation to the first treaty, and apparently they will be willing to accept the DeConcini reservation to the second treaty, as well. This fortunate. These treaty modifications are necessary, and they will serve the best interests of our country for decades to come.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. CHURCH. Mr. President, I yield myself such time as I may need.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CHURCH. Mr. President, the distinguished Senator from Alabama keeps quoting from the Rubaiyat. He has told us again that:

The Moving Finger writes; and, having writ,
Moves on: nor all your Piety nor Wit
Shall lure it back to cancel half a Line
Nor all your Tears wash out a Word of it.

Well, there are other passages from that same poet that seem to me to be applicable to this debate. For example:

Myself when young did eagerly frequent
Doctor and Saint, and heard great argument
About it and about: but evermore
Came out by the same door where in I went.

With them the seed of Wisdom did I sow,
And with mine own hand wrought to make it grow;
And this was all the Harvest that I reaped—
"I came like Water, and like Wind I go."

That, in a way, characterizes this argument. First, the Senator from Alabama takes the position that somehow we are seeking to dilute the DeConcini reservation. He is saying, "First of all, you cannot do it because that has been riveted into the resolution of ratification for the Neutrality Treaty."

Well, Mr. President, we are not attempting to erase, withdraw, or weaken the provisions of the DeConcini reservation. We are trying to make clear what its purpose is, as agreed upon by its sponsors and by those who voted for it.

So the Senator from Alabama is dead wrong when he says that we are here for the purpose of diluting the DeConcini reservation.

Then he goes on to say that in any case it cannot be done, whatever our intention may be, because the Neutrality Treaty starts at the end of the century when the Panama Canal Treaty expires.

Again I say the Senator from Alabama is dead wrong. The Neutrality Treaty and the Panama Canal Treaty start at the same time. Their provisions become binding at the same time, to wit, when the articles of ratification are exchanged by the two governments. That is the effective date when both treaties come into force. This leadership amendment addresses itself to all the provisions in both treaties and to all the provisions of the articles. So the argument has no merit, and the Senator is playing games.

I see three different Allen amendments. I do not know if the Senator intends to present all of them. The pending amendment, No. 104, reads:

This reservation shall not be construed as limiting, detracting from, or diminishing the rights reserved to the United States in the DeConcini Reservation to the Neutrality Treaty to take action to keep the Canal open and operating.

The next amendment, No. 105, reads:

This reservation, to the extent set forth herein, shall be construed as limiting, detracting from, and diminishing the rights reserved to the United States in the DeConcini reservation to the Neutrality Treaty to take action to keep the Canal open and operating.

And there is another, which reads:

This reservation shall be construed as limiting, detracting from, and diminishing the rights. . . .

And so on. As I said, the Senator is playing games. He wants to add something, anything, to the carefully crafted

language of the leadership reservation, when nothing should be added. The leadership reservation makes explicit exactly what the sponsor of the DeConcini reservation himself sought: Namely, that any action by the United States of America in the exercise of its right to assure that the Panama Canal shall remain open, neutral, secure, and accessible pursuant to the treaties and the articles of ratification thereto shall be only for the purpose of assuring that the canal shall remain open, neutral, secure, and accessible, and shall not have as its purpose intervention in the internal affairs of the Republic of Panama or interference in its political liberty or sovereign integrity.

It cannot be better stated. But the Senator from Alabama has done everything he can to defeat these treaties and he is not in a mood to acknowledge the clarity of this language. Rather, he is in a mood to confound and confuse the question by adding one amendment after another, inconsistent as they may be.

I hope the Senate will have none of that. I strongly urge the Senate to overwhelmingly defeat each of these amendments. They are mischievous. We should see them for what they are, and we should vote them down. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. ALLEN. Every amendment the Senator from Idaho does not approve of is mischievous. This is not a mischievous amendment. I ask the question, is it fair for the leadership to obtain approval of the Neutrality Treaty by accepting the DeConcini amendment, making it their own, and thereby getting the first treaty approval and to now try to undercut the provisions of that reservation? It is not fair. It is not fair to those who cast their vote on the approval of the DeConcini amendment.

Now he says I am trying to undercut the DeConcini amendment. If that be true, why is he opposing my amendment which says that this reservation shall not limit or detract from or diminish the DeConcini amendment? It is patently incorrect on its face.

Mr. President, the distinguished Senator also said that the Neutrality Treaty starts at the very same time as the Panama Canal Treaty. He knows that the United States is in full charge of the defense up until the year 2000, and that the DeConcini amendment was aimed at article V of the treaty. I will read it. It has to do with the effective date of article V:

> After the termination of the Panama Canal Treaty, only the Republic of Panama shall operate the canal and maintain military forces.

So he knows. I do not know why he states the contrary is true. He knows that the DeConcini amendment goes into effect in the year 2000, even though the Neutrality Treaty does go into effect at the same time as the Panama Canal Treaty, if that is approved.

So the DeConcini amendment starts in the year 2000, and the distinguished author of that amendment stated that he—I know it did not become an amendment—intended to have a similar amendment to offer to the Panama Canal Treaty. I do not believe it has come in.

I thank the Chair.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. CHURCH. Mr. President, I yield myself such time as I may require.

In the first place, the DeConcini reservation is addressed not simply to article V but to any other provision of the treaty, and the reservation explicitly says this, on its face.

Now I read from article II, section 1 of the Panama Canal Treaty. It says:

> 1. This Treaty shall be subject to ratification in accordance with the constitutional procedures of the two Parties. The instruments of ratification of this Treaty shall be exchanged at Panama at the same time as the instruments of ratification of the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, signed this date, are exchanged. This Treaty shall enter into force, simultaneously with the Treaty Concerning the Permanent Neutrality and Operation of the Panama Canal, six calendar months from the date of the exchange of the instruments of ratification.

Both treaties enter into force at the same time. That was written plainly into the language of the treaty. Why do we pretend otherwise? It is irrefutable. We do not have time to waste on arguments that are grounded in nothing but whimsy.

Mr. President, I am happy to yield to the distinguished Senator from New York.

Mr. JAVITS. I thank my colleague.

Mr. President, let us get to the substance of this amendment and the substance of what we are talking about. The substance is the internal affairs and the sovereignty of Panama. That is what this is all about. The original article V stated very clearly that both parties may do whatever they think they have to do to maintain the neutrality of the canal permanently.

That covered everything DECONCINI or anybody else could think of. Then along came the people of Panama and said, "What about using this as a reason for getting into Panamanian politics or invading our territory just because you always can contrive an instance? Somebody threw a rock at a ship."

General Torrijos and President Carter got together and they said, "We have no such design." They therefore said, "What we mean by protecting the neutrality is to take any action each of us thinks we ought to take independently of the other, including military action, in order to maintain the canal"—I would like to give the words because they are very clear—"open and secure."

Then along came DECONCINI and he said, "Regardless of any other consideration, whatever that may be, we have to keep this canal," said he, and I would like to use his words because they are also very important in considering this matter, "to reopen the canal or restore the operations, as the case may be, if the canal is closed or its operations are interfered with."

Still, everybody was saying the same thing. But DECONCINI did not say, just like article V did not say, without interfering in the internal affairs of Panama, including the invasion of its sovereignty or messing around with its politics.

So now we come along and we say that. That does not diminish anything DECONCINI did. It does not diminish anything article V did. It does not diminish anything the leadership did in the first treaty.

It simply makes clear what we mean. We mean that we are going to keep this canal open, secure, neutral, and free. But it does not mean, and that is all we are saying now, the negative, it does not mean that we are going to interfere with Panamanian politics or invade its sovereignty, or just invade its territory because we feel like it.

It seems to me, Mr. President, that when we put each of these things beside the other, it makes clear exactly what we intend, and we are saying what we intend, in the reservation.

Now we come to a matter of law. A reservation, which makes a particular meaning clear and is then accepted by the other side, is a free-standing contract, whether the proponent of this amendment is right or wrong as to the linkage, and I think the linkage is very clear. That its why we put these articles which relate to linkage, that is, article II and article VIII, into the record. They link both treaties. One does not take effect without the other, and it says so in the treaties themselves. Even under normal rules of relevance you can make an amendment to either treaty with that linkage.

Be that as it may, the point is this is a free-standing relationship between Panama and the United States which has nothing to do with DECONCINI, but which is defined further by this reservation to mean that we will not, whatever may be our other rights, either use those rights or any other fancied rights to interfere in the political affairs of Panama or to invade its sovereignty.

That does not exclude us from its territory or its troops, or anything else, to keep this canal open, secure, and neutral.

Mr. President, that, in my judgment, is the intention of both peoples, the people of Panama and the people of the United States, and it is properly expressed. It needs no further embellishment. It needs no further going up hill and down hill just for the sake of making a change. I hope very much, therefore, that the amendment will be rejected.

Mr. SARBANES. Mr. President, we are prepared to yield back the remainder of our time and move to table the amendment. Has all time expired?

The PRESIDING OFFICER. All time has expired on the proponents side and the motion to table is in order.

Mr. SARBANES. Mr. President, I move to table the amendment offered by the Senator from Alabama, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to

table the amendment of the Senator from Alabama. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK) and the Senator from Montana (Mr. MELCHER) are necessarily absent.

The result was announced—yeas 60, nays 38, as follows:

[Rollcall Vote No. 112 Ex.]

YEAS—60

| | | |
|---|---|---|
| Anderson | Hatfield, | Metzenbaum |
| Baker | Mark O. | Morgan |
| Bayh | Hathaway | Moynihan |
| Bellmon | Hayakawa | Muskie |
| Bentsen | Heinz | Nelson |
| Biden | Hodges | Pearson |
| Bumpers | Hollings | Pell |
| Byrd, Robert C. | Huddleston | Percy |
| Case | Humphrey | Proxmire |
| Chafee | Inouye | Ribicoff |
| Church | Jackson | Riegle |
| Clark | Javits | Sarbanes |
| Cranston | Kennedy | Sasser |
| Culver | Laxalt | Sparkman |
| Danforth | Leahy | Stafford |
| Durkin | Long | Stevenson |
| Eagleton | Magnuson | Stone |
| Glenn | Mathias | Weicker |
| Gravel | Matsunaga | Williams |
| Hart | McGovern | |
| Haskell | McIntyre | |

NAYS—38

| | | |
|---|---|---|
| Allen | Garn | Roth |
| Bartlett | Goldwater | Schmitt |
| Brooke | Griffin | Schweiker |
| Burdick | Hansen | Scott |
| Byrd, | Hatch | Stennis |
| Harry F., Jr. | Hatfield, | Stevens |
| Cannon | Paul G. | Talmadge |
| Chiles | Helms | Thurmond |
| Curtis | Johnston | Tower |
| DeConcini | Lugar | Wallop |
| Dole | McClure | Young |
| Domenici | Nunn | Zorinsky |
| Eastland | Packwood | |
| Ford | Randolph | |

NOT VOTING—2

| | |
|---|---|
| Abourezk | Melcher |

So the motion to lay on the table the Allen amendment No. 104 was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. LEAHY). Under the previous order, the Senator from Alabama (Mr. ALLEN) is recognized to call up his second amendment, on which there shall be 30 minutes of debate, with the vote thereon to follow the debate.

The Senator from Alabama (Mr. ALLEN).

AMENDMENT NO. 105

Mr. ALLEN. Mr. President, I call up amendment No. 105 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. ALLEN), for himself, Mr. THURMOND, and Mr. HELMS, proposes an amendment numbered 105:

At the end of the amendment, add the following:

This reservation, to the extent set forth herein, shall be construed as limiting, detracting from, and diminishing the rights reserved to the United States in the DeConcini reservation to the Neutrality Treaty to take action to keep the Canal open and operating.

Mr. ALLEN. Mr. President, I yield 30 seconds to the distinguished Senator from Indiana (Mr. BAYH).

Mr. BAYH. I thank my colleague from Alabama.

Mr. President, I ask unanimous consent that a member of my staff, Chris Alridge, be granted privilege of the floor during the remainder of the debate and votes on this particular matter of the treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama.

Mr. BAYH. I thank the Senator very much.

Mr. ALLEN. I am glad to accommodate the distinguished Senator.

Mr. President, I yield myself 9 minutes.

Mr. President, even though the distinguished managers of the treaties have stated that the leadership amendment now pending does not dilute the DeConcini amendment, which was added to the resolution of ratification to the Neutrality Treaty, yet they have seen fit to have the Senate table an amendment to their amendment which would merely have made that statement, that the purpose of the leadership amendment is not to limit or detract from or to diminish the rights reserved to the United States in the DeConcini reservation to the Neutrality Treaty to take action to keep the canal open and operating.

One wonders why they would object to this statement, which is something they have stated on the floor is not their intention. Yet, when we ask them to state that in the form of an amendment, they have the Senate table that amendment.

Mr. President, the DeConcini amendment was added to the Neutrality Treaty. Already there was a leadership amendment which had been agreed to and added to the Neutrality Treaty and it had substantially the very same provisions in the leadership amendment as are now contained in this leadership amendment to the Panama Canal Treaty—that is, that in intervening to protect the canal, we should not interfere with the internal affairs of Panama; that we should not interfere with their territorial sovereignty; that we should not interfere with their independence—the very same provisions that are contained in the present leadership amendment.

So the same provisions in the Neutrality Treaty did not limit the scope of the DeConcini amendment, because the DeConcini amendment said that notwithstanding the provisions of article V of the Neutrality Treaty, which says that starting with the year 2000 only Panama could have troops in Panama—notwithstanding that provision or any other provisions of the treaty, the United States could act unilaterally, even to the extent of using military action to keep the canal open and operating. That was despite the provisions of the leadership amendment actually inserted in the Neutrality Treaty.

So, Mr. President, if the DeConcini amendment could survive as an integral part of the treaty and as a provision that was offensive to the Panamanians, as being an affront to their dignity and their sovereignty, how could it be contended that it is not going to survive exactly as written in the Neutrality Treaty, despite a second leadership amendment to limit the meaning of the DeConcini amendment?

If the actual words in the Neutrality Treaty would not limit the DeConcini amendment, how are you going to limit the DeConcini amendment by a leadership reservation offered to the Panama Canal Treaty which expires at the end of this century, even though the DeConcini amendment would not become effective until the year 2000?

Mr. President, the leadership has seen fit to defeat an amendment to their amendment which would say that the leadership amendment does not diminish or decrease or detract from or limit the DeConcini amendment.

Just what does the leadership amendment mean? We would not be in this impasse today if we had had some clarity of expression in the treaty as shaped by the leadership, because they are responsible for the DeConcini amendment with its ambiguities. Yet, they come forward and say, "This is going to correct it. Maybe it will not dilute the DeConcini amendment, but it will be a concession to Panama and will save their face," and so forth. But I do not know that it is going to do that. Let us define what the leadership amendment does.

I have sought by amendment 104, which has just been tabled, to have the amendment say that it shall not be construed as limiting or detracting from or diminishing the rights reserved in the DeConcini amendment. If they think the opposite, if the leadership feels that it does diminish it, let us hear from them. They have had the original treaty approved. We all know—it is a matter of historic record—that they got it approved by agreeing to the DeConcini amendment, and it seems likely that that carried three Senators over to vote for the Neutrality Treaty. Now they are seeking to diminish and detract from and undercut the DeConcini amendment.

If that not be so, if it does not diminish it, they had the opportunity to say so in the other amendment, which they tabled even though they have been contending that it does not detract from the DeConcini amendment. Now let us see what their attitude is. In trying to probe for what this amendment means, let us try to find out now, before we agree to it, as was the case with the DeConcini amendment. We found out what it meant after it had been approved, and the leadership has been working ever since to change that meaning or to dilute that meaning on the floor of the Senate.

This amendment says:

This reservation—

That is, the leadership amendment—

to the extent set forth herein, shall be construed as limiting, detracting from, and diminishing the rights reserved to the United States in the DeConcini reservation to the

Neutrality Treaty to take action to keep the Canal open and operating.

So if they table the one saying it does not diminish, let us see what their attitude is going to be when this amendment says that it shall be construed as limiting or detracting from the DeConcini amendment.

Mr. President, I yield the remainder of my time to the distinguished Senator from Texas (Mr. TOWER).

Mr. TOWER. I thank the distinguished Senator from Alabama.

Mr. President, much of the debate in recent weeks has been speculation on our judgment by the court of world opinion, should the Senate reject the second treaty. Many in the media have editorialized that continued operational control of the canal would represent a throwback to the turn-of-the-century jingoism we have been accused of before. Our continued presence in the canal—regardless of the practical reasons why we should stay—would be judged as an example of a powerful nation out of touch with international realities, unable to shake its preoccupation with the colonialism of the past.

Relinquishing control, on the other hand, would underscore and enhance our status in the eyes of the world as a country setting an example for others to follow. If we buy this line of reasoning, then relinquishing control is a sign of strength, an example of our magnanimity in the conduct of foreign policy.

I say, "Baloney!" In fact, no informed or fairminded nation in the world could believe that the United States is bent on territorial and political aggrandizement in this world, when everything in our recent history has proved to the contrary.

As a matter of fact, in the face of countless examples of adventurism, aggression and threats to world peace on several fronts, we appear less committed to maintaining American strength and resolve—and yet more expectant that stability will be preserved if we simply demonstrate our good faith to the world. We have been asked to show foresight by overlooking international realities and by ignoring very serious flaws in the language of the proposed treaty.

I will not argue that the existing 1903 treaty cannot be improved upon or even replaced by a treaty more in keeping with American foreign policy goals for the remainder of this century and beyond. I do not believe, however, that the treaty before us today is the most prudent and responsible basis for the future of the Panama Canal and the future of United States-Panamanian relations.

Testimony before both the Foreign Relations Committee and the Armed Services Committee has demonstrated without question the critical importance of the Panama Canal to our national security. The notion that the canal is not a vital element of our economic and security structure has been repeatedly shown to be mythical.

The Senate has, in my view, paid little attention to the inherent and undeniable risks to which the canal will be exposed if the treaty before us is ratified and put into effect. Potential threats to the future security of the Panama Canal exist not only from sources external to Panama, but from the potential for political instability within Panama's own borders.

In addition to these security considerations, the proposed treaty would result in great cost to the American taxpayer and would bestow extremely generous payments to the Panamanian Government from canal tolls. The economic consequences of these provisions have not been taken into full account in my view during the course of the Senate's debate. Direct and indirect costs to the U.S. Treasury could well exceed $1 billion. The absolute minimum direct cost to the taxpayer will exceed $750 million. The necessary payments to Panama from canal revenues will require substantial toll increases, particularly as inflation raises the cost of operating and maintaining the canal. This in turn will have a detrimental effect on the economies of those ports handling ships which use the canal and specifically could cost thousands of jobs in the gulf coast ports.

I might note, Mr. President, that we have operated this canal for the benefit of all maritime nations and have done so evenhandedly.

In sum, the economic consequences of entering into the treaty now before the Senate will be decidedly adverse to the American taxpayer and the U.S. economy.

This reason alone is sufficient to warrant dramatic revision to the treaty provisions involving economic factors. Since the Senate has failed to accept modification to these terms, and as the provisions related to the canal's future security are clearly inadequate, I urge my colleagues to avoid a serious national mistake by voting to reject the treaty before the Senate today.

This reason alone is sufficient to warrant dramatic revision to the treaty provisions involving economic factors.

Since the Senate has failed to accept modification of these terms and as the provisions relating to the canal's future security are clearly inadequate, I hope my colleagues will avoid a serious national mistake, indeed an international mistake, by voting to reject the treaty before the Senate today.

I thank my colleague from Alabama.

The PRESIDING OFFICER. The Senator from Idaho (Mr. CHURCH).

Mr. CHURCH. Mr. President, I yield myself such time as I may require, and I shall be brief.

A few minutes ago the Senate tabled an amendment offered by the Senator from Alabama which said that the leadership reservation shall not be construed as limiting, detracting from, or diminishing rights reserved to the United States in the DeConcini reservation. Now the Senator from Alabama asks us to adopt just the opposite language, to wit, this reservation shall be construed as limiting, detracting from, and diminishing the rights reserved to the United States in the DeConcini reservation and he has still a third amendment which is in between.

Mr. President, I submit this is gamesmanship, and I concede, first off, that the Senator from Alabama has a great sense of humor. He also is capable of advancing the most intriguing kinds of arguments. For example, he has repeatedly said that the DeConcini reservation does not take effect until the end of the century. Then he has said if we amend the articles of advice and consent to the Panama Canal Treaty, which expires at the end of the century, how can we possibly reach the DeConcini reservation?

That is an intriguing argument. Its only weakness is that it has no relationship whatsoever to the provisions of the two treaties.

Article II of the Panama Canal Treaty and article VIII of the Neutrality Treaty provide that both treaties go into effect simultaneously, 6 months after the articles of ratification are exchanged by the two nations.

So, the argument advanced by the Senator from Alabama simply cannot be reconciled with clear provisions of these two treaties.

So I hope that nothing deflects us from our course. This is the 38th day of Senate debate on these two treaties. As I recall, the Senate debated only 11 days on the NATO alliance. We must not in this, the 38th day, permit ourselves to be distracted from our purpose.

The treaty we vote on today is right for the United States, right for the Republic of Panama, and right for the times in which we live. But it can never be made popular. This means that Senators are confronted with the hardest of choices: Either to vote for what is best for their country or for what is best for them in their own home States.

If as few as two Senators who voted for the first treaty cut and run on the second, ratification of this treaty will fail. But the issue, I assure you, Mr. President, will not die with the defeat of the treaty. Rather it will fester and grow more inflamed, making its ultimate resolution all the more painful.

Mr. CRANSTON Mr. President, will the Senator yield?

Mr. CHURCH. Yes. I am happy to yield.

The PRESIDING OFICER. The Senator from California (Mr. CRANSTON).

Mr. CRANSTON. Mr. President, a few minutes ago, the Senate tabled an amendment stating that the leadership amendment does not limit the DeConcini reservation. Now we are asked to vote on an amendment that it does limit the DeConcini reservation.

The fact is, of course, that the leadership amendment does neither. It simply makes clear that any action taken under the DeConcini reservation is not a departure from the principle of nonintervention.

Mr. President, the vote today is not on a "giveaway" of the Panama Canal or on the right to "intervene" in Panama. The vote today is an affirmation of the international public trust under which the United States built and oper-

ated the Panama Canal. The vote today is on a passing of that international publict trust to Panama where the canal is located.

The international public trust to which I refer is that spelled out in article I of the Treaty concerning the Permanent Neutrality and Operation of the Panama Canal:

> The Canal, as an international transit waterway, shall be permanently neutral in accordance with the regime established in this Treaty.

The United States has maintained the canal as a permanent neutral international transit waterway—"secure and and open to peaceful transit by the vessels of all nations on terms of entire equality." Panama, of course, assumes this exact obligation under article II of the Neutrality Treaty. The United States and Panama, jointly and individually, agree to maintain this "regime of neutrality" under article IV of the Neutrality Treaty.

By accepting this public trust, Panama does not relinquish its national sovereignty over the canal; indeed, Panama reaffirms it. By transferring the operation of the canal to Panama, the United States is not relieved of its obligation to maintain this "regime of neutrality"; indeed, the United States reaffirms it.

In recent days I have been distressed by the controversy that has arisen over certain reservations this Senate has attached to the Neutrality Treaty or this Panama Canal Treaty. Those reservations concern the obligation and right of the United States to maintain the "regime of neutrality" and to assure that the canal shall remain open, secure, and accessible. Those reservations are not a right of intervention in the internal affairs of Panama, they are not directed against the political independence or territorial integrity of Panama. And they are not in violation of any of the rights or obligations of the United States or Panama under the Charter of the Organization of the American States or the Charter of the United Nations. Indeed, these reservations merely spell out in detail and specifics the obligations and rights of the United States in maintaining the regime of neutrality.

May I say to our friends in Panama: If Panama performs that trust, as I have every confidence that Panama will, the United States need never take any act to maintain the regime of neutrality of the canal. And if for some unforeseen reason in the future, Panama should be unable to maintain the regime of neutrality, certainly both Panama and the United States—indeed the world—would expect the United States to act.

These treaties have a basic purpose even more important than establishing Panamanian sovereignty over the canal: the continuation of the canal as a permanently neutral international transit waterway. This is what the United States built and has given to the world. This is what Panama now acquires.

In ratifying these Panama Canal treaties, this Senate can reaffirm this international public trust. In agreeing to these treaties as ratified, Panama will affirm its national sovereignty over the canal and accept this international public trust. And the canal will remain secure and open to peaceful transit by the vessels of all nations on terms of entire equality.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland (Mr. SARBANES).

Mr. SARBANES. Mr. President, I have listened to the distinguished Senator from Alabama as he argues first for one amendment and then for the other, two amendments diametrically opposite to one another. The one amendment says this reservation shall not be construed as limiting, detracting; the other amendment which he offers says this reservation shall be construed as limiting, detracting.

I am reminded, "Oh, what a tangled web we weave," by the skillful Senator from Alabama, and I must say I was given considerable pause when the amendments were first presented at the desk as to in what order they would be presented or brought up.

After all, one would then have to anticipate, I assume, that the arguments would have been completely reversed from the argument that was made, given the order that was followed, had we come with No. 105 ahead of No. 104, and we would have had to reverse all the arguments.

The Senator from Alabama would have been, I know, as he is in all of the arguments he makes, extremely skillful in doing that.

Mr. ALLEN. Mr. President, will the Senator yield inasmuch as I have no time?

Mr. SARBANES. I do yield.

Mr. ALLEN. I thank the Senator.

The Senator realizes, of course, had the first amendment, the amendment saying that the leadership amendment shall not be construed as limiting or detracting or diminishing the DeConcini amendment, if the leadership had accepted that amendment, as it stated on the floor was the intention of the leadership, then there would have been no amendment.

But inasmuch as the leadership had the Senate table the first amendment, then the Senator from Alabama, in an effort to find out what in the world the leadership did mean by the amendment, offered the second amendment to let the leadership pick and choose what it does mean by the amendment. That is the purpose of the inconsistent amendments. There would have been no second amendment offered had the first amendment been accepted.

Mr. SARBANES. It is very helpful for the Senator from Alabama to give us inconsistent, diametrically opposite, amendments in order to be of help to the leadership.

I think, in the course of this debate, both those who have offered various amendments which have been adopted and the leadership in offering the amendment that is now presented, have been very clear in terms of what they are trying to accomplish.

I know the Senator from Alabama would like to structure it in his own way and in his own manner, but I only have recourse again to the fact that the Senator from Alabama has been against a treaty with Panama ever since October of 1971. In the newsletter which he communicated to his constituents he has been opposed to a treaty; he has participated in cosponsoring a resolution that would have the United States maintain all sovereign rights, all jurisdiction in Panama; would make no concession—I think the only concession he is prepared to make is to pay a little more money.

I think it is clear to everyone that what is at stake with these treaties is not a little more money; what is at stake with these treaties is whether we are to develop a fair and equitable relationship between ourselves and the people of Panama, one that respects their dignity and independence just as we expect other nations to respect our dignity and independence.

The Senator has been extremely skillful in proposing amendments. He has been very good at moving in the stone walls on consideration of this treaty.

He keeps pushing the stone walls in closer and closer in order to leave less and less room within the walls on the basis of which the United States and Panama can reach an agreement. So the stonewalling which he has talked about so frequently is really something he has been extremely skillful at carrying forward here, and he keeps moving those walls in and narrowing down that space so there will not be a sufficient basis for an agreement.

I recall one debate in which one moment he was saying that these treaties were very unfair to the people of Panama and they should be angry about what was happening to the treaties. The next moment he turned to the Members of the Senate and said, "If the Panamanian people are going to be angry about what happens with these treaties then we ought to reject them."

So he creates his own closed circle just as these two amendments have created a closed circle. The way to dispose of the amendments, Mr. President, is to table both of them. We have tabled the previous one.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SARBANES. I move, Mr. President, to table this amendment, the amendment pending, of the Senator from Alabama, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maryland to lay on the table Mr. Allen's amendment No. 105.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Mr. HART). The Senate will be in order. Senators will please take their seats. The rollcall will be suspended until the Senate is in order.

The clerk may proceed.

The call of the roll was resumed and concluded.

The result was announced—yeas 59, nays 41, as follows:

[Rollcall Vote No. 113 Ex.]

YEAS—59

| | | |
|---|---|---|
| Abourezk | Hart | Matsunaga |
| Anderson | Haskell | McIntyre |
| Baker | Hatfield, | Moynihan |
| Bayh | Mark O. | Muskie |
| Bellmon | Hatfield, | Nelson |
| Bentsen | Paul G. | Nunn |
| Biden | Hathaway | Pearson |
| Bumpers | Hayakawa | Pell |
| Byrd, | Heinz | Percy |
| Harry F., Jr. | Hodges | Proxmire |
| Byrd, Robert C. | Hollings | Ribicoff |
| Case | Huddleston | Riegle |
| Chafee | Humphrey | Sarbanes |
| Chiles | Inouye | Sasser |
| Church | Jackson | Sparkman |
| Cranston | Javits | Stafford |
| Danforth | Johnston | Stevenson |
| DeConcini | Leahy | Stone |
| Eagleton | Long | Talmadge |
| Glenn | Magnuson | Williams |
| Gravel | Mathias | |

NAYS—41

| | | |
|---|---|---|
| Allen | Goldwater | Randolph |
| Bartlett | Griffin | Roth |
| Brooke | Hansen | Schmitt |
| Burdick | Hatch | Schweiker |
| Cannon | Helms | Scott |
| Clark | Kennedy | Stennis |
| Culver | Laxalt | Stevens |
| Curtis | Lugar | Thurmond |
| Dole | McClure | Tower |
| Domenici | McGovern | Wallop |
| Durkin | Melcher | Weicker |
| Eastland | Metzenbaum | Young |
| Ford | Morgan | Zorinsky |
| Garn | Packwood | |

So the motion to lay on the table amendment No. 105 was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. SARBANES. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The hour of 4 p.m. having arrived, the Senate will now proceed to a vote on the leadership.

Mr. ALLEN. Mr. President, inasmuch as tabling seem to be in order, or seem to be the order of the day, and since the Senate is in the habit of voting to table, I move to table the leadership amendment and I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, let me say I did this last night so as to accommodate the distinguished Senator: In my original unanimous-consent request, I phrased it so that a tabling motion would not be in order to this amendment. But I felt in fairness to those like the Senator from Alabama who might move to table, I would give them the opportunity to do so, and I intend to vote no.

Mr. ALLEN. I thank the distinguished Senator for his debate.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. During this rollcall vote, the Senate will be in order. Senators should take their seats or retire to the cloakrooms to conduct conversations.

Mr. STONE. Mr. President, inasmuch as the Senate has completed one vote and is about to proceed to two other votes, I ask unanimous consent that this be a 10-minute rollcall vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. NUNN. Mr. President, I ask unanimous consent that John Roberts, of the Senate Armed Services Committee staff, be granted the privileges of the floor for the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I ask unanimous consent that a member of my staff, Laura Katz, be granted the privileges of the floor during the debate and vote on the pending treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Margaret S. Nalle, of my staff, be granted the privileges of the floor for the remainder of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. Edward Kenney, of the Senate Armed Services Committee, be granted the privileges of the floor for the remainder of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order.

Mr. STEVENS. Mr. President, I ask unanimous consent that Steven Perles, of my staff, be granted the privileges of the floor during the votes and consideration of the pending treaty.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I make the same request for Skip Priest, of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion of the Senator from Alabama. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

The result was announced—yeas 21, nays 79, as follows:

[Rollcall Vote No. 114 Ex.]

YEAS—21

| | | |
|---|---|---|
| Allen | Garn | Lugar |
| Bartlett | Goldwater | McClure |
| Curtis | Hansen | Schmitt |
| Dole | Hatch | Schweiker |
| Domenici | Helms | Thurmond |
| Eastland | Johnston | Tower |
| Ford | Laxalt | Wallop |

NAYS—79

| | | |
|---|---|---|
| Abourezk | Culver | Humphrey |
| Anderson | Danforth | Inouye |
| Baker | DeConcini | Jackson |
| Bayh | Durkin | Javits |
| Bellmon | Eagleton | Kennedy |
| Bentsen | Glenn | Leahy |
| Biden | Gravel | Long |
| Brooke | Griffin | Magnuson |
| Bumpers | Hart | Mathias |
| Burdick | Haskell | Matsunaga |
| Byrd, | Hatfield, | McGovern |
| Harry F., Jr. | Mark O. | McIntyre |
| Byrd, Robert C. | Hatfield, | Melcher |
| Cannon | Paul G. | Metzenbaum |
| Case | Hathaway | Morgan |
| Chafee | Hayakawa | Moynihan |
| Chiles | Heinz | Muskie |
| Church | Hodges | Nelson |
| Clark | Hollings | Nunn |
| Cranston | Huddleston | Packwood |
| Pearson | Sarbanes | Stone |
| Pell | Sasser | Talmadge |
| Percy | Scott | Weicker |
| Proxmire | Sparkman | Williams |
| Randolph | Stafford | Young |
| Ribicoff | Stennis | Zorinsky |
| Riegle | Stevens | |
| Roth | Stevenson | |

So the motion to lay on the table UP amendment No. 36 was rejected.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. ANDERSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 37

Mr. CANNON. Mr. President, I have an unprinted amendment at the desk. I call it up and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes unprinted amendment numbered 37.

Amending unprinted amendment No. 36 by striking the words "nor be interpreted as a right of".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. CANNON have 2 minutes and Mr. CHURCH have 2 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CANNON. Mr. President, this amendment would simply eliminate any possibility of confusion, either on the part of the Panamanians or on our own part, as to how it might be interpreted. I think the amendment without that provision is absolutely clear that if we take any action, it should be for the purpose stated in the DeConcini amendment, to keep the canal open.

Therefore, if we leave the language in relating to how it might be interpreted, we open it up to all kinds of differing interpretations.

I submit it is a good amendment.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CHURCH. Mr. President, I hope very much that the Senate will reject this amendment. This language that has been chosen by the leadership has been carefully crafted. Every possible consideration has been given to it.

The point I emphasize is this, we are not claiming the right of intervention in the internal affairs of Panama. Never have we claimed that. In fact, we are committed in the United Nations charter, in the Rio Treaty, and all the major treaties with the members of the Organization of American States, against intervention in the internal affairs of Panama or any other Latin country.

All we claim is the right to intervene for the purpose of keeping the canal open and neutral and accessible and secure.

The language could not be plainer as it now stands, and if we strike "nor be interpreted as a right of intervention in the affairs of the Republic of Panama" it could only be subject to the interpretation that we intend to set aside Ameri-

can policy since the time Franklin Delano Roosevelt first declared the good neighbor policy for this hemisphere.

I do hope the Senate will reject this amendment.

The PRESIDING OFFICER. All time has expired.

Mr. ALLEN. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. The yeas and nays are called for. Is there a sufficient second?

Mr. ROBERT C. BYRD. Is the Senator satisfied with a voice vote?

Mr. ALLEN. I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, the Senator from Nevada would be satisfied with a voice vote.

I merely want to point out we are impinging, as we did on the last vote on the tabling motion, upon the time of the Senators who yet have amendments to offer, and impinging on the time of the debate.

Mr. ALLEN. I ask for the yeas and nays. It is an important amendment and I think we should have a rollcall.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I move to lay on the table the amendment of the Senator from Alabama (Mr. ALLEN) and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Alabama (Mr. ALLEN). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, may we have the well cleared?

The PRESIDING OFFICER. The clerk will suspend the rollcall until the Senate is in order. Will Senators take their seats? Will Senators clear the well?

The clerk will proceed.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND) is necessarily absent.

The result was announced—yeas 58, nays 41, as follows:

[Rollcall Vote No. 115 Ex.]

YEAS—58

| | | |
|---|---|---|
| Abourezk | Danforth | Hodges |
| Anderson | DeConcini | Huddleston |
| Baker | Durkin | Humphrey |
| Bayh | Eagleton | Inouye |
| Bellmon | Glenn | Javits |
| Bentsen | Gravel | Kennedy |
| Biden | Hart | Leahy |
| Byrd, Robert C. | Haskell | Long |
| Case | Hatfield, | Mathias |
| Chafee | Mark O. | Matsunaga |
| Chiles | Hatfield, | McGovern |
| Church | Paul G. | Metzenbaum |
| Clark | Hathaway | Moynihan |
| Cranston | Hayakawa | Muskie |
| Culver | Heinz | Nelson |
| Pearson | Ribicoff | Stafford |
| Pell | Riegle | Stevenson |
| Percy | Sarbanes | Stone |
| Proxmire | Sasser | Weicker |
| Randolph | Sparkman | Williams |

NAYS—41

| | | |
|---|---|---|
| Allen | Griffin | Nunn |
| Bartlett | Hansen | Packwood |
| Brooke | Hatch | Roth |
| Bumpers | Helms | Schmitt |
| Burdick | Hollings | Schweiker |
| Byrd, Harry F., Jr. | Jackson | Scott |
| Cannon | Johnston | Stennis |
| Curtis | Laxalt | Stevens |
| Dole | Lugar | Talmadge |
| Domenici | Magnuson | Thurmond |
| Ford | McClure | Tower |
| Garn | McIntyre | Wallop |
| Goldwater | Melcher | Young |
| | Morgan | Zorinsky |

NOT VOTING—1

Eastland

So the motion to lay on the table UP amendment No. 37 was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the leadership amendment.

Mr. ALLEN. Mr. President, have the yeas and nays been ordered? If not, I ask for the yeas and nays.

The PRESIDING OFFICER. They have not been ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 36

The PRESIDING OFFICER. The question is on agreeing to amendment No. 36. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

The PRESIDING OFFICER. Will Senators take their seats? Will the Senate be in order?

The second assistant legislative clerk resumed the call of the roll.

The PRESIDING OFFICER. The Senate is not in order. The rollcall will be suspended until Senators have taken their seats.

The clerk will continue.

The second assistant legislative clerk resumed and concluded the call of the roll.

The result was announced—yeas 73, nays 27, as follows:

[Rollcall Vote No. 116 Ex.]

YEAS—73

| | | |
|---|---|---|
| Abourezk | Cranston | Hollings |
| Anderson | Culver | Huddleston |
| Baker | Danforth | Humphrey |
| Bayh | DeConcini | Inouye |
| Bellmon | Durkin | Jackson |
| Bentsen | Eagleton | Javits |
| Biden | Glenn | Kennedy |
| Brooke | Gravel | Leahy |
| Bumpers | Hart | Long |
| Byrd, Harry F., Jr. | Haskell | Magnuson |
| Byrd, Robert C. | Hatfield, Mark O. | Mathias |
| Cannon | Hatfield, Paul G. | Matsunaga |
| Case | Hathaway | McGovern |
| Chafee | Hayakawa | McIntyre |
| Chiles | Heinz | Melcher |
| Church | Hodges | Metzenbaum |
| Clark | Muskie | Morgan |
| | Nelson | Moynihan |
| | Nunn | Stennis |
| | Packwood | Stevenson |
| | Pearson | Stone |
| | Pell | Talmadge |
| | Percy | Weicker |
| | Proxmire | Williams |
| | Randolph | |
| | Ribicoff | |
| | Riegle | |
| | Roth | |
| | Sarbanes | |
| | Sasser | |
| | Sparkman | |
| | Stafford | |

NAYS—27

| | | |
|---|---|---|
| Allen | Goldwater | Schmitt |
| Bartlett | Griffin | Schweiker |
| Burdick | Hansen | Scott |
| Curtis | Hatch | Stevens |
| Dole | Helms | Thurmond |
| Domenici | Johnston | Tower |
| Eastland | Laxalt | Wallop |
| Ford | Lugar | Young |
| Garn | McClure | Zorinsky |

So UP amendment No. 36 was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 103

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan is recognized to call up an amendment on which there will be 30 minutes debate.

The Senator from Michigan.

Mr. GRIFFIN. Mr. President, on behalf of myself and Mr. WALLOP I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan (Mr. GRIFFIN) for himself and Mr. WALLOP proposes Amendment No. 103 to the Resolution of Ratification in the nature of a substitute:

*Resolved*, That the Senate return to the President of the United States the Panama Canal Treaty, together with the annex and Agreed Minute relating thereto, done at Washington on September 7, 1977 (Ex. N, Ninety-fifth Congress, first session), with the advice of the Senate that negotiations to develop a new treaty relationship with the Republic of Panama be resumed and continued until a treaty is agreed upon that better serves the interests of both nations.

Mr. GRIFFIN. Mr. President, this might be called the last-chance amendment. This is the last opportunity the Senate will have before a vote will be taken where the Senate, perhaps by only a one-vote margin, will take a very dangerous step.

Mr. President, I ask unanimous consent on behalf of the majority leader that the time for this amendment be limited to 20 minutes, 10 minutes to each side.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. GRIFFIN. This step will be a dangerous gamble for the United States and the security of the United States.

Mr. CURTIS. Mr. President, may we have order.

Mr. GRIFFIN. I wish I could characterize the exercise through which we have gone today as something other than a charade. Our action today would be ludicrous were it not so serious. Today we adopted a leadership amend-

ment to a treaty that expires in the year 2000, as a way of trying to modify the DeConcini reservation that was attached to another treaty. That other treaty is not now before the Senate, and it does not assume great importance until after the year 2000, when this treaty will have expired.

It is a charade, also, in that the substantial wording and effect of this leadership amendment was already in the leadership amendment attached to the other treaty.

The Senate is being asked this afternoon to paper over the serious and obvious differences that exist with vague and ambiguous language, which both sides will be able to interpret to serve their own interests.

But let us be clear about what we are doing. We are not solving or clarifying anything—we are burying our heads in the sand like a bunch of ostriches, hoping all the while that the almost inevitable confrontation for which we have set the stage will be delayed until after we have left the scene.

What was wrong with the DeConcini amendment was that it underscored the differences of interpretation concerning the Neutrality Treaty that have existed all along. Actually the DeConcini amendment was relatively mild. It provided that:

> If the canal is closed, or its operations are interfered with, the United States of America and the Republic of Panama shall independently have the right to take such steps as it deems necessary, in accordance with its constitutional precedents, including the use of military force in Panama, to reopen the canal or restore the operations of the canal, as the case may be.

That is milder language than the interpretation placed upon the Torrijos-Carter joint statement as put forth by the Committee on Foreign Relations in its own report, which said this:

> The meaning of these amendments, which together constitute the entire Joint Statement, is plain. The first amendment relates to the right of the United Sttaes to defend the Canal (*It creates no automatic obligation to do so. . . .*) It allows the United States to introduce its armed forces into Panama *whenever* and *however* the Canal is threatened. *Whether* such a threat exists is for the United States to determine on *its own* in accordance with its constitutional process. What steps are necessary to defend the Canal is for the United States to determine on its own in accordance with its constitutional processes. The United States has the right to act as it deems proper against *any* threat to the Canal, *internal* or external, *domestic* or foreign, military or non-military. Those rights enter into force on the effective date of the treaty. They do not terminate.
>
> The above-described rights are *not* affected by the second paragraph of the amendment, which provides that the United States has no "right of intervention . . . in the internal affairs of Panama", and which prohibits the United States from acting "against the territorial intergrity or political independence of Panama". (Emphasis supplied.)

But what the Panamanian reaction to the DeConcini reservation pointed up was that the Panamanians did not agree with our interpretation, and this was not the first signal we have had that the Panamanians do not agree with our interpretation concerning the U.S. rights to defend the canal.

We found out what their interpretation was on the eve of the plebiscite when General Torrijos, himself, told the Panamanians:

> . . . (I)f we are attacked by superior forces the United States is *obligated* to come to our defense.
>
> . . . (I)t is necessary for the United States to be committed so that *when we ring the bell* here, *when we push the button*, a bell rings over there, and the United States comes in defense of the Panama Canal. . . .
>
> I repeat, we *push the button*, the bell rings, and the United States is *obligated* to come to our defense. (Emphasis supplied)."

In the General's view, we do not have a unilateral right, but rather an obligation to respond, when they ask us.

There were many other interpretations put forth by Panamanian spokesman before that plebiscite interpreting the Neutrality Treaty as meaning that we could defend the canal in the event of a threat to the canal by "a foreign power," but never acknowledging that we could defend the canal against an internal Panamanian threat.

We proceed to a vote now, and the treaty may carry by one vote, perhaps, two. But what will happen if there is a labor strike after the year 2000, closing down the canal? What will happen if the Government of Panama then refuses to act? What will happen if an anti-American labor union refuses to operate the canal for the transit of U.S.-bound cargo and the Government of Panama refuses to act? Will that be an "internal affair?" I do not think that we have resolved that question. So I think that we are taking serious risks here.

I fervently hope and pray that if this treaty is ratified, the President will be proved right by history, and those who support him in the Senate will be proved right. My great fear is that they will be proved wrong.

The hope that we are going to guarantee peace and contentment in Panama by approving this treaty may be a vain hope, and if so what will we have accomplished? We will have terminated the 1903 treaty—because that will happen as soon as this treaty is ratified. We will have set in place the machinery to transfer the canal to the Panamanians. But will have really achieved the objectives that those who vote for this treaty desire?

I think this is a dangerous gamble. The right approach is to adopt this substitute, and to say to the President, "We do not want to reject the treaties outright, but we do not think these treaties serve the interests of the United States. We give the advice of the Senate that you send the negotiators back to the negotiating table, taking into account the debate of the Senate, and try to fashion more acceptable treaties."

Mr. President, I hope this substitute will be adopted. I yield to the distinguished Senator from New Mexico.

Mr. SCHMITT. I thank the Senator from Michigan for yielding.

Mr. President, most efforts to improve the treaties during Senate consideration have been resisted successfully. The questions which I and many of my colleagues and, I believe, the majority of the American people have about these treaties remain unanswered.

Mr. President, many of the amendments proposed to both this treaty and to the Neutrality Treaty received the support of 35 to 40 Senators. This could only mean that less than the two-thirds needed for ratification are fully satisfied with the treaties in their present form. Yet, if we ratify this treaty today, these unresolved problems will remain to plague our future.

I suspect and hope that the President of the United States is listening to the conclusion of this debate. I am now addressing my remarks to him.

A few weeks ago when Senator GRIFFIN offered this renegotiation amendment in the form of a substitute for the resolution of ratification it had become clear that the Neutrality Treaty would be ratified by one or two votes. Therefore, I can understand why there was insufficient support for this substitute.

Today, however, things have changed. No one is sure how the votes will fall between 6 and 6:15 this evening. That many in this hemisphere will lose is the only certain thing. Proponents and opponents are thus playing a form of senatorial Russian roulette.

This renegotiation substitute is our last opportunity to work together with Panama to create and ratify a new treaty in the best interests of the United States, Panama, and the Western Hemisphere.

It is clear to me that renegotiation has been in order ever since the President signed the treaties. During the week of March 13 I described the preferable conditions under which this renegotiation should occur: Namely, in consultation with all the major interested parties of the hemisphere. A proposal for such consultation goes to the heart of both the political and economic needs of our hemispheric friends.

I call on President Carter to ask his supporters on this treaty issue to back away from the brink. I call on the President to help the Senate lay the foundation for a brighter and more cooperative future for all the people of the hemisphere.

The PRESIDING OFFICER (Mr. SASSER). The 10 minutes of the Senator from Michigan have expired. The Senator from Idaho has 10 minutes.

Mr. SCHMITT. Mr. President, I ask unanimous consent that I be permitted to proceed for 1 more minute.

The PRESIDING OFFICER. Is there objection?

Mr. CHURCH. Mr. President, I have no objection as long as we retain our 10 minutes on this side, in fairness to my colleague from Maryland.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator from New Mexico has 1 additional minute.

Mr. SCHMITT. The Griffin amendment, with a Presidential commitment to immediately begin new negotiations with the major user nations of the hemisphere, will give the Senate, Panama, the hemisphere and possibly the world

a new lease on their economic and political lives. It is the only way we can now defuse the time bomb these treaties have created. At the same time, we can take the most positive step ever taken toward a new hemispheric relationship; a relationship of hope and trust; a relationship for the future.

Mr. President, the Senator from Michigan has agreed to accept my amendment to his substitute for the Resolution of Ratification. I send the amendment to the desk. This amendment would require that other hemisphere nations be included in the new negotiations mandated by the distinguished Senator's substitute resolution.

Mr. GRIFFIN. Mr. President, is it in order that I accept this as a modification of my amendment?

The PRESIDING OFFICER. It would require unanimous consent.

Mr. GRIFFIN. I ask unanimous consent that my amendment be so modified.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The modification (UP amendment No. 38) is as follows:

On page 7, after "Panama", insert, ", involving all the nations of North and South America who wish to participate,".

On line 9, after "nations", strike the period and add ", and all the nations of the Western Hemisphere."

The PRESIDING OFFICER. The Senator from Idaho (Mr. CHURCH) is recognized for 10 minutes.

Mr. CHURCH. Mr. President, after 14 years of negotiations between the United States and the Republic of Panama, directed by four different Presidents of this country, and after 38 days of debate on these treaties in the Senate of the United States, we are asked to approve a motion to return this treaty to the Committee on Foreign Relations and to the President of the United States, in order that it might go back again to the bargaining table.

If there is one thing clear, it is this: Should the Senate adopt the motion of the distinguished Senator from Michigan, these treaties will not go back to the negotiating table. We will go back, instead, to a condition of deadlock and defiance. It just is not any longer possible for one country to maintain a colony in another against the wishes of the inhabitants of that country.

We began negotiations back in 1964, when 24 people died in riots in Panama, because the overwhelming sentiment of the Panamanian people finally flared into open flames. Since that time we have undertaken to negotiate at arm's length a just set of treaties, a fair bargain fairly arrived at.

As each Senator prepares to cast his vote on the pending resolution, let him consider that the treaty before us is right for the United States, right for the Republic of Panama, and right for the times in which we live. And let him take into account what his final vote will mean.

A vote against this treaty represents a vain attempt to preserve the past.

It represents a futile effort to perpetuate an American colony in Panama against the wishes of the Panamanian people, in an age when colonies have disappeared elsewhere, gone with the empires of yesterday.

It represents an ill-destined desire to cling to American ownership and control of an aging canal, which, by the end of this century, will be able to accommodate less than one-tenth of the commercial tonnage then on the high seas.

It represents a sentimental journey back to the era of Teddy Roosevelt, the Big Stick, and the Great White Fleet, in a day when our modern aircraft carriers and nuclear submarines can no longer even use the present canal.

It represents a dangerous folly that will exacerbate an old Panamanian grievance stemming from the Treaty of 1903, in an age when such grievances can readily deteriorate into endless harassment and guerrilla war.

But a vote for the treaty looks forward to a new day.

It would restore to Panama jurisdiction over her own soil and thus lay the basis for a close and friendly cooperation between the United States and Panama in the years ahead.

It would give us the best guarantee available of dependable use of the canal from now until the end of the century, and beyond.

It would enhance the prospects for the construction of a sea-level canal to meet our naval and commercial needs of the 21st century.

It would protect our security interests by insuring that our right to go to the head of the line will be preserved in case of need, and by guaranteeing our right to defend the canal with military force if ever that should prove necessary.

It would create a sense of mutual respect and trust, nurtured from the knowledge that this is a just treaty, fair to both sides, which will make for better relations throughout the hemisphere and redound to our benefit everywhere in the world.

Yet the vote, Mr. President, will be a difficult one. Every Senator knows that ratification of these treaties will not be popular, given the deep division in public opinion. But the Senate was envisioned by our Founding Fathers as the legislative body where unpopular decisions might be made, when the long-term interests of the Nation demanded it.

Today I pray that the Senate will defeat this amendment, and then, by approving this treaty, will rise to its historic responsibility, as each Senator is called upon to put the country first—above personal and political considerations.

Mr. President, the moment of truth approaches. The outcome will either cast our future relations with Latin America and the developing world in a bright new light, or plunge it under a gathering shadow that could last for years to come.

I yield the remainder of my time to my good friend and able colleague, to whom I am so deeply indebted for the past 2 months of cooperation on this floor, the able Senator from Maryland.

The PRESIDING OFFICER. Senator SARBANES, of Maryland, is recognized.

Mr. SARBANES. Mr. President, 10 weeks ago tomorrow we began on the floor of the Senate the consideration of these treaties. The question which we are now about to answer is whether we have the maturity of judgment, the wisdom, the understanding, and the vision of ourselves as a people, and our role as a leader of the free world to seize the opportunity which is before us.

We are a powerful country, and we can use our power to protect our interests. But we should seek to use that power in accordance with a legal and a moral basis which makes its exercise justified. We should seek such a basis for the exercise of our power. These treaties give us that basis and thereby bring might and right into harmony.

These treaties are a positive opportunity for this country. They are not a retreat. They are not a flight from leadership. They are an assertion of what American leadership should be all about. They are a chance for America to move forward. They are an opportunity to bring forth the best, the very best, in the American people, to call upon the finest traditions for which this Nation stands and to do it in such a way that our defense interests, our economic interests, and our foreign policy interests are all served. More importantly, what we stand for as a people will be well served.

The treaties give us an opportunity to join with Panama in a cooperative relationship which will stand as an example to the entire world. An example of the proper and just relationship between a great power and a small nation, a relationship based on self-respect and dignity.

David McCullough, the author of that superb book, "The Path Between The Seas," said in his testimony before our committee:

The Panama Canal is expressive of one of the oldest, noblest desires in the human heart, to bridge the divide and to bring people closer together. These treaties are expressive of that same desire. They are a progressive step, an act of strength, and confidence, and of good will.

We ought not to lose today the opportunity which the treaties offer to the American people. I hope the Senate will advise and consent to this treaty.

The PRESIDING OFFICER. The time of the Senator has expired.

The question is on agreeing to the amendment of the Senator from Michigan.

Mr. SCHMITT. Mr. President, I ask for the yeas and nays.

Mr. CHURCH. Mr. President, I move to table the amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay

on the table the amendment of the Senator from Michigan as modified. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 64, nays 36, as follows:

[Rollcall Vote No. 117 Ex.]

YEAS—64

| | | |
|---|---|---|
| Abourezk | Hart | McGovern |
| Anderson | Haskell | McIntyre |
| Baker | Hatfield, | Metzenbaum |
| Bayh | Mark O. | Moynihan |
| Bentsen | Hatfield, | Muskie |
| Biden | Paul G. | Nelson |
| Bumpers | Hathaway | Nunn |
| Byrd, Robert C. | Hayakawa | Pearson |
| Cannon | Heinz | Pell |
| Case | Hodges | Percy |
| Chafee | Hollings | Proxmire |
| Chiles | Huddleston | Ribicoff |
| Church | Humphrey | Riegle |
| Clark | Inouye | Sarbanes |
| Cranston | Jackson | Sasser |
| Culver | Javits | Sparkman |
| Danforth | Kennedy | Stafford |
| DeConcini | Leahy | Stevenson |
| Durkin | Long | Stone |
| Eagleton | Magnuson | Talmadge |
| Glenn | Mathias | Weicker |
| Gravel | Matsunaga | Williams |

NAYS—36

| | | |
|---|---|---|
| Allen | Goldwater | Roth |
| Bartlett | Griffin | Schmitt |
| Bellmon | Hansen | Schweiker |
| Brooke | Hatch | Scott |
| Burdick | Helms | Stennis |
| Byrd, | Johnston | Stevens |
| Harry F., Jr. | Laxalt | Thurmond |
| Curtis | Lugar | Tower |
| Dole | McClure | Wallop |
| Domenici | Melcher | Young |
| Eastland | Morgan | Zorinsky |
| Ford | Packwood | |
| Garn | Randolph | |

So the motion to lay on the table amendment No. 103 (as modified) was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask that the distinguished Senator from Nevada be recognized to call up an amendment at this time and that there be 1 minute to the side to be equally divided in accordance with the usual form on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada (Mr. CANNON) is recognized.

UP AMENDMENT NO. 39

Mr. CANNON. Mr. President, I withdraw my unprinted reservation No. 35 and ask that a substitute reservation be stated, which the clerk has at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) for himself, Mr. BENTSEN and Mr. PAUL G. HATFIELD, proposes an unprinted amendment numbered 39:

Strike out the period at the end of the resolution of ratification and insert in lieu thereof the following: "subject to the following reservation:

"After the date of entry into force of the Treaty, the Panama Canal Commission shall, unless it is otherwise provided by legislation enacted by the Congress, be obligated to reimburse the Treasury of the United States of America, as nearly as possible, for the interest cost of the funds or other assets directly invested in the Commission by the Government of the United States of America and for the interest cost of the funds or other assets directly invested in the predecessor Panama Canal Company by the Government and not reimbursed before the date of entry into force of the Treaty. Such reimbursement of such interest costs shall be made at a rate determined by the Secretary of the Treasury of the United States of America and at annual intervals to the extent earned, and if not earned, shall be made from subsequent earnings. For purposes of this reservation, the phrase 'funds or other assets directly invested' shall have the same meaning as the phrase 'net direct investment' has under section 62 of title 2 of the Canal Zone Code."

Mr. ROBERT C. BYRD. Mr. President, I ask that there be 1 minute for Mr. CANNON and 1 minute for Mr. CHURCH.

Mr. LEAHY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, how about my request?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CANNON. Mr. President, I ask unanimous consent that Senator NUNN be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, according to the Comptroller General, this amendment would save a loss to the Treasury over the next 22 years of approximately $505 million. It simply insures that no waiver of the interest payments from the Panama Canal Commission to the U.S. Government can be made unless it has the affirmative action of the Congress.

I think that is very important, that we have the opportunity to act on it if any waiver is to be made. Therefore, I believe it is a good amendment and I hope the leadership will accept it.

Mr. CHURCH. Mr. President, since the reservation offered by the distinguished Senator from Nevada provides that the final decision on the reimbursement of interest will be left to the Congress when it passes upon the enabling legislation to implement this treaty, we see no objection to the adoption of the reservation.

It is my understanding the sponsor desires a rollcall vote and we are happy to oblige in that regard.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to unprinted amendment No. 39 of the Senator from Nevada (Mr. CANNON). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 90, nays 10, as follows:

[Rollcall Vote No. 118 Ex.]

YEAS—90

| | | |
|---|---|---|
| Allen | Hansen | Moynihan |
| Anderson | Haskell | Muskie |
| Baker | Hatch | Nelson |
| Bartlett | Hatfield, | Nunn |
| Bayh | Mark O. | Packwood |
| Bellmon | Hatfield, | Pearson |
| Bentsen | Paul G. | Pell |
| Biden | Hathaway | Percy |
| Brooke | Hayakawa | Proxmire |
| Bumpers | Heinz | Randolph |
| Burdick | Helms | Ribicoff |
| Byrd, | Hodges | Riegle |
| Harry F., Jr. | Hollings | Roth |
| Byrd, Robert C. | Huddleston | Sarbanes |
| Cannon | Humphrey | Sasser |
| Case | Inouye | Schmitt |
| Chafee | Jackson | Schweiker |
| Chiles | Javits | Scott |
| Church | Johnston | Sparkman |
| Cranston | Laxalt | Stafford |
| Curtis | Leahy | Stennis |
| Danforth | Lugar | Stevens |
| DeConcini | Magnuson | Stevenson |
| Dole | Mathias | Stone |
| Domenici | Matsunaga | Talmadge |
| Eagleton | McClure | Thurmond |
| Eastland | McGovern | Tower |
| Ford | McIntyre | Wallop |
| Garn | Melcher | Williams |
| Glenn | Metzenbaum | Young |
| Goldwater | Morgan | Zorinsky |

NAYS—10

| | | |
|---|---|---|
| Abourezk | Gravel | Long |
| Clark | Griffin | Weicker |
| Culver | Hart | |
| Durkin | Kennedy | |

So Mr. CANNON's amendment (UP No. 39) was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CANNON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, under the schedule that was outlined on yesterday there was to be 1 hour for general debate before the final vote on the resolution of ratification.

Every Senator who was known to have a reservation at that time was allotted some time in the schedule.

There have been at least two rollcall votes that were not anticipated yesterday, and they have eaten into the time.

I ask unanimous consent that the 1 hour for debate which had been originally scheduled be restored and that the vote occur at the expiration of that hour or upon the time being yielded back.

Mr. LONG. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I hope no objection will be heard. I hope the Senator will not object because there are Senators who have been promised time during the hour of debate.

Mr. LONG. I will be glad to give unanimous consent that all speeches made after the vote appear in the RECORD before the vote.

We did that on a tax bill some years ago. The public as a whole will not know,

except those in the Senate Chamber. But those who read about it in our history will think those stirring speeches changed the vote that made the outcome what it was. [Laughter.]

We have debated these treaties for almost 2 months now. Mr. President, it would be an insult to the intelligence of Senators to think anyone is going to change his mind at this late date.

We have people here who want to know the final vote count. Radios are tuned in all around the country. The galleries are packed. Everyone wants to know what will happen. Anyone who makes a speech now will be doing a very unpopular thing. [Laughter.]

I am not sure my vote will be popular, Mr. President, but I think my objection on this will be. [Laughter.] I must insist on my objection. But I am willing to give consent that anyone who wants to make a speech have it appear in the RECORD immediately following the vote, and the RECORD will show his speech is what determined the outcome.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time the distinguished Senator from Louisiana has taken not be charged against the time for debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. McCLURE addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, I have listened——

Mr. McCLURE addressed the Chair.

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. Mr. President, I was on my feet seeking recognition.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator.

Mr. McCLURE. I thank the Senator.

Mr. President, it was stated by the majority leader, and I think in good faith, that all Members who had reservations that were known were allotted time. The junior Senator from Idaho had a reservation and it was not included on the list. There might have been time had we not run into three rollcall votes that were not anticipated, and I have made arrangements with the managers of the treaty that if as a matter of fact there is an extension of time for debate the junior Senator from Idaho will have at least time to explain what would have been offered had it been possible to offer it.

With that, Mr. President, I will not object to the request, but I thank the Senator for yielding to me at this time.

Mr. TOWER. Regular order.

Mr. BURDICK. Regular order.

The PRESIDING OFFICER. Regular order has been called for.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be one-half hour for general debate before the vote occurs.

Mr. SCOTT. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be 10 minutes equally divided.

Mr. SCOTT. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator from South Dakota (Mr. ABOUREZK) be allowed to speak for 5 minutes.

Mr. SCOTT. Mr. President, I object.

Mr. ROBERT C. BYRD. Mr. President, I hope the Senator will not object. There will come a time when the Senator will want 5 minutes, and the majority leader has never, never objected to any Senator on this floor having at least 5 minutes to speak.

Mr. SCOTT. Mr. President, if the distinguished majority leader——

Mr. ROBERT C. BYRD. I am giving up my time. I would like for the Senator from South Dakota to have 5 minutes and the Senator from Virginia may have 5 minutes under my request.

Mr. SCOTT. Mr. President, if the Senator will yield——

Mr. ROBERT C. BYRD. Yes.

Mr. SCOTT. Reserving my right to object, I have listened here the last few days to amendments being offered and accepted by the leadership, in my estimation, in an effort to placate some of the Senators and obtain some votes, and frankly it is disgusting to me, and I am going to continue to object to anything except the final vote on the treaty.

Mr. ROBERT C. BYRD. Very well, Mr. President.

I ask that the Senator from South Dakota be recognized for the remaining minutes before the vote.

The PRESIDING OFFICER. The Senator from South Dakota (Mr. ABOUREZK) is recognized for 1 minute.

Mr. ABOUREZK. Mr. President, I thank the Senator from West Virginia for yielding.

I only want to say that starting last week after the closed meetings of the so-called Senate-House conference committee on natural gas met at the White House in secret with the Secretary of Energy and with the President, at different times, I became determined after that, because of the fact that for the last 50 or so years oil policy in the Government has been made behind closed doors, that I would vote against this treaty on the Panama Canal.

Now, the treaty itself, while it may be important, I do not believe is as important as the issue of deregulation of natural gas and the economic impact that will have on the people of this country. I believe it is much more important.

I have had discussions with the White House for the past few days, and I have in those discussions learned from the White House that they intend to try to encourage an open democratic process in spite of the fact that they have committed what I would call great many transgressions in the past weeks on this natural gas issue, and I am convinced that although the treaty itself is only marginally better than the treaty that we are living under, in fact it does nothing but it legitimizes the imperialist aspect of the way that we are intervening in the affairs of Panama and other Third World countries, I might add, it is not the reality that is important here. It is the perception that the defeat or the passage of this treaty will have on the people of Panama and the people of the United States itself.

I asked for this time from the leader to announce that I intend to vote for the treaty for those reasons.

Mr. TOWER. Regular order.

Mr. ROBERT C. BYRD. Mr. President, regular order has been called for, but, Mr. President, I thank the Senator from South Dakota. I congratulate him on his courage, and I want the Senator from Virginia to know that I forgive him.

Mr. SCOTT. I appreciate the kindness of the distinguished majority leader.

Mr. TOWER. Regular order.

Mr. ROBERT C. BYRD. The Senator from Virginia may want 5 minutes sometime. I will try to help him get it.

Mr. GRAVEL. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all Senators who had statements they were prepared to make orally be permitted to insert them in the RECORD, and that they appear as though made orally.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I believe it was Justice Oliver Wendell Holmes who once observed that close decisions make bad law. It is no less true that close votes make bad legislation and poor treaties.

The vote on this treaty will be very close. And why? Because there is no public support for it. The American people are against this treaty. There is no national consensus. Even the Congress may be opposed to this treaty, because the House of Representatives has been deliberately pushed aside and the Constitution ignored if not abused.

And because neither Congress nor the American people favor this treaty, the treaty—like the war in Vietnam—is doomed to failure, no matter how many votes the proponents receive today.

And why are the American people against this treaty? Because it has the stench of defeat, withdrawal, and weakness. Because it is poorly drafted, ambiguous, filled with translation difficulties, and does not protect American interest and rights. Because, Mr. President, it is even unconstitutional.

When another Edward Gibbon appears on the scene to chronicle the decline and fall of the United States, the Panama Canal Treaty, if it is approved will be remembered as one of the darkest days in the history of this country.

Should these treaties be ratified, our hemispheric problems are just beginning. Hostile forces will then begin winning. And America will be perceived as a receding power—unwilling to stand anymore, while its citizens weep, and watch the fall.

Mr. LAXALT. Mr. President, this is, indeed, a historic occasion. As Senators,

we will soon be called upon to decide a question that will go a long way toward determining the kind of people we are and the role we wish to play in the world. Many thoughtful presentations on both sides of the Canal Treaty question have been made during the past 2 months. But, I would like to take this opportunity at the close of a truly historic debate to speak to the significance of what we are about to do.

HISTORIC OCCASION

It is rare that this Senate comes to showdown votes on momentous questions with the outcome possibly hanging on a single vote. Any Senator thinking back historically, can easily think of votes such as that on the North Atlantic Treaty in 1949 which were important but not close. And, each of us has his own examples of cliffhangers of no particular moment. But, make no mistake about this one. Like the Versailles Treaty in 1919, the vote we are about to have on the Panama Canal Treaty is of immense import.

My good friend, the distinguished majority leader, in his customary learned fashion, spoke of Philippi and the Rubicon in underscoring the importance of the vote on the Neutrality Treaty. As usual, his allusions were right on point. The Rubicon sounded the death knell of the confusion and vacillation of the late Republic while Philippi set the stage for the emergence at Rome of the golden age of Augustus.

In my judgment, a negative vote on the pending resolution of ratification could signal a similarly hopeful turn in our foreign policy. From our weak and vacillating current position, where we seem unable to determine where we are or where we wish to go, we are now afforded an opportunity to move in the direction of a mature, strong and self-confident posture which our people so clearly deserve.

In his campaign, President Carter promised a government as good as the American people, but he has not yet delivered. Certainly, the Panama Canal Treaty fails to measure up. Our people know we cannot buy friends. Our people know that capitulation under threat of force simply merits graver threats. And, most importantly of all, our people know that in international affairs, while it is nice to be appreciated, it is even more important to be respected. And, this treaty in no way adds to the diminishing stock of respect in the world.

Mr. President, our people oppose this treaty. Although some effort was made in the debate on the Neutrality Treaty to argue that the American people had come around, that they had shifted from a position overwhelmingly in opposition to one slightly in favor, that effort was abandoned in the debate on the second treaty. This is because it has become clear that no such shift occurred. Indeed, if the American people have moved at all during the course of these debates, they have only grown more strongly opposed.

Perhaps, reply the proponents, but, echoing Burke, they argue that a Senator owes his constituents his judgment. They say a Senator is more than just a seismograph for registering the depth and intensity of his constituents' feelings. As far as it goes, this is certainly true. But, the mere fact of being opposite one's constituents on an important issue cannot so lightly be assumed tantamount to good judgment. Quite the contrary. For those of us with strong faith in the character and good sense of the American people, it is a most perilous position and one not to be assumed without the deepest reflection and the most serious conviction.

It is well for my colleagues to remember that the very same Edmund Burke, whose quote on the judgment of the representative outweighing that of his constituents was so bandied on the debate on the Neutrality Treaty, also said in a letter to the Bell-Club of Bristol on October 31, 1777:

> We members of the House of Commons are like other men who all want to be moved by praise or shame; by reward and punishment. We must be encouraged by our constituents and we must be kept in awe of them or we shall never do our duty as we ought.

JUDGMENT

Mr. President, those among my colleagues who genuinely feel that our canal in Panama is some kind of colonialist anomaly, who really believe that the Neutrality Treaty provides adequate safeguards for our vital defense interests, who honestly think that the economic provisions are fair and workable and who truthfully see our relations with Latin America being improved and strengthened by this pact; they should in good conscience vote "aye."

Needless to say, I do not believe any of these assertions. Our canal in Panama is a circumstance unique to world history. Dating virtually simultaneously from the birth of the Republic of Panama and conveying enormous benefits to the Panamanian people, it is in no sense a colonial possession. Unlike the Suez situation, where an ancient nation was dispossessed of its territory to create a canal, in Panama the canal and the neighboring nation came into being at the same time.

It is also difficult to see how anyone can feel comfortable with our defense rights as set out in the Neutrality Treaty for after the year 2000. Indeed, it is not even clear at this juncture whether we will have a Neutrality Treaty, because recent disturbances in Panama indicate that the Panamanian Government may ultimately have to reject it regardless of what it now says. Thus, far from being the finely honed diplomatic triumph pleasing to everyone, that was initially sold to us, it now appears as though that section of the Neutrality Treaty dealing with U.S. defense rights has succeeded in offending nearly everybody. Some Senators see it as insulting to Panama. Others see it as inadequately guaranteeing U.S. rights. And, almost no one is happy with it.

The economic provisions are no better. Despite the acceptance of certain reservations, the uneasy feeling among our people that we are literally paying the Panamanians to take a multibillion-dollar asset off our hands persists. I personally believe that certain reservations accepted by the Senate have gone some distance toward improving what once were totally unacceptable confusions and ambiguities. But, the fact remains that we are turning over our canal to Panama in a manner which will bring considerable profit to the present regime.

Proponents argue that our relations with Latin America will be enhanced immeasurably should the Panama Canal Treaty be agreed to. As a Latin myself, I doubt it. Even more so than most peoples, we Latins respect firmness and are suspicious of vacilliation and weakness. What is more, although Latin American leaders have to adhere publicly to a kind of antigringo solidarity on this issue, privately they have let it be known that they are concerned about an economic asset as valuable as the Panama Canal being left in the hands of the present Panamanian regime.

SIGNIFICANCE

At any rate, Mr. President, no one here should underestimate the significance of what we are about to do. However we vote, we can be certain that our constituents will remember. And, more importantly, we will all have our own consciences to contend with.

The press attention which the Canal Treaty issue has drawn, the groups mobilized both for and against, and the general intensity of feeling within the electorate virtually guarantee that this issue will be remembered for a good long time. Although the public is supposed to be fickle and short of memory, on this issue, none of us should count on it.

But, each of us, in the final analysis, must make up his own mind. The ultimate burden of decision rests with us, which is as it should be. Our Founding Fathers wisely afforded to the Senate the advise and consent function on treaties in order to ascertain after due deliberation and mature reflection whether treaties negotiated by the Executive are truly in the national interest.

All the debate will soon be over. The final amendment has been offered. Let us now proceed to deciding whether the Panama Canal Treaty measures up to this exacting standard.

Mr. CHILES. Mr. President, today I cast my vote for the ratification of the Panama Canal Treaty.

My decision in support of the Panama Canal Treaty and the Neutrality Treaty has not been an easy one for me. My decision was made only after careful examination of all the public and private information made available to me. I have been briefed by our defense and intelligence gathering agencies. I have closely followed the congressional hearings. I have listened to my constituents on visits to Florida and have examined my mail. I have listened to the arguments put forth by both proponents and opponents. Based upon all this information, I have to come down on the side of supporting the treaties with the amendments and reservations the Senate has adopted.

As I have examined the treaties over

the last several months, my major concern has been whether or not the provisions insured that the canal would remain open for our ships and those of all nations. The adoption of two major amendments to the Neutrality Treaty has insured that the United States has the right and the responsibility to defend the canal militarily against any aggression which might threaten the ability of our ships to transit the canal. The second amendment insures that our vessels will be able to transit the canal as quickly as possible, and in times of need or emergency, it would insure that our warships would go to the head of the line.

While these amendments assured our rights in a secure and a neutral canal after the year 2000, it was unclear to me and to many other Members of the Senate just what rights our country had should the canal be closed or its operations interrupted from internal causes. To make it ironclad that the United States has the unilateral right to reopen the canal in such cases, I joined with 74 other Senators in supporting the DeConcini reservation which spells out America's right to act independently to take the steps necessary to use military force to reopen the canal.

With the DeConcini reservation attached to the treaty, there's absolutely no question as to what action the United States can take to keep the canal open.

I am firmly convinced that ratification of the Panama Canal treaties with the amendments and reservations which have been adopted by the Senate are in our best national security interests. It will serve our best national security interests in terms of our overall relations with all of Latin America. It will remove an issue which has been a rallying point for the Communists, and will thus help to curb the possible growth of communism in Panama and Latin America.

As a U.S. Senator, I have been elected to represent the people of my State, and to do this properly I must to the best of my ability fully inform myself on all the aspects of these proposed treaties, listen to all the arguments for and against, weigh all consequences of accepting or rejecting the treaties and having done this, I must vote in the way my conscience dictates is best to protect the interests of the United States. I am doing this today by casting my vote in support of the treaties.

PANAMA CANAL TREATY: AN ANALYSIS

Mr. CLARK. Mr. President, one of the experiences that impressed me most during the prolonged hearings and debate over the Neutrality Treaty was the extent to which, as George Gallup wrote in an analysis:

> The more Americans know about the Panama Canal treaties, the more likely they are to favor Senate ratification . . .

This was parallel to my own experience, meetings and talking with people of my State. In many instances, persons would begin by being very much opposed to the treaties but, after a discussion of the pros and cons, would swing around and be much more friendly toward them.

This experience leads me to the conviction that there are still a lot of people in this country who have not yet read the treaty texts, who do not really know what they provide for, and who are in fact taking a position based on bits and pieces of information that they may pick up through the media. As a matter of fact, it occurred to me that even those with the patience to listen to this debate on the radio would not, from the broadcasts alone, have heard what is in these treaties. There is not even the formal reading of the articles—here on the floor we normally dispense with the reading after a few passages. Instead, they have heard debate on isolated items, often in the critical formulation of what is not in the treaties, and what may be added to them.

Mr. President, in my judgment, I think it is imperative that the American people become familiar with the substance of these treaties so that they may better judge what we are undertaking.

I am reminded of Woodrow Wilson's comment that the responsibility of the legislative branch to inform is as great as its responsibility to legislate.

For that reason I have undertaken a lengthy and detailed analysis of the Panama Canal Treaty. I want to spell out right here what is said in this treaty, what it means, why it is phrased in that fashion. I want to look right into the heart of this treaty to try to demonstrate, as I have learned myself, that there is an awful lot of painstaking negotiation embodied in this treaty, a lot of reflection on how best to establish a machinery for the gradual assumption of Panamanian control of the canal, while at the same time protecting the interests of this Nation, and of those American citizens now working in the canal.

Article I of the treaty is entitled "Abrogation of Prior Treaties and Establishment of a New Relationship." Upon entry into force of the new Panama Canal Treaty, the old Treaty of 1903 would be abrogated, as well as two subsequent revisions of that treaty, one in 1936 and 1955.

It would also abrogate a whole host of earlier treaties, conventions and exchanges of notes between the United States and Panama concerning the Panama Canal. This is a housecleaning provision; if you are going to have new treaties, the old ones have to be abrogated.

The second section describes the extensive rights the United States will enjoy during the period of this treaty, that is, for the rest of the century (until the year 2000):

> In accordance with the terms of this treaty and related agreements, the Republic of Panama, as territorial sovereign, grants to the United States of America . . . The rights necessary to regulate the transit of ships through the Panama Canal, and to manage, operate, maintain, improve, protect and defend the Canal.

Panama further guarantees to the United States "the peaceful use of land and water areas" necessary to carry that out.

Section 3 says:

> Panama shall participate increasingly in the management and protection and defense of the Canal . . .

Section 4 says simply that the United States and Panama—

> . . . shall cooperate to assure the uninterrupted and efficient operation of the Panama Canal.

To sum up this article, we agree to abrogate the existing treaties, but, in response, Panama guarantees us a broad range of rights necessary to continue operating the canal. These general principles are subject to clarifications and limitations elsewhere according to other terms of the treaty, but these are the broad principles on which this treaty is based, and on which it would be interpreted in an international court of law.

Article II is the "Ratification, entry into force, and termination" clause. This is the clause that provides that—

> This Treaty shall be subject to ratification in accordance with the constitutional procedures of the two Parties.

Without editorializing there, I would think it is fair to say that the treaty does not give the United States any authority to interpret the constitutional processes of Panama any more than it gives Panama authority to govern the constitutional processes of the United States; nor should it. These are domestic Panamanian issues.

Article II also links this treaty to the Neutrality Treaty the Senate already has voted to ratify, just as that treaty has a clause linking it to the Panama Canal Treaty. These two are linked so that one cannot come into force without the other. And rightly so, for the Panama Canal Treaty is designed to prepare Panama to assume control of the canal, under the arrangements in the Neutrality Treaty, after the year 2000; and the United States would not transfer operation to Panama absent the ongoing rights and guarantees provided to us by the Neutrality Treaty.

The article also provides that the treaties will enter into force 6 months after the formal ratification.

It also provides that this Treaty, the Panama Canal Treaty, terminates at noon on December 31, 1999, from that point on our relations will be governed by the Neutrality Treaty, which has no cutoff date.

Article III establishes the ground rules for "Canal Operation and Management."

In this article, Panama grants to the United States the rights to manage, operate, and maintain the Panama Canal in order to provide for the orderly transit of vessels through it. Among the specific rights are: First, to use the specific lands and waters necessary for this purpose; second, to make improvements and alterations; third, to establish the rules and regulations governing such matters as navigation; fourth, to establish, modify, collect, and retain tolls; fifth, to regulate relations with employees of the U.S. Government; and sixth, to issue and enforce regulations.

In short, the United States will retain full authority over all aspects of canal operation and management; helping the

setting of tolls and establishment of wages, vacations, et cetera, for our employees. All of these matters—and this is extremely important—will remain subject to the legislative jurisdiction of the U.S. Congress.

Moreover, the broad U.S. rights established here are reinforced in great detail in separate agreements and protocols which regulate details in much the same fashion as our status of forces agreement maintained with many countries throughout the world. These agreements provide extremely specific rights and protection for our agencies and employees, and this too is a very important point, our employees are not going to be worse off as a result of these treaties, their status will be different than it is now, but it will not be worse. Indeed, their situation will be better in many respects.

For example, an employee today who leaves the Canal Zone and goes into other parts of Panama has no specific protection under the existing treaties and agreements, under the new treaty they will have extensive protections wherever they may go throughout Panama, the status of force formula is a proven one, it has worked extremely well in protecting our employees—both civilian and military—in all sorts of environments in various countries throughout the world for 30 years, there is certainly no reason to believe that these modern and proven types of protections cannot work equally well in Panama.

An extremely important provision of section 3 is the provision for establishing a Panama Canal Commission to manage, operate, and maintain the canal.

I think it is vitally important that everyone concerned with this treaty recognize that the commission, which will run the canal, will be a U.S. Government agency, created by and subject to U.S. law.

Thus, it will be subject to the continued legislative jurisdiction of the U.S. Congress. Its Board of Directors will be composed of nine members, "five of whom shall be nationals of the United States of America, and four of whom shall be Panamanian nationals * * *." This is not for 6 months; this is not for 30 months. From the time this treaty enters into force to the time it expires at the end of the year 1999, the United States will run the Panama Canal Commission which runs the canal and will have a voting majority on its board.

Section 3 has a further provision for facilitating the transfer of control while at the same time providing for ultimate U.S. responsibility. It provides that the Administrator of the Canal, the individual who manages the canal under U.S. direction, will be American until 1990, with a Panamanian deputy, after that, the administrator will be Panamanian, but it will be a candidate of Panama's which is appointed by the United States. If we find him unacceptable, if we do not like him, we do not have to appoint him; Panama has to nominate a candidate acceptable to the United States, or he simply would not be named to the post. In fact, if the United States accepts a Panamanian nomination, and names the man as administrator, and then finds him unacceptable, the United States can remove him. Moreover, whatever the nationality of the administrator, or for that matter any other officer or employee of the commission, he will be a U.S. Government employee whose duties and authority will be defined by U.S. law, and his activities will be fully subject to the policy direction of the U.S. Government. This is not unusual. Our big multinational corporations operate throughout the world with local managers. Indeed, the U.S. Government employs foreign nationals both in the United States and in other countries where we have activities. They key to control is not the nationality of the employee, but who directs them. In this case it is clearly the United States which retains this control.

This section of the treaty also provides that the United States will reimburse Panama for a variety of public services in the canal operating area and in some housing areas. I understand that the United States will actually be saving about $8 million over the current costs of these services. This clearly would be to our advantage. Our agencies and employees deserve high quality public services.

The next section provides for the establishment of a Panama Canal Consultative Committee, composed of an equal number of high-level representatives of the United States and Panama, with the task of advising the United States and Panama on matters affecting the operation of the canal. I would certainly expect that this committee could evolve as a valued and useful advisory board. However, I wish to emphasize that its role is strictly advisory; decisions will be made by the United States and our agency, the Canal Commission.

Section 8 provides for growing participation of Panamanian nationals at high management levels, and throughout the administration. I find this perfectly justifiable, but must emphasize that again there are certain limitations and restrictions on this mandate, designed to protect current employees of the Canal Company, as spelled out in article X, which I will turn to later. The principle is stated, subject to reservations designed to assure proper operation of the canal and protection of its employees.

Finally, article III provides that when this treaty enters into force, the existing agencies—the Panama Canal Company, and the Canal Zone Government—shall cease to operate in Panama. As we have seen, the administrative and managerial functions performed by these agencies will be taken over by the Canal Commission. The municipal government function become the responsibility of the Panamanian Government.

Mr. President, I turn now to article IV, "Protection and Defense," which I consider one of the most vital provisions in this treaty. There are two specific points worth emphasizing:

First of all, the United States and Panama "commit themselves to protect and defend the Panama Canal. Each party shall act, in accordance with its constitutional processes, to meet the danger resulting from an armed attack or other actions which threaten the security of the Panama Canal or of ships transiting it."

Again, as in the Neutrality Treaty, both countries bind themselves to protect the canal, but each—and I repeat, each—acting alone, determines what actions it will undertake "to meet the danger resulting from an armed attack or other actions * * *"—let me repeat, "or other actions"—which threaten the canal. These "other actions" are wisely, in my judgment, left without further definition. It is the diplomatic way of doing things. Panama knows; the United States knows, that this means the same thing as article IV of the Neutrality Treaty, that is, that the United States can take action against any threat to the canal.

Second, article IV says the United States shall "have primary responsibility to protect and defend the canal." Again, primary responsibility for the protection of the canal. For this purpose the United States is assured the right to station troops, to train troops, and to move troops as necessary. The rights under this article are spelled out in considerable detail in an agreement in implementation of this article—a standard status of forces agreement such as we have with many nations—which contains provisions which our military leadership says flatly are quite sufficient to carry out our responsibility for defending the canal.

Finally, article IV provides for the establishment of a combined board of U.S. and Panamanian military officers, to work together—in the spirit of this treaty—in matters pertaining to the protection and use of the canal. This relates to the basic defense rights I just mentioned. Each party has the right to act independently if necessary, but both contemplate working together and cooperating to protect their common interest in the canal. The combined board will in no way affect the chain of command of the U.S. forces in Panama.

There is one other provision in this article IV of considerable significance: Section 5 provides:

> To the extent possible consistent with its primary responsibility for the protection and defense of the Panama Canal, the United States of America will endeavor to maintain its armed forces in the Republic of Panama in normal times at a level not in excess of that of the armed forces of the United States of America in the territory of the former Canal Zone immediately prior to the entry into force of this Treaty.

Let me emphasize these words, Mr. President, "to the extent possible * * *" the United States "will endeavor * * *" "in normal time * * *" to maintain force levels "* * * not in excess * * *" of those levels which exist when the Treaty goes into force. Absolutely right; absolutely correct. A good faith statement of policy that is perfectly consistent with the spirit of this treaty. Neither we nor the Panamanians want any more U.S. troops around than necessary to do the job. But in an emergency, where neces-

sary, the U.S. has the right to increase these levels.

Mr. President, article V contains the "Principle of Non-Intervention" in Panamanian politics which was criticized at various times during the hearings on the treaties. Let us look at just what it does. "Employees of the Panama Canal Commission, their dependents and designated contractors of the Panama Canal Commission, who are nationals of the United States of America, shall respect the laws of the Republic of Panama and shall abstain from any activity incompatible with the spirit of this treaty. Accordingly, they shall abstain from any political activity in the Republic of Panama as well as from any intervention in the internal affairs of the Republic of Panama."

I do not see what is so unusual about this restriction. It is not strange that Panama does not want these U.S. citizens, who are in Panama, because they work for the U.S. Canal Commission, to be fooling around in their domestic politics. Nor do our NATO allies, who have essentially the same restrictions on the activities of the large numbers of U.S. citizens in their countries, because of the alliance.

This language is no different than that in our status of forces agreements with many countries.

Lest there be any misunderstanding, this provision does not in any way restrict the activities of the U.S. nationals with respect to the American political scene, except, of course, that they will be, as they now are, U.S. Government employees, and subject to the same restrictions of the Hatch Act as any other U.S. employee.

Mr. President, article VI is brief, but of considerable importance in the discussion of particular concern to a broad segment of our population that is particularly alert to environmental issues. In brief, in this section the U.S. and Panama pledge themselves to give due regard to "protection and conservation of the environment" and agree to establish a joint commission to deal with these issues in the operation of this canal or any other which might be built. The two parties agree to submit to the Joint Environmental Commission an impact statement on any action they take which might have environmental ramifications.

Article VII dealing with "flags" is brief and to the point. The entire area will be under the flag of Panama which will always occupy the position of honor. The U.S. flag will fly along side the Panamanian flag at the headquarters of the Canal Commission. The U.S. flag will also fly on U.S. defense sites, and the U.S. flag can fly elsewhere if both parties agree. I think this is an entirely appropriate reflection of Panamanian sovereignty, and is consistent with normal, international practice.

Mr. President, article VIII on "Privileges and Immunities" is vital to the effective and independent operation of the Canal Commission. It states clearly that the installations owned or used by the agencies or instrumentalities of the United States of America operating in the Republic of Panama pursuant to this treaty and related agreements, "and their official archives and documents, shall be inviolable." This means that the Panama authorities cannot enter our facilities or inspect our records without our consent. Special arrangement will be made between Panama and the United States to handle criminal investigations at such locations.

Furthermore, although Panamanian law shall generally apply in these areas made available for use by the United States, the agencies and instrumentalities of the United States will be immune from the jurisdiction of Panama. And finally Panama has agreed to give the privileges and immunities accorded to diplomatic agents and their dependents under international law to the top 20 officials of the commission.

In short, throughout the period of this treaty, the Canal Commission's archives will be inviolable, the agencies of the U.S. government will be immune from jurisdiction of Panama, and 20 top officials and their families will enjoy diplomatic immunity. All this in addition to the very specific and extensive jurisdictional arrangements provided for all of our personnel under the implementing agreements which include specific procedural and due process guarantees for American employees of the Canal Commission, the military and their families. This in my judgment is a carefully drafted and thought out guarantee of our ability to run the canal without harassment by the Panamanians or anybody else.

Mr. President, sections 1–7, article IX, which deal with "Applicable Laws and Law Enforcement" are of vital interest to those American citizens who live and work in Panama or in what is now the zone.

Basically, the article provides for a transition period of 30 months during which private business or nonprofit activities established in the zone prior to March 7, 1977, may continue their operation on the same terms and conditions as now. They will be subject to Panamanian law generally, but have this 30-month period to bring their operation into full compliance with the laws of Panama. At that point, they become fully subject to Panamanian law, but, and I emphasize, "without discrimination." They will be treated as similar private enterprises in Panama. Panama further agrees to recognize private ownership of buildings in what is now the zone, though this does not apply to the real estate, since with one exception, private business and organizations in the zone do not own the land they occupy today.

Panama has agreed, however, that they can continue to rent the land at reasonable rates, and if Panama decides to sell the land, the present occupants will have the first option to purchase at a fair price. Nonprofit enterprises can buy the property on which they are located at nominal costs. If Panama should ever find it necessary to exercise eminent domain powers, the owners will be compensated at fair market value for their property.

Section 8 of article IX relates directly to the fear expressed earlier in this debate that Panama might, by administrative or legislative action, take steps which infringe on U.S. rights. Under this section, "The Republic of Panama shall not issue, adopt or enforce any law, decree, regulation, or international agreement or take any other action which purports to regulate or would otherwise interfere with the exercise on the part of the United States of America of any right under this treaty or related agreements." I think it is essential to quote this at length, because it certainly should assuage the fears of those who are anxious about Panama's intentions.

In section 10 of this article, the two parties commit themselves to take such steps as are required to guarantee the security of the Panama Canal Commission, its property, its employees and their dependents. In short, everyone working on the canal will be protected, and Panama agrees to pass any additional legislation that may be needed and to punish offenders. Finally, the two nations agree to negotiate a treaty providing that the nationals of either state, who are sentenced by the courts of the other state, and do not live there, may serve their sentence in their own country and agree to enter into a specific treaty on this subject along the lines of our recent treaty with Mexico. This should allay the concerns of those who fear that American citizens would have to spend time in Panamanian jails. Let me emphasize that this is a fillip, a gain for American citizens in general. Do not forget, though, that elsewhere it is provided that in the cases of crimes allegedly committed by U.S. citzens employed by the Canal Commission, Panama will as a matter of general policy waive jurisdiction to the United States.

Mr. President, article X is one of the longest and most detailed articles in the treaty, and well it might be for it deals with the terms and conditions for "Employment with the Panama Canal Commission."

Let me emphasize one point to begin with: Section 1 declares that—

> * * * the United States of America shall establish employment and labor regulations which shall contain terms, conditions and prerequisites for all categories of employees of the Panama Canal Commission.

Thus, the United States retains legislative jurisdiction on all employee matters. Let me very briefly enumerate the other key guidelines:

The regulations shall include a system of preference for hiring Panamanian applicants. This is as it should be. We want to employ more qualified Panamanians so that they are fully in a position to operate the canal by the year 2000. (Of course, 80 percent of the employees of the Panama Canal Company are already Panamanian.)

The terms and conditions to be established will be no less favorable to persons already employed than those currently in effect. In a word, no present employee of the Panama Canal Company will be disadvantaged in working for the Canal Commission.

Employment policy will "generally limit" the recruitment of personnel outside Panama to those with special skills not available there. This provision clearly enables the commission to hire outside Panama whenever persons with the requisite qualifications are not available inside that country.

The United States will establish training programs for Panamanians.

After 5 years the number of present U.S. employees who will still be there at that time must be lowered by 20 percent. Frankly, when allowing for attrition, I find this a perfectly acceptable figure. It does not constitute any sort of ceiling on the total number of U.S. employees we may have at any time during the life of the treaty.

The Coordinating Committee is assigned the function of serving as a liaison on job openings between the Panamanian Government and the United States.

The United States agrees to accept Panamanian professional licenses, but reserves the right to require additional professional skills. Like so many other provisions in this treaty, this provision recognizes the legitimate pride and status of the Panamanians, while at the same time reserving the right to establish whatever standards are necessary for running the canal.

This same balance holds for section 4, the provision for periodic rotation, at a maximum of every 5 years, of non-Panamanian employees hired after the entry into force of this treaty. Again, there is an exception made for administrative reasons in the cases of employees with special skills. And note, too, that it does not apply to persons currently employed by the Panama Canal Company.

So here we have another instance where the general principle of turnover is stated and reinforced, but where in practice the Canal Commission will have the authority to hire necessary individuals and keep them longer than 5 years if their skills are needed.

Regarding wage and fringe benefit policy, section 6 states flatly there "shall be no discrimination on the basis of nationality, sex or race." Interestingly, and consistent with the treaty's special concern for U.S. employees, the benefits now enjoyed, such as home leave, will not be considered as discrimination within the meaning of this paragraph. Again, this is a protection for the U.S. citizen now working on the canal.

Section 7 has received considerable attention already, and properly so, for it deals with the fate of those persons displaced from their employment, because of the terms of the treaty. As we know, Panama will assume certain functions now handled by the Canal Company or Zone Government, including municipal services such as police and certain aspects of fire protection.

Where this happens, the U.S. Government itself is committed to relocate these displaced persons "to the maximum extent feasible, in other appropriate jobs with the Government of the United States, in accordance with U.S. Civil Service regulations." Furthermore, Panama obligates itself wherever possible to retain non-Panamanian employees in activities transferred to Panama, and to maintain current pay rates and working conditions.

Article 9 contains a provision widely misrepresented in this country. Because it is so vital, I will quote it in its entirety:

(A) The right of employees to negotiate collective contracts with the Panama Canal Commission is recognized. Labor relations with employees of the Panama Canal Commission shall be conducted in accordance with forms of collective bargaining established by the United States of America after consultation with employee unions.

(B) Employee unions shall have the right to affiliate with international labor organizations.

Let there be no doubt about this point. Employees will continue to have the right to collective bargaining, and employee unions will be able to maintain affiliation with international labor organizations. The terms for collective bargaining will be worked out between the United States and the unions.

Section 10 outlines yet another consideration for current canal employees:

The United States of America will provide an appropriate early optional retirement program for all persons employed by the Panama Canal Company or Canal Zone Government immediately prior to the entry into force of this treaty.

The section goes on to note that due to special circumstances arising from this treaty the United States will make it easier for employees to retire under existing law, and seek legislation to provide more liberal entitlement to retirement annuities than is currently provided for by law if the employee himself decides he would prefer to go this route.

Again, this represents sincere effort to compensate those many dedicated U.S. citizens who have worked for the Canal Zone Company or the government. This program is expensive; its estimated cost (which ranges up to $150 million) is one of the major expenses incurred in the turnover. But it is just, and it is necessary. It is a benefit not to Panama, but to our own citizens.

Mr. President, article XI is so clearly a provisional arrangement, being the "Provisions for the Transition Period," that I will not go into a detailed section by section analysis. I would call attention only to the provision in section 1 that—

The authority granted in this Article to the United States of America for this transition period shall supplement, and is not intended to limit, the full application and effect of the rights and authority granted to the United States of America elsewhere in this treaty and in related agreements.

Now, Mr. President, we come to article XII, relating to "A sea level canal or a third lane of locks." Let me confess at the outset that I do not think any provision of the treaties has been more misunderstood and misrepresented than this article. Again, for the sake of accuracy, let me quote exactly what this article provides. After recognizing in section 1 the possible future importance of a sea level canal, and committing themselves to a joint feasibility study during the duration of this treaty, the two parties agree that if such a waterway is necessary, "They shall negotiate terms, agreeable to both parties, for its construction." As is obvious from the text, this is not a commitment necessarily to build a sea level canal; it is an agreement to negotiate the terms for such a canal if it is deemed desirable.

Then comes the much disputed passage:

2. The United States of America and the Republic of Panama agree on the following:

(A) No new interoceanic canal shall be constructed in the territory of the Republic of Panama during the duration of this treaty, except in accordance with the provisions of this treaty, or as the two parties may otherwise agree; and

(B) During the duration of this treaty, the United States of America shall not negotiate with third states for the right to construct an interoceanic canal on any other route in the Western Hemisphere, except as the two parties may otherwise agree.

Now, the fact is that this section is a straight trade off, The United States, and I emphasize that it was we who initiated this particular provision, knows full well that if and I say "If" because few persons I know believe the sea level canal will ever prove economically feasible—but "if" the canal is built, it would most certainly be constructed in Panama.

A U.S. commission spent 5 years and some $22 million before concluding in 1970 that of the 34 routes from Atlantic to Pacific, only eight were worth serious investigation, and of these the two best by a huge margin were in Panama. A Department of Transportation study in 1977 reconfirmed these findings. The route in Nicaragua is 140 miles long; through Colombia it is 100 miles long; the path through Panama is about 40 miles long. As I said, most experts I have talked with doubt that the sea level canal will be built anywhere. But if it is built, there is no option except Panama. Plowing through Nicaragua would cost four times more than through Panama. As a matter of fact, the judgment that Nicaragua was unfeasible was so persuasive that the Senate of the United States approved by 66 to 5 the abrogation of the Bryan-Chamorro Treaty which gave us that right. Many of the Senators now concerned with that right voted to renounce the Nicaragua rights 6 years ago.

The United States, aware of the significance of the Panama route, persuaded the Panamanians to pledge that if any canal is built in Panama, it must be by the agreement of the United States. Now, this is a significant restriction on Panama. It cannot build a canal in its own territory or let any other nation build a canal without our agreement. So, in agreeing to this provision, Panama wanted to quid pro quo. That was that the United States agree during the same period not to construct a canal elsewhere in Central America.

In my judgment this provision is highly favorable to the United States. As I said, I do not expect in any case that the sea-level canal will be built, and therefore do not find this "right" all that significant. But it is decidedly a point in our advantage. As a matter of fact, we have heard General Torrijos' com-

ment that he would be glad to dispense with this provision—cutting it would make him a national hero.

Let me add in concluding my remarks on article XII, that other sections of this article would permit the United States to build a third lane of locks to the existing canal, and would bind the United States not to use nuclear excavation techniques without the prior agreement of Panama.

Frankly, I think neither of these provisions is particularly important. Nobody speaks seriously of constructing a third lane of locks—but we would have the right to build them under this treaty. And in 1970 the Anderson Commission concluded that the use of nuclear explosives was not particularly feasible; nuclear excavation is contrary to U.S. worldwide policy; and we are prohibited from nuclear excavation by the Test Ban Treaty.

I come now to one of the most discussed articles of the treaty, article XIII, providing for "Property Transfer and Economic Participation by the Republic of Panama." This is the article which describes what we turn over to Panama on that last day of operation, and under what terms.

And, it is in this article where the payments to Panama by the Canal Commission are described.

First, section 1, providing for the turnover upon the termination of the treaty:

1. Upon termination of this treaty, the Republic of Panama shall assume total responsibility for the management, operation, and maintenance of the Panama Canal, which shall be turned over in operating condition and free of liens and debts, except as the two parties may otherwise agree.

I know that the issue of "free of liens and debts" has been widely discussed here during the debate on the Neutrality Treaty. Again, without attempting to argue the case here. I want to emphasize that the United States will have control over the Canal Commission throughout the duration of the treaty, and it is that U.S.-controlled Commission which will manage the canal in a fashion which will insure that the operation is free of liens and debts.

This provision means that we will not mortgage the canal or its equipment before we transfer it to Panama. It also means that if in 1995 we find it desirable to make large capital improvements in the canal, but do not want to pay the entire bill, Panama can agree to assume a pro rata share of the cost.

Upon entry into force of the treaty, the United States under section 2, "transfers to Panama all right, title, and interest the United States may have with respect to all real property, including nonremovable improvements" located in areas not reserved for U.S. use under the treaty, except for property made available for our use in these outlaying areas. Title to housing owned by the Panama Canal Company is transferred the day the treaty goes into effect, but the United States retains the use of such housing as is necessary.

I am told that the 1977 book value of Canal Company/Canal Zone Government property involved on this initial transfer, and those to be made over the life of the treaty, is roughly $96 million.

Upon termination of this treaty, Panama will assume total responsibility for the canal. All real property, nonremovable improvements and equipment related to the operation of the canal are transferred to Panama at that time.

The book value of the existing property to be transferred at the end, according to the State and Defense Departments, will be approximately $98 million. Panama will also receive all capital improvements made during the treaty's lifetime. With regard to military properties, facilities to be turned over at the start of the treaty have an acquisition cost of $27.5 million. During the treaty's life, additional property with an acquisition cost of $33.5 million will be turned over, and at the treaties and the remaining military facilities with an acquisition cost of $291.9 million will be transferred.

The payments to Panama during this period are supposed to be a "just and equitable return on the national resources which it has dedicated to" the Panama Canal. The payments, by the Canal Commission, from canal revenues, are:

(a) A share of tolls amounting to 30 cents per Panama Canal ton of shipping transiting the Canal;

(b) A fixed amount of $10 million per year; and

(c) An additional sum of up to $10 million per year if there is a surplus from operating revenues.

Why these particular figures? One Senator has an amendment which would cut the payments in half. Many critics describe this as "paying Panama to take the canal off our hands."

To set the record straight, Let us understand clearly that these will be payments from revenues. I grant that there are expenses involved from the U.S. Treasury, in the implementation of the new treaty, but the payments to Panama are not part of them.

To understand the significance of these figures, it is necessary to go back into the negotiating history of these treaties.

You will recall that initially Panama was asking for incredible sums—a billion dollars—as compensation for the presumed losses to Panama which resulted from the years in which the United States kept tolls at an artificially low level to accommodate the world's shippers, and consequently paid Panama a pittance for use of the canal territory.

The U.S negotiators went into these discussions with a basic position: Payments to Panama would have to be based on what the canal could earn, not on its theoretical value to the world's shippers, or some abstract value of Panama's contribution—through geography—to the world. Economic research indicated that the canal could absorb toll increases of up to perhaps 75 percent and still increase revenue. The United States took a very conservative position, opting instead for a projected toll increase of about 30 percent, on that basis, it was determined that a payment to Panama of roughly $50 million annually could be sustained. But rather than making this a flat across-the-board figure, this was divided into a payment (30 cents) based on traffic, a fixed $10 million, and a $10 million conditional payment if revenues are sufficient.

The point I want to make is simply that these are not arbitrary figures. They are a compromise between what Panama would like to receive, and the U.S. position that payments must be sustainable by canal revenues.

Mr. President, this brings me to the final article, No. XIV, which provides for the "Settlement of Disputes." I can dispense with this very briefly. In a word, Panama wanted provisions for compulsory arbitration of disputes. The United States felt it would do better without compulsory arbitration. The language in article XIV provides that where the parties are unable to resolve a particular matter, "* * * they may, in appropriate cases, agree to submit the matter to conciliation * * *." In short, there is no compulsory arbitration. That was what our negotiators were instructed to seek, and that is what they achieved. It was quite an achievement.

Mr. President, that concludes my section-by-section analysis of the treaty. I hope that by going through this in such detail I have made it clear why in my judgment this Panama Canal Treaty—as modified by the leadership amendment—represents a balanced and reasonable mechanism for transfer of the canal to Panamanian operation. It is highly protective of American interests during this period. Indeed, for all intents and purposes the United States runs the canal and has full responsibility for its defense through the end of this century. I would hope that the decision on this treaty takes this into full consideration, and that this treaty is seen as being in the best interests of both the United States and Panama. Taken together with the treaty on neutrality, it represents the most effective way, in my judgment, of guaranteeing what the United States wants in the future; that is, the open and free use of the canal by the navies and commercial fleets of all Nations.

### NONINTERVENTION AND THE PANAMA CANAL TREATIES

Mr. KENNEDY. Mr. President, we are considering today the last of the reservations and understandings to the resolution of ratification of the Panama Canal Treaty, before that treaty is hopefully adopted by the U.S. Senate.

The most important of these is clearly the amendment introduced today by the Senate leadership and floor managers of the treaties. The amendment provides that any action by the United States shall be only—I repeat only—to keep the Panama Canal "open, neutral, secure, and accessible." It provides that the United States will not—I emphasize will not—intervene in Panama's internal affairs or interfere with its "political independence or sovereign integrity."

I shall support this leadership amendment. It has equal application to both Panama Canal treaties, although it is adopted in the course of action on the

second treaty. This is a judgment confirmed in a memorandum of law prepared by the Department of State, which I ask unanimous consent to be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. This provision is consistent, Mr. President, with the obligations on neutrality and nonintervention in the two Panama Canal treaties as amended. Our obligations are clearly defined in the Neutrality Treaty as follows:

Any United States action will be directed at ensuring that the canal remain open, secure and accessible, and it shall never be directed against the territorial integrity or political independence of Panama.

The United States has long been committed not to intervene in the internal affairs of any other state under the United Nations charter, which we have agreed prevails over all other international agreements. Article 2, section 4 of the charter provides that:

All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any manner inconsistent with the purposes of the United Nations.

The United States has long been committed not to intervene in the internal affairs of any other State under the charter of the Organization of American States. Article 18 of the OAS charter provides that:

No state or group of states has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. The foregoing principle prohibits not only armed force but also any other form of interference or attempted threat against the personality of the state or against its political, economic and cultural elements.

It is my hope that President Carter will also reaffirm these commitments when he moves to exchange the instruments of ratification with Panama. A protocol of exchange, covering both Panama Canal Treaties and signed by both parties, will be a particularly valuable instrument for the United States to state unequivocally its opposition to intervention in Panama's internal affairs.

So I believe that an adequate basis has been established for Panama and the United States to develop a new treaty relationship over the Panama Canal. This relationship must be based on partnership and mutual respect, above all respect for the sovereignty of Panama over its territory which has always included the canal.

This is a relationship of friends and allies, not of patron and client states. This is a relationship which will insure that the canal remains so open and so secure that there will never be a need for us to take military action in that part of the world.

With these understandings, I believe that we can turn from the difficulties and misunderstandings of the past to future friendship and cooperation with the people of Panama.

EXHIBIT 1

MEMORANDUM OF LAW

The question has been raised whether an interpretation of the Neutrality Treaty expressed in a reservation or understanding in the Senate's resolution of ratification of the Panama Canal Treaty would be legally binding on the parties with respect to the Neutrality Treaty.

We are not aware of any reason why such an interpretation, concurred in by Panama, would not be binding. The essential inquiry is whether there is a meeting of the minds. If both parties to a bilateral treaty agree in a separate instrument to an appropriate interpretation of that treaty, there is no legal reason why the separate instrument should not be fully effective in accordance with its terms.

In my opinion, such an interpretation of the Neutrality Treaty would be legally authoritative and binding on the parties.

HERBERT J. HANSELL,
*Legal Adviser.*

Mr. SPARKMAN. Mr. President, we are about to conclude debate on the most controversial treaty to come before the Senate since I have been a member of this body.

I hope that the Senate will give its advice and consent to this treaty as it did to the Neutrality Treaty and that, subsequently, Panama will accept the Senate's modifications. The adoption of the leadership amendment today should go far in reassuring the citizens of Panama that the United States has no intention of intervening in Panama's internal affairs.

The two treaties which the Senate has been considering for the last 2½ months are more significant than the words they contain. In our relations with the nations of Latin America, these treaties symbolize the end of an era of paternalism and the beginning of a new era of equality and partnership.

I commend the President for his courage in moving expeditiously to work out a genuine partnership relationship with Panama. The treaties are a fair and equitable bargain for both countries.

Many others deserve credit for bringing the Panama Canal issue to this moment of decision.

Without the active support of the majority and the minority leaders these treaties would not have had a chance for approval by the Senate. Throughout this long debate, both the majority and the minority leader have demonstrated the highest qualities of political leadership. After careful study of all the issues, they decided to support this unpopular cause, because they believed it was right, and then set out to convince their colleagues and the public of the wisdom of their decisions. Their work on the treaties has been in the highest tradition of great Senate leaders.

I wish to express my gratitude to Senators CHURCH and SARBANES who have carried the major burden here on the floor for the Foreign Relations Committee for the 38 days of this debate. Day in and day out, since February 8th, Senator CHURCH and Senator SARBANES have handled these treaties in a masterful manner. As my colleagues know, there is no political mileage in being a floor manager for such a controversial measure. I know that I speak for all members of the committee in expressing my thanks for their able and conscientious efforts.

Many members of the committee staff have assisted in the work on these treaties, under the guidance of Norvill Jones, the Chief of Staff. In view of the limited time, I will not name all of them. However, I do want to mention several whose efforts should not go without notice. Mike Glennon, the committee's legal counsel, has provided sound advice on many legal questions. Bob Barton, Ralph Nurnberger, Joel Johnson, and Bill Ashworth have also assisted on various matters. But, throughout, the primary staff burden has been on the shoulders of Bob Dockery and Ralph McMurphy. They have been on the Senate floor constantly during the debates, providing expert assistance and advice to the floor managers and other Senators. They are true Senate professional. Both the committee and the Senate are fortunate to have their services.

I also wish to thank all of the personnel of the executive branch who have worked so closely with members of the Senate and staff in providing assistance during the committee's and the Senate's consideration of the treaties.

Finally, I wish to pay tribute to National Public Radio for broadcasting the Senate debate on the treaties. These broadcasts have made a substantial contribution in educating the American public on the issues involved. I hope they will be a forerunner of other live broadcasts of Senate debates. I wish to pay tribute, especially to Linda Wertheimer and her associates for their competence and patience in interpreting for listeners the events taking place in the Chamber.

The Senate's work on these treaties has been in the finest tradition of the meaning attached by the authors of the Constitution to the advise and consent clause. In great detail the Senate has worked its will on these two treaties. For the first time in more than half a century it has amended a treaty. It has also given its advice to the President in the form of a number of other provisions included in the resolution of ratification. A byproduct is that the debate has pointed up the need for a fresh look at the Senate's rules governing the handling of treaties.

Mr. President, with the approval of this resolution the Senate will have done its work well. It will have demonstrated once more the constructive partnership role that the Senate can play in the making of foreign policy.

Mr. THURMOND. Mr. President, I rise this afternoon to warn the U.S. Senate one last time of the troubles ahead if this treaty is ratified today.

These troubles are sure to come. This is a bad treaty. It is poorly conceived to accomplish what it purports to accomplish. Its flaws are numerous and remain in place because the treaty supporters have allowed no substantive amendments during over 2 months of debate.

In my 24 years in the Senate I have never seen this body so totally reject the obvious wishes of the American people

on such an important matter. The Senate should listen to the people because the people are right in opposing these treaties.

PANAMA SOVEREIGN IN 1978

The Senate should also realize that the American people will soon learn, if they have not already, that Panama becomes sovereign in the Canal Zone 6 months after the exchange of the documents of ratification. This will occur in about November of this year, 1978, not the year 2000. At that time, in this very year, 1978, the Panama Canal and other lands in the zone become the property of Panama. In the year 2000 the United States merely passes operating control of the Panama Canal to the Panamanians.

Mr. President, why do the American people oppose this treaty despite Presidential TV appearances and unprecedented lobbying?

REASONS OPPOSED

They oppose it because:

First. It surrenders control of the canal to Panama.

Second. It violates the Constitution on transfer of property.

Third. It transfers a $9 billion asset without any payment to the United States.

Fourth. It could cost the United States up to $2.3 billion to transfer the canal to Panama.

Fifth. It denies the United States base rights from which to defend the canal and protect U.S. interests in the Caribbean.

Sixth. It weakens U.S. ability to be assured of the transfer of Navy ships from ocean to ocean in times of national emergencies.

Seventh. It fails to provide explicit rights for U.S. forces to enter Panama to defend the canal if closed or threatened.

Eighth. It does not assure priority of passage for U.S. ships in times of emergencies.

Ninth. It opens Panama and the canal to Communist subversion and control.

Tenth. It has vast economic disadvantages to U.S. exporters, shippers, ports and consumers.

Eleventh. It represents a retreat of American influence from the Caribbean area in which Communist forces are gaining yearly.

Twelfth. It makes uncertain the availability of a vital Pacific-Atlantic maritime link.

Thirteenth. It permits ships of a nation at war with the United States to use the canal to patrol waters in our hemisphere.

Fourteenth. It places a heavy burden on the American people through direct appropriations, loss of payments to the Treasury, and higher costs of goods by increased tolls.

Fifteenth. It fails to make clear what it purports to do and thereby will create trouble and even conflict between the United States and Panama.

Sixteenth. It is morally wrong because it places the United States in the position of making an important contract with a dictator whose power over his people and denial of their human rights will be strengthened by ratification of this treaty.

Mr. President, these are but a few of my concerns. Many more have been expressed by myself and other opponents during this lengthy debate. This treaty is the great giveaway of the century—a giveaway of U.S. property, prestige, economic strength and defense strength.

NO TRUST OF TORRIJOS

Mr. President, I do not trust the Panamanian dictator, General Omar Torrijos. He has strong Communist ties. His rule has brought huge debts on the Panamanian people. His rule has placed his people at the bottom of the list on human rights. I ask the Senate, why should we trust him with the operation and ownership of the Panama Canal, a vital international waterway?

Mr. President, the recent indecision and bargaining over the DeConcini amendment to the first treaty merely highlights the ambiguities, uncertainties and misunderstandings which riddle these treaties. The main purpose of the treaties, the advocates claim, was to develop a clear, concise and fair relationship with Panama. These treaties fail completely in this regard.

The Senate has not been allowed by the advocates of these treaties to improve them because of the very weakness of General Torrijos in his own country. The proponents have argued, in effect, it cannot be changed because General Torrijos is too weak to win approval in a new plebiscite. Practically every change, even the reservation attempting to change the reservation offered by Senator DeConcini has had to be cleared by General Torrijos. This is a mockery of the responsibility of the Senate.

I believe the people of Panama should have a new treaty, but one negotiated with a freely elected government truly representative of their concerns—not one designed to pay off the debts of a dictatorship.

CHANGES ATTEMPTED

Mr. President, during the course of this debate I have spoken at length on the defense, financial and economic consequences of these treaties. I have offered amendments, reservations and understandings in an attempt to shape these treaties in a way to better reflect the interests of the American people and the people of Panama.

For the most part, the treaties have not been improved except for the DeConcini reservation to the Neutrality Treaty. This reservation improved the U.S. situation, but now the treaty proponents have weakened it because General Torrijos finds it unacceptable.

Never have I seen a foreign figure hold such sway over the Senate. This will be a fateful day in U.S. history if the Senate pays more attention to the wishes of General Torrijos than to the wishes of the American people.

Again, I remind this body that if the Senate ratifies this treaty, later this year of 1978, probably sometime after the November election, Panama becomes sovereign in the zone. As territorial sovereign, Panama becomes owner of the canal. This happens in 1978, not the year 2000.

Mr. President, I urge my colleagues to search their minds and their hearts and place the interests of the people of America and the people of Panama first by sending this treaty back to the President for further negotiation.

INTERNATIONAL DEBT, THE BANKS, AND U.S. FOREIGN POLICY AS IT RELATES TO PANAMA

Mr. HELMS. Mr. President, in debating the proposed Panama Canal treaties, no attention whatever has been given to some of the as yet unexplained circumstances surrounding the intended giveaway of the Canal Zone and Panama Canal.

By that I mean the strong support—nationally orchestrated support, I might add—that has been given to the treaties by financial institutions and multinational corporations in the United States which have a direct stake in the economy of the Republic of Panama.

While the American taxpayers who over the years have underwritten the canal and its associated facilities, overwhelmingly oppose the treaties, the American banking and big business communities seem almost solidly for them.

The people want to know, why? U.S. Senators want to know, why?

The citizens of this country made the investment that built the canal, and its defenses, not the bankers and the giant corporations.

The interest-bearing balance on the net direct investment of the United States as of June 1976 was $319,005,661. The non-interest-bearing balance was an additional $18,051,630.

Mr. President, that totals $337,057,291—over one-third of a billion dollars.

In other words, the American people have over a third of a billion dollars still unrecovered in their Panama Canal investment.

The treaty proponents have demonstrated their intention to deprive the American people of the opportunity to recover that third of a billion. The toll rates will have to be greatly raised to meet the promised payments to Panama. But the administration and the Senate leadership fear correctly that the basis for such toll rates cannot also include provision for repayment of interest on the people's investment, or amortization of that investment over the 22-year life of the new treaty. That probably would drive the rates up to the point of diminishing returns and canal traffic would begin to go elsewhere.

Naturally, the interests of the American people must be put in second place. I and others have tried, all too unsuccessfully, to put those interests back into first place.

Mr. President, if the American people cannot get back their own hundreds of millions of dollars as yet unrecovered from their creation of the Panama Canal, why should they be forced to pay the Republic of Panama hundreds of millions more for taking over this tremendous national asset of the United States.

We would be already turning it over gratis—but we have not gotten our investment back out of the canal.

The national support for the treaties

by American based international banking groups and other multinational institutions includes support for the funding arrangements they contain. By those arrangements Panama benefits greatly. But the American taxpayers are equally—I should say, unequally—mistreated. Some have called the giveaway a "pay-away."

Mr. President, because of these circumstances, the American people look askance at the attitude of the international bankers and industrialists who have been promoting this giveaway.

Their own suspicions have been more than a little heightened by numerous articles which have appeared in the national and international press intimating or charging self-interest on the part of the giant banking institutions. These articles have presented a broad picture of the world's international banks being overextended in their loans to the world's underdeveloped nations. Those nations are going deeper and deeper in the red. They are becoming more and more unlikely to be able to repay those debts which grow larger, not smaller.

Mr. President, these articles have appeared in responsible publications, and they have helped to influence the thinking of our people and they have pinpointed questions for them that still remain unanswered.

An article in the London Daily Telegraph, March 3, 1977, stated flatly:

Apart from political considerations the Carter Administration is also believed to be under pressure from American banking interests to hand the canal over to Panama.

An article appeared in Inquiry for December 5, 1977, entitled:

The Treaty That Wall Street Wrote.

The author, Dr. Murray N. Rothbard, the distinguished economist and philosopher, wrote:

And so we should not be surprised to discover that U.S. government action in Panama today is for the purpose of subsidizing the Wall Street Bankers. . . . Commercial banks refuse to make public the details of specific loans, like those to Panama, and the Panamanian government is not exactly generous with such information, either. . . .

We might well ask, why did the New York banks pour all these loans into Torrijos' Panama? It seems clear that the money was a quid pro quo for Torrijos' decision—on the advice of leading New York banks—to reorganize Panama's banking laws in July 1970. This reorganization provided a favorable haven, free of taxes and onerous regulations, for foreign banks in Panama, much as Panama has long provided a flag of convenience for world shipping.

Dr. Rothbard then makes a statement and asks a question which go to the very heart of our debate on the new treaties, but which to date have not even been touched upon in the debate.

It was a deal that benefited the U.S. banks and the Torrijos regime, which could thereby expand its wealth as well as its political power in Panama. But now the U.S. taxpayer is being subtly asked to pick up the tab.

If a handful of large U.S. banks will be the major beneficiaries of the Panama Canal treaty, have they also had any role in lobbying for or negotiating the treaty itself?

Mr. President, this article raises the central, but yet unanswered question behind my remarks today.

The Honorable GENE SNYDER, U.S. Representative from Kentucky's Fourth District, last year put over 200 questions to the State Department and the Treasury Department on this matter of international banking interests relating to Panama.

Those questions were based on some 22 published articles, including Rothbard's, and also on some 7 additional news stories and memorandums from official sources. I have received from the Library of Congress additional material now known of or utilized by the Representative from Kentucky.

Congressman SNYDER's questions and the answers covering several hundred pages soon will be published in the House Panama Canal Subcommittee hearings, under the title, "Panama Canal Treaty Ramifications, Part 2, International Banking Interests Relating to Panama, and Other Treaty-Related Matters."

The hearings of the Panama Canal Subcommittee of the Merchant Marine and Fisheries Committee on November 30 and December 1, 1977, were devoted to the subject, "The economic and financial ramifications of the proposed Panama Canal Treaties."

Quite a few of Congressman SNYDER's questions were evasively answered in a most unsatisfactory manner.

We know, of course, of the banker/lawyer, Sol Linowitz, who played a major role in finalizing the treaty negotiations. We know, all too well, how the Carter administration appointed him as Ambassador for but a 6-month period, thereby avoiding the necessity of allowing the U.S. Senate to pursue the normal process of approving the appointment.

Dr. Rothbard closed his long article with the following words which might give pause to the majority in this body which is so set on disposing of the Panama Canal:

There are several ironies that emerge from a careful look at the Panama Canal treaty fight—especially the picture of this country's liberals and progressives battling to pour money into the coffers of a handful of Wall Street banks in the name of a treaty they mistakenly believe represents a withdrawal of U.S. power abroad. It doesn't, and those who automatically oppose anything the right wing favors, need to do some hard rethinking of their reflexive support for the new Panama Canal treaties.

Mr. President, another informative title appeared on an article by Ms. Cheryl Payer in Bankers Magazine, Spring 1977:

Will the Government Have To Bail Out the Banks?

That article opened with the following paragraph:

American banks with large loan exposures to third world countries are like the person astride the tiger: The dangers of continuing the ride are matched only by fears of what will happen if an attempt is made to dismount. Although most bankers would clearly prefer lending to better credit risks than the deficit-ridden less-developed nations, they are into a number of countries so deeply that a failure at this point to roll over previously extended loans could precipitate the crisis which everyone is trying to avoid. To extricate themselves from their dilemma, the banks are looking toward Washington.

Mr. President, Panama certainly is a deficit-ridden, less-developed nation. Does the Senate know how deeply U.S. banks are into Panama? I do not mean just what appears on the surface, and in statements for public consumption. I mean the real story behind the scenes.

The article in Bankers Magazine states further:

The bankers who are willing to admit that they are in deep trouble because of their Third World exposure are also nearly unanimous about the solution they expect. They propose that the governments of the creditor countries (primarily the U.S., of course) come to the aid of their Third World dependents and their own capitalists by increasing official aid programs, bilateral and multilateral, by massive amounts. The banks also hope that governments will bear the main burden of debt rescheduling as they did in the previous wave of Third World debt crises in the 1960s, when private debt was mainly in the form of supplier's credits. That is, they want the taxpayers of the creditor countries to pay the bad debts, with the money passing—in theory only—through the hands of the debtor governments on its way to repay bank loans. If this does not happen, they warn, we risk a 1930s style collapse of the banking system when the defaults become numerous.

Mr. President, that is not an article from some irresponsible far-out scandal-mongering publication. That is from Bankers Magazine. That periodical is for bankers, and talks to bankers about bankers and banking developments and problems.

Let us pay close heed to what is stated in this article.

I repeat:

They want the taxpayers of the creditor countries to pay the bad debts, with the money passing—in theory only—through the hands of the debtor governments on its way to repay bank loans.

Mr. President, Ms. Payer is telling us that the over-extended banks have used as their leverage on Washington to get taxpayer aid, a taxpayer bailout of their bad loans, the fear of another 1930's-style banking collapse.

SENATOR CHURCH REPORT: INTERNATIONAL DEBT, THE BANKS, AND U.S. FOREIGN POLICY

Official U.S. government sources have added depth to the picture presented in the articles in the press.

Not the least important of these sources is the Senate's own Committee on Foreign Relations.

The able advocate of the new treaties, the distinguished Senator from Idaho, Mr. CHURCH, as chairman of the Subcommittee on Foreign Economic Policy, has himself issued one of the most exhaustive documents dealing with this entire matter. The Senator from Idaho authored the introduction to a staff report dated last August and illuminatingly titled, "International Debt, the Banks, and U.S. Foreign Policy."

Mr. President, the Senator from North Carolina could very well entitle these remarks: "International Debt, the Banks,

and U.S. Foreign Policy as it Relates to Panama."

I shall quote extensively from the Church report of August 1977 in a few moments.

Mr. President, many of the articles I have mentioned have implied or charged that the international bankers want the treaties to bail out the Republic of Panama. The Torrijos regime owes a third of a billion dollars to American banks, another third of a billion to international banks abroad, and another three-quarters of a billion dollars to governments and quasi-official lending agencies such as the World Bank, International Monetary Fund, and the like.

Senator CHURCH in his introduction to that August 1977 staff report, wrote:

The Subcommittee on Foreign Economic Policy of the Committee on Foreign Relations has initiated an inquiry into the relationship between international indebtedness and the foreign policy interests of the United States.

Mr. President, just what is the role of our big banks in promoting these treaties at such an enormous detriment to this Nation's security and at such an enormous cost to our taxpayers?

That is what the citizens of this country want to know.

That is what many Senators in this Chamber want to know.

This particular Senator will present a number of facts today as background for this issue as yet totally unexplored by this body. And, Mr. President, I believe it is an issue that should be fully explored before the new treaties are approved.

Mr. President, I have heard more than one U.S. Senator state his own suspicion of the banking connection with the treaties, not only privately, but publicly.

Those of us who cannot fathom any legitimate reasons for disposing of the Canal Zone and the Panama Canal are asking, what is the quid pro quo?

The Senator from Idaho is familiar with bankers' doctrine of quid pro quo.

In his report on "International Debt, the Banks and U.S. Foreign Policy," there is specific mention of one such quid pro quo. The report discloses that Zaire leveraged the huge National City Bank in New York into an additional loan of some $250 million under the threat of otherwise never repaying earlier loans.

In the words of the Church report:

The Zaire Government is thus holding the money it owes the banks hostage for a $250 million ransom.

The report continues:

The Zaire case raises some interesting questions about just who has the greatest leverage at this stage of international debt buildup—the creditor banks or the debtor countries?

Mr. President, the Senator from Idaho deserves our compliments for having lifted a little bit the veil that covers the behind-the-scenes impact on government policy of powerful money interests and for focusing attention on the world banking situation exemplified by the Zaire case.

Can the distinguished Senator from Idaho adequately assure the Senate that the situation with Panama and the international banks to which that country is indebted to the tune of two-thirds of a billion dollars is not a parallel to the Zaire case?

The sentence following the one I just quoted from the Church report, addresses the problem still more fully with another question:

Was Citibank's willingness to undertake the task of raising another large loan for Zaire a prudent and sensible response to restore the creditworthiness of a borrower, or a desperate attempt to avoid as long as possible having to write off a substantial loss on an international loan, and perhaps thereby set a precedent for other debtor countries to follow suit?

Let me paraphrase that question.

Is the willingness of America's giant bankers to promote and support our giving away the Panama Canal enterprise a truly disinterested endeavor on behalf of the United States and a generous effort to aid a small Latin country—or is it a desperate attempt to forestall having to write off substantial losses on their international loans to Panama which is experimenting economic stagnation?

Mr. President, the American people want to know the answer to that question.

The Senator from North Carolina wants to know the answer.

Numerous Senators want to know the answer.

Mr. President, I now want to quote Senator CHURCH and his report at length to lend additional substance to the various articles I have mentioned in these remarks to raise this extremely important issue in the debate on the Panama Canal treaties. Here is our very own in-house source.

I repeat, the issue is simply presented in the very title of the Senator CHURCH—subcommittee document—"International Debt, the Banks, and U.S. Foreign Policy." This report alone provides a more than sufficient basis for any Senator to demand a full-scale Senate investigation into the matter of U.S. financial interests and the Panama Canal treaties.

In his introduction, the Senator from Idaho points out that there has been an economic revolution—not a gradual evolution—that in his words "has effected not only the United States but the whole international economic system."

That revolution has developed from the enormous hike in oil prices levied by the oil producing nations. The Senator writes:

In the first full year after the oil price increase, over $90 billion in oil payments was transferred to the 13 OPEC oil producing countries, from the rest of the world. As a consequence, the oil exporters had a current account surplus of over $65 billion, while the industrial countries had a collective deficit of $33 billion and the developing countries a deficit of $21 billion.

Official lending institutions such as the International Monetary Fund, which are the traditional source of balance of payments financing, have been able to meet only a fraction of the demand for international credit since 1973; it is the commercial banks which have filled the gap.

The distinguished Senator points out that the banks had found:

A vast new clientele made up of foreign central banks, state and municipal governments, public utilities, and other official entities.

"However," Senator CHURCH continues in his introduction to the report:

The commercial banks have become increasingly wary of extending their exposure to oil deficit borrowers. Consequently the U.S. Congress is being asked by the administration to appropriate additional funds for the IMF as well as other public lending institutions. Specifically, a proposed $10 billion facility, the so-called Witteveen facility is being negotiated for the provision of such additional resources. * * * However, the amount contemplated—approximately $10 billion—is nowhere near the magnitude necessary to cover the balance of payment deficits of the oil importing countries. Consequently, it is anticipated there will be future requests for additional congressional appropriations.

Mr. President, there you have part of the developing picture. More bad news for the hard-working taxpayers.

The American taxpayers are about to be hit up for a substantial chunk of this new $10 billion bank bailout fund. Their actual share, $1.72 billion, has already been approved by the House of Representatives. Not only that, they will be subjected to future appropriations. All this is to help bail out the banks. Note well, Senator CHURCH himself says this new IMF facility was proposed consequent to the problems of the banks.

Is that not what Senator CHURCH is telling us? He is telling us exactly what Cheryl Payer has told us in Bankers Magazine would happen. He forecasts continuing appropriations by which our citizens would continue to bail out the banks—by bailing out the countries deeply indebted to the banks. Is it any wonder many of us are worried that the Panama Canal giveaway is just another aspect of the overall bailout of the banks?

There it is: bail out the banks which have been underwriting the underdeveloped countries' oil consumption.

Would the OPEC countries be able to raise and hold up their oil prices if the IMF were not so ready to increase credit which validates the increase?

The law of supply and demand are such that when a producer finds no buyers at his prices, he is forced to lower those prices. Here we see the continued extension of credit which enables OPEC to continue their hold up. It is the taxpayer who pays.

Senator CHURCH gives these details in his very important report:

But what we have been dealing with since the oil price increase of 1973 are not temporary deficits but a structural defect in the world economy in which enormous financial surpluses are concentrated in the hands of a very few countries which cannot spend them for goods and services. They are thus deposited in the "strong" industrial countries. The "weak" oil deficit countries then borrow from the major financial institutions in the strong countries. And there is no end in sight to this cycle of a few permanent financial surplus oil producer countries and burgeoning international indebtedness by weaker oil importing countries.

Mr. President, I want to repeat the words of Senator CHURCH:

And there is no end in sight to this cycle of a few permanent financial surplus oil producer countries and burgeoning international indebtedness by weaker oil importing countries.

The distinguished Senator from Idaho is telling us that poor little nations like Panama have only greater indebtedness ahead, not less.

This, of course, Mr. President, means greater precariousness, not less, for the international banks which have overextended themselves in lending to such nations.

Now, I am not saying they are overextended, on my own authority. Senator CHURCH's fine report is one of my main sources for that statement.

The able Senator draws his introduction to the report to a close by expressing the purpose of his subcommittee and the report itself in these words—words by which, indeed, he throws down the gauntlet to the incumbent administration which, ironically, he so earnestly supports in the Panama Canal giveaway:

Nothing proposed by the present administration—or its predecessor—is likely to correct this underlying structural imbalance. That is the basic issue which confronts the Subcommittee, the Committee and the Congress as they consider, the various stopgap finger-in-the-dike measures proposed by both administrations. For that reason, the Subcommittee on Foreign Economics of the Committee on Foreign Relations has initiated an inquiry into the relationship between international indebtedness and the foreign policy interests of the United States.

As part of this inquiry, the Subcommittee is publishing this staff report which analyzes the major issues the Committee, the Congress and this country will confront in the years ahead.

We are confronting an issue right now—in this treaty debate—which I believe is heavily influenced by the international indebtedness that concerns our colleague from Idaho.

Mr. President, Senator CHURCH pinpoints a tremendously important issue. We here in the Senate should know much more about it as it relates to Panama. Before we agree to give that debt-ridden tiny country control over the Panama Canal we should unravel the mystery of the banking and other multinational self-interest in Panama. The canal holds very great importance for the United States in a world one-third of which is under the domination of an increasingly powerful Soviet Union. That nation's Cuban-based naval and air power is evident in the waters and skies of the Caribbean, the Gulf of Mexico, and the Atlantic Ocean.

Mr. President, Senator CHURCH has brought to our attention an extremely important matter which directly relates to the matter of the Panama Canal treaties.

His report does not address our Panama policy. Nevertheless it poses for us Senators these questions: What is the exact situation with regard to Panama's indebtedness to the banks? What is the influence of those banks under the pressure of that indebtedness—and the attractiveness of Panama as an offshore financial center and tax haven—on U.S. policy toward Panama?

Those are the questions we should address before we agree to turn our enormously important and valuable property over to Panama.

There may be no link behind banking interests and the treaties at all.

But bankers, like all of us, come under pressures from time to time. Senator CHURCH with no mention of Panama, tells of these pressures at great length in his report. How the banks have been and will continue to react to those pressures should be of very great importance to us Senators in this debate on the Panama Canal treaties.

Senator CHURCH bestowed his blessing on his subcommittee's staff report in these final words in his introduction:

The paper was prepared by Ms. Karin Lissakers, a professional staff member of the subcommittee. The paper presents in a lucid, thorough and thoughtprovoking manner the relevant facts and issues for public discussion. We are indebted to Ms. Lissakers for her outstanding work in researching and writing this paper.

Mr. President, we should take this time for the public discussion Senator CHURCH calls for.

This should be the precise time for a very public discussion, Mr. President, of the question I ask, based upon his report:

What is the situation regarding international debt, the banks, and U.S. foreign policy as it relates to Panama and the Panama Canal treaties?

According to the Church report, the world's international banks have become heavily overextended in making loans to oil importing developing nations. The bank's financial positions, the report indicates, are growing increasingly more precarious.

The report states:

Doubts are therefore raised about the ability of some countries to ever repay their foreign loans, or, in the long run, even to continue to meet interest payments on those loans.

The report asks, "whether this process of deficits, recycling, borrowing, and debt rescheduling can go on indefinitely," and makes this answer:

The viability of the whole international financial system is premised on the assumption that all the players stay in the game; that the banks continue lending, and the borrowers keep repaying the interest, so that although the principal may be refinanced or "rolled over" for individual borrowers, the money continues to circulate. The biggest threat to the system lies in the possibility that one of the passengers on the merry-go-round will decide to get off—that one of the large debtors finally decides to repudiate its debts, or one of the lenders says "no more" and calls in the chits. Other lenders then following in order to protect their interests and a domino effect sets in. As the crisis created by the collapse of Herstatt and Franklin National several years ago illustrates, even the disappearance of a relatively minor player can set the multinational banking system teetering.

Then the report issued by our colleague pointedly raises several questions. I believe that each of us should ask these questions in relation to the giveaway of the Panama Canal before finally determining how to vote on the treaty.

The question arises of how prudent the banks have been in their lending . . . Has the profitability of this activity blinded them to the underlying risks? Or has the banks willingness to lend to foreign countries for balance of payments purposes been premised on the unstated assumption that in the event of a real debt repayment crisis, the governments of the wealthy industrial countries will have to come to the rescue because they cannot afford to see either the debtor countries or their own large banking institutions go under?

Mr. President, we should be asking ourselves the question Congressman GENE SNYDER asked, "Is the Panama Canal vulnerable to international bankers?"

CHURCH REPORT FOCUSES ON BANKS "BEING BAILED OUT"

Mr. President, in these remarks the Senator from North Carolina has utilized the words, "bail-out," in connection with the international banks.

But this Senator is in distinguished company. The report approved and issued by our able colleague from Idaho, Senator CHURCH, uses the words, "bail-out."

It discusses an agreement made in July 1974 by the Board of Governors of the Bank for International Settlements at their meeting in Basle, Switzerland. It describes the BIS as the "central banker's central bank."

By the terms of that agreement, the Church report says:

Consortium banks which have multinational bank participation will be bailed out on a pro-rata basis by member parent banks, again backed by their own central banks.

Then the Church report makes an extremely important point.

It notes the obligations incumbent on these banks in making their international loans in return for this guarantee of a bail-out.

Unbelievably, Mr. President, there are no obligations required of the banks for this guarantee.

The report of the next chairman of the Senate Committee on Foreign Relations says this:

It is worth nothing that the central banks asked nothing from the private banks in return for their guarantee, at least officially. * * * Commercial banks can continue to compete on the euromarket at margins which do not insure profitability, to take on deposits and external credits without adequate capital reserves and to roll over hundred million dollar loans to underdeveloped countries who have little or no hope of ever being able to pay them back, without interference from any governmental authority. And if such practices lead to disaster the governments are pledged to come to the rescue.

Mr. President, the Church report says the United States, though not a member of the Bank for International Settlements, agreed to subscribe to the Basle accord at the annual IMF meeting in Washington in October 1974.

Therefore, the United States subscribes to the concept of governments guaranteeing a bail-out of the banks without imposing any reciprocal obligation on the banks to exercise prudent judgment in making their overseas loans.

Mr. President, by that agreement, our Government has signified that it will go

to the aid of the bankers who get in too deep regardless of whether their "practices lead to disaster."

The unprecedented drive of the administration to ram these treaties through the ratification process without amendment must be viewed against the background of this agreement.

Mr. President, these are only a few of the more significant points made by by the report of Senator CHURCH.

I regret that this report was not given full attention by the Senate early in its deliberations on the treaties.

Mr. President, here we are voting on treaties by which the Panama Canal will be torn from the American taxpayers, whose property it is, and we who shall cast our votes still have no clear idea as to what is really behind this absurd and suicidal policy.

What we do know, however, is that the banking community and the multinational business community seem to be almost solidly lined up behind the dispossession of the people of their tremendous asset in the Canal Zone.

The question we should ask, Mr. President, before voting to approve the treaties is quite simple and direct: What, is in it for the big bankers, and the big industrialists who have been pushing these treaties?

We know what is in the deal for the people, for the taxpayers.

The American people will be deprived after the year 2000—when babies born this year will have just reached maturity—of any control over a tremendously important national defense asset.

The American people will be deprived of a very important commercial asset.

The American people will be subjected, as consumers, to higher commodity prices because of higher canal toll rates because of treaty pledges to Panama.

The American people will be deprived of the opportunity of having their outstanding investment in the Canal of one-third of a billion dollars returned to them.

The American people will be subjected to future appropriations to make up for deficits in Panama Canal income because of financial payments to Panama far in excess of what canal traffic can bear.

That is what is in the deal for the American people.

But, Mr. President, what is in the Panama Canal giveaway deal for the international bankers and multinational corporations?

The facts are that Panama is a highly profitable offshore financial center. It is an unregulated banking center in which, from which, and through which the huge international banks can legitimately carry on activities which are not allowed in this country by U.S. law.

There, U.S. investors can legitimately avoid current U.S. tax liabilities—the real legitimate purpose of a tax haven.

There, unscrupulous individuals and corporations can evade U.S. taxes, and sequester their legally or illegally acquired funds in secret, numbered bank accounts.

Mr. President, an interesting overall view of tax havens is given in "Grundy's Tax Havens, A World Survey" (Matthew Bender & Co., New York, 1972). Editor Milton Grundy states in his preface:

> The general view which I have gathered is that the tax havens must cause some loss to the fiscal authorities throughout the world; but there must also be some truth in the proposition that a good deal of business is done via tax havens which, if the parties were contemplating a net-after-tax return, would not get done at all.

The Practicing Law Institute in New York City held a seminar on tax havens in January of 1973. The institute published a book entitled "Foreign Tax Haven," based on the edited transcript of that seminar. A Miami attorney, Marshall J. Langer, discussed Panama. Here are some excerpts from his remarks:

> It is important to highlight the fact that Panama has for many years been a successful major tax haven. Even though they have high tax rates for their domestic source income, they have made it clear over a period of time that there is no taxation of foreign source income, and that there is no taxation of dividends paid with respect to foreign source income. They have never taxed any such income nor is there any likelihood that they ever will.
>
> * * * * *
>
> They have a corporation law which is extremely liberal compared to that of many countries.
>
> One of the interesting factors about Panama . . . is the currency situation. There is no exchange control. The so-called Panamanian balboa does not really exist. The Panamanian balboa, when it comes to anything other than coins, is the U.S. dollar bill.
>
> * * * * *
>
> Panama has become an increasingly important international banking center. Literally millions and perhaps billions have been flowing through there.
>
> * * * * *
>
> Compared to some of the other tax havens, Panama has a huge number of companies. Two of the law firms represented at this seminar each serve as resident agent for more companies than all of the companies existing in the Cayman Islands. Each serves as resident agent for about 5,000 companies at a standard fee of $100 a year plus whatever else comes up. It's a good business. There are believed to be some 35,000 companies presently registered in Panama, significantly more than most of the places that we have discussed.
>
> Panama is not a party to any income tax treaty. There is no exchange of information between the Panamanian government and other government.
>
> * * * * *
>
> Panama is a less developed country for both U.S. income tax and U.S. Interest Equalization Tax purposes. It is a schedule A country for OFDI purposes. It is a major haven for U.S. ship owners. Literally hundreds of American owned ships are registered under the Panamanian flag.
>
> Captive insurance companies can also be established in Panama.

In Appendix O of the book we find the following remarks:

> In recent years Panama has adopted banking legislation patterned after Swiss law which permits numbered bank accounts and offers complete assurance of bank secrecy. If Panama has a problem it is probably due to the political unrest which has occurred there in recent years.

Mr. President, that last is of the utmost importance. The new treaties will, in the opinion of everyone I know, unquestionably assure the continuation in power of the Torrijos regime.

That, of course, would offer stability to the banking community, despite what it would do for, or I should say, do to, the Panamanian people.

Early in the seminar the book records we find the following statement by Lawrence A. Freeman, also from Miami:

> The element of stability is quite important. If someone is going to set up a company or a trust for a period of 10 or 15 years, or if a major company, such as American Express, is going to set up a holding company or a bank or a finance company to handle its operations in a number of countries, they want to know the company can safety remain in the particular jurisdiction for a long period of time. They are going to be uphappy if they have to move the bank or finance company or holding company two or three years hence. They are interested in the long-term picture from the standpoint both of political and economic stability.

Mr. President, from this we can see the natural, built-in self-interest concern on the part of the international bankers and multinational corporations that have established themselves in Panama, that political and economic stability in Panama be assured.

The dictatorial Torrijos grip on the country has, indeed, brought a measure of stability not previously known in Panama which had some 59 changes of Presidents in its first 70 years of existence.

However, we all know the enormous price exacted of his subjects for the stability Stalin brought to Soviet Russia, and that which Mao extracted for the stability he brought to China. Torrijos has been exacting more and more a price of similar nature.

It is only natural for the international capitalists to prefer the known to the unknown—the existing regime which, despite its unpleasant aspects, favors their operations, as opposed to an unknown successor regime whose policies, of course, cannot be predicted at all.

Economically, Panama today is going deeper into debt, with no promise for economic rejuvenation other than U.S. aid. That promise which falsely is held out as a cornucopia by Torrijos—acquisition of the canal and the zone—would prove to be unable to produce the prosperity he dangles before them.

On February 22, 1977, I introduced into the CONGRESSIONAL RECORD a memorandum sent by the American Embassy to the State Department dated October 26, 1976. It was in regard to the economic situation in Panama. A pertinent paragraph from that memorandum is the following:

> (B) Increased external financial flows per se, regardless of concessionality, permit Panama to defer grappling with the core problem of low productivity until a later date when the problem will probably have worsened, unless such financing bears specifically on some aspect of costs. Indeed, much of the capital inflow of the past three years has aggravated Panama's economic malaise by exacerbating its debt service burden without enhancing overall productivity. Moreover, total inflows greatly exceeded the current ac-

count deficit of Panama's balance of payments, resulting in large negative "errors and omissions" (around $100 million annually) most of which probably represented outflows of domestically-owned capital.

Mr. President, the continuing loans to Panama, according to the American Embassy in Panama, have only served to worsen the economic situation in that country.

What the Embassy did not point out, of course, is how much of those foreign funds that have poured into Panama have been siphoned off by the Torrijos regime.

Ironically, the banks not only have not helped the economic situation in Panama, but they have worsened their own financial positions by lending to that country which is increasingly unable to repay their loans.

The bankers and international capitalists have pushed the line openly and consistently to the American people that Panama needs the Canal Zone and the waterway's income to prop up its economy.

That much we know.

What we do not know is to what extent that propping up is necessary to their own continued operations in Panama.

Anyone with common sense knows that gaining control of the zone and canal will not help a country for long whose leadership has skimmed off the cream for its own bulging pockets.

That Torrijos is involved in many businesses was brought out in the secret session on drug trafficking in Panama. One of those businesses is that very drug traffic, as we all know, participated in by members of the Torrijos family itself.

Mr. President, the January 1974 issue of the quarterly publication of the American Bar Association's Section of International Law "The International Lawyer," carried an article entitled, "Panama and the Multinational Corporation: Tax Haven and Other Considerations." It was written by Robert Y. Stebbings, J.D., M.B.A

He sets forth the manifold legitimate features of the tax haven provided by Panama. Stebbings also reports on certain practices, however, engaged in by certain persons or companies that reflect on individuals and corporations legitimately utilizing Panama as a haven for avoiding current tax liability. He writes of the laundering of dinero negro, dirty money:

Prominent practitioners from two Latin American countries have privately expressed the view that the above tax-haven characteristics of Panama should hold little interest for a truly legitimate Latin American multinational committed to conforming to the legislation, tax and otherwise, of the jurisdictions in which it operates. They first point out that operating from Panama may create a bad image. Panama has been used by Latin Americans as a place to which, like Switzerland, money fleeing from tax or other national authorities may find its way, since there is no question of taxation upon entry or exit, and corporate and banking laws permit complete secrecy in all operations. The situation is reportedly such that certain of Panama's neighbors are wary in their approval of business dealings with the country. Mexico, for instance, will not allow royalty payments to a Panama-based company unless fully documented.

A Common procedure involves the flow to Panama of *dinero negro* which is then loaned to a real or dummy corporation in another country which can then relend the funds to the original party in the first country or elsewhere without arousing the suspicions that a loan made directly from Panama would create. The person or firm which makes this complete circle thus illegally sends money from his country to Pamana without paying taxes, earns tax-free interest on it while it is in a Panama bank and eventually may pay himself tax-free interest when he borrows it back from a dummy company in another country. (Actually there may be withholding on the interest payments.) Additionally, he may deduct his interest payments as business expenses in the country in which he is operating.

Freedom to conduct such illegal or questionable operations may be an important element in Panama's success as an international business and financial center. However, there may be other reasons for setting up headquarters in Panama: the country's tax policies permit a legitimate company's presence in the country for non-tax reasons while not penalizing it for its decision to be there.

* * * * *

Of fundamental importance is the fact that interest on the Panama bank accounts of foreigners is not subject to taxation by Panama. Equally, the interest income on bonds held by foreigners is not subject to Panama taxes which makes the country a feasible jursdiction for the establishment of so-called finance subsidiaries by means of which loan funds may be raised on international or regional capital markets.

This sort of operation (an international bond flotation) would not require the establishment in Panama of headquarters for a regional multinational, but merely the creation of such a finance subsidiary.

POTENTIAL RESOURCES LOCKED UP AND DISGRACEFULLY UNDEREXPLOITED BY CANAL ZONE AUTHORITIES

Mr. President, the next item I wish to call to the attention of the Senate deserves close attention, indeed. It just may give us some of the answers we all should be seeking.

The Banker for May 1973, published in London, had a revealing article called "Panama and the Canal," by a Robin Adams which reported on Panama's banking boom. However, more to our interest today, Adams made some prophetic observation of a pessimistic note:

Perhaps the most significant feature of the present structure of Panamanian banking is that, unlike some of the Caribbean islands, its progress is only partly of an offshore nature. There is a sharp imbalance between foreign and local assets and liabilities. At the present time, of the total assets of the banks, approximately two-thirds are Panamanian and approximately one-third are foreign. On the other hand, of the liabilities the proportions are reversed—one-third Panamanian and two-thirds foreign. Since by the end of 1972, assets and liabilities were well in excess of $1,000 millions, the result of this structure is that these international banking operations are financing the Panama economy to the tune of at least $300 millions, *an enormous sum in relation to the gross domestic product*, which in 1972 just passed $1,000 millions." [emphasis added]

*The rationale for this policy is not purely philanthropic.* The foreign banks are taking deposits from residents of Latin America and lending this money on in New York. In doing business in New York they have an edge over New York banks by the fact that they lend a significant proportion of their funds at higher interest rates on the local Panamanian market which subsidize their New York business. This has certainly sweetened profits, *but it depends of course on the continued availability of sound lending opportunities in Panama itself.* [Emphasis added]

Mr. President, Robin Adams went on back in 1973 to tell of funds being available for almost any profitable venture. Adams told of the "massive property boom with tower blocks of offices and flats going up all over Panama City." Adams asked then "whether an economy as small as that of Panama can continue to sustain a boom of current proportions."

Next Adams described the expansion of "secondary banking activities":

In this, the licensed banks lend to creditworthy business houses, who in turn lend on to less secure propositions, at higher interest rates, and they in turn lend on to yet more doubtful ventures, quite often the whole process only coming to rest with a large unsecured consumer loan to a middle to low income worker. With urban unemployment well over 10 percent, despite the growth of the past four years, this practice could be dangerous if there is any downturn in business conditions.

Mr. President, now in 1978 we all know there was a great downturn in Panama's economy. The housing boom burst and the economy today is stagnating.

What else did Robin Adams say in that 1973 article?

On the other hand, if the government is forced to curtail its development effort due to lack of funds, there could be a rather nasty recession with one or two expensive property losses, and bad debts. *This would undoubtedly be a setback to the banking industry.* [Emphasis added.]

But then, Mr. President, listen to this:

The main hope of avoiding such an eventuality is for Panama to get its hands on the potential resources that are now locked up and disgracefully underexploited by the Canal Zone authorities. Alternatively, the United States may choose to buy off Panamanian pressure with further generous aid. The future prosperity of the young, and extremely vigorous, international financial community in Panama City therefore depends like most other elements in the economy on the outcome of the struggle to regain the canal.

Mr. President, I do not know who Robin Adams is.

Of course, Adams in May 1973 knew nothing of the forthcoming Kissinger-Tack agreement of February 1974 by which the unauthorized agreement was made to give Panama the Canal Zone.

The Senate should be indebted to Robin Adams, however, for giving us a background that could very well help to assemble the missing pieces of the puzzle of intrique surrounding the canal giveaway so vehemently opposed by the vast majority of the American people.

Mr. President, let us dwell for a moment of two on the following words of Robin Adams which may, indeed, have great significance, realizing, of course, that they appeared in a highly respected banking journal in London, the Banker.

This (recession) would undoubtedly be a setback to the banking industry. The main hope of avoiding such an eventuality is for Panama to get its hands on the potential resources that are now locked up and disgracefully under-exploited by the Canal Zone authorities.

Now, Mr. President, either Robin Adams was totally ignorant of the laws of the United States under which the canal is operated at a nonprofit basis and the zone is maintained much as a military reservation to sustain the operations and defense of the canal, or did not care. In any event, the language used, "disgracefully under-exploited" has a very pointed meaning, coming as it does after the expression of a fear of "a setback for the banking industry."

Mr. President, could it be that the banking industry has had its eyes on the future exploitation of the Canal Zone?

Is the real reason for the inexplicable giveaway of our taxpayers' property in the Canal Zone the opportunities for profit that the big bankers see there?

I do not know the answer, Mr. President.

The American people do not know the answer.

One thing is for certain.

We Senators should know—and know for certain—before voting to approve this treaty.

EARLY STATE DEPARTMENT OPPOSITION TO TORRIJOS EVAPORATES

Mr. President, articles in the press told of strong opposition in the White House and State Department to the Torrijos regime for some time after he came to power. But later on, the policy was completely reversed, and the reason, some writers have claimed, was because of the bankers' growing interest in him.

I believe this is demonstrated sufficiently by the fact that, according to the New York Times of September 2, 1969, State Department officials said the United States cannot engage in long-term commitments on military and politically sensitive issues with the military type provisional government in power in Panama, despite pledges by Torrijos and the Junta that free elections would be held in 1970. Those officials said the United States is waiting to see if those promises would be honored.

Well, Mr. President, how well those promises by Torrijos have been honored is a matter of public record. To this day they remain promises. It is almost a full decade since the State Department had that position.

But the State Department not only did not wait for the pledges to be honored, it has almost succeeded in giving that very same regime everything they added in the Canal Zone.

What on earth changed them, Mr. President?

The Dictator Torrijos has not changed.

What did change U.S. foreign policy toward Panama, Mr. President?

Could it have been something the able Senator from Idaho has labeled "International Debt, the Banks, and U.S. Foreign Policy?"

Frankly, Mr. President, this Senator from North Carolina thinks Senator CHURCH may well have provided us with the answer to all the questions regarding the giveaway of the Panama Canal Zone and the Panama Canal.

Its title alone may give us all the answers we need.

Certainly the Senate should consider all the implications of Senator CHURCH's report as those implications apply to Panama before it votes for final approval of this treaty.

The subtitle of an article in Financial World for March 27, 1974, "Beware the 'Gnomes' of Panama", warned, "The new Switzerland, attracting banks and individuals alike, may not be nearly as safe."

Mr. President, pressures would certainly build upon the international bankers doing hundreds of millions of dollars worth of business by way of Panama if when they found Torrijos capable of restricting their operations. Making it less safe, that is!

What they might feel compelled to do to try to safeguard their positions in that obviously profitable offshore financial center is anyone's guess.

I do not know what individual bankers might do under such pressures.

There should be no doubt, however, about the capabilities of Omar Torrijos to put pressure on the bankers.

In this Senate chamber we have day after day witnessed the results of his pressure on the entire U.S. Government.

The administration would not allow a single amendment to pass, except its own meaningless ones, so as not to offend Torrijos and his corrupt regime.

Business week of October 3, 1977, carried an article entitled "Panama, High Economic Hopes if Ratification Comes."

That piece quotes Panama's Planning and Economic Policy Minister, Nicolas Ardito Barletta, as saying ratification of the treaties would open up what he called, "the biggest opportunity for growth and development in the history of Panama."

Business Week went on:

Adds a U.S. banker in Panama City: "But I know of several companies that may pack up and leave if the (U.S.) Senate vote against it."

The article pointed out the sluggishness of the Panamanian economy and quoted a local accountant as saying "Nobody has wanted to commit himself until the issue was resolved. Business Week wrote,

Doubts about the stability of the regime of General Omar Torrijos Herrera lie at the heart of that uncertainty.

Again, the magazine quoted a banker:

But if the treaty is not ratified, warns a U.S. banker in Panama, "This will not be a safe place to do business any more."

These statements go directly to the concern of bankers and industrialists for security in their operations.

They feel it important to maintain the status quo, and giving the canal to Torrijos certainly would assure the continuation of his regime.

There is another significant quote from the article:

Panama is counting on this improved financial situation to boost its international borrowing potential. Expanded lending means greater profit for the banks.

The Panama Star & Herald for December 5, 1977, carried a story datelined Mount Pleasant, Mich., which contained these highly pertinent remarks by Panama's Ambassador to the United Nations, Jorge Illueca, who spoke at Central Michigan University:

"The Government of General Omar Torrijos faces the danger of being overthrown if the U.S. Senate rejects the New Panama Canal Treaties", said the Panamanian Ambassador. The treaties are "an insurance policy for Torrijos' government."

Mr. President, it seems that ratification of the treaties fit into the category of an insurance policy for the big banking institutions as well.

Mr. President, another matter relating to international debt, the banks and U.S. foreign policy, has not been discussed in these debates.

That is the matter of the nonconfirmation by the Senate of the Ambassador who as conegotiator, drove the treaties through the final 6-month stage of negotiation, Mr. Sol Linowitz, of Marine Midland Bank.

The administration that now wants the Senate to rubberstamp the treaties, evidently was fearful of sending Mr. Linowitz before us to examine his credentials. Why?

Was the administration afraid the banking connections of the designee, as well as certain other connections, would mitigate against his appointment, and, perhaps, we would disapprove it?

It is a fact that Mr. Linowitz did not resign as a director of Marine Midland when he went on the treaty negotiating team.

He resigned only after a lawsuit based on his conflict of interest was instituted by our colleague, the Senator from Idaho, Mr. MCCLURE.

Mr. Linowitz's connection with a bank to which Panama owed at least $8 million, certainly would have been a highly controversial matter in his confirmation hearings.

Was the administration afraid that penetrating cross-examination of Mr. Linowitz might reveal reasons behind the Panama Canal giveaway that would make more sense than the reasons aired for public and congressional consumption?

On May 24, and October 21, 1977, the American Security Council's Radio Free Americas mentioned certain connections of Mr. Linowitz that would have merited close attention by the Senate in the Ambassador's confirmation process—had there been one.

Radio Free Americas named Linowitz as lawyer for Jose Gelbard, former Minister of Economic Affairs in Argentina under Peron, who was then living in the United States.

Gelbard has since died.

Gelbard fled Argentina because of judicial procedures by the post-Peron government against him, and the United States did not honor Argentina's demand for his extradition.

According to Radio Free Americas, Gelbard was a native of Lithuania where his close friend was Abraham Simcowicz, known as Fabio Grobar in Cuba where he has been Moscow's man since 1929.

Gelbard as Peron's economic minister signed a credit agreement with Fidel Castro's adviser, Grobar, by which Argentina extended Cuba up to $800 million to purchase Argentine agricultural and industrial goods, including Argentine-made General Motors cars whose delivery the United States had to authorize.

Radio Free Americas has informed me that Sol Linowitz got the special permit by which this was accomplished.

Since Cuba is in arrears on the payment of this sizable credit, the interest in the Argentine Government in Gelbard was readily apparent.

Linowitz was trying to get him U.S. citizenship when he died of a heart attack.

But what Radio Free Americas calls the "Argentine Watergate" also involves a key banking figure, David Graiver, who is supposed to have died in an airplane crash near Acapulco, Mexico in 1976.

Graiver had connections with the guerrillas of Argentina, the Montoneros, and it is alleged he secretly financed them.

Mr. President, in today's Washington Post, there is an article on the release of Argentine newspaper publisher, Jacobo Timmerman, by the Argentine Government. Of interest to us is that the article mentions David Graiver as owner of 51 percent of the stock in the paper Timmerman formerly published. The following paragraphs are taken from today's Post article:

> Most of the rest of La Opinion's stock—51 percent—was owned by David Graiver, whom Argentine authorities believe served secretly as investment banker for leftist groups that kidnapped wealthy executives for ransom before the military seized control of Argentina in March, 1976.
>
> It was Timmerman's association with Graiver—who was indicted last week in New York City for violating banking laws there—that was ostensibly the reason for the publisher's arrest.

Mr. President, David Graiver's bank in New York was the American Bank & Trust Co. When it failed in 1976, at least $18 million and perhaps as much as $40 million was missing, leading some to believe that David Graiver chose to vanish, and was not really dead.

Evidently New York authorities believe that in proceeding to indict him.

American Bank & Trust Co.'s failure was the fourth largest in U.S. history. The New York Times examined the bank and its failure on September 25, 1976 in an article entitled, "Financial Intrigue, Mystery Shroud American Bank and Trust Collapse."

The Graiver-Belbard-Grobar-Linowitz implications remain a mystery to the Senate.

Mr. President, I can but touch on these matters which many Americans feel should have been thoroughly investigated in Senate hearings on Sol Linowitz before he was permitted to undertake the treaty negotiations.

President Carter avoided such an examination, of course, by limiting the Linowitz appointment to 6 months.

I believe that was a direct slap at the Senate and its right to advise and consent on the appointment of ambassadors.

Mr. President, in his introduction to his report, "International Debt, the Banks and U.S. Foreign Policy," Senator CHURCH mentioned the proposed $10 billion Witteveen facility and the appropriations sought in the Congress for the American taxpayers' share of that amount.

I would like to call the attention of the Senate to an article in the Washington Star for February 12, 1978.

It was called "Bailing out Banks that Straitjacket the Third World," and was authored by Howard M. Wachtel and Michael Moffitt.

That article closed with this paragraph:

> In opposing the Witteveen Facility, the Wall Street Journal editorialized that "American taxpayers, in other words, will be asked to cough up a few billion for the IMF to loan to the poor countries so that they can pay off the banks . . . Imagine the flap if the problem were solved honestly and directly," they ask, by calling the Witteveen Facility "The Bankers Relief Act of 1977".

Mr. President, I wonder if, indeed, the Panama Canal giveaway treaties, might be one of the principal titles in the Bankers Relief Act?

Mr. President, a signing ceremony was reported in La Estrella De Panama for March 1 of this year, whereby a $36 million loan to a Panamanian company to build an oil terminal facility was finalized. On that occasion, a Chase Manhattan Bank official made a comment very pertinent to my remarks today.

Chase Manhattan put up $15 million of that loan, Panama's Government agency, COFINA, put up $1 million, and five other banks lent the remaining $20 million. The newspaper reported:

> In his address, the Director of the Chase Manhattan Bank, Lic. Luis H. Moreno, emphasized "the strength that the businessman derives from the backing of a Government which has a conscience with regard to the best use of its resources *and which also has a very strong support from the international banking world.*" (Emphasis mine)

I consider that to be a very significant statement. That statement expresses a truth which I believe every Senator would have to admit, bears directly upon the theme of my address to the Senate and the American people today.

Why should the international banking world give "very strong support" to the regime of Omar Torrijos—a regime whose unsavory links to the underworld is clear to anyone who refuses to deceive himself about the drug trafficking of members of the Torrijos family itself.

Why should American and other capitalists support so strongly a regime that works so closely with Fidel Castro—who like his masters in Moscow, is dedicated to the demise of capitalism?

Why, Mr. President, unless there is something in it for them?

Why else would our internationally oriented big businessmen give such strong support to a regime that has the complete support of the Communist Party of Panama?

Mr. President, before voting for the new treaty, every U.S. Senator should give extremely careful attention to an official statement issued recently by the Communists of Panama. The Communist Party of Panama, as we all know, is called the People's Party of Panama. On September 7, 1977, the very day of the signing of the new treaties by President Carter and Omar Torrijos, the Political Bureau of the People's Party of Panama issued an official document entitled, "Message of the People's Party of Panama in Connection with the Carter/Torrijos Treaty."

Mr. President, on March 6 I placed this entire message of the Panamanian Communist Party in the CONGRESSIONAL RECORD at page 5608. I want to bring the following words to the special attention of the U.S. Senate. I consider them to be of enormous significance:

> The People's Party urges strengthening the process of national liberation, improving the life of our people, consolidating the government headed by General Torrijos and deepening the anti-imperialist alliance.

There is more in the Communist Party's message that signifies its full support of Gen. Omar Torrijos. But what I have read is more than sufficient.

The Communists in every nation where they have not yet come to power, simply do not talk of consolidating the government. The Communists, by definition, are dedicated to the supplanting or overthrow of any government they themselves have not yet taken control of.

The Communists in any country in which they have not yet come to power speak of liberation from the control of the regime in power. Here we find the Communists of Panama speaking eloquently of "strengthening the process of national liberation" under the government headed by General Torrijos.

Where the Communists have not yet come to power in a nonsocialist country, they link the regime in power with capitalists everywhere under the synonym, imperialists.

Yet the Communists of Panama speak eloquently of "deepening the antiimperialist alliance" under the government headed by Torrijos.

Mr. President, in my opinion the sentence I have just read may well be the single most important sentence spoken on the floor of the Senate in this entire debate.

It signifies, explicitly, total support of the Torrijos regime by the Communists of Panama.

Implicitly, it signifies the Panamanian Communists either already control, or wield very great influence over, the Torrijos regime. In either case, the Senate has no business whatsoever turning the Panama Canal over to such a regime.

In my opinion, this body should vote 100 to 0 against the new treaties, if only because of this single sentence and its ominous significance to the security of the American people.

Mr. President, the treaty message of the Panamanian Communists states without equivocation:

> The People's Party urges . . . consolidating the government headed by General Torrijos.

Mr. President, passage of the treaties will most certainly consolidate the regime of General Torrijos. Freedom House has determined human rights and civil rights in Panama to be on a par with the Soviet Union and Communist Cuba. We will show no good will toward the people of Panama under Torrijos by approving the new treaties.

Mr. BAKER. Mr. President, in a short time the Senate will vote on the question of whether to consent to the ratification of the Panama Canal Treaty. I am in favor of ratification, and I will vote in support of ratification, and I doubt that there is anyone in this Chamber who does not know how he will vote when the bell rings at 6 o'clock. So I will not spend this time exhorting my colleagues to vote in support of ratification. Rather, as we are on the brink of an historic undertaking, I would like to confine my comments to certain personal observations.

First, whatever the outcome of the vote, I believe the Members of this body should be commended for their mature and reasoned deliberations on the issue of the Panama Canal traties and would like particularly to commend those on both sides of this issue who have participated day to day, who have argued forcefully and well on all aspects of the issues raised by these treaties and by doing so have elevated the stature of the U.S. Senate in the discharge of its constitutional obligations to advise and consent.

For my own part, I have attempted to insure that every Member of the minority, whether for or against the treaties, has had a full and fair opportunity to participate in the debate; to offer amendments and reservations; to bring to the debate perspectives of many diverse constituencies; and to have the benefit of every piece of available information that the administration could provide that might bear on the Senate's consideration of these treaties.

I would like to particularly acknowledge the role of the distinguished majority leader in this historic debate. Throughout our consideration of these treaties, his task has been a most difficult one and he has discharged his obligations fully, faithfully, and well. The majority leader has exhibited an exquisite sense of fairness to all and we have all benefited from his leadership. I thank him and commend him for his labors on behalf of this body and our country. This debate will stand as a tribute to his leadership.

Second, I believe that restraint, Mr. President, has been the hallmark of these debates. For this I am thankful. This has not been an easy or pleasant issue for many of us in the Senate, but for all of its contention, for all of the emotions that have marked this issue, the character of the debate has been exemplary in both form and substance. No one in this Chamber needs to apologize for the conduct of the Senate or any single Senator throughout the course of these extremely difficult and important deliberations.

Third, I would observe that the treaties issue is one upon which reasonable and well-motivated men might differ for good and sound reasons. There are so many aspects of these treaties that require a subjective judgment. Neither consent nor lack of consent to ratification affords any Senator a clear and unobstructed view of future developments. In a very real sense, all of us must speculate on which of the courses of action now before us offers the United States the best opportunity for constant and unimpeded use of the Panama Canal and the better merit from a national security standpoint. Those of us who support the treaties believe that ratification offers the better chance, the better odds, but we all must humbly realize, opponents and proponents alike, that no course of action guarantees the desired results.

If it were theoretically possible to foretell with certainty, to guarantee if you will, the course of future events, Mr. President, we might have the liberty of debating a perfect treaty. But this is an impossibility and I will be the first to acknowledge that these treaties are not perfect treaties. However, it has been said that "perfection is the enemy of the merely good." I believe, Mr. President, that these treaties are good. And, Mr. President, I believe these treaties are far better than attempting to maintain the status quo.

The treaties represent a pragmatic blending of the legitimate aspirations, emotions, and best interests of two proud and determined nations, and are in the best interest of the United States, particularly when balanced against available alternatives. I am prayerful that the Panamanians will see these treaties, as modified by the Senate, in their best interest as well—for I believe that it would be unfortunate, indeed, to squander this momentous opportunity after having come this far and it may be a long time before we reach this point again.

Fourth, I recognize that acceptance of these treaties will be the subject of much debate in Panama, as it has been in the United States. This is as it should be. In fact, the very nature of our own national debate on this issue says a great deal about the character of our country. It reflects our people's abiding will and determination to remain unchallengeably strong and willing to protect our national interest. The American people have signaled their contempt for decisions perceived as not reflecting that will and determination.

I believe these treaties are consistent with the aspirations of the American people. It is a measure of our strength, not weakness, that the United States can deal fairly, at arms length, and in the spirit of true partnership with a smaller, less powerful nation in a manner consistent with our own peace and security. This is a testimony to our strength and, I would suspect, a significant embarrassment to our foes.

Finally, and importantly, I would observe that while these treaties provide a viable framework for a constructive and cooperative future operation of the Panama Canal, they in no way diminish the pride that every American should feel in the achievement the Panama Canal represents. The Panama Canal, new treaty or not, stands today and for all time as an incredible physical accomplishment and a lasting monument to the thousands who have built, maintained, managed, and operated the canal for the benefit of mankind since the turn of the century. This American achievement will never be diminished in the eyes of the world.

Mr. President, I would like to read two quotes from David McCullough's "Path Between the Seas" which provide, I think, a fitting end to these remarks. The first is a paragraph that follows a description of the beginning of the difficulties that would arise between the United States and Panama over the years:

> To the average American at work on the canal, the aggrieved pride or "smoldering wrath" of the Panamanian was of only marginal concern. There would be time enough later to resolve such difficulties. For now the work was going too well, morale was too high, the end was much too plainly in view to think much about anything else.

The second, in the final section of the book, speaks for itself:

> The creation of a water passage across Panama was one of the supreme human achievements of all time, the culmination of a heroic dream of four hundred years and of more than twenty years of phenomenal effort and sacrifice. The fifty miles between the oceans were among the hardest ever won by human effort and ingenuity, and no statistics on tonnage or tolls can begin to convey the grandeur of what was accomplished. Primarily the Canal is an expression of that old and noble desire to bridge the divide, to bring people together. It is a work of civilization.

To my colleagues in the Senate, I will say that I believe that the time has come to resolve past difficulties, to bridge the divide between the United States and the Republic of Panama, and to further ennoble this great work of civilization.

Mr. MATHIAS. Mr. President, throughout this long debate on the Panama Canal treaties, two lines from Macbeth have haunted me:

> If it were done, when 'tis done, then 'twere well,
> It were done quickly.

Those lines have haunted me because no matter what the outcome here today we will not be done, when we are done.

The defect of our debate is that it has been almost entirely retrospective. We should have been considering the requirements of the merchant marine of the 21st century, but instead we have occupied ourselves rereading the fine print of the 1903 treaty, pouring over musty court decisions, and wallowing in the subjective reaction of the American and Panamanian people to one another.

In the 2½ months of our deliberations, we have been so preoccupied with the past, so mired in ancient history, that we have barely glanced at the future.

We should more profitably have been considering the requirements of merchant shipping in the years ahead. For, as marine commerce is developing, it is clear that 19th century engineering will not be adequate to the demands of 21st century shipping.

Obviously, we must either build a new canal, or rebuild the existing canal. We cannot simply stand pat, with or without new treaties.

And so, while the vote we take today may write "finis" to a chapter of our past, it will not carry us a single step into the future.

For that we must concentrate our thoughts and our creative energies on seeking the new solutions that the supertankers of our merchant fleet of the future will demand.

We are, however, left with the necessity of casting a vote on the restricted and foreshortened issue that is before us, and I shall address that question very briefly.

Today we vote on the Panama Canal Treaty which covers the period between now and the year 2000, when joint United States/Panamanian operation of the canal will cease. I intend to vote in favor of this treaty.

The Panama Canal today operates with the cooperation of the Government of Panama and the Panamanian people. Over 70 percent of the work force in the Canal Zone is Panamanian. In the future, the need for Panama's cooperation may well increase. For example, to widen the present canal or to build a sea-level canal within the Republic of Panama we would certainly require Panamanian cooperation. If the supertankers and the super carriers designed for the 21st century are to transit from ocean to ocean across the isthmus, then an alternative to the present canal will be necessary.

This sort of cooperation is needed at a time when the canal has become a nationalist issue among Panamanians. Americans, above all, should understand the aspirations of the Panamanian people. We cannot hope to have Panamanian cooperation in the future in the absence of a new relationship between Panama and the United States. Four successive U.S. Presidents have recognized this fact.

At the time of the vote on the Neutrality Treaty, I indicated that I had certain reservations about the Panama Canal Treaty. These have been dealt with through amendments or reservations to the treaty which I have supported. Yesterday, we decided that we would not be bound by article XII to build a sea-level canal only in Panama. We have also cleared up some of the financial ambiguities which were troubling me. For example, we clarified U.S. obligations regarding the $10 million surplus payments.

I have been very concerned about the possible negative effects on the Port of Baltimore resulting from higher canal tolls. I have examined this issue very carefully. I believe that the impact will not be serious. Ultimately, if these treaties lead to a continuation of uninterrupted traffic through the canal, we will all benefit.

The Senate has devoted a great deal of attention to the issue of the Panama Canal Treaties. It is an important one, but only one of many pressing concerns facing this country. I hope that we can now turn our attention to some of the other problems; many of which relate directly to our national security.

But, before we move on to the important work ahead, I would like to note that, although many deserve credit for the role they have taken in these deliberations, none has made a greater contribution to the orderly process of debate or to bringing that debate to a timely conclusion than has my distinguished Maryland colleague, Senator SARBANES.

Mr. McCLURE. Mr. President, the proposed Panama Canal treaties have been debated at great length and in great detail not only in the Senate Chamber, but in almost every forum in the country.

Public interest in these treaties is higher than for any issue to come before us in recent times.

I am sure that each Member of the Senate has received a great volume of mail on this subject. I certainly have, and as I read through my mail, I was struck by intelligent and thoughtful study so many people have made. Many of those who have written me have carefully analyzed the treaties and read everything they could obtain about Panama. Frequently, they have asked probing questions and brought to my attention crucial points about the treaty.

For the first time, the debates taking place in the Senate have been brought into people's living rooms through live radio coverage. Similarly, the letters to the editor section of Idaho newspapers reveals the careful attention given to the subject by large numbers of people. The level of public knowledge is extremely high. This presents us with a unique opportunity to bring all Americans directly into the decision-making process. The reservation I am proposing provides for a national referendum before the Panama Canal treaties can be ratified. A referendum on this issue is especially appropriate since the treaty transfers to a foreign government a valuable national asset which belongs not just to Government officials in Washington, but to every American. I think they should have a voice—direct voice—in deciding whether these treaties enhance or diminish America's just national interest.

In no way can this proposal be seen as an attempt to avoid the Senate's advise and consent responsibility. Far from being a devise by which the Senate can duck a hot issue, a national referendum will undoubtedly heighten public awareness of every action we have taken on these treaties.

Referenda are widely used at the State and local level. Recently, several Senators introduced a constitutional amendment which could establish the procedure for national referendum. The Panama Canal Treaty provides us with an excellent set of circumstances for our first referendum. It is an important issue, there is a high level of public interest, and most importantly, it is an issue which the people should have a direct role in deciding.

It is unfortunate that the people in a country noted for its repression of political discussion or dissent are permitted a vote, while in this country, the most free in the world, a vote of the people is denied.

It is, also, unfortunate that the time constraints caused by unforeseen rollcalls has made it impossible for me to offer my amendment. I ask that my proposed amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

Before the period at the end of the resolution of ratification, insert a comma and the following: "And subject to the reservation that before the date of exchange of the instruments of ratification of the Treaty, the Congress shall have adopted appropriate legislation to hold a national referendum on the question 'Shall the United States transfer the Canal Zone to the Republic of Panama?', and an affirmative vote shall have occurred in such a referendum."

Mr. HUDDLESTON. Mr. President, it should not be surprising that the question of ratification of the new Panama Canal treaties has generated considerable controversy among the American people. Nearly everything about this important waterway between the oceans has evoked controversy since its inception.

From the suggestions of a Spanish priest in a book published in 1552 through the seven expeditions authorized by President Ulysses S. Grant between 1870 and 1875, the ill-fated efforts of the French, which collapsed in 1888, and the remarkable triumph by the United States in 1914, about the only thing that was agreed upon by engineers, businessmen and political leaders of the times was that a passage from the Atlantic to the Pacific across the isthmus between North and South America would be useful and desirable.

The location, the type of canal, the method of construction, the cost and how to combat the illnesses peculiar to the tropical climate were subjects of bitter controversy right up to the final construction phase.

Of all the locations considered from Darien near the present border of Colombia to Nicaragua, Panama was seen as the least feasible through most of the early construction. Yet, mostly through the power of one man, Ferdinand de Lesseps, the hero of Suez, the route across Panama from Colon to Panama City was to be the chosen one.

The French venture in Panama was not just a failure, it was an unmitigated disaster. Thousands of investors lost their life savings. The country was rocked by scandalous revelations of misdeeds by many of the principals in the enterprise. Ferdinand de Lesseps, himself, the most celebrated Frenchman after his success with the Suez Canal; his son, Charles; and Gustave Eiffel, builder of the great tower in Paris that bears his name, were all convicted of bribery and fraud. Thousands of workers died from tropical diseases, mostly malaria and yellow fever.

The French effort was doomed from the beginning due to their underestimation of the magnitude of the task, underfinancing, tenacious belief that it must be a sea level canal and failure to come to grips with the health hazards.

One man emerged from the French debacle who was to play a significant and somewhat suspect role in decisions by the United States to take up where

the French left off in Panama. Philippe Bunau-Varilla worked tirelessly in this country on behalf of French interests and to salvage what he could of his own substantial investment in the French company. As Envoy Extraordinary and as minister plenipotentiary of the new State of Panama, he negotiated and signed the Panama Canal Treaty of 1903 on behalf of Panama. It is possible, too, that he was the master mind of the Panamanian revolt against Colombia that established its independence after Colombia had rejected the U.S. treaty.

Sentiment was strong in the U.S. Congress for the U.S. to undertake the construction of a canal between the seas after the French failure. But, the assumption was that the canal would be across Nicaragua. The chief proponent of the Nicaraguan route was Senator John Tyler Morgan of Alabama who believed such a route being closer to this country would favor shipping to and from our Gulf ports. But the shrewd and persistent lobbying efforts of Bunau-Varilla and a lawyer by the name of William Nelson Cromwell, who was employed by the French company, turned the matter around in favor of Panama, then still a part of Colombia.

The key factors in the lobbying success were the reduction in the asking price for the French holdings in Panama from the original $70 million to $40 million and the convincing of President Theodore Roosevelt that Panama offered the best chance to expedite the U.S. effort to construct a canal.

The treaty between the United States and Colombia, negotiated by Secretary of State John Hay and Dr. Tomas Herran, authorized the French company to sell its "rights, privileges, properties and concessions" to the United States, and Colombia granted the U.S. control of an area 6 miles wide from Colon to Panama City. Colombian sovereignty over the zone was specifically recognized, but the U.S. was permitted to establish its own courts of law within the zone and to enforce its own regulations concerning the canal, ports and the railroad. Police protection was to be supplied by Colombia with the United States empowered to help out if Colombia was unable to carry out this objective. The United States was to pay $10 million to Colombia in lump sum and an annual rent of $250,000. The franchise was for 100 years and was renewable at the option of the United States.

The Congress of Colombia rejected the Hay-Herran treaty to the consternation of President Roosevelt and in spite of thinly veiled threats from the Secretary of State and from the President himself.

The resourceful Bunau-Varilla and Cromwell moved quickly to encourage the revolt against Colombia, dealing with Dr. Manuel Amador and his associates and promising both money and military support from the United States. There was no official declaration of support from the U.S. Government, but, in fact, U.S. warships were sent to Panama ostensibly to protect the Panama railroad with orders to prohibit the landing of any troops "either government or insurgent." Thus, Colombia reluctantly accepted creation of Panama.

The United States quickly recognized the new country of Panama. Dr. Amador was named President and Envoy Extraordinary. Philippe Bunau-Varilla, the Frenchman, who had not been in Panama for 18 years, was designated as the sole negotiator for Panama on a canal treaty.

He moved swiftly and the terms of the document he devised with Secretary of State John Hay were far less favorable to Panama than the terms of the rejected treaty were to Colombia. The Canal Zone was to be 10 miles wider rather than 6; the United States was given control of sanitation, sewage, water supply and maintenance of public order in the terminal cities of Colon and Panama City.

More importantly, the United States was granted within the Canal Zone "all the rights, power and authority which the United States would possess if it were the sovereign of the territory—to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority." And the rights were granted "in perpetuity" rather than for 100 years as the Colombian treaty.

Also, four small islands in the Bay of Panama were granted to the United States, and we had the right to expropriate any additional land or water areas "necessary and convenient" for the construction, operation, sanitation, or defense of the canal.

The compensation for Panama was the same as offered Colombia. Additionally, the United States guaranteed the independence of Panama.

During the final days of negotiations by Bunau-Varilla and Secretary Hay, Dr. Manuel Amador and a delegation from Panama were rushing to Washington expecting to review the treaty before it was finalized. They arrived about 2 hours late.

The Panamanians protested bitterly to Bunau-Varilla about the terms of the treaty and refused to assist in its ratification in Panama. But under the threat of withdrawal of U.S. protection of the new Republic, Panama formally approved the pact on December 2, 1903.

On February 23, 1904, the U.S. Senate ratified the Hay-Bunau-Varilla treaty by a vote of 66 to 14 after much acrimonious debate led by Senator John Tyler Morgan. But, one senator summed up the lack of significant opposition from the members by conceding that the treaty "comes to us more a liberal in its concessions than anybody in this Chamber ever dreamed of having * * * in fact, it sounds very much as if we wrote it ourselves."

Thus, the United States was launched upon the most stupendous public works project in history, and it was to succeed although the obstacles were gigantic and the price in lives and dollars was horrendous.

The project took 10 more years to complete, although it was opened ahead of schedule; cost 352 million—four times as much as Suez; exacted 5,609 more lives; and required the excavation of some 262 million cubic yards of rock, dirt and other material.

Since it opened in August 1914, it has seen steadily increasing use, with ships now transiting the canal at a rate of more than 1 per hour for every hour of every day of the year.

The question understandably then arises—why should we change a treaty which has been in force for 75 years, which specifies that it is to remain in force in perpetuity and which has apparently served United States and other interests well?

There are several answers.

One is that the 1903 treaty was born in controversy, and negotiated by a Frenchman, much to the displeasure of the Panamanians. While the United States did not precipitate all the events which led to the conclusion of the treaty and its somewhat pressured acceptance by Panama, it was a knowing bystander, ready and willing to benefit from transpiring developments. It acquired Canal Zone property and rights, but even according to President Roosevelt, Secretary of State Hay and the French Treaty negotiator, it did not acquire sovereignty.

Second, the accepted diplomacy of 1903—which undoubtedly made the United States moves of 1903 not uncommon or outside the then-existing norms of international life—is not the accepted diplomacy of 1978. Just as our individual daily lives are far different from those of our fathers and grandfathers in 1903, international relations, modified by communications, expanding technology and increasing interdependence—are also far different.

Third, might simply does not make right. I have no doubt that we could insist on the current treaty and use our military power to impose it, although the resources required would be great. But, the mere possession of strength and force does not inspire respect. The ability of a great nation to deal equitably and justly with smaller nations can do more to inspire respect than the unnecessary use of military force.

By far the most important answer is that there is an easier, more reliable, more assured way to protect U.S. interests in use, access and special privileges than under the present treaty. That way is to enter into a new arrangement with the country through whose land the canal runs and a partnership with the people of that country. That is what the two treaties seek to do.

Treaties are, by their nature, the product of negotiation and compromise. They represent efforts by two sides to come to terms which each can accept, even if they cannot wholeheartedly endorse.

The treaties before us represent 14 years of work by four administrations—two Republican and two Democratic ones. They embody principles which, if one will review Eisenhower statements, the Johnson-Robles guidelines which Eisenhower and Truman publicly endorsed, and the Kissinger-Tack agreement, are remarkably consistent.

They are treaties which the Senate

Select Committee on Intelligence, on which I serve, reviewed line by line to determine if there had been any blackmail or undue pressure during the negotiating process. Both members of the committee who support the treaties and members who oppose them agree there was none.

This does not mean that each and every provision is to our liking or even completely in our favor. But, it does suggest that it is the best arrangement we could now devise to protect both United States and Panamanian interests.

In the defense area, I believe United States interests are amply protected. Should there be a strategic threat, the canal would probably be vulnerable—regardless of what kind of treaty we had or if we had one at all. As Admiral Holloway noted in testimony before the Senate Foreign Relations Committee, "* * * in a strategic nuclear war, the importance of the canal in relative priority diminished to an inconsequential position."

On the conventional level or in connection with the possibility of sabotage, guerrilla warfare or terrorism, I think we have to look at the situation first in terms of the next 22 years during which the Panama Canal Treaty provisions will govern and then in terms of the period beyond the year 2000 when we will have only the Neutrality Treaty.

During the rest of this century, the United States will retain its existing military force in Panama—at whatever troop level we deem sufficient. In short, we are there. We are there in sufficient force to protect our interest and rights under the new treaties, and we have the right to be there.

But, what we envision during that time is not a confrontation with Panama but the development of a new partnership both in the defense and operation of the canal which would enable us to work jointly for the security and efficiency of the canal.

The defense situation after the year 2000 has been widely debated. The Carter-Torrijos communique, added as an amendment which made it an integral part of the treaty states precisely, "* * * *each* of the two countries shall, in accordance with their respective constitutional processes, defend the canal against *any* threat to the regime of neutrality and, consequently, shall have the right to act against any aggression or threat directed against the canal or against peaceful transit of vessels through the canal." (Emphasis added.)

In the Foreign Relations Committee report, our interpretation of this is set out in some detail as follows:

> . . . The first amendment relates to the right of the United States to defend the Canal. (It creates no automatic obligation to do so. See p. 74 of this report.) It allows the United States to introduce its armed forces into Panama whenever and however the Canal is threatened. Whether such a threat exists is for the United States to determine on its own in accordance with its constitutional processes. What steps are necessary to defend the Canal is for the United States to determine on its own in accordance with its constitutional processes. When such steps shall be taken is for the United States to determine on its own in accordance with its constitutional processes. The United States has the right to act if it deems proper against any threat to the Canal, internal or external, domestic or foreign, military or non-military. Those rights enter into force on the effective date of the treaty. They do not terminate.
>
> Second, the prohibitions set forth in the second paragraph do not derogate from the rights conferred in the first. The Joint Statement recognizes that the use of Panamanian territory might be required to defend the Canal. But that use would be for the sole purpose of defending the Canal—it would be purely incidental to the Canal's defense; it would be strictly a means to that end, rather than an end to itself; and it would not be carried out for the purpose of taking Panamanian territory. . .

And, finally, the understanding offered by Senator HAYAKAWA and adopted by the Senate on March 16 further explains the U.S. right to determine when it must act to defend the canal as a unilateral right.

Furthermore, after the year 2000, only Panama will have the right to maintain troops and military sites in Panama—a protection we do not have under the existing treaty. And U.S. vessels of war or auxiliary vessels clearly have a right to go to the head of the line, a privilege accorded only to the United States and Panama. These provisions should allay the fears of those who are concerned that foreign powers might establish military bases in Panama after U.S. forces are withdrawn.

Turning to the operation of the canal, the Panama Canal Commission, a U.S. Government agency, will have responsibility for managing the canal, setting tolls and enforcing rules of passage until the year 2000. After that time, the responsibility will shift to the Panamanians; but it will be to their advantage to keep tolls reasonable and operations efficient. Otherwise, users will look for alternative means of transporting goods which could reduce use and revenues.

At first glance, the revenues to be paid to Panama under the new treaty appear extreme. Assistance is to increase from some $2.3 million to as much as $50 to $60 million annually. Indeed, this portion of the treaties, in my judgment, is beneficial to Panama just as I believe the defense provisions are beneficial to us.

Several other factors should, however, be remembered. First, the payments are to come from canal revenues, not from the U.S. Treasury. Second, these payments, made from tolls, are not out of line with a number of agreements we have made with other countries under which we provide aid in exchange for base rights, such as we will have in Panama during the remainder of this century. Third, Panama will assume the costs of numerous services now paid for by the United States within the Canal Zone. These costs plus declining revenues in recent years resulted in operating losses of between $7 and $8 million.

Many persons are deeply concerned about the dictatorial aspects of the Panamanian Government, and I share those concerns. We cannot as a nation, however, impose governments of our preference upon other parts of the world. Dictators of both the left and the right rule in many areas. We do not like that; we do not approve of that. We can to some extent bring pressures to bear in order to try to influence developments in those nations. But, we work in this imperfect world with a number of leaders we would prefer not to because it is in our interest to do so. With the canal running through Panama, it is to our interest to try to work with the Government there with or without the new treaties.

"But General Torrijos is untrustworthy" some persons respond. Perhaps he is and perhaps he is not. But, if he is untrustworthy it would seem much more logical for him—or any other political leader—to abrogate a treaty such as the existing one which has so many provisions which irritate his people, than a treaty which resolves many of the conflicts, between his nation and ours, and, also provides Panama with many economic advantages.

Perhaps more to the point, however, is that the major changes under these treaties occur in the year 2000 and between the nations of Panama and the United States; they do not occur between Omar Torrijos and Jimmy Carter. The question, then, is what is best for the two nations, not for any two leaders or any individuals, at that time.

There are many other issues which have been raised in this debate, but it is not my intention to go into them further. As I have said, the treaties represent negotiation and compromise, and where that has occurred, I think the pros and cons of the final provisions have been more than adequately examined.

I would close with one final note. I have been dismayed at times by the harsh and bitter tones of this debate. Emotionalism, anger, rhetoric have been used on occasion to inflame rather than inform. I have also been disturbed by those who ascribe evil motives to those who disagree with them on this single issue—whether it be for or against the treaties.

We have many interests, many views in this Nation. Consensus building—which involves compromise and conciliation—is important to our system. We need only look to other countries to see the enormous potential for harm when consensus building breaks down and the dichotomies of the left and right become too great.

Reasonable men and women all along the political spectrum have taken differing positions on these treaties. I think we have to assume that each exercised his or her own judgment and respect that decision. If we stop to reflect for only a moment on our relations here in the Senate, we rapidly realize that our allies on agriculture might not, for example, be our allies on defense, or the coalition that works together on steel is not the one that operates on housing. We shift as interests shifts, issue to issue—and that is important.

Our Nation was built on some very basic precepts—freedom of each to pursue his own religion, freedom for each to choose his own political affiliation, freedom to assert ones own views.

We have and will disagree—that is part of the political system—but, in doing so we should remain ever alert to the

importance of how we disagree and how we reconcile our disagreements as we move from one issue to another.

Mr. President, there has been no issue before the Senate which I have studied more thoroughly or carefully. I have listened to all the arguments, explored every concern, every charge made. I have concluded that the treaty of 1903 is no longer workable and that the interest of the United States will be better served by ratification of the new treaties.

Mr. STEVENS. Mr. President, I stand before this body as one who has always maintained that the United States of America and the Republic of Panama must find a new relationship through which their respective interests in the Panama Canal can be accommodated. It is not without a sense of great frustration that I now vote.

Though I favor a new relationship with Panama, it is clear to me that the treaties presented to the Senate are so ambiguous and so subject to differing interpretations by Panama and the United States that we do both countries a great disservice by ratifying them. Mr. President, we are engaged in a debate in which neither side will win. Irrespective of whether the Panama Canal Treaties are ratified, in my opinion the people of the United States and the people of Panama will be the losers. When the negotiators of these treaties and the President signed these documents they committed the United States to a horrible legacy. We are all aware that if the Senate rejects this treaty that in the short run we will be faced with the prospect of violence in Panama. Mr. President, I maintain that if the Senate ratifies these treaties, we will be faced with the prospect of long-run violence in Panama. Violence which would stem from the misunderstandings that will grow out of these ambiguous documents.

Mr. President, I feel like a condemned man. Irrespective of how I vote, the outcome will be most distasteful.

I have on numerous occasions attempted to amend both the Neutrality Treaty and the Panama Canal Treaty in order to eliminate the ambiguities which could lead to confrontation. The proponents of the treaties have successfully thwarted all of our efforts to eliminate these ambiguities. I must cast my vote in opposition to the ratification of the Panama Canal Treaties.

Before yielding the floor, Mr. President, I would like to compliment the distinguished majority and minority leaders for the gentlemanly manner in which they have allowed this debate to take place. Throughout these difficult days, my good friends have gone to great lengths in order to assure that debate be carried out in a manner that was fair to all parties.

Mr. HASKELL. Mr. President, today marks the end of one of the most lengthy debates in the history of the U.S. Senate. Following the most extensive hearings on a treaty every held by the Foreign Relations Committee, we have been witness to 3 months of floor debate where each and every article and amendment has been thoroughly discussed.

Yet there remains a wide difference of opinion over what the Panama Canal treaties mean to America.

To opponents they represent the latest and most evident example of American capitulation to hostile forces.

To proponents the treaties embody the best impulses in the American tradition of dealing with friendly nations and offer the best opportunity to assure continued U.S. use and access to this vital waterway.

After the lengthy debate and despite volatile opposition, every major public opinion poll since last October has shown that the majority of the American people support the treaties if the U.S. right to defend the canal's neutrality is insured and American vessels are allowed priority passage in time of war.

I made my support of these treaties contingent upon acceptance of those vital amendments. They are essential to national security and have put to rest speculation that the United States would allow foreign intervention to close the canal.

Acceptance of the treaties is not a departure from the basic tenets of our foreign policy. It is simply a reaffirmation that our Nation can be a powerful force in the world without having to resort to arms to prove it.

If we are truly to be the beacon of democracy and a partner with the nations of Central and South America in keeping our hemisphere free, we must abandon notions of "gunboat diplomacy" and make our message to other nations a powerful one: The power of example.

Panamanian leftists and Communists, as well as other anti-American forces would probably like to see nothing better than our rejection of these treaties.

Their best hope for success is to keep alive the false issue of "Yankee Imperialism." A joint Panamanian-American agreement can scotch once and for all the outmoded accustations of American colonialism.

Our allies in the hemisphere are anxious that these treaties, representing U.S. commitment to cooperation with Latin America, will be ratified. Brazil, Venezuela, and other South American countries do not view the canal treaties as a sign of weakness.

Nor do our European allies view the treaties as an indication that the United States has weakened its support for NATO.

I continue to wonder at the extensive and ill-founded antagonism which has been directed at the Panamanian people. While no one in the Senate defends General Torrijos, the history of Panamanian-American relations does not invite the suspicions evident in much of the debate.

If the Panamanians are so hostile to us, why have they waited patiently through 14 years of negotiations?

If Panamanians are so bent on closing the canal why have not the 70 percent of the canal work force which is Panamanian walked off the job?

If Panama is so alined with Marxist countries, why does the government refuse to recognize the existence of the Soviet Union and Mainland China?

The only issue which divides us has been the disposition of the Panama Canal Zone. The two treaties provide a solution which is equitable to both nations and which protects America's strategic interests in the canal. The present Joint Chiefs of Staff, as well as many retired military leaders, agree that the treaties are in our best national interest.

But Panamanians have suffered many wounds to their national pride. Their sensitivity was recently demonstrated by their reaction to the DeConcini amendment. I, along with 74 other Senators, voted for that amendment because it appeared to provide further clarification involved in keeping the canal open in the future.

The interpretation of the DeConcini amendment adopted in Latin America led to widespread concern throughout that region.

When this became apparent, I expressed my conviction that it was incumbent on the Senate to dispel the fears of those countries. The Senate leadership and Senator DECONCINI have now cosponsored a resolution to clarify this point and allay those fears.

It seemed senseless to me to offend Panama and South America by wrongly implying that the U.S. Senate is reasserting a policy of intervention which was repudiated 45 years ago. At the turn of the century, the United States proclaimed the right to intervene throughout Latin America in cases of chronic wrongdoing or a general loosening of the ties of civilized society. We no longer believe that, and I am pleased that the Senate contends to reaffirm America's traditional commitment to the principle of nonintervention.

Finally, let me speak once again to the critics of the treaties. Rejecting the treaties is not going to remove Soviet and Cuban troops from Africa, it will not stop the development of Russian missiles and it will not slow the buildup of Warsaw Pact forces. Defeating the treaties, however, may gratify the Kremlin by indicating that America would rather alienate our long term allies rather than cooperate with them.

I am intensely aware of and concerned about our national security.

Keeping America strong has frequently required lengthy debates and difficult decisions. The ratification of the Panama Canal Treaties has provided an opportunity for a full discussion of the national security implications of devolving our interest in the Canal Zone.

Approving the treaties will retain American use and access to the canal and accomplish through diplomacy what we might not achieve through relying on military force.

Ratification of the Panama Canal treaties represents a wise, just and courageous decision by and for the United States.

### U.S. CATHOLIC CONFERENCE STATEMENT ON PANAMA CANAL TREATIES

Mr. KENNEDY. Mr. President, the General Secretary of the U.S. Catholic Conference, Bishop Thomas C. Kelly, made an important statement last week

in support of the Panama Canal treaties, which I commend and wish to bring to the attention of my Senate colleagues in connection with today's vote on the second treaty.

Bishop Kelly rightly pointed out that—

> The attachment of a reservation implying a U.S. right to intervention in the internal affairs of Panama has threatened and may indeed have eroded the respect for sovereignty, dignity, and social justice which the treaties are designed to foster.

These were the concerns which led me to oppose the original DeConcini reservation to the Panama Canal Neutrality Treaty, and to welcome the reiteration today of our country's commitment to nonintervention in the affairs of Panama.

Mr. President, I ask unanimous consent that the USCC statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT ON PANAMA CANAL TREATIES

Since 1975 the U.S. Catholic Conference has energetically supported efforts to negotiate new treaties which would return to Panama full and effective sovereignty over the whole of its national territory. Successful conclusion of such efforts can symbolize and initiate a new cooperative relationship between the United States and the nations of Latin America—a relationship characterized by full respect for the sovereignty of each nation, the dignity of its people, and the requirements of international social justice.

Viewing the agreements negotiated last September as a positive step toward this new relationship, USCC has supported the treaties signed by President Carter and General Torrijos. We welcomed the Senate's passage of the Neutrality Treaty last month. But the attachment of a reservation implying a U.S. right to intervene in the internal affairs of Panama has threatened and may indeed have eroded the respect for sovereignty, dignity, and social justice which the treaties are designed to foster.

Our concern is still greater in view of reports that attempts may be made to attach further reservations to the basic treaty, which will be voted on April 18. Such reservations could eviscerate the substance of the treaties and lead to a major setback in the hoped-for new relationship.

The U.S. Catholic Conference therefore urges the President and the Senate to resist firmly any measures which, either explicitly or implicitly, would restrict the legitimate sovereignty of the Republic of Panama. Moreover, in light of the present circumstances, USCC believes there is need for a statement of clarification by an appropriate party, indicating the intent of the reservation to the Neutrality Treaty and making clear that its scope does not exceed the principles contained in the original treaty. Finally, the Conference urges that the U.S. government explicitly reaffirm its intention to adhere fully in its relations with the Republic of Panama to the principles of nonintervention contained in the Charter of the Organization of American States.

It is USCC's hope at this stage of the ratification process that no effort will be spared to assure that the new treaties do signify and begin an era of justice and peace in the Western Hemisphere.

Mr. BIDEN. Mr. President, it was no secret to the last minute that I supported the Neutrality Treaty as modified by the Byrd-Baker leadership amendment.

Nor is it secret that I will support the Panama Canal Treaty to be voted today. I am announcing this because I would like to underscore the fact that the issue being debated in both treaties is the continued American use of the canal. It is not a vote in support of or against President Torrijos. I support both treaties because I feel that the continued American use of the canal for our strategic and economic purposes is our first priority. Whether President Torrijos stays in power until the 21st century is irrelevant to the merits of the treaties. I do not want to see the treaties rejected, emasculated, distorted, or diminished because I believe they enhance America's vital interests. Failure to ratify these treaties may indeed produce insurrection, terrorism, or even revolution in Panama. I have no fear that the United States could put down any violence that would occur. I do, however, question whether a usable canal would emerge from conflict within Panama. And a usable canal is our first priority.

If we have to send the marines down to Panama, I wonder how many Americans—who today have not given much thought to the treaties—will question the wisdom of the Senate for not having chosen—for not having voted—for not having supported a more effective means of defending the U.S. interest. The United States obtained the Canal Zone in a manner quite appropriate to the turn of the century. The decision to build a canal was made with extraordinary foresight. The technological achievement of the canal itself was a major American engineering breakthrough.

America was first—not last.

What worked for the U.S. interest in Panama in 1925 will not work in 1995 nor in 2025. When old ways do not work, it becomes a test of American superiority, American ingenuity, and American strength to find new ways. Today the only effective way to defend American interests in the canal is through a spirit of cooperation. A unilateral decision—even for the common good—is just not going to work. A joint decision—whose common good is preceived by both sides—is one that works.

The Panamanians today are a nation. They are one of the smallest and weakest nations of the world. What test of strength is it for the United States—the strongest country in the world—to use brute force against the weakest?

On the other hand, I ask: What genuine leadership is demonstrated when a country which has the means and the will to use military force instead chooses an ingenious and peaceful means for achieving the same objective. And that objective is clearly the continued use of the canal through this and the next century.

Mr. President, I support the two Panama Canal treaties because they are a product of American strength. And I believe they are the most "advanced weapon" we could choose to protect the short- and long-term interests of the American people.

Mr. DOLE. Mr. President, we have considered a number of proposed modifications to both the Neutrality Treaty and the basic Panama Canal treaty. Two amendments, and several reservations have been adopted: many more have been rejected at the behest of the Carter administration and the Senate leadership.

Now, as the final vote of ratification draws near, we must take a long, hard look at the final product. And we must ask ourselves, in all candor: "is this the best example of American negotiating skill on a bilateral treaty? Is this the best we can offer the American people?"

For myself, Mr. President, I find the answer to these questions to be a clear, unequivocal "no." The reasons should be plain enough to anyone who has studied the canal treaties in detail.

IMPRECISION

Perhaps the single most adverse feature of both treaties is their imprecise, vague, ambiguous, and confusing features. Nowhere has this weakness been more apparent than in those sections dealing with future American rights to protect and defend the canal. With the leadership amendments, and the DeConcini reservations, we have made some improvements, but not nearly enough.

There are still conflicting interpretations about what the defense provisions allow us to do, and what they commit us to do. The same holds true for certain economic and transition features, as well.

All things considered, both treaties have reflected clear examples of poor draftsmanship. In sum, they represent everything a good treaty should not be.

Even the phrasing is surprisingly offensive in its style and manner. As one of my colleagues has aptly noted, those treaties read like documents of surrender drafted by a victorious Panama for a vanquished enemy, the United States. We find phrases like, "The Republic of Panama grants to the United States * * *" and "The Republic of Panama permits the authorities of the United States of America to exercise jurisdiction * * *". From a stylistic standpoint alone, these treaties are little short of an insult to the Nation that gave birth to the Panama Canal, and helped Panama achieve its own independence from Colombia.

RECOMMITMENT OF TREATY

Mr. President, I support the motion by the Senator from Michigan, Mr. GRIFFIN, to recommit the Panama Canal Treaty to the President. Recommitment would simply represent the exercise of the Senate's coequal role in treaty-making powers granted by the United States Constitution.

The action simply involves a directive to the President, from the Senate, to resume negotiations with the Government of Panama until a treaty is agreed upon that better serves the interests of both our Nations. This would give both our Governments the opportunity to reflect upon the most troublesome aspects of this treaty, and to work out a new arrangement which clearly and unambiguously spells out the rights of both countries.

I have every confidence that, once ne-

gotiations resume, Panama will better understand our concerns, needs, and intentions, and that we will better understand hers. By clearing up uncertainties, and carefully defining commitments, both Nations will benefit.

The Senator from Kansas believes his colleague from Michigan has performed a service in proposing the recommitment of this treaty, and I extend my earnest support for its approval.

If, on final vote, the treaty is approved, the American people have lost. We have lost more than a great waterway—we have lost an effort to prove that American opinion still counts for something in the White House and in the U.S. Senate.

This latest in a series of foreign policy retreats by our Government shows that we just have not listened to the American people. Nor, I suspect, have we listened to our own best judgment. The proposed Panama Canal treaties are defective in many respects, as has been pointed out repeatedly on the Senate floor.

Yet, every effort that I and other Senators have made to improve the treaties has been beaten back by the pro-administration, pro-leadership contingent. I could not justify voting for treaties that so ignored the opinion and the interests of the American people, and I will cast my negative vote accordingly.

Mr. PAUL G. HATFIELD. Mr. President, I will support the final Panama Canal Treaty today, because agreement between our two nations is the best way of assuring the continued accessibility and operation of the waterway.

The United States never intended to establish a colony on the isthmus or to deny the sovereignty of the Panamanian nation. In 1904, President Theodore Roosevelt said,

> We have not the slightest intention of establishing an independent colony in the middle of the state of Panama, or exercising any greater governmental functions than are necessary to enable us conveniently and safely to construct, maintain and operate the canal under the rights given us by the treaty.

The original canal treaty may have been acceptable under the political conditions that prevailed in 1903. There has been recognition for many years of the need to negotiate a new treaty between the United States and Panama for the operation of the canal. Negotiations with Panama have been conducted under four Presidents—Johnson, Nixon, Ford, and Carter. The treaties are the logical culmination of the understanding between the United States and Panama for a new and mutually acceptable agreement for the future neutrality, accessibility, and defense of the canal.

The fundamental responsibility of the Senate during the consideration of the treaties was to protect the vital security interests of the United States by providing for the neutrality, accessibility, and defense of the canal. I believe these responsibilities are fulfilled by these treaties, with the changes adopted by the Senate.

My affirmative vote on the first treaty—the Neutrality Treaty—was absolutely contingent upon the reservation which I cosponsored to provide the United States with the right to act independently, including the use of military force, to assure the continued operation of the canal. Approval of this reservation strengthened the position of the United States and made it possible for me to support the treaty in the firm belief that this was the right decision.

The right of the United States to act independently is preserved in this second, or Panama Canal Treaty being acted upon today. We will be able to assure that the Panama Canal shall remain open, neutral, secure, and accessible, and I believe this is an essential prerequisite to the approval of this final treaty.

Among my most serious concerns about this treaty were its financial implications—its cost to taxpayers.

Accordingly, I have worked on, and supported, measures to tighten the treaty and reduce its cost. These revisions were necessary to assure that the taxpayers of the United States were not obligated to a long term contract to subsidize the operation of the canal, or the Panamanian Government. These reservations for the treaty provide:

That the United States is not obligated for the balance of annual contingency payments in the absence of surplus canal revenues;

That Canal Commission payments to Panama for public services will reflect actual costs as determined by an independent audit;

That authority of the United States to make decisions regarding expenses necessary for canal management, operation and maintenance not be restricted;

That the treaties do not obligate the United States to provide any form of foreign assistance to Panama;

That funds may not be drawn from the Treasury for payment to Panama without congressional authorization;

That the Panama Canal Commission will pay interest to the U.S. Treasury on the funds and assets invested in the canal.

These reservations establish realistic limitations on the cost of operating the canal during the 21-year interim period and provide the protection to American taxpayers that I believed was necessary.

I was also concerned about a provision of the treaty that restricted the United States from constructing another interoceanic canal in the Western Hemisphere. This restriction has been removed from the treaty and the option of building another canal is open to the United States.

I support these treaties with the belief that there is a need to establish a new relationship with Panama—a relationship that recognizes the sovereignty of that nation, but also protects our interests and assures continued use of the canal.

Last month I met with the Secretary of Defense and the Acting Chairman of the Joint Chiefs of Staff who assured me that in the professional military opinions of the Joint Chiefs of Staff, the treaties were in our best national interests.

These treaties, as presented to the Senate, were deficient in many respects. I joined with other Member to sponsor and support amendments to provide the right to defend the canal from any threat of aggression, to assure U.S. ships priority passage during time of emergencies, to make arrangements to station troops in Panama, and, in this treaty, to greatly reduce the cost to the American taxpayers. These and other amendments substantially strengthened the treaties, but they are still not perfect instruments. It would be impossible to negotiate a treaty that would completely satisfy each of the 100 Members of the Senate and every person in the United States and Panama.

In the final analysis, I am convinced that these treaties are the most acceptable method of assuring that the Panama Canal remains open, neutral, secure, and accessible.

Mr. ROBERT C. BYRD. Mr. President, 110 years ago, the U.S. Senate made one of the most significant decisions in its history. By a single vote, the Senate failed to find President Andrew Johnson guilty of the impeachment charges brought against him.

Six Senators voted contrary to the wishes of the controlling faction of their party, and to this day they are honored for their integrity in the face of certain political doom.

Senator Edmund G. Ross of Kansas, the last genuinely uncertain vote as the rollcall began, later confessed that, after Chief Justice Salmon P. Chase called for his decision:

> I almost literally looked down into my open grave, Friendships, positions, fortune—everything that makes life desirable to an ambitious man were about to be swept away by the breath of my mouth, perhaps forever.

And they were largely swept away. By that vote, Edmund Ross ended his own political career. But Edmund Ross of Kansas will live forever in the honored memory of the American people, because he voted for conscience and justice, rather than expediency or political self-preservation.

Contemporary popular opinion in 1868 did not rally to rescue those six Senators; on the contrary, it was enraged at their actions.

One of those Senators was Peter G. Van Winkle of my own State of West Virginia.

Van Winkle had been one of the prime movers in establishing West Virginia as a new State in 1863 and he was one of its leading citizens.

His reelection in the next campaign had been a foregone conclusion.

But when Peter Van Winkle failed to vote to find Andrew Johnson guilty. His political career was destroyed; he retired from public life under a torrent of abuse and vilification.

The West Virginia legislature officially rebuked him and condemned his vote.

A Wheeling newspaper wrote:

> It seems impossible a man with a sense of honor which we have attributed to him could have done what he has done.
>
> Mr. Van Winkle's responsibility in this matter is one we would not care to shoulder.
>
> His single vote decided. In the hands of Mr. Van Winkle's cinstituents (though he may not be aware of their existence) we leave him.

In the many decades since that momentous vote was taken, history has changed the popular judgment of men concerning the trial of Andrew Johnson.

It is not that Andrew Johnson has been determined to be without fault, or that Thaddeous Stevens and Ben Wade are now considered to be without virtue.

The victory in opinion belongs not to party or faction, but to wisdom, foresight, and vision.

Johnson's supporters were striving for reconciliation, compassion, unity, and compromise, in the face of vengence, retribution, and partisanship.

There is a profound poem by James Russell Lowell which states:

> Once to every man and nation
> Comes the moment to decide,
> In the strife of truth and falsehood
> For the good or evil side.

Mr. President, I believe that we are verging on one of those extraordinary moments in our own history.

For more than 200 years, we have been blessed with leaders who have authored chapters of history that speak well of our people. Today, we are challenged to write another.

Ours is a people of magnificent vision. We have seen the purple mountains on the horizon and looked beyond. We have gazed on the stars and then reached out to them. Our real monuments are not of marble and clay, but are of the substance of our ideals and the imagination of our ideas. Our people have not only dreamed our dreams, but with sweat, blood, fortitude, and courage, have translated those dreams into the deeds of freedom, and liberty, and justice.

There is, however, in these tumultuous days of world uncertainty, a sense of national despondency—a feeling that we are, in a manner, retreating on the battlefield of greatness and that we are being swept by an outgoing tide of events, from the principles of our historic shore. This, I believe, is the most basic concern of our people today regarding these treaties. It is a concern expressed by honorable men who oppose the treaties. They picture ratification as the gestating germ of weakness and decay.

With great respect, but in complete candor, this, I believe, is a blindman's theory, for its vision halts at the end of a cane. It is not worthy of our people's imagination.

A vote today to approve the treaty will not be a surrender to this pervasive malady which has haunted our national spirit since Vietnam. We would demonstrate strength, not weakness; confidence, not insecurity, by voting to approve the treaty.

We come now to the final moments. Through 38 days of debate, both sides have presented strong arguments. It has been an historic debate, and its impressions have been carried through the rippling waters of public opinion by the first audio broadcast from the U.S. Senate. In this country, as well as in Panama, this has been a compelling drama for many.

The world this afternoon hears the creak of a chair, the thump on a microphone, the shuffle of a piece of paper in this Chamber. Our voices and actions today echo through the streets of Panama City and other capitals of Central and South America.

Today we judge, and today we shall be judged. We have searched for truth. Both sides lay claim to the answer to the ultimate question: Are these treaties in our best national interests?

For my premise, I merely state this: The death of these treaties may leave an impression of strength, but it will be strength gilded with papier-mache. Their approval will mean strength fortified with vision and justice.

The architecture of my reasoning is simple: We are more than a hundred times this size of the Republic of Panama. We are unsurpassed in our military might.

Moreover, there is a tendency to overlook the fact that the United States will retain control of the canal for the next 22 years, plus the defense rights thereafter as provided in the neutrality treaty. Hence, these two treaties will fully protect U.S. interests for both the near and the distant future. And, we will have accomplished this without trampling on the rights of the Panamanians.

These treaties can be a benchmark of better relations with Central and South America, or their rejection can be the beachhead of confrontation. A prudent nation should choose the former. The unexplored frontiers of economic and political cooperation that will be opened to all of Latin America by the approval of these treaties are as wide as our own vision.

We have entered a new phase in the drama of world affairs. In the coming generations, the leadership of the West and the whole world will be shared with many of the developing nations. Brazil, Venezuela, Mexico, and Argentina, as well as other countries in this hemisphere, have enormous potential as future leaders in shaping world events. Do we dare betray a lack of sensitivity to the tide of history by failing to recognize the importance of these treaties in our future relations with these emerging giants? Do we want to deny to our friends and allies from the Rio Grande to Cape Horn the acknowledgment of their dignity and national pride?

We stand at a crossroads. There is a fundamental question that must be answered.

When the red sunset fades over this moment in time, will we have prevailed as a nation to understand others as our history shows we have so rightly insisted on being understood?

We must not be seen throughout the world confusing compassion with weakness, and greatness with dominance. We must be seen today as a nation as great as its principles and not be seen as a nation afraid of its principles.

To vote "no" on this treaty is to deny to others the freedom of destiny we have so often, so long, and so well cherished, fought, bled, and died for.

To vote "no" on this treaty is to slam the door on our already neglected relationships with our neighbors to the south.

To vote "no" on this treaty is to give a blank check to our world adversaries who would exploit a weakness that we had perceived as a strength.

The plain fact is this: By voting "yes" on this treaty, we are not gambling away our strength; we are making a sound investment in our future.

By voting "yes," we are not losing a canal; we are building trust and confidence within the Western Hemisphere.

By voting "yes," we are not retreating from greatness; we are sending a message to the world that genuine greatness and strength do not reside in force of arms and sheer might alone.

If American history were to run its course tomorrow, no man could diminish the glory and the record that we have established as a nation. But we have even greater roles to play in the world in coming generations. But those roles will not necessarily be played wearing the masks of yesterday. We can rise to unvisited pinnacles if we have the wisdom to vote today for conscience and justice in relation to Panama as did the Rosses and Van Winkles in relation to Andrew Johnson in 1868.

Mr. President, I compliment all Senators on the high caliber of this great debate. I express my great respect to those in the opposition for the strenuous battle they have fought.

Mr. President, I offer the highest compliments to Senators CHURCH and SARBANES who have so magnificantly managed the debate for the proponents of the treaties, and I offer my sincere thanks to all Senators who have supported the treaties and will vote "yes" on the final rollcall.

Finally, Mr. President, I offer my highest respect and gratitude and admiration to those courageous Senators who supported the treaties and who will soon stand for reelection. It has required genuine courage. What better words can be said of any man than these: He did his duty. These men have done their duty to their country. These men, as all Senators—regardless of the division of opinion among us—have done their duty.

Mr. President, I close with appropriate lines from James Russell Lowell's poem—"The Present Crisis":

> New occasions teach new duties; time makes ancient good uncouth;
> They must upward still, and onward, who would keep abreast of truth;
> Lo, before us gleam her camp-fires, we ourselves must pilgrims be,
> Launch our Mayflower, and steer boldly through the desperate winter sea,
> Nor attempt the future's portal with the past's blood-rusted key.

The VICE PRESIDENT. Under the previous order, the hour of 6 p.m. having arrived, the Senate will now proceed to vote, and the question is on agreeing to the resolution of ratification on Executive N. 95th Congress, 1st Session, Calendar No. 2, the Panama Canal treaty. The yeas and nays have not been ordered.

Mr. CHURCH. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 68, nays 32, as follows:

[Rollcall Vote No. 119 Ex.]

YEAS—68

| | | |
|---|---|---|
| Abourezk | Hart | Metzenbaum |
| Anderson | Haskell | Morgan |
| Baker | Hatfield, | Moynihan |
| Bayh | Mark O. | Muskie |
| Bellmon | Hatfield, | Nelson |
| Bentsen | Paul G. | Nunn |
| Biden | Hathaway | Packwood |
| Brooke | Hayakawa | Pearson |
| Bumpers | Heinz | Pell |
| Byrd, Robert C. | Hodges | Percy |
| Cannon | Hollings | Proxmire |
| Case | Huddleston | Ribicoff |
| Chafee | Humphrey | Riegle |
| Chiles | Inouye | Sarbanes |
| Church | Jackson | Sasser |
| Clark | Javits | Sparkman |
| Cranston | Kennedy | Stafford |
| Culver | Leahy | Stevenson |
| Danforth | Long | Stone |
| DeConcini | Magnuson | Talmadge |
| Durkin | Mathias | Weicker |
| Eagleton | Matsunaga | Williams |
| Glenn | McGovern | |
| Gravel | McIntyre | |

NAYS—32

| | | |
|---|---|---|
| Allen | Goldwater | Roth |
| Bartlett | Griffin | Schmitt |
| Burdick | Hansen | Schweiker |
| Byrd, | Hatch | Scott |
| Harry F., Jr. | Helms | Stennis |
| Curtis | Johnston | Stevens |
| Dole | Laxalt | Thurmond |
| Domenici | Lugar | Tower |
| Eastland | McClure | Wallop |
| Ford | Melcher | Young |
| Garn | Randolph | Zorinsky |

The VICE PRESIDENT. Two-thirds of the Senators present and voting having voted in the affirmative, the resolution of ratification, as amended, is agreed to.

The resolution of ratification, as amended, as agreed to is as follows:

*Resolved (two-third of the Senators present concurring therein)*, That the Senate advise and consent to the ratification of the Panama Canal Treaty, together with the Annex and Agreed Minute relating thereto, done at Washington on September 7, 1977 (Executive N, Ninety-Fifth Congress, first session), subject to the following—

(a) RESERVATIONS:

(1) Pursuant to its adherence to the principle of nonintervention, any action taken by the United States of America in the exercise of its rights to assure that the Panama Canal shall remain open, neutral, secure, and accessible, pursuant to the provisions of this Treaty and the Neutrality Treaty and the resolutions of advice and consent thereto, shall be only for the purpose of assuring that the canal shall remain open, neutral, secure, and accessible, and shall not have as its purpose or be interpreted as a right of intervention in the internal affairs of the Republic of Panama or interference with its political independence or sovereign integrity.

(2) Notwithstanding any other provisions of this Treaty, no funds may be drawn from the United States Treasury for payments under Article XIII, paragraph 4, without statutory authorization.

(3) Any accumulated unpaid balance under paragraph 4(c) of Article XIII at the termination of the Treaty shall be payable only to the extent of any operating surplus in the last year of the Treaty's duration, and that nothing in that paragraph may be construed as obligating the United States of America to pay after the date of the termination of the Treaty any such unpaid balance which shall have accrued before such date.

(4) Exchange of the instruments of ratification shall not be effective earlier than March 31, 1979, and the treaties shall not enter into force prior to October 1, 1979, unless legislation necessary to implement the provisions of the Panama Canal Treaty shall have been enacted by the Congress of the United States of America before March 31, 1979.

(5) The instruments of ratification to be exchanged by the United States and the Republic of Panama shall each include provisions whereby each Party agrees to waive its rights and release the other Party from its obligations under paragraph 2 of Article XII.

(6) After the date of entry into force of the Treaty, the Panama Canal Commission shall, unless it is otherwise provided by legislation enacted by the Congress, be obligated to reimburse the Treasury of the United States of America, as nearly as possible, for the interest cost of the funds or other assets directly invested in the Commission by the Government of the United States of America and for the interest cost of the funds or other assets directly invested in the predecessor Panama Canal Company by the Government and not reimbursed before the date of entry into force of the Treaty. Such reimbursement of such interest costs shall be made at a rate determined by the Secretary of the Treasury of the United States of America and at annual intervals to the extent earned, and if not earned, shall be made from subsequent earnings. For purposes of this reservation, the phrase "funds or other assets directly invested" shall have the same meaning as the phrase "net direct investment" has under section 62 of title 2 of the Canal Zone Code.

(b) UNDERSTANDINGS:

(1) Nothing in paragraphs 3, 4, and 5 of Article IV may be construed to limit either the provisions of paragraph 1 of Article IV providing that each party shall act, in accordance with its constitutional processes, to meet danger threatening the security of the Panama Canal, or the provisions of paragraph 2 of Article IV providing that the United States of America shall have primary responsibility to protect and defend the Canal for the duration of this Treaty.

(2) Before the first date of the three-year period beginning on the date of entry into force of this Treaty and before each three-year period following thereafter, the two parties shall agree upon the specific levels and quality of services, as are referred to in Article III, paragraph 5 of the Treaty, to be provided during the following three-year period and, except for the first three-year period, on the reimbursement to be made for the costs of such services, such services to be limited to such as are essential to the effective functioning of such canal operating areas and such housing areas referred to in Article III, paragraph 5 of the Treaty. If payments made under Article III, paragraph 5 of the Treaty for the preceding three-year period, including the initial three-year period, exceed or are less than the actual costs to the Republic of Panama for supplying, during such period, the specific levels and quality of services agreed upon, then the Commission shall deduct from or add to the payment required to be made to the Republic of Panama for each of the following three years one-third of such excess or deficit, as the case may be. There shall be an independent and binding audit, conducted by an auditor mutually selected by both parties, of any costs of services disputed by the two parties pursuant to the reexamination of such costs provided for in this Understanding.

(3) Nothing in paragraph 4(c) of Article XIII shall be construed to limit the authority of the United States of America through the United States Government agency called the Panama Canal Commission to make such financial decisions and incur such expenses as are reasonable and necessary for the management, operation, and maintenance of the Panama Canal. In addition, toll rates established pursuant to paragraph 2 (d) of Article III need not be set at levels designed to produce revenues to cover the payment to Panama described in paragraph 4(c) of Article XIII.

(4) Any agreement concluded pursuant to article IX, paragraph 11 with respect to the transfer of prisoners shall be concluded in accordance with the constitutional processes of both parties.

(5) Nothing in the Treaty, in the Annex or Agreed Minute relating to the Treaty, or in any other agreement relating to the Treaty obligates the United States to provide any economic assistance, military grant assistance, security supporting assistance, foreign military sales credits, or international military education and training to the Republic of Panama.

(6) The President shall include all reservations and understandings incorporated by the Senate in this resolution of ratification in the instrument of ratification exchanged with the Government of the Republic of Panama.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the resolution of ratification was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the resolution of ratification.

The VICE PRESIDENT. Without objection, it is so ordered.

## ROUTINE MORNING BUSINESS

(Routine morning business and additional statements submitted are as follows:)

## MESSAGES FROM THE HOUSE

At 2:44 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3489. An act to amend section 216(b) of the Merchant Marine Act, 1936, to entitle the Delegates in Congress from the District of Columbia, Guam, and the Virgin Islands to make nominations for appointments to the Merchant Marine Academy, and for other purposes;

H.R. 6997. An act to authorize the Secretary of the Interior to convey all right, title, and interest of the United States in and to a tract of land located in the Fairbanks Recording District, State of Alaska, to the Fairbanks North Star Borough, and for other purposes;

H.R. 8397. An act to provide that a certain tract of land in Pinal County, Ariz., held in trust by the United States for the Papago Indian Tribe, be declared a part of the Papago Indian Reservation;

H.R. 10822. An act to improve the operations of the national sea grant program, to authorize appropriations to carry out such program for fiscal years 1979 and 1980, and for other purposes;

H.R. 10823. An act to amend the National Advisory Committee on Oceans and Atmosphere Act of 1977 to authorize appropriations to carry out the provisions of such act for fiscal year 1979, and for other purposes.

The message also announced that the House has passed the bill (S. 1633) to

provide for the extension of certain Federal benefits, services, and assistance to the Pascua Yaqui Indians of Arizona, and for other purposes, with an amendment, in which it requests the concurrence of the Senate.

## HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 3489. An act to amend section 216(b) of the Merchant Marine Act, 1936, to entitle the Delegates in Congress from the District of Columbia, Guam, and the Virgin Islands to make nominations for appointments to the Merchant Marine Academy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 6997. An act to authorize the Secretary of the Interior to convey all right, title, and interest of the United States in and to a tract of land located in the Fairbanks Recording District, State of Alaska, to the Fairbanks North Star Borough, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 8397. An act to provide that a certain tract of land in Pinal County, Arizona, held in trust by the United States for the Papago Indian Tribe, be declared a part of the Papago Indian Reservation; to the Select Committee on Indian Affairs.

H.R. 10823. An act to amend the National Advisory Committee on Oceans and Atmosphere Act of 1977 to authorize appropriations to carry out the provisions of such Act for fiscal year 1979; to the Committee on Commerce, Science, and Transportation.

## REFERRAL OF A BILL—S. 2900

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, as in legislative session, that if and when S. 2900 is reported from the Committee on Environment and Public Works, it then be referred to the Committee on Commerce, Science, and Transportation for not to exceed 45 days.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–3362. A communication from the Assistant Secretary for Food and Consumer Services, Department of Agriculture, transmitting a draft of proposed legislation to amend, revise and consolidate the provisions of the child nutrition programs authorized by the National School Lunch Act, as amended, and the Child Nutrition Act of 1966, as amended, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3363. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the global assessment report for fiscal year 1978; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3364. A communication from the Secretary of Agriculture, reporting, pursuant to law, on the amounts, types, and uses of pesticides, unsupplement to the narrative discussion on herbicide and pesticides Section III, Item F of the FY 1977 report of the Forest Service previously transmitted to the Senate; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3365. A communication from the Assistant Secretary of Defense, transmitting, pursuant to law, the first quarter year 1978 report of receipts and disbursements pertaining to the disposal of surplus military supplies, equipment, and material; and for expenses involving the production of lumber and timber products; to the Committee on Appropriations.

EC–3366. A communication from the Administrator, Rural Electrification Administration, Department of Agriculture, reporting, pursuant to law, approval of an REA insured loan in the amount of $11,200,000 to Southwest Louisiana Electric Membership Corporation, of Lafayette, Louisiana; to the Committee on Appropriations.

EC–3367. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, a construction project to be undertaken by the Army National Guard; to the Committee on Armed Services.

EC–3368. A communication from the Principal Deptuy Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics), reporting, pursuant to law, on the Reenlistment Bonus Test Program for the period 1 January through 31 January 1978; to the Committee on Armed Services.

EC–3369. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, three construction projects to be undertaken by the Army National Guard; to the Committee on Armed Services.

EC–3370. A communication from the Assistant Secertary of Defense, transmitting, pursuant to law, contract award information amending data contained in the report covering the period March 15, 1978 to June 15, 1978; to the Committee on Armed Services.

EC–3371. A communication from the Acting Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Navy's proposed Letter of Offer to Iran for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–3372. A communication from the Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend section 2107(a) of title 10, United States Code, to extend the age limitation on eligibility of students for the Reserve Officers' Training Corps financial assistance program to recognize active duty previously performed; to the Committee on Armed Services.

EC–3373. A communication from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to encourage broader utilization of the condominium form of homeownership, to provide minimum national standards for disclosure and consumer protection for condominimum purchasers and owners and tenants in condominium conversions, to encourage States to establish similar standards, to correct abusive use of long-range leasing of recreation and other condominium-related facilities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EC–3374. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Eighth Annual Report of Operations under the Airport and Airway Development Act of 1970; to the Committee on Commerce, Science, and Transportation.

EC–3375. A communication from the Deputy Fiscal Assistant Secretary, Fiscal Service, Department of the Treasury, transmitting, pursuant to law, the seventh annual report on the financial condition and results of the operations of the Airport and Airway Trust Fund; to the Committee on Commerce, Science, and Transportataion.

EC–3376. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report on changes in the refiner distribution and market shares of the statutory categories of refined petroleum products; to the Committee on Energy and Natural Resources.

EC–3377. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a report of Building Project Survey for Boston, Massachusetts; to the Committee on Environment and Public Works.

EC–3378. A communication from the Deputy Fiscal Assistant Secretary, Fiscal Service, Department of the Treasury, transmitting, pursuant to law, the twenty-second annual report on the financial condition and results of the operations of the Highway Trust Fund; to the Committee on Environment and Public Works.

EC–3379. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a report entitled "The Operation and Effect of the Domestic International Sales Corporation Legislation"; to the Committee on Finance.

EC–3380. A communication from the Acting General Counsel of the Treasury, reporting, pursuant to law, on actions under the Countervailing Duty Law (19 U.S.C. 1303) with respect to imports of non-rubber footwear from Uruguay; and relating to a preliminary and final determination relating to a formally initiated countervailing duty investigation under the provisions set forth in the Trade Act following the receipt of a petition from the International Leather Goods, Plastics and Novelty Workers' Union; to the Committee on Finance.

EC–3381. A communication from the General Counsel of the Treasury, reporting, pursuant to law, on actions under the Countervailing Duty Law (19 U.S.C. 1303) with respect to imports of leather handbags from Uruguay; and relating to a preliminary determination relating to a formally initiated countervailing duty investigation under the provisions set forth in the Trade Act following the receipt of a petition from the International Leather Goods, Plastics and Novelty Workers' Union; to the Committee on Finance.

EC–3382. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within sixty days after the execution thereof; to the Committee on Foreign Relations.

EC–3383. A communication from the Chairman, Development Coordination Committee, transmitting its annual report for 1977; to the Committee on Foreign Relations.

EC–3384. A communication from the Chairman, Development Coordination Committee, relating to revisions of its 1977 annual report; to the Committee on Foreign Relations.

EC–3385. A communication from the Chairman, Federal Maritime Commission, transmitting, pursuant to law, a report of its activities under the Government in the Sunshine Act during calendar year 1977; to the Committee on Governmental Affairs.

EC–3386. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Landsat Policy Issues Still Unresolved," April 17, 1978; to the Committee on Governmental Affairs.

EC–3387. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on March 7, 1978, which would amend the laws of the District of Columbia affecting children born out of wedlock in order to clarify that a child

born out of wedlock claiming to a deceased parents' estate simply needs to establish a parent/child relationship (Act 2-172); to the Committee on Governmental Affairs.

EC-3388. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on March 7, 1978, which would endorse ratification of the Equal Rights Amendment (ERA) so that no person shall be denied equality of rights under the law on account of sex (Act 2-173); to the Committee on Governmental Affairs.

EC-3389. A communication from the Governor, Farm Credit Administration, reporting, pursuant to law, on its compliance with the Government in the Sunshine Act; to the Committee on Governmental Affairs.

EC-3390. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report of the Department's intention to establish a new system of personal records; to the Committee on Governmental Affairs.

EC-3391. A communication from the Director, Agency for Volunteer Service, ACTION, transmitting a supplementary proposal for legislation to amend the Domestic Volunteer Service Act of 1973; to the Committee on Human Resources.

EC-3392. A communication from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to establish a program for developing networks of community-based services to prevent initial and repeat pregnancies among adolescents, to provide care to pregnant adolescents, and to help adolescents become productive independent contributors to family and community life; to the Committee on Human Resources.

EC-3393. A communication from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, final regulation for Part 116b—State Operated Programs for Handicapped Children; to the Committee on Human Resources.

EC-3394. A communication from the Director, Water Resources Council, transmitting, pursuant to law, its annual report pursuant to the Freedom of Information Act for 1977; to the Committee on the Judiciary.

EC-3395. A communication from the Chairman, Marine Mammal Commission, transmitting, pursuant to law, its report concerning activities under the Freedom of Information Act for calendar year 1977; to the Committee on the Judiciary.

EC-3396. A communication from the General Counsel, Council on Wage and Price Stability, transmitting, pursuant to law, its report concerning activities under the Freedom of Information Act throughout 1977; to the Committee on the Judiciary.

EC-3397. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders in cases of aliens who have been found admissible to the United States under the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-3398. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports covering the period March 16 through March 31, 1978, concerning visa petitions which the Service has approved according the beneficiaries of such petitions third- and sixth-preference classification under the Immigration and Nationality Act; to the Committee on the Judiciary.

## PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions, which were referred as indicated:

POM-592. A joint resolution adopted by the Legislature of the State of Connecticut; to the Committee on Foreign Relations:

"HOUSE JOINT RESOLUTION No. 34

"Whereas, there have been many contributions made by men and women of Irish ancestry to the State of Connecticut, to the building of our Nation, and to the Cause of Freedom everywhere since the earliest times; and

"Whereas, the fact that Ireland is artificially partitioned against the wishes of the overwhelming majority of the Irish people; and

"Whereas, the Irish people in the six-county area of Ireland known as 'Northern Ireland' are denied basic civil and human rights, and are unable to obtain either adequate protection or equal justice under law; and

"Whereas, the explosive situation in 'Northern Ireland' presents an imminent and realistic threat to the peace and is therefore the legitimate concern of all men; and

"Whereas, it is in the best interests of the United States that there be a just and equitable solution to this problem in order that peace, order, justice and well-being be restored to that part of the world; and

"Whereas, for humanitarian reasons, as well as out of respect for the principles of freedom, liberty, natural law, justice and history, we hereby take notice of the dangerous and deplorable state of affairs in Ireland.

"Now, therefore, be it resolved, that this assembly respectfully urges the Congress of the United States to manifest our country's traditional position as guardian of freedom and republican-democracy, the dignity of all mankind, freedom of conscience, and mankind's universal natural rights, by taking such affirmative action as will tend to persuade all concerned parties, and the world commonwealth of nations, to seek a speedy, just and equitable solution to the dangerous situation in the 'North' of Ireland, and to formally express the moral opinion that: 'The Irish people ought to be permitted to exercise the Right of National Self-Determination, thus returning the disputed six counties of Northeast Ireland to the Irish Republic, unless a clear majority of all the people of Ireland, in a free and open plebiscite, determine to the contrary.'

"Be it further resolved, that the clerks of the house and the senate cause copies of this resolution to be sent to the Honorable Jimmy Carter, President of the United States; to the President of the Senate of the United States; to the Speaker of the House of Representatives of the United States; and to each member of the Congress of the United States from the State of Connecticut."

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POM-593. A resolution adopted by the Board of Trustees of Michigan State University, relating to the Equal Rights Amendment; to the Committee on the Judiciary.

POM-594. A joint resolution adopted by the Legislature of Micronesia; to the Committee on Environment and Public Works:

"SENATE JOINT RESOLUTION No. 7-56

"Whereas, our current Five Year Capital Improvement Program budget does not include money for construction and improvement of all major roads throughout the Trust Territory of the Pacific Islands; and

"Whereas, Guam, our neighbor, has been receiving financial assistance under United States Federal programs for construction and improvement of roads; and

"Whereas, the Trust Territory of the Pacific Islands has almost no financial capability to fund major road construction and improvement projects; and

"Whereas, construction and improvement of major roads in the Trust Territory of the Pacific Islands is a sound and lasting investment; and

"Whereas, such investment can have a significant impact on economic and social development in the Trust Territory of the Pacific Islands; and

"Whereas, mere maintenance of our dilapidated roads should prove to be more expensive, unproductive, and wasteful in the long run, now, therefore,

"Be it resolved by the Senate of the Seventh Congress of Micronesia, Second Regular Session, 1978, the House of Representatives concurring, that the Congress and the President of the United States are hereby requested to amend the appropriate United States laws so as to make the Trust Territory of the Pacific Islands eligible for federal financial assistance for major road construction and improvement; and

"Be it further resolved that certified copies of this Senate Joint Resolution be transmitted to the Congress and the President of the United States, the Secretary of the Deparment of the Interior, the Director of the Office of Territorial Affairs and the High Commissioner of the Trust Territory of the Pacific Islands."

## PETITIONS PRESENTED

Mr. PELL presented the following petitions, which were referred as indicated:

POM-595. A resolution adopted by the Legislature of the State of Rhode Island; to the Committee on Environment and Public Works:

"RESOLUTION

"Whereas, Under 23 U.S.C. 103(e)(2) five hundred additional miles were approved by the Congress under the so-called Howard-Cramer Amendment, allocating mileage to certain states under certain conditions; and

"Whereas, The Federal Highway Administration has allocated, under this Howard-Cramer provision, 27.40 miles to Rhode Island, 7.0 miles to California, 7.73 miles to Connecticut, 43.80 miles to Florida, 47.80 miles to Georgia, 145.90 miles to Louisiana, 44.50 miles to Maryland, 20.25 miles to Massachusetts, 27.30 miles to New Jersey, and 64.90 miles to New York, thereby making a total of 436.58 miles of the five hundred allocation; and

"Whereas, The federal interstate funds that have been made available to Howard-Cramer mileage states cited are fixed by the cost on the date of withdrawal of an interstate segment, and are not increased by the federal government to compensate for the effects of inflation nor construction cost differences experienced as a result of transfer from one project to another; and

"Whereas, As a result of said fixed costs on date of withdrawal, some Howard-Cramer mileage transfer projects in these states are funded at fifty percent or less on this portion of the interstate system; now, therefore be it

"Resolved, That the senate of the state of Rhode Island and Providence Plantations hereby memorializes the congress of the United States to enact legislation, at the earliest possible date, to apply the federal share funding provisions of Title 23 of the United States code to fund at ninety percent all of the interstate mileage designated by the Federal Highway Administration as Howard-Cramer under the provisions of 23 U.S.C. 103(e)(2); and be it further

"Resolved, That the secretary of state be and he hereby is authorized and directed to transmit a duly certified copy of this resolution to each member of the Rhode Island delegation in the congress of the United States."

POM-596. A resolution adopted by the Legislature of the State of Rhode Island; to the Committee on Foreign Relations:

"RESOLUTION

"Whereas, The Republic of China and its people have constituted one of the most trusted friends and allies of the Government and people of the United States since the Republic of China was founded in 1912; and

"Whereas, The existence and continued freedom and prosperity of the free Republic of China are rights to which the independent and brave people of that republic are entitled; and

"Whereas, The Republic of China stands as a substantial factor in the free world's constant effort to maintain world peace through moral suasion and appropriate readiness; now, therefore, be it

"Resolved, That the Senate of the State of Rhode Island and Providence Plantations hereby commends the United States Government for maintaining its continuous and historic policy of support for the freedom and security of the Republic of China and its courageous, industrious people; and be it further

"Resolved, That the Senate of the State of Rhode Island and Providence Plantations conveys to President Jimmy Carter and the Congress of the United States the commendation of Rhode Island to our national government for the support accorded the Republic of China; and be it further

"Resolved, That the secretary of state be and he is hereby respectfully requested to transmit duly certified copies of this resolution to the members of Congress from Rhode Island."

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POM-597. A resolution adopted by the Legislature of the State of Rhode Island; to the Committee on the Judiciary:

"RESOLUTION

"Whereas, The identity in name and nature, the roots in home and family, and the important contributions of grandparents should be recognized in this country as part of a very vital role in the shaping of close-knit family units; now, therefore, be it

"Resolved, That the members of the congress of the United States be and they hereby are respectfully requested to designate as an annual observance the first Sunday after Labor Day as National Grandparents' Day; and be it further

"Resolved, That the Secretary of State be and he hereby is authorized and directed to transmit duly certified copies of this resolution to the Rhode Island delegation in Congress."

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## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, with an amendment and an amendment to the title:

H.R. 6669. An act to establish a national climate program, and for other purposes (Rept. No. 95-740).

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## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation:

Leslie Lazar Kanuk, of New Jersey, to be a Federal Maritime Commissioner.

(The above nomination from the Committee on Commerce, Science, and Transportation was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

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## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. LUGAR (for himself, Mr. BROOKE, Mr. GRIFFIN, Mr. HEINZ, and Mr. GARN):

S. 2931. A bill to increase the authorization for the urban homesteading program under section 810 of the Housing and Community Development Act of 1974, to improve coordination between the urban homesteading program and the rehabilitation loan program, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LAXALT:

S. 2932. A bill to amend Title XVIII of the Social Security Act to permit the recognition and use of relative value studies; to the Committee on Finance.

S. 2933. A bill to amend the Sherman Act to provide for the publication and use of relative value studies; to the Committee on the Judiciary.

By Mr. CANNON (for himself, Mr. MAGNUSON, and Mr. PEARSON) (by request):

S. 2934. A bill to amend the Fishery Conservation and Management Act of 1976 to include the Northern Mariana Islands; to the Committee on Commerce, Science, and Transportation.

By Mr. HATHAWAY:

S. 2935. A bill to amend the Older Americans Act of 1965 to provide for new or improved programs to assist older persons residing in rural areas, and for other purposes; to the Committee on Human Resources.

S. 2936. A bill to amend the Internal Revenue Code of 1954 to provide certain corporate income tax reductions and to increase the amount of the surtax exemption; to the Committee on Finance.

By Mr. BAYH (for himself, Mr. DECONCINI, Mr. KENNEDY, Mr. ABOUREZK, Mr. PAUL G. HATFIELD, and Mr. MATHIAS):

S. 2937. A bill to amend the Speedy Trial Act of 1974 to provide further authorization for appropriations for pretrial services agencies; to the Committee on the Judiciary.

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## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR (for himself, Mr. BROOKE, Mr. GRIFFIN, Mr. HEINZ, and Mr. GARN):

S. 2931. A bill to increase the authorization for the urban homesteading program under section 810 of the Housing and Community Development Act of 1974, to improve coordination between the urban homesteading program and the rehabilitation loan program, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

(The remarks of Mr. LUGAR when he introduced the bill appear elsewhere in today's proceedings.)

By Mr. LAXALT:

S. 2932. A bill to amend title XVIII of the Social Security Act to permit the recognition and use of relative value studies; to the Committee on Finance.

S. 2933. A bill to amend the Sherman Act to provide for the publication and use of relative value studies; to the Committee on the Judiciary.

USE OF VALUE STUDIES

● Mr. LAXALT. Mr. President, I am today introducing a set of bills which, by separate approaches, would specifically sanction the development and use of so-called relative value studies. I am doing so in my capacity as a member of the Health Subcommittee of Senate Finance and the Antitrust and Monopoly Subcommittee of Senate Judiciary—the two panels to which the measures will be referred.

The first proposal would amend the Social Security Act to permit relative value studies published by medical organizations to be recognized for purposes of medicare reimbursement. The second would provide a more general authorization for the use of such listings by clarifying that they are not the type of activity contemplated for prohibition under the Sherman Act.

As Senators familiar with health care reimbursement mechanisms are aware, the whole objective of the RVS is to identify the relationship that one procedure has to another in terms of difficulty and requirements of time and professional expertise. They have been utilized for a number of years within all areas of the medical community as an effective means of moderating costs by militating against unusual disparities in charges made by providers. They do this by offering a meaningful measurement of skill and a common terminology upon which medical services to patients can be evaluated.

The application of RVS's by peer review organizations has been demonstrated quite convincingly, I believe, to allow more accurate assessments of utilization and costs. Moreover, physicians using the RVS have been able to appropriately weigh their own services in relation to general guidelines—and carriers have found that they improve their projection of cost estimates for proposed benefits.

The development of relative value studies was undertaken by practicing physicians in California more than two decades ago. Following publication of their findings from lengthy analysis of statistics and records, many medical organizations, other physicians, insurance companies and government agencies saw the usefulness and practicality of such a concept and began increasingly to establish and implement their own RVS's for claims processing purposes.

In recent years, however, a legal shadow has been cast over the publication and voluntary use of RVS's by physicians and medical associations. That is, the Justice Department and particularly the Federal Trade Commission have taken it upon themselves to attack such studies as anticompetitive and in violation of antitrust laws. This is in spite of the fact that an HEW-funded study released just last month concluded from data involving my own State of Nevada

and 23 others that RVS use does not demonstrate any pattern of price-fixing.

In any event, given the FTC direction, it seems to me extremely ironic that insurance companies and Government agencies would continue to use relative value studies in their own determinations of payment levels while those most instrumental in their initial development, that is, the physicians, are suddenly being coerced into withdrawing from the practice. Nevertheless, that is what is happening, and apparently only congressional action such as I am proposing can inject any element of fairness and reason into the anti-RVS "crusade."

I want to stress the point, Mr. President, that the FTC has vowed to wipe out voluntary RVS's within the medical profession and is succeeding in doing so not because of merit or legal persuasion, but because of their disproportionate ability to win by attrition. It does not take much insight into the unbridled powers of our regulatory agencies to know that consent decrees can eventually be elicited from most anyone because, right or wrong, groups must capitulate and sign simply because they do not have the means to withstand the overwhelming resources of the Federal Government.

I think it is important to note that my distinguished colleague and chairman of our Finance Health Subcommittee, Senator TALMADGE, has also recognized that the case against the RVS is without total justification and has himself included in S. 1470—the Medicare-Medicaid Administrative and Reimbursement Reform Act—language that would permit their legitimate use. However, in an understandable effort to at least partially accommodate the FTC and avoid an all-out confrontation, his provision has been so tightly drawn as to, I believe, fall somewhat short of the desired goal of reasonable, uniformly-available guidelines.

For one thing, the existing proposal would ultimately place the establishment of an RVS completely in the hands of the HEW Secretary. Further, it would not sufficiently take into account the prior efforts and input of the medical profession in this area over the past 20 years. Obviously, we need to balance out these two concerns if we are to reach a mutually acceptable solution.

While it is my hope that the alternatives I am presenting today can contribute to the discussion and perhaps improve upon the measures already under consideration, I applaud Senator TALMADGE's leadership and foresight in identifying the question as not whether we should have RVS's, but, rather, whether they are valid. I certainly agree that by clearing the air and assuring the reinstitution of properly constructed relative value studies, we can further encourage the good faith self-restraint which we would all welcome from the health delivery system.

Mr. President, I ask unanimous consent that both these bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2932

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. Title XVIII of the Social Security Act is amended by inserting at the end thereof the following new section:

"SEC. 1881. (a) Notwithstanding any other provision of law, the Secretary may, for the purpose of determining reasonable charges for physicians' services under this title, recognize and use relative value studies developed by national or state private nonprofit medical organizations.

"(b) The development or publication of any relative value study for purposes of this section by any national or state private nonprofit medical organizations, or their agents, shall not be deemed a violation of any Federal law.

"(c) The use of any relative value study by any individual, corporation, partnership or other entity on a voluntary, individual basis shall not be deemed a violation of any Federal law."

(d) This amendment shall take effect upon the date of its enactment.

S. 2933

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. Section 1 of the Sherman Act, 26 Stat. 209, 15 U.S.C. 1, is amended by:

(1) deleting the period at the end of the second sentence;

(2) by inserting at the end of the second sentence the following:

": *Provided,* That no provision of Federal law shall render illegal (whether performed individually or collectively) (1) the transmission, collection, compilation, analysis or evaluation of statistics, records, documents or other data, for the purpose of determining and developing a coded listing of physicians' services with unit values that indicate the relativity among such services of (a) median charge (b) time spent per patient and/or (c) degrees of professional skill involved (hereinafter known as a 'relative value study'); or (2) the development, dissemination or publication of such relative value studies, by any private, non-profit national, state or local medical association, medical specialty society, or other medical organizations, or by any agent thereof: *Provided further,* That the use of such relative value studies by any person, corporation, partnership or other entity as a criterion to aid in the determination of usual, customary or reasonable charges for professional health care services shall not be deemed a violation of any Federal law."

SEC. 2. This amendment shall take effect upon the date of enactment.●

By Mr. CANNON (for himself, Mr. MAGNUSON, and Mr. PEARSON) (by request):

S. 2934. A bill to amend the Fishery Conservation and Management Act of 1976 to include the Northern Mariana Islands; to the Committee on Commerce, Science, and Transportation.

● Mr. CANNON. Mr. President, I introduce today, at the request of the Department of Commerce, and on behalf of myself and my colleagues, Mr. MAGNUSON and Mr. PEARSON, a bill to amend the Fishery Conservation and Management Act of 1976 to include the Northern Mariana Islands.

I ask unanimous consent that the bill and the letter of transmittal be printed in the RECORD.

There being no objection, the bill and the letter were ordered to be printed in the RECORD, as follows:

S. 2934

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801–1882) is amended as follows:

(1) In the definition of the term "State" in subsection 3(21) (16 U.S.C. 1802), insert the words "the Northern Mariana Islands," immediately after the word "Guam,".

(2) In the description of the Western Pacific Council in paragraph 302(a)(8) (16 U.S.C. 1852), delete the word "and" before the word "Guam" and insert after the word "Guam" the words ", and the Northern Mariana Islands". Also in the same paragraph delete the number "11" before the words "voting members" and insert in lieu thereof the number "13"; delete the number "7" before the words "appointed by the Secretary" and insert in lieu thereof the number "8".

THE SECRETARY OF COMMERCE
*Washington, D.C., April 13, 1978.*

Hon. WALTER F. MONDALE,
*President of the Senate,*
*Washington, D.C.*

DEAR MR. PRESIDENT: Enclosed are six copies of a draft bill "To amend the Fishery Conservation and Management Act of 1976 to include the Nothern Mariana Islands," together with a statement of purpose and need in support thereof.

The Department has determined that this proposed legislation does not constitute a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949, and OMB Circular A–107.

We have been advised by the Office of Management and Budget that there would be no objection from the standpoint of the Administration's program to the submission of this legislation to the Congress.

Sincerely,

JUANITA M. KREPS.

Enclosures.

STATEMENT OF PURPOSE AND NEED

Amend the Fishery Conservation and Management Act of 1976 to include the Northern Mariana Islands.

Public Law 94–241 (90 Stat. 263) approved the Convenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America. The Constitution of the Northern Marianas will go ino effect on January 9, 1978, the first step toward commonwealth status.

Such action has the effect of establishing a Fishery Conservation Zone off the Northern Marianas but does not have the effect of including the Northern Marianas within the jurisdiction of any Fishery Management Council. Therefore, it is necessary to make appropriate amendments to the Fishery Conservation and Management Act of 1976 (FCMA) (16 U.S.C. 1801–1882).

Accordingly, this legislation amends the FCMA to include the Northern Marianas (1) in the definition of the term "State" and (2) within the jurisdiction of the Western Pacific Fishery Management Council. In addition, this legislation alters both the total number of members of the Western Pacific Coucil and the number of members appointed by the Secretary to make the size and composition of this Council consistent with other Councils composed of four States.●

By Mr. HATHAWAY:

S. 2935. A bill to amend the Older Americans Act of 1965 to provide for new

or improved programs to assist older persons residing in rural areas, and for other purposes; to the Committee on Human Resources.

RURAL ELDERS ASSISTANCE ACT OF 1978

● Mr. HATHAWAY. Mr. President, today it is my great pleasure to introduce the Rural Elders Assistance Act of 1978. This bill will amend the Older Americans Act of 1965 to focus greater attention on the special needs of persons residing in rural areas.

That greater attention must be focused on the rural elderly cannot be denied. Four out of every 10 older persons reside in nonmetropolitan areas. Yet our current programs in effect fail to accommodate the needs of this significant segment of the population.

Older persons living in rural areas are more likely to live in poverty than their urban counterparts, to have substandard housing, poor health, and limited mobility. Lack of transportation often prevents these individuals from getting from their homes to health facilities, senior centers, meal sites, and even potential places of employment.

The Rural Elders Assistance Act attempts to correct the existing deficiencies. This bill would bring health, nutrition, social and economic programs and services to rural Americans by providing for improved outreach activities and transportation systems. For example, it requires area agencies on aging to provide information and referral sources for rural areas as well as metropolitan areas, and enables area agencies to use mobile units to conduct this activity.

Mobile units are also authorized for multipurpose senior centers. The use of such units should result in increased availability and accessibility to the services and programs offered by centers. This provision should be of particular benefit to individuals in isolated areas or small communities which have no stationary multipurpose senior center.

Under present law, grants are authorized to assist in meeting the costs of acquiring, altering, or renovating existing facilities. However, assistance is not available for construction of new facilities. This provision has worked to the detriment of many small towns which lack facilities suitable for conversion. Consequently, I am proposing to amend the law to allow for construction of centers where there are no existing facilities appropriate for acquisition, alteration, or renovation.

The Rural Elders Assistance Act also authorizes model projects which meet the special needs of rural elders, including outreach and public information programs, special transportation and escort services, health screening and outpatient services, and homemaker and home health services.

In addition, it provides for model programs to coordinate all existing programs for which elders may be eligible, and specifically authorizes regionalized approaches and the establishment of a system with a central location for information, needs assessment, program eligibility determination, and referral to appropriate services. Such a mechanism would simplify the process of securing information and assistance by providing older persons with one focal point for help for all types of programs. To insure that this concept of a central location meets the needs of the rural elderly, the legislation specifically provides that the mechanism may be a mobile unit.

Further, projects to develop models for independent living to assist older persons to remain within their communities and out of institutions are authorized. It is anticipated that such projects will explore the mix of shelter and supportive services appropriate for a given elderly population.

Other provisions amend the nutrition program to expand the home-delivered meals effort to include more individuals who cannot reach a congregate meal site, and authorize a study of the special circumstances and needs of older persons residing in rural areas.

Finally, the bill I am introducing today revises the senior community service employment program so that more individuals will be able to participate. To accomplish this goal, the bill bars discrimination against individuals who do not own a car or other form of private transportation. Second, it amends the definition of "eligible individuals" by increasing the amount of income which an individual may receive and still qualify for the program. Under current regulations, the program has been limited to individuals who meet the poverty guidelines of the Office of Management and Budget. This has been found to be too restrictive, as noted in a newspaper article "Guidelines Hamper Jobs-for-Elderly Effort" which appeared in the Bangor Daily News on December 21, 1977. Mr. President, I ask unanimous consent that this article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

GUIDELINES HAMPER JOBS-FOR-ELDERLY EFFORT

(By Nancy Remsen)

Most people agree that it would be nice to offer older persons the chance to work and earn some extra money.

And many older people are interested in finding some part-time employment.

But a federal program which aims to match willing persons over age 55 with part-time jobs in social service agencies has run into some difficulty because of the low-income requirement and the necessity of owning a car for many of the jobs available.

The state Office of CETA Planning and Coordination recently received a $170,000 federal grant to be used in hiring 50 older persons in programs throughout the state.

Frederick C. Lawler, director of the program called the Senior Community Service Employment Program, said there is much enthusiasm concerning the program, but the agencies that are hiring the older workers are finding they must turn away some willing applicants because their income is too high.

And the University of Maine Cooperative Extension Program, which has been involved in the same federal program for seven years also has found it isn't easy to find single persons with incomes less than $3,000 or persons with another family member with incomes below $4,080 who have cars so that they can be outreach workers or nutrition aides.

Ellis Waller of the Cooperative Extension Service, said older persons are reluctant to admit they are poor though they want to work to earn extra money.

Maine received $608,500 for 168 slots for elderly workers for the Cooperative Extension Service to dole out.

A program recently set up by the Roman Catholic diocese's Human Relations Services, Inc. to help elderly persons cope with winter is one of the major recipients of slots in the senior community service employment programs of both the Extension Service and the State CETA office.

Damian Gagnon, who is coordinating the field work of the diocesan program, said he has just started advertising for what he calls energy aides or people who will visit homes of elderly persons and provide them with warm clothing or help them make their home warmer this winter. He has 25 slots that will be paid with funds from the Cooperative Extension program and 13 from the state CETA office.

"I'll be surprised if we can fill a dozen of the positions," he said. "We need people with a car. They have to be able to get around. But to meet those guidelines and have a car is almost impossible.

The Eastern Task Force on Aging has recently been given eight slots for handymen by the state CETA office, but Irving Hunter of that agency said, "Things are stymied."

The agency saw a great need, based on calls, letters and word from outreach workers, to offer some minor maintenance assistance to older persons and hoped to hire older persons to do the work, two in each of the four counties in which the task force operates, Hunter said.

But as with other of the jobs developed for this employment program, a car is necessary to do the job, Hunter said.

"I was so enthusiastic about this program because of the need," he said. Now, he said, he is "bitterly disappointed and frustrated" because the agency hasn't been able to find eligible older persons.

"But we're going to keep at it," he said.

Keeping at it seems to be the answer, because the Mid-Coast Human Relations Council had 18 slots to fill and has found older persons for everyone, according to Joe Jaret.

"We have aggressively sought people," he said. The agency wrote letters to town managers, ran public service announcements on the radio and advertised in newspapers, he said.

Jaret said his agency wasn't flooded with applicants, "but we had a pretty fair response."

Mr. HATHAWAY. In addition to remedying the transportation problem, the bill I am proposing would allow individuals earning an income of up to 125 percent of the poverty guidelines to participate in the program.

Mr. President, I am introducing the Rural Elders Assistance Act in response to the concerns articulated by elders in the field. These concerns are valid, and it is with pleasure that I offer this bill.

There are other related issues of concern to me, and I intend to address these concerns when the Committee on Human Resources considers reauthorization of the Older Americans Act of 1965. In particular, I plan to offer an amendment to address the need for long term community-based care. In addition, I intend to put forth a provision to make the nursing home ombudsman program per-

manent instead of maintaining it as a model project as in existing law. Further, I would hope to expand this program to extend assistance to older Americans who do not reside in nursing homes.

Mr. President, the value of the ombudsman program should not be underestimated. In the State of Maine, for example, the Maine Committee on Aging has been able to develop a statewide program to investigate nursing home residents' complaints and to work with communities, the state legislature, and appropriate agencies to develop substantive nursing home reform. Last year, with a grant of only $18,000, the committee investigated approximately 300 complaints on behalf of residents, proposed several pieces of legislation which were enacted, and worked with the State Department of Human Resources in amending departmental rules and regulations governing nursing homes. In order to insure continuation of this important effort, an amendment to the Older Americans Act is warranted. It will be my pleasure to offer such a provision before the Human Resources Committee.

Mr. President, I would like to make one final point. I have chosen to use the term "Elders" in the title of the bill, because that is the term which our elders prefer. This preference is explained in an article entitled "Year-Old Panthers Hit Stride," which appeared on March 25, 1978, in the Portland Evening Press. I ask unanimous consent that excerpts from that article be printed in the RECORD at this point.

There being no obection, the excerpts were ordered to be printed in the RECORD, as follows:

YEAR-OLD PANTHERS HIT STRIDE

(By Donna Halvorsen)

Elba Chibucos went downstairs at the Ambassador Apartments where she lives and asked the desk clerk to "come up and see our panther."

"A live panther?" the clerk wanted to know.

But the panther was only a cake cut in the shape of a panther and decorated with gray frosting.

Later Thursday Mrs. Chibucos, 74, would carry it to Salvation Army headquarters on Cumberland Avenue and a small group of people would sing, "Happy birthday to us, happy birthday dear Panthers, happy birthday to us."

The little noontime party was in celebration of the first birthday of Portland's Gray Panthers, one of hundreds of similarly-named groups across the country.

As with any new movement, a new look at themselves has prompted the elderly to question the way others have traditionally looked at—and labeled—them.

The little noontime party was in celebration of the first birthday of Portland's Gray Panthers, one of hundreds of similarly-named groups across the country.

As with any new movement, a new look at themselves has prompted the elderly to question the way others have traditionally looked at—and labeled—them.

So senior citizens, says Margaret McConvey, has become elders.

"Why senior citizens? Why not just citizens?" she asked. "Why older Americans? Why not just Americans?

"Elders is what we accept because we consider ourselves the elders of the tribe, the tribe meaning the human race, the human family," said the former Chicagoan, who gave her age as "67 backwards."

Mr. HATHAWAY. I note with pleasure that Portland's Gray Panthers are celebrating their first birthday. I would like to take this opportunity to wish them a very happy birthday and commend them for their accomplishments to date.

Mr. President, I ask unanimous consent that the text of the Rural Elders Assistance Act of 1978 be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2935

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Rural Elders Assistance Act of 1978".

SEC. 2. (a) Sec. 304(c)(3) is amended by (1) by inserting "including those residing in isolated or sparsely populated rural communities" after "plan"; (2) by inserting "including a mobile unit" after "location"; and (3) by inserting "and comprehensive" after "current".

(b) Section 505(a)(7) is amended by inserting "including those residing in isolated or sparsely populated rural communities" after "State".

SEC. 3. Sec. 308(a) is amended by adding at the end thereof the following new paragraphs:

"(8) meet the special needs of older persons in rural areas, including outreach and public information programs, medical, social and economic needs assessment, determination of program eligibility, and referral to appropriate services, special transportation and escort services, health screening and outpatient services, homemaker and home health services, nutritional services, reading and letter writing services, and other services designed to assist such individuals in utilizing fully the programs which are available;

"(9) develop models for independent living for older persons to assist such persons to remain within their communities and out of institutions. Projects under this paragraph may explore what specific services and facilities or mixture of services and facilities, including, but not limited to shelter, nutrition, homemaker and home health services, are appropriate for a community's older persons; and

"(10) coordinate all existing facilities, programs, services for which older persons are eligible, including those available to the general population, to ensure the accessibility and availability of comprehensive services, to minimize fragmentation of services and avoid duplication of effort, and to maximize the ease with which services and program benefits are obtained. Projects under this paragraph may include, but are not limited to, regionalized approaches to service delivery and the establishment of linkages among existing health, social, economic, nutritional, educational, transportation, and other services with a central location, which may be a mobile unit, for information, needs assessment, program eligibility determination, and referral to appropriate services."

SEC. 4. Sec. 411 is amended by redesignating subsections (4) through (6) as sections (5) through (7) and inserting after subsection (3) the following new subsection:

"(4) studying the special circumstances and needs of older persons residing in rural communities, and developing or demonstrating new approaches to meet these needs."

SEC. 5. (a) Sec. 501(a) is amended by inserting "(1)" after "cost of"; and by inserting "and (2) where no existing facilities are suitable for acquisition, alteration or renovation, the cost of constructing new facilities."

(b) SEC. 501(c) is amended by inserting ", including a mobile unit" after "facility."

SEC. 6. (a) Sec. 705(a)(4) is amended by inserting "rural," after "Indian,".

(b) SEC. 706(a)(3) is amended by inserting "or to whom such site is not otherwise accessible" before the semicolon at the end thereof.

SEC. 7. (a) Sec. 902 (b)(1)(H) is amended by inserting "outreach activities and" after "including".

(b) SEC. 902(b)(1)(I) is amended by inserting "transportation and" after "including".

(c) SEC. 902(b)(1)(L) is amended by inserting ", and will provide assurance that lack of privately owned transportation will not exclude eligible individuals from employment in any project funded under this title" before the semicolon at the end thereof.

(d) SEC. 907(2) is amended by striking "a low income" and substituting in lieu thereof "an income not exceeding 125 percent of the poverty criteria established by the Office of Management and Budget.".

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By Mr. HATHAWAY:

S. 2936. A bill to amend the Internal Revenue Code of 1954 to provide certain corporate income tax reductions and to increase the amount of the surtax exemption; to the Committee on Finance.

CORPORATE TAX REDUCTION ACT OF 1978

● Mr. HATHAWAY. Mr. President, today I am pleased to introduce the Corporate Tax Reduction Act of 1978.

This bill is the result of Small Business hearings which I chaired in Portland, Maine, on February 10, 1978. These field hearings were arranged to receive testimony on the administration's small business tax proposals and alternative proposals. I received very valuable and helpful testimony from several important groups including the Smaller Business Association of New England (SBANE), the Connecticut Small Business Federation and the Smaller Business Service Bureau.

These groups presented evidence that the President's proposed corporate tax package was more beneficial to larger companies than small business.

The Select Committee on Small Business has also prepared an extensive analysis of the 1978 Tax Proposals Relating to Small Business. A portion of that report on corporate tax rates is as follows:

Corporations are taxed on their net income after deducting salary compensation for officers, wages for employees, interest and other expenses. It should be noted that dividends are paid out of after-tax income, and are taxed as income to the individual recipients on the form 1040, giving rise to complaints against "double taxation" of dividend income. The relevant financial information for the company is entered on a form 1120.

In 1938, a distinction was made between the first $25,000 of taxable income, which incurred a lower tax, and income above that level which was subject to a higher rate.

In 1950, the structure was changed to

the present "normal tax" (payable by all companies with taxable income), and a "surtax" on earnings more than $25,000 * * *

In 1964, the rates at which the normal and surtaxes was levied were reversed; but $25,000 in taxable income was maintained as the dividing line. In other words, the "normal tax" rate was changed from 26 to 22 percent and the "surtax" rate changed from 22 to 26 percent. Corporations earning more than $25,000 continued to be subject to a 48-percent statutory rate, while those with earnings of less than $25,000 experienced a tax reduction of 4 percentage points. However, the structure remained the same.

The table recapitulating the history of corporate rate structures follows:

TABLE 46.—CORPORATION INCOME TAX RATES, 1909–62

| Calendar year | Reduced rates on small corporations | General rate (percent) |
|---|---|---|
| 1909–13 | $5,000 exemption | 1 |
| 1913–15 | None after Mar. 1, 1913 | 1 |
| 1916 | | 2 |
| 1917 | | 6 |
| 1918 | $2,000 exemption | 12 |
| 1919–21 | do | 10 |
| 1922–24 | do | 12½ |
| 1925 | do | 13 |
| 1926–27 | do | 13½ |
| 1928 | $3,000 exemption | 12 |
| 1929 | do | 11 |
| 1930–31 | do | 12 |
| 1932–35 | None | 13¾ |
| 1936–37 | Graduated normal tax ranging from— | |
| | First $2,000 | 8 |
| | Over $40,000 | 15 |
| | Graduated surtax on undistributed profits ranging from | 7–27 |
| 1938–39 | First $25,000 | 12½–16 |
| | Over $25,000 | [1] 19 |
| 1940 | First $25,000 | 14.85–18.7 |
| | $25,000 to $31,964.30 | 38.3 |
| 1940 | $31,964.30 to $38,565.89 | 36.9 |
| | Over $38,565.89 | 24 |
| 1941 | First $25,000 | 21–25 |
| | $25,000 to $38,461.54 | 44 |
| | Over $38,461.54 | 31 |
| 1942–45 | First $25,000 | 25–29 |
| | $25,000 to $50,000 | 53 |
| | Over $50,000 | 40 |
| 1946–49 | First $25,000 | 21–25 |
| | $25,000 to $50,000 | 53 |
| | Over $50,000 | 38 |
| 1950 | Normal tax 23 / Surtax (over $25,000 surtax exemption) 19 | 42 |
| 1951 | Normal tax 28½ / Surtax (over $25,000 surtax exemption) 22 | 50¼ |
| 1952–60 | Normal tax 30 / Surtax (over $25,000 surtax exemption) 22 | 52 |
| 1961 [2] | Normal tax 27.48 / Surtax (over $25,000 surtax exemption) 22 | 49.48 |
| 1962 [2] | Normal tax 25 / Surtax (over $25,000 surtax exemption) 22 | 47 |

[1] Less adjustments: 14.025 percent of dividends received and 2½ percent of dividends paid.
[2] Provides reduction in rates effective July 1, 1961, to 25 percent first $25,000 and 47 percent over $25,000. Rates computed to show effect of prorating income earned before and after July 1.

Source: The Federal Tax System: Facts and Problems, 1961. Materials assembled by the Committee Staff for the Joint Economic Committee, Congress of the United States, Washington, D.C.

If the dividing line between smaller and larger companies established in 1938 were adjusted for inflation, it would have risen as follows:

*Inflation 1938–77: and indicated adjustment to dividing line between small and large business*

| Years | Increase in GNP deflator (percent) | Indicated division between small and large companies |
|---|---|---|
| 1938–75 | 347.8 | $111,950 |
| 1975–77 | 11.1 | 124,376 |

The Tax Reduction Act of 1975 made the first major changes in the structure of the corporate tax in 25 years. In addition to reducing the tax rates on corporate earnings from 0 to $25,000 from 22 to 20 percent (equivalent to a 9 percent rate reduction) and the tax rate on earnings between $25,000 and $50,000 from 48 to 22 percent (a 40-percent rate reduction), it reintroduced three steps in the rate framework such as had been in effect from 1940 to 1950. The 1975 structure, and consequent tax savings under that act, are illustrated below:

MAXIMUM TAX SAVINGS FROM THE SMALL BUSINESS PROVISIONS OF THE TAX REDUCTION ACT OF 1975

| | 1975 tax | Reduction in rates (percent) | 1977 tax | Dollar reduction | Percentage reduction |
|---|---|---|---|---|---|
| Before tax earnings: | | | | | |
| 0 to $25,000 | $5,500 | 22–20 | $5,000 | $500 | 9 |
| $25,000 to $50,000 | 12,000 | 48–22 | 5,500 | 6,500 | 40 |
| Total reduction at $50,000 | 17,500 | 48 | 10,500 | 7,000 | 60 |
| Over $50,000 | | 0 | | [1] | [1] |

[1] There were, however, no rate reductions at that time for the brackets above $50,000. Such companies would experience tax savings because of the rate reductions on taxable income below $50,000. The percentage benefit would fall proportionally with increased taxable income over $50,000.

An economic impact study of a proposed tax change in which the corporate tax rate would be 20 percent on the first $50,000 of income, 22 percent on income over $50,000 and a surtax of 26 percent on net income over $150,000. The initial Treasury revenue impact is estimated at $2.0 billion.

I ask that this study be included at the conclusion of my remarks.

In analyzing the data from this model, and discussions with members of the small business community, I am introducing a bill which will set the corporate rate at 20 percent on the first $150,000 of income and 48 percent thereafter. It is estimated that the revenue impact of this change will be $2.5 to $3.0 billion.

I believe this is a needed change in the corporate tax structure to assist small businesses. I hope that we can move this legislation as a part of the tax cut/tax reform package which the Senate Finance Committee will be considering this summer.

In order that my colleagues may be better informed on this bill, I ask unanimous consent that the study and the text of the bill be printed in the RECORD.

There being no objection, the bill and study were ordered to be printed in the RECORD, as follows:

S. 2936

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Corporate Tax Reduction Act of 1978".

SEC. 2. (a) Subsection (b) of section 11 of the Internal Revenue Code of 1954 (relating to normal tax on corporations) is amended to read as follows:

"(b) NORMAL TAX.—The normal tax for a taxable year is equal to—

"(1) 20 percent of so much of the taxable income as does not exceed $150,000.".

(b) Subsection (d) of section 11 of such Code (relating to surtax exemption) is amended by striking out all that precedes "except that" and inserting in lieu thereof the following:

"(d) SURTAX EXEMPTION.—For purposes of this subtitle, the surtax exemption for any taxable year is $150,000;".

(c)(1) Paragraph (7) of section 12 of such Code (relating to cross references relating to tax on corporations) is amended by striking out "$50,000" and inserting in lieu thereof "$150,000".

(2) Subsection (f) of section 21 of such Code (relating to effect of changes in rates during a taxable year) is amended to read as follows:

"(f) CHANGE IN SURTAX EXEMPTION.—In applying subsection (a) to a taxable year of a taxpayer which is not a calendar year, the change made by section 2 of the Corporate Tax Reduction Act of 1977 in the surtax exemption shall be treated as a change in a rate of tax.".

(3) Paragraph (1) of section 821(a) of such Code (relating to tax on mutual insurance companies to which part II applies) is amended to read as follows:

"(1) NORMAL TAX.—A normal tax for a taxable year equal to—

"(A) 20 percent of so much of the mutual insurance company taxable income as does not exceed $150,000,
or 44 percent of the amount by which such taxable income exceeds $6,000, whichever is lesser; plus".

(4) Subparagraph (A) of section 821(c)(1) of such Code (relating to alternative tax for certain small companies) is amended to read as follows:

"(A) NORMAL TAX.—A normal tax for a taxable year equal to—

"(i) 20 percent of so much of the taxable investment income as does not exceed $150,000,
or 44 percent of the amount by which such taxable income exceeds $3,000, whichever is lesser; plus".

SEC. 3. The amendments made by this Act

shall apply to taxable years ending after December 31, 1977.

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ECONOMIC IMPACT STUDY OF PROPOSED TAX CHANGE (H.R. 10382)

INTRODUCTION

For comparative purposes, we used two different methods in analyzing the economic impact of H.R. 10382. These were: (1) A static economic ratio analysis. (2) A dynamic econometric model. They both indicated that H.R. 10382 will have an expansionary effect on the economy.

*The economic ratio analysis*

The objectives of this analysis were (a) to determine the industries and the size of the companies that would experience the most rapid expansion, and (b) to estimate the cost of the tax change in terms of federal tax revenues.

We based our analysis on all U.S. companies that declared a positive net income in 1973–74. This information was available in the 1977 Almanac of Business and Industrial Financial Ratios, which is a summary of IRS data.

The main assumption behind the ratio analysis is that on the average, the financial structure (i.e. debt to equity ratio) of all companies will remain unchanged after H.R. 10382 is effective. Thus, the tax savings means that firms will undergo an expansion in assets and scale.

H.R. 10382 will provide tax savings for all companies with net taxable income over $25,000. This means increased working capital and higher retained earnings. The change in retained earnings increases debt capacity. We assumed that all companies were able to increase their long term debt by an amount equal to the tax savings. This leverage further enhances their working capital position. Using the ratio of sales to working capital, we estimated the increase in total revenues for all profitable companies in 6 major industries and for the total U.S. By applying the ratio of employment to sales, we then calculated the number of new jobs that H.R. 10382 would provide.

As the static analysis uses aggregated data, the average company with total assets under $1 million shows net income below $25,000. As such, the average corporation in this group will not save from this legislation. Although in this group companies which perform above the average will benefit from the bill, the available statistics do not allow us to break this out accurately. Manufacturing as a group is an exception, for the average company with total assets of $0.5 to $1 million declared over $25,000 in net income, and 16,000 new jobs will be created in this sector.

A total of 207,000 new jobs will be generated in the aggregate scale expansion brought about by the bill. 60 percent of this new employment will occur in companies with between $1 and $5 million in total assets and average yearly sales of $5 million. 15 percent of the jobs will be in firms with $5 to $10 million in total assets and average sales of $11 million. 12 percent of the jobs will be in firms with total assets of $10 to $25 million and average sales of $16 million.

Manufacturing and wholesale trade will experience the largest expansion. They will absorb 31 percent and 34 percent of the new jobs.

The gross, total tax reduction is $2.1 billion in the initial period. With a Keynesian approach based on a marginal propensity to consume of .90, the feedback of personal income taxes is $1.9 billion (assuming an average personal income tax rate of 10 percent). Adding the reduction in unemployment benefits of at least $.4 billion to the $1.9 billion, there should be a slight gain in federal tax revenues due to economic expansion after a short time lag.

*The dynamic econometric model*

The objectives of this analysis were to (a) determine the net effect of H.R. 10382 on federal tax revenues, and (b) to estimate the increases in employment, GNP, capital outlays, productivity and consumption.

The model was provided by Dr. Norman B. Ture, who prepared a similar analysis of the Roth bill (H.R. 8333). It is neoclassical in nature. Since the Roth simulation, two inputs have been changed. The inflation is now 6 percent as opposed to 5 percent, and a more conservative utilization equation is used.

The results indicate an employment increase of 80,000 per year growing slightly to 100,000 over the next 9 years. (See Exhibit II.) Annual GNP will grow by some $10 to $19 billion over the same period because of H.R. 10382. The bill can therefore be thought of as a slight, expansionary stimulus to a small sector of the economy. The annual increase in capital outlays will be some $6–8 billion in each of the next 9 years. This leads to productivity improvements and increased capacity to pay wages. A rise in annual consumption of $3–4 billion can also be expected over the next 9 years due to H.R. 10382.

The Ture model shows that H.R. 10382 will have no impact on federal tax revenues in the first 3 years. A slight net tax inflow will take place from 1982 to 1987. The net revenue gain per new job is $12,500 in 1982 and $20,000 in 1987.

CONCLUSION

Both analyses indicate that the net federal tax gain or loss is negligible, and that additional jobs will be created due to H.R. 10382. Since the main impact will be on small to medium sized companies, the jobs will be geographically distributed in smaller communities as well as in the larger urban areas. The internal financing that H.R. 10382 provides is valuable to these smaller corporations because they are virtually blocked out from the public markets at present. Any discrepancies in the results between our 2 methods of analysis must be attributed to differing methodologies and assumptions as well as to other imperfections. We have also checked the results expected from the Chase Econometrics model, and were assured that the employment expansion aspects were comparable. But solely because of the way the Chase and Warton models input tax reductions (i.e. as losses in federal revenue) they would not show the positive feedback of personal income tax increases. For planning purposes, it is also especially important that the business community perceives H.R. 10382 to be permanent, or capital sources will not provide the leverage the models assume.

EXHIBIT 1

| | Present tax under current laws | Tax under proposed Heckler bill | Savings |
|---|---|---|---|
| Net corporate taxable income: | | | |
| $25,000 | $5,000 | $5,000 | 0 |
| $35,000 | 7,200 | 7,000 | $200 |
| $50,000 | 10,500 | 10,000 | 500 |
| $75,000 | 22,500 | 15,500 | 7,000 |
| $100,000 | 34,500 | 21,000 | 13,500 |
| $125,000 | 46,500 | 26,500 | 20,000 |
| $150,000 | 58,500 | 32,000 | 26,500 |
| $175,000 | 70,500 | 44,000 | 26,500 |
| $200,000 | 82,500 | 56,000 | 26,500 |
| $225,000 | 94,500 | 68,000 | 26,500 |
| $250,000 | 106,500 | 80,000 | 26,500 |

EXHIBIT II

CHANGE IN CORPORATE RATE STRUCTURE: NORMAL TAX OF 20 PERCENT ON 1ST $50,000 OF NEW INCOME AND 22 PERCENT ON INCOME OVER $50,000; SURTAX OF 26 PERCENT ON NEW INCOME OVER $150,000

[Dollar amounts in constant 1977 dollars]

| Major economic magnitudes | 1978 | 1980 | 1982 | 1987 |
|---|---|---|---|---|
| Employment (thousands of full-time equivalent employees) | 80 | 80 | 80 | 100 |
| Annual capacity to pay additional wages (due to change in productivity) | $60 | $70 | $80 | $110 |
| Gross national product (billions): | | | | |
| Total | 10 | 11 | 13 | 19 |
| Business sector | 8 | 9 | 10 | 14 |
| Capital outlays (billions): | | | | |
| Gross | 6 | 8 | 11 | 8 |
| Net | 6 | 8 | 10 | 6 |
| Consumption (billions) | 4 | 3 | 2 | 11 |
| Federal tax revenues (billions): | | | | |
| Initial impact | (2) | (2) | (2) | (3) |
| Net of feedback | 0 | 0 | 1 | 2 |
| Net revenue (loss) gain per additional full-time equivalent employee (dollars per employee) | 0 | 0 | 12,500 | 20,000 |

EXHIBIT III—CONSTRUCTION

[Dollar amounts in thousands]

| Asset size (thousands): | Number of companies | Average total revenue per company | Average tax saving per company | Average long-term debt increase per company | Average increase in working capital per company | Average increase in total revenue per company | Average increase in industry employment |
|---|---|---|---|---|---|---|---|
| Asset size (thousands): | | | | | | | |
| Under $100 | 54,607 | 212 | 0 | 0 | 0 | 0 | 0 |
| $100 to $250 | 24,027 | 636 | 0 | 0 | 0 | 0 | 0 |
| $250 to $500 | 12,675 | 1,184 | 0 | 0 | .1 | 1 | 71 |
| $500 to $1,000 | 8,045 | 2,145 | .2 | .2 | .5 | 6 | 245 |
| $1,000 to $5,000 | 6,433 | 5,049 | 11.1 | 11.1 | 22.3 | 223 | 7,734 |
| $5,000 to $10,000 | 616 | 14,379 | 26.5 | 26.5 | 53.0 | 366 | 1,216 |
| $10,000 to $25,000 | 247 | 28,605 | 17.2 | 17.2 | 34.5 | 224 | 299 |
| $25,000 to $50,000 | 84 | 57,249 | 17.3 | 17.3 | 34.5 | 245 | 111 |
| $50,000 to $100,000 | 24 | 91,882 | 11.4 | 11.4 | 22.8 | 68 | 9 |
| $100,000 to $250,000 | 16 | 236,334 | 26.5 | 26.5 | 53.0 | 212 | 18 |
| Over $250,000 | 10 | 624,859 | 26.5 | 26.5 | 53.0 | 360 | 19 |

EXHIBIT IV—MANUFACTURING

[Dollar amounts in thousands]

| | Number of companies | Average total revenue per company | Average tax saving per company | Average long-term debt increase per company | Average increase in working capital per company | Average increase in total revenue per company | Average increase in industry employment |
|---|---|---|---|---|---|---|---|
| Asset size (thousands): | | | | | | | |
| Under $100 | 36,086 | 297 | 0 | 0 | 0 | 0 | 0 |
| $100 to $250 | 29,417 | 547 | 0 | 0 | 0 | 0 | 0 |
| $250 to $500 | 22,431 | 1,107 | .4 | .4 | .7 | 6 | 730 |
| $500 to $1,000 | 16,419 | 2,190 | 10.8 | 10.8 | 21.7 | 182 | 16,159 |
| $1,000 to $5,000 | 17,621 | 5,786 | 26.5 | 26.5 | 53.0 | 387 | 36,815 |
| $5,000 to $10,000 | 2,580 | 16,896 | 26.5 | 26.5 | 53.0 | 313 | 4,357 |
| $10,000 to $25,000 | 1,528 | 34,663 | 26.5 | 26.5 | 53.0 | 292 | 2,405 |
| $25,000 to $50,000 | 643 | 69,640 | 26.5 | 26.5 | 53.0 | 281 | 975 |
| $50,000 to $100,000 | 408 | 158,043 | 26.5 | 26.5 | 53.0 | 297 | 654 |
| $100,000 to $250,000 | 325 | 306,727 | 26.5 | 26.5 | 53.0 | 270 | 474 |
| Over $250,000 | 368 | 2,529,988 | 26.5 | 26.5 | 53.0 | 387 | 769 |

EXHIBIT V—TRANSPORTATION

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Asset size (thousands): | | | | | | | |
| Under $100 | 18,952 | 176 | 0 | 0 | 0 | 0 | 0 |
| $100 to 250 | 8,459 | 580 | 0 | 0 | 0 | 0 | 0 |
| $250 to 500 | 4,031 | 940 | 0 | 0 | 0 | 0 | 0 |
| $500 to 1,000 | 2,395 | 1,772 | .4 | .4 | .7 | 21 | 276 |
| $1,000 to $5,000 | 1,902 | 4,854 | 24.1 | 24.1 | 48.2 | 1,648 | 16,928 |
| $5,000 to $10,000 | 273 | 14,097 | 26.5 | 26.5 | 53.0 | 2,104 | 3,102 |
| $10,000 to $25,000 | 146 | 28,596 | 26.5 | 26.5 | 53.0 | 1,309 | 1,032 |
| $25,000 to $50,000 | 77 | 56,517 | 26.5 | 25.5 | 53.0 | 1,256 | 522 |
| $50,000 to $100,000 | 41 | 120,146 | 26.5 | 26.5 | 53.0 | 827 | 183 |
| $100,000 to $250,000 | 33 | 218,644 | 26.5 | 26.5 | 53.0 | 700 | 125 |
| Over $250,000 | 41 | 1,087,943 | 26.5 | 26.5 | 53.0 | 795 | 176 |

EXHIBIT VI—WHOLESALE TRADE

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Asset size (thousands): | | | | | | | |
| Under $100 | 53,645 | 364 | 0 | 0 | 0 | 0 | 0 |
| $100 to $250 | 37,274 | 836 | 0 | 0 | 0 | 0 | 0 |
| $250 to $500 | 28,095 | 1,620 | .3 | .3 | .6 | 6 | 868 |
| $500 to $1,000 | 20,716 | 2,954 | 5.9 | 5.9 | 11.9 | 117 | 13,144 |
| $1,000 to $5,000 | 16,289 | 7,940 | 26.5 | 26.5 | 53.0 | 551 | 48,484 |
| $5,000 to $10,000 | 1,595 | 26,352 | 26.5 | 26.5 | 53.0 | 525 | 4,519 |
| $10,000 to $25,000 | 773 | 58,886 | 26.5 | 26.5 | 53.0 | 562 | 2,345 |
| $25,000 to $50,000 | 253 | 130,635 | 26.5 | 26.5 | 53.0 | 519 | 710 |
| $50,000 to $100,000 | 116 | 233,848 | 26.5 | 26.5 | 53.0 | 514 | 322 |
| $100,000 to $250,000 | 61 | 770,648 | 26.5 | 26.5 | 53.0 | 938 | 309 |
| Over $250,000 | 25 | 2,491,441 | 26.5 | 26.5 | 53.0 | 631 | 85 |

EXHIBIT VII—RETAIL TRADE

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Asset size (thousands): | | | | | | | |
| Under $100 | 120,469 | 252 | 0 | 0 | 0 | 0 | 0 |
| $100 to $250 | 63,761 | 605 | 0 | 0 | 0 | 0 | 0 |
| $250 to $500 | 31,854 | 1,291 | 0 | 0 | 0 | 0 | 0 |
| $500 to $1,000 | 16,608 | 2,625 | 0 | 0 | 0 | 0 | 0 |
| $1,000 to $5,000 | 10,062 | 7,243 | .2 | .2 | .4 | 6 | 314 |
| $5,000 to $10,000 | 597 | 23,261 | 11.7 | 11.7 | 23.4 | 264 | 852 |
| $10,000 to $25,000 | 283 | 52,150 | 26.5 | 26.5 | 53.0 | 594 | 907 |
| $25,000 to $50,000 | 119 | 142,264 | 26.5 | 26.5 | 53.0 | 620 | 398 |
| $50,000 to $100,000 | 69 | 251,821 | 26.5 | 26.5 | 53.0 | 498 | 186 |
| $100,000 to $250,000 | 49 | 516,632 | 26.5 | 26.5 | 53.0 | 620 | 164 |
| Over $250,000 | 28 | 3,868,496 | 26.5 | 26.5 | 53.0 | 504 | 76 |

EXHIBIT VIII—SERVICES

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Asset size (thousands): | | | | | | | |
| Under $100 | 163,038 | 173 | 0 | 0 | 0 | 0 | 0 |
| $100 to $250 | 31,887 | 404 | 0 | 0 | 0 | 0 | 0 |
| $250 to $500 | 13,931 | 671 | 0 | 0 | 0 | 0 | 0 |
| $500 to $1,000 | 7,182 | 1,333 | 0 | 0 | 0 | 0 | 11 |
| $1,000 to $5,000 | 4,578 | 3,070 | 5.9 | 5.9 | 11.7 | 288 | 7,129 |
| $5,000 to $10,000 | 449 | 8,547 | .2 | .2 | 0.4 | 6 | 15 |
| $10,000 to $25,000 | 250 | 22,425 | 26.5 | 26.5 | 53.0 | 657 | 887 |
| $25,000 to $50,000 | 85 | 53,019 | 26.5 | 26.5 | 53.0 | 514 | 236 |
| $50,000 to $100,000 | 54 | 123,683 | 19.7 | 19.7 | 39.3 | 574 | 167 |
| $100,000 to $250,000 | 23 | 169,229 | 26.5 | 26.5 | 53.0 | 3,816 | 474 |
| Over $250,000 | 11 | 579,136 | 26.5 | 26.5 | 53.0 | 1,511 | 90 |

EXHIBIT IX—ALL U.S. INDUSTRIES

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| Asset size (thousands): | | | | | | | |
| Under $100 | 593,415 | 190 | 0 | 0 | 0 | 0 | 0 |
| $100 to $250 | 265,064 | 483 | 0 | 0 | 0 | 0 | 0 |
| $250 to $500 | 151,070 | 985 | 0 | 0 | 0 | 0 | 0 |
| $500 to $1,000 | 91,150 | 1,979 | .2 | .2 | .3 | 3 | 1,634 |
| $1,000 to $5,000 | 73,741 | 5,129 | 16.8 | 16.8 | 33.7 | 313 | 124,728 |
| $5,000 to $10,000 | 11,523 | 10,865 | 26.5 | 26.5 | 53.0 | 493 | 30,670 |
| $10,000 to $25,000 | 9,470 | 15,581 | 26.5 | 26.5 | 53.0 | 493 | 25,206 |
| $25,000 to $50,000 | 4,257 | 29,427 | 26.5 | 26.5 | 53.0 | 493 | 11,331 |
| $50,000 to $100,000 | 2,320 | 60,723 | 26.5 | 26.5 | 53.0 | 493 | 6,175 |
| $100,000 to $250,000 | 1,529 | 141,682 | 26.5 | 26.5 | 53.0 | 493 | 4,070 |
| Over $250,000 | 1,333 | 225,734 | 26.5 | 26.5 | 53.0 | 493 | 3,548 |

EXHIBIT X—ALL U.S. INDUSTRIES

[Dollar amounts in thousands]

| | Increase in employment | Gross tax reduction | Increase in personal income tax payments | Reduction in unemployment benefit payments | Net cost of tax change | Total increase in national income |
|---|---|---|---|---|---|---|
| Asset size (thousands): | | | | | | |
| Total | 207, 362 | 2, 064, 023 | 378, 010 | 378, 476 | 1, 307, 537 | 18, 576, 208 |
| Under $100 | 0 | 0 | 0 | 0 | 0 | 0 |
| $100 to $250 | 0 | 0 | 0 | 0 | 0 | 0 |
| $250 to $500 | 0 | 0 | 0 | 0 | 0 | 0 |
| $500 to $1, 000 | 1, 634 | 15, 764 | 2, 979 | 2, 983 | 9, 801 | 141, 875 |
| $1, 000 to $5, 000 | 124, 728 | 1, 241, 811 | 227, 372 | 227, 653 | 786, 787 | 1, 117, 6301 |
| $5, 000 to $10, 000 | 30, 670 | 305, 360 | 55, 910 | 55, 979 | 193, 470 | 2, 748, 235 |
| $10, 000 to $25, 000 | 25, 206 | 250, 955 | 45, 949 | 46, 006 | 159, 000 | 2, 258, 595 |
| $25, 000 to $50, 000 | 11, 331 | 112, 811 | 20, 655 | 20, 681 | 71, 474 | 1, 015, 294 |
| $50, 000 to $100, 000 | 6, 175 | 61, 480 | 11, 257 | 11, 271 | 38, 952 | 553, 320 |
| $100, 000 to $250, 000 | 4, 070 | 40, 519 | 7, 419 | 7, 428 | 25, 672 | 364, 666 |
| Over 250, 000 | 3, 548 | 35, 325 | 6, 468 | 6, 476 | 22, 381 | 317, 920 |

EXHIBIT XI—ASSUMPTIONS AND SOURCES USED IN THE ECONOMIC RATIO ANALYSES

The financial data are from the period 1973–1974.

Sales figures are adjusted to 1977 levels using the wholesale price index which shows a 21.9 percent increase from 1974 to May 1977.

The employment to sales ratio is calculated by dividing the total employment in wholesale and retail trade and manufacturing by the total sales in the same three industries. The ratio is also adjusted for inflation and is .0000054.

The average personal income tax rate is calculated by dividing the Federal budget receipts—Individual income taxes by Total compensation of employees, and is 15 percent. This rate is conservative since inflation may have pushed more persons into the higher tax brackets since 1974.

The percentage of unemployed receiving unemployment benefits is calculated by dividing the total number of unemployed individuals by the average number of persons receiving unemployment benefits, and is 45 percent.

The average weekly unemployment benefit payment was $64 in 1974, and this number is converted to a yearly basis and adjusted for inflation. The figure used was $4056 for 1977.

The average yearly salary was $10890 in 1975. Adjusted for inflation, this figure was $12153 in 1977.

The marginal propensity to consume was calculated by dividing the personal consumption expenditures by total disposable personal income. This method assumes that the average and the marginal propensities are the same. The MPC used was .90.

The model assumes that the tax reduction is financed by borrowing or increased money supply.

The model assumes that companies are able to borrow long term an amount equal to their annual tax savings resulting from the implementation of the Heckler bill.

The model assumes that the long term borrowings do not restrict other sectors in the economy from expanding.

Data are retrieved from the 1975 Economic Report Of The President and the Statistical Abstract of the US, 1977 edition and the Almanac of Business and Industrial Financial Ratios, 1977 edition.●

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By Mr. BAYH (for himself, Mr. DECONCINI, Mr. KENNEDY, Mr. ABOUREZK, Mr. PAUL G. HATFIELD, and Mr. MATHIAS):

S. 2937. A bill to amend the Speedy Trial Act of 1974 to provide further authorization for appropriations for pretrial services agencies; to the Committee on the Judiciary.

PRETRIAL SERVICES AGENCIES

● Mr. BAYH. Mr. President, today along with Senators DECONCINI, KENNEDY, ABOUREZK, PAUL HATFIELD, and MATHIAS, I am pleased to introduce a bill to amend the Speedy Trial Act of 1974, Public Law 93–619, to provide continued, short-term authorization for appropriations for pretrial services agencies.

Title II of the Speedy Trial Act of 1974 authorized the Director of the Administrative Office of the U.S. Courts to establish, on a 4-year demonstration basis, 10 pretrial services agencies in representative judicial districts. These districts, central California, northern Georgia, northern Illinois, Maryland, eastern Michigan, western Missouri, eastern New York, southern New York, eastern Pennsylvania, and northern Texas were selected in accordance with the criteria set forth in the statute.

The second title of the Speedy Trial Act is designed to improve the efficiency and deterrent of the criminal justice system. More specifically it is designed to reduce the likelihood that defendants released prior to trial will commit a subsequent crime before trial commences. When Congress passed the Speedy Trial Act it was of the view that more careful selection of pretrial release options for defendants and closer supervision of released defendants would reduce pretrial crime. Congress further attempted to alleviate the fugitive problem by providing 10 Federal districts on a demonstration basis with sufficient resources to both conduct bail interviews and supervise conditions of release. This approach was applauded by nearly everyone who testified or commented on it during hearings held by the Senate Constitutional Rights Subcommittee prior to enactment of the Speedy Trial Act.

Pretrial services agencies perform two basic functions: First, the compilation and verification of background information on persons charged with the violation of Federal criminal law for the use of the district judge or a U.S. magistrate in setting bail and, second, the supervision of persons released from pretrial custody including the provision of counseling and other pretrial services. The stated objectives of the act are to reduce pretrial detention and pretrial recidivism.

The funds provided by the Congress in the amount of $10 million for the operation of pretrial services agencies were made available in fiscal year 1975 to remain available until expended. The legislative history of the act indicated that as much as $1 million each year could be spent for the operation of each of the 10 pretrial services agencies and that Congress intended to monitor the operation of these agencies to determine whether additional authorizations for appropriations would be required. Through careful management the initial appropriation of $10 million will provide for the operation of the program through December of 1978. However, the final report of the Administrative Office of the U.S. Courts on the operation of the pretrial services agencies and recommendations concerning the future of the program is not due until September 1979. Sufficient funding is needed to insure the continuation of this program until the Congress has had ample time to consider the final report and determine the future of the program.

The 10 pretrial services agencies have been in operation for 27 months. In fulfilment of their responsibilities these agencies have interviewed more than 20,000 accused persons and provided information to judicial officers to assist them in their release decisions, have supervised more than 11,000 persons released to their supervision, and have provided services to persons released pretrial including counseling and assistance in securing employment, medical, legal, or social services. In certain situations specialized agencies, such as drug treatment programs, provided the necessary pretrial services.

The Speedy Trial Act requires extensive data collection designed to satisfy the requirements for annual reports and a final, comprehensive report concerning the administration and operation of the pretrial services agencies by the director of the Administrative Office of the U.S. Courts, including the views and recommendations of the administrative office at the end of the 4-year demonstration program. Preliminary results of the administrative office noted that over 12,000 of the 20,000 persons interviewed

have reached final disposition and the data from these cases is now available for analysis.

It is projected that more than 30,000 Federal offenders will have gone through the pretrial services program by the conclusion of the demonstration phase of the program in September 1979. It is anticipated that this data will provide, along with other information, a substantial basis for the evaluation of the program and its impact on the criminal justice system.

Mr. President, if the Congress is to benefit from the mandates of Title II of the Speedy Trial Act of 1974, which established these 10 pretrial services agencies, it is then imperative that we provide the necessary resources to carry out the directives of the 93d Congress. The legislative history of the act indicated that Congress intended to monitor the operations of the pretrial services agencies concerning the future of the programs and its possible expansion to other district courts.

Congressman RODINO has introduced H.R. 10934, a similar amendment to the Speedy Trial Act for the continued authorization of appropriations for pretrial services agencies. This legislation is presently pending before Congressman CONYERS House Subcommittee on Crime. I look forward to working with my House colleagues in order to process this legislation as expeditiously as possible so that the pretrial services agencies can continue their work in an atmosphere of confidence—confidence that the Congress is interested and willing to support the continuation of the demonstration pretrial services agencies.

Mr. President, I call on my colleagues to support this legislation until Congress has had ample time to consider the final report of the pretrial services agencies and determine the future of the program. I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2937

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 203 of the Speedy Trial Act of 1974 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "; and for the fiscal year ending September 30, 1979, to remain available until expended, the sum of $5,000,000.".●

## ADDITIONAL COSPONSORS

S. 3

At the request of Mr. KENNEDY, the Senator from Minnesota (Mrs. HUMPHREY) was added as a cosponsor of S. 3, the Health Security Act.

S. 419

At the request of Mr. HASKELL, the Senator from Oklahoma (Mr. BELLMON) was added as a cosponsor of S. 419, the Federal Oil Shale Commercialization Test Act.

S. 1780

At the request of Mr. DOMENICI, the Senator from Illinois (Mr. PERCY), and the Senator from Montana (Mr. MELCHER) were added as cosponsors of S. 1780, the elementary and secondary education optional consolidation and reorganization bill.

S. 1820

At the request of Mr. HELMS, his name was removed as a cosponsor of S. 1820, a bill to authorize the Secretary of the Interior to assist the States to establish programs for the maintenance of natural diversity, and for other purposes.

S. 2602

At the request of Mr. EAGLETON, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 2602, a bill to prohibit the concurrent exercise of functions, powers, and duties which are exercise by an officer appointed by the President by and with the advice and consent of the Senate by an officer who has not received such advice and consent.

S. 2645

At the request of Mr. WILLIAMS, the Senator from Minnesota (Mr. ANDERSON) was added as a cosponsor of S. 2645, a bill to establish an Art Bank.

S. 2744

At the request of Mr. SCHWEIKER, the Senator from Colorado (Mr. HART) was added as a cosponsor of S. 2744, the Rural Health Services Act of 1978.

S. 2780

At the request of Mr. HATHAWAY, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 2780, a bill to amend the Public Health Service Act to provide for grants and contracts for projects to provide health and dental care to medically underserved rural populations, and for other purposes.

S. 2804

At the request of Mr. DOMENICI, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 2804, a bill to expand the licensing and related regulatory authority of the Nuclear Regulatory Commission for certain specified activities, and for other purposes.

S. 2807

At the request of Mr. DOMENICI, the the Senator from Illinois (Mr. PERCY) and the Senator from Montana (Mr. MELCHER) were added as cosponsors of S. 2807, the Bilingual Education Act Amendments of 1978.

S. 2862

At the request of Mr. HASKELL, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 2862, the Regulatory Control Act.

S. 2843

At the request of Mr. HELMS, the Senator from Idaho (Mr. MCCLURE) was added as a cosponsor of S. 2843, a bill to provide for the issuance of gold medallions, and for other purposes.

S. 2850

At the request of Mr. EAGLETON, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 2850, a bill to amend the Older Americans Act to provide for improved programs for the elderly, and for other purposes.

S. 2895

At the request of Mr. BENTSEN, the Senator from Montana (Mr. PAUL G. HATFIELD), the Senator from Minnesota (Mr. ANDERSON), the Senator from Idaho (Mr. CHURCH), the Senator from Nevada (Mr. LAXALT), the Senator from Oklahoma (Mr. BARTLETT), the Senator from North Dakota (Mr. YOUNG), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Kentucky (Mr. FORD), and the Senator from Idaho (Mr. MCCLURE) were added as cosponsors of S. 2895, a bill to amend the Meat Import Act of 1964.

S. 2912

At the request of Mr. CLARK, the Senators from Nebraska (Mr. CURTIS and Mr. ZORINSKY) and the Senator from Minnesota (Mrs. HUMPHREY) were added as cosponsors of S. 2912, a bill to strengthen the economy of the United States through improved loan rates and target prices for producers of wheat, feed grains, and upland cotton.

S. 2920

At the request of Mr. THURMOND, he was added as a cosponsor of S. 2920, a bill to amend the Trade Act of 1974.

SENATE JOINT RESOLUTION 29

At the request of Mr. BURDICK, the Senator from Texas (Mr. TOWER) was added as a cosponsor of Senate Joint Resolution 29, to authorize the President to annually proclaim National Family Week in that week in November which includes Thanksgiving Day.

SENATE CONCURRENT RESOLUTION 73

At the request of Mr. DOLE, the Senator from South Carolina (Mr. THURMOND), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of Senate Concurrent Resolution 73, regarding the imposition of import fees on crude oil.

AMENDMENT NO. 1716

At the request of Mr. CRANSTON, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of Amendment No. 1716 intended to be proposed to S. 2570, a bill to amend the Comprehensive Employment and Training Act of 1973 to provide employment and training services, to extend the authorizations, and for other purposes.

## SENATE RESOLUTION 434—SUBMISSION OF A RESOLUTION AUTHORIZING PRINTING

Mr. CHURCH (for himself and Mr. DOMENICI) submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 434

*Resolved,* That there be printed for the use of the Special Committee on Aging thirteen hundred additional copies of part one

of its report to the Senate entitled "Developments in Aging: 1977."

## AMENDMENTS SUBMITTED FOR PRINTING

### AIR TRANSPORTATION REGULATORY REFORM ACT OF 1978—S. 2493

AMENDMENT NO. 1788

(Ordered to be printed and to lie on the table.)

Mr. MELCHER (for himself and Mr. McGOVERN) submitted an amendment intended to be proposed by them, jointly, to the bill (S. 2493) to amend the Federal Aviation Act of 1958, as amended, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes.

AMENDMENT NO. 1789

(Ordered to be printed and to lie on the table.)

Mr. McGOVERN submitted an amendment intended to be proposed by him to the bill (S. 2493), supra.

● Mr. McGOVERN. Mr. President, I submit this amendment to S. 2493, the Air Transportation Regulatory Reform Act, in the nature of a substitute to my amendment No. 1781, an amendment concerning the automatic market entry section of this legislation. Mr. President, I ask unanimous consent that this substitute amendment to S. 2493 be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1789

On page 18, beginning on line 21, strike everything through line 20 on page 21, and insert in lieu thereof the following:

"(2) During each of the calendar years 1979, 1981 and 1983, each air carrier or person specified in paragraph (1) may select one segment, not to exceed 3,000 statute miles in length, over which it shall be authorized by the Board to provide scheduled nonstop air transportation of persons, property, and mail; *Provided however*, that the Board shall not grant such authority to any carrier or person which has received new route authority in excess of 1,000 cumulative statute miles under subsections (a)(1) or (i) of this section during the 12-month period immediately preceding the date for filing selections under this subsection. No segment may be selected (A) if the average load factor, during the six-month period prior to such selection, in service provided to such segment by any air carrier was less than fifty-five per centum; or (B) which has been designated by another air carrier under paragraph (3) as being closed for that year to automatic entry under this subsection. Initial selections shall be filed with the Board on the first business day of July in each year for which automatic entry is authorized. Final selections shall be certified as selected by the Board by September 1, of the year in which the selection was filed, unless the Board finds that the air carrier or person making the selection is not fit, willing, and able to provide the air transportation selected, and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board made or issued under this Act. Based on such certification, that air carrier or person shall be authorized to engage, for the next 20 months, in scheduled nonstop air transportation of persons, property, and mail over the segment selected.

"(3) Each air carrier specified in paragraph (1) may, for each year in which automatic entry is authorized, designate a number of segments between which it provides regularly scheduled nonstop air transportation, which shall not be open to automatic entry under this subsection as follows:

"(A) For the year 1979, two such segments.

"(B) For the year 1981, two such segments.

"(C) For the year 1983, one such segment may be designated under this paragraph. Designations for each year shall be filed with the Board on the first business day of January of the year for which the designations are made."

CONFORMING AMENDMENTS

1. On page 17, line 18, strike out the words "each year".

2. On page 21, line 21, renumber paragraph "(5)" to "(3)", and renumber all succeeding paragraphs accordingly.

3. On page 21, line 22, after the word "year" add the following, "for which automatic entry is authorized,".

4. On page 22, line 14, strike out the words "either of" and the number "2".

5. On page 22, line 15, strike out the word "calendar", change "years" to "year", and after the word "year" insert the following, "for which automatic entry was authorized,".

6. On page 23, line 25, after the word "segments" insert a comma and the words "if any,".

7. On page 24, line 7, after the word "segments" insert a comma and the words "if any".

8. On page 24, lines 12 and 13, change "1983" to "1984".

9. On page 24, line 17, change the number "4" to "5".

10. On page 24, line 20, change "(9)" to "(7)".

11. On page 27, line 11, add the following new paragraph: "(11) The automatic entry program established by this subsection shall terminate on June 30, 1985."

### NAVIGATION DEVELOPMENT ACT—H.R. 8309

AMENDMENTS NOS. 1790 AND 1791

(Ordered to be printed and to lie on the table.)

Mr. MARK O. HATFIELD submitted two amendments intended to be proposed by him to the bill (H.R. 8309) authorizing certain public works on rivers for navigation, and for other purposes.

AMENDMENT NO. 1792

(Ordered to be printed and to lie on the table.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill (H.R. 8309), supra.

LOS ESTEROS LAKE

● Mr. MARK O. HATFIELD. Mr. President, I am introducing today an amendment that I plan to offer to H.R. 8309. This amendment seeks to assure that artifacts from archeological sites dating to 3000 B.C. will be preserved before Los Esteros Lake in New Mexico is filled by floodwaters.

During the past 6 years, the National Park Service, Southern Methodist University, and the Center for Anthropological Studies in Albuquerque have carefully studied and cataloged the reservoir area. They have identified 60 sites eligible to be listed in the National Register. These range from 5,000-year-old campsites, where Indian families left grinding and scraping stones, more recent Indian sites with pottery and other artifacts, and the dwellings of European settlers and ranchers beginning in the 18th century.

The rescue and cataloging of these artifacts may provide important information in our study of the history of the Southwest.

To date the Corps of Engineers has obligated $261,000 to make these evaluations, and to begin to recover some of the artifacts. That sum, which is 1 percent of the cost of the Los Esteros project, is the limit permitted under Public Law 93-291.

My amendment authorizes an additional $200,000 to complete this important archeological work. The figure, I might add, is based on field investigations, and a plan developed by the Historic Preservation Office of New Mexico, the Advisory Council on Historic Preservation, and the Corps' District Engineer in Albuquerque.

Mr. President, this is a sound and reasonable amendment. But we must act quickly. By this fall, the elevation of the dam will reach a level where a severe storm could flood sites not yet excavated and for which no money is presently available. I hope it will prove acceptable to the Senate.

I ask unanimous consent that the amendment be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1792

On page 17, after, line 5, insert the following and number accordingly:

"SEC. —. The project of Los Esteros Lake, Pecos River, New Mexico, authorized by Sec. 203 of the Flood Control Act of 1954 (68 Stat. 1260), is hereby modified to authorize the expenditure of not to exceed $200,000 for the recovery of cultural resource data, in addition to any amounts authorized for this purpose pursuant to the Reservoir Salvage Act of 1960, as amended (88 Stat. 174)."●

### NATIONAL PARK SYSTEM—S. 2876

AMENDMENT NO. 1793

(Ordered to be printed and referred to the Committee on Energy and Natural Resources.)

Mr. CRANSTON submitted an amendment intended to be proposed by him to the bill (S. 2876) to provide for increases in appropriations ceilings for development ceilings, land acquisition for boundary changes in certain units of the National Park System, and for other purposes.

### FULL EMPLOYMENT AND BALANCED GROWTH ACT—S. 50

AMENDMENT NO. 1794

(Ordered to be printed and referred to the Committee on Banking, Housing,

and Urban Affairs and the Committee on Human Resources, jointly.)

Mr. PROXMIRE submitted an amendment intended to be proposed by him to Amendment No. 1703 intended to be proposed to S. 50, the Full Employment and Balanced Growth Act.

Mr. PROXMIRE. Mr. President, today I am submitting an amendment to the Full Employment and Balanced Growth Act—S. 50—that makes it clear that the Congress believes it is desirable, necessary, and feasible to achieve full employment and price stability together.

The major focus of S. 50 is on employment and the policies to achieve full employment. The bill has interim numerical goals of reducing unemployment among Americans aged 20 and over in the civilian labor force to not more than 3 percent, and to reduce unemployment among the entire civilian labor force aged 16 and over to not more than 4 percent by the end of the fifth year after enactment—which means in all probability 1983 full employment must be sustainable once it is achieved. Therefore, the creation of jobs must be done in an economy with an expanding level of production, increasing productivity, and a stable and much lower level of inflation than we have experienced recently.

Most economists now believe that unemployment and inflation can and should be dealt with together rather than separately. Indeed, the notion of a strict "Phillips curve" tradeoff has been rejected. We can and we must choose policies directed at both reasonable full employment and reasonable price stability. If no strict trade-off exists, neither goal would jeopardize the other.

Mr. President, my amendment to S. 50 establishes as an interim goal, to go along with the interim goals for unemployment, the reduction of the rate of inflation to 3 percent or less. As with the other interim goals this goal is set for the fifth year after enactment of S. 50. This appears to me to be a desirable and an attainable goal for inflation 5 years from now.

Some of my colleagues will argue that a 3 percent inflation goal is too high. I agree that 3 percent inflation is too high, but I do not think we would have a reasonable chance of doing much better than that within 5 years. If goals are to be workable they must have a chance of being achieved. If we can do better than 3 percent I will be the first to applaud the policies set by the Congress. This amendment certainly does not prevent us from doing better than the established numerical goals.

Other of my colleagues will no doubt argue that 3 percent inflation is unattainable within 5 years. They may, in fact, say that we cannot get the inflation rate that low ever again. I reject that. It is very easy to close our eyes to inflation. It is too easy for the Congress to pass legislation and to create new programs that are inflationary. But it is very difficult for the Congress to reduce expenditures for programs once they have been approved.

It must be fully understood that inflation cannot be curbed without the appropriate policies. The Full Employment and Balanced Growth Act could exacerbate inflation if it is passed without an explicit inflation target that the Congress must take cognizance of when it decides on appropriate economic policies. Ways must be found to stop the boom-bust cycle, and that is a fundamental reason why the inflation goal is needed. We must admit that to a large extent our inflation has its roots in excessive Government spending and large and growing Federal deficits.

The discipline imposed by targets has worked quite well for many private corporations. If that discipline is to work in Government the economic goals must be there for the Congress and the administration to see. The Federal Government must face up to its obligations, and goals can be helpful if they are prudently and objectively selected.

The supporters of the Full Employment and Balanced Growth Act claim that the establishment of an inflation goal to go along with the unemployment goals will reduce the Government's commitment to achieve full employment. Mr. President, this need not be the case. My amendment makes it clear that in establishing an interim inflation goal the Congress reaffirms its desire to achieve full employment by explicitly stating that, "Policies to achieve the inflation goal shall be designed so as not to impede the achievement of the unemployment goals."

Some may also argue that our current inflation was caused by events entirely outside the Government's control, by the OPEC oil price increases, and from adverse weather conditions, and that such events could happen again which would make the inflation goal unachievable. We cannot plan for exogenous shocks; that is a fact. But it is also true that the inflationary effects of the shocks that took place several years ago have largely worked their ways through the economy, except for the residual inflationary spiral that was left behind. The inflationary spiral has created an "underlying" inflation rate of 6 to 7 percent. As long as prices chase wages and wages chase prices, we are bound to have inflation. We must recognize that as long as every interest group attempts to catchup what has been previously lost, progress will be very difficult to make. That is another reason why the inflation goal is needed along with the unemployment goals—to alert everyone to the fact that inflation must be reduced along with unemployment, and that it will take a concerted effort by everyone to do that.

Mr. President, we must recognize that in the past tight monetary policy by the Federal Reserve has been the main continuously used policy tool aimed at reducing inflation. However, along with periodic tight money has come slow growth and loss of jobs, because monetary policy is a very blunt weapon to use against inflation. There is little that monetary policy can do to stop an inflationary spiral except to stop the economy. I do not want to see that happen, and I trust that the Congress and the members of the Federal Reserve Board do not want it either. By establishing and working toward a specific goal of reducing inflation, the Congress will be working with the Federal Reserve, not against it, and hopefully this will lessen the need for the Federal Reserve to lean with all its power and might against the inflationary winds. Hopefully monetary policy can take an easier stance so that investment and capital formation can be encouraged, rather than discouraged, which will lead to more jobs, higher productivity, and in the end less inflation.

Recently, the new Chairman of the Federal Reserve Board, G. William Miller, indicated in testimony before the House Banking Committee his support for an explicit numerical inflation goal. Mr. Miller's exchange with Congressman AuCoin went as follows:

Mr. MILLER. I would prefer, Mr. Congressman, to see a more explicit reference to the inflation aspect in the Humphrey-Hawkins bill. If you recall, the prior legislation that still is very important is the Employment Act of 1946. In that Act, we established a national policy of full employment without a specific level being cited, but full employment left to circumstances as they developed.

But that also, often forgotten (Act), has language that explicitly provides that full employment will be achieved by creating conditions for investment and growth in the private sector of the economy and with price stability. I think those principles ought to be reaffirmed, and if we are going to be specific in numbers for employment, I think it would be well to look at some explicit view of what inflationary forces mean.

Mr. AuCOIN. So to that extent you see a defect in the Humphrey-Hawkins legislation progressing through the Congress?

Mr. Miller. I see a preference in terms of the process under which Humphrey-Hawkins would operate. I see that it could work without a specific number on inflation. I would prefer to have it.

Finally, Mr. President, the establishment of an explicit numerical inflation goal is consistent with the anti-inflation program announced last week by President Carter. By recognizing the need to approach the goals of full employment and lower inflation together in the Full Employment and Balanced Growth Act, the Congress will be expressing it support for the approach to inflation taken by the President—by clearly recognizing the problems and causes of inflation and the need for voluntary efforts to reduce the inflationary spiral.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1794

On page 10 insert after line 14 a new subsection (5) as follows:

"(5) for all of the purposes of the Full Employment and Balanced Growth Act of 1978, the phrases "rate of inflation" and "reasonable price stability" shall refer to the

rate of change or level of the consumer price index as set forth by the Bureau of Labor Statistics, U.S. Department of Labor.".

On page 11, line 16, after the words "per centum", insert the following:

"and to reduce the rate of inflation to 3 per centum or less".

On page 11, line 23, after ".", insert the following:

"Upon achievement of the 3 per centum inflation goal, each succeeding Economic Report shall have the goal of further reducing the rate of inflation toward zero. Policies to achieve the inflation goal shall be designed so as not to impede the achievement of the unemployment goals."

## NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

● Mr. RIBICOFF. Mr. President, the Committee on Governmental Affairs will continue hearings on the Civil Service Reform Act of 1978, S. 2640, on Wednesday, April 19, and Thursday, April 20. The hearings each day will be held in room 3302 of the Dirksen Senate Office Building. On Wednesday, April 19, the hearing will begin at 10:15 a.m. On Thursday, April 20, the hearing will begin at 9:45 a.m. The following is the list of witnesses from whom the committee will hear on these 2 days:

April 19, 1978:

Mr. William A. Hammill, International Personnel Management Association;

Panel: National Association of Supervisors—Mr. Rod Murray, National President; Mr. Bun B. Bray, Jr., Executive Director; and Mr. James L. Hatcher, Assistant Executive Director.

April 20, 1978:

Senator Patrick Leahy;

Florence Isbell, American Civil Liberties Union;

Panel: Ernest Fitzgerald, Robert Sullivan and Anthony Morris.●

SUBCOMMITTEE ON IMPROVEMENTS IN JUDICIAL MACHINERY

● Mr. DECONCINI. Mr. President, I wish to announce that open public hearings will be held by the Subcommittee on Improvements in Judicial Machinery of the Committee on the Judiciary on S. 2094, S. 2389, and H.R. 9622, bills affecting the jurisdiction of the Federal courts in diversity of citizenship cases and the amount in controversy requirement in Federal question cases.

The hearings will be held on April 25, 1978, in room 5110, Dirksen Senate Office Building, commencing at 9 a.m.

Those who wish to testify or submit a statement for inclusion in the record should communicate as soon as possible with the Subcommittee on Improvements in Judicial Machinery, 6306 Dirksen Senate Office Building, Telephone (202) 224–3618, Washington, D.C.●

## ADDITIONAL STATEMENTS

### THE NEUTRON BOMB AND WORLD OPINION

● Mr. MATHIAS. Mr. President, it often is said that the passage of time is a great remedy, that time cures all things, and surely this is true. But, sometimes the passage of time obscures facts, and our perception of facts, in a way which dulls our ability to make judgments about critical issues affecting our world.

For example, in World War II and the years that immediately followed, there was a very active knowledge about the effects of an atomic bomb. We all carried in our mind's eye the mushroom cloud scenes of Nagasaki and Hiroshima, each devastated by an atomic bomb. The world was well aware of what was meant when we talked about the use of atomic and nuclear weapons.

Time has to some extent healed the scars that were created by these dreadful scenes, and people today are not as actively interested in the question of nuclear weapons as they were, or as they ought to be. And this is regrettable, because the kind of devastation which can be wrought by nuclear weapons is truly awesome, and it ought to be constantly kept in mind by the statesmen of the world, as well as by the people who send the statesmen out to work to prevent a nuclear holocaust.

It is with this perspective that we should approach the question of production and deployment of the neutron bomb. This bomb is a nuclear device in which the heat effect and the blast effect is reduced, but the radiation effect—the third element of nuclear bombs—is very strong and very highly active. That's why scientists call it the ER, or enhanced radiation bomb.

So, a neutron bomb does not destroy vast amounts of property, but does effect the health and life of human beings within its burst area.

I have reservations about the neutron bomb, as I think most people do. I don't know of anyone who can be enthusiastic about the existence or the use of the neutron bomb. But, I think the manner in which the President has expressed his reservation, the indecisive way he approached the determination whether or not to deploy the bomb, has had an unfortunate side effect that might in nuclear terms be called fallout.

The President's indecisiveness has helped focus world attention on a weapon that we in the United States do not have in production, that we do not have ready for deployment. The world has been listening to our internal debate while the Soviet Union has been getting ready to deploy a tactical nuclear missile, the SS–20, without the hindrance of public criticism, without the burden of global disapproval.

We ought to give the Russians equal time in the public criticism which surrounds the weapons issue. We shoud have seen a little more public attention being paid to what the Soviets are doing to threaten the European balance, and less to what the effect of our deployment might be several years from now. After all, the neutron bomb is a specific response to the thousands of tanks the Russians have fielded and which have barely been mentioned by anyone.

For us to give up the neutron option completely can only be viewed as a sign of weakness and indecisiveness when we do not make a demand for an equal forbearance on the part of the Soviet Union. Because the neutron bomb is a tactical and not a strategic weapon, it is not subject to the SALT negotiating process.

I hope that the Secretary of State will be asking the Soviets hard questions about their willingness to rein in their European buildup. Restraint on our development of the neutron bomb should come in the context of reciprocal Soviet restraint.●

### U.S. POSTAL SERVICE

● Mr. FORD. Mr. President, I submit for the RECORD an editorial which was broadcast on radio station WOMI–WBKR, the Owensboro Broadcasting Co., Owensboro, Ky., on April 12, 1978.

The text of the editorial follows:

EDITORIAL

We saw the other day where an electronics firm won the contract to supply the U.S. Postal Service with a number of gadgets that are supposed to sort letters, excuse the expression, post-haste. We suppose they are very efficient devices, and quite costly. To make them practical from a cost standpoint the postal service has to have a lot of letters available for them to sort. We understand that to accomplish the chore of assembling a sufficient quantity of mail needing sorting, the postal big-wigs have ordered that letters be trucked from little and large postoffices to a really large one where the machines will be located. There they will be sorted and then trucked back to the starting point for distribution to letter carriers, and then to patrons. The net result will be to make local mail take longer than mail from distant points to get delivered. This fact is underscored by the restrictions placed on the newly created express mail, and the limited areas where it is available.

We hear by the grapevine that Owensboro is one of the large cities whose letters will be trucked to a larger city for sorting and return. The larger city is Evansville.

We fail to understand how the new system will be as efficient time-wise as present methods, unless it might be to speed the handling of bulk mailings like church news letters just through sorting them with the regular staff.

We predict that in order to take advantage of speeded-up letter sorting, we will have to pay in slowed down total delivery time, and a smaller clerk force in the postoffices of the nation.●

### SENATOR WEICKER SPEAKS ON LAW AND ORDER

● Mr. HEINZ. Mr. President, last Saturday evening the distinguished Senator from Connecticut (Mr. WEICKER) delivered a thoughtful and courageous address at the annual dinner of the Amen Corner in Pittsburgh.

Senator WEICKER's topic was law and order but his remarks went beyond what we normally think of when that term is used. Instead of discussing crimes such as theft, murder, or robbery, the Senator from Connecticut spoke movingly

about fundamental destructions of justice by government and elected officials, by labor and business leaders, and by "average" middle Americans—the very groups one does not think of when crime is the subject of discussion. Prominent among the Senator's subjects were the FBI break-ins and the Korean bribery scandal, the latter of particular interest to Senator WEICKER because of his recent service on the Senate Ethics Committee.

Mr. President, this is a thoughtful speech which reflects a great deal of knowledge and interest on the Senator's part. It is a courageous speech because it meets head on issues many of us might wish to push into the background. I commend Mr. WEICKER's remarks to my colleagues and ask that they be printed in the RECORD.

The remarks follow:

AN ADDRESS BY SENATOR LOWELL WEICKER

I would like to spend my time with you this evening discussing law and order. I am aware that in a technical sense this is not your life's work—but in the sense of your American citizenship it is part of your life.

This is not going to be a discussion of cliches of the type that define law and order in terms of capital punishment, plea bargaining, social injustice or federal funding for law enforcement.

Rather, I am asking that we examine to what extent each of us intends to obey the law and to commit to seeing that the law is enforced. For those of you who are "all the way" on both counts a cheer and sincere congratulations.

Unfortunately, the record of respect and support for a government of laws in this nation is of such a declining nature as to paint a different picture—a picture that is out of focus, off base and for the birds.

Even now I'm sure there are those listening to this speech who are mentally nodding in agreement as they envisage the destruction of justice as some young city black holding a knife to an old lady's throat (she of course is white) or some Hispanic raping a young teenager (she of course is a middle-American).

But surprise! This evening when I talk about the destruction of justice I'm going to talk about us. By us I mean Senators, Presidents (of countries and corporations), judges, secretaries of State, labor leaders, doctors, lawyers, businessmen, small business owners, well-to-do-America, middle America, law enforcement officials, salesmen, housewives, the educated, the religious, whites—in other words, everybody except those who we traditionally conjure up in our minds' eye as having committed a crime.

And I'm going to do this because though I deplore the taking of even one life in a dark and lonely alley somewhere, I despair even more when a nation loses its life in broad daylight in full view.

You ask what's this business of America losing its life. It's the business of moving from a government of laws to becoming a government of men. It's the business of people deciding which laws they're going to enforce and which laws they are going to obey. It's the business of deeming oneself as sufficient to substitute for the constitutional process.

True, the recent pronouncements of the Attorney General relative to alleged violations of law by members of the FBI is what fired up this speech but that travesty is only the latest in an unbroken march toward selective law breaking and selective enforcement that is the scandal of our generation. And this scandal is in addition to, not part of Watergate.

Let me start with the FBI scenario because in one way or another I've been intimately involved with this Agency and its personnel for quite some time now.

A year ago, both during Appropriations hearings and in private, I reiterated my views to the new Attorney General Bell that allegations of wrongdoing against members of the FBI should travel the full course of justice. At that time the case of Agent John Kearney was the focal point of legal and public interest. I also made it clear that the investigative trail should be followed no matter how high it led. Little did I surmise that allegations of illegal activities would travel from a Kearney who I did not know to L. Patrick Gray who I did know, liked and who had already suffered greatly from past misfortunes.

So naturally the question was asked by many as to what I thought of my original admonition to Griffin Bell, my original criticism of the rhetoric of the founders of the Kearney defense fund now that it was a friend who was involved.

Well, the admonition and criticism stick and, moreover, I disagree with substitution of administrative action for Constitutional Justice when it comes to Messrs. Kearney, LaPrade and such other agents who may have engaged in acts deserving of the full scrutiny and verdict of the legal process.

The fact these gentlemen are members of the Federal Bureau of Investigation should guarantee the best of their behavior not the worst. Moreover, the "following orders" excuse was rejected and the rejection made international law by your country at Nuremberg. The "we were after terrorists" justification has some difficulties in the definition because of an official Washington, FBI included, that only a few years back equated enemies with valid dissent. For example, U.S. military intelligence in West Germany was breaking and entering the abodes of American citizens which citizens were supporters of Senator George McGovern. These people were hardly terrorists or enemies.

No, I don't believe in Hoover justice, Mitchell justice or Bell justice. I do believe in the American system of justice and its capacity, unsurpassed in human history, to determine innocence and guilt.

Yes, some of Mr. Kearney's fundraisers, to the contrary notwithstanding, you can have effective law enforcement which is Constitutional. The inefficiencies of law enforcement which frustrate many of us from time to time exist primarily because two hundred years ago you—you as an individual, you as a human being, were deemed to be more important than the conveniences of society. Justice Black phrased it elegantly:

"Certainly, why shouldn't they? What were they written for? Why did they write the Bill of Rights? They practically all relate to the way cases shall be tried. And practically all of them make it more difficult to convict people of crime. What about guaranteeing a man a right to a lawyer? Of course, that makes it more difficult to convict him. What about saying he shall not be compelled to be a witness against himself? That makes it more difficult to convict him. What about the 'no search, unreasonable search or seizure shall be made?' That makes it more difficult. . . . Why did they want a jury? They wanted it so they wouldn't be subjected to one judge who might hang them or convict them for a political crime, or something of that kind. And so they had juries. And they said the same thing about an indictment. That's what they put it in for. They were, every one, intended to make it more difficult, before the doors of a prison closed on a man because of his trial."

Lastly as to this aspect of the law and order picture. From time to time, expressions of concern have issued forth as to lowered morale in the FBI should justice take its full course. I can appreciate that problem but, Ladies, and Gentlemen, I suggest the more crtitical problem confronting this nation is the rapidly deteriorating belief among all elements of our society in the equality of American justice. It's gotten to the point where we've gone from a presumption of innocence and an acceptance of the best in each other to the suspicion that everybody and every institution is ripping us off. Events such as I'm talking about do nothing to dispel that cynicism. Getting such negativism set straight had better be number one on the national spiritual agenda even ahead of soothing some hurt feelings in the FBI.

Now to turn to the law and order contribution or lack thereof by the political side of government.

As most of you know, both the Senate and House Ethics Committees have been investigating allegations of South Korean influence peddling among members of Congress. Until recently, I have been a part of that effort.

What Tongsun Park and his government did provokes, I'm sure, anger among the people of this country. Or, at least, I hope it does. But understand that what was done was taught South Korea by representatives of this country.

Remember several years ago when revelations of CIA money being used to influence the Italian elections were made known? How many of you dismissed that incident with a "well that's in Italy, not here." Now you know it was also here. And it was here because we were willing to accept a double standard specifically—keep the bribery abroad and it's okay. So our CIA taught the KCIA that principle and we are now reaping the rewards of lessons well taught and well learned. My question to each of us "at what point in time in our national morality did the correctness of bribe depend on whether it was a domestic or an international act?" I ask that question not only of government but of American business.

Back to the Park investigation. I felt from the cutset that the testimony and cooperation of Tongsun Park and his government would be of dubious value. That in the interest of a complete investigation it would be necessary to find other sources of information. I found those potential sources. Not among Washington lobbyists, not among embassy personnel, not by traveling to Seoul. But in the memoranda of my own government. Here it is everyone raising a hue and cry over Park and the Koreans and wonder of wonders the written record makes it clear that thanks to information supplied by various U.S. intelligence agencies, the FBI, the Justice Department, the State Department, the National Security Council, Director Hoover, Dr. Kissinger, Mr. Mitchell were all sent the information in 1971 that has this country in an uproar in 1978.

By what application of the law was the law sat on in 1971? Was it because Senators and Congressmen were involved? Was it for reasons of friendship or politics? Was it for future potential use?

For sure we know it wasn't for reasons of reinforcing the concept of "equal justice under law."

And so another example is set at the top which encourages everyone to write their own rule book. This violence doesn't manifest itself in rivers of blood or broken bodies but in a legacy that the old U.S. of A isn't going to be quite as good a place for our children as the one we inherited. A little more anarchy, a little less Constitutional democracy.

It was Lord Moulton that said, "The measure of a civilization is the degree of its obedience to the unenforceable."

Hell, we don't even make it to the ABC's and 1 plus 1 of our laws.

Business does its payoff thing overseas and explains it away as local custom.

Unions openly flout the Taft Hartley law and government tolerates the law breaking to the point where the courts throw government out of court.

Bert Lance philosophizes his problems away with the point that he has made money on what he is suspected of doing and consequently that vindicates him—all this while he peddles his White House connections in the Mid East.

Are we really waiting for the uneducated, the ill fed, the homeless, the poor, the despondent, the weak to set the law and order example in our country?

If so, this might be the occasion for only the second time in our young history to play "The world turned upside down."

Or is each one of us by personal example going to reestablish the United States as a government of laws? For awhile that will probably be a lonely business. However, it will do the job for law and order with the only cost being a measure of your love for all that is our nation.●

## REPRESSION OF HELSINKI WATCHERS IN U.S.S.R. CONTINUES

● Mr. PELL. Mr President, systematic repression of the Helsinki watchers in the U.S.S.R. continues unabated. Last Thursday, according to press reports from Moscow, Pyotr Vins, one of the newest members of the Ukrainian Helsinki Watch Group, was sentenced in Kiev to 1 year in labor camp on the charge of "parasitism," an accusation commonly leveled against human rights activists who lost their jobs and were unable to find work because of their activism. Vins joins his colleagues in the Ukrainian Public Group To Promote Observance of the Helsinki Accords as the latest victim of official reprisal: Of the 14 members of the group, 5 (Mykola Rudenko, Olsksiy Tykhy, Mykola Matusevych, Myroslav Marynovych, and now Pyotr Vins) have been tried and sentenced, 1 (Levko Lukyanenko) is awaiting trial, and 1 (Pyotr Grigorenko) has been permanently exiled from his country.

Pyotr Vins, the son of the imprisoned Baptist Pastor Georgi Vins, was in the process of applying to emigrate to Canada to join relatives there when he was arrested in mid-February. Although only 23 years old, young Vins had already paid a stiff price for his activities: he was denied the opportunity of a higher education and was twice detained for 15-day periods in December 1977. Now, Soviet authorities have extracted toll—a year in labor camp. I join my colleagues in the Congress in saluting this courageous young man. I hope my colleagues will join me in urging the immediate release of Pyotr Vins and the other imprisoned Helsinki watchers in the U.S.S.R.●

## OKLAHOMA PSRO PROJECT—OURS

● Mr. BARTLETT. Mr. President, approximately 2 years ago the Department of Health, Education, and Welfare published regulations requiring peer review of all admissions under medicare and medicaid programs. These regulations are commonly called the PSRO program.

The impact of these regulations on a predominately rural State is extremely significant, and in response to these regulations, the hospitals and physicians in Oklahoma submitted an application to the Department of Health, Education, and Welfare for the purpose of developing a workable program of admissions review that could handle both rural and urban hospitals.

Basically, the project was to determine whether or not it is possible to use a retrospective statistical audit of hospital performance to determine whether or not its internal utilization review is working properly.

The project was called the Oklahoma Utilization Review System (OURS), and it has now completed its first 12 months of operation. The Oklahoma Foundation for Peer Review, which operates the OURS project, has submitted their findings to the Secretary of Health, Education, and Welfare, and provided me with a brief history and statement on the current status of this operation.

The project has been cited as an example of innovation from the private sector, and I believe that the initial results prove that progress can be made toward stabilizing the Federal cost of health care.

Mr. President, I ask that a copy of the brief history and explanation of the OURS project be printed in the RECORD.

The material follows:

OKLAHOMA UTILIZATION REVIEW SYSTEM

BRIEF HISTORY AND EXPLANATAON

When Medicare and Medicaid became law in the mid-1960's, there was a provision in the original Act designed to be a "cost control" mechanism. The law provided that before a hospital could receive reimbursement through either program it was necessary for the institution to have a "utilization review plan" in effect.

The purpose of such a plan was to assure that whenever a Medicare or Medicaid patient entered a hospital they (a) needed a hospital level of services, (b) were rendered services that were medically necessary for the diagnosis given, and (c) did not remain in the hospital longer than was medically necessary.

The phrase "utilization review" referred to the fact that such a plan was designed to review the utilization of hospital bed space and ancillary services.

As the cost of the two federally funded programs began to increase from year to year, Congress began to search for a long term cost containment approach. At the same time HEW began to look for short term mechanisms that might control costs.

On November 29, 1974, HEW issued new Utilization Review Regulations, tightening up the regulations that had been issued when Medicare and Medicaid became law. Shortly after the new regulations were issued a Task Force was established in the state of Oklahoma to assist hospitals to comply with the new regulations. The Task Force consisted of representatives from the Oklahoma State Medical Association, Oklahoma Osteopathic Association, Oklahoma Hospital Association, the Hospital Licensing Section of Oklahoma State Health Department, and representatives from the Medicare and Medicaid agencies.

The Task Force quickly realized that the new U.R. Regulations tightened up the requirements to a point where they could actually endanger the financial existence of nearly 50 small hospitals in Oklahoma. The primary trouble was with the number of physicians required for a hospital to have a "utilization review plan" that met federal requirements. A plan was devised that would establish a statewide network of small utilization review committees . . . committees made up of physicians who would be willing to assist hospitals that did not have enough professional staff members to meet the U.R. Requirements on their own. However, federal regulations apparently did not provide for such hospital cooperation. In addition, in order to carry out such a plan it would be necessary to have a small amount of funding . . . funding for travel, rental of meeting space, telephone expense, etc.

In May of 1975 a delegation of Oklahoma physicians traveled to Washington and presented the idea of a statewide network of utilization review committees to some high-level HEW officials. The meeting with the officials was setup through cooperation of the Oklahoma Congressional Delegation and was held in Senator Henry Bellmon's office.

The idea of a statewide network of utilization review committees was met with some enthusiasm by HEW officials. The officials told the Oklahoma Delegation to prepare a formal plan and budget for submission to HEW. They offered to send the necessary experts to Oklahoma to help in the drafting of a formal grant request.

Over the next 18 months the Task Force worked with HEW experts to devise a formal plan. During that period of time, however, the plan grew from a simple statewide network of utilization review committees into a system that would assist every hospital in the state and would assure a uniform enforcement of utilization review requirements in all hospitals.

During the developmental period the utilization review plan gained a name . . . the Oklahoma Utilization Review System, and became known by the acronym "OURS". The plan is quite simple, a computer screening system has been developed to evaluate every hospital in Oklahoma on the basis of such things as average length of stay, use of ancillary services, charges per day, pre-operative length of stay, and the number of Medicare or Medicaid denials or partial denials. All of the information necessary to make the various evaluations comes from the Medicare and Medicaid claim forms filed by the hospital.

All of a given hospital's Medicare and Medicaid claims over a period of time are combined by a computer process to generate a series of statistics on the hospital. This results in a computer printout indicating the hospital's performance as compared to standards established by Oklahoma physicians. This computer printout is called the "report card".

The state is divided into six balanced regions with a Regional Review Team in charge of each. The regions are balanced by number of hospitals, number of physicians, and a number of possible beneficiaries. Each Review Team consist of nine physicians . . . an appropriate ratio of Medical Doctors to Doctors of Osteopathy in the region. The func-

tion of the Team is to examine each hospital's computer printout and then subjectively evaluate that hospital to eliminate or screen out individual deviations brought about by unique hospital circumstances. (As an example, a hospital with a large burn center might have an unusually long average length of stay. It's brought about by the fact that most burn victims are extremely long term hospital cases.)

The OURS plan is a double screening program . . . a statistical computerized screening that is followed up by a subjective human evaluation.

After the Regional Review Team evaluates the hospital's statistics, it is placed in a "review category" or "review status". Depending on the status, the Regional Review Team may make recommendations to help individual hospitals improve future performance. Using a "reward" approach, as a hospital's performance improves the required paperwork and formal review necessary is lessened.

The OURS plan was formally adopted in late 1975 by the Oklahoma Osteopathic Association, Oklahoma State Medical Association, Oklahoma Hospital Association, and the Oklahoma Foundation for Peer Review governing bodies. At that time it was forwarded to HEW with a request for full funding.

After a prolonged series of false starts, the project was finally approved and fully funded in late 1976 to begin operation for 12 months beginning on February 1, 1977. Total budget for the 12 month demonstration project was $198,000.

The OURS plan completed its 12 months of operation on January 30, 1978. The first 12 months of operation have now been analyzed and the following data made available.

The reference in the following tables to "baseline data period", refers to the period July 1–December 30, 1976. This was the last six calendar months before the operation of the OURS plan began.

OKLAHOMA UTILIZATION REVIEW SYSTEM, POTENTIAL HOSPITAL UTILIZERS

| Beneficiaries | Number possible | Data source |
|---|---|---|
| July to December 1976 —Baseline data period: | | |
| Title XVIII, pt-A (medicare). | 320, 218 | SSA, Baltimore monthly average from actual count. |
| Title XIX (medicaid). | 163, 155 | DISRS, monthly average from actual count. |
| SSA disabled | 34, 417 | SSA, Baltimore. |
| Renal disease | 563 | DHEW, Dallas Office, number as of Dec. 31, 1976. |
| Total | 528, 353 | |
| February 1977 to January 1978—12-mo operations: | | |
| Title XVIII, pt. A (medicare). | 351, 503 | SSA, Baltimore, estimate based on projected growth from 1976 data. |
| Title XIX (medicaid). | 154, 433 | DISRS, monthly average from actual count. |
| SSA disabled | 40, 422 | SSA, Baltimore estimate based on projected growth. |
| Renal disease | 591 | DHEW, Dallas Office, estimate based on 1976 data plus growth. |
| Total | 546, 949 | |

OURS, UTILIZATION COMPARISONS—BASELINE PERIOD TO 12-MO OPERATIONS

| | Baseline | Operational | Variance (percent) |
|---|---|---|---|
| Possible beneficiaries | $528, 353 | $546, 949 | Up 3.5. |
| Claims filed (title XVIII, XIX, SSA disabled and renal disease). | [1] 179, 470 | 174, 201 | Down 2.9. |
| Hospital days utilized | [1] 1, 558, 428 | 1, 564, 858 | Up 0.4. |
| Total charges submitted | [1] 193, 143, 202 | 228, 869, 625 | Up 19.02. |
| Claims per thousand possible beneficiaries. | [2] 339. 9 | 319 | Down 6.15 or 20.9 per thousand. |
| Days per thousand possible beneficiaries. | [2] 2, 951. 5 | 2, 866 | Down 2.9 or 85.5 per thousand. |
| Number of claims totally denied | [3] 2, 260 | 1, 497 | Down 33.8. |
| Percent of claims totally denied | 1. 25 | 0. 86 | Down 0.31. |
| Number of claims partially denied | [3] 508 | 195 | Down 61.6. |
| Average length of stay (days) | 8. 68 | 8. 98 | Up 0. 3. |
| Average pre-operative length of stay (days) | 3. 17 | 3. 03 | Down 0. 14. |

[1] Some baseline data have been projected for full 12 mo for comparison purposes. This was accomplished by doubling the actual data collected during the last 6 calendar months of 1976. Historically any skewing effect should favor the baseline period.

[2] Baseline data projected to full 12 mo for comparison.

[3] Denials for entire calendar year 1976 (Blue Cross/medicare).

GAMES WITH FIGURES (DAYS)

Multiply days decrease per 1,000 (85.5) by number of possible benefit utilizers (547 M) and by average charge per day ($146)—Equals—savings by non-utilization, $6,828,-201.

GAMES WITH FIGURES (CLAIMS)

Multiply claims decrease per 1,000 (20.9) by number of possible benefit utilizers (547 M) and by average charge per claim ($1,-321)—Equals—savings by non-utilization, $15,102,068.●

## FOREIGN MEAT IMPORTS

● Mr. MELCHER. Mr. President, the chairman of the Federal Reserve Board and the Director of the Council of Wage and Price Stability have both publicly suggested that we open up foreign meat imports to hold down beef prices, although beef prices in March were still below their level 4 years ago.

The cattle industry has just gone through the wringer. They have now finally liquidated herds to a point where supplies balance demand at a price level which will pay their costs of production, but they are still down economically—they have not recovered their very substantial losses of the last 3 or 4 years and they have not caught up on those notes at the bank which were to raise money enough to pay the losses of the last 4 years.

Trying to roll back meat prices at this time like sinking the liferaft that cattlemen have clung to to avoid drowning. Industrial profits have been improving. Workers have been getting their cost-of-living wage increases. No segment of our economy has suffered more than agriculture, especially our grain and livestock producers. The cattlemen are only beginning to see some solid ground ahead and it is premature to even think about rolling prices back on them.

The National Cattlemen's Association has recently printed in their Better Beef Business bulletin an excellent and objective analysis, in readable question-and-answer form, of the beef price situation

I ask to have it printed in the RECORD and I commend the analysis to all of my colleagues for study, and also especially to those in downtown agencies—including the White House and Federal Reserve System—who are inclined to start kicking before they know what they are doing.

The material follows:

WHAT'S BEHIND THE HIGHER BEEF PRICES?

Q. Why are beef prices going up?

A. The answer is simple—the law of supply and demand. Beef supplies are now decreasing from the record high levels of 1976 and 1977. Per capita supplies in the second quarter of 1978 will be about 7 percent less than a year earlier. Meanwhile, personal incomes as well as population have continued to increase, and total demand for meat has grown.

Q. What about other meats?

A. That's one reason why beef prices have been increasing. Pork production is not increasing, as previously forecast. As a result, per capita supplies of red meat in the coming months will be smaller than expected.

Q. But hasn't the beef price increase recently been exceptionally sharp?

A. Yes, it has. That's one thing that can happen in a commodity business. You sometimes get rather rapid price changes. One thing to remember is that prices often go down as rapidly as they go up. For example, the average price of Choice beef dropped from $1.49 to $1.35 per pound between January and March in 1976, while it went up this year from $1.48 in January to $1.58 in March. One reason for the recent increase was adverse weather and little or no weight gain on cattle—delaying the time when they go to market.

Q. It seems to me that retail beef prices are a lot higher now than ever before.

A. It probably seems that way because they were quite low for most of the past four years. Beef prices may go higher later, but the March retail average of $1.58 was still below the record high of $1.61 per pound in mid-1975.

Just look at the average February cattle and retail beef prices over the past several years (table 1). The average price of Choice beef was $1.50 in February, 1974. It dropped to only $1.29 in February, 1975. The February average did not get back up to the 1974 level until this year—when the average was $1.53.

The price of Choice steers at Omaha back in February, 1974, was $46.38 per hundredweight. Four years later, in February, 1978, the average, at $45.44, still was less. Not until March did the average go higher.

TABLE 1.—AVERAGE FEBRUARY PRICES OF BEEF AND FED CATTLE, 1973–78

| | February— | | |
|---|---|---|---|
| | NCA 5-cut average (pound) | USDA choice beef (pound) | Choice steers, Omaha (hundredweight) |
| 1973 | | $1.30 | $43.54 |
| 1974 | $1.63 | 1.50 | 46.38 |
| 1975 | 1.29 | 1.29 | 34.74 |
| 1976 | 1.38 | 1.43 | 38.80 |
| 1977 | 1.40 | 1.35 | 37.98 |
| 1978 | 1.59 | 1.53 | 45.44 |
| March 1978 [1] | 1.63 | 1.58 | 49.50 |

[1] Partially estimated.

Source: USDA.

Q. Okay, I can see that beef prices go down as well as up, but I come back to my basic question. Aren't beef prices getting higher compared with other things?

A. No, they still have gone up less in recent years than most things we buy. For example, the average price of beef in March, 1978, was only 16 percent higher than the average for 1973—the last year when most cattlemen made a profit during most of the year. The over-all Consumer Price Index, on the other hand, increased 41 percent in the same period, and 1978 average disposable income per person is expected to be 54 percent higher than in 1973 (table 2).

Q. It still seems that there are more "ups" than "downs" in beef prices.

A. Over the longer term, that generally is true. That's because beef prices, like everything else, are affected by inflation. The farm value in a dollar's worth of beef generally is about 60 percent; the other 40 percent goes for processing, transportation and merchandising. For the most part, it's the farmer's share of each beef dollar that fluctuates. The annual average farm-to-retail price spread, on the other hand, generally keeps going up, right along with inflation.

For example, the average price of Choice steers in Omaha in March this year was only 11 percent higher than the average for 1973. However, the farm-to-retail beef price spread went from an average of 42 cents per pound in 1973 to an estimated 63 cents in March—an increase of 50 percent (table 2).

TABLE 2.—CATTLE AND BEEF PRICES AND COMPARISIONS

| Year | Choice steers Omaha [1] (hundredweight) | Retail prices choice beef [1] (pound) | Farm-to-retail beef price spread [2] (c/lv.) | Index of prices paid by farmers for production items [3] (1967 equals 100) | Consumer Price Index all items [4] (1967 equals 100) | Average per person disposable income (per year) |
|---|---|---|---|---|---|---|
| 1973 | $44.54 | $1.36 | $41.9 | 146 | 133 | $4,286 |
| 1974 | 41.89 | 1.39 | 53.0 | 166 | 148 | 4,638 |
| 1975 | 44.61 | 1.46 | 54.4 | 182 | 161 | 5,061 |
| 1976 | 39.11 | 1.39 | 64.4 | 198 | 171 | 5,511 |
| 1977 | 40.38 | 1.38 | 60.8 | 208 | 182 | 6,035 |
| 1978 [5] | 49.50 | 1.58 | 63.0 | 217 | 187 | 6,580 |
| Percent change, 1973–78 | +11 | +16 | +50 | +49 | +41 | +54 |

[1] Annual averages, except March 1978.
[2] 1st quarter averages, except estimated for March 1978.
[3] Annual averags except 1st quarter, 1978.
[4] Annual averages, except January 1978.
[5] Partially estimated.

Sources: USDA, Cattle-Fax, Western Livestock Marketing Information Project.

Q. Why did this margin go up so much? Does it mean the "middleman" is getting a lot more?

A. It really depends on how you define "middleman." What goes into the "middleman's" margin is primarily a lot of costs. Actually, there's nothing mysterious about the rising price spreads. All you have to do is look at the Consumer Price Index and the figures on personal income, and you have your answer. The problem is inflation.

About half of the cost of getting food from farm to market is labor costs. As wages increase—and assuming no improvement in output per man-hour—labor costs, and price spreads, keep going up. Also, there have been sharp increases in costs of energy, packaging, equipment, etc. Profits of packers and retailers together don't account for 2 cents out of each food dollar. Not earnings as a percent of total sales are about 1 percent in the packing industry and less than 1 percent in food retailing.

Q. Why are beef supplies decreasing now? Have producers been holding back cattle in an effort to get higher prices?

A. No, they haven't been. Actually, cattlemen can't afford to feed cattle very much past the time they are ready for market. Costs get too high. The main reason for the beef supply decrease now is that cattle production runs in cycles, just like other commodity businesses. But in the cattle business the cycles are longer. A cycle runs 10 to 12 years from one low point in cattle numbers to the next. (See the accompanying chart.)

During one part of the cycle, cattle numbers and the basic cow herd are increased as hundreds of thousands of individual farmers and ranchers react to favorable prices by expanding their herds or getting into the cattle business. (See table 3.) Eventually, cattle numbers become too large. There is more beef than consumers can or will buy at a profit to cattlemen. This is the situation cattlemen have faced during most of the past few years.

The financial losses which resulted from the large supplies brought on the "liquidation" phase of the cycle—when many cattlemen were forced, or elected, to get out of the cattle business or cut back on their operations. Exceptionally rapid cost increases and drought in some regions accentuated the recent liquidation.

This liquidation of breeding stock temporarily compounds the beef over-supply and cattle low-price problems. Then, after cattle numbers are reduced and per capita beef supplies decline, prices begin to rise again. That's what's happening now. The industry is now emerging from the liquidation phase of the latest cattle cycle—a four-year period when most cattlemen lost money most of the time.

TABLE 3.—NUMBER OF CATTLE AND CALVES ON FARMS AND RANCHES, JAN. 1, 1978, WITH COMPARISONS

[In thousands of heads]

| Year | All cattle and calves | Percent change from previous year | All cows | Percent change from previous year |
|---|---|---|---|---|
| 1968 | 109,152 | 0 | 47,710 | 0 |
| 1969 | 109,885 | +1 | 48,085 | +1 |
| 1970 | 112,303 | +2 | 48,982 | +2 |
| 1971 | 114,578 | +2 | 29,786 | +2 |
| 1972 | 117,862 | +3 | 50,585 | +2 |
| 1973 | 121,534 | +3 | 52,541 | +4 |
| 1974 | 127,670 | +5 | 54,293 | +3 |
| 1975 | 131,826 | +3 | 56,682 | +4 |
| 1976 | 127,980 | −3 | 54,974 | −3 |
| 1977 | 122,810 | −4 | 52,424 | −5 |
| 1978 | 116,265 | −5 | 49,677 | −5 |

Source: USDA.

Q. Why does the cycle last so long?

A. Because the cattle industry is, in effect, controlled by the biology of the cow. From the time a producer decides to increase the size of his basic cow herd, it often takes four years before the extra beef resulting from that decision reaches the super market.

Suppose a producer decides a female calf born today will be added to his basic cow herd. It takes 16 to 24 months before that heifer calf can grow up, mature and be bred. It takes another nine months of gestation before a calf is born. Then it's generally at least 18 more months before that calf is grown and finished for market.

Q. Will beef prices just keep going up for the next few years?

A. Not necessarily. The longer term trend may be upward until herds are rebuilt enough, but there also will be shorter term "downs" as well as "ups" as a result of fluctuations in meat supplies.

Actually, cattle prices have to increase further before the total industry can be profitable again. As shown in table 2, prices paid by farmers for production items have gone up 49 percent since 1973, while cattle prices were up only 11 percent as of March. While other things were going up in price during the past few years, cattle prices were going down or not increasing.

Q. Just how much are beef supplies decreasing now?

A. It looks as though production in 1978 will be at least 6 percent less than in 1977, and 9 percent less than in 1976. Per capita beef supplies on a carcass weight basis are likely to drop to 118 lbs. in 1978, compared with 126 lbs. last year (table 4). Eventually, per capita supplies may drop back to around 110 lbs. again.

Q. It seems hamburger prices have been going up faster than other cuts of beef. Why?

A. Much of the ground beef comes from older cows being culled from herds and from non-fed steers and heifers. As shown in table 4, production of beef from cows and non-fed steers and heifers increased substantially during the liquidation phase of the cycle. This production helped meet the growing demand for ground beef from the fast food industry. As a result of the large hamburger supplies, prices were very low for an extended period. Now, with liquidation winding down, there is less cow beef. However, more of each fed beef carcass is now going into hamburger. Prices may be higher for a while, but supplies should be ample.

TABLE 4—COMMERCIAL CATTLE SLAUGHTER, SLAUGHTER MIX AND BEEF PRODUCTION, 1971-78

[In thousands of head]

| | Commercial slaughter | | | | | | | Per capita consumption[1] | |
|---|---|---|---|---|---|---|---|---|---|
| | Fed | Non-fed | Cows | Bulls | Total | Per-cent nonfed | Beef product (million pounds) | Beef (pounds) | Red meat (pounds) |
| 1971 | 26,060 | 2,517 | 6,375 | 633 | 35,585 | 27 | 21,697 | 113.0 | 197.8 |
| 1972 | 27,670 | 1,472 | 5,992 | 645 | 25,779 | 23 | 22,218 | 116.1 | 192.9 |
| 1973 | 25,890 | 873 | 6,248 | 676 | 33,687 | 23 | 21,088 | 109.6 | 178.0 |
| 1974 | 23,880 | 4,598 | 7,514 | 820 | 36,812 | 35 | 22,844 | 116.8 | 190.5 |
| 1975 | 21,200 | 7,057 | 11,557 | 1,097 | 40,911 | 48 | 23,673 | 120.1 | 182.4 |
| 1976 | 25,085 | 5,948 | 10,617 | 997 | 42,644 | 41 | 25,662 | 129.2 | 194.7 |
| 1977 | 25,892 | 5,145 | 9,865 | 907 | 41,851 | 38 | 24,984 | 125.7 | 193.2 |
| 1978[2] | 27,000 | 2,650 | 8,450 | 750 | 38,850 | 31 | 23,400 | 118.0 | 187.0 |

[1] Carcass weight basis.
[2] Cattle-Fax projections.

Source: USDA and cattle-fax estimates.

Q. Can't government control supplies and prices in order to even out the peaks and valleys of the cattle cycle?

A. It's been tried. It simply doesn't work. Government interference now would cause greater losses for producers. This would force further reductions in beef production, and eventually still higher prices. Consider the effects of the 1973 beef boycott and government price freeze. Most consumer advocates concluded that the boycott and freeze were counter-productive. Partly as a result of the 1973 disruption of the market, supplies of fed beef in mid-1975 were sharply reduced, and retail prices temporarily reached record highs.

Most cattlemen believe in the free market system, and they think that this system—without government controls and subsidies from taxpayers—is in the best long term interest of the public as well as cattlemen.

Unfortunately for cattlemen, the best cure for low prices is low prices. Why? Because low prices bring needed supply adjustments. Similarly, the best cure for high prices is high prices—because higher prices eventually bring supply increases, which then moderate prices to consumers. Cattlemen don't like big supply and price fluctuations either, but they think the alternative—costly government red tape and controls—is worse.

Q. Cattlemen say they should be left alone now that beef prices are rising. But weren't they previously crying for guaranteed prices and government help to bail them out?

A. No, they were not. And that's a tribute to cattlemen, considering their huge financial losses. Sure, many complained. They were caught between escalating costs and declining prices. Most of them lost money most of the time for the last four years. But they didn't ask for government subsidies or controls. If they didn't get out of the cattle business, they tightened their belts, borrowed more money, and looked forward to the time when their returns hopefully would improve again.

Now they need an opportunity to recover their losses, repay their debts and earn a profit on their investments. They expect government to stay out of their business now, just as government stayed out when they were suffering big losses. It would be unfair for government to change the rules of the game now and try to artificially increase meat supplies or impose price restrictions.●

## MRS. MARY TUCKER

● Mr. HELMS. Mr. President, it is not surprising that many Senators and dozens of Senate staff members have expressed to me their deep personal sadness that death has claimed a lovely associate of mine, Mrs. Mary Tucker.

Mary died unexpectedly this past Saturday evening at her home. She had not been well for the past 2 weeks, but none of us was prepared for the shocking news that she is gone.

Mr. President, when I was elected to the Senate in November 1972, Mrs. Tucker was one of the first staff members whom I selected as an associate. I remember my delight when I learned that she would be available, because she knew "The Hill," and she was popular and respected by the thousands of people with whom she had dealt while serving on the staffs of a number of Senators, the most recent being the distinguished Senator from Maine (Mrs. Smith).

So Mary "hit the ground running" when she became my associate. She was instrumental, and so immensely helpful, in helping me set up my office. She understood the importance of case work, and she was always genuinely sympathetic with any citizen who had a problem.

I could not begin to count the times that citizens of my State have told me about how "Miss Mary," as she came to be known, had gone out of her way—far, far beyond the call of duty—to be helpful.

That was the way Mary Tucker operated, Mr. President. She loved people, and they certainly loved her. And that is why there has been such sadness this week, as the news of Mary's death became known.

All of us who worked with her are diminished by her death. I shall miss her, both as an associate and as a friend. Mrs. Helms and I, and all of the members of our staff, extend our deepest sympathy to Mr. Tucker and their children.●

## MISS LAURA CARLSON WINS ESSAY CONTEST

● Mr. PELL. Mr. President, each year the Warwick (Rhode Island) Emblem Club No. 416 holds an essay contest for Warwick secondary school students as part of its Americanism program. This year, the winner of the contest was a seventh grade student from Winman Junior High School, Miss Laura Carlson. Miss Carlson was awarded a U.S. Savings Bond for her winning essay, entitled "What The American Flag Means To Me."

I would like to commend Miss Carlson for her winning essay, and would like to share it with my colleagues in the Senate.

Mr. President, I ask that the text of the essay be printed in the RECORD.

The essay follows:

WHAT THE AMERICAN FLAG MEANS TO ME

The American flag to me is a symbol of what our forefathers fought for. When I was little I always thought that the stripes on our flag were a ladder that all Americans should try to climb to reach the stars. The stars represented America's goals and highest ambitions and encouraged Americans to strive and do their best to reach them.

I still believe this and hope our flag will inspire Americans to do their utmost to improve our country, provide liberty and justice for all, and to lead America to those stars.

Although the American flag stands for what we have accomplished it also stands for great things to come. Americans should look back on the past with pride, but also look to the future, its horizons bright with hope and promise.●

## FEDERAL REGULATIONS AND SMALL BUSINESS

● Mr. DOMENICI. Mr. President, last month John Williams of the Small Business Legislative Council testified on the impact Federal regulations have on the small businessmen of America.

His statement contains vivid examples of the trials and tribulations encountered by small business owners when dealing with the Federal Government.

I submit for the RECORD the following statement.

The statement follows:

STATEMENT OF THE SMALL BUSINESS LEGISLATIVE COUNCIL BEFORE THE SUBCOMMITTEE ON IMPROVEMENTS IN JUDICIAL MACHINERY OF THE SENATE JUDICIARY COMMITTEE HOLDING HEARINGS ON S. 2354, THE EQUAL ACCESS TO THE COURTS ACT, MARCH 13, 1978

Mr. Chairman and Members of the Subcommittee: My name is John Williams. I am Government Affairs Director for the National Tool, Die and Precision Machining Association. I am appearing today on behalf of the Small Business Legislative Council (SBLC), an organization of national trade and professional associations whose members are predominantly smaller businesses. An affiliate of the National Small Business Association (NSB), the SBLC acts as a unifying voice for over 2 million small business firms, commenting on issues or areas in which our member associations are in substantial agreement. Thirty-five national associations currently support the Small Business Legislative Council position that—

"Legislative initiatives to award attorney's fees to individuals and small business owners who prevail against the government are a positive first step toward restraining the somewhat arbitrary nature of the federal agencies in applying excessive regulation. The small business owner rarely can afford the costs and ramifications of a long and drawn out court fight and appellate procedure, especially if that battle is against the power of the Federal Government. The Small Business Legislative Council supports the purposes of S. 2354 to both help individuals and small business, and to stem the flow of excessive regulation."

The importance of the small business community to the national economy is well-known and widely-documented. It accounts for 97% of the total number of U.S. enterprises, 59% of all private employment, 48% of the total business output, 43% of the total GNP, and is responsible for over one-half of all inventions and product innovations. We therefore whole-heartedly commend Senators Domenici and Nelson, and the Members and staff of the Subcommittee on Improvements in Judicial Machinery for their efforts in bringing this important concept to greater public attention.

Legislative proposals for providing attorneys' fees to small business owners and individual citizens who win against the government represent truly long-overdue initiatives. They can be viewed as perhaps the most valuable first step toward restraining the arbitrary nature of those federal regulatory agencies that file judicial complaints against small agencies that file judicial complaints against small businesses and individuals simply because they realize that a small business owner rarely can afford the ramifications of a legal fight.

Mr. Chairman, it is certainly not news to the citizens of this country that the Federal Government has proliferated its reach into many areas by promulgating rules and regulations at an alarming rate over the last several years. We do not deny the need for statutory protection of the health, safety and general well-being of all Americans. Indeed, government guidelines in many product and service areas have proved to be desirable. However, the small businesses and individual proprietors in this country can unequivocally voice their vehement opposition to excessive regulations that, in essence, provide the ammunition for the guns of government agencies that frequently make a target of small business.

There is no question that, in many cases, the regulatory agencies have sought rulings against small firms that just do not have adequate resources to fight back. This process not only establishes precedents for rulings against larger enterprises, but, as has been suggested, builds the "batting averages" of the agencies to justify not only their very existence but larger appropriations from Congress as well.

On several occasions more candid employees of regulatory agencies have publicly stated their agency's intent to single out or prosecute small companies rather than take on the giant firms that have large legal staffs and that could adequately defend themselves against prosecution by the government. When a House Small Business Subcommittee held hearings in 1976 on Antitrust and the Robinson-Patman Act, Dr. F. M. Scherer, former Director of the Bureau of Economics of the FTC, said:

"I had not fully realized until I came to Washington how unfairly the burden of federal regulation and antitrust enforcement falls upon small business as compared to large companies. The corporate giants can and do maintain stables of highly-skilled attorneys to advise them how to stay clear of the law and defend themselves if they nevertheless run afoul. Small firms are less able to afford such counsel, and the law firms they retain typically lack the specialized knowledge needed to cope with a body of statutory, case and regulatory law as complex as Robinson-Patman. As a result, they are more likely to get into trouble and to settle by consent if a complaint is brought. . . . I had also understood little about the value system of government antitrust attorneys. What I learned since joining the Commission staff is that many attorneys measure their own success in terms of the number of complaints brought and settlements won. In the absence of broader policy guidance, therefore, the typical attorney shies away from a complex, long, uncertain legal contest with well-represented giant corporations and tries to build up a portfolio emphasizing small, easy-to-win cases. The net result of these broad propensities is that it is the little guys, not the giants that dominate our manufacturing and trade industries, who typically get sued."

Dr. Scherer's statement points directly to our concern with the "equal access to the courts" concept being addressed here today. Small manufacturers and distributors are not a General Motors or IBM with corporate legal teams and the financial resources to back those legal disputes that can tie up the courts for years. Suppose a regulatory agency unjustly imposes a moderate fine of $500 or $1,000 upon a small business owner. In most cases, that person is more likely to reason that he or she does not have the money or the time to contest the penalty in court against the power of the United States Government. In situations such as these, the business person accedes to the fine—and loses. He loses because he has acceded to the penalty, and he loses because he did not challenge it.

A decision by an official of a regulatory agency, right or wrong, has caused more than just a handful of companies to become bankrupt or go out of business. Moreover, even if the regulatory agency ruling has been proved wrong, a bankrupt company cannot afford the costs of suing the government or righting the case through the appellate procedures. The government has many lawyers who can make a career of one case. An already-exhausted business has no alternative but to throw in the towel and quit.

The case of a Wisconsin toy manufacturer is a case in point. In 1972, the FDA cited a certain toy, manufactured by Marlin Toy Products, Inc., as unsafe. The company conducted a general product recall at a cost of $95,000 and corrected the alleged defect. In the next year, the newly formed Consumer Product Safety Commission published a "banned-products" list which included, by mistake, the modified Marlin product. The list, distributed nationwide to thousands of toy shops, caused virtually all of Marlin's regular customers to cancel their orders. The result was a $1.2 million loss to Marlin, which had to lay off all but 10 of its 85 workers.

If a regulatory agency orders a product recall, unbelievably complex problems arise for a small business. The manufacturer must not only locate each product he has distributed, but he must buy back the item as well. This is obviously no small task, considering the fact that his products may be located in a wholesaler's warehouse or on a retailer's shelves anywhere in the country. In most cases, it is a problem involving the recall of products that may have been in the distribution channels for years. There are few small firms that have the capital to recall all their products and remain in business.

Witness, if you will, the case of the 108-year old New Jersey soup maker (Bon Vivant) who declared bankruptcy shortly after the Food and Drug Administration caused a nationwide recall of every unused item he had ever sold, despite the fact that only one product line was suspect. That action involved the recall of 90 product lines totaling 1.5 million cans! Many believe that the company was unnecessarily harassed by the government simply because it lacked the adequate financial resources for effective legal defense. A supermarket executive commented that "if (the company) had been one of the major canneries, the FDA would never have ordered a total recall of every can of every product line. They are not about to put one of the big boys out of business."

A similar incident involving Campbell Soup Co. shortly thereafter confirmed that executive's suspicions. In that instance, Campbell Soup Co. recalled 230,000 cans of contaminated chicken vegetable soup. Officials of the FDA and the Department of Agriculture confirmed the fact that Campbell's, fearing "unfavorable publicity," had been quietly recalling the soups for several weeks before the company notified Federal officials that it has discovered the presence of botulin in some of the soups. Yet, in this case, the punitive action taken by those Federal agencies responsible amounted to nothing more than a "slap on the wrist." In fact a USDA official in Kansas City commented that "there (would) be no action by this office other than monitoring (the recall of the soups)."

A chronology of the Bon Vivant Soup case, entitled "Seven Days in July," is attached at the end of this statement. (Attachment B) It represents a vivid illustration of the need for providing at least some recompense to those harassed by regulatory overkill. Mr. Andrew Paretti, former owner and President of Bon Vivant, even now concedes that if legislation such as that proposed by Senators Domenici and Nelson had been on the books in 1971, Bon Vivant would still be in business today. The Bon Vivant case, from start to finish, took over three years to be adjudicated; no small business could bear the costs involved and still survive.

Since the National Small Business Association first announced the introduction of S. 2354 in its January-February, 1978 "Voice of Small Business", it has received numerous letters from small businesses documenting their particular experiences with various government agencies. One company's experience with the Nuclear Regulatory Commission (NRC), for example, resulted in suspension of the firm's operating license for a period of three weeks. To this small company, the total loss of income during the period of license suspension, along with the continuation of payroll and other fixed costs, placed an enormous financial burden upon its owners. The dispute with the NRC now centers, among other things, around the legality of the license suspension, and recovery of $43,000 in losses incurred by the company during the three-week shut down. The president of this company has written:

"During the various meetings and deliberations with the NRC, we have not availed ourselves of outside counsel due to the further financial burden that it would have brought on. We therefore feel that the Equal Access to the Courts Act (S. 2354), introduced by Senators Domenici and Nelson . . . is highly desirable since it would give the small business some hope of recovering legal costs and allow the business to make judgements with regard to fighting the government on a decision based on legal merit rather than as an expedient business decision."

Still another company writes that a decision by the local National Labor Relations Board could have serious implications for company personnel management. The president, vowing that he will "fight it to the bitter end", says:

"Knowing that we could be reimbursed for our legal costs would certainly enable us to face this problem squarely rather than throw in the towel because we can't afford to fight the government bureaucracy."

These represent but a few of the experiences that have come to the attention of the Small Business Legislative Council. Cases like these point up the fact that, once created, a regulatory agency's foothold is often strengthened through the capitulation of small businesses and individuals who are unable to withstand the regulatory pressure, or to fight their cases in court.

In our view, providing attorney's fees for those who win against the government may begin to redress not only the imbalance that currently exists between the regulated and the regulators, but may also begin to stem the growth of the entrenched and, in many cases, ineffective bureaucracies that have indeed become a major cause of public disaffection with the Federal government.

President Carter himself has addressed this very problem in response to a small business community inquiry. President Carter said:

"Because of their lack of ability and resources to defend themselves, small businesses are the favorite targets for the 82 regulatory agencies in Washington, which last year put out some 45,000 pages of regulations. This underscored the burden forced on small businesses by Washington, and makes it more difficult for the small business man and woman to compete with big business, which can afford the best in full time CPAs, attorneys and lobbyists. . . . I pledge to allow the small business man and woman to get back to running their businesses by completely reforming our Federal regulatory agencies, their reporting requirements, and tax laws, to get the government off his back."

In closing, Mr. Chairman, we emphasize that the SLBC firmly believes that the proliferation of agency rules and regulations within the last 15 years has resulted in what is basically an administrative and bureaucratic denial of justice to those individuals and small businesses that are unable to bear the financial burden of defending themselves in a court of law against the power of the Federal government. Our judicial system, based on equal justice under law, must be open to every citizen of this country, not just to those able to afford the burgeoning costs of legal defense. On that basis we firmly support the principle behind the Legal Services Corporation, created by Congress to ensure equal justice for all. But we also urge careful consideration of expanding the "equal access to the courts" concept as a viable means to suppress the regulatory overkill that is threatening, on an ever-increasing basis, the very survival of the small business community. Frustration with government intervention and regulation is becoming increasingly widespread—especially for those forced to bear the burden of the cost of compliance with those regulations, and then are unjustly accused of failure to comply. We re-affirm our enthusiastic support for S. 2354, the Equal Access to the Courts Act, and thank you Mr. Chairman, and the Members of this distinguished subcommittee for the opportunity to present our views to you today.●

## TAX RETURN AND FINANCIAL STATEMENT OF FLOYD K. HASKELL

● Mr. HASKELL. Mr. President, in accordance with my usual practice, I attach hereto and request that they be printed in the RECORD my Federal income tax return for the calendar year 1977 and a statement of net worth as of March 13, 1978.

The material follows:

FINANCIAL STATEMENT OF FLOYD K. HASKELL

(Net worth as of March 13, 1978)

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household. Where values are other than current market value state the basis. In the case of real estate, mineral leases and similar interests specify nature and location.

ASSETS

Cash on hand and in banks, $3,927.57.

U.S. Government securities—add schedule [1], $38,940.00.

Listed securities—add schedule [2], $17,562.50.

Unlisted securities—add schedule [3], $45,094.64.

Real estate owned—add schedule [4], $255,900.00.

Real estate mortgages receivable [5], $13,812.68.

Autos and other personal property, $10,000.00.

Cash value—life insurance, $15,350.30.

Other assets—itemize:

Civil Service Retirement Account, $19,152.29.

Remainder Interest in Trust [6], $42,978.84.

Limited Partnership Interests [7], $13,200.00.

Miscellaneous [8], $1,000.00.

Total assets, $476,918.82.

LIABILITIES

Notes payable to banks—secured, none.

Notes payable to banks—unsecured, none.

Notes payable to relatives, none.

Notes payable to others, none.

Accounts and bills due, none.

Unpaid income tax, none.

Other upaid tax and interest, none.

Real estate mortgages payable—add schedule, none.

Chattel mortgages and other liens payable, none.

Other debts—itemize:

Loan on VA Insurance $5,000.00.

Total liabilities, $5,000.00.

CONTINGENT LIABILITIES

As endorser, comaker or guarantor, none.

On leases or contracts, none.

Legal Claims, none.

Provision for Federal Income Tax, none.

Other special debt, none.

[1] U.S. Bonds due 8/15/84 and 25 Treasury Notes due 11/15/81 at market value.

[2] 1,000 shares Continental Materials and 1,750 shares Terra Chemicals at market value.

[3] 56 shares Sheridan Savings and Loan at book value; 15 El Paso County, Colorado, Bonds; 10 Bent County, Colorado, Bonds; 20 HFA Bonds.

[4] 319.88 Acres unimproved real estate in Boulder County, Colorado, at appraised value December 31, 1973.

[5] Secured by First Deed of Trust; appraised value November 1975; face value $21,504.68.

[6] Remainder interest in trust established for mother:

*Trust assets*

| | | | |
|---|---|---|---|
| 100 sh. Amer. Electric Power | @ 23.00 | ---- | $2,300.00 |
| 200 sh. Hercules, Inc. | @ 12.625 | ---- | 2,525.00 |
| 400 sh. Shell Oil | @ 32.125 | ---- | 12,850.00 |
| 300 sh. Utah Power | @ 18.875 | ---- | 5,662.50 |
| 100 sh. Mobil Oil | @ 61.125 | ---- | 6,112.50 |
| 300 sh. Gulf Oil | @ 24.625 | ---- | 7,387.50 |
| 100 sh. Exxon | @ 44.75 | ---- | 4,475.00 |
| Total | | ---------- | 41,312.50 |
| 10,000 Philadelphia Electric Bond | @ 100.00 | ---- | 10,000.00 |
| Value of Trust | | ---------- | 51,312.50 |
| | | @ | .83759 |
| Value of remainder interest | | ---------- | 42,978.84 |

[7] At investment cost. Partnerships own miscellaneous nonproductive mining interests in Arizona and Montana. One property may be of value. The General Partner has informed the Limited Partners that a discovery has been made and sufficient mineralization exists to pay the retained royalty. The corporations owning the operating interests in the property apparently disagree, since no announcement to shareholders of any discovery, as required by SEC rules, has been made.

[8] Valuation arbitrary. Undivided interest in federal oil and gas leases—income 1974 (-0-), 1975 ($438.00), 1976 ($438.67), and 1977 ($470.01).

GENERAL INFORMATION

Are any assets pledged? (Add schedule), no.

Are you defendant in any suits or legal actions? no.

Have you ever taken bankruptcy? no.

U.S. INDIVIDUAL INCOME TAX RETURN, 1977

Floyd K. Haskell, 170 Garfield St., Denver, Colorado 80206.

Your [redacted] xxx-xx-xxxx .

Occupation: U.S. Senator.

Presidential Election Campaign Fund: Do you want $1 to go to this fund? Yes.

Filing Status: Single.

Exemptions: Yourself.

Income:

8. Wages, salaries, tips, and other employee compensation: $55,350.

9. Interest income. (If over $400, attach Schedule B.) $4,455.

10a. Dividends (If over $400, attach Schedule B) $1,682. 10b less exclusion $100. Balance $1,582.

14. Capital gain or (loss) (attach Schedule D), $9,407.

18. Pensions, annuities, rent, royalties, partnerships, estates or trusts, etc. (attach Schedule E), $517.

21. Total income. Add lines 8, 9, and 10c through 20, $71,311.

Adjustments to Income:

23. Employee business expenses (attach Form 2106), $5,041.

28. Total adjustments. Add lines 22 through 27, $5,041.

29. Subtract line 28 from line 21, $66,270.

31. Adjusted gross income. Subtract line 30 from line 29. Enter here and or line 32. If you want IRS to figure your tax for you, See page 4 of the Instructions, $66,270.

Tax Computation:

32. Amount from line 31, $66,270.

33. If you itemize deductions, enter excess itemized deductions from Schedule A, line 41. If you do NOT itemize deductions, enter zero, $7,616.

34. Tax Table Income. Subtract line 33 from line 32, $58,654.

35. Tax. Check if from Schedule TC, $22,492.

37. Total. Add lines 35 and 36, $22,492.

Credits:

41. Investment credit (attach Form 3468), $270.

46. Total credits. Add lines 38 through 45, $270.

47. Balance. Subtract line 46 from line 37 and enter difference (but not less than zero), $22,222.

Other Taxes:

54. Total tax. Add lines 47 through 53, $22,222.

Payments:

55. Total Federal income tax withheld (attach Forms W-2, W-2G, and W-2P to front), $18,349.

56. 1977 estimated tax payments (include amount allowed as credit from 1976 return), $1,960.

Payments:

62. Total. Add lines 55 through 61a, $20,309.

Refund or Due:

66. If line 54 is larger than line 62, enter Balance Due. Attach check or money order for full amount payable to "Internal Revenue Service." Write social security number on check or money order, $1,913.

SCHEDULES A AND B—ITEMIZED DEDUCTIONS AND INTEREST AND DIVIDEND INCOME

Floyd K. Haskell: Your social security number, [redacted].

*Schedule A itemized deductions*

Medical and Dental Expenses (not compensated by insurance or otherwise) (see page 14 of Instructions.)

1. One half (but not more than $150) of insurance premiums for medical care. (Be sure to include in line 10 below), $150.

4. Subtract line 3 from line 2. Enter difference (if less than zero, enter zero), 0.

5. Enter balance of insurance premiums for medical care not entered on line 1, $410.

6. Enter other medical and dental expenses: (a) Doctors, dentists, nurses, etc., $915.

Insurance reimbursement, $50.

7. Total (add lines 4 through 6c), $1,275.

8. Enter 3% of line 31, Form 1040, $1,988.

9. Subtract line 8 from line 7 (if less than zero, enter zero), 0.

10. Total (add lines 1 and 9). Enter here and on line 33, $150.

Taxes (See page 14 of Instructions.)

11. State and local income, $2,020.

12. Real estate, $119.

13. State and local gasoline (see gas tax tables), $31.

14. General sales (see sales tax tables), $468.

15. Personal property, $127.

Sales tax—auto, $539.

17. Total (add lines 11 through 16). Enter here and on line 34, $3,304.

Contributions (See page 16 of Instructions for examples.)

21 (a) Cash contributions for which you have receipts, cancelled checks or other written evidence, $853.

24. Total contributions (add lines 21a through 23). Enter here an on line 36, $853.

Casualty or Theft Loss(es) (See page 16 of Instructions.)

Miscellaneous Deductions (See page 16 of Instructions.)

Tax preparation fees, $350.

Form 2106 attached, $5,159.

32. Total (add lines 30 and 31). Enter here and on line 38, $5,509.

Summary of Itemized Deductions (See page 17 of Instructions.)

33. Total medical and dental—line 10, $150.

34. Total taxes—line 17, $3,304.

36. Total contributions—line 24, $853.

38. Total miscellaneous—line 32, $5,509.

39. Total deductions (add lines 33 through 38), $9,816.

40. If you checked Form 1040, box, $2,200.

41. Excess itemized deductions (subtract line 40 from line 39). Enter here and on Form 1040, line 33. (If line 40 is more than line 39 see "Who MUST Itemize Deductions" on page 11 of the Instructions.), $7,616.

*Schedule B—Interest and dividend income*

Floyd K. Haskell: Your social security number, [redacted].

Part I—Interest Income:

Interest on U.S. obligations, $3,661.

Mountain Valley Associates, note, $779.

New England Mutual Life Ins., $15.

2. Total interest income. Enter here and on Form 1040, line 9, $4,455.

Part II—Dividend Income:

Hazen Research, Inc., $178.

Sheridan Savings & Loan Assn., $34.

Terra Chemicals, $1,400.

Union Carbide, $70.

4. Total of line 3, $1,682.

8. Dividends before exclusion (subtract line 7 from line 4). Enter here and on Form 1040, line 10a, $1,682.

CAPITAL GAINS AND LOSSES

Part II—Long-term Capital Gains and Losses—Assets Held More Than 9 Months:

Mountain Valley Assoc. note—installment sale, $77; $2,573.

3558 Sh Hazen Research, $11,569; $5,577; $23,127; $6,885, $16,242.

11. Net gain or (loss), combine lines 6 through 10, $18,815.

13. Net long-term gain or (loss), combine lines 11 and 12, $18,815.

Part III—Summary of Parts I and II (If You Have Capital Loss Carryovers From Years Beginning Before 1970, Do Not Complete This Part. See Form 4798 Instead.)

14. Combine lines 5 and 13, and enter the net gain or (loss) here, $18,815.

15. If line 14 shows a gain—(a) Enter 50% of line 13 or 50% of line 14, whichever is smaller (see Part IV for computation of alternative tax). Enter zero if there is a loss or no entry on line 13, $9,408.

(b) Subtract line 15a from line 14. Enter here and on Form 1040, line 14, $9,407.

Part IV—Computation of Alternative Tax (See Instruction S to See if the Alternative Tax Will Benefit You):

17. Enter amount from Schedule TC (Form 1040), Part I, line 3, $57,904.

18. Enter amount from line 15a (or Form 4798, Part I, line 8(a)), $9,408.

19. Subtract line 18 from line 17 (if line 18 exceeds line 17, do not complete the rest of this part. The Alternative Tax will not benefit you), $48,496.

24. Subtract line 23 from line 22, 0.

25. Tax on amount on line 19 (use Tax Rate Schedule in instructions), $17,968.

26. Enter 50% of line 18 but not more than $12,500 ($6,250 if married filing separately), $4,704.

27. Alternative Tax—add lines 24, 25, and 26. If smaller than the tax figured on the amount on Schedule TC (Form 1040), Part I, line 3, enter this alternative tax on Schedule TC (Form 1040), Part I, line 4. Also check the Schedule D box on Schedule TC (Form 1040), Part I, line 4, $22,672.

SUPPLEMENTAL INCOME SCHEDULE

Part II—Rent and Royalty Income. If you need more space, use Form 4831. Have you claimed expenses connected with your vacation home rented to others? No.

See statement 3: (b) Total amount of rents, $965 and (d) Depreciation (explain below) or depletion (attach computation), $212.

6. Totals, (b) Total amount of rents, $965 and (d) Depreciation (explain below) or depletion (attach computation), $212.

7. Net income or (loss) from rents and royalties (column (b) plus column (c) less columns (d) and (e)), $753.

10. Total rent and royalty income (add lines 7, 8, and 9), $753.

Part III—Income or Losses from Partnerships, Estates or Trusts, Small Business Corporations.

See statement 2, P—(e) Income or (loss), —$236.

11. Totals, (e) Income or (loss), —$236.

12. Income or (loss). Total of column (e) less total of column (f), —$236.

13. TOTAL (add lines 5, 10, and 12). Enter here and on Form 1040, line 18, $517.

COMPUTATION OF SOCIAL SECURITY SELF-EMPLOYMENT TAX

Part II—Computation of Net Earnings from NONFARM Self-Employment: Regular method:

5. Net profit or (loss) from: (b) Partnerships, joint ventures, etc. (other than farming), $217.

6. Total (add lines 5a through e), $217.

8. Adjusted net earnings or (loss) from nonfarm self-employment (line 6, as adjusted by line 7), —$217.

Nonfarm optional method: 9(a) Maximum amount reportable, under both optional methods combined (farm and nonfarm), $1,600.

Part III—Computation of Social Security Self-Employment Tax:

12(b). From nonfarm (from line 8, or line 11 if you elect to use the Nonfarm Optional Method), —$217.

13. Total net earnings or (loss) from self-employment reported on line 12. (If line 13 is less than $400, you are not subject to self-employment tax. Do not fill in rest of schedule), —$217.

14. The largest amount of combined wages and self-employment earnings subject to social security or railroad retirement taxes for 1977 is, $16,500.

TAX COMPUTATION SCHEDULE

Part I—Tax Computation for Taxpayers Who Cannot Use the Tax Tables:

1. Enter your Tax Table Income from Form 1040, line 34, $58,654.

2. Multiply $750 by the total number of exemptions claimed on Form 1040, line 7, $750.

3. Taxable Income. Subtract line 2 from line 1; $57,904.

4. Income Tax. Check if from Tax Rate Schedule X, $22,672.

General Tax Credit:

5. Enter $35 multiplied by the total number of exemptions claimed on Form 1040, line 7, $35.

6. Enter amount from line 3, above, $57,904.

7. Enter, $2,200 if you are single (or an unmarried head of household), $2,200.

8. Subtract line 7 from line 6, $55,704.

9. Enter 2 percent of line 8 (but do not enter more than $180), $180.

10. General tax credit. Enter the larger of line 5 or line 9, $180.

11. Tax. Subtract line 10 from line 4. Enter the difference (but not less than zero) here and on Form 1040, line 35, $22,492.

EMPLOYEE BUSINESS EXPENSES

Part I.—Employee Business Expenses Deductible in Computing Adjusted Gross Income on Form 1040, Line 31:

4. Other (specify) (Include expenses not listed on line 1 through 3 to extent of reimbursement) See statement 4, $29,432.

5. Total of lines 1 through 4, $29,432.

6. Less: Employer's payments for above expenses (other than amounts included on Form W–2), $24,391.

7. Excess expenses (line 5 less line 6). Enter here and include on Form 1040, line 23, $5,041.

Part II.—Employee Business Expenses which are Deductible if You Itemize Deductions on Schedule A (Form 1040):

1. Business expenses other than those included above (specify) See statement 5, $5,024; see statement 6, $135, $5,159.

COMPUTATION OF INVESTMENT CREDIT

Used property (See instructions for dollar limitation, (h) Life years, 7 or more; Cost or basis (See instruction G), $2,700; Applicable percentage 100; Qualified investment (Column 2 x column 3), $2,700.

2. Qualified investment—add lines 1(a) thru (h), $2,700.

3. 10% of line 2, $270.

7. Tentative investment credit—Add lines 3 through 6, $270.

*Limitation*

8. (a) Individuals—Enter amount from line 37, page 2, Form 1040, $22,492.

11. Line 8 less line 10, $22,492.

12. (a) Enter amount on line 11 or $25,000, whichever is lesser. (Married persons filing separately, controlled corporate groups, estates, and trusts, see instruction for line 12.), $22,492.

13. Total—Add lines 12 (a) and (b), $22,492.

14. Investment credit—Amount from line 7 or line 13, whichever is lesser. Enter here and on line 41, Form 1040; line 10(b), Schedule J, page 3, Form 1120; or the appropriate line on other returns, $270.

STATEMENT 1—WAGES, SALARIES, TIPS, ET CETERIA

Employers name and address, income tax withheld, wages, salaries, tips, et ceteria, and FICA:

U.S. Senate, Washington, D.C., $18,349 and $55,350.

Total tax withheld, wages, and FICA, $18,349**, $55,350**, and 0**.

STATEMENT 2—INCOME FROM PARTNERSHIPS

Name and address of partnership: (H) High Hopes, Ltd., 84–6114818.

Income: Other partnership income, —$19.

Name and address of partnership: (H) Canus, Ltd., 84–0583390.

Income: Self-employment income, —$217.

Recap of partnership income—

Total partnership income subject to SE tax, —$217*.

Total other partnership income, —$19*.

Total partnership income to schedule E, —$236**.

STATEMENT 3—INCOME FROM RENTS AND ROYALTIES

Property description: Oil and gas lease—Colorado.

Income: Gross rents, $965.

Total income, $965.*

Expenses: Depletion, $212.

Total deductible expenses, $212.*

Net income, $753.**

STATEMENT 4—OTHER EMPLOYEE BUSINESS EXPENSES DEDUCTIBLE FROM ADJUSTED GROSS INCOME—FORM 2106

Other expenses:

Washington, D.C. living expenses per Public Law 471, 82nd Congress, $3,000.

Fares, meals, lodging and other travel expenses, $10,609.

Other reimbursed expenses, $15,823.

Total other business expenses, $29,432.**

STATEMENT 5—EMPLOYEE ITEMIZED BUSINESS EXPENSES

Itemized miscellaneous deductions:

Constituent communication, $927.

Dues and entertainment, $2,323.

Miscellaneous, $1,774.

Total employee business expense, $5,024.**

STATEMENT 6—EMPLOYEE DEPRECIATION EXPENSE

Depreciation:

Description: Chinese table and screen; date acquired, 1977; cost or other basis, $2,700; current depreciation, $135.

Totals: cost or other basis, $2,700**; current depreciation, $135.**●

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## A DEPARTMENT OF EDUCATION?

● Mr. SCHMITT. Mr. President, this morning the Washington Post carried an editorial entitled: "A Department of Education?" While I have not yet fully weighed the difficulties against the merits of creating a cabinet level department to deal with education in this Nation, I have considered the arguments both for and against this proposal. As the editorial points out, there are many valid points in favor of separating education from the other functions of the Department of Health, Education, and Welfare (HEW) and the other departments which administer specific programs.

At the same time, Mr. President, I have become increasingly concerned with the future of education in this Nation. Our Republic will stand or fall on the quality of our education of future citizens. Again, as the editorial points out, we have continually spent more money and have been faced with greater problems over the years. Obviously, money is not the ultimate answer. We must do more than just treat the symptoms of our social problems. We must find solutions.

The Federal Government, through HEW, has continually become more and more involved in decisionmaking which should, more properly, be left to parents working with teachers and State and local officials. Rather than aiding and advising on local education, the Federal Government has imposed program guidelines which often are inappropriate, unnecessary, or too costly. There is a strong possibility that a separate Department of Education may not only continue these policies but increase the inefficiency of State educational systems.

I strongly support greatly improved elementary and secondary education and believe that the Federal Government can aid State and local education officials. However, most of the decisions on what to teach and how to teach it must be made on the local level where the parents and teachers better understand the local problems.

An official in Washington cannot possibly understand the problems which exist in Santa Fe and New York City. The situations are so very different. If the past is any indication, most Federal programs lack the necessary flexibility so that local officials can tailor them to meet the needs of their community. Instead, an unneeded bureaucracy is created around an unneeded program at ever-increasing cost and inefficiency.

Another area of concern, and a very serious concern, is the diminution of the role of parents in the education of their children. In my discussions with parents throughout the State of New Mexico, I have been impressed with the alarm parents have shown in their feeling of helplessness in having an input into the education of their children. This authority is not being usurped by local or State officials. It is being usurped by officials here in Washington who leave no options to local officials and teachers.

Mr. President, I think the editorial in The Washington Post deserves serious consideration. Many of the concerns and points raised in the editorial are similar to my own.

When the proposal for a separate Department of Education is brought before the Senate, we all shall be looking for guarantees that this new department will be more efficient and effective than the present arrangement and not just another bureaucracy. More importantly, we must be looking for guarantees that this department will not attempt to further usurp the role and authority of parents and local education officials. The Federal Government must aid local officials with research, advice, and, if necessary, finances and not impose their will on educators, parents, and officials.

Mr. President, it is not a bureaucracy and money that will guarantee quality and equal opportunity in our educational system. Rather, it will take dedication to quality and equal opportunity by relying on the judgment of those closest to the problem, the parents and the teachers.

The editorial follows:

A DEPARTMENT OF EDUCATION?

It did not come as an earth-shaking surprise that President Carter last Friday asked Congress to create a department of education. The creation of such a department, separate from HEW, was an explicit Carter campaign pledge. And there is an enormous reservoir of sentiment favoring the move in the Senate: Sen. Abraham Ribicoff, the Connecticut Democrat who is himself a former HEW secretary and who currently presides over the Senate Governmental Affairs Committee, had 52 co-sponsors on a bill proposing a new education department the last time we looked. So we are well aware that we are swimming upstream with our own perception of the plan: We think it is a bad idea.

Our opinion has nothing to do with the personal, political and bureaucratic tugging and hauling that seems to be going on among Secretary Joseph Califano and a variety of others over territorial imperatives and turf. And we do reconize the validity of some of the assertions that are being made in support of a new department, although we don't think those assertions, true or not, necessarily lead in logic to the need for creating a separate department of education. Yes, it is a fact that since HEW was established around a quarter of a century ago, the total education budget has zoomed into the stratosphere, from a few hundred million dollars to more than 10 billion. And, yes, it is true that the American education system is full of flaws and that some of them seem to be getting worse, not better. And it is the case that HEW itself is ungainly in size and shape and that the Office of Education has a kind of institutional thyroid deficiency and that there is a great deal of cross-purposes, self-canceling activity between all the various agencies and subagencies of government that have a hand in education.

But to acknowledge all that is not automatically to make the case for creating a new department. The collection of various bureaucracies and instrumentalities into one seemingly logical place is a fairly common element of governmental-reform schemes—that has had at best mixed results. The bureaucratic bits and pieces that became HUD, for example, hardly underwent a galvanic revitalization by virtue of sharing a roof and a set of executive managers. And to look at either the Labor Department, say, or the Commerce Department is to know that gathering units of government around a single large, controlling subject hardly guarantees their energy or efficiency.

We don't cite the Labor and Commerce departments casually: To the extent that they are basically one-constituency organizations of government, they provide another cautionary note. One of the principal risks of creating a separate education department is that it will become a creature of its clientele. That clientele would not necessarily be the schoolchildren and their parents affected by the federal government's education programs. Much more probably it would be the National Education Association, the organization of teachers and school administrators who already exert a great deal of in-

fluence on education policy in Washington. In a way, this would be giving them their own department.

Let's go back for a moment to the argument about the zooming-into-the-stratosphere budget. After all, the same argument could be made about the various armed services that were gathered into the Defense Department. Do they now deserve to be separated out into independent entities answerable only to the president and not to the secretary of defense? The comparison isn't wholly apt, but it isn't wholly frivolous, either, because it is precisely this fitting in of education with the other, related health and welfare programs that makes sense of having education in and under the HEW organization. The more they can be made to function in some degree of harmony with each other, the better.

So we don't see the self-evident wisdom of the proposal on substantive grounds, and we note that strictly in terms of let's-put-it-all-in-one-place efficiency, the president's proposed consolidation of federal education programs into one department leaves out—surely, as reported, because of contrary lobbying pressures—veterans education and job and manpower training programs, which together add up to an enormous amount of what the government spends on education now. Pressure groups organized around a particular interest saw to that. Does Mr. Carter really want to organize another such group, in government, under the heading of the Department of Education?●

## TRIBUTE TO SENATOR SPARKMAN

● Mr. CHURCH. Mr. President, on Friday, April 14, Senator JOHN SPARKMAN was honored by his constituents at a dinner in Birmingham, Ala. The praise that was heaped on the chairman of the Foreign Relations Committee on that occasion was well deserved, and I would like to share with my colleagues the account of the affair taken from the Birmingham News. I submit the article for the RECORD.

The article follows:

PRAISE HEAPED ON RETIRING SEN. SPARKMAN

(By Al Fox)

They came from across Alabama and from the nation's capital to salute the man known across the nation as "Mr. Housing" who is retiring from Congress after 42 years.

The honoree was U.S. Sen. John Sparkman who has spent more than half his life in service to the people of Alabama, first as a U.S. representative for 10 years and for the past 32 years as a member of the U.S. Senate.

Sparkman is retiring at the end of this year, and it was with tears in his eyes and a choke in his voice that he told more than 1,000 supporters at the Birmingham-Jefferson Civic Center Friday night that "I hope to see all of you in the future. We are coming home."

The senior senator from Alabama said that he reached the decision to retire "with a little regret," and he was a "little sad" when he told his wife, Ivo, that he was leaving active politics.

"But she only said we're free to do what we want," he said. "Thanks to all of you from me and my family."

The two men who have served in the U.S. Senate were among the many speakers who took part in the "Salute to John Sparkman," one of the most festive occasions ever staged by the State Democratic Executive Committee.

Former U.S. Sen. Lister Hill of Montgomery who served in the Senate for 22 years with Sparkman before he retired in 1969, said that he had been alloted "only two minutes," to talk of "the achievements of John Sparkman," and then said that "to tell all of the things of greatness that he achieved, we would be here for two nights."

"We worked closely together when we were in the Senate, and before that in the U.S. House, and I know of his ability, courage and dedication to the people, not only of Alabama but of the nation," Hill said.

U.S. Sen. James B. Allen of Gadsden, who succeeded Hill and who becomes the states' senior senator upon Sparkman's retirement, said that "while we do not always agree, we have never had a cross word."

Allen said that "there is a scent of history in the air tonight. Not in the next 100 years will we pay tribute to a man of such service to his people. He has never lost the sense of humility."

Quoting Kipling, Allen said that "he has walked with kings and has not lost the common touch."

It was U.S. Rep. Bill Nichols of Sylacauga, who told the most heart-warming story of the night when he displayed a time-worn telegram that his parents had received from Sparkman 33 years ago when Nichols, then a young Army lieutenant who had lost a leg during the fighting in Germany in World War II, was confined to an Army hospital in England.

Sparkman visited the hospital in England as a member of the Foreign Relations Committee of the U.S. House and met Nichols. He then telegramed the parents of Nichols and advised them that he had made arrangements to have the young lieutenant returned to the U.S.

Sparkman was presented with a key to the city by Mayor David Vann, who said he "cut my political eye teeth campaigning for you," and he presented Mrs. Sparkman with a minature key in the form of a pin.

Other members of Congress who spoke were U.S. Reps. Tom Bevill of Jasper, Walter Flowers of Tuscaloosa and Ronnie Flippo of Florence. Flippo, the youngest member of the Alabama delegation, said "I'm his congressman and I hope I can do the same that he did."

Former U.S. Rep. Bob Jones of Scottsboro, who succeeded Sparkman in the House and served for 30 years before retiring, also was there.

Sparkman served for many years as chairman of the Senate Banking, Housing and Urban Development Committee and as Chairman of the Small Business Committee, where he earned the title of "Mr. Housing" and the friend of the small businessman.

Making short talks in tribute to Sparkman included Vondal Gravlee of the National Association of Homebuilders of Birmingham; Arthur Tonsmeire of Mobile, representing the savings and loan associations; John T. Nixon, representing the mortgage bankers' association; Mrs. Mary George Waite of Centre, representing the Alabama Bankers Association; Arthur Shores of Birmingham, representing the Alabama Bar Association; Dr. Joseph Volker, chancellor of the University of Alabama System, representing health and education, and Barney Weeks of Birmingham, president of the Alabama Labor Council, representing organized labor.

Maynard Layman of Decatur, assistant to the publisher of the Decatur Daily, was chairman for the "salute" with Mrs. Charlotte Dominick of Birmingham as co-chairman.

George Lewis Bailes, Jr., of Birmingham, chairman of the SDEC, introduced a film depicting the public service of Sparkman, including his campaign in 1952 when he was the Democratic nominee for vice president, which will be presented to the University Alabama School of Law for its library.●

## JIM CALLOWAY

● Mr. CHILES. Mr. President, I would like to join my colleagues who have commented on the retirement of Jim Calloway, the chief counsel and staff director of the Senate Committee on Appropriations.

When the late Senator John McClellan become chairman of the Senate Committee on Appropriations, he brought Jim Calloway with him to the committee from the then Government Operations Committee, where Jim was serving ably as chief counsel and staff director. Jim served his chairman and the Appropriations Committee members for over 5 years in this important role.

When I first came to the Senate in 1971, I was appointed to the then Government Operations Committee. Within a few hours, Jim Calloway was in my office making himself available to me and my staff for council and advice.

When the late Senator McClellan became chairman of the Appropriations Committee I was fortunate to be assigned to that committee, and continue to work with Jim in his role of chief counsel and staff director.

During the last 8 years I have had the opportunity to work with Jim and watch his performance. I can say that I have not seen a more skillful or professional approach to Senate business by a key committee staff member than provided by Jim Calloway. As his chairman, Jim was always fair in his approach to his many responsibilities. Many members of the Senate can attest to his sound advice and knowledgeable council on a wide range of matters.

I want to wish Jim Calloway success in whatever future endeavors he might undertake.●

## EXCESSIVE FEDERAL REGULATION

● Mr. BENTSEN. Mr. President, last week the Subcommittee on Economic Growth and Stabilization which I chair heard some testimony which should alarm every thinking American.

According to a pathbreaking study on regulatory costs undertaken by the Center for the Study of American Business and presented last week to our subcommittee, Federal regulations alone—excluding State and local regulations—cost consumers and business over $100 billion annually.

Mr. Raymond Haysbert, president of Parks Sausage, made a particularly effective presentation of the unique regulatory burden facing small businesses. Mr. Haysbert testified, for example, that it cost his firm an incredible $96,000 to comply with legal regulations in order to raise just $400,000 in new equity capital.

His contract trucking firm must account to the ICC for its time every 15 minutes, and is actually prohibited from

leaving the New Jersey Turnpike when traveling between New York and Baltimore on business.

Mr. Haysbert's problems are symptomatic of the most serious aspect of Government regulation: Small, independent business people in America can hardly keep track of the agencies empowered to issue regulations, much less what is in the regulations themselves.

As the National Federation of Independent Business noted last fall, the average small entrepreneur works 58 hours a week and has a little time to leaf through the 70,000 pages of the Federal Register published annually to keep abreast of new and changing regulations.

It is no wonder that some find themselves charged with regulatory violations. Their natural environment—the free market system—is being constantly constricted by the barbed wire of Federal interference and regulation. They are stalked by bureaucratic bounty hunters out for their hides.

Our subcommittee heard testimony which revealed that as many as 400,000 firms are fined each year for violating Federal rules and regulations too complex or technical for them to understand.

Most of these fines are for minor infractions. In fact, over 80 percent were fined for less than $2,500. This strongly suggests that most of these violations are due in part or entirely to confusion or ignorance of Federal regulations, and not to premediated, willful intent to break laws. Some premeditated violations do occur, however, simply because small business cannot afford the cost of complying with nitpicking Federal paperwork requirements. In one case, a firm chose to pay a $500 fine in order to avoid paying $750 to an attorney or accountant to complete some complicated Federal form.

This testimony is the first real indication that Federal regulations are simply asking too much of small business men and women. Not only are Federal regulations complicated, they are contradictory, requiring firms to violate one regulation in order to comply with another.

Let us not forget one thing. For 200 years the key to our success as a nation has been freedom. Not just the traditional freedoms of worship and expression, but the freedom to succeed. The small businessman, the person with an idea—the risk-taker—has always been the motor force behind our economic development.

When excessive Federal redtape strangles the initiative of individual risk-takers it naturally stifles the development of new products. In fiscal 1975, EPA issued 2,800 new product registrations under the Federal Insecticide, Fungicide and Rodenticide Act. But in 1977, only 103 were issued. New product applications last year were only one-third of the number of applications made in 1975. Most significantly, in 1977 new product registrations were only 1 out of 17 applied for as opposed to 1 out of 3 in 1975.

What this means is that Federal redtape is destroying the major competitive advantage of American business in world markets—the capacity to develop new products which meet the needs of the world's population and improve the quality of life everywhere they are introduced.

Most small businessmen and most Americans support the efforts of their Government to clean up our air, to keep our water pure, and to improve the quality of life for all citizens. I support these goals. I have fought for them.

So, the rising tide of citizen indignation is not directed at the legitimate efforts of Government to clean up our environment and to improve worker health and safety. Rather, it is correctly directed at unwarranted, confusing, unreasonable regulations which strangle individual freedom and individual initiative.

The hearings which our subcommittee held last week did not yield an easy, simple remedy to the problem of excessive Federal regulation. That was to be expected because there is no easy answer to the problem. But redtape is a man-made phenomenon. Therefore, it can be controlled if only the men and women who make the laws and the men and women who execute them are dedicated to making Government rational, efficient, and effective. Mr. President, I intend to work unceasingly as one Member of Congress, toward those goals.

The confidence of the American people in Government is at a dangerously low ebb, partly because the American people are fed up with Government's tendency to continuously expand and intrude. Mr. President, if we in the Congress can turn this process around we will go along way toward restoring the people's faith in their Government. That is how important this issue is and that is why I intend to search for specific legislative remedies to the problem. I hope many of my colleagues will join me in that effort.●

## GI BILL ADMINISTRATIVE PROVISIONS UPHELD

● Mr. CRANSTON. Mr. President, on March 20, 1978, the U.S. Supreme Court, on appeal from the U.S. District Court for the District of South Dakota, handed down a decision reversing the judgment of the lower court in the case of Max Cleland, Administrator of the Veterans Administration, et al. against National College of Business. At issue was the question whether the due process clause of the fifth amendment prohibits Congress from restricting the educational courses for which veterans' benefits are available under the GI bill without including identical course limitations in other Federal educational assistance programs. The Supreme Court sustained the provisions in question and ruled in favor of the VA.

The specific case involved the Veterans' Administration's implementation of the so-called 85–15 requirement and the 2-year rule, which are described in the decision.

Mr. President, so that Members may have an opportunity to review this Supreme Court decision in detail, the decision follows:

MAX CLELAND, ADMINISTRATOR OF THE VETERANS ADMINISTRATION, ET AL. v. NATIONAL COLLEGE OF BUSINESS

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH DAKOTA

[No. 77–716. Decided March 20, 1978]

PER CURIAM.

The question presented is whether the Due Process Clause of the Fifth Amendment prohibits Congress from restricting the educational courses for which veterans' benefits are available under the GI Bill [1] without including identical course limitations in other federal educational assistance programs.

A veteran seeking educational assistance benefits must file an application with the Administrator of the Veterans Administration. Before approving the application, the Administrator must determine whether the veteran's proposed educational program satisfies various requirements, including the so-called 85–15 requirement and the two-year rule.

The 85–15 requirement requires the Administrator to disapprove an application if the veteran enrolls in a course in which more than 85 percent of the students "are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution, by the Veterans Administration . . . and/or by grants from any Federal agency." [2] The Administrator, however, may waive the requirement if he determines that it would be in the interest of both the veteran and the Federal Government.

The two-year rule requires the Administrator to disapprove the enrollment of an eligible veteran in a course that has been offered by a covered educational institution for less than two years. The rule applies to courses offered at branches and extensions of proprietary educational institutions located beyond the normal commuting distance of the institution.[3]

Appellee National College of Business is a proprietary educational institution which has extension programs in several States. Most of its courses have a veteran enrollment of 85 percent or more. Appellee is therefore affected by both the 85–15 requirement and the two-year rule.

Appellee brought this action in the

[1] The various provisions dealing with veterans' benefits are contained in Title 38 of the United States Code. 38 U.S.C. § 1651 *et seq.* relate specifically to the veterans' educational assistance program. While the term GI Bill is often used to describe veterans' benefits legislation generally, for purposes of this opinion it refers to legislation dealing specifically with veterans' educational assistance benefits.

[2] 38 U. S. C. § 1673(d), as amended by § 205 of Pub. L. 94–502. While this appeal was pending, the 85–15 requirement was amended in several respects. Sec. § 305(a) of the GI Bill Improvement Act of 1977, Pub. L. 95–202. However, the amendments have not made the requirement inapplicable to appellee's students.

[3] Sec. 38 U. S. C. § 1789, as amended by § 509 of Pub. L. 502, 90 Stat. 24051. The rule was recently amended by § 305(a) of the GI Bill Improvement Act of 1977, Pub. L. 95–202. The amendment authorizes the Administrator to waive the two-year rule if he determines that it would be in the interest of the veteran and the Federal Government. The Administrator, however, does not suggest that the rule will be waived with respect to appellee's students.

United States District Court for the District of South Dakota, challenging the constitutionality of the restrictions.[4] Appellee contended that the restrictions arbitrarily denied otherwise eligible veterans of educational benefits and denied veterans equal protection because they were not made applicable to persons whose educations were being subsidized under other federal educational assistance programs.[5] The District Court held the 85–15 requirement and the two-year rule unconstitutional and permanently enjoined their enforcement. We reverse.[6]

I

The course restrictions challenged by appellee evolved in response to problems experienced in the administration of earlier versions of the veterans' eduactional assistance program. When extension of the World War II GI Bill to veterans of the Korean War was under consideration by Congress in 1952, the House Select Committee to investigate Educational Training and Loan Guarantee Programs under the GI Bill studied the problems that had arisen under the earlier program. The Committee's work led to passage of the first version of the 85–15 requirement, which applied only to nonaccredited courses not leading to a college degree that were offered by proprietary institutions. Pub. L. 82–550, 66 Stat. 667.

"Congress was concerned about schools which developed courses specifically designed for those veterans with available Federal moneys to purchase such courses . . . . The ready availability of these funds obviously served as a strong incentive to some schools to enroll eligible veterans. The requirement of a minimum enrollment of students not wholly or partially subsidized by the Veterans' Administration was a way of protecting veterans by allowing the free market mechanism to operate.

"The price of the course was also required to respond to the general demands of the open market as well as to those with available Federal moneys to spend. A minimal number of nonveterans were required to find the course worthwhile and valuable or the payment of Federal funds to veterans who enrolled would not be authorized." S. Rep. No. 94–1243, 94th Cong., 2d Sess., 88 (1976).

These same considerations prompted extension of the requirement in 1974 to courses not leading to a standard college degree offered by *accredited* institutions. § 203 (3) of Pub. L. 93–508, 88 Stat. 1582. See also S. Rep. No. 94–1243, *supra*, at 88.

In 1976 the 85–15 requirement was further extended to courses leading to a standard college degree. The Veterans Administration had found increased recruiting by institutions within this category "directed exclusively at veterans." In recommending approval of the extension, the Senate Veterans' Affairs Committee agreed with the Veterans' Administration that "'if an institution of higher learning cannot attract sufficient nonveteran and nonsubsidized students to its programs, it presents a great potential for abuse of our GI educational programs.'" S. Rep. No. 94–1243, *supra*, at 89.

The Committee further noted that, in view of the magnitude of the expenditures under the GI Bill, it was essential "to limit those situations in which substantial abuse could occur." *Ibid.* Finally, the Committee emphasized that "the requirement that no more than 85 percent of the student body be in receipt of VA benefits is not onerous particularly given the fact that under today's GI Bill . . . veterans do not comprise a major portion of those attending institutions of higher learning . . ." *Ibid.*[7]

The two-year rule is also a product of Congress' judgment regarding potential abuses of the veterans' educational assistance program based upon experience with administration of earlier versions of the GI Bill. Thus, following World War II schools and courses developed "which were almost exclusively aimed at veterans eligible for GI bill payments." S. Rep. No. 94–1243, *supra*, at 128. In response, the first version of the rule was enacted. It barred the payment of benefits to veterans attending institutions in operation less than one year. Pub. L. 81–266, 63 Stat. 653. As with the 85–15 requirement, the rule "was a device intended by Congress to allow the free market mechanism to operate and weed out those institutions who could survive only by the heavy influx of Federal payments." S. Rep. No. 94–1243, *supra*, at 128.

Following the Korean War, Congress amended the rule to cover courses that had not been in operation for at least two years. Section 227 of the Korean Conflict GI Bill, Pub. L. 82–550, 66 Stat. 667. In its report accompanying the amendment, the House Veterans' Affairs Committee characterized the rule as "a real safeguard to assure sound training for veterans at reasonable cost by seasoned institutions" and observed that had the rule been in effect during the administration of the World War II GI Bill "considerable savings would have resulted and much better training would have resulted in many areas." H.R. Rep. No. 1943, 82d Cong., 2d Sess., 30 (1952).

In 1976, Congress again amended the two-year rule, making it applicable to, among other institutions, branches of private institutions such as appellee that are located beyond the normal commuting distance from the main institution. The considerations underlying the extended coverage are fully set forth in the report of the Senate Veterans' Affairs Committee accompanying the legislation. S. Rep. No. 94–1243, *supra*. There had been a "spectacular" rise in both the number of institutions establishing branch campuses and in the veteran enrollment at those extensions. These institutions were entering into "extensive recruiting contracts directed almost exclusively at veterans." *Id.*, at 129. In a report dealing with the problems generated by these developments, the Veterans Administration had stated:

"[A] number of instances have been brought to our attention which represent abuse of our educational programs. Some of these cases involved contracting between nonprofit schools and profit schools or organizations whereby courses designed by the latter are offered by the nonprofit, accredited school on a semester or quarter-hour basis. In others, there are arrangements between nonprofit, accredited schools and outside profit firms whereby the latter, for a percentage of the tuition payment, perform recruiting services primarily for the establishing of these branch locations for the school. These recruiting efforts are aimed almost exclusively at veterans." *Ibid.*[8]

In recommending adoption of the amendment, the Committee concluded that the situation presented "great potential for abuse and in several instances that potential appear[ed] to have been realized." *Id.*, at 130.

II

As the legislative history demonstrates, the 85–15 requirement and the two-year rule are valid exercises of Congress' power. Experience with administration of the veterans' educational assistance program since World War II revealed a need for legislation that would minimize the risk that veterans' benefits would be wasted on educational programs of little value. It was not irrational for Congress to conclude that restricting benefits to established courses that have attracted a substantial number of students whose educations are not being subsidized would be useful in accomplishing this objective and "prevent charlatans from grabbing the veteran's education money." Both restrictions are based upon the rational assumption that if "the free market mechanism [were allowed] to operate," it would "weed out those institutions who could survive only by the heavy influx of Federal payments." S. Rep. No. 94–1243, *supra*, at 128.

The otherwise reasonable restrictions are not made irrational by virtue of their absence from other federal educational assistance programs. They were imposed in direct response to problems experienced in the administration of this Country's GI bills. There is no indication that identical abuses have been encountered in other federal grant programs. In any event, the Constitution does not require Congress to detect and correct abuses in the administration of all related programs before acting to combat those experienced in one. For, "[e]vils in the same field may be of different dimensions and proportions, requiring different remedies. Or so the legislature may think. Or the reform may take one step at a time, addressing itself to the phase of the problem which seems most acute to the legislative mind. The legislature may select one phase of one field and apply a remedy there, neglecting the others. The prohibition of the Equal Protection

[4] Other district courts have upheld the challenged restrictions. See (e.g., *Fielder* v. *Cleland*. 433 F. Supp. 115 (ED Mich. 1977); *Rolle* v. *Cleland*, 435 F. Supp. 260 (R.I. 1977).

[5] Joining appellee as plaintiffs in the District Court were four veterans who were students or former students at the National College of Business. The court held they lacked standing because they had not demonstrated how they would be affected by the restrictions. The court, however, held that appellee, who would suffer serious economic harm from application of the restrictions to its students, had standing under the *jus tertii* doctrine to assert the constitutional claims of its students. Neither of the court's standing rulings are challenged in this Court.

[6] Appellee advanced several other theories of unconstitutionality in the District Court and reasserts two of them in this Court: (1) the restrictions violate substantive due process because they interfere with freedom of educational choice, and (2) they violate procedural due process because the affected veterans are not afforded a hearing on the question whether the requirements should be applied or waived. The District Court characterized these contentions as less meritorious than the equal protection claim. We agree. Neither raises a substantial constitutional question.

The purpose of the requirement is not disputed:

[7] The 1976 amendments also changed the computation base of the 85–15 requirement, for the first time including students subsidized under other federal assistance programs within the 85 percent calculation. This change, however, was recently modified by Congress to exclude from the 85 percent quota students receiving federal assistance from sources other than the Veterans' Administration, until such time as the Administrator has completed a study regarding the need for and feasibility of including them within the 85 percent computation. Section 305(a) of the GI Bill Improvement Act of 1977, Pub. L. 95–202. This change has no bearing on this case because appellee has a veteran enrollment of more than 85 percent.

[8] The Administrator amplified on these problems in testimony before Congress. See S. Rep. No. 94–1243, *supra*, at 129–130.

Clause [generally] goes no further . . . ." *Williamson* v. *Lee Optical Co.*, 348 U.S. 483, 489.

When tested by their rationality, therefore, the 85–15 requirement and the two-year rule are plainly proper exercises of Congress' authority. While agreeing that the restrictions were rationally related to legitimate legislative objectives, the District Court concluded that veterans' educational benefits approach "fundamental and personal rights" and therefore a more "elevated standard of review" was appropriate. Subjecting the 85–15 and two-year requirements to this heightened scrutiny, the court observed that they were not precisely tailored to prevent federal expenditures on courses of little value. Since some quality courses would be affected by the restrictions, the court held them unconstitutional.

The District Court's error was not its recognition of the importance of veterans' benefits but its failure to give appropriate deference to Congress' judgment as to how best to combat abuses that had arisen in the administration of those benefits. Legislative precision has never been constitutionally required in cases of this kind.[9]

"The basic principle that must govern an assessment of any constitutional challenge to a law providing for governmental payments of monetary benefits is well established. Governmental decisions to spend money to improve the general public welfare in one way and not another are 'not confided to the courts. The discretion belongs to Congress, unless the choice is clearly wrong, a display of arbitrary power, not an exercise of judgment.' . . . In enacting legislation of this kind a government does not deny equal protection 'merely because the classifications made by its laws are imperfect. If the classification has some "reasonable basis" it does not offend the Constitution simply because the classification "is not made with mathematical nicety or because in practice it results in some inequality." ' *Dandridge* v. *Williams*, 397 U.S. 471, 485. *Mathews* v. *DeCastro*, 429 U.S. 181, 185.

Since it was rational for Congress to conclude that established courses with a substantial enrollment of nonsubsidized students were more likely to be quality courses, the 85–15 and two-year requirements satisfy "the constitutional test normally applied in cases like this." *Califano* v. *Jobst*, — U.S. —, —.

The judgment is reversed.

[9] Appellee contends that the challenged restrictions will completely deprive some veterans—those who live in areas where there are no programs which satisfy the two requirements—of veterans' educational assistance. While the restrictions on their face simply channel veterans toward courses which Congress has determined are more likely to be worthwhile, they may in fact operate to make benefits functionally unavailable to some veterans not living in close proximity to schools offering qualified programs and unwilling or unable to move to take advantage of the federal assistance. Nevertheless, the fact that Congress' judgment may deprive some veterans of the opportunity to take full advantage of the benefits made available to veterans by Congress is not a sufficient basis for greater judicial oversight of that judgment. As the Court noted in *San Antonio Independent School District* v. *Rodriguez*, 411 U. S. 1, 35, "the undisputed importance of education will not alone cause this Court to depart from the usual standard for reviewing . . . social and economic legislation."

MAX CLELAND, ADMINISTRATOR OF THE VETERANS ADMINISTRATION, ET AL *v.* NATIONAL COLLEGE OF BUSINESS

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH DAKOTA

[No. 77–716. Decided March 20, 1978]

MR. JUSTICE MARSHALL.

I believe that substantial constitutional questions are presented by appellee's due process claims (See *ante*, n. 6), as well as by its equal protection claim. I would therefore note probable jurisdiction and set this case for oral argument.●

## THE ROLE OF NAVAL FORCES IN SUPPORT OF THE NATIONAL STRATEGY

● Mr. TOWER. Mr. President, the Secretary of the Navy recently convened the annual current strategy forum at the Naval War College in Newport, R.I. This is a gathering of individuals from the Armed Forces, Government, industry, the media, academic institutions, and other parts of the private sector for the purpose of discussing issues relating to the maritime interests of the United States and the role of our naval forces in support of the national strategy.

Several distinguished speakers were given the opportunity to address the current strategy forum. Though I was unable to attend, the remarks offered by the two top civilian leaders of our Navy have been commended to me for the concise yet eloquent manner in which they address very timely issues concerning our future plans for the U.S. Navy.

I recently addressed the Senate on April 6, 1978, concerning my observations as to some of the current discussions affecting our future naval planning. In this same vein, I would like to commend to the attention of my colleagues the remarks delivered at the current strategy forum last month by the Honorable W. Graham Claytor, Jr., Secretary of the Navy, and the Honorable R. James Woolsey, Under Secretary of the Navy. I request that the text of their comments be printed in the RECORD.

The statements follow:

REMARKS BY HON. W. GRAHAM CLAYTOR, JR.

It is a great privilege and pleasure for me to be here at the Current Strategy Forum again this year. In my year as Secretary of the Navy, I have developed a very solid appreciation of the really important work that goes on all year in Newport. It is here that the Navy trains its leaders of the future. This Forum is a key part of their learning process. Just as important, the Forum seeks to inform visiting civilian leaders about major policy issues facing the naval service. We seek your opinions in our three days of discussions because we know that an informed, active, participating citizenry is this country's greatest reservoir of military strength.

Since I took office after a thirty year absence from the Navy, I've had a chance to visit our sailors, aviators, submariners and marines at various ships and installations around the world. It has been an inspiring experience. The men and women who are the heart of the naval service are a dedicated, professional collection of Americans—people with whom I am proud to serve. I have found that a sense of doing an important job and doing it well exists all across the fleet—from the flight deck of the NIMITZ in the Mediterranean to Marine Corps desert maneuvers at 29 Palms, California.

I can report at the outset of this Forum that our Navy-Marine Corps team is in good shape. You can be proud of it, as I am.

Yet, being a part of this team today is an extremely challenging assignment. That the Current Strategy Forum has chosen the theme "The Navy and National Strategy" is consistent with our concerns for the important problems facing not only the Navy but the United States as a whole. Our theme touches the two guiding precepts of the War College—advancing the professionalism of the naval officer community, and assessing the broader issues of naval strategy as it relates to national policy.

Much of your individual and collective work over the next several days will be centered around two recent studies. I hope these studies will have a major, long-term impact on American military posture.

The first of these, the Sea-Based Air Platform Study, was requested by Congress and was forwarded to Capitol Hill last month.

Its objective was to provide a thorough evaluation of the costs and combat effectiveness of aircraft capable ships at sea, both in the near and the long terms. A highly technical analysis, it looks at a number of platforms: from the nuclear powered aircraft carriers—designated CVN—to the prospective smaller Vertical and Short Take-Off and Landing (V/STOL support ship—VSS—to the existing surface ships that might be modified to take V/STOL aircraft.

The key finding of the Sea-Based Air Platform Assessment is that sea based tactical aviation will continue to play a major role in virtually all military scenarios. The study found that no single platform—from the recently commissioned CVN EISENHOWER, down to an air capable modification of the SPRUANCE class destroyer—is likely to be the best system in all cases. It did verify the potential advantages of increased numbers of less costly and less individually capable platforms. Furthermore, the study determined that while development of V/STOL aircraft will be costly and time consuming, they have potential advantages at sea due to their increased flight deck efficiency and dispersal capability.

My judgment is that the Sea-Based Air Platform Study provides a sound basis for the selection of additional sea-based air platforms. Simply put, we need to start building another carrier of some kind in the near future.

What kind to build is a matter of judgment. My personal view has been expressed many times to Congress. It is that we need more and better dispersed platforms for sea-based aviation in the future. We already have operating or building four nuclear-powered carriers. With the budget we see for Navy shipbuilding in the future, I think the next carrier authorized should be a medium sized carrier, conventionally powered, that is still large enough to operate all the aircraft in our current inventory. The Sea-Based Air Study indicates that we could build 3 of these for about the same cost as two *Nimitz* class CVNs; the saving of a billion dollars on one ship in our very tight shipbuilding budget seems compelling as a practical matter.

Admiral Holloway, our Chief of Naval Operations, has testified before Congress that he would prefer to have one more nuclear-powered carrier. To me, the difference is not a critical one; the key point to remember is that we need sea-based aviation in the future if we are to maintain maritime supremacy. As Secretary of the Navy, I will build with enthusiasm any kind of aircraft carrier authorized and directed to be built by law. I

hope your discussions at this Forum will address the question of the future of sea-based aviation.

In step with the technical evaluation made by the Sea-Based Air Study, a second more wide ranging work was carried out: The Naval Force Planning Study. This Study, which is the most important single project I have been associated with as Secretary of the Navy, had significant inputs from the Naval War College, and was directed by Professor Bing West of the Naval War College faculty. Therefore, it is very appropriate that I am able to discuss some aspects of the genesis, objectives, methodology and results of this Study—called SEAPLAN 2000—for the first time in public here today.

Early in the current administration, President Carter chartered a major study to assess the posture of military forces in this country.

While this was a "thinking effort" on the part of the various military staffs and not intended to be a policy making study, it became apparent as the effort progressed that there were serious differences of opinion about naval strategy. The most crucial differences arose over the perceived utility and requirement for sea-based air forces. To some of us, it appeared clear that any significant decrease in the strength of our aircraft carrier battle groups and other surface forces would seriously reduce the flexibility of America's leaders. It has been this country's experience that naval forces afloat provide the most immediate and direct response possible in the majority of situations likely to occur. Furthermore, naval forces have the ability to remain on station for extended periods of time, ready to take instant action, with virtually no requirement for supporting forces. This inherent capability is simply not available through other measures.

Yet studies have a way of setting things in concrete, especially in large organizations. Staffs grow defensive about programs, and tend to resist change after the problems have been thought through as of the moment. Thus it was felt that the very real possibility that our Navy might be called upon to maintain control of critical sea lanes over an extended time period needed further analysis. I personally was concerned that we not create the naval equivalent of the Maginot Line—in effect sizing our naval strength against a single scenario without regard for the uncertainty of the world in the years ahead.

Many of us in the Navy Department considered that a major naval force structure assessment was imperative. Last August Secretary of Defense Brown authorized the Navy Department to take the lead in a joint Navy-Marine Corps-Department of Defense Study.

This Naval Force Planning Study was completed and forwarded to the Secretary of Defense last Tuesday, March 20. The Study had two objectives. The first was to examine what the most probable range of tasks for naval forces is likely to be for the balance of this century. The second was to determine how well we would be able to perform these tasks with naval forces of different sizes.

The Study aimed at a top-down approach. To produce a credible report it was agreed that the methodology would center around determining the linkages between national interests and national policies, on the one hand, and U.S. naval force structures on the other. From there, it could be determined which combination of naval forces, force deployments and strategies best supports U.S. policy. The Study concludes with an analysis of options that the Secretary of Defense, the National Security Council, and the President can consider in making crucial decisions about the future of the Navy.

The study involved extensive and thorough analytical work, the results of which appear in numerous graphs, tables and summaries. To the uninitiated, these can appear both more definite and more conclusive than is really the case. One of the most frustrating things I have encountered in this job has been a tendency on the part of some staff people to use systems analysis as a cover for what is really subjective judgment. It is easy to argue against a personal opinion, but if it can be hidden behind hard numbers, an unsophisticated opponent can be overwhelmed. I am determined not to let what is essentially a helpful tool become an overriding force in driving decisions.

Professor West has included this caveat in our Study, and it is so well stated—and so important—that I would like to quote it to you. In discussing the Study's results and conclusions, he said:

". . . it is important to understand what they [that is, the results and conclusions of the Study] are and what they are not. Numbers have the unfortunate property of specificity, which in turn inflates the credibility of guesses. Like other studies, this report is replete with tables summarizing the results of hypothetical warfighting engagements. Based on these naval engagements, conclusions about naval programs are reached and some options developed. The models used are basically deterministic conditional probability sequences, using expected value inputs. While they have been checked by respected authorities, in the end these analyses are judgments. We have not fought the wars we are talking about."

Now, building a framework for programs extending into the twenty-first century is not a trivial task. Before becoming Secretary of the Navy, I gave very little thought to the year 2000 and beyond. But we must think about that time frame now, or our citizens of that era will judge us harshly, and with good reason. We cannot be the "now" generation or the "me" generation. We must, as Americans did in the past, make some tough decisions and some sacrifices to benefit those who follow us.

Seaplan 2000 tells me that planning naval forces is far more like getting ready for the Lewis and Clark expedition than it is like planning a Cook's Tour. In recent years it has become fashionable to try to design naval forces for one or two set-piece scenarios or specific missions, such as World War II's battle of the Atlantic revisited, or Vietnam, and to assume that if these scenarios can be met, everything else of interest can automatically be taken care of. This is Cook's Tour: tomorrow is Tuesday, so I'll be in Belgium. But the ships of the Navy we authorize today will deliver in the early or mid 1980's and spend nearly—or in some cases, more than—half their service life in the twenty-first century. We must plan a balanced force that is capable of a full range of possible naval missions and must keep one important thing in mind: we intend to follow a very old U.S. Navy tradition, and that is to go in harm's way. We must plan to have the greatest possible flexibility, as Lewis and Clark did—to take along whatever we might need for a whole range of unforeseen contingencies. It would be a mistake to do otherwise because we just don't understand the wars we haven't fought yet, especially the ones in the twenty-first century.

Rather than comparing force structures and capabilities with the conventional set of scenarios, the study group accordingly took a different tack and examined national policies with regard to geographic areas—for example, the Atlantic/Mediterranean/European area, and the Pacific/Indian Ocean Basin. The logic used in the examination was straightforward for any given region:

Examine our national security interests in the region.

Qualitatively set forth the contributions that naval forces make.

Establishing a measure of these contributions and the trends in naval participation.

Assign a dollar cost and a likelihood of success in meeting the policy with a certain force structure.

Using this approach, we felt that we could determine why one does or does not want certain kinds of forces. A reasonable force mix—and by this I mean an affordable and effective naval force structure—should be maintained under the only guidelines that really matter: national policy, the threat to be faced, and the contribution that the Navy can make to national policy in the face of that threat.

Addressing the broad spectrum of the overall maritime defense structure as it does, SEAPLAN 2000 provides a clear and compelling rationale for naval forces in terms of their contribution to our nation's defense. I derived a number of other valuable insights from the Study. Specifically, these included:

The ability of our naval forces to carry out their mission now and in the next 30 years is far more constrained than it has been for the past 30 years. The Navy faces a capable opponent at sea in the Soviet Navy. The Navy and Marine Corps will have to face these forces, as well as those of third countries, when they are called upon—not the forces of the past.

Also, it is evident that surface ships will become more, not less, survivable through the 1980's, largely through the introduction of the AEGIS anti-missile defense system and other new anti-ship missile defense and anti-submarine warfare systems that are the fruits of earlier developmental investments. Yet the Study also indicates that we must pursue actions now to counter the impressive potential air threat that will likely beset us in the 1990's.

In addition, the Study illustrates well the importance of having naval forces that are flexible and in balance for a wide range of demands. The value of maintaining an offensive option against the Soviets is evident, for it retains for the nation at least one means short of a nuclear exchange of carrying the war to them. An effective offensive threat will also help protect U.S. and allied sea lanes against an offensive directed at them, or against our friends and even our neighbors.

Finally, and of no less importance, the Study shows that naval forces permit the President to respond to crises with flexibility to the degree appropriate to our aims and policies. In coping with crisis situations around the world—which are deemed more likely than major war with the Soviets—the graduated presence or application of carrier and amphibious task forces is the best reassurance for our friends, and the best deterrence for would-be enemies. Weakness on our part may well invite aggression in the future, as it has in the case of other nations throughout history.

As the Sea-Based Air Platform Assessment did with respect to carriers, SEAPLAN 2000 provides a solid rationale which should be helpful in determining and justifying future shipbuilding and aircraft procurement plans. Coupled with the initiatives that have been underway to solve our claims problems, I am confident that we can both support our requests and manage them effectively when authorized. Indeed we must, because I believe we desperately need to maintain maritime superiority if this nation is to have the defense that it requires and deserves.

In conclusion, I think we are at a time of critical decisions about the role of naval forces in our future defense posture. I have tried to set the stage for your deliberations here by discussing the new studies that we believe give us assistance in making long range decisions. I welcome and encourage your thoughtful contributions to this national dialogue in the course of this Forum.

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ADDRESS BY HON. R. JAMES WOOLSEY

Forty-three years ago the great economist John Maynard Keynes closed his General Theory with the following words:

". . . the ideas of economists and political philosophers, both when they are right and when they are wrong, are more powerful than is commonly understood. Indeed the world is ruled by little else. Practical men, who believe themselves to be quite exempt from any intellectual influences, are usually the slaves of some defunct economist. Madmen in authority, who hear voices in the air, are distilling their frenzy from some academic scribbler of a few years back. I am sure that the power of vested interests is vastly exaggerated compared with the gradual encroachment of ideas. Not, indeed, immediately, but after a certain interval; for in the field of economic and political philosophy there are not many who are influenced by new theories after they are twenty-five or thirty years of age, so that the ideas which civil servants and politicians and even agitators apply to current events are not likely to be the newest. But, soon or late, it is ideas, not vested interests, which are dangerous for good or evil."

Today I want you to consider with me, the implications that Keynes' principle—let's call it the principle of intellectual stagnation in the public service—has for naval forces, or at least for one conventional wisdom about naval forces. I say "one conventional wisdom" advisedly, because, if there is one thing that I've come to learn about naval forces in the last year, it's that the number of offices, institutions, and influential individuals in Washington with different, but firmly held, views about the proper future of the Navy is beginning to approach the number of ships in the fleet.

But the particular conventional wisdom about the Navy that I want to discuss, with Keynes' principle in mind, is a rather widely-held one: it is bottomed on two views. The first is an assumption about the future of technology It is that, due to projected improvements in anti-ship missiles and the difficulty of defending against them, surface ships over the next 20–30 years will become increasingly unable to survive at sea. The second basis of this particular conventional wisdom is a bit harder to describe. It is a set of views that I call quantitative policy analysis. It is the notion that military forces should be designed almost exclusively to yield favorable results from computer calculations of the outcomes of very specific military engagements, using complex models with many assumptions. The particular conventional wisdom produced by these views, as well as I can state it, runs something like this:

"Naval forces, particularly surface ships, are becoming increasingly obsolete. Ever since the Israeli destroyer, Eilat, was sunk in 1967 by a Soviet-made cruise missile, this trend has been clear and it becomes more so each year. Cruise missiles make surface ships increasingly vulnerable to attack by all sorts of platforms—submarines, other surface ships, and aircraft.

"The U.S. Navy has compounded this problem because it has become used to placing all its offensive power entirely in a single platform, the large-deck aircraft carrier. These ships are increasingly becoming so expensive that it is going to be difficult for the Navy to maintain very many of them, and they create the difficulty of having all of one's eggs in very few baskets.

"Vulnerability and few numbers mean that carriers and other surface ships could not prudently be risked in a major war in the future. This means that surface ships should primarily be used for specific purposes: showing the flag in peacetime and projecting power ashore in contingencies such as Korea or Vietnam, where they can operate from an ocean sanctuary against third world countries that lack the sophisticated naval forces of the Soviet Navy. But, for these peacetime and minor contingency purposes, the expense of operating carriers is unsupportably high. We could probably afford some reduction in large carriers and substitute, e.g., amphibious ships. Since many of them look large and impressive and roughly resemble carriers, they could be used for port visits and peacetime deployments.

"The Navy's main, and only vital, mission in a U.S.-Soviet War is to protect the sea lines of communication from the East Coast of the United States to Western Europe. A war in Europe would likely be over quite quickly since it would either turn nuclear or one or the other side would suffer significant defeat within the first thirty-odd days. Sealift might thus not be a particularly significant factor, but to hedge against the war lasting longer, some Navy for sea lane protection is necessary. This could primarily be done by land-based anti-submarine warfare aircraft such as the P–3, small surface ships such as frigates, and a few nuclear attack submarines. In a big war, any other mission for naval forces—such as conducting operations within range of Soviet land-based aircraft—is too dangerous to plan for, or at least too expensive to buy forces for."

Now, although I would not suggest to you that this particular conventional wisdom is wholly in error, nevertheless I believe it has some serious flaws for the reasons Keynes described. Let me turn first to its key technical judgment: that surface ships will become ever more vulnerable to anti-ship cruise missiles over the next two to three decades.

It is instructive to note that the people who lost the Eilat in 1967 have learned something. I have recently been on an Israeli patrol boat and reviewed their 100 percent successful tactics for avoiding hits by the large number of anti-ship missiles that were fired against them in the 1973 war. Suffice to say this is an area in which their, and our similar, advantages are far from irrelevant—e.g., skill with electronic countermeasures, innovative tactics, intelligent and well-trained crews, etc.

Moreover, even if a surface ship, particularly a large one, is hit by a conventionally-armed anti-ship missile, the probability of the ship being put out of action, much less sunk, is certainly not unity. Defending ships that can move and, in a conventional war, that can tolerate a small number of hits, is inherently an easier problem than perfectly defending a fixed land-based site in a strategic nuclear exchange—where the penalty for leakage is rather greater. It is true that, for a number of years in the 50's and 60's, we constructed ships in part under the assumption that any large-scale war would be nuclear and that therefore hardening or passive protection was not, ordinarily, worth the money. However, a new Sea-Based Air Platforms Assessment, done by the Navy at the request of Congress, indicates that substantial improvement in the survivability of carriers—large or small—is possible by constructing new ships with more armor and passive protection than has been used in recent years. Further, vertical and short takeoff and landing (V/STOL) aircraft significantly improve the capability of any carrier, of whatever size, to conduct its mission after suffering damage, because the aircraft can continue to operate even if the ship has been slowed (for that matter, if it is dead in the water) and even if the deck area, where catapults or arresting gear would normally be located, has been damaged.

More importantly, however, there are systems now coming into our naval forces which have been in development over the last decade and which will make very significant contributions toward reducing the number of missiles that might be able to penetrate—electronic warfare suits, the PHALANX Close-In-Weapon-System, and particularly the AEGIS area air defense system.

Further, we have either in the fleet, entering it soon, or in development, systems capable of destroying the platforms launching the incoming missiles so that we are not beaten by gradual attrition. The F–14 fighter and E–2C early warning aircraft give us a good capability today against aircraft launching anti-ship missiles, although that very difficult job is one on which we need to continue to work very hard in the future. Improvements in anti-submarine warfare forces—towed arrays, and others—make the job of engaging the missile-launching submarine a more reasonable enterprise than was the case a few years ago. And hostile surface ships can now be engaged by our carrier-based aircraft and soon by the HARPOON missile just coming into the fleet.

What about the problem of all our offensive eggs being locked into a few large carrier baskets? I believe there are two ways open to us for packing some of our offensive punch into a much larger number of platforms. They are not mutually exclusive. The first, of comparatively low cost, is to equip as large a number as possible of our combatant platforms with cruise missiles. I mentioned the HARPOON, for which the program is already under way to equip all surface combatants as well as a number of aircraft and submarines. Over the longer haul, our cruisers and destroyers could be equipped with the considerably longer range TOMAHAWK cruise missile as could our attack submarines—both for a conventional anti-surface-ship mission and for those conventional land-attack missions where it is possible to have a significant military impact by delivering only a relatively small number of very accurate conventional warhead weapons. This depends upon significant improvements in guidance for cruise missiles but it is by no means a far-fetched proposition.

The second way to spread out our offensive punch is to disperse our aviation eggs around in more baskets by developing V/STOL aircraft for deployment on small carriers and other air capable surface combatants. This may well prove expensive, but it is a road we should at least explore vigorously in research and development for a few years. We are going to have, even if we build no more of them, at least 12 large deck carriers in our naval forces virtually into the 21st century. The only investment required to ensure this is to conduct a set of very thorough overhauls, called the Service Life Extension Program, on the carriers, beginning in 1981. Because of this, any transition to V/STOL would not, and need not, be a sudden proposition. It is more akin to an evolving reliance on solar power in place of fossil fuels than it is akin to e.g., replacing one rifle with another.

"Well, all right," some of you may be saying. "Suppose surface ships are not becoming as vulnerable as the conventional wisdom might indicate, and suppose there are ways to spread our firepower on to more platforms than 12 large-deck carriers. You still haven't told me what you want to use the Navy for. Are you interested in power projection? Are you interested in sea control? You can't afford to do everything. Shouldn't we be concentrating, for example, on protecting the sea lines of communication in the event of a NATO war, using the most cost-effective systems possible? Tell me the scenario you want to operate in and I will help you design and size your force. I will help you discover 'how much is enough.' But the Navy has to get its act together and decide what war it wants to fight."

These sorts of questions, claims, and advice are the bread and butter of what I described earlier as "quantitative policy analysis": a method of decision-making that relies heavily, in the military field, on designing forces to cope with very specific scenarios, utilizing complex computer models dependent on numerous detailed assumptions. Since I'm going to spend the rest of my time this morning talking, in one way or another, about the limitations of such analysis, I want to try to be clear what I mean by it. Now some of you may be sitting there and saying "come on, if you mean systems analysis, just say so."

Well, I do and I don't. "Systems Analysis," the name of both the original office established in the Defense Department by Secretary McNamara and the decision-making methods it spawned throughout government, has become identified in many people's minds with a number of issues that I have no intention of addressing today. So, I'm not referring here to that office itself. Nor am I addressing the role of particular individuals who worked or work there. I used to work there myself and I have a high regard for many others who have, for those who have led it, and for those who lead it today. What I am describing is an admittedly rather single-minded attachment to a specific tool of decision-making: a single-mindedness I would attribute to no one all of the time, but to lots of us some of the time, and to some of us most of the time.

Now, one of the oldest and most honorable strains in the analytic discipline is the principle that one must always tell the client or decision-maker who asks the questions that set up the analysis, whether or not his questions are the right ones.

So it's in the spirit of suggesting that, essentially, "how much is enough" and its cousins may not be the right, or at least not the most important, questions that I want to proceed.

The first and most important reason such questions may well be the wrong, or at least not the major, ones that need to be asked has already been indicated by the Secretary of the Navy. Designing a Navy around specific scenarios requires one to look too far into the future to be realistic. Ships are platforms—more like capital investments than like specific weapons. Over 70% of the ships that will be in the fleet in the year 1990 already exist or have already been authorized. A carrier that we would authorize in the next year or two can well spend over half its service life in the 21st century. For an example, let's look at the year in which such a carrier (that would enter the fleet in the mid-80's) would just be entering middle age—that is, it would be coming out of its major service life extension overhaul and would be looking forward to another 15 years in the fleet. That would occur around the year 2010. Now, we have no better idea today what specific wars or crises we are going to have to deal with between now and 2010—32 years from now—than we had in 1946—32 years ago—about the crises of today. Who of you here foresaw in 1946, if you indeed had been born by then, that in 1978 our thinking about when and how we might need navy forces could be significantly influenced by, e.g., a commitment to Israel, the need to protect sea lines of communication to Persian Gulf oil, a split between a Communist China and the USSR, and U.S.-Soviet parity in strategic nuclear weapons? Do I need to point out that in 1946 the State of Israel did not exist, Persian Gulf oil was just being discovered, the PRC was just being born, and neither the U.S. nor the USSR had heard of an ICBM or an SLBM? What makes anyone even remotely confident that the national security problems of the early 21st century are any clearer to us today than the forces that drive naval planning in 1978 were clear in 1946?

It is neither lack of effort nor a temporary and remediable lack of willpower that leads to the Navy not being able to tell now just what sort of war it wants to fight in 30 years. As Secretary Claytor has said, assuming you can plan on such a basis is designing Cook's Tour: next month I'll be in Belgium and it will be March so I'll need a raincoat. Designing a Navy is much more like forming up the Lewis and Clark Expedition: we have to be prepared for a wide range of problems, so we have to design for flexibility.

How we can best do this is itself a massive subject. But three points are relevant. First, since ships are capital investments and last such a long time in peacetime, and since the pace of technological change for weapons and sensors—such as radars and sonars—is so rapid, we must design ships to be able to accommodate change and modernization readily. Carriers are inherently capable of doing this. As the suits of aircraft are changed the ship can thereby accommodate major alterations in missions. The carriers indeed have done this many times since World War II. Another way to promote flexibility is to build even small surface combatants to take some aircraft. Our destroyers and frigates took on important new capabilities when we put anti-submarine warfare helicopters aboard them a few years ago. They will evolve further as more advanced helicopters replace these in the 1980's. This interest in the flexibility provided by multiplying the number and types of platforms that can use aviation at sea is another key reason for our support for the development of V/STOL aircraft. A third way to make it easier for ships to accommodate change is to build surface ships in such a way that their weapons suits—guns, radars, missiles, etc.—can be changed far more readily and cheaply than is now possible as new weapons and sensors become available, almost as if one were changing modules. We are working hard on this promising concept, but there is still much to do.

In addition to the need to design a Navy for flexibility over a long period of time, there is another major reason why I would suggest rejecting the precise quantitative and scenario-dependent method of designing a Navy. It is that naval forces are particularly vital for dealing with the dynamic problem of the transition, a transition we want to prevent, from peace to war. Any specific scenario, whether it is protecting the sea lines of communication to Europe in the event of a NATO war, projecting power in a certain type of crisis in the third world in the absence of Soviet intervention, or any other, has to be a snapshot in time. One doesn't want to ask only the question convenient for quantitative policy analysis to answer: "what might things look like at a specific time"? but the much harder question: "what are the problems of going to or being forced from one position to another, and how can I control that process to avoid risk?" The President and his advisers need to know what sort of forces can best help them manage the perennial danger of crises escalating into war, and to manage them in such a way that the other side will know that at each step of the road we are in control. Unfortunately for the analyst, it is in the complexity of evolving and dynamic situations, of peace threatening to evolve into war, that naval forces are most relevant. That makes them messy to analyze in one- or two-mission or one- or two- scenario formats. Naval forces are highly relevant to this delicate transition from peace to war because they can do three things: (1) they can help maintain stability in peacetime through forward deployments and perceptions of their potential power if used, (2) they can help contain or manage crises as they evolve, and (3) they can help deter general war by being clearly better able to fight it than their foreseeable adversaries. These tasks are, in a very real sense, a seamless web. Let me walk through them briefly.

Naval forces can help maintain stability in peacetime by forward deployment. We maintain today two carrier task groups, battle groups we call them, in the Mediterranean, two in the Western Pacific, and several Marine amphibious units deployed in both areas as well. Since 1945, the U.S. has used such sea power as a means of affecting the behavior of decision-makers in other nations in peacetime. These forward deployments are intended to demonstrate U.S. interest and resolve, to reassure our allies, to deter our enemies, and to ensure quick response. So one important question in designing a Navy is, how do force structure decisions have an effect on these forward deployments? For the issue is not whether a permanent reduction in our naval forces would affect our forward deployment and therefore our foreign policy, but rather in what ways.

Another part of the picture of assessing the overall contribution of naval forces to peacetime stability is the perception of the Soviet-U.S. naval balance. It is not inevitable that the U.S. concede to the Soviets parity in all military capabilities. They do not enjoy it now. The forward strategy linking the U.S. to other continents requires use of the seas, and makes any perception that the Soviets could deny the U.S. control of the seas particularly damaging. Such perception is not warranted by the projected trends in technology, if we have the will and the skill, and the money, to proceed to deploy what has been developed.

Another major task that national decision-makers must face in the spectrum between peace and war is the containment or management of local crises. In some crises a President may wish to commit U.S. troops immediately to preempt certain potential moves by an adversary, to evacuate Americans in jeopardy, or to ferry supplies rapidly to a friend or ally. Naval forces aren't the only possible means. The quick response of airlift provides the President with a valuable tool, for example. But airlift has limitations and in a number of cases, naval forces may be preferred for good reason. For example, naval forces can be deployed to a crisis area without being committed to battle and without committing allies. Such demonstrations manifest both U.S. concern and capabilities. In over 200 crises, large and small, since 1945 in which the U.S. was involved, U.S. Navy and Marine forces were deliber-

ately employed in 177 cases, while U.S. land-based air or ground forces alone were demonstrated in fewer than 90 cases.

Naval forces may be the most acceptable form of military presence in crisis situations. They can convey, if the policy maker chooses, calculated ambiguity and calibrated response. Their presence does not irrevocably commit the United States to a given course of action. They do, however, seriously complicate the calculations of opposing parties. U.S. fighting forces can be assembled for action without using bases in other nations. Indeed naval forces help make us comparatively indifferent to the vicissitudes of other nations' policies about base rights, whether for us or for hostile countries, and Naval forces thus help make us more able to tolerate shifts in political winds without feeling our vital interests are injured. If a crisis is resolved satisfactorily, naval forces can be withdrawn with limited fanfare. In sum, naval forces provide a policy maker with important flexibility and a tool for orchestrating events.

To be able to successfully support U.S. policy in a crisis, our naval forces require several things. They must have the striking power to affect events ashore.

They must have local superiority over potential adversaries. The benefit of naval superiority is that it signals to the Soviets and others that their adventurism occurs against the backdrop of U.S. forces that are capable of fighting and winning, and both sides must know this. In a crisis we want it to be the other commander on the scene, not our own, who is forced to tell his superiors that he must back down or risk escalation.

There must be sufficient forces to permit coverage of different crisis areas, so that responding to a crisis in one area does not involve a risk of being unable to deal quickly with a new outbreak somewhere else. This does not imply that we must be everywhere all the time. It does mean that reductions in our force levels will increasingly constrain our credibility.

Most of all, we must always bear in mind the possibility that a crisis could escalate to actual fighting, with some losses to U.S. forces. Our forces are becoming more, rather than less, capable of responding to a sudden attack. Nevertheless, prudent planning requires that we recognize the possibility of some initial losses. We need to consider, in light of this, what total forces we need to maintain our position.

Continuing along the spectrum from peace to war, another major task for national decision makers is the deterrence of a major war. We must recognize that the deterrence of conflict will depend upon a credible warfighting capability. Maintaining such a capability is complex and difficult for a whole series of reasons, but two are salient. First, our Allies are overseas—many of the most important ones close to the borders of the Soviet Union. If there is effective sea denial, by both sides, we lose. We have to be able to use the seas to maintain our alliances and our security. Second, it is no longer the case that the threat to our use of the seas occurs only in the near-coastal waters of the Soviet Union. The increasingly-capable blue-water Soviet Navy, and particularly the long-range Backfire bomber going into the Soviet Naval Aviation forces, makes all the world's waters of interest a potential theatre of conflict. The Backfire, for example, can range from Soviet bases to the environs of the Azores in the Atlantic and Pearl Harbor in the Pacific. Should deterrence fail, we must be able to fight and win.

One of our most immediate concerns in deterrence and warfighting must be the defense of our vital sea lanes. No matter what the scenario—minimum warning or long warning; short war or extended war—we must be able to move large amounts of material by sea. This is usually viewed strictly in the context of the North Atlantic. But we cannot forget that we must continue to support Hawaii and our Western Pacific allies by sea, as well as ensure a continuing flow of vital overseas resources—particularly petroleum products—to ourselves and our allies to sustain our economy and industry.

Naval forces contribute to deterrence and to the ability to fight a global war by a clear demonstration of an ability to support allies or strategic friends on the flanks of the Soviet Union. Sea lane defense, by itself, does not protect flanks. NATO is a collective alliance, relying upon the commitment of all its members to the common defense. If any of these members doubted America's commitment or capability to support them, it could generate serious pressures on alliance cohesion.

Then, in a general U.S.-Soviet war our Naval forces must be capable of flexible options worldwide. A major conflict will almost certainly be conducted on a global scale. We must be able to destroy Soviet forces wherever we find them and complicate Soviet planning, forcing them into a defensive posture. Whether or not a national leader chose to exercise the option, the capability to conduct offensive operations against an enemy fleet is crucial in order for these forces to be useful to the nation. A predecessor of Jim Stockdale's as President of this War College, Alfred Thayer Mahan, hammers this point home throughout his famous "The Influence of Sea Power on History." An offensive capability, Mahan pointed out, was the central difference over the years between the British and French fleets, and the key to British success.

These needs for managing dynamic situations—for maintaining stability in peacetime, for providing the tools to manage crises, for deterring war by being able to fight it—require a range of types of naval forces. Managing stability, crises, and deterrence means being able to conduct military operations, where needed, one, under, above, and along the shores of 70% of the earth's surface. This is simply too complex a task to be accomplished by one or two specific types of platforms or systems.

I want to suggest a final reason—in addition to the need for flexibility over time and for balanced forces to help manage a dynamic reality—why it is unwise to design a Navy to prevail only in certain specific scenarios. This is, if anything, the most fundamental reason of all. It is that quantitative scenario-dependent analysis, used as a tool for designing and sizing naval forces, risks leading us into a fundamental misunderstanding of the nature of war. It is often said that such analysis focuses attention where it should be focused—at marginal changes. Now, at one level, concentrating on the margin—that is, on the costs and benefits of the next decision, not some overall historical average—is just common sense. Ignoring sunk costs is the first principle of most successful businessmen and all successful poker players. But a fixation on marginal change can be stultifying if it so narrows the analyst's imagination that he never moves his gaze from the bow-wave to the horizon. A focus on changes at the margin and on quantitative questions can too often produce an attitude that innovation is suspect and that the only changes of any interest are to buy several fewer of these or slightly increase the number of those—a sort of instinct for the capillaries.

Military breakthroughs don't come that way. They come by approaching things from a new perspective, by devising a different way, for example, to exploit the effect of mass or shock, a way to use surprise or concealment to accomplish what was previously accomplished by ponderous force, or a way to disperse and then concentrate for battle that confounds the enemy's planning. Quantitative scenario-specific analysis often misses this fundamental truth about military matters. It does not take each element, for example, of naval warfare—anti-air warfare, anti-surface warfare, anti-submarine warfare, and so on—and ask how in each type of combat we might most readily make a potential enemy's past investments in weapons worthless. Such analysis doesn't ask, "how can I exploit my advantages?" "How can I destroy the will of an enemy commander?" As the Chinese strategist Sun Tzu wrote long ago—the least desirable way to achieve victory is to destroy an enemy's cities; the next least desirable is to kill his soldiers; better is to destroy his alliances; but best of all is to destroy his plans and never have to fight at all. Only intellectual audacity permits this most humane type of victory, and intellectual audacity is not normally found at the margin.

I suppose another way to say it is that the reason why we should not become locked in to designing or sizing a Navy for one or two specific scenarios is because this capacity for asking the right question, this capacity for intellectual audacity, is not a talent that is foreign to totalitarian or aggressive societies. One needs only to recall Heinz Guderian's development of tank warfare and the blitzkrieg in Germany in the late 1930's to realize that we simply must not be the only one of two superpowers on this planet which is only asking, "how much is enough?" We must ask these many, many other questions too, or we risk ugly surprises. I want to close with a description of one example of such a surprise that occurred some time ago.

In the late 18th century, during the reevaluation that defeat always forces on a country's military establishment, French armorers discovered methods of casting cannon that improved accuracy and made artillery light enough to be pulled by horses rather than oxen. The implications of this development were not immediately clear. There was some experimenting, but most commanders used horse-drawn artillery as they had oxen-drawn—to make ponderous sorties from fixed forts and magazines and to fight in the rigid 18th century manner. Viewed in this context, horse-drawn artillery was a marginal improvement of sorts—I rather doubt that it was cost-effective. The development was only fully exploited during and after the French Revolution, in particular by a young Corsican artilleryman. Doubtless his success depended heavily on his own tactical genius and on the social effects of the French Revolution, which permitted the levee en masse—making possible the 19th century version of a human sea attack. But accurate horse-drawn artillery opened radical and unforeseen new possibilities of organization, mass, maneuver, and surprise that enabled his armies to shatter 18th Century concepts of warfare and the armies that practiced them. New units called "divisions" were formed under aggressive young commanders, and each was given its own artillery. Forts and magazines were bypassed, and the Alps crossed, in rapid marches; firepower was massed quickly to destroy opposing armies before they could concentrate on the battlefield. In other men's hands, a lighter cannon barrel had

been just a lighter cannon barrel. In his, it was a major element in the conquest of Europe.

So the risks of becoming rigid in our thinking about military forces—of designing forces to fight the way they've always fought, of concentrating only on how much is enough at the margin—are great. Together, we have to try, continually, to prove Keynes wrong, to show that we are not perpetually the slaves of vulnerability calculations of 1967 or analytical tools of 1963, that we can earn something after we're 25 or 30. The risks of doing otherwise are clear—we will learn, but much more painfully. For example, it took the rest of the European continent twenty years to learn enough from that artilleryman, turned Emperor, to defeat him. And, even then, as his ultimate conqueror said, it was a near-run thing.●

## BUDGET OFFICE COST ESTIMATE TABLE ON S. 2493, INADVERTENTLY OMITTED FROM COMMITTEE REPORT

● Mr. CANNON. Mr. President, when the Committee Report, 59–631, was printed on the Air Transportation Regulatory Reform Act of 1978, a table prepared by the Congressional Budget Office showing the estimated costs of the bill for fiscal years 1979 through 1983 was inadvertently omitted. In that this table is an integral part of the CBO's cost estimate prepared for this legislation, I ask that the entire CBO cost estimate for S. 2493 be printed in the RECORD.

The material follows:

CONGRESSIONAL BUDGET OFFICE,
*Washington, D.C., January 31, 1978.*

Hon. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce, Science, and Transportation, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for the Air Transportation Regulatory Reform Act of 1978.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
*Director.*

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COST ESTIMATE

1. Bill number: Not yet assigned.

2. Bill title: Air Transportation Regulatory Reform Act of 1978.

3. Bill status: Staff working draft, dated January 16, 1978.

4. Bill purpose: The Air Transportation Regulatory Reform Act of 1978 amends the Federal Aviation Act of 1958 in order to attain an air transportation system in which competitive market forces play a greater role in determining the nature and price of air services. The bill makes a number of significant changes pertaining to the issuance of certificates of public covenience and necessity, procedures for the disposition of applications for such certificates, the filing and establishing of tariffs indicating rates, fares and charges for air transportation, foreign and domestic mail service, and consolidation, merger and acquisition of air carriers. The bill revises the powers and duties of the Civil Aeronautics Board (CAB) with respect to such aspects of air transportation regulation, and creates a new federal subsidy program to ensure adequate air service to communities which require but cannot otherwise obtain access to the national air transportation system. The effective date of most sections of the bill is January 1, 1979.

5. Cost estimate: The following are the estimated costs of this bill for fiscal years 1979 through 1983:

[By fiscal years; in millions of dollars]

| | 1979 | 1980 | 1981 | 1982 | 1983 |
|---|---|---|---|---|---|
| CAB administrative costs | 2 | 3 | 3 | 3 | 3 |
| Subsidy program costs: | | | | | |
| Bill sec. 7 | 7 | 10 | 10 | 10 | 3 |
| Bill sec. 13 | 0 | 2 | 3 | 2 | 1 |
| Total | 9 | 15 | 16 | 15 | 7 |

These costs fall within budget function 400.

The short-term costs of this bill are not representative of the long-term effects, since they fall within the transition period from the existing regulatory system to a substantially modified one. Thus, by fiscal year 1986, all of the above additional costs will no longer be incurred, and it is expected that a significant reduction in air carrier subsidies (estimated at $26 million) will be realized.

The bill also creates some potential liabilities for the government. It extends the loan guarantee program for aircraft purchases, and broadens the program to include newly certificated small carriers, which are likely to be less financially secure. As a result, the government could incur additional contingent liabilities of up to $500 million during the next several years.

In addition, the bill includes an entitlement provision, which guarantees government payments to certain airline employees who suffer income losses due to layoffs or bankruptcies attributable to this bill. However, it is highly unlikely that such payments will ever be necessary, and no cost for this provision is included in this estimate.

6. Basis for estimate: The major potential cost impacts of this bill are in the areas of CAB administrative activities, air carrier subsidies, employee protection, and aircraft loan guarantees.

CAB administrative costs.—The bill would affect the administrative operations of the CAB in a number of ways. It mandates expedited procedures for processing applications, complaints or petitions (Section 20), creates a new class of carriers that may be certificated by the Board (Section 14), requires reapproval of certain intercarrier agreements (Section 10), and establishes a new subsidy program (Section 13), to be administered concurrently with the existing program through 1985. In addition, the bill places responsibility upon the Board to ensure that essential air service is provided to all points authorized for service on July 1, 1978 (Section 13), and to implement procedures for automatic carrier entry into new markets (Section 5). All of these requirements will place additional administrative burdens on the Board, particularly during the initial implementation period. On the other hand, the automatic entry provisions (Section 5), once fully implemented, the increased faresetting flexibility allowed carriers (Section 18), and the removal of the requirement of Board approval for all intercarrier agreements (Section 10) will alleviate some of the CAB's current regulatory workload, though not immediately.

Based on a comparison between current CAB procedures and those mandated in the bill, and on a review of the Board's estimates of additional workload attributable to the bill, CBO projects that CAB administrative expenses during most of the transition period will be increased by 10 to 15 percent ($2-3 million) as a result of this bill. This increase stems primarily from the requirement to operate two concurrent subsidy programs through 1985, and from the initial costs of phasing in the new rate and route procedures. (It is possible that in the absence of this bill, the Board would seek to implement some of these provisions administratively. In that case, some of these costs could be incurred in any event.) By 1986, CAB salaries and expenses under this bill are likely to be at or below the level that would be necessary under current law.

Subsidy program.—The Civil Aeronautics Board currently provides subsidies to seven local service carriers under a class rate system, and to two small, recently certificated carriers (Air New England and Air Midwest) and three Alaskan carriers under individual rates. The bill would change the current level of subsidy payments in two ways. The first stems from Section 7 of the bill, which amends Section 406 of the Federal Aviation Act of 1958, revising the criteria for subsidy determination under the existing subsidy program. Presently, the Board calculates the subsidy rates for local service carriers based on the needs of routes eligible for subsidy, and then deducts an offset reflect profits on other portions of a carrier's system. Under the modified criteria in this bill, the CAB, in determining rates of compensation for air carriers for the first four years of the seven-year transition, would no longer be able to offset the costs of subsidized services by any carrier profits on unsubsidized routes. Instead, the Board will be required to consider only the cost of the subsidized service itself. This provision would be in force from the effective date of the bill (January 1, 1979) to January 1, 1983. At that time, the CAB would again be permitted to consider carrier revenue from unsubsidized services, until the present Section 406 subsidy program terminates on January 1, 1986.

The elimination of the offset from subsidy determination will increase the subsidy necessary to maintain existing levels of service, as mandated by the bill. Based on a review of historic subsidy payment levels, these additional costs are estimated to average approximately $10 million a year, beginning in January 1979 and phasing out early in fiscal year 1983.

The second major impact on the subsidy program results from Section 13 of the bill, which creates a new Section 419 of the Federal Aviation Act of 1958. This section creates a new subsidy program, including local air carriers certificated under Section 420. Under this program, the CAB is directed to insure that essential air service is provided, until January 1, 1989, to points which on January 1, 1979, were listed on a certificate issued under Section 401, regardless of whether authority to serve such points has been suspended by the Board. In addition, after January 1, 1983, any certificated carrier may apply to replace service subsidized pursuant to Section 406 with service eligible for compensation under the new program. The Board has compiled a list of 61 points most likely to require subsidy support under this section. A gradual phase-in was assumed, whereby approximately 12 new points would be added each year to this new subsidy program. The Board expects that during the phase-in of this new subsidy program 73 points currently receiving subsidized service by certificated carriers under Section 406 would be phased out of that program, resulting in decreased costs for the present subsidy program. Based on a review of CAB projections, the net effect of added costs under the new subsidy program and the savings under the present program is estimated as follows:

PROJECTED SHORT-TERM SUBSIDY COST OF NEW SMALL COMMUNITY SERVICE PROGRAM

| Fiscal year | Points subsidized under sec. 419 | Subsidy increase, sec. 419 (millions) | Points no longer subsidized under sec. 406 | Subsidy reduction, sec. 406 (millions) | Net additional subsidy (millions) |
|---|---|---|---|---|---|
| 1979 | 12 | $2 | 16 | $2 | $0 |
| 1980 | 24 | 10 | 32 | 8 | 2 |
| 1981 | 36 | 14 | 43 | 11 | 3 |
| 1982 | 48 | 18 | 54 | 16 | 2 |
| 1983 | 60 | 19 | 64 | 18 | 1 |

It is expected that after the transition from the existing 406 program to the new 419 compensation is completed in 1986, a net overall savings in subsidy costs will be realized, resulting from greater use of smaller, more economical aircraft to serve small communities. A CAB small community task force has estimated that the net subsidy reduction in the first year after termination of the 406 program would be approximately $26 million.

Employee protection program.—Section 22 of the bill provides for government payments, under certain conditions, to employees of air carriers who lose their jobs or suffer a loss of compensation as the result of a bankruptcy or major contraction of an air carrier attributable to this act. In order to be covered by the provision, the air carrier must be certificated under Section 401, and the dislocation must involve a workforce reduction of at least 15 percent within a 12-month period and must occur within 10 years of the enactment of this bill. Furthermore, the major cause of the dislocation must be determined by the CAB to be the change in regulatory structure mandated by this act. Only persons who have been employed for at least 4 years by a carrier certificated under Section 401 are covered by this provision.

It is highly unlikely that any payments will be necessary under this provision, and therefore no cost has been included in this estimate. A dislocation of the required magnitude has been historically rare in the airline industry. While the change in the regulatory environment will result in some changes in the nature of the industry, there is no evidence that major dislocations will occur. Rather, the opportunity for greater pricing and service flexibility is likely to result in increases in airline traffic and in the number of airline jobs. Further, the carefully structured transition period should allow the existing carriers to adapt gradually to the new environment.

Although CBO does not anticipate payments under this provision, the potential government liability has been estimated for a sample case for carriers of three different sizes (large trunk, small trunk, and local service carrier), as shown in the table below.

POTENTIAL GOVERNMENT LIABILITY—WORK FORCE REDUCTION OF 20 PERCENT

| Type of carrier | Total domestic employees | Total employees laid-off | Eligible employees laid-off | Estimated payments (millions) |
|---|---|---|---|---|
| Large trunk | 35,000 | 7,000 | 3,500 | $30 |
| Small trunk | 10,000 | 2,000 | 1,000 | 9 |
| Local service | 4,000 | 800 | 400 | 3 |

In each case, a 20 percent reduction is assumed in the number of employees. Based on actual data from a large trunk carrier, it is estimated that at least half of the employees losing their jobs in such a situation would not be eligible for coverage. The estimated payments are based on a full reimbursement of lost salary at an annual rate of $20,000 (less unemployment compensation) and an average payment period of 6 months. (The requirement that Section 401 carriers give first preference in hiring to affected employees is likely to keep the average payment period well below the 3-year maximum.) The estimate also includes payment of moving expenses ($3,000) for one-third of the affected employees. Based on these assumptions, the estimated cost to the government would range from $3 million for a local service carrier to $30 million for a large trunk.

*Loan guarantee program.*—The guarantee program for aircraft purchase loans created by Public Law 85-207 expired on September 7, 1977. Section 23 of this bill extends the program until September 7, 1982, increases the total amount of the loans of one carrier that can be guaranteed from $30 million to $100 million, and increases the maximum term of loans eligible for guarantee from 10 to 15 years. In addition, the bill would allow carriers newly certificated under Section 420 to qualify for loan guarantees. Presently there are commitments under this program totaling $213 million for 24 loans, covering 158 aircraft and 17 airlines. There have been no defaults experienced in the program to date, although the amounts guaranteed have become substantial only within the past few years. Guarantee fee receipts have exceeded FAA administrative costs by over $600,000 during the past 20 years. (Administrative costs are estimated to be $42,000 for the FAA in fiscal year 1978, compared to approximately $500,000 in guarantee fee receipts.) Thus, past experience would indicate that there is little likelihood of losses on these guarantees. The raising of the loan limit and the extension of eligibility to newly certificated carriers, which may be less financially secure than existing carriers, add additional elements of risk to the program; however, there is no basis for determining a likely default rate for the extended program. Any additional loan guarantees will also increase the amount of fees collected, and the Secretary of Transportation may adjust the fee to compensate for the additional risk. Consequently, no allowance for losses is included in this estimate. However, with the possibility of dozens of newly certificated small carriers seeking loan guarantees, the government could incur additional contingent liabilities of up to $500 million during the next several years.

*Other potential cost or budget impacts.*—The safety studies and reports to Congress required in Section 4 to be performed by the Secretary of Transportation fall within the current responsibilities of the Department of Transportation. It is estimated that no significant additional cost will be incurred in carrying out the purposes of this section.

Another less certain impact on the subsidy program results from Section 7 of the bill. This provision requires the CAB, in establishing subsidy levels under Section 406, to consider the need of each carrier for compensation sufficient to enable it to continue to provide air service of at least the same extent, character and quality as that provided during the year ending June 30, 1977. This would prevent the Board from decreasing the number of subsidy-eligible points, as it apparently intends to do in the absence of this legislation. The subsidy reductions anticipated by the Board (without new legislation) are estimated to be $6 million in fiscal year 1979, increasing to $15 million in fiscal year 1982, for a net subsidy reduction of $59 million over five years. If the bill prevents the Board from decreasing subsidy payments, the cost of the bill would include the amount of savings not realized. It is uncertain, however, whether or to what extent such subsidy reductions would be obtained if this bill is not passed. Therefore, these potential subsidy reductions are not included in the above estimate of the cost of this legislation.

The bill may also have an indirect impact on federal tax revenues. At present, the Airport and Airway Trust Fund receives revenues from taxes on aviation fuels, transportation by air and use of civil aircraft, and tires and tubes of the types used on aircraft. To the extent that the changes in the regulatory system stemming from this bill may affect traffic volume, there will be an effect on trust fund income. The FAA projects trust fund revenues under existing law to be $1.4 billion in fiscal year 1978 and rising to $1.9 billion by fiscal year 1983. Of these amounts, approximately 75 percent is estimated to be derived from the 8 percent excise tax on passenger fares. If, as is likely, the new entry provisions and increased fare flexibility result in increased traffic volumes and higher carrier revenues, federal tax income will also increase. While it is not possible to predict the changes in traffic volume that may result from implementation of this bill, an increase in passenger revenues of about 1 percent would produce additional tax revenue equal to the added federal costs projected for the first 5 years.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Patrick J. McCann (225-7760)

10. Estimate approved by:

JAMES L. BLUM,
*Assistant Director for Budget Analysis.*●

## IOWANS TESTIFY ON BRIDGES

Mr. CULVER. Mr. President, on April 3 I chaired a hearing of the Senate Transportation Subcommittee at which several Iowans testified about my State's deficient bridge problems. The witnesses included Raymond Kassel, who is director of the Iowa Department of Transportation, and Dean Kleckner, president of the Iowa Farm Bureau Federation. In addition, four county engineers from Iowa, Clarence Perry of Lucas County, Wesley Smith of Hamilton County, Milton Johnson of Clayton County, and Charles Hales of Pottawattamie County, presented testimony.

The Federal Highway Administration places Iowa fifth among the 50 States according to the number of obsolete and defective bridges on the Federal highway system. In addition, Iowa may have the highest number of unsafe bridges on local roads in the Nation. To help rectify this growing problem, last year I introduced S. 394, the Bridge Replacement and Rehabilitation Act, which authorizes $600 million for this program and would also provide Federal assistance for bridges off the Federal system.

The seriousness of this critical problem was thoroughly explained by these witnesses. They talked about spans which threaten the lives of children riding in school buses and which seriously impede firetrucks and farm equipment. Their testimony further convinced me that funding for the special bridge replacement program must be increased significantly and must be made partially available for local, off-system structures.

Mr. President, I ask that the following excerpts from testimony given at the April 3 hearing be printed in the RECORD.

The excerpts follow:

TESTIMONY BY RAYMOND L. KASSEL, DIRECTOR, IOWA DEPT. OF TRANSPORTATION

The Iowa bridge problem has two aspects, one internal and the other associated with Iowa's navigable border rivers.

It is the normally abundant rainfall on the fertile soil that makes Iowa agriculture so tremendously productive, and at the same time demands an extensive road system with many bridges to serve both the land and industry. The 113,000-mile public road network requires more than 34,000 structures with a 12-foot span or greater. Why such an extensive network? Ninety-five percent of the State's land is in agricultural production. Each acre annually requires movement of more than 2 tons of produce and production supplies. This equates annually to the movement of nearly 600 tons of produce and production supplies to and from the typical farm.

In terms of importance to our national economy and balance of foreign exchange, export of Iowa agricultural products annually yield $2 billion with an additional $1.3 billion being earned from the export of Iowa industrial production.

A particularly difficult aspect of our problem, shared with our adjacent states, is associated with the border rivers. In effect, we have two "coasts" formed by the broad Mississippi and wide Missouri. Every day there are 278,000 trips to and from Iowa across these waterways. These rivers might as well be real "oceans" when we and our neighbors seek ways and means to replace the bridges.

The are now 31 border river bridges on the Arterial System. Nine are toll facilities not owned by the states and will be very expensive to replace. Structurally deficient bridges (those incapable of carrying a legal load or subject to other loading restrictions) now exist at Dubuque and Burlington. Functionally obsolete bridges (narrow or low) cross the Mississippi River at Keokuk, Lansing, Sabula, Davenport, and Ft. Madison; the Missouri River at Missouri Valley, Council Bluffs, Glenwood, and Sidney; and the Des Moines River at Keokuk. The problems at Keokuk, Davenport and Ft. Madison are compounded by growing river traffic because these bridges still open for barges. For example, the bridge at Keokuk has opened more than 2,500 times per year during the past five years, with a peak of more than 4,500 during the high water year of 1974. Each opening requires at least 15 minutes. The scope of replacement costs for the border bridges can be measured by the $35 million needed for the bridge at Dubuque and the 15 million for the bridge at Keokuk, our number 1 and 2 priorities. The scope of the border bridge problem is shown in Table 1 and is estimated to be as follows:

| | Structurally deficient | | Functionally obsolete | |
|---|---|---|---|---|
| | Number | millions | Number | Millions |
| Estimated replacement costs | [1] 2 | $55 | 10 | $165 |

[1] Dubuque and Burlington.

BRIDGES INSIDE THE STATE

Summary figures below show the estimated size of the "Interior" bridge problem. For reference, the typical annual bridge replacement expenditures are: state—$20 million, county—$22 milion and city—$4 million.

| Jurisdiction | Miles | Total bridges (12 ft span) | Structurally deficient | | Functionally obsolete | |
|---|---|---|---|---|---|---|
| | | | Number | Amount (millions) | Number | Amount (millions) |
| State | 10,000 | 4,200 | 110 | $43 | 1,110 | $440 |
| County | 90,000 | 29,000 | 11,400 | 674 | 13,000 | 780 |
| City | 13,000 | 1,400 | 300 | 18 | 600 | 60 |
| Total | 113,000 | 34,600 | 11,810 | 735 | 14,700 | 1,280 |

TESTIMONY BY WESLEY D. SMITH, COUNTY ENGINEER, HAMILTON COUNTY, IOWA

Needs studies are performed in Iowa at certain intervals to determine the amount of money necessary over the ensuing 20 years to bring our highways and streets to a safe, efficient and economical level. At present, the total 20 years needs for all Iowa counties amounts to $7,280,000,000 or an average need of $364,000,000 per year. Our total available revenue, from *all* possible sources amounts to approximately $180,000,000 per year. In other words, we are able to fund only 50 percent of our needs.

We are falling farther behind every year and at an increasing rate. At present we are reconstructing 1 mile of road for every 3 miles that wear out.

The present bridge problem on the county level merely points out additional evidence that solutions to our situation are impossible with only state and county funding being used.

What the counties desperately need are large amounts of federal aid, much greater amounts than mentioned in S. 394, which are specifically earmarked for use on county highways. Further, the County funds must be available for use on both the FAS and off-system county highways. The necessity of this is pointed out dramatically by the recent mileage reduction in the FAS system. Iowa was cut from approx. 33,000 miles of FAS routes, down to 13,000 miles. A vast amount of our annual needs of $364,000,000 thus has shifted from FAS routes to off-system routes. The effect on our county bridge prob'em alone is dramatic.

We have a definition problem I would like to clear up before we start discussing bridge statistics. When the bridge survey was compiled from which the following numbers were obtained, the Iowa definition of a bridge was twelve feet span or greater. The Federal definition, and the current Iowa definition is 20 feet span or greater. As you can imagine, this difference in definition has quite an impact on both the total numbers of county bridges and on the number of deficient bridges in Iowa. However, it makes little difference to the travelling public, or to us for that matter, whether the posted structure we are approaching is between twelve feet and nineteen feet in span, or is twenty feet or greater. In either case the problem is there and something must be done about it. Please bear in mind the following figures all relate to bridge lengths of twelve feet or greater.

Prior to the FAS cutback, 2,772 of the 9,986 bridges on the FAS system were required to be posted at less than legal highway loads. (About 28%). We also had 8,598 of the 19,207 bridges on our off system roads that could not carry legal loads. (About 45%).

We now have 39.4 percent of the FAS mileage we did have. Therefore, an approximate total number of posted bridges on the FAS system would be 1,092. The approximate total number of posted bridges on the off-system has increased to 10,278. Therefore, at the present time approximately 10 percent of our posted bridges are on the FAS system and 90 percent are on the off-system. The total cost of replacing the posted bridges on the FAS system would be approximately $80,800,000 while the total cost on the off-system would be approximately $593,200,000. Our bridge needs alone are over $512,000,000 greater on the off-system than on FAS. This fact alone demonstrates the need for large amounts of federal aid direct to the counties for use on any county highway.

Combining the bridges on the FAS system and the off-system, we arrive at the total county bridge problem in Iowa. And we must look at it as a total problem. This is the way our people look at it. If a bridge is posted so they are blocked off between their field and farm, or between the farm and market, or if a school bus cannot reach their farm lane to pick up their children, the people couldn't care less whether the posted bridge is on one particular system of highway or another. We do have a total of 29,193 county bridges in Iowa most of which have been inspected and rated. We do have 11,370 county bridges which are, or will be posted, for less than a legal tandem axle truck loading. In other words, approximately 40 percent of all the county bridges in Iowa will be closed, or posted at ratings anywhere from 1 ton through 22 tons. 339 bridges will be closed or rehabilitated in some manner so they may carry more than a zero rating. We do have 4,490 county bridges a loaded school bus cannot cross. Others, a bus can cross if the children get out and walk across. The cost of replacing these 4,490 county bridges that prohibit a loaded school bus is approximately $300,000,000. The total cost to replace all posted county bridges is approximately $674,000,000.

The following table gives an indication of the extent and range of the county bridge problem:

| Tons posted rating | Number of bridges | Estimated replacement cost, each category (millions) | Accumulated replacement cost (millions) |
|---|---|---|---|
| 0 [1] | 339 | 23.3 | 23.3 |
| 1 to 3 [1] | 707 | 50.1 | 73.4 |
| 4 to 6 [1] | 1,619 | 116.5 | 189.9 |
| 7 to 9 [1] | 1,825 | 109.8 | 299.7 |
| 10 to 12 | 2,854 | 150.6 | 450.3 |
| 13 to 15 | 1,805 | 98.7 | 549.0 |
| 16 to 18 | 1,323 | 70.9 | 619.9 |
| 19 to 22 | 898 | 53.8 | 673.7 |

[1] School buses prohibited.

TESTIMONY BY CLARENCE C. PERRY, COUNTY ENGINEER, LUCAS COUNTY, IOWA

Today in Iowa we are facing what many have termed as a crises in bridge replacement. The crises has gained nation wide attention due to the Federal Bridge Inspection law. I would like to compliment the federal government for seeing the need for bridge inspections. It shouldn't be said that local governments were not inspecting bridges prior to the law. We have always inspected bridges but most people were making visual inspections. You have made us look at these bridges "in depth" using the FHWA criteria. These "in depth" inspections have revealed some startling facts. It has forced us to realize that our bridges are in worse shape than we expected. Nation wide more and more load limits are being posted. I feel the inspection law has been good for us; it has given us the tool to begin a long range comprehensive program of replacement. Through an "in depth" inspection we are able to program the critical bridges first.

The inspection procedure has carried over to the "off system" and has pointed out another startling fact. We have 9½ times more bridges posted for load on the off system then on the Federal Aid System. This fact would give rise for someone to say the counties have been negligent on the local roads. The fact of the matter is that the Federal Aid System was the most important network of roads in the county due to direct access to communities and heavier traffic counts. As a result the FAS system had a top priority and bridges were constructed on this system first. It was not the nominal amount of federal funds we receive that built the FAS

bridges. It was vast amounts of local funds as well as state funds that completed these structures. We feel it is now time for some federal funds to be spent on the off systems bridges. This is why we like Senate Bill 394. It guarantees the expenditure of at least 15 percent of the funds authorized to the state to be spent on bridges under county jurisdiction.

I would like to visit with you about my own county where I have personal experience. Lucas County is in southern Iowa and has a population of 10,163. Our primary product is agriculture with an emphasis on livestock. We have 647 miles of county highway and 253 bridges using a twelve foot length as the definition of a bridge. I might point out that when statewide information on bridges was compiled, Iowa was using a twelve foot length criteria. All my data is based on a minimum length of twelve feet. A total of 175 of our bridges rate less than legal load capacity. This is 69 percent of all our bridges. Breaking this down to FAS routes, 7 of 22 bridges or 32 percent are posted for load. The local system has 168 of 231 bridges or 73 percent that rate less than legal.

Lucas County has launched a bridge replacement program and 50 bridges have been replaced or vacated during the past five years.

We estimate it would cost 8¾ million dollars to replace those remaining bridges that rate less than legal, another 2¾ million dollars to replace those bridges that are obsolete due to width.

I would like to close by saying Lucas County has had experience with bridges collapsing. During the past 10 years, eight of our bridges have collapsed. I have had three bridges collapse during the time I have served as a County Engineer. I cannot describe to you the sinking feeling you experience when the first reports of these failures are received.

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TESTIMONY BY CHARLES E. HALES, COUNTY ENGINEER, POTTAWATTAMIE COUNTY, IOWA

Pottawattamie County, Iowa, with 1400 miles of road and some 560 bridges, represents the largest figure in both categories of any county in Iowa. At the present time, we are essentially in full compliance with the National Bridge Inspection requirements. Under these inspection requirements, which I often refer to as "OSHA" applied to bridges, we post load limits according to physical condition. Pottawattamie County load limit signs start at 21 tons and range down to 4 tons. Any bridges less than 4 tons are closed immediately.

At the close of the first inspection compliance date of July 1, 1974, more than 90 percent of our structures were deficient. Technically, by definition, only those bridges with a 20 foot span or longer were examined. We do have many shorter spans, which are being replaced with steel culvert pipes.

Eighteen percent of all legally defined bridges were restricted to the lowest category of 4 tons. Four ton, of course, will accommodate only passenger cars and light vehicles. No school buses, no trucks, and very little farm machinery.

On July 1, 1976, two years later, the next compliance date for reinspection, the four ton limit number had increased from 18 percent to 21 percent. This was in the face of a "crisis" construction program plus making use of Revenue Sharing Funds. This indicates that our bridges are deteriorating at a faster rate than we can repair and rebuild under the present level of funding. Historically, Pottawattamie County has tried to be a self-sufficient county, evidenced by the fact that we have replaced 250 deficient bridges with new permanent, steel and concrete structures in the last five years, that's 50 bridges per year. For years now, we have levied the maximum local tax that Iowa law permits for county roads. In addition to that we allocated Federal Revenue funds in the amount of $400,000 in 1977 and $1,200,000 in 1978 for bridges. Six out of ten of our county bridges are still wooden structures and seven out of ten are posted with load limits. Our latest bridge need study in Pottawattamie County alone, based on 1975 dollars, amounted to $24,000,000. Today, that figure is probably close to $30,000,000. You are aware that in 1975 the Congress did not help our bridge problem when a law was enacted permitting states to set higher weight limits for trucks. This set the stage for the truck lobby to pressure the states; result, some 40 states have raised the weight limits to the federal standard of 20,000 lbs. per axle, 34,000 lbs. per 2-axle tandem and 80,000 lbs. maximum overall weight.

Iowa is not one of these 40 states. We along with our neighbor states of Illinois and Missouri are known as bridge states. No doubt, we will soon fall victim to the powerful truck lobby and our present position of being listed in the top 5 (five) in the United States with deficient bridges will be even more secure.

The present bridge problem on the county level points out the fact that we are not going to solve the situation without further federal help. Proposed federal legislation such as Congressman Harkin's "Bridge Safety Act of 1977" and Senator Culver's "Bridge Replacement and Rehabilitation Act of 1977" are steps in the right direction.

While many of the bridges in the agricultural area of the Midwest are not considered as high volume traffic structures, they do carry a very vital commodity, namely foodstuff. It has been pointed out that one American farmer now provides food for some 56 people. Twenty years ago, he fed only 23 people. Needless to say, in Iowa, the farmer and his demands on the rural road system receive an almost sacred priority, bridges are the weakest link.

Hundreds upon hundreds of these bridges are rotting wood and rusting steel, not only incapable of carrying a legal load, but also much too narrow for today's agricultural machinery. Exhibit "A" attached as a part of this testimony is a picture, not uncommon, of an Iowa farmer using a 320 horse power, four wheel drive farm tractor pulling a 54½ foot wide cultivator. Last summer I was called out into the county where two of our narrow, all wood bridges, about 1000 feet apart had the entire railing and posts missing from one side. There is little doubt in my mind but what this was a result of a frustrated farmer using a chain saw to redesign two of our not very valuable bridges to accommodate his wide equipment.

Most of you are probably aware of the dangers to our school children riding school buses over the bad bridges. Many of these buses are of the 72 passenger size. Again the economy has forced the schools in the same direction as the farmer and the trucker—bigger and bigger.

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TESTIMONY BY MILTON L. JOHNSON, COUNTY ENGINEER, CLAYTON COUNTY, IOWA

There are some estimates out that I believe are conservative, that show the Federal Aid system having a bridge need of about 12.4 billion dollars and the Off System with a bridge need of 10.6 billion. Using the 10.6 billion for Off System and assuming that the 600 million dollar figure in Senator Culver's bill is used along with the 15 percent being designated for county use on Off System, then it would take some hundred and eighteen years to fulfill this need. Further, assuming that local government would fund two-thirds of this deficit, this would bring the time down to somewhere in the neighborhood of forty years and of course by that time the needs would have further compounded.

All of these figures are on the conservative side. First of all we know that the 10.6 billion dollar need in Off System is an old figure and that we have further inventories that show that this need is greater. Secondly, we are assuming that local government can finance two-thirds of this deficiency when in fact many local governments are at the statutory limit of their taxation and will come no where near meeting that need. Thirdly, we are assuming no inflation in projecting these figures. Fourthly, we are not addressing the problem of the bridges on the Federal Aid system that are under county jurisdiction.

What brought about this sudden crises? Actually the crises has not come about suddenly and many of us have been trying to do something about averting this for many years, however, we all know that the disastrous failure of the bridge in Ohio several years ago brought the bridge problem to national attention. There are a number of factors contributing to the present dilemma.

Many of the bridges were built in the late 1800's. These of course were built for horses and wagons. We've all seen pictures of some of these bridges after they collapsed under the load of a 6 to 8 ton steam engine and possibly a 4 to 5 ton threshing machine. Then during the 20's and 30's many new bridges were built and some of the 1800's vintage bridges were replaced to accommodate the new fangled machines called automobiles and the trucks which were grossing out at 6 to 7 tons.

Then in the 50's, 60's and 70's the railroads closed many branch lines forcing farmers to haul further, thus making larger trucks more practical. School consolidations were taking place also and school buses became more common and bigger up to the point that many of the present buses are at or near the maximum legal axle loads.

During this same period farming methods were rapidly changing also, with farms becoming larger and with more specialization causing large quantities of material such as fertilizers and feeds to be trucked to farms in larger and larger trucks and the farm products, grain, stock, milk, etc. being sent to the market also in large trucks.

All of this is coupled with the pressure of the federal government to increase the axle load of from 18,000 to 20,000 for single axles and 32,000 to 34,000 for tandems compounds the problem.

I believe that the situation that we have in Clayton County, Iowa, is fairly typical of many of the counties across the nation. In the last several years, many of the smaller deficient structures in Clayton County have been replaced with large diameter pipe culverts and some with short span bridges. This has enabled more of the bridges to be replaced than if we had concentrated our funds on one large structure. We have thus been able to remove the weight restrictions from more of the roads leaving a smaller number of posted bridges. This was done because of the shortage of money and inability to raise any more by taxation locally as we have been at the statutory taxing limit for many years. The Board of Supervisors and I felt that we could help more people with less money this way than any other way we could go.

What is happening now obviously is that the bridges that still need to be replaced are the bigger and more expensive ones, consequently we are able to replace fewer and fewer each year.

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TESTIMONY BY DEAN KLECKNER, PRESIDENT, IOWA FARM BUREAU FEDERATION

Iowa farmers sell about $7.0 billion worth of crops and livestock annually—$3.0 billion in crops and $4.0 billion in livestock. These are the second largest farm marketings in the nation.

It is estimated that more than 90 percent of the sales of crops, livestock and livestock products in Iowa are moved by trucks to markets in Iowa and surrounding states. Truck transportation is vital to the movement of farm products to market and needed farm supplies to farms. Most of these movements require transporting these products over secondary roads in Iowa.

There is a serious problem generally in maintaining secondary roads in satisfactory condition and a critical problem with bridges.

Recent reports by the USDA's Statistical Reporting Service indicated more than three-fifths of all farm feeder roads are said to be deficient, while half the feeder roads in U.S. rural areas are thought to be unsuited to steady, heavy truck traffic. Yet rural areas not only keep producing more farm, forest and mine products, but also depend more and more on trucks to get these goods to market.

As of 1975, Iowa had almost 14,000 county bridges posted for less than legal loads. This amounts to 46 percent of all our bridges. Almost 4,500 county bridges will be posted for less than 8 tons. This means there will be 4,500 county bridges a school bus cannot cross. It would cost an estimated $300,000,000 to replace just those bridges impossible for school buses. It would cost an estimated $800,000,000 to replace all bridges so legal loads could be carried. No other jurisdiction has a bridge problem of this magnitude.

It is obvious by these projected cost estimates that Iowa will have extreme difficulty financing the bridge repair and replacement program needed. Iowa's gasoline tax is presently at 7 cents a gallon. Property taxes are about $1.50 per acre for secondary roads which is about as much as farmland can be expected to carry for local roads. For a 300 acre farm this means a $450 tax for county secondary roads.

In view of the local financing problems we have outlined, we would support an increase in authorization for the Special Bridge Replacement Program. This would make it possible for the federal government to contribute a larger share of funds to finance the bridge repair program. States are considering raising gasoline taxes and property valuations are increasing annually which will result in more state and county funds also. Additional funds from all three sources should enable the states to move ahead in correcting their bridge deficiencies.

We also support the requirement that not less than 15 percent of such funds be used for work on bridges under the sole jurisdiction of counties. A large majority of the bridge deficiencies are on the secondary roads not included in the federal secondary system.

## STATEMENT ON THE PANAMA CANAL TREATY

Mr. GOLDWATER. Mr. President, I believe it was a treaty poorly conceived, poorly negotiated and consummated in a manner, in my opinion, that is not going to help Panama. It will help a lot of bankers who loaned Panama money, but it will not help them to raise the funds necessary to keep the canal open.

It flaunts the Constitution and the so-called leadership clause added to this treaty clearly does not alter the DeConcini reservation one bit. It makes a joke of this treaty.

It is my opinion that within 5 years of turning the canal over to the Republic of Panama the United States will be running the canal again or it will not be running at all. There is no question, in my mind, but that the Panamanians can operate the canal, but operating it and running it from a business standpoint are two different matters, and I doubt that the instability the Government of Panama has always shown will permit the businesslike operation of the canal. Following are a few brief opinions of mine, after having listened to, and participated in this debate for such a long time. Therefore, I ask that these opinions be printed at this point in my remarks.

The opinions follow:

OPINIONS

1. Cost to the U.S. Public.

a. Secretary of State Vance himself conceded in a statement to Congress, dated February 10th, that giving up the Panama Canal will cost U.S. taxpayers hundreds of millions of dollars. The total appropriation over 21 years will be approximately $350 million, according to Secretary Vance.

The cost of the new treaty to be funded by the Treasury includes relocation of defense installations and an early retirement program for Panama Canal enterprise employees.

b. In addition, the Carter Administration will recommend that the Treasury stop collecting annual interest payments from the Canal Company, which are currently averaging $18 to $20 million. The total loss to the Treasury from this proposal, which would not be incurred if the treaty is not ratified, has been estimated by the General Accounting Office at $505 million.

c. There also is the loss to the American public of the value of property given to Panama. The State Department's own estimate of replacement value is $9.8 billion, including the Canal itself, the Company, and military assets.

d. A separate economic and military aid package to Panama of $345 million is planned by the Administration. Although not required by the Treaty, this aid package is clearly in connection with it. If Panama, which already pays 37 percent of its total income in order to service large foreign debts, should fail to repay these loans or guarantees, the taxpayer could become liable to make good the losses.

e. Toll increases, which are needed to cover new payments to Panama required by the Treaty, may add up to $1.2 billion in costs borne by U.S. consumers and shippers during the life of the Treaty.

f. Although the Treaty calls for several new payments to Panama out of Canal operating revenues, rather than from the Treasury, it appears Congress would have to make up operating deficits should they occur. This follows from the fact that the Panama Canal Commission, which is obligated by the Treaty to make the payments, is in actual fact, an agency of the United States. Thus, the obligations of the Commission are in effect the obligations of the United States. Moreover, the United States Government is required by the Treaty to turn the Canal over to Panama debt-free in the year 2000.

2. Usurpation of Legislative Powers

The primary trouble with the State Department position is that they fail to observe the distinction between making a treaty and implementing a treaty. It really is quite simple.

The Constitution sets up the President with the Senate as the treaty-making authority. The President negotiates treaties with foreign powers and ratifies them after receiving the advice and consent of the Senate. Congress cannot do this. Congress, as a separate entity, cannot enter into agreements with a foreign nation. Thus it takes a treaty to make an agreement with another country.

However, when that treaty is a contract to perform a specified act, which falls within one of the press powers delegated to Congress, then it is Congress who must perform that act. In other words, a treaty which touches on legislative power needs implementing legislation to carry it out, either in the form of prior authorization or subsequent enactment of authority.

Otherwise where is the end to the treaty power? For example, Congress can declare war. Does this mean a treaty alone can put the nation in a war upon the occurrence of a specified condition, without any subsequent voice in the entire Congress? Senators who supported the War Powers Act as a means of securing a role for Congress in going to war might ponder that question.

Congress has power to provide for coinage and currency. Does this mean a treaty can declare the German mark the currency of the United States? Remember, the Administration is already seriously considering the issuance of Government Bonds in a foreign denomination.

Congress has power to regulate commerce. Does this mean a treaty can embargo all exports of tobacco? The Senators from tobacco-producing States might ask themselves whether it would be Constitutional for a treaty to by-pass any role of the House of Representatives if that treaty, in the name of international health, should outlaw the export of tobacco.

Congress has the power to establish courts and to make exceptions to the appellate jurisdiction of the Supreme Court. Does this mean a treaty alone can create international courts having jurisdiction over our citizens in certain situations, a court which is free of review of our own Supreme Court?

If a treaty can exercise concurrent powers with Congress, all of these results, which may seem absurd now, may happen in the future.

Whatever the State Department may have discovered in the way of claimed precedents, it is the Constitution that is at issue, not precedents.

And, the Constitution is clear. As Historian Arthur Bestor concluded recently in his deep study of this specific issue, the power to dispose of the territory or property belonging to the United States is "a power that the framers expected to be exercised by act of Congress, according to the legislative procedure minutely specified in the Constitution."

## ADMINISTRATION POLICY THREATENS URBAN FLOODING PROGRAMS, INCLUDING CHICAGO'S "DEEP TUNNEL"

Mr. PERCY. Mr. President, after consulting with the White House Office of Management and Budget, the Army Corps of Engineers has prepared, and shortly expects to announce, a policy change that could significantly impair the economic well-being, the esthetics, and the public health of many of our Nation's older cities.

Over 600 towns and cities throughout the Nation are presently served, in part, by outmoded combined sewer systems. Major affected cities include Philadelphia, New York, Boston, and Providence in the North; Charleston and Wheeling, W. Va., Greenville, Miss., and Atlanta in the South; Chicago, St. Louis, and Milwaukee in the Midwest; and Sacramento, San Francisco, and Santa Barbara in the Far West. Because most of our Nation's largest cities were designed in the 1800's, sanitary waste from households is combined with stormwater runoff in a single sewer system, rather than being separated as in more modern systems.

The magnitude of the Nation's sewer crisis is increasingly being recognized by America's urban experts. A recent article in the New York Times stated:

A rash of recent failures in (subterranean facilities), which had been neglected for decades as cities struggled to deal with an overwhelming social and financial burden, has focused attention on the threat that they represent and raised the prospect of new demands on the Federal treasury by municipalities around the nation.

The Joint Economic Committee, made up of distinguished Senators and Representatives from every sector of this Nation, recently issued a report stating that neglect of urban facilities "appears to be the single greatest problem facing our Nation's cities."

The economic deterioration of America's great commercial and cultural centers will likely be the most critical domestic issue of the 1980's. It makes no sense to pour billions of dollars into urban mass transit systems, housing rehabilitation, industrial relocation, or any other desperately needed urban development program if the very infrastructures of our cities are literally crumbling beneath our feet.

The shortcomings of inadequate sewer systems are chillingly revealed by the present plight of Chicago. As metropolitan Chicago has urbanized over the past several decades, thousands of acres of suburban meadows and parklands have been paved over with roads, parking lots, businesses, schools, houses, apartment complexes, and other hard surfaces. Rainwater that normally would have harmlessly seeped into natural greenbelts now runs off roadways, rooftops, commercial plazas, and recreational blacktops and flows into the combined sewer system.

The sewers of metropolitan Chicago were never designed to handle the enormous runoff from 377 square miles of highly developed urban sprawl. When summer rains hit, Chicago-area residents brace for the onslaught of severe flash floodwaters.

As many as 100 times a year—once every 4 days—rainstorms overload the metropolitan Chicago sewer systems, causing the raw sewage from nearly one million residents to spew from some 640 sewer overflow points along Chicago waterways. During most of these storms, water pressure becomes so intense in local sewer systems that raw sanitary sewage and stormwater runoff are forced into hundreds of thousands of residential basements. Millions of gallons of rain water flood local streets and viaducts, slowing traffic and intracity commerce.

During the most severe of these storms, the Chicago River locks must be opened to Lake Michigan to prevent devastating overbank flooding. Such backflows into Lake Michigan of toxic wastes and sewer discharges create a serious environmental and public health hazard, since millions of residents receive their drinking water from the lake. Beaches must be closed to bathers until the wastes are fully diluted, and additional chemicals must be added to the drinking water in order to keep it safe. The Army Corps of Engineers, in a statement before the House Appropriations Committee, estimated annual flood damages at over $470 million for the Chicago metropolitan area.

It has been estimated that some 800,000 homes are plagued by basement backups. Nearly a million homeowners and their families must bear the financial, environmental, and social burden of having billions of gallons of raw sewage and filth-ridden highway runoff forced into their homes.

Thousands upon thousands of family hours are spent bailing out workshops, dens, and laundry rooms. Carpets are ruined; furniture is destroyed. Precious family documents are swamped in basement safes and files. And for weeks after the cleanup process is completed, residual odors from the untreated sludge permeate the entire household.

Mr. President, many of the 53 local Chicago communities most affected by urban flooding have taken bold and innovative measures to deal with the flooding problem. For two decades, some of our Nation's most respected engineers and urban planners have attempted to devise an urban flood and pollution control plan for the areas of Chicago served by combined sewer systems. In 1972 a task force made up of hydraulic experts, State and local officials, and others recommended to the Governor of Illinois the massive tunnel and reservoir project (TARP) for Chicago.

In 1974 the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation requested the Corps of Engineers to study the Federal interest in TARP. The Office of Management and Budget (OMB) asked the Environmental Protection Agency (EPA) to determine which parts of the project would qualify for water pollution control funds under Public Law 92–500, the Water Pollution Control Act Amendments of 1972.

The joint efforts of the Metropolitan Sanitary District of Greater Chicago (MSDGC) and the task force established by the Governor of Illinois, in conjunction with Congress, the OMB, the Corps, and EPA, led to the 1975 TARP plan that is presently under construction.

TARP is divided into two parts. Phase I, the pollution control phase, consists of 110 miles of 18- to 30-foot diameter tunnels bored 150 to 290 feet below the ground. These deep tunnels will be connected to the 640 overflow points along the Chicago waterways by a series of dropshafts. The "first flush," or the first quarter inch of rainfall that would normally spew into local rivers and canals will be drained off into the deep tunnels. The tunnels will act as both a reservoir and a conveyor so that this highly polluted first flush can be detained until local treatment plants can process the sewage during a nonstorm period.

Phase I TARP is expected to reduce the Chicago pollutant load on local waterways by 85 percent. It will reduce the number of times that the locks to Lake Michigan have to be opened from an average of once a year to about once every 7 years. Phase I, which is now well under construction, is expected to cost $1.9 billion, with 75 percent of those funds coming from EPA under Public Law 92–500.

Phase II TARP is the flood control phase, and would have the greatest economic impact on Chicago. As presently designed, it would consist of 20 additional miles of deep tunnels and four reservoirs. The increased carrying and storage capacity brought about by phase II would make the TARP system capable of "bottling" the rainfall of the largest Chicago-area storm period on record.

If phase II were completed, Chicago and 52 suburban communities could immediately begin upgrading their combined sewer systems. With the conveyance and storage capacity offered by phase II, localities could be confident that sewer improvements would provide immediate relief to local homeowners, motorists, and commerical property owners. Without phase II, sewer upgrading is virtually meaningless, just as it would be senseless to build a six lane highway down a dead end street: local sewer improvements can relieve localized flooding only if endline capacity is sufficient to carry off the floodwaters.

For now, the village of Morton Grove, among others, has suffered the deep frustration of installing expensive modern sewer systems in much of the community, only to have its system back up, because the MSD sewer main is too charged with combined wastewater. Manholes literally become fountainheads for sewage as back pressures reach critical intensity.

Mr. President, when the MSDGC first began construction of TARP, many engineers and public officials from across the United States were carefully assessing the project as a national model for our Nation's older cities. The MSDGC has had some of the finest engineers and urban policymakers in this country working on this project. Under the outstanding leadership of President Nicholas Melas, MSDGC consulted dozens of State and Federal agencies in designing what was and still is considered the most ambitious and innovative public works project in our Nation's history. The EPA committed itself to funding 75 percent of the cost of the pollution control phase (phase I), and it was understood that the corps would fund 100 percent of the cost of phase II, presently estimated at about $900 million.

The new OMB-corps draft policy statement, however, seriously threatens the future of any federally assisted flood control plan for Chicago. Indeed, it jeopardizes the future of flood control plans for every American city with a combined sewer system.

Flood control and pollution control are intimately linked problems for any city with a combined sewer system. Yet, the new OMB-corps policy states that—

Man-made structures that convey sanitary sewage or storm runoff, or a combination of sanitary and storm sewage, to a treatment facility will not be classified as flood damage reduction works.

Such a policy position, so carefully designed by OMB and the corps, places our urban policymakers in a no-win position. Faced with an inseparable flood-pollution crisis, in effect, planners are told

they can either design a pollution-control program that will be assisted by EPA, or they can design a flood-control plan for which corps assistance is available. If they try to solve the twin problems simultaneously, the Federal Government turns its back.

Mr. President, if Federal assistance is not forthcoming for Chicago, which suffers serious economic hardship from flooding, then Chicago cannot ameliorate its flooding crisis. But Chicago is not alone in this dilemma. The vicious cycle—from outmoded sewer systems to urban flight to economic depression—cannot be broken without Federal assistance. Left to fend for themselves, our cities are fighting a hopeless cause.

Several communities and organizations in the Chicago area have designed and put into effect certain immediate, small-scale means of providing relief for the millions of area homeowners who suffer from basement flooding. Some aggressively innovative communities, including Lincolnwood, Skokie, Lansing, Evanston, and several others, have tried interim stopgap measures. Some are disconnecting direct rooftop-to-sewer downspouts to encourage stormwater percolation through the soil to natural groundwater aquifers. Others are inserting rubber and concrete flow constrictors in catch basins to detain water on streets rather than forcing it into basements.

The TARP impacts project (TIP), a highly respected coalition of Chicago-area university professors, urban planning experts, and community groups, is working on a study of progressive small-scale means to deal with the urban flooding dilemma. I have been very favorably impressed by the sincere, professional efforts of Nancy Philippi, the very capable director of TIP, and her organization. A leading public spokesman for TIP, Prof. Stanley Hallett of Northwestern University, has had probably the most positive individual role in the TARP debates to date. Dr. Hallett has courageously faced up to those who would rather build miraculous engineering monuments than design efficient, cost-effective means for solving Chicago's flooding problem.

The Better Government Association (BGA) of Chicago, under the spirited and constructive direction of Mr. Terrence Brunner, has also played a vital role in the debate surrounding TARP. When it became evident that the long-term TARP construction project would not bring flooding relief until the 1990's, BGA responsibly called for some form of immediate relief. BGA insisted that TARP be reviewed once again to be absolutely certain that the most efficient, cost-effective means be used to relieve local flooding.

The combined efforts of BGA, TIP, MSDGC, the 53 communities, and so many other local organizations, demonstrate the concern over the flooding issue of Metropolitan Chicago citizens. Area residents have undertaken all they can possibly do on their own. It is time for the Federal Government to extend its technical, financial, and moral support for one of the Nation's oldest, yet most progressive cities as it endeavors to seek out both immediate and long-range alternatives to its inadequate wastewater management system.

The entire Illinois congressional delegation, at a meeting this past week arranged by Representative DAN ROSTENKOWSKI, went on record in support of $1 million in funding for a design study by the corps to develop a viable flood control plan for Metroplitan Chicago. I am personally contacting the Department of Housing and Urban Development, the corps, the Environmental Protection Agency, and the Economic Development Administration in the Department of Commerce to assist localities with their peculiar wastewater management problems. Aggressive measures must be taken on all fronts by the Federal Government, for Chicago is not alone in its urban flooding problems. Urban flooding and pollution control is a matter of national concern. Federal officials should take progressive, preventative measures now, before we witness a further deterioration of public health, the environment and personal and public property—to the point of irreversible damage—in so many cities across the Nation.

I am particularly concerned that the Federal effort focus on small-scale, inexpensive technologies to relieve flooding and pollution. Progressive, innovative ideas—not truckloads of hard-earned taxpayer dollars—will save America's cities. We should focus on domestic jobs and economic development, not gargantuan, energy-intensive projects that principally benefit foreign oil producers.

Source control technologies are probably the most cost-effective means available for curbing flooding and pollution, according to a major EPA publication. These technologies encourage rainwater to filter through soil to groundwater supplies or detain urban runoff in reservoirs until the sewer system and treatment plants can handle the storm load. Some alternative means of controlling runoff, in addition to those already being used in Chicago, include:

1. Ponding on vacant urban land and in parks;

2. Greenbelts located on cleared-off areas of the central city so that runoff would drain into the groundwater supplies. Such greenbelts increase land values, beautify the environment, raise the level of groundwater supplies which suffer severe depletion from urban development, and create jobs, for instance, for ground maintenance crews.

3. Berms and swales. These are slight mounds and depressions around residential and park areas intended to prevent stormwaters from running off lots and entering storm-sewer systems.

4. Rooftop reservoirs. Building code regulations in some areas of Chicago already require that flat-roofed structures be able to support at least six inches of standing water. Flow regulators could be installed on downspouts to retain water on rooftops during storms and release the accumulation slowly after the storm has subsided. Reinforcing older buildings for rooftop detention could be a very promising technique.

5. Parking lot reservoirs. This technique is presently used in Canada and France and is being tested in Denver and St. Louis. Truck parking lots are being built with six- to eight-inch dams around the perimeters. This level of water has no adverse effects on the trucks because water-sensitive portions are far above the water level. Stormwater is detained in the parking lot resrevoir until storms subside. The water is then released slowly into the sewer system.

6. Porous pavement. EPA is presently conducting tests on porous pavement to determine its feasibility for use in urban roadways, sidewalks, and parking lots. Preliminary tests reportedly show that stability, durability, and freeze-thaw characteristics are positive, and that costs may not significantly exceed those of conventional surfaces. This pavement has been shown to allow over 70 inches of water per hour to percolate through. Clogging, due to fine street particles, may prove to be a problem, but regular street cleaning could eliminate the clogging problem.

7. Plaza ponding. Large shopping centers or office building plazas can install depressed sodded areas. These could be aesthetically attractive for fair weather enjoyment. During a storm, these depressed areas would fill with water that would slowly seep into the planted area after the storm. This technique is presently in use in Denver and elsewhere.

8. Conservation in the home. For cities like Chicago with a combined sewer system, reducing the amount of water that enters from residential units during storms can reduce much of the sewer overload problems. Putting bricks in toilets and flow regulators on showers, I understand, was very effective in the San Francisco Bay area in 1977 in reducing water consumption. So-called "flushless" toilets are currently on the market and many firms are investing funds to improve that technology. Other techniques are being devised to recycle water from wash basins and showers into toilets and to re-use detergent water from clothes washers and dishwashing machines.

In addition to source control technologies, improved maintenance of existing facilities may provide relief. For example, periodic street sweeping and vacuuming could reduce the amount of street debris that reaches storm sewers and clogs them, or in some way reduces their optimal flow. Periodic flushing during nonstorm periods can help increase the capacity of storm sewers by eliminating clogs.

Outlet solutions could improve stormwater management. Outlet waterways could be dredged to lower the normal water level and thereby increase the peak load capacity.

Secondary small-scale solutions to basement flooding should also be investigated. These might include:

1. Backflow regulators. Small one-way regulators might be installed in basement drains to prevent backflow into basements. Cost, including installation, is probably under $25 per unit.

2. Basement bladders. During a backflow, the bladder unfolds and fills with sewer water After the storm, the homeowner simply presses the water back into the drain and folds the bladder into place.

3. Widespread use of sump pumps to control and limit basement flooding.

The national scope of the urban sewer crisis, in my own view, warrants a comprehensive review by Congress Office of Technology Assessment. OTA was established by Congress in 1972 to research promising advanced technology to deal with complex national problems. The Director of OTA is Dr. Russell Peterson, whose incomparable credentials and outstanding character has easily won

Congress admiration and respect. At his direction, an impressive cadre of professional engineers could offer much-needed technical assistance to urban planners around the country.

I am hopeful that OTA will recognize the national impact of the sewer crisis and will assist our efforts in rehabilitating America's cities.

Mr. President, I ask unanimous consent that documents relating to the urban flood and pollution control debate in Chicago be printed in the RECORD. I also ask unanimous consent that an article appearing in the New York Times, dated April 9, 1978, be inserted. The Times article only begins to illustrate the immense scope of America's urban sewer crisis.

Many American cities anxiously await the outcome of the Chicago TARP debate. The actions that Congress and the administration take now will affect the future of the Nation's greatest urban centers.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 9, 1978]

BENEATH THE STREETS, OLD CITIES CRUMBLE AND DECAY

(By John Herbers)

America's large, old cities are facing a hidden and largely ignored problem under their streets—an uncharted maze of aging water mains, sewer lines and other subterranean facilities that have deteriorated to the point where they threaten public health and safety.

A rash of recent failures in such systems, which had been neglected for decades as cities struggled to deal with an overwhelming social and financial burden, has focused attention on the threat that they represent and raised the prospect of new demands on the Federal treasury by municipalities around the nation.

Boston is losing half its fresh water through leaky pipes at a cost of $7 million a year. New York and other cities have had serious water main breaks. Inadequate sewers in San Francisco resulted in 80 overflow incidents last year in which raw sewage was flushed into the bay in violation of Federal law.

Ground water seeps into the sanitary sewers of Baltimore, overloading treatment facilities. A few months ago, a small Philadelphia boy drowned in an underpass where the storm sewers were not sufficient to handle the runoff.

Many billions of dollars would be required to update the antiquated network of pipes, cables, tunnels and manholes that strain to support an increasingly technological society.

The Joint Economic Committee of Congress, noting a decline in capital expenditures for such urban networks as streets and bridges, said in a recent report that the neglect "appears to be the single greatest problem facing our nation's cities." The new urban policy announced last month by President Carter, which called for more "targeting" of Federal funds into the central cities, was based in part on the emerging realization that new outlays are needed to rebuild the urban underground.

However, the extent of the need is not yet known nationally because many cities do not know what is in the complex of wires, pipes, cables, tunnels, and conduits under their busiest arteries or exactly where that complex is. The original plans have been lost in some cases and have grown inaccurate in others as facilities were expanded haphazardly. The condition of some systems becomes known only when trouble bubbles to the surface.

To assess the problem nationally, the Department of Housing and Urban Development has commissioned the Urban Institute in Washington to conduct an 18-month study and to report its findings as it proceeds.

CITIES ON "TIME BOMBS"

George E. Peterson, director of finances for the institute and the head of its study, said that the extremes range from East St. Louis, Ill., where the state took over the dilapidated city infrastructure, to Dallas, where computers are used to find failures before they happen. In between, he said, are a lot of cities sitting on "a time bomb."

A spot check of some large and intermediate cities around the country by The New York Times disclosed that the trouble has been building for a long time. In most of the nation's larger cities, sewer and water lines were laid in the 19th century or early in the 20th century, and some of them had a life expectancy of 50 to 75 years.

In the 1930's, when modernization should have started, the Depression struck. In the 1940's there was World War II. In the 1950's the cities began developing financial trouble as the white middle-class started moving to the suburbs. In the 1960's the demands were for solutions to social problems, and in this decade the emphasis has been on the employment of the poor and on public works projects usually unrelated to the infrastructure.

The extent of the neglect is suggested in a report issued last year by the Twentieth Century Fund for the City of New York, where facilities both above and below ground have reached a critical stage. For example, the report said that in addition to extensive work needed on streets and bridges, the city had 1,000 miles of deteriorating sewers that should be replaced over 20 years. It suggested that 1,500 miles of new sewers be built at a cost of $310 million a year. The list of problems with other facilities was similar.

WATER MAINS

Many cities have cast iron water mains that have been weakened over the years by electrolysis or by acid in the soil. Boston, which began laying iron water mains in the 1840's, has a system that carries 150 million gallons of water a day, but loses 78 million gallons a day through leakage. Charles Scales, chairman of the water and sewer commission, said that the entire system should have been replaced, "ideally, yesterday." But because of its financial situation the city can replace only 10 miles, or about one percent of the 1,100-mile system each year.

Houston, a newer city where pipes were laid after the turn of the century, is better off. It loses only 20 to 30 percent of its purified water, but that still totals more than 70 million gallons a day. And because it is low and flat, Houston has received about 3,600 water-damage complaints this year—complaints that leaks have destroyed lawns, undermined sidewalks and caused driveways to cave in.

"In this neighborhood, if there isn't a leak somewhere, we wonder," said Stanley Gafner, who lives in a middle class section of southwestern Houston.

Then there are the spectacular breaks, such as the one that occurred last January at 63d Street and First Avenue in New York City, closing the Franklin D. Roosevelt Drive. In Cleveland, a similar break in a February snowstorm left an area of several blocks of the city isolated for several days.

SEWERS

San Francisco, like a number of other cities, has a combined sewage system—one pipe for both rainwater and human waste. In a storm the flow can grow to 50 times the normal rate. S. Myron Tatarian, director of public works, said that when there is heavy rain, water and raw sewage pour directly into the ocean and bay, bypassing even primary treatment.

"This city ignored changing technology for 30 years," he said. "Bacteria levels in the bay are enormous."

San Francisco is building a system of conduits to hold the sewage in heavy rains and is planning more treatment plants; but in Providence, R.I., which also has a combined system, there is another kind of difficulty and no solution in sight. In recent years low-lying areas of the city have been flooding after every rainstorm and the city is unable even to clean the sewers to obtain maximum flow.

"It would take 10 years to clean up all the sewers in the city," said Joseph Vileno, an official in the Mayor's office.

SEWERS CANNOT HANDLE RUNOFF

Baltimore has had flooding, too, because its storm sewers, which serve the entire metropolitan area, cannot handle the runoff that has resulted from extensive development in the suburbs, according to Frank Kuchta, director of public works. It is a problem common to many cities that supply their suburbs with water and sewage disposal.

"When those sewers were built," said Philadelphia's Water Commissioner, Carmen Guarino, "you didn't have all the blacktop all over. Now, there's no place for the water to permeate. It all winds up in the sewers, and we haven't kept pace."

Deterioration of the sewer lines is an additional difficulty. In Boston, the main interceptor, where the pipes meet, has collapsed four times since 1961. There has been a gaping hole more than 20 feet wide in Massachusetts Avenue since the last collapse, in October.

THE MAZE

More than money is involved in correcting the difficulties. Major disruptions of urban life would be required to repair some of the decay, partly because of underground congestion.

Only one major city, Memphis, is reported to be attempting to keep in one place maps of all its underground facilities. In the oldest cities it would be impossible because of what Charles Borruso of New England Telephone Company in Boston called "the morass of congestion."

"A guy couldn't crawl through there," he said. "If you took all the dirt out, it would look like a set of monkey bars."

GROUND X-RAY MACHINE NEEDED

Theodore Andriotes, head of the bureau of operations for Baltimore, said, "I often thought if someone would invent a ground X-ray machine so we could see what all we have down there, he would clean up."

Under New York and Boston there are abandoned pipes and cables from the last century. In some places, steam pipes that heat up nearby telephone cables and cause trouble. In many manholes, there is not enough room for cables to expand and contract. In Pittsburgh, contractors on a new office building had to weave the foundation around an unused railroad tunnel and an underground spur of the long abandoned Pennsylvania Barge Canal. In Boston, there are sealed off subway tunnels, including a circuitous one known as the Burma Road.

FEDERAL AID

Not all cities are overburdened by troubles underground. Dallas, in addition to using its computerized system to forecast failures, has established a regular replacement and maintenance program. Such cities as Chicago, Detroit and Dayton, Ohio, which have multiple social problems above ground, have reasonably efficient infrastructures. But over-all, Federal and local officials say, replacement and repair are not moving fast enough.

"Out of sight, out of mind," said Mr. Guarino of Philadelphia.

Most Federal aid has gone for other purposes. Since 1972, the Environmental Protection Agency has spent more than $17 billion on sewage treatment plants but little to repair or replace the lines leading to the plants.

AGENCY PUSHES FOR IMPROVEMENTS

The agency is using leverage to push the cities into financing their own improve-

ments. For example, it has been holding up the financing for a plant in the southeastern section of Philadelphia until the city agrees to provide sewer lines that would end the infiltration of ground water, which requires additional capacity at the treatment plant. The city says it would take 10 years to make the requested repairs on its sewers, and the dispute has not been resolved.

President Carter's new urban policy is designed to provide some help. It calls for redirecting some funds from rural and suburban areas to help cities with their infrastructure. But at best, this would be only a fraction of what is needed, and the city officials are looking for help.

"Unless significant additional amounts of state and Federal aid can be obtained," said David Rossman, the former New York City budget director who headed the Twentieth Century Fund study, "the city faces a decade of serious deterioration in its vital physical support systems."

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DEPARTMENT OF THE ARMY, OFFICE OF THE CHIEF OF ENGINEERS

[Regulation No. 1165-2-21 Supersedes ER 1165-2-21]

WATER RESOURCES POLICIES AND AUTHORITIES: FLOOD DAMAGE REDUCTION MEASURES IN URBAN AREAS

(Excerpts)

1. Purpose. This regulation provides policies and guidance for Corps of Engineers participation in urban flood damage reduction projects and establishes criteria to distinguish between improvements to be accomplished by the Corps under its flood control authorities and storm sewer systems to be accomplished by local interests.

4. Definitions.

c. "Storm sewer systems" are the facilities in urban areas designed to collect and convey runoff from rainfall or snowmelt in the urban area to natural water courses or to previously modified natural waterways. They include storm drains, inlets, manholes, pipes, culverts, conduits, sewers and sewer appurtenances, on-site storage and detention basins, curbs and gutters, and other small drainageways that remove or help to manage runoff in urban areas. Storm sewer systems are designed to solve storm drainage problems, which are typified by excessive accumulation of runoff in depressions; overland sheet flow resulting from rapid snowmelt or rainfall; and excessive accumulation of water at the facilities listed in this paragraph because of their limited capacity.

6. General Policy:

a. Satisfactory resolution of water damage problems in urban areas often involves cooperation between local non-Federal interests and the Federal flood control agencies. In urban or urbanizing areas, provision of a basic drainage system to collect and convey the local runoff to a stream is a non-Federal responsibility. This regulation should not be interpreted to extend the flood damage reduction program into a system of pipes traditionally recognized as storm drainage systems. Flood damage reduction works generally address discharges that represent a serious threat to life and property. The decision criteria outlined below therefore exclude from consideration under flood control authorities small streams and ditches with carrying capacities typical of storm sewer pipes. Location of political boundaries will not be used as a basis for specifying project responsibility. Project responsibilities can be specified as follows:

(1) Flood damage reduction works, as defined in this regulation, may be accomplished by the Corps of Engineers.

(2) Construction of storm sewer systems and components thereof will be a non-Federal responsibility. Non-Federal interests have a responsibility to design storm sewer systems so that residual damages are reduced to an acceptable level.

(b) Consideration will be given to the objectives and requirements of Executive Order 11988 (reference 3a) and the general guidelines therefor by the U.S. Water Resources Council (reference 3b).

7. Decision Criteria for Participation:

(a) Flood control. Water damage problems associated with natural streams or modified natural waterways may be addressed under the flood control authorities downstream from the point where the flood discharge is greater than 800 cubic feet per second for the 10-percent flood (one chance in ten of being equalled or exceeded in any given year) under conditions expected to prevail during the period of analysis. Drainage areas of less than 1.5 square miles shall be assumed to lack adequate discharge to meet the above criterion. Flood damage reduction works must conform to the definition in paragraph 4b and must be justified based on Corps of Engineers evaluation procedures in use at the time the evaluation is made.

(b) Storm sewer system. Water damage problems not consistent with the above criteria for flood control will be considered to be a part of local storm drainage to be addressed as part of the consideration of an adequate storm sewer system. The purpose of this system is to collect and convey to a natural stream or modified natural waterway the runoff from rainfall or snowmelt in the urbanized area.

(c) Man-made conveyance structures:

(1) Man-made conveyance structures will be assumed to be a part of storm sewer systems except when: (a) A natural stream has been or is to be conveyed in the man-made structure; or (b) The man-made structure is a cost-effective alternative to improvement of a natural stream for flood damage reduction purposes or is an environmentally preferable and economically justified alternative. Water damages associated with inadequate carrying capacity of man-made structures should be designated as a flood problem or a local drainage problem in a manner consistent with the structure's classification as flood damage reduction works or a part of a storm sewer system.

(2) Man-made structures that convey sanitary sewage or storm runoff, or a combination of sanitary and storm sewage, to a treatment facility will not be classified as flood damage reduction works. Flows discharged into a natural or previously modified natural waterway for the purpose of conveying the water away from the urbanized area will be assumed to be a part of the flow thereof regardless of quality characteristics.

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[The Metropolitan Sanitary District of Greater Chicago]

PROGRESS REPORT FOR THE TUNNEL AND RESERVOIR PLAN

(Part I: The tunnel and reservoir plan)

THE PROBLEM

Like every other urban center in the country, Chicago long has faced two increasingly serious and closely related problems: pollution of the waterways, and flooding. As the population grows and construction expands, more wastewater is produced while at the same time absorbent ground surfaces are covered over, forcing great quantities of stormwater to run off into sewers and streams. The result is often flooding in areas with *separated* sanitary and storm sewer lines, and flooding and pollution in older areas where rainwater is collected in *combined* sewers. Combined sewers collect both household, commercial and industrial wastes as well as stormwater runoff.

The Metropolitan Sanitary District's large interceptor sewers connect into local sanitary and combined sewer systems and carry wastewater to the District's sewage treatment plants for purification before it is discharged into the waterways. However, heavy rains flowing into these local sewers now exceed by many times their designed capacity. Consequently, in separate sewered areas, rainwater which cannot enter the filled sewers floods highway underpasses, streets, and low-lying ground surfaces.

In the 375 square miles of the combined sewer area, which includes Chicago and 53 neighboring communities, the problem is more complicated. Local sewers in this area were designed to relieve overloading by bypassing interceptors and disgorging their mixture of stormwater and raw sewage directly into the waterways at 640 overflow points. These overflows pollute waterways and cause water levels to rise. The mixture can cause flooding and can back up from filled sewers into basements.

During especially heavy storms, even the swollen rivers must be relieved. At such times, the controlling locks on the Chicago and Calumet Rivers and the North Shore Channel may be opened, allowing polluted water to pour into Lake Michigan. Beaches may be closed and the area's drinking water supply could be threatened.

The Metropolitan Sanitary District of Greater Chicago (MSDGC) serves an area of 860 square miles, consisting of the City of Chicago and about 120 surrounding municipalities. It services a population of 5.5 million and an industrial complex with service demands for the equivalent of another 5.5 million population.

The District is responsible for: (1) collecting, treating and disposing of the wastewater generated within its boundaries; (2) protecting the waterways from pollution; (3) maintaining waterways that carry stormflow; and (4) maintaining waterways for navigation.

The District's major treatment plants—West-Southwest, Calumet and North Side—for decades have been providing primary and secondary treatment of wastewater, yielding an effluent with 90 percent of the impurities removed. Recently, chlorination has been added as a final step before treated water is released to the waterways. The newer plants—John E. Egan, Hanover Park, Lemont and O'Hare—provide tertiary treatment, producing an effluent of 99 percent purity. Tertiary facilities or their equivalent will be added to the older plants in coming years.

Industrial wastes which cannot be treated normally at the plants must be pre-treated by the dischargers. Pollution control officers monitor industrial discharges to make sure no pollutants are entering the waterways or sewer system, and they are empowered to issue citations to violators.

Flood control is being provided to separate sewered areas through the Chicago Metropolitan Area Floodwater Management Plan, co-sponsored by the District and the U.S. Soil Conservation Service. Flood retention reservoirs are being constructed which will divert and hold stormflow until it can be released safely to the waterways. This plan is expected to eliminate 90 percent of the flooding in separate sewered areas and save $6 million in flood damages annually.

THE LAW: P.L. 92-500

The Federal Water Pollution Control Act Amendments of 1972—commonly called The Clean Water Act—mandated the restoration of the nation's waterways to a "swimmable, fishable" condition by 1983. The Law's objective, as stated, was to "restore and maintain the chemical, physical and biological integrity of the Nation's waterways."

In order to comply with Federal law, the District adopted its Facilities Plan in 1975. The Plan encompasses the upgrading of the treatment plants, construction of new plants, floodwater retention facilities in the separate sewered areas, new methods of sludge disposal, and the introduction of instream aeration to raise the levels of dissolved oxygen in the waterways.

But a large part of the Facilities Plan is TARP.

THE TUNNEL AND RESERVOIR PLAN [TARP]

*How it works*

The Tunnel and Reservoir Plan is a complex of tunnels, drop shafts, connecting structures and reservoirs that will minimize the pollution from combined sewer overflows and drastically reduce flooding in the combined sewer area. Overflows of mixed sewage and rainwater will be intercepted and dropped into tunnels carved out of solid rock 200 to 300 feet below ground. The tunnels will convey the flow to reservoirs. There it will be held until the storm has passed. Later, when treatment plants can accept it, the wastewater will be pumped to them for treatment and released into the waterways as purified water.

TARP is divided into four systems paralleling major waterways: Mainstream, Des Plaines, Upper DesPlaines and Calumet. The whole project will consist of 125 miles of tunnels, 256 drop shafts, 645 near-surface connecting structures, 4 pumping stations, and 3 reservoirs with a storage capacity of 126,000 acre-feet.

The Mainstream System extends from the southwest suburb of McCook along the Sanitary and Ship Canal, past the Chicago Loop and up along the north branch of the Chicago River and North Shore Channel to Wilmette. A major branch of the tunnel reaches northwest along the North Branch to Niles and Morton Grove.

The DesPlaines System follows the DesPlaines River from the Northwest suburbs to McCook.

The flow from both of these systems will be treated at the West-Southwest Plant.

The Upper DesPlaines System serves the O'Hare Basin of the DesPlaines River. Its flow will be treated at the O'Hare Plant.

The Calumet System follows the Calumet-Sag Channel in the southeastern section of the area. The Calumet Plant will treat the flow from this tunnel system.

The tunnels range in diameter from 10 to 36 feet. Flows in them will be pumped to the reservoirs, which inturn will be agitated constantly by aeration pumps to prevent odors. Solids which settle to the bottom will be removed from time to time and disposed of as fertilizer.

TARP will be constructed in two phases. Phase I consists of most of the tunnels and deals with eliminating pollution of the waterways by combined sewer overflows. Construction has begun on Phase I, which will intercept about 80 percent of the pollution caused by overflows on the combined sewer area. Phase I is eligible for federal assistance and, in fact, 75 percent of its $1.7 billion cost will be paid for by grants from the U.S. Environmental Protection Agency (USEPA).

Phase II consists of more tunnels (principally another tunnel extending from McCook to the junction of the North Branch and North Shore Channel) and all the reservoirs and is meant to control flooding. It will capture all of the remaining stormwater in the area. Expected to cost about $800 million, it is not now eligible for pollution control grants. The District hopes to interest the U.S. Army Corps of Engineers in 100 percent funding and construction of this part of TARP. Congress has passed favorable legislation to enable the Corps to proceed, but has not yet budgeted funds.

*The benefits*

As a result of TARP's implementation, the quality of area waterways will be greatly improved, Lake Michigan will be saved from pollution by swollen rivers, and flooding will be significantly reduced. The recreational potential of the waterways will be enhanced, as will property values.

Moreover, in 1972 a Technical Advisory Committee of engineers representing local, state and federal governments recommended TARP as the most cost effective way to meet federal water quality standards. TARP will save an estimated $300 million in local sewer improvements. By regulating flows, it will make possible more efficient use of wastewater treatment plants, eliminating the need for an estimated $1 billion in plant expansion. And with the elimination of flooding and subsequent flood damages, the Army Corps of Engineers concluded after its examination of the Plan that TARP would yield $1.57 in benefits for every $1.00 spent.

Finally, the Corps projects that with the improved quality of area waterways, less water would have to be diverted from Lake Michigan to dilute the flow of previously polluted waterways. The Lake water then could be made available to municipalities that need it, without increasing the rate of diversion.

PART II: PROGRESS REPORT

TARP is the largest tunneling program in the history of the metropolitan Chicago area. During 1975 and 1976, the Metropolitan Sanitary District of Greater Chicago awarded 4 contracts for 17.63 miles of rock tunnels ranging in diameter from 9 feet to 30 feet and having a total bid price of $122,945,694.

Between July 1, 1977 and December 1, 1977, the District awarded 4 additional contracts for 22.41 miles of rock tunnel ranging in diameter from 9 feet to 35 feet and having a total bid price of $372,572,895.

In addition, the District awarded eight connecting structure contracts totalling $17,216,980 in bid price. This brings the total value of TARP contracts under construction since 1975 to $512,735,569.

In the remainder of the period from December 2, 1977 through 1978, the District will advertise contracts for rock tunnels, connecting structures and pumping stations having an estimated construction cost of approximately $668 million.

In *the Mainstream Tunnel System*, the northern most Addison-to-Wilmette Tunnel and the southerly 59th-to-Central-Avenue segment are under construction. USEPA grants have been received and the bidding process is underway for the four remaining tunnel and shaft contracts between Central Avenue and Addison Street and for the 31 contracts for the shallow connecting structures between Damen Avenue and Addison Street. To place the 59th-to-Wilmette Mainstream System into operation, additional grants are needed for the Mainstream Dewatering Pumping Station, and the 59th-to-Damen and Addison-to-Wilmette connecting structures. This latter contract also includes the concrete lining of the drop shafts. Grants are anticipated to be received in 1978, depending upon additional appropriations by Congress.

The grant application for the North Branch Tunnel has been submitted but it is not likely that sufficient funds will be available to the USEPA to fund this contract in 1978. This 1st phase system could be operational in 1983, with the necessary funding.

The Mainstream Reservoir and the 2nd Phase Mainstream Tunnel are 2nd phase work with funding through the Corps of Engineers. Although the Corps has prepared a favorable report and Congress has passed favorable legislation, no action is now being taken by the Corps since no appropriations have been included in their operating budget.

*The DesPlaines Tunnel System* will connect with the Mainstream System Pumping Station and Reservoir and is part of the 1st phase tunnel system. Plans for the major part of the tunnels have been completed and construction grant applications made. No grants for this system are anticipated to be received in 1978.

*The Upper DesPlaines Tunnel System* provides for relief of the existing intercepting sewers serving the O'Hare Basin and transporting daily dry weather sewage to the O'Hare Water Reclamation Plant now under construction. The tunnels also provide for capture of the combined sewer overflows now discharging to Weller Creek and Feehansville Ditch. The tunnels themselves have sufficient storage volume to capture the runoff from the smaller storms and the first flush of the larger storms. The net effect is to reduce the number of overflows from 100 to 10 and reduce the pollution load to the area's waterways by 92%.

The collection/storage tunnel system and the treatment plant are scheduled to be in operation by June 1979. These construction contracts are funded by the USEPA. The Upper DesPlains Reservoir which is needed to provide storage for the remainder of the pollution discharges to the waterways and primarily to provide the outlet for flood waters is not now funded by grants and is a 2nd phase facility to be funded as a flood control project through the Corps of Engineers.

The first tunnel of the *Calumet System* along the Calumet-Sag Channel is under construction. This tunnel was selected first since it provides much needed relief for the existing interceptors which services the City of Chicago and the westerly and southwesterly areas of the Calumet Basin. Plans have been prepared and grant applications made for the connecting structures and the Calumet Pumping Station needed to place this tunnel into operation. Grants are anticipated in 1978. The Calumet Plant Expansion is also needed in order that additional flow can be treated.

Plans have been prepared for the remainder of the 1st phase Calumet Tunnels and construction grant applications have been submitted. It is not anticipated that grants will be received in 1978 and there may not be sufficient funds available to the USEPA to construct these tunnels for some years to come. Once construction begins, it will take approximately five years for construction and placing the system into operation.

The 2nd phase Calumet Tunnel and the Reservoir are part of Phase II with construction through the Corps of Engineers. The O'Brien Pumping Station is listed as part of Phase I but grant funding for preparation of plans has not been received. This pumping station is needed to eliminate overflows to the Calumet River on the Lake side of the O'Brien Locks and to provide an outlet for additional sewers and growth.

In summary, approximately 40 miles of tunnels totalling $513 million are under construction as of December 1, 1977. Grants have been received for 8 additional miles totalling $213 million. Construction grant applications have been submitted to the EPA for additional 1st phase tunnels totaling 56 miles and $1.1 billion. Congress is considering legislation that would authorize additional funds for the USEPA. Funding for the Corps to continue work on the 2nd phase system is also needed.

APPENDIX

*Combined sewer overflow: average overflow event every fourth day*

Rainfall, 0.33 inches.
Run-off, 0.11 inches.
Average rate, 4140 M.G.D.
Hydraulic equivalent, 11,400,000 people.
Organic equivalent, 3,900,000 people.
Overflow duration, 15 hours.

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(From the Chicago Tribune, Feb. 19, 1978)

DEEP TUNNEL DRAINS BILLIONS, STILL FALLS SHORT

(By Ray Moseley and Chuck Neubauer)

Chicago's multibillion-dollar Deep Tunnel —called the most expensive public works project ever devised—apparently will not achieve the flood control and pollution goals for which it was designed.

Intended to eliminate flooding of basements and streets and to clean up polluted

Chicago waterways, the project has run into funding problems and probably never will be completed.

If this is the case, the Deep Tunnel will not reduce pollution enough to meet federal clean water standards, and it will not solve the problem for which it was originally conceived—the basement flooding that plagues thousands of Chicago area homeowners.

The part that will be completed will cost at least $3 billion and principally will achieve two things: It will reduce drastically the amount of raw sewage entering the Chicago waterways, and it will clean up a 75-mile stretch of the Illinois River about 50 miles southwest of Chicago that is now polluted by Chicago's sewage.

Chicago-area residents, whose sewer taxes will go up nearly 52 per cent over the next 12 years to pay for the tunnel, will derive these modest advantages from the project. A more pleasant environment for picnicking and boating along the Chicago waterways; some limited fishing in the waterways; and swimming and fishing in a short stretch of the Illinois River.

These are the major conclusions of a month-long examination of Deep Tunnel by The Tribune and the Better Government Association. Federal and state officials, Metropolitan Sanitary District commissioners and engineers, and other sources familiar with the project were interviewed.

The Deep Tunnel—known formally as the Tunnel and Reservoir Plan (TARP)—involves construction of 132 miles of tunnels more than 200 feet underground to trap rainwater and sewage so that it can be processed in treatment plants before it is released into the waterways.

Begun in 1975, the first phase of the project—and the only part likely to be built—deals with pollution control and is scheduled for completion in 1980. The second phase concerns flood control.

The Chicago Metropolitan Sanitary District, which conceived the project, continues to hail it as one of the engineering wonders of the world, the largest public works project in American history, and a model for other cities with similar problems.

But the sanitary district's chances of getting the necessary federal funding for the flood-control part of the project now appear to be virtually nil, with both the Carter administration and Congress reluctant to finance it.

Opposition to the project in Chicago also is growing, with some citizens complaining that blasting is damaging their homes, others objecting to rising costs, and some contending that cheaper alternatives are available. One outspoken critic, architect Harry Weese, who has experience in underground work as designer of the Washington D.C., subway, calls Deep Tunnel "a single-purpose project by single-minded people who are very good at getting every cent of federal money possible for the most useless thing in the world."

The Tribune and BGA examination has produced the following findings:

After completion of the current phase of the project, the Chicago waterways will still be too polluted for human contact and will not support most fish life. But most of the solid waste will be eliminated and odors will be reduced.

Most homeowners whose basements flood after a rainstorm will continue to face the same problem.

The project could pollute underground water sources that help provide the area's drinking water.

Contrary to the expectations of most suburban officials, virtually no funding is available for an estimated $1.4 billion worth of sewer upgrading in 52 communities outside Chicago. Without this work, the suburbs will not be able to take full advantage of Deep Tunnel.

Costs of the project have more than doubled in six years and may go higher still. The project originally was projected to cost $1.2 billion and the sanitary district last May increased that to $2.6 billion. The congressional General Accounting Office, which includes the cost of upgrading suburban sewers and other related work in its estimate, puts the price at $7.3 billion. The work that actually will be done, if only the first phase of the Deep Tunnel and related work are carried out, will cost $3 billion.

Sanitary district taxes will go up 51.7 per cent between now and 1990 to pay for it. The current tax rate of 58 cents per $100 of assessed property value will rise 2.5 cents annually starting next year, pushing taxes on a home assessed at $10,000 from $58 to $88 a year.

Deep Tunnel was conceived by the sanitary district as the answer to flooding and pollution problems caused by the fact that sewer lines in the area are not adequate to cope with heavy rains.

The lines carry both sewage and storm water runoff, and on about 100 days out of every year the sewers back up and dump raw sewage and storm water into the Chicago, Calumet, and Des Plaines rivers and the Sanitary and Ship Canal.

Sometimes even these waterways are inadequate to contain the runoff; 21 times in the past 30 years, sewage has backed up into Lake Michigan, forcing the temporary closing of beaches.

Under the sanitary district's plan, storm water and sewage will flow into the tunnels. From there it will be pumped into three huge underground reservoirs, then pumped into treatment plants, cleaned up, and released gradually into the waterways.

If completed, the project would enable the sanitary district to eliminate basement flooding problems and to meet federal clean water standards. The district hoped to achieve this by having the federal government pay most of the bills.

But the Office of Management and Budget [OMB] in Washington has so far stymied that plan. It decreed that the project would be divided into two segments—Phase 1, involving construction of a network of 110 miles of tunnels under Chicago and some suburbs, for pollution control; and Phase 2, involving construction of the three reservoirs and 22 more miles of tunnels, for flood control.

At the federal level, Phase I was assigned to the Environmental Protection Agency, which pays 75 per cent of the cost of pollution control projects. Phase 2 was assigned to the Army Corps of Engineers, which pays 100 per cent of the cost of flood control work it undertakes.

OMB's division of the project is somewhat arbitrary, because the full pollution control benefits of the project cannot be achieved without Phase 2. For example, without the reservoirs there will continue to be 10 overflows a year of raw sewage into the waterways, and overflows into Lake Michigan on the average of four times every 26 years.

Phase 1 is being funded, but Congress and OMB have blocked any money for Phase 2. The General Accounting Office, in a recent report highly critical of TARP, concluded that future financing of Phase 2 is doubtful.

In 1976 Congress authorized the Corps of Engineers to begin a study of the project, but it did not appropriate the $10 million to 12 million needed to carry it out.

This year, OMB declined to include this money in President Carter's budget, making it highly unlikely the money will be voted this year. Every year of delay means that costs go up, increasing the prospect that Phase 2 never will be built.

One reason for the Carter administration's evident lack of enthusiasm is that TARP has implications far beyond Chicago alone. If TARP is completed, federal officials are aware that there will be heavy pressure from other cities with similar problems to get federal money for more TARPs.

In fact, Milwaukee and San Francisco already are working on TARP projects. Some federal officials have estimated that TARPs in all cities with problems similar to Chicago's could cost $200 billion.

Thus TARP represents a classic contradiction in federal policies. On the one hand, the government has ordered the cities to meet its standard for clean water. On the other hand, it declines to give them the money with which to do it on the ground that the cost is too high.

Many critics argue that there are two fundamental mistakes underlying this dilemma:

Congress set unrealistic standards in decreeing that all of the nation's waterways be made fishable and swimmable by 1985 without considering the costs involved and without considering whether such a standard makes sense for every waterway.

The Chicago Metropolitan Sanitary District, which has a history of doing things on a big scale, opted for a big, expensive engineering solution without seriously considering the feasibility of cheaper and less spectacular technology that might achieve the same ends.

Concerning the federal water standards, Chicago architect Weese observed that these were based on recommendations made in 1972 by the President's Advisory Committee on Environmental Quality, headed by Laurence Rockefeller.

"David Rockefeller bankrupted lower Manhattan with his World Trade Center," Weese said. "Nelson Rockefeller bankrupted the State of New York with his policies as governor. And Laurence is going to bankrupt the country with these water standards."

Fortune magazine has estimated the cost of meeting the standards could hit $670 billion, especially if other cities adopt the TARP scheme. "It's hard to escape the conclusion that there's got to be a better way," Fortune said.

A state official called the congressional goal of fishable and swimmable waters everywhere "a load of nonsense" and said, "Who would want to swim in the Chicago waterways? The barges would run them down. And if these waters were fishable, how many would want to fish there?"

Joanne H. Alter, one of the nine sanitary district commissioners, called last week for a temporary halt to TARP. She has had apparent difficulty in deciding where she stands.

In an earlier interview with The Tribune for this article, she said, "I have accepted this approach [TARP] and I support it. Do you want clean water any less because it costs more?"

She said TARP would have "great recreational benefits" because it would make possible canoeing on the North Branch of the Chicago River.

Several days later, she phoned a Tribune reporter and said, "It's too expensive and we should reassess it." She gave no reason for her change of mind, but later issued a public statement urging a moratorium on the project pending a review of federal financing and possible alternatives to TARP.

In the interview with The Tribune, she said the project still would be valid even if the flood-control portion is not carried out. But in her public statement she cited the lack of federal financing for flood control as one reason why a review is needed.

Other persons who have studied the project expressed more decided views.

One was Vinton Bacon, who originally introduced the idea of Deep Tunnel when he was general superintendent of the sanitary district in 1962–70. Now a professor of civil engineering at the University of Wisconsin

in Milwaukee, Bacon said the project is of questionable value if only Phase 1 is built.

"Unless the tunnels and reservoirs are both built, you don't have a solution," he said. "The two parts have got to go together."

Bacon said Deep Tunnel was conceived primarily as a flood-control project. "We saw the antipollution effect as a side benefit that made the project even more worthwhile, but the flood storage had to be there to make the whole thing work," he said.

Bacon said he would still support the project if the reservoirs could somehow be funded. But he saw no prospect of that and said he was "broken-hearted" over the way things have gone.

"They [the sanitary district] have priced themselves out of the market by waiting too long," he said. "Inflation has drowned them."

A key state official said he has "serious reservations" as to whether Deep Tunnel is worth the money it will cost. He asked that his name not be used, saying he did not want to get into a public feud with other agencies that would expose him to attack and possibly cost him his job.

He suggested the project might be stopped once the "mainstream" tunnel section has been completed. So far about $500 million has been funded for the main tunnels and another $347 million will be needed to complete this section, he said.

His proposal would exclude tunnels under the Calumet and Des Plaines rivers that have not yet been funded. But he said the main tunnel section alone would provide all the pollution benefits that can be obtained from Phase 1.

Jacob D. Dumelle, chairman of the Illinois Pollution Control Board, said it was uncertain if TARP would meet the board's water standards if only Phase 1 is completed.

"You are going to still have some sewage overflows into the waterways," he said.

If only Phase 1 is built and water standards are not met, he said, the board may have to lower its standards.

Weese, one of the city's best-known architects, suggested that the main tunnels be completed and used as an underground water reservoir. But he said the rest of the project should be canceled.

Among other things, he argues from his experience in building the Washington subway that the sanitary district will not be able to prevent seepage of sewage from the tunnels into the water-bearing strata of rock that contributes to the area's drinking water supply.

The district plans to deal with this problem by grouting—that is, patching over cracks in the rock with cement. "Well, we put leak-proof grouted systems in the Washington subway, and they leak like hell," Weese said. "They will leak in the tunnels too."

Stanley Hallett of Northwestern University's Center for Urban Affairs goes beyond many critics and says TARP should be stopped now before any more money is spent.

"If you're going down the wrong road, the faster you turn around the better," he said. He described TARP as "just old, outmoded technology" and "an engineering and chemical response to a biological problem."

Hallett, Weese, and other critics attack TARP on the ground that it is a capital-intensive project which contributes few jobs to the Chicago area and that it seeks to get rid of sewage wastes rather than making use of them.

Hallett said "surprising" amounts of methane—natural gas—can be extracted from sewage and it also can be used for fertilizers.

He is one of a number of persons from Northwestern and various civic groups who have formed the TARP Impacts Project. They are looking at alternatives to TARP which they believe were not seriously considered by the sanitary district, and within the next month, they say, they will issue a series of reports spelling out the details.

Hallett said the proposals would involve small- and medium-scale technology that would be less expensive than TARP and would focus on "ways to improve the environment in city neighborhoods rather than just digging holes under them."

He declined to discuss the proposals, but his group is known to be considering such projects as water-retention systems atop office buildings, green belts in the western part of the city that would enable some rainwater to be absorbed into the ground rather than running off into sewers, and small ponds that also would absorb rainwater and serve a recreational purpose.

At sanitary district offices at 100 E. Erie St., President Nicholas Melas and other officials strongly defend TARP and contend that such alternatives either would not do the job alone, would-be too costly, or are already being implemented in part.

"There is a whole bunch of academic solutions to the problem," said Frank Dalton, the engineer in charge of TARP. "But when the professors talk about them, they never factor in the costs."

At a meeting with Tribune reporters, district officials seemed to be unable to agree among themselves on what TARP would achieve if only Phase 1 is built.

Dalton said federal water quality standards would be met if Phase 1 is completed, sewage treatment plants are expanded, and in-stream aeration is carried out. In-stream aeration—an "egg beater," in the words of one expert—is a system of stirring up polluted waters to get oxygen back into the water so fish and plants can survive there.

But Bart T. Lynam, general superintendent of the district, said these projects together will "do nothing" for aquatic life in the waterways. "You are not going to fish in there because of Phase 1," he said.

Lynam said Phase 1 would eliminate 75 to 85 per cent of the raw sewage in the waterways. Other officials estimated 90 per cent.

George Alexander, director of the Chicago office of the federal Environmental Protection Agency, and Michael Mauzy, acting director of the Illinois EPA, agreed that the projects mentioned by Dalton would bring the waters up only to secondary contact standards.

This means they would be suitable for boating but not safe for human contact—such as swimming.

Alexander described this as a "tremendous improvement." He said rough fish, such as catfish, would be able to live in the waters, and "smells and unsightly objects" would be eliminated. He also said the project would make downstream waters now polluted by Chicago sewage fishable and swimmable.

Mauzy said the additional swimmable and fishable waters would be in a 75-mile stretch below the point where the Kankakee and Des Plaines rivers join to form the Illinois River, about 50 miles southwest of Chicago.

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WHO PAYS? FIFTY-TWO TOWNS, UNITED STATES AT ODDS

Fifty-two communities in the Chicago area must improve their sewers to relieve pollution problems and take full advantage of the Metropolitan Sanitary District's Deep Tunnel project. But no one has told them where they are to get the $1.4 billion required to do it.

Most of the suburbs cannot raise the money from their own resources. But a survey of suburban officials by The Tribune found that some aren't particularly worried because they assume the federal government will pay most of the costs.

The federal Environmental Protection Agency, however, said it will fund only a fraction of the cost. Although much of the sewer upgrading is related to flood control, which is usually handled by the Army Corps of Engineers, the corps said it is "not authorized by law to fund sewer upgrading."

The sanitary district, which made the $1.4 billion cost estimate, is aware of the lack of federal funding. But suburban officials said the district has told them nothing, and few of them have bothered to find out on their own.

"Judging from the reactions I see from a lot of mayors, they just don't understand the problem," one state official said.

The 52 communities have combined sewer systems—that is, sewers that carry both sewage and stormwater runoff. Under the federal Clean Water Act, Congress has mandated them to improve their sewer systems to eliminate overflows of raw sewage into the Chicago waterways during rainstorms.

The Deep Tunnel is intended to do part of the job for them. But for their own part, the suburbs must put in larger sewer lines to handle a heavier flow of rainwater and sewage than present sewers can accommodate. This will not merely eliminate overflows into the waterways, but will help to eliminate basement flooding if the second phase of Deep Tunnel is built.

The federal EPA said it would pay 75 percent of the cost of planning studies by the suburbs and of the cost of hookups to the Deep Tunnel system. But for design and construction work, the agency will pay only for the portion that it determines is needed to check pollution.

"What we anticipate in many instances is that flood control and urban land runoff will be the major part of what they do," an EPA official said. "My guess is that we would therefore fund only a small portion of these costs."

The Illinois EPA has $215 million still unspent from a 1970 bond issue of $750 million, and acting Director Michael Mauzy said this money is potentially available for local sewer upgrading.

"But it won't go far," he said. "The prospect of all the upgrading being carried out is remote. But I would like to think that the federal government eventually will fund this. It may well be that the matter will have to be adjudicated."

Mauzy said one of more suburban communities might bring suit to try to compel federal funding.

Both he and sanitary district officials said it was incongruous that the federal EPA should consider sewage in waterways as pollution but not sewage in basements.

Some suburban officials contacted by The Tribune were unaware that federal funding for the sewer upgrading is in doubt. Others said they were not far enough along with the planning to know what the funding situation is. In fact, few of the communities have applied for or obtained federal EPA grants for the initial planning studies.

Several suburban official said the sanitary district has told them nothing about the funding problems.

"We're being left in the dark," said Maywood Village President James Parrilli, "and I hear the same thing from other mayors."

"There undoubtedy will be federal funding," said Evanston City Engineer Joseph Yi. "There has to be federal funding available because the municipalities can't do it themselves."

He said sewer upgrading in Evanston will cost $45 million.

Wilmette Village Manager Stan Kennedy said he assumed the federal government will fund part of the costs the suburbs are facing.

"The Federal government made mandatory the upgrading sewers," he said. "If they refuse to pay for it, they've got a big problem on their hands in this country."

Rhett Bilek, administrative assistant to Brookfield Mayor Phillip Hollinger, said sewer work there will cost $4 million to $5 million and, thought federal funding "will come to pass."

Richard Nuzzo, Elmwood Park village manager, said he expects to get federal funding of all phases of sewer upgrading work.

"It depends on how serious the government is about the problem," he said. "I think they will find the funds."

But Park Ridge City Manager Herman C. Spahr said he has talked to EPA officials and "I have no reason to think federal money will be available."

He said sewer upgrading in Park Ridge may cost $16 million. "I don't know where the money is coming from," he said.

Ald. Dick Ward of Des Plaines said, "There are no foreseeable funds for the reservoirs [the second phase of Deep Tunnel] and no money to upgrade the sewer systems."

He said the sanitary district has gotten most of the federal money available for pollution control and the municipalities "have not gotten in line" for the funding.

The suburbs, he said, will have to "wait years" to get funds for sewer upgrading.

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TESTIMONY BEFORE THE SUBCOMMITTEE ON PUBLIC WORKS, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, U.S. CONGRESS, APRIL 12, 1978

My name is Nancy Philippi and I am speaking for the Tarp Impacts Projects, a group of Chicago professionals and community representatives concerned about the public interest implications of the Metropolitan Sanitary District of Greater Chicago's Tunnel and Reservoir Plan (TARP).

I am here today to ask you to postpone any funding action on the Phase I design memorandum stage of the Chicagoland Underflow Plan (also known as the Tunnel and Reservoir Plan) until the Congressional authorization has been broadened to direct the Corps of Engineers to address the problem of Chicagoland storm sewer backup without bias in favor of the Underflow Plan promulgated by the Flood Control Coordinating Committee in 1972. It is in violation of the best interests of the Chicago metropolitan area, as well as with the traditional planning process of the U.S. Corps of Engineers, that this massive, ill-conceived and expensive project be thrust upon the federal government for implementation.

We believe that the Corps itself recognizes the adverse implications of the wording of the current authorization. In an August 1977 communication from General Robert L. Moore of the North Central Division he describes the cost increases that the pollution abatement portion of the project, presently funded by USEPA, has experienced, and urges:

"2. In view of the above, it is considered that the Corps planning on the authorized project should be in the nature of a "reformation" type Phase I GDM instead of an "affirmation" type Phase I GDM. Such reformation would consider new alternatives in addition to review of alternatives previously considered by the MSDGC. The scope of work would include a verification of previous engineering studies and designs, a detailed review of hydrologic, hydraulic and economic studies, alternative designs for reservoir sites, and alternative proposals in lieu of tunnels (flood control) and reservoirs"

Colonel Tilford Creel responded:

"concur that report should be of the reformation type and of the scope outlined in paragraph 2 of basic letter"

We likewise, concur with General Moore and Colonel Creel and believe that anything short of the scope of work described by General Moore would be a mistake. We further believe that the wording of the current authorization unequivocably restricts the Corps activity to developing the engineering and design of the old preplanned reservoirs. Section 108 of the Conference Report supplementing the Water Resources Development Act of 1976 states very simply:

"The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the Phase I design memorandum stage of advanced engineering and design of the Chicagoland Underflow Plan project for flood control and other purposes . . ."

There is no possible way that such wording could be comfortably adapted to a "reformulation" type study, and it is unreasonable to expect the Corps to make such an attempt without the clear support of Congress. Congress should, therefore, modify the authorization wording to more consistently reflect the "reformation" intent of the Corps.

We at "TIP" have several reasons for taking this position:

1. Costs of the project have indeed escalated beyond reasonable expectations. Not only have the construction costs of the pollution abatement tunnels increased by more than 25% in the period of one year, but also the costs of the overall project, including all associated components necessary to secure the benefits, have been estimated recently in a report by the U.S. General Accounting Office to exceed seven billion dollars and, according to Colonel Creel in testimony before Congress in 1976, these costs can reasonably be expected to double by the time the project is completed.

2. It is doubtful whether all the flood control purposes of the reservoirs in the Underflow Plan could ever be achieved, since a substantial portion of the reservoir storage is assigned to receive flows from 53 Chicago metropolitan communities in the combined sewer area that will be unable to finance the sewer upgrading necessary to take advantage of that storage capacity.

3. There are serious negative impacts of the proposed TARP that we believe have not been given proper attention in the published Environmental Impact Statements, the most significant of which is the potential for exfiltration of polluted waters into important groundwater aquifers adjacent to certain segments of the system.

4. The TARP project, designed in the early 70's inappropriately depends heavily upon energy consumption and generates comparatively few jobs: operations and maintenance costs, estimated in 1977 by the MSDGC to be $13.6 million annually, are ⅔ energy and ⅓ manpower costs.

5. The planning process of the Flood Control Coordinating Committee concentrated almost exclusively on the technologies of underground conveyance and storage systems and gave little attention to surface retention, preventive and corrective strategies, which we believe could and should be incorporated into the Corps planning process.

These, we believe, are serious deficiencies in the present TARP plan, deficiencies which could be perhaps overcome by the formulation, by the Corps, of a more comprehensive, cost effective and environmentally appropriate solution to the urban flooding problems of the Chicago metropolitan area.

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STATEMENT BY J. TERRENCE BRUNNER, EXECUTIVE DIRECTOR OF THE BETTER GOVERNMENT ASSOCIATION, FEBRUARY 20, 1978

Nine months ago the BGA launched a detailed investigation of the Metropolitan Sanitary District's $7.3 billion "Deep Tunnel" project, the most expensive public works program in the nation. The project is enmeshed in a confusing tangle of federal, state and local regulations—but one thing is clear, "Deep Tunnel" promises to be a political, financial and environmental fiasco.

This morning, the BGA and Chicago Tribune revealed that the primary beneficiaries of "Deep Tunnel" are politically connected contractors. The Sanitary District has already awarded $70 million in non-bid consulting work for the project. Former public officials such as Ben Sosewitz (who was MSD's General Superintendent), Earl Deutsch (a former MSD Commissioner), and former U.S. Attorney Thomas Foran have benefitted from this non-bid consulting work.

Since 1975, other "Deep Tunnel" contractors have contributed more than $150,000 to various political campaigns, including the campaign of MSD president Nicholas Melas.

It is now well-known that "Deep Tunnel" is a financial disaster. Costs have escalated from $1.6 billion estimated by the Sanitary District in 1972 to $7.3 billion, now projected by the Government Accounting Office (GAO).

What will Chicago area residents receive in return? Pollution in the area's rivers will be reduced but, according to GAO, they will remain unsafe for human contact.

The Sanitary District has sold "Deep Tunnel" as the answer to the problem of basement flooding. Yet there is no federal commitment to fund the flood control portion of the program.

And despite this massive expenditure of $7 billion, "Deep Tunnel" will create fewer than 1,000 new jobs.

The project itself may be environmentally unsafe. Experts contend that seepage from the tunnel could pollute the water table, Chicago areas' underground source of drinking water.

Unfortunately, the Sanitary District's decision to build Deep Tunnel has important national implications. The project has been promoted as a model for the nation. But if cities with sanitation problems similar to Chicago's adopted the "Deep Tunnel" approach, it could cost the country over $600 billion.

The costs are so high that the nation's commitment to reduce water pollution could be jeopardized.

Therefore, the BGA recommends:

Futher construction of Deep Tunnel should be halted.

The U.S. Environmental Protection Agency should thoroughly review the project and carefully consider less expensive, more realistic alternatives.

Congressional hearings on "Deep Tunnel" should be held. Citizens from the Chicago area should have the opportunity to appear and participate in developing alternatives to the Deep Tunnel project.

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POLLUTION AND FLOOD CONTROL PROGRAM: METROPOLITAN SANITARY DISTRICT OF GREATER CHICAGO

We believe that the assertion that the Metropolitan Sanitary District of Greater Chicago (MSDGC) pollution and flood control program is too expensive to complete, and that even if completed the goals for which the program was designed will not be achieved, does not accurately portray what the facts are.

With respect to the assertion that the Metropolitan Sanitary District of Greater Chicago's pollution and flood control program cost understates cost according to an analysis made oy the General Accounting Office of the United States, the MSDGC states that the analysis is faulty and, after reviewing the figures, The Civic Federation agrees. The GAO addresses its analysis to the tunnel and reservior plan (TARP) but includes also plant expansion and improvement costs. GAO's analysis is also unclear as to whether their cost analysis covers the entire 10-year capital improvement program from 1972 through 1982. Their cost analysis includes $1,431 million for upgrading local sewers which the MSDGC has not included in its program cost since it is not responsible for this cost. They have assisted local cities and villages and have estimated what they believe the cost will be to these municipalities. Furthermore, the GAO has included $1,728 million for interest cost of capital in the construction program presumably for the 10-year period. As far as we are aware, interest cost on the use of capital has never entered into the costing of capital improvement programs either for the State government or local governments. It has been used extensively in the cost-benefit studies of Corps of Engineers capital improvement programs. After deleting these two costs, $3,156 million

from $7,326 million, the total GAO estimated cost of the MSDGC program is $4,170 million. The MSDGC's estimate of cost from 1972 through 1982 is approximately $4,900 million.

The criticism that the MSDGC's contract bids are much higher than District estimates implies that the bids should have been lower. This criticism seems to be refuted by a statement attributed to Mr. Mauzy, acting director of the Illinois Environmental Protection Agency, that the cost of MSDGC contracts appears to be "not that much out of line with pollution projects elsewhere in the state." There is an informal system of checks and balances on contract cost by virtue of the requirement that the State and Federal governments must first approve MSDGC contracts before payment is made. Also, the limited number of construction firms available to bid on contracts of this nature could be the reason for a large spread between estimated cost and bids.

The MSDGC does not have the technical staff to design and draw up the large volume of construction plans necessary to letting contracts out for bid. Much of this work has had to be let on contract to engineering companies where the supply and demand situation has also resulted in increased cost. The MSDGC does use its engineers and technical staff in the field to inspect construction work.

The Civic Federation has followed the planning for cleaning up pollution and flood control from 1965 to the present time. In November, 1967, our comments on the 1968 MSDGC budget was that the "Deep Tunnel Plan" was tremendously expensive. We reminded the District that flood control, which was a factor in the solution of the problem, was primarily a State responsibility and, therefore, there should be State participation in funding the construction program. We recommend also that appropriations for construction should be limited to those improvements relating to sewage treatment plants and intercepting sewers that would be necessary regardless of which pollution and flood control plan might eventually be adopted. There had been little or no discussion of the best plan, but only of individual plans. It was our opinion that if construction work was started on the basis of the deep tunnel plan, the Distirct would be too committed to it to change.

In 1968, the Governor of Illinois appointed a Flood Control Coordinating Committee to examine the alternative plans to meet the basic criteria for:

(1) Prevention of backflow to Lake Michigan for all storms of record, and

(2) To meet the applicable waterway standards established by the State Pollution Control Board and the MSDGC.

On January 1, 1972, the Technical Advisory Committee which was given the task of evaluating the many alternative solutions to determine the most economical method of meeting the basic criteria, reported a plan to the Flood Control Coordinating Committee which was referred to as the "Chicago Underflow Plan." This plan was a composite of the several alternatives that had been proposed. It was unanimously accepted by the Coordinating Committee as it was less costly and it would be more environmentally acceptable to the community than any of the other plans.

The Chicago Underflow Plan consisted of 120 miles of conveyance tunnels intercepting 640 sewer overflow points in the 375 square mile area served by the combined sewers. Combined sewer overflow water, it was anticipated, would remain in storage for up to 50 days for the largest storm periods of record. The water from most of the storms could be handled in from 2 to 10 days. The detailed explanation of the development of the Chicago Underflow Plan for the Chicagoland area is contained in the 111-page summary of technical reports dated August, 1972. It covered all of the considerations and safeguards that might arise. The Flood Control Coordinating Committee and Technical Advisory Committee participants are shown on page 5.

Funding of the pollution and flood control program involves allocation of funds from local, state and federal sources. This includes 75 percent participation by the Federal government in the pollution control aspects of the program. The tunnel and reservoir portion (TARP) of the whole program is divided into Phase I which includes pollution control construction and Phase II, the flood control portion of TARP. In addition to funding 75 percent of the pollution cost of Phase I, it is expected that 100 percent of the cost of Phase II will be covered by the U.S. Corps of Engineers. The State of Illinois' participation is expected to cover 75 percent of the cost of drawing up plans and specifications. This funding will come from a $750 million State antipollution bond issue. The MSGDC's funding will be from the $380 million general obligation bonds authorized by the State Legislature plus additional bonds that they may issue without referendum.

We question whether the MSDGC could halt its pollution and flood control program as requested by opponents to the program without approval from the Illinois EPA and United States EPA. The District would have to have an extension beyond 1982 or the District would be subject to a fine of $10,000 for every day after 1982 and possible imprisonment of officials in the District responsible for violations of the United States Water Pollution Control Act as amended in 1977.

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WASHINGTON, D.C.,
*March 9, 1978.*

Hon. ELMER B. STAATS,
*Comptroller General of the United States, General Accounting Office, Washington, D.C.*

DEAR MR. STAATS: As a follow-up to the proposed GAO draft report on "Chicago's Acquisition of a Tunnel and Reservoir System: Status and Problems To Be Resolved," I would like to request your staff to undertake such further research as is necessary to enable it to report back to me on:

Where interior flooding is most concentrated in the area affected by the proposed Metropolitan Sanitary District of Chicago Tunnel and Reservoir Project (TARP). I would like to have identified, as precisely as possible, the geographic boundaries of each of the most severely-affected areas.

Those streets, expressways, and viaducts that most frequently have experienced flooding in the affected TARP area.

The frequency of flooding incidents in the most severely affected areas during the last 20 years; the amount of damage sustained; and the number of persons injured or killed.

An analysis of the small-scale technology available to solve Chicago's flooding problems in lieu of completion of Phase II, the flood control segment, of TARP.

Sincerely,

CHARLES H. PERCY,
*U.S. Senator.*

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## EDUCATION DAY, U.S.A.

Mr. MATHIAS. Mr. President, on April 13, 1978 the Senate passed H.J. Res. 770, authorizing the President to issue a proclamation designating today as "Education Day, U.S.A." As a Marylander, I am particularly happy to observe Education Day, U.S.A. because the State of Maryland has been in the vanguard of American education since colonial times.

During the colonial period there were few public schools. More often schools were private with strict admission policies. Only a few schools were philanthropic, established to educate the poor.

In colonial Maryland the practice of supporting education for the poor was highly regarded. In Baltimore, for example, the Benevolent Society for the Education of the Female Poor pioneered in the field of women's education.

Maryland's approach to paying for education began with a tax on banks, soon expanded to include property levies which produced revenue for schooling the poor. King William's School, founded in Annapolis in 1696, was the first free public school to use these tax funds.

Today, between 35 and 37 percent of Maryland's total general fund money is expended for education.

Maryland has also been in the forefront of the development of the university concept. While other States were still formulating plans for State universities, the University of Maryland opened the doors of its college of medicine in 1808. The law school was founded only 15 years later. The first dental college in the United States was established in Maryland in 1840, and the first full-time pharmacy professorship was established in 1844 at the Maryland College of Pharmacy. This later became part of the University of Maryland. The School of Hygiene and Public Health at Johns Hopkins was founded in 1916. It was the first of its kind in the world. This school continues to enjoy an unsurpassed international reputation.

Enrollment in postsecondary education has grown dramatically. Total public and private enrollment in Maryland institutions more than doubled between 1964 and 1974, from 84,237 to 186,670 students.

These numerous accomplishments speak for the State of Maryland's contributions in the realm of education. I am proud to salute Maryland as I underscore the merit of Education Day, U.S.A.

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## "HOLOCAUST" STIRS PAINFUL MEMORIES OF GENOCIDE

Mr. PROXMIRE. Mr. President, this past week an excellent show has been on TV depicting the emotional and physical horrors which were visited upon the Jews in Nazi Germany during World War II. It is especially shocking to realize that this atrocity occurred just a little over 3 decades ago. We conceive of ourselves as living in a modern world, and yet our grip on civilization sometimes seems so tenuous.

On April 16, an article appeared in the Washington Post entitled "A Time to Remember the Holocaust." The article relates some of the memories of those who survived the holocaust, and I found it to be a very moving and vivid portrayal of life in Nazi Germany. I may not agree with all of the conclusions reached in the article, but the article certainly serves as an excellent reminder of how terrible a crime genocide truly is.

I hope that the Senate will not continue to delay. The Genocide Convention was written after the "holocaust" in Nazi Germany for the express purpose of try-

ing to insure that genocide would never happen again. This treaty makes the commission of genocide an international crime, and 82 countries have ratified its provisions. For reasons which have been shown again and again to be groundless, a few opponents of this noble treaty have worked to block its passage. Perhaps those Senators will be stirred by the "Holocaust" program, and will finally realize the urgent need which exists for the Convention. I urge the Senate to ratify the Genocide Convention as soon as possible. I also ask unanimous consent that the Post article appear in full immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A TIME TO REMEMBER THE HOLOCAUST

(By Myra MacPherson and Rob Warden)

SKOKIE, Ill.—When the first shot of Buchenwald flashed on the TV screen, David murmured with savage irony, "my *dear* camp."

And then the memories began to tumble out.

"My older brother died at the start. We were five days without food. We were locked up in tents, we couldn't look out. On the fifth day of the fast he passed away.

"One day the SS man promised a loaf of bread to an inmate who could find a mouse alive. One man caught a mouse. The SS man injected it with gasoline. The mouse died. And from that day on he made himself a picnic.

"Every day he picked five Jews, injected gasoline into their bloodstream. And they died.

"This went on for quite a long time."

David was sitting in a comfortable pine-paneled den where he and another camp survivor and some friends were watching the first night of the NBC miniseries "Holocaust."

He had spent the afternoon at a large ecumenical worship rally in this heavily Jewish Chicago suburban community where the Nazi party is attempting to win the right to march.

In fact David asked that his last name not be used because he fears Nazi reprisals against his family.

David, now 55, was 17 when he was taken into Buchenwald in 1939. Liberated in 1945, he weighed 62 pounds. He now weighs 155 pounds and stands 5 feet 7. Both his mother and his father and a sister and a younger brother went to the gas chambers at Treblinka. Two sisters survived.

Another survivor sitting in the Skokie den, Erna Gans, spoke up bitterly at one point in the show. "When the SS officer in the film says that there were only 36 deaths as the result of one raid on the Jews, and that 'the foreign press will not make a fuss over that' [Gans pointed to the TV set] See? That is the crux of the matter. No one spoke up."

Gans' blue eyes were expressionless as she recited her litany of death.

Gans, who was 16 in 1939, remembers "walking the streets," posing as a non-Jew, "because it was safer than staying at home." One day as she returned home, she noticed a truck full of prisoners. In it were her mother and her little brother. "I went toward it—but my mother motioned that I should not come close. I never saw them again. Later, my father and I were put in camps, I was the only one who survived." Afterwards she went back to her home town, hoping she could find someone she knew.

"But they were all gone . . . all gone."

Last night watching the re-creation of that bygone era, both Gans and David praised the show.

"It will show the world you cannot be silent," said Gans.

"It's magnificent," said David. "It's nothing but the truth."

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Earlier yesterday Abe Fraiman and Mark Weinberg shivered in the brilliant but chilling 39-degree sunlight as they haltingly sang the unfamiliar words of a Christian psalm. The Jeannie Gump, a Catholic mother of 12, listened while the Jews around her sang in Hebrew as the cantor's voice wafted over the high-school football field in this middle American village-suburb of Chicago.

They and 2,700 other Christians and Jews huddled together, all wearing yellow Star-of-David armbands—the sign of persecution that the Nazis forced Jews to wear in World War II—yesterday at the first of 100 solidarity worship rallies that will be held across the country. These services are dedicated to the memory of the Holocaust, when 6 million Jews were exterminated by the Nazis in World War II. The rallies all began in Skokie by concerned citizens as a response to a threatened march here by a Chicago Nazi group that planned to wear swastikas and storm trooper uniforms.

For Fraiman and Weinberg, just the mention of the Nazi party brings angry tears. They pull up the sleeves of their jackets, unbutton their shirt cuffs, roll up the sleeves and point to the numbers tatooed on their arms—indelible reminders of their years at Auschwitz, the worst death camp of all, where 1 million to 2 million Jews were exterminated.

Last night, after the rally, Fraiman and Weinberg—like most of the estimated 7,000 concentration-camp survivors who have clustered together to live in Skokie, watched the first of the four-part series, "Holocaust."

"It is painful—but it has to be watched," said Fraiman. "This is to remind the Americans. The new generation doesn't know anything about it. When we survivors are gone our children shouldn't be living in fear that this can happen again."

From a distance, huddled with blankets in the stadium, the crowd could have been enjoying the innocent pleasure of a football rally. But then the words came and the tears coursed down many cheeks as they heard a rabbi quote from the concentration-camp memories, "A Selection From Night," by Elie Wiesel. "The three necks were placed at the same moment within nooses. 'Long live liberty,' cried the two adults . . . but the child was silent. Three chairs toppled over. Total silence throughout the camp . . . the two adults were no longer alive, but the third rope was still moving. The body was so light, the child was still alive. For nearly half an hour he struggled between life and death."

Fraiman, now 57, said, "I was 29 when they took me to Auschwitz. I lost two children. They took away from me a daughter 8 years and a son 11 years old They make the sign with the thumb—this group goes left, this group goes right. My son and daughter went to one side, I never saw them again. It is too hard to talk," he said, and could not finish.

As painful as the memories are, holocaust survivors in this village, spurred by the recent anti-Semitic actions of a small band of Nazi, insist that it is their duty to remind the world. Skokie has nine synagogues and one of the largest clusters of Jews in the country—an estimated 40,000 out of a population of 70,000. They migrated here by the thousands in the 1950s because Skokie was a new suburb that provided reasonably priced housing for those Jews who wanted to leave Chicago's congested West Side.

Said one Buchenwald survivor, "It's not a conscious decision (that so many survivors were living in Skokie). We just wanted to be very close to each other. We were all living together in one neighborhood in Chicago and when we started to move out we started to move out together."

More than a year ago the Nazi party decided to target Skokie because the Martin Luther King Jr. movement had won the right to hold open-housing marches on the southwest side of Chicago where the Nazis have their headquarters.

In a nationally publicized controversy over whether the Nazis have the right to march in Skokie they were represented by the American Civil Liberties Union. This action resulted in a loss of 30 percent of the Illinois division of the ACLU membership.

In recent weeks both state and federal courts have upheld the right of the Nazis to march in Skokie in their storm trooper uniforms with swastika armbands. The Nazis will hold the march on June 25 unless the lower courts are reversed, which is considered unlikely. This incenses Skokie's Jews. "The Swastika is the symbol of genocide. We are all for freedom but this is disabusing freedom when they say they have the right to march through our streets and say 'we want to kill you,'" said a Buchenwald survivor. He asked that his name not be used because of obscene anti-Semitic phone calls his wife received after one published interview.

For those at yesterday's rally the Nazi party threat in one way seemed to be a blessing as Rabbi Neil Brief of the Niles Township Jewish Congregation said, "This gathering shows the spirit of Skokie responding to the First Amendment values of freedom of religions and freedom to be free of fear—and not saying that freedom of speech is absolute and separate from those other freedoms.

"This shows that we are one people under God," said Skokie village president Albert J. Smith. Mrs. Stephanie Jaye, a "born-again" Christian, said as she pulled on her Star-of-David armband, "I think this has brought about better understanding; the Nazis have brought us together because they have to be stopped."

For the young, who stood about wearing blue jeans and braces, there was some bewilderment about what it all meant. The Skokie high school plans to run lectures on the "Holocaust" series this week. And one man who has already given lectures in high school is Mark Weinberg. The words tumble fast as he says, "I tell them my story so that they will know a little bit about a very real and terrible history. They arrested me in 1943. They beat me up. I hang myself but they got me well. Then the Gestapo took me again. I was beaten very badly. They wanted to know who sabotaged the train.

"I was in 16 camps and jails, Auschwitz, Buchenwald . . . In the last summer, they brought in the Hungarian Jews; they killed between 12,000 and 15,000 daily. The gas chamber was huge. Then they dug three big holes and they piled it—corpses, wood, corpses, wood. Children. Women. One officer made this one woman disrobe and then he shot her," said Weinberg, pointing to the back of his neck. "The child was on the ground. They shoot the child. The shooting was better. In a gas chamber it took from three to 15 minutes to die."

Then Weinberg walked across the football field, arm-in-arm with another survivor friend.

Across the way high-school students laughed and shouted as they played football.

Last night in nearby Evanston Titus Trevor, a 56-year-old Polish-born engineer, once imprisoned at Auschwitz, watched "Holocaust" in his book-lined apartment. He showed little emotion, at one point shrugging, "You don't guide your life by what happened so long ago."

But Trevor said that his experience at Auschwitz had made him a pacifist and an atheist. A Polish Roman Catholic arrested in Warsaw during the 1943 ghetto uprising. he said that he had been devout and had prayed regularly when first imprisoned.

But he said the experience contradicted everything he's been taught about religion. "A hair can't fall from your head unless it is God's will, and here whole families were

going to death. I saw whole families being systematically murdered, and whatever I had learned about God, didn't make sense anymore."

For years after he was liberated he said, he was frightened every time he saw a uniformed policeman—even in the United States. "Once you are broken, that carries on for a long time, and you have no self assurance."

## RECESS UNTIL 11:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 11:30 tomorrow morning.

The motion was agreed to; and at 6:16 p.m. the Senate recessed until tomorrow, Wednesday, April 19, 1978, at 11:30 a.m.

# EXTENSIONS OF REMARKS

## HOUSE ACTION ON BEHALF OF FORMER WESTERN FLIGHT ENGINEERS

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. ANDERSON of California. Mr. Speaker, today the House will consider my bill for the relief of 123 former flight engineers of Western Airlines. House Resolution 83 seeks to refer H.R. 1394 and all accompanying papers to the U.S. Court of Claims for recommendations.

I urge the Members of the House to read my attached letter to Chairman GEORGE DANIELSON and to support House Resolution 83:

OCTOBER 13, 1977.

Hon. GEORGE E. DANIELSON,
*Chairman, Administrative Law and Governmental Relations Subcommittee, Committee on the Judiciary, Washington, D.C.*

DEAR MR. CHAIRMAN: I thank you for allowing me this opportunity to submit my views on H.R. 1394 and H. Res. 83, two bills that I have introduced for the relief of Western Airlines employees.

I introduced these two bills on the first day of this session of Congress. Last session, I introduced two other bills for the same purpose (H.R. 9027 and H. Res. 662). I have been very interested in this matter for many years now and in fact have in my files correspondence dated as early as 1974.

In 1961, Western Airlines discharged 123 flight engineers who did not return to work after going on strike in protest against a National Mediation Board ruling which was viewed as a threat to their jobs. The flight engineers of six other airlines had struck their employees at the same time and were later reinstated, but Western has refused since 1961 to rehire its discharged flight engineers.

I sponsored this legislation mentioned earlier since all other avenues of recourse have been exhausted. I believe that the dispute extends back to the changes during the late 1950's and early 1960's.

As chairman of our aviation subcommittee, I feel that I can speak to this aspect of the problem with some degree of knowledge. This time period was marked by a trend to replace non-pilot trained flight engineers with pilot-qualified engineers in jet aircraft crews. Under pressure from the pilot's union, Western Airlines, in January 1961, announced a policy requiring all flight engineers on jet aircraft to possess pilot qualifications and instrument ratings, effective July 1, 1961. The Western flight engineers reluctantly agreed to take the flight training even though they feared their jobs to be threatened.

In February 1961, the National Mediation Board, issued a ruling which triggered a national strike of flight engineers. The Board was empowered by section 2, Ninth, of the Railway Labor Act, 45 U.S.C. 152(9), to resolve disputes among the employees of an air carrier as to who are the representatives of the employees. The Air Lines Pilots Association (ALPA) and the Flight Engineers Association (FEA) had contended for the right to represent the flight engineers employed by United Air Lines. The Board's report pointed out the necessity, in the operation of up-to-date aircraft carrying many persons, of each person in the cockpit being able to do the work of every other person in the cockpit in an emergency, including the piloting of the aircraft. The Board concluded that all persons in the cockpit constituted one "craft or class" for representation under the Act.

Until 1961, flight engineers were treated as a "class;" the pilots were considered a separate "class." The Board's ruling would have forced all of the engineers and pilots at an airline to vote for a single representative. Since pilots outnumbered engineers substantially, the flight engineers feared that they would be swallowed up by a larger pilots union which represented the interest of pilots more than engineers.

To the flight engineers, the ruling appeared to doom their jobs, their craft, and their union. In reaction, the flight engineers on seven airlines, including Western, walked off their jobs on February 17, 1961. Western requested their flight engineers to return to work at the regular scheduled time; a total of 123 who refused to return were discharged.

It is for these 123 discharged flight engineeds that H.R. 1384 and H. Res. 83 is intended.

Even though President Kennedy on February 21, 1961 issued an Executive Order establishing a Commission to examine the controversy and the Secretary of Labor secured the assurances that the effected carriers would not be disciplined if they returned to work, Western Airlines still refused to rehire its discharged employees. This made the other flight engineers reluctant to return to work unless the Western engineers were included.

Possibly because of this action by President Kennedy and Labor Secretary Goldberg, no grievances were filed by the engineers in accordance with their collective bargaining agreement within the seven day time limit provided in that agreement.

On October 30, 1961, the Secretary of Labor appointed Professor Feinsinger to investigate the dispute and to make a report.

Issued four years later, this report stated:

Despite Western's claim to the contrary, the strike caused it no more difficulties than the strike on the other six airlines to the carriers involved. Yes . . . of the seven airlines involved, only Western refused to honor the request of the Secretary of Labor to reinstate the striking flight engineers. Had all the seven struck airlines acted as did Western, the strike might have been prolonged considerably, causing grave inconvenience to the traveling public. As it was, only Western ignored the Secretary of Labor's request to maintain or restore the status quo. As a result of Western's recalcitrance, however, and the reluctance of the other FEIA chapters to abandon their colleagues on Western, the strike on the six other airlines was prolonged for several days during the Government's unsuccessful attempts to persuade Western to change its position, thus causing not only grave inconvenience to the traveling public but serious financial loss to the other carriers involved.

In brief, Western's refusal to reinstate the flight engineers, pending a study of the underlying problem by a Presidential Commission, causing grave hardship on the families of the discharged employees, was not consistent with the overriding public interest in uninterrupted service on the nation's airlines, nor with standards of conduct observed by American employees generally in similar situations.

Professor Feinsinger recommended that, the cases of the 123 flight engineers be reviewed individually to determine if any were unable to meet the company's deadline because of special circumstances, that a preferential hiring list be established for the engineers in the order of their seniority, and that representatives of the company and union meet to implement his recommendations.

Western Airlines rejected these recommendations and has consistently refused to reinstate or rehire the flight engineers. On September 14, 1971, the Assistant Secretary of Labor informed the flight engineers, on behalf of the White House, that the dispute was considered a closed matter.

This background information brings us to the two pending bills before the committee. Though the constitutional authority for the enactment of private claim bills by the Congress rests upon the power to pay the debts of the United States, this power is not restricted to the payment of those obligations which are legally binding on the government, but also extends to the creation of such obligations in recognition of claims that are merely moral or honorary.

In fact the United States Supreme Court, in *Pope* v. *United States,* 323 U.S. 1,9 (1944), said:

It is conceded that indeed it cannot be questioned that the debts are not limited to those which are evidenced by some written obligation or to those which are otherwise of a strictly legal character. The term 'debts' includes those debts or claims which rest upon a merely equitable or honorary obligation, and which would not be recoverable in a court of law if existing against an individual.

The nation, speaking broadly, owes a 'debt' to an individual when his claim grows out of general principles of right and justice; when, in other words, it is based upon considerations of a moral or merely honorary nature, such as are binding on the conscience or the honor of an individual, although the debt could obtain no recognition in a court of law.

The power of Congress extends at least as far as the recognition and payment of claims against the government which are thus founded. To no other branch of the government than Congress could any application be successfully made on the part of the owners of such claims or debts for the payment thereof. Their recognition depends solely upon Congress, and whether it will recognize

claims thus founded must be left to the discretion of that body. . . . Some of the acts were based upon considerations of pure charity.

I can provide for the committee examples of this power. I urge the committee to decide the facts of this case and recognize the equitable and moral considerations that must be based on the principles of right and justice.

Such a decision in support of this legislation will rarely, if ever, be subject to judicial review. Your committee's very rules provide that "when called upon to decide whether relief should be granted persons seeking redress of grievances, the subcommittee is guided by principles of equity and justice."

I strongly feel that there is a moral obligation on the part of the United States towards the discharged flight engineers. I base this on the fact that the flight engineers of the six other airlines finally returned to work on the understanding that the government would do all in its power for the relief of the Western flight engineers, even though there was no commitment.

It is clear that the flight engineers' strike by the seven struck airlines enabled them to exert enormous leverage as long as they remained unified.

The continuing national strike, together with the government efforts towards settlement, could well have placed strong pressure on Western to relent and to reinstate its strikers. Once the other strikers returned to work, however, the pressure on Western to compromise or settle the dispute was removed.

In return for the government's promise to do all in its power to secure relief for the striking Western employees, the strikers removed this pressure. And since the return of these strikers to work was based on the government's promise to do all in its power to secure relief, one must ask, how did the government fulfill its promise?

By appointing merely a Presidential Commission?

By recommending that the Western employees be on a preferential hiring list?

I strongly feel that the government did not live up to its obligation to do "all in its power," because the Commission did not hold conferences with Western Airlines on this matter until two years after Professor Feinsinger had been appointed. One can hardly call this "pressure."

This long, unexplained delay in the issuance of the Feinsinger Report and a lack of any pressure from the government thereafter to persuade Western Airlines to adopt the compromise suggested by Professor Feinsinger signals that this legislation is indeed appropriate and necessary to carry out of the government's 1961 promise.

I thank you for allowing me this opportunity to submit my views concerning this matter. I hope the committee will report this legislation, H.R. 1394 or H. Res. 83, to the full Committee on the Judiciary and recommend that the bill be favorably acted upon by the full House of Representatives.

Best regards.

Sincerely,

GLENN M. ANDERSON, M.C.●

## DISAPPOINTMENT OVER RULE GRANTED H.R. 1, THE ETHICS IN GOVERNMENT ACT

### HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. MAZZOLI. Mr. Speaker, I am disappointed that the House Rules Committee wrote a rule for the consideration of H.R. 1, the Ethics in Government Act, allowing a floor amendment to strike the limit on outside earnings of Members of Congress.

The limitations on outside earnings was a key part of the ethical reform package adopted as House Rules in March of 1977. Now, barely 1 year later, the House could nullify this key element of the package.

Is it any surprise, Mr. Speaker, that the public's confidence in the House continues to plummet?

Mr. Speaker, I know you and leadership on both sides of the aisle will not permit the outside earnings limitation to be removed. Removal would be a serious mistake.●

## PRESIDENT CANUTE

### HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. McDONALD. Mr. Speaker, on March 8, 1978, the Wall Street Journal published a very perceptive editorial on the decline of the U.S. dollar. It very correctly pointed out that all the rantings and ravings of President Carter against cost of oil imports, plus his wailing over our trade deficit does not go to the heart of the problem. What is needed is to stop our deficit spending and slow down the press printing dollars. This sort of fiscal self-discipline will restore the confidence of the world in the dollar and in the long run restore the U.S. economy to a healthy state. The editorial follows:

[From the Wall Street Journal, Mar. 8, 1978]

PRESIDENT CANUTE

I've spent a lot of time studying about the American dollar, its value in international monetary markets, the causes for the recent deterioration as it relates to other major currencies. I can say with complete assurance that the basic principles of monetary values are not being adequately assessed on the current international monetary market.

Thus at his last press conference President Carter lectured the financial markets, an enterprise one step up, if that, from lecturing the tides. Markets are in fact marvelously efficient systems for collecting information, and as such their judgments are not stupid but smart. Time and again markets have demonstrated their ability to outwit Wall Street hotshots, central bankers, economic advisers and especially politicians. Instead of lecturing the markets about the dollar, Mr. Carter ought to be trying to figure out what they are trying to tell him.

Especially so since this administration obviously has a lot to learn. The problem is not really President Carter but his economic advisers and beyond them the intellectual traditions on which they draw. The rest of Mr. Carter's press conference remarks reflect the poverty of those traditions. He offered three reasons why the dollar should now improve: The "rapidly increasing" attractiveness of investment in the U.S. economy, due to high nominal interest rates. An end to growth in oil imports. And a decline in the disparity between real economic growth here and abroad.

If we imported less oil, we would of course be better off in many ways. Mr. Carter ought for any number of reasons to offer up an energy program that maximizes incentives for domestic production of energy, instead of one that would tax the production of energy in order to subsidize its consumption through heating oil rebates. If the administration sees energy as the taproot of the dollar problem, it ought to get serious about its energy proposals.

The U.S. economy has been growing faster than the European ones, and this does mean a larger trade deficit. Rapidly growing economies use more of the available resources, and this shows up in the trade figures. Despite the nonsense being mouthed in and out of the administration, though, this does not normally lead to a depreciation of the growing economy's currency. As Germany, Japan, Italy and Britain have shown over the years, a sick currency is normally the sign of a sick economy, and healthy currency the sign of a healthy one.

Normally what happen is that a growing economy attracts investment, and capital movements offset the larger trade deficit. The problem with the dollar is that this is not happening. The trade figures have relatively little to do with the problem; the crisis is in the capital accounts. What the market is trying to tell Mr. Carter is that instead of "rapidly increasing," the attractiveness of investment in the American economy has fallen out of bed.

Consider what was changing when the dollar started to fall last summer. Final figures are not in, but a preliminary Commerce Department release is instructive. It shows a trade deficit of $16.4 billion in the second half, up from $14.9 billion in the first half. Meanwhile, items reflecting the movement of private capital swung to an outflow of $6.6 billion in the second half, from an inflow of $2.9 billion in the first half. The administration frets about a $1.5 billion blip in the trade account and manages to ignore a $9.5 billion hemorrhage in the capital accounts.

This flight from the dollar is a massive vote of no confidence in the policies of the administration and the Federal Reserve. Dollar-denominated assets are being marked down because the markets see that the dollar's value is eroding both at home and in relation to other currencies abroad. Over the past year the rate of inflation has declined in Germany, Japan and even the United Kingdom. In the U.S. it accelerated, and now shows every sign of even more rapid growth ahead. Yet the administration continues to project growing budget deficits, and the Federal Reserve continues to pump reserves into the banking system in order to meet the resulting credit demands.

The best way to understand the dollar crisis is the simplest one: Exchange rates are a monetary phenomenon. The dollar does not decline in value because we import too much oil or grow too fast. The dollar declines in value because we print too many dollars. Unless you understand this, you will be raging at the tides with your drowning breath.●

## RALPH "ABIE" MILLER OF TORONTO, OHIO, KILLED

### HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. APPLEGATE. Mr. Speaker, so very often, Members of Congress include into this section of the RECORD good news about a person, groups of persons, or an event in their district. But every so often, it will be used to tell of some bad news. This, regretfully, is my purpose today. I feel it necessary to do this though to explain to you and my colleagues in the House of Representatives what kind of a human being Mr. Ralph "Abie" Miller of Toronto, Ohio, was.

For 35 years, Abie served on the To-

ronto Police Force, and like so many other men in blue, gave more of himself than was called for. He enjoyed the love and respect of not only his fellow officers, but nearly the entire town as well. He was dedicated to his profession beyond what was to be expected and so often helped others without concern for himself.

While trying to stop a fleeing motorist with a roadblock on March 16, Abie Miller was hit by the car and died, leaving Toronto very sad and without the benefits of his care, concerns, dedication, and love any longer. The report that was included in the police logbok said it all:

He was one hell of a cop and one hell of a man.

Mr. Speaker, those people who knew Ralph "Abie" Miller were more fortunate than they perhaps realize. Needless to say, Toronto, Ohio, will never be the same.●

## VIETNAM VETS HEALTH ENDANGERED BY EXPOSURE TO AGENT ORANGE

### HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. STARK. Mr. Speaker, I am submitting for the record a copy of a recent article which appeared in the Stars and Stripes, the national veterans' newspaper, warning all Vietnam-era veterans of the possible damage to their health caused by exposure to the chemical TCDD Dioxin, found in great concentrations in the defoliant Agent Orange.

TCDD Dioxin, which is also contained in many widely used herbicides in the United States, has now been linked to cancer, skin rashes, reduced sexual activity, spontaneous abortions, and birth defects, among other things. The Environmental Protection Agency currently considers levels of up to 1 part per million safe. Recent laboratory tests, however, indicate that there may be no safe level of TCDD Dioxin. Dr. James R. Allen, of the University of Wisconsin, has found that as little as 500 parts per trillion (a trillion equals one million times one million) fed daily to rhesus monkeys kills half of them in 9 months or less. This level is 2,000 times less than that currently allowed in the United States.

I urge my colleagues to read this article and alert the Vietnam veterans in their districts who were exposed to Agent Orange to file disability claims with the Veterans' Administration if they are suffering from any unaccountable medical problems.

The article follows:

[From the Stars and Stripes, Apr. 13, 1978]

NACV URGES VE VETS FILE CLAIM

The need for all 8.5 million Vietnam-Era veterans to initiate disability compensation claims with the Veterans Administration for medical after-effects of Agent Orange and other chemicals used by the U.S. Military has been unanimously supported by the newly created Health Care Committee of the National Association of Concerned Veterans at the 11th Annual National Convention held in Baltimore last week.

Recent media coverage of the harmful residual effects of biological-chemical agents in the Vietnam war, including cancer, rashes, aborted pregnancies and birth defects in children, has raised serious concern among the delegates to the National Convention and young veterans nationwide.

"All Vietnam-Era veterans should apply to their local VA offices for possible disabilities from all biological and chemical agents employed by the U.S. Military in the Vietnam-Era," a spokesperson for the Committee stated.

"By this method we can convey to the VA bureaucracy our deep concern about the possible effects of all known and unknown agents.

"Also, this action will open a claim with the government which can be substantiated by present or subsequent medical conditions and later medical research."

The currently identified biochemical agents include dioxin used in the defoliant Agent Orange and dapsone used in anti-malaria medication.●

## CAPITAL FORMATION

### HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. PICKLE. Mr. Speaker, I am today introducing a bill which could materially assist in dealing with the problem of capital formation. This bill also represents a logical step in the direction of reducing the impact of double taxation of corporate earnings distributed as dividends.

My bill provides for the deferral of any current Federal tax on dividends reinvested in original issue stock under a qualified dividend reinvestment plan. The stock received on reinvestment of such dividend would, instead, be regarded as the equivalent of a stock dividend and taxed on the same basis as a conventional stock dividend.

Dividend reinvestment plans for original issue stock have been adopted by over 80 capital-intensive companies having a continual need to obtain additional common stock to finance new capital facilities. Such plans have demonstrated a potential for making a significant contribution to the problem of obtaining common stock capital. The dividends reinvested under these plans become immediately available to the company for its capital needs.

My bill will encourage increased participation in such plans and materially increase the common stock capital which can be raised through this source. It has been estimated that, with such encouragement, as much as 40 percent of all new common stock equity needs of U.S. industry could be provided under dividend reinvestment plans for new issue stock.

Such encouragement of the formation of common stock capital will facilitate the financing of capital facilities which would not otherwise be built. It would therefore provide an important stimulus to construction, employment opportunities, and a healthier economy.

Deferment of a tax on dividends reinvested in new issues stock is also a modest step in the direction of reducing the double tax on dividend income. There is particular logic in deferring any tax at the stockholder level under these circumstances since the stockholder is not receiving the cash dividend but is, instead, increasing his equity interest in the corporation. Moreover the cash is being plowed back into the corporation where, if invested profitably, it would lead to additional taxable earnings, at the corporate level.

While there would be some current revenue loss, such loss would be offset by taxes payable when the stock were sold at a price in excess of the adjusted cost basis and, more importantly, by the revenue gains associated with the encouragement of increased capital facilities and employment.●

## A HOLOCAUST IN OUR TIME; THE DEATH OF HUMAN RIGHTS IN CAMBODIA

### HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. DORNAN. Mr. Speaker, one of our national television networks is currently broadcasting a brilliantly written and produced screenplay, "Holocaust." It depicts one of the greatest, one of the most horrifying, defilements of the human spirit in all of history. It reminds all of us that only a few decades ago, the death camps, the repressions, and mass exterminations of fellow human beings were all too real.

A program like "Holocaust" is important, and is useful in teaching the next generation what must never happen again. Tragically, though, that very horror is happening again—now. It is happening in Cambodia where a systematic experimentation of millions of people takes place against a backdrop of silence and inaction by the Western world, and the United States in particular.

In my opinion, the Carter administration is correct in criticizing and attempting to see reformed instances of human rights violations in several Latin American and African countries. But I would like to see similar demonstrations of outrage or at least a semblance of similar enthusiasm by the White House and its State Department in attacking the holocaust currently plaguing Cambodia. The relative silence by President Carter as well as many other influential opinion leaders, for example, the top executives in our news media, is deadening. This silence compromises the integrity of our country's foreign policy as it has been redefined since the beginning of the human rights campaign. It compromises it in the sense that it is difficult to be convincingly righteous when lambasting Brazil for throwing 300 people in jail for 6 months, when we are absolutely silent about Cambodia's systematic extermination of 3 million of its citizens and the confiscation of their property and lands.

There are few journalists as able, and no one more experienced in media watching, than Mr. Patrick Buchanan. In a recent syndicated column, he analyzes our country's silent establishment about human rights violations in countries like Cambodia. It is not a happy item to read, though a hard view of reality is so often

melancholy. I hope that everyone reading this will think about those who are safe though silent in the face of another holocaust. I hope that they will begin calling those who for the sake of their own souls should be silent no longer in order to halt this satanic slaughter.

The column follows:

[From TV Guide, Mar. 18, 1978]

WHY DO NETWORKS PLAY DOWN NEWS FROM CAMBODIA

(By Patrick Buchanan)

"And there were many macabre incidents . . . the starving people who ate the flesh of dead bodies during this acute famine. I will now tell you a story that I lived myself . . . a teacher who ate the flesh of her own sister. She was later caught, she was beaten from morning to night until she died, under the rain, in front of the whole village as an example, and her child was crying beside her, and the mother died at the evening."

This was lifted verbatim from the Washington press conference on Pin Yathay, a civil engineer who survived 26 months in Communist Cambodia.

Yathay's story, in his own words, is one of unimagined horror. Of starving neighbors practicing cannibalism. Of suicides, executions and persecution on a scale unexcelled in this bloodiest of centuries. Of seeing his entire family perish:

". . . I lost all my family, my three children, and my wife; also my mother, my father, my two sisters, another brother, my brother-in-law, my nephew and . . . about 18 persons. Now I am alone in this world." He had escaped by going hand-over-hand across a river 200 meters wide.

Yet, at that Jan. 20 press conference, to which all three networks were invited by the American Security Council, not one sent a correspondent. The AP ran an excellent article, carried by The Washington Star. The Washington Post reporter walked out, midway, asserting she had heard enough of this "junk."

Only Jack Anderson, the syndicated columnist, put the Yathay story on network television. Taping an interview with the Cambodian refugee, Anderson ran an excellent and extended piece March 6 on *Good Morning America.*

Perusing abstracts from the Vanderbilt Television News Archive—of the network evening news—from Jan. 20 to Feb. 10, this writer could not find a single mention of Pin Yathay's story.

Compare the indifference to this tale of horror and miraculous escape to the excited, extensive coverage given the fleeing of editor Donald Woods from South Africa.

On Jan. 2, both ABC and CBS ran extended stories of how editor Woods, banned from publishing in South Africa, had escaped into Lesotho. On Jan. 6, NBC devoted Segment 3 to Woods' escape, his family's harrassment, his scathing judgment of South African justice.

On Jan. 8, ABC, which could not send a correspondent three blocks to hear Pin Yathay in Washington, dispatched its *Issues and Answers* team 3000 miles to interview Donald Woods in London. It was a testimonial.

Twice in his introduction, Bob Clark, Issues and Answers' chief correspondent, referred to Woods' "daring escape" and "dramatic escape." During the questioning, Clark returned again, with unconcealed admiration:

Clark: And you literally swam a river to get across the border?

Woods: Yes, but it was just a small stream. The river-swimming story must not appear too heroic.

(Indeed, according to South African sources, where Woods crossed the "tiny Thele river" is something on the scale of Washington, D.C.'s Rock Creek after a light rain.)

No matter. Woods' nighttime crossing to Lesotho (where the indigenous press is severly restricted) cannot remotely compare in drama and risk with Pin Yathay's months-long suicidal effort to escape the human abattoir that is Communist Cambodia.

Yet, Woods is first-rate news copy, while Yathay is ignored by the networks—with the exception of Jack Anderson and "Good Morning America." Two networks report on Woods' address to the United Nations Security Council, while Yathay returns, unnoticed, to Europe. Woods gets a Nieman Fellowship to Harvard, an appearance before the National Press Club and a lengthy, favorable interview in The Washington Post.

How is the unequal treatment to be explained?

Is it because Woods is white and Yathay is not? But that cannot be the sole reason. When Steve Biko died in a South African prison, his funeral got TV coverage in the United States and Biko was black.

Is the human-rights situation in segregated South Africa somehow worse than Cambodia? But that is like saying the segregated white American South in the '40s was a greater offense against morality and human rights than Hitler's death camps. Here is a slice of Jack Anderson's introduction to the Pin Yathay story on "Good Morning America."

*"This is the most important human rights story of the decade.* It is a stark, cruel story of mass slaughter in Cambodia under the Communist dictator Pol Pot. I want you to remember that name, Pol Pot. It belongs in the halls of infamy alongside the names of Adolf Hitler and Joseph Stalin" (emphasis added).

". . . The most important human-rights story of the decade," according to a columnist who has roasted right-wing regimes from Chile to South Korea.

During the course of the ABC Issues and Answers interview, Peter Jennings noted that the death in captivity of Steve Biko "electrified and stunned much of the world." True. But why are the nations of the West, the networks, the national press not "electrified and stunned" by the eradication of hundreds of thousands of people in Southeast Asia?

Why does genocide against a whole people not evoke the same outrage as the death of a single man?

During the '40s, the "most important human rights story of the decade," was the extermination of millions in the concentration camps of occupied Europe. Many say now that if only we knew, we would have acted sooner. But we know now what is going on in Cambodia. And the world does nothing. Why?

Why do the networks largely ignore the national atrocity transpiring in Southeast Asia to focus their cameras and concerns on the inequalities in South Africa?

An unpleasant answer suggests itself.

Today, in the United States, the war against Asian Communism, conducted over 10 years, is judged by many to have been a mistake, a tragedy, or even a sustained act of immorality. Many network newsmen and executives point proudly to the role they played in reversing American opinion. Perhaps the network news would prefer that the American people not know, or not see, too much of what they helped to produce in Southeast Asia.●

## EXPLANATION ON MISSED VOTE

### HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. RYAN. Mr. Speaker, on March 13, I was witnessing the annual Canadian-Norwegian Harp seal hunt off the coast of Newfoundland and Labrador. I have been an opponent of this hunt for years and have been actively protesting it. Because I was in Canada, I missed the vote on H.R. 7814, the Federal Employees Flexible and Compressed Work Schedules Act of 1978 (Roll No. 132). Had I been present, I would have voted "yes" on suspending the rules for this bill, which I have cosponsored.●

## TAX CONSISTENCY ACT OF 1978

### HON. DAVE STOCKMAN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. STOCKMAN. Mr. Speaker, today I am introducing the Tax Consistency Act of 1978. The purpose of this bill is to stimulate investment, encourage economic growth, and create new employment by providing a more rational and equitable framework for the taxation of corporate income.

Our country first imposed a corporate income tax 62 years ago. Although it began as a simple revenue-raising measure, the corporate income tax soon became a complex tool for directing private investment into areas favored by Government policy. Today fully one-third of potential corporate income tax receipts are permitted to remain in the hands of the taxpayers in the form of special tax treatment of certain types of business income and expenses.

Many of the special tax incentives available to corporations came into being under vastly different circumstances than prevail today. The presumed benefits to the Nation that justified their existence 30, 40, or 50 years ago no longer exist. Credits for once struggling enterprises now go to well-established firms without rhyme or reason.

The Tax Consistency Act of 1978 would eliminate from the tax code in one sweep all of the most inefficient, inequitable, and outdated special treatments of particular kinds of business investment. In their place it would substitute the principle that all corporate income should be treated equally.

Apart from removing the express special treatments of corporate income that lace the tax code, the Tax Consistency Act of 1978 would also address a far more pervasive but subtle problem; the inequities produced by inflation.

All corporate assets must be valued at their acquisition cost for the purpose of calculating depreciation deductions. As a result, the tax code makes no allowance for the fact that the dollars used to purchase an asset 10 years ago were worth 75 percent more than the dollars generated by that asset today. Inflated income dollars are compared to uninflated expense dollars; income is thus seriously overstated. This effect does not apply equitably to all corporations of course, since the age of corporate assets varies widely from company to company and from industry to industry.

An even larger disparity is produced by the relative importance of depreciable

assets as a share of expenses incurred to produce income. Capital-intensive industries—such as steel—suffer far more than labor-intensive or service industries—such as banking. If allowance is made for the effect of inflation on the value of their assets, in 1976 the largest steel companies had an effective tax rate at least four times the rate paid by major banking firms.

Great Britain, Canada and Australia have already recognized the importance of calculating corporate income using methods that compensate for inflation. These countries are moving rapidly toward adoption of the "current cost" profit calculation into their tax policies.

The Tax Consistency Act of 1978 would end the inequities caused by inflation through adoption of indexed depreciation expense. Corporations would be permitted to adjust the value of their depreciation deductions in accordance with an index that reflected the change in the value of the dollar produced by inflation. While indexed depreciation falls short of full "replacement cost" or "current cost" accounting, which would be the most accurate reflection of expenses, its benefit is its simplicity of administration—no small consideration when it comes to tax policy.

Once we cure the anomalies and inequities in investment generated by special tax preferences and inflation, we must address the more fundamental problem of simply inadequate amounts of investment. Expressed in constant 1978 dollars, total net investment in plants and equipment declined from $60.5 billion in 1969 to only $27.3 billion in 1977. This low level of investment is impairing our efforts to improve productivity and compete with foreign suppliers, as well as impairing the ability of corporations to invest in pollution control and safety equipment required by new government regulatory policies.

The Tax Consistency Act of 1978 would encourage investment by reducing the maximum tax rate on corporate income from 48 percent to 40 percent. The tax on small corporations would be reduced from 22 percent to 18 percent. Because of the revenue gains from eliminating tax expenditures, the net revenue loss would be $8.7 billion—assuming no growth in corporate income. In fact, the actual revenue loss would be far less, since the real growth rate for GNP could be expected to rise substantially, with a corresponding increase in tax collections.

A summary of the major provisions of the bill appears below:

SUMMARY OF THE TAX CONSISTENCY ACT OF 1978

Section 1: Brief Title.

Section 2: Reduces corporate tax rates to 16 percent on first $25,000 of income; 18 percent on income between $25,000 and $50,000; and 40 percent on income over $50,000.

Section 3: Repeals investment tax credit.

Section 4: Repeals exclusion from gross income of interest on certain industrial development bonds issued by state and local governments.

Section 5: Ends allowance for certain special methods of computing depreciation.

Section 6: Repeals permission to amortize certain pollution control facilities in 60 months without regard to useful life.

Section 7: Repeals expense deduction for intangible drilling and development costs.

Section 8: Eliminates more rapidly the present percentage method of determining bad debt reserve deduction for financial institutions.

Section 9: Repeals percentage depletion allowance for certain mineral production activities.

Section 10: Repeals special capital gains treatment of income from certain timber, coal, and iron ore operations.

Section 11: Repeals special deduction for Western Hemisphere Trade Corporations that permits income earned by such corporations to be deferred for tax purposes.

Section 12: Repeals special treatment of income produced by Domestic International Sales Corporations (DISC) that permits such income to be deferred for tax purposes.

Section 13: Repeals Capital Construction fund allowance for domestic shipping companies that permits them to exclude from income amounts used for the construction of new vessels.

Section 14: Retains existing tax credit for employee stock ownership plans as an incentive to increased productivity and capital formation. (Technical amendment necessitated by repeal of investment tax credit).●

## TRIBUTE TO HAROLD M. McCLURE, JR.

### HON. ELFORD A. CEDERBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. CEDERBERG. Mr. Speaker, a few weeks ago, Michigan had the misfortune of losing one of its truly outstanding citizens, Harold M. McClure, Jr.

During his lifetime, Harold was one of Michigan's most active and imaginative individuals. His contributions in both business and civic affairs have been tremendous, and will long serve as a living monument to his achievements.

Harold McClure's remarkable career began at an early age. Coming from an oil family, he energetically entered the drilling business as a teenager. Harold was successfully involved in several business ventures, and has been a leading figure in Michigan's energy industry. To say that he has been instrumental in developing the oil and gas resources of Michigan would be a modest understatement.

In addition to his outstanding career achievements, Harold has been deeply involved in a long list of civic activities. He generously donated his time and resources to local, State, and national causes which have benefited significantly from his contributions. Notably, Harold's early career was interrupted during World War II when he served his country for 3 years in the U.S. Army Air Force.

Mr. Speaker, I could go on much further detailing the accomplishments of Harold McClure. But nothing I could say can adequately describe his energetic and personable character. Rare is a person with a record of success and achievement to match that of Harold McClure. Rarer still is a person who has matched his career success with outstanding contributions to community, political, and church affairs.

To those who knew Harold, I can add no words which will add to our respect of this unique individual. To those who did not, I can only say that you have missed the rewards of his personality, but will continue to enjoy the rewards of his lasting contributions to Michigan and the Nation.●

## WHO SPEAKS FOR SAUDI ARABIA?

### HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. ROSENTHAL. Mr. Speaker, the administration is pulling out all the stops in its campaign to sell Saudi Arabia 60 of our most advanced fighter-bombers, the F–15 Eagle.

The administration recognizes that this deal is so difficult to justify on nearly every basis that it has tied it to the sale of aircraft to Israel and Egypt in the hopes of making the Saudi portion veto-proof.

In its desire to serve the Saudi demands, the administration is even willing to violate the intention of our arms transfer law. Under section 36(b) of the Arms Export Control Act, each arms transaction is to be treated separately and independently. But the administration has said it is lumping the Egyptian, Israeli, and Saudi sales together and if any one—meaning the Saudi deal—is turned down by the Congress, the others will be withdrawn.

Administration spokesmen, hard put to justify the sale on military grounds, are calling the Saudi sale a "touchstone" of our relationship, and the hints and news leaks are already in circulation that our oil supply could be endangered if the Congress does not jump through the hoop.

I do not know which is more disturbing—that our State Department acts like an extension of the Saudi Government or that it continues to disseminate misleading and false information on the entire issue.

In an unprecedented step, the State Department has been distributing a half-inch-thick volume title "Middle East Aircraft Package" and subtitled "Reference Papers." Known as the "green book," it sets forth the administration case for the arms sales package.

One section is headed "Saudi Statement on Terrorism." It contains a single page, which is on the letterhead of the Royal Embassy of Saudi Arabia; dated March 14, 1978, it bears a brief statement beginning, "Saudi Arabia condemns terrorism in all its forms."

Its genesis is most interesting. Three days earlier, PLO terrorists killed 37 Israeli civilians on the coastal road north of Tel Aviv. That event has come to be known as the Sabbath Massacre, and I fear it might not have been possible without the aid and support of the Saudi Government.

The Saudis reportedly gave the PLO's military arm, Al Fatah, $45 million in 1976 as part of its continuing high level of assistance to the Palestinians.

The Sabbath Massacre has been condemned by civilized persons around the globe, though certainly not universally. It is significant that Egypt spoke out forcefully against the murders. But it is distressing when supposedly pro-Western allies like Jordan, Kuwait, and Saudi Arabia praise the terrorists.

Most disturbing was the reaction of the Saudi Government, which is buying billions of dollars worth of U.S. arms for itself and the other front-line Arab States and possibly for the PLO as well.

Shortly after the terrorist killings, Saudi Arabia's state-controlled radio broadcast high praise for the Sabbath Massacre. According to press reports, Riyadh radio called the murders a "courageous operation" that has "a noble aim—to let the world remember that the Palestinians do exist and that no peace talks will succeed without their participation."

Two days later an official of the U.S. State Department called my office, apparently on behalf of the Saudi Government, to clarify the press reports. The Saudi Embassy, according to our State Department, felt the broadcast was inaccurate. There was no denial of the broadcast's substance, only an attempt to explain that the proper translation should have been "bold operation," not "courageous operation."

When it apparently saw that response to the Saudi statement would not help it in selling its aircraft sales package to the Congress and the public, the State Department reportedly advised the Saudi Embassy to issue a more conciliatory statement. In no time at all it was in the mail to congressional and other offices.

"All reasonable people deplore acts of terrorism without regard to the purpose or victims," declared the new Saudi statement, which went on to express support for "the legitimate aspirations of the Palestinian people."

This more moderate position and the one voiced in the statement distributed by the State Department in its "green book" are apparently for American consumption only. I have been checking transcripts of Radio Riyadh as published by the Foreign Broadcast Information Service of the U.S. Department of Commerce. The original broadcast praising "the bold fedayeen operation" was never retracted or contradicted or revised, to the best of my knowledge. The Saudi/State Department version was never released to the Saudi people or anywhere in the Arab world—it was strictly for U.S. relations.

No doubt this was part of the recently announced ambitious Saudi public relations campaign to improve that country's image in the United States and win approval for its arms purchases. The Saudis have hired a public relations firm headed by a close associate of our Ambassador to Riyadh, John C. West.

Perhaps on the advice of its new image-makers or on its own volition, the Saudi Embassy distributed to Members of Congress last week a special section of the Financial Times of London about Saudi Arabia. In a mimeographed attachment from the embassy, a few key quotes were highlighted. Perhaps most interesting and revealing was an acknowledgement of Saudia's high level of aid for the PLO and a veiled threat to push the PLO and Syria closer to Libya:

> One of Saudi Arabia's techniques is to provide countries such as Syria with comparatively limited supplies to ensure, as it were, good behavior. . . . But in the present mood of discontent and disarray in the Arab world, there are limits to this approach, too. It remains a possibility that in the absence of Saudi aid either President Assad or Mr. Yasser Arafat, the PLO leader, might be tempted to turn to the more radical Libyans for assistance.

It should be noted that these are the words of the Financial Times, but it was the Saudi Government that chose to emphasize, reprint, and distribute them.

Many Members of the Congress are alarmed by growing Saudi financial power over the United States Government and economy. People are asking whether anyone would seriously consider selling that Government 60 of the world's finest fighter-bombers were it not holding over our heads the threats of economic chaos and oil embargo.

Another source of great concern is the immense Saudi arms acquisitions and the buildup of its air bases and military forces near Israel's borders. That is not the conduct one would expect of a country that the State Department repeatedly refers to as "a force for moderation and stability and peace" in the most explosive corner of the world today.

It was most distressing to me, Mr. Speaker, to read press reports that our Ambassador to Saudi Arabia has said the United States has never asked the Saudis to stop their financial support for the PLO. Subsequently, State Department officials, while not denying the essence of Ambassador West's statement, have said the subject has been "discussed" with the Saudis. I would hope that our Government would have the courage to do more than merely "discuss" with the Saudis their support for terrorism and attempt to do something positive to eradicate this cancer on mankind.●

## FRAUD IN FEDERAL AID PROGRAMS

### HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. GOLDWATER. Mr. Speaker, reports in Sunday's New York Times that fraud in Federal aid programs amounts to $12, perhaps $15 or $25 billion a year is timely news on the eve of the filing deadline for our tax returns.

Documented cases of rip-off artists are deserving of the most expeditious Justice Department action: The Department of Transportation employee who embezzled hundreds of thousands of dollars from a mass-transit program; the doctor who billed HEW for seven tonsillectomies on the same patient; the daughter of a war veteran who continued to collect "widow's benefits" for 20 years after her mother died. Details of the case involving the dentist who extracted healthy teeth from economically disadvantaged children so he could collect fees under medicaid, are nauseating.

Are Government programs that irresponsibly managed that $5 million in VA approved education assistance funded a "barber's school" whose students never attended classes? Talk of collusion between recipients of Government grants and agency administrators who dole them out, raises suspicion in my mind as to the magnitude of such practices. Is Government oversight that weak that a defense contractor was able to use building materials of a quality inferior to those specified in his contract?

Indeed, such swindling is not limited to our welfare programs, and other Government services which extend generous "hand-outs."

A word of commendation is in order for those officials who successfully prosecuted individuals who have already defrauded the Government of millions of dollars. But taxpayers in the congressional district I represent are certainly not going to tolerate this widespread level of cheating the system.

By all means, Congress should provide the resources to head off such abuses and discipline the offenders. This Times report points up another reason why I have consistently been skeptical of Federal assistance programs. Unless thoroughly effective accounting procedures and tough audit control standards are built in to the system, I will continue to be nonsupportive of expenditures for Federal aid.●

## OPPOSITION TO ELIMINATING MOTTO "IN GOD WE TRUST"

### HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. YOUNG of Florida. Mr. Speaker, certain parties in our Nation are attempting to have the national motto, "In God We Trust," declared unconstitutional and removed from American coins and currency. In behalf of the many citizens in the Sixth Congressional District of Florida and of our Nation who are appalled at these efforts, I express my strong opposition to Mrs. Madalyn Murray O'Hair's activities.

It is ironic that she should try to push her anti-God views on the vast majority of Americans who feel that a belief in a Supreme Being is vitally important to our Nation's strength especially since our country was actually founded by people seeking freedom to worship God and on the principle of a strong belief in God. Our freedom has continued because Americans were willing to stand up to protect this right. Of course, Mrs. O'Hair does have a legal right to dissent, but I also have the right to object to her dissent and I do. Therefore, I am introducing measures today which state that it is

the sense of the House that the national motto of the United States will be continued on our coins and currency and that the phrase "Under God" shall remain in the Pledge of Allegiance to the Flag.

The Congress officially established "In God We Trust" as our national motto in 1956. but the history of its use goes back for more than 100 years. In 1864, 2-cent bronze pieces were minted with this motto on them for the first time. Our National Anthem, "the Star-Spangled Banner," contains the phrase, "And this be our motto—'In God is our trust'" in one of its stanzas.

The Congress and the overwhelming majority of patriotic and religious Americans feel that this motto is of great spiritual and psychological value to our country. America needs a clearly designated national motto of inspirational quality and there could not be a better one than one that proclaims our trust in God. No nation can be strong except in the strength of God, or safe except in His defense. I urge my colleagues to support these measures.

Resolution follows:

RESOLUTION

*Resolved,* That it is the Sense of the House that the national motto, "In God We Trust", shall be reaffirmed and shall continue to be engraved and printed on our coins and currency.

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RESOLUTION

*Resolved,* That it is the Sense of the House that the phrase, "Under God", shall be reaffirmed and shall continue to be part of the Pledge of Allegiance to the Flag of the United States of America.●

## PASSOVER AND "THE HOLOCAUST"

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. ANDERSON of California. Mr. Speaker, beginning this Friday at sundown, the Jewish holiday of Pesach, or Passover, will be celebrated in households across this Nation, and the world.

It is a festive occasion, making a joyous event; the exodus of Jewish slaves from ancient Egypt. Of course, non-Jews have always been able to appreciate the significance of this holiday. This year, however, it will be more meaningful to millions of Americans, Jews, and gentiles alike.

The National Broadcasting Co. televised, on four consecutive nights, the story of "The Holocaust." Passover celebrates the Jewish escape from Egypt centuries ago. "Holocaust" tells a story, and illustrates horrors from only a few decades past; a time that most of us here can well remember, as who can ever forget those first photographs from Auschwitz and Buchenwald?

And this television show has taken us beyond the gates of those death camps. It has taken us to the streets of Warsaw, Prague, and Berlin, and Babi-Yar. It has not pulled punches in showing us how terrible death, and life, can be. It has shown how a nation, a cultured nation that produced Schubert and Mozart and Beethoven, could allow this to happen. And it has also shown us how the rest of the world could stand idly by and do nothing.

This Passover we should all think about prejudice and bigotry. And none of us should congratulate ourselves on being personally free of these ugly vices. Because bigotry and prejudice still exist. And as long as they exist, we must fight them wherever they may be found. The world can no longer stand idly by.

Let us all pause this Friday evening, before the Passover candles are lit, before we go out to our parties, or settle down for a quiet night with our loved ones. Let us think about human rights at home and abroad. Let us think about prejudice and hatred. And let us consider how the complacency of many can allow the hatred of a few to reign. That, to me, is the lesson of the "Holocaust."

It is not a lesson that the world has yet learned. President Carter should be commended for helping to heighten our awareness of the global struggle for human rights. Clearly, it is an onging struggle that must still be fought on every continent.

This being the commemoration of Passover, let us consider the plight of Jews in the Soviet Union. Because they cannot, for the most part, openly celebrate this holiday. And so long as they cannot, the celebrations here at home will be less festive. All people must be made aware of the labor camps and psychiatric hospitals in that country that are filled with prisoners and "patients", whose only crimes or illnesses, are those of piety. And once we are aware, none of us can afford the luxury of resting until the fight for human rights is won.

Because if we do rest, we will all be guilty of the next holocaust.●

## "IT'S THE PEOPLE WHO GET HURT AS NEW YORK TIGHTENS ITS BELT"

### HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. RICHMOND. Mr. Speaker, last Sunday, Susan Jacoby of New York City wrote an open letter to Senator Proxmire and Treasury Secretary Blumenthal about New York's fiscal problems. In her letter, which appeared in the Washington Post, April 16, 1978, Ms. Jacoby painfully outlines how the people of New York are bearing the brunt of cutbacks in city services, and how New Yorkers and their government have made many sacrifices to solve their monetary woes.

But the impact of these sacrifices on individual New Yorkers has been devastating. And saddest of all, the longer the problem continues, the harder it will be to recover our tax base, modernize our subways, rebuild burnt-out housing, and provide new opportunities for our young people.

As we approach the time when Congress will be considering loan guarantee legislation for New York, I commend this article to my colleagues, especially my friends from rural areas. I believe it will help illustrate that the people of New York deserve our best.

The article follows:

IT'S THE PEOPLE WHO GET HURT AS NEW YORK TIGHTENS ITS BELT

NEW YORK, N.Y.

W. MICHAEL BLUMENTHAL,
*Secretary of the Treasury.*
Sen. WILLIAM PROXMIRE,
*Committee on Banking, Housing and Urban Affairs, Washington, D.C.*

I see by my morning paper that New York City is, once again, in trouble with Washington. In a letter to our mayor, Mr. Blumenthal said New York has almost no chance of receiving loan guarantees from the federal government unless the city and its unions reach a "reasonable" labor settlement long before the expiration date of the union contracts. This short-circuiting of the normal collective bargaining process is supposed to give Sen. Proxmire and his colleagues time to consider the loan guarantee legislation. Unfortunately for New York, the senator has said he doubts Congress will approve the guarantees with or without a "reasonable" labor agreement.

Words like "outrageous" and "incredible" have been floating around Capitol Hill since the announcement of a tentative pact that averted a New York City bus and subway strike scheduled for April Fool's Day. This "incredible" settlement guarantees the city transit workers a 6 percent pay raise over a two-year period, with the possibility of an additional 3 percent in cost-of-living increases, to be paid for through increased productivity. No one is in a better position than the secretary of the treasury and the chairman of the Senate Banking Committee to realize that such a settlement will not even begin to keep pace with inflation.

According to the Bureau of Labor Statistics, New York is the third most expensive metropolitan area in the country (topped only by Honolulu and Boston.) In the fall of 1976, the Bureau set an "Intermediate budget" for a family of four at $18,866. The comparable figure for Washington was $16,950.

In spite of what it costs to live here, New York's municipal workers—including the men and women who keep subways and buses running—are not "the highest paid in the nation." This accusation has been leveled so often and so loudly that it has achieved the status of a Big Lie.

In total compensation—which includes employer pension contributions, health insurance and overtime as well as basic salaries—New York bus drivers rank 6th among their counterparts in the nation's largest cities. Police officers and firemen also rank 6th, while computer operators rank 9th. The purchasing power of these workers is, of course, much lower because New York is so much more expensive than most other cities. When wages are adjusted to take the cost of living into account, a New York bus driver ranks 16th and a computer operator ranks 22nd.

Let's take a look at the maximum compensation for an ordinary white-collar municipal worker—a computer operator—in cities with more than half a million people. New York ranks 9th, with total compensation of $17,736. That includes an annual employer pension contribution of $3,776, and health insurance of $794. Just for the record, the computer operator receiving the biggest package, including a pension contribution of

$4,901, works in Washington. His compensations totals $23,114.

You two gentlemen are, of course, familiar with these figures: They appear in a meticulous report submitted in December to Sen. Proxmire's committee by Program Planners, Inc. Program Planners is a highly respected New York consulting firm with clients that include businesses, unions and municipal governments throughout the country. The statistics in the report, current as of last December, are drawn from city governments, the Bureau of Labor Statistics, the Census Bureau and other appropriate federal agencies. The figures check out.

I mention the salaries of Washington bus drivers not because I think they are making too much but because I am tired of seeing the working people of New York—those who use city services and those who provide them—depicted as a bunch of big spenders and freeloaders. There has been a great deal of fire and brimstone surrounding the debate over New York's fiscal crisis by Washington officials who ought to know better. According to this line of thought, New York has sinned and been wasteful and New Yorkers must quit gorging themselves in order to be saved.

I don't think this misconception stems as much from ill will as it does from an understandable difficulty that arises when Washington residents try to envision daily life in New York. I spent half of my adult life in Washington, and I found when I moved to New York that there could scarcely be two more different cities within an hour's shuttle flight of each other. This difference was underlined for me by a conversation with a congressional aide before the April 1 transit strike deadline. "Of course a strike would hurt you," he said, "but you could double up in cars. After all, we got along in Washington before there was a subway."

This comment embodies a fundamental misperception of New York's daily reality. Washington, like most areas of the United States, is a place where nearly every middle-class person owns a car. New York is the only city in the nation in which substantial numbers of middle-class residents depend entirely on public transportation for access to jobs, schools and cultural institutions. If we all owned cars, business and traffic would come to a standstill on the island of Manhattan. Two million of us ride the subways every day. A transit strike is not merely an inconvenience in this city; it is a social and economic disaster.

The day before the transit strike deadline, I was trapped for about 15 minutes in a train beneath Lexington Avenue. The Lexington Avenue line, opened in 1904, is the oldest in the city; the wonder is not that the subway breaks down so often, but that it usually runs on time. As we were waiting for the train to lurch forward, a woman next to me began to cry. I though at first that she was just afraid, a victim of the claustrophobia that his some subway riders when a train is stuck.

But no, she told me, she was terrified that there was going to be a transit strike the next day. She lived in the Bronx and worked a 4 p.m. to midnight shift as a nurse's aide at a hospital in Brooklyn, an hour and a half subway commute from her home. She wept softly and said, "I'm supporting my three kids. Where will I find a car pool to take me home at midnight? The mayor says every city worker's supposed to be on the job, strike or not. How I will get there? What will I do if I lose a week's pay?"

The same sort of misconception that underrated the dangers of a transit strike has been applied to New York's overall fiscal crisis by most Washington analysts. Of course there has been (and continues to be) waste and mismanagement by the city—just as there is waste and mismanagement in federal agencies and large corporations. Bookkeeping gimmickry and overly generous labor settlements under the administration of former mayor John Lindsay and Comptroller (subsequently mayor) Abraham Beame were part of what led New York to the brink of bankruptcy at the end of 1974. The most important element in the crisis has not been as widely publicized. That is the steady decline in the quality of life for the middle class and for the "working poor" who aspire to middle-class status for themselves and their children. The decline is related to a complicated interaction of federal, state, and city policies.

To avoid going bankrupt during the past three years, New York has made major cuts in city services. Those cuts have, ironically, fallen most heavily on the middle class and have contributed to a continuing erosion of the middle-class population and the city's tax base. The cuts have not merely gotten rid of excess fat; they have sliced to the bone and muscle of ordinary working people. Only millionaires are unaffected by a budget crisis that has cut 50,000 jobs from the city workforce.

Let me tell you about the human reality behind the statistics. In 1975, I met a girl I will call Sharon Ambrose while I was doing a story on her high school in Queens. Sharon, now 18, is black, bright and beautiful. She lives in the South Bronx, a destitute area that has been accurately compared to bombed-out Dresden after World War II.

It has long been the custom in this city for bright kids to take the subway out of their neighborhoods when they enter high school. In this respect, the subway is not only an instrument of geographical mobility but a source of and a metaphor for the social mobility that is essential to any great city. Sharon did not want to go to the high school nearest her home: It was too full of junkies and kids who were, as she put it, "walking around more dead than alive." So she chose to attend a school with safer halls and a better academic reputation. In order to get to and from the school, she spent approximately 2½ hours a day on the subway.

Between the beginning of 1975 and the spring of 1977, subway service was cut back 22 percent—a statistic which means more crowded cars and longer waits between trains. For Sharon Ambrose, the subway cuts meant she had to spend an additional 45 minutes a day commuting. A small inconvenience? It might be a small matter if Sharon lived in a safe neighborhood, but she lives near a subway stop where extra time spent waiting for a train means frightening extra exposure to crime. Sharon was especially scared because the guard in her local subway station was no longer on duty in the afternoon.

This is not the sort of story that gets told at congressional hearings. A bright girl is working hard to get out of the South Bronx and into college, she has to spend extra time traveling to and from school; she is frightened by the loss of a subway guard. This is the "fat" that has been cut out of the subway system.

Then there are the cuts in the schools. Frank D'Amico is the principal of a junior high school in Chinatown, where more than half of the students are children of immigrant families. As a result of changes in the federal immigration laws, a new wave of Chinese immigrants has quadrupled the population of Chinatown—from about 30,000 to more than 120,000—during the past decade. The new Chinese immigrants live in the buildings that were occupied by immigrant Jews and Italians 75 years ago.

Frank D'Amico grew up in an immigrant home on the Lower East Side and he chose to work in the schools of his old neighborhood. When I interviewed him in the summer of 1976, he had lost all but one of his Chinese-speaking teachers. He was dispirited, because he had encouraged his former Chinese students to return to the neighborhood and work with the new immigrant children.

When layoffs began, the young Chinese-speaking teachers were the first to go. "We say to these kids, 'Fulfill the American Dream, get an education, go to college, become a professional,'" D'Amico observed sadly. "Then they do all that, and they're working at a job that desperately needs doing, and they get laid off."

The teacher layoffs cast a particularly interesting light on what the budget crisis has meant to many middle-class professionals in New York. Last year, new federal funds became available to hire back some of the teachers. Notice were sent to 9,000 who had been laid off but only 2,500 were interested in returning. The teachers' union did a survey and found that substantial numbers of those who were laid off had simply left the city—some of them for better-paying jobs in nearby suburban school systems.

Before I introduce you to another human casualty of the budget crisis, I must provide you with some facts about one of the greatest institutions this country has ever produced: the City University of New York.

Today it is difficult for us to imagine how revolutionary it must have seemed in 1847 for a city to establish a tuition-free college. Around the turn of the century, when immigrants were sending their children to school in unprecedented numbers, there was no other city in the world where children of a comparable economic class could obtain a free higher education. Throughout this century, the free colleges of New York City continued to take the children of the poor and give them a chance to become distinguished scientists, scholars and artists. In 1974, in spite of the fact that many of its entering freshmen were the graduates of a deteriorating elementary and secondary school system, the City University was still fulfilling its historic function.

The budget crisis has brought about an irreversible change. Tuition was imposed in the fall of 1976: $775 a year for freshmen and sophomores and $925 for juniors and seniors. Do those fees sound low? More than 74 percent of the students came from homes with incomes of under $12,000 a year. (Remember—that same year, the federal government set $18,000 a year as an "intermediate" budget for a family of four in New York.)

Since 1975, student enrollment has dropped by nearly 28 percent. During the same period, part-time enrollment has fallen by nearly 50 percent. This is an extremely significant figure because the City University has always had an unusually high proportion of part-time students who are working adults.

Although nearly two-thirds of the remaining City University students receive some tuition aid from the state, there is almost no money available for part-time students.

One victim of cutbacks and tuition is Alice Capraro, a 42-year-old mother of four. I have known Mrs. Capraro (not her real name) since 1973, when I was writing a story on the formation of a small feminist group in her neighborhood in Brooklyn.

Mrs. Capraro's husband, Joe, is a construction worker. When she told him she wanted to go to college and become a teacher, he was all for it. He was making about $20,000 a year with overtime, their children were growing up and he understood his wifes' desire for work of her own.

Then Joe Capraro got laid off. Unemployment in the construction industry—another product of the city's poor economic condition—is about 10 per cent. Joe Capraro has been out of work about half of the time during the past three years. Alice found a job as a typist with an insurance company to help pay the bills. She went on going to

school part-time because it was free, she loved her classes and she still wanted to be a teacher.

In 1976, when tuition was imposed, Alice Capraro had to quit college. The family income had dropped to $12,000 a year and there was no extra money for her tuition. Alice looked into the possibility of financial aid and found there was no money for a middle-aged woman.

"I feel sad all the time, just cheated," she says. "Joe was even talking about going to school part-time—he saw how interested I was. It's like we were reaching for opportunity but no matter how hard we were willing to work, we couldn't have it."

It does not take a financial genius to figure out that the destruction of such hopes erodes the initiative of people whose efforts are vital to any true economic restoration of this city.

At some point during the next month, Sen. Proxmire's committee will consider a proposal to provide long-term loan guarantees for the city. The city's unions, which have kept New York from going bankrupt during the past three years by massive investments in city notes from their pension funds, cannot continue to risk their money without the assurance that they will get it back. Millions of New York workers are worried not only about losing their jobs but about losing their future pensions.

The city is not asking for a handout—it is not asking for any money at all—but for a government backup while it puts its own house in order. A long-term guarantee for city notes would do what the city cannot do by itself: restore the confidence of private investors. I am sure there would be no controversy over this backing if Washington, not New York, were the economic capital of the nation. But historic circumstances have dictated that we have two capitals—Washington for government, New York for finance and culture. It should be as unthinkable for the federal government to let New York go bankrupt as it would for Congress to let the District of Columbia go bankrupt—as unthinkable as it would be for England to let London go bankrupt or for the Soviet Union to abandon Moscow.

The federal government has the right and the responsibility to demand strict financial accounting and better management in return for guaranteeing the city's notes. But I hope that legislators and federal officials will refrain from talking about "fat" in the city budget as though everyone in New York were a millionaire or a "welfare cheat."

Some of the budget cutting of the past few years has been nothing more than a new kind of bookkeeping gimmickry—this time, at the insistence of Congress and New York state officials. When you cut 50,000 jobs from the city payroll, it is obvious that both the state and federal governments are spending a good deal of money for social security, unemployment compensation and welfare to support the people who have, as they say in bureaucratic jargon, been "excessed." The city and federal government are, of course, losing substantial tax revenues when fewer people are working. It's a vicious circle: cut jobs and services to the middle class and you may balance the budget in the short run, but you speed up the loss of energy and money that is at the heart of the city's fiscal crisis.

I could go on, as bankers and city officials are prone to do, about the need to prevent New York from going broke because of the potentially disastrous impact on our image and our economic influence in the rest of the world. I could go on about the domestic economic consequences of collapse by a city that the rest of the country loves, hates and—above all—needs. I could go on about New York's past generosity to immigrants from the poorer areas of this country as well as from abroad.

All of these things are true, but they are not the main reasons why you should affirm the national government's stake in the survival of New York City.

You should do it because of Alice and Joe Capraro and Frank D'Amico and Sharon Ambrose. They are the kind of ambitious, hard-working people who built this city. They deserve better from you (and from their own city and state officials) than they have been getting. Give them something better and they will help restore the stability and economic vitality of this incomparable city.

Sincerely yours,

SUSAN JACOBY.●

## NATIONAL URBAN POLICY

### HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. FISHER. Mr. Speaker, the following is the text of a letter from one of my constituents, Mr. Thomas J. Healey, on the subject of President Carter's proposals calling for a comprehensive national urban policy. While Mr. Healey's comments do not necessarily reflect my thinking on the President's proposals, I did want to share his opinions with my colleagues:

The text of letter:

MARCH 28, 1978.

DEAR MR. FISHER: I just finished reading President Carter's "$8.3 Billion Plan to Aid U.S. Cities." Whatever happened to his promise to reduce government, etc.? Frankly, I believe there are more grounds for impeachment of President Carter than there were for President Nixon, but that's another story. For now I want to let you know—as logically as I can—why I'm opposed to this plan:

1. I quote from the Washington Post: "The plan is designed primarily to help financially troubled central cities, and second to promote rational growth and fiscal health in urban areas generally. Carter called it a 'tough, no-nonsense program based on efficiency, effectiveness and cooperation' with states and localities and the private sector." Let's examine this plan and see if it will accomplish these goals:

2. The key part of this plan is the development of a "National Development Bank" which will aid businesses willing to locate in depressed areas, both rural and urban. If I wanted to open a ski shop in Florida, no bank—no efficiently run bank—would loan me money for such a venture. Why? Because it wouldn't be profitable. Let's go back to paragraph 1 and ask ourselves is this a "no-nonsense program based on efficiency . . ."? Can you see the wide-spread corruption the plan will produce: Fast-buck artists opening pseudo businesses just to get loans. Don't tell me this will not happen. One has only to look at government-sponsored medical programs and we see doctors padding medical bills.

3. Let's look at the recommended $1.5 billion in tax credits for companies that hire long-term unemployed young people from 18 to 24 years old: When someone will not hire you for a job it is because you don't have skill enough to perform efficiently and productively enough to make a profit for the employer. The more efficiently and productively you perform, the higher your wages or reward. Now the government steps in and says to the employer I've got a man here who is a no-account so and so (and don't tell me he isn't or he would have a job) and if you hire him you'll get a tax break. That's "efficiency" (ref. paragraph 1). A country is only as good as its individual people. What kind of people do you have when you give them something they have not earned?

4. While I'm thinking about it, I'm not really sure that I want a "National Development Bank". I have to think about it some more, but the idea scares me. For example, what happens if the company to whom this bank loans money defaults? Does the "National Development Bank" foreclose and become the owner of the business? The thought scares me. I can see this bank growing more and more powerful. Not only control of money will be centralized at Federal Government level, but banks, businesses. I've made up my mind. I don't like it at all.

5. I could go on pointing out points of this plan that are unsound, but I think you can see my point. Just another quick one, though: Under the plan there would be increased procurement of goods and services from minority-owned businesses. In other words, government is not going to buy the best quality goods, but the minority produced goods. Again let's look at the corruption. Fast-buck artists will financially back minority owners, produce cheap second-rate goods, knowing that they have a ready market—the government—no matter what. What is this going to do to the honest businessman (producing quality goods) who has to compete?

I have a better plan. If the Federal Government didn't take the money from the people in taxes, then they wouldn't have to give it back. Not only that, they wouldn't have to hire people (like the "National Development Bank") to dispense it. You see, it's really very simple. When people have more money than they need, they save it (in banks). When banks have more money than they need, they loan it (to people who want to start or expand a business). When people start or expand businesses, they hire people to work. When people work they earn money. When they earn money, they spend some and save some (in banks), and so on. This is a natural law that works quite well (almost as well as the law of gravity). It's like a wheel that keeps turning, quite efficiently I might add. This wheel gets out of balance only when the Government thinks it can improve on it.

The final question I have is *who* will really control this National Development Bank?

Respectfully,

THOMAS J. HEALEY.

ANNANDALE, VA.●

## REGULATION OF LOBBYING

### HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. YOUNG of Florida. Mr. Speaker, the House is scheduled to consider H.R. 8494 tomorrow. The original version of this bill was introduced on July 22, 1977. Prior to that time, on March 21, 1977, I introduced H.R. 5275, a similar bill to regulate lobbying and related activities.

The bill reported by the House Committee on the Judiciary contains many of the provisions of my bill, but there are important provisions which were omitted from the final version. Therefore, I will

submit several amendments to H.R. 8494 in an effort to strengthen the measure.

It is the opinion of a large segment of the public that lobbyists have a great deal of influence on legislation which affects their everyday lives. People are very much under the impression that as legistors, we are "sold", figuratively speaking, by those interests that can afford the best "hucksters" to present their point of view.

The right to petition Congress, by individuals or through professional lobbyists, is guaranteed by the Constitution; however, professional lobbying organizations have become very structured, organized, and well financed. So there is a definite need for an accounting proceddure for those lobbyists who make their living trying to influence Congress and to identify major contributors to these lobbying organizations.

In addition to the present provisions of H.R. 8494, I feel the Public Disclosure of Lobbying Act of 1978 should also include the following provisions:

First, inclusion within the registration requirements of the identification of any individual who has contributed $2,500 to a lobbying organization during any calendar year and who spends all or part of 13 days on lobbying communications in any quarterly filing period. This contributor would also be required to keep the necessary records associated with his contributions.

Second, imposition of a civil penalty against any former Member of the House, Parliamentarian, former elected officers and minority employees of the House, who, during consideration of a measure in which they have a direct interest, appear on the floor of the House or in adjacent rooms as a representative of an organization required to register under this bill.

Third, requirement of registration of the names of Federal officials or employees contacted by lobbyists or lobbyist organizations in an effort to influence any measure as contained in the bill.

The public is demanding some sensible accountability of lobbyists and their activities, and they have a right to it. Disclosure of the activities of these groups and their income and expenditures is justified. It is also justified that the privileged few who have access to these Chambers, by reason of their former association with it, should not be allowed to abuse that privilege by gaining entry with a "product to sell" or an "ax to grind" for personal or professional profit. Not only is the public entitled to full disclosure of the identity of professional lobbyists, lobbyist organizations, and major contributors, but they are also entitled to know the identity of the people the lobbyists try to influence.

The text of the three amendments follows:

On page 35, line 4, insert the following:

(3) An identification of any individual who has contributed $2,500 to the organization or an affiliate during any calendar year and who spends all or part of 13 days in any quarterly filing period engaged in lobbying activities described in Section 3(a) on behalf of that organization.

On page 39, line 8, insert the following:

LIMITATIONS OF LOBBYING IN AREAS PROXIMATE TO THE HOUSE OR SENATE CHAMBERS

SEC. 7. (a) No person who is—

(1) an ex-Member of the House of Representatives or the Senate;

(2) a former Parliamentarian of the House or Senate; or

(3) a former elected officer or minority employee of the House or Senate,

shall, in violation of rule XXXII of the Rules of the House of Representatives, appear in the Hall of the House or adjacent rooms as a representative of an organization which is required to register under this Act during the consideration of a measure in which they have a direct interest.

On page 39, after line 7, insert the following:

(8) A listing of the names of each Federal officer or employee whom such organization has sought to influence respecting any activities described in Section 3(a).●

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## H.R. 12176, A BILL TO CLARIFY STANDARDS FOR DETERMINING THE STATUS OF INDIVIDUALS FOR EMPLOYMENT TAX PURPOSES

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## HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. GEPHARDT. Mr. Speaker, today I am introducing a proposal directed at resolving what has been characterized by the Commissioner of Internal Revenue as one of the most vexing problems in Federal taxation; namely, the classification of individuals as independent contractors or employees for employment tax purposes. The taxes involved are payroll taxes for social security, Federal unemployment, and collection of income tax at the source on wages—sometimes referred to as "FICA," "FUTA" and "withholding." These provisions of the Internal Revenue Code and their attendant regulations define the term "employee" in terms of common-law rules.

You will recall that the conferees on the Tax Reform Act of 1976 were particularly concerned with the problem of clearly defining who constitutes an "employee" as opposed to an "independent contractor," and directed that a study be conducted by the staff of the Joint Committee on Taxation. At the same time the conferees urged the Internal Revenue Service not to apply any changed position or any newly stated position which is inconsistent with a prior general audit position in this general subject area until the requested staff study has been completed.

Several months ago, in conjunction with this study, the General Accounting Office submitted a report which testifies to the vast extent of the problem that currently exists in this important area of the tax law. As is evidenced by that report, in conducting employment tax audits, the Internal Revenue Service has in many instances retroactively changed its position, and in other instances used conflicting and inconsistent standards, in classifying individuals as employees or independent contractors. This process continues unabated, despite the specific request of the conference committee. The result has been that large segments of American industry, and particularly small businesses, are facing serious economic disruptions and in some cases extinction.

The GAO report recommends on a prospective basis that the status of individuals for employment tax purposes be clarified by adopting specific standards for distinguishing between "employees" and "independent contractors." Unfortunately, the report does not purport to make recommendations for relief from injustices which have already been caused by the Service's retroactive changes in position and use of conflicting and inconsistent standards.

In the recent case of Central Illinois *Public Service Co.* v. *United States* (46 U.S.L.W. 4163 (Feb. 28, 1978), the Supreme Court, in unanimously holding that reimbursements for lunch expenses incurred by employees did not constitute "wages" subject to withholding, recognized the inherent unfairness of retroactively imposing new interpretations of the employment tax laws. It also emphasized the importance of achieving certainty in the employment tax area. Moreover, the intrinsic inequity of permitting the Internal Revenue Service to assert deficiencies based upon its retroactive changes in interpretations of the employment tax laws was emphasized by Justice Powell in a concurring opinion with which Chief Justice Burger joined:

> It seems particularly inappropriate for the Commissioner, absent express statutory authority, to impose retroactively a tax with respect to years prior to the date on which taxpayers are clearly put on notice of the liability. In other areas of the law "notice", to be legally meaningful, must be sufficiently explicit to inform a reasonably prudent person of the legal consequences of failure to comply with a law or regulation. In view of the complexities of federal taxation, fundamental fairness should prompt the Commissioner to refrain from the retroactive assessment of a tax in the absence of such notice or of clear congressional authorization.

The Service's retroactive changes in position and utilization of conflicting and inconsistent standards for purposes of determining whether individuals should be classified as employees or independent contractors for employment tax purposes are no less inappropriate.

The proposal which I am introducing generally solves these problems both retroactively and prospectively. It provides much needed retroactive relief in instances where classification of an individual as an independent contractor meets well-defined standards and either (i) is not inconsistent with outstanding revenue rulings or (ii) has consistently been so reported by the person for whom he performs services and is in accordance with the longstanding practice of such person with respect to individuals performing such services.

Prospectively, an individual would be deemed to be an independent contractor if the following five conditions are met:

First, the individual's sole remuneration is by commissions (including prizes, awards, overrides or other economic benefits related to production or performance, but not including salary payments) which are reported to the Internal Revenue Service on a Form 1099;

Second, the service is performed pursuant to a written contract which provides that the service is performed by the individual as an independent contractor;

Third, the individual is not required to work during specified hours or to follow a prescribed daily or weekly work schedule;

Fourth, the individual provides his own principal place of business, or if it is provided by the person for whom he performs service, a fair rental is paid therefor; and

Fifth, the individual has an opportunity of making a profit or incurring a loss in that current operating income may or may not exceed current operating expenses.

These five conditions provide an easily understandable, objective test for determining an individual's status for employment tax purposes for all businesses. Moreover, they go to the heart of the traditional common-law rules, since an individual who meets the requirements of this test would qualify for independent contractor status under commonly accepted definitions of that term.

I am introducing this bill as a much needed step in the legislative process to resolve this issue.

It is my hope that the Ways and Means Committee can initiate hearings on this proposal as soon as possible in order to provide an appropriate forum for all interested and affected parties so that we can work together and provide proper comprehensive legislative relief.

I am pleased to be joined in this effort by my colleagues on the Committee on Ways and Means, Messrs. HOLLAND, STEIGER, FRENZEL, FORD, TUCKER, and DUNCAN.

It is my sincere hope that the committee will be able to give prompt consideration to this proposal.●

## ISAAC ASIMOV OFFERS OPTIMISM ABOUT THE FUTURE

### HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. FASCELL. Mr. Speaker, at the beginning of this month I had the privilege of introducing to my colleagues Dr. Isaac Asimov, well-known science fiction writer and scientist. He was one of our guests for "Dialogues on America's Future"—a series of dinners sponsored by the Congressional Clearinghouse on the Future.

Dr. Asimov brought a degree of lightness and profundity to our series that was both welcomed and challenging. His comments about our potential and our problems were exciting and perceptive. Mr. Speaker, I am sure our colleagues will enjoy the thought-provoking summary of his comments, even if they do not agree:

A POSITIVE LOOK TO THE FUTURE

Thank you very much for inviting me to be with you tonight. You have asked me to talk about the future, but I should tell you that my vision is suspect because I am a science fiction writer. I will not give you a recipe because I have none, but I do look into the future to see what it might be like, so that I can get a notion of what is coming.

Of course, there are all sorts of people predicting destruction, but if I talk about that, we have nowhere to go. So let's assume that we will survive. What can we expect?

In the first place, the population problem will have to be solved. Some people think we have gone too far already with this problem, but others think we can make it if we plan. In 460 years, we will have a world average of 100,000 people per square mile. This is roughly equivalent to New York City at lunch hour, but some people can't endure New York City lunch hours, and so we will have to stabilize. There are two ways to do this: either the birth rate will have to go down or the death rate will have to go up.

It is easy to get the death rate to go up. You don't have to pass any laws; you don't have to make any decisions or hold any hearings. Just let things go and nature will take care of things.

But if we want to try to stabilize our population by getting the birth rate to go down, then we are talking about something else. The problem with this method is that no one has ever done it over a long period of time, and we don't know if it can be done.

I have spent a lot of time thinking about how to control population with no unpleasantness. When the birth rate is high, the social status of women is low because it takes a lot of time to have a baby and raise a child. And in many societies women are considered domestic animals—higher than the ox, but lower than the horse. Yet, when women are considered reasonably equal to men, the birth rate falls.

EQUALITY FOR WOMEN STABILIZES POPULATION

If women are treated as human beings, they do things that other human beings do—such as run for Congress. This makes it impossible for them to have a dozen children. Therefore, granting women equality insures a lower birth rate.

Women are the bottleneck in the reproductive cycle. If males were cut to 10% of their present number and females stayed the same, the birth rate could be maintained at its present level. However, if women were reduced to 10% of the population and men stayed at their present level, the birth rate would fall. Therefore, equality for women is not a matter of abstract justice or generosity of those in power. It is a matter of self-protection and survival for both sexes.

Suppose the birth rate does drop, then, and technology continues to develop and life expectancy increases so that we have more older people. If we believe that only the young are daring and brave and creative and the old are stodgy and sick, we will be producing a heavy weight of old people in our society. Will we condemn old people to be conservative, worthless, lacking initiative, drive? And if we assume this, will it become a self-fulfilling prophecy. We restrict education to the young in our society so that our children see that leaving school is equated with being grown up. As soon as they are old enough, they get out. School is associated with childhood, and after students leave school, they rarely read, think, or have new ideas. The solution to having a mature, yet vital society, is to encourage education as a life-long force.

I see the possibility of teaching machines hooked up to world computerized libraries which are guided by teachers who will learn in turn from students. All learning is fun if you learn what you are interested in. In the future, we will be freed from menial tasks which will be done by machines. As a result, all of the things inherently human will be left for us—art, creativity, entertainment, ideas. This is not a feasible method of education now, but I am not talking about now. I am talking about the future.

THE IMPORTANCE OF COOPERATION

A by-product of this world-wide computerized learning will be a new understanding of the importance of cooperation. All of our problems today—resource depletion, weather, pollution, nuclear war—are global problems. We are one ecosphere, one land mass, one ocean. We live in a single unit world, biologically and socially. Only global solutions will solve our global problems. International cooperation, then, will have to be strong and effective, and may mean the development of a world government.

We can look forward to the necessity of more cooperation. We just cannot fight a nuclear war without destroying civilization. There are 1½ times more people on this planet now than there were at the end of World War II. To maintain a set of military machines which we say are deterrents to war is impossible when the deterrents are too expensive to keep up. We must look to a future in which there is no war. There is simply no other way to survive.

We also need a future in which we explore and exploit space. Space is a source of many resources in the future. We can use the material on the moon to build things in space. The price of our industrialization has been pollution, declining quality of life and other hazards which we have been willing to live with in exchange for the benefits. But if we can move our industrialization to space, we can get rid of what we don't want, and keep what we do want. Some people may think that space is a mad dream, but it could be the best mad dream we've ever had.

ADVANTAGES OF SPACE EXPLORATION

I often think of a Cyrano de Bergerac quote, "Let the universe perish so that I can get my revenge." It may seem that some nations want this, but I think that if they have something to work for, hope for, contribute to, they will decide to cooperate. The use of space could be the secret—provided we all cooperate and all nations are invited to participate. We need a project that is global in nature which will return profits that are global in nature so that individual nation-states will forego regional revenues.

An advantage of space is, of course, a source of energy. We can get enough energy by using space solar power satellites. In space, energy is freed of geography. Because there is no energy tie in any particular area, no nation can sell energy to another nation. Space energy sources are no less than the whole earth itself.

Another advantage of space exploration is that if we see ourselves colonizing the solar system, then we will also see ourselves spreading the human species into space. If we do this, we will develop a new breed of human being . . . one which will grow up in space. Space people will be used to close recycling of all goods; to living inside of structures instead of on the edges; to being surrounded by close space walls.

Secondary these people will make star voyages, making the human species a species which will have the universe as home and live as long as the universe does. They may meet other intelligent species which will expand our sense of our own species as we try to expand our sense of nationhood. There is no horizon beyond which we cannot travel except that which destroys civilization.

QUESTIONS AND ANSWERS

Q. Though Amory Lovins and the late E. F. Schumacher would probably agree with many of your premises, they tend to look at appropriate technologies rather than centralized technologies. Where is appropriate technology in your game plan and what are the advantages of centralization vs. decentralization?

A. To begin with, I cannot really see the future. I only see the past. And through history, we see cycling patterns of centralization and decentralization. Everytime we have had decentralization, it has been called a dark age. "Yours for less government" is the notion of decentralization, but there is no such thing as less government. If you reduce the federal government, you increase local government, and I have always felt safer with somebody distant. What is large and small changes with time. With technology, large systems can be more effectively run.

Q. I think what you have shared with us tonight is wonderful and exciting, but it seems to me that you are addressing the visionary part of people and not their practical side. And these two sides tend to fight each other. Won't the rational part of our minds say, "It's too big for me. I've got to be something I can recognize"?

A. You are right, of course, and you have put your finger on the major problem that futurists have, which is that we don't look at the practical side. Our lofty visions are not accessible to everyone. And so you say, "How do you do it?"

I ddn't know. But I think it has to be done within a circle of society, within a known environment. Governments have to be convinced and they will spread the word in their countries. There will always be malcontents who will mount revenge if they get a chance. And the more advanced the society gets, the more dangerous the malcontents are. If we can avoid the worst of this, particularly terrorism, we will survive. Again I think that opening up space would give some of these people a place to go. People who want danger and adventure can be some of the people who explore space for us.

Q. I don't think women and children in the third world will get the message if it is left up to governments, but satellite television has enormous potential. What is the impact of satellite television in the third world, and is it a logical way to build the notion of a global village?

A. Yes, I think so. The transistor radio is a good example of this. It put the voice of the world in everybody's vest pocket, and served as a great force for unification. But if we are to make the best use of satellite communication, we have to know the cultural as well as the literal language of each nation. And that is not easy to do.

TWO IMPORTANT QUESTIONS FOR CONGRESS

Q. If you were in Congress, what would you do?

A. Well, that is very difficult to answer. It's like asking a marriage counselor what he would do if he were married. In the first place, I guess I would be pretty sure that I wouldn't be reelected because I have no sense of the practical, and politics is, after all, the art of the possible. I guess I would aim to do the possible in the direction of the impossible.

And on every issue, I would ask two questions:

1. What value does this issue have on its own merit; and

2. How does this issue fit into the long-term survival of the human species?

If civilization slips and we move to a pre-industrial stage, we will never come out again because of the lack of energy. Our metals will be diluted and there will be no energy basis for industrialization. And so we are facing a time when the long-term survival of the human species is a very real question.

There is no issue in Congress that is so small that Congress cannot ask how it will affect the survival of the species. And if in your opinion, one side of the argument is pro-survival and the other is anti-survival, then, of course, you have to vote for the pro-survival side, regardless of the short-term unpleasantness of your decision. And if you don't know, then you have to vote what you think is right and hope you guessed right.

Q. The relation of men and women in your *Foundation Trilogy* was based on an aristocratic hierarchy. There was no democracy in that era. What is the future of democracy?

A. There are three things to tell you about *Foundation*. I started it when I was 21. I started it in the middle of World War II, and democracy was at a low ebb in my view. And I started it under an editor who had so much charisma that all of his writers were impelled to do what he wanted. And he was very fond of empires, knights, kings, etc. If I had to write it today it would be very different, but probably not as good.

FUTURE OF OCEANS

Q. You have not mentioned the oceans which cover 70 percent of our earth. What is their future in our future?

A. I tend to speak more about space than oceans for three reasons:

1. I am afraid of the water, and whenever I think about water, I get uncomfortable.

2. As a science fiction writer, space is second nature to me.

3. The ocean really is a limited resource. The food in it is not limitless. We are overfishing it now. And the biological makeup of the oceans is fragile. We are polluting it dangerously and we must understand how we can stop this. 80 percent of all life is in the oceans. If we destroy it, we will not be able to survive on the land.

Q. How do you deal with the new developments in genetic engineering and cloning?

A. With cloning, there is a tendency to emphasize the negative. Cloning has nothing to do with eliminating sex and is not a pathway to immortality. Each clone's lifestyle will be different so we should not fear cloning a bad person or be happy with cloning great persons like Einstein. I don't think we want 1000 Einsteins.

CLONING AND DNA RESEARCH

Clones are good for other reasons. One positive use is to develop organ banks. I had a heart attack last May and I have to make do now with this damaged heart. If someone had taken one of my cells when I was a young man and produced a cloned heart for me. I could use the heart for my own. Another use of clones is to save endangered species. If you happen to like Bengal tigers, clone 100 of them and keep them going.

About recombinant DNA. In theory it sounds good except it is human judgment that it is involved here. Who is going to decide what kind of human beings we want? We have been doing genetic engineering on animals for years. We make turkeys which are all breast, sheep that are all wool, breed dogs, and so on. But we don't know what we want in human beings. And my guess is that what we really need in human beings is variety. We need as many different genes as possible, and if we reduce the variety of genes, we will be in a dangerous spot.

But we can use recombinant DNA research to see how the body ticks. I am afraid of the dangers, but also I hate to give up the possibilities. So what do we do? One approach is to isolate the research in a contained space. And here again, I would point to another use of space. There are some people who would not oppose living with the risks of this research. What we need to do is not endanger those who do not want to deal with the risk, who don't choose it, and contain the risk area in space.

I have been involved in the Law of the Sea negotiations, and I am not encouraged that we have what it takes to cooperate in exploring space. The people who want to exploit the sea are basically out for profits. They don't seem to be overly concerned about cooperation. As we move towards exploitation of space, if we continue in our profit-oriented society and motivation through selfishness, I don't see how we can do it cooperatively. Besides, nationalism is becoming stronger, not weaker.

A. Yes, that is true, nationalism is becoming stronger. And as healthy strong nations break up into smaller weak nations, nationalized problems and war will probably occur. And you are right that to exploit the sea or space from a profit motivation will destroy the future I have described tonight.

NEED STRONG LEADERSHIP

We have to hope that eventually people will see that cooperation works. In 1789 at the Constitutional Convention of this country, the states chose to give the federal government funds and therefore surrendered much of their power for the greater good of the country. The immediate profit is not always the best long-term profit, and if our leaders, if you understand that, you can persuade others to believe it. Franklin D. Roosevelt was an effective leader in this way, and I think people will still follow a leader they sense is interested in their best good.

Q. Can we rely on the natural goodness and intelligence of human beings?

A. I'm not sure. We use humanism as Americanism. We must inculcate the habit of thinking of human beings as humans. Racism, sexism, agism are all bad. Likenesses are greater than differences in human beings. We need all the brain power we have and we need to use computers to maximize brain power. If we try to solve problems we will be further ahead than if we stood still.

Dr. Asimov, you have given us far more than a journey into space this evening. You have given us a journey into your life, into your brain and into your time. We are deeply grateful to you for coming.●

## CHROMIUM SHORTAGE?

### HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. SPENCE. Mr. Speaker, I wish to call to the attention of my colleagues the report of the Committee on Contingency Plans for Chromium Utilization. The report concluded that the United States "is strategically more vulnerable to a long-term chromium embargo than to an embargo of any other natural resource, including petroleum." This study found that the major chromium deposits which are known today will be exhausted or depleted within 20 to 75 years, except for those in Rhodesia and South Africa. I believe that this finding is a sobering one, and it underscores the need for a thorough analysis of the strategic significance of this material. The News Report of the National Academy of Sciences, National Academy of Engineering, Institute of Medicine, and National Research Council recently carried an

article which discusses this report. I ask that this statement be inserted at this point in the CONGRESSIONAL RECORD:

CHROMIUM, ESSENTIAL TO MANY STEELS, COULD BE IN SHORT SUPPLY

Fearing that reliance on chromium from foreign sources, chiefly in southern Africa, leaves the United States vulnerable to severe economic dislocation from a chromium cutoff, four U.S. Government agencies joined in seeking a National Research Council study of ways to minimize chromium use presently and in the event of a "worst case"—a total embargo or other break in the supply of chromite ore and ferrochromium. The study, begun in 1976, is completed, and the resulting report, now published, declares those fears well-warranted. The United States "is strategically more vulnerable to a long-term chromium embargo than to an embargo of any other natural resource, including petroleum," the report warns. Chromium is plentiful, but its known sources are mostly in Rhodesia and South Africa, and, according to this report, chromium is indispensable in tool, stainless, and other so-called "specialty" steels critically important to the U.S. industrial base.

The National Research Council committee that undertook this study found that the United States can cut its use of chromium by a third within five years, but the committee "could not identify any technological responses that would eliminate . . . U.S. vulnerability to a long-term disruption of chromium imports." Chromium is employed in metals that go into high-strength bolts, automobile engines, chemical-processing equipment, refineries, refractories, food-storage and food-transport tanks, machine tools, welding electrodes, jet engines, and newer, more exotic technologies, as well as in car-adornment. "The rate at which remaining chromium reserves are becoming concentrated in Rhodesia and South Africa" makes substantial impact of any chromium cutoff "a possibility that cannot be dismissed casually," the committee said.

In the committee's view:

Despite dependence of "important segments of U.S. industry" on chromium, there has been "insufficient effort . . . to develop substitutes for or to conserve, reclaim, or recycle chromium-containing materials," and "a drastic curtailment of chromium supply would have serious short- and long-term effects."

"U.S. chromium deposits are small and virtually no prospects exist for the discovery of any significant new U.S. deposits."

"No substitutes exist or are likely to be developed for chromium in the high-strength steels, high-temperature metals, and corrosion-resisting alloys that are essential in the manufacture of jet engines, petrochemical and power plant equipment, and various other critical products. It is highly unlikely that corrosion-resisting or high-strength alloy steels without chromium will be developed for such critical applications, although chromium-free substitutes could be used for decorative stainless steels, automotive trim, flatware, refractories, and some chemicals."

"Current U.S. chromium consumption could be reduced potentially up to one-third within about five years without creating major economic dislocations," if available technology is used "to substitute alternative materials or processes, to recover and recycle waste chromium, and to design for greater chromium efficiency."

A major, chromium-conservation research program could reduce U.S. chromium consumption by an additional third within 10 years "but could involve economic penalties (or disruptions) in some areas."

Even if both these measures are taken, "essential or unsubstitutable U.S. chromium consumption is expected to be at least 180,000 short tons per year (approximately 6 percent of 1975 world chromium production), on the average, in the foreseeable future." This is a bottom figure (estimates of irreplaceable chromium range up to 202,000 tons).

The study was conducted for the Department of Energy, Bureau of Mines, National Aeronautics and Space Administration, and Federal Preparedness Agency by an ad hoc Committee on Contingency Plans for Chromium Utilization—a committee of the National Research Council Commission on Sociotechnical Systems' National Materials Advisory Board. Earl R. Parker, of the Department of Mineral Technology of the University of California at Berkeley, chaired the committee. Members and panelists were selected from industry, universities, and government. The report—Contingency Plans for Chromium Utilization (NMAB–335)—examines technological measures only; the committee did not study "measures for coping with chromium contingencies by legal political, or financial means."

An "optimum response" to vulnerability to disruption of chromium supply "probably would involve a combination of three approaches . . .," the committee said, suggesting: (1) stockpiling, for about five years' protection; (2) conservation, perhaps extending protection by another five years; and (3) exploration for chromium deposits in the Americas. The committee spoke both of conventional stockpiling and of a possibly more economical floating stockpile provided by continued use of chromium in "easily collected functional products" such as hubcaps, flatware, and coins. Sudden, mandatory conservation programs, in the committee's opinion, "would result in severe economic dislocations"; the committee recommended conservation by changes in engineering and in industrial processes—starting now with use of substitute materials where practical and with research and development to get additional practical substitutes. Exploration for chromium deposits is proposed as a long-term step for which it is impossible to predict success or failure.

POTENTIAL SAVINGS OF CHROMIUM-CONTAINING MATERIALS

[In million pounds]

| Material designation | Total chromium used | Total chromium saved | Time required for substitution | | | | Irreplaceable Chromium [6] |
|---|---|---|---|---|---|---|---|
| | | | Immediately [1] | Within 5 yr [2] | 5 to 10 yr [3] | At least 10 yr [4] | |
| Stainless steel | 569 | 332 | 203 | | 129 | | 237 |
| Tool steel | 7 | | | | | | 7 |
| Wrought alloy steel | 123 | 103 | 22 | 35 | 46 | | 20 |
| Cast iron and steel | 82 | 54 | 5 | 10 | 35 | 4 | 28 |
| Nonferrous alloys | 29 | 2 | | | 2 | | 27 |
| Chromium electroplate | 21 | 17 | 14 | 3 | | | 4 |
| Refractories | [5] 249 | 225 | 110 | | 115 | | 24 |
| Chromium chemicals | 68 | 11 | 6 | | 5 | | 57 |
| Total | 1,148 | 744 | 360 | 48 | 332 | 4 | 404 |

[1] Amount saved by functionally acceptable chromium-free substitutes currently available. Direct or indirect cost penalties are incurred.

[2] Amount saved by functionally acceptable chromium-free substitutes provided after short development (less than 5 yr) with a high probability of success. Direct or indirect penalties are incurred.

[3] Amount saved by functionally acceptable chromium-free substitutes provided after intermediate-term (5 to 10 yr) research with a high probability of success. Direct or indirect cost penalties are incurred.

[4] Amount saved by functionally acceptable chromium-free substitutes provided after long-term (more than 10 yr) research with a high probability of success. Direct or indirect cost penalties are incurred.

[5] Amount considered irreplaceable. No functionally acceptable chromium-free substitutes are identifiable. Basic research and new technology are needed.

[6] Includes refractory types not reported by the Bureau of Mines.

Note: The assigned development times imply a reasonably well-funded and well-staffed investigation—a crash program supported by Government and industry might achieve desired results in much less time, while a poorly funded and understaffed program might drag indefinitely with no tangible results. The development times estimate only the time required to arrive at a viable technological solution to the substitutability problem involved. The time required to implement the technology depends on economic, political and social factors that are too complex to evaluate in any quantitative way and are beyond the scope of this study.

Source: "Contingency Plans for Chromium Utilization," Committee on Contingency Plans for Chromium Utilization, National Materials Advisory Board; Commission on Sociotechnical Systems, National Research Council (National Academy of Sciences, 1978).

"None of the three approaches . . . can protect the United States completely against the possibility of . . . disruption (or drastic shortage) of chromium supply," the report reiterates. Nevertheless, by the committee's estimates, the United States can cut its use of chromium substantially.

According to late-1976 figures used by the committee, 1,148,000,000 pounds of chromium a year have been going into U.S. production of steels, nonferrous alloys, chromium electroplate, refractories, and chromium chemicals. The committee found "functionally acceptable chromium-free substitutes currently available" to reduce that use by 360,000,000 pounds annually, although not without cost penalties. Aluminum, titanium, and plastics already compete with stainless steels in certain applications, the committee noted. Thin, chromium-containing coatings could be used to reduce the amount of stainless steel used in some products, but research and development in the improvement of fabrication and joining of composite materials are needed. Modified stainless steels could be used where other alloying elements could replace chromium.

The research-and-development program proposed by the committee is intended to cut U.S. chromium-use by an additional 384,000,000 pounds a year (beyond the 360,000,000 that could be saved by immediate use of substitute materials) over approximately 10 years. Most of the savings would be in stainless and wrought-alloy steels and in refractory materials.

Achievement of the research-development-substitution program projected by the com-

mittee still would leave many of these industries with a need for chromium—404,000,000 pounds of it, by the committee's reckoning, with more than half of that for stainless steels. By comparison, the need for chromium for tool steels is much lower; the committee said 7,000,000 pounds a year. Considering the cost of finding a substitute to supply the hardening qualities essential to tool steels, and considering their role in the national economy, the committee deemed chromium for tool steels irreplaceable.

"Economical chromium-free substitutes" for stainless steel "are unavailable" for use in chemical processing requiring resistance to corrosion or high-temperatures, the committee said. "In a chromium cut-off, these applications must be supplied by allocation or abandoned until new technology is developed." The committee asserted:

"A basic research program aimed at developing substitutes for chromium in stainless steels and high-temperature, oxidation-resisting alloys should be initiated. Although this is a long-term program with little chance of early success, it is the only technical possibility for eliminating U.S. vulnerability to a long-term chromium embargo."

Why, then, was chromium noted as strategically important but generally taken for granted in U.S. materials-policy reports in recent years? The committee surmised that "the five indicators generally used as tests of material criticality do not reveal the true nature of the chromium situation." Three indicators—criticality of applications, U.S. supplies, and availability of alternatives—"reveal that chromium is highly critical," but the other two indicators—size of reserves and geographic distribution of foreign sources—"deceptively reduce" the judgment of severity, according to the committee's report. First, chromium "is not in short supply in an absolute sense, and it will take several centuries to deplete current deposits at projected world consumption rates." Second, reliance on indication of which foreign sources previously supplied the United States with chromium "disguises the situation likely to evolve . . ." Here the committee elaborated:

"In the past, the United States imported chromium from more than six sources in widely separated regions. Within the next 20 to 75 years, however, all remaining known chromium deposits of substantial quantity will be in . . . Rhodesia and South Africa. The chromium deposits in other regions . . . either will be exhausted or insignificant."

That concentration "sets the stage for a natural monopoly," the committee said, yet "the unique role that chromium plays in a technological society and the geographic concentration of remaining reserves are not widely appreciated facts among the economists and market specialists who contribute to most reports on materials." Of known chromium ore reserves, 95.1 percent are in South Africa and Rhodesia, the committee recounted, and of known potential chromium ore reserves, 97.0 percent are in South Africa and Rhodesia. Remaining reserves, actual and potential, are mostly in the Philippines, Turkey, and the Union of Soviet Socialist Republics. According to the U.S. Department of Commerce, most recent U.S. chromium imports have been from South Africa, with imports from Rhodesia halted last year by a United Nations embargo.

Trade experts may say that where deposits are plentiful the needs of exporters and importers can be expected to come into balance, but "many severe problems can, and often do, occur" before that balance is achieved, the committee said. "Failure to appreciate the unique strategic characteristics of chromium . . . works against developing long lead-time technologies, stockpiles, or international agreements that may avoid dislocations."

GERALD S. SCHATZ.●

## NATIONAL HEALTH INSURANCE AND THE PRIVATE SECTOR


## HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES


*Tuesday, April 18, 1978*

● Mr. STEIGER. Mr. Speaker, I want to call my colleagues' attention to a recent article by James A. Attwood entitled "National Health Care is Everybody's Business!" The article reviews the current status of private sector and Government involvement in health care.

Mr. Attwood succinctly explains why our goal in the area of health care could be a national health insurance program, but not a nationalized health insurance program. While I do not endorse the bill which Mr. Attwood advocates, I do feel his comments should be heeded.

The article follows:

[From Pension World, January 1978]

### NATIONAL HEALTH CARE IS EVERYBODY'S BUSINESS!

If the private and public sector join together in a national program, each could do what it does best: Private enterprise providing the personal service and management, and government setting guidelines and standards.

On the average, Americans are spending about 10 per cent of their income on health care. National health expenditures in fiscal 1976 reached over $139 billion—8.6 per cent of the Gross National Product—of $638 per person. This was an increase of almost 14 per cent in one year.

Most people—some 183 million is the latest estimate—over 90 per cent of the population—have private health insurance to help them cope with rising costs. Just under 150 million have protection against the catastrophic costs of a serious and prolonged illness or disability. About 85 per cent are covered by group health arrangements.

Health care was and continues to be the fastest growing item in the Consumer Price Index—in fact, other items seem to have stabilized somewhat, but not medical care services.

There are various reasons for the rapid escalation of health care costs in the last several years. The modern hospital today operates intensive care, cardiac care, burn care, open-heart surgery, radium therapy, cobalt therapy, inhalation therapy, renal dialysis, organ transplants and many other units not available ten years ago. There is more and better trained medical personnel, and the increased ability of people to pay for services because they have private health insurance or are eligible for Medicare or Medicaid.

Advances in medicine, and wide publicity of the medical system, have created rising public expectations, even overexpectations, resulting in an almost limitless demand for health care services. Also, doctors too often practice defensive medicine, and order extra tests and procedures, because of the fear of a malpractice suit. As a result, the normal operations of supply and demand in the health care service area have been inhibited.

#### PROPOSED LEGISLATION

The Carter Administration has recently proposed its Hospital Cost Containment Program, introduced as H.R. 6575 in the House. This legislation would institute a cap on the increase in *acute-care* hospital revenues, limiting such increases to approximately nine per cent in the first year the statute is in effect, and to gradually declining amounts in subsequent years.

This proposal, to which the insurance industry has given qualified support, has many commendable features. It focuses on the largest single component of health costs, with perhaps the most manageable service units and where the influence of cost increase has been most extreme. Also, it applies to all revenues—not just government reimbursements, it recognizes both operating and capital expenditures, and, at first review, the program appears to be easy to administer.

There are drawbacks, however. It is difficult to apply the same revenue limits to all hospitals; it will be unfair to many hospitals and will be overgenerous to others. The most important drawback is that it is just an interim program at a time when a strong, permanent solution is needed.

Many businessmen—and most hospitals—are opposed to the Carter Hospital Cost Containment Program, believing that it is unfair to single out hospitals for cost control. Doctors dislike the program because they are concerned that they may be next. Drug companies and medical equipment suppliers see an adverse impact on their business. The program is now being discussed at hearings in both the House and Senate and its fate is unclear at this moment.

#### NEW PROGRAMS

What is the private sector doing about the pressing problem of spiraling health care costs? Concerned groups, which include employers, labor unions, private health insurers, hospitals, the medical profession, and consumers, are undertaking programs for slowing down the rate of inflation and for inhibiting the rapid escalation in health care costs without undue interference in our private system.

These include:

Programs to carefully review fees, charges, and the use of health services.

Incentives to encourage preventive care to help keep people well, and to encourage the use of less costly ambulatory care and to provide more services out of the hospital where this is medically acceptable.

Involvement in community health planning to bring health care needs and resources into a better balance.

Health education programs to motivate people to take better care of themselves.

As for employee benefit plans, employers, with the help of their insurers, are taking a variety of actions.

For example, companies are expanding their health benefit plans to put more stress on out-of-hospital care and they are coordinating their benefits with other plans.

There's a lot of experimenting going on such as:

Coverage of preventive care services.

Payment for second or even third opinions for elective surgery.

Payment for tests performed before going to the hospital.

Payment for organized home care and skilled nursing home facilities.

Use of models and profiles to measure care against diagnosis, medical history and standards of care.

Identifying obsolete medical procedures, no longer necessary, for which payment should not be made.

#### NEW LAWS

Of course, the private sector cannot do the job alone. Some governmental legislation and regulation in the health area is required, but there must be a strong, cooperative effort of both the private and public sectors.

Congress has passed a health planning law with potential for bringing about real change in the health care system. What's going to make this law work are the people who serve on the committees and councils of the health systems planning agencies (known as HSAs) created under this law: Businessmen, labor officials, doctors and other profession-

als, health insurance people and other consumer representatives.

Another important piece of Federal legislation is designed to make available more outpatient care centers known as HMOs—Health Maintenance Organizations. These generally provide walk-in walk-out care for a fixed fee paid in advance. Because they put great stress on keeping people well, or nipping illness in the bud, HMOs are believed by many to have real promise for improving the level of heath care and cutting costs.

But these HMOs are not going to be available because government waves a magic wand. They're going to expand because private groups—employers, community groups, health insurers, among others—are going to continue to develop and finance these outpatient care centers.

Another law has created medical review groups across the country called Professional Standards Review Organizations—PSROs. These PSROs will determine whether the health care services provided to patients under the government programs of Medicare and Medicaid are necessary, proper and of good quality. Who makes up the medical review groups? Not government workers, but doctors. It's the medical profession that has—and must have—the responsibility for judging medical treatment and the obligation to make this law work the way it is supposed to.

NATIONAL HEALTH INSURANCE

Government can remove financial barriers to needed health care through a program of national health insurance.

Such a program should do two basic things: It should set nationwide standards so that everyone can have adequate health insurance, and it should create a mechanism so that everyone—rich or poor, young or old, healthy or sick, working or not—can be protected.

There isn't much disagreement about either of these goals. The debate has centered around the question of who should pay for a national program, and who should run it.

Should government pay for national health insurance through taxes and administer the entire program? Or should there be a partnership of the private sector and government?

The answer to this question will bring us to the moment of truth as far as the issue of public-private responsibility in the health field is concerned. It will determine the direction of our health care system in the future.

If government takes over, eliminating private health insurance, it means either higher Social Security taxes or higher income taxes. It would put a further strain on the Federal budget and would lead to choices among various social needs—housing, the environment, nutrition, mass transportation and health care.

It would probably mean a more impersonal health care system, because government generally is more impersonal, less responsive to particular individual needs than the private sector.

On the other hand, if the private and public sector join together in a national program, we believe that each could do what it does best: Private enterprise providing the personal service and management, and government setting guidelines and standards. Flexibility would be preserved and individual needs would be better met.

Insurance companies have long advocated a phased-in program for universal health care insurance and its financing. There is need for a national health insurance program which combines, in a cooperative effort, the strengths of the private sector and the Federal government. Private health insurers should administer and underwrite the system, the Federal government should set guidelines and establish minimum standards of coverage for everyone. Tax dollars would only be used for the poor and near poor.

This partnership approach is embodied in a bill which has been introduced into every Congress since 1970. Currently it is named The National Health Care Act of 1977, and its sponsors since the beginning have been Senator Thomas McIntyre of New Hampshire and Congressman Omar Burleson of Texas. The private health insurance business supports this bill because we believe it is responsible to both social need and economic realities.

It provides a balance of public funds, governmental power, and the full involvement of all of us in the private sector. In a word, it is a national health insurance program, but not a *nationalized* health insurance program.

It is hoped that a program of this kind will be enacted to give our country what we must have—good quality care available to all of us, and all of us free of the fear of the cost of illness—but at a price the nation can afford.

There is no doubt that the provision of health care—and its financing—is one of the major issues of the day and one of the major measures upon which our economy, society and political system will be judged as the future develops.

HEALTH CARE TRENDS

The Carter Administration has made health cost containment its top health care priority, with the introduction of national health insurance contingent on the control of costs. A recent special study by the Arthur D. Little management consultant firm has projected that, despite governmental efforts to control costs, annual health cost expenditures will increase $100 billion by 1988, when they will reach $240 billion, compared to $139 billion in 1976—and this projection is on the basis of 1975 constant dollars. With continued high general inflation, the current dollar figure could be twice that amount.

Although the 1988 figure is staggering, it actually represents a leveling off of escalating health care costs in the 1980's, according to the study. They forecast a slowdown in rate of increase until the mid-1980's when costs will be stimulated by early phases of national health insurance. They see health costs reaching just under 10 per cent of GNP by the end of the 1980's. Factored into their projections is an interesting scenario of phased in implementation of various increments of a national health insurance program, once tighter cost controls become effective. They foresee catastrophic and maternal and child health coverage to be in place in the early 1980's, but believe that full health benefit coverage (i.e., first-dollar primary care coverage) for the general population to be unlikely during the 1980's.

Among the trends in health care delivery predicted by the study during the next decade are:

1. An eventual decline in the number of short-term hospital beds per thousand population;

2. One-third of all short-term hospitals (accounting for one-half of the short-term beds) will be participating under common management systems;

3. In-patient days of care per annum will slowly decline from the present 1234 per thousand population to 1100 in 1988;

4. A marked early reduction in some of the frequently performed operations, such as tonsillectomies, and a shift toward developments which do not require hospitalization or which help to prevent it;

5. Greater frequency of physician peer review;

6. Greater use of care outside the hospital (about 40 percent of health spending in 1988 rather than 33 percent today) with ambulatory services becoming more organized and regulated, with medical practice standards increasingly applied;

7. Half of all physicians in group practices, and ⅔ to ¾ under peer review by medical foundations;

8. Growth of HMO's, with up to 10 percent of the population enrolled by 1988.

Most of us would applaud these developments with the health care delivery system gradually becoming more cost conscious and more cost effective. Whether they will come soon enough—and in sufficient magnitude—to satisfy the American public without turning to a fully nationalized system of health benefits—remains the challenge.●

## SHOULD LOBBYING SOLICITATIONS BE REPORTED?

### HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. MAZZOLI. Mr. Speaker, on Wednesday, April 19, the House is scheduled to consider H.R. 8494, the Public Disclosure of Lobbying Act of 1978.

The following article which appeared in the April 17, 1978, New York Times provides excellent food-for-thought as we consider the appropriateness of requiring the reporting of lobbying solicitations—so-called grassroots lobbying activities—in a lobbying disclosure statute.

As the Times piece points out, it is at the grassroots level where substantial lobbying takes place today. I personally feel that in order for the public to have an accurate picture of the activities of lobbying organizations, lobbying solicitations should be disclosed, and although H.R. 8494 as reported by the Judiciary Committee does not cover such grassroots lobbying, I intend to join my committee colleague, the Honorable WALTER FLOWERS, in working on the House floor to obtain coverage of such activity.

[From the New York Times, Apr. 17, 1978]

GRASS-ROOTS LOBBY AIDS BUSINESS

(By Charles Mohr)

WASHINGTON, April 16.—"Congressmen first learn how to count and then to think," said Thomas J. Donohue, executive vice president of Citizen's Choice, a recently formed conservative political action organization.

Although some might not state it with such blunt cynicism, a widespread belief in that theory across the entire spectrum of special-interest groups in America has led to significant changes in the methods used to influence Congress.

Especially within the last two years and especially in the business and industrial community, there has been a major increase in the use—and apparent effectiveness—of so-called indirect or "grass roots" lobbying as opposed to conventional lobbying by paid agents. It mainly involves mobilizing constituents of Congressmen and the general public to write, telephone or buttonhole the Members of Congress on legislation.

"It's the growth area of lobbying," said Michael Cole, a lobbyist for Common Cause, the often successful "citizen's lobby" that refined many of the methods and techniques in quest of "good government" reforms.

Richard L. Lesher, president of the Chamber of Commerce of the United States has gone further, calling the indirect method "the only lobbying that counts."

The phenomenon is more than a mere curiosity or trend. It has given business a series of unexpected upset political victories that shook liberal blocs and the national Democratic Party leadership. But, more basically, the method seems both to reflect and to contribute to fundamental changes in how government now works, to shifts in power relationships and to a decline in the authority of the Presidency and Congressional leadership. It may also make it difficult to reverse any of these changes.

It also appears to reflect an aggressive and determined effort by industry and business to increase its direct political action, as well as a growing ability of business leaders to submerge their differences and agree on cooperative action under common tactics and strategy.

Stated simply, the shift in emphasis is this: What is called direct, or face-to-face lobbying by paid, professional lobbyists has by no means decreased in intensity. It has, in fact, increased. But in terms of perceived importance it has been supplanted on many "major" issues by indirect lobbying.

"The paid lobbyist is still important, particularly in providing legislative intelligence, and he may pull the trigger—but the ammunition is out in the Congressional districts," said a businessman who helped successfully to lead a coalition to block passage of a bill that would have created a consumer protection agency.

"ENORMOUS INCREASE" CITED

"There has been an enormous increase in direct lobbying and its importance is enormous," said Representative Benjamin S. Rosenthal, Democrat of Queens and chairman of the subcommittee on commerce, consumer and monetary affairs of the House Commitee on Government Operations, which is currently investigating the lobbying by 470 major corporations and trade associations. "These people are in the process of gaining control of the apparatus of government."

Peter S. Barash, staff director of Mr. Rosenthal's subcommittee, said that more than half of the 470 organizations engaged in substantial indirect lobbying and that most said they did little of it two or three years ago.

Indirect lobbying may mean many things. Interviews with some of its notable practitioners show they are in universal agreement that persuading a citizen, particularly a "community leader," to meet directly with his Congressman is the most effective lobbying tool. "Face-to-face meetings out in the districts are the best of all," one Congressman remarked.

Mobilizing telephone calls and individualized letters rank next. Mass mailing of postcards or coupons from advertisements is considered less effective but is widely used. Increasingly, corporations exhort their stockholders, employees and even their customers to put pressure on Congressmen, and through the use of computers huge lists of names can be matched to their legislators. Advertising meant to generate letters is widely used.

Praticularly in the business community, related techniques have come into increasing play. Ad hoc alliances of companies and associations have increasingly formed five- or six-man "lobby teams" to call on pivotal lawmakers as a group. Lobbying by the chief executive officers of the largest corporations is coordinated by the executives' own association, the Business Roundtable.

There seems to be little possibility that the trend will be reversed and many signs that it will, instead, accelerate.

GROUP IS BATTLING AFL–CIO

Currently, a "coalition" of about 500 corporations and trade associations calling itself the National Action Committee on Labor Law Reform is locked in relentless political conflict with the American Federation of Labor and Congress of Industrial Organizations over a labor law reform bill that would make union organization efforts somewhat easier and more speedy.

Such coalitions, a Washington representative of a major corporation remarked, began to emerge only about four years ago but now "they are constantly forming and dissolving." Harold P. Coxon, a labor attorney for the Chamber of Commerce and one of four vice presidents of the National Action Committee, calls the coalition one that "eclipses" those of the past and "the largest business group I've ever seen in action."

In part as a defensive move, the A.F.L.–C.I.O. has recently formed its own Task Force on Labor Law Reform to mobilize support for the bill, which has passed the House but faces a possible filibuster in the Senate that would require 60 votes to stop.

The labor task force director, Victor Kamber, estimates that in the last three and one-half months alone the contending factions have generated about 4.5 million pieces of mail to Senate offices.

Grass-roots lobbying organized by businesses is credited by both losers and winners with the defeat in February by the House of the consumer protection bill. Many skilled political activists also believe the technique was decisive in last year's defeat of a so-called common-site picketing bill that labor expected to see pass comfortably.

Many sources believe that it also played an important role in such cases as the Senate's virtual emasculation of President Carters' national energy program, the defeat of a cargo preference bill, Congressional distaste for "tax reform" and other issues.

There are varying explanations for the apparent effectiveness of indirect lobbying and its increased use. Ironically, one explanation offered is the package of Congressional "reforms" that in recent years have weakened the power of committee chairmen and the leadership generally.

"AN ABSOLUTELY DIFFERENT CITY"

Special interest groups from both left and right use remarkably similar language. "It's an absolutely different city these days," said Mark Green, director of Ralph Nadar's Congress Watch organization. "It is a new era," said Emmett W. Hines, Jr., the Washington Representative of the Armstrong Cork Corporation and the leader of the coalition that fought the consumer protection bill.

Slightly more than half the members of the House have been elected in the last six years, many of them "Watergate Democrats" who won in formerly Republican or marginal districts. While in one sense such members are seen as more "independent" of party leadership and White House influence, they are almost universally seen by interest groups as unusually susceptible to constituent pressure.

If such pressure accurately reflects opinion in the districts this might constitute a "purer form of democracy," as a business lobbyist said. However, most grass-roots lobbying is generated by the interest groups using increasingly sophisticated techniques and methods.

THE COMPUTERS LEND A HAND

Computer memory banks in Washington and elsewhere are programmed with data that match the names of lists of citizens with their Congressmen. Organizations as diverse as the Chamber of Commerce, the pro-Israel lobby and Common Cause have further "select" lists of especially influential or highly motivated supporters who can be mobilized to put pressure on a Member of Congress.

"We can target by district and we can even target by subcommittee," one lobbyist said.

The intensity of business use of indirect lobbying has alarmed many liberal "public interest groups," environmental organizations and consumer bodies that pioneered the techniques and from which many business lobbyists unashamedly say they have copied.

"Grass-roots lobbying is based on communication, which is based on money," said Mr. Green of Congress Watch. "Money is power," said a Congressional committee staff member.

O'NEILL'S BEWILDERMENT

With some bewilderment, House Speaker Thomas P. O'Neill, Jr., asked during the February debate on the consumer bill, "Why all of a sudden is there this tremendous change?" He later said, "I have never seen such intense lobbying."

Mr. O'Neill's political captain, President Carter, has an estimated 675 lobbyists in 32 Federal agencies spending an estimated $12 million to $15 million a year. Yet Mr. Carter, who often lashes out at "powerful lobbies," has suffered an embarrassing series of legislative setbacks during his 15 months in office.

One reason is that Mr. Carter is actually outgunned. Because there are so many loopholes in the 1946 lobby registration bill, it is not easy to assemble meaningful statistics on the number of private lobbyists and what they spend, but some Congressional staff members think the spending easily exceeds a billion dollars.

The Chamber of Commerce, the National Association of Manufacturers and many of the estimated 40,000 trade associations in the country have increased staffs and budgets, only one manifestation of a marked upsurge in business political action.

Hilton (Dixie) Davis, legislative director at the Chamber of Commerce, began in 1968 holding breakfast meetings for business Washington representatives on the first and third Thursdays of each month at a Washington hotel with about 100 people attending. By the first Thursday of this month the number had grown to 330 guests.

Indirect lobbying is apparently made more effective when it is used in conjunction with sophisticated and complementary techniques. One major technique involves the Business Roundtable, an organization that inspires considerable awe in Washington. The Roundtable, formed in 1974 as a manifestation of business' political offensive, consists of about 190 chief executive officers of major corporations.

EFFORTS HIGHLY REGARDED

Because of their prestige and the economic power they represent, the "C.E.O.'s" have unparalleled access to Congressmen, and they are increasingly willing to come to Washington for "one-on-one" lobbying sessions with members. Paid professional lobbyists hold their efforts in high regard, and so do liberal lawmakers who have seen cherished legislation altered or killed.

"The Busines Roundtable is the most powerful lobby in Washington," said Mr. Green, "and it is practically a secret society."

Representative Rosenthal called the group "among the most skilled operatives in the U.S. Talent that once was focused almost entirely on manufacturing and marketing is now increasingly focused on government intervention. It's a new world, and business is on a mental high about their successes."

He adds that if he wanted help on a bill, he would select Reginald H. Jones, chairman of General Electric and head of a Roundtable task force on taxation, "give him a two-month computer course and take him as my man."

EMULATING COMMON CAUSE

Another complementary technique is represented by Citizen's Choice, an offspring of the United States Chamber of Commerce

that unashamedly attempts to emulate Common Cause.

Beginning with a loan from the Chamber, but now operating in large part on annual $15 dues from about 20,000 members, Citizen's Choice is much smaller than Common Cause's 225,000-member size but hopes to grow to 40,000 by summer. It operates much the same way—with a monthly bulletin, a "hot line" toll free telephone message and "action alerts" to members. With its conservative, middle-class complexion, it is also like Common Cause in being able to produce relatively sophisticated, personalized letters from well-educated members.

Mr. Donohue, the executive director, said "we didn't start the process." He adds that it was the environmental movement, Ralph Nader's consumer groups and the anti-war movement that pioneered in efforts to "hold your Congressman accountable for what he does."

The real secret to indirect lobbying, said one Washington representative of a corporation, is planning and better cooperation. "The ad hoc coalitions that run these campaigns usually start with a few phone calls and an informal meeting. You usually see the same faces such as Walt Hasty and Forrest Rettger (lobbyists for the Business Roundtable and the National Association of Manufacturers) and others. Essentially, different organizations are mobilized to do their own thing at the grass roots, but to do it on one set of assumptions and with agreement on tactics and timing."

Mr. Green of Congress Watch, a Nader organization, is among those who deeply respect business lobbying ability. "You lose bills in the districts, not in Washington, and business is very good at what they do."●

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## IDAHO STILL OPPOSED TO PANAMA CANAL TREATIES

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### HON. GEORGE HANSEN

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES


*Tuesday, April 18, 1978*

● Mr. HANSEN. Mr. Speaker, the American public remains overwhelmingly opposed to the proposed Panama Canal treaties.

Public opinion polls during the past few years have confirmed this public opposition to the treaties. For instance, scientific polls conducted by the Opinion Research Corp. for the past 3 years have shown that the public is overwhelmingly opposed to the transfer of ownership and control of the canal to Panama.

In a June 1975 Opinion Research Corp. survey, 66 percent of the public favored continued U.S. ownership and control over the canal. This figure jumped to 75 percent in April 1976, and by May 1977, 78 percent of the public favored U.S. ownership and control.

The Institute of American Relations sponsored another Opinion Research Corp. survey of 1,015 scientifically selected individuals from February 24–27, 1978. The Opinion Research Corp. asked the same question as it did in the 3 previous years:

Do you favor the United States continuing its ownership and control of the Panama Canal, or do you favor turning ownership and control of the Panama Canal over to the Republic of Panama?

The 1978 result was that 72 percent are for the United States continuing ownership and control of the Panama Canal, 19 percent were for turning ownership and control over to Panama, and 9 percent had no opinion.

Thus, Americans who expressed an opinion are over 3½-to-1 opposed to turning over ownership and control of the canal to Panama.

Several polls which were conducted by other polling firms confirm this high degree of public opposition to the proposed transfer of the canal in cases where the questions were straightforward and direct.

The Opinion Research Corp. polls, and others, show that official U.S. policies on the Panama Canal are opposed to the public consensus. Public opposition to the administration's proposal to transfer control of the Panama Canal to Panama has been strong and vocal. Despite a massive public relations effort by the administration to influence public opinion and to win Senate votes, the public has not altered its views significantly. Mail which Members of Congress have received from their constituents have shown an overwhelming opposition to the Panama Canal treaties.

Yet the Senate rejected the majority views of the general public and their constituents when they approved the Neutrality Treaty.

When a government adopts policies which run directly counter to the wishes of the people, that government fails to live up to its responsibilities under the Constitution. In so doing, it violates the basic principles of democracy and undermines our democratic system of government.

To further illustrate the mood of the American people regarding the proposed giveaway of the Panama Canal, I cite the results of the 1978 National Security Issues poll conducted by the American Security Council with 108,000 people across the nation responding, which has just been released. The question was asked:

"Should the United States Senate ratify the Panama Canal Treaties?"

Nationally: 6 percent yes; 85 percent no; 9 percent, undecided.

State of Idaho: 4 percent, yes; 89 percent, no; 7 percent, undecided.

Second congressional district; 4 percent, yes; 91 percent, no; 5 percent undecided.

I find it extremely satisfying to note that the results of the American Security Council poll in the Second District of Idaho bear out the results of my own poll conducted last fall which found that 95 percent oppose the President's proposed Panama Canal treaties.

Mr. Speaker, for the benefit of my colleagues I also include for the RECORD a copy of the poll conducted by Opinion Research Corp. for the Institute of American Relations. The article follows:

IAR POLL SHOWS PUBLIC OPPOSITION TO PANAMA CANAL TREATIES HOLDING FIRM

72 PERCENT REGISTER OPPOSITION TO TURNING CONTROL OF THE CANAL OVER TO PANAMA

In light of repeated pronouncements by treaty proponents that they have succeeded in turning public opinion around on the proposed Panama Canal treaties, the Institute of American Relations commissioned the highly respected Opinion Research Corporation to conduct a new poll testing American opinion on the treaties. The poll was conducted during the last week of February and is the fourth in a series of surveys IAM has conducted on this issue since June 1975. The results showed 72 percent of the American public continue to oppose the treaties. A comparison of these results with those of a similar poll conducted by IAR in May 1977 reveals only a very minimal shift in public opinion. At that time, 78 percent of those polled favored continued U.S. ownership and control of the Canal. There has, however, been a significant increase in the number of persons who support Panamanian ownership and control of the Canal—19 percent, up from 8 percent in May 1977.

When those who favor turning the Canal over to Panama are presented with an alternative proposal—namely, that the U.S. continue ownership but improve the Canal and provide economic benefits to Panama—the large majority continue to favor Panamanian ownership. However, 18 percent (or 3 percent of the total public) would favor continued U.S. ownership under this alternative plan.

There is considerable support (68 percent) for a treaty amendment that clearly guarantees the right of the U.S. to defend the Canal without the permission of Panama. Only 18 percent of the public believe that the present clarification (which states that the U.S. can defend the Canal but not interfere in the internal affairs or territory of Panama) is a satisfactory defense position.

The survey included a question on Galeta Island, the top secret U.S. military facility in the Zone reportedly used to track Russian and Cuban aircraft and submarines. Admiral Holloway, chairman of the Joint Chiefs of Staff, has testified that this facility would be extremely difficult to replace. Poll results indicate that three-fourths of the public believe that the facility of Galeta Island should continue under U.S. ownership, even if the rest of the Canal Zone is turned over to Panama.

When asked about treaty provisions which call for a U.S. government expenditure of $100 million a year until the year 2000 (most of which is in the form of payments to Panama), 55 percent felt that the U.S. Senate should oppose these provisions.

52 percent of the respondents were not aware that the treaties require the United States to have the consent of Panama before we can build a new Canal. When advised that the treaties, as they now stand, do indeed contain such a restriction, 47 percent favored an amendment removing the requirement for Panama's consent.

Seven persons in ten believe that the treaties should be sent to the House of Representatives for consideration under the terms of the Constitution that state that the Congress "shall have the power to dispose of . . . the territory or other property belonging to the United States." Even those who favor Panamanian ownership of the Canal are largely in favor (67 percent) of sending the treaties to the House.

Public opinion is rather evenly divided as to the relevance of Panamanian government involvement in drug trafficking to acceptance or rejection of the treaties, 43 percent expressed the view that the charges should have no bearing on the treaty, while 47 percent indicated that the treaties should be rejected if the charges are true.

POLL QUESTIONS AND TABULATIONS

Following are the questions as they were posed in the survey, together with a breakdown of the results:

1. As you may know the Panama Canal is the waterway in Central America that connects the Atlantic and Pacific Oceans.

The U.S. secured ownership and control of the Canal Zone by way of a treaty signed with the Republic of Panama in 1903. How much, if anything, have you heard or read about the negotiations on a new Panama Canal Treaty—a great deal, a fair amount, very little, or nothing at all?

| | Percent |
|---|---|
| Great Deal | 33 |
| Fair Amount | 36 |
| Very Little | 24 |
| Nothing At All | 7 |
| No Opinion | 0 |

2. Do you favor the U.S. continuing its ownership and control of the Panama Canal, or do you favor turning ownership and control of the Panama Canal over to the Republic of Panama?

| | Percent |
|---|---|
| U.S. Continuing Ownership & Control | 72 |
| Turning Ownership & Control Over to Panama | 19 |
| No Opinon | 9 |

3. Some Senators want to accept the treaties and some want to reject them. Some of the Senators who want to reject treaties and have the U.S. continue its ownership and control of the Canal have offered another proposal. This proposal would improve the Canal and provide economic benefits to Panama. Specifically, the proposal calls for the U.S. to modernize the Canal, at an estimated cost of one-and-a-half billion dollars over the next ten years—most of this money would be spent in Panama. Also, the proposal calls for hiring Panamanians rather than Americans to provide the services needed by the Canal. On the basis of this proposal, do you favor the U.S. continuing its ownership and control of the Panama Canal, or do you favor turning ownership and control of the Panama Canal over to the Republic of Panama?

| | Percent |
|---|---|
| U.S. Continuing Ownership & Control | 64 |
| Turning Ownership & Control Over to Panama | 24 |
| No Opinion | 12 |

4. As far as you know, do the treaties require the United States to have the consent of Panama before we can build a new canal connecting the Atlantic and Pacific Oceans?

| | Percent |
|---|---|
| Yes, Requires Consent of Panama | 31 |
| No | 17 |
| Don't Know | 52 |

5. As they now stand, the Panama Canal treaties prohibit the U.S. from building a new canal without the consent of Panama. An amendment has been proposed that would remove the requirement for Panama's consent. Do you favor or oppose this amendment?

| | Percent |
|---|---|
| Favor | 47 |
| Oppose | 36 |
| No opinion | 17 |

6. Some Senators have proposed that the Panama Canal treaties be amended to clarify that the U.S. can defend the Panama Canal, but cannot interfere in the internal affairs or territory of Panama. Some Senators say that this amendment provides a sufficient guarantee of the rights of the U.S. to defend the Canal. Other Senators say that this amendment gives Panama a veto over any U.S. military activities in the defense of the Canal. What is your opinon? Should the Senate accept the amendment as proposed, or should the Senate seek an amendment that specifically guarantees that the U.S. have the right to act by itself in defense of the Canal without the permission of Panama?

| | Percent |
|---|---|
| Accept Amendment as Proposed | 18 |
| Seek Amendment Guaranteeing Defense | 68 |
| No Opinion | 14 |

7. The U.S. has a top secret military facility in the Panama Canal Zone. This facility is reported to be used to track Russian and Cuban aircraft, surface ships and submarines, among other things. The military has said that this facility would be extremely difficult to replace. Some Senators who support the treaty say that it provides a sufficient guarantee of the rights of the U.S. to defend this military facility. Critics say that this military facility cannot be protected under the existing provisions of the treaty and that the U.S. should continue to own the facility even if the Panama Canal Zone surrounding it is turned over to Panama. Do you think the U.S. should rely on the defense rights as now provided in the treaty to protect this installation, or should the U.S. require that this facility continue under U.S. ownership even if the rest of the Canal Zone is turned over to Panama?

| | Percent |
|---|---|
| Rely on treaty | 13 |
| Require U.S. continued ownership | 75 |
| No opinion | 12 |

8. Certain provisions of the treaties would cost the U.S. government 100 million dollars a year until the year 2000, when ownership and control of the Canal would be turned over to Panama. Most of these costs involve payments to Panama. In your opinion, should the U.S. Senate support or oppose these treaty provisions?

| | Percent |
|---|---|
| Support | 25 |
| Oppose | 55 |
| No opinion | 20 |

9. The U.S. Constitution states that the Congress "shall have power to dispose of the territory or other property belonging to the U.S." A majority of members of the U.S. House of Representatives recently sponsored a resolution requesting the Senate to send the Panama Canal treaties to the House for its consideration under the terms of the Constitution just mentioned. The State Department and the supporters of the Panama Canal treaties do not wish to have the House of Representatives act on the treaties; those who oppose the treaties wish to have the House of Representatives act on the treaties. In your opinion, should the Senate send the treaties to the House of Representatives for consideration, or should the Senate not send the treaties to the House of Representatives for consideration?

| | Percent |
|---|---|
| Send to the House | 70 |
| Not Send to the House | 17 |
| No Opinion | 13 |

10. There have been charges in the media that high officials of the Panamanian government have engaged in smuggling heroin and other drugs into the U.S. A U.S. grand jury has indicted Moises Torrijos, brother of the head of Panama, for channeling $27 million or more in drugs into the U.S. Some Senators say that the existence of these charges should have no bearing on whether or not the U.S. Senate accepts or rejects the Panama Canal treaty. Other Senators say that, if these charges are true, the U.S. Senate should reject the Panama Canal treaty. Do you think the charges should have no bearing on the Senate's acceptance or rejection of the treaty, or do you think that the treaty should be rejected if the charges are true?

| | Percent |
|---|---|
| No Bearing | 43 |
| Rejected If True | 47 |
| No opinion | 10 |

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## SUPPORT FOR HUMAN RIGHTS IN CYPRUS DEMONSTRATED AT MAJOR RALLY HELD LAST SUNDAY IN WASHINGTON

### HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. BIAGGI. Mr. Speaker, this past Sunday, in an impressive and impassioned demonstration, some 15,000 Greek Americans gathered at Lafayette Park to protest against the administration's plan to seek an end of the arms embargo against Turkey, imposed by legislation which passed Congress in 1975.

The demonstrators came from all over the United States and assembled in Washington to express solidarity with the people on the occupied island of Cyprus. Of paramount concern to the gathering, were documented reports of human rights violations committed by Turkey against the Greek Cypriot people. The fate of the more than 2,000 Greek Cypriots still listed as missing since the Turkish invasion, was also of profound concern to the crowd.

Congress imposed the arms embargo on Turkey for violations of law stemming from her illegal use of U.S. arms to invade and occupy Cyprus. Turkey's illegal and immoral actions in Cyprus have not diminished and she still occupies more than 40 percent of the island. Without a cessation of the conditions which led to the embargo and without assurances from Turkey that she will respect human rights, any talk of lifting the arms embargo must be dismissed.

The rally was honored by the presence and moving words of His Eminence, Archbishop Iakovos of the Greek Orthodox Archdiocese of North and South America. He prayed for peace and justice for the people of Cyprus and, as always, preached moderation through prayer. At this point in the RECORD, I insert his eloquent remarks.

I was honored to have shared the speaker's podium with the archbishop. Among the other dignitaries who spoke, were Eugene Rossides, chairman of the American Hellenic Institute's public affairs committee; and Colonel Derzis, the supreme president of the Order of AHEPA.

Following the rally and speeches, a march ensued and an effort was made by protest organizers to present a petition to an official in the White House for the President's consideration. Much to the disappointment of the demonstrators, the petition got no further than a White House guard. The following, is the text of the petition which was drawn up by the Ad Hoc Committees of Greater New

York and the District of Columbia, Concerned Americans for Justice in Cyprus, who sponsored the rally.

Mr. Speaker, the views of the thousands who assembled here Sunday, and the thousands more who are writing and calling, show very clearly that the proposal to lift the arms embargo is premature. The rule of law must be upheld. The human rights of the people of Cyprus must be respected. That was the message conveyed. Finally, I wish to insert for the RECORD, the text of my remarks at the rally.

PRAYER DELIVERED BY ARCHBISHOP IAKOVOS AT HUMAN RIGHTS DEMONSTRATION

To Thee, O Lord and Saviour of mankind, we lift up our minds and souls at this solemn moment as we gather in our Nation's Capital, to demonstrate our faith in Thee, and our love for those deprived of liberty, justice and human rights.

We admit O Master, that our minds are confused with contemporary national and international logic, which is a logic of assertions and denials; of assurances and broken promises; of noble initiatives and unpardonable neglects. We also admit that our hearts are heavy with uncertainty and frustration; with anguish and disillusionment; with sorrow and despair; as we live the agony of the unknown and unpredictable future.

From the depths of our whole being we raise our prayers to Thee, O Jesus, Son of God and Son of Man, Who loves mankind; Who weeps with those who weep; Who rejoices with those who rejoice. Remember those of our brethren who agonize for justice, truth and humanity. Remember the homeless, the refugees, the persecuted and the oppressed.

Thou Who art the refuge of Refugees: we beseech Thee to hear the cry of their souls. Shield and protect them as they struggle for survival in lands where law and order and civil and human rights are suppressed and violated. Especially remember, O Lord, our refugees in Cyprus whose most basic rights are ignored and even denied.

In deep humility, O Lord, we genuflect as Thou has done in the Garden of Gethsemane, during the long and dark night of the ineffable agony Thou hast experienced. Pray to Thy Father that betrayal and inhumanity may never again occur in human relations, and that kindness and compassion may prevail over bias and injustice.

Illumine the mind and strengthen our President so that he may serve our nation and all freedom-loving nations in their quest for a permanent and a just peace. Grant him Thy peace and Thy love. Speak to his heart in favor of all who look towards our nation for safeguard and protection. Inspire his actions and thoughts so that he may respond to the demands of his high office and to the justified expectations of the people he leads.

In Thine infinite mercy, manifest Thyself to us. Walk with us as we march, and marshall our souls and hearts in our pursuit for dignity, self-respect and human rights. Restrain those who attempt to perpetuate injustice and disorder in the world. Cast down attempts of the expansionists who aim at dominating defenseless and the poor and plunge them into ignominy and servitude.

Receive us O Merciful One, into Thine protective care; transfigure us into children of light and freedom; grant us Thy peace and Thy love; Thou has given us every perfect gift. And grant us one voice and one heart so that we may glorify and extol the most Holy and Magnificent Name of The Father and of the Son and of the Holy Spirit, now and ever more and unto ages of ages. Amen!

PETITION

We, Citizens from all the States in the Union, have gathered here this 16th day of April 1978 before the White House to petition our President to:

Withdraw his proposal to Congress to lift the embargo of U.S. arms to Turkey as long as 200,000 Cypriot refugees are not repatriated; 40% of Cyprus is occupied by Turkish armed forces; U.N. resolutions condemning the Turkish actions are not implemented in full; our laws are being violated by the Turkish aggression which has even expanded to claims to the Aegean Archipelago; the Armenian, Greek and other minorities and the Orthodox Patriarchate in Turkey are being persecuted.

Correct the State Department's Human Rights reports on Cyprus, Greece and Turkey, which were submitted on February 3, 1978, to the International Relations Committee of the House of Representatives and the Foreign Relations Committee of the Senate because they are inaccurate and reflect the State Department's entrenched bias.

Implement his administration's enlightened pursuit of policies based on human rights and the Rule of Law in the case of Cyprus, particularly since he has committed himself, because these American ideals are the constitutional basis on which our Government is founded and represent our true national interests for which we will continue to struggle.

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STATEMENT OF HON. MARIO BIAGGI, APRIL 16, 1978

It was almost four years ago when Turkey, in an act of immoral and illegal aggression invaded Cyprus. To this day Turkey continues to occupy more than 40 percent of Cyprus and control a much higher percentage of its key industries. Three years ago, the United States Congress in response to these ruthless actions voted to impose an embargo on further U.S. military arms and assistance to Turkey for it was some of this aid which was used to invade Cyprus. I was proud to have been one of the main advocates of the legislation and felt it demonstrated to the world the Congress' belief in the rule of law.

This Administration has proposed a lifting of the arms embargo due to fear that Turkey will make good on her threat to close all U.S. military bases. Yet the fact is the illegality and immorality which prompted the arms embargo has not diminished. Turkey continues to illegally control a sizable portion of Cyprus. Human rights violations are continuing—thousands of Greek Cypriots remain refugees on their home land living lives of despair—some 2000 Greek Cypriots remain missing having been that way since the invasion. Yet the United States, the new champion of human rights, has chosen to overlook this situation and instead take an action which will have the effect of sanctioning the status quo on Cyprus.

The question of human rights on Cyprus is of deep concern to me. A recent communication to the United Nations by Mr. Joseph J. Stephanides, Chargé d'Affaires of the Permanent Mission of Cyprus to the United Nations portrayed graphically the extent to which human rights of violations exist in Cyprus. Mr. Stephanides stated "the living conditions of the enslaved Greek Cypriot inhabitants in the areas of the Republic under Turkey's military occupation have recently become unbearable as a result of unthinkable inhuman practices which they systematically employ . . . These are medieval conditions of horror, torture and continuous harassment." Mr. Stephanides appealed to the world community when he states, "There can hardly be any justification for inaction and apathy of the face of the impartially documented and internationally verified gross violations of fundamental human rights by the Turkish arm of occupation against the people of Cyprus as a whole."

Turkey, if in good faith could have sought a resolution of this unlawful occupation and its consequences. They have had four years to demonstrate their good faith. In the continuing absence of such a commitment and the continuing presence of human rights violations it is intolerable that this Administration would even suggest a change in the embargo.

To lift the embargo at this time would thwart the will of the people as expressed by the Congress. It would endanger our favorable relations with the people of Cyprus and Greece. Can we not expect their friendship to turn to hostility because of our abandonment and betrayal?

America's credibility is at stake. We must insist that Turkey show its good faith by negotiating a lasting peace on Cyprus including a reunification for those thousands of Greek Cypriots who are refugees on their own land and a full accounting of all missing Greek Cypriots.

The role America plays with respect to Cyprus will be a barometer which other nations will use to gauge the integrity and viability of our foreign policy. Our respect for the rule of law must not waver. Our insistence of respect for human rights cannot be compromised. Our pursuit of a lasting and just peace on Cyprus must continue.●

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## ALHAMBRA—DIAMOND ANNIVERSARY

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### HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. ROUSSELOT. Mr. Speaker, this is a season of jubilant celebration in the city of Alhambra which is located in the beautiful valley of San Gabriel in the Golden State of California. The people of Alhambra are observing the 75th anniversary of their city's incorporation. It gives me great pride and joy as the elected Representative of California's 26th Congressional District which includes the city of Alhambra to offer this tribute to a sturdy city which has, through private enterprise, grown from a small community of 600 residents 75 years ago to a thriving, important municipality with a population of more than 62,000 people within the city limits. The mayor of Alhambra, the Honorable J. Parker Williams, and other civic leaders have set up the Alhambra Diamond Anniversary Committee under which several community activities are scheduled where the notable event of the incorporation of the city of Alhambra will be officially recognized. The members of the Alhambra Diamond Anniversary Committee are: Mayor Williams; former mayor and city councilman, Steve Ballreich; executive manager of the chamber of commerce, Jackson B. Kuehnle; Alhambra Community Hospital administrator, David Jacobson; Alhambra Post Advocate editor and publisher, Warner Jenkins; Alhambra central business district manager, Richard Nichols; and businessman Pete Letourneau. The first event will be on April 22 when the Alhambra Jaycees will sponsor the annual Hi Neighbor Day parade. Luis Brambila is chairman of this 34th annual parade,

and George Ramos is general chairman and international vice president of the Alhambra Jaycees. I am honored to participate in this event and on this occasion I will present this insert from the CONGRESSIONAL RECORD noting that I have made the celebration of this significant event a permanent part of the record of the U.S. Congress. On July 11 the Historical Society of Alhambra will have a mock period dress celebration on the date of this city's incorporation. On September 24 the city will hold a community picnic with fireworks.

Mr. Speaker, I would like to tell you and my colleagues in the House of Representatives a little about the history of Alhambra, the city called the "Gateway to the San Gabriel Valley," as it appears in a publication distributed by the Alhambra Chamber of Commerce.

The principal part of the land within Alhambra's present boundaries was included in the 1771 grant made to Mission San Gabriel, 5 years before the birth of our Nation. There were no orchards or vineyards in the San Gabriel Valley then, only dry, uncultivated fields broken by arroyos and low-lying hills from the Mission San Gabriel west to the small Indian village called "Yang-na," which later became Los Angeles. According to 1784 records of individual land grants made by the Spanish Government, at least a portion of the land on which Alhambra was built was once part of 300,000 acres granted to Manuel Nieto.

One of the early founders was Benjamin B. Wilson, a 29-year-old Tennessean. "Don Benito," as he was familiarly called, married Ramona Yorba. Don Benito's oldest daughter, Maria, married a young engineer from Baltimore, James de Barth Shorb, and they were given a section of land adjoining the Wilson property as a wedding present. Shorb called it "San Marino," the name of his boyhood home in Maryland. I mention this because the city of San Marino is my hometown. The Huntington Library Art Gallery stands on the side of the Shorb home. Don Benito's wife died and he later married a widow, Mrs. Margaret Hereford. This is significant because they had four children, one of which was Ruth Wilson who became Mrs. George Patton, mother of the famous General George Patton, Jr. In 1874 Don Benito bought the land between the Arroyo and the Old Mill Wash paying the State $2.50 an acre. He divided the tract into 5- and 10-acre lots. Mrs. Patton and Mrs. Shorb who had been reading "Alhambra," Washington Irving's book of the legend of the Moorish palace in Spain, suggested that Wilson name his venture "The Alhambra" because it was so romantic. There were several other subdivisions of property, some of which bear names from Don Benito's family, one is Mount Wilson where the observatory is located.

After California became a State, Wilson held several political offices. He was Los Angeles County's first clerk, then he became mayor of Los Angeles. He was appointed as an Indian agent for the southern district in 1852 and the next year he became a State senator. Wilson died in 1878. By 1910 the population of Alhambra grew to 5,000 and in 1915 Alhambra became a chartered city, one of only a few in California at that time. Today Alhambra is a city of lovely homes, dynamic business and growing industrial strength.

No better description has been given of Alhambra than that of Rufus Fiske Bishop who recalled on the 50th anniversary of his arrival in the 1880's that—

Within what are now the city limits, there was not a schoolhouse, a store or a blacksmith shop. We saw a valley, wide and open, yellow with stubble, shimmering in the summer haze to the eastward, stretching from the blue mountains to the brown hills, with here and there a green splotch of young orchards and vineyard toward Pasadena or the foothills. That first spring we marvelled to see the slope (Altadena) ablaze with poppies and were told that ships steered their course by the bright color.

Mr. Speaker, I ask that you and my other colleagues in the House of Representatives join with me to offer our congratulations to the city of Alhambra on the occasion of their 75th anniversary.●

## THE VIETNAM VETERAN FROM ANOTHER POINT OF VIEW

### HON. L. A. (SKIP) BAFALIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. BAFALIS. Mr. Speaker, I submit for the RECORD today a copy of an article from the VFW magazine entitled "A Credit to Nation." This article, written by Mr. Jack Bolander of the 10th District of Florida, deals with the testing of Vietnam veterans conducted by Col. Peter B. Petersen. I commend the results of these tests to my colleagues. They will certainly do away with many of the "theories" about the Vietnam-era veterans others would have us believe.

The article follows:

A CREDIT TO NATION

If anyone knows the American soldier and the Vietnam veteran, it is Col. Peter B. Petersen, who spent 13 years in the field and six years interviewing and testing 4,000 men before, during and after the Vietnam War.

Magazine articles and books denigrating the performance of American troops in Vietnam are especially annoying to Petersen, now on the Army staff at the Pentagon.

He calls a recent magazine series "inadequate and unfair to GI Joe and the veteran."

"One of the articles indicated the Vietnam veteran 'has a hole in his soul,'" Petersen remarked. "Well, that's bull. He doesn't have a hole in his soul. If you're talking about his boots, maybe, but not spiritually."

Petersen's 4,000 interviews and tests and six years' study culminated in a recent book, "Against the Tide," which Petersen says is an overdue reply to works he finds offensive and project unfounded generalities.

Describing his research methods, Petersen said:

"I gave questionnaires to soldiers in combat and then again to many of these men as veterans. The questionnaire deals with attitudes and is published by the Educational Testing Service at Princeton. Through the questionnaires, I found that the Vietnam veteran is very sensitive to his friends. It turned out that talk about the violent veteran and the post-Vietnam syndrome, meaning the guy comes back as a bum, was just not the case."

Petersen contends that his study contradicts the impression cultivated by some writers and publications that Vietnam veterans are psychological walking wounded.

"A major misperception by critics of the U.S. Army is that Vietnam veterans are disoriented and tend to be a detriment to society," he said. "The findings of my research project strongly indicate that this is not correct.

"The American soldier and the Vietnam veteran are a credit to their country and are men we can be proud of."

He said he has found that many unfair arguments are based on four misperceptions that training turns a well-adjusted, normal person into a robot; combat twists soldiers into virtual enemies of society; career soldiers are incapable of making it in civilian life, and privates are oppressed pawns, junior officers are naive and senior officers use situations to enhance their careers.

The unit Petersen studied, the 3rd Battalion, 60th Infantry, 2nd Brigade, 9th Division, was one of the many probed also during World War II.

"Many of the findings concerning GI Joe in WWII and Vietnam were the same and we can be proud of the results," he said.

In the study, three companies of the 60th Infantry's 3rd Battalion fought a Viet Cong main force company in the Mekong Delta on Feb. 14, 1969, using helicopters, artillery and Air Force jet fighter planes.

"In many respects, the procedures that were followed by infantrymen during WWII have changed drastically," he explained.

Technological advances have helped the infantrymen, but at the same time create disadvantages in a reliance on radio communications rather than face-to-face discussion and an arrival by helicopter that requires the soldier to orient himself rapidly, he said.

Petersen found the infantrymen he studied tended to be more sensitive to the needs of their friends in combat.

"Perhaps the daily stress of combat and adverse environmental conditions encouraged a feeling of comradeship that was welcome in Vietnam, but no longer needed after these men returned to the United States," he said. "It seems ironic that it takes the horror of war to cause individuals to become more sensitive in their interactions with their friends."

Petersen, a battalion commander in Vietnam, has come up with five observations, which he considers the most significant and combat veterans of other wars may find familiar:

These infantrymen tended to place a high value on what their peers thought of them. In combat, the importance to them of acceptance by their peers was often reflected in their lack of self-assertiveness in situations when they were encouraged by their superiors or by the nature of events to compete with their peers.

While involved in combat operations, these men appeared to have a strong identification with their immediate superiors.

The unselfish nature of the infantrymen observed was apparent, particularly in their genuine concern for their friends. The dependence on one another for safety in combat may have been a factor in this comradeship. In addition, individuals seemed to place an extraordinary value on tasks involving interactions with their associates and especially in participating in social activities with their friends.

A common complaint by these infantrymen was the frequency of changes in their com-

bat operations. Typical complaints were "hurry up and wait" and "not another change in today's plans!" Sometimes these complaints were justifiable, while at other times a change in the situation required a change in plans.

While in Vietnam, the infantrymen represented in the study seemed to dislike being considered ambitious. In many cases, competent and highly productive individuals avoided receiving the traditional military rewards that pertain to high status and prestige. Perhaps this was due to their desire to be one of the "boys" rather than to be considered a "hero" or "showoff" by their companions. Also, motivation to some degree may have been missing because of the type of war in which they were engaged.●

## CARTER'S EFFORTS IN SOUTH AFRICA BEING RECOGNIZED

### HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. EDWARDS of California. Mr. Speaker, during his last visit to South Africa, William B. Gould, the distinguished professor of law, Stanford University Law School, met with South Africans, both black and white, who are leaders in the struggle against apartheid. Even though success is not at hand, these civil rights leaders emphasized that President Carter's stand against the repressive Vorster government has given them encouragement in their battle for the eventual attainment of black majority rule.

Professor Gould outlines his discussions with these individuals in the following Los Angeles Times article. I hope that my colleagues find his remarks as informative and enlightening as I did.

The article follows:

CARTER'S EFFORTS BEING RECOGNIZED

While in South Africa last summer, I spoke with a good many people, cutting across a fairly wide political spectrum—black and white ranging from banned trade unionists to government officials. Some of the most memorable meetings were with individuals who play very different roles in the struggle against the Vorster government policy of repression.

One was Dr. Nthato Motlana who is now in detention. He has been the leader of the Soweto Ten, which attempted unsuccessfully to negotiate with the Nationalist government on effective local government for the black residents of Soweto. Another was Chief Gatsha Butelezi, the controversial leader of five million Zulu peoples, as well as the main force in its "cultural" organization, Inkatha, the only remaining voice of black opposition which is not presently banned.

And perhaps most important of all was a discussion that I had with Mrs. Winnie Mandela, wife of African National Congress leader Nelson Mandela, who is imprisoned for life on Robben Island. Mrs. Mandela had become a civil rights leader in her own right in Soweto before being banned in May of this year. Despite the variety of views and personalities, there was one common thread to the remarks—a recognition of the critical role that America plays in effectuating change in South Africa and a hopefulness about the intentions of the Carter administration in this effort.

Soon after I lunched with Motlana in late August, I recall telling an American friend in Johannesburg how fortunate South Africa was to have such a moderate and sensible black leader in a society where every black is subjected to daily indignity. He spent much time speaking to me of the Soweto student boycott against Bantu education, a system which provides blacks with one-sixteenth the financial aid given to whites and deliberately attempts to cripple them by teaching a tribal vernacular which is ill-suited to the modern industrial centers where English is the prerequisite. Motlana did not speak of black majority rule—although I have no doubt that he supports this idea, but rather focused on local government as well as education.

Butelezi—so fiercely criticized by the Black Consciousness Movement, of which Steve Biko was a leader, primarily because he accepted leadership in the Kwazulu government, the "homeland" for Zulus in South Africa—told me that he would "never" accept independence under the government's separate development policy as others have done. He told me that he could not support disinvestment or other economic sanctions because he has a responsibility for employment opportunities for his people.

But Butelezi strongly advocated other forms of pressure. Now he alone retains a platform on which to speak out to South African blacks. Said Butelezi of the government's October bannings, "It is an admission that the government of this country is by jackboots as far as blacks are concerned."

My meeting with Mrs. Mandela dramatized more than all else the position of blacks who dare protest government policy. Mrs. Mandela is under house arrest in Brandfort, banished to this remote town deep in the flat and uninteresting countryside of the Orange Free State, the heartland of Africanerdom, where the ruling Nationalist Party is strongest. She lives under curfew in a black township where no one speaks her language i.e., English and Xosha.

I drove out to Brandfort alone in a rented car in the early afternoon of Aug. 17, and arrived just on time for our 2 p.m. meeting. I did not know what to expect that day in a country where government surveillance is commonplace, and in a part of the nation where English—particularly with an American accent—can attract attention. I stood waiting on the sidewalk of this two-horse town, which seemed out of wild west movie—but there was no Mrs. Mandela to meet me.

However, the Security Branch of the South African police were there—equipped with earphones, which I am advised can monitor any conversation within half a mile. A friendly Jewish woman, whose family had come to Brandfort from Lithuania in 1938, helped me in my search for Mrs. Mandela, as the police sat in their car across the street. "Are you a Carter man?" she said. "Yes," I responded. "Well, he doesn't understand our situation here." And later, when I thanked her for her help, she said, "I hope that you will tell Americans that we are civilized here in South Africa."

An hour or so later, I found Mrs. Mandela. She had received a message stating that our meeting had been postponed. Both of us suspected that the Security Branch, whose officers sat behind us in a parked car during our entire meeting, were responsible.

For a woman who is in such isolation—she had been jailed frequently, and like Motlana, was imprisoned last year after Soweto, and is now being charged with and tried for violations of her banning orders—she was in remarkably good spirits. She told me that the Africaaner did not believe that blacks "had evolved" and that a "clash" over black-white inequities was made more likely by the degradation of Soweto and similar black townships throughout the country, whose tiny homes are now the living quarters for blacks of any economic station.

These three individuals, Motlana, Butelezi, and Mandela, differ in temperament and approaches. But they seem in agreement on one point, i.e., that the Carter administration had provided some measure of confidence to South African blacks which was not there previously. "Does Carter really mean it?" said Mrs. Mandela hopefully. "He must keep the pressure up," said Butelezi of the Carter administration's call for full political participation. And I shall never forget Motlana's last comment as we parted, "You Americans must pick the winners for a change."●

## "DON'T BLAME ISRAEL"

### HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. DORNAN. Mr. Speaker, the State of Israel devotes enough energy and resources to prepare against attacks by its enemies, that it ought not have to worry about defending itself against attacks by its friends. Yet judging by some of the implications of President Carter's Middle East policy, it is almost as if the White House is forcing Israel to worry about a second flank in its defenses. This time, it is a flank to fend off friends.

It is hardly friendly, though, for us to deny Israel the sale of arms and planes previously promised by us. It is hardly a friend of Israel which encourages the terrorist PLO by issuing pabulum-like statements of diplomatic reprimand at times when the Palestine Liberation Organization is earning nearly universal censure and disapproval. It is difficult to contend that we are Israel's staunch supporter when our President joins an Arab chorusline dancing to the tune of, "What's mine is mine, and what's yours is negotiable."

Throughout all of the less than friendly times when the White House has done or said something which naturally offends our staunchest Middle East ally, Israel has been understanding. But history has shown that no nation is so patient that there does not eventually come a point of diminishing returns, a time when a nation declares, "So far, and no farther." Israel is beginning to approach this line of resolve. As a friend of Israel and as an American concerned about his Nation's foreign policy, I implore the Carter administration to cease and desist in the apparent effort to blame Israel for the continuing Middle East crisis.

Mr. William Safire cataloged the administration's actions and attitudes which have led to our present two-faced relationship with our great and true friend, the nation of Israel. I hope that my colleagues will take the time to read it, and I hope that we will do everything we can as the legislative partners in the foreign policymaking process to get the administration to alter its present course.

The column follows:

Immediately upon his return to Lebanon from a meeting and photo opportunity with Andrei Gromyko in Moscow, Yasir Arafat sent his assassins into Israel to begin a new series of murders of Jewish civilians.

World response was instructive. U.S. Hodding Carter III at first dithered behind a

pretense of not knowing who did it. The Soviet news agency covered it as a daring military operation. Saudi radio hailed the attack at first, but after the Saudi ambassador in Washington was told such an attitude doomed his government's purchase of U.S. bombers, he frowned at the killers. Sen. John Glenn of Ohio, with fine even-handedness, labeled in advance the likely Israeli retaliation as similar "terrorism." Anwar Sadat remained silent for four days and condemned the raid just in time to be able to denounce the Israel response.

In light of that less-than-spontaneous moral indignation, it seems to me the Israeli answer was not only understandable but sensible. Not only will the murder of its citizens not be tolerated, but no place from which such attacks are planned and staged can be inviolate. Just as the U.S. refuses to permit Cuba its sovereign right to stock missiles capable of destroying American cities, Israel refuses to grant Lebanon its sovereign right to provide terrorists the base from which to attack Israel.

The result will be a five mile strip along the Labanese-Israel border under Lebanese sovereignty but Israeli protection for the time being; to avoid provocation of Syria, this is short of the "red line" (the Litani River) which Israel last year warned Syrian peace-keeping troops not to cross.

In sum, the Israeli reaction to the terrorist killings was not eye-for-an-eye reprisal but a strategic move to increase security along its northern border, a move quietly welcomed by PLO-terrorized Lebanese Christians.

That's not the way it's going to play, of course; in today's blame-Israel atmosphere, the PLOs campaign will be interpreted in the United Nations as proof that no peace can be made without meeting Arafat's terms, and the Israeli response will be treated as an opportunity missed to turn the other cheek for peace.

Our only democratic ally in the Middle East, has been getting a raw deal lately from Carter, who once scored points with Jewish voters in his televised debate with President Ford by promising not to have Kissinger-style "reassessment" of U.S. support for Israel. For example, the White House is going back on the U.S. word, given in writing in 1975, to provide advanced aircraft to Israel in return for Israeli withdrawal from strategic passes in the Sinai. The Israelis withdrew, fulfilling their part of the deal; but now Carter has made delivery of some of the aircraft contingent on Congressional approval of sales of the same aircraft to Saudi Arabia.

In plain words, that is a double-cross; Israel would never have withdrawn from the Gidi and Mitla passes without some counterbalancing security. Carter's new "package" not only reneges on our promise, but opens the door to a new threat to Israeli survival; the potential use of the most advanced American arms by Arabs against Jews.

Nobody calls it that, in Carter's White House; much mumbling is heard about delivery years from now, restrictions on which bases the planes will fly from, etc. Nonsense. For a generation, guns and planes and tanks supplied to Arab nations have been used for one primary purpose: to kill Jews who were defending Israel. To say we remain committed to the security of Israel while selling bombers to Saudi Arabia is to take leave of common sense. The same turning of truth on its head can be heard in Carter's blast at what he terms Israel's "abandonment" of UN Resolution 242, calling for the return of "territories." In 1967—long before Carter knew the whereabouts of the Mideast, at a time when Israel had a friend in the White House . . . the U.S. and Israel forced the specific article "the" out of that resolution; all concerned knew that meant Israel agreed to return some, not all territories taken from Arab aggressors. Sadat demands, and Carter agrees, that Israel agree to relinquish all or part of the West Bank before negotiations begin. Begin quite rightly says to hell with that. Israelis differ about what should be done about the West Bank (differences are only permitted in democracies, as Saudi princesses now know), but all agree that the Israeli defense line is the Jordan River, which includes the West Bank. And why should Israelis not have an equal right to buy and settle land along with their neighbors in an area where sovereignty is unclear?

Israel wants to make a deal in negotiations, not before negotiations. Some hope exists that Sadat may be getting ready to proceed without the presence of King Hussein. The least that America's Arabist diplomats can do is to stop bad-mouthing a "separate peace" and to start encouraging Sadat to lead the Arab world into a succession of individual peace treaties with the survival-minded nation he dared to recognize.●

## TEACHING THE HOLOCAUST IN NEW YORK CITY'S PUBLIC SCHOOLS

### HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. SOLARZ. Mr. Speaker, the current 9-hour mini-series, "Holocaust" has brought this whole tragic period of human history vividly into the public's view. All those associated with this mini-series are to be commended for their efforts to retell the difficult and horrible story of what happened in Nazi Germany and how far man's inhumanity to man can proceed. It must never happen again.

Thus the New York City Board of Education and its president, Mr. Stephen Aiello, are to be commended for their outstanding work in developing a permanent course on the holocaust for public high school students.

The concepts of racism, genocide, and national resistance epitomized by the holocaust effect all peoples everywhere, but for many New Yorkers and their families they are first-hand memories and experiences.

Six million European Jews were killed by Nazi Germany prior to and during World War II, yet some of our history books make but a brief mention of this unprecedented mass murder and the monumental bigotry that produced the holocaust. It is important for all Americans, and particularly for our children, that by looking at this historical event we come to a better understanding of the present and future dangers of bigotry, and the importance of human rights for all peoples.

In order to share the story of how a black project chairman, an Italian school board president, and a group of Jewish teachers developed and won support for this course on the holocaust I am submitting the following excerpts from an article by Dr. Perry Davis for reprinting in the CONGRESSIONAL RECORD.

I hope that other school systems will follow New York City's example, and that my bill, H.R. 11536 will eventually make such materials on the holocaust available to all elementary and secondary schools.

The article follows:

TEACHING THE HOLOCAUST IN NEW YORK CITY'S PUBLIC SCHOOLS

(By Perry Davis)

On October 6, 1977, at a press conference at 110 Livingston Street—headquarters of the New York City public school system—[announced] a new course for high school students: "The Holocaust, A Study of Genocide."

Just when one might have supposed that the "market" for Holocaust studies was drying up, when a generation of newer and more dazzling horrors had been brought to our homes via television, as guilt for participation, guilt for ignorance, guilt for silence were winding down—just then, it happened Elie Wiesel, and Lucy Dawidowicz, and a course started by students at Hampshire College, and a dozen other courses, and as many national and international conferences, and even Ph.D. programs in Holocaust Studies. Anwar Sadat at Yad Vashem. Perhaps a time of silence and repression was required, perhap not. That time is now, in any case, done. And the best evidence is that in troubled New York City, whose public school system is beset by problems budgetary and ideological, racial and curricular, there is now every prospect that henceforward each and every high school student will be required to spend not less than two weeks—in many cases, much more time than that—studying the Holocaust.

Nor is that prospect the product of a Jewish cabal. Jews have, of course, been centrally involved, but the story of how the New York City public schools have come to initiate the proposed program is not, essentially, a story of Jewish power. It is a story of urban coalition—lower case letters, no fanfare—and of teachers working at their tasks, of skilled and enterprising professionalism working its way up through a system.

The press conference . . . was called by the President of the New York City Board of Education, its Chancellor and its Director of Educational Planning and Support—an Italo-American Catholic, a Jew, and a black. It was the occasion for the announcement of the program, and for distribution of a new 461-page curriculum guide for teachers, product of years of preparation and thousands of manhours of work. Board President Stephen Aiello expressed the hope that after extensive experimental use this year and a summer of revision, the study of the Holocaust would become a mandated part of every high school student's course of study. . . .

Here and there, teachers in the New York system—as also in other scattered school districts around the country—have tried, over the years, to convey some part of the story and meaning of the Holocaust to their students. In several cases, the efforts have been unusually imaginative, the results most impressive. But these have been chiefly the products of private initiative. In New York City, as elsewhere, the Second World War is given brief attention in the curriculum, and there is at best only passing reference to the special case of the Holocaust. In fact, Diane Roskies, in her "Teaching the Holocaust to Children," reviews the work of other scholars who have sought references to the Holocaust in public school textbooks, and finds that in twelve out of fifteen of the most commonly used world history texts, there is *no mention at all* of the Hitler genocide. And when there is a reference, it may well be no more than the following typical example: "A generation now living knows that *thousands* of people were killed in gas chambers because they were a minority group in Germany." (Emphasis added.)

New York has the largest Jewish population of any city in the world. But out of 1.1 million public school students, the overwhelming majority are not Jews. (More than 70 percent are members of black, Hispanic, or other minority groups.) Yet there has been almost no curricular effort to break through the conventional stereotypes of the Jews which so many public school students share—images of the Jew as slumlord, as exploitive businessman, as paternalistic liberal. The Jew as contributor to American culture, the Jew as poor and elderly, the Jew as survivor, the Jew as dedicated teacher—these images are ignored. . . .

But many central school board officials and other community leaders disagreed. More than a year earlier, efforts to develop a Holocaust curriculum for the New York Public Schools had begun. (Because the city's population includes many Holocaust survivors and families of victims, the subject was more than history—it had a highly personal impact.

But beyond that, the concepts of racism, genocide, and national resistance, epitomized in the Holocaust, manifestly affect all peoples.) Dr. Seymour Lachman, then president of the New York Board of Education, met with community and Jewish organization leaders to discuss the creation of a Holocaust curriculum. An Orthodox Jew who had lost family in Nazi Europe, Lachman further explored the idea with the chief school administrator, Irving Anker, who agreed to proceed. Some months later, Lachman announced his intention to leave the Board.

Prior to his departure, however, he testified before the New York State Assembly Education Committee, which was conducting hearings to determine the need for Holocaust studies in the public schools, statewide. Citing the Holocaust as "the essential trauma of the 20th century," Lachman said, "at the very least students must know that the Nazis murdered six million Jewish men, women, and children."

He urged that a special unit be integrated into the social studies, and suggested supplementary curriculum and textbook materials. In addition, he asked that the State Education Department fund summer institutes to train teachers in the subject. He concluded, "The entire human race has been diminished by the Holocaust. Let it never again happen to any other people anywhere in this earth."

Then-Assemblyman Stephen Solarz chaired the hearings, and announced the introduction of legislation mandating Holocaust studies. (The following year, as a U.S. Congressman, he introduced similar legislation—H.R. 1136—before the House of Representatives, describing it as "a bill to direct the National Institute of Education to develop curricula concerning the destruction of the European Jewish Community by Nazi Germany prior to and during WW II, for dissemination to elementary and secondary schools.") Despite Solarz's best efforts, neither the State of New York nor the U.S. Congress enacted the measures.

Independently, however, the New York City Board of Education continued its efforts. Lachman was succeeded by his former special assistant, Stephen Aiello, who was actively committed to ethnic studies and to the Holocaust curriculum in particular. As progress continued in both areas, the Board and the Chancellor sought to separate the Holocaust project from the growing clamor for ethnic studies. The Holocaust was not to be taught as a Jewish history subject, but rather as a case of monumental bigotry, thus a key topic in value education.

*The Holocaust: A Case Study of Genocide* was published by the Board of Education in September, 1975. The 66-page experimental teaching guide, which included five model lesson plans, was written by the head of the Board's Social Studies office, Albert Post, and produced by the American Association for Jewish Education. Copies were sent to every high school with requests for limited tryouts and reactions. The response was mixed, but mostly negative.

Given the disappointing reception of the new curriculum, and the objections the matter might well have been shelved at that point. * * *

But the people who cared deeply. And at about the same time that New York was addressing the matter, Holocaust studies programs had been instituted in Lawrence and Great Neck, in Chicago, San Francisco, and in Philadelphia * * *. While the introduction of Holocaust studies could hardly be viewed as a competitive race, New York has always, with good reason, perceived itself as an educational innovator. Yet here, despite its uniquely rich resources, New York had obviously fallen behind. The central administration had tried, and had produced a mediocre product. What to do?

Jay Schechter is a New York teacher who didn't wait for a curriculum to be handed down from above. He was already teaching his students about ghettoes and Chassidim, Nuremberg laws and concentration camps. It wasn't easy for the young social studies teacher to explain Chassidic culture to his non-Jewish and largely non-white high school students. The Chassidim they saw in their neighborhoods seemed strange and foreign. Schechter, a member of the Association of Orthodox Jewish Teachers, looked for points of access. He brought in music from "Fiddler on the Roof" and *nigunim* of the Modzhitzer Rebbe. Soon, his students were actually dancing in the classroom aisles.

And at a Queens high school, Nancy Boyman was teaching a course on the Holocaust to more than 200 students a year. One of her lesson plans was a game called "Survive," developed by a rabbi in Kansas City, Missouri. Students are told that they are Jews living in America. A huge wave of anti-Semitism sweeps the country. Ghettoes are set up. Deportations begin and Jews suddenly disappear. "What do you now? the students are asked. They are given a list of options ranging from "Go to the authorities; claim you are not Jewish; trust that this is all a mistake" to "organize acts of sabotage directed at those organizations responsible for the persecution." Rigorous time limits are set. Students are told to organize themselves into families and come up with quick joint decisions. As the exercise continues, squabbles break out and feelings of panic fill the classroom.

In Brooklyn, at John Dewey High School, another teacher, Ira Zornberg, established a Holocaust center with a special state grant used to purchase audio and video taping equipment. Students met and filmed Holocaust survivors in their own communities. The victims described their experiences in the ghettoes and death camps. The school library was remodeled to house a Holocaust photographic and bibliographic exhibit, including newspaper microfilms and other materials from the Nazi period. * * *

These and other similar projects were quietly happening at a handful of New York's public high schools. Al Zachter, chairman of a social studies department, was instructing colleagues on the teaching of the Holocaust at special seminars. And it soon became clear, as pressure for a city-wide curriculum continued, despite the initial disappointment, that the best job would be done by teachers and administrators who were already doing it.

Schechter, Zachter, Zornberg, Boyman, and other teachers, some of whom were excused from their classroom duties, were asked to collaborate on the project during the 1976–77 school year. And the Kansas City game of "survive" and the music of the Modzhitzer Rebbe made it into the city-wide curriculum.

The project team was directed by Charlotte Frank, Florence Jackson, and Albert Post. By September 1977, *The Holocaust: A Study of Genocide* was finished. It consists of two parts. The first, 90 pages long, outlines the scope and sequence of the guide. It includes an annotated bibliography, lists of audio-visual materials, and sources for more information. Part two is 371 pages of actual teaching material to be reproduced for use in the classroom, accompanied by suggested lesson plans. The complete guide is adaptable for a mini-section within the world history course or as a full semester elective on the Holocaust.

Materials were collected from hundreds of sources and from publications ranging from the German "Anti-Semites Petition" issued in 1880 to an article on children of survivors which appeared in *The New York Times Magazine* on June 19, 1977.

The guide begins with a section on genocide and racism and includes a specific reading on the massacre of the Armenians by the Turks in the early part of this century. It dramatizes the ways in which the study of the Holocaust can alert people to present and future dangers of bigotry.

Describing European Jewry prior to the Holocaust, one lesson is devoted to the historical position of the Jewish ghetto, a concept quite different from the "ghetto" as it is understood by New York's inner city students.

The section on the Nazi takeover shows how school children in Germany were barraged with propaganda. Actual sample lessons are reproduced from Nazi textbooks.

The rise of anti-Semitism, and the groundwork for genocide, are documented through reproductions of vicious anti-Jewish cartoons. A child's identification card stamped with a large "J" is shown.

The implementation of the "Final Solution" is then described, including information on the concentration and extermination camps. A special section focuses on the murder of non-Jews by the Nazis and on the violent resistance efforts of Jews and non-Jews. There are children's drawings and poems recovered from liberated concentration camps. Rescue work is discussed—that of Father Roncalli, for example, later Pope John XXIII. And the American response is described. Students are asked to react to the cover design of Arthur Morse's book, *While Six Million Died*, a reticent Statue of Liberty with lowered torch.

The final section is titled, "How can the study of the Holocaust contribute to a more humane world?" and lesson plans involve issues of Nazi fugitives, the Eichmann trial, the Calley trial and the Vietnam War.

Though they were publicly quiet, some Jewish leaders expressed reluctance about the curriculum. None would be quoted, but some felt that the Holocaust was too sacred to study in public schools, while others feared it might provoke new anti-Semitism. In the main, however, Jewish reaction was positive. Larry Lavinsky, chairman of the New York Chapter of the Anti-Defamation League of B'nai B'rith, congratulated the Board and called the project "a major step toward the introduction of teaching about the Holocaust . . . and for making it part of the body of knowledge of all students."

A.D.L. was, at the same time, conducting its own conference on the teaching of genocide and the Nazi Holocaust in American secondary schools. At that meeting, Deputy Health, Education, and Welfare Commissioner Thomas Minter pledged greater support on the part of the Carter Administration for Holocaust studies saying, "this promise is wholly consistent with President Carter's emphasis on human rights."

Requests for the curriculum came from scores of school districts throughout the

United States and Canada. Interestingly, many queries came from Jewish day schools in the process of developing their own Holocaust courses.

Lieutenant Abe Kushner of the New York Police Department said that the curriculum would ease tension and that "the work might be adapted for use in police sensitivity training courses."

The Catholic Tablet praised the curriculum editorially: "Holocaust studies are a breakthrough. Their success should encourage another look at ways to strengthen public education's ability to further the total growth . . . of the citizens of tomorrow, the next generation of our city." . . .

The introduction of the Holocaust curriculum in the 70 percent minority public school system threatened to tax whatever fragile bonds existed between blacks and Jews even further.

Reverend Timothy Mitchell, Chairman of the National Conference of Black Churchmen, and the leadership of the New York Association of Black Educators opposed the Holocaust curriculum and objected to efforts to make the unit mandatory. They claimed that a similar requirement should be instituted to teach about racism and slavery in America . . .

Board of Education officials responded that studies dealing with slavery and racism were already integral parts of the American history curriculum and a State Regents requirement. Time spent on these subjects far exceeds the proposal for a two week minimum requirement for Holocaust studies. At the same time, Horace W. Morris, the Executive Director of the New York Urban League, praised the project, as did the Urban Coalition. The entire Holocaust curriculum project was supervised by Dr. Arnold Webb, a respected and sensitive black educator. Webb wrote the introduction to the two-volume work. He cites several examples of genocide but notes that the specific case of the Holocaust was selected because "in this tragic chapter in human history, the intent and scope of mass murder are unprecedented." Further, he states, the subject "is almost too serious for classroom study. Yet the horror of genocide in the 20th century must be faced, and the story must be told so that students of all races and religions in our public schools can understand the danger confronting all peoples when human rights are denied to any one people."

In a curious way, then, the story of how the New York City public school system has come to this point in developing a mandatory curriculum for Holocaust studies provides a lesson almost as important as the materials themselves. Group pressures, trial and error, private initiative, the energy of decency—these are all aspects of a process that is its own insurance against a repetition of the horrors the curriculum describes. A city in which a black project chairman and an Italian school board president and a group of Jewish teachers can bring a project on the teaching of the Holocaust to fruition can scarcely be thought bankrupt.●

## INCREASED GOVERNMENT REGULATION OF SHIPPING INDUSTRY

### HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. McCLOSKEY. Mr. Speaker, the House Merchant Marine and Fisheries Committee is now considering legislation of far-reaching consequences for the American merchant marine, including measures to authorize closed conferences and shippers councils, limit the entry of the Soviet-flag merchant marine into our trades, and facilitate cargo reservation agreements between U.S. carriers and the flag carriers of our trading partners.

One, perhaps unintended, effect of all these bills is to expand the power of the Federal Maritime Commission and thus increase governmental regulation over a shipping industry whose creativity and efficiency is already being stifled by excessive regulation.

In order to consider another approach, I am introducing legislation today that will abolish the Federal Maritime Commission and transfer its primary functions to the Office of the Special Representative for Trade Negotiations. The bill will also create a Deputy Special Trade Representative for Maritime Affairs, transfer the Commission's existing authority over financial liability certification to the Department of Transportation, and transfer Commission authority over the domestic trades to the Interstate Commerce Commission.

In the big question presented in pending legislation of competition against stability in the liner trades, I tend to support the stability approach. Yet, I would like to see this happen, without at the same time, creating ever-greater regulation. I hope this bill's introduction will spark discussion of this fundamental question: Can we have a regulatory system which minimizes governmental regulation, permits a maximum of free competition, and permits business to adopt its own code of ethical conduct and self-regulation? I have already written many in the maritime industry to request their suggestions for a precise set of rules for ethical conduct, self-regulation, full disclosure, reasonable return on investment, and fair dealing with shippers councils.

This will make it practical to abolish the Federal Maritime Commission and rely primarily on self-regulation, with a strong maritime backup capacity in the Office of the Special Trade Representative to promote and protect U.S. carrier and shipper interests. I offer this as a part of the mix of maritime legislation being considered in the Merchant Marine and Fisheries Committee, and invite its consideration by my colleagues.●

## EMINENT MAYOR RETIRES

### HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. STARK. Mr. Speaker, I would like to take a moment to pay tribute to Jack Maltester on the occasion of his retirement as San Leandro, Calif.'s first mayor.

Mr. Maltester's dedication to the needs of San Leandro are legendary. During his 20-year tenure as mayor he truly watched this city come of age. His unselfish giving of time and attention has made San Leandro a better place to live and has been an inspiration both to those who served with him and to the whole city.

In addition to his 20 years as mayor of San Leandro, Jack Maltester has also given untiringly of himself to many other civic causes. This community service spans 36 years and ranges from neighborhood causes, to various civic organizations, to local, regional, State, and national governmental service. Some of the highlights of his career in public service include:

Presidential appointments by both Presidents Johnson and Nixon to the Commission on Intergovernmental Relations.

President of the United States Conference of Mayors.

President of the Bay Area Governments.

President of the League of California Cities.

Presidential appointment to the Board of Directors of the National Center for Voluntary Action.

Chairman of the East Bay Dischargers Authority.

This listing of only a few of the many and varied offices Jack Maltester has held is perhaps the finest tribute to an extraordinary man who has commanded the respect and confidence of Presidents, Governors, and his neighbors. Though he is retiring as mayor, we will continue to call on his wise counsel and leadership in the years to come.●

## RABBI MOSHE BOMZER

### HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. BURKE of Florida. Mr. Speaker, Rabbi Moshe Bomzer gave the prayer to open today's House session. I am sure many of my colleagues were impressed with his words and inspired by his thoughts.

The people of south Florida have had the pleasure of Rabbi Bomzer's wise counsel for the past 3 years. Specifically he is the spiritual leader of Young Israel of Hollywood, Fla., a teacher at the Hebrew Academy of Greater Miami, and a student in Rabbi College School of Social Work in Miami. He has a master's degree in Jewish philosophy and is a graduate of Yeshiva University.

It is a pleasure for me to have Rabbi Bomzer visit our Nation's capital. He is an understanding leader of the Jewish community in south Florida, and an articulate voice in spiritual matters for all of the Jewish faith. Like his father before him, who is also a rabbi, but from Brooklyn, N.Y., Rabbi Bomzer is dedicated to serving his fellowman and seeing to his spiritual well-being.

The TV serial entitled "Holocaust" is being shown this week nationwide. It deals with the problems faced by the Jewish Community in Europe during the late 1930's and early 1940's. It is a harsh reminder of man's inhumanity to man, and of the particular cruelty to which

Jews have been subjected because of their faith.

Good people, and good leaders know that education and remembering the past are the only keys to preventing future calamities. The work of Rabbi Bomzer in south Florida may seem unrelated to the TV movie, but he is preserving and nurturing the faith that sustained the Jewish people for centuries.●

## OPPOSITION TO PANAMA CANAL TREATIES

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. GILMAN. Mr. Speaker, as the ranking minority member of the Subcommittee on Inter-American Affairs of the House Committee on International Relations I have had a long-standing interest and opposition to the proposed Panama Canal treaties. Through extensive hearings by our committee and as a result of first-hand experience gained during two study missions to Panama, I have had the opportunity to become fully acquainted with the important issues in this debate.

With regard to the merits of the canal treaties, I am convinced that our Nation will be committing a grievous error in giving up our interests in the canal. The canal is important to our Nation's commerce and to our national security.

But, in addition to the substantive issue there is also a significant procedural question for both proponents and opponents alike, relating to the constitutional authority of the House of Representatives in the disposal of U.S. property.

As proposed to the Senate, the Panama Canal treaties would provide for turning over of the canal and Canal Zone to the Republic of Panama through two self-executing treaties. This approach, which would evoke only formal ratification by the Senate, denies the House of Representatives its legitimate constitutional role in the disposition of U.S. property, as stated in article IV, section III, clause II:

> The Congress shall have the power to dispose of, make all needful rules and regulations respecting the territory or other property belonging to the United States.

The exclusive power of the Congress to dispose of U.S. property has on numerous occasions been affirmed by the Supreme Court. As held in a unanimous decision by the Court in *Utah Power and Light Co.* v. *the United States,* (1916, 243 US 389), "the power of Congress to dispose of U.S. territory is exclusive." More recently, the Supreme Court reaffirmed the congressional authority in the disposal of U.S. lands:

> Since the Constitution places the authority to dispose of public lands exclusively in Congress, the executive power to convey any interest in these lands must be traced to a Congressional delegation of its authority. *Sioux tribe of Indians* v. *United States,* 316 US 317 (1942).

In an era of increasing concern about the need for a proper balance of power between the legislative and executive branches of Government, the proposed canal treaties threaten to undermine the constitutional role of Congress in the transfer of U.S. property.

The executive has not only failed to seek full congressional authority, but has drafted the treaties to specifically avoid participation by the entire Congress (through the use of self-executing treaties). This decision, unless reversed, will create a dangerous precedent in the lawmaking process that excludes the House of Representatives from fulfilling its rightful constitutional role.

These serious threats to our representative form of government have caused a great deal of concern among other Members of the Congress. Some 237 members of the House, including myself, have cosponsored House Concurrent Resolution 347, a resolution by the gentleman from Idaho (Mr. HANSEN), which prevents any transfer of rights or property in the Panama Canal Zone without an act of Congress. These 237 Members represent a majority of the House of Representatives, including over 100 members from each party and supporters of both protreaty and antitreaty views. To these members, the issue at stake is separate from, and of greater concern than the proposed transfer of the Panama Canal.

A failure to protect the constitutional role of the House of Representatives will result in the establishment of a precedent that reaches far beyond the question of the canal. A noted authority on the Constitution, Prof. Raoul Berger of the Harvard Law School, remarked in his testimony before the House Subcommittee on the Panama Canal:

> . . . the Panama cession will constitute a landmark which . . . will be cited down thru the years for "concurrent" jurisdiction of the President in the disposition of of United States Property . . . Acquiescence in such claims spells progressive attrition of Congressional powers. Your insistence on respect for Constitutional boundaries will warn the Executive against encroachment on the power of Congress, it will alert foreign nations to the fact that treaties for the cession of United States property must be subject to the consent of the House as well as the Senate.

The consideration of the proposed Panama Canal treaties presents two significant questions: The first goes to the merits of the proposed transfer of the canal to Panama, the second concerns the delicate balance of power between the branches of Government as provided for in the Constitution and through historical precedent.

Accordingly, Mr. Speaker, regardless of our views on the merits of the proposed canal treaties themselves, I urge my colleagues in the Congress, both in the Senate and in the House to support all efforts to safeguard the historic, constitutional role of the House of Representatives as an equal partner in the Congress and to protect its proper role in the consideration of these important treaties.●

## COAL POLICY CONFERENCE

### HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. APPLEGATE. Mr. Speaker, this past weekend, I had the welcome opportunity to meet with various officials of the coal and steel industries, the Ohio State government, including Gov. James Rhodes and the general public in what was called a coal policy conference. The main theme of the meeting was the effect of present environmental standards on industry in Ohio and in turn, their effect on our economy. To say the least, it was most interesting.

About 3 weeks ago, I stood here and spoke to my colleagues about the loss of jobs and a declining economy that I directly related to exceedingly stringent environmental rules and regulations. While the emphasis of my statement was on my 18th Congressional District of Ohio, I am sure many of my colleagues experience the same problems, but perhaps to different degrees.

We, in Ohio, are at an extremely critical point in our history. Because of mandates from the Federal Government to comply to very strict standards in the area of air and water quality, we have suffered tremendous economic damage. The economy of the state will collapse if the present Federal policy is not changed, and changed soon.

A typical example of our problems are coal controls between mines and utility companies that are cancelled because the utility cannot burn the high sulfur content of coal we have in Ohio. When a contract is cancelled like this, which has just recently happened, hundreds of people lose their jobs. Further, it has a rippling effect throughout the area. If enough mines shut down, the effect will be felt statewide.

An additional side-effect from all of this is the higher utility prices we must all pay because of higher priced, lower sulfur content western coal. Utilities are going west to mine the coal, but the added costs for this are merely passed on to the consumer.

Mr. Speaker, the time has come for us to quit playing games with our economy. Therefore, I urge a three-year moratorium on the implementation of clean air standards. It is estimated that this will provide scientists enough time to develop an economic and practical way of cleaning Ohio coal. I join with my Governor in this plea and intend to make my thoughts on this known to President Carter and Mr. Douglas Costel, Director of the Environmental Protection Agency.

We all must realize what is at stake here. The future of coal, the power resource we must depend on in the foreseeable future, is very much in doubt. If we are to ever become more energy-independent. we must take steps now that will allow us to use all the coal that is available, regardless of sulfur content. This moratorium is the first step in that direction.●

"YVONNE EWELL, THE SUPEREDUCATOR"

## HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. MILFORD. Mr. Speaker, today, I am hosting a tea in honor of Ms. Yvonne Ewell, associate superintendent of the Dallas Independent School District, a leading Texas educator and one of national recognition.

This tea is part of the "1978 Education Tour of our Endeared Capitol" sponsored by the Theodore Lee Social Dynamics Club of the Oliver Wendell Holmes Middle School-Academy in Dallas.

A devoted educator, Yvonne has been a great achiever and has contributed much to the field of education. She began her teaching career in 1947 as an elementary school teacher in Ladonia, Tex. before moving to Dallas in 1954.

She has taught at the elementary, secondary, and college levels, and is experienced at curriculum development and supervision. Yvonne is a member of both the Texas Association for Supervision and Curriculum Development as well as the National Association for Supervision and Curriculum Development.

She has been a very active member in several professional organizations including the local Dallas School Administration Association, Texas State Teachers Association, National Education Association, National Black Educators Association, and the Association of American School Administrators.

Yvonne's interests are not limited to education. She is very active in civic and community activities. She has served on the national board of the YWCA, the board of directors of the Dallas Museum of Fine Arts, the Dallas Childcare Association, the American Heart Association, and the advisory board of the Shakespearean Festival of Dallas.

She is also a member of the NAACP, Delta Sigma Theta sorority, South Dallas B & PW club, and attends the Munger Avenue Baptist Church.

Accompanying her on her tour of the Nation's capitol, are the eight officers of the social dynamics club. They are Kathy Yeldell, president; Sherva Sanders, first vice president; Sarah Woods, second vice president; Jackie Teal, third vice president; Alicia Jimenez, secretary; Tammi Rowley, versatility; Carl Childs, transportation; and William Jones, transportation.

Student sponsors for the group are science teacher Ms. Eddie Williams and secretary Ms. Opal Jones both of the Oliver Wendell Holmes Middle School-Academy.

Recently organized, the club provides seventh and eighth grade students "experiences through living situations" through educational tours. Dr. Ralph Wootton, who created the club, said the group has enjoyed tours of Baylor University Hospital and Channel 4 TV station with a tour of Braniff International in the works.

Finally, Mr. Speaker, Ms. Ewell was chosen for the "1978 Education Tour of our Endeared Capitol" for her dedication to her job and the example she provides for the students she loves. She is truly an educator who puts the students' needs first.

We are seeing more and more women in the professional world. Yvonne Ewell is a woman on the move, and I believe she typifies what is happening in the United States today. Women are on the move, and this is one Congressman that is glad to see it.

For her enthusiasm and devotion to the 40,000 young people in the East Oak Cliff Subdistrict, Ms. Ewell is highly deserving of public recognition.●

MIKE RODAK RETIREMENT

## HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. APPLEGATE. Mr. Speaker, at the close of every school term, another one of which is nearly here, there are those teachers and school personnel who will not return the following September because of retirement; and in most respects this year will be no different. However, every so often, a particular retirement is noted and does make a difference. In this way, Mingo High School in Mingo Junction, Ohio, will never be the same again. After 28 gratifying and rewarding years, Mr. Mike Rodak is retiring.

A 1935 graduate of Weirton, West Virginia High School, Mike entered Western Reserve University where he was an outstanding athlete playing 3 years of varsity football at the right halfback position and holding the heavyweight wrestling and boxing championships. After college, he played pro football for the then Cleveland Rams, Detroit Lions and Pittsburgh Steelers.

After completing a stint in the service, Mike returned to the Upper Ohio Valley to coach for 2 years at Wellsville, Ohio High School before moving on to what was to be his home for the next 28 years. During this time he has watched several generations of students and athletes grow up.

Mike did more than just watch though. It was through his endeavors, that the counseling and guidance program was started at Mingo. He cared about the students he taught. He did not make decisions for them, but did what he could to see that they had all the facts needed to make the right decision for themselves. Mike Rodak is a complete teacher; one whose long experience with life serves him well in every area of instruction. Thanks to it, his students have gone on to become doctors, lawyers, clergy and even a superintendent of schools.

But more than that, they have—thanks to Mike Rodak—gone on to become something even more important—valuable human beings who care about life and those who share it with them.

Mr. Speaker, Mike Rodak will miss Mingo High School and those whom he taught and worked with, but not nearly as much as they will miss Mike Rodak.●

B–1 BOMBER

## HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. DORNAN. Mr. Speaker, the B–1 has been dead for several months now. The arguments and counterarguments have all been heard and will soon be gathering dust in archives as the B–1 plans themselves will be. Although, when Strategic Air Command planners turn to their giant computers for what a B–1 follow-on (B–2) should look like, their computers spit back "B–1." The giant cyber computers will give that answer through 1981.

Of all the arguments we have heard in support of the B–1 aircraft, none carries more weight than that of the renowned "Jane's All the World's Aircraft" and its editor, John W. R. Taylor. During the many months we debated the B–1 case, Mr. Taylor was more than generous with his valuable time and vast knowledge of aircraft and air defenses of all nations. His insight and analyses were invaluable to those of us who believe the B–1 to be the finest aircraft yet built.

After the final defeat, I wrote again to John Taylor, expressing my thanks for his help and long work. His response to me was gracious and included yet more information and rebuttal of the administration's latest claims for the cruise and assertions about manned penetrating bombers. As with his other analyses this rebuttal of the most recent Department of Defense claims, was clear and irrefutable.

Although the fight is over, I would like to thank John Taylor again here in the CONGRESSIONAL RECORD and to record his latest evaluation of the B–1 decision for congressional scholars who may read these pages in the future.

I insert in the RECORD Mr. Taylor's letter to me and his comments on the 1979 Department of Defense annual report published under the name of Secretary Harold Brown as part of my remarks:

Congressman ROBERT K. DORNAN,
*Congress of the United States, House of Representatives, Cannon House Office Building, Washington, D.C.*

DEAR BOB: I greatly appreciate your kindly comments in your letter of 13th March. As you say, it is hardly conceivable that the B–1 has gone forever. The alternatives appear to be so costly and so far away that they make no sense at all.

In view of what has happened during the past couple of months, most of America's friends in Europe tend to feel that the West's defences are crumbling to such a degree that we can never again feel secure as a result of balanced East/West power. Perhaps this is being excessively gloomy. Experience in the past has shown that the West is able to conceal new developments as fundamental as jet aircraft and the atomic bomb, and use them in action before the secret is out. However, if we have abandoned weapon systems like the B–1,

safe in the knowledge that we have far more effective weapons available, wrapped in tight security, I am afraid that this can only be viewed as a policy so dangerous as to be an invitation to disaster. A deterrent only deters if it is seen to exist. The more terrible weapons might only be revealed after they have been used, which would benefit nobody in the world.

For this and other reasons, I had decided that there was no point in pressing further with my transatlantic campaign on behalf of the B–1. However, you are at liberty to use the enclosed comment in any way you wish. It would be wonderful to believe that it is not all too late.

Keep in touch, and let me know if I can ever be of any further assistance. I feel that it is only by keeping up the pressure that we will avoid having to change the headings on our notepaper to a cyrillic type face.

Every good wish,

Sincerely,

——— ———.

Everything I read suggests that the cruise missile will continue to be regarded primarily as a weapon for use against undefended targets. I challenge anyone to tell me where and what such targets might be in the Soviet Union. The B–1 was designed to penetrate to *any* target, defended or not, and to destroy it.

There are many interesting statements in the FY 1979 Department of Defense Annual Report published under the name of Secretary Harold Brown:

Page 51: "We now expect to see the first prototype of a new modern (Soviet) heavy bomber in the near future".

How will this be dealt with in the SALT negotiations? Will the US suggest, as they have done with 'Backfire', that its flight refueling probe should not be fitted and that it should be used only tactically (Scouts' honour!). In this case, it might be added that the fuel tanks should never be more than half filled.

Of interest is that the Soviet Union clearly considers a new manned strategic bomber essential (as do the USAF Chief of Staff and Vice Chief of Staff). Your discarded advantage is that you already have such an aircraft, very largely developed (at very high cost), in the B–1.

As a side comment, we in Europe do not greatly admire the US definition of a 'strategic bomber' as one which can bomb the continental US from the USSR. We consider it strategic if it can attack us!

Page 51: "There is no current evidence that the Soviets have developed a cruise missile comparable to our ALCM, although we believe they could do so within the next five-to-ten years."

If, presumably, they wanted a weapon to attack the Grand Canyon. Being serious, most targets in the US are on the seaboards, or not too far inland. A weapon like the new (*very* high speed) Soviet AS–6 'Kingfish' would be much more effective than an ALCM of the US pattern. Ability to penetrate and destroy is more important than long range for Soviet air-launched missiles.

Page 65: "Our main insurance (against Minuteman force vulnerability) will come from the SLBM and heavy bomber forces . . . Later-model B–52s will give us the necessary platforms for both the ALCM and defense penetration in the near-term future."

"Near-term" is new; it was suggested earlier that the B–52s, already averaging 19 years old, would last out the century. How near is "near"? General George Brown's FY 1979 Posture Statement (page 14) states that already "the Warsaw Pact dominates NATO in a number of relevant capabilities, such as chemical warfare and *electronic warfare*". Could a B–52 *really* penetrate the present Soviet defences, bearing in mind that the SALT protocol has made the launch areas for ALCMs easy to determine, in view of their limited range and the distance of their targets from the Soviet borders.

Somebody seems already to be having second thoughts . . .

Page 65 again: "To hedge against longer-term needs, we now plan to continue RDT&E on the B–1 and also plan to explore a number of possible options for other penetrating bombers."

What's wrong with the one you have—the B–1, which represents the limit of current state of the art? Its development funding has already been spent; why start again, on something that could only be more expensive still?

The answer to that "why" is, of course, an election promise that should never have been made. Alternatively, the man who made it should admit that then he was wrong. According to AEROSPACE DAILY, in his first public comment after the House vote against building the fifth and sixth B–1 bombers, Defense Secretary Harold Brown told a House Budget Committee task force "we're not foreclosing" another manned penetrating bomber. "We're just saying it's not going to be the B–1."

We partners in NATO might well be excused for saying "God help us all" at such an attitude. The economical answer would be to buy one can of paint and a brush, and inscribe "B–2" on the nose of each of the four prototypes—*then* put the best bomber in the world into production as quickly as possible.●

## NATION'S PRIORITIES

### HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. CLAY. Mr. Speaker, there is an increasing awareness across the country of the impropriety of this Nation's priorities.

I wish to take this opportunity to share with my colleagues a resolution addressing this matter which was passed by the St. Louis Board of Aldermen on March 17, 1978.

RESOLUTION NUMBER 124

Whereas, the domestic needs of our nation will never receive the major attention they deserve, or the financing they require until there is a re-ordering of our national priorities; and

Whereas, President Carter, despite his campaign promise to reduce military spending, has requested a $10 million *increase* (3.4% real growth above inflation) for the Pentagon while allowing most employment, community development and social service programs to *lag behind* the rate of inflation; and

Whereas, a responsible policy requires that if we advocate increased spending for domestic human needs programs we must indicate where such funds must come from; and

Whereas, the need for increased government funding of programs to combat St. Louis' unusually high rate of unemployment, infant mortality, lead poisoning, etc. is all too well known;

Now therefore, be it resolved that, this Honorable Board of Aldermen calls upon Congress and the Administration to:

(1) redress the imbalance between domestic expenditures and expenditures for the Pentagon by transferring funds, such as is called for by the Congressional Transfer Amendment. The thrust of the transfer process is to move money from programs not necessary to our national defense to programs that address human needs in ways that are *accountable* and *responsive* to the problems of people in our communities, and

(2) establish a national conversion program that provides for retraining and employment guarantees to former defense workers and to provide for the economic revitalization of communities and industries affected by reductions in defense spending, and

Be it further resolved that copies of this resolution be sent, upon adoption, to the President and members of the Missouri Congressional Delegation.

Introduced this 14th day of March, 1978 by:

BRUCE T. SOMMER,
*6th Ward Alderman.*●

## RARE II—TOO LITTLE OR TOO MUCH EXPECTATION COULD BE FATAL

### HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. BONKER. Mr. Speaker, roadless area review and evaluation (RARE) II is a fragile, but potent, creation.

Either indifference to its purposes or excessive expectations for its potential can bring failure that would leave the Nation with more problems than existed before RARE II came along.

Overall, the timber supply outlook in the West is not especially bright. Adequate timber management and reforestation money for the Forest Service continues to encounter budgetary resistance. Log experts are draining logs from the domestic timber supply. And the Federal Government should be doing more to help nonindustrial private timber land owners realize the vast potential productivity of their lands.

RARE II could compound these problems by leaving more roadless lands than ever tied up in a protracted and uncertain planning process. However, Assistant Secretary of Agriculture Rupert Cutler, who is directly responsible for RARE II, has suggested to the House Interior Appropriations Subcommittee that RARE II might produce 10 million acres of wilderness and return 20 million acres to multiple use management. The prospect of such an achievement makes RARE II worth the effort, especially in view of the alternative.

The wilderness issue must be settled as quickly as possible so that emphasis can shift to the business of managing the national forests to the maximum benefit of all. RARE II could help that process along.

RARE II cannot and will not settle—once and for all—more than a decade of controversy over national forest roadless areas. The overriding purpose of RARE II is to expedite decisions about the future use of some national forest roadless lands. Success depends solely upon the "areas of agreement" found among conservationists, the timber industry, and other interested user groups. The roadless issue will be laid to rest only on those lands that are mutually acceptable either for wilderness preservation or for multiple use management.

Emotional posturing over preservationist lock-up versus rape-of-the-land logging will not do the job. Neither will an attitude that RARE II is a process

not worth conscientious participation. The key to success lies in good-faith negotiating based on solid, site-specific analysis of resource tradeoffs.

If confrontation, rather than accommodation, characterizes RARE II through the rest of 1978, there will be more administrative appeals, more litigation, and more delay.

The genesis for RARE II came in June 1967, 3 years after passage of the Wilderness Act, when Forest Service Chief Ed Cliff ordered preparation of an inventory of all national forest roadless areas. Repeated prodding made the bureaucracy produce, late in 1972, the first inventory of 56 million acres scattered among 1,448 roadless areas.

This process was in trouble from the outset. The Wilderness Society and the Sierra Club raised 10 major objections. They were especially alarmed by Forest Service plans to declare summarily that the bulk of the identified roadless lands were unsuited for further wilderness consideration. They also contended that the inventory had missed many roadless areas. Court action commenced before the Forest Service agreed to prepare environmental impact statements on all identified roadless areas before opening them to development.

In January 1973, Chief John McGuire placed 274 roadless areas encompassing 12.3 million acres on the official chief's list of new wilderness study areas. In accord with the original Wilderness Act, McGuire predicted that 10 years of study would ensue before determinations on these outstanding candidates for wilderness designation are completed in 1983. All new study areas were wthdrawn from allowable cut calculations. In the meantime, of course, the other 43.7 million acres of inventoried roadless lands would remain in limbo for varying periods of time. Their allowable cut contributions were not withdrawn, but their wilderness qualities were insured interim protection.

Last year, President Carter concluded that these decisions need not take so long. He also agreed with critics who said the original roadless inventory was inadequate. RARE II was the result.

The roadless inventory is now up to 1,920 areas encompassing 66 million acres. The draft environmental impact statement on RARE II should be available June 15. One document will cover the national aspects of the program. Twenty-one others will be site specific statements—one for each of the 11 western states and Alaska and nine covering the rest of the United States. A final impact statement will be published around the end of the year, and legislative recommendations will go to the new Congress early in 1979.

The critical time comes during the summer and early fall when the Forest Service has pledged an active search for those crucial areas of agreement.

How much wilderness is enough? The first Resources Planning Act (RPA) plan in 1975 set a national forest wilderness system target of 25 million to 30 million acres. That target is now undergoing review for the 1980 RPA update.

Assistant Secretary Cutler told the Interior Appropriations Subcommittee that he does not expect the total to go beyond 35 million acres.

Senator FRANK CHURCH, one of the authors of the Wilderness Act, recently said:

> How much wilderness is enough? The better question, perhaps, is how much is feasible, given our need for wood products, minerals and other uses. I would guess about twice as much as the 40 million to 50 million acres anticipated in 1964 when Congress passed the Wilderness Act—which is about half as much as ardent wilderness proponents want. At the beginning of 1977, 62.5 million acres were either classified as wilderness, proposed to Congress for such classification or reserved for future wilderness study. If these areas are incorporated into the wilderness system, that would leave an additional 20 million to 30 million acres (excluding Alaska) to be taken from the remaining 145 million acres of roadless lands.

Yet, 35 million acres is a lot of land, and these statements belie cries of alarm from some quarters that all 66 million acres of the RARE II inventory will be locked up forever. This is especially true since millions of acres of officially designated wilderness already exist within the national forest system.

As a westerner, I have strong concerns about the local and regional impacts of wilderness. I have counseled those in my State who criticize wilderness designations to remember, however, that a solid, broad base of support for the wilderness principle exists nationwide.

The recent record makes that clear. Industry groups mounted major campaigns in the 95th Congress against three preservation bills: The Endangered American Wilderness Act, the Montana Wilderness Study Act, and Redwood National Park expansion.

The results: The Endangered Wilderness bill passed the House, 380–18, and the Senate, 89–3. Redwood National Park was expanded by unanimous consent in the Senate and by a 328–60 vote in the House. And the Montana Study Act cleared the Senate by a voice vote before the much-touted but very temporary "defeat" in the House. The so-called defeat was actually a 256–155 majority in favor of the bill but was not the two-thirds vote required by the parliamentary situation. This marked the first time in the history of the Wilderness Act that any wilderness bill had lost a floor vote in either House. Three weeks later, the bill passed the House on its second try, 305–103.

There is, of course, a point beyond which continued expansion of the national wilderness system will tip the national scales in opposition. Recent public opinion polls and those recent votes in Congress imply that such a point lies a long, long way in the future.

On one point, all concerned can agree: Regardless of the eventual impact of wilderness designations within the national forests, much more can and should be done to intensify the management, and ultimately the multiple use outputs, of nonwilderness lands. Creative new incentives for owners of nonindustrial private lands can also help us realize the enormous potential of neglected nonindustrial private lands that can and should be making major contributions to our timber supply. Finally, there are those like myself who are concerned about the continuing diversion of domestic timber supplies to log exports.

I am sponsoring a bill, H.R. 7972 that would phase out substitution of Federal logs in the Western United States outside Alaska and would write into permanent statute the Federal log export ban that has been part of the annual appropriations bill every year since 1973. Its passage will send an important message to Japan about the need to develop markets there for U.S. finished wood products.

Every member of the northwest congressional delegation strongly supports sufficient appropriations to permit the Forest Service to maximize its timber management and reforestation programs. Unfortunately, the executive branch continues to resist. Incredible as it may seem, socalled experts in the Office of Management and Budget still believe that timber management is not a wise investment of public funds.

This does not make the task easy. Last year, the administration ignored its own RPA goals for timber management Congress pumped another $240 million into the Forest Service budget to bring all programs up to 85 percent of the RPA goals. But the message did not get through.

Budget requests for the upcoming fiscal year dropped back to 60 to 70 percent of the RPA goals, which for timber meant an 11.5 billion board foot allowable cut during fiscal year 1979. House and Senate researchers have already recommended increases that would raise the cut to 12.2 billion or 12.5 billion board feet. With RPA showing a potential of 16 billion board feet, a big job remains to be done. But there has been a beginning.

The timber production potential of private, nonindustrial timber lands is well documented. This diverse group of owners of smaller land holdings needs new incentives to produce timber in ways consistent with their individual property ownership plans and goals.

The General Accounting Office Interjected disconcerting news into RARE II in January by casting considerable doubt on the realiability of Forest Service timber harvest projections.

In short, GAO said no one knows with confidence whether existing allowable cuts are too high or too low. Similarly, the report questions the reliability of Forest Service estimates of the impact on timber harvest of both wilderness withdrawals and renewed multiple use management of roadless lands. Such uncertainty complicates RARE II even more.

Congress is not ignoring the need of an adequate domestic supply of timber and wood products. There will be continued pressure to provide the funds to the Forest Service to intensify management of its commercial forest land base. The House Agriculture Committee quite likely will produce new legislation this year to help the nonindustrial private timber

grower. And the push is on for passage of a log export bill this year.

Because Congress alone can create new wilderness areas, RARE II will next year hit Capitol Hill with full force. The scope of the package of wilderness and multiple use tradeoffs that is presented at that time will be the measure of the worth of RARE II.

My advice to all on RARE II is simply this: Get involved and give it a chance to work.

Gus Kuehne rightly observed in a recent American Plywood Association management report that—

Regardless of what anyone might think of RARE II, the program is proceeding.

RARE II is where the action is now in settling the uncertainties surrounding completion of the national wilderness system. Until that job is done, no one can devote full attention to timber and all the other multiple uses of our national forests.●

## TRIBUTE TO DR. WILLIAM MARION MEBANE

### HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. BROYHILL. Mr. Speaker, many times citizens who have been great contributors to our society in a very positive way go through life without being recognized for their efforts. Such is the case with Dr. William Marion Mebane, a native of Newton, which is located in the 10th Congressional District of North Carolina. Dr. Mebane, an eminent scientist and an enthusiastic citizen, died on March 17 at the age of 74.

Dr. Mebane was a pioneer in rocket research and development. During his illustrious career he gained national and international recognition as an expert in his field.

After earning a Ph. D. in chemistry from the University of North Carolina at Chapel Hill in 1929, Dr. Mebane began his career as a professor at Middle Tennessee State College. Called into the Navy during World War II, he was among the earliest developers of solid fuel propellants for rockets. After the war, he continued this work, joining the Thiokol Corp. as it entered the rocket field. As general manager of its rocket research program in Huntsville, Ala., he worked with such noted scientists as Dr. Werner Von Braun and others in the development of rockets which led to the development of this Nation's successful space program. In 1959 Dr. Mebane was appointed secretary of the Thiokol Corp. and served at its headquarters in Bristol, Pa., until his retirement to North Carolina in 1967.

Throughout his scientific career, Dr. Mebane never completely abandoned his role as an educator. As a Thiokol executive he made a practice of lecturing to civic groups about his work as often as possible. When he retired to his home town of Newton, he found even more time to devote to community affairs. For the last 10 years of his life he was extremely active in local civic, church, and educational groups, including Rotary, the American Legion, the Newton First Presbyterian Church, and the Uniform Air Pollution Control Board. Besides his local activities, he was a member of the American Chemical Society, American Rocket Society, and American Ordnance Association.

Dr. William Mebane has set an example of responsible citizenship which I am pleased to bring to the attention of my colleagues. He will be missed by all who knew him.●

## MR. C's MOUNTAIN

### HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. HOLLENBECK. Mr. Speaker, on Sunday, I had the honor to participate in the dedication ceremonies for Mount Cecchino in Mountain Reserve Park, Wayne, N.J., and Cecchino Drive in New Milford. The mountain and street are named after Mr. John D. Cecchino, who for over 20 years was a respected, admired, and loved teacher in the New Milford Community School system.

Very few teachers have had mountains named after them. Indeed, few teachers ever receive the recognition they deserve for educating our children. Perhaps this is because we are so used to schools and teachers that we really do not see the important job they do. We do not stop to realize that they are shaping our future in their classrooms. So, most teachers go on, year after year, quietly doing the job they are asked to do.

Every once in a great while, though, there is a teacher who is so outstanding, so gifted and so respected, and who so exemplifies and magnifies the traits of the profession that he or she cannot be overlooked. John Cecchino was just such a person. The influence he exerted on a generation of New Milford students will be felt for many years to come, as those students take their places in the community.

I do not need to recount Mr. C's achievements. Instead, let his students tell, in their own words, what John Cecchino meant to them.

He was the kind of person you couldn't help love because he was filled with love.

He was special because he cared for people in a world whose general tendency was apathy.

. . . the man to go to when you had something on your mind.

. . . considerate, self-giving, fun-loving, all together a nice, true person.

The poet and philosopher Kahlil Gibran, in his book "The Prophet," paints a beautiful portrait of the wise teacher. He tells us:

The teacher who walks in the shadow of the temple, among his followers, gives not of his wisdom but rather of his faith and his lovingness.

If he is indeed wise he does not bid you enter the house of his own wisdom, but rather leads you to the threshold of your own mind.

The astronomer may speak to you of his understanding of space, but he cannot give you his understanding.

The musician may sing to you of the rhythm which is in all space, but he cannot give you the ear which arrests the rhythm nor the voice that echoes it.

And he who is versed in the science of numbers can tell of the regions of weight and measure, but he cannot conduct you thither.

For the vision of one man lends not its to another man."

What I think Gibran is trying to tell us, Mr. Speaker, is that being a good teacher is more than merely giving information to one's students. Information, after all, is useless unless it is used correctly. The wise teacher, the good teacher, is the one who allows students to discover the knowledge that lies within themselves. He is one who inspires his students to seek their own truths, and to find the wings of their own visions. This is what made John Cecchino the great educator that he was. It is my hope that, when people stand on Mr. C's mountain, they will stop for just a moment to consider all that it stands for.●

## CUT TAXES AND MAKE THEM EASIER TO UNDERSTAND

### Hon. John E. "Jack" Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. CUNNINGHAM. Mr. Speaker, people of the 7th Congressional District of Washington have been writing me since the day I arrived in Congress about the crushing burden of taxes that they face. When the Government decides that it knows better how to spend your money than you do, we are in trouble.

I have tried to be careful to vote against wasteful spending, and always against tax increases, such as the $227 billion social security increase which passed on December 15, 1977, by a vote of 198 to 163. I want to protect the recipient of social security benefits, but we need to do a better job than just to raise the taxes and hope for the best.

Mr. Jack Anderson, the syndicated columnist, has expressed many of my feelings in his column of April 18, 1978, which appeared in the Washington Post. People are tired of a tax system that takes too much of their income, now more than 40 percent. They also want a tax system that is fair and easy to understand. It is up to us to give it to them.

In the hopes that my colleagues will read and learn from Mr. Anderson, I submit his remarks for the RECORD:

A MIDDLE-CLASS TAX REVOLT IS GROWING

(By Jack Anderson)

Those silent Americans, who used to grit their teeth, pay their taxes and bear it, are beginning to make themselves heard. We have warned in past columns that a quiet tax revolt is gathering steam. It may gain enough momentum by November to sweep the big spenders out of Congress.

It's a revolt of the middle classes, who pay the greatest share of the nation's taxes.

They are not deprived people seething against an oppressive government, but they are frustrated by unfair taxes and increased living costs.

They will express their anger, if our soundings are correct, at the polls in November. This could be grim news for the Democrats who are associated in the public's mind with government spending. The public is angry at an income tax system that has become incomprehensible. The annual ritual of rendering unto Caesar has become so encumbered with regulations that it takes an attorney or an accountant to fill out the average tax form. Even the tax experts are apt to stumble over some unseen regulation submerged somewhere in the public prints.

The public is angry at an Internal Revenue Service that changes the rules arbitrarily and ignores the intent of Congress. The tax agency is supposed to enforce the tax laws, not write them. But if Congress won't change the laws to suit the enforcers, IRS simply writes new regulations and issues new directives to accomplish the same result. Agents are now hounding taxpayers whose tax practices used to be considered perfectly legal. The laws haven't been changed; the agents have merely been given new marching orders. The main result is that IRS is creating millions of dollars in new business for accountants, lawyers and itself.

The public is angry at a tax system that discriminates against the middle classes. The poor are granted exemptions and the rich are provided loopholes. It used to be that the inequities could be covered up by the sheer complexities of the tax laws. But the middle classes have caught on. If they are going to submit willingly to being plucked like a chicken, they want to be sure their fellow citizens get the same treatment.

Probably the best thing that could happen to the federal income tax system would be to scrap it altogether. The same amount of revenue could be raised, the experts tell us, by charging a simple, across-the-board 12 percent income tax, without exceptions, exemptions or loopholes, except for the genuinely poor. This would put the tax accountants, tax attorneys and three-fourths of the Internal Revenue force out of business. But it would save the average taxpayer a bundle and eliminate overnight the inequities in the tax laws.●

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## THE PROPOSED COMPREHENSIVE TEST BAN TREATY: ISSUES AND CONTROVERSIES


### HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES


*Tuesday, April 18, 1978*

● Mr. BEARD of Tennessee. Mr. Speaker, I am deeply concerned with the Carter administration's handling of national security matters.

The Carter administration has consistently ignored, overruled, or misrepresented the expert judgment of this country's senior military and technical community on all of the key national defense decisions made to date.

The decisions to cancel the B–1 bomber, and withdraw U.S. ground forces from Korea, were all made despite recommendations to the contrary by the Joint Chiefs of Staff. To date, the terms of the negotiated SALT II agreement would also indicate that the major recommendations by the Joint Chiefs of Staff were not accepted in the U.S. SALT negotiating posture.

While I am alarmed that the judgment of the expert Government officials is not having much impact on the administration's national security decision making process, I am equally alarmed by the administration's efforts to suppress the independent and dissenting viewpoints of senior Government officials. The administration's issuance of the so-called Aaron memorandum in October 1977 clearly illustrates the point. This memorandum, issued to all appropriate Government agencies, by David Aaron of the National Security Council staff stated:

> In order to assure that data and analyses provided to the Congress on strategic forces and programs of both the United States and the Soviet Union are consistent and represent the best judgment of the Executive Branch, all responses to requests from the Congress for such material should be cleared through the SALT working Group.

Why the Defense Intelligence Agency, the Central Intelligence Agency, the Department of Defense, or any other Government agency, should clear intelligence, military, or technical issues through the "SALT working group" before presenting their assessments to the Congress seems at best imprudent and at least improper. The Congress, in making informed decisions, needs to have the best technical, military, and intelligence judgments, and not the "politicized" judgments reflecting the party line.

Most recently, on February 23, 1978, Mr. Paul Warnke, Director of the U.S. Arms Control and Disarmament Agency, forwarded to the Congress a report confirming the verifiability of the terms of the proposed SALT II agreement.

The conclusions in the report were presented to the Congress as having been agreed to by all of the participating agencies. Yet the Secretary of Defense and the Joint Chiefs of Staff had not agreed to and signed off on the report's conclusions. Equally significant, the National Security Council was notified the day before the report was sent to the Congress that the Joint Chiefs of Staff had not signed off on the report, and that it should be identified as an ACDA study.

Despite the advance notification from the JCS the misrepresentation of the facts was allowed to occur.

Gen. David C. Jones, at that time Acting Chairman of the Joint Chiefs of Staff, wrote a letter to the Secretary of Defense, and Vice Adm. (USN) Patrick J. Hannifin, Director, Joint Staff, wrote a letter to the Arms Control and Disarmament Agency, requesting that the recipients of the report be informed that it was only an ACDA report.

Yet I know of no congressional committee which was so notified until after the issue had been made public in the form of a letter from me to President Carter. In fact, even after the issue became public, the House Armed Services Committee still had to request official notification.

If this incident can be explained away as a bureaucratic mistake or mishandling the following incident cannot.

The Intelligence and Military Application of Nuclear Energy Subcommittee of the House Armed Services Committee recently conducted a hearing on the status of the proposed comprehensive test ban treaty. Two days before the subcommittee's hearing, Mr. John Marcum of the staff of the National Security Council, called all of the scheduled witnesses to a White House meeting for a so-called "coordinating" session. While the witnesses testified that they had no restrictions imposed on them, the appearance of impropriety is indisputable. Of equal concern, after the subcommittee sent each of the agencies its portion of the transcript for editing purposes, the Arms Control and Disarmament Agency informed each agency that had testified before the subcommittee to send its portion of the transcript to ACDA so that ACDA could edit the transcripts before returning them to the subcommittee.

The administration is clearly concerned that Congress and the American public become aware of the ongoing controversy within the Executive branch of Government over the terms of the proposed comprehensive test ban treaty, and that the decision to proceed with the negotiations was undertaken, despite recommendations to the contrary by the Joint Chiefs of Staff.

This controversy centers on whether or not a future CTB agreement should consist of a zero yield test ban or permit some form of low level nuclear threshold testing. It is a critical issue because the present state of the art does not permit adequate verification of nuclear testing below certain levels. Thus, an agreement which consisted of a zero yield test ban would permit the Soviets to conduct a covert nuclear test program, at a level sufficient to maintain the reliability of the Soviet nuclear weapons stockpile, and evade U.S. national technical means of verification. At the same time, the United States, abiding by the agreement, would not be able to maintain a reliable nuclear weapons stockpile. Thus, dangerous military asymmetries would develop.

The U.S. defense and technical community has therefore recommended that some form of controlled nuclear testing must be permitted to prevent a military imbalance from developing. Despite this recommendation, the U.S. Arms Control and Disarmament Agency, the State Department, members of the National Security Council—and perhaps even the President himself—are pushing for a zero yield test ban agreement.

Because of my concern, and an apparent inconsistency in the testimony of ACDA before the subcommittee, I signed a letter with some colleagues to ACDA Director Paul Warnke, requesting an explanation of ACDA's position on this issue.

In a clear effort to suppress public knowledge of this issue, and to avoid political embarrassment, ACDA attempted to classify the letter sent to Mr. Warnke. ACDA stated that the fact that underground nuclear testing in the 3 to 10 kiloton range was not verifiable and was a classified figure. In point of fact these numbers are used widely in the open literature. More importantly, the Joint Committee of Atomic Energy report of October 28, 1971, states that although the "U.S. ability to detect seis-

mic events has improved by at least an order of magnitude, (this) still allows a determined evader to get by with 5 to 10 kiloton tests without detection."

ACDA also stated that the letter to Mr. Warnke was classified because it was not public knowledge that the Executive had not yet reached a decision on whether a future CTB treaty should consist of a zero yield test ban or permit some level of nuclear testing.

In fact, in unclassified testimony before the subcommittee, on February 22, 1978, the following question was raised by Representative DAN DANIEL:

What is the official position of the Department of Energy with respect to the types of testing which should be allowed during a comprehensive test ban treaty?

The response to that question was as follows:

That is still under discussion within the Administration. We have had several reviews of various levels of experimentation which would give us various levels of confidence with respect to existing and new developments.

Finally, ACDA stated the letter was classified because the fact that there might be a need to permit some level of nuclear testing in the future CTB agreement to avoid military asymmetries might be embarrassing to the Soviets. While I would prefer not to have to embarrass the Soviets, the right to classify material for national security reasons does not incorporate a provision that permits classification of information for that reason.

Quite clearly, then, the pattern of administration action illustrates not only that technical and military judgment is being ignored by the administration, but that the administration would also like to deny the Congress access to these judgments, and that the classification of information is being used not for national security reasons, but to cover up possible politically embarrassing information.

So that my colleagues are aware of the controversy, I enclose a copy of the letter to Mr. Warnke in the RECORD at this time:

U.S. HOUSE OF REPRESENTATIVES,
*Washington, D.C., April 4, 1978.*

The Hon. PAUL WARNKE,
*Director, U.S. Arms Control and Disarmament Agency, Department of State Building, Washington, D.C.*

DEAR MR. WARNKE: During the Intelligence and Military Application of Nuclear Energy Subcommittee's hearing on the status of the Comprehensive Test Ban Treaty there was some confusion about the definition of "comprehensive".

The witnesses from the various agencies testified that the U.S. government had not yet decided on whether a future treaty would consist of a zero yield test ban, or permit some form of low level nuclear testing.

We were most disturbed with this revelation because of the inherent contradiction in the policy of the Administration to be in the midst of negotiations with the Soviet Union, without first having defined the U.S. position on this most fundamental issue.

During the subcommittee's hearings Rear Admiral Thomas Davies, USN (Ret.), Assistant Director, Bureau of Multilateral Affairs, of the U.S. Arms Control and Disarmament Agency, testified that he could not say "there are no differences" within the interagency working group on the CTB. But Admiral Davies also stated that the "development of these (interagency) papers is such a continuing dialogue that it is awfully hard to make specific differences that would be true as of this moment."

During the course of the hearings it became quite evident that the view of the senior defense and scientific witnesses, testifying on behalf of their agencies, was that the Soviets could conduct low level nuclear threshold tests, (in the 3 to 10 KT range), and higher level tests if they wanted to mask such tests, and evade U.S. national technical means of verification. The testimony indicated that a zero yield Comprehensive Test Ban Treaty would permit the Soviets to maintain the reliability of their nuclear weapons stockpile, while escaping U.S. national means of verification if they wanted to do so. At the same time the United States, abiding by the agreement, would not be able to maintain the reliability of its nuclear weapons stockpile. Under those circumstances very dangerous military asymmetries would develop.

The testimony before the subcommittee leaves no question that the position of our technical and military community is that a CTB agreement that is not verifiable, and which would permit asymmetries to develop, would be inimical to U.S. national security. Similarly, these witnesses testified that a low threshold level nuclear test program is necessary to maintain the reliability of the U.S. weapons stockpile, and prevent asymmetries from occurring because, as mentioned earlier, such a program could be conducted by the Soviets within the constraints of a CTB treaty, while evading U.S. national technical means of verification.

Since the technical and defense witnesses all testified to this, we could not understand why the United States government has not yet defined its position on this issue.

A question was, therefore, specifically asked of Admiral Davies if ACDA had taken a position on whether a low threshold program is necessary to avoid asymmetry. Admiral Davies testified that "ACDA does not have a position on this for the simple reason that the facts are not all in, in the process that is going on."

We are now informed that at the latest Special Coordinating Committee meeting on the CTB on March 22, 1978, which you reportedly attended, ACDA recommended, and apparently has consistently recommended, that a future CTB consist of a zero yield test ban. The ACDA position reportedly is shared by the State Department and members of the National Security Council.

While we are greatly disturbed with ACDA's position, because of the adverse implications a zero yield test ban agreement would have on U.S. security, we are also disturbed about the apparent contradictions in Admiral Davies' testimony.

It would appear that ACDA and the State Department are actively opposing a CTB that would permit nuclear tests below the threshold level of verification, while the defense and scientific community believe some form of U.S. nuclear testing is necessary. Admiral Davies testified that it is not only difficult to define "specific differences" between the agencies, but that ACDA had not taken a position on whether a CTB should be a zero yield agreement, or permit testing at a level to maintain U.S. strategic stockpile reliability.

We request that you provide an explanation of the apparent inconsistency in Admiral Davies' testimony and an explanation as to why the ACDA continues to insist on a zero yield CTB when it is recognized we could not adequately verify Soviet compliance with such an agreement; when we recognize it would not permit the U.S. to maintain the reliability of its nuclear stockpile, and when, as a result, it could create dangerous asymmetries in U.S.-Soviet military capabilities.

We would appreciate a prompt response.

Sincerely,

ROBIN BEARD,
*Member of Congress.*
SAMUEL S. STRATTON,
*Member of Congress.*
ROBERT W. DANIEL, JR.,
*Member of Congress.*
DAN DANIEL,
*Member of Congress.*●

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PERSONAL EXPLANATION

## HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. SARASIN. Mr. Speaker, on April 12, 1978, I was absent for part of the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 216: H.R. 3161: Federal firefighters. The House passed the measure to amend title 5, United States Code, to improve the basic workweek of firefighting personnel of executive agencies, "yea."

Mr. Speaker, on April 13, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 218: H.R. 11003: White House personnel authorization. The House agreed to the rule (H. Res. 1127) under which the bill was considered, "yes";

Rollcall No. 219: H.R. 11003: White House personnel authorization. The House rejected the Bauman amendment that sought to reduce the number of White House Office employees authorized to be compensated at rates above GS-16 from 100 to 75, "aye";

Rollcall No. 220: H.R. 11003: White House personnel authorization. The House rejected the Gilman amendment that sought to require the President to submit a new authorization request for executive office personnel and related expenses within 1 year of assuming office, "no";

Rollcall No. 221: H.R. 11003: White House personnel authorization. The House rejected the Symms amendment that sought to prohibit the use of authorized funds or personnel to be used in any official capacity to influence members of State legislatures with regard to ratification of proposed amendments to the Constitution, "no";

Rollcall No. 222: H.R. 11003: White House personnel authorization. The House passed the measure to clarify the authority for employment of personnel in the White House Office and the Executive rtsidence at the White House, and to clarify the authority for employment of personnel by the President to meet unanticipated needs, "no," and

Rollcall No. 223: H.R. 5289: Energy conference. The House rejected a motion that the conference committee meetings between the House and Senate on the

bill (relating to natural gas regulation) be closed to the public, but that any Member of Congress would have the right to attend any closed or open meeting, "no."

Mr. Speaker, on April 17, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 224: H.R. 3489: Merchant Marine Academy nomination. The House passed under suspensions the measure, amended, to amend section 216(b) of the Merchant Marine Act of 1936, to entitle the Delegates in Congress from Guam and the Virgin Islands to make nominations for appointments to the Merchant Marine Academy, "yes";

Rollcall No. 225: H.R. 10822: Sea-grant program. The House passed under suspension of the measure, amended, to improve the operations of the national sea-grant program, and to authorize appropriations to carry out such program for fiscal years 1979 and 1980, "yes";

Rollcall No. 226: H.R. 10823: Oceans and atmosphere. The House passed under suspensions the measure, amended, to amend the National Advisory Committee on Oceans and Atmosphere Act of 1977 to authorize appropriations to carry out the provisions of such act for fiscal years 1979 and 1980, "yes"; and

Rollcall No. 227: H.R. 11465: Coast Guard authorization. The House passed the measure under suspensions, amended, to authorize appropriations for the U.S. Coast Guard for fiscal year 1979, "yes."●

## ROBERT P. REEVES: 30 YEARS OF SERVICE

### HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. CHARLES H. WILSON of California. Mr. Speaker, this March marked the end of 30 years of public service to the people of Hawthorne, Calif., by Robert P. Reeves—a man that I have had the privilege of working with during my past 16 years as the Representative for the 31st District.

Over the years, Bob and I have had the opportunity to work together on a variety of Federal and local projects. What has always impressed me most about this local official, was his dedication to the community that elected him to serve on their City Council for 26 consecutive years. More than anything else, he has worked hard to improve the quality of services in Hawthorne. Obviously, his long term on the city council indicates the voters agree that Bob Reeves is a government official who cares and has the ability to get things done.

A native of Alabama, he moved to California in 1927, and eventually settled at his present address in Hawthorne in 1939. He started public service over 30 years ago when he served as the chief warden for civil defense in the Hawthorne area, after which he was elected to the city council, serving as Mayor in 1960–61 and 1972–73.

Since the Los Angeles area is so widespread and diversified, it is absolutely essential that local communities cooperate with each other. As a member of the South Bay Councilman's Association, the South Bay Regional Public Communications Authority, and the Centinela Valley Juvenile Diversion Project, Bob Reeves has helped develop long-range policies for a wide range of programs in the Los Angeles area. Judging from the variety of positions he has held in local government, Bob is a man with a good many interests and talents. He has been a commission member on the Emergency Preparedness Commission for the county and cities in Los Angeles County, director of the Los Angeles County Sanitation District since 1953, the city representative on the California Transportation Authority, a member of the National League of Cities and the American Municipal Association, as well as a member of the Academy Selection Committee for the 31st District which has the responsibility to evaluate young men and women who are interested in attending one of the U.S. military academies.

Such a list of governmental service should be enough to qualify Bob Reeves as one of the outstanding leaders in the South Bay area, but his community service does not stop there. He has been a charter member of the Hawthorne Toastmasters International Club, officer and charter member of the Centinela Bible Church, member of the Christian Business Committee International, Bodger Park Community Association, the Y.M.C.A. and the Hawthorne Chamber of Commerce. Education has also been one of Mr. Reeves' concerns. He has served on the Centinela Valley Child Guidance Clinic and is an honorary life member of the Hawthorne PTA. As board member, branch chairman and disaster chairman for the American Red Cross in the Hawthorne-Lawndale area, Bob was kept quite busy this past winter due the damage done by the excessive rainfall in the Los Angeles area. In each one of these jobs, he has performed his duties well and with an unselfish devotion.

Others have recognized the talents of Bob Reeves and have given him numerous awards and honors. In 1978, he was awarded the Continuing Service Award from the California Congress of Parents and Teachers and the Centinela Valley Council of PTA's for his outstanding service to children and young people. Both the California assembly and the State senate have passed resolutions in recognition of his record of dedicated and highly effective service on behalf of the city of Hawthorne. In addition, he has received the Award of Honor for Distinguished Public Service in 1968 from the county of Los Angeles, and Appreciation Award from the Friend of Youth Program of the Optimist Club of Hawthorne, the 1975 Public Service Award from the Hawthorne Chamber of Commerce, the Heart Services Recognition Award from the Los Angeles County Heart Association, and if that is not enough, the Outstanding Services to the city of Hawthorne from the Veterans of Foreign Wars.

I am pleased to join with Bob's many friends and coworkers and express my own appreciation for the outstanding job he has done for the city of Hawthorne. His devotion to civic, governmental, and community service is to be highly commended.●

## BIRTH DEFECTS AND ALCOHOL

### HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. WAXMAN. Mr. Speaker, I would like to bring to your attention recent scientific documentation that many children born to women who drink excessively while pregnant have a pattern of physical and mental birth defects. The March of Dimes has published an informative pamphlet on this subject which I am having reprinted in the CONGRESSIONAL RECORD to alert my colleagues to this public health hazard. If there is anything more heartbreaking than birth defects, it is the knowledge that they are preventable but ignorance prevents anything from being done. Alcoholism in pregnancy has been estimated as the third most common cause of mental retardation. This March of Dimes pamphlet is a call to action for all of us in Congress to assure adequate funding of alcohol treatment and prenatal care programs.

Pamphlet follows:

WHEN YOU DRINK, YOUR UNBORN BABY DOES, TOO

When you're pregnant your unborn baby receives nourishment from you. What you eat, he eats. What you drink, he drinks.

So if you have a drink—beer, wine or hard liquor—your unborn baby has a drink too. And because he is so small, he is affected twice as fast as you are.

That's the immediate effect. But alcohol can also have serious long-lasting effects on an unborn baby.

HOW ALCOHOL DAMAGES UNBORN BABIES

Scientists have found that many children born to women who drink excessively while pregnant have a pattern of physical and mental birth defects. They call the more severe problems the "fetal alcohol syndrome."

Growth deficiency is one of the most prominent symptoms. Affected babies are abnormally small at birth, especially in head size. Unlike many small newborns, these youngsters never catch up to normal growth.

Most affected youngsters have small brains and show degrees of mental deficiency. Many are jittery and poorly coordinated, and have short attention spans and behavioral problems. Evidence to date shows that their IQs do not improve with age.

Fetal alcohol syndrome babies usually have narrow eyes and low nasal bridges with short upturned noses. These facial features make them look more like one another than like their parents or brothers and sisters. Almost half of them have heart defects, which in some cases require heart surgery.

Not every fetal alcohol syndrome baby has all of these defects but there is a relationship between the severity of physical charac-

teristics and the degree of mental impairment. The more severely retarded youngsters are those with the most noticeable physical defects.

MANY BABIES ARE AT RISK

Fetal alcohol syndrome is a very real problem in the United States today. It is estimated that there are more than one million alcoholic women of childbearing age. And the number is growing—particularly among adolescents. In some regions, alcoholism in pregnancy has been estimated as the third most common cause of mental retardation.

Babies of teen-agers who drink heavily are in double jeopardy. They may be born too small or too soon because their mothers' bodies are not mature enough to meet the demands of pregnancy. If they also are subjected to excessive alcohol from their mothers, they may suffer some symptoms of fetal alcohol syndrome.

WE NEED TO KNOW MORE . . .

An occasional drink during pregnancy may not harm your baby. But *no one knows* how much alcohol is too much.

That is one of many questions surrounding fetal alcohol syndrome—questions for which researchers throughout the country are trying to find answers. Many of these investigators are aided by the March of Dimes whose aim is to protect the unborn and the newborn.

Scientists know that, as with other things pregnant women eat and drink, alcohol passes through the placenta, the organ which nourishes the unborn baby. The drink the baby gets is as strong as the one the mother takes.

It is believed that the alcohol adversely affects the baby's fast-growing tissues, either killing cells or slowing their growth. Because the brain develops throughout pregnancy, it stands to reason that it is the organ most affected by maternal drinking.

YOU CAN PREVENT THIS BIRTH DEFECT

Fetal alcohol syndrome is a tragedy. An even worse tragedy is that it *doesn't have to happen!*

If you are a woman of childbearing age, *you can prevent* birth defects caused by excessive use of alcohol.

If you're pregnant, don't drink. If you drink heavily, don't become pregnant.

If you can't stop drinking on your own, seek help before you become pregnant.

*Alcohol and pregnancy do not mix.*●

## BOOST FOR STEEL INDUSTRY

### HON. JOHN W. JENRETTE, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. JENRETTE. Mr. Speaker, on Thursday of last week, April 13, 1978, I had the pleasure of hearing Mr. Peter D. Ehrenhaft, Deputy Assistant Secretary for Tariff Affairs in the Treasury Department, announce to members of the Congressional Steel Caucus that the Department has decided to continue the trigger price mechanism for steel wire rod.

I would like to take this opportunity to applaud the Department's decision, particularly in light of the recent pressure and lawsuit by an independent producer of wire and wire products to get the trigger price on wire rod withdrawn.

By this decision, the administration has thwarted a serious challenge to the President's entire trigger price system and we have sent a clear signal to foreign nations who have been illegally dumping wire rod in this country that they must halt this action.

In his remarks, Mr. Ehrenhaft that the Treasury Department, in its response on April 13 to a lawsuit seeking to enjoin enactment of the trigger price on wire rod, had taken the position that wire rod is not a "semi-finished" product and that therefore is appropriately included under the trigger price system. He said that when the President first directed the Interagency Task Force to study the steel problem, he told the group to consider ways to aid the "basic" steel industry. Upon conclusion of hearings 2 weeks ago on whether wire rod should continue under the trigger price system, the Department has decided that wire rod is indeed a "basic" steel product and that it should enjoy the full protection of the trigger price mechanism.

To my constituents in the Sixth District of South Carolina, this decision will have a very significant long-range effect. We are proud to be the home of Georgetown Steel Corp., one of the world's most efficient producers of wire rod. However, this company has been severely hurt by foreign producers who have been illegally dumping wire rod in this country at prices considerably below their cost of production. In recent months, this situation had gotten so severe that layoffs among Georgetown's 1,000 employees were threatened.

I firmly believe that Treasury's commitment to stand by the system which it created 4 months ago will help turn the situation around for our domestic producers of wire rod. With this type of support that everyone can rely on, the wire rod industry in this country will no longer have to be at the mercy of unfair foreign competition. I compliment the administration for its help and I pledge to continue my own efforts on behalf of fair, as well as free, international trade.

Thank you.●

## IN SUNNY SOUTH AFRICA, A MURKY COURTROOM

### HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. DOWNEY. Mr. Speaker, on Thursday, April 20 the House Committee on Banking, Finance, and Urban Affairs will consider an amendment to the Export-Import Act of 1945 which would prohibit loan guarantees to U.S. companies doing business in South Africa until that country substantially modifies its discriminatory racial policies. I support that move.

Any doubt that South Africa is moving towards any sort of accommodation with its black majority should be cleared up by the thoughtful article published by a reporter of the respected Christian Science Monitor which I ask be included in the Record:

IN SUNNY SOUTH AFRICA A MURKY COURTROOM

(By June Goodwin)

Algoa Park seems a placid, sunny place—a typical, low-income Afrikaner suburb full of schoolchildren.

But in the middle of this Port Elizabeth suburb stands a police station in which a makeshift court appears to enact daily the same sort of questionable justice the world witnessed during the inquest into the death of imprisoned black leader Steve Biko late last year.

This time few whites know about the peremptory proceedings of this "court," even though dozens of blacks arrested in nearby townships have been streaming through it.

The local newspapers are reporting little of what is happening here. But a recent visit to the court by this correspondent suggests that events here lie at the very heart of black-white relations in South Africa today.

The court has been set up in what looks like a police lecture room, with a blackboard behind the table where the magistrate sits. On the front of the table is tacked some scruffy brown wrapping paper.

There is no public gallery. Blacks who want to be spectators are turned away at the entrance to the police station. Police in camouflage uniforms carrying automatic rifles walk around the station. Occasionally a policeman in camouflage comes and sits in the court for a while.

Outside one window of the courtroom stand four 15-foot-high riot vehicles, called "Hippos" locally. Blacks have been found guilty of stoning these impervious-looking monsters. One boy was sentenced to 18 months in prison for stoning a Land-Rover and causing 10 rand ($11.50) worth of damage.

Outside another window of the courtroom are kennels where at times police dogs can be heard barking. Further into the police compound is a helicopter landing pad, much in use recently and very noisy.

This then is the very uncourtlike setting.

At the center of the court's activities is an outspoken lawyer, John Jackson, a man who is famous among blacks in Port Elizabeth but almost unknown elsewhere.

Lawyers in Johannesburg say there is a legal vacuum in the eastern Cape. Mr. Jackson appears to be a lonely exception. He handles almost all of the cases where there is a lawyer here. Many blacks have no lawyers because they cannot afford them or get put through court so fast they cannot get one or get help in paying for one.

Almost every day for the past four months Mr. Jackson has defended hundreds of blacks scooped up in the continuing arrests in neighboring black townships. At first he won many acquittals and the police were apparently becoming embarrassed. Recently a new magistrate, moved in from Cape Town, has proved much tougher.

ARGUMENT FAILS

The day this reporter visited the Algoa Park court, Mr. Jackson argued his case with an incisiveness similar to that of Sidney Kentridge, the leading lawyer at the Biko inquest in Pretoria last year. But on this day (April 6), Mr. Jackson, too, argued to no avail, as the magistrate produced a finding reminiscent of that of the Biko inquest.

Four boys, age 14 through 16, were on trial for sabotage and arson. Three of them were physically very small and, as Mr. Jackson showed, had the education of nine-year-old white children. They were just beginning to learn to read.

"The worlds [of the courtroom] are floating away over their heads," Mr. Jackson said.

Two of the boys had no lawyer. They sometimes testified that they carried out the alleged stonings and burnings of buildings.

They sometimes denied they did anything like that. Two of the boys were barefoot. None of them understood English or Afrikaans, but the proceedings were translated into Xhosa.

MINIMUM SENTENCE . . .

The magistrate found the four boys guilty of sabotage and gave them the minimum sentence—five years in jail. No evidence was produced that proved the boys committed the alleged actions.

The magistrate, speaking of the deterrent effect of jail, said, essentially, that it had not been proved that the boys did not commit the acts for which the attorney general of the eastern Cape had charged them. In other words, it would appear that contrary to much of Western justice, they were guilty until they could prove themselves innocent.

Both boys who testified said they had been assaulted at the charge office by police and that after being beaten they signed statements of guilt before the magistrate. "I couldn't stick it," one boy said. The police who allegedly assaulted the boys were standing nearby as the statements were signed, the boys said.

In the Algoa Park Court sat an Afrikaner security police in a light blue safari suit. It was Lt. W. E. Wilkins, the security policeman who was with Mr. Biko the night before Mr. Biko was discovered to be suffering the injuries from which he later died.

Another man often in the Algoa Park Court is George Byron from the Eastern Province Herald. He has been the only newspaper reporter covering these trials for the past four months. The other English-language paper in town sent a man for one day. Because the Afrikaans press is not covering the trials, the residents of Algoa Park can say they do not know what is happening in their own neighborhood.●

## ESTABLISHING STANDARDS FOR REHABILITATION COUNSELORS

### HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. RICHMOND. Mr. Speaker, yesterday I introduced H.R. 12130 which, when enacted, would be a major step in insuring quality care for disabled individuals seeking rehabilitation counseling.

Rehabilitation counseling was created by Federal law to assist persons disabled as a result of wartime activities. Since the inception of the profession, thousands of people with widely varying physical ailments have been successfully treated.

Federal subsidies remain a primary source of support to the profession. A large number of rehabilitation counselors have been trained at the over 80 federally supported graduate programs in rehabilitation counseling. Many of these graduates are employed in the State-Federal vocational rehabilitation system.

In the early years of the profession, the supply of adequately trained counselors was insufficient. Today however, over 1,000 persons graduate each year from certified programs in rehabilitation counseling. At present, approximately 20,000 persons are employed as rehabilitation counselors. The turnover rate for this profession is extremely low. Thus, many recent graduates have been unable to find employment in their trained field.

Many employers continue to hire persons with no rehabilitation counseling experience to fill beginning positions. In far too many cases, nonprofessional criteria are used to make hiring decisions. Employers sometimes base the hiring decision on political or personal reasons rather than on professional standards.

The end result of this process is the inadequate delivery of services to the handicapped. This situation is not acceptable. A sufficient number of qualified counselors exists to ensure that disabled individuals receive the best possible care.

The legislation I have introduced would amend the Rehabilitation Act of 1973 to require that rehabilitation counselors hired under State plans approved under the act have certain minimum qualifications. Among the standards proposed are the requirements that an individual complete a course of study in rehabilitation counseling leading to an advanced degree at an accredited institution or completion of a course of study leading to a baccalaureate degree at an accredited institution and 4 years of acceptable experience in the field. Three other alternative requirements exist to ensure that persons hired previous to this legislation will not lose their positions.

This legislation would take effect 1 year after the date of enactment and would not apply to persons then employed as rehabilitation counselors under State plans approved under the Rehabilitation Act of 1973.

The Rehabilitation Act of 1973 as amended in 1974 includes strict standards for most professional practitioners in rehabilitation services. Yet, there are inadequate standards for those professionals most concerned in the rehabilitation process, the rehabilitation counselors. In order to guarantee that disabled individuals in this country receive the best possible treatment allowing them to return to active and productive lives, it is vital that guidelines be established for all those connected with the delivery of rehabilitation services.

I will be reintroducing this bill in one month and hope that my colleagues will join with me in this concern and agree to cosponsor this bill.●

## DEATH OF BISHOP MUSSIO OF STEUBENVILLE, OHIO

### HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. APPLEGATE. Mr. Speaker, late last year, I had the distinct honor and privilege to introduce to this House through the CONGRESSIONAL RECORD, a very dear friend of not only mine, but the entire Upper Ohio Valley, the Most Reverend John King Mussio, Bishop of the Diocese of Steubenville, Ohio. At that time, Bishop Mussio was retiring after 32 successful and fulfilling years of service. I believe it is only appropriate and fitting that I again address this Chamber to relay the sad and untimely death of the bishop this past Saturday, April 15, 1978.

The mark which Bishop Mussio made on his 13-county diocese probably will last as long as the diocese itself. He took over an ill-defined infant diocese which sprawled over most of southeastern Ohio. He started with nothing but the good will of the people of the area and the strength of personality which soon made him one of the most beloved community leaders in the 200-year history of the area.

Part of his accomplishments are written in stone. In 1946, in scattered downtown buildings, he established the College of Steubenville. The colleage now operates on a 200-acre campus dotted by modern buildings and draws students from around the country as well as from the tri-state area.

He established Catholic Central High School and it, too, was moved to a modern building. The school has been responsible for the education of thousands of area residents. Bishop Mussio saw a need for a hospital and, because of the strength of his vision, St. John Medical Center was established. That hospital continues to grow and fulfill an indispensable need in the health care of both Catholics and non-Catholics.

He built a seminary to train priests for the diocese. He established many of the Catholic elementary schools in the diocese. He brought sisters to the diocese to minister to the needs of the poor and downtrodden.

The list of his accomplishments is long and so varied that probably no one can remember all of them.

But the man who preferred to be seen as "a simple priest" most likely will be remembered and mourned not just because of his impressive accomplishments. For Bishop Mussio approached the people of this area as a friend and area residents of all faiths opened their arms to this quiet and obviously humble man.

The esteem in which he was held was nowhere more in evidence than when he announced his retirement. Early last year he said that he would step down as spiritual leader of the more than 54,000 Catholics when he reached 75 years of age. He reached that age on June 13, 1977 and, soon after, the Bishop Ottenweller was named to succeed him.

When the news of Bishop Mussio's retirement was made public last year, it was as though a signal were given to the community and from then until the moment of his death, accolades and public testimony never ceased. That praise came from the rich and the powerful and from the poor and the displaced. What soon amounted to a community hymn of thanks was sung by Catholics and non-Catholics, by the religious and the nonbelievers.

It will take a long time to assess the reasons for the extraordinary esteem in which this man was held by those among whom he worked, by those whom, he said again and again, he had come to serve.

But certainly, the key lies in the per-

sonality of the man. He once said that when he became a bishop, he was careful to make a distinction between the magnitude and power of the office and the man who filled it.

He said he never lost sight of the fact he was a simple man with failings. And so, he contended, when he met with respect and even, awe, he attributed that to the office of bishop and not to John King Mussio.

Bishop Mussio will be mourned and sadly missed by all who knew him and felt his presence.●

## PRESIDENT CARTER'S DECISION ON THE NEUTRON BOMB

### HON. DOUG BARNARD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. BARNARD: Mr. Speaker, President Carter's decision to defer the production of the neutron bomb was of great disappointment and concern to me. In my opinion the controversial bomb is vastly misunderstood. Most media reports indicate that the bomb is an inhumane weapon which destroys people while sparing buildings.

If this were the case, I would have supported President Carter's decision. Contrary to these extravagant media assertions, the neutron bomb is capable of being very precisely targeted against enemy combatants—who are, under all laws of warfare, legitimate military targets while at the same time sparing the lives of our soldiers and innocent persons nearby.

At the center of the controversy is the neutron bomb itself. Actually, it is not a bomb but a small nuclear warhead for existing NATO missiles and artillery.

The nuclear weapons which exist in NATO countries today would actually kill and destroy over a much wider area than the neutron bomb. The use of the current-generation tactical nuclear weapons would frankly turn Europe into a scene of devastation.

These weapons are big, dirty and often inaccurate and would produce tremendous suffering among non-combatant civilians. If a conventional bomb were exploded over a military installation, it would not only wipe out the installation but its effects would most definitely spread into civilian areas whereas the kill-radius of the neutron bomb would be much less.

Certainly if we were invaded, we would be very reluctant to use a conventional nuclear weapon because of the effect it would have on civilians and even our troops. Our tactical nuclear weapons were not designed to oppose a Soviet force that is structured to fight a ground war in addition to a tactical nuclear war.

One must realize that the proposed neutron bomb would be used by NATO only under the most desperate circumstances—to stop a high speed armored blitzkreig across the North German plains by the Warsaw Pact forces. What will have to be stopped immediately and very convincingly will be a massive, armored spearhead of Russian and East European tanks and armored personnel carriers racing to the Rhine and enveloping outnumbered and grossly ill-equipped NATO forces. The West does not have the massive precision-guided conventional antitank weaponry that could stop this force. Its only recourse would be to use the tactical nuclear weapons of the current variety or go to strategic escalation.

Of course, this scenario would only occur if U.S. strategic credibility or disuasion had already evaporated but it is safe to say that the Soviets and their allies would, essentially, have an overwhelming upper hand in "escalation control." Under these circumstances a weapon that could target Soviet armored forces very precisely and provide NATO perhaps its last hope of stopping a massive incursion dead in its tracks, is what must be seriously considered by the Western iegislators.

Another consideration that many of us tend to overlook in favor of the production of the neutron bomb is that the economic implications are far-reaching. Today the Soviet Union needs more and better cars, trucks, roads, high technology pipelines, computers, tourist facilities, meat and other food, in addition to oil fields and other energy sources. Their population growth is changing so that economic advances must now come from machinery instead of additional workers in the labor force.

These projects require massive amounts of esoteric technology and since the Soviets have a very limited technological ability, they buy most of these domestic goods from the West. CIA reports indicate that 13–17 percent of their total GNP is spent on military technology—so the Soviets could easily be forced into a "guns and butter" situation.

Faced with this squeeze, the Soviet Union will have to conclude some sort of arms agreement or face severe domestic economic pressures. At such time the United States could conclude a fair and just agreement; however, if the President stops production of new weapons now without any concessions from the Soviets, then we will be forced into an arms agreement that would leave us, instead of the Soviets, vulnerable.●

## STUDENTS AND TEACHERS WORKING TO BUILD MODULAR HOUSE

### HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. ANDERSON of California. Mr. Speaker, I would like to commend a group of high school students and their teachers in the Long Beach Unified School District for their diligent work over the past 2 years in planning and constructing a modular house. This house, which consists of six modules, can now be shipped and assembled at any point where a homeowner would like to live: at the beach, in the mountains, in an urban or rural area.

It is through a flexible educational system such as this that the young people of our Nation can learn the basic trades that are the foundation of our country. Mr. Speaker, I would like to include for the record an article that was published in the Washington Post on Saturday, April 15, as reprinted from the Los Angeles Times, which outlines the commendable effort that was put into this project. And again, I would like to congratulate these students and their teachers for their outstanding achievement.

The article follows:

STUDENTS BUILD MODULAR HOUSE

(By Mary Barber)

LONG BEACH, CALIF.—A bunch of inexperienced high school students are building an unconventional house in a way that's never been tried before here.

Whoever buys it will have purchased the results of two years of labor and some of the best minds in the Long Beach unified school district.

It will be a house in six parts. Each part will be hoisted into a truck and deposited on a concrete foundation at the buyer's lot. All the connections for plumbing, electrical and other systems will be made then.

The separate parts, called modules, are now under construction at Jordan High School, where 18 students in the beginners' construction technology class are learning by doing.

The project originated with Glenn Warrick, district consultant in industrial education.

Warrick took his idea for a vacation house to drafting teacher Charles Copeland of Wilson High School, and then to architect Craig Wheeler.

They conceived modules with wood siding and sheetrock inner walls that could be hoisted by two forklifts into flatbed trucks, put together, they will form a house suitable for beach or mountains, Warrick said, or for a city dweller who can get by on 864 square feet.

The students are doing everything. They have erected the framework and are now attaching outer plywood that will eventually be covered by six-inch redwood siding.

They will put a roof over the modules, make and install the doors and windows and install the plumbing.

A Jordan High electrical class will do the electrical work.

Warrick says he doesn't know yet if the house will have some appliances installed, but the kitchen allows space for the usual refrigerator, stove, etc.●

## FIRST ANNUAL FREE ENTERPRISE AWARD

### HON. W. HENSON MOORE

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. MOORE. Mr. Speaker, as I indicated in my remarks in the CONGRESSIONAL RECORD of December 15, 1977, the first annual Free Enterprise Week celebration took place in my congressional district during the week of January 8 through 14, 1978. As a most important

part of that celebration, we selected a businessman from the Sixth Congressional District of Louisiana to be the winner of the first annual Free Enterprise Award.

The selection process included requesting each chamber of commerce located in the congressional district to form a committee and consider all businesspersons located in the area served by that chamber. They were to select and forward to the Free Enterprise Week Selection Committee one nomination from that chamber. The Free Enterprise Week Committee then considered those nominations and selected the winner.

The qualifications for the award were general and flexible but included emphasis on the fact that we were looking for a small businessperson who had started with nothing and built the business into a success by hard work and the good fortune of being able to succeed as a result of the free enterprise system which exists in this country. In other words, we were looking for a prime example of the typical American success story to be able to hold out as an example to all others in our society that there is nothing wrong with profit, that you ought to be able to expect to keep a fair and significant share of the result of your work and that anyone can succeed in this country by hard work and the existence of the free enterprise system.

The first winner, and we hope the first in a long line of Free Enterprise winners, could not have been more perfect for this award if we had drawn the qualifications as specifically as possible. The first winner is Mr. Huey J. Wilson of Baton Rouge. La.

Mr. Wilson is founder and chairman of the board of the H. J. Wilson Company, Inc. which uses the trade name of "Wilson's." Beginning with a one-man, one-store operation, Wilson developed one of the Nation's leading catalog showroom chains until today 33 stores span the Sunbelt States from Texas to Florida. Huey J. Wilson personally directed this remarkable expansion, serving as president of the company until July 1977. Today the Wilson's stores employ approximately 3,500 employees, 2,500 of which are in Louisiana, on a full-time basis with an additional 1,500 persons hired on a seasonal basis.

Mr. Wilson was one of a family of 23 children and was a graduate of Baker High School, Baker, La. He served with distinction in World War II and following his service, completed training to master the art of jewelry design.

He then returned to Baton Rouge and started the company which had a modest beginning in 1950 when Wilson began operating a wholesale jewelry business which he started with $200 operating capital. The first years were very hard with little or no profit, but the whole family pitched in and worked hard to make it go. Several years later, he became one of the first retailers to develop the use of a catalog as a means of informing the customer of product brand names and prices for merchandise. This is a good example of innovation which can only exist in a free enterprise economy. In September 1957, Wilson opened his first showroom in Baton Rouge. This was followed by a Jackson, Miss., location in 1960. A decade later, when Wilson's was a four-store company, the great thrust of expansion began.

Because of Huey Wilson's extensive training and background in jewelry, the chain has been developed to offer one of the broadest selections of preassembled jewelry, together with a large selection of the highest quality loose diamonds of every color, size, shape, and price. Wilson's stores place a greater emphasis on jewelry than do other catalog showrooms and this, coupled with an elegance of store design and decor, have made the company unique.

In 1972, Wilson established a New York office for the purpose of importing diamonds from Israel, Belgium, and India. The majority of Wilson's gold jewelry manufacturing and diamond setting is performed by this facility.

The Wilson's stores also offer a wide selection of merchandise from abroad. A New Orleans-based importing company, Kimco, International, which is wholly owned by Wilson's was founded in 1975 to purchase gifts, housewares, toys, and other nonjewelry items from Europe and the Far East.

In addition to his business success, Huey J. Wilson has sought opportunities to serve his community through a number of civic and charitable activities. He helped to found the Federation of Louisianians for Hemophilia which is dedicated to fighting this very serious disease through medical research and increased public awareness and enlightenment. Through the years, Wilson has continued to support and serve the Hemophilia Federation and presently serves on the board of trustees.

He has been a supporter of a number of Baptist churches in the area—New Salem Baptist Church, Metropolitan Baptist Church and Sherwood Baptist Church. Additionally, Wilson serves on the board of directors of American Bank and is a member of the Salvation Army advisory board.

Wilson has also been a supporter and contributor of the "Here's Life, American" organization; the Jerry Falwell Ministries of Lynchburg, Va.; and the Wayout Help Clinic based in Houma, La. Recently, Wilson was invited, and agreed to serve, on the newly formed Governor's Conference on Economic Development.

Mr. Wilson has been married for 29 years to the former Angelina Mumphrey of Baton Rouge and they have three children; John, Dianne, and Denver. Mr. and Mrs. Wilson reside at 2764 Warwick Avenue in Baton Rouge.

Mr. Wilson is a perfect example of what has made America great as he has worked hard, starting with nothing but his God given talents and his desire to succeed. His story would not have been possible, however, without our economic system which allowed and encouraged his efforts and prosperity—Free Enterprise.●

## DEEP SEABED MINING LEGISLATION AND REVENUE SHARING—THE LAST REMAINING ISSUE

### HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. MURPHY of New York. Mr. Speaker, the Congress has been considering deep seabed mining legislation for more than 6 years and, for the first time such a measure now has the support of the administration. In fact, the President's Special Representative for the Law of the Sea Conference, Ambassador Elliot L. Richardson, recently requested that the House of Representatives move a deep seabed bill through the legislative process. This request was based on the premise that legislation would strengthen the Ambassador's bargaining position at the LOS conference. This is a premise which I have supported for years.

As you know, H.R. 3350, which Congressman JOHN BREAUX of Louisiana and I cosponsored was jointly referred to the Merchant Marine and Fisheries Committee and the Interior and Insular Affairs Committee. After both Committees had reported the bill, it was sequentially referred to the Committee on International Relations.

Despite over two dozen differences among the three versions, 19 of which were substantive, only one major issue separated the Committees from agreement on a compromise substitute bill.

The precise manner in which the sharing of some of the revenues with the international community should be handled was the subject of considerable negotiation among the three Committees and, quite frankly, was one on which we received little cooperation from the administration—an administration which had indicated that it wanted legislation passed.

Finally, when the impasse on revenue sharing among the committees could not be broken, I asked the chairman of the Ways and Means Committee to consider the issue with a view to reporting out a detailed provision. My colleague from Oregon, Mr. ULLMAN, graciously acceded to my request and the Ways and Means Committee held a hearing on deep seabed mining revenue sharing on April 13, 1978. The committee, although presently engaged in consideration of the President's tax reform package, will soon markup a revenue sharing provision for H.R. 3350.

For the protection of our national interest with respect to a secure supply of essential mineral resources, for the establishment of a legal framework for the American mining industry, and for international diplomatic reasons, it is essential that H.R. 3350 be passed as soon as possible. We will have settled one of the major issues delaying such passage when the Ways and Means Committee completes its action on revenue sharing.

For this reason, I would like to express my appreciation to my distinguished colleague from Oregon for expeditiously considering this matter in the midst of a very full committee schedule.

There are a number of critically important issues involved in the deep seabed mining debate in general and in the revenue sharing issue in particular. These are explicated in my testimony before the Ways and Means Committee and I would like to bring these to the attention of my colleagues by reprinting that statement below:

STATEMENT OF THE HON. JOHN M. MURPHY

APRIL 13, 1978.

Mr. CHAIRMAN. Thank you for the opportunity to appear before you this morning to speak on an issue vital to the national interest of our country—the mining of mineral nodules on the deep seabed.

I would also like to express my appreciation to Chairman Ullman and the members of this committee for scheduling this hearing today. This is a fulfillment of your commitment to me to consider the revenue sharing aspect of deep seabed mining legislation at the earliest possible date. Given the schedule of this committee and your pending consideration of the president's tax reform program, the members of the three committees of original jurisdiction—Merchant Marine & Fisheries, Interior, and International Relations—are indebted to you for the expeditious consideration of this matter.

Although your immediate concern this morning is focused on a rather narrow—although extremely important—provision of H.R. 3350, I think it is essential that the members of this committee be aware of some of the larger concerns within which this issue is included. I say this because what you do here today with respect to the provision on revenue sharing—an intricate piece which must be fit into this legislative puzzle—is critically important to achieve the many vital purposes for which the legislation has been developed.

The goals of H.R. 3350 have both domestic and international implications. Deep seabed mining legislation has been the subject of congressional consideration for over five years and we have finally reached the stage where a bill on this matter is very close to coming to the floor of the House.

The issue is extraordinarily complex and it would be impossible, in the brief time that we have here this morning, to fully develop all the premises and foundations on which the legislation has been fashioned to this point. It is essential, however, that certain universally agreed-upon facts be brought to your attention to assist you in your consideration of this issue.

As we all know, throughout our history and into the early part of this decade, the American people and their public officials have generally considered the United States a storehouse of low cost minerals that could be extracted and processed indefinitely to meet our growing demands. The OPEC action of 1973 brought that type of thinking to a screeching halt. We began to realize—slowly, at first—that our Nation is vulnerable to the actions of others with respect to supplies of critical sources of minerals and energy.

If our recent levels of imports of certain key minerals is any guide it is clear that this year the United States will import 100 percent of its manganese requirements; 100 percent of its cobalt requirements; and 72 percent of its nickel requirements.

The United States is the largest consumer of nickel in the world. However, we have only one small exploitable nickel deposit in our country—a source that is able to supply less than 10 percent of our total nickel needs.

The United States has no domestic supply of manganese. We import most of this critical metal from Ghana, South Africa, and Brazil. Brazil is beginning to put restrictions on the export of manganese ore suitable for steel making to conserve supplies for its own future use as it slowly moves into the category of a developed nation.

The United States produces no cobalt whatsoever. The bulk of our imports of this essential mineral comes from the African country of Zaire.

In 1976, the last year for which data are available, the balance of payments deficit from these three minerals, plus the 15 percent copper which we import, totaled approximately $1.8 billion dollars.

Will we be forced to continue our reliance on other nations—many of which are not the most politically stable in the world—for our continued supplies of essential raw materials? The answer to that will depend, in large measure, on what the Congress does with respect to deep seabed mining legislation—for three miles below the surface of the ocean lies the most significant untapped source of mineral raw materials known to man. Manganese nodules, containing quantities of manganese, cobalt, nickel and copper, cover millions of square kilometers on the ocean floor. The international aspect of this problem comes from the fact that this deep seabed area is beyond the jurisdiction of any nation, the control of which is subject to negotiations at the United Nations Law of the Sea (LOS) Conference.

Despite the past efforts of our State Department and the American L.O.S. delegation—and in some cases because of it—little real progress has been made in these international negotiations. It is my sincere hope that an international law of the sea can be developed. But it must be one which is reasonable, equitable, and does not discourage the exploration and development of the resources of the ocean by those with the capital and technological capability to tap such resources.

And the fact is that American-led mining consortia have spent approximately $200 million in developing the sophisticated technology required to mine the deep seabed. Our companies, along with their foreign partners, are ready and waiting to accelerate their development activities and to move toward the commercial recovery stage of deep ocean manganese nodules.

However, the boards of directors of these companies have reached a crucial stage in making decisions about future investments in this industry. The primary problem involves an enormously high degree of political uncertainty with respect to a future international regime established by the Law of the Sea Conference.

Although deep seabed mining has been the primary obstacle to a successful conclusion to this ten-year United Nations' effort, the international ground-rules for the management of the resources of the deep seabed will clearly be a provision in any L.O.S. treaty. The subject matter of the deep seabed committee at L.O.S. involves such aspects as the establishment of an international authority for the control of access to mine sites, production controls, quota systems, banking provisions, and revenue sharing. Consequently, the major purpose of ocean mining legislation in the Congress is to establish a stable legal framework within which our companies can operate pending the adoption of a treaty.

It is important to note that the costs involved in the exploration and development is in the range of $600 to $800 million. Obtaining large amounts of risk capital is being severely constrained because of the political uncertainty occasioned by the Law of the Sea Conference.

No one who supports deep seabed mining legislation opposes the negotiations going on in Geneva and we hope that a successful treaty can be finalized. But, in the absence of a treaty, and given the adamant inflexibility of the Third World bloc at that international conference, we can no longer afford to inhibit our technological advances by refusing to pass legislation.

In the absence of legislation, we will ultimately lose our technological lead in ocean mining and transfer our technology to other countries who will reap the benefits of a secure domestic supply of essential minerals and the opportunity to become worldwide exporters of such resources.

A second purpose of the legislation is the responsibility of the United States Government to regulate the conduct of its citizens in international waters and to establish regulatory and environmental controls over ocean mining activities.

Both purposes—a security of tenure for ocean mining companies and administrative control for the government are accomplished in H.R. 3350.

There is an important third reason why the legislation should pass—a reason not contained in the substance of the legislation but evolving from its impact on international negotiations. For years previous administrations have opposed the enactment of deep seabed mining legislation based on the argument that such a measure would have a negative effect on our negotiations at L.O.S.

During these same years, a number of my colleagues and I have consistently maintained that the establishment of a legal framework for the initial stages of an ocean mining program—one that is transitional, pending an international agreement on a regime for the deep seabed—would actually strengthen our negotiating position with respect to the Third World and pursuade all parties concerned to begin to bargain in good faith.

While I take little personal comfort from the fact that the executive branch has finally recognized the validity of my long-held view of the beneficial impact which this legislation would have on international negotiations, the truth of the matter is that the administration has now decided to support domestic seabed legislation. This change of mind has occurred because of the developments at the last session of the law of the sea conference in New York in which there was not only an appalling lack of progress in the negotiations but indeed, on the part of some, an outrageous retrogression.

Because of this situation, Ambassador Richardson requested that the House move ocean mining legislation as expeditiously as possible.

The situation is complicated by the multiple referrals of H.R. 3350 during this session of the Congress. The Committee on merchant marine and fisheries, which has been the only House Committee involved continuously in the consideration of the deep seabed mining issue from its inception as a legislative proposal in the 92nd Congress, reported H.R. 3350 on August 9, 1977. The interior and insular affairs committee, to which the Bill had been jointly referred, reported its version with amendments to the merchant marine and fisheries bill on November 7, 1977. The Committee on International Relations requested and received a sequential referral of the legislation and reported it. with amendments, on February 16, 1978.

Consequently, there were three different versions of H.R. 3350 and, pursuant to Ambassador Richardson's request, the chairmen of the committees and subcommittees of jurisdiction agreed to try to resolve those differences and move the legislation through the congressional process.

There were 19 issues of differences among the three versions. Of these, 17 were generally resolved subject to the refinement of language. One issue, the question of executive agency administration of the program, was to be left for a floor vote. The other issue, which could not be resolved and which prevented this legislation from reaching the floor weeks ago, is the issue which brings us together this morning—revenue sharing.

The versions reported by the Merchant Marine and Fisheries Committee and the Interior and Insular Affairs Committee called for the establishment of an international revenue sharing fund, the details of which were to be filled in by later legislation. The International Relations Committee, reported a provision which, in general, called for the structure of the fund to be established by the Secretary pursuant to regulation, subject to congressional veto. This provision caused some concern with the members of the Ways & Means Committee and although I agreed to remove certain tax-related provisions in another section of the merchant marine bill at the request of Chairman Ullman, this committee's concern about the revenue sharing fund continued.

The problem eventually focused on the question of whether there should be a moratorium on the issuance of permits for commercial recovery to mining companies pending the establishment of a revenue sharing fund by future legislation. Such a moratorium could have had disastrous effects on the opportunity for the mining industry to obtain capital to move toward commercial recovery activities. Given the uncertainty of the congressional process, no investment company in this country could risk providing such capital if permits for commercial recovery were dependent on the enactment of a subsequent revenue sharing bill. Consequently, because it violated the major premise of the legislation, my cosponsor on the bill, Congressman Breaux, and I adamantly opposed such a moratorium but promised to work strenuously for subsequent legislation dealing with revenue sharing.

However, despite the importance of the legislation to our industry and to Ambassador Richardson in his negotiations, the administration refused to support legislation that did not contain this provision. Consequently, negotiations resulted in an impasse which could not be resolved unless a full revenue sharing structure were written into our bill. This was the only viable solution because all members concerned agreed with revenue sharing in concept.

That is why I made my request to you, Mr. Chairman, for the expeditious consideration of this issue by your committee. Only through your efforts here can this matter be settled and allow us to continue to work toward a final compromise among the three committees.

Although our committee has been requesting guidance from the Treasury Department for over a year with respect to the structure of a revenue sharing program, nothing had come forward until recently. Only when this impasse was reached and it appeared no legislation would be forthcoming did the department finally send suggested language to the appropriate members. You have that language before you this morning. It has been carefully worked out within the administration and, as I understand it, with representatives of the industry and it reflects at least a conceptual consensus among the interested parties.

I would simply like to go on record as supporting this proposal and I believe that the chairman of the other committees and subcommittees will also support it. My only recommendation is that the financial contributions required of our industry be reasonable. Any tax or royalty which is unconscionably high and which discourages investment in this new and risky venture will undermine the major premise of the legislation.

Frankly, without expertise on intricate tax matters, I am unable to fully assess all the implications of the language before you. However, my staff, and that of the other two applicable committees, stand ready to work with you and your staff to draft acceptable language.

The concept of the establishment of a revenue sharing fund, the proceeds of which would be made available to the international community pursuant to a law of the sea treaty, is one which I have continually supported throughout the debate on deep seabed mining. Now the time has come for precision in and implementation of that concept and I stand ready to assist you in any way possible to develop a provision which is acceptable to the members of this committee and which can be integrated into H.R. 3350.

Mr. Chairman, in closing, I would like to emphasize my conviction that all the participants in the national debate on ocean mining's future—the administration, the industry, environmental and citizen organizations, and the Congress—have the same basic goals in view.

In the past, our strong differences on how best to proceed with this new endeavor may have confused and clouded these goals. However, today the events at the Law of the Sea Conference, and throughout the world on other resource questions, have considerably narrowed the range of effective steps the United States can take to promote its mineral's interest in the deep seabed.

With this reality in mind, a new political consensus has emerged in the administration and in the Congress—a consensus which will remove obstacles to the proper and environmentally sound development of the ocean. With your assistance today, we can eliminate one of the most serious differences among the committees and between the Congress and the administration on a proper revenue sharing structure. It is essential that deep seabed mining legislation proceed in an orderly and expeditious fashion and, if we can resolve our revenue sharing problem today, a giant step will be taken to move this critically important bill to the floor of the House.

I believe that we are all becoming aware of the realities of international economics—realities which indicate that to discourage those with the technological and financial capability from developing a resource will ultimately result in the nondevelopment of that resource. Neither the industrialized countries nor the third world can afford the danger inherent in that reality.

As each nation moves to become exporters—rather than importers—of the world's essential resources, the international arena will take on a new and uncertain dimension. Until and unless this uncertainty is clarified, we must not allow our nation to be placed in a position of weakness with respect to the international community.

Mr. Chairman, I once again commend you and the members of this committee for your expeditious consideration of the deep seabed mining revenue sharing issue and I appreciate your attention to my remarks this morning. I would be happy to answer any questions from the members. Thank you.●

## THE RELEASE OF JACOBO TIMMERMAN

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. GILMAN. Mr. Speaker, I am pleased to join with the gentleman from Massachusetts, Mr. CONTE, to inform our colleagues of the progress of the human rights issue in Argentina.

The terrible cost of the current political, economic, and social crisis in the Republic of Argentina can only be measured in human terms. Since the overthrow of the Isabel Peron government in March 1976, the military government has pursued a stern campaign against leftist guerrillas and terrorists. This action, along with the guerrilla activity, has resulted in the deaths, disappearances, imprisonment and exile of thousands of persons—the Argentine Government acknowledged over 3,600 political prisoners.

One such imprisoned individual, Mr. Jacobo Timmerman, the editor and publisher of the leading Argentine newspaper, La Opinion, has come to symbolize the plights of the many victims of this human rights crisis. Because of his internationally respected reputation as a journalist and defender of human rights, Timmerman's imprisonment for over a year without any charges has produced worldwide concern for the violation of human rights in Argentina. The Argentine Government's prior actions in this case have been an indication of the lack of concern for and commitment to the protection of human rights for all citizens of that troubled nation.

With this background in mind, I am highly encouraged by a report forwarded to me today by Ambassador Jorge A. Aja Espil of the Republic of Argentina, detailing the partial release of Mr. Timmerman, allowing his transfer from the federal police station to his home where he remains under "house custody." The government's decision is heartening to all of us concerned about human rights.

During our committee's study mission to Argentina last August, I met with Mr. Timmerman, with members of his family and with officials of the Argentine military junta in an effort to express my concern for his well-being. Since that time, I have made personal appeals for his release to President Videla and Foreign Minister Montes of Argentina and to President Carter and Secretary of State Vance. In all of those appeals, I urged that Mr. Timmerman not only be released, but be allowed to emigrate from Argentina if he so desires.

The recent action in releasing Mr. Timmerman under house arrest is encouraging as a symbol of the government's attitude. But it also poses a serious new threat to his life. Because of his steadfast opposition to terrorism, Mr. Timmerman has received death threats from forces outside the government on both the right and the left. The concern for his well-being under the present circumstances is well-founded in a recent series of attacks and killings of other recently released prisoners. The government's recognition of this concern was shown by their escort of Mr. Timmerman to his home, which was led by four police cars, two police motorcycles and a troop carrier filled with paramilitary police armed with machineguns. Even though this courageous man is now under heavy guard, I am still fearful that he could

be harmed and repeat my urging that he now be allowed to leave the country.

Mr. Timmerman's release comes during a significant government effort to identify and release several thousand political prisoners. It has been seen by some observers as a positive indication of the increased influence of the more moderate segments of the government over the more hard line elements. I would like to express my encouragement to President Videla to continue in these positive efforts as he seeks to bring extremists on both the right and the left under control. He should not let the progress that has been achieved to date slip away but should proceed with the full restoration of human rights for all citizens of Argentina and, hopefully, the eventual restoration of democracy to that nation.

The following is the full text of Ambassador Jorge A. Aja Espil's report of April 17, 1978:

APRIL 17, 1978.

Hon. BENJAMIN A. GILMAN,
*Congress of the United States,*
*Washington, D.C.*

DEAR BENJAMIN: Being aware of your constant concern for the welfare of publisher Jacobo Timmerman, which you expressed to me on several occasions, I am pleased to inform you that he has been released from prison and was escorted home where he was met by his wife and son. He will however, remain under house custody at the disposition of the Executive Branch.

I am sure you will be happy to hear that Mr. Timmerman is in the same perfect physical and mental condition you found him in when you visited him on your trip to Argentina. From his own comments, he is a little overweight, close to twenty pounds.

My very best regards,

Sincerely yours,

JORGE A. AJA ESPIL,
*Ambassador.*●

## TRIBUTE TO DR. VINCENT BONELLI

### HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. OTTINGER. Mr. Speaker, on Friday evening, April 21, members of the Heritage Lodge No. 2227, Order Sons of Italy in America, will gather to honor Dr. Vincent F. Bonelli.

Dr. Vincent F. Bonelli, son of the late Joseph and Carmella Bonelli, immigrants from the Province of Calabria, Italy, was born in New Rochelle. He attended New Rochelle public schools, then went on to New York University where he received both his bachelors and masters degrees.

In 1976, Dr. Bonelli received his Ph. D. from Fordham University in New York. At present Dr. Bonelli is professor of history and political science at City University. He also serves as adjunct professor of history at Westchester Community College, and is a member of the American Historical Association, the Organization of American Historians and the American-Italian Historical Association.

Dr. Bonelli is past president of the Calabria Mutual Aid Society in New Rochelle. His activities are many and varied in the field of academia. The general public will best recall the excellent Saturday morning radio program "Our Italian Heritage," presented on WVOX in New Rochelle—a presentation which Dr. Bonelli both hosted and produced. Each of these programs proved to be informative and inspiring—above all, they pointed out the significant contributions made by the Roman Empire to Western civilization as we know it today.

Dr. Bonelli is married to the former Maria Loschiavo. They have two fine sons, Joseph and Anthony.

Dr. Bonelli is a proud American who has contributed his knowledge and energies to promote better understanding of our great Italian heritage. He is one of the first citizens of New Rochelle, Westchester, indeed the county, and is most worthy of the honor he is receiving.●

## SOVIET THREAT TO THE PANAMA CANAL

### HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. DORNAN. Mr. Speaker, the following address by the late and distinguished Ambassador Spruille Braden says it all. The Ambassador delivered this still timely speech before the Bel-Air Council of Navy League of U.S.A. on February 28, 1977. His tragic passing over the Christmas holidays was during another trip to Los Angeles to alert U.S. citizens to the long-range dangers of giving the Panama Canal to an unstable dictator. On this fateful day the Senate votes on the major treaty. Let us hope as future researchers read Ambassador Braden's wise counsel they find his advice prevailed in the Senate:

It is an honor to be invited by Dr. David Gill Evans, President of the Bel-Air Council of the Navy League of U.S.A. to address this distinguished and knowledgeable audience. I am grateful indeed . . . just as I am proud of my life membership in the Bel-Air Council of the Navy League.

During many years of an active life throughout the Americas, I have accumulated many convictions and I hope perspicacity, in keeping with the old Spanish saying: "The devil knows more by reason of his age, than because he is a demon.

One of my strongest persuasions is that the greatest threat to "our civilization" is a world-wide breakdown in morality. This we witness in and out of government penetrating every strata of society.

I further believe that the most widely destructive of all immoralities is that centered in and emanating from Moscow. Vide:

One. The unending and outrageous cruelties perpetrated on the Russian people, as described by Solzhenitsyn;

Two. The so-called "liberation" movements propagated everywhere by Soviet agents, foreign communists and misguided dupes;

Three. Russian ambitions for world hegemony.

The Soviet already is progressing by strides in its plans to convert the American republics into a conglomeration of satellite and slave states.

Today I shall summarize only the four most critical areas in the Western Hemisphere.

First: Argentina exemplifies how a superior, educated, wealthy and religious nation, possessing virtue and great mental and physical assets for over three decades has suffered a deluge of evils as her government sank into the depths of degradation, corruption, venality and irresponsibility. Murder, torture, kidnapping, terrorism and guerrilla warfare ensued.

The cause of all this was the breakdown in morality and communist infiltration.

As far back as 1945, when I served as ambassador in Buenos Aires, the then vice president and dictator, Peron, while pretending opposition to communists, actually was intriguing closely with them; they had replaced the Nazis in his esteem.

Simultaneously, he, his mistress, later wife, Evita, and his henchmen, enriched themselves on a vast scale.

When Peron died, his third wife and heir, Isabelita (a former bar girl) suddenly found herself the nominal head of a government which had fulfilled 85 percent of the program laid down by Karl Marx and Friedrich Engels. Presently she is imprisoned for stealing public funds.

As Argentina was about to fall completely into communist hands, the armed forces, under General Jorge Rafael Videla (a man of highest character) seized power. They enlisted in their government some patriotic and experienced civilians, such as the new Minister of Economy, Martinez de Hoz. As a result of the military's firmness and courage, communism, terrorism and corruption gradually are being eradicated. Argentina at long last now may hope eventually to retrieve its old position as a responsible, respected and prosperous nation. Realistic reforms may recapture Argentina's idealism.

From 1922 through 1938 I knew Argentina at the apex of its prosperity, political and social well-being. But in 1945 when I returned as ambassador, I witnessed the beginnings of the decomposition. Communism and its twin, terrorism, later almost leading that pitiable nation into the jaws of destruction.

What I saw beginning 30 years ago in Argentina, I now observe starting in the U.S.A.—traditionally cherished ideals are attacked, while disintegrating corruption is tolerated and exotic ideologies are circulated through our schools, the media, and pretty much everywhere.

Second: The collapse of Chile into communism was more precipitous and complete than Argentina's; first came the election to power of the Social-Democrats (actually Socialists); four years later they helped the Marxist, Allende, to the presidency, with only a 35 percent constitutional vote.

This accession to power with his socialist-communist cohorts, was planned, incited and aided by the Soviet Union. Moscow was anxious to create another communist satellite in Latin America, and in so doing, to obtain a naval base at Talcahuano on Chile's South Pacific Coast, just as it had acquired its naval bases, underground submarine pens, missile sites, encampments and other facilities in Cuba.

Unfortunately the Chileans, overly confident in their dedication to democracy, credulously did not awaken to the threatening communization and loss of freedom until their backs were against the wall.

For more than a year the populace, deceived and helpless, allowed matters to drift. Finally they were awakened with a bang by the killings and tortures, imprisonments and property confiscations, plus the influx of trained commissaries and guerrillas from the Soviet Union, Cuba and elsewhere along with shiploads of arms and munitions for the Allendistas. Fierce fighting broke out be-

tween communists, both national and foreign, and patriotic Chileans.

The first mass protest was staged by women from all walks of life demonstrating in the streets and surrounding the presidential palace, banging pans and kitchenware. Some were arrested; others physically abused. There followed a paralyzing strike by truck drivers.

In the nick of time the military intelligence discovered that Allende and his coconspirators had developed a so-called "Z" plan to assassinate within one week all top military officers and leading citizens.

Immediate counter-action was imperative. It was taken and thousands of communists, guerrillas and criminals were arrested; Allende committed suicide.

The new military government had to fight fire with fire. Some ill-treatment even of innocent people, was unavoidable if Chile were to be saved from Moscow-controlled communism.

Please believe me when I assert that:

1. The only thing the communists respect or fear is physical force greater than their own.

2. A communist commitment or pledge is very rarely fulfilled. Chile is the only nation, with scant aid from abroad, which has been able, by the courage and sacrifice of its citizenry, to overthrow a firmly established communist dictatorship which had seized power nefariously and by trickery. Chile still has to defend her independence from armed communist bloc attacks from within and without her borders; it also must clear away the lies and deceit disseminated throughout the world, by communists and too often believed by the guileless.

Despite the catastrophic economic and social results of the Marxist regime, the Chilean people have tightened their belts and are repairing the damage. Their record on "human rights" is now better than the majority of countries in the United Nations who accuse them.

On reflection, we must see that Chile and Argentina are major battlegrounds between east and west, between the forces of communism and freedom.

Third: Cuba, as a full fledged Soviet satellite and Soviet-occupied fortress, is a major danger to the United States.

At Moscow's command, Havana dispatched 15,000 or more troops to fight for communism in Angola, Mozambique and elsewhere in Africa. The USSR maintains at least 10,000 of its own military, KGB and intelligence services in Cuba. It directs that island's forces, provocateurs and espionage services in and out of Cuba. It operates the missiles, naval and submarine bases I have mentioned.

Castro first attracted notice as a gangster and murderer. Under his regime thousands have been tortured and killed. 20,000 to 40,000 political prisoners are suffering or perishing in prisons today.

Yet, despite all of these horrors and the threat to the U.S.A. from only 90 miles off our shores, there are those high in government, even business, who advocate renewing diplomatic relations with Cuba. How blind or callous can they get?

Fourth: It suffices to say about Panama that our sovereignty and ownership of the Canal Zone in perpetuity twice has been reaffirmed by U.S. Supreme Court decisions, by many leading Panamanian statesmen, presidents and ministers, as well as by lower U.S. Courts. As recently as December 17, 1976, District Judge Guthrie F. Crowe stated that he believes the U.S.A. owns the Canal Zone: "I think the United States is the owner of this property by reason of the treaties with Panama and Colombia, payments to the French (Canal Co.) and the creation of the land commission in which people from Panama and the United States functioned as a court with thousands of claimants. (The land) was paid for with United States money."

Our title is every bit as secure legally as are our territorial acquisitions from France, Spain, Mexico, Denmark and Russia.

The total U.S. investment in Panama is estimated at nearly $7 billion.

The arguments by our State Department and its representatives as to why we should negotiate a new treaty ceding our full rights to the canal and the zone are largely fallacious in substance and logic.

The illegally constituted dictator, Torrijos, threatens that unless we deliver the Panama Canal Zone and operations of the canal to his government within a limited period, we will have to wage another Vietnam war in the area.

Castro reportedly has several thousand troops now in Panama, and, of course, could bring back his armies from Africa, already trained in Angola. The State Department and our negotiators supinely agree that Torrijos will precipitate guerrilla warfare and sabotage.

Actually Torrijos fears if we do not sign the new treaty, he will be thrown out of power. In this event he knows Moscow and Castro could not rescue him. On the other hand if, with the help of the latter two, he can deliver the canal, even indirectly to the comintern, he will be assured of his job for life, just as is Castro.

We have defended the canal for 70 odd years, through two world wars, countless riots and attempted sabotage. Are we so weak and timid that we must now run away from Torrijos' and Castro's Soviet-inspired threats and blackmail?

The real issue for the U.S.A. is not vis a vis Panama, but the USSR.

If we lost the Panama Canal Zone to the Soviets, even indirectly, this humiliation would be disastrous indeed. It might well cause our friends and allies, especially in Latin America, to lose all respect for and confidence in us and abandon our leadership, in order to play with the Soviet. Everybody wants to be with the winner.

The following bits of history are pertinent:

A. Phillip II of Spain declared that whoever controls the Caribbean will dominate the western hemisphere. President Jefferson expressed the same thought. Admiral Mahan, one of the greatest strategists, warned that any enemy of the USA controlling the Caribbean could invade our Gulf Coast and so proceed up the Mississippi Valley to capture the heartland of the United States.

B. Lenin listed in sequence the following "musts" for the Soviets to make effective their world dominion:

1. Secure USSR's western borders through absorption or Moscow rule;

2. Communize and control the Far East, especially Southeastern Asia;

3. Proceed similarly in Africa;

4. The same for Latin America;

5. The United States, thus surrounded, would fall like overripe fruit.

Lenin's successors raise point 6: To build their naval forces to overwhelming strength, accompanied by widely dispersed and fully equipped bases. Their objectives include the domination of all sea lanes, passages and routes; among these the Panama Canal is paramount.

Self-evidently the aforementioned six points are well on the way to successful fruition. The security of Russia's western frontier, including Latvia, Lithuania, Estonia, the Ukraine, and eastern European countries has been ratified by the Helsinki agreement signed August 1, 1975, by the United States and other western governments.

Moscow and Havana jointly have violated the Helsinki agreement in Angola, Mozambique and elsewhere, communists have ignored concessions obtained by the free world at Helsinki stipulating greater freedom of movement for western journalists and promises to insure human rights throughout the Warsaw Pact nations.

The Soviet Union's hankering to control the Panama Canal Zone was openly stated by Major Sergei Yuworov in an article published in the Soviet military organ "Red Star", reproduced by the Cuban magazine "Bohemea" on March 17, 1957, in respect of the canal:

"Due to its privileged location as the juncture between South America and rest of the continent, including the canal, which permits U.S.A. warships to operate simultaneously in the Atlantic and Pacific must for the Soviet Union be considered as a 'priority zone'."

He adds that Panama can be attacked from Central America, Colombia or from Cuba, Puerto Rico and other Caribbean Islands. He intimates that some or all of these can serve as Soviet naval bases.

It is essential for us to remember that for over a quarter of a century we have been beset by one humiliation after another, each of them contrived, usually financed, militarily aided and equipped by Moscow.

Our major blunders or defeats in policy and/or action were:

MacArthur prohibited from crossing the Yalu or bombing the bridge;

The inconclusive falsely labeled U.N. action in Korea;

Failure to lend help by air to the Hungarian uprising against Russian troops;

Non-resistance to the Berlin Wall;

No aerial help at the Bay of Pigs;

The Cuban Missile crises—tearing up the Monroe Doctrine;

Our shameful commitment to Khruschev neither to invade Cuba nor permit others to do so;

The "no-win" war in Vietnam;

The so-called "Paris Peace Treaty With Honor," with which North Vietnam never complied.

This series of surrenders only become explicable when one reads National Security Council Report Number 68 (NSC–68) of April 14, 1950, drafted after President Truman's orders as a statement of our basic policies with respect to the USSR.

The study, opinions and conclusions of NSC–68 were based on reports from the Secretaries of State and Defense; they also were considered in at least one council meeting by the Secretary of Treasury and the heads of the other three top economic agencies of the government.

The content and portent of this super "Top Secret" 65-page document has been kept completely unknown to the public, Congress, and even Senior Army, Navy and Air Corps Officers commanding at the time of the afore-listed humiliations.

This "Top Secret" classification, pursuant to law, terminated in April, 1975. On September 30, 1976, a brilliant journalist, Alice Widener, began publishing her expose and analysis of NSC–68. She sums up its principal aims as follows:

1. "To avoid nuclear war but to accept a Soviet nuclear first strike against us if necessary, hoping to ward it off by building up our own and our allies' military, economic, and social strength as a deterrent.

2. To confine U.S. military action to strictly limited counteractions.

3. To seek co-existence with the Soviet Union in the hope that democracy will win out eventually against dictatorship, that time would be on our side, and that the USSR would undergo changes eventually leading to abandonment of its goal of world domination.

4. To try to contain the expansion of the Soviet Union beyond its territory, but not to do anything directly challenging Soviet prestige.

In conceding Soviet prestige as untouchable, NSC–68 seeks to protect Soviets from any kind of effective attack—be it military, ideological, or psychological."

NSC–68 is a self-contradictory document, at times dove-ish and weak; at others hawk-ish and vigilant. On the one hand, it accurately sets forth the objectives of the U.S.A. for peace and freedom, as laid down by the Constitution and the founding fathers.

On the other hand, it describes the fundamental and unchangeable program of the USSR as follows:

"The design, therefore, calls for the complete subversion or forcible destruction of the machinery of government and structure of society in the countries of the non-Soviet world and their replacement by an apparatus and structure subservient to and controlled from the Kremlin. To that end Soviet efforts are now directed toward the domination of the Eurasian land mass. The United States, as the principal center of power in the non-Soviet world and the bulwark of opposition to Soviet expansion, is the principal enemy whose integrity and vitality must be subverted or destroyed by one means or another if the Kremlin is to achieve its fundamental design."

Later NSC–68 states:

"With particular reference to the United States, the Kremlin's strategic and tactical policy is affected by its estimate that we are not only the greatest immediate obstacle which stands between it and world domination, we are also the only power which could release forces in the free and Soviet worlds which could destroy it. The Kremlin's policy toward us is consequently animated by a peculiarly virulent blend of hatred and fear."

NSC–68 continues to characterize all the evils of totalitarian dictatorship and the latter's determination to dominate the world only limited by expediency. It says:

"It is estimated that, within the next four years (i.e., from 1950), the USSR will attain the capability of seriously damaging vital centers of the United States, provided it strikes a surprise blow and provided further that the blow is opposed by no more effective opposition than we now have programmed."

The first time I read NSC–68 I said:

"In each assumption the authors establish a series of ideals as definite possible objectives to be carried out, then turn around and prove that these ideals are utterly impossible of accomplishment. The ink on NSC–68 was no sooner dry than the outbreak of the Korean War made a mockery of this do-gooding optimism."

The comintern's leaders—perhaps due to blood and inheritance—possesses a strain of Oriental innate cruelty, dishonesty and shrewd depravity. They follow the precepts of Sun Tzu, who in China 600 to 500 years before Christ wrote the following in a military textbook:

"Undermine the enemy first, then his army will fall to you. Subvert him, attack his morale, strike at his economy, corrupt him: sow internal discord among his leaders; destroy him without fighting him."

This is precisely the formula Moscow successfully has pursued and is directing against the U.S.A.

As a result, we are drawing nigh to the finish line. Yet there has been no perceptible inclination by either Democratic or Republican administrations to get rid of the NSC–68 policy recommendations, which so often have imperilled and still are entrapping United States' security with an apparently endless chain of humiliations.

If, due to our innate kindness of spirit and our religions' teachings of peace, we endure and add to the list I have already given you one more humiliation, one more breach of a solemn agreement, one more surrender of our rights and sovereignty under the 1903 treaty with Panama, then indeed the Caribbean, adjoining waters and sea lanes will become part and parcel of a huge Soviet lake.

If this happens, we then may have three options:

1. If possible, to rebuild a definitive superiority in military power and defenses.

2. To await a Soviet blackmailing ultimatum for surrender.

3. Nuclear war.

May God save us from the last two alternatives! ●

## NEUTRON BOMB PRO AND CON

**HON. PAUL N. McCLOSKEY, JR.**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. McCLOSKEY. Mr. Speaker, as the neutron bomb debate develops, I thought the House should be aware of two scientists' views on the bomb's pluses and minuses. The attached articles from the San Francisco Chronicle of April 8 outlines the views of Edward Teller, one of the fathers of the hydrogen bomb, and Sidney Drell, a former consultant to the President's Science Advisory Committee.

I trust the articles will be as informative to our colleagues as they have been to me.

The articles follow:

A SCIENTIST'S EVALUATION—NEUTRON BOMB'S SPECIAL DANGER

(By Sidney D. Drell)

(NOTE.—Dr. Sidney D. Drell is an internationally known physicist and deputy director of the Stanford Linear Accelerator Center. He is also a consultant to the National Security Council, the Arms Control and Disarmament Agency, and the Los Alamos Scientific Laboratory.)

The furor in the American debate over the so-called neutron bomb stems from two causes:

One is the inaccurate public perception that the bomb is a radically new weapon designed to kill people but save buildings. The other is the fear that once such weapons are deployed they are more likely to be used than the current more indiscriminately devastating nuclear weapons.

On the technical side, the bombs under question are a refinement, but hardly a major change from existing nuclear weapons. Like all nuclear weapons, however, the neutron bomb is radically different from non-nuclear weapons, and like all nuclear weapons it kills through blast, heat, prompt nuclear radiation, and longer-term radioactive fallout.

Although designed to increase the "prompt" neutron radiation that kills people but does not destroy buildings, the neutron bomb—if it explodes near ground level—can still spread dirty radioactive debris that renders large areas uninhabitable for long periods of time.

Furthermore, it packs an awesome wallop. Today's debate, and President Carter's proposal, centers around a weapon called the "W–70 Mod 3 warhead." It has a yield of about one kiloton, and is at least a hundred times more destructive of both matter and man than the largest blockbusters dropped on Europe in World War II by the Allied bombers.

Technically, this warhead is being designed for long-range artillery and for the Army's Lance missile, which is deployed in Europe with the NATO forces. It is termed an "enhanced radiation" weapon. It produces an excess of high energy neutrons from the fusion reaction. This high energy radiation penetrates greater thicknesses of earth or metal, such as tank armor, and can thereby kill or incapacitate their crews of bunkers or heavily armored tanks.

In the so-called neutron bomb, its lethality due to immediate high energy radiation is increased compared to the lethality and destruction caused by the blast generated in current nuclear weapons. While the force of a W–70 Mod 3 weapon is only equal to about a kiloton bomb its radiation effects are approximately those of a current ten kiloton weapon. Hence, it would cause less collateral damage through blast, heat, and long-term radioactive fallout than the nuclear weapons it is designed to replace in the armed forces inventory.

However, the neutron bomb still yields a substantial component of fission products that result in long-lasting residual radioactivity. And the enhanced high-energy neutrons of its radiation, when ultimately absorbed, produce substantial radioactivity in most materials.

Although the neutron bomb's killing power from neutron radiation is much greater than its lethality due to blast, one kiloton of explosive energy at one-third of a mile can in fact be highly devastating to property, since it creates maximum wind velocities of greater than 200 miles per hour. Nor will this weapon be the smallest among the 7000 or so tactical nuclear weapons in our NATO arsenal.

Furthermore, in any discussion of the military uses of such weapons in close engagement of troops it should not be assumed that the weapon can be delivered with pinpoint accuracy. In fact, at maximum range the Lance missile system has an impact error not too different from the lethal range of the neutron bomb's radiation—which can mean extremely widespread blast damage when a salvo of missiles is fired.

The neutron bombs now being debated would have only a marginal effect on our military posture. The strongest arguments presented for their deployment are based on political factors and forces in the NATO alliance. However, there is a major political danger in a decision to continue the development and deployment of such "enhanced radiation" weapons.

Eventually and inevitably these refinements in weaponry, which require a continued program of underground nuclear bomb tests will lead to less destructive and less radioactively "dirty" nuclear weapons—that is, to more refined "mini-nukes"—and hence to a diminished gap between nonnuclear and nuclear war.

But is it in our interest—or anyone's—to diminish this gap? I think not, particularly since some may find such a transition to nuclear conflict more tempting. Once a conflict becomes nuclear, and amidst the confusion, the uncertainties, and the errors of actual battlefield information, what would keep it limited and prevent it from escalating to a devastating nuclear holocaust as the participants dig deeper into their vast nuclear arsenals?

It is precisely on the issue of creating the illusion that the neutron bomb is acceptable and distinct from other nuclear weapons that I see the danger of continuing the neutron bomb programs. The government's unclassified "Arms Control Impact Analysis" of this weapon prepared by the National Security Council and transmitted to the Senate last July 13, describes this issue very well:

"It can be argued that the improved warhead may make initial use of nuclear weapons in battle seem more credible, which might enhance deterrence. However, by the same token, it can be argued that it increases the likelihood that nuclear weapons would actually be used in combat. In any event, the escalating potential is the same for this weapon as for any other nuclear weapon."

The council's official statement recognizes

that "a decision to cross the nuclear threshold would be the most agonizing decision to be made by any president," and adds quite significantly: "Thus, the president would be faced with a decision of the same nature whether or not this class of weapons or other tactical nuclear weapons are used."

The development of the neutron bomb emphasizes the need for general qualitative constraints in weapons technology by both the U.S. and the Soviet Union. In particular, the neutron bomb issue focuses attention on the importance and need for a comprehensive test ban treaty that would stop all nuclear bomb testing.

The U.S., like the Soviet Union and other signatory nations, committed itself to working for such a treaty at the time of the atmospheric test ban treaty in 1963, and reaffirmed his commitment in the nuclear non-proliferation treaty of 1970. The U.S. is now engaged in negotiations with the Soviet Union and Great Britain towards a comprehensive test ban treaty.

The issues raised in the discussion of the neutron bomb demonstrate that the time for this treaty is now. It must come before further technological progress based on weapons testing leads to still smaller and less "dirty" nuclear weapons, and before society is deluded into accepting the dangerous notion that limited nuclear war—tactical or strategic—may stay limited to small nuclear bombs and to military targets alone and that we may cross the threshold to nuclear weapons and still survive as a functioning society as we now know it.

TELLER BACKS THE BOMB

Edward Teller, who played a key role in developing the hydrogen bomb said yesterday the neutron bomb could make a "great contribution" in preventing a Soviet takeover of Western Europe.

The neutron bomb said Teller in a statement, has "negligible effects of producing shocks, heat or fallout on the ground. Anyone at a distance of a mile or in a deep basement is safe."

The "collateral effects" of war are less in the case of neutron bombs than for other methods of defense, said Teller, who is now a senior research fellow at the Hoover Institution at Stanford University.

"Neutron bombs," he said, "are less destructive for the defended and more effective against the invader than an artillery barrage.

"A decision not to deploy the neutron bomb may seal the fate of Europe. To deploy the neutron bomb will give us hope and time. If time is used wisely, our most important objective, peace and freedom, may yet be attained." ●

## TRIBUTE TO SISTERS OF ST. FRANCIS OF ASSISI ROMAN CATHOLIC CHURCH, MINERSVILLE, PA.

### HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. YATRON. Mr. Speaker, I would like to take a moment to pay tribute to the good Sisters of the St. Francis of Assisi Roman Catholic Church of Minersville, Pa.; 1978 marks the 50th year in which these dedicated sisters have taught the children of Minersville in the parish school.

During the past 50 years, the community of Minersville has watched as these nuns, the Sisters of St. Casimir out of the Chicago motherhouse, have brought Catholic education, inspiration, tradition, religion, and social activities into the lives of so many.

At a time when there are so many issues dividing the American people, religious communities such as the St. Francis of Assisi Parish, provide a bond of brotherhood, and instill those time-tested religious values, which we need so badly today.

It is only fitting, therefore, that the Members of Congress take this moment to give special recognition to the Sisters of St. Casimir. The selfless dedication and love which they have exhibited for the past 50 years is truly deserving of such an honor. I know that I speak for the entire Congress when I take this opportunity to wish these good Sisters every continued success on the occasion of the celebration of a half century of service.●

## THE IMPORTANCE OF THE AMERICAN BLOOD COMMISSION

### HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. WALSH. Mr. Speaker, recently, Dr. John B. Henry, professor of pathology and director of the clinical pathology program at the State University of New York, Upstate Medical Center, in Syracuse, N.Y., was installed as president of the American Blood Commission.

During his acceptance speech, he offered a critical look at the state of our Nation's blood program today. Following are his remarks:

I accept the challenge to serve as president of the American Blood Commission as the commission enters its fourth year of working to achieve the purposes of the national blood policy. These are laudable goals which embrace four topics: Supply, quality, and accessibility of the blood supply and the efficiency with which blood products and services are provided.

A review of the minutes of the commission, board of directors, executive committee, and several committee and task force reports clearly indicate that the ABC has already made great strides in the development of a coordinated national blood program. Since the national blood policy calls for "a pluralistic and evolutionary approach to the solution of blood collection and distribution problems," and the ABC has virtually unlimited talent in terms of dedicated professionals, and consumers and donors throughout the Nation, there is every reason to be optimistic about attainment of solutions to the problems of blood supply, processing, distribution, and use of blood.

There is not a single individual who has been involved in blood banking to any extent who does not appreciate both the involvement and the impact of the Federal Government in terms of blood bank regulations and research, and concurrently, the role of the private sector to attain optimal patient care needs of an increasingly sophisticated, and demanding nature. This is an interdependent relationship, and one that lends strength to the pursuit of the national blood policy's goals.

What do I project for the next year?

First and foremost, every effort must be made to achieve an adequate supply of blood and blood products to meet all patient care needs, including management and diagnostic requirements, for all Americans regardless of their location and economic status. Coordination and augmentation of voluntary donor recruitment efforts are crucial to increasing the number enlightened, responsible and responsive blood donors in our Nation.

Second, the identification and recognition of regional associations of blood service units in conjunction with efficiency studies are timely and crucial developments. Effective and efficient regional associations may well be the backbone or framework of a national blood program. Such regional associations of blood service units, which should emerge from the grass roots, can and should contribute to improved access to the national supply of blood as well as to improvements in collection, processing, storage and utilization of blood and blood products.

Third, the ABC's committee on utilization of blood and blood components should enhance efficiency through special efforts directed to physicians in terms of guidelines for ordering blood and blood components as well as utilization review data to correlate with optimal medical care. This coordinated strategy to enhance the education of medical professionals regarding appropriate transfusion practice has great potential significance both as a major contribution toward the management of the blood resource, and for better patient care. Such an educational strategy can and should be focused at the local level in every transfusion facility in our Nation.

Fourth, a national blood data center will provide crucial information requisite to meeting needs for a system of data collection, analysis, and dissemination that is non-existent today, and which urgently is needed if we are to have a rational basis for making improvements in our national blood program.

Fifth, a specific plan in terms of goals and objectives with priorities should be forthcoming from the ABC Long-Range Planning Committee within 9 months; hopefully there also will be recommendations for a mechanism by which the commission's progress in implementing plans and objectives can be evaluated as well as identification of a capability to evaluate the ABC's achievements of its goals and objectives over time.

Sixth, the Finance Committee must address a most important issue and develop proposals for solid fiscal support to the ABC. It will assess the present dues structures with a goal of developing a more consistent dues formula. The ABC membership dues structure, which is composed of two fee levels, one fixed and one characterized by negotiable membership dues, needs a critical reassessment in this new fiscal year.

Finally, more than financial contributions from its members and benefactors, the ABC needs a commitment from its membership, the American public, and their public servants in terms of support for the ABC itself to implement a national blood policy and indeed to provide the framework as well as an impetus for a coordinated national blood program.

When he took office as president in 1975, Mr. Corson remarked that the "regretted that the blood banking community had not yet reached an agreement to select one of its own as president" of the ABC. Hence, I have a special sense of obligation and commitment having emerged from the ranks of blood banking to serve as president of the American Blood Commission. With your support and understanding I will do my best to sustain the purposes of the ABC and serve all patients and all Americans through implementation of our national blood policy.

As a physician, I am, of course, most concerned with the patient. Indeed, I place the patient first and foremost in blood banking.

To provide all blood components and derivatives where and when needed by our patients is absolutely essential, of course I am concerned about supply of blood and its availability as well as cost and quality, but we must not lose sight of our ultimate objective "to transfuse our patients with what they need when they require it."

We cannot falter in this goal of implementing our national blood policy for if we do, legislation may be forthcoming with a concomitant expansion of Federal involvement and control in blood banking. Indeed, the ABC may represent a model to sustain private sector participation is not only blood banking, but health and medical care delivery.●

## OAS SECRETARY GENERAL ORFILA AIMS FOR PRACTICAL SOLUTIONS TO HEMISPHERIC PROBLEMS


### HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES


*Tuesday, April 18, 1978*

● Mr. FASCELL. Mr. Speaker, the dynamic Secretary General of the Organization of American States, Alejandro Orfila, has increasingly called attention to the fact that the United States, Latin America, and the Caribbean must find practical rather than theoretical solutions—through the forum of the OAS—to the major problems confronting the Western Hemisphere.

Under the Secretary General's leadership the OAS has now provided a concrete demonstration that practical solutions are not only available but can be used in even the difficult area of trade relations. This demonstration has taken the form of OAS cosponsorship, with the State of Florida, the city of Miami, and Metropolitan Dade County, of the Trade Fair of the Americas. This event—the first of its kind—was held between March 8 and 19 at the Miami Expo Center and was given strong support by the Carter administration which sent the First Lady, Mrs. Rosalynn Carter, to inaugurate the exhibition. Over 5,000 products from 600 Latin American exhibitors were displayed and the fair is projected as a continuing annual commercial and trade event, bringing Latin American and U.S. importers and exporters into close cooperation.

Ambassador Orfila, Governor Reuben Askew, Mayor Maurice Ferre, and Mayor Stephen D. Clark are all to be congratulated for bringing off this extraordinary and practical demonstration of hemispheric collaboration and friendship whose positive impact will be felt for years to come on the lives of millions of Americans in every part of our hemisphere. Because many members of Congress will be interested in this new channel of trade relations for the Americas, I am including at the end of my remarks the fine welcoming address to the Latin American exhibitors given on behalf of the President by Mrs. Carter.

Mr. Speaker, I would point out, moreover, that not only has Secretary General Orfila helped open a new door for hemispheric trade but he has also recently provided valuable insights on the major issues confronting the Americas beyond the immediate challenge of the new Panama Canal treaties. In recent articles in the Washington Sunday Star and in Americas magazine, Mr. Orfila has provided a comprehensive picture of the current development agenda facing our hemisphere. For the information of the Members of Congress I include these articles at this point.

INAUGURATION OF THE FIRST TRADE FAIR OF THE AMERICAS

I am delighted to be here to participate in the opening ceremonies of this first Trade Fair of the Americas. I've looked forward to this significant event for several reasons. I have many close friends who are hosting this Fair: Governor Reuben Askew, Mayor Maurice Ferre, Mayor Stephen Clark, and Secretary General of the OAS, Alejandro Orfila. I wanted to see the Trade Fair first hand and to come back to Miami.

Miami is the perfect site for this event. It is genuinely a bilingual and bicultural city. It has become one of the most important trade and commercial centers in the Western Hemisphere. Almost a fourth of all our exports to Latin American countries and one fifth of our imports pass through Miami every year.

But Miami is more than a center for the exchange of goods. It is a center where the people of this hemisphere meet. The people of Miami led the nation in understanding the importance of Hispanic and Caribbean societies to our own. More than a million foreign tourists—most of them from Latin America—came here last year. More passengers traveling between the United States and other nations of the hemisphere go through Miami than any other airport in the world. Miami is our gateway to Latin America and the Caribbean. We are proud of it.

And I wanted to come to this Trade Fair because of my long-time interest in, and love for, the Latin American and Caribbean countries. You all know of my interest. I have traveled in these countries with my family and have made many friends. I have studied, and am still studying, Spanish.

And since Jimmy has been President, I have had the privilege of traveling again, representing my country. On that trip I was able to discuss trade and economic development with all heads of state. I also visited Puerto Rico last year to make a speech about the economic development of the Caribbean. I have followed up these trips and these interests with regular briefings about Latin America and related activities. For instance, I attended a plenary session of the OAS a few weeks ago; and just last week I went to a reception at the State Department for Latin American officials. And now I am going back to South America with Jimmy at the end of this month.

In thinking about speaking here today at the Trade Fair, I realized that the interest of Jimmy and mine in Latin America, which is now being exhibited in the political realm, originated through his efforts as Governor to increase the trade in our state. We visited seven countries in Central and South America. It caused us to learn about the people. It aroused our interest in the language, and mutual benefits were derived from the commerce and trade that developed as a result of our trip.

Commerce and trade enhance friendships. They enhance a better understanding between peoples. They enhance a recognition of problems and opportunities that exist between countries. Through friendship and better understanding by working together, a mutual commitment to peace is enhanced. Commerce and trade are important to the economies of all our countries.

And I bring a message from Jimmy today about the commitment of the Carter Administration to freer trade and to increasing market access for exports from the developing countries to the United States. I am especially glad that the United States is host to a trade fair in which Latin American and Caribbean manufacturers have an opportunity to expand their trade with the United States.

In the past, we have been concerned only with selling our products to Latin America. But we must be prepared to buy if we want to sell. Too often we viewed Latin America only as exporters of raw materials and agricultural products, but this Fair demonstrates that your countries have become major exporters of important manufactured goods, too.

The policy of the U.S. Government is to try to encourage the expansion and diversification of exports of the southern nations of the world. In 1975 the United States initiated a new system—called "The Generalized System of Tariff Preferences" (GSP)—which permits 2,800 different products from the developing countries to enter the U.S. duty free. But the program has not been utilized as much as it could be. So we encourage you to seek advice from the State Department or the U.S. Department of Commerce to make better use of GSP.

Moreover, the Carter Administration is committed, despite strong pressure, to keeping the U.S. market open. There will be a few isolated cases in which we will have to make decisions that temporarily limit our imports. But our trade policy must be viewed in broader terms; and in those terms, we will keep the United States market open for your exports.

We intend also to work at the multilateral trade negotiations in Geneva to reduce existing barriers to trade. And we encourage you to take leadership positions in Geneva in assuring a freer trading system, too. The underlying theme of this conference is that responsibilities, like trade, must be two way to be successful. It is a very simple formula. The United States must accept certain obligations; Latin American and Caribbean nations must, too.

And if all of us work together to improve the rules of the world trading system, there will be many more Trade Fairs of the Americas like this first one in Miami.

AGENDA FOR THE AMERICAS

(By Alejandro Orfila)

Interdependence is increasingly a hallmark of the world and national communities. But the spirit of interdependence grows strong only as it prospers at all levels of our societies. It is the central ideal that must guide nations and peoples in every part of this globe. The signing of the two Panama Canal treaties between Panama and the United States in the OAS Hall of the Americas on September 7, 1977, was a demonstration that the member states of the OAS are committed firmly to the cause and ideal of regional interdependence in the Americas.

The event also allowed the American region to offer the world an impressive demonstration that peoples and nations can resolve even their strongest differences through discussion and negotiation rather than through armed combat. These OAS ceremonies further demonstrated the desire of the American nations to live together in peace and friendship.

One thing seems evident in the Western Hemisphere: whenever common Hemisphere-wide action rather than divisive rhetoric is required, the American nations invariably seek to solve their mutual problems first on a regional basis. They have built up a long and special relationship among themselves and have evolved—through the OAS forum—a way of doing business with each other that makes this region the most peaceful in interstate relations on a volatile planet.

With the OAS forum available for instant

use OAS members can, as happened this year with the Canal signing ceremonies and in the area of human rights. express their mutual interests or tackle serious regional problems in a friendly, nonthreatening manner. Because the members do not always get instant results from this forum, some dissatisfaction with it is inevitable. However, despite any difficulties in the relationships among our nations, the American region, when contrasted with other global regions, has made considerable advances in Hemisphere-wide peace and harmony.

It would be a serious mistake, though, to presume that the past is necessarily prologue and that the American region is bound to stay on an even keel in relations between states. There has been progress, however, in geopolitical, security, and human rights matters, and there have been solutions to difficult problems that have been potentially explosive. And this gives sound grounds to hope that outstanding geopolitical issues are resolvable without conflict.

But there are regional issues that, unless ways are found to resolve them, could cause broad Hemisphere setbacks and undermine regional friendship. These issues involve the large and growing regional development and trade agenda before the Americas. In this area regional common efforts are weak, laggard, and often unresponsive to needs. And there is a growing consensus in Latin America that unless there is concrete and specific action on this agenda, not only could pessimism and frustration set in to sour regional harmony but actual divisiveness could erupt to undermine progress already being achieved on geopolitical and human rights matters. There are difficult questions on this new Hemisphere development agenda. Some prefer to avoid looking at hard and potentially disruptive problems, but we must be aware of the following disturbing issues:

Venezuela and Ecuador continue to be excluded from tariff preferences accorded to exports from developing countries under the U.S. Trade Act of 1974. This law, meant as a retaliatory measure because of the 1973 Arab Oil embargo against the United States, was applied against all members of the Organization of Petroleum Exporting Countries (OPEC). Thus it also harms Ecuador and Venezuela, though neither country joined in the boycott. On the contrary, both helped maintain the flow of oil without which the U.S. economy would have been in peril. The U.S. attitude toward these two friendly countries is unanimously viewed in Latin America as particularly damaging to Hemisphere friendship. The Carter administration has taken positive steps to correct this situation through legislative means and it is vital for Hemisphere well-being that these initiatives be successful.

A double bind now confronts Latin America's oil-deficient countries—thirteen of the twenty-six OAS member states.

On the one hand, they must import large quantities of oil, but have few hopes of using much coal, and the find they face limited prospects of rapidly expanding their nuclear energy potential—despite their overwhelming need for nuclear power as a major source of fuel. Latin American countries share the U.S. preoccupation with the dangers of worldwide nuclear proliferation. However, they are worried that exaggerated emphasis on this may lead to a diminishing of cooperative efforts on nuclear development among the American nations.

On the other hand, Latin American oil-importing countries are paying a steady mounting bill for oil, primarily by relying on credit from *private* U.S. sources. Repayments will be bunched heavily during the 1978–1981 period, a situation that could lead to serious financial and energy problems for several Hemisphere countries. Until now only inadequate regional measures have been proposed to cope with the threatening situation.

Most of the developing countries of Latin America are now ranked among the world's middle-level income areas. However, international financial institutions are not giving priority emphasis to the needs of the middle-income countries. As a result, Latin America is hard pressed to find financing for much-needed infrastructure development—roads, ports, transportation, and communications. It is clear that new and imaginative solutions are needed. Yet Latin America feels that neither Europe nor the United States, regrettably, is making a creative response to the region's financial development problems.

A key step in the right direction would be in terms of basic human needs. Poverty and injustice must be confronted where they exist and not be dealt with through meaningless abstractions. In Latin America—just as in the United States and Europe—poverty, low incomes, and unemployment tend to congeal in specific areas. This means that even highly industrialized and substantially developed nations in the Americas have serious and often regionalized problems of underdevelopment. Until international development organizations begin to focus on this reality their efforts, however usefully intended, may be significantly misdirected.

CECON—the Special Committee for Consultation and Negotiation, set up as the forum for debating regional trade matters—was established in 1970 through U.S. initiatives as the instrument through which Latin America could be consulted in advance on U.S. trade policy. In practice CECON has been advised after the United States has taken action. Continued failure of the United States to use the CECON instrument it inspired means that Latin America will be doubly wary of any new U.S. trade recommendations. With U.S. export sales to Latin America almost doubling between 1973 and 1975—from $9.4 billion to $16.3 billion—self interest would seem to dictate that the United States solidify its support for CECON.

Ways to modernize Latin America's agricultural system must be found. Despite its extensive cultivable land and natural resources base, Latin America is only slowly beginning to develop its agricultural potential. It remains a net agricultural importer, 20 per cent of its population suffers from poor nutrition, and its share of world agricultural trade has sharply declined since 1960.

There are measures that the Latin American countries themselves must adopt to transform this situation. At the international level greater price stability for agricultural products, minerals, and raw materials, which make up 80 per cent of the value of regional exports. Yet they face continuously fluctuating markets. Despite its unprecedented postwar growth, Latin America still finds that unstable world markets continue to retard regional growth. And while the European Economic Community benefits forty-six African and Caribbean countries through the Lomé Convention, Latin America finds its products losing out in the world market. Whether Lomé should be globalized to include Latin America and other nations or whether the United States and Latin America—cooperating through the OAS—should seek greater access for Latin American exports to the European market is an urgent question for both Latin America and the United States.

The gap that exists in Latin America between technology and the productive system must be closed. In the postwar period Hemisphere nations stimulated development by giving priority to the volume of investment and to rates of economic growth. This resulted in downplaying the creation of technologies more suitable to conditions in Latin America. It is important that new technologies be related to natural resources availability and to the scale of production appropriate to the size of the Latin American markets. The United States has advanced proposals dealing with technological transfer. Yet these have hardly scratched the surface of Latin American needs and concerns, chiefly because they do not sufficiently affect the planning of foreign corporations that supply Latin America with large amounts of new technology.

It is evident, then, that the Panama Canal negotiations and treaties demonstrate the ability of the American nations to arrive at solutions to regional problems in a pacific and friendly manner. The Americas have found ways to put into practice the high principles contained in such documents as the OAS Charter.

But breakthroughs on political and security disputes are not seen by Latin American and Caribbean nations as the capstone of Hemisphere relations. To the contrary, the new development agenda before the Americas requires a transformaiton of both U.S. and Latin American policies. This transformation is not yet in sight.

The Western Hemisphere is at a crossroads, where nations can either hang together or they will hang separately. The energy crisis demonstrates that the United States must rediscover—as columnist James Reston and others point out—that it needs its best friends right on its borders—even for reasons of its own economic and social well-being.

Interdependence is more and more the only path ahead in this region. So far, though, the United States has yet to indicate what cooperative regional policies it believes essential to help expand and diversify Hemisphere trade, transfer technology, and create new regional financial mechanisms to assist Latin America.

Hemisphere nations agreed in 1976 to convoke a Special Assembly on Cooperation for Development for dealing with the new regional trade and development agenda. Until now there has not been much follow-up on this agreement. Perhaps this is the kind of idea that must be addressed now.

In any event, whether the United States and Latin America will respond to this new development agenda hinges, more than anything else, on their political will. The new Canal treaties indicate that, when needed, this substance is not always in short supply.

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### Development Is the Key to Peace in the Western Hemisphere

(By Alejandro Orfila)

The American hemisphere has forged a region which—with the Organization of American States at its apex—is the most peaceful on this planet in relations between states. Our regional success can serve as a model for other world regions.

There are many observers, especially in the United Sttaes, who fail to recognize the reality of this achievement. As a result they ignore and downplay the inter-American system, preferring to direct their attention to the other world regions: the Middle East, Africa or Europe.

Is this not to substantially misconstrue reality? Ours is a region of peace in the sense that nations are not warring on each other. Still we continue to face a potentially dangerous situation. This arises because the primary agenda in our hemisphere now is not geopolitical challenges alone but development. By ignoring this reality, by pushing to consider regional trade and development mainly in a global context, theorists and policymakers may be undermining the continuing basis for peace itself in the American hemisphere.

Latin American countries have unanimously made this point in their recent controversy with the United States over unilateral U.S. actions raising sugar tariffs and fees. Within the OAS we have CECON, the Special Committee on Negotiation and Consultation, set up in 1970 on U.S. initiative as the forum for discussing and negotiating regional trade maters. For some time OAS member countries felt that CECON was not being used as a forum for consultation but as a means to notify Latin America of a unilateral U.S. trade action. Recently the Carter administration has sought to correct this impression by reaffirming its commitment to the multilateral forum, a reaffirmation Latin America views as a positive step.

Beyond the CECON situation, however, Latin America would also generally concur with the recent recommendations of the distinguished Atlantic Council of the United States. This council stated that we need "a major reconsideration of the division of labor between global and regional organizations. It is timely to decide afresh whether certain functions that have been automatically taken up at the global level should not rather be 'regionalized' and thus dealt with by only those directly affected."

A re-evaluation of regional approaches to hemispheric development seems under way not only in the United States but in Latin America and the Caribbean as well. The limited results of the North-South Economic Conference have stirred doubts about the limits to one-track globalist solutions to development dilemmas. And Venezuela's President Carlos Andres Perez, during his 1977 visit to the United States, noted that Latin Americans are partisans of multilateralism because the results of bilateralism are invariably precarious.

Some development challenges can only be confronted on a global basis. Others, however, can clearly best be handled first through regional approaches which might, in turn, serve as models for arriving at global solutions. What is required at present—at least in the Western Hemisphere—is agreement that specific trade and development issues will be handled regionally, perhaps giving emphasis to particular economic sectors or problem areas such as energy.

It appears that the deep and abiding personal interest of President Jimmy Carter in Latin America and the Caribbean has become the paramount driving force in U.S. policy towards the hemisphere. This is begetting a renewed and friendly response from Latin America and Caribbean nations.

One area of mutual concern among OAS members is that of protecting human rights in the Americas. In September 1976 at the National Press Club, I pointed out that our hemisphere needed a stronger juridical instrument to assist in protecting human rights and urged OAS member states to sign and ratify the long-stalled 1969 American Convention on Human Rights. We now have a a total of 16 countries that have affixed their signature. Six countries have so far deposited the instrument of ratification; four more than in September 1976. Another five countries must ratify the convention before it becomes effective. It is vital that all OAS member states sign this convention. The United States, of course, is deeply concerned with hemispheric human rights.

However, whether this U.S. concern for its neighbors—in geopolitical and human rights areas—can also be transformed into a new U.S. regional response to the current regional trade and development agenda remains as yet an open question. Finding an adequate answer to this question will be a deciding factor in determining the long-range contribution of the Carter administration to hemispheric solidarity. At present Latin America and the Caribbean are awaiting new U.S. development initiatives towards its neighbors.

The OAS has called for a Special General Assembly on Cooperation for Development. This will demand new thinking, new insights and new programs of common action.

Most of the developing countries of Latin America are now ranked among the world's middle-level income areas. As such, they are suffering a decline in their capacity to attract public international funding as investment and financial institutions are giving priority emphasis to the needs of the lower-income countries. As a result, Latin America is hard-pressed to find financing for much needed infrastructure development—roads, ports, transportation and communications. International agencies should consider Latin America's development needs not in terms of static per capita income levels but in terms of basic human needs.

Poverty and injustice must be confronted where they exist and not be dealt with through meaningless abstractions. Even highly industrialized and substantially developed nations in the Americas—including urban areas—have serious and often regionalized problems of underdevelopment. Until international agencies begin to focus on national realities then efforts, however, well intended, to help the poorest of the poor may be significantly misdirected.

To redirect development and international technical assistance towards a strategy of responding to basic human needs in the various countries, there must be emphasis on promoting greater income distribution, a higher level of savings, and improved access to education, health and housing opportunities are needed for millions of persons now at the edge of society.

To work out a regional strategy of basic needs would require defining minimum national living standards, identifying national target groups and setting up specific minimum objectves. Such a strategy—aimed at meeting both minimum requirements for family consumption, work and living and at providing essential public services—would also strengthen the pursuit of basic human rights. It seems apparent that this strategy would neither be effective nor realized unless people were involved in setting their own objectives—through their own labor, cooperative and community organizations.

It is also important that any redirection of Latin America's and the Caribbean's development strategy also reflect its support for the United Nations' "new international economic order."

Our region is now at another crossroads not in the area of geopolitics but in the field of hemispheric development. The real questions at hand are can the American nations modernize their traditional relationship to cooperate in responding to the transformed hemispheric development agenda? And can the international agencies find practical ways to break down the bureaucratic walls that threaten to isolate them from each other so as to systematically and organizationally coordinate their response to the needs of the Latin American countries?

The answers to these questions can be affirmative. What is needed now is to summon up our common will to act together. Whether we possess the will to do so is currently unclear.●

## A NEW MANDATE FOR THE PEACE CORPS

### HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. BONKER. Mr. Speaker, very shortly a House International Relations Subcommittee will begin markup of H.R. 9774, the Peace Corps Reform Act, which I introduced jointly with Congressman HARRINGTON and several other colleagues. This legislation will establish the Peace Corps as an independent foundation and free it from political and bureaucratic manipulation. The act also provides a new congressional mandate and a renewed vision for the Peace Corps which is long overdue.

An article which appears in today's Washington Post serves as an articulate call for new leadership in ACTION, as well as the Peace Corps. I would like to insert this article in the RECORD. Clearly, it is crucial that Peace Corps be guided by leaders with competence and vision. But the present situation also demands that a new, independent framework for Peace Corps be established in which these leaders can effectively carry out the agency's unique purpose of voluntary humanitarian action around the world. This view has been supported in testimony by the first Peace Corps Director, Sargent Shriver, and by the previous Director, John Dellenback. On the basis of recent experience, new personnel alone will not prove equal to the forces of bureaucratization and politicization which have beset the Peace Corps since the time of its cooptation into ACTION. A new mandate for the Peace Corps is badly needed. I urge my colleagues to support us as we shape this mandate in the Peace Corps Reform Act.

[From the Washington Post, April 17, 1978]

DOES THE PEACE CORPS HAVE A FUTURE?

(By Roger Landrum)

Robert McNamara said in 1965, "I doubt very much that we [3¾ million people in the Defense Department] have influenced the peace of the world as much as the small handful of you [in the Peace Corps] have." Surely an exaggeration, but it reminds us in what high regard the country once held a government program. Sunk into obscurity since 1968 by a president who called it an "overseas junket," the Peace Corps might now be expected to regain its former luminance. After all, Jimmy Carter's mother, Miss Lillian, herself a former volunteer to India, says the only thing she has asked of her son is to help the Peace Corps.

Suddenly visible again, the Peace Corps is in reality caught up in a tug-of-war it may not survive. The late Sen. Hubert Humphrey introduced legislation proposing to fold the program into a foreign-aid superagency. A bill in the House proposes that the Peace Corps be made a public corporation. The American Enterprise Institute has recently issued an analysis by Richard Nixon's head of ACTION and the Peace Corps, Michael Balzano, that suggests that worldwide trends make the original mission of the corps irrelevant overseas. A new book by Kevin Lowther and C. Payne Lucas, "Keeping Kennedy's Promise," claims that most volunteers were never very effective and that the corps is little needed or wanted unless volunteers are expert technicians.

The Peace Corps is becoming visible this time not so much for what volunteers are doing in towns and villages around the world as in the cross-sights of heavy ideological artillery. Not only outside critics have taken aim at the tiny, once respected program. Sam Brown, the antiwar leader selected by Carter to head ACTION, now claims that the Peace Corps of the 1960s was misdirected, "a missionary band out to save the world" and the "vanguard of American cultural imperialism." Carolyn Payton, the new director

of the corps under Brown, calls it a "white, middle-class adventure."

This assault on the corps by Carter appointees is the most puzzling aspect of the new visibility. It can hardly be what Miss Lillian had in mind. If the outside critics are right, the corps is in jeopardy overseas; if they are not right, it is in jeopardy from the confusion and rhetoric of its Washington leadership.

Little of this is as new as it might seem. In the early 1960s ideologues were trying to squeeze the human contracts and work-years of volunteers into grand designs. It was said that volunteers would help rush new nations through Walt Rostow's stages of economic growth. Neo-Marxists called volunteers unwitting agents of the cold war. Arch-liberals said that volunteers were propping up dictatorships. Some State Department officials, military leaders and conservative senators predicted that volunteers, without a hierarchy of command and firm discipline, would create diplomatic disasters. Technocrats said that volunteers had no skills. From the perspective of many of us who actually became Peace Corps volunteers, such glib abstractions were soon seen for what they were—hopefully simplistic.

There is little grand strategy in being a Peace Corps volunteer. Volunteers are highly diverse citizens who agree, without conventional compensation, to work overseas for two years in a specific and difficult-to-accomplish job, the importance of which can usually be seen best within its small, human context. Sargent Shriver's stewardship of the Peace Corps was admirable precisely because he made no effort to force the contributions of volunteers scattered across three continents and various island nations into an ideological box.

Ideological waves are once again sweeping over the newly visible Peace Corps. They are the cant of the 1970s: "a white, middle-class adventure," "irrelevant to the Third World," "retargeting scarce resources for maximum impact." Payton's characterization of what the Peace Corps has been is not only smug racism; it is also profoundly undiscerning about the efforts of 70,000 volunteers who have worked in over 70 countries and innumerable human communities over 16 years. I hope she means that more non-white Americans should become volunteers. Sam Brown says that volunteers will no longer be welcomed with open arms, so they must no longer act like missionaries. Where has he been?

It has been 15 years since I was a Peace Corps volunteer, but I find myself burning with anger over this know-nothing revisionism. My assignment in 1961 was to teach at a new university, along with 25 other volunteers. We were greeted by student protest marches accompanied by an Ibo chant that translates, "The elephant tramples anything that gets in his way." The real message was "We will test your motives and competence." But we were also greeted by one of the great African independence leaders, Nnamdi Azikiwe, who explained that the university could not afford the demands of established professors, and that those same professors refused to adapt their courses to the African context.

Each of us lived in one-room apartments for two years. We were paid subsistence living expenses and about $1,500 severance pay. After those two years, we were praised by the same students for the care we put into our teaching. We helped keep the university financially solvent. The work was much like it would have been at home, but the context in which we worked was infinitely different. Most of us took pride in what we had done, and no price could be placed on the richness of the experience. Today, are we to believe we were adventurers who didn't understand what the world was becoming or that, because our project was not subordinated to a clear, ideological strategy, the contributions to Nigerian students and to the university budget were wasted? Bunk!

It is said that Peace Corps bureaucrats are resisting the will of Sam Brown. They should. He is wrong in his analysis of what the Peace Corps has been, and he is wrong in attempting to make it over in a radical-chic image of the Third World. The Peace Corps does not need to be born again ideologically pure or as a private, technical-aid agency. The corps needs more than anything else to be guided around those riding ideological hobby horses and passing out glib phrases.

The past and the future of the corps do need to be clarified for the American people. The specific tasks to be done, by diverse individuals absorbed into the lives of small circles of people in diverse localities, must be conveyed again with exceptional clarity to the many, many people in this country who consider becoming volunteers. As for the nations of the Third World, there is work almost everywhere to be done.

Certainly the world has changed. The university where I taught is now well established, after being destroyed during a civil war. But the world has not changed all that deeply. Volunteers can still help get some of the necessary work started or completed. The jobs need not fit any grand strategy or an ascetic standard of working only with the starving, or even ambitions of establishing diplomatic beachheads in Vietnam or Cuba. What is required is that the jobs address the human needs of specific localities overseas in the simplicity of purpose with which the Peace Corps began. Anyone who suggests that ordinary citizens of Third World nations cannot appreciate those terms of service is blinded by a fog of rhetoric.

Before anything can be done, the new leadership of the Peace Corps must shed simplistic views of its history and get a grip on its continuity of mission. If they can't, the president should change the guard. Miss Lillian, if you are listening, a thoughtful speech about the Peace Corps by your son, 17 years after John Kennedy first put the mission of the Corps into words, might help salvage the past and chart the future of the Peace Corps.●

## DAVIS-BACON MALADMINISTRATION

### HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. HAGEDORN. Mr. Speaker, in the on-going fight to encourage the Employment Standards Administration of the Department of Labor to administer the Davis-Bacon Act as it has been written by Congress, I would like to submit the following statements. The first is correspondence from the Associated General Contractors to the Department concerning ESA policy of setting current union wage rates as "prevailing" even though they are not and never have been paid in certain areas. The second is a letter from myself to the Comptroller General's Office with respect to new interpretations by ESA of their own jurisdiction. The third item is from a recent issue of Constructor magazine discussing the increased frequency with which ESA determinations are being overturned by the semi-independent Wage Appeals Board.

The Davis-Bacon Act suffers from enough inherent infirmities without having its meaning constantly corrupted by an agency seeking to use the act to achieve unintended objectives.

The material follows:

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA,
*Washington, D.C., February 28, 1978.*

**Subject: Davis-Bacon Act Procedures.**

Mr. DONALD ELISBURG,
*Assistant Secretary, Office for Employment Standards, U.S. Department of Labor, Washington, D.C.*

DEAR MR. ELISBURG: Many of our chapters have called our attention to the fact that your assistant administrator of ESA in charge of your Davis-Bacon operations is predetermining prevailing rates in a manner that appears to us to be inconsistent with Regulations 29 CFR Part 1 and decisions of the Wage Appeals Board.

We make reference to the assistant administrator's policy of automatically predetermining the current union wage rate in an area regardless of whether it is in fact being paid or not, whenever he ascertains that the previous and lower wage rates paid in the area are substantially the union rates. AGC chapters have repeatedly protested against this practice to no avail.

We believe the mandate of the regulations in 29 CFR Part 1 Section 1.2(a)(1) is binding in the administration of the Act when it states that "the term prevailing wage rates . . . shall mean the rate of wages paid in the area . . ."

The Wage Appeals Board has criticized the assistant administrator repeatedly for violating this mandate. In Wage Appeals Board Case 77–3 the Board said "established practices in the application of Regulations Part 1 in finding prevailing wage rates . . . provides 'the term prevailing wage rate . . . meaning the rate of wages paid in the area'." The Board added in this case that "the administrator is instructed to review wage decision 77–GA–65 to assure that the wage data in the files of the Wage Hours Division do, in fact, show that the wages contained in the wage decision were based on wages paid. . . ." Later on January 9, 1978, in Wage Appeals Board Case 77–18, the Board stated that "for the third time in recent weeks, the Board is considering a case in which it appears that the assistant administrator is not giving sufficient consideration to the plain language of the Davis-Bacon Act to base wage rates for proposed projects upon 'the wages prevailing for the corresponding classes of laborers and mechanics. . . .' It appears here, as in two earlier decisions, that the Board is told . . . that certain wage rates have been determined that do not reflect wages paid on similar projects in the locality."

In Wage Appeals Board Case 77–19, the Board stated that "in this and other recent cases, it appears that the assistant administrator's attempts to standardize procedures have resulted in the introduction of new wage rates into the applicable area rather than reflecting those rates already there . . . all parties recognize that the wage rates now being issued by the assistant administrator do not reflect the wages now being paid in Texas on building construction."

We believe that Regulations Part 1 and the Wage Appeals Board decisions in the cited cases, among others, leave no doubt that the assistant administrator is exceeding authority over which you have charge. While the Wage Appeals Board appears to be a delegated agency of Secretary of Labor Marshall to review the decisions of the Davis-Bacon operation, we are appealing to you to investigate the inconsistencies that exist and advise us whether you can and will take any action to bring about a correction of this very serious discrepancy in the administration of the Davis-Bacon Act. We are directing this inquiry to you on behalf of a number of AGC

chapters who are extremely exercised at the unstabilizing effect in their area of this novel procedure noted above.

Sincerely,

ARTHUR F. HINTZE,
*Director,*
*Government Relations Services.*

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HOUSE OF REPRESENTATIVES,
*Washington, D.C., March 27, 1978.*

Mr. ELMER B. STAATS,
*Comptroller General of the United States,*
*General Accounting Office,*
*Washington, D.C.*

DEAR MR. STAATS: A December 22, 1976, Decision of the Comptroller General of the United States (B–185020) held that wage rates prescribed under the Davis-Bacon Act do not apply to work performed off the construction site by the prime contractor, a subcontractor or a material supplier. The exact wording of the Decision is quoted as follows:

"After a detailed analysis of the terms in the Davis-Bacon Act and the applicable legislative history, it was the conclusion of this Office that the Act does not provide wage coverage for work off the site whether by contractors, subcontractors or materialmen even though performed in the immediate community."

This Decision, in addition to reversing the Davis-Bacon's Employment Standards Administration and the Department of Labor's Wage Appeals Board, also renders erroneous the definition of "site of work" as contained in Section 18–701(b)(2) of the Armed Services Procurement Regulations.

Despite the GAO Decision, no change has been made to ASPR Section 18–701(b)(2). As long as ASPR contains the existing language, contracting agencies bound by ASPR have no choice but to enforce it contrary to the fact that the GAO has ruled that there is no authority for such action and contrary to the fact that the GAO would reverse an agency taking any such action.

A representative of the Associated General Contractors of America, Inc. requested that the Armed Services Procurement Regulations Committee revise ASPR Section 18–701(b)(2) to comply with the Decision of the Comptroller General of the United States. A copy of the ASPR Committee response is attached. In short, the ASPR Committee has refused to change the Armed Services Procurement Regulations to comply with GAO Decision B–185020.

Consistent with the statutory obligation of the General Accounting Office to investigate the receipt, disbursement, and application of public funds, I request that your office undertake an immediate review of ASPR Section 18–701(b)(2) to assure its compliance with GAO Decision B–185020.

Sincerely yours,

TOM HAGEDORN,
*Member of Congress.*

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THE WORK OF THE WAGE APPEALS BOARD

(By Arthur Hintze)

In recent months, the Wage Appeals Board, which has been serving as a deterrent to inaccurate wage determinations under the Davis-Bacon Act, has reversed Davis-Bacon wage predeterminations in an impressive series of decisions. These decisions include the following cases: Interstate 66 in Fairfax County, Virginia; water treatment plants in Cobb County, Georgia; water treatment projects in Texas; a highway bridge across Mobile Bay, Alabama; railroad installation at the National Radio Astronomy Observatory at Socorro, New Mexico; paving and utilities incidental to building construction in Texas.

Following is a summary of the issues and decisions in selected cases:

The water treatment plants in Cobb County Georgia involved underground utility construction and structures. The Davis-Bacon administrator predetermined building construction wage rates only for these projects and brushed aside area practice for using lower heavy-highway wage rates for the underground and utility portions of the contract. The effect would have added significant cost increases.

The Wage Appeals Board reversed the Davis-Bacon administrator on grounds that "there is no factual basis for issuing only a building wage schedule for the water and sewer treatment plant . . . which was not the subject of a Wage and Hour Division survey to determine the prevailing practice in the county."

Months later, the Davis-Bacon administrator backtracked to require building rates only on another Cobb County water treatment plant. The Wage Appeals Board again reversed the administrator stating that "the practice of issuing a separate schedule of water and sewer line wage rates where it is determined that sufficient wage information is available to support such a schedule has existed since the passage of the Federal Water Pollution Control Act in 1961." The Board said it finds no reason to deviate from this practice.

The Davis-Bacon administrator rejected the precedent laid down by the Board in the Cobb County cases when it recently attempted to destroy the longstanding practice of using a heavy-highway wage schedule on water treatment plants in Texas. The administrator made no field surveys of the facts but issued a policy statement "that building construction included all construction of structures . . . the building of utilities and equipment both above and below ground level, as well as excavation and foundations, site preparation and incidental paving and utilities outside the building."

The Wage Appeals Board reversed the Davis-Bacon administration on grounds that "it became abundantly clear at the hearings that there were kinds of machinery and structures at treatment plants that would unquestionably be classified as heavy construction if it were not for the fact that a shelter is placed over them."

The Davis-Bacon administrator attempted in another case to wipe out the separate wage schedules for paving and utility construction incidental to building construction that has long prevailed in Texas.

The Wage Appeals Board reversed the Davis-Bacon administrator on grounds that separate wage schedules on paving and utility construction incidental to buildings are as much a part of building construction as the regular building rates and should be recognized as part of the existing prevailing wage structure in the area. It stated that "the Davis-Bacon administrator in too many cases recently has attempted to standardize procedures by introducing new wage rates into the applicable area rather than reflecting those wage rates already there." It ruled that this is contrary to the requirements of the Davis-Bacon Act.

These examples of Wage Appeals Board reversals of wage determination improprieties are obviously only a handful of the cases involving potential waste of public funds. The bulk of the cases are handled without public notice.

The Secretary of Labor deserves public appreciation for having strengthened and made the Wage Appeals Board as effective as it now is but many are hopeful that he will likewise be mindful of the need, demonstrated by this record, to require a higher degree of accuracy in Davis-Bacon wage determinations when they are originally issued by the Davis-Bacon administrator.●

## THE FEDERAL BIOLOGICAL CONTROL ORGANISMS ACT OF 1978

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### HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. WAMPLER. Mr. Speaker, for more than a century, Federal and State agricultural workers have been searching for beneficial organism, commonly referred to as biological control organisms, which could be utilized to control pests known to occur in the United States, particularly those introduced from foreign areas. These activities have included searching for species of biological control organisms known to occur in the United States, as well as exploring in foreign countries for beneficial organisms that might be introduced into this country.

One of the first successful biological control programs involved the utilization of Vedalia beetles to control the dreaded cottonycushion scale of citrus in California in the late 1800's. Such activities, however, are not without their own hazards since many beneficial biological control organisms are very similar in appearance to other species that are detrimental to agricultural interests. Furthermore, some such biological control organisms themselves may be attacked by or subjected to diseases or hyperparasites which would nullify or be extremely detrimental to agricultural interests.

Up until this time, this has not posed serious problems since Federal and State agricultural explorers have been knowledgeable of the hazards associated with bringing in or moving biological control organisms from one area to another. Therefore, there have been few problems associated with the utilization of these species over the years. Further, scientists knowing of the potential problems involved in introducing alleged beneficial organisms have voluntarily had them screened through quarantine stations established in this country and in certain foreign countries.

With the new emphasis on the environment and effort to increase integrated pest management programs, many concerned individuals, organizations, and scientists are becoming increasingly interested in the possible use of biological control techniques. Presently, many importers and others interested in utilizing biological control techniques are not aware of the hazards associated with introducing new species into the environment.

Additionally with the increased interest in biological or natural control of pest species, the demand for biological organisms is increasing. Homeowners and others concerned with the utilization of pesticides are purchasing biological organisms. This has resulted in more and more concerns going into business to exploit the potential market. Therefore, the public, agricultural community, and reputable business concerns need the benefit of regulations to assure that biological

control organisms, which are introduced from foreign areas are free of pests, and that quality material is shipped intrastate and interstate.

Until relatively recently, foreign explorations for new species involved primarily the introduction of parasites and predators that would prey on pest insects. More recently, there has been an expanded effort to bring in species that would attack weeds. There are many benefits to be obtained from such a program, but it is even more critical that proper safeguards be established since the beneficial organism must be adequately screened to assure it will feed only on unwanted weeds and not attack beneficial plant species. In addition, there has been a recent increase in the use of insect pathogens. The need for adequate controls over the use of such pathogens is urgent. These two latter cases indicate the increased complexity of problems associated with the installation of proper safeguards over the movement of biological control organisms to be assured there are no pest species inadvertently moved with the beneficial organisms.

The proper utilization of beneficial biological control organisms in integrated pest management programs will be in the best interest of agriculture and in the protection of the environment. It is urgent, however, that adequate safeguards be established to assure that those beneficial organisms introduced into the country from foreign areas are properly screened through quarantine stations to be sure that no detrimental species are included with the shipment and that the beneficial organisms are properly identified. It is equally important that the movement of beneficial organisms, both interstate and intrastate, be adequately safeguarded to be sure that the organisms are viable and will do the job for which they are intended or advertised, and that they are not carrying with them any unwanted pest species.

Such seems to be the intent of the Executive Order 11987 signed by President Carter on May 24, 1977. This order calls for the orderly control over the movement of beneficial organisms. There are no provisions in the Plant Pest Act that require scientists or the public to obtain a permit for the importation of beneficial organisms.

The need for Federal regulations to provide for adequate controls over the introduction and intrastate and interstate movement over biological control organisms has been recognized by Federal and State agricultural officials. State agricultural agencies have indicated an interest in invoking laws to control interstate movement. Many are awaiting Federal action so they could invoke similar supportive State laws. The State departments of agriculture have suggested that the U.S. Department of Agriculture (USDA) be the lead agency in such regulations since the expertise has over the years been located in State and Federal agricultural groups.

An analysis of the individual sections of the proposed act and regulations to be considered under each section follows:

ANALYSIS

Section 1. This section cites the title of the Act as "The Federal Biological Control Organisms Act of 1978."

Section 2. This section provides background information concerning the need for the proposed act.

Section 3. This section provides a series of definitions. Included is the definition of biological control organisms. It should be noted that the definition does not include vertebrates as they come under the jurisdiction of the U.S. Department of the Interior.

Section 4. Section 4 gives the authority to the Secretary of Agriculture to issue or prescribe regulations under which movement of organisms would be allowed. This section covers movement into the United States as well as intrastate and interstate movement. The regulations governing intrastate movement, however, would be effective only in those instances where the appropriate State agency has not adopted regulations to provide for the control over movement within the State. Imported biological control organisms from foreign areas would be moved under permit to assure that it would be routed through a quarantine station or other approved screening facility where adequate checks could be made. Regulations contemplated under the act covering interstate and intrastate movement, however, would provide for an agreement with the individuals, institutions, or firms engaged in the business of moving biological control organisms. This agreement would stipulate: Conditions under which the material would be produced to be assured that the product is viable and will be useful in controlling pest species against which it is advertised; that the methods of shipment would preclude packing the organisms with any other organisms that may be detrimental; and that the biological control organisms are properly identified. Such an agreement specifying the conditions under which the individuals, institutions, or organizations must operate would make individual shipping papers unnecessary. Adequate checks would be made to assure that they are operating in accordance with the agreement.

Section 5(a). This section authorizes an inspector to make checks of persons or means of conveyance which he has reason to believe are carrying organisms subject to the act. Such right of inspection without warrant is essential at ports of entry to be assured that anyone entering the country is not carrying such organisms in violation of the act. However, protective language, relating to arrests without a warrant, is added to insure against such arrests except in justified circumstances. Similar need for inspections without a warrant relate to both interstate and intrastate movements.

Section 5(b). Section 5b provides for the authority with a warrant to inspect premises in the United States for the purposes of enforcing provisions of the act.

Section 6. Simply provides for penalty provisions and is in line with other similar acts.

Section 7. Provides authority to the Secretary of Agriculture independently or in cooperation with other groups to control the movement of potentially harmful biological organisms and for the conduct of control or eradication programs when such activities are deemed necessary to agriculture and the public welfare. Control programs of this type are conducted in cooperation with State agencies and State agencies provide for the right of entry for control programs except on Federal properties.

Section 8. Provides authority for the Secretary to promulgate regulations as deemed necessary under the act.

Section 9. Covers the appropriation of funds from Congress as deemed necessary to administer the act.

Section 10. Points out that the act shall not invalidate provisions of State or other laws except that such States or other jurisdictional laws cannot permit action which is prohibited under the act.

Section 11. Provides for the act to remain valid other than any portion which may be found to be invalid.●

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## DR. ROBERT E. STEWART—PROSTHETICS

### HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. TEAGUE. Mr. Speaker, I draw your attention, this morning, to Robert E. Stewart, D.D.S., and his fine record of distinguished service to this Nation's disabled veterans and other handicapped citizens. I was recently reminded of Dr. Stewart's outstanding contributions, when reading the "Veterans Administration Prosthetic and Sensory Aids Program Since World War II," a testamentary of this important VA program which Dr. Stewart coauthored, some 5 years after his retirement, with Mr. William M. Bernstock, one of his former colleagues in the Veterans Administration.

According to the Bulletin on Prosthetics Research, Dr. Stewart, the former VA Director of Prosthetic and Sensory Air Service, Department of Medicine and Surgery, retired on June 30, 1973, after 27 years of service. During the last 17 years, he was the Service Director, in charge of the clinical and research aspects of a unique nationwide program providing a steadily broadening range of replacements for human parts or functions.

Dr. Stewart was born in Sutton, Nebr., and graduated from Creighton University Dental School in 1929. After some years of private practice, he entered the Army in World War II. After early service in the Dental Corps, he joined a group of Army dentists in developing plastic artificial eyes and other maxillofacial restorations. Using agar and alginate molding techniques, waxes, dental stone models, and acrylics adopted from dentistry, and new polyvinyl chloride plastics, they replaced the former handblown, fragile glass eyes and developed new artificial noses, ears, and other facial parts. These methods and designs have since become widely used.

After the war, in January 1946, Dr. Stewart was assigned directly from the military to VA Central Office as Chief, Ophthalmoprosthetic Division, of the then-new Prosthetic Appliances Service.

Dr. Stewart's transfer to the Veterans Administration resulted in the establishment of VA plastic eye and restorations clinics in 13 cities throughout the country where veterans are still being served for their artificial eye, facial, and body restoration needs.

In September of 1953 he was promoted to Assistant Director, Prosthetic and Sensory Aids Service. Because Dr. Augustus Thorndike, a prominent Boston surgeon who was the Acting Director was

reluctant to move to Washington, Dr. Stewart essentially managed the entire central office prosthetics operation for several years. In July of 1955 he was appointed as Director of the Service.

Under Dr. Stewart's dynamic leadership, events unparalleled in the history of prosthetics began to take shape. These include the establishment of the VA Prosthetics Center, with results reported in detail in every issue of the Bulletin of Prosthetics Research; enthusiastic support of the postgraduate prosthetics medical school programs of New York University, Northwestern University, and the University of California at Los Angeles, which are the only institutions providing university-level training for physicians, therapists, prosthetist and orthotist practitioners, both in the private sector and in Government; and the development and establishment of VA prosthetics treatment centers which provide highly specialized prosthetics care on a referral basis for patients whose prosthetics needs cannot be cared for at their original VA hospital.

Among the countless other innovations developed during Dr. Stewart's tenure which directly and indirectly have beneficially affected the lives and rehabilitation of disabled veterans, while also generating savings, there are the centralized distribution of stump socks, hearing-aid batteries, aids for the blind, hydraulic knee mechanisms for above-knee amputees, elastic hose, lumbosacral belts, and a centralized method for hearing-aid repairs.

Dr. Stewart has continually demonstrated a keen perception of the needs of the Veterans Administration's research program, and an imaginative and resourceful capacity to develop programs to meet these needs. He has recognized the advantages accruing from a balanced intramural and contractual program involving integration of research, development, evaluation, and education. He has utilized effectively the specialized talents of the relatively small body of research personnel knowledgeable in the unique fields of prosthetics, orthotics, and sensory aid.

The concept of VA amputee management has been revolutionized largely as a result of Dr. Stewart's efforts. Recognizing promptly the tremendous advantages inherent in immediate postsurgical management, he arranged in 1964 for a research program in Seattle to refine and clinically demonstrate the techniques developed abroad and to disseminate information for use by clinicians in both the Veterans' Administration and the private sector. Three films have been produced; two monographs have been made available for thousands of clinicians; and courses have been given by three universities. The techniques of immediate postsurgical management, when properly used, have brought great benefit to the newly amputated individual. These techniques have been utilized in many parts of the world with much praise redounding to the Veterans Administration for refinement and clinical validation of the procedures and for their dissemination in the interests of amputees.

Dr. Stewart has been consistently zealous in assuring that the results of research not only aid veterans through VA medical policies and supply contracts but become available meaningfully and systematically to clinicians for use with disabled people in the nonveteran population. He has been an enthusiastic supporter of the educational programs in prosthetics and orthotics offered by three universities—New York University, Northwestern University, and University of California at Los Angeles. He has arranged for the production of training films and the design and construction of scientific exhibits. His authorization of a variety of clinical application studies has reflected an appreciation not only for the effectiveness of such procedures as the final step in systematic transition from research to clinical use, but for the critical role which clinic teams play in prosthetics and orthotics management. Under his leadership as chairman of the editorial board, the Bulletin of Prosthetics Research has become one of the most important journals in the field for effective dissemination to clinicians of the results of research. During this period, it has been selected for inclusion in the engineering index and index medicus.

His recognition of the importance of international exchange of information is exemplified by his service as a consultant in Laos and on the Scientific Program Committee to plan the First International Congress on Prosthetics Techniques and Functional Rehabilitation held in Vienna, Austria, in March 1973, under the auspices of the World Veterans Federation, the International Society for Prosthetics and Orthotics, and the Vienna Academy of Medicine. He has arranged numerous foreign lectureships for experts from VA projects, both intramural and contractural.

Dr. Stewart has received several awards and honors. In July 1958, he received the Chief Medical Director's Commendation. Some of his international efforts were recognized by a citation from the People-to-People Committee of the President's Committee on Employment of the Handicapped. He was a founder and the second president of the American Academy of Maxillofacial Prosthetics, a specialty group within the dental profession, which recently honored him by award of its life membership. Just before his retirement, he received at the Administrator's Staff Conference the VA Distinguished Career Award, consisting of a gold medal, an enameled gold lapel button, and a citation.

The chief medical director, in further recognition of Dr. Stewart's outstanding contributions to the Prosthetic and Sensory Aids Service programs, 5 years ago appointed him as his consultant so that his services would not be completely lost to the Veterans Administration efforts in behalf of the seriously disabled. He and Mr. William M. Bernstock, former editor of the Bulletin of Prosthetics Research, have just completed a history of the VA prosthetics program.

Mr. Speaker, I commend this outstanding publication, the "Veterans Administration Prosthetics and Sensory Aids Program Since World War II", to my colleagues and applaud Dr. Stewart for his longtime, illustrious service to this Nation's disabled veterans and handicapped citizens.●

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## LOBBYING: A CONSTITUTIONALLY PROTECTED RIGHT

**HON. DON EDWARDS**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. EDWARDS of California. Mr. Speaker, tomorrow the House is scheduled to take up H.R. 8494, known as the Public Disclosure of Lobbying Act. The alleged purpose of this measure is to reveal to the Congress and the public just what evils have been perpetrated on the representative arm of government by those seeking to influence the political process. It is extremely important, however, that Congress, in its rush to pass "reform" legislation, does not restrict or burden the exercise of one of this Nation's most fundamental first amendment rights—the right of the people to petition the Government for a redress of grievances.

The fact that the present 1946 Lobbying Act is a failure is largely due to the overzealous approach of those who drafted the original measure. As a result of the 1946 act's interference with the free exercise of fundamental constitutional rights, the act was significantly narrowed in scope by the Supreme Court. in the 1954 decision of United States against Harriss, the Court construed the 1946 act in accordance with the first amendment to reach only direct communications with Members of Congress.

I am pleased that the House Judiciary Committee has adopted an amendment limiting the present lobbying disclosure bill to direct contacts with Congress, thus complying with the Supreme Court's mandate in the Harriss case. This action was one of several amendments adopted by the committee and the subcommittee which have significantly improved the constitutional soundness of the bill. The measure now meets minimal constitutional standards as laid out by the Supreme Court.

I understand, however, that several amendments will be offered on the floor. One which will bring indirect or grassroots lobbying within the scope of the bill and another requiring disclosure of the name and address of those who make large contributions to an organization covered by the act. I urge my colleagues to a vote against these amendments. If either of them are adopted the bill, in my opinion, will be unconstitutional and should be defeated entirely.

In light of the amendments which are expected to come up, I hope that the Members will take a moment to read a recent editorial on the lobby bill which appeared in the St. Louis Post-Dispatch of April 6, 1978:

HOW MUCH LOBBYING?

When the U.S. House of Representatives acts soon on a lobbying disclosure bill, it will be forced to decide questions on which there are compelling public policy arguments on

both sides. The House Judiciary Committee has reported for floor action a bill (H.R. 8494) that, on balance, is better than a bill currently before the Senate Judiciary Committee. But the House bill still contains provisions that conflict with First Amendment rights, although they advance the public interest purpose of letting citizens know who is trying to influence their lawmakers and how.

The tough questions that the House will have to decide are whether it is better to let some lobbying go unregulated or whether to impose restrictions that tend to interfere with the constitutional right of citizens to petition their government. In contrast to the Senate bill, the House bill is designed to intrude as little as possible on the legitimate rights of petition, free speech and association, while still seeking to improve on the almost totally ineffective 1946 Federal Regulation of Lobbying Act now on the books.

Under H.R. 8494, for example, registration as a lobbyist would be required of an organization if it spends $2,500 or more in a quarter to retain a lobbyist or if it employs an individual who lobbies on 13 days in a quarter or two individuals who each lobby for seven days quarterly, and the whole business costs $2,500 or more. This so-called threshold provision means that small, local organizations, relying heavily on volunteers, would not be forced to register and to incur the burdensome reporting requirements of the act. (The Senate bill's threshold is lower.) Any organization required to register under the House bill would have to file quarterly reports on its lobbying activities and gift-giving to members of Congress and their staffs.

Before reporting the House bill, the Judiciary Committee deleted a questionable requirement that so-called "lobbying solicitations" be disclosed. Under the lobbying solicitation provision, which is still in the Senate bill, a registered organization would have to disclose and register with the government its political literature and private communications with its own members if the literature or communication contained a request to write to Congress. This provision would seriously infringe on free speech and the right to privacy. Finally, the House bill was shorn of a contributor disclosure provision, which is still in the Senate bill, that would have had a chilling effect on freedom of association and the right to privacy by requiring the disclosure of the names of people who gave $3,000 or more to the organization.

Although the House bill is far superior to the Senate bill, the former measure still contains sanctions stiffer than are needed to achieve its objectives. One is a criminal sanction for a violation, whereas injunctive relief to compel disclosure should be sufficient. Another is a heavy civil penalty for a violation that was not willful but was committed under a misinterpretation or regulations.

Common Cause—a praiseworthy citizens lobbying organization with the laudable purpose of exposing special interest lobbying for private gain—is pushing for the stronger Senate bill. But we think the American Civil Liberties Union, which is alert to threats to the Bill of Rights, has taken a better position in criticizing provisions of both bills that might not only threaten rights but also hamper public interest lobbying by citizens groups.●

## "SUMMING UP CANAL DEBATE"

### HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. GOLDWATER. Mr. Speaker, as far as I'm concerned, an editorial from The Signal, Newhall, Calif., sums up the Panama Canal debate about as eloquently as anything I have heard to date. I understand a copy of this editorial has been sent to every U.S. Senator. We here in the House of Representatives, who have been disenfranchised from voting on this critical issue by President James Carter, can only hope the Senate has read this articulate piece:

ARE THE PANAMA TREATIES A $50 BILLION ICEBERG?

For months and months the American Congress and the American people have been bedevilled by a pair of patchwork diplomatic prose poems known popularly as the New Panama Canal Treaties.

In truth, these two remarkable, if wretched documents, are not even remotely "treaties" in the precise meaning of the term. The first of these two agreements is more properly a quitclaim in which the United States undertakes to abandon its historic title to the Panama Canal, the Canal Zone, the Panama railroad and the properties pertaining thereto.

In addition the second of the New Panama Canal treaties is, in effect a promisory note by virtue of which the United States agrees to pay Panama, for 20 years, substantial fees and revenue shares which will aggregate between $2 billion and $4 billion.

To millions of perplexed American citizens who are fortunate enough to live beyond cannonshot of the capricious environs of Washington, D.C., these two masterpieces of diplomatic lyric poetry make no sense whatsoever. It is impossible for an honest and curious man to explain to his barber or to the corner saloon barmaid in Laramie, Wyoming, why Jimmy Carter is in such a damnable rush to tear the Panama Canal away from the bosom of America and hand it over, locks, stocks and transit revenues, to a textbook-pure Latin dictator who swaggers around his own tropical hacienda wearing Castro-style army fatigues and toting six shooters at his hip.

Why are the illustrious literati of the American Senate, who normally pass their time playing games in Georgetown and Chevy Chase, devoting their waning and increasingly unpopular energies to ridding our country of this remarkable hydraulic engineering monument? Why does the cream of our West Coast intelligentsia, our gaunt Pericles from Los Angeles, Alan Cranston, and our somnolent Sam Hayakawa, the nationally-applauded connoisseur of Dixieland jazz, vote to give Teddy Roosevelt's famous hand-me-down to a tyrant whose secret police would shoot them down like wharf rats if they were caught climbing over the Canal Zone fence after dark?

This spectacular carnival of Capitol Hill lobbying for passage of the new Canal treaties has been a disgrace and an insult to the American people. For Jimmy Carter, in his passion to abandon the Canal Zone, has chosen to speak with a forked tongue to his own fellow citizens.

When Jimmy Carter marches to the TV cameras and looks humbly at his fellow Americans and tells them "We have never owned the Canal Zone," he is lying.

And when he finishes "We have never paid for it," this is the most damnable lie of all.

Well, these paragraphs are not intended as hopeless debate over the merits of the new Panama Canal treaties. For there is no merit to the miserable affair whatever. This country of ours has built and operated the Panama Canal for more than 60 accident-free years. But now, because of some un-admitted but obviously massive pressures, our Washington shogunate, using the most contumacious hip-hip-hurrah of hypocrisy, is at this moment preparing to give away this marvelous legacy from our greatest years of nation-building.

The Senate has been bought and paid for. The Panamanians have performed magnificently as blushing and reluctant brides. Generalissimo Omar Torrijos cleaned himself up and came hopping into Washington to sign the new treaties and give the kiss of peace to our forever grinning little President, Marse Jimmy Carter.

Skittish Senators have been flown to the palatial tropical Panama Bay resorts, wined, dined, petted by Isthmian bunnies and sent on fairlyland jungle cruises across the glassy waters of Lake Gatun.

The Passion Play of the Panama Canal has gone off so far without a hitch and the Perils of Pauline Panama have been a smashing success. The vote on the first treaty was a heart-stopper, with the outcome uncertain until the last breathless ballot had been counted. It was burlesque theatre on Capitol Hill just like a Texas tag-team wrestling match.

Howard Baker, the minority Republican Goliath from Tennessee, has prattled along in splendid voice, expressing statesmanlike reservations about the treaties, demanding occasional minor and nonsensical changes in wording here and there. But in the end, Baker, the champion of sound and sensible conservatism, has loyally collapsed and voted with the Capitol Hill establishment mob.

Yes, the fix is in. If all goes according to Jimmy Carter's scenario it will be ratified at the last moment by a breath-taking precious, wavering vote or two. What garbage this all is! Must our Washington, D.C. indolent Senators always treat the American voters as if they were a pack of sodbusters being warmed up at a tent show revival meeting outside Ponca City, Oklahoma?

So much for the original script. But what about the tip of the iceberg that seems to be floating around in Panama Bay? In these last final weeks in the great Panama Canal Treaty debate, has the meat in Jimmy Carter's coconut finally been found?

And so, on the front page of this issue of The Signal we are pleased to reproduce a handsome "tombstone" advertisement that appeared in the columns of the Wall Street Journal on March 17, 1978, exactly two days after the first of the two Panama Canal treaties was so excitingly ratified.

This advertisement is about as clear and confidence inspiring as an Agatha Christie murder novel. The Panama advertisement contains no clarifying information beyond the fact that it amounts to approximately $100 for every man woman and child in Panama. No term is stated, no interest rate divulged, no maturity dates reported. There is no First Chicago Limited known to the Chicago telephone information operations. Nor is there a First Chicago Panama SA listed. There is no prospectus available. Is the loan being collateralized by future Panama Canal revenues and tolls?

Actually this epic Panama loan ad makes about as much sense as the subtitles of an Alfred Hitchcock continental jewel robbery feature film. Or perhaps it is more reminiscent of the Thursday night dinner menu on board the old Orient Express, Vienna to Istanbul.

The trail of this Panama loan leads through the Wall Street Journal advertising department eventually to some obscure office in Paris. Reputable American financial firms have no detailed records of this transaction in their files. American citizens are not allowed to participate. What is Panama going to do with this loan? What has Omar Torrijos promised as security? What will the proceeds be used for? Will the money be paid to American institutions or individuals, and, if so, in what amounts and for what reasons?

In other words, is the weenie in Jimmy Carter's Panama hot dog simply a matter of good old money? Is he simply handing

Omar Torrijos $10 or $20 billion worth of assets, that can be used in future years to raise multi-billion dollar loans and government bond issues?

Do the American people realize that if and when the Canal goes to Panama, that they are giving away a fortune in real property and in revenue-producing facilities—and that we are not really giving it away at all. We, the American people, through the chivalrous generosity of our President and Senate, are actually paying the Republic of Panama and His Excellency Omar Torrijos billions of dollars to take the Canal Zone off our hands.

Well, enough has been said. The tip of the Panama Canal iceberg is beginning to show. And it is coming clear, that after all the oratory is over and all the patriotic anthems have been sung, the new Panama Canal Treaty chapter in our American history is just another stanza of the old cash-and-carry marching song that has embellished Washington, D.C. politics for two centuries.

It is almost unbelievable that the American Senate is prepared to work this fraud upon their constituents. And if the Senate dares ratify the final treaty without a thorough investigation of this extraordinary Panama advertisement they shall be guilty of the most glaring, careless behavior.

Ask your Senator to explain this fascinating Panama loan advertisement and explain how much hard financial credit and bond money the treaties will mean to Panama.

If he can look you straight in the eye and answer you fair and true, good enough. But if he looks over your shoulder and gazes into the distance and mumbles a lot of nonsense, tell him to mind his manners. Demand that he stop selling out, and order him back to the floor of his Senate chamber to vote "no".●

## UNIVERSITY TO INAUGURATE PRESIDENT, DEDICATE INSTITUTE THIS MONTH

### HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. QUILLEN. Mr. Speaker, the remainder of April is going to be especially noteworthy in the First District of Tennessee, particularly on the campus of East Tennessee State University.

Two events of vital importance to the growth and development of the university will occur within days of each other. One is the April 20 dedication of the Institute for Appalachian Affairs, a newly established entity that symbolizes the dedication of the university to providing educational opportunities for the people of Appalachia throughout its existence.

The second is the April 28 inauguration of the new president of East Tennessee State University, Dr. Arthur H. DeRosier, Jr.—a man who is the personification of energy, enthusiasm, and erudition.

East Tennessee State University enrolls over 10,000 undergraduate and graduate students annually, with admissions growing each fall. It was founded in 1911 as a normal school for training public schoolteachers to serve the Appalachian area.

It has grown steadily in scope and quality, until today it offers a wide variety of programs in the arts and sciences, business, technology, and education.

The East Tennessee State University College of Medicine, created with the help of Federal funds from the Teague-Cranston Act, will be admitting its first class of students this fall, and already is serving as a magnet attracting much needed family physicians to the Appalachian area.

Dr. Art DeRosier will be the fifth president to guide the university in its growth. He is a dynamic educator and administrator who has served on the faculties of The Citadel, Converse College, the University of Southern Mississippi, the University of Oklahoma, and East Tennessee State University. He has been the assistant dean of the graduate school of the University of Oklahoma, as well as dean of the graduate school and vice president for administration of East Tennessee State University. Prior to returning to the Johnson City campus last year, he served as vice chancellor of academic affairs and vice chancellor of the University of Mississippi.

Born in Norwich, Conn., on February 18, 1931, Dr. DeRosier served in the U.S. Air Force from 1948 to 1952. He earned his baccalaureate in history with high honors from the University of Southern Mississippi. His M.A. and Ph. D. in history are from the University of South Carolina.

Phi Beta Kappa, Dr. DeRosier has authored several scholarly works, including "The Removal of the Choctaw Indians," which was published by the University of Tennessee Press and Harper Torchbooks.

In the 9 months since he assumed the duties of the presidency, Dr. DeRosier already has begun a new development program emphasizing private giving, contracts, and grants. A new academic reorganization promises the university even greater potential for meeting the needs of the Appalachian region in coming years, under the leadership of Dr. Arthur H. DeRosier, Jr.

It is therefore fitting that his inauguration and the dedication of the Institute for Appalachian Affairs be conducted contiguously.

Though the university historically has worked with many agencies concerned with regional development, there has never been a single academic entity concerned with assisting the people of the region in solving their problems and preserving their culture.

The institute will endeavor to act as a clearinghouse, matching resources with development problems. From a cultural standpoint, the institute will strive to maintain and preserve cultural identity through the sponsorship of regionally oriented festivals and shows. Academically, the institute will take the lead in allaying various university offerings into a degree program in Appalachian studies. These pursuits will be broadened with the addition of conferences, workshops, and the encouragement of publications dealing with Appalachian affairs.

April traditionally is a month of awakening, revitalization, and increased awareness of the world around us.

Therefore, it is particularly fitting that the House pause to note the events taking place this month, for they are symbolic, not only of what is happening on the university campus, but in the Appalachian region as a whole.●

## ENFORCEMENT PROBLEMS WITH DNA RESEARCH

### HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. WAXMAN. Mr. Speaker, I would like to bring to the attention of my colleagues a recent article from the Boston Globe, written by Richard A. Knox, describing the problems of enforcing safety standards for recombinant DNA research Recombinant DNA research permits scientists to creat new combinations of hereditary material, and mix genetic material together from viruses, bacteria, plants, animals, and humans, in ways that do not occur in nature. The article documents a violation of safety standards promulgated by the National Institutes of Health at Harvard University, one of our very finest research centers respected not only in our country, but throughout the world. The Harvard experiment was conducted in a laboratory which was not safe enough. It involved experimentation with viruses that cause cancer in animals.

I bring this blatant violation of safety standards to the attention of Congress, because I am concerned that H.R. 11192, recently reported out of the Interstate and Foreign Commerce Committee, which will come to the floor of the House soon for a vote, may be inadequate to protect the health and safety of our people. Inadequate enforcement of recombinant DNA safety regulations raises potential risks not only for the environment and population in the community outside the laboratory, it also creates unnecessary risks for graduate students, faculty, and workers participating in recombinant DNA experiments inside the laboratory.

Mr. Knox's Boston Globe article points out the difficulty of securing researchers' compliance with Federal guidelines. It dramatically demonstrates that a Federal law premised on the cooperation and candor of scientists being regulated will not adequately protect the safety of employees and students in the laboratory.

H.R. 11192 must be strengthened with amendments which will protect the health and safety of graduate students, faculty, and workers employed in recombinant DNA laboratories. If, as the Boston Globe points out, the health and hospitals commissioner for the city of Boston thinks H.R. 11192 may not sufficiently protect communities where recombinant DNA experiments are taking place, we must strengthen the legislation.

We are living in a brave new world where American corporations and universities can now obtain patents on new forms of life created in their labora-

tories. I am impressed by the claims made that recombinant DNA research will develop microorganisms to eat oil spills, to enhance crop yields, and possibly even to arrest invasive cancer tumors.

History tells us that similar anticipated benefits led American scientists to rush into radiation research and commercial development without adequately safeguarding the workplace where experimentation and manufacturing of nuclear substance was done. Now years later, dramatic hearings before the Subcommittee on Health and the Environment convened by our able Chairman PAUL G. ROGERS documented that cancer in some of these workers today is related to their exposure years ago in their place of employment.

We must not doom another generation of workers to exposure to preventable risks. It is for this reason I will introduce an amendment to H.R. 11192 on the floor of the House to strengthen and protect the safety of students and employees in recombinant DNA labs:

THOMAS AFFAIR: A TEST CASE FOR DNA RESEARCH?

(By Richard A. Knox)

A molecular biologist at the Asilomar Conference on Recombinant DNA molecules, February, 1975: "You can't legislate Nature, but you could legislate playing God."

Three months ago the National Institutes of Health (NIH) took the unprecedented step of halting the research of Prof. Charles A. Thomas, Jr. because the Harvard Medical School scientist and the university had failed to comply with NIH guidelines governing controversial recombinant DNA research.

At the time and since then, Thomas and Harvard officials have characterized the violation as a minor technical or bureaucratic error with no great implications for regulation of the gene-splicing research.

"The nature of the violation," Thomas said in a telephone interview Friday night from La Jolla, Calif., where he has recently taken a research position, "was the technical one of continuing to do the research before the (Harvard) biohazards committee had certified my laboratory. But if that is a violation then almost everyone else I know did the same damn thing—it was standard operating procedure."

The NIH has concluded, however, that Thomas's violations were not merely technical. Following their investigation of "the Charlie Thomas affair," as the episode has come to be called among insiders, federal officials have concluded that the violations were more substantive and serious than anyone has publicly admitted thus far.

James Schriver, the NIH official who led the inquiry, acknowledged in a recent interview that the breach of the federal research guidelines at Harvard was the most serious in the 16 months they have been in effect.

The episode is the more significant, Schriver indicated, because Thomas was one of the scientists involved in writing the federal guidelines and thus cannot claim ignorance of their details or thrust. "I will point that out in my report," said Schriver, who is director of the NIH's office of management survey and review.

The Thomas episode, which is currently being investigated by an ad hoc Harvard committee, raises a number of issues about the integrity and workability of the regulatory system set up to govern recombinant DNA research. The four-year-old technology allows scientists to juggle genes, the hereditary chemical instructions within all living cells, among such divergent lifeforms as viruses, bacteria, plants, animals and humans.

Though some researchers claim to have discredited the initial "laboratory monsters" or flaring-epidemic scenarios of risk, there is still general consensus that the many unknowns involved in the powerful new technology require prudence, caution and some form of regulation.

The Thomas affair may yet create reverberations beyond the scientific community. Coincidentally, Congress is now debating legislation that would write the existing NIH guidelines into federal statute and make it very difficult for local governments to pass stringent laws regulating the controversial experiments.

When the NIH froze Thomas's research funds last December, Harvard officials immediately perceived the damage that the Thomas episode could do to their efforts to get Congress to pass a bill that would let the scientific community regulate itself under NIH standards.

"The timing just couldn't have been worse," Dean Daniel C. Tosteson of Harvard Medical School told The Globe.

From interviews and from examination of the minutes of the Harvard medical area committee designated to monitor recombinant DNA research, the issues fall into two areas:

The fact that Thomas and his coworkers did some experiments that the NIH guidelines classify as the most hazardous allowed in a university setting, using a laboratory that the Harvard committee considered unsafe for such research;

The fact that Thomas' research group continued a series of experiments at a medium level of biological hazard for eight months without any university authorization.

While Thomas was involved in helping the NIH write national guidelines governing the research, The Globe has learned, he and his co-workers were conducting research at Harvard Medical School in a laboratory that was later determined not secure enough, by federal or Harvard standards, to do the kind of experiment the group was performing.

That research involved manipulation of two viruses, SV–40 and "helper" SV–40, that cause cancer in monkeys. The scientists were able to take genes from a common bacterium known as E. coli and insert them into the cancer virus, then demonstrate that the "recombinant" virus could multiply when incubated with monkey cells in the laboratory dish.

Thomas and his co-workers asserted in a published report last May that the research was done "under conditions of P–3 containment as described in the NIH Guidelines for Research Involving Recombinant DNA Molecules."

Thomas reiterated on Friday that "in my opinion our lab actually met the spirit and the requirements of the NIH guidelines."

The Harvard committee, after months of wrangling with Thomas about safety specifications, disagreed. The committee decided that Thomas did not have a certificate P–3 laboratory at the time he did the SV–40 work or anytime after that.

A P–3 laboratory classification is the second most secure type of facility under the federal guidelines. Designed to minimize risk of escape of experimental organisms that might conceivably pose a risk to humans or ecosystems, a P–3 facility is the type that triggered a momentous public debate nearly two years ago when Harvard proposed to build one in Cambridge.

(There are currently 47 NIH-funded P–3 labs in the nation, according to NIH officials, and only one P–4 lab, the most secure type. Harvard is constructing its P–3 Cambridge facility, and the Harvard-affiliated Sidney Farber Cancer Center is planning one or two P–3 labs.)

Thomas' SV–40 research was carried out before the NIH guidelines formally took effect in November 1976, so technically it is not a violation of the guidelines, though some believe it was a violation of their spirit and intent.

After the guidelines took effect, however, the Thomas group carried out so-called P–2 recombinant DNA experiments for eight months before the official medical school committee granted his lab provisional clearance to do experiments at the P–2 biohazard level, according to Schriver and Thomas himself.

"It was common procedure to continue what you were doing while your (application for certification) was in progress," Thomas said. "The work can't just suddenly come to a halt. There was nothing secret about it."

It is not clear why the medical area committee, which deliberated on Thomas' applications at nearly every monthly meeting from November 1976 to December 1977, remained unaware of the fact that the P–2 research was continuing without its approval.

According to minutes of the monitoring committee and discussions with committee members and Harvard officials, there were serious misgivings about Thomas' lab because of ventilation problems, access from outside areas, isolation from the rest of the building and laboratory procedure. Thomas' lab was in Building C at the medical school in Roxbury, an older structure that is used for instruction of medical students as well as for research.

Thomas, who is described by admirers and detractors alike as a brilliant, but headstrong, scientist, asserted repeatedly that his laboratory met the stringent P–3 specifications. He complained bitterly, according to the committee minutes of last Dec. 8, that the committee was "too strict" and that it "has taken it upon (itself) to go beyond the guidelines of the NIH."

Thomas is still prohibited by the NIH from carrying out federally funded recombinant DNA research in his new, certified P–3 laboratory at the Scripps Clinic and Research Institute in La Jolla. He told The Globe that he thinks the Harvard committee was afraid to give his Harvard lab P–3 certification "because they would have been criticized by the radical left."

His decision to leave Harvard last June was not wholly determined by the committee's refusal to grant P–3 approval, he said, but that was the last straw.

Apart from the committee's specific difficulties with the Thomas proposals, its minutes also highlight the difficulty of securing researchers' compliance with the federal guidelines and underscore how the present regulatory effort is based fundamentally on the cooperation and candor of the scientists being regulated.

This has been an unbroken thread of concern among members of the committee during its 18 months of existence. At its very first meeting, on Nov. 23, 1976, the question was raised: "How do we know other experiments (than the approved ones) are not being done?"

Committee chairman Bernard N. Fields replied: "We have to accept the investigator's commitment that no experiments will be done that are not approved by the committee." Monitoring of compliance, Fields added, is "on an honor system."

A few days after the NIH suspended Thomas' work last December, a committee member, David Rosenbloom, who is the health and hospitals commissioner for the city of Boston, sharply asked what the consequences were for violating the NIH and university guidelines. According to the committee minutes:

Rosenbloom "stated that the city had deferred to this committee due to the fact that it was operating under the guidelines as the Cambridge committee. But Rosen-

bloom felt that the city would probably impose its own rules if the consequences for ignoring the Harvard Medical School committee's rules are not severe enough."

Rosenbloom confirmed on Friday that the minutes accurately reflect his concern, which he said he has amplified in a long letter to Prof. Conrad Bloch, chairman of Harvard's pending internal inquiry into the Thomas violations.

The Boston health commissioner added that he is "not very happy" with the Harvard-backed version of the proposed federal statute reported out of the House Commerce Committee week before last. "A federal law which says local governments can't regulate in this area is unfortunate," Rosenbloom said. "Even if the risk is really minimal—and I'm willing to believe some recent reports that suggest the risk is low—why take it for the convenience of an individual researcher?"

Robin Schmidt, Harvard's vice president for government and community affairs, acknowledged in an interview that self-regulation is the best solution since "all cities might not always be the model that Cambridge turned out to be." (In Cambridge, a citizens' panel last year recommended that the city set up a standing committee to monitor local universities' compliance with federal recombinant DNA activities.)

"The researchers I've met are individual entrepreneurs, impatient with regulations," Schmidt said. "But we can't lay too many regulations on them. I keep remembering that my wife and I never had polio because some crazy guys were off in a laboratory working on a vaccine."●

## TEXAS STEEL CO. COMMENTS ON OSHA

### HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. TEAGUE. Mr. Speaker, Mr. L. L. Highnote, vice president for Industrial Environment for the Texas Steel Co. in Fort Worth, Tex., has directed a letter to the Interagency Task Force on Workplace Safety and Health with respect to the Occupational Safety and Health Act which I believe will be of interest to the Members of this body. Accordingly, under leave to extend my remarks in the RECORD, I wish to include Mr. Highnote's letter.

FORT WORTH, TEX.,
*April 6, 1978.*

TASK GROUP A,
*Interagency Task Force on Workplace Safety and Health, Rosslyn, Va.*

GENTLEMEN: It is unfortunate, but true, that the Occupational Safety and Health Act was promulgated on a basic absurdity. The law was couched in antagonistic terms because Congress proceeded from the ludicrous assumption that the business managers of the United States do not want, and will not provide, workplace safety, unless forced to do so. Nothing is further from the truth. Even those managers who, for lack of compassion, are not moved in that direction, are immediately sold by the economics of good safety and health programs. Therefore, the way toward improvement of the act and its administration is clear: First, approach the program of improving health and safety on the premise that it's a common goal of management and government; second, use the tools that will get the job done: Education and financial help.

Fear and force should be available, but its use should be restrained and applied in the few cases where the management actually opposes improvement.

The act has been ineffective in improving workplace safety and health because it is counterproductive and its very concept is hostility while it should have been one of cooperation.

The benefits derived from a Federally mandated safety program are all but nil, when forced upon large corporations. Large companies have to have a workable safety and health program.

Federal Safety and Health Inspectors, from our experience, are inexperienced in our operations and are thus inept in telling us what and how to correct problems. They are only fault finders and this is not palatable to the majority of people.

Federal programs are not able, through fines, to increase the safety awareness of employees, (which is the groundwork of a good safety program) nor, can employers be expected to instigate safety programs through intimidation. The only purpose for using fines is fear, and fear does not breed continuity of efforts, it only breeds mistrust and contempt.

The Federal program should be changed to one of assistance, aimed at helping employers correct problems by providing expert advice, secured without fear of reprisals. Guidelines should be set and followed. Federally mandated expenditures for non-productive, but desirable safety equipment, should be credited against taxes in the year of expenditure, thus making expenditures for this equipment affordable, and equally important, retaining capital for productive uses. The same-year-tax credit will provide industry with the resources to improve workplace conditions on a voluntary basis and at the same time, continue growth and expansion programs, hence minimizing the need for Federal enforcement.

Industry has a great concern for the welfare of their employees, but it also must continue to expand and modernize. Industry cannot long survive with vast amounts of capital siphoned into non-productive equipment unless some way is provided to recover that capital quickly.

The Federal Bureaucracy by its astounding number of regulatory agencies has no choice but to overlap its control of business. The business community has been inundated with regulations conceived by individuals who are not safety specialists and cannot comprehend a program geared toward employee awareness instead of equipment awareness.

We have for years had an intensive training program in our workplace.

The most effective means of reducing workplace injuries and illnesses is through employee education. This program is three-phased:

1. Make employees aware of job related hazards and proper safety equipment needed for various jobs. Involve employees in improving safety.

2. Solicit employee suggestions for improvement of their individual work areas; investigate an act upon those ideas, and give the employees credit where due.

3. Have management promote the idea that all accidents are avoidable and be ready to make the necessary expenditures to achieve hazard-free workplaces.

There are three facets that make our Safety Program effective. They are:

1. Housekeeping—an orderly workplace prevents hazards and shows pride in your work.

2. All accidents are avoidable. Acceptance by management of the concept that through planning and proper training of workers in an orderly workplace, safety awareness and accident prevention will ensue.

3. CARE—Employees must care about their fellow employees' well being, their workplace, and their own welfare. If they are full of care, they will be careful and if they do not care, they will be careless. A careless attitude breeds injuries.

Our Company, in the last five years, has increased our workforce by 26% and we have reduced compensable losses by approximately 50% and total injuries by approximately 25%.

This has been accomplished by personal contact with all employees via daily safety contacts, monthly safety meetings, investigations of accidents conducted by employees involved in the accident, the Safety Department and management (including the president in serious cases) and regular hazard-hunting inspections by teams composed of the Safety Department, area management and area employees.

A safety program is workable only when all employees become involved, not when Government proposed regulations are forced upon industry. Government can help most by offering consultation and periodic inspections of industrial workplace with the idea of helping industry achieve superior workplace safety and offering tax credit incentives for the necessary expenditures.

Sincerely,

L. L. HIGHNOTE,
*Vice President, Industrial Environment.*
By: TONY W. SIMS,
*Superintendent, Industrial Safety & Environmental Control.*●

## GAS RATIONING: THE BETTER IMPORT REDUCER

### HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. STARK. Mr. Speaker, recently I came across an excellent letter to the editor of the New York Times. In it the author, Princeton's Carter Henderson, persuasively and succinctly demonstrates why—if we sincerely mean to reduce dependence on imported oil—gas rationing is a workable and more equitable alternative to the methods we are now considering. I commend this letter to my colleagues:

*To the Editor:*

Your March 27 editorial "Crude Alternatives to the Crude Oil Tax" perpetuates the myth that gasoline rationing would be an "extreme way" of reducing America's appetite for foreign oil, which, as you correctly state, "jeopardizes the nation's strategic independence and diminishes the value of the dollar."

Attempting to slow the growth of America's massive oil imports through cost-escalating taxes, fees, decontrols, or auctioned import quotas—i.e. "rationing by price"—would create a sudden surge of new inflation, discriminate against the poor, and fail to reduce demand by any predictable amount since people living in our automobile-dependent culture will understandably cut back on their consumption of other necessities in order to buy gasoline for their cars. Rationing, on the other hand, would enable us to reduce petroleum imports very gradually, with considerable precision, and in a way that's noninflationary and fair to all consumers—rich and poor alike.

The gradual reduction of gasoline consumption, plus the ability of motorists to buy or sell gasoline coupons on a "white market" similar to the one envisioned by the Department of Energy in its standby rationing program, should keep illegal activities to a min-

imum. Counterfeiting and the black market were not a problem at the beginning of World War II, for example, when gasoline consumption was cut back by less than 10 percent. They "developed into a serious menace," according to the O.P.A.'s Ninth Quarterly Report dated March 31, 1944, a military demands for fuel increased, and as civilian consumption was slashed by 40 percent in just two years.

It's also doubtful if a gasoline rationing program would create any more expensive or cumbersome bureaucracy than the one already being put into place by the Department of Energy—with its 20,000 employees and $10.4 billion annual budget—to administer all the "incentives," "penalties," "taxes," and "tax cuts" enumerated by President Carter in his April 20, 1977, speech on energy policy to a joint session of Congress.

The bureaucracy needed to administer a crude oil equalization tax, or import fee program, for example, would obviously have to be extensive as these charges are to be refunded to the public at large, including, I presume, the approximately 17 percent of all American families that do not own cars, along with great numbers of poor people of no fixed address who elude even the United States Census. To make matters worse, this public rebate money could quickly be diverted into vast new pork barrels so beloved by the Washington political establishment. COET, for instance, has already been discussed in Congress as a source of funds for the Department of Energy's emerging synthetic fuels program, estimated to cost between $20 billion and $40 billion.

Raising the price of domestic oil to world levels by removing controls would result in windfall profits for producers, as you point out, while restricting imports through a presidentially imposed quota-allocation program would invite manipulation by the powerful oil industry for its own financial advantage.

Gasoline rationing can cure our excessive appetite for foreign oil fairly and effectively. It can also educate the American people—as the Administration and Congress have so far utterly failed to do—that the United States has a serious energy problem, which must be solved if we are to remain militarily and economically secure.

CARTER HENDERSON,
*Co-Director, Princeton Center for Alternative Futures.*●

## NOTES ON PRIVACY LEGISLATION

### HON. EDWARD W. PATTISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. PATTISON of New York. Mr. Speaker, I continue to be troubled by the lack of movement in the Congress toward enactment of new privacy protection legislation. Earlier this year I joined with BARRY GOLDWATER, JR., for a continuing effort to help promote the privacy bills he had developed with our former colleague, Ed Koch. But it sometimes feels like we are pushing against a wall of Jello.

In the 94th Congress I served on the House Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice. That panel held over 40 days of hearings and markup on the Bill of Rights Procedures Act and related measures. We developed what I think is a comprehensive and balanced bill, but it died in committee toward the end of the last Congress. The legislation was reintroduced at the start of this 95th Congress by several Members.

Last year the Privacy Protection Study Commission issued its final report, including extensive recommendations for legislative action, many closely paralleling the Bill of Rights Procedures Act. Congressmen GOLDWATER and KOCH, who served on the Commission, translated the recommendations into legislative language and introduced a series of bills last fall.

Also in the fall, the House Subcommittee on Financial Institutions held hearings on financial privacy and began consideration of bank record privacy legislation that was patterned after the Bill of Rights Procedures Act. However, that effort has gotten bogged down in unrelated controversies surrounding the proposed Safe Banking Act, to which the privacy provisions had been attached.

Mr. Speaker, it has been over 6 months now since the Privacy Protection Study Commission issued its final report. We are still waiting for the administration to issue its formal response to that report, in the form of their proposals for new legislation. In the meantime, we appear to be sitting on our hands up here on Capitol Hill. I am very disappointed.

Markup is scheduled to resume in the relatively near future on the Safe Banking Act. Hearings are scheduled for next month to discuss the financial privacy issue in the Senate Banking Committee. There are signs that the House Judiciary Committee may again take up the issue soon. These all present cause for hope, but I must say that it is distressing to me that we are more than two-thirds through this 95th Congress and we have yet to conclude any substantive action to safeguard the privacy rights of American citizens.

At this point in the RECORD, I wish to insert an article by BOB KASTENMEIER, the chairman of the Subcommittee on Courts, Civil Liberties and the Administration of Justice. The article appears in the current issue of Trial magazine, which is published by the Association of Trial Lawyers of America.

DEVELOPMENTS IN PRIVACY LEGISLATION

(By Representative ROBERT W. KASTENMEIER)

Four years ago in the broadening wake of repeated disclosures of illegitimate government spying, the House Judiciray Subcommittee on Courts, Civil Liberties and the Administration of Justice began the consideration of legislation designed to limit what Justice Oliver Wendell Holmes once called "this dirty business."

During the 93rd Congress, subcommittee hearings focused on the use of wiretapping and other forms of electronic surveillance by federal investigative authorities. The work of the subcommittee was temporarily delayed by the intervention of the Presidential Impeachment Inquiry in the latter half of 1974.

At the beginning of the 94th Congress in February 1975, work on legislation to control government surveillance of citizens' private lives resumed.

The Subcommittee began nine months of hearings, running to over 1300 pages, which explored the broad scope of the problem and considered a variety of legislative solutions. The bills before us ranged from a proposal to ban any investigation of American citizens for other than limited criminal law enforcement or job application purposes to a bill which would simply ban military surveillance of civilians.

As one of the most comprehensive and widely supported bills under consideration, H.R. 214, entitled the Bill of Rights Procedures Act, quickly became the focus of the Subcommittee's interest. By the conclusion of the 94th Congress the bill had accumulated a total of over 70 cosponsors, almost equally divided between the political parties.

H.R. 214, as introduced, prohibits federal agents from intelligence gathering and surveillance by wiretapping, mail opening, or inspection of bank, telephone, credit, or other personal records without a court order based on probable cause that a crime was about to be or had been committed.

As a result of its hearings, however, the Subcommittee decided to rewrite the legislation to focus with greater accuracy on those aspects of individual privacy most in need of statutory protection while recognizing the need of federal law enforcement authorities for greater flexibility in investigative techniques than that offered by the original bill's reliance on the search warrant.

The outcome of the Subcommittee's work, after more than 20 drafting sessions, was a bill regulating the inspection by federal agents of bank, telephone, and credit records, the conduct of mail covers by the US Postal Service; and amending certain sections of existing wiretap laws. The bill was reported favorably by the Subcommittee. However, after two days of debate before the full House Judiciary Committee in July 1976, H.R. 214 was re-referred to the Subcommittee and no further action was possible during the 94th Congress.

I re-introduced the bill at the beginning of the current Congress. The new bill, also numbered H.R. 214, has been jointly referred to the Committees on Banking, Finance and Urban Affairs and the Judiciary.

Meanwhile, on July 1, 1977, the Privacy Protection Study Commission, created by an act of Congress in 1974, issued its final report to the President and Congress. The report, entitled Personal Privacy in an Information Society, was distributed by the President to each of the Members of the Cabinet with a memorandum directing each department to prepare a plan for the implementation of the report. Chapter Nine of the report, "Government Access to Personal Records and 'Private Papers,'" makes seven recommendations for public and private policy on government access to such records.

These recommendations are embodied in a new piece of legislation, introduced by Representatives Koch and Goldwater, which is currently pending before the House Judiciary and Banking Committees. The recommendations of the Commission bear striking resemblance to the provision of H.R. 214 and give new impetus to the Congress to seriously consider this and similar legislation.

The heart of both H.R. 214 and the Chapter Nine recommendations of the Privacy Protection Study Commission Report is a series of limitations on government access to personal records held in the possession of third parties. The Commission recommends protection for all third-party held records, while H.R. 214 covers only financial records, telephone toll records, and credit records.

Under both the Commission Report and the Bill of Rights Procedures Act, no federal agent would be able to gain access to the protected records except by using one of four procedures:

(1) prior written consent of the subject of the record,

(2) service of an administrative subpoena or summons with concurrent notice to the subject and an opportunity for him to move to quash,

(3) service of a judicial subpoena, with the same notice and rights, or

(4) first obtaining a court authorized search warrant.

It is not surprising that the Privacy Protection Study Commission and the House Judiciary subcommittee have proposed substantial expansion of privacy rights in third-party held records.

In recent years direct cash payment for goods and services has given way to the use of checks and credit accounts. The newer forms of monetary exchange necessarily result in records about the intimate details of a citizen's personal life being kept by banks, credit card companies, and retail establishments.

Similarly, the telephone, once regarded as a luxury, has now become the common means of communication among rich and poor alike. Telephone billing records in the possession of communications common carriers can often give as detailed and accurate an account of an individual's personal friendships and political associations as were once available only by unsealing and examining private written correspondence.

However, unlike privately held account books and sealed letters which have long enjoyed the protections of the Fourth Amendment, third-party held financial records and telephone toll records have not been protected from uncontrolled search by government agents. Where banks, telephone companies, and retail credit establishments are willing, federal investigators may have direct access to customer records with no questions asked.

When a business refuses voluntarily to permit access to customer records, some investigative agencies are empowered by statute to issue summonses or subpoenas for the production of these documents.

These "administrative summonses" are enforceable in federal courts. However, under present law the customer about whose affairs the records relate has no right to be notified about the summons and subpoena and has no standing to challenge its enforcement.

This has placed the burden of protecting the privacy of many types of personal records solely on third-party recordkeepers.

It is not surprising, therefore, that banks, telephone companies, and credit organizations are among the strongest supporters of H.R. 214. These businesses greatly need legislative clarification of what obligations they have to protect their customers' privacy when governmental requests for information are made.

EXPANDING PRIVACY RIGHTS

In recent years there have been limited statutory and judicial attempts to expand the rights to privacy in third-party held records. The Fair Credit Reporting Act of 1970 requires a "court order" prior to the production of records of credit reporting agencies at the request of law enforcement authorities. However, the Fair Credit Reporting Act does not grant the subject of records standing before the courts to question the production of the records.

In the judicial arena the California Supreme Court has taken the lead in holding that third-party held business records are protected by a right to privacy. In *Burrows* v. *Superior Court*, (13 Cal. 3d 238.) it held that under a provision of the California Constitution equivalent to the Fourth Amendment, a bank customer has a reasonable expectation of privacy. Unless there is sufficient legal process, the California constitution is violated when records are obtained without notice to the customer of prior judicial authorization.

The United States Supreme Court, however, has not followed the reasoning of the *Burrows* case.

On April 21, 1976, the Supreme Court, in the case of *United States* v. *Miller*, 425 U.S. 435 (1976), held that a bank customer has no legitimate expectation of privacy in his bank records and no standing to challenge a subpoena for their production.

In concluding that there is no legitimate expectation of privacy in bank records, the Court observed that Congress in 1970 had enacted the Bank Secrecy Act, 12 U.S.C. b(a)(1), which specifically required that banks keep records for the benefit of federal investigative agencies. The Court concluded that "the lack of any legitimate expectation of privacy was assumed by enacting the Bank Secrecy Act. . . ."

H.R. 214, if enacted, would clearly signal the Court that Congress does recognize a legitimate expectation of privacy in such records while at the same time recognizing their value to legitimate governmental investigations.

The effect of the *Miller* decision is to leave third-party held records completely open to examination by anyone who can convince a bank official, credit company, or telephone company employee to permit them access. The *Miller* decision does not reflect accurately the thinking of the Congress, and legislation now beginning to move forward in the House Judiciary Committee will put the record straight.●

## THE ACADEMY AWARD TARNISHED BY VANESSA REDGRAVE

### HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 18, 1978*

● Mr. BIAGGI. Mr. Speaker, a justified crescendo of criticism has been directed to actress Vanessa Redgrave for her statements delivered during the 50th annual Academy Awards Ceremony. Her comments were indefensible and totally inappropriate. Once again the Academy Awards were cheapened by partisan political antics.

I offer for the observation of my colleagues an analysis of the Redgrave incident as written by William F. Buckley. In addition to lambasting Redgrave, Buckley directs praise at an ideological opposite, liberal Paddy Chayevsky, who denounced Ms. Redgrave's behavior. I believe Buckley presents a rational and totally correct assessment of the situation.

The imposition of one's political philosophies on captive audiences was a technique made popular and successful by Adolph Hitler. The parallel to how this statement was presented is clear. Let us work to have the comparison end with this isolated but unfortunate incident.

The Buckley article follows:

VANESSA AND THE USE OF OSCAR

(By William F. Buckley)

My new hero is Paddy Chayevsky, which datum will no doubt embarrass him inasmuch as politically he is a highly orthodox liberal. But as he put it the other night, he could not face himself in the morning if he did not express himself on the matter of Redgrave; by the same token, I must hail Chayevsky.

Here is the point to stress—that Vanessa Redgrave abused the occasion to say what she did. No lectures on the meaning of what she said are really appropriate. For the record, what she said was that "Zionist hoodlums" had picketed the Oscar awards and in doing so damaged the cause of world Jewry.

She went on to applaud those who had "stood firm and dealt the final blow against that period when Nixon and McCarthy launched a worldwide witch hunt against those who tried to express in their lives and their work the truths that they believed in."

And she finished by encouraging a continuing war against "oppression and fascism," not once mentioning the principal source of contemporary oppression, namely that communism which, among other things, Nixon and McCarthy fought.

But to undertake to teach elementary political history to Vanessa Redgrave requires faith in Pythagoras' contention that he could teach his theorem to an illiterate, and I have no such faith, so forget it.

Vanessa Redgrave is as unapproachable as Goebbels.

The point Chayevsky was making was a generic point. He said he was "sick and tired" of "people using the occasion . . . for the propagation of their own political propaganda." You remember, last year it was Jane Fonda who gave her views about the activities of the House Un-American Activities Committee in 1948, sparing us only her views of the Salem witch hunts three centuries earlier. The year before it was a surrogate of Marlon Brando, a Miss Rainwater or whoever, saying that Major Custer had it coming, or whatever.

Chayevsky said simply that it was inappropriate for someone going onstage to accept an Oscar to seize the mike for the purpose of vouchsafing one's political views to a captive audience What is truly strange is that anyone should defend Miss Redgrave's bad manners (never mind her views).

It is perhaps understandable that the emotionally incontinent of Hollywood should do so, people like Shirley MacLaine and Jane Fonda; but what about the others?

Easily the most preposterous defense of Miss Redgrave was done in the Los Angeles Herald Examiner by Denis Hamill, Pete's younger brother. His analysis suggests that cloning was achieved years ago.

What Hamill said is that Hollywood movies are politically tendentious. He went on at extraordinary length to make a point I shouldn't think anyone in the world would have disagreed with.

Of course the movies have praised the FBI, of course they whipped up fever against the Nazis and defended fellow travellers. So?

"Whether you agree with Vanessa Redgrave or not is not important." Yes, we know that. "What is important is that she had every right in the world to reach 100 million people across the world in any way she wanted."

Oh? Isn't a "right" to speak one's views defined by circumstance?

Would Miss Redgrave have had the "right" to pause during the filming of "Julia" to impart her latest observations on the doings of "Zionist hoodlums"? Would she have the right to stand up in a crowded theater and shout: "Fascist!"

Remember the chanteuse at the White House who went right from "Every Little Birdie Goes Tweet Tweet Tweet," to a denunciation of the Vietnam war in the East Room at a state dinner? Did she have a right to do that because, after all, the White House is also guilty of political tendentiousness?

The arguments in favor of Vanessa Redgrave's conduct reveal merely an intellectual flabbiness which America certainly ought to fear but which, try as one can, is difficult to blame on Joe McCarthy.●

# SENATE—*Wednesday, April 19, 1978*

*(Legislative day of Monday, February 6, 1978)*

The Senate met at 11:30 a.m., on the expiration of the recess, in executive session, and was called to order by Hon. MURIEL HUMPHREY, a Senator from the State of Minnesota.

## PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God, our Father, the searcher of men's hearts, help us to draw near to Thee in sincerity and truth. Make us to rejoice in Thy providential care over this Nation in prosperity and adversity, in success and in failure. Help us to live lives worthy of our vocation as the people's representatives. Give us grace to choose the harder right against the easier wrong and never to be content with a half truth when the whole can be won. Guard us against cynicism, flippancy, or irreverence in the sacred things of life. Strengthen and guide us all in the service of this Government and bring us at last to Thy higher kingdom.

We pray in the Redeemer's name. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, D.C., April 19, 1978.*

*To the Senate:*

Under the provisions of rule I, section 3 of the Standing Rules of the Senate, I hereby appoint the Honorable MURIEL HUMPHREY, a Senator from the State of Minnesota, to perform the duties of the Chair.

JAMES O. EASTLAND,
*President pro tempore.*

Mrs. HUMPHREY thereupon assumed the chair as Acting President pro tempore.

## LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the Senate return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## THE JOURNAL

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the Journal of proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## COMMITTEE MEETING

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the Armed Services Committee be authorized to meet during the sessions of the Senate today, April 19; Thursday, April 20; and Friday, April 21, 1978, to continue consideration of authorization bills pending with the committee, which must be reported to the Senate by May 15, 1978, under the Budget Act.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Madam President, under the time normally allotted to the majority leader, I would like to yield. I believe Mr. MORGAN has an order for 15 minutes. If he needs additional time, I shall yield to him the time normally allotted to me to use as he wishes.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

## ALASKA'S D-2

Mr. STEVENS. Madam President, one of the most important issues facing Alaska during the 95th Congress is the final disposition of Alaska's d-2 lands. This legislation will have a profound effect on future generations of Americans as well as Alaskans. Congressman DON YOUNG and I believe that it is important that all Americans, particularly those who are to be most greatly affected by this decision, be aware of the various proposals pending before Congress. For this reason, I ask unanimous consent that a brief summary of the proposals be printed in the RECORD at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

INDIVIDUAL PROPOSALS PENDING BEFORE CONGRESS

S. 1787, the "Alaska National Interest Lands Act", introduced by Senator Stevens on behalf of Governor Hammond and Congressman Young, was referred to the Senate Committee on Energy and Natural Resources. This legislation proposes the addition of approximately 25 million acres of national parks, wildlife refuges, wild and scenic rivers, and national forests in Alaska. Additionally, approximately 57 million acres of federal cooperative lands to be managed under the Cooperative Management system is proposed. The national park system would be increased by approximately 10½ million acres, approximately 8 million acres of wildlife refuges would be added. Nearly 6 million acres of new national forests would be created as well as 1 million acres of wild rivers. Upon the enactment of this legislation, the eight largest wildlife refuges would be located in Alaska, as well as eight of ten of the largest national parks in the country.

Senator Stevens' bill provides for the traditional four systems of management on the 25 million acres and for classification by the Federal-State Land Classification Commission of federal cooperative lands. Additionally, provision is made for dedication of state and private cooperative lands to be managed along with federal lands should the state and private land owners wish to be part of a cooperative management program. The Land Classification Commission would decide which lands would be open for mineral and other development activities. Agricultural development would be permitted under a long-term leasing plan to be developed by the Secretary of the Interior and the Secretary of Agriculture.

No "instant wilderness" is included in S. 1787, but all new conservation lands would be studied for wilderness potential over a five-year period. S. 1787 maintains the traditional role of the State of Alaska as manager of fish and game resources. In the event of limited resources, the subsistence activities of local residents would be granted priority over other competing consumptive uses. Additionally, S. 1787 guarantees "necessary public access" across d-2 lands, and provides that the Land Classification Commission shall determine the location and means of that access.

H.R. 39–S. 500–S. 1500: In early 1977, Congressman Morris Udall of Arizona introduced a d-2 lands bill which would create approximately 115 million acres of new parks and wildlife refuges in Alaska. This bill, which was drafted by an organization of environmental groups, was also introduced by request by Senator Jackson and by the late Senator Metcalf of Montana, in the Senate. In addition to the new parks, refuges, and wild rivers to be created, approximately 1.6 million acres of national forests would also be established by the legislation, and the new parks, refuges, and rivers along with the existing parks and refuges in Alaska would be declared "instant wilderness."

In the House of Representatives, H.R. 39 has undergone some changes during hearings and mark-up sessions. The House Committee on Interior and Insular Affairs has produced a revised version of H.R. 39 which would establish approximately 95 million acres of parks, refuges, and wild rivers along with approximately 2 million acres of national forests. "Instant wilderness" would be created on approximately 75 million acres with about 50 million acres placed in wilderness study.

Exploration and development of minerals would not be permitted in national parks, national monuments, national preserves, wildlife refuges, wildlife ranges, wild and scenic rivers, and wilderness areas in both versions. The revised version of H.R. 39 proposes a special process to allow the opening of some non-wilderness lands for mineral development following a recommendation by the Secretary of the Interior based on national need for a strategic mineral and its lack of availability from other sources. This

recommendation would be sent to Congress for its approval prior to any opening for mining.

The Carter administration proposal. On September 15, 1977, Secretary of the Interior Cecil Andrus announced the Carter Administration proposal which increased the "Morton bill" approximately 10 million acres and greatly reduced the number of acres allocated to forest lands. The Carter Administration proposes approximately 42 million acres as new national parks and 45 million acres as wildlife refuges, the remainder being allocated between forests and wild rivers. The proposal provides a subsistence priority including the definition of subsistence and a change in the traditional management roles of federal and state governments. Under the Carter Administration proposal, many of the state's traditional decisions would be delegated to the federal government with the state as the implementing agency once the policy decisions have been made.

The Administration bill proposes the designation of approximately 48 million acres of instant wilderness and provides that the remainder will be studied for wilderness potential. Except for two small minerals zones in the Wrangells-St. Elias National Park, the parks and refuges would be closed to mining although national preserve areas of parks and refuges would be open to sport hunting. The secretary's proposal addresses cooperative management by recommending the establishment of an advisory commission primarily made up of state and federal agency heads.

S. 499 In 1973, Secretary of the Interior Rogers C. B. Morton transmitted his recommendation for d–2 lands to the Congress. These recommendations, commonly known as the "Morton bill", proposed approximately 83 million acres to be added to the existing 4 systems, including 32 million acres of new national parks, 31 million acres of wildlife refuges, 19 million acres of national forests, and nearly 1 million acres of wild and scenic rivers. The "Morton bill" proposed that existing law would control most activities, including sport hunting, mineral exploration and development, and access. All d–2 lands would be placed in wilderness study for 3 years, and subsistence uses would be allowed up to the level in effect the date that the Alaska Native Claims Settlement Act was enacted.

H.R. 1652 and H.R. 2082 Congressman John Dingell of Michigan and Congressman Robert Leggett of California have each introduced legislation involving d–2 lands that would establish only wildlife refuges. The bills, entitled the Alaska Refuges Act and the National Wildlife Refuge System Organic Act, respectively, have been referred to the House Committee on Merchant Marine and Fisheries. The Alaska Refuges Act would place about 68 million acres in new refuges in Alaska. The National Wildlife Refuge System Organic Act would create approximately 86 million acres of refuges. For the most part, existing law would prevail on those refuges established by these bills, although sport hunting on refuges created by the Refuge System Organic Act would be allowed only by express provision of law or pursuant to regulation developed by the Secretary of the Interior.

The Federal-State Land Use Planning Commission for Alaska, an advisory body to Congress and the State of Alaska, was created by the Alaska Native Claims Settlement Act. The commission has transmitted a series of d–2 recommendations to Congress. These recommendations have not been introduced as legislation. The Commission proposal would create approximately 50 million acres of national parks, wildlife refuges, wild and scenic rivers, and forests in Alaska. An additional 40 million acres of land would be allocated to the Alaska National Land System which would be managed by designated federal agencies under the direction of the Alaska Land Classification Commission. The Commission would decide what lands would be available for specific uses and the agencies would manage the lands for those purposes.

Additionally, the Commission proposal provides for subsistence preference with management of fish and game species on a daily basis resting with the State of Alaska. All areas under the commission bill would be placed in a wilderness study category for a period of five to seven years.

## SOLAR ENERGY IN ALASKA

Mr. STEVENS. Madam President, the pages of the CONGRESSIONAL RECORD have reflected the accelerating interest in solar energy over the past couple of years, and especially in the past few months. Even in Alaska, which is far from the Sunbelt, attention is focusing on solar energy.

The March 12, 1978, issue of the Anchorage Times reported a study made by the University of Alaska into the economics of solar energy in Alaska. The study finds that solar water and space heating is now competitive with oil and electricity in some areas of the State. As fuel prices rise in the future, which is the only way they can go, solar energy will become competitive in other regions as well.

Often people in the south 48 States are surprised to learn that Alaska, with its vast oil and gas resources, is interested in solar energy. But petroleum products are as costly in Alaska as any place in the south 48. We are driven as much as anybody else to keep our energy bill down and to protect ourselves from higher energy prices in the future. Alaskans have been, by necessity, leaders in weatherization and insulation. Now we are looking to solar energy for the energy our homes and businesses need.

Madam President, I ask unanimous consent that the above-mentioned article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Anchorage Times, Mar. 12, 1978]

OUTLOOK FOR SOLAR ENERGY IS BRIGHT IN ALASKA

The northern latitudes receive more possible sunlight in a year than do the tropics—about 230 more hours of sunlight than at the equator.

A study of the economics of solar energy in Alaska by John Zarling of the University of Alaska shows that solar power in some cases is more economical than electricity or oil for heating water and homes.

Zarling's study says that a few citizens in the state have already begun building solar collectors, and others are designing or building solar homes and greenhouses.

Theoretically, a solar collector 1/500th the area of the United States, an area slightly smaller than Massachusetts, receives an amount of solar energy that, if converted at 20 percent efficiency, would provide all of this nation's present electrical requirements. However, technical and economic barriers stand in the way of immediate and widespread use of solar electricity.

Similarly, in total, the state of solar energy developments in Alaska is not significant to make any impact on energy use or public energy policy to date, a draft of Zarling's report said.

Technical barriers stem from two facts. First, the rays of the sun are spread diffusely over the surface of the earth so they must be collected from large areas to yield useful amounts of energy. Second, the rays are intermittent, which requires a means of storing the energy for use at night or on cloudy days.

The economic barriers involve the high initial costs of building solar energy facilities and developing a solar energy industry.

The federal Energy Research and Development Administration estimates that it may be the 1990s before solar electricity makes a substantial contribution to meeting the nation's energy needs.

Zarling's study shows that solar energy has potential in Alaska and he includes several analyses of various potential applications of solar energy including domestic water heating and active space heating systems.

The analysis was accomplished with the aid of computer simulations of solar energy systems using data available from five Alaska sites.

From his study, the following conclusions were made:

On Annette Island, one of the southernmost islands of the Alexander Archipelago in Southeast Alaska, solar energy is not currently competitive with low-cost, oil-fired hot water systems. Oil costs in the range of 43 to 52 cents per gallon are the rule in this area, however.

In Barrow where the highest electric cost of the study were found, solar energy was less expensive for heating water than electricity, however the North Slope Borough also has very inexpensive natural gas which could offset the advantage gained if solar energy were used.

In Bethel electricity costs are very high and oil is relatively inexpensive. Solar is not competitive with oil-fired hot water systems, but is quite competitive with electricity to heat water.

In Fairbanks electricity is fairly expensive, and oil is moderately priced. A solar hot water system is at the breakeven price with oil, and competitive with electrically heated hot water.

In the Matanuska area at the present cost of electricity, solar heating is competitive. In Anchorage, the economic situation is not yet favorable to solar energy systems, as electric rates are at about the breakeven point, the report said.

Don Markle and Patty Kirkwood, consultants to the Alaska Division of Energy and Power Development have been studying solar and geothermal energy for the past year.

"Solar in Alaska seems impractical because of the long dark winters," Ms. Kirkwood said. "But in the summer, solar energy can be useful for such things as heating water," she added.

"Hot water solar applications have practical applications all over the state," Markle said.

He explained that there are three types of solar energy: direct using such solar cells; active, using solar collectors; and passive, which can be as simple as how you orient your home in relation to the sun.

The state is also a member of the Solar Planning Office West which has received federal funds to promote commercialization of solar energy.

Clarissa Quinnlan, acting director of the Alaska Energy Office, said Friday that solar energy as well as other possible energy re-

sources provide us with an opportunity for the first time to survey what the potential applications are."

Ms. Quinnlan said Solar Planning Office West is planning to establish a permanent organization called Western Sun and that Alaska would most likely participate in activities with that group to help establish solar energy here.

"The state is involved in integrated planning, not an either or situation. We are looking at site specific evaluation for each area and what it has to offer. We like to think we are involved and know what is going on and avoid duplication of effort."

Mr. STEVENS. Madam President, I have no further requests for time on this side, and I yield back the remainder of my time.

## ORDER FOR RECOGNITION OF CERTAIN SENATORS ON THURSDAY, APRIL 27, 1978

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the four 15-minute speeches scheduled this morning for Messrs. JAVITS, PERCY, STAFFORD, and MATHIAS be vitiated and be transferred to the date of Thursday, April 27, 1978, immediately following the recognition of the two leaders or their designees under the standing order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## ORDER FOR RECOGNITION OF SENATOR BARTLETT ON TOMORROW

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, Mr. BARTLETT be recognized for not to exceed 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that after Mr. MORGAN completes his statement this morning, I be recognized for 5 minutes under the time allotted previously to Mr. JAVITS.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from North Carolina is recognized for not to exceed 15 minutes.

## FARM POLICY: THE NEXT STEP

Mr. MORGAN. Madam President, there is no sector of our economy that is experiencing more hardship than agriculture. Unfortunately, action taken by the House of Representatives this past Wednesday indicates that the Congress has been unable to respond to the needs of our farmers in a reasonable and acceptable manner. The defeat by the House of the Emergency Agriculture Act of 1978 came as no surprise to me. As we know, demographic changes in recent years have made that body somewhat less oriented to the needs of agriculture.

The preceding does not mean that I think the President would have signed this bill into law if the House had passed it. The President, after all, has used unequivocal language in stating his opposition to this legislation. At this point, it seems as though our energy, in trying to pass out an acceptable farm bill, has been wasted. While this may seem to be the case now, only time will tell. This question will ultimately be answered by the ability of the Congress and the administration to work together to develop a farm package that can receive the necessary support at all steps in the legislative process.

At this juncture, I must indicate my disappointment at the inability of the Executive and the conferees to agree on improvements in the farm program. I do not want to point a finger. But clearly the results of the House vote on Wednesday might have been reversed if the Executive and the conferees had agreed upon a common program in early April.

In my time in this body I have yet to confront a body of public policy that is more complex than farm policy. We know that weather has more to do with the productivity of farmers than any other single factor. Weather, coupled with uncertainty in export markets, makes predicting the success of farming doubly difficult. And then, American agriculture is anything but monolithic. In fact, there is no sector of our economy more diverse than agriculture. To illustrate one only has to think of tobacco farmers in North Carolina, almond growers in California, wheat farmers in Kansas and sugar beet growers in Minnesota.

Indeed, it is easy to see why our agriculture policy is so complex.

The preceding merely sets a context for discussion. We remain with the general question of what, if anything, are we going to do to respond to the continued depressed situation that our farmers are experiencing. The Senate has discharged its conferees on the Emergency Farm Act, so we cannot go back to the conference room. This means that we must start anew, at the first stage of the legislative process. Fortunately, the Senate Committee on Agriculture, Nutrition, and Forestry has several weeks of hearings by which to establish a sound legislative history.

It is easy to understand why the Members of this body may not want to begin this process again. However, the defeat of the Emergency Farm Act by the House does not make the farm crisis go away. We must respond to this situation in an adequate and acceptable manner. If not, the political leaders of this country will have to pay a heavy price. The politics of this situation are very simple. The farm vote remains the crucial swing vote in several States in many regions of this country.

Much of the problem in our failure to pass the Emergency Farm Act lies in the lack of success of farm leaders to demonstrate the severity of the crisis. Apparently, many consumers believe that groceries do not originate on the farm. The public has yet to understand that food originates at a farm and that a dedicated individual, the farmer, has spent enormous sums of money and toiled long hours under very unpredictable conditions to produce the foodstuffs of this Nation and much of the world.

One of the cruel ironies in all of this is that agriculture, without Government support, will suffer because of its very productivity. Our farmers are the most productive in the world, by nearly a factor of two, yet they remain very much at the mercy of weather. If this small planet experiences favorable weather worldwide for a couple of years, then supply suddenly spurts past demand. Recent experience shows that it does not take much in the way of oversupply to send farm prices falling at a disastrous rate.

Our farmers have lived with boom and bust for decades, many economists have told me. These economists ask why Government must continue to act in support of farmers. Many economists suggest that a good share of our farmers are inefficient and that Government should get out of agriculture and let the inefficient be removed from the market place. I find this thinking unacceptable. First, the case for Government intervention has become stronger, not weaker, in recent years. This is largely because of the cost spiral that farmers have experienced and a lot also is due to other factors. Virtually every input in farming has escalated in price. The margins by which the Nation's farmers survive have become much more narrow. Further, it is becoming increasingly apparent that classical economies of scale do not necessarily apply to our system of agriculture. Indeed, many small farmers are more efficient than large farmers. Also, there is growing concern throughout this Nation over the control of land resources. In my opinion, we must, as a matter of sound public policy, not encourage the reduction of the number of farmers in this Nation. Indeed, the small family farm must be the centerpiece of our farm policy.

Since the December 14 strike deadline for 100 percent of parity, our Nation's farmers have taken their case to the public. As many as 60,000 farmers have visited Washington at one time. In every State capital, farmers have paraded on tractors and every rural county courthouse has been the location of farmer-led demonstrations.

Unfortunately, molding public opinion is a process that takes much time. While I believe that there is growing urban concern for our farmers, public opinion on this matter has yet to fully develop. I am encouraged by the mail I have received from many cities on this matter. There is growing concern by people of all income levels, in cities and suburbs, for our farmers.

I suppose much of my interest in our farmers has its roots in the fact that I, too, am a farmer. I have seen firsthand how the costs of farming have skyrocketed in recent years. For example,

the cost of a tractor in North Carolina has tripled in the past 6 years and the cost of fueling that tractor, since the Arab oil embargo, has quadrupled. The costs of other inputs—fertilizer, insecticide, taxes, insurance, and labor as well as others associated with farming—have risen dramatically.

Coupled with the sharply escalating cost of inputs is increased involvement by our Government under the guise of improving the welfare of the general public, rather than the farmer himself. For example, the Environmental Protection Agency (EPA) has promulgated regulations concerning the treatment and disposal of animal waste. Moreover, the Occupational Health and Safety Administration (OSHA) has become deeply involved in farm safety questions. These are only two examples. Many agencies at various levels of government have become involved in the past few years in agriculture. The result of these actions is that farmers have to spend more money and time to meet governmental edicts.

I am not trying to suggest that these actions are not needed. Everyone wants to reduce pollution and no one would argue that we should not be dedicated to the safety of farm workers. My point is that these actions by Government have been a part of the sharp increase in the cost of farming.

The total cost spiral has had a vicious impact on rural America. The results of this impact have altered the structure of our agriculture. In 1977, this Nation lost 26,000 farmers, according to the USDA. In the past three decades, nearly one-half of our farmers have left the farm. Perhaps more importantly, a majority of our farmers no longer make the major share of their income on the farm. Clearly, many farmers must take jobs in the city just to be able to stay on the farm.

Farming is no longer a young man's occupation. The average age of the American farmer is now 53. The reason for this is not that young people do not want to get into farming. Rather, it is because bankers do not believe farming to be a good investment unless one begins with sizable capital. It is reassuring to know that the Senate will soon take up legislation which will make farming more accessible to the young.

We cannot address the current farm depression through an improved credit program, as much as that is needed. While I believe we should make this effort, it is clear that the flexible parity concept cannot be implemented this crop year. As an alternative, I urge strengthening of target prices for feed grains and wheat, to bring these commodities more into line with the cost of production. Further, I believe that we should consider linking future target price increases to increases in the Consumer Price Index. This basic approach, coupled with legislation to address farm financing needs, should help speed the reversal of the farm depression.

I do not want to be misunderstood as to my position on farm economic policy. It is distressing to me to see Government payments to farmers. Rather, I would prefer to see our farmers receive adequate prices from the marketplace. However, when prices fall, Government must become involved. We need only to think back to the Great Depression to see this need.

Much of the future economic strength our farmers will have will be determined by their success in export markets. I am pleased to see that the Foreign Agricultural Policy Subcommittee will be holding hearings on agricultural exports later this month. I will testify at these hearings to outline my views on what I believe should be done in this important area. The simple fact that 1 out of every 3 acres in grain production is devoted for export should cause us to work hard on export policy.

Most troubling to me about the economies of food is the declining share of the food dollar that farmers receive. Recent U.S. Department of Agriculture statistics indicate that the farmer now receives only 37 cents of the food dollar. This figure stuck in my mind when opponents of the Emergency Farm Act argued their concern about the impact of flexible parity on inflation. I do not understand how this argument can be made when middlemen of various sorts are receiving 63 cents of the food dollar, with retailers alone receiving 26 cents. Processors receive 20 cents, transporters 6 cents, and wholesalers 11 cents. Recently, I read that a Washington-based food chain's profits had jumped 27 percent in just a short period of time. In fact, the profits of the food chains have increased while farm prices were falling.

The Democratic Party has traditionally been the party of the farmer. Virtually every progressive policy with which I am familiar had its origins in the Democratic Party. The crisis we face today has little to do with the current Secretary of Agriculture, Bob Bergland. The price depressing oversupply we have today is the direct consequence of Secretary Earl Butz' admonition to our farmers to plant fence row to fence row. One cannot blame this entire situation on Mr. Butz but I believe that history clearly shows his policy to have been defective.

Madam President, we are now at a crossroads in our farm policy. We simply cannot turn our backs on the farmers. We must not decrease our commitment because of our inability to enact the Emergency Farm Act. Our capacity to meet the needs of agriculture will be tested in the next few weeks and months. I urge my colleagues, both rural and urban, to join with the 18 members of the Senate Committee on Agriculture, Nutrition, and Forestry to forge a cooperative alliance with the administration to shape a responsive emergency farm program.

I thank the Chair.

## ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from West Virginia was to be recognized for 5 minutes.

Mr. STEVENS. Madam President, I suggest the absence of a quorum and that it not be charged to the Senator's time.

Mr. SCHMITT. If the Senator will withhold that, I will make a very brief statement.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is here.

Mr. STEVENS. I withold the request, Madam President.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is now on the floor and he has 5 minutes.

## THE PANAMA CANAL TREATIES

Mr. ROBERT C. BYRD. Madam President, our work is done on the historic Panama Canal treaties. Of course, there is implementing legislation yet to come. But today we go on to other important matters.

We know that the tide of history is as swift and as sure as the coming of tomorrow.

But I feel that there must be a postscript to a day in time that may have charted the course of our relations with other nations of the Western Hemisphere for many years.

When the first word was uttered on the first day of debate on these treaties, a slim 8 percent of our Nation's population was convinced they were in our best national interests.

There was a pervasive feeling that we would be surrendering on the battlefield of greatness if we were to approve the ratification of these treaties. Their approval—in the words of political soothsayers—was not meant to be. These were the treaties that were not supposed to be approved for ratification.

Today, through the aid of the Nation's media, and especially with the help of National Public Radio which broadcast the debate, there is a greater understanding of these treaties throughout our country.

May I say with particular compliments to National Public Radio, and to the persons who made possible the transmission to the American people, in such clarity, of what was being said, and who analyzed the debate in the evenings and capsuled it in the RECORD, they did a masterful job.

There is no question in my mind but that the broadcast by National Public Radio resulted in a prolongation of the debate. Now, I said in my news conference this morning to news reporters that National Public Radio prolonged the debate. That was an inaccuracy. Senators actually prolonged the debate, but I do think that the broadcast of the debate resulted in its being prolonged. But I believe that may have been good. I think that the benefits, certainly, outweigh the disadvantages.

As a result of this broadcast—and it was an historic one—the first in the Senate's history and I am proud of that fact, it was possible for the people of

the United States and the countries to the south and north of us to look in on the Senate, as it were, and to see the debate in their mind's eye, at least, and to formulate a clearer judgment based on the information they were receiving through National Public Radio.

Granted, as the debate went back and forth, it may have been confusing because there were rebuttals and surrebuttals, and all of that. But I think it was a great service to the Nation for the media to have done what I think was a very fair and splendid job in reporting the debate.

I say this for the print media as well as for the telecommunications and other media.

It is still possible that some Senators, Madam President, who voted for these treaties may have offered themselves as sacrifices on the altar of courage.

This is especially true of several Senators who face reelection in the months ahead. Their wisdom, I feel, will be their vindication. Their vision, I believe, will be justified by history.

Madam President, I commend those on the other side of this issue, too—especially PAUL LAXALT, who led treaty opponents in an admirable way and with the utmost of dignity. After all, they helped mold and shape the treaties, and their contributions were necessary.

But again, I commend those who supported the treaty. I do not think I have ever seen a more remarkable display and demonstration of teamwork than I saw from day to day from Mr. CHURCH and Mr. SARBANES, who handled the issue with what I thought was as fine a grasp of every issue as I have ever seen any Senator demonstrate on the floor.

They met every issue head on. They were here, one or the other, or both practically all the time. They demonstrated a knowledge, so thorough, that I as one Senator was simply amazed.

I also thank those Senators who helped Senator SARBANES and Senator CHURCH, in handling floor debate, for example, Senator HOLLINGS, Senator LEAHY, Senator MOYNIHAN, Senator BAYH, Senator GRAVEL, Senator MATSUNAGA, Senator MUSKIE, Senator JAVITS, Senator CRANSTON, and others who were here, always ready, always knowledgeable and effective. It was a remarkable demonstration of organized effort and teamwork.

Once more I have to salute those Senators who demonstrated courage in the face of the greatest pressures I have seen brought to bear on the Senate in a long time. This said something good about the Senate of the United States. It was a treaty that was not supposed to be approved. Yet, two-thirds plus one stood up under this kind of pressure; and among that two-thirds plus one, I believe, were 16 Senators, on both sides of the aisle, who have to run for reelection this year. That was a demonstration of intellectual integrity and courage that I think should give the people of this country great confidence and faith in this institution.

Madam President, I cannot be too laudatory nor too generous in my praise for the courageous role played in this effort by my dear friend—my counterpart across the aisle—the distinguished minority leader, HOWARD BAKER.

He worked tirelessly with us in the long, long days during which we considered the treaties.

Always courteous, always affable, always cooperative and accommodating, his assistance was simply indispensable to our labors. I commend him, and I thank him for his understanding and for his help and for his strength in never flinching from his duty.

Finally, Madam President, there will be those who will second guess. Perhaps they read or heard this morning that General Torrijos was poised to shut down the canal if the vote had been in the negative.

While I do not agree with the prudence of his comments, I understand his feelings, and I understand the feelings of the Panamanians. Our great history—from the Revolutionary War until today—has had one central theme: We as a people must hold the reins of our own destiny.

I commend the Panamanians. They have exercised restraint through these debates. We know that for 75 years Panama—through many leaders with varying political leanings—has been faithful to a treaty that runs contrary to that country's interests.

So today, Madam President, as we close this chapter in the saga of two nations, I believe we have opened the door to unexplored frontiers of cooperation not only with Panama but also with the other Latin American nations to the south of us. In doing so, we have enhanced our image and our strength throughout the world, and we have shown that the United States is not afraid to stand by the principles it espouses.

We approved these treaties from a position of strength, not weakness, and this is the way history will record it.

## AIR TRANSPORTATION REGULATORY REFORM ACT OF 1978

The PRESIDING OFFICER (Mr. ANDERSON). Under the previous order, the Senate will now proceed to the consideration of S. 2493, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 2493) to amend the Federal Aviation Act of 1958, as amended, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Time on this bill is limited to 4 hours, equally divided between and controlled by the Senator from Nevada (Mr. CANNON) and the Senator from Kansas (Mr. PEARSON), with 1 hour on any amendment, except one amendment by Senator SCHMITT and one amendment by Senator ZORINSKY, on each of which there shall be 2 hours, and 20 minutes on any debatable motion, appeal, or point of order.

Mr. CANNON. I yield myself such time as I may require.

Mr. President, I ask unanimous consent that the following staff members of the Committee on Commerce, Science, and Transportation have privileges of the floor throughout consideration of S. 2493, the Air Transportation Regulatory Reform Act of 1978: Aubrey Sarvis, Ed Hall, Chip Barclay, Frank Krebs, Maureen Sheppard, Will Ris, Sara Ross, Malcolm Sterrett, and Doug Buttrey.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I bring to the Senate today one of the most significant pieces of legislation in the past several decades. Important not so much by itself, but because it represents one of the only opportunities this body has had in recent years to vote for less Government regulation and more free enterprise for a major U.S. industry. Too often in the Senate we are faced only with the choice of one new type of regulation or another. In the complex society in which we live, it is perhaps inevitable that important problems seek government solutions. Nevertheless, I for one, am sincerely tired of adding regulation and Government control to our peoples' lives, and I welcome this real and substantial opportunity to eliminate regulation where there is clear evidence that it has not served the regulated industry nor the consumers. This legislation is also important, as President Carter said twice in his address to the country last week, because it will have an anti-inflationary effect.

The Air Transportation Regulatory Reform Act of 1978 was developed through a slow and thoughtful debate in the Committee on Commerce, Science, and Transportation. The committee met more than 20 times to mark up a bill before voting 13 to 3 to send this legislation to the Senate. And, I think we learned something about ourselves during that debate. We learned that it is not as easy to support "free enterprise" and "less regulation" as a lot of us make it sound in our general speeches. When powerful corporations fear leaving their protective cocoon, a cocoon which has guaranteed survival, but discouraged profit, it is surprising to me that these companies are able to change the basic philosophy of some of my most respected colleagues.

I ask Senators to reflect on the arguments they will hear during this debate. Virtually all the arguments against airline reform, and automatic market entry in particular, are identical to the classic arguments of academicians who oppose a free enterprise economy—uneven allocation of resources, concentration of economic power, inefficiency, unfair advantage of those with greater resources, all are arguments we find anathema in the absolute. But I can assure Senators

that these same arguments with technical trimmings will be heard on the floor of the U.S. Senate regarding this bill.

If Senators believe that a free enterprise marketplace is an efficient allocater of resources, in plain English if they think it works, it is totally inconsistent to accept our opponents' arguments.

Opposition to this bill cannot be justified by claiming that there is something inherent in the structure of the airline industry which requires strict regulation. Such arguments are nonsense. The airline industry clearly does not have the characteristics of public utilities which must be regulated because their sheer size prohibits any competition. Indeed, it is difficult to imagine an industry whose main capital assets—airplanes—are as mobile. What industry could be better suited for adapting to the marketplace?

Make no mistake: Communities are not receiving air service today because of any regulatory system or by the philanthropic nature of airline management. Communities receive service because of two reasons, either there is a market to be served at a profit, which is true for four-fifths of today's air carrier cities, or they are served because a Government subsidy is provided. The latter group of small communities are protected by this bill, and the former group will benefit from the innovations and efficiency of competition.

Indeed, the only area of the airline business which requires substantial Government intervention is service to the Nation's very smallest communities where there are not enough passengers for profitable operations. I think we can all agree that air service to small isolated communities is of substantial enough public benefit to justify continued direct Government support.

But the current system of subsidizing small community airline service is irrational. We pay 12 carriers over $70 million a year, without the slightest regard to the quality of service being provided. And virtually no elected representative can be unaware of how dissatisfied many small communities are with this service.

All of that will be changed under this bill. For the first time, the CAB will be required to leave Washington, actually go out to the small communities throughout the country, and sit down with local and State representatives to determine their essential air transportation needs. Then the CAB will have the duty to see that these needs are met.

Let there be no doubt—there is an absolute guarantee of service to all communities now receiving it for at least 10 years. After that the CAB has an affirmative duty to see that small communities throughout the country are well served. In contrast to the dismal record of the past 15 years when over 175 communities have lost service, no community will lose air service as a result of this bill. Furthermore, the CAB is required to review the air transportation needs of every town that has lost service in the past 10 years to see if service should again be introduced.

Who supports S. 2493? Do consumer and civil groups support this bill? Yes, the Aviation Consumer Action Project, the National Taxpayers Union, the American Association of Retired Persons, Common Cause, the Americans for Democratic Action, and the American Conservative Union, to name a few. Do government groups support S. 2493? Yes, the Carter administration, the Ford administration, the Civil Aeronautics Board, the National Governors Association, the National Association of State Aviation Officials, the Airport Operators Council International, and the National Association of Counties. Does business support S. 2493? Yes, the National Association of Manufacturers, the National Retail Merchants Association, the National Industrial Traffic League, Sears, Roebuck & Co., and the American Retail Federation. Do any airlines or airline unions support this bill? Yes, Hughes Air West, Frontier, United, Pan Am, Alaska Airlines, PSA, Southwest, Federal Express, Flying Tiger, and the charter and commuter airlines. The pilots, flight attendants, and airline employees unions of Hughes Air West and the Pilots of United support S. 2493.

This legislation is supported by a diverse coalition of liberal and conservative, business and consumer, aviation and government groups.

Who opposes this bill? A few of the certified airlines, the number of which has steadily grown smaller, and some airline unions who have been told by the airline managements opposing the bill that it will jeopardize their jobs. In other words, some members of the closed club who want no new, different members in their midst because it might change business as usual.

One might ask, will reform really be of benefit, or is it one of those issues which carries many promises but few results? You need only look at the past year where simply talk about new entry and activist CAB resulted in a variety of fare discounts. These fare discounts combined with a good year, generally, and produced a record year in profits and passengers for many airlines. Other empirical evidence of reform's value is apparent in Texas where a carrier outside CAB control, Southwest Airlines, has doubled the passengers in a number of markets, both large and small. Southwest's success in offering low fares which have created very high-load factors and equally high profits is also evidence that less Government regulation does benefit consumers and airlines.

However, under today's law, such benefits are only available in a handful of new markets, after years of legal wrangling, and if there is a CAB disposed toward competition rather than protectionism.

Has the regulatory system worked to the advantage of today's certificated airlines? Not hardly. The airline industry has the worst debt-equity ratio of any major U.S. industry.

I submit to you that the evidence is clear. Regulatory reform will provide real and substantial benefits to both consumers and the airline industry.

Do we really need new legislation? I think CAB Chairman Kahn said it best in his testimony before the House Public Works Committee. I quote:

> You have seen in recent years an abrupt change in the philosophies of those appointed to administer the regulation of this industry. We are, I am proud to say, making important changes. But if a board can do a 180 degree about face in two years, its successor can go another 180 degrees—and 180 plus 180 is 360. Only Congress can say which of these it prefers, and make sure this whirling dervish ends up facing in the direction you want it to face.

I ask my colleagues to listen carefully to the debate on this bill. Listen to the arguments about why airline competition would be suicidal, destructive, inefficient, and harmful to communities and consumers. Then ask yourself why does competition work in supermarkets, soap suds, drugstores, and 95 percent of our industries without the major distortions our opponents predict for the airline industry.

I ask my colleagues to support S. 2493, because it will serve the American consumer, the airline industry, and our image as legislators who do more than recite political rhetoric about less regulation and more free enterprise.

Mr. President, I shall review briefly a summary of the provisions of the bill.

Section 401 of the committee print establishes new guidelines for the CAB award of route authority. The new tests put an emphasis on greater competition in the airline industry. This section meets an important need of the communities by placing a new emphasis on dormant authority awards and, most important in the move to less regulation, this section establishes a moderate graduated automatic entry proposal which allows air carrier management to select one and later two new routes a year without Government interference.

Further safeguarding the impact of the automatic entry are the built-in protections for air carriers and the emergency authority of the CAB to change the program if it is disrupting the system or service to any region.

Under sections 401 and 419, exit is permitted after notice of 90 days, unless the carrier is the last one serving the community in which case, extensions are required if no replacement carrier has been found.

Sections 408, 409, 412, and 414 clearly define the CAB antitrust immunity powers and puts an emphasis on the Board's approval of those mergers and agreements which are not anticompetitive.

Section 420 establishes a new class of certificated air carriers for the purpose of serving small communities.

Section 419 creates a new subsidy system based upon the needs of the communities while phasing out over 7 years the 406 subsidy systems that is based upon the needs of the air carriers.

All communities currently listed on air carrier certificates are guaranteed service for 10 years and new communities are to be considered for subsidy eligibility.

Most importantly, these sections put a new emphasis on the CAB consulting and working with community and State representatives.

Section 1002 establishes a no-suspend zone 35 percent down from the base fare level. On the upward side, fares may go up 5 percent in markets which are competitive but no upward flexibility is provided in monopoly markets. The base fare level is adjusted semiannually to account for inflation or deflation in the airline industry. All fares which are predatory or discriminatory may still be found unlawful by the board after a hearing.

Section 1010 assures all parties who file an application at the Board that they will receive an answer within 10 months. This section places an emphasis on streamline procedures where appropriate. Such a requirement of timely action by the Board is a key feature which relates to all other sections of the proposed bill.

Other sections of the bill include the declaration of policy, safety policy, exemption authority, Federal preemption, aircraft loan guarantees, and labor protection.

Mr. President, at this time I ask unanimous consent that a more detailed summary of the provisions of the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

MAIN PROVISIONS OF S. 2493

POLICY DECLARATION AND GUIDELINES FOR PUBLIC CONVENIENCE AND NECESSITY

Strong reliance on competition, new entry, low-cost and innovative service. Explicit protection for small community air service. Maintenance of safety in air commerce and of existing carriers to earn a fair and reasonable return on investment. Avoidance of undue industry concentration and unfair, predatory or anticompetitive practices.

TRANSITION PERIOD

Provides different time periods to ease the transition to less regulation—5 years for carriers, 10 years for employees who may be affected by their carriers adjustments to the new system, 10 year guarantee of essential service to small communities, and new subsidy system to replace current subsidy program over 7 years.

401 ENTRY

Less restrictive requirement for 401 certification—instead of applicant proving entry is required by public convenience and necessity, they need only show the service is consistent with PC&N.

AUTOMATIC MARKET ENTRY

Allows existing carriers to automatically serve 1 new market a year for the first 2 years and 2 routes a year thereafter. For the first 3 years all carriers can protect 3 of their routes from automatic entry, in the 4th year 2 routes may be protected and in the 5th year 1 route. Large carriers will have no limit on the total number of unprotected routes on their system that may be entered by other carriers. Small trunks may only have 3 unprotected routes on their system entered during the first year, four in the second year and no limit thereafter. Local service carriers may have only 2 unprotected routes on their system entered for the first 3 years and no limit thereafter. CAB must report to Congress annually on the progress of the automatic entry program and in the fourth year make recommendations on if and how the program should be adjusted. CAB would also have emergency powers subject to congressional veto to change the program if it causes serious dislocations to the system or any region of the country.

DORMANT (UNUSED) AUTHORITY

Any 401 carrier may file an application for nonstop scheduled air transportation between 2 points listed on another carrier's certificate and being served by no more than one carrier. The CAB must make the award if the incumbent has left his authority dormant for a specified period and if the award is consistent with the PC&N. CAB has discretion to terminate dormant authority of incumbent. CAB is directed to give priority to these applications and decide them within 90 days of filing.

EXIT

Carriers may terminate service to a point within 90 days. If the carrier is the last one serving that community then the CAB may require the carrier to continue service for another 90 days while a replacement is secured. If a carrier has not been secured at the end of 180 days, the CAB shall require the incumbent to continue service for 30 day renewable intervals until another subsidy eligible replacement is secured.

LOCAL AIR CARRIERS

Bill establishes a new local air carrier certificate related to aircraft size (36 seats, 40,000 lbs.) Certificate provides benefits of interlining, joint fares and loan guarantees. New certificate intended to draw into federal system today's commuters and make them eligible to receive subsidy.

SUBSIDY

Bill creates new subsidy program replacing over 7 years the existing program which bases subsidy on the carrier system needs. New subsidy section determines subsidy based on community needs. In setting subsidy CAB must specifically consider development of an "integrated, linear" system to best meet community needs.

GUARANTEE OF ESSENTIAL AIR SERVICE

All communities currently listed on a carrier's certificate are guaranteed essential air service for 10 years. After one year the CAB may add new points as eligible for federal subsidy. Essential air service is defined as a minimum of 2 daily roundtrips five days per week.

REMOVAL OF RESTRICTIONS

Beginning on January 1, 1979 and thereafter, the CAB is prohibited from including a closed-door restriction on any certificate issued and any closed-door restriction in existence at that time becomes void, with some minor exceptions.

EXPEDITED PROCEDURES

CAB required to complete applications for new service within 10 months. CAB is directed to streamline its hearing process, to limit hearings to questions of material fact, and to use show cause procedures in lieu of unnecessary formal hearings.

REQUIREMENT TO PROVIDE SERVICE PROMISED

CAB to review the performance of new certificate holders providing innovative or low-cost transportation and may modify or revoke the certificate on the grounds that such service is not being provided.

FARES

Establishes a zone within which carriers may freely raise or lower fares without CAB approval. Fares may be increased 5% on competitive routes and decreased 35% from the semi-annually Board adjusted standard industry fare level. No upward flexibility is provided for monopoly markets.

LABOR PROTECTION

Provides a program of financial assistance (not to exceed 36 monthly payments) to protected employees (those with 4 or more years in the industry) who lose their jobs, are forced to relocate or who suffer a reduction in wages brought about by a bankruptcy or major contraction of their air carrier employer. CAB must find the bankruptcy or contraction was caused in major part by a change in the regulatory structure brought about by the act. A 15% reduction in a carrier's total number of full-time employees occurring within a 12 month period constitutes a major contraction. The program is of limited duration, covering only those bankruptcies or contractions occurring within 10 years of enactment.

LOAN GUARANTY

Renews the current loan guaranty program for five years extending it to include the guarantee of loans to the new class of local air carriers and raising the present $30 million (which is presently obligated) on loan guaranties to $100 million.

While the bill effects no safety regulations

SAFETY STUDY

or their implementation, to insure a high level of safety during the transition to less regulation, the Secretary of Transportation is directed to conduct continuous review of effects of the act on operations and to report to Congress annually for the first five years.

ANTITRUST IMMUNITY

Changes are made to tighten the CAB's authority to confer antitrust immunity and approve anticompetitive agreements and mergers.

Mr. CANNON. Mr. President, I reserve the remainder of my time.

Mr. PEARSON. Mr. President, I yield myself such time as I may require.

Mr. President, although this legislation is a matter of high priority of this administration and referred to as recently as the President's address dealing with inflation in this country a few days ago, today marks the culmination of more than 2 years that we have sought to form and perfect, as best we could in the legislative process, an airline rewriting or deregulation in a phased manner, and the bill that is presented here today represents that effort.

Mr. President, I particularly pay tribute to my distinguished colleague, Senator CANNON of Nevada, the chairman of our committee for his patience and perseverance through these 2 years and the leadership he has exhibited in being one of the chief architects of bringing this measure to the floor of the Senate.

Mr. President, I had some reservations on this total subject as it has been worked upon in the last 2 years, and that reservation did not relate to the problems of many of the great huge certified air carriers, but related more to the problems of local air service in those rural parts of our country where rail passenger transportation no longer exists, where bus service is inadequate, and where in many instances the commuter service or local air service is really one of the last means of people achieving a sense of communication and doing

their commerce and business as is necessary.

Mr. President, that concept was incorporated in a piece of legislation numbered S. 292 that I introduced, I think, 2 years ago, and which, in large part, has been meshed into and included in this particular piece of legislation. I think it adequately fills the need of the local air carriers in a new and abbreviated certified manner with a new subsidy program.

That subsidy program, Mr. President, illustrates and exhibits one of the principal hallmarks of this particular legislation. It is a phased deregulation. It is not total deregulation. It is an attempt either through entry or exit or the pricing mechanism or the subsidy to have a phased staged change of direction so that our aviation laws and the guidelines of the CAB will direct us toward a greater degree of competition and away from that barrier of protection which we have existed under for so long.

So, Mr. President, I think this is a measure which has been considered as thoroughly as any I have worked on in now several years of my experience here in the U.S. Senate, and I am very hopeful that it will receive the approval of the Senate, and that the House will go forward and we can seek to change the direction of regulation in this particular industry and, indeed, let it be some sort of a guidepost for other deregulation measure that surely shall come along the road.

Mr. President, today marks the culmination of more than 2 years of work by the Committee on Commerce, Science, and Transportation in preparation for consideration of this legislation by the full Senate. At the outset, I want to commend my distinguished colleague from Nevada for his patience and perseverance during the committee's consideration of this important legislation. I cannot recall any bill that has received closer and more extended consideration by the full committee. While passage of this legislation is a priority matter with the present administration, I would like to point out that the effort to achieve reform of the economic regulation of commercial air transportation began with the Ford administration.

When we first started down this road, I had some serious reservations about the idea of removing the economic regulatory controls over commercial air transportation. My concern was not for the "Big Apples" of this world. Rather, my concern was for the small and isolated communities across the country. Communities that depend upon subsidized air service for economic growth and stability. But I now believe that the bill adequately protects such communities.

I still have some trepidation about total deregulation of entry and pricing. But it must be emphasized that this legislation does not mandate total deregulation. In fact, the bill perhaps falls too short in removing regulatory controls over pricing and entry. At least one airline president agrees with that position. In a recent address, the president of American Airlines, one of the five largest carriers in the free world, stated that he preferred total and immediate deregulation rather than the legislation now pending in the Congress.

Indeed, this legislation is a mild dose of reregulation. At best, it only begins to chip away at the archaic but well entrenched foundation of regulation. There are those who continue to argue that total deregulation is the answer. Conversely, there are those who prefer the status quo. It appears that the most prudent approach lies somewhere between these two extremes. What is needed is balance, gradualism and transition. I believe this legislation is as close to the mark as we can come to achieving that goal.

This bill is not the end all and be all. But it is a beginning. The roots of economic regulation of the airline industry run deep and its tentacle-like branches have been allowed to grow until they have begun to choke the industry. Airlines today are unable to make the two most basic of business decisions—which market will be served and what price will be charged. Perhaps these regulatory controls should have been pruned years ago. Maybe we have neglected this entire area too long. In any event, we have in this bill an opportunity to begin putting basic business decisionmaking back into corporate board rooms and removing that process from the cloistered ivory towers of Federal bureaucracies.

The goal of regulation should not be to replace corporate management with civil servants. Rather, it should protect consumer interests and guard against predation.

Those who prefer the current law to any statutory change point to the most recent decisions of the Civil Aeronautics Board allowing somewhat more entry and pricing flexibility and argue that existing law seems to function quite well these days. Indeed, the CAB, under the leadership of its present Chairman, has formulated some rather innovative measures which, I might add, have not all been fully tested either in the marketplace or in the courts. The question remains: What happens when the leadership changes? Upon taking the helm, different captains often chart different courses and may have significantly divergent views about their ultimate destination. The fact is, the CAB has until the recent past been extremely protective and has rigidly controlled entry and pricing. I for one would not want the CAB to revert to such overly restrictive regulatory policies, and I believe the best way to preclude such an eventuality is to pass the legislation before the Senate today.

Mr. President, one of my major interests through the years in the Senate has been the development of progressive air transportation policy, primarily with respect to small community service. Early in the consideration of this legislation, I proposed a small community air service program that would guarantee that small and medium-sized communities would not suffer irreparable harm as a result of this legislation. An integral part of that proposal is the development of a new subsidy program and a 10-year service guarantee. Central to the plan is a policy statement that provides—for the first time—statutory authority for making Federal assistance available to assure the continuation of small community service where appropriate. The adoption of this proposal was essential to the committee's reporting this bill to the full Senate and I urge my colleagues to oppose any attempts to maintain the current subsidy system beyond the 7-year transition period provided in the bill.

By far, the most controversial provision of this legislation is the one providing a voluntary automatic entry program. Without going into great detail, the program allows carrier managements to decide on a controlled and limited basis what new market or markets that carrier should enter in any given year. Such entry would occur, should a carrier elect to exercise such right, without CAB approval. The businessman then would be making the decision rather than the regulators. I want to emphasize that this program is a very moderate approach, and with the protective features in the program, provide adequate protection against increased industry concentration.

I am aware that some of my colleagues on both sides of the aisle oppose the inclusion of such a provision in this legislation. For years, I have listened to business people and my colleagues in the Senate complain about the interference of Government in industry. Now we have an opportunity to begin to reduce some of that burdensome interference. There are those who say that the CAB should promulgate an automatic entry program by regulation. To that, the CAB Chairman has stated that he would prefer that the Congress provide explicit statutory provisions for the CAB to administer rather than leave the development of the program to the CAB. The automatic entry program in this legislation is a reasonable approach and I urge my colleagues to support it.

Throughout this process, airline labor has almost unanimously opposed the passage of this legislation. They contend that the bill will result in contractions among certain carriers and therefore result in fewer jobs. We have also heard the scenario that reduced economic viability will have a serious effect on airline safety. I find little merit in either argument. Increased traffic generation through more moderate fares and access to new markets will enhance employment opportunities. Likewise, it is inconceivable that an airline would operate with equipment that is not totally functional or crews that are not properly trained. The Nation's airline employees are among the most highly trained and well paid of any group of employees in the American labor force. In my judgment, there is nothing in this legislation that in any way threatens their relative position in the marketplace.

During committee markup of this bill, certain committee members expressed concern about the possible impact of this legislation on individual employees. In an attempt to address that concern the committee adopted an elaborate labor protective provision. In so doing, I believe the committee overreacted. In committee

I favored a much more moderate approach proposed by Senator ZORINSKY and which is incorporated in printed amendment No. 1707. The Zorinsky amendment would remove any possibility that Federal assistance be made available to airline employees which are among the most highly skilled and marketable members of the labor force. Although the more moderate approach did not prevail, I still support it and would encourage my colleagues to support the Zorinsky approach.

Should the merger of a failing carrier become necessary, there is ample precedent at the CAB for the imposition of extensive labor protective provisions in such cases including such benefits as moving expenses, seniority list integration and mandatory binding arbitration. In short, existing practice and procedure adequately protects the airline labor force and the traveling public in cases where a particular carrier fails.

Mr. President, this legislation is very important. It has received the attention and debate it deserves and the time has come for the Senate to work its will in the public interest. I am confident that after careful consideration, my colleagues will join with those who support this legislation and take that critical first step toward the reform of economic regulation of American business.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. PEARSON. Mr. President, I shall be glad to yield to the Senator for such time as he may desire.

Mr. SCHMITT. I thank the distinguished Senator from Kansas. I realize and commend his longstanding interest and leadership on the issue of deregulation, and airline deregulation, in particular. I certainly want to acknowledge the yeoman effort that Senator CANNON and the staff, both minority and majority, of the Commerce Committee have done in bringing this bill through some difficult air, some stormy air.

I believe we had 19 markup sessions. I believe that was a record for the Commerce Committee. But I do believe that the product that has emerged is one which deserves the support of the entire Senate and of the Congress and of the country.

We would also be remiss if we did not remind our colleagues that it was through the efforts of the Senator from Massachusetts (Mr. KENNEDY) that a great deal of the momentum was built up for the measure we are discussing today. I am not sure he would recognize fully what we have created out of the early efforts, but I do believe the interests of all Americans are served by S. 2493.

Mr. President, this week of April 1978 may long be remembered for far more important action in this country's future than even yesterday's historic Senate vote on the Panama Canal Treaty. This week might well be recalled, as history progresses, as the week in which the Senate of the United States took the first significant step toward relieving the American consumer and American business from what is now perceived as an oppressive regulatory burden which has been imposed upon it by Congress during the last half century.

If we are successful in our efforts, future generations may view our accomplishment as the turning point in our economic and political development in our third century of national existence.

No one realizes more than I that the path we have been asked to follow has potential pitfalls. We do run a risk of damaging our great airline industry and the people whom it serves, but we run that type of risk any time we act to change the regulatory conditions under which business and the public have operated. Only now the risk comes about because we are trying to reduce those regulations, we are trying to restore a degree of free enterprise, a large degree of free enterprise, gradually into a major portion of this Nation's transportation system.

It is, in my opinion, a small risk and a risk well worth taking. We can minimize, if not eliminate, that risk if we realize that it will remain the duty of Congress to oversee, to review, and, if necessary, to act to change the law or the actions of the executive branch under this law.

I might, Mr. President, draw an analogy to my past experience as a scientist.

Scientists with experience in testing the capability of natural systems to adapt to new environmental conditions generally follow a relatively simple procedure. They insure that the natural system is in a steady state of activity that is well understood and then expose that system to new conditions long enough for the system to adapt and long enough for a new steady state of activity to come into existence. Then, the new state is analyzed and further, more severe exposure to new conditions is planned based on the response of the system to the first change. If any change is too great, the natural system may be damaged or go into unstable oscillation as it tries to adapt.

This procedure would appear to be analogous to that we should follow as we attempt to deregulate the very complex natural system called the regulated airline industry. I believe the present regulated "steady state" condition of the airline "system" is well understood. The exposure to new conditions of less regulation should be of sufficient magnitude to have a measurable effect but not so great as to hurt the system. The length of exposure to the new conditions should be long enough for the units of industry, Government, and consumers to adapt and reach a new steady state. If the parameters of exposure to competition are chosen carefully, the second exposure can probably be as complete as desired.

Mr. President, my position on this issue of airline deregulation has not been reached quickly or without great deliberation. I participated in, I believe, all or almost all of the markup sessions, and during those numerous executive sessions of the Commerce Committee this Senator made every effort to fully examine all the issues and debate all the issues that were before us. The compromises that have been reached I think are well worth defending, not to say that some might not be improved.

In an effort to learn more about the manner in which this bill would impact on the industry, on the consumer, and on local governments, in August of 1977 I wrote a large number of letters to industry, Federal, State, and local officials, and employee organizations.

Then, as now, the dominant issue in the debate was that of automatic market entry. Automatic entry is the most critical new condition that will be faced by the airlines system if the changes in air transportation regulations now being considered by the Senate are enacted into law. Many other conditions will interact with automatic entry; however, it is clear that this concept, at least philosophically, will set the stage for the airline industry of the future. In order to examine the effect of automatic entry on the airlines system, limited automatic entry is provided for in the bill for the first few years.

Based in large measure upon the input I received, and also upon my personal philosophy of what Government should and should not do, I attempted to modify the automatic market entry provisions contained in what was then the committee print. My efforts met with limited success. Instead of the original automatic market entry rate of two per year for 5 years I suggested one per year for 5 years. The provision in the bill before us today calls for one per year for the first 2 years and two per year from that point on.

In my additional views contained in the committee report which accompanied this bill. I went to great lengths to point out my concerns with the automatic market entry provision. I still have those concerns, in part because after the report was published I again wrote to those who had received my letter of August 1977, to again solict their views. Again, great concern was raised about the concept of automatic market entry. Now, I want to make it clear that this Senator supports automatic market entry as a concept, although I still believe a lower and more prudent rate of entry would be wiser. This is particularly true when viewed in the context of the equally important provisions providing for essentially unrestricted entry into routes with dormant authority. However, automatic market entry is an extremely important part of this bill, for it allows the managers of our airline industry to exercise certain business judgments increasingly free from Government regulation. Further, it must be remembered that each year the CAB must submit a report to Congress on how automatic market entry is working, and what its effect has been on the industry and on the consumer. In 1983 a detailed CAB report to Congress on automatic market entry is due, directed particularly to the authorizing committees of that Congress, which will evaluate the progress of the program. The importance of this review, Mr. President, cannot be underestimated, because, as I have indicated, none of us can, unfortunately, predict what the effect of what we do here in the next few days will be. However, I do believe

that we will find it generally favorable, but that certain modifications may be required as we continue these reviews.

One might have expected the leaders of the airline industry to jump at the opportunity to exercise their independent business judgment on behalf of their respective airlines. But for the most part they have not chosen to do so. This is perhaps understandable for they are conditioned to doing business within a regulatory framework and somewhat predictable although economically difficult circumstances have arisen from the conditions so imposed. Their judgment ought not be hastily condemned, for they have grave obligations to their companies, stockholders, employees, banks, thus their caution is understandable. But, Mr. President, we in the U.S. Senate must of necessity march to the sound of a different drum—the drum that is now beaten by our constituents, a drum that asks for less expensive, more efficient Government, and less regulation of their daily lives. We must take into account the increasing demand and clear need for regulatory reform where regulation may be necessary, for it is regulations and paperwork that, in a large measure, are strangling the free enterprise system that has made this country great. We must move to heed the cries for relief from the American consumer and American business—relief from unreasonable Government interference. This bill will start us on the path toward providing relief for business and at the same time lowering the cost to the consumer and taxpayer.

My primary concern during the entire consideration of the bill has been what would happen to the small communities of our country. I am pleased to state that under the provisions of this bill, small communities will be treated most fairly. A State like New Mexico, which I represent, and similar States throughout the rural portions of the United States, both continental and otherwise, have as a major factor in their future growth and development the need for readily accessible airline service—particularly airline service between small communities and the central hubs of activity. For the first time, small communities will have a guarantee of air service under this measure. Given the fact that since 1960 about 180 communities have lost certified air service, the legislation before us is at the very least a major step forward.

These are the provisions the bill contains to insure adequate and increasingly available service to small communities:

First. The policy declaration specifies protection of air service to our small communities with assistance where appropriate. This ought to insure the necessary level of subsidy to guarantee air service by carriers serving small communities.

Second. It provides a guarantee of air service to communities now eligible for subsidized air service for 10 years. This means 10 years of essential air service will be provided, with that essential service guaranteed without interruption. Essential air service is defined as a minimum of two round trips per day, 5 days a week, to at least one principal community of interest. Present law contains no such guarantees.

Third. If an airline presently providing service to a small community wanted to withdraw, the bill requires the CAB first has to find a replacement airline. Thus no subsidized city would experience a loss in air service during the 10-year period. It is my belief that well before the end of this 10-year period, commuter type air service to small communities will have mushroomed in the rural States and rural sections of this country.

Fourth. The bill creates a new class of federally certified air carrier to be known as local air carriers. They will provide air service to cities which require subsidy—at least subsidy until the system becomes economical, which I think will be very rapidly, Mr. President. This new designation of local air carriers should encourage the development of more frequent and higher quality local commuter type air service.

Fifth. Such local air carriers, under this bill, will now be able to operate aircraft of up to 36 seats and with a gross takeoff weight not to exceed 40,000 pounds, and with less regulation than other certified carriers—an extremely important regulation, not only for the development of service but for the development of a safer, higher quality commuter aircraft.

Again let me point out, Mr. President, that even at the termination of the 10-year period, the CAB has the specific mandate to maintain "a comprehensive and convenient system of continuous scheduled airline service for small communities and for isolated areas with direct Federal assistance where appropriate."

With regard to this most important issue of air service to small communities, I have not been content with my own opinion. Thus, I wrote to those who should be in the best position to advise me and the Senate on this issue, the local officials who have to deal with the problems of transportation in their communities. This is what they have to say:

First. In a letter dated March 15, 1978, from Bob White, director of the Department of Aviation, State of New Mexico:

All things considered, we support this bill. It appears to be far preferable to anything we have seen from the House. And, it is certainly more sensitive to the needs of the average New Mexico airline market.

Second. In a letter dated February 23, 1978, John Nammack, executive vice president of the National Association of State Aviation Officials:

We are particularly pleased with the small community provisions which, in our view, provide for greater assurances of decent air service than has ever before been obtained.

Mr. Nammack went on to write:

You may also be concerned with the small community issue, Senator, and you may have wondered about the level of acceptance by the public of replacement commuter airline service when and if a certificated carrier pulls out. You may be interested to learn exactly how strong that acceptance has been in the many small communities shown on the enclosed chart, once the small but invariably vocal group of local leaders stops posturing about the community's alleged loss of face suffered when a certificated carrier with his large jets stops service. Normally, it takes the community no more than six months to learn that four or five scheduled commuter flights per day at convenient hours add up to far better service than they were experiencing before.

Third. For the Airport Operators Council, J. Donald Reilly, executive vice president, wrote on April 12, 1978:

The Airport Operators Council International, representing the governmental units in your state which own and operate airports served by the scheduled airlines, urges your approval of this historic legislation. . . . It now has evolved into a progressive legislative mechanism for modernization of the process by which communities receive air service, regulatory reform of the Civil Aeronautics Board, which—viewed from the perspective of the local government airport sponsor—is long overdue.

Fourth. In a letter dated April 17, Governor Milliken, of Michigan, on behalf of the National Governor's Association, wrote:

The nation's Governors favor airlines regulatory reform and consider this particular legislation to be essentially consistent with the official policy position that the National Governor's Association has adapted on this issue of such fundamental importance to the states.

Fifth. Finally, in a letter dated June 24, 1977, from Douglas Cochran, transportation consultant to the Four Corners Regional Commission to the five Governors of the commission States:

The presently proposed Senate legislation gives the Title V Regional Commissioners almost everything Governor Castro asked for regarding air service to small communities.

Mr. President, I am well aware that in some circles this is extremely controversial legislation. No doubt, those Senators who feel that this bill goes too far too fast will offer amendments, some of which I may support. Other changes, perhaps in the rate of Automatic Market Entry, can be expected to take place in the House-Senate conference. So what we have before us today is probably the high-water mark of this legislation. It will be changed for the better, possibly for the worst, during the legislative process, but it will still represent a historic turning point in the battle against Federal regulations and a tribute to its sponsors. It deserves the support of the Senate.

Mr. President, under the agreement, I have 2 hours to present an amendment. I will not present that amendment and, therefore, I yield back the 2 hours. I yield the floor.

The PRESIDING OFFICER. Who yields time.

Mr. CANNON. I yield to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mrs. HUMPHREY. Mr. President, I ask unanimous consent that during the consideration of S. 2493 Mr. Tom Cator, a member of my staff, be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I yield myself such time as I may require.

First, I want to pay tribute to the distinguished ranking minority member on the committee who has contributed so greatly to the development of this bill in the form we now have it, as well as the distinguished Senator from New Mexico. They were both of very great help. I also want to compliment both the majority and the minority staff for the tremendous job they did. As you already heard, this bill required more time for markup in the committee than any other piece of legislation since I have been here in the Congress. It certainly is a great tribute to all of those who have worked so hard on it.

Mr. PERCY. Mr. President, I strongly support the Air Transportation Regulatory Reform Act of 1978, S. 2493, before the Senate today. My cosponsorship and support of the legislation stems from a deep-seated belief that too much Federa interference in the airline marketplace is counterproductive and anticompetitive.

Excessive and outmoded government regulation has retarded growth in the airline industry. Retarded growth harms the long-term interest of airline management, employees, investors, and the general economy as a whole. Most importantly, airline regulation has priced air travel out of the reach of too many Americans. A 1974 Gallup poll showed that 76 percent of the population had not flown in the previous year and that 45 percent had never even flown once in their lifetime. It is little wonder that 85 percent of intercity travel is by inefficient, private automobile.

Government regulation has tended to make airline travel a "limousine" service for expense-account travelers. Without doubt we have the finest air transportation service in the world. But this service is restricted to only one-fourth of our population.

In recent months, we have witnessed a proliferation of discount fares that has resulted in a surge of new traffic. I welcome the initative of the airlines in offering these reduced fares and their timely approval by the Civil Aeronautics Board. I would like to emphasize, however, two salient facts to counter the critics of reform who argue that these new promotional fares, and the response of the Board, means that we no longer need reform. Quite to the contrary: first, these new fares were not offered to the public until this reform legislation was introduced; and second, the current Board has had to stretch the current law almost to the breaking point in order to insure prompt approval of these reduced fares.

Loosening Government's stranglehold on air transportation is a national priority. The latest systematic study by the General Accounting Office showed, for example, that trunk airfares are from 22 to 52 percent higher than they might otherwise be under a deregulated system. This means that air travelers are paying an unnecessary $1.4 billion each year as a result of Government overregulation. This regulation is choking off innovation and the freedom to compete. It is jeopardizing the viability of dynamic private enterprise.

The legislation before the Senate today offers an effective, controlled mechanism for making the airline industry more competitive. The umbilical cord tying Government to the commercial airline industry must be cut. If we are to develop better to smaller communities and lower fares throughout the industry, if we are to create an air transportation network responsive to the needs of all Americans, and if we are to attain the reality of healthy, unfettered competition, then the phased deregulation principles contained in S. 2493 are necessary and proper.

Mr. President, I do not believe it is necessary at this point to outline the many advantages to both industry and the consumer that adoption of this legislation would provide. Nor is it necessary at this point for me to review again the well-conceived well-intentioned provisions of this legislation. My colleagues who have been so instrumental in getting this bill on the floor today, Senators KENNEDY and CANNON, as usual have expertly described the specific advantage of the bill. I do wish, however, to address two major issues which will be discussed during the debate on S. 2493.

I would first like to call the attention of my distinguished colleagues to several provisions of S. 2493 aimed at guaranteeing high-quality and convenient air service to the Nation's small cities and isolated areas.

The vital purpose of these provisions is to help prevent any reduced air service to these cities and communities by local service airlines. Under the present regulatory system, the CAB has allowed carriers to drop service to some 170 communities in the past 15 years alone. For example, the large trunk air carriers have been steadily pulling out of medium and small sized cities in Illinois for the past 35 years. Alton-Wood River, Cairo, Lawrenceville, Galesburg, Sterling-Rock Falls, and Danville have all lost CAB-regulated air service in recent years. An additional six cities—Bloomington, Moline, Peoria, Quincy-Hannibal, Rockford, and Springfield—have lost the services of at least one CAB-certificated airline.

In addition, since 1972 over 250 route, applications have been made to the CAB for Illinois service. Of these, only 70, less than one-third, have been approved. The CAB's problem is that it has its hands full. Under existing law it is charged with the impossible task of setting fares, awarding routes, second-guessing airline management practices, and, in effect, running the carriers from Washington while simultaneously striving to protect the system as a whole. As a consequence, both carriers and the system suffer.

Many local service carriers have lost interest in serving small communities. They are rapidly withdrawing service from them. These carriers have set their sights on large cities outside of the regions they now serve.

Under the provisions of S. 2493, no air carrier could terminate or suspend service to a community without at least 90 days notice. If the carrier provided monopoly service, the CAB would be authorized to require it to continue service until such time as an alternate carrier could be found. If the carrier were operating at a loss, the CAB could help finance the operation.

This provision will effectively assure service to the many vital small communities around the Nation. I am attaching to my remarks an analysis prepared by the CAB, on these very issues of assuring continued and improved small town service.

S. 2493 also revamps the present subsidy program. The taxpayers of this Nation currently spend over $80 million each year to subsidize air service to small cities and communities. This subsidy program has frequently resulted in Federal financial support for inefficient, low-quality, inconvenient air service. Carriers often operate token air service late at night or early in the morning to collect the Federal subsidy.

Under S. 2493, the present subsidy program would be phased out over a 7-year transition period. New carriers would be able to "bump" others from routes to small communities if they could provide better service at less of a subsidy. In several Illinois cities, for example, the more-frequent flights offered by unsubsidized commuter airlines has resulted in a tripling of boardings over the period when subsidized carriers provided service.

For example, Britt Airways, a commuter airline, entered into a service agreement in 1968 with Allegheny Airlines to assume—without subsidy—its $86,000-a-year subsidized service to Danville, Ill. Britt tripled the number of flights and the monthly number of passengers soared from 350 in 1968 to 2,600 in 1977.

And, Britt managed to receive revenues in the amount of a 22-percent return on its capital, compared with the industry average of only 3.6 percent.

Experience amply demonstrates that low-cost, high quality commuter airlines are ready and willing to compete with the regulated airlines for these services. Small communities would be far better served under these provisions of S. 2493 than they are today.

I wish to address one additional feature of the legislation before us: the automatic market entry provisions of S. 2493.

These provisions would give airline carriers the opportunity, under prescribed limitations, to enter into new domestic scheduled routes wholly at their own discretion. This concept, I believe, is the key to airline regulatory reform. It is necessary to insure that carriers can engage in limited entry without approval by the CAB. Currently, CAB's approval procedures can take years to complete and often involve substantial costs to carriers. Under the new authority, carriers will have the opportunity to respond in a timely manner to situations where existing carriers are failing to adequately or inexpensively serve particular markets.

Automatic market entry is supported by President Carter, former President Ford, Secretary of Transportation

Brock Adams, CAB Chairman Kahn, former CAB Chairman Robson, Secretary of the Treasury Blumenthal, and numerous airlines including United, Western, Hughes Airwest, Frontier, and Pan Am. Automatic entry would serve the public, service the interests of a healthy, competitive airline industry, and effectively reduce unnecessary airline regulation.

I believe that this concept, as spelled out in S. 2493, is the single most important measure before us today to end arbitrary, time-consuming Government interference in the airline industry. Automatic market entry is crucial to encouraging increased competition among air carriers.

The provisions of S. 2493 would allow each air carrier to serve one new route without CAB approval during each of the first 2 years, and two new routes each year thereafter. Critics of this proposal have claimed that serious problems will result from overall reduced load factors and revenues, and predatory pricing among carriers.

The Commerce Committee, in its report on S. 2493, correctly noted that these fears "have been refuted and shown to be without foundation." The amount of expansion allowed under the automatic entry provision is modest when viewed in terms of the airlines industry as a whole. In 1974, more than 2,000 segments were flown by certificated carriers. Even assuming that every carrier used all the automatic entry allowed under the bill, the total number of segments flown would only increase by under 2 percent. As far as I am concerned, this is no indication of so-called "excessive" competition.

Predatory pricing would also be impossible under airline reform. Such pricing tactics by the larger airlines are only sensible if a competitor, once driven out of the market, cannot reenter it. Only then can the predator raise his prices (and his profits) after the competition is gone. This cannot be the case in the deregulated environment because carriers could always enter new markets at will aided by the most mobile capital investment in industry today—the modern jet aircraft. If the predator knows that his competitors can reappear simply by routing airplanes to the market and selling tickets, he will quickly discover that exploitation of his monopoly position is impractical.

Critics also argue that larger carriers, such as United Airlines and TWA, will use this provision to squeeze out smaller competitors by virtue of certain economies of scale.

This claim is simply wrong and has been conclusively shown to be so. There are few, if any, economies of scale of any great importance in the airline industry. Small, medium, and large carriers can compete on an equal basis. Laker Airlines, for example, is successfully competing against the world's largest airlines on its New York-London flights and is, in fact, undercutting these other airlines in certain cases by hundreds of dollars in price. North Central, a small airline, entered the nonstop Milwaukee-New York market and was able to force United Airlines, a company many times its size, out of the market. Ozark managed to do the same in the nonstop Chicago-St. Louis market by forcing American Airlines to reduce its service along this route to a mere token number of flights.

The critical issues at stake today in the Air Transportation Regulatory Reform Act of 1978 have been debated for many years. I believe the legislation before us today strikes the proper balance between the legitimate demands of industry, consumers, labor, and management. Its effects on this country, should the measure be enacted into law, would be immediate and far-reaching. I, for one, look forward to the day of its enactment as a milestone in reversing the trend toward overregulation by the Federal Government which we have witnessed over the past several decades.

Before I conclude, I wish to make special mention of several of my colleagues who have worked so diligently for so long to insure passage of air transportation regulatory reform. The distinguished Senator from Massachusetts, Mr. KENNEDY; and my esteemed colleagues from Nevada, Mr. CANNON, and from Kansas, Mr. PEARSON, have performed brilliantly in soliciting meaningful discussion and debate on these complicated issues and in designing legislation so delicately balanced and fair to all concerned. It is a unique privilege and honor to have worked closely with all of them in encouraging the reform legislation before us today.

Lastly, I wish to compliment my good friends from Missouri, Mr. DANFORTH, and from Alaska, Mr. STEVENS, for their diligent work in the Commerce Committee in molding the legislation, by compromise and consensus, along the lines both felt were necessary to insure the success of comprehensive airline reform.

Mr. President, I ask unanimous consent that the comments of the staff of the Civil Aeronautics Board, entitled "Five Truths About Subsidized Small Community Air Service" be included in the RECORD at this point. I believe the findings of the CAB in this report will demonstrate beyond a doubt the many benefits to be derived from enacting this vital reform legislation.

There being no objection, the comments were ordered to be printed in the RECORD, as follows:

FIVE TRUTHS ABOUT SUBSIDIZED SMALL COMMUNITY AIR SERVICE

INTRODUCTION

In December of 1977 the Association of Local Transport Airlines (ALTA) published a booklet entitled Five Myths About Subsidized Airline Service To Small Cities. This document was offered as a rebuttal to presentations made by the Civil Aeronautics Board and the U.S. Department of Transportation before Congressional committees holding hearings on airline regulatory reform. Basically, the ALTA booklet paraphrases statements made by the Board and DOT, declares them myths, and then proceeds to try and rebut them.

In this paper we will demonstrate that the so-called myths are actually the truth about subsidized small community air service. The truths are:

1. The local service carriers are no longer interested in serving small communities and are rapidly withdrawing from them.

2. There is a great deal of dissatisfaction with the present subsidy program for assuring air service to small communities.

3. When a commuter airline replaces a local service airline at a community, there is often an enormous increase in use of air service.

4. Subsidy can be sharply reduced and service improved if local service airlines are replaced by commuter carriers on a nationwide basis.

5. The present subsidy system requires support of inefficient services.

Before we get to the specific arguments made by ALTA, however, we believe it crucial to emphasize that their arguments rest on fundamental premises which ALTA has not expressed and which we believe to be false. The first is that subsidy should be provided (1) at all subsidy-eligible communities now certificated to the local service carriers without regard to (a) whether good air service would be provided without subsidy or, (b) whether, because of the community's proximity to nearby air service or its extremely small size, there is any need for air service, and (2) to pay for the high cost of service with jets and large turboprops regardless of the potential for cutting costs, improving service, and increasing traffic by using smaller aircraft. These rest on the implicit assumption—well founded in the history of the Federal Aviation Act but completely unjustified by sound public policy—that the purpose of subsidy is to advance the financial interests of particular airlines.

The second premise, which necessarily follows from the first, is that the current statutory basis for subsidized small community service should remain unchanged. When section 406, the subsidy provision, was included in the Civil Aeronautics Act in 1938, its purpose was to provide funds to the airline companies to "encourage" and "develop"—indeed "promote"—what was then a fledgling industry. The subsidy, in the form of mail pay, was intended to augment the airlines' passenger revenues on a permanent basis and in so doing to secure for the nation the advantages of a complete air transportation network more quickly than it might otherwise have developed. To promote that goal, the authors of the Act required the Board to pay subsidy to all carriers on the basis of each one's system financial need—not to compensate the carriers for specific services.

Although this statute is unchanged the industry has long since matured and the purpose of today's subsidy program is quite different. Our object, and we assume the object of Congress, is to provide the nation's small communities access to the air transportation system. Section 406, therefore, is a poor vehicle for present purposes.

Applied to local service carriers today, it and other statutory provisions prevent the government from controlling the service it buys or its cost. As a practical matter the system is now based on sole-source supply at each community and cost-plus remuneration for the carrier-controlled type of local air service provided. Under section 406, the supplier, not the government, determines the quantity and quality of service it will supply, the equipment it will operate, and often even the markets to be served. And since we are required to base our subsidy on the carrier's system need, rather than the minimum cost of the particular service required, we are unable to control our costs, unable even to relate our costs to the service actually provided.

This system has provided incentives for the local service carriers to maximize subsidy so as to finance large aircraft operations in large markets while minimizing services

in low-density markets involving small communities. It has, in fact, helped to finance their evolution into trunks and away from small local air service operations.

For these reasons the Board and others have been seeking ways to improve the subsidy program since the early 70's. Every disinterested person who has studied the problem has concluded that the key to a better, more efficient small community air system lies in new legislation. A new statute would permit the government to make explicit determinations of exactly what level and kind of services should be subsidized, and to make direct payments of the requisite subsidies to carriers selected as best able to provide those services at minimum cost.

All are also convinced that the key to high quality small community air service is the commuter airline industry. The success of these carriers in recent years has shown that acceptable service with small turboprop aircraft can be provided at the level of demand—without subsidy—at many if not most of the communities now receiving subsidized service. And at the smallest communities—those that cannot support air service without subsidy—the commuter carriers can provide service of a quality and quantity equal to or better than that provided today and do so at far lower subsidy cost.

Our answer to ALTA's latest criticisms of the new program follow.

1. The local service carriers are no longer interested in serving small communities and are rapidly withdrawing from them

As a generalization, that statement is certainly true, although the degree of interest in continuing to serve small communities varies from carrier to carrier.

Whether one looks at the carriers' route policies as revealed in the applications which they prosecute before the Board or—perhaps more telling—their investment policies, the conclusion is the same. The locals see their futures as regional trunk carriers, not as small community specialists.

The ALTA "refutation" of this "myth" consists of the following points:

1. "There are 167 cities in the U.S. which receive certificated service and have a population less than 100,000; the local service airlines serve 156 of these. . . ."

2. Of the 157 points suspended by local service carriers between 1962 and 1976, many enplaned very few passengers, others had service nearby, and others involved suspension-replacements.

3. Some local service carriers have abandoned more cities than others.

4. Some of these carriers have acquired small planes.

The only one of these assertions that seems to conflict with our generalization about the undesirable shift in interest of these carriers from the service of small localities is the first; and it is totally misleading. It seems to demonstrate that the small communities continue to be served almost exclusively by the locals.

Observe, however, that it refers only to the 167 small cities that are served by certificated carriers. And observe that many of these approach 100,000 in population, easily large enough for unsubsidized service. It therefore says absolutely nothing about the number of small cities that are served by uncertificated carriers—and by definition commuter airlines are uncertificated; or about what has happened to the size of these two categories in recent years. As we will point out below, unsubsidized commuter carriers served 150 small communities in 1976.

The other three assertions only seem to respond to the generalization; the only "myth" they "refute" would be the straw man that ALTA has itself constructed: it is of course not true that the locals have abandoned all service to small communities. In any reasonable version, the generalization is undeniably true.

Since 1965, about 95 small communities have ceased to receive service from the subsidized local service carriers.[1] In almost every instance, the initiative for these suspensions and deletions came from the carriers, though the Board approved. During the same period, the carriers filed additional applications for suspension and deletion which we denied. How many small communities did they seek to add to the system? During that same period, about six small communities were added to their systems. The last of these, Sullivan County, New York, was added over the opposition of the carrier.

It is true that the carriers left these communities for economic reasons: the traffic potential was, in their judgment, simply too slight to make service worth their attention. It is not true, however, that all of these communities are unable to support air transportation. While the local service carriers have been withdrawing services from them the commuter carriers which operate entirely without subsidy have been extending their services to many of the same communities and to others as well. A 1976 study by the Department of Transportation, Air Service to Small Communities, found that commuter carriers were then conducting services at 150 cities which enplaned fewer than 15 passengers per day. These are truly small communities, far below the threshold of profitable operations for local service carriers even with subsidy.

During the same 10-year period, the locals have vigorously prosecuted applications for new route authority—not to engage in local or feeder service; rather they have filed hundreds of applications seeking authority in dense markets of the sort once reserved exclusively for trunk carriers. Operations in these markets often involve competition with trunk air carriers and require jet aircraft or large equipment wholly unsuitable to small communities. And the trend is accelerating; whereas they formerly applied for short- and medium-haul routes, they are now seeking major long-haul extensions far outside the traditional boundaries of their systems. Hughes Airwest, for example, has applied for nonstop authority between Los Angeles, and cities in Ohio, Indiana, and Tennessee. Allegheny seeks nonstop authority between Pittsburgh and Los Angeles and also to points in Florida. Two local service carriers seek new authority between the Twin Cities and Las Vegas and on to points in California. And these are just a few examples.

Even more revealing of the carriers' long-term goals have been their investment decisions. In 1965, 99 percent of the aircraft in the local service fleet were turboprop or piston-powered, ranging in size from 26 to 56 seats. By 1976, only 35 percent were of that type, the rest being larger jet aircraft. These jets accounted for 90 percent of local service carrier investment in aircraft at the end of 1976, and were used to fly 89 percent of the revenue passenger miles logged by them. These aircraft are completely unsuited to small community air service. And lately the carriers have been buying even larger jets. Airwest has several 155-seat 727's; Southern has ordered 148-seat DC–9–80's; Allegheny is considering the acquisition of wide-body aircraft. Without exception communities able to support service with jet aircraft of the types already in the fleets of the local service carriers can support air service wholly without subsidy.[2] Thus when ALTA talks about the cities of 50,000-100,000 population which its members serve with subsidy it is talking about cities which could be served, with the right size aircraft, without subsidy.

Although two local service carriers have recently made purchases of new turboprop equipment, as ALTA observes, the vast majority of the propeller aircraft in the local service fleets are old and becoming so costly to maintain that their plane-mile costs approach those of jets. Several of the locals are on the verge of phasing out their prop aircraft altogether (see Appendix A).

The local service airlines have turned to larger and faster jet aircraft to maximize their profits by operating in longer, denser markets.

This is a natural and almost inevitable result of the regulatory environment in which they have operated over the last two decades. As they have moved their resources into trunkline-type aircraft and operations, their incentives to provide short-haul service—that is, small community service—have declined; and as they continue to mature into trunklines, their ability to serve small communities economically will continue to decline. It is not surprising that in many instances their services are less than satisfactory. To take but one example, a C.A.B. administrative law judge recently found, in a case involving service by a local service carrier at several communities in Kansas, that:

"In practically all cases [the carrier's] service has been gradually reduced over the years to minimum certificate requirements. . . . In all of the communities which are presently served . . . service has been reduced to one flight per day in each direction. The present limited service and scheduling consistently results in inconvenience to persons flying to and from the applicant cities and in most cases necessitates long layovers or overnight stays. Present . . . scheduling, which is principally designed to meet the trunk carrier departure times in the major terminals of Denver and Kansas City, usually results in midday or late-night scheduling for the applicant cities, thus, in most cases, eliminating one-day round-trip availability to or from the applicant cities . . ."

Please understand, we are not singling out a single carrier for criticism. The case is representative. Nor are we really criticizing the carriers. They are simply conducting their businesses in their own self-interest; that is precisely what they should be doing. It is the government's job as regulator to design a system in which their self-interest and the public interest coincide as closely as possible. That is where our present small community service program fails. The carriers get the money, the communities get a minimum level of service, often grudingly provided.

2. There is a great deal of dissatisfaction with the present subsidy program for assuring air service to small communities.

There certainly is.

ALTA's "answer" seems to be: no, there isn't; and besides what criticisms there are have been inspired, insidiously, by trouble-making critics of the present subsidy system.

Here is a quotation from the "Policy Statement on Aviation" adopted by the National Governors' Conference on September 9, 1977:

"The Governors are concerned seriously with the continuing loss of air service to small communities as certificated regional

[1] This figure does not include: (a) small communities suspended or deleted by trunk carriers, (b) points deleted and hyphenated with other cities (except Hagerstown, Md. and Martinsburg, W. Va.) or which receive service through another city, (c) points where service was dropped by one carrier but taken up by another, (d) points temporarily suspended, or (e) points which were deleted but had never received service.

[2] Tables 1–4 contain data on local service carrier aircraft. The smallest jets in the local service fleet, the DC–9–10 and BAC–111, carry about 75 seats while the largest turboprops carry 50 to 60 seats.

carriers are permitted to suspend or delete low-density or unprofitable communities. Air service to the majority of small communities can be provided in the most cost-effective, energy-efficient manner by commuter/feeder airlines operating as a fully recognized third level of the national air transportation system. . . ."

Here is another, from a joint statement of the National Conference of State Legislatures, the Conference of State Departments of Transportation, and the National Association of State Aviation Officials:

"The States are concerned about the loss of certificated service to small communities. Since 1965, service has been deleted at approximately 114 cities and service has been suspended at another 89 cities. Some of these cities are not isolated and can be served through other points. Many others are now dependent upon non-certificated air transportation for their vital connecting links to the national air transportation system, and still others have simply lost scheduled air transportation service altogether. . . . We are convinced that the problems faced by our small and isolated towns and cities will not be solved unless new legislation is adopted." [3]

3. When a commuter airline replaces a local service airline at a community, there is an "enormous" increase in use of air service

This is the one—and only—instance in which the criticism in the ALTA submission is a valid one. The Chairman was indeed misinformed in giving the Committee the impression that if one considers as a group all instances in which commuters have replaced local service carriers the results in the aggregate show an "enormous" growth in traffic—largely for the reason to which ALTA alludes: the CAB study on which he relied (unwittingly) neglected to take into account commuter operations before the local carrier suspended operations. We apologize to the Committee for having misinformed it in this way.

The essential conclusions of the CAB and DOT studies remain nevertheless valid: that commuter carriers have clearly demonstrated that they can in many, many instances replace local service carriers in markets currently under subsidy, with superior service and at lower cost.

In any event, the increase in service and traffic following replacement has in many instances indeed been "enormous." Here are five such cases. Between 1969, when Allegheny was replaced by a commuter carrier at Dubois, Pennsylvania, and 1976 traffic increased from 4,600 passengers to more than 14,600—i.e., more than trebled. Replacement of Texas International in 1976 at Jonesboro, Arkansas, caused traffic to more than double in the first year from 3,700 passengers to 7,600. At Wenatchee, Washington, Cascade's replacement of Hughes Airwest in 1974 was followed in only two years by an increase in traffic from 5,500 passengers to 9,500, 72 percent. The results were similar at Bloomington, Indiana. In three years traffic increased 76 percent, from 9,700 passengers to more than 17,000. In its eighth year after replacing Frontier at Dodge City, Air Midwest carried more than three times as many passengers, nearly 3,000 as against fewer than 1,000. These results, which are not in any way unusual, are set forth in detail in the accompanying table.

Nationwide the results have been highly satisfactory, although, we concede, not nearly so dramatic as in individual cases. Our latest study looked at all 47 points where commuters have replaced locals in the last ten years and the suspension/replacement was in effect in 1976. We found that we have complete data for only 37;[5] at these total traffic has grown about 8 percent annually since the suspension.[6] This achievement is all the more impressive in that it typically followed a record of declining traffic under the preceding service provided by the replaced local carriers: where we have complete traffic data for operations before the points were suspended, it shows that traffic generally declined in the five years preceding suspension.[7] Therefore, commuter service has often reversed a decline in traffic.[8]

We agree with ALTA, also, that commuter airlines generally do not stimulate traffic by offering lower fares. They do it by offering more frequent flights at more convenient times. This type of service, despite its lack of price advantage, is especially attractive to the business travelers who constitute the majority of short-haul air passengers.

4. subsidy can be sharply reduced and service improved if local service airlines are replaced by commuter carriers on a nationwide basis

"The conclusions of the CAB on this matter," ALTA says, "are based on a study which shows that after a 7-year transition of subsidized service to commuter airlines the annual subsidy bill will be $21 million instead of $73 million in 1977." That's right.

ALTA disputes that conclusion; but its description of the Board's Small Communities Subsidy Program is considerably different from our proposal.

First, our forecast of subsidy under the new program is not directly based on any fixed plane-mile costs. In the Board's 1972 study Service to Small Communities, we calculated that commuter airlines could profitably serve points averaging 18 or more daily passenger enplanements. That calculation was based in plane-mile costs for small aircraft operations and fares at that time. We reason that the rise in fares has been equal to the rise in costs since then, so that the 18 daily enplanements threshold is still valid. That is confirmed by the 1976 DOT study, Air Service to Small Communities, which concluded that profitable commuter operations could be conducted at points averaging as few as six daily enplanements. The DOT study found that commuters now serve 150 points enplaning fewer than 15 passengers per day; all 128 U.S. cities receiving commuter service in 1973 averaging 15 or more enplanements daily were still served by commuters in 1976. Over the same time period, only 4 of 62 commuter points averaging 6 to 15 daily enplanements lost service.[13] Therefore, we based our subsidy projections on the difference between actual average daily enplanements at each eligible community and the 18-per-day threshold. As we have clearly stated, and as the draft bills now in Congress provide, every community that is now on the certificated system, whether currently served or not, will be eligible for subsidy and will be guaranteed air service.[14] Our calculations show that in 1975 there were 61 points falling short of the 18 enplanement standard.[15] Our subsidy projection of $21 million for 1984 is the amount required to bring the subsidized carriers' revenues to the 18-per-day level at those 61 points, based on commuter fares to a nearby hub airport and allowing for five percent annual inflation.[16]

We are aware of the recent FAA proposal to require costly new equipment on commuter-size aircraft. We have contacted the FAA and urged them to consider carefully the relationship between the costs and the benefits involved in their proposal. Indeed, we understand that the FAA has already dropped several of the proposals which proved to be too costly. We can only assume that any new costs imposed on commuter airlines by the FAA will be reasonable and justified by increased safety margins. We feel that if that is the case, the costs should not be too great and our subsidy forecast contains sufficient conservative bias to accommodate the added costs and remain accurate. But even if the increased costs prove to be much greater than we expect, the overall cost of providing service with small aircraft should still be substantially less than with large aircraft.

We do not see significantly increasing commuter costs in the other areas discussed by ALTA. If we are allowed to administer the new small communities program as we have proposed it, we will be in control of the costs incurred by our economic regulation of commuters. Though we will need data from commuters in the program, we do not intend to impose substantial regulatory costs on them in the data reporting area or any other area. Commuter airlines already report certain traffic and operational data to us and we will hold additionl reporting under the small communities program to a minimum. The Board's record of having reduced the paperwork burden we impose on small businesses by more than 75 percent in the last two years is, we submit, simple proof that this is no empty declaration.

5. The present subsidy system requires support of inefficient carriers or services

Delete two words and the myth becomes the truth.

The present subsidy system requires support of inefficient services.

We do not accuse the local service carriers of being inefficient. Our argument is that the subsidized services they provide are inefficient.

Table 5 shows that in recent years, as service to small communities has declined, the subsidy bill for that service has increased. Table 6 shows that the increase cannot be ascribed completely to inflation, since the local service carriers' productivity gains have served to offset cost increases due to inflation over most of the last decade.

A better measure of the inefficiency in airline subsidy is not its absolute level but the large ratio of costs to benefits. We hold that, as a matter of policy, subsidy can be justified only where it pays for air service that would not otherwise be available. On this basis the passengers traveling to or from those certificated points which need subsiby to support air service were estimated by the DOT to be subsidized in 1974 at the rate of $227 per pas-

[3] Submitted on March 30, 1977, to the Subcommittee on Aviation of the Senate Committee on Commerce, Science, and Transportation.

[5] We had to drop ten of the 47 communities in the analysis criticized by ALTA due to lack of reliable data on commuter traffic. See Table 7.

[6] These figures cannot be compared with system-wide changes in the traffic of the local service carriers since such aggregate figures include not only "growth" but the effects of the carriers rapid expansion into trunk-type markets.

[7] See Table 8.

[8] As we have conceded, our original finding that 1976 traffic at 47 suspended points was enormously greater than the local service carrier's traffic at the point in the year before suspension was misleading: it was not a proper indicator of traffic growth trends at those communities because it left out any traffic carried by commuters before the local service carrier was suspended.

[13] DOT, *Air Service to Small Communities*, March 1976, p. 47.

[14] The CAB proposal would limit the explicit guarantee of service to points enplaning 80 or fewer daily passengers since there can be absolutely no doubt of the viability of non-subsidized scheduled service above the 80 pasenger level.

[15] This figure is exclusive of Alaska for which a separate subsidy program is required.

[16] Our subsidy calculation is intentionally conservative since it assumes no traffic stimulation at the subsidized communities.

senger. That specific number may be subject to dispute, but its general order of magnitude is correct. It shows that much of the subsidy being paid today goes for large aircraft services that would be provided anyway, or replaced by smaller aircraft services, without subsidy. The present subsidy system encourages this result by requiring the Board to pay for services which the Board cannot specify as to timing and aircraft type, by requiring the Board to consider system financial need in setting subsidy rates, and by allowing subsidy only to certificated carriers.

We feel we must emphasize, in conclusion, that the ALTA submission and seeming refutation of the CAB position is based fundamentally on a misconception—indeed a distortion—of that position. The CAB does not maintain that every local service carrier has totally lost interest in small community service; that commuters will in every case be able to provide better service than them and at lower cost. It does not advocate the categorical exclusion of the locals from subsidy, and never has.

The CAB view is grounded, rather, (1) on certain obvious and undeniable historical trends—of diminishing interest of local service carriers in small-scale local service, of a corresponding shift in their interest to long-haul traffic in denser markets, and of a dramatic corresponding shift in the kinds of equipment they use; (2) on the undeniable preferability of a system under which subsidy can be given, case by case, to whichever carrier or kind of carrier can proved the desired level of service at minimum cost; (3) on the equally undeniable prediction that this will in many, many cases be an uncertificated commuter rather than a currently certificated carrier; and (4) that the result will be a pattern of service that will be better for the communities involved, on the one hand, and the Federal taxpayer on the other. None of these is a myth; and none of them has ALTA refuted.

Mr. MAGNUSON. Mr. President, I want to congratulate my distinguished colleague, the chairman of the Commerce Committee, on the many hours of hard work he has invested in this important legislation. While I have not always shared his views on the degree to which the Congress should modify the regulatory structure governing the Nation's airlines, I do believe that this legislation moves in the right direction and that it is an improved piece of legislation as a result of the extensive consideration that was given it in Committee.

Part of the committee's work on this bill resulted in changes in the way in which carriers may raise their fares in some or all of the markets they serve. In the original Cannon-Kennedy bill (S. 689), carriers would have been permitted to raise fares in any market to a level no more than 10 percent above the fare in effect 1 year earlier. This "zone of reasonableness" for fare increases would have been enlarged to 20 percent after 1979. In the committee bill, by contrast, the carriers are permitted to raise fares to a level no more than 5 percent above the standard industry fare level. This change is a complex one, and is augmented by several other important changes that work together to insure fairness for carriers but also for passengers and communities.

My purpose in explaining these changes is to insure that no one mistakes what the committee has done. The committee has not simply reduced the zone of freedom for fare increases; it has instead attacked by other means the problems that the zone was originally intended to cure.

The background of the committee's action is simple. Under the existing Federal Aviation Act, the carriers have frequently complained that the Civil Aeronautics Board has made it impossible to obtain fare increases in timely fashion when costs increase. The three primary problems identified by the carriers are that the board has unreasonably, first, delayed action on fare increases needed to cover cost increases; second, refused to consider anticipated as well as previously experienced cost increases; and third disallowed, for faremaking purposes, certain costs actually incurred—or artificially attributed to the carriers revenues they have not, in fact, received.

S. 689 attempted to respond to these problems by permitting the carriers greater freedom to raise fares without Board interference. Specifically, S. 689 prohibited the Board from suspending or declaring unlawful any fare that was no more than 10 percent higher than the fare in effect in the same market a year earlier. This upward zone of reasonableness would have become 20 percent after 1979. The justification for the zone was to permit carriers to raise their fares in order to cover increased costs, and to do so without the regulatory lag and artificial adjustments that had previously characterized Board review of fare increase requests.

It was intended, of course, that a policy of more open market entry and greater competition would prevent abuse of this new freedom to increase fares. But several communities, and particularly the Port of Seattle, expressed concern that competition under the new statute would be insufficient to insure that passengers in particular markets would not be subject to price gouging.

For this reason, among others, the committee decided to solve by other means the problems of which the carriers had complained. Specifically, the committee adopted the standard industry fare level, computed according to industry average costs (as it is today), as the baseline for the new zone within which carriers may raise or lower fares without Board interference. To solve the problem of regulatory lag, the committee bill requires that this fare level be adjusted quarterly by the Board, thus permitting fare increases (if needed and competitively possible) at frequent and predetermined intervals. To solve the problem of artificial cost adjustments by the Board, the bill forbids the Board, when making its quarterly computations, to make any adjustment to costs actually incurred. (If a complaint is filed against any fare on grounds that it is too high, the bill also requires that the Board act promptly on the complaint and take into account reasonably anticipated future costs as well as costs already experienced.)

The result of these provisions is to solve, by other means, the problems that S. 689 originally intended to solve through creation of the upward zone of reasonableness. If the carriers need higher fares to cover higher costs (assuming competition does not drive costs down in every market), they can obtain those fares promptly under the committee bill without Board interference and without the need to rely on any upward pricing flexibility. This is because the fare level will itself be raised as costs increase, at regular intervals and without artificial cost adjustments.

In light of these provisions, the need for any upward fare flexibility is open to question. A fare at the formula level will by definition be a fare that enables a carrier of average efficiency to earn 12 percent rate of return. The fact (or allegation) that in some markets costs are higher than in others is, of course, implicit in the use of industry average costs to compute the fare formula, and in itself creates no argument for the freedom to charge above-formula fares in the allegedly higher cost markets. This is particularly true when, by definition, a carrier need not prove the existence of higher costs in order to take advantage of the upward fare flexibility provided by the zone.

Nonetheless, the committee bill does permit carriers to charge fares in particular markets as much as 5 percent above the standard industry fare level. In my view, it is essential that this zone not be increased. It is particularly important that the zone not be increased under the mistaken impression that the committee has simply "reduced" the zone originally provided in S. 689 or otherwise acted in disregard of the carriers' need to cover cost increases with fare increases. As I have already indicated, the present zone and the zone provided in S. 689 are simply not comparable; they are constructed on entirely different bases. The problems sought to be cured by the larger zone in S. 689 have also, in the committee bill, been cured by other provisions instead.

The committee bill also differs from S. 689 in the restrictions placed on fares within this upward zone. The Board may not suspend any fare within the zone, and such a fare is conclusively deemed to be just and reasonable. But the committee bill specifically permits the Board, after a hearing, to declare such a fare to be unlawful on the independent grounds of undue preference or prejudice. Should a community file a complaint on those grounds against any fare within the 5-percent zone, the bill requires that the complaint be acted upon within 90 days.

The purpose of these latter provisions is twofold. First, the committee intends that the carriers not lightly impose upon passengers and communities fares that are well above the level found to yield a 12-percent rate of return in average markets of the same distance. Second, if a community believes that it and its passengers are in fact the victims of unlawful discrimination, the committee intends that the Board respond immediately to the community's complaint. It took almost 10 years, and three formal proceedings before the Board, for the Puget Sound area to obtain the elimination of certain domestic common

fares that were unduly prejudicial on their face under the existing statute. Since the new act will require prompt Board consideration of matters important to the carriers, it should also require prompt Board resolution of matters important to passengers and communities alike.

I have taken the time to explain all of these provisions in some detail, Mr. President, solely because I am concerned that many individuals may fail, upon a reading of the bill alone, to understand why the committee "reduced" the upward zone of fare flexibility. As I have indicated, we did not simply reduce this zone. We provided directly for solutions to the problems the zone was originally designed to cure; having done that, we needed to protect passengers and communities as well as air carriers. In a purely economic sense, any upward zone is now arguably superfluous. I urge my colleagues to recognize this, and to leave the provisions relating to the upward zone intact.

UP AMENDMENT NO. 1227

(Purpose: To eliminate an antiquated provision of the existing law relating to corporate directors)

Mr. CANNON. Mr. President, at this time I send to the desk three technical amendments and I ask for their immediate consideration.

The PRESIDING OFFICER. The amendments will be stated.

Mr. CANNON. Mr. President, I ask unanimous consent that the three technical amendments be considered en bloc and that reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes an unprinted amendment numbered 1227.

The amendment is as follows:

On page 37, line 4, after the words "Sec. 9", insert: (a)

On page 37, line 6, delete "(a)" and insert in lieu thereof: (1)

On page 37, line 10, delete "(b)" and insert in lieu thereof: (2)

On page 37, between lines 13 and 14, insert:

"(b) Section 409(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1379(b)) is deleted."

On page 85, line 21, after the word "suspend", insert: "or reject".

On page 90, line 11, delete: "title IV" and insert in lieu thereof: "this Act.".

On page 93, line 8, strike "shall" and substitute: "is authorized to".

On page 93, line 17, strike "shall be entitled to" and substitute: "may".

On page 95, line 1, strike "shall be entitled to" and substitute: "may".

On page 95, line 4, strike "shall be entitled to" and substitute: "may".

On page 100, delete lines 5 through 16 and insert in lieu thereof the following:

1(a) Section 3 of such Act is amended by inserting in the first sentence after the words "by such lender" the following: "to any air carrier holding a certificate to engage in local air transportation from the Civil Aeronautics Board or"

(b) Section 3 of such Act is further amended by deleting in the first sentence the word "wholly" and inserting the following in lieu thereof: "the major portion of which is conducted".

Mr. SCHMITT. If the Senator will yield, I ask unanimous consent that John Ryan, of my staff, be granted the privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, adding the words "or reject" on page 85, line 21, closes an inadvertent loophole in the bill which would have allowed the CAB to frustrate the intent of the bill by rejecting tariffs instead of suspending them.

Changing the words on page 90 to read "this Act" instead of "title IV" will bring the authority to use expedited nonoral hearing procedures to all functions of the Board including fare applications which otherwise would not be included. This was an oversight in the original bill.

The changes on pages 93 and 95 are made simply to conform with Budget Act requirements.

Elimination of section 409(b) of the Federal Aviation Act merely removes an antiquated section of the act which deals with compensation which may be received by a corporate director as a result of a distribution of securities. This subsection is out of date and of negligible importance. Its elimination is merely a technical matter.

The amendment to the aircraft loan guarantee program is being made only to clarify that we have no intention to eliminate anyone now eligible to receive such loans from receiving them in the future.

Mr. President, I yield back the remainder of my time on the amendment and ask that the amendment be agreed to.

The PRESIDING OFFICER. Does the Senator from Kansas yield back his time?

Mr. PEARSON. Yes, Mr. President.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CANNON. Mr. President, I yield 10 minutes to the Senator from Massachusetts.

Mr. KENNEDY. I thank the Senator from Nevada, the chairman of the committee.

Mr. President, I ask unanimous consent that Mr. Tom Susman, Mr. Dave Boies, and Miss Susan McDormott of my staff be granted the privileges of the floor during the consideration of S. 2493.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, today we shall have the opportunity to vote on legislation which will change the entire face of the domestic aviation regulatory process. We will have the chance to tell the American public that we believe competition to be better than regulation, that business men and women can make better decisions about the conduct of their businesses than bureaucrats, and that four decades of Federal control over an industry does not guarantee four more decades without change.

Only slightly more than 4 years ago, the Subcommittee on Administrative Practice and Procedure looked at the performance of the Civil Aeronautics Board and discovered that the Board's procedures were unfair to some industry groups, inadequate to protect the interests of the traveling public, inefficient, and biased in favor of existing major carriers. Underlying our report on the CAB, issued in 1975, was the firm conviction of the subcommittee members that the existing Federal Aviation Act needed substantial overhaul if both the industry and the public were to be best served.

That conviction has been tested and proven over the last 3 years by dozens of days of hearings before my subcommittee as well as the Aviation Subcommittee of the Senate and House. That conviction also has been proven by years of study and analysis by academics, by Senate committees, by the executive branch and by the Civil Aeronautics Board itself.

S. 2493 is the joint product of many different Senators from different parties and committees. Above all, however, S. 2493 is the result of the effort and skill of the chairman of the Commerce Committee (Mr. CANNON). He has chaired dozens of days of hearings on aviation reform legislation; he has participated in lengthy subcommittee and committee markups on the bill; and he has brought his experience and sensitivity from 6 years as Aviation Subcommittee chairman to the drafting of a well balanced, comprehensive bill.

I commend him and the members of his committee and members of his staff, as well, for an excellent job.

Mr. President, it is now clear beyond doubt that the aviation regulatory scheme devised in the depression to protect an infant industry has resulted in higher fares, less service—especially to smaller communities, fewer competitive alternatives and generally less competition than the public deserves, and has a right to expect, from a mature industry. Our studies have shown, for example, that in those intrastate markets where airlines are free to enter and compete on their merits, prices are lower and service better than the prices and service offered by regulated interstate carriers over comparable routes.

Some carriers argue that passengers do not mind paying higher fares and that lower fares would mean less extravagant service and ruinously lower profits for airlines. In fact, time and time again—when given the choice—consumers choose lower fares over extravagant service. Further, the experience of intrastate competition reveals that more competition often improves service and profits, compared to the stagnation born of overregulation that many carriers have grown accustomed to.

Over the past several months, we have seen additional proof of the popularity and profitability of competition. Under the leadership of President Carter and Chairman Kahn of the CAB, carriers have been freed to increase their competitiveness both here in the United States and abroad.

The result has been the lowest air fares in history and higher profits than the industry has enjoyed in more than a decade.

Despite the improvements made by this administration and the present Board, we need this bill now more than ever,

as Chairman Kahn himself is the first, and one of the most eloquent, to say.

Without specific legislative direction, the CAB is without adequate criteria on how and to what extent competition should be increased. Moreover, the procompetitive decisions of this Board may be subject to obstruction and delay in the courts by carriers happier with the known environment of Government control than the more demanding environment of private competitive enterprise.

And, perhaps most importantly, in the absence of this legislation, the procompetitive decisions of this board may be reversed by subsequent boards who, for whatever reason, may decide to revert to Government control over competition.

I believe, Mr. President, that S. 2493 reforms the present law in four fundamental ways:

First, the bill substitutes carrier rate flexibility for Government control of rates. Predatory pricing below cost is forbidden, but so long as a carrier's rates are profitable, it has the right to engage in the same competitive bidding for the public's patronage that we depend on in other industries to provide consumers with better products and lower prices. The lower fares that such competition brings about are highly popular with consumers; we would expect this as a matter of commonsense. This has now been proven by the experience of intrastate carriers and by the recent interstate experience as well. The experience also shows that such competition can be highly profitable for the carriers as well.

Second, the bill reduces the presently overly restrictive limitations on entry. Since 1938, not one new trunk carrier has been certified by the CAB in the face of 80 applications for such certificates since 1950. The CAB, under this bill, will, of course, continue to regulate entry. But now it will be possible for a limited number of competitors to enter selected markets. Such new entry will provide new competitive alternatives for consumers and new competitive opportunities for carriers. The threat of such entry will also act as a spur to improved service and lowered prices by existing carriers.

Third, the bill is fashioned to provide improved service to small communities. This feature of the legislation is the result, in large part, of the work of Senator PEARSON. Studies have shown that service to smaller communities was seriously deteriorating. S. 2493 contains provisions which will halt that trend and encourage better, more flexible service to small communities. The easing of entry restrictions will also benefit smaller communities seeking new or improved service.

Fourth, this bill refines the standards for the granting of antitrust exemptions to airline carriers. It provides that the CAB can tailor the antitrust exemption granted to fit the air transportation needs of a particular case, instead of committing itself to a blanket exemption everytime an agreement is approved. This provision, like the bill as a whole, reduces unnecessary restriction on competition while preserving the CAB's authority to regulate where necessary to promote legitimate air transportation objectives.

The bill's objectives, and this bill itself, are supported by a broad coalition of consumer groups, business organizations, and other groups including:

The National Governor's Association; the National Association of Counties; National Association of State Aviation Officials; American Conservative Union; Americans for Democratic Action; Common Cause; Aviation Consumer Action Project; National Association of Manufacturers; American Association of Retired Persons; Congress Watch; Food Marketing Institute; Farm Bureau; American Retail Federation; Sears, Roebuck & Co.; Western Traffic Conference; National Retail Merchants Association; National Industrial Traffic League; as well as the National Taxpayers Union.

The bill is also supported by the Chairman of the CAB and elected representatives of both major political parties from every region of the country.

The bill, as its supporters recognize, is a long overdue reduction in unnecessary Government regulation of business and an equally long-overdue increase in the freedom of airlines to compete. Except in matters of health and safety, our society has, I believe wisely, chosen the competition of private unregulated business as the best way to insure that consumers are offered the products and services they desire at prices they can afford.

This bill, while preserving the Government's authority to regulate health and safety, frees airlines to do what business is supposed to do—serve consumers better for less. I join in commending the members of the committee for the excellent job they have done.

Mr. President, I yield back the remainder of my time.

Mr. CANNON. Mr. President, I yield such time to the Senator from South Dakota as he may require. How much time does he require?

Mr. McGOVERN. Twenty minutes.

Mr. CANNON. I yield 20 minutes to the Senator.

Mr. McGOVERN. Mr. President, I ask unanimous consent that Robin Carpenter of my staff be granted the privilege of the floor during all the procedures on this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, in the development of our Nation's transportation system, we have found it necessary to provide a regulatory framework to prevent the "free flow of market forces" from completely destroying competition and, ultimately, curtailing needed service.

Historians will recall that a century ago, the stagecoach lines in the Western United States engaged in such economic warfare until, eventually, there was only one company, Overland Stage Line, left in the business. Consumers soon found this "single carrier" provided miserable service at exorbitant rates.

When the stage lines were replaced by the railroads, the same type of situation existed until the Interstate Commerce Commission was created to protect the consumer.

The same rationale exists today, and certainly existed when the Civil Aeronautics Act of 1938 was adopted.

One of our distinguished colleagues, Senator JENNINGS RANDOLPH, spoke to the need of a regulatory agency for airlines when the CAA came to the floor of the Congress in 1938. Senator RANDOLPH—some 40 years ago—said:

> . . . Permanent long term (airline) legislation covering the economic phases of the industry is required to make possible the carrying out of a healthy long range planning on the part of both management and Government, and to avoid rate war, cutthroat devices and destructive and wasteful practices of which there have been disturbing signs. . . .

Senator RANDOLPH's comments were valid in 1938—and they are valid today. Under the 1938 legislation, the Nation's airlines prospered and grew to the point where our commercial airline system is the envy of the world.

Yet, under the umbrella of "lower fares and consumer protection," we are now asked to take the beginning steps toward a completely deregulated airline system—which, in my view, will ultimately destroy what we have so laboriously built.

The centerpiece of S. 2493 is its sections dealing with "automatic market entry" and "fares and practices."

Realizing the sensitivity of this issue and its impact on the Nation's commercial airline service, the committee has set out various constraints under which a carrier can enter a given market. These restrictions are a dilution of the free entry provisions of the previous bills, but the concept is certainly the same, and it is toward that concept that the bulk of my objections are directed, although I hasten to add, Mr. President, that I appreciate the improvements that have been made in this legislation since it was first proposed.

The essential difference in procedures is the qualifying test that would be applied by the CAB. Rather than the time-tested standard of "public convenience and necessity," this legislation suggests that any carrier who is "fit, willing, and able" can provide service. My concern on this point can best be illustrated by the following hypothetical example:

Four carriers, let us say, serve city A, providing 20 round trips a day to city B. A new carrier, not heretofore in that city-pair market, comes in and sets a fare at the lowest level provided under this bill, which is 35 percent below the standard industry fare level for the same or essentially similar class of service. The new carrier, using this service as a loss leader or market entry device, maintains the lower fare until the other four carriers are either driven out of the market or have substantially reduced service, leaving the new carrier as the dominant airline in the market.

Once that dominance has been established, the new carrier increases its fares to the full extent provided by law, which in this case would be 5 percent above the standard industry fare level, or 40 percent above the fares initially charged upon initial market entry. Flight fre-

quencies would be reduced to increase load factors. The end result would be a loss of total service between cities A and B.

Mr. GOLDWATER. Will the Senator yield for a unanimous-consent request?

Mr. McGOVERN. Yes.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that my staff member, Charles Lumbard, be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, I have a similar request, if I may.

Mr. McGOVERN. I yield to the Senator.

Mr. SCHMITT. Mr. President, I ask unanimous consent that privilege of the floor be granted to Patty White of Senator HAYAKAWA's staff, Lynne Davis of Senator BAKER's staff, Barbara Washburn of Senator JAVITS' staff, Charles Wood of Senator DANFORTH's staff, Ralph Oman and Marcus Bales of Senator MATHIAS' staff.

The PRESIDING OFFICER (Mr. ANDERSON). And the Chair adds Tracy Andrus.

Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, the end result of the hypothetical scenario I have described here would be a loss in total service between cities A and B.

To continue this grim scenario, it would be logical to assume that some other carrier, after surveying the market, would start the process all over again when it became economically feasible for them to do so.

S. 2493 does not permit "predatory" fare structures, but if the thrust of this bill, as it purports to be, is to encourage lower fares, then who can realistically determine what is an initial "bargain" to the consumer, and what is "predatory" pricing? It presupposes that the CAB will be privy to decisions made by airline management when, of course, they will not have such information.

The result of this kind of "competition" within the market will, in the course of a few years, result in the bankruptcy of many existing airlines or their merger with the dominant trunks. All of this to the long range detriment of our communications and our consumers.

Airlines with a strong financial position and/or excess fleet capacity are in the best position to outlast the competition in a deregulated airline environment.

Mr. President, I do not think it is any accident that United Airlines is the leading supporter in the industry of S. 2493. This enormous airline has ample excess capacity. Its fleet of 364 aircraft spends an average of 6.1 hours per day in the air as opposed to the industry average of 7.2 hours. If United could take on enough new routes to bring its fleet utilization up to the industry average or beyond, it could earn millions of dollars in extra revenues—probably more than enough to compensate for any rate cutting that might ensue from the various airlines cutting in on each other's prize routes.

Some smaller carriers—such as Frontier Airlines, a member of the Association of Local Transport Airlines—have also broken ranks with the general industry position against deregulation. Here, as in the case of United, the reason is basically self-interest. It has nothing to do with consumer interest. Frontier and some other local service airlines believe that they can, in time, benefit financially from increased fare flexibility and some realization of CAB control over market entry. Each airline has had to look at its "hole cards" and assess their future position against what they perceive will be the situation under deregulation.

Proponents of airline deregulation base much of their case on the lack of competition within the airline industry as opposed to other segments of our economy which, according to them, has led to consistently higher fare structures than are necessary.

In 1938, when the Civil Aeronautics Act was signed into law, 22 airlines were operating and were "grandfathered" into the new system under the statute. Since that time, over 90 new companies have been certified by the CAB. Through merger and dissolution this number has been reduced to 40.

This has created tremendous competitive forces to the point that today, in markets that produce more than 12 passengers a day, over 60 percent of them have a choice of airlines. In 92 percent of the city-pair markets with 300 or more passengers a day, there is competitive nonstop service and in most major markets there are three or more scheduled airlines. Market share concentration offers another measure of the competitive nature of an industry. Here the airlines compare favorably with other major industries. The largest carrier, United, has about 20 percent of the total revenue passenger miles. By comparison, AT & T has 85 percent of the telephone business, IBM 68 percent of the computer business, and General Motors 53 percent of the domestic automobile business.

Under current law, there is competition among carriers for shares of an expanding market.

The question of lower fares can be answered by pointing out that since 1948 air fares have risen only 24 percent while the Consumer Price Index has gone up 146 percent. Lower fare combinations would be possible under the existing system—and easier to implement—if it were not for the regulatory lag that is part of the CAB procedures. That, of course, must be corrected regardless of the outcome of this legislation.

While it is not my purpose here to do so, I think a case can be made that at least a portion of the foot-dragging at the CAB has been caused by their overt interest in deregulation, rather than in meeting their direct responsibilities under current law.

Airline deregulation carries with it the downgrading of service with smaller aircraft to many of the Nation's smaller communities which are now served by certificated carriers.

This, Mr. President, is one of my principal concerns with the legislation as it is now envisioned.

As envisioned by this bill, the existing jet and prop-jet aircraft will be phased out and the substitute equipment, regardless of frequency, will be much smaller, many without all-weather avionics. Over the course of the last decade, and before, it has been the policy of the Federal Aviation Administration to provide public moneys which, when matched by State and local funds, have been used to construct longer runways, install more sophisticated airways guidance equipment, and make other general improvements.

Acting on the strength of this Federal commitment, many cities and towns have expended considerable sums in building new airport terminals and connecting roadways.

In cities in my State receiving commercial service, each municipality and the State itself have made substantive investments in airport facilities predicated on the need to accommodate larger aircraft.

As service is withdrawn, what will happen to these facilities, many of which are maintained by long-term financial bonded obligations backed up by longer term lease agreements with the airline(s) and ground services?

The projected ease of exit and entrance to a given market will make most airlines reluctant to execute any long-term agreement, thereby destroying the airport management's ability to provide for maintenance or improvement of their facilities.

As the instability of the airline industry spreads as the result of deregulation, there will be a corresponding domino effect upon jobs in support industries such as airports and supplies, to related industries such as tourist services, rental cars, and food service. All of this disruption will be experienced to prove or disprove conclusively a theoretical assumption—that airline deregulation will result in lower air fares.

The focal point of my concern on this entire bill is in relation to the air service for smaller communities.

In considering the provisions of S. 2493 that purport to deal with this problem, it is important to consider the end, rather than the intermediate, result.

Once the door is opened on automatic market entry, we can anticipate that local service carriers will make application to terminate service to all system points boarding less than 40 passengers per day.

Most local service carriers are now in the early stages of a phaseout of their prop-jet equipment, which has been the standard aircraft for local subsidized service.

Recognizing that their subsidies will be terminated and the cross subsidization principle will no longer apply, they will seek to utilize their jet aircraft in higher density markets.

The CAB will then attempt to find a local service carrier to provide service. Given the generous early subsidy for local

service (third level) carriers and the provisions for aircraft purchase and other benefits, we can anticipate that there will be a number of new entrants into the third level air carrier network who will easily be able to convince the CAB that they are "fit, willing and able" to provide the service.

We can assume that the CAB will give the benefit of the doubt to the applicant third level carrier simply because they will want to honor the request of the regional carrier to get out of a market, and will be under serious pressure to do so.

There is no way of determining how route structure and flight frequency will be adjusted as the local service carrier attempts to make his operation a paying one. This will especially be the case in sparsely populated areas with longer flight distance, such as my own State of South Dakota and other comparable States.

Much is made of the financial saving of the elimination of the regional carrier subsidy program, but I have seen no accurate estimates of the total cost of this entirely new subsidy program that is being proposed to meet start-up equipment and facility acquisitions and early operational costs of local service carriers. It has been suggested, with some justification, that the new subsidy program could well cost three times—or nearly $100 million—what the present program requires.

In a sense, rural and small town America will be paying more in tax dollars for less service.

Those communities who have working relationships with existing regional carriers—partially subsidized under the present program—will not be able to continue that partnership under this bill.

Instead, they will be forced to accept some unknown, probably untried, carrier. As service deteriorates, and passenger boardings decline correspondingly, the CAB will ultimately determine that air transportation is not essential to a given point and all commercial air service will cease. We have seen that happen with the railroads. This bill will establish the framework for the same thing to happen with the airlines and commercial air service.

At a time when the administration is proposing a public services job bill with an estimated expenditure of about $11 billion, it is paradoxical that they should, in turn, be supporting legislation that, if adopted, envisions substantial unemployment in the airline industry. No proponent of S. 2493 has been able to accurately estimate how many jobs will be terminated by the full implementation of this legislation. It is obvious, however, that under deregulation airlines will have to concentrate on the major population centers in order to survive. If they direct their resources to these major hubs, smaller communities which are not as profitable will eventually be dropped or at least have to sustain a substantial reduction in service.

This will have a detrimental effect on airline employees. As an example, on Northwest Orient and Western Airlines, about 30 percent of the cities they serve have a metropolitan or county population of less than 100,000, providing hundreds of jobs.

With about 300,000 airline professionals involved in the Nation's airlines at present, a conservative projection of job loss with the full implementation of deregulation would be about 20 percent—or some 60,000 employees. This does not include supportive personnel employed by airports, municipalities, travel agencies, and others either directly or secondarily involved in commercial air transportation.

To meet this concern, S. 2493 has added a new section, which is not contained in its legislative predecessors (S. 689 or S. 292), entitled the "Employee Protection Program."

In simple terms, what this means is that a special account will be established to pay terminated employees for a maximum of 36 months following the loss of their jobs. Depending on the mix of employees who are furloughed, it could be anticipated that applications for assistance under this special account could run in excess of $100 million a year—or if the full 20 percent of the work force were affected, the demands against the account could total nearly $500 million a year, or some $1.5 billion over the full 36-month period has expired.

I suspect that there are many Americans who would find this price too high to pay in the name of deregulation. Beyond that, there is the understandable concern of the affected employees on what would happen to them after the 36-month period has expired.

In most instances, we are talking about highly trained professionals, pilots, flight attendants, mechanics and maintenance personnel, reservation clerks, and others who would have difficulty in locating similar employment elsewhere.

Proponents of this legislation may well quarrel with these projections, but the fact is that they do not know—and there is no data available—to determine the full adverse effect of this legislation upon the Nation's airline employees.

The employee protection program in S. 2493 signals that the sponsors of this legislation are aware that there will be layoffs, but it does not—and cannot—fill in the numbers or the costs involved. It is a sad commentary on this bill when we find ourselves providing unemployment benefits for an unknown number of people, in an amount that we cannot quantify, at a time when we are desperately trying to find ways to put people to work.

Mr. President, I have several amendments at the desk. If it is agreeable with the distinguished manager of the bill, the chairman of the committee, Senator CANNON, I would be happy to call up one of these amendments at this time.

Mr. STEVENS. Mr. President, will the Senator yield ?

Mr. McGOVERN. I yield.

Mr. STEVENS. I thank the Senator from South Dakota.

Mr. President, I have a technical amendment which, as a member of the committee, I have discussed with our distinguished chairman, the manager of the bill. I wonder whether he would yield to me for the purpose of having this amendment taken up at this time. Other technical amendments were taken up, and I was delayed in arriving on the floor and did not have my technical amendment taken up.

Will the Senator yield to me, without losing his right to the floor, for that purpose?

Mr. McGOVERN. I yield for that purpose.

UP AMENDMENT NO. 1228

Mr. STEVENS. Mr. President, I send an amendment to the desk.

(Purpose: To allow certain Alaskan Air carriers to participate in the automatic market entry program)

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 1228:

On page 18, line 9, delete everything in subparagraph (B) following "July 1, 1977," and insert in lieu thereof the following: "engaged in regularly scheduled air transportation in excess of 50 million available seat miles."

Mr. STEVENS. Mr. President, this amendment pertains only to Alaska. It is an amendment on page 18. At the time we offered that amendment, it referred to certified holders that operated turbojet-powered aircraft in scheduled air transportation service. This changes that standard of 50-million seat-mile available capacity. It would include the other certified carrier operating in Alaska today. Reeve Aleutian Airways.

My staff has mentioned this matter to the staff of the chairman, and I hope he will accept the amendment.

Mr. CANNON. Mr. President, the Senator is correct. This refers only to the State of Alaska and would bring one new carrier in its automatic market entry provision, and I have no objection to the amendment.

Mr. PEARSON. We have no objection to the amendment.

I move the adoption of the amendment.

Mr. STEVENS. I yield back all time, if there is time.

Mr. CANNON. I yield back time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

Mr. STEVENS. I thank the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 1789

Mr. McGOVERN. Mr. President, on behalf of myself and the Senator from Montana, Senator MELCHER, I call up amendment 1789 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN) for himself and Mr. MELCHER proposes amendment numbered 1789.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 18, beginning on line 21, strike everything through line 20 on page 21, and insert in lieu thereof the following:

"(2) During each of the calendar years 1979, 1981, and 1983, each air carrier or person specified in paragraph (1) may select one segment, not to exceed 3,000 statute miles in length, over which it shall be authorized by the Board to provide scheduled nonstop air transportation of persons, property, and mail: *Provided, however,* That the Board shall not grant such authority to any carrier or person which has received new route authority in excess of 1,000 cumulative statute miles under subsections (a) (1) or (i) of this section during the 12-month period immediately preceding the date for filing selections under this subsection. No segment may be selected (A) if the average load factor, during the 6-month period prior to such selection, in service provided to such segment by any air carrier was less than 55 percent; or (B) which has been designated by another air carrier under paragraph (3) as being closed for that year to automatic entry under this subsection. Initial selections shall be filed with the Board on the first business day of July in each year for which automatic entry is authorized. Final selections shall be certified as selected by the Board by September 1, of the year in which the selection was filed, unless the Board finds that the air carrier or person making the selection is not fit, willing, and able to provide the air transportation selected, and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board made or issued under this Act. Based on such certification, that air carrier or person shall be authorized to engage, for the next 20 months, in scheduled non-stop air transportation of persons, property, and mail over the segment selected.

"(3) Each air carrier specified in paragraph (1) may, for each year in which automatic entry is authorized, designate a number of segments between which it provides regularly scheduled nonstop air transportation, which shall not be open to automatic entry under this subsection as follows:

"(A) For the year 1979, two such segments.

"(B) For the year 1981, two such segments.

"(C) For the year 1983, one such segment may be designated under this paragraph. Designations for each year shall be filed with the Board on the first business day of January of the year for which the designations are made."

CONFORMING AMENDMENTS

On page 17, line 18, strike out the words "each year".

On page 21, line 21, renumber paragraph "(5)" to "(3)", and renumber all succeeding paragraphs accordingly.

On page 21, line 22, after the word "year" add the following, "for which automatic entry is authorized,".

On page 22, line 14, strike out the words "either of" and the number "(2)".

On page 22, line 15, strike out the word "calendar", change "years" to "year", and after the word "year" insert the following: "for which automatic entry was authorized,".

On page 23, line 25, after the word "segments" insert a comma and the words "if any,".

On page 24, line 7, after the word "segments" insert a comma and the words "if any".

On page 24, lines 12 and 13, change "1983" to "1984".

On page 24, line 17, change the number "4" to "5."

On page 24, line 20, change "(9)" to "(7)".

On page 27, line 11, add the following new paragraph:

"(11) The automatic entry program established by this subsection shall terminate on June 30, 1985.".

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that my name be added as a cosponsor of this amendment if agreeable with the sponsor.

Mr. McGOVERN. I am delighted to have the Senator as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, this amendment has several good features:

First, it clearly makes automatic entry an experiment with a definite termination date of June 30, 1985.

Second, it will deter the CAB from heaping competition on routes by limiting automatic entry to those carriers who had no regular new authority exceeding 1,000 miles in the preceding 12 months.

Third, it prohibits entry where the average load factor in the preceding 6 months has averaged out to 55 percent or less.

While I am opposed to automatic entry on principle, I can live with a program that is experimental and carefully controlled.

Mr. McGOVERN. Mr. President, automatic market entry, when combined with fare flexibility, is considered the centerpiece of the Air Transportation Regulatory Reform Act, which is now before us. Proponents of this legislation claim these two provisions will bring significant downward pressure on rates which will in turn encourage carriers to tighten operations and rationalize their routes. Proponents further claim that management decisions are far preferable to those made by regulatory agencies that are entrusted with protecting the public's best interests. To date, proponents of S. 2493 have not been able to establish that this legislation will bring about the desired result of lower fares and better service. As stated by James Landry, general counsel to the Air Transport Association of America:

Nothing in the proposals comes to grips with the key elements going into the price of air transportation—the cost of providing the service. If deregulation occurred tomorrow: the price of jet fuel would not go down, skilled airline employees would not work for less, airport operators would not lower their landing fees. The only thing that would go down would be the availability of airline service.

Furthermore, proponents of this legislation argue that deregulation will not lead to increased domination of U.S. commercial air service by a few carriers. This argument is predicated on the assumption that beyond a relatively low threshold there is no advantage to size, and that vigorous competition by large carriers against the small carriers will not endanger the existence of the smaller carriers.

The comparatively unregulated, intrastate carrier experience initially formed the basis of the pleas for the regulatory reform we are presently considering.

Mr. President, I have noted in the RECORD over the last weeks that the State of California is cited as the star example of the wonderful things that happen when essentially unregulated carriers go into operation. Especially is the Pacific Southwest Airlines, PSA, cited as perhaps the star in the field of essentially unregulated airlines to indicate how such airlines improve the service for passengers, bring down the fares, and tighten the competition.

But I think before we accept that argument, Mr. President, it might be worthwhile to see what has happened in California with these essentially unregulated carriers.

In that State, over the past 20 years, 16 unregulated carriers entered the intrastate market. Fourteen of them have now exited. Most remained in service less than a year. The markets served were not based on public necessity and convenience. Those few markets that were served were served erratically and in a most unpredictable and undependable manner as witness the fact that 14 out of 16 went out of business, most of them in less than a year's time.

To take the commonly used example of a small carrier successfully facing vigorous head to head competition with larger certificated carriers, in other words, Pacific Southwest Airlines, PSA recently reported a net loss for the fourth quarter of 1977 in addition to a net loss a year earlier of $1.6 million. Additionally, the company is planning to file for an 8.3 percent rate increase, although it received a substantial rate increase only a few months ago. It is extraordinary that proponents of this legislation can call this example their success story on which to base their rationale for this mode of regulatory reform.

I might say also with reference to the services offered by several of these airlines, these essentially unregulated airlines that the proponents of the bill cite with such pride, that some of those airlines offer reduced services. They function largely with nonunion labor. They operate with less experienced personnel. Adequate safety standards have not been developed that are comparable to the other airlines. They are unable to write through tickets for the convenience of passengers. They cannot check baggage through on other airlines. The customer receives cash register receipts rather than tickets, and by and large——

Mr. CANNON. Mr. President, will the Senator yield?

Mr. McGOVERN. I yield.

Mr. CANNON. The Senator is not stating that as a matter of fact, is he, because of a number of statements that he just made are simply not true?

Mr. McGOVERN. I am stating it as a fact.

Mr. CANNON. I just want to be sure the Senator is representing that as a pure fact because I will be glad to point out what the law is and what is permitted under the regulations, and that is simply not the truth.

Mr. McGOVERN. The Senator is not challenging the fact that of the 16 unregulated carriers that have gone into business in California 14 of them are out of business and many of them operated less than 1 year?

Mr. CANNON. No; I am not challenging that at all. But the California market is strictly a regulated market, regulated by the California PUC.

Mr. McGOVERN. But not regulated by the CAB.

Mr. CANNON. Not regulated by the CAB; by the California PUC.

One of the reasons of the poor earnings of PSA is because the California Public Service Commission has refused to grant them an increase. Now, the losses that that company originally had were related to their outside activities. They went into the hotel business. They tried to expand in a lot of other areas of expertise that they were not experts in. But they were experts in providing the low-cost service.

If you go to Southwest, Southwest has the highest rate of earnings of nonregulated and nonCAB-regulated in the Texas market and has the highest rate of earnings of any carrier in the business.

The Senator made the statement that they do not have interlining provisions. That simply is not the fact. We changed the law. They do have interlining provisions. They have through-baggage checking provisions, and all of those have been changed in current law.

I do not know what the law the Senator is reading, but he is simply behind the times in making the statements that they do not have through ticketing, they cannot do through ticketing, they cannot do interlining, and so on. This is not factual.

Mr. McGOVERN. The essential point that I am trying to make here about these examples that have been cited as such proud cases is that with the possible exception of Texas, where they do seem to have a kind of a unique situation, the life of these carriers has been very short. The service has been erratic. They are operating with personnel that is younger and less experienced than the regular airlines. It is my strong feeling that the service is not comparable to what one receives on the regulated airlines.

Mr. CANNON. If the Senator will yield further, he certainly cannot say about PSA that their service has been erratic. The Senator made the statement earlier that they use nonunion help. PSA is completely unionized.

Mr. McGOVERN. That is not true. I said many of these intrastate carriers use nonunion labor. I did not say PSA is not unionized.

Mr. CANNON. Most of them are out of business, as the Senator said. He talked about 14 that are no longer in business. I do not know what. They do not have any employees let alone nonunion ones, I suppose. But PSA does and they are highly unionized. They are competitive in the market. The record shows in the hearings that the rates paid their crew people in many instances were higher than that of the trunk carriers.

So there is no problem here.

Mr. McGOVERN. If I am in error here I stand corrected on those particular aspects of it. But, on the whole, the point I am making here is one that I think can be substantiated.

At best, the automatic entry provision establishes an uncertainty regarding the future nature and quality of air service in this country. No concrete data currently exists to affirm positive, across-the-board effects of this legislation, while a variety of situations throughout the country give a strong indication of the havoc this proposal could create. This uncertainty is quite visible in the aircraft loan business.

Several business spokesmen have suggested many insurance companies will not continue in this business if the incalculable aspects of this legislation are realized. William McCurdy, who recently retired after 23 years with Equitable has stated that—

> Long term lenders are generally opposed to deregulation because it gives the CAB no incentive for keeping the industry financially healthy. Competition may eliminate many, many carriers, and no long term lender is going to lend until he is reasonably assured the airlines will survive and pay back their loans.

Consequently, given the uncertainties of the effect of this legislation on air transportation, we may discover, in addition to bankrupt smaller carriers and reduced service or service disruptions, that few companies will be willing to finance essential airline investments for innovative, efficient aircraft.

Another issue that has not been given adequate consideration is the effect of the automatic entry provision on our domestic energy situation. Several estimates show that automatic entry alone would require approximately 200 million additional barrels of aviation fuel annually, while the entire reform legislation will create a need for an additional billion gallons. Based on a price of 40 cents per gallon for imported fuel, reliance on that market for the extra requirement would add about $400 million to the wrong side of the U.S. trade balance, contributing to our worsening inflation situation.

The administration has stated that this legislation is an integral component of its anti-inflation program; however, in addition to increasing our trade deficit, statistics from the Department of Labor indicate that this legislation will have a marginal impact on inflation.

Therefore, the proposal I am asking you to consider and support is a more cautious and rational alternative to the automatic entry provision in the present legislation. The proposed automatic entry program would provide existing certificated carriers with the option to enter one new route each year for 2 years and two new routes every year thereafter, up to a maximum of 3,000 statute miles per year. My proposal establishes that during the calendar years 1979, 1981, and 1983, each eligible carrier may select one segment, not to exceed 3,000 statute miles in length; provided that the board small not grant such authority to any carrier which has received new route authority in excess of 1,000 cumulative statute miles during the 12-month period. immediately preceding the date for filing selections under this section.

No segment may be selected if the average load factor, during the 6-month period prior to selection, was less than 55 percent or if the segment has been designated by another carrier as being closed for that year to automatic entry. Additionally, each eligible carrier may, for each year in which automatic entry is authorized, designate a number of segments between which it provides scheduled nonstop service, as being closed to automatic entry as follows: for the year 1979, two such segments; for the year 1981, two such segments; for the year 1983, one such segment.

I believe that this alternative would be an adequate compromise between the massive uncertainties with which we are faced in the present language of the bill, while mandating controlled reform along the lines suggested by this legislation. By allowing air carriers to enter markets only where the average load factor is greater than 55 percent, we provide some additional protection to several established segments and to marginally profitable routes where several carriers could experience the greatest losses under the proposed automatic entry provision.

Mr. President, I hope that this amendment will be adopted and will be looked on favorably by the committee and the Senate as a whole.

I reserve the remainder of my time.

Mr. CANNON. I yield 10 minutes to the Senator from Arizona.

The PRESIDING OFFICER (Mr. (SASSER). The Senator from Arizona.

Mr. GOLDWATER. Mr. President, before us is a bill that is the product of some very hard work by the Committee on Commerce, Science and Transportation.

I must say, Mr. President, since I prepared these remarks there have been changes in the airline fare system. In fact, it is possible to fly from here to my hometown now and back, if you want to arrange your time from a Tuesday to a Tuesday, for $204, and if you want to do it on the weekend it is over $680.

There are still some inconsistencies and differences in costs, but the costs have been declining on the airlines since work was started on this bill a long time ago. In fact, it has been some months since I have ridden on an airplane that has not been completely filled.

The distinguished Senator from Nevada (Mr. CANNON), and now the committee's chairman, deserves great credit for having tried to achieve a consensus on this highly complex legislation. That total agreement proved impossible is no reflection on him, but rather it is a result of having to reconcile many conflicting claims, some of which are:

First. Consumer desires for lower air fares during a period of escalating costs, especially fuel.

Second. Varying financial conditions of the airlines and their ability to compete in a more open marketplace.

Third. Regional differences affecting access to the national air transportation system.

Fourth. Workers in the industry fearing a shakeout and a loss of jobs.

Fifth. Reluctance on the part of long-term lenders to provide capital during a period of financial uncertainty in the industry.

Sixth. Fears by smaller communities that the airlines will compete on the long-haul, dense routes and therefore, they will lose service.

These are some of the concerns that came into play during the markup of S. 2493.

It took a recordbreaking 20 markup sessions to produce a bill. I submit that is a pretty good indicator of the amount of disagreement or doubt on the part of the committee members.

Moreover, nearly half of the committee membership filed additional or minority views.

Before discussing the merits of the bill, I want to take up a matter that might be called, "false advertising." On April 11, the President addressed the American Society of Newspaper Editors on the subject of inflation. During the course of his speech, he made this statement and I quote:

> Failure of the Congress to act on the hospital cost containment legislation will cost the taxpayers of our country more than $18 billion in needless Government spending over the next five years. Together with the airline deregulation bill, this is one of the two most important measures Congress can pass to prevent inflation.

First, I hope the Senators will notice that the President was unable to give any dollar figures for saving through airline deregulation.

Second, I have checked with the Bureau of Labor Statistics and here is a figure that tells the story: If the airlines were to give away their tickets tomorrow—absolutely free—the cost of living would be reduced by .483 percent. That is less than one-half of 1 percent.

Clearly, slight reductions in air fares are not going to have much impact on the fight against inflation.

The bill before us has some good features—features that received strong support in committee. "Regulatory lag" had become the rule rather than the exception at the CAB. Our bill, combined with the efforts of Dr. Kahn, should go a long way to speed up decisions at the Board.

It is absolutely beyond the limit for an applicant to wait 6 years for a decision, and then be told the Board will not take action because the application is out of date. So, the need for reform of the CAB had strong support within the committee.

Some disagreement arose over automatic market entry and the so-called, "reverse P.C. & N." or reverse test of public necessity of convenience. The latter was deleted by the committee and the former was somewhat reduced in scope. With the CAB having adopted a very liberal policy toward new route authority, especially where lower fares are involved, I wonder whether or not any automatic entry is needed.

Automatic market entry is a very hard game to play. In its original form, the bill provided for a graduated scale of entry based upon carrier size. However, the proponents of deregulation argued that there were no economies of scale in airline operations. They pointed out that some of the smaller airlines are more profitable than the big five. Accordingly, it seemed ridiculous to turn a small, profitable airline into a big, less profitable airline.

On the other hand, and this was not fully developed during the hearing process, there is a vast difference in economic strength, say, between United Airlines and Continental, or between American and Braniff. Economic weight is important where one airline decides to enter a bread and butter route of another airline.

Service aside, there are only two ways airlines can compete under this bill and under the policies adopted by the board: fares and frequency.

Airline "a" is a big airline with excess aircraft at its disposal. Through relatively low utilization rates it shows a low return on investment. Airline "b" is small, but has the right equipment for its route structure and high utilization rates. It has a much better rate of return on investment. But, if airline "a" should decide to compete flat out with airline "b" the probable winner is airline "a" because, airline "a" will meet "b" on prices, but the difference will be in frequency of flights offered the public.

Here we come to the net effect of this bill combined with very liberal policies at the Board. The proponents say increased competition will lead to more and healthier airlines. I disagree.

In the short term, I believe there will be greater competition and lower fares. During that period the consumer will get a break on fares. But as the competition increases, load factors will go down unless the fares are priced below cost. Over the long haul, I submit there will be a shake out in the industry through mergers and bankruptcies leading to less competition, higher load factors and less frequencies.

If you believe there should be fewer airlines or that the industry needs a shake out; then this bill and the board's current policies are your meat.

We have the greatest airline system in the world. While there is always room for improvement, the Congress should be careful about tampering with a proven system.

Mr. President, I repeat, I have high respect for the courtesy and patience of the Senator who managed this bill, the Senator from Nevada (Mr. CANNON). The committee meetings were anything but harmonious at times. He was faced with the objections of airlines and other segments of the industry. Out of it came a bill which, although I do not believe even he will say it is perfect, is as nearly perfect as perfect can be, and I do not think the Senate will have much trouble in supporting it, even though there may be some amendments offered that will be of value.

I thank the chairman for his courtesy.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. I yield myself 10 minutes.

Mr. President, automatic market entry is the heart of this regulatory reform bill. Automatic entry, like entry generally, is very important from a public viewpoint, from the carriers' viewpoint, and from a regulatory reform viewpoint. Following weeks of markup and debate in the Commerce, Science, and Transportation Committee, a consensus developed that automatic entry, in some form, was the most critical ingredient in reforming the airline system.

Automatic entry is basically just what the name infers—entry into new markets automatically, without having to go through long, complicated, and expensive application procedures before the Civil Aeronautics Board to obtain their approval. Currently, the process of applying for new routes before the CAB is long and drawn out, giving an opponent of the route award, usually an incumbent carrier serving the route who does not want more competition, sufficient time to outspend and outlobby the applicant. Thus the incumbent carrier can try to fend off entry not by keeping fares low and service good, but by hiring lawyers at high fees to fight an entry application at the CAB. With an automatic entry provision carrying the threat of quick entry by a potential competitor, the only effective way to discourage entry in your market is to keep your customers satisfied. Potential entry is as important as new competitors to keep the public well-served. Management will make judgments based on the economics of the marketplace, and not the regulatory and political philosophies of the Board members, or the skillfulness of Washington attorneys.

The bill we present to you today provides that each air carrier would be able to enter one new route for the first 2 years, and two routes per year thereafter. Also, there are protective provisions which guard against excessive entry on the routes of the routes of the small carriers and which allow each carrier to protect its best markets for a transition period. The program will provide modest entry every year and the continuing threat of entry throughout the system. This threat of entry will serve as a policeman on fares and service.

The fears expressed about automatic entry have been refuted and shown to be without foundation. The notion that this proposal would authorize excessive competition is nonsense. During the 1960's, the Board as a matter of course awarded authority in many more markets than would be allowed under automatic entry. In 1970 alone, according to the CAB's annual report, the CAB conferred new authority in 113 specific city pairs or more than three times as many city pairs that can be entered under automatic entry in the first 2 years and

almost twice as many that can be entered every year thereafter.

The amount of expansion allowed under automatic entry is modest when viewed in terms of the whole airline system. In 1974, more than 2,000 segments were flown by certificated carriers. Assuming every carrier used all the automatic entry allowed under this bill, the total number of segments flown would increase less than 2 percent.

The people who have been involved in the debate over automatic entry all have made it clear that this provision is essential to regulatory reform. President Carter has said it. President Ford said it. Secretarys Brock Adams and Bill Coleman said it. Former CAB Chairman John Robson and current Chairman Fred Kahn said it. The Nation's Governors have said it. The Nation's county officials have said it. The State aviation officials have said it. Every economist under the Sun has said it. And yet, we still hear from a few of the airlines of the evils and horrors of automatic entry—talk of failing companies, employee layoffs, service cutbacks to small communities and the destruction of the national air transportation system. This is pure nonsense—language used by a segment of the industry whose view is that they want to be sheltered by Government regulators from the laws of the American economic system. I say look at the testimony from the experts. Listen to the Secretary of Transportation and all five members of the CAB. They are the experts and they say the airline charges are bunk.

If automatic market entry is a radical concept then we have been doing something wrong in this country for the last 200 years. This provision says company management may decide once a year where they want to sell their product, without government interference.

The automatic entry provisions are an integral part of the entire regulatory reform package. In combination with a significantly liberalized Board route program—including wholly new entry—based on a solid, unambiguous declaration of policy favoring competition in both service and price dimensions, a strong and realistic threat of new entry will create incentives for a market oriented price/quality equilibrium.

The pending amendment purports to reduce the number of entries under automatic market entry—but I will tell you what it really does: It eliminates automatic entry completely and defeats this legislation. Let me tell you how it does this.

First, the amendment allows only one route selection for automatic entry every other year for the first 5 years. This is an insufficient amount of entries to provide meaningful competition, and it encourages pricing increases during the years automatic entry is not available.

Second, the only air carriers that will be eligible for automatic entry are those which have not received in the preceding year new route authority in excess of 1,000 cumulative statute miles either under regular route proceedings under section 401(a)(1) or under the dormant authority provisions of the bill. In light of the CAB's liberal entry policies and the recent actions they have taken in granting new authority, it is virtually impossible that any carrier will qualify for this so-called automatic entry program.

If this were not enough, the amendment also restricts automatic entry to routes where the average load factor is less than 55 percent. While the intent may be to restrict automatic entry to high density routes only, the fact is that many routes have load factors below 55 percent because the fares are simply too high.

The experience of Southwest proved that fact completely. This is exactly the kind of route which is a prime target for automatic entry and one in which the program will do the most good to bring the fares down.

In addition, because the percentage figure is based on an average load factor of 55 percent for any one carrier, this means that on an otherwise high density route where three carriers have a 99-percent load factor and one carrier has a 54-percent load factor, no automatic market entry would be allowed on that sector. Fundamentally, the amendment purports to continue the program through 1985, but by its wording the program is finished in 1983. This makes no sense whatsoever.

This legislation is the means through which long overdue reform in air transportation will be achieved by introducing and maintaining a more competitive market-oriented environment.

What this amendment says is, "give the people a sheep in wolf's clothing." Proponents of this amendment have kept the name of automatic market entry, but wrote a provision with no such thing. If you want to take out the heart of this legislation, then accept this amendment, but do not fool yourself by calling this a compromise, for it is not. The amendment says no automatic market entry.

The Senator made much to do about PSA. I would like for the record to point out a few things. In every year except one, from 1966 to 1976, a 10-year period, PSA had a net profit on their airline only operating results. In that one year, 1975, it was because they had high lease costs of L–1011's. If we figured it without the writeoff for lease cost, they had a profit in that year. So they operated at a profit in their airline operating experience every year for a period of 10 years. It is true, as we pointed out, in one quarter last year they lost money.

The Senator also made a comment on the employee pay. I would like to comment on that. For example, for PSA 727 captains in 1975—this is pursuant to the Department of Transportation figures—PSA paid higher wages than many certificated carriers. Their pay was higher than American. It was higher than Continental. It was lower than United and lower than Western.

Cabin attendants: PSA was higher than American, higher than Continental, lower than United, and slightly lower than Western, $100 lower than Western.

On licensed mechanics, PSA was lower than American, higher than Continental, higher than United, and slightly lower than Western.

That gives an idea of how their employee pay compares. As I stated already, they are unionized. I am sorry he did not read the report and the testimony presented by PSA who, incidentally, support the legislation completely. Their testimony was presented in the hearings before the Subcommittee on Aviation on March 21, 22, 23, and 24, 1977.

Mr. President, I call on my colleagues to support honest regulatory reform and reject this amendment.

Mr. PEARSON. Mr. President, the amendment offered to the pending bill would suggest that the bill presents somewhat of a very radical approach in the automatic entry provision of the bill which provides that an airline may, without CAB authority, enter into a route structure already authorized for another airline.

There are three brakes or three restrictions or inhibitors upon running wild.

The first is for the first 2 years they may only enter into one segment and in the years 3 to 5, two segments.

The second restriction is that the segments may not total more than 3,000 statute miles.

The third restriction is the ability of any carrier to protect their routes. That protection is to the extent that for years 1 to 3 a carrier may protect three segments, in the 4th year two segments, and in the 5th year one segment.

Those are three very restrictive inhibitors upon the automatic entry procedure.

If we adopt this amendment, what we have done is almost cut out the automatic entry provision in the bill which, as the chairman says, is the very heart of it, together with the flexibility in the pricing.

If we restrict it to one every other year, which is what this amendment does, and to only those routes where there is an average load factor of under 55 percent, there is no automatic entry.

Most of the objection to this particular provision throughout the consideration in the committee was that it did not go far enough, that it was too restrictive.

Mr. President, I represent, as the chairman has, that this is a very modest proposal. I think the Chairman of the CAB in a letter dated April 14 addressed to every Member of the Senate indicated that when, in the third paragraph of this letter, he wrote:

> The drafters of S. 2493 have concluded that the change should be gradual; that the industry so long protected from real competition should be exposed to the rigors and the discipline of a free market slowly and carefully, so that it has time to adjust. I endorse that approach.

Mr. President, this is a modest proposal. Perhaps amendments will be offered to expand this, but it is the middle ground. This is the kind of an amendment which will give us some experience in the next 5 years which will establish the record and which will give us some guidance as to what we can really do in this particular area.

Mr. KENNEDY. Will the manager of the bill yield 5 minutes?

Mr. PEARSON. I yield 5 minutes.

Mr. KENNEDY. Mr. President, I strongly oppose the McGovern-Goldwater amendment for reasons which have been stated by the floor manager and the minority.

The PRESIDING OFFICER. The Senator from Kansas only has time on the bill. The Senator from Nevada has time on the amendment.

Mr. PEARSON. I yield time on the bill.

Mr. KENNEDY. Will the Senator yield 5 minutes on the amendment?

Mr. CANNON. I yield 5 minutes on the bill.

Mr. KENNEDY. Mr. President, first of all, we should put into perspective what we mean when we refer to the impact of automatic entry under the provisions of this legislation. The total amount of entry opportunities under this legislation represents 2 percent of the passenger routes in this country. That's all, 2 percent of all serviced routes will be certified for automatic entry. If we take the number of routes that are actually authorized to receive service, but in fact are not serviced, then the percentage drops to a minuscule one-half of 1 percent.

The Senator from South Dakota wants to cut that back even more. The key elements to this regulatory reform of the airline industry are to provide flexibility on fares and facilitate market entry. Market entry is facilitated by allowing carriers to automatically enter 2 percent of the serviced routes. The Senator from South Dakota and the Senator from Arizona want to reduce that. It is important at the outset that we understand the nature of the phased and gradual approach to a more competitive environment that is provided by this legislation. It does not shock the system and introduces competition in a very modest manner. Only 2 percent of the route decisions will be put in the hands of management.

The Senator from South Dakota and the Senator from Arizona are basically saying that the institutional bureaucracy and the Civil Aeronautics Board are better equipped to make entry decisions than management in a free and open competitive market. The Senator from South Dakota would restrain entry not only by drastically cutting back the number of routes selectable under automatic entry but would also limit the type of market enterable by closing off all those markets whose incumbent carriers had a load factor of 55 percent or less.

The Senator from South Dakota believes that markets with low load factors cannot support new service and a competitive entry will result in over service to the loss of all.

I would like to ask the Senator from South Dakota who these new, independent airlines are that will be able to come into this business and go to the banks and be able to borrow tens of millions of dollars for new planes to compete on a market with a load factor of less than 55 percent, unless they believe, and the banks believe, that they can raise that load factor and generate more traffic. Low load factors mean low profits. No sensible manager and no sensible bank will invest in a market unless it has a future. Low load factors often mean poor management and high fares. Is this the market, the expensive, inefficient market, that the Senator from South Dakota wants to protect?

The fundamental concept and philosophy of this legislation is to permit businessmen to do in practice what we believe, in theory, that to compete on the basis of price is of essential importance in our society. As the Senator from Nevada has pointed out, as a matter of practical experience in the intrastate lines, as a matter of current experience in the interstate lines, and implied in the bill in terms of the entry provisions, to be able to compete in price is to be able to protect the consumer.

A second point, Mr. President: The Senator from South Dakota does not even mention the protections that exist in the legislation with regard to predatory practice. Mentioned on page 80, line 23, "The Board may not"—I shall include the relevant parts in the RECORD, but effectively, it is "may not"—"determine any fare demanded" is too low unless the fare is "predatory." There are protections in this bill for predatory practices.

Mr. McGOVERN. Will the Senator yield on that one point?

Mr. KENNEDY. If I may just finish my thought on this, then I shall be glad to yield.

I say that there are provisions in section 18 that deal with that particular language. There are other sections relating to predatory practices. I am sure the floor manager considered that.

Another point is there is nothing in this bill that vitiates the antitrust laws. As the chairman of the Antitrust Committee, I say we have reviewed in careful detail the antitrust provisions and the predatory practice provisions in this legislation. We have testified on those provisions before the Commerce Committee and completely satisfied them in terms of the protections for predatory practices.

So, Mr. President, I think in the area of predatory pricing that the Senator from South Dakota mentions, there are adequate protections under this legislation, not only in this bill but in the existing interpretations of the antitrust laws.

I am glad to yield to the Senator.

Mr. McGOVERN. Just on that point, I wanted to call to the attention of the Senator what I did say about predatory pricing. He said I did not take note of the fact that there was some mention of that in the legislation before us. The Senator was not on the floor, but I made this point:

> S. 2493 does not permit "predatory" fare structures, but if the thrust of this bill, as it purports to be, is to encourage lower fares, then who can realistically determine what is an initial "bargain" to the consumer and what is "predatory" pricing ?

In order to do that, you have to assume that the CAB is going to be privy to decisions made by airline management; but of course, they are not privy to that information at all on that particular point.

The PRESIDING OFFICER (Mr. MOYNIHAN). The Senator's time has expired.

Mr. KENNEDY. May I have another 2 or 3 minutes to respond?

Mr. CANNON. I yield 3 minutes.

Mr. KENNEDY. Mr. President, on this particular provision, we are not changing the existing legislation. The Senator cannot come in and say that this particular threat, in terms of predatory practices, is going to be worse than the current law. I agree that it is an important area to consider. We are not adding additional threats by this legislation.

The next point that I would like to make, Mr. President, is, if we accept the McGovern amendment, what, effectively, we are saying is that once you get a route in the United States, all you have to do is go out and continue to raise the prices on that particular route until you get a little bit below a 55-percent load factor; then you are protected from the threat of competitive entry and other airlines are prohibited virtually from coming in and challenging. These are the very markets upon which competitive challenges should be made. The McGovern amendment works completely contrary to the whole spirit and the approach of this legislation.

The final point I would like to make, Mr. President, is that in the areas where the CAB has provided some new routing in the 55-percent range or less—and they have done so in several different areas—it has taken since 1969 for the Board finally to come to grips with those particular routes; that is for approximately 8 years that the industry has been effectively stifled from bringing some degree of competition in.

In the Miami-Los Angeles route, where the incumbent has less than 55 percent—48 percent—the CAB has provided an incentive for a new air carrier to come in. The result has been that the existing carrier has reduced fares by approximately 35 percent and the airlines are doing exceedingly well down there.

Mr. MELCHER. Will the Senator yield?

Mr. KENNEDY. If I may just finish this next point.

In my own home city of Boston, Pan Am is now providing transportation from Detroit to Boston at half the previous rates, even though there was a previously low load factor—only 19 percent. For the first time, they are beginning to show some profits on that particular route.

I say that practical experience shows that the McGovern amendment does not make sense. It runs completely contrary to the spirit and intent of this legislation.

Mr. President, we are trying to provide a little competition in this industry, with the automatic entry provision at 2 percent of the routes presently served. Mr. President, let us not reduce this meager door on 2 percent. There are many industries in my own State of Massachusetts—little corner drug stores, fishermen, all other kinds of little mom and pop stores—that would love

to have some protection from competitors. Why we are not willing to accept this minuscule 2 percent, Mr. President, is something that I cannot understand.

Mr. MELCHER. Will the Senator yield?

Mr. KENNEDY. I am glad to yield.

Mr. MELCHER. Would the Senator from Massachusetts like this better if the 55 percent were removed from it entirely? I do not think it is key to the amendment at all.

Mr. KENNEDY. My comments were on the basis of the amendment. I would say, first of all, it would be better than it is. But second, we are also dealing with the question of reducing the possibility for new routes. That is the part of the amendment I addressed my comment to.

The PRESIDING OFFICER. The Chair makes the comment that the Senator from Massachusetts has no time to yield.

Mr. MELCHER. Would the chairman, who has control of the time, yield me some off the bill?

Mr. McGOVERN. I yield the Senator such time as he needs.

Mr. MELCHER. I am asking the chairman, I say to the Senator. We have only 15 minutes left on this amendment. It is a major amendment. I am asking the chairman for some time.

Mr. CANNON. How much time does the Senator want?

Mr. MELCHER. Ten minutes.

Mr. CANNON. I yield 10 minutes to the Senator from Montana.

Mr. MELCHER. I repeat, this is a major amendment not to be lost in some sort of attack based on the amendment's destroying the bill. It does not do that. The 2-percent figure that the Senator from Massachusetts mentioned is his 2 percent. I do not know how it is documented. What we are trying to do in this amendment is protect the States that do not have an abundance of airline service but now have adequate airline service, to protect them so that they do not lose it.

If the 55-percent factor would bother anybody a great deal, I, for one, would be willing to remove it, because it is not the key to the amendment itself. What we are striving to do here is protect consumers, mind you, in some States that do not have a great number of people in them, western States in particular. My own State has adequate, decent airline service now. What we are afraid of in automatic entry is that in the rush of airlines to enter the dense markets, dragging off the airplanes and the personnel to service those dense markets through automatic entry, they will take away our service; they will take away some of our aircraft; they will take away some of the personnel that take care of those aircraft; and our service will be reduced.

What does an antitrust provision have to do with protecting the level of the service in a sparsely populated State? We are making no claim of having anything to do with this simple amendment on antitrust. We are only making a concerted effort here to have the automatic entry provision of this bill as it is presently formed reduced to a point to where there is some control over it by the Civil Aeronautics Board, mind you, to review what is going on after automatic entry starts, to make sure that States like ours in the West and other thinly populated States will retain a level of service that is comparable, at least comparable, to what we have now.

At this point, Mr. President, I yield back the remainder of the time that was allotted to me by the chairman.

Mr. KENNEDY. Will the Senator give me 3 minutes?

Mr. CANNON. Yes; I yield the Senator 3 minutes.

Mr. KENNEDY. Mr. President, there are 57,000 city-pairs in this country. If we take the number of airlines that could take advantage of the entry provisions, multiply that number by 2, then divide it into 57,000, we find that new entry may affect, at a maximum, one-half of 1 percent of all city-pairs federally regulated carriers now have the authority to serve. And if we take the 2,000 route segments that are now actually served, and perform the same calculations, we find the percentage to be 2 percent.

The Senator has not reached that factor. The interesting thing is that the special organizations which represent small communities, the Association of Counties, the National and State Aviation Officials, and many other groups, are no less interested in the service of small communities.

As the Senator from Nevada has commented, and others have testified, one-third of the small communities of this country have lost service in the last 15 years.

Protection exists in this legislation to insure it will not happen in the future.

Only 16 percent of the routes that have been granted to the airlines in this country are actually being serviced today. The rest have a lock on them, Mr. President.

The bill already has plenty of protection for the smaller communities. The amendment of the Senators from South Dakota and Arizona is a step backward in terms of competition and pricing and service under this legislation.

I hope the amendment will not be accepted.

Mr. McGOVERN. Mr. President, I yield myself 5 minutes.

Mr. President, first of all, I congratulate my friend, the Senator from Massachusetts, for being able to speak with as much passion for deregulation as he speaks with when he is for regulation, as we heard him speak here a few weeks ago when we were talking about natural gas.

I know the Senator made a most eloquent and forceful plea for the virtues of regulation of gas and I, of course, agree with him on that. But I regret he is on the other side of the issue.

Mr. KENNEDY. Will the Senator yield on that point?

Mr. McGOVERN. Yes.

Mr. KENNEDY. The position of the Senator from Massachusetts in areas of economic regulation is that I think there can be, and should be a substantial reduction of Federal presence. In the areas of health and safety, however, there has to be substantial continuing regulation. It seems to me whether people are going to be able to heat their homes is to a significant degree related to issues of health and safety.

Mr. McGOVERN. In any event, this is an issue that is not going to be resolved by oratory. It is not going to be resolved by magical and arbitrary formulas. There is nothing sacred about the formula that the committee has reported out to determine how fast we are going to move into the automatic entry field.

The amendment that the Senator from Arizona, the Senator from Montana, and I have offered here today does not foreclose the possibility of a reasonable experiment in the concept of automatic entry. But it is a new one, a new concept. It is one that has brought about great anxiety in the small cities and communities across this country that fear it is the beginning of a rush of airline service into the more lucrative, more heavily traveled markets, with the second-rate equipment left for the rest of the country.

So the purpose of this amendment is not to defeat that experiment, but to slow it down and to maintain the historic function of the CAB as an agency that evaluates the services of the airlines on the basis of public convenience and necessity, rather than opening the door too wide in one step to the kind of development that we fear will deprive many parts of the country of the kinds of service that we have today.

Mr. HATCH. Will the Senator yield for a unanimous-consent request?

Mr. McGOVERN. Yes, I yield.

Mr. HATCH. I thank the Senator.

Mr. President, I ask unanimous consent that Mr. A. Grey Nokes of my staff be granted privilege of the floor during the pendency of this matter and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that Chip Sorrell of my staff and Tim McPike of Senator DeConcini's staff be granted privilege of the floor during the debate and votes on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ZORINSKY. I thank the Senator from South Dakota.

Mr. McGOVERN. Mr. President, I emphasize again to the Senators on the floor—and I wish more were here because this is an important amendment that affects the air service in a great many parts of the country—that this amendment does not kill off the possibility of some experimentation with the so-called automatic entry feature that is in the committee bill.

I know the committee has done a great many worthwhile things in the legislation that is now before us. But some of us would like to vote for that legislation. We would like to be able to support it on final passage.

What we are pleading for here is simply a more modest approach that permits us to get some operating experience over the next few years with

the new concept of automatic entry and greater fare flexibility.

If, on the basis of that, we have dependable data on which to legislate, we could then move with greater confidence in the direction that the committee has suggested.

But about all we have to go on so far are the predictions of the proponents of this legislation that it is going to work, that they see some virtue in it, and no particular danger or threat to those sections of the country that we feel would be threatened by the legislation.

They cite for evidence simply the experience of the essentially nonregulated intrastate carriers. But as I pointed out here on the floor a while ago, that experience has not been that convincing.

I suggested earlier that of the 16 unregulated carriers that went into California in the last 20 years, 14 of them went out of service in a very short period of time, many of them in less than a year. They did not provide, in most cases, the kind of dependable service that one expects from air carriers.

I suggested to the Senate that many of the services were lacking.

I want to correct a misimpression that perhaps was given with regard to PSA when I said that the union, along with most of the others in the nonregulated field, employ nonunion labor.

The Senator from Nevada corrected me and said that PSA, at least, does have union labor.

Well, that is true only so far as the pilots are concerned. They are operating with nonunion airport labor. They are operating with nonunion service personnel. And that is generally true with many of these intrastate carriers.

They are also providing less service and, at the same time, are not showing the kind of profit picture that leads one to have much assurance for the future.

Even PSA, cited as such an outstanding example, suggested a loss of $1.6 million in the fourth quarter of 1977, and they are planning already for an 8.3 percent rate increase, even though they had one only a few months ago.

So, Mr. President, I do not see anything in the record of these nonregulated air carriers to convince me that on the basis of that alone we should take the kind of precipitate step that this legislation calls for.

I plead with Members of the Senate to conduct this experiment on a somewhat more modest basis until we know what the impact of it is going to be on many parts of the country that now fear it.

Mr. President, I reserve the remainder of my time.

Mr. MELCHER. Mr. President, I wonder whether I could reclaim some of the time the chairman yielded me from the bill.

Mr. CANNON. How much time does the Senator want?

Mr. MELCHER. Five minutes.

Mr. CANNON. I yield the Senator 5 minutes.

Mr. MELCHER. I thank the chairman.

Mr. President, the Senator from Massachusetts was kind enough to provide us with the basis for the 2-percent entry provision or his computation of the 2-percent entry, which of course is 2 percent per year. It was based on 57,000 city pairs in the United States. That is a lot of city pairs, and it includes such pairs as Helena to Missoula, Butte to Missoula, Lincoln to Wichita, Lincoln to Omaha, or Omaha to Sioux City, et cetera. You can go all down the list.

What we are talking about in automatic entry is not those kinds of city pairs. On the contrary, what we are talking about in automatic entry is from Chicago to Dallas, from Miami to New York, from New Orleans to Miami, from Los Angeles to Chicago, or from Los Angeles up the coast to Seattle, and so forth. That is what the carriers are talking about in automatic entry.

I will guarantee the Senate and everybody else in this country that when the airlines are talking about automatic entry, they are not talking about Bozeman to Missoula, or Butte to Great Falls in my State. The reverse of the coin is that if there is unlimited automatic entry of those dense markets, such as some of those I have mentioned, the larger cities, from one larger city to the other, may become too overdense with airline carriers, and the aircraft and the personnel have to come from somewhere. So they come from those States like my own; and with a city pair such as Helena to Missoula or Helena to Great Falls, all of a sudden it becomes a city pair which, instead of having two airplanes a day going east and two airplaces a day going west, will have one airplane going east and one airplane going west. There is nothing in this bill that protects against deterioration of that kind of service.

When we discuss this, it is important that people in the Senate understand it. What we are attempting to do in this amendment is not to strike the mild automatic entry that is in effect in the bill. What we are trying to do is to make it a little less drastic than it is. I grant that what is in the bill is mild compared to just having complete automatic entry. But the reason it is like that is that all the testimony on this bill went to the effect that automatic entry, if not restrained, would lead to chaos for the airline industry of this country, and I do not think there was any airline that really wanted complete automatic entry.

So it was reduced. It was made a limited automatic entry. We reviewed that very carefully, and we found the flaws in it, too—but it was still a little too much.

The amendment that is now before us puts it down another notch and says, "Let's go ahead with some of it. Let's have it reviewed. Let's have some restraint on it. If it works, fine."

We must have some protection for these States that do have service now, with thin populations, which will not attract any increased airline service on the basis of automatic entry, but we must retain what we have in place now. I think it is a very necessary and worthwhile amendment, and I hope it will be accepted.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. MELCHER. I do not control the time.

Mr. CANNON. Mr. President, I should like to respond.

The Senator said he hoped the amendment would be accepted. I presume he was not in the Chamber when I made my speech against the amendment. I thought I left it quite certain that the amendment was not acceptable and would not be accepted, because it would destroy the whole bill. We are just wasting our time, if we are going to accept this amendment and try to go ahead with any bill.

Mr. PEARSON. Mr. President, I yield 4 minutes on the bill to the Senator from Illinois.

Mr. PERCY. Mr. President, I am very proud and pleased to be a cosponsor of this bill.

I commend Senator CANNON and Senator PEARSON for the outstanding work they have done. I became a cosponsor before the addition of the so-called labor protection provisions, and I want to indicate to my distinguished colleagues that I am more inclined to support the approach being taken by the distinguished Senator from Nebraska (Mr. ZORINSKY), which I think will take care of this problem in a way that I would rather see as a precedent; because we have a long line of problems if we go into deregulation, as I hope we will, and there will be adjustments and changes. I think it would be very unwise for the Federal Government to assume a degree of financial responsibility.

Mr. President, at this time I should like to comment on the amendment offered by Senator MCGOVERN, No. 1789.

Though I have worked very closely with my distinguished colleague on a number of matters in the past, in my judgment this amendment would seriously cripple, if not kill, the intent of the automatic market entry provisions of S. 2493.

First, it is based on the premise that some airlines might attempt to penetrate lucrative routes between major cities, thus diluting the load factors and profitability along the route. Although some airlines may see new opportunities in underserved markets, it is doubtful that many would want to go head-to-head in a highly competitive market, knowing moneys would be lost. I know at least one instance where an airline attempted to crack two lucrative markets and failed. United Airlines has been a supporter of deregulation. I was closely associated at the time with Pat Patterson, chairman of the board and chief executive officer of United Airlines, when it merged with Capital Airlines. United picked up nonstop routes out of Atlanta to both Washington and New York City. Despite the great efficiency of this airline and their demonstrated competence as the largest domestic airline in the United States, in this case they were unsuccessful in attempting to compete against Delta and Eastern, and United eventually withdrew, simply because of market factors.

Although it is possible, it seems doubtful that a new carrier would want to

enter the highly competitive Chicago to Los Angeles market where four airlines compete, or New York to Miami where three aggressive airlines compete. Rather, it is far more likely that, under automatic market entry, carriers would offer new nonstop service to cities that do not have it. For instance, United wishes to provide new nonstop service between San Diego and Cleveland and Buffalo and Los Angeles, while Hughes AirWest, wants to add new nonstop service from Louisville and Nashville to Los Angeles. Western Airlines has indicated its desire to offer new nonstop service out of Philadelphia. I would also like to address another provision of Senator McGOVERN's amendment. That provision, in essence, does not permit automatic market entry if the existing carriers on the route in question have average load factors less than 55 percent. In my opinion, this provision fails to come to grips with the casual factors which bring about low load factors. In many markets, low load factors are themselves due to high fares. Thus, when Texas International introduced its highly successful "Peanut Fares" in February 1977, load factors went soaring. Generally speaking, Texas International selected those flights with low load factors and cut fares by 50 percent. Some flights were in the middle of the day, some at night, and some in the morning. There were no other restrictions.

Here are some dramatic examples of how load factors have increased:

Between Los Angeles and Albuquerque they went up from 27.7 percent before the peanut fare to 83.1 percent. From Salt Lake City to Denver, load factors climbed from 26.8 percent to 81.1 percent and from New Orleans to Houston, from 32.4 percent to 74.5 percent.

Meanwhile, Texas International's financial return on those flights went up from a $108,000 loss to a $1.8 million profit. Significantly, most of the new passengers were not diverted from other carriers, but were citizens who either drove energy-inefficient automobiles or stayed at home.

Under the McGovern amendment, there would be no incentive to offer these discount fares that can, as seen, result in significantly higher load factors. If it were to pass, carriers might want to keep fares artificially high because they would know that, with lower load factors, they could keep the competition out.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of a statement I made commending Chairman Kahn for his decision yesterday to reactivate and introduce low fares into Midway Airport and do so expeditiously.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

MIDWAY AIRPORT DECISION BY THE CIVIL AERONAUTICS BOARD

Tuesday's momentous decision by the CAB to permit low-fare flights out of Midway Airport will mean that Chicago-area residents will be able to fly throughout the Midwest at substantially reduced prices from a revitalized Midway. Not only will air passengers stand to benefit from improved service at lower fares, but the expansion of Midway will mean jobs, expanded services, and new economic opportunities for many of the hard-pressed communities surrounding Midway.

By early next year, I believe that we can expect Midway and all of downtown Chicago to begin experiencing the benefits of today's decision. I applaud CAB Chairman Alfred Kahn for adopting the extraordinary procedures which I earlier suggested in order to expedite approval of this new low-fare service out of Midway. For once, the bureaucracy in Washington has responded in a timely and judicious manner to the real needs of its citizens.

Mr. PERCY. Mr. President, I ask unanimous consent that Howard S. Marks and David Carol of my staff be accorded Senate floor privileges during all consideration of S. 2493, "The Air Transportation Regulatory Reform Act of 1978," including during any votes that may occur on amendments and on final passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

Mr. CANNON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CANNON. Mr. President, what is the time situation on the amendment?

The PRESIDING OFFICER. The Senator from South Dakota has 8 minutes on the amendment and the Senator from Nevada has 2 minutes.

Mr. CANNON. I thank the Senator.

I withhold my time.

The PRESIDING OFFICER. Who yields time?

Mr. SCHMITT. Mr. President, will the Senator from Kansas yield me 1 minute on the bill?

Mr. PEARSON. Mr. President, I yield the Senator from New Mexico 1 minute on the bill.

Mr. SCHMITT. Mr. President, I conducted my debate on the rate in which we entered automatic entry in this measure in committee. I think the committee compromise is an adequate compromise. It is particularly adequate in the light of what I know is the committee's intention to exercise oversight over the rate of entry to see whether or not there is, in fact, any serious harm done to the industry, to the consumer, or to our constituents.

I urge my colleagues to support the bill and to defeat the McGovern amendment.

I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Mr. President, I am willing to yield back my time.

Mr. McGOVERN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. STONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. Mr. President, I ask unanimous consent that Pam Weller, of my staff, be accorded the privilege of the floor during consideration and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so orderd.

Mr. SCHMITT. Mr. President, I ask unanimous consent that Marc Stinberg, of Senator GRIFFIN's staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PEARSON. Mr. President, I ask unanimous consent that Bob Hepler, of the staff of the Senator from Pennsylvania (Mr. HEINZ), be granted the privilege of the floor and in behalf of Senator BARTLETT that Tom Wizenger be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I ask unanimous consent that Charles Wood, of my staff, be granted the privilege of the floor during consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, I yield 5 minutes to the Senator from Montana, Senator MELCHER.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, throughout the long course of hearings and the unprecedented period of markup of the airline deregulation bill in the Commerce Committee, it became abundantly clear to me, that no one could predict the effects of automatic market-entry of the magnitude proposed in S. 2493 on the air transportation system of the United States.

On two occasions during the hearings and markup of this bill, the Chairman of the Civil Aeronautics Board responded to my inquiries that he was unable to assess the impact of automatic entry as proposed in this bill on the current air transportation system and that there was no way to predict the results which automatic entry would produce.

On July 12 of last year in commenting on the Commerce Committee draft of the bill, the Board stated—

That it has analyzed over the past two years various approaches to discretionary entry by the incumbent carriers into new markets, but has not been able to predict the ultimate impact of such programs.

Now, Mr. President, if the Board with its expertise, cannot predict the results of programs of the magnitude as proposed in this bill, it obviously becomes difficult for those of us with prime responsibility for the legislation to exercise reasoned judgment on any program other than a limited experimental new market entry authorization as contained in Amendment No. 1788 which I and the cosponsors have proposed.

In recent testimony before the House Aviation Subcommittee, Chairman Kahn was again candid in admitting that automatic entry would lead us to uncertain consequences.

To open up automatic market entry to the extent proposed in the present language of S. 2493 would result in un-

needed services and excess capacity in high-density, medium and long-haul markets and the resulting decrease in service to smaller markets and pressures for fare increases.

The amendment we propose reflects the fact that no one can predict the effects of automatic market entry on the air transportation system, therefore, the very limited entry program in the amendment will best serve the interests of the airlines and the consumers.

I believe that if Congress is to support this kind of legislated experimentation, it should be more limited at the outset than the market entry proposed in the bill now being considered and that the program should be under the continuing control and scrutiny of an expert body, which is the Civil Aeronautics Board.

Mr. President, it is my opinion that the result of an expedited automatic entry program such as proposed in the bill before us would be to quickly destroy the progress made by the Civil Aeronautics Board during the past 25 years in its effort to strengthen smaller carriers so as to reduce the imbalance in size which has existed between the largest four or five carriers and the remaining smaller carriers in the industry.

The limited experimental new market entry program we are proposing is a more modest and cautious approach to the automatic entry provision in the present legislation.

The amendment will allow carriers without any discrimination to select one non-stop city pair not to exceed 3,000 statute miles every other year beginning in 1979 and would terminate in 1985 while providing the necessary scrutiny of its consequences by the Congress and the Civil Aeronautics Board.

The amendment also authorizes each carrier to designate two markets the first year, two markets the second year, and one market segment in the third year which are closed to automatic entry by other carriers.

Therefore, Mr. President, the proposal I am asking the Senate to consider and support is the limited automatic entry provision of this amendment, as any entry of greater magnitude could very well cause an abrupt and damaging change in our national air transportation system. A system which has successfully developed for the past 40 years of economic regulation under the Civil Aeronautics Board.

I think we ought to accept it. I do not see any sign of a destroying intent of this bill. Rather I see it as straightening out this bill so that we have the opportunity, in States that have a lot of airline miles but very few people, to provide passengers to make sure that their service remains intact and at the same level.

In closing my remarks, Mr. President, I want to point out that this amendment is considered to be preferable to the automatic entry provision of S. 2493 by all of the airline labor unions and considered to be preferable to all but a few—very few—of the scheduled airlines.

The PRESIDING OFFICER. Who yields time?

Mr. McGOVERN. Mr. President, if the Senator from Nevada is prepared to yield back the remainder of the time, I will yield back my time.

Mr. CANNON. I yield back my time.

The PRESIDING OFFICER. All time being yielded back, the question is on agreeing to the amendment of the Senator from South Dakota. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Colorado (Mr. HASKELL), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Michigan (Mr. GRIFFIN), the Senator from Oregon (Mr. HATFIELD), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

On this vote, the Senator from New Jersey (Mr. CASE) is paired with the Senator from Oregon (Mr. PACKWOOD). If present and voting, the Senator from New Jersey would vote "yea" and the Senator from Oregon would vote "nay."

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The result was announced—yeas 21, nays 72, as follows:

[Rollcall Vote No. 120 Leg.]

YEAS—21

| | | |
|---|---|---|
| Allen | Hatfield, Paul G. | Nunn |
| Anderson | Hodges | Randolph |
| Belimon | Inouye | Stennis |
| Bentsen | Long | Stone |
| Burdick | Matsunaga | Talmadge |
| Chiles | McGovern | Young |
| Eastland | Melcher | |
| Goldwater | | |

NAYS—72

| | | |
|---|---|---|
| Baker | Gravel | Nelson |
| Bartlett | Hansen | Pearson |
| Bayh | Hart | Pell |
| Biden | Hatch | Percy |
| Brooke | Hathaway | Proxmire |
| Bumpers | Hayakawa | Ribicoff |
| Byrd, Harry F., Jr. | Heinz | Riegle |
| | Helms | Roth |
| Byrd, Robert C. | Hollings | Sarbanes |
| Cannon | Huddleston | Sasser |
| Chafee | Humphrey | Schmitt |
| Church | Jackson | Schweiker |
| Clark | Javits | Scott |
| Cranston | Johnston | Sparkman |
| Culver | Kennedy | Stafford |
| Curtis | Laxalt | Stevens |
| Danforth | Leahy | Stevenson |
| DeConcini | Lugar | Thurmond |
| Dole | Magnuson | Tower |
| Domenici | Mathias | Wallop |
| Durkin | McClure | Weicker |
| Eagleton | Metzenbaum | Williams |
| Ford | Morgan | Zorinsky |
| Garn | Moynihan | |
| Glenn | Muskie | |

NOT VOTING—7

| | | |
|---|---|---|
| Abourezk | Haskell | McIntyre |
| Case | Hatfield, Mark O. | Packwood |
| Griffin | | |

So Mr. MCGOVERN's amendment No. 1789 was rejected..

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PEARSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Florida.

Mr. STONE. Mr. President, I have a series of questions I would like to ask the chairman of the committee.

Mr. BUMPERS. Will the Senator yield for a unanimous-consent request?

Mr. STONE. I yield.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Martha Jones, of my staff, be granted the privilege of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Will the Senator yield for another unanimous-consent request?

Mr. STONE. I yield.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Miss Henderson and Mr. Jeff Stone, of my staff, be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Will the Senate please be in order?

Mr. GLENN. Mr. President, I make the same request for Walter Nolan, of my staff, to be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, will the Senator yield for a further unanimous-consent request?

Mr. STONE. I yield.

Mr. CHILES. Mr. President, I ask unanimous consent that Dee Woodberry, of my staff, be granted the privileges of the floor during the consideration of the pending bill.

Mr. LUGAR. Mr. President, I make the same request for Mr. Mark Lubber, of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida.

Mr. STONE. Mr. President, I will say to the distinguished chairman of the committee, the Senator from Nevada, that I have had inquiries from several small airlines in Florida about the dormant authority provision of this bill. A number of airlines, such as Air Sunshine, which serves Key West, serve as replacement carriers under a suspension-replacement agreement for a CAB certificated carrier on a route which the certificated carrier has authority to serve but does not serve.

My first question is: Would the route which is served by the replacement carrier be subject to the dormant authority provision of this bill?

Mr. CANNON. No, it will not be, I say to my colleague.

Mr. STONE. I thank the chairman. In other words, it would not be subject to the dormant authority provision of the bill because the route is not being served by the carrier that holds authority from the CAB to serve?

Mr. CANNON. That is correct.

Mr. STONE. Second, if a replacement carrier were to opt to turn in its CAB——

The PRESIDING OFFICER (Mr. CULVER). Will the Senator suspend? The Senate is not in order.

The Senator from Florida.

Mr. STONE. I thank the Chair.

To repeat the second question: If the replacement carrier were to opt to turn in its CAB exemption and operate solely under the authority of the State Public

Service Commission, would the carrier still be able to enter a suspension-replacement agreement with a CAB certificated carrier without subjecting the route so served to the dormant authority provisions of the bill?

Mr. CANNON. Yes; it would.

Mr. STONE. I thank the chairman. I have several more questions.

Mr. President, I would like to clarify the language in the Federal preemption section of the bill. With regard to part 298 carriers, exempt carriers, is it true that, in the first place, if they retain their exempt status, Federal law preempts State regulation over them?

Mr. CANNON. The answer is yes to that question.

Mr. STONE. I thank the chairman.

Second, if they give up their exempt status, so that they are certificated only by the State, State regulation prevails regardless of how much the carrier's revenue is derived from interline passengers?

Mr. CANNON. Yes, that is true, so long as they operate only within the borders of that State.

Mr. STONE. I thank the chairman.

A final question: For intrastate carriers over which the States retain authority, is it true that the interline passengers are not counted in determining "revenues from interstate operations," and that only revenues from passengers flown by the carrier on an interstate route would be figured into the calculation?

Mr. CANNON. The answer is "Yes."

Mr. STONE. I thank the chairman so much for his replies.

Mr. BUMPERS. Will the Senator from Nevada yield enough time for me to ask a couple of questions?

Mr. CANNON. The Senator from South Dakota was prepared to call up an amendment.

Mr. McGOVERN. I will withhold calling up the amendment.

Mr. CANNON. I yield.

Mr. BUMPERS. As I understand the provisions of this bill, it would phase out over a 7-year period the current system of subsidies based on mail and establish a program based on community need. Is that correct?

Mr. CANNON. The Senator is correct. The subsidy system as it is now, will be phased out and it will be replaced by one which focuses on the needs of a community. It will be provided to the carrier based on the community need.

Mr. BUMPERS. Is there any formula in the bill, or does the Chairman have some suggestions as to how the subsidy would work? It is my understanding that commuter lines are likely to be the principal beneficiaries of the new subsidy. Is that a fair statement?

Mr. CANNON. The Senator is correct. Those are the carriers who are likely to be the beneficiaries of the subsidy.

Mr. BUMPERS. How much did the U.S. Government subsidize the airlines last year?

Mr. CANNON. About $70 million.

Mr. BUMPERS. What does the committee contemplate would be the subsidy for 1979, as it would be applied under this bill?

Mr. CANNON. The contemplation for 1979 is at about that same level.

Mr. BUMPERS. The formula would be changed to emphasize community needs, and it would not be based on some of the other criteria which have been used. Is that correct?

Mr. CANNON. They would be able to provide additional service to the small communities for about that same amount of money by having it go to the communities based on the community needs. I am referrring only to 1979. As the subsidy system phases down, it is anticipated that the total subsidy level required would be less than the amount that is required at the present time.

Mr. BUMPERS. I like the whole concept becaues commuter airlines will be unregulated and can operate at times they deem to be economically feasible and still be eligible for the subsidy, simply based on the needs of the community. Is that correct?

Mr. CANNON. The Senator is correct. Of course the commuters receiving subsidy will be required to provide a minimum level of service. Beyond that, however, they will be free to operate however they wish. Based on the experience of many commuters, they will be providing better service to a lot of these small communities than the communities now get because they are providing it at a time and frequency level that the communities would like to have, or at least the people who live there would like to have.

Mr. BUMPERS. I thank the Chairman.

Mr. MAGNUSON. Will the Senator yield?

The PRESIDING OFFICER. The Senate will be in order.

Mr. CANNON. Yes, I yield.

The PRESIDING OFFICER. Will the Senator withhold? The Senate is not in order. The Senate will be in order before we continue.

Mr. MAGNUSON. It is not so much what the communities would like to have but what seems to be reasonable and desirable for the community. Most communities always want more air service than they need, but it would still take care of the question of the Senator from Arkansas.

Mr. CANNON. Yes. The chances are that under this system the communities would get better service than they are presently getting.

Mr. MAGNUSON. They would analyze it and see what would be reasonable service.

Mr. CANNON. That is correct.

Mr. HATCH. Will the Senator yield for a unanimous-consent request?

Mr. McGOVERN. I yield.

The PRESIDING OFFICER. The Senate will be in order. Conversations will be suspended before we continue.

Mr. HATCH. Mr. President, I ask unanimous consent that Mr. William R. Healy, of the staff of Senator Hansen, be granted the privileges of the floor during the pendency of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Dakota is recognized.

The Senate will be in order.

Mr. HATCH. Also, Ernie Garcia and Steve Catrell, of the staff of Senator DOLE.

The PRESIDING OFFICER. Without objection, it is so ordered. If we get much more staff in here, let us keep it quiet.

The Senator from South Dakota.

AMENDMENT NO. 1784

Mr. McGOVERN. Mr. President, I call up my amendment No. 1784 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN) proposes an amendment numbered 1784.

Mr. McGOVERN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 57, between lines 17 and 18, insert the following:

(D) For the purpose of this subsection, service by another eligible air carrier shall not be considered as a substitute for any essential air transportation unless—

(i) at points in such service boarding 10 passengers or less per day, the substitute carrier's service does not reduce total seat capacity by more than 25 per centum;

(ii) at points boarding more than 10 passengers, but less than 20 passengers per day, the substitute carrier's service does not reduce total seat capacity by more than 15 per centum; and

(iii) at points boarding more than 20 passengers a day, the substitute carrier's service does not reduce total seat capacity by more than 5 per centum.

For the purpose of this subparagraph total seat capacity shall be determined on the basis of service provided at a point during the one-year period preceding the proposed substitution.

Mr. McGOVERN. Mr. President, I yield myself such time as I may take. I do not think it will take much time to explain this amendment. It is one of two amendments being offered that are designed to protect the service in smaller communities and is not nearly so complicated a concept as the amendment we have just been debating. The purpose of that one was also to give protection to our smaller communities and the consumers that live in those parts of the country, but I recognize that this is a highly technical subject and somewhat difficult for Senators, especially when they are not on the floor, to follow. The amendment that I now address and the one to follow are very simple modifications in the legislation now before us which are designed to insure that if there are carriers taken off the smaller lines serving the smaller communities, a comparable service will be provided.

The CAB and other proponents of this legislation have claimed that, under the terms of the bill, small community air service subsidies can be sharply reduced. At the same time, they argue, service will be improved as local service airlines would be replaced by commuter carriers. Of course, the whole question here, Mr. President, is what the quality of those commuter planes will be, what their capacity is and their capability of replac-

ing the service that is lost by the former carriers. I have seen no accurate estimates, frankly, of the total cost of this new subsidy program. We are told that it is supposed to be a saving over the present subsidies, but what will it cost? It means startup equipment and facility acquisition problems. To meet the early operational costs of local carriers, some of the estimates that I have seen indicated that the proposed subsidy program in the committee bill could cost three times what the present programs require, somewhere in the neighborhood of $100 million.

In a sense, the rural and smalltown sections of the country will be paying more in the way of taxes for less service. Those communities which have working relationships with existing regional carriers that are partially subsidized under the present program will not be able to continue that partnership under this legislation unless it is modified in some fashion. Instead, they will be forced to accept some unknown, untried new carrier. As service deteriorates, as I think it is quite probable that it will, and passenger boardings decline, then the CAB may ultimately determine that air transportation is not essential to a given point and the air service will cease. We have seen that happen in the railway experience and this bill could establish the framework for the same thing to happen with the airlines' commuter service.

I can see, Mr. President, that some of the points made in the local air service section of this bill are necessary and some, perhaps, are long overdue. But there is still a need to assure adequate replacement service to communities under this legislation. We have to be able to assure them high quality, efficient, safe air travel. I think the two amendments that I have to this section of the legislation will assure those goals.

In the existing language of the bill, in order to maintain essential air service to communities, the board may allow commuter air carriers to assume the routes abandoned by major trunk carriers. As I have said, this could downgrade service to small communities, reduce the seat capacity, and generate financial problems to communities which have made substantial long-term investments in their airport facilities in order to accommodate larger aircraft.

Consequently, the amendment that I now have pending at the desk, No. 1784, states that no carrier will be allowed to withdraw from any point where the carrier is the sole certified carrier unless substitute service can be provided without significantly reducing the seat capacity based on the number of passengers served per day from that point. That does not mean that another type of aircraft could not be substituted, but it does retain the requirement that adequate seating capacity be preserved. Frankly, in some cases, this will not allow substitute service in the form of commuter carriers, but would alleviate many of the problems that would have been created. I think the intention of the amendment is clear, and I very much hope that the Senate will see fit to adopt it to protect these less heavily populated sectors of the country.

Mr. President, I reserve the remainder of my time.

Mr. CANNON. Mr. President, I yield 30 seconds to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

The Senate will be in order. If Senators find it necessary and desirable to continue conversations with staff members who are seated next to them, would they kindly retire to the cloakroom or somewhere else so that we can have a climate in here where Members can hear the statements of the Senators who are seeking recognition and who are, in fact, trying to speak over this continual din?

The Senator from Texas is recognized.

Mr. TOWER. Mr. President, I ask unanimous consent that Mr. Allen Balch of my staff be granted the privilege of the floor during debate on S. 2493 and amendments thereto and during votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. Mr. President, I yield myself 5 minutes.

This amendment would help perpetuate a system of air transportation to small communities which is characterized by excess capacity, poorly timed service, high prices, and enormous subsidy bills. I vigorously oppose it.

No part of this bill has been as carefully scrutinized as the small community section. We have for the first time in history absolutely guaranteed service to small communities. We have also provided that the local communities will play an integral part in deciding the quality of service to be received.

The key to the whole program is to obtain the quality and quantity of service which best meets the unique needs of each community. Restrictions like those proposed here would limit greatly the ability of the Board and the community to design such patterns of service.

I may say, the Senator says he is concerned about the local communities. The provision in the bill has the support of the National Association of State Aviation Officials, the Airport Operators Council, and the National Association of Counties insofar as this particular provision is concerned.

Should the Senate sit here and arbitrarily set for perpetuity a minimum number of seats to be provided in each market? It just does not make sense. We have in this bill given clear directions to the CAB to maintain a comprehensive and convenient system of continuous scheduled airline service for small communities and isolated areas. We have given them the tools to do it with. We have told them to go out to each community and sit down with the local people to agree on a pattern of service.

Let us not tie their hands. In many cases, this amendment would force the CAB to chose between maintaining existing service patterns—which are often very poor—or, if going to a more suitable aircraft, having to order more flights each day than there are passengers flying to or from the community.

Mr. President, the staff of the board has given me some examples of the application of this amendment. Here is one:

Blythe, California, is now served by Hughes Air West with 40-seat airplanes. In order to comply with the McGovern amendment, a replacement carrier would have to offer nine trips a day to and from Blythe, assuming a reasonably sized commuter aircraft. In 1977, approximately five people per day were enplaned at Blythe. This means that under the McGovern amendment, nine flights a day would serve Blythe in order to pick up five passengers.

Mr. President, who could possibly benefit either from a policy which maintains the status quo or a policy which requires a lot of empty planes to be flying around? Certainly, not the traveling public. Certainly not the local communities. Most certainly, not the taxpayers who would support this to the extent of an increase, a 25 percent increase, in subsidy.

Mr. PEARSON. Will the Senator yield me 1 minute?

Mr. CANNON. Yes.

Mr. PEARSON. Mr. President, I think the bill actually does what the Senator from South Dakota seeks to do. This bill provides that after the 7-year subsidy period is phased out, service is guaranteed for 10 years.

I can appreciate his concern to keep the level of service at a high level for the local communities. But what has really happened is that the local service carriers in area after area, or region after region, have gone in where they have served small communities and then, as time progresses, and new equipment comes on, they upgrade their equipment and, all of a sudden, do not have the small, two-engine planes any more, they have jets coming in.

All of a sudden, we have larger planes, more expensive to operate. They come into the small communities and simply cannot understand that sort of service with that kind of cost, and all of a sudden, they are pulling out.

The Senator says we do not have to have the same equipment, but we have to have the same number of seats, which is tantamount to the same thing.

So I think we have adequate service here, adequate protection, in the community service section of this particular bill. I think the bill does precisely what concerns the Senator from South Dakota.

Mr. SCHMITT. If the Senator will yield me 1 minute, I join with my two colleagues (Mr. CANNON and Mr. PEARSON) to oppose this amendment.

I think it is clear, as I said in my opening statement, that the small communities not only have been considered and are, in fact, protected by this legislation, but that all those individuals we have contacted who are specifically concerned with airline service to small communities agree with that statement.

I would refer my colleagues to the opening statement where we quoted several letters from people concerned with small community activities in air transportation.

If the Senator will yield me 1 more minute, I would also illustrate that in the case of New Mexico we have seen for many years exactly what the problem

has been with large aircraft serving too small a community. It is a continuing problem. It is a problem that is with us right now, one where carriers find that they just economically cannot serve three medium-sized cities in New Mexico. They want very much to get out of that market.

At the same time, I think it is safe to say they realize the difficulty they are putting those cities into.

Under this bill, we provide options that literally do not exist today and encourage options to develop that, as Mr. Nammeck has said, as I quoted him in my opening remarks, will provide better, more frequent, less expensive service to communities of this kind.

So I urge my colleagues to support the committee position on this bill and defeat the amendment.

Mr. McGOVERN. Mr. President, I yield myself such time as I may require.

Mr. President, just to respond briefly to the observation made by the distinguished manager of the bill (Mr. CANNON), the amendment that I am offering here is not really as rigid as the Senator apparently believes.

When we talk about avoiding a significant reduction in the seating capacity, that is not an absolute formula that goes to the kind of rigid situation the Senator describes.

The amendment is so brief that I think it would be worth the time of the Senate if I could just read what it says:

(D) For the purpose of this subsection, service by another eligible air carrier shall not be considered as a substitute for any essential air transportation unless—

(i) at points in such service boarding 10 passengers or less per day, the substitute carrier's service does not reduce total seat capacity by more than 25 per centum;

So it does allow for some reasonable reduction.

(ii) at points boarding more than 10 passengers, but less than 20 passengers per day, the substitute carrier's service does not reduce total seat capacity by more than 15 per centum; and

(iii) at points boarding more than 20 passengers a day the substitute carrier's service does not reduce total seat capacity by more than 5 per centum.

I think, Mr. President, this is a reasonable amendment. It does allow some flexibility, but at the same time it gives a measure of protection to communities that otherwise may take a very sharp cut in the quality and capability of their service.

Beyond that, I question very much whether the cost of the committee bill as they described it here, to replace the existing subsidized operation, is going to be as reasonable as we have been led to believe.

I repeat what I said here earlier, that the new subsidy proposed in the committee bill could very well run as much as three times the cost of the present program.

I hope, at the very least, that this amendment, modest as it is, will be accepted. It gives some measure of protection to these small communities.

Mr. CANNON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. McGOVERN. Mr. President, I yield back the remainder of my time.

Mr. CANNON. Mr. President, I move to table the amendment.

Mr. McGOVERN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from South Dakota (Mr. McGOVERN). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Colorado (Mr. HASKELL), and the Senator from New Hampshire (Mr. McINTYRE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) and the Senator from Oregon (Mr. PACKWOOD) would each vote "yea."

The result was announced—yeas 80, nays 12, as follows:

[Rollcall Vote No. 121 Leg.]

YEAS—80

| | | |
|---|---|---|
| Allen | Ford | Nelson |
| Baker | Garn | Nunn |
| Bartlett | Glenn | Pearson |
| Bayh | Goldwater | Pell |
| Bentsen | Gravel | Percy |
| Biden | Griffin | Proxmire |
| Brooke | Hansen | Ribicoff |
| Bumpers | Hart | Riegle |
| Burdick | Hatch | Roth |
| Byrd, Harry F., Jr. | Hayakawa | Sarbanes |
| Byrd, Robert C. | Heinz | Sasser |
| Cannon | Helms | Schmitt |
| Chafee | Hollings | Schweiker |
| Chiles | Huddleston | Sparkman |
| Church | Jackson | Stafford |
| Clark | Javits | Stennis |
| Cranston | Johnston | Stevens |
| Culver | Kennedy | Stevenson |
| Curtis | Laxalt | Stone |
| Danforth | Leahy | Talmadge |
| DeConcini | Long | Thurmond |
| Dole | Lugar | Tower |
| Domenici | Magnuson | Wallop |
| Durkin | McClure | Weicker |
| Eagleton | Metzenbaum | Williams |
| Eastland | Morgan | Young |
| | Moynihan | Zorinsky |

NAYS—12

| | | |
|---|---|---|
| Anderson | Hodges | Melcher |
| Bellmon | Humphrey | Muskie |
| Hatfield, Paul G. | Inouye | Randolph |
| Hathaway | Matsunaga | |
| | McGovern | |

NOT VOTING—8

| | | |
|---|---|---|
| Abourezk | Hatfield, Mark O. | McIntyre |
| Case | Mathias | Packwood |
| Haskell | | Scott |

So the motion to table Mr. McGOVERN's amendment (No. 1784) was agreed to.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. McGOVERN. Mr. President, in view of the vote on the last amendment, and also on the previous amendment, I think it is quite clear that the Senate does not feel that any additional assurance is needed to the smaller communities as far as air service is concerned and apparently the overwhelming majority are convinced that the bill, without amendment, will give all the protection that is needed to our smaller communities.

I, of course, disagree with that verdict, but I recognize that the votes have been overwhelming in the other direction, so I will not call up the second amendment that I had referred to earlier, amendment 1785.

I wish to call attention to another amendment which will be my final proposed amendment this afternoon.

The PRESIDING OFFICER. The Senate will be in order.

AMENDMENT NO. 1783

(Purpose: To make certain amendments to improve air transportation to small communities)

Mr. McGOVERN. I call up my amendment No. 1783 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN) proposes an amendment numbered 1783.

Mr. McGOVERN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 76, after line 23 insert the following:

Federal Assistance for Certain Emergency Medical Transportation

(o) In any case where because of regulations of the Board or any other Federal agency with respect to equipment and personnel necessary for operating as an air ambulance, any air commuter or air taxi operation certified or regulated by a State agency will have to discontinue providing the only emergency medical transportation to any community, the Board is authorized, upon application, to make payments in the amount necessary to provide such equipment and personnel to continue such emergency medical transportation.

Mr. McGOVERN. Mr. President, this amendment relates to the need for air ambulance service. In many rural areas air ambulances are the only safe means of transportation for patients who need complex and intensive care. Urban residents requiring specialized surgery also depend on air ambulances to fly them to major specialized medical centers.

Recently the FAA has proposed standards for air ambulance operators mandating necessary medical personnel and equipment for all aircraft used for emergency medical transportation. These standards are necessary and long overdue and will provide some means of patient care while the patient is being transported to standard medical facilities. However, in many small rural areas, the only existing air ambulance operations are offered by standard charter and air taxi businesses who indicate that the costs of complying with the new standards will be prohibitive and they will no longer offer these services. Additionally, several local and State officials believe

that air ambulance services will be curtailed in their States when these regulations go into effect.

Consequently, I am offering an amendment to allow air ambulance operators who are providing the sole emergency medical transportation service to a given community to be eligible for a one-time subsidy to equip their aircraft as mandated by the new regulations in order to continue this essential air service.

I think the purpose of the amendment is clear, and I am hopeful it will be adopted.

Mr. CANNON. Mr. President, I yield 30 seconds to the Senator from Tennessee.

## HUBERT H. HUMPHREY INSTITUTE OF PUBLIC AFFAIRS AND THE EVERETT McKINLEY DIRKSEN CONGRESSIONAL LEADERSHIP RESEARCH CENTER

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2452.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill from the Senate (S. 2452) entitled "An Act to authorize funds for the Hubert H. Humphrey Institute of Public Affairs and for the Everett McKinley Dirksen Congressional Leadership Research Center", do pass with the following amendment:

Page three, after line two, insert:

(d) This Act shall take effect October 1, 1978.

Mr. BAKER. Mr. President, on behalf of myself and the distinguished Senator from Minnesota (Mrs. HUMPHREY), I ask that the Senate proceed to its immediate consideration.

The Senate proceeded to consider the bill.

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. CANNON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. I thank the Senator from Nevada.

## AIR TRANSPORTATION REGULATORY REFORM ACT OF 1978

The Senate continued with the consideration of the bill.

Mr. CANNON. Mr. President, I am perfectly willing to look at the subject in some detail, but I cannot accept the proposed amendment at this time on this bill.

At no time during the last 2 years of hearings and testimony has this issue been raised. We have no testimony from State medical authorities, existing air ambulances, the CAB or the FAA, and I want to hear from all of these people first before enacting legislation.

Furthermore, the FAA and not the CAB has the jurisdiction over air ambulances, and it makes no sense to me to change that responsibility now.

I say to my colleague that we will in the Commerce Committee be considering other aviation matters this year and we would certainly be willing to have him send that to us. We would get the response from the agencies and have it considered at that time on one or two pieces of legislation we will be considering later this year.

Mr. McGOVERN. Does the Senator think, if the proposal does prove to have merit, it will be an appropriate way in which it can be handled by the committee this year?

Mr. CANNON. Well, I think there would be a way that we could consider it. Whether or not the committee would pass it I have no idea because, as I say, I have no factual data to base it on. But we would get the response from the FAA and, as I said, the FAA is the one that has jurisdiction and not the CAB as the Senator is proposing to give them authority here.

I can assure the Senator that we will consider this issue in committee this year if the Senator wants to withdraw it and give us that opportunity. Otherwise I would have to oppose it here on this bill.

Mr. KENNEDY. Mr. President, will the Senator yield further?

Mr. McGOVERN. Yes.

Mr. KENNEDY. We will also be considering the emergency medical legislation which also does provide for air emergency ambulance service which has been implemented particularly in the Western States, States that have very broad highways, and I would be very glad to work with the Senator, in whatever is the most appropriate vehicle to see if the interest cannot be carried forward.

The record has been a successful one. I think the cases that I know particularly of are in the State of Colorado which has made a very significant difference, and where they have been imaginative.

I would certainly be glad form a health point of view to work with the Senator from South Dakota.

Mr. McGOVERN. Well, Mr. President, in view of these assurances and the fact that I recognize we do not yet have the FAA report on this matter or any recommendation from them that, perhaps, we would be better advised to introduce it as a separate measure for appropriate referral either to the committee chaired by Senator CANNON or to the committee handling the legislation to which Senator KENNEDY has referred.

Under those circumstances I will not press for a vote on the measure at this time.

The PRESIDING OFFICER. Does the Senator withdraw his amendment?

Mr. McGOVERN. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right, and without objection it is so ordered.

Who yields time?

Mr. ZORINSKY addressed the Chair.

UP AMENDMENT NO. 1229

Mr. ZORINSKY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk proceeded to read the amendment.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Will the Senator yield?

Mr. ZORINSKY. Yes.

The PRESIDING OFFICER. Is this the amendment where the Senator has a 2-hour time limitation?

Mr. ZORINSKY. The Chair is correct.

The PRESIDING OFFICER. I thank the Senator.

The amendment is as follows:

On page 93, strike out line 6 and all that follows down through line 22 on page 99 and insert in lieu thereof the following:

"EMPLOYEE PROTECTION PROGRAM

SEC. 22. (a) DUTY TO HIRE PROTECTED EMPLOYEES.—Each person who is a protected employee of an air carrier which is subject to regulation by the Civil Aeronautics Board who is furloughed or otherwise terminated by such an air carrier on account of qualifying dislocation shall have first right of hire, in order of the date by which they were dislocated, and regardless of age, in his occupational specialty, by any other such air carrier hiring additional employees. Each such air carrier hiring additional employees shall have a duty to hire such a person before they hire any other person, except that such air carrier may recall any of its own furloughed employees before hiring such a person.

The Secretary of Transportation shall establish, maintain, and periodically publish a comprehensive list of jobs available with air carriers certified under section 401 of the Federal Aviation Act of 1958. Such list shall include that information and detail, such as job descriptions and required skills, the Secretary deems relevant and necessary. In order to carry out his responsibilities under this subsection, the Secretary of Transportation may require each such air carrier to file with the Secretary the reports, data, and other information necessary to fulfill his duties under this subsection. The Secretary of Transportation shall be responsible for insuring the accuracy and timeliness of the reports.

The Secretary of Labor shall make every effort to assist an eligible protected employee in finding other employment.

The Secretary of Labor shall be responsible for insuring that the employee's hiring rights are protected and that the airlines comply with this labor protection provision.

(b) RULES AND REGULATIONS.—(1) The Secretary may issue, amend, and repeal such rules and regulations as may be necessary for the administration of this section.

(2) All rules and regulations shall be submitted to the Congress on the date that they are proposed by the Secretary. Such rules and regulations shall become effective 60 legislative days after the date they were submitted to the Congress, unless during that 60-day period either House adopts a resolution stating that that House disapproves such rules or regulations may become effective on the date, during such 60-day period, that a resolution has been adopted by both Houses stating that the Congress approves of them.

(3) For purposes of this subsection, the term "legislative day" means a calendar day on which both Houses of Congress are in session.

(c) DEFINITIONS.—For the purposes of this section—

(1) The term "protected employee" means a person who, for at least 1 year, on the date of enactment of this section, has been employed full time by an air carrier holding a certificate issued under section 401 of the Federal Aviation Act of 1958. Such term shall not include any members of the Board of Directors or officers of a corporation or any employee terminated for cause.

(2) The term "qualifying dislocation" means reduction of the total number of full-time employees of an air carrier within a 12-month period except for those employees who are deprived of employment because of a strike of an air carrier holding a certificate under section 401 of the Federal Aviation Act of 1958, Air Transportation Regulatory Reform Act. The reduction of such employees must be caused by the change in regulatory structure provided by the Air Transportation Regulatory Reform Act of 1978, as determined by the Civil Aeronautics Board.

(3) The term "Secretary" means the Secretary of Transportation or the Secretary of Labor.

(d) TERMINATION.—The provisions of this section shall terminate 10 years from enactment of this legislation.

Mr. ZORINSKY. Mr. President, my amendment strikes the labor protection provision from the bill. In its place, the labor protection provision I am proposing will remove the present trigger or contraction requirement of 15 percent and also requires that protected employees be employed by an airline for only 1 year. However, instead of affording the relief of compensation from the pockets of the Nation's taxpayers, my amendment provides that qualified protected employees be given a preference in hiring by other carriers.

My substitute labor protection provision is far more liberal in application than is the present bill's provision. Mine will apply to most full-time employees and not only those who have been employed by the airlines for 4 years. My amendment requires that the employee only need have been employed for 1 year to be eligible. Additionally, by removing the contraction requirement I have assured employees will not get caught in a percentage squeeze,

In a letter which I will insert for the record to Senator HARRISON SCHMITT, dated February 22, 1978, J. J. O'Donnell, president of the Airline Pilots Association, states:

Finally let me address the employee protection program contained in the bill (Section 22). While it is encouraging that the Committee recognizes the potential hardships which this legislation may cause to airline employees, the provision in the bill falls far short of insuring protection in practical terms. Two areas in particular need to be addressed. First, the bill limits the eligibility for protection to those employees who have four years seniority on the date of enactment. Obviously this will exclude from coverage thousands of workers on the bottom of airline seniority lists—those who need protection the most. Second, the bill provides for employee protection only in the event of an airline bankruptcy or "major contraction," which is defined as a reduction by at least 15 percent of the total number of full-time employees of an air carrier within a 12-month period. These conditions are so arbitrary and impractical as to render this section of the bill virtually meaningless in terms of honest protection for workers. If the purpose of the program is to protect airline employees whose lives and careers are adversely affected by the enactment of this legislation, then it should do just that. We strongly believe that the arbitrary 15 percent threshold should be removed, and the protective coverage applied to all affected employees.

I have changed my amendment to accommodate these complaints regarding the bill's provisions.

I say at the outset that I have supported efforts to return the airline industry to a less regulated, free enterprise environment. As a member of the Committee on Commerce, Science and Transportation, my record on this legislation has been second to none in support of deregulation.

This support is grounded on the premise that this legislation, by its very nature, will benefit this industry by encouraging growth and additional employment. As a result of this return to a more competitive environment, expansion, and contractions may occur in the marketplace. Employment may also consequently expand and contract. Some less competitive, less efficient carriers may be consumed by their competitors, new carriers will very likely enter the marketplace.

Some previously employed individuals as a result, may need to seek new employment.

Unless we desire to change the nature of our free economic system, these are facts of life which we all accept.

No one has come forward with a stockholder protection provision under this legislation, no one suggests compensating such stockholders for their losses resulting from this legislation.

There is no doubt that this legislation may produce contraction on a per carrier basis. However, the macroeconomic picture of the airline industry as a whole resulting from this legislation is one of expansion.

Evidence of such expansion and increased employment opportunities have already been seen in the airline cargo industry which was totally deregulated this past fall. If airline cargo industry bears any analogy to the passenger industry, then it is clear that this legislation will in fact increase employment opportunities industrywide. Additionally the new price competition among the airlines has resulted in record passenger miles flown by the airlines.

The first fired, first hired provision that I am proposing meshes perfectly with this expected expansion. I ask my colleagues, why resort to the pocket of the taxpayer when the airline industry itself can provide the relief?

Concern for the dislocation of airline employees has been the major stimulus for certain airline employee organizations to seek labor protection or oppose the legislation. Because of this pressure, such provisions were incorporated in the bill.

The provisions in the bill authorize a special new welfare program for airline employees under the auspices of the Secretary of Labor. The bill requires that once the 15-percent contraction threshold is met, and no job is found, these employees must be compensated so as to be in "no substantially worse position regarding wages and fringe benefits." Since airline employees are some of the highest paid in the Nation and receive generous fringe benefits, and since the legislation provides payments for up to 36 months the amount of money from the Treasury required to support even a small number of employees is astronomical.

I cannot imagine our taxpayers being willing to support a pilot in the manner to which he has become accustomed at $100,000 a year. True, the Treasury will not shell out $100,000 since income tax must be taken into consideration. Nevertheless, that same pilot will get between $30,000 to $40,000 tax free. The Treasury will therefore experience a shortfall of the difference between the $100,000 and what the pilot eventually receives since he will not be paying taxes. That means that the rest of the taxpayers will either have to pick up the tab and make up that shortfall or the Government must do more deficit spending.

Conceivably this kind of program could over a 3-year period cause a billion dollar strain on the Treasury in payout plus shortfall, which certainly is staggering.

Where are all my colleagues who are so concerned about inflation?

Not too long ago, on this very Senate floor, I can remember words being contributed to a discussion of an agricultural bill which, in the minds of many, was contributing to inflation. When we see a bill such as this, which has prospects of aiding the consumers of this country but only in reversal to having to additionally encumber the pocketbooks of the taxpayers concerning the guaranteed payment to those employees that may lose jobs due to the exposure to the sunlight of the free enterprise system, I cannot believe that this body is willing to provide a billion-dollar bailout for the executives of the Nation's airline industry for their bad business decisions by compensating their employees. This remedy is especially noxious in light of the ability of our free enterprise system and the boom in the airline passenger industry expected to result from the thrust of this legislation as a whole to remedy the employment problem here in question.

You will hear arguments today that employer protection in the airline industry is not new. This is true. But the type of remedy provided in this bill is a strong departure from past precedents. Protection is not new, the bill's remedy is totally precedent in this industry.

My amendment on the other hand is modeled after and has precedent in the labor protecting provisions imposed by the CAB in mergers and acquisitions pursuant to section 412 of the Federal Assistance Act of 1958.

Regarding the issue of precedent let me warn my colleagues that what we are doing today will be precedent for tomorrow. You will hear arguments that this industry is "unique," because of the degree to which it is regulated by the Federal Government.

Many industries are regulated to varying degrees by the Federal Government. To single out this industry as "unique" is illogical. Who can say that the ulti-

mate effect on the airline industry economy by CAB regulation is greater than the EPA's economic effect on the steel industry. Does not the trucking industry have analogous regulations by the ICC. Quite frankly, OSHA's effect on the small businesses may be just as much in degree by its economic effect on those businesses as the CAB is on the airline industry. To single out the airline industry as being "uniquely" qualified for this type of remedy is simply without foundation.

Consequently I doubt that the "unique" quality of the airline industry will preclude these provisions from being utilized as a precedent in the future. To the contrary, every labor organization working in any type of regulated industry will seize the opportunity to seek this remedy if and when relief is perceived as necessary. The "unique" quality of this precedent will pale in the light of such pressure.

To my colleagues who do not believe that this is precedent, I wonder how many have not heard representatives of organized labor request increased protection beyond the bill's present provision. I hear there is a hue and cry for Amtrak. I bet my colleagues who were here remember that those same Amtrak employee protection provisions were not meant to be precedent for future legislation.

I ask when and where will this all end. I hope this body can begin to set a reasonable and prudent course for the future. I believe my amendment provides this.

Finally, in closing, Mr. President, I would like to address my colleagues who strongly support automatic entry or want more entry through a reverse public convenience and necessity test, and still want even stronger employee protection provisions. The Airline Pilots Association has said that the best employee protection provision is no entry at all. If you want to protect labor then stop pushing for increased entry. If you want free enterprise then let the market seek its level.

The goals you seek are inherently incongruous. You cannot have it both ways, while picking the pocket of the taxpayer. If you want to force the airlines toward a more competitive environment, fine, if you want to oppose trusts and monopolies, fine. But then it is also time to quit overprotecting certain segments of that free enterprise system.

I ask unanimous consent, Mr. President, to have printed in the RECORD letters from the American Farm Bureau Federation and the National Association of State Aviation Officials endorsing my amendment, and also the letter to which I have referred during my talk signed by J. J. O'Donnell, president.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
*October 20, 1977.*

Hon. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, D.C.*

DEAR SENATOR MAGNUSON: We understand that the latest draft of the Airline Regulatory Reform Bill includes a labor protection provision which would give certain assurances to airline employees whenever 15 percent or more of the employees in the industry lose their jobs as a result of reform legislation.

When we filed an earlier comment on this subject with your Committee (our letter dated July 8, 1977), there was no proposal before the Committee to include a so-called labor protection provision.

In our testimony before the House Aviation Subcommittee, we made the following statement on H.R. 8813:

"We are strongly opposed to Section 27 of the bill, since we read it as a blank check on the Treasury to protect the interests of employees who are adversely affected by new competition resulting from section 6, 7, or 8, leaving details of such protection to rulemaking by the Secretary of Transportation. Airline employees have no such protection under the present regulatory system. There is no need for an employee protection provision in this bill, as most experts who have studied regulatory reform have testified that reform would result in an increase in airline employment, not a reduction."

We are opposed to adding a labor protection provision to the Senate bill, although we would support the concept which we understand Senator Zorinsky will propose in Committee or on the floor. This proposal provides that the last employees of an airline losing their jobs due to regulatory reform shall be the first hired when additional jobs become available.

We ask that this letter be considered a supplement to our letter of July 8 and that it be made a part of the record.

Sincerely,

JOHN C. DATT,
*Director, Washington Office.*

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WASHINGTON, D.C.,
*March 3, 1978.*

Hon. EDWARD ZORINSKY,
*U.S. Senate, Russell Building, Washington, D.C.*

DEAR SENATOR ZORINSKY: This association welcomes the opportunity to express our great appreciation to you for introducing and defending your several constructive amendments to the small community air service section of the airline regulatory reform bill. These amendments carried without serious challenge thanks to you, and will require the CAB to consult with the States on major aspects of the service to small community program.

All of the State aviation directors, together with the Governors and Secretaries of Transportation I am sure, are grateful to you for your leadership on this issue.

We discussed the two labor protection amendments during NASAO's Winter Conference in Baltimore last week. After considerable debate, we reached the following conclusion.

While NASAO strongly supports the thrust of the Senate bill on air transportation regulatory reform, we also feel that labor considerations are outside the purview of NASAO's expertise in aviation. We are deeply interested in early passage of the regulatory reform legislation and recommend that the labor provisions of the Senate bill be treated in separate legislation, a decision that apparently has already been taken by the House Public Works and Transportation Committee as reflected in their consensus bill, HR 11145.

Thank you, Senator, for your many courtesies to this association.

Sincerely,

JOHN A. NAMMACK.

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FEBRUARY 22, 1978.

Hon. HARRISON SCHMITT,
*U.S. Senate, Washington, D.C.*

DEAR SENATOR: Thank you for the opportunity to submit our views to you on S. 2493, the "Air Transportation Regulatory Reform Act of 1978." As we have stated on numerous occasions in the past, we are opposed to the enactment of major deregulation legislation on the grounds that Congressional action is not necessary to accomplish most of the basic objectives of proponents of reform of the airline regulatory process. It is our view after analyzing the bill and the committee report that major substantive changes are necessary to allay the concerns which we have with the measure. Let me outline briefly some of our suggested changes.

The "automatic market entry" provision (Section 401 (k)) must be eliminated. We have consistently argued that Federal regulatory control over airline route expansion is imperative for the orderly development of a stable network of efficient, reliable, and safe public air transportation services. The ultimate objective of the automatic entry concept, however, is to remove the CAB from the route certification process leaving this fundamental element of airline system development totally in the hands of private management. In our view, this is anathema to our long-standing philosophy concerning Federal regulation of public transportation, particularly air transportation.

Equally critical is the provision which would enable carriers to abandon markets with relative ease (Section 401 (h)). Under the bill, the airlines would be virtually unrestricted to exit cities and markets which are economically marginal, and the CAB would be left with the sole responsibility to find suitable service replacements. The consequences for numerous communities and regions of the country would be totally unacceptable in terms of service quality and pricing. This provision should be deleted.

The changes proposed in the bill for the certification of charter air carriers (Section 421) are not wise in our judgment. The recent experience of the proliferation of all-cargo airlines with the passage of the air cargo deregulation bill should be sufficient evidence as to what is certain to happen in the charter field if S. 1493 is enacted in its present form. Since enactment of H.R. 6010, the cargo deregulation bill, over 50 certificates have been granted by the Board for unrestricted all-cargo service. Applicants for charter certificates should be required to meet the same "public convenience and necessity" test as their scheduled counterparts. We also believe that the specific provisions regarding off-route charter authority for scheduled carriers (Section 401 (n)) should be deleted from the bill. The percentage limitations on such authority should be determined by the CAB which has the expertise and the authority to adjust them as conditions warrant.

The provisions regarding the certification and subsidization of commuter air carriers (Sections 419 & 420) are too broad and cumbersome in our view, and fail to account adequately for the critical safety deficiencies inherent in this segment of the industry Under the bill, the CAB is saddled with an unreasonable responsibility of guaranteeing "essential air transportation" services, which, by the Board's own admission, would require an enormous enlargement of its bureaucracy to implement and administer. While we do not oppose subsidy eligibility for commuter operations where necessary in the public interest, we must insist that the operators of Federally subsidized carriers be required by law to meet minimum safety standards and regulations comparable to those which govern other certificated airlines. Appropriate amendments to Sections 419 and 420 should be adopted to establish an effective program of "local air transportation" which is safe in its operations and practical in its administration.

We are opposed to the seven-year phase-out of the current local service subsidy program (Section 406), and the replacement of it by the propgram outlined in Section 419. While changes in the legislative basis of the program may be meritorious, we believe that

the interconnecting network of air services now available to hundreds of communities throughout the country should not be sacrificed on the grounds that cheaper, albeit lower quality, service may be provided by commuter airlines. We are convinced that the long-range consequences for reliable air transportation in the sparsely populated regions of the nation will be regretted if Congress ignores the vital public service aspects of the current subsidy system and opts in favor of an allegedly cheaper alternative.

Finally, let me address the employee protection program contained in the bill (Section 22). While it is encouraging that the Committee recognizes the potential hardships which this legislation may cause to airline employees, the provision in the bill falls far short of insuring protection in practical terms. Two areas in particular need to be adressed. First, the bill limits the eligibility for protection to those employees who have four years seniority on the date of enactment. Obviously this will exclude from coverage thousands of workers on the bottom of airline seniority lists—those who need protection the most. Second, the bill provides for employee protection only in the event of an airline bankruptcy or "major contraction," which is defined as a reduction by at least 15% of the total number of full-time employees of an air carrier within a 12-month period. These conditions are so arbitrary and impractical as to render this section of the bill virtually meaningless in terms of honest protection for workers. If the purpose of the program is to protect airline employees whose lives and careers are adversely affected by the enactment of this legislation, then it should do just that. We strongly believe that the arbitrary 15% threshold should be removed, and the protective coverage applied to all affected employees.

In conclusion, Senator, let me reaffirm once again our sincere conviction that the Federal government has an important responsibility to execute in the development of the nation's public air transportation system. This responsibility is shared by the Congress and its administrative arm the CAB. The role of the Congress is the establishment of airline regulatory policy, and the role of the CAB is the implementation of that policy. In our view, S. 2493, as reported, is clearly an abdication of the Federal responsibility to insure the orderly development of a stable network of efficient, reliable, safe, and reasonably priced air transportation services. This abdication becomes apparent when one strips away all the technical verbiage in the bill, and finds that the role of the CAB has been relegated to that of a huge bureaucracy populated by rubber stamps. If and when the Senate of the United States recognizes this fact, I am convinced that its members will proceed with extreme caution in their consideration of S. 2493.

Thank you once again for the opportunity to share our views with you on this vital subject.

Sincerely,

J. J. O'DONNELL,
*President.*

(Mr. RIEGLE assumed the chair.)

Mr. PEARSON. Will the Senator yield?

Mr. ZORINSKY. I yield.

Mr. PEARSON. I congratulate the Senator for his participation and for the fine contribution he has made. May I inquire about the amendment the Senator has proposed? It has some variations and modifications over the amendment he had some weeks and some months ago. Is that correct?

Mr. ZORINSKY. That is correct.

Mr. PEARSON. If the Senator will yield further so that I might see if I really understand what he seeks to do—and I believe I am in sympathy with the amendment—under this particular bill, the labor protection provisions provide that if there is a contraction or even a bankruptcy or economic dislocation which the CAB determines equals 15 percent of the total employment, those people who have a full-time job and have worked for 4 years who are then out of a job, or if they have a reduction in pay, have some compensation as determined by the Department of Labor, as I understand this.

Mr. ZORINSKY. My distinguished colleague is correct in making that assumption.

Mr. PEARSON. That is the assumption.

As I understand the Senator's amendment, he would make it applicable to employees of 1 year and strike the 15 percent so he covers a great many more people?

Mr. ZORINSKY. That is correct.

Mr. PEARSON. But he provides no funds for compensation. Are there Federal funds whatsoever?

Mr. ZORINSKY. There are no Federal funds whatsoever.

Mr. PEARSON. The aid that the Senator made reference to under the merger provisions is the first-fired, first-hired provision?

Mr. ZORINSKY. Job opportunities.

Mr. PEARSON. That is a much more diplomatic way to put it, I might say. Actually, while they might seem to be marginal positions, these are highly skilled people, generally, and greatly in demand, as I understand it. I want to say that I do not know what the position of the manager of the bill is. We have discussed this point to some extent. I view this particular proposal sympathetically and I may support the Senator in his efforts.

Mr. ZORINSKY. I thank my distinguished colleague from Kansas.

Mr. CANNON. Mr. President, I yield myself 5 minutes.

Mr. President, I have mixed emotions about this. I did support the provision in the bill as now written, which was not offered by me but offered by the distinguished Senator from Missouri and the Senator from Washington. I must say that as the bill is written there are some provisions in it I cannot go along with. If the Senator's amendment fails, I have an amendment which I would expect to offer, which would eliminate the provision providing a guarantee to a pilot who may be earning up to $100,000 a year, which I agree with him is unreasonable.

I think the Secretary of Labor, if this bill stays as it is now, is the one who ought to make the determination as to the adjustment assistance which is provided.

I believe the principle of new employees having to be hired from the industry itself, the first-out-first-in concept, is a good one. I think this would insure that people have the opportunity to work, even though it is with another carrier. I realize that creates problems among the various unions which are involved.

I must say that I do not think we are going to have those kinds of disruptions. I believe this is merely a provision where some might say it is adequate insurance. I believe we have a bill here which will insure that we will end up with more employees for these various carriers rather than fewer, and that will be true right across the board.

The Senator from Missouri is in the Chamber, I would prefer to yield to him, because it is his amendment. I yield him such time as he would like to have. His amendment is the one which is in the bill, and I presume he would want to oppose the amendment of the Senator from Nebraska.

How much time does the Senator from Missouri desire?

Mr. DANFORTH. I am not sure.

Mr. CANNON. I will yield 10 minutes to start, and if the Senator desires more time, I will yield additional time.

The PRESIDING OFFICER. The Senator from Missouri is recognized for 10 minutes.

Mr. DANFORTH. Mr. President, I think it is quite an overstatement to say that the labor protection provision in the airline deregulation bill opens up a sort of Pandora's box and provides a precedent which would be widely followed in many other situations. The basis for labor protection in this particular bill is that the airline industry is not similar to most industries in the United States.

Most business enterprises in the United States operate on the basis of open competition. People who go into business, people who apply for employment with a business, generally recognize that when they get into that kind of an enterprise, they will prosper as the company prospers, and they will suffer if the company suffers. But in the airline industry we have not had open competition. For the past 40 years we have not had open competition in the airline industry. Instead, we have had an industry which has been very heavily regulated by the Federal Government.

An airline is not free, under existing law, to enter into any market that it wants, as an ordinary business can.

An airline is not free to set up whatever price it wants on its tickets, as any other industry is free to set prices.

Instead, we have a very carefully regulated and controlled industry. The people who went into this industry, who determined their life plans according to this system, counted on a basic legal structure under which they will be operating. What we are doing in this bill is changing the rules of the game. We are changing the rules of the game which were established some 40 years ago when an infant industry developed.

The rules are not being changed by the marketplace. The rules are not being changed by the ordinary course of events.

The rules have been set by the Congress in the first place and the rules are being changed by the Congress. So we have this unique situation where the Congress sets the rules and the Congress then, in the middle of the game, changes the rules.

We have recognized in the automatic entry provisions in the bill that when

the Government changes the rules which the Government has established, then we should provide some transitional period for those who are going to be affected. In automatic entry we have provided a transitional period for the airlines, for the companies, so that they will not all of a sudden be engulfed in this new system of automatic entry, but there will be a gradual phase-in for automatic entry.

What we are saying in labor protection is that if we are going to have a phase-in to protect the industry, let us have a phase-in to protect the employees as well.

The Senator from Nebraska would say that it is sufficient protection for the employees for them to be able to be hired either by their old employer, if it gets healthier, or by some other airline located somewhere else. As I understand it, there is no provision at all in his bill to move families across the country to new communities. Furthermore, there is no provision whatever for what happens to the communities which are going to be affected.

I have in mind especially one of the communities I happen to represent, Kansas City, Mo., and the surrounding area.

The TWA overhaul base outside of Kansas City employs 4,800 people. TWA in Kansas City, in total, employs 11,200 people.

Let us suppose that TWA, which has felt very threatened by this legislation, has a major contraction as a result of this bill. Let us suppose that it might be a boon for the rest of the industry, but that TWA has a very hard time as a result of this bill. What is to happen to 11,200 human beings who happen to be employed by that company in Kansas City? What is going to happen to their wives and their children? Are they supposed to move? Are they supposed to move to Atlanta or to New York or to someplace else to hope to find some other job in a distant part of the country? I think it is unrealistic.

It also does not take into account the effect that it has, not only on the lives of those people, but on the community itself. It is as though some Government installation were suddenly removed from a community. How is the community to get along?

It is my belief that the amendment that has been offered by the Senator from Nebraska is totally inadequate, because all it does is provide that if you can pick up stakes and move your whole family to some other community, maybe you will be able to get a job in that other community.

Senator CANNON has pointed out the great hope for this legislation. That hope is that it is going to be a boon for the consumer, that the consumer is going to be much better off, that suddenly, we are going to have better service and we are going to have lower fares. We are talking about inflation now. The Senator from Nebraska mentioned the inflationary effect of labor protection. If this bill operates the way it is supposed to operate, the bill itself would have an anti-inflationary effect. The effect of it would be to reduce air fares, to make it possible for people to travel without paying so much for a ticket. The average person, the consumer, will be able to benefit, the American public will be able to benefit by lower air fares.

If the American public is going to benefit, then why should the American public benefit out of the pocketbooks of the people who are employed by the airlines? If the American public, as a whole, is going to be better off as a result of airline deregulation, why is it so unreasonable to ask the people as a whole to pay the bill for those who may suffer or who would suffer as a result of this legislation?

With respect to precedents, there is a precedent for what labor protection does in this instance. The precedent is railroad reorganization, and it is simply not true that it amounts to a huge raid on the Treasury. In railroad reorganization, the Federal Government, the Congress of the United States, changed the rules of the game in midstream and provided that those who lost their jobs as a result of railroad reorganization, as a result of governmental action, would be compensated by the Government. It was thought to be a very reasonable and a very fair proposition. The effect of it was that in 1977, it did not cost any billion dollars, it cost $60 million. In 1978, it is estimated that it will cost $50 million. Then it will be scaled down in 1979 to $25 million, then down to $10 million by 1980. That is the kind of cost it is. It is not any billion dollars.

There is no way that any individual is going to be paid any $100,000 a year under this proposal, not even close. Railroad reorganization, I am told, is much more generous in the compensation that it provides than what would be provided in this bill. Yet it will be scaled down to $10 million a year.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DANFORTH. May I have 5 more minutes?

Mr. CANNON. I yield 5 more minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 additional minutes.

Mr. DANFORTH. Mr. President, after the debate is completed on the amendment offered by the Senator from Nebraska, at that point, I shall offer a substitute for his amendment and the substitute will do several things. It will specifically address itself to one of the problems that Senator ZORINSKY has raised with respect to the labor protection provisions in the bill as it stands; that is the 15 percent test to trigger compensation under this provision. I think, on reflection, that on this part of his suggestion, Senator ZORINSKY has made a good point, because if, as a result of this bill, instead of a 15-percent contraction, there is, say, a 14-percent contraction in employment, that 14 percent would be out in the cold under the existing bill. So it will be my intention to offer as a substitute at the appropriate time an amendment which would track Senator ZORINSKY insofar as it would do away with the 15-percent test; and also would make certain other improvements, I think, on the bill as it presently exists.

The basic concept of the bill now, I think, is one that deserves to be emphasized, which is certainly far superior to Senator ZORINSKY's amendment. That is that when you have an industry which has been developed under governmental regulation and when the Government regulation is changed in midstream and people suffer as a result, through no fault of their own but because of what we do in Congress, then we should offer them some protection for a limited period of time to make it possible for them to adjust to the new situation.

I thank the Senator from Nevada for yielding me this time.

Mr. ZORINSKY. Mr. President, I yield myself such time as I may require.

My colleague, the Senator from Missouri, speaks very eloquently of assuring people a means of livelihood once they have embarked on a livelihood that sustains their family. I certainly have no objection to that. However, he just concluded his argument by saying that when we have made mistakes in this Chamber, people of this country should not have to be made to suffer the economic penalties thereof. He opens up an entire new world of economic penalties that have been imposed upon the people of America. I know several businesses which have been put out of business, which have had to go broke by either additional encumbrances imposed or through rules and regulations promulgated as a result of various legislative events taking place in these halls. He does not mention a word about these people. He confines himself to the uniqueness of an airline industry.

Well, I point out to my colleague from Missouri that Americans are Americans, taxpayers are taxpayers, wherever they reside in this great land of ours. Certainly, in equality for all, to say that a group will be encumbered economically in a given industry without mentioning the hundreds of thousands of people who have been economically penalized by legislation that has evolved in Congress to date is not fair to those that have not been mentioned. I shall not take the time today to enumerate the long list of unfortunates within this country who have been the object of legislation to the point where they no longer exist in the business communities of our fair States and cities.

I would like to briefly make a comment concerning no moving costs being visible in my amendment or in this bill.

It would not surprise me at all if corporations and industries themselves provide moving expenses. I see nowhere in the Constitution of this country where we have to guarantee moving expenses for people who have been unfortunate in losing a job and seeking another job.

I also would assume in many instances many of these moving expenses are tax deductible in order to obtain a new place of employment.

So I do say to my colleague, we are completely overlooking and omitting the ability of private enterprise to provide some moving expenses in the hiring of employees.

The comment was made concerning changing the rules of a ball game. There are many ball games being played in this country today, not only in the airline industry. I would point out that daily rules

of the ball games are being changed by Federal rules and regulations, whether it be in agriculture, whether it be in manufacturing and in textiles, throughout this country, that are in some way adversely affecting the well-being and economics of employees and laborers throughout this land.

I just wanted to bring the other side of the coin to the surface, because in my estimation we are zeroing in on the fact that this bill is doomed to failure.

My colleague from Missouri says that if this bill does what it should do, there is no need for my amendment, and, conversely, if this bill does what it should do, there is no need for my colleagues' concern with having a guaranteed subsistence in the form of an additional welfare program built into this bill, because he is absolutely correct, that is not necessary with the success of this bill. I do not think it is fair to this body to assume the assured doom of this airline deregulation bill.

Mr. HATCH. Will the Senator yield?

Mr. ZORINSKY. I am most pleased to yield to my colleague.

Mr. HATCH. I thank my friend from Nebraska.

I think he makes persuasive points. I also feel we have been setting some very dangerous precedents in this area.

I remember the redwood bill. Of course, we have a number of other areas where it seems to me that if we start making the Federal Government, in essence, the protector of last resort in all these situations, that we will have everybody who is put out of a job as a result of any form of Federal regulation coming to the Federal Government to be taken care of for a period of time.

Also, I think these provisions lead to the situation where people really are not making every attempt they should to go and find work. Therefore, although I have to confess I like what the Senator from Nebraska is doing in his amendment, I intend to offer a substitute to his amendment which will basically strike this employee protection provision because section 22, the employees protection program of this bill provides as has been mentioned that employees of certificated airlines with 4 years employment, will be paid from the U.S. Treasury for a period up to 3 years, amounts up to their full pay and allowances plus fringe benefits, tax free, if they lose their jobs, experience a reduction in their wages, or are required to relocate as a result of a bankruptcy or "major contraction" of their employer resulting from regulatory reform.

The very nature of this bill should create more jobs, not less jobs. Therefore, that loss of their jobs is unlikely to occur. But, if it does, we give them incentive to stay off work rather than find additional work.

I think the Senator's approach is not very reasonable.

I feel that this provision is unwarranted and is a grossly unfair raid on the U.S. Treasury which could cost the American taxpayer in excess of $1 billion per year. Considering similar prorams in Amtrak (which has cost the taxpayers of this country $38 million since its inception in 1973) and ConRail (which has cost taxpayers $140 million since its inception in 1976), I am convinced that my concerns over the economic consequences of this provision are entirely warranted especially since I believe that this establishes a very dangerous trend.

As this body is well aware, employees of the airlines of this country enjoy some of the highest wages and most luxurious fringe benefits in our economy. Airline pilots salaries are well in excess of $50,000 per year. In many cases that is not uncommon. It is easy to appreciate why my constituents, where a family of four is getting by on income under $10,000 per year, are strongly opposed to this type, and this amount of largesse by the Federal Government favoring a privileged special interest group.

Furthermore, section 22 sets a dangerous precedent for future modifications in our excessive and burdensome bureaucratic infrastructure. If we are to favor airline employees with these types of Federal grants, why not make similar concessions to those unfortunates in our economy who have been put out of work by actions of OSHA, EPA, FTC, and other agencies of the Federal Government.

I submit that provision has been made under our employment security regulations for those in our society who lose their jobs or who must relocate because of economic conditions. If those provisions are applicable to any Americans, they should apply to all Americans, and there should be no special or favored treatment accorded to workers in a special and privileged industry.

For these reasons, I will, at the first chance I can, move to have this body strike section 22, the employees protection program, in its entirety from this bill.

I thank the distinguished Senator from Nebraska for allowing me this amount of time from his time.

Mr. DANFORTH. Mr. President, a parliamentary inquiry. Who has the floor?

The PRESIDING OFFICER. The Senator from Nebraska has the floor, but if the Senator has a parliamentary inquiry, he can certainly state it.

Mr. DANFORTH. I just wanted to inquire.

Mr. ZORINSKY. Without losing my right to the floor, is there a parliamentary inquiry?

Mr. DANFORTH. No.

The PRESIDING OFFICER. The Senator was inquiring whether the Senator from Nebraska still held the floor and the Chair advised that the Senator from Nebraska does hold the floor.

Mr. ZORINSKY. I thank the Senator from Utah for his support to the extent that he feels my amendment seems to be a step in the right direction, with the exception it does not go far enough and, in effect, he has indicated he has a substitute amendment to my amendment which eliminates the entire section.

Am I correct?

Mr. HATCH. Yes. That is correct. I feel there is no need for that section and that this sets very dangerous precedents which continue to allow the Federal Government to intrude, at the expense of the taxpayers of this country, in a situation where it is hardly justified.

Mr. CANNON. Mr. President, if the Senator will yield back his time, I am prepared to do so.

Mr. DANFORTH. Mr. President, I wonder whether I may have a little time.

Mr. CANNON. I thought the Senator was going to offer a substitute.

Mr. DANFORTH. I will.

Mr. CANNON. The Senator cannot offer it until the time has been yielded back or has been used.

Mr. DANFORTH. That is correct, but I wanted to make some more comments on the basic issue.

Mr. CANNON. I yield the Senator 2 minutes.

Mr. DANFORTH. I thank the Senator.

Mr. President, it is a little amusing to me to hear the Senator from Utah refer to members of the Machinists Union in Kansas City as a privileged, special-interest group. I would not call guys with whom I go to the Royals game a privileged, special-interest group, and I do not think they would view themselves as a special-interest group. I think they see themselves as people who have invested a great deal of their lives in a particular company. They have homes and families, and they have made their plans on the basis of their future with this particular company.

I certainly am not here as a champion of mindless Government regulation; but, unlike ordinary Government regulation, in the airline industry you have a comprehensive system of regulation which has been created by the Federal Government, in the first place, under which the industry has developed.

It seems to me most unusual to provide a transitional period to cushion any possible blow for the companies, when we do not provide a transitional period for the people who work for those companies.

Furthermore, with respect to the health of the industry, I think it is my hope that we can finally get a bill worked out here which will benefit the airline industry as a whole. But the issue is not the airline industry as a whole. The issue is specific airlines that may be affected very differently from one another as a result of this bill. What happens if most airlines profit from or are helped by this bill but one particular airline, on which a whole community depends, goes bankrupt as a result of this bill?

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DANFORTH. May I have 2 additional minutes?

Mr. PEARSON. How much time does the Senator need?

Mr. DANFORTH. About 3 minutes.

Mr. PEARSON. I yield the Senator 3 minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 additional minutes.

Mr. DANFORTH. Mr. President, I should like to present a hypothetical situation, because I think it really explains how this situation is going to work with respect to families located, for example, in Kansas City, Mo., should a

particular airline suffer as a result of this bill.

Let us suppose a man is employed by TWA and has a wife and a couple of kids, and all of a sudden TWA shuts down its operation in Kansas City. Under the proposal of the Senator from Nebraska, just what happens to that individual? What is he supposed to do the next morning? Is he supposed to wait for the phone to ring? Is he supposed to wait for some benefactor to move into some other city where he can get a job? Maybe he cannot. What is going to happen to his neighbor? What is going to happen to thousands of people who live in the community? Where are they supposed to go in search of another job?

That is why a meaningful labor protection proposition is important. What Senator ZORINSKY has offered is absolutely meaningless so far as the average employee of an airline is concerned.

Mr. ZORINSKY. Mr. President, I yield back the remainder of my time.

Mr. CANNON. I yield back the remainder of my time.

UP AMENDMENT NO. 1230

Mr. DANFORTH. Mr. President, I send to the desk an amendment which I offer as a substitute for the amendment offered by the Senator from Nebraska.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes an unprinted amendment numbered 1230, in the nature of a substitute.

The amendment in the nature of a substitute is as follows:

In lieu of the language proposed by Mr. ZORINSKY in Amendment No. 1707 to S. 2493 insert the following:

EMPLOYEE PROTECTION PROGRAM

SEC. 22. (a) GENERAL RULE.—The Secretary of Labor shall make monthly assistance payments, or reimbursement payments, in amounts computed according to the provisions of this section, to each individual who the Secretary finds, upon application, to be an eligible protected employee. An eligible protected employee shall be a protected employee who (1) has been deprived of employment, or (2) has been adversely affected with respect to his compensation, on account of a qualifying dislocation.

(b) MONTHLY ASSISTANCE COMPUTATION.—(1) An eligible protected employee shall be entitled to receive a monthly assistance payment, for each month in which he is an eligible protected employee, in an amount computed by the Secretary. The Secretary, after consultation with the Secretary of Transportation, shall, by rule, promulgate guidelines to be used by him in determining the amount of each monthly assistance payment to be made to a member of each craft and class of protected employees, and what percentage of salary such payment shall constitute for each applicable class or craft of employees.

In computing such amounts for any individual protected employee, the Secretary shall deduct from such amounts the full amount of any unemployment compensation received by the protected employee.

(2) If an eligible protected employee is offered reasonably comparable employment, and such employee does not accept such employment, then such employee's monthly assistance payment under this section shall be reduced to an amount which such employee would have been entitled to receive if such employee had accepted such employment. If the acceptance of such comparable employment would require relocation, such employee may elect not to relocate and, in lieu of all other benefits provided herein, to receive the monthly assistance payments to which he would be entitled if this paragraph were not in effect, except that the total number of such payments shall be the lesser of three or the number remaining pursuant to the maximum provided in subsection (e).

(3) Whether employment is "reasonably comparable" shall be determined pursuant to regulations promulgated by the Secretary.

(c) ASSISTANCE FOR RELOCATION.—If an eligible protected employee relocates in order to obtain other employment, such employee shall be entitled to receive reasonable moving expenses (as determined by the Secretary) for himself and his immediate family. In addition, such employee shall be entitled to receive reimbursement payments for any loss resulting from selling his principal place of residence at a price below its fair market value (as determined by the Secretary) or any loss incurred in canceling such employee's lease agreement or contract of purchase relating to his principal place of residence.

(d) DUTY TO HIRE PROTECTED EMPLOYEES.—(1) Each person who is a protected employee of an air carrier which is subject to regulation by the Civil Aeronautics Board who is furloughed or otherwise terminated by such an air carrier on account of a qualifying dislocation shall have first right of hire, in order of seniority and regardless of age, in his occupational specialty, by any other air carrier hiring additional employees which held a certificate issued under section 401 of the Federal Aviation Act of 1958 prior to the effective date of this section. Each such air carrier hiring additional employees shall have a duty to hire such a person before they hire any other person, except that such air carrier may recall any of its own furloughed employees before hiring such a person. Any employee who is furloughed or otherwise terminated on account of a qualifying dislocation, and who is hired by another air carrier under the provisions of this subsection, shall retain his rights of seniority and right of recall with the air carrier that furloughed or terminated him.

(2) Beginning on the date on which monthly assistance payments under this section begin, the Secretary shall establish, maintain, and periodically publish a comprehensive list of jobs available with air carriers certificated under section 401 of the Federal Aviation Act of 1958. Such list shall include that information and detail, such as job descriptions and required skills, the Secretary deems relevant and necessary. In addition to publishing the list, the Secretary shall make every effort to assist an eligible protected employee in finding other employment. Any individual receiving monthly assistance payments, moving expenses, or reimbursement payments under this section shall, as a condition to receiving such expenses or payments, cooperate fully with the Secretary in seeking other employment. In order to carry out his responsibilities under this subsection, the Secretary may require each such air carrier to file with the Secretary the reports, data and other information necessary to fulfill his duties under this subsection.

(3) In addition to making monthly assistance or reimbursement payments under this section, the Secretary shall encourage negotiations between air carriers and representatives of eligible protected employees with respect to rehiring practices and seniority.

(e) PERIOD OF MONTHLY ASSISTANCE PAYMENTS.—(1) Monthly assistance payments computed under subsection (b) for a protected employee who has been deprived of employment shall be made each month until the recipient obtains other employment, or until the end of the 36 months occurring immediately after the month such payments were first made to such recipient, whichever first occurs.

(2) Monthly assistance payments computed under subsection (b) intended to compensate for a loss of job shall be paid for no longer than 36 months with respect to protected employees with less than 10 years prior service with his former employer, for no longer than 48 months with respect to protected employees with more than 10 but less than 15 years, and for no longer than 60 months with respect to other protected employees;

monthly assistance payments intended to compensate for decreased wages shall be paid for no longer than 48 months with respect to all protected employees;

provided that the total number of monthly assistance payments made under this section for any reason shall not exceed 60.

(f) RULES AND REGULATONS.—(1) The Secretary may issue, amend, and repeal such rules and regulations as may be necessary for the administration of this section.

(2) All rules and regulations shall be submitted to the Congress on the date that they are proposed by the Secretary. Such rules and regulations shall become effective 60 legislative days after the date they were submitted to the Congress, unless during that 60-day period either House adopts a resolution stating that that House disapproves such rules or regulations, except that such rules or regulations may become effective on the date during such 60-day period, that a resolution has been adopted by both Houses stating that the Congress approves of them.

(3) For purposes of this subsection, the term "legislative day" means a calendar day on which both Houses of Congress are in session.

(g) AIRLINE EMPLOYEES PROTECTIVE ACCOUNT.—All payments under this section shall be made by the Secretary from a separate account maintained in the Treasury of the United States to be known as the Airline Employees Protective Account. There is authorized to be appropriated to such account annually, beginning with the fiscal year ending September 30, 1979, such sums as are necessary to carry out the purposes of this section, including amounts necessary for the administrative expenses of the Secretary related to carrying out the provision of this section.

(h) DEFINITIONS.—For the purposes of this section—

(1) The term "protected employee" means a person who, on the date of enactment of this section, has been employed for at least 4 years by an air carrier holding a certificate issued under section 401 of the Federal Aviation Act of 1958. Such term shall not include any members of the Board of Directors or officers of a corporation.

(2) The term "qualifying dislocation" means a bankruptcy or major contraction of an air carrier holding a certificate under section 401 of the Federal Aviation Act of 1958, occurring during the first 10 complete calendar years occurring after the date of enactment of the Air Transportation Regulatory Reform Act of 1978, the major cause of which is the change in regulatory structure provided by the Air Transportation Regulatory Reform Act of 1978, as determined by the Civil Aeronautics Board.

(3) The term "Secretary" means the Secretary of Labor.

(4) The term "major contraction" means a reduction of the total number of full time employees of an air carrier within a 12-month period, except for those employees who are deprived of employment because of a strike.

(i) TERMINATION.—The provisions of this section shall terminate on the last day the Secretary is required to make a payment.

The PRESIDING OFFICER. On this amendment there is to be 1 hour of debate, evenly divided.

Mr. DANFORTH. Mr. President, this will take a very short time to explain.

The amendment, in its principal features, tracks the provisions for labor protection which are now found in the bill, but it makes the following changes:

First, a major contraction would be any contraction that is caused by the effects of the bill. In the bill as it now stands, it would take a 15-percent reduction in a year to trigger the labor protection provisions of the bill. That is, a specific airline would have to have either bankruptcy or a reduction in its work force of 15 percent or more. The amendment provides that any reduction in the work force caused by the bill would be sufficient to trigger the labor protection device. In that respect, this substitute does the same thing that Senator ZORINSKY's amendment does.

Second, the bill as it presently stands offers payments for a period of up to 3 years or until a new job is obtained, in case of loss of job. In case of decrease in wages, the bill as it presently stands calls for compensation for a maximum 3-year period of time. The substitute would change that to track the policies that the CAB has followed in the case of merger. That is, in the case of a decrease in wages, the additional compensation would be payable for 4 years, instead of the 3 years in the bill; and in the case of loss of a job, the period of compensation would range from 3 years to 5 years, depending on the length of time of employment of the employee.

If the employee had been employed from 4 years to not less than 10 years, compensation would last for 3 years. If he was employed from 10 to 15 years, compensation would last for 4 years. If he was employed for 15 years or more, compensation would last for 5 years.

The reason for this sliding scale is that the whole theory of labor protection is to protect people who have invested their lives and their life planning in a particular industry which is regulated. If a person has been there only 2 or 3 years, it was felt by the committee that that person had not sufficiently invested his future in the company that has had the contraction; that he could not go out and make other plans. But when a person really develops seniority, then the longer he has the seniority, the more he suffers as a result of the contraction. Therefore, the length of time he receives compensation would be on a sliding scale from 3 years to 5 years, depending on his seniority.

Finally, there is a requirement in the bill that a person who loses his job as a result of a contraction must accept reasonably comparable employment. It has been pointed out to me that "reasonably comparable employment" is something which is subject to interpretation, and the fear is that "reasonably comparable" might be construed as being something that is not comparable at all.

Therefore, what the substitute does is to provide that the Secretary of Labor by regulation can define what is meant by "reasonably comparable."

Mr. CANNON. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. CANNON. Mr. President, I have to oppose this amendment. Basically, this does away with the triggering mechanism which is written into the bill at the present time.

I think the provision in the bill is very, very liberal. As a matter of fact, I think it is too liberal in some areas; and I have an amendment that I am going to propose if Senator ZORINSKY's amendment is not agreed too to make the provision a little more restrictive than it is now.

At least, we have to have some kind of a triggering mechanism. Because normal and seasonal fluctuations in the industry could well result in a windfall to people who simply are out of a job because of a seasonal fluctuation, there has to be a mechanism which triggers the protection.

So, I hope that the Senate will not support this amendment. I do not think it is necessary, and I think that the present provision in the bill is certainly very, very ample.

I am prepared to yield back my time.

Mr. DANFORTH. Mr. President, if the Senator will yield, I shall make a few additional comments.

First of all, it was pointed out to me that in the case of railroad reorganization, which is, I think, the closest precedent for what is involved here, there is no 15 percent triggering mechanism. Therefore, the people who work for the airlines point out to me why is not one form of transportation as good as another form of transportation?

Second, I think it would be an anomalous situation if there were 14 percent contraction which was caused by this bill and no protection at all were offered.

So I think that really the question is are people hurt by the bill and, if they are hurt by the bill, then the public should alleviate that burden because presumably if there is a benefit from the bill the public will realize that benefit.

Mr. CANNON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. DANFORTH. Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. DANFORTH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri, Senator DANFORTH, to the amendment of the Senator from Nebraska, Senator ZORINSKY.

On this amendment, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SPARKMAN (After having voted in the negative). On this vote I have a pair with the distinguished Senator from New York (Mr. MOYNIHAN). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Colorado (Mr. HASKELL), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE) and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Oregon (Mr. HATFIELD), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

On this vote, the Senator from New Jersey (Mr. CASE) is paired with the Senator from Oregon (Mr. HATFIELD). If present and voting, the Senator from New Jersey would vote "yea" and the Senator from Oregon would vote "nay."

The result was announced—yeas 37, nays 54, as follows:

[Rollcall Vote No. 122 Leg.]

YEAS—37

| | | |
|---|---|---|
| Anderson | Eagleton | Melcher |
| Bayh | Goldwater | Metzenbaum |
| Bellmon | Hart | Pell |
| Brooke | Hatfield, Paul G. | Randolph |
| Burdick | Heinz | Ribicoff |
| Chiles | Huddleston | Riegle |
| Clark | Humphrey | Sarbanes |
| Cranston | Inouye | Sasser |
| Culver | Javits | Schweiker |
| Danforth | Kennedy | Stone |
| Dole | Magnuson | Wallop |
| Domenici | Matsunaga | Williams |
| Durkin | | |

NAYS—54

| | | |
|---|---|---|
| Allen | Griffin | Nunn |
| Baker | Hansen | Pearson |
| Bartlett | Hatch | Percy |
| Bentsen | Hathaway | Proxmire |
| Biden | Hayakawa | Roth |
| Bumpers | Helms | Schmitt |
| Byrd, Harry F., Jr. | Hodges | Scott |
| Byrd, Robert C. | Hollings | Stafford |
| Cannon | Jackson | Stennis |
| Chafee | Johnston | Stevens |
| Church | Laxalt | Stevenson |
| Curtis | Leahy | Talmadge |
| DeConcini | Long | Thurmond |
| Eastland | Lugar | Tower |
| Ford | Mathias | Weicker |
| Garn | McClure | Young |
| Glenn | Morgan | Zorinsky |
| Gravel | Muskie | |
| | Nelson | |

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Sparkman, against.

NOT VOTING—8

| | | |
|---|---|---|
| Abourezk | Hatfield, Mark O. | McIntyre |
| Case | McGovern | Moynihan |
| Haskell | | Packwood |

So Mr. DANFORTH's amendment was rejected.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PEARSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH obtained the floor.

The following Senators requested and by unanimous consent, the privilege of

the floor was granted in behalf of the following staff members: Mr. JAVITS: Don Zimmerman; Mr. THURMOND: Rob Lyon; Mr. STEVENS: Steve Silver; Mr. CHAFEE: Mark Gorman; Mr. SARBANES: Frances Pergericht; Mr. DURKIN: Harris Miller and Albert Weeks; Mr. BROOKE: Ralph Neas; Mr. WALLOP: Patty McDonald; Mr. FORD: Amy Bondurant; and Mr. BELLMON: James G. Prather.

Mr. CANNON. Mr. President, will the Senator from Utah yield me one moment?

Mr. HATCH. I yield to the Senator from Nevada.

Mr. CANNON. Mr. President, I would just like to say to my colleagues——

The PRESIDING OFFICER (Mr. METZENBAUM). The Senate will be in order. The Senator will suspend a moment until order is restored.

Mr. CANNON. In the light of all the unanimous-consent requests for floor privileges, if we still have room for Senators on the floor, I think we may be able to finish this measure tonight. The Senator from Utah has a substitute amendment that is not going to take very long. We have yielded back the time on Senator ZORINSKY's amendment. Senator KENNEDY has one amendment that he is willing to take a 15-minute limit on, and I have one that will take about 2 minutes.

Mr. HEINZ. Mr. President, if the Senator will yield, I have an amendment that I suppose Senators might want at least 15 minutes on a side on.

Mr. CANNON. It is possible, depending on how it goes in the next few minutes, that we may be able to finish the bill by 6:30 tonight. Otherwise, we will undoubtedly go over until tomorrow.

UP AMENDMENT NO. 1231

Mr. HATCH. Mr. President, I call up my unprinted amendment in the nature of a substitute for the Zorinsky amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated. The assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH), as a substitute for UP amendment No. 1229, proposes an unprinted amendment numbered 1231:

In lieu of the language proposed to be inserted insert the following—

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted insert the following:

It is the policy of the United States not to approve employee protection programs.

Mr. HATCH. I have already made the argument on this amendment. Basically, all it does is strike the employee protection provisions of this bill, which I think set a bad example and precedent for a trend which is not right for anybody, especially the taxpayers of this country.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, will the Senator yield me 3 minutes?

Mr. CANNON. I yield 3 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I hope the amendment of the Senator from Utah will be defeated. In this legislation, we are effectively guaranteeing service to small communities in this Nation for a period of 10 years. We are maintaining certain basic protections for the airlines and their shareholders for a period in the future. Airlines are even permitted to protect certain selected routes from automatic entry despite the anticompetitive effect of such protection for airlines. We are writing in guarantees for just about every aspect of the airline industry. That happens to be the fact of the matter.

We also have a limited employee protection policy written into this legislation. That is only fair; but the amendment of the Senator from Utah would strike it out. I say we are protecting the stockholders, we are protecting the communities, and we are protecting the airlines with this legislation. The effect of the amendment of the Senator from Utah would be to say, "It is OK to protect all of those people, but we should wipe out and eliminate what limited protections there are for the employees." I say that would be unfair and unwarranted.

It seems to me that the provisions now before the Senate in the proposal of the Senator from Nevada and the Senator from Kansas are limited provisions for the protection of employees that we should not strike from this bill; if anything, they should be strengthened.

Mr. HATCH. Mr. President, I hope it will be noted that this bill would produce more competition in the airline business. But it has been estimated that there could be as much as $1 billion cost to the American taxpayers annually. I do not think the Federal Government should be in the position of having to continue to set what I consider to be a dangerous precedent of employee protection for everyone because we continue to pass such legislation here in this body.

I am prepared to yield back the remainder of my time.

Mr. CANNON. Mr. President, I will just say that I am opposed to the amendment. I personally do not think there will be the kind of disruptions painted here. I do not know where that estmate of a billion dollars a year came from; certainly not from any knowledgeable source as far as I know. But I hope the amendment will be defeated, and I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Utah (Mr. HATCH). The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Colorado (Mr. HASKELL), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN) would vote "nay".

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Oregon (Mr. HATFIELD), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) and the Senator from New Jersey, (Mr. CASE) would each vote "nay."

The result was announced—yeas 7, nays 85, as follows:

[Rollcall Vote No. 123 Leg.]

YEAS—7

| | | |
|---|---|---|
| Curtis | Hayakawa | Schmitt |
| Garn | Hodges | |
| Hatch | Lugar | |

NAYS—85

| | | |
|---|---|---|
| Allen | Glenn | Muskie |
| Anderson | Goldwater | Nelson |
| Baker | Gravel | Nunn |
| Bartlett | Griffin | Pearson |
| Bayh | Hansen | Pell |
| Bellmon | Hart | Percy |
| Bentsen | Hatfield, Paul G. | Proxmire |
| Biden | Hathaway | Randolph |
| Brooke | Heinz | Ribicoff |
| Bumpers | Helms | Riegle |
| Burdick | Hollings | Roth |
| Byrd, Harry F., Jr. | Huddleston | Sarbanes |
| Byrd, Robert C. | Humphrey | Sasser |
| Cannon | Inouye | Schweiker |
| Chafee | Jackson | Scott |
| Chiles | Javits | Sparkman |
| Church | Johnston | Stafford |
| Clark | Kennedy | Stennis |
| Cranston | Laxalt | Stevens |
| Culver | Leahy | Stevenson |
| Danforth | Long | Stone |
| DeConcini | Magnuson | Talmadge |
| Dole | Mathias | Thurmond |
| Domenici | Matsunaga | Tower |
| Durkin | McClure | Wallop |
| Eagleton | Melcher | Weicker |
| Eastland | Metzenbaum | Williams |
| Ford | Morgan | Young |
| | | Zorinsky |

NOT VOTING—8

| | | |
|---|---|---|
| Abourezk | Hatfield, Mark O. | McIntyre |
| Case | McGovern | Moynihan |
| Haskell | | Packwood |

So Mr. HATCH's amendment (No. 1231) was rejected.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the the amendment was rejected.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CANNON. Mr. President, I advise my colleagues that the time has been yielded back on the next amendment. I do not know whether Senator ZORINSKY will ask for a minute to explain it or not, but after this next vote, I intend to ask unanimous consent for a 10-minute rollcall, because we think there will be three more rollcall votes.

Mr. ZORINSKY. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment by the Senator from Nebraska. The yeas and

nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Colorado (Mr. HASKELL), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN) would vote "nay".

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from New Jersey (Mr. CASE). If present and voting, the Senator from Oregon would vote "yea" and the Senator from New Jersey would vote "nay".

The result was announced—yeas 43, nays 48, as follows:

[Rollcall Vote No. 124 Leg.]

YEAS—43

| | | |
|---|---|---|
| Allen | Glenn | Percy |
| Baker | Gravel | Randolph |
| Bartlett | Hansen | Roth |
| Bellmon | Hatch | Sasser |
| Bentsen | Hayakawa | Schmitt |
| Bumpers | Helms | Sparkman |
| Byrd, Harry F., Jr. | Hodges | Stennis |
| Byrd, Robert C. | Hollings | Stevenson |
| Chafee | Johnston | Talmadge |
| Curtis | Long | Thurmond |
| DeConcini | Lugar | Tower |
| Dole | McClure | Wallop |
| Eastland | Morgan | Young |
| Garn | Nunn | Zorinsky |
| | Pearson | |

NAYS—48

| | | |
|---|---|---|
| Anderson | Hart | Metzenbaum |
| Bayh | Hatfield, Paul G. | Muskie |
| Biden | Hathaway | Nelson |
| Brooke | Heinz | Pell |
| Burdick | Huddleston | Proxmire |
| Cannon | Humphrey | Ribicoff |
| Chiles | Inouye | Riegle |
| Church | Jackson | Sarbanes |
| Clark | Javits | Schweiker |
| Cranston | Kennedy | Scott |
| Culver | Laxalt | Stafford |
| Danforth | Leahy | Stevens |
| Domenici | Magnuson | Stone |
| Durkin | Mathias | Weicker |
| Eagleton | Matsunaga | Williams |
| Ford | Melcher | |
| Griffin | | |

NOT VOTING—9

| | | |
|---|---|---|
| Abourezk | Hatfield, Mark O. | Moynihan |
| Case | McGovern | Packwood |
| Goldwater | McIntyre | |
| Haskell | | |

So the amendment of the Senator from Nebraska (No. 1229) was rejected.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PEARSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CANNON. Mr. President, I say to my colleagues that I have two amendments that will not require rollcall votes and will not require more than 1 minute of explanation. So far as I know, there are two remaining amendments that would require rollcall votes, but they will be very short.

I ask unanimous consent that the remaining rollcalls this evening be limited to 10 minutes.

Mr. JAVITS. Mr. President, if the Senator will yield, I expect that I may have an amendment, too.

The PRESIDING OFFICER. Is there objection with respect to the 10-minute rollcalls? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 1232

(Purpose: To amend the Bill to improve the section on financial assistance to adversely affected airline employees)

Mr. CANNON. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes an unprinted amendment numbered 1232.

Mr. CANNON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 94, lines 1–6, strike: "The amounts of monthly assistance payable under this section shall be computed by the Secretary to insure that the protected employee will not, during the period in which he is entitled to protection, be placed in a substantially worse financial position with respect to wages and fringe benefits."

Mr. CANNON. Mr. President, as written, the employee protection provision seems to guarantee each dislocated employee benefits equal to full salary and fringe benefits. This should be changed.

Airline employees are not average wage earners. Some pilots earn up to $100,000 per year including fringe benefits. It would be outrageous to have the taxpayers support this style of living.

This amendment would leave the discretion concerning the level of payments with the Secretary of Labor who has the expertise and experience in providing adjustment assistance to workers.

I yield back the remainder of my time.

Mr. PEARSON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1233

(Purpose: To amend the Bill to allow the existing discount fare policy of the CAB to continue)

Mr. CANNON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes an unprinted amendment numbered 1233.

Mr. CANNON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 84, strike line 14 and substitute: "(7) The".

Mr. CANNON. Mr. President, as the bill is drafted, it allows existing discount fare policies to exist, so that a carrier can raise its fares up to 5 percent or lower up to 35 percent. In light of the action of the board recently in allowing discount fares up to as much as 50 perment, this amendment would allow the existing discount fare policies of the board to continue without any interference. The committee had originally contemplated that after a 1-year transition period the CAB could adjust downward the zone of pricing flexibility. Since that time, however, many new discount fares have been offered by virtually every airline. Therefore, a 1-year transition period no longer is necessary. This amendment merely gives congressional approval to the lower prices being offered throughout the country.

Mr. President, I yield back the remainder of my time.

Mr. SCHMITT. Mr. President, will the Senator from Kansas yield me 2 minutes, before he yields back his time?

Mr. PEARSON. I yield 2 minutes to the Senator.

Mr. SCHMITT. Mr. President, this is a comment relative to the preceding amendment. I thought the Senator from Nevada was still on the provision of the bill relative to the labor protection clause. I would like to make a few historical comments relative to the activity in the committee.

This is the one area where I differ with the committee. I differed with them in committee as well as here on the floor.

In the discussions we had over automatic entry and the rate at which automatic entry should occur, it was the Senator from New Mexico who felt that the rate proposed in the original committee print was too high and that it might well cause disruptions within the industry as well as within labor. In the argument against the proposal of the Senator from New Mexico to reduce that rate, it was often mentioned that this was of no concern, that the rate was not too high, and that no disruptions would occur. As soon as the compromise rate was agreed to, suddenly we were faced with a proposal within committee to add a labor protection provision, which essentially has just been adopted.

Mr. President, I do not think that the people in this area can have their cake and eat it. Either automatic entry at the rate proposed is too high or it is not. I think we can get by now with the compromise automatic entry.

However, I do want the record to be clear that I think the committee is asking unfairly for additional protections, protections which could be provided should a problem actually occur.

In addition, any allocations from the Federal Treasury that are required under this provision would be inflationary, I believe, at the time they are allocated; and of course inflation is the No. 1 problem we all have to be cognizant of during this budget cycle. I think this issue will be appropriate for discussion potentially during the actual consideration of the budget that will be before us in the next few weeks.

I thank the Senator from Kansas for yielding me time.

Mr. PEARSON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 1234

(Purpose: to amend the short title)

Mr. STEVENS. Mr. President, I call up a technical amendment which I have at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 1234.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On the first page, lines 3 and 4, strike out "Air Transportation Regulatory Reform Act of 1978" and insert in lieu thereof "Cannon-Kennedy-Pearson Air Transportation Reform Act of 1978".

Mr. STEVENS. Mr. President, this is a technical amendment which names this bill after the three principal sponsors of the measure.

I yield back the remainder of my time.

Mr. CANNON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the amendment is agreed to, without objection.

UP AMENDMENT NO. 1235

(Purpose: To revise the certificate issuing procedure)

Mr. KENNEDY. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 1235.

The amendment is as follows:

On page 9, beginning with line 5, strike out all through line 15 and insert in lieu thereof the following:

(b)(1) The Board shall issue a certificate under subsection (a)(1) authorizing, in whole or in part, the air transportation specified in the application, if the Board determines that the applicant is fit, willing, and able to perform properly the air transportation specified in the application, and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board made or issued under this Act; unless the Board determines that the air transportation is not consistent with the public convenience and necessity.

(2) In any determination as to whether or not the applicant is fit, willing and able to perform properly the air transportation specified in the application and to conform to the provisions of this Act, the applicant shall have the burden of showing that it is so fit, willing, and able.

(3) In any determination as to whether the air transportation specified in the application is or is not consistent with the public convenience and necessity, an opponent of the application shall have the burden of showing that such air transportation is not consistent with the public convenience and necessity.

Mr. KENNEDY. Mr. President, for the information of the Members of the Senate, I would be glad to have a 15-minute time limitation on the amendment.

Mr. CANNON. Mr. President, I ask unanimous consent that the time be changed to 15 minutes, 10 minutes to the sponsor of the amendment and 5 minutes to the manager of the bill.

Mr. PERCY. Mr. President, reserving the right to object, I do not object, unless I can have 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I yield myself 5 minutes.

Mr. President, I offer this amendment in behalf of myself, Senator BAYH, Senator HART, Senator HATCH, Senator PERCY, Senator GARN, Senator LAXALT, Senator ROTH, and Senator HUMPHREY. It is a very simple amendment, but a very important amendment.

As drafted, section 5 requires the Board to make an affirmative determination that proposed air service is "consistent with the public convenience and necessity" before it may grant a certificate for route authority; that is, the Board must find that the proposed service will make a positive contribution to the overall development of the air transportation system. The burden of proof for this determination falls on the applicant for the route authority. In effect, this burden puts a potential competitor-entrant in the position of having to support a costly and laborious justification of competitive service when there is nothing yet in the record which raises the inference that the service may be detrimental to the air industry. Additionally, collateral beneficiaries such as the communities to be serviced must come forth at time and expense to themselves and support the air service.

I am introducing an amendment that would remove this burden by no longer requiring the Board to make an affirmative finding that the proposed air transportation is "consistent with the public convenience and necessity." In substitute, my amendment would require the Board to authorize new service unless it is not "consistent with the public convenience and necessity." The burden for such a showing would fall on the opponent of the application.

The whole thrust of this reform legislation is that competition in the airline industry should be encouraged, not encumbered. Reversing this standard facilitates market entry by according applicants a procedural advantage when applying for route authority. This advantage carries with it the presumption that competition is good policy and in itself contributes to the development of the air transportation industry.

As Transportation Secretary Brock Adams said:

The rules of the game should be that competition is consistent with the PCN and you should have to prove your case if you're against new competition, not the other way around.

Competition in the airline industry should be encouraged, not encumbered. Competitor-entrants into markets should not be put in the position of having to support a costly and laborious justification of competitive service. Collateral beneficiaries of competitive service—communities, airports, consumers, and so forth—should not have to join in support of the proposed service at time and cost to them.

Certainly most other sectors of the economy do not have to go through elaborate administrative proceedings before the Federal Government allows them to offer a new service or product to the public that happens to compete with some other private company. Yet even under the liberalized provisions of new section 401, the airlines still have to do just that.

If a service is unwarranted or will not serve the public interest, it may be disallowed by the Board. But it is not unreasonable to require the opponents of competition to prove that it would be harmful.

The Airport Operators Council, which represents the airport operators in just about every one of the 50 States, realize that there is too much of a burden on the smaller communities under the present burden of proof. They are effectively saying that the burden should be upon that carrier that already has the route to demonstrate that the entrance of a new carrier will not meet the standard of the public convenience and necessity.

It is only in that way that we change the legislation. We are basically saying that we are procompetition rather than against competition.

That is, as I say, why we have the communities which are affected strongly in support of the legislation.

A final point that I make is that in the initial legislation introduced by the Senator from Nevada and myself, this provision was included. I am informed it has also been accepted in the markup in the House of Representatives legislation.

I hope it will be accepted by the Senate.

I reserve the remainder of my time.

Mr. THURMOND. Mr. President, will the Senator add me as a cosponsor of that amendment?

Mr. KENNEDY. Mr. President, I ask unanimous consent that the distinguished Senator from South Carolina (Mr. THURMOND) be added as a cosponsor to my amendment.

The PRESIDING OFFICER (Mr. STONE). Without objection, it is so ordered.

The Senator from Nevada.

Mr. CANNON. Mr. President, I yield myself 1 minute.

I do not know whether anyone wishes any time to speak against this amendment or not.

I personally support that position. I supported it in committee. There was some dispute in committee as to whether that test should be retained.

I do recognize that it has been supported by the President. It is supported by Secretary Adams. It is supported by a number of people who are knowledgeable in this area.

I may say that the legislative proposal for airline regulatory reform submitted to Congress by President Ford during

his administration also contained this test.

So far as I personally am concerned I support the amendment.

Mr. PEARSON. Mr. President, will the Senator yield?

Mr. CANNON. I yield to my colleague.

Mr. PEARSON. Mr. President, this amendment is consistent with the whole thrust and intent of the legislation.

I support it.

I believe the Senator from New Mexico wishes some time, and we have about 3 minutes remaining.

Does the Senator wish 1 minute?

Mr. SCHMITT. One minute.

Mr. PEARSON. I yield 1 minute to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 1 minute.

Mr. SCHMITT. Mr. President, so the record is clear, in the committee there was considerable discomfort about this provision, and I think it came largely from the fact that we are doing so much. I argued on many occasions that I was afraid that the rate at which the industry was going to move into the deregulated environment was potentially too fast, and I think that with this type of provision we are further accelerating that rate.

Obviously the Members here, many of them, believe that we can safely accelerate it.

I again think there is some inconsistency with our previous votes in that position.

For the record, I remind my colleagues that there are many provisions in here that are moving us toward a deregulated environment. I support those provisions. I think it is probably overkill to actually move this far with this PC and A provision.

I yield back the remainder of my time.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. CANNON. Mr. President, I yield 2 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 2 minutes.

Mr. PERCY. Mr. President, first of all, I commend Senator KENNEDY on his contribution to this bill.

In this regard, I not only support what he has done in helping to develop this entire bill but also feel that his amendment will serve two very important goals. Under the present burden of proof test, an applicant for new authority must show that existing service is inadequate to serve the public interest. This necessitates a great waste of financial resources by carriers and communities in legal fees to justify that the new service is necessary.

For instance, until recently Peoria, Ill., was served by only one airline. Peoria is a major city in central Illinois with the largest single manufacturer in the State headquartered there—Caterpillar. Only one airline for many years served Peoria, and as Peoria goes so goes the Nation, as Everett Dirksen used to say.

Competition, I maintained for years, would not only improve the service into Peoria but elsewhere in the Nation. It would also improve the income for the competing carriers. In the case of Peoria, since Continental began service, more flights at lower fares are available to the public. In fact, the day Continental began its service, Ozark dropped its fares 24 percent to match those by Continental. Both airlines, it appears, have benefited from the competition.

Certainly, for a city like Peoria to have to spend $200,000 arguing for better service before the CAB in the last 5 years is an undesirable thing such as the current proceeding involving improved service from Peoria to Atlanta and the Southeast. With the present system, few new applicants are able to pass the burden of proof test. Competing airlines have consistently been able to prevent new applicants from receiving authority. The Kennedy amendment would effectively end this waste.

Second, the amendment would make the airline industry increasingly competitive in nature. The present system protects existing carriers by making the applicant show that new service is necessary. Cheaper rates or improved service is rarely sufficient justification for certification. Under the Kennedy amendment, any new applicant would be granted authority unless a competitor could prove that the new service was not in the public interest. In other words, the burden of proof would now be on the competitor rather than the applicant. In practice, there would be few instances where an existing carrier could show that new service was not in the public interest. The result would be increased competition throughout the industry, lower fares, and more convenient service.

Mr. President, at this point I would like to reiterate once again a fact known to any of us who have traveled extensively abroad: Air service in the United States ranks amongst the finest in the world. Although this debate has brought to the public's attention the weaknesses and failings of our commercial air transportation system, these failings are indeed minor, when compared with the dependability, the safety, and the efficiency exhibited by the Nation's air carriers and their employees. These employees include pilots, flight attendants, reservationists, ground personnel, and others who work sometimes under adverse conditions, such as subzero cold at airports in my State of Illinois.

Airline reform legislation should directly benefit them, as more passengers are attracted to the carriers through lower fares permitted by this proposed law. More passengers translate into more employees to handle the surge of new traffic.

Additionally, airline managers should benefit by the legislation as it gives them more freedom to increase their profitability. Airline decisions will be made in airline board rooms where they belong, instead of at the CAB on Connecticut Avenue, in Washington, D.C., which has been serving as a sort of superboard of directors for the airlines. No wonder airlines earnings in recent years have averaged 3.6 percent. Investors could earn more through investment of Government securities. In order for airlines to purchase $65 billion for new fuel-efficient planes by 1990, they will need to increase their profitability and this legislation affords them at least a better opportunity than exists now. Something is wrong when airlines return on total capital is the lowest of 30 major industries in the United States.

Most importantly, this proposed law would allow for greater fare flexibility without Government inteference. Although domestic air fares are lower than European air fares, in some instances, they are not lower than fares offered by carriers to the north and south of us.

For instance, it's $12.96 less in U.S. funds, or 12 percent cheaper to fly on Air Canada from New York City to the twin cities of Sault Ste. Marie, Ontario, and Sault Ste. Marie, Mich., than it is to fly on U.S. carriers over the same general route, but on the American side of the border. The higher U.S. fare is $108.

Similarly, it only costs $41.35 to fly on Aeromexico the 449 miles from Matamoros, Mexico (across from Brownsville, Tex.) to Mexico City. Compare that with the fare from Brownsville to Dallas, which is only about 75 miles farther which costs $66 or about 41 percent more, which surely isn't solely due to the extra mileage.

Something is terribly wrong, when Canadians and Mexicans can fly American-built planes that skirt our borders at fares much lower than paid by Americans on Federal regulated U.S. carriers.

This bill will allow enough downward fare flexibility to prevent a continuation of this system.

At this time, I would like to commend Senator CANNON, Senator PEARSON, and Senator KENNEDY, for fighting the long and hard fight for reform.

The American public, airline employees, and airline executives will benefit because of their efforts.

Mr. MELCHER. Mr. President, will the chairman yield me some time?

Mr. CANNON. Yes, how much time does the Senator wish?

Mr. MELCHER. Whatever is available—3 or 4 minutes.

Mr. CANNON. Three minutes.

The PRESIDING OFFICER. The Senator from Nevada has only 1 minute remaining.

Mr. KENNEDY. Mr. President, I am glad to yield 3 minutes to the Senator.

Mr. MELCHER. I thank the Senator.

The PRESIDING OFFICER. The Senator from Montana is recognized for 3 minutes.

Mr. MELCHER. Mr. President, as this is described, it sounds as though it is all ice cream and cake. But there is another situation that develops if you reverse the public convenience and necessity test.

If service between Minneapolis and Billings is desired by United or by Western, they make the application. The city of Billings may well prefer not to jeopardize the fine service we have from Minneapolis to Billings by Northwest.

Under this requirement, what is to protect the city of Billings in establishing their case that a new entry will jeopardize the existing service and cause not only probably a threat to the city of

Billings, but also to connecting flights that Northwest has to Butte, to Bozeman, and on to Spokane.

To reverse the public convenience and necessity test and remove the burden of proving that an application is in the public interest by the applicant or carrier and placing the burden on the community opposing the application would open up market entry more than is proposed in this legislation. If this amendment were passed the CAB would automatically approve every application that came before it.

I believe the carrier should always be required to prove that the application they are making is in the public interest and the interest of the community and the consumers.

So I see this as a grave threat for the type of service that we have in our State and I dare say in many other States.

We hashed this out in the committee, and I believe the committee came down, if the chairman will advise me, or his staff will advise me, by something like 11 to 6 opposing this provision. Is that about right on the vote? It was about 11 to 6 that we came down to strike this very provision.

Mr. CANNON. I do not recall what the exact vote was.

Mr. MELCHER. I recall 11 votes to strike it.

Mr. CANNON. The first vote was a tie 8 to 8, and we came back with another vote on it. I do not recall.

Mr. MELCHER. I would say that the better judgment in this case is not to add this again to this bill. We looked at it thoroughly in committee. We determined that it jeopardized some of the existing service and some of the existing rights of communities that now have good service in States that have small populations but do depend upon air travel, such as Montana.

I hope that the amendment will not be accepted.

Mr. STEVENS and Mr. KENNEDY addressed the Chair.

Mr. STEVENS. Mr. President, I know the Senator from Massachusetts probably wishes to close on his own amendment.

Acting for the Senator from Kansas, I yield myself 2 minutes on the bill. I support the position of the Senator from Montana. This matter was taken up in the committee. We have a substantial reform package here for the airlines. I believe this issue should be faced at a later time after we see what happens with the progress that we are supporting.

I think an overwhelming majority now are supporting the bill as it came out of the committee.

To reverse the whole concept of the P.C. & N. test at this time, in my opinion, would be wrong because of the reasons stated by the Senator from Montana. What we are going to have is we are going to have communities fighting each other under the name of competition and private enterprise, fighting to get a new airline in to land so they can compete with a sister community, and, at the present time, the burden is on the applicant. This would shift this around and put the burden upon those who feel they would be harmed by the applicant's admission into this competition.

I think that burden will fall upon the small communities and, particularly, those of us who represent areas that have vast numbers of small communities, each of which is interested in having this kind of service. I believe that to reverse the P.C. & N. test now would be unwise and, therefore, I cannot support the amendment.

Mr. KENNEDY. Mr. President, I would like to read the relevant part of the letter of the Airport Operators Council:

> Acceptance of your amendment, Senator, will save airport communities in the overwhelming majority of cases from having to expend large amounts of local public funds to engage consultants and attorneys to develop economic data to file with the board supporting desired new air service. The burden would, in our view, be more appropriately switched to opposing parties to show such applications are consistent.

Mr. President, I have in my hand the list of small communities in this country that have spent hundreds, thousands, and millions of dollars of local taxpayers' money, and that have been called upon to hire attorneys to appear here before the CAB in instance after instance to support new air service. Some of those instances lasted 8 to 10 years.

What the Airport Operators Council understands is that, in the overwhelming majority of cases, their interests will be protected. Perhaps in a particular situation a new entrant will fail to provide service and the community will still have to come to the CAB. However, in the overwhelming majority of cases the communities, as represented by the Airport Operators Council, feel their interests will be protected.

Let me say finally, Mr. President, that basically all this amendment does is shift the burden of proof to the protestant. If evidence is going to be brought alleging that new service is not consistent with public convenience and necessity, obviously it is going to be denied. The question, then, is whether you are going to put that particular burden on the hundreds of smaller communities in this country, or on an incumbent carrier who protests entry by a competitor. In Boston, we have the Massachusetts Port Authority. It has plenty of lawyers who can come down here and spend all the time that is needed. But when the burden of proof falls on the smaller communities, it falls substantially harder. A reversed burden of proof is in their interest. Their support is the reason for this amendment being put forward.

Make no mistake about it, small communities are the ones that are strongly in support of this particular position. Small community support was the genesis of it.

I yield 1 remaining minute to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BUMPERS. Thank you, Senator KENNEDY.

[Laughter.]

The PRESIDING OFFICER. Does the Senator request time?

Mr. KENNEDY. Since I yielded 3 minutes to an opponent may I have 1 minute? I ask unanimous consent to have one more minute.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BUMPERS. Mr. President, when we oppose an amendment like Senator KENNEDY's, we are saying that we are scared to death that competition is going to spoil free enterprise.

Senator KENNEDY's amendment sets forth the simple criterion that you either believe in competition or you do not. You either believe communities ought to be served, or they ought not to be served.

In Jonesboro, Ark., Texas International moved out in 1975, and the people of Jonesboro feared they would lose airline service completely. Air Illinois came in, and enplanements increased from 2,600 in 1975 to over 7,000 in 1976. This occurred because Air Illinois flew where the people of Jonesboro wanted to go, and at the time of day they wanted to go, which Texas International had never done.

The city of Jonesboro, Texas International, and Air Illinois were all pleased, and it is a very happy circumstance, because competition moved in and replaced regulation.

No airline is going to enter a market under this amendment unless it stands a good chance to compete, and compete profitably. The airlines ought to have this right, and I do not think the small communities of this country, of which my State has a large number, as most of yours do, should have to hire lawyers and spend a lot of public money to promote competition. That is what our job is supposed to be.

Therefore, I support the Kennedy amendment.

Mr. SCHMITT. Mr. President, since the Senator from Kansas is here, I yield myself 2 minutes on the bill.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, again I would remind my colleagues that this whole bill increases the availability of competitive airline service throughout our economy. This whole bill provides many protections for various parts of the industry and for various size communities.

I think we must remember, and I believe I am correct in this, that the provision we are discussing here with this amendment applies to 401 proceedings of the CAB and does not apply to the automatic entry provision. It does not apply to the dormant authority provisions or any other of the six or seven ways in which increased competition will occur.

I agree with what the Senator from Montana and the Senator from Alaska have said about specific types of problems in small communities.

However, I think it is even more important to realize how much we are doing to increase the availability of airline service, potential availability of airline service, to all communities, and that to

take this further step is unnecessary at this time. In the future we may find that a change would be of importance and of use, once we see how the other provisions have interacted with a regulated industry.

So, Mr. President, again I would strongly urge that this amendment be rejected.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. CANNON. Vote.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

● Mr. KENNEDY. I have a few questions that go to the revisions that this legislation would make in the application of the antitrust laws to the airline industry. The Antitrust Subcommittee, which I chair, and its staff worked closely with you and the Commerce Committee all last year in drafting these antitrust provisions. Basically, what I would like to do, Senator CANNON, is confirm that your view of the legislation is the same as mine—just to reassure myself that no further antitrust amendments are needed.

First, I am very concerned that we avoid creating a gap in jurisdiction where neither the CAB nor the Federal courts will feel competent. For instance. under the current law every agreement an airline enters into—whether oral or written—must be brought before the CAB for approval. Board approval automatically brings with it antitrust immunity. Under S. 2493, however, carriers need not file each and every agreement and I think this is a good reform that will reduce the paperwork burden on private companies and the CAB. Thus, under the proposed bill, there will be situations where there are unfiled intercarrier agreements that the Board no longer has to approve.

I am sure the intent is that these unfiled agreements would not receive any immunity from the antitrust laws. But, sometimes Federal courts have been reluctant to entertain antitrust questions where the acts complained of might have been immunized by a Federal agency. What I want to be certain about is that an election by an airline not to file an agreement is understood to be an election to accept full antitrust responsibility and jurisdictional exposure in the Federal courts if the agreement is anticompetitive. It will not do any harm to the regulatory scheme if the courts step in and hear criminal complaints and civil damage suits in situations where airlines have entered into restraint of trade agreements and where those agreements have not been specifically immunized from antitrust attack by the CAB. Does my understanding comport with the committee's intent?

Mr. CANNON. Yes; I agree with your remarks and your interpretation of the proposed bill entirely.

Mr. KENNEDY. Another point that I would like to make along those lines concerns the question of predatory pricing. We all know that predatory pricing in any industry is unlawful. It is an attempt to price below cost in order to drive out competitors and, afterward, to raise prices above costs to recoup losses. The Sherman Act prohibits predatory pricing because it is an attempt to monopolize. We also know that as a practical matter predatory pricing is a rare occurrence, especially where entry into an industry is not very difficult. Thus, the best check against unlawful predatory pricing is liberalized entry.

So, the bill's entry provisions are important to prevent predatory pricing. The proposed bill would also remove a lot of unnecessary Federal supervision of prices but it would still charge the CAB with cancelling predatory rates if it should find that they exist. Now cancellation of rates by the Board is a useful power, yet by itself it isn't much of a threat and, standing alone, might not do as much to discourage some competitors from taking unfair aim at the new entrants as do the antitrust laws. But any company might think more than twice about a treble damage suit. And that's my point: I do not see anything wrong with a court permitting a treble damage action to lie based on a truly predatory pricing scheme.

The proposed bill defines "predatory" as violative of the antitrust laws, so both the Board and the courts would be acting under the same standard. There is no sound reason not to let a damage action proceed and a number of good reasons to go ahead, especially if the Board has first considered the rate and found it predatory. Although the allegedly unlawful prices would first have to be investigated and ruled upon by the Board, my interpretation of the new ratemaking scheme is that, once the Board finds a rate predatory, this kind of private litigation could proceed. Is that your understanding?

Mr. CANNON. That is correct, Senator. The Federal Aviation Act has a specific provision (section 1106) that says that it does not displace private remedies, and while that cannot always be taken literally, this is one of the instances where it can and should.

Mr. KENNEDY. There is one last point that I would like to be sure about. It concerns the revisions to section 414 of the Federal Aviation Act—the section that permits the Board to confer antitrust immunity on relationships that it approves. The new section has two aims: first, to minimize the amount of immunity that is automatically conferred to no more than is necessary for the activities specifically reviewed and specifically immunized by the Board. Second, to give the Board the discretion to limit that immunity even further. On this second point, I would like to be certain that we all agree that this means that the Board could, if it chose, approve of activities that it would not immunize. That is, that in the proper case, the Board might allow a merger or agreement to go forward but still decide to withhold antitrust immunity altogether. I think this is important because it will take a lot of responsibility for policing competitive fair play off the Board and put it back on the airline. The Board will not have to always choose between disapproval and antitrust immunity, and the parties will know that they cannot misbehave after initial approval and expect to use a Federal law as a shield against antitrust liability.

I would just like to confirm that your understanding of this section is the same as mine.

Mr. CANNON. Yes.●

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Colorado (Mr. HASKELL), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE), the Senator from Oregon (Mr. HATFIELD), and the Senator from Oregon (Mr. PACKWOOD) would each vote "yea."

The result was announced—yeas 69, nays 23, as follows:

[Rollcall Vote No. 125 Leg.]

YEAS—69

| | | |
|---|---|---|
| Anderson | Glenn | Metzenbaum |
| Baker | Gravel | Morgan |
| Bartlett | Hansen | Moynihan |
| Bayh | Hart | Muskie |
| Bellmon | Hatch | Nelson |
| Biden | Hathaway | Nunn |
| Brooke | Hayakawa | Pearson |
| Bumpers | Heinz | Pell |
| Cannon | Helms | Percy |
| Chafee | Hodges | Proxmire |
| Chiles | Hollings | Ribicoff |
| Church | Huddleston | Riegle |
| Clark | Humphrey | Roth |
| Cranston | Inouye | Sarbanes |
| Culver | Javits | Sasser |
| Curtis | Johnston | Schweiker |
| DeConcini | Kennedy | Stafford |
| Dole | Laxalt | Stone |
| Domenici | Leahy | Thurmond |
| Durkin | Lugar | Tower |
| Eagleton | Mathias | Wallop |
| Ford | Matsunaga | Weicker |
| Garn | McClure | Williams |

NAYS—23

| | | |
|---|---|---|
| Allen | Hatfield, Paul G. | Sparkman |
| Bentsen | Jackson | Stennis |
| Burdick | Long | Stevens |
| Byrd, Harry F., Jr. | Magnuson | Stevenson |
| Byrd, Robert C. | Melcher | Talmadge |
| Danforth | Randolph | Young |
| Eastland | Schmitt | Zorinsky |
| Griffin | Scott | |

NOT VOTING—8

| | | |
|---|---|---|
| Abourezk | Haskell | McGovern |
| Case | Hatfield, Mark O. | McIntyre |
| Goldwater | | Packwood |

So Mr. KENNEDY'S amendment (No. 1235) was agreed to.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PEARSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Pennsylvania.

UP AMENDMENT NO. 1236

Mr. HEINZ. Mr. President, I send an (Purpose: To revise Federal preemption) amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

of the amendment be dispensed with.

read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an unprinted amendment numbered 1236.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading

On page 77, line 10, beginning with the comma, strike out all to the period in line 11 on page 78, and substitute the following:

"(2) When any air carrier which on August 1, 1977 was operating in intrastate air transportation regulated by a State receives a certificate to provide interstate air transportation, any authority received from such State prior to August 1, 1977 shall be considered to be part of its authority to provide air transportation received from the Board under this Act until modified, suspended, amended or terminated as provided under this Act."

Mr. HEINZ. Mr. President, the amendment I have offered is designed to remove a problem that I think has crept into this legislation. Specifically, the proposed amendment deals with the so-called 50 percent rule in section 17, which has to do with Federal preemption. The amendment would eliminate the 50 percent rule from the Federal preemption section of the bill and make all carriers holding a Federal certificate subject to CAB regulation for the entirety of their operations.

The purpose of this amendment is severalfold.

First, it attempts to remove a double layer of regulation which would exist on an intrastate carrier should that intrastate carrier seek to establish just one interstate route, which, as it now stands, would be subject to both State and Federal regulation.

I know this is not at all the intention of this legislation. This legislation is designed to accommodate deregulation, not more regulation.

Second, the amendment seeks to make it easier for an intrastate carrier, should it wish an interstate route, to do so by reducing the barriers which would otherwise exist. One of those barriers that under the bill would exist is the barrier of trying to convert State-regulated routes into federally regulated routes. Even under this bill there is still Federal regulation, of course, of a lesser nature.

It does so by allowing, any time an interstate route is granted to an intrastate carrier, the intrastate carrier to convert its intrastate routes from State regulation to Federal regulation, and it thereby makes competition an easier reality and reduces, at the same time, the paperwork burdens.

The need for this I think is inarguable. I think virtually every witness testified that it is in the public interest to have one system of regulation for interstate air transportation. Where conflicts do exist or may exist between State and Federal authorities we should make every effort to eliminate those conflicts.

The dual system of regulation in the past has created an impossible jumble of conflicts between Federal and State agencies. For example, federally regulated carriers and State-regulated carriers which serve the same market within a State under their respective certificates find it impossible to compete on a fare basis because of the differences in statutory provisions, rules, regulations, of the different agencies.

For example, federally regulated carriers are required to file tariffs usually on 45 days' notice. Interstate carriers in some States have no advance notice requirement and have an obvious advantage over the federally certificated carriers in competitive markets. But in other instances a single carrier may hold both Federal and State authority. As a practical matter, while these authorities merge and it is virtually impossible to distinguish between them, the fact is that in attempting to maintain such a fictional distinction on this dual system of regulation the agencies find themselves in irreconcilable positions. For example, State agencies have ordered the continuation of service which the CAB may have ordered suspended on the grounds of public interest.

Well, that is exactly the kind of dual regulation this amendment seeks to eliminate, Mr. President. I hope we will be able to do so.

I would like to add the Senator from Kansas (Mr. PEARSON) as a cosponsor of this amendment.

Mr. President, I hope my colleagues will join me in bringing about a beneficial step which will benefit competition, benefit the cause of deregulation, and benefit, most of all, a sound air transportation system in the United States.

Mr. CANNON. Mr. President, I yield myself 5 minutes.

This Federal preemption section represents the diligent efforts of the committee with input from the National Association of Regulatory Utility Commissioners to provide a remedy to this complex problem of dual Federal-State regulation. The committee recognized and confirmed the right of State governments to regulate airlines which provide wholly intrastate air transportation. However, the committee felt it was vital that only one standard of regulation exist for airlines operating under authority of the CAB.

Section 423 prohibits States from exercising economic regulatory control or jurisdiction over interstate airlines. However, in recognition of the intrastate airline systems which have developed under State regulation, those States will retain jurisdiction over such intrastate airlines if those carriers obtain CAB certificates until such time as more than 50 percent of the air carriers' revenues are derived from interstate services. The three States affected are California, Texas, and Florida which have developed extensive regulatory structures and these States will continue to exercise economic jurisdiction over Air California, PSA, Southwest, and Air Florida respectively. Under this provision, should any of those carriers obtain a CAB certificate, then the CAB would regulate only the interstate service of that carrier with the State retaining the regulatory control over the rest of the intrastate service of the carrier. Under the present law, should one of these intrastate carriers obtain a CAB certificate, the entire system would immediately fall under Federal jurisdiction. But under the bill, not until 50 percent or more of the carriers' revenues are derived from interstate services will that carrier come under the regulatory control of the CAB. And carriers, large or small, providing wholly intrastate services will continue to be regulated by their respective States.

This section has been carefully worked out to balance the competing interests and I believe it satisfies the problems of dual regulation without infringing upon the rights of the States to regulate purely intrastate activities.

I oppose the Senator's amendment.

I yield to the Senator from California.

Mr. CRANSTON. Mr. President, I urge support for the Commerce Committee's solution to the problem of Federal preemption. I am for as little regulation as possible. That is why I support the committee bill. I am for as little overlapping of regulation as possible. That is not the issue before us.

California pioneered in many ways the innovations which proved that airline competition will reduce air travel costs to consumers. That was done basically in my State. The situation today in California is such that our State public utilities commission estimates that Federal preemption of State regulation of intrastate air routes would result in higher, not lower, air fares for the thousands of Californians and visitors to our State flying the high density routes between Los Angeles and San Francisco, Oakland, Sacramento, and San Diego.

The State public utilities commission also assured me in a letter dated April 17 that the commission "is committed to helping PSA financially." The PUC hopes the Senate will not eliminate our rate regulations to the detriment of Californians and all visitors to California who enjoy the benefit of our low air fares which have been achieved through an unusual blend of vigorous competition and enlightened and reasonable regulation.

I do not know the situation in other States, but I assume that there may be similar circumstances elsewhere in the United States.

I urge support for the Commerce Committee solution to this problem.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I want to make very clear to my colleagues that this amendment does not permit the Federal Government to move in on an intrastate carrier. It does not, I say to my good friend from California, permit

the Federal Government to preempt State regulations on an intrastate California airline.

I believe PSA is an airline that flies solely intrastate. Is that not correct, I ask my good friend from California?

Mr. CRANSTON. It would become interstate almost immediately if this amendment is passed. Presently, it is intrastate.

Mr. HEINZ. My understanding, I say to my good friend from California, is that PSA supports this amendment.

Mr. CRANSTON. Of course.

Mr. HEINZ. Well, it seems to me that it would be advantageous to have an airline that is that significantly interested in the kind of competition that I think we all believe this would bring about. I repeat, if an airline is regulated solely intrastate, this does not permit the Federal Government to move in on that airline. If, however, another airline chooses to have an interstate route or be regulated interstate, as a result there would be more competition. It is hard for me to see how that would result in increased fares. Competition rarely does that, in the opinion of this Senator.

I guess my basic problem with the 50 percent in the committee bill, I say to my good friend from Nevada, is that it is like denying paternity until the woman is a little more than half pregnant. In fact, where you have interstate routes, you have an interstate carrier. It seems to me that the 50 percent is an artificial distinction.

Mr. President, I ask that we proceed to a vote, unless there is any other discussion.

Mr. CANNON. Mr. President, I am ready to yield back my time.

Mr. CRANSTON. Will the Senator yield me 1 minute?

Mr. CANNON. Yes.

Mr. CRANSTON. I point out that the present air fare of PSA from Los Angeles to San Francisco is $26.02. The maximum fare, if this is adopted, could be $51.57, an increase of $25.55. A 98-percent increase would occur. Since there are over 2 million passengers, the estimated impact in California would be an increase in air fares of $51,066,000. Deregulation should not lead to that kind of increase in the cost of flying in my State or any State.

Mr. CANNON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Pennsylvania yield back his time?

Mr. HEINZ. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The nays appear to have it.

Mr. HEINZ. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Mr. PEARSON. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. PEARSON. The vote on this amendment is still of the 10-minute variety?

The PRESIDING OFFICER. The Senator is correct.

The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Colorado (Mr. HASKELL), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The result was announced—yeas 20, nays 72, as follows:

[Rollcall Vote No. 126 Leg.]

YEAS—20

| | | |
|---|---|---|
| Baker | Heinz | Pearson |
| Bartlett | Helms | Percy |
| Bellmon | Javits | Roth |
| Dole | Laxalt | Schweiker |
| Eagleton | Lugar | Scott |
| Hathaway | Mathias | Thurmond |
| Hayakawa | Muskie | |

NAYS—72

| | | |
|---|---|---|
| Allen | Garn | Moynihan |
| Anderson | Glenn | Nelson |
| Bayh | Gravel | Nunn |
| Bentsen | Griffin | Pell |
| Biden | Hansen | Proxmire |
| Brooke | Hart | Randolph |
| Bumpers | Hatch | Ribicoff |
| Burdick | Hatfield, Paul G. | Riegle |
| Byrd, Harry F., Jr. | Hodges | Sarbanes |
| Byrd, Robert C. | Hollings | Sasser |
| Cannon | Huddleston | Schmitt |
| Chafee | Humphrey | Sparkman |
| Chiles | Inouye | Stafford |
| Church | Jackson | Stennis |
| Clark | Johnston | Stevens |
| Cranston | Kennedy | Stevenson |
| Culver | Leahy | Stone |
| Curtis | Long | Talmadge |
| Danforth | Magnuson | Tower |
| DeConcini | Matsunaga | Wallop |
| Domenici | McClure | Weicker |
| Durkin | Melcher | Williams |
| Eastland | Metzenbaum | Young |
| Ford | Morgan | Zorinsky |

NOT VOTING—8

| | | |
|---|---|---|
| Abourezk | Haskell | McGovern |
| Case | Hatfield, Mark O. | McIntyre |
| Goldwater | | Packwood |

So Mr. HEINZ' amendment (No. 1236) was rejected.

Mr. CANNON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CANNON. Mr. President, I yield 30 seconds to the Senator from New Hampshire.

Mr. PEARSON. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator from New Hampshire will be recognized as soon as the Chair obtains order.

The Senator from New Hampshire.

Mr. DURKIN. I thank the Chair and I thank the distinguished chairman.

Mr. President, I have five interrogatories here with respect to the intent of the bill and the chairman has indicated that his answers are "Yes."

I ask unanimous consent that they appear in the RECORD in toto as if delivered and I ask unanimous consent that a statement and accompanying exhibit appear as if delivered in its entirety.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CANNON. The Senator is correct. The answer is "Yes" to the questions that he has just had printed in the RECORD.

Mr. DURKIN. I thank the Chair.

● Mr. DURKIN. Some small communities are concerned that sections 401 and 419 of the Federal Aviation Act of 1958 as amended by this bill could result in termination of certificated air service to them. I believe that the bill does guarantee continued certified air service but I want to clarify the intent of appropriate sections.

Is it correct to say that under sections 401 and 419 of the Federal Aviation Act as amended by the bill, each and every community now receiving certificated scheduled air transportation service shall continue to have certificated scheduled air transportation without any break in service for a minimum of 10 years?

Mr. CANNON. Yes; it is correct.

Mr. DURKIN. Is it correct to say that under sections 401, 419(h) and appropriate sections as amended by the bill, the CAB is required to guarantee that each community presently receiving certificated air carrier service shall continue to get certificated scheduled service for the 10 year period, at least until January 1, 1989, as specified in section 419(h)?

Mr. CANNON. Yes; it is correct.

Mr. DURKIN. Is it correct to say that the language of the bill guarantees that even in the circumstances in which a community has not yet received a determination by the CAB as to what constitutes essential air service, the Board is required to provide continued certificated scheduled air service to the community?

Mr. CANNON. Yes; the Senator is correct.

Mr. DURKIN. Is it correct to say that under the language of this bill that once a community has had a determination by the CAB of that service which constitute essential air transportation for the eligible point of the community, the CAB shall be responsible to guarantee that under all circumstances, that community shall continue to receive air transportation under the procedures laid out in section 419(h) and other appropriate sections of the bill?

Mr. CANNON. Yes; the Senator is correct.

Mr. DURKIN. In other words under the provisions of this bill any community which is receiving certificated scheduled air service today is guaranteed a minimum of 10 years of certificated scheduled air service including such subsidy as is required to maintain that certificated scheduled air service.

Mr. CANNON. Yes; that is correct.

Mr. DURKIN. Mr. President, I want to thank the Chairman of the Commerce Science and Transportation Committee

for helping me to clarify this matter which is so important to small States such as New Hampshire.

Mr. President, as we all know the making of new laws and the overhauling of existing ones is often a complicated business, not easily explained or understood.

The proposed airline deregulation bill that comes before us this week is no exception. Commerce Committee members and their staffs have spent countless thousands of hours working up a bill that attempts to address the many aspects of airline regulations.

Because this issue contains so many complexities, it comes as a great pleasure to me to have one segment of the media take the time and effort to outline and illuminate this complex area.

Mr. Norman Knight, president and editor-in-chief of the Knight Quality Stations, has done just that with a 48-part series of radio broadcasts aired on his three Massachusetts and two New Hampshire radio stations.

Mr. Knight has had a long and distinguished career in broadcasting business and, I greatly respect the work he has done in highlighting this legislation. Many of his concerns have been reflected in the final version of this bill.

His reports are incisive, to-the-point, and, most important, give the people who are paying our salaries an accurate idea of what we are doing for them in Washington.

I ask unanimous consent that Mr. Knight's editorials, which he researched, wrote, and produced, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE AIRLINES: REGULATION, DEREGULATION OR REREGUATION—A FORTY-EIGHT PART SERIES OF RADIO REPORTS

REPORT NO. 1

Our listeners know how strongly the Knight Quality Stations feel about the free enterprise system so it might seem somewhat strange that we would question deregulation of any type. In this and succeeding analyses we will discuss Senate bill 689 titled "The Air Transportation Reform Act of 1977", and referred to as the Cannon-Kennedy bill. The Knight Quality Stations believe that the public is entitled to a fair, objective analysis of this proposed legislation because it is concerned with all aspects of air travel—cost, safety, services, growth, subsidies and jobs. Our next report will analyze the claims of the bill's sponsors as we continue this series on the Knight Quality Stations.

REPORT NO. 2

As we continue our series, "The Airlines: Regulation, Deregulation or Reregulation", the Knight Quality Stations feel that you should know there are long term and short term problems that have to be considered. The proposed legislation, Senate bill 689, has been discussed by many witnesses before the subcommittee on aviation of the Senate Committee on Commerce, Science and Transportation. We will analyze this testimony together with the expressed opinions of the airlines, consumer groups and other interested parties. . . . And, in so doing, the Knight Quality Stations hope to help you draw your own conclusions and communicate your thoughts to your legislators.

REPORT NO. 3

Continuing this Knight Quality Stations series, "The airlines: regulation, deregulation or reregulation", we will begin to analyze the viewpoints of Senator Edward Kennedy. A leading advocate of airlines deregulation, Senator Kennedy cosponsored with Senator Cannon of Nevada this legislation, popularly known as the Cannon-Kennedy bill. In his testimony before the Senate Aviation Subcommittee, Kennedy voiced his desire to bring more competition to the airline industry. He emphasized that the proposed legislation would permit fare increases of 10% the first year and 20% annually thereafter, and fare reductions low enough to cover direct costs. More details concerning Senator Kennedy's thoughts on airline fares on our next report.

REPORT NO. 4

Our last report on "The airlines: Regulation, deregulation or reregulation" referred to the geneal structures of air fare increases and reductions as proposed by Senator Kennedy in the Cannon-Kennedy bill. In his testimony before the Senate Aviation Subcommittee, Senator Kennedy compared the fares between the CAB regulated airlines and the intrastate carriers operating in California and Texas, whose fares were 20 to 60% lower than the CAB formula with a similar situation in California. The Senator quoted extensively from a General Accounting Office report to Congress estimating 22 to 52% higher air fares than would be possible under less regulation, and feeling that the GAO study's results paralleled economic studies by Keeler, Miller and Douglas. More of Senator Kennedy's testimony and conclusions when we continue our Knight Quality Stations series on Senate bill 689.

REPORT NO. 5

We continue our reports with more of Senator Kennedy's testimony as joint sponsor of the Cannon-Kennedy bill which proposes to "deregulate" airlines. Senator Kennedy claims that this bill contains a direct cost standard for fare reductions which will result in significant price reductions to the traveler and prevent below-cost pricing. He feels it makes little sense to maintain a federal formula and wants airlines to be free to lower fares generally and experiment with selective cheaper fares. In the Senator's opinion the airlines should lower air fares, eliminate frills and avoid lavish scheduling. More about this when the Knight Quality Stations continue our series, *"The airlines: Regulation, deregulation or reregulation"*, with Senator Kennedy's conclusions about consumer preferences.

REPORT NO. 6

Continuing with our series on proposed airlines deregulation, we want to report further on Senator Kennedy's testimony regarding the question of air fares and consumer savings. Senator Kennedy differentiates very carefully between what he calls "costly competition" and "price competition". His basic premise was that fuller planes result in lower fares and that consumers prefer a fuller plane, lower fare alternative. Senator Kennedy's contention that price competition would be productive while service competition is wasteful was the thrust of his testimony in regards to pricing—next the Knight quality stations will discuss the other major area of Senator Kennedy's testimony regarding the regulation of entry as our Knight quality stations series continues on this subject of the Cannon-Kennedy bill.

REPORT NO. 7

Our analysis of proposed air line deregulation is called, "The airlines: Regulation, deregulation or reregulation", and continues with the testimony of Senator Kennedy before the Senate Aviation Subcommittee. The "regulation of entry" portion of the Senator's testimony consumed three extra long pages of single-space transcripts that reinforced his claims that substantive changes are necessary in order to allow newcomers to provide competitive trunk service, and to replace the CAB's route award procedures with less rigid guidelines. He suggests that carriers are dissuaded from filing applications because of small prospects of success, high legal costs and limited litigation resources. These and other contentions by Senator Kennedy when the Knight Quality Stations will discuss the specific entry provisions of Senate bill 689, "The Air Transportation Regulatory Reform Act of 1977."

REPORT NO. 8

Senate bill 689 titled, "The Air Transportation Act of 1977", is the subject of this series on the Knight Quality Stations. In outlining some of the changes proposed by the Cannon-Kennedy bill, Senator Kennedy testified that the new general entry provisions will make route grants automatic if the CAB does not act within prescribed time limits, define factors that are consistent with public convenience and necessity, provide for circumstances for route awards without full proceedings, and provide for automatic route expansion by both CAB-regulated and intrastate airlines. We discuss Senator Kennedy's conclusions about general entry provisions when we continue with our series "The airlines: Regulation, deregulation or reregulation."

REPORT NO. 9

Senator Kennedy's testimony to the Senate Aviation Subcommittee contained two major areas of discussion, pricing and general entry. This report on the Knight Quality Stations addresses the Senator's conclusions regarding the entry provisions of the Cannon-Kennedy bill. He refers to them as precise, definite and uncomplicated. The bill's cosponsor claims that although airlines say they can compete in price, history says they have not done so, declaring that the scheduled lines offered lower-priced service only after nonscheduled carriers offered low fares with fuller airplanes. He concluded that the proposed general entry rules will make it possible for new carriers to charge lower prices and thereby constitute the realistic threat that will force higher priced, existing airlines to lower their fares. The Knight Quality Stations will report next on other points made by Senator Kennedy in his testimony on Senate bill 689.

REPORT NO. 10

These reports by the Knight Quality Stations have analyzed the major points made by Senator Kennedy in his testimony to the aviation subcommittee. He said that the CAB's power to confer antitrust immunity on airlines has been seriously abused, and that his bill provides for a more limited and precise statutory antitrust exemption. He also insisted that contrary to questions raised, small communities would not be denied service but that services would be expanded. . . . and that the current subsidy program would be reformed. As regards the loss of jobs caused by regulatory reform, Senator Kennedy testified there would be no disruption and no threat to jobs, that the opposite would be the case. Next on our series, "The airlines: Regulation, deregulation or reregulation", a "wrap-up" of Senator Kennedy's testimony.

REPORT NO. 11

When he testified before the Senate Subcommittee on Aviation, Senator Kennedy referred to Senate bill, "The Air Transportation Regulatory Reform Act of 1977", as a responsible, practical and comprehensive formula to redirect our Nation's air transportation system into one that better serves consumers, communities and airlines. He claimed that the act will result in less Government, not more. . . . And that a vital economy is less affected by cut-throat competition than by choking regulation. In succeeding reports we will move on to testi-

mony by members of the executive branch of our Government as our series, "The airlines: Regulation, deregulation or reregulation," continues on the Knight Quality Stations.

REPORT NO. 12

Our Knight Quality Stations series on proposed airline deregulation must include the views of John F. Robson, Chairman of the Civil Aeronautics Board. In his testimony before the Senate Aviation Subcommittee, Chairman Robson reaffirmed and restated certain of the Board's judgments. First, that the Congress should direct regulation of domestic airlines towards more reliance on greater market forces. And, second, that the transition toward this change should be gradual and carefully monitored. Third, he emphasized the risks and uncertainties that could accompany relaxation of present entry, exit and pricing controls. All of these are important points and in our next report we will continue with other viewpoints expressed by Chairman Robson in the Senate subcommittee's consideration of Senate bill 689, the Air Transportation Regulatory Reform Act of 1977.

REPORT NO. 13

Our last Knight Quality Stations report on the subject of proposed airline deregulation covered three of the basic points made by John Robson, Chairman of the CAB in his testimony before the Senate Aviation Subcommittee. His fourth contention was that such increased competition could lead to failure of less-efficient large carriers as well as smaller carriers—but along with these possible failures he suggested that there could be interruptions of service to smaller markets, hardships to airline employees, different fares and rates market to market, and a real possibility of greater concentration by fewer airlines. His final point was that if no reform were accomplished, the long term effects could be unsatisfactory for everyone—the airlines, the Government, and the public. More on this final point and other interesting comments by Chairman Robson when we continue our series, "The Airlines: Regulation, Deregulation or Reregulation."

REPORT NO. 14

Continuing our analysis of the views of John Robson, CAB Chairman, in our last report we talked of potential long term effects without reform. According to Robson, these could include weakened financial prospects for some of the carriers, erosion of investor confidence, and increased pressure for Federal aid to assist carriers. Robson feels that with the potential hardships of a more competitive system the public must be protected by flexible regulatory control under new statutory guidance. It is important to note that Robson's testimony clashed in substantive areas with that of Senator Kennedy, and when these reports continue we will analyze Robson's warnings to the Subcommittee on Aviation in regard to Senate bill 689.

REPORT NO. 15

Earlier in this series the Knight Quality Stations felt it important to report some of the key areas of Senator Kennedy's testimony concerning his cosponsorship of Senate bill 689. This was followed by some of the basic information supplied to the Senate Aviation Subcommittee by John Robson, CAB Chairman. Inherent in Robson's testimony was his strong feeling about regulation and, although he agreed with the aims of the Cannon-Kennedy bill, he was certainly at odds with some of Kennedy's means to achieve those objectives. Robson recommended that the regulatory structure of our air transportation system move toward increasing reliance on competitive market forces as the principal means of regulation. However, his recommendation contained an important qualification that will be discussed on our next report.

REPORT NO. 16

Continuing with the comments made by John Robson, CAB Chairman, we talked in our earlier report about his recommendation that there be greater reliance on competitive market forces. This series places great emphasis on a phrase that followed Robson's statement about competitive market forces, three words starting with "if". Those words were, "if carefully introduced, and based on this "if", Robson believes that such a system could create more efficiency, result in lower fares, allow carriers to seek pricing and marketing innovations without Government intervention, increase opportunities for long-term airline profits, and maintain satisfactory levels of air service. John Robson's conclusions when we continue with our series, "The airlines: Regulation, deregulation or reregulation."

REPORT NO. 17

It is obvious to those following our series on the proposed airline deregulation bill that it can affect all Americans. This report emphasizes the differences in thinking between Chairman Robson and Senator Kennedy. For instance, Robson has warned that Senate bill 689 proposes fare flexibility that would lower fares in selected high-density markets but could lead to higher fares in smaller markets. The CAB Chairman also opposed the free entry dormant authority, discretionary route mileage provisions, and the transfer of jurisdiction of interline agreements and mergers to the Justice Department. Chairman Robson and Senator Kennedy's disagreements raise some basic questions that we will discuss when we continue with "The airlines: Regulation, deregulation or reregulation" on the Knight Quality Stations.

REPORT NO. 18

Consideration by the U.S. Senate Aviation Subcommittee of Senate bill 689 included testimony by John Robson, CAB Chairman. Prior reports on this Knight Quality Stations series have outlined some of the differences between Robson's thoughts and those of the bill's cosponsor, Senator Kennedy. Clashing with Kennedy's statements, the Chairman testified that Senate bill 689, in Robson's words, "omits many elements essential to a prudent and effective regulatory reform program and contains features which will be counter productive." Robson's testimony raises a basic question, does Senate bill 689 move too fast with too much and, in the process, does it create more bureaucracy than we now have? The Knight Quality Stations will analyze the views of other interested parties as our airline deregulation series continues.

REPORT NO. 19

Our Knight Quality Stations series on proposed airline deregulation continues with some of the comments made by Charles Schultze, Chairman of the Council of Economic Advisers. In his appearance before the Senate Aviation Subcommittee, he made it clear that the President does want an airline regulatory reform bill . . . and would like to have it on his desk for signature by summer! He felt that Government regulations stifle competition and inflate air fares, and would like to see eased route entry without adverse effects to small communities. A controversial statement on airline employees job protection by Charles Schultze in our next report on this series, "The airlines: Regulation, deregulation or reregulation."

REPORT NO. 20

Senate bill 689 is titled, "The Air Transportation Regulatory Reform Act of 1977", and one of the questions raised in Senate Aviation Subcommittee hearings has been that of possible loss of jobs for airline employees. Charles Schultze, Chairman of the Council of Economic Advisers, testified that the Carter administration would be unwilling to support any proposal to protect airline workers against job loss. In this connection Schultze said, "Such protection would be undeserved and would grant airline workers an unprecedented measure of security." Also testifying with Schultze was Robert Crandall of the Council of Wage and Price Stability and when questioned about portions of his testimony, Crandall conceded he was "not an airline expert." Testimony by Schultze and Crandall seemed to agree with the aims of the Cannon-Kennedy bill but showed a distinct lack of knowledge of what is happening on a day-to-day basis in the real world of the airline industry. More comments by administration spokesmen when this Knight Quality Stations series continues.

REPORT NO. 21

Airline deregulation as proposed through the Cannon-Kennedy bill and our series on this subject continue as we analyze the testimony of W. Michael Blumenthal, Secretary of the Treasury, before the Senate Aviation Subcommittee. He repeated the administration's desire for greater fare flexibility, eased route entry and more competition. At the same time he wanted the airlines to have the burden of proving how continued regulation would benefit either themselves or the public. Differing with Charles Schultze, Blumenthal felt that legislation should give direction to the CAB and should not dictate specific route entry or pricing formulas. It is important to note that supporters of some type of airline regulatory reform differ substantially in the means by which such reforms can be accomplished. Next, Brock Adams, Secretary of Transportation, on this Knight Quality Stations series.

REPORT NO. 22

This is another report in our continuing series on proposed airline deregulation and we will discuss the comments of another administration spokesman, Transportation Secretary Brock Adams. Referring to the Cannon-Kennedy bill, he said that it provides a appropriate framework for reform. However, he differed with specific points of the bill and suggested that most new entries be in the short-haul, high-density markets like Dallas-Houston or Los Angeles-San Francisco. He opposed the direct cost formula of the bill and disagreed with Kennedy's proposal that jurisdiction of interline agreements and mergers be moved to the Justice Department. There are noticeable differences of opinion among administration spokesmen and major areas of disagreement with Senator Kennedy as we move on to our next report featuring again comments by Brock Adams.

REPORT NO. 23

Brock Adams is Secretary of Transportation of these United States and his viewpoints on the airline study carry weight. When he testified before the Senate Aviation Subcommittee, he disagreed with various features of the Cannon-Kennedy bill and we think a highlight of his testimony was his admission that changes should be controlled experimentally with enough time for adjustment by the involved parties, and he urged strongly that the President be responsible for international aviation matters, contrary to Senator Kennedy's proposal. It was when Secretary Adams was testifying, that Senator Stevens of Alaska said that the bill might be good for Los Angeles-Las Vegas or New York-Washington, but not for small communities and, now quoting Senator Stevens, "it goes too far, too fast, and you'll be sorry because you'll have to administer it." Transportation Secretary Adams' testimony was important enough that we are going to continue with it on our next report on the Knight Quality Stations.

REPORT NO. 24

Continuing with transportation Secretary Adams' comments and testimony on Senate bill 689, known as the Cannon-Kennedy bill, the Secretary stated that air service is a public utility! This statement in itself is valid, but raises problems for Senator Kennedy and his espousal of the bill that he is co-sponsoring since the bill calls for enormous rate flexibility, a far cry from the status of a public utility. Secretary Adams differed with Kennedy in other areas as well as with his strong emphasis on airline employee interests. Assuming proper performance, job security is important to every worker, including airline employees, so our next report will feature this subject along with other comments by Secretary Adams on the Knight Quality Stations series: "The airlines: Regulation, deregulation or reregulation."

REPORT NO. 25

When concluding our last report in our analysis of the Cannon-Kennedy bill, we mentioned the differences in certain areas between Senator Kennedy's proposals and the comments of Transportation Secretary Brock Adams, who emphasized strongly the interests of airline employees. This was most evident in his statement, "We should consider what might occur if there is a failure causing significant unemployment." Although Secretary Adams stressed gradualism, he supported the President by saying that he hoped "something emerges this year" and then said, "if things go wrong, there'll always be another Congress, another year when we can correct it." When we change a basic regulatory act that has been on the books for decades, many interested and qualified parties disagree with Secretary Adams and believe that more study and a true national dialogue are essential in spite of the well-known names associated with Senate bill 689. Testimony from consumer activist Ralph Nader next as our Knight Quality Stations series continues.

REPORT NO. 26

The so-called airline deregulation hearings conducted by the Senate Aviation Subcommittee featured an appearance by Ralph Nader. Nader severely castigated the CAB as a protective shield for airlines. He claimed that, because of the CAB's policies, consumer fraud has been winked at, meaningful price competition has been outlawed, and inefficiency has been encouraged. Nader was one of the few witnesses who totally supported the Cannon-Kennedy bill and thoroughly disapproved of virtually every aspect of present airline regulation. He went one step further and proposed the creation of a consumer agency funded by airline passengers. Nader's comments were not unexpected and, as these reports continue on the Knight quality stations, we will analyze comments made by the other cosponsors of Senate bill 689, Senator Howard Cannon of Nevada.

REPORT NO. 27

Senator Kennedy's testimony before the Senate Aviation Subcommittee was perhaps the most voluminous of any one participant. However, this series of reports on the Knight Quality Stations would be incomplete without some statements by the bill's other cosponsor, Senator Howard Cannon of Nevada, chairman of the Aviation Subcommittee. Since Senate bill 689 proposes basic changes, it is essential that we quote Howard Cannon—these are his words. "Even though I'm cosponsor of the legislation, substantially all of the people with expertise have said that the proposed bills go too far." With his obvious influence, perhaps Senator Cannon's words are prophetic regarding the direction that will be taken by the committee and the Senate as a whole. Some thoughts by Senator Barry Goldwater, next on this series, "the airlines: regulation, deregulation or reregulation."

REPORT NO. 28

Those following this series know that the Knight Quality Stations believe that Senate bill 689 deserves careful deliberation and proper representation of all viewpoints. An aviation enthusiast, Senator Barry Goldwater testified at the Senate subcommittee hearings and praised the airline industry as "the best system in the world, charging the cheapest rates." Senator Goldwater said that he was not convinced that Congress should take legislative action until workings at the CAB were improved, and that the CAB currently has the powers to accomplish everything offered in the legislation—and that one or two airlines might control the industry under "the law of the marketplace." Senator Goldwater concluded that although he originally thought deregulation was a good idea, he is now not so sure. Some expressions by airline industry spokesmen as our series continues on the Knight Quality Stations.

REPORT NO. 29

This report in our continuing series on the proposed airline deregulation bill includes comments by Eastern Airlines chairman, Frank Borman. The respected airline executive and former astronaut blasted Senate bill 689 as "flawed legislation that threatens the very basic core of our system." Chairman Borman alluded to the faulty assumptions in the Cannon-Kennedy bill, concentrating heavily on the GAO study of airline fares. One of the assumptions to which Borman referred was that of seating density. Using actual mock-ups of an aircraft, members of the subcommittee stumbled over one another trying to squeeze into the cramped seats illustrating one of the flaws in this GAO study that served as a primary information source for Senator Kennedy. Some other airline reactions when "the airlines: regulation, deregulation or reregulation" continues on the Knight Quality Stations.

REPORT NO. 30

Our last report referred to the testimony of Eastern Airlines chairman, Frank Borman, in regard to the Cannon-Kennedy bill and we think it important to add that the former astronaut feels that the present laws should not be rewritten. On the contrary he felt that the existing law "didn't need one comma changed." Borman's testimony before the Senate Aviation Subcommittee was highlighted by his claim that the goals of deregulation could be achieved through improved procedures at the CAB. The Eastern Airlines chairman said that airlines are already highly competitive—that it is the unregulated auto, tobacco, computer, and soft drink industries that are dominated by one or two major companies. Additional thoughts from airline spokesmen when we continue this series on the Knight Quality Stations.

REPORT NO. 31

Airline reaction to the Cannon-Kennedy bill was almost universally negative but the reasons differed from airline to airline. For instance, Delta Airline Senior Vice President Richard Maurer conceded that Delta was in strong financial shape and could survive the price and route war that he felt was inevitable under reregulation. Maurer felt strongly about the consequences of passage of Senate bill 689 and quoting the Delta senior vice president: "Delta was part of a total air transportation system and that after destruction had been wrought, there would be cries for new and more oppressive forms of regulation, leading toward nationalism." Following Maurer's testimony, regional carriers proposed changes in both the entry and pricing provisions of the bill and requested route and subsidy protection. More airline reactions to the Cannon-Kennedy bill when the Knight Quality Stations continues its series, "The airlines: Regulation, deregulation or reregulation."

REPORT NO. 32

In testifying before the Senate Aviation Subcommittee on Senate bill 689, TWA President C. E. Meyer, Jr., opposed its enactment. Regarding possible job losses, Meyer felt the proposed legislation would create employment problems. Here are his words: "Some deregulation proponents indicate that those losing their jobs with one company will simply move to another. But I am sure that job retraining programs or labor protective provisions will not satisfy an employee who has spent the last 20 years of his life establishing a career with a particular company. A large proportion of these jobs are associated with a high degree of specialized skill and the possibility of retraining workers with these skills for employment at a comparable level in other industries is minimal. In any meaningful sense, their careers would be at an end." This and other conclusions by President Meyer will be reviewed as the Knight Quality Stations continue with this special series, "The airlines: Regulation, deregulation or reregulation."

REPORT NO. 33

The Knight Quality Stations are devoting this report to the conclusions stated by TWA President, C. E. Meyer, in his testimony before the Senate Aviation Subcommittee on Senate bill 689. Meyer suggested some changes in the regulatory structure but on some of the very important issues raised by the Cannon-Kennedy bill he proposed that a joint industry/Government task force be established to study these problems and make recommendations. Meyer predicted that the passage of Senate bill 689 would aggravate the energy crisis, lead to a loss of airline service to small communities and severely hinder airlines from raising capital. More about the effect of this bill on airline finances when we continue our series, "The airlines: Regulation, deregulation or reregulation."

REPORT NO. 34

The effect of Senate bill 689 on the airlines' ability to finance their capital needs is the subject of this report on the Knight Quality Stations. In his testimony to the Senate Aviation Subcommittee, Frederick Bradley, vice president of Citibank, said that the Cannon-Kennedy bill would prove disastrous to both the industry and the traveling public. Bradley predicted that carriers, not able to raise money to replace aging fleets, would actually disappear, through bankruptcy or merger. Another primary lender to airlines, William McCurdy, vice president of Equitable Life, warned that, with deregulation, the airlines would go the way of northeastern railroads. McCurdy said that none of the Big Five met current credit-worthy standards and that lenders unanimously agree that deregulation would cause upheaval, if not total chaos! Some airline union reactions to Senate bill 689 when we continue our series, "The airlines: Regulation, deregulation or reregulation."

REPORT NO. 35

Union and airline employees' reaction to the Cannon-Kennedy bill appears to be universally opposed. AFL–CIO counsel, William Mahoney, says the bill will be anti-consumer, anti-industry, anti-labor and anti-public interest. He feels that passage of the bill will be devastating to airline employees' morale and, therefore, to the efficiency and safety of air transportation. John Peterpaul, vice president of the Machinists, says the bill would reduce the seniority system to chaos. He feels that the bill has the same effect as if someone purposely set out to put carriers out of business, destroy the world's finest air trans-

portation system, and throw thousands of skilled workers out of jobs. President J. J. O'Donnell of the Airline Pilots' Association, said we do not need deregulation or reregulation but better regulation, and emphasized that safety standards could not be maintained by new entrepreneurs. Our Knight Quality Stations series continues with our own conclusions and recommendations.

REPORT NO. 36

The Airline Transportation Regulatory Reform Act of 1977 is the title of Senate bill 689 and it is referred to as the Cannon-Kennedy bill after its cosponsors. It is interesting that the Aviation Subcommittee, which conducted these hearings earlier in '77, was not the originating force for this proposed airline regulatory reform legislation. It was first discussed in the Senate Judiciary Committee's Subcommittee on Administrative Practice and Procedures, chaired by Senator Kennedy. Senator Cannon, Chairman of the Senate Aviation Subcommittee, might agree that the Judiciary Committee is an unlikely place to discuss aviation matters. The fact is that Kennedy was the moving force in proposing this legislation and Subcommittee Chairman Cannon probably "went along with it." Now he has some second thoughts. More about this as the Knight Quality Stations continue with an analysis of the Cannon-Kennedy bill.

REPORT NO. 37

In our last report we discussed briefly the origins of the proposed aviation regulatory reform measures now contained in the Cannon-Kennedy bill and we suggested that Senator Cannon now has some misgivings. Over a year ago Senator Cannon said that open entry economics would result in lower prices only on high density routes, service would be diminished over less profitable routes, economic concentration would occur, and the concept of limited entry and route certificates would be balkanized by profit-minded new entrepreneurs. Cannon felt then that eventually air fares would rise, when the strongest competitors had out-muscled their weaker opponents. More on Senator Cannon's views when we continue our series "The airlines: Regulation, deregulation or reregulation.

REPORT NO. 38

Senator Cannon's views continue on this report as we analyze further the Senate's consideration of the Air Transportation Regulatory Reform Act of 1977. Moreover during the recent Aviation Subcommittee hearings, Cannon said he is having second thoughts about a new law, believes the best answer might be necessary reforms in the existing law and to see to it that the CAB does a better job of administering it. Cannon is obviously keeping an open mind, Knight Quality Stations congratulate him for doing so. After our extensive research we are convinced that all the facts must be heard and that the Aviation Subcommittee, the full Senate Commerce Committee, and the Senate itself must not allow political expediency to transcend the long-range public interest. Some other viewpoints on Senate bill 689 in our next report on "The Airlines: Regulation, Deregulation or Reregulation."

REPORT NO. 39

In cur continuing series on the subject of proposed airlines deregulation, the consensus of most large airline carriers in their Senate testimony was that the proposed deregulation would have a severe negative impact on the industry and the Nation's transportation system. One of the exceptions was United Airlines, a carrier that found areas of agreement with the proposals. United felt that under deregulation, carriers could use their sales and managerial skills for the benefit of companies and consumers. Most of the other major airlines felt that Senate bill 689 goes much too far—beyond desirable reform to radical changes that could jeopardize our national airlines transportation system. More about this when our airlines deregulation series continues on the Knight Quality Stations.

REPORT NO. 40

This series of reports on Senate bill 689 is concerned with the public's right to know about legislation that can affect our lives in many ways. Our airlines are respected universally as the most efficient and economical in the world. The Knight Quality Stations agree with most of the major carriers that it is desirable to accomplish regulatory reform, lower fares, and better service—but not if it means the destruction of our airlines and the possibility of making them public charges like the railroads. More about the railroads and their relationship to this controversy when we continue with some of our conclusions on this special series, "The Airlines: Regulation, Deregulation or Reregulation.

REPORT NO. 41

In continuing our airlines deregulation series, some of our Knight Quality Stations research has centered on comparisons of the airlines with the railroads. Amtrak last year cost the American taxpayers $360 million, subsidy demands by the end of this decade could reach $6 billion! In this series the view of various administration spokesmen and those of Senator Kennedy have been conveyed in as much detail as possible within the limitations of radio analysis. We are convinced that railroads, particularly those of the Northeast, are a great lesson in history for those in public life who do not have the background training or experience to tamper with the world's finest transportation system. More conclusions about Senate bill 689, the Air Transportation Regulatory Reform Act of 1977 when our series continues.

REPORT NO. 42

This report on Senate bill 689 discusses the research basis for many of the assumptions drawn by Senator Kennedy. He projected increased airline revenues resulting in lower fares based on a GAO study; the airlines based their figures on the CAB's own estimates. Kennedy claims a fare reduction of 10 percent would bring the airlines $240 million a year in added revenues but the CAB's estimate is that the carriers would lose that much money. The Knight Quality Stations believe that with a half-billion-dollar difference, we prefer to accept the CAB figures based on actual operating experience instead of untested theories. The GAO study might not be the solid research that Kennedy claims, but could be blue-sky theory, and in our next report the Knight Quality Stations will analyze further the conflicting viewpoints of Senator Kennedy and airline officials.

REPORT NO. 43

Knight Quality Stations would be remiss were we not to discuss the impact of Senate bill 689 on the energy situation. With the passage of the Cannon-Kennedy bill in its present form, the subsequent deregulation would mean a capacity increase by carriers on good routes and withdrawal from poor ones. Domestic airline experience indicates that we would have over-capacity with low load factors and the misuse of precious fuel—this at a time when our President has stated that the gravity of the energy crisis could be exceeded only by the possibility of war. More conclusions as we wind down this series of reports by the Knight Quality Stations on the Air Transportation Regulatory Reform Act of 1977.

REPORT NO. 44

Listeners to this series are aware of the complicated issues facing our Congress in regard to proposed airline deregulation. What is not so obvious are the consequences of the passage of Senate bill 689 in its present form and the distinct possibility that deregulation simply doesn't "cut it." For one thing the traditional method of salvaging employees of weak carriers is a merger, but this does not apply to a deregulation environment. The reasons is that in the airline business a surviving carrier merges with a weak carrier to obtain routes. Under deregulation there are no protected routes. This potentially serious problem can adversely affect Americans in all walks of life. More on this and related areas as our conclusions continue on this series "The Airlines: Regulation, Deregulation or Reregulation."

REPORT NO. 45

Our last report discussed some of the consequences of the passage of Senate bill 689. If deregulation does not work, lower profitability and the inability to attract new financing will mean that obsolescent aircraft could not be replaced. Some trunk carriers would be forced to institute massive layoffs while dozens of other industries would be affected as suppliers to the airlines and airports. Many airline employees could lose senicrity, thousands of trained and skilled professionals might be displaced with traumatic implications for their families and communities. The effect of Senate bill 689 on safety and services, next when we continue this series, "The Airlines: Regulation, Deregulation or Reregulation."

REPORT NO. 46

Our airlines deregulation series continues with our conclusions about the effect on safety and services if Senate bill 689 is passeed. If deregulation brings new entries into the airlines business, our studies convince us that interline reservations, ticketing and baggage handling will become progressively more chaotic. We like competition, actually we love it. But with the kind of competition that now exists, we do not believe that new carriers can achieve acceptable profit levels and match the present carriers' safety margins. Aircraft modernization would be discouraged, many smaller cities will lose air service, and large Federal subsidies would be required. On the other hand, we believe that some constructive changes are necessary and we'll look at those in our next report as we near the conclusion of our series, "The airlines: Regulation, deregulation or reregulation."

REPORT NO. 47

Like many of those who have testified before the Senate Aviation Subcommittee on Senate bill 689, we believe that some regulatory reforms are necessary. For instance, we think that the airlines should have some flexibility in making pricing adjustments to cover costs, most businesses are permitted to do so. We agree with those who recommend that a joint industry-Government task force look at present route structures and encourage new competition by establishing realistic criteria that will provide additional services without destroying existing carriers. However, we object to hasty adoption of Senate bill 689 which responds not to public enlightenment but to political expediency disguised as regulatory reform progress. Next, our final report as we complete our series, "The airlines: Regulation, deregulation or reregulation" on the Knight Quality Stations.

REPORT NO. 48

In this, our final report on Senate bill 689, we say unequivocably that this bill could be the first step toward nationalization of our airlines. There will be more bureaucracy, not less. With Federal ownership our airlines system would be equated with those in Europe where Government-owned carriers offer limited services at fares double those in our country. The world's finest and least subsidized air transportation network should not be destroyed to satisfy parochial theories.

The Knight Quality Stations believe you should make your opinion known to your Senator. And based on our analysis, we recommend that he vote against Senate bill 689 as an experiment which should not be undertaken since its results will not be deregulation but, instead reregulation that will cost Americans more and give us less.●

Mr. CANNON. I yield 30 seconds to the distinguished majority leader.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, for their diligent labor in managing the Air Transportation Regulatory Reform Act of 1978 (S. 2493), I would like to commend my distinguished colleagues, Senator CANNON, chairman of the Committee on Science, Commerce, and Transportation—this is the first bill he has brought to the floor and managed since he became chairman of that committee—and Senator PEARSON, the ranking minority member of that committee. Also I wish to commend Senator KENNEDY, chairman of the Antitrust and Monopolies Subcommittee of the Judiciary, who is a primary cosponsor of this legislation.

Each of these Senators and their respective committees have worked assiduously to lay the foundation which supports this far-reaching regulatory reform measure. The thoroughness and thoughtfulness of their efforts have made possible the timely and expeditious consideration of the bill. I believe the breadth of support for this measure in the Senate today reflects the quality of their individual and combined efforts.

This is a bill of great importance, in the first instance, because it will provide long overdue and necessary reform for an overregulated and stagnant airline industry. By creating an atmosphere of greater flexibility and competition, it will make that industry more efficient and more responsive to the needs of the consuming public, providing better service at reduced prices.

But S. 2493 is far more significant than simply a measure to improve the performance of one sector of our economy. It also stands as a major step in our Nation's fight against the inflation that is having such a detrimental effect on our economy.

As we are all well aware, today inflation is one of this country's most serious economic problems. Yet, controlling it seems to be our most elusive national objective. Our economy has been afflicted by increasingly higher rates of inflation throughout the 1970's. During this time, we have prescribed several doses of wage and price controls and many doses of higher interest rates to contain it. Unfortunately, these policies have not been successful.

The Air Transportation and Regulatory Reform Act provides us with a different approach. It will help to strengthen the free enterprise system in the airline industry by lessening economic regulations. Its overall effect will be both anti-inflationary and expansionary.

When the Civil Aeronautics Board was established by law in 1938, the air transportation business was in its infancy. Congress determined that orderly development of the industry and its markets would benefit the industry, consumers, and the national interest. Mr. President, I believe the 1938 law has served us well.

Regulating the industry as though it were in its infancy, however, no longer makes good economic sense. In order to protect those airlines which were fledgling enterprises 40 years ago, the 1938 law minimizes the number of markets in which more than one air carrier can compete and virtually eliminates price competition. This in turn has minimized the total number of competitors in the industry.

Indeed, no new trunk carrier has been certified since 1938, yet 80 applications have been filed with the Board since 1950. Between 1970 and 1975, the Board did not even hold hearings on route applications.

Insulated from competition, carriers have become increasingly inefficient, driving fares up and profits down. With fares and routes ruled out as grounds for competition, carriers compete by offering fancy frills and services, such as meals and beverages, which add to costs without a commensurate gain in ridership.

Moreover, the CAB has set prices in a way which tends to push fares up when ridership and profits decline. The Board's pricing formula has had a negative spiral effect on fares and ridership in the name of stabilizing profits. As more and more Americans are priced out of the air travel market, the Board has granted fare increases, further discouraging ridership and dampening profits. This chain of events leads me to conclude that the 1938 law no longer makes good economic sense.

In recent years, the Board itself has recognized the need to rationalize its policies. John E. Robson, Chairman during the Ford administration, was the first Board member to espouse reform. The new Chairman, Alfred E. Kahn, and other members of the Board have intensified efforts to reduce Federal regulation and promote more competition. The Board is encouraging airlines to reduce fares, and more airlines are being allowed to compete for the lucrative business of many important commercial routes.

It is interesting to note, Mr. President, that industry critics who in the past have argued that flexible entry and lower fares would lead only to lower profits, higher operating costs, and business failures, now are filing more requests for new routes and discount fares. Contrary to previous industry expectations, lower fares have contributed to and, in some cases, precipitated a surge in passenger traffic and profits. Airlines offering discount fares—TWA, American, and United—all have reported increases in revenues as a result of more travelers taking advantage of the discounts.

Some airlines have said that they are in favor of competition, but that legislation is not necessary, because carriers will continue to offer service at competitive prices. Mr. President, it is a curious thing that the airline industry purports to support the free enterprise system, yet some airlines oppose legislation which would lessen Government regulation and promote competition—the hallmark of the free enterprise system.

Also, I wonder how long an airline would continue to offer services at competitive prices if the prospect of increased competition were not imminent or if the leadership at the CAB were replaced by individuals less inclined to reduce regulation and promote competition. As procompetitive as the Board is today, eliminating unnecessary restrictions is constrained, in the end, by the language of the statute itself.

That was the purpose of our deliberations here today, Mr. President, to amend the existing statute in such a way as to reduce unnecessary Government interference in the marketplace. For example, S. 2493 provides that any regulated carrier may reduce a fare by as much as 35 percent without prior Board approval. In markets served by more than one carrier, airlines also will be free to raise fares by 5 percent. Not only will paperwork and other regulatory costs be minimized, but also the freedom to change fares will stimulate price competition.

In addition, S. 2493 will reduce the economic burden imposed by the Government on enterprises seeking to enter the air transportation business. This legislation eases the eligibility criteria which must be met in order to be certified as a common carrier.

The automatic entry provision also reduces limitations placed by the Government on new or existing enterprises seeking to expand services. For the first 2 years after enactment, a certified carrier will be free to serve one new route a year without CAB approval. After the first 2 years, a carrier will be free to serve two routes per year without Government approval.

Mr. President, the flexible entry and pricing provisions of this bill will help Americans cope with inflation without cutting back on purchases. Lower air fares encourage greater ridership, which means more jobs. Servicing more passengers while reducing individual fares is by definition anti-inflationary. Inflation can be controlled and unemployment reduced by strengthening the free enterprise system. That is what this legislation provides, and it is the reason why President Carter called for the enactment of air transportation regulatory reform this year. The Senate has acted wisely in support of this legislation, the benefits of which will be great.

I again want to commend the manager of the bill, Senator CANNON, who has been known in the Senate as one of our best floor managers while he served with distinction as chairman of the Committee on Rules and Administration.

He has mastered the difficult and complex legislation which the Commerce Committee must deal with, and now guides that committee with the same great skill and knowledge he displayed as Chairman of the Rules Committee.

Mr. CANNON. Mr. President, we have taken a significant action here today to reduce the cumbersome regulatory process and to streamline outdated regulations. In addition we have taken a sig-

nificant action toward reducing the amount of Government intervention in the private business sector, in an area where that intervention is no longer serving the best interests of the industry or of the consumer.

I hope this is just one of many pieces of legislation which will come from this body to reduce Government regulations where they are outdated and do not serve consumers or the regulated industry.

This is a good bill. It provides the key elements of pricing flexibility and liberalizes the requirements for entry. It contains adequate protections for carriers and employees alike. In short, it is a well-balanced, well-thought-out piece of legislation which will encourage new and more competition.

At the same time, we have provided for the maintenance of essential air transportation to small and isolated communities—something absent under the present law; and in fact we are providing that service so our Nation's small communities will improve.

I would like to thank the distinguished ranking Republican Member from Kansas; all the members of the committee and the majority and minority staffs, all who have worked so long and hard on this legislation. Mr. President, we can be proud of the action we have taken today.

● Mr. MUSKIE. Mr. President, I support S. 2493, the Air Transportation Regulatory Reform Act of 1978. This bill would partially deregulate the Nation's airlines. It represents the first comprehensive revision of the structure of airline regulation since the establishment of the Civil Aeronautics Authority in 1938. The bill instructs the Civil Aeronautics Board to work toward a goal of providing low-cost, efficient air transportation in a regulatory environment based on competitive market forces.

There are a number of attractive provisions of this bill which would bring the fresh air of competition to the airline industry. It would permit freer entry of air carriers into new markets and provide more flexibility in setting fares. It would also reduce the CAB's power to approve anticompetitive mergers, acquisitions, and other control activities.

The bill also contains adequate safeguards to insure a smooth transition to a more competitive environment. It contains employee protection provisions should an air carrier suffer a major financial problem resulting from enactment of the bill. It establishes a new program including commuter as well as local service air carriers for small communities. It also renews for an additional 5 years the guaranteed loan program for air carriers serving small communities.

Mr. President, as chairman of the Budget Committee, I have a special interest in this bill because of its potential anti-inflationary effects. All of us are aware of the heavy price which inflation exacts upon American consumers and taxpayers. The public opinion polls make it clear that Americans view inflation as our most critical economic problem. All of us have had this confirmed by our constituents.

Next week the Senate Budget Committee will report to the Senate the first budget resolution for fiscal year 1979. The committee was especially mindful of the inflation problem in preparing the fiscal year 1979 budget. We tried to achieve reductions in spending and in the deficit wherever possible to signal the country our awareness of the necessity for congressional action to lower inflation.

The control of aggregate spending will be critical to the battle against inflation, especially as the economy approaches full employment in the future. But there is another inflationary battle that must be fought. That is the battle against Government actions which restrict supply and directly increase costs and prices, whatever their impact on spending and the deficit.

Regulatory actions in particular can sometimes be severely inflationary without adding a dollar to Government spending or the deficit. Sometimes this inflationary price is worth paying, but often it is not. For this reason, we must give careful consideration to the legislation which may directly increase or reduce costs and prices.

It has been estimated that actions taken by the Congress last year will add a full percentage point to the rate of inflation this year. And just 2 weeks ago this body passed a farm bill that, together with the administration's recent actions, would have added another half a percent to consumer prices.

Fortunately, I sense a growing recognition that we cannot afford to continue to legislate inflation. Although the farm bill passed the Senate, the President unequivocally pledged to veto the bill as inflationary, and the House of Representatives resoundingly rejected it. Washington may finally be hearing the voice of the American people insisting that action be taken against inflation.

Mr. President, this bill presents us with an opportunity to lower prices through our actions rather than to raise them. We have had so little experience with genuine competition in interstate air travel that it is difficult to make precise estimates of the impact on this bill on inflation.

However, recent experience with intrastate fare reductions and fare discounting indicates that, as a result of this bill, fares would fall, passenger traffic would increase, and employment in the industry would rise. A range of estimates by the Comptroller General, the Civil Aeronautics Board, and private economists have indicated that full airline deregulation would reduce fares by 10 to 30 percent, saving air travelers $1½ to $4½ billion annually. This bill, which would provide partial deregulation, would have a slightly smaller but significant anti-inflationary impact, cutting 0.1 to 0.3 percentage points from the rate of inflation next year.

Mr. President, a few tenths of a point off the inflation rate may not sound like much. In fact it can be very significant. The President's anti-inflation strategy is to decelerate inflation by 0.5 percent a year, and this is widely recognized to be an ambitious goal. This bill's anti-inflation impact next year would represent a substantial portion of this deceleration of inflation.

Mr. President, I would like to illustrate the importance of a "few" tenths of a percent of inflation. Consider the Nation's consumers. Two-tenths of a percent of additional inflation cuts $2.5 billion from the purchasing power of their income. It cuts another $1 billion from the purchasing power of their savings held in banks and thrift institutions.

Furthermore, cost-of-living adjustments then lead to higher wages and transfer payments, and thus to a second round of higher prices. Even those consumers fortunate enough to get pay increases to recover their lost purchasing power end up worse off, because they would find themselves in higher tax brackets.

Two-tenths of a percent of inflation means a lot to consumers and to taxpayers.

Consider the Nation's businesses. The expectation of more rapid inflation is reflected in higher interest rates, greater uncertainty in investment decisions, a weaker stock market, and greater tax burdens. The result would be less business investment.

Two-tenths of a percent of inflation means a lot to the Nation's businesses.

Consider the international situation of the dollar. More rapid inflation will be reflected in depreciation of the dollar, pushing up import prices and fueling further inflation.

But perhaps the most serious danger in ignoring a "few tenths" of a percent of inflation is that it only takes a few such programs to add up to a large inflationary bill.

Last year the Congress ignored a "few tenths" of a percent of inflation on numerous occasions, and we added a full percent to inflation as a result.

Now we have an opportunity to undo some of this inflationary damage. In his recent anti-inflation message, the President specifically noted the importance of enacting airline regulatory reform legislation this year. The Congress should support the President's anti-inflation efforts.

If no significant airline deregulation is achieved this year, the propects for reforming the regulation of other industries will be weakened substantially, and prospects for reducing inflation will dim even further. Passage of this bill will give a clear signal to the American people that the Congress is serious about reducing inflation.●

● Mr. STEVENSON. Mr. President, aviation regulatory reform has been under consideration by the Congress for at least 3 years. The Senate Commerce Committee held lengthy hearings and met throughout last summer and fall in markup sessions. The bill now before us reflects the committee's judgment of the steps that must be taken and the timing of those steps in order to reduce and rationalize Federal regulation of the air carrier industry and protect the public interest in an efficient, reliable national air transportation system. As a cosponsor of S. 2493 and a member of the Com-

merce Committee and its Aviation Subcommittee, I urge my colleagues to support the bill.

S. 2493 includes compromises and restraints. While the industry, the public, the executive branch and the Congress agreed that regulatory reform is needed, there were many differences over the character of the measures proposed. The air carrier industry was itself divided. The committee's objective was a balanced bill that would promote a healthy competitive industry, but there are still some who fear this bill's effects on particular segments of the industry. I am reasonably confident that their fears are groundless. Nevertheless, reducing Government regulation entails risks. We have little prior experience with legislation that loosens the ties that have bound an industry for 40 years. We cannot predict the decisions of each air carrier as it seeks to maintain and improve its position in a far more competitive environment. Therefore caution was indicated.

The provision for automatic market entry is a major departure from the current regulatory scheme. The bill directs the CAB to report annually to the Congress on the progress of automatic market entry, and in the fourth year to submit recommendations on whether and how the program should be changed. The Board is also given emergency powers, subject to congressional veto, to change the automatic entry program at any time if it causes serious dislocations within the industry or in service to any region of the country.

Although the bill does not alter aviation safety procedures, there was some concern that more intense competition might induce carriers to slight safety standards. To prevent this from happening the committee has put safety at the top of the bill's list of policy guidelines for CAB consideration. We have also directed the Secretary of Transportation to conduct a continuous review of the effects of the act on air safety and to report to the Congress annually for the first 5 years.

Mr. President, the adequacy of service to small and medium-size communities was one of my primary concerns. It has been a long struggle for these communities in Illinois to obtain air service, and I could not support a bill that might reverse our progress. S. 2493 guarantees essential air service for 10 years for all communities currently listed on a carrier's certificate. The CAB may add other communities to the list after the first year. The carriers providing subsidized service to those communities may continue with the same subsidy arrangement for up to 7 years. However, a new subsidy arrangement based on the cost of service needed by the community will be phased in. In some cases this will mean the loss of service by a major carrier using large planes and the substitution of local air carriers using smaller planes. However, it should also mean improved schedules and greater frequency of service. Many communities have already made the transition from limited trunk carrier service to local air carriers more actively engaged in serving the community and region and therefore willing to provide more frequent and economical service.

A further protection for community service is provided in the restrictions on exit. The bill requires a carrier planning to terminate service to give 90 days' notice. If it is the last carrier serving the community, the CAB may require it to continue service for another 90 days while a replacement is sought. At the end of 180 days if no replacement has been found, the Board must require the carrier to extend for 30-day periods until another subsidy-eligible replacement is found. To increase the availability of local carriers the bill provides for a new local air carrier certificate for carriers using smaller aircraft. It will encourage commuter airlines to apply and thus become eligible to provide subsidized service.

Mr. President, the downward-fare flexible provisions in the bill may be less significant now that the CAB is permitting a far greater degree of experimentation with fare cutting. The lid on upward flexibility, allowing 5 percent increases on competitive routes without Board approval, may be the more important provision on fares. It preserves the Board's responsibility to prevent excessive fare increases on some routes and services to recover losses resulting from excessive fare cuts in other more competitive areas. It should also be noted that the bill requires the Board to find an increase above the standard industry fare level to be unlawful if it is "unduly preferential, unduly prejudiced, or unjustly discriminatory." Further, a fare cut below 35 percent is unlawful if it is found to be "predatory."

Some supporters of the bill argue that it will help to cut airline fares. Although it may do so in some markets, we cannot promise that this will be its general effect. The industry is faced with many of the inflationary conditions common to all businesses. Moreover, higher fuel costs are inevitable and expensive aircraft must be replaced in the next few years. Perhaps our best hope is that fare increases will be restrained through greater competition and more efficient use of personnel and equipment. When carriers are allowed to compete on fares, they may cease to compete on the kinds of expensive frills which air travelers will gladly do without in order to avoid fare increases.

Automatic market entry is the most controversial provision of the bill and the one on which the committee had the greatest difficulty in reaching agreement. Although we have limited automatic entry and provided certain route protections during the first few years, it is still impossible to predict with absolute certainty what the effects of the provision will be. It will depend on a whole series of decisions by each carrier in selecting routes to enter and those to protect. The original bill was substantially modified in response to both the ambitions and the fears of various carriers. We were presented on the one hand with strong arguments that automatic market entry was essential to the creation of a more competitive environment, and on the other, with equally eloquent claims that it would mean the demise of some of the small but highly efficient trunkcarriers. Certainly the public interest would not be served by a bill that would cause cutthroat competition, with the large driving out the small and the affluent the poor. In monitoring the effects of automatic entry we must make certain that tough competition tomorrow will not lead to dangerous industry concentration the day after. I am persuaded that this will not be the result of the bill, but I agree that we must take seriously our responsibility to watch closely and act promptly if we are mistaken.

If our hopes are realized, more competition will mean more rational business decisions, more rather than fewer scheduled carriers, service to more communities, and improved financial health for the efficient carriers.

Although automatic market entry is a key provision, it seems to me that the changes in the guidelines by which the Board of Trustees determines "public convenience and necessity" in its regular section 401 route proceedings are at least equally important. These guidelines move away from the current law's protective philosophy toward greater competition and more attention to the interests of the air traveler. The bill also directs the Board as it applies this standard to move approve route applications which are "consistent with" not merely "required by" the public convenience and necessity. This is a technical change but it is highly significant and will greatly ease the burden placed on an applicant. These changes, together with the new time limits and speedier procedures required of the Board should encourage carriers to develop new routes as they see opportunities, knowing that standards will be more liberal and route proceedings far more efficient.

Mr. President, it is essential that the Senate pass a strong bill. It is not yet clear what kind of bill the House will approve, but we have every indication that it will call for more limited reforms. I urge my colleagues to support the bill reported by the Commerce Committee.●

● Mr. BAKER. Mr. President, there has been a good deal of discussion within the Congress over the last few years about the need to eliminate outmoded Federal regulations which hamper the operation of the free market system and result in unnecessary price increases for consumers. President Ford and President Carter have both made regulatory reform a major goal of their administrations, and I believe that a majority of Americans agree that it is time to reexamine the effect of Federal regulation upon the cost and availability of goods and services in the economy.

The bill before us today, the Air Transportation Regulatory Reform Act of 1978, is the product of more than 3 years of hearings and study by the Committee on Commerce and the Subcommittee on Administrative Practice and Procedure of the Judiciary Committee. It is the most significant and the most far-reaching regulatory reform bill which the Senate has considered, and it is regarded by

many as the crucial first step in our efforts to modernize the entire Federal regulatory structure.

The purposes of S. 2493 are to encourage greater competition within the airline industry; to make possible the development of a more flexible fare structure which will offer passengers a wider range of price options; to eliminate costly delays in Civil Aeronautics Board proceedings; and to improve air service to small communities by establishing a subsidy system which is more responsive to community needs.

I believe that S. 2493 is a carefully crafted measure that will achieve these goals, and I commend my colleagues on the Commerce Committee for the many weeks of work which they have devoted to fashioning the best reform bill possible.

Early last year, because of my longstanding interest in air transportation and my general support for regulatory reform, I cosponsored S. 292, a reform measure introduced by the distinguished Senator from Kansas (Mr. PEARSON). I believed that S. 292 presented a moderate and rational approach to increased competition within the industry, and I was particularly supportive of the small-community service provisions of that bill. I am pleased, therefore, that S. 2493, as approved by the Commerce Committee, takes essentially the same approach to the small-community service issue as the Pearson-Baker bill.

Most critics of S. 2493 cite several concerns about the bill as the basis for their opposition to it, and I would like to address these issues very briefly and to outline the reasons why I feel that the committee has met the legitimate objections of its critics.

First, it is claimed that enacement of this measure will result in excessive competition within the airline industry and that it will cause airlines to abandon their less profitable routes in order to shift their attention to more lucrative markets. I believe that the automatic market entry (or AME) provisions of the bill are so modest and so gradual as to render this argument invalid. The bill permits carriers to automatically enter only one new route during each of the first 2 years after enactment and only two routes a year during the next 3 years. As the committee's report points out, assuming every carrier used all the automatic entry allowed under the bill, the total number of segments flown would increase less than 2 percent. Moreover, I believe that critics of the bill have failed to prove claims that airlines now serve many markets which are unprofitable, and a DOT study has shown that only 29 of the 394 cities with scheduled flights would lose by the test of profitability. Many communities which do not generate a great deal of traffic on their own are important to the carriers, because they provide "feeder" traffic for other, more profitable routes. In addition, the bill contains provisions which permit each carrier to designate, for the first 5 years after enactment, certain routes which other carriers may not enter under the AME provision. To supplement this protection, the bill also directs the CAB to intervene to suspend or modify automatic market entry in the event that its operation "is causing substantial public harm to the national air transportation system, or a substantial reduction in air service to small- and medium-sized communities in any region of the country." With these safeguards built into the bill, it would be difficult to imagine the dire consequences predicted by some opponents of regulatory reform.

The second fear expressed by critics of S. 2493 is that encouraging new entrants into scheduled air transportation will somehow result in a lessening of safety standards and that existing airlines will "cut corners" on safety in order to lower their costs to meet new competition. As the sponsors of the bill have pointed out many times, the bill in no way reduces or alters the authority of the Federal Aviation Administration to regulate aviation safety. As a matter of fact, the bill expressly requires the Secretary of Transportation to "conduct a continuous review of the actual and potential effects of the implementation of the Act—upon the standard of safety in air transportation" and to "take those steps necessary to insure" that standard is maintained. Since the bill recognizes a new class of carriers, commuter air carriers, which now fall under a different set of safety regulations from those which govern certificated air carriers, the Administrator is also charged with studying the safety regulations and procedures applicable to commuter carriers and revising them as necessary in order to maintain the "highest standard of safe, reliable air transportation."

As a practical matter, I find it hard to envision any carrier, new or old, taking steps which will threaten its safe operation. Nothing is more important to the economic viability of an airline than its safety record and the confidence of the traveling public. I do not believe that the facts or that commonsense support contentions that regulatory reform will encourage unsafe operations.

Lastly, I have heard opponents of regulatory reform argue that the bill will reduce service to small communities. In reality, Mr. President, the small community service section will result in improved service to small communities, and I view these provisions as among the most important in the bill.

In the last 16 years, the CAB has allowed the airlines to drop service to 175 communities. As a result, many of these cities have found that their efforts to attract new industry have been severely hampered. In other communities, where air carriers are now being subsidized to provide service, the Board has no authority over the type of service which is provided, the scheduling of flights, or the kind of equipment used. Some of these cities and towns, therefore, are forced to settle for flights at awkward hours, using inadequate equipment. It is clear that the current subsidy program, which costs about $80 million per year, is not providing the best possible service to the communities involved.

S. 2493 creates a new subsidy program designed to meet the needs of the community rather than the needs of the carrier. It will operate concurrently with the existing program for 7 years, after which the existing subsidy program will be discontinued. All points which are now listed on the certificate of any carrier will be guaranteed air service for 10 years, even if those points are not now being served as a result of a suspension approved by the Board. Under the new program, the Board will be required to consult with the community about its needs under the subsidy program. In addition, the Board will be able to prescribe the kind of service which will be provided in return for subsidy. The bill makes commuter air carriers eligible to provide subsidized service and it authorizes them to operate larger aircraft than they are now permitted to do. Moreover, S. 2493 will make commuter airlines eligible for Federal loan guarantees, for participation in joint fare and interlining agreements, and for equal listing in the Official Airlines Guide. These provisions will make it easier for passengers to buy through tickets when traveling on commuter carriers.

In sum, I am convinced that the Committee on Commerce has succeeded in designing a regulatory reform measure which is fair to consumers, to small communities, and to the airlines themselves. While it would be unrealistic to assume that no restructuring would take place among the Nation's air carriers as a result of this bill, I believe that the increased competition mandated by S. 2493 will result in an improved air transportation system which is more responsive to the forces of the marketplace and the needs of the consumer. I urge its enactment into law, and I hope that a majority of my colleagues will support the bill with their votes this week.●

● Mr. DOLE. Mr. President, I rise in support of the Air Transportation Regulatory Reform Act of 1978.

For the first time since the creation of the Civil Aeronautics Board in 1938, Federal economic regulation of the airline industry is being seriously addressed. In October 1975, President Ford sent Congress a proposal to allow easier entry into the airline business, to give carriers more discretion to set fares, and to increase competition in major markets. On March 4, 1977, President Carter endorsed a similar proposal to reduce Federal regulation of airlines.

In addition to this support, dozens of Government and non-Government studies have shown that CAB regulation produces economic inefficiency. The intrastate fares charged, for example, in California and Texas are traditionally 30 to 50 percent lower than CAB-regulated fares for comparable distances.

CONSUMER BENEFITS

If the public is to benefit, regulatory reform legislation must provide airlines with the ability to offer experimental and innovative fares to stimulate travel, and to compete with other modes of transportation. Regulatory reform offers the potential of opening up a full range of fares, according to the conditions and needs of the market. While inflation will

continue to push the costs of such items as fuel and labor upward, increased competition could deter fares from going up as rapidly or as high as they would under a more regulated system. Pricing flexibility also is necessary to insure that well-managed airlines are able to charge fares that cover their long-run costs and produce a return on investment sufficient to attract capital and to keep their aircraft fleet modern and to meet growing travel demand.

SMALL COMMUNITY SERVICE

Opponents of S. 2493, argue that it would eliminate scheduled service to many small communities, bankrupt numerous large air carriers, and cause substantial unemployment among airline employees. Two studies on regulatory reform by the American Enterprise Institute (AEI) disagree. Both studies point out that evidence from the unregulated commuter airlines and intrastate carriers suggests that a reduction in regulation would eventually lead to better service for small communities. These studies also argue against the specter of carrier bankruptcy: The lower fares that would result should stimulate demand, so that the load factors would rise. The increased demand would, moreover, require an increase in the number of employees in the passenger service areas. Thus, though the rate of growth in air crews and other personnel supporting flights might not rise as rapidly as it has, the rate of growth in ticket agents, reservations personnel, and baggage handlers should be significantly higher than in the past.

GUARANTEED SERVICE TO SMALL COMMUNITIES

The Senate Committee on Commerce, Science, and Transportation recognized that there are small, often isolated communities that need scheduled airlines service, but where traffic levels simply are too low to make the service economically self-sufficient.

The air carriers which serve these cities currently receive subsidy payments from the CAB to provide air service. This subsidy program has been highly criticized for paying too high subsidies for inappropriate service. The current subsidy mechanism allows airlines to operate larger aircraft than necessary for the market and thereby obtain higher subsidy payments. The CAB also has the power to eliminate subsidy for any community at any time.

To insure small communities this vital air service, S. 2493 will provide a guarantee of air service to communities now eligible for subsidized air service for a period of at least 10 years. The system of subsidy payments is altered to promote more efficient and timely service at less cost to the Government. Further, if the airline now providing service desired to terminate its route to a small city, the bill would require that the CAB first find a suitable replacement airline. No subsidized city would experience a loss of service during the 10-year period. Even after the 10-year guarantee of service period has expired, the objective of the bill is to assure continued safe, dependable service which has the potential to provide cities more convenient scheduling and more trip frequencies than does today's system of small community service.

AUTOMATIC MARKET ENTRY IS IN THE CONSUMER'S BEST INTEREST

The Senator from Kansas believes the primary objective of this reform is to create a more innovative, efficient, and self-reliant airline system. To achieve this, the airline regulatory structure must be changed to permit freer entry by existing and new airlines. The potential entry by one airline into the domain of another airline provides real incentive for each to develop its services and prices to meet the demands of the marketplace. S. 2493 provides for a liberalized market entry and encourages innovation. The same interplay of market forces that promotes competition also requires that airlines should have the right to stop flying routes that are not profitable for that airline. Airlines, like any other business, would have the flexibility to allocate their resources to meet market opportunities or to counter competitive threats. S. 2493 addresses this need.

PHASE-IN WILL AVOID DISRUPTION

S. 2493 recognizes that the transition from a highly regulated environment to a free market system cannot occur overnight without disrupting segments of the industry. The automatic entry provision is carefully phased in over a period of years. Each airline can only enter a limited number of new markets each year under this authority. Also, the smaller airlines can protect their most valuable routes during the initial years. The committee has carefully balanced the theory of deregulation with the realities of the status of competition in the airline industry.

Mr. President, this bill enjoys strong bipartisan support in the Senate and has been endorsed by many national groups representing consumers, business, and government. While the Senator from Kansas suggests that this bill is hardly drastic deregulation, it does take the first steps toward providing flexibility over where and when airlines may operate and how much they may charge. Mr. President, I urge adoption of this important bill.●

Mr. CANNON. Mr. President, I am prepared to yield back the remainder of my time.

Mr. PEARSON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The bill is open to further amendment. If there be no further amendment to be proposed. the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

Mr. CANNON. Mr. President. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Colorado (Mr. HASKELL), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE) would vote "yea."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), and the Senator from Oregon (Mr. PACKWOOD) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. CASE), the Senator from Oregon (Mr. HATFIELD), and the Senator from Oregon (Mr. PACKWOOD) would each vote "yea."

The result was announced—yeas 83, nays 9, as follows:

[Rollcall Vote No. 127 Leg.]

YEAS—83

| | | |
|---|---|---|
| Allen | Ford | Morgan |
| Anderson | Garn | Moynihan |
| Baker | Glenn | Muskie |
| Bartlett | Gravel | Nelson |
| Bayh | Griffin | Pearson |
| Bellmon | Hansen | Pell |
| Bentsen | Hart | Percy |
| Biden | Hatch | Proxmire |
| Brooke | Hathaway | Ribicoff |
| Bumpers | Hayakawa | Riegle |
| Burdick | Heinz | Roth |
| Byrd, Harry F., Jr. | Helms | Sarbanes |
| | Hodges | Sasser |
| Byrd, Robert C. | Hollings | Schmitt |
| Cannon | Huddleston | Schweiker |
| Chafee | Humphrey | Scott |
| Church | Jackson | Sparkman |
| Clark | Javits | Stafford |
| Cranston | Johnston | Stennis |
| Culver | Kennedy | Stevens |
| Curtis | Laxalt | Stevenson |
| Danforth | Leahy | Thurmond |
| DeConcini | Long | Tower |
| Dole | Lugar | Wallop |
| Domenici | Magnuson | Weicker |
| Durkin | Mathias | Williams |
| Eagleton | McClure | Young |
| Eastland | Metzenbaum | Zorinsky |

NAYS—9

| | | |
|---|---|---|
| Chiles | Matsunaga | Stone |
| Hatfield, Paul G. | Melcher | Talmadge |
| | Nunn | |
| Inouye | Randolph | |

NOT VOTING—8

| | | |
|---|---|---|
| Abourezk | Haskell | McGovern |
| Case | Hatfield, Mark O. | McIntyre |
| Goldwater | | Packwood |

So the bill (S. 2493) was passed, as follows:

S. 2493

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Cannon-Kennedy-Pearson Air Transportation Reform Act of 1978".

DECLARATION OF POLICY

SEC. 2. (a) Section 102(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1302) is amended to read as follows:

"Interstate and Overseas Air Transportation

"SEC. 102. (a) In the exercise and performance of its powers and duties under this Act with respect to interstate and overseas air

transportation, the Board shall consider the following, among other things, as being in the public interest, and consistent with the public convenience and necessity:

"(1) The maintenance and furtherance of a high degree of safety in air commerce.

"(2) The development and maintenance of an efficient and reliable air transportation system which provides an opportunity for efficient and well-managed air carriers to earn a fair and reasonable return on investment in a competitive environment in order to meet the present and future needs of the public, the foreign and domestic commerce of the United States, the Postal Service, and the national defense.

"(3) The encouragement, development, and maintenance of an air transportation system relying on actual and potential competition to provide efficiency, innovation and low prices, and to determine the variety, quality, and price of air transportation services.

"(4) The creation, development, and maintenance of a sound regulatory and economic environment which facilitates entry into air transportation markets by new air carriers, and facilities entry into additional air transportation markets by existing air carriers.

"(5) The prevention of unfair, deceptive, predatory, or anticompetitive practices in air transportation, and the avoidance of (A) undue industry concentration, excessive market domination, monopoly power and (B) other conditions that would tend to allow one or more air carriers unreasonably to increase prices, reduce services, or exclude competition in air transportation.

"(6) The maintenance of a comprehensive and convenient system of continuous scheduled airline service for small communities and for isolated areas, with direct Federal assistance where appropriate.".

(b) Section 102 of the Federal Aviation Act of 1958 is further amended by inserting at the end thereof the following:

"Foreign air transportation

"(c) In the exercise and performance of its powers and duties under this Act with respect to foreign air transportation, the Board shall consider the following, among other things, as being in the public interest, and in accordance with the public convenience and necessity:

"(1) The encouragement and development of an air transportation system properly adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense.

"(2) The regulation of air transportation in such manner as to recognize and preserve the inherent advantages of, assure the highest degree of safety in, and foster sound economic conditions in such transportation, and to improve the relations between and coordinate transportation by air carriers.

"(3) The promotion of adequate, economical, and efficient service by air carriers at reasonable charges, without unjust discriminations, undue preferences or advantages, or unfair or destructive competitive practices.

"(4) Competition to the extent necessary to assure the sound development of an air transportation system properly adapted to the needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense.

"(5) The promotion of safety in air commerce.

"(6) The promotion, encouragement, and development of civil aeronautics.".

DEFINITIONS

SEC. 3. Section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301) is amended—

(a) by redesignating paragraphs (14) through (25) as paragraphs (15) through (26), respectively, and by inserting immediately after paragraph (13) the following new paragraph:

"(14) 'Charter air transportation' means charter trips, including inclusive tour charter trips, in air transportation, rendered pursuant to authority conferred under this Act under regulations prescribed by the Board.";

(b) by redesignating paragraphs (26) through (32) as paragraphs (28) through (34), respectively, and by inserting immediately after paragraph (26), as redesignated, the following new paragraph:

"(27) 'Local air transportation' means scheduled air transportation of persons, property, and mail provided pursuant to a certificate issued under section 420 of this Act.";

(c) by redesignating paragraph (33) as paragraph (36) and by inserting immediately after paragraph (34), as redesignated, the following new paragraph:

"(35) 'Predatory' refers to practices which would constitute a violation of the antitrust laws (as referenced in section 414 of this Act).";

(d) by redesignating paragraphs (34) and (35) as paragraphs (38) and (39) and by inserting immediately after paragraph (36), as redesignated, the following new paragraph:

"(37) 'Scheduled air transportation' means air transportation of persons in regular route service which is not charter air transportation.";

(e) by striking out paragraphs (36) and (37) thereof;

(f) by redesignating paragraphs (38) and (39) as paragraphs (40) and (41), respectively; and

(g) by inserting immediately after paragraph (41), as redesignated, the following:

"(42) 'State agency' means that department, agency, officer or other entity of a State government which has been designated according to State law as—

"(A) the recipient of any notice required under title IV of this Act to be given to a State agency; or

"(B) the representative of the State in any matter about which the Board is required, under such title IV, to consult with or consider the views of a State agency.".

SAFETY

SEC. 4. Title I of the Federal Aviation Act of 1958 is further amended by adding at the end thereof the following new section:

"SAFETY STUDY

"Policy

"SEC. 105. (a) The Congress intends that the implementation of the Air Transportation Regulatory Reform Act of 1978 result in no diminution of the high standard of safety in air transportation attained in the United States at the time of the enactment of that Act. To carry out that intention, the Secretary shall conduct a continuous review of the actual and potential effects of the implementation of that Act, and the amendments made by that Act, upon the standard of safety in air transportation in the United States. Based on that review, the Secretary shall take those steps necessary to ensure that the high standard of safety in air transportation referred to in the first sentence of this subsection is maintained in all aspects of air transportation in the United States.

"Regulations and Inspection Procedures

"(b) By January 1, 1979, the Secretary shall complete a thorough review, and submit a report thereon to the appropriate authorizing committees of the Congress, and to the Administrator, of the safety regulations and inspection procedures applicable to each class of air carriers subject to the provision of title IV, in order to ensure that all classes of air carriers are providing the highest possible level of safe, reliable air transportation to all the communities served by those air carriers. Based on such review, the Administrator shall promulgate the safety regulations and establish the inspection procedures he deems necessary to maintain the highest standard of safe, reliable air transportation in the United States.

"Report to Congress

"(c) During each of the 5 calendar years occurring after the effective date of this section, beginning with 1980, the Secretary shall submit a report to the Congress of the results of the review conducted by him under subsection (a). Each such report shall include legislative and administrative recommendations, specifically relating to the Secretary's or the Administrator's authority, as the Secretary deems necessary and appropriate to carry out the purposes of this section.".

CERTIFICATES

SEC. 5. Section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371) is amended to read as follows:

"CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

"Certificates

"SEC. 401. (a) The Board shall issue certificates of public convenience and necessity to engage in—

"(1) scheduled interstate or overseas air transportation of persons, property, and mail; or

"(2) foreign air transportation, including foreign scheduled air transportation of persons, property, and mail, foreign all-cargo air transportation, and foreign charter air transportation.

"Interstate and Overseas Air Transportation

"(b)(1) The Board shall issue a certificate under subsection (a)(1) authorizing, in whole or in part, the air transportation specified in the application, if the Board determines that the applicant is fit, willing, and able to perform properly the air transportation specified in the application, and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board made or issued under this Act; unless the Board determines that the air transportation is not consistent with the public convenience and necessity.

"(2) In any determination as to whether or not the applicant is fit, willing and able to perform properly the air transportation specified in the application and to conform to the provisions of this Act, the applicant shall have the burden of showing that it is so fit, willing, and able.

"(3) In any determination as to whether the air transportation specified in the application is or is not consistent with the public convenience and necessity, an opponent of the application shall have the burden of showing that such air transportation is not consistent with the public convenience and necessity.

"Foreign Air Transportation

"(c) The Board shall issue a certificate under subsection (a)(2) authorizing, in whole or in part, the air transportation specified in an application therefor, if the Board determines that—

"(1) the applicant is fit, willing, and able to perform properly the air transportation specified in the application, and to conform to the provisions of this Act, and the rules, regulations, and requirements of the Board made or issued under this Act; and

"(2) such air transportation is required by the public convenience and necessity;

except that, the Board shall not issue any certificate under subsection (a)(2) authorizing foreign charter air transportation to any air carrier holding a certificate issued before

January 1, 1977, under section 401(d)(1) (as that subsection read on January 1, 1977).

"Guidelines for Determining the Public Convenience and Necessity

"(d) In determining whether the air transportation proposed in an application for a certificate to be issued under subsection (a)(1) is consistent with the public convenience and necessity, the Board shall, in addition to the policy statement in section 102(a) of this Act, be guided as follows:

"(1) Innovative or more efficient methods of operation in air transportation, or significant reductions in fares or charges below fares or charges in effect in markets in question or comparable markets, are consistent with the public convenience and necessity.

"(2) The avoidance of (A) industry concentration, excessive market domination, monopoly power and (B) other conditions that would tend to allow one or more air carriers unreasonably to increase prices, reduce services, or exclude competition in air transportation is consistent with the public convenience and necessity.

"(3) The diversion of revenue or traffic from another air carrier is not in itself inconsistent with the public convenience and necessity.

"Limitations

"(e) Each certificate issued under subsection (a)(1) shall specify the terminal points and intermediate points, if any, between which which the air carrier holding such certificate is authorized to engage in air transportation and the service to be rendered. The Board may attach to the exercise of the privileges granted by each such certificate, or any amendment thereto, such reasonable terms, conditions, and limitations (including limits as to the duration of the certificate) as may be required by the public convenience and necessity.

"Conditions of Foreign Air Transportation

"(f) A certificate issued by the Board under subsection (a)(2) shall, insofar as the air transportation operations to be provided under such certificate are to take place outside of the United States, designate the terminal and intermediate points only insofar as the Board determines it is practicable to do so. Otherwise such certificate shall designate only the general route to be followed. Any air carrier holding a certificate issued under subsection (a)(2) may, in scheduled foreign air transportation, handle and transport mail of countries other than the United States. In performing scheduled flights in foreign air transportation, each such air carrier is authorized to transport persons, property, and mail, between points served on such flights in any State or the District of Columbia. Such authority shall be limited to one roundtrip flight per day in each city-pair market served by such air carrier, unless otherwise authorized by the Board.

"Emergency Operations

"(g) No air carrier holding a certificate issued under this section shall be deemed to have violated any term, condition, or limitation of its certificate, or any amendment thereto, by landing or taking off during an emergency at a point not named in its certificate, or by operating in an emergency, under regulations which may be prescribed by the Board, between terminal and intermediate points other than those specified in its certificate.

"Terminations, Reductions, and Suspensions of Service

"(h)(1) Except as provided in paragraphs (2) and (3), no air carrier, holding a certificate issued under this section, shall—

"(A) terminate or suspend air transportation which it is required to provide to a point under such certificate; or

"(B) reduce any such air transportation below that which the Board has determined to be essential air transportation for that point;

unless such air carrier has first given the Board, the community affected, and the State agency of the State in which such community is located, at least 90 days notice of its intent to so terminate, suspend, or reduce such air transportation. If the air carrier proposing to so terminate or suspend air transportation is the only air carrier certificated under this section providing scheduled air transportation to the point involved, or, if the air carrier proposing to reduce air transportation is the only air carrier certificated under this section providing essential air transportation to the point involved, then the Board may require such air carrier to continue providing such air transportation for an additional 90-day period. During the period between the date notice of a proposed termination, suspension, or reduction is given to the Board, the affected community, and the State agency, and the date such termination, suspension, or reduction is to become effective, the Board shall make every reasonable effort to secure another air carrier which is certificated under this section to provide the essential air transportation which is being proposed to be terminated, suspended, or reduced. If the Board determines that, by the end of such period, it will be unable to so secure another air carrier which is certificated under this section, then the Board shall provide for the maintenance of essential air transportation to such point, according to the provisions of section 419(h).

"(2) Upon application of any air carrier holding a certificate issued under this section, the Board may, by regulation or otherwise, without prior notice, authorize such an air carrier to suspend temporarily any air transportation provided by it to a point, if it is in the public interest to do so, so long as essential air transportation is maintained to any point to which essential air transportation is guaranteed under section 419 of this Act. Each application for a temporary suspension under this paragraph shall be served, by the applicant, upon the community affected and the State agency of the State in which such community is located. The Board shall not approve a temporary suspension of longer than 30 days without a hearing, if a hearing is requested by the affected community.

"(3) If an air carrier holding a certificate issued under this section proposes to terminate or suspend air transportation being provided by it under such certificate between two points, and such air carrier is the only air carrier certificated under this section providing air transportation between such points, then such air carrier shall give the Board, the community affected, and the State agency of the State in which the community is located, at least 60 days notice of such intended termination or suspension.

"(4) For the purposes of this subsection, the term 'State' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

"Dormant Authority

"(i)(1) Any air carrier holding a certificate issued under this section may file an application with the Board seeking authority to provide the nonstop scheduled air transportation between two points listed on a certificate issued under this section to any other air carrier and between which no more than one air carrier is providing scheduled air transportation. The Board shall award such authority to the applicant air carrier, if the Board determines that—

"(A) the authority to be awarded is authority to engage in nonstop scheduled interstate or overseas air transportation between two points between which another air carrier holds authority to provide such air transportation, and such other air carrier has not exercised such authority pursuant to published flight schedules at a minimum of five round trips per week for at least 180 days during the 12 months immediately preceding the date on which such application was filed under this subsection; and

"(B) awarding such authority to such applicant air carrier is consistent with the public convenience and necessity.

In addition, either on its own motion or on petition, the Board, if it determines it is consistent with the public convenience and necessity, may reduce, restrict, suspend, or terminate the authority to provide air transportation between such points of the air carrier whose failure to exercise such authority gave rise to the application under this subsection.

"(2) Notwithstanding any other period of limitation (including the provisions of section 1010) applicable to the Board, the Board shall, whenever it receives an application under paragraph (1), make the determinations required under paragraph (1) with respect to that application, without an oral evidentiary hearing, within 90 days after the date that application was filed with the Board. As opposed to all other applications or petitions filed with the Board under this Act, the Board shall give priority to the consideration of applications filed with the Board under this subsection.

"Closed-Door Restrictions

"(j) On and after January 1, 1979, the Board shall not include a closed-door restriction in any certificate issued under this section, or in any amendment thereto, issued after such date. Any closed-door restriction included in any such certificate, or amendment thereto, issued before such date shall, on and after such date, be void and of no force and effect, except that this subsection shall not apply to (1) a closed-door restriction applicable to air transportation between two points both of which are in the State of Hawaii, or (2) an existing closed-door restriction which resulted from a sale, exchange, or transfer by the air carrier of its authority to provide air transportation in any market to another air carrier.

"Automatic Market Entry

"(k)(1) According to the provisions of this subsection the following air carriers and persons may select segments each year for which they will be temporarily authorized to provide scheduled nonstop air transportation of persons, property, and mail:

"(A) Any air carrier which holds a certificate issued under this section authorizing that air carrier to provide air transportation of persons to a point in the contiguous 48 States or the District of Columbia and which, during the most recent 12-month period for which data is available occurring before the date an application is filed with the Board under this subsection, engaged in regularly scheduled air transportation in excess of 100 million available seat-miles.

"(B) Any air carrier which holds a certificate issued under this section authorizing that air carrier to provide air transportation of persons to a point in the State of Alaska and which, during the 12-month period ending on July 1, 1977, engaged in regularly scheduled air transportation in excess of 50 million available seat-miles.

"(C) Any person who, during the 12-month period ending January 1, 1979, engaged in regularly scheduled intrastate air transportation in excess of 125 million available seat-miles.

"(D) Any person who, on January 1, 1979, held a certificate to provide charter air trans-

portation of persons and property to points in the contiguous 48 States, Alaska, or the District of Columbia, and who, during the 12-month period ending July 1, 1977, operated a turbojet-powered aircraft in charter air transportation.

"(2) During each of the calendar years 1979 and 1980, each air carrier or person specified in paragraph (1) may select one segment over which it shall be authorized under this subsection to provide scheduled nonstop air transportation of persons, property, and mail, so long as the statute miles of the segment selected by that air carrier or person, in either year does not exceed 3,000 statute miles. During calendar year 1981, and for each calendar year thereafter, each such air carrier or person may select two segments over which it shall be authorized to provide scheduled nonstop air transportation of persons, property, and mail, so long as the cumulative statute miles of the two segments selected by an air carrier, in any one year, does not exceed 3,000 statute miles. No segment may be selected which has been designated by another air carrier under paragraph (3) as being closed for that year to automatic entry under this subsection. Initial selections shall be filed with the Board on the first business day of July each year. Final selections shall be certified as selected by the Board by September 1, of the year in which the selection was filed, unless the Board finds that the air carrier making the selection is not fit, willing, and able to provide the air transportation selected, and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board made or issued under this Act. Based on such certification, that air carrier or person shall be authorized to engage, for the next 20 months, in scheduled nonstop air transportation of persons, property, or mail over the segments selected.

"(3) Each air carrier specified in paragraph (1) may, for each year, designate a number of segments for which it provides regularly scheduled nonstop air transportation, which shall not be open to automatic entry under this subsection as follows:

"(A) For each of the years 1979, 1980, and 1981, three such segments.

"(B) For the year 1981, two such segments.

"(C) For the year 1983, one such segment.

"(D) After the year 1983, no such segments may be designated under this paragraph.

Designations for each year shall be filed with the Board on the first business day of January of the year for which the designations are made.

"(4) (A) Notwithstanding the provisions of paragraph (2), for selections made in each of the calendar years 1979, 1980, and 1981, an air carrier which, on or after January 1, 1973, was receiving compensation from the Board under section 406, shall have no more than two segments in which it is actually providing scheduled air transportation certified for automatic entry under this subsection. Notwithstanding the provisions, of paragraph (2), an air carrier holding a certificate issued under this section and which operated, during the most recent 12-month period for which data is available, fewer than 25 billion available seat-miles in air transportation, shall have no more than three segments in which it is actually providing scheduled air transportation certified for automatic entry under this subsection in calendar year 1979, and no more than four such segments so certified in calendar year 1980. After calendar year 1981 (for air carriers specified in the first sentence of this subparagraph), and after calendar year 1980 (for air carriers specified in the second sentence of this subparagraph), there shall be no limits under this paragraph on the number of segments of an air carrier subject to automatic entry.

"(B) If, during the period of limitation specified in subparagraph (A), automatic entry is selected for a number of segments of an air carrier which exceeds the limits set forth in that paragraph, the particular segments of such air carrier in which automatic entry shall be certified shall be those segments selected by the smallest applicants (based on system-operating revenues). Any air carrier denied its choice for automatic entry because of the provisions of this paragraph may select another segment by filing such selection with the Board on September 15 of the same year. The Board shall process such selection by October 15 of the same year.

"(5) The Board shall publish within 10 days after the first business day in July of each year, a list of the segments selected for automatic entry that year, identifying the air carrier or person selecting each segment. Any air carrier or person who finds that another air carrier or person has selected the same segment as that air carrier or person may then file with the Board, by August 1, of the same year, a notice stating that the first selection made by the air carrier or person filing such notice is withdrawn, and selecting an alternative segment. The alternative segment selected shall then become the segment selected by that air carrier or person for that year, and the first selection shall be void. If, according to the final selections made, more than one person or air carrier selects the same segment for automatic entry under this subsection, all such selections on that segment shall be certified by the Board for automatic entry, so long as each selection is an otherwise valid selection.

"(6) A segment may not be selected in any year if the segment had been selected during either of the 2 preceding calendar years and scheduled air transportation is being provided over that segment under authority received by an air carrier or person under such selection.

"(7) Any authority to provide air transportation received under this subsection shall terminate if the air carrier or person receiving such authority fails to provide a regular pattern of scheduled nonstop air transportation of persons, property, and mail for 18 consecutive months after initiating air transportation according to such authority. Breaks in service occasioned by labor disputes or by factors beyond the control of the air carrier or person shall not destroy the continuity of service rendered before or after such breaks in service.

"(8) Any air carrier or person which engages for 18 consecutive months in regularly scheduled nonstop air transportation of persons, property, and mail over a segment pursuant to authority received under this subsection may apply to the Board for a certificate permanently authorizing that air carrier or person to engage in unrestricted nonstop scheduled air transportation in such segment. Within 30 days after the date of application the Board shall grant such application and issue the certificate as requested unless the Board determines that the applicant has not conformed to the provisions of this Act with respect to the service in question.

"(9) The Board shall submit an annual report to the appropriate authorizing committees of the Congress on the operation, during the immediately preceding year, of the program established by this subsection. The first such report shall be submitted by March 1, 1980, and each subsequent report shall be submitted by March 1 of each year thereafter. Each report shall contain as much data and information as the Board deems necessary and appropriate to accurately describe the operations of such program and give the Congress adequate information on which to evaluate such operations. Such data and information shall, among other things, include the number of segments selected during the reporting year, a list of the air carriers and other persons participating in such program, the cities between which air transportation has been provided under authority received under this subsection, a list of the air carriers or persons who have discontinued providing air transportation which they were providing under authority received under this subsection, a list of the segments designated by an air carrier under paragraph (4), and an evaluation of the effect the operation of the program established under this subsection has had on the maintenance of an efficient and responsive air transportation system, on a national and regional basis.

"(10) After January 1, 1983, but before March 1, 1983, Board shall submit a detailed comprehensive report to the appropriate authorizing committees of the Congress which shall contain an evaluation and review of the operation of the program established by this subsection during the previous 4 years. Such comprehensive report shall, among other data and information, contain—

"(A) a summary of the data submitted in each of the annual reports submitted under paragraph (9);

"(B) a detailed specific recommendation to the Congress as to whether, and in what form, such program should be continued;

"(C) a description of modifications that should be made in the program;

"(D) an evaluation of the effect of the operation of such program on the quantity, quality, variety, and cost of air transportation being provided on a national and regional basis;

"(E) an evaluation of the effect the operation of such program has had on the maintenance of an efficient and reliable air transportation system, on a national and regional basis; and

"(F) an estimate of the effect such program will have, during the 5 years occurring immediately after the date of the report, on such air transportation system.

"(11) (A) The Board shall, on an emergency basis, by rule, modify the program established by this subsection, if the Board finds that—

"(i) the operation of such program is causing substantial public harm to the national air transportation system, or a substantial reduction in air service to small and medium sized communities in any region of the country;

"(ii) the modification proposed by the Board is required by the public convenience and necessity in order to alleviate such harm or reduction; and

"(iii) such harm or reduction identified by the Board cannot be rectified by any reasonably available means other than the modification proposed by the Board.

Any emergency modifications proposed by the Board under this paragraph shall modify such program only to the minimum extent necessary to rectify the harm or reduction identified by the Board.

"(B) Such emergency modifications, along with the supporting data and findings, shall be submitted to the Congress on the date that they are proposed by the Board. Such modifications shall become effective 60 legislative days after the date they were submitted to the Congress, unless during that 60-day period either House adopts a resolution stating that that House disapproves such modifications, or, during such 60-day period, a resolution has been adopted by both Houses stating that the Congress approves of such modifications, in which case such modifications shall become effective on the date of adoption of the approval resolution.

"(C) For the purposes of this paragraph, the term 'legislative day' means a calendar day on which both Houses of Congress are in session.

"(D) The findings of fact by the Board in any proceeding held under this paragraph, if supported by substantial evidence, shall be conclusive. No objection to a modification of the program proposed by the Board under this paragraph shall be considered by a court unless such objection shall have been urged before the Board, or if it was not so urged, unless there were reasonable grounds for failure to do so.

"(12) For the purposes of this subsection, the term 'segment' means an air route between two points within the contiguous 48 States (including the District of Columbia) or between two points one of which is in the State of Alaska, the Commonwealth of Puerto Rico, or the United States Virgin Islands and the other is in one of the contiguous 48 States (including the District of Columbia).

"Civil Reserve Air Fleet

"(l)(1) Except as provided in paragraph (2) of this subsection, transportation of persons or property by transport category aircraft in interstate air transportation procured by the Department of Defense, including military departments within such Department, through contracts of more than 30 days duration for airlift service within the United States, shall be provided only by air carriers which (A) have aircraft in the civil reserve air fleet or offer to place aircraft in such fleet, and (B) hold any certificate issued under this title.

"(2) In any case in which the Secretary of Defense determines that no air carrier certified under subsection (a) of this section or under section 421 is capable of providing and willing to provide the type of service described in paragraph (1) of this subsection, he may contract with an air carrier which does not hold a certificate issued under this title.

"Charters

"(m) An air carrier holding a certificate for scheduled air transportation issued under this section may engage in charter air transportation under regulations prescribed by the Board. With respect to charter tips in interstate or overseas air transportation provided by such air carriers, such regulations shall provide that any such air carrier who operates—

"(1) more than 200 million system-scheduled aircraft miles during a year may operate no more than 2 percent of its total system-scheduled aircraft miles operated in that year in off-route charter trips;

"(2) less than 200 million but more than 60 million such miles in a year may operate no more than 5 percent of such miles operated in that year in off-route charter trips; and

"(3) less than 60 million such miles in a year may operate no more than 10 percent of such miles operated in that year in off-route charter trips;

except that any air carrier who, on January 1, 1977, was operating under a certificate issued under this section which authorized off-route charter trips in excess of the limits established in this subsection shall continue to be permitted to operate off-route charter trips to the extent authorized by such certificate. Any regulations prescribed by the Board under this subsection shall also include the frequency and regularity limitations upon off-route charters applied by the Board on January 1, 1977. For the purposes of this subsection, the term 'off-route charter trips' shall have the same meaning as that term was applied by the Board on January 1, 1977.".

NOTICE OF TARIFF CHANGES

SEC. 6. Section 403(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1373(c)) is amended to read as follows:

"Notice of Tariff Changes

"(c)(1) Except as provided in paragraph (2), no change shall be made in any rate, fare, or charge, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, specified in any effective tariff of any air carrier until 30 days' notice of the proposed change has been filed, posted, and published in accordance with subsection (a) of this section, except the Board may establish an alternative notice requirement, of not less than 25 days, to allow an air carrier to match the fares or charges specified in another air carrier's proposed tariff. Any notice specified under this subsection shall plainly state the change proposed to be made and the time such change will take effect.

"(2) If the effect of any proposed tariff change would be to institute a fare that is outside of the applicable range of fares specified in subparagraphs (A) and (B) of section 1002(d)(2), or specified by the Board under section 1002(d)(7), or would be to institute a fare to which such range of fares does not apply, then such proposed change shall not be implemented except after 60 days' notice filed in accordance with regulations prescribed by the Board.

"(3) In exercising its power to suspend tariffs under subsections 1002(g) and 1002(j), the Board shall file and deliver a statement in writing of its reasons for such suspension, as required under subsection 1002(g), at least 30 days before the time when the affected tariff would otherwise go into effect.".

MAIL AND COMPENSATION

SEC. 7. Section 406 of the Federal Aviation Act of 1958 (49 U.S.C. 1376) is amended as follows:

(a) Subsection (b) of such section 406 (49 U.S.C. 1376(b)) is amended to read as follows:

"Ratemaking Elements

"(b) In fixing and determining fair and reasonable rates of compensation under this section, the Board, considering the conditions peculiar to transportation by aircraft and to the particular air carrier or class of air carriers, may fix different rates for different air carriers or classes of air carriers, and different classes of service. In determining the rate in each case, the Board shall take into consideration, among other factors, (1) the condition that such air carriers may hold and operate under certificates authorizing the carriage of mail only by providing necessary and adequate facilities and service for the transportation of mail; (2) such standards respecting the character and quality of service to be rendered by air carriers as may be prescribed by or pursuant to law; and (3) the need of each such air carrier for compensation for the transportation of mail sufficient, together with all other revenue of the air carrier from the service for which the compensation is being paid (and after January 1, 1983, together with all other revenue of the air carrier from other sources also), to enable such air carrier under honest, economical, and efficient management, to provide air service of at least the same extent, character, and quality as that provided during the year ending December 31, 1977, and to maintain and continue the development of air transportation to the extent and of the character and quality required for the commerce of the United States, the Postal Service, and the national defense. Any air carrier receiving compensation from the Board pursuant to this section which, before January 1, 1986, terminates service to a point for which compensation is paid by the Board, shall not, if such service is resumed by such air carrier, be eligible for compensation from the Board under this section for such service. Nothing in this subsection shall be construed as prohibiting any air carrier specified in the preceding sentence from applying for and receiving compensation for such service under section 419.".

(b) Subsection (c) of such section 406 (49 U.S.C. 1376(c)) is amended by adding the following at the end thereof: "The Board may make payments pursuant to this section only to those air carriers which were entitled to receive compensation from the Board under the provisions of this section for the performance of services during the 12 months ended June 30, 1977. The Board shall make no payments under this section for any services performed after January 1, 1986.".

MERGERS AND CONTROL

SEC. 8. Section 408 of the Federal Aviation Act of 1958 (49 U.S.C. 1378) is amended as follows:

(a) Subsection (a) of such section 408 (49 U.S.C. 1378(a)) is amended to read as follows:

"Acts Prohibited

"SEC. 408. (a) It shall be unlawful, unless approved by order of the Board, as provided in this section—

"(1) for two or more air carriers, or for any air carrier and any other common carrier or any person substantially engaged in the business of aeronautics, to consolidate or merge their properties, or substantial portion thereof, into one person for the ownership, management, or operation of the properties previously in separate ownerships;

"(2) for any air carrier, any person controlling an air carrier, any other common carrier, or any person substantially engaged in the business of aeronautics, to purchase, lease, or contract to operate all or a substantial portion of the properties of any air carrier;

"(3) for any air carrier or person controlling an air carrier to purchase, lease, or contract to operate all or a substantial portion of the properties of any person substantially engaged in the business of aeronautics otherwise than as an air carrier;

"(4) for any foreign air carrier or person controlling a foreign air carrier to acquire control in any manner whatsoever of any citizen of the United States substantially engaged in the business of aeronautics;

"(5) for any air carrier or person controlling an air carrier, any other common carrier, or any person substantially engaged in the business of aeronautics to acquire control of any air carrier in any manner whatsoever, except that the Board may by order exempt any such acquisition of a noncertificated air carrier from this requirement to the extent and for such periods as may be in the public interest; or

"(6) for any air carrier or person controlling a certificated air carrier to acquire control, in any manner whatsoever, of any person substantially engaged in the business of aeronautics other than as an air carrier.".

(b) Subsection (b) of such section 408 (49 U.S.C. 1378(b)) is amended to read as follows:

"Power of Board

"(b)(1) Any person seeking approval of a transaction specified in subsection (a) of this section, shall present an application to the Board, and, at the same time, a copy of the Attorney General and the Secretary of Transportation, and thereupon the Board shall notify the persons involved in the transaction and other persons known to have a substantial interest in the proceeding, of the manner in which the Board will proceed in disposing of such application. Unless, after a hearing, the Board finds that the transaction will not be consistent with the public interest or that the conditions of this section will not be fulfilled, it shall, by order, approve such transaction, upon such terms and conditions as it shall find to be just and reasonable and with such modifications as it

may prescribe, except the Board shall not approve such transaction—

"(A) if it would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of air transportation in any region of the United States; or

"(B) whose effect in any region of the United States may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are outweighed in the public interest by the probable effect of the transaction in meeting significant transportation conveniences and needs of the community to be served, and unless it finds that such significant transportation conveniences and needs may not be satisfied by a reasonably available alternative having materially less anticompetitive effects.

The party challenging the transaction shall bear the burden of proving the anticompetitive effects of such transaction, and the proponents of the transaction shall bear the burden of proving that it meets the significant transportation conveniences and needs of the community to be served and that such conveniences and needs may not be satisfied by a less anticompetitive alternative.

"(2) The Board shall approve or disapprove any application for the approval of a transaction specified in subsection (a) within 180 days after the date such application was filed with the Board, unless the proposed transaction is of a particularly complex nature. If the Board determines that the proposed transaction is of a particularly complex nature, it may extend the period during which the Board must act on the application for not more than two additional 90-day periods. Notice of any extension shall be served on all interested parties and with the appropriate authorizing committees of the Congress, with thorough explanations of the complexities of the case which require such extensions.

"(3) In any case in which the Board determines that the transaction which is the subject of the application does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, and determines that neither the Attorney General, nor the Secretary, nor any other person disclosing a substantial interest in the transaction then currently is requesting a hearing, the Board, no sooner than 30 days after publication in the Federal Register of notice of the Board's intention to dispose of such application without a hearing (a copy of which notice shall be furnished by the Board to the Attorney General and the Secretary not later than the day following the date of such publication), may determine that the public interest does not require a hearing and, in accordance with the standards set forth in subparagraphs (A) and (B) of paragraph (1) of this subsection, by order, approve or disapprove such transaction.".

INTERLOCKS

SEC. 9. (a) Section 409(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1379(a)) is amended as follows:

(1) Paragraphs (1), (2), and (3) of such section 409(a) are each amended by striking out "is engaged in any phase of" and inserting in lieu thereof "is substantially engaged in the business of".

(2) Paragraphs (4), (5), and (6) of such section 409(a) are each amended by striking out "engaged in any phase of" and inserting in lieu thereof "substantially engaged in the business of".

(b) Section 409(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1379(b)) is deleted.

AGREEMENTS

SEC. 10. (a) Subsection 412(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1382(a)) is amended by inserting in the heading "AFFECTING FOREIGN AIR TRANSPORTATION" immediately after "AGREEMENTS"; and by inserting "foreign" immediately after "affecting".

(b) Subsection 412(b) of such Act (49 U.S.C. 1382(a)) is amended by inserting "affecting foreign air transportation" immediately after "agreement" each time it appears therein.

(c) Section 412 of such Act (49 U.S.C. 1382) is further amended by adding at the end thereof the following:

"Filing and Approval of Agreements Affecting Interstate or Overseas Air Transportation

"(c)(1) Any air carrier may file with the Board a true copy, or, if oral, a true and complete memorandum, of any contract or agreement (whether enforceable by provisions for liquidated damages, penalties, bonds, or otherwise), or a request for authority to discuss possible cooperative working arrangements, affecting interstate or overseas air transportation and in force on January 1, 1979, or thereafter entered into, or any modification or cancellation thereof, between such air carrier and any other air carrier, foreign air carrier, or other carrier.

"(2) Upon filing of each contract or agreement, or memorandum of any contract or agreement, affecting interstate or overseas air transportation, or any modification or cancellation thereof, or upon the filing of a request by an air carrier for authority to discuss possible cooperative working arrangements, pursuant to paragraph (1), the Board, in accordance with regulations prescribed by the Board, shall provide to the Attorney General and the Secretary written notice of, and an opportunity to submit written comments on, the filed document. The Board may, upon its own initiative, or if requested by the Attorney General or the Secretary, in accordance with regulations prescribed by the Board, proceed by hearing to make the determinations specified in paragraph (3) regarding the filed contract or agreement, or the contract or agreement for which a memorandum was filed, or the filed request for discussion authority, whether or not previously approved by the Board.

"(3) The Board shall, by order, disapprove any such contract or agreement, or any modification or cancellation thereof, or any request for authority to discuss possible cooperative working arrangements, affecting interstate or overseas air transportation, whether or not previously approved by it, that it finds to be inconsistent with the public interest, or in violation of this Act, and shall, by order, approve, for a specified period, any such request, contract, or agreement, or any modification or cancellation thereof, that it finds is consistent with the public interest, and not in violation of this Act, except that the Board shall not approve any such contract or agreement, or any modification or cancellation thereof, that limits the level of capacity among air carriers in markets in which they compete, that fixes rates, fares, or charges between or among air carriers (except for joint rates, fares, or charges), or that is between an air carrier not directly engaged in the operation of aircraft in air transportation and a common carrier subject to the Interstate Commerce Act, as amended, governing the compensation to be received by such common carrier for transportation services performed by it. In addition, the Board shall not approve any such request, contract, or agreement, or any modification or cancellation thereof, if the effect of such approval would be substantially to lessen competition, or to tend to create a monopoly, or to create or maintain a situation involving a significant burden on competition, unless it finds that—

"(A) after considering reasonably available alternative means which would have a materially less anticompetitive effect, the anticompetitive effects of such approval are outweighed by significant and demonstrable air transportation benefits to the general public; and

"(B) with respect to determinations made after July 1, 1983, the air transportation benefits cannot be accomplished by reasonably available alternative means having materially less anticompetitive effects.

"(4) If an agreement or contract, or any modification thereof, or the grant of authority to discuss possible cooperative working arrangements, affecting interstate or overseas air transportation would provide the parties with significant cost savings or other significant competitive advantages which cannot be duplicated by the reasonable efforts of the actual or potential air carrier competitors of the parties to such agreement, contract, or discussions, the Board shall, if the public interest so requires, as a condition of its approval, require that the agreement, contract, or authority provide such air carrier competitors the opportunity to join in the agreement, contract, or discussion upon reasonable terms, including payment of a reasonable share of the costs of the agreement or contract.

"(5) In those instances where, in approving a contract agreement, or any modification or cancellation thereof, or request, under paragraph (3), the Board determines that the contract, agreement, or memorandum of a contract or agreement, or any modification or cancellation thereof, or request, would have anticompetitive effects of the type specified in that paragraph, but that such effects are outweighted by the factors specified in that paragraph, the Board shall limit the effectiveness of its approval to a period reasonably related to the continued existence of the factors upon which it based its decision, but in no case longer than 5 years. Before the end of such period, the parties may resubmit the contract, agreement, memorandum, or request, to the Board.

"(6) In any proceeding before the Board involving the application of the standards set forth in subparagraph (A) or (B) of paragraph (3), the party opposing the proposed contract, agreement, modification, or request shall have the burden of proving anticompetitive effects, and the party defending the proposed contract, agreement, modification, or request shall have the burden of proving air transportation benefits, and with respect to determinations made after January 1, 1984, that such benefits cannot be accomplished by reasonably available alternative means having materially less anticompetitive effects.

"(7) The findings required by paragraph (3), shall be included in any order of the Board approving or disapproving any contract or agreement, or any memorandum of any contract or request, or any modification or cancellation thereof, or any such request.

"(8) The Board shall approve or disapprove any application for approval filed under paragraph (1) within 90 days after the date the application was filed unless the Board determines that the application is of a particularly complex nature, in which case the Board may extend the period within which it must act by not more than 270 days.

"(9) Approval of any contract or agreement, or any modification or cancellation thereof, or any request, affecting interstate or overseas air transportation rendered by the Board before January 1, 1979, shall expire on January 1, 1982, unless refiled before July 1, 1980, and reapproved under the provisions of this subsection. Notwithstanding the provisions of paragraph (8), applications for reapproval of previously approved contracts, agreement, or requests (or substantially similar replacements) refiled under this paragraph need not be acted upon by the Board until January 1, 1982, except that in the case of a particularly complex contract, agreement, or request the Board may extend the period of its effectiveness for

a period not longer than 180 days and need not act upon the refiled contract, agreement, or request until the end of the extension period.".

ANTITRUST IMMUNITY

SEC. 11. Section 414 of the Federal Aviation Act of 1958 (49 U.S.C. 1384) is amended to read as follows:

"IMMUNITY CONFERRED

"SEC. 414. Any person affected by any order made under section 408, 409, or 412 of this Act shall be, and is hereby, relieved from the operations of the antitrust laws, as designated in section 1 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes', approved October 15, 1914, and of all other restraints or prohibitions made by, or imposed under, authority of law, only insofar as may be necessary to enable such person to engage in the air transportation activities specifically approved by the Board in such order, except that in such an order the Board may specifically define and limit the scope of the immunity conferred, authorized, approved, or required by such order.".

EXEMPTION AUTHORITY

SEC. 12. (a) Section 416(b)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1386(b)(1)) is amended to read as follows:

"Exemptions

"(b)(1) The Board, from time to time and to the extent necessary, may exempt from the requirements of this title or any provision thereof, or any rule, regulation, term, condition, or limitation prescribed thereunder, any person or class of persons if it finds that the exemption is consistent with the public interest. Notwithstanding any other provision of this Act, the Board shall issue a final decision with respect to any application filed with the Board for an exemption with respect to the size of an aircraft which an air carrier may use within 90 days after such application is filed.

"(2) Any air carrier operating within the State of Alaska under part 298 of the economic regulations of the Board shall not be subject to any limitation, promulgated by the Board, on the number or location of points to be served by such air carrier, or any limitation on the frequency of service by such air carrier to points within that State, unless the Board, after a hearing, finds that the operation of such air carrier substantially impairs the ability of a certificated air carrier to provide the service authorized by its certificate, including but not limited to, the minimum service requirement for Alaska specified in section 419(g)(2)."

(b) Section 416(b) of such Act (49 U.S.C. 1386(b)) is further amended by renumbering paragraph (2) thereof as paragraph (3), and by adding at the end thereof the following new paragraph:

"(4) Any air carrier that engages in interstate or overseas air transportation with aircraft having a seating capacity of 36 passengers or less and a maximum certificated gross takeoff weight of 40,000 pounds or less shall not be required to obtain a certificate to engage in air transportation with such aircraft if that air carrier conforms to such financial responsibility and reporting requirements as the Board may by regulation impose. Air transportation provided by an air carrier pursuant to this paragraph shall be exempt from the provisions of section 422 (a) and such other provisions as the Board may, by rule, provide.

"(5) The Board may by order relieve foreign air carriers who are not directly engaged in the operation of aircraft in foreign air transportation from the provisions of this Act to the extent and for such periods as such relief may be in the public interest.".

COMPENSATION FOR ESSENTIAL AIR TRANSPORTATION

SEC. 13. (a) Title IV of the Federal Aviation Act of 1958 is amended by adding at the end thereof the following new section:

"COMPENSATION FOR ESSENTIAL AIR TRANSPORTATION

"Authority To Provide Compensation

"SEC. 419. (a)(1) In furtherance of the congressional policy to encourage and foster the development of safe and reliable scheduled air transportation for small communities and isolated areas, the Board shall, according to the provision of this section, determine fair and reasonable amounts of compensation for, and make payments of compensation to, any eligible air carrier who is providing or will provide essential air transportation to an eligible point, as provided in this section. Such compensation shall be made available from appropriations made to the Board for that purpose.

"(2) The Board shall, by rule, establish guidelines to be used by the Board in computing the fair and reasonable amount of compensation required to insure the continuation of essential air transportation at any eligible point. Such guidelines shall include expense elements based upon representative costs of air carriers providing scheduled air transportation of persons, property, and mail, using aircraft of the type determined by the Board to be appropriate for providing essential air transportation to the eligible point concerned.

"Air Carrier Eligibility

"(b) An eligible air carrier, for purposes of this section, shall be an air carrier who—

"(1) holds either a certificate to engage in interstate and overseas air transportation issued under section 401, or a certificate to engage in local air transportation issued under section 420, or both; and

"(2) if such air carrier will be providing essential air transportation to an eligible point in the State of Alaska, holds authority to engage in such air transportation issued by the proper agency of the State of Alaska.

"Points Eligible for Compensation

"(c) For purposes of this section, the term 'eligible point' shall include—

"(1) any point in any State which was, on January 1, 1979, listed on the certificate issued under section 401 before January 1, 1979, to any air carrier, regardless of whether authority to serve such point has been suspended by order of the Board; and

"(2) any other point designated by the Board under subsection (d) of this section. Each point designated as an eligible point according to paragraph (1) shall remain so designated until January 1, 1989. Before January 1, 1989, the Board shall review the points designated as eligible points under paragraph (1), and, applying the criteria established under subsection (d) of this section (as well as other criteria the Board deems appropriate), determine which of those points shall continue to be designated as eligible points after January 1, 1989.

"Addition of Eligible Points

"(d)(1) By no later than January 1, 1980, after considering the views of State agencies and other interested parties, the Board shall, by rule, establish objective criteria for designating points as additional eligible points. In establishing or modifying such criteria, the Board shall consider, among other factors, the level of traffic generated by the point concerned, its future traffic generating potential, the cost to the Government of providing essential air transportation to the point, the alternative means of transportation available to the residents of the point concerned for access to the national transportation system and its principal communities of interest, and the degree of isolation of the point from the national air transportation system. The Board may, from time to time, by rule, modify the criteria established by it under this paragraph.

"(2) By no later than January 1, 1980, the Board shall begin to review those points in any State, which were deleted from any certificate of public convenience and necessity between July 1, 1968, and January 1, 1979, to determine whether any such point shall be designated as an eligible point under the criteria established under paragraph (1). The review and designation of any such points shall be completed before January 1, 1982.

"(3) On or after January 1, 1982, the Board, upon application by any interested party, may designate any point as an eligible point under the criteria established under paragraph (1).

"(4) The designation of any point as an eligible point may be withdrawn if the point no longer meets the criteria for designation as an eligible point, except that the designation of a point under subsection (e)(1) as an eligible point may not be withdrawn before January 1, 1989.

"Applications for and Review of Compensation

"(e)(1) When the Board determines that essential air transportation will no longer be provided to any eligible point unless compensation therefor is paid under this section, the Board shall entertain and consider applications by eligible air carriers who are willing to provide essential air transportation to such point for compensation under this section. In reviewing such applications, the Board shall, among other factors, specifically consider—

"(A) the desirability of developing an integrated linear system of air transportation whenever such a system most adequately meets the air transportation needs of the communities involved; and

"(B) the experience of an applicant in providing scheduled air service in the vicinity of the communities for which essential air transportation is proposed to be provided; and

"(C) notwithstanding the provisions of subparagraph (B), with respect to eligible points in the State of Alaska, the experience of an applicant in providing scheduled air service or significant patterns of nonscheduled air service under part 298 of the Economic Regulations of the Board (14 CFR 298).

"(2) The Board shall determine the amount of compensation to be paid any individual eligible air carrier, for providing essential air transportation at an eligible point, according to the guidelines established by the Board under subsection (a)(2). The Board shall continue to pay compensation to an eligible air carrier only for so long as the Board determines it is necessary in order to maintain essential air transportation at the eligible point for which compensation is being paid. The Board shall make payments of compensation under this section at times and in a manner determined by the Board to be appropriate.

"(3) The Board shall periodically review the amount of compensation being paid an eligible air carrier under this section. Based upon that review, using the guidelines established by it under subsection (a)(2), the Board may make appropriate adjustments in the amount of compensation which it will pay to that eligible air carrier after such review. If an air carrier fails to satisfactorily provide the essential air transportation to an eligible point specified by the Board, for the

amount of compensation computed by the Board, then the Board may terminate compensation payments to such air carrier.

"Competing Applications

"(f)(1) After January 1, 1983, any air carrier holding a certificate issued under section 401 or 420, may file an application with the Board seeking to have any compensation provided under section 406 to the air carrier then serving an eligible point terminated in order to allow the applicant air carrier to provide air transportation to that eligible point for compensation under this section. The Board shall grant such application, after notice and a hearing if requested by the air carrier receiving subsidy under section 406, taking into consideration the objectives specified in subparagraphs (A) and (B) of subsection (e)(1), if the applicant can show that termination of the compensation being paid under section 406, and the provision of service by such applicant air carrier with compensation under this section will result in a substantial—

"(A) improvement in the air service being provided such eligible point; and

"(B) decrease in the amount of compensation that will be required to continue essential air transportation to that eligible point.

"(2) After January 1, 1983, any air carrier holding a certificate issued under either section 401 or 420 may file an application with the Board seeking to have the compensation provided under this section to the air carrier then serving an eligible point, and which has been serving such eligible point for at least 2 years preceding the date on which such application was filed, terminated in order to allow the applicant air carrier to provide essential air transportation to such eligible point for compensation under this section. The Board shall grant such application, after notice and a hearing if requested by an air carrier receiving compensation under this section, taking into consideration the objectives specified in subparagraphs (A) and (B) of subsection (e)(1), if the applicant air carrier can show that termination of the compensation being provided to the air carrier then serving such eligible point, and the provision of essential air transportation for compensation under this section by the applicant air carrier will result in a substantial—

"(A) improvement in the air transportation being provided such eligible point with no increase in the amount of compensation then being paid; or

"(B) decrease in the amount of compensation that will be required to continue essential air transportation to that eligible point.

"(3) In disposing of each application filed under this subsection, the Board shall, in addition to considering the objectives specified in subparagraphs (A) and (B) of subsection (e)(1), solicit and give great weight to the opinions of the communities affected by the proposed replacement of an air carrier under this subsection.

"Essential Air Transportation

"(g)(1) By no later than January 1, 1980, the Board, after specifically considering the views of interested communities and the State agency of each State, shall establish, by rule, criteria to be used in determining the essential air transportation for eligible points for which compensation may be provided under this section. Such criteria shall include, among other things, the standards to be used by the Board in determining the minimum frequency of air transportation to an eligible point, the minimum specifications of the aircraft to be used in providing such air transportation, and the maximum fares. Beginning July 1, 1982, the Board, upon the request of any community affected or of any certificated air carrier seeking to provide, or providing, air transportation to an eligible point, shall determine what is essential air transportation for the eligible point of the community affected making such request, or for the eligible point being served by the air carrier making such request, or for the eligible point which the air carrier making such request seeks to serve, as the case may be. By no later than January 1, 1985, the Board shall determine essential air transportation for each eligible point specified in subsection (c)(1) or designated by the Board under subsection (c)(2).

"(2) For the purposes of this section, the term 'essential air transportation' means scheduled air transportation of persons provided under such criteria as the Board determines satisfies the needs of the community concerned for air transportation to one or more communities of interest and insures access to the Nation's air transportation system, at rates, fares, and charges which are not unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial. In no case shall essential air transportation be specified as fewer than two daily round trips, 5 days per week, except that, with respect to air transportation within the State of Alaska, essential air transportation shall not be specified at a level of service less than that which existed for any particular point during calendar year 1976, and in no case shall essential air transportation be specified as fewer than two roundtrips per week, unless otherwise specified under an agreement between the Board and the State agency of the State of Alaska, after consultation with the community affected.

"(3) The Board shall periodically review the specification of essential air transportation for each eligible point, and may, based upon that review and consultations with State agencies, and representatives of local government entities, make the appropriate adjustments to the specifications.

"Guarantee of Essential Air Transportation and Terminations

"(h)(1) The Board shall insure that essential air transportation is provided, on a continuing basis, to each eligible point specified in subsection (c)(1) until January 1, 1989. If, at any time during the period beginning on January 1, 1979, and ending on January 1, 1989, the Board receives notice, either under section 401(h)(1), section 420(e)(1), or under paragraph 2(A) of this subsection, that air transportation to such an eligible point is proposed to be suspended, terminated, or reduced below the level determined by the Board to be essential air transportation for the community, then the Board shall proceed according to the following provisions (in the following order) to insure that essential air transportation is provided, on a continuing basis, to the eligible point:

"(A) First, the Board shall determine if there is another air carrier providing air transportation to the eligible point which the Board determines to be essential air transportation for that eligible point. If there is such an air carrier, the Board shall continue to monitor the air transportation being provided by such air carrier to that eligible point.

"(B) Second, if there is no other air carrier providing essential air transportation to that eligible point, the Board shall, according to the provisions of this section, secure an eligible air carrier to provide such essential air transportation.

"(C) Third, if the Board determines that an eligible air carrier cannot be secured, as specified in subparagraph (B), within the 180-day period specified in section 401(h)(1), or the 90-day period specified in section 420(d)(1), and that it is necessary in order to avoid any suspension of service to that eligible point, then the Board shall require the air carrier then providing air transportation to that eligible point and proposing to so terminate, reduce, or suspend such air transportation, to continue to provide such air transportation for an additional 30-day period. If at the end of that 30-day period the Board determines that no eligible air carrier can be secured to provide essential air transportation to that eligible point on a permanent basis, either with or without compensation, then the Board shall extend such requirement for such additional 30-day periods (making the same determination at the end of each period) as may be necessary to continue air transportation to such eligible point until an eligible air carrier can be secured to provide essential air transportation to that eligible point on a permanent basis. In no case shall an air carrier who is required to continue providing air transportation under this subparagraph beyond the applicable notice period in either section 401(h)(1) or 420(d)(1), suspend, terminate, or reduce such air transportation below that level determined by the Board to be essential air transportation for that community until the Board certifies to such air carrier that it may terminate, reduce, or suspend such air transportation because another eligible air carrier is providing essential air transportation to the eligible point. Each air carrier which, under this section, is required to continue providing air transportation shall be provided compensation therefor under paragraph (3).

"(2)(A) If the essential air transportation to an eligible point specified in subsection (c)(1) is being provided, during the 10-year period referred to in paragraph (1), by an air carrier subject to the jurisdiction of the Board, other than an air carrier certificated under section 401 or 420, then such air carrier shall give notice to the Board, the community affected, and the State agency of the State in which the community is located, of a proposed termination, reduction, or suspension of air transportation to that eligible point at least 90 days before the date such proposed termination, reduction, or suspension is to become effective. Such air carrier shall be subject to the same requirements to continue providing air transportation as an air carrier under paragraph (1)(C) of this subsection.

"(B) When an air carrier specified in subparagraph (A) gives notice of an intended termination, reduction, or suspension of essential air transportation to an eligible point specified in subsection (c)(1), the Board shall pay compensation to such air carrier computed in the same manner as amounts of compensation are computed under paragraph (3) of this subsection.

"(3) The Board shall provide compensation to an air carrier under this section beginning, in the case of an air carrier required to give notice of a proposed termination, reduction, or suspension of air transportation under paragraph (2), within 30 days after the date such notice is filed with the Board; and in the case of any other air carrier required by the Board to continue providing air transportation to an eligible point, on the first day of the first 30-day period during which such air carrier is required to provide air transportation by the Board. Such compensation shall be paid out of appropriations made available to the Board for that purpose, and shall be in amounts determined by the Board necessary to insure each recipient air carrier a reasonable rate of return on its investment related to the air transportation involved, taking into account its fully allocable costs in providing the air transportation involved and the air carrier's revenues derived from providing such air transportation.

"(4) During any period for which the Board requires any air carrier to continue providing air transportation to an eligible point which such air carrier has proposed to terminate, reduce, or suspend, the Board

shall continue to make every effort to secure an eligible air carrier to provide at least essential air transportation to such eligible point, on a permanent basis, as otherwise provided in this subsection.

"Definition

'(i) For the purposes of this section the term 'State' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States, Virgin Islands, unless specifically provided otherwise.".

(b)(1) Except as provided in section 419(f)(1) of the Federal Aviation Act of 1958, as amended, any air carrier who, on January 1, 1977, was providing interstate air transportation, under a certificate issued under section 401(d) of the Federal Aviation Act of 1958 (as such section read immediately before it was amended by this Act), in any city-pair market for which it was entitled to receive compensation from the Board under section 406 of that Act (as such section read immediately before it was amended by this Act), shall not, during the 7-year period beginning on January 1, 1979, solely by reason of the enactment of the amendment made by subsection (a)—

(A) have such compensation payments suspended or terminated; or

(B) be required to obtain a certificate to serve such point under section 420 of that Act (relating to certificates for local air carriers).

(2) Notwithstanding any other provisions of law, if during such 7-year period any air carrier specified in paragraph (1) terminates air service to an eligible point, then the Board shall determine the amounts of, and eligibility for, any compensation payments made to another air carrier for providing air transportation to that point under the provisions of section 419 of that Act.

LOCAL AIR TRANSPORTATION

SEC. 14. Title IV of the Federal Aviation Act of 1958, as amended by this Act, is further amended by adding at the end thereof the following new section:

"LOCAL AIR TRANSPORTATION

"Authority To Issue Certificates

"SEC. 420. (a) The Board shall issue a certificate to an applicant to engage in local air transportation of persons, property, and mail, if the Board determines that the applicant is fit, willing and able to perform properly local air transportation, to conform to the provisions of this Act and the rules, regulations, and requirements of the Board made or issued under this Act.

"Limitations

"(b) The Board shall not designate the geographical area, or the terminal or intermediate points, within or between which air transportation may be provided under a certificate issued under this section.

"Suspension and Revocation

"(c) The Board, upon application or upon its own motion, may suspend or revoke any certificate issued under this section, if the Board determines that the air carrier holding such certificate—

"(1) is no longer fit, willing, and able to properly perform the local air transportation authorized by such certificate; or

"(2) has intentionally failed to comply with any applicable provision of this title, or any order, regulation, or rule issued by the Board under this title.

Any interested party may file with the Board a protest or memorandum in favor of or in opposition to any such suspension or revocation of a certificate issued pursuant to this section.

"Termination of Service

"(d)(1) No air carrier providing local air transportation to any eligible point specified in subsection 419(c)(1) shall terminate, suspend, or reduce air transportation below that which the Board determines to be essential air transportation for that point, unless it shall have first given the Board, the community affected, and the State agency of the State in which such community is located, at least 90 days' notice of such proposed termination, suspension, or reduction, unless that essential air transportation is being provided to that point by another air carrier. During the 90-day period the Board shall make every reasonable effort to secure another air carrier holding either a certificate issued under section 401 or this section to provide essential air transportation to that point. If the Board determines that it will be unable to so secure another such air carrier within such 90 days, then it shall provide for the maintenance of essential air transportation to that point under the provisions of section 419(h).

"(2) With respect to any other point to which such an air carrier provides local aid transportation, the Board may, by rule, prescribe notice period (not longer than 30 days) to be adhered to by such air carrier when proposing to terminate or suspend local air transportation to that point.

"Nonapplicability of Certain Provisions

"(e) The following provisions of this title shall not apply to an air carrier which holds a certificate issued under this section and does not hold a certificate issued under section 401 or under section 421, or to the performance of local air transportation by any other air carrier holding a certificate issued under this section:

"(1) Sections 405(b), 407(b), 407(c), and, to the extent consistent with the public interest, 407(d).

"(2) Section 403, except the provisions of that section shall apply to—

"(A) tariffs for through rates, fares, and charges filed jointly with an air carrier or a foreign air carrier subject to the tariff filing requirements of such section 403;

"(B) tariffs, to the extent required by the Board, which relate to liability limitations with respect to persons or property in international air transportation; and

"(C) tariffs for rates, fares, and charges for the performance of essential air transportation, to the extent required by the Board under section 419.

"(3) Section 404(a), except—

"(A) such section shall apply to any essential air transportation provided under the provisions of section 419;

"(B) every air carrier shall at all times provide safe service, equipment, and facilities in connection with local air transportation; and

"(C) every air carrier shall observe just and reasonable joint rates, fares, and charges, and just and reasonable classifications, rules, regulations, practices as provided in tariffs specified by paragraph (2) to be filed jointly by such an air carrier with any other air carrier or foreign air carrier, and shall establish just, reasonable, and equitable divisions of such joint fares, rates, and charges as between air carriers participating therein which shall not unduly prefer or prejudice any such participating air carrier.

"(4) Section 404(b), except—

"(A) with respect to through service provided pursuant to tariffs specified by paragraph (2) to be filed jointly by such air carrier and any other air carrier or foreign air carrier; and

"(B) with respect to the provision of essential air transportation under the provisions of section 419.

"(5) Section 408 and 409 with respect to any air carrier which holds a certificate issued under this section and does not hold a certificate issued under section 401, except that this paragraph shall not be construed as relieving any other person who is subject to such sections from the obligations of those sections with respect to any relationships, transactions, contracts, or agreements they may have with any such air carrier.

"Limitations on Aircraft Size

"(f) An air carrier holding a certificate issued under this section shall provide or offer to provide local air transportation under that ceritficate only with an aircraft having a seating capacity of 36 passengers or less, and a maximum certificated gross takeoff weight of 40,000 pounds or less

"Local Air Transportation in Alaksa

"(g) An air carrier holding a certificate issued under this section shall not provide or offer to provide local air transportation under such certificate between points both of which are in the State of Alaska, or one of which is in the State of Alaska and the other in Canada, unless such air carrier also holds authority to provide such air transportation from the State of Alaska.

"Liability Insurance

"(h) Each air carrier holding a certificate issued under this section shall maintain in effect liability insurance as required by the Board.

"DEFINITION

"(i) For the purposes of this section, the term 'State' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands, unless specifically provided otherwise.".

Charter Certificates

SEC. 15. (a) Title IV of the Federal Aviation Act of 1958, as amended by this Act, is further amended by adding at the end thereof the following new section:

"CERTIFICATES FOR CHARTER AIR TRANSPORTATION

"General Provisions

"SEC. 421. (a) The Board shall issue a certificate under the provisions of this section authorizing, in whole or in part, the interstate or overseas charter air transportation specified in the application, if the Board determines that the applicant for that certificate is fit, willing, and able to perform properly the charter air transportation specified in the certificate; and to conform properly to the provisions of this Act, and the rules, regulations, and requirements issued or made by the Board under this Act. With respect to any certificate for which the application is filed with the Board before January 1, 1982, the Board, in addition to the determination specified in the preceeding sentence, shall determine that the charter air transportation specified in such certificate is consistent with the public convenience and necessity.

"Exception

"(b) During the 5-year period beginning on January 1, 1979, the Board shall not issue any certificate under this section to perform charter air transportation to any air carrier holding a crtificate of public convenience and necessity issued under section 401(d)(1) of this Act before January 1, 1977.

"Limitations

"(c) The Board shall attach to any certificate issued under this section, or any amendments thereto, such reasonable terms, conditions, or limitations as may be required in the public interest, but the Board shall not designate the geographical area, or the terminal or intermediate points, within or between which service may be rendered.

"Continuity

"(d)(1) Any air carrier who, on December 31, 1978, held a certificate issued under section 401(d)(3) (as that subsection read on December 31, 1978) to engage in interstate or overseas supplemental air transportation

shall continue to hold such certificate of public convenience and necessity authorizing that air carrier to engage in interstate or overseas charter air transportation. Such certificate shall continue to confer all of the authority, rights, and privileges conferred by such certificate on June 30, 1978, and such air carriers shall continue to be subject to all of the provisions of such certificate, except that such certificate shall include the authority to transport mail in interstate or overseas air transportation.

"(2) Any reference in any law, rule, regulation, or document of the United States to a certificate of public convenience and necessity for supplemental air carriers, shall be deemed to include certificates issued under this section.

"Charter Air Transportation in Alaska

"(e) Notwithstanding any other provision of this title, no certificate issued under this section shall authorize the holder thereof to provide charter air transportation between two points within the State of Alaska unless, and then only to the extent to which, the Board, in issuing or amending such certificate, may authorize after determining that such charter air transportation is required by the public convenience and necessity. This subsection shall not apply to a certificate issued under this section to a person who, before July 1, 1977, maintained its principal place of business within the State of Alaska and conducted air transport operations between points within the State of Alaska with aircraft having a certificated gross takeoff weight of more than 40,000 pounds.".

GENERAL PROVISIONS

SEC. 16. Title IV of the Federal Aviation Act of 1958, as amended by this Act, is further amended by inserting at the end thereof a new section to read as follows:

"GENERAL PROVISIONS

"Certificate Required

"SEC. 422. (a)(1) Except as specifically provided in this title, or exempted from the provisions of this title by the Board under section 416, no air carrier shall engage in any air transportation unless there is in force for that air carrier either a certificate issued by the Boad under section 401, 418, 420, or 421 authorizing such air carrier to engage in the air transportation specified in such certificate.

"(2) Except as specifically provided in this title, an air carrier holding or applying for any certificate under this title, or exempted from any provision of this Act, may hold or apply for any certificate or exemption under this Act.

"Applications for Certificates

"(b) Each application for a certificate shall be made in writing to the Board and shall be in such form and contain such information, and be accompanied by such proof of service upon such interested parties, as the Board, by regulation, shall require, and upon the community affected and the State agency of the State in which such community is located.

"Notice of Applications

"(c) Upon receiving an application for a certificate, the Board shall give notice thereof to the public by posting a notice of that application in the office of the secretary of the Board, and to such other interested parties as the Board, by regulation, may determine. Any interested person may file with the Board a protest or memorandum of opposition to or in support of the issuance of a certificate.

"Schedules and Equipment

"(d) Except as provided in section 419, no term, condition, or limitation of a certificate shall restrict the right of the holder thereof to add to or change schedules, equipment, accommodations, and facilities for performing the authorized air transportation and services as the development of the business and the demands of the public require.

"Control of Domestic Tour Operators

"(e) It shall be unlawful for any air carrier, or foreign air carrier, directly engaged in the operation of aircraft, to be engaged in, or to control, be controlled by, or be under common control with any person engaged in selling or organizing charter trips in interstate or overseas air transportation, or in United States originating foreign air transportation.

"Effective Date of Certificates

"(f) Each certificate issued under this title shall be effective from the date specified therein, and shall continue in effect until suspended or revoked as provided in this title, or until the Board certifies that operation thereunder has ceased, or, if issued for a limited period, shall continue in effect until the expiration of that period, unless, before the date of expiration, such certificate is suspended or revoked as provided in this title, or the Board certifies that operations thereunder have ceased.

"Authority to Modify, Suspend, or Revoke

"(g)(1) The Board upon petition or complaint or upon its own initiative, may alter, amend, modify, or suspend any certificate issued under section 401 or 421, in whole or in part, if the public interest so requires, or may revoke any such certificate, in whole or in part, for intentional failure to comply with any provision of this title or any order, rule, or regulation issued hereunder or any term, condition, or limitation of such certificate, except that no such certificate shall be revoked unless the holder thereof fails to comply, within a reasonable time to be fixed by the Board, with an order of the Board commanding obedience to the provision, or to the order (other than an order issued in accordance with this proviso), rule, regulation, term, condition, or limitation found by the Board to have been violated. Any interested person may file with the Board a protest or memorandum in support of or in opposition to the alteration, amendment, modification, suspension, or revocation of the certificate.

"(2) In any case where the Board has issued a certificate under section 401 on the basis that the air carrier holding such certificate will provide either innovative or low priced air transportation under such certificate, the Board, upon petition or its own motion, may review the performance of such air carrier, and may alter, amend, modify, suspend, or revoke such certificate or authority (in the same manner as otherwise provided under this subsection) on the grounds that such air carrier has not provided, or is not providing, such air transportation.

"Transfers Prohibited

"(h) No certificate may be transferred by any means unless such transfer is incidental to the transaction specified in, and is in compliance with, the provisions of section 408 of this Act.

"Certain Rights Not Conferred by Certificate

"(i) No certificate shall confer any proprietary, property, or exclusive right in the use of any airspace, Federal airway, landing area, or air-navigation facility.

"Compliance With Labor Legislation

"(j)(1) Every air carrier shall maintain rates of compensation, maximum hours, and other working conditions and relations of all of its pilots and copilots who are engaged in interstate air transportation within the continental United States (excluding Alaska) so as to conform with decision numbered 83 made by the National Labor Board on May 10, 1934, notwithstanding any limitation therein as to the period of its effectiveness.

"(2) Every air carrier shall maintain rates of compensation for all of its pilots and copilots who are engaged in overseas or foreign air transportation or air transportation wholly within a territory or possession of the United States, the minimum of which shall be not less, upon an annual basis, than the compensation required to be paid under said decision 83 for comparable service to pilots and copilots engaged in interstate air transportation within the continental United States (excluding Alaska).

"(3) Nothing in this subsection shall be construed as restricting the right of any such pilots or copilots, or other employees, of any such air carrier to obtain by collective bargaining higher rates of compensation or more favorable working conditions or relations.

"(4) It shall be a condition upon the holding of a certificate by any air carrier that such carrier shall comply with title II of the Railway Labor Act, as amended.

"(5) The term 'pilot' as used in this subsection shall mean an employee who is responsible for the manipulation of or who manipulates the flight controls of an aircraft while underway including takeoff and landing of such aircraft, and the term copilot as used in this subsection shall mean an employee any part of whose duty is to assist or relieve the pilot in such manipulation, and who is properly qualified to serve as, and holds a currently effective airman certificate authorizing him to serve as, such pilot or copilot.

"Insurance and Liability

"(k)(1) No certificate shall be issued or remain in effect unless the applicant for such certificate or the air carrier, as the case may be, complies with regulations or orders issued by the Board governing the filing and approval of policies of insurance or plans for self-insurance, in the amount prescribed by the Board, conditioned to pay, within the amount of such insurance, amounts for which applicant or such air carrier may become liable for bodily injuries to or the death of any person, or for loss of or damage to property of others, resulting from the operation or maintenance of aircraft under such certificate.

"(2) In order to protect travelers and shippers by air craft operated by certificated air carriers, the Board may require any such air carrier to file a performance bond or equivalent security arrangement, in such amount and upon such terms as the Board shall prescribe, to be conditioned upon such air carrier's making appropriate compensation to such travelers and shippers, as prescribed by the Board, for failure on the part of such carrier to perform air transportation services in accordance with agreements therefor.

"Part Charter Limitation

"(l) In no event shall an air carrier providing air transportation under a certificate issued under section 401 commingle, on the same flight, passengers being transported in interstate or overseas charter air transportation with passengers being transported in scheduled interstate or overseas air transportation, except that this subsection shall not apply to the carriage of passengers in air transportation under group fare tariffs. The preceding sentence shall expire 5 years after the date of enactment of this subsection. Thereafter, certificated air carrier shall have the authority to sell on an individually ticketed basis up to 20 percent of the seats on any aircraft engaged in charter air transportation, so long as such sales are made within 15 days of the flight departure.

"Continuing Requirement

"(m) The requirement that each applicant for a certificate or any other authority under this title must be found to be fit, willing, and able to perform properly the transportation

covered by its application and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board under this Act, shall be a continuing requirement applicable to each such air carrier with respect to the transportation authorized by the Board. The Board shall by order, entered after notice and hearing, modify, suspend, or revoke such authority, in whole or in part, for failure of such air carrier to comply with the continuing requirement that the air carrier be so fit, willing, and able, or for failure to file such reports as the Board may deem necessary to determine whether such air carrier is so fit, willing, and able.

"Charter Regulations

"(n) Board regulations shall not restrict the marketability, flexibility, accessibility, or variety of charter trips whether provided under a certificate issued under section 401 or 421, except to the extent required by the public interest, and shall in no event be more restrictive than those regulations regarding charter air transportation in effect on July 1, 1977.".

FEDERAL PREEMPTION

SEC. 17. Title IV of the Federal Aviation Act of 1958, as amended by this Act, is further amended by adding at the end thereof the following new section:

"Federal Preemption

"SEC. 423. (a)(1) No State shall enact any law, establish any standard determining routes, schedules, or rates, fares, or charges in tariffs of, or otherwise promulgate economic regulations for, any air carrier certificated or exempted by the Board under the provisions of this title, except that any State which, on or before January 1, 1979, had authorized an air carrier to provide intrastate air transportation in that State, may continue to regulate such intrastate operations of such air carrier notwithstanding the fact that such air carrier, after January 1, 1979, is issued, for the first time, a certificate under this title, for so long as not less than 50 percent of the revenues of such air carrier is derived, during the most recent period for which data is available, from such intrastate operations. For the next year following such a period during which such an air carrier derived more than 50 percent of its revenues from interstate operations, and for each year thereafter, the entire air transportation operations of such air carrier shall be subject to regulation by the Board under this title. The Board shall provide regulations for allocating revenues of air carriers specified in the first sentence of this paragraph between intrastate and interstate air transportation operations.

"(2) When any air carrier which is specified in the first sentence of paragraph (1) becomes totally regulated by the Board, any authority received from the State to provide air transportation shall be considered to be part of its authority to provide air transportation received from the Board under this title, until modified, suspended, revoked, amended, or terminated as provided under this title.

"(3) Except with respect to air transportation authorized by the Board under a certificate issued under section 401 or, air transportation for which compensation may be paid under section 419, the provisions of paragraph (1) shall not apply to the air transportation of persons, property, or mail conducted wholly within the State of Alaska.

"(4) Any air carrier certificated by the Board under this title, and who enters into an agreement with an intrastate air carrier for the through handling of baggage or passengers, shall not, by reason of that agreement, be subject to regulation by any State. Neither shall such intrastate air carrier become subject to regulation by the Board by reason of entering into such an agreement. Nothing in this paragraph shall be construed, however, as affecting in any manner the Board's authority, otherwise conferred, over air transportation transactions covered by an agreement between air carriers, including agreements between interstate and intrastate air carriers for the through handling of baggage or passengers.

"(5) Any aircraft being used in flights (except flights between points in the State of Hawaii) in air transportation between points in the same State which, in the course of such flights, crosses a boundary between two States, or between the United States and any other country, or between a State and the beginning of the territorial waters of the United States shall not, by reason of crossing such boundary, be considered to be operating in interstate or overseas air transportation.

"Definition

"(b) For the purposes of this section, the term 'State' includes the several States of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories and possessions of the United States, any political subdivision of any State, and any agency or entity of two or more States.".

FARES AND PRACTICES

SEC. 18. (a) Section 1002(d) of the Federal Aviation Act of 1958 (49 U.S.C. 14(d)) is amended to read as follows:

"Fares and Practices

"(d)(1) Except as provided in paragraph (2), whenever, after notice and hearing, upon complaint or upon its own initiative, the Board determines that—

"(A) any individual or joint fare or charge demanded, charged, or collected, or received by any air carrier for scheduled interstate or overseas air transportation of persons;

"(B) any rate or charge demanded, charged, collected, or received by any air carrier for air transportation of property in the State of Hawaii, or air transportation of property in the State of Alaska; or

"(C) any clasification, rule, regulation, or practice affecting any rate, fare, or charge specified in subparagraph (A), or (B), or the value of service thereunder;

is or will be unjust or unreasonable, the Board shall determine the maximum and minimum rate, fare, or charge thereafter to be demanded, charged, collected, or received by such air carrier, or the lawful classification, rule, regulation, or practice affecting such rate, fare, or charge thereafter to be effective.

"(2) The Board may not—

"(A) determine any fare demanded, charged, collected, or received by an air carrier for interstate or over seas air transportation of persons (other than a fare demanded, charged, collected, or received by an air carrier for scheduled air transportation of persons in any city-pair market in which the air carrier transports 70 percent or more of the passenger air traffic, as determined by the Board) to be unjust or unreasonable on the basis that it is too high, unless after July 1, 1979, the fare is, on the date the tariff containing such fare is filed, more than 5 percent higher than the standard industry fare level for the same or essentially similar class of service, except that, while no increase within the limits specified in this subparagraph may be suspended, an increase in fares above the standard industry fare level shall be found unlawful if that increase results in a fare which is unduly preferential, unduly prejudicial, or unjustly discriminatory; or

"(B) determine any fare demanded, charged, collected, or received by an air carrier for interstate or overseas scheduled air transportation of persons to be unjust or unreasonable on the basis that it is too low, unless the fare is—

"(i) on the date the tariff containing such fare was filed, more than 35 percent below the standard industry fare level for the same or essentially similar class of service; or

"(ii) predatory.

In determining whether a fare for scheduled air transportation of persons is unjust or unreasonable on the basis that is too high, the Board shall take into consideration reasonably estimated or foreseeable future costs and revenues for a reasonably limited future period during which the fare at issue would be in effect.

"(3) Whenever, after notice of hearing, upon complaint, or upon its own initiative, the Board determines that any classification, rule, regulation, or practice affecting any individual or joint rate or charge demanded, charged, collected, or received by an air carrier for the interstate or overseas air transportation of property or affecting any fare or charge demanded, charged, collected, or received by an air carrier for the interstate or overseas charter air transportation of persons, or affecting the value of service thereunder, is or will be unjust or unreasonable, the Board shall determine and prescribe the lawful classification, rule, regulation, or practice thereafter to be effective.

"(4) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board determines that any individual or joint rate, fare, or charge demanded, charged, collected, or received by an air carrier for interstate or overseas air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder, is or will be unjustly discriminatory, or unduly preferential, or unduly prejudicial, or predatory, the Board shall alter the same to the extent necessary to correct such discrimination, preference, prejudice, or predatory practice and may order the air carrier to discontinue demanding, charging, collecting, or receiving the discriminnatory, preferential, prejudicial, or predatory rate, fare, or charge, charge, or enforcing the discriminatory, preferential, prejudicial, or predatory classification, rule, regulation, or practice.

"(5) In any Board proceeding under paragraph (2)(B), the party opposing any fare or charge on the basis that it is too low shall have the burden of proving that the fare or charge is too low.

"(6)(A) For the purposes of paragraph (2), 'standard industry fare level' means the fare level (as adjusted only in accordance with subparagraph (B)) in effect on July 1, 1977, for each class of service existing on that date, and in effect on the effective date of the establishment of each additional class of service established after July 1, 1977.

"(B) The Board shall, no less than semiannually, adjust each standard industry fare level specified in subparagraph (A) by increasing or decreasing such fare level, as the case may be, by the percentage change from the last previous period in the actual operating cost per available seat-mile for domestic scheduled service. In determining the standard, the Board shall make no adjustment to costs actually incurred.

"(C) By no later than July 1, 1978, the Board shall issue rules modifying the rules governing those classes of service in existence on July 1, 1977, which provide lower fare levels during off-peak periods, so as to expand the period of availability of such classes. The Board shall allow any air carriers to establish additional classes of service in accordance with the objectives of paragraph (c)(5) or as may be otherwise consistent with the public interest.

"(7) The Board may by rule increase the percentage specified in paragraph (2)(B).".

(b) Section 1002(e) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(e)), is amended to read as follows:

"Standards for Limited Fare Regulation

"(e) In exercising and performing its powers and duties under subsection (d) of this section, the Board shall take into consideration, among other factors—

"(1) the criteria set forth in section 102 of this Act;

"(2) the need in the public interest for adequate and efficient transportation of persons and property at the lowest cost consistent with the furnishing of such service;

"(3) as to maximum fares, the need of an air carrier for profits sufficient to enable the air carrier, under honest, economical, and efficient management, to provide adequate and efficient air transportation;

"(4) the effect of prices upon the movement of traffic;

"(5) the desirability of a variety of price and service options such as peak and off-peak pricing or other pricing mechanisms to improve economic efficiency and provide low-priced air service; and

"(6) the desirability of allowing an air carrier to determine its prices in response to particular competitive market conditions on the basis of each air carrier's individual costs.".

SUSPENSION OF RATES, FARES, AND CHARGES

SEC. 19. The last sentence of section 1002 (g) of the Federal Aviation Act of 1958 (49 U.S.C. 1482(g)) is amended to read as follows: "The Board may not suspend or reject any proposed tariff—

"(1) because of a proposed fare contained in the tariff if such fare is within the percentage limits specified by subparagraph (A) (other than a fare for air transportation to which the percentage limitations of subparagraph (A) are not applicable) or (B)(i) of subsection (d)(2), or specified by the Board under subsection (d)(7);

"(2) containing a fare outside of the limits specified in subparagraph (A) or (B)(i) of subsection (d)(2), or specified by the Board under subsection (d)(7), because of a proposed fare or charge contained in the tariff, unless the Board is authorized under subsection 1002(d) of this Act to find the proposed rate, fare, or charge unlawful; or

"(3) containing a fare outside of the limits referred to in clause (2) of this sentence, on the basis that a proposed fare or charge contained in the tariff is too low, unless the Board first finds there is a substantial probability that the proposed fare or charge will be found unlawful under subsection 1002 (d).".

EXPEDITED PROCEDURES

SEC. 20. Title X of the Federal Aviation Act of 1958 is amended by inserting at the end thereof the following new section:

"EXPEDITED PROCEDURES

"Determination Regarding a Hearing

"SEC. 1010. (a) Whenever an application, complaint, or petition relating to interstate or overseas air transportation is filed with the Board under title IV of this Act (other than an application, complaint, or petition filed under section 408 or 409, an application specified in the first sentence of section 401 (a)(2), or an application, complaint, or petition for which a specific period of limitation or procedure is otherwise specifically provided), the Board shall, within 90 days after receiving such application, complaint, or petition, determine whether a specific provision of title IV or the public interest requires that the application, complaint, or petition be set for a hearing. During that 90 days the Board shall give interested persons an opportunity to participate in the decision of whether to set such application, complaint, or petition for a hearing through submission of written data, views, or arguments, but need not grant or offer an opportunity for oral presentation.

"Hearing Not Required

"(b)(1) If the Board determines, after considering any written data, views, or arguments submitted under the procedure provided in subsection (a), that a hearing is not required on such application, complaint, or petition, the Board shall issue an order, within 30 days after the date of its decision not to set the application, complaint, or petition for hearing, either granting or denying the application, complaint, or petition, or dismissing the application, complaint, or petition. Any order denying, granting, or dismissing an application, complaint, or petition shall clearly state the reasons of the Board for that decision, and shall be deemed to be a final order of the Board subject to judicial review.

"(2) If the Board determines that a specific provision of title IV or the public interest requires a hearing on an application, complaint, or petition, and that there are disputed issues of material fact, relating to such application, complaint, or petition, which require an oral evidentiary hearing to resolve, the Board shall proceed according to subsection (c). If the Board determines that a specific provision of title IV or the public interest requires a hearing on an application, complaint, or petition, but that there are no disputed issues of material fact which require an oral evidentiary hearing to resolve, the Board shall proceed according to subsection (d).

"Oral Evidentiary Hearing

"(c)(1) Whenever a specific provision of title IV or the public interest requires the Board to set an application, complaint, or petition for a hearing, and if the Board determines that there are disputed issues of material fact which require an oral evidentiary hearing to resolve, the Board shall set such application, complaint, or petition for an oral evidentiary hearing, at which each interested person will be entitled to present such evidence and testimony, and to conduct such cross-examination of persons as the Board determines to be appropriate, and required for a full and true disclosure with respect to such issues. Such hearings may be conducted by the Board, a member of the Board, or an administrative law judge.

"(2) The Board may prescribe such rules and make such rulings concerning proceedings in such hearings as may be necessary to avoid unnecessary costs or delay.

"(3) In a hearing held under this subsection, the Board, an administrative law judge, or Board member, as the case may be, shall issue an initial or recommended decision within 150 days after the date of the Board's decision that the application, complaint, or petition be set for an oral evidentiary hearing. If the Board does not act within 60 days after the initial or recommended decision is issued, the initial or recommended decision of the Board, administrative law judge, or Board member, as the case may be, shall become the final decision of the Board, subject to judicial review. If the Board takes review of the initial or recommended decision, the Board shall issue its final order with respect to such application, complaint, or petition within 90 days after the date such initial or recommended decision was issued.

"(4) Where the application, complaint, or petition raises one or more issues of unusual complexity or difficulty the Board may issue an order with a statement of the reason therefor, extending for not more than 30 days the period within which the Board administrative law judge, or Board member is required to issue an initial or recommended decision. In addition, the Board may extend any deadline stated in this section if delay results from the failure of an applicant, complainant, or petitioner to comply in a timely manner with procedural requirements of the Board, but the extension shall be for a period not to exceed the time of such delay.

"Show Cause Order

"(d)(1) Notwithstanding that a specific provision of this Act or the public interest requires the Board to set an application, complaint, or petition for a hearing, the Board may by order, entered after notice and opportunity for interested persons to file appropriate written evidence and arguments as it shall by rule provide, dispense with an oral evidentiary hearing and proceed to final decision, with or without an opportunity for further written or oral argument before the Board, in any case where it finds on the basis of the record before it, and of facts of which it is entitled to take notice under its rules of procedure, that there are no significant disputed issues of material fact which require an oral evidentiary hearing to resolve. In such case, the Board shall, on its own initiative or at the request of an interested party, first issue an order to show cause, describing specifically the action it proposes to take, setting forth its tentative findings of fact and conclusions of law in support of such action, requiring any interested party opposed to such action to show cause why such action should not be taken, and if such party requests an oral evidentiary hearing, why such a hearing is necessary to determine significant disputed issues of material fact and why any relevant and material facts the party proposes to adduce cannot be adequately placed into the record by written submissions or other means. Upon receipt of answers to its order to show cause, the Board shall proceed to final decision in the case, or set the case down for an oral evidentiary hearing.

"(2) With respect to applications, complaints, or petitions pertaining to interstate or overseas air transportation processed pursuant to this subsection, final decisions shall be rendered within not more than 180 days after the date the application, complaint, or petition was filed, and decisions to set down for oral evidentiary hearing shall be made within not more than 120 days after the date the application, complaint, or petition was filed.

"Hearing for Revocations or Suspension

"(e) Notwithstanding subsection (d), any air carrier may obtain an oral evidentiary hearing, if requested in a timely manner, in any proceeding related to the suspension or revocation of its certificate.

"Complaints of Civic Parties

"(f) Notwithstanding the provisions of this section, or of any other provision which applies periods of limitation on the Board, whenever a complaint is filed with the Board by a civic party under section 1002(d)(4), the Board shall, grant, deny, or dismiss such complaint within 90 days after such complaint was filed.

"Response to Applications, Complaints and Petitions

"(g) Notwithstanding any other provision of law, each time the Board grants, denies, or dismisses an application, complaint, petition, or other document requesting Board action, the Board shall state the reasons for so granting, denying, or dismissing such application, complaint, petition, or document in response to the action requested, except that the Board may dismiss an application, complaint, petition or other document for failure to comply with the procedures of the Board.".

EXISTING DETERMINATIONS

SEC. 21. All orders, determinations, rules, regulations, permits, contracts, certificates, rates, and privileges which have been issued, made, or granted, or allowed to become effective, by the President, the Civil Aeronautics Board, or the Postmaster General, or any court of competent jurisdiction, under any provision of law repealed or amended by

this Act, or in the exercise of duties, powers, or functions, which ahe vested in the Board, and which are in effect at the time this Act takes effect, shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Board, or by any court of competent jurisdiction, or by operation of law.

EMPLOYEE PROTECTION PROGRAM

SEC. 22. (a) GENERAL RULE.—The Secretary of Labor is authorized to make monthly assistance payments, or reimbursement payments, in amounts computed according to the provisions of this section, to each individual who the Secretary finds, upon application, to be an eligible protected employee. An eligible protected employee shall be a protected employee who (1) has been deprived of employment, or (2) has been adversely affected with respect to his compensation, on account of a qualifying dislocation.

(b) MONTHLY ASSISTANCE COMPUTATION.—(1) An eligible protected employee may receive a monthly assistance payment, for each month in which he is an eligible protected employee, in an amount computed by the Secretary. The Secretary, after consultation with the Secretary of Transportation, shall by rule, promulgate guidelines to be used by him in determining the amount of each monthly assistance payment to be made to a member of each craft and class of protected employees, and what percentage of salary such payment shall constitute for each applicable class or craft of employees. In computing such amounts for any individual protected employee, the Secretary shall deduct from such amounts the full amount of any unemployment compensation received by the protected employee.

(2) If an eligible protected employee is offered reasonably comparable employment, and such employee does not accept such employment, then such employee's monthly assistance payment under this section shall be reduced to an amount which such employee would have been entitled to receive if such employee had accepted such employment. If the acceptance of such comparable employment would require relocation, such employee may elect not to relocate and, in lieu of all other benefits provided herein, to receive the monthly assistance payments to which he would be entitled if this paragraph were not in effect, except that the total number of such payments shall be the lesser of three or the number remaining pursuant to the maximum provided in subsection (e).

(c) ASSISTANCE FOR RELOCATION.—If an eligible protected employee relocates in order to obtain other employment, such employee may receive reasonable moving expenses (as determined by the Secretary) for himself and his immediate family. In addition, such employee may receive reimbursement payments for any loss resulting from selling his principal place of residence at a price below its fair market value (as determined by the Secretary) or any loss incurred in canceling such employee's lease agreement or contract of purchase relating to his principal place of residence.

(d) DUTY TO HIRE PROTECTED EMPLOYEES.—(1) Each person who is a protected employee of an air carrier which is subject to regulation by the Civil Aeronautics Board who is furloughed or otherwise terminated by such an air carrier on account of a qualifying dislocation shall have first right of hire, in order of seniority and regardless of age, in his occupational specialty, by any other air carrier hiring additional employees which held a certificate issued under section 401 of the Federal Aviation Act of 1958 prior to the effective date of this section. Each such air carrier hiring additional employees shall have a duty to hire such a person before they hire any other person, except that such air carrier may recall any of its own furloughed employees before hiring such a person. Any employee who is furloughed or otherwise terminated on account of a qualifying dislocation, and who is hired by another air carrier under the provisions of this subsection, shall retain his rights of seniority and right of recall with the air carrier that furloughed or terminated him.

(2) Beginning on the date on which monthly assistance payments under this section begin, the Secretary shall establish, maintain, and periodically publish a comprehensive list of jobs available with air carriers certificated under section 401 of the Federal Aviation Act of 1958. Such list shall include that information and detail, such as job descriptions and required skills, the Secretary deems relevant and necessary. In addition to publishing the list, the Secretary shall make every effort to assist an eligible protected employee in finding other employment. Any individual receiving monthly assistance payments, moving expenses, or reimbursement payments under this section shall, as a condition to receiving such expenses or payments, cooperate fully with the Secretary in seeking other employment. In order to carry out his responsibilities under this subsection, the Secretary may require each such air carrier to file with the Secretary the reports, data, and other information necessary to fulfill his duties under this subsection.

(3) In addition to making monthly assistance or reimbursement payments under this section, the Secretary shall encourage negotiations between air carriers and representatives of eligible protected employees with respect to rehiring practices and seniority.

(e) PERIOD OF MONTHLY ASSISTANCE PAYMENTS.—(1) Monthly assistance payments computed under subsection (b) for a protected employee who has been deprived of employment shall be made each month until the recipient obtains other employment, or until the end of the 36 months occurring immediately after the month such payments were first made to such recipient, whichever first occurs.

(2) Monthly assistance payments computed under subsection (b) for a protected employee who has been adversely affected relating to his compensation shall be paid for no longer than 36 months, so long as the total number of monthly assistance payments made under this section for any reason do not exceed 36.

(f) RULES AND REGULATIONS.—(1) The Secretary may issue, amend, and repeal such rules and regulations as may be necessary for the administration of this section.

(2) All rules and regulations shall be submitted to the Congress on the date that they are proposed by the Secretary. Such rules and regulations shall become effective 60 legislative days after the date they were submitted to the Congress, unless during the 60-day period either House adopts a resolution stating that that House disapproves such rules or regulations, except that such rules or regulations may become effective on the date, during such 60-day period, that a resolution has been adopted by both Houses stating that the Congress approves of them.

(3) For purposes of this subsection, the term "legislative day" means a calendar day on which both Houses of Congress are in session.

(g) AIRLINE EMPLOYEES PROTECTIVE ACCOUNT.—All payments under this section shall be made by the Secretary from a separate account maintained in the Treasury of the United States to be known as the Airline Employees Protective Account. There is authorized to be appropriated to such account annually, beginning with the fiscal year ending September 30, 1979, such sums as are necessary to carry out the purposes of this section, including amounts necessary for the administrative expenses of the Secretary related to carrying out the provision of this section.

(h) DEFINITIONS.—For the purposes of this section—

(1) The term "protected employee" means a person who, on the date of enactment of this section, has been employed for at least 4 years by an air carrier holding a certificate issued under section 401 of the Federal Aviation Act of 1958. Such term shall not include any members of the Board of Directors or officers of a corporation.

(2) The term "qualifying dislocation" means a bankruptcy or major contraction of an air carrier holding a certificate under section 401 of the Federal Aviation Act of 1958, occurring during the first 10 complete calendar years occurring after the date of enactment of the Air Transportation Regulatory Reform Act of 1978, the major cause of which is the change in regulatory structure provided by the Air Transportation Regulatory Reform Act of 1978, as determined by the Civil Aeronautics Board.

(3) The term "Secretary" means the Secretary of Labor.

(4) The term "major contraction" means a reduction by at least 15 percent of the total number of full-time employees of an air carrier within a 12-month period. Any particular reduction of less than 15 percent may be found by the Board to be part of a major contraction of an air carrier if the Board determines that other reductions are likely to occur such that within a 12-month period in which such particular reduction occurs the total reduction will exceed 15 percent. In computing a 15-percent reduction under this paragraph, the Board shall not include employees who are deprived of employment because of a strike.

(i) TERMINATION.—The provisions of this section shall terminate on the last day the Secretary is required to make a payment under this section.

LOAN GUARANTY

SEC. 23. The Act entitled "An Act to provide for Government guaranty of private loans to certain air carriers for purchase of modern aircraft and equipment, to foster the development and use of modern transport aircraft by such carriers and for other purposes", approved September 7, 1957 (49 U.S.C. 1324 note), is amended as follows:

(1) (A) Section 3 of such Act is amended by inserting in the first sentence after the words "by such lender" the following: "to any air carrier holding a certificate to engage in local air transportation from the Civil Aeronautics Board or".

(B) Section 3 of such Act is further amended by deleting in the first sentence the word "wholly" and inserting the following in lieu thereof: "the major portion of which is conducted".

(2) Section 4(c) of such Act is amended by striking out "10" and inserting in lieu thereof "15".

(3) Section 4(d) of such Act is amended by striking out "$30,000,000" and inserting in lieu thereof "$100,000,000".

(4) Section 3 of such Act is amended by striking out "twenty" and inserting in lieu thereof "25".

AIRPORT AND AIRWAY DEVELOPMENT ACT AMENDMENTS

SEC. 24. Section 11 of the Airport and Airway Development Act (49 U.S.C. 1711) is amended as follows:

(1) Paragraph (1) of such section 11 is amended to read as fo'lows:

"(1) 'air carrier airport' means—

"(A) an airport which, on December 31, 1978, was an air carrier airport (as that term was defined on that date); and

"(B) an existing public airport regularly served, or a new public airport which the Secretary determines will be regularly served,

by an air carrier certificated by the Civil Aeronautics Board under section 401 of the Federal Aviation Act of 1958, and a commuter airport.".

(2) Paragraph (7) of such section 11 is amended by (A) striking out "401(a)" and inserting in lieu thereof "422(a)"; and (B) inserting "or operating under a certificate issued by the Civil Aeronautics Board under section 420 of such Act," immediately after "1958".

MISCELLANEOUS

SEC. 25. The table of contents for the Federal Aviation Act of 1958 is amended as follows:

(a) Strike out "Sec. 102. Declaration of policy: The Board." and insert in lieu thereof the following item:

"Sec. 102. Declaration of policy: The Board.
"(a) Interstate and overseas air transportation.
"(b) All-cargo air transportation.
"(c) Foreign air transportation.".

(b) Immediately after "Sec. 104. Public right of transit." insert the following new item:

"Sec. 105. Safety study.
"(a) Policy.
"(b) Regulations and inspection procedures.
"(c) Report to Congress.".

(c) The item for section 401 is amended to read as follows:

"Sec. 401. Certificate of public convenience and necessity.
"(a) Certificates.
"(b) Interstate and overseas air transportation.
"(c) Foreign air transportation.
"(d) Guidelines for determining the public convenience and necessity.
"(e) Limitations.
"(f) Conditions of foreign air transportation.
"(g) Emergency operations.
"(h) Terminations, reductions, and suspensions of service.
"(i) Dormant authority.
"(j) Closed-door restrictions.
"(k) Automatic market entry.
"(l) Civil reserve air fleet.
"(m) Charters.".

(d) The item for section 412(a) is amended to read as follows:

"(a) Filing of agreements affecting foreign air transportation required.".

(e) The item for section 412 is further amended by inserting at the end thereof the following:

"(c) Filing and approval of agreements affecting interstate or overseas air transportation.".

(f) The item for section 414 is amended to read as follows:

"Sec. 414. Immunity conferred ".

(g) Immediately after the item for section 418 insert the following new items:

"Sec. 419. Compensation of essential air transportation.
"(a) Authority to provide compensation.
"(b) Air carrier eligibility.
"(c) Points eligible for compensation.
"(d) Addition of eligible points.
"(e) Applications for and review of compensation.
"(f) Competing applications.
"(g) Essential air transportation.
"(h) Guarantee of essential air transportation and terminations.
"(i) Definition.

"Sec. 420. Local air transportation.
"(a) Authority to issue certificates.
"(b) Limitations.
"(c) Suspension and revocation.
"(d) Termination of service.
"(e) Nonapplicability of certain provisions.
"(f) Limitations of aircraft size.



"(g) Local air transportation in Alaska.
"(h) Liability insurance.
"(i) Definition.

"Sec. 421. Certificates for charter air transportation.
"(a) General provisions.
"(b) Exception.
"(c) Limitations.
"(d) Continuity.
"(e) Charter air transportation in Alaska.

"Sec. 422. General provisions.
"(a) Certificate required.
"(b) Applications for certificates.
"(c) Notice of applications.
"(d) Schedules and equipment.
"(e) Control of domestic tour operators.
"(f) Effective date of certificates.
"(g) Authority to modify, suspend, or revoke.
"(h) Transfers prohibited.
"(i) Certain rights not conferred by certificate.
"(j) Compliance with labor legislation.
"(k) Insurance and liability.
"(l) Part charter limitation.
"(m) Continuing requirement.
"(n) Charter regulations.

"Sec. 423. Federal preemption.
"(a) Federal preemption.
"(b) Definition."

(h) The item for section 1002(d) is amended to read as follows:

"(d) Fares and practices.".

(i) The item for section 1002(e) is amended to read as follows:

"(e) Standards for limited fare regulation.".

(j) Immediately after "Sec. 100. Joinder of parties." insert the following new item:

"Sec. 1010. Expedited procedures.
"(a) Determination regarding a hearing.
"(b) Hearing not required.
"(c) Oral evidentiary hearing.
"(d) Show cause order.
"(e) Hearing for revocations or suspensions.
"(f) Complaints of civic parties.
"(g) Response to applications, complaints, and petitions."

(k) The last sentence of subsection 407(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1377(b)) is repealed.

(l) Section 404(a)(1) of the Federal Aviation Act of 1958 is amended by striking out "rates, fares, and charges,", each place it appears, and inserting in lieu thereof, in each such place, "fares and charges,".

EFFECTIVE DATE

SEC. 23. (a) Except as provided in subsection (b), this Act, and the amendments made by this Act, shall take effect January 1, 1979.

(b) Sections 4, 23, 24, and 26 of this Act shall take effect on the date of enactment of this Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CANNON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 2493.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, not to extend beyond 30 minutes, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MESSAGES FROM THE HOUSE

At 3:45 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 482. A bill to direct the Secretary of the Interior to purchase and hold certain lands in trust for the Zuni Indian Tribe of New Mexico; to confer jurisdiction on the Court of Claims with respect to land claims of such tribe; and to authorize such tribe to purchase and exchange lands in the States of New Mexico and Arizona.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 2452. A bill to authorize funds for the Hubert H. Humphrey Institute of Public Affairs and for the Everett McKinley Dirksen Congressional Leadership Research Center.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3994. An act for the relief of Charles P. Abbott;

H.R. 4243. An act to authorize the Secretary of the Interior to convey certain lands in Placer County, California, to Mrs. Edna C. Marshall, and for other purposes;

H.R. 7588. An act to confirm a conveyance of certain real property by the Southern Pacific Railroad Company to M. L. Wicks;

H.R. 7971. An act to validate the conveyance of certain land in the State of California by the Southern Pacific Transportation Company;

H.R. 8588. An act to reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes;

H.R. 11400. An act to authorize the appropriation of specified dollar amounts for each of the National Science Foundation's major program areas (and certain subprograms), and to provide requirements relating to periods of availability and transfers of the authorized funds;

H.R. 11465. An act to authorize appropriations for the United States Coast Guard for fiscal year 1979, and for other purposes; and

H.R. 11495. An act to authorize research, development, and demonstration projects relating to aviation, and for other purposes.

## HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 3994. An act for the relief of Charles P. Abbott; to the Committee on the Judiciary.

H.R. 4243. An act to authorize the Secretary of the Interior to convey certain lands

in Placer County, California, to Mrs. Edna C. Marshall, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 7588. An act to confirm a conveyance of certain real property by the Southern Pacific Railroad Company to M. L. Wicks; to the Committee on Energy and Natural Resources.

H.R. 7971. An act to validate the conveyance of certain land in the State of California by the Southern Pacific Transportation Company; to the Committee on Energy and Natural Resources.

H.R. 8588. An act to reorganize the executive branch of the Government and increase its economy and efficiency by establishing Offices of Inspector General within the Departments of Agriculture, Commerce, Housing and Urban Development, the Interior, Labor, and Transportation, and within the Community Services Administration, the Environmental Protection Agency, the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Veterans' Administration, and for other purposes; to the Committee on Governmental Affairs.

H.R. 11400. An act to authorize the appropriation of specified dollar amounts for each of the National Science Foundation's major program areas (and certain subprograms), and to provide requirements relating to periods of availability and transfers of the authorized funds; to the Committee on Human Resources.

H.R. 11465. An act to authorize appropriations for the United States Coast Guard for fiscal year 1979, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 11495. An act to authorize research, development, and demonstration projects relating to aviation, and for other purposes to the Committee on Commerce, Science, and Transportation.

## HOUSE BILL JOINTLY REFERRED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 10822, an act to improve the operations of the national sea grant program, to authorize appropriations to carry out such program for fiscal years 1979 and 1980, and for other purposes, be jointly referred to the Committee on Commerce, Science, and Transportation, and the Committee on Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AUTHORITY FOR STAR PRINT OF SENATE CONCURRENT RESOLUTION 79

A star print was authorized for Senate Concurrent Resolution 79. disapproving proposed regulations of the Department of the Treasury requiring centralized registration of firearms and other matters. The Committee on Finance was discharged from further consideration, and the concurrent resolution was referred to the Committee on the Judiciary.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 2553. A bill to authorize appropriations for the fiscal year 1979 for certain maritime programs of the Department of Commerce, and for other purposes (Rept. No. 95–741).

By Mr. CANNON, from the Committee on Commerce, Science and Transportation, with an amendment:

S. 2552. A bill to amend the Act of July 19, 1940, relating to travel in the United States, to authorize additional appropriations (Rept. No. 95–742).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with an amendment and an amendment to the title:

S. 1829. A bill to provide for the establishment of the Jean Lafitte National Historical Park in the State of Louisiana, and for other purposes (Rept. No. 95–743).

By Mr. HATHAWAY (for Mr. BAYH), from the Select Committee on Intelligence, without amendment:

S. 2939. An original bill to authorize appropriations for Fiscal Year 1979 for intelligence activities of the U.S. Government, the Intelligence Community staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. No. 95–744).

By Mr. LONG, from the Committee on Finance, with amendments:

H.R. 6715. An act to correct technical and clerical mistakes in the tax laws (Rept. No. 95–745).

By Mr. LONG, from the Committee on Finance, with amendments and an amendment to the title:

H.R. 9251. An act relating to extensions of time for the existing tax treatment of certain items (Rept. No. 95–746).

By Mr. PELL, from the Committee on Finance, with amendments and an amendment:

S. Res. 219. A resolution establishing a senior citizen internship program in the Senate (Rept. No. 95–747).

By Mr. PELL, from the Committee on Rules and Administration, without amendment:

S. Res. 421. A resolution authorizing the printing of the committee print entitled "Voting Rights in Major Corporations" as a Senate document (Rept. No. 95–748).

S. Res. 437. An original resolution to pay a gratuity to Kristin T. Atkinson. Placed on the Calendar.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Benjamin R. Civiletti, of Maryland, to be Deputy Attorney General (together with separate views) (Ex. Rept. No. 95–17).

(The above nomination from the Committee on the Judiciary was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. EASTLAND, from the Committee on the Judiciary:

Donald E. Ziegler, of Pennsylvania, to be U.S. District Judge for the Western District of Pennsylvania.

Robert W. Sweet, of New York, to be U.S. District Judge for the Southern District of New York.

Gustave Diamond, of Pennsylvania, to be U.S. District Judge for the Western District of Pennsylvania.

By Mr. RANDOLPH, from the Committee on Environment and Public Works:

William E. Albers, of the District of Columbia, to be Alternate Federal Cochairman of the Appalachian Regional Commission.

(The above nomination from the Committee on Environment and Public Works was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PELL (for himself, Mr. MAGNUSON, Mr. HOLLINGS, and Mr. STEVENS):

S. 2938. A bill to improve the operations of the national sea grant program, to authorize appropriations to carry out such program for fiscal years 1979 and 1980, and for other purposes; to the Committee on Commerce, Science, and Transportation and the Committee on Human Resources jointly by unanimous consent.

By Mr. HATHAWAY (for Mr. BAYH), from the Select Committee on Intelligence:

S. 2939. A bill to authorize appropriations for Fiscal Year 1979 for intelligence activities of the United States Government, the Intelligence Community staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes; original bill reported and placed on the calendar.

By Mr. RIEGLE:

S. 2940. A bill to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MATHIAS:

S. 2941. A bill to amend the Internal Revenue Code of 1954 to provide that a married individual who files a separate return may be taxed at the same rate as an unmarried individual; to the Committee on Finance.

By Mr. GRIFFIN:

S. 2942. A bill for the relief of Hyong Cha Kim Kay; to the Committee on the Judiciary.

By Mr. CURTIS:

S. 2943. A bill to amend the Internal Revenue Code of 1954 with respect to refunding obligations; to the Committee on Finance.

By Mr. GRAVEL:

S. 2944. A bill to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, National Forest and National Wilderness Preservation Systems, to establish a Federal-State Land Use Planning Commission, to establish procedures for the management of fish and wildlife on public lands in Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. TALMADGE (by request):

S. 2945. A bill to authorize civil penalties for violations of various laws for preventing the introduction and dissemination of livestock and poultry diseases, plant diseases, and plant pests; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2946. A bill to authorize the Secretary of Agriculture to relinquish exclusive legislative jurisdiction over lands or interests under his control; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2947. A bill to authorize the Secretary of Agriculture to regulate the exportation and transportation of animal semen; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2948. A bill to amend the Act of July 2, 1962, to authorize intrastate quarantines under extraordinary emergency conditions, to authorize United States marshals to serve warrants under the Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2949. A bill to repeal the Tobacco and Plant Exportation Act of 1940; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2950. A bill to repeal the statutes relating to the publishing of cotton price predictions in Government reports and the issuance of cotton crop reports; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2951. A bill to authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devices of real and personal property for the benefit of the Department of Agriculture or any of its programs; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2952. A bill to amend the Tobacco Inspection Act to consolidate, and provide additional authority for the Secretary of Agriculture to establish methods for efficient and equitable marketing of tobacco; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KENNEDY (for himself and Mr. WEICKER):

S. 2953. A bill to amend title 23 of the United States Code in order to improve transportation throughout the Nation; to the Committee on Environment and Public Works.

By Mr. FORD:

S. 2954. A bill to amend the Communications Act of 1934 in order to protect the rights of the general public in the television broadcasting of major sports events; to the Committee on Commerce, Science, and Transportation.

By Mr. RANDOLPH (for himself, Mr. STAFFORD, Mr. HEINZ, and Mr. WILLIAMS):

S.J. Res. 127. A joint resolution designating September 10 through September 17, 1978 as "National Rehabilitation Week"; to the Committee on the Judiciary.

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## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PELL (for himself, Mr. MAGNUSON, Mr. HOLLINGS, and Mr. STEVENS):

S. 2938. A bill to improve the operations of the national sea grant program, to authorize appropriations to carry out such program for fiscal years 1979 and 1980, and for other purposes; to the Committee on Commerce, Science, and Transportation and the Committee on Human Resources, jointly, by unanimous consent.

SEA GRANT COLLEGE PROGRAM AUTHORIZATION

● Mr. PELL. Mr. President, I am introducing today, on behalf of myself and Senators MAGNUSON, HOLLINGS, and STEVENS, legislation to authorize appropriations for the national sea grant college program for fiscal years 1979 and 1980.

As the author, with Representative PAUL ROGERS of Florida, of the legislation which established the sea grant college program in 1966, I have watched closely the development and accomplishments of the program. During the past 12 years, the sea grant college program, although operating on a modest budget, has played a significant role in developing the capabilities required to make more productive use of our Nation's rich marine and coastal resources.

Through programs of education, applied research and extension services, by Sea Grant Colleges and other participating institutions, the Sea Grant program has had a direct impact on our knowledge and productive use of marine resources.

Earlier this month, the Subcommittee on Education, Arts and Humanities of the Human Resources Committee, and the Committee on Commerce, Science and Transportation, conducted a joint oversight hearing on the Sea Grant program.

The legislation being introduced today, based on that hearings, provides a modest increase in funding levels, and makes other minor adjustments in the program to make it even more effective.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2938

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the title heading of title II of the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1101 et seq.) is amended to read as follows:

"TITLE II—NATIONAL SEA GRANT COLLEGE PROGRAM."

SEC. 2. Section 201 of the National Sea Grant Program Act (33 U.S.C. 1121) is amended by inserting "College" immediately before "Program".

SEC. 3. The National Sea Grant College Program Act (as redesignated by section 2 of this Act) (33 U.S.C. 1121–1131) is amended—

(1) by amending section 204(d)—

(A) by striking out "and" at the end of paragraph (5),

(B) by redesignating paragraph (6) as paragraph (7), and

(C) by inserting immediately after paragraph (5) the following new paragraph:

"(6) accept funds from other Federal departments, agencies (including agencies within the Administration), and instrumentalities to pay for grant made, and contracts entered into, by the Secretary under section 25(a); and";

(2) by striking out the period at the end of the last sentence of section 205(a) and inserting in lieu thereof the following: ", except that this limitation shall not apply in the case of grants or contracts paid for with funds accepted by the Secretary under section 204(d)(6).";

(3) by amending the first sentence of section 26(c) to read as follows:

"There are authorized to be appropriated for purposes of carrying this section not to exceed the following amounts:

"(1) $5,000,000 for each of fiscal years 1977, 1978, and 1979.

"(2) $7,000,000 for fiscal year 1980.";

(4) by amending section 211—

(A) by striking out "ANNUAL" in the section heading and inserting in lieu thereof "BIENNIAL",

(B) by amending subsection (a) to read as follows:

"(a) BIENNIAL REPORT. The Secretary shall submit to the Congress and the President, not later than February 15, 1980, and not later than February 15 of every even numbered year thereafter, a report on the activities of, and the outlook for, the national sea grant program."; and

(C) by amending the last sentence of subsection (b) to read as follows: "Such material shall be submitted to the Secretary not later than February 1 of the year in which the report concerned is to be submitted under subsection (a), and the Secretary shall cause it to be published as a separate section in such report."; and

(5) by amending the first sentence in section 212 to read as follows:

"There are authorized to be appropriated for purposes of carrying out the provisions of this title (other than section 206) not to exceed the following amounts:

"(1) $50,000,000 for each of fiscal years 1977 and 1978.

"(2) $55,000,000 for each of fiscal years 1979 and 1980.".

SEC. 4. Section 3 of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a) is amended by amending the first sentence of subsection (c) to read as follows:

"There are authorized to be appropriated for purposes of carrying out this section not to exceed the following amounts:

"(1) $3,000,000 for each of fiscal years 1977, 1978, and 1979.

"(2) $5,000,000 for fiscal year 1980.".

● Mr. HOLLINGS. Mr. President, I take great pleasure in cosponsoring this legislation today reauthorizing the Sea Grant program in the National Oceanic and Atmospheric Administration. This program, which is in its 12th year, is quite unique; it combines applied research, education and training, and advisory services in the marine affairs field, utilizing the expertise of our university and college systems to assist marine industries and other marine interests.

The legislation we are introducing today carries with it a 2 year authorization, and a modest increase in funding levels. In addition, two minor amendments are proposed: First, adding the term "College" to the title of the program; and second, providing a passthrough authority for funds from other programs within the National Oceanic and Atmospheric Administration. Sea Grant is in an unusual position within NOAA to assist other programs in the agency to utilize the experience, knowledge, and facilities of the Sea Grant college network to produce greater benefits and better knowledge for everyone.

I am delighted to join my colleague from Rhode Island in cosponsoring this legislation, and look forward to many more years of fruitful effort on the part of the Sea Grant program.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill introduced by the Senator from Rhode Island (Mr. PELL) dealing with authorizing appropriations to carry out the national sea-grant program for fiscal years 1979–1980, be jointly referred to the Committee on Commerce, Science, and Transportation and the Committee on Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

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By Mr. RIEGLE:

S. 2940. A bill to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other

purposes; to the Committee on Commerce, Science, and Transportation.

FEDERAL RAILROAD SAFETY AUTHORIZATION ACT OF 1978

● Mr. RIEGLE. Mr. President, I am introducing today S. 2940 which is a combination bill containing the authorization for fiscal year 1979 for the Federal Railroad Administration, as well as a number of needed rail safety amendments. The Nation's accidents, injuries and deaths continue to be at an unacceptable level. Much of the blame is on the state of disrepair of the facilities, rolling stock and track conditions. Track defects were the cause of twice the number of accidents than any other cause in 1977. Almost one-fourth of the Nation's track is under slow orders, meaning that the track is substandard. The estimated figure for deferred maintenance is $6.6 billion at present. Something has to be done before it is too late and the rail system in the country becomes nonexistent.

The first portion of this bill authorizes the sum of $37,725,000 for FRA's budget for fiscal year 1979 broken down as follows:

First. For the Office of Safety, 600 safety inspectors (including 100 track inspectors and 45 signal and train control inspectors) and 125 clerical personnel not to exceed $20,725,000. Such funds shall be available for travel expenses of safety inspectors for not less than 20 days per month.

Second. $3,500,000 is authorized for the State program under the Rail Safety Act which is the same amount as has been authorized in previous years.

Third. $3,500,000 for salaries and expenses not otherwise provided for, which is the same as authorized in prior years.

Fourth. $10,000,000 for conducting safety research and development activities.

There are limitations on funding contained in the proposed bill requiring that at least 50 percent of the funds for railroad research and development shall be for safety research, improved track inspection and data acquisition technology, improved rail freight service, and improved passenger systems. In addition, funds for any railroad research and development program shall not exceed the funds allotted for railroad safety research.

The bill also clears up confusion created by two opposite court decisions in defining the term "designated terminal" under the Hours of Service Act. Designated terminal is defined as the home terminal and the away from home terminal for the assignment of a particular crew. In addition, the hours of service for a railroad worker is reduced to 10 hours per day starting 2 years from the effective date of this law.

Section 6 of the bill limits the length of a freight train to 4,300 feet, exclusive of the caboose. Studies have shown that the length of the train has direct correlation between accidents and efficiency. At present, the average length of a freight car is approximately 56½ feet, which would mean that a train could contain up to 75 cars. At present, the average number of cars in a train is 67.

Section 7 is designed to protect a railroad employee who is discharged, harassed or discriminated against where he notifies the secretary of an alleged violation or danger; has filed or instituted any proceeding resulting from any alleged violations of the safety laws; has testified in any safety proceeding; has refused to operate defective equipment or refused to work in an area or surroundings where he reasonably believes there is present an imminent danger to his safety and health.

The final section creates an Office of Occupational Safety and Health to administer the occupational safety and health functions of the FRA. The sum of $9,000,000 for salaries and expenses for up to 200 inspectors, and 40 clerical personnel are authorized. In addition, funds shall be available for travel expenses for such inspectors for not less than 20 days per month.●

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By Mr. MATHIAS:

S. 2941. A bill to amend the Internal Revenue Code of 1954 to provide that a married individual who files a separate return may be taxed at the same rate as an unmarried individual; to the Committee on Finance.

MARRIAGE TAX

● Mr. MATHIAS. Mr. President, I am introducing today a bill to permit married persons the option of filing their tax returns under the same tax rate as are applicable to single individuals.

Each year, more and more married couples find it necessary for both spouses to contribute to family income. Under the pressures of inflation, one income is becoming increasingly inadequate for many families. In addition, many more women than previously, both single and married, are pursuing careers as part of a general movement toward the improvement of the economic, social, and professional status of women.

I speak in behalf of what, in quintessential tax lingo, is termed the "two-earner couple." Under our present income tax laws, when both husband and wife work, they expose themselves to higher tax rates than those for single persons or for married couples where only one person works. What's worse, while people on every side blame society's ills on the breakup of the family, these "two-earner couples" are advised by tax consultants that they could save money by divorcing and simply continuing to live together.

It is a great shock for these people to discover that Congress has imposed on them a tax penalty solely based on matrimony. The two-income married couples find that they must pay sharply higher Federal income taxes than if they were single earning the same incomes—even living together on those same incomes. Single workers are shocked to learn that if they were to get married their tax liability would increase under existing law, even if their incomes and expenses remain the same. Such a result is so irrational that many people find it hard to believe that it exists; yet it actually does exist under the present Federal law.

The marriage tax affects people of all income levels. Two married workers, for example, employed at about the minimum wage—$4200 per year each—must pay a marriage tax penalty of $191 over the Federal income taxes they would pay if they were single. Mr. President, this is real money at that income level—amounting to 38.2 percent of their Federal income tax bill, or over 62 percent more than the tax they would pay if they were single.

This "tax on marriage"—or as some have called it, this "sin subsidy"—runs against the entire tradition of our tax policy prior to 1969 and, I think, against the deep-rooted traditions of our society.

To rectify this situation, I am introducing a bill that would permit a married person to file his or her tax return individually, and thereby calculate the tax owed on the tables applicable to single individuals. Those married persons who prefer to file jointly would be unaffected by the new provision, and single taxpayers would not incur any greater tax liability. My bill will not provide a lower rate for married people; it will only equalize the tax rate so that men and women who happen to be married will not have to pay more taxes than single people. In addition, my bill would permit married persons who file separately under the new provisions to take advantage of the credit for employment-related expenses, such as the child care credit, in the same way as single taxpayers.

These reforms are long overdue. In the past, when I have introduced similar bills to eliminate the tax on marriage, Congress has tended to treat this problem as a matter of low priority, largely, I think, because of a perceived lack of interest among the public. This year I have received a great deal of mail on the subject. It has been estimated that at least one-half of all married couples are two-earner couples, and that most of them are affected adversely by the tax on marriage. As the public becomes more aware of this injustice, the demand will increase for abolition of the "tax on marriage." My bill would accomplish this in a simple, straightforward manner. I believe the time has come for this remedy, and that it should be enacted this year to become effective in time to provide relief on 1978 income.

Mr. President, I ask unanimous consent that my bill, as well as an editorial from the Washington Post by Dr. Sydney J. Key dated January 29, 1978, entitled, "Let's Stop the Tax on Marriage," and a chart illustrating the effect of current tax laws on two-income spouses at various income levels, be printed in the RECORD.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2941

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) so much of subsection (c) of section 1 of the Internal Revenue Code of 1954 (relating to tax imposed) as precedes the table is amended to read as follows:

"(c) Individuals (Other Than Surviving Spouses and Heads of Households) and Cer-

tain Married Individuals.—There is hereby imposed on the taxable income of—

"(1) every individual (other than a surviving spouse as defined in section 2 (a) or the head of a household as defined in section 22 (b)),

"(2) every married individual (as defined in section 143) who—

"(A) does not make a single return jointly with his spouse under section 6013,

"(B) who elects, at such time and in such manner as the Secretary prescribes, to have this subsection apply, and

"(C) whose spouse elects, at such time and in such manner the Secretary prescribes, to have the provisions of this subsection apply,

a tax determined in accordance with the following table:".

(b) Section 1 of such Code is amended by adding at the end thereof the following new subsection:

"(f) Community Property Laws.—In the case of a married individual (as defined in section 143) who elects to have the provisions of subsection (c) apply with respect to his taxable income for any taxable year, the computation of such taxable income shall be made without regard to any community property laws.".

(c) Subsection (d) of section 1 of such Code is amended—

(1) by inserting "Certain" before "Married" in the heading thereof, and

(2) by inserting ", or who elects to have the provisions of subsection (c) apply," after "section 6013".

(d) Subsection (d) of section 63 of such Code (relating to the definition of taxable income) is amended—

(1) by inserting ", or who is married and makes an election under section 1 (c)" before the comma at the end of paragraph (2), and

(2) by inserting "under section 1(d)" after "return" in paragraph (3).

(e) Clause (i) of section 6012 (a)(1)(A) of such Code (relating to persons required to make returns of income) is amended—

(1) by striking out ", is not" and inserting in lieu thereof "and is not", and

(2) by inserting "or who is married (as so determined) and makes an election under section 1 (c)," before "and for the taxable year".

Sec. 2. Subsection (c) of section 42 of the Internal Revenue Code of 1954 (relating to general tax credit) is amended by inserting "under subsection (d) of section 1" after "return".

Sec. 3. (a) Section 44A of the Internal Revenue Code of 1954 (relating to expenses for household and dependent care services necessary for gainful employment) is amended—

(1) by inserting ", or a married individual who makes an election under section 1(c) for such year" after "year" the first place it appears in subsection (e)(1)(A),

(2) by inserting "and who has not so elected" after "year" the first place it appears in subsection (e)(1)(B),

(3) by inserting "Certain" before "Married" in the heading of subsection (f)(2), and

(4) by inserting "or make the election provided under section 1(c) for such year" before the period at the end of subsection (f)(2).

(b) Section 152 of such Code (relating to definition of dependent) is amended—

(1) by striking out "or (e)" in subsection (a) and inserting in lieu thereof ", (e), or (f)", and

(2) by adding at the end thereof the following new subsection:

"(f) Support Test in Care of Credit for Employment-Related Expenses.—In the case of a married individual who makes an election under section 1(c) for the taxable year and who is entitled to claim the credit under section 44A with respect to any person but for the fact that he did not contribute over half of the support of such person, such person shall be treated for purposes of subsection (a) as having received over half of such support from such individual if—

"(1) over half of such support was received from such individual and his spouse;

"(2) the individual contributed over 10 percent of such support; and

"(3) the individual's spouse does not claim such person as a dependent in any taxable year beginning in such calendar year.".

Sec. 4. Section 1348 of the Internal Revenue Code of 1954 (relating to 50 percent maximum rate on personal service income) is amended by inserting "or make the election provided in section 1(c) for each year" before the period at the end of subsection (c).

Sec. 5. The amendments made by this Act apply to taxable years ending after the date of the enactment of this Act.

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### Let's Stop the Tax on Marriage

(By Sydney J. Key)

The basic structure of our present income tax laws—which favor married one-earner couples—dates back to 1948. Then, in the normal American family, the husband worked and the wife stayed home. Now, 30 years later, families in which both husband and wife are employed outnumber one-earner couples. In perhaps the ultimate statistical recognition of the two-earner couple as the norm, the Census Bureau is abandoning its practice of designating the male as "head of household." Yet the male "head of household" concept still seems to hold sway in national tax policy.

This concept was clearly present in the Tax Reform Act of 1969, which set up a new, lower rate schedule for single wage earners and ignored what effect this would have when two wage earners were married. This new rate schedule, combined with increases in the standard deduction that benefited a single person more than a married person, produced what is known as the "marriage tax" on two-earner couples.

Peter Sailer, an Internal Revenue Service statistician, has calculated that at least 13 million married two-earner couples—the great majority of two-earner couples and one-third of all married couples with wages or salaries—paid a marriage tax to the U.S. government in 1974; that is, their taxes were higher as a married couple filing a joint return than they would have been as two single individuals living together. For these couples, the government's annual tax on marriage totaled an estimated $2 billion. And, contrary to popular belief, almost all of these 13 million couples had combined incomes under $50,000.

The amount of the marriage tax for a two-earner couple can vary from a few dollars to a few thousand dollars; it tends to increase both with the couple's total income and with the similarity of the two incomes. When one spouse earns less than about one-fifth of the couple's total income, the benefits from income-splitting (the source of the big tax break for one-earner couples) usually outweigh the factors causing the marriage tax.

Three factors cause the marriage tax penalty. For 1977 income tax returns, a married couple, even when both spouses work, is limited to a standard deduction of only $3,200 ($1,600 if separate returns are filed); if single, they could each claim a standard deduction of $2,200 for a total of $4,400.

Even if the couple itemized deductions greater than $4,400, they still would be penalized by the effect of the tax rate schedules. For example, if each spouse had a taxable income of $15,000, the "marginal tax rate"—that is, the tax rate on the highest dollars of income earned—would be 39 percent, whether they filed jointly on their combined taxable income of $30,000 or separately on their taxable incomes of $15,000 each. But if two single people had the same taxable incomes—$15,000 each—each would have a marginal tax rate of only 31 per cent.

The singles' rates are lower because of a special tax rate schedule created by the Tax Reform Act of 1969. Until then, singles had to use the schedule for married individuals filing separately, the schedule with the highest tax rates. The purpose of the new singles' schedule was to reduce somewhat the taxes a single person paid compared to the taxes paid by a married one-earner couple filing a joint return with the same taxable income. But, as is often the case, the government's attempt to help one group (here, the singles) inadvertently left another group (the two-earner couples) relatively worse off. Married two-earner couples still had to use either the high rates of the schedule for marrieds filing separately or add their incomes together and use the schedule for marrieds filing jointly. Since the tax rate increases as income increases, adding the two incomes together results in the second income being taxed at higher rates than the first.

The final factor contributing to the marriage tax is the general tax credit for 1977. Each single person with a taxable income of $9,000 or more may claim one $180 tax credit; if two such people are married, they get only one $180 credit.

These factors, of course, are not of equal importance. The 1977 tax cost of marriage for a couple with adjusted gross incomes of $15,000 each who claim the standard deduction is $1,019. Of this amount, $180 is attributable to the loss of the extra tax credit. The standard deduction penalty accounts for $348 of the marriage tax. The largest component of the marriage tax, $407, derives from a married wage earner having to use a different tax rate schedule than one who is single; the higher the total income and the more similar the incomes of husband and wife, the more important this component becomes. The remaining $84 is accounted for by the effect of the standard deduction penalty at the higher married tax rate.

Under the progressive U.S. tax system, the only way to remove the marriage tax penalty for two-earner couples without again placing an unfair burden on singles compared to one-earner couples is to distinguish between one- and two-earner couples with the same total income.

At present, married couples with the same total income pay the same tax regardless of by whom or in what proportions the income is earned. According to the Treasury's Office of Tax Analysis, it is a "widely accepted" principle of taxation that "no distinction should be made among married couples according to which spouse earns the income."

But it is by no means axiomatic that a one-earner couple's tax bill should be identical with that of a two-earner couple with the same total income. In fact, many experts would argue that in this case total income is not the most appropriate indicator of the couple's tax capacity. For one thing, the dollar income for the one-earner couple does not include the value of the homemaker's services in the home, the very same value which many are now arguing should be quantified for purposes of Social Security benefits. For another, two-earner couples must pay the extra cost of earning the second income, such as transportation, clothes and meals that would not be needed if the second worker stayed at home.

Since the United States has been in the forefront in so many areas of equal rights for women, it is perhaps surprising that, compared with other industrial countries, it is almost alone in adhering to the principle of taxation that only the total income, and

not who earns it, matters. A recent Organization for Economic Cooperation and Development survey of 17 industrial countries found that in all but the United States a two-earner couple with the husband and wife each earning the average national wage are taxed less heavily than a one-earner couple with the same total income. In the United States, the tax would be the same.

Last fall, however, there were some intimations of change. The Office of Tax Analysis began acknowledging that "opposition to the marriage penalty is now so widespread that . . . it seems clear that . . . there must be some distinction between one-earner and two-earner married couples." And President Carter's tax proposals originally included an additional deduction of up to $600 for two-earner couples. But even this very limited attempt to deal with the marriage tax problem was eliminated from the administration's final tax package.

As now proposed by the administration, the various changes in personal exemptions, tax credits and tax rates would effect the marriage tax, but not in any systematic way. So while the hypothetical couple described above (each spouse earning $15,000) would appear to receive one of the larger absolute reductions in their marriage tax—$343, down from $1,019 to $676—other two-earner couples would have smaller reductions or even increases in their marriage taxes. The crucial point is, of course, that the marriage tax on two-earner couples remains an integral part of the tax structure, while its size continues to be at the mercy of changes made for other reasons.

In the end, then, the new proposals make no distinction between one- and two-earner couples. The original proposal for a deduction for two-earner couples did make this distinction, but at the same time it perpetuated the concept of tax rate schedules based on marital status.

Clearly, for both singles and two-earner couples, the most comprehensive solution to the problem of taxes and marital status is to tax every individual's own income on the same rate schedule regardless of marital status (the pre-1948 situation) but (unlike pre-1948) without regard to whether there are community property laws in the individual's state of residence. This was repeatedly proposed, to no avail, by former Rep. Edward Koch, now mayor of New York.

Rep. Millicent Fenwick (R-N.J.) has proposed a less comprehensive but less costly solution, which is simply to allow married two-earner couples the option of using the singles' tax rate schedule for each spouse's own income. If every taxpayer with earnings were also allowed to use the same standard deduction regardless of marital status, each working spouse would not only be taxed on the same rate schedule as a single person but would also be permitted to take the same standard deduction as a single person.

A number of two-earner couples have achieved this result by getting divorced, which is, until the law is changed, the only way to do it. But, as one of these couples has pointed out they would much prefer "being able to file as singles without having to file for divorce."

TAX ON MARRIAGE, EFFECT ON 2-INCOME SPOUSES AT VARIOUS INCOME LEVELS—TAXABLE YEAR 1977

| Assumed incomes | Tax on married couple filing joint return | Total tax on single individuals with same incomes | Marriage tax penalty | Marriage tax penalty as percentage over tax on 2 singles |
|---|---|---|---|---|
| $4,200 and $4,200 | $499 | $308 | $191 | 62.01 |
| $5,000 and $5,000 | 765 | 566 | 199 | 35.16 |
| $6,200 and $10,200 | 2,020 | 1,758 | 262 | 14.9 |
| $9,200 and $11,000 | 2,961 | 2,498 | 463 | 18.53 |
| $12,500 and $14,000 | 4,784 | 4,004 | 780 | 19.48 |
| $15,000 and $15,000 | 5,957 | 4,944 | 1,013 | 20.49 |
| $16,250 and $19,750 | $8,217 | $6,765 | $1,452 | 21.46 |
| $19,950 and $19,950 | 9,835 | 7,998 | 1,937 | 24.22 |
| $22,000 and $28,000 | 14,530 | 11,738 | 2,792 | 23.79 |
| $30,000 and $30,000 | 19,530 | 15,766 | 3,764 | 23.87 |
| $31,000 and $34,000 | 22,030 | 18,016 | 4,014 | 22.28 |

By Mr. CURTIS:

S. 2943. A bill to amend the Internal Revenue Code of 1954 with respect to refunding obligations; to the Committee on Finance.

● Mr. CURTIS. Mr. President, the purpose of the proposed amendment to section 103 of the Internal Revenue Code is to correct inequities which have arisen from a summary change in the tax law governing the advance refunding of industrial development bonds.

Prior to November 4, 1977, tax-exempt bonds could be issued to refund industrial development bonds provided that certain requirements set forth in the regulations under section 103 were met. Many corporations had expended large amounts of money, time and effort in the preparation of refunding bond issues which met the requirements of the existing regulations. On November 4 the Treasury Department released a press release stating that new regulations imposing substantial restrictions on refundings of industrial development bonds would be proposed, and would apply to refunding bonds issued after 5 p.m. eastern standard time on November 4, 1977. These regulations were proposed on December 1, 1977.

The proposed amendment would correct the unfairness caused by the summary change in the law by providing transitional provisions. The transitional provisions are narrow in scope and would permit refunding issues to proceed to closing only if, prior to December 1, 1977, certain actions toward the issuance of the refunding obligations had been taken by the governing body of the issuer or the affected corporation or a bond purchase agreement for the sale of the refunding obligations had been executed. These transitional rules are comparable to the procedure followed in 1968 when the industrial development bond provisions were enacted by the Congress.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2943

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) section 103(b) of the Internal Revenue Code of 1954 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph:

"(8) Refunding obligations may be issued to refund obligations described in paragraphs (4), (5) and (6) and obligations to which this subsection did not apply by reason of the date of their issuance if the obligations comply with regulations prescribed or proposed to be prescribed by the Secretary prior to the date of the issuance of the refunding obligations."

(b)(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to all refunding obligations described in section 103(b)(8) of the Internal Revenue Code of 1954.

(2) Paragraph (1) of section 103(b) shall not apply to any refunding obligations issued not more than 180 days after the date of the enactment of this Act to refund obligations to which section 103(b)(1) did not apply by reason of the date of their issuance if—

(A) the proceeds of such refunding obligations are applied solely to the payment of principal, interest and any redemption premium on the refunded obligations either at or prior to the maturity thereof and the payment of the issuance expense of the refunding bonds; and

(B)(i) the issuance of such refunding obligations or the proceedings toward such issuance were authorized or approved by the governing body of the governmental unit issuing the obligations or by the voters of such governmental unit;

(ii) a bond purchase agreement for the sale of such refunding obligations had been executed; or

(iii) the corporation obligated to make payments to the governmental unit for payment of the debt service on the obligations to be refunded approved by its Board of Directors (or by any committee thereof empowered to take action of that nature) participation in refunding transactions or approved proceedings toward the consummation of refunding transactions.●

By Mr. GRAVEL:

S. 2944. A bill to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, National Forest, and National Wilderness Preservation Systems, to establish a Federal-State Land Use Planning Commission, to establish procedures for the management of fish and wildlife on public lands in Alaska, and for other purposes; to the Committee on Energy and Natural Resources.

ALASKA LANDS CONSERVATION AND MANAGEMENT ACT

● Mr. GRAVEL. Mr. President, today I am introducing a bill entitled the Alaska Lands Conservation and Management Act. Like several other bills introduced this Congress this bill follows up the provisions of section 17(d)(2) of the Alaska Native Claims Settlement Act (ANCSA) by designating certain lands in Alaska as additions to the National Park, Wildlife Refuge, National Forest and National Wild and Scenic Rivers Systems. How-

ever, over the past year the so-called (d)(2) issue has evolved into a much more comprehensive, far-reaching legislation than simply the establishment of new units of conservation systems. In the bill I am introducing today are many provisions which address critical areas of land use and land ownership in Alaska other than those strictly related to the designation of new conservation systems studied under the provisions of section 17(d)(2).

This bill is the product of the views and legislative work of many different interest groups and individuals as well as my own. I have solicited and received the thoughts and suggestions of literally thousands of organizations and knowledgeable persons both within Alaska and outside Alaska over the past several years on this issue. Much of this input is reflected in this bill. In addition, I have closely watched the progress of similar legislation in the House and have incorporated some of the language which was developed in the House Interior Committee where I felt Alaskan interests had participated in developing some good compromise language and provisions. Furthermore, the bill reflects consideration of the available, though limited, literature and data on alternative resource uses of lands which some have proposed for inclusion in conservation systems.

FOUR SYSTEM LANDS

My bill calls for the inclusion of 51.25 million acres in the four conservation systems identified in section 17(d)(2) of ANCSA. Some people would have you believe that Alaskans do not favor the designation of any such "four systems" lands in Alaska. This obviously is not the case. Under the provisions of my bill the total acreage in the Nation's national park system would be doubled; the national wildlife refuge system would be increased by 60 percent—if the existing refuges in Alaska were not counted, the refuge system would be doubled—and the number of rivers in the national wild and scenic rivers system would be more than doubled.

In terms of acreage, I feel this bill strikes a reasonable middle ground. Similar bills have recommended anywhere from 25 to 115 million acres of lands included in conservation systems. The acreage I have recommended in this bill, together with the existing acreage in Alaska in parks, refuges, and forests totals over 97 million acres—over one-fourth of the entire area of Alaska; or an area nearly the size of California.

I feel the 51.25 million acres of conservation system units in my bill includes the true nationally significant gems in Alaska. These are not just mountain tops and glaciers, but also include the complete range of ecosystems found in our State. Each unit represents a viable, manageable area which would preserve some of the best remaining natural environments in our country. At the same time, the boundaries were closely scrutinized to exclude those areas which were not necessary for the protection of nationally significant natural features or resources or did not add any special values to the conservation unit.

Similarly, the boundaries attempted to exclude those relatively few areas where the potential for the development of mineral resources or other resources is known to be high and where development would represent a significant conflict with designation of a conservation unit.

In other cases the designation of the particular management system was designed to minimize the impacts of inclusion of an area in a conservation system. One of the single greatest potential conflicts in national parks designation in Alaska is that on hunting. The designation of "preserves" in the Wrangell Mountain, Lake Clark and Aniakchak areas will relieve many of these conflicts by permitting sport hunting while at the same time protecting the obvious national interest in these lands.

FEDERAL-STATE LAND USE PLANNING COMMISSION

The simple designation of "(d)(2)" lands will not end the land problems or uncertainties in Alaska. Putting 50 or 80 or 100 million acres safely away on the shelf is only half a measure of "protection" of Alaska's lands. I am not willing to say, lock up these millions in parks and let us turn our backs on the future management of the bulk of the land in the State. If we are to learn from the land use mistakes so prevalent in the rest of the United States, let us start thinking in terms of long-range land planning and management now, with Alaska.

Under my bill there would remain over 250 million acres of land outside of the four systems or any comprehensive planning and zoning authority. These lands will be owned by the Federal and State governments and by private owners—largely native corporations created by ANCSA. Rather than nice neat big blocks of single-owner lands, a checkerboard of ownerships will dominate the State with important resources such as minerals, fish and game, timber, and the like found in locations not respecting any arbitrary ownership boundaries.

To properly plan and coordinate uses on most of Alaska's lands after the "(d)(2)" issue has been settled, I am proposing the establishment of a new Federal-State Land Use Planning Commission for Alaska. This Commission would have jurisdiction over all Federal lands located outside conservation system units and military reservations, over all State lands and over any private lands voluntarily placed under its authorities through a process set up by the State. The Commission would be composed of nine full-time members; a chairman appointed jointly by the President and the Governor, four Federal members appointed by the President, and four State members appointed by the Governor.

The Commission would set policy and overall management direction on lands under their jurisdiction with the line management carried out by the Bureau of Land Management, the appropriate State agency, and the concerned private landowner. The Commission would conduct land use plans for the various areas and classify the lands as to the various uses which would be permitted on the lands. In all cases they would closely coordinate uses of lands with managers and owners of adjacent lands.

Among the duties of the Commission would be the coordination of the implementation of various environmental laws such as the Clean Air Act, the Federal Water Pollution Control Act, the Coastal Zone Management Act, and others. This will insure that decisionmaking in regard to the permitting of a particular development will take into account all facets of the project, and once an overall decision to proceed with a development is made, that the usual nightmare of red-tape can be consolidated and expedited.

As opposed to a one-shot designation, the Commission concept is a proposal for on-going mechanism which can provide the necessary leadership and information base on a statewide basis to creatively solve the host of unknown problems which we in Alaska will undoubtedly be facing in the years ahead. I view this proposal as the most important part of this legislation. The Commission is really the core of what could be truly landmark legislation for my State and what could be possible a model for other States.

WILDERNESS

Although not mentioned in the provisions of section 17(d)(2) of ANCSA, designation of units of the Wilderness Preservation System has become an area of heated debate in the Alaska lands issue. Except in the case of southeast Alaska, I have not designated any wilderness in this bill.

Wilderness is not a designation in the same sense as a national park or refuge. Rather, it is a specific management prescription placed on top of portions of lands managed by a particular Federal agency such as the Forest Service or the Park Service. In the Lower 48 States studies have typically been conducted over a number of years on areas managed by a particular agency prior to passage of legislation designating portions of those areas as Wilderness. Except in southeast Alaska where the Forest Service is nearing completion of wilderness studies, virtually none of the areas recommended for as new units of the various conservation systems in my bill or the other "(d)(2)" bills have been studied for potential designation as wilderness areas. With the designation of most of these areas as parks, refuges, and wild and scenic rivers it seems both premature and unnecessary at this time to superimpose wilderness designations without the benefit of any specific studies as to what resources are involved and which areas would be best suited for designation.

In the case of the seven areas designated by this bill in the Tongass National Forest in southeast Alaska, I have proposed that final boundaries and acreages be determined after the completion of the Forest Service's land use plan for the region. I am confident that the data from this planning process will show that with careful boundary determinations, we can protect most of our great wilderness resources in southeast without any adverse impact on the local timber industry or on the several significant mineral deposits which have been located.

This is not to say that wilderness designations are not desirable in other areas

of Alaska. Under this bill the Commission would conduct studies of the demand for and use of wilderness as well as location of potential wilderness areas throughout the State. After 2 years the Commission would recommend areas which would form a statewide diversified wilderness system accommodating a variety of wilderness uses and incorporating a variety of landscapes and ecosystems. These studies and recommendations together with the findings and recommendations of Federal land managers would be the basis of later legislation designating wilderness throughout the State.

SUBSISTENCE

With several modifications the subsistence provisions closely follow those developed after considerable discussions and language rewrites by the House Interior Committee and concerned Alaskan groups. The issue of protecting the lifestyles of many rural Alaskans through the insurance of the continued use of plants and animals by these people for much of their economic livelihood has been a very emotional and divisive issue among Alaskans. The language worked out thus far is not perfect, nor does it make anybody really happy. However, it does incorporate what I feel are excellent concepts which have already gained support among several different interests involved in the debate. The discussions of this provision are still ongoing, and I would expect that further changes will be desirable.

STATE AND NATIVE LAND CONVEYANCES

Although Congress passed the Alaska Native Claims Settlement Act in 1971 providing for the conveyance of over 40 million acres of land to various Native corporations set up by the act, to date only a fraction of these lands have actually been conveyed. A host of reasons can be attributed to this delay. However, I think now is the time to cut our losses and provide some additional congressional direction to expedite the conveyance of these lands. Although I feel again that further modifications may be needed in the Native conveyance provisions in this bill, I think that clear, swift action is vitally needed in this area if we are to make good on our intentions in the Claims Act.

There is a well-worn argument in the (d) (2) debate which goes something like, "The state has received first pick of the best 103 million acres of Alaska land for resource exploitation under the terms of the Alaska Statehood Act, and so now the Nation is entitled to designate the remainder as parks, refuges. and other conservation system areas." As a matter of fact the State has only received approximately a quarter of their entitlement under the Statehood act and further selections and patents have been seriously disrupted if not barred by the withdrawal of lands for potential conservation system additions and by other public land withdrawals. As part of the (d) (2) settlement the entitlement of the State must be clarified and conveyance expedited.

MINERALS

As I have previously mentioned, relatively little is known about the resources on much of the land in Alaska. I have included many areas in conservation systems where any resource development possibilities will be effectively "written off" in favor of more apparent scenic, wildlife or other natural values. However, I think there are still some measures which we can take which will increase our knowledge of these designated areas, and in some cases, provide for vitally needed resource development without significantly impacting the values for which the conservation system area was established.

Specifically, I am proposing that mineral surveys be continued in all areas under appropriate safeguards. Also, with the exception of parks and monuments extraction activities could be permitted by the Secretary of the Interior under careful guidelines.

Furthermore, the Secretary would be directed to initiate an oil and gas leasing program on all refuge system lands. Although he has this authority under existing law, this authority has been virtually unused on existing refuges in Alaska to date.

One notable area where this has been most frustrating is within the existing Arctic National Wildlife Range. Although exploration of this land for oil and gas was intended at its creation, no such work has ever been permitted except by Federal agencies. Based on USGS information it now appears that the north slope of the range may possess the greatest potential for on-shore oil and gas discoveries in the United States. With our country's balance of trade payments running at dangerous deficits due to our heavy dependence on foreign oil, this situation seems almost ludicrous.

I think a carefully regulated, carefully monitored oil and gas leasing program on the range could lead to the discovery and development of a major oil and gas find which in turn would be of significant importance to continuance of our Nation's economic health and standard of living, just as the Prudhoe Bay has proved to be. Furthermore, I think that such a program could be designed to not impact the caribou and other wildlife that the range seeks to protect. As is the case with other North Slope explorations, activities are restricted to winter months when ice and snow provide protection of the permafrost and the animals are largely absent.

In a further effort to expedite this oil and gas program, I am proposing that the subsurface of a small portion of the range, approximately 3 percent, adjacent the State-owned Prudhoe Bay field be conveyed to the State in exchange for State lands of high national interest located next to proposed park and refuge areas designated by this bill. The surface of the range would still be owned by the Federal Government and would be managed by the Fish and Wildlife Service so that any exploration of or extraction from the subsurface estate would be carefully regulated. Such a trade would provide an excellent method of consolidating land ownerships of areas of high State interest as well as areas of high Federal interest.

TRANSPORTATION AND UTILITY CORRIDORS

Under some of (d) (2) proposals various conservation systems link up to form continuous designated areas hundreds of miles long. Even under more modest proposals we are often talking about new park or refuge areas which are over 100 miles wide or long. Obviously, the use of State or private lands adjacent to such proposal areas could be seriously restricted if at some future time a transportation or utility corridor were needed across the particular unit to reach a population center or market outlet.

It is therefore imperative that some provision be made for the possible future need of such corridors. This bill sets up a mechanism whereby the Commission would study possible routes of a needed transportation or utility system and make recommendations for rights-of-way across the necessary lands. Such rights-of-way across units of conservation systems would be granted by the Secretary unless he could make specific findings that reasonable alternatives exist and that significant harm would be done to the particular resources for which the unit were established to protect.

DENALI PARK DEVELOPMENT

Another area of the bill which I feel is extremely important is the development of visitor facilities to and in the conservation units which we establish. If such areas are to be for the good of the Nation, then we must make a firm commitment to make them available to the people. "Paper Parks" without a commitment to management and reasonable development are of little value.

One area in particular where I feel development would be of statewide and national value is the proposed expanded Denali "McKinley" National Park. Most people agree that the south side of the park offers much more opportunity for the provision of visitor facilities and for the provision of a quality recreational experience than the location of the existing park headquarters on the edge of the north side.

In this bill I am calling for a comprehensive study of a recreational development site on the south side. Such a study would include economic scoping for the desirable size of development, engineering feasibility, architectural designs, environmental studies, and transportation studies. Also included is an authorization for appropriation of moneys for development of a mass transit system from Anchorage to the site. The eventual development of a tightly controlled recreational city under the shadow of Denali (McKinley) would make this a visitor attraction of world scale.

SUMMARY

There are other miscellaneous provisions in this complex legislation which are too numerous to specifically discuss. This legislation is obviously of critical importance to Alaska. The decisions

which are eventually reached in regard to the issues which I have briefly discussed will affect the economic and social lifestyle of Alaskans for years to come. Just as with the Statehood Act and the Native Claims Act, the (d)(2) legislation will form an extremely large portion of the legislative history of my State and its future destiny.

For these reasons I implore my colleagues not to take this legislation lightly or use it as an opportunity to right all the environmental wrongs of the past or seek atonement for past votes on environmental issues. This is not just another park bill, this is legislation affecting an entire State's economic and social well-being. I ask you for your attention to the views of those most affected by this legislation in the months ahead and urge your strong consideration of the provisions contained in this bill.

I ask unanimous consent that the entire text of this bill along with a summary of the major provisions be printed in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 2944

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Alaska Lands Conservation and Management Act".

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PURPOSES, MAPS, AND BOUNDARIES

SEC. 2. (a) In order to preserve for the benefit, use, education, and inspiration of present and future generations certain natural lands and rivers in the State of Alaska (hereafter referred to as the "State") that contain nationally significant natural, scenic, historic, archeological, geological, scientific, wilderness, cultural, recreational, and wildlife values, the areas described in Title I are, subject to valid existing rights, hereby declared to be units of the National Park System; the areas described in Title III are, subject to valid existing rights, hereby declared to be units of the National Wild and Scenic Rivers System; lands described in Title IV are, subject to valid existing rights. hereby declared to be added to units of the National Forest System; and lands designated in Title V are, subject to valid existing rights, hereby declared to be units of the National Wilderness Preservation System.

(b) It is the intent of Congress in this Act to preserve unrivaled scenic and geological values associated with natural landscapes; to provide for the maintenance of sound populations of, and habitat for, resident and nonresident wildlife species; to preserve in their natural state unaltered ecosystems; to protect the resources related to subsistence needs; to protect and preserve the historic and archeological heritage of Alaska and the nation; to preserve wilderness resource values and related recreational opportunities; and to maintain opportunities for scientific research in undisturbed ecosystems.

(c) It is also the intent of Congress to provide a management system for the lands which are not located within the conservation system units designated in the Act for making sound land use decisions on lands owned by one or more governmental or private entities but which contain common

resources requiring complementary management decisions and actions.

(d) It is also the intent of Congress to encourage the use and appreciation of the various conservation system units designated by this Act by the public. To the extent that it is compatible with the resources and values for which the unit was established, access and facilities to accommodate visitors and recreationists to and within the designated units would be developed in connection with the management plans for the areas.

(e)(1) The boundaries of areas added to the National Park and Wildlife Refuge Systems shall, in coastal areas, not extend seaward beyond the mean high tide line to include lands owned by the State of Alaska unless the State shall have concurred in such boundary extension and such extension is accomplished under the notice and reporting requirements of this Act.

(2) The maps described in Titles I, II, IV, and V of this Act shall be on file and available for public inspection in the Office of the Secretary of the Interior (hereafter referred to as the "Secretary"), or the Secretary of Agriculture with regard to the National Forest System.

(3) As soon as practicable after enactment of this Act, a map and legal description of each change in land management status effected by this Act in the four national conservation systems, including the National Wilderness Preservation System, shall be published in the Federal Register and filed with the Speaker of the House of Representatives and the President of the Senate, and each such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Secretary. Whenever possible, boundaries shall follow hydrographic divides or embrace other typographic features in all cases where straight line map boundaries approximate such features. Following reasonable notice in writing to the Congress of his intention to do so, the Secretary and the Secretary of Agriculture may make minor adjustments in the boundaries of the areas added to or established as units of the National Park Wildlife Refuge, Wild and Scenic Rivers, and the National Forest Systems by this Act.

## TITLE I—NATIONAL PARK SYSTEM

### PART A—ESTABLISHMENT OF NEW AREAS

#### GATES OF THE ARCTIC NATIONAL PARK

SEC. 101. (a) There is established the Gates of the Arctic National Park of approximately 7,500,000 acres of Federal lands. This area shall consist of the lands generally depicted on the map entitled " ," dated April , 1978, which shall be on file available for public inspection in the office of the Secretary.

(b) The park established pursuant to this section shall be managed for the purposes of—

(1) maintaining the wild and undeveloped character of the area;

(2) providing opportunities for visitors to experience solitude;

(3) preserving the environmental integrity and scenic beauty of the mountains, forestlands, rivers, lakes, and other natural features of the area;

(4) protecting populations of fish and wildlife and their habitats; including caribou, grizzly bear, Dall sheep, moose, wolves, and raptorial birds;

(5) providing opportunities for water recreation on wild rivers and lakes, hiking, camping, and other outdoor recreational activities in a manner consistent with the purposes specified in paragraphs (1), (2), (3), and (4); and

(6) furthering such other goals as the Secretary finds to be consistent with the provisions of this section.

#### YUKON-CHARLEY NATIONAL RIVERS

SEC. 102. (a) There are established the Yukon-Charley National Rivers of approximately 1,490,000 acres of Federal lands. This area shall consist of the lands generally depicted on the map entitled " ," dated April , 1978 which shall be on file available for public inspection in the office of the Secretary.

(b) The national rivers established pursuant to this section shall be managed for the purposes of—

(1) maintaining the environmental integrity of the Charley River basin, including streams, lakes, and other natural features, in its undeveloped natural condition for public benefit and scientific study;

(2) protecting populations of fish and wildlife and their habitats, including the peregrine falcon and other raptorial birds, waterfowl, caribou, moose, Dall sheep, grizzly bear, and wolves;

(3) protecting and interpreting historical sites and events associated with the gold rush on the Yukon River as well as the geological and paleontological history and cultural prehistory of the area;

(4) providing opportunities for water recreation, hiking, camping, and other outdoor recreation activities in the area in a manner consistent with the purposes specified in paragraphs (1), (2), (3), and (4); and

(5) furthering such other goals as the Secretary finds to be consistent with the provisions of this section.

#### KOBUK VALLEY NATIONAL MONUMENT

SEC. 103. (a) There is established the Kobuk Valley National Monument of approximately 200,000 acres of Federal lands. This area shall consist of the lands generally depicted on the map entitled " ," dated April , 1978, which shall be on file available for public inspection in the office of the Secretary.

(b) The monument established pursuant to this section shall be managed for the purposes of—

(1) maintaining the environmental integrity of the natural features of the Kobuk River Valley, including the Great Kobuk Sand Dunes, in an undeveloped state;

(2) protecting and interpreting, in cooperation with Native cultures, the various natural features of the area;

(3) protecting the migration routes of the Arctic caribou herd;

(4) protecting populations of fish and wildlife and their habitats, including caribou, moose, black and grizzly bear, wolves, and waterfowl;

(5) providing opportunities for hiking, camping, river recreation, and other outdoor recreation activities in the area in a manner which does not interfere with the purposes specified in paragraphs (1), (2), (3), and (4); and

(6) furthering such other goals as the Secretary finds to be consistent with the provisions of this section.

#### CAPE KRUSENSTERN NATIONAL MONUMENT

Sec. 104. (a) There is established the Cape Krusenstern National Monument of approximately 190,000 acres of Federal lands. This area shall consist of the lands generally depicted on the map entitled " ," dated April 1978, which shall be on file available for public inspection in the office of the Secretary.

(b) The monument established pursuant to this section shall be managed for the purposes of—

(1) protecting and interpreting a series of archeological sites depicting every known cultural period of arctic Alaska;

(2) providing for the scientific study of the immigration of Asian people into the area;

(3) preserving and interpreting evidence of prehistoric and historic native cultures, in cooperation with native Alaskans;

(4) protecting and interpreting a series of beach ridges, as well as the process of beach outbuilding;

(5) protecting seals and other marine mammals, birds, and other wildlife and fish resources and their habitats;

(6) providing opportunities for outdoor recreation activities in a manner which does not interfere with the purposes specified in paragraphs (1), (2), (3), (4), and (5); and

(7) furthering such other goals as the Secretary finds to be consistent with the provisions of this section.

#### WRANGELL-SAINT ELIAS NATIONAL PARK; WRANGELL MOUNTAINS NATIONAL PRESERVE

SEC. 105. (a) There is established the Wrangell-Saint Elias National Park of approximately 7,360,000 acres of Federal lands, and the Wrangell Mountains National Preserve of approximately 3,940,000 acres of Federal lands. These areas shall consist of the lands generally depicted on the map entitled " ," dated April , 1978, which shall be on file available for public inspection in the office of the Secretary.

(b) The park and preserve established pursuant to this section shall be managed for the purposes of—

(1) maintaining the scenic beauty and quality of the high mountain peaks, foothills, glacial systems, lakes and streams, waterfalls, valleys, and coastal landscapes of the park and preserve in their natural state;

(2) protecting populations of fish and wildlife and their habitats, including caribou, grizzly bear, Dall sheep, mountain goats, moose, wolves, trumpeter swans and other waterfowl, and marine mammals;

(3) providing opportunities for camping and hiking, river recreation, hunting and other outdoor recreation activities in a manner consistent with the purposes specified in paragraphs (1) and (2), and

(4) furthering such other goals as the Secretary finds to be consistent with the provisions of this section.

#### LAKE CLARK NATIONAL PARK; LAKE CLARK PRESERVE

SEC. 106. (a) There is established the Lake Clark National Park of approximately 2,230,000 acres of Federal lands, and the Lake Clark National Preserve of approximately 910,000 acres of Federal lands. This area shall consist of the lands generally depicted on the map entitled " ," dated April , 1978, which shall be on file available for public inspection in the office of the Secretary.

(b) The area established pursuant to this section shall be managed for the purposes of—

(1) protecting the watershed values necessary for the perpetuation of the salmon fishery in Bristol Bay and other fisheries;

(2) maintaining the scenic beauty and quality of portions of the Alaska Range and the Aleutian Range, including active volcanoes, glaciers, wild rivers, lakes, waterfalls, and alpine meadows in their natural state;

(3) protecting populations of fish and wildlife and their habitats including the Mulchatna caribou herd, Dall sheep, grizzly bear, wolves, bald eagle, and peregrine falcon;

(4) providing opportunities for water recreation, nature study, sightseeing, hiking, camping, hunting, and other outdoor recreation activities in a manner consistent with the purposes specified in paragraphs (1), (2), and (3); and

(5) furthering such other goals as the Secretary finds to be consistent with the provisions of this section.

ANIAKCHAK NATIONAL MONUMENT; ANIAKCHAK NATIONAL PRESERVE

SEC. 107. (a) There is established the Aniakchak National Monument of approximately 170,000 acres of Federal lands, and Aniakchak National Preserve, of approximately 80,000 acres of Federal lands. This area shall consist of the lands generally depicted on the map entitled " ," dated April , 1978, which shall be on file available for public inspection in the office of the Secretary.

(b) The area established pursuant to this section shall be managed for the purposes of—

(1) maintaining the caldera and its associated volcanic features and landscape, including the Aniakchak River and other lakes and streams, in their natural state;

(2) studying, interpreting, and assuring continuation of the natural process of ecological succession;

(3) protecting populations of fish and wildlife and their habitats, including grizzly bear, wolves, moose, caribou, sea lions, seals, and other marine mammals, geese, swans, and other waterfowl;

(4) interpreting geological and biological processes for visitors and providing opportunities for river running, hiking, hunting and other outdoor recreation activities, in a manner consistent with the purposes specified in paragraphs (1), (2), and (3); and

(5) furthering such other goals as the Secretary finds to be consistent with the provisions of this section.

IMURUK BASIN NATIONAL PRESERVE

SEC. 108. (a) There is established the Imuruk Basin National Preserve of approximately 400,000 acres of Federal lands. This area shall consist of the lands generally depicted on the map entitled " ," dated April —, 1978, which shall be on file available for public inspection in the office of the Secretary.

(b) The area established pursuant to this section shall be managed for the purposes of—

(1) protecting and interpreting examples of arctic plant communities, volcanic lava flows, frost phenomena and other geological processes;

(2) providing for the archeological and paleontological study in cooperation with Native Alaskans, of the process of plant and animal and human migration between North America and the Asian Continent including the protection of resources necessary for such study;

(3) protecting populations of fish and wildlife and their habitats, including marine mammals, grizzly bear, moose, and wolves;

(4) providing opportunities for outdoor recreation activities in a manner consistent with the purposes specified in paragraphs (1), (2), and (3); and

(5) furthering such other goals as the Secretary finds to be consistent with the provisions of this section.

PART B—ADDITIONS TO EXISTING AREAS

DENALI NATIONAL PARK

SEC. 111. (a)(1) Mount McKinley National Park is redesignated, and shall be known as, "Denali National Park".

(2) Mount McKinley is redesignated, and shall be known as, "Denali".

(3) Any law, regulation, map, document, or record of the United States in which such park or such mountain is referred to as "Mount McKinley National Park" or "Mount McKinley" shall be changed to refer to such park or such mountain as "Denali National Park" and "Denali", respectively.

(b)(1) Denali National Park is expanded by the addition of an area containing 2,620,000 acres of Federal lands generally depicted on the map entitled " ," dated April , 1978.

(2) The purposes of the expansion of Denali National Park are to—

(A) contain and protect the entire Denali massif and glacial system as well as additional scenic mountain peaks and formations. Protection of these features and the accommodation of recreational activities such as hiking, climbing, and camping which are associated with these features shall be emphasized in the management of the lands added to the south side of the existing Park.

(B) provide further protection for moose, caribou, Dall sheep, wolves, grizzly bear, and other wildlife and their habitats. Protection of these wildlife species shall be emphasized in the management of the lands added to the west and north side of the existing Park.

KATMAI NATIONAL PARK

SEC. 112. (a)(1) Katmai National Monument is redesignated, and shall be known as, "Katmai National Park".

(2) Any law, regulation, map, document, or record of the United States in which such monument is referred to as "Katmai National Monument" shall be changed to refer to such monument as "Katmai National Park".

(b)(1) Katmai National Park is expanded by the addition of an area containing 1,080,000 acres of Federal lands generally depicted on the map entitled "———," dated April —, 1978.

(2) The purposes of the expansion of Katmai National Park are to—

(A) protect high concentrations of grizzly (brown) bear and their denning areas as well as habitat for other wildlife;

(B) maintain unimpaired water habitats for significant salmon populations; and

(C) complete or contain areas of scenic, geological, watershed, and recreational value.

GLACIER BAY NATIONAL PARK

SEC. 113. (a)(1) Glacier Bay National Monument is redesignated, and shall be known as, "Glacier Bay National Park".

(2) Any law, regulation, map, document, or record of the United States in which such monument is referred to as "Glacier Bay National Monument" shall be changed to refer to such monument as "Glacier Bay National Park."

(b)(1) Glacier Bay National Park is expanded by the addition of an area containing 490,000 acres of Federal lands generally depicted on map entitled " ," dated April , 1978.

(2) The purposes of the expansion of Glacier Bay National Park are to—

(A) protect animal habitat and migration routes; and

(B) preserve portions of the Fairweather Range including the northwest slope of Mount Fairweather.

PART C—ADMINISTRATIVE PROVISIONS

ADMINISTRATION OF NEW AREAS

SEC. 121. (a) The Secretary shall administer the lands established or added to existing areas under the provisions of this title as units of the National Park System, pursuant to the provisions of the Act of August 25, 1916 (39 Stat. 535 et seq.), as amended and supplemented (16 U.S.C. 1 et seq.), and under the provisions of this Act.

(b) Notwithstanding the provisions of the Act of August 25, 1916 (35 Stat. 535 et seq.), as amended and supplemented (16 U.S.C. 1 et seq.)—

(1) hunting may be permitted on units of the National Park System under the provisions of title VII of this Act, and within any unit designated as a Preserve;

(2) transportation and utility rights-of-way may be granted by the Secretary across units of National Park System under the provisions of title X of this Act; and

(3) access to units of the National Park System shall be provided under the provisions of title XI of this Act.

(c) All proclamations and Executive orders reserving lands, waters, and interests therein for the former Katmai and Glacier Bay National Monuments shall remain in full force and effect, except to the extent that may be inconsistent with the Alaska Native Claims Settlement Act or the purposes of any unit established or expanded by this Act, and in such case the provisions of this Act shall prevail. Any funds available for the purposes of such monuments are hereby made available for the purposes of Katmai National Park or Glacier Bay National Park, as appropriate.

RECOGNITION OF NATIVE SELECTIONS

SEC. 122. Valid Native selections or nominations of lands within the boundaries of the Gates of the Arctic National Park or within the boundaries of the Wrangell-Saint Elias National Park and Preserve established under the provisions of this title, are recognized and shall be honored and conveyed by the Secretary in accordance with the Alaska Native Claims Settlement Act and title VIII of this Act.

TITLE II—NATIONAL WILDLIFE REFUGE SYSTEM

PART A—ESTABLISHMENT OF NEW AREAS

SELAWIK NATIONAL WILDLIFE REFUGE

SEC. 201. (a) There is established the Selawik National Wildlife Refuge of approximately 1,480,000 acres of Federal lands. This area shall consist of the lands generally depicted on the map entitled " ," dated April , 1978, which shall be on file available for public inspection in the office of the Secretary.

(b) The refuge established pursuant to this section shall be managed for the purposes of—

(1) protecting the crossroads habitats of the Asiatic and North American Flyways and their significant populations of snow geese, ducks and swans, sandhill cranes, and shorebirds;

(2) protecting populations of fish and wildlife and their habitats, including caribou;

(3) providing opportunities for hunting, fishing, reindeer grazing, and other activities, including continued subsistence uses, in a manner which does not interfere with the purposes specified in paragraphs (1) and (2); and

(4) furthering such other goals as the Secretary finds to be consistent with the provisions of this section.

INNOKO-KAIYUH NATIONAL WILDLIFE REFUGE

SEC. 202. (a) There is established the Innoko-Kaiyuh National Wildlife Refuge of approximately 2,180,000 acres of Federal lands. This area shall consist of the lands generally depicted on the map entitled " ," dated April , 1978, which shall be on file available for public inspection in the office of the Secretary.

(b) The refuge established pursuant to this section shall be managed for the purposes of—

(1) assuring continuing high production levels of waterfowl, including ducks, geese, and swans;

(2) protecting populations of fish and wildlife and their habitats, including numerous bird species, moose, beaver, salmon, and the Beaver Mountain caribou herd;

(3) permitting hunting, fishing, and other activities, including continued subsistence uses, in a manner which does not interfere with the purposes specified in paragraphs (1) and (2); and

(4) furthering such other goals as the Secretary finds to be consistent with the provisions of this section.

KOYUKUK NATIONAL WILDLIFE REFUGE

SEC. 203. (a) There is established the Koyukuk National Wildlife Refuge of approximately 2,680,000 acres of Federal lands. This area shall consist of the lands generally depicted on the map entitled " ," dated April , 1978, which shall be on file available for public inspection in the office of the Secretary.

(b) The refuge established pursuant to this section shall be managed for the purposes of—

(1) maintaining habitats in order to assure continued high level fall flights of ducks and geese;

(2) protecting populations of fish and wildlife and their habitats, including moose and fur bearing animals;

(3) providing opportunities for hunting, fishing, and other activities, including continued subsistence uses, in a manner which does not interfere with the purposes specified in paragraphs (1) and (2); and

(4) furthering such other goals as the Secretary finds to be consistent with the provisions of this section.

ALASKA MARINE RESOURCES NATIONAL WILDLIFE REFUGE

SEC. 204. (a) There is established the Alaska Marine Resources National Wildlife Refuge of approximately 330,000 acres of Federal lands. This area shall consist of the lands which are generally depicted on the map entitled " ," dated April , 1978, or which are in the following described units, together with all other federally-owned islands, islets, rock, reefs, and spires within six miles of the coast of Alaska:

(1) the Chukchi Sea unit, including Cape Lisburne, Cape Thompson, and the Chamisso National Wildlife Refuge;

(2) the Bering Sea unit, including the Bering Sea and Pribilof National Wildlife Refuge, Hagemeister Island, Fairway Rock, Sledge Island, Bluff Unit, Besboro Island, Egg Island, and the Punuk Islands;

(3) the Aleutian Islands unit, including the Aleutian Islands and Bogoslof National Wildlife Refuges, and all other Federal lands in the Aleutian Islands;

(4) the Alaska Peninsula unit, including the Simenof and Semidi National Wildlife Refuges; and

(5) the Gulf of Alaska unit, including the Forester Island, Hazy Islands, Saint Lazaria, and Tuxedni National Wildlife Refuges, the Barren Islands, Latax Rocks, Harbor, Pye, and Chiswell Islands, and the islands, islets, rocks, or spires surrounding Kodiak and Afognak Islands.

(b) The map referred to in subsection (a) shall be on file for public inspection in the office of the Secretary.

(c) The refuge established pursuant to this section shall be managed for the purposes of—

(1) protecting internationally significant marine birds and mammals and the land, water, and other marine resources on which such birds and mammals rely;

(2) perpetuating other indigenous fish and wildlife resources of the coastal marine environment;

(3) providing for national and international research on marine resources; and

(4) furthering such other goals as the Secretary finds to be consistent with the provisions of this section.

(d) The Secretary is directed to negotiate with the appropriate Native corporations pursuant to section 22(f), as amended, of the Alaska Native Claims Settlement Act the conveyance of public lands, interests therein, or other valuable consideration to the corporations in exchange for their interest in Walrus and Otter Islands, Sea Lion Rocks and the bird cliffs on St. Paul and St. George Islands. At such time as the exchange is agreed to, the Pribilof Islands National Wildlife Reserve, including Walrus and Otter Islands, Sea Lion Rocks and the bird cliffs on St. Paul and St. George Islands shall be included within the Bering Sea unit of the Alaska Marine Resources National Wildlife Refuge established in this section.

SHISHMAREF NATIONAL WILDLIFE REFUGE

SEC. 205. (a) There is established the Shishmaref National Wildlife Refuge of approximately 1,500,000 acres of Federal lands. This area shall consist of the lands generally depicted on the map entitled " ," dated April , 1978, which shall be on file available for public inspection in the office of the Secretary.

(b) The refuge established pursuant to this section shall be managed for the purposes of—

(1) perpetuating nationally significant migratory waterfowl and mammal populations on the lands and waters of the Shishmaref area;

(2) providing for archeological and paleontological study, in cooperation with Native Alaskans, of the process of plant, animal, and human migration between North America and the Asian continent;

(3) providing for continued subsistence uses;

(4) protecting range conditions for the continued grazing of reindeer;

(5) providing for recreational activities in a manner which does not interfere with the purposes specified in paragraphs (1), (2), (3), and (4); and

(6) furthering such other goals as the Secretary finds to be consistent with the provisions of this section.

PART B—CHANGES AND ADDITIONS TO EXISTING AREAS

YUKON DELTA NATIONAL WILDLIFE REFUGE

SEC. 211. (a)(1) The Clarence Rhode National Wildlife Refuge and Hazen Bay National Wildlife Refuge are redesignated, and shall be known as, the "Yukon Delta National Wildlife Refuge".

(2) Any reference to the "Clarence Rhode National Wildlife Refuge" or the "Hazen Bay National Wildlife Refuge" in any law, regulation, map, document, or record of the United States shall be considered to refer to such refuge as the "Yukon Bay National Wildlife Refuge".

(b)(1) The Yukon Bay National Wildlife Refuge is expanded by the addition of an area containing 7,600,000 acres of Federal lands generally depicted on the map entitled " ," dated April , 1978.

(2) The purposes of the expansion of the Yukon Bay National Wildlife Refuge are to—

(A) perpetuate the significant fall flights of ducks, swans, and geese, including large numbers of emperor geese, cackling geese, and large numbers of black brant;

(B) perpetuate significant numbers of shorebirds and waterbirds;

(C) protect populations of fish and wildlife and their habitats, including internationally significant migratory bird, fish, and marine mammal resources;

(D) maintain the environmental integrity of rivers and lakes;

(E) provide opportunities for hunting, fishing, and other activities, including continued subsistence uses, in a manner which does not interfere with the purposes specified in subparagraphs (A), (B), (C), and (D); and

(F) further such other goals as the Secretary finds to be consistent with the provisions of this section.

ARCTIC NATIONAL WILDLIFE RANGE EXPANSION

SEC. 212. (a) The Arctic National Wildlife Range is expanded by the addition of an area containing 1,890,000 acres of Federal lands generally depicted on the map entitled " ," dated April , 1978.

(b) The purposes of the expansion of the Arctic National Wildlife Range are to—

(1) protect internationally significant populations of caribou and migratory birds and their habitats;

(2) perpetuate other migratory and resident fish and wildlife populations;

(3) protect representative Arctic life zones and their primitive characters;

(4) provide continued opportunity for wildlife and wildland oriented recreational and subsistence uses in a manner which is consistent with the purposes specified in paragraphs (1), (2), and (3); and

(5) further such other goals as the Secretary finds to be consistent with the provisions of this section.

ARCTIC NATIONAL WILDLIFE RANGE EXCHANGE

SEC. 213. (a) The subsurface estate of approximately 280,000 acres of land described on the map entitled dated April, 1978, which is within the Arctic National Wildlife Range is removed from such Range.

(b) After the concurrence of the Governor of the State of Alaska and the Secretary, __ acres of lands which have been selected by the State, tentatively approved for patent to the State, or patented to the State, and which are located within or adjacent to one or more of the units of the National Park System or the National Wildlife Refuge System designed under the provisions of title I or II of this Act, shall be conveyed to the United States Government by the State or retained by the United States Government, as appropriate, and shall be added to the appropriate unit of the National Park System or the National Wildlife Refuge System designated under the provisions of title I or II of this Act.

(c) After the conveyance to or retention of lands by the United States pursuant to subsection (b), the Secretary shall convey the subsurface estate removed from the Arctic National Wildlife Range pursuant to subsection (a) to the State. The Secretary shall take such action as may be necessary to insure that the State may make full use of such subsurface estate, but may impose reasonable restrictions of such use which are designed to protect the surface values of the area.

KENAI NATIONAL MOOSE REFUGE

SEC. 214. (a)(1) Kenai National Moose Range is redesignated, and shall be known as, "Kenai National Moose Refuge".

(2) Any reference to the "Kenai National Moose Range" in any law, regulation, map, document, or record of the United States shall be considered to refer to such refuge as the "Kenai National Moose Refuge".

(b)(1) Kenai National Moose Refuge is expanded by the addition of an area containing 40,000 acres of Federal lands generally depicted on the map entitled " ," dated April , 1978.

(2) The purposes of the expansion of Kenai National Moose Refuge are to—

(A) perpetuate a nationally significant population of moose;

(B) protect populations of fish and wildlife and their habitats, including moose and other mammals and waterfowl;

(C) provide opportunities for wildlife oriented recreation in a manner consistent with the purposes specified in subparagraphs (A) and (B); and

(D) further such other goals as the Secretary finds to be consistent with the provisions of this section.

CAPE NEWENHAM NATIONAL WILDLIFE REFUGE

SEC. 215. (a) Cape Newenham National Wildlife Refuge is expanded by the addition of an area containing 240,000 acres of Federal lands generally depicted on the map entitled " ," dated April , 1978.

(b) The purposes of the expansion of Cape Newenham are to—

(1) protect populations of fish and wildlife and their habitats, including the large

populations of waterfowl, marine birds, and mammals associated with the Cape Newenham area;

(2) permit hunting, fishing, and other activities, including continued subsistence uses, in a manner consistent with the purpose specified in paragraph (1); and

(3) further such other goals as the Secretary finds to be consistent with the provisions of this section.

PART C—ADMINISTRATIVE PROVISIONS

ADMINISTRATION OF NEW AREAS

SEC. 221. (a) The Secretary shall administer the lands established or added to existing areas under the provisions of this title as units of the National Wildlife Refuge System, pursuant to the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) and of this Act.

(b) (1) All proclamations, Executive orders, public land orders, and similar actions, which, prior to the date of enactment of this Act, reserve any lands, waters, or interests therein for refuge purposes within the boundaries of the areas established as or added to units of the National Wildlife Refuge System under the provisions of this title shall remain in full force and effect except where inconsistent with the provisions of this Act.

(2) Any funds available on the date of enactment of this Act for lands, waters, or interests therein reserved under any proclamation, Executive order, public land order, or similar action prior to the date of enactment of this Act shall continue to be available to carry out the purposes of the unit in which such land, water, or interest therein is located.

TITLE III—NATIONAL WILD AND SCENIC RIVERS SYSTEM

PART A—WILD AND SCENIC RIVERS WITHIN NATIONAL PARK SYSTEM

SEC. 301. Designation.—Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 907), as amended (16 U.S.C. 1274(a), is further amended by adding the following new paragraphs:

"( ). Alatna, Alaska.—The main stem within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"( ). Aniakchak, Alaska.—That portion of the river, including its major tributaries, Hidden Creek, Mystery Creek, Albert Johnson Creek, and North Fork Aniakchak River, within the Aniakchak National Monument and National Preserve; to be administered by the Secretary of the Interior.

"( ). Bremmer, Alaska.—The main stem, and the North, South, and Middle Forks within the Wrangell-Stain Elias National Park; to be administered by the Secretary of the Interior.

"( ) Charley, Alaska.—The entire river, including its major tributaries, Cooper Creek, Hosford Creek, and Crescent Creek, within the Yukon-Charley Rivers National Rivers; to be administered by the Secretary of the Interior.

"( ). Killik, Alaska.—That portion of the river, including its major tributary, Easter Creek, within the Gate of the Arctic National Park; to be administered by the Secretary of the Interior.

"( ). Noatak, Alaska.—That portion of the river within the Gates of the Arctic National Park; to be administered by the ———.

"( ). North Fork of the Koyukuk, Alaska.—That portion of the river, including its major tributary, the Tinayguk River, within the Gate of the Arctic National Park; to be administered by the Secretary of the Interior.

"( ). Tlikakila, Alaska.—That portion within the Lake Clark National Park; to be administered by the Secretary of the Interior.

SEC. 302. Administrative Provisions.—(a) The river segments designated in section 301 of this title are hereby classified and designated, and shall be administered, as wild river areas pursuant to the Wild and Scenic Rivers Act.

(b) The provisions of subsection 3(b) and section 6 of the Wild and Scenic Rivers Act shall not apply to the river segments listed in section 301. The provisions of Title VII of this Act shall supersede those of section 13(a) of the Wild and Scenic Rivers Act, concerning fish and wildlife.

PART B—WILD AND SCENIC RIVERS WITHIN NATIONAL WILDLIFE REFUGE SYSTEM

SEC. 311. Designation.—Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 907) as amended (16 U.S.C. 1274(a)), is further amended by adding the following new paragraphs:

"( ). Sheenjek, Alaska.—The segment within the Arctic National Wildlife Refuge, to be administered by the Secretary of the Interior."

SEC. 312. Administrative Provisions.—(a) The river segment designated in section 303 of this title is hereby classified and shall be administered as a wild river area within the National Wildlife Refuge.

(b) Notwithstanding any provisions to the contrary of the Wild and Scenic Rivers Act (82 Stat. 907; 17 U.S.C. 1271), the boundaries of the river segments referred to in section 311 of this title may include up to one mile from the mean high water level on either side of the river segments. Notwithstanding the provisions of section 3(b) of such Act, the Secretary shall establish boundaries of the river segments referred to in section 311 of this title within three years after the date of enactment of this title.

PART C—ADDITIONS TO NATIONAL WILD AND SCENIC RIVERS SYSTEM LOCATED OUTSIDE NATIONAL PARK SYSTEM UNITS AND NATIONAL WILDLIFE REFUGES

SEC. 321. Designation.—Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 907) as amended (16 U.S.C. 1274(a)) is further amended by adding the following paragraphs:

"( ). Alagnak, Alaska.—The portion beginning at the source, its major tributary the Nonvianuk, and running to the west boundary of township 13 south, range 43 west; to be administered by the Secretary of the Interior.

"( ). Andreafsky, Alaska.—That portion of the main stem from its source, including all headwaters to the west boundary of township 25 north, range 73 west; to be administered by the Secretary of the Interior.

"( ). Birch Creek, Alaska.—The segment of the main stem from the vicinity of the confluence of the North Fork downstream to its intersection with the Steese Highway; to be administered by the Secretary of the Interior.

"( ). Fortymile, Alaska.—The main stem within the State of Alaska; South Fork; Walker Fork downstream from the confluence of Liberty Creek; Mosquito Fork downstream from the vicinity of Kechumstuk; West Fork Dennison Fork downstream from the confluence of Logging Cabin Creek; North Fork; Champion Creek; the Middle Fork downstream from the confluence of Joseph Creek; and Joseph Creek; to be administered by the Secretary of the Interior.

"( ). Gulkana, Alaska.—The main stem from Paxson Lake to Sourdough and the entire West and Middle Forks; to be administered by the Secretary of the Interior.

"( ). Ivishak, Alaska.—That portion from its source, including all headwaters and an unnamed tributary to Porcupine Lake; to be administered by the Secretary of the Interior.

( ). Kanektok, Alaska.—That portion from Kagati Lake to a point sixteen miles above the mouth; to be administered by the Secretary of the Interior.

"( ). Noatak, Alaska.—That portion from the boundary of the Gates of the Artic National Park to the confluence of the Kelly River; to be administered by the Secretary of the Interior.

"( ). Sheenjek, Alaska.—The segment from the boundary of the Arctic National Wildlife Refuge to the confluence of the Porcupine River; to be administered by the Secretary of the Interior.

"( ). Unalakleet, Alaska.—The segment of the main stem beginning at 159 degrees 21 minutes 06.156 seconds west longitude approximately six miles from the headwaters extending downstream sixty miles to 160 degrees 19 minutes 15.031 seconds west longitude in the vicinity of the confluence of the Chiroskey River; to be administered by the Secretary of the Interior.

"( ). Wind, Alaska.—That portion from its source, including all headwaters and one unnamed tributary in township 13 south, range 21 east; to be administered by the Secretary of the Interior."

SEC. 322. Administrative Provisions.—(a) The Alagnak, Andreafsky, Birch Creek, Gulkana, Ivishnak, Kanetok, Noakak, Sheenjek, Unalakleet and Wind components as well as the Mosquito Fork downstream from the vicinity of Kechumstuk to Ingle Creek, North Fork, Champion Creek, Middle Fork downstream from the confluence of Joseph Creek, and Joseph Creek segments of the Fortymile component, designated in section 321 of this title, are hereby classified and designated and shall be administered as wild river areas pursuant to the Wild and Scenic Rivers Act. The remaining segments of the Fortymile components are classified and designated and shall be administered as scenic river areas, pursuant to such Act. The classification as wild river areas of certain segments of the Fortymile by this subsection shall not preclude such access across those river segments as the Secretary determines to be necessary to permit commercial development of mineral deposits in the North Fork drainage.

(b) The Secretary of the Interior shall take such action as is provided for under section 3(b) of the Wild and Scenic Rivers Act to establish detailed boundaries and formulate detailed development and management plans within one year after the date of enactment of this title with respect to the Alagnak, Birch Creek, and Gulkana components; within two years with respect to the Fortymile and Noatak components; within three years with respect to the Sheenjek, Andreafsky, Ivishak, Kanektok, and Unalakleet components. The detailed plan for each river (i) shall include establishment of detailed boundaries not to exceed one mile from the mean high water level on either side of the river segments, and (ii) shall include the establishment of a corridor based essentially on line-of-sight from the river within which the Secretary determines that minerals should continue to be withdrawn.

(c) Notwithstanding any provisions of the Wild and Scenic Rivers Act (82 Stat. 907; 16 U.S.C. 1271) to the contrary, an area extending one mile from the mean high water level on either side of the river segments referred to in this section is hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws, including in both cases amendments thereto, pending establishment of the detailed boundaries provided for in subsection (b).

(d) The provisions of this title specifying maximum permissible corridors for individual components shall supersede any provisions to the contrary of the Wild and Scenic Rivers Act.

(e) Notwithstanding the provisions of section 9(a)(iii) of the Wild and Scenic Rivers Act, the minerals in all Federal lands within the line-of-sight corridor established pursuant to subsection (b) included in any component or part of a component designated by this section as a wild river area are effective upon the establishment of such corridor, withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto. The Secretary is authorized to open the remainder of the lands within the detailed boundaries of the river segment to mining and mineral leasing subject to such regulations as he may prescribe.

(f) The Secretary may seek cooperative agreements with the owners of the non-Federal lands adjoining the wild and scenic rivers established by this title to assure that the purpose of such regulations are served to the greatest extent feasible.

(g) Notwithstanding any other provision of law or of this Act to the contrary, with respect to components of rivers herein designated and administered by the Secretary, the Secretary may (i) grant access for oil and gas pipelines in accordance with the Mineral Leasing Act of 1920; (ii) permit, subject to such terms and conditions as he deems necessary, access for roads across, through, or over such river components; and (iii) permit the continued use of Federal lands, waters and interests therein for customary and traditional transportation purposes and those required under existing international treaties.

(h) Rivers designated in section 321 of this title shall be managed by the Federal agency charged with management of the adjacent Federal lands.

## TITLE IV—NATIONAL FOREST SYSTEM

### ADDITIONS TO NATIONAL FORESTS

SEC. 401. The following units of the National Forest System are hereby expanded:

(1) Tongass National Forest by the addition of three areas, Kates Needle, Juneau Icefield, and Brabazon Range, containing approximately 1.54 million acres, as generally depicted on a map entitled, "Additions to the Tongass National Forest" dated , which shall be filed and made available for public inspection.

(2) Chugach National Forest by the addition of four areas, Nellie Juan, College Fiord, Copper River and Harding Icefield, containing approximately 2.11 million acres, as generally depicted on a map entitled, "Additions to the Chugach National Forest" dated , which shall be filed and made available for public inspection.

## TITLE V—DESIGNATION OF WILDERNESS IN SOUTHEAST ALASKA

SEC. 501. In furtherance of the purposes of the Wilderness Act and subject to valid existing rights, the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Tongass National Forest, Alaska, which comprise approximately acres, as generally depicted on a map entitled, "Admiralty Island Wilderness," dated , and which shall be known as the Admiralty Island Wilderness.

(2) Certain lands in the Tongass National Forest, Alaska, which comprise approximately acres, as generally depicted on a map entitled, "West Chichagof-Yakobi Wilderness," dated , and which shall be known as West Chichagof-Yakobi Wilderness.

(3) Certain lands in the Tongass National Forest, Alaska, which comprise approximately acres, as generally depicted on a map entitled, "Russell Fiord Wilderness," dated , and which shall be known as Russell Fiord Wilderness.

(4) Certain lands in the Tongass National Forest, Alaska, which comprise approximately acres, as generally depicted on a map entitled, "Granite Fiords Wilderness," dated , and which shall be known as Granite Fiords Wilderness.

(5) Certain lands in the Tongass National Forest, Alaska, which comprise approximately acres, as generally depicted on a map entitled, "Stikine-LeConte Wilderness," dated , and which shall be known as Stikine-LeConte Wilderness.

(6) Certain lands in the Tongass National Forest, Alaska, which comprise approximately acres, as generally depicted on a map entitled, "Tracy Arm Wilderness," dated , and which shall be known as Tracy Arm Wilderness.

(7) Certain lands in the Tongass National Forest, Alaska, which comprise approximately acres, as generally depicted on a map entitled, "Petersburg Creek Wilderness," dated , and which shall be known as Petersburg Creek Wilderness.

### BOUNDARIES

SEC. 502. (a) The boundaries of the areas designated in section 501 shall be determined by the Congress upon completion of the Tongass Land Use Management Plan by the United States Forest Service. Such boundaries shall:

(1) include only such commercial forest lands which shall not cause the potential annual yield of the Tongass National Forest to be reduced below existing levels of timber harvest, utilizing marginal and special components at a level which is reasonable in regard to the economic, technological and environmental constraints present at the time of passage of this Act; and

(2) exclude significant known mineral discoveries and mining claim areas.

(b) To the extent it is consistent with the requirements of subsection (a) of this section, additional wilderness areas or wilderness study areas may be designated.

### ADMINISTRATIVE PROVISIONS

SEC. 503. (a) This section is enacted in recognition of the unique character of the wilderness areas in Alaska. Nothing in the provisions of this section shall be construed to expand, diminish, or modify the provisions of the Wilderness Act with respect to lands located in areas outside of the State of Alaska.

(b) The appropriate Secretary may take such measures as may be necessary to provide for fire, insect, and disease control in areas designated as wilderness under the provisions of this Act while maintaining the wilderness character of such areas and protecting adjoining lands or waters.

(c) The appropriate Secretary shall permit the continuance of customary uses of aircraft, motorboats, and snowmobiles established prior to the date of enactment of this Act in areas designated as wilderness under the provisions of this Act, but may impose such restrictions as may be necessary to maintain the wilderness character of such areas.

(d) The appropriate Secretary shall permit the taking of fish and wildlife on lands designated as wilderness areas under the provisions of this Act which are under his jurisdiction in accordance with applicable laws of the United States and the State of Alaska. Subsistence activities described in title VII of this Act, including access by motorized vehicles, shall also be permitted within areas designated as wilderness under the provisions of this Act.

(e)(1) The appropriate Secretary shall permit public use cabins within areas designated as wilderness under the provisions of this Act which are in existence on the date of enactment of this Act to be used by the public and to be maintained or replaced under such conditions as the Secretary finds to be necessary to preserve the wilderness character of such areas.

(2) The appropriate Secretary is authorized to permit the construction and maintenance of new public use cabins and shelters within areas designated as wilderness under the provisions of this Act in order to protect the public health and safety, protect and preserve the wilderness character of the area, or meet minimum requirements for the administration of such areas. The appropriate Secretary may impose such conditions on the construction and maintenance of such cabins as may be necessary to preserve the wilderness character of the area.

(f) Commercial services may be performed within areas designated as wilderness under the provisions of this Act to the extent necessary to provide activities to carry out the recreational or wilderness purpose of the areas.

(g) In any case where State owned lands, privately owned lands, or mining claim lands are completely surrounded by areas designated as wilderness under the provisions of this Act, the State, private owner, or interest holder shall be given such rights as may be necessary to assure adequate access to the appropriate lands.

(h)(1) In order to study, restore, augment, or sustain fish populations the appropriate Secretary is authorized to permit research, fish stocking, enhancement, rehabilitation, and development activities which are in accordance with the principles of sound fisheries management, as well as the development of fish aquaculture and research sites, within areas designated as wilderness under the provisions of this Act. The appropriate Secretary shall require that structures built for such fish aquaculture or research sites include only the minimum facilities necessary for the operation of such sites, and that such structures be constructed in a manner which minimizes the impact on the natural environment and wilderness purposes for which the area was designated as a wilderness area under the provisions of this Act.

(2) The appropriate Secretary may permit reasonable access, including access by motor vehicle—

(A) to the State, or to the holder of a permit for fish enhancement programs or development activities, for the purpose of conducting necessary fish and wildlife management activities; and

(B) for the evaluation of sites needed for fisheries, research, enhancement, rehabilitation, and development and for the construction, operation, and maintenance of authorized projects.

### WILDERNESS STUDY

SEC. 504. (a) The Congress finds and declares that—

(1) while there is general agreement that much of the land in Alaska possesses wilderness values and would qualify as potential units of the Wilderness Preservation System, there is a lack of information concerning the demand for wilderness and the uses of wilderness in Alaska; and

(2) the designation of units of the Wilderness Preservation System in Alaska should be done with the knowledge of and with consideration of the inventory of potential wilderness areas throughout the State, the range of uses and resources to occur or be protected in designated wilderness units, and the alternative resource uses of potential wilderness units.

(b) The Commission established in title VI of this Act shall report to the Congress within two years of enactment of this Act the findings and recommendations of a study

of wilderness and recreation lands in Alaska. Such study shall be conducted in consultation with appropriate Federal, State and local agencies in Alaska and other interested organizations, all the report shall include

(1) a general statewide analysis of current and future demands and needs for designated units of the Wilderness Preservation System and for areas managed primarily for recreation other than wilderness units; and

(2) a general statewide inventory of lands meeting the criteria for potential inclusion in the Wilderness Preservation System; and

(3) a general statewide analysis of current and future uses of lands of wilderness character and lands currently managed primarily for recreational purposes; and

(4) recommendations of the general acreages and the general locations of areas which should be designated as units of the Wilderness Preservation System. Such recommendations shall seek to accommodate the demands and needs for the various uses of wilderness identified by the Commission and shall be made with the purpose of facilitating the ultimate establishment of a statewide wilderness system which would include a diversified cross-section of lands meeting the criteria for inclusion in the Wilderness Preservation System; and

(5) recommendations of management practices which would be appropriate for various wilderness units which may be recommended for designation by the Commission; and

(6) recommendations of general areas other than wilderness units which should be designated or managed primarily for recreational uses in order to meet the demands for and uses of recreational lands identified by the Commission.

(c) There are authorized to be appropriated $1,000,000 for the purpose of conducting the studies authorized in this section.

## TITLE VI—ALASKA FEDERAL-STATE LAND USE PLANNING COMMISSION

### ESTABLISHMENT OF COMMISSIONS; JURISDICTION

SEC. 601. (a) Following designation under Alaska State law of all lands patented or tentatively approved for patent to the State to be cooperatively managed with designated Federal lands, there is hereby established the Alaska Federal-State Land Use Planning Commission (hereinafter referred to as the "Commission").

(b) In addition to the designated State lands, the Commission shall have jurisdiction over all public lands in the State of Alaska under the management of the Bureau of Land Management, including the National Petroleum Reserve in Alaska.

(c) With the approval of the Commission, lands for which patents or interim conveyances have been issued to Native corporations under the terms of the Alaska Native Claims Settlement Act and other private lands may be placed voluntarily under the jurisdiction of the Commission pursuant to the procedures and conditions to be enacted by the State of Alaska.

### MEMBERSHIP AND PROCEDURES OF COMMISSION

SEC. 602. (a)(1) The Commission shall, subject to the provisions of section 601, be composed of nine members as follows:

(A) one member appointed, after consultation with and concurrence by the Governor of Alaska, by the President of the United States, with the advice and consent of the Senate, who shall be Chairman of the Commission;

(B) four members appointed by the President of the United States, with the advice and consent of the Senate;

(C) Four members appointed by the Governor of the State of Alaska subject to confirmation by a majority of the Alaska State Legislature in joint session.

(2) Upon the first vacancy of a position in each of the categories created pursuant to subparagraphs (B) and (C) of paragraph (1) (whether created by expiration of a member's term or otherwise) occurring on or after the date on which 80 per centum or more of all lands for which patents or interim conveyances have been issued have been dedicated by Native corporations for jurisdiction under the Commission, the President and the Governor, shall fill the vacancies under their respective jurisdictions by appointing a Native (as that term is defined in section 3(b) of the Alaska Native Claims Settlement Act). Thereafter, as long as such lands remain so dedicated, at least one of such members appointed in each of the categories created pursuant to subparagraphs (B) and (C) of paragraph (1) shall be a Native.

(b)(1) The Chairman shall be compensated at a rate to be determined by the President not to exceed the rate provided for GS–18 of the General Schedule under section 5332 of Title 5, United States Code.

(2) All other members of the Commission shall be compensated at a rate to be determined by the President, after consultation with and concurrence by the Governor of Alaska, not to exceed the rate provided for GS–16 of such General Schedule.

(3) Upon vouchers approved by the Chairman, all members of the Commission shall be reimbursed for necessary expenses incurred by them in carrying out their duties under this Act.

(c) The Commission, with the approval of the Chairman, is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(d)(1) Members of the Commission shall serve for a four-year term except that, of the initial members appointed pursuant to subparagraph (B) of subsection (a)(1), two members shall be appointed for two year terms, and of the initial members appointed pursuant to subparagraph (C) of subsection (a)(1), two members shall be appointed for two year terms. A vacancy in the membership shall not affect the Commission's powers but shall be filled in the manner provided in paragraph (2) of subsection (a). Any person appointed to fill a vacancy involving an unexpired term shall serve for the duration of that term. Except to the extent otherwise provided in subsection (a), members may be reappointed to serve additional terms.

(2) The Chairman of the Commission shall serve at the pleasure of the President and the Governor.

(e) Six members of the Commission shall constitute a quorum, except that the Commission may establish a lesser number for purposes of subsection (g).

(f) All Commission meetings shall be public and shall be duly noticed at least fifteen days prior to the date when the meeting is to take place.

(g) The Commission, or on its authorization, any subcommittee or member thereof, may hold such hearings, take such testimony, receive such evidence, and print such reports as are deemed necessary to carry out the functions specified in this title.

(h) The Chairman is authorized, in accordance with regulations prescribed by the Commission, to create and abolish employments and positions including temporary and intermittent employments; to fix and provide for the qualification, appointment, removal, compensation, pension and retirement rights of Commission employees; and to procure needed office space, supplies and equipment.

(i) The principal office of the Commission shall be located in the State of Alaska.

(j) The Federal government shall pay only 50 percent of the costs and other expenses incurred in each fiscal year by the Commission in carrying out its duties under this Act.

(k) The Commission is authorized to use the services, equipment, personnel and facilities of Federal departments and other agencies, with or without reimbursement. Each department and agency of the Federal government shall cooperate fully in making its services, equipment, personnel and facilities available to the Commission.

(l) The Commission is authorized to accept donations, gifts and other contributions and to utilize such donations, gifts and contributions in carrying out its functions under this Act.

(m) The Commission shall keep and maintain complete accounts and records of its activities and transactions, and such accounts and records shall be available for public inspection.

(n) The Commission is authorized to establish such advisory groups or committees of non-Commission members as may be necessary to assist it in performing its functions.

(o) The Chairman is authorized to establish whatever internal organization as may be necessary to efficiently conduct the functions of the Commission, including the assignment of work areas of primary responsibility for various members.

(p) The Commission shall, on or before March 1 of each year, prepare and submit to the President, the Governor of Alaska, the Legislature and the Congress an annual report summarizing its activities during the preceding calendar year, together with its recommendations.

### FUNCTIONS AND DUTIES

SEC. 603. (a) It shall be the function of the Commission—

(1) to review resource inventories prepared by the managing agencies and other affected or concerned Federal and State agencies concerning lands under the jurisdiction of the Commission; and to initiate and conduct other such inventories and resource studies as may be needed;

(2) to develop comprehensive land use plans with respect to lands under the jurisdiction of the Commission;

(3) to make land classifications pursuant to such plans, and to approve and to supervise the regulation of uses in accordance with such plans and classifications;

(4) to assure that such classifications would specifically identify lands which are suitable and open for the following primary uses:

(A) oil, gas and other fuel mineral exploration and possible development;

(B) non-fuel mineral exploration and possible development;

(C) permanent and seasonal human habitation;

(D) agricultural and aquaculture development;

(E) timber harvesting;

(F) tourism and recreational development;

(G) primitive or wilderness use;

(H) fish and wildlife habitat; and

(I) other resource uses as may be appropriate;

(5) to assist in the development and review of land-use plans for lands selected by Native corporations under the terms of the Alaska Native Claims Settlement Act which may not be designated for jurisdiction by the Commission; and to assist in the development and review of land-use plans of municipal governments;

(6) to review existing withdrawals of Federal and State public lands and recommend to the President and Congress such additions to or modifications of such withdrawals as the Commission deems appropriate;

(7) to make recommendations, from time to time, to the President, Congress and the

Governor and the Legislature of the State of Alaska as to changes in laws, policies, budgets and programs relating to the public lands which the Commission deems necessary or desirable;

(8) to make recommendations to the appropriate officers of the governments of the United States and the State of Alaska and to develop general plans which would ensure that economic growth and development are orderly, planned and compatible with State and national economic, social and environmental objectives;

(9) to make recommendations to appropriate officers of the United States, the State of Alaska, municipal officials and private landowners to improve coordination and consultation between the Federal, State and municipal governments in making resource allocations and land use decisions;

(10) to coordinate Federal and State administration, as it affects lands under the jurisdiction of the Commission, of the following Acts: the Federal Water Pollution Control Act, as amended; the Clean Air Act, as amended; the Solid Waste Disposal Act; the National Environmental Policy Act of 1969; the Coastal Zone Management Act of 1972, as amended; and the Safe Drinking Water Act.

(11) to determine the location of specific routes or corridors which would serve identified regional, statewide or national transportation or utility needs; direct the appropriate agency to grant rights-of-way across lands under its jurisdiction and provide study findings and make specific recommendations to the appropriate landowner where such rights-of-way would cross lands not under the Commission's jurisdiction, and in connection therewith the Commission shall evaluate alternative routes and modes and shall seek to recommend prudent and feasible routes and corridors which minimize environmental; and

(12) to perform any other duties authorized under section 17(b)(1) of the Alaska Native Claims Settlement Act.

(b) With respect to the uses under paragraph (4) of subsection (a), the Commission shall have the authority to pursue such uses on a lease basis under such terms as it may prescribe or under applicable provisions of the public land laws. In the case of leases for mineral exploration the Commission shall prescribe such procedures and rules which shall recognize the value of and provide opportunities for exploration and discoveries by small businesses and individuals.

(c) With respect to all Federal lands subject to the jurisdiction of the Commission, the Secretary may veto a decision of the Commission. With respect to all State lands subject to the jurisdiction of the Commission, the Governor of Alaska may veto a decision of the Commission. With respect to any lands owned by Native corporation or other private lands subject to the jurisdictions of the Commission, either the Secretary or the Governor may veto a decision by the Commission. Any such veto shall be made within 30 days of the Commission's decision and shall be accompanied by a report to the Commission containing specific findings supporting the veto and indicating possible alternatives.

(d) Federal, State and Native corporation lands under the jurisdiction of the Commission shall continue to be managed by the respective agencies established under Federal and State law, and in the case of corporation lands, by the respective corporation owner, except that uses of Federal, State and Native corporation lands shall be regulated in accordance with classifications made by the Commission. Except to the extent that they would be inconsistent with a Commission classification or the provisions of this Act, land use management decisions made by an agency shall be in accordance with the laws and regulations which generally govern the functions of such agency.

(e) Lands under the jurisdiction of the Commission shall be withdrawn from all forms of disposition or appropriation under Federal public lands laws, including mining and mineral leasing laws, until a land use plan has been completed for the particular area by the Commission and classifications imposed in regard to permissible land uses. The provisions of this subsection shall not apply in cases where the Commission takes action to permit specific uses in an area or areas.

(f) In performing the functions specified in subsection (a), the Commission shall hold public hearings in the specific locale or region for which specific land use plans, classifications or actions are being proposed or considered.

(g) In the development of land use plans and classifications, the Commission shall give priority to the conduct of a study of the Alaska Peninsula region of Alaska, South of Katmai National Park. The study shall include recommendations for land ownership consolidations and possible creation of conservation system units.

COOPERATION OF FEDERAL AGENCIES IN ENVIRONMENTAL LAWS COORDINATION

SEC. 604. In order to assist the Commission in carrying out its coordination function under section 603(a)(10) and to insure that the uses of land under the jurisdiction of the Commission being permitted under the Federal Water Pollution Control Act, as amended, the Clean Air Act, as amended, the Solid Waste Disposal Act, the National Environmental Policy Act of 1969, the Coastal Zone Management Act of 1972, as amended, and the Safe Drinking Water Act, are consistent with the land use plans and classifications of the Commission the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and the Chairman of the Council on Environmental Quality, shall, with respect to the implementation of such Acts under their respective jurisdictions—

(1) provide the Commission with copies of all orders, notices, regulations, or other material initiated concerning the implementation of such Act affecting any lands under the jurisdiction of the Commission;

(2) solicit and receive comments from the Commission prior to making any final decision concenring any rule, regulation, stipulation, policy or other action affecting such lands; and

(3) shall make such final decisions with a view towards obviating conflicts or problems identified by the Commission in its comments.

TERMINATION OF EXISTING COMMISSION

SEC. 605. Notwithstanding any other provision of law, Federal participation in the Joint Federal-State Land Use Planning Commission for Alaska, established in Section 17(a) of the Alaska Native Claims Settlement Act, shall cease 180 days following the date of enactment of this Act or upon establishment of the Commission provided for in section 601 of this title, whichever first occurs. Immediately upon termination of Federal participation, all unexpended funds appropriated to the Joint Commission and all property shall be returned, as appropriate, to the United States and the State of Alaska, unless the Commission provided for in section 601 of this title has been established, in which case all Federal funds and property shall be transferred to the Commission.

SUNSET CLAUSE

SEC. 606. (a) Unless otherwise hereafter provided by law, Federal participation in the Commission shall terminate upon the expiration of the eleven calendar year period following the date on which the Commission takes effect.

(b) On or before the two-year period immediately preceding the date of the expiration of the eleven calendar year period following the date on which the Commission takes effect, the Secretary and the Commission shall report to the President and the Congress with respect to the Secretary's and the Commission's views and recommendations concerning the desirability or non-desidability of continued Federal participation in the Commission.

(c) If at the expiration of the eleven calendar year period following the date on which the Commission takes effect the Congress has not acted to continue Federal participation in the Commission, the Secretary, acting under authority provided for in existing law, is directed to withdraw from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, up to, but not to exceed forty million acres of unreserved public lands in the State of Alaska which were previously under the jurisdiction of the Commission. Such lands shall be withdrawn for the purpose of studying the lands' suitability for potential addition to or creation as units of the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems.

(d) Within two years of the expiration of Federal participation in the Commission the Secretary shall submit to the Congress his recommendations with respect to such lands withdrawn. Areas recommended for addition to or creation as units of the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems shall remain withdrawn from any appropriation under the public land laws until such time as the Congress acts on the Secretary's recommendations, but not to exceed two years from the recommendation dates. The withdrawal of areas not so recommended shall terminate at the end of the two year period after the expiration of Federal participation in the Commission.

TITLE VII—SUBSISTENCE

FINDINGS

SEC. 701. The Congress finds and declares that—

(1) the continuation of subsistence uses by Natives of Alaska on the public lands and on their Native lands is essential to their physical, economic cultural existence.

(2) the continuation of subsistence uses by some other residents of the State of Alaska on the public lands is essential to their physical, economic and traditional existence.

(3) the situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply persons dependent on subsistence uses.

(4) continuation of subsistence uses of resources on public and other lands in Alaska is threatened by the increasing population of Alaska, with resultant pressure on subsistence resources, by sudden decline in the populations of some wildlife species which are crucial subsistence resources, and by increased accessibility of remote areas containing subsistence resources.

(5) in order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act, and as a matter of equity, it is necessary for the Congress to invoke its constitutional authority over Native affairs and over management of the public lands to protect and provide for continued subsistence uses on public lands by Alaska Natives and other Alaska residents.

(6) the national interest in the proper regulation, protection and conservation of fish and wildlife on the public lands in Alaska and the continuation of the opportunity for

a subsistence way of life by the inhabitants of Alaska require that an administrative structure be established for the purpose of enabling people who have personal knowledge of local conditions and requirements to have a meaningful role in the management of fish and wildlife and of subsistence uses on the public lands in Alaska.

POLICY

SEC. 702. It is hereby declared to be the policy of Congress that—

(1) management policies on the public lands in Alaska are to cause the least adverse impact possible on rural people who traditionally and consistently depend upon subsistence resources of such lands. Consistent with management of fish and wildlife in accordance with recognized scientific principles and the purposes for which each conservation system unit is established, designated, or expanded by or under this Act, the purpose of this title is to provide the opportunity for people engaged in a genuinely subsistence-oriented lifestyle to continue to do so if they desire and to allow such people to decide for themselves their own degree of subsistence dependency.

(2) subsistence use of wildlife and other renewable resources shall be the first priority consumptive use of all such resources on the public lands of Alaska, and where it is necessary to restrict taking in order to assure the continued viability of a fish or wildlife resource or the continuation of subsistence uses of such resource, the taking of such resource for subsistence uses shall be given preference on the public lands over recreational, sport, or other consumptive uses.

(3) except as otherwise provided by this Act or other Federal laws, Federal land managing agencies, in managing subsistence activities on the public lands and in protecting the continued viability of all wild renewable resources in Alaska, shall cooperate with adjacent landowners and land managers, including Native corporations, appropriate State and Federal agencies, and other nations.

SUBSISTENCE DEFINITION

SEC. 703. As used in this Act, the term "subsistence uses" means customary and traditional uses in Alaska of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools or transportation, for the making and selling of handicraft articles, including clothing, or for the customary trade or barter among subsistence users for personal or family consumption. Such uses may provide a cash supplement.

STATE REGULATION

SEC. 704. (a) Except as otherwise provided by this Act and other Federal laws, during an interim period of eighteen months beginning on the date of the enactment of this Act, the State of Alaska is authorized to regulate, in a manner not inconsistent with the policies set forth in section 702 and the definition set forth in section 703, the taking of fish and wildlife for subsistence uses on the public lands in Alaska. If the State fails to accept such authority, the Secretary shall regulate such taking during the eighteen-month interim period in a manner not inconsistent with such policies and definition.

(b) at the end of the eighteen-month interim period, the State of Alaska is authorized to regulate, in a manner consistent with the provisions of this Act, the taking of fish and wildlife for subsistence uses on the public lands in Alaska. If the State fails to accept such authority, the Secretary shall regulate such taking in a manner consistent with the provisions of this Act, including applicable provisions of this section concerning State regulation.

(c) If the State wishes to exercise the authority conferred under subsection (b) of this section, then within eighteen months after the date of the enactment of this Act, the Governor of the State of Alaska shall submit to the Secretary a State program which shall include at least the following elements:

(1) a system capable of monitoring subsistence and other consumptive uses of such species to insure that timely and appropriate State action will be taken to carry out the purposes and policies of this title.

(2) The establishment of not less than five or more than twelve fish and game management regions which, taken together, shall include all public lands where the State is exercising regulatory authority under this title. After consultation with the Secretary, the Native Corporations, rural residents, and other interested persons and organizations, the State shall, from time to time, determine the number and boundaries of such regions taking into account the exterior boundaries of Native Corporations, State fish and game management unit boundaries, ecosystems, the migration and movement of fish and wildlife utilized for subsistence purposes, the boundaries of conservation system units, boroughs, cities, towns and unincorporated municipalities, and other relevant factors.

(3) A State law or regulation which—

(A) provides priority for subsistence uses over other consumptive uses of fish and wildlife on the public lands; and

(B) provides that, whenever it is necessary to restrict the taking or other consumptive uses of subsistence resources in order to protect the continued viability of such resources or the continuation of subsistence uses of such resources, restrictions and limitation on and priorities for such consumptive uses shall be established on the basis of the following criteria: (i) customary and direct dependence upon the resource as the mainstay of one's livelihood, (ii) local residence, and (iii) availability of alternative resources.

(4) A system of local and regional fish and game councils within each management region referred to in paragraph (3). Each such council shall be composed of residents of the concerned region and shall have the following functions:

(A) Reviewing, developing and evaluating proposals for regulations, policies, management plans, and other matter relating to the conservation and utilization of fish and wildlife in such region.

(B) Providing a forum for the expression of opinions and recommendations by persons interested in any phase of fish and game conservation and utilization.

(C) Maximizing local and regional participation in the fish and wildlife decision-making process.

(D) Preparing a recommended subsistence management plan or a general fish and wildlife management plan which includes subsistence uses for such region. The plan shall contain (i) an identification of current and anticipated significant subsistence uses of fish and wildlife in such region, (ii) an evaluation of current and anticipated significant subsistence needs for fish and wildlife in such region, (iii) a recommended subsistence management strategy for fish and wildlife resources of such region, and (iv) proposals for and advice concerning policies, standards, guidelines, and regulations necessary to implement the plan.

(5) the provision of necessary staff to the regional councils and the distribution of all available, relevant technical and scientific support data to the local and regional councils.

(6) A requirement that the State agency referred to in paragraph (3)(A) or any other State rulemaking authority shall be guided by the advice and recommendations of the regional councils concerning the taking of fish and wildlife for subsistence uses within their respective regions and shall implement the recommendations, unless the agency or authority after hearing determines on the record that any such recommendation is not supported by substantial evidence, is violative of recognized principles of sound fish and wildlife management, or would be detrimental to the satisfaction of rural subsistence needs.

(d) The Secretary shall issue a certificate of approval for the State program and publish a summary of such program in the Federal Register if he finds that such program complies with the provisions of this section and is well adapted to achieve the purposes and policies of this title. If the Secretary is unable to make such finding, he shall so notify the State and shall afford the State and opportunity to modify its program under a procedure similar tothe procedure set forth in section 705. If the State fails to submit a State program within the eighteen-month period established in section 704(a), the Secretary shall exercise his authority to manage the habitat of fish and wildlife on the public lands in Alaska for subsistence uses in a manner consistent with the provisions of this Act until such time as the State submits a program for which the Secretary is able to issue a certificate of approval. If the State submits its program within the eighteen-month period specified in section 704(a), but at the end of that period the Secretary has not either issued a certificate of approval or determined that modifications of the State program are necessary, the Secretary may extend the interim period during which the State may exercise the authority specified in subsection 704(a), and during such extension the Secretary shall complete his review of the State program and shall act thereon. No extension under the preceding sentence shall be for a period greater than eighteen months, and no such extension shall be renewed more than once.

ENFORCEMENT DUTIES OF SECRETARY OF THE INTERIOR

SEC. 705. (a) After issuance of a certificate of approval under section 704(d) of this title, the Secretary of the Interior shall monitor the implementation of the State program. In his review the Secretary shall consult with the local and regional councils referred to in section 704(c)(4). If the Secretary, after notice and hearing determines that the program or its implementation is not in compliance with the requirements, purposes, or policies of this title, he shall so notify the State and shall indicate changes in its program or its implementation which he considers necessary to bring the State into compliance.

(b) If, after a reasonable opportunity, the State fails to make the changes in its program or its implementation which may be required by the Secretary under subsections (a) or (b) of this section, the Secretary shall afford the State formal notice and hearing pursuant to Section 554 of Title V of the United States Code. The Secretary shall have the burden of demonstrating by a preponderance of the evidence that the State program or its implementation is not in compliance with the requirements, purposes, or policies of this title. If after hearing the Secretary finds the State is not in compliance he may issue a suspension of the certificate, in whole or in part. If the Secretary issues a suspension of the certificate under this subsection, he shall assume, in accordance with the requirements, purposes, and policies of this title (including applicable provisions of section 704 pertaining to State regulation), responsibility for regulating the subsistence taking of fish and wildlife on the public lands to which such suspension applies, until such time as the Secretary certifies that the State is in compliance

with the State program and the requirements, purposes, and policies of this title.

(c) Notwithstanding any other provision of the Act or other law, the Secretary, after adequate notice and public hearing, may temporarily close any of the public lands in Alaska (including those within a conservation system unit) or any portion thereof to subsistence or other uses when necessary for reasons of public safety, administration or to assure the continued viability of one or more fish or wildlife species.

COOPERATIVE ARRANGEMENTS

SEC. 706. The Secretary is authorized to enter into cooperative agreements or otherwise cooperate with other Federal agencies, the State of Alaska, Native Corporations, and other appropriate persons and organizations (including, through coordination with the Secretary of State, other nations) to effectuate the purposes and policies of this title.

SUBSISTENCE AND LAND USE DECISIONS

SEC. 707. In determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition of public lands under any provision of law authorizing such actions, the head of the Federal agency having primary jurisdiction over such lands or his designee shall evaluate the subsistence needs of the persons who would be affected, the availability of other lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the use, occupancy, or disposition of public lands needed for subsistence purposes. No such withdrawal, reservation, lease, permit, or other use, occupancy, or disposition of such lands which would significantly restrict subsistence uses shall be affected until the head of such Federal agency—

(1) gives notice to the State agency described in section 704(c)(3)(A) and appropriate local and regional councils described in section 704(c)(4) if such councils have been established,

(2) gives notice of, and holds, a hearing in the vicinity of the area involved, and

(3) determines that such significant restriction of subsistence uses is necessary and unavoidable and minimizes the land and impacts on subsistence uses involved.

ACCESS

SEC. 708. The Secretary shall ensure the persons engaged in traditional or customary subsistence activities shall have appropriate access to subsistence resources on the public lands.

SNOWMOBILES AND MOTORBOATS

SEC. 709. Notwithstanding any other provision of this Act or other law, the Secretary shall permit on the public lands appropriate use for subsistence purposes of snowmobiles, motorboats and other means of surface transportation traditionally employed for such purposes, subject to such reasonable regulations as are necessary to prevent abuse, waste or damage to terrain or other natural values.

RESEARCH

SEC. 710. The Secretary of the Interior and the Secretary of Agriculture shall each undertake research on fish and wildlife and subsistence activities on the public lands in Alaska under their respective jurisdiction, seek data thereon from subsistence users, consult such users frequently, and make findings concerning such research available to the State of Alaska, the local and regional councils described in section 704(c)(4), subsistence users, and other appropriate persons and organizations.

PERIODIC REPORTS

SEC. 711. Within five years after the date of the enactment of this Act and every two years thereafter, the Secretary of the Interior, in consultation with the Secretary of Agriculture, shall prepare and submit a report to the President of the Senate and the Speaker of the House of Representatives on the current status of fish and wildlife and subsistence and other uses of those resources on the public lands. The report shall include at least the following:

(1) The management and taking of fish and wildlife under this title.

(2) The status of fish and wildlife populations on the public lands.

(3) The number of persons engaged in subsistence uses and in other uses of fish and wildlife on the public lands.

(4) The status of subsistence uses in the economy and culture of rural Alaska.

(5) Comments, if any, on the report made by the State of Alaska, the local and regional councils described in section 704(c)(4), and other appropriate persons and organizations.

(6) A description of those actions taken, or which may need to be taken in the future, to permit the continuation of subsistance activities on the public lands, as well as recommendations for any legislation the Secretary deems desirable. A summary of the report shall be published in the Federal Register and made available to the public.

REGULATIONS

SEC. 712. The Secretary of the Interior and the Secretary of Agriculture shall each prescribe such regulations as are necessary and appropriate to carry out their respective responsibilities under this title.

OTHER LAWS

SEC. 713. Nothing in this title shall be deemed to modify or repeal the provisions of the Fur Seal Act of 1966 (80 Stat. 1091; 16 U.S.C. 1151–1187), the Endangered Species Act of 1973 (87 Stat. 884; 16 U.S.C. 1531–1543), the Marine Mammal Protection Act of 1972 (86 Stat. 1027; 16 U.S.C. 1361 and following), the Act entitled "An Act for the protection of the bald eagle," approved June 8, 1940 (54 Stat. 250; 16 U.S.C. 667–668d), the Fish and Wildlife Act of 1956 (70 Stat. 1119; 16 U.S.C. 742a–754), the Migratory Bird Conservation Act (45 Stat. 1222; 16 U.S.C. 715 and following), the Fisheries Conservation and Management Act of 1976, the Federal Aid in Wildlife Restoration Act (16 U.S.C. 777), or any amendments to any one or more of such Acts.

LIMITATIONS

SEC. 714. (a) Nothing in this title shall be construed as granting any property right in any fish, wildlife, or other resource of the public lands in Alaska, nor as permitting the level of subsistence uses of fish and wildlife on such lands to be significantly expanded beyond the level of such uses occurring on such lands on or before January 1, 1978.

(b) Nothing in this title shall be construed as permitting any subsistence use of the resources of any portion of the public lands (including any unit of the National Park System) where any such use was not permitted on the date of the enactment of this Act, nor as vesting elsewhere than in the Secretary any authority to manipulate habitat on any portion of the public lands.

REIMBURSEMENT TO THE STATE

SEC. 715. (a) Upon the issuance of a certificate of approval described in section 704(d) of this title, the Secretary of the Interior is authorized to reimburse the State agency described in section 704(c)(3)(A), from funds appropriated for the Department of the Interior, for costs relating to the implementation of the State program. Sums paid under this section shall be in addition to any grants, payments or other sums to which the State is entitled under existing law. The purpose of such reimbursements shall be to assist the State in devloping and implementing the State program described in section 704. During any fiscal year, such reimbursements shall not exceed 50 per centum of the costs of the program's development and implementation during such fiscal year. Such costs shall be verified in a statement which the Secretary of the Interior determines to be an adequate, accurate account.

(b) No reimbursements shall be paid under this section for costs incurred by the State during any period of suspension of part or all of the State program under section 705.

(c) Total payments to the State under this section shall not exceed the sum of $5,000,000 in any one fiscal year.

(d) The Secretary shall periodically review the financial aspects of implementing the State program and shall advise the Congress at least once in every five years as to whether or not the maximum amount of payments specified in subsection (c) is adequate for proper implementation of the State program.

(e) With respect to any fiscal year in which insufficient funds are appropriated—

(1) to reimburse 50 per centum of the costs referred to in subsection (a), or

(2) to meet the maximum amount of payments specified in subsection (c), whichever is less, the Secretary shall consult the State, and shall hold a public hearing, for the purpose of determining the most economical manner in which the State can, consistent with the provisions of this title, carry out its program during such fiscal year.

TITLE VII—IMPLEMENTATION OF ALASKA NATIVE CLAIMS SETTLEMENT ACT AND ALASKA STATEHOOD ACT

CONVEYANCE OF CORE TOWNSHIP LANDS

SEC. 801. (a)(1) Except to the extent that conveyance of a surface estate would be inconsistent with section 22(1) of the Alaska Native Claims Settlement Act, there is hereby conveyed to and vested in each Village Corporation for a Native village which is determined to be eligible for land under section 11 or 16 of the Alaska Native Claims Settlement Act all of the right, title and interest of the United States in and to the surface estate in the township or townships withdrawn pursuant to section 11(a)(1)(A) or 16(a) of such Act in which all or any part of such village is located. As used in this paragraph the term "Native village" has the same meaning such term has in section 3(c) of the Alaska Native Claims Settlement Act.

(2) There is hereby conveyed to and vested in each Village Corporation which, by the date of enactment of this Act, is determined to be eligible under the Alaska Native Claims Settlement Act to, and has elected to, acquire title to any estate pursuant to section 19(b) of the Alaska Native Claims Settlement Act all of the right, title and interest of the United States in and to the estates in a reserve which was set aside for the use or benefit of the stockholders or members of such Corporation before the date of enactment of the Alaska Native Claims Settlement Act.

(3) There is hereby conveyed to and vested in each Regional Corporation which, as a result of a conveyance of a surface estate by paragraph (1) of this subsection, is entitled under section 14(f) of the Alaska Native Claims Settlement Act to receive the subsurface estate corresponding to such surface estate all of the right, title and interest of the United States in and to such subsurface estate.

(b) Within six months after the date of enactment of this Act, the Secretary shall issue to each Native Corporation referred to in subsection (a) interim conveyances or patents to the estate or estates conveyed to such Corporation by such subsection, but title shall be deemed to have passed on the date of enactment of this Act, or on the date of eligibility determination if subsequent thereto, notwithstanding any delay in the

issuance of the interim conveyances or patents.

(c) A Village Corporation's obligation to reconvey lands under section 14(c) of the Alaska Native Claims Settlement Act shall arise only upon receipt of an interim conveyance or patent under subsection (b) of this section or under such Act. For purposes of sections 14(c), 14(f), and 22(g) of the Alaska Native Claims Settlement Act, interim conveyances and patents issued pursuant to this Act shall have the same effect as if issued pursuant to sections 14(a) and 14(b) of the Alaska Native Claims Settlement Act and shall be deemed to have been so issued. Disputes between or among Native Corporations arising from conveyances under this Act shall be resolved by a board of arbitrators of a type described in section 12(e) of the Alaska Native Claims Settlement Act pertaining to disputes over land selection rights and the boundaries of Village Corporations.

(d) Except as otherwise expressly provided in this Act, the provisions of the first two sentences of section 14(g) of the Alaska Native Claims Settlement Act shall apply to all conveyances made by sections 801 and 802 of this Act as if such conveyances were made under the Alaska Native Claims Settlement Act.

OTHER CONVEYANCES TO NATIVE CORPORATIONS

SEC. 802. (a) If a Native Corporation entitled to receive land under the Alaska Native Claims Settlement Act elects to utilize the expedited conveyance procedure provided by this section, then, within one hundred and eighty days after the date of enactment of this Act, or the date of eligibility determination, such Corporation shall file with the Secretary a document or documents which lists in order of preference such Corporation's priorities for the conveyance of all or any part of the amount of lands which such Corporation is entitled to receive under the Alaska Native Claims Settlement Act. Any Native Corporation not electing to utilize such expedited procedure shall receive conveyance to its total entitlement under the Alaska Native Claims Settlement Act.

(b)(1) Within one hundred and eighty days after the date on which a list of priorities is filed by a Native Corporation under subsection (a) of this section, the Secretary shall—

(A) determine whether each land selection contained in such list is valid under the Alaska Native Claims Settlement Act and publish such determination in the Federal Register; and

(B) publish in the Federal Register the minimum amount of land which he is able to determine that such Corporation is entitled to receive under the Alaska Native Claims Settlement Act.

If the Secretary is unable to determine the total amount of the land entitlement of such Corporation under subparagraph (B), he shall, at least every six months thereafter, redetermine the minimum amount referred to in such subparagraph and publish in the Federal Register such minimum amount as redetermined. The Secretary shall continue to make such redeterminations until he is able to determine and publish the total amount of such land entitlement.

(2) For a period of thirty days after each date on which the Secretary publishes under paragraph (1) of this subsection a minimum amount of land or the total amount of land a Native Corporation is entitled to receive, the Corporation may file with the Secretary a document or documents amending or supplementing the priorities previously filed with the Secretary with respect to any land for which no conveyance has yet taken place, and thereafter conveyances under paragraph (3) or (6) of this subsection shall take place in accordance with such amended priorities. In the event that any land for which a Native Corporation may, under the preceding sentence, file amended priorities has also been validly selected by one or more other Native Corporations, such other Corporation or Corporations similarly may, during the same thirty day period, file amended priorities with respect to such selected land and any other land not previously designated as lower priority than such selected land, and thereafter conveyances to it under paragraph (3) or (6) of this subsection shall take place in accordance with such amended priorities.

(3) Except as provided in section 803(b), on the forty-fifth day following each date on which the Secretary publisher under paragraph (1) of this subsection a minimum amount of land which a Native Corporation is entitled to receive under the Alaska Native Claims Settlement Act, there shall hereby be conveyed to and vested in such Corporation all of the right, title and interest of the United States in and to those lands—

(A) which were validly selected by such Corporation under the Alaska Native Claims Settlement Act and not validly selected by one or more other Native Corporations under such Act;

(B) which are of the highest priority contained in the list of priorities filed by such Corporation; and

(C) which have a cumulative acreage which is equal to the acreage subject to the Corporation's priorities but not more than such minimum amount—

(i) reduced by the cumulative acreage of lands previously conveyed to such Corporation by this subsection or under the Alaska Native Claims Settlement Act; and

(ii) reduced as provided in paragraphs (4) and (5) of this subsection.

(4) In any case in which the Secretary determines under paragraph (1)(A)—

(A) that a land selection contained in the list of priorities filed by a Native Corporation is invalid under the Alaska Native Claims Settlement Act, and

(B) that the cumulative total of acreages of land selections contained in such list of higher priorities than the land selection referred to in subparagraph (A) does not exceed the most recent determination under paragraph (2) of the minimum land entitlement of such Corporation.

the total amount of lands to be conveyed by paragraph (3) shall be reduced by an acreage which equals the acreage of the land selection determined to be invalid under subparagraph (A).

(5) In any case in which the Secretary, before the date of conveyance of lands to a Native Corporation by paragraph (3), determines—

(A) that a valid land section contained in the list of priorities filed by a Native Corporation under subsection (a) of this section has also been validly selected under the Alaska Native Claims Settlement Act by one or more other Native Corporations, and

(B) that the cumulative total of acreage of land selections contained in such list as higher priorities than the land selection referred to in subparagraph (A) does not exceed the most recent determination under paragraph (2) of the minimum land entitlement of such Corporation, the total amount of lands to be conveyed by paragraph (3) shall be reduced by an acreage which equals the acreage of the land selection referred to in subparagraph (A).

(6) Whenever the Secretary receives in writing—

(A) the acceptance by a Native Corporation of a determination of the Secretary to reduce the acreage of a conveyance to such Corporation under paragraph (4) or (5) of this subsection,

(B) the results of a final decision on an action filed by a Native Corporation contesting the validity of a determination of the Secretary to reduce the acreage of a conveyance to such Corporation under paragraph (4) or (5) of this subsection, or

(C) the provisions of a final settlement or the results of a final decision on a dispute over which a Native Corporation is entitled under the Alaska Native Claims Settlement Act to receive conveyance of lands which were the subject of a determination by the Secretary under paragraph (5) of this subsection,

all of the right, title and interest of the United States in and to any lands which the concerned Native Corporation is entitled to receive under the Alaska Native Claims Settlement Act as a result of the concerned acceptance, dispute, or settlement shall hereby be conveyed to and vested in such Corporation.

(7) Within ninety days after the date of a conveyance under paragraph (3) or (6) of this subsection, the Secretary shall issue to the concerned Native Corporation interim conveyances or patents to the lands subject to such conveyance, but title shall be deemed to have passed on the date of such conveyance, notwithstanding any delay in the issuance of the interim conveyances or patents.

(c) Nothing in this section shall be construed as applying to lands conveyed by section 801(a) of this Act.

(d) For purposes of this section and sections 801(c), 803 and 805(d) of this title, the term "Native Corporation" means any Village Corporation, any Regional Corporation, any Urban Corporation, and any Native group as such term is defined in section 3(d) of the Alaska Native Claims Settlement Act.

(e) All withdrawals on Admiralty Island heretofore made by the Secretary of the Interior for selection by the Juneau and Sitka Urban Corporations under the terms of section 14(h)(3) of the Alaska Native Claims Settlement Act are hereby ratified and confirmed.

ADMINISTRATIVE PROVISIONS

SEC. 803. (a) With respect to lands conveyed to Native Corporations on or after the date of enactment of this Act, the Secretary shall only reserve those easements which are described in section 14(g) or 17(b)(1) of the Alaska Native Claims Settlement Act and shall be guided by the following principles:

(1) all aesements should be designed so as to minimize their impact on the compactness of Native lands, on lifestyles, and on subsistence uses; and

(2) each easement should be specifically located and described and should include only such areas as are essential for the purpose or purposes for which the easement is reserved.

(b) Whenever, after a conveyance has been made by this Act or under the Alaska Native Claims Settlement Act, the Secretary determines that an easement not reserved at the time of conveyance is required for any purpose specified in section 17(b)(1) of the Alaska Native Claims Settlement Act, he is authorized to acquire such easement by purchase or otherwise. The acquisition of such an easement shall be deemed a public purpose for which the Secretary may exercise his exchange authority pursuant to section 22(f) of the Alaska Native Claims Settlement Act. In determining whether to acquire an easement under this subsection, the Secretary shall be guided by the principles listed in paragraphs (1) and (2) of subsection (b) of this section.

(c) This Act is not intended to modify, repeal or otherwise affect any provision of the Act of January 2, 1976 (89 Stat. 1145), and shall not be construed as imposing any additional restriction on the use or management of those lands described in section

22(k) of the Alaska Native Claims Settlement Act.

STATE OF ALASKA LAND SELECTIONS AND CONVEYANCES

SEC. 804. (a) In furtherance and confirmation of the State of Alaska's entitlement to certain national forest and other public lands in Alaska for community development and expansion purposes, subsection 6(a) of the Alaska Statehood Act is amended in part by substitution of the phrase "thirty-five years" for the phrase "twenty-five years" contained in said subsection.

(b) In furtherance and confirmation of the State of Alaska's entitlement to certain public lands in Alaska, subsection 6(b) of the Alaska Statehood Act is amended in part by substitution of the phrase "thirty-five years" for the phrase "twenty-five years" contained in said subsection; said subsection 6(b) is, as to future state land selections, further amended by repeal of the proviso regarding Presidential approval of land selections north and west of that line described in section 10 of said Act.

(c) In full and final settlement of any and all claims by the State of Alaska arising under the Act of March 4, 1915, as amended, including claims to surveyed lands which were within federal reservations or withdrawals, at the time of Statehood, the State is hereby granted 75,000 acres which it shall be entitled to select until January 4, 1994 from vacant, unappropriated and unreserved public lands in Alaska.

(1) Except as provided herein, such selections shall be made in conformance with the provisions for selections under section 6(b) of the Alaska Statehood Act. Selections made under this subsection shall be in units of whole sections as shown on the official survey plats of the Bureau of Land Management, including protraction diagrams, unless part of the section is unavailable or the land is otherwise surveyed, or unless the Secretary waives the whole-section requirement.

(2) Lands selected and conveyed to the State under this subsection shall be subject to the provisions of sections 6(j) and (k) of the Alaska Statehood Act.

(d) All tentative approvals of State of Alaska land selections pursuant to the Alaska Statehood Act are hereby ratified and confirmed, subject only to valid existing rights including but not limited to land conveyances heretofore or hereafter made pursuant to valid selections filed by Native village corporations on or before December 18, 1974 pursuant to sections 12(a) or 12(b) of the Alaska Native Claims Settlement Act, and the United States hereby confirms that all right, title and interest of the United States in and to such lands is deemed to have vested in the State of Alaska as of the date of tentative approval; provided that this subsection shall not apply to tentative approvals which, prior to the date of enactment of this Act, have been relinquished by the State, or have been finally revoked by the United States under authority separate from that derived from sections 11(a)(2), 12(a) and 12(b) of the Alaska Native Claims Settlement Act.

(1) Upon approval of land survey by the Secretary, such lands shall be patented to the State of Alaska.

(2) If the State elects to receive patent to any of the lands which are the subject of this subsection on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State of that basis within six months after notice of such election for townships having no adverse claims on the Public Land Records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election. The State shall bear the burden of loss of acreage due to errors, if any, in any such protraction survey.

(3) Future tentative approvals of State of Alaska land selections, when issued, shall have the same force and effect as those existing tentative approvals which are confirmed by this subsection (d), and shall be processed for patent by the same administrative procedures as specified in paragraphs (1) and (2) of this subsection.

(e) All existing valid State of Alaska land selections made pursuant to the Alaska Statehood Act are hereby confirmed, subject only to valid existing rights including but not limited to conveyances heretofore or hereafter made pursuant to valid selections filed by Native village corporations on or before December 18, 1974 pursuant to sections 12(a) or 12(b) of the Alaska Native Claims Settlement Act.

(1) As soon as practicable after the date of enactment of this Act, the Secretary shall issue tentative approvals to such State selections as required by the Alaska Statehood Act, and pursuant to subsection (j) of this section. The sequence of issuance of such tentative approvals shall be on the basis of priorities determined by the State. All right, title and interest of the United States shall vest in the State of Alaska upon issuance of such tentative approvals.

(2) Upon approval of land survey by the Secretary, such lands shall be patented to the State of Alaska.

(3) If the State elects to receive patent to any of the lands which are the subject of this subsection on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having no adverse claims on the Public Land Records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election. The State shall bear the burden of loss of acreage due to errors, if any, in any such protraction survey.

(4) Future valid State of Alaska land selections shall be subject only to valid existing rights, including but not limited to conveyances heretofore or hereafter made pursuant to valid selections filed by Native village corporations on or before December 18, 1974 pursuant to sections 12(a) or 12(b) of the Alaska Native Claims Settlement Act.

(f) The State, at its option, may file future selection applications and amendments thereto, pursuant to section 6 (a) or (b) of the Alaska Statehood Act or subsection (c) of this section, for lands which are not, on the date of filing of such applications, available lands within the meaning of section 6 (a) or (b) of the Alaska Statehood Act. Each such selection application, of otherwise valid, shall become an effective selection without further action by the State upon the date the lands included in such application become available within the meaning of said section 6 (a) or (b) regardless of whether such date occurs before or after expiration of the State's land selection rights. Selection applications heretofore filed by the State may be refiled so as to become subect to the provisions of this subsection; provided that no such refiling shall prejudice any claim of validity which may be asserted regarding the original filing of such application. Nothing contained in this subsection shall be construed to prevent the United States from transferring a Federal reservation or appropriation from one Federal agency to another Federal agency for the use and benefit of the government.

(g) The State of Alaska may select lands exceeding by not more than twenty-five percent in total area the amount of State entitlement which has not been patented or tentatively approved under each grant or confirmation of lands contained in the Alaska Statehood Act or other law. If its selections under a particular grant exceed such remaining entitlement, the State shall thereupon list all selections for that grant which have not been tentatively approved in desired priority order of conveyance, in blocks no larger than one township in size; provided, however, that the State may alter such priorities prior to receipt of tentative approval. Upon receipt by the State of subsequent tentative approvals, such excess selections shall be reduced by the Secretary pro rata by rejecting the lowest prioritized selection blocks necessary to maintain a maximum excess selection of twenty-five percent of the entitlement which has not yet been tentatively approved or patented to the State under each grant.

(1) The State of Alaska may, by written notification to the Secretary, relinquish any selections of land filed under the Alaska Statehood Act or subsection (c) of this section prior to receipt by the State of tentative approval; provided, however, that lands conveyed pursuant to subsection (h) of this section may not be relinquished pursuant to this paragraph.

(2) Section 6(g) of the Alaska Statehood Act is amended in part by addition of the following provision immediately following the last sentence of said subsection: "As to all selections made by the State after January 1, 1979 pursuant to section 6(b) of this Act, the Secretary of the Interior, in his discretion, may waive the minimum tract selection size where such a reduced selection size would be in the national interest."

(h) In furtherance of its entitlement to lands under section 6(b) of the Alaska Statehood Act, the United States hereby conveys to the State of Alaska all right, title and interest of the United States in and to all vacant, unappropriated and unreserved lands including lands subject to subsection (m) of this section, which lie within the following townships as specified in the list of State selection interest lands submitted by the State of Alaska and on file in the office of the Secretary of the Interior, and as depicted on the map entitled," dated 1978.

(i) Lands identified in subsection (h) shall be conveyed to the State subject to valid existing rights, including valid existing Native selection rights under the Alaska Native Claims Settlement Act. All right, title and interest of the United States in and to such lands shall vest in the State of Alaska as of the date of this Act, subject to those reservations specified in subsection (m) of this section.

(1) As soon as practicable after the date of enactment of this Act, the Secretary shall issue to the State tentative approvals to such lands as required by the Alaska Statehood Act and pursuant to subsection (j) of this section. The sequence of issuance of such tentative approvals shall be on the basis of priorities determined by the State.

(2) Upon approval of land survey by the Secretary, those lands identified in subsection (h) shall be patented to the State of Alaska.

(3) If the State elects to receive patent to any of the lands which are identified in subsection (h) on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having no adverse claims on the Public Land Records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election. The State shall bear the burden of loss of acreage due to errors, if any, in any such protraction survey.

(j) Nothing contained in this section shall relieve the Secretary of the duty to adjudicate conflicting claims regarding the lands specified in subsection (h) of this section, or otherwise selected under authority of the Alaska Statehood Act, subsection (c) of this section, or other law, prior to the issuance of tentative approval.

(k) The following withdrawals, classifications, or designations shall not, of themselves, remove the lands involved from the status of "vacant, unappropriated, and unreserved" lands for the purposes of subsection (h) of this section and future State selections pursuant to the Alaska Statehood Act or subsection (c) of this section.

(1) Withdrawals for classification pursuant to section 17(d)(1) of the Alaska Native Claims Settlement Act; provided, that in accordance with the Memorandum of Understanding between the United States and the State of Alaska dated September 2, 1972, to the extent that Public Land Orders Numbered 5150, 5151, 5181, 5182, 5184, 5190, 5194 and 5388 by their terms continue to prohibit State selections of certain lands, such lands shall remain unavailable for future State selection, but may be conveyed pursuant to subsection (h) of this section.

(2) Withdrawals pursuant to section 11 of the Alaska Native Claims Settlement Act, and which are not conveyed pursuant to sections 12, 14 or 19 of said Act;

(3) Classifications pursuant to the Classification and Multiple Use Act, 78 Stat. 987 (1964);

(4) Classifications or designations pursuant to the Federal Land Policy and Management Act, 90 Stat. 2743 (1976).

(l) Notwithstanding any other provision of law, on lands selected by, or granted or conveyed to, the State of Alaska under section 6 of the Alaska Statehood Act or this Act, but not yet tentatively approved to the State—

(1) The Secretary is authorized to make contracts and grant leases, licenses, permits, rights-of-way, or easements, and any tentative approval or patent shall be subject to such contract, lease, license, permit, right-of-way, or easement; provided that the authority granted the Secretary by this subsection is that authority the Secretary otherwise would have had under existing laws and regulations had the lands not been selected by the State; and provided further that the State has concurred prior to such action by the Secretary;

(2) From and after the date of enactment of this Act, ninety per centum (90%) of any and all proceeds derived from contracts, leases, licenses, permits, rights-of-way, or easements or from trespasses originating after the date of selection by the State shall be held by the Secretary until such lands have been tentatively approved to the State. As such lands are tentatively approved, the Secretary shall pay to the State from such account the proceeds allocable to such lands which are derived from contracts, leases, licenses, permits, rights-of-way, easements, or trespasses. The proceeds derived from contracts, leases, licenses, permits, rights-of-way, easements, or trespasses and deposited to the account pertaining to lands selected by the State but not tentatively approved due to rejection or relinquishment shall be paid as would have been required by law were it not for the provisions of this Act. In the event that the tentative approval does not cover all of the land embraced within any contract, lease, license, permit, right-of-way, easement, or trespass, the State shall only be entitled to the proportionate amount of the proceeds derived from such contract, lease, license, permit, right-of-way or easement, which results from multiplying the total of such proceeds by a fraction in which the numerator is the acreage of such contract, lease, license, permit, right-of-way, or easement which is included in the tentative approval and the denominator is the total acreage contained in such contract, lease, license, permit, right-of-way, or easement; in the case of trespass, the State shall be entitled to the proportionate share of the proceeds in relation to the damages occurring on the respective lands;

(3) Nothing in this subsection shall relieve the State or the United States of any obligations under section 9 of the Alaska Native Claims Settlement Act, or the fourth sentence of section 6(h) of the Alaska Statehood Act.

(m) All conveyances to the State under section 6 of the Alaska Statehood Act, this Act, or other law, shall be subject to valid existing rights and to any right-of-way or easement reserved for or appropriated by the United States—

(1) Where prior to a conveyance to the State, a right-of-way or easement has been reserved for or appropriated by the United States or a contract, lease, license, permit, right-of-way, or easement has been issued for the lands, the conveyance shall contain provisions making it subject to the right-of-way or easement reserved or appropriated and to the contract, lease, license, permit, right-of-way, or easement issued or granted, and also subject to the right of the United States, contractee, lessee, licensee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits previously granted, issued, reserved or appropriated. Upon issuance of tentative approval, the State shall succeed and become entitled to any and all interests of the United States as contractor, lessor, licensor, permitter, or grantor in any such contracts, leases, licenses, permits, rights-of-way or easements, except those reserved to the United States in the tentative approval.

(2) The administration of rights-of-way or easements reserved to the United States in the tentative approval shall be in the United States, including the right to grant an interest in such right-of-way or easement in whole or in part;

(3) Where the lands tentatively approved do not include all of the land involved with any contract, lease, license, permit, right-of-way, or easement issued or granted, the administration of such contract, lease, license, permit, right-of-way, or easement shall remain in the United States, unless the agency responsible for administration waives such administration;

(4) Nothing herein shall relieve the State or the United States of any obligations under section 9 of the Alaska Native Claims Settlement Act, or the fourth sentence of section 6(h) of the Alaska Statehood Act.

(n) Any extensions of time periods granted to the State pursuant to Section 17(d)(2)(E) of the Alaska Native Claims Settlement Act are hereby extinguished, and the time periods specified in subsections (a), (b) and (c) of this section shall hereafter be applicable to such State selections.

(o) Nothing in this section shall alter the rights or obligations of any party with regard to section 12 of the Act of January 2, 1976, P.L. 94–204, sections 4 and 5 of the Act of October 4, 1976, P.L. 94–456, or section 3 of the Act of November 15, 1977, P.L. 95–178.

PROTECTION OF NATIVE LANDS IN CONTINGENCY AREAS UNDER TIMBER SALES

SEC. 805. Section 15 of the Alaska Native Claims Settlement Act is amended by inserting "(a)" after "Sec. 15." and by adding at the end thereof the following new subsection:

"(b) No land conveyed to a Native Corporation pursuant to this Act or by title VIII of the Alaska National Interest Lands Conservation Act which is within a contingency area designated in a timber sale contract let by the United States shall thereafter be subject to such contract or to entry or timbering by the contractor. Until a Native Corporation has received conveyance to all of the land to which it is entitled to receive under this Act, no land in such a contingency area that has been withdrawn for selection by such Corporation under this Act shall be entered by the timber contractor and no timber shall be cut thereon, except by agreement with such Corporation. For purposes of this subsection, the term 'contingency area' means any area specified in a timber sale contract as an area from which the timber contractor may harvest timber if the volume of timber specified in the contract cannot be obtained from one or more areas definitely designated for timbering in the contract."

USE OF PROTRACTION SURVEYS

SEC. 806. With the agreement of the party to whom a patent is to be issued under this title, the Alaska Native Claims Settlement Act, or the Alaska Statehood Act, the Secretary may base such patent on protraction surveys in lieu of field surveys.

ACTION TO ENFORCE; JURISDICTION

SEC. 807. For a period of three years after the date of enactment of this Act, any appropriate Federal district court shall have jurisdiction to hear, consider, and decide any action brought by the State or by a Native Corporation to enforce the provisions of this title and to award appropriate attorney and witness fees and other costs of the litigation to the prevailing party.

NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 808. In the passage of the Alaska Native Claims Settlement Act the Congress took full consideration of the National Environmental Policy Act of 1969 and the environmental impacts associated with land withdrawals, conveyances, the reservation of easements and other similar administrative actions required in the Alaska Native Claims Settlement Act to carry out the purposes of that Act.

TECHNICAL CORRECTIONS IN SECTION 15(a) OF P.L. 94–204

SEC. 809. Section 15(a) of P.L. 94–204, 89 Stat. 1154–1155, is amended as follows:

(1) Strike the description beginning with "Township 36 south, range 52 west/" through "Township 41 south, range 53 west, sections 1, 2, 11, 12, 13 S.M., Alaska, notwithstanding;" and insert in lieu thereof the following:

"Township 36 south, range 52 west, all;

"Township 37 south, range 51 west, all;

"Township 37 south, range 52 west, all;

"Township 37 south, range 53 west, sections 1 through 4, 9 through 16, 21 through 24, and the North one-half of sections 25 through 28;

"Township 38 south, range 51 west, sections 1 through 5, 9, 10, 12, 13, 18, 24 and 25;

"Township 38 south, range 52 west, sections 1 through 35;

"Township 38 south, range 53 west, sections 1, 12, 13, 24, 25 and 36;

"Township 39 south, range 51 west, sections 1, 6, 7, 16 through 21, 28 through 33, and 36;

"Township 39 south, range 52 west, sections 1, 2, 11 through 15, and 22 through 24.

"Township 39 south, range 53 west, sections 33 through 36, and the south one-half of section 26;

"Township 49 south, range 51 west, sections 2 and 6;

"Township 40 south, range 52 west, sections 6 through 10, 15 through 21, and 27 through 36;

"Township 49 south, range 53 west, sections 1 through 19, 21 through 28, and 34 through 36;

"Township 49 south, range 54 west, sections 1 through 34;

"Township 41 south, range 52 west, sections 7, 8, 9, 16, 17 and 18;

"Township 41 south, range 53 west, sections 1, 4, 5, 8, 9, 11, 12 and 16;

"Township 41 south, range 54 west, section 6;

(2) Strike the initial word "The" in the line immediately following the description, and insert "notwithstanding the."

## TITLE IX—MINERAL STUDY, EXPLORATION AND EXTRACTION IN CONSERVATION SYSTEM UNITS

### GENERAL GEOLOGICAL INVESTIGATIONS AND MINERAL ASSESSMENT PROGRAMS IN ALASKA

SEC. 901. (a) Nothing in the provisions of this Act, the provisions of the Wilderness Act, nor any other provision of law shall be construed to prohibit the Secretary from conducting mineral assessment programs and general geological investigatory programs and inspections in Alaska directly or by grants to or contracts with individuals and business concerns.

(b) The Secretary shall promulgate guidelines concerning the conduct of the program authorized under subsection (a) in areas which are located within a conservation system unit. Such guidelines shall insure that such program is conducted in an environmentally sound manner which does not interfere with the purposes for which such areas are established as part of such unit.

### OIL AND GAS LEASING PROGRAMS IN NATIONAL WILDLIFE REFUGES

SEC. 902. (a) The Congress finds and declares that—

(1) leases for the exploration and development of oil and gas resources on units of the National Wildlife Refuge System have generally not been granted, despite the authority of the Secretary to enter into such leases; and

(2) exploration and development of oil and gas resources could occur with minimal adverse impact on such refuge system lands if such exploration and development were carried out under strict regulations concerning surface uses of such lands.

(b)(1) The Secretary shall conduct, pursuant to his authority under existing law, a leasing program for the exploration and development of oil and gas resources on units of the National Wildlife Refuge System located in Alaska, including lands designated as units of such system under the provisions of title II. The Secretary shall utilize the recommendations of representatives of the oil and gas industry, conservation groups, the Governor of the State of Alaska, Alaskan local governments, Native corporations, and interested groups and individuals in determining which lands located in units of the National Wildlife Refuge System should be leased for the exploration and development of oil and gas resources.

(2) The Secretary shall promulgate such regulations as may be necessary to insure that exploration and development of oil and gas resources in any refuge system unit pursuant to the provisions of this section occur in a manner which does not result in any significant adverse impact on the resources or values for which such refuge system unit was established.

### NON-FUEL MINERAL EXPLORATION AND EXTRACTION PROGRAMS

SEC. 903. (a)(1). The Secretary shall conduct a program, directly or by the issuance of permits to individuals or business concerns, to study and explore the mineral potential of the areas established as or added to conservation system units under the provisions of this Act which are under his jurisdiction, and to determine whether further mineral exploration and extraction activities can be conducted in such areas in a manner which does not interfere with the purposes for which such areas were established as such units.

(2) The Secretary shall determine the size of land tracts for which permits are to be issued by balancing the need for a tract of reasonable size to permit study or exploration with the need to minimize any adverse impact of such study or exploration on the conservation system unit.

(3) In issuing permits for study or exploration under the provisions of this section, the Secretary shall give full consideration to interested individual prospectors and small business concerns.

(4) The Secretary shall authorize the holders of permits to map the surface or subsurface of areas studied or explored under the provisions of this section by aerial, mechanical, physical, or other techniques, as well as by physical entry and examination, geophysical activities, and other evaluation methods. The Secretary shall require that any holder of a permit who employs techniques or methods with result in a substantial alteration of any surface feature of the area studies or explored shall restore such surface feature to its original condition immediately after the conclusion of such study or exploration.

(b)(1) The Secretary may issue permits for the further exploration or extraction of minerals from lands located in areas established as or added to conservation systems units under the provisions of this Act if he determines, based on information gained from studies or explorations conducted pursuant to subsection (a), that such further exploration and extraction may be conducted in a manner which does not substantially interfere with the purposes for which such units was established and that any surface altered by such further exploration or extraction may be substantially restored to its original condition. The Secretary may not issue permits for further exploration or extraction in units of the National Park or Monuments System without the prior consent of Congress.

(2) The Secretary may issue regulations to limit the scope of further exploration and extraction activities in order to preserve, to an appropriate degree, known scenic, habitat, natural, or historical values or concerns in any conservation system unit where such further exploration or extraction is located.

(3) In issuing permits for further exploration or extraction in a particular area under the provisions of this subsection, the Secretary shall offer permits for further exploration or extraction to holders of permits for study or initial exploration in that area. Any such permit holders shall have sixty days from the date when the Secretary offers a permit for further exploration or extraction to accept such offer. If any such offer is rejected by such permit holder, the Secretary shall immediately make the land for which such permit was offered available for lease on a competitive bidding basis.

(c) The Secretary shall provide the public and the Commission established under the provisions of title VI an opportunity to comment on the implementation of the provisions of this section. After receiving such comments, or after a reasonable time from the provision of such opportunity, the Secretary shall issue regulations to implement the provisions of this section concerning—

(1) the issuance of permits for exploration and extraction, including the sizes of tracts for which permits will be issued and requirements for competitive bidding;

(2) the duration, assignment, and renewal of permits;

(3) the establishment of a fee and royalty schedule for issuance and maintenance of permits;

(4) additional appropriate terms for the issuance of permits;

(5) requirements to insure that any activity under any permit for study, exploration or extraction in an area located in a conservation system unit shall be undertaken in a manner which does not unreasonably interfere with the purposes for which such unit was established;

(6) the removal of minerals;

(7) facilities for general access, storage, removal, and transportation of minerals extracted under any permit, including roadways, storage sites, processing operations, water lines, pipelines, communications, and similar facilities; and

(8) such other matters as the Secretary finds reasonably necessary to implement the provisions of this section.

### EXISTING MINERAL CLAIMS AND MINERAL LEASING RIGHTS IN CONSERVATION SYSTEM UNITS

SEC. 904. Persons holding valid existing mineral claims and mineral leases within conservation system units designated under the provisions of titles I, II, III, IV, and V shall be afforded reasonable and customary access to such claims or leases, including access by motor vehicles. The provisions of this Act or any other Act shall not be construed to prohibit the use of such claims or leases in a manner intended under the Mining Law of 1872, and related Acts, and the Mineral Leasing Act of 1920, as amended.

## TITLE X—TRANSPORTATION AND UTILITY RIGHTS-OF-WAY

SEC. 1001. (a) Notwithstanding any other provision of law, the Secretary is authorized to permit rights-of-way for transportation or utility systems across any lands designated as a unit of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, or the National Wilderness Preservation System (hereinafter referred to as a "conservation system unit") under the provisions of title I, II, III, or V of this Act.

(b) Upon receipt of any application for such transportation or utility right-of-way, the Secretary shall afford the Commission established under title VI of this Act the opportunity to review, study, and make recommendations concerning such application.

(c) In accordance with the provisions of title VI of this Act, the Commission shall make recommendations to the Secretary concerning the approval or disapproval of all applications for rights-of-way for transportation and utility systems across lands designated as a conservation system unit under the provisions of title I, II, III, or V of this Act.

(d) If the Secretary disapproves an application for a right-of-way which has been recommended for approval by the Commission, he shall issue, within the shortest reasonable time, detailed findings concerning such disapproval which shall include—

(1) information indicating that the transportation or utility system right-of-way which is the subject of the application cannot be constructed in a manner which would avoid significant damage or degradation to the natural resources and values for which the affected conservation system unit was established; and

(2) a finding that the natural values for which the affected conservation system unit was established which would be significantly damaged or degraded by the right-of-way for which the application is made outweigh the public interest benefits which would result from the development of such transportation or utility system right-of-way; and

(3) a demonstration of a feasible and prudent alternative to the right-of-way for which the application is made which would—

(A) cause less damage or degradation to the natural values of the affected conservation system unit; or

(B) be more compatible with the purposes for which the affected conservation system unit was established.

(e) Section 603 (c) (relating to the veto authority of the Secretary over decisions of the Commission) does not relieve the Secre-

tary of his duties prescribed under this section.

## TITLE XI—GENERAL ADMINISTRATIVE PROVISIONS

### MINING

SEC. 1101. (a) All lands designated by this Act as units of the National Park System, National Wildlife Refuge System, and, notwithstanding the provisions of section 9(a)(ii) of the Wild and Scenic Rivers Act (82 Stat. 907) as amended (16 U.S.C. 1274(2)), wild rivers, as provided in section 322 of this Act, are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and, except in the case of the National Wildlife Refuge System, from operation of the mineral leasing laws.

### SELECTIONS BY NATIVE CORPORATIONS AND THE STATE

SEC. 1102. (a) All lands within the areas added to existing units or established by Titles I, II, III, and IV of this Act, which are subject to selection or selected by Native Corporations under the terms of the Alaska Native Claims Settlement Act, and which are not selected by or conveyed to those Corporations under the terms of that Act are hereby added to and incorporated within the appropriate area, to be administered under the terms of this Act, at such time as the relinquishment of Native rights becomes final.

(b) With respect to valid Native and State selections and Native and State-owned lands which are within the boundaries of the areas added to or established by this Act as units of conservation systems—

(1) inclusion of validly selected lands by the State or by Native corporations shall in no way affects the ability of the Native corporation or the State to receive patent or interim conveyance to such lands;

(2) valid Native selections and Native-owned lands shall be deemed to be included within such boundaries on the date of approval of this Act, except that any such lands shall be deeemed to be excluded upon receipt by the Secretary of written notification from the chief executive officer of the concerned Native corporation during the one-year period from the date of approval of this Act that any such lands should be excluded;

(3) valid State selections and State-owned lands shall be deemed to be included within such boundaries on the date of approval of this Act, except that any such lands shall be deemed to be excluded upon receipt by the Secretary of written notification from the Governor of the State during the one-year period from the date of approval of this Act that any such lands should be excluded.

(c) Nothing in the foregoing subsection (b) shall prohibit the acquisition by the Secretary, after the one-year period from the date of approval of this, of valid Native and State selections and Native and State-owned lands formerly within the boundaries depicted on the maps referred to in section 2 of this Act, with the consent of the owner. Property so acquired shall thereupon become part of the area from which it was excluded, subject to the laws and regulations applicable thereto.

### LAND ACQUISITION; IN HOLDINGS

SEC. 1103. (a) Within the boundaries of the units of the national conservation systems and classifications established by or pursuant to this Act, the Secretary or the Secretary of Agriculture with respect to national forest lands may acquire lands and interests in lands within areas placed under their respective jurisdiction by donations, purchase, exchange, or otherwise.

(b) The Secretary may utilize condemnation proceedings without the consent of the owner to acquire private lands or interests therein only in cases where the private or commercial uses of the land are clearly not in keeping with the recreational or other purposes of the conservation unit, that the land is vitally necessary for the use or management of the conservation unit, and that all reasonable efforts to acquire such lands or interests therein by negotiation have failed. In such proceedings the private land owner will have the option of receiving in exchange lands of equal value made available by the appropriate Secretary from public lands elsewhere of similar character or otherwise acceptable to the private landowner.

(c) The owner of an improved property on the date of its acquisition, as a condition of such acquisition, may retain for himself, his heirs and assigns, a right of use and occupancy of the improved property for noncommercial residential or recreational purposes, as the case may be, for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the owner's interest in the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that such right is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired. The Secretary shall afford the occupant the opportunity to cease such inconsistent use prior to termination of such occupation right.

(d) Regardless of the ownership of the land, the Secretary shall permit owners of dwellings located on Federal lands included in conservation systems under this Act to occupy such dwellings for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. These provisions shall only apply to persons who are occupying dwellings as a principal place of residence and which were constructed when such lands were open to entry under the public land laws.

### LOCATION OF ADMINISTRATIVE SITES

SEC. 1104. The Secretary may establish administrative sites or visitor facilities outside the boundaries of any area established under this Act, or protect any significant archeological sites outside the boundaries of the areas described in Titles I, II, or III of this Act. For these purposes he may establish on Federal lands or acquire other lands not to exceed one-thousand acres for administrative and visitor facilities for each area, and no more than seven thousand five acres for archeological or paleontological sites outside the boundaries of each of the areas referred to herein: *Provided*, That no such administrative site, visitor facility, or archeological site may be established on National Forest System lands without the concurrence of the Secretary of Agriculture.

### FACILITIES ON MARINE LANDS; SERVICES

SEC. 1105. (a) The Secretary shall, with the concurrence of the Native Corporation involved, attempt to locate administrative sites and visitor facilities for areas established under this Act on adjacent Native-owned lands, wherever possible and desirable.

(b) Notwithstanding any other provision of revenue-producing visitor services, the Secretary shall grant the village and/or regional corporations most directly affected the first right of refusal to provide such services within the unit under such terms and conditions as he may by agreement prescribe.

### INTER-AGENCY COOPERATION

SEC. 1106. The Secretary shall direct the Fish and Wildlife Service to participate, where appropriate, in fish and wildlife studies and resource planning on units authorized by this Act as components of the National Park and Wild and Scenic Rivers System. The Secretary shall also direct the National Park Service, where appropriate, to participate in recreation planning, interpretation, historic resources protection, and ecological research on areas authorized by this Act as units of the National Wildlife Refuge and Wild and Scenic Rivers Systems.

### PLANNING

SEC. 1107. Except as otherwise provided, within five years from the effective date of this section, the Secretary shall formulate (and he may from time to time revise) a detailed resource management and use plan for each unit of the systems established in Titles I and II of this Act. Where units of the National Wildlife Refuge System and the National Park System include important biological and physical characteristics which control the natural occurrence and the management of fish and wildlife and their habitat, and include scenic, historical, and archeogical resources within each unit, a single plan shall be developed for the management and use of such resources. Each plan shall identify management practices, which the Secretary shall adopt and implement, that will accomplish the specific purposes of the areas set forth in titles I and II.

The Secretary shall formulate each plan any revision thereof only after holding one or more public hearings in the vicinity of the affected unit or units, and only after consultation with the appropriate agencies of the State of Alaska.

### AUTHORITY TO CONSTRUCT CAPITAL IMPROVEMENTS ON NON-FEDERAL LANDS

SEC. 1108. Notwithstanding any other provision of law, the Secretary is authorized to construct, operate, and maintain, with funds appropriated for the purposes of this Act, such permanent and temporary buildings and facilities as he deems appropriate to provide visitor services and for administrative purposes, and lands within and outside the boundaries of the units established by this Act, without regard to whether title to the underlying land is in the United States: *Provided*, That in the case of buildings and facilities constructed on non-Federal land, the owner shall have entered into a cooperative agreement with the Secretary, the terms of which shall assure the continued use of such buildings and facilities for the purposes of this action.

### STATE LAND EXCHANGES

SEC. 1109. In the exercise of his authority to acquire lands, waters, and interests therein for the purposes of this Act, the Secretary may utilize the provisions of subsection 22(f) of the Alaska Native Claims Settlement Act, as amended. Property acquired within the boundaries of the areas added to the four conservation systems by this Act shall become part of the area within which it is located, and subject to the laws and regulations applicable to such area.

### LOCAL HIRE

SEC. 1110. (a) The Secretary shall establish a program under which any individual who, by reason of having lived or worked in or near a conservation system unit, has special knowledge or expertise concerning the natural or cultural resources of such unit and the management thereof (as determined by the Secretary) may be considered for selection for any position within such unit without regard to—

(1) any provision of the civil service laws or regulations thereunder which require

minimum periods of formal training or experience;

(2) any such provisions which provides an employment preference to any other class of applicant in such selection; and

(3) any numerical limitation on personnel otherwise applicable.

Individuals appointed under this subsection shall not be taken into account in applying any personnel limitation described in paragraph (3).

(b) Within one year after the date of approval of this Act, and annually thereafter during each of the following ten years, the Secretary shall prepare and submit to the Congress a report indicating the actions taken in carrying out the provisions of subsection (a) of this section together with any recommendations for legislation in furtherance of the purposes of this section.

NAVIGATION FACILITIES

SEC. 1111. Within areas added to the National Park System, Wildlife Refuge, National Forest, and Wild and Scenic Rivers Systems by this Act, access to, and operation and maintenance of, and construction of air and water navigation aids and related facilities shall be permitted in accordance with the laws and regulations applicable to the National Park, Wildlife Refuge, National Forest, and Wild and Scenic Rivers Systems, as appropriate. Access to and operation and maintenance of facilities for national defense purposes and related air and water navigation aids within or adjacent to such areas shall continue in accordance with the laws and regulations governing such facilities notwithstanding any other provisions of this Act. Nothing in the Wilderness Act shall be deemed to prohibit such access, operation, and maintenance within wilderness areas designated by this Act.

ACCESS

SEC. 1112. (a) The Secretary shall take such actions within or outside the boundaries of conservation system units as may from time to time be necessary, including acquiring or providing easements or other interests in lands in accordance with the provisions of this title, to carry out any one or more of the following purposes, consistent with the purposes for which the concerned conservation system units were established, designated, or expanded:

(1) providing access to subsistence lands for purposes of subsistence uses under this Act;

(2) providing access for purposes of administering units of the National Park, National Wildlife Refuge, National Forest, or Wild and Scenic Rivers Systems established or expanded by this Act;

(3) providing public access to conservation system units, consistent with the purposes for which the units are established, designated, or expanded; and

(4) insuring continued public access to areas conveyed to the State, particularly in cases where such areas are enclosed by one or more conservation system units.

(b) Except as otherwise provided in this Act, in administering the conservation system units in Alaska, the Secretary shall permit the continuation of customary patterns and modes of travel across such units. Such travel may be conditioned by such reasonable regulations as the Secretary shall promulgate to assure that such travel is consistent with the purposes for which such unit was established. Before promulgating regulations under this section, the Secretary shall give at least sixty days public notice of the proposed regulations, including publication of the proposed regulations in a newspaper or newspapers having general circulation in each State judicial district in Alaska where the unit or units affected by the proposed regulations are located, and shall hold a public hearing or hearings concerning the proposed regulations at one or more locations convenient to the unit or units affected.

COOPERATIVE INFORMATION CENTERS

SEC. 1113. (a) The Secretary of the Interior is authorized to establish, after consultation with other appropriate Federal agencies, on not to exceed one thousand acres of State land at a site adjacent to the Alcan Highway, an information and education center for visitors to Alaska. The Secretary and the Governor of the State shall jointly participate in the program planning, construction, and operation of the center and shall seek participation of representatives of Native groups in Alaska and may accept contributions of funds, personnel, and planning and program assistance from such State agencies, local agencies, Federal agencies, Native representatives, and other persons for purposes of such planning, construction, and operation. Before establishing any such center on any such site, the Secretary shall notify the appropriate committees of Congress of his intention to do so. The Secretary and the State shall administer the center of its facilities in accordance with the Act of August 25, 1916 (39 Stat. 535), and other provisions of law applicable to units of the National Park System and in accordance with such State laws as may be applicable.

(b) The Secretary of the Interior is authorized to establish in Anchorage, Fairbanks, and Southeastern Alaska, an information and education center for visitors to Alaska. The Secretary shall seek participation from the State, units of local government, and representatives of Native groups in Alaska and may accept contributions from State agencies, local agencies, Federal agencies, Native representatives, and other persons in the same manner and to the same extent as is authorized under subsection (a) in connection with the Alcan Highway Center. Before establishing any such center in any such city, the Secretary shall notify the appropriate committees of the Congress of his intention to do so. The Secretary is authorized to lease or acquire by purchase, donation, or exchange such property in Anchorage, Fairbanks and Southeastern Alaska, as may be necessary to carry out the purposes of this subsection, except that (1) any property owned by a State or local government may be acquired for such purposes only by donation or exchange, and (2) any property owned by any other person may be acquired for such purposes only with the consent of such person.

(c) There are authorized to be appropriated $10,000,000 for the purpose of construction of the Alcan visitor center established in subsection (a) of this section and for the establishment of the information and education center authorized in subsection (b) of this section.

SECTION 22(e) LANDS

SEC. 1114. Any withdrawals of land by the Secretary pursuant to section 22(e) of the Alaska Native Claims Settlement Act which are not included in any of the conservation units established in title II of this Act are hereby revoked.

## TITLE XII—MISCELLANEOUS PROVISIONS

DENALI NATIONAL PARK STUDY AND DEVELOPMENT

SEC. 1201. (a) The Congress finds and declares that—

(1) the superlative natural scenery of the expanded Denali National Park area, and the close proximity of such park area to most residential areas in Alaska and to major transportation systems utilized by visitors to Alaska make it desirable to provide greater opportunities for visitor access to, accommodation in, and use of Denali National Park established in section 111;

(2) the present lack of access to and facilities within the expanded Denali National Park area prevents full enjoyment of such park area; and

(3) the construction of facilities for visitor services and accommodations in the expanded Denali National Park area would permit greater enjoyment and use by the public.

(b) The Secretary is authorized to enter into cooperative agreements with the State, local governments, and local organizations for the purpose of conducting studies and making recommendations concerning the development of facilities necessary for the provision of visitor services and accommodations for the expanded Denali National Park area, including the location and design of such facilities.

(c) Within two years from the date of enactment of this Act, the Secretary shall submit a report to the Congress containing recommendations and proposals for the development of facilities for the provision of visitor services and accommodations for the expanded Denali National Park area. The report shall include—

(1) an economic analysis evaluating the potential market for visitors towards which the development of facilities could be aimed;

(2) a transportation study concerning the cost and feasibility of—

(A) a mass transportation system connecting Anchorage, Alaska, with the expanded Denali National Park area;

(B) the development of a road connecting such park area with the State highway system;

(C) the connection of such park area with the Alaska Railroad; and

(D) the development of an airport near such park area;

(3) an engineering study concerning the cost, feasibility and architectural design of a range of visitor facilities in the expanded Denali National Park area designed to accommodate up to 10,000 visitors and year-round residents, including an interpretive center, lodging facilities, recreational facilities, water impoundments, a tramway, related viewing facilities, and other visitor facilities; and

(4) an environmental study concerning the development of facilities for visitor services in the expanded Denali National Park area, including—

(A) possible actions to mitigate any adverse environmental impacts on such Park area; and

(B) plans to deal with environmental concerns relating to sewage disposal, domestic water supply, local climatological information, avalanche or earthquake hazards, as well as other environmental matters.

(d) For purposes of this section, the "expanded Denali National Park area" means the southern portion of that land added to the Denali National Park under section 111 of this Act and the land in Denali State Park adjacent to such southern portion.

(e) To carry out the provisions of this section, there are authorized to be appropriated $2,000,000 for fiscal years 1979 and 1980. Any funds expended by the State of Alaska for the purposes set forth in this section prior to enactment of this Act shall be reimbursed to the State of Alaska from the funds authorized in this section.

AUTHORIZATIONS FOR CONSTRUCTION

SEC. 1202. There are authorized to be appropriated $500,000,000 for—

(1) the construction of a mass transit system connecting Anchorage, Alaska, with a visitor center and development site in or near the Denali National Park,

(2) the construction of a visitor center associated with related visitor facilities within Denali State Park; and

(3) the construction of a tramway to provide visitor access from a visitor center and

other facilities within Denali State Park to an observation site within Denali National Park.

CREATION OF NATIONAL HISTORIC TRAILS SYSTEM

SEC. 1203. The National Trails System Act (82 Stat. 919; 16 U.S.C. 1241) is amended as follows:

(a) In section 2(b) delete "and scenic" and insert "scenic and historic".

(b) In section 3 redesignate subsection "(c)" as "(d)", and insert prior thereto a new subsection (c) as follows:

"(c) National Historic Trails, establish as provided in section 5 of this Act, and designated in accordance with the criteria in section 7 of this Act, which will be extended trails that follow as closely as possible the original trails or routes of national historical significance. Although designation of such trails or routes shall be continuous, an established or developed trail may not be continuous.".

(c) In the new section 3(d) delete "or national scenic" and insert ", national scenic, or national historic".

(d) In the heading of section 5 "SCENIC" insert "AND NATIONAL HISTORIC"; in the first sentence of section 5(a) after "scenic" insert "and national historic"; and in section 5(b) after "national scenic" wherever it appears insert "or national historic".

(e) In section 6 delete in the first sentence "or national scenic" and insert", national scenic, or national historic"; and in the second sentence delete "or scenic" and insert ", scenic, or historic".

(f) In section 7 in the first sentence of subsection (a) after "Scenic" insert "and National Historic"; in subsection (b) and in the first sentence of subsection (c) after "scenic" wherever it appears insert "or national historic"; in the penultimate sentence of subsection (c) delete "and scenic" and insert ", scenic, and historic"; in subsection (d) delete "or scenic" and insert ", scenic, and historic"; in subsection (e) after "scenic" wherever it appears insert "or historic"; in the first sentence of subsection (h) delete "or scenic" and insert ", scenic, or historic"; in the second sentence of subsection (h) after "scenic" insert "or historic"; and in the first sentence of subsection (i) delete "or scenic" and insert ", scenic, or historic".

(g) Section 7 of such Act is further amended by adding at the end thereof the following new subsection:

"(j) To qualify for designation as a National Historic Trail, a trail must meet all three of the following criteria:

"(1) It must be a trail established by historic use and historically significant as a result of that use. The trail need not exist as a trail at present to qualify, but its location must be known sufficiently to permit evaluation of public recreation potentials.

"(2) It must be of national significance with respect to any of several broad facets of American history such as trade and commerce, migration and settlement, or military campaigns. To qualify as nationally significant, historic use of the trail must have had a far-reaching effect on broad patterns of American culture. Trails significant in the history of native Americans (Indians, Aleuts, and Eskimos) may be included.

"(3) It must have significant potential for public recreational use based on historic interpretation and appreciation. The potential for such use generally is greatest along cross-country segments developed as historic trails, and at historic sites associated with the trail. The presence of recreation potential not related to historic appreciation is not sufficient justification for designation under this category.".

(h) In section 8(a) at the end of the first sentence insert the following sentence: "The Secretary is also directed to encourage States to consider, in their comprehensive statewide historic preservation plans and proposals for financial assistance for State, local, and private projects submitted pursuant to the Act of October 15, 1966 (80 Stat. 915), as amended, needs and opportunities for establishing historic trails.".

DESIGNATION OF IDITAROD NATIONAL HISTORIC TRAIL

SEC. 1204. (a) The Iditarod Trail, Alaska, a trail of approximately one thousand and six hundred miles extending from Seward to Nome, Alaska, following the route(s) as generally depicted on the map identified as "Proposed Iditarod Trail, Number dated --------" is hereby designated a national historic trail within the National Trails System. The Iditarod National Historic Trail shall be administered by the Secretary of the Interior.

(b) Within three years from the date of this Act an inventory and evaluation of all sites, structures, and other properties located along or immediately adjacent to the designated route possessing historical, architectural, archeological, or cultural value shall be conducted by the administering agency in consultation with concerned public and private landowners or managers. This inventory and evaluation shall, among other things, identify properties eligible for inclusion in the National Register of Historic Places and formulate plans for the protection and preservation of significant historical and archeological properties.

(c)(1) The provisions of section 1203 do not prohibit the construction, reconstruction, or improvement of roads, highways, railroads, or water transportation routes which may be designated as part of a historic trail.

(2) Notwithstanding any other provision of law, the designation of the Iditarod Trail as a historic trail shall not prohibit the construction of new transportation or utility systems across or along portions of the trail right-of-way.

(3) The provisions of this section shall not be construed as designating the general historic trail corridor of the Iditarod Trail as a "historic site of national, State, or local significance" as that term is used in section 4 (f) of the Department of Transportation Act (49 U.S.C. 1653 (f)).

(d) There is authorized to be appropriated $200,000 for the purpose of acquiring lands or interests in lands, signing, conducting an inventory and evaluation of historical and archeological sites, and other actions necessary to implement this section.

KLONDIKE GOLD RUSH NATIONAL HISTORIC PARK

SEC. 1205. The second sentence of subsection (b)(1) of the first section of the Act entitled "An Act to authorize the Secretary of the Interior to establish the Klondike Gold Rush National Historical Park in the States of Alaska and Washington, and for other purposes", approved June 30, 1976 (90 Stat. 717), is amended to read as follows: Lands or interests in lands owned by the State of Alaska or any political subdivision thereof may be acquired only by donation or exchange, and notwithstanding the provisions of subsection 6(i) of the Act of July 7, 1958 (72 Stat. 339, 342), commonly known as the Alaska Statehood Act, the State may include the minerals in any such transaction.".

SCENIC HIGHWAY STUDY

SEC. 1206. (a) Subject to valid existing rights, all public lands within an area, the centerline of which is the centerline of the Parks Highway from the entrance to Denali National Park to the Talkeetna junction which is one hundred and thirty-six miles south of Cantwell, the "Denali Highway" between Cantwell and Paxson, the "Richardson Highway" and "Edgerton Highway" between Paxson and Chitina, and the existing road between Chitina and McCarthy (as those highways and road are depicted on the official maps of the department of transportation of the State of Alaska) and the boundaries of which are parallel to the centerline and one mile distant therefrom on either side, are hereby withdrawn from all forms of entry or appropriation under the mining laws and from operation of the mineral leasing laws of the United States.

(b) During the three years period beginning on the date of enactment of this Act, the Secretary shall study the desirability of establishing a Denali Scenic Highway to consist of all or part of the lands described in subsection (a) of this section. In conducting the studies, the Secretary, through a study team which includes representatives of the Secretary of Transportation, the National Park Service, the Bureau of Land Management, the State, and of each Regional Corporation within whose area of operation the lands described in subsection (a) are located, shall consider the scenic and recreational values of the lands withdrawn under this section, the importance of providing protection to those values, the desirability of providing a symbolic and actual physical connection between the national parks in south-central Alaska, and the desirability of enhancing the experience of persons traveling between those parks by motor vehicles. Members of the study team who are not Federal employees shall receive from the Secretary per diem (in lieu of expenses) and travel allowances at the rates provided for employees of the Bureau of Indian Affairs in Alaska in grade GS–15.

(c) In conducting the studies required by this section, the Secretary shall cooperate with the State and shall consult with each Village Corporation within whose area of operation lands described in this section are located and with the owners of any lands adjoining the lands described in subsection (a) concerning the desirability of establishing a Denali Scenic Highway. The Secretary, through the National Park Service, shall also give such public notice of the study as he deems appropriate, including at least publication in a newspaper or newspapers having general circulation in the area or areas of the lands described in subsection (a), and shall hold a public hearing or hearings at one or more locations convenient to the areas affected.

(d) Within three years after the date of enactment of this Act, the Secretary shall report to the President the results of the studies carried out pursuant to this section together with his recommendation as to whether the scenic highway studied should be established and, if his recommendation is to establish the scenic highway, the lands described in subsection (a) which should be included therein. The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations and those of the Governor of Alaska with respect to creation of the scenic highways, together with maps thereof, a definition of boundaries therof, an estimate of costs, recommendations on administration, and proposed legislation to create such a scenic highway, if creation of one is recommended.

(e) The lands withdrawn under subsection (a) of this section shall remain withdrawn until such time as the Congress acts on the President's recommendation, but not to exceed two years after the recommendation is transmitted to the Congress.

(f) There are hereby authorized to be appropriated $60,000,000 for the purpose of paving approximately 115 miles of the Denali Highway from the Tangle Lakes area to the intersection of this Highway with the Parks Highway.

RESERVATION OF TRANSPORTATION AND UTILITY CORRIDOR

SEC. 1207. The Secretary is hereby directed to designate a right-of-way across Federal lands generally following the Alcan Highway and the Ladue River as depicted on the map entitled " ," dated April , 1978. Such a right-of-way shall be withdrawn from all forms of appropriation and disposition, except for valid state selections under the terms of the Alaska Statehood Act and valid Native selections under the terms of the Alaska Native Claims Settlement Act, for the purpose of construction of transportation and utility systems from the Fairbanks area to the Canadian border.

BUREAU OF LAND MANAGEMENT WILDERNESS REVIEWS

SEC. 1208. Notwithstanding any other provision of law, section 603 of the Federal Land Policy and Management Act of 1976, shall not apply to any lands in Alaska. However, in carrying out his duties under section 201 and section 202 of such Act and other applicable laws, the Secretary may identify areas in Alaska which are suitable as wilderness and may, from time to time, make recommendations to the Congress for inclusion of any such areas in the Wilderness Preservation System, pursuant to the Wilderness Act. In the absence of congressional action relating to any such recommendation of the Secretary, the Bureau of Land Management shall manage all such areas which are within its jurisdiction in accordance with applicable land use plans and applicable provisions of law. Nothing in this section shall be construed as relieving the Secretary of the duty of reviewing the wilderness values of the National Petroleum Reserve in Alaska in connection with the study required by section 105 of the Naval Petroleum Reserves Production Act of 1976 (Public Law 94-258).

IN SITU COAL GASIFICATION RESEARCH

SEC. 1209. (a) The Congress finds and declares that—

(1) section B. (1) of the "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area", supplemental to section 3(b) of Public Law 94-456, requires that coal resources located in the subsurface estate granted to the Native regional corporation within the Kenai National Moose Range shall only be extracted in a liquid or gaseous state and that such extraction shall be undertaken in accordance with the most advanced technology commercially available at that time and causing the least practicable temporary and permanent harm to the fish and wildlife habitats of the range; and

(2) if extraction under these conditions is to take place and the corporation is to exercise their property rights regarding any coal resources which may be located on lands owned by the corporation within the range, additional research and prototype development of in situ coal gasification or coal extraction in a liquid state is necessary; and

(3) the benefits of such research and development would be applicable to other areas of the State of Alaska and to other parts of the United States, the costs of such research and development are beyond the reasonable capabilities of the corporation and these costs would preclude the reasonable exercising of property rights granted under the the terms of Public Law 94-456.

(b) The Secretary of Energy shall enter into contracts with the Native corporations receiving patent to subsurface estates, where the right to extract coal from such estate is limited to extraction in a liquid or gaseous state, for the purpose of conducting research, including development of test wells, on the feasibility of extraction of coal in a liquid or gaseous state in accordance with the provisions of section B.(1) of the "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area" supplemental to section (3)(b) of Public Law 94-456. Where the Secretary of Energy contracts for such research and testing, the Secretary of the Interior shall, subject to such reasonable conditions as are necessary to protect the fish and wildlife resources of the range, permit the use of the surface estate of the range as may be necessary for the conduction of the research program.

(c) There are authorized to be appropriated $2,000,000 annually for a period of six years from the date of passage of this Act for the purpose of conduction of the research described in section 1209.

AUTHORIZATION FOR APPROPRIATION

SEC. 1210. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for fiscal years beginning after the fiscal year 1978.

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SUMMARY

NATIONAL PARK SYSTEM—TITLE I—PARKS, MONUMENTS

| | *Acreage (mil. acres)* |
|---|---|
| Wrangell-St. Elias Park | 7.36 |
| Gates of the Arctic Park | 7.50 |
| Denali Park (McKinley additions) | 2.62 |
| Lake Clark Park | 2.23 |
| Katmai Park (additions) | 1.08 |
| Glacier Bay Park (additions) | .49 |
| Imuruk Basin Preserve | .40 |
| Kobuk Valley Monument | .20 |
| Cape Krusenstern Monument | .19 |
| Aniakchak Caldera Monument | .17 |
| Subtotals | 22.49 |

National Park System total, 28.66 million acres.

(Hunting permitted)

| Preserves, other | *Acreage* |
|---|---|
| Wrangell Mountain Preserve | 3.94 |
| Lake Clark Preserve | .91 |
| Aniakchak Preserve | .08 |
| Yukon-Charley National Rivers | 1.49 |
| Total | 6.42 |

NATIONAL WILDLIFE REFUGE SYSTEM—TITLE II

| | |
|---|---|
| Yukon Delta | 7.60 |
| Koyukuk | 2.68 |
| Innoko-Kaiyuh | 2.18 |
| Arctic (additions) | 1.89 |
| Shishmaref | 1.50 |
| Selawik | 1.48 |
| Alaska Marine Resources | .33 |
| Cape Newanham (additions) | .24 |
| Kenai Moose | .04 |

Refuge system total, 17.94 million acres.

Title II also provides trade of approximately 280,000 acres of subsurface lands in Arctic Refuge for State lands in or adjacent proposed park or refuge units.

NATIONAL FOREST SYSTEM—TITLE IV

| | |
|---|---|
| Chugach Forest (additions) | 2.11 |
| Tongass Forest (additions) | 1.54 |
| Forest system total | 3.65 |

NATIONAL WILD AND SCENIC RIVERS SYSTEM—TITLE III

18 rivers (11 outside other systems, 7 inside other systems).

1.00 million acres (outside other proposals). River corridors not to exceed 1 mile from either side of river.

Total acreage, 51.25 million acres (in new four systems).

NATIONAL PARK SYSTEM

| | *Mil. acres* |
|---|---|
| S. 1787 (Stevens) | 10.45 |
| Land Use Plan. Com | 19.72 |
| Senator Gravel | 28.66 |
| Administration | 41.77 |
| House Interior Comt | 43.17 |
| H.R. 39 (original) | 64.30 |

NATIONAL WILDLIFE REFUGE SYSTEM

| | *Mil. acres* |
|---|---|
| S. 1787 (Stevens) | 8.04 |
| Land Use Plan. Com | 18.82 |
| Senator Gravel | 17.94 |
| Administration | 45.10 |
| House Interior Comt | 50.76 |
| H.R. 39 (original) | 46.50 |

NATIONAL FOREST SYSTEM

| | |
|---|---|
| S. 1787 (Stevens) | 5.72 |
| Land Use Plan. Com | 4.78 |
| Senator Gravel | 3.65 |
| Administration | 3.03 |
| House Interior Comt | 3.34 |
| H.R. 39 (original) | 0 |

NATIONAL WILD AND SCENIC RIVERS

| | |
|---|---|
| S. 1787 (Stevens) | 1.00 |
| Land Use Plan. Com | .69 |
| Senator Gravel | 1.00 |
| Administration | 2.45 |
| House Interior Comt | 1.69 |
| H.R. 39 (original) | 4.07 |

NATIONAL WILDERNESS PRESERVATION SYS.

| | |
|---|---|
| S. 1787 (Stevens) | 0 |
| Land Use Plan. Com | 0 |
| Senator Gravel | * |
| Administration | 48.90 |
| House Interior Comt | 74.26 |
| H.R. 39 (original) | 147.50 |

*Designates 7 areas in Tongass Forest. Boundaries to be set upon completion of Tongass Land Use Plan.

Total acreage proposed in four systems (does not include wilderness within existing conservation system areas).

| | |
|---|---|
| S. 1787 (Stevens) | 25.21 |
| Land Use Plan. Com | 44.01 |
| Senator Gravel | 51.25 |
| Administration | 91.68 |
| House Interior Comt | 98.96 |
| H.R. 39 (original) | 114.87 |

TITLE V—WILDERNESS DESIGNATION

Except in Southeast Alaska, no "instant" wilderness designated.

Seven areas designated wilderness in the Tongass National Forest.

Boundaries and acreages to be determined upon completion of Tongass land use management plan, and would not affect existing level of timber harvest or include significant mineral areas.

Includes special provisions to provide for access, cabins, aquaculture facilities, and other uses in wilderness areas.

Land use planning commission would conduct studies of wilderness demands, uses, and potential areas and make recommendations.

TITLE VI—ESTABLISHMENT OF NEW FEDERAL-STATE LAND USE PLANNING COMMISSION

The commission would be established upon the passage of State law dedicating State land for jurisdiction under the commission.

All Federal land not included in conservation systems or military reserves would be placed under the commission.

The State would legislate a process by which private and native corporation lands could be voluntarily placed under the commission's jurisdiction and receive certain advantages such as property tax exemptions.

The commission would be composed of 9 memberss: 1 chairman jointly appointed by president and governor, 4 Federal members by President, and 4 State members by governor. 1 Federal member and one State member would be native if 80 percent or more corporation land dedicated.

Members would be full-time and serve staggered 4-year terms.

Functions and authorities of the commission would include:

Development of land use plans and land classifications for various land uses;

Insuring that Federal, State, and local planning and land uses are harmonious;

Coordinate implementation of air and water pollution laws, coastal zone management law, and other environmental laws;

Determine location of transportation and utility system rights-of-way across Fed, State, and private lands;

Veto power would be retained by the governor and the Secretary of Interior over their respective lands. Either the state or the secretary would have veto over native corporation lands.

On-the-ground management would be retained by the normal federal (BLM) and state (DNR) agencies.

Lands under the commission would be withdrawn from all entries and appropriations pending classification by the commission.

The commission would terminate after 11 years unless renewed by Congress. If the commission is terminated the secretary could withdraw up to 40 million acres of lands formerly under commission jurisdiction for possible additions to conservation systems.

TITLE VII—SUBSISTENCE

The state would retain prime responsibility for fish and game management.

When fish and wildlife resources are scarce, subsistence users would be given preference in using those resources.

Subsistence users would be defined on the basis of dependence on the resources, not race or ethnic background.

All federal lands, including national park lands, would be open to subsistence uses. Access by customary means, including motorized vehicles, would be permitted on all lands.

The state would create a system of regional boards and local advisors. Regional boards would have primary responsibility, subject to state overview, for development of fish and wildlife policies and regulations.

The secretary would monitor state subsistence program and could suspend program if subsistence provisions not followed. State would have ample hearing opportunities and time to correct program.

Federal funds would be authorized and granted to the state to off-set the extraordinary costs to set up and run special subsistence program.

TITLE VIII—NATIVE AND STATE LAND CONVEYANCE

Core townships would be conveyed to native corporations by the act with patent or interim conveyance issued within 6 months.

Provides for an expedited conveyance process for all other lands whereby patents or interim conveyances issued within 6 months of submission of prioritization of selections.

Essential easements specified by existing law would be reserved in all conveyances subject to the time limitations imposed by this title.

Provides for confirmation of State selections and expedited conveyance process.

Clarifies selection rights and entitlements and amends statehood act to assist in selection process.

Corrects ANCSA amendment language to provide KONIAG correct selection lands.

TITLE IX—MINERAL STUDY, EXPLORATION AND EXTRACTION IN CONSERVATION SYSTEM UNITS

Authorizes continued mineral study, exploration in all system units.

Secretary directed to initiate oil and gas leasing program on wildlife refuge system lands.

In all but park and monument units nonfuel mineral extraction permits could be issued by Secretary following exploration. In parks and monuments congressional approval would be required.

Reasonable and customary access and use assured for existing valid claims and leases in conservation system units.

TITLE X—TRANSPORTATION AND UTILITY CORRIDORS

The commission would conduct studies of all proposed transportation or utility systems which may be proposed. Based on what it determined to be the most prudent and feasible alternative, rights-of-way would be authorized across lands under its jurisdiction.

The commission would recommend rights-of-way to the Secretary across four-systems lands based on its studies. The Secretary would grant the recommended right-of-way unless he issued specific findings showing that the route would result in significant harm to the particular resources involved and that there existed another prudent and feasible alternative which avoided such impacts.

TITLE XI—ADMINISTRATIVE PROVISIONS

State and native lands included in conservation unit boundaries only at their concurrence.

Lands selected but not eventually conveyed to native corporations would become part of conservation unit if within boundaries.

Condemnation of private lands only when uses clearly not in keeping with purposes of conservation unit and all reasonable efforts to acquire failed. Owner given right to occupy improved property for life if acquired.

Homesites legally entered by not filed upon would qualify for lifetime occupancy permit.

Authorizes purchase of isolated archeological sites.

Calls for development of management plans for units.

Provides for local hire in management of four systems lands.

Authorizes servicing and construction of navigation facilities.

Provision of access to and in units of four systems.

Establishes Alcan highway visitor center and other information centers. Authorizes $20 million for these centers.

TITLE XII—MISCELLANEOUS

Calls for special study of development of visitor access and facilities on south side of proposed Denali (Mt. McKinley) National Park.

Within two years of act, secretary would report on economic, environmental, and engineering costs, plans and feasibility of range of developments.

$2 million is authorized for study.

$500 million is authorized for construction of mass transit system from Anchorage, visitor center, and tramway.

Establishes new historic trails system and designates Iditarod Trail as national historic trail.

Would allow state or other lands to be donated or acquired for Klondike Gold Rush National Historical Park.

Calls for a scenic highway study along Denali highway between Parks highway and Glennallen area. Authorizes $60 million for paving Denali highway.

Directs secretary to withdraw a transportation and utility corridor across Federal lands along Alcan highway and Ladue River between Fairbanks and Canada border.

Exempts Alaska from provisions of section 603 of BLM organic act calling for wilderness studies on all BLM lands.

Directs Secretary of Energy to conduct coal gasification research on native subsurface lands. Appropriates $2 million annually for 6 years for program.●

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By Mr. TALMADGE (by request):

S. 2945. A bill to authorize civil penalties for violations of various laws for preventing the introduction and dissemination of livestock and poultry diseases, plant diseases, and plant pests; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2946. A bill to authorize the Secretary of Agriculture to relinquish exclusive legislative jurisdiction over lands or interests under his control; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2947. A bill to authorize the Secretary of Agriculture to regulate the exportation and transportation of animal semen; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2948. A bill to amend the act of July 2, 1962, to authorize intrastate quarantines under extraordinary emergency conditions, to authorize U.S. marshals to serve warrants under the act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2949. A bill to repeal the Tobacco and Plant Exportation Act of 1940; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2950. A bill to repeal the statutes relating to the publishing of cotton price predictions in Government reports and the issuance of cotton crop reports; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2951. A bill to authorize the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devices of real and personal property for the benefit of the Department of Agriculture or any of its programs; to the Committee on Agriculture, Nutrition, and Forestry.

S. 2952. A bill to amend the Tobacco Inspection Act to consolidate, and provide additional, authority for the Secretary of Agriculture to establish methods for efficient and equitable marketing of tobacco; to the Committee on Agriculture, Nutrition, and Forestry.

● Mr. TALMADGE. Mr. President, I am today introducing at the request of the administration several bills for referral to committee and appropriate consideration. The Department of Agriculture recommends that these legislative proposals be enacted.

Mr. President, I ask unanimous consent that a summary of the bills prepared by the staff of the Committee on Agriculture, Nutrition, and Forestry be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

STAFF EXPLANATION OF ADMINISTRATION REQUEST BILLS

S. 2945 would expand the scope of sanctions for violations of certain so-called "Animal Quarantine" and "Plant Quarantine" acts intended to prevent the introduction into the United States and the dissemination within the United States of livestock and poultry diseases and plant diseases and pests.

S. 2946 would authorize the Secretary of Agriculture to relinquish exclusive jurisdiction over certain property of the Federal Government where he deems appropriate. This authority is needed to control vandalism and other crimes against Federal property and personnel, both employees and visitors, within the boundaries of the exclusive jurisdiction properties under the

control of the Secretary but isolated from Federal law enforcement officials.

S. 2947 would provide specific authority to promulgate rules and regulations concerning the exportation and transportation of animal semen. This authority would clearly establish the Department's authority to issue health certificates necessary to meet the importation requirements of destination countries in a manner similar to the livestock certification authorized by the existing provisions of law.

S. 2948 would expand the powers of the Secretary of Agriculture after he has declared an extraordinary emergency due to the existence of any dangerous, communicable disease of livestock or poultry that constitutes a threat to the livestock or poultry of the United States.

S. 7949 would repeal the Tobacco Seed and Plant Exportation Act of 1940. As other countries have succeeded in producing tobacco, there no longer is a constructive purpose to be served by restricting American tobacco seed and plant exports.

S. 2950 would repeal the statutes relating to the publishing of cotton price predictions in Government reports and the issuance of cotton crop reports. Cotton is the only crop having specific legislation that relates to the issuance of crop estimates. Likewise, cotton is the only agricultural commodity covered by specific legislation prohibiting price forecasting. All other crop estimates are issued under provisions of law governing the collection of statistics and issuance of crop reports. These provisions would govern the issuance of cotton acreage and production reports upon repeal of the appropriate statutes.

S. 2951 would expand the authority of the Secretary of Agriculture to accept and administer on behalf of the United States gifts or devises of real and personal property for the benefit of the Department of Agriculture or any of its programs. The Secretary is presently limited to accepting only those gifts made to the National Arboretum and the National Agricultural Library.

S. 2952 would amend the Tobacco Inspection Act to consolidate and provide additional authority for the Secretary of Agriculture to establish methods for efficient and equitable marketing of tobacco. The bill would consolidate the relevant authorities now contained in existing law, more clearly define the growers who may participate in the referendum required to be held prior to final designation of a tobacco auction market by the Secretary of Agriculture, and provide certain additional authority needed for effective administration of the program.●

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By Mr. KENNEDY (for himself and Mr. WEICKER):

S. 2953. A bill to amend title 23 of the United States Code in order to improve transportation throughout the Nation; to the Committee on Environment and Public Works.

HIGHWAY AND PUBLIC TRANSPORTATION IMPROVEMENT ACT OF 1978

● Mr. KENNEDY. Mr. President, I am today introducing, along with the distinguished Senator from Connecticut, the Highway and Public Transportation Improvement Act of 1978. This act, which is intended to revise title 23 of the United States Code, represents another step in our continuing efforts to rationalize American transportation policy.

The basic thrust behind our bill is this: Highway programs must be considered in the light of our overall transportation needs, and, certainly as importantly, our other needs—those which pertain to energy, the air, land use, health and safety. We should not create artificial distinctions in aiding our transportation system and thereby prevent the use of funds for locally felt needs. We should not create artificial distinctions and incentives by having transportation planning and project selection processes take place in separate little boxes, one for mass transit and one for highways. We should not proceed in our transportation planning without considering the effect of our transportation efforts in other areas which are important to us.

Over the years, Senator WEICKER and I have attempted to bring these principles to bear on the Highway Trust Fund. In 1973 we proposed an amendment which first made it possible for States to cancel non-essential links of the interstate highway system and to use the money for mass transit projects. In 1975, together with Senator MUSKIE and Senator John Sherman Cooper, we amended the act to include $750 million for maintenance of Federal aid system roads as well as new construction.

Today we are introducing another set of amendments. They are detailed in the section-by-section analysis following our remarks. But I want to point out some of the highlights of the legislation that we are introducing.

Our first amendment is to section 101, which includes the definitions under the act. We move to modify the definition of "construction" so that it includes maintenance of Federal system projects. In our amendment any system which could be constructed with title 23 money could at State or local option, be maintained with title 23 money. Current "3R" standards allow for support only for major maintenance projects—which really constitute reconstruction. But whatever reasons exist for Federal aid to build a system of roads in the first place also are applicable to maintaining them once they are built. So long as we keep up aid for roads, we should aid the mature parts of the system as well as the new parts. As long as the Federal Government limits the maintenance option, it is encouraging States to construct new highways when they might legitimately prefer to keep their existing roads in a decent state of repair.

Our second amendment (to sec. 103 (a)(d)) consolidates a number of existing highway programs into four Federal-aid systems:

The interstate, the primary, urban—for urbanized areas over 50,000—and the small urban and rural. This consolidation effectively permits States and urbanized areas to base their transportation project decisions on their own locally determined needs, rather than encouraging maximize their Federal aid by choosing projects from rigidly defined Federal categories. We extend the present option of using urban and Interstate System funds for transit capital expenses to all Federal aid systems.

Our next amendment restores the sentence to section 103(e)(4) which the administration took out of its proposed bill which says that any funds transferred from an interstate project would be a supplement to and not a substitute for money due under UMTA. We certainly do not want to penalize those who make the decision to switch funds from highways to mass transit. Yet, deleting this sentence might suggest that DOT has the authority to do so. We want to allow a State to transfer money but without the sentence DOT might be able to force the State into merely choosing whether to forsake a highway.

Our fourth amendment, to section 103(e)(4), of importance restores to the act another provision which the administration proposes removing, involving obligation to match funds for those project transferred between 1973 and 1976, between the time when the interstate transfer provision was first put in and the 1976 amendments to the Highway Act. Under the 1973 Interstate transfer amendment the Federal Government undertook a contractural obligation to fund the Federal share of any transferred project. Under the 1976 amendments, subsequent transferors were not guaranteed that the Federal Government would continue to provide its share till completion. Now the administration wants to take the contractural obligation off of the Federal Government for the projects switched between 1973 and 1976. This is unfair and should not be done. One of the main reasons that the projects were switched in this period is because of the guarantees that were offered. The Federal Government should not pull back on its terms after a State has irretrievably committed to a transfer.

Our fifth amendment is to section 103 of title 23. We adopt the administration's proposals to end all interstate construction not begun by 1986, and to erase all penalties to States which choose to "transfer" their apportionments for nonessential interstate segments to other highway or mass transit projects. However, we modify the administration proposal which says that a State must withdraw and transfer an interstate section by 1982 if it is to do so at all. Where a highway has been subjected to a judicial injunction or another judicial or administrative restraint after that date, but before 1986, we would allow the State to withdraw that section and use it for mass transit purposes if it choses.

Our sixth amendment is one of the most important. It adds a subsection to section 105. Section 105 provides for States to submit a program of projects proposed to be constructed in the coming year with funds appropriated under the title. We believe that the States should consider how these projects will affect other national goals. The energy shortage, the murky air and the plight of our cities all serve notice that highways have important ramifications for the way we live as well as the way we travel. Our amendment would have the States consider alternatives to construction of a particular project, and also consider whether the proposed project has been planned in such a way as to minimize, in the aggregate, such adverse effects as air, noise and water pollution,

disruption of community cohesion, adverse housing effects and excess energy consumption.

Our seventh amendment would amend section 129 to allow a State to impose tolls on a Federal aid system highway for purposes of managing peak load demand. The Clean Air Act allows use of such tolls in nonattainment areas, where air pollution is too great. But the Highway Act currently disallows such tolls. The purpose of these tolls is to set a price on the use of the road equal to the external costs that the use produces at peak hours. It is not for collection of a fund to build still more roads. Therefore, we don't allow these funds to be set aside for highway purposes, other than the costs of operating and maintaining a toll facility.

Our next amendment is to section 134, and it changes the planning requirements. It first requires development of a 5-year plan to supplement the long-range plans that the States and urbanized areas develops. It requires that a simple plan be developed for mass transit projects funded through UMTA and highway projects funded through FHWA. In sum, one hand should know what the other is doing, and this is best done by submission of an integrated plan. The plan must also show how the projects chosen have been designed to minimize the adverse effects enumerated in section 109. We do not require an alternative analysis at this time, since it would be too involved a process to show all the reasonable alternatives for all the projects which might be undertaken in the future. (In conjunction with our efforts to create a multimodal planning process, we also propose in an amendment to section 302 that State transportation departments replace State highway departments for the purpose of administering projects funded under the act.)

The ninth amendment that we want to highlight repeals section 142(k) of title 23. This section says that an interstate transfer proposal shall not be approved where a trust fund or similarly assured funding for both highway and public transit has been established. Some proposals have been made to set aside parts of various taxes which might be imposed as incentives to energy conservation and use them for such purposes as "energy efficient" transportation. We do not know how much money would be set aside under these proposals and we do not know what types of projects would be funded under these proposals. We should not prevent the States from undertaking a voluntary transfer merely because an exploratory or demonstration fund might be set up at some time.

Finally, our 10th amendment would add a sentence to section 144, giving priority funding for bridge replacement to bridges which are unsafe because of structural deficiencies of physical deterioration over those which are merely "functionally obsolete." Proposals are being made to greatly increase the funds available for reconstruction of bridges. The proposals are usually accompanied by reports on the sad and dangerous condition of our bridges. It seems reasonable that those bridges should be seen to first, in preference to bridges which might be increased for the sake of still heavier trucks.

Mr. President, we believe that the changes we have proposed above, and the other changes that we recommend in the bill that we introduce today will go a long way toward creating a better transportation system for all Americans, and will go a long way to rationally fitting that transportation system into our overall national needs.

Mr. President, I ask unanimous consent that the bill and the section-by-section analysis which accompanies it be included in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 2953

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this may be cited as the "Highway and Public Transportation Improvement Act of 1978".

TITLE I—AMENDMENTS TO TITLE 23, UNITED STATES CODE DEFINITIONS

SEC. 101. Section 101 (a) of title 23 of the United States Code is amended as follows:

(1) The definition of "construction" is amended by (A) adding after "highway" the words "or public transportation projects"; (B) adding between "rehabilitation," and "acquisition of rights-of-way", the following: "maintenance,"; and (C) adding before the period at the end a comma and the following: "and the acquisition of necessary facilities and equipment for a public transportation project, and may include costs of operating such public transportation".

(2) The definition of "county" is amended by deleting the word "highways" and substituting in each place it occurs the word "transportation". (3) Following the definition of "county" add the following definition:

"The term 'designated recipient' means the State agency or local public body designated pursuant to section 150.".

(4) The definition of "maintenance" is amended by inserting before the period at the end thereof the following: "or public transportation system including all structures, facilities and equipment necessary for the safe and efficient utilization of such systems".

(5) The definition of "project" is amended by (A) adding after the word "highway" as first used in the definition, the words "or public transportation system", and (B) deleting the last four words of the definition, and substituting in lieu thereof the words "such a system, in the case of assistance for the operation of a public transportation system, the term 'project' shall apply to the conditions set forth by the Secretary for the use of such funds".

(6) The definition of "project agreement" is amended by deleting the words "State highway department" and substituting in lieu thereof the words "designated recipient".

(7) The definition of "State funds" is amended by deleting the last two words of the definition, and substituting in lieu thereof the words "agency empowered by State law to expend such funds".

(8) The definition of "Federal-aid secondary system" is repealed.

(9) Following the definition of "Federal-aid system", add the following definition:

"The term 'Federal-aid small urban and rural system' means the Federal-aid system described in subsection (b) of section 103 of this title.

(10) Following the definition of "urban area," add the following definitions:

"The term 'mass transportation' means transportation by bus, or rail or other conveyance, either publicly or privately owned, which provides to the public general or special service (but not including school buses or charter or sightseeing service) on a regular and continuing basis.

"The term 'public paratransit' means those forms of collective passenger transportation, as defined by the Secretary, which provide shared-ride service to the general public or special categories of users on a regular and predictable basis and which do not necessarily operate on fixed schedules or over prescribed routes.

"The term 'public transportation' means either mass transportation or public paratransit, or both.

"The term 'routes' means the geographical location of highways, or public transportation operations.".

AMENDMENT OF SECTION 103

SEC. 102. Section 103 of title 23 of the United States Code is amended to read as follows:

"Sec. 103. Federal-aid systems.

"(a) For the purposes of this title, the four Federal-aid systems, the primary system, the Small Urban and Rural system, the Urban system, and the Interstate System, are established and continued pursuant to the provisions of this section, and in the case of the Small Urban and Rural system, in accordance with section 133 of this title.

"(b)(1) The Federal-aid primary system shall consist of an adequate system of connected main highways, selected or designated by each State through its State highway department, subject to the approval of the Secretary as provided by subsection (f) of this section. This system shall not exceed 7 per centum of the total highway mileage of such State, exclusive of mileage within national forests, Indian, or other Federal reservations and within urban areas, as shown by the records of the State highway department on November 9, 1921. Whenever provision has been made by any State for the completion and maintenance of 90 per centum of its Federal-aid primary system, as originally designated, said State through its State highway department by and with the approval of the Secretary is authorized to increase the mileage of its Federal-aid primary system by additional mileage equal to not more than 1 per centum of the total mileage of said State as shown by the records on November 9, 1921. Thereafter, it may make like 1 per centum increases in the mileage of its Federal-aid primary system whenever provision has been made for the completion and maintenance of 90 per centum of the entire system, including the additional mileage previously authorized. This system may be located both in rural and urban areas. The mileage limitations in this paragraph shall not apply to the District of Columbia, Hawaii, Alaska, or Puerto Rico.

"(2) After June 30, 1976, the Federal-aid primary system shall consist of an adequate system of connected main roads important to interstate, statewide, and regional travel, consisting of rural arterial routes and their extensions into or through urban areas. The Federal-aid primary system shall be designated by each State acting through its State highway department and where appropriate, shall be in accordance with the planning process pursuant to section 134 of this title, subject to the approval of the Secretary as provided by subsection (f) of this section. Funds apportioned to each State for the primary system may be spent for any project on the urban system or on the small urban and rural system to the extent that such apportionment is attributable to urbanized areas, and small urban and rural areas as appropriate.

"(c) The Federal-aid Small Urban and Rural system shall consist of those routes designated in section 133.

"(d) The Federal-aid urban system shall be located in each urbanized area and shall consist of transportation projects therein other than highway projects on the Interstate System. Funds apportioned to each State for the primary system may be expended for any project on the Urban system or on the Small Urban and Rural system to the extent that such apportionment is attributable to urbanized areas, and small urban and rural areas, respectively.

"(e)(1) The Interstate System shall be designated within the United States, including the District of Columbia, and, except as provided in paragraphs (2) and (3) of this subsection, it shall not exceed forty-one thousand miles in total extent. It shall be so located as to connect by routes, as direct as practicable, the principal metropolitan areas, cities, and industrial centers, to serve the national defense, and to the greatest extent possible, to connect at suitable border points with routes of continental importance in the Dominion of Canada and the Republic of Mexico. The routes of this system, to the greatest extent possible, shall be selected by joint action of the Governor of each State and the adjoining States, subject to the approval by the Secretary as provided in subsection (f) of this section. This system may be located in both rural and urban areas.

"(2) In addition to the mileage authorized by the first sentence of paragraph (1) of this subsection, there is hereby authorized additional mileage for the Interstate System of five hundred miles, to be used in making modifications or revisions in the Interstate System as provided in this paragraph. Upon the request of a Governor and the local governments concerned, the Secretary may withdraw his or her approval of any route or portion thereof on the Interstate System within that State selected and approved in accordance with this title if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System (including urban routes necessary for metropolitan transportation) and will not be constructed as a part of the Interstate System, and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by such route or portion thereof and the additional mileage authorized by the first sentence of this paragraph shall be available for the designation of Interstate routes or portions thereof as provided in this subsection. The provisions of this title applicable to the Interstate System shall apply to all mileage designated under the third sentence of this paragraph except that the cost to the United States of the aggregate of all mileage designated under the third sentence of this paragraph shall not exceed the cost to the United States of the aggregate of all mileage approval which is withdrawn under the second sentence of this paragraph, such costs shall be that as of the date of withdrawal as determined in accordance with subsection (i) of this section. In considering routes or portions thereof to be added to the Interstate System under the third sentence of this paragraph, the Secretary shall, in consultation with the States and local governments concerned, give preference, along with due regard for Interstate highway type needs on a nationwide basis, to routes or portions thereof in States in which the Secretary has heretofore or hereafter withdrawn his or her approval of other routes or portions thereof.

"(3) In addition to the mileage authorized by paragraphs (1) and (2) of this subsection, there is hereby authorized additional mileage of not to exceed 1,500 miles for the designation of routes in the same manner as set forth in paragraph (1), in order to improve the efficiency and service of the Interstate System to better accomplish the purposes of that system.

"(4) Upon the joint request of a Governor and the local governments concerned, the Secretary may withdraw his or her approval of any route or portion thereof on the Interstate System which is within an urbanized area or which passes through and connects urbanized areas within a State and which was selected and approved in accordance with this title, if he determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System and if he receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by the route or portion thereof. When the Secretary withdraws his or her approval under this paragraph, a sum equal to the Federal share of the cost to complete the withdrawn route or portion thereof, as determined in accordance with subsection (i) of this section, shall be available to the Secretary to incur obligations for the Federal share of either public transportation projects involving the construction of fixed rail facilities or the purchase of passenger equipment including rolling stock, for any mode of mass transit, or both, or projects authorized under any transportation assistance program under this title or the Urban Mass Transportation Act of 1964, or both, which will serve the urbanized area and the connecting non-urbanized area corridor from which the Interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the urbanized area or area to be served, and which are submitted by the Governor of the State in which the withdrawn route was located. Upon the joint request of the Governor and local governments concerned, the Secretary may approve substitute projects for other areas within the State. Approval of the plans, specifications and estimates for such project by the Secretary shall constitute a contractive obligation of the Federal Government to pay the Federal share of such project as provided in this paragraph. The Federal share of obligations incurred after September 30, 1978, for substitute projects shall be that provided in section 120 (c) of this title. There are hereby authorized to be appropriated out of the general fund of the Treasury such sums as are necessary for public transportation projects substituted pursuant to this paragraph. The sums available for obligation under this paragraph shall remain available until obligated. Obligations incurred after the date of enactment of this sentence under this paragraph for highway or public transportation projects substituted as a consequence of withdrawals made after May 5, 1976, shall come from sums apportioned to the State under section 104 (b) (2) (A) of this title. Funds available for expenditure to carry out the purposes of this paragraph shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended. After the date of enactment of this sentence, the Secretary may not redesignate any mileage as part of the Interstate System as a consequence of any withdrawal made pursuant to this paragraph.

"(f) The Secretary shall have authority to approve in whole or in part the Federal-aid Small Urban and Rural system, the Federal-aid urban system, the Federal-aid Primary system and the Interstate System, as when such systems or portions thereof are designed, or to require modifications or revisions thereof. No Federal-aid system or portion thereof shall be eligible for projects in which Federal funds participate until approved by the Secretary.

"(g) The Secretary on July 1, 1974, shall remove from designation as a part of the Interstate System each segment of such system for which a State has not notified the Secretary that such State intends to construct such segment, and which the Secretary finds is not essential to completion of a unified and connected Interstate System. Any segment of the Interstate System, with respect to which a State has not submitted by July 1, 1975, a schedule for the expenditure of funds for completion of construction of such segment or alternative segment within the period of availability of funds authorized to be appropriated for completion of the Interstate System, and with respect to which the State has not provided the Secretary with assurances satisfactory to him that such schedule will be met, shall be removed from designation as a part of the Interstate System. No segment of the Interstate System removed under the authority of the preceding sentence shall thereafter be designated as a part of the Interstate System except as the Secretary finds necessary in the interest of national defense or for other reasons of national interest. This subsection shall not be applicable to any segment of the Interstate System referred to in section 23(a) of the Federal-Aid Highway Act of 1968.

"(h) Notwithstanding subsections (e)(2) and (g) of this section, in any case where a segment of the Interstate System was a designated part of such system on June 1, 1973, and is entirely within the boundaries of an incorporated city and such city enters into an agreement with the Secretary to pay all non-Federal costs of construction of such segment, such segment shall be constructed.

"(i) In determining the cost of an Interstate route or portion thereof for which withdrawal is applied for under paragraphs (2) and (4) of subsection (e) of this section, the Secretary shall use as a base cost for such determination the estimated cost of construction of such route or portion thereof at the latest stage of approval by the Secretary, or the date of approval of each substitute project under paragraph (4) of subsection (e) of this section, whichever is later. Such cost shall then be increased or decreased in accordance with the increase or decrease in construction materials and labor to construct such substitute project in the local market where the project is located. Additionally the Secretary shall take into account in his or her determination of cost, changes in the route or portion thereof which would have been necessary to meet Federal approval if the withdrawn project had been completed. Any Governor or designated recipient dissatisfied with the cost revision approved by the Secretary may appeal such decision in the manner provided for in subsection (g) of section 134 of this title.

"(j) (1) After September 30, 1982, the Secretary may not approve (A) any Interstate project pursuant to section 106 of this title (except pursuant to section 139 of this title or relating to toll roads) unless the environmental impact statement (EIS) process for the project, as required by the National Environmental Policy Act, has been completed or (B) any withdrawal pursuant to subsection (e)(4) of this section, except that an Interstate route or portion thereof for which the environmental impact statement process has been completed prior to September 30, 1982, but which is subject to judicial injunction or other judicial or administrative restraints, on or after September 30, 1982, shall be eligible for withdrawal approval and paragraph (2) of this subsection shall apply to such project. Immediately after this date, the Secretary shall remove from designation as part of the Interstate System each route or portion thereof of such system for which no such process has been completed or withdrawal has been made.

"(j)(2) By September 30, 1986, all routes or portions thereof on the Interstate System (for which the Secretary finds that sufficient Interstate authorizations are available) must be completed or under contract for construction and construction must have commenced unless such failure to be under construction is due to court order or administrative restraint. Immediately after such date, the Secretary shall remove from designation as part of the Interstate System each route or portion thereof of such system not complying, with this paragraph.

"(3) Any Interstate route or portion thereof or any highway or public transportation project substituted pursuant to subsection (e) of section 123 of this title which is: (A) under construction but not completed, (B) not under construction due to court order, or (C) not under construction because of insufficient Interstate authorizations, shall on September 30, 1986, become a separate and individual project for which authorizations and appropriations shall be made separately from funds provided under this title. After September 30, 1986, no apportionments shall be made to the States for the Interstate System pursuant to section 104(b)(2)(A).".

AMENDMENTS TO SECTION 104

SEC. 103. Section 104 of title 23 of the United States Code is amended—

(1) by deleting paragraphs (2) and (4) of subsection (b), and redesignating the remaining subsections and cross references accordingly;

(2) by deleting the words "State highway departments" in redesignated paragraph (2)(A), and substituting in lieu thereof the word "Governor";

(3) by adding the following after the last sentence of such paragraph: "After the date of enactment of this sentence the Secretary shall revise the method of apportionment contained in this paragraph by including the cost of completion of any highway or public transportation project, substituted pursuant to subsection (d) of section 103 of this title, as part of the estimate of the cost of completing the then designated Interstate System.";

(4) by deleting the words "State highway departments" in subsection (e) and substituting in lieu thereof the word" Governors"; and

(5) by amending subsection (f) to read as follows:

"(f) On October 1 of each fiscal year, the Secretary shall set aside 2 per centum of the funds to be apportioned under this section which shall be available for the purposes of section 134 of the Highway and Public Transportation Improvement Act of 1978 relating to transportation planning, except that, for the funds apportioned under (b)(2)(A) of this section, the Secretary shall set aside and make available this per centum of such funds on October 1 of the year preceding the fiscal year for which authorized.".

AMENDMENT OF SECTION 105

SEC. 104. Section 105 of title 23 of the United States Code is amended to read as follows:

"SEC. 105. Programs.

"(a) As soon as practicable after the apportionments have been made under sections 104, 133 and 151 of this title, or appropriations have been made under the Urban Mass Transportation Act of 1964, the Governor of any State, or the designated planning organization, whichever is appropriate, shall submit to the Secretary, for his or her approval, a single program of proposed projects comprised of projects to be funded under either of such Acts, for the utilization of funds apportioned or appropriated. The Secretary shall act upon programs submitted to him or her as soon as practicable after the same have been submitted, and may approve a program in whole or in part.

"(b) Except as provided in subsection (c) of this section, in approving programs for projects, the Secretary shall require that such projects be selected in accordance with the planning process required pursuant to section 134 of this title and section 8 of the Urban Mass Transportation Act of 1964.

"(c) Notwithstanding subsection (b) of this section, the Secretary may approve projects under this section which he or she finds are eligible for emergency relief under the provisions of section 125 of this title.

"(d) In approving programs of projects under this section, the Secretary shall require that such programs of projects have been selected by the planning organizations designated pursuant to section 134 of this title and section 8 of the Urban Mass Transportation Act of 1964.

"(e) In approving programs of projects the Secretary shall require the Governors and designated planning organizations to give priority to the reconstruction of highways which have been shown to be hazardous to the public.

"(f) In approving programs of projects under this chapter, the Secretary may give priority of approval to, and expedite the construction of, projects that are recommended as important to the national defense by the Secretary of Defense, or other officials authorized by the President to make such recommendations.

"(g) In approving programs of projects on the Federal-aid systems pursuant to this chapter, the Secretary shall give priority to those projects which incorporate improved standards and features with safety benefits.

"(h) In preparing programs to submit in accordance with subsection (a) of this section, the Governors and designated planning organizations shall give consideration to projects providing direct and convenient public access to public airports and public ports for water transportation, and in approving such programs the Secretary shall give consideration to such projects.

"(i) In approving programs of projects under this section, the Secretary should give preference to those projects. Whereas implementation will result in the savings of energy resources, as such projects are identified in the plan submitted pursuant to section 134 of this title. Further priority shall also be given to projects falling within the provisions of section 146 of this title.".

"(j) In furtherance of the national transportation policy expressed in section 134(a), the Secretary shall not approve any project for which funds have been apportioned under this title or appropriated pursuant to the Urban Mass Transportation Act of 1964 unless he finds that all reasonable alternatives capable of meeting the transportation needs, as such needs are identified in the appropriate plans required by section 134 of this title, have been considered and that the proposed project is one which can feasibly meet such transportation need while eliminating or best minimizing such adverse effects as the following:

"(1) air, noise and water pollution;

"(2) destruction or disruption of manmade and natural resources, aesthetic values, important historical and cultural assets, and community cohesion;

"(3) adverse housing effects and tax and property value loss, particularly within the inner city;

"(4) injurious displacement of people, business and farms;

"(5) excess energy consumption and vehicle miles travelled;

"(6) ill health and traffic accidents; and

"(7) disruption of the integrity of existing farm units and the practical use of prime agricultural land.

AMENDMENTS TO SECTION 106

SEC. 105. (a) Section 106(a) of title 23 of the United States Code is amended by deleting "Except as provided in section 117 of this title, the State highway department," and substituting in lieu thereof "The Governor or designated recipient".

(b) Section 106(c) of such title is amended by deleting the word "highway" and substituting in lieu thereof the word "system".

AMENDMENT TO SECTION 107

SEC. 106. Section 107(c) of title 23 of the United States Code is amended by deleting the words "State highway department" and substituting in lieu thereof the words "appropriate agency".

AMENDMENTS TO SECTION 108

SEC. 107. (a) Section 108 of title 23 of the United States Code is amended by deleting the words "State highway department" wherever appearing therein, and substituting in lieu thereof the words "designated recipient", and by deleting the word "highway" from the phrase "Federal-aid highway system" wherever appearing therein.

(b) Subsection (c)(2) of such section is amended by deleting the words "of highways".

(c) Subsection (c)(3) of such section is amended by deleting the words "of a highway".

AMENDMENTS TO SECTION 109

SEC. 108. Section 109 of title 23 of the United States Code is amended—

(1) in subsection (a), by deleting the phrase "on any Federal-aid system";

(2) in subsection (c), by deleting the words "Projects on the Federal-aid secondary system in which Federal funds participate" and inserting in lieu thereof the words "Small Urban and Rural projects"; and

(3) by deleting subsection (h) and inserting in lieu thereof the following:

"(h) In furtherance of the national transportation policy expressed in section 134(a), not later than January 1, 1979, the Secretary, after consultation with appropriate Federal and State officials, shall promulgate guidelines designed to assure that possible adverse economic, social, and environmental effects relating to any proposed project under this title or the Urban Mass Transportation Act of 1964 have been minimized in developing such project, and that the final decisions on the project are made in the best overall public interest taking into consideration the need for fast, safe, and efficient transportation, public services, and the costs and benefits of eliminating or minimizing such adverse effects and the following:

"(1) air, noise and water pollution;

"(2) destruction or disruption of manmade and natural resources, aesthetic values, important historical and cultural assets, and community cohesion;

"(3) adverse housing effects and tax and property value loss, particularly within the inner city;

"(4) injurious displacement of people, business and farms;

"(5) excess energy consumption and vehicle miles travelled;

"(6) ill health and traffic accidents; and

"(7) disruption of the integrity of existing farm units and the practical use of prime agricultural land.

Such guidelines shall apply to all proposed projects with respect to which plans, specifications and estimates are approved by the secretary after the issuance of such guidelines. Until such guidelines are in force, the guidelines previously issued pursuant to this subsection shall remain in force.";

(4) in subsection (i) by inserting "(1)"

after "(1)", by deleting the world "highway" wherever it appears, and by deleting the last sentence and adding the following paragraph:

"(2) Not later than January 1, 1979, the secretary, acting jointly with the Administrator of the Environmental Protection Agency shall review and revise the standards issued pursuant to paragraph (1) of this subsection. After revising such standards the secretary shall not approve plans and specifications for any proposed project on any Federal-aid system or financed by the Urban Mass Transportation Act of 1964, as amended, unless he determines that such plans and specifications insure compliance with such standards. The Secretary and the Administrator shall issue, at the same time and in the same manner as authorized above, regulations to achieve those standards by retrofitting or otherwise reducing noise levels on existing transportation facilities that have received Federal funds at any time, from either this title or the Urban Mass Transportation Act of 1964, as amended. Any area which fails to meet the standards issued pursuant to this subsection must take all reasonable steps to retrofit or otherwise reduce noise levels of those facilities which violate such standards. Any such area shall use at least 5 per centum of the funds apportioned to it under section 104(b) and 133(a) of this title for the purpose of retrofitting such facilities as were financed under this title. Any such area shall also use at least 5 per centum of the funds apportioned to it under the Urban Mass Transportation Act of 1964, as amended, for the purpose of retrofitting such facilities as were financed under that Act.";

(5) by deleting subsection (j) and inserting in lieu thereof the following:

"(j) Not later than January 1, 1979, the Secretary and the Administrator of the Environmental Protection Agency, acting jointly, shall issue regulations to assure that projects constructed pursuant to this title and the Urban Mass Transportation Act of 1964, are consistent with any approved plan for the implementation of any ambient air quality standard for any air quality control region designated pursuant to the Clean Air Act, as amended. The Secretary shall not approve any project, any program of projects submitted pursuant to section 105 of this title or any plan or certify any planning process under section 134 of this title unless he finds, in consultation with the Administrator of the Environmental Protection Agency, that such project, program of projects, plan or planning process does not (1) exacerbate any existing violations of National Ambient Air Quality Standards, (2) contribute to a violation of National Ambient Air Quality Standards for a pollutant for which no concentrations in violation of the standard have been measured, (3) delay attainment of National Ambient Air Quality Standards, (4) interfere with maintenance of National Ambient Air Quality Standards, once the standards are attained, or (5) omit any appropriate portions of implementation plans promulgated under section 110 of the Clean Air Act, as amended, including transportation control measures.";

* * * * *

(6) adding at the end thereof the following new subsections:

"(l) The Secretary shall not approve any project under this title which increases the vehicular or weightbearing capacity of any highway unless it meets all requirements and provisions of the National Environmental Policy Act of 1969.

"(m) The Secretary shall not approve any project under this title which interferes with bicycle or pedestrian access to routes for travel from one place to another unless there is a safe and convenient alternative route for bicyclists or pedestrians, as the case may be.".

AMENDMENTS TO SECTION 110

SEC. 109. (a) Subsection (a) of section 110 of title 23 of the United States Code is amended by deleting the words "State highway department" and substituting in lieu thereof the words "designated recipient".

(b) Subsection (b) of such section is amended by deleting the words "highway department".

AMENDMENT TO SECTION 111

SEC. 110. Section 111 of title 23 of the United States Code is amended by deleting the words "State highway department" and substituting in lieu thereof the words "designated recipients".

AMENDMENT TO SECTION 112

SEC. 111. (a) Subsection (a) of section 112 of title 23 of the United States Code is amended by deleting the words "State highway department" and substituting in lieu thereof the words "designated recipient".

(b) Subsection (e) of such section is repealed.

AMENDMENTS TO SECTION 113

SEC. 112. (a) Subsection (a) of section 113 of title 23 of the United States Code is amended by deleting the words "highway" and "the primary and secondary, as well as their extensions in urban areas, and the Interstate System,".

(b) Subsection (b) of such section is amended by deleting the words "highway department" and substituting in lieu thereof the words "designated recipient".

AMENDMENTS TO SECTION 114

SEC. 113. Section 114 of title 23 of the United States Code is amended by—

(1) deleting the words "highways or portions of highways" and substituting in lieu thereof the word "project";

(2) deleting the words "State highway department" and substituting in lieu thereof the words "designated recipient"; and

(3) deleting "Except as provided in section 117 of this title such" and inserting in lieu thereof "Such".

AMENDMENTS TO SECTION 116

SEC. 114. Section 116 of title 23 of the United States Code is amended—

(1) in subsection (a) by deleting the words "State highway department" and inserting in lieu thereof the words "designated recipient";

(2) in subsection (b) by deleting the words "State highway department" and "highway department" and substituting in lieu thereof the words "designated recipient";

(3) in subsection (c) by deleting the words "State highway department" and substituting in lieu thereof the words "designated recipient";

(4) in subsection (d) by deleting the words "State highway departments" the first time such words appear in such subsection, and substituting in lieu thereof the word "Governors", and deleting the words "State highway departments" the second time such words appear in such subsection, and substituting in lieu thereof the words "designated recipient"; and

(5) in subsection (e) by deleting the words "State highway departments" and substituting in lieu thereof the words "designated recipients".

REPEAL OF SECTION 117

SEC. 115. Section 117 of title 23 of the United States Code is repealed.

AMENDMENTS TO SECTION 118

SEC. 116. Section 118 of title 23 of the United States Code is amended—

(1) by deleting the words "State highway department" in subsection (a) and substituting in lieu thereof the word "Governors"; and

(2) by deleting the words "three years" in subsection (b), and substituting in lieu thereof the words "two years".

AMENDMENTS TO SECTION 120

SEC. 117. Section 120 of title 23 of the United States Code is amended—

(1) in subsection (a)—

(A) by deleting "(d)", and substituting in lieu thereof "(c)";

(B) by deleting the words "with primary, secondary, or urban funds, on the Federal-aid primary system, the Federal-aid secondary system and the Federal-aid urban system", and substituting in lieu thereof the words "under this title"; and

(C) by deleting the words "highway construction" and substituting in lieu thereof the word "transportation";

(2) in subsection (f)—

(A) by deleting the word "highway"; and

(B) by deleting the next to the last sentence;

(4) in subsection (g), by deleting the words "State highway department" and substituting in lieu thereof the word "Governor"; and

(4) by adding the following new subsection:

"(i) Funds allocated in any year for a Federal-aid system may be used for the purposes of operating a public transportation system in accordance with the provisions of section 5(f) of the Urban Mass Transportation Act of 1964, as amended.".

AMENDMENTS TO SECTION 121

SEC. 118. Section 121 of title 23 of the United States Code is amended—

(1) by deleting the word "State" and substituting in lieu thereof the words "designated recipient"; and

(2) by deleting the words "State highway department" and substituting in lieu thereof the word "Governor".

AMENDMENTS TO SECTION 122

SEC. 119. Section 122 of title 23 of the United States Code is amended—

(1) by adding after "primary," the words "small urban and rural, urban"; and

(2) by deleting "or extension of any of the Federal-aid highway systems in urban areas,".

AMENDMENTS TO SECTION 123

SEC. 120. Section 123 of title 23 of the United States Code is amended—

(1) by deleting the word "secondary" and substituting in lieu thereof "small urban and rural, or urban"; and

(2) deleting the words "including extensions thereof within urban areas".

AMENDMENT TO SECTION 124

SEC. 121. Section 124 of title 23 of the United States Code is amended by deleting the words "State" and "State highway department", and substituting in lieu thereof the words "designated recipient".

AMENDMENT TO SECTION 125

SEC. 122. (a) Section 125(a) of title 23 of the United States Code is amended by placing a period after the words "in such years", and deleting the remainder of the subsection.

(b) Section 125 (b) and (c) of such Code is amended by deleting "highway" in the term "Federal-aid highway system" wherever appearing therein.

AMENDMENT TO SECTION 128

SEC. 123. Section 128 of title 23 of the United States Code is amended by deleting the words "State highway department" and substituting in lieu thereof the words "designated recipient".

AMENDMENT TO SECTION 129

SEC. 124. Section 129 of title 23 of the United States Code is amended by adding at the end thereof the following subsection:

"(i) Notwithstanding any provision of this title to the contrary, any State or designated recipient may impose tolls on any highway for the purpose of managing peak load demand of vehicular traffic. No funds from such tolls may be used for highway purposes, excepting such amounts which may be used for the operation and maintenance of such toll facilities.".

SMALL URBAN AND RURAL TRANSPORTATION ASSISTANCE

SEC. 125. (a) Title 23 of the United States Code is amended by inserting after section 132 a new section as follows:

"SEC. 133. Small urban and rural transportation assistance.

"(a) On October 1 of each fiscal year the Secretary, after making the deduction authorized by subsection (g) of this section, shall apportion the remainder of the sums authorized to be appropriated for expenditure for small urban and rural transportation assistance for that fiscal year to the States in the following manner:

"One-fourth in the ratio which the area of each State bears to the total area of all the States; one-half in the ratio which the population of small urban and rural areas of each State bears to the total population of small urban and rural areas of all the States as shown by the latest available Federal census; and one-fourth in the ratio which the mileage of rural delivery routes and intercity mail routes where service is performed by motor vehicles in each State bears to the total mileage of rural delivery routes and intercity mail routes where service is performed by motor vehicles in all the States at the close of the next preceding calendar year, as shown by a certificate of the Postmaster General.

"(b) Sums apportioned under this section shall be available for obligation for a period of two years following the close of the fiscal year for which such sums are apportioned, and any amounts so apportioned remaining unobligated at the end of such period shall lapse.

"(c) The Secretary may approve as a project in small urban and rural areas any public transportation project, including operating assistance, which would be eligible for Federal financing assistance under the provisions of the Urban Mass Transportation Act of 1964, as amended, or any highway project, other than projects on the Federal-aid primary or Interstate System. Financial assistance provided under this section shall be subject to such terms, conditions, requirements, and provisions as the Secretary may determine to be necessary or appropriate for the purposes of this section. For public transportation projects such terms, conditions, requirements, and provisions shall be similar to those applicable to grants under sections 3 and 5 of the Urban Mass Transportation Act of 1964, as amended, insofar as the Secretary may deem them appropriate.

"(d)(1) The Federal share payable on account of any highway project financed with sums apportioned under this section shall be that provided in section 120(a) of this title.

"(2) The Federal share payable on account of any public transportation project, other than operating assistance, financed with sums apportioned under this section shall not exceed 80 per centum of the net project cost as defined in section 4(a) of the Urban Mass Transportation Act of 1964, as amended. The Federal share payable on account of any public transportation operating assistance project financed with sums apportioned under this section shall not exceed 33⅓ per centum of the total eligible operating expenses incurred in the operation of public transportation services assisted under this section. The Highway Trust Fund shall be reimbursed from the general funds of the Treasury for any sums expended pursuant to this section for any operating assistance project.

"(e) At least 10 per centum of the sums apportioned under this section to each State shall be used for public transportation projects as set forth in subsection (c) of this section: *Provided*, That, upon application by the State the Secretary may waive such requirement if the Secretary finds that a lower level of public transportation assistance is warranted by the transportation needs of the small urban and rural areas of such State.

"(f) The State may distribute funds to eligible recipients within the State to carry out the purposes of this section. Eligible recipients may include State agencies, local public bodies and agencies thereof (including counties and Indian tribes), nonprofit organizations, and operators of public transportation services.

"(g) On October 1 of each fiscal year, the Secretary shall set aside and make available 2 per centum of the sums authorized to be appropriated for expenditure for small urban and rural transportation assistance for that fiscal year, for carrying out the purposes of section 134 of the Highway and Public Transportation Improvement Act of 1978 relating to transportation planning.".

(b) Sections 155 and 219 of title 23 of the United States Code and section 147 of the Federal-Aid Highway Act of 1973, as amended, are repealed.

(c) The analysis of chapter 1 of title 23, United States Code, is amended by deleting

"133. Repealed."

and inserting in lieu thereof

"133. Small urban and rural transportation assistance.".

by deleting

"155. Access highways to public recreation areas on certain lakes.",

and inserting in lieu thereof

"155. Repealed.",

and by deleting

"219. Safer off-system roads.",

and inserting in lieu thereof

"219. Repealed.".

AMENDMENT OF SECTION 134

SEC. 126. (a) Section 134 of title 23 of the United States Code is amended to read as follows:

"SEC. 134. Transportation planning.

"(a) It is declared to be the national transportation policy to encourage and promote the development of transportation systems embracing various modes of transportation that will serve the States and local communities efficiently and effectively in a manner which will minimize air, noise and water pollution; destruction or disruption of man-made and natural resources, aesthetic values, important historical and cultural assets and community cohesion; adverse housing effects and tax and property value loss, particularly within the inner city; injurious displacement of people, business and farms; excess energy consumption and vehicle miles traveled; and disruption of the integrity of existing farm units and the practical use of prime agricultural land. To accomplish this objective, the Secretary shall cooperate with State and local officials in the development of long-range and five-year, statewide and urbanized area transportation plans, as well as programs of projects based on such plans. Before approving, in whole or in part, a plan, or a program of projects, the Secretary shall find that it is formulated on the basis of and reasonably addresses transportation needs and that it affirmatively uses transportation to achieve other national and local objectives while minimizing those adverse effects of transportation development identified in this section and identifies those specific elements of the plan, or program of projects, which would eliminate or best minimize such adverse effects. Such plans shall be the result of a planning process which includes an analysis of alternative transportation system management and investment strategies to make more efficient use of existing transportation resources and to meet needs for new transportation facilities. Such planning process shall consider all modes of transportation and shall be continuing, cooperative, and comprehensive.

"(b) The Secretary shall not approve under section 105 of this title any program of projects unless he or she finds that such projects are based on a plan, approved in accordance with the provisions of this section, and a continuing, comprehensive transportation planning process carried on cooperatively by States and local communities in conformance with the policies and objectives stated in this section.

"(c) After October 1, 1980, a State or designated recipient shall be eligible to receive its apportionments pursuant to the Urban Mass Transportation Act of 1964, only if it has a comprehensive long-range and five-year transportation plan that has been approved by the Secretary. Such plans shall be reapproved by the same procedure whenever a plan has been significantly changed since its previous approval or reapproval. When reapproving a five-year plan, the Secretary may reapprove the long-range plan if he or she finds that they are consistent with each other. The Secretary shall not approve any plan for any State or urbanized area unless he finds that (1) such plans are in accordance with a continuing, comprehensive, and cooperative transportation planning process, and (2) all reasonable measures to permit, encourage, and assist public participation in such continuing, comprehensive, and cooperative transportation planning process have been taken. The Secretary, in cooperation with the States and urbanized areas, shall develop and publish regulations specifying minimum guidelines for public participation in such processes, which shall include hearings held at least annually, at which there will be a review of the transportation planning process, plans, and programs of projects, and opportunity provided for the consideration of various alternatives to the plan under consideration. No transportation project may be constructed in any urbanized area of fifty thousand population or more unless the responsible public officials of such area in which the project is located have been consulted and their views considered with respect to the corridor, the location, and the design of the project.

"(d) The States and urbanized areas shall each submit a single program of projects with respect to both this title and the Urban Mass Transportation Act of 1964. Such program of projects shall be approved in accordance with section 105 of this title. The Secretary shall not, however, approve a program or projects, unless (1) the urbanized area, or after October 1, 1980, the statewide planning process on which such program of projects is based is being carried on in conformance with the objectives and provisions of this section, and (2) the Secretary finds that the program of projects is based on the planning process.

"(e) The Secretary shall approve State and urbanized area plans in whole or in part, but shall not approve any plan which fails to reasonably meet transportation needs and—

"(1) provide that the State and urbanized area administering agencies will make such reports to the Secretary in such form and containing such information as may reasonably be necessary to enable the Secretary to

perform his or her duties under this title and the Urban Mass Transportation Act of 1964, and will keep such records and afford such access thereto as the Secretary finds necessary to assure the correctness and verification of such reports;

"(2) provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid the State or designated recipients under this title or the Urban Mass Transportation Act of 1964;

"(3) provide for the expenditure of adequate amounts of such State's apportionment for each fiscal year under this title and appropriations under the Urban Mass Transportation Act of 1964 for the maintenance of the planning process;

"(4) provide for the development, maintenance, and operation of transportation facilities responsive to the needs of such State and its communities, and in determining compliance with this paragraph, the Secretary shall (A) require the State or designated planning organization to show how the plan reflects the needs of, and is coordinated with, community development plans in urbanized areas, and (B) rely on representations from the appropriate State, Federal and local agencies having responsibilities and jurisdiction in the areas of housing and community development as to the impact such plan will have on housing and community development;

"(5) demonstrate compliance with applicable State and Federal environmental laws, and in determining compliance with this paragraph, the Secretary shall rely on representations from the appropriate State and Federal agencies charged by law with responsibility for protecting environmental quality as to the impact the plan will have upon such State and Federal environmental protection programs;

"(6) demonstrate compliance with applicable State and Federal energy conservation programs, and in determining compliance with this paragraph, the Secretary shall rely on representations from the appropriate State and Federal agencies charged by law with the responsibility to implement programs to conserve energy as to the impact the plan will have upon such State and Federal energy conservation programs; and

"(7) provide an analysis of the impact such plan will have on the social, environmental, and economic well being of the State, or area covered by the plan, and such steps as will be taken to minimize adverse social, environmental, and economic effects on such State or area.

The Secretary shall advise the State or designated planning organization of the reasons for not approving a plan or a program of projects. Approval by the Secretary of any plan or program of projects under this section shall not prevent the Secretary from subsequently disapproving any individual transportation project pursuant to the provisions of this title or the Urban Mass Transportation Act of 1964, or other Federal law, including but not limited to the National Environmental Policy Act of 1969 and section 4(f) of the Department of Transportation Act.

"(f) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State or local agency administering a State or urbanized area plan approved under this title, finds that—

"(1) the State or urbanized area plan has been so changed that it no longer complies with the provisions of this title or the Urban Mass Transportation Act of 1964; or

"(2) in the administration of the plan there is a failure to comply substantially with any such provisions; the Secretary shall notify such State or designated recipients that no further payments will be made to the State or designated recipients under this title or the Urban Mass Transportation Act of 1964 (or, at his or her discretion, that further payments to the State or designated recipient will be limited to projects under or portions of the State or urbanized area plan not affected by such failure), until he or she is satisfied that there will no longer be any failure to comply. Until the Secretary is so satisfied, no further payments may be made to such State or designated recipient (or payments shall be limited to projects under or portions of the State or urbanized area plan not affected by such failure).

"(g) Any Governor or designated planning organization dissatisfied with a final action of the Secretary under this section may appeal to the United States court of appeals for the circuit in which the State or urbanized area is located by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary or any officer designated by him or her, for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he or she based his or her action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside the order. The findings of the Secretary as to the facts, if supported by substantial evidence, including representations or findings by other Federal agencies acting in accordance with the provisions of subsection (e) of this section, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his or her previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence and the representations or findings of other Federal and State agencies acting in accordance with the provisions of subsection (e) of this section. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to the review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action.

"(h) The Secretary may define those contiguous interstate areas of the Nation in which the movement of persons and goods between principal metropolitan area, cities, and industrial centers has reached, or is expected to reach, a critical volume in relation to the capacity of existing and planned transportation demands and future growth. After consultation with the Governors and responsible local officials of affected States, the Secretary may by regulation designate, for administrative and planning purposes as a critical transportation region or a critical transportation corridor each of those areas which he or she determines most urgently require the accelerated development of transportation systems embracing various modes of transport, in accordance with the purposes of this section. The Secretary shall immediately notify such Governors and local officials of such designation. The Secretary may, after consultation with the Governors and responsible local officials of the affected States, provide by regulation for the establishment of planning bodies to assist in the development of coordinated transportation planning, to meet the needs of such regions or corridors, composed of representatives of the affected States and metropolitan areas, and may provide assistance including financial assistance to such bodies. Nothing in title 23, United States Code, or the Urban Mass Transportation Act shall preclude two or more States or contiguous urbanized areas from coordinating or acting jointly in the preparation and execution of their individual or joint transportation plans, as appropriate, as developed under this section, or from acting under such laws on a regional rather than a State basis. Such regional cooperation and joint activity is to be encouraged. There is authorized to be appropriated out of any money in the Treasury not otherwise appropriated, not to exceed $500,000 to carry out this subsection.".

(b) The analysis of title 23 of the United States Code is amended by striking out

"134. Transportation planning in certain urban areas.", and inserting in lieu thereof

"134. Transportation planning.".

AMENDMENT TO SECTION 141

SEC. 127. Section 141 of title 23 of the United States Code is amended by deleting "Federal-aid secondary system" and substituting in lieu thereof "Federal-aid small urban and rural system".

AMENDMENT OF SECTION 142

SEC. 128. Section 142 of title 23 of the United States Code is amended to read as follows:

"Sec. 142. Public transportation.

"(a) To encourage the development, improvement, and use of public transportation systems, the Secretary may approve as a project that can be financed under this title, or the Urban Mass Transportation Act of 1964, as amended, the construction of exclusive or preferential bus lanes, highway traffic control devices, bus passenger loading areas and facilities (including shelters), and fringe and transportation corridor parking facilities to serve bus and other public transportation passengers. If fees are charged for the use of any parking facility constructed under this section, the rate thereof shall not be in excess of that required for maintenance and operation of the facility (including compensation to any person for operating the facility). The Secretary may also approve as such a project exclusive or preferential bus, truck, and emergency vehicle routes or lanes. Projects constructed under the previous sentence shall not be subject to the third sentence of section 109(b) of this title. Sums apportioned under sections 104(b) and 133(a) shall be available to finance the cost of projects under this subsection.

"(b) The establishment of routes and schedules of such public transportation systems shall be based upon a continuing comprehensive transportation planning process carried on in accordance with section 134 of this title, and the Urban Mass Transportation Act of 1964.

"(c)(1) For all purposes of this title, a project authorized by subsection (a) of this section shall be deemed to be a highway project.

"(2) Notwithstanding section 209(f)(1) of the Highway Revenue Act of 1956, the Highway Trust Fund shall be available for making expenditures to meet obligations resulting from projects authorized by subsection (a) of this section and such projects shall be subject to, and governed in accordance with, all provisions of this title applicable to projects financed from this title except to the extent determined inconsistent by the Secretary.

"(3) The Federal share payable on account of projects authorized by subsection (a) of this section shall be that provided in section 120 of this title.

"(d) In any case where sufficient land exists within the publicly acquired rights-

of-way of any Federal-aid highway to accommodate needed rail or non-highway public mass transportation facilities and where this can be accomplished without impairing automotive safety or future highway improvements, the Secretary may authorize a State to make such land and rights-of-way available without charge to a publicly owned transit authority for such purposes wherever he may deem that the public interest will be served thereby.

"(e) Funds available for expenditure to carry out the purposes of subsection (a) shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended.

"(f) In providing funds for public mass transportation projects under this title, the Secretary shall, to the maximum extent possible, provide that rules and regulations issued concerning the use of such funds for public mass transportation projects be the same as those issued pursuant to the Urban Mass Transportation Act of 1964. In complying with this section, the Secretary shall insure that projects for which funding is sought under this title comply with the following sections of the Urban Mass Transportation Act of 1964—

"(1) the third and fifth sentences of section 3 (a) (1), relating to the use of Federal funds;

"(2) section 3 (e), relating to the acquisition of privately owned facilities;

"(3) section 3 (f), relating to the use of buses for charter operations;

"(4) section 3 (g), relating to the use of buses for schoolbus operations;

"(5) sections 5 (e) and 5 (f), relating to the source of local funds used to match Federal funds for projects involving the payment of operating expenses;

"(6) section 5 (k) (2), relating to projects where the source of non-Federal funds derives from more than one jurisdiction.

"(7) section 5 (m) and section 108 of the National Mass Transportation Assistance Act of 1974, relating to the charging of fares for the elderly and handicapped;

"(8) section 5 (n) (2), relating to the application of chapter 15 of title 5, United States Code, to nonsupervisory employees of federally aided mass transportation systems;

"(9) section 12 (b), relating to contracts entered into by means other than competitive bidding;

"(10) section 12 (e), relating to the powers of the Secretary to regulate the mode of operation of mass transportation facilities, but this provision shall not apply to the use of funds apportioned under this title for the payment of operating expenses;

"(11) section 13 (c), relating to standards for labor;

"(12) section 15, relating to financial reporting systems;

"(13) section 16, relating to the planning and design of facilities to meet the needs of the elderly and handicapped; and

"(14) section 18, relating to standards of buses acquired with Federal assistance.".

AMENDMENT TO SECTION 144

SEC. 129. Section 144 of title 23 of the United States Code is amended by adding at the end thereof the following new subsection:

"(i) The Secretary shall not approve any project under this section to replace or rehabilitate a bridge to exceed the traffic carrying capacity of the road adjacent to the bridge. The preceding sentence shall not apply to bridge rehabilitation or reconstruction undertaken to provide bridge capacity for farm implements and vehicles used for the cultivation of land or trucks carrying agicultural products from farm to market.".

REPEAL OF SECTION 148

SEC. 130. Section 148 of title 23 of the United States Code, including the reference thereto in the analysis of such title, is repealed.

AMENDMENT OF SECTION 150

SEC. 131. Section 150 of title 23 of the United States Code is amended to read as follows:

"SEC. 150. Allocation of urban system funds.

"(a) The funds apportioned to any State under section 104(b)(4) of this title which are attributable to an urbanized area having a population of 50,000 or more shall be allocated among such urbanized areas within such State for projects in programs approved under section 105 of this title in the ratio that the population within each such urbanized area bears to the population of all such urbanized areas, or parts thereof within such State. In the expenditure of funds allocated under the preceding sentence, fair and equitable treatment shall be accorded incorporated municipalities of 200,000 or more population within urbanized areas. The funds apportioned to any State under section 133 of this title which are attributable to urban areas of more than 5,000 but less than 50,000 population within such State for projects in programs approved under section 105 of this title, shall be allocated in accordance with a fair and equitable formula developed by the State in consultation with local elected officials and approved by the Secretary.

"(b) Notwithstanding any contrary provision of this title, the funds that would otherwise be apportioned to any State under section 104(b)(3) of this title on or after October 1, 1979, that are attributable to an urbanized area of 200,000 population or more shall be apportioned to the recipient or recipents jointly designated by the Governor and local elected officials of the urbanized area, to receive and disburse such funds. Expenditure of such funds shall be subject to all the requirements of this title, and where appropriate the Urban Mass Transportation Act of 1964, except that with regard to such funds the designated recipient shall have the responsibility and authority vested in the State by this title and must have adequate powers and be suitably equipped and organized to discharge the duties required by this section and demonstrates the capacity to administer the programs for which it is the designated recipient, to the satisfaction of the Secretary. Nothing in this section is intended to preclude the State from being a designated recipient if agreed to by the Governor and appropriate local elected officials.

"(c) Funds allocated to an urbanized area under the provisions of this system may, upon approval of the local elected officials of the area and the Secretary, be transferred to the allocation of another such urbanized area.".

AMENDMENTS TO SECTION 217

SEC. 132. Section 217 of title 23 of the United States Code is amended—

(1) by deleting subsection (a) and inserting in lieu thereof:

"(a) To encourage energy conservation and the multiple use of transportation rights-of-way including the development, improvement, and use of bicycle transportation and the development and improvement of pedestrian walkways for recreational and commuting purposes in urban areas, or to connect such areas with national, State or local parks, seashores or recreational areas, the States and designated recipients may, as a Federal-aid project or in conjunction with other Federal-aid projects, construct new or improved bicycle lanes, either in conjunction with or on existing highway lanes or shoulders, or bicycle paths, traffic control devices, shelters and parking or support facilities designed and/or regulated to serve bicycles and persons using bicycles, and pedestrian walkways. Such projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes, and be in conformance with section 134 of this title.";

(2) in subsection (d), by inserting after "(d)" the following: "The Secretary shall establish by regulation, construction standards for bicycle projects to insure that they have safe and adequate surface conditions, widths, sight distances and lighting, realistic design speeds, and grades reasonably negotiable on a bicycle."; and

(3) by deleting subsection (e), and inserting in lieu thereof:

"(e) The Secretary is authorized to make grants to States and designated recipients to achieve the purposes of this section on such terms and conditions he or she may require. To the extent that they are consistent with the purposes of this section, the provisions of chapter 1 of this title shall apply to such projects and grants. There is hereby authorized to be appropriated $45,000,000 per year for fiscal years 1979, 1980, 1981 and 1982 for these purposes.".

AMENDMENT TO SECTION 302

SEC. 133. (a) Section 302 of title 23 of the United States Code is amended—

(1) by deleting the title and substituting in lieu thereof:

"State highway and transportation department."; and

(2) by inserting at the end thereof the following new subsection:

"(c) After October 1, 1980, any State desiring to avail itself of the benefits of this title or the Urban Mass Transportation Act of 1964, as amended, shall have a single State transportation agency, which shall have adequate powers and be suitably equipped and organized to discharge to the satisfaction of the Secretary the duties required by this title and the Urban Mass Transportation Act of 1964, as amended, as well as the authority for the development of multi-modal transportation programs planning and policy generally in such State. After October 1, 1980, the provisions of subsections (a) and (b) of this section shall apply to such State transportation agencies.".

(b) The analysis of such title is amended by striking out:

"302. State highway department."

and inserting in lieu thereof:

"302. State highway and transportation departments.".

CONSOLIDATED PLANNING

SEC. 134. (a) In accordance with this section, the Secretary shall make grants to States and in urbanized areas, to planning organizations designated in accordance with the requirements of section 8 of the Urban Mass Transportation Act of 1964, as amended, and section 134 of title 23, United States Code, for projects for the development of transportation plans and programs required by such sections; and to make grants and contracts for activities eligible under section 8(j) of the Urban Mass Transportation Act of 1964, as amended. Grants under this section shall be from funds made available under section 4(f) of the Urban Mass Transportation Act of 1964 and section 104(f) and section 133(g) of title 23, United States Code.

(b) The Federal share of such projects under this section shall not exceed 80 per centum thereof unless the Secretary determines that the interests of the Federal program would be best served without matching funds. The Secretary shall designate for use in the States, 90 per centum of the funds available to carry out the purposes of this section in the ratio which each State's total apportionment of funds under sections 4(f) of the Urban Mass Transportation Act of 1964 and section 104(f) and section 133(g) of title 23, United States Code, bears to the total of all such apportionments to all States, except that no State shall be

designated less than one-half of one per centum of the amount apportioned. Funds not distributed by formula will be retained by the Secretary for use on a discretionary basis.

(c) The amount of funds designated for a State pursuant to the formula established under subsection (b) of this section that are attributable to an urbanized area of fifty thousand or more population shall be made available by the Secretary to the planning organization designated in accordance with the provisions of section 134 of title 23, United States Code, and section 8(b)(3) of the Urban Mass Transportation Act of 1964, as amended.

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TITLE II—TERMINATION OF HIGHWAY TRUST FUND

TERMINATION

SEC. 201. Effective after September 30, 1978—

(1) the Highway Trust Fund is terminated and the amount in such Fund, including any obligations held in such Fund, shall be covered into the general fund of the Treasury;

(2) any outstanding appropriations from, or obligations of, such Trust Fund shall be paid from such general fund;

(3) any authorizations for appropriations to be made from such Trust Fund shall be considered to be authorizations for appropriations from such general fund; and

(4) section 209 of the Highway Revenue Act of 1956 is repealed.

KENNEDY-WEICKER AMENDMENTS TO ADMINISTRATION HIGHWAY LEGISLATION

Section 101—Definitions:

Our first amendment modifies the definition of "construction", as follows:

(a) to include public transportation;

(b) to include maintenance; therefore, any projects that could be constructed on a federal system could be maintained with federal system funds;

(c) to include acquisition of transit facilities and operating subsidies (we support limiting operating subsidies to be one-third total operating cost, as per Administration amendments to UMTA);

(d) to include improvements to vehicle weight enforcement program as per Administration 401(b).

Our second amendment modifies definition of "county"; See Footnote 1.

Our third amendment defines designated recipient as per Sec. 131.

Our fourth amendment expands the definition of maintenance to include public transportation.

Our fifth amendment expands the definition of "project" to include public transportation, including operating assistance.

Our sixth amendment redefines "project agreement"—See Footnote 2.

Our seventh amendment redefines "state funds" to substitute "agency empowered by state law to expend such funds"; since public transportation is authorized, a state DOT and designated recipients are then the eligible agency, which may no longer be the state highway department.

Our eighth amendment eliminates the secondary system and secondary projects are folded into small urban and rural system; See Sec. 103 amendments.

Our ninth amendments adopts Administration Sec. 401(e) defining "small urban and rural area" "small urban and rural transportation project"; see Administration proposed 133 and Sec. 103(b), for definition of eligible routes and establishment of system.

Our tenth, eleventh and twelfth amendments define "mass transportation", "public paratransit" and "public transportation."

Our thirteenth amendment defines "routes."

Section 102—Federal Aid Systems

We amend as follows:

(a) Establish four federal-aid systems: the Small Urban and Rural, the Urban, the Primary and the Interstate (Administration does same).

Note: We are, like the Administration, eliminating categories. Multiple categories promote rigidity in the use of funds and create unnecessary construction. By creating a smaller number of systems and broadening eligible routes under those systems, we provide flexibility to use the money on those routes which are most in need of construction or reconstruction in any given area, and increase flexibility for use on various modes, which is more compatible with the goal of developing multi-modal transportation systems.

(b) The primary system is left as is, but primary apportionments may be spent on transportation projects in urbanized areas, or in small urban and rural areas, as appropriate.

(c) Small Urban and Rural System established to include all roads and transit routes in small urban and rural areas except Interstate. (Administration does same)

(d) Urban system expanded to include all roads and transit routes in urbanized areas except Interstate highways and primary highways. (Administration does same). *Note:* 23 U.S.C. 142 currently permits Urban system money to be used for transit capital expenses.

(d)(1) See Footnote 3.

(d)(2) See Footnote 3; Governor now makes request to withdraw; we substitute reference to new cost-escalation for determining costs of withdrawn and substitute routes—see Subsection (i).

Note: In designation of replacement Cramer-Howard substitute projects we remove language which requires preference to be given to extension of Interstate routes through municipalities.

(e)(4) Insert reference to new cost-escalator as provided in Subsection (i).

Further, we oppose Administration language (Sec. 301) which would cut off the approval of substitute projects under the Interstate transfer section on September 30, 1984. This is part of the Administration's language to end the Interstate system. The Administration also requires all withdrawal decisions which are necessary as a prerequisite for substitution of projects in 1982. We oppose this because proposed Interstate segments which remain Interstate construction projects after the 1982 cutoff date may subsequently be rules to be unacceptable. In such cases, transfer should remain an option until final de-designation or construction occurs in 1986 as per subsection (j). Dates for ending Interstates which have been set before (see 23 U.S.C. 193 have not been adadhered to and the system has continued. There is no certainty that the 1986 dates will be adhered to, thus Interstates may continue beyond that date but without the present transfer option. We believe Interstates and substitutes should be treated equally as provided in our amended subsection (j). It is not necessary to eliminate the transfer option in order to end the Interstate system in 1986.

We provide that substitute projects for a withdrawn Interstate may be approved for other areas in the state upon joint request of governor and local officials concerned. Currently, substitutes are limited to the corridor or area from which route was withdrawn. We believe that there may be circumstances where the public interest will be served by allowing funds to flow elsewhere for substitute projects and this should be allowed when the parties involved can agree to do this.

We create a 90–10 matching ratio for substitute project as the Administration does in their Sec. 301. Currently, substitute projects are matched in accordance with the system matching ratio that the substitute projects is on 70–30 for highways or for public transit as per UMTA (80–20).

We delete sums for substitute transit projects through UMTA as superfluous.

We make both highway and public transportation substitute projects funded from Interstate apportionments (see our 23 U.S.C. 104(b)(2)(A)) rather than from the apportionment from the substitute federal system. The Administration has highways only receiving apportionments from Interstate apportionment formula; see Administration Sec. 301.

Because all substitutes are funded from Interstate apportionments the proportional reduction of Interstate apportionments is no longer needed and is thus deleted. Similarly, the Administration limits proportioned reduction to public transit because under their amendments, only transit transfers are financed by other than the Interstate apportionments.

We oppose Administration's deletion of sentence 9 of existing law which provides that funds for substitute transit projects are not to be considered to be substituted in place of UMTA funds.

We support Administration proposal to add that mileage of withdrawn routes can no longer be redesignated as a consequence of withdrawal. See Administration Sec. 301.

(i) We add new cost escalator for withdrawn routes. Costs to construct Interstate projects may be inflated until they are completed. We believe this should apply to all substitute projects as well. We seek to clarify the method by which such costs are determined by creating this subsection.

(j)(1) We adopt the Administration proposal requiring states to either submit Environmental Impact Statements on all Interstate projects, or to "withdraw" such projects for transfer, by Sept. 30, 1982. However, we add a proviso that Interstate withdrawal will be permitted after 1982 if a court or administrative agency restrains construction of any Interstate segment after that date.

(j)(2) We adopt Administration provision that all Interstates segments be under construction by September 30, 1986, unless insufficient federal Interstate money is available; we add a similar exception for segments under court order or administrative restraint.

(j)(3) We add a new subsection providing for treatment of segments falling under the exceptions above and other uncompleted projects. In order to achieve the end of the Interstate system we believe it to be necessary to end apportionments for such system, and to accomplish this while still permitting the completion of those projects not de-designated, we make them individual projects for which authorizations and appropriations are made separately. Thus, the Interstate program ends while not penalizing incomplete projects. This is the only way to guarantee that no new Interstate projects will be added to receive further apportionments.

Sec. 103—Apportionment

Our first amendment deletes apportionment for Secondary System (Administration repeals Secondary section); apportionment for Small Urban and Rural System which we used to replace Secondary is in Sec. 133(a).

Our second amendment: See Footnote 3 as to cost to complete estimates for Interstate apportionments.

Our third amendment includes Interstate transfer substitutes in the cost to complete because we provide that they shall be funded from Interstate apportionments under Sec. 103.

Note. We oppose Administration Interstate apportionment formula which bases one-half of apportionment on cost to complete essential gaps Priority funding for so-called "essential gaps "only creates incentives for

states to increase their apportionments before declaring every gap essential. In the process, it makes Interstate, which is permitted only for non-essential gaps, disadvantageous. States and local areas should be permitted to determine which gaps need completion and which should be transferred, without financial bases created in the federal highway mechanism. See Administration Sec. 304(a) and (b).

Our fourth amendment: See Footnote 3; our Sec. 104(d), apportionment of funds to governor.

Our fifth amendment adopts Administration proposal in Sec. 414(c) increasing the percent of the deduction from apportioned funds for planning purposes (from one-half of 1% to 2%). The method of apportioning such deducted funds contained in existing subsections (f)2 through (f)4 is amended in the Consolidated Planning Fund Sec. 602.

Section 104—Program of Projects

We amend as follows:

(a) Governor or designated planning agency is substituted for the state highway department as the entity submitting programs of projects to the Secretary. We require a single program of projects encompassing projects from both Title 23 and UMTA, instead of just Title 23 projects.

(b) & (c) We provide that all programs of projects must be selected in accordance with the planning process, except for those under subsection (c), emergency relief provision. Current law applies only to urban system projects. Existing Sec. 105(d) is replaced by this provision. We are deleting the requirement that projects be selected with the concurrence of the state highway department.

(d) We provide for submission of programs by the designated planning organizations created by Sec. 134 Planning Process.

(e) New section providing that priority be given to reconstruction of hazardous highways.

(h) Governors or designated planning organizations required to give consideration to projects giving direct access to airports and ports, etc.

(i) New section directing priority be given to projects that save energy, and to carpools and vanpools.

(j) Creates a new subsection requiring that all reasonable alternatives be considered in selecting projects, and that the project selected be one which can feasibly meet the transportation need while eliminating or best minimizing the same adverse factors discussed under subsection 109(h) below. UMTA already requires an alternative analysis, the same should be required for highways. We are also adding another step to the alternatives analysis done by UMTA, by providing the factors to be considered, and by requiring areas to choose the alternative which is most consistent with other critical national priorities. Although the Secretary is required to insure the best alternative is selected, the local areas retain more than a fair share of the responsibility because the alternatives are placed solely within the context of the locally determined transportation needs; also, only the "feasible" alternatives capable of meeting those needs must be considered.

Section 105.—Plans, Specifications and estimates.

Our first amendment repeals reference to 23 U.S.C. 117 certifications of submissions of Plans, Specifications and Estimates of proposed projects (we repeal Sec. 117); see Footnote 3.

Our second amendment modifies subsection (c); see Footnote 1, referring maximum engineering estimates to transportation projects.

Our third amendment repeals subsection (b) which provides that specifications for projects are determined by the state highway department.

Section 106.—Acquisition of Rights-of-way—Interstate System

"State highway department" is replaced by "appropriate agency" as the recipients of deeds for Interstate rights-of-way conveyed by the Secretary.

Section 107.—Advance Acquisition of Rights-of-Way

See Footnote 2, making money available for acquiring rights-of-way. We amend to refer to all federal-aid systems, not just highway systems; (allows advance rights-of-way for transportation, not just highways.)

Section 108.—Standards

Our first amendment applies standards approval (subsection (a)) to all transportation projects, not just highways.

Our second amendment substitutes "Small Urban and Rural" projects for "Secondary" projects. Administration does same but adds word "highway."

Our third amendment modifies subsection (h) to require the Secretary to promulgate new standards regarding the possible adverse, economic, social and environmental effects of new projects. The guidelines cover both UMTA and highway projects. The new guidelines will differ from existing ones in the following ways:

1. in developing projects adverse effects shall be "minimized" instead of existing "fully considered;"

2. final decisions on projects shall take into consideration of "benefits" as well as "costs" of minimizing adverse effects;

3. In addition to those factors currently listed in 23 U.S.C. 109(h), adverse effects are now made to include:

(a) destruction or disruption of important historical and cultural assets.

(b) housing impacts.

(c) excess energy consumption and vehicle miles travelled.

(d) ill-health and traffic accidents.

(e) in minimizing effects of employment and housing effects and tax and property loss, particular attention must be paid to such effects in the inner city.

(f) disruption of the integrity of existing farm units and the practical use of private agricultural land.

(g) "disruption of desirable community and regional growth" is no longer listed as an adverse effect; "destruction or disruption of the availability of public facilities and services" and "adverse employment effects" are also no longer listed as "adverse effects." These three factors, which we delete, can be interpreted to encourage highway construction over alternative modes.

Our fourth amendment modifies subsection (i) to make noise standards applicable to transportation projects and create new revised noise standards for proposed and existing projects. These new standards differ by being made jointly by the Secretary and EPA Administrator. Plans and specifications for new projects must "insure compliance" with the new standards. Regulations are also issued to achieve the new standards by retrofitting existing facilities and areas must take reasonable steps to so retrofit 5% of funds apportioned to areas in violation must be used to retrofit, if feasible. Noise levels of existing projects can also be reduced by stiffer vehicle noise regulations or other means available to states and localities.

Our fifth amendment modifies subsection (j). Current law requires the Secretary, after consultation with EPA Administrator, to promulgate guidelines to assure that highway construction is consistent with air quality implementation plans under the Clean Air Act in areas violating Clean Air Act standards. We require new regulations promulgated jointly by the Secretary and EPA Administrator for all transportation projects. The Secretary may not approve any plan, program of projects, or project unless he finds in consultation with the Administrator that they do not create or exacerbate any violation of ambient air quality, standards, or which omits an important element of a state improvement plan under the Clean Air Act.

Our sixth amendment creates a new subsection (l) existing regulations allow new highway lanes to be built on existing right-of-way without doing an environmental impact statement. Such construction may have a substantial adverse impact and should not automatically be excepted from the environmental impact statement requirement, particularly since extra right-of-way is often purchased around major routes in anticipation of future lane needs.

Our seventh amendment creates a new subsection (m) requiring that new projects provide for safe and convenient crossing points for pedestrians and bicyclists.

Sec. 109—Project Agreements.

Our first amendment—See Footnote 2; project agreements to be made with designated recipients rather than State highway department.

Our second amendment—the state, rather than State highway department, makes agreements with local officials when the local officials are picking up the local costs of the project.

Section 110—Agreements Relating to Use of and Access to Interstate System

Our amendment—See Footnote 2

Section 111—Letting of Contracts

Our first amendment—See Footnote 2.

Our second amendment repeals secondary system reference, same as Administration Section 413(k); and certification (we repeal certification Sec. 117).

Section 112—Prevailing Rate of Wage

Our first amendment applies section to all transportation projects; Administration 413 (1) makes it apply to all highway projects.

Our second amendment—See Footnote 2 for consultation with Secretary of Labor.

Section 113—Construction

Our first amendment modifies to refer to all transportation projects.

Our second amendment—See Footnote 2; refers to supervision of construction of projects and information signs.

Our third amendment repeals certification permission. (We repeal Section 117).

Section 114—Maintenance

Our first amendment—See Footnote 2 regarding requirements to maintain projects.

Our second amendment—See Footnote 2 regarding agreements with counties and municipalities regarding maintenance.

Our third amendment—See Footnote 2 regarding withdrawal of approval for new projects where there has been a failure to maintain existing facilities.

Note: We support Administration Section 413(p) which provides that where counties or municipalities are responsible for maintenance and failure to meet such responsibility, funds for all federal projects (except for Interstate) shall be withheld. Current law limits such cutoffs to *secondary* and *urban* projects.

Our fourth amendment—See Footnote 3 regarding consultation for national bridge and inspection standards; see Footnote 2 regarding requirements to perform such inspections.

Our fifth amendment—See Footnote 2 regarding training for bridge inspectors.

Section 115—Certification Acceptance.

The provision in existing law allowed the Secretary to certify that the state had laws and regulations which accomplished the provisions of federal laws, and where such certification could be made, then the Secretary could discharge his duties under 23 U.S.C. to the state. Since, however, we have added substantive new provisions (in place of procedural provisions) regarding planning, programs of projects and projects compliance

with policy which we establish under such sections, including compliance with federal laws, it is no longer permissible to allow the Secretary to certify such compliance.

Section 116—Availability of Sums Apportioned.

Our first amendment—See Footnote 3 regarding certifying the availability of apportionments.

Our second amendment sums apportioned were available for three years. We make it for two years, after the end of fiscal year for which authorized, as is currently done in UMTA.

Section 117—Federal Share Payable.

Our first amendment—In subsection (a) we support Administration Section 403(a)(1) making all federal system matching ratios 80–20. We amend by:

(a) in current laws, there is an exemption for rail-highway crossings which we eliminate, and in lieu thereof, an exception from the 80–20 matching rates is created for funds authorized for the Interstate system (which we include as including transfers) under Section 108 of the Federal-Aid Highway Act of 1956 (where all Interstate authorizations derive from)

(b) technical reference to Federal-Aid Systems

(c) applies 80–20 to all transportation projects, not just highway projects.

Our second amendment—(a) subsection (f) provision regarding forest, park, public, land, and Indian roads may receive 100% matching ratio. We change from highway to transportation projects.

(b) We strike sentence which allows 100% match for repair or reconstruction of bridges as they use the term "comparable facility" because such term allows replacement of bridges, etc. to a standard higher than that which we allow under the Special Bridge Replacement Provision.

Our third amendment—See Footnote 3 regarding cooperation with the Department of Interior for highways in Indian reservations and national parks.

Our fourth amendment—limitation of operating subsidies as is done under UMTA Section 5(f). Under current law, this limitation is 50% of funds apportioned; we support Administration bill which provides that such limit is 33⅓% of actual operating expenses.

Section 118—Payments to States for Construction.

Our first amendment payments go to designated recipient rather than states.

Our second amendment—See Footnote 3 regarding the appropirate officials to receive public funds for the states.

Section 119—Bond Retirement.

Technical references to appropriate federal systems.

Section 120—Relocation of Utility Facilities.

State is defined as also designated recipients to receive funds for utility relocation.

Section 121—Advance to States.

See Footnote 2 regarding early payments to states for construction proceeding faster than money is distributed (i.e., borrowing from future apportionments).

Section 122—Emergency Relief.

Delete provision that 60% of funds from Highway Trust Fund and 40% from general treasury. Administration Section 409 makes 100% come from Trust Fund after FY 1978.

Section 123—Public Hearings.

See Footnote 2; designated recipient to conduct public hearings.

Section 124—Toll Roads, Bridges, Tunnels and Ferries.

We extend Sec. 129 to permit tolls on highways designed to discourage rush hour traffic. We disallow use of the tolls raised from being spent on new highways.

The Clean Air Act recommends use of rush hour tolls as a traffic control device in "non-attainment areas", but 23USC disallows such tolls.

Section 125—Small Urban and Rural System.

Adopt Administration proposal (Section 405); we make one change: apportionments should be available for two years after the fiscal year for which authorized, as we provided for other federal systems; Administration provides for three years.

Section 126—Planning.

(a) We add requirements for five-year plans in addition to long-range plans; a single plan rather than a highway plan "properly coordinated" with plans for other modes. Plans and programs are required to reasonably address transportation needs while minimizing the adverse effects contained in 105(j) and 109(h). The plan and programs are to identify those elements which minimize such adverse effects. The Secretary must substantively review plans and programs for compliance.

The Administration requires in their Section 134(a) that plans for cities over one-million in population be substantively reviewed by the Secretary (see Administration Amendments Section 603). We have applied substantive review to all plans and delineated, more specifically, the factors to be considered in such a review.

We adopt Administration language of their 134(a) requiring analysis of alternative system management and investment strategies for all plans.

The Administration also requires multimodal plans and programs for all areas; and that such plans and programs give "due consideration" to generally stating social goals and objectives. They also require that the process be continuing, comprehensive and cooperative "to the degree appropriate." We require the same, but delete "to the degree appropriate." Administration deletes sentence requiring that local officials "be consulted and their views considered" with respect to proposed project. We move the sentence elsewhere in the section.

The Administration requires the Secretary to review plans and programs for cities over one million to be sure that they "reasonably address" other delineated non-transportation factors. In their Section by Section analysis, DOT interprets this to mean that the plan or program should "affirmatively use transportation to achieve other national and local objectives," and we adopt this language in our own subsection (a). We also go a step further in requiring minimization of adverse effects within the context of "reasonably addressing transportation needs."

(b) We redesignate existing (b) as (h); our subsection (b) does not adopt the Administration's recommendation that there be a statewide planning process which integrates the plans of all areas under one million. We do not necessarily oppose their recommendation, we simply take no position on the relationship of local planning to statewide planning.

(c) We require reapproval of plans when they have been significantly changed; also require annual public hearings on the plan, and we insert a sentence from existing (a) (which the Administration deleted) requiring that local officials be consulted about the location and design of projects.

(d) We require a single intermodal program of projects; programs of projects are governed by Section 105; the Administration provides for separate programs of projects under Title 23 and UMTA and only Title 23 projects are governed by Section 105.

(e) Provides requirements for approval of plans, including:

plan must reasonably meet transportation needs;

adequate reporting and record keeping;

fiscal control procedures;

adequate funding for maintenance of the planning process;

compliance with community development plans;

compliance with state and federal environmental laws and energy conservation programs.

In determining compliance with such laws, plans and programs, the Secretary shall rely on representations from appropriate state, local and federal agencies as to whether or not the transportation plans do comply with such laws. Plans must also provide an analysis of social, economic and environmental effects and steps to minimize adverse effects on same.

(f) When Secretary funds a substance change in plan such that an area no longer complies with Title 23, or UMTA, the Secretary shall make no further payments on either any project or on those projects which are in violation, until the area is again in compliance.

(g) Provides expedited court review for suits of governors and members of designated planning organizations to review final actions by the Secretary.

(h) Redesignated (b) and Administration (e). We add (to section permitting designation of critical transportation regions and planning for them) that nothing in Title 23 or UMTA should preclude planning jointly by two or more states or contiguous urbanized areas. Such cooperation is to be encouraged.

Note: We support Administration Section 410 which merges funds with Outdoor Advertising Program and raises matching ratios from 75 to 80 percent.

Section 127—Enforcement of Requirements—Vehicle Weights

Change reference from Secondary to Small Urban and Rural.

Section 128—Public Transportation

The existing section enables the Secretary to approve public transportation projects under Title 23. Much of the language is now superfluous.

New Subsection (a) replaces existing (a)(b) and (c). It authorizes Title 23 to finance any public transportation project that can be financed under Title 23 or UMTA; provides that fees at parking facilities constructed with federal funds cannot exceed what is necessary for maintenance and operation; we exclude exclusive and preferential bus and truck lanes on Interstates from the requirement that all Interstate projects be four lanes wide.

Our Subsection (b) is existing (d) amended to include UMTA Planning with regard to establishing routes and schedules (i.e., they must be based on planning process).

Our Subsection (c) is existing (e), technically amended to provide exception to provision of the Highway Trust Fund enabling law which prohibits HTF from financing anything but highways.

We delete existing (f), (h) and (j) because they are covered by the cross reference section (new subsection (f)).

We retain existing (a), our subsection (d), providing that highway rights-of-way space can be donated to public transit authorities for transit purposes.

Our subsection (e) we retain provision (i) providing that Title 23 transit funding is supplemental to, and not in substitution for UMTA funds.

We repeal (k) which provides that transit cannot be funded from Title 23, "in any year when there has been enacted an Urban Transportation Fund or similar assured funding for both highway and public transportation."

We create new (f) to cross reference UMTA and Title 23 and provide that regulations for

transit projects in Title 23, be the same as those under UMTA.

Section 129—Special Bridge Replacement Program

Administration Section 411, which we support, to allow rehabilitation in addition to replacement of unsafe bridges. We add new subsection designed to prevent funds under this section from being used to increase capacity; such increases in capacity can be funded under other provisions of law but should not come from safety funds. Increases in capacity, however, are permitted to allow safe use of bridges by today's heavier farm equipment.

Note: We support Administration Section 406(b). This new section created largely from existing laws.

Section 130—Priority Primaries

We support Administration repeal of Priority Primaries otherwise known as the "Junior Interstates".

Section 131—Allocation of Urban System Funds

(a) We provide that urban system funds are allocated to the urbanized areas rather than earmarked for them by the state. Current law provides for intrastate apportionment of a fair and equitable basis for areas 200,000 or more in population, or where there is no such formula on the basis of population. We provide that money for all urbanized areas be allocated on the basis of population and that the current "fair and equitable" provision be used for cities 5,000 to 50,000 in population. Administration allocates money directly to areas 200,000 or more, and allows a "fair and equitable" formula to govern the remaining urbanized areas.

(b) We provide that funds for areas 200,000 or more are apportioned for designated recipients. (UMTA already requires designated recipients for 200,000 or more.) The designated recipient must demonstrate capacity to administer programs and have suitable powers and organization to be designated as a recipient; the state may be the designated recipient if agreed to by state and local officials; Administration 406(i) makes the same provision for cities over one million but does not require them to demonstrate capacity.

(c) Funds allocated to an urbanized area, on approval of local officials and the Secretary, may be transferred for use in any other area of the state. Same as Administration Section 406(i).

Note: We support Administration repeal of Section 155 Access Highways to Public Areas on Certain Lakes.

Section 132—Bicycle Projects and Pedestrian Walkways

We amend existing law to make it a discretionary categorical grant program at $45 million per fiscal year ('79 to '82) (current law allows up to $45 million to be used, as part of other project costs, for this purpose); such projects need not be in conjunction with other federal projects; we clarify existing law to permit bicycle lanes on existing facilities or separate bicycle paths; we add, as an eligible use, money for support facilities.

Requires Secretary to establish regulations for construction standards.

Section 133—State Highway, Departments

We create requirement, after October 1, 1980, for a single state transportation agency to serve functions currently required of state highway departments and other transportation programs.

Note: We support Administration provision directing the Secretary to prepare a plan to merge UMTA and FHWA.

Section 134 (Administration Section 602—Consolidated Planning Fund)

(a) Secretary makes grants to states and designated planning organizations for plans and programs required under Title 23, and UMTA; funds come as sums apportioned under those Acts, Administration limits direct grants to areas over one million in population.

(b) We provide that the Secretary may waive the 80-20 federal match for planning funds. Ninety percent of funds available are distributed to states in the ratio of their apportionments. Minimum of one-half of 1 percent to each state; remainder distributed on a discretionary basis and available for Planning R&D. Administration provides for the same matching ratio, gives Secretary discretion on distribution formula.

(c) Secretary shall make available funds to urbanized area designated MPO's on the basis of funds apportioned under (b) that are attributable to the urbanized area.

The Administration provides allocation of funds by the state to urbanized areas between 200,000 and one million in population. Urbanized areas less than 200,000 in population receive funds in a fair and equitable manner.

TITLE II—TERMINATION OF HIGHWAY TRUST FUND

Section 201.—Repeals the Highway Trust Fund and provides funding from general revenues for Title 23 programs.

FOOTNOTES

[1] Substitute "Transportation" for "Highway"; we make 23 U.S.C. totally intermodal—that is all federal-aid systems are eligible for use on public transportation projects.

[2] Substitute "designated recipient" for "State Highway Department": bill established designated recipients to receive and disburse funds which may, or may not be the state highway department, so where the context can be applied to agencies that will receive funds which may not be SHD, then we substitute designated recipients for the SHD. See Section 150 for explanation of designated recipients.

[3] Substitute "Governor" for "State Highway Department." Many policy and planning decisions formerly exercised by SHD will no longer be so exercised in Planning and Programming of projects, and since transit is now eligible, the Governor should be given authority to exercise those policy and planning decisions.●

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By Mr. FORD:

S. 2954. A bill to amend the Communications Act of 1934 in order to protect the rights of the general public in the television broadcasting of major sports events; to the Committee on Commerce, Science, and Transportation.

TELEVISION BROADCASTING OF MAJOR SPORTS EVENTS

Mr. FORD. Mr. President, today I am introducing a bill that will provide the Federal Communications Commission the authority to respond quickly—when necessary—to situations of imminent or actual sports siphoning by pay television and pay cable.

I feel strongly that major college and professional sports should be television attractions available to all viewers without additional charge. My legislation would eliminate the potential for offering such events to a limited number of pay cable or over-the-air subscription television subscribers for a nominal charge.

For example, by drawing relatively small audiences for selected television attractions, pay television could conceivably outbid broadcast television for popular sports attractions and remove them or "siphon" them from broadcast television. Such siphoning of programs from broadcast television would be detrimental to the public in that some major sports events now available would be restricted to an audience composed of subscribers.

Before the recent HOME Box Office case, the FCC anti-siphoning rules were unnecessarily complicated and potentially restrictive to the future development of cable. Home Box Office, Inc. against Federal Communication Commission, No. 76–1280 (D.C. Cir. March 25, 1977), cert. denied, 46 U.S.L.W. 3216 (U.S. Oct. 3, 1977).

In brief outline, the FCC pay cable rules differentiated between "specific" and "non-specific" events. Specific events such as the World Series, the All-Star Game and the Super Bowl could not be shown on pay cable if they had been telecast in a given market during any one of the last 5 years.

With regard to "non-specific" events, the number of games of a given team available to pay cable turned on that team's telecast experience. The critical element in evaluating the games available for pay cable was whether a "substantial number" (25 percent) of that club's home or away games had been telecast. Where a "substantial number" had not been telecast in any one of the 5 preceding years, pay cable essentially could use all of a team's games not shown on television. Where a substantial number of home or away games had been telecast in any one of the 5 preceding years, pay cable could use only one-half of the "overage"—the games not shown on TV.

A further complication involved the "proportional reduction rule" where the number of games otherwise available to a pay cable system were automatically reduced by the same proportion as any reduction in the current television package of that particular team.

Obviously, these rules, directly limited the number of games undistributed by broadcast television that were available to pay cable. This resulted in loss to the public of untelecast games.

The court in the Home Box Office case found the regulations were invalid because the record failed to establish that an actual problem existed, and furthermore, that the imposed restrictions were greater than necessary to further the Government interests.

According to the language of the case, a regulation envincing a governmental interest unrelated to suppression of free expression has been valid if such regulation furthers an important or Government interest and any incidental restrictions on alleged first amendment freedoms are no greater than essential to furtherance of that interest.

In order to demonstrate these requirements the Commission must convincingly demonstrate by the record that: First, a problem exists and siphoning of programs is a real threat to those not served by cable; second, the regulations are addressed to the problem; and, third, the regulations do not create restrictions "greater than is essential" to address the problem.

My bill statutorily extends the Commission's jurisdiction over the problem.

Any regulations the Commission may issue under such a statute, however, would still have to meet constitutional first amendment requirements:

Where the first amendment is concerned . . . a presumption of siphoning must be clearly supported by the record in order to justify rules to regulate the problem. Prior restraints on speech are heavily disfavored and can be sustained only where the proponent of the restraint can demonstrate a need.

This legislation, requiring an evidentiary finding by the Commission that the programing is actually being withdrawn or denied or imminently withdrawn or denied to substantial segments of the public, would avoid such prior restraints on speech without justification. Further, the legislation is to be limited to such antisiphoning purposes with the burden of proof on the party raising the issue.

The question of potential sports siphoning is one that creates negative feelings toward the pay television industries. By acting on this question now instead of reacting later to a confrontation, the pay television industries will avoid being subjected to an overly negative reaction, and, most importantly, the public interest will be served.

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By Mr. RANDOLPH (for himself, Mr. STAFFORD, Mr. HEINZ, and Mr. WILLIAMS):

S.J. Res. 127. A joint resolution designating September 10 through September 17, 1978 as "National Rehabilitation Week"; to the Committee on the Judiciary.

NATIONAL REHABILITATION WEEK

● Mr. RANDOLPH. Mr. President, as chairman of the Subcommittee on the Handicapped, I will bring before this body in the very near future the "Rehabilitation Amendments of 1978." It is, therefore, appropriate that I ask your attention to a joint resolution designating September 10–17, 1978, as "National Rehabilitation Week." During this 95th Congress, the subcommittee has held 18 days of hearings on programs for the handicapped which are within the jurisdiction of the subcommittee. As a result of these hearings we must face the fact that the handicapping conditions of Americans in this country are a major national education, health, social, and economic problem. Fifty million Americans have physical, intellectual, or emotional handicaps that noticeably limit their ability to carry on life's functions. The needs of these handicapped Americans deserve a high priority not only in the Congress but with the administration as well. The time has come to develop a national policy that raises excellence in rehabilitation and special education to the level of a moral issue and a good investment. It is my hope that this resolution will foster a cooperative effort to bring all of our resources to bear on providing the services necessary to all handicapped Americans. We must not deprive the Nation of their productivity and creativity.●

● Mr. WILLIAMS. Mr. President. I am pleased to join with my distinguished colleague, Senator Randolph, in introducing a resolution to proclaim the third week in September as "National Rehabilitation Week."

The purpose of this observance would be to make the people of the Nation more aware of the immense reservoir of talent that handicapped persons offer and of the rehabilitation services that make it possible for the disabled to utilize their talents to the fullest.

In recent years, Mr. President, there has been a demonstrated commitment to securing the rights and meeting the needs of disabled Americans. Through such laws as Pubic Law 94–142, the Education for All Handicapped Children Act, and through the nondiscrimination provisions of section 504 of the Rehabilitation Act of 1937, we have affirmed those rights and attempted to meet the most important of those needs. We have declared that disabled persons have the right to receive an education, to become employed, and to have access to a myriad of public services that many able-bodied Americans take for granted.

If these affirmations are to be transformed into reality throughout the Nation, the general public must have a greater understanding of the unique problems and unusual barriers that face disabled persons. A national rehabilitation week observance would provide a forum for developing that understanding and for examining popular perceptions of rehabilitation and of disabled persons.

Through efforts of this kind, the concept of rehabilitation, and the challenges it addresses, will be accepted not as something for people who are "different", but as a wholesome process by which disabled Americans are allowed to reach their full human potential.

I am pleased, therefore, to cosponsor this resolution, and I look forward to the activities that will occur during "National Rehabilitation Week."●

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## ADDITIONAL COSPONSORS

S. 2540

At the request of Mr. RIEGLE, the Senator from New York (Mr. MOYNIHAN), and the Senator from Hawaii (Mr. MATSUNAGA) were added as cosponsors of S. 2540, the Food Amendments Act of 1978.

S. 2627

At the request of Mr. GRAVEL, the Senator from New Jersey (Mr. WILLIAMS), the Senator from Utah (Mr. GARN), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from California (Mr. CRANSTON), the Senator from South Dakota (Mr. ABOUREZK), the Senator from South Carolina (Mr. THURMOND), the Senator from New Mexico (Mr. DOMENICI), the Senator from Wyoming (Mr. WALLOP), the Senator from Connecticut (Mr. WEICKER), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from New Hampshire (Mr. DURKIN) were added as cosponsors of S. 2627, the deferred composition bill.

S. 2726

At the request of Mr. RIEGLE, the Senator from Maryland (Mr. SARBANES), the Senator from Maine (Mr. HATHAWAY), and the Senator from Maryland (Mr. MATHIAS) were added as cosponsors of S. 2726, the Housing Conservation Act of 1978.

S. 2921

At the request of Mr. BARTLETT, the Senator from Oklahoma (Mr. BELLMON) was added as a cosponsor of S. 2921, a bill to amend the Internal Revenue Code of 1954 to reduce the excise tax based on investment income of private foundations.

SENATE JOINT RESOLUTION 65

At the request of Mr. KENNEDY, the Senator from New Jersey (Mr. CASE) was added as a cosponsor of Senate Joint Resolution 65, a joint resolution to amend the Constitution to provide for representation of the District of Columbia in the Congress.

SENATE JOINT RESOLUTION 111

At the request of Mr. GLENN, the Senator from Massachusetts (Mr. KENNEDY), the Senator from Alaska (Mr. STEVENS), the Senator from North Carolina (Mr. MORGAN), the Senator from Oregon (Mr. MARK O. HATFIELD), and the Senator from New York (Mr. JAVITS) were added as cosponsors of Senate Joint Resolution 111, a parliamentary exchange with Japan.

SENATE JOINT RESOLUTION 116

At the request of Mr. PROXMIRE, the Senator from Illinois (Mr. STEVENSON) was added as a cosponsor of Senate Joint Resolution 116, to declare June 4 through 10, 1978, to be "National Neighborhood Week."

SENATE JOINT RESOLUTION 118

At the request of Mr. JOHNSTON, the Senator from Michigan (Mr. RIEGLE) was added as a cosponsor of Senate Joint Resolution 118, to declare an Emergency Medical Services Week.

AMENDMENT NO. 1788

At the request of Mr. MELCHER, the Senator from Montana (Mr. PAUL G. HATFIELD) was added as a cosponsor of Amendment No. 1788, intended to be proposed to S. 2493, the Airline Deregulation Bill.

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## SENATE RESOLUTION 435—SUBMISSION OF A RESOLUTION AUTHORIZING PRINTING

Mr. RANDOLPH submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 435

*Resolved*, That the annual report to the Administrator of the Environmental Protection Agency to the Congress of the United States (in compliance with sections 202, 306(e), and 313 of Public Law 91–604, the Clean Air Act as amended) entitled, "Progress in the Prevention and Control of Air Pollution in 1977" be printed, with illustrations, as a Senate document.

Sec. 2. There shall be printed five hundred additional copies of said document for the use of the Committee on Environment and Public Works.

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## SENATE RESOLUTION 436—SUBMISSION OF A RESOLUTION AUTHORIZING PRINTING

Mr. RANDOLPH submitted the following resolution, which was referred to

the Committee on Rules and Administration:

S. RES. 436

*Resolved*, That the annual report of the Secretary of Transportation to the Congress of the United States (in compliance with section 144, title 23, United States Code), entitled "Special Bridge Replacement Program, Seventh Annual Report," be printed, with illustrations, as a Senate document.

Sec. 2. There shall be printed seven hundred additional copies of said document for the use of the Committee on Environment and Public Works.

## SENATE RESOLUTION 437—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution, which was placed on the calendar:

S. RES. 437

*Resolved*, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Kristin T. Atkinson, widow of Marshall L. Atkinson III, an employee of the Senate at the time of his death, a sum equal to five months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

## NOTICE OF HEARINGS

SUBCOMMITTEE ON ARMS CONTROL, OCEANS AND INTERNATIONAL ENVIRONMENT

● Mr. PELL. Mr. President, the Subcommittee on Arms Control, Oceans and International Environment of the Committee on Foreign Relations will hold a hearing tomorrow on the fiscal year 1979 authorization for the Arms Control and Disarmament Agency. The hearing will be held at 10 a.m., in room 4221. The Honorable Spurgeon M. Keeny, Jr., Deputy Director of the Arms Control and Disarmament Agency, will testify. Subcommittee markup of the ACDA authorization bill will follow Mr. Keeny's testimony.

At that markup, I intend to introduce an amendment to the ACDA bill which will improve and strengthen the arms control impact statement process, which was established in 1975 in an amendmen to the Arms Control and Disarmament Act. Under that provision, the executive branch is required to submit to the Congress arms control impact statements on nuclear and major nonnuclear defense-related programs. In mid-March, the Senate received arms control impact statements on fiscal year 1979 requests for authorization and appropriation of defense and nuclear programs.

As chairman of the Subcommittee on Arms Control, Oceans and International Environment, I have followed the arms control impact statement procedures closely, and have sought ways to make the process more useful to the Congress and the public. Following receipt of the latest package of the arms control impact statements, I asked the subcommittee staff and the Congressional Research Service to study the submissions. On the basis of that study and my own analysis of the statements, I have concluded that, although the new statements are substantially better than the statements received for fiscal years 1977 and 1978 programs, further refinement of the process is necessary.

My amendment would make procedures more manageable and help insure that the executive branch meets the deadlines specified and that unclassified versions of the statements are available at an early date. At present, the Committee on Foreign Relations is still endeavoring to get sanitized versions of these statements printed and available to members of the general public. Under my amendment, these unclassified statements would be available early in the year, so that they can be used to the fullest extent possible by the committees handling authorization and appropriation of the programs involved and by the Senate, when the bills come to the floor. In addition, materials would be available much earlier to interested members of the public.

We have not yet realized the full potential of arms control impact statements. They can be an important ingredient in the decisionmaking process in Congress and the executive branch. In addition, they can serve the general public as a comprehensive and balanced assessment of key nuclear and defense programs.●

SUBCOMMITTEE ON ENERGY CONSERVATION AND REGULATION

● Mr. JOHNSTON. Mr. President, on Friday, April 21, 1978, the Subcommittee on Energy Conservation and Regulation of the Committee on Energy and Natural Resources will hold a hearing on the President's budget request for the Energy Information Administration. The hearing will commence at 10:00 a.m., in room 357, Russell Senate Office Building.

Questions about this hearing should be addressed to Benjamin S. Cooper or James T. Bruce of the subcommittee staff at 224-9894.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, I wish to announce that the Select Committee on Small Business has scheduled a hearing on Tuesday, April 25, 1978, at 1:00 p.m., in room 424 of the Russell Senate Office Building, on the nomination of Milton D. Stewart, of New York, to be Chief Counsel for Advocacy of the Small Business Administration.●

SUBCOMMITTEE ON RURAL DEVELOPMENT

● Mr. CLARK. Mr. President, I wish to announce that the Subcommittee on Rural Development of the Committee on Agriculture, Nutrition and Foresty will hold oversight hearings on rural development on Tuesday, April 25, beginning at 10 a.m., in room 324, Russell Building. The subcommittee has invited Assistant Secretary of Agriculture Alex Mercure to testify on USDA's efforts in this area. Anyone wishing to further information should contact the committee staff at 224–2035.●

COLLECTIVE RATEMAKING IN THE TRUCKING INDUSTRY

● Mr. KENNEDY. Mr. President, the Subcommittee on Antitrust and Monopoly of the Judiciary Committee will be conducting additional hearings during April and May as part of its continuing investigation of rate-setting practices in this Nation's trucking industry.

The hearing dates are as follows:

April 26, 1978: rm. 2228, 9:30 a.m.

Witnesses include Chairman A. Daniel O'Neal of the Interstate Commerce Commission, and other ICC personnel.

May 15, 1978: 2228 Dirksen: 10 a.m.

Witnesses include representatives of major shipper organizations, and individual shippers.

May 22, 1978: rm. 2228; 10 a.m.

Witnesses include transportation economists and other expert witnesses.

Full witness lists for each day will be available from the subcommittee offices 48 hours in advance of each hearing.●

COMMITTEE ON THE JUDICIARY

● Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I wish to give notice that a public hearing has been scheduled for Thursday, April 27, 1978, at 9:30, in room 2228 Dirksen Senate Office Building on S. 1382, a bill to establish rational criteria for the imposition of the sentence of death, and for other purposes.

Additional information on the hearing may be obtained by calling the committee.●

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, I wish to announce that the Select Committee on Small Business will hold a hearing on S. 836 (to amend title IV of the Small Business Investment Act of 1958) on Friday, April 28, 1978, at 9:30 a.m., in room 424 of the Russell Senate Office Building. The Senator from Oklahoma (Mr. BARTLETT) will chair the hearing.

Further information can be obtained from the committee office at 224–5175.●

## ADDITIONAL STATEMENTS

### RELIEF BILL FOR PRANAS AND ALGIRDAS BRAZINSKAS

● Mr. DOMENICI. Mr. President, I wish to bring to the attention of my colleagues the plight of Pranas and Algirdas Brazinskas.

For 30 years Pranas Brazinskas fought for rights of freedom and self-determination in the Lithuanian underground. He has endured torture in the dungeons of the infamous Liublianka Prison; he has survived exile in the barren Siberian wastelands and he has suffered repeated torture and arrests.

Finally in October of 1970, he escaped from a concentration camp and, leaving his wife and daughter behind, but taking his young son, attempted to reach freedom in the West. He hijacked a Soviet jet and forced it to land in Turkey. Sadly, a stewardess was slain and a pilot wounded during exchange of gunfire with KGB agents aboard the craft.

On October 17, 1970, an Istanbul court ruled that the Brazinskases had political motives for their action and were entitled to go free.

March 8, 1971, due to extreme pressure from the Soviet Government, a special commission was formed to deal with the Brazinskas case and it voted to return them to the Soviet Union.

There occurred a change in govern-

ment on March 12, 1971, and the new regime changed the policy on extradition. The Brazinskases would be allowed to stay in Turkey, but in July were imprisoned as a consequence of the hijacking.

May 21, 1974, while incarcerated, general amnesty was declared in Turkey, but as they had no place to go, they were forced to spend the next 2 years in a refugee camp in Turkey, under guard.

Then in early June 1976, amidst the tensions of the Cyprus situation and the rapidly deteriorating relations between Turkey and the West, a Turkish official told the Brazinskases that the Turkish Government had secretly decided to return them to the Soviet Union. That afternoon they escaped from the camp through a trapdoor.

By August 24, 1976, they had made their way to America and in September they had applied for political asylum in the United States.

And what was the response of our State Department and the Immigration and Naturalization Service? The Department of State, referring to an aide-memoir presented by the Embassy of the Union of Soviet Socialist Republics, refused political asylum and both were subject to deportation proceedings. By April 11, 1977, Algirdas Brazinskas appeared before an immigration judge in Boston and was ordered to be deported to Lithuania, pending appeal.

Mr. President, many of us in the Senate for many years have in the advocation of freedom for the Baltic States and other Eastern European nations cited examples of Soviet suppression of rights and offered hope and promise to those oppressed. This country has never accepted Soviet domination of Eastern Europe and the Baltic States. Yet, when those who have suffered and endured the vilest of mankind's physical and mental degradation arrive on our shores, our Government in an inordinate accommodation to the Soviet Union, wants to deport them.

There is an essential point I want to emphasize. The United States unilaterally opposes the use of hijacking tactics for any purpose. As a party to the Hague Convention, we recognize such acts to be criminal and we subscribe to the principle that the perpetrators of such acts should be prosecuted.

In the case of Algirdas and Pranas Brazinskas, they have been arrested, prosecuted, and imprisoned for their acts. Released under a general amnesty they have been judged and have paid their decreed debt. Justice has been served.

Yet, our State Department and the INS want to force them back to the Soviet Union and certain death.

I have introduced private bills for the relief of Pranas and Algirdas Brazinskas which would allow them to remain in this country as lawfully admitted. Congressman DORNAN of California, who has rallied many Members in the House to this cause, has done likewise.

Senator LUGAR is a cosponsor of these bills and I invite my other colleagues to join as cosponsors.

The fate of Pranas and Algirdas, Mr. President, will communicate to the peoples of Europe our dedication as the citadel of freedom and hope for the oppressed. Or it will communicate to what extent this administration is willing to accommodate the Soviet Union. For those who love freedom, there can only be one answer.●

## GASOHOL ATTRACTS ATTENTION

● Mr. CHURCH. Mr. President, over the past year the Senate has become increasingly aware of the significant potential inherent in the use of alcohol/gasoline fuel blends, commonly known as "gasohol."

We have witnessed the unrelenting escalation of our imported oil costs. The detrimental impact of paying billions to foreign countries for our liquid fuel needs is inescapable and simply cannot continue to grow unabated. It is equally clear that the hard times being experienced by our farmers must be faced. It is this pressing mix of farm and energy problems that has focused our attention on the gasohol concept.

Producing alcohol from a wide range of renewable resources is not a new idea. On February 1, 1917, Alexander Graham Bell, one of our Nation's most prolific inventors, delivered an address to the graduating class of the District of Columbia's McKinley Manual Training School. In this address, Bell told the young graduates:

> Coal and oil are going up and are strictly limited in quantity. We can take coal out of a mine, but we can never put it back. We can draw oil from subterranean reservoirs but we can never refill them again.
>
> Alcohol makes a beautifully clean and efficient fuel . . . we can make alcohol from sawdust, the waste product of our mills . . . from cornstalks, and in fact from almost any vegetable matter capable of fermentation. Our growing crops and even weeds can be used. The waste products of our farms are available for this purpose, and even the garbage from our cities.

In today's environment of rising imported energy costs, the need to develop additional farm markets and come to grips with urban waste disposal, Alexander Graham Bell's advice carries the weight of an idea who's time has come.

Mr. President, in February I introduced S. 2533, the Gasohol Motor Fuel Act of 1978. This bill provides for the expeditious introduction of gasohol blends, drawing on renewable resources to produce the necessary alcohol. I am pleased to have been joined in this effort by Senators JAVITS, NUNN, and THURMOND.

Since the introduction of this bill, there has been an increased interest in the gasohol concept. A column which appeared in today's Washington Post by Jack Anderson provides a summary of recent gasohol activities. I ask that this column be printed in the RECORD.

The column follows:

[From the Washington Post, Apr. 14, 1978]

CARTER SERIOUS ABOUT ALCOHOL FUELS

(By Jack Anderson)

In a dramatic turnabout, President Carter is now getting serious about alcohol fuels, which could help solve the energy crisis, stabilize farm prices and reduce the outpouring of dollars to the oil potentates.

Previously, Carter had virtually ignored the proven potential of alcohol fuels. His 103-page energy message devoted only a single sentence to alcohol fuels, giving them the official brushoff.

Deputy Energy Secretary John O'Leary dismissed the concept of alcohol fuels as a "myth," even though they had been used to power jet fighters in World War II and to run automobiles as far back as the 1930s.

But government experts slipped around to see us behind the backs of their superiors. They told us that alcohol could provide 72-cent-a-gallon fuel for American motorists. This would be no more than premium gasoline is expected to cost by the time the alcohol plants are constructed.

The money would also be spent in the United States, thus stimulating prosperity at home instead of enriching the oil sheiks. A blend of alcohol and gasoline, called "gasohol," could compete directly with the conventional product. The new gasohol would also require no engine modifications.

This high-octane product could be produced from alcohol derived from timber wastes, corn stalks, coal, garbage, even sewage. Farm-belt senators would like the priority placed on extracting alcohol fuels from surplus farm products.

The strongest opposition has come from the oil industry, whose lobbyists are maneuvering behind the scenes to block the development of alcohol fuels in the United States. The oil companies, of course, want to keep the nation hooked on oil until their wells have been drained.

Putting profits ahead of the national welfare, the oilmen are whispering into congressional ears that alcohol fuels would create technological and economic problems. A Chevron lobbyist made so many inaccurate statements that a Senate aid drafted a point-by-point response and mailed it to the company.

Mobil Oil issued a detailed rebuttal to a report, favorable to alcohol fuels, from the Senate Republic Policy Committee. Mobil not only blasted the report but offered its own patented process for converting alcohol into gasoline. This process would be so costly that it would become no immediate threat to Mobil's petroleum refineries.

From California to Nebraska, oil lobbyists are actively trying to thwart programs to develop alcohol fuels at the local level.

We wrote a series of articles, meanwhile, suggesting that alcohol fuels might be the most readily available solution for the energy crisis. Our stories stirred up strong support from concerned Americans. A blizzard of mail hit our office, including copies of letters to the White House and Congress. The response from the public is beginning to have its effect. Here's what's happening:

Twenty senators wrote a joint letter to both Energy Secretary James Schlesinger and Agriculture Secretary Bob Bergland, urging them to undertake an "immediate and comprehensive effort to tap the potential of our nation's renewable resources."

Sen. Frank Church (D-Idaho) caught the ear of President Carter at the White House. Church explained that under a bill he was sponsoring, grain alcohol fuel blends could be available at service station pumps by 1981. According to Church, the President was "very interested" in the proposal but skeptical about the marketplace economics.

Nonetheless, the project is belatedly getting some sudden attention inside the Energy and Agriculture departments. The White House has set up a special interagency task force to consider the possibilities of introducing alcohol fuels on the American scene.

Energy officials surprised the Senate Appropriations Committee by testifying they were planning "action oriented" alcohol fuel programs "aimed at making things happen." At long last, they conceded that the new fuel process could also reduce our foreign oil dependency, cut down on air pollution and help eliminate our waste problem.●

## THE SHEEPMEN

• Mr. HANSEN. Mr. President, frugality, industry, and keen business instinct are some of the characteristics for which Wyoming sheep ranchers of Basque ancestry are known. An article in the Friday, April 14, Wall Street Journal focuses on the Iberlin brothers' sheep operation near Buffalo, Wyo., and the economic hardships which the long-depressed sheep industry has suffered. Of special interest are the difficulties which the predator problem has created. I believe the comments made by the Iberlin brothers about the coyote and the animal's effect on their industry are especially noteworthy and deserving of the Senate's attention. I ask that this article be printed in the RECORD.

The article follows:

IBERLIN BROTHERS FIGHT LOW PROFITS, PREDATORS AS SHEEP MARKET RISES

(By Kenneth G. Slocum)

BUFFALO, WYO.—Sheep rancher Simon Iberlin stands near a curiously shaped rock formation where the rugged Big Horn Mountains drop off into rolling brown hills and sagebrushed canyons. Sweeping a tanned hand across the treeless horizon, he says, "We Basques own everything for 50 miles. The sheep has been good to us and is getting better."

Mr. Iberlin's optimistic observation, almost startling for the long-depressed U.S. sheep industry, points up both a current economic trend and a colorful chapter of Western history. The economic lot of sheepmen is considerably improved, although sheep raisers still are plagued with predators, labor scarcity and low profit margins. But sheep ranching here in Johnson County—the leading sheep-raising county in a state second only to Texas in sheep production—is more than just an ailing industry on the mend. It represents survival of a centuries-old way of life for one of America's least-known groups of immigrants, the Basques. And it presents an unusual melding of untouched European tradition with Western savvy and Yankee entrepreneurship.

Sheepmen generally have ample cause for optimism after decades of hard economic times that saw the industry shrink to 12.7 million head of sheep today from 56.2 million in 1942. Now, freshly shorn wool, stimulated by the turn of U.S. fashion to the natural-fiber look, is bringing 72 cents a pound, up from 19 cents a pound seven years ago, and, according to government sources, could reach a record 80 cents to 85 cents in the next few years. Because of the diminished supplies, choice slaughter lambs on the San Angelo, Texas, market sell for about $72 a hundredweight today, up from $56 three months ago and $24 in 1971, even though lamb and mutton consumption in the U.S. is less than half of what it was in the mid-1960s.

"Pricewise, we're in the best shape in 20 years," says William Bonde, president of the National Woolgrowers Association, a trade group. "And there's a real scramble for breeding stock as people move back into the sheep business." For instance, he says, six-year-old breeder ewes, which two years ago would have brought $18 each, went recently for more than $50 each at a sale in Champaign, Ill.

In no place is there more happiness over the sharp economic upturn than in Johnson County, an "open sky" land of 6,000 people where half the 4,175 square miles is owned by 200 immigrant Basques or their offspring. And none here are happier than Simon Iberlin, 55, and his brother John, 48 whose ranch typifies the improvement of the industry as well as the painful problems still facing all U.S. sheepmen.

Like most U.S. sheep ranchers, Simon and John Iberlin grew up on a sheep ranch. Their father, also named John, emigrated in 1905 from the Basque country in the Pyrenees, the mountainous area straddling the border of Spain and France. At the age of 27, he walked off the boat in New York with only his clothes and railroad fare to Wyoming. There, he worked as a sheepherder, sleeping in a sheep wagon, eating company rations and squirreling away his meager earnings. After 10 years of that, he had enough money to buy a few sheep and some equipment. When he died 25 years ago, he left his wife and children 10,000 acres of land and 4,000 sheep.

Simon and John Iberlin picked up the mantle and, through dawn-to-dark work and frugal habits (they buy only used cars and Simon Iberlin put off marriage until he was 39 because, he says, he couldn't afford a wife), they expanded the ranching operation to include 7,000 sheep, 500 head of cattle and 30,000 acres of deeded land, which will be clear of debt in another four years. They lease another 20,000 acres. Including their two modern homes in town, their property all told is worth about $2.5 million.

And yet the Iberlin aren't wealthy men, because raising sheep is clearly a low-profit-margin industry. Even in their best year, 1972, they netted only $46,600, or less than a 2 percent return on their investment. In 1976, the sheep operation showed a net profit of $39,000, and 1977 profits were only slightly higher. Even these small profits would have been lower without a federal program of incentives for sheep ranchers. Under the complex program, which is tied to average wool prices received by the industry, each rancher is paid a certain percentage of what he receives for his wool. Last year Washington paid ranchers only 9 percent, but recently the payments were increased, retroactive to the beginning of 1977.

The brothers are regarded locally as top-notch sheep ranchers and shrewd businessmen. "I don't know how the Iberlins do it but they consistently do better than any other sheep rancher I handle," says Dewitt Terry, a certified public accountant who handles the books for many local ranchers. Indeed, while most U.S. sheep ranchers have had year after year of losses, the Iberlins can count on one hand the years that they have lost money since they went into partnership some 25 years ago.

Simon Iberlin explains their success simply, "We do everything ourselves and we do without." But it's clear the Iberlins combine their willingness for grueling work with business instinct and economic foresight. In 1963, for instance, when all the ranchers here used sheepherders to handle and guard their sheep herds (as sheep flocks are called in the West), the Iberlin brothers were the first in the county to switch to the concept of fenced pastures, stringing 50 miles of wire fence in a single summer. Most county sheep ranchers have since switched to fencing because of the scarcity and rising wage costs of herders.

The Iberlins' foresight resulted in considerable financial savings. They built their fences at a price of about $1,000 a mile, while sheepmen building fences now, because of inflation, pay close to triple that.

Also, unlike most U.S. sheep ranchers, the Iberlins use no permanent outside labor. The peak work periods come in the spring, when the lambs are taildocked and castrated and the adult sheep sheared, and the fall, when the herds are sorted for shipping. At these times, the two brothers and John Iberlin's three grown sons are joined by Simon Iberlin's wife, Dollie, and John Iberlin's wife, Maggie. Even Jeanne Iberlin, the 85-year-old mother of John and Simon Iberlin, helps by cooking the evening meals. "Basque women are terrific," says Sam Rosenthal, the mayor of Buffalo. "They work now like American women did in the pioneer days. They do everything but fight Indians."

The two brothers want to make sure that their ranch remains an Iberlin family business. Because Simon Iberlin's children aren't interested in ranching, he is in the process of selling his share of the sheep and equipment, but not the land, to John Iberlin's three sons.

But whoever succeeds the two brothers will have to deal with a perennial threat to Western sheep ranchers: coyotes. The fences haven't helped the problem. On the one hand they have enabled the Iberlins to graze a third more sheep on the same land by reducing the trampling of pasture by sheep being moved by the herder. On the other hand, they have left the sheep more exposed to predators. One family of coyotes that moved in last spring killed 200 lambs before the Iberlins detected it. "Our two biggest enemies are the coyote and the federal government, and there isn't much we can do about Uncle," says one sheep rancher here.

Indeed, a large part of successful sheep ranching in Wyoming is dependent on doing something about the coyote. Thus Simon Iberlin became chairman of the Johnson County Predator Control Board, which runs one of the toughest, if not the toughest, predator-control programs in Wyoming, according to both the Wyoming Game and Fish Department and the wool growers group.

### HUNTING THE COYOTE

Using a $50,000 annual budget, provided mostly by local sheep ranchers, the board has two full-time trappers, a part-time pilot and a $20,000 Piper Super Cub bought specifically for coyote hunting.

On a recent afternoon, sheep rancher and pilot Gary Gosney demonstrated the county's seriousness about coyote control as he gunned the small single-engine, two passenger plane just 50 feet above the rocky arroyos.

"We'll hang in here at about 50 feet for lookin', but I like to get down to 25 feet for shootin'," he shouts above the roar of the engine; then he dips the left wing of the plane to follow a grassy ravine and begins circling a star-shaped formation of rocky ridges.

"We killed three in here one day this week but I think there's one more," he says. Four antelope bound up a ravine, and five mule deer huddle motionless in the shadow of a huge boulder. But no coyotes appear. Acting on a radio tip from a trapper, he heads for some nearby ravines where coyotes have been sighted, and he lands on a short, bumpy ridge. He cuts the engine and flips on a siren, seeking the answering howl of a coyote (coyotes often respond to piercing sounds). Still no luck.

The two-hour hunt fails to uncover a single coyote, but the aircraft has more than justified itself already. In the past year, it has accounted for 285 coyote kills, while trappers, using steel traps, game calls and rifles, have accounted for another 100.

But predators aren't sheep ranchers' only problem with nature. Like farmers and livestock men everywhere, the Iberlins are vulnerable to the weather, and in some years it hasn't been kind. They're still recovering from the Easter weekend of 1973 when a heavy blizzard pushed by 10-mile-an-hour winds howled down across northern Wyoming. "There was nothing we could do but get out of the wind and say our Hail Marys," recalls Simon Iberlin.

### A "TERRIBLE" LOSS

When the storm abated, the scene was grim. Flocks of sheep, seeking shelter from the shrieking winds in steep-walled canyons, had suffocated under several feet of snow. Many of those that were dug out alive were badly chilled and later died of pneumonia. When the snows melted and the carcasses were counted, the Iberlins had lost 2,500 ewes, 90 head of cattle and 140 calves. "It was terrible," recalled John Iberlin.

With the severe loss in breeding stock, the sheep and cattle operation lost money in 1973, 1974 and 1975, recording a battering $33,000 deficit in the latest year.

Even with the improved market outlook in 1977, which served the Iberlins well, they were hurt again by last spring's snows, which killed 600 ewes and 30 rams.

But the hardships caused by the brutal weather, the plundering of the coyote, the long, long hours of work and the lean economics of ranching fail to dampen the Basques' irrepressible devotion to dancing, wine and song. "The Spanish side (of the Pyrenees) produced great fighters, our side (French), great lovers," explains Simon Iberlin with a roguish grin.

Once the work is done, the life style here becomes anything but Spartan and is marked by a penchant for marathon parties. "When an Irishman drinks, he starts a fight," says Simon Iberlin. "When a Basque drinks, he begins to sing and dance."

And there has been plenty of that around Johnson County since the Basques arrived at the turn of the century. The Basque "party in the mountain," a dusk-to-dawn feast, dance and religious ceremony every August, once attracted much of the county, but it hasn't been held in some years. The local Basques even used to throw mountainside parties on a large open-air concrete dance ficor built into the side of the mountain. But people in Buffalo today prefer smaller gatherings, such as neighborhood and block parties.

But it still takes little to motivate Basques to gather. The arrival of a newsman here on a recent Sunday triggered a Basque party the following night. Observes Mayor Rosenthal, "I've lived among these Basques for 37 years, and I've still to meet one who's afraid of hard work or a big party." ●

## RARE II COLLOQUIUM

● Mr. CHURCH. Mr. President, on April 4, the Senate Energy and Natural Resources Committee, the House Interior Committee, the Forests Subcommittee of the House Agriculture Committee, and the Department of Agriculture sponsored a day-long colloquium on the Roadless Area Review and Evaluation (RARE II) program now underway on the National Forests.

The opening remarks of Representative UDALL, Assistant Secretary of Agriculture M. Rupert Cutler, and myself all look toward the final product to be achieved by RARE II. I commend these statements to my colleagues, and ask that they be printed in the RECORD.

The statements follow:

OPENING STATEMENT OF SENATOR FRANK CHURCH

On behalf of the Senate Energy and Natural Resources Committee, the House Interior Committee, the Forest Subcommittee of the House Agriculture Committee, and the Department of Agriculture, I welcome you to the afternoon session of the Joint Congressional-USDA Colloquium on the National Forest Roadless Area Review.

In addition to a number of members of the House and Senate, we have some distinguished guests with us today, who I will introduce shortly.

Let me state at the outset, and for the record, that this seminar is neither an oversight hearing nor a legislative hearing. Rather, it is an informal session to discuss the present status and future stages of the second Roadless Area Review and Evaluation—the so-called RARE II project—which is presently being conducted by the Department of Agriculture on the National Forests.

This colloquium is a follow-up to a successful experiment which the Senate Energy and Natural Resources Committee conducted last fall. On September 21, the committee called together representatives of various national conservation organizations, forest products groups, and the Department of Agriculture to discuss the roadless area problem and the RARE II project in a roundtable format.

As a result of that first discussion session, some problems with the RARE II process which might not have surfaced, except for the free flow of debate at the roundtable, were subsequently resolved. We felt sufficiently satisfied with the results of that seminar to sponsor this second session today.

The workshops which each of you attended this morning down at the Department of Agriculture have set the stage for the roundtable discussion this afternoon. You have given your consideration to some tough questions, such as: How can a consensus be developed for both the areas to be recommended for wilderness and for the areas to be released from further wilderness consideration and thus made available for nonwilderness uses? What type of legislative package should be sent to Congress upon conclusion of RARE II? How should the decisions made by RARE II be implemented? Are there problems with RARE II which should be resolved before the release of the planned environmental impact statement?

We will discuss these questions and others at length here this afternoon.

As we begin this second roundtable discussion, I want to reinforce a couple of basic points which I stressed at the first of these sessions.

The sole objective of the RARE II program is to arrive at some final decisions about the future use of the remaining roadless areas within the National Forest System. To the degree that we can resolve the allocation decisions on some of these areas, we serve two equally important objectives. First, we remove some of the uncertainty about the land base for non-wilderness forest uses, such as timber harvest, and, secondly, we assure that the wilderness values of key areas are, in fact, recognized, and these areas included within the National Wilderness Preservation System.

The inventory phase of the RARE II program has already identified some 66 million acres of roadless land in 37 states.

We can hope that the evaluation phase of the program will generate enough information and foster a consensus among forest user groups sufficient to settle a fair share of this total.

But we will all be sorry, I think, if we harbor excessive expectations as to how much of the roadless area issue might be "solved" by RARE II.

As it has been set up, RARE II is a reasonable program which can achieve a reasonable result. It can get us well down the road to settling the overall roadless area issue—if we just let it. However, if we ask it to do too much, we are liable to strain the capacity of the process, and strain the politics underlying the process, to such a point that the whole project will end in failure. That is a result no one wants.

Therefore, in terms used by Assistant Secretary Cutler when he announced the program nearly a year ago, we must put the focus on reasonable objectives, and on procedures for arriving at the ultimate decisions to be made.

Another problem area which must be avoided, in my opinion, is the use of extravagant rhetoric. For instance, I have seen some recent advertisements which warn of economic disaster for the Northwest if all of the roadless areas in RARE II become wilderness. Such scare tactics only bewilder and confuse the people. No one has proposed that all of these areas be made statutory wilderness. Furthermore, Congress makes these decisions, and there is no possibility that all the RARE II areas will be designated as wilderness.

Of course, there are areas of roadless land in the national forests which ought to be given full wilderness protection. Because they posses unique ecological values or superlative wilderness characteristics, they should be made part of the National Wilderness Preservation System. Many such areas have minimal resource conflicts, and we should be able to designate them without much controversy.

By the same token, there are other roadless areas which have no particular value as wilderness, and which are not sought for preservation by anyone. They have other important values which we should proceed to utilize—including timber, minerals, and nonwilderness recreational opportunities. For these areas as well, there ought to be a minimum of controversy.

The problem is, we have not been making decisions on these relatively easy areas. To date, we have seen virtually all sides arguing their positions on the basis of general principles, without attention given to the other person's point of view. And that brings me back to my first point.

RARE II, as I see it, has a very simple objective: to let a consensus on such areas be formed in a manner which will make it possible for Congress to take action to implement that consensus.

That objective is reasonable, and it does not require the resolution of the whole roadless area issue in one fell swoop. That is a task which, in my judgment, exceeds the possible.

So, I want to counsel coolness, consensus, and resolution, with reasonable and not excessive expectations.

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STATEMENT OF MORRIS K. UDALL BEFORE THE RARE II COLLOQUIUM

It has been more than 70 years since the forest reserves of this nation were transferred to the Department of Agriculture's Forest Service. The National Forests, under the wise stewardship of the Service, have played a major role in fulfilling the country's need for timber, minerals, grazing, clean air and water, and recreation during these past 70 years. The first "Use Book" of the Forest Service, published in 1905, stated very clearly the goal of the Forests when it said, "The Forest Reserves are for the purpose of preserving a perpetual supply of timber for home industries, preventing destruction of forest cover which regulates the flow of streams, and protecting local residents from unfair competition in the use of forest and range."

And, today the National Forests are perhaps even more important to the nation than in any other time in our history. The intense interest shown by a wide variety of individuals and associations in the current Roadless Area Review and Evaluation (RARE II) clearly demonstrates this point. In short, the Forest Service has undergone a tremendous effort in the last year to try to determine, in consultation and cooperation with all interested parties, what the highest and best use of the approximately 66 million acres of roadless lands left in the National Forests, are. It is not an enviable task, it is one that will take a great deal of effort by all involved. The purpose of this colloquium is to try to narrow the difference between user, recreational, and conservation groups.

This nation needs more jobs, more timber, more range resources, more opportunities for outdoor recreation. We need to preserve our dwindling stocks of fish and wildlife, our natural heritage.

All of these interests and points of view are well represented here. It is my hope that we can work together in this forum in the spirit of understanding and thrust to meet those objectives.

The Forest Service has a big iob to do, the nation is asking a lot of our National For-

ests. We can help the RARE II process along today only by cooperating; if we fail in this endeavor, the blame will rest squarely on our shoulders.

Thank you.

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OPENING STATEMENT OF ASSISTANT SECRETARY OF AGRICULTURE M. ROBERT CUTLER

Mr. Chairman, on behalf of Secretary Bob Bergland, Chief McGuire and myself, I thank you very much for once again hosting a public meeting on the status of the Department of Agriculture's second Roadless Area Review and Evaluation, or RARE II, program.

At this stage in the RARE II program, it would be helpful to take stock of what we are doing while we are doing it, and how we expect it to work.

RARE II could be called a reform program within the context of the comprehensive resource use planning process for the National Forests mandated by the Resources Planning Act in the National Forest Management Act.

RARE II is an effort to improve the way we evaluate wilderness potential and to accelerate making those wilderness and nonwilderness allocation decisions which can be made now on the basis of solid resource data and thorough public review.

RARE II is not an effort to work miracles, although seeing the cooperative spirit brought here today makes me wonder if we cannot achieve some miracles in this process. I am very optimistic at this moment, Mr. Chairman, that we will see some new spirit of cooperation.

We do not expect to resolve all of the roadless area allocation issues in all the National Forests this year, but we are committed to removing uncertainty about future uses on substantial parts of the roadless area inventory.

When the Carter Administration took office, it began with a commitment by the President to assure that wilderness opportunities on the National Forests would be more thoroughly evaluated and given more thorough consideration from a national perspective. As the President said in his environmental message last May, the national wilderness preservation system must be expanded promptly before the most deserving areas of federal lands are opened to other uses and lost to wilderness forever.

Without lessening our commitment to other uses, we undertook to improve and strengthen our processes of considering the wilderness and roadless areas. We also began with a commitment by Secretary Bergland who assured that commodity production opportunities on the National Forests will be clarified through an expedited land use allocation process.

The Congress has confirmed in the strongest terms our decision to improve these processes. We have adjusted the Forest Service evaluation criteria to wilderness suitability in order to conform with the interpretations and criteria that the Congress has set in the Wilderness Act in its many decisions since then on wilderness proposals.

In working with the committees, we have developed a new wilderness management policy which helps to remove many of the misunderstandings which made final decisions hard to reach. Having made these reforms and improvements in policy on wilderness evaluation, wilderness management and land use allocation, there was an obvious need to get them into application in the field in a systematic and nationally consistent fashion, hence RARE II.

This is a national program looking at all the roadless areas. RARE I was not national in scope. It did not stress consistency in evaluation of areas. That lack of consistency led to a lot of controversy and to appeals of a kind that will be unnecessary as a result of RARE II. Our land use planning work was so highly decentralized that assuring a high level of quality and full consistency with national policy became difficult and that resulted in challenges to the decisions. The fact that the Chief has upheld a number of land use plan appeals over the past two years demonstrates that we did have a problem that required prompt solution. RARE II is the framework for that solution.

The forest products industry and other groups dependent upon nonwilderness National Forest System lands asked for some process that would accelerate decision making on these land allocation questions. I know of no surer way to avoid controversy over land allocation questions and thus speed final decisions than to assure that our planning is of the highest professional quality, that it conforms fully to the criteria and standards of national policy, that it accurately reflects the policies and criteria that Congress has established and insisted upon, and that it is applied in a nationally consistent fashion. That is what RARE II is all about.

It is USDA's response to the equally valid request of the wilderness groups who wanted our policies reformed and of the commodity and developed recreation groups who wanted our decisions made more promptly and with a better chance of finality.

The next thing I want to say about RARE II is that it is going to work. It is going to be completed on our original time schedule with proposals resulting in early 1979. We know everyone wants the process completed as promptly as possible. I would appreciate it if everyone involved would be confident in our commitment and would not continue pressing this point.

We will complete the program for one good and sufficient reason: that this is a directive Secretary Bergland and I have given the Forest Service and they are leaving no stone unturned in carrying out that directive.

Now, the more difficult question is what will be the results. I can promise that RARE II will be completed on schedule, but I cannot predict the results. Frankly, the quality of the results will depend far more on what those in this room from the various public groups say and do than anything either I or the Forest Service can do. My friends, the effectiveness of RARE II in resolving roadless area issues is up to each of you far more than it is up to me. I will do my part to assure that all the procedures and resources needed to complete the program are provided, but I cannot produce the consensus on which the substantive results of the RARE II program depend. Only you, and others representing National Forest users, can accomplish that.

RARE II is not going to dictate which wilderness areas should be wilderness and which should be used for other purposes. Those results are not preordained. They will not emerge from some smoke-filled room in the Forest Service offices, nor will the Forest Service be able to recommend a set of results until public opinion is obtained as to which RARE II areas should be allocated for which categories: wilderness, nonwilderness or further study. The program will produce results only so far as a genuine consensus of public opinion can emerge. Consensus cannot be dictated. It must emerge through an even-handed process sorting out those things on which people can agree.

RARE II will resolve those roadless areas which by consensus of public input are capable of being resolved. It remains to be seen how much of the roadless land can be resolved as it remains to be seen how far consensus will reach. However, we don't naively expect unanimity, of course, and the Secretary and I are prepared to bite the bullet when the time comes late this year to make our final recommendations regardless of some residual dissidence.

Our part is to assemble the inventory of areas and be rigorous with gathering resource data on each area, so we have a capability of assessing trade-offs and opportunity costs. We have also generated some ideas about what particular kinds of areas are needed to help round out a wilderness system which is well distributed geographically and is representative of the ecosystems, land forms, and wildlife habitat of the National Forests.

We are asking you to take this information and the ground rules of the RARE II process and help us work toward consensus on an area-by-area basis.

Now, let us review the three categories of recommendations which will emerge from RARE II, the so-called instant wilderness is not instant at all, of course. As the Chairman indicated, we will only recommend insofar as some degree of consensus emerges, areas which are suited and desirable for addition to National Wilderness Preservation System. But only Congress designates wilderness, and it will have to consider each of these areas before RARE II is over. Therefore, the Congressional public hearing process lies ahead for any wilderness establishment proposals and state Congressional delegation support is normally required to carry such proposals forward into law.

Similarly, the nonwilderness areas are not going to be released or given away, they will continue to be administered with professional care by the Forest Service under laws which govern us and from the standards of quality management in which we take justifiable pride. RARE II will simply recommend another set of areas under existing and future land planning for which the wilderness option will be considered closed.

There has been some talk about how roadless area designation "locks up" the National Forests. We are protecting roadless areas only until we can fully evaluate them in our planning and for one good reason. The American people, the Congress, and the President want us to. In 1972 the Forest Service completed RARE I. Some 56 million acres were inventoried as roadless under the program and of that about 12 million acres were selected for further wilderness study. Forty-four million acres were not selected.

Now, much of that 44 million acres has gone through land use planning and nearly 12 million acres have been released to nonwilderness forms of management. They are among the most productive for nonwilderness forms of recreation, timber range, water and wildlife uses. Our planning direction focused on the highest value resource lands first.

So, we have been releasing roadless land steadily on the basis of our normal planning procedures, and they have been effectively released because only a small percentage have been subject to further challenge on wilderness grounds, in each case because of the quality of the land use plan involved. In improving the quality of our wilderness evaluations, we will be assuring that such challenges will not be necessary in the future.

A final thought about release of roadless areas for nonwilderness area purposes. These areas must be formally handled at the end of the RARE II process. We could prepare legislation to effect their release or some executive order. I do think the industry groups will want to consider whether legislation to release wilderness areas is desirable. Given the various political circumstances in each state, the potential for delays in passing such release legislation, area by area, may be considerable. Remember that we have successfully released 25 percent of the RARE I areas since 1972; and this, of course, still has much to recommend it.

The other category is further planning, not to be confused with wilderness study. One way we are moving to accelerate decisions on wilderness is to avoid the extra step of wilderness study in those cases where

we have enough public review to convince us that we can make a balanced and well-informed final land allocation recommendation. The further planning category is just what it says. It includes roadless areas for which we are missing important resource data or for which no consensus emerges through the RARE II process. We will utilize our ongoing land management processes to develop the additional information and additional public review to reach a sound decision area by area. We will keep the acreage in this category to a minimum by accepting some criticism for making recommendations which may be unpopular in some corridors.

These lands will not remain in some endless limbo. Congress has given us some clear guidelines for land management processes, and we will soon be promulgating rules and regulations for that process. We will be completing land management plans for every unit under the new guidelines set forth in Section 6 of the National Forest Management Act by October of 1985.

The further planning needed for these wilderness areas will be accomplished within that time frame. We cannot make any predictions now about the number of areas or acreages going into any of these three categories at the end of the RARE II process. We are waiting to see the results of public involvement. The RPA planning target is subject to change within the Administration or by Congress, but it will be kept in mind as we develop our RARE II recommendations.

For RARE II to work, there is going to have to be a high level of thrust among all of us, so that we can get on with our work and keep to the timely schedule. People in every state involved must share that kind of thrust. The tactics of confrontation cannot produce agreement. During the public review period on the draft EIS, we will welcome comments about the alternatives we have developed. The most effective form of input, however, will not be merely choosing your favorite alternative and then getting lots of people to support it. Rather, comments on individual areas, one by one, will be the real driving force of the RARE II decisions.

Let me leave it at this: You may ask how much roadless land we will resolve through RARE II. I have no clear idea today, because we have yet to hear from the people, and we must hear from them. I hope they give us constructive, specific suggestions rather than blanket requests for all wilderness or no wilderness, which will be of no help.

I have faith in this kind of process. I know there are many roadless areas on our inventory which can, by general agreement, proceed to nonwilderness forms of use. I am equally confident we will find some public support that other roadless areas be elevated to full wilderness status, and there are areas where we do not yet know enough or where public controversy is so high, that nothing approaching consensus could possibly emerge during this accelerated program.

What remains is to sort the resource of wilderness areas into these categories. You and your counterparts across America are the key to that process, and we in the Department of Agriculture thank you for your assistance.

Thank you, Mr. Chairman.

Senator CHURCH. Thank you very much, Mr. Secretary.

Chief McGuire, do you have anything you would like to add?

Chief MCGUIRE. This group heard from me this morning. I have nothing to add other than to reinforce what Secretary Cutler has already said.

Thank you to all of you here in Congress for making this session possible.

Senator CHURCH. Senator Hatfield has arrived from Montana. Senator, is there anything you would like to say before we proceed?

Senator HATFIELD. No, I would just like to listen at this time. Thank you, Mr. Chairman.

Senator CHURCH. Now, as I previously mentioned, there are five interest groups represented here at the table, and I understand each one has a spokesman.

If we were to begin with the recreation, range and wildlife group, we have Mark O'Reilly and Marty Morache here.●

## SENATOR HELMS SPEAKS ON MONETARY POLICY

● Mr. BROOKE. Mr. President, last fall the Senate approved a bill which contained an important amendment authored by our colleague, the distinguished senior Senator from North Carolina.

His amendment provided that the joint resolution of June 5, 1933 not apply to obligations entered into after passage of the bill. In other words, after October 28, 1977, when the President signed the bill, Americans could again enter into binding obligations denominated in gold or in dollars measured in gold.

Because of a 1937 Supreme Court decision, the 1933 resolution also made obligations denominated in foreign currencies unenforceable in the courts. The Helms Act now permits such obligations between U.S. citizens, and banks are beginning to look into the new freedom this legislation offers.

Senator HELMS announced recently that the Bank of America had made inquiry to the Federal Reserve Board concerning the ability of member banks to offer credit and to accept deposits denominated in foreign currency.

In his comments to "The Ruff Times National Convention," Senator HELMS said, "the new opportunity may give warning to Federal money managers that the dollar should be made into the currency that people prefer."

Today, the big multinational corporations are the only ones who can conveniently utilize foreign currency deposits in foreign banks. This new freedom may allow smaller business a similar opportunity.

Mr. President, I ask that excerpts of Senator HELMS recent speech in Anaheim, Calif., be printed in the RECORD.

The material follows:

THE RUFF TIMES NATIONAL CONVENTION

We are at the crossroads in terms of what may be America's very survival—and sometimes I confess that I wonder whether we have reached the point at which there is no chance of survival.

But hope springs eternal. America was born of the yearning of men and women to be free, and who were willing to fight to be free, and sacrifice to be free. And as long as there are enough Americans willing to face up to the truth, and to place their faith in God—there will be hope.

It has become the thing to do in this country to look to the government to solve all problems; and we have reached the point where the tentacles of government rules and regulations affect the private lives of everyone of us here tonight. Government cannot solve our problems. Government is the problem.

There have been powerful forces all across the land spreading the festering notion that the fundamental principles of America are no longer relevant—and that traditional values, as they put it, "are no longer applicable to today's problems."

It's a malignant concept, a deep relativism—and it has penetrated and permeated our institutions. Much of our major media, and especially television, fans the flames of cynicism and distrust—and, intended or not, hacks away at the foundations of our society: the family and the church. And, in the process, there is a clear undermining of our economy, as well.

Americans too seldom think of normal relativism when discussing the economy. But can you imagine a more immoral, self-defeating device than inflation itself? The mechanism of inflation insidiously eliminates honesty in business dealings. No longer do we hear the term, "honest dollar", because the dollar is no longer honest.

The fact is that in exchange for a specific amount of resources which you may borrow today in the form of dollars, you will pay back at some future date in unknown amount of resources as measured in the number of dollars and interest paid.

Under such a perversion of economic decency, it is understandable that Americans are hesitant to make long-range investments in machinery, in industry, or in research.

I need not mention that the present economic recovery today contains less than half the volume of long-range capital expenditures than similar recoveries have had in the past. Business is just not putting money into the economy.

Indeed, under the relativism of inflation, it is surprising that we have any economic growth at all.

Let's talk about how we can solve the problem, and restore strength and meaning to the miracle of America.

I like to think that I am a realist, in political terms. I believe that the best solution to a problem can be found only after a thorough understanding of its causes.

All across America, I have met with countless thousands of people—old, young and in-between. I think I perceive what's on the minds of men and women who work in our factories, and on our farms, in our businesses, large and small.

The American people are sick of making a god of government.

The Keynesian emperor has been exposed.

Americans everywhere are beginning to realize that the phony emperor has no clothes!

They are beginning to realize that the use of federal economic intervention serves not the nation, not the people—but only the politician who is vastly more interested in the next election than in the next generation.

For a great while, it was difficult to convince many Americans that inflation is the most cruel hoax ever perpetrated on society.

But no longer: The people know.

The question now is: What can those of us, in Congress, do to thwart the inflationists, and help Americans to cushion, if not avoid, the effects of inflation?

As a starter, I introduced a bill almost two years ago to repeal the prohibition against gold clause contracts, so as to permit binding obligations between Americans denominated in gold, or dollars measured in gold.

That bill passed last October.

The gold clause contract will allow those who believe gold to be a better medium of exchange than paper dollars—and who doesn't?—to enter into obligations linked to gold.

Many people have asked, of course: "How do I do it?" The answer to that is not easy, because we know that the dollar-price of gold fluctuates considerably.

I would emphasize that it is the gold-price

of the dollar that tends to fluctuate. But, the direction of the dollar is one way: Down.

Gold, because its relationship to the dollar is not a day-to-day constant, does have its problems. But, as any historian knows, the relative value of gold to the things man needs and wants, has proven gold to be the only good measure for about 6000 years. There is no indication that the role of gold will significantly change over the next 6000 years.

Gold is disliked by the U.S. Treasury because gold imposes a discipline that makes continuous federal deficits—and inflation caused by these deficits—impossible without official devaluation.

But, now with the gold clause contract freedom, we may see gold become a widespread medium of exchange, as more and more people come to regard it more highly than dollars.

Indeed, as long as the United States Government corrupts the dollar, it is no act of patriotism to stick to dollars. As long as the U.S. dollar is no real store of value, there is no reason to keep it, when alternatives are available. My view is this: People should have alternatives available; but it must be the individual who decides whether to use that alternative.

Getting in and out of an alternative medium of exchange is not easy; but the depreciating, inflating dollar has made it necessary for some, and made it attractive to others.

Now, I have told you about the gold clause contract, which simply says that one party promises to pay the other, in exchange for goods or services, a certain amount of gold—or dollars measured in the market price of gold—on a certain date.

What I have not discussed is that my bill, Public Law 95–147, also makes possible, for the first time since the 1930's, financial obligations in currencies of other nations. Back in 1937, the Supreme Court interpreted the gold clause resolution of 1933 to apply to contracts in the currencies of other nations. Along with gold clause contracts, it is now legal to make a contract in other currencies.

For example, if you paid your rent in deutschemarks, your rent in dollars should have gone up over 20 percent in the past few months. However, if you received rent in that currency, your receipts, measured in dollars, would have gone up.

I do not contend that any other currencies are inflation-proof, or that I would advocate denominating business deals in other currencies.

What is important is that the alternative is now there.

What is important is that we may now see business and individuals exercise a new right and utilize other currencies for financial purposes.

If people utilize such an "economic vote" and get out of dollars, and into another currency, they are not only serving notice on Washington to give them a money worthy of the name, but also, I believe, they are going to make it harder for the inflationists to continue to confiscate the resources of Americans by way of manipulation based on Keynesianism.

Those who advocate sound money can now effectively help in the political fight against federal deficits. It will help in the fight against depreciating the dollar. It will give the advocates of a sound dollar an undeniable argument to back up a demand that the poison of inflation be phased out of the American economic system, if the system is to survive.

Now, I believe that this is important, not only because it may provide a means for Americans to avoid some effects of inflation, but because of the political implications.

I have been in touch with the Federal Reserve System concerning the issuing by banks of gold certificates. They have adopted a wait-and-see policy. I am hopeful that banks will begin offering negotiable gold certificates.

In that connection, and as an important first step, I can announce tonight that a bank has asked the Federal Reserve Board for authorization to begin offering credit and accepting deposits in foreign currencies. In other words, if the federal reserve board goes along—and I believe that it is obliged to go along by Public Law 95–147—then you may soon be able to make deposits, borrow money, and start savings accounts denominated by a currency of your choosing, one that you believe to be a better store of value than dollars.

I am glad that I can announce, here in California, that the institution making this request is the largest bank in the United States, the Bank of America.

I have written to Dr. Arthur Burns, who is still Chairman of the Federal Reserve Board, to encourage approval of this request.

There are problems, of course, and questions which must be answered concerning the regulations under which banks operate and the expertise that banks will need in international currency markets.

But, it is instructive that the Bank of America is the first to take this action.

I believe, if this application is approved, that other banks in our nation will follow, depending on the demand.

I do not contend that this new freedom will provide an easy answer. What I do firmly believe is that if the success achieved by the passage of the gold clause freedom bill can be used to expand the economic freedoms of Americans, then much good has been done.

If the use of that freedom brings us closer to winning the fight against inflation, then we have taken a substantial step toward saving our economy. If the American economy is made stronger, and given more freedom, then there is much to be encouraged about.

The immediate danger is that regulatory agencies will attempt to thwart this new freedom. They may be successful; but I pledge to you that they will have a fight from this senator.

A student of economic history will tell you that freedom in the marketplace is a rare thing. We have the opportunity to effect a political change toward freedom; and I hope you will join the fight. There is no freedom without economic freedom; and for those who join the fight, let me assure you that it will be a rewarding one.

It is a fight that needs your effort. I urge the study of politics in addition to your study of economics. And just as you would exercise economic freedom, I urge you to exercise the political freedom you have, as well.

A society which discards its values surrenders its right to be free.

The inner decadence of the collective state is now demonstrable in New York City and Washington, D.C. It remains for us to teach, to persuade, demonstrate, and, indeed, to lead: To do what we must do to fill the responsibilities we feel to our families, to our communities, to our nation, to our civilization, and to the eternal values in which we believe.●

## QUEEN ISABELLA DAY

● Mr. WILLIAMS. Mr. President, on April 22, 1978, my own State of New Jersey will join 45 States across the Nation to commemorate the 527th anniversary of the birth of Queen Isabella I of Spain. Because she was willing to support Christopher Columbus in his daring and remarkable voyage to the New World, Queen Isabella played a substantial role in shaping our history. This commemoration also serves to remind us of the important role that women have assumed and will continue to assume in determining our Nation's history.

On April 22, 1978, the Governor of New Jersey issued a proclamation declaring Queen Isabella Day in New Jersey. I ask that this proclamation be printed in the RECORD.

The proclamation follows:

PROCLAMATION

Whereas, America's Discovery in 1492 was made possible through support from Queen Isabella, Queen of Castile, wife of Ferdinand of Aragon; and

Whereas, the navigator was able to present his innovative navigational theories to the Spanish Court because Queen Isabella had been moved by his honesty and determination; and

Whereas, that voyage opened North and South America to settlement and development by European nations, laying the foundations for contemporary American societies; and

Whereas, the colonizing of this country and the winning of its independence could have been delayed for many years without Queen Isabella's initiative and the successful voyage of Columbus; and

Whereas, the history of America has direct linkage to the birth of Queen Isabella on April 22, 1451; and

Whereas, the 527th Birthday Anniversary of Queen Isabella occurs on April 22, 1978;

Now, therefore, I, Brendan Byrne, Governor of the State of New Jersey, do hereby proclaim April 22, 1978 as Queen Isabella Day in New Jersey, and do urge all citizens to observe the day and that teachers direct the attention of young students to the history of Queen Isabella.

BRENDON BYRNE,
*Governor.*●

## DISCLOSURE OF INCOME, INCOME TAXES PAID, FINANCIAL HOLDINGS AND OUTSIDE SOURCES OF INCOME FOR 1976

● Mr. SCHWEIKER. Mr. President, as a U.S. Senator, I believe it is in the public interest to make an annual disclosure of my income, Federal income taxes paid, financial holdings, and outside sources of income.

Therefore, today, Mr. President, I am voluntarily disclosing my 1976 income, Federal income taxes paid in 1976, financial holdings, and outside sources of income in 1976. My 1976 honoraria were publicly disclosed in accordance with Senate rules.

For the calendar year 1976, my wife and I had an adjusted gross income of $77,444.75—line 15 of our Federal return—and we paid $23,508.59 in Federal income taxes. In addition, we have paid the Pennsylvania State income tax since its inception, and I have also paid Worcester Township, Montgomery County, Pa., wage tax since its inception.

The only stocks which my wife and I owned in 1976 were Harleysville Life Insurance Co., Merrill Lynch & Co., and National Gypsum Co. My wife and I received dividend income from these stocks. My wife owns Commonwealth of Pennsylvania general obligation bonds from which she receives income.

I am the beneficiary of one-half interest in the estate of Blanche S. Schweiker which in 1976 was in the process of probate and consists of a residence and land at Worcester, Pa., and stock of the Philadelphia National Bank and the Continental Bank and Trust Co.

We held no real estate other than that at Worcester, Pa., and McLean, Va. Our other holdings were life insurance policies, automobiles, and household furnishings.

I hold no business directorship, business position, or partnership, and receive no director's fees, consultant's fees, or salary aside from my U.S. Senate salary. When I was first elected to Congress in 1960, I resigned all such business positions.

## THE BEEF IMPORT ACT OF 1978

● Mr. CHURCH. Mr. President, I am pleased to join as a cosponsor of S. 2895, the Beef Import Act of 1978. This legislation will amend the Meat Import Act in order to provide stability to the domestic cattle market and assure American consumers high quality beef at reasonable prices.

Under existing law, beef imports are increased as domestic cattle production expands and beef imports are decreased as domestic production contracts. This is exactly the opposite of what should occur and has contributed to an extremely volatile domestic cattle market with consumers periodically paying very high beef prices. The existing formula for meat imports is detrimental to both cattlemen and consumers.

This bill will temper the boom and bust cycle in the cattle industry by permitting increased imports during periods of high prices and reducing imports during periods of depressed cattle prices. This countercyclical control of imports will add stability to cattle prices and will help prevent inflationary beef prices during periods of domestic shortages.

No one can question the fact that cattlemen have had a tough go of it in recent years. Imported frozen boneless beef has been allowed to capture 15 to 20 percent of the total U.S. processed beef supply during a period of chronic liquidation in our domestic market. This is not fair to our domestic producers and it is not fair to our consumers who will pay for the chronic liquidation of our domestic cattle in skyrocketing prices in future months.

We must reduce the historical cyclical fluctuations in cattle production and prices. The countercyclical formula in this bill will stabilize profits to ranchers at levels that will assure adequate supplies of beef at reasonable prices.

We have learned that even a small increase in imports can have a negative effect on cattlemen during periods of overproduction. This is particularly true for smaller cattlemen. Added stability in the cattle industry would be particularly beneficial to smaller family-owned farms and ranches, which are less able to withstand the recurrent cycle of boom and bust than larger corporate operations with ready access to financial markets.

Under this legislation, all forms of beef and veal would be subject to a countercyclical beef import formula which is based on per capita supplies of domestic cow beef. The new quotas would be computed as follows:

A×B/C=New Proposed Quota.

A=Adjusted Base Quota as calculated under the 1964 Meat Import Law.

B=Base period average. This is a ten-year moving average of per capita domestic commercial cow beef production. The base period is the 10 years prior to the year under consideration.

C=Average of two-year per capita supply of commercial cow production. It includes the year previous to and an estimate of the year under consideration.

This formula is adjusted to increase the protection of our domestic cattle market during periods of extreme distress.

The legislation also modifies the Presidential authority to suspend quotas under existing law and will prevent disproportionate shipments of imports into any one port.

Mr. President, I urge Congress to enact this legislation, and I ask unanimous consent that a factsheet summarizing the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD as follows:

FACT SHEET—BEEF IMPORT ACT OF 1978

1. Countercyclical formula.—Beef imports will increase during periods of domestic overproduction. This will help stabilize the cattle market and prevent sharp upswings in consumer prices.

This will be achieved by adjusting the quota in the 1964 Meat Import Act according to per capita domestic commercial cow beef production. The existing quota would be multiplied by a new fraction. The numerator is a ten year average of per capita domestic commercial cow beef production for the ten years prior to the year in consideration. The denominator is the average of two-year per capita supply of commercial cow production. The denominator includes the year previous to and an estimate of the year under consideration.

In addition, during periods of severe overproduction (when the new fraction is .8 or less), imports will be restricted to 2 percent of domestic production.

2. Including all forms of beef.—In order to close a loophole in existing law, processed beef and veal will be subject to the quota as well as fresh, chilled and frozen beef and veal.

3. Quarterly Limitations.—Quotas will be computed on a quarterly basis in order to be more responsive to the domestic cattle cycle. (Under existing law, computations are made on an annual basis.)

4. Modification of Presidential Authority to Suspend Quotas.—Existing law will be modified to make sure that quotas will not be suspended except during periods of real National emergencies or disasters.

5. Port of Entry.—The President will be given authority to prevent disproportionate shipments or imports into any one port.●

## RARE II

● Mr. McCLURE. Mr. President, those of us who have national forest lands in our States are familiar with the roadless area review and evaluation program (RARE II) now being conducted by the Forest Service, USDA. This program is evaluating the 67 million acres of roadless national forest lands for possible inclusion in the Nation's wilderness system.

The Forest Service official in charge of RARE II made a statement before the Western States Forestry Task Force meeting recently in Seattle, reported to me by several in attendance, that a shortfall of up to 33 percent of the national forest timber sale program would occur in the fiscal 1979 and beyond if RARE II is not resolved. The administration has requested funding for the 1979 timber volume program at 11.5 billion board feet. Recent administration statements reported by the press call for increased timber production from Federal forests to help dampen the rising costs of lumber for home construction.

This shortfall prediction is extremely serious and underscores the need to finally resolve the roadless controversy on our national forests so that a balanced program of timber harvest, and other uses can continue without this cloud of uncertainty.

I would like, too, Mr. President, to point to remarks of President Carter before the American Society of Newspaper Editors on April 11, 1978, and ask that excerpts be printed in the RECORD.

The remarks follow:

EXCERPTS FROM PRESIDENT CARTER'S SPEECH TO THE AMERICAN SOCIETY OF NEWSPAPER EDITORS

Housing construction rates have been at a high level and costs have risen rapidly, partly because of sharp increases in raw materials such as lumber. Since lumber accounts for one-fourth of the total cost of a new house, we can obtain some relief by increasing production and using our existing lumber output more efficiently.

Therefore, I have instructed the departments of Agriculture and Interior, the Council on Environmental Quality, and my economic advisors to report to me within 30 days on the best ways to sustain expanded timber harvest from federal, state and private lands and other means of increasing lumber yields in ways that would be environmentally acceptable, economically efficient and consistent with sound budget policies.●

## FOREIGN CURRENCY REPORTS

● Mr. ROBERT C. BYRD. Mr. President, in accordance with the provisions of the Mutual Security Act of 1954, as amended (22 U.S.C. 1754(b)), the Secretary of the Senate submits, for the RECORD, the following reports of the standing committees of the Senate, as well as certain joint, special, and select committees, concerning foreign currencies and U.S. dollars expended during calendar year 1977 in connection with foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S currency |
| Hon. Bob Dole: | | | | | | | | | |
| Italy | Lire | 116,700 | 132.92 | | | | | 116,700 | 132.92 |
| Carl P. Rose: | | | | | | | | | |
| Italy | Lire | 549,800 | 625.48 | | | | | 549,800 | 625.48 |
| England | Pound | 128.80 | 234.42 | | | | | 128.80 | 234.42 |
| Joseph Kinney: | | | | | | | | | |
| England | Pound | 267.66 | 486.61 | | | | | 267.66 | 486.61 |
| Dale Sherwin: | | | | | | | | | |
| England | Pound | 187.88 | 341.94 | | | | | 187.88 | 341.94 |
| Nelson Denlinger: | | | | | | | | | |
| Portugal | Escudo | 12,142.80 | 300.00 | | | | | 12,142.80 | 300.00 |
| Total | | | 2,121.37 | | | | | | 2,121.37 |

RECAPITULATION

| | Amount |
|---|---|
| Foreign currency (U.S. dollar equivalent) | $2,121.37 |

HERMAN E. TALMADGE,
Chairman, Committee on Agriculture, Nutrition, and Forestry.

Mar. 16, 1978.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, SENATE COMMITTEE ON APPROPRIATIONS, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Nels J. Ackerson: | | | | | | | | | |
| France | Franc | | 75.00 | | | | | | 75.00 |
| Germany | D. mark | | 300.00 | | | | 50.00 | | 350.00 |
| Switzerland | Franc | | 0 | | | | | | 0 |
| Air fare | Dollar | | | | 751.00 | | | | 751.00 |
| Ground transportation in United States. | Dollar | | | | 41.30 | | | | 41.30 |
| James D. Bond: | | | | | | | | | |
| Air fare from Washington, D.C., to Dakar, Mali, Liberia, Sierre Leone, Ivory Coast, France, and return. | | | 1,096.85 | | 1,876.50 | | | | 2,973.35 |
| Richard L. Collins: | | | | | | | | | |
| Guatemala | Quetzale | Q430.90 | 430.90 | 23.53 | 23.53 | | | Q454.43 | 454.43 |
| Honduras | Lempira | L280 | 140.00 | | | | | L280 | 140.00 |
| Honduras | Dollar | | 110.00 | | | | | | 110.00 |
| Air fare | Dollar | | | | 531.00 | | | | 531.00 |
| James H. English: | | | | | | | | | |
| Germany | D. mark | | | 556 | 247.00 | 225 | 100.00 | 781 | 347.00 |
| Air fare | | | | 1,690 | 751.00 | | | 1,690 | 751.00 |
| Ground transportation in United States | Dollar | | | | 24.80 | | | | 24.80 |
| William D. Rossiter: | | | | | | | | | |
| Haiti | Gourde | 391 | 78.20 | | | | | 391 | 78.20 |
| Dominican Republic | Dinero | 171 | 171.00 | 23 | 23.00 | | | 194 | 194.00 |
| Air fare | D. mark | | | | 387.00 | | | | 387.00 |
| Richard S. Schweiker: | | | | | | | | | |
| Japan | Yen | 20,490 | 75.00 | 13,209 | 47.70 | | | 33,699 | 99.70 |
| (Returned unused per diem from Japan to U.S. Treasury $23.) | | | | | | | | | |
| Republic of China | Yen | 163,920 | 600.00 | | | | | 163,920 | 600.00 |
| Total | | | 3,053.95 | | 4,703.83 | | 150.00 | | 7,907.78 |

RECAPITULATION

| | Amount |
|---|---|
| Foreign currency (U.S. dollar equivalent) | $7,907.78 |

WARREN G. MAGNUSON,
Chairman, Committee on Appropriations.

Mar. 20. 1978.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, SENATE COMMITTEE ON APPROPRIATIONS (AMENDED REPORT), EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Amount brought forward | | | 3,053.95 | | 4,703.83 | | 150.00 | | 7,907.78 |
| Edward W. Brooke: | | | | | | | | | |
| Haiti | Gourde | 375 | 75.00 | | | | | 375.00 | 75.00 |
| Air fare | DM | | | | 483.00 | | | | 483.00 |
| Total | | | 3,128.95 | | 5,186.83 | | 150.00 | | 8,465.78 |

CONSOLIDATED REPORT OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, SENATE COMMITTEE ON APPROPRIATIONS (AMENDED REPORT), EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

RECAPITULATION

| | Amount |
|---|---|
| Foreign currency (U.S. dollar equivalent) | $8,390.78 |
| Appropriated funds | 75.00 |
| Total | 8,465.78 |

WARREN G. MAGNUSON,
Chairman, Committee on Appropriations.

Mar. 21, 1978.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, SENATE COMMITTEE ON APPROPRIATIONS (AMENDED REPORT), EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Amount brought forward | | | 3,128.95 | | 5,186.83 | | 150.00 | | 8,465.78 |
| Jerry L. Bonham: | | | | | | | | | |
| Panama | Balboa | B 375 | 375.00 | | | | | B 375 | 375.00 |
| Guatemala | Quetzale | Q 180 | 180.00 | | | | | Q 180 | 180.00 |
| Honduras | Lempira | L 255 | 127.50 | | | | | L 255 | 127.50 |
| Air fare—combined ticket charges. Total air fare ticket of $829 less credit of $251 and personal reimb. for layover in Little Rock of $36.81. | | | | | 541.19 | | | | 541.19 |
| Dennis DeConcini: | | | | | | | | | |
| Panama [1] | Balboa | | | | | | | | |
| Guatemala | Quetzale | Q 104 | 104.00 | | | | | Q 104 | 104.00 |
| Honduras | Lempira | L 300 | 150.00 | | | | | L 300 | 150.00 |
| Mexico | Peso | P 5,085 | 225.00 | | | | | P 5,085 | 225.00 |
| Air travel—combined tickets for travel minus credits of $107 and personal reimbursement for Panama sequence of $467. | | | | | 221.00 | | | | 221.00 |
| Total | | | 4,290.45 | | 5,949.02 | | 150.00 | | 10,389.47 |

[1] Paid own expenses on the Panamanian leg of the trip and therefore received no per diem.

RECAPITULATION

| | Amount |
|---|---|
| Foreign currency (U.S. dollar equivalent) | $10,314.47 |
| Appropriated funds | 75.00 |
| Total | 10,389.47 |

WARREN G. MAGNUSON,
Chairman Committee on Appropriations.

Mar. 22, 1978.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, COMMITTEE ON APPROPRIATIONS (AMENDED REPORT) EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1978

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Amount brought forward | | | 4,290.45 | | 5,949.02 | | 150.00 | | 10,389.47 |
| Christopher E. Clouser: | | | | | | | | | |
| Italy | Lira | 195,993 | 225.00 | | | | | | 225.00 |
| Great Britain | Pound | 117.71 | 225.00 | | | | | | 225.00 |
| Total | | | 4,740.45 | | 5,949.02 | | 150.00 | | 10,839.47 |

RECAPITULATION

| | Amount |
|---|---|
| Foreign currency (U.S. dollar equivalent) | $10,764.47 |
| Appropriated funds | 75.00 |
| Total | 10,839.47 |

WARREN G. MAGNUSON,
Chairman, Committee on Appropriations.

Apr. 5, 1978.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, THE UNITED STATES SENATE COMMITTEE ON APPROPRIATIONS (AMENDED REPORT), EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | *U.S. dollar equivalent or U.S. currency | Foreign currency | *U.S. dollar equivalent or U.S. currency | Foreign currency | *U.S. dollar equivalent or U.S. currency | Foreign currency | *U.S. dollar equivalent or U.S. currency |
| Amount brought forward | | | 4,740.45 | | 5,949.02 | | | | 10,389.47 |
| Eagleton, Thomas F., England | Pound | 406.97 | 773.25 | | | | | | 773.25 |
| Total | | | 5,513.70 | | 5,949.02 | | | | 11,162.72 |

See footnote at end of table.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, THE UNITED STATES SENATE COMMITTEE ON APPROPRIATIONS (AMENDED REPORT), EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977—Continued

RECAPITULATION

| | Amount |
|---|---|
| Foreign currency (U.S. dollar equivalent) | $11,087.72 |
| Appropriated funds | 75.00 |
| Total | 11,162.72 |

*If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

WARREN G. MAGNUSON,
Chairman, Committee on Appropriations.

Apr. 13, 1978.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, COMMITTEE ON ARMED SERVICES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Richard J. Asplund: | | | | | | | | | |
| United Kingdom | Pound | 163.48 | 300.00 | | | | | 163.48 | 300.00 |
| Switzerland | Franc | 484.09 | 225.00 | | | | | 484.09 | 225.00 |
| Sweden | Kronor | 1,783.15 | 375.00 | | | | | 1,783.15 | 375.00 |
| John C. Culver: | | | | | | | | | |
| Japan | Yen | 20,490 | 75.00 | | | | | 20,490 | 75.00 |
| People's Republic of China | Yen | 163,920 | 600.00 | | | | | 163,920 | 600.00 |
| United Kingdom | Pound | 163.48 | 300.00 | | | | | 163.48 | 300.00 |
| Switzerland | Franc | 484.09 | 225.00 | | | | | 484.09 | 225.00 |
| Sweden | Kronor | 1,783.15 | 375.00 | | | | | 1,783.15 | 375.00 |
| Gary Hart: | | | | | | | | | |
| Switzerland | Franc | 724 | 300.00 | | | | | 724 | 300.00 |
| Capt. J. T. High, Jr.: | | | | | | | | | |
| Germany | D. mark | | | 3,370 | 1,449.00 | 46 | 19.78 | 3,416 | 1,468.78 |
| John J. Stirk: | | | | | | | | | |
| Japan | Yen | 60,000 | 253.16 | | | | | 60,000 | 253.16 |
| Philippines | Peso | 1,538.64 | 208.20 | | | | | 1,538.64 | 208.20 |
| Thailand | Baht | 3,919.73 | 188.16 | | | | | 3,919.73 | 188.16 |
| Indonesia | Ropia | 38,756 | 93.50 | | | | | 38,756 | 93.50 |
| England | Pound | 46.39 | 88.41 | | | | | 46.39 | 88.41 |
| Total | | | 5,055.43 | | | | 19.78 | | 5,075.2 |

JOHN C. STENNIS,
Chairman, Committee on Armed Services.

Mar. 16, 1978.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalen or U.S currency |

None.

WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing, and Urban Affairs

Apr. 5, 1978.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, SENATE COMMITTEE ON THE BUDGET, EXPENDED BETWEEN JAN. 12 AND DEC. 31 1977

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Thomas A. Dine: | | | | | | | | | |
| Belgium | Franc | 3,561 | 100.75 | 730 | 20.65 | | | 4,291 | 121.40 |
| Germany | Mark | 202 | 80.93 | | | | | 202 | 89.93 |
| | Dollar | | 20.10 | | | | | | 20.10 |
| United Kingdom | Pound | 71 | 125.55 | 6 | 10.42 | | | 76 | 135.97 |
| United States | Dollar | | | | 29.80 | | 1.80 | | 31.60 |
| Air fare from United States to Belgium, Germany, United Kingdom, and return paid for under S. Res. 179 | | | | | | | | | (749.00) |
| Robert D. Sneed: | | | | | | | | | |
| Belgium | Franc | 3,349 | 94.72 | | | | | 3,349 | 94.72 |
| Germany | Mark | 171 | 75.99 | | | | | 171 | 75.99 |
| | Dollar | | 12.50 | | | | | | 12.50 |
| United Kingdom | Pound | 61 | 108.88 | 4 | 7.40 | | | 65 | 116.28 |
| United States | Dollar | | | | 12.50 | | 9.08 | | 21.58 |
| Air fare from United States to Belgium, Germany, United Kingdom and return paid for under S. Res. 179 | | | | | | | | | (749.00) |
| Total | | | 628.42 | | 1,578.77 | | 10.88 | | 2,218.07 |

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, SENATE COMMITTEE ON THE BUDGET, EXPENDED BETWEEN JAN. 12 AND DEC. 31, 1977—Continued

RECAPITULATION

| Appropriated funds: | Amount |
|---|---|
| (Dine) Senate Budget Committee S. Res. 179 | $1,148.00 |
| (Sneed) Senate Budget Committee S. Res. 179 | 1,070.07 |
| Total | 2,218.0 |

EDMUND S. MUSKIE,
Chairman, Committee on the Budget.

Mar. 20, 1978.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Durkin, John A.: | | | | | | | | | |
| Japan | Yen | 20,490 | 75.00 | 13,209 | 47.70 | | | 33,699 | 122.70 |
| Republic of China | Yen[1] | 163,920 | 600.00 | | | | | 163,920 | 600.00 |
| Subtotal | | | 675.00 | | 47.70 | | | | 722.70 |
| Koch, Christopher L.: | | | | | | | | | |
| England | Pound | 294.91 | 525.00 | | | | | 294.91 | 525.00 |
| | Dollar | | | | 681.00 | | | | 681.00 |
| Subtotal | | | 525.00 | | 681.00 | | | | 1,206.00 |
| McGregor, Stephen E.: | | | | | | | | | |
| England | Pound | 128.20 | 225.00 | | | | | 128.20 | 225.00 |
| West Germany | D. mark | 346.50 | 150.00 | | | | | 346.50 | 150.00 |
| France | Franc | 2,182.50 | 450.00 | | | | | 2,182.50 | 450.00 |
| | Dollar | | | | 1,725.43 | | | | 1,725.43 |
| Subtotal | | | 825.00 | | 1,725.43 | | | | 2,550.43 |
| Perles, Steven R.: | | | | | | | | | |
| Japan | Yen | 146,580 | 600.00 | | | | | 146,580 | 600.00 |
| | Dollar | | | | 1,386.49 | | | | 1,386.49 |
| Subtotal | | | 600.00 | | 1,386.49 | | | | 1,986.49 |
| Stirling, Deborah J.: | | | | | | | | | |
| England | Pound | 294.53 | 518.37 | | | | | 294.53 | 518.37 |
| | Dollar | | | | 680.00 | | | | 680.00 |
| Subtotal | | | 518.37 | | 680.00 | | | | 1,198.37 |
| Walsh, James P.: | | | | | | | | | |
| England | Pound | 172.16 | 300.00 | | | | | 172.16 | 300.00 |
| | Dollar | | | | 215.35 | | | | 215.35 |
| Subtotal | | | 300.00 | | [2] 215.35 | | | | 515.35 |
| Total | | | 3,443.37 | | 4,735.97 | | | | 8,179.34 |

[1] Yen never actually received but turned over to Department of State personnel. Transportation to Japan and China, and return, by military aircraft.

[2] Transportation to England by U.S. Coast Guard plane.

RECAPITULATION

| | Amount |
|---|---|
| Foreign currency (U.S. dollar equivalent) | 8,179.34 |

WARREN G. MAGNUSON,
Committee on Commerce, Science, and Transportation.

Mar. 20, 1978.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, COMMITTEE ON ENERGY AND NATURAL RESOURCES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Richard D. Grundy: | | | | | | | | | |
| Japan | Yen | 146,632 | 525.00 | | | | | 146,632 | 525.00 |
| Germany, Federal Republic (Airline ticket.) | DMK | | | | 2,201.00 | | | | 2,201.00 |
| Total | | | 525.00 | | 2,201.00 | | | | 2,726.00 |

RECAPITULATION

| | Amount |
|---|---|
| Foreign currency (U.S. dollar equivalent) | 2,726.00 |

HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources.

Mar. 17, 1978.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Hon. Mike Gravel: | | | | | | | | | |
| Argentina | Peso | 73,350 | 225.00 | | | | | 73,350 | 225.00 |
| Brazil | Cruziero | 5,061.50 | 374.36 | | | | | 5,061.50 | 374.36 |
| Colombia | Peso | 2,816.25 | 75.00 | | | | | 2,816.25 | 75.00 |
| Panama | Dollar | | 450.00 | | | | | | 450.00 |
| Paraguay | Guaranie | 19,575 | 150.00 | | | | | 19,575 | 150.00 |
| Venezuela | Bolivare | 1,284 | 300.00 | | | | | 1,284 | 300.00 |
| Jerry Gauche: | | | | | | | | | |
| Brazil | Cruziero | 1,167.50 | 74.36 | | | | | 1,167.50 | 74.36 |
| Colombia | Peso | 2,391.25 | 63.68 | | | | | 2,391.25 | 63.68 |
| Panama | Dollar | | 263.00 | | | | | | 263.00 |
| Paraguay | Guaranie | 19,575 | 150.00 | | | | | 19,575 | 150.00 |
| Venezuela | Bolivare | 642 | 150.00 | | | | | 642 | 150.00 |
| William Hoffman: | | | | | | | | | |
| Argentina | Peso | 73,350 | 225.00 | | | | | 73,350 | 225.00 |
| Brazil | Cruziero | 3,894 | 300.00 | | | | | 3,894 | 300.00 |
| Panama | Dollar | | 225.00 | | | | | | 225.00 |
| Venezuela | Bolivare | 642 | 150.00 | | | | | 642 | 150.00 |
| Total | | | 3,175.40 | | | | | | 3,175.40 |

RECAPITULATION

| | Amount |
|---|---|
| Foreign currency (U.S. dollar equivalent) | $3,175.40 |
| Appropriated funds: S. Res. 179 (20A1510) | 3,232.10 |
| Total | 6,407.50 |

JENNINGS RANDOLPH,
Chairman, Committee on Environment and Public Works.

Mar. 13, 1978.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, SENATE FINANCE COMMITTEE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator Long: | | | | | | | | | |
| Portugal | Escudo | 5,788.40 | 150.00 | | | | | | 150.00 |
| Iran | Rial | 21,150 | 300.00 | | | | | | 300.00 |
| | | | | | 2,333.00 | | | | 2,333.00 |
| Michael Stern: | | | | | | | | | |
| Portugal | Escudo | 5,788.40 | 150.00 | | | | | | |
| France | Franc | 1.125 | 225.00 | | | | | | |
| Switzerland | Franc | 1,690.20 | 675.00 | | | | | | |
| Returned to State Department | | | −31.00 | | | | | | 1,019.00 |
| | | | | | 696.00 | | | | 696.00 |
| Switzerland | Franc | 1,332 | 525.00 | | | | | | |
| Returned to State Department | | | −34.00 | | | | | | 491.00 |
| | | | | | 769.66 | | | | 769.66 |
| Senator Gravel: | | | | | | | | | |
| Japan | Yen | 145,980 | 600.00 | | | | | | 600.00 |
| Senator Roth: | | | | | | | | | |
| Japan | Yen | 65,925 | 225.00 | | | | | | 225.00 |
| Senator Ribicoff: | | | | | | | | | |
| England | Pound | 172.16 | 295.68 | | | | | | 295.68 |
| France | Franc | 3,000 | 600.00 | 5,690.24 | 1,149.66 | | | | 1,749.66 |
| George Pritts: | | | | | | | | | |
| Switzerland | Franc | 1,697.30 | 675.00 | (D.M.) 1,441 | 575.20 | | | | 1,250.00 |
| F. David Foster: | | | | | | | | | |
| Belgium | Franc | 7,680 | 215.73 | | | | | | |
| Switzerland | Franc | 1,249.50 | 525.00 | | | | | | |
| France | Franc | 1,102.50 | 225.00 | | | | | | 965.73 |
| | | | | | 706.00 | | | | 706.00 |
| Robert Cassidy: | | | | | | | | | |
| United Kingdom | Pound | 172.16 | 300.00 | | | | | | 300.00 |
| France | Franc | 1,500 | 300.00 | | | | | | 300.00 |
| Switzerland | Franc | 562.50 | 225.00 | | | | | | 225.00 |
| | | | | | 694.00 | | | | 694.00 |
| Michael Rowny: | | | | | | | | | |
| Switzerland | Franc | 1,712.55 | 675.00 | | 769.00 | | | | 1,444.00 |
| Total | | | | | | | | | 14,513.73 |

RECAPITULATION

| | Amount |
|---|---|
| Foreign currency (U.S. dollar equivalent) | 14,513.23 |

RUSSELL B. LONG,
Chairman, Committee on Finance.

Mar. 20, 1978.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, COMMITTEE ON FOREIGN RELATIONS, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Joseph R. Biden, Jr.: | | | | | | | | | |
| Italy | Lira | 132,300 | 150.00 | 244,314 | 277.00 | 13,230 | 15.00 | 389,844 | 442.00 |
| Hungary | Forint | 5,680 | 279.64 | 600 | 30 | 400 | 20.00 | 6,680 | 329.64 |
| Austria | Shilling | 3,200 | 200.00 | 160 | 10 | 240 | 15.00 | 3,600 | 225.00 |
| Czechoslovakia | Crown | 2,100 | 188.72 | 165 | 15 | 165 | 15.00 | 2,430 | 218.72 |
| United Kingdom | Pound | 85 | 150.00 | | | | | 85 | 150.00 |
| Frank Church: | | | | | | | | | |
| Cuba | Peso | 179.43 | 225.00 | | | 67.39 | 84.51 | 246.82 | 309.51 |
| John Glenn: | | | | | | | | | |
| Japan | Yen | 21,430 | 80.36 | | | | | | 80.36 |
| Switzerland | Franc | 465.10 | 193.95 | 15 | 6.25 | | | | 200.20 |
| United States | Dollar | | 3,984.00 | | | | | | 3,984.00 |
| Jacob K. Javits: | | | | | | | | | |
| Mexico | Peso | 11,812.50 | 525.00 | | | | | 11,812.50 | 525.00 |
| Japan | Yen | 90,000 | 375.00 | | | | | | 375.00 |
| Korea | Won | 53,640 | 111.75 | | | | | | 111.75 |
| Taiwan | NT | 11,385 | 300.00 | | | | | | 300.00 |
| United States | Dollar | | | | 6,382.96 | | | | 6,382.96 |
| Belgium | Franc | 5,400 | 150.00 | | | | | | 150.00 |
| England | Pound | 129.12 | 225.00 | | | | | | 225.00 |
| France | Franc | 1,500 | 300.00 | | | | | | 300.00 |
| France | Franc | 375 | 75.00 | | | | | | 75.00 |
| Israel | Pound | 2,112.75 | 225.00 | | | | | | 225.00 |
| Saudi Arabia | Riyal | 200 | 58.00 | | 29.30 | | | | 87.30 |
| Egypt | Pound | 157.500 | 225.00 | | | | | | 225.00 |
| George McGovern: | | | | | | | | | |
| Cuba | Dollar | | 240.00 | | 523.80 | | | | 763.80 |
| United States | Dollar | | | | 4,595.70 | | | | 4,595.70 |
| Ireland, Dublin | Irish pound | 304.79 | 525.00 | | | | | 304.79 | 525.00 |
| Ireland, Belfast | British pound | 42.85 | 75.00 | | | | | 42.85 | 75.00 |
| England | British pound | 129.12 | 225.00 | | | | | 129.12 | 225.00 |
| Denmark | Krone | 1,350 | 225.00 | | | | | 1,350 | 225.00 |
| Poland | Zloty | 5,770.67 | 133.34 | | | | | 5,770.67 | 133.34 |
| Hungary | Forint | 4,943.20 | 243.75 | | | | | 4,943.20 | 243.75 |
| Yugoslavia | Dinar | | | | | 872 | 48.31 | 872 | 48.31 |
| Switzerland | Franc | 539.55 | 225.00 | | | | | 539.55 | 225.00 |
| U.S.S.R. | Ruble | 543.38 | 750.00 | 28.50 | 39.33 | | | 571.88 | 789.33 |
| Panama | Dollar | 225 | 225.00 | | | | | | 225.00 |
| Peru | Sole | 37,350 | 300.00 | | | | | | 300.00 |
| Venezuela | Bolivare | 1,605 | 375.00 | | | | | | 375.00 |
| Robert P. Griffin: | | | | | | | | | |
| Japan | Yen | 18,401 | 75.00 | | | | | 18,401 | 75.00 |
| Republic of China | NT dollar | 7,400 | 195.00 | | | 1,139 | 30.00 | 7,400 | 225.00 |
| Claiborne Pell: | | | | | | | | | |
| Yugoslavia | Dinar | 465 | 25.80 | | | | | 465 | 25.80 |
| Federal Republic of Germany | Mark | 152.75 | 68.50 | 14.50 | 6.50 | | | 167.25 | 75.00 |
| Switzerland | Franc | 154.70 | 70.44 | | | | | 154.70 | 70.44 |
| Israel | Pound | 1,107.50 | 109.98 | 882.62 | 81.69 | | | 1,930.12 | 191.67 |
| Jordan | Dinar | 4 | 12.04 | | | | | 4 | 12.04 |
| Greece | Drachma | | | 311.95 | 8.50 | | | 311.95 | 8.50 |
| Italy | Lira | 114,751 | 130.00 | 22,105 | 24.94 | | | 136,766 | 154.94 |
| United States | Dollar | | | | 2,265.00 | | | | 2,265.00 |
| Richard Stone: | | | | | | | | | |
| United States | Dollar | | | | 4,222.75 | | | | 4,222.75 |
| Republic of China | NT | 16,879 | 444.77 | 912 | 24.03 | 1,112.8 | 29.32 | 18,903.8 | 498.12 |
| Philippines | peso | 832.50 | 112.88 | 73.75 | 10.00 | | | 906.25 | 122.88 |
| Hong Kong | HK dollar | 690 | 150.00 | | | | | 690 | 150.00 |
| Japan | Yen | 97,022 | 405 | 4,791 | 20 | 5,989 | 25.00 | 107,802 | 450.00 |
| Jordan | Dinar | | | 6.435 | 19.50 | 5.049 | 15.30 | 11.484 | 34.80 |
| Greece | Drachma | 1,935.3 | 52.15 | 282.6 | 7.61 | 464.6 | 12.52 | 2,682.5 | 72.28 |
| Israel | Pound | 2,025.69 | 215.27 | 47.05 | 5.00 | 44.51 | 4.73 | 2,117.25 | 225.00 |
| Syria | Pound | 31.99 | 8.20 | | | 8.51 | 2.18 | 40.50 | 10.38 |
| England | Pound | 43.67 | 75.00 | | | | | 43.67 | 75.00 |
| Pauline H. Baker: | | | | | | | | | |
| South Africa | Rand | 280.67 | 323.39 | 54.07 | 62.30 | 10 | 11.52 | 344.74 | 397.21 |
| Southwest Africa | Rand | 75.95 | 62.92 | 54.24 | 47.08 | 43.22 | 37.00 | 130.19 | 150.00 |
| Rhodesia | Rand | 45.73 | 52.69 | 8.68 | 10.00 | 8.68 | 10.00 | 63.09 | 72.69 |
| Swaziland | Rand | 50.21 | 51.85 | 44.99 | 51.84 | 46.45 | 40.31 | 141.65 | 150.00 |
| Mozambique | Escudo | 2,295 | 134.21 | 1,000 | 58.48 | 552.59 | 32.31 | 3,847.59 | 225.00 |
| Nigeria | N | | | | | 13.89 | 21.43 | 13.89 | 21.43 |
| Upper Volta | CFA | 14,300 | 58.93 | 3,171 | 13.07 | 727.95 | 3.00 | 18,199 | 75.00 |
| Zaire | Z | 37.35 | 45.00 | 10.05 | 12.11 | 5 | 6.02 | 52.40 | 63.13 |
| Niger | CFA | 40,000 | 166.66 | 18,000 | 75.00 | 14,000 | 58.34 | 72,000 | 300.00 |
| Mali | CFA | 14,460 | 60.00 | 1,928 | 8.00 | 1,687 | 7.00 | 18,075 | 75.00 |
| United Kingdom | L | 73.42 | 133.53 | 16.49 | 30.00 | 8.25 | 15.00 | 98.16 | 178.53 |
| France | Franc | 259.20 | 54.00 | 76.80 | 16.00 | 24.00 | 5.00 | 360 | 75.00 |
| United States | | | | | 2,147.90 | | | | 2,147.90 |
| Robert Barton: | | | | | | | | | |
| Bolivia | Peso | 6,716 | 329.54 | | | | | 6,716 | 329.54 |
| Colombia | Peso | 8,916.25 | 242.36 | | | | | 8,916.25 | 242.36 |
| United States | Dollar | | 938.00 | | | | | | 938.00 |
| Frank C. Ballance: | | | | | | | | | |
| Great Britain | Pound | 42.55 | 72.76 | | | | | 42.55 | 72.76 |
| South Africa | Rand | 520.32 | 600.00 | | | | | 520.32 | 600.00 |
| Garorone | Pula | 146.89 | 178.48 | | | | | 146.89 | 178.48 |
| Mozambique | Escudo | 2,765.55 | 83.91 | | | | | 2,765.55 | 83.91 |
| Mexico | Peso | 11,812.5 | 525.00 | | | | | 11,812.5 | 525.00 |
| United States | Dollar | | | | 2,125.60 | | | | 2,125.60 |
| Herbert Beckington: | | | | | | | | | |
| Tokyo | Yen | 54,077 | 202.53 | | | | | 54,077 | 202.53 |
| Korea | Won | 192,004 | 400.01 | | | | | 192,004 | 400.10 |
| Hong Kong | HK$ | 41.30 | 8.92 | | | | | 41.30 | 8.92 |
| Bangkok | Baht | 3,045 | 150.00 | | | | | 3,045 | 150.00 |
| Taipai | NT | 1,642.50 | 43.29 | | | | | 1,642.50 | 43.29 |
| Manila | Pesos | 408.75 | 55.20 | | | | | 408.75 | 55.20 |
| United States | Dollar | | | 4,671.27 | 2,022.24 | | | | 2,022.24 |

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, COMMITTEE ON FOREIGN RELATIONS, EXPENDED BETWEEN JAN. 1 AND DEC. 1, 1977—Continued

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Hans Binnedijk: | | | | | | | | | |
| Japan | Yen | 47,323 | 180.00 | | | 12,699 | 45.00 | 60,022 | 225.00 |
| South Korea | Won | 204,000 | 425.00 | | | 30,000 | 42.00 | 234,000 | 467.00 |
| Republic of China | NT$ | 992.50 | 26.00 | | | | | 992.50 | 26.00 |
| Philippines | Peso | 915 | 121.00 | | | 200 | 14.00 | 1,115 | 135.00 |
| Thailand | Baht | 1,697 | 81.00 | | | 1,348 | 34.00 | 3,045 | 115.00 |
| Portugal | Esc | 2,077.2 | 52.00 | | | | | 2,077.2 | 52.00 |
| Israel | £ | 2,286 | 150.00 | | | | | 2,286 | 150.00 |
| Jordan | JD | 50.6 | 157.00 | | | | | 50.6 | 157.00 |
| Egypt | LE | 178 | 255.00 | | | | | 178.0 | 255.00 |
| Saudi Arabia | SR | 276 | 79.00 | | | | | 276 | 79.00 |
| United States | Dollar | | | | 3,524.28 | | | | 3,524.28 |
| Geryld B. Christianson: | | | | | | | | | |
| Belgium | Franc | 14,695 | 482.00 | | | | | 14,695 | 482.00 |
| Israel | Pound | 1,035.5 | 102.82 | 822.62 | 81.69 | | | 1,858.12 | 184.51 |
| Jordan | Dinar | 9.6 | 28.90 | | | | | 9.6 | 28.90 |
| Greece | Drachma | 4,005 | 109.12 | 311.95 | 8.50 | | | 4,316.95 | 117.62 |
| Yugoslavia | Dinar | 514.5 | 28.55 | | | | | 514.5 | 28.55 |
| Federal Republic of Germany | Mark | 152.25 | 68.28 | 15 | 6.72 | | | 167.25 | 75.00 |
| Switzerland | Franc | 359.90 | 163.96 | 90 | 41.10 | | | 449.90 | 205.06 |
| Austria | Schilling | 1,787.25 | 112.29 | 100 | 6.28 | | | 1,887.25 | 118.57 |
| United States | Dollar | | | | 2,375.40 | | | | 2,375.40 |
| Cleve Corlett: | | | | | | | | | |
| Cuba | Peso | 136.80 | 171.55 | | | | | 136.80 | 171.55 |
| Patricia Donovan: | | | | | | | | | |
| Ireland, Dublin | Irish pound | 304.79 | 525.00 | | | | | 304.79 | 525.00 |
| Ireland, Belfast | British pound | 42.85 | 75.00 | | | | | 42.85 | 75.00 |
| England | British pound | 129.12 | 225.00 | | | | | 129.12 | 225.00 |
| United States | Dollar | | | | 1,106.00 | | | | 1,106.00 |
| Michael Glennon: | | | | | | | | | |
| Italy | Lira | 154,109 | 174.89 | 7,930.8 | 9.00 | 34,500.2 | 39.15 | 196,542.85 | 223.04 |
| United States | Dollar | | | | 942.00 | | | | 924.00 |
| Constance Freeman: | | | | | | | | | |
| United States | Dollar | | | | 4,503.16 | | | | 4,503.16 |
| Austria | Schilling | 3,831.75 | 225.00 | 909.00 | 53.47 | | | 4,740.75 | 278.47 |
| Switzerland | Franc | 383.80 | 150.00 | | | | | 383.80 | 150.00 |
| England | Pound | 77.35 | 132.26 | 8.00 | 13.65 | | | 85.35 | 145.91 |
| Zaire | Zaire | 252 | 300.00 | | | | | 252 | 300.00 |
| Kenya | Shilling | 620.55 | 75.00 | | | | | 620.55 | 75.00 |
| Tanzania | Shilling | 1,045 | 115.58 | | | | | 1,045 | 115.58 |
| Botswana | Pula | 246.89 | 300.00 | | | | | 246.89 | 300.00 |
| Lesotho | Rand | 195.27 | 225.00 | | | | | 195.27 | 225.00 |
| Rhodesia | U.S.$ | | 225.00 | | | | | | 225.00 |
| Mozambique | Escudos | 2965 | 89.85 | | | | | 2,965 | 89.85 |
| Zambia | Kwacha | 153.50 | 191.81 | | | | | 153.50 | 191.81 |
| South Africa | Rand | 325.36 | 374.16 | | | | | 325.36 | 374.16 |
| Niger | CFA | 18,000 | 75.00 | | | | | 18,000 | 75.00 |
| Upper Volta | CFA | 36,274 | 150.00 | | | | | 36,274 | 150.00 |
| Ivory Coast | CFA | 54,450 | 225.00 | | | | | 54,450 | 225.00 |
| Senegal | CFA | 72,000 | 300.00 | | | | | 72,000 | 300.00 |
| Gambia | Dalasis | 648 | 300.00 | | | | | 648 | 300.00 |
| France | Franc | 720 | 150.00 | | | | | 720 | 150.00 |
| Mali | Mali franc | 168,560 | 347.41 | 25,400 | 52.59 | | | 193,960 | 399.99 |
| John Holum: | | | | | | | | | |
| United States | | | | | 1,106.00 | | | | 1,106.00 |
| Ireland, Dublin | Irish pound | 304.79 | 525.00 | | | | | 304.79 | 525.00 |
| Ireland, Belfast | British pound | 42.85 | 75.00 | | | | | 42.85 | 75.00 |
| England | British pound | 129.12 | 225.00 | | | | | 129.12 | 225.00 |
| Joel L. Johnson: | | | | | | | | | |
| United Kingdom | Pound | 57.28 | 104.82 | | | | | 57.28 | 104.82 |
| Switzerland | Franc | 877.70 | 412.51 | | | | | 877.70 | 412.51 |
| United States | Dollar | | | | 751.00 | | | | 751.00 |
| Norvill Jones: | | | | | | | | | |
| Cuba | Peso | 179.43 | 225.00 | | | 31.90 | 40.00 | 211.33 | 265.00 |
| George Kroloff: | | | | | | | | | |
| Yugoslavia | Dinar | 2,271 | 125.61 | 187 | 10.35 | 250 | 13.82 | 2,708 | 149.78 |
| Switzerland | Swiss Franc | 566.91 | 250.07 | 70.20 | 30.97 | 42.99 | 18.96 | 680.10 | 300.00 |
| France | Franc | 2,410 | 497.01 | 289.88 | 59.76 | 193.52 | 39.88 | 2,894 | 596.65 |
| United States | | | | | 792.00 | | | | 792.00 |
| Albert A. Lakeland, Jr.: | | | | | | | | | |
| Japan | Yen | 90,000 | 375.00 | | | | | 90,000 | 375.00 |
| Taiwan | NT | 11,385 | 300.00 | | | | | 11,385 | 300.00 |
| United States | Dollar | | | | 4,723.40 | | | | 4,723.40 |
| Israel | Pound | 1,297.75 | 149.00 | | | | | | 149.00 |
| Saudi Arabia | Riyal | 150.10 | 42.00 | 101 | 29.30 | | | | 71.30 |
| Egypt | Pound | 82.500 | 118.00 | | | | | | 118.00 |
| Belgium | B. franc | 10,800 | 300.00 | | | | | | 300.00 |
| England | Pound | 129.12 | 225.00 | | | | | | 225.00 |
| France | Franc | 750 | 150.00 | | | | | | 150.00 |
| Jerome I. Levinson: | | | | | | | | | |
| Austria | Schilling | 2,517 | 150.00 | | | | | 2,517 | 150.00 |
| France | Franc | 1,874 | 375.00 | | | | | 1,875 | 375.00 |
| Great Britain | Pound | 129.12 | 225.00 | | | | | 129.12 | 225.00 |
| United States | Dollar | | | | 967.00 | | | | 967.00 |
| Karin Lissakers: | | | | | | | | | |
| France | Franc | 1,612 | 329.00 | 75 | 15.30 | | | 1,687 | 344.30 |
| Portugal | Escudo | 6,077.2 | 150.00 | | | | | 6,077.2 | 150.00 |
| Great Britain | Pound | 57.28 | 228.78 | | | | | 57.28 | 228.78 |
| Switzerland | Franc | 1,151 | 535.00 | | | | | 1,151 | 535.00 |
| Jamaica | Dollar | 200.9 | 160.00 | | | | | 200.9 | 160.00 |
| Peru | Sole | 24,264 | 300.00 | | | | | 24,264 | 300.00 |
| United States | Dollar | | | | 2,342.70 | | | | 2,342.70 |
| Charles F. Meissner: | | | | | | | | | |
| Austria | Schilling | 3,831.75 | 225.00 | | 53.47 | | | 3,381.75 | 278.47 |
| Switzerland | Franc | 575.7 | 225.00 | | | | | 575.7 | 225.00 |
| United States | Dollar | | | | 812.00 | | | | 812.00 |
| Mark Moran: | | | | | | | | | |
| Cuba | Peso | 137.30 | 172.18 | | | | | 137.30 | 172.18 |
| Mary McLaughlin: | | | | | | | | | |
| Belgium | Franc | 11,505 | 319.59 | | | 2,155 | 59.86 | 13,660 | 379.45 |

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, COMMITTEE ON FOREIGN RELATIONS, EXPENDED BETWEEN JAN. 1 AND DEC. 1, 1977—Continued

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Ira S. Nordlicht: | | | | | | | | | |
| United States | Dollar | | | | 4,031.00 | | | | 4,031.00 |
| Jamaica | Dollar | 180.98 | 145.00 | | | | | | 145.00 |
| Peru | Sole | 26,470.41 | 327.28 | | | | | | 327.28 |
| France | Franc | 1,875 | 375.00 | | | | | 1,875 | 375.00 |
| Austria | Shilling | 2,517 | 150.00 | | | | | 2,517 | 150.00 |
| South Africa | Rand | 172.27 | 198.49 | | | | | | 198.49 |
| Mozambique | Escudo | 3,068 | 100.45 | | | | | | 100.45 |
| Great Britain | Pound | 222.18 | 387.22 | | | | | 222.18 | 387.22 |
| William Pursley: | | | | | | | | | |
| Philippines | Peso | 858.5 | 116.41 | 63.75 | 8.64 | | | 922.25 | 125.05 |
| Republic of China | NT | 16,846.8 | 443.93 | 912 | 24.03 | 1,165 | 30.70 | 1,892.38 | 498.66 |
| Hong Kong | HK dollar | 690 | 150.00 | | | | | 690 | 150.00 |
| Japan | Yen | 85,144 | 355.43 | 4,791 | 20.00 | | | 89,935 | 375.43 |
| United States | Dollar | | | | 1,609.32 | | | | 1,609.32 |
| William Richardson: | | | | | | | | | |
| Bolivia | Peso | 6,716.00 | 329.54 | | | | | 6,716.00 | 329.54 |
| Colombia | Peso | 8,916.25 | 242.36 | | | | | 8,916.25 | 242.36 |
| United States | Dollar | | | | 938.00 | | | | 938.00 |
| Rudolph Rousseau: | | | | | | | | | |
| Haiti | Gourde | 1,745 | 349.00 | 130 | 26.00 | | | 1,875 | 375.00 |
| United States | Dollar | | | 797.12 | 338.46 | | | | 338.46 |
| John B. Ritch: | | | | | | | | | |
| Belgium | Franc | 14,600 | 405.00 | 900 | 25.00 | 700 | 20.00 | 16,200 | 450.00 |
| Hungary | Forint | 6,600 | 325.00 | 600 | 30.00 | 400 | 20.00 | 7,600 | 375.00 |
| Austria | Shilling | 3,200 | 200.00 | 160 | 10.00 | 240 | 15.00 | 3,600 | 225.00 |
| Czechoslovakia | Crown | 2,170 | 195.00 | 165 | 15.00 | 165 | 15.00 | 2,500 | 225.00 |
| United Kingdom | Pound | 85 | 200.00 | 26 | 15.00 | 17 | 10.00 | 128 | 225.00 |
| United States | Dollar | | | | 531.00 | | | | 534.00 |
| Cuba | U.S. dollar | | 240.00 | | 523.80 | | | | 763.80 |
| Roy A. Werner: | | | | | | | | | |
| Switzerland | Franc | 482.30 | 201.12 | | | 14 | 5.84 | 496.30 | 206.96 |
| Japan | Yen | 261,314 | 1,021.44 | | | 3,670 | 15.32 | 264,984 | 1,036.77 |
| Korea | Won | 165,880 | 334.27 | | | 7,120 | 14.65 | 173,000 | 348.92 |
| Republic of China | NT | 19,413.8 | 511.56 | | | | | 19,413.8 | 511.56 |
| Philippines | Peso | 771.9 | 104.66 | 25 | 3.39 | | | 796.9 | 108.05 |
| Hong Kong | Dollar | 675 | 146.74 | 15 | 3.26 | | | 690 | +50.00 |
| United States | Dollar | | | | 5,840.53 | | | | 5,840.53 |
| Stephen Bryen: | | | | | | | | | |
| United States | Dollar | | | | 3,091.75 | | | | 3,091.75 |
| Jordan | Dinar | 55,789 | 169.07 | 3,817 | 11.55 | 12,959 | 39.27 | 72,565 | 219.89 |
| Israel | Pound | 12,021 | 901.68 | 1,103.9 | 83.15 | 1,752.89 | 132.46 | 14,863.75 | 1,117.29 |
| Syria | Pound | 37.50 | 9.62 | | | | | 37.50 | 9.62 |
| England | Pound | 43.67 | 75.00 | | | | | 43.67 | 75.00 |
| Egypt | Pound | 210.02 | 82.37 | 18.65 | 7.30 | 33.83 | 13.27 | 262.50 | 102.94 |
| Ruth Claveloux: | | | | | | | | | |
| Denmark | Krone | 1,350 | 225 | | | | | 1,350 | 225 |
| Poland | Zlotys | 5,770.67 | 133.34 | | | | | 5,770.67 | 133.34 |
| Hungary | Forint | 4,943.20 | 243.75 | | | | | 4,943.20 | 243.75 |
| Yugoslavia | Dinar | | | | | 874 | 48.32 | 874 | 48.32 |
| Switzerland | Franc | 539.55 | 225 | | | | | 539.55 | 225.00 |
| U.S.S.R. | Ruble | 543.38 | 750.00 | 28.50 | 39.33 | | | 571.88 | 789.33 |
| United States | Dollar | | | | 1,987.70 | | | | 1,987.70 |
| Scott Cohen: | | | | | | | | | |
| Yugoslavia | Dinar | 2,508 | 138.72 | 192 | 10.61 | 244 | 13.49 | 2,944 | 162.82 |
| France | Franc | 1,484 | 306.02 | 378 | 78.00 | 591 | 121.95 | 2,453 | 505.97 |
| United States | Dollar | | | | 807.00 | | | | 807.00 |
| Eli Fineberg: | | | | | | | | | |
| United States | Dollar | | | | 102.00 | | | | 102.00 |
| Clifford Hackett: | | | | | | | | | |
| United States | Dollar | | | | 169.95 | | | | 163.95 |
| Jamaica | Dollar | 83.61 | 75.00 | | | | 209 | | 284.00 |
| Peru | Sol | 42,462 | 525.00 | 5,280 | 65.03 | | 53.33 | | 643.36 |
| John Holum: | | | | | | | | | |
| Denmark | Krone | 1,350 | 225.00 | | | | | 2,350 | 225.00 |
| Poland | Zloty | 5,770.67 | 133.34 | | | | | 5,770.67 | 133.34 |
| Hungary | Forint | 4,943.20 | 243.75 | | | | | 4,943.20 | 243.75 |
| Yugoslavia | Dinar | | | | | 874 | 48.32 | 874 | 48.32 |
| Switzerland | Franc | 539.55 | 225.00 | | | | | 539.55 | 225.00 |
| U.S.S.R. | Ruble | 543.38 | 750.00 | 28.50 | 39.33 | | | 571.88 | 789.33 |
| United States | Dollar | | | | 1,987.70 | | | | 1,987.79 |
| William Richardson: | | | | | | | | | |
| United States | Dollar | | | | 1,489.00 | | | | 1,489.00 |
| England | Sterling | 81.52 | 150 00 | | | | | 81.52 | 150.00 |
| Italy | Lira | 131,550 | 150.00 | | | | | 131,550 | 150.00 |
| Israel | Pound | 4,572 | 300.00 | | | | | 4,572 | 300.00 |
| Iran | Rial | 1,200 | 300.00 | | | | | 1,200 | 300.00 |
| Saudi Arabia | SR | 1,010 | 225.00 | | | | | 1,010 | 225.00 |
| Barry Schochet: | | | | | | | | | |
| United States | Dollar | | | | 3,569.25 | | | | 3,569.25 |
| Israel | Pound | 714.06 | 433.25 | 1,558.84 | 149.72 | 397.46 | 28.82 | 81,514 | 611.79 |
| Germany | D. mark | 218.2 | 101.49 | 4.3 | 2.00 | | | 222 5 | 103.49 |
| France | Franc | 870 | 181.25 | 60 | 12.50 | | | 930 | 193.75 |
| Jordan | Dinar | 59.31 | 179.72 | 3.64 | 11.03 | 9.33 | 28.29 | 72.28 | 219.03 |
| Greece | Drachma | 2,423.5 | 66.00 | 138.5 | 4.00 | 63 | 1.96 | 2,625 | 71.96 |
| Israel | Pound | 2,041.59 | 216.96 | 17.88 | 1.90 | 57.78 | 6.14 | 2,117.25 | 225.00 |
| Syria | Pound | 27.77 | 7.12 | | | 14.48 | 3.71 | 42.25 | 10.83 |
| Saudi Arabia | Rial | | | 995.73 | 272.27 | 38.27 | 14.30 | 1,034 | 286.58 |
| Barry Sklar: | | | | | | | | | |
| Panama | Dollar | 255 | 225.00 | | | | | | 225.00 |
| Peru | Sole | 37,350 | 300.00 | | | | | | 300.00 |
| Venezuela | Bolivare | 1,605 | 375.00 | | | | | | 375.00 |
| United States | Dollar | | | | 1,215 | | | | 1,215.00 |
| Jeffrey M. Smith: | | | | | | | | | |
| Panama | Dollar | 225 | 225.00 | | | | | | 225.00 |
| Peru | Sole | 37,350 | 300.00 | | | | | | 300.00 |
| Venezuela | Bolivare | 1,605 | 375.00 | | | | | | 375.00 |
| United States | Dollar | | | | 1,215 | | | | 1,215.00 |

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, COMMITTEE ON FOREIGN RELATIONS, EXPENDED BETWEEN JAN. 1 AND DEC. 1, 1977—Continued

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Bruce van Voorst: | | | | | | | | | |
| United States | Dollars | | | | 1,865.30 | | | | 1,865.30 |
| United Kingdom | Pounds | 119.27 | 225.00 | | | | | | 225.00 |
| France | Francs | 720 | 150.00 | | | | | 720 | 150.00 |
| Egypt | Pounds | 157,500 | 225.00 | | | | | 157,500 | 225.00 |
| Ethiopia | Birr | 140 | 120.00 | | | | | 140 | 120.00 |
| Sudan | Pounds | 45.35 | 112.00 | | | | | 45.35 | 112.00 |
| Kenya | Shilling | 1,208.80 | 150.00 | | | | | 1,208.80 | 150.00 |
| Somalia | Somali | 1,306 | 225.00 | | | | | 1,306 | 225.00 |
| Germany | D-mark | 316.50 | 150.00 | | | | | 316.50 | 150.00 |
| Total | | | 52,393.07 | | 81,966.36 | | 1,819.61 | | 136,179.04 |

RECAPITULATION

| | Amount |
|---|---|
| Foreign currency (U.S. dollar equivalent), total | $136,179.04 |

JOHN SPARKMAN,
Chairman, Committee on Foreign Relations.

Mar. 20, 1978.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL,[1] COMMITTEE ON FOREIGN RELATIONS (AMENDED REPORT), EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency[1] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[2] | Foreign currency | U.S. dollar equivalent or U.S. currency[1] |
| Amount brought forward | | | 52,393.07 | | 81,966.36 | | 1,819.61 | | 136,179.04 |
| Robert Turner: | | | | | | | | | |
| Japan | Yen | 67,545 | 275.30 | 1,472 | 6.00 | 12,994 | 52.96 | 82,011 | 334.26 |
| Republic of China | Dollar | 7,097 | 187.00 | | | 1,242.5 | 32.73 | 8,339.5 | 219.73 |
| United States | Dollar | | | | 1,603.65 | | | | 1,603.65 |
| Michael Kraft: | | | | | | | | | |
| Great Britain | Pound | 69.66 | 128.17 | 5.00 | 9.20 | 6.86 | 12.59 | 81.52 | 150.00 |
| Italy | Lira | 49,775 | 56.76 | 2,000 | 2.28 | | | 51,775 | 59.04 |
| Israel | Pound | 6,295.80 | 412.11 | 490 | 32.15 | 73 | 4.79 | 6,858 | 450.00 |
| Germany | Mark | 231.45 | 107.65 | 95.05 | 44.20 | | | 326.50 | 151.85 |
| France | Franc | 925.95 | 192.91 | 10 | 2.08 | 4.05 | .84 | 940.00 | 194.83 |
| United States | Dollar | | | | 1,251.00 | | | | 1,251.00 |
| Total | | | 53,753.97 | | 84,916.92 | | 1,923.52 | | 140,594.40 |

RECAPITULATION

| | Amount |
|---|---|
| Foreign currency (U.S. dollar equivalent) | |
| Appropriated funds | |
| Total | 140,594.40 |

[1] If none, write None.
[2] If foreign currency is used, enter U.S. dollar equivalent; If U.S. currency is used, enter amount expended.

JOHN SPARKMAN,
Chairman, Committee on Foreign Relations.

April 17, 1978.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, COMMITTEE ON GOVERNMENTAL AFFAIRS, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Leonard Weiss: | | | | | | | | | |
| Germany | Mark | | | | 817.00 | | | | 817.00 |
| Austria | Shilling | 2,517 | 150.00 | | | | | 2,517 | 150.00 |
| Germany | Mark | 354 | 150.00 | | | | | 354 | 150.00 |
| France | Franc | 375 | 75.00 | | | | | 375 | 75.00 |
| Subtotal | | | 375.00 | | 817.00 | | | | 1,192.00 |
| Gary J. Klein: | | | | | | | | | |
| Germany | Mark | | | | 817.00 | | | | 817.00 |
| Austria | Shilling | 2,517 | 150.00 | | | | | | 150.00 |
| Germany | Mark | 354 | 150.00 | | | | | | 150.00 |
| France | Franc | 375 | 75.00 | | | | | | 75.00 |
| Subtotal | | | 375.00 | | 817.00 | | | | 1,192.00 |
| Total | | | 750.00 | | 1,634.00 | | | | 2,384.00 |

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, COMMITTEE ON GOVERNMENTAL AFFAIRS, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977—Continued

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| **RECAPITULATION** | | | | | | | | | |
| Foreign currency (U.S. dollar equivalent) | | | | | | | | | Amount $2,384 |
| Casimir A. Yost: | | | | | | | | | |
| Great Britain | Sterling | 172.16 | 300.00 | | | | | 172.16 | 300.00 |
| Switzerland | Franc | 906.20 | 375.00 | | | | | 906.20 | 375.00 |
| United States | Dollar | | | | 1,515.00 | | | | 1,515.00 |
| France | Franc | 1,556.25 | 322.00 | | | | | 10556.25 | 322.00 |
| Subtotal | | | 937.00 | | 1,515.00 | | | | 2,512.00 |
| Senator Charles Mathias: | | | | | | | | | |
| Great Britain | Sterling | 156 | 271.44 | | | | | 156.00 | 271.44 |
| Switzerland | Franc | 906.20 | 375.00 | | | | | 906.20 | 375.00 |
| France | Franc | 1,415 | 295.00 | | | | | 1,415.00 | 295.00 |
| United States | Dollar | | | | 1,515.00 | | | | 1,515.00 |
| Subtotal | | | 941.44 | | 1,515.00 | | | | 2,456.44 |
| Total | | | 1,938.44 | | 3,030.00 | | | | 4,968 44 |
| **RECAPITULATION** | | | | | | | | | |
| Foreign currency (U.S. dollar equivalent): | | | | | | | | | Amount |
| Spent | | | | | | | | | $4,968.40 |
| Returned | | | | | | | | | 586.84 |
| Total | | | | | | | | | 5,555.24 |
| Leonard Bickwit: | | | | | | | | | |
| Austria | Shilling | 2,210 | 130.00 | | | | | 2,210 | 130.00 |
| Israel | Pound | 1,720 | 200.00 | | | 34.4 | 4.00 | 1,754.4 | 204.00 |
| Egypt | Pound | 132.665 | 250.00 | | | 4.42 | 6.50 | 137.085 | 256.50 |
| Iran | Rial | 15,862 | 225.00 | 21.15 | 3.00 | | | 15,883.15 | 228.00 |
| United Kingdom | Pound | 70.83 | 120.00 | 2.90 | 5.00 | | | 73.73 | 125.00 |
| Subtotal | | | 925.00 | | 8.00 | | 10.50 | | 943.50 |
| Arthur H. House: | | | | | | | | | |
| United States | Dollar | | | | 1.00 | | | | 1.00 |
| United Kingdom | Pound | 96.54 | 166.05 | 9.46 | 16.28 | | | 106.00 | 182.33 |
| France | Franc | 2,520 | 504.00 | 95 | 19.00 | 31 | 62.00 | 2,925 | 585.00 |
| United States | Dollar | | | | 12.00 | | | | 12.00 |
| Subtotal | | | 670.05 | | 48.28 | | 62.00 | | 780.33 |
| Total | | | 1,595.05 | | 56.28 | | 72.50 | | 1,723.83 |
| **RECAPITULATION** | | | | | | | | | |
| Foreign currency (U.S. and equivalent) | | | | | | | | | Amount $1,723.83 |
| Returned | | | | | | | | | 597.29 |
| Total | | | | | | | | | 2,321.12 |
| Grand total | | | 4,283.49 | | 4,720.28 | | 72.50 | | 9,076.27 |
| **RECAPITULATION** | | | | | | | | | |
| Foreign currency (U.S. dollar equivalent): | | | | | | | | | Amount |
| Spent | | | | | | | | | $9,076.27 |
| Returned | | | | | | | | | 1,184.09 |
| Total | | | | | | | | | 10,260.36 |

ABRAHAM A. RIBICOFF,
Chairman, Committee on Governmental Affairs.

Mar. 17, 1978.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, COMMITTEE ON HUMAN RESOURCES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| S. I. Hayakawa: | | | | | | | | | |
| Japan | Yen | 89,372 | 375.00 | | 1,627.00 | | | | 2,002.00 |
| Eugene R. Prat: Japan | Yen | 89,372 | 375.00 | | 1,627.00 | | | | 2,002.00 |
| Paul Skrabut: | | | | | | | | | |
| Yugoslavia | Dinar | 4,065.75 | 225.00 | | 906.00 | | | | |
| Romania | Lei | 2,679 | 225.51 | | | | | | |
| Greece | Drachma | 13,672.50 | 375.00 | | | | | | |
| Ireland | Pound | 214.90 | 375.00 | | | | | | 2,106.51 |
| Maureen Dollard: | | | | | | | | | |
| Yugoslavia | Dinar | 4,065.75 | 225.00 | | 906.00 | | | | |
| Romania | Lei | 2,256 | 189.90 | | | | | | |
| Greece | Drachma | 13,672.50 | 375.00 | | | | | | |
| Ireland | Pound | 214.90 | 375.00 | | | | | | 2,070.90 |
| Don A. Zimmerman: Switzerland | Franc | 539.55 | 225.00 | | 841.00 | | | | 1,066.00 |

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, COMMITTEE ON HUMAN RESOURCES, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977—Continued

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Edward M. Kennedy: | | | | | | | | | |
| Switzerland | Franc | | 150.00 | | | | | | 150.00 |
| Great Britain | Pound | | 75.00 | | | | | | 75.00 |
| Lawrence Horowitz: | | | | | | | | | |
| Switzerlnd | Franc | | 150.00 | | | | | | 150.00 |
| Great Britain | Pound | | 75.00 | | | | | | 75.00 |
| Harrison A. William: | | | | | | | | | |
| Yugoslavia | Dinar | 4,065.75 | 225.00 | | | | | 4,065.75 | 225.00 |
| Romania | Lei | 3,384 | 284.85 | | | | | 3,384 | 284.85 |
| Greece | Drachma | 13,762.50 | 375.00 | | | | | 13,762.50 | 375.00 |
| Ireland | Pound | 214.90 | 375.00 | | | | | 214.90 | 375.00 |
| Total | | | 5,050.26 | | 5,907 | | | | 10,957.26 |

RECAPITULATION

| | Amount |
|---|---|
| Foreign currency (U.S. dollar equivalent) | 10,957.26 |

HARRISON A. WILLIAMS, Jr.,
Chairman, Committee on Human Resources.

Mar. 20, 1978.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| deHaan, Dale S: | | | | | | | | | |
| Malaysia | Dollar | 368.70 | 150.00 | | | | | 368.70 | 150.00 |
| Romania | Lei | 2,673 | 225.00 | | | | | 2,673 | 225.00 |
| Singapore | Dollar | 365.03 | 150.00 | | | | | 365.03 | 150.00 |
| Switzerland | Franc | 1,115.80 | 450.00 | | | | | 1,115.80 | 450.00 |
| Thailand | Baht | 9,135 | 450.00 | | | | | 9,135 | 450.00 |
| United States | Dollar | | 200.00 | | 5,616.90 | | 200.00 | | 6,016.90 |
| Subtotal | | | 1,625.00 | | 5,616.90 | | 200.00 | | 7,441.90 |
| Geelhoed, Glenn: | | | | | | | | | |
| Malaysia | Dollar | 368.70 | 150.00 | | | | | 368.70 | 150.00 |
| Singapore | Dollar | 365.03 | 150.00 | | | | | 365.03 | 150.00 |
| Thailand | Baht | 9,135 | 450.00 | | | | | 9,135 | 450.00 |
| United States | Dollar | | 200.00 | | 3,731.90 | | 100.00 | | 4,031.90 |
| Subtotal | | | 950.00 | | 3,731.90 | | 100.00 | | 4,781.90 |
| Klein, Wells C.: | | | | | | | | | |
| Malaysia | Dollar | 368.70 | 150.00 | | | | | 368.70 | 150.00 |
| Singapore | Dollar | 365.03 | 150.00 | | | | | 365.03 | 150.00 |
| Switzerland | Franc | 385.50 | 150.00 | | | | | 358.50 | 150.00 |
| Thailand | Baht | 9,135 | 450.00 | | | | | 9,135 | 450.00 |
| United States | Dollar | | 200.00 | | 3,653.90 | | 100.00 | | 3,953.90 |
| Subtotal | | | 1,100.00 | | 3,653.90 | | 100.00 | | 4,853.90 |
| Rawitz, Sidney B.: | | | | | | | | | |
| France | Franc | 1,800 | 375.00 | | | | | 1,800 | 375.00 |
| Greece | Dinar | 13,612.50 | 375.00 | | | | | 13,612.50 | 375.00 |
| Italy | Lira | 197,775 | 225.00 | | | | | 197,775 | 225.00 |
| Switzerland | Franc | 666.60 | 300.00 | | | | | 666.60 | 300.00 |
| Subtotal | | | 1,275.00 | | | | | | 1,275.00 |
| Tinker, Jerry: | | | | | | | | | |
| Malaysia | Dollar | 368.70 | 150.00 | | | | | 368.70 | 150.00 |
| Romania | Lei | 2,673 | 225.00 | | | | | 2,673 | 225.00 |
| Singapore | Dollar | 365.03 | 150.00 | | | | | 365.03 | 150.00 |
| Switzerland | Franc | 1,115.80 | 450.00 | | | | | 1,115.80 | 450.00 |
| Thailand | Baht | 9,135 | 450.00 | | | | | 9,135 | 450.00 |
| United States | Dollar | | 200.00 | | 5,616.90 | | 100.00 | | 5,916.90 |
| Subtotal | | | 1,625.00 | | 5,616.90 | | 100.00 | | 7,341.90 |
| Total | | | 6,575.00 | | 18,619.60 | | 500.00 | | 25,694.60 |

RECAPITULATION

| | Amount |
|---|---|
| Foreign currency (U.S. dollar equivalent) | 6,575.00 |
| Appropriated funds | 19,119.60 |
| Total | 25,694.60 |

JAMES O. EASTLAND,
Chairman, Committee on the Judiciary.

Mar. 20, 1978.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, COMMITTEE ON RULES AND ADMINISTRATION, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| None. | | | | | | | | | |

Feb. 13, 1978.

CLAIRBORNE PELL,
Chairman, Committee on Rules and Administration.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, COMMITTEE ON VETERANS' AFFAIRS, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| None. | | | | | | | | | |

Feb. 7, 1978.

ALAN CRANSTON,
Chairman, Senate Committee on Veterans' Affairs.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, JOINT ECONOMIC COMMITTEE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Redvers Opie: | | | | | | | | | |
| Mexico | Mark | | | | 324.00 | | | | 324.00 |
| Al Wichtrick: | | | | | | | | | |
| Mexico | Mark | | | | 324.00 | | | | 324.00 |
| L. Douglas Lee: | | | | | | | | | |
| England | Pound | 215.20 | 375.00 | | | | | 215.20 | 375.00 |
| France | Franc | 1,485 | 300.00 | | | | | 1,485 | 300.00 |
| United States | Dollar | | | | 707.00 | | | | 707.00 |
| Saburo Okita: | | | | | | | | | |
| Japan | Yen | | | 654,888 | 2,408.00 | | | 654,888 | 2,408.00 |
| United States | Dollar | | 163.75 | | | | | | 163.75 |
| Arim[illegible]owski: | | | | | | | | | |
| Germany | Mark | | | 4,027 | 1,236.40 | | | 4,027 | 1,236.40 |
| United States | Dollar | | 86.75 | | | | | | 86.75 |
| Sridath [illegible]mphal: | | | | | | | | | |
| England | Pound | | | 793.30 | 1,346.48 | | | 793.30 | 1,346.48 |
| United States | Dollars | | 116.25 | | | | | | 116.25 |
| Wi[illegible]rgan: | | | | | | | | | |
| England | Pound | 85.47 | 150.00 | | | | | 85.47 | 150.00 |
| Netherlands | Guilder | 184.93 | 75.00 | 70.20 | 28.71 | | | 255.13 | 103.71 |
| Germany | Mark | 522 | 225.00 | | | | | 522 | 225.00 |
| France | Franc | 1,455 | 300.00 | | | | | 1,455 | 300.00 |
| United States | Dollars | | | | 905.00 | | | | 905.00 |
| Gillis Long: | | | | | | | | | |
| England | Pound | 85.47 | 150.00 | | | 155.47 | 89.25 | 240.94 | 239.25 |
| Netherlands | Guilder | 184.93 | 75.00 | 70.20 | 28.71 | | | 255.13 | 103.71 |
| Germany | Mark | 522 | 225.00 | | | | | 522 | 225.00 |
| France | Franc | 363.75 | 75.00 | | | | | 363.75 | 75.00 |
| Germany | Mark | | | | | 161.32 | 69.53 | 161.32 | 69.53 |
| United States | Dollars | | | | 1,191.00 | | | | 1,191.00 |
| John Hardt: | | | | | | | | | |
| Japan | Yen | 139,965 | 525.60 | | | | | 139,965 | 525.60 |
| United States | Dollar | | | | 1,365.00 | | | | 1,365.00 |
| Richard Kaufman: | | | | | | | | | |
| France | Franc | 1,091.25 | 225.00 | 125 | 25.77 | | | 1,216.25 | 250.77 |
| Belgium | Franc | 5,304 | 150.00 | 1,051 | 29.72 | | | 6,355 | 179.72 |
| England | Pound | 641.02 | 1,125.00 | 35.60 | 62.30 | | | 676.62 | 1,187.30 |
| England | Pound | | | 64.60 | 37.08 | | | 64.60 | 37.08 |
| Germany | Mark | 348.00 | 150.00 | | | 126.24 | 54.41 | 474.24 | 204.41 |
| Sweden | Kroner | 990.50 | 225.00 | | | | | 990.50 | 225.00 |
| United States | Dollar | | | | 1,086.30 | | | | 1,086.30 |
| Richard Kaufman: | | | | | | | | | |
| Taiwan | NT dollar | 2,785 | 123.20 | 14,352 | 358.80 | | | 17,137 | 482.00 |
| Japan | Yen | 54,967 | 225.00 | | | | | 54,967 | 225.00 |
| Hong Kong | HK dollar | 697.50 | 150.00 | | | | | 697.50 | 150.00 |
| John Stark: | | | | | | | | | |
| Belgium | Franc | 6,195 | 177.00 | 1,295 | 37.00 | 38.50 | 11.00 | 7,875 | 225.00 |
| Switzerland | Franc | 570.88 | 256.00 | 91.43 | 41.00 | 8.04 | 3.87 | 670.35 | 300.87 |
| France | Franc | 873.60 | 182.00 | 115.2 | 24.00 | 91.2 | 19.00 | 1,080 | 225.00 |
| Travel to and from the United States at own expense. | | | | | | | | | |
| Timothy Barnicle: | | | | | | | | | |
| England | Pound | 163.27 | 300.00 | | | | | 163.27 | 300.00 |
| Belgium | Franc | 7,672 | 225.00 | | | | | 7,672 | 225.00 |
| France | Franc | 1,440 | 300.00 | | | | | 1,440 | 300.00 |
| United States | Dollar | | | | 707.00 | | | | 707.00 |
| United States | Dollar | | | | 52.55 | | | | 52.55 |
| Total | | | 6,655.55 | | 12,325.82 | | 247.06 | | 19,228.43 |

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, JOINT ECONOMIC COMMITTEE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977—Continued

| RECAPITULATION | Amount |
|---|---|
| Foreign currency (U.S. dollar equivalent) | 12,847.83 |
| Appropriated funds | 6,380.60 |
| Total | $19,228.43 |

RICHARD BOLLING,
Chairman, Joint Economic Committee.

Mar. 20, 1978.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, JOINT COMMITTEE ON PRINTING, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| None. | | | | | | | | | |

CLAIBORNE PELL,
Joint Committee on Printing.

Mar. 22, 1978.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, SELECT COMMITTEE ON ETHICS, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| None. | | | | | | | | | |

ADLAI E. STEVENSON,
Chairman, Select Committee on Ethics.

Mar. 20, 1978.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, SELECT COMMITTEE ON INDIAN AFFAIRS, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| None. | | | | | | | | | |

JAMES ABOUREZK,
Chairman, Select Committee on Indian Affairs.

Mar. 14, 1978.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES[1] AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, SELECT COMMITTEE ON INTELLIGENCE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

| Name and continen. | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator James Pearson: Europe, North America, South America. | | | | | | | | | 3,821.53 |
| Senator John Chafee: Europe | | | | | | | | | 1,261.50 |
| Senator Robert Morgan: Asia | | | | | | | | | 150.00 |
| Senator Birch Bayh: Asia, Africa, Europe | | | | | | | | | 2,233.90 |
| Senator Malcolm Wallop: Europe | | | | | | | | | 2,171.00 |
| Walter Ricks: South America | | | | | | | | | 714.00 |
| Michael J. Madigan: South America | | | | | | | | | 714.00 |
| Martin B. Gold: South America, Europe | | | | | | | | | 714.00 |
| David Bushong: North America, South America. | | | | | | | | | 3,731.58 |
| Mark Gitenstein: Europe | | | | | | | | | 300.00 |
| William G. Miller: Europe | | | | | | | | | 1,203.16 |
| Edmund Hawley: Europe | | | | | | | | | 1,115.75 |
| Donald Sanders: Asia | | | | | | | | | 4,480.86 |
| Carroll Leggett: Asia | | | | | | | | | 3,439.60 |
| Total | | | | | | | | | 26,050.88 |

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES [1] AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, SELECT COMMITTEE ON INTELLIGENCE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977—Continued

RECAPITULATION

| | Amount |
|---|---|
| Foreign currency (U.S. dollar equivalent) | 26,050.88 |

BIRCH BAYH,
Chairman, Select Committee on Intelligence.

Mar. 17, 1978.

[1] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, SELECT SMALL BUSINESS COMMITTEE, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| None. | | | | | | | | | |

GAYLORD NELSON,
Chairman, Select Committee on Small Business.

Mar. 7, 1978.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL, SPECIAL COMMITTEE ON AGING, EXPENDED BETWEEN JAN. 1 AND DEC. 31, 1977

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S currency |
| None. | | | | | | | | | |

FRANK CHURCH,
Chairman, Special Committee on Aging.●

Feb. 9, 1978.

## PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million, or in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that eight such notifications were received on April 14, 1978.

Interested Senators may inquire as to the details of these preliminary notifications at the offices of the Committee on Foreign Relations, room S–116 in the Capitol.

The notifications follow:

DEFENSE SECURITY
ASSISTANCE AGENCY,
*Washington, D.C., April 14, 1978.*

In reply refer to: I–295/78ct.

Mr. WILLIAM RICHARDSON,
*Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR MR. RICHARDSON: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERICH F. VON MARBOD,
*Acting Director,*
*Defense Security Assistance Agency.*

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., April 14, 1978.*

In reply refer to: I–296/78ct.

Mr. WILLIAM RICHARDSON,
*Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR MR. RICHARDSON: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERICH F. VON MARBOD,
*Acting Director,*
*Defense Security Assistance Agency.*

---

DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., April 14, 1978.*

In reply refer to: I–297/78ct.

Mr. WILLIAM RICHARDSON,
*Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR MR. RICHARDSON: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERICH F. VON MARBOD,
*Acting Director,*
*Defense Security Assistance Agency.*

DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C. April 14, 1978.*
In reply refer to: I-12084/77ct.
Mr. WILLIAM RICHARDSON,
*Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR MR. RICHARDSON: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,
ERICH F. VON MARBOD,
*Acting Director,*
*Defense Security Assistance Agency.*

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C. April 14, 1978.*
In reply refer to: I-13418/77ct.
Mr. WILLIAM RICHARDSON,
*Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR MR. RICHARDSON: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,
ERICH F. VON MARBOD,
*Acting Director,*
*Defense Security Assistance Agency.*

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., April 14, 1978.*
In reply refer to: I-13468/77ct.
Mr. WILLIAM RICHARDSON,
*Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR MR. RICHARDSON: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,
ERICH F. VON MARBOD,
*Acting Director,*
*Defense Security Assistance Agency.*

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., April 14, 1978.*
In reply refer to: I-13481/77ct.
Mr. WILLIAM RICHARDSON,
*Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR MR. RICHARDSON: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,
ERICH F. VON MARBOD,
*Acting Director,*
*Defense Security Assistance Agency.*

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., April 14, 1978.*
In reply refer to: I-14228/77ct.
Mr. WILLIAM RICHARDSON,
*Professional Staff Member, Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR MR. RICHARDSON: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Middle Eastern country tentatively estimated to cost in excess of $25 million.

Sincerely,
ERICH F. VON MARBOD,
*Acting Director,*
*Defense Security Assistance Agency.*

● Mr. RIBICOFF. Mr. President, terrorism has reached new heights of audacious brutality in Italy.

The Red Brigade has announced the murder of former Prime Minister Aldo Moro. If true this killing completes an episode of murder, kidnapping, forced detention and humiliation of a respected leader of the Western World.

Terrorism is a form of warfare. We are concerned about war in the Horn of Africa, preventing another war in the Middle East, and limiting the proliferating of arms among the superpowers. But we cannot ignore a war that is raging in Europe, Latin America, and the Middle East: terrorism.

Today's New York Times has an excellent column by James Reston entitled "The Meaning of Tragedy." Mr. Reston identifies terrorism as one of the "new forms of warfare loose in the world." He makes a point underscored in Senate hearing on S. 2236—the Omnibus Anti-Terrorism Act—that our cities, power systems, and people are vulnerable to sabotage and terrorism. I agree with Mr. Reston that terrorist chaos threatens all nations and that we must look at such problems "in a totally different way."

S. 2236 offers a fresh look at terrorism and is especially appropriate in light of today's grim news. It ties management of terrorist problems with emergency civil preparedness. And it calls for strong unilateral action including suspension of air traffic and measures affecting commerce and aid against countries which aid and abet terrorist activities. I believe that such measures are necessary to prove our commitment and to strengthen our ability to fight terrorism.

I commend to my colleagues Mr. Reston's column and ask that it be printed in the RECORD.

The article follows:

THE MEANING OF TRAGEDY

(By James Reston)

WASHINGTON, April 18.—The tragedy of former Prime Minister Aldo Moro of Italy is a startling reminder of the fragility of all civilized nations. They are worrying these days about classic wars of invasion across national borders, and they debate endlessly over cruise missiles, Backfire bombers, and neutron artillery shells that can kill fleets of tanks; but in the last quarter of the century, the tyranny of desperate minorities may also be a major threat to world order.

There are new forms of warfare loose in the world: kidnappings of prominent political and business officials; skyjacking of planes; proxy wars in Africa by Soviet mercenary soldiers out of Cuba; and blackmail, terrorism and the taking of hostages.

The Moro case is only a symbol of the problem. Secretary of State Vance, wandering through Africa, is equally vulnerable to this terror. When President Carter goes abroad, he takes along a bullet-proof car.

When you go to any American embassy overseas these days, you are met not by a Foreign Service officer or a smiling hostess, but by a Marine guard, who has more manners than guns. Every U.S. ambassador, in capitals that have political problems with the United States, has to be concerned about his safety and the security of his wife and children.

Even in Washington, the Iranian ambassador has a convoy of security guards to protect him from aggrieved Iranian students; and if you go to lunch here with Israeli officials, they pick their table very carefully and have one or two security guards placed discreetly in the room. So what we are seeing is a very troubling thing: The entire diplomatic community is living under the dominion of fear.

Perhaps more important, we are probably not at the end but at the beginning of this tyranny of militant minorities. The more people crowd into the cities of the world, the more vulnerable cities become to the sabotage of desperate political organizations like the Red Brigades.

For example, any terrorist group, no matter how small, that knows what manholes to go down to get at the electrical guts or switches of any major city, can terrorize the life of that city. And as we move into the age of nuclear electric power, as we are bound to do as petroleum supplies run out, the problem of sabotage is likely to become more serious.

Terrorists can create confusion if they can capture a Moro in Rome or American businessmen in Argentina, or invade the German embassy in Stockholm; but if they control a nuclear energy factory, or even a railroad train carrying nuclear wastes, they can hold whole cities and countries for ransom.

In that event, they can threaten to dump nuclear wastes into the harbor of Stockholm or the rivers of Germany and pollute them for generations. This is not a crazy speculation: It is a practical possibility every country dealing with modern terrorists is now having to face.

One of the hopeful things about all this is that there are an increasing number of problems that no country can resolve by itself. Nations cannot deal with terror on the international airways unless they agree to refuse asylum to the skyjackers. They cannot protect the health of their peoples unless

they agree to stop testing nuclear weapons in the atmosphere. They cannot avoid a new arms race in outer space or under the seas unless they negotiate some rules in the interest of all nations.

This is, one hopes, what Secretary Vance will be talking about to Leonid Brezhnev and Andrei Gromyko in Moscow this week; not only about the control of nuclear weapons, but about the control of terrorism, about the use of Cuban troops in Ethiopia, Angola and elsewhere in Africa.

We will be trying to find out whether the Soviet Union is really serious about trying to work with Washington for a new peaceful order in the world, or whether Moscow wants to go on financing the Red Brigades in Italy and using the Cubans to dominate the strategic naval lanes around the Horn of Africa.

The official view in Washington, if I understand it, is that both the United States and the Soviet Union have more to gain by agreeing to control terrorism and cooperating in Africa than by financing the terrorists and getting into a serious confrontation in Africa, Europe and the Middle East.

Is is not at all sure that Messrs. Vance and Brezhnev will be able to agree. The Communists are making progress in Italy. The terrorists in that country are creating so much chaos that Moscow thinks they may prevail in the end, but Mr. Vance is likely to be very severe on this matter.

The Carter Administration is at a very critical point in both its domestic and foreign policy. It is watching the Vance mission very carefully. It is trying to say to Moscow that what happened to Aldo Moro could happen to anybody, that chaos threatens all nations, and that the time has come to look at the problem of arms, money, trade and terrorism in a totally different way.●

## THE TURKISH ARMS EMBARGO

● Mr. EAGLETON. Mr. President, the administration recently asked Congress to consider lifting the embargo against arms sales to Turkey. We are all familiar with the details of this embargo, which was enacted after Turkey's illegal use of U.S. arms in its 1974 invasion of Cyprus.

The Turkish population of Cyprus amounts to roughly 18 percent of the total population, and still this minority population occupies over 40 percent of the island by force. It would be an irresponsible action to rescind the embargo while the situation on Cyprus remains unresolved.

Mr. President, I submit two excellent editorials discussing the administration's proposal to be printed in the RECORD:

First. "A Strong Case," St. Louis Post-Dispatch, April 8, 1978.

Second. "Replaying the Arguments," Kansas City Times, April 5, 1978.

The articles follow:

[From the St. Louis Post-Dispatch, Apr. 8, 1978]

A STRONG CASE

The Greek political leadership across the spectrum has joined in deploring President Carter's plan to ask Congress to end the arms embargo against Turkey without obtaining some Turkish concessions on the Cyprus question. The Greeks have a strong case. Turks brandishing American weapons continue to occupy 40 percent of Cyprus following the 1974 invasion—an act touched off when Greek Cypriot extremists, acting for the former military junta in Athens, overthrew the Cypriot president, who was subsequently restored.

The roots of the situation on Cyprus are complex and tangled, but there is no question that the Turks are the aggressors, and that their use of U.S. military equipment in the invasion violated agreements with Washington. The Israeli use of U.S. equipment in invading of Southern Lebanon also violated a similar agreement, according to Secretary of State Vance.

Still, Israel has promised to get out of Lebanon as soon as United Nations forces can be positioned along the front. And although the Turks have in fact made some troop withdrawals from Cyprus, the bulk of their forces are still there. Until Ankara demonstrates a willingness to loosen its grip on the island, the case for lifting the arms embargo is anything but strong.

[From the Kansas City Times, Apr. 5, 1978]

REPLAYING THE ARGUMENTS

Three years ago the U.S. imposed a ban on arms sales and military aid to Turkey in the hope of inducing the Turks to end their occupation of the island of Cyprus that had been undertaken with American-supplied weapons The move failed in its intended purpose. The Ankara regime—or rather a succession of them—remained adamant. Turkish-U.S. relations turned bitter. And though talks between Turkey and Greece aimed, in part, at resolving the Cyprus stalemate recently were initiated, no quick end to the occupation is in sight.

Former President Gerald Ford sought to lift the embargo and was rebuffed by Congress, which had voted the original ban. Now the Carter administration, too, has announced its intention to seek a congressional reversal. Military sales would be resumed and a $1-billion unapproved defense agreement would be taken off the shelf and renegotiated.

The elements of the standoff have not materially changed. Only the leadership in Washington has changed. The Turks still hold a disproportionate 40 percent of Cyprus by military force. There still is no reliable sign that the Ankara leaders intend—or feel themselves politically able—to order a withdrawal. Any decision by the U.S. will still have volatile impact elsewhere in the Aegean. For while Mr. Carter's announced proposal contains a major arms aid sweetner for Greece, the opposition in Athens already has begun drumming the intended policy shift into a popular storm against American "perfidy."

The president has based his judgment on a calculation that continued sanctions against the Turks will do unacceptable harm to NATO, of which Turkey remains a sullen and restless member. Mr. Carter evidently feels also that the Greek displeasure can be mollified. These were the same arguments that Gerald Ford offered and that the majority in Congress found unpersuasive. They will be debated again, and perhaps to a different result.

What is plain, however, is the almost total incapacity of the U.S. to influence the behavior or policies of a major aid and arms client. The embargo's end will only formalize the confession of impotence. And, sadly, amid these considerations of petulance and injured pride, the issue that was the origin of it all—the question of a just Cyprus settlement—will have been deftly, almost casually nudged aside.●

## DEFERRED COMPENSATION

● Mr. GRAVEL. Mr. President, recently the Senate Finance Committee Subcommittee on Pivate Pensions and Employee Fringe Benefits held hearings on a proposed Treasury regulation which would effectively terminate all the deferred compensation plans in the United States. In response to the Treasury action I introduced S. 2627, which would require the Treasury to continue its historical treatment of publicly sponsored deferred compensation plans.

These deferred compensation plans allow an employee, in a year prior to the year in which he may be entitled to income, to elect to defer a part of that income until his retirement. Then, in the next year a portion of his salary is held back by the employer. The employee receives instead of the withheld portion of his salary an unsecured claim against his employer. Until February 3 of this year Treasury took the position that the deferred income was not taxable until the employee retired and was paid the money due him. On February 3, after 6 years of rulings the Treasury reversed its position and said that from now on the deferred income will be taxed at the time of deferral, rather than at retirement. This effectively makes such plans pointless, because the employee must take the salary in order to pay the tax rather than defer a portion of his income. If he defers the income he will not have the money to pay the tax. Thus, this important vehicle for the accumulation of retirement income will disappear if the proposed Treasury regulation takes effect.

An important question of tax policy was raised in our hearings. The Treasury Department took the position that the doctrine of constructive receipt justifies their new position on deferred compensation plans. The doctrine of constructive receipt is an interpretive provision of tax policy which says, in layman's terms, that if a person has a right to receive income currently and turns away from that income he will still be treated as receiving it and be required to pay tax on the amount.

Treasury's application of the doctrine in this case is inappropriate and a broad extension of what, up until now, has been a very clear rule of the tax law. During our hearings we received testimony on this issue on behalf of the Rochester Tax Council from G. Kenneth Christrup, director of taxes for Xerox Corp. I ask that an excerpt of Mr. Christrup's testimony discussing the issue of constructive receipt be printed in the RECORD.

The material follows:

EXCERPT

The proposed regulation is inconsistent with published administrative and judicial precedent and exceeds the delegated rulemaking authority.

Although it is well recognized that gross income includes amounts *received* as compensation for services, there is a long line of cases which stand for the proposition that a taxpayer does not currently realize compensation income where he has irrevocably agreed to defer its actual receipt at a time before the date such income was actually payable to him. *Howard Veit*, 8 T.C. 809 (1947) and 8 T.C.M. 919 (1949); *Commissioner* v. *Oates*, 207 F. 2d (1953), affg. 18 T.C. 570 (1952); *Ray S. Robinson*, 44 T.C. 20 (1935). The Internal Revenue Service, after initially testing this proposition through numerous court cases, 18 years ago acquiesced in the decisions and published Rev. Rul. 60–31, 1960–1 C.B. 174, which is consistent with the case law, has not been modified or lim-

ited in any court decision since, and has basically represented the settled doctrine in this area for almost two decades.

The proposed regulation now seeks to reverse this settled doctrine and to take a radically different approach which is not supported by any existing precedent in the field of income taxation of compensation. Furthermore, the proposed regulation is contrary to all of the judicial and administrative precedent in other areas of the tax law dealing with the time of realization of income, such as the law dealing with deferred payment contracts, casual sales of personal property, and deferred interest government bonds. See *J. D. Amend*, 13 T.C. 178 (1949); *Harold N. Sheldon*, 62 T.C. 96 (1974); *Hineman* v. *Brodrick*, 99 F. Supp. 582 (D. Kan. 1951); Rev. Rul. 58–162, 1952–1 C.B. 234; Rev. Rul. 73–210, 1973–1 C.B. 211, Code sections 454 and 1232. It is well settled that a taxpayer is not found to arrange his affairs in such manner as will result in the most severe tax impact. *Gregory* v. *Helvering*, 69 F. 2d 809 (2nd Cir. 1934), aff'd. 393 U.S. 465 (1935).

While it is certainly true that the Secretary can interpret the meaning of sections of the Internal Revenue Code by administrative pronouncements, such interpretative rules must be consistent with the Code and must be made before the statutory interpretation is authoritatively settled by the courts. *Brushaber* v. *Union* P. R. Co., 240 U.S. 1 (1915); *M. E. Blatt Co.* v. *U.S.*, 305 U.S. 267 (1938); *Fawcus Machine Co.*, v. *U.S.*, 282 U.S. 375 (1930); and *Bingham's Trust* v. *Commissioner*, 325 U.S. 365 (1944).

The present proposed regulations are in effect legislation by administrative fiat. Furthermore, the proposed regulation 1.61–16 is not in accord with the express terms of sections 61 and 451 and is contrary to long-standing judicial interpretations of these sections.

It is well settled under section 451 that a cash basis taxpayer is in "receipt" of an item of gross income when he actually receives the element of gross income as cash or the equivalent of cash, or when he constructively receives the element of gross income as cash or the equivalent of cash. Regulation 33, Revenue Act of 1918; Regulation § 1.451; *Old Colony Trust Co.* v. *Commissioner*, 279 U.S. 716 (1928); *Hamilton National Bank of Chattanooga*, 29 BTA 63 (1933); *Ross* v. *Commissioner*, 169 F. 2d 483 (1st Cir. 1948). Until there is actual or constructive receipt of compensation, a cash basis taxpayer does not include such compensation in income.

*A fortiori*, there is no actual receipt of cash until the compensation is actually paid. Therefore, only two theories are available for finding "receipt" of deferred compensation prior to the actual receipt of the cash: 1) the cash equivalency doctrine, and 2) the constructive receipt doctrine.

Invoking the cash equivalency doctrine (or economic benefit theory as it is also called) requires receipt of property rights which are both unconditional and assignable (*Frank Cowden Sr.*, 289 F. 2d 20 (5th Cir. 1961), reversing 32 T.C. 853 (1959)). Receipt of an unfunded and unsecured promise to pay deferred compensation is not property and thus not income to a cash basis taxpayer. See proposed regulation 1.83–3(e). It is difficult to conceive how the cash equivalency doctrine could support an attempt to tax something which is not property as an item of gross income.

The constructive receipt theory results in "receipt" under section 451 only where the taxpayer has an unconditional right to draw on amounts credited to his account or set apart for him (See, *United States* v. *Christine Oil and Gas Co.*, 269 Fed. 458 (1920) and Reg. § 1.451–2(a)). Such an interpretation of the word "receipt" as used in section 451 is suggested by the legislative history to section 213(a) under the Revenue Act of 1921, the precursor of section 451, as set forth in the Conference Committee Report to the Revenue Act of 1924, H. Rep. 844, 68th Cong., 1st Sess., p. 16, which states that "items of gross income should be considered to be received in the taxable year in which they are unqualifiedly made subject to the demands of the taxpayer."

The proposed regulation seeks to expand the meaning of "receipt" beyond any interpretation of that term to date. It is clearly an interpretation inconsistent with all precdent and contrary to the stated Congressional meaning of that term, and therefore beyond the rule-making authority delegated to the Secretary under section 7805. Furthermore, the proposed regulation attempts to stretch the theory of cash receipts to the point where the distinction between the cash receipts and accrual methods of accounting is destroyed.

Nor can the proposed regulation be supported by any application of the assignment of income doctrine, which deals solely with the deflection of income between taxpayers and not with the timing of realization of such income. See *Lucas* v. *Earl*, 281 U.S. 111 (1930); c.f. *United States* v. *Bayse*, 410 U.S. 441 (1973).

It has long been accepted that the language of section 61 was used by Congress to exert "the full measure of its taxing power." *Helvering* v. *Clifford*, 309 U.S. 331, 334 (1939). However, there is weighty authority for the proposition that there is no income until the taxpayer receives something "for his separate use, benefit, and disposal . . ." *Eisner* v. *Macomber*, 252 U.S. 189, 207 (1919); or until there is an instance of "undeniable accessions to wealth, clearly realized, and over which . . . taxpayers have complete domination." *Commissioner* v. *Glenshaw Glass Co.*, 348 U.S. 426, 431 (1955). The proposed regulation goes far beyond any current theory of when gross income is realized by requiring a taxpayer to include as an item of gross income an unrealized amount which he is not yet entitled to receive and over which he has no domination or control. Such a theory of gross income is clearly inconsistent with the constitutional requirement that gross income involves an element of realization. Mere appreciation of value, remote possibilities of gain, and naked promises have never constituted realization under section 61.

We believe that, since the proposed regulation goes well beyond any precedent requiring an inclusion in income prior to the year of actual receipt and reverses a long-standing body of judicial and administrative law, it represents an unreasonable use of the delegated authority to issue rules and regulations and is beyond the delegated rule-making authority. Furthermore, because the proposed regulation attempts to expand the definition of gross income as encompassing amounts over which a taxpayer has no present entitlement, it is certainly inconsistent with any judicially developed theory of gross income defining the parameters of the Congressional mandate.●

## THE NEUTRON BOMB

● Mr. HATCH. Mr. President, I was among those Members of the Senate that expressed surprise and concern when President Carter announced that he was delaying the production of the neutron bomb. I felt at that time, and still do, that this weapon would provide NATO with a valuable addition to its defensive forces in Europe. My concern was echoed by our allies in Europe, allies who are very much aware of the impending Soviet threat.

Mr. President, reports by the media today indicate that France has secretly exploded an experimental neutron bomb at the Mururoa nuclear testing site in the South Pacific. The initial reports of this test were reported by the French newspaper France Soir. They have indicated that the French are about the same place as the United States and about 10 years ahead of the Soviet Union in the area of neutron weaponry. They further reported that French President Valery Giscard d'Estaing had not yet made the decision to continue the development and production of the weapon, but that in all likelihood he would give the go ahead for production.

What now concerns me is that the United States has already made the decision to delay the development of the neutron bomb. With the revelation that the French are on the verge of producing the bomb, is there any doubt that the Soviet Union will step up their own neutron program. I think that it is imperative that the administration reconsider this decision. What good will it do if the United States drops the program and other nations continue to push forward? The people of Europe know full well the need for improved defense systems. The Soviet Union and its Warsaw Pact allies have built up a tremendous advantage in conventional weapons along the borders of Central Europe. They have amassed the largest concentration of armor in the history of the world. Anyone familiar with the tactics of warfare knows that to make effective use of a large number of tanks you must use them in a fast paced offensive that is designed to bring the enemy to its knees in a relatively short period of time. If we learned nothing at all from the horrors of World War II, we learned that a "blitzkrieg" attack can be devastating and almost impossible to stop without a force equal to the attacking force. Since we do not have the conventional strength to match the Warsaw Pact strength, nor do we appear to have the resolve to obtain the strength, it is mandatory that we take the proper steps to use the advantages of technology to delay such an attack. By delaying it, we in effect buy the time needed to organize a counteroffensive against it.

Mr. President, I think that the majority of this body has read about the neutron bomb and heard of what it does and does not do, yet in reality we know very little about this weapon. I have had the opportunity to read a short article about the neutron bomb that explains the process in terms easily understandable to the layman. This article, by a Mr. H. M. Agnew is an excellent summary and explanation of neutron weapons and the combined fission-fusion weapons as compared to conventional and pure fission weapons. I ask that Mr. Agnew's article appear at this point in my remarks.

The article follows:

NEUTRON BOMBS

There has been so much confusion and misinformation and lack of basic information about the "neutron bomb" or "enhanced radiation" weapon that some clarification would appear to be appropriate; if not to as-

sist the bureaucrats, at least as a reference for scholars in the field of political-military science.

I will not attempt in detail to explain why "enhanced radiation" weapons have special tactical utility, but will simply endeavor to explain what the basic facts involved are. First, all fission nuclear weapons emit radiations. These radiations are the identical radiations which nuclear power plants emit. When uranium fissions, it doesn't care whether it is in a bomb or a reactor. When uranium does fission, it produces various forms of radiation such as $\gamma$ rays, x rays, $\beta$-particle or rays, neutrons, alpha particles, and fission fragments which are identical to the nuclear waste products with which people are concerned in nuclear reactors and which sometimes is called fallout in the case of nuclear weapons. The energy released in fission is primarily carried off in the form of kinetic energy of all of these products. Its magnitude can be described in terms of hv for "rays" and as $\frac{1}{2}$ $mv^2$ for the particles (h is Planck's constant, v is the frequency of the radiation, m is the particle mass, and v is the particle's velocity). Now it was realized in the early 50's that it was really possible to produce another nuclear reaction called fusion. This involved putting together isotopes of hydrogen called deuterium and tritium under certain conditions so that they would produce other nuclei and radiation. In the fusion process, the main primary radiations are neutrons, $\alpha$ particles, protons, and tritons. So, in addition to the "radiations," the fusion process also produces nuclear wastes, but they are of a somewhat different nature. But, they are radiation waste products nevertheless. I predict that many of those who so erroneously condemn the fission process for energy production because of the waste disposal problem and are the great Gurus of and proponents for clean fusion power will be more objective when, hopefully, fusion power becomes a reality.

Relevant to this discussion is that when the fusion process takes place between deuterons about 4 MeV of energy is made available, and when fusion between deuterons and tritons occurs about 18 MeV of energy is made available. But when fission takes place about 210 MeV of energy is made available. This energy is carried off by the radiation and particles produced. One can visualize it somewhat like a fourth of July sparkler. Some of the sparkles go further, being bigger, being brighter. The energy being carried off from a central region.

To date, the only practical fusion devices have been thermonuclear bombs, hydrogen bombs, and, to date, in order to produce the fusion energy in any appreciable quantity a fission trigger has been required. So, "hydrogen bombs" have a fission component. However, it has been possible to vary the fission/fusion ration. In practice, it has been possible to produce with relatively little fission a lot of fusion. One should also keep in mind that per a single fission on the average about two neutrons are produced plus 210 MeV of energy. In the fusion process, and let's limit our discussion to the deuteron-triton reaction, one high-energy neutron and about 18 MeV of energy is produced. So, per neutron, the fission process produces about five times more energy and appreciably more waste products since the mass of the inert ingredients is so much larger. In all cases, the "radiations" when they encounter the air of the surrounding media generate heat which produces a blast wave if the heating of the air or medium occurs in a very short time, as in a bomb. In a reactor, the total energy release time is so much longer, that the heat can be carried off for the beneficial purpose of generating electricity. So the fission process produces neutrons, heat, blast, and fallout, and the fusion process produces neutrons, heat, blast, and fallout but produces many more neutrons and, specifically, more high-energy neutrons in relation to the other products than does the fission process.

Now, back to the "neutron bomb" or tactical nuclear weapon. A problem presented to a modern defender of western Europe is that presented by the massive armor component possessed by the Eastern bloc. Tanks are quite immune to small arms, to blast, and to brief exposure to heat. However, some of the products in fission or fusion can readily penetrate the armor of the heaviest tanks. The radiation doesn't bother the tank, but certain of the radiations such as neutrons have what the medical profession call a high LET (linear energy transfer). Meaning they interact with living tissue in a strong manner. When radiation interacts with living tissue, it destroys the cells. This is the same mechanism by which the radiation therapist attempts to treat cancer by selectively destroying more cancer tissue than healthy tissue through a succession of exposures to "bursts" of radiation. Neutrons are one of the most effective means of destroying tissue, healthy or malignant.

Again, back to the "neutron bomb." It was perceived many years ago, and one of the earliest advocates was Sam Cohen who was with the Rand Corporation, that a potential defense mechanism against tanks was neutrons. Not that the neutrons would bother the tank, but they could penetrate through the armor and affect the crew. Unlike a bullet or projectile, they would not cause instant death to a crew member but, in sufficient dosage, could eventually in a matter of a few tens of minutes to hours kill or make the crew completely ineffective. Consequently, the use of tactical nuclear weapons against tanks became a viable option. However, keep in mind that for the most part the heat, blast, and fallout normally associated with nuclear bombs except when encountered in very close proximity have little effect on the tank itself. The radiation, neutrons, and $\gamma$ rays would however affect the crews. So, tactical fission bombs were designed to do just this. However, these bombs also presented problems to the users. In order to produce neutrons in sufficient quantities through the fission process, the total yield of the bomb was of necessity relatively large. This meant they couldn't be used close to troops on the defense because of the heat, blast, and eventually the fallout which are present. These weren't desired in the first place against armor.

These phenomena were called collateral effects and, in general, were not desirable, especially in areas where there might be noncombattants, or in a defensive action which would be taking place on friendly territory. Since the kill mechanism desired was neutrons, it was decided to investigate the possibility of "enhancing" the neutron radiaton from a bomb. This simply meant endeavoring to get more neutrons with less of the other nuclear by-products. It was clear that the way to do this was to employ the fusion reaction made possible by a fission trigger. And, so the "enhanced radiation" or "neutron bomb" was developed.

It clearly has advantage for the military defender as well as for the nearby noncombattant. It can produce the same number of desirable neutrons as the fission bomb which it replaces with five to ten times less collateral effects such as blast, heat, fission waste products (fallout), thereby greatly reducing collateral damage. This allows the defenders to employ the weapon in a much more selective fashion with equal military effectiveness. When neutrons interact with the air, they on occasion produce $^{14}C$, a long-lived radioisotope which is continuously being produced in nature and which is used so beneficially in archeological dating. Fission neutrons produce about twice as much $^{14}C$ as do the fast neutrons from a "neutron bomb." So, if one is worried about any long-range implications of $^{14}C$ production in the atmosphere, the "neutron bomb" is preferable over the common tactical fission bombs.

I feel confident that had the facts been properly explained initially, even those who oppose nuclear weapons would have had to concur in stating that it is better to have this type of tactical fusion nuclear weapon than the conventional pure fission bomb which requires five to ten times greater yield but provides no greater effectiveness against conventional armor.

Mr. HATCH. Mr. President, as I have previously stated, I am very concerned over the administration's decision to delay to production of the weapon. The fact that France has now developed its own weapon now forces the United States, it appears to me, to go ahead with the production of the weapon also. I have written a letter to President Carter expressing this point of view and ask that it be printed in the RECORD at the conclusion of my remarks. I urge everyone of my colleagues to study this situation and take the action that they deem necessary. Hopefully, they will come to the same conclusion that I have come to, that we need to produce and deploy the neutron bomb as a deterrent to the Soviet threat in Central Europe.

The letter follows:

WASHINGTON, D.C.,
*April 19, 1978.*

The PRESIDENT,
*The White House,*
*Washington, D.C.*

DEAR MR. PRESIDENT: I have previously communicated to you my concern over your recent decision to delay the production of the neutron bomb. In my telegram at that time I urged you to reconsider this decision on the basis of the support from our allies in NATO. I do so again with renewed emphasis.

I have read reports in the media that France has conducted tests of its own concerning the use of neutron weapons. Reports indicate that they have already tested an explosion of a neutron bomb at their test site in the South Pacific. The implications of this are evident, they intend to pursue the development and production of neutron weapons. These reports place the French at about the same place as the U.S. in advancement of the weapon, and about ten years ahead of the Soviets. It should now be obvious to all that if France is to continue the development of such a weapon, then the Soviet Union will also continue its efforts to develop a neutron bomb.

In view of the facts before us, I think that it is imperative that the United States proceed with the development of is own neutron bomb. Continued delay will only result in our falling behind in this crucial area. To stop the program now would allow the Soviet Union to catch up and pass us in a sector that we now hold a substantial advantage. I hope that you will give this matter new consideration. I am aware that political considerations are involved, the fact that a reversal of a previous decision may be politically harmful, but I am convinced that the American people realize the need to re-evaluate our position on this issue.

Very truly yours,

ORRIN G. HATCH,
*U.S. Senator.*●

## FREEDOM ON THE RISE

● Mr. PELL. Mr. President, Freedom House recently issued its annual report on the status of freedom in the world.

Its analysis showed that movement in 26 countries toward greater freedom during 1977 reversed a 4-year downward trend.

This turnabout coincided with the completion of President Carter's first year in office and with the new administration's great emphasis on human rights in American foreign policy. I also believe President Carter's initiatives helped to create the climate for significant gains around the world.

According to Freedom House, in January of 1978 close to 35.7 percent of the world's 4 billion people, living in 44 nations and 25 territories are considered free. That is up from 19.6 percent in 1977. Despite this encouraging leap forward—resulting largely from the reappearance of India and Spain in the "free" camp—it is still distressing that 42.9 percent of the world is categorized as "not free," the remaining 21.4 percent being "partly free."

If any further progress is to be made in expanding the number of nations in the free category, a continuing commitment and effort by the United States to support the cause of freedom around the world will be required. I know that President Carter will continue to exercise leadership in this area, and I wish to lend him my full support.

In this connection, some observers have been concerned that the administration's human rights campaign could have a negative impact on our relations with the Soviet Union and Eastern Europe in areas such as arms control. As chairman of the Arms Control Subcommittee of the Foreign Relations Committee and Cochairman of the Commission on Security and Cooperation in Europe, I have been intimately involved in both arms control and human rights issues. It has been my view that arms control and human rights discussions can be discussed with the Soviets and their allies on separate tracks without one interfering with the other.

This view seems to be shared by the administration according to a recent article by the columnist Jack Anderson. In his column of March 21, Mr. Anderson quoted from portions of Presidential Review Memorandum No. 28 in which it is stated that—

> The Soviet Union will continue to pursue its perceived interests in arms control, trade, scientific and cultural exchanges and other areas of our bilateral relations, regardless of our advocacy of human rights.

My own experience in visiting the SALT talks in Geneva and the Belgrade Conference to review compliance with the Helsinki Accord certainly supports the administration's assessment as reported by Jack Anderson. I urge my colleagues to continue their support of the President's human rights policy, for unless America makes it clear that it is serious and united in its determination to support and promote the cause of human rights everywhere, I fear that next year's Freedom House report will not be a cause for rejoicing.

Mr. President, Mr. John Richardson Jr., the president of Freedom House, recently wrote an article on the Freedom House report that was published in the New York Daily News of January 1, 1978. I ask that the full text of that article be printed in the RECORD.

The article follows:

HUMAN RIGHTS

(By John Richardson, Jr.)

WASHINGTON—Concern for human rights is the hallmark of Jimmy Carter's first year as President. His initiatives, in the judgment of Freedom House, helped create the climate for significant gains in political rights and civil liberties in 26 countries of Africa, Asia, Europe, Latin America and the Middle East. The question for 1978: Will Washington be bluffed into muting its human rights appeals?

Not all of the greater freedom for 1.078 billion people, measured in the Freedom House Survey, can be attributed to the President's actions. Liberalizing changes in Spain and Morocco began before President Carter took office.

But the President did create an unusually favorable environment for personal freedom. The limited gains in Iran, Thailand and Taiwan were probably related to the change in attitude in the United States. The vast improvement in India and the gain in Sri Lanka may also have drawn some moral sustenance from U.S. human rights initiatives. The President repeatedly took public and private steps to demonstrate a basic American concern for freedom.

For a while he seemed to frighten friend and adversary alike by persistently invoking human rights. Not only the Soviet Union warned that detente might be jeopardized. The French and West Germans expressed fear that the Russians might retaliate by tightening restrictions in West Berlin or elsewhere in Western Eruope.

Indeed, repressive regimes remain powerful and in the majority. Despite significant gains in some countries in 1977, personal freedoms were further restricted in nine nations with 123 million people (mainly in Africa, Latin America and the Caribbean). Two thirds of all the world's people still suffer political repression, cannot expect relief from the courts and are denied free speech and access to free news media.

It is unlikely that many poor Third World countries will quickly follow the path taken in March by India. She proved that an oppressive system can be reversed; that the poor must not wait for freedom until after ample food, clothing and housing are assured. India, however, had pursued a democratic tradition before it was subverted in mid-1975. Most Third World countries have never extended political rights and civil liberties to their citizens.

Though the Carter human rights initiatives embarrassed many capitals, Americans seem politically comfortable standing before the world on the side of human freedom. And as 1977 progressed, dissident Eastern Europeans encouraged Americans to mix talk about human rights with specific political and economic pressures on oppressive regimes.

At the Belgrade Conference to reassess the Helsinki Accords, the U.S. showed that it was possible to challenge Marxist restrictive systems without becoming belligerent.

SALT 2 and detente have not been endangered at Belgrade. On the contrary, there is the possibility that the U.S. may be bluffed into virtual silence on basic human rights issues.

In 1978, the Carter administration will have the opportunity to act upon the lessons learned during Year One of the new, still feeble Human Rights Era. The administration should have discovered that consistency is not possible for human rights. We can publicly invoke a high universal standard: an end to torture and cruel imprisonment, a call for broader political rights and civil freedoms everywhere. Yet in the interest of our security and others', we shall need to maintain relations and even give support to authoritarian regimes.

That will require the U.S. to act with more sophistication this year than last. We should encourage other democratic countries—especially those in the Third World—to join us in applying moral and other pressures on restrictive regimes.

We should move firmly in UNESCO, with Third World help, to resist establishing governmental control of the news media as a universal standard.

Perhaps most important for the longer term, there should be greater U.S. support for private organizations in cultural, business, trade union and other fields. They should be helped to establish ties with counterparts abroad who are also struggling for freer institutions. Such non-governmental pressures could become the primary thrust in our human rights effort.

There may be no miracles in 1978. Significant achievements are possible, however:

India to strengthen its freedom, several Latin American nations to permit the free elections they promise, small gains to be expanded in several Black African countries, and continued progress toward national elections in Nigeria.

The survivors of 1.2 million Cambodians slain by the communist regime since the war ended, and the 200,000 Vietnamese in Hanoi's "re-education" camps will probably wait still another year for deliverance.

Despite the gains of '77, freedom thrives in barely 35 percent of the world.

It is necessary in '78 to sustain the American human rights effort that began auspiciously one year ago.●

## ENERGY AND EMPLOYMENT: SECRETARY SCHLESINGER'S VIEW

Mr. PERCY. Mr. President, I recently corresponded with the Secretary of Energy, Mr. Schlesinger, on the subject of the employment impact of energy alternatives. I wish to share this correspondence with my colleagues.

I had questioned a statement he made on the positive employment effects of nuclear power. While I agree with Mr. Schlesinger on the need to include nuclear in our mix of energy options, the available evidence I have seen indicates that conservation and solar energy create more employment per unit of energy produced or saved than does nuclear power and other heavy construction.

I am quite pleased that Mr. Schlesinger tells me he has underway several studies of specific employment effects of energy strategies, including regional and skill distribution. The Secretary is to be commended for his leadership in this area. The information these reports will provide is crucially needed. For too long we have made energy policy decisions which gave too little consideration to secondary economic impacts such as employment. I plan to follow with interest the progress of this work.

Mr. President, I ask unanimous consent that Mr. Schlesinger's speech to the AFL–CIO of December 9, which prompted our correspondence, plus my letter of February 6 and his response of March 21, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF ENERGY,
*Washington, D.C., March 21, 1978.*

Hon. CHARLES H. PERCY,
*U.S. Senate,*
*Washington, D.C.*

DEAR CHUCK: Thank you for your letter inquiring about comparative analyses of the labor impacts of energy conservation (i.e., energy end use) and production. We believe that increased investment to improve the energy efficiency of domestic energy consuming capital stocks will create new jobs and promote healthy economic growth, particularly by reducing the heavy drain on our resources caused by oil imports. The conservation initiatives which we propose in the NEP not only contribute to productivity, but will create many new jobs in home supply industries, machine tool and similar fields. Looking beyond the direct stimulus of investment in enhanced efficiency of end use, the funds saved because of lower fuel use will be expended on other needs. These "secondary" effects of conservation would also stimulate economic growth and employment, although total "net" impacts are not easy to isolate.

The resolution of our energy dilemma will require both investments in the development of new domestic supplies and investments in improved efficiency of energy end use. The employment generated by these investments will vary, as you suggest. The mix in amounts of expertise and skill required in jobs created by different investments also will vary, both between conservation and supply investments and within these areas. As you have noted, most end-use sector investments would create jobs at existing points of energy use (cities, communities, etc.) and would not require large influxes of people to new areas where new energy supply plants must be located. The issues you raise concerning relative employment impacts bear more attention, and we already are involved in such studies. We are undertaking two studies of the impacts of the solar and residential retrofit programs of the NEA and are now looking into the data requirements for effort along these lines.

With warmest personal regards,
Sincerely,

JAMES R. SCHLESINGER,
*Secretary.*

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U.S. SENATE,
*Washington, D.C., February 6, 1978.*

Hon. JAMES SCHLESINGER,
*Secretary, Department of Energy,*
*Washington, D.C.*

DEAR JIM: I have recently received a copy of your speech of December 9, 1977, which touched upon the isseus of economic growth, energy, and employment. I wish to raise several points concerning the arguments put forward.

I am in full and total agreement with you that we must pursue economic expansion, and not let our energy problems interfere with our standard of living. Only a growing economy can provide more jobs and a better life for all. But I fear your speech also implied that increased energy supplies, particularly central station electric plants, are necessary for economic expansion.

It is my understanding that, though energy curtailment disrupts our economy, improved energy efficiency through investments in new and existing buildings, factories, and vehicles is the least costly new source of supply. To install new control systems for heating and cooling systems, or to refit a heat recuperator on an industrial furnace is highly labor-intensive. Furthermore, conservation retrofits not only create jobs in those construction trades hard hit by unemployment, but also produce work in our cities where the unemployment problem is greatest.

In contrast, I am told that centralized coal or nuclear plants rely on a few specialized skills which are in short supply (such as nuclear-qualified welders). They create fewer jobs per dollar invested, since much of the cost of a plant is capital financing charges or pure inflation. And they create jobs in remote locations, causing temporary booms that disrupt those rural areas.

I am of course aware that you endorse conservation on other grounds. But is the Department of Energy working on any analyses of the labor impact of conservation and production options? I anticipate that such an analysis would show an employment bonanza would result from energy efficiency investments. I believe it would provide essential information for our national energy debate.

I look forward to your reply.

Warmest personal regards,

CHARLES H. PERCY,
*U.S. Senator.*

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ENERGY LEGISLATION

So I turn now to the characteristics of the job that we must do and what the President has proposed in the energy legislation. It is, as I have indicated, complex legislation, touching on every aspect of American life. But there is one fundamental axiom that I want to stress: the entire program is based upon the premise that the economy must continue to expand, that we must provide more jobs, that production must rise, and there must be increased productivity. Unless we have that economic expansion in the face of growing energy difficulties, we will find that we are unable to maintain either the economy or the American way of life. Therefore, energy for economic activity must have first claim upon the available supplies of energy. And there must be adequate energy to keep our factories going.

This brings me to a philosophy of recent years which can only be characterized as an anti-growth philosophy, the feeling that we have expanded too much, that appetites have been whetted that should not have been whetted, that it has endangered the environment, and the like. We can have nothing to do with that kind of unrestrained attitude which is anti-growth.

Restraining growth means restraining the growth of jobs. It means unemployment. It means the failure to provide the best part of the American way of life to a growing number of our citizens. And in this connection, I know that the AFL–CIO has strongly endorsed getting on with the creation of new sources of energy and the building of nuclear plants. We have in the works, and as soon as the Congress has a spare place on its agenda, we will submit a nuclear licensing bill designed to expedite the process of licensing and permit us to make better use of nuclear energy.

We can have no truck with an anti-growth philosophy, because it endangers the living standards of every American.

We must focus upon the expansion of the economy and the expansion of jobs. We are now in a position in which our balance of trade deficit is reaching almost $30 billion a year, principally due to our dependence upon foreign sources of energy supply. If we are able to reverse that, then we will be in a position to use those resources here at home rather than exporting unemployment. * * *

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## AUSTRALIA: MOVING TOWARD A SOLAR SOCIETY

Mr. PERCY. Mr. President, an article from the Australian Information Service publication, volume 7, 1977, recently came to my attention detailing the steps the Australians are taking toward transforming their society entirely to one run by solar energy. Their progress is impressive.

Australia, blessed with an abundance of sunlight, has always been in the forefront of solar technology development. Twenty years ago, it was the first to produce a solar water heating system. Today, flat-plate solar collectors have become a common sight throughout Australia, heating 30,000 homes as well as numerous hotels, hospitals, and schools.

The United States is clearly lagging behind Australia in this field. In fact, we are presently importing solar energy technology from the Australians. Certain steps have been taken to correct this situation and place the United States on equal footing with Australia and other nations with respect to development and utilization of this technology. Most recently, a package of legislation was introduced by a coalition of Representatives and Senators, to which I belong, designed to promote the use of solar energy both here and abroad. However, while visibility and assistance is growing for our solar industry, there is much we can learn from the Australians.

Mr. President, I ask unanimous consent to place this article on solar energy in Australia in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOLAR POWER FOR A SUNBURNT LAND

(By Jane Ford)

A remote Australian town powered by solar energy—a dream or a reality? Solar energy researcher Dr. Peter Carden believes it could well be a reality in 10 years time.

Dr. Carden, leader of the Energy Conversion Group at the Australian National University has been working on a method of utilising and storing solar energy on a mass scale for the past 4½ years. He and his colleague, Professor Stephen Kaneff, head of the University's Department of Engineering Physics, say their work could lead to the development of a system which could be used to power a small outback town before 1990 and much larger towns before the turn of the century. Any surplus energy would be exported as solar fuels and fertilisers to countries less well-endowed with sunshine.

The basic system, known as the solar-ammonia process, is unique. It involves using the sun's energy to decompose ammonia into nitrogen and hydrogen. This is a heat absorbing chemical reaction and the hydrogen and nitrogen can be transmitted to a central plant where they are resynthesised to ammonia to release energy. This can be used to make steam to power a generator and produce electricity, in the same way as oil or coal does at present.

They envisage harnessing this power from the sun using a large number—about 10,000—paraboloidal mirrors, computer-controlled to follow the sun and housed on tracts of semi-arid land outside the township.

At present the project is at an experimental stage and the university team hopes to get sufficient funds to build a small prototype plant to test its research over the next five years. This would provide the information needed to build a much larger plant which could be operating in a small rural or mining town in 10 years.

Such a plant could be used to power a town of about 7,000 people and would generate about 10 mega-watts of electricity.

The team believes a development of this kind would be a boon to Australia's isolated outback towns, which are already facing huge transport costs for access to their portion of the world's dwindling supply of fossil fuels.

Storage of energy from the sun is one of the

main problems facing the world's solar energy researchers but Dr. Carden and Professor Kaneff believe they have found a solution. They say surplus energy in the form of hydrogen and nitrogen could be stored below the ground, under pressure, in natural or man-made reservoirs, in disused oil or gas wells or very deep water bores.

Another advantage is that the collection mirrors could be made from cheap pressed steel, in much the same way as car bodies are now produced, and then covered by inexpensive aluminum film.

Dr. Carden said there were about 15 different chemical reactions that could be used to harness solar energy in this way but he believed ammonia was the safest and most practical.

Cost calculations by the researchers show that electricity produced by the system could compete with electricity produced in remote areas of Australia from present fuels such as oil and would become more competitive as the prices of conventional fuels rose.

"We believe our system will not only provide a stand-alone source of electric power but also act as the starting point for new solar-powered industrial complexes producing fuels and fertilisers," said Dr. Carden.

The process could be integrated with the ammonia manufacture process. Ammonia, a standard fertiliser, could be sold in conjunction with the electricity production. Profits from the sale of surplus ammonia could be used to reduce electric power costs—an arrangement which could be economically viable before the advent of commercial solar systems devoted entirely to ammonia production.

Ammonia is also the basis of many plastics, resins and adhesives industries, and Dr Carden believes it could even take over from petrol. He says that present day cars could easily be converted to run on ammonia, a non-polluting gas, which evaporates into the atmosphere.

The research team is enthusiastic about the prospects for the project. "We think we have developed one of the best and cheapest ways of collecting solar energy, we cannot really think of a cheaper way. We think we have a good answer to the storage problem," said Professor Kaneff.

"It is adaptable in terms of size and is viable from about one megawatt upwards. It is technologically uncomplex and does not require any additional expertise to what is already available in this country and it is a multi-purpose scheme".

"The output does not have to be electricity, it could be high temperature heat, it could be steam, it could be electricity, it could be hydrogen, it could be ammonia. And it promises to be economical".

However, the solar-ammonia system is a long-term project and if successful, will not make much impression on Australia's energy problems until the 1990's due to the time necessary for development.

By then, it is predicted that Australia's oil supplies will have run out, gas reserves will be dwindling fast and vast coal reserves, which should last well into the 21st century, may be increasingly used to produce fuel for transportation.

Many solar energy researchers believe Australia should concentrate on using known solar energy technology to reduce the use of oil and gas so that remaining supplies can be strung out until alternative fuels are found.

Domestic and industrial solar water heating are seen, at present, as the main ways of achieving this. The Australian Commonwealth Scientific and Industrial Research Organization (CSIRO) produced the first commercial solar water heating unit more than 20 years ago.

Now flat-plate solar collectors are a common sight on homes, schools and hotels in northern Australia and are being more frequently installed by home owners in the southern states. At present, about 30,000 houses throughout Australia have solar water heaters.

Demand is growing so rapidly that production has increased fourfold since 1973 and there is a local industry with an annual turnover of $10,000,000. Export markets for complete systems or components have been found in nine countries including the United States and Japan. One Australian maufacturer has licensed companies in New Zealand, Japan and South Africa to produce water heaters it has developed from CSIRO designs.

Already, solar energy is a competitive way of heating many of Australia's 755,000 suburban home swimming pools and Mr. Roger Morse, the pioneer of CSIRO solar energy research and now director of CSIRO's Solar Studies Unit, says that solar heating can double the swimming season in pools in the southern states. He believes that very soon, local councils will ban the use of oil and gas for pool heating and solar energy will be the obvious alternative.

Solar energy is also moving into the fields of timber drying, space heating and cooling and most importantly into high temperature water heating for industry.

CSIRO is now looking at ways of producing high-grade heat, at temperatures from 60°C to 85°C (140°F to 185°F) for use in industry and an experimental unit has been built at the Division of Mechnical Engineering's Melbourne headquarters. It comprises a large array of collectors mounted on a structure similar to a factory roof. It can heat water to about 95°C (203°F), which is about 40°C (104°F) higher than the normal household unit.

And the CSIRO has recently installed Australia's first commercial solar industrial process heating plant at a soft drink factory near the national capital, Canberra. Forty-nine collectors heat water to 60°C (140°F) and supply most of the heat needed by equipment used to warm cans of soft drink from 1°C (34°F) to about 11°C (52°F) before packaging.

The collectors cover part of the factory's roof and water is pumped through them and stored in a 20,000 litre (4400 gallon) insulated tank and then passed into a can-warming tank and used at temperatures of between 50 degrees and 60 degrees (122 degrees and 140 degrees Fahrenheit).

The collectors, with a total surface area of 77m² (830 square feet) can supply all the heat required by the can warmer in summer months. Over a year the average is expected to be about 80 per cent of the annual requirement. An oil boiler makes up the balance but solar heaters are expected to cut the factory's fuel bill by a considerable amount.

"It is clear that our urgent job is to find a replacement for oil. Where solar energy can do this is in industry, where oil consumption can be reduced and oil made available for more urgent applications," said Mr. Morse.

"There is an urgent need for demonstration installations to be built throughout the country to gain operating experience in a wide variety of industries and spread across the continent to develop professional expertise in the design, construction and operation of these plants".

"The reason we are putting so much emphasis on industry is that industry needs about 40 per cent of all primary energy that the country uses and this compares with about four per cent used for domestic purposes. It's very important for us to save oil," he said.

He believes solar system heating would be of use in mineral processing and especially in food processing, where more than half the annual heat requirement is used at temperatures between 40 degrees C and 80 degrees C (104 degrees F and 176 degrees F).

The CSIRO is now planning to install a number of other demonstration solar industrial heating systems at factories around Australia to show that solar heating in industry is a feasible scheme, and to gain data and further expertise in installing the systems.

The next will be operating at temperatures between 50°C and 70°C (122°F and 138°F), followed by one at between 70°C and 80°C (138°F and 176°F). The next phase will be a steam generator.

To raise collector temperatures, Mr. Morse and his colleagues are investigating new selective surfaces and also a high transmission low-iron glass, imported from Belgium and Japan, which would significantly increase the efficiency of the collectors.

The CSIRO is not the only group in Australia looking at high temperature solar water heating. A team from Sydney University led by Dr. Brian Window and Dr. Geoffrey Harding has developed a solar energy collection system capable of producing temperatures of more than 200°C (392°F).

Its central feature is a bank of evacuated glass tubes, each tube containing, within the vacuum, a smaller tube coated with a fine metallic surface.

The surface is made of a layer of copper and a layer of iron carbide and is applied by a unique 'sputtering' process. This has been developed from plasma physics research in the University's Department of Physics and involves using an electric discharge in a gas to transfer particles of a material from one surface to another.

This surface absorbs 83 percent of solar radiation and remits only three percent of absorbed energy when operating at 200°C (392°F). Temperatures as high as 330°C (626°F) have been reached and new devices still on the research bench have increased absorptivity from 83 to 95 percent.

The researchers believe that the method has vast commercial applications, particularly for industrial uses and the team has been given a $1,080,000 grant over three years by the New South Wales Government to continue their research and build a small pilot plant at the University.

Professor Charles Watson-Munro, head of the University's Energy Research Centre, hopes that one of Australia's large industrial firms will take over the commercial production of the unit and after about three years it will be available on a large scale.

He says the system could be used for heating and cooling buildings, refrigeration, air conditioning and process steam.

'I see solar energy going a long way, particularly in the production of heat for domestic and industrial purposes. But I don't think one wants to jump madly into believing it is the panacea for all energy needs. I would think that by the turn of the century we might have between five and 10 percent of our primary energy in Australia coming from the sun. The rest would come mostly from coal and a certain amount from natural gas,' said Professor Watson-Munro. 'Oil would play a steadily decreasing role from the mid-1980's.'

Solar energy is also being used in a number of other fields.

Recently Telecom Australia—the national telecommunications service—announced that it would use solar cells to power telephones and television services in remote areas of central Australia.

The system, which will go into operation in 1979, will involve 13 repeater stations at intervals of about 45 km (28 miles) along the 560 km (350 miles) route between Alice Springs and Tennant Creek. The cells will be on the roof of each station

A cheaper and more efficient solar cell has been developed by researchers from the Department of Solid State Engineering at the University of New South Wales. It is called the Metal Insulator—Semiconductor (MIS).

The cell has produced some of the highest voltage outputs recorded by solar cells—618 millivolts, compared with other cells produced in the United States and the Soviet Union which have seldom recorded outputs of more than 600mv.

The cells are made from silicon and incorporate a positive-negative junction created by introducing impurities into a thin layer of silicon.

But all this research does not solve, what many scientists believe is the most urgent problem—to find a replacement for petroleum products used for transportation.

Research projects are underway into the production of liquid fuels from vegetations, including trees, crops and crop wastes.

One of the most promising fuels is ethanol (or ordinary alcohol) which can be produced from a variety of plant material, including trees.

There is an increasing interest in Australia's energy resources for the future. In 1973 a committee of the Australian Academy of Science produced a report on solar energy which recommended a greatly increased research effort in the fields of solar heating and production of fuels from plant materials.

The report suggested that Australia should aim at satisfying more than one third of its heat generation needs and about half its liquid fuel needs for transport from solar energy by the year 2000.

In May this year a Senate Standing Committee on national resources which had carried out a year's investigation of solar energy in Australia, recommended that an Australian Energy Commission should be established with overall responsibility for developing and co-ordinating a long-term nation energy policy.

Many scientists in Australia believe that solar energy holds the key to Australia's energy problems and Mr. Morse of the CSIRO says that if more government funds are channelled into research, Australia can develop new industries for solar heat generation and renewable fuels which, together with oil from coal, could make Australia independent of imported fuels.

## THE FUTURE OF SMALL BUSINESS IN AMERICA

Mr. PERCY. Mr. President, I have recently come across an incisive statement prepared by former IBM executive Carter Henderson of the Center for Alternative Futures on the role small enterprises can play in keeping our economy resilient and growing. It was given before the Subcommittee on Antitrust, Consumers, and Employment of the House Committee on Small Business on March 22, 1978. I wish to endorse Mr. Henderson's faith in the entrepreunurial drive of our fellow citizens and the ability of small firms to innovate.

Big is beneficial in many economic circumstances. Few would propose our switching to backyard steelmaking furnaces, or to shutting down existing large electric powerplants. Big business is especially capable of making the investments needed to sustain high productivity in the core of our economy.

Mr. Henderson's statement provides a counterpoint to this, however. He aptly shows that small business makes unique contributions to economic growth. Government cannot create jobs or innovate as more than a stopgap measure, and Government more often serves to frustrate initiative through taxes and regulations. Government must learn when to get out of the way and let business produce.

I am also flattered that Mr. Henderson singled out my proposal for an Office of Small Scale Technology, S. 2732, as an example of a constructive Government initiative for promoting innovation in the energy field.

Mr. President, I ask unanimous consent that Mr. Henderson's statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE FUTURE OF SMALL BUSINESS IN AMERICA

My name is Carter Henderson, and I am Co-Director of the Princeton Center for Alternative Futures, Inc., a deliberately small think tank in Princeton, N.J., devoted to exploring alternative futures for industrial societies.

I have an economics degree from the Wharton School, was an editor of the Wall Street Journal, an executive of IBM, and since the early 1960's have served on the Boards of non-profit organizations such as the Interracial Council for Business Opportunity, the Minority Equity Capital Company, and the Community Investment Fund devoted to strengthening small business in our country.

My testimony this morning is very brief, and in it I will attempt to make just one point which I believe is critical to any examination of the future of small business in America.

The point I want to make is simply this: in the future, small enterprises of every kind from corporations to cooperatives are going to be called upon to play an absolutely vital role in helping the U.S. economy remain strong as it enters an era of slower growth following a quarter century of post-war expansion which the 1978 Report of the Council of Economic Advisors describes as "one of the most successful periods of modern world history."

Economic growth in the United States as measured by the Gross National Product is now being constrained by multiple forces. Among them are the exhaustion of cheap, easy-to-extract resources such as iron ore and petroleum, the need to use capital to pay scores of overdue bills for past indulgences from industrial pollution to industrial diseases (not to mention social abuses such as tobacco smoking and alcoholism currently costing the nation nearly $60 billion a year), the rise of protectionism in world trade, and the failure of macro-economic management techniques including Keynesian growth stimulants.

As the mainstream American economy dominated by the Fortune 1000 experiences less vigorous growth, it will be unable to meet the nation's need for not only more jobs, but for jobs which over the next decade can absorb all the energy and talents of the biggest, best educated, and potentially the most capable labor force in U.S. history.

This is already beginning to occur, and as it does, I think we will increasingly look to small business to pick up the slack by providing opportunities for Americans to earn their daily bread by producing goods and services for what economists call their personal "use" value, as well as for their more traditional "exchange" value in the marketplace.

I want to examine the future of small business in this light. But before I do, I think it might be helpful to disaggregate small business into what I believe are its major component parts embracing all manner of small-scale enterprises from corporations, partnerships and individual proprietorships, to cooperatives, intentional communities and the American home which is our country's single most productive entity.

Most of this country's more than nine million small businesses—a majority of them in the service sector—are as much a part of America's profit-seeking, growth-worshipping mainstream economy as the big industrial, retailing, transportation, banking, life insurance, financial and utility companies which dominate it. A significant percentage of these small enterprises serve big business directly, and an even greater percentage are supported by the wages and salaries it generates.

Perhaps the fastest-growing sector of small enterprise—albeit from an admittedly minute base—is what the Princeton Center calls the "counter-economy" which consists of entrepreneurs who largely reject the "we'll produce anything as long as there's a buck in it" philosophy of the mainstream economy.

These entrepreneurs have embraced New Age values favoring production that is beneficial for people and the planet as America moves into what Professor Daniel Bell of Harvard calls the "post-industrial" era.

New Age entrepreneurs are into organically-grown, chemically-free foods, pollution-free wind and solar-power generating equipment which enables consumers to unhook from the giant energy industry, handcrafted jewelry made in upstate New York or quilts made in Appalachia, the rescue and rehabilitation of old housing stock by groups such as the Renascence Project in Kansas City, Missouri, the publication of self-help books such as "How to Build A Low-Cost House of Stone," or "A Manual of Simple Burial" and so on.

The other two components of small-scale enterprise in America are cooperatives and households which produce goods primarily for their "use" value as opposed to their "exchange" value.

Some 50 million Americans belong to non-profit cooperatives which supply them with credit, insurance, food, health care and other necessities.

An even larger number of people benefit from work done in America's approximately 75 million households whose productive equipment is worth more than $1 trillion, and whose output—if monotized—would equal all the wages paid out by every corporation in the country.

A study released just a few weeks ago by the Worldwatch Institute here in Washington, for example, reported that 32 million American households—about 43% of all U.S. families—raised more than $14 billion worth of fruits and vegetables last year on an area equivalent to approximately seven million acres in backyards, city lots and apartment balconies.

It is interesting to note that as American farmers are taking land out of production in order to raise food prices, American families are putting acreage into production in order to lower them.

Ecological theory holds that the more diversity there is in any biological system, the greater are its chances for survival. I believe this theory also applies to economic systems, and I think we are fortunate to have such a diversity of productive enterprises in the U.S. economy. This is particularly true today with that economy under siege from forces materializing in the form of everything from a plummeting dollar to persistent inflation.

As these forces continue to weaken the economy, I think we will come to appreciate the inherent strengths of small-scale enterprise more than at any time since the Great Depression.

Let me mention a few of these strengths

which could prove to be of immense significance as the U.S. moves into a more uncertain economic future.

First, there is the freedom of entry into small enterprise. If General Motors isn't hiring, if Peabody Coal is on strike, if the Penn Central or W. T. Grant goes into bankruptcy, it is still possible to earn part or all of one's living selling hats on the sidewalks of Washington, D.C., starting up a two-man logging operation in Oregon, working in a food cooperative in Richmond, restoring old houses in Philadelphia's inner city, or working for low wages but high psychic income as a citizen activist battling for a cleaner environment, safe energy, gay rights, or getting rid of violence on TV.

Then there is access to capital, that magical ingredient capable of creating goods and jobs at the same time. While big business can raise capital through retained earnings, bank loans, or financial markets, small entrepreneurs can tap their own unique sources of investment funds such as personal savings, loans from family and friends, or taking a second mortgage on the inflated value of their homes—a mushrooming new source of entrepreneurial financing worth billions.

Perhaps the largest single source of investment capital in America today is what might be called "sweat capital", the willingness of small entrepreneurs to work all the hours that God made thereby saving massive amounts of capital that big business must generate in order to pay its employees' wages.

It is difficult for large organizations to change direction quickly thereby delaying America's progress toward a more salubrious future. We can see this today, for instance, in the glacial slowness with which our colleges and universities are acclimating to the new educational needs of a declining student population, or the automobile industry to the demand for more energy-efficient transportation.

Small entrepreneurs tend to be more innovative as illustrated by their creation of the motorcar, telephone, Xerography, frozen foods and discount retailing, etc., which have done so much to shape our present. Now America's small entrepreneurs are helping to lead us into a less cornucopian, but hopefully more economically-sustainable future with advances in decentralized power generation, intensive agriculture, holistic health, worker self-management, off-campus education, computer-based information networks, resource recycling and so on.

As I said at the outset, I believe small enterprise has a key role to play not only in shaping our country's slower-growing, less materialistic future, but in helping those millions of Americans who can't find jobs in big enterprises to pursue meaningful and productive lives in small ones.

Which raises the question of what can we do to make better use of America's small enterprise economy today, and to strengthen it for the more demanding role it may have to assume tomorrow?

The single best thing we could do to better utilize America's vibrant small enterprise economy today, it seems to me, is to make more people aware that it exists—particularly in our high schools and colleges where students are preparing themselves to find work.

They could be instructed in the fantastic diversity of employment opportunities available to them in small enterprises most of which are rarely posted on school bulletin boards, or listed in the Help Wanted sections of their daily newspapers.

If the schools wanted a text on this subject they couldn't do better than Kathy Matthews' book "On Your Own: 99 Alternatives To A 9-to-5-Job" which describes a delightful potpourri of small enterprise jobs including auctioneer, cartoonist, driving instructor, small town jailer, piano tuner, square dance caller, window washer, worm raiser, and circus clown.

It would be even better, of course, if our high schools and colleges would teach small enterprise economics. If we can offer young people courses in Typing, Computer Key Punching, or Macroeconomic Management, we can certainly educate them to the joys and rewards of gardening, home health care, or even operating a small enterprise of their own since last year over 10% of the new employment growth in the non-agricultural sector came from individuals going into business for themselves.

Small business is considerably more labor intensive than big business which prides itself on constantly raising its so-called "productivity" by substituting scarce and costly capital and energy for abundant and economical labor. The IRS encourages this practice through the investment tax credit, although some of us are beginning to wonder why this tax incentive shouldn't go to companies that put people to work directly.

I think this Subcommittee and its Chairman are to be congratulated, in this regard, for their splendid analysis of the growth in the U.S. civilian labor force from 1969 to 1976 which shows that of 9.6 million new jobs created, the Fortune 1000 accounted for less than 1 percent.

I noticed that Senator Kennedy referred to this study in his testimony before the Joint Economic Committee last Thursday noting that the Fortune 1000 companies that created less than 1 percent of those new jobs received 80 percent of the investment tax credits, while consuming well over half of the industrial energy used throughout the economy.

When it comes to strengthening the small enterprise economy there are a number of things we might consider although it's worth recognizing, I think, that small enterprise is probably less dependent on government assistance than big business, and in the aggregate does a pretty good job of looking after itself.

I think it would be useful, for example, if small entrepreneurs had easier access to outside management advice. Even the best run big businesses use management consultants, and the kind of insights they offer could certainly benefit small companies as well.

Among the lessons I've learned during 15 years of helping minority small business people are (1) that good management is far more important to the success of any enterprise than capital, and (2) that the best consultant to advise a small entrepreneur is one who's already been successful in that business.

Small businessmen and women could also be helped if they were awarded more government contracts in the $25,000 range which are too puny to interest General Electric or IBM, but which could keep a small business humming for weeks. Legislation to broaden this effort, such as Senator Charles Percy's bill introduced last week to create an Office of Small-Scale Technology within the Department of Energy certainly warrants careful consideration in my view.

Small business would also be strengthened by ending special privileges for big business which result in unfair competition such as energy rates which decline as consumption rises.

Finally, it is worth recognizing that small entrepreneurs—if over-stressed by the demands of big government—will frequently go underground in order to survive thereby breaking the law while preserving production and jobs.

This is confirmed, I think, by a recent study done by Prof. Peter Gutmann, Chairman of the Department of Economics and Finance at Baruch College in New York that describes what Prof. Gutmann calls America's growing "subterranean economy". One in which economic transactions among individuals and smaller businesses are handled in cash thereby avoiding government recording, regulation and taxation.

Prof. Gutmann believes the subterranean economy generated an illegal GNP of $176 billion in 1976, and predicts that rising tax rates and increasingly inevitable government regulation efforts to maintain social homeostasis, if not health, will continue to drive more and more of the U.S. economy underground.

Nearly 150 years ago, Alexis de Tocqueville marveled at the self-reliance of the Americans he met as he traveled around this country as it existed in the early 1800's. Today that self-reliance is alive and well in America's small enterprise economy, and I am confident it will continue to be so for as far ahead as any of us can see.

## LABOR REFORM

Mr. THURMOND. Mr. President, I have before me an excellent editorial on the labor reform bill, which is scheduled to come before the Senate during this session.

This analysis of the so-called reform bill is one which each Senator should study with care. It contains timely warnings which point to the dangers of this legislation.

The editorial appeared in the January 25, 1978, edition of the Ledger, Gaffney, S.C.

Mr. President, in order to share this information with my colleagues, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

LABOR REFORM?

The so-called Labor Reform Bill, now being considered in Congress, seems to be, in reality, a push by Big Labor to gain new members.

Union membership has been decreasing steadily over the past several years, so it's not surprising that union leaders would want to do something about this. But the Labor Reform Bill (S. 1883-H.R. 8410) tries to solve labor's membership problems by mandating several new policies which are blatantly unfair to employers.

For instance, the Senate version of the bill would allow unions to call elections within 15 days if a majority of employees seek the election. This hardly seems like enough time for an employer to do an adequate job of presenting his side of the story. The bill would also allow union organizers to talk to employees about the union on company property during company time, if the employer has done so. Unions are already allowed to contact employees at their homes, but employers are forbidden to do this. This prohibition would remain.

The bill also has disturbing punitive provisions. The most disturbing is one which states that employers who willfully violate a National Labor Relations Board order would be prohibited from obtaining federal contracts for up to three years. That is an extremely stiff penalty. It would put many firms out of business, which doesn't even make sense from the union's point of view.

Another provision says that if NLRB finds that an employer has refused to bargain in good faith for a particular period, it can

impose mandatory wage rates on the employer for that period. The wage rates will be based on the average wages paid to bargaining units of 5,000 or more employees—in other words, large firms. The National Federation of Independent Business (NFIB), with a membership of more than 525,000 small business around the country, has noted that this provision would work a real hardship on small businesses, since their wages are normally much lower than big business wages. It would also directly involve the federal government in setting wage rates in the private sector, something that has been carefully avoided in the 42-year history of labor law.

A third provision requires the NLRB to seek an immediate court-ordered reinstatement of any employee believed to be illegally discharged during a union organizing campaign, until the NLRB has time to make a final decision on the merits of the case. This means an employer may be forced to temporarily rehire employees who have been fired for good cause. The senate version of the bill adds that illegally fired employees must be reinstated with double back pay.

If the Labor Reform Bill passes, it could easily have the effect of making employers throw up their hands and allow unionization of their firms, whether their employees want it or not, just to avoid these unreasonable penalties. This, of course, would increase union membership. And this is what Big Labor wants.

## REMARKS OF GENERAL TORRIJOS ON PASSAGE OF PANAMA CANAL TREATY

Mr. THURMOND. Mr. President, the arrogance and untrustworthiness of Gen. Omar Torrijos, the dictator in Panama, was once again demonstrated last night when he defied the Senate and the United States in his Panama City speech.

In effect, he told the United States he would not accept the DeConcini amendment and, if it were ever used by the United States, he would destroy the canal.

Mr. President, these remarks are more than sufficient justification for President Carter to refuse to exchange the resolutions of ratification as the Senate amendment would be meaningless in the face of such ingratitude and defiance.

As I stated yesterday in my closing remarks before the treaty vote, the acceptance by the Senate of the Panama Canal Treaty means trouble ahead for this Nation. Not only will there be trouble in Panama but also serious problems in connection with our economic, financial, and defense programs.

Mr. President, I ask unanimous consent that the article appearing on the front page of the Washington Post, dated April 19, 1978, entitled "Torrijos Would Have 'Destroyed' Canal" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TORRIJOS WOULD HAVE "DESTROYED" CANAL

(By Marlise Simons)

PANAMA CITY.—Panamanian ruler Gen. Omar Torrijos said last night that if the U.S. Senate had not ratified the Panama Canal treaties, "We would have started another struggle for liberation" and possibly closed the canal by force.

As jubilant Panamanians celebrated and sirens and firecrackers went off in the streets of the capital after the vote in Washington, Torrijos appeared on television to declare the treaties "the greatest, the most-awaited and the most discussed triumph" of this country.

He said he accepted the final language approved by the U.S. Senate, but he devoted much of his 20-minute speech to a bitter attack on the "crude, arrogant, interventionist language" that some U.S. senators "wanted to impose on us."

The Panamanian strongman said, "Today the canal was placed within two votes of being destroyed." Had the Senate vote gone the other way, he said, "Tomorrow we would have started our struggle for liberation and possibly tomorrow the canal would not be operating any more."

Panama's armed forces, Torrijos said, "had decided that if the treaty had been rejected or amended in an unacceptable way, then we would not negotiate anymore."

The Panamanian strongman, who had personally campaigned hard for approval of the treaties, both with his countrymen and with U.S. congressmen, warned that Panama would also destroy the canal if the United States tried to intervene under the DeConcini amendment.

Torrijos said that the Panamanian national guard, the country's chief military force, "has the capability of destroying it and we don't intend to lose that capability."

While the United States could intervene, he said, U.S. troops in sufficient numbers are "four to six hours away" and the canal could be "damaged heavily" in that period.

Torrijos, like many other Panamanians, listened to a live broadcast of the U.S. Senate roll-call vote. To stir enthusiasm for the event, the government told employees to stay at work until time for the voting, and then to gather at the Fifth of May Square to celebrate.

The meeting, attended by hundreds of people, coincided with a demonstration by students and lawyers who charged that Panama had been forced to make too many concessions to the United States.

Anti-treaty anger here in recent weeks had also turned into antigovernment demonstrations and Torrijos last night made a strong appeal for national unity.

He made two large political gestures: he announced that all political exiles—more than 100 government opponents from the left, right and center—could return unconditionally and he opened the door in rather vague language for the eventual restoration of political parties, which were abolished after the 1968 military coup that put him in power.

But in his speech and news conference, Torrijos returned several times to the "unacceptable humiliation" that he said his government and Panama had to suffer during the Senate debate.

"I think there has never been a man in Panama so maligned as I, and never been a country so disdained as this one by those conservative voices," Torrijos said.

"But we can live with this treaty . . . it ends the colonial remains in Panama," he said.

Referring to the American Canal Zone police force, which have long been an irritant to Panamanians, he said, "That daring, overbearing example of colonialism will now end."

Yesterday morning some 500 nationalist and leftist students demonstrated angrily in front of Panama's once snow white Foreign Ministry building, now covered with anti-American and anti-treaty scrawlings. They stayed away from the American Embassy, whose drab beige facade had been spattered Monday as demonstrators hurled bottles of paint and left it covered with huge blotches of red, white and blue.

The embassy yesterday took strict security precautions. The staff worked inside with the curtains drawn, the entrance gates were locked and a metal detector was used at its front door.

In the Canal Zone, U. S. troops were put on alert but there was none of the agitation usually seen among the American Canal Zone residents when Panamanians demonstrate. Treaty opponents in the zone say they feel that they have lost their long battle, have been shortchanged by their government and press and are now tired and exasperated.

"We don't care anymore what happens," said a canal company employee who was born in the zone. "Why bother, since no one else in the States does."

Before the treaty goes into effect, the U. S. Congress must pass implementing legislation and both governments must exchange instruments of ratification. Then Panama will get sovereignity over the 533-square-mile zone. Sovereign rights "in perpetuity" were granted to the United States in 1903, for a $10 million flat payment although Panama began hotly disputing them a year later.

To a Panamanian, the new sovereignty means that if he is accused of a crime in the zone, he will no longer be tried in an American court or sent to an American jail in the zone. U. S. police, courts and post offices will be phased out over a 30-month period after the treaty takes effect.

For the American residents of the Canal Zone, called zonians, it means that the world's most complete company town will be dismantling in the 30 months after the treaty takes effect. Americans in the zone will live under Panamanian law and will no longer be able to import duty free articles from the United States or go to a movie house, bowling alley, restaurant or commissary subsidized by the U.S. government.

The ports, docks and the famous Bridge of the America's and Transisthmian Panama Railroad will become Panamanian property.

But despite the despondency among the resident Americans, the zone, which looks like a vast national park, will not look very different for years to come.

A new agency will replace the U.S. government-owned Panama Canal Co. and will run the canal with a mixed U.S.-Panamanian board. It will retain more than one-third of the zone area "for canal operations." Almost half of the zone will be kept by the U.S. military for its bases, which include housing, schools, shooting ranges, and defense sites.

The amount of real estate that will be returned to Panama before the year 2000—when the canal and its operations become fully Panamanian—is actually very little.

The most coveted portion, an unused strip, lies at the canal's Pacific entrance and with its lush vegetation and beaches would make prime residential real estate. Another area at the Atlantic entrance will be used for much needed expansion of the Colon free zone, after Hong Kong the world's largest free zone depot.

## THE PANAMA CANAL TREATY

Mr. DOLE. Mr. President, as one who cast his vote against the Panama Canal Treaty yesterday, the Senator from Kansas acted in accord with his own best judgment of the national interest. That was my duty as a U.S. Senator.

Now the crucial test has been completed in the Senate, and the treaties have been forwarded to the President for final ratification. We accept the fact that the constitutional process has been car-

ried out. We may not agree with the policy, but now that the treaty decision has been made, we accept it.

This does not mean that we should not continue to offer constructive criticism where needed. This does not mean that we in the Senate should not continue to provide policy guidance in the future with respect to Panama. But we acknowledge that the Senate's "consent" function in the constitutional treaty-making process has been carried out.

TREATY OPPONENTS MADE THEIR CASE

The Senator from Kansas, as much as anyone, can vouch for the frustrations that have been encountered in Senate efforts to improve upon the canal treaties. Many of us disagreed with the specific provisions of the treaties negotiated by the Carter administration, although we did not resist the idea of a new canal arrangement, per se. We made our case for treaty amendments as best we could. We offered them in good faith, but time and time again they were rejected out of hand. It was argued that the treaties could not withstand even "one word" of textual change by the Senate. And yet, in order to secure the required 67 votes, it eventually became necessary for the Senate leadership to accept treaty reservations and understandings. That is part of the support-building process.

FUTURE RELATIONS

It is certainly my hope that U.S. relations with Panama, and with the rest of Latin America, will grow stronger in the days ahead. In its efforts to advance the treaties, the administration repeatedly stated that ratification would open a "new era of friendship" with all of Central and South America. We hope that prediction now holds true.

Unfortunately, I do not believe some of the comments made yesterday by Panamanian leaders following the Senate vote were oriented in that direction. Instead, they illustrated some of the very real concerns of Members of this body about the intentions of the Panamanian Government—concerns that were repeatedly minimized by protreaty Senators and the Senate leadership. Those who criticized treaty opponents for "jingoism" should now prevail upon the Panamanian leadership to refrain from jingoistic comments that can only strain future relations.

I can say with confidence that the objections and the reservations that some of us raised were never directed against the Panamanian people themselves. We were concerned about treaty guarantees, and also about the integrity of Panama's leadership and its pledges to honor treaty commitments. But we never challenged the goal of maintaining our traditional good relations with the Panamanian people.

The Senator from Kansas stated repeatedly that he was less concerned about who had "sovereignty" over the Canal Zone, than about protecting the future operation and maintenance of the Panama Canal itself. The canal is vital to American defense, it is vital to American agriculture, and it is vital to our national economy as a whole. Its continued efficient operation is vital to Latin America as well, and it is therefore essential that the treaty provisions be scrupulously honored during the next 22 years, and afterwards.

SPIRIT OF COOPERATION

For my part, I look to the future in a spirit of cooperation. The treatymaking process prescribed by our Founding Fathers has been followed, and I abide by the outcome. We trust that the treaty provisions will be honored fully by both governments throughout the years to come, and that genuine friendship between the American people and the Panamanian people will continue, as firmly as ever.

## HOLOCAUST—NEED FOR RATIFICATION OF THE GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, as the Presiding Officer well knows, the Genocide Treaty has been pending in the U.S. Senate now for 30 years.

In the last 3 nights on television the American people have been told the story of the genocide of Jews in Germany in World War II. It was a tragic and terrible story, and although there have been critics of the artistic merit of this production, I think no one can watch it without being tremendously moved and without recognizing that this does bear a magnificent message, one we should be very sensitive and conscious about.

Mr. President, whenever millions of Americans, and all indications are literally tens of millions of Americans are watching this remarkable program every night, whenever that happens I find that the people are moved. They want to do something about it. What they can do about it is what the U.S. Senate should do about it.

We permitted that Genocide Treaty to stall year after year after year, and it is time we acted.

Mr. President, I shall read briefly from one of the remarkable statements made about the Holocaust, this one by Israel Shenker, in the New York Times just yesterday.

Mr. Shenker wrote:

Condemned by the Nazi as an inferior race—branded as Bolsheviks and plutocrats, conspirators and enemies, vermin and parasites, devils to be annihilated to allow salvation of the German soul—six million Jews died.

This destruction, this sacrifice, this holocaust, has seared itself into the collective memory of oppressed and oppressors, those who try to forget and those determined to remember. Embers of this past flare anew as peace in the Middle East seems newly distant, as American Nazi seek the right to offend survivors by marching through a Jewish neighborhood in Skokie, Ill., and as a fictional television series, "Holocaust," moves across America's screens.

Incidentally, I think if that program were called "Genocide," it would be more appropriate and maybe more effective as far as this treaty is concerned.

The article goes on later to say:

In 1941, Heinrich Himmler, who zealously ruled a concentration camp empire of shadows and skeletons, relayed his Fuhrer's orders for "the final solution"—organized annhilation of the Jews. He called on killers at death centers to be "superhuman-inhuman."

"NO RIGHT TO LIVE"

"The missionaries of Christianity had said in effect, 'You have no right to live among us as Jews,' " noted Raul Hilberg, the historian. "The secular rulers who followed had proclaimed, 'You have no right to live among us.' The German Nazis at last decreed, 'You have no right to live.' "

Of course, this is what genocide is. This is what we are trying to proscribe in the Genocide Treaty.

Mr. President, I ask unanimous consent that this most moving and eloquent article from the New York Times be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOLOCAUST: SYSTEMATIC SLAUGHTER OF SIX MILLION OF EUROPE'S JEWS

(By Israel Shenker)

Condemned by the Nazis as an inferior race—branded as Bolsheviks and plutocrats, conspirators and enemies, vermin and parasites, devils to be annihilated to allow salvation of the German soul—six million Jews died.

This destruction, this sacrifice, this holocaust, has seared itself into the collective memory of oppressed and oppressors, those who try to forget and those determined to remember. Embers of this past flare anew as peace in the Middle East seems newly distant, as American Nazis seek the right to offend survivors by marching through a Jewish neighborhood in Skokie, Ill., and as a fictional television series, "Holocaust," moves across America's screens.

Anti-Semitism had deep roots in European soil. Hitler and his followers drew on medieval and earlier conceptions of Jews to elaborate racist theories devoid of science and political theories bereft of humanity, making Jews scapegoats for German defeats, projecting their own fear and guilt onto people who over the centuries had shown themselves resistant to conversion and assimilation.

GERMANS TURNED TO BARBARISM

Eastern European Jews had traditionally looked to Berlin for civilization and law, but Germany turned instead to barbarism and found many eager to help. Gradually once they took office, the Nazis passed racial laws, removed Jews from the civil service, from universities and professions, encouraged riots to destroy property owned by Jews and fined the owners for the destruction. The Nazis crowded Jews into ghettos and forced them to wear Stars of David so that they would be easier to identify.

To insure the isolation of those labeled criminals, the Nazis established scores of concentration camps; prisoners were packed into boxcars and deported to a regime of slave labor, brutality, starvation, filth and disease.

Many Germans in the elaborate bureaucracy carried out their duties antiseptically, behind desks, expediting papers that expedited Jews, eager to believe in their own dutiful innocence. Even those who kicked prisoners to death, or used them for medical experiments, or threw them to their death from windows, explained that they were merely following orders.

In 1941, Heinrich Himmler, who zealously ruled a concentration camp empire of shadows and sktletons, relayed his Fuhrer's orders for "the final solution"—organized annihilation of the Jews. He called on killers at death centers to be "superhuman-inhuman."

'NO RIGHT TO LIVE'

"The missionaries of Christianity had said in effect, 'You have no right to live among us as Jews.' " noted Raul Hilberg, the historian. "The secular rulers who followed had

proclaimed, 'You have no right to live among us.' The German Nazis at last decreed, 'You have no right to live.' "

Strict secrecy governed the death camps, with severe isolation from the outside world, garden landscaping as camouflage, and euphemisms as further concealment: Killing was "special treatment," gas chambers were "bath houses."

When vans using carbon monoxide proved inadequate to accommodate the influx of the doomed, the Nazis introduced assembly-line methods, with gas chambers for killing and ovens for disposal of the corpses. Because carbon monoxide was too expensive for mass murder, the Germans switched to hydrogen cyanide, which was normally used to kill insects and rodents.

The five crematories at Auschwitz could burn about 15,000 bodies a day. One woman recalled her arrival there: "I saw this big fire and I knew my mother's body was burning, and I was grateful that she would not have to see me burning in front of her or know that I saw her burning in front of me."

WITNESSES DOCUMENTED PERSECUTIONS

In the postwar trial of Nazi leaders, at Nuremberg, witnesses documented the vast enterprise of persecution and murder, each day's testimony summoning the past to haunt the future.

"When the extermination of the Jews in the gas chambers was at its height," S. Szmaglewska, a Polish guard from Auschwitz testified, "orders were issued that children were to be thrown straight into the crematory furnaces, or into a pit near the crematory without being gassed first."

"How am I to understand this?" the Russian prosecutor asked. "Did they throw them into the fire alive, or did they kill them first?"

Szmaglewska: "They threw them in alive. Their screams could be heard at the camp."

Prosecutor: "Why did they do this?"

Szmaglewska: "It's very difficult to say. We don't know whether they wanted to economize on gas, or if it was because there was not enough room in the gas chambers."

RECORDS OF GAS DELIVERIES

The Germans kept meticulous records of gas deliveries to Auschwitz, and Prof. Irving Greenberg of the City University of New York calculated that it cost less than half of one cent per victim. "In the summer of 1944," he concluded, "a Jewish child's life was not worth the two-fifths of a cent it would have cost to put it to death rather than burn it alive."

Since the war ended in 1945, many have wondered why the Jews did not try to escape—until it was too late. But it was harrowing to believe the unbelievable, to think the unthinkable; bound to their homes by ties of family, occupation and experience, the Jews suffered an inertia sustained by desperate rationalizations, by the belief that something would happen to save them. Many clung to illusions of human decency. Those who suspected the truth sought relief in appeals, bribery, attempts to placate and even to collaborate in order to forestall the worst. Some did manage to escape.

"Europe's Jews went to the slaughter, but not like sheep," said Prof. Yehuda Bauer of Hebrew University. "They went because they often had no alternative."

"I never thought a woman who had her child taken out of her arms had gone like a sheep to the slaughter," said Abba Kovner, who led the Vilna resistance and now lives in Israel. "The shame is not that of the victims, but of the murderers."

SOME HAVE BEEN PUNISHED

While the Jews were being slaughtered, the outside world reacted with despair, skepticism, complicity or indifference. The years have brought punishment to some of the guilty, remorse for many and endless inquiry.

Some Christian scholars have blamed Nazi anti-Semitism on Church fathers, while others have distinguished between the malevolence of individual theologians and authentic Christian teaching. There are survivors who kept their faith in God, and others who lost it.

Robert H. Jackson, the American prosecutor at Nuremberg, spoke of the "mad and melancholy record, which will live as the historical text of the 20th century," and for Jews the trauma is never remote. From the weeping, from the ashes, from the abyss, Auschwitz and the final solution speak of the hazards of Jewish existence.

Mr. PROXMIRE. Mr. President, once again I call upon the Senate to at long last take up and ratify the Genocide Convention.

## APRIL GOLDEN FLEECE GOES TO NATIONAL INSTITUTE OF MENTAL HEALTH

Mr. PROXMIRE. Mr. President, I am awarding the "Golden Fleece of the Month" for April to the National Institute for Mental Health (NIMH) for funding a study of behavior and social relationships in a Peruvian brothel. This study was a part of a $97,000 grant which paid for an 18-month field trip to Peru by a researcher and his associate. Ironically, the researcher had just written a book on how to win at academic and grantmanship games.

The $97,000 grant went to Dr. Pierre L. van den Berghe and his associate Dr. George P. Primov to enable them to study ethnic and class relationships among Indians and non-Indians in several communities in the Peruvian Andes.

STUDY OF PERUVIAN BROTHEL

In his article, "The Peruvian Brothel, a Sexual Dispensary and Social Arena," Dr. Primov explains how his 1-year long investigation of the brothel was conducted:

During this time, 21 prostitutes were formally interviewed and many more were interviewed informally. In addition, the staff of the brothel was interviewed, especially the madam. Prostitutes were also observed outside the brothel. By visiting the brothel at various times, it was possible to obtain a good idea of its everyday functioning. (George Primov and Carolynne Kieffer, "The Peruvian Brothel as Sexual Dispensary and Social Arena," *Archives of Sexual Behavior*, Vol. 6, No. 3, 1977, p. 246).*

The article goes on to describe in great detail the brothel's "everyday functioning." Perhaps a better title for the study might be "Everything you wanted to know about a brothel in a large provincial town in Peru but were afraid to ask—if you cared at all."

These Federal tax supported researchers were occupied by things other than brothels during their 18-month stay in Peru. Several articles and two books were produced on various aspects of the subject of ethnic and class relations in Peru. Among them were: "Ethnicity and Social Structure in the Inca Empire"; "The Use of Ethnic Terms in the Peruvian Social Science Literature"; "Aymara-Quechua Relations in Puno"; and "Inequality in the Peruvian Andes, Class and Ethnicity in Cuzco."

OBJECT TO FEDERAL FUNDING OF RESEARCH

I do not object if academic researchers, especially of Dr. van den Berghe's or Dr. Primov's generally high reputation, want to study Peruvian brothels or even ancient Inca Vestal nonvirgins. What I object to is the Federal Government paying for it. With Federal research budgets so tight and the needs for mental health research here at home so great, it is unbelievable that NIMH would give this project such priority and fund the field trip to Peru.

RESEARCHER EXPLAINS HOW TO GET FEDERAL GRANTS

It is very interesting to note that Dr. van den Berghe wrote a somewhat tongue-in-cheek book entitled "Academic Gamesmanship," just before he received his grant from NIMH. In his chapter on grants, Dr. van den Berghe notes that "not all disciplines are in an equally good position to milk the government and foundation" (p. 104).

He explains (on page 108) that "in drafting a research proposal, the primary concern should be to write it in such a way as to appear worthwhile to the evaluators rather than to give a candid description of what you intend or hope to accomplish; hence the need for dishonesty." And on page 107 he says:

In addition to paying part of your basic salary, grants will typically also give you an extra two months of summer salary. You can finance numerous jaunts to domestic and international conferences out of your research money without having to beg your university for it or having to justify your trip by reading a paper. And, if your research calls for going overseas, you can lead the life of an oriental potentate with an American income in a low-cost-of-living country. Should you remain an expatriate for eighteen months or more, you even get a $20,000-a-year tax exemption for waiving the star-spangled banner from the halls of Montezuma to the shores of Tripoli.

At another point (p. 102) he notes that:

Public and private milch cows vie with each other to keep their coteries of academic retainers and to lubricate the scholarly printing press.

At still another point (p. 110) he says,

A good budget must show two qualities: it must be both detailed and extravagant.

Dr. van den Berghe practiced what he preached. The scientific panel which reviewed his original application stated:

The budget seems highly inflated and should be subject to considerable negotiated reduction; in particular, requests for foreign travel for dependents, professional meetings, and consultant cost should be substantially reduced.

To the credit of NIMH, the suggestion of the review panel was followed, and the final budget was somewhat less than Dr. van den Berghe first requested.

*The author acknowledges that "This article is based on fieldwork in Peru undertaken while the first author (Primov) was a field research assistant to Pierre van den Berghe under a research project supported by National Institute of Mental Health Grant M1119712."

NIMH MISMANAGEMENT

What is not to the credit of NIMH is their record of mismanagement and lack of control of taxpayer funds once the grant was issued. It is sad and ironic to report that NIMH officials knew nothing of the brothel research until a member of my staff questioned them about it. NIMH officials never obtained the required final report and copies of all the published works which flowed from the grant from either Dr. van den Berghe or Dr. Primov.

Only after my staff insisted that NIMH obtain a final report did NIMH officials contact Dr. van der Berghe and ask him for the report which was more than 3 years overdue. While Dr. van den Berghe did finally send a very short final report to NIMH last month, he refused to supply NIMH with a copy of the books produced with Federal tax dollars. In an imperious moment he told an official of NIMH that all his books were available for purchase.

For so mismanaging this highly questionable research trip to Peruvian brothels and beyond, I award this month's "Golden Fleece" award to the National Institute for Mental Health.

## FINANCIAL HOLDINGS AND INCOME TAX RETURN OF SENATOR WILLIAM PROXMIRE

Mr. PROXMIRE. Mr. President, in 1963, 1965, 1967, 1970, 1972, 1973, 1974, 1975, 1976, and 1977, I submitted for the RECORD a history of my financial holdings from the time I was first elected to the Senate in August of 1957 until April 1977. In order to bring the full record up to date, I submit herewith the history of my financial holdings since April of 1977.

The bulk of the securities I hold are now in State and municipal bonds totaling $50,000.

My other assets include ownership of my home and furnishings in Washington, D.C., on which I owe a mortgage to the Perpetual Building Association of Washington, D.C.; ownership of a 1972 automobile; ownership of one checking account in a Washington bank, one checking account in a Madison, Wis., bank and one savings account in a Madison bank. The combined balance, as of this date, in these three accounts is $12,153.93.

I also hold a land contract on a house in Madison in the amount of $79,797.75 and a note on my former residence in Washington at 3220 Ordway Street in the amount of $8,733.84.

Trust custody of stock in my children's names has been turned over to them directly as they are over 21.

I estimate my net worth to be about $345,000.

To the best of my knowledge, this is an accurate record of my financial holdings and obligations.

In addition, I herewith submit a balance sheet showing my net worth and how it was arrived at, a copy of my 1977 Federal tax return and a list of all honorariums received during 1977—$24,500.

I paid $29,668 to the Federal Government in taxes on my 1977 income. In addition, I paid $8,077 to the State of Wisconsin on 1977 income.

I ask unanimous consent that the balance sheet, copy of 1977 Federal tax return, and list of all honorariums received in 1977 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FINANCIAL STATEMENT OF SENATOR WILLIAM PROXMIRE

(Net worth as of April 1978)

| | |
|---|---|
| Municipal and State bonds | $50,000.00 |
| 1972 Vega: (blue book trade-in value) | 300.00 |
| Two checking and one savings account: | |
| Washington account-checking | 828.40 |
| Madison account-savings | 9,472.64 |
| Madison account-checking | 1,852.89 |
| 4613 Buckeye Road, Madison, land contract | 79,797.75 |
| Note on 3220 Ordway St., NW, D.C. | 8,733.84 |
| 3097 Ordway Street, N.W., D.C.: | |
| assessed value | 190,000.00 |
| mortgage value | (62,578.33) |
| furnishings | 15,000.00 |
| Cash deposit in civil service retirement | 52,022.67 |
| | 345,429.86 |

*Honoraria received in 1977*

| | |
|---|---|
| Mainliner Magazine—United Airlines | $1,000 |
| Saturday Evening Post | 1,000 |
| U.S. Naval Academy, Annapolis, Md. | 1,000 |
| New York Personnel Management Assn. | 1,000 |
| Brookings Institution | 150 |
| New York Cardiac Center | 1,500 |
| Boston College | 1,000 |
| Point Loma College | 1,000 |
| San Diego City Club | 500 |
| Cortland College | 1,000 |
| Colgate University | 1,000 |
| Johns Hopkins University | 500 |
| Georgia College | 1,000 |
| New Jersey SANE | 1,000 |
| Independent Voters of Illinois | 750 |
| Arkansas State University | 1,000 |
| University of Arkansas | 1,500 |
| University of Alabama | 1,000 |
| Oak Park Community Lecture | 1,000 |
| Old Dominion University | 1,000 |
| Washington University | 1,000 |
| Mary Institute | 100 |
| Volunteer State Community College | 1,000 |
| Appalachia State College | 1,000 |
| Notre Dame | 1,000 |
| American Enterprise Institute | 500 |
| Readers Digest | 1,000 |
| Total | 24,500 |

1977 U.S. INDIVIDUAL INCOME TAX RETURN OF WILLIAM AND ELLEN H. PROXMIRE

Your social security number, [redacted].
Spouse's social security no., [redacted].
Occupation:
Yours, U.S. Senator.
Spouse's, Corp. Executive.

Presidential Election Campaign Fund: Do you want $1 to go to this fund? Yes. If joint return, does your spouse want $1 to go to this fund? Yes.

Filing Status:

2. Married filing joint return (even if only one had income).

Exemptions:

6a. Yourself; b. Spouse; c. First names of your dependent children who lived with you: Douglas.

7. Total number of exemptions claimed: 3.

Income:

8. Wages, salaries, tips, and other employee compensation, $76,950.

9. Interest income. (If over $400, attach Schedule B.) $1,469.

11. State and local income tax refunds (does not apply if refund is for year you took standard deduction), $919.

13. Business income or (loss) (attach Schedule C), $24,500.

14. Capital gain or (loss) (attach schedule D), $3,393.

16. Net gain or (loss) from Supplemental Schedule of Gains and Losses (attach Form 4797), $305.

18. Pensions, annuities, rents, royalties, partnerships, estates or trusts, etc. (attach Schedule E), ($3,048).

21. Total income. Add lines 8, 9, and 10c through 20, $104,388.

Adjustments to Income:

23. Employee business expenses (attach Form 2106), $2,669.

28. Total adjustments. Add lines 22 through 27, $2,669.

29. Subtract line 28 from line 21, $101,719.

31. Adjusted gross income. Subtract line 30 from line 29. Enter here and on line 32. If you want IRS to figure your tax for you, see page 4 of the Instructions, $101,719.

Tax Computation:

32. Amount from line 31, $101,719.

33. If you itemize deductions, enter excess itemized deductions, from Schedule A, line 41.

If you do NOT itemize deductions, enter zero, $23,531.

34. Tax Table Income. Subtract line 33 from line 32, $78,188.

35. Tax. Check if from Schedule TC, $28,364.

37. Total. Add lines 35 and 36, $28,364.

47. Balance. Subtract line 46 from line 37 and enter difference (but not less than zero), $28,364.

Other Taxes:

48. Self-employment tax (attach Schedule SE), $1,304.

54. Total tax. Add lines 47 through 53, $29,668.

Payments:

55. Total Federal income tax withheld (attach Forms W-2, W-2G, and W-2P to front), $25,836.

62. Total. Add lines 55 through 61a, $25,836.

Refund or Due:

66. If line 54 is larger than line 62, enter balance due, $3,832.

SCHEDULES A & B—ITEMIZED DEDUCTIONS AND INTEREST AND DIVIDEND INCOME

*Schedule A itemized deductions*

Medical and Dental Expenses:

Taxes:

1. One-half (but not more than $150) of insurance premiums for medical care. (Be sure to include in line 10 below) $150.

10. Total (add lines 1 and 9). Enter here and on line 33, $150.

Taxes:

11. State and local income, $7,380.

12. Real estate, $3,226.

13. State and local gasoline (see gas tax tables), $55.

16. Other: 1975 Wisconsin taxes, $6,400; actual sales tax, $617.

17. Total, $17,678.

Interest Expense:

18. Home mortgage, $5,225.

19. Other: Wisconsin taxes, $696; Finance charges, $1,208.

20. Total, $7,129.

Contributions:

21. a Cash contributions for which you have receipts, cancelled checks or other written evidence, $1,335.

24. Total contributions, $1,335.

Miscellaneous Deductions:

31. Other: professional dues, $20; unreimbursed business expenses, $219; political contributions, $200.

32. Total, $439.

Summary of Itemized Deductions:

33. Total medical and dental—line 10, $150.

34. Total taxes—line 17, $17,678.
35. Total interest—line 20, $7,129.
36. Total contributions—line 24, $1,335.
38. Total miscellaneous—line 32, $439.
39. Total deductions, $26,731.
40. If you checked Form 1040, box: $3,200.
41. Excess itemized deductions (subtract line 40 from line 39). Enter here and on Form 1040, line 33. (If line 40 is more than line 39 see "Who MUST Itemize Deductions" on page 11 of the Instructions.) $23,531.

Dr. Douglas Lowy, $733.
United Bank and Trust, $136.
Kerry O'Brien, $600.
2. Total interest income, $1,469.

SCHEDULE OF CONGRESSIONAL WAGES, REIMBURSEMENTS, AND EXPENSES

A. Salary as a Member (from Form W-2) (Include in amount on Line 8, Form 1040), $55,350.

B. Congressional Reimbursements for Expenses:

1. Reimbursement for travel expenses (other than the special reimbursement to be reported on Line B.2, below), $2,513.
2. Reimbursement (special) at the rate of 20 cents per mile for one round trip to the Home District during each regular session, $331.
3. Reimbursement for other deductible expenses, $4,983.
5. Total reportable reimbursements, $7,827.

C. Expenses Deductible in Computing Adjusted Gross Income:

1. Travel expenses: Living expenses in the Washington, D.C. area. Note: The maximum amount allowable is $3,000. (Attach Member's certificate concerning living expenses.) $3,000.
2. Travel expenses: Other (attach detailed statement), $2,513.
3. Other expenses (limited to amount on Line B.3., above), $4,983.
4. Total travel expenses, $10,496.

E. Deductible expenses, $2,669.

1. Excess home office expenses, $179.
2. Photo fund, $40.
3. Total expenses deductible, $219.

CERTIFICATE

I hereby certify that I was in travel status in the Washington, D.C., area, away from my home in my home State of Wisconsin, in the performance of my official duties as a Member of Congress for 295 days during the year 1977 and that my deductable living expenses while in such travel status amounted to $3,000.

WILLIAM PROXMIRE,
*(Signature of Member).*

PROFIT OR (LOSS) FROM BUSINESS OR PROFESSION

1. Gross receipts or sales, $24,500.
5. Total income, $24,500.
21. Net profit or (loss) (subtract line 20 from line 5), $24,500.

CAPITAL GAINS AND LOSSES

Long-term Capital Gains and Losses—Assets Held More Than 9 Months:

6. Wis. State agencies, Wis. State, Mass. State, Installment Sale (see attached), $6,656.
11. Net gain, $6,786.
13. Net long-term gain, $6,786.
14. Combine lines 5 and 13, and enter the net gain, $6,786.
15. If line 14 shows a gain—a. Enter 50% of line 13 or 50% of line 14, whichever is smaller (see Part IV for computation of alternative tax). Enter zero if there is a loss or no entry on line 13, $3,393.

b. Subtract line 15a from line 14. Enter here and on Form 1040, line 14, $3,393.

SUPPLEMENTAL SCHEDULE OF GAINS AND LOSSES

Section B.—Sales or Exchange of Property Used in Grade or Business and Certain Inovoluntary Conversions:

3. Gain from line 23 being reported on the installment basis (see attached), $6,656.
4. Combine the amounts on line 3. Enter here, and on the appropriate line as follows, $6,656.

Ordinary Gains and Losses:

6. Amount, if any, from line 4(a)(2), $205.
9. Combine amounts on lines 5 through 8. Enter here, and on the appropriate line as follows, $205.

(2). Redetermine the gain or (loss) on line 9, excluding the loss (if any) entered on line 9(b)(1). Enter here and on Form 1040, line 16, $205.

Gain From Disposition of Property Under Sections 1245, 1250, 1251, 1252, 1254—Assets Held More than Nine Months:

(A) Madison house: 1958, 11/15/77.
(B) Furnishings: 1964, 11/15/77.
11. Gross sales price on Property (A) $90,000; Property (B) 0.
12. Cost or other basis and expense of sale on Property (A) $44,636; Property (B) $800.
13. Depreciation (or depletion) allowed (or allowable) Property (A) $16,075; Property (B) $800.
14. Adjusted basis, subtract line 13 from line 12 on Property (A) $28,561; Property (B) 0.
15. Total gain, subtract line 14 from line 11 Property (A) $61,439; Property (B) None.
17. If section 1250 property:
(a) Additional depreciation after 12/31/75, $205.
(b) Applicable percentage times smaller of line 15 or line 17(a) (see instruction G.4) $205.
(i) Add lines 17(b), 17(e), and 17(h) $205.

Summary of Part III Gains:

21. Total gains for all properties (add columns (A) through (D), line 15) $61,439.
22. Add columns (A) through (D), lines 16(b), 17(i), 18(d), 19(f), and 20(b). Enter here and on line 7, $205.
23. Subtract line 22 from line 21. Enter here and in appropriate Section in Part I (see instructions E and G.2) $61,234.

INSTALLMENT SALE OF MADISON HOUSE

| | | |
|---|---|---|
| Selling price | | $90,000 |
| Less: | | |
| Adjusted basis at date of sale: | | |
| Basis | 38,786 | |
| Less accum. depr. | −16,075 | |
| | 22,711 | |
| Selling expenses | +5,850 | |
| Profit to be realized | 28,561 | |
| | 61,439 | |

Contract and selling price are the same.
Gross profit (percent) $61,439 divided by 90,000 equals 68.27 percent.
Payments rec'd in 1977:
Down payment, $10,000 plus Principal $50, equals $10,050 times 68.27 percent equals $6,861.
Gain to be reported:

| | |
|---|---|
| Ordinary income portion | $205 |
| Capital gain portion | 6,656 |
| Total | 6,861 |

SUPPLEMENTAL INCOME SCHEDULE

8. Net rental income or (loss) (from Form 4831), ($3,048).
10. Total rent and royalty inccme (add lines 7, 8, and 9) ($3,048).

Income or Losses from Partnerships, Estates or Trusts, Small Business Corporations:

13. Total (add lines 5, 10, and 12). Enter here on Form 1040, line 18, ($3,048).

RENTAL INCOME

1. Kind and Location of Property: Property A, Madison House, residential; Property B, Sea Pines.

Income:

2. Rents received, property A, $545; property B, $2,045.
3. Total (add amounts on line 2) $2,590.

Deductions:

7. Commissions, on property B, $490.
9. Insurance, on A, $85; on B, $24.*
12. Legal and accounting on A, $339.
13. Management fees, on B, $326.*
15. Repairs (list): maintenance, on B, $257*; heating repairs, on A, $28; window repair, on A, $18.
18. Taxes and licenses on A, $1,416; on B, $213.
20. Utilities, on A, $52; on B, $24.*
22. Add lines 4 through 21 on A, $1,938; on B, $2,274.
23. Total (add amounts on line 22) $4,212.
24. Depreciation expense (from page 2, line 28, column (g)) $1,426.
25. Total deductions (add lines 23 and 24) $5,638.
26. Net income or (loss) from rents (line 3 less line 25). Enter here and in Schedule E (Form 1040), Part II, line 8. ($3,048).

SCHEDULE FOR DEPRECIATION CLAIMED

Code:
(a) Description of property.
(b) Date acquired.
(c) Cost or other basis.
(d) Depreciation allowed or allowable in prior years.
(e) Method of computing depreciation.
(f) Life or rate.
(g) Depreciation for this year.

27. Total additional first-year depreciation (do not include in items below).
(a) House; (b) 1958; (c) 30,565; (d) 13,093; (e) 150 DB; (f) 50; (g) 437.
(a) Improvements; (b) 7/1/64; (c) 1,750; (d) 1,750; (e) S/L; (f) 10; (g) 0.
(a) Furniture; (b) 12/1/64; (c) 800; (d) 800; (e) S/L; (f) 5; (g) 0.
(a) Improvements; (b) Jan. 75; (c) 2,805; (d) 561; (e) S/L; (f) 10; (g) 234.

*Sea Pines:*

(a) Bldg.; (b) 7/1/72; (c) 25,300; (d) 4,554; (e) S/L; (f) 25; (g) 1,012.
(a) Appliances; (b) 7/1/72; (c) 1,150; (d) 518; (e) S/L; (f) 10; (g) 115.
(a) Carpeting; (b) 7/1/72; (c) 600; (d) 540; (e) S/L; (f) 5; (g) 60.
(a) Heat & Air; (b) 7/1/72; (c) 1,450; (d) 653; (e) S/L; (f) 10; (g) 145.
(a) Furnishings; (b) 8/1/77; (c) 710; (e) S/L; (f) 7; (g) 42.
Total Sea Pines, 1,374; less 9% personal usage, 124; equal 1,250; ½ ownership, 625.
(a) Furnishings**; (b) 7/1/76; (c) 1,000; (d) 143; (e) S/L; (f) 7; (g) 143; less 9% personal usage, 13; equal 130.
28 Totals—(g) 1,426.

COMPUTATION OF SOCIAL SECURITY SELF-EMPLOYMENT TAX

Computation of Net Earnings from Nonfarm Self-Employment:

Regular method—5. Net profit or (loss) from:
a. Schedule C, line 21. (Enter combined amount if more than one business.) $24,500.
6. Total (add lines 5a through e) $24,500.
8. Adjusted net earnings or (loss) from nonfarm self-employment (line 6, as adjusted by line 7) $24,500.
9. a. Maximum amount reportable, under both optional methods combined (farm and nonfarm) $1,600.

Computation of Social Security Self-Employment Tax:

12. Net earnings or (loss): b. From nonfarm (from line 8, or line 11 if you elect to use the Nonfarm Optional Method) $24,000.
13. Total net earnings or (loss) from self-employment reported on line 12. (If line 13 is less than $400, you are not subject to self-employment tax. Do not fill in rest of schedule.) $24,500.
14. The largest amount of combined wages

*Expenses have been reduced for 9% personal usage.

**Furnishings were all purchased by Mrs. Proxmire.

and self-employment earnings subject to social security or railroad retirement taxes for 1977 is $16,500.

16. Balance (subtract line 15c from line 14) $16,500.

17. Self-employment income—line 13 or 16, whichever is smaller, $16,500.

18. Self-employment tax. (If line 17 is $16,500, enter $1,303.50; if less, multiply the amount on line 17 by .079.) Enter here and on Form 1040, line 48, $1,303.

TAX COMPUTATION SCHEDULE

Tax Computation for Taxpayers Who Cannot Use the Tax Tables:

1. Enter your Tax Table Income from Form 1040, line 34, $78,188.

2. Multiply $750 by the total number of exemptions claimed on Form 1040, line 7, $2,250.

3. Taxable Income. Subtract line 2 from line 1, $75,938.

4. Income Tax. Check if from: Form 4726, $28,544.

General Tax Credit:

5. Enter $35 multiplied by the total number of exemptions claimed on Form 1040, line 7, $105.

6. Enter amount from line 3, above, $75,938.

7. Enter $3,200 if you are married filing a joint return, $3,200.

8. Subtract line 7 from line 6, $72,738.

9. Enter 2 percent of line 8 (but do not enter more than $180), $180.

10. General tax credit. Enter the larger of line 5 or line 9, $180.

11. Tax. Subtract line 10 from line 4. Enter the difference (but not less than zero) here and on Form 1040, line 35, $28,364.

MAXIMUM TAX ON PERSONAL SERVICE INCOME

A—Personal Service Income: salary, $76,950; schedule C, $24,500.

Total personal service income, $101,450.

B—Deductions Against Personal Service Income: Business expenses, $2,908.

Total deductions against personal service income, $2,908.

1. Personal service net income—Subtract total amount in column B from total amount in column A, $98,542.

2. Enter your adjusted gross income, $101,719.

3. Divide the amount on line 1 by the amount on line 2. Enter percentage result here, but not more than 100%, $.97.

4. Enter your taxable income, $75,938.

5. Multiply the amount on line 4 by the percentage on line 3, $73,660.

6. Enter the total of your 1977 tax preference items, $3,393.

7. Personal service taxable income. Subtract line 6 from line 5 (see instructions), $70,267.

8. If: on Form 1040, you checked box 2 or box 5, enter $55,200, $55,200.

9. Subtract line 8 from line 7 (if zero or less, do not complete rest of form), $15,067.

10. Enter 50% of line 9, $7,534.

11. Tax on amount on line 4 (use Tax Rate Schedule from Form 1040 (or Form 1041) instructions), $29,226.

12. Tax on amount on line 7 (use Tax Rate Schedule from Form 1040 (or Form 1041) instructions), $26,107.

13. Subtract line 12 from line 11, $3,119.

14. If the amount on line 8 is: $55,200, enter $18,060, $18,060.

15. Add lines 10, 13, and 14. This is your maximum tax. (See instructions), $28,713.

Computation of Alternative Tax:

16. Amount from line 4, $75,938.

17. Amount from Schedule D (Form 1040), line 15(a)* (or Form 1041, page 1, line 22), $3,393.

18. Subtract line 17 from line 16—If line 17 does not exceed $25,000, check here, ☒ and omit lines 19 through 22, $72,545.

23. Tax on amount on line 18 (use Tax Rate Schedule from Form 1040 (or 1041) instructions), $27,360.

24. Subtract line 23 from line 11, $1,866.

25. Subtract line 24 from line 15, $26,847.

26. If the block on line 18 is checked, enter 50% of line 17; otherwise, enter $12,500, $1,697.

27. Alternative tax, add lines 22 (if applicable), 25 and 26. (See instructions), $28,544.

Mr. PROXMIRE. I yield the floor.

## TIME-LIMITATION AGREEMENT SENATE RESOLUTION 319

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as it is called up and made the pending business there be a time limitation on Senate Resolution 319, which is Calendar Order No. 539, concerning travel expenses, as follows:

Two hours for debate on the resolution, to be equally divided between Mr. STEVENSON and Mr. SCHMITT, 1 hour on any amendment in the first degree, 30 minutes on any amendment in the second degree, 40 minutes on any debatable motion or appeal or point of order if such is made to the Senate, provided that Mr. CLARK have 2 hours on the resolution and that Mr. HARRY F. BYRD, JR., have 1½ hours, and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

## APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, appoints the Senator from Tennessee (Mr. BAKER) as a congressional adviser to the SALT delegation in Geneva during 1978.

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, appoints the Senator from Kansas (Mr. PEARSON) as a congressional adviser to the SALT delegation in Geneva during 1978.

## EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for 1 minute to consider the nomination of Mr. Leslie Lazar Kanuk.

Mr. BAKER. Mr. President, reserving the right to object, and I shall not object, I only wish to inform the majority leader that the nomination so identified has cleared on our Calendar. We have no objection to proceeding to its consideration and his confirmation.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

## FEDERAL MARITIME COMMISSION

The assistant legislative clerk read the nomination of Leslie Lazar Kanuk, of New Jersey, to be a Federal Maritime Commissioner.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President. I ask unanimous consent that the President be immediately notified of the confirmation of the nominee.

The PRESIDING OFFICER. Without objection, it is so ordered.

## LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR THE RECOGNITION OF MR. HARRY F. BYRD, JR. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after Mr. BARTLETT is recognized under the order previously entered that Mr. HARRY F. BYRD, JR. be recognized tomorrow for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER LIMITING TIME OF LEADERSHIP UNDER THE STANDING ORDER TO 5 MINUTES EACH TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time ordinarily allotted to the majority and minority leaders under the standing order be limited to 5 minutes each tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR CONSIDERATION OF S. 1566—WIRETAP BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow at 11:30 a. m. the Senate proceed to the consideration of S. 1566, which is the wiretap bill. This has been cleared.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the previous order by which the Senate would

at 11:30 a.m. tomorrow proceed to the consideration of S. 1566 be revised to this extent: That at the conclusion of the two orders aforementioned, the two orders for the recognition of Senators on tomorrow, the Senate then proceed to the consideration of S. 1566.

The PRESIDING OFFICER. Without objection, it is so ordered.

### PROGRAM

Mr. ROBERT C. BYRD. Mr. President, tomorrow the Senate will convene at 11 a.m. After the two leaders have been recognized, each for not to exceed 5 minutes on tomorrow, Mr. BARTLETT will be recognized for not to exceed 15 minutes. He will be followed by Mr. HARRY F. BYRD, Jr., for not to exceed 15 minutes; at the conclusion of which the Senate will take up S. 1566, a bill to authorize applications for a court order approving the use of electronic surveillance to obtain foreign intelligence information. There is an agreement on that bill as to time and on amendments and motions in relation thereto. Rollcall votes are expected. It is anticipated that the Senate will complete action on that bill tomorrow.

### RECESS UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 11 o'clock tomorrow morning.

The motion was agreed to; and at 7:22 p.m. the Senate recessed until tomorow, Thursday, April 20, 1978, at 11 a.m.

### CONFIRMATION

Executive nomination confirmed by the Senate April 19, 1978:

FEDERAL MARITIME COMMISSION

Leslie Lazar Kanuk, of New Jersey, to be a Federal Maritime Commissioner for the term expiring June 30, 1981.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

# HOUSE OF REPRESENTATIVES—*Wednesday, April 19, 1978*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D. offered the following prayer:

*Let me hear what God the Lord will speak, for He will speak peace to His people * * * and to those who turn to Him in their hearts.*—Psalms 85:8.

Eternal Spirit, immortal, invisible, God only wise, in whose presence our hearts find peace and by whose power we receive strength for daily tasks, in this quiet moment we wait upon Thee seeking Thy will for us and Thy way with us this day.

We pray that Thou wilt help the Members of this House of Representatives by giving them insight to see what is right, inspiration to want to do what is right and industry to do it with all their might. By their integrity and sincerity may they be led to decisions that enlarge the borders of good will and build bridges of understanding over the gulfs which separate people and nations from one another. May the actions of this body hasten the glad day when peace, justice, and truth shall blend their creeds in one and Earth shall form one brotherhood by whom Thy will is done. Amen.

### THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

### DATE OF PANAMA CANAL TREATY RATIFICATION CALLED "DAY OF INFAMY"

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute.)

Mr. ASHBROOK. Mr. Speaker, I believe yesterday is a day which will join those which some years ago were referred to as "Days which will live in infamy." On that day the other body approved the so-called Panama Canal Treaty.

I think if there is anything that is needed to prove the phoniness of this treaty, it would be the statement of the dictator of Panama—referred to more politely by the liberal press and the President as the "ruler and leader of Panama"—when he said yesterday:

> Tomorrow we would have started our struggle for liberation and possibly tomorrow the Canal would not be operating anymore.

It is clear that we no longer know what shame is if we stand back and allow those insults and threats to be unanswered by our President.

This is a threat from a Marxist dictator, immediately after the Senate voted the approval of the treaty. While no firearm was involved, I believe this was the first in a long series of holdups that we are going to be faced with as we deal with the consequences of the ratification of this treaty.

While we did not have a vote, the American people well know we do have a vote on ratification because when the votes come up on the appropriations necessary to carry out this infamous treaty, the American people will consider our votes on these appropriations and implementing legislation just as surely a vote on ratification of the treaty as if we had voted on it with the Senate.

### KUDOS TO REPRESENTATIVES ALEXANDER AND BYRON FOR COMPLETING BOSTON MARATHON

(Mr. WRIGHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WRIGHT. Mr. Speaker, those of us who labor here in the vineyards of the House, with its 2-year terms of office, sometimes might feel that we are always running—running in primary elections, running in runoff elections, running in general elections—running, running, running.

So today I would like to offer a special salute to two of our colleagues who run not only as much as the rest of us do, but more, much, much more.

I refer, of course, to our friends BILL ALEXANDER, of Arkansas, and GOODLOE BYRON, of Maryland. Both are accomplished long-distance runners, and both successfully completed this week's Boston Marathon, the oldest and most famous long-distance race in the Nation.

Any of us who have done any jogging at all will be able to appreciate the magnitude of achievement for anyone who is even able to remain conscious after running 26 miles, 385 yards—the course of the Boston Marathon. Indeed, to be able to finish such a race with respectable times, as did BILL ALEXANDER and GOODLOE BYRON, is an achievement of superb physical prowess and mental discipline.

Their records in the Boston Marathon reflect great credit not only on BILL and GOODLOE, but on the House as well. Just let anybody try to accuse us now of shortcomings on energy.

### FLOWERS AND RAILSBACK AMENDMENTS SUPPORTED

(Mr. WHALEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. WHALEN. Mr. Speaker, I have accepted the presidency of New Directions, a citizen interest foreign policy lobbying organization, effective July 1. I will devote full time to the organization beginning January 1, 1979, at which time I will begin to receive a salary. I think this information should be provided to my colleagues and to constituents as we begin consideration of H.R. 8494, the Public Disclosure of Lobbying Act of 1978.

I long have believed that our lobbying laws should be strengthened and I readily agreed to cosponsor H.R. 8494. I intend to vote in favor of the bill as well as several amendments which will tighten restrictions on organizations such as New Directions—which, incidentally, played a major lobbying role in support of the Panama Canal Treaties.

Specifically, I support the amendment by the gentleman from Alabama (Mr. FLOWERS) requiring registered lobbying organizations and their affiliates to re-

port indirect or "grassroots" lobbying efforts. Business, trade, labor, farm, and environmental groups make substantial use of mailings urging constituents to contact their legislators. By requiring reports from organizations involved in these efforts, this amendment provides the public open access to the scope of such organized lobbying efforts. At the same time, no requirement is made for disclosure of the names of those being requested to lobby.

Also, I support the amendments being offered by Mr. RAILSBACK: First, to require reporting by unpaid chief executive officers of lobbying groups; and second, to require disclosure of an organization's major financial backers. The latter amendment does not require a lobbying organization to disclose its complete membership list, but addresses the public's need to know who is behind major lobbying efforts.

Mr. Speaker, our existing lobbying laws are riddled with loopholes and ambiguities. The legislation before us today will open the lobbying process to public scrutiny without impinging on first amendment rights of individuals and groups to petition the Government.●

## JOINT REFERRAL OF H.R. 11245, NATIONAL INTELLIGENCE REORGANIZATION AND REFORM ACT OF 1978, TO COMMITTEE ON THE JUDICIARY

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the bill (H.R. 11245) the National Intelligence Reorganization and Reform Act of 1978, which has been referred solely to the Permanent Select Committee on Intelligence, be jointly referred to the Committee on the Judiciary.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

## PERMISSION FOR SUBCOMMITTEE ON PUBLIC BUILDINGS AND GROUNDS OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO MEET DURING 5-MINUTE RULE TODAY

Mr. AKAKA. Mr. Speaker, I ask unanimous consent that the Subcommittee on Public Buildings and Grounds of the Committee on Public Works and Transportation be allowed to sit during the 5-minute rule today, April 19.

The SPEAKER. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 11504, AGRICULTURAL CREDIT ACT OF 1978

Mr. MEEDS, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1068) on the resolution (H. Res. 1140) providing for consideration of the bill (H.R. 11504) to amend the Consolidated Farm and Rural Development Act, provide an economic emergency loan program to farmers and ranchers in the United States, and extend the Emergency Livestock Credit Act, which was referred to the House Calendar and ordered to be printed.

## PROVIDING FOR CONSIDERATION OF H.R. 8494, PUBLIC DISCLOSURE OF LOBBYING ACT OF 1978

Mr. MEEDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1139 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1139

*Resolved*, That upon the adoption of this resolution it shall be in order to move, clause 3 of rule XIII to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8494) to regulate lobbying and related activities. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Washington (Mr. MEEDS) is recognized for 1 hour.

Mr. MEEDS. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1139 is the rule providing for the consideration of the bill H.R. 8494, the Public Disclosure of Lobbying Act of 1978.

It is a 1-hour, open rule waiving points of order against the consideration of the bill for failure to comply with the provisions of clause 3, rule XIII (the Ramseyer rule). The committee report does contain the information required by the rule; this technical waiver is necessary only because the report does not comply with the rule's precise typographical requirements.

The rule for consideration of this bill also provides that the committee amendment in the nature of a substitute be considered as an original bill for the purpose of amendment, and it makes in order one motion to recommit with or without instructions.

Mr. Speaker, H.R. 8494, the Public Disclosure of Lobbying Act of 1978, is legislation reported by the Judiciary Committee to replace the present 32-year-old lobby disclosure law. The bill sets forth new requirements for annual registration and quarterly reporting by lobbying organizations, if those organizations pass certain thresholds of time and money devoted to lobbying communications in any given quarter.

H.R. 8494 does not affect individuals, organizations that are strictly volunteer, or organizations based in a Member's district that communicate only with that Member or his staff. The purpose of the legislation is to inform the public and the Members of Congress themselves on the nature of lobbying activities. That information includes three major parts: Who lobbies, how much they spend, and the issues on which they concentrate their efforts.

Mr. Speaker, I support the rule and urge the adoption of House Resolution 1139 in order that H.R. 8494 may be considered.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with the statement just made by the gentleman from Washington (Mr. MEEDS) about this bill as far as the rule is concerned. It is a 1-hour, open rule. There is one waiver, and that is of the Ramseyer rule.

Mr. Speaker, let me say that this lobbying bill which we will be debating shortly takes a new approach. Rather than focusing on the lobbyist, it focuses on the organizations or the companies which might be hiring a lobbyist.

Mr. Speaker, I was amazed to learn yesterday in the Committee on Rules that if a person visits a store having nationwide branches and if that company spends more than $2,500 on lobbying activities during the year, that visit by a Member of Congress will have to be reported and the amount of time and expense the visit cost the company will have to be reported.

Mr. Speaker, this is a sort of scary thing, because every Member of Congress is invited into the various plants and facilities in his or her district at some time during the year to view the working conditions, inspect their products, talk with their employees, and to listen to their problems.

The question is whether or not these companies are going to have to report the cost to the company of having various employees meet with the Member to discuss these matters, or not. Certainly, this should be clarified. If they would have to report such visits, I think the bill goes too far in this direction.

I do not think it goes far enough, however, in the area of attempting to bring under control and within the confines of the statute these so-called volunteers who are periodically sent various messages from Washington to send to the Members as something purporting to have originated with them. I hope that these so-called volunteers will be brought under the provisions of this act when we get into the amending process.

Mr. DEVINE. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to my colleague from Ohio (Mr. DEVINE).

Mr. DEVINE. I thank the gentleman

for yielding to me. In connection with what the gentleman from Ohio (Mr. LATTA) was just saying, I wonder, in the testimony before the Rules Committee, whether it is true that organizations such as Mr. Nader's, and organizations that are promoting this legislation such as John Gardner's Common Cause, whether they are included or exempted under this proposed Lobby Disclosure Act.

Mr. LATTA. Well, as I just mentioned, if the volunteer business is not properly addressed during the amending process, certainly Mr. Nader's volunteers or the volunteers of Common Cause throughout the country may not be covered under this legislation, and I think they should be.

Mr. DEVINE. If the gentleman will yield further, I think it is passing strange that probably two of the most active organizations that lobby the Members of Congress and presume to position themselves between the public and the public officials should find it very convenient to exclude themselves from the terms of this bill, which they want so badly.

Mr. KINDNESS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. During the general debate and the amending process under the 5-minute rule, of course, there will be ample opportunity to debate the issue that has been discussed just now, but I would like to clarify the record for the gentleman from Ohio (Mr. DEVINE). The organizations he mentioned will be covered under the bill, although the individuals who have first amendment rights to speak for themselves will not be covered per se. The bill only covers organizations, and not individuals.

Mr. LATTA. I am glad the gentleman mentioned they could speak for themselves. Certainly, they will not be covered if they speak for themselves, but if they are speaking for an organization, under the direction of that organization, then in my humble opinion they should be covered.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Ladies and gentlemen, if I can have your attention, I am going to tilt at windmills for the next 2 minutes, I suspect, but I must do so because the issue is much too important to slide over. I am going to urge that the Members vote against this rule and send back a very bad bill to the Judiciary Committee to be reworked.

This bill regulates lobby communications, and lobby communication is an oral or written communication to a legislator. The bill subjects it to a burden, a reporting burden of some magnitude.

The kind of speech that is involved here is the most valued under the first amendment. It is political speech. There is every reason in the world why we should subject it to no regulation. Now, I do not contend for a moment that it is beyond the power of this Congress to regulate even sensitive speech involving communications with legislators, but we should only do so upon a clear showing that there is a public abuse or a public evil involved.

The Judiciary Committee has not identified anything that is wrong with communicating with a legislator, and I can think of nothing that is wrong with the practice. I urge the Members to look to their own experience.

Do Members know of anything that is evil or worthy of regulation by reason of an organization talking to a Member about legislation? I am not aware of any such evil. This bill ought to be sent back to the Judiciary Committee with a clear message from the House of Representatives that it should focus upon identifiable evils. And the evils are gifts, of course. The evils are direct business relationships between business and organizations and Members. Of course that is a proper subject of disclosure and regulation. But the mere fact of a political speech ought not by this House to be submitted to the regulations imposed in this bill.

I strongly urge—and I feel as strongly about this as any bill that has come before the House of Representatives in my experience—I urge Members strongly to defeat the rule on this unfortunate legislation.

Mr. LATTA. I thank the gentleman for his comments.

In conclusion, Mr. Speaker, I would like to mention that the gentleman from Ohio (Mr. KINDNESS) has just informed me he will offer an amendment during the amending process to clarify and correct the matter that was brought before the Rules Committee yesterday on visitations within one's district, that I mentioned earlier. Hopefully the House will see fit to adopt that amendment.

Mr. Speaker, I have no further request for time.

Mr. MEEDS. Mr. Speaker, whether we agree or disagree with the position of the gentleman from California, the question before the House here is the rule. What the gentleman is addressing himself to is the merits of the bill, so I would suggest we pass the rule and get along with the debate where the gentleman can stress his points, and then we can vote the bill up or down.

Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SYMMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 379, nays 15, not voting 40, as follows:

[Roll No. 235]

YEAS—379

| | | |
|---|---|---|
| Abdnor | Ammerman | Andrews, N. Dak. |
| Addabbo | Anderson, Calif. | Annunzio |
| Akaka | Anderson, Ill. | Applegate |
| Alexander | Andrews, N.C. | Archer |
| Allen | Ashley | Flowers |
| AuCoin | Flynt | Marlenee |
| Badham | Foley | Marriott |
| Bafalis | Ford, Mich. | Martin |
| Baldus | Ford, Tenn. | Mattox |
| Barnard | Forsythe | Mazzoli |
| Baucus | Fountain | Meeds |
| Bauman | Fowler | Metcalfe |
| Beard, R.I. | Frenzel | Meyner |
| Bedell | Frey | Michel |
| Beilenson | Fuqua | Mikulski |
| Benjamin | Gammage | Mikva |
| Bennett | Garcia | Milford |
| Bevill | Gaydos | Miller, Calif. |
| Biaggi | Gephardt | Miller, Ohio |
| Bingham | Giaimo | Mineta |
| Blanchard | Gibbons | Minish |
| Blouin | Gilman | Mitchell, Md. |
| Boggs | Ginn | Mitchell, N.Y. |
| Boland | Glickman | Moakley |
| Bolling | Gore | Moffett |
| Bonior | Gradison | Mollohan |
| Bowen | Grassley | Montgomery |
| Brademas | Green | Moore |
| Breaux | Gudger | Moorhead, Calif. |
| Breckinridge | Guyer | Moorhead, Pa. |
| Brinkley | Hagedorn | Moss |
| Brodhead | Hall | Mottl |
| Brooks | Hamilton | Murphy, Ill. |
| Broomfield | Hammer-schmidt | Murphy, N.Y. |
| Brown, Calif. | Hanley | Murphy, Pa. |
| Brown, Mich. | Hannaford | Murtha |
| Brown, Ohio | Harkin | Myers, Gary |
| Buchanan | Harrington | Myers, John |
| Burgener | Harris | Myers, Michael |
| Burke, Fla. | Harsha | Natcher |
| Burke, Mass. | Hawkins | Neal |
| Burleson, Tex. | Heckler | Nichols |
| Burlison, Mo. | Heftel | Nix |
| Burton, John | Hightower | Nolan |
| Butler | Hillis | Nowak |
| Byron | Holland | O'Brien |
| Caputo | Hollenbeck | Oakar |
| Carney | Holt | Oberstar |
| Carr | Holtzman | Obey |
| Carter | Horton | Ottinger |
| Cavanaugh | Hubbard | Panetta |
| Chisholm | Huckaby | Patten |
| Clay | Hughes | Patterson |
| Cleveland | Hyde | Pattison |
| Cohen | Ichord | Pease |
| Coleman | Ireland | Pepper |
| Collins, Ill. | Jacobs | Perkins |
| Conable | Jeffords | Pettis |
| Conte | Jenkins | Pickle |
| Corcoran | Jenrette | Pike |
| Corman | Johnson, Calif. | Poage |
| Cornell | Johnson, Colo. | Pressler |
| Cotter | Jones, N.C. | Preyer |
| Coughlin | Jones, Okla. | Price |
| Crane | Jones, Tenn. | Pritchard |
| D'Amours | Jordan | Quayle |
| Daniel, Dan | Kasten | Quie |
| Danielson | Kastenmeier | Rahall |
| Davis | Kelly | Railsback |
| de la Garza | Kemp | Rangel |
| Delaney | Ketchum | Regula |
| Dent | Keys | Reuss |
| Derrick | Kildee | Rhodes |
| Derwinski | Kindness | Richmond |
| Devine | Krebs | Rinaldo |
| Dickinson | Lagomarsino | Roberts |
| Dicks | Latta | Robinson |
| Dingell | Le Fante | Roe |
| Dodd | Leach | Rogers |
| Dornan | Lederer | Roncalio |
| Downey | Leggett | Rooney |
| Drinan | Lehman | Rosenthal |
| Duncan, Oreg. | Lent | Rostenkowski |
| Duncan, Tenn. | Levitas | Roybal |
| Early | Livingston | Rudd |
| Eckhardt | Lloyd, Calif. | Ruppe |
| Edgar | Lloyd, Tenn. | Russo |
| Edwards, Ala. | Long, La. | Ryan |
| Edwards, Calif. | Long, Md. | Santini |
| Edwards, Okla. | Lott | Sarasin |
| Eilberg | Lujan | Sawyer |
| Emery | Luken | Scheuer |
| English | Lundine | Schroeder |
| Erlenborn | McClory | Schulze |
| Ertel | McCloskey | Sebelius |
| Evans, Colo. | McCormack | Seiberling |
| Evans, Del. | McDade | Sharp |
| Evans, Ga. | McEwen | Shipley |
| Evans, Ind. | McFall | Shuster |
| Fary | McHugh | Sikes |
| Fascell | McKay | Simon |
| Fenwick | McKinney | Sisk |
| Findley | Madigan | Skelton |
| Fish | Maguire | Skubitz |
| Fisher | Mahon | Slack |
| Fithian | Mann | Smith, Iowa |
| Flippo | Markey | Smith, Nebr. |
| Flood | Marks | Snyder |
| Florio | | Spellman |

| | | |
|---|---|---|
| Spence | Treen | Whitehurst |
| St Germain | Trible | Whitten |
| Staggers | Tsongas | Wilson, Bob |
| Stangeland | Udall | Wilson, C. H. |
| Stanton | Ullman | Winn |
| Stark | Van Deerlin | Wirth |
| Steed | Vander Jagt | Wolff |
| Steers | Vanik | Wright |
| Steiger | Vento | Wydler |
| Stockman | Volkmer | Wylie |
| Stokes | Waggonner | Yates |
| Stratton | Walker | Yatron |
| Studds | Wampler | Young, Alaska |
| Stump | Waxman | Young, Fla. |
| Symms | Weaver | Young, Mo. |
| Taylor | Weiss | Zablocki |
| Thompson | Whalen | Zeferetti |
| Traxler | White | |

NAYS—15

| | | |
|---|---|---|
| Armstrong | Gonzalez | Risenhoover |
| Ashbrook | Goodling | Rousselot |
| Broyhill | Hansen | Satterfield |
| Clawson, Del | McDonald | Walsh |
| Collins, Tex. | Quillen | Wiggins |

NOT VOTING—40

| | | |
|---|---|---|
| Ambro | Daniel, R. W. | Rodino |
| Aspin | Dellums | Rose |
| Beard, Tenn. | Diggs | Runnels |
| Bonker | Fraser | Solarz |
| Burke, Calif. | Goldwater | Teague |
| Burton, Phillip | Hefner | Thone |
| Cederberg | Howard | Thornton |
| Chappell | Kazen | Tucker |
| Clausen, Don H. | Kostmayer | Walgren |
| | Krueger | Watkins |
| Cochran | LaFalce | Whitley |
| Conyers | Mathis | Wilson, Tex. |
| Cornwell | Nedzi | Young, Tex. |
| Cunningham | Pursell | |

The Clerk announced the following pairs:

Mr. Rodino with Mr. Aspin.
Mr. Howard with Mr. Bonker.
Mr. Teague with Mr. Watkins.
Mrs. Burke of California with Mr. Thornton.
Mr. Chappell with Mr. Goldwater.
Mr. Krueger with Mr. Beard of Tennessee.
Mr. Dellums with Mr. Don H. Clausen.
Mr. Runnels with Mr. Cederberg.
Mr. Rose with Mr. Kostmayer.
Mr. Whitley with Mr. Pursell.
Mr. Ambro with Mr. Fraser.
Mr. Conyers with Mr. Cornwell.
Mr. Robert W. Daniel, Jr., with Mr. Hefner.
Mr. Diggs with Mr. Tucker.
Mr. Phillip Burton with Mr. Cochran of Mississippi.
Mr. Mathis with Mr. Walgren.
Mr. LaFalce with Mr. Charles Wilson of Texas.
Mr. Nedzi with Mr. Cunningham.
Mr. Kazen with Mr. Solarz.

Mr. HANSEN changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PERMISSION FOR SUBCOMMITTEE ON CRIME OF COMMITTEE ON THE JUDICIARY TO SIT TODAY DURING 5-MINUTE RULE

Ms. HOLTZMAN. Mr. Speaker, I ask unanimous consent that the Subcommittee on Crime of the Committee on the Judiciary may be permitted to sit during the proceedings under the 5-minute rule today.

The SPEAKER. Is there objection to the request of the gentlewoman from New York?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, why does this have to be done today? Is it because the gentlewoman is testifying?

Ms. HOLTZMAN. Mr. Speaker, if the gentleman will yield, that is one of the reasons, I will say to the gentleman. This is a continuation of hearings that are being held on an important subject.

Mr. ROUSSELOT. The Members will not be marking up any bill?

Ms. HOLTZMAN. No, they will not.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentlewoman from New York?

There was no objection.

## PERMISSION FOR SUBCOMMITTEE ON CEMETERIES AND BURIAL BENEFITS OF COMMITTEE ON VETERANS' AFFAIRS TO SIT TODAY DURING 5-MINUTE RULE

Mr. CARNEY. Mr. Speaker, I ask unanimous consent that the Subcommittee on Cemeteries and Burial Benefits of the Committee on Veterans' Affairs may be permitted to sit today during proceedings under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman assure us that there will not be marking up of any bill?

Mr. CARNEY. Mr. Speaker, if the gentleman will yield, we have some subcommittee bills, and both sides have agreed that they may be reported out. The gentleman from Indiana (Mr. HILLIS), who is the ranking minority Member, has agreed to this. We are trying to get some bills on which we have held hearings some time ago reported out for a meeting tomorrow.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

## PUBLIC DISCLOSURE OF LOBBYING ACT OF 1978

Mr. DANIELSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8494) to regulate lobbying and related activities.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. DANIELSON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 8494, with Mr. MEEDS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from California (Mr. DANIELSON) will be recognized for 30 minutes, and the gentleman from California (Mr. MOORHEAD) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the bill we have before us today, H.R. 8494, the Public Disclosure of Lobbying Act of 1978, is a bill which is intended to repeal and totally revise the lobbying law which is presently on our books. It is designed to give us a law which is workable and which will enable the American people and the Members of the Congress to know what type of activity is taking place in the field of lobbying here in the Congress.

This bill is entirely limited in its application to lobbying in legislative matters.

I would like to point out that since 1946 we have had on the books a so-called lobbying regulation law which has for practical purposes been ineffective. There is a rather broad public feeling that we should have an updated, modern, serviceable lobbying bill, and this bill is our offering to meet that need.

The Members will recall that during the 94th Congress a bill was reported by the Subcommittee on Administrative Law and Governmental Relations of the Committee on the Judiciary, which was then under the chairmanship of the gentleman from Alabama, the Honorable WALTER FLOWERS. That bill was passed by this House, but it perished because the session expired before the other body could act upon it.

The bill that we have before us today started with the good work of the subcommittee chaired by the gentleman from Alabama (Mr. FLOWERS) and is based upon many days of hearings and markup which followed that work. It is the product of a very considered judgment.

I would like to point out, first of all, that the committee at all times recognized that lobbying is a constitutionally protected right. It is protected by the very same first amendment as protects the right of freedom of speech, freedom of religion, freedom of peaceable assembly. And bearing that in mind, we have labored carefully to try to bring about an adequate disclosure of lobbying activities without at any time treading upon the constitutionally protected rights of the people to petition their Government for redress of grievances.

I would like to point out that this bill does not regulate lobbying. It does not prohibit lobbying. What it does is require that lobbyists, whom I am going to refer as reference to those who lobby on a commercial scale, be required to report and to register and to identify themselves as being in the business of lobbying, and and to file periodic reports as to their lobbying activities, the funds they spend, and what they are working on, and the like. They are not prohibited from carrying on lobbying activities, as they should not be under the first amendment. The bill provides, first of all, a series of definitions in section 2, which are very important to the substance of the bill. They define "lobbying communications" as one which I wish to touch upon very briefly. A lobbying communication is a commu-

nication directed to a Member of the Congress or a Federal officer or employee—but in the context of the bill, that would be a Member of Congress, a Member or staff of the Congress—and certain executive department employees with reference to pending legislative matters. The covered communication would be intended to influence the content or disposition of any bill, resolution, treaty, nomination, hearing report, or investigation which is either pending before the Congress or in the report thereof. Thus, it is limited to legislative activity. The bill does not define the term "lobbyist." It defines a type of activity of making lobbying communications.

Who must register? First of all, the bill will require registration only of organizations which are engaged in making lobbying communications. The organization necessarily will be two or more persons. It encompasses practically any kind of business or other organizational association of people. Exempted, basically, by the provisions of the bill are individuals. No individual acting as a person need register or report. Why? Because under the first amendment he has an absolute right to petition his Government. He also has the right of freedom of speech. In our committee review of the bill, we felt that if we brought in individuals we would be infringing upon this constitutionally protected right. There is one category of individual who will have to register and report, but that is because of the unique position which he would fill, namely, the registered agent of a foreign principal. A person who is working as the agent for a foreign principal must register under this act if he engages in lobbying communications, but that is the only individual who would be covered. The bill provides that the registration shall be with a Comptroller General. The terms of registration are spelled out in the bill, but they are really quite simple—the identification of the person, his address, and the like.

The bill also provides that periodically, each quarter, the registered organization must file with the Comptroller General the statement of his expenditures and activity carried out in conducting a lobbying communication. The Comptroller General is required to make these records available to the public, to make copying available, if need be, and periodically to compile a report summarizing the data in the reports themselves.

The Comptroller General also will have the power to promulgate and issue rules and regulations in accordance with the bill and to carry out the purposes of the bill. Such rules and regulations must be promulgated in accordance with the Administrative Procedure Act.

There is a legislative veto provision in the bill giving either House of the Congress the power to veto a proposed rule or regulation.

The Comptroller General, although he would act as the repository or the collector of these registrations and reports and would publish compilations from time to time, would not have the enforcement responsibility.

We decided in this bill to revert to the time-tested American principle of recognizing that the Attorney General is the chief law enforcement officer of the United States of America; and if any alleged or purported violations of this law should come to the attention of anyone, the remedy would be to report them to the Attorney General for his attention.

The Attorney General has jurisdiction under the enforcement provisions of the bill to investigate alleged violations of any provision or act or rule or regulation. He shall also notify the alleged violator of the alleged violation unless he finds that such notification would interfere with the effective enforcement of the law.

He shall then make such investigation as he considers appropriate. It is required that the investigations be conducted expeditiously and with due regard for the rights and privacy of the individual or organization involved.

If the Attorney General determines, after conducting that investigation, that there is some reason to believe that a civil violation of the act has taken place, then he shall try to correct that by means of conference or conciliation. If that fails, then he has the right to institute a civil action to enforce the law and has the right to ask for a permanent or temporary injunction or other appropriate relief.

If after the investigation he feels there is reason to believe that the individual or organization has engaged in a criminal violation of the law, then he may institute a criminal proceedings, as provided in title 18 of the United States Code. These actions shall be brought in the U.S. district court.

The sanctions to be applied in the case of a criminal violation would be a fine of not to exceed $10,000 or confinement for a period of not to exceed 2 years.

Mr. Chairman, we have purposely brought into the bill a provision that criminal intent would follow the rule of willfulness. That is in an effort to avoid any possibility that a person might innocently or through ignorance or carelessness find himself athwart the criminal provisions of the bill. We have modified the intent by incorporating the term "willful."

Mr. Chairman, I would like to point out that the Supreme Court has construed that word very carefully; and I would like to point out that in the committee report, on pages 40 and 41, we have made a record of this. We state as follows:

> By the use of the term "willful" it is the purpose of the committee to require the highest degree of criminal intent as an essential element of any criminal violation of this Act. To satisfy that requirement the acting person must know that his action is in violation of the law and nevertheless persist in his action for the purpose of violating the law.
>
> In adopting this language the committee invoked the highest standard for criminal intent as stated by the Supreme Court (in the case of the *United States* v. *Murdock*, 290 U.S. 389), that "willful" as used in a criminal statute, refers to an act done with a bad purpose, without justifiable excuse, stubbornly, obstinately, perversely, and with an evil intent. In short, to constitute a criminal offense the actor must have the specific intent to violate the law.

Now, there are two or three myths floating around about this bill which I hope I can dispel. First, there is no provision in this bill requiring people to report the amount of any contributions they may have made to a lobbying organization, and thereby to identify themselves. This was done for two very good reasons. First, the Supreme Court has declared that this is an unwarranted invasion of privacy, and has a chilling effect on freedom of speech, and I can readily understand that it would.

For example, suppose that someone working for a large oil company has a deep and abiding feeling for the environment and wishes to protect it. He might wish to make a contribution to an organization whose work is concerned with the elimination of smog. Yet, he does not wish to do so and make it public because he is working for a large oil company, which in itself is doing the polluting. This kind of thing might well be prominently displayed in the press.

There are those who advocate certain rights for homosexuals. Suppose someone felt that this was a subject that ought to be discussed, so he wishes to make a contribution to such an organization. In that event, obviously he probably would not wish to have his contribution and identity disclosed. He certainly has a right to disclose it voluntarily if he feels like it, but it might cause difficulties for him. For these reasons, we have left out a reporting requirement as to disclosure of dues or contributions.

One other thing we have left out is solicited lobbying. Obviously, if an individual has a right to petition Congress for redress of his grievances, we cannot do anything which would chill or impede the willingness of people so to communicate. For that reason, we have left that particular requirement out.

Again, I would like to point out that no individual, no one in America will ever be denied the right to communicate with his Congressman or with public officials under the terms of this bill. The right of the individual to communicate with the Congress, with his Government, is safeguarded in the first amendment, and there is nothing in this bill to impede that right.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I will be pleased to yield to the gentleman from California.

Mr. WIGGINS. Are not organizations entitled to similar first amendment protection?

Mr. DANIELSON. In my opinion, they are not. They are entitled to communicate, but the restrictions imposed by this bill are justifiable restrictions within the meaning of the first amendment. Yes, everyone has a right to communicate, but in the individual we have it absolutely unhampered in this case.

Mr. Chairman, I reserve the balance of my time.

Mr. MOORHEAD of California. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the legislation that we are considering today should be most familiar to the Members of this House.

During the 94th Congress, the issue of full disclosure of lobbying activities was hotly debated both in the Judiciary Committee and on the floor of the House.

When we seek to regulate lobbying activities in any form, we are directly affecting the basic first amendment rights of individuals—the right to petition, the right of free speech, and the right of free association. Consequently, extreme legislative caution is essential.

The bill you see before you, H.R. 8494, is the work product of 15 days of markup in the Subcommittee of Administrative Law and Governmental Relations and 3 days of markup in the full Judiciary Committee. The fact is that our subcommittee has labored over this subject—off and on—for the last 4 years.

This year's version contains some important improvements over its predecessors. Most significant, are the improvements made in comparison to the bill (H.R. 15) which this House passed in 1976. H.R. 8494 does not contain the constitutionally questionable dues or contributions reporting feature. Similarly, there is no requirement that an organization track and report upon grassroots lobbying efforts. In both cases, our committee determined that such reporting requirements might violate basic first amendment rights. Finally, H.R. 8494 deals with lobbying in its generally accepted sense—attempts to influence legislation.

But while there have been significant improvements in the content of proposed lobbying disclosure legislation, H.R. 8494 is still far from being a perfect product. Hopefully, these deliberations will result in even further improvements.

Allow me now to quickly cite some of my main areas of remaining concern. A basic problem with this legislation is the definition of lobbying communication. Under its present terms, an organization could be required to register and report solely on the basis of written communications. In fact, 13 letters or telegrams written on different days in a 3-month period would result in the automatic coverage of an organization. It is my view that a lobbying statute should be limited to direct, oral communications. An organization should only be deemed to be across the lobbying threshold through direct contacts and conversations with Members of Congress, their staffs, or committee staff personnel.

H.R. 8494 also imposes both civil and criminal penalties for violations of certain provisions of the bill. The imposition of criminal penalties means that the strict standards of due process must apply. It seems to me that it would be far preferable to limit penalties in this disclosure statute to civil fines. To impose criminal sanctions on those who are arguably exercising their first amendment rights under the Constitution is both harsh and unwise.

This measure also concerns itself solely with lobbying for pay. But the size of one's salary or retainer is not the only way to measure the seriousness or effectiveness of a lobbying effort. This legislation should not implicitly make a distinction between "good" lobbyists and "bad" lobbyists. That is a subjective judgment. This bill should cover any organizational effort that results in continuous or systematic lobbying. Expenditures are only one means of measuring such an effort.

In H.R. 8494, organizations which rely heavily on volunteer assistance are given an advantage over those organizations which completely rely on employees or outside retained help. The activities of "professional volunteers" such as the renowned Mr. Nader, should be covered in this legislation. Again, genuine, fair lobby disclosure legislation should cover anyone who carries on continuing, systematic lobbying activity, whether they are salaried or not.

It is my understanding that during the 5-minute rule an amendment will be offered by the gentleman from Illinois (Mr. RAILSBACK) aimed at dealing with this inequity. Specifically, it would require organizations to report upon significant lobbying efforts made on their behalf by an unpaid "principal executive officer." This is an important step in the direction of fairness and I urge a "yes" vote on this amendment.

In conclusion, I again want to emphasize my general support for H.R. 8494. Even given the aforementioned defects, the 95th Congress' version of this bill is far less burdensome than its constitutionally suspect predecessors. For that reason, I strongly urge the Members of this House to oppose any damaging amendments that could upset the delicate constitutional balance now in this legislation. Oppose the effort to reinsert dues and contributions reporting; oppose grassroots or "solicitations" coverage; and oppose any naive and misdirected effort to include Government contract activity in a lobbyists' reporting bill.

This time around, we have a bill which virtually every major lobbying organization—except common cause—feels it can support. We should not let this chance go by. Oppose amendments to the Public Disclosure of Lobbying Act which would serve to undermine its constitutional validity.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, first of all I want to congratulate the gentleman for the time and the effort that he has put into trying to construct a very meaningful, worthwhile, and effective lobbying bill.

The gentleman is correct that I am going to introduce an amendment which is designed to do exactly what he has suggested, and that is to simply recognize where we have a chief executive that actually is a lobbyist of a particular organization, and where he is speaking on behalf of that organization, that individual's name ought to be disclosed—and we are talking about the Ralph Naders and perhaps the Irving Shapiros, people that actually do lobbying, they are lobbyists, and they are chief executives, and if we do not have an amendment they may not be covered.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Chairman, I want to congratulate the gentleman from California (Mr. DANIELSON) and the gentleman from California (Mr. MOORHEAD) on the diligent scholarly work they have done on this bill. This legislation was dealt with with great trepidation and with great care by the House Committee on the Judiciary because, as has been pointed out by the two previous speakers, there are at least four specific American freedoms that are involved in this bill, the freedom to redress the Government for grievances, the freedom of speech, the freedom of association and the right of privacy.

I believe the bill, after considerable amendment both in the subcommittee and in the full committee meets minimum constitutional standards and I am going to support the bill and I trust that it is enacted. It is a tough bill but it gets the job done.

The purpose, of course, is to require public disclosure of professional lobbying organizations where there is direct communication with Members of Congress, members of our staff and a limited number of high ranking Federal emloyees. That is just what the bill does. The threshold is high enough to cover these professional lobbyists and will not affect the volunteer grassroots-type of organizations that we also wish to encourage and which have their constitutional rights also.

Insofar as the professional lobbyists are concerned, the bill would require that they tell us who they are, the money they spend; they must report their gifts or expenditures of $35 or over for the benefit of Members of the Congress or a Federal officer. It has civil and criminal sanctions that are enforceable, unlike the present lobbying law.

So, Mr. Chairman, in my view the bill is supportable as reported—and I emphasize "as reported"—because the bill is not supportable if any one of certain major amendments is adopted, and I believe that the gentleman from Illinois (Mr. RAILSBACK) has several in mind. In particular, mechanism, if the grassroots lobby solicitation amendment is adopted, the bill would not be supportable on constitutional grounds. This part of the bill, solicitation, was eliminated by an overwhelming vote of 26 to 8 in the full Committee on the Judiciary.

I would refer the Members, Mr. Chairman, to a letter dated April 18, 1978, signed by all seven members of the House Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary which I have the privilege of chairing, pointing out to the membership of the House of Representatives the constitutional difficulties with the solicitation amendments. It is both unwise and, in our view, unconstitutional.

Other amendments which, if accepted by the committee, would make the entire bill unacceptable in my view and unconstitutional, and other grounds include the contribution requirement mentioned by both gentlemen from California (Mr. MOORHEAD and Mr. DANIELSON). Here

again we have an unconstitutional and unwise amendment lowering the threshold so that volunteer grassroots groups would be covered.

With those caveats, Mr. Chairman, I would like to point out again that I support the bill as it is and I would urge the membership to resist the various amendments that I have mentioned.

Mr. MOORHEAD of California. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Chairman, the House Committee on the Judiciary has wrestled with the subject of lobbying legislation for over 3 years, and I think it is fair to state that this bill before us today, H.R. 8494, is the most generally acceptable one we could have come up with, and certainly the most acceptable one we have come up with yet. At the outset I think it should be emphasized that H.R. 8494 is considerably different from the bill that we had before the House some 2 years ago and which passed the House. That was H.R. 15 in the 94th Congress. This legislation has a higher threshold for coverage. Less reporting is required of covered organizations; consequently, the reporting provisions are less burdensome. The enforcement provisions are less onerous and are simplified. In short, this bill is not as constitutionally suspect as its predecessors. It is important to stress that H.R. 8494 is a legislative lobbying bill. As has been pointed out, there is not executive branch coverage except in the case of contact by lobbying communications with designated high level executive branch officials on legislative matters where it is sought to influence the outcome of legislation, or treaties, or what have you.

There is next an important point that has been made here, which bears emphasis, that only organizations, not individuals, can be lobbyists under this legislation. An organization will file the annual registration and quarterly reports on lobbying activities. Individuals either retained by a covered organization or employed by the covered organization will be listed on their registrations and reports if they carry on systematic and sustained lobbying.

Certain activities are made exempt from the coverage of this act and should be zeroed in on, I believe. They are not lobbying communications. These include communications made at the request of a Federal officer or employee, or testimony at a public hearing. They include communications made in a speech or in a newspaper, book, magazine, radio, or television appearance, and communications by an individual for redress of grievances, or to express his personal opinion. Also exempt are communications made by an organization with the two Senators representing the State where the organization has its principal place of business, along with communications with any Congressman whose district is in the county where the organization has its principal place of business. This is known as the "geographic exemption." Frankly, this feature of H.R. 8494 is the one, in my view, most deserving of criticism and in need of refinement. The principal place of business standard is far too narrow. It would not assure the unhampered communication between constituents and Members of Congress that we all seek. Consequently, during the 5-minute rule I will offer an amendment to exempt any communication made by an individual with a Member of Congress who represents the area where the individual lives, or where he works. Our constituents should feel free to communicate with us on any matter, whether it relates to personal beliefs, their jobs, or a business.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield just briefly?

Mr. KINDNESS. I yield to the gentleman from California.

Mr. WIGGINS. I thank the gentleman for yielding.

I am curious to know why the gentleman feels it necessary to provide any geographic limitation on communications with legislators? It is my understanding that the first amendment applies to petitions to Government, not to one's own Congressman.

Mr. KINDNESS. The gentleman is mixing up two concepts, I believe. A person can certainly freely communicate with anyone in Government, petition Government with respect to his own opinions, or redress grievances.

Mr. WIGGINS. Organizations, too, I will say to the gentleman.

Mr. KINDNESS. The point that I am addressing here is where an organization which is involved in the lobbying process and thus comes under the coverage of the bill has someone speaking in its behalf within one's congressional district, or the State in the case of a Senator. That really should be exempt, in my opinion, and I think we should put that to a test of the vote of the House.

Once an organization is a lobbyist under H.R. 8494, it must file an annual registration with the Comptroller General. As has been pointed out, the administration of the act is to be carried out by the Comptroller General, the quarterly reports as well; but what is more significant, perhaps, about H.R. 8494 is to note what need not be reported. What need not be reported is particularly important, compared to the last time around. There is a need to retain these features of the bill, as has already been mentioned: no requirement that an organization disclose contributions or dues, nor any grassroots or indirect lobbying efforts.

I want to emphasize those things are important to the integrity of a bill that I believe has reasonable balance and they are important to the support of the bill, which is relatively widespread at this point.

I would like to point out to those who are concerned with Federal officials lobbying, there is already a provision in the United States Code, title 18, section 1913, which says that no part of the money appropriated by any enactment of Congress shall be used in the absence of express authorization by the Congress to directly or indirectly pay for any personal service or other forms of remuneration to influence legislation before the Congress. The fact that that part of the Criminal Code is not enforced is not directly at issue before us today, but that troublesome problem exists.

Mr. MOORHEAD of California. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. MCCLORY).

Mr. MCCLORY. Mr. Chairman, I, too, join in saluting the chairman and the ranking minority member of the subcommittee which has produced this extremely important legislation and I am hopeful that in general it will be enacted as presented to the House, with a few exceptions to which I will make reference in my statement.

Mr. Chairman, I rise in support of the Public Disclosure of Lobbying Act (H.R. 8494). To my mind, this is the most reasonable, fair proposal that has been put forth on this subject in recent years.

The enactment of this legislation would result in a far more effective lobbying statute than is presently on the books. The notorious "principal purpose" doctrine would be discarded, so that virtually all organizations which carry on continuing lobbying efforts would have to register and report. For the first time, this bill would assure effective enforcement of a Federal lobbying statute through powers given to the Justice Department. Covered organizations will register annually, and supply detailed quarterly reports to the General Accounting Office. Among other things, these reports would disclose the significant lobbying activities undertaken by the organization, as well as the total expenditures made in support of such efforts.

We all know that the existing Federal Regulation of Lobbying Act (2 U.S.C. 261–270; 60 Stat. 839–849) is unworkable and unenforcible. In a desperate balancing act in the Harriss case, the Supreme Court attempted to salvage the constitutionality of the unfortunate 1946 law. But in doing so it laid to rest forever the possibility that that statute might ever be meaningful. *Harriss* v. *United States*, 347 U.S. (1954).

But while I certainly support this proposed stringent new law, I still believe that we as legislators have a responsibility to closely scrutinize any replacement for the 1946 law. Drafting effective legislation in this area is a difficult and a delicate business. We deal here with basic first amendment rights—the right "to petition the Government for a redress of grievances." We must be careful to insure that any new statute does not result in an unwarranted "chilling effect" on the rights of individual citizens to express themselves. Beyond that, organized lobbying has consistently been judicially recognized as a right protected by the first amendment. See: Harriss, supra; *Liberty Lobby* v. *Pearson*, 390 F. 2d 489 (1968). What this means is that every aspect and every provision of a law which regulates, interferes with, or infringes upon this right, must be justified by a "compelling state interest."

This brings me to my first specific area of concern—contributions disclosure. Many of the bills introduced on lobbying would have required some form of disclosure, by organizations which lobby,

with respect to the amount of contributions or dues. These versions also would require the organization to supply the identity of the individuals making contributions above a certain level. In 1976, the House-passed bill (H.R. 15) would have required the disclosure of any contribution in excess of $2,500 and the identity of each individual contributor. This year the Judiciary Committee rejected this idea and I supported this decision.

While, on its face, this seems to be a perfectly plausible and reasonable means of determining where large interest groups get their money, there is some serious constitutional "fallout" with such a provision. What, for example, will be the impact of this type of provision on a church or other large charitable organization? Will we be directly affecting their ability to raise funds for good causes? Most of these provisions contain no requirement that the contribution actually be used for lobbying purposes—only that it be given to an organization that sometimes or occasionally lobbies.

Further, if the disclosure threshold is easily reached, we might end up with a complete or partial membership list of an organization. What are the constitutional implications of this? In a number of decisions the Supreme Court has found the requirement of disclosure of membership lists to violate the first amendment rights of privacy and associational freedom. *NAACP* v. *Alabama*, 357 U.S. 499 (1958); *Bates* v. *Little Rock*, 361 U.S. 526 (1960); *NAACP* v. *Button*, 371 U.S. 415 (1963); *Gibson* v. *Florida Legislative Committee*, 372 U.S. 539(1963). The test laid down by the Court is: Whether or not there is a substantial relationship between the information sought—for example the list—and a compelling, overriding State interest, so as to justify such an intrusion into, and modification of, first amendment rights.

I would urge this House to reject the effort to put dues and contributions reporting back in H.R. 8494. An unnecessary and unreasonable burden should not be placed on religious and other charitable organizations by such a reporting requirement—even with a waiver for churches from the Comptroller General because the waiver might not be granted and it would be too late for the contributor. He has been effectively chilled or deterred from exercising his first amendment rights.

My next concern has to do with insuring coverage of a class of individuals that I would describe as "professional volunteers." H.R. 8494, as it is presently constituted, is applicable only to organizations which employ or retain individuals to lobby. So, for example, Congress Watch would register as a lobbyist and report on the lobbying activities of its salaried employees, paid officers, and directors. But the activities of Mr. Ralph Nader, the founder and principal spokesman for the organization, would not be fully reflected in the "total expenditures" figures required in their quarterly report. Why? Because Mr. Nader receives no salary for his services to organizations such as Congress Watch or Public Citizen.

Now, none of us want to inhibit genuine volunteer activity of individuals who are exercising the right to petition without reference to a particular organizational policy or interest. But, if expenditures alone are the criterion for triggering coverage of an organization—we are oversimplifying and distorting how effective lobbying can be accomplished. A big salary or large expenditures are not always the best way to determine the quality or effectiveness of a lobbying effort. They are only one way of measuring such efforts. We must insure that individuals with financial resources independent of the organization or interest groups they serve will be covered if they are consistently active as lobbyists. Any individual, who, without pay, expends substantial amounts of time and effort to influence the legislative process should be covered provided he meets a reasonable threshold of substantive activity.

The failure to cover Ralph Nader, and others like him, has become the most notorious "loophole" in H.R. 8494. I urge support for an amendment to be offered by my colleague from Illinois (Mr. RAILSBACK) which would remedy this loophole.

My final area of concern has to do with so-called grassroots lobbying. Here again, the arguments for such coverage appear to be most reasonable and valid on their face. However, the Judiciary Committee overwhelmingly voted to delete a grassroots or solicitations reporting feature from the bill based upon genuine constitutional concerns.

I strongly feel that any provision requiring disclosure of lobbying solicitations should be kept out of H.R. 8494. If such a provision is included, virtually all communications between an organization and its members relating to legislative matters would have to be disclosed and reported. The pervasive sweep of this requirement coupled with the threat of substantial penalties for failure to report will have a chilling as well as burdensome effect on the legitimate information and educational activities of an organization and its members.

An objective of any bill to regulate lobbying should be to further open up the political process, to encourage more and different points of view, and to facilitate an informed exchange between the public and Congress. The amendment to put grassroots coverage back in H.R. 8494 would have the opposite effect; it would deter organizations from using their newsletters and other channels of information to inform their members about legislative issues, and would serve to restrain such organizations and members from engaging in legislative activities. What possible benefits can derive from reporting requirements which: First, tell you what you already know; and second, serve as a barrier or deterrent to citizens exercising their constitutional rights? I urge a "no" vote on the Flowers amendment.

Again, I emphasize that the Judiciary Committee version is a reasonable piece of legislation which also represents a significant improvement over the existing law. I urge the Members of this House to support the Judiciary Committee version of the bill with the addition of the professional volunteer coverage.

Mr. DANIELSON. Mr. Chairman, I yield 4 minutes to the gentleman from Virginia (Mr. HARRIS).

Mr. HARRIS. Mr. Chairman, as we consider today H.R. 8494, the Public Disclosure of Lobbying Act, I urge my colleagues to ask themselves what I consider to be the two basic questions for determining whether this bill will provide us with an effective lobbying law:

First. Will it include a clear and enforceable threshold provision to make sure that large, well-financed organizations must register?

Second. Will it provide us with an accurate record of not only what organizations spend on their lobbying efforts, but also who is financing an organization's major lobbying activities?

In order to provide a meaningful record of how lobbying influences public policy, I believe that a lobbying bill must be tough enough to provide a complete picture of organized lobbying efforts, without being so tough as to discourage these efforts, when they are appropriate. In my view, without the addition of two key provisions, namely, a more workable threshold provision and a requirement for the disclosure of major contributors to an organization, H.R. 8494 will fail to meet this objective.

Finding the proper threshold for identifying those organizations that spend a significant amount of time and money on lobbying is the most crucial element in any lobbying legislation. If it is to be effective in determining which organizations must register, a threshold must meet the following two tests:

First. It must be clear and simple enough so an organization can understand readily whether or not it must register; and

Second. It must be specific enough so that major lobbying organizations, or operations, will not be able to avoid registration.

I feel that the current threshold in H.R. 8494 is both too vague and too lenient to compel the coverage of many major lobbying organizations.

As originally adopted in subcommittee, the threshold covered organizations that spent $2,500, and an aggregate of 13 days, on lobbying communications in any quarterly filing period. The primary attribute of this threshold is its simplicity: It bases coverage on a significant level of lobbying expenditures and employs a reasonable and easy-to-calculate days test to determine how much time was spent on lobbying. Moreover, this threshold is effective: It is designed to cover the larger, better-financed lobbying organizations without requiring tedious recordkeeping or forcing the compliance of smaller organizations.

The threshold provision in H.R. 8494, on the other hand, establishes a complicated and impractical two-tiered days test for triggering coverage, whereby an organization must register only when one employee engages in "lobbying com-

munications" for 13 days per quarter, or two or more employees engage in such activities for 7 days per quarter. By so doing, this threshold is not only far more difficult to understand, but it opens a tremendous loophole through which major lobbying organizations can escape registration. Today I plan to offer an amendment which will restore the meaningful and effective threshold originally adopted in subcommittee to H.R. 8494, and I urge my colleagues to support this amendment.

I also believe that H.R. 8494's effectiveness can be greatly improved through the addition of a contributor disclosure amendment. Without such a provision, this legislation will provide only a partial record of how lobbying influences public policy.

A few large organizations can finance a significant portion of an organization's lobbying efforts, and can control an organization's position on a particular issue. For instance, the fact that the Electric Consumers Utility Council is financed by industry, rather than consumers, can make a big difference in understanding and evaluating that organization's lobbying interests. In my view, information on who is financing an organization's lobbying efforts should be a matter of public record.

An amendment is to be offered today which will require the disclosure of major contributors to an organization. I feel that this amendment will serve to preserve integrity and openness in government, while greatly improving the effectiveness of this legislation in providing an accurate public record of the lobbying process. I urge my colleagues to support this amendment.

In summary, I believe that H.R. 8494 has the potential to become a sound and workable lobbying law. However, it cannot be effective without the restoration of a meaningful threshold provision, and it will not be complete without a provision requiring the disclosure of major contributors to a lobbying organization. I believe that the adoption of these provisions will help H.R. 8494 meet its potential.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I am happy to yield to my colleague, the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, I thank the gentleman for yielding.

I am concerned that maybe the point that is made about the lobbyists not wanting to register is not exactly as accurate as the point relating to the concern that lobbyists have about the weight of reporting and the volume of reports.

A few weeks ago on the House floor we had a bill which was an attempt to relieve Members, and candidates from so much reporting, no doubt because of the fact that reporting is really a burden.

Mr. HARRIS. If my colleague will let me recapture my time, I would be happy to hit on those points, because I think it is essential that the threshold under which the organization has to register as a lobbyist is very important. It is also very important to have the reporting requirements simple enough so that it is not an undue burden to register as a lobbyist. We should know what lobbyists are doing, how much they are spending, but we should not also burden them with so much reporting that it would be an undue hardship. I will offer one amendment to have a threshold clear and simple and enforceable. Under the current threshold provision, an organization could make 600 contacts per quarter and not have to register as a lobbying organization. I doubt if anyone is going to treat such an act very seriously. I would hope that we can at least put the threshold in that we adopted in subcommittee which says that when an organization spends $2,500 per quarter, when they make 13 days of direct contacts per quarter, then they have to register. It is a simple test. It is a clear test. But, more importantly, it is an enforceable test.

This law will be of no purpose unless the rules can be enforced with regard to organizations which are highly involved in lobbying activity.

Mr. MOORHEAD of California. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. WIGGINS).

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. I thank the gentleman for yielding.

Mr. Chairman, I just wanted to make one point on the previous speaker's concern.

After the last Congress failed to enact the Lobbying Disclosure Act, I instituted a lobbying system in my own office in which each person who comes to lobby either me or members of my staff or employees is asked to sign so that we have a permanent record of lobbying contacts with our office.

I would like to say for the record that I know of no objection by any lobbyist who came to my office to signing and revealing the fact that he was a lobbyist. I think it reinforces my attitude that most lobbyists do not object to being identified as lobbyists, but they are concerned with the burdens of reporting.

Mr. WIGGINS. I appreciate the gentleman's comments.

Mr. Chairman, let us get the facts clearly on the table. There has been discussion here that this bill impacts professional lobbyists, and yet it is acknowledged that the term "lobbyist" is not defined in the bill.

Let me tell the Members who are lobbyists in this bill. They are organizations; every business organization in America, every fraternal association in America, every social and charitable association in America, and every church in America, every school, educational institution in America is made a lobbyist under this bill if those organizations have the temerity, mind you, the gall, to communicate with their legislator.

That is what we are regulating. And those Members who want to stampede into regulating lobbyists, at least understand who you are regulating. This is a more pervasive piece of regulatory legislation than OSHA, for example. Far more pervasive than that. So let us not cry crocodile tears over professional lobbyists. They need do nothing directly. It is the organization that is covered; and all organizations, save a very narrow, discreet exception, such as organizations of Members of Congress, are exempted from the scope of this bill.

I have already expressed by opposition to the bill in conceptual terms. I do not believe it can be amended to meet my objections to it. And so I will not trouble the Members with arguments which I think are wholly self-evident.

Mr. Chairman, I would like, rather, to use my time to ask the gentleman from California (Mr. DANIELSON), who is handling the bill, to respond to several questions which I previously submitted to him.

The first question which I wish to ask the gentleman from California (Mr. DANIELSON) is this:

Section 9 of the bill defines the term "lobby communication." The definition restricts the scope of the bill to those communications which are "directed to" Federal officials. Exempted from such communications are those made through a speech or print media distributed to the general public.

Why is an exemption for a communication made which is not covered at all, since if made in a print media or distributed to the general public, it would not be "directed to" a Federal official?

Mr. DANIELSON. If the gentleman will yield, Mr. Chairman, we put these exemptions in because we wanted to make it crystal-clear that certain types of commmunications should not under any circumstances be considered to be lobbying communications.

The exemption may be almost redundant or surplusage; but at the same time, it is a direct statement of negation, so there is no reason that anyone would try to include them.

Mr. WIGGINS. If that exemption is removed with respect to paid advertisements which are also not "directed to" a Federal official, what is the effect of that?

Mr. DANIELSON. There might be a situation—and I hope the gentleman will not strain me to give him an example—in which a paid advertisement is directed to Federal officers or employees. In that event, that paid advertisement would, of course, constitute a lobbying communication if made and paid for by a registered organization.

I cannot, as I stand here, provide the gentleman with an example; but it could very well take place.

Mr. WIGGINS. It is clear, then, that all paid advertisements, even if their purpose is to affect the disposition of legislation, are not covered; is that correct?

Mr. DANIELSON. No, all of them are not covered. The only ones that would be covered are those defined in section 2(9) as lobbying communications.

Mr. WIGGINS. If a committee of Congress announces that public hearings are to be held on pending legislation, is any communication directed to the committee on the subject of the hearing, "at the request of" the committee?

Mr. DANIELSON. If the gentleman

will yield further, if the committee requests the communication, obviously, it is at the request of the committee. If it does not request it, it would not be at the request of the committee. In any event, we have an exemption in section 2(9)(a) that a communication made at the request of a Federal officer or employee or submitted for inclusion in a report of a hearing or in the record of a public filing of the hearing is exempt.

The CHAIRMAN. The time of the gentleman from California (Mr. WIGGINS) has expired.

Mr. MOORHEAD of California. Mr. Chairman, I yield 2 additional minutes to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, I thank the gentleman for yielding.

To continue, Mr. Chairman, then the gentleman does agree, as I understand it, that if the author of the communication directs that it be added to the record, it is an exempt communication?

Mr. DANIELSON. That is my understanding.

Mr. WIGGINS. Finally, a corporation is included, but a "government corporation" is not. Is the scope of the term "government corporation" confined to the definition of that term in the report which says that it means a U.S. Government corporation? Is that the intent of those words in the bill?

Mr. DANIELSON. That is the intent, and that was the subject of discussion in subcommittee and, I believe, in full committee.

Mr. WIGGINS. Finally and quickly, would the gentleman discuss the interrelationship between 18 U.S.C. 1001, and section 11 of the bill.

Mr. DANIELSON. I thank the gentleman for raising that point.

It is my intention, and I am convinced that it was the intention of the subcommittee and the full committee, that the specific criminal sanction provided in this bill shall be the criminal sanction applied to any criminal violations of this bill.

I recognize that title 18, section 1001, does apply to similar types of statements; that is, if falsely made; but it was my intention and it was the tenor of the discussion throughout the work on this bill that the criminal provisions included within this bill, H.R. 8494, mean that those sanctions are the ones to be applied in the event of criminal violation of the law.

Mr. WIGGINS. And in effect, the gentleman is sending the Attorney General a message that he is not to use these sections as cumulative offenses; is that correct?

Mr. DANIELSON. That is correct.

Mr. WIGGINS. Mr. Chairman, I thank the gentleman.

Mr. DANIELSON. Mr. Chairman, I am pleased to yield 3 minutes to the gentlewoman from Texas (Miss JORDAN).

Miss JORDAN. Mr. Chairman, we have talked about what this bill does and what it does not do. I think it ought to be made clear, Mr. Chairman, that this bill is not going to render some evil holy. It is not going to right any wrong that we know about right now. It is not going to assuage any fear which the people may now have about lobbying. It is not going to regulate lobbyists. It is not going to cause lobbyists to wear cheaper suits, I say to the gentleman from Virginia.

So, what does the bill do? Why have it at all? Well, in 1946 Congress decided that it ought to try to do something about lobbying. Now, if we make the assumption that the Congress of the United States only passes legislation when there is a need for it, then we would assume that in the collective judgment of the Congress of the United States there was a need to say something about lobbyists. We said it—the Congress at that time, in 1946—and the bill was not really worth the paper it was written on. It was totally ineffectual. It was rife with loopholes, and it really did not do anything to bring any degree of accountability to the whole area.

So, if the bill we are considering today does anything, we are going to make the pronouncements on lobbying activity effectual rather than ineffectual. We are going to close some of the loopholes. We are going to say, "Members of the public, because you perceive that there is an undue influence exercised upon Members of Congress by people designated as lobbyists; because you, Mr. and Mrs. Public, perceive that, we are going to require these organizations to disclose to you exactly what they are doing."

That is what we purport to do in this bill; not regulate but register, report, disclose. One thing that this bill may do, if we keep it intact, is to let the public know that Members of Congress can at least withstand the pressure of cards and letters. Are you so fearful, Members of this House, that if there is an organized effort on the part of some organization to send you cards and letters, that you are going to cave in? Surely, you are stronger than that.

I support the bill, and I urge that we support it as is, without crippling amendments.

Mr. DANIELSON. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Mr. Chairman, the issue of the disclosure of lobbying activities by those who seek to influence the Federal Government decisionmaking process is a multidimensional and complex one. The Judiciary Subcommittee on Administrative Law and Governmental Relations, under the chairmanship of our distinguished colleague from California, GEORGE DANIELSON, is to be commended for its careful consideration and conscientious, diligent effort in reporting H.R. 8494 to the Judiciary Committee. For several months, the subcommittee labored to produce a lobbying reform measure which we can support that protects the constitutional rights of citizens to express their opinions to the Government while, at the same time, opens the lobbying process to full public view.

A healthy democracy demands that the business of the people be conducted in an open manner. The distinguished historian, Henry Steele Commanger, reminded us that—

> The generation that made the nation thought secrecy in Government one of the instruments of old world tyranny and committed itself to the principal that a democracy cannot function unless the people are permitted to know what their Government is up to.

As we all know, however, this principle of open government, as it relates to lobbying activities, has been and is ignored.

The events of the past several years have made the American people more conscious of the dangers of secrecy in matters relating to the conduct of Government than at any time before. A number of reforms have already taken hold. We have responded to the need to remove concealment in matters affecting the conduct of the people's business, and the reforms which have been enacted are improving the performance of our Government and our political processes. Lobbying reform is another necessary and essential reform which we must address.

Lobbying activities with the Government are sanctioned by the first amendment to the Constitution as an exercise of the "right of the people—to petition the Government for a redress of grievances," and the efforts of organized interests and individuals to influence Government have always been an inseparable part of the American political process.

Pressure groups traditionally have had considerable impact upon our form of government, going back to the early days of our Republic, and although legislative and policymaking decisions have been extensively influenced by lobbying groups, this does not necessarily make lobbying an unhealthy or objectional practice. Lobbying does provide a legitimate means for the wide variety of interest groups to present to the Government the opinions of their membership or clients.

As legislators, we all have received and benefited from the advice and information given to us by lobbyists, and in no way does H.R. 8494 seek to interfere with the right of any citizen or interest groups to communicate or exercise free speech with Government officials.

There are those lobbying practices, however, which have given lobbying a bad name. Too much of the lobbying that occurs is shrouded in secrecy and there is virtually no accountability for the large sums of money that are expended in the conduct of lobbying activities.

In the public mind, the presumption of corruption is often attached to the term lobbying and the lobbyist personifies the influence problem. All too often the public does not understand the informational role of the lobbyist in the legislative process. Instead, the public sees lobbying as a process by which special interests obtain favors, generally at the expense of citizens, from the Government. Lobbying is considered an underhanded process, associated with the liberal use of money, the wining and dining of legislators and Government bureaucrats, the free airplane trips, weekends as a guest at a corporation-owned lodge, and other ways of conducting influence peddling in Washington. The public cannot be blamed for looking with such disfavor and suspicion upon lobby-

ing. The lack of accountability in the reporting of money spent on behalf of lobbying activities, lobbying secrecy and occasional flagrant abuses all have contributed to this environment.

Mr. Chairman, the public and the Congress should be entitled to know how much money is being spent to influence the decisionmaking processes in the Government and who is paying the cost of such efforts to influence Government decisions. One of the most important lessons we should have learned from Watergate and its related scandals is that the secret lobbying with the Government and the concealed use of money must be ended.

The main reason why the public lacks substantive information about lobbying activities is because the Federal Regulation of Lobbying Act, part of the 1946 Legislative Reorganization Act, is vague in its wording and ill-defined in its definitions.

The 1954 Harriss decision, by the U.S. Supreme Court, held that the 1946 act was constitutional and that Congress could compel the disclosure of lobbying activities. The majority report of the Court, written by Chief Justice Warren, said that to hold otherwise, "would be to deny Congress in large measure that power of self-protection." Warren went on to write:

> Present day legislative complexities are such that individual Members of Congress cannot be expected to explore the myriad pressures to which they are regularly subjected. Yet full realization of the American ideal of government by elected representatives depends to no small amount on their ability to properly evaluate such pressures. Otherwise the voice of the people may all too easily be drowned out by the voice of special interest groups seeking favored treatment while masquerading as proponents of the public weal. This is the evil which the lobbying act was designed to help prevent.

Having said that, however, the Court, based upon its reading of the legislative history of the 1946 act, prepared the way for several major loopholes to take effect, thus enabling individuals to avoid registering or reporting on their activities.

The Court ruled that in order to be subject to the provisions of the lobbying law, a person must solicit, collect, or receive contributions, that one of the main purposes of such person or such contributions must be to influence the passage or defeat of legislation and that the intended method of influencing legislation must be through direct communication with Members of Congress.

All three tests have to apply before an individual or organization is required to register and report. If the individual or group came under one test, another might not apply, and in many cases that is exactly what has happened.

As we know, a number of groups contend that influencing Congress is not the main or substantial purpose for which they collect or receive funds, and thus they maintain they are not covered by the 1946 act, regardless of the extent of their lobbying activities.

Further, by limiting the disclosure requirement to sums spent on direct communication with the Congress, the Court exempted grassroots lobbying, one of the most effective means of lobbying, from the reporting requirements of the 1946 act. Although the Court did define letter campaigns as a form of direct lobbying, the test apparently is whether the letter campaign material is merely informative in tone or specifically urges the recipient to write to a Member of Congress on a piece of legislation.

In addition to these problems, another difficulty with the present law is that it places the responsibility of each lobbyist or organization to determine what portion of expenditures should be reported as spending for lobbying activities. This situation has allowed many large and powerful groups to either make no report or to report only small amounts of funds for which the group claimed was used, notwithstanding its extensive operations, for lobbying purposes.

Those who do register report that only a very small portion of their salary, or perhaps none at all, was paid for the principal purpose of lobbying. Their expenses are treated in the same modest manner.

Lastly, the current law only applies to lobbying with the legislative branch, although some of the most important and intensive lobbying is practiced with the executive branch.

In summary, the present lobbying act is a thoroughly deficient law.

Two years ago, in the closing days of the 94th Congress, the House passed H.R. 15, which, had it been enacted into law, would have repealed the present lobbying law and would have replaced it with a comprehensive lobbying disclosure law providing for the public disclosure of the activities of those organizations that lobby with the Congress and the executive branch. Unfortunately, the late date of the House action prevented any chance that differences with a Senate-passed bill could have been reconciled before adjournment.

We are now considering H.R. 8494. As reported by the Judiciary Committee, this bill, unfortunately, represents a retreat from the measure which the House acted upon on September 28 and 29, 1976. The threshold provisions are somewhat weakened. There is no coverage of grassroots lobbying which has been described as "the only lobbying that counts." There is no coverage of lobbying with the executive branch for contracts. There is no requirement for the disclosure of large financial contributors to lobbying organizations. If we are looking for an effective lobbying disclosure law to provide useful information on lobbying activities, then we must strengthen H.R. 8494 by adopting such provisions on the House floor. Otherwise, it would be ironic if lobbyists can be successful in their efforts to limit a lobbying disclosure bill so that it cannot have the potential of being as effective as it should be.

The fears expressed by many organizations against a strong law requiring disclosure of lobbying activities are groundless. Lobbying disclosure is not meant to curtail any activities, and to have a record of the activities undertaken by a lobbying organization is not to suggest that such conduct is wrong.

The purpose of a lobbying disclosure law is to give citizens an idea of lobbying activities with the Government and to provide them with a yardstick by which they can measure the influence that lobbying organizations have upon the formulation of public policy.

Mr. Chairman, let us recall the commitment our Founding Fathers made to the principle of open government and do our utmost to bring openness to the affairs and conduct of Government. I urge the House to strengthen H.R. 8494 and pass it.

Mr. MOORHEAD of California. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, I would like to begin by commending the distinguished chairman of the subcommittee, the gentleman from California (Mr. DANIELSON), the gentleman from Alabama (Mr. FLOWERS), my friend on the minority side of the committee, the gentleman from California (Mr. MOORHEAD), and the other members of the subcommittee for doing what I think was a splendid job in trying to create a reasonable and yet effective lobby bill.

May I just say, Mr. Chairman, that the gentleman from Wisconsin (Mr. KASTENMEIER) and I about 3 or 4 years ago introduced a lobby bill that had something like 155 cosponsors. We were successful in having passed through the House by a vote of 307 to 14 a bill, H.R. 15, in the closing days of the last Congress but we were unable to get an agreement with the other body, so that particular lobby legislation died.

Today we will be voting again on a new lobby bill, H.R. 8494, and I would hope we would be successful in enacting it into law.

I cannot shed crocodile tears for some of the statements that have been made about the onerous requirements that we are seeking to impose on special interest groups or lobbyists. I would like to say at the outset, however, that I think it is perfectly proper for a company, a labor union, an association, a cooperative, or for that matter any other organization to contact Members of Congress to urge a certain course of action. But in this case where by reason of its resources that entity is going to exert a disproportionate or an inordinate influence, I think it is in the interest of the public to require disclosure—and that is what we are talking about, disclosure of that organization's activities.

There are many issues that affect the general public where the general public does not know what is going on. They have no paid Washington representative. In addition they are not schooled in how to influence legislation. There is simply no way that they can have an equal voice with the organization that has paid researchers, lawyers, writers, and lobbyists. And yet this is supposed to be a representative government.

I want to get back to the crocodile tears that I cannot shed. We have some people who are trying to indicate that this legislation may be unconstitutional. Let me remind the Members of the House of something we are inclined sometimes to forget, and that is that right now there are 50 State laws re-

lating to lobbying. There were 17 States in the last year that enacted a new lobby law. As far as I know there has never been one that has been successfully challenged on the constitutional merits. That question has been laid to rest. In my opinion we will strengthen our democracy by requiring disclosure so that people will have some idea of what influence took place, what pressures we were under, and in my judgment it will also serve to make those of us in Government, as well as lobbyists, more accountable.

Since there already is a lobby disclosure law on the books, some may ask why we need the bill we are considering today. Very simply, the current law is a sham and a fraud on the public. This law, as interpreted by the courts, requires a lobbyist to register and make periodic reports only if the lobbyist's "principal purpose" is to make direct communications with a Member of Congress to influence legislation.

Let me just suggest to you what that means. That means that many, many Washington lawyers who do not have as their principal purpose being engaged in lobbying, although they may lobby extensively, if lobbying is not their primary purpose they are not legally required to even register, report or to keep records.

Indirect contacts (such as through staff) are not covered. There is virtually no enforcement of the law; there have been only a handful of cases and never a successful prosecution. An indictment of the law came in 1975 when a GAO report found, in reviewing nearly 2,000 quarterly lobbying reports, that 48 percent were incomplete and 61 percent were received late.

In discussing the failures of the current law, it is also of interest to note that the number of those filing fluctuates, often merely reflecting changes in the political atmosphere rather than the true number of lobbyists. For example, Watergate was investigated by Congress from about early spring 1973 through the impeachment inquiry which ended in the summer of 1974. Available lobby registration figures disclose that for the period October 1972 through December 1973, 799 persons registered as lobbyists as compared against 374 persons who registered during the time period December 1971 to October 1972. This was a more than two-fold increase in registrations.

Available compilations of current lobby registrations show that registrations jumped dramatically in 1976, when we again investigated reform of the Lobby Act.

The American people deserve and want a better lobby law. Louis Harris polls indicates that Americans, by a wide margin, believe that the special interest groups get more from Government than the people not represented by a lobbyist and that Congress is too much under the influence of special interest lobbyists. A recent poll shows that over three-quarters of the people surveyed want public disclosure of lobbyists' activities.

Who can blame them when they read that in a 3-month period the manager of the Washington office of one of the world's largest oil companies (Standard Oil of Indiana) spent $2.16 on lobbying expenditures? Or that Ralph Nader does not even have to register as a lobbyist? I happen to respect the job that Ralph Nader has done. For the most part, he has performed valuable service. Where he lobbies, however, even though not paid for, his organization, his name should be reported.

Our situation is even more embarrassing when you look and realize that the States are far ahead of us in this area. All 50 States have a lobbyist disclosure law; almost all of them provide more meaningful information than our Federal law. Last year alone, 14 States adopted new laws or amended their current laws.

The bill we are going to vote on is a good bill. It is fair; it is even-handed; and it does not regulate or prohibit anything. It gives us information only about those whose profession is lobbying or those who spend a very significant amount of time and money on lobbying the Congress.

Although I will be offering two amendments this afternoon to improve the bill and supporting others, H.R. 8494, in general, is a good bill. I urge its support and passage.

Mr. DANIELSON. Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Chairman, I rise in support of H.R. 8494, the Public Disclosure of Lobbying Act of 1978. It is the product of years of hard work—our Judiciary Committee has engaged in endless debate, hearings, and draft sessions and all in all I feel H.R. 8494 is a sound and workable proposal.

It strikes the necessary balance between the public's right to know and citizens' right to petition their Government for redress of grievances.

There are some areas which need to be strengthened, however, and I urge the adoption of amendments to correct the deficiencies in H.R. 8494.

There is a very wide loophole in the Lobbying Disclosure Act. It fails to cover the reporting of solicitations—so-called grassroots lobbying activities. It is at the grassroots level where the most effective lobbying takes place.

We have all seen the effectiveness of grassroots lobbying. When controversial subjects come before the House, we are deluged with mail which is organizationally generated. It is imperative that disclosure of such efforts is mandated if our lobbying bill is to be effective—if the public is to accurately gage special interest influence on the Congress. I support the adoption of the Flowers amendment to require the reporting of lobbying solicitations.

Second, the bill does not require reporting by lobbying organizations of their major contributions, those most likely to have the greatest impact on the decisions of the organization. The Supreme Court has upheld the constitutionality of requiring disclosure of contributions. The current lobbying disclosure law requires disclosure of contributions and our failure to provide for contributor disclosure in H.R. 8494 is a step backward from the 1946 act.

I urge the adoption of the Railsback/Kastenmeier amendment to require registered organizations to disclose the names of persons who contribute more than $3,000 annually, provided that the organization spends at least 1 percent of its budget on lobbying activities.

Thirdly, H.R. 8494 comes before us with an overly vague and lenient threshold which must be met to require reporting of "in-house" lobbying activities.

The "in-house" lobbying threshold which was adopted in our Administrative Law Subcommittee would have covered organizations that spent $2,500, and retained at least one employee who devoted an aggregate of all or part of 13 days on lobbying communications in any quarterly filing period.

That threshold was altered in the full Judiciary Committee. The language of H.R. 8494 now requires organizations that spend $2,500 and retain at least one employee who devotes at least 13 days of a given quarter making lobbying communications, or two or more employees who make such communications 7 days in a quarter.

Besides being difficult to understand, this two-tier threshold opens a large loophole for lobbying organizations with big staffs. An organization could escape coverage by limiting lobbying communications by one employee to 12 days per quarter and limiting communications by any number of other employees to 6 days per quarter.

I support an amendment to return the "in-house" lobbying threshold to the language adopted by the Administrative Law Subcommittee.

Finally, H.R. 8494 does not require reporting of activities of major, unpaid policy formulators, who are most likely to have the greatest impact on the decisions of the organization.

The Railsback amendment to add another provision to the reporting of issues requirement should be adopted. That amendment would require that reporting organizations name the employee or retainee who lobbied on each of the issues reportable. In addition, the amendment would require that reporting organizations name their principal officer, whether pair or unpaid, and the issues on which he or she lobbied.

We must enact legislation to let the public know of the influence of powerful special interests on the Congress, but at the same time protect the right of all citizens to express their views. H.R. 8494—with the amendments I feel must be added to strengthen and improve it—will achieve those very important goals.

● Mr. FRENZEL. Mr. Chairman, the Congress has been playing with revisions of lobby disclosure law since I came here in 1971, and probably long before that. Our 32-year law is a notorious joke. We can stop playing today if we pass H.R. 8494.

However, we can improve H.R. 8494 by the adoption of important amendments. I believe we should pass amend-

ments: First, to cover reporting of solicitations made by lobbying organizations; second, to require reporting of major contributions to lobbying organizations; and third, to require reporting of activities of individuals who are major policy formulators of lobbying organizations.

With the addition of these three amendments, I believe the bill will be as effective as possible without unnecessarily restricting lobbying activity.

I believe the constitutionally protected practice of petitioning the legislature is a good one and a great help in the legislative process. I believe the Constitution does not differentiate between good lobbying and bad lobbying.

I have never been concerned by so-called "undue influence." I have been lobbied hard and often, by every sort of interest, expensively and cheaply.

I have been lobbied by teachers, union members, senior citizens, community groups, mayors, corporations, housewives, doctors, lawyers, merchants, and chiefs. Some of these efforts occasionally make the Congressman uncomfortable, but all of them are helpful and useful in the representative system.

H.R. 8494 is not intended to make lobbying difficult, nor do I believe it will do so. It is not intended to have a "chilling effect" on lobbying, and I doubt that it will have.

It is, purely and simply, intended to disclose the nature and extent of the various lobbying efforts which cost more than the threshold amounts.

I believe H.R. 8494 is a reasonable bill which imposes reasonable reporting requirements on lobbying organizations. It should be passed.●

● Mr. DRINAN. Mr. Chairman, "lobbying" is one of those political words which, through the years, has acquired a number of negative connotations. It conjures up an image of well heeled representatives of well financed special interests using their wealth to influence unduly the behavior of Members of Congress. We think of public officials receiving gifts, free trips, uncompensated use of resort facilities, and other largesse from the coffers of those seeking to undermine congressional efforts to legislate for the public good.

In some instances, the popular perception of lobbying is accurate. Indeed the recent revelations of congressional improprieties have reinforced the negative connotations. Frequently overlooked, however, is that many unethical practices associated with lobbying are in fact illegal. Federal statutes impose criminal sanctions for bribery, corruption, and other acts related to official misconduct. Additionally the rules of both Houses proscribe other practices which have the appearance or reality of impairing the rationality, objectivity, and fairness of the decisionmaking process.

In order to analyze the essence of lobbying, we must clearly identify, separate out, and vigorously prosecute unlawful conduct which we associate with it. Once that is done, then we are able to focus on lobbying as the attempt to influence the congressional process through oral and written contacts by individuals and organizations seeking to advance their interests. Viewed in that light, the propriety of H.R. 8494 to regulate lobbying emerges vividly. When the corrupting influence of direct monetary exchanges are excluded from consideration as covered by other criminal statutes and rules, then we must confront the very real first amendment considerations involved in the type of lobbying regulated by H.R. 8494.

It must be recalled that the first amendment expressly forbids Congress from enacting any law which abridges the "right of the people * * * to petition the Government for a redress of grievances." A great deal of lobbying includes precisely the protected activity encompassed by this amendment. When Common Cause, the Consumer Federation of America, the Chamber of Commerce, or any other group solicits our vote on any particular matter, that action, it seems to me, is at the heart of the first amendment protection.

Thus Congress bears a heavy burden to justify any regulation of lobbying in the sense that I have described it. Although the Supreme Court has sustained the constitutionality of the present law, it cautioned against excessive intrusion into an area protected by the Constitution.

In my view H.R. 8494 does not exceed the constitutional limits of congressional authority in this sensitive area. When the Judiciary Committee examined the bill, we carefully considered the constitutional limitations of our power. Indeed the committee adopted several amendments which cut back on the intrusiveness of this measure into the right of the people to petition their Government.

First, we eliminated the provision which would have required organizations covered by the bill to report so-called "grassroots" solicitations. Under this section, reporting groups would have had to describe in some detail their communications with members and other interested parties about legislative matters of concern to them. Even though the decision to contact a Member of Congress would be entirely within the discretion of the recipient of the solicitation, the group would nonetheless have to report the solicitation. Such indirect lobbying hardly rises to the level necessary to justify intrusion into activity protected by the first amendment.

Second, the committee removed a provision requiring certain reporting of the contributors to lobbying groups. Apart from the serious question whether too much reporting was required, we must address the more fundamental question whether Congress has the right to compel disclosure of such information consistent with the first amendment. This provision of the bill which the committee had before it implicated constitutional concerns extending beyond the right to petition the Government. It implicated free speech considerations as well.

It has been a long and noble tradition in our country to engage in political activity anonymously. Since the early days of the Republic, citizens have contributed to the political dialog without revealing their identities. In some instances, anonymity is assumed to protect the individual from reprisals, not only those coming from Government but those coming from private individuals who do not share their views. In other cases, anonymity may be used out of the highest motives of good will and philanthropy. In these days of sinister and clandestine activity by Government against its citizens, we have come to identify anonymity with evildoers. These recent revelations of governmental improprieties have colored our view of the role of anonymous political activity, thus distorting a noble, historical tradition. Indeed, it was not very long ago that the Supreme Court reminded us of that tradition in striking down a California law which sought to require every political pamphlet to identify its source.

Third, the committee adjusted the threshold provisions of the bill which determine what kinds of lobbying activities fall within the purview of H.R. 8494. It sought to limit coverage only to those groups which present a real threat to democratic decisionmaking in Congress by asserting an undue influence on the legislative process. Contacts from small organizations or those which engage only incidentally in lobbying are hardly the kind of actions which we must fear for their corrupting impact.

The committee adopted other amendments to the bill which further narrowed its scope to assure consistency with constitutional principles. Because of these positive actions by the committee, I voted to report H.R. 8494 to the full House for its consideration. If the House does not alter this bill adversely to first amendment interests, I intend to support it fully after this body has worked its will.

Before concluding, I should note that a wide variety of interest groups have written to me, as they undoubtedly have to other Members, urging my support of H.R. 8494 as it was reported by the Judiciary Committee. While this bill is probably not perfect, I think it does reasonably and, more important, constitutionally accommodate the competing interests. I hope the House will reject all amendments which would intrude into the sensitive area of the first amendment and which would disturb the delicate balance in H.R. 8494.●

● Mr. WEISS. Mr. Speaker, it is with great reluctance that I must vote against H.R. 8494, the Public Disclosure of Lobbying Act, as amended.

I do so, having fully intended to vote for the bill as it was reported out of Committee, because of the inadequacies of the existing law regarding lobbying. The 1946 Legislative Reorganization Act is essentially ineffective because of ambiguities regarding who must register and report and the lack of meaningful enforcement provisions. Although there is a need to replace the present law, we must nonetheless ask whether the proposed bill will on balance be an improvement.

Admittedly, it will correct some of the deficiencies in the existing law. However, I believe that as amended, the bill

poses a serious threat to our civil liberties.

In my view, encouraging people to express their views to their representatives is an inherent, and most important part, of the political process. Thus, any bill which attempts to apply regulations to lobbying organizations must be not only strong enough to insure registration and reporting by all major organizations, but must also safeguard first amendment rights. H.R. 8494, as amended, does not meet this standard.

The organization would have to describe how it solicits and on what issue, the number of persons solicited, and the identity of persons solicited. I fear that this type of reporting might well have consequences other than the ones we intend. Instead of providing information on attempts to lobby the Government, this measure might actually deter people from exercising the legitimate right of petitioning their Government. Reporting requirements should be reasonable and practical, and should not be so onerous that they inhibit people from contacting their representatives because of the time and cost which compliance would involve.

The amendment requiring contributor disclosure is equally as threatening to an individual's free exercise of first amendment rights. As the American Civil Liberties Union has made clear, contributors to a controversial organization would have their names published in the Federal Register. Surely, this would have a devastating effect on the individual and on the organization's ability to secure funds. The Railsback amendment will interfere with these individuals' freedom to participate anonymously in the organizations of their choice.

If we are to believe that the purpose of a lobbying bill is not to regulate the practice, but merely disclose lobbying activities, then this legislation is a failure. The practical effect of H.R. 8494 will be to restrict legitimate lobbying activities by citizen groups. In the final analysis, this is a far greater danger than unreported lobbying, and thus, I urge my colleagues to join me in opposing its passage.●

The CHAIRMAN. All time has expired. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Public Disclosure of Lobbying Act of 1978".

DEFINITIONS

SEC. 2. As used in this Act—

(1) the term "affiliate" means—

(A) an organization which is associated with another organization through a formal relationship based upon ownership or an agreement (including a charter, franchise agreement, or bylaws) under which one of the organizations maintains actual control or has the right of potential control of all or a part of the activities of the other organization;

(B) a unit of a particular denomination of a church or of a convention or association of churches; and

(C) a national membership organization and any of its State or local membership organizations or units, a national trade association and any of its State or local trade associations, a national business league and any of its State or local business leagues, a national federation of labor organizations and any of its State or local federations, and a national labor organization and any of its State or local labor organizations;

(2) the term "Comptroller General" means the Comptroller General of the United States;

(3) the term "direct business relationship" means the relationship between an organization and any Federal officer or employee in which—

(A) such Federal officer or employee is a partner in such organization;

(B) such Federal officer or employee is a member of the board of directors or similar governing body of such organization, or is an officer or employee of such organization; or

(C) such organization and such Federal officer or employee each hold a legal or beneficial interest (excluding stock holdings in publicly traded corporations, policies of insurance, and commercially reasonable leases made in the ordinary course of business) in the same business or joint venture, and the value of each such interest exceeds $1,000;

(4) the term "employ" means the utilization of the services of an individual or organization in consideration of the payment of money or other thing of value, but does not include the utilization of the services of a volunteer;

(5) the term "exempt travel expenses" means any sum expended by any organization in payment or reimbursement of the cost of any transportation for any agent, employee, or other person (but not including a Federal officer or employee) engaging in activities described in section 3(a), plus such amount of any sum received by such agent, employee, or other person as a per diem allowance for each such day as is not in excess of the maximum applicable allowance payable under section 5702(a) of title 5, United States Code, to Federal employees subject to such section;

(6) the term "expenditure" means—

(A) a payment, distribution (other than normal dividends and interest), salary, loan (if made on terms or conditions that are more favorable than those available to the general public), advance, deposit, or gift of money or other thing of value, other than exempt travel expenses, made—

(i) to or for the benefit of a Federal officer or employee;

(ii) for mailing, printing, advertising, telephones, consultant fees, or the like which are attributable to activities described in section 3(a), and for costs attributable partly to activities described in section 3(a) where such costs, with reasonable preciseness and ease, may be directly allocated to those activities; or

(iii) for the retention or employment of an individual or organization who makes lobbying communications on behalf of the organization; or

(B) a contract, promise, or agreement, whether or not legally enforceable, to make, disburse, or furnish any item referred to in subparagraph (A);

(7) the term "Federal officer or employee" means—

(A) any Member of the Senate or the House of Representatives, any Delegate to the House of Representatives, and the Resident Commissioner in the House of Representatives;

(B) any officer or employee of the Senate or the House of Representatives or any employee of any Member, committee, or officer of the Congress;

(C) any officer of the executive branch of the Government listed in sections 5312 through 5316 of title 5, United States Code; and

(D) the Comptroller General, Deputy Comptroller General, General Counsel of the United States General Accounting Office, and any officer or employee of the United States General Accounting Office whose compensation is fixed by the Comptroller General in accordance with section 203(i) of the Federal Legislative Salary Act of 1964 (31 U.S.C. 52b);

(8) the term "identification" means—

(A) in the case of an individual, the name, occupation, and business address of the individual and the position held in such business; and

(B) in the case of an organization, the name and address of the organization, the principal place of business of the organization, the nature of its business or activities, and the names of the executive officers and the directors of the organization, regardless of whether such officers or directors are paid;

(9) the term "lobbying communication" means, with respect to a Federal officer or employee described in section 2(7)(A) or (B), an oral or written communication directed to such Federal officer or employee to influence the content or disposition of any bill, resolution, treaty, nomination, hearing, report, or investigation, and, with respect to a Federal officer or employee described in section 2(7)(C) or (D), an oral or written communication directed to such Federal officer or employee to influence the content or disposition of any bill, resolution, or treaty which has been transmitted to or introduced in either House of Congress or any report thereon of a committee of Congress, any nomination to be submitted or submitted to the Senate, or any hearing or investigation being conducted by the Congress or any committee or subcommittee thereof, but does not include—

(A) a communication made at the request of a Federal officer or employee, or submitted for inclusion in a report of a hearing or in the record or public file of a hearing;

(B) a communication made through a speech or address, through a newspaper, book, periodical, or magazine published for distribution to the general public, or through a radio or television transmission, or through a regular publication of an organization published in substantial part for purposes unrelated to engaging in activities described in section 3(a): *Provided,* That this exemption shall not apply to an organization responsible for the purchase of a paid advertisement in a newspaper, magazine, book, periodical, or other publication distributed to the general public; or of a paid radio or television advertisement;

(C) a communication by an individual for a redress of grievances, or to express his personal opinion; or

(D) a communication on any subject directly affecting an organization to (i) a Senator, or to an individual on his personal staff, if such organization's principal place of business is located in the State represented by such Senator, or (ii) a Member of the House of Representatives, or to an individual on his personal staff, if such organization's principal place of business is located in a county (including a city, city-and-county, parish, and the State of Alaska) within which all or part of such Member's congressional district is located;

(10) the term "organization" means—

(A) any corporation (excluding a Government corporation), company, foundation, association, labor organization, firm, partnership, society, joint stock company, organi-

zation of State or local elected or appointed officials (excluding any Federal, State, or local unit of government other than a State college or university as described in section 511 (a)(2)(B) of the Internal Revenue Code of 1954, and excluding any Indian tribe, any national or State political party and any organizational unit thereof, and any association comprised solely of Members of Congress or Members of Congress and congressional employees), group of organizations, or group of individuals; and

(B) any agent of a foreign principal as defined in section 1 of the Foreign Agents Registration Act of 1938, as amended (22 U.S.C. 611);

(11) the term "quarterly filing period" means any calendar quarter beginning on January 1, April 1, July 1, or October 1; and

(12) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

APPLICABILITY OF ACT

SEC. 3. (a) The provisions of this Act shall apply to—

(1) any organization which makes an expenditure in excess of $2,500 in any quarterly filing period for the retention of an individual or another organization to make lobbying communications, or for the express purpose of preparing or drafting any such lobbying communication; or

(2) any organization which (A) employs at least one individual who, on all or any part of each of thirteen days or more in any quarterly filing period, or at least two individuals each of whom on all or any part of each of seven days or more in any quarterly filing period, makes lobbying communications on behalf of that organization, and (B) makes an expenditure in excess of $2,500 in such quarterly filing period on making lobbying communications,

except that the provisions of section 4 and section 6 of this Act shall not apply to an affiliate of a registered organization if such affiliate engages in activities described in paragraphs (1) and (2) of this subsection and such activities are reported by the registered organization.

(b) This Act shall not apply to practices or activities regulated by the Federal Election Campaign Act of 1971.

REGISTRATION

SEC. 4. (a) Each organization shall register with the Comptroller General not later than fifteen days after engaging in activities described in section 3(a).

(b) The registration shall contain the following, which shall be regarded as material for the purposes of this Act:

(1) An identification of the organization, except that nothing in this paragraph shall be construed to require the disclosure of the identity of the members of an organization.

(2) An identification of any retainee described in section 3(a)(1) and of any employee described in section 3(a)(2).

(c) A registration filed under subsection (a) in any calendar year shall be effective until January 15 of the succeeding calendar year. Each organization required to register under subsection (a) shall file a new registration under such subsection within fifteen days after the expiration of the previous registration, unless such organization notifies the Comptroller General, under subsection (d), with respect to terminating the registration of the organization.

(d) Any registered organization which determines that it will no longer engage in activities described in section 3(a) shall so notify the Comptroller General. Such organization shall submit with such notification either (1) a final report, containing the information specified in section 6(b), concerning any activities described in section 3(a) which the organization has not previously reported or (2) a statement, pursuant to section 6(a)(2), as the case may be. When the Comptroller General receives such notification and report or statement, the registration of such organization shall cease to be effective.

RECORDS

SEC. 5. (a) Each organization required to be registered and each retainee of such organization shall maintain for each quarterly filing period such records as may be necessary to enable such organization to file the registrations and reports required to be filed under this Act, except that, in those situations where a registered organization elects to report as to the lobbying activities of its affiliates pursuant to section 3(a), such affiliates shall be responsible for maintaining such records as are necessary to enable the registered organization to fully discharge its reporting obligations as they pertain to such affiliates. The Comptroller General may not by rule or regulation require an organization to maintain or establish records (other than those records normally maintained by the organization) for the purpose of enabling him to determine whether such organization is required to register.

(b) Any officer, director, employee, or retainee of any organization shall provide to such organization such information as may be necessary to enable such organization to comply with the recordkeeping and reporting requirements of this Act. Any organization which shall rely in good faith on the information provided by any such officer, director, employee, or retainee shall be deemed to have complied with subsection (a) with respect to that information.

(c) The records required by subsection (a) shall be preserved for a period of not less than five years after the close of the quarterly filing period to which such records relate.

REPORTS

SEC. 6. (a)(1) Each organization which engages in the activities described in section 3(a) during a quarterly filing period shall, not later than thirty days after the last day of such period, file a report concerning such activities with the Comptroller General.

(2) Each registered organization which does not engage in the activities described in section 3(a) during a quarterly filing period shall file a statement to that effect with the Comptroller General.

(b) Each report required under subsection (a)(1) shall contain the following, which shall be regarded as material for the purposes of this Act:

(1) An identification of the organization filing such report.

(2) The total expenditures (excluding salaries other than those reported under paragraph (5) of this subsection) which such organization made with respect to activities described in section 3(a) during such period.

(3) An itemized listing of each expenditure in excess of $35 made to or for the benefit of any Federal officer or employee and an identification of such officer or employee.

(4) A disclosure of those expenditures for any reception, dinner, or other similar event which is paid for, in whole or in part, by the reporting organization and which is held for the benefit of any Federal officer or employee, regardless of the number of persons invited or in attendance, where the total cost of the event exceeds $500.

(5) An identification of any retainee of the organization filing such report and of any employee who makes lobbying communications on all or part of each of seven days or more, and the expenditures made pursuant to such retention or employment, except that in reporting expenditures for the retention or employment of such individuals or organiaztions, the organization filing such report shall—

(A) allocate, in a manner acceptable to the Comptroller General, and disclose the amount which is paid to the individual or organization retained or employed by the reporting organization and which is attributable to engaging in such activities for the organization filing such report; or

(B) notwithstanding any other provision of law, disclose the total expenditures paid to any individual or organization retained or employed by the organization filing such report.

(6) A description of the issues concerning which the organization filing such report engaged in activities described in section 3(a) and upon which the organization spent a significant amount of its efforts.

(7) Disclosure of each known direct business relationship between the reporting organization and a Federal officer or employee whom such organization has sought to influence during the quartely filing period involved.

DUTIES OF THE COMPTROLLER GENERAL

SEC. 7. (a) It shall be the duty of the Comptroller General—

(1) to develop filing, coding, and cross-indexing systems to carry out the purposes of this Act, including (A) a cross-indexing system which, for any retainee described in section 3(a)(1) who is identified in any registration or report filed under this Act, discloses each organization identifying such retainee in any such registration or report, and (B) a cross-indexing system, to be developed in cooperation with the Federal Election Commission, which discloses for any such retainee each identification of such retainee in any report filed under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434);

(2) to make copies of each registration and report filed with him under this Act available for public inspection and copying, commencing as soon as practicable after the date on which the registration or report involved is received, but not later than the end of the fifth working day following such date, and to permit copying of such registration or report by hand or by copying machine or, at the request of any individual or organization, to furnish a copy of any such registration or report upon payment of the cost of making and furnishing such copy; but no information contained in any such registration or report shall be sold or utilized by any individual or organization for the purpose of soliciting contributions or business;

(3) to preserve the originals or accurate reproductions of such registrations and reports for a period of not less than five years from the date on which the registration or report is received;

(4) to compile and summarize, with respect to each quarterly filing period, the information contained in registrations and reports filed during such period in a manner which clearly presents the extent and nature of the activities described in section 3(a) which are engaged in during such period;

(5) to make the information compiled and summarized under paragraph (4) available to the public within sixty days after the close of each quarterly filing period, and to permit copying of such information by hand or by copying machine or, at the request of any individual or organization, to furnish a copy of such information upon payment of the cost of making and furnishing such copy; and

(6) to prescribe such rules and regulations and such forms as may be necessary to carry out the provisions of this Act in an effective and efficient manner.

(b) The duties of the Comptroller General described in subsection (a)(6) of this section shall be carried out in conformity with chapter 5 of title 5, United States Code,

and any records maintained by the Comptroller General under this Act shall be subject to the provisions of sections 552 and 552a of such chapter.

ENFORCEMENT

SEC. 8. (a) It shall be the duty of the Attorney General to investigate alleged violations of any provision of this Act, or any rule or regulation promulgated in accordance therewith. The Attorney General shall notify the alleged violator of such alleged violation, unless the Attorney General determines that such notice would interfere with the effective enforcement of this Act, and shall make such investigation of such alleged violation as the Attorney General considers appropriate. Any such investigation shall be conducted expeditiously, and with due regard for the rights and privacy of the individual or organization involved.

(b) If the Attorney General determines, after any investigation under subsection (a), that there is reason to believe that any individual or organization has engaged in any act or practice which constitutes a civil violation of this Act as described in section 11 (a), he shall endeavor to correct such violation by informal methods of conference or conciliation.

(c) If the informal methods described in subsection (b) fail, the Attorney General may institute a civil action, including an action for permanent or temporary injunction, restraining order, or any other appropriate relief, in the United States district court for the judicial district in which such individual or organization is found, resides, or transacts business.

(d) If the Attorney General determines, after any investigation under subsection (a), that there is reason to believe that any individual or organization has engaged in any act or practice which constitutes a criminal violation of this Act as described in section 11(b) or 11(c), the Attorney General may institute criminal proceedings in a United States district court in accordance with the provisions of chapter 211 of title 18, United States Code.

(e) The United States district courts shall have jurisdiction of actions brought under this Act.

(f) In any civil action brought pursuant to subsection (c), the court may award to the prevailing party (other than the United States or an agency or official thereof) reasonable attorney fees and expenses if the court determines that the action was brought without foundation, vexatiously, frivolously, or in bad faith.

REPORTS BY THE COMPTROLLER GENERAL

SEC. 9. The Comptroller General shall transmit reports to the President of the United States and to each House of the Congress no later than March 31 of each year. Each such report shall contain a detailed statement with respect to the activities of the Comptroller General in carrying out his duties and functions under this Act, together with recommendations for such legislative or other action as the Comptroller General considers appropriate.

CONGRESSIONAL DISAPPROVAL OF RULES OR REGULATIONS

SEC. 10. (a) Upon promulgation of any rule or regulation to carry out the provisions of section 4, 5, or 6 under the authority given him in section 7(a)(6) of this Act, the Comptroller General shall transmit notice of such rule or regulation to the Congress. The Comptroller General may place such rule or regulation in effect as proposed at any time after the expiration of ninety calendar days of continuous session after the date on which such notice is transmitted to the Congress unless, before the expiration of such ninety days, either House of the Congress adopts a resolution disapproving such rule or regulation.

(b) For purposes of this section—

(1) continuity of session of the Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the ninety calendar days referred to in subsection (a).

SANCTIONS

SEC. 11. (a) Any individual or organization knowingly violating section 4, 5, or 6 of this Act, or any rule or regulation promulgated in accordance therewith, shall be subject to a civil penalty of not more than $10,000 for each such violation.

(b) Any individual or organization who knowingly and willfully violates section 4, 5, or 6 of this Act, or who, in any statement required to be filed, furnished, or maintained pursuant to this Act, knowingly and willfully makes any false statement of a material fact, omits any material fact required to be disclosed, or omits any material fact necessary to make statements made not misleading, shall be fined not more than $10,000 or imprisoned for not more than two years, or both, for each such violation.

(c) Any individual or organization knowingly and willfully failing to provide or falsifying all or part of any records required to be furnished to an employing or retaining organization in violation of section 5(b) shall be fined not more than $10,000, or imprisoned for not more than two years, or both.

(d) Any individual or organization selling or utilizing information contained in any registration or report in violation of section 7(a)(2) of this Act shall be subject to a civil penalty of not more than $10,000.

REPEAL OF THE FEDERAL REGULATION OF LOBBYING ACT

SEC. 12. The Federal Regulation of Lobbying Act (2 U.S.C. 261 et seq.), and that part of the table of contents of the Legislative Reorganization Act of 1946 which pertains to title III thereof, are repealed.

SEPARABILITY

SEC. 13. If any provision of this Act, or the application thereof, is held invalid, the validity of the remainder of this Act and the application of such provision to other persons and circumstances shall not be affected thereby.

AUTHORIZATION OF APPROPRIATIONS

SEC. 14. There are authorized to be appropriated to carry out this Act $1,600,000 for the fiscal year beginning on October 1, 1978; $1,600,000 for the fiscal year beginning on October 1, 1979; and $1,600,000 for the fiscal year beginning on October 1, 1980.

EFFECTIVE DATES

SEC. 15. (a) Except as provided in subsection (b), the provisions of this Act shall take effect on October 1, 1978.

(b) Sections 4, 5, 6, 8, 11, and 12 shall take effect on the first day of the first calendar quarter beginning after the date on which the first rules and regulations promulgated to carry out the provisions of sections 4, 5, and 6 take effect, in accordance with section 10.

Mr. DANIELSON (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be deemed as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Does the gentleman ask unanimous consent that the entire committee amendment in the nature of a substitute be deemed as read?

Mr. DANIELSON. I ask unanimous consent that the entire committee amendment in the nature of a substitute be deemed as read.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there amendments to the committee amendment in the nature of a substitute?

PARLIAMENTARY INQUIRY

Mr. DANIELSON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DANIELSON. Mr. Chairman, under the rule, should not amendments be offered section by section, or to the entire bill?

The CHAIRMAN (Mr. MEEDS). That is why the Chair asked the question. The gentleman's unanimous consent request was that the entire committee amendment in the nature of a substitute be deemed as read, printed in the RECORD, and open to amendment at any point. Amendments may now be offered to any section.

Mr. DANIELSON. I thank the Chair.

AMENDMENT OFFERED BY MR. KINDNESS

Mr. KINDNESS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KINDNESS: On page 32, strike lines 6–16, and insert the following language in lieu thereof:

"(D) a communication on any subject by an individual on behalf of an organization to (i) a Senator, or to an individual on his personal staff, if the individual making the communication lives or works in the State represented by such Senator, or (ii) a Member of the House of Representatives, or to an individual on his personal staff, if the individual making the communication lives or works in the congressional district represented by such Member, or in a county or standard metropolitan statistical area, all or part of which is within such Member's congressional district;"

Mr. KINDNESS. Mr. Chairman, the amendment before us is the one referred to during the general debate which would clear up some problems that were brought up by the members of the Committee on Rules yesterday when this matter was before that committee. Members of the Committee on Rules were asking questions about what happens if you are invited to visit a plant or a store in your district and people want to talk to you while you are there about legislative topics. Some of them may not live in your actual district. They may work there, but they may live across the line that may not be very distant, and it is difficult to differentiate. They are all part of one community more or less in many cases.

This amendment would make it clear that anyone who lives or works in your district, or in a county of which your district is a part, or in a standard metropolitan statistical area, all or part of which is included in your congressional district, he may communicate with you without that being part of the covered type of lobbying communications, that is, this would be one of the exemptions from lobbying communications.

You can imagine how disconcerting it would be to find that you as a Member of Congress are no longer being invited to visit places in your community where people are employed or would be likely to talk to you in the course of such a visit about legislative matters. I would certainly urge that this amendment, when considered in the subcommittee and the full committee, was perhaps not as fully considered as might have been the case, although a lot of discussion was had about it. I think we wound up with something less than perfection in this part of the bill, and I believe this amendment would come very close to meeting the problems that were raised by members of the Committee on Rules yesterday about this part of the bill, and it would not be a barrier between Members of Congress and their constituents who either live or work in one's area.

Right now the rule is that it has to be the principal place of business of the organization, which may be in some far distant State, before this would be an exempt communication. We are talking here not about where an individual speaks his own opinion or petitions for redress of a grievance, but rather where the individual is talking, perhaps, in behalf of an organization, which is to be distinguished from speaking his own opinion; but even in that way, there are people of all kinds communicating with you in your district on the effect the legislation might have in the place where they work or on their jobs. It is a very valid type of communication, but hardly the standard sort of lobbying communication to which this bill is directed so as to require all the recordkeeping and reporting; so I certainly would urge adoption of the amendment to clarify the geographic exemption.

Mr. DANIELSON. Mr. Chairman, I oppose this amendment. At the inception, I want to point out that this amendment was considered and was rejected both in the subcommittee and in the full committee as the bill was being considered.

This amendment, if adopted, would greatly extend the so-called geographical exemption which we have in the bill and which permits any person to communicate with his or her Representative or to communicate with his or her Senator. It would extend it to the point where it would truly wipe out any need for anybody to report at any particular time. The present geographical exemption reaches the point where a communication by a person who is the retainee or employee of a registered organization, residing in the county or counties in which all or any part of your congressional district is located are exempt from being included as lobbying communications.

For example, we have within my State one of our Members, the honorable gentleman from California (Mr. JOHNSON), who represents about 18 counties. Anybody in those 18 counties can communicate with him directly under the geographical exemption and there is no need to include this as a lobbying communication.

When I say anyone, I want to point out that anyone in the United States can communicate with anyone else, as long as he is communicating on his own behalf; but if an employee or retainee of a lobbyist does live within that geographical area, the communication is exempt, because we simply do not want to restrict the first amendment.

Now, this amendment, by its own terms, refers to an individual speaking or communicating on behalf of an organization. Therefore, that individual must be either the employee or retainee of the organization. Organization is a word of art in this bill. It means an organization which qualifies and is duly registered.

Now, under this amendment, if that individual either lives or works in the State or the congressional district or the county or the standard metropolitan statistical area, he can still communicate and is exempted.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, why could not that individual that came in be a part of a volunteer association?

Mr. DANIELSON. They can.

Mr. BIAGGI. Are they exempt?

Mr. DANIELSON. Certainly. There is no reason why they cannot come in and communicate.

Mr. BIAGGI. And they do not live in the gentleman's community?

Mr. DANIELSON. Any human being in the United States can come in and talk to you, whenever he wants to, and that he specifically exempted in subparagraph (C) starting on page 32 of the bill.

Mr. Chairman, I would like to get back to the standard metropolitan statistical area. We considered this while in the committee, but we found we were considering something that was totally unworkable. Most parts of the United States are not parts of a metropolitan statistical area. These areas have been set up to cover the larger metropolitan areas. They disregard county and State lines.

One of our members on the committee lives in a standard metropolitan statistical area that is partly in Kentucky and partly in Ohio.

We have found vast areas of the country are not included at all. This is simply not a workable geographic area for the purposes of legislation.

The other and most important point I want to make is this: We would expand the geographical exemption under this amendment to the point where any registered organization or any lobbying organization could simply place an employee in every standard metropolitan statistical area of the country and it no longer would have to report anything. The communications would be exempt from regulation.

Mr. KINDNESS. Mr. Chairman, will the gentleman yield ?

Mr. DANIELSON. I yield to the gentleman from Ohio.

Mr. KINDNESS. Mr. Chairman, the gentleman will note, of course, that the standard of the county, as well as the standard metropolitan statistical area, is included in this amendment. This includes not just SMSA but also the county.

The gentleman has sought to take care of his county of Los Angeles, but we have a lot of other areas in the country that do not follow the Los Angeles, Calif., pattern.

Mr. DANIELSON. No, but under the bill as it is printed the geographical exemption extends to any county in which all or part of the congressional district is located.

We do have in my county a district in which a portion of the area is in Los Angeles County and a portion of the area is in Orange County, so that organization could make exempt communications from either of those counties. I mentioned the fact that the gentleman from California (Mr. JOHNSON) has 18 counties; they are all within his district, and they are all exempt.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the pending amendment deals with that section of the bill which defines a lobby communication, and, more particularly, it relates to the exemptions from a lobbying communication.

A communication by an individual acting on his own behalf may be made to anyone. That is exempt, and I think that is as it should be.

The problem to which this amendment is addressed relates to communications not by individuals but, rather, by individuals who are acting in a representative capacity on behalf of organizations. They are not given a similar freedom, to which they are entitled, of course. Their communication is exempt only if it is: First, with respect to a subject directly affecting the organization; and second, if it is to their representatives, that is, to their Senator or their Congressman, or any Congressman within the county in which the principal place of business of the organization is situated.

This amendment helps the bill a bit by expanding the geography, but, of course, it does not go anywhere near far enough. I was not aware that there were any geographic limitations to the absolute right of an organization to speak to Members of Congress with respect to any matter.

Mr. HARRIS. Mr. Chairman, will my colleague yield on that point?

Mr. WIGGINS. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, my colleague, the gentleman from California, does not mean to indicate that there is anything in this bill that would restrict the right of any organization to correspond with or contact any Member of this Congress or the Senate, does he? He does not mean to indicate that, I am sure.

Mr. WIGGINS. Mr. Chairman, I mean to indicate that the bill imposes a burden which I will characterize as a chilling

effect, but I do not wish to debate that point at the moment.

Mr. HARRIS. As my colleague said, he thought that everyone had that right, and we do respect that right, do we not?

Mr. WIGGINS. I would like to think that right exists free from any unnecessary governmental regulation.

But, Mr. Chairman, let us remember the limitations. First of all, the subject matter of the communication must be with respect to an issue directly affecting the organization.

Let us suppose that a business entity or an association in my district wants to talk to me about SALT, the strategic arms limitation talks, about troop reductions in Korea, or about the neutron bomb. Can it be said with intellectual honesty that is an issue directly affecting the organization?

No, I think the effect is indirect, just as all citizens may be indirectly affected by such governmental decisions.

There is no rational justification at all for imposing a "directly affecting" limitation upon the content of the communication, and there is no rational reason at all for imposing any geographic limitation on the right of an organization to communicate with its government without reference to whether we may individually represent that particular constituent.

I am going to support the amendment because it broadens the scope of the exemptions.

Mr. HARRIS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I will attempt to be very brief here. I think my colleague has just put his finger on the effect of the amendment. If in fact we adopt an amendment that gives a broad-gage exemption by standing metropolitan statistical areas as we look at them on the map, we would in fact not have this bill apply to the vast majority of lobbying communications in this country, nor in fact to the vast majority of lobbying organizations in this country.

When my colleague indicates that he would like to have an unlimited exemption, my colleague indicates that we should not have a bill at all. What it exempts is even the standards of this act, and even the reporting requirements of this act, with all of the safeguards, do not apply with respect to any communication made by a constituent to his Congressman or to his Senator, and, more importantly, even if it is made to a Congressman who may represent the city, the county that that constituent lives in, but is part of that Congressman's district, it still does not apply. This language was carefully worked out in subcommittee to give the broadest possible scope to any requirements with respect to reporting, at the same time retaining some element of registration with respect to nationwide lobbying efforts.

Mr. KINDNESS. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to my colleague, the gentleman from Ohio.

Mr. KINDNESS. I thank the gentleman for yielding.

Mr. Chairman, surely the gentleman would not want to mislead the members of the committee into thinking that this bill as it presently stands allows free communication, that is, allows a constituent to freely communicate on behalf of an organization for which he works, because it does not, right?

Mr. HARRIS. Mr. Chairman, if my colleague will allow me to respond, if he is not communicating on behalf of that organization, he still may communicate to his or her Congressman without any restriction.

Mr. KINDNESS. Not unless the principal place of business is in the district; is that right?

Mr. HARRIS. In the district or county or city of which the district is a part.

Mr. KINDNESS. But only the principal place of business. If he happens to work for a company with a distant headquarters, he cannot talk to you?

Mr. HARRIS. He can talk to you, but he cannot talk to you on behalf of that organization unless he goes ahead and has that included as a part of the total lobbying operation of that organization.

Mr. KINDNESS. Would not the gentleman concede that is a chilling effect on communication between Members of Congress and their constituents?

Mr. HARRIS. I really cannot see how it could be a chilling effect to have a reporting requirement like this if you do it on behalf of an organization. I would like to know, when my constituent is talking to me, whether he is talking on his own behalf or whether he is talking on behalf of the Ford Motor Co.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

If I understand the debate correctly, the gentleman from Ohio is correct and the gentleman from Virginia is correct.

An individual, who happens to work for the XYZ Corp. and lives in our congressional district, may, because of an entreaty on the part of his company, correspond with his Congressman and say, "Please oppose bill 1442."

That would, in my judgment, be an exempted lobbying communication, because that individual undoubtedly believes in what he says, and under the terms of item (C) on page 32, he is expressing a personal point of view.

If I understand correctly, in our committee we did not expect that a personal point of view would necessarily be spontaneous or something which comes by divine insight. It may well be a conditioned personal viewpoint, conditioned upon the success or failure of his company and the existence or nonexistence of his plant. So I would think, under the circumstances, the point of the gentleman from Ohio would be covered by section (C).

Mr. HARRIS. I thank my colleague for his comments.

Mr. ROBERTS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and my colleagues, I am going to support this amendment; but that is not the purpose of my discussion.

This whole bill scares me to death for the simple reason that if we take the Veterans of Foreign Wars, the American Legion, the DAV, or any other service organization that has a headquarters here, they would be covered down to the local posts, because they spend a lot of money in Washington.

When we speak to the VFW or the DAV or whatever organization we speak to in our district, and they say, "We want to talk about bill number so-and-so," regardless of what the sponsors say, those veterans are covered and you are covered. The only way to stop this thing is to kill it.

Mr. Chairman, I am going to help to do that, and I will yield to my friend, the gentleman from California, who is on the Committee on Veterans' Affairs. I do not think there is any way by which we can get around making local veteran groups and others make the reports required by this bill.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I am happy to yield to the gentleman from California.

Mr. DANIELSON. Mr. Chairman, I am glad that the gentleman from Texas (Mr. ROBERTS) has asked the question, because the problem which the gentleman presents is not a real one.

The local VFW, American Legion, or whatever it may be, we talk to; the gentleman and I will go to the post and talk with them in our districts. They have every right to communicate with us concerning their grievances or whatever it may be that they want to talk to us about, and these are not lobbying communications.

Mr. ROBERTS. They want to talk to me about a message that I just sent out, a message that the Veterans Administration is cutting 3,130 beds out of the budget. We want to stop it, and that is lobbying.

Mr. DANIELSON. No. They are permitted to talk to you about that, and it is not a lobbying communication.

Mr. ROBERTS. Will the gentleman accept an amendment exempting those service organizations?

Mr. DANIELSON. No. There is no point in having amendments in this bill that exempt organization A and include organization B or C, because the general terms of the bill already provide for who is required to register.

Mr. ROBERTS. Will the gentleman give me any statement as to how they would be exempt? They meet every qualification. They are spending more than $2,500 a month here in town. They are acting at the behest of the national headquarters.

How would they be exempt?

Mr. DANIELSON. In the first place, the type of situation the gentleman refers to is with respect to the local chapter. Let us just say the VFW is the local chapter. In that event, it very probably is an affiliate of the Washington office,

the national office of the VFW. The affiliate need not register and report, provided that the registering and reporting is done by the superior organization, which would be the Washington, D.C., chapter or the national headquarters of the VFW.

Therefore, the local organization need not do so.

Second, in view of the fact that the organization is within the geographical exemption, one's own hometown, one's district, VFW's and American Legion posts may communicate with absolute impunity.

Mr. ROBERTS. The gentleman makes one erroneous assumption.

One, we charter the national organization. These are State departments. They would not qualify as affiliates, although in the gentleman's and in my own terms they certainly are, because the gentleman and I deal with them every day. Nevertheless, they would be covered, in my opinion, in this bill.

The only way to get around it is to knock it in the head.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I am happy to yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I would have two points, one, that the gentleman from Texas might read page 26 starting at line 24 of the bill.

It talks in terms defining "affiliate" as being a national organization and any of its State or local membership organizations or units that might be covered under the definition of "affiliate," in which case the Texas VFW would not have to report.

Furthermore, I would say to the gentleman that the $2,500 is not $2,500 spent on maintaining a post by providing salaries for the bartenders or for the club manager, but it is $2,500 on lobbying communications.

In essence, that means that the gentleman from Texas (Mr. ROBERTS), the chairman, might discuss cutbacks on hospital space in VA hospitals with his veteran organizations and, unless the cost to the affiliate would be $2,500 or more, the affiliate would not be covered, and it would not have to report.

Mr. ROBERTS. What the gentleman is saying is that if it states $2,500, they would be covered. In my State that certainly would. If it is so clear that we do not do it, let us figure out some way to exempt these service organizations.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, I think the gentleman has received at least some misleading information.

Clearly, the veterans' organizations to which the gentleman refers are covered organizations. They are not exempted at all. It is possible that local chapters of a veterans' organization would constitute an affiliate and I think probably it would.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(On request of Mr. WIGGINS and by unanimous consent Mr. ROBERTS was allowed to proceed for 2 additional minutes.

Mr. WIGGINS. If the gentleman will yield further, to characterize a local chapter as an affiliate is the worst of all worlds, because the parent organization must accumulate the expenditures of all of its affiliates for purposes of meeting the $2,500 threshold. That would require the local chapters of the VFW to make a notation of their communication with us, and any minimal expenditures related to that, report it—and a criminal burden is imposed upon them if they fail to report—to the parent organization so that it can add them up from all around the country and reach a $2,500 threshold. That is outrageous regulation, and I think the gentleman's comments are totally appropriate.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield further?

Mr. ROBERTS. I yield to the gentleman from California.

Mr. DANIELSON. What I previously said does, in my opinion, exempt these organizations. But I want to add this: The gentleman's organization is not even going to cross the threshold to become an organization which is required to register. In order to cross the threshold, as provided in section 3, the organization must make an expenditure in excess of $2,500 in any quarterly filing period assuming a retention for the retention of an individual or organization to make lobbying communications or preparing or drafting them or, in the alternative, it must employ one individual who works all of 13 days in that quarter making lobbying communications; or two or more, working 7 days apiece, plus expending $2,500.

The gentleman's organization is not retaining anybody to make lobbying communications. They are giving you and me a bad time for not having more hospital beds. That is what they are doing. They are not retaining anybody to make lobbying communications. They are doing it themselves, and they do not cross the threshold. They do not have to register and do not have to report.

I commend the gentleman for being sensitive to the needs of these organizations, but I want to assure him that in this case his fears are groundless.

Mr. ROBERTS. I would like to think the gentleman is correct, but I am afraid he is not.

Mr. MOORHEAD of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Ohio. I think that actually the debate has been far afield from this particular amendment, but it is put in specifically to alleviate the kind of confusion that comes about in metropolitan areas where the counties and cities run together; where people who work in one community and live in the next-door community, which may be across a county line, really do not realize that they are in somebody else's congressional district; where there are employees who work in one establishment but live in a number of communities surrounding it.

I think that this amendment would alleviate a lot of difficulty that we will have under this act if it is enacted, and will strictly be used to cut out the confusion that we will otherwise have. It is a good amendment, and I urge an aye vote.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I am happy to yield to my colleague.

Mr. DANIELSON. I thank the gentleman. The gentleman has described a situation that is apparent, but is not real. Under the geographical exemption, the gentleman must remember that we are only referring to retained people, or employed people of registered organizations who are making those communications. An individual citizen, an individual resident of the United States, whether he is in Bangor, Maine, or Phoenix, Ariz., can communicate with us with absolute impunity. That is never forbidden under this bill.

The only restriction is where we have the retainee or employee of a registered organization acting on behalf of that registered organization to make lobbying communications. Even they are exempted within the area of the geographical exemption. The situation described does not pertain to this bill.

Mr. KINDNESS. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from Ohio.

Mr. KINDNESS. The gentleman from California, the chairman of the subcommittee, continually and continually and continually misunderstands about where people live and where they work. They do not all work at the principal place of business of their employer. The way the bill is set up at the present time, it precludes free communication between people who are constituents and speaking in behalf of the organization for which they work, and their Congressman. There is no reason to put a damper on that kind of communication.

I certainly would urge that the gentleman carefully consider the fact that the bill currently precludes that kind of communication without gathering all that information in and reporting it to wherever that principal place of business is so that some report can be filed.

I think that is the point we have here. We ought to be able to talk to our neighbors and they ought to be able to talk to us, whether they just happen to work in our district and live across some imaginary line or live in our district and they want to talk about the place where they are employed.

Let us remember there are people who write letters to us on the letterhead of their employer and there are going to be close factual questions about whether they are speaking about their problems or the problems of their employers. If they are concerned about their jobs and they may write to us on the employer's letterhead and the employer may not know about it, that is one problem. We talked about all this in the subcommit-

tee, and I just hope we will adopt the amendment and preclude all this.

Mr. MAZZOLI. If the gentleman will yield, I would like to talk to the gentleman from Ohio. It seems to me he is saying we are confusing apples and oranges. I think the gentleman is mixing up the metaphors today too. The reason our subcommittee—and the gentleman is a valuable member of that subcommittee—suggested in item (D) on line 6 of page 32 this—

. . . . a communication on any subject directly affecting an organization—

Is because we said in our debates that Item (C) covers:

a communication by an individual—

For any reason, for whatever particular motive, whether under duress by a plant manager or because of some spontaneity on his part; we said it was regardless of motive or beginning or origin, that communications from individuals were sacrosanct and exempt from any coverage of this bill. Thereafter we added in the next item and talked about other kinds of communications which were generated by organizations, mass mailings, what-have-you, so long as they were from within the organization's principal place of business is one's district, or I join the gentleman in saying it could be extended to the SMSA, they would be exempt.

The CHAIRMAN. The time of the gentleman from California (Mr. MOORHEAD) has expired.

(By unanimous consent, Mr. MOORHEAD of California was allowed to proceed for 1 additional minute.)

Mr. MAZZOLI. Mr. Chairman, if the gentleman will yield further, let me wrap up in just 10 seconds and say we have one case of an individual always exempt, and the other case of organizations from within their principal place of business within one's county, they are exempt.

Mr. KINDNESS. The gentleman is not correct. I refer him to page 22 of the report at the bottom where it says:

A communication by person representing an organization could therefore be covered even though he failed to state that his communication was made in behalf of the organization. The general test would be whether the communication is made for the organization pursuant to the employee's general or specific responsibilities as an employee.

If the employee appeared to be working in public affairs and was a constituent, how are we going to decide whether he is speaking in his own behalf or that of an organization? We do not want to test these things in court. That is the chilling effect we are talking about that this legislation could bring about. We do not want to bring that about. We do not want to chill the abilities and willingness of the people to communicate with us about matters of importance to him.

Mr. MAZZOLI. On page 22 I refer the gentleman to this, where it says:

Thus, a plant manager or assembly line worker or the head or member of the local chapter of a public interest organization could communicate to Congress in response to a central office letter or call without having to report the communication to the central office, so long as the individual agrees with the views he is expressing and does not represent them as being made on the organization's behalf.

I think what the gentleman from Kentucky has said is true, whether they arise spontaneously or were the result of an entreaty. And this communication with Congress they are free to do and that is clear, because that is an individual and he can communicate with his Member of Congress because he is an individual and that is his constitutional prerogative.

Mr. KINDNESS. Mr. Chairman, if the gentleman will yield still further, the gentleman from Kentucky (Mr. MAZZOLI) stopped reading too soon because the paragraph following, and the one he was quoting from, and the other paragraph, says that (c) does not cover it.

The CHAIRMAN. The time of the gentleman has again expired.

The question is on the amendment offered by the gentleman from Ohio (Mr. KINDNESS).

The question was taken; and on a division (demanded by Mr. KINDNESS) there were—ayes 20, noes 9.

Mr. DANIELSON. Mr. Chairman, I demand a recorded vote, and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from California (Mr. DANIELSON) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 195, noes 212, not voting 27, as follows:

[Roll No. 236]

AYES—195

| | | |
|---|---|---|
| Abdnor | Buchanan | de la Garza |
| Ambro | Burgener | Delaney |
| Andrews, N. Dak. | Burke, Fla. | Dent |
| | Burleson, Tex. | Devine |
| Annunzio | Butler | Dickinson |
| Applegate | Carney | Dicks |
| Archer | Carter | Dodd |
| Armstrong | Chappell | Dornan |
| Ashbrook | Clawson, Del | Duncan, Oreg. |
| Ashley | Cleveland | Duncan, Tenn. |
| Badham | Coleman | Edwards, Ala. |
| Bafalis | Collins, Tex. | Edwards, Okla. |
| Bauman | Conable | Erlenborn |
| Beard, Tenn. | Conte | Evans, Colo. |
| Benjamin | Corcoran | Evans, Del. |
| Biaggi | Cotter | Evans, Ga. |
| Bowen | Coughlin | Evans, Ind. |
| Brooks | Crane | Fary |
| Broomfield | Cunningham | Findley |
| Brown, Mich. | Daniel, Dan | Fish |
| Broyhill | Davis | Flood |
| Flynt | McClory | Rousselot |
| Foley | McCloskey | Rudd |
| Forsythe | McCormack | Ruppe |
| Frenzel | McDade | Russo |
| Frey | McDonald | Ryan |
| Gaydos | McEwen | Sarasin |
| Gibbons | McKinney | Satterfield |
| Ginn | Madigan | Sawyer |
| Goldwater | Mahon | Schulze |
| Goodling | Mann | Sebelius |
| Gradison | Marks | Shipley |
| Grassley | Marriott | Shuster |
| Guyer | Martin | Sikes |
| Hagedorn | Mathis | Skubitz |
| Hall | Mattox | Smith, Nebr. |
| Hammer-schmidt | Michel | Snyder |
| | Milford | Spence |
| Hansen | Miller, Ohio | Stangeland |
| Harsha | Mitchell, N.Y. | Stanton |
| Hightower | Montgomery | Steers |
| Hillis | Moore | Steiger |
| Holland | Moorhead, Calif. | Stockman |
| Holt | | Stratton |
| Horton | Murphy, Ill. | Stump |
| Hubbard | Murphy, N.Y. | Symms |
| Huckaby | Murtha | Taylor |
| Hyde | Myers, Gary | Treen |
| Ichord | Myers, John | Trible |
| Jacobs | Oberstar | Vander Jagt |
| Jenrette | Obey | Waggonner |
| Johnson, Colo. | Pike | Walker |
| Jones, N.C. | Poage | Walsh |
| Jones, Okla. | Pressler | Wampler |
| Kasten | Price | White |
| Kelly | Pritchard | Whitehurst |
| Kemp | Pursell | Whitten |
| Ketchum | Quayle | Wiggins |
| Kindness | Quie | Wilson, Bob |
| Lagomarsino | Quillen | Wilson, C. H. |
| Latta | Regula | Winn |
| Lent | Rhodes | Wydler |
| Levitas | Risenhoover | Wylie |
| Livingston | Roberts | Young, Alaska |
| Lott | Robinson | Young, Tex. |
| Lujan | Rostenkowski | Zeferetti |

NOES—212

| | | |
|---|---|---|
| Addabbo | Eilberg | Lloyd, Tenn. |
| Akaka | Emery | Long, La. |
| Alexander | English | Long, Md. |
| Allen | Ertel | Luken |
| Ammerman | Fascell | Lundine |
| Anderson, Calif. | Fenwick | McFall |
| | Fisher | McHugh |
| Anderson, Ill. | Fithian | McKay |
| Andrews, N.C. | Flippo | Maguire |
| Aspin | Florio | Markey |
| AuCoin | Flowers | Marlenee |
| Baldus | Ford, Mich. | Mazzoli |
| Barnard | Ford, Tenn. | Meeds |
| Baucus | Fountain | Metcalfe |
| Beard, R.I. | Fowler | Meyner |
| Bedell | Fraser | Mikulski |
| Beilenson | Fuqua | Mikva |
| Bennett | Gammage | Miller, Calif. |
| Bevill | Garcia | Mineta |
| Bingham | Gephardt | Minish |
| Blanchard | Gilman | Mitchell, Md. |
| Blouin | Glickman | Moakley |
| Boggs | Gonzalez | Moffett |
| Boland | Gore | Mollohan |
| Bolling | Green | Moorhead, Pa. |
| Bonior | Gudger | Moss |
| Brademas | Hamilton | Motti |
| Breckinridge | Hanley | Murphy, Pa. |
| Brinkley | Hannaford | Myers, Michael |
| Brodhead | Harkin | Natcher |
| Brown, Calif. | Harrington | Neal |
| Burke, Mass. | Harris | Nichols |
| Burlison, Mo. | Hawkins | Nix |
| Burton, Phillip | Heckler | Nolan |
| Byron | Hefner | Nowak |
| Caputo | Heftel | Oakar |
| Carr | Hollenbeck | Ottinger |
| Cavanaugh | Holtzman | Panetta |
| Chisholm | Hughes | Patten |
| Clay | Ireland | Patterson |
| Cohen | Jeffords | Pattison |
| Collins, Ill. | Jenkins | Pease |
| Corman | Johnson, Calif. | Perkins |
| Cornell | Jones, Tenn. | Pickle |
| Cornwell | Jordan | Preyer |
| D'Amours | Kastenmeier | Rahall |
| Danielson | Keys | Railsback |
| Derrick | Kildee | Rangel |
| Derwinski | Kostmayer | Reuss |
| Diggs | Krebs | Richmond |
| Dingell | LaFalce | Rinaldo |
| Downey | Le Fante | Roe |
| Drinan | Leach | Rogers |
| Early | Lederer | Roncalio |
| Eckhardt | Leggett | Rooney |
| Edgar | Lehman | Rose |
| Edwards, Calif. | Lloyd, Calif. | Rosenthal |

| | | |
|---|---|---|
| Roybal | Staggers | Volkmer |
| Santini | Stark | Waxman |
| Scheuer | Steed | Weaver |
| Schroeder | Stokes | Weiss |
| Seiberling | Studds | Whalen |
| Sharp | Thompson | Wilson, Tex. |
| Simon | Traxler | Wirth |
| Sisk | Tsongas | Wolff |
| Skelton | Tucker | Wright |
| Slack | Udall | Yates |
| Smith, Iowa | Ullman | Yatron |
| Solarz | Van Deerlin | Young, Fla. |
| Spellman | Vanik | Young, Mo. |
| St Germain | Vento | Zablocki |

NOT VOTING—27

| | | |
|---|---|---|
| Bonker | Daniel, R. W. | Rodino |
| Breaux | Dellums | Runnels |
| Brown, Ohio | Giaimo | Teague |
| Burke, Calif. | Howard | Thone |
| Burton, John | Kazen | Thornton |
| Cederberg | Krueger | Walgren |
| Clausen, Don H. | Nedzi | Watkins |
| | O'Brien | Whitley |
| Cochran | Pepper | |
| Conyers | Pettis | |

The Clerk announced the following pairs:

On this vote:

Mr. Runnels for, with Mr. Dellums against.

Mr. Breaux for, with Mrs. Burke of California against.

Mr. Whitley for, with Mr. Krueger against.

Mr. Brown of Ohio for, with Mr. Walgren against.

Mr. Cederberg for, with Mr. Conyers against.

Mr. Don H. Clausen for, with Mr. Pepper against.

Mr. Robert W. Daniels, Jr., for, with Mr. Rodino against.

Mrs. COLLINS of Illinois, Messrs. LE FANTE, LEACH, YATRON, BURKE of Massachusetts, MINISH, Mrs. HECKLER, and Mr. RINALDO changed their vote from "aye" to "no."

Mr. APPLEGATE and Mr. JACOBS changed their vote from "no" to "aye."

Mr. NEAL changed his vote from "present" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. PEPPER. Mr. Speaker, on account of being at an appointment at the White House this afternoon, I missed the vote on rollcall No. 236. Had I been present, I would have voted "aye." I ask unanimous consent that my statement appear immediately following rollcall 236 in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. HARRIS

Mr. HARRIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARRIS: Page 33, line 25, strike out "at least" and all that follows through "and" on page 34, line 6, and insert in lieu thereof the following: "one or more individuals who, on all or part of each of thirteen days or more, in the aggregate, in any quarterly filing period, make lobbying communications on behalf of that organization, and".

Mr. HARRIS. Mr. Chairman, the amendment that I have offered today will change the threshold provision, which determines those organizations that must register under the bill. I urge you to vote for this amendment.

Specifically, under my amendment organizations would have to register if:

First. One or more individuals employed by an organization engaged in lobbying communications for 13 days, in the aggregate, in any quarter; and,

Second. Expenditures for lobbying communications exceeded $2,500 in a given quarter.

This threshold is preferable to the bill's threshold for the following reasons:

It has a simpler test for determining who is covered by the bill, so an organization can readily see whether or not it must register;

It would completely cover large, well financed lobbying organizations; and

It would simplify recordkeeping for all who register.

The threshold in H.R. 8494 has a tremendous loophole through which many large organizations could avoid registration. In addition to the $2,500 expenditures test, this threshold includes a complicated and impractical two-tiered days test for triggering coverage. Under the bill, an organization is covered if one of its paid employees makes lobbying communications on 7 days per quarter, or if two or more employees make such communications on 7 days per quarter.

To illustrate how easy it would be for an organization to escape registration under the bill: An organization with 15 lobbyists could spend $100,000 on lobbying in a quarter and make lobbying communications on every day of that quarter and still not have to register. Such an organization would only need to make sure that one employee lobbied no more than 12 days per quarter, while the other 14 lobbyists limited their lobbying activities to 6 days per quarter. Discounting weekends as lobbying days, an organization would only need 10 employees to escape registration in the same fashion.

The provision in my amendment was in the bill reported by the subcommittee, but was changed in the full Judiciary Committee at the behest of several large lobbying organizations.

It is argued that eliminating the two-tiered days test from the bill would force small, local organizations to register as lobbyists. This argument is unfounded for two reasons. First, H.R. 8494 already has a "home district exemption," that is, a provision whereby contacts with "local" Congressmen and Senators are not counted. Second, a small organization does not spend $2,500 on lobbying efforts in a quarter, nor does it have paid employees who lobby 13 days per quarter.

As a member of the subcommittee that drafted the bill, I feel that it is more than a coincidence that the two-tiered threshold in H.R. 8494 was not only written—but actively promoted—by some of the largest lobbying organizations across the country. These same organizations are arguing against the threshold because they say it will restrain the activities of smaller organizations. Ironically, relatively few, if any, of these "small" organizations have voiced objections to the subcommittee threshold provision. What we have now is a bill whose threshold has been designed by several large, well-financed organizations.

Having an effective threshold provision is the heart of a meaningful lobbying law. It answers the question: "Who must register" The answer should be clear and enforcible. Otherwise, we have accomplished nothing more than a voluntary program to expand Government paperwork. I hope you will support my amendment to restore an effective and meaningful threshold to H.R. 8494.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding.

May I ask the gentleman to see if we cannot clear up what I think is a problem that is bothering several of us, whether it is the gentleman's intention as part of his amendment, or even whether he believes that under the committee bill the employees of an affiliate and their activities may somehow be aggregated to require parent organization reporting?

Mr. HARRIS. My amendment would not, in fact, cause this, nor do I think would the bill cause this; but my amendment would not deal with that problem.

Mr. RAILSBACK. Mr. Chairman, if the gentleman will yield further, is it the gentleman's understanding that what we are talking about really is an organization's employees and under the bill one of them would have to work for 13 days, or parts thereof, and two or more would have to work at least 7 days or more each; is the gentleman changing that?

The CHAIRMAN. The time of the gentleman from Virginia has expired.

(By unanimous consent, Mr. HARRIS was allowed to proceed for 2 additional minutes.)

Mr. HARRIS. Mr. Chairman, if I may respond to my colleague, the gentleman from Illinois, currently the bill says two things: No. 1, if an organization hires an outside agency, an attorney or public relations firm for $2,500 or more per quarter to do lobbying, that organization must register.

Mr. RAILSBACK. Within the quarter?

Mr. HARRIS. Within the quarter.

No. 2, if within a quarter an organization spends $2,500 on lobbying and, in addition, has paid employees that make 13 days a quarter of contact, they must register, if they had two employees that made more than 7 days contact per quarter.

Mr. RAILSBACK. Seven days each?

Mr. HARRIS. Seven days each; that is the way the bill is now. The two-tier provision which the committee put in really is going to make unclear the threshold and, as I see it, serve no purpose.

What my amendment says is that if they go over the $2,500 a quarter, and if they have a paid employee or more than one employee which make 13 days in the aggregate, of lobbying contacts, then they have to register. That is the only change.

Mr. RAILSBACK. The gentleman is not suggesting that employees of af-

filiates, such as in the case of a veterans' organization, say a State chapter, that they would trigger the requirement; that is not meant to trigger that requirement?

Mr. HARRIS. No, certainly it would not trigger it.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, I have asked the gentleman to yield, because the gentleman from Illinois and I have had a discussion off the floor concerning the question of whether the activities of affiliates must be accumulated for purposes of reaching the threshold. I stated earlier in the debate my opinion that accumulation was required. After rereading the bill and the committee report I am satisfied they are not to be accumulated and each affiliate must separately meet the threshold test.

Mr. HARRIS. I thank my colleague, because that point was confused by some.

Mr. KINDNESS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. The concept of the Harris amendment has been debated quite a bit in the subcommittee and in the full committee. It goes right to the heart of this bill in terms of balance. As has been pointed out by several who have spoken in favor of this bill, the threshold is higher in order to bring about coverage, as compared to previous brands of this legislation that have been dealt with in the committee and before the House. If we tinker with this threshold measurement, as suggested by the amendment of the gentleman from Virginia (Mr. HARRIS) here, thus bringing the threshold down to the point where more organizations, particularly volunteer organizations, are going to come under coverage, then I think we will have destroyed some of the support for this bill.

I suggest that maybe some may say, "Well, it has such broad support now that we can afford to lose a few."

I believe that is the way in which we might get this bill into real trouble, and let me illustrate with one example of how we are likely to get this bill into real trouble.

Let us imagine that any organization would be foolish enough to lobby through a greater number of people in an inefficient manner just to avoid crossing the threshold that exists in the bill right now. Right now there must be 13 days' contact by one person representing the lobbying organization or 7 days by more than one person.

Now, obviously it can be argued that a lobbying organization might say, "Well, we will spread this out, and we will have 10 people or 15 people, each making contacts on 6 days within a calendar quarter, and nobody will cause us to cross the threshold."

I would rather have us take that risk than have us lower the threshold, because we are going to be pulling in all kinds of efforts by lobbying organizations that exist around the country which do not really come under this and are not likely to cross that threshold.

Mr. EDWARDS of California. Mr. chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, this amendment lowers the threshold to an unbelievably low area and would make hundreds of thousands of organizations susceptible to the triggering device in the bill under the provisions that are in it now. It would certainly discourage members of hundreds of thousands of American organizations from carrying on any communication with Congress, or even with Washington indeed.

Mr. KINDNESS. Would the gentleman agree that the present threshold already comes down to a fairly low point?

Mr. EDWARDS of California. The present threshold is actually lower than what I would personally have liked. I would like to have it higher than it is now, but this amendment lowers it to an unacceptably low level.

Mr. KINDNESS. Mr. Chairman, I thank the gentleman for his comments, and I think he has made an excellent point.

I believe we have gone about as far as we can go. Just like "Kansas City," "everything is up to date" in this bill if we leave this alone.

Mr. Chairman, I urge the defeat of the amendment, and I yield back the balance of my time.

Mr. FLOWERS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I will be very brief. Basically, I agree with almost everything that has been said here. This would enlarge the coverage to a quantum extent over what we should have here and, I think, enlarge it to the point where the bill would and should lose some of the support that it now has on this floor. I do not think this House wants to do that.

We want to have a fair and a moderate approach to this problem, and we want to have a bill that means something. We do not want to have a bill or statute that requires every organization in this country to try to keep up with everything that every single employee thereof is engaged in, because that would have a disastrous effect, I think, on not only the business community but on every other sector we can imagine that would be covered.

Mr. Chairman, I oppose the amendment offered by the gentleman from Virginia (Mr. HARRIS), although I know that he offered it in good faith, and that it was considered in the subcommittee and on the full committee level. I do think, however, that it would have an undesired impact on the legislation.

Mr. MOORHEAD of California. Mr. Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from California.

Mr. MOORHEAD of California. Mr. Chairman, I also rise in opposition to the amendment.

The organization in question would adjust to the reduction under the rule, so that under the bill where we have required at least 7 communications each by two different people or a total of 13 by one. If we reduce that to the point where we can have 13 letters by 13 different people and bring them under the coverage, those people are going to be very, very "small potatoes." This would not really catch the people we are interested in.

Mr. Chairman, this would not bring to the attention of the public any kind of lobbying activity we wish to cover, and I ask for a "no" vote on the amendment.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I just wish to associate myself with the remarks of the gentleman from California (Mr. MOORHEAD) and the gentleman from California (Mr. EDWARDS).

This should not be accomplished by lowering the threshold, and I urge a "no" vote on the amendment.

Mr. FLOWERS. Mr. Chairman, I thank the gentleman for his contribution.

At the appropriate time I contemplate offering an amendment to strike the words beginning with "and" on line 6 of page 34 through the rest of that paragraph. In other words, the 3 lines, basically lines 6, 7, and 8, on page 34, which would make the $2,500 conjunctive with the other threshold.

I think that this would bring the legislation more in line by not requiring a two-tier internal accounting on the part of organizations. It would probably not make any difference in the long run in terms of who is covered, but it would say to the organization that "you have to look at one thing, and one thing alone."

I thank the gentleman for his participation in this. I oppose the amendment.

Mr. MAZZOLI. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I will not take my 5 minutes, but I do rise in support of the gentleman's amendment. I think it would be well to note to the House, because of the steady drumfire of opposition to this amendment which has been announced today, that this amendment that the gentleman from Virginia offers is the position that the subcommittee itself took.

The full committee took a contrary position. But the subcommittee on which the gentleman from Virginia serves, as does the gentleman from Kentucky, did take the position that the 13-day figure should be our figure and not this rather complex and difficult two-tier system.

Mr. Chairman, I will yield to the gentleman from Virginia because maybe some Members have just joined us in this debate this afternoon, and I think it would be very instructive for the gentleman to remind some of the newly arrived Members here as to just exactly what would occur in the event the House rejects the gentleman's amendment and sticks with the committee with regard to this two-tier threshold arrangement.

Mr. HARRIS. Yes. As you get into this, it becomes very clear, with the little addition we have added in the full committee, the reasons we should go back to the 13-day accumulation are because of examples that are quite clear. If for example owners of large oil companies, should get together on an ad hoc organization and decide to fund that ad hoc organization with $500,000 for some "noncontroversial" thing such as deregulation of natural gas, if in fact they spend that $500,000 in a quarter of activity, they are still not covered. If in fact they have 20 employees working a total of 5 contacts a day for 6 days a quarter, which is in fact a very common way of lobbying—we are not talking about working with other groups, we are not talking about research, and what have you, that goes into letters and cases, we are talking about direct contact—lobbyists can make 5 contacts a day, or more if we have 20 employees we can make 600 contacts per quarter, spend $500,000 and not register.

Mr. MAZZOLI. The gentleman says that if his amendment is not adopted there could be as much as one-half million dollars spent and as many as 600 contacts made in a quarter and still that activity would not be covered and not have to be reported.

Mr. HARRIS. That is correct.

Mr. MAZZOLI. I think the gentleman has said all that needs to be said. I think his amendment is entirely welcome and needs the support of this House.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from New York.

Mr. FISH. I thank the gentleman for yielding.

Mr. Chairman, the gentleman has been emphasizing that this is the subcommittee's position. I do not think we should lose sight of the fact that the full Committee on the Judiciary reversed that position. The final language on the threshold, which is the version the gentleman from Alabama and I presented parts of, was actually written by the ACLU, Congress Watch, and Common Cause. Why should they have an interest in the higher threshold unless it was for the reasons given earlier by the gentleman from California that lowering the threshold, opens up the coverage to much—too broad a spectrum of entities which would never even realize that they were considered lobbying organizations.

I think the conversation should get back on that point.

Mr. MAZZOLI. Mr. Chairman, I would say the reason in bringing up the fact was that this was the subcommittee's position and to assure the House that the gentleman's amendment was not a capricious move. Rather that this was well thought out and was indeed the subcommittee's position, although it was reversed by the full committee.

Second, the gentleman suggests certain organizations whose views I do not always subscribe to, and I would therefore not be particularly persuaded if they are for that amendment that I have to be for that amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. HARRIS).

The amendment was rejected.

AMENDMENT OFFERED BY MR. FLOWERS

Mr. FLOWERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FLOWERS:

On page 39, after line 2, add a new paragraph (7), and renumber the following paragraph accordingly:

"(7) in the case of written solicitations, and solicitations made through paid advertisements, where such solicitations reached or could be reasonably expected to reach, in identical or similar form, five hundred or more persons, one hundred or more employees, twenty-five or more officers or directors, or twelve or more affiliates of such organization,

(a) a description of the issue with which the solicitation was concerned: Provided, That the reporting organization may, in its own discretion solely, satisfy this requirement by filing a copy of the solicitation;

(b) a description of the means employed to make the solicitation and an indication of whether the recipients were in turn asked to solicit others;

(c) an identification of any person retained to make the solicitation;

(d) if the solicitation is conducted through the mails or by telegram, the approximate number of persons directly solicited; and

(e) if the solicitation is conducted through a paid advertisement and the total amount expended exceeds $5,000, an identification of the publication, or radio or television station where the solicitation appeared and the total amount expended on any solicitation conducted through one or more such advertisements."

For purposes of this paragraph, the term "solicitation" means any communication directly urging, requesting, or requiring another person to advocate a specific position on a particular issue and to seek to influence a Member of Congress with respect to such issue, but does not mean such communication by one organization registered under this Act to another organization registered under this Act."

Mr. FLOWERS. Mr. Chairman, this amendment is offered in my behalf and in behalf of the distinguished gentleman from Illinois (Mr. RAILSBACK) and others. It has bipartisan support, I am happy to say; and I think it has wide support.

Mr. Chairman, what the amendment goes to is clearly and simply the reporting requirements under the bill. It has absolutely nothing to do—and I want to underline that statement—nothing to do with the coverage of the bill. In other words, this does not constitute a threshold test. No organization that simply engages in solicitations for lobbying and nothing else, is going to be covered by virtue of that; but if an organization otherwise meets the threshold test under the bill, which I support, then in the reporting there will be required this simple accounting of the lobbying solicitations that it engages in.

Mr. Chairman, I think it makes eminent good sense. I think that it is information that certainly should be included in reports required under this bill.

If we do not cover solicitations, we are leaving out one of the most glaring examples of current lobbying activity.

In fact, the Common Cause organization, which supports this amendment reports that 70 percent of their activity in lobbying is covered or would be covered only under this reporting requirement. If we leave this out, I think that there is a loophole in reporting that would be detrimental to the overall effect of the bill.

This would require Common Cause to report more. It would require the Nader organization to report more. It would require the Chamber of Commerce to report more. It cuts evenly for everybody. Yet, if there is anything that is going to be worthwhile in what is reported, I think we ought to have this.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, I thank the gentleman for yielding.

As I understand it, this amendment does not prohibit solicitation, does it?

Mr. FLOWERS. Absolutely not.

Mr. HARRIS. It does not even attempt to regulate solicitation, does it?

Mr. FLOWERS. It does not even attempt to regulate solicitation.

Mr. HARRIS. An organization does not even have to register because it is soliciting; is that right?

Mr. FLOWERS. It does not even have to register.

Mr. HARRIS. This amendment just means that if one is registered, the organization has to go ahead and report something; is that correct?

Mr. FLOWERS. The gentleman has hit the nail on the head.

Mr. HARRIS. My colleague makes the point, does he not, that an awful lot of today's——

Mr. FLOWERS. If I may interrupt the gentleman, I feel as though he might be leading me down the primrose path.

Mr. HARRIS. I never do that. My colleague shares with me an aversion to soliciting.

Mr. FLOWERS. Not necessarily; not if it is soliciting to lobby.

Mr. HARRIS. Well, my colleague will maintain his position, and I will maintain mine. I think the point my colleague makes is that a great amount of lobbying is done through solicitation and not through direct contacts, is that not correct?

Mr. FLOWERS. That is absolutely right.

Mr. HARRIS. That is why, if we are going to have the large organizations reporting, that we ought to include the amount of the activity, to some extent, that they do through solicitation.

Mr. Chairman, I think this is a good amendment.

Mr. MILFORD. Mr. Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Texas.

Mr. MILFORD. I just wanted to ask one question that I was concerned about as I listened to the gentleman.

How would this affect certain people, patriots and other types, that, for exam-

ple, make regular broadcasts, and who will from time to time make appeals for what they believe to be patriotic matters, but nevertheless would be appeals to their listeners or viewers to write their Congressmen on the particular view of the commentator?

Mr. FLOWERS. If an organization made such a direct appeal for people to contact their Congressmen, and it was done over a paid advertisement, over radio or television, it would be treated as a written solicitation and it would have to be reported. But, that in and of itself would not require them to report. They would have to otherwise, as the gentleman from Virginia says, be covered under the bill.

Mr. MILFORD. Here again I am not even sure whether this bill might mandate it. Let me give the gentleman an example. It is not our party, but we hear a gentleman on the radio quite often who is the ex-Governor of California, and who makes speeches and makes appeals for various issues, and asks his listeners or viewers to write to Congress. Someone is paying for that broadcast time. It may be a sponsor.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

(On request of Mr. MILFORD and by unanimous consent Mr. FLOWERS was allowed to proceed for 2 additional minutes.)

Mr. MILFORD. The question I was trying to resolve here is, does the sponsor of that program have to register because he is sponsoring this particular broadcast, or would the commentator have to register, or would it be either?

Mr. FLOWERS. Not because he was sponsoring a particular broadcast, but if the sponsor of the program were otherwise covered under the bill—it would have to be an organization—if it had one individual who spent all or part of 13 days in the calendar quarter lobbying, or two employees who spent all or part of 7 days lobbying, or retained outside people and paid $2,500 a quarter for lobbying activities, then it would have to register and report. Along with other things, they would have to report solicitations.

Mr. MILFORD. As a participant in forming this bill, would the gentleman say that the bill itself requires registration of that type of program?

Mr. FLOWERS. Not just for the program itself, but it would go to the other activities. I think we have to look at each individual situation on the basis of what is contained in it. No individual person is covered under this bill.

Mr. MILFORD. I thank the gentleman.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Is it correct to say that we are not talking about a case where the solicitation would trigger any kind of a threshold? We are talking about an activity of a registered organization only that sends out a mailing to more than—I believe it is 500, and a different figure with respect to officers and directors? But, the idea is also that we have simplified the procedure so that all they must do is actually attach a copy of that solicitation letter.

The CHAIRMAN. The time of the gentleman from Alabama has again expired.

(By unanimous consent Mr. FLOWERS was allowed to proceed for 1 additional minute.)

Mr. FLOWERS. Mr. Chairman, to further comment on the remarks of my friend the gentleman from Texas (Mr. MILFORD) permit me to say that there is another level, you could call it, requiring an expenditure of $5,000 that it would have to cost the registered organization before they would have to report it. In other words, it would have to be a significant solicitation campaign before there would be any reporting required.

Mr. MILFORD. Mr. Chairman, if the gentleman will yield, that just gets to the very heart of what I am talking about because $5,000 used in today's radio or television advertising does not mean much money, when you consider that much time involved for 5 days a week in the program referred to, that can eat it up in a hurry.

Mr. FLOWERS. If it is something having to do with their lobbying activities, I would say if they report on anything they ought to have to report on that also.

Mr. MILFORD. I am not arguing with the gentleman, I am merely asking.

Mr. FLOWERS. If they are otherwise covered they would have to report this, too, along with their other reporting.

Mr. MOORHEAD of California. Mr. Chairman, I move to strike the last word, and I rise in opposition to this amendment.

Mr. Chairman, I urge the defeat of this amendment which is an unprecedented and unnecessary intrusion by Congress into the rights of individuals and organizations to lobby persons outside the Government. On two separate occasions, in United States against Rumely and United States against Harriss, the Supreme Court has narrowly defined lobbying only to include direct lobbying of Members of Congress in recognition that coverage of grassroots activity is of dubious constitutional validity.

We must encourage participation in the political process and the requirement that organizations report their efforts in this area will merely inhibit that participation. Furthermore, there is no sufficient and compelling reason to justify this intrusion into the area protected by the first amendment. There are no abuses—letter writing campaigns and citizen participation are the essence of democracy. The mere fact that organizations engage in grassroots lobbying is not a sufficient reason to justify this infringement upon first amendment rights.

The House should reject this amendment.

Mr. ROSENTHAL. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment offered by the gentleman from Alabama (Mr. FLOWERS).

Mr. Chairman, I think his is an extraordinarily important, essential and very, very useful amendment.

My Subcommittee on Government Operations has, for the past 6 months, been looking into the enormously mushrooming efforts of grassroots lobbying and we have turned up many examples of major grassroots lobbying campaigns which have sought to influence decisions in the 94th and 95th Congresses which have escaped reporting under the existing lobbying disclosure bill and would have escaped reporting under this bill if the amendment offered by the gentleman from Alabama (Mr. FLOWERS) is not adopted.

I have two examples.

In 1977, the automobile companies spent more than $1 million on a massive grassroots campaign against strengthening amendments to the Clean Air Act. So far as I have been able to determine these expenditures were not reflected in any present lobbying reports and would not be disclosed under the committee-reported bill.

Also in 1977, the National Maritime Council, a trade association to promote Merchant Marine activities, spent approximately a half million dollars on grassroots advertising to influence the Congress on "cargo preference" legislation. But this activity and these expenditures escaped detection under the existing disclosure bill and would have escaped detection under the committee-reported bill, unless the Flowers amendment is agreed to.

Grassroots lobbying activities, Mr. Chairman, already comprise and account for nearly half of all expenditures for lobbying activities nationwide. I am overwhelmingly convinced that in the future they will assume a majority share of lobbying expenditures. To exclude major grassroots campaigns from coverage under this bill is, in reality, to nullify the purposes for which this bill is intended.

All of us, the sponsors of the bill and supporters of this amendment, are obviously sensitive to first amendment privileges and rights. In my judgment, the committee has misread what the law is. The committee in its report brands disclosure of solicitations to lobby as disclosure of indirect lobbying, a form of regulation criticized by the U.S. Supreme Court on several occasions. In the language of the relevant court opinions, information regarding direct lobbying may be required to be disclosed, while information regarding indirect lobbying may not be, such as grassroots lobbying. Thus, the characterization of grassroots lobbying as indirect leads the committee to the mistaken conclusion that disclosure of information regarding such lobbying would be unconstitutional. The characterization of grassroots lobbying as "indirect" is, however, flatly contradicted by the relevant Supreme Court de-

cisions, and the committee's conclusions regarding its constitutionality are without foundation.

In the Harriss case the Supreme Court upheld the constitutionality of the Federal Regulation of Lobbying Act to the extent that it required the disclosure of information by persons engaged in what the Court called "direct" lobbying. In my judgment, Mr. Chairman, as a result of reviewing the pertinent relevant Court decisions, this amendment certainly meets the constitutional restraints of the first amendment. Thus, I actively and wholeheartedly support it. It is absolutely essential, taking into account that this amendment does not expand the requirements of the bill. All it would do is require those that are covered by the bill report their activities. Those activities are growing at a phenomenal rate. They are having an enormous influence on the legislative process here in Washington, and to permit the escape of this major effort of lobbying of the U.S. Congress would demean the progressive intention of the bill. I urge support for this very important amendment.

Mr. KASTENMEIER. Mr. Chairman. will the gentleman yield?

Mr. ROSENTHAL. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. I thank the gentleman for yielding.

I would like to commend the gentleman from New York for his observations and express my own support for the Flowers amendment.

Mr. ROSENTHAL. I thank the gentleman.

Mr. McCLORY. Mr. Chairman, I rise in strong opposition to this amendment, and I am pleased, indeed, to be associated with my colleagues, the gentleman from California (Mr. EDWARDS), the gentleman from Ohio (Mr. SEIBERLING), the gentleman from Missouri (Mr. VOLKMER), the gentleman from Virginia (Mr. BUTLER), the gentleman from California (Mr. BEILENSON), and the gentleman from Massachusetts (Mr. DRINAN), in expressing opposition to this amendment. In other words, I think we have here a broad spectrum of political philosophy in opposition to this amendment. As I envision it, while it might not convert employees of organizations, or officers of organizations, into lobbyists, it would require the filing, and if there were not any filing, then they would be in violation of this law.

It seems to me that a company which has 100 employees, if the Congress is doing something that is going to impair their jobs, the employer had better get after the employees and notify them in writing and have them write to their Representatives in the Congress. I think that this amendment, if adopted, would discourage employers and employees from doing that.

This amendment is unnecessary and, it seems to me, very unwise. I think what we should be doing is to encourage people to communicate with respect to legislation. This could affect religious and charitable organizations and all kinds of organizations of people who are concerned about legislation. It is true that many of these organizations may have special interests, pecuniary interest. Others may have merely political or philosophical types of interests that are involved.

But to put a damper on these expressions, this free expression to write, to petition the Government, it seems to me hits at the very roots of our constitutional right to petition the Government.

Mr. Chairman, I am hopeful that the amendment will be resoundingly defeated.

Mr. EDWARDS of California. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I have been authorized by the gentleman from New Jersey, Chairman RODINO, whose wife is unfortunately ill and who cannot be present here today, to advise the Committee that the gentleman from New Jersey (Mr. RODINO) is against the amendment and supports the position that I am going to take right now against the amendment.

Mr. Chairman, this is the big amendment. This is the key amendment, probably the most important one that will be considered today. I refer to the statement made by our colleague, the gentleman from Alabama (Mr. FLOWERS) that we have a fragile coalition here. This amendment could blow the fragile coalition out of the water if it were approved, I assure you.

I might also say that it would result in mountains of paperwork in all the 50 States, if this amendment were agreed to and became a part of the law.

This is a key amendment. As a matter of fact, I offered it in the full committee. It was adopted by the full committee by a vote of 26 to 8. If adopted and made a part of this bill, it would make this bill not only not acceptable to many of us, but we think also unconstitutional.

As a matter of fact, the members of the Subcommittee on Civil Constitutional Rights of the Committee on the Judiciary, all seven members wrote a letter to all the Members pointing out what in their judgment were the unconsitutional aspects of this amendment.

Let us see how it would work. Let us suppose it became a part of the law. We know that a Sears store qualifies on a nationwide basis as a lobbyist. They spend over $2,500 a quarter and certainly individuals there do more than 13 days in a single quarter of lobbying. Let us say a Sears store in my hometown of San Jose, Calif., wanted to put something on their bulletin board to encourage their employees to get in touch with their Member of Congress to encourage a vote on a tax matter that might be beneficial to Sears and to their employees, perhaps on their pension plan or something like that. Well, this would be triggered and all of the provisions in the amendment of the gentleman from Alabama (Mr. FLOWERS) would go into effect. Certainly, it would hit more than 100 employees, but they have to keep records all over the country to see if it were going to pass the threshold of 100 employees. Untold people walking by the bulletin boards across the country, and all this would have to be reported, a description of the issue, a description of the need, identification of the person and so forth. Think of the mountains of paperwork that would result in just the Sears stores alone around the 50 States.

Let us take a local church, a Catholic church in California with an active priest who is devoted to a certain issue, say the Hyde amendment. We will assume that the church has spent $2,500 in a quarter and that the priest has lobbied for the requisite 13 days, so he asks the church volunteers to go out and ask their neighbors to write to Members of Congress to vote for the Hyde amendment. Under this amendment records would have to be kept by these volunteers, certainly an identification of any person retained to make the lobbying solicitation, a description of the need, and all that would have to be reported.

Do the Members not think this is quite a burden to put on a little local church that is interested in Government and in good Government, in the view of the church?

Then we talk about these quarterly reports as though somehow or other they are going to give us a lot of information. These quarterly reports are going to come in long after the vote. But when these lobbying solicitations go out—and this is something we want to encourage in this country, lobbying solicitations to Members of Congress—they are going to go out a couple of weeks before the vote is going to take place in the House or in the Senate, and then at the end of the quarter all the information is gathered. Nobody is going to read that information then. The vote is finished; the Panama Canal Treaty consideration was yesterday.

What good would it do at the end of the quarter to have reams and reams of paper about who wrote to Members of the Senate to vote "yea" or "nay" on the Panama Canal Treaty?

The CHAIRMAN. The time of the gentleman from California (Mr. EDWARDS) has expired.

(On the request of Mr. WAXMAN and by unanimous consent, Mr. EDWARDS of California was allowed to proceed for 2 additional minutes.)

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, as I understand the purpose of this legislation, it is so we can inform the American public as to how much money is being spent by organizations that want to influence legislation that is before us in the Congress.

If an organization is spending money to try to influence Congressmen through this indirect means, is that going to be reported and disclosed?

Mr. EDWARDS of California. The expenditure of the money must be disclosed pursuant to the provisions of the bill. All

the information about the solicitation need not be disclosed unless this amendment is agreed to. I forget on what page of the bill this appears, but it is provided in the bill that all expenses of mailing, postage, and items of that kind must be reported.

So the answer is, yes.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield further?

Mr. EDWARDS of California. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, the gentleman used Sears as an example.

If a Sears employee decides to put up a notice for all other employees to take note of encouraging fellow employees to write to Congress, not on behalf of legislation that benefits Sears but, let us say, for a tax credit bill that benefits employees who send their children to private schools, would that trigger the reporting mechanism under the Flowers amendment?

Mr. EDWARDS of California. Sears is a lobbyist. We know that Sears is a registered lobbyist, and the company would have to register under this bill. Sears would be a lobbyist, and the answer is, yes.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Chairman, I know the gentleman did not intend except through inadvertence to misstate himself, but I do not think that any kind of solicitation expenses would be covered in this bill. Without this amendment anything that is done in the line of soliciting lobbying communications, is not covered and no reporting would be required.

Mr. EDWARDS of California. Mr. Chairman, I disagree with the gentleman, and I refer to the chairman of the subcommittee and will ask him to read that portion of the bill that states that lobbying expenses must be reported.

The CHAIRMAN. The time of the gentleman from California (Mr. EDWARDS) has again expired.

(By unanimous consent, Mr. EDWARDS of California was allowed to proceed for 2 additional minutes.)

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Chairman, I believe we are talking about two different things.

The hypothetical question put by the gentleman from California (Mr. WAXMAN) was concerning a Sears employee who posts something on the bulletin board asking people to write to Congress about a tax credit bill of some kind.

Unless that Sears employee is himself a registered organization—and he cannot be one if he is acting alone—obviously we do not have solicitation of lobbying communications. So the example just would not fit the bill, because no individual is covered under this bill.

No individual is covered. In fact, that is a point that seems to be hard to get across. Under this bill no individual in the United States ever has to register or ever has to report for making lobbying communications.

As to the other half of the question, there is a provision that a registered organization must report quarterly, and in reporting it must include expenditures. "Expenditures" is a word of art under the bill. It is defined under section 2(6), and that includes expenditures for mailing, printing, advertising, telephone, consultant fees, and the like.

Mr. FLOWERS. Or lobbying activities.

Mr. DANIELSON. Well, to costs attributable partly under the activities described in section 3(a).

Mr. EDWARDS of California. Mr. Chairman, if I may reclaim my time, I see no exception there. There is no exception for expenses that might be connected with solicitation.

Mr. DANIELSON. Mr. Chairman, if the gentleman will yield further, I can only say that is how the bill reads at the top of page 29.

Mr. FLOWERS. Mr. Chairman, if the gentleman will yield further, these last gratuitous comments on the grassroots solicitation communications as they relate to lobbying are not otherwise covered under this bill?

Mr. DANIELSON. That is correct, they are not.

Mr. FLOWERS. So they are not reportable and they are not covered. There is no report required.

Mr. EDWARDS of California. Mr. Chairman, I assure the gentleman that what the chairman of the subcommittee, the gentleman from California (Mr. DANIELSON), just read requires that expenses be included in the report.

Mr. FLOWERS. Expenses that are attributed to lobbying activities.

Mr. EDWARDS of California. Yes.

The CHAIRMAN. The time of the gentleman from California (Mr. EDWARDS) has again expired.

(On request of Mr. BROWN of Michigan and by unanimous consent, Mr. EDWARDS of California was allowed to proceed for 1 additional minute.)

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Chairman, the problem we are having here, it seems to me, is that we are not looking at who is being lobbied.

Grassroots lobbying, basically, is directed against the public at large, not public officials as such. And to the extent that you engage in spending postage in grassroots lobbying, it would not be reported, and should not be reported, I think.

Mr. RAILSBACK. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I really get the feeling that we still may not be making very clear exactly what the amendment does.

No. 1, using a church as an example, the fact that a church sends out a letter, under the Flowers amendment unless that church is a registered organization, that activity in itself is not going to trigger the formula threshold that would bring that church under the terms of what we hope will become a law. We are talking about a lobbyist organization that sends out a solicitation letter or buys a paid advertisement. As I understand the Flowers amendment, it is rather easy to comply with, not hard to conform to. Where you are sending out a mailing to more than 500 people, you are even permitted under the Flowers amendment to simply attach a copy of that solicitation letter.

Second, you are not, under the Flowers amendment, required to disclose any membership list. You are not required to identify any of the people that are being solicited.

Third, we are talking about solicitations on behalf of a lobbyist organization to a membership, urging that they contact a Federal officer or a Member of Congress, and so forth.

May I further just point out that a solicitation provision was contained in the law that this House passed in the last session. As a matter of fact, there was one bill that would have made soliciting a triggering device to actually cover an organization that was engaged only in soliciting. That is no longer true.

The gentleman from Alabama made the point that right now there is a glaring omission, a glaring loophole. I agree with him. Common Cause has admitted that 70 percent of its lobbying effort is conducted through soliciting members of its membership to write and lobby Members of Congress.

The National Rifle Association has engaged for years in what has been really unmatched lobbying soliciting without ever sending any lobbyists into our office, but they have inundated us with letters from back home.

Now we have the labor movement very much involved in it. We have the National Chamber of Commerce. We have diverse groups. We have the oil companies that are doing it.

Mr. Chairman, I think that if we omit from this lobbying bill that major part of the lobby function, we are doing a disservice to the American people. We are being really blind to the true facts of life, which are that this is now about the single most effective way to lobby.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I am sure the gentleman from Illinois (Mr. RAILSBACK) heard the remarks of the gentleman from California (Mr. EDWARDS) in which he suggested that the employees' posting of a statement on the bulletin board at a Sears store, for example, would trigger this particular amendment and would require reporting of that particular posting.

Would the gentleman comment on the accuracy of that statement?

Mr. RAILSBACK. What I think the gentleman may be referring to is the first part of the language which says

that in the case of written solicitations and solicitations made through paid advertisements, where such solicitations reach or could reasonably be expected to reach in identical or similar form 500 or more persons, 100 or more employees, 25 or more officers or directors, or 12 or more affiliates of such organization, then that would trigger it and would require compliance.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has expired.

(On request of Mr. BUTLER and by unanimous consent, Mr. RAILSBACK was allowed to proceed for 1 additional minute.)

Mr. BUTLER. Mr. Chairman, will the gentleman yield further?

Mr. RAILSBACK. I yield to the gentleman from Virginia.

Mr. BUTLER. Then, Mr. Chairman, the representation by the gentleman from California (Mr. EDWARDS) that the mere posting of a solicitation for activity with reference to legislation on the bulletin board of a store would require reporting?

Mr. RAILSBACK. I tried to answer the gentleman as truthfully as I could.

However, let me add further that we are talking about a solicitation made by a lobbying organization. What they are saying is that when the lobbying organization posts something or put something up on a bulletin board, then, that does trigger the formula and that does not seem onerous at all to me. What they would be required to do, if that particular posting was going to reach more than 500 people, is to attach a copy of it and then answer the other very brief requirements called for in the report.

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Alabama.

Mr. FLOWERS. Mr. Chairman, I think the gentleman is exactly right. If the national headquarters of Sears sent out requirements to their local stores and said, "You have to post this on the bulletin board," then they would obviously, under this amendment, have to report it.

Mr. WIGGINS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this is an amendment only to the reporting section. That has been emphasized; and, of course, the amendment does not affect the trigger or the oragnizations covered. However, if an organization is covered, this will affect what it must report.

Frankly, Mr. Chairman, the reporting of solicitations tells us far more than we need to know. It compels the disclosure of information, forces it out against the wishes of its possessor, for no ascertainable public purpose known to me.

Mr. Chairman, the bill has heretofore dealt with lobby communications to Congress affecting legislation. This requires reports on solicitations to other people; that is, from one private organization to its employees or to the public, lobbying them, as distinguished from lobbying Congress.

I realize that some Members recognize that this is pretty effective lobbying. It is a good, loud, healthy, and robust speech. That is what it is. Of course, it is effective.

However, Mr. Chairman, what public purpose is served by compelling the disclosure of this effective speech? We require in the bill a report on the effect of the solicitation as it comes back to us in the form of a lobby communication, but for what earthly reason do we require reports with respect to a solicitation itself?

I will tell the Members who the effective solicitors are, Mr. Chairman. We are. I think Members of Congress solicit more lobby communications than probably anybody else. We are not covered, of course.

The Administration goes on the tube and solicits the public to take a position with respect to legislation. It is not covered, and it should not be.

Why, then, should not a private organization have the right to talk to the people and urge that they take a position on legislation without being compelled to make a public disclosure of such activities? I do not know of any reason to submit them to that burden. It is just another burden imposed on speech by this bill.

Mr. ROSENTHAL. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from New York.

Mr. ROSENTHAL. Mr. Chairman, I would be curious to know how the gentleman feels about a slightly peripheral issue. These expenditures that commercial organizations make to solicit support or opposition to legislation, does the gentleman think that should be tax deductible?

Mr. WIGGINS. Well, I do not know that the issue is at all relevant to this bill.

Mr. ROSENTHAL. It is not.

Mr. WIGGINS. I have not made a legislative judgment on that issue, and I am loath to give the gentleman an opinion off the top of my head with respect to such a delicate question.

Mr. ROSENTHAL. Assuming for the sake of discussion that it is not tax deductible, one of the tools—and it is only peripheral—one of the tools the IRS could use is this kind of reporting requirement. The fact is that grassroots lobbying has grown by astounding proportions.

Mr. WIGGINS. Let us hope so.

Mr. ROSENTHAL. It has, and it is being used by many American corporations, and they have not been paying taxes on this as an ordinary business expense. The lobbying activity is being supported in a way that I do not think anyone ever intended that it should be.

Mr. WIGGINS. I urge the gentleman to take it up with the Ways and Means Committee. I do not know that it is at all relevant to this bill.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to my colleague from California.

Mr. EDWARDS of California. I think we ought to point out that the purpose of this bill is not to discourage grassroots lobbying or to discourage political action groups. The purpose of this bill is registration and public knowledge of what larger lobbying organizations are doing.

Mr. WIGGINS. Would the gentleman not agree that this adds at least some burden to those reporting organizations which engage in grassroots lobbying, and to some extent may inhibit that type of activity?

Mr. EDWARDS of California. That is correct. Yes.

Mr. KINDNESS. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I will be brief because a lot has been said that needs to be said on this, but I just suggest that the supporters of this amendment do not give the average American credit for having as much commonsense as he certainly has. We are talking about solicitations of the American people to make a decision, No. 1, about whether they are going to be influenced by this solicitation. Or, perhaps No. 1 should be whether they are going to listen to it or read it at all; No. 2, whether they are going to be influenced by it; and No. 3, whether they are going to take any action pursuant to that request.

All those are independent decisions made by individuals throughout our Nation, and they constitute a dividing line between what action is taken by a reporting organization and what results in terms of communications that may be made to Members of the Congress. There is independent judgment exercised. That is the dividing line we ought to recognize here, and that dividing line belongs to the American people. It does not belong to us, and we have no business legislating with respect to it.

What is lobbying anyway? It is obvious that it is a matter of communicating with those people who are going to be making the decisions about policy or legislative matters, and the people who make the communications to their elected representatives in the Congress have every right to do it under the first amendment. The exercise of that right ought not to be chilled or dampened by the imposing of some reporting requirements that somehow relate to this. It is every bit as important for organizations that may be lobbying organizations to be heard on these matters as it is for us to preserve the right of freedom of the press and the transference of that to the electronic media, because it is one other way for someone to speak up about a matter of public interest. If they cannot influence members of the public to act in response to their entreaties, OK, so be it, but if people do act it is their act, and it is their exercise of their first amendment rights.

I certainly hope we will defeat this amendment and retain a reasonably good bill and not kill the bill, in effect, by incorporating this amendment in it.

Mr. ROSENTHAL. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from New York.

Mr. ROSENTHAL. Mr. Chairman, in essence I agree with almost everything the gentleman has said other than the gentleman's objection to this amendment. However, what has been happening in the last 2 years is that those with unusual resources have taken the opportunity to exercise the right of petition. One could say, of course, that there is nothing wrong with it, and so be it, but we live in a country that is not only saturated with advertisements but also because of the uniqueness of the fifth amendment and we are now reaching what I consider to be an improper balance in the opportunity to exercise this right, especially in grassroots lobbying. Therefore I believe we ought to know what is happening in that area.

As I say, I agree almost 99 percent with what the gentleman from Ohio (Mr. KINDNESS) says but I do not think the gentleman should be opposed to having the people telling us what they are doing.

Mr. KINDNESS. I would suggest to the gentleman from New York (Mr. ROSENTHAL) that he and his party have been attempting to reallocate the resources of some of the people for quite some time and have not been successful about it. So, therefore, let us leave what the American people have in their package of freedoms as it is, let us leave that with them, and not be concerned about whose resources are being used, who has resources and who has not. We want to have a resourceful nation in order to be able to communicate with them and they with us.

Mr. ROSENTHAL. Is there something predominantly wrong about the Flowers amendment in that respect?

Mr. KINDNESS. I hope that the gentleman does not just want to have done with grassroots lobbying. A great deal of effort and time can be spent in gathering the information that is used in effecting indirect lobbying communications. If the gentleman wants to kill it I do not agree with him on that. I do not believe one can readily collect the necessary and reliable information on that sort of thing because it is too diverse, too widely spread.

Mr. ROSENTHAL. May I say that in some of these major grassroots campaigns that the people communicated with may not agree with what they are asked to do.

Mr. KINDNESS. The gentleman may have forgotten what we are talking about. We are talking about communications that go out to a broad range of people who are probably practical people in many instances, maybe it only goes to members of an organization, but you cannot hide this light under a bushel basket, it is out in the open.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. ROSENTHAL and by unanimous consent, Mr. KINDNESS was allowed to proceed for 1 additional minute.)

Mr. ROSENTHAL. Mr. Chairman, will the gentleman yield further?

Mr. KINDNESS. I yield further to the gentleman from New York.

Mr. ROSENTHAL. Mr. Chairman, I thank the gentleman for yielding. What we are talking about, just to cite an example is say the A.T. & T. Co. sends out a communication to their stockholders, and they say, just for an example, "If you don't return the postcard, then we will withhold 1 percent from every share you own on each dividend for our political action uses, and that it will be used as we see fit." I think that that kind of a communication is useful for us to know about.

Mr. KINDNESS. I think the gentleman has a misconception if the gentleman believes that this amendment would bring that out in the reporting.

Mr. ROSENTHAL. There would be no further requirement for any further additional information.

Mr. KINDNESS. Then that is not a communication that would be affected by this amendment.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. BROWN of Michigan. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment and to comment on the remarks of the gentleman from New York (Mr. ROSENTHAL).

As the gentleman from New York indicated, the Commerce, Consumer and Monetary Affairs Subcommittee, on which I am the ranking minority member, has been studying the adequacy of IRS enforcement of the provisions of the Tax Code which apply to grassroots communications on public issues, including grassroots lobbying. However, I must inform the Members of this body that the preliminary findings of that investigation do not support the conclusion that we should regulate such activities; nor do those findings suggest an override of the constitutional prohibition against Government infringement on the right of free speech, and the right of people to petition the Government.

The subcommittee investigation is directed primarily at IRS enforcement of section 162(e) of the Tax Code which permits all businesses, union members, and others to deduct expenses or organization dues for direct lobbying of Congress, but which provision denies deductions for expenses incurred to "influence the public on legislative matters, referendums or elections." That distinction between direct and indirect lobbying may be illogical but it is existing law. The subcommittee investigation has been conducted in large part by means of questionnaires addressed to business, trade associations and a few unions—with a high degree of voluntary compliance by the private sector.

There are three preliminary findings of the investigation. Grassroots communications are a significant and growing technique for debating public issues. Grassroots communications include: First, informative and educational public messages on current issues being considered in the legislative or executive branches of the Federal Government; second, communications on legislative issues between trade or union organizations and their members throughout the country; and third, the advocacy advertisements and mass mailings aimed at influencing the general public on legislative matters. Only the last of these three types of communications is subject to the limitation on deductions in the Tax Code.

The second preliminary finding is that some taxpayers are taking improper deductions for expenses which are not deductible under existing law. In response to the subcommittee questionnaires, some corporations have reviewed the records with a clearer understanding of the issue and if improper deductions were found they have admitted the existance of the problem. Other corporations denied doing any grassroots lobbying in spite of evidence to the contrary, suggesting that they have not adequately reviewed their practices and segregated out the nondeductible expenses. However, such improper deductions are not limited to corporate entities. I plan to raise questions at our subcommittee hearings about a Federal Election Commission suit against the AFL–CIO for using $392,000 of general funds from union dues for the improper purpose of financing election activities. If the FEC case is sustained in court, it could result in a determination of improper tax deductions for many of the union's dues paying members.

The third preliminary finding is that the IRS has failed to effectively enforce the existing law in this area. It is clear that IRS has not heretofore given this provision of law much attention, and that both taxpayers and IRS agents have not had sufficient guidance through regulations or rulings to distinguish deductible expenses from nondeductible. IRS has taken some steps recently to improve this situation by issuing four rulings, revising the auditors manual, and initiating an audit survey to determine the level of noncompliance. However, I believe that IRS will find it impossible to make any significant improvements to correct the present chaos of interpretation of the law. Prof. S. Prakash Sethi, author of a major study on this topic entitled "Advocacy Advertising and Large Corporations" and whose works and study have been cited with approbation by none other than the gentleman from New York, Mr. ROSENTHAL, agrees with my assessment. In reviewing some proposals by IRS critics for clarifying the existing interpretation of section 162(e)(2), Professor Sethi wrote:

> The good intentions of the critics notwithstanding the proposals outlined earlier are of doubtful value both on grounds of operational effectiveness and achievement of objectives. The proposals would impose a heavy burden on the IRS in terms of setting precise rules for determining deductibility that would be general enough to cover broad areas of advertisement content and yet specific enough to be operational. The IRS has had considerable difficulty in determining when to disallow deductions for business expenses in apparently simple cases such as payment of fines. To think that rules could be developed to cover an activity with a high degree of subjectivity of interpretation is to show a lack of understanding of the complexity of the problem and the nature of advertising. Consider, for example, the testi-

mony of Lester Fant, a tax attorney, before Senator Hart's subcommittee. In elaborating on the three tests referred to earlier, he stated that the same ad could be classified as either deductible or nondeductible depending on the specific circumstances of the case, what preceded that particular ad, and the overall communication context within which the ad was presented. Furthermore, he concedes that, given the same set of rules, two experts could classify the same ad differently. (p. 246)

There is a more serious problem which arises if IRS adopts subjective tests for distinguishing deductible product or goodwill ads from nondeductible grassroots lobbying ads. Two examples of the proposed tests are:

First. Whether the ad discusses both the pros and cons of the public policy issue addressed.

Second. Whether the subject of the ad is treated in a polemical or controversial manner.

In my opinion, the adoption of any subjective criteria such as these will raise a serious first amendment problem. These vague criteria could only be applied in an arbitrary and inconsistent manner—and thus have a chilling effect on public comment on important issues. The Supreme Court has been very sensitive to the application of subjective standards to the exercise of the freedom of speech. See for example *Shuttlesworth* v. *Birmingham* 394 U.S. 147 (1969).

As I mentioned at the outset, I believe that the preliminary findings of our subcommittee investigation of grassroots lobbying do not have any significance when considered vis-a-vis the constitutional prohibition against Government infringement on the right of free speech and the right to petition the Government. This constitutional issue traced through the Supreme Court rulings in U.S. against Harriss, U.S. against Rumely and the Court of Appeals ruling in Buckley against Valeo is very ably discussed in the Judiciary Committee report. I believe that this amendment should be rejected as an infringement on first amendment rights with no countervailing, "substantial Government interest." After this body rejects the amendment, it should in the near future take up the question of whether the existing provisions of the tax code are similarly defective. Indeed, the public interest tax group, tax analysts and advocates referred in our hearings and characterized the current problems of the existing tax law on grassroots lobbying this way:

The ultimate blame for the Service's dilemma and the resulting inequities lies with Congress for enacting an unenforceable and untenable rule to begin with. It is perhaps unwise to continue allowing the type and amount of lobbying activity to determine the deductibility of contributions and expenditures. Indeed, an all-or-nothing rule would go a long way toward solving these problems and clear up constitutional questions clouding the existing distinctions. Perhaps the Rosenthal hearings will provide the impetus for Congressional action that will make the law in this area evenhanded, fair, and administerable.—Tax Notes, February 13, 1978

Mr. Chairman, I urge the defeat of the amendment.

Mr. MAZZOLI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wonder if I might have the attention of the gentleman from Alabama, my friend (Mr. FLOWERS). I would like to take my time here to ask the gentleman a couple questions. I might say, I do support the gentleman's amendment, as the gentleman is well aware. I think unless the gentleman's amendment carries, this bill will be the same toothless-tiger lobbying bill, circa 1946, that is on the books today.

Let me ask the gentleman this question. Was there not a provision in the subcommittee version of this bill somewhat similar to what the gentleman offered to us today?

Mr. FLOWERS. Mr. Chairman, if the gentleman will yield, the subcommittee had such a version in almost identical language.

Mr. MAZZOLI. Mr. Chairman, let me ask this question also. In the subcommittee version of the bill, which was later changed in the full committee, but which the gentleman seeks to reinstate, was its version like the gentleman's in that this provision, if carried, would not affect the threshold, but would, indeed, only affect the reporting after the threshold is crossed?

Mr. FLOWERS. The gentleman is absolutely correct.

Mr. MAZZOLI. Would the gentleman perhaps give us a few words for some of the people who may have just come on the floor on the vital distinction between having his proposed amendment as part of the threshold which would trigger the coverage of the bill and having it as a part of the reporting requirements?

Mr. FLOWERS. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I am happy to yield to the gentleman from Alabama.

Mr. FLOWERS. What the gentleman is getting at, this would only enter into the reporting requirements. The organization would have to otherwise be covered before this would have any application whatever.

Let me add just one further note. This was very much a part of the bill that passed this House 2 years ago and which, because of the end of the session, we were unable to get to conference with the Senate, but it has generally been thought of as a part of the lobbying bill that would come out of Congress. I hope it will be. The administration supports the inclusion of it.

As I said earlier, it has very wide and bipartisan support.

Mr. MAZZOLI. Mr. Chairman, if the gentleman from Alabama will continue, if I understand what the gentleman said correctly, there could be any amount of indirect lobbying, it could go on from now to doomsday; an organization could spend millions and millions of dollars in generating responses from the grassroots to flutter down on Capitol Hill. If I understand the gentleman correctly, that would still not trigger the application of this bill; is that correct?

Mr. FLOWERS. It would not trigger it, that is correct.

Mr. MAZZOLI. So if the gentlemen would proceed further, it would seem we are not really preventing, as have been the declamations on the floor today, a small group of persons from getting involved in Government and we have not put a chilling effect on the grassroots, because any individual could lobby on Capitol Hill and never have to worry about filing a single paper with the Congress; is that correct?

Mr. FLOWERS. Absolutely.

Mr. MAZZOLI. And the only reason they would have to ever file a paper would be if they trigger, that is, spend $2,500 in lobbying communications, which means direct communication, direct oral or direct written communication with the Congress.

Mr. FLOWERS. If they were otherwise required to register under the bill.

Mr. MAZZOLI. Mr. Chairman, may I ask the gentleman one further question?

Under the gentleman's amendment, if it carries, is any individual human being, any U.S. citizen, required to file any paper or any report whatsoever with the Congress of the United States because he or she wishes to communicate a personal opinion to his or her Federal elected official?

Mr. FLOWERS. No.

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman for his answer.

I would like to add one thing to my comments, Mr. Chairman.

In the New York Times of April 17, 1978, 2 days ago, an article by Mr. Charles Mohr appeared. I would like to read the two lead paragraphs which I think most succinctly state the case for the amendment offered by the gentleman from Alabama (Mr. FLOWERS).

Paragraph 1 is as follows:

"Congressmen first learn how to count and then to think," said Thomas J. Donohue, executive vice president of Citizen's Choice, a recently formed conservative political action organization.

Paragraph 2 is as follows:

Although some might not state it with such blunt cynicism, a widespread belief in that theory across the entire spectrum of special-interest groups in America has led to significant changes in the methods used to influence Congress.

Whether the group is a liberal or a conservative group is totally incidental. The important point is that there is a whole new method in the country as to how to affect and influence the Congress. It seems to me, at the very least, that, when the new method—grassroots lobbying—becomes sizable enough, it ought to be covered and ought to be reported.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I rise in strong support of the amendment. I think it is absolutely essential.

There is no question here of regulating anybody or denying anybody the right to communicate. All lobbyists have to do is to attach a copy to the report that they have already made.

Mr. DANIELSON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and any amendments thereto terminate at 4:40 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous request was agreed to will be recognized for 6½ minutes each.

The Chair recognizes the gentleman from South Dakota (Mr. ABDNOR).

Mr. ABDNOR. Mr. Chairman, I intend to be brief. I will only take a couple of minutes of my time.

I rise in strong opposition to this amendment or any other amendment containing the same principle that would discourage grassroots participation in our democratic process of government.

Far from being abuses, such grassroots lobbying campaigns are a means of giving voice to the "silent majority." I have been waiting for a long time for our people back home to become concerned and to be interested in the issues of the day, and something has transpired over the past few months and the past year that has shown there is a great deal of interest on the part of our constituents.

I think that is good, and we should not do anything under any conditions that would in any way destroy this trend.

I think to imply that there is something sinister about fostering such communication is actually an insult to the intelligence of the general public. I am convinced that the average citizen—I do not care whether he is a member of the chamber of commerce, the Sierra Club, or Common Cause or any other organization—would never lend his name to any kind of a campaign or put his name on a letter if he did not believe in the issue the organization was sponsoring.

Sometimes I wonder if our concern is because of the extra workload this is making for us here in Congress. Maybe some of us are a little concerned about having to write some extra letters. When we think about how good we have been to ourselves, making sure that we now have sophisticated office equipment to assist in answering our mail, I think we have the time to write our citizens and our constituents in order to state our views on how we feel and where we stand on issues.

Mr. Chairman, this is a bad amendment. Let us encourage people and organizations to involve our citizens in the consideration of the issues of the day.

Mr. Chairman, I yield back the balance of my time.

● Mr. EDWARDS of California. Mr. Chairman, the gentleman from Alabama has offered an amendment to the lobby disclosure bill which I fear will have a serious chilling effect on the right of organizations to communicate with their members on the public or political issues. If included in this bill on final passage, the Flowers amendment will require groups covered by the bill's threshold to report almost every written contact they have with their membership or employees where political action is urged.

The amendment provides that whenever such a group makes a grassroots communication urging others to contact Congress, they must report a description of the issue with which the solicitation is concerned, a description of the means employed to make the solicitation and what action was urged upon the recipient, the identification of any person retained to make the solicitation, the number of people expected to receive the message if sent by mail or telegram, and if made through a paid advertisement costing over $5,000 the amount spent and where the ad appeared.

Now, I would submit that for any of the smaller lobbying organizations which will be covered by this bill, the expense and effort of complying with this amendment each time they send out a newsletter monthly magazine, or legislative alert will be very high indeed. Where the group maintains a lobbying arm in Washington staffed with just a few people, they may have to curtail their communication with their members. In fact, I predict that if the lobby disclosure bill is passed with this provision, we will begin to see a significant decrease in the mail which our offices receive from smaller organizations. Naturally, the large, well established lobbies will be able to easily comply with this requirement by hiring more clerks. Thus we will have managed, by the passage of the Flowers amendment, to soften the political voices of smaller organizations, and those which do not have well staffed, well funded lobbying offices in Washington.

It is particularly disturbing to me that Congress may be willing to place such a burden on the exercise of First Amendment rights without even establishing a legislative record of lobbying abuses by which to demonstrate a compelling governmental interest to regulate this type of speech.

The constitutional issues raised by the requirements of the Flowers amendment are so important that I hope my colleagues will very seriously consider the arguments put forth in the following memorandum on the amendment prepared by the American Civil Liberties Union:

AMERICAN CIVIL LIBERTIES UNION,
*Washington, D.C., April 19, 1978.*

MEMORANDUM: H.R. 8494—CONSTITUTIONALITY OF FLOWERS AMENDMENT ON LOBBYING SOLICITATIONS

This memorandum concerns the constitutionality of the Flowers Amendment to require that lobbying organizations under H.R. 8494 disclose their solicitation efforts. It is our conclusion that this amendment is unconstitutional.

"Lobbying solicitations" typically include the efforts by organizations to require, encourage or solicit their members and others to make their views known to members of Congress or their staffs. The Supreme Court has never permitted government regulation of such indirect efforts to influence the legislative or elective process. Decisions of the present Court as well as earlier cases make it quite likely that the Court would strike down Congressional efforts to regulate lobbying solicitations.

In *United States* v. *Rumley*, 345 U.S. 41 (1953), the Court considered the scope of the authority of the House Select Committee on Lobbying Activities to investigate the adequacy of the lobbying Regulation Act. One group under investigation refused to comply with a Committee subpoena which purported to require disclosure of bulk purchasers of their books. The group's main purpose, in the words of the Committee, was "distribution of printed material to influence legislation indirectly." To avoid raising serious constitutional questions, the Court drastically narrowed the scope of the House resolution authorizing the investigation of "all lobbying activities intended to influence, encourage, promote or retard legislation." It did so because " . . . the power to inquire into all efforts of private individuals to influence public opinion through books and periodicals, however remote the radiations of influence which they may exert upon the ultimate legislative process, raises doubts of the constitutionality in view of the prohibitions of the First Amendment." 345 U.S. at 46. Adopting the language of the Court below—which had held the resolution unconstitutional—the Supreme Court read the phrase "lobbying activities" to mean " 'lobbying in its commonly accepted sense,' " that is "representations made directly to the Congress, its members, or its Committees'." *Id.* at 47.

One year later, the Supreme Court, in *United States* v. *Harriss*, 347 U.S. 612 (1954), applied the same construction to the language of the Federal Regulation of Lobbying Act itself. Several persons had been indicted under the Act for failure to report expenditures related "to the cost of a campaign to communicate by letter with members of Congress on certain legislation." 347 U.S. at 615. The Court took care not "to deny Congress in large measure the power of self-protection" by preventing Congress from any regulation of lobbying. 347 U.S. 625. But, as in *Rumely*, Chief Justice Warren limited the reach of the Act to cover only " 'lobbying in its commonly accepted sense'—to direct communication with members of Congress on pending or proposed Federal legislation." 347 U.S. 620.

The Supreme Court has not faced the issue of lobbying since the *Harriss* decision. The issue of regulation of efforts to influence public opinion has been addressed, however, by several lower courts.

The Court of Appeals in *Buckley* v. *Valeo*, 519 F.2d 821 (D.C. Cir. 1975), dealt with an analogous provision in the original Federal Election Campaign Act. Section 308 of FECA required disclosure by any group that committed "any act directed to the public for the purpose of influencing the outcome of an election or publication or broadcast of any material that is designed to influence individuals to cast their votes for or against such candidate or to withhold their votes from such candidate." 519 F.2d at 870.

The section was held flatly unconstitutional by the Court of Appeals. As part of the rationale, the Court cited the Second Circuit opinion in *United States* v. *National Committee for Impeachment*, 469 F.2d 1135 (2d Cir. 1972). In that case the Second Circuit had narrowly construed the section of the 1971 FECA requiring disclosure of activities aimed at the public by political committees. The Second Circuit said a broader reading of this section would result in an enormous interception of activities protected by the First Amendment:

". . . every position on any issue, major or minor, taken by anyone would be a campaign issue and any comment upon it, in, say, a newspaper editorial or an advertisement, would be subject to proscription unless the registration and disclosure were complied with. Such a result would, we think, be abhorrent; . . . Any organization would be wary of expressing any viewpoint lest under the Act it be required to register, file reports, disclose its contributors, or the like. On the Government's thesis every little Audubon Society Chapter would be a "political committee" for "environment" is an issue in one campaign after another. On this basis, too, a Boy Scout troop advertising for membership

to combat "juvenile delinquency" or a Golden Age Club promoting "senior citizens rights" would fall under the Act. The dampening effect on First Amendment rights and the potential for arbitrary administrative action that would result from such a situation would be intolerable." 469 F.2d 1142.

Similarly, in *ACLU* v. *Jennings*, 366 F. Supp. 941 (D.D.C. 1975), vacated as moot *sub nom., Staats* v. *ACLU*, 422 U.S. 1030 (1975), a three-judge district court was faced with a challenge to the 1971 FECA. The court perceived the same constitutional obstacles and adopted the same narrow interpretation propounded in National Committee for Impeachment.

Applying the principles in these decisions to the solicitation disclosure requirement of the Flowers Amendment, we submit that Congress has not met the burden of justifying these provisions.

First, there is no demonstrated compelling governmental interest in the requirements because there is no factual record of abuse in lobbying solicitations. On the contrary, such efforts are beneficial. A lobbying solicitation begins with the effort to inform and educate the public on federal legislation. This public debate on issues is protected by the First Amendment and any regulation of it would interfere with the exercise of Constitutional rights. If an organization at the same time asks others to support its views and to write Congress saying so, that is also public debate protected by the First Amendment.

This type of actvility ought to be encouraged, not regulated. Civil rights, anti-Vietnam war and impeachment movements all relied heavily on this type of activity to generate public support. Even the passage of the Constitution was spurred by anonymous grassroots lobbying such as the essays published as the Federalist Papers. If people respond to such a campaign, even if with a form letter, these people must believe in the position offered or at least sufficiently believe in the general goals of that organization initiating the solicitation to trust its judgment. Congress should not pass judgment on the value of these views. This individual response to a lobbying solicitation is the purest form of the right to petition the government.

Moreover, the lobbying solicitation provision will force overwhelming recordkeeping upon organizations, thus causing them to curtail or even halt their attempts to inform the public on vital public policy issues. Tracking of grassroots lobbying is virtually impossible, yet organizations would be under the threat of criminal sanctions for not filing accurate reports. The Flower Amendment therefore fails to utilize the least drastic means to effectuate the purpose of the statute, another requirement the Supreme Court imposed on legislation affecting First Amendment rights. Accordingly, disclosure of lobbying solicitations is unconstitutional and the Flower Amendment should be rejected.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. FLOWERS).

The question was taken; and on a division (demanded by Mr. EDWARDS of California) there were—ayes 35, noes 26.

RECORDED VOTE

Miss JORDAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 245, noes 161, not voting 28, as follows:

[Roll No. 237]

AYES—245

| | | |
|---|---|---|
| Addabbo | Frenzel | Nolan |
| Allen | Frey | Nowak |
| Ambro | Fuqua | Oakar |
| Ammerman | Gammage | Obey |
| Anderson, Ill. | Gaydos | Ottinger |
| Annunzio | Gibbons | Patten |
| Applegate | Gilman | Pattison |
| Ashley | Ginn | Pease |
| Aspin | Gonzalez | Pepper |
| AuCoin | Gradison | Perkins |
| Badham | Green | Pettis |
| Baldus | Hall | Pickle |
| Baucus | Hamilton | Pike |
| Beard, R.I. | Hammer-schmidt | Poage |
| Bedell | Hanley | Pressler |
| Bennett | Hannaford | Preyer |
| Bevill | Harkin | Price |
| Bingham | Harris | Pritchard |
| Blanchard | Heckler | Rahall |
| Blouin | Heftel | Railsback |
| Boggs | Hightower | Rangel |
| Bolling | Hollenbeck | Reuss |
| Brademas | Horton | Richmond |
| Breaux | Hubbard | Rinaldo |
| Breckinridge | Ichord | Roberts |
| Brinkley | Jacobs | Rogers |
| Brodhead | Jeffords | Rooney |
| Buchanan | Jenrette | Rose |
| Burke, Fla. | Johnson, Calif. | Rosenthal |
| Burke, Mass. | Jones, N.C. | Rostenkowski |
| Burlison, Mo. | Jones, Okla. | Russo |
| Byron | Kastenmeier | Ryan |
| Caputo | Keys | Sarasin |
| Carney | Kildee | Scheuer |
| Carr | LaFalce | Schroeder |
| Carter | Le Fante | Schulze |
| Cavanaugh | Leach | Sharp |
| Chappell | Lederer | Shipley |
| Clay | Leggett | Shuster |
| Cleveland | Lehman | Sikes |
| Cohen | Lent | Simon |
| Coleman | Lloyd, Tenn. | Skelton |
| Collins, Ill. | Long, La. | Slack |
| Collins, Tex. | Long, Md. | Smith, Iowa |
| Conable | Lott | Snyder |
| Cornell | Lujan | Spellman |
| Cotter | Luken | Spence |
| Coughlin | Lundine | St Germain |
| Cunningham | McCloskey | Staggers |
| D'Amours | McCormack | Steed |
| de la Garza | McDade | Steers |
| Delaney | McKay | Stokes |
| Dent | McKinney | Taylor |
| Derrick | Madigan | Thompson |
| Dickinson | Maguire | Treen |
| Dicks | Mahon | Trible |
| Diggs | Marks | Tsongas |
| Dingell | Marlenee | Tucker |
| Downey | Mathis | Van Deerlin |
| Drinan | Mattox | Vanik |
| Early | Mazzoli | Vento |
| Eckhardt | Meeds | Walker |
| Edgar | Metcalfe | Walsh |
| Edwards, Ala. | Meyner | Waxman |
| Eilberg | Mikva | Whalen |
| Emery | Milford | White |
| English | Minish | Whitehurst |
| Ertel | Mitchell, N.Y. | Wilson, Bob |
| Evans, Colo. | Moakley | Wilson, Tex. |
| Evans, Ga. | Moffett | Winn |
| Evans, Ind. | Mollohan | Wirth |
| Fary | Moorhead, Pa. | Wolff |
| Fascell | Motti | Wright |
| Fenwick | Murphy, Ill. | Wydler |
| Fisher | Murphy, Pa. | Wylie |
| Fithian | Murtha | Yates |
| Flippo | Myers, Gary | Young, Alaska |
| Florio | Myers, Michael | Young, Fla. |
| Flowers | Natcher | Young, Mo. |
| Ford, Mich. | Neal | Young, Tex. |
| Ford, Tenn. | Nichols | Zablocki |
| Fraser | | Zeferetti |

NOES—161

| | | |
|---|---|---|
| Abdnor | Beilenson | Burton, Phillip |
| Akaka | Benjamin | Butler |
| Anderson, Calif. | Biaggi | Chisholm |
| Andrews, N.C. | Boland | Clawson, Del |
| Andrews, N. Dak. | Bonior | Conte |
| Archer | Bowen | Corcoran |
| Armstrong | Brooks | Corman |
| Ashbrook | Broomfield | Cornwell |
| Bafalis | Brown, Calif. | Crane |
| Barnard | Brown, Mich. | Daniel, Dan |
| Bauman | Brown, Ohio | Danielson |
| Beard, Tenn. | Broyhill | Davis |
| | Burgener | Derwinski |
| | Burleson, Tex. | Devine |
| Dodd | Johnson, Colo. | Quie |
| Dornan | Jones, Tenn. | Quillen |
| Duncan, Oreg. | Jordan | Regula |
| Duncan, Tenn. | Kasten | Rhodes |
| Edwards, Calif. | Kelly | Robinson |
| Edwards, Okla. | Kemp | Roe |
| Erlenborn | Ketchum | Roncalio |
| Evans, Del. | Kindness | Rousselot |
| Findley | Kostmayer | Roybal |
| Fish | Krebs | Rudd |
| Flood | Lagomarsino | Ruppe |
| Flynt | Latta | Santini |
| Foley | Levitas | Satterfield |
| Forsythe | Livingston | Sawyer |
| Fountain | Lloyd, Calif. | Sebelius |
| Fowler | McClory | Seiberling |
| Garcia | McDonald | Sisk |
| Gephardt | McFall | Skubitz |
| Giaimo | McHugh | Smith, Nebr. |
| Glickman | Markey | Solarz |
| Goldwater | Marriott | Stangeland |
| Goodling | Martin | Stanton |
| Gore | Mikulski | Stark |
| Grassley | Miller, Calif. | Steiger |
| Gudger | Miller, Ohio | Stockman |
| Guyer | Mineta | Stratton |
| Hagedorn | Mitchell, Md. | Studds |
| Hansen | Montgomery | Stump |
| Harrington | Moore | Symms |
| Harsha | Moorhead, Calif. | Traxler |
| Hawkins | Moss | Udall |
| Hefner | Murphy, N.Y. | Ullman |
| Hillis | Myers, John | Vander Jagt |
| Holland | Nix | Volkmer |
| Holt | O'Brien | Waggonner |
| Holtzman | Oberstar | Wampler |
| Huckaby | Panetta | Weaver |
| Hughes | Patterson | Weiss |
| Hyde | Pursell | Wiggins |
| Ireland | Quayle | Yatron |
| Jenkins | | |

NOT VOTING—28

| | | |
|---|---|---|
| Alexander | Dellums | Runnels |
| Bonker | Howard | Teague |
| Burke, Calif. | Kazen | Thone |
| Burton, John | Krueger | Thornton |
| Cederberg | McEwen | Walgren |
| Clausen, Don H. | Mann | Watkins |
| Cochran | Michel | Whitley |
| Conyers | Nedzi | Whitten |
| Daniel, R. W. | Risenhoover | Wilson, C. H. |
| | Rodino | |

The Clerk announced the following pairs:

On this vote:

Mr. Howard for, with Mr. Krueger against.

Mr. Runnels for, with Mr. Rodino against.

Mr. Whitley for, with Mr. Dellums against.

Mr. Walgren for, with Mrs. Burke of California against.

Mr. Teague for, with Mr. Conyers against.

Mr. John L. Burton for, with Mr. Michel against.

Messrs. BEARD of Tennessee, KELLY, SYMMS, PANETTA, WAMPLER, FINDLEY, LLOYD of California, McDONALD, GLICKMAN, MARRIOTT, HAGEDORN, and ROUSSELOT changed their vote from "aye" to "no."

Messrs. ECKHARDT, MOAKLEY, and POAGE changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. RAILSBACK

Mr. RAILSBACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RAILSBACK: At page 38, lines 24 and 25 and page 39, lines 1 and 2, strike existing subsection (6) and substitute the following new subsection (6):

"(6) a description of the issues concerning which the organization filing such report engaged in lobbying communications and upon which the organization spent a significant amount of its efforts, disclosing with respect to each issue any retainee or em-

ployee identified in paragraph (5) of this subsection and the chief executive officer, whether paid or unpaid, who engaged in lobbying communications on behalf of that organization on that issue: *Provided, however*, That in the event an organization has engaged in lobbying communications on more than fifteen issues, it shall be deemed to have complied with this subsection if it lists the fifteen issues on which it has spent the greatest proportion of its efforts. For purposes of this paragraph the term "chief executive officer" means the individual with primary responsibility for directing the organization's overall policies and activities;"

Mr. RAILSBACK. Mr. Chairman, H.R. 8494 as written does not require reporting about individuals who, though they may receive no pay for their services, are the major policy formulators of an organization and are active in arguing their case before public officials. We recognize that on this issue we must be especially wary. We are dealing with important first amendment rights. However, reporting about the lobbying activities of a covered organization's principal executive officer, whether paid or unpaid, must be included in any fair lobby reform bill. To provide such coverage, our amendment will require reporting of the major issues on which these individuals lobbied. This would assure that the public would be able to know of the lobbying activities of such influential persons as Ralph Nader of Public Citizen, Irving Shapiro of the Business Roundtable, and the heads of various trade associations who may not be paid. We certainly have no intention of covering the myriad of volunteers who, from time to time, take an active interest in issues before Congress.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. RAILSBACK).

The question was taken; and on a division (demanded by Mr. RAILSBACK) there were—ayes 33, noes 22.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. WIGGINS

Mr. WIGGINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WIGGINS: On page 34, on line 18, strike the word "fifteen" and insert the word "thirty".

Mr. WIGGINS. Mr. Chairman, this is a simple amendment which is technical in nature, and it is one on which there ought to be no dispute.

The bill presently requires an organization to register 15 days after it engages in the activities which are covered. My amendment merely gives the organization 30 days within which to do that rather than 15.

Fifteen days is hardly adequate for any person to compute whether the organization has been covered, and it is hardly adequate to get the legal advice necessary to determine if it should register and complete and file the forms. Given the broad scope of coverage in the bill to all organizations in America and the lack of sophistication on the part of many people, I think this amendment is needed.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Chairman, I have looked the amendment over, and I certainly have no quarrel with it. I would be willing to accept the amendment.

Mr. KINDNESS. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Ohio.

Mr. KINDNESS. Mr. Chairman, I see no objection to the gentleman's amendment on this side, and I urge support of the amendment.

Mr. WIGGINS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WIGGINS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SANTINI

Mr. SANTINI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SANTINI: Page 32, line 21, strike out "organization" and all that follows through "employees)," on page 33, line 5.

Page 33, line 6, insert the following after "individuals": ", except that the term 'organization' does not include any organization of State or local elected or appointed officials, any Federal, State, or local unit of government (other than a State college or university as described in section 511(a)(2)(3) of the Internal Revenue Code of 1954), any Indian Tribe, any national or State political party or any organizational unit thereof, or any association comprised solely of Members of Congress or Members of Congress and congressional employees".

Mr. SANTINI. Mr. Chairman, I rise to offer an amendment to H.R. 8494 on behalf of myself and Mr. SEIBERLING of Ohio. This amendment will exempt from coverage under this bill associations of State and local government officials.

As reported by the Judiciary Committee, the bill exempts officials of State and local governments. The authors of the legislation recognize that State governments are equal partners in our federal system and should be accorded the same treatment as that given to the Federal Government. Unfortunately, the committee did not address the specific problems facing State and local officials who cannot afford the luxury of hiring their own representatives to conduct lobbying activities here in Washington, D.C. The only method these counties and municipalities have by which they can conduct such activities is through membership in organizations such as the National Association of Counties, the League of Cities, National Governor's Conference, and the Conference of Mayors.

The issue involved is not one of disclosure. As public representatives, these organizations already disclose more information about their membership and activities than this bill would require of anyone. The issues which are supported by these groups are discussed in open session within the local communities and are known to the public and the media. What is the net gain by requiring a duplication of this effort through this bill?

There is another issue implicit in this legislation. There is a perception in the minds of some State and local officials that the National Government is somehow condescending, indifferent or hostile to local government. For the Congress of the United States to require that they register under a lobbying act designed to affect private interests while not calling for registration by the 675 Federal lobbyists is an affront to the federal system of government.

I am concerned that the impact of the bill will be to encourage local governments to hire, at additional expense, Washington, D.C. lobbyists to express their views. This would be a serious burden on many local units in my State, and I am sure it will prove to be burdensome in many of your districts as well. In Lincoln County, Nev., the trial of one murder suspect almost bankrupted the county. Are the Members of this body ready to tell Ed Arnold, chairman of the board of county commissioners of the rural community that he needs to hire a D.C. lobbyist in order to be exempt from the bill? While Ed Arnold's representatives would have to register as lobbyists under the bill, the Federal Government's lobbyists are exempted. Thus, the Department of Agriculture employee who called my office to ask support of the consumer bill would have no obligation under this legislation.

The prestigious Advisory Commission on Intergovernmental Relations, created by Federal law, and composed of Members of the Senate, House, private citizens and local and State officials passed a resolution asking that the entire range of governmental activities involving lobbying be studied. It also asked that Congress not require registration of the associations until such time as the study is complete.

I am advised that Chairman RODINO is in support of my amendment and will be paired in favor of it.

Thank you for your consideration.

Mr. DANIELSON. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from California.

Mr. DANIELSON. I thank the gentleman for yielding.

Mr. Chairman, I have looked over the amendment, and I have no opposition to it.

This amendment simply includes within the exempt groups, exempt from being classified as an organization, organizations of State or local or elected or appointed officials, such as the County Supervisors Association. And inasmuch as we do exempt units of State and local government, there seems to be no practical reason to include the organizations of those very same people.

Mr. SANTINI. I thank the chairman for his remarks. The gentleman could have saved me some time. I appreciate that very much.

Miss JORDAN. Mr. Chairman, would the gentleman yield?

Mr. SANTINI. I yield to the gentlewoman from Texas.

Miss JORDAN. I thank the gentleman for yielding.

Mr. Chairman, is it not also correct that the gentleman stated that these entities of State and local government do report their expenditures of funds and the reasons for which the funds were spent?

Mr. SANTINI. The gentlewoman summarizes it very well.

Miss JORDAN. Is it not also the case that the gentleman from Nevada sees some degree of unfairness in the exemption which is allowed various Federal agencies and entities which are financed, to a large extent, and who lobby on the Hill every day, and that they certainly are exempt, and does it seem to be a bit unfair to the gentleman for these Federal entities and agencies to be exempt and State and local governments to be covered?

Mr. SANTINI. The gentlewoman has expressed it so well I wish I would have included it in my remarks.

Miss JORDAN. Mr. Chairman, I support the gentleman's amendment.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from California.

Mr. WIGGINS. I thank the gentleman for yielding.

Mr. Chairman, I would like to engage in a little discussion with the gentleman as to the scope of appointed officials.

The CHAIRMAN. The time of the gentleman from Nevada (Mr. SANTINI) has expired.

(On request of Mr. WIGGINS and by unanimous consent, Mr. SANTINI was allowed to proceed for 2 additional minutes.)

Mr. WIGGINS. Mr. Chairman, if the gentleman will yield further, does the term "appointed officials" include an association of the chiefs, for example?

Mr. SANTINI. It would not.

Mr. WIGGINS. Even if they be appointed?

Mr. SANTINI. Even if they be appointed.

Mr. WIGGINS. Would it include an association of chiefs of police?

Mr. SANTINI. It would not.

Mr. WIGGINS. Would it include an association of city administrators?

Mr. SANTINI. It would not.

Mr. WIGGINS. Or planners?

Mr. SANTINI. No.

Mr. WIGGINS. Engineers?

Mr. SANTINI. No.

Mr. WIGGINS. And it would clearly not include any employee organization; is that correct?

Mr. SANTINI. That is correct.

Mr. WIGGINS. It would not include, for example, teachers; is that correct?

Mr. SANTINI. That is correct.

Mr. WIGGINS. Or municipal employees?

Mr. SANTINI. Correct.

Mr. WIGGINS. I think that is the important addition to the legislative history because, like the gentleman in the well, I do not wish the appointive position to be too broad; but now I am curious as to who is included.

Mr. SANTINI. Included within it are all of the elected or appointed officials, as stated in the amendment, to and including city officials, elected or appointed officials. Under that designation, if we had a mayor appointed to replace another mayor because of a vacancy, he would qualify, but a city planner would not qualify. It would include a commissioner, elected or appointed to fill a vacancy.

Mr. WIGGINS. As I understand it, the word "appointed" modifies the "elected official" language; is that correct?

Mr. SANTINI. Correct.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I want to congratulate the gentleman from Nevada (Mr. SANTINI) for an outstanding amendment.

What about a situation in which there was a city manager? Would a city manager be able to be covered under the gentleman's amendment?

Mr. SANTINI. The city manager would not be covered under the language of my amendment.

Mr. DICKS. Would not be?

Mr. SANTINI. Would not be, but the city representatives, councilmen, commissioners, whatever their title might be, would be.

Mr. DICKS. Mr. Chairman, I want to congratulate the gentleman on his amendment.

The CHAIRMAN. The time of the gentleman from Nevada (Mr. SANTINI) has expired.

(On request of Mr. HARRIS and by unanimous consent, Mr. SANTINI was allowed to proceed for 2 additional minutes.)

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Chairman, the wording of the gentleman's amendment says "local elected or appointed officials."

It seems to me that the gentleman ought to be saying that he did not mean to include all appointed officials, but just those officials appointed to elective positions; is that not correct?

Mr. SANTINI. That is correct.

Mr. HARRIS. I presume, then, that the gentleman would accept an amendment stating "local elected officials or officials appointed to elective positions"; is that correct?

Mr. SANTINI. If that would be a contribution beyond that we have already arrived at in the legislative history, I would not object to such an amendment.

Mr. HARRIS. Then, Mr. Chairman, I ask unanimous consent that the wording of the amendment of the gentleman from Nevada (Mr. SANTINI) be changed to reflect the previous colloquy.

The CHAIRMAN. The gentleman from Virginia (Mr. HARRIS) asks unanimous consent to amend or to change the amendment of the gentleman from Nevada (Mr. SANTINI).

Is there objection to the request of the gentleman from Virginia?

Mr. WIGGINS. I reserve the right to object, Mr. Chairman.

I shall continue to reserve the right to object and to pass the time pleasantly as the gentleman from Virginia (Mr. HARRIS) perfects his amendment in writing.

Mr. Chairman, let me say this about the idea of excluding State and local elected officials. If a bill is bad—and I regard this bill to be bad—a virtue in that is that it is universally bad and uniformally bad. If, however, it is selectively bad, there is another reason to oppose it, because it seeks then to intrude on fifth amendment values as well as on first amendment values.

Having obfuscated that issue, Mr. Chairman, how is the gentleman from Virginia coming?

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I wanted to ask why the organization of congressional employees is exempted.

Mr. WIGGINS. Why are they? Not being an author of the bill and being reluctant to answer that question. I think the probable answer is that Members of Congress felt that we should not be compelled to disclose our own lobby activities.

Mrs. FENWICK. If the gentleman will yield further, Mr. Chairman, it says Members of Congress or congressional employees. Therefore, why are not congressional employees involved?

Mr. WIGGINS. The gentlewoman from New Jersey knows that some of the more effective lobby organizations within Congress are composed of Members of Congress. I understand that some of them are also open for the admission of congressional employees.

Mrs. FENWICK. It seems curious to me.

Mr. SANTINI. Mr. Chairman, I would like to reclaim my time, if I might.

Mr. WIGGINS. Mr. Chairman, I withdraw my reservation of objection.

POINT OF ORDER

Mr. McCORMACK. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman from Washington will state his point of order.

Mr. McCORMACK. Mr. Chairman, we are on a unanimous-consent request. I was reserving the right to object.

The CHAIRMAN. The Chair is going to insist, however, that the modification be made in writing because of the confusion that exists, and was going along with the gentleman from California until the time was provided to do that.

Does the gentleman from Nevada have a modification to his amendment?

Mr. SANTINI. Mr. Chairman, it appears to me that we are creating more of an impediment than a resolution at this point. I would resist the attempt at this point to modify by the gentleman's amendment. I feel that we have made a sufficient contribution in terms of both legislative history and intent at this point to suffice.

I do not feel the language will contribute anything to the clarification, or to the extent that it would, we would find ourselves impeded in a tangential manner that will consume a great deal more time than I intended to devote to this.

The CHAIRMAN. The Chair will in-

terpret the remarks of the gentleman from Nevada as an objection to the unanimous-consent request of the gentleman from Virginia (Mr. HARRIS).

Objection is heard.

Mr. BROOKS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, of necessity I rise in opposition to this amendment. The purpose of H.R. 8494, we say in the committee in which I serve, is to insure that major lobbying organizations register and report their lobbying activities. Well, if there is any lobbying operation around here that is more major than that of the State, county and local public officials, I have not come across it yet, and I hope I never do.

When the mayors and the city councils and county supervisors and the governors' folks get together and put on a lobbying effort, I can tell the Members that for sure it is a major effort. This bill is not telling State and local officials that they cannot lobby. It is simply going to include them in with the other major interest groups that come to Washington and spend their time and money trying to influence legislation. It says that they should register and report.

If we are going to talk about ethics and not include them, we are just not being realistic. They should be included. Not only do they make up one of the largest, best organized, most effective lobbies in Washington, they also have a bigger stake in what Government is doing than any other lobbying organization.

The outlays for Federal grants in aid to State and local governments are estimated to total $80.3 billion in 1978, and $85 billion in 1979. In 1979, that will account for 26 percent of total domestic outlays, and more than 26 percent of all State and local expenditures.

One of the biggest single functions of that money comes from the general revenue sharing program, which pumped out $8.5 billion last year. We were concerned enough about the lobbying effect of the State and local officials when we extended that legislation the last time that we included a provision in it barring the use of any of the funds received from revenue sharing for lobbying. But, whether they are using revenue sharing funds or not, they are using public funds. They are using public funds, and it is entirely proper that they should be required to maintain records and report expenditures, as H.R. 8494 requires.

Mr. Chairman, I would urge defeat of this amendment and support of the Judiciary Committee position.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from New York.

Mr. FISH. I just want to congratulate my friend from Texas on bringing us back to our senses on this. I am sure he shares with me a high regard for the Conference of Mayors and League of Cities.

Mr. BROOKS. I certainly do. They are wonderful people.

Mr. FISH. But, it is quite another thing to leave them out of the coverage of this amendment when, as the gentleman says, they come to Washington and the result of their efforts in entertaining the Congress and lobbying through our offices is literally billions and billions of dollars through expenditures by HUD and so on. I see no reason for them in their interests—and legitimate interests—not to be part of the coverage of this bill.

Mr. MOORHEAD of California. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from California.

Mr. MOORHEAD of California. Mr. Chairman, it is obvious that no one really wants to be covered by this particular piece of legislation, but if we are going to have a bill we cannot start exempting one group after another from coverage.

The group that is concerned here, the Organization of Governors and Mayors, and various city and county officials, is a very effective lobbying unit. If we are going to have a true picture of lobbying before the Congress and in the United States we must have them covered as well as others.

So I ask for a no vote on the amendment.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I thank the gentleman for yielding, and I want to congratulate the gentleman from Texas (Mr. BROOKS) on the statement he has made. The most important thing we can do with this particular legislation is recognize that where somebody retains a lobbyist, regardless of whether they are a labor union, a business group or whoever they are, we should treat them all the same.

I agree with the remarks of the gentleman from Texas (Mr. BROOKS). I believe he is right on target and I urge defeat of the amendment.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I certainly want to join the gentleman from Texas (Mr. BROOKS) in opposition to the pending amendment. It would seem to me it would gut the entire purpose of this bill if the pending amendment were adopted by exempting such a large part of the lobbying activity which ought to be within the purview of the legislation.

I urge that we reject the amendment.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. SANTINI, and by unanimous consent, Mr. BROOKS was allowed to proceed for 2 additional minutes.)

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Chairman, I regret that the distinguished chairman the gentleman from Texas (Mr. BROOKS) has used this particular forum to rehash his longstanding enthusiasm for hassling with county and municipal governments because I do not think that is remotely relevant to the issue we are trying to raise here.

That 2-foot or 3-foot pile of books over there is illustrative of the disclosure that they already engage in. What we are talking about is asking them to double, treble or quadruple, at least, all of that disclosure, evidently, that presently goes on. We are doing it in the context of exempting the Washington lawyers if that Washington lawyer represents the city or represents the county or represents the State on an individual basis, but we are imposing the obligation on the associations' representatives that are already encumbered with substantial reporting obligations, as it now exists.

Mr. BROOKS. I appreciate your question.

But I do want to reiterate that it is my determined feeling that these are as big as any animal in the park. This is one of the most effective lobbying groups in the United States. I know because I have fought with them and they whipped me all over this Congress. I bleed from them. They are always working because they are hustling for the $85 billion that they want in 1979—26 percent of the total domestic outlays. These people have a real interest down here, and they come down here. When they do I am glad to see them. I like to visit with them. I like them. We have a new mayor in my hometown. As a matter of fact a fine man. Nobody is going to stop them from lobbying. We just want to let them keep an account of it, maintain records like everybody else does that comes and lobbies. There is nothing wrong with it. They are welcome to come. As I say I like to see them.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I always thought that the gentleman from Texas (Mr. BROOKS) was a great supporter of States rights and local government and local autonomy and home rule. That is the philosophy under which the bill itself exempts State and local elected officials.

It seems to me that it does not make much sense to say on the one hand, that they are exempt from the coverage of this bill because we do not want them spending public funds, including some of the money that the Federal taxpayers give to the State and local governments, filling out report forms under a lobbying law, and then to turn right around and say that if they organize to make their lobbying a little more effective we are now going to make them fill out the reports. Pretty soon we will find them coming in for more grants to spend more money because we are making them fill out more report forms.

So I think that Mr. SANTINI's amendment makes a great deal of sense, if exempting State and local elected officials makes sense, and I submit that it does. This bill raises serious constitutional problems involving first amendment

rights—which I happen to think the bill infringes upon a little too much. It also involves a question of comity between the Federal and State governments and between elected officials in these governments, who are accountable to their constituents and who are audited for their official activities. It is a matter of comity between the Federal Government and those governments and officials, which also involves a constitutional principle in a federal system such as ours.

I do not think that the gentleman from Texas (Mr. BROOKS) is really hitting the mark when he implies that there is something nefarious about these people coming down and lobbying Congress. Of course, we ought to know what they are doing and who they are. We do know, and the people who are going to know about it most are the people who elected them and who pay their State and local taxes. So I see nothing wrong with exempting them, and I would hope that the gentleman's amendment would pass.

Mr. KINDNESS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment. I think the gentleman from Texas (Mr. BROOKS) very well stated the heart of the issue. In the subcommittee and committee stages of consideration of this bill, an attempt was made to straighten out the inequity, or the apparent inequity, that exists whereby a large city can send its people down to Washington and lobby full time—in behalf of the city of New York, for example, as compared to a smaller city. That does not seem quite fair. I attempted to get an amendment in the subcommittee that would bring those Washington offices of States or cities under the coverage of the bill.

I think instead of creating more exemptions, we should try to cover everyone in equitable fashion. I am not offering that amendment at this time because I do not think there is enough support for it, but I would strongly urge that we not go further and exempt the National Association of County Officials, the National League of Cities, the Conference of Mayors, and so on, from the coverage of this legislation for the reasons that have been well stated here. They are very effective lobbying organizations.

The difference is that this bill is directed toward organizations, and if we equate a municipality or a county with an individual, for the moment for purposes of argument, it is only when they get together and form an organization for the purpose of making lobbying communications that this bill is intended to take effect. Let us leave them covered, those who gather together in organizations. They are not acting as governments of State and local stature. They are acting as organizations representing people who are serving in office.

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Virginia.

Mr. HARRIS. I thank the gentleman for yielding.

Just as my colleague was talking, I was reflecting upon the discussions we had in subcommittee as we got into these various areas of exemptions. I recall, as I think my colleague must have, where you go if you exempt organizations of public officials. I think the next question was, How about college professors, university professors? And if you exempt public university professors, then do you exempt private university professors? Then if you are going to do that for education, you really should do that for hospitals, and then down the line we went. I think it was the conclusion of those who studied this that if we once opened up the door to this sort of avenue of exemptions that there would be no end to it, and there would be no real bill.

Does my colleague recall similar discussions?

Mr. KINDNESS. I recall it exactly the same way. The gentleman is quite correct.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from New York.

Mr. FISH. I thank the gentleman for yielding.

I would just like to address one point, because an effort has been made here in the last few minutes to equate the exemption for State and local officials as individuals to the proposal that we also exempt organizations of State and local officials.

Mr. Chairman, it seems to me that the two are quite distinct, that in the case of Federal or local elected officials we are talking about in most cases, if not our constituents, our partners in government in the State for which we are all officials of the same area. I think that is far more in keeping with the present exemption to the extension of the personality of our mayor or Governor in the District of Columbia. But when we are talking about a tremendous national organization with an influence of over tens of billions, we are talking about clearly a lobby effort that is unrelated to any partner in government.

On top of that, we are more than likely talking about a representative for an organization, such as the League of Cities. No matter how qualified he is, such a representative is not on the same basis as the mayor of a city that you or I represent or the Governor of our State who might have an office in Washington; so I think these cases are clearly distinguishable.

Mr. Chairman, I join with my colleague in calling for a "no" vote on this amendment.

Mrs. SPELLMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was very happy to hear the gentleman from New York recognize that we are talking about our partners in government, because that is what State and local officials are. They are our partners in government. We are helping each other in the job of serving our constituents. I feel that we should very strongly support the amendment of the gentleman from Nevada (Mr. SANTINI) to the Lobby Disclosure Act. This amendment rightly recognizes the important role of the States and the counties and the cities as our copartners in governing our large and diverse Nation. We learned long ago that Congress cannot make all the decisions in this country. The concept of federalism requires that elected officials and their staffs at every level of government work closely with one another to improve our programs and our services to our mutual electorate.

I know when I was a county official it was easy enough for me to contact the Members of Congress. I was right outside of Washington; but that is not the same with people all around the country. The small counties just do not have the wherewithal to have people down here in Washington to represent them all the time. So it is an important component of this intergovernmental communication that we would be preserving.

Now, we are all familiar with the organizations that we are talking about. They are performing essentially the same functions as persons from the Federal executive branch who are referred to as congressional relations staff. Judge Gerhard Gesell of the D.C. District Court described these activities as "lobbying solely 'in the public weal'."

I think that is a very good way to put it. Yet we seem to be trying to draw a dichotomy between Federal lobbyists and State and local lobbyists. We exempt Federal lobbyists from the bill and we do not exempt the organizations of the other levels of government.

I think it is very important that these national organizations, which are extensions or instrumentalities of the States and the localities, be involved in this Government. They compliment the work being done by many individual State, county, or city offices in Washington. This bill exempts individual State or local government representatives and yet it includes the organizations which serve as a collective office in Washington for those smaller jurisdictions who cannot afford special representatives.

The Santini amendment will preserve the public-private differentiation by excluding all associations financed by public funds. I can attest that one organization—the National Association of Counties—fully discloses all its finances and activities. As the former president of NACo, I became very familiar with the association's activities, and of the activities of the other associations of public officials. These groups are accountable to their elected officers and hide nothing from public scrutiny.

Mr. Speaker, I believe it is significant that the Advisory Commission on Intergovernmental Relations, has undertaken a study of lobbying by public bodies at all levels of government. This study will include recommendations for appropriate actions by Congress and State legislatures. The ACIR has asked the Congress to exempt national organizations

of State and local government officials until they have completed their study.

Mr. Chairman, I believe the Santini amendment is extremely important, and because he stated it so articulately, I would like to quote a statement of Judge Gesell, in a case involving the current lobbying act.

The involvement of cities, counties and municipalities in the day-to-day work of the Congress is of increasing and continuing importance. The court must recognize that the voice of the cities, counties, and municipalities in Federal legislation will not adequately be heard unless through cooperative mechanisms such as plaintiff organizations they pool their limited finances for the purpose of bringing to the attention of Congress their proper official concerns of matters of public policy.

For goodness sake, let us not turn our backs on the people who are serving the very same people who elected us to this Congress. We here do not have all the answers. They do not have all the answers. We need to be working together.

Mr. SANTINI. Mr. Chairman, will the gentlewoman yield?

Mrs. SPELLMAN. I am delighted to yield to the gentleman from Nevada.

Mr. SANTINI. First of all, Mr. Chairman, I wish to commend the gentlewoman for presenting an excellent statement. I think she is right on target.

I would like to reiterate the fundamental issue, at least as this Member in his limited intellect perceives it.

We are talking about disclosure, disclosure that is the thrust of this entire legislation.

When we consider disclosure, that is what is being carried out by these associations day in and day out, week in and week out, and month in and month out. Nothing in this bill goes any further than the present disclosure activity and actions of all these associations.

If it is necessary to have disclosure, that is what is being done. What we are asking for here is to have them do it twice.

What the opponents of the amendment, I feel, are doing is to allow their judgments in terms of the logic of either supporting or not supporting the amendment become influenced by long-standing grievances or antagonisms or hostilities to local government.

Mr. Chairman, I do not think that ought to be the issue. I think the issue is whether or not we have disclosure, and the fact is that we have abundant disclosure.

The CHAIRMAN. The time of the gentlewoman from Maryland (Mrs. SPELLMAN) has expired.

(By unanimous consent, Mrs. SPELLMAN was allowed to proceed for 1 additional minute.)

Mrs. SPELLMAN. Mr. Chairman, may I point out that I was president of the National Association of Counties, and as a result of my service in that office I can tell the Members there is no question of disclosure and there was nothing hidden from the public. There is nothing hidden from the public by elected officials around the country.

So if it is the word, "disclosure," we are talking about, we are wasting our time. That disclosure is already being carried out by all these organizations with which we are concerned.

Mrs. FENWICK. Mr. Chairman, will the gentlewoman yield?

Mrs. SPELLMAN. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank the gentlewoman for yielding.

If what the gentlewoman says is true, why do the associations object to registering as lobbyists? Nobody would stop them from lobbying.

Mrs. SPELLMAN. The answer is because we are already spending public funds for the disclosure in which we are involved now. Why should we continue to waste public funds?

Mrs. FENWICK. Why are we wasting public money? We are spending money apparently for an organization down here, and I do not see any reason why the organization should not report what it is doing.

Mrs. SPELLMAN. That is just the point. The organization down here is already telling the public what it is doing.

Mrs. FENWICK. If this were required, it would not cost a dime. They could simply duplicate the information and send it to the other place.

Mrs. SPELLMAN. Certainly my colleague, the gentlewoman from New Jersey (Mrs. FENWICK), knows that the more forms that are involved, the more money it costs. We are not talking about dimes. This is just another poor excuse for reaching into our taxpayers' pockets.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in order to ask the sponsor of the amendment a question.

Are the people, those who would be exempted under the gentleman's amendment, elected officials?

Mr. SANTINI. Mr. Chairman, if the gentleman will yield, they are representatives of elected officials.

Mr. FASCELL. Are they employees of either the municipality, the county, or the State under the regular system of employment of those political units?

Mr. SANTINI. No.

Mr. FASCELL. Are they private contractors?

Mr. SANTINI. Mr. Chairman, if I may elaborate on this, if they were employees, they could hire an attorney downtown to represent city "X" and have the attorney come in and lobby, and he does not have to disclose a thing. But we could not have the association do it, and I do not find that inherently logical.

Mr. FASCELL. I do not find that to be awkward at all. Lobbying is lobbying, and that does not bother me. Whether it is lobbying does not bother me.

Mr. SANTINI. One does not have to disclose anything at all, and the other is making disclosures every day.

Mr. FASCELL. I am not going to the thrust of the bill; I am just asking the gentleman about his amendment.

So the people who are being exempted are private contractors; is that correct?

Mr. SANTINI. No, they are associations.

Mr. FASCELL. Associations or private contractors?

Mr. SANTINI. I think there is a difference between associations and private contractors. I am sure the gentleman would agree with that.

Mr. FASCELL. It depends upon, of course, who is paying and how they are getting paid and who we are talking about having to be covered. The gentleman is talking about the association being exempt?

Mr. SANTINI. Yes.

Mr. FASCELL. The persons who would be exempt are not elected officials or government employees, in the sense that we understand it?

Mr. SANTINI. Correct.

Mr. FASCELL. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nevada (Mr. SANTINI).

The question was taken; and on a division (demanded by Mr. SANTINI) there were—ayes 28, noes 33.

Mr. SANTINI. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. RAILSBACK

Mr. RAILSBACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RAILSBACK: On page 39, after line 7, add a new paragraph:

(c) The report covering the fourth quarter of each calendar year shall also include a separate schedule listing the name and address of each organization or individual from which the registered organization received an aggregate of $3,000 or more in dues or contributions during that calendar year and listing the amount given, where (i) the dues or contributions were expended in whole or in part by the registering organization for lobbying communications and solicitations and (ii) the total expenditures reported by the organization under section 6(b)(2) during the year preceding the year in which the registration is filed exceed 1 percent of the total annual income of the organization: *Provided*, That the organization may, if it so chooses, instead of listing the specific amount given, state the amount, in the following categories: (A) amounts equal to or exceeding $3,000, but less than $10,000; (B) amounts equal to or exceeding $10,000, but less than $25,000; (C) amounts equal to or exceeding $25,000, but less than $50,000; (D) amounts equal to or exceeding $50,000. *Provided further*, That any organization registered under this Act or any organization or individual whose contribution to a registered organization would otherwise be disclosed under this paragraph may apply for, and the Comptroller General may grant, a waiver of the reporting requirements contained in this paragraph upon a showing that disclosure of such information would violate the privacy of the contributor's religious beliefs or would be reasonably likely to cause harassment, economic harm, or other undue hardship to the contributor."

Mr. RAILSBACK. Mr. Chairman, H.R. 8494 does not require reporting by lobbying organizations of their major con-

tributors, those most likely to have the greatest impact on the organization's decisions. In this respect, the bill represents a step backward from the 1946 act, which requires disclosure of contributions $500 or more. It invites the establishment of front organizations that mask the real source of lobbying activities. Without disclosures of major contributors, for example, it would be difficult to know that the Calorie Control Council is an organization which receives its principal financial backing from soft drink manufacturers opposing the saccharin ban; or that the Electric Consumers Resource Council is financed by the big electric industry; or that the Natural Gas Supply Committee is supported by the major oil companies. Without a requirement that major contributors to lobbying organizations be disclosed, there will be no way to identify the major backers of Citizen's Choice, Common Cause, or Ralph Nader's Congress Watch—organizations which purport to represent a broad public interest.

To us, the constitutionality of such a requirement is clear. Speaking for the majority, Chief Justice Earl Warren wrote in the 1954 Court decision upholding the constitutionality of the 1946 act:

> Congress has not sought to prohibit (any lobbying activities) . . . It has merely provided for a modicum of information from those who for hire attempt to influence legislation or who collect or spend funds for that purpose. It only wants to know who is being hired, who is putting up the money, and how much . . . United States v. Harriss, 347 U.S. 612, 625, 74 S. Ct. 808, 816 (emphasis added).

Indeed there is ample precedent for such a requirement in the Federal campaign laws which require each of us to disclose our major contributors.

During consideration of a similar lobby bill in the 94th Congress, an amendment was adopted on the House floor which required disclosure of significant contributions in an effective, even-handed fashion. Our language is along these lines, applying only to those organizations spending more than 1 percent of their budget on lobbying.

Further, our amendment limits disclosure to major contributors; only those $3,000 and above. In addition, disclosure in ranges of amounts will be permitted, rather than specific dollar figures. Thus, the magnitude of contributions will be revealed, but proprietary information will not be disclosed as might result if the dues schedule and the precise dues paid to the lobbying organization were made public.

Mr. McCLORY. Mr. Chairman, I rise in strong opposition to the proposed amendment to require a lobbying organization to disclose its members and major contributors.

This amendment is unwise, unnecessary and, very likely, unconstitutional. It would have a severe chilling effect on the ability of numerous organizations—including churches, educational institutions, business groups, public interest groups, civil rights organizations, and others—to raise needed funds.

Today as public faith and trust in the Government continues to decline, we should be encouraging participation in the legislative process by all groups in our society. Yet this amendment will have the opposite effect—it will discourage participation.

In NAACP against Button and numerous other cases, the Supreme Court has recognized the importance of the confidentiality of membership lists and the severe chilling effect compulsory disclosure can have upon groups that advance unpopular positions.

The proposed disclosure provisions cannot survive the exacting scrutiny which the Court has held is necessary in order to be constitutional. People join and contribute to organizations for a variety of reasons—many of which are unrelated to the lobbying activity of the organization.

The only justification that has been advanced is that the public has a right to know who are the major backers of the organization. But standing alone this right to know is not sufficient to overcome basic first amendment rights. In Talley against California the Supreme Court upheld the right of anonymous speech and pointed out that the Federalist Papers, supporting the adoption of our Constitution, were written anonymously.

The decision in Buckley against Valeo, and the disclosure provisions in the campaign laws, does not provide support for this amendment. Indeed, Buckley recognizes that compulsory disclosure is permissible only when there is an overriding and compelling need to be served by such disclosure. There have been no findings of corruption and illegal activities such as those which justified the disclosure provisions of the campaign laws. We merely have people who organize to petition the Government. This is a right protected by the first amendment—one that should be encouraged, not prohibited or restricted.

Mr. Chairman, this is a very, very bad amendment. The maliciousness of it is indicated in the last part where it says that if a person feels that he would be subject to harassment or some kind of retribution because of the disclosure which is required, that there might be a waiver accorded to such a person. In other words, the implication is that disclosure could very well threaten harassment of a person; it could embarrass, perhaps, his religious beliefs, or could cause economic harm or undue hardship to the individual.

Someone suggested to me the possibility that if a person was employed by a large lumber company, for instance, and decided that he wanted to contribute $5,000 or $3,000 to preserve the redwoods, he would have his name disclosed in the public record, unless he was able to get a waiver and thereby be subject to harassment in his employment—along with a good possibility of losing his job. All this simply because he was responding to his conscience.

But, there is no reason, just because persons decide that they want to contribute to any type of organization, that we have to require them to be subjected to public scrutiny. This is not the purpose of this legislation. It is not intended to invade the privacy of individuals with regard to whatever their motivations might be.

Church groups, public interest groups, colleges and universities, and businesses have all expressed their concern over the adverse impact of such a provision. Indeed, if this amendment is successful, any group which supports an unpopular cause will find it difficult to obtain financial supporters.

Finally, I do appreciate the fact that the gentleman has tried to overcome the religious implications which this amendment would otherwise have, but I do not think that his attempt to accomplish this goal is adequate, because the person may get a waiver or he may not get a waiver.

Mr. Chairman, simply stated, this is a very bad amendment, and I urge that it be defeated.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from California.

Mr. PANETTA. Mr. Chairman, I have a question. I support many of the arguments that have been made by the gentleman. The question that bothers me is the fact that the argument has been made about looking backwards to the 1946 law, which requires disclosure of contributions in excess of $500. I am wondering if the gentleman could explain whether, in fact, we are wiping out that requirement, or what exact change has been made with regard to this bill and that requirement.

Mr. McCLORY. I think that, in effect, what we are doing in this legislation is substituting this legislation for the existing legislation. But, this would be a violation of the decision made in the NAACP case, where an attempt was made to force the NAACP to disclose its membership list. I think the Supreme Court sustained their right to retain the privacy of it.

Mr. PANETTA. Do I understand that a court decision has in fact invalidated the 1946 law?

Mr. McCLORY. Yes, effectively this is true. Only if the principal business of an organization is lobbying would it have to disclose a contribution. Otherwise, with regard to a religious or charitable organization that might incidentally do some lobbying, it would not be required to disclose under this legislation unless this amendment is adopted.

Mr. PANETTA. My point would be this: Are organizations or contributors under the 1946 law being required to disclose those contributions?

Mr. McCLORY. Only if they are just strictly lobbying organizations. That is my understanding.

Mr. DANIELSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Chairman, I rise in opposition to the amendment by the gentleman from Illinois. In my opinion, the constitutional issue here is very clear. The Supreme Court has stated, in NAACP against Alabama, that "compelled disclosure of affiliation with groups engaged in advocacy may constitute an effective restraint on freedom of association."

During the course of the Commerce, Consumer and Monetary Affairs Subcommittee investigation which I mentioned earlier today, the issue of disclosure of membership and contributor list came up. The questionnaires which were sent out to the business community to further this oversight investigation of the IRS asked for voluntary responses concerning trade association membership as it may affect the tax deductions of the corporation. This question was designed to focus on the dollar magnitude of the possible nondeductible portion of dues paid to trade associations which are active in grassroots lobbying. However the subcommittee had no authority to compel disclosure of these memberships, in light of the Supreme Court decisions. Indeed a better method for obtaining this information, which was subsequently adopted by the subcommittee, was to send a request to the trade associations directly, asking whether a substantial part of their activities is devoted to grassroots lobbying and if so, what percentage did it constitute and what was the total amount of dues received. This enabled the subcommittee to determine the total nondeductible portion of dues paid by corporations and accomplish the result without any improper inquiry into membership lists.

It is clear that such memberships are disclosed by the dues payer to the Internal Revenue Service in support of a tax deduction for the membership dues. However, disclosure to the IRS, with all the attendant protections for taxpayer information is a very different matter from disclosure to the public as is proposed in this amendment. Just as our subcommittee had no authority to compel answers to the question concerning trade association memberships, this body cannot compel disclosure of member and contributor lists in this bill.

Mr. DANIELSON. Mr. Chairman, I rise to oppose this amendment reluctantly because my good friend the gentleman from Illinois, TOM RAILSBACK, and I have worked very long and hard on this legislation. Generally, we see eye to eye but I must respectfully submit that there are at least two or three things that are wrong with the amendment.

First of all, Mr. Chairman, I seriously question the constitutionality of the amendment, if it were adopted, simply because the requiring of the disclosure of the name and address of the organizations and individuals from whom the registered organization receives an aggregate of $3,000 or more. Of course, that would exclude the small donors but, at the same time, it would cut off, it would effectively dampen the enthusiasm of somebody in their willingness to do so, or the willingness of someone who would like to make a more substantial contribution to the organization, particularly if the cause might be a popular one. Let us face it, when a cause is popular you do not need much lobbying to bring in all the necessary funds. It is the unpopular causes that need to have some public support and that therefore need lobbying.

Further, as the legislation is drafted the amendment is truly ineffective because you will note there is a proviso in the last portion of the amendment that states:

*Provided further,* That any organization registered under this act or any organization or individual whose contribution to a registered organization would otherwise be disclosed under this paragraph may apply for, and the Comptroller General may grant, a waiver of the reporting requirements contained in this paragraph upon a showing that disclosure of such information would violate the privacy of the contributor's religious beliefs or would be reasonably likely to cause harassment, economic harm, or other undue hardship to the contributor.

Who is going to determine precisely what a contributor's religious beliefs are? Who is going to be able to explore what somebody means in order to find out whether he has a valid religious belief that should be honored by the Comptroller General, or who has a religious belief that the Comptroller General can ignore?

Further, I respectfully submit who is responsible for a person's claim that this would be reasonably likely to cause harassment, economic harm, or other undue hardship to the contributor?

I respectfully submit that anybody could draw up a petition pointing out how the disclosure of his name and address and the amount of his contribution is reasonably likely to cause harassment, economic harm, or other undue hardship. They can show that they are likely to cause any one or more of these various contingencies.

Clearly, inasmuch as we do have a provision, first of all, of a threshold of $3,000, and, secondly the specific exception above that what we really have is simply a gesture rather than an amendment because what it amounts to is it is voluntary. If anybody wants their name and address to be disclosed, or their contribution to be disclosed, they can do so but, if it does not want this disclosed then he can seek privacy through an expenditure of less than $3,000, or the fourth contingency in the amendment.

I, therefore, respectfully submit that the amendment should be turned down.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, I thank the gentleman for yielding. Would the gentleman care to speculate on how the situation would be handled where a corporation who chose to make a decision not to handle their activities in the normal way they do today but decides to set up a funding organization and bankroll this in order to have its special interests presented to Members of the House and the Senate, would they escape the whole impact of real disclosure if we do not pass this amendment?

Mr. DANIELSON. They probably would but, at the same time, if they are going to be devious enough to work out such an arrangement, as you mention, what is to keep them from seeing to it that a number of people contribute an amount less than $3,000 each, or that any or all of them rely upon the privacy of the individual contributors beliefs, et cetera?

Mr. GARY A. MYERS. Does the gentleman then say that they probably would be able to escape?

Mr. DANIELSON. Yes; it is my cynical opinion, in this day and age that a person can work his way around almost any law or regulation if he works hard enough at it. I do not think that it impossible to find a way around that provision that is referred to in the hypothetical situation posed by the gentleman from Pennsylvania (Mr. GARY A. MYERS).

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. GARY A. MYERS and by unanimous consent, Mr. DANIELSON was allowed to proceed for 1 additional minute.)

Mr. GARY A. MYERS. If the gentleman would yield further, the concern I have is that everyone has been speaking in terms of individuals, and I can agree there is some concern that should be expressed that way, but it would appear that if we recognize there is a large loophole for corporate evasion of this whole act, absent some sort of provision like this, then we cannot argue the merits of this amendment solely on the basis of individual rights to privacy, and so forth. We ought to recognize that potential loophole as well.

Mr. DANIELSON. It has been very difficult to put this bill together, because we are treading close to the zone of the first amendment. But I think the way we now have it structured, it meets those requirements. It is perfectly valid. I am most reluctant to see us put in amendments that push us into the first amendment protected area, and I submit that this could be one of those.

Mr. GARY A. MYERS. I thank the gentleman.

Mr. MOORHEAD of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I believe this amendment to be one of the worst that we will face during the time that we consider this legislation. It will have a severe chilling effect on groups that support unpopular causes, that is, civil rights groups, environmentalists, business groups, colleges and universities, and

others that are even more exotic in nature than those. It will discourage them from forming into groups for the purpose of lobbying efforts.

The Supreme Court has recognized the sanctity of membership lists and the right of anonymous speech, for example, in the NAACP case of Bates against Little Rock and Talley against California. There is no overwhelming or compelling Government interest that would permit such an intrusion into the area protected by the first amendment to the Constitution. There is no rational relationship between disclosure of contribution and position taken by an organization on any particular issue.

People join groups for a variety of reasons, many of which may be unrelated to the lobbying activities. For example, under this amendment we have exempted people who could show that they would violate the rights of privacy of the contributors' religious beliefs, or would reasonably likely cause harassment, economic harm, or undue hardship. At the same time if a person belonged to the Presbyterian Church, if he believed in the basic tenets of that church and yet he was opposed to the lobbying efforts of the church, he might not want to be listed as a tither or a basic contributor to the church organization in regard to lobbying activities, but he might believe 100 percent in the tenets of the church as far as his religious beliefs were concerned.

The same thing would be true of the Catholic Church or any other major religious organization that would not be able to be exempted under this clause, and yet their listing of contributions to that organization would make it appear that they stood for things that they did not stand for, and this could cause them embarrassment.

Other organizations that are opposing this legislation, such as the ACLU, Congress Watch, U.S. Chamber of Commerce, Consumer Federation of America, National Urban League, the National Association of Manufacturers, Environmental Defense Fund, and other religious organizations, have many people belonging to them who do not support all of their lobbying efforts but support the basic thrust of the organization itself. Many people belong to the Sierra Club who contribute large amounts to it because they like their program of helping to save the environment, of building trails in the mountains, and encouraging outdoor activity, but they may very drastically disagree with them on some of their lobbying proposals.

I think that to require the reporting of contributions to organizations not only distorts the basic situation, but it takes away some basic constitutional rights that individuals have in this country. It contributes nothing to the legislation and creates great harm.

Mr. Chairman, I ask for a "no" vote.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from California.

Mr. WIGGINS. I thank the gentleman for yielding.

I fully endorse the gentleman's remarks and wish to associate myself with them. This is as bad as any amendment that has been proposed to the bill.

Miss JORDAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

We have heard summarized many of the deficiencies which are apparent in this amendment. I would repeat one or two of them. The Members heard some mention of how this applies in the teeth of the standard that was set in NAACP against Alabama. What was that standard, in plain English?

The court said that if the State has an interest in the activity being considered legislatively that that State interest must be subject to such exacting scrutiny that hardly anything gets through the door. In other words, there must be a relevant correlation between the interest of the State and the information which must be disclosed.

The Railsback amendment says that we require disclosure of a list of contributors. Where is the State's interest in this probing into a list which ought to remain private? It is not there.

There was no testimony whatsoever before the subcommittee in consideration of this bill that contributors to organizations had somehow unduly influenced the policies of those organizations and ought to be subject to some regulation on the part of the State.

Shelton against Tucker is another case we ought to keep in mind. What did the Supreme Court say in that case? Even though the governmental purpose be legitimate, let us say that it is legitimate for us to require disclosure of lobbying activities, the Court said that even if what the Government is doing is legitimate, the purpose cannot be pursued by means that stifle fundamental personal liberties. The Court said that we had to be so exacting, so careful that the personal liberties of not one single individual in this country would be subjected to the kind of harassment and invasion that could occur if this amendment were to come about or to be attached to this bill.

What are some of the other deficiencies? Out of the air we have the figure of contributions of $3,000 or more to be revealed. There is nothing that requires that that contributor of the $3,000 or more have any influence on the policy of the organization. The 1-percent figure, $3,000 contribution, provided the contributor contributed at least 1 percent of the total annual budget of the organization, how in the world is the Comptroller General going to be able to determine which constitutes 1 percent of total budget immediately upon the time of filing being required under this amendment?

It would be well nigh impossible until the organization had been in existence some 2 or 3 years before you could ever decide this figure constituted 1 percent of the total budget, because that would not be known at the time of the first registration.

Also, 1 percent of a budget of say $250,000 would be one figure. One percent of a budget of $100,000 would be another figure. We are requiring disclosure of all of these contributors, whether they impact one way or the other on the policy of the organization.

Then the final part of this argument turns the Constitution on its head.

The CHAIRMAN. The time of the gentlewoman from Texas (Miss JORDAN) has expired.

(By unanimous consent, Miss JORDAN was allowed to proceed for 3 additional minutes.)

Miss JORDAN. So, Mr. Chairman, we have listened to what the Supreme Court had to say to us. We have said that we are going to be exacting in what we require when we begin to abrogate certain freedoms people have, and then we come to a part of the language in this amendment that says even though we have been exacting, we Members of Congress, we representatives of the people, say to the Comptroller General, "If you feel in your discretion that this is not a good idea for the contributor to reveal himself, then you may waive that requirement under this amendment."

Whoever heard of the Comptroller General sitting as the decider, the final arbiter, of whether our personal freedoms are going to be violated by some law that was passed by the Congress of the United States?

Mr. Chairman, I would like at this time to yield to the gentleman from California (Mr. EDWARDS), a member of the Committee on the Judiciary, for some remarks on this amendment.

Mr. EDWARDS of California. Mr. Chairman, I thank the gentlewoman for yielding.

I wish to compliment the gentlewoman from Texas (Miss JORDAN) on her remarks, and I would like to be associated with them.

I wish to say a word with regard to what the gentleman from Illinois (Mr. RAILSBACK) said in quoting Justice Warren in U.S. against Harriss. I most respectively suggest that Chief Justice Warren cannot be quoted in support of this provision.

The Chief Justice in U.S. against Harriss was talking about paying those people who directly lobby Congress and about how much they are paid, rather than about contributing to a group which, among other things, lobbies Congress.

For example, under the Harriss language, there certainly is an interest in Congress knowing whether the National Rifle Association hires or retains a lobbyist to lobby for it and in knowing how much he is paid. Likewise, it is within the opinion's scope to require an organization covered by the lobby bill to report which of its lobbies lobbies for it and how much it is paid. These matters are covered by the requirements of the committee bill.

The language of the Chief Justice in the Harriss case does not means that

Congress has a right to require whoever contributes to the organization must fall within the requirements of the lobby bill, and the Chief Justice should not be quoted in support of this amendment.

Mr. Chairman, I thank the gentlewoman for yielding, and I urge a no vote on the amendment.

Mr. RAILSBACK. Mr. Chairman, will the gentlewoman yield?

Miss JORDAN. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I thank the gentlewoman for yielding.

I listened to the gentlewoman's rather serious and scathing indictment of the amendment.

The CHAIRMAN. The time of the gentlewoman from Texas (Miss JORDAN) has expired.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, may I just say that in reference to the scathing indictment that was just given by the gentlewoman from Texas (Miss JORDAN) concerning the amendment and her reference to the $3,000, I really wonder if the gentlewoman knows exactly what is on the books.

This gets back also to the question asked by my friend, the gentleman from California (Mr. PANETTA): Does it change the existing law?

The answer to that question is that under the 1946 law which is now in effect the following must be reported each quarter: The name and address of each person who has made a contribution of $500 or more, the name and address of each person to whom an expenditure has been made in excess of $10, and the total number of all expenditures and contributions.

I am sorry that I did not get a chance to reply to the gentleman from California (Mr. EDWARDS), but I know he did not have sufficient time. However, I would say to the gentleman from California that all any of the Members have to do is pick up the Harriss case which I cited, and they will find it says this:

> Present day legislative complexities are such that individual Members of Congress cannot be expected to explore the myriad pressures to which they are regularly subjected. Yet full realization of the American ideal of government by elected representatives depends to no small extent on their ability to properly evaluate such pressures. Otherwise the voice of the people may all too easily be drowned out by the voice of special interest groups seeking favored treatment while masquerading as proponents of the public weal. This is the evil which the lobbying Act was designed to prevent.
>
> Toward that end, Congress has not sought to prohibit these pressures. It has merely provided for a modicum of information from those who for hire attempt to influence legislation or who collect or spend funds for that purpose. It wants only to know who is being hired, who is putting up the money, and how much.

That is the majority decision.

And then there has been a more recent decision that dealt with exactly the same issue, and which is a State court decision. They cited the Harriss case to the effect that there is nothing wrong and nothing unconstitutional about requiring disclosure of contributors. I will cite that case when I can find it.

But it bothers me that so much is being made out of this amendment with the exemptions that are contained therein, where the existing law actually requires contributors of more than $500 to report right now.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, the Chief Justice was talking about people who pay a lobbyist. The gentleman from Illinois (Mr. RAILSBACK) is talking about contributions to an entire organization, not just to pay a lobbyist. It is entirely different, and the quote from the Chief Justice should not be used in support of the amendment.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for his contribution. I am not certain myself whether I support or do not support the amendment offered by the gentleman from Illinois. But I think in some situations it has some merit. As an example, there are organizations that are formed with a fine title that indicates that they represent the interests of the elderly. It turns out that it really is a group of labor organizations which has a front organization that rates Members of Congress and then sends out to the voters in the district of the Members so-called ratings based on their voting record supposedly as to whether they favor the elderly or people in favor of conservation issues, and so forth. There have even been rumors that some political parties have tried this device of having front organizations rate Members of Congress on what appear to be very important issues, like the elderly and conservation, when really the whole exercise is a political exercise to try to discredit incumbent Members.

For that reason, maybe this is a good idea.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words, and I would be glad to yield to the gentleman from Iowa (Mr. BLOUIN) not more than 2 minutes.

Mr. BLOUIN. I thank the gentleman for yielding.

Mr. Chairman, I would like to put a question to my friend, the gentleman from Illinois (Mr. RAILSBACK), in regard to the comment that the gentleman from California (Mr. EDWARDS) just made, if the gentleman will yield for a question only.

Mr. WIGGINS. I yield to the gentleman from Iowa.

Mr. BLOUIN. Mr. Chairman, does the gentleman's amendment speak to, as has been stated, all contributions to the organization across the board, or is it just addressed to those funds that go into lobbying? I think that is a very important point, and I would like to be able to give the gentleman time to clarify that.

Mr. RAILSBACK. Mr. Chairman, if the gentleman will yield, it really does not require the reporting of expenditures. But, as I am sure the gentleman knows, it relates to the reporting of certain major contributors, and it would be where the dues or contributions were expended, where they were expended in whole or in part, by the registering organization for lobbying communications and solicitations. And then the total expenditure is reported by the organization under 6(b)(2) during the year preceding the year in which the registration is filed exceed 1 percent of the total gross income of the particular organization. So at least some of the money has to be spent for lobbying.

Mr. BLOUIN. Just to make sure that I understand and then I will be finished. If 1 percent of the total budget of whatever the organization is, is spent on lobbying, then any person who contributes $3,000 or more to the organization, per se, shall be subject to this disclosure, and only that; is that correct?

Mr. RAILSBACK. If the gentleman will yield further, the way it would work is that it would relate to more than 1 percent of the gross income, not the budget, but the gross income of the particular organization. In addition, because there were some objections by Ralph Nader, frankly, the public citizen, and some of the other organizations that are against the concept, we decided to permit a waiver where there could be a disclosure of a religious preference.

Mr. WIGGINS. Mr. Chairman, I reclaim my time. I refuse to yield any further.

The gentleman's question has been answered. The answer is "Yes."

Mr. BLOUIN. Mr. Chairman, I ask unanimous consent that the gentleman from California (Mr. WIGGINS) be given whatever time we have used up.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. The gentleman from California (Mr. WIGGINS) is recognized for 3 additional minutes.

Mr. WIGGINS. Mr. Chairman, I hope not to use all of that time.

I did want to make the very point that was just made. We are requiring a disclosure of major contributions if only 1 percent of the activities are lobbying in nature, which distinguishes it clearly from the 1946 act.

The 1946 act is what we, the Congress, said it was; but it was interpreted by the Supreme Court. The Court strained to the utmost to save that act from a declaration of unconstitutionality. The Court confined the act to those individuals who engage primarily in lobby activity. Accordingly, under the 1946 act, 100 percent of the amount contributed and reported was directed to lobby activities.

Under the Railsback amendment, only 1 percent must go to such activities.

Mr. Chairman, my friend from Texas, Congresswoman JORDAN, quoted several opinions that I wish I had quoted because they are equally applicable to this bill as a whole, not just to the Railsback amendment. This entire bill is required to be subjected to the most exacting scrutiny to identify a compelling public interest, as the gentlewoman from Texas has said. More over the bill must be carefully drafted to serve that identified interest.

The bill fails, just as the Railsback amendment fails, a test of casual scrutiny, let alone exacting scrutiny. I hope the Railsback amendment is defeated as well as the bill.

Mr. WRIGHT. Mr. Chairman, I move to strike the requisite number of words.

(By unanimous consent, Mr. WRIGHT was allowed to speak out of order.)

FURTHER LEGISLATIVE BUSINESS FOR TODAY AND TOMORROW

Mr. WRIGHT. Mr. Chairman, I take this time merely to announce my understanding that it is the intention of the manager of the bill, upon the disposition of this amendment, to move that the Committee shall rise. That would conclude the legislative business for today.

It would be the purpose of the leadership on tomorrow, coming in at 11 o'clock a.m., to complete consideration of this bill and to complete action on the farm credit bill.

Having done those two things tomorrow, the business of the week would have been concluded.

Mr. DANIELSON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and any amendments thereto conclude at 6:40 p.m. today.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was made will be recognized for approximately 1 minute and 15 seconds each.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, I mentioned that there had been a recent State court case, and at the time I mentioned it I did not have the name of that case. Now, I would like to cite it.

It is in *Fritz* v. *Gorton* (83 Washington 2d, 275), in which there was an appeal to the Supreme Court, which was dismissed in 1974.

The Supreme Court confirmed that decision in sustaining the State court decision upholding the disclosure of major contributors to lobbying organizations. This involved a lobby disclosure act of the State of Washington, which required the disclosure of contributors of more than $500 annually to a lobbying organization. It held that that requirement was constitutional, and it seems to me that that, in addition to the language of the Harriss decision, really should lay to rest—or I hope lay to rest—the constitutional question.

(By unanimous consent, Mr. VOLKMER yielded his time to Mr. DANIELSON.)

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Chairman, I think some of the objections to this amendment have already been taken care of in the debate. The $3,000 annual contribution is not going to amount to more than the reporting of numerous individuals who hardly are in a position to control the policies or lobbying efforts of the organization they choose to support. It also has been established eloquently, and with great scholarship, by the gentlewoman from Texas (Miss JORDAN) that the Supreme Court has consistently recognized the sanctity of membership lists, and rights of anonymous free speech.

Mr. Chairman, I rise in opposition to the amendment. While I have the utmost respect for the gentleman from Illinois (Mr. RAILSBACK), this amendment is ill advised from both a practical and a constitutional standpoint. I am mindful of a similar amendment passed by a larger margin the last Congress and with my support, but iet me state briefly the reasons for my opposition.

First, Mr. Chairman, proponents of this amendment argue that the public should know who are the major financial backers of various lobbying efforts. They talk of control behind a given organization. But if that is the case, why is the threshold level in this amendment set so low? A $3,000 annual contribution figure is certainly going to result in the reporting of numerous individuals who are hardly in a position to control the policies or lobbying efforts of the organization they choose to support.

Second, the figure is set so low that in the case of some organizations, a complete membership list might be required to be disclosed. The Supreme Court has consistently recognized the sanctity of membership lists and the rights of anonymous free speech in such cases as: NAACP against Alabama; Bates against Little Rock; Shelton against Tucker; and Talley against California.

I am also deeply concerned about the impact that this amendment could have on the ability of organizations to raise money. This amendment would undoubtedly discourage contributions to churches, colleges and universities, environmental groups, public interest groups, and civil rights groups. Does disclosure justify such a serious adverse side effect?

Further, there is no rational relationship between disclosure of a contribution and the position taken by the organization on any particular issue. Our constituents join groups for a variety of reasons—many of which may be totally unrelated to the lobbying activities of the organization. Churches, environmental groups, and public interest groups are all multipurpose organizations. Thev will register and report under this bill. But are all the contributions they receive over $3,000 specifically intended to support their lobbying efforts? Of course not—the contribution in most instances is in the nature of general support for an organization's overall purpose.

Finally, Mr. Chairman, I would state that this amendment is not prompted by any evidence of corruption or illegality, such as that which justified the campaign financing disclosure laws. So, there is no compelling governmental interest that would permit such an intrusion into an area protected by the first amendment.

I urge a "no" vote on the amendment.

The CHAIRMAN. The Chair recognizes the gentlewoman from Texas (Miss JORDAN).

Miss JORDAN. Mr. Chairman, I just urge a no vote on the Railsback amendment. Commonsense, good sense, judgment, requires that we vote no on this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Chairman, I wish to associate myself and agree with the remarks of the gentlewoman from Texas (Miss JORDAN) and the gentleman from California (Mr. EDWARDS) in earlier debate on this amendment. We have already done this bill bodily harm by including grassroots lobbying in the coverage of the bill. If this amendment were to be added to it, the bill would be worthless, and would go nowhere because it would not ever become law and be upheld by the courts.

I would certainly say that when we are trying to balance constitutional considerations, as we are in this matter, that if we are going to be in error, let us be in error in the direction of preserving the individual liberties and constitutional rights of individual Americans. By defeating this amendment, we can assure ourselves of being on the right side.

The CHAIRMAN. The Chair recognizes the gentleman from Virginia (Mr. HARRIS).

Mr. HARRIS. Mr. Chairman, I regret very much the conflict that has been set up between elements that, frankly, I am sympathetic with. I do not know how we can have an effective disclosure bill with regard to lobbying without disclosing who it is that is financing the lobbying. I just do not know how we can do it.

But I have been given a moment for thought by my good friends that even the invasion of privacy, that they are afraid of is involved here. I do not understand how you can pass a law that permits anybody to contribute $100 to a candidate, even an unpopular candidate, why we cannot require an organization to report that they contribute 1 percent of their budget. This amendment is not drawn exactly the way I offered the amendment in the subcommittee, but it is drawn carefully enough that it deserves support. I think that an effective lobbying and registration act requires that we know who is financing the lobbying.

The CHAIRMAN. The Chair now recognizes the gentleman from California (Mr. DANIELSON).

Mr. DANIELSON. Mr. Chairman and members of the committee, I urge a no

vote on this amendment, and I yield back the balance of my time.

Mr. GARY A. MYERS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do not wish to take the full 5 minutes, but there was a concern that I thought ought to be expressed. It is the concern that an organization that is engaged in a mixture of lobbying activities and other activities that it would seem to me that even if this amendment were to pass, that that organization would have the right to form itself in such a way that it could identify itself specifically to handling its lobbying activities through a subsidiary organization, keep those lobbying activities in that subsidiary and have all of their other activities carried out in another organization and that then that subsidiary organization would lobby and contribute toward certain aims and that that could be preserved and protected.

I hope that that would be taken into consideration.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. RAILSBACK).

The question was taken; and on a division (demanded by Mr. RAILSBACK) there were—ayes 26, noes 41.

So the amendment was rejected.

Mr. DANIELSON. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. NATCHER, having assumed the chair, Mr. MEEDS, Chairman of the Committee of the Whole House on the State of the Union reported that that Committee, having had under consideration the bill (H.R. 8494) to regulate lobbying and related activities, had come to no resolution thereon.

## VA-HOSPITAL SYSTEM AT CROSSROADS

(Mrs. SPELLMAN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SPELLMAN. Mr. Speaker, today, the VA hospital system is at a crossroads. The budget proposal for fiscal year 1979 forces us to consider the future role of the VA in providing medical care. Are our veterans, who have served the Nation faithfully, to be rewarded with inferior institutions, which will eventually turn into medical slums? The question is not rhetorical, but I sincerely hope it conveys a sense of the severity of the cutbacks contained in the proposed VA budget.

Certainly, I am concerned about the beds which would be lost in the State of Maryland, and I am alarmed about the consequences of 3,132 fewer beds and the equivalent of 1,500 lost employees throughout the Nation. But the problems with the budget run much deeper.

I believe a review of past funding and a consideration of present and expected future demand make it clear that this budget cut will have a serious impact on the quality and availability of medical care at VA centers.

Since 1975 the percent of the total Federal budget for the VA has declined from 5 to 3.8 percent, the lowest in a decade. Yet there has been a great increase in the veterans population due to the war in Vietnam. Additionally, older veterans are now requiring more treatment. Is it any wonder, then, that the national rejection rate for VA hospital applicants is 18 percent, and in some areas has reached 40 to 50 percent. Have we not all heard stories of excessive delays in receiving treatment, of jammed waiting rooms? Dr. Herbert M. Rose, national president of the National Association of VA Hospitals has stated firmly that these budget limitations would mean fewer services and diminished quality of care.

The picture that emerges is bleak. The unmistakable institutional stress signs have appeared. Exacerbated by an austere budget, the VA health care system could no longer be expected to continue to provide the exceptional service for which it has become known.

Another example is telling. There have been no new starts this year for VA domiciliaries. Yet a recent GAO report demonstrated the need for these facilities. In this light, it is hard, if not impossible, to justify abandoning 35 construction projects, including the 480-bed nursing home and outpatient complex in Camden, N.J.

There are two other features of the fiscal year 1979 budget about which I have great reservations. The first concerns the elimination of all medical research activities in 64 hospitals, that is, in one-third of all VA hospitals. In medical circles, the connection between research programs and first-rate medical attention is an undisputed truth. The VA, which administers the Nation's largest medical research program has long taken pride in its scientific endeavors which have brought comfort and hope to millions. As you know, just last year this program produced two Nobel Prize recipients, the first time this has ever happened.

But we cannot expect this to continue. The research budget has declined steadily over the past 7 years. Further reductions in personnel and facilities can only hinder the progress of medical science in the Nation, and reduce the level of care at VA institutions.

Finally, I find especially troublesome the proposal to eliminate 667 personnel spaces from the Department of Veterans Benefits. This group handles veterans' claims and processes paperwork to approve schooling and loan programs. A major challenge for us is to lower the very high unemployment rate for Vietnam-era veterans. Undoubtedly, this cutback would be a terrible blow to these men. How can we properly help our young veterans, if we deprive them of a responsive Department to administer the programs established for their benefit?

There is an irony about the fiscal year 1979 budget. The cutbacks were chiefly mandated by the Office of Management and Budget. I share the concern of many of you in containing expenditures, and I welcome the administration's efforts in this area. However, I seriously doubt that the VA budget is the proper place to wield the budgetary axe. Their programs are well run, and are free of scandals. They provide excellent medical attention at a fraction of the cost per bed charged at private hospitals. I, therefore, urge you to restore the budget to adequate levels, so that some of our most deserving citizens can continue to receive the quality medical care for which the VA is known throughout the world.

## TIME FOR A TAX CUT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. EDWARDS) is recognized for 5 minutes.

● Mr. EDWARDS of Oklahoma. Mr. Speaker, we are going to hear a lot about tax policy in the weeks and months to come, and through it all there's one question to keep in mind: What has happened to that uniquely American idea of creating economic progress by rewarding those who are willing to work, save and invest—an idea so powerful that it drove our Nation to create more wealth, more evenly divided, than any other in the history of the world?

Most Americans still believe in human progress through individual opportunity, but the runaway growth of Government has just about destroyed the American dream for many small businessmen.

Take a look at the results of the hundreds of Government programs created in the last 15 years—all under the guise of helping the so-called little man. When President Kennedy first took office only about 5 percent of all tax returns were subject to the marginal tax rate of more than 30 percent. Today, Government at all levels takes away in taxes nearly 45 cents of every dollar earned by the American worker. Every increase of 1 percent in the Consumer Price Index raises the rate of taxation by 1.5 percent and, at the rate inflation is pushing people into higher tax brackets, by the early 1980's taxpayers who are now earning $12,000 a year will be paying taxes at a 50-percent rate.

As Government continues to multiply the number of suffocating regulations, siphoning away more wealth every year for its own nonproductive spending, individuals and businesses have that much less to spend on goods and services and to invest in new and more efficient plants and equipment. Government borrowing now soaks up over 70 percent of all the available funds in the Nation's money markets. Is it any wonder that we have a weakened stock market, that we have an inflation problem, that we are losing our markets to the Japanese, whose rate of capital investment is twice our own? Should anyone be surprised that with some U.S. plants nearly a century old, Japanese steelworkers produce, an average, 60 percent more per year than American steelworkers? In America today we are taxing work, growth, consumption, welfare and debt.

The way to stimulate the economy is not through government spending, but through private spending and invest-

ment, and through putting money into savings accounts to increase funds available for private borrowing.

We need a tax relief program of across-the-board tax reductions. I'm supporting a bill that would provide tax cuts averaging 33 percent over the next 3 years in personal income taxes, a 3-percent reduction in corporate taxes, and an increase in the surtax exemption for small businesses from $50,000 to $100,000.

There is a valid argument that we ought not cut taxes until we reduce the national debt, but big government continues to drag the economy down and we've simply got to break the chain. We've got to get the private economy back on its feet. I am convinced that a tax cut is needed now to stop the effects of inflation pushing individuals and businesses into higher tax brackets, and to breathe some new life into our free enterprise system. And I believe these reductions would succeed, in fact, in stimulating even greater Federal revenues instead of increasing the debt—just as they did under President Kennedy—if combined with a serious effort to slow down government spending.

I was delighted to hear the President finally endorse the idea of tax cuts to strengthen the economy, but I was surprised when he said that he and the congressional leadership are "committed" to tax cuts. That same leadership has rejected six separate opportunities during the 95th Congress to pass a tax cut. In fact, just a few months ago the President went on national television to announce he would veto any effort to pass permanent tax relief. (But of course this isn't the first time he's changed his mind.)

Obviously what is important is what kind of tax cut the administration endorses. Right now, it appears that the President's idea of a tax cut is one that will be granted somewhat selectively to partially offset the projected increases in social security and energy taxes, which of course would destroy the whole idea of using a tax cut to stimulate the economy.

And the administration must avoid "tax reform" measures that harm productive sectors of our economy. For example, repealing the tax deductability of home mortgage interest is one of the most shortsighted "tax reform" ideas of all. The housing and real estate sector is growing and "tax reform" at its expense will only fuel inflation while crippling the housing and real estate market.

What it really boils down to is this. Which do we want more, a bigger and more powerful Government, or more individual opportunity in a healthy expanding private economy? That's what the tax debate is all about.●

## SENSELESS SLAUGHTERING OF SEALS MUST STOP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

● Mr. KEMP. Mr. Speaker, I join my colleagues today in expressing my deep concern over the senseless slaughter of the harp seal pups in Canadian waters.

Last year, the Congress sent to the Canadian Government a strong message of opposition to the Canadian Government's continued policies permitting this annual harp seal hunt. Yet this year the total allowable catch has increased by 10,000—up to 180,000. Even the Canadian Government admits that approximately 80 percent of this quota will be filled by "whitecoats"—that is, pups under 10 days old who still have the transparent, pure white fur that will be sold for trinkets and boot trim.

I have introduced new legislation, House Concurrent Resolution 532, which again expresses the U.S. Congress serious reservations over Canada's harp seal policies. This bill has 67 cosponsors, and specifically draws attention to the increased quota.

The arguments against the harp seal hunt are many, and frankly, stem from a sense of the inhumaneness associated with killing defenseless pups less than 10 days old. Even regulated sport hunting does not allow the mass killing of wild animals' young. The obvious counter to this, and the argument that the Canadian Government makes in return, is that the inhabitants of the Canadian Arctic and Greenland and the landsmen of Newfoundland need the revenue from this annual seal hunt to exist during the winter months. What the Canadian Government fails to point out is that less than half of the seal pelts taken in 1977 went to these people. More than one-half were harvested by large Canadian and Norwegian commercial ships. This year the Norwegian quota alone was 35,000 pelts. None of these pelts, or the revenue from them, returns to Canada.

These pelts return to Norway, where they are prepared for the European market. Yet there is strong evidence that the market for seal pelts is severely decreasing due to environmental group protests, even though the Canadian quota for 1978 was increased. In fact, there are numerous reports of 1976 pelts still in storage for lack of buyers, and whitecoat pelts being dyed before they go to auction.

Because of the lack of complete data on the seal population, there are differences of opinion as to the total size of the herds. One thing, however, is known—that the total harp seal population has dropped by approximately two-thirds within the last 20 years. Herds that used to number approximately 10 million at the beginning of the century are now reduced to roughly 1.3 million. "Subsistence" harvest levels now announced by the Canadian Government attempt to keep the seal population at around the 1.3 million level. Yet there is no guarantee that this harvest plan will keep the herd at a healthy size. Observers at the 1977 and 1978 hunts have witnessed seal dams aborting their pups on the ice before their time. It is theorized that these dams, who bear new pups each spring, may be responding to the repeated slaughter of their pups by sealers in previous years. If this situation becomes prevalent, the outlook for the harp seal herds will indeed be grave. Dr. David M. Lavigne, the noted scientist widely quoted by the Canadian Government for his work on the infrared tracking of harp seal populations, stated in the January 1976, National Geographic:

> Although it is still too early to give a definitive answer (about the total harp seal population), it seems clear that the harp seal is in trouble. . . . As our census continues, we see increasing evidence that the western Atlantic harp seal population cannot survive continued harvesting by big factory ships. Perhaps the landsmen, under strict rules, may still go out on the seasonal hunts. But we must work fast to provide reliable figures to hunters and conservationists alike. The survival of the harp seal hangs in the balance.

I strongly urge the Canadian Government to take another look at their policies of encouraging this annual harp seal slaughter. To slaughter a vulnerable species for trinkets and toys is a cruelty beyond belief.●

## "DIRTY DOZEN": A DISCREDITED RATING SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 10 minutes.

● Mr. CLEVELAND. Mr. Speaker, on Saturday, April 8, 1978, the Washington Post was kind enough to publish on its opposite-editorial page a signed column by me dealing with press treatment of campaign activities of Environmental Action's Dirty Dozen Campaign Committee.

And last Monday, April 17, the Post carried a response by Environmental Action's legislative director which represented a nolo contendere plea concerning most of the charges I had raised, and a weak defense to others. At the conclusions of these remarks, I shall introduce both items for the record to enable Members to draw their own conclusions from a point-by-point comparison.

However, the response contained two allegations which further call into question the credibility of the Dirty Dozen Campaign Committee.

First, we find this assertion:

> The votes we use to assess a Congressman's record are selected only after consultation with the national environmental organizations that are the most active and knowledgeable on the subject legislation.

I find this hard to swallow. If we look back a few years—as Enviornmental Action does in attacking those Members on its list—we find that in 1972, the list of votes included:

Five dealing with military spending and the Vietnam war, and 11 votes on miscellaneous "social" issues such as Rhodesian chrome, a consumer protection agency, education appropriations, an OEO extension bill (including child care and legal services), the Equal Rights Amendment, food stamps for

strikers, farm subsidies, House reorganization, health program financing, equal employment opportunity, family planning and contraception research, and campaign practices legislation.

Issues? Yes. Environmental issues? Come on.

Then we find an assertion that in some instances, being named to the Dirty Dozen list prompts a Member to clean up his act, citing my own record since my designation—a nice suggestion that their selections were right in the first place. I find this both offensive and easily disposed of.

Since my designation, I continued to pursue the same balanced concern for both environmental, energy, and economic interests that have characterized my legislative career. In the course of so doing, I merely continued with a number of interests Environmental Action ignored—and indeed was probably unaware of—despite its claim to close scrutiny of Members' activities.

(One of its "good-guy" votes on its 1974 list was for a bill which I personally authored, but which was attributed to another sponsor when it was reintroduced after amendment in subcommittee.)

But more to the point, since my designation I have done the unforgiveable—I have fought back. My efforts have included preparation of a paper on the dirty dozen for the fair campaign practices committee, an op-ed piece in the New York Times and the Post article mentioned above.

Far from trying to ingratiate myself with this fraudulent operation, I have thus courted its continuing hostility. So much for the salutary effects on my voting habits.

A third point relates to my assertion that environmental action has no membership, a conclusion coinciding with that of the Republican Research Committee. Individuals who subscribe to the publication "Environmental Action" are listed by the group as "members." Now, I suppose environmental action can call a subscriber a member, a ring-tailed orangutang or anything else; P. T. Barnum might have had another term for it; I prefer subscriber.

A final and potentially more serious point arises from the fact that the response came not from the Dirty Dozen Campaign Committee but from the legislative Director of Environmental Action, which claims to keep the two organizations separate from the standpoint of compliance with requirements of Federal election law.

This is just one of many instances suggesting that such separation is a fiction, which further raises the question of the legal status of contributions by members if indeed that is how one describes those who sign up for the magazine and send in a check. This bears further examination.

Mr. Speaker, following are the article and the letter to the editor mentioned above:

"DIRTY DOZEN": A DISCRIMINATED RATING SYSTEM

(By James C. Cleveland)

A group known as Environmental Action will soon issue its 1978 "Dirty Dozen" list of House members whose defeat it seeks on allegedly environmental grounds. Response by the press, if it repeats past performance, will be mixed. Most reporting will serve as the uncritical conduit for the charges, while some will provide probing news coverage and commentary discrediting the accusations and their source.

I observed both varieties of coverage as a member of the Dirty Dozen in 1976, which leads me to suggest that, next time around, the press stiffen its skepticism in handling political material from Environmental Action.

After the last election, National Journal's Michael J. Malbin examined charges by House Minority Leader John J. Rhodes (R-Ariz.), also on the 1976 hit list, that rating procedures of most groups were unfair and Environmental Action was the worst offender. Reviewing materials assembled by the Fair Campaign Practices Committee for symposium on political rating groups, he concluded that "they tend to support Rhode's charges."

As to the press, Malbin observed, "the problem with all this is that it is easy in the heat of a political campaign for an opponent—or the news media—to latch onto a label and assume that there is something solid behind it." And Chris Black, Washington correspondent of the Lowell (Mass.) Sun:

"The 'Dirty Dozen campaign' plays upon institutional weaknesses in the press. The gimmicky charge receives page-one play but the denial is buried on the obituary page. And the group uses the widespread assumption that environmental groups are somehow above politics and reproach, although Dirty Dozen proved to be quite different from this perception."

Unintended distortion came with initial coverage strongly suggesting that the 12 on the list were selected on the basis of their environmental voting records. That impression was conveyed by AP, UPI, The Washington Star and particularly The Post, which plugged that line in its headline and lead paragraph. Yet those vote rankings were absolutely meaningless in Environmental Action's own selection process. I made the list although more than 100 others voted equally "wrong" or worse on the votes used. Environmental Action itself concedes that other factors are considered, a fact scarcely alluded to in Washington coverage.

A key factor was vulnerability, Environmental Action argued that it didn't waste time going after occupants of safe seats. But had reporters examined that factor, they would have learned that eight members of the 1976 list won elections in 1974 with a scant 53 percent of the vote or less; one won his 1974 primary with only 55 percent of the vote and the general election with 53 percent, and faced another tough primary in 1976. Those members aren't just unsafe; they're the walking wounded.

Rhodes blasted the ratings, requesting the Fair Campaign Practices Committee to monitor and expose the unfairness involved. That received prominent, fair and balanced coverage in Washington and presumably elsewhere. Later, the press here and across the country gave good exposure to a study entitled "The Rating Game," by the House Republican Research Committee, which for all its overtly partisan origin was an excellent critique of rating groups in general and Environmental Action in particular.

Meanwhile, one of the most perceptive pieces I saw on an individual member was done by Paul Houston of the Los Angeles Times in the case of Burt Talcott (R-Calif.). He found "considerable evidence that, in placing Talcott on the list, Environmental Action had accused Talcott wrongly on several points." Houston added that "there is some merit to his claim that his low Environmental Action rating, which was based on 14 selected votes among dozens last year, distorted his record" (Talcott lost anyway, one of the three on the list to do so.)

Easily the worst in terms of swallowing Dirty Dozen propaganda whole were a patty-cake piece in The New Yorker and a column by Clayton Fritchey, appearing in The Post, which rhapsodized that the Dirty Dozen gimmick ought to be adopted by other interest groups.

In New Hampshire, my designation as one of the Dirty Dozen received prominent play that ultimately proved not damaging. Three solid editorials in New Hampshire dailies bracketing the political spectrum denounced my selection as a dirty deed. Then Chris Black of the Lowell Sun exposed the fact that the Dirty Dozen campaign coordinator had worked for my opponent-to-be in a McGovern campaign. They had discussed the list at least a month before it was issued with the general understanding that I would be included only if he were likely to run. Environmental Action claimed it was misquoted.

My opponent made no issue of the Dirty Dozen or my environmental record in the campaign; he walked away from the issue, saying the Dirty Dozen Campaign Committee was doing its own thing. (I later won with 61 percent of the vote.)

In New Hampshire, Environmental Action's remaining credibility died. The group claimed to have enlisted a number of environmental organizations against me. That made headlines, as did subsequent disclosure that the claim was phony. (Environmental Action again claimed it was misquoted.)

Environmental Action seeks to be a continuing and credible presence on the scene, though it consists mainly of a magazine staff of roughly a dozen, lobbies sporadically and ineffectively, and has no membership. Its political operation is a floating media event. It thus deserves scrutiny in its own right in the interests of a cleaner political environment.

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DEFENDING THE "DIRTY DOZEN" AWARDS

Rep. James Cleveland (R-N.H.), in his April 8 op-ed page article, "Dirty Dozen": A Discredited Rating System," claims that the Dirty Dozen designation unfairly portrays an incumbent's stance on environmental issues because 100 other congressmen have similar or worse voting records. The fact that a third of the House of Representatives votes against the protection of environmental values, often blocking needed legislation, distresses us, but in no way exonerates those incumbents named to the Dirty Dozen. If we wanted to name the 12 incumbents with the worst voting records, we would have named them the "Dirtiest" Dozen. The votes we use to assess a congressman's record are selected only after consultation with the national environmental organizations that are most active and knowledgeable on the subject legislation. Since 1970, no national environmental organization has ever criticized the campaign for naming an incumbent to the Dirty Dozen because he did not have a miserable enough voting record on environmental issues.

Mr. Cleveland criticizes us because we choose candidates who are "vulnerable." Logic dictates that we try to defeat the most defeatable, so long as their voting record mean its such an effort. Even the National

Republican Congressional Committee on which Mr. Cleveland serves, targets its efforts against the weakest of those incumbents with whom it disagrees (principally Democrats). Indeed, conservative campaign committees have used that technique to target thousands of dollars in campaign funds for opponents of weak Democratic incumbents.

Vulnerable incumbents can only survive the electoral process if their voting satisfies a coalition of supporters with varying viewpoints. If an incumbent repeatedly fails to vote to protect environmental values, we have a fundamental right to advise environmentalists to withdraw their support from such a coalition.

Significantly, our effort sometimes has a favorable effect on those Dirty Dozeners who do survive the campaign. For example, Mr. Cleveland, who was chosen for the Dirty Dozen in April 1976, three months later attempted (unsuccessfully) to defeat legislation that would remove protection from the nation's diminishing marshes and wetlands. We truly wish more of his colleagues had voted with Mr. Cleveland on that vote. Moreover, the League of Conservation Voters, an independent environmental organization that also rates congressmen's environmental voting records, rated Mr. Cleveland at only 29 out of a possible 100 in 1975, while in 1976 he climbed to 52.

We note that Mr. Cleveland's concern for accuracy in media did not extend to the last paragraph of his article, which erroneously reported that Environmental Action had no membership (there are 22,000 EA members at present), and noted that our entire staff consists of 12 magazine editors. The frequently overworked magazine staff would like Mr. Cleveland to know that EA employs only four editors, five lobbyists, and three administrative personnel.

We think the Dirty Dozen Campaign promotes operation of the finest traditions of American politics. It stimulates voters to query the incumbents on important issues and stimulates the challenges to persuade the voters they can do better. Since 1970, the voters in 53 percent of Dirty Dozens' districts appear to have decided that the challenger could represent their environmental interests better.

A. BLAKEMAN EARLY,
*Legislative Director,*
*Environmental Action.*●

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## LIBERAL LINE: COMMUNISTS CAN IGNORE "SO-CALLED HUMAN RIGHTS"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHBROOK) is recognized for 10 minutes.

Mr. ASHBROOK. Mr. Speaker, in the first sentence of his April 2, New York Times column on human rights in China, Robert W. Barnett put the liberal view on human rights in Communist countries perfectly. Barnett says that the question is:

> Should we make Peking's record in handling *what Americans call the "human rights" of the Chinese people* an obstacle to normalizing our relations with that country? (The italics are mine.)

Liberals simply are not concerned about human rights in a Communist country. They fall for the Red line that economic, not political, rights are the test. Conservatives believe that human rights are universal, and that the hammer and sickle does not change the nature of murder, oppression, and robbery one whit. On this moral point, there is no room for compromise. Nor is there common ground for discussion with those who hold humanity to be a relative matter. Barnett repeatedly emphasizes the liberal view that the actions of a Communist state cannot be questioned:

> We should hesitate to condemn them as less moral merely because they are different from those of other societies.

Different? Only a color blind apologist could use that terminology.

The operating statement of Mr. Barnett's piece in understanding his liberal doublethink is contained in the second paragraph. In answering the question whether or not we should make an issue of human rights in Red China, he answers in the negative and with this strange reasoning:

> We should want to seek better understanding of the moral content in how and why Peking has sustained the legitimacy of its authority through means alien to the political experience of the Western world.

Read that one several times. He refers to their means of ruling as having a moral content. Really, now? Lining people up against the wall and shooting them? Local trials of owners of one-tenth of an acre as enemies of the people? Repression? Brainwashing? Suppression? Purges? These are some of the means the Red Chinese have used in sustaining the legitimacy of their authoritarian government. Those who disagreed with the ruling elite were shot, exiled, or imprisoned. Some were lucky enough to flee their country. In all of this only a liberal can see a moral basis.

Barnett also builds on the other pillar of the lefist attitude toward communism, that we must strive to be like them:

> China could be giving clues to perception of moral necessities that we may be obliged to recognize if we begin to believe that we cannot assuage our economic and social dissatisfactions merely by the perpetual opening up of new resource-frontiers, geographical and technological.

The fact is that China is devoting itself entirely and with total ruthlessness to this same perpetual opening up of new resource frontiers.

Economic success has always been the only Marxist criterion of success, from the theory of dialectic materialism to Stalin's 5-year plans to the Great Leap Forward. The reason we forget that material production is the only goal of Marxist materialism is that they have failed so utterly in its accomplishment. As to resource frontiers, China is in a continuing struggle with Russia and the West to take over African and Asian countries, mainly for their resources. The fact is that Communists would kill anybody to reach a Western level of production. But the slave driver's whip can get an economy only so far in the modern world. Faced with this, Mr. Barnett has striven to transform Communist inability to advance into a virtue.

Mr. Barnett's praise of Chinese "moral imperatives," as well as his sneers at "so-called human rights," are almost exact copies of comments by his liberal predecessors on Stalin's Russia in the 1930's. But in Stalin's time, liberals also praised communism for its opening up of new resource frontiers. All that is past, now that the limits of copying Western technology and working millions of slave-driven people to death have obviously been reached. Faced with this, Mr. Barnett must either admit the real nature of communism, or else declare that China is just too good to be obsessed by mere material advancement. It is interesting to note that this transformation of China's failure into a virtue has taken place throughout the liberal establishment.

While over a million Cambodians are slaughtered in utter media silence—this slaughter is continuing while I write, as is the silence—Barnett assures us that China is Communist only because of the "mobilization of the moral support of a population committed to egalitarianism in the way it talks, looks, and behaves." He blithely passes over the killing of at least 15 million Chinese under the Red regime. After all—

> There has been a remarkable continuity of Chinese commitment to self-reliance and egalitarianism—China's moral accommodation to the necessity of survival.

Having dismissed the dead dissidents, Barnett heaps the leftist's traditional praise on the fanatical true believers who killed them:

> Visitors from other parts of the developing world . . . cannot imagine infusing their own people with the moral devotion upon which the Chinese system appears to be built.

He is right: Freedom is not based on mindless fanaticism. Nor is anything decent based on an oppression of mind and body more intense and suffocating than the Inquisition at its height. Freedom requires the kind of people who would die rather than use a phrase like "so-called human rights" and whose hearts are sickened by those who do.

Mr. Speaker, I include the Barnett whitewash of a murderous regime at this point in the RECORD:

[From the New York Times, Apr. 2, 1978]
Apr. 2, 1978]

MAKE AN ISSUE OF RIGHTS IN CHINA

(By Robert W. Barnett)

WASHINGTON.—The nation is putting before itself a practical question: Should we make Peking's record in handling what Americans call the "human rights" of the Chinese people an obstacle to normalizing diplomatic relations between the United States and the People's Republic of China?

We should not. I go further. We should want to seek better understanding of the moral content in how and why Peking has sustained the legitimacy of its authority through means alien to the political experience of the Western world.

The psychic and philosophical premises upon which the Chinese system operates differ from those of other countries, whether or not Marxist, affluent or developing. But we should hesitate to condemn them as less moral merely because they are different from

those of other societies. In fact, China could be giving clues to perception of moral necessities that we may be obliged to recognize if we begin to believe that we cannot assuage our economic and social dissatisfactions merely by perpetual opening up of new-resource frontiers, geographical and technological.

After World War II, Chiang Kai-shek was supported by friends at home and abroad in an effort to restore pride and effectiveness to a Chinese system crippled and demoralized by 150 years of humiliation and catastrophe. But the tragic fallacy in Chiang's leadership was that its legitimacy and moral sanction had stronger roots abroad than within his own Chinese environment.

The People's Republic of China won its civil war because its authority was based upon strictly Chinese resources; its leaders achieved total national self-reliance through mobilization of the moral support of a population committed to egalitarianism in the way it looks, it talks and behaves.

Visitors from many other parts of the developing world, awed by that achievement, can identify administrative mechanics, but cannot imagine infusing their own people with the moral devotion upon which the Chinese system appears to be built.

Harsh national necessity shapes China's assessment of "human rights." The first right is to survive. With China's population of 900 million to 950 million growing at a thundering rate of 15 million to 20 million year after year, the challenge to China's survival has been pervasive, sustained and profound.

China's responses, both voluntary and directed from Peking, reverse the stress in the freedom-and-duty matrix upon which Western democratic traditions are built. But in Korea, Vietnam, Taiwan, Hong Hong, Japan and in China there seems to be utterly natural acceptance of the age-old Confucian tradition of subordinating individual liberty to collective obligation—for example, to the family. So here may be the clue to what deep in the imagination of Chinese everywhere is their moral equivalent to the individual human rights that Americans believe are sanctified by the Holy Bible, the Declaration of Independence, and the Bill of Rights in our Constitution.

From the days when China's leaders lived in Yenan caves to the establishment of national authority in Peking, through the Great Leap Forward, through the Cultural Revolution, through the arrest of the Gang of Four, and the re-emergence of the twice-humiliated First Deputy Prime Minister Teng Hsiaoping, there has been a remarkable continuity of Chinese commitment to self-reliance and egalitarianism—China's moral accommodation to the necessity of survival. China's unshackling of its women, the "barefoot doctor," the mass participatory harnessing of China's rampant rivers, and what Norman Macrae, deputy editor of The Economist, calls China's present-day rural Keynesianism are expressions of that compulsion.

Washington and Peking will enter into normal diplomatic relations with each other because doing so serves the self-interest of both countries. Neither should entertain expectation that it can reform the other. We must respect China's right to be different, or, doing otherwise, expose ourselves to charges of self-righteousness, demagoguery, and possibly even of imperial intent.

China's now-emerging personalities, procedures and political vocabulary offer promise of greater readiness by China to deal more forthrightly with other countries around the world. With respect and curiosity, Washington should hasten toward establishing normal diplomatic relations with Peking so as to ease exchanges of ideas, persons and goods from which the two countries can mutually benefit together and in their relations with other countries of the world community.

## H.R. 7744, ESTABLISHING THAT CORPS OF ENGINEERS CONTRACT DREDGING WORK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. JOHNSON) is recognized for 5 minutes.

● Mr. JOHNSON of California. Mr. Speaker, on April 13 of this year, the House passed and sent to the President H.R. 7744, a bill which originated in our Committee on Public Works and Transportation.

H.R. 7744 establishes the policy that dredging work on Corps of Engineers navigation projects should be accomplished by contract if it can be done by the private dredging industry at reasonable prices and in a timely manner.

This legislative declaration of policy is designed to encourage the private dredging industry to build modern, technologically advanced equipment so that it will have the capability to meet more of the Nation's dredging needs.

The Corps of Engineers has instituted a "testing of the market" program, which involves advertising work, presently accomplished by Government dredges, in which private industry expresses an interest and on which it desires to submit bids.

One of the primary purposes of this program is to induce an increase in industry capability.

However, a legislative declaration of policy, as opposed to one established by agency regulation, is necessary to provide the incentive for private industry to invest large sums of money in new equipment.

The bill protects the interests of the United States by providing for a gradual reduction in the Federal dredge fleet through retirement of plant as private industry's capability increases and by providing for the retention of a minimum Federal fleet of modern, efficient dredges to perform emergency and national defense work.

Retirement of plant is to be accomplished either through scrapping or for sale on the understanding that the plant will be used only outside the United States. This will assure that obsolete plant will not inhibit the industry investment in new equipment.

I would express my appreciation to Congressman RAY ROBERTS, the chairman of the Water Resources Subcommittee, the ranking minority member of the subcommittee, Congressman DON CLAUSEN, and the ranking minority member of the full committee, BILL HARSHA, for their excellent leadership in the handling of this legislation.

I would also commend the chairman of the Senate Environment and Public Works Committee, Senator JENNINGS RANDOLPH, and the ranking minority member of the Subcommittee on Public Works of the Senate Committee on Appropriations, Senator MARK HATFIELD, for their cooperation and active participation in the formulation and enactment of this very important legislation.●

## CONSUMER CO-OP BANK WILL AID CITY REVIVAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 5 minutes.

● Mr. REUSS. Mr. Speaker, the creation of a National Consumer Cooperative Bank is finally at hand after years of persistent effort by those interested in the consumer movement and concerned with the need for more cooperative and nonprofit ventures in our urban areas. When the President signs the National Consumer Cooperative Bank Act, H.R. 2777, into law sometime in the near future, those responsible for this legislation will deserve great credit.

The bill passed the House July 14, 1977, and was approved by the Senate Banking Committe on April 6, 1978. It is my understanding that the Senate will take it up soon, now that the Panama Canal Treaty has been approved. Since there are only minor differences between the House and Senate versions, and since President Carter has hailed the bank in his urban policy statement on March 27 as an essential element in his program for the cities, enactment of the legislation seems assured.

Cooperatives and nonprofit institutions have been part of the American economic scene since the beginning of our country. They have been an important part of the agricultural sector, for electric power, telephone service and marketing services. They have played an essential role in housing, health, food, and other services in both rural and urban areas. But particularly in urban areas, they have been handicapped by a lack of credit and a lack of understanding or support from traditional financial institutions. This new bank will fill the existing credit vacuum, and make possible a major expansion of cooperative and nonprofit businesses of many kinds.

The bank will make direct loans or guarantee such loans. A self-help development fund for low-income cooperatives will be especially helpful to inner city areas which lack services and where traditional financing is particularly lacking. The bank is designed to be self-sustaining.

I particularly commend my colleague, Representative FERNAND J. ST GERMAIN, chairman of the House Banking Committee's Subcommittee on Financial Institutions Supervision, Regulation and Insurance, whose perserverance has been the indispensable element in the bill's success.

Finally, the President deserves the most heartfelt gratitude from all of us for studying the proposal with an open mind and giving it, at this time, his full support. When the bank is funded and in operation, the Nation's consumers will

have an important new institution working in their behalf, and the cities will have a new source of financing for the kinds of businesses that help nourish neighborhoods.●

## LIBERIA OR BRAZIL OR BOTH?

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SIKES. Mr. Speaker, the current emphasis on human rights has skipped lightly over U.S. State Department policy on Liberian racial segregation. Liberia was one of the countries visited by President Carter in Africa recently. The State Department has said:

Liberia has one of the best human rights records in Africa.

And in the same statement said:

In January 1977, public flogging of convicted thieves as a deterrent measure was reinstituted.

The State Department also says the democratic process is open to all who meet the age and citizenship requirement. Then it goes on to say that there is only one registered national party. There is also only one national party in most Communist and other totalitarian countries. The State Department did not bring out the fact that the Liberian Constitution also says:

None but Negroes, or persons of Negro descent shall be eligible to citizenship in this Republic.... No persons shall be entitled to hold real estate in this Republic unless he be a citizen of same.

I do not propose that we seek to reform Liberia, nor do I believe that we should censure Brazil and other friendly nations for faults that we gloss over elsewhere. Brazil is the largest country in South America and has been our steadfast friend. The President's confrontation with Brazilian leaders as a part of his African trip made no progress and gained us no friends. Brazil has abrogated three treaties with us and withdrawn their support of the Inter-American School in Panama as the result of U.S. policies toward them.●

## WHY NOT GIVE THE NEW GOVERNMENT OF RHODESIA A CHANCE?

(Mr. SIKES asked and was given permission to extend his remark at this point in the RECORD and to include extraneous matter.)

● Mr. SIKES. Mr. Speaker, the continuing efforts spearheaded by the United States to bring the guerrilla terrorist factions based in Zambia and Tanzania into a new black-dominated coalition government of Rhodesia is one that can scarcely be considered in the best interest of the United States. This is particularly true in light of recent developments. U.N. Ambassador, Mr. Andrew Young, has spent considerable time attempting to achieve a meeting of the minds between the two groups. He has failed because of the recalcitrant attitude of the Communist-backed Patriotic Front. They simply refuse to participate unless they can be assured a takeover in Rhodesia. The guerrilla leaders have been given the run of the United Nations and played up to in the United States, while black representatives from the Rhodesian Government have been cold-shouldered and shunted aside.

Now, we have seen what Newsweek of April 17 called A Mission Impossible. U.S. Secretary of State, Cyrus Vance, spent 2 days trying to coax the guerrilla leaders into a stance approximating reason without success. He then spent 9 hours in Rhodesia, apparently accomplishing little more than with the guerrillas. This situation is made more distasteful by the obvious fact that supporting the guerrillas is tantamount to advancing Russia's aims on the continent of Africa. It is known that they are supplying the weapons and the guidance for guerrilla activities. Cubans are being used to train them. Possibly the Cubans will participate in an attempt to conquer Rhodesia.

The efforts of Mr. Young and Mr. Vance are commendable to a point. It would appear that their efforts are ineffective and that it is now time to extend reasonable cooperation to the new government in Rhodesia. That government has accomplished something the United States and Britain have long demanded. They have a black majority coalition government. In January they will have a black Prime Minister. The coalition will attempt to maintain peaceable relations between blacks and whites and to insure Rhodesia the availability of white industrial and agricultural expertise which has contributed very significantly to develop a strong economy. That economy is now weakened only because of sanctions imposed by the U.N. and pushed by Britain and the United States. It would appear to be time to stop playing games and calling names and cooperate with a government that is in a position to bring about a transition long sought by the U.N. and some Western powers.

The lofty, liberal Washington Post called the coalition government in Rhodesia more democratic, moderate, and multiracial than any government the guerillas might construct. The Post also said the President appeared to be holding Salisbury "to lofty moral and political standards, while often appearing to wink at the failings of the Popular Front." It is very difficult to comprehend Washington's infatuation with the terrorists while refusing to recognize the potential of a coalition black majority government achieved peaceably in Rhodesia.

A critical, yet apparently accurate portrayal of the general picture in that area was carried in the Washington Star on Tuesday, April 4. It is entitled "A Dowry for Nigeria." I submit it for the CONGRESSIONAL RECORD.

A DOWRY FOR NIGERIA

You may think it odd that the latest American call for "a genuine transfer of power to the majority" in Rhodesia issued from Nigeria, a nation ruled by its army for the past dozen years.

But that is not the greatest oddity. If one looked more deeply into the status of democracy in Africa, it would emerge that Nigeria is so deeply driven by tribal and religious factionalism that military rule could easily continue there long after blacks and whites compose their differences inside Rhodesia.

So the use of Nigeria, during President Carter's state visit, as a platform for reiterating our strange Rhodesian policy must be explained otherwise than by the host country's solicitude for democratic elections.

Nigeria, it so happens, is very large, very influential in African councils, and—this is probably the most important single factor—the world's seventh largest oil producer. Nigeria is, then, a country to be on good terms with; and since the U.S. took an unenthusiastic view of the bloody suppression of Biafran separatism 10 years ago, relations have not been at their best.

With relations obviously under repair, the question is this: At what cost to political principle, good sense and vital strategic interests will Nigeria's friendship be purchased? The delivery of Rhodesia to a guerrilla takeover? Possibly. Until last week, it was difficult to divine the official U.S. attitude toward the recent "internal" agreement in Rhodesia, which looks to a substantial transfer of power from Prime Minister Ian Smith to black moderates. U.S. pronouncements on that subject were tissues of contradiction and hesitancy. Glimmerings of sympathy vied with dark warnings that the new regime would be attacked and dismantled by the Nkomo-Mugabe guerrilla forces, the so-called Patriotic Front, who are armed and backed by the Soviet Union and China.

But as President Carter's state visit to Nigeria neared, blunt talk of the "illegality" of the Rhodesia government intensified, notwithstanding the impending internal transfer of power. President Carter, it seems, had to have something for the Nigerians, and the sacrificial offering seems to be one internal solution for Rhodesia, well scorched.

The U.S. position on the "illegality" of the Rhodesian government needs a closer look, incidentally. It rests not on the traditional Wilsonian conception of "self-determination," but on the notion that Great Britain retains a ghostly "sovereignty" in Rhodesia even though she has exerted no control there since 1965 when Rhodesia ceased to be a British crown colony. Yet the hostility to the recent "internal" settlement between Mr. Smith's secessionist white regime has been sharper in Washington than in London because U.S. policy in Southern Africa is largely the extension of UN Ambassador Andrew Young's personal sympathy for the guerrilla leaders and their "front-line" patrons. It leads to the oddity that the U.S. is more of a stickler for stale colonialist assertions about Rhodesian sovereignty than the former colonial power itself.

To a dangerous degree, and indeed to the neglect of other important considerations, U.S. policy on Rhodesia remains the exclusive hobby-horse of one official, Ambassador Young, who for domestic political reasons exercises great influence with President Carter. "Seldom," as Mr. Julian Amery recently observed, "can any president have given such a hostage to fortune as in (Mr. Young's) appointment. It is difficult to imagine any circumstances in which Mr. Young could be dismissed without alienating the black vote in America and black opinion worldwide." Like Mr. Young, like his African policy. That is about the size of it.

Having chosen Nigeria as the chief object of American courtship in Africa, and shrinking from outright endorsement of Nigeria's extremist views on South Africa, the U.S.

seems to be offering, as dowry, hostility to an internal settlement in Rhodesia. The policy is perverse and pusillanimous. President Carter, with the Nigerian despot Gen. Olusegun Obesanjo listening with approval, said the U.S. "will move as quickly as possible to call together the parties who are in dispute in (Rhodesia)." But the dispute "in" Rhodesia is largely at an end. The remaining dispute is between those who seek a stable biracial regime inside the country and the guerrilla leaders who swear to overthrow it from the outside. It is one-sided as well, since the call has gone out to Messrs. Nkomo and Mugabe to come home and enter the internal process. To call for negotiation between the two is, in effect, to side with those who avow total hostility to the internal settlement and would probably install a uniracial regime in Rhodesia under Russian influence.

This policy not only sacrifices political negotiation to military force, and principle to expediency; it importantly advances the ultimate Soviet design of controlling the politics, ports and mineral resources of Southern Africa. In that respect, it could be an expensive policy. It may for a time win friends in Lagos and Lusaka. We cannot imagine that it will win the U.S. the respect of anyone else, anywhere.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. KINDNESS) to revise and extend their remarks and include extraneous material:)

Mr. EDWARDS of Oklahoma, for 5 minutes, today.

Mr. DORNAN, for 10 minutes, April 20, 1978.

Mr. KEMP, for 10 minutes, today.

Mr. CLEVELAND, for 10 minutes, today.

Mr. ASHBROOK, for 10 minutes, today.

(The following Members (at the request of Mr. VOLKMER) and to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. D'AMOURS, for 5 minutes, today.

Mr. JOHNSON of California, for 5 minutes, today.

Mr. REUSS, for 5 minutes, today.

Mr. RYAN, for 60 minutes, on April 24.

Mr. RYAN, for 60 minutes, on April 25.

## EXTENSIONS OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. KINDNESS), and to include extraneous matter:)

Mr. ROBINSON.

Mr. HAGEDORN in two instances.

Mr. YOUNG of Alaska.

Mr. DICKINSON.

Mr. TREEN.

Mr. GRADISON.

Mr. KEMP in three instances.

Mr. LEACH in two instances.

Mr. FINDLEY.

Mr. BADHAM.

Mr. DORNAN.

Mr. HYDE.

Mrs. HOLT.

Mr. MADIGAN.

Mr. DERWINSKI.

Mr. KETCHUM.

Mr. ABDNOR in three instances.

Mr. ASHBROOK in two instances.

Mr. GILMAN.

(The following Members (at the request of Mr. VOLKMER) and to include extraneous matter:)

Ms. OAKAR in two instances.

Mr. VENTO.

Mr. BENJAMIN.

Mr. DOWNEY.

Mr. WATKINS.

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. UDALL.

Mr. ASHLEY in two instances.

Mr. CHAPPELL.

Mr. ROE.

Mr. SOLARZ.

Mr. MURPHY of New York.

Mr. HAMILTON.

Mr. DRINAN.

Mr. GORE.

Mr. ROSENTHAL.

Mr. EILBERG.

Mr. WOLFF.

Mr. RISENHOOVER.

Mr. ULLMAN.

Mr. DELANEY.

## ADJOURNMENT

Mr. VOLKMER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 40 minutes p.m.) the House adjourned until Thursday, April 20, 1978, at 11 o'clock a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3896. A letter from the Manager, Federal Crop Insurance Corporation, Department of Agriculture, transmitting the Corporation's annual report for the year 1977, pursuant to 61 Stat. 719; to the Committee on Agriculture.

3897. A letter from the Deputy Assistant Secretary of Defense (Military Personnel Policy), transmitting a report of officer's and employee's defense-related employment, pursuant to section 410(d) of Public Law 91–121; to the Committee on Armed Services.

3898. A letter from the Director, Legislative Liaison, Department of the Air Force, transmitting the Air Force's report on the recycling of materials, pursuant to section 612 of Public Law 93–552; to the Committee on Armed Services.

3899. A letter from the Secretary of Labor, transmitting a draft of proposed amendments to legislation to reauthorize the Comprehensive Employment and Training Act of 1973 (CETA) for another 4 years; to the Committee on Education and Labor.

3900. A letter from the Assistant Secretary for Education, Department of Health, Education, and Welfare, transmitting the third annual report of the Advisory Council on Education Statistics for calendar year 1977, pursuant to section 406(d)(1) of the Education Amendments of 1974; to the Committee on Education and Labor.

3901. A letter from the Acting Deputy Attorney General, transmitting a report on the Department's activities under the Freedom of Information Act during calendar year 1977, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3902. A letter from the Director, National Science Foundation, transmitting notice of a proposed new system of records for the Foundation, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3903. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of a proposed license for the export of certain major defense equipment and a proposed amendment to the agreement for coproduction in Iran (MC–20–78), pursuant to section 36(c) and 38(b)(3) of the Arms Export Control Act; to the Committee on International Relations.

3904. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Ambassador-designate William B. Edmondson and his family, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

3905. A letter from the Secretary of Energy, transmitting the second annual report on the weatherization assistance program, pursuant to section 421 of Public Law 94–385; to the Committee on Interstate and Foreign Commerce.

3906. A letter from the president, Corporation for Public Broadcasting, transmitting the annual report of the Corporation for Public Broadcasting for fiscal year 1977, pursuant to section 396(i) of the Communications Act of 1934, as amended (81 Stat. 371); to the Committee on Interstate and Foreign Commerce.

3907. A letter from the Administrator of Veterans' Affairs, transmitting a report on the reevaluation by the Chief Medical Director on the need for special pay agreements with physicians and dentists, pursuant to section 3(b)(1) of Public Law 95–201; to the Committee on Veterans' Affairs.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SISK: Committee on Rules. House Resolution 1140. Resolution providing for the consideration of H.R. 11504. A bill to amend the Consolidated Farm and Rural Development Act, provide an economic emergency loan program to farmers and ranchers in the United States, and extend the Emergency Livestock Credit Act (Rept. No. 95–1068). Referred to the House Calendar.

Mr. BROOKS: Committee on Government Operations. House Resolution 1049. Resolution to disapprove Reorganization Plan No. 1, transmitted by the President on February 23, 1978 (Rept. No. 95–1069). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMPSON: Committee on House Administration. H.R. 11983. A bill to amend the Federal Election Campaign Act of 1971

to extend the authorization of appropriations contained in such act; with amendment (Rept. No. 95–1070). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Iowa: Committee on Small Business. H.R. 11713. A bill to create a solar and renewable energy sources loan program within the Small Business Administration; with amendment (Rept. No. 95–1071). Referred to the Committee of the Whole House on the State of the Union.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ASPIN (for himself, Mr. AMMERMAN, Mr. BLANCHARD, Mr. CLAY, Mr. CONYERS, Mr. CORNELL, Mr. DOWNEY, Mr. DRINAN, Mr. FORD of Michigan, Mr. GAYDOS, Mr. GOLDWATER, Mr. HANLEY, Ms. KEYS, Mr. LEDERER, Mr. LENT, Mr. LUKEN, Mr. MCFALL, Mr. MARKEY, Mrs. MEYNER, Ms. MIKULSKI, Mr. MURPHY of Pennsylvania, Mr. O'BRIEN, and Mr. PATTERSON of California):

H.R. 12218. A bill to amend the Communications Act of 1934 to prohibit making unsolicited commercial telephone calls to persons who have indicated they do not wish to receive such calls; to the Committee on Interstate and Foreign Commerce.

By Mr. ASPIN (for himself, Mr. GREEN, Mr. RANGEL, Mr. RUSSO, Mr. RYAN, Mr. SOLARZ, Mr. STEIGER, Mr. WALGREN, Mr. WEISS, Mr. WHALEN, Mr. CHARLES WILSON of Texas, Mr. WOLFF, and Mr. CORNWELL):

H.R. 12219. A bill to amend the Communications Act of 1934 to prohibit making unsolicited commercial telephone calls to persons who have indicated they do not wish to receive such calls; to the Committee on Interstate and Foreign Commerce.

By Mr. BROWN of California (for himself, Mr. BONIOR, Mr. GLICKMAN, Mr. KILDEE, and Mr. MANN):

H.R. 12220. A bill to amend section 162 of the Internal Revenue Code of 1954; to the Committee on Ways and Means.

By Mr. CHAPPELL:

H.R. 12221. A bill to amend the Rail Passenger Service Act, to extend the authorizations of appropriations for an additional fiscal year, to provide for public consideration and implementation of a rail passenger service study, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ZABLOCKI (for himself, Mr. FASCELL, Mr. DIGGS, Mr. NIX, Mr. FRASER, Mr. ROSENTHAL, Mr. HAMILTON, Mr. WOLFF, Mr. BINGHAM, Mr. HARRINGTON, Mr. RYAN, Mrs. COLLINS of Illinois, Mr. SOLARZ, Mrs. MEYNER, Mr. BONKER, Mr. STUDDS, Mr. PEASE, Mr. BEILENSON, Mr. CAVANAUGH, Mr. FINDLEY, Mr. BUCHANAN, Mr. WHALEN, Mr. WINN, and Mr. GILMAN):

H.R. 12222. A bill to amend the Foreign Assistance Act of 1961 to authorize development and economic assistance programs for fiscal year 1979, to make certain changes in the authorities of that act and the Agricultural Trade Development and Assistance Act of 1954, to improve the coordination and administration of U.S. development-related policies and programs, and for other purposes; to the Committee on International Relations.

By Mr. HAGEDORN (for himself and Mr. FINDLEY):

H.R. 12223. A bill to limit the authority of the Secretary of Agriculture to restrict or prohibit the use of nitrites or nitrates as preservatives in meat products for a period of 2 years, and for other purposes; to the Committee on Agriculture.

By Mr. HAGEDORN (for himself and Mr. BYRON):

H.R. 12224. A bill to amend the Davis-Bacon Act, and for other purposes; to the Committee on Education and Labor.

By Mr. HAGEDORN (for himself, Mr. HARSHA, Mr. CLEVELAND, Mr. STANGELAND, and Mr. STUMP):

H.R. 12225. A bill to amend the Federal Water Pollution Control Act relating to clean lakes; to the Committee on Public Works and Transportation.

By Mr. HOWARD (for himself, Mr. NATCHER, Mr. WHITTEN, Mrs. HECKLER, Mr. SIKES, Mr. LATTA, Mr. BYRON, Mr. FINDLEY, Mr. FUQUA, Mr. ANDREWS of North Dakota, Mr. BAUCUS, Mr. HILLIS, Mr. CEDERBERG, and Mr. CARTER):

H.R. 12226. A bill to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. McCORMACK (for himself, Mr. TEAGUE, Mr. GOLDWATER, Mr. UDALL, Mr. FASCELL, Mr. DRINAN, Mr. MOAKLEY, Mr. CORNWELL, Mr. FLORIO, Mr. EDWARDS of California, Mr. EDGAR, Mr. FRASER, Mr. SEIBERLING, Mr. LAFALCE, Mr. LENT, Mr. SEBELIUS, Mr. MITCHELL of New York, Mr. PATTISON of New York, Mr. HUGHES, Mr. RICHMOND, Mr. NOLAN, Mr. LEHMAN, Mr. PATTERSON of California, Mr. STANGELAND, and Mr. BOB WILSON):

H.R. 12227. A bill to provide for an accelerated program of research, development and demonstration for solar photovoltaic energy technologies leading to early competitive commercial applicability of such technologies to be carried out by the Department of Energy, with the support of the National Aeronautics and Space Administration, the National Bureau of Standards, the General Services Administration, and other Federal agencies; to the Committee on Science and Technology.

By Mr. McCORMACK (for himself, Mr. TEAGUE, Mr. GOLDWATER, Mr. WINN, Mr. KRUEGER, Mr. GAMMAGE, Mr. CARTER, Mr. TRAXLER, Mr. WHITEHURST, Mr. HEFTEL, Mr. CARR, Mr. STUDDS, Mr. CORCORAN of Illinois, Mr. MILLER of California, Mr. PEASE, Mr. KILDEE, Mr. CEDERBERG, Mr. WHALEN, Mr. ABDNOR, Mr. CLEVELAND, Mr. SIMON, Mr. FOWLER, Mr. GIBBONS, Mr. MAGUIRE, and Mr. BEDELL):

H.R. 12228. A bill to provide for an accelerated program of research, development and demonstration of solar photovoltaic energy technologies leading to early competitive commercial applicability of such technologies to be carried out by the Department of Energy, with the support of the National Aeronautics and Space Administration, the National Bureau of Standards, the General Services Administration, and other Federal agencies; to the Committee on Science and Technology.

By Mr. MARRIOTT (for himself, Mr. ARMSTRONG, Mr. BAUMAN, Mr. EDWARDS of Oklahoma, Mr. HANSEN, Mr. JOHNSON of Colorado, Mr. KAZEN, Mr. LUJAN, Mr. MURPHY of Pennsylvania, Mr. RHODES, Mr. RONCALIO, Mr. RUDD, Mr. RUNNELS, Mr. SKUBITZ, Mr. SYMMS, and Mr. WEAVER):

H.R. 12229. A bill to provide grants to States for the restoration of abandoned uranium mill sites and to require the Secretary of Energy to restore such sites if the States fail to do so; jointly, to the Committee on Interstate and Foreign Commerce and Interior and Insular Affairs.

By Mr. WOLFF (for himself, Mr. ROSENTHAL, and Mr. DOWNEY):

H.R. 12230. A bill to authorize the establishment of the Long Island Sound Heritage in the States of Connecticut and New York; to the Committee on Interior and Insular Affairs.

By Mr. CARTER (for himself and Mr. GILMAN):

H.R. 12231. A bill to amend title VIII of the Public Health Service Act to extend for 2 fiscal years the program of assistance for nurse training; to the Committee on Interstate and Foreign Commerce.

By Mr. CORMAN (for himself and Mr. BAFALIS):

H.R. 12232. A bill to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes; to the Committee on Ways and Means.

By Mr. HEFTEL (for himself, Mr. MEEDS and Ms. OAKAR):

H.R. 12233. A bill to establish a Department of Education, and for other purposes; to the Committee on Government Operations.

By Mr. JENKINS:

H.R. 12234. A bill to amend title 38, United States Code, to exclude certain periods from the absence counting requirements for veterans and eligible persons enrolled in courses not leading to a standard college degree; to the Committee on Veterans' Affairs.

By Mr. LEACH:

H.R. 12235. A bill to authorize an intermediate term Commodity Credit Corporation credit program for the purpose of financing the sale and export of agricultural commodities produced in the United States; jointly, to the Committee on Agriculture, and International Relations.

By Mr. PURSELL (for himself, Mr. JEFFORDS, Mr. HOLLENBECK, Mr. SARASIN, Mr. WHITEHURST, Mr. BEVILL, Mr. PRITCHARD, Mr. CONTE, Mr. STUMP, Mr. YOUNG of Alaska, Mr. CORCORAN of Illinois, and Mr. MURPHY of Pennsylvania):

H.R. 12236. A bill to establish a Department of Education; to the Committee on Government Operations.

By Mr. STANGELAND (for himself, Mr. JOHNSON of Colorado, and Mr. HAGEDORN):

H.R. 12237. A bill to amend title 23 of the United States Code, relating to highways, to authorize a program to separate rail and highway crossings in certain energy impacted cases; to the Committee on Public Works and Transportation.

By Mr. VOLKMER:

H.R. 12238. A bill to bolster farm income by providing emergency assistance for producers of wheat, feed grains, upland cotton, and soybeans, and for other purposes; to the Committee on Agriculture.

By Mr. ABDNOR:

H.R. 12239. A bill to improve the inspection and labeling of imported meat and to enhance the stability in meat supplies and prices, for the benefit of domestic producers and consumers; jointly, to the Committees on Agriculture and Ways and Means.

By Mr. BOLAND:

H.R. 12240. A bill to authorize appropriations for fiscal year 1979 for intelligence and intelligence-related activities of the U.S.

Government, the Intelligence Community Staff, the Central Intelligence Agency Retirement and Disability System, and for other purposes; to the Select Committee on Intelligence.

By Mr. BRINKLEY (for himself, Mr. RISENHOOVER, Mr. MCCORMACK, Mr. CAVANAUGH, Mr. SEBELIUS, Mr. STANGELAND, Mr. BYRON, Mr. KOSTMAYER, Mr. FITHIAN, Mr. MIKVA, Mrs. BOGGS, Mr. PRICE, Mr. HAMILTON, Mr. PEPPER, Mr. SIKES, and Mr. PATTEN):

H.R. 12241. A bill to incorporate the Gold Star Wives of America; to the Committee on the Judiciary.

By Mr. HOLLAND (for himself, Mr. BROYHILL, Mr. WAMPLER, Mr. MCCORMACK, Mr. KETCHUM, Mr. JONES of North Carolina, Mr. COTTER, Mr. FOUNTAIN, Mr. PREYER, Mr. RANGEL, Mr. DICKINSON, Mr. JOHN T. MYERS, Mr. GUDGER, Mr. PATTEN, Mr. SIKES, Mr. LE FANTE, Mr. COUGHLIN, Mr. MONTGOMERY, Mr. BYRON, Mr. BOWEN, Mr. BURLISON of Missouri, Mr. HARRINGTON, and Mr. MOFFETT):

H.R. 12242. A bill to amend the Trade Act of 1974; to the Committee on Ways and Means.

By Mr. HOLLAND (for himself, Mr. BROYHILL, Mr. HOLLENBECK, Mr. MICHAEL O. MYERS, Mr. COCHRAN of Mississippi, Mr. HUGHES, Mr. MURTHA, Mr. ADDABBO, Mr. RAHALL, Mr. DENT, Mr. RISENHOOVER, Mr. FLOOD, Mr. MARTIN, Mr. BEVILL, Mr. D'AMOURS, Mr. GARCIA, Mr. BOLAND, Mr. BIAGGI, Mrs. CHISHOLM, Mr. ANNUNZIO, Mr. EDGAR, Mr. FISH, Mr. AMMERMAN, Mr. DOWNEY, and Mr. MOAKLEY):

H.R. 12243. A bill to amend the Trade Act of 1974; to the Committee on Ways and Means.

By Mr. MOFFETT:

H.R. 12244. A bill to amend the Social Security Act to require physicians to accept assignment under part B of the medicare program with respect to services they furnish in medicare-participating hospitals; jointly, to the Committees on Ways and Means and Interstate and Foreign Commerce.

By Mr. STANGELAND (for himself, Mr. KINDNESS, Mr. HYDE, and Mr. HAGEDORN):

H.R. 12245. A bill to carry out the recommendations of the Presidential Task Force on Women's Rights and Responsibilities, and for other purposes; jointly, to the Committees on the Judiciary, Armed Services, Ways and Means, and Post Office and Civil Service.

By Mr. MAHON:

H.J. Res. 859. Joint resolution making supplemental appropriations for the United States Railway Association for the fiscal year ending September 30, 1978, and for other purposes; to the Committee on Appropriations.

By Mr. MANN (for himself, Mr. BEARD of Rhode Island, Mr. BEVILL, Mr. BONIOR, Mr. BOWEN, Mr. BRECKINRIDGE, Mr. CLEVELAND, Mr. COHEN, Mr. DAN DANIEL, Mr. DERRICK, Mr. EDGAR, Mr. EILBERG, Mr. EVANS of Georgia, Mr. GUYER, Mr. HAGEDORN, Mr. HEFTEL, Mr. HUCKABY, Mr. JENRETTE, Mr. MARTIN, Mr. MOAKLEY, Mr. NOLAN, Mr. PREYER, Mr. SYMMS, Mr. VANDER JAGT, and Mr. WAGGONNER):

H.J. Res. 860. Joint resolution designating the pine tree as the national arboreal emblem of the United States; to the Committee on Post Office and Civil Service.

By Mr. MURPHY of New York (for himself, Mr. AUCOIN, Mr. BEARD of Tennessee, Mr. BENJAMIN, Mr. BROOKS, Mr. CORNELL, Mr. ROBERT W. DANIEL, Jr., Mr. EDWARDS of Alabama, Mr. EMERY, Mr. FITHIAN, Mr. FLOOD, Mr. GAMMAGE, Mr. HAWKINS, Mr. LONG of Louisiana, Mr. MARKEY, Mr. JOHN T MYERS, Ms. MIKULSKI, Ms. OAKAR, Mr. PATTEN, Mr. PURSELL, Mr. REUSS, Mr. ROGERS, Mr. ROSE, Mr. VANDER JAGT, and Mr. WON PAT):

H.J. Res. 861. Joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning September 17, 1978, as "National Port Week"; to the Committee on Post Office and Civil Service.

By Mr. MANN (for himself and Mr. CORCORAN of Illinois):

H. Res. 1141. Resolution relative to customs duties on textile, apparel, and fiber products; to the Committee on Ways and Means.

By Mr. MOAKLEY:

H. Res. 1142. Resolution to establish a Select Committee on Arson; to the Committee on Rules.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BREAUX:

H.R. 12246. A bill to direct the Secretary of the department in which the U.S. Coast Guard is operating to cause the vessel *Widow Maker* to be documented as a vessel of the United States so as to be entitled to engage in the coastwise trade; to the Committee on Merchant Marine and Fisheries.

By Mr. WRIGHT:

H.R. 12247. A bill for the relief of Jan Kutina; to the Committee on the Judiciary.

## PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

443. By the SPEAKER: Petition of the Colorado Commission of Indian Affairs, Denver, Colo., relative to Native American self-government and treaty rights; to the Committee on Interior and Insular Affairs.

444. Also, petition of the Pearl River County Development Association, Inc., Picayune, Miss., relative to the water flow of the East Pearl River; to the Committee on Interior and Insular Affairs.

445. Also, petition of the city commission, Margate, Fla., relative to U.S. policy toward Israel; to the Committee on International Relations.

## AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 11302

By Ms. HOLTZMAN:

Page 3, line 14, delete "$930,000" and insert in lieu thereof "$2,500,000".

H.R. 11504

By Mr. CARTER:

Page 3, line 15, after the first period insert the following new sentences: "In the case of applicants who are individuals and do not meet the requirement of clause (4), such applicants shall be deemed to meet such requirement if they are in severe financial difficulty because of drought, flood, or other natural disaster, or other condition beyond their control. In making loans under this section and section 303, preference shall be given to young farmers and ranchers.".

Page 9, line 17, after the period insert the following new sentence: "In making loans under this section, preference shall be given to young farmers and ranchers.".

Page 12, line 3, after the first period insert the following new sentences: "In the case of applicants who are individuals and do not meet the requirement of clause (4), such applicants shall be deemed to meet such requirement if they are in financial difficulty because of drought, flood, or other natural disaster, or other condition beyond their control. In making loans under this subsection for any purpose described in section 312(a) (other than a purpose described in paragraph (5) of such section), preference shall be given to young farmers and ranchers.".

Page 13, line 23, after the period insert the following new sentence: "In making loans under this paragraph for any purpose described in section 312(a) (other than a purpose described in paragraph (5) of such section), preference shall be given to young farmers and ranchers.".

By Mr. GILMAN:

Page 16, after line 5 insert the following new subsection:

(b) Section 324(a) of the Consolidated Farm and Rural Development Act is amended—

(1) by striking out "that prevailing in the private market for similar loans, as determined by the Secretary" in the first sentence and inserting in lieu thereof the following: "the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, plus not to exceed 1 per centum per annum as determined by the Secretary"; and

(2) by adding at the end of such section the following new sentences: "With respect to any loan made or insured under this subtitle after the date of enactment of the Agricultural Credit Act of 1978, the Secretary shall make on behalf of the borrower all payments of principal which become due on such loan during the first one-fourth of the repayment period of such loan and the borrower shall make all payments of interest which become due on such loan during the first one-fourth of such repayment period. The borrower shall repay, without charge for interest and within such repayment period, the Secretary for any payment made on behalf of the borrower under the preceding sentence.".

Page 16, line 1, insert "; Interest Rates on Emergency Loans; Suspension of Certain Principal Payments" after "Loan Rates".

Page 16, lines 1 and 2, insert "(a)" before "Section 324".

Page 20, after line 4, insert the following new section:

SEC. 121. CREDIT ELSEWHERE REQUIREMENT.—The Consolidated Farms and Rural Development Act is amended by adding at the end thereof new section 348 to read as follows:

"SEC. 348. An applicant for any loan under this title shall be deemed to meet the eligibility requirement that he be unable to obtain sufficient credit elsewhere to finance his actual needs at reasonable rates, taking into consideration prevailing private and cooperative rates in the community in or near which the applicant resides for loans for similar purposes and periods of time, if, at the time the applicant applies for such loan under this title, such prevailing private and cooperative interest rates are more than the prevailing interest rate in the private market for similar purposes and periods of time, as determined by the Secretary.".

Page 20, after line 4, insert the following new section:

SEC. 122. USE OF QUALIFIED PERSONNEL BY THE DEPARTMENT OF AGRICULTURE.—It is the sense of Congress that, in carrying out the provisions of the Consolidated Farm and Rural Development Act, the Secretary of Agriculture should ensure—

(1) that only officers and employees of the Department of Agriculture who are adequately prepared to understand the particular needs and problems of farmers in an area be assigned to such area; and

(2) that a high priority is placed on keeping existing farm operations operating.

By Mr. GLICKMAN:

On page 8 after line 19 insert the following:

"SEC. 109B. The Consolidated Farm and Rural Development Act is amended by adding at the end of section 310C the following:

"(c) Notwithstanding any other provision of law, any person who would be eligible for a guarantee of a mortgage under section 1709(b) of title 12, United States Code, shall be eligible for a loan guarantee under section 1487 of title 42, United States Code, under terms and restrictions no less favorable to the borrower and in amounts at least equal to those provided under said section 1709(b) of title 12. *Provided however,* That such guarantee shall apply to a mortgage on a dwelling in a "rural area", as defined herein."

By Mr. HARKIN:

Page 23, line 25, strike out "thirty" and insert in lieu thereof "forty".

Page 24, line 6, strike out the colon and all that follows through the period in line 12 and insert in lieu thereof a period.

Page 24, line 15, strike out the colon and all that follows through the period in line 19 and insert in lieu thereof a period.

By Mr. JONES of Tennessee:

Insert at the end of the bill the following new title:

TITLE IV—EMERGENCY CONSERVATION MEASURES PROGRAM ACT OF 1978

SEC. 401. The Secretary of Agriculture is authorized to make payments to agricultural producers who carry out emergency measures to control wind erosion on farmlands or to rehabilitate farmlands damaged by wind erosion, floods, hurricanes, or other natural disasters when, as a result of the foregoing, new conservation problems have been created which, (1) if not treated, will impair or endanger the land, (2) materially affect the productive capacity of the land, (3) represent damage which is unusual in character and except for wind erosion, is not the type which would recur frequently in the same area, and (4) will be so costly to rehabilitate that Federal assistance is or will be required to return the land to productive agricultural use.

SEC. 402. The Secretary of Agriculture is authorized to make payments to agricultural producers who carry out emergency water conservation or water enhancing measures during periods of severe drought as determined by the Secretary.

SEC. 403. The Secretary of Agriculture is authorized to make payments to agricultural producers to carry out emergency measures for runoff retardation and soil erosion prevention to safeguard lives and property from floods, drought, and the products of erosion on any watershed whenever fire or any other natural occurrence has caused a sudden impairment of that watershed.

SEC. 404. There are authorized to be appropriated such funds as may be necessary to carry out the purpose of this title. Such funds shall remain available until expended.

SEC. 405. The provisions of this title shall be effective October 1, 1978.

By Mr. WEAVER:

Section 201: Page 20, line 7, insert "and Commercial Fishing" and "Agricultural."

Section 202:

Page 20, line 11, strike out "and ranchers" and insert in lieu thereof ", ranchers, or commercial fishermen".

Page 20, line 12, strike out the comma and insert "or commercial fishing".

Page 20, line 14, insert "or fishing" before "cooperatives".

Page 20, line 16, insert "or commercial fishing" before "and, in".

Page 20, line 19, insert "or commercial fishing" before the colon.

Page 20, line 24, insert "or commercial fishing" after "production".

Page 21, line 2, insert "or fishing" after "agricultural".

Page 21, line 4, insert ", including fish" before the period.

Section 203:

Page 21, line 11, insert "commercial fishing vessels," after the second comma.

Page 21, line 13, insert "or fishing" after "farming".

Page 21, line 16, insert "or commercial fishing equipment" before the first comma.

Page 21, line 17, insert "or commercial fishing supplies" after "farm supplies".

Page 21, line 18, insert "or commercial fishing" after "farm".

Page 21, line 19, insert "(or commercial fishing)" after "farm".

Page 22, line 13, insert "or commercial fishing" after "agricultural".

Page 22, line 15 insert "or commercial fishing" after "farm".

Page 22, line 16, insert "or commercial fishing supplies" after "farm supplies".

Page 22, line 17, insert "or commercial fishing" after "farm".

Page 22, line 18, insert "or commercial fishing" after "farm".

Page 22, line 24, insert "or [family] fishing operations" after "family farms".

Page 22, line 25, insert "or fishing" after "farm".

Page 23, line 2, insert "or fishing operation" after "farms".

Page 23, line 5, insert "or commercial fishing" before the period.

Section 204:

Page 24, line 1, insert "or commercial fishing vessels" after "real estate".

Section 205:

Page 25, line 5, insert "or commercial fishing" before the comma.

Page 25, line 14, insert "or commercial fishing" before the comma.

Page 25, line 22, insert "in the case of farmers and ranchers," after "(1)".

Section 212:

Page 29, strike out lines 4 through 8 and insert in lieu thereof the following:

The Secretary shall report—

(1) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the effectiveness of this title; and

(2) to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the effectiveness of commercial fishing loans made under this title;

not later than January 1, 1979. The Secretary shall include [in the report referred to in paragraph (1)] the number of loan

Page 29, line 10, strike out "and ranchers" and insert in lieu thereof ", ranchers, and commercial fishermen".

Page 29, line 12, strike out "and ranchers" and insert in lieu thereof ", ranchers, and commercial fishermen".

Page 29, line 15, strike out "and ranchers" and insert in lieu thereof ", ranchers, and commercial fishermen".

Page 29, line 16, insert "or commercial fishing" after "agriculture".

# EXTENSIONS OF REMARKS

## IOWA VFW ESSAY WINNER

### HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. LEACH. Mr. Speaker, Sheryl Lynn Tudeen of Bettendorf, Iowa, was recently named the winner of the Veterans of Foreign Wars "Voice of Democracy Essay Competition" for the State of Iowa. This year, the theme for this outstanding contest was "My Responsibility to America." I am very pleased and honored to share with my colleagues her moving essay—an essay written by one who obviously cares very deeply about her country and its future:

V.F.W. VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM IOWA WINNER

(By Sheryl Lynn Tudeen)

In the childrens story of The Little Red Hen, the hen experiences trouble in getting the other animals to help her in making bread, they refuse to help her cut the wheat, grind the wheat or help in the baking process, but when all the work is done and the delicious bread is made, then they are all very willing to help her eat it.

Can this type of situation be applied to our country? Do we all expect the advantages that America can give us, but don't feel it necessary to work for them in return? It is difficult for me to believe this—in fact, I refuse to. Others must THINK as I do. I feel that I have a certain responsibility toward our country, if I want to continue to reap the benefits it can offer me.

The benefits I speak of are mainly freedoms, freedoms our ancestors thought were important enough to fight and die for. And so my responsibility is basically one to the future generations, and yet I must work for it now, in order to insure that they can obtain all the rights and freedoms I enjoy today.

Our forefathers got a good start on the individual rights issue when they wrote in the Constitution that all men are created equally. They did this much for us, now it is up to me to see that all men are treated equally, that one person is not superior to another simply because of his race, sex, religion or financial status. That is my first responsibility, one that will benefit us today and in the future.

Our environment and beautiful countryside are other things I can appreciate now. America has such a variety of terrain, each region is unique, but they are all beautiful in their own way. It is obvious to me, however, that the snowy mountains, the great forests or the golden deserts cannot remain

in their majestic condition without some help. Thus, I have to make an effort to keep them that way.

Lastly, and most importantly though, is my responsibility in maintaining the principles of democracy that this country was founded on. Our predecessors gave us a say in our government so that we could voice our preferences and problems. We are one of the few countries fortunate enough to have this. As one of the lucky individuals who live here, I have a responsibility in preserving this type of government.

I realize that by myself I probably cannot change things greatly, but that does not mean that I will quit. Willard Wirty summed up my philosophy on working for what you want when he said that "those who want by the yard, but try by the inch should be kicked by the foot".

I expect great things from America because I know that they exist. It is up to me to insure that they continue to do so.

It is easy for us to answer such questions as: Who wants to live in a clean environment? Who wants to eliminate prejudice among men? and Who wants to keep his freedom? The hard part comes in as it did in the story of The Little Red Hen in who's willing to work for all this. The answer is, I am, because that is MY responsibility to America.●

## LAND CONSERVATION IN ALASKA

### HON. THOMAS L. ASHLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. ASHLEY. Mr. Speaker, on March 21, 1978, the Committee on Interior and Insular Affairs voted 32 to 13 to recommend passage of a revised version of H.R. 39, the Alaska National Interest Lands Conservation Act, sponsored by Chairman UDALL and a great many others.

This bill, which was originally considered and revised by the Subcommittee on General Oversight and Alaska Lands, represents the most important land conservation measure which will come before the House in this century As reported by the Interior Committee, it represents a painstaking balance between the interests involved—between the importance of developing the riches of Alaska for the benefit of Alaskans and the rest of the country, and the importance of acting to insure the protection of unmatched scenic, wildlife, geological, natural, scientific, and wilderness values of these lands which are the property and the heritage of all the American people.

I support the revised version of H.R. 39 as reported, and I compliment the committee on arriving at this excellent balance of interests. I would be remiss if I did not pay special tribute to the role of my friend and Ohio colleague, JOHN SEIBERLING, for his invaluable contributions in this effort.

Mr. Speaker, I believe that the Toledo Blade, in a recent editorial, accurately assessed this measure as reported by the Interior Committee when it said that—

The measure approved by the House Interior Committee is an appropriate vehicle for protecting the last major areas of unspoiled wilderness still left to the stewardship of the American people. There may not be such an opportunity in the future.

For the benefit of all our colleagues, Mr. Speaker, I am here offering for the RECORD the Blade's editorial, "Save Alaskan Heritage":

SAVE ALASKAN HERITAGE

Rarely is a happy balance struck between those who desire to preserve large natural tracts absolutely undisturbed by the works of man and those who wish to exploit primitive areas for private or even public gain. One such opportunity, however, is within the nation's grasp.

The House Interior Committee has approved a bill which would add about 95 million acres to the national parks, wildlife refuges, and scenic river systems of Alaska—a figure smaller than the 115 million acres proposed by Rep. Morris Udall of Arizona and considerably larger than the 33 million acres favored by those who place greater emphasis on development of Alaskan mineral and timber resources.

The size of the preserves should make it possible to protect entire ecosystems from destruction, a lesson which was learned only belatedly and at great cost in the case of the California redwoods.

Sponsors of the bill recognize Alaska's role as "both oil barrel to the nation and national park to the world," as Alaskan Gov. Jay Hammond once described it. If the House measure became law, it would foreclose mineral development and timbering in the one-fifth of Alaska's 375 million acres that would be designated as wilderness areas. However, the bill would permit future exploration and development of petroleum and mineral resources on millions of acres of public land which would not have wilderness status. Concessions also have been made to the lumber industry in order to guarantee that no jobs will be lost, particularly in southeast Alaska. Furthermore, the bill takes a reasonable attitude toward hunting and other activities enjoyed by Alaskan sportsmen and viewed as essential by the native population.

The compromise bill, much of which represents the work of Ohio Congressman John Seiberling, would create 10 new parks and 14 refuges to preserve terrain and wildlife species, some of which are unique to Alaska.

Of course, setting aside massive tracts of land is made easier in Alaska by the fact that the Federal Government still holds title to much of the state, stemming from the purchase of "Seward's Folly" for $7 million in 1867. Also, the population pressures on the park areas are as yet not very great in most of Alaska, which has a population smaller than that of Lucas County. That fact, however, is offset by the fragile nature of the Alaskan wilderness, it cannot withstand the pressures placed on parks in more temperate latitudes.

Carter administration officials, who support the park proposal, point out that even if some of the lands to be protected do contain valuable resources, they will not be lost to the country if the need to recover them should become evident at a later date.

No doubt the temptation will be great, as Congress works on the bill, to reduce the size of the areas to be protected and the scope of that protection—some Alaskans would favor that, for instance. But that temptation should be resisted. The measure approved by the House Interior Committee is an appropriate vehicle for protecting the last major areas of unspoiled wilderness still left to the stewardship of the American people. There may not be such an opportunity in the future.●

## TUITION TAX CREDITS

### HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. GRADISON. Mr. Speaker, on April 12, the House Ways and Means Committee, on which I serve, approved H.R. 12050, the Tuition Tax Credit Act of 1978, by a vote of 23 to 14. The bill as amended by the committee would allow a tax credit equal to 25 percent of the postsecondary tuition expenses incurred by a taxpayer, spouse, or dependent up to a maximum credit of $100 per student between August 1 and December 31, 1978. The maximum credit would increase to $150 in calendar 1979 and to $250 in 1980, when the legislation would expire unless Congress continued it.

Although I supported the bill passed by Ways and Means, I would have preferred the original version which included a tax credit that would have covered all levels of education. I opposed the amendment offered by Representative WAGGONNER in committee which eliminated the credit for elementary and secondary students from the bill. The Waggonner amendment narrowly carried by a vote of 20 to 16.

Nevertheless, I voted in favor of this bill because it would provide some tax relief for families who need help. Educational expenses have skyrocketed in recent years. Costs for public 4-year colleges have risen 57.2 percent in the last 6 years, while private 4-year college expenses have increased 63.2 percent during the same period. The burden is particularly heavy on middle-class Americans. Families in the $15,000 to $25,000 income range make too much money to qualify for student assistance grants, but not enough to pay the educational costs at the college of their choice. We are rapidly approaching a situation in our country where only the affluent, the very poor, or the very bright will be able to attend college.

When the full House considers the Tuition Tax Credit Act of 1978, I plan to support an amendment which will place the credit for elementary and secondary students back in the bill. Costs for elementary and secondary education have increased substantially in the last few years and I feel that families with students at all levels of education should be provided with some tuition relief.

Several tuition relief proposals have circulated around the House including the President's plan which calls for the expansion of existing student grant and loan programs. I am convinced that the tuition tax credit approach is the simplest, most direct, and most effective means of providing assistance for families that need help. With a tax credit, the benefits would accrue directly to the taxpayer without bureaucratic redtape and with less cost to the taxpayer. In addition to being needed, these tax credits are simple, straightforward and above all, fair.●

## IF YOU'RE NOT FOR US, YOU'RE AGAINST US

### HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

Mr. DOWNEY. Mr. Speaker, on February 11 Mr. Eugene Hugo, a Washington correspondent for the South African newspaper the Johannesburg Star was recalled. Subsequent to Mr. Hugo's orders to return to South Africa he reported in a very factual manner that representatives of the Washington Embassy of the Republic of South Africa and representatives of the official lobbyist for that country attended closed, members and staff only, meetings of the Ad Hoc Monitoring Group on South Africa.

I am the coordinator of this 35-member congressional group which seeks to move South Africa toward peaceful majority rule and monitor the fate and treatment of various political prisoners in South Africa.

Tomorrow the House Committee on Banking, Finance, and Urban Affairs will consider an amendment to the Export-Import Bank Act of 1945 which would end U.S. Export-Import Bank loan guarantees to U.S. industrial ventures in South Africa until the Vorster government's racial policies change.

I would also submit that press freedom in South Africa is essential as a moderating influence. I ask that an article which appeared in the Washington Journalism Review be included in the RECORD:

IF YOU'RE NOT FOR US, YOU'RE AGAINST US

(By Rick Zimmerman)

To call Eugene Hugo "a courageous South African reporter," as Jack Anderson did in a recent column, is somewhat of an exaggeration. Hugo simply is a journeyman who couldn't pass up a good story when he saw one. He also is a South African who has a well developed conscience and a propensity to express his national outrage to anyone who will listen.

Whether it was Hugo's pursuit of a story or his midnight cries of anguish to the wrong person that did him in is a matter of conjecture. It was probably both. In any event, Hugo was abruptly recalled from his post as Washington correspondent for the *Johannesburg Star* and other South African Argus group papers in February, 11 months before his two-year tour of duty was scheduled to end.

At the time of his recall Huge was being subjected to a personal attack in *Die Vaderland*, an influential, Afrikaans-language daily, and in *The Citizen*, a shrill, english-language tabloid. Both papers are stridently pro-government.

On February 14, under the headline "Questions About Star Man in Washington," *Die Vaderland* reported on its front page "the belief is that Mr. Hugo is more than just a journalist and is working with certain members of Congress and the State Department . . . in a way that is not well-intended toward South Africa."

What had annoyed Die Vaderland was Hugo's series of stories detailing how representatives of the South African government had wormed their way into two presumedly closed meetings of the congressional Ad Hoc Committee on South Africa. The charge that Hugo was involved in some sort of a conspiracy with U.S. officials was prompted by the fact he obtained a copy of a strong letter of protest from the committee to the South African ambassador before it had arrived at the embassy—hardly an unusual feat for an enterprising newsman.

The Citizen joined the assault on Hugo the next morning with a story headlined "'Fascist' jibe in Washington: Probe on Newsman." That afternoon Die Vaderland followed up with a story headlined: "Argus Man Works Against S.A. in the Outside World."

Both of these stories were based on a 50-minute, midnight phone call Hugo made on January 31 to Donald Dekieffer, a high-priced Washington lawyer who lobbies for South Africa. According to The Citizen, Hugo, upset over what he considered to be heavy-handed lobbying by Dekieffer, called South Africa's Nationalist government "that pack of fascists," among other things.

Hugo admits making the midnight call to Dekieffer, although he says he does not recall using such vivid language. But those who know how deeply Hugo feels about what is happening in his country can believe he may have been somewhat intemperate during what he considered a private conversation.

The managing director of the Argus group, in announcing that Hugo was being recalled to an uncertain fate in Johannesburg, claimed the decision was made, but not announced, several weeks before Hugo was portrayed as disloyal in the pro-government press. Hugo is contemplating bringing legal action against his tormentors under South Africa's tough press laws.

## REFLECTIONS ON YUGOSLAVIA

### HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. CHAPPELL. Mr. Speaker, upon his return from a visit to Yugoslavia, Mr. Albert W. Zeller, Jr., wrote to me describing living conditions and current political trends in that country. He has provided a thoughtful analysis of life in a Communist nation.

Mr. Speaker, I want to share his findings with my colleagues, in order that they might be further enlightened as to conditions in Eastern Europe.

Letter follows:

JACKSONVILLE, FLA.

DEAR CONGRESSMAN: Economically, there is no longer any advantage in Yugoslavia. With inflation still about 20 percent and the exchange still 18 Dinars to $1.00, it now costs about twice as much for general living items as it does in Florida (wages there are frozen).

Unemployment is officially listed at 15 percent and rising. Workers are being sent home to Germany, France, and Switzerland.

The result is that police are maintaining a "hard line." Speaking against the "system" is good for four years in prison (first offense).

The free university system is causing a big problem already felt in Italy, where riots are occurring.

It's simply that the Yugoslav economy cannot absorb these graduates. They either take menial jobs or remain unemployed. As most of these graduates come from the villages, it creates a big social problem in the cities.

There is no "welfare" as we know it, and no unemployment insurance. Television is devoted to the glories of socialism, but it's getting harder for people who can't exist to accept any more dogma.

I don't see any sign of the "system" breaking up. The police and Army see to that.

The university group favor Western ideas and wear sweaters with American university names stenciled on them.

Americans who advocate more socialism for us ought to go to these socialist countries and live for awhile. Heavy taxation is causing Sweden, England, even West Germany and others to take another look at socialism.

There's a bright side. There's a rightist movement in France, West Germany, and Italy. They realize that socialism and communism take away more than they offer.

Tito's wife has disappeared from the "scene." The strongest rumor in Yugoslavia is that she sided with a faction that opposed some of Tito's policies and is under "house arrest." Whatever—there are definite signs of opposition to "what is"—what "might be" will probably have to wait until he dies. He's 85 now.

After looking around, there's no "system" that comes close to ours. I hope *our* socialists don't louse it up.

I realize that this session of Congress is very hectic, but I'm sure that you have the support of all of us in the District.

Best regards to you, your family, and your staff.

Sincerely,

ALBERT.●

## WE MUST END THE TURKISH EMBARGO

### HON. DAVID C. TREEN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. TREEN. Mr. Speaker, I have addressed the subject of the arms embargo against Turkey several times, urging that we take action to repair the great damage that we have done to the southern flank of the NATO alliance. I am most pleased that the administration has taken action to lift the embargo and I pray that Congress will respond favorably.

The Times-Picayune, the morning newspaper of the Metropolitan New Orleans area, supports the lifting of the embargo. I am inserting its April 6 editorial for the benefit of my colleagues:

ARMS FOR TURKEY AFTER ALL

It has been three years since Congress disappointed the Ford administration by embargoing arms shipments to Turkey until Turkey moved to break the logjam on Cyprus. This policy, set not by then Secretary of State Henry Kissinger, who was attempting to work out a Cyprus settlement by courting both Greece and Turkey, nor by his successors, but by a Congress influenced by the Greek lobby, has never worked. It didn't work when Turkey was under the more autocratic Demirel regime any more than it has worked under the more pro-Western Bulent Ecevit regime.

It had begun to appear that unless the United States scrapped that policy, Turkey might further loosen its ties to NATO, close U.S. bases permanently, boycott the Atlantic summit meeting in May, perhaps adopt a

more neutral policy in the eastern Mediterranean. Fearing those developments, the administration has urged an end to the arms embargo.

If arms aid to Turkey is restored, the hope is that the Ecevit government can be brought to work realistically with Greece to thaw out the Cyprus dispute. Linking military aid to resolution of the Cyprus problem would no longer be the U.S. stance.

The president is asking Congress to approve $225 million in military aid to Turkey, and the administration will rewrite a four-year $1 billion defense accord signed in 1976 but never approved by Congress. It seemed easier to ask Congress to approve an end to the embargo alone rather than to seek approval of the aid package as well.

The 25 American bases in Turkey have been in limbo these three years. Turkey has not been asked to make any public pledges regarding their reopening, any more than on the Cyprus issue, in order to qualify for arms credits, but the understanding is clear. At the same time, the administration is asking $140 million—up from an original $122 million—in military credits to Greece, and keeping its fingers crossed.

Three years was a long enough trial for a policy that never budged Ankara an inch. We need this ally on NATO's eastern flank, and better treatment should fetch better results.●

## ADDENDUM TO STATEMENT OF YESTERDAY ON SOVIET THREAT TO PANAMA CANAL

### HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. DORNAN. Mr. Speaker, yesterday was giveaway day. To mark that day, I included in the RECORD an address by Ambassador Spruill Braden on the "Soviet Threat to the Panama Canal."

Although I agree with every fact and inference which the late Ambassador included in that address, it has occurred to me that one passage in that statement might be misinterpreted by some who read it as an endorsement by me of a theory to which I do not adhere. Toward the end of his remarks, the Ambassador stated:

> The comintern's leaders—perhaps due to blood and inheritance—possesses a strain of Oriental innate cruelty, dishonesty and shrewd depravity.

Mr. Speaker, I do not believe that any one race has cornered the market on cruelty, dishonesty and depravity. But some who read my insertion of yesterday might interpret that passage as meaning just that.

Anyone who reads history or who has read a newspaper recently cannot honestly believe that interpretation of the passage. Germans by the thousands killed their Jewish brothers by the millions. Iraqi's kill Kurds. Turks committed wholesale genocide on Armenia (no longer on our maps). The British invented the concentration camp in the South Africa Boer war. And my own Irish cousins are shooting off kneecaps and executing their brothers.

To merely pronounce the name "Cambodia" today is to call to mind a Stalin-like slaughter taking place at this very instant. The TV series "Roots" documented the horrors of slavery North American style, and the 4-day series "Holocaust" is a nightmare to watch. I believe that all men have the potential to be as brutal as the Soviet Communists are and as all races in history have been * * * just as they all possess the potential to produce saints and humanitarians. I believe in universal original sin.

And the beat goes on. Saints and sinners come from every corner of history, every corner of the world, in all colors and sizes. The best of families can have a member opt for evil. That's what free will is all about. No "yellow peril," no Red menace, just the tragic routine mans inhumanity, to man. Thank God, there is a God.●

## HUBERT H. HUMPHREY—CHARACTER OF THE HAPPY WARRIOR

### HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. VENTO. Mr. Speaker, Minnesota Viking Carl Eller and I recently participated in a benefit concert program for the Hubert H. Humphrey Institute of Public Affairs at the University of Minnesota.

Eller, a longtime friend of the late Senator, read a poem by William Wordsworth entitled "Character of the Happy Warrior." Because the poem so well suits the life and philosophy of Hubert Humphrey, I would like to make it part of the CONGRESSIONAL RECORD:

Who is the happy Warrior? Who is he
That every man in arms should wish to be?
—It is the generous Spirit, who, when brought
Among the tasks of real life, hath wrought
Upon the plan that pleased his boyish thought:
Whose high endeavors are an inward light
That makes the path before him always bright:
Who, with a natural instinct to discern
What knowledge can perform, is diligent to learn;
Abides by this resolve, and stops not there,
But makes his moral being his prime care;
Who, doomed to go in company with Pain,
And Fear, and Bloodshed, miserable train!
Turns his necessity to glorious gain;
In face of these doth exercise a power
Which is our human nature's highest dower;
Controls them and subdues, transmutes, bereaves
Of their bad influence, and their good receives:
By objects, which might force the soul to abate
Her feeling, rendered more compassionate;
Is placable—because occasions rise
So often that demand such sacrifice;
More skilled in self-knowledge, even more pure,
As tempted more; more able to endure,
As more exposed to suffering and distress;
Thence, also, more alive to tenderness.
—'Tis he whose law is reason; who depends
Upon that law as on the best of friends;
Whence, in a state where men are tempted still
To evil for a guard against worse ill,
And what in quality or act is best
Doth seldom on a right foundation rest,
He labours good on good to fix, and owes
To virtue every triumph that he knows;
—who, if he rise to station of command
Rises by open means; and there will stand
On honourable terms, or else retire,
And in himself possess his own desire;
Who comprehends his trust, and to the same
Keeps faithful with a singleness of aim;
And therefore does not stoop, nor lie in wait
For wealth, or honours, or for worldly state;
Whom they must follow; on whose head must fall,
Like showers of manna, if they come at all;
Whose powers shed round him in the common strife,
Or mild concerns of ordinary life,
A constant influence, a peculiar grace;
But who, if he be called upon to face
Some awful moment to which Heaven has joined
Great issues, good or bad for human kind,
Is happy as a Lover; and attired
With sudden brightness, like a Man inspired;
And, through the heat of conflict, keeps the law
In calmness made, and sees what he foresaw;
Or if an unexpected call succeed,
Come when it will, is equal to the need:
—He who, though thus imbued with a sense
And faculty for storm and turbulence,
Is yet a Soul whose master-bias leans
To homefelt pleasures and to gentle scenes;
Sweet images! which, wheresoe'er he be,
Are at his heart; and such fidelity
It is his darling passion to approve;
More brave for this, that he hath much to love:—
'Tis, finally, the Man, who, lifted high,
Conspicuous object in a Nation's eye,
Or left unthought-of in obscurity,
Who, with a toward or untoward lot,
Prosperous or adverse, to his wish or not—
Plays, in the many games of life, that one
Where what he most doth value must be won:
Whom neither shape of danger can dismay,
Nor thought of tender happiness betray;
Who, not content that former worth stand fast,
Looks forward, persevering to the last,
From well to better, daily self-surpast:
Who, whether praise of him must walk the earth
For ever, and to noble deeds give birth,
Or he must fall, to sleep without his fame,
And leave a dead unprofitable name—
Finds comfort in himself and in his cause;
And, while the mortal mist is gathering draws
His breath in confidence of Heaven's applause:
This is the happy Warrior; this is He
That every Man in arms should wish to be.●

## A STORY OF ONE MAN'S TERROR AT THE HANDS OF THE BRITISH IN NORTHERN IRELAND

### HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. BIAGGI. Mr. Speaker, as chairman of the Ad Hoc Congressional Committee for Irish Affairs, and one who has long been active in the struggle for Irish freedom, I am ever mindful of daily instances of severe deprivation of the basic human rights of people in Northern Ire-

land, which violations are perpetrated by the British troops there.

Those who are victims in the North are usually silenced by force, censorship, or fear. Some do escape the clutches of British oppression. Some may be fortunate enough to come to America where liberty as an ideal can be realized.

For the benefit of my colleagues, so they may be properly informed and reflect, I am submitting for the RECORD a letter from, and an article written by, one such young victim of British atrocities, and who later came to America and spoke of his ordeal. Personal references have been removed because our subject may have to return to Northern Ireland, where his family remains.

I urge my colleagues to take good notice of the circumstances described herein. For this story presents but yet another "human" example of the flagrant offenses against basic human rights in Northern Ireland, and the daily horror Irish people are subject to by British intervention.

It presents evermore the urgency and a justification for Britain to move to withdraw its troops from Northern Ireland. It again highlights the need for the Congress to hold hearings on the proposals for peace. How many more people will have to suffer before enough concerned officials and humanitarians take appropriate action. The time to move for peace must be now.

The letter reads as follows, and I quote:

DEAR MR. BIAGGI: I arrived in this country in ——, supposedly for a three week holiday, from Belfast, N. Ireland. After about a week here I decided to make an effort to stay longer as I was under severe pressure from the British Army in my native homeland.

As I had an older brother interned and another a political prisoner, my home was constantly raided and ransacked. Although I myself was never a member of any illegal organization I was branded as such automatically. I am 18 years of age now and for about the last two years I spent in Ireland I was subject to constant beatings both on the streets of Belfast and in their interrogation centres. I have survived attempts on my life and my life has been threatened dozens of times by different regiments of the British Army and members of the Royal Ulster Constabulary.

In —— I was held for three days in Castlereaght interrogation centre, this I can inform you was the worst in their campaign against me. I enclose a mild account of what happened as published in the Irish People February 4th. I am writing to you as I have heard of your constant work on behalf of the Irish people. I can't tell you how much I appreciate your help for a long suffering people. I wish you every success and I hope you keep in touch with developments. Very truly yours ——— (signed).

This young man's article to the editor of the Irish People appeared in the February 4 edition as follows:

[From The Irish People, Feb. 4, 1978]

IRISH YOUTH HAILS THE LAND OF THE FREE!

*Dear Editor:*

As the new year comes into being I would ask your readers to cast their thoughts to the plight of the Irish people.

I arrived in this county four months ago from Northern Ireland but only after being detained twice by the British authorities while passing through England. They had no charges against me. My only crime, I was carrying an Irish passport. I came to America with the intention of staying for a three week holiday—but on discovering the freedom the people of this great nation enjoy, I decided to make an effort to stay, as I got nothing but harassment and torture while trying to go about making a living in my native homeland, Ireland.

I have met a lot of people here and I'm usually asked, "Do you come from that part of Ireland where that terrible war is going on between the Protestants and the Catholics?" It really hurts me to think this is what most Americans think is happening. With most news concerning the events in the north coming through Britain I can understand how Americans see the terrible torture and harassment of my people as being a religious war with our friendly neighbor, Britain, sending in troops to keep the peace. What I can't understand is why the Americans are getting only the British side. I am sure that if the freedom loving, God-fearing American people knew the truth instead of being misled by the malicious distortion of the facts by Britain, they would speak out in the thousands against the hypocrisy of the English Government which stands on its high platforms and screams about the injustice to the Blacks in Rhodesia and of what President Amin is doing in Uganda while they themselves have been found guilty of what President Amin is said to be doing in Uganda while they themselves have been found guilty in the European courts at Strasbourg of using sophisticated methods which are degrading and inhuman which amounts to torture whatever way you put it.

This torture has not stopped. In fact, when I left the north, the use of torture on Irish civilians was more widespread than ever.

I was ten years old when the present troubles erupted. I lived in the heart of the Falls road, a deeply Republican, Nationalist area of west Belfast. I watched the ordinary, everyday people erect barricades at the entrances to their streets and fight to repulse attacks being made on their homes and their children by the B Specials, the Loyalist pro-British police force.

When the British army arrived the people were in a state of confusion and at first, welcomed them, but it wasn't long before the people realized that this foreign army was as bigoted as were their ancestors. The British Army started to impose curfews on the Nationalist areas under the pretense of searching for arms. They began to shoot volleys of C.S. gas into groups of women and children and attack people in their homes.

Then came Internment. In the summer of 71, every pro-Irishman between the ages of 16 and 60 was imprisoned in a concentration camp and held for up to five years without charge or trial. At the age of 13, I watched two of my brothers dragged off to concentration camps where both were held for three years without being charged with any crime. In Northern Ireland it is considered illegal, in the eyes of the British government to call yourself an Irishman, and not a loyal British subject.

One night in 1973, I left my fourteen year old friend at the foot of the street where I lived. Before I got in the front of our house, he had been shot dead by the British army.

I watched my home being ransacked by British soldiers who burst in at 4:00 in the morning, fully armed and with blackened faces. Screaming obscenities at my elderly parents they dragged my brothers and me from our beds by the hair, holding guns to our heads. We were dragged out into the street and made to lie down on the floor of an armored tank outside my home. We were then driven to the Interrogation Center with the soldiers standing on us the whole way there.

My brothers were finally released from the concentration camps and within a year they both married and moved to neighboring districts so whenever my home was raided, I was arrested and brutally beaten as I was the only one left.

In March 1977, I celebrated my 18th birthday. Three weeks later I was dragged from my home in the early hours of the morning by the British Army and taken to the notorious Castlereagh Torture Center. The three days I was held there can only be described as a living hell. I will tell briefly what happened to me so you can get an idea of what degree the British Government is prepared to go to hold on to one of her last colonies.

I was arrested at 6:00 A.M. and arrived at Castlereagh at 7:00 A.M.

From then to 9:00 A.M. I was photographed and fingerprinted. All my belongings were taken from me—keys, money, comb and rings were taken so I didn't try to kill myself by swallowing them and choking. My boot laces were taken so I wouldn't try to hang myself. After this, I was put in a cell which was seven feet by four feet. There was a hard bed and a chair. As there was no window and the light was on constantly I soon lost track of time and didn't know whether it was day or night. The light also had a humming sound to it that made sleeping impossible. Their object seemed to be to keep my mind in a state of utter confusion.

All through the first day I was kicked and punched for about three hours, put in my cell for an hour, then kicked and punched again for three hours. This routine was kept up for some 30 hours. In between beatings I was offered food that was cold and completely inedible.

On the second day the torture became more intense. They told me they would kill me if I didn't sign a confession to a serious crime. I wouldn't, since I didn't know anything about the crime, so they threatened to kill my elderly parents if I didn't confess. After I still refused to sign their false statement they did barbaric things to me that are unprintable.

After this session of beating, I tried to hang myself in my cell as I just couldn't take any more beatings and didn't want to be the cause of my parents' death. Even after I attempted suicide, I was still severely beaten. I was one of the lucky ones, however, I took their three days of hell and still refused to sign any confession to their false charges. Other people who were also tortured signed anything that was put in front of them, anything if it would only stop the beatings.

When they were releasing me, they put me in a room with another person who was also being released. After a while, I recognized the badly beaten person slumped over the table beside me. He was my best friend. Two policemen escorted us to the front gates with a policeman holding each arm. At the gates stood our parents. The policemen let go of our arms about ten feet from them. I was able to walk to my father but my friend collapsed after walking a few feet and we had to carry him to a waiting car.

The American people don't hear of this sort of thing because Britain makes it a point for them to be kept in the dark so the next time you read the paper or listen to the media about events in Northern Ireland, remember it is probably Britain telling you what they want you to hear.

I feel at times that I'm a traitor for leaving my country in its hour of need. I think of my friends who aren't as lucky as I who haven't any relatives in this great and free country to help them to try to make a new life. But what can one person do? The Irish people are in their greatest hour of need and not many people outside Ireland seem to realize it. Only when Britain gets out of Ireland forever will there ever be any peace. "America 1776, Ireland?" that is my motto.

I am now searching for a job so I won't be sent back to Ireland and so far, have been

unsuccessful, but I think of my friends who are much worse off than I. On this, my four months in America, I still have nightmares about escaping from British concentration camps, my family and I being tortured at the hands of the British Army and other horrors I have seen. I try to put it out of my mind but it isn't easy.

Although I am now thousands of miles from Ireland I will never forget her and hope to go back in better times. What has happened to me and my family is not much compared to the torture and harassment a lot of other families have had and still have to endure. So if this letter helps even one person understand what is happening in Northern Ireland then I feel that I have done something to help my people.

[Name withheld for obvious reasons.]●

## MAN AND WOMAN OF THE YEAR AWARDS TO MRS. CHARLES (GOLDIE) TEWINKLE AND LESLIE MILLER

### HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. BADHAM. Mr. Speaker, public service to one's community has always been considered by me to be the highest form of selfless dedication toward the benefit of our fellow man.

Therefore, I would like to invite the attention of my colleagues to two such people, who are being honored on April 28, 1978, by the Costa Mesa Chamber of Commerce, an important organization in the 40th Congressional District.

To be honored by the chamber of commerce on the occasion of the annual "Man and Woman of the Year" awards luncheon are Mrs. Charles "Goldie" TeWinkle, wife of the first mayor of the city, and Leslie Miller, one of the area's outstanding educators.

Mrs. TeWinkle was born in New York and came to California with her family in 1904 and was married to Charles TeWinkle in San Bernardino in 1913.

In 1920 the family arrived in the area now known as Costa Mesa after living in several California cities. At that time the city was known as Harper. The TeWinkles bought the only grocery store in the community and Goldie TeWinkle became postmistress. Later, they sold the store and bought the only hardware store in town, which they operated until 1941.

Mrs. TeWinkle is a charter and life member of the Women's Club of Costa Mesa, has been active in the girls club, boys club, historical society, Costa Mesa Tomorrow, and is a member of the chamber of commerce.

Leslie Miller, a native of Missouri, is a graduate of Baker University in Kansas and received his masters degree from the University of Iowa. After teaching and coaching for a number of years in the Midwest, Mr. Miller came to California in 1943 to teach and coach at Newport Harbor High School. Later he was administrative assistant to the superintendent, principal for 5 years of Costa Mesa High School and then closed out his distinguished career as a teacher at the Davis Middle School.

Along the way, Leslie Miller has been active in many organizations, including those connected with education. He was president of the Costa Mesa-Newport Harbor Lions Club, district governor of Lions, a ruling elder of St. Andrews Presbyterian Church, member of the Costa Mesa United Fund, member of CHART, and chairman of the education committee of the Costa Mesa Chamber of Commerce.

It is with great pleasure and pride that I rise in this honorable body to pay tribute to Goldie TeWinkle and Leslie Miller as examples of the great public service these two people have provided for the community and city of Costa Mesa over the many years that they have seen fit to give of themselves for the betterment of their fellow citizens.●

## ARTICLE ILLUSTRATES THE IMPORTANCE OF WHISTLEBLOWERS TO OUR GOVERNMENT AND POINT TO THE NEED FOR PROTECTIVE LEGISLATION FOR THEM

### HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. UDALL. Mr. Speaker, ethical whistleblowing is a valuable tool to increasing accountability in government. Unfortunately, the Federal employee who reveals waste or corruption is seldom rewarded by the bureaucracy, but rather he or she is usually intimidated by it. Several legislative proposals have been introduced in an attempt to provide protection for these individuals of conscience who, at the risk of losing their careers, financial security, and reputation, attempt to protect us from the excesses and negligences of government.

The following article illustrates the importance to whistleblowers to our Government and point to the need for protective legislation for them:

[From the New York Times Magazine, Oct. 30, 1977]

THE PRICE OF BLOWING THE WHISTLE

(By Helen Dudar)

(These former Government officials have two things in common: They didn't keep quiet when they believed the taxpayers interests were in jeopardy. Then, suddenly, they lost their jobs.)

In the spring of 1974, Dr. Stanley Mazaleski, a Government scientist, began complaining about the sluggish pace at which his agency had set about designing safety standards for industrial workers exposed to carcinogenic chemicals. The following winter, Mazaleski's criticisms were leaked to the newspapers. Within a few months he was fired. And last May, after a two-year fight for reinstatement, he won a court decision ordering the Public Health Service to hold a new hearing. It was a modest victory, just enough to allow his attorney to try to open negotiations with the agency. After a while, the lawyer called with the report that he had been in touch with the agency's general counsel to no avail. "They said you're guilty," he told Mazaleski. "Guilty of what?" Mazaleski asked. "I don't know—they just said you're guilty."

Mazaleski's belief in his righteousness is whole and complete. He is driven by a fearsome persistence and by a myopic refusal to acknowledge that the system can possibly be as "unfair" as it has so far been to him. He is a "whistleblower"—a rather casual term for a risky business. Mazaleski belongs to a haunted little tribe of Federal employees who have transgressed against the bureaucracy—who, having seen something seriously wrong in a Government operation, made a noise about it.

The penalty for going public, for telling Congress or a reporter or even a superior a few steps up the chain of command can be harsh. Mazaleski lost his position at an agency hearing which he was not even invited to attend. A more sophisticated way of dealing with the overzealous bureaucrat is to have his job abolished. If the dissident is too well known to be dismissed, he can be "promoted" into another section of the agency where his expertise is useless. If he is obscure but likely to make a public fuss, he can be effectively immobilized by demotion to a lesser, lower-paying job where his expertise is also wasted. On the other hand, it may be decided that his behavior has been erratic. In that event, his superior may insist that he consult a psychiatrist in the expectation that he will be found to be unstable and thereby eligible for a disability discharge. Of course, he can refuse to submit to an examination. But then he may be fired for insubordination.

Theoretically, a bureaucrat who testifies before Congress is automatically protected from reprisal. Firing him is literally a crime. In practice, the system is "unenforceable," according to an aide for a powerful Senator. "What would you have the Senate do when a Pentagon employee testifies and is punished?" he asked. "Hold the Secretary of Defense in contempt?" A bureaucrat with a dismissal slip is entitled to a Civil Service hearing, but there the cards may be stacked, too.

The bureaucracy is a Goliath, and the machinery available to enforce its will is immense. Moreover, its will often extends far beyond its boundaries. A civil servant who has lost a post in a conflict that reached the press usually becomes unemployable. Advertised jobs in other Federal agencies prove to be illusory the day he applies; promising offerings in private enterprise that are dependent on the kindness of Government agencies vanish overnight. It takes merely a phone call to a former boss to learn that the applicant is considered just a trifle hard to get along with.

Most people have neither the heart nor the means to begin a fight that may last for years. They quietly resign, they accept early retirement, they shut up. A. Ernest Fitzgerald, a Defense Department cost analyst who eight years ago went before a Congressional committee and testified that a Lockheed cargo plane was costing $2 billion more than the contracted price, is perhaps the best known of contemporary whistleblowers. He has been battling the Pentagon for eight years and is a one-man advisory committee to scores of Federal employees who consider doing what he did in the interests of exposing waste and corruption. People go to him for guidance all the time. "I never advise them," he says. "I just tell them the probable consequences of going public. Most of them never do." Those who stay the course seem, on casual encounter, to be quite nondescript, the sort of people Fitzgerald is fond of assigning to mainstream America. They wear lapel flags, he says, lift weights and belong to the National Rifle Association. They are special, he goes on, because they can't stand stealing. Experience has transformed some of them into cranks—rather exalted cranks who can be nagging, verbose, obsessed and sometimes difficult to be with and yet who are wholly admirable in their gritty stubborn-

ness. What sets them apart and gives them distinction is a sublime innocence, a pure and compelling attachment to schoolroom lessons in morality. It is wrong to cheat. It is a sin to lie. There is no compromise with evil. Deceivers will be punished. Good will triumph.

Once in a while it does. But the process is so long and so lonely and so consuming and the psychic pain is so profound that nothing finally can obliterate the scars. Friends are lost and careers are blighted. In suburban precincts where every other homeowner can be a Federal employee, neighbors cruelly cease to be neighborly. How do you explain to a 5-year-old child why he's the only kid on his Oak Ridge block who wasn't invited to the Easter-egg hunt? On occasion, even reason is forfeited. "I cringe when they come to see me," says a Congressional staff man who has tried to help some victims. "They are walking wounds."

The quality of the damage is discoverable when the clan assembles in one place, an event that occurred early this year in Washington. For almost two years, the Institute for Policy Studies, a well-known haven for respectably leftish thinkers and doers, has been working on a program to develop legislative, legal and financial protection for the civil servant who steps out of line in the provable interests of the public good. Last June, I.P.S. organized a two-day conference of whistleblowers. Two hundred came. Some of them merely have personal grudges against agency supervisors but many of them had, in Fitzgerald's felicituous phrase, "committed truth" and had suffered for it. According to several accounts, the sessions took place in an atmosphere of such raging anger and bitterness they could have been recorded as peaks and valleys on a seismograph. Moreover, the sense of futility projected by the conferees was almost gaudy in its intensity. Yet these people came and they stayed out of some freakishly inexhaustible hope that injustices could be remedied and that the system could be made to work.

What sustains that hope is unfathomable. The qualities they have in common hardly seem significant enough to illuminate any corner of their experiences. They all apparently tend to be careful with money, if not downright cheese-paring. Their politics seem mostly centrist and nonideological, and they are engagingly oblivious to the irony of receiving the support of a leftist organization on the order of I.P.S. While not necessarily formally religious, many of them count themselves believers. With some exceptions, they share a certain lack of imagination. It did not, at the outset, occur to most of them to anticipate the fury of official vengeance.

The sign over Ernest Fitzgerald's door at the Pentagon reads "Deputy for Productivity Management." What, I ask, does a productivity manager do? Whatever he can, the best he can, enough to earn his $47,900 wage, he answers, but nothing like what he could do if he were allowed to exercise his skill and experience as a weapons cost analyst for the Air Force. Fitzgerald is, of course, a legend, the dean of Washington whistleblowers and folk hero to Federal employees who would like to emulate him. Shortly after he testified about how the military patronage system wastes great sums of money on its munitions and aerospace purchases, his job was abolished. And the Civil Service Commission—the court of last resort within the Government—ruled he was not a victim of reprisal.

What followed was nearly four years of legal battles, protracted by Government delays and by its appeals at every point. Finally, in 1973, a U.S. District Court ordered his reinstatement. By then, Fitzgerald, who had kept busy lecturing, writing a book and working for the Congressional committees, figured the fight could cost him $400,000 in legal fees. He sued to collect. In 1976, a Federal judge ruled that the Government must bear the cost of a "blatantly improper action" against Fitzgerald. Last May, the U.S. Court of Appeals agreed that the law requires that a wrongfully dismissed Federal employee be made "whole again" but does not permit the Government to pay his lawyers' bills. Fitzgerald, an industrial engineer who comes from Birmingham, Ala., is a remote but affable and jaunty-spirited man. However, difficult these years have been, he has resisted any sense of martyrdom. He loved his work and was good at it. But he observes that the 1969 dismissal "effectively ended my career" as if he were commencing on the high price of dry cleaning. What he does now is "baby" stuff, the kind of assignments he worked on when he was just out of college. "That's sad," I commented. "That's bad," he corrected me.

Why stay? Where would he go? Subconsciously, he supposes he knew that his decision to testify could abort his career, "but I hadn't really prepared for it." When he was fired, Fitzgerald went job hunting and found he had speedily been marked "a bad guy." As time went on, the labeling became more imagnitive. Eventually, he was to learn that the dossier the department had been building on him proposed that he was simultaneously a womanizer and a homosexual.

A registered democrat, Fitzgerald described his ideology as "tightwadded." He has a wife who he says has been unstintingly supportive and three children who he believes have not suffered unduly from his career problems.

But "The Case," a multimillion-dollar damage suit against Defense Department officials responsible for the loss of his job eight years ago, occupies a good deal of his time. Luckily for Fitzgerald, he finds life irrepressibly comic. Late last winter, he was invited to address a gathering of Defense rank-and-file employees. The Defense supergrader, with his G–17 rating, faced 100 members of the American Federation of Government Employees who would normally see him as management. They loved him, they cheered him and they gave him an award—a silver whistle. Fitzgerald was enormously pleased. But he noticed that it had been mounted on a plaque, and thereby rendered inoperable.

Stanley Mazaleski's wife, Charlotte, tells him he can't win; his adversary is too powerful. Sometimes, Mazaleski thinks she may be right, but he can't give up. He really believes that "the truth will win out." It has been more than two years since he was fired from his $17,800-a-year job with the Public Health Service, and his life is a shambles. A Ph.D. in preventice medicine, he could not find work in his field for 17 months. For a period, he worked nights as a security guard near his home in Monrovia, Md., and his teenage daughter, eldest of his four children, took a job in a Hot Shoppe to help support the family. Last winter, money was so short that the family lived mostly on potatoes, which Mazaleski, a farm boy from Pennsylvania, had grown in the garden. The debts have piled up, and his creditors are pressing for payments he cannot make; the bank is threatening to foreclose the mortgage on his four-bedroom house; his marriage is desperately strained; friends have fallen away and relatives in Government service who are apparently nervous about their social connections exclude him from family gatherings.

In January, Mazaleski finally found work in Washington with the Environmental Protection Agency, but it is temporary and likely to end any day now. He writes letters incessantly to officials in and out of Government, beseeching help which never comes.

A large, genial, sad-eyed man, Mazaleski went to work for the National Institute of Occupational Safety and Health, a P.H.S. agency, four years ago. His job was to write reports on a variety of dangerous and possibly carcinogenic chemicals used in industry and to develop standards, required by new legislation, for protecting the health of workers exposed to these materials.

Before the year was out, Mazaleski was in trouble. He insisted, against considerable resistance by the medical authorities over him, that the chemical cadmium may cause prostate cancer. A year later, the professional literature proved him right. He said the industry should be required to keep medical records for 20 years on workers exposed to chloroform, a suspected cause of cancer and birth defects; over his protest, the N.I.O.S.H. management reduced the period to a worthless five years. He filed a grievance against a superior who had dealt rudely with him. He complained to superiors that evidence he needed for his work was being withheld. He wrote letters to Congressmen bemoaning delays for setting safety standards, delays that probably made life easier for industry but surely imperiled the health of millions of workers. His criticism found its way into The New York Times early in 1975.

In March 1975, he was fired for "marginal and substandard performance" and for "insubordination." Mazaleski's fate, said Albert R. Lauderbaugh, a senior P.H.S. official who tried to help settle the affair before it reached the firing stage, was "an almost classic example of management's reaction to an internal critic." Mazaleski's former boss, Dr. John May, insists, "His charges have no validity whatsoever. He was fired because he didn't do his job."

What is so bewildering to Mazaleski is that he had spent a lifetime doing the right thing. When the Korean War began, he was about to enter college and he gave up a scholarship to enlist in the Navy. After four years of service, he came home and worked hard on his father's farm, spending six years in evening studies to earn a college degree. He has always been a popular and successful student. He is 44, an exceedingly earnest man who believes in God, the Constitution and conservative government. Sitting in a cramped little office we had borrowed for the interview. I wondered aloud whether Mazaleski was the kind of householder who regularly hung out the American flag on patriotic holidays. Yes, yes, he did. And on Veterans Day, he related, he always took the family on a pilgrimage to Gettysburg National Park. Abruptly, Mazaleski's eyes filled with tears and for several minutes he could not talk.

In the spring of 1976, after President Ford said he wanted every man, woman and child in the country vaccinated against swine flu, the only scientific voice raised against the program belonged to Dr. J. Anthony Morris, a virologist. Even in intimate conversation, the voice is lecture-hall loud; the speech is fluent and precise, the tone self-confident, the inflections an echo of his boyhood in Maryland. Tony Morris, a Ph.D., is a vaccine specialist and he is especially knowledgeable about flu vaccine. He has worked productively and successfully for the Government for most of his life and he has been in trouble with the bureaucracy before for protesting rather insistently that there is no such thing as an effective flu shot—a judgment that could only bring unhappiness to the businesses that make flu vaccines and the doctors who inject them by the millions each year. Taking on the bureaucracy is, at best, risky; tangling with an entire administration is an act of breathtaking nerve. In his zeal to alert the public last year, Morris had seminars on the N.I.H. campus in Bethesda, Md., sent letters to newspapers and Federal

health officials and talked to reporters. His message was that no evidence whatsoever existed that swine flu embodied the virulence of the 1918 pandemic and that, in any event, the vaccine on hand was totally worthless. Most serious of all, it was certainly dangerous. Morris could not predict that it would paralyze and kill anybody, but he did know and warn that it could cause a hypersensitivity in some people that would trigger a whole range of grave illnesses.

That is precisely what happened the following December. By then, Morris, at 58, had been fired from his $32,000 research job at the Bureau of Biologics by Food and Drug Administrator Alexander Schmidt. Schmidt found him guilty of "insubordination and inefficiency." Moreover, his behavior toward his colleagues and superiors "directly challenged the integrity of scientific progress." The Civil Service Commission has upheld the insubordination charge even while acknowledging that Morris's science was sound, and the case is now on its way into the courts.

In 35 years of Government service, Morris has prudently put away money for his retirement, savings that were to have financed travels with his wife. It's almost all gone. He is inflexibly cheerful about all this. Morris says he would rather have his problems than carry on his conscience the burden of people killed or crippled as a result of a staggering sweep of official stupidity.

An extremely reticent man, Morris does not like to talk about his experience in personal terms. But he was willing, finally, to share one lasting lesson of his life. "In 1940, I went to work for one of the truly great men of science, Joe Smadel." After training under Smadel, Morris moved on to other jobs, until Smadel called him back. Smadel had become associate director of the National Institutes of Health.

But Smadel had changed. He had been a dedicated and important advocate of polio vaccine since its release. But a research worker at N.I.H. discovered that the monkey kidney tissue in which polio vaccine had been propagated contained a virus called SV–40 which caused tumors in hamsters. There was no way of knowing whether medical science had conquered polio at the risk of provoking a new affliction. "Joe Smadel couldn't believe it. It was a frightening thing. It's still frightening. That information was held up for two years before it was made public, and I saw Joe Smadel fall apart under the pressure of keeping it quiet. He had gotten himself into a tremendous intellectual box. I said then that never, if I had anything to do about it, would I be caught in an intellectual box like Joe found himself in."

"I get a kick out of outfoxing the bastards. Where else could I be such a son of a bitch and be on the right side?" If there is an ideal position from which to pursue whistleblowing as a steady avocation, Dr. John Nestor occupies it. For 16 years, he has been bedeviling the Food and Drug Administration, which employs him. Since he is a bachelor, there is no family to worry about. He has a crusty self-assurance reminiscent of all the authoritative older-doctor roles Lionel Barrymore used to play. Rude, abrasive, difficult, obstreperous, rigid, inflexible—Nestor has been called all that and more. He will obligingly recite the complaints, observing that none of these flaws is as grievous as the official mendacity he sees all the time.

Nestor, now nearing 65, went to work for F.D.A. in 1961 as a reviewer of drugs for heart and kidney ailments. Nestor was not at F.D.A. long before he concluded that the agency was and had always been the captive of the industry it is supposed to regulate and so he has testified in numerous appearances at Congressional hearings.

In 1972, Nestor was "promoted" into the F.D.A. Office of Compliance—which oversees industry compliance with agency rules—an activity for which he had neither the appetite nor the experience. He has been kicking and fussing ever since. Three years ago, he and a dozen other F.D.A. employees appeared at a hearing before an inquiry conducted by Senator Edward Kennedy and offered testimony charging the agency with corrupt practices in drug approval and with the harassment of dissident employees. The complaints have been investigated, most recently by a special panel which delivered a 766-page report last April. It concluded that the charges were accurate. It also said that officials had lied. The report said Nestor was owed a formal apology, payment of his legal costs and a new position where his talents would be used. He is still waiting.

Nestor is an assiduous leaker. What he knows and what other agency employees feed him (Ernest Fitzgerald calls them "closet patriots") finds its way steadily into the files of Congressional investigators, consumer advocates and media folk. "Let me tell you," he commented over a beer, "the Freedom of Information Act hasn't opened up the Government. The duplicating machine has. I have kept very busy."

Al Louis Ripskis, a slender, mild-mannered bachelor of 40, now has the routine job of program analyst at the Department of Housing and Urban Development. "Paper-shuffling," he calls it contemptuously. The job has no psychic rewards, a dreary state of affairs for a man who went to Federal housing 16 years ago with more idealism than was good for him. But Impact fills the need.

Impact is a "leaksheet," neatly mimeographed, $5-a-year report of almost everything that can go wrong at one public agency. Ripskis writes it with the help of anonymous regional correspondents, and on publication morning, before he signs in for work, he is to be found brashly hawking it on the sidewalk in front of H.U.D. Its subscribers include H.U.D. employees, some high agency officials he hopes to alert to the latest criticism, muckraking reporters in and out of Washington, the Office of Management and Budget and the Library of Congress. The H.U.D. Secretary gets one free. Ripskis says he is out of pocket about $3,000 a year on production costs.

In five years of publication, he has chronicled mismanagement, incompetence, waste and stupidity at his agency, assembling in print the kind of details that rarely get beyond the gossip hour around the water cooler. He flashily reported that a new housing project in Minneapolis lacked adequate elevators but had a brothel and that a high-ranking H.U.D. official seldom traveled anywhere without his mistress. In recent years, he has nagged at H.U.D. for its neglect of the lead-paint problems in housing. In the middle of President Ford's drive against inflation, Impact was reporting that H.U.D. Secretary Carla Hills had spent $82,000 for new air-conditioning for a conference room.

Born in Lithuania, Ripskis spent four years in a D.P. camp in Germany, and remembers it all; the dirt, the crowding, the lack of privacy. As a refugee in America, he lived in Chicago tenements. Out of school, Ripskis got a job with the Public Housing Administration in 1961, planning to stay no longer than two years. "It was to be my own domestic Peace Corps effort." But he began moving up the bureaucratic ladder and he was full of widely admired and widely ignored ideas for making public housing look more like homes than barracks. In 1965, after H.U.D. had become the umbrella agent for housing, Ripskis's innovative approaches carried him to Washington into a key task force called Social Concerns of H.U.D. The notion was that this time the Government was really going to build human concerns into public housing. Ripskis remembers that period as a wonderful time. The group, he says, wrote a wonderful report. And, in the end, it was interred wherever good Government reports go to die.

That and the fate of a H.U.D. co-worker laid the groundwork for impact. The newsletter's predecessor was Quest, an in-house underground journal published by a friend who, as a result, was briefly exiled to Alaska. Setting out on his own soon after, Ripskis planned the way with canny caution. "I have managed to survive with a minimum of harassment, and it was not by accident. The critical choices came in the beginning. If they decide to fire you at the start, it's hard to reverse the bureaucracy once it gets rolling. But I started muckraking and kicking up a lot of publicity, and I became well known, so the department knew it would be bloody if they canned me."

Ripakis's modest success is instructive. The whistleblower must not only be strong and knowledgable, but exceptionally careful. Most people who wind up in the fraternity begin almost accidentally, expecting gratitude and encountering indeed, a stone wall of either indifferences or hostility.

Some people have mused that that the hazards were so great it might be sensible for the public-spirited bureaucrat to stay on the job, stay anonymous and simply "leak for life." That choice, of course, is made daily by hundreds of middle-management employees who become regular and protected sources for reporters and Congressional investigators. It's one way to serve the public interest without pain and intense public drama. What would recent American history have been, for example, without those grand panjandrums of whistleblowing. Daniel Ellsberg, who xeroxed the Pentagon Papers, and Victor Marchetti, the first to tell us how the C.I.A. really works.

On the other hand, nothing about the activity guarantees it will fill a real need or gain wide public support. One of the celebrated whistleblowers of the early 1960's was Otto Otepka, the chief of security at the State Department who earnestly believed subversive held down Government jobs in his agency. He leaked confidential loyalty files to the Senate Internal Security subcommittee, which was still pursuing "Reds" in Government. Otepka was demoted, wiretapped and harassed in other illegal ways. In that case, it was not the advocates of free speech or open government who came to his support; Otepka found his modest constituency in the John Birch Society.

As it stands now, the civil servant who squawks is apt to be regarded at worst as a Judas, at best as a foolish aberration. One of the main priorities of the I.P.S. Project for Government Accountability is to institutionalize whistleblowing, to create a climate where it is easier and even commonplace for a public servant to deliver up to the public details of waste and deceit in his agency.

"We don't want saints and heroes," says Ralph Stavins, an I.P.S. fellow who heads the project. "We want this made automatic and procedural."

The I.P.S. literature on the subject includes a flashy red-white-and-blue brochure with a cover exhorting Federal workers to "Point Out Illegality, Inefficiency and Waste." Its final words are from one of President Carter's campaign speeches. Ten days before the election, Carter declared, "I intend to seek strong legislation to protect our Federal employees from harassment and dismissal if they find out and report waste or dishonesty by their supervisors or others.

The Fitzgerald case, where a dedicated civil servant was fired from the Defense Department for reporting cost overruns, must never be repeated."

A number of people including Fitzgerald took heart from that notice, but not much has happened lately to suggest a safer future. Carter's Civil Service Commission chairman, Alan Campbell, went to the conference and brought greetings from the President and extremely cautious expression of his own sympathies.

When I talked to him a few weeks later, Campbell said no legislation was ready and none likely to be until early next year. Moreover, while the Administration might eventually offer some protection to future whistleblowers, retroactivity for those who had suffered penalties was unlikely. But he felt it important to stress a new spirit in the commission demonstrated by a recent in-house inquiry. An investigation had just concluded that two officials in the General Services Administration in Philadelphia had been improperly demoted after protesting Nixonian abuses of the merit system. Exoneration had required a four year fight. Campbell hopes the whole process can be accelerated.

Campbell's views on the entire subject are clearly divided. On the one hand, he has the Sisyphean job of getting the bureaucracy functioning more efficiently, on the other hand, he seems to see the task as separate from and possibly complicated by the problems of an individual bureaucrat who protests inefficiencies that make it hard to work efficiently. He had just come back from a tour of regional offices where he found middle-level management personnel complaining they were stifled by restrictions against penalizing employees. "If anything," he said, "one can argue that the system is too cumbersome if what you are concerned with is getting on with the job. A whistleblower may be a perfectly straight and absolutely right person or he may be a troublemaker. One can't assume."

In Campbell's view, there are "Inevitable limitations" on employees' rights to speak out. After all, a middle-management executive in private industry who peaches on his boss can expect immediate dismissal. As an example of the Government's right to curtail free speech where it interferes with policy, he cites the Carter recall of General Singlaub from Korea. Campbell says he sees no real difference between a U.S. Army general objecting to the removal of U.S. troops from Korea and a Pentagon cost analyst telling Congress about a gross waste of public funds. But there is a difference: A general in the United States, by tradition, is forbidden to make foreign-policy statements. A competent and honest bureaucrat is a permanent public servant who owes his allegiance to the Government and, beyond that, the taxpayer.

Campbell is thinking of moving the Civil Service appeals procedure into a separate agency so that the commission is no longer in the position of both making the rules and judging whether they have been violated. Otherwise, he is not entirely sure that any new law can be composed that would provide better protection than now exists. Congress does not entirely agree. At the most recent count, at least six legislators were considering new approaches to the problem. One is an I.P.S. model bill called "Openness in Government," which not only would pay legal costs to the wronged civil servant but would also punish his punisher.

A controversial proposal in the bill would set up an Office of Administrative Oversight, an ombudsman agency that would advise whistleblowers and investigate complaints of unfair, punitive treatment. Of course, that would mean yet another bureaucracy. And there is no telling how long it would be before some civil servant from the Office of Administrative Oversight blew the whistle on the ombudsman for whistleblowers ●

## A GIANT STEP FOR CLEVELAND

### HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Ms. OAKAR. Mr. Speaker, in our continuing quest for scientific and technological advancement, permit me to share with you one of the newest sources of pride in my 20th District in Ohio.

On Monday, the Lewis Research Center of the National Aeronautics and Space Administration will be dedicating its new Visitor Information Center. This impressive undertaking not only opens up new educational horizons for visitors from and to the greater Cleveland area, but more importantly, it is a sign of progress and stability for one of our greatest assets that can now be shared.

The same space age imagination that propelled our dramatic manned flights to the moon is the very foundation of NASA. Spirits of workers at NASA's 11 centers and stations should be bouyed by the dedication of this new facility. It is a sign of our commitment to the steady pursuit of advancements in aeronautical and space research to enhance the quality of life for us all. It also is a positive indicator following months of negative comments since the Office of Budget and Management last fall proposed across-the-board personnel cuts for NASA. We cannot and should not cripple our research efforts, as I have pointed out to NASA officials from both Washington headquarters and Lewis Research Center.

The New Visitor Center is a step toward strengthening our efforts as we stress the usefulness of NASA research to all of those who will partake of this new service.

This giant step at Lewis Research Center in Cleveland is, in fact, a giant step for mankind. I share with you NASA's own description of this new Visitor Information Center:

Six years in the making, the new Lewis Visitor Information Center is one of the more unusual facilities of its kind in the country. It is not so much a museum as a living reflection of today and tomorrow in the world of space, air travel, and terrestrial applications of space, with the emphasis on Cleveland Lewis' continuing contributions to these programs. There are 10,000 square feet of exhibit area, hundreds of working models and striking graphics, a 150-seat theater, and a Resource Library filled with audio visuals of all kinds primarily for educators. The Visitor Information Center is at one and the same time a lasting tribute to the skills and imagination of the men and women of the Lewis Research Center and a rich community asset of which every Greater Cleveland can be proud.●

## AGRICULTURAL EXPORTS REPORT

### HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. HAGEDORN. Mr. Speaker, in the long run, it will be expanded market development, rather than expanded governmental programs, that will provide the key to farmer prosperity. For this reason, it is some concern that the volume of U.S. agricultural exports declined in 1977 for the first time since 1974, falling from 104 million tons in 1976 to 99 million tons in 1977. Particularly hard hit were wheat and feedgrain exports which declined in volume by 8 and 6 percent respectively, and whose total export value dropped 23 percent from $10.1 to $7.8 billion.

Despite this, higher aggregate farm prices, particularly in the first half of the year, resulted in record values for U.S. farm exports reaching $23.7 billion. Soybean and cotton exports were major contributors to this situation. Although agricultural imports rose by $2.5 billion during this period from $11 billion to $13.5 billion, the U.S. agricultural surplus of $10.2 billion represented the fourth consecutive year in which this surplus exceeded $10 billion.

I would like to include in the RECORD at this point a summary of the agricultural export situation in 1977 published in Foreign Agriculture by Sally B. Byrne, an economist with the Department of Agriculture:

HIGHER PRICES PUSHED 1977 U.S. FARM EXPORTS TO RECORD VALUE

(By Sally B. Byrne)

The value of U.S. agricultural exports continued to rise in calendar 1977, reaching $23.7 billion.

Higher prices created the gain. Export volume fell from 104 million tons to 99 million.

The export price index averaged well above the 1976 level, although prices dropped after peaking in May.

Except for feedgrains and wheat, exports of most agricultural commodities rose in both volume and value during 1977.

Because of lower prices and reduced volume, the value of wheat and feedgrain exports dropped by $2.3 billion.

The largest export value gains were made by cotton, soybeans, animal fats, vegetable oils, and prepared feeds and fodders.

The export unit value for wheat averaged more than a fifth below that of 1976, and the feedgrain unity value was down more than a tenth.

However, export prices averaged higher in 1977 for most other commodities, including oilseeds and products, cotton, tobacco, rice, cattle hides, and animal fats.

The value of U.S. agricultural imports jumped from $11 billion to $13.45 billion in 1977. Much of the increase was a result of higher prices for tropical products—cocoa, tea, and spices, as well as coffee.

Imports of green and processed coffee were up 49 percent to $4.24 billion in 1977. Imports of meats and vegetable oils declined in volume. U.S. sugar imports increased 27 percent in volume, but the lower import unit value offset that rise.

The U.S. agricultural trade surplus totaled $10.2 billion in 1977, while the overall U.S. trade deficit in that year was $27 billion.

U.S. agricultural exports to developed countries rose 6 percent to $14.6 billion in 1977. Larger values were recorded for shipments to Japan, Western Europe, and Canada.

Exports to developing countries were higher by 8 percent to $7.4 billion in value. Strong growth occurred in exports to the Middle East, Latin America, Africa, and the Far East.

However, shipments to South Asia dropped by almost half. That region is benefiting from good crops and expanded food supplies.

Exports to the centrally planned countries dropped significantly in 1977. The value of shipments to the USSR declined from $1.49 billion to $1.04 billion.

Direct shipments to Eastern Europe fell from $927 million to $604 million. In addition, a significant volume of grains and oilseeds is transshipped through Western Europe to Eastern Europe.

U.S. GRAIN SHIPMENTS

U.S. exports of wheat and wheat products declined 8 percent in volume during 1977 to the lowest level since 1972.

The export unit value averaged $115 per ton, down from $147 per ton in 1976. World wheat harvests and exportable supplies have been large in both 1976/77 and 1977/78.

Japan remained the largest U.S. wheat market during 1977, with shipments totaling 3.32 million metric tons.

Exports to the USSR rebounded to 3.02 million tons. Sharp increases were made in shipments to Iran, Portugal, Mexico, and Taiwan. Exports to Egypt rose 4 percent in volume.

The decline in U.S. wheat exports was concentrated in a few areas of substantial reductions—the European Community (EC), Eastern Europe, South Asia, and Brazil. Exports to Korea fell 5 percent to 1.80 million tons.

Large world coarse-grain crops reduced U.S. feedgrain and product exports in 1977. Although 6 percent below the 1976 level, 1977 exports were the second largest on record. The export unit value dropped from $114 per ton to $101.

Much of the decline in U.S. feedgrain exports was recorded in shipments to the EC, the USSR, Eastern Europe, and Spain. Exports also declined to Canada and Egypt.

U.S. feedgrain exports to Japan rose 17 percent to 10.3 million tons. Exports were sharply higher to Portugal, South Korea, Taiwan, Greece, and Israel.

In 1977, U.S. rice exports rose 11 percent in volume to 2.27 million tons—a new calendar-year high. Iran became the largest market for U.S. rice, taking 477,000 tons (up from 239,000 tons in 1976). Exports rose 241 percent to Nigeria and 466 percent to Saudi Arabia. Shipments to the Soviet Union, Canada, and South Africa also increased significantly.

U.S. rice exports to India, Bangladesh, and South Korea dropped sharply in 1977. Exports to Indonesia fell 36 percent to 250,000 tons. Volume declines were recorded for exports to West Germany, Portugal, and the Netherlands.

SOYBEAN EXPORTS CLIMB

U.S. exports of soybeans and soybean meal combined topped the 1976 record of 21.5 million tons (soybean basis).

Larger bean exports offset a reduction for soybean meal. The increase demonstrates the strength of foreign demand for U.S. soybeans.

U.S. supplies were low following the short 1976 crop, and prices were sharply higher.

The export unit value reached a high of $352 per ton in May, and averaged $271 per ton for the year, compared with $216 in 1976. The meal export unit value was up a fourth.

U.S. soybean exports to the EC were up 4 percent to 7.51 million tons. Exports to Japan were up 11 percent to 3.42 million tons.

Shipments to Spain and Taiwan dipped marginally. Exports to the USSR totaled 565,000 tons, just below 1976's 571,000.

U.S. oilmeal exports to the EC, Eastern Europe, and Spain dropped substantially in 1977. Larger shipments were made to Japan and Canada.

U.S. exports of vegetable oils and waxes increased 30 percent in volume and 42 percent in value in 1977.

Soybean oil exports were up 52 percent in volume and cottonseed oil exports were up 40 percent. Exports of peanut and other oils declined.

Total U.S. fats and oils export to India rose from 70,000 tons to 252,000 tons in 1977.

Exports to Egypt rose 36 percent to 207,000 tons. Substantial gains occurred in shipments to Latin America, the Netherlands, and Iran.

Sharp reductions were recorded in U.S. vegetable oil exports to Pakistan, Bangladesh, and Japan.

U.S. cotton exports (excluding linters) rebounded in 1977, rising 30 percent above 1976's depressed volume. The unit value averaged $344 per 480-pound bale, up from $306.

South Korea was the largest market for U.S. cotton, with shipments of 933,000 bales, 12 percent above the 1976 level.

Exports to Japan rose 9 percent to 906 million bales. Significant volume increases were recorded for exports to Hong Kong, Taiwan, Indonesia, and Western Europe. Exports to India totaled 137,000 bales, and those to Egypt, 110,000 bales.

TOBACCO EXPORTS $1 BILLION FOR FIRST TIME

U.S. exports of unmanufactured tobacco (including bulk smoking tobacco) increased 8 percent in volume in 1977. Value jumped to $1.11 billion, exceeding $1 billion for the first time.

Developing countries provided the expansion in tobacco exports. Shipments to developing countries rose 25 percent to 75,000 tons in 1977. Egypt and Taiwan were two of the fastest growing markets.

Exports to the EC were about unchanged in 1977. The 35 percent reduction in exports to the United Kingdom was offset by larger exports to Denmark, the Netherlands, Italy, and West Germany.

U.S. exports of animals and animal products rose 12 percent in value during 1977. The growth was shared among many products.

Led by a 27 percent volume increase for nonfat dry milk, dairy product exports rose 28 percent in value.

Inedible tallow exports jumped 24 percent in volume to a record 1.31 million tons in 1977. The value increased 34 percent to $504 million.

U.S. AGRICULTURAL EXPORTS: VALUE BY COMMODITY, CALENDAR 1974–77

| Commodity | Millions of dollars | | | | 1975/76 change (percent) |
|---|---|---|---|---|---|
| | 1974 | 1975 | 1976 | 1977 | |
| Animals and animal products: | | | | | |
| Dairy products | 76 | 148 | 142 | 176 | +24 |
| Fats, oils, and greases | 585 | 360 | 443 | 592 | +34 |
| Hides and skins, excluding furskins | 337 | 407 | 518 | 578 | +12 |
| Meats and meat products | 301 | 432 | 617 | 610 | −1 |
| Poultry and poultry products | 138 | 158 | 263 | 312 | +19 |
| Other | 339 | 187 | 397 | 399 | +1 |
| Total animals and products | 1,776 | 1,692 | 2,380 | 2,667 | +12 |
| Grains and preparations: | | | | | |
| Feedgrains and products | 4,698 | 5,283 | 6,024 | 4,907 | −19 |
| Rice | 852 | 858 | 629 | 698 | +11 |
| Wheat and major products | 4,634 | 5,353 | 4,086 | 2,932 | −28 |
| Other | 127 | 126 | 136 | 143 | +5 |
| Total grains and preparations | 10,311 | 11,620 | 10,875 | 8,680 | −20 |
| Oilseeds and products: | | | | | |
| Cottonseed and soybean oil | 695 | 466 | 368 | 640 | +74 |
| Soybeans | 3,537 | 2,865 | 3,315 | 4,393 | +33 |
| Protein meal | 999 | 672 | 899 | 968 | +8 |
| Other | 478 | 449 | 488 | 629 | +29 |
| Total oilseeds and products | 5,709 | 4,452 | 5,070 | 6,630 | +31 |
| Other products and preparations: | | | | | |
| Cotton, excluding linters | 1,335 | 991 | 1,049 | 1,529 | +46 |
| Tobacco, unmanufactured | 886 | 877 | 940 | 1,109 | +18 |
| Fruits and preparations | 596 | 699 | 770 | 835 | +8 |
| Nuts and preparations | 156 | 169 | 198 | 240 | +21 |
| Vegetables and preparations | 473 | 504 | 674 | 631 | −6 |
| Feed and fodders | 272 | 313 | 449 | 592 | +32 |
| Other | 485 | 567 | 592 | 758 | +28 |
| Total products and preparations | 4,203 | 4,120 | 4,672 | 5,694 | +22 |
| Total | 21,999 | 21,884 | 22,997 | 23,671 | +3 |

| | Thousand metric tons | | | | 1975/76 change (percent) |
|---|---|---|---|---|---|
| | 1974 | 1975 | 1976 | 1977 | |
| Wheat and products | 26,242 | 32,053 | 27,772 | 25,525 | −8 |
| Feedgrains and products | 37,472 | 40,383 | 51,568 | 48,490 | −6 |
| Rice | 1,725 | 2,138 | 2,106 | 2,181 | +4 |
| Soybeans | 13,940 | 12,496 | 15,332 | 16,196 | +6 |
| Oilmeal | 5,157 | 3,950 | 5,043 | 4,366 | −13 |
| Vegetable oils | 963 | 858 | 1,028 | 1,337 | +30 |
| Cotton, excluding linters | 1,171 | 870 | 778 | 1,016 | +31 |
| Tobacco | 313 | 263 | 269 | 290 | +8 |
| Total | 86,983 | 93,011 | 103,835 | 99,490 | −4 |

## UNILATERAL UNARMAMENT: THE UTGOFF UNPRINCIPLE

### HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. DICKINSON. Mr. Speaker, I stood in the well of this House on Thursday afternoon, April 13, to warn my colleagues of the primrose-path approach to national security and national survival the Carter administration was taking. In this morning's Washington Post—April 17—Evans and Novak discuss in great detail a principal author of the "unilateral unarmament" negative philosophy. The National Security Council does not preach unilateral disarmament because that would be too obvious. But let every strategic system decay or become highly vulnerable—that is OK. Give your policemen guns, but no bullets. When you try to stop a miscreant under such circumstances—that is, Angola, Somalia, Rhodesia—your only threat is "Halt! Or I'll click my trigger!"

The "Utgoff principle"—as explained to Evans and Novak by the NSC deep thinkers—sounds suspiciously like the situation wherein one finds oneself only a "little bit pregnant." To quote:

While determined the United States should never be inferior, Utgoff added he equally feared being superior because it might encourage irresponsible U.S. conduct. An NSC go-between explained to us that Utgoff meant that if either Washington or Moscow thought it had strategic advantage, high-risk confrontation might result.

Mr. Speaker: Every day it becomes more obvious why the U.S. Navy is in deep trouble, why Minuteman will soon be at the mercy of Soviet ICBMs, with no alternative in sight, why there is no B–1, why the B77 bomb was eliminated. A few more cost problems and the Trident will probably be scrapped. Mr. Speaker, we are fast approaching the degredation of the Triad into a "Duad," then into a Monad and probably a "Nonad." Why must this happen? Because the NSC staff does not understand the world in which it is trying to survive. Let us take one very clear example—the enhanced radiation decision. We have been led to believe that the President hopes to use the production or nonproduction of ER weapons as a bargaining chip. How did the Soviets react? The Washington Post of April 17, today, has the AP clip from Moscow:

PRAVDA ON NEUTRON BOMB

Moscow.—The Soviet Union said yesterday that the U.S. decision to delay production and deployment of the neutron bomb will be a useless "trump card" in arms negotiations. "It is perfectly clear that the neutron bomb is not a subject in the discussions now under way between the U.S.S.R. and the U.S.A.," said Yuli Yakhontov in a Pravda commentary three days before the arrival of Secretary of State Cyrus R. Vance.

Evans and Novak conclude their article by referring to unknown, but obviously powerful, policymaking middle-level staffs:

For Utgoff is not unique. Middle-level officials, seared by the flame of Vietnam, cannot trust their country to handle power responsibly. They incline to Pogo's Vietnam slogan, posters of which have adorned the walls of the U.S. Arms Control Agency: "I have met the enemy and he is us!"

The Utgoff principle raises doubt whether officials carrying that national self-image can effectively negotiate with an adversary not similarly burdened.

Mr. Speaker, the last sentence is the key to all of the problems today in the SALT negotiations—the U.S. negotiators. Let me remind my distinguished colleagues that Genghis Khan was an early ancestor of the Russians. The following quote attributed to Genghis Khan is from Lynn Montross' book, "War Through the Ages," page 144:

The greatest happiness is to vanquish your enemies, to chase them before you, to rob them of their wealth, to see those dear to them bathed in tears, to clasp to your bosom their wives and daughters.

Mr. Speaker, are we in danger of losing our Democracy?

The referred-to article follows:

THE UTGOFF PRINCIPLE

One of Zbigniew Brzezinski's key technical advisers, privately addressing fellow arms specialists over two months ago, propounded this principle: Better that this country not enjoy a clear arms superiority over the Soviet Union for fear we would sometimes misuse it.

Victor A. Utgoff, director of policy analysis on Brzezinski's National Security Council staff, thereby set off spirited debate within the small, contentious community of strategic experts. Although he complains off-the-record comments are being taken out of context, the Utgoff principle explains much about national security policy in the Carter administration.

His remarks reflect self-distrust among middle-level officials. Fearful that the United States will make no more principled use of military power than the Soviet Union, they are concerned not only about deterrence in Moscow but also self-deterrence in Washington. That mind-set among technical advisers may explain why even nontechnician Brzezinski, traditionally a hard-liner, has not escaped charges of softness toward the Kremlin.

Utgoff addressed 840 weapons experts in Monterey, Calif., Feb. 1 at a conference sponsored by the American Institute of Aeronautics and Astronautics. He refused to talk to us or give us the text of his speech. However, NSC staffers have corrected and amplified accounts given us by those present.

In no sense did Utgoff advocate unilateral disarmament. Describing the Carter administration's commitment to strategic arms control as an "article of faith," he called for "strategic equality . . . through adequately, verifiable arms-control agreements." If that is "impossible," he advocated "whatever programs are necessary for our national security," adding, "We'll pay whatever price it takes."

What followed, however, began to raise eyebrows: "We cannot afford to allow ourselves to drift into significant strategic inferiority," Utgoff said. But what is "significant" inferiority? He soon argued that superiority is no blessing.

Losing superiority would "not be the end of the world," he said. "Some of our advantages are fading, and in some cases, it might be to our advantage to allow U.S. superiority to fade away," Utgoff said. Why? NSC staffers told us Utgoff feels losing U.S. superiority in submarine-based missiles might induce the Soviets toward fewer land-based missiles—a highly debatable proposition.

Utgoff's speech reaches the heart of what bothers him about U.S. weapons superiority. "I suspect we would occasionally use it as a way of throwing our weight around in some very risky ways." That is the essence of self-deterrence. If we do not have mobile missiles, neutron warheads and a superior Navy, we cannot be tempted to use them.

Those attending Utgoff's speech were instructed it was strictly off the record. Nevertheless, a set of surreptitious notes soon circulated in Washington, and was read at a conference at the Army-Navy Club here March 21. While those nonverbatim notes are incomplete, they do not differ in substance from the NSC official version given us.

Utgoff, 39, holds a doctorate in electoral engineering and was known as an advocate of "minimum deterrence" as a systems analyst at the Center of Naval Analysis before joining this administration. His newness to high-level policymaking explains what colleagues call his outrage that his speech (delivered to 840 people) leaked out. NSC officials told us Utgoff was "brainstorming," an unusual description for a prepared speech.

Nevertheless, he was back propounding the Utgoff principle March 27 in private conversation with a naval officer. While determined the United States should never be inferior, Utgoff added he equally feared being superior because it might encourage irresponsible U.S. conduct. An NSC go-between explained to us Utgoff meant that if either Washington or Moscow thought it had a strategic advantage, high-risk confrontation might result.

Utgoff's speech was not cleared by superiors and is not government policy, the NSC spokesman told us. Surely, it does not reflect the world view of Brzezinski. But as a non-expert in the mysterious world of arms control, Brzezinski depends on technicians who share the considerably different world-view of Vic Utgoff.

For Utgoff is not unique. Middle-level officials, seared by the flame of Vietnam, cannot trust their country to handle power responsibly. They incline to Pogo's Vietnam slogan, posters of which have adorned the walls of the U.S. Arms Control Agency. "I have met the enemy and he is us" (posters of which have adorned walls of the U.S. Arms Control Agency). The Utgoff principle raises doubt whether officials carrying that national self-image can effectively negotiate with an adversary not similarly burdened.●

## THE CAUSE OF INFLATIONARY BUDGET DEFICITS

### HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Ms. HOLT. Mr. Speaker, we recently received a letter from two colleagues who advised us that proposed tax reductions are responsible for the 1979 inflationary budget deficit.

The authors are suggesting that we ignore the record of Congress in recent years, forget that the Federal budget is out of control, and pretend that runaway spending is not occurring.

To remind everybody of that record, I am submitting for your consideration a comparison of actual 1973 Federal out-

lays with the outlays proposed for 1979 by the House Budget Committee. The chart shows the percentage increase in each function and the total percentage increase in the budget. You will see that the Federal budget will have doubled in just 6 years if we accept the House Budget Committee's recommendation.

Taxpayers around the country are steaming angry about that record, and I share their anger. Here is the truth about the cause of wildly inflationary budget deficits:

FEDERAL BUDGET DOUBLES IN 6 YEARS

[Outlays in millions of dollars]

| | Function | Fiscal year 1973 | Budget Committee fiscal year 1979 | Change, 1973 to 1979 (percent) |
|---|---|---|---|---|
| 050 | National defense | 74,541 | 115,679 | 55 |
| 150 | International Affairs | 4,036 | 6,600 | 64 |
| 250 | General science, space, and technology | 4,030 | 5,027 | 25 |
| 270 | Energy | 1,180 | 9,252 | 684 |
| 300 | Natural resources and environment | 4,714 | 12,013 | 155 |
| 350 | Agriculture | 4,855 | 12,188 | 151 |
| 370 | Commerce and housing credit | 860 | 3,700 | 330 |
| 400 | Transportation | 9,070 | 17,809 | 96 |
| 450 | Community and regional development | 4,593 | 10,291 | 124 |
| 500 | Education, training, employment and social services | 12,735 | 31,429 | 147 |
| 550 | Health | 18,832 | 49,550 | 163 |
| 600 | Income security | 72,958 | 159,339 | 118 |
| 700 | Veterans benefits and services | 12,013 | 20,471 | 70 |
| 750 | Administration of justice | 2,131 | 4,214 | 98 |
| 800 | General government | 2,682 | 4,059 | 51 |
| 850 | General purpose fiscal assistance | 7,351 | 9,237 | 26 |
| 900 | Interest | 22,813 | 47,000 | 106 |
| 920 | Allowances | | 1,000 | |
| 950 | Undistributed offseting receipts | −12,318 | −17,500 | |
| | Total | 247,074 | 501,358 | 103 |

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## FLORIDA POWER CORP. PIONEERS NEW FUEL SOURCE

### HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. FUQUA. Mr. Speaker, it gives me a great deal of pleasure to bring to the attention of the Congress a bold and innovative program in the field of energy being carried out by the Florida Power Corp. in my great State.

The program combines a scarce resource, oil, with a bountiful one in this Nation, coal.

By pulverizing the coal and mixing it with oil, a very acceptable fuel is developed for use in present oil-burning plants.

It goes without saying that it can have tremendous impact on the energy picture throughout this great Nation.

Florida Power Corp. customers in the 32 west-central Florida counties served by the company have been the first consumers in the United States to receive this commercially produced electricity from a powerplant burning this fuel.

The composite fuel, sometimes called "coil," was first used at the company's Crystal River unit 1 on January 25, 1978. On that date, over 1 million kilowatt-hours of electricity were generated using the new fuel, lighting lights, and heating water in homes and businesses from Apalachicola to St. Petersburg. Totally, the company has generated approximately 3.6 million kilowatt-hours from "coil"—enough power to serve 4,075 average households for 1 month.

The concept of mixing coal and oil is not new, dating back to World War I days. However, what Florida Power and its partner in the composite fuel project, the Dravo Corp. of Pittsburgh, have done has attracted national and international attention. By pulverizing coal to face-powder fineness, they have managed to keep it in suspension in the oil for extended periods of time. Experiments in the past of others involved continuous stirring of the mixture to keep the coal particles from settling.

And, the early programs were limited somewhat by the small amount of coal content to the total composition, the Crystal River project has seen ratios of 33/67, by weight, of coal to oil successfully produced and burned. Before the research project's end in late April, Florida Power hopes to have increased that ratio to 50/50.

The composite fuel is made at the Crystal River plant site at the rate of up to 1,000 barrels daily. It is stored in a fuel barge until it is used in the powerplant.

The project has broad implications for a nation heavily reliant on imported petroleum.

First, it shows how the country's most abundant fuel supply—coal—can be utilized in many existing, oil-burning plants. Just as important, the project abundant fuel supply—coal—can be burned in existing plants without modification of burners, boilers or other components thus presenting a potential savings of millions of dollars in capital investment to convert oil fired plants to totally coal fired units.

Among the several other advantages of the composite fuel are:

It can be produced, transported, stored as a concentrate and then diluted before use;

It can be used as either a primary or secondary source of fuel in any oil burning plant and, possibly, in those that now burn natural gas; and

Environmentally, it is a much "cleaner" fuel than coal alone.

This project is one in which I take great pride and commendation is due those who are carrying it forward, particularly the employees at the Crystal River plant. It is already a great success and its implications will be far reaching when other coal burning plants adopt this concept.

It seems to me that this is a prime example of how this Nation, through innovation, can better utilize its dwindling supply of oil as well as cutting out dependence on imports and the consequent drain in our balance of payments with other nations. ●

## UNIVERSITY TO INAUGURATE PRESIDENT, DEDICATE INSTITUTE THIS MONTH

### HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. QUILLEN. Mr. Speaker, the remainder of April is going to be especially noteworthy in the First District of Tennessee, particularly on the campus of East Tennessee State University.

Two events of vital importance to the growth and development of the university will occur within days of each other. One is the April 20 dedication of the Institute for Appalachian Affairs, a newly established entity that symbolizes the dedication of the university to providing educational opportunities for the people of Appalachia, throughout its existence.

The second is the April 28 inauguration of the new president of East Tennessee State University, Dr. Arthur H. DeRosier, Jr.—a man who is the personification of energy, enthusiasm, and erudition.

East Tennessee State University enrolls over 10,000 undergraduate and graduate students annually, with admissions growing each fall. It was founded in 1911 as a normal school for training public school teachers to serve the Appalachian area.

It has grown steadily in scope and quality, until today it offers a wide variety of programs in the arts and sciences, business, technology, and education.

The East Tennessee State University College of Medicine, created with the help of Federal funds from the Teague-Cranston Act, will be admitting its first class of students this fall, and already is serving as a magnet attracting much-needed family physicians to the Appalachian area.

Dr. Art DeRosier will be the fifth president to guide the university in its growth. He is a dynamic educator and administrator who has served on the faculties of the Citadel, Converse College, the University of Southern Mississippi, the University of Oklahoma, and East Tennessee State University. He has been the assistant dean of the graduate school of the University of Oklahoma, as well as dean of the graduate school and vice president for administration of East Tennessee State University. Prior to returning to the Johnson City campus last year, he served as vice chancellor of academic affairs and vice chancellor of the University of Mississippi.

Born in Norwich, Conn., on February 18, 1931, Dr. DeRosier served in the U.S. Air Force from 1948 to 1952. He earned his baccalaureate in history with high honors from the University of Southern Mississippi. His M.A. and Ph. D. in history are from the University of South Carolina.

A Phi Beta Kappa, Dr. DeRosier has authored several scholarly works, including "The Removal of the Choctaw In-

dians," which was published by the University of Tennessee Press and Harper Torchbooks.

In the 9 months since he assumed the duties of the presidency, Dr. DeRosier already has begun a new development program emphasizing private giving, contracts, and grants. A new academic reorganization promises the university even greater potential for meeting the needs of the Appalachian region in coming years, under the leadership of Dr. Arthur H. DeRosier, Jr.

It is, therefore, fitting that his inauguration and the dedication of the Institute for Appalachian Affairs be conducted contiguously.

Though the university historically has worked with many agencies concerned with regional development, there has never been a single academic entity concerned with assisting the people of the region in solving their problems and preserving their culture.

The institute will endeavor to act as a clearinghouse, matching resources with development problems. From a cultural standpoint, the institute will strive to maintain and preserve cultural identity through the sponsorship of regionally oriented festivals and shows. Academically, the institute will take the lead in allying various university offerings into a degree program in Appalachian studies. These pursuits will be broadened with the addition of conferences, workshops, and the encouragement of publications dealing with Appalachian affairs.

April traditionally is a month of awakening, revitalization, and increased awareness of the world around us.

Therefore, it is particularly fitting that the House pause to note the events taking place this month, for they are symbolic, not only of what is happening on the university campus, but in the Appalachian region as a whole.●

## DO ALASKANS SUPPORT H.R. 39?

### HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. YOUNG of Alaska. Mr. Speaker, numerous claims have been made that the people of Alaska support H.R. 39, the Alaska National Interest Lands Act, which was reported out of the Interior Committee this month. These claims are evidently based on letters received from a rather vocal minority of the residents of Alaska, many of whom have spent only a short time in the State.

I have recently entered into the RECORD copies of letters from the Governor of Alaska and the Fairbanks North Star Borough Assembly, both of which opposed enactment of this bill. I would like to add to this list a letter received from Igloo No. 4 of the Pioneers of Alaska. The Pioneers are a civic group open to membership to all Alaskans with a 30-year continuous residency, and therefore this group represents the feelings of long-term Alaskan residents. I hope that the Members of the House will take these views into account when voting on this legislation.

Text of the letter follows:

PIONEERS OF ALASKA,
IGLOO, No. 4,
*Fairbanks, Alaska, March 24, 1978.*

Hon. DON YOUNG,
*United States Representative, Longworth House Office Building, Washintgon, D.C.*

DEAR DON: The accompanying article appeared in the Daily News-Miner, Fairbanks, Alaska, Monday, March 20, 1978.

Discussion of the article was brought to the floor at a meeting of Igloo No. 4, Pioneers of Alaska, held in Fairbanks on March 20, 1978. A motion was made and unanimously passed that Mr. Kevin Harun's letter in regards to HB39 does not express their thoughts on the land lockup. Further, a check with the Fairbanks North Star Borough shows that Mr. Harun did not represent the Borough Assembly in his statement.

For your information, Igloo No. 4, Pioneers of Alaska (Fairbanks) is one of 15 Igloos in the State. It has a membership of 690. One of the requirements for membership is 30 years continuous residence in Alaska and some of its members are 3rd generation Alaskans. As a result, the opinion expressed by this group is based on a long living experience in Alaska. They have had to make their living in Alaska and are well aware of the need for job opportunities that come directly or indirectly from resource development.

They love Alaska and its environment. The fact that so many people want to come to Alaska points out the sound job that early-day pioneers have done in making the State so enticing. It is their contention that people who are tied to the land respect the land, the rights of people, and the wildlife. To deprive the people of land and resources is deeply resented. The growing tendency to empower governmental agencies with the right to plan the development and manage the life style of people residing in a hostile environment repulses imagination, creativity, and initiative.

On the other hand, Mr. Harun, a young man who has been in Alaska for only a few years, is enjoying the benefits and pleasures created through honest toil by those who have gone before and recently he has been employed by the Fairbanks Environmental Center.

We hope you introduce this letter into the Congressional Record and thereby make the thoughts of these long-time Alaskans better known.

Sincerely,

DONALD H. DINKEL,
*President.*●

## WHITE HOUSE HIGH SCHOOL BAND IN CHERRY BLOSSOM PARADE

### HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. GORE. Mr. Speaker, I want to bring to the attention of the Congress the fact that the 88-member marching White House High School band was chosen to represent Tennessee in the Cherry Blossom Festival parade recently held in Washington and did so in superb style.

This band is from White House, Tenn., and is directed by James Story, a 1977 graduate of Tennessee Tech University, Cookeville, Tenn. In his first year as band director at White House, he was singled out for this honor on the basis of his music ability and style, and the excellence of the performing band.

This band has won honors in competition in Nashville, Tenn., at Middle Tennessee State University, Murfreesboro, Tenn., at Tennessee Tech University, Cookeville, Tenn., and in this year's Cherry Blossom parade where it placed third in the class A competition.

Mr. Speaker, there were only 9 winners out of 41 bands. You can readily see, therefore, what a distinction this is. I am proud to extend my congratulations to Mr. Story and to all the members of the White House High School band for winning third place honors in the Cherry Blossom parade. A salute for a job well-done.●

## INTRODUCTION OF AGRICULTURAL EXPORT CREDIT ACT

### HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. LEACH. Mr. Speaker, I am today introducing the Intermediate Term Agricultural Export Credit Act of 1978 as a means of assisting developing nations in meeting the growing demand for wholesome, nutritious food while at the same time boosting the exports of U.S. farm products.

This legislation creates an intermediate Commodity Credit Corp. Credit program which provides loan terms of from 5 to 10 years to develop foreign markets for agricultural commodities including breeding livestock.

Currently the CCC provides only short term loans of 6 months to 3 years under a program begun in 1956 to give the United States a more competitive position with other exporting nations around the world.

This type of legislation not only provides assistance in an area where our farmers are particularly hard pressed but does so at no cost to the taxpayer. These loans would be repaid with interest at a rate of one-half of one percent above the average costs of funds borrowed by the CCC from the U.S. Treasury.

The longer term loans provided by this bill will allow importing nations to utilize the funds for trade and market development activities. For example, a country could use a medium term loan to buy grain and then might use domestic funds which otherwise would have been devoted to purchase the grain to construct local grain storage and unloading facilities while repaying the loan over a 5- to 10-year period.

A 1976 study conducted by the General Accounting Office called attention to the tremendous losses of food in needy countries due to lack of effective unloading and storage facilities. Billions of dollars of food is spoiling without reaching empty stomachs because adequate transportation and storage simply does not

exist. Food losses will multiply unless developing countries and donors of economic assistance concentrate on establishing and maintaining adequate facilities for unloading, transporting and storing food commodities.

Such facilities would accrue to the benefit of the people seeking our food, to the benefit of the American farmer through the foreign nation's increased capability for future purchases, and to the benefit of the entire U.S. economy in assisting our balance-of-payments problem.

Given the competitive disadvantage and the Government restrictions that the United States now labors under in terms of agricultural exports, we are often the residual supplier rather than the first supplier of grain. This bill should help reverse that unacceptable situation.

In 1977 the U.S. portion of the world wheat and coarse grain sales declined. The superior marketing efforts of Canada and Australia accounted for much of this loss. It is clear we need to provide comparable incentives in this country to regain our competitive position. This legislation is a needed step in that direction.●

## LIFT THE EMBARGO

### HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. FINDLEY. Mr. Speaker, Widespread support exists in the United States for the repeal of our arms embargo against Turkey. One demonstration of this support is the large number of newspapers across the country which have given their editorial encouragement to Congress to lift the embargo.

These editorials rightly argue that:

The embargo has not worked.

Instead, the embargo has impeded rather than promoted a settlement on Cyprus.

Continuation of the embargo would undermine fundamental U.S. security interests in the Mediterranean. These are interests we share with all members of the North Atlantic Alliance, Greece and Turkey included.

I urge my colleagues to consider the views represented in these editorials when deciding their vote on the embargo repeal. A sample of these editorials, ordered chronologically, follows:

[From the Washington Post, Mar. 29, 1978]

A NEW LOOK AT CYPRUS

Isn't it time to set the Cyprus issue to one side in the tangled affairs of the eastern Mediterranean and to get on with restoring firm American ties with Turkey and Greece? Does not this approach promise better results in Cyprus itself than four years of direct diplomatic assault have produced?

We think so. We think that few American policies have been more earnestly motivated, and more throughly discredited, than the failed effort to force Turkey to roll back its invasion of Cyprus by imposing an arms embargo. Cyprus has received no benefit whatsoever from it. The American position in that strategic corner has steadily deteriorated. Two American presidents have been undercut.

The congressional "Greek lobby," which has dominated successive administrations on this issue, remains unreconstructed. It holds that the best way to pry the Turkish army off the island and bring a settlement is to keep the pressure on Ankara. Increasingly, however, other legislators, including now a House International Relations Committee majority, suspect that the embargo merely humiliates Turkey and that the Turks—curse them as you will—will not budge on Cyprus while this embargo stays in effect. We agree.

Deputy Secretary of State Warren Christopher is in Ankara today. If he is not trying to see whether Turkey, in the event that the embargo were lifted, would move promptly on its own toward a fair Cyprus settlement, he has wasted a trip. Great delicacy is required. The Turks can't countenance being seen to be acting under pressure. The Greek government must not be exposed to opposition charges that, for the sake of NATO, Greek interests on Cyprus are being sold out. But perhaps a bargain can be struck.

Cyprus is not, after all, the issue it was. Greek Cypriots, foresaking the Palestinian example of the open wound, have built a successful new life in the south. They want only some territory in the north, a federal system that would leave the Turkish Cypriot minority well protected, and an end to the Turkish occupation and to the specter it raises of an eventual Turkish grab of the whole island. Surely the new Turkish government of Bulent Ecevit, a fair-minded man, can grant as much—if the embargo's affront to Turkish nationalism is eased.

A settlement on Cyprus would warm the climate in which Athens and Ankara could tackle their difficult Aegean Sea dispute. It could repair the American position in a valid region But it cannot even be considered if the Congress will not grant that the time for a new look is at hand.

[From the Christian Science Monitor, Apr. 3, 1978]

REALISM ON ARMS FOR TURKEY

President Carter's decision to urge Congress to end the arms embargo against Turkey has far more than a narrow, bilateral dimension. It reflects a growing concern that Turkey's estrangement from the United States is dangerously weakening the southeastern flank of the NATO alliance and indeed handing to the Soviet Union gratis another potential advantage in the whole strategic confrontation between East and West.

The President is absolutely right. The United States cannot afford to toy with its security interests for political reasons. To deliberately drive a strong, democratic ally away from NATO toward neutrality is shortsighted folly and we are glad to see the administration moving vigorously now to repair the damage.

It ought to be clear to Congress that it has only made matters worse in the past three years by linking arms aid for Turkey with Turkish concessions on the Cyprus issue. This quid pro quo has made the Turks more adamant; they are an independent, proud people who refuse to be seen bending to foreign pressure.

Prime Minister Ecevit has stated, however, that he intends to do something about Cyprus and there is strong reason to believe him. He is generating an encouraging new momentum. Only in office a short time, he already has exercised vigorous leadership by clamping down on leftist demonstrators, holding a summit meeting in Greece, and securing an agreement with the International Monetary Fund. If he can soon point to a lifting of the American embargo—which will enable Turkey to buy military equipment it sorely needs—he should be in a strong position to take a more conciliatory stand on a Cyprus agreement.

Hence it is to be hoped the American lawmakers will view what is happening in the broadest possible context instead of trying to please their Greek-American constituents. They might reflect on the fact that Greece, too, is beginning to see the importance of shoring up NATO. If Turkey—legitimately annoyed that it cannot buy American arms even though it maintains the second largest standing army in NATO after the United States—were to pull out of the alliance and become nonaligned, how would this help Greece?

This is not to close one's eyes to the need for Turkish flexibility on the issue of Cyprus. The world community cannot accept a situation where Turks control 40 percent of the island even though the Turkish Cypriot population is only 18 percent. This imbalance must be redressed. But surely each side realizes that "face" is an important element in negotiation and should be willing to let the other side come to terms without loss of national pride. Bulent Ecevit, who headed the government when Turkey invaded Cyprus, is an independent-minded, able leader; he above all ought to be given the chance now to live up to his words.

[From the Baltimore Sun, April 5, 1978]

TURKEY AND CONGRESS

Opponents of arms for Turkey are preparing to do battle with President Carter's request to lift the embargo that Congress imposed in 1975. Merely reiterating the original justification of that embargo will not do. Turkey's misuse of American arms in its 1974 invasion of Cyprus was impressive justification in 1975. When Congress legislates the specifics of aid and sales, however, it is not just taking stands but making foreign policy which is ongoing. Policy needs perpetual review. When it fails to work as intended, it needs revision.That is why foreign policy works best as an executive function.

The arms embargo was meant to inspire Turkey to give back more of Cyprus to Greek Cypriots and to reach agreement on a fair regime for Cyprus. Demonstrably it has not had that effect. Rather, in the context of stalemated Turkish politics, it has stiffened Turks of all parties against making concessions they know to be right. Instead of expediting the restoration of human rights to Greek Cypriots, the embargo is helping to delay it.

The embargo works against American interests in a strong Western alliance. Prime Minister Bulent Ecevit is threatening to make permanent the eviction of Americans from intelligence bases in Turkey which monitor Soviet missiles. He may boycott the May NATO summit. Turkey links the arms issue to its liability in harboring anti-Soviet bases, not to good behavior on Cyprus. Mr. Ecevit is holding the administration responsible for passively accepting congressional continuance of the embargo. That explains why President Carter has picked a foreign policy fight with congressional Democrats that he does not need and may well lose.

The best argument for the embargo as policy is its positive effect on relations with Greece and (Greek) Cyprus. The United States needs Greek as well as Turkish enthusiasm for NATO. President Carter's attempt to conciliate Turkey before Turkey conciliates Greece and Cyprus makes life harder for the Caramanlis government in Athens and easier for his anti-American opposition.

Mr. Carter's new policy is no longer to plump for acceptance of the 1976 arms agreement between the Ford administration and Turkey. Rather he wants the embargo dropped on principle first, and a new agree-

ment negotiated. In other words, while the progress on Cyprus was being ostensibly unlinked from arms, Congress could see whether progress was subsequently made before acting on new arms sales. The first act of conciliation would be taken by the United States. Even Turks would see that the next step was up to Turkey.

The policy adopted should balance all American interests, rather than just one of them. The administration is being tested. So is the responsibility of congressmen and senators in their relatively new role of actively shaping foreign policy.

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[From the Los Angeles Times, April 5, 1978]

ARMS: TIME TO TALK TURKEY

The quarrels between Greece and Turkey over Cyprus have resulted in a tragic and seemingly endless routine that has seriously undermined the effectiveness of the North Atlantic Treaty Organization.

It's about time to break the impasse. An opportunity to do so will come Thursday, when the House International Relations Committee takes up President Carter's proposal to lift the 1975 arms boycott against Turkey.

The committee should pave the way for Congress to sweep away the arms restrictions imposed in retaliation for Turkey's use of American weapons in its 1974 invasion of Cyprus—an invasion provoked by Greek Cypriot moves to unite the independent island with Greece.

The boycott has failed in its aim to induce Turkish concessions on the island. It has failed to alleviate the sufferings of Greek Cypriots resulting from the latest manifestation of ancient regional quarrels between Greeks and Turks.

On a larger scale, it has weakened the West's main line of defense against the Soviet-led Warsaw Pact nations in a critical region at a time when NATO should be strengthened rather than crippled. The boycott has turned Turkey, which has been an ardent and military powerful ally of the West, into an estranged and resentful associate.

Approval of the President's proposal could break the stalemate growing out of Greek insistence that the boycott remain in effect so long as Turkey refuses to make territorial concessions on Cyprus, and Turkish insistence that it will make no such move under the duress of an arms embargo.

What's more, the President's proposal is not all that much of a departure from the present arms-supply program for Turkey.

Under a modification of the embargo, Congress has permitted Turkey to buy up to $175 million worth of arms each year. The President's proposal would authorize military sales in the same amount for fiscal 1979, with an additional $50 million loan that Turkey could use for either military or civilian purposes. It would also free $85 million more in military aid that was in the pipeline to Turkey when the embargo was imposed.

Lifting of the boycott should sweep away any Turkish excuses for continuing a refusal to come up with meaningful proposals for a permanent Cyprus settlement. And if removal of the boycott did not work, the United States would still retain a powerful inducement: Carter's proposal calls for renegotiation of the four-year, $1 billion arms-aid package for Turkey. Its intransigence on Cyprus could adversely affect its interests in the aid package.

In any case, the removal of the arms boycott should not be viewed as an appeasement of Turkey. A militarily strong and cooperative Turkey is in the interest of the United States, Greece and all other members of NATO.

[From the San Diego Union April 5, 1978]

AN EMBARGO IS NOT FRIENDLY

Defense planners in the North Atlantic Treaty Organization are concentrating on a build-up of forces in central Europe because that area would bear the brunt of an attack from the East.

That might make sense from a strategic standpoint, but it is no comfort to people on the so-called flanks of NATO, especially in the Mediterranean where the 1974 war on Cyprus left a serious wound in the alliance.

There is no little satisfaction, then, in the prospect that Greece and Turkey may be composing their differences enough to give their responsibilities as NATO members the attention they deserve.

At their recent meeting in Switzerland, Prime Minister Bulent Ecevit of Turkey and Prime Minister Constantine Karamanlis of Greece opened the way for a negotiated settlement of their differences over the future of Cyprus and territorial claims in the Aegean Sea.

What remains is for the United States to mend its own relations with Turkey, and the Carter Administration is making progress in that direction. It is asking Congress to lift the embargo on arms shipments to Turkey, imposed in the wake of the Turkish invasion of Cyprus, and is proposing new military aid packages for both Turkey and Greece.

Whatever that embargo might have accomplished—and it is doubtful it accomplished anything constructive—the time has come to lift it.

Turkey and Greece appear now to see the folly of trying to settle their differences with force. Prolonged denial of military aid to an ally as important as Turkey is folly on our part.

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[From the Washington Star, Apr. 5, 1978]

ENDING THE TURKISH ARMS BAN

The Carter administration's decision to seek an end of the arms embargo against Turkey, without prior Turkish concessions on Cyprus, is in keeping with the U.S. interest in preserving the Western alliance. The move is also better calculated than the embargo to permit progress on a Cyprus settlement. Congress should be able to see these truths through the expected smoke-screen of ethnic politicking on the issue.

The three-year-old embargo was ill-advised from the start. The purpose was to punish Turkey for violating the terms of U.S. arms sales and aid by its use of American weapons in the 1974 invasion off northern Cyprus.

What Congress actually did was tilt to the Greek and Greek-Cypriot side in the conflict because that was what the heavier ethnic lobbying called for. Greece and its American spokesmen want to continue the embargo as a bargaining advantage over Turkey, on Cyprus and other Greek-Turkish issues.

The United States' overriding interest, however, is in ending the embargo now. This would stop the alienation of a strong and demonstrably faithful NATO ally. NATO unity is not served by treating Turkey as an outcast. Turkey's wholehearted participation, and a restored U.S. presence at bases in Turkey, are important to anchor the alliance in the eastern Mediterranean. Turkey is dependent on U.S. arms for resupplying and modernizing its forces (as is Greece, another NATO member, which suspended its military participation in the alliance because NATO did not prevent the Turks' partial occupation of Cyprus). The end of the embargo would open the way to a refurbished agreement with Turkey on arms and U.S. use of Turkish bases.

The embargo, besides, has proved to be no promoter of Turkish concessions on Cyprus. The reason is Turkish pride—and a powerful pride it is. Resentment of the linkage of U.S. arms supplies and Turkish policy on Cyprus runs deep. Ankara's elected government, under whatever party sponsorship, cannot afford to be seen knuckling under to pressure at the possible expense of the Turkish minority on Cyprus. At the same time the new Turkish government under Premier Bulent Ecevit has promised a fresh set of Cyprus peace proposals.

Discussion of the issue on Capitol Hill is likely to become entangled with understandable Greek-American emotions (numerically more convincing than the Turkish-American variety). But these considerations of ethnic loyalty are based to an important extent on old grievances between the Aegean neighbors, the rehashing of which serves no purpose. It is necessary to see past the atrocity stories with which each side is depressingly well supplied.

Is it in Greek, Turkish or American interests to let NATO's southern wing disintegrate? Is it better, for a Cyprus settlement, to keep trying to pressure the stubborn Turks, or to see what can be gained from Mr. Ecevit's sense of fairness and his desire for better relations with Greece? Will it help Greek-Turkish friendship to push the Turks out of the Western alliance? What would the Russians like to see happen in this strategically important region?

President Carter should be able to make a case for the West's need to promote Turkish-Greek amity. An arms embargo against our Turkish allies is no way to go about it.

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[From the New Orleans Times-Picayune, March 6, 1978]

ARMS FOR TURKEY

If arms aid to Turkey is restored, the hope is that the Ecevit government can be brought to work realistically with Greece to thaw out the Cyprus dispute. Linking military aid to resolution of the Cyprus problem would no longer be the U.S. stance.

The president is asking Congress to approve $225 million in military aid to Turkey, and the administration will rewrite a four-year $1 billion defense accord signed in 1976 but never approved by Congress. It seemed easier to ask Congress to approve an end to the embargo alone rather than to seek approval of the aid package as well.

The 25 American bases in Turkey have been in limbo these three years. Turkey has not been asked to make any public pledges regarding their reopening, any more than on the Cyprus issue, in order to qualify for arms credits, but the understanding is clear. At the same time, the administration is asking $140 million—up from an original $122 million—in military credits to Greece, and keeping its fingers crossed.

Three years was a long enough trial for a policy that never budged Ankara an inch. We need this ally on NATO's eastern flank, and better treatment should fetch better results.

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[From the Pittsburgh Press, April 7, 1978]

SENSE ON TURKEY

President Carter is on sound ground in urging Congress to lift its embargo on U.S. military aid to Turkey.

The embargo voted by Congress in 1975 was an ill-considered move. It was meant to force Turkish concessions in the Cyprus dispute, but it has become dangerously counterproductive.

Congress means to "punish" Turkey for its 1974 invasion of Cyprus, acting as if only the Turks were to blame. In fact, they invaded only after a Greek-supported coup on the island had put Turkish Cypriots in peril.

Instead of bending to the will of Congress, Turkey has closed 25 American military bases on its soil.

In armed forces, which guard a frontier against Russia, have begun to deteriorate. So it is thinking of looking for weapons elsewhere, cutting its ties with the American-led NATO alliance, and adopting a neutral stance between East and West.

Such a shift would be a gratuitous present to the Soviet bloc. Congress can avoid this by permitting Turkey, the only American ally singled out for an arms embargo, to resume purchasing needed military equipment here.

Incidentally, the Turks—who refuse to be bullied—have indicated that once the embargo is ended they will offer concessions on Cyprus and reopen U.S. bases in Turkey. It is time for Congress to think of more than the pro-Greece lobby and to place the national interest above all else.

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[From the Wall Street Journal, April 7, 1978]

MENDING THE TURKISH RIFT

Naturally a big fight is building over the Carter administration's lurch toward unilateral disarmament, but amid the melee over the neutron bomb and the Navy a few words need to be said in support of the administration's initiatives toward Turkey. Few steps would be more important in solidifying NATO and strengthening the U.S. military position.

Mr. Carter and Turkish Prime Minister Bulent Ecevit have agreed on a new arms and military bases pact; the key point is that the U.S. administration will propose repeal of the three-year-old congressional arms embargo against Turkey. The embargo resulted from Turkish invasion of Cyprus and continuing occupation of some 40% of the island. Sen. Paul Sarbanes, Rep. John Brademas and other members of the congressional Greek lobby are already mobilizing an assault on the proposal.

Greece is a lovely land with lovely people, but we cannot entirely ignore the consideration that Turkey is one of the world's most strategic pieces of real estate. There is of course the Dardanelles, the ancient objective of the Czars. There is also the Turkish army, the largest in NATO, its equipment now decaying because of the embargo. There are the posts for electronic monitoring of Soviet missile tests and such, now closed because of the rift. There is the instructive fact that Turkey was the base for Eisenhower's enormously successful excursion into Lebanon, and would be similarly handy in the event of, say, an attempted coup in Saudi Arabia.

All of this, though, pales beside one other strategic consideration: overflight rights. If Soviet land-based aircraft can overfly Turkey unopposed, the U.S. Mediterranean fleet is out of business. A military investment in Turkish air defense, and a political investment in its willingness to threaten its use, would be one of the soundest steps the U.S. could take to preserve a military presence either in the event of a new Arab-Israeli war or a conflict between or within the oil states.

Nor, if you lay aside the one issue of Cyprus, is there any case for turning Turkey into a pariah state. It is in fact the only democratic government in the Islamic world. The Turks long ago cast their lot with Western modernization, and understandably resent that the West automatically sides against them in disputes with the Greeks, even Greek colonels who initiate hostilities in Cyprus. Even in closing U.S. bases they have kept NATO facilities open and stayed within the NATO command structure, while Greece has more or less withdrawn.

The Turkish attachment to the West and to NATO is slowly ebbing. Turkey is also the largest recipient of economic aid from the Soviet Union, and just this week signed a new trade pact to buy Soviet civil aircraft. If something is not done to break the current impasse, it will surely slip toward neutralism, if not worse.

Which brings us to the Cyprus dispute. Even Rep. Brademas concedes that the Turks were fully justified, under international treaties, in invading Cyprus after Greece intervened in July of 1974. What Rep. Brademas wants to argue about is the further operations in August of 1974, when the Turks expanded their sector of the island, asserting that Turkish Cypriots were being killed in the Greek sector. Turkey now holds 40% of the island, though Turks account for 18% of the population.

With the irritants of the Greek colonels and Cypriot Archbishop Makarios now both gone from the scene, it's not hard to imagine the Turks becoming willing to negotiate some adjustment. Mr. Ecevit actually sat down in Bern a month ago with Greek Premier Constantine Caramanlis to talk about Cyprus, but broke off the talks after Secretary of State Vance publicly linked the outcome of those talks with the arms embargo. Having digested this lesson, the State Department is now passing the word that the Turks will move so long as the duress of the embargo is lifted.

Sen. Sarbanes and Rep. Brademas may win points with their constituents with their stiff-necked refusal to take the first step, but they are severely crippling the U.S. national security position. Given the possibility that a move now could unblock the dispute, the essential ambivalence of the Cyprus issue, and Turkey's huge strategic importance, on this issue there is an overwhelming case for following Mr. Carter's leadership.

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[From the Omaha World Herald Apr. 9, 1978]

LITTLE CHOICE ON TURKEY

Turkey has pushed the United States into a corner on arms aid.

The U.S. suspended the delivery of $1 billion in military hardware after Turkey invaded Cyprus in 1974.

While the U.S. has tried to make settlement of the Cyprus issue a condition for restoring the flow of arms, Prime Minister Ecevit has angrily rejected this approach.

Ecevit is hinting that he may go to Moscow if the United States won't lift the embargo. He also is threatening to close U.S. military bases and to reduce his country's participation in the North Atlantic Treaty Organization (NATO).

Ecevit, to back up his threats, has accepted an invitation to visit the Soviet Union this summer, possibly to sign a treaty of "friendship and cooperation."

Western officials don't think Turkey would actually pull out of NATO because of traditional hostility between the Turks and the Russians. But Ecevit is using the situation to Turkey's advantage.

That is why President Carter is recommending that the arms ban be ended and that $225 million in military assistance credits for Turkey be granted for the next fiscal year.

The package also would include $140 million for Greece. But the Greeks want no part of that deal.

Secretary of Defense Harold Brown said that unless Turkey gets U.S. arms, "nationalistic pressures" will cause that nation to look elsewhere.

The defense secretary said the U.S. would prefer that a Cyprus agreement come first.

"But we cannot stand back and allow the risks to democratic government and to collective security in the eastern Mediterranean to grow while settlement efforts continue," he said.

It doesn't appear that the U.S. has much choice in the matter. The southern flank of NATO must be preserved.●

## TRIBUTE TO KATHARINE WRIGHT

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## HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Ms. OAKAR. Mr. Speaker, as the only woman from Ohio in the U.S. Congress, it is with pride and appreciation that I pay tribute to a woman who next week will be honored by the International Women's Air and Space Museum in Dayton, Ohio.

As a member of the advisory board of this museum, I share the anticipation that comes with our movement toward making this unique cultural center for women aviators a reality.

Next week the name of Katharine Wright will be submitted as this year's nominee at the International Women's Air and Space Museum annual board meeting. I submit that Katharine Wright, the sister of Wilbur and Orville Wright, is a worthy candidate because of the major role she played in the success of the first flight of a heavier-than-air craft on December 17, 1903. The craft's name: *Kitty Hawk*, in honor of Katharine Wright.

Although a congressional medal was proposed for Katharine Wright, the honor was never bestowed. That is why I believe it appropriate, especially now in connection with her nomination, to acknowledge the importance of the work she executed in my home State of Ohio that gave way to "wings for the entire world."

Acording to Webster's Dictionary, a martyr is one who sacrifices his or her life, station, and so forth, for the sake of principle. Thus, in a very true sense, Katharine Wright is a martyr to the cause of aviation, sacrificing her own teaching profession and her own personal life to assist her brothers in their historic contribution to aviation.

At the age of 15, Katharine lost her mother and began to care for her father and four brothers. While accepting the challenge as the head of the household, she also later assumed a leadership role in her Oberlin College class of 1898. Yet it took Katharine less than a decade to sacrifice her own teaching career to answer the call from her brothers to help them in their quest for a "flying machine."

Fifty years ago, on the 25th anniversary of their success, the Plain Dealer, Ohio's largest newspaper based in my home district, editorialized "there would have been no *Kitty Hawk* without Kitty Wright" and "the brothers have testified to the vast assistance rendered by their sister."

She contributed both brains and brawn for all Wright family endeavors, from setting print for their tiny newspaper to putting together "Wright Special" bicycles. But family expertise in kite making, coupled with intrigue created with their father's gift of a working toy helicopter, gave way to family flying experiments even before the turn of the century.

By 1903, the newest invention was complete. Katharine had labored at her

mother's old treadle sewing machine to carefully stitch the craft's wing coverings and the now famous brothers were off to the sand dunes of the Carolinas to conduct their experiments.

History was made on December 17, 1903, with Wilbur Wright as the pilot, Orville on the ground beneath, and Katharine miles away in Ohio waiting for word. Word came in a telegram. Katharine read of their success and was instructed by her brothers to "inform press."

Now as the Wright Brothers press secretary, she again followed orders, but newspapers of the day did not grasp the significance of the news that was buried on inside pages.

On these pages then, today we praise Katharine for her work on the "Kitty Hawk," the nursing of her brother Orville after an unpublicized but serious flying accident, and her help in advising our Army officials during early flying attempts by our Government. Katharine was one of a handful of women in the world to ever ride in a flying machine. Her unswerving devotion to her brothers in their mutual quest for flight was not broken until Katharine turned 52 and finally decided to marry. The marriage was postponed until long after her brother Wilbur's death and without shared joy by Orville, who interpreted the vows as abandonment after a lifetime of devotion. The wedding to a man Katharine had known since college, a man who by then was the respected editor of the Kansas City Star, abruptly ended with her death 3 years later.

Katharine Wright, the silent partner of the Wright Brothers, a martyr to aviation because she believed in her brothers and the idea of flight for all the world, merits our belated respect and thanks.●

## TWELVE STATE GOVERNORS ENDORSE "NATIONAL PORT WEEK"

### HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. MURPHY of New York. Mr. Speaker, to date, I have received correspondence from 12 Governors expressing their State's support for "National Port Week". While Indiana, South Carolina, Florida, Virginia, Alaska, New Jersey, and South Dakota have already issued State proclamations, the Governors of Illinois, Vermont, Mississippi, Oklahoma, and Rhode Island have expressed to me their intention to issue similar resolutions coinciding with "National Port Week" Slated for the week beginning September 17. On behalf of our ports I would like to thank them for their support.

In addition to the growing list of States sponsoring "National Port Week", we now have, with the following Members listed below, 121 of the necessary 217 cosponsors. I thank all of them, and urge the remaining Members to join with us in recognizing the important achievements made by our ports to the health and vitality of our country today. The list of cosponsors for this resolution is as follows:

Mr. AUCOIN, Mr. BEARD, of Tennessee, Mr. BENJAMIN, Mr. BROOKS, Mr. CORNELL, Mr. ROBERT W. DANIEL, Jr., Mr. EDWARDS of ALABAMA, Mr. EMERY, Mr. FITHIAN, Mr. FLOOD, Mr. GAMMAGE, Mr. HAWKINS, Mr. LONG of Louisiana, Mr. MARKEY, Mr. JOHN T. MYERS, Ms. MIKULSKI, Ms. OAKAR, Mr. PATTEN, Mr. PURSELL, Mr. REUSS, Mr. ROGERS, Mr. ROSE, Mr. VANDER JAGT, and Mr. WON PAT.●

## CONGRESSIONAL SALUTE TO THE REVEREND EDWARD DAVEY, ESTEEMED PASTOR, OUR LADY OF THE VALLEY CHURCH, WAYNE, N.J., UPON THE 25TH JUBILEE ANNIVERSARY OF HIS ORDINATION

### HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. ROE. Mr. Speaker, on Sunday, April 23, residents of my hometown of Wayne, congressional district, and State of New Jersey will assemble with the associate pastor, Rev. James Rugel, and members of the congregation of Our Lady of the Valley Church, Wayne, to give testimony to an exemplary clergyman, esteemed pastor, outstanding community leader, and good friend, Rev. Edward Davey, as we celebrate the 25th anniversary of his consecration into the Sacrament of Holy Orders.

Mr. Speaker, Father Davey has maintained the highest standards of excellence throughout his lifetime and we are pleased to share the pride of his many, many friends and parishioners in his distinguished achievements, so unselfishly dedicated to the betterment of mankind. His devoted service to God and country are mirrored in the happiness and security he has provided our people in his steadfast quest for the religious, educational, recreational, and cultural enrichmemnt of all of our citizens, young and adults alike.

Mr. Speaker, there is so much that can be said of the love, affection, and reverence with which Father Davey is held by all of us who have had the good fortune to know him. Having been born and raised in the State of New Jersey, he has truly endeared himself as a special family member to all of us.

Father Davey was born in Newark, N.J., and educated at the Blessed Sacrament Elementary School, Newark, N.J. He completed his high school studies at Seton Hall Prep, South Orange, N.J.; attained his college degree at Seton Hall University, South Orange, N.J.; pursued his theological studies at St. Mary's Seminary, Morristown, N.J.; and was ordained at St. Mary's Church, Newark, N.J., on April 22, 1953.

His first ecclesiastical assignment after ordination commenced as a young curate at the Sacred Heart Church, Elizabeth, N.J. He subsequently ministered to the spiritual needs of our people with the highest standards of excellence at St. Joseph's Church, Maplewood, N.J., Notre Dame Church, Cedar Knolls, N.J.; Our Lady of Consolation, Wayne, N.J.; and since 1975 at Our Lady of the Valley, Wayne, N.J., where we now salute him as the revered pastor of Our Lady of the Valley Church.

Mr. Speaker, the quality of Pastor Davey's leadership, the richness of his wisdom, his dedication and devotion to our people have been an inspiration to all of us. In his personal commitment to the Almighty and to our people he has nourished and nurtured the minds and hearts of our young people, developing strength of character and a reservoir of knowledge as an educator, and has made a significant contribution to the quality of the way of life of all of our people as a spiritual adviser and community leader.

He was a member of the faculty and business manager of St. Benedict's Prep School, Newark, N.J., and served as Catholic Chaplain at Elizabeth, N.J., General Hospital. He was chaplain of Marion Council (Pompton Lakes, N.J.) and the Wayne, N.J., Council of the Knights of Columbus. He has also served as chaplain of Alps Manor Nursing Home, Wayne, N.J., and youth director of Our Lady of the Valley Church.

Mr. Speaker, in reflecting upon the history of America and the good deeds of our people that have placed our representative democracy second to none among all nations throughout the world, I am pleased and privileged to call your attention to the outstanding good works of this esteemed member of our clergy which have truly enriched our community, State and Nation.

As Father Davey celebrates the 25th anniversary—a quarter of a century—of his ordination to the priesthood, I know that you and all of our colleagues here in the Congress will want to join with me in extending our warmest greetings and felicitations for the excellence of his service to his church, our Nation, and all mankind. We do indeed salute the Right Reverend Edward Davey, esteemed pastor, outstanding educator, community leader and great American.●

## INTRODUCING H.R. 12239, PERTAINING TO MEAT IMPORTS

### HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. ABDNOR. Mr. Speaker, today I have introduced legislation to improve the inspection and labeling of imported meat and to enhance the stability in meat supplies and prices, for the benefit of domestic producers and consumers.

The bill, which is reprinted elsewhere in today's RECORD, was drafted by the National Association of Meat Promoters, headquartered in Bison, S. Dak. It evolved from the association's expertise and experience gained in petitioning the U.S. International Trade Commission for relief from imports.

While the USITC failed to recommend such relief because it did not agree imports are the major cause of injury to the

industry, in the course of the investigation it became apparent there are a number of flaws in the existing laws governing meat imports.

I addressed these flaws in my statements to the USITC on September 20, 1977, and would like to have those remarks reprinted here for the benefit of my colleagues:

STATEMENT OF JAMES ABDNOR

Mr. Chairman and members of the Commission, I am pleased to finally have this opportunity to appear before you to express my views on the issue of livestock and meat imports. As you may recall, I had intended to appear at your initial hearings in June held in Rapid City, which is in my Congressional district. My statement was placed on the record but, unfortunately, I was prevented from presenting it personally due to a last minute legislative scheduling conflict which required my presence on the floor of the House.

Since my statement is on the record, I will not take much of your time. I did want to make you fully aware of my deep, personal interest in this matter by my appearance before you this morning, however, and I would also like to reiterate and emphasize the major points of my statement, which as you will recall dealt primarily with flaws in the Meat Import Act of 1964. (A copy of my statement is attached for your ready reference.)

Although I identified fourteen more-or-less distinct problems with the '64 Act, they can be summarized basically as errors of concept, omission, and administration.

First, the concept of an import quota which increases as domestic production does is faulty in that it ignores the cyclical nature of the industry. Second, omitting live animals, meat of certain livestock, and processed meats of all kinds ignores the interrelated nature of these products with those subject to the quota and invites circumvention. Third, the inadequate protection afforded in light of the errors of concept and omission inherent in the '64 Act is further diminished by the manner in which the law has been administered.

Mr. Chairman, I believe these issues can and should be addressed in the context of amendments to the 1964 Meat Import Act. I also believe and urge that all imported meat products should be subject to health and sanitation requirements which are equal to those placed upon domestic production and, finally, that imported meat products should be identified as such to the ultimate consumer.

Mr. Chairman and members of the Commission, you can be certain these issues will continue to have my attention as long as the dire financial condition of the livestock industry prevails. As you can appreciate, however, in an urban dominated Congress the efforts of rural members like myself and the others who appear before you today will continue to be futile unless we have the understanding, concern, and support of officials such as yourselves.

With that thought in mind, I thank you for your consideration.●

## JACK ANDERSON WARNS DEMOCRATS ON TAXES

### HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. KEMP. Mr. Speaker, yesterday's column by Jack Anderson should be of great interest to all my colleagues—particularly those in the majority party.

Anderson says that a tax revolt is gathering steam in this country and that it may create big problems for the Democrats in November, since the Democratic Party is seen—quite rightly—as the party of big spending and, therefore, higher taxes.

I agree entirely with this analysis. I believe that the extraordinary support for such things as the tuition tax credit, a rollback of social security taxes, and the Jarvis-Gann initiative in California are all ample evidence of this trend. Furthermore, I do not believe there is any constituency in the country for so-called tax reforms. What the people want are straight, across the board tax rate reductions, and if the Congress does not see this the majority party will indeed suffer at the polls this fall.

Lastly, I believe Jack Anderson is absolutely correct when he says:

Probably the best thing that could happen to the Federal income tax system would be to scrap it altogether. The same amount of revenue could be raised, the experts tell us, by charging a simple, across the board 12 percent income tax, without exceptions, exemptions or loopholes, except for the genuinely poor. This would put the tax accountants, tax attorney's and three-fourth of the Internal Revenue force out of business. But it would save the average tax payer a bundle and eliminate overnight the inequities of the tax laws.

I sincerely wish the Congress would take such a proposal seriously and I applaud Mr. Anderson for making it.

The article follows:

[From the Washington Post, Apr. 18, 1978]

A MIDDLE-CLASS TAX REVOLT IS GROWING

(By Jack Anderson)

Those silent Americans, who used to grit their teeth, pay their taxes and bear it, are beginning to make themselves heard. We have warned in past columns that a quiet tax revolt is gathering steam. It may gain enough momentum by November to sweep the big spenders out of Congress.

It's a revolt of the middle classes, who pay the greatest share of the nation's taxes. They are not deprived people seething against an oppressive government, but they are frustrated by unfair taxes and increased living costs.

They will express their anger, if our soundings are correct, at the polls in November. This could be grim news for the Democrats who are associated in the public's minds with government spending. The public is angry at an income tax system that has become incomprehensible. The annual ritual of rendering unto Caesar has become so encumbered with regulations that it takes an attorney or an accountant to fill out the average tax form. Even the tax experts are apt to stumble over some unseen regulation submerged somewhere in the public prints.

The public is angry at an Internal Revenue Service that changes the rules arbitrarily and ignores the intent of Congress. The tax agency is supposed to enforce the tax laws, not write them. But if Congress won't change the laws to suit the enforcers, IRS simply writes new regulations and issues new directives to accomplish the same result. Agents are now hounding taxpayers whose tax practices used to be considered perfectly legal. The laws haven't been changed; the agents have merely been given new marching orders. The main result is that IRS is creating millions of dollars in new business for accountants, lawyers and itself.

The public is angry at a tax system that discriminates against the middle classes. The poor are granted exemptions and the rich are provided loopholes. It used to be that the inequities could be covered up by the sheer complexities of the tax laws. But the middle classes have caught on. If they are going to submit willingly to being plucked like a chicken, they want to be sure their fellow citizens get the same treatment.

Probably the best thing that could happen to the federal income tax system would be to scrap it altogether. The same amount of revenue could be raised, the experts tell us, by charging a simple, across-the-board 12 percent income tax, without exceptions, exemptions or loopholes, except for the genuinely poor. This would put the tax accountants, tax attorneys and three-fourths of the Internal Revenue force out of business. But it would save the average taxpayer a bundle and eliminate overnight the inequities in the tax laws.●

## THE HOLOCAUST AND CAMBODIA—LEST WE FORGET

### HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. HYDE. Mr. Speaker, the television portrayal of the Holocaust reminds us of a lesson we want too much to forget—that the veneer of civilization is thin indeed.

Lest we consider it an isolated aberration in the sad history of inhumanity, I commend the following article by Chicago Tribune columnist, Michael Kilian. As usual, he says so well what needs to be said:

THE NAZIS' REAL HORROR: THEY WERE NOTHING NEW

(By Michael Kilian)

A man I know in Washington—a man of demonstrably liberal persuasions complained to me recently about foreigners moving into his neighborhood in Virginia.

Vietnamese.

If he had used the words "black" or "Jew" instead of Vietnamese, he would have sounded the most wretched bigot and racist. But these are not Jews or blacks. They are merely Vietnamese.

This week, the nation is witness to an extraordinary television production entitled "Holocaust," a four-day dramatization of the unspeakable horrors inflicted upon mankind some four decades ago by what had been considered one of the world's most advanced and civilized nations.

Those horrors and the global conflict of which they were a part are depicted with uncompromising reality. We are exposed to horror organized as an institution. We see how it was possible for a single government to systematically bring about the slaughter of 5.7 million Jews and 14 million non-Jews in a colossal failure of civilization.

It is a numbing experience—numbing to see it on the screen, numbing to know that it actually happened.

It is also troubling. For it is too neat. For it deals only with Germans.

The message thrust forth is "Never Again." The strong impression is made that this was an aberration. That the Nazis—the quintessential evil—were an anomaly. That the holocaust was a temporary lapse from which civilization has long since recovered.

This is a false impression. History is a grim and melancholy book. Perhaps the most horrible thing about the Nazis is that they were nothing new.

Glance at random at the ledger of mankind's savagery. The hordes of Attila the Hun, Genghis Kahn, and Tamerlane slaughtering whole peoples before them. The Albigensians of 13th Century France, believing material goods to be sinful, were massacred man, woman, and child because a ruthless pope would not tolerate such heresy.

More than 1.5 million Armenians were "eradicated" by the Turks in 1915 and 1916.

World War II, that most moral of wars, eradicated the Nazis but remedied nothing. Because they were our allies—our brothers of convenience—we have tended to ignore the unspeakable horrors visited upon Eastern Europe by the Russians. How they massacred thousands of Poles. How they stood back to allow the Nazis to wipe out the Warsaw Ghetto. How after the war they filled hundreds of concentration camps.

Now, so selective in our morality, we ignore another holocaust of our own making. The Vietnamese in northern Virginia are irritating, for they refused to linger and enjoy the totalitarianism we brought upon them.

The Cambodians are not so irritating. They are dead, and cannot move into the suburbs of Virginia. According to reports supported by French and Yugoslavian Communist observers, more than 1 million Cambodians have been slaughtered by the Khmer Rouge in the last three years.

British journalist Martin Woollacott wrote in the Manchester Guardian of "the heads of 40 young women, buried up to their necks and then knifed in the throat, sticking up out of the ground like a crop of cabbages."

The words "Never Again" appear on our television screens. The gods of irony will be amused that there are no longer any television sets in Cambodia.●

## WORLD REFUGEE REPORT SURVEYS REFUGEE SITUATION IN ASIA

### HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. DRINAN. Mr. Speaker, an urgent need for resettlement of refugees from Indochina continues. Particularly critical is the situation of the "boat cases"—those refugees primarily from Vietnam who escaped by boat and were picked up at sea or made their way despite great hardship to various countries on the South China sea. France, Australia, and Canada have joined the United States in resettling these families. However the State Department has stated that a buildup of these cases will continue as well as the cases of land refugees from Indochina who have no other offer of resettlement assistance.

The World Refugee Report points out that in Asia not a single country has ratified either the 1951 United Nations Convention or the 1967 Protocol concerning protection of refugees.

Following is a segment of the 1978 World Refugee Report which focuses on the refugee situation in Asia:

ASIA

General Developments

The World's attention continue to focus on human rights violations and resulting refugee problems on the Indochina peninsula, where thousands continue to flee repressive conditions under the Democratic Republic of Vietnam, the Lao People's Republic and the Democratic Republic of Kampuchea (Cambodia.)

Most of the Indochina refugees have fled to Thailand, where the refugee population has swelled to ninety thousand. Vietnamese refugees, known as "boat people" continue to risk the perils of the South China Sea in small, leaky boats, rather than remain in their country. The majority of South Asian nations offer only temporary asylum to these refugees and some continue to turn them away. Western nations, such as France and the United States, have been the principal countries of resettlement.

Aggravating the problems of the Indo-China Peninsula is the border war between Cambodia and Vietnam, which may have resulted in the deaths of thousands of persons and is sure to cause further displacements of people.

Taiwan, a country where official broadcasts deplore conditions of people living in China or Vietnam, has ironically refused to admit 10,000 ethnic Chinese currently living in Saigon, holding Taiwanese passports; many have obtained exit visas. The Vietnamese reportedly consider them troublesome foreigners, and are anxious for them to leave. The Chinese, many of them former merchants, have lost their means of livlihood since the change of government, and have appealed to relatives and friends outside Vietnam for help. Reportedly, Taiwanese authorities maintain they cannot process the Saigon Chinese applications for entry permits because they are living in a communist country with which Taiwan has no diplomatic relations. But the unofficial reason given is that they fear some of the Chinese from Vietnam might be spies or pose a great economic burden on the densely populated island.

In other parts of Asia, Amnesty International has noted a "progressive erosion of fundamental liberties." In Malaysia and Singapore, Amnesty International has expressed concern, noting an increasing number of arrests of political prisoners and "confessions" required of some detainees prior to their release, containing allegations which may be used by the governments to justify the arrest of the detainee's associates.

Under a decree by President Park of South Korea, criticism of his regime is forbidden. Such severe repression has greatly minimized the observance of basic human rights in South Korea. In April of 1977, there was a wave of arrests of persons who had supported a public statement calling for the release of political prisoners and the restoration of basic civil liberties. The victims included clerics, journalists, students and relatives of those already imprisoned for making the March, 1976 declaration. Human rights violations have been clearly documented by a number of highly respected organizations. Under the Carter Administration, the United States, a close ally of South Korea, has become more concerned with human rights a major factor in its relations with that country.

Although it is widely believed that human rights violations occur frequently in North Korea, no organization has been able to document violations in that country because of its strict censorship policy.

It is believed that the Indonesian Government is holding more political prisoners without trial than any other government in the world. There are reportedly 55,000 to 100,000 political prisoners living under harsh conditions in island prison camps. These prisoners have been held without charge or trial since an abortive communist coup in 1965. In December of 1977, President Suharto announced the release of 10,000 political prisoners and pledged the release of 10,000 more in 1978 and 9,791 in 1979. But some Western observers believe that the prisoners the government has planned to release will be forced to settle in new camps which are reportedly being built for former detainees.

After an eleven-month cease fire between the Philippine government and Moslem forces on Mindanao, fighting has again broken out.

The Philippine government estimates that some 50,000 persons have been killed in the fighting and one million people are homeless. Large areas of Mindanao appear to be firmly controlled by insurgent forces.

The war has its roots in traditional animosity between the Moros—the Moslems of the southern Philippines—and the Central Government. The Moros resisted the Spanish conquest of the Philippines in the mid sixteenth century, U.S. control after 1898, the Japanese occupation during World War II and the independent Philippine government after the war. Currently the Moslems constitute three million of the Philippines' population of forty-four million, most of whom are Catholic. Tension has resulted from the arrival of affluent Christians in Mindanao, who have gained control of the best land. After President Ferdinand Marcos declared martial law in 1972, and ordered Moslems to turn in their guns (signalling an end to their hopes for autonomy) war broke out.

On several occasions, Marcos has announced the surrender of rebel commanders, but has not shown any willingness to grant the rebels the political autonomy they have been fighting for.

In addition to the fighting in Mindanao, the status of human rights in the Philippines has caused great concern. There are an estimated 2,000 political prisoners being held on suspicion of subversion, and it has been reported that torture is widely used in the prisons. In September of 1977, thousands demonstrated against the Marcos regime, protesting five years of martial law in the Philippines. The regime has announced that elections will be held in April of 1978 for an interim National Assembly. However, the continued detention of Senator Benigno Aquino, a leading opponent of Marcos who has been sentenced to death, raises doubts about the government's sincerity.

In China, Amnesty International has shown deep concern for that country's use of the death penalty—both for criminal offenders and those charged with "political crimes." Concerning freedom of movement, the Chinese Government has promised to ease travel restrictions on Chinese who wish to travel abroad. The relaxation of restrictions also applies to an estimated 40 million Chinese who live outside the People's Republic who wish to visit relatives in China.

The flow of refugees from the People's Republic of China continues at an estimated rate of 80 persons a day. The British Government continues its policy of returning escapees caught at the border or trying to swim to Hong Kong—the so-called "freedom swimmers."

One bright note for human rights in Asia is the return of democracy in India after persecution of political opponents under the State of Emergency imposed by Indira Ghandi in 1975. In March of 1977, between 40,000 and 100,000 political prisoners were released by the new Desai government after being detained without trial under the state of emergency.

In December of 1977, the New York Times reported an estimated 400,000 Biharis living in 11 refugee camps under squalid conditions in Bangladesh. These non-Bengali speaking Moslems fled to East Pakistan during the 1947 bloody communal riots in Hindu-dominated India. During the 1971 Indian-Pakistani war, which led to the birth of Bangladesh, formerly East Pakistan, the Biharis supported the Pakistani army against the Bengalis. At the end of the war, a massive airlift exchanged 107,000 Biharis for

171,000 Bengalis. But when the airlift ceased, some 400,000 Biharis remained in Bangladesh, unwanted in a society that regards them as enemies of liberation. Reportedly, Pakistan has agreed to accept an additional 25,000 Biharis.

INDOCHINA

The so-called "boat people" presently escaping from Vietnam in small fishing boats bought from fishermen or covertly from government officials on the coast, provide the most dramatic and often tragic examples of the continuing refugee flow out of Indochina.

In 1975, those who were connected with the American involvement, or who had high positions in the government in one of the three countries, fled with American forces if they were lucky enough to get on an American helicopter or boat. Now, however, there are few escape routes left for those whose involvement with the American missions or with an American backed regime, make them suspect to the new regimes. Those persecuted for past affiliations, level of education, or vocation must now make a much more hazardous journey to escape Indochina.

To leave Laos, refugees must cross the Mekong River at night, quietly slipping past border patrols, into Thailand. Those fleeing the massive reorganization and reported mass executions, in the Democratic Republic of Kampuchea (Cambodia), must traverse mine fields and elude armed border patrols to get into Vietnam or Thailand. Capture by Cambodian border guards results in summary execution. Escape from Vietnam requires patience, some money for bribes, and good fortune. Assuming a refugee can buy, stock and sail a boat, he must escape detection by coastal patrols, avoid starvation, dehydration, illness and bad weather in order to get to Thailand or into the shipping lanes where there is a chance of being picked up by passing freighters.

However, being sighted by a freighter does not always mean that refugees will be picked up. Contrary to the customs of the sea, some freighters are now refusing to pick up the refugees in their leaking, overcrowded boats. Many ports now refuse to let freighters call until they assure national governments that the refugees on board will leave the harbor with the ship. One Israeli ship which aided refugees was forced to return with them to Israel, where they were housed and given jobs in a textile factory, because no Asian port would allow them safe haven.

Though Indochinese refugees arrive in many South-East Asian countries, most first begin their new lives in Thailand. Laotians, crossing the Mekong, arrive in northeastern Thailand where they find government camps set up for each Laotian ethnic group: Lao, Meo, and Tai Dam. In this same area, there are also 50,000 Vietnamese who migrated here after the French Indochina War which ended in 1954.

Refugees from Kampuchea arrive in Thailand and find camps set up just across the border. From there, they, like Laotians, must seek third countries of asylum.

Most refugees from Vietnam, escaping by boat, land near the port of Songkhla on the Malay Penninsula. There, they live on the beach or in small huts, awaiting resettlement in a third country.

The Thai government originally set up fourteen camps as temporary shelters for people thinking that the refugees would eventually return to their own countries. By 1978, however, these camps are becoming permanent homes for many refugees and new camps are being built. Several organizations share in the running of these camps. The Thai government and UNHCR share in the provision of food and shelter for the refugees The UNHCR budget for the program in Thailand is 12.5 million dollars, most of which is spent on food for the camps.

The UNHCR also helps to locate third countries willing to take the refugees for resettlement. The International Rescue Committee provides a program for medical care in the camps and conducts a training program to help the refugees provide themselves with simple medical care. The Intergovernmental Committee for European Migration has worked with the U.S. and other countries to provide transportation for the refugees to third countries for permanent resettlement.

Though the U.S. has accepted the largest number of refugees, and plans to accept an additional 7,000 in 1978, many other countries have provided resettlement opportunities for Indochinese people. One of the largest is France, which is now accepting 1,000 refugees a month, and has approximately 27,000 Indochinese refugees in the country. Other countries which have accepted significant numbers of Indochinese refugees are Canada, Australia, Belgium and Malaysia.

The U.S. Office of Refugee Operations and the Immigration and Naturalization Service, operating in Thailand, select and assist those refugees who will enter the United States. Refugees qualify for entry under four basic categories: 1) those with close relatives in the U.S.; 2) those who worked with American forces or missions; 3) those who worked for Americans in meaningful positions; and 4) those with distant relatives in the U.S. or those to be considered on humanitarian grounds.

Although the categories seem fairly clear-cut, immigration officials, officials from the Refugee Operations Office and former Peace Corps Volunteers attached to the Office of Refugee Operations, have spent hundreds of hours interviewing, checking and assisting refugees who wish to emigrate to the U.S.

Those who are allowed to emigrate to the U.S., or another Western country, are seen as fortunate by their compatriots still in Thailand. Yet, once in the U.S. or France, life becomes incredibly complex. While they no longer live in fear of reprisals or repatriations, they face a bewildering change of life style, values, and complex new mechanisms which make up daily life in the West.

In the United States, the Indochina Refugee Task Force, under the Department of Health, Education and Welfare, assumes overall direction of domestic refugee programs for the Indochinese. It provides cash assistance, training programs to give refugees new skills, educational programs, foster parent programs for children without relatives in the U.S., legal aid, and mental health programs to help refugees adjust to the strains engendered by cultural disorientation.

The Task Force also works with nongovernmental agencies which help find suitable living situations in communities throughout the United States. These organizations include the United States Catholic Conference, the International Rescue Committee, Church World Service, the Lutheran Immigration and Refugee Services, HIAS Inc., the Tolstoy Foundation, Inc., the American Council for Czechoslovak Refugees, International Social Services, and the Church of Jesus Christ of Latter Day Saints.

In spite of the assistance hitherto rendered, the refugee problem is an ongoing one. Refugees continue to leave Indochina at the rate of a thousand a month. Unable to get jobs due to past affiliations, unable or unwilling to fit into the new social structures of the new Communist regimes in Indochina, or seeking unification with family, relatives, and friends in other countries, these people are willing to risk leaking boats, land mines, and border patrols to leave. In addition to the 90,000 refugees in Thailand from the Indochina War, there are another 80,000 refugees residing in Vietnam from Kampuchea, and 7–8,000 in other South-East Asian countries.

In August 1977, the Attorney General of the United States, with the concurrence of Congress, used his parole authority to admit 7,000 "boat cases" and 8,000 Laotians to the U.S. This action, and the recent addition of 7,000 cases to be paroled, will help relieve some of the problem particularly in those situations where refugees have been granted only temporary asylum in South-East Asian nations. However, considering the magnitude of the continuing outflow from Indochina, further action by the U.S., Thailand and other concerned nations will be necessary in order to deal with the problem in 1978.

There is some hope that some of the refugees may eventually be allowed to settle in northern Thailand. The Thai government is considering a proposal to let the Meo tribesmen, approximately half the refugee population, settle there. However, the Thai people can only accept so many refugees, and third countries of resettlement must be found for the ones who cannot stay in Thailand.●

## SUPPORT FOR AMENDMENTS TO THE MEAT IMPORT ACT

### HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. ABDNOR. Mr. Speaker, the President's Council of Economic Advisors recently recommended allowing more imported meat into the United States to combat increasing retail prices. In doing so, CEA has inadvertently provided price support for the argument that the Meat Import Act should be amended.

Indeed, it is not much of an argument. The act currently requires a reduction in the import quota when domestic production is low and prices can be expected to be high and, conversely, an increase in the quota when domestic production is high and prices low. If anyone can justify that by some logical argument, he must be quite a debator. Clearly, it is in the interests of both consumers and producers to reverse the process.

The South Dakota Legislature spoke to this and other problems with the law in House Concurrent Resolution No. 1011, the text of which follows:

HOUSE CONCURRENT RESOLUTION No. 1011

A concurrent resolution, requesting Congress to restrict imports of foreign beef

Whereas, beef producers have been experiencing severe economic hardship; and

Whereas, beef imports have a very serious negative economic impact on livestock producers; and

Whereas, the quality of foreign beef is traditionally often less desirable than that of domestically produced meat; and

Whereas, it is currently often difficult for the consumer to determine whether beef is foreign or domestic; and

Whereas, the United States International Trade Commission (ITC) held hearings in mid-1977 on the impact of foreign beef on domestic beef prices; and

Whereas, objective International Trade Commission studies indicate that had imports not been allowed to double from 1964 to 1976, beef producers would have received from $1.5 to $1.8 billion more for their cattle in 1976; and

Whereas, the hearings demonstrated a need to amend the Meat Import Act of 1964 in the interests of American beef producers and to assure the consumer a quality product:

Now, therefore, be it resolved, by the House of Representatives of the Fifty-third Legislature of the state of South Dakota, the Senate concurring therein, that the state of South Dakota supports amending the Meat Import Act of 1964 as follows:

1. To incorporate a counter-cyclical quota formula;

2. To extend coverage to all beef and veal products;

3. To reduce the trigger level from 110 to 100 percent of the quota level; and

4. To prohibit the President from suspending quotas at the expense of American producers; and

Be it further resolved, that the Congress of the United States be requested to pass legislation to improve the inspection and labeling of imported beef and veal as follows:

1. By requiring that foreign beef and veal be labeled as such;

2. By increasing the percentage of meat randomly sampled;

3. By increasing the frequency of inspection of foreign plants; and

4. By requiring foreign meat to have the same restrictions as to feed additives, pesticides, etc. as domestic beef; and

Be it further resolved, that copies of this Resolution be sent to President Carter, Secretary of Agriculture Bob Bergland, the Chief Clerks of the United States House of Representatives and Senate and the South Dakota Congressional Delegation.

Virtually every farm organization will recognize and support the need for changes in the 1964 Act. The American Farm Bureau Federation, the nation's largest farm organization, for example, has spoken out on this issue. The resolution adopted at its 59th Annual Meeting in January follows:

MEAT IMPORT ACT

We recommend that the Meat Import Act of 1964 be amended so that all meats, whether fresh, chilled, frozen, canned, cooked, or cured, irrespective of packaging or processing, will be regulated by the Act and subject to quotas. The Act should be revised to provide an inverse relationship between domestic production and imports. Quotas should be revised on a quarterly basis rather than an annual basis.

The legislation I have introduced today and which is reprinted elsewhere in the RECORD addresses each of these points. It also provides for an upgrading of inspection of imported meat for the more complete labeling—both of which should be of interest to consumers.

The bill I have introduced is not the only legislative proposal for correcting the deficiencies in existing law. We have reviewed others, however, and have concluded the language in this measure offers the best and most balanced opportunity to amend the Meat Import Act of 1964 in the interests of both producers and consumers.●

## GUN CONTROL AND CRIME: A REALISTIC VIEW

### HON. J. KENNETH ROBINSON

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. ROBINSON. Mr. Speaker, periodically, we witness the surfacing of attempts to restrict the right of Americans to own firearms. Proponents use the tired old argument that gun control is equivalent to crime control. Despite the fact that they have not proved their case, certain individuals and groups persist in pushing restrictions on the right to own guns as the best solution to our national problem of crime. It is a too simple solution for a very complex issue.

Dr. Don Kates, an associate professor of law at St. Louis University in Missouri, wrote an informative article entitled "Reflections on the Relevancy of Gun Control." The article was published in the March 1978 issue of World Research INK, a monthly publication of World Research, Inc., Campus Studies Institute Division. Professor Kates has had experience in the areas of civil rights, civil liberties, and poverty law.

The article is a well-reasoned discussion of the fallacies inherent in the arguments of the pro-gun-control group. Professor Kates makes one comment related directly to the question of violence and the availability of guns:

Violence can get eliminated or reduced only by sweeping changes in the institutions, social and economic relationships, and the ideologies and mores, which produce a violence-inclined people. Gun control efforts are fundamentally obstructive, because they divert attention from this arduous task by promising a simple mechanical solution at the cost only of an easily vilified group, gun owners.

I urge my colleagues to read this entire article carefully for a very lucid view of gun control efforts and the failure to achieve the desired results.

REFLECTIONS ON THE RELEVANCY OF GUN CONTROL

(By Don Kates)

To many, handgun prohibition provides a simple and obvious partial solution to our society's remarkable capacity for producing violent people. Unfortunately this cannot be validated by crime studies either in Britain or in this country.

Seven American jurisdictions have, for over 25 years, required a permit to purchase or possess a handgun, or both. Five different criminological studies have compared the per capita homicide and violent crime rates of these jurisdictions to those for the states which allow handguns. The conclusion of each study (based on FBI Uniform Crime Reports for the years 1959, 1966, 1968, 1970 and 1972–1974) is that, taken together, the handgun-prohibiting jurisdictions have consistently higher homicide and violence rates.

Stated without further elaboration, these results might seem subject to the objection that the handgun prohibiting jurisdictions may simply be much more crime-prone than the allowing jurisdictions. Even accepting this hypothesis, however, one must inevitably draw the conclusion that the violence reducing effect of handgun prohibition has not been significant enough to overcome these demographic differences. But in fact these higher homicide and violence rates cannot be attributed to demographic differences. Taken together the handgun-prohibiting jurisdictions are not markedly different in demographic characteristics which we associate with high crime than the handgun-allowing states, taken together. Four of the handgun-prohibiting jurisdictions are comparatively rural, non-urbanized and unindustrialized. But, in general, all the handgun-prohibiting states exhibit substantially higher homicide and violence rates than their demographically similar neighbors or other demographically similar states.

The most massive, extensive and sophisticated study ever done of gun control potential for reducing violence was carried out under federal funding at the University of Wisconsin in 1974–1975. This computerized analysis took into account every demographic variable which was found to have any statistically significant impact upon a comparison of states with differing gun laws. With demographic bias thus absolutely nullified, the Wisconsin report finds: ". . . the conclusion is, inevitably, that gun control laws have no individual or collective effect in reducing the rates of violent crime."

In addition, this study went beyond previous ones to examine not only the effectiveness of extant handgun prohibitions, but their underlying theory, i.e., that the availability of handguns promotes homicide and/or violence. Comparing rates of handgun ownership to homicide and violence rates nationally, the Wisconsin study found no correlation. In other words, homicide and violence rates do not increase as rates of handgun ownership increase, nor do they decrease as rates of handgun ownership decrease.

The Wisconsin findings also refute the "adjacent state" explanation that has greeted previous studies showing handgun-prohibiting states with higher homicide rates. This explanation postulated that state handgun prohibitions were not reducing homicide, because those desiring pistols could buy them in adjacent states. But if there is no correlation between rates of handgun ownership and rates of violence or homicide, how many people have pistols or how they acquire them becomes irrelevant.

Moreover the adjacent state argument has always been inconsistent with the stated purposes of handgun prohibition. Sophisticated proponents of prohibition have never argued that assassins, revolutionaries, terrorists, organized crime or even individual habitual criminals can be disarmed. Rather they argue that greatly reducing the rate of handgun ownership in the general population will greatly reduce homicide, since most murders are committed by ordinarily law-abiding citizens in the heat of a sudden rage. But in the jurisdictions—particularly New York—which have handgun prohibitions, rates of ownership in the law-abiding populace have been radically reduced. Most law-abiding New Yorkers do not risk federal and state felony charges by buying across state lines or on the black market. If the drastic reduction of handgun ownership rates in New York over sixty-five years has not been accompanied by a similar reduction in homicide—while no correlation is anywhere observed between high levels of handgun ownership and of homicide—handgun prohibition would seem to be irrelevant, if not downright counterproductive.

Handguns predominate in American violence not because they are necessarily the only or most effective of weapons, but because our culture perceives them as such. There is much criminological evidence that, in the absence of firearms, the enraged householder will prove just as deadly with any of the other lethal instruments our environment abounds in—although at least one study concludes that Americans are much deadlier with handguns than with knives. Americans may perform less well with knives because of purely cultural factors, particularly a hesitation to rely upon a medium which our culture does not perceive as a pre-eminent weapon or one which adequately guarantees safety to the user. No such hesitation appears to afflict the violent in cultures where the knife in hand-to-hand combat is still regarded as the ultimate weapon. Mexican and Puerto Rican handgun prohibitions are very strict and are augmented by levels of poverty which make handguns virtually unavailable to vast portions of the population. Nevertheless Puerto Rico (the only American region which also

prohibits rifles and shotguns) had a murder rate second only to Georgia in 1974. And the Mexican knife homicide rate was more than three times the American rate for all homicides in the last year in which figures were available.

More important, effective handgun prohibition would turn those desiring weapons not to knives, but to long guns, which are far more deadly than either knives or handguns. How much more is suggested by comparing the commonest long guns to even uncommonly powerful handguns? A 12-gauge shotgun fires a slug which is more than twice the diameter and three times the weight of that of a .357 magnum—or nine pellets, each comparable to a .25 handgun bullet. The common 30–30 or 30–06 hunting rifles fire bullets weighing approximately the same as a .357, but at 2–3 times the velocity. At these velocities a rifle bullet not only penetrates flesh and bone, but creates waves of hydrostatic shock which crush vital organs far removed from its path. Unless a rifle bullet destroys the body by tumbling end-over-end, it is far more likely to travel through, endangering others at a substantial distance beyond.

Eighty-five percent of those shot by San Francisco's Zebra killers—and public figures like Gov. Wallace, Sen. Stennis and Premiers Tojo and Verwoerd—recovered from multiple handgun wounds in the head or chest, which undoubtedly would have been fatal if inflicted with even a sawed-off long gun.

The only disadvantage of the long gun to prospective criminals is its lesser concealability. This may be important to the armed robber, assassin, etc. But it is generally conceded that these types will be least affected by handgun prohibition. To the extent that they are affected, they will probably cut long guns down to conveniently concealable size, thereby increasing the danger to their victims.

As to homicide, concealability is largely irrelevant. Most homicides are committed in a momentary rage by law-abiding citizens who are normally not carrying a concealed weapon. For their purposes, the long gun in an adjacent bedroom or nearby automobile is fully as accessible (but far more deadly) than the similarly situated handgun. This goes a long way toward explaining why American handgun-prohibiting jurisdictions (which drive those desiring weapons to long guns) consistently have higher homicide rates. In Britain, where far more "crimes of passion" are committed with long guns than in this country, the recovery rate from shooting is much lower.

The only in-depth study of British gun control concludes, incidentally, that it has had no ascertainable effect upon violence. Done by a high-ranking British police officer for Cambridge University in 1970–71, this study notes: that Britain was very peaceful before prohibition was adopted in 1920, although until then it had literally no laws curtailing ownership or carrying of firearms; obeyed the prohibition only because England is so safe that firearms are not deemed necessary for self-defense; and that British criminals have retained illegally at least the same number of firearms they possessed in 1920. It appears that violent crime is comparatively rare, because the highly civilized, homogeneous, closely-knit British society better imposes cultural restraint against violence, upon even its criminals, than do we.

Gun control is irrelevant to the real determinant of violence, which is not the availability of firearms but the inclination toward use of weapons at all in interpersonal relations. Contrast the phenomenally high Mexican homicide rate with very unsophisticated weapons to the phenomenally low homicide rate in Switzerland, where every man of military age owns a fully automatic rifle. (Such weapons, which are forbidden in this country, are widely available also in Denmark, Israel and Finland, all countries with very low homicide rates.)

Violence can be eliminated or reduced only by sweeping changes in the institutions, social and economic relationships, and the ideologies and mores, which produce a violence-inclined people. Gun control efforts are fundamentally obstructive, because they divert attention from this arduous task by promising a simple mechanical solution at the cost only of an easily vilified group, gun owners. Americans must choose either to experiment with painful and difficult institutional change or to accept and live with the inevitability of continued violence.●

## BUDGET LIMITATION ACT

### HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. HAGEDORN. Mr. Speaker, whatever benefits have accrued from the new budgetary process—and it has provided the opportunity to assess the budget in a more coordinated manner—fiscal discipline is not one of them.

Fiscal year 1979 is the fourth year of the budget process, with fiscal year 1976 having been a trial run in most respects. During this time (assuming the eventual acceptance of budget figures contained in the first fiscal year 1979 House budget resolution), Congress will have run up more than $230 billion in new budget deficits, and will have increased total outlays by more than 50 percent or $175 billion.

TABLE I.—BUDGET RECEIPTS AND OUTLAYS: 1975–79

[In millions of dollars]

| Fiscal year | Receipts | Outlays | Deficit |
|---|---|---|---|
| 1975 | 280,997 | 326,092 | 45,095 |
| 1976 | 299,197 | 365,643 | 66,446 |
| TQ | 81,687 | 94,657 | 12,970 |
| 1977 | 356,861 | 401,902 | 45,040 |
| 1978 estimate | 400,500 | 450,970 | 50,470 |
| 1979 estimate | 443,279 | 501,385 | 58,079 |

Source: Office of Management and Budget, Executive Office of the President. Fiscal year 1978 current estimates. Fiscal year 1979 first concurrent House budget resolution.

Including outlays of off-budget Federal entities, the new deficit created will be more than $270 billion, equally levels of total outlays for fiscal year 1974.

TABLE II.—OFF-BUDGET OUTLAYS: 1975–79

[In millions of dollars]

| Fiscal year | Outlays of off-budget Federal entities | Total outlays | Total deficit |
|---|---|---|---|
| 1975 | 8,054 | 334,145 | −53,149 |
| 1976 | 7,211 | 372,854 | −73,657 |
| TQ | 1,770 | 96,427 | −14,740 |
| 1977 estimate | 8,693 | 410,594 | −53,733 |
| 1978 estimate | 11,514 | 473,748 | −73,361 |
| 1979 estimate | 12,538 | 512,712 | −73,124 |

Source: Office of Management and Budget, Executive Office of the President.

Federal expenditures have continued their long-term trend of growing faster than the economy as a whole, reflective of the state of public expenditures at all levels of Government.

TABLE III.—THE FEDERAL BUDGET AND THE GNP

[Dollar amounts in billions]

| Fiscal year | Gross national product | Budget receipts | | Outlays | | Surplus/deficit | | High employment surplus/deficit[1] | Off-budget Federal outlays | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | Amount | Percent of GNP | Amount | Percent of GNP | Amount | Percent of GNP | | Amount | Percent of GNP |
| 1965 | $657.1 | $116.8 | 17.8 | $118.4 | 18.0 | | | | | |
| 1966 | 721.1 | 130.9 | 18.1 | 134.7 | 18.7 | | | | | |
| 1967 | 774.4 | 149.6 | 19.3 | 158.3 | 20.4 | | | | | |
| 1968 | 829.9 | 153.7 | 18.5 | 178.8 | 21.5 | | | | | |
| 1969 | 903.7 | 187.8 | 20.8 | 184.5 | 20.4 | | | | | |
| 1970 | 959.0 | 193.7 | 20.2 | 196.6 | 20.5 | | | | | |
| 1971 | 1,019.3 | 188.4 | 18.5 | 211.4 | 20.7 | | | | | |
| 1972 | 1,110.5 | 208.6 | 18.8 | 232.0 | 20.9 | | | | | |
| 1973 | 1,237.5 | 232.2 | 18.8 | 247.1 | 20.0 | | | | 0.1 | 0.01 |
| 1974 | 1,359.2 | 264.9 | 19.5 | 269.6 | 19.8 | | | | 1.4 | .1 |
| 1975 | 1,454.6 | 281.0 | 19.3 | 326.1 | 22.4 | | | | 8.0 | .6 |
| 1976 | 1,625.4 | 299.2 | 18.4 | 365.6 | 22.5 | | | | 7.2 | .4 |
| 1977 | 1,838.0 | 356.9 | 19.4 | 401.9 | 21.9 | | | | 8.7 | .5 |
| 1978 (estimate) | 2,043.2 | 400.4 | 19.6 | 462.2 | 22.6 | | | | 11.5 | .6 |

[1] On a national incomes account basis.

Sources: Office of Management and Budget, Council of Economic Advisers.

TABLE IV.—GOVERNMENT EXPENDITURES AS A PERCENTAGE OF NATIONAL INCOME: DEPARTMENT OF COMMERCE DATA FOR THE UNITED STATES, 1929–76

| Year | Total expenditures | External expenditures | | | Domestic expenditures | | |
|---|---|---|---|---|---|---|---|
| | | Total [1] | Defense [2] | Transfers [3] | Total [4] | Transfers [5] | Other [6] |
| 1929 | 12.12 | 0.88 | 0.84 | 0.04 | 11.23 | 1.08 | 10.15 |
| 1930 | 15.00 | 1.04 | .99 | .05 | 13.96 | 1.37 | 12.59 |
| 1931 | 21.08 | 1.29 | 1.22 | .07 | 19.79 | 3.54 | 16.25 |
| 1932 | 25.09 | 1.64 | 1.59 | .05 | 23.45 | 3.40 | 20.05 |
| 1933 | 26.86 | 1.53 | 1.49 | .04 | 25.33 | 3.68 | 21.65 |
| 1934 | 26.43 | 1.31 | 1.29 | .02 | 25.13 | 3.21 | 21.91 |
| 1935 | 23.70 | 1.47 | 1.44 | .04 | 22.23 | 3.22 | 19.01 |
| 1936 | 24.99 | 1.49 | 1.44 | .05 | 23.50 | 4.57 | 18.93 |
| 1937 | 20.80 | 1.44 | 1.36 | .08 | 19.36 | 2.58 | 16.78 |
| 1938 | 25.44 | 1.64 | 1.59 | .04 | 23.80 | 3.66 | 20.14 |
| 1939 | 24.63 | 1.77 | 1.73 | .04 | 22.86 | 3.54 | 19.32 |
| 1940 | 23.12 | 2.80 | 2.76 | .04 | 20.32 | 3.39 | 16.94 |
| 1941 | 28.03 | 13.38 | 13.39 | −.01 | 14.65 | 2.56 | 12.10 |
| 1942 | 47.16 | 36.44 | 36.37 | .07 | 10.72 | 1.95 | 8.77 |
| 1943 | 55.15 | 47.11 | 47.14 | −.03 | 8.04 | 1.45 | 6.59 |
| 1944 | 56.61 | 48.01 | 48.06 | −.05 | 8.61 | 1.69 | 6.91 |
| 1945 | 51.33 | 40.89 | 40.70 | .19 | 10.44 | 3.12 | 7.32 |
| 1946 | 25.56 | 9.55 | 8.29 | 1.26 | 16.01 | 6.08 | 9.93 |
| 1947 | 21.86 | 5.65 | 4.65 | 1.00 | 16.21 | 5.73 | 10.48 |
| 1948 | 23.05 | 6.62 | 4.87 | 1.75 | 16.43 | 4.85 | 11.58 |
| 1949 | 27.89 | 8.60 | 6.20 | 2.40 | 19.28 | 5.51 | 13.77 |
| 1950 | 25.82 | 7.43 | 5.92 | 1.15 | 18.39 | 6.10 | 12.29 |
| 1951 | 29.07 | 13.44 | 12.30 | 1.14 | 15.64 | 4.28 | 11.36 |
| 1952 | 32.85 | 16.77 | 16.04 | .73 | 16.08 | 4.23 | 11.85 |
| 1953 | 33.88 | 16.87 | 16.21 | .66 | 17.01 | 4.30 | 12.70 |
| 1954 | 32.43 | 14.34 | 13.74 | .59 | 18.10 | 5.05 | 13.05 |
| 1955 | 29.86 | 12.34 | 11.72 | .62 | 17.52 | 4.95 | 12.57 |
| 1956 | 30–11 | 21.11 | 11.58 | .54 | 18.00 | 4.99 | 13.01 |
| 1957 | 31.81 | 12.64 | 12.15 | .49 | 19.17 | 5.54 | 13.63 |
| 1958 | 35.05 | 13.01 | 12.52 | .49 | 22.04 | 6.69 | 15.36 |
| 1959 | 32.99 | 11.95 | 11.48 | .47 | 21.04 | 6.35 | 14.69 |
| 1960 | 33.11 | 11.25 | 10.79 | .46 | 21.86 | 6.55 | 15.31 |
| 1961 | 35.14 | 11.57 | 11.08 | .49 | 23.57 | 7.26 | 16.31 |
| 1962 | 35.09 | 11.63 | 11.16 | .47 | 23.45 | 6.91 | 16.54 |
| 1963 | 34.75 | 10.87 | 10.42 | .45 | 23.88 | 6.92 | 16.96 |
| 1964 | 33.95 | 9.86 | 9.45 | .42 | 24.09 | 6.70 | 17.39 |
| 1965 | 33.19 | 9.12 | 8.74 | .38 | 24.07 | 6.64 | 17.42 |
| 1966 | 34.32 | 10.06 | 9.70 | .37 | 24.26 | 6.69 | 17.57 |
| 1967 | 36.97 | 11.24 | 10.90 | .34 | 25.73 | 7.54 | 18.18 |
| 1968 | 37.64 | 11.06 | 10.76 | .30 | 26.58 | 7.91 | 18.67 |
| 1969 | 37.20 | 10.20 | 9.93 | .27 | 27.00 | 8.16 | 18.84 |
| 1970 | 39.07 | 9.49 | 9.21 | .28 | 29.58 | 9.51 | 20.08 |
| 1971 | 39.68 | 8.49 | 8.18 | .30 | 31.20 | 10.47 | 20.73 |
| 1972 | 38.96 | 8.01 | 7.72 | .29 | 30.95 | 10.44 | 20.51 |
| 1973 | 38.03 | 7.15 | 6.91 | .25 | 30.88 | 10.66 | 20.22 |
| 1974 | 40.34 | 7.06 | 6.78 | .28 | 33.28 | 11.88 | 21.40 |
| 1975 [7] | 43.74 | 7.15 | 6.90 | .25 | 36.59 | 13.95 | 22.63 |
| 1976 [7] | 41.90 | 6.60 | 6.36 | .24 | 35.30 | 13.54 | 21.75 |

[1] Sum of defense expenditures and external transfers.
[2] Entitled "government purchases of goods and services, national defense" in source, table 1.1.
[3] Entitled "transfer payments to foreigners" in source, table 3.1.
[4] Total expenditures minus total external expenditures.
[5] Entitled "transfer payments to persons" in source, table 3.1.
[6] Total domestic expenditures minus domestic transfers.
[7] Preliminary data subject to later revision.

Source: Derived from data in U.S. Department of Commerce, "The National Income and Product Accounts of the United States, 1929–74," tables 1.1, 1.9, and 3.1; "Survey of Current Business," July 1977, same tables; and, for defense expenditures for 1929–38, Solomon Fabricant, "The Trend of Government Activity in the United States since 1900" (New York: National Bureau of Economic Research, 1952), pp. 240–241. The data on defense expenditures last mentioned are given by Fabricant for fiscal years. They have been converted into estimates for calendar years through linear interpolation. "Growth of Government in the West," G. Warren Nutter (American Enterprise Institute for Public Policy Research, 1978).

To fill a gap in the budget process, I and 14 of my colleagues (Representatives DAN DANIEL, EDWARDS of Oklahoma, GOODLING, ICHORD, KINDNESS, JEFFORDS, LAGOMARSINO, QUALE, SCHULZE, STANGELAND, SYMMS, TREEN, and WHITEHURST) have introduced legislation which would amend the Congressional Budget Act of 1974 and require that, except during times of war, annual increases in levels of budget outlays and budget authority could not exceed the average annual percentage increase in the GNP during the 3 calendar years preceding.

The 3-year requirement is designed to permit some measure of flexibility in dealing with expenditures, such as food stamps and unemployment benefits, highly dependent upon and inversely related to levels of economic growth.

Not only would this legislation establish broad limits to the proportion of the GNP that could be consumed by the Federal Government, but it would also affect sharply the character of the pressures that influence budget formation. Special interests would no longer be competing with the taxpayer to raise the total ante in the budget; instead they would be competing with each other to increase their relative share of a fixed ante.

As Nobel Laureate Economist Milton Friedman, among others, has noted, one of the paradoxes of the public budget process—at all levels, not simply the Federal level—is that the incentives for participation in individual budgetary decisions are far greater for those who want to spend public money than for those who do not wish it to be spent.

In lobbying legislative bodies for an expenditure or subsidy of some sort, the special interest group that stands to gain by that expenditure or subsidy will normally be intense and passionate in support of that legislation. Their interest will be such that their electoral support or opposition for a candidate may hinge solely upon his vote on that single issue.

Meanwhile, those who stand to suffer as a result of the expenditure or subsidy—the taxpayer—is normally unable to muster a similarly intense and focused opposition effort. Individually, no taxpayer stands to lose very much as a result of each individual expenditure or subsidy. And no taxpayer is likely to rest his electoral support or opposition on the basis of legislation costing him only pennies.

It is only when these individual programs are aggregated that the taxpayer feels the pinch. By the time he recognizes that he has been nickeled and dimed to the poorhouse, it is too late.

The Budget Limitation Act would make clear to the tax spenders that, jointly, they could not bid up the Federal budget to levels limited only by their perseverance and ingenuity. They would be faced, instead, with a budget ceiling within which they would have to grapple with each other for their share. Their new competition would be with other tax spenders rather than with the taxpayer.

Congress would be forced to establish spending priorities. Nothing, of course, would prevent Congress from setting outlay and authority levels below the statutory limit—and I would certainly hope that it would—but, in no event, could a profligate Congress exceed those levels.

The following chart gives a brief picture of the impact that this amendment would have had upon the budget if it had been contained in the original Congressional Budget Act.

TABLE V—IMPACT OF BUDGET LIMITATION ACT

[In billions of dollars]

| Fiscal year | Actual outlays | Maximum outlays under act | Difference | Cumulative difference |
|---|---|---|---|---|
| 1976 | 366.5 | 358.6 | 7.9 | 7.9 |
| 1977 | 409.2 | 391.1 | 18.1 | 26.0 |
| 1978 | 451.0 | 426.6 | 31.9 | 57.9 |
| 1979 | 501.3 | 477.8 | 22.8 | 80.7 |

The budget limitation concept has captured increasing interest among the States in the form of tax limitation. Because the Federal Government alone is not constrained in its ability to spend by the amount of revenues available to it, I believe that a spending limitation is more appropriate at the Federal level.

The tax limitation concept has gained approval in Tennessee, while having been defeated by narrow margins in such States as California and Michigan. In one form or another, it is likely to be on the ballot in several more States this year, including California and Michigan (again), and Massachusetts.

Mr. Speaker, there are two important pieces of legislation that Congress could realistically pass that would insure that future growth in this country does not come predominantly from the public sector. The first is the budget limitation legislation which would insure that Federal spending does not increase as a proportion of the economy. The second would be the so-called indexing of the Internal Revenue Code, adjusting income brackets, deductions, and exemptions to account for changes in the cost-of-living, which would insure that taxes do not increase as a proportion of the economy.

Although it would represent a significant first step, I do not believe ultimately that we should be satisfied simply in maintaining public spending at a fixed proportion of the economy. There are two primary reasons for this. First, presumably as the economy grows, there should be a diminished need for many of the transfer payments that make up such a large share of the Federal budget. Our country's goal should be the reduction of social welfare spending as a proportion of the economy. As the economy grows, the need for such spending should concomitantly decline.

Secondly, since much of the Federal budget consists of expenditures for items—such as national defense—which are essentially fixed cost items, these

functions should be expected to decline as a proportion of a growing economy.

Unless we are willing to make genuine reforms in the areas of spending and taxes, and correct the in-built pressures that currently work to distort the Federal budget process, we are going to continue to witness the growth of government in this country. As in the past, this growth will continue to come at the expense of real economic growth, an improved standard of living, and individual freedom.

## THE PEOPLE UNDERSTAND BETTER THAN MANY IN CONGRESS THE IMPORTANCE OF MARGINAL TAX RATES

### HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. KEMP. Mr. Speaker, two recent articles in Business Week and the Buffalo Evening News point out the fact that workers are greatly distressed over high marginal tax rates and are altering their work decisions accordingly.

As Business Week notes, a major thrust of union negotiating in recent years has been toward obtaining more time off in lieu of higher wages. This is quite clearly a method of increasing one's aftertax income, in effect. Obviously, if your weekly pay stays the same but you work fewer hours, your hourly income will have increased without pushing you into a higher tax bracket. Similarly, workers are demanding more fringe benefits, such as pensions, in lieu of higher wages, since such benefits are not taxed.

The Buffalo Evening News has also taken note of workers' increased sensitivity to marginal tax rates. In a story about the Brock family of Tonowanda, N.Y., the news quoted Mrs. Brock as saying it was reaching the point where she could no longer afford to work because of high State and Federal tax rates.

I suggest that the Congress note these trends when considering the President's tax package which would raise, rather than lower, marginal tax rates.

The articles follow:

[From the Buffalo Evening News, Apr. 9, 1978]

FAMILY'S INCOME IS ABSORBED BY MULTIPLE TAXES

(By Lee Coppola)

The average middle-income family in Erie County, according to economists, shells out 30 cents of every dollar earned for some sort of taxes.

In some cases, as with cigarettes, gasoline, alcohol and tires, the taxes involve taxes on taxes—sales tax tacked to other taxes already included in the purchase price.

In other cases, where a variety of taxes have been hidden in the cost of the item, it's impossible to fully calculate the tax burden.

Mr. and Mrs. Alan Brock of Springfield Avenue in the Town of Tonawanda agreed to outline their spending in 1977 to allow The Buffalo News to illustrate the typical tax burden.

"The middle-class American, who is trying to make ends meet and work hard, is being taxed to death," Mrs. Brock, a part-time nurse, said, after tallying her family's expenses.

Mrs. Brock, 45, earned $7,919 in 1977. Her husband, 46, a sheetmetal worker, earned $19,856, along with $1,851 from a union trust fund.

By far the couple's largest tax slice was the $5,358.20 in state and federal income tax on their wages.

But their real tax outlay, a conservative estimate that does not include sales taxes from forgotten purchases, totaled roughly $8,670.

The Brocks live in a modest ranchstyle home that cost them $13,000 22 years ago.

They have four children, three teen-agers that attend public schools and a 20-year-old daughter enrolled at Cornell University.

Mr. Brock drives an 11-year-old Plymouth station wagon with an odometer making a second pass at 100,000. Mrs. Brock gets back and forth to work in a 1974 Ford compact.

Their concessions to luxury include an above-ground swimming pool in their backyard, a couple of air conditioners and two color TV sets.

The Brocks take no vacations, since Mr. Brock does not get paid for time off or when he calls in sick.

So where does their money go? A sizable chunk, as Mrs. Brock detailed goes to some form or another of taxes.

To live in their house, the Brocks' records showed, they paid a moderate $585 in property and school taxes in 1977. Taxes on utilities were $120.16, and home upkeep, including $30 for paint and about $225 for other items, figured out to $17.85 in sales taxes.

To clothe themselves and their four children, Mrs. Brock estimated she and her husband spent $900 during the year, which cost them $63 in sales taxes.

But that does not tell the entire story of their clothing tax costs. The $63 fails to reflect, for instance, the tax on imported clothing, the Social Security taxes the garment manufacturer paid for his employees or the highway taxes paid by the trucking company that shipped the goods.

All, of course, were included in the price of the item before the sales clerk added on the 7 percent sales tax.

The Brock's major purchases for the year included $100 for a cover for the swimming pool, $214 for a bedroom rug, $350 for a freezer, $200 for an air conditioner and $410 for a color television Mrs. Brock bought her husband as a Christmas present. Total sales tax—$89.18.

For fuel for their cars, the Brocks spent $135 in sales taxes, as culled from a federal tax chart based on miles driven. The tax bite does not include the 4 cents federal and 8 cents state tax that goes along with every gallon of gasoline.

Their cars also cost them $21 in sales tax on an estimated $300 in repairs. And, in another example of tax-on-tax, they purchased six new tires and paid $16.80 in sales tax—plus an equal amount in federal excise taxes.

Taxable grocery items, including food for the family's dog, cat and two hamsters, also up the Brocks' hidden tax total.

Mrs. Brock figures she spends roughly $40 a week on other taxable items such as paper towels, soap and toothpaste, for a sales tax contribution of $145.60.

The Brocks seldom buy liquor, but Mr. Brock drinks a 12-pack of beer a week. That's roughly $14 in sales tax and $17 in federal beer tax annually, figured at $9 per barrel.

The Brocks both smoke heavily, buying three cartons of cigarettes a week. Their smoking habit comes to about $709 a year, but $408 of the total represents taxes, including 15-cents-a-pack state tax, 8-cents-a-pack federal tax and 7 percent sales tax, not only on the cigarettes but also on the taxes they bear.

The family doesn't entertain often or go for lavish restaurant meals. But, for $7 a week, the Brocks enjoy a Friday fish fry and figure they spend another $8 a week in fast-food restaurants. Mr. Brock in 1977 bought his lunch every day, and Mrs. Brock purchased hers in the hospital cafeteria, for another $20 a week in eating-out costs. So, along with their meals, they also paid $127.40 in sales tax.

Mr. Brock's union has a small pension fund based on his hourly wages, but he also contributed $965 in Social Security taxes, while Mrs. Brock added another $463 to the federal coffers.

The tax bite gets so bad Mrs. Brock now thinks about refusing to work extra days. "I bring home $40 a day if I work three days but $35 a day if I work an extra day," she said.

[From the Business Week Apr. 24, 1978]

UNIONS CAMPAIGN TO SHRINK WORK TIME

Two events in the past week pointed up a seeming incongruity in U.S. attitudes about the issue of working time. Last week President Carter signed a bill raising the mandatory retirement age to 70, thus enabling workers to stay longer on the job. This week a newly formed union organization, supported by such powerful unions as the United Auto Workers and the United Steelworkers, kicked off a campaign to reduce working time, with the goal of a shorter work week.

Shrinking the work week—or shortening the work year—will probably have a much greater impact over the next decade than lengthening work life. Only about 200,000 workers are expected to choose to work beyond age 65 in the first year of the newly amended Age Discrimination Act. In contrast, the average retirement age will continue to decline, while workers are demanding more and more time off the job.

SEEKING SUPPORT

A new union group, the All Unions Committee to Shorten the Work Week, hopes to strengthen that trend by whipping up rank-and-file support for shorter work-time demands in collective bargaining. Some 700 delegates from 21 unions met this week in Dearborn, Mich., and laid plans for "a national movement to create jobs by reducing the hours of labor." The organizer and head of the committee is Frank Runnels, president of the UAW's 10,000-member Cadillac Local 22 in Detroit and a longtime advocate of a shorter week for the UAW.

The new committee has the support of top officials of many unions, including the Machinists, Electrical Workers, Meatcutters, and others. While a week of fewer than 40 hours is unlikely to become the standard soon, unions are clearly moving in that direction. "The American worker is going to have a four-day week," UAW President Douglas Fraser told the Dearborn meeting. "The only question is how soon."

Ever since the 40-hour week was established by the Fair Labor Standards Act in 1938, organized labor has perennially demanded a further reduction. Until recently these demands were only perfunctory, largely because rank-and-file workers preferred to get higher wages and more benefits instead of additional time off. But the recession of 1974–75 revived interest in spreading the work, and enhancing the security of workers who had jobs, by reducing work time.

At the same time, the generation of workers born in the postwar "baby boom" period, now dominant in the labor force, has indicated more interest in leisure time than older generations. Through increased vacations, sick leaves, holidays, and a variety of "go-to-hell" days, the work year has declined markedly. The UAW estimates that average annual

hours worked by manufacturing employees dropped 3%, to 1,920 hours last year from 1,980 hours in 1960.

A HARD FIGHT

The fact that workers in heavy industry increasingly want less time on the job shows up in the declining retirement age. The average age of hourly employees retiring at General Motors Corp. dropped to 58 in 1975 from 70 in 1950. Moreover, the UAW says that more than 30% of its members who are eligible for "30-and-out"—retirement after 30 years' service, regardless of age—are choosing to retire. And although average weekly hours worked in manufacturing have stayed constant at around 40, AFL–CIO economist John Zalusky points out that "scheduled" hours of work have gone down.

Despite the convergence of these trends, organized labor will not easily win a four-day week. Managment, worried about the inflationary impact of large boosts in paid-time off the job, will resist the shorter-time demands. And other bargaining priorities may suddenly take precedence. Richard A. Belous, a research associate at George Washington University's Center for Social Policy Studies, says that workers now appear to be relatively satisfied with their real earning power. "If there is double-digit inflation, however, there will be no massive trend toward more time off," he cautions.

If the work-time demands materialize, they will most probably chip away at the length of the work year rather than attempt to reduce the work week in one fell swoop. The model could be the UAW's program, under which auto workers next year will receive seven paid personal holidays, in addition to regular holidays. This is the equivalent of seven 4-day weeks per year. "We're not advocating a 30- or 32- or 35-hour work week," Runnels says. "We are leaving the various unions the flexibility to do it in a manner that meets their own industry's circumstances . . . and we don't expect to do it overnight."●

## STATEMENT OF CHAIRMAN ULLMAN, COMMITTEE ON WAYS AND MEANS, WITH RESPECT TO THE RULES TO BE REQUESTED ON H.R. 11711, TO IMPROVE THE OPERATION OF THE ADJUSTMENT ASSISTANCE PROGRAMS FOR WORKERS AND FIRMS UNDER THE TRADE ACT OF 1974

### HON. AL ULLMAN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. ULLMAN. Mr. Speaker, on Tuesday, April 18, 1978, the Committee on Ways and Means favorably reported H.R. 11711 to the House. The bill would increase the accessibility for firms and workers to apply for adjustment assistance; improve the delivery of assistance; increase benefits for job relocation and training; and increase the maximum on direct loans and loan guarantees.

I take this occasion to advise my Democratic colleagues as to the nature of the rule that I will request for consideration of H.R. 11711 on the floor of the House. The Committee on Ways and Means specifically instructed me to request the Committee on Rules to grant a modified closed rule for consideration of H.R. 11711 which would provide for amendments relating only to chapters 2, 3, and 5 of title II of the Trade Act of 1974, the trade adjustment assistance provisions of the act; 1 hour of general debate, to be equally divided; waiving all necessary points of order, and with one motion to recommit with or without instructions.

It is our intention to request a hearing before the Committee on Rules as expeditiously as possible.●

## THE WARSAW GHETTO UPRISING ANNIVERSARY

### HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. GILMAN. Mr. Speaker, today is the 35th anniversary of one of the saddest events in human history, unparalleled before, and indelibly etched in the memories of its survivors and witnesses. In 1943, residents of the Warsaw Ghetto staged an uprising which lasted for several weeks—a courageous uprising which tragically ended in the liquidation of the entire ghetto on May 16.

Mere words do not suffice to describe such an atrocity. The words "tragic," inhuman," or "despicable" come to mind, but the stark reality is that words cannot adequately describe the horror that was experienced there and which is relived daily in the minds and hearts of the survivors of the Holocaust.

While it is difficult to express the anguish and despair that was felt in Warsaw, the utterance of such abominable places as Auschwitz, Treblinka, and Vilna raise immediate images—haunting pictures of Jews being "systematically destroyed," in an explosion of primal slaughter, rows upon rows being gunned down and bodies slumped in ditches, the bulging eyes of starving mothers and children, the brittle bones of prisoners protruding through their skin. The phrase "the living dead" was used to describe the condition of these thousands of inmates and victims as they hung onto the brink between death and life, victims condemned to living out the day-to-day existence that proved more torturous than quick death.

There are several ways to deal with the Holocaust: The first is apathy and a loss of memory—allowing the gruesome horrors and subhuman treatment of 6 million people to remain buried in a past chapter of history, an event which has nothing to do with life today. Another course one might take is to remember the Holocaust, to teach it to our young and to work towards the prevention of another Holocaust. The lessons learned from the Holocaust are many. The human suffering and disgrace are universal emotions and are universal symbols of man's struggle against oppression and evil.

Teaching the Holocaust to our young children and to others who have not experienced the massive dehumanization is not an easy task. It must be done with sensitivity and our feelings in retrospect should be directed towards the creation of a future atmosphere of freedom and tolerance. But it is imperative to remember the Holocaust and tragic events such as the Warsaw Ghetto massacre because each of us gains some strength from the examples offered in resistance against the enemy, and each of us learns to appreciate and love life—the gift of life—even more. And we must learn to forgive, but that does not mean to forget; for it is in a spirit of reconciliation—not resignation—that one learns to "pick up the pieces" and to continue the traditions and rites which are ours by birth.

Surviving the Holocaust is an irony simply because survival is sometimes as much a burden as death. Survivors still document their terror at the sound of a gunshot, the dreams that haunt them nightly, and even in their sleep, they return to the concentration camps and are witness to the horror which lingers in their subconscious. And right before their eyes they are reliving it again, even 35 years later, in the faces and cruelty of the intolerant, in the persecution and terror which has become a way of life in the seventies. No one believes that it will ever happen again—it is too horrible to happen again—and most close their eyes to it.

Perhaps it does take nearly four decades to be able to fully comprehend these events and to understand what they represent. It is certainly commendable that a major television network in adapting a family's story of the Holocaust, has allowed all Americans to experience the barbarous, and sadistic actions which took place in Nazi Germany and which spread inevitably across Europe. For many Americans, this documentation of pain is the first introduction to the events in Nazi prison camps, and for many it will be a startling experience. But it is a necessary, important experience—one which will hopefully, jar families and individuals into action against intolerance, ignorance, and bigotry.

In one vivid scene in NBC's "Holocaust" there are two young Jews who have escaped from the death lines, and who have chosen to face the day-to-day threats which they encounter in their flight to freedom. In their escape, they witness a scene which is terrifying and gruesome—a firing squad mowing down long lines of Jewish inmates one by one. Their bodies tumble into newly dug graves, and machinegun bullets riddle their bodies. The hidden observers are stunned in stark disbelief. One says to the other "No one will ever believe this. Human beings don't do this to other human beings."

But the tragic fact is that yes, they did do this to other human beings and mankind is still inflicting acts of inhumanity on other human beings. Six million human beings perished through mass gassings, mass shootings, by being worked to death and by starvation. And the inevitable excuse, the justification for all this was that the officers were "just following orders."

We too have our orders, orders from the pages of history, from the lips of the innocent dead and the basic notions of right and wrong which are inherent in all of us. These orders tell us to instruct the world of the possibilities and stark realities of Holocaust, and to imprint the picture of human suffering on

each man and woman who has the gift of life. Each of us—each man and woman has a responsibility to every other human being on earth, a responsibility which transcends distance and different cultures. It is our obligation to speak up against inhumane acts, against torture and suffering wherever it may be—in all parts of the world, and to try to alleviate that pain and suffering. We must not turn our backs, nor can we allow the rest of the world to turn its back on us.

In remembering the Holocaust, let us not be blind to its lessons. It is a condemnation of apathy—it is a call to action. We have been given the gift of life and the lessons of history, let us use them well to teach and to learn.●

## INTRODUCING H.R. 12239, PERTAINING TO MEAT IMPORTS

### HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. ABDNOR. Mr. Speaker, following is the text of a bill I have introduced today:

H.R. 12239

A bill to improve the inspection and labeling of imported meat and to enhance the stability in meat supplies and prices, for the benefit of domestic producers and consumers

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SECTION 1. This Act may be cited as "The Beef Act of 1978."

SEC. 2. Section 20(a) of the Federal Meat Inspection Act (21 U.S.C. 620(a)) is amended by inserting "(1)" after "(a)", and by adding at the end thereof the following:

"(2) The Secretary shall, with respect to any carcass, part of a carcass, meat or meat food product of a cow, sheep, swine, goat, horse, mule, or other equine which is capable of use as human food and which is imported into the United States, require by regulation or otherwise that any such article, or any product made in whole or in part from any such article if capable for use as human food, or that the package or container of such article or product, be labeled or otherwise marked in such manner as the Secretary determines practicable to inform the retail consumer of such article or product at the time of purchase that such article or product was imported, in whole or in part, as the case may be, into the United States.

"(3) No carcasses, parts of carcasses, meat or meat products of cattle, sheep, swine, goats, horses, mules, or other equines which are capable of use as human food shall be imported into the United States unless—

"(A) tests have been conducted on the carcasses, parts of carcasses, and meat and meat food products, including internal organs, of the animals from which such articles came, to determine whether such articles (i) contain any substance, as defined in paragraph (5), and (ii) contain a level of any such substance in excess of the maximum level permitted by law or regulation;

"(B) such tests have been conducted, in the country from which such articles are being imported, by persons who have been initially certified (and subsequently recertified) in the same or similar manner and under the same criteria as persons who are initially certified (and subsequently recertified) by the Department of Agriculture to conduct such tests on articles of animals produced in the United States; and

"(C) the appropriate government official of the country from which any such article is being imported has certified to the Secretary that such article has been tested in accordance with regulations issued by the Secretary and that such article does not contain any substance as defined in paragraph (5) or contain a level of any such substance in excess of the maximum level referred to in paragraph (5), as appropriate.

"(4) In order to verify the accuracy of testing required for substances, as defined in paragraph (5), the Secretary shall conduct a program under which inspectors of the Department of Agriculture take, from time to time, samples of carcasses, parts of carcasses, and meat and meat food products of animals referred to in paragraph (5) which are intended for export to the United States, including the internal organs of the animals from which such carcasses and meat and meat food products came, and send such samples to the United States for appropriate testing.

"(5) As used in paragraphs (3) and (4) of this subsection, the term "substance" means any chemical matter for which the Department of Agriculture conducts tests on carcasses, parts of carcasses and meat and meat food products, including the internal organs, of cattle, sheep, swine, goats, horses, mules, or other equines which are capable of use as human food, for the purpose of determining whether residues of such chemical matter are present in such articles or to determine whether the residues of such chemical matter present in such articles exceed levels authorized by law or regulation.

"(6)(A) The Secretary shall prescribe such assessments and fees on imported meat and meat food products as he determines necessary to cover the costs of inspections, certifications, testing, and labeling (or other marking) required under this section.

"(B) In establishing the level or rate of assessments and fees to be imposed under this title, the Secretary shall take into consideration the volume of imports, the value thereof, and such other factors as he deems appropriate in order to achieve a fair and equitable allocation of such assessments and fees among importers.

"(C) The Secretary shall have authority to suspend or revoke the privilege of any importer of meat or meat food products to import such products into the United States if such importer fails to pay the assessments or fees which he is required to pay under this paragraph."

SEC. 3. Subsection (a) of section 2 of the Act entitled "An Act to provide for the free importation of certain wild animals; and to provide for the imposition of quotas on certain meat and meat products" (78 Stat. 594; 19 U.S.C. 1202), hereinafter referred to as the "Quota Act," is amended to read as follows:

"SEC. (a)(1) It is the policy of the Congress, except as provided in paragraph (2), that—

"(A) The aggregate quantity of the articles specified in items 106.10 (relating to fresh, chilled, or frozen cattle meat) and 106.20 (relating to fresh, chilled, or frozen meat of goats and sheep) (except lambs) of the Tariff Schedules of the United States which may be imported into the United States in any calendar year beginning after December 31, 1978, shall not exceed 652,860,000 pounds;

"(B) The aggregate quantity of the articles specified in items 106.80, 106.85, 107.20, 107.2520, 107.40, 107.45, 107.48, 107.50, 107.52, 107.55, 107.60, 107.70, 107.7540 and 107.7560 (relating to prepared or preserved beef and veal) of the Tariff Schedules of the United States which may be imported into the United States in any calendar year beginning after December 31, 1978, shall not exceed 80,000,000 pounds;

"(C) The aggregate quantity of the articles specified in items 100.40, 100.43, 100.45, 100.50, 100.53, and 100.55 (relating to live cattle) of the Tariff Schedules of the United States which may be imported into the United States in any calendar year beginning after December 31, 1978, shall not exceed 400,000 head or 200,000,000 pounds;

"(2) An 'aggregate quantity,' as stated in subparagraphs (A), (B) and (C) of paragraph (1), shall be—

"(A) increased or decreased for any calendar year by the same percentage that estimated average annual domestic commercial production of the articles described in subparagraph (A) of paragraph (1) in that calendar year and the two preceding calendar years increases or decreases in comparison with the average annual domestic commercial production of those articles during the years 1959–1963, inclusive, and

"(B) further increased or decreased by multiplying the 'adjusted base quota,' resulting from the adjustment in subparagraph (A) of this paragraph, by the fraction having as its numerator the ten-year moving average of per capita commercial cow beef production and as its denominator the average of the estimated per capita commercial cow beef production for the quota year under consideration and the actual per capita commercial cow beef production for the previous year.

"(3) Notwithstanding any other provision of law, the limitations imposed by this section shall apply with respect to articles imported into the United States, whether or not such articles are shipped directly into the United States or transshipped through foreign trade zones into the United States."

SEC. 4. Subsection (b) of the Quota Act is amended to read as follows:

"(b) The Secretary of Agriculture, for each calendar year after 1978, shall estimate and publish—

(1) before the beginning of such calendar year, the aggregate quantities prescribed for such calendar year by subsection (a), and

(2) before the first day of each calendar quarter in such calendar year, the aggregate quantities of the articles described in subsection (a)(1)(A), (B), and (C), which (but for this section) would be imported in such calendar year.

In applying paragraph (2) for the second or any succeeding calendar quarter in any calendar year, actual imports for the preceding calendar quarter or quarters in such calendar year shall be taken into account to the extent data is available."

SEC. 5. Subsection (c) of the Quota Act is amended by striking out "110" each place it appears and inserting in lieu thereof "105."

SEC. 6. Subsection (d) of the Quota Act is amended by inserting "domestic cattle raisers are operating at a reasonable level of profitability, and that" after "if he determines and proclaims that."

SEC. 7. Notwithstanding any other provisions contained herein, the President may prohibit or curtail the importation of any of the articles defined in paragraph (a)(1) of Section 2 if he determines and proclaims that such action is required by overriding economic or national security interests of the United States, giving special weight to the importance to the Nation of the economic well-being of the domestic livestock industry.●

## DEPARTMENT OF ENERGY'S BUDGET

### HON. WILLIAM M. KETCHUM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. KETCHUM. Mr. Speaker, recently I received a letter from a former constit-

uent of mine who forwarded me a copy of a circular which has been sent to interested parties from Western Crude Oil. The subject matter deals with the annual budget accorded the Department of Energy. Although I realize that there are those who grimace over remarks made by oil concerns about the centralized government regulator, I do feel that the concerns raised are significant as well as timely. Consequently, I would like to take this opportunity to quote the article in full:

Last year, Western Crude Oil distributed a fact sheet which quoted a Washington Post headline: "HILL APPROVES DEPARTMENT OF ENERGY STAFF OF 20,000, BUDGET OF $10 BILLION." That fact sheet compared the DOE's 19,767 employees and 1978 budget of $10.6 billion to certain aspects of the oil industry, and concluded that "If you believe this budget won't increase next year, you'd better look under your pillow—someone may have left you a quarter."

Alas, the tooth fairy did not come, but the 1979 DOE budget did—and how! $12.6 billion; an increase of almost 20%! To put the new budget in perspective, some of the comparisons made last year are restated below. (Last year's comparative numbers are in parentheses.)

1. It represents $637,000 ($500,000) per DOE employee (assuming the same number of employees).
2. It represents over $59 ($50) for each and every member of the U.S. population (212 million).
3. It represents $316,878 ($266,871) for each of the 39,763 wells drilled in 1976.
4. It represents $4.27 ($3.59) for each barrel of domestic crude oil production in 1976.
5. It represents $1.99 ($1.67) for every barrel of petroleum products consumed in 1976.
6. It represents almost $0.12 ($0.10) for every gallon of gasoline consumed in 1976.
7. It represents $0.41 ($.34) on every barrel of proven crude oil reserves as of December 31, 1976 (30.9 billion barrels).

To put the DOE's new budget in another perspective, it is approximately double the 1976 earnings of the seven largest oil companies and exceeds the 1976 net income of the top 20 oil companies by almost $2 billion—profits which were characterized as "obscene".●

## ACTION REQUIRED ON HUMAN RIGHTS PROBLEM IN CAMBODIA

### HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. SOLARZ. Mr. Speaker, this week marks the third anniversary of the fall of the Cambodian Government. Last September 27 this body without dissent passed a resolution offered by me and cosponsored by Representatives DERWINSKI, FRASER, HARRINGTON, and GOODLING, which expressed deep concern over the continuing disregard for basic human rights of the Cambodian people by the Government of democratic Kampuchea and called on the President to make every effort to bring the flagrant violations of human rights to an end.

Unfortunately, the situation only seems to have deteriorated in recent months, and there is no end in sight to the mass killings. Reliable estimates of the situation in Cambodia indicate that since the fall of Phnom-Penh in April 1975, over 1 million of the Cambodian people have been slaughtered by their own government. What we see in Cambodia is something almost unprecendented in the annals of human history—the slaughter of a people by its own people, a phenomenon Jean Lacoutre has labeled as autogenocide.

Mr. Speaker, this week all of us in Congress are engrossed in studying the Holocaust—which destroyed 6 million European Jews during World War II. Many of us wonder how the world was silent, and others ask, "Could it happen again?" But while we ask these questions, we have only to look at the behavior of the world's international organizations today to realize that the world can be silent while it indeed happens again.

In order that our children not look back at us in horror once again, I urge all the Members of this body to redouble their efforts to bring public opinion to bear on the Khmer Rouge regime, and I urge that the President do everything in his power to bring the killings to an end.

Mr. Speaker, I ask that the following two items be inserted at this point in the RECORD. The first is a statement by Mr. Chhang Song, former minister of information of the Cambodian Government, in which he calls for an international conference to deal with the Cambodian problem. The second is a letter to the editor of the New York Times by Prof. Joseph W. Eaton which suggests an emergency procedure for dealing with genocide.

The items follow:

HOLOCAUST IN CAMBODIA

The word "holocaust" has come into vogue here in America. The word has the dictionary definition of "great and wholesale destruction." The word "holocaust" is the title of an immensely-popular television documentary film series highlighting the systematic and terrible execution of six million Jews by the Nazis during the World War II era.

Today, I would like to call your attention to another holocaust which has been taking place, virtually unnoticed, during the past three years.

In a recent speech in Phnom Penh commemorating the third anniversary of the communist takeover in Cambodia, one of Cambodia's new rulers, Khieu Samphan, told his audience that "there has been progress" in agriculture, public health and education. In contrast with these, his signposts of progress, I would like you to picture a land:

Where there are not cities; where all the urban dwellers have been driven like animals into the countryside where they live and toil in guarded village concentration camps;

Where more than one million persons have been systematically slaughtered for the crime of having a relationship, however remote, with the old regime; another million appear to have perished from disease and starvation;

Where organized religion, Christian, Buddhist, and Muslim, have been destroyed and relegated to the dustbin of history;

Where schools and universities and the entire educational structure have been torn down;

Where the economy has been reduced to the lowest level of subsistence agriculture and the currency abolished;

Where men, women and children toil like animals from dawn to nightfall, seven days a week without relief;

Where love, joy, beauty, and hope, those precious qualities of human existence, have been banished as undesirable;

Where death, for many, comes as a welcome release from odious, terrible toil and suffering;

Where the word "Angkar," meaning "the organization," strikes terror in the hearts of the bravest, for it gives the lowliest communist Khmer Rouge soldier the power of life and death over the capture citizenry.

And the recent Vietnamese invasion of Cambodia is the latest and final assault on the crumbling Khmer civilization.

This, I submit, Ladies and Gentlemen, is the meaning of the word "holocaust" in Cambodia. What we are looking at is the death of the ancient and proud Khmer civilization. This has gone too long unnoticed and ignored by the so-called "civilized world." It is time to put an end to these terrible crimes against humanity. I appeal to the conscience and sense of justice of the American people and the American Government to seek the means to bring pressure to bear on the Government of Democratic Kampuchea and to put an end to crimes that fly in the face of each and every clause of the United Nations' Universal Declaration on Human Rights.

As a first step towards accomplishing this end, I propose an international conference of all those nations concerned with justice and human rights to be convened at the earliest opportunity. At the same time, I would like to thank Congressman Solarz, Senator Dole and those other Congressmen and Senators, and men of good will whose hearts have been touched by the Cambodian tragedy. I am indebted to them for all their valiant efforts to assist me in bringing to the attention of the American people the terrible plight of the long-suffering people of Cambodia.

Ladies and Gentlemen, it is too late to bring back from the dead the hundreds of thousands of victims in Cambodia. It is not too late to remember the lessons from history we learned when the world chose to ignore the appeals for help from those millions of victims of "that other holocaust" in Hitler's Germany. Now I am ready for your questions.

[From the New York Times, April 19, 1978]

35 YEARS AFTER WARSAW, AND GENOCIDE IS THRIVING

*To the Editor:*

Thirty-five years ago, on April 19, 1943, German forces entered the Warsaw Ghetto. Jews from all over Poland had been shipped there for the "final solution," crowded more than 13 per room. It was to be another "routine" roundup of a new quota of Jews to be processed in gas chambers into recovered gold fillings, soap and ashes. Only this time there was stiff resistance. German troops had to withdraw with heavy losses. The Ghetto Uprising had begun. The battle continued until June 19, when the remaining 50 ghetto fighters were able to escape into nearby forests. There had been 400,000 Jews in Warsaw before the Nazis conquered Poland—a third of the city's population.

April 19 is an ordinary day at the United Nations. Next to nothing is being done about the ongoing massive genocide in Cambodia. A combined humanitarian effort by the Soviet Union and China could probably end it. Post-World War II genocidal campaigns in Brazil, Burundi, Iraq, Indonesia and elsewhere were played down or ignored in barely embarrassed official silence. Idi Amin, Uganda's reincarnation of Adolph Hitler, was actually elected head of the Organization of African Unity. Fellow heads of state, with some note-worthy exceptions, kept a "polite" silence about Amin's personal involvement in the execution of 150,000 to 300,000 of his countrymen. An SS-type police continues to spill black blood with unrestrained sadism.

Around 50,000 Christians and Moslems butchered each other in Lebanon's civil war, while the Arab League and the United Na-

tions were passive or quietly rooted for the excesses of one or the other side. Nearly 750,000 blacks, Christians and animists were put to death in the southern Sudan before an internal settlement was negotiated by its present Government. While Pakistani troops systematically killed many of the Bengali educated elite, the world powers competed with each other in supporting either side in the war, which ultimately led to the emergence of Bangladesh.

The human rights issue has become a victim of the cold war. The genocide convention notwithstanding third-world and Eastern bloc nations claim that for "political reasons" it is morally defensible to ignore torture, terrorism and mass murder, unless it occurs in a country not aligned with them. When genocide is begun, nothing will help other than an airlift, a threat of intervention plus large numbers of neutral observers, empowered to report and capable of protecting themselves. There is no time for days of consultation and months of sterile so-called "diplomatic" negotiations. Authority is needed to organize an emergency procedure, much like what can be mobilized to relieve victims of some other catastrophe.

As a young man, Secretary General Waldheim had to watch helplessly as his Jewish acquaintances in Austria were sent to their death. He was passive then. He need not be passive now. He has a leadership position from which he could lobby for an active policy of deterrence.

During World War II, neither the West nor the Soviet Union came to the aid of the beleaguered Warsaw Ghetto. Let us be more timely the next time when mass murder is planned and executed.

JOSEPH W. EATON.

Pittsburgh, April 4, 1978.

NOTE: The writer is a professor at the University of Pittsburgh's Graduate School of Public and International Affairs.)●

## ALCOHOL: THE FUEL OF THE FUTURE

### HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for April 19, 1978, into the RECORD:

ALCOHOL: THE FUEL OF THE FUTURE

As the supply of oil and natural gas dwindles and the price of these fuels continues to rise, people in ever greater numbers are looking to alternative sources of energy to meet our growing needs. One alternative source—alcohol—is attracting considerable attention, and there is a special interest in an alcohol fuel known as "gasohol", a mixture of alcohol and gasoline. A good many energy experts, farmers and environmentalists think that alcohol is the fuel of the future.

Unlike some of the more exotic alternative sources, alcohol has been tried successfully many times. Some of Henry Ford's first "horseless carriages" ran on it, and some of our parents and grandparents remember Agrol, an alcohol-gasoline mixture that was marketed in the Midwest in the 1930s. One of the most extensive uses of alcohol fuel took place in the final stages of World War II when the German Army relied an gasohol to keep its vehicles moving. People are surprised to learn that alcohol fuel is being used on a large scale today, but Brazil has launched a major drive to promote it. This year, a budget of $500 million will raise the alcohol content of Brazilian gasoline to 20%, reducing that country's oil imports by 10% and saving Brazil about $400 million on its oil import bill.

Alcohol is not the cure for all our energy ills, but it could help. Because alcohol can be made from renewable raw materials such as farm produce, wood and waste, we would not have to worry about depletion of this energy source. We could make alcohol virtually on demand. Furthermore, the alcohol would be produced here in the United States. Domestic control would allow us to be less dependent on unreliable foreign sources of energy. Finally, we could save billions on oil imports. In the process, our trade account could be balanced, the dollar strengthened and American jobs preserved.

Besides its beneficial effects in the area of energy, the use of alcohol as a fuel would go to the heart of another serious national problem: the depressed state of American agriculture. Experts have noted that producers of alcohol fuel have the potential to be the largest new market for our farmers. The existence of this new market could eliminate surpluses in the future even if more land were brought under cultivation. Farmers would always have someplace to go with their produce and they would enjoy an unprecedented stability in prices. They could even sell agricultural refuse such as corn stalks, distressed grains and other spoiled or damaged crops to make alcohol. Yet another benefit to our farmers would be the increased availability of distiller's grain, a protein-rich by-product of the conversion of grain to alcohol. With additional quantities on the market, it might cost farmers less to feed their animals.

The use of alcohol fuel would be very helpful to us in energy and agriculture, but its benefits are not confined to these areas alone. Environmentalists are excited about alcohol fuel, as well they might be. Since alcohol can be generated from the millions of tons of waste that are now being used in landfills or are being dumped into rivers and coastal waters, we have a ready solution to the many problems of waste disposal. There are important consequences for air quality, too. Although knowledgeable sources are divided on just how cleanburning alcohol fuel is, they generally agree that its increased use would lower concentrations of one dangerous pollutant—carbon monoxide—in a significant way.

We should not overlook the stake rural America has in this alternative source of energy. Alcohol fuel would spawn industry principally in the farm and forest states, close to supplies of raw materials. And since the production of alcohol is very much a "backyard technology," any small town, company or cooperative could profit by generating alcohol from locally available farm produce or wood. In the final analysis, economic development would be spurred all across rural America.

The main problem with alcohol fuel is its cost. Under present conditions it costs more to produce a gallon of alcohol than a gallon of gasoline, so any alcohol-gasoline mixture is bound to be more expensive than pure gasoline at the service station. However, many members of the Congress—myself included—have introduced legislation to overcome the cost problem. The Congress is now considering changes in the tax laws to make alcohol more competitive with gasoline, and with oil prices rising alcohol is looking better every day. Mass production of alcohol could also help to make it cheaper in the future. But regardless of the present cost of alcohol, we should not forget that American taxpayers and consumers pay out immense sums of money every year to import oil, help the farmer and get rid of waste. Any additional use of alcohol fuel would reduce these taxpayer and consumer payments to more reasonable levels.●

## PHILADELPHIA ONE OF FIRST CITIES WITH INNOVATIVE ENVIRONMENT IDEA

### HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. EILBERG. Mr. Speaker, I am proud to advise my colleagues that the city of Philadelphia will be one of the first cities in the United States to respond to a new Federal law rewarding local communities for innovative ideas.

According to City Managing Director Hillel S. Levinson, Philadelphia ultimately might receive millions of additional dollars in Federal grants as a result of a new technique being tested by the water department.

The technique is sewage treatment being tested at the city's northeast water pollution control plant.

It was conceived by Water Commissioner Carmen F. Guarino.

The water department has been operating 22 large polyethylene cylinders, called "Surfact" units, in two aeration bays at the northeast plant. These cylinders, 25 feet in length and 12 feet in diameter, rotate through the sewage flow and are powered by air supplied to the tanks.

As the cylinders rotate, they pick up a film on which aerobic bacteria grow. The bacteria then oxidize the sewage, converting it into other hamless elements.

Although variations of such cylinders are used by some other communities, Philadelphia is the first city to adapt them to aeration tanks and to power them by air already supplied to the tanks rather than by additional direct electrical power.

Noting that this technique saves huge amounts of electricity with minimal capital investment, Levison said that Guarino's idea will:

Make it possible to upgrade old sewage plants rapidly at moderate cost;

Save Philadelphia $17 million (28 percent of the projected $160 million capital cost for expanding the Northeast sewage plant to secondary treatment levels;

Reduce amortization costs for a new Northeast plant by $1.6 million a year;

Save $850,000 yearly in power costs for a new and upgraded Northeast Plant, as compared with any close alternative method for improving sewage treatment;

Significantly reduce the level of maintenance required as compared to other conventional treatment methods;

Create other design savings in the construction of a new Northeast Plant;

Produce comparable savings on power, capital investment, and amortization at the Southeast sewage plant, if the technique is eventually applied there;

Potentially increase Federal funding for the construction of new sewage plants in Philadelphia from 75 to 85 percent of total cost as reward, under the law, for an innovative idea.

Besides increasing Federal grants, Levinson said that the new technique will increase pollution removals from

sewage (as measured by biochemical oxygen demand) from the present 65 percent to better than 90 percent at the Northeast plant. This will result in the discharge of a cleaner effluent to the Delaware River.

The technique also has the advantage of producing less sludge than conventional treatment systems.

The managing director said Guarino made use of available equipment in developing his idea for the new technique.

Although Guarino has an agreement on the commercial market relating to a patent for the idea, the agreement—at Guarino's request—exempts the city of Philadelphia from payment of any royalties for use of the process "now or in the future." This could save the city at least $190,000, at the Northeast plant alone, Levinson added.

Levinson said that the idea has wakened interest in Japan and has potential for other countries. He added:

For America, there will be important spinoff benefits. At a time when the cost of energy is rising and there is a threat of an energy scarcity, the new process will help American communities save large amounts of energy, while solving some of their water pollution control problems more quickly. Commissioner Guarino and the Water Department should be congratulated for this significant contribution.●

## OPEN DATING: A FORMULA FOR FRESHNESS

### HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. ROSENTHAL. Mr. Speaker, the Consumer Research Institute and the USDA's Economic Research Service conducted a study in 1971 to determine consumer attitudes toward the freshness of the food they buy and whether the open (noncoded) dating of food products would have any effect on buying practices and retail store operations.

The findings were significant. The open dating system—as opposed to coding which cannot be easily understood by the average consumer, or many retailers, for that matter—reduced by 50 percent the number of consumer complaints about buying spoiled or stale food. Store losses also were generally reduced after the introduction of open dating. The conclusion reached was that dating foods in easily understandable terms instead of indecipherable codes may well be advantageous to both consumer and retailer.

That was 7 years ago, Mr. Speaker, and still open dating has not been universally adopted. Consumer complaints of premature food spoilage continue, and the vast majority of products on supermarket shelves today still bear untranslatable date codes.

The New York State Consumer Protection Board today is filing a petition with the Food and Drug Administration requesting the Agency to replace its current regulation regarding the "code" dating of canned and packaged foods with a new rule requiring the same packaging information to be expressed in commonly used and easily understandable abbreviations.

I am writing to the FDA today to express my support for the petition and to urge its swift approval. The spirit of this proposal is consistent with provisions of H.R. 42, the Consumer Food Labeling Act, which I introduced and is cosponsored by 46 of our colleagues. Both seek to insure that the consumer will know exactly what he is getting in the products he buys. Both offer intelligent, workable solutions to a serious problem. States the petition:

Consumers purchasing food or food products have found it difficult, if not impossible, to find out the freshness of foods being sold.

One of the most important criteria in purchasing one product over another is its freshness. But the coding system has constantly kept the consumer in the dark as to the age of the food he wants to buy, and this can be harmful to his health.

Despite the popular myth that canned foods are good indefinitely, studies by the Department of the Army, among others, have shown that some packaged and canned foods have comparatively short shelf lives. Some products, such as canned meats, may have a limited shelf life of only a few months. Poor handling, storage, and environmental changes also contribute to the decline of the value of food products. The aesthetic and nutritional quality of these foods will inevitably deteriorate with time. Many retailers are themselves not aware or not familiar with the coding system and, therefore, cannot rotate shelved products according to their freshness. And even in cases where a noncoded system is used, consumers often have a hard time trying to determine which date means what because of inconsistent dating practices. We need not only mandatory open dating, but also a uniform, consistent dating procedure that consumers can easily understand and use. Open dating is not only good health and good sense, but also is good business.

The buyer, for health reasons, has a right to know the freshness of the food he is purchasing. Declares the petition:

Without a comprehensible "pack date" the consumer is forced to play a guessing game with his money and his health.

(The "pack date" is the date on which the product was actually packed. An alternative form would be the "pull date" which is the last date a product should be sold at the retail level, but without enough "freshness" to be good for a reasonable additional time in the home.) It is important that in addition to pack dates, the manufacturer should include instructions on the label for proper home care and storage, so that the consumer will not see food spoil on the home shelf.

Mr. Speaker, the American consumer wants and needs a uniform open dating system. One clear illustration of this is the tremendous number of requests for the Consumer Board's booklet, "Blind Dates: How to Break the Codes on the Food You Buy." Several manufacturers and retailers have voluntarily instituted their own open dating system and have found it helpful both for the consumer and for themselves. They are to be commended. The vast majority of manufacturers and packers have the necessary equipment to make the changeover to open dating, so the inconvenicnce and cost to them would be negligible.

But it is the health of the consuming public—not the convenience of the manufacturer—which must be the primary concern of the FDA. I believe that the proposal outlined in this petition will go a long way to promote the interests and well-being of the American consumer, and I urge its prompt and favorable consideration. I am inserting at this point the petition and my letter of support to the FDA, so that my colleagues may also benefit from the information:

WASHINGTON, D.C., *April 19, 1978.*

HEARING CLERK,

*Food and Drug Administration, Department of Health, Education, and Welfare, Rockville, Md.*

DEAR SIR: I am writing in support of the citizen petition filed by the New York State Consumer Protection Board on April 19, 1978, which requests the FDA to replace its current regulation regarding the "code" dating of canned and packaged foods with a new regulation—which would require the same packing information to be expressed in commonly used and easily understandable abbreviations.

As one who for many years has supported and worked for a uniform system of food labeling which provides thorough, accurate and understandable information for consumers, I am in complete agreement with the interest of this petition. It seeks to redress a legitimate complaint of America's consumers that the present packing "codes" cannot be easily understood and, therefore, do not aid the buyer in determining the freshness of many canned or packaged foods.

Consumers have become increasingly concerned—and rightfully so—about the waste of valuable dollars on bad food due to the inability to determine the freshness of products on the supermarket shelf. Studies have shown that the nutritional and aesthetic value of many canned foods deteriorates with time. The average consumer should not be forced to buy food of a poorer quality simply because of an inability to translate the manufacturer's or packer's dating codes.

The primary concern of the Food and Drug Administration must be the health and well-being of the consuming public, not the convenience of the packer. Therefore, I feel that the acceptance of this proposal would go far to insure that Americans receive the protection and information they need and deserve in the marketplace. I strongly urge favorable consideration of this petition.

Sincerely,

BENJAMIN S. ROSENTHAL,
*Member of Congress.*

CITIZEN PETITION

The undersigned, New York State Consumer Protection Board, submits this petition pursuant to § 1455(a) of the Fair Packaging and Labeling Act (15 USCA § 1455(a)) to request the Commissioner of Food and Drugs to amend the following regulation, in accordance with 21 CFR §§ 10.20—10.30.

A. Action Requested—

1. The present regulation (21 CFR § 113.60 (c)) and the proposed regulation are as follows:

(a) *Present Regulation*: Coding. Each hermetically sealed container of low-acid processed food shall be marked with an identifying code which shall be permanently visible to the naked eye. Where the container does not permit the code to be embossed or inked, the label may be legibly perforated or otherwise marked, provided that the label is securely affixed to the product container. The required identification shall identify in code the establishment

where packed, the product contained therein, the year packed, the day packed and the period during which packed. The packing period code shall be changed with sufficient frequency to enable ready identification of lots during their sale and distribution. Codes may be changed on the basis of one of the following: Intervals of every four to five hours, personnel shift changes, or batches, provided the containers comprising such batch do not extend over a period of more than one personnel shift.

(b) *Proposed change:* [Coding] *Labeling.* Each hermetically sealed container of low-acid processed food shall be marked with an identifying [code] *notation* which shall be permanently visible to the naked eye. Where the container does not permit [the code] *the notation* to be embossed or inked, the label may be legibly perforated or otherwisen marked, provided that the label is securely affixed to the product container. The required identification shall identify [in code] the establishment where packed, the product contained therein, the year packed, *the month packed,* the day packed and the period during which packed. *The packing dates shall be expressed in commonly used and easily understood abbreviations for the month of the year, the day of the year and the year and shall be prefaced by the words* "Packed On." The packing period [code] *notation* shall be changed with sufficient frequency to enable ready identification of lots during their sale and distribution. [Codes] Notations may be changed on the basis of one of the following: intervals of every four to five hours, personnel shift changes or batches, provided the containers comprising such batch do not extend over a period of more than one personnel shift.

(Explanation: Matter in italic is new; matter in brackets is old language to be omitted.)

B. Statement of Grounds—

Rosemary S. Pooler, the Exexcutive Director of the New York State Consumer Protection Board, requests that the regulation for labeling hermetically containers of thermally processed low-acid foods with the date of packing in code be modified to require that the pack date be in a form easily comprehensible to the average consumer of these foods. The New York State Consumer Protection Board is the New York State agency responsible for representing the interests of consumers before federal administrative and regulatory agencies (NY Exec. L., § 553).

1. CONSUMERS OF GOODS WANT AND NEED TO KNOW THE FRESHNESS OF THEIR FOOD

The consumer of food products has a right to know the age and consequently the freshness of the food he or she purchases or stores. The federal and state governments and the food manufacturing industry, have recognized the obligation to provide consumers with nutritional information, e.g., ingredient labeling. (21 CFR 101.9). More than 21 states and local jurisdictions have enacted some form of open dating for perishable foods. Furthermore, over 60 major food chains and co-ops have also instituted open dating programs with some perishable foods, e.g., milk, bread, ice cream, eggs, and fresh and processed meats. However, there is a need for purchasers to know the freshness of many other foods.

Consumers are becoming increasingly and justifiably concerned about the unnecessary waste of their food-buying dollars on bad food. Consumers purchasing food or food products have found it difficult, if not impossible, to find out the freshness of foods being sold. A January 1973 study conducted by the U.S. Department of Agriculture revealed that over 20 percent of the shoppers interviewed in a 12-month period reported purchasing stale food. ("Food Dating: Shoppers' Reactions and the Impact on Retail Food Stores", USDA Economic Research Service). In a follow-up study by the USDA of 13,000 shoppers in chain stores which tested an open dating program using pack and pull dates, the incidence of complaints regarding spoiled or stale food was reduced by half. It was stated in the report that "[s]hoppers benefited two ways from the experiment: They had date information available for their own use, and they were more confident of getting high quality food as a result of the improved handling practices by the store." ("What is Open Dating?", USDA Economic Research Service, February 1974.)

One of the major problems with the present open dating done on a limited basis has been the variety of dates used with different meanings. The variation in the meaning of dates used, from packing dates to expiration dates, has caused a great deal of confusion among shoppers.[1] This was demonstrated in a nationwide sample of 250,000 shoppers in 1971, which revealed that 89% of those sampled favored an easy to understand system.[2]

Further evidence of the consumer demand for a comprehensible dating system has been demonstrated by the overwhelming number of requests for the Petitioner New York State Consumer Protection Board's booklet, *Blind Dates: How to Break the Codes on the Foods You Buy.* This booklet, released in August, 1977, decodes the dating systems of thirty-seven major food companies. The New York State Consumer Protection Board has received more than 130,000 requests for *Blind Dates* from throughout the nation.

The pack date is a vital part of any freshness dating system. Carole Bisogni, Assistant Professor in the Division of Nutritional Sciences of Cornell University, stated that "[p]acking dates . . . are more suitable for foods not classified as perishables or semi-perishables, such as canned goods, where the quality deterioration is relatively slow and there is little health hazard in prolonged storage if the product has been processed adequately and not damaged. . . . (A) packing date . . . would help the consumer rotate these products in the home without imposing a rigid time frame."[3]

The importance of knowing the pack date is increased when it is realized that canned goods often lose a good part of their shelf life before reaching the dinner table.

There is evidence that many canned goods remain stored in warehouses and stockrooms for periods of a year or more before they are put on the retailers' shelves.[4] Many people buy in bulk, especially now with the advent of warehouse food stores where items are sold by the case. These items are then stored in the consumer's home for prolonged periods of time. Finally, many retailers, especially smaller ones, do not rotate their stock on a regular basis; in fact, many could not do so for they themselves often do not understand the code.

The effect of understandable pack dating would be to give consumers information about a product's freshness by giving them knowledge of the food's age. With time, consumers' knowledge of the expected shelf life would increase based on education and first-hand experience and consumers would be able to make more informed purchasing decisions.

A federal regulation which mandates the use of a pack date in clear, understandable language would serve as a basis for a uniform dating system throughout the United States upon which consumers could readily rely.

2. FOOD LOSES NUTRITIONAL VALUE AND QUALITY WITH TIME

The "pack date" informs purchasers of the age of the food being purchased or stored, a vital piece of information in assessing the nutritional value of food.

The Department of the Army has conducted in-depth studies to calculate the storage life of semi-perishable, perishable, and frozen foods.[5] These and other tests have shown that food quality does alter and deteriorate with time.[6] Not only are there changes in the flavor, color or texture that can be detected by the naked eye, but changes also occur that cannot be readily detected. Over periods of time, nutrient values decline, especially vitamins and protein.[7] Vitamin C and thiamin (Vitamin B) show the greatest decrease because they can most easily leach out of the product into the surrounding liquid, which is usually thrown away.[8]

A report by the Institute of Food Technologists' Expert Panel on Food Safety and Nutrition and the Committee on Public Information (August 1974, Food Technology) stated that "major areas involved in a food's shelf life include:

Loss of nutrient value, such as vitamin loss and protein break down.

Spoilage by micro-organisms, enzymatic action or insect infestation.

Loss of aesthetic qualities, such as color, flavor, aroma, texture or general appearance.

Loss of functional properties, such as leavening activity in baking powder, thickening power in sauce mixes, or the set in instant puddings."[9]

The report commented further that an "inadequate shelf life will lead to consumer dissatisfaction or complaints. At best, such dissatisfaction will eventually affect the acceptance and sales of brand name products. At worst, it can lead to malnutrition and illness."

Without a comprehensible "pack date," the consumer is forced to play a guessing game with his money and his health.

Poor handling and storage are also important factors in the quality of a food product. Environmental changes, such as variations in temperature, can drastically affect the nutritional quality by accelerating nutrient loss. Also, the handling to which the containers are often subjected can result in dents and breaks which affect the contents. The longer the container is on the shelf, the longer it will be exposed to these hazards and to the chances of damage to the contents with subsequent deterioration.

Cans have a limited shelf life. Manufacturers recognize this and customize their cans to conform to an estimate of the shelf

[1] Wood, Mary, "Product Dating of Foods," Dept. of Consumer Economic and Public Policy, NYS College of Human Ecology, Cornell University, 1976. Price, Charlene, "The Consumer and Open Date Labeling", USDA Economic Research Service, September, 1976.

[2] Ringler, M. and Berner, G., "Consumer Attitudes Toward the Food Industry," as reported in "Food Labeling: Goals, Shortcomings, and Proposed Changes," Comptroller General of the U.S. Report to the Congress, January 29, 1975, p. 43.

[3] Letter to Patricia Marinelli, Legislative Assistant, New York State Assembly Consumer Affairs Committee, from Carole A. Bisogni, Assistant Professor, Division Nutritional Sciences, Cornell University, January 29, 1976, p. 2.

[4] Newsday, October 18, 1977, at 19; Newsday, November 11, 1977, at 19; Massachusetts Consumer Council, "Open Code Dating for Non-Perishable Food Items: A Report and Proposal," Publication #9680-121-80-4-77-CR, pp. 12-15.

[5] Cecil, S. R. and Woodroof, J. G., Long-Term Storage of Military Rations, Department of the Army, Quartermaster Research and Engineering Command, 1962.

[6] Cecil, S. R. and Woodroof, J. G., "Stability of Canned Food in Long-Term Storage," Food Technology, Vol. 17, No. 5, pp. 131-138 (May, 1963); Kramer, Amihud, "Effect of Storage on Nutritive Value of Food," Journal of Food Quality, 1977.

[7] "Shelf Life of Foods," Food Technology, August 1974.

[8] Kramer, Amihud, "Storage Retention of Nutrients," Food Technology, January 1974.

[9] Supra, note 7.

life of the contents, usually adding an extra year for good measure.[10]

The original "tin can" no longer exists. Most cans are now steel or iron-tin alloys with a tin coating. This coating corrodes to the point where eventually the steel is completely exposed and is then rapidly attacked by the can contents.[11] This often leads to swelling, leaking, and sometimes bursting of cans. Unfortunately, this corrosion is usually discovered after the consumer has purchased the item, not before.

Furthermore, some responsible food manufacturers recognize the importance of knowing the age of food and the limited shelf life of food by voluntarily marking foods with removal dates. Unfortunately, these dates are sometimes in a form not readily understandable to the average consumer and are used mainly as guides by retail merchants and sales representatives.

3. REQUIRING CODED PACK DATES TO BE PRINTED IN PLAIN LANGUAGE IS NOT BURDENSOME NOR EXPENSIVE TO PACKERS

Food processors have already conceded the feasibility of disclosing pack dates by their conduct. All food processors who would be affected by this petition already disclose a pack date on their food products in coded form pursuant to FDA regulation (21 CFR § 113.60(c)). A few food processors have also instituted open dating on a voluntary basis.[13]

Furthermore, in most cases, decoding of pack dates would be simple because the imprinting equipment already in use can be converted by rearranging the stamping or embossing digits.[14]

However, many processors argue that the change over would be prohibitively expensive. This has not been shown to be the case in instances of voluntary open dating.

It is also alleged that more food will be wasted by consumers choosing goods stamped with later dates in preference to those with earlier ones. This also has been shown to be a minor problem. Surveys of retailers who use some form of open dating have shown that little food is wasted because rotation is done more efficiently with quick turnover. As the consumer specialist for Giant Foods stated, "We haven't found much incidence of food wastage. Only the most savvy consumers will reach to the back of the shelf . . ."[15]

In a study conducted by the U.S. Department of Agriculture, it was found that "the closer attention to handling encouraged by open dates helped keep losses under better control and more than compensated for changeover costs." Consumers' selective purchasing was not shown to add to store costs.[16]

CONCLUSION

There is a strong interest and need for an understandable dating system on food, including goods packaged in cans and glass jars. The regulations of the Food and Drug Administration already provide for positive identification of food products by the use of a pack date, as well as other identification. The simple modification of the FDA regulation (21 CFR § 113.60(c)) to require the coded pack date to be put in plain language and to be identified as the pack date will provide purchasers of food vital information necessary to purchase nutritious and fresh food.

C. Environmental Impact—

An environmental impact analysis report is attached.

The undersigned certifies that, to the best of her knowledge and belief, this petition includes all data, information, and views on which the petition relies, and that it includes representative data and information known to the petitioner which are unfavorable to the petition.

Very truly yours,

ROSEMARY S. POOLER,
*Executive Director, New York State Consumer Protection Board.*

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ENVIRONMENTAL IMPACT ANALYSIS REPORT, ALBANY, N.Y.

Date: March 31, 1978.

Name of Applicant: New York State Consumer Protection Board.

Address: 99 Washington Avenue, Albany, N.Y. 12210.

1. Description of proposed action: To amend the regulation pertaining to coding of food products for human use to provide for the use of simple language dating.

2. Probable impact: We do not believe there will be any impact of an environmental nature as amending the regulation to require plain language would require simply modifying machinery already in use and equipped to handle the proposed changes.

3. Probable unavoidable adverse environmental impacts: None.

4. Alternatives: The only alternative would be to leave the labeling in coded form which has proven unsatisfactory.

5. Relationship between local short-term uses of the environment with respect to the proposed action and the maintenance and enhancement of long-term productivity: Not applicable.

6. Any irreversible and irretrievable commitment of resources involved in the proposed action if implemented: None.

7. Objectives (sic) raised by other agencies, organizations, or individuals which are known to the applicant: None.

8. If proposed action should be taken prior to 90 days from the circulation of a draft environmental impact statement or 30 days from the filing of a final environmental impact statement, explain why: Not applicable.

9. Analyze whether the benefit to the public of the proposed action will outweigh the action's potential risks to the environment: there are no known potential risks to the environment.

ROSEMARY S. POOLER,
*Executive Director, New York State Consumer Protection Board.*●

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[10] Massachusetts Consumer Council, supra note 4 at 9.

[11] Herd and Joslyn, Food Processing Operations, 1967, pp. 616–17.

[13] Massachusetts Consumer Council, supra note 4 at pp. 31–34.

[14] Massachusetts Consumer Council, supra note 4 at pp. 46–47.

[15] Massachusetts Consumer Council, supra note 4 at 58.

[16] Supra, note 1 at 5.

## LET US NEVER FORGET

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### HON. JAMES J. DELANEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. DELANEY. Mr. Speaker, I think it quite fitting that we take a moment today to remember the horror of the holocaust of European Jewry during the Nazi era, and particularly to salute the courage and spirit of the defenders of the Warsaw ghetto whose uprising began on this day 35 years ago.

After the conquest of Poland and the establishment of control over the rest of continental Europe, the Nazis systematically and cold-bloodedly began to implement their plan for a "New Order" in Europe, an essential facet of which was what came to be the final solution to the Jewish question. A first step toward this solution was the segregation of the Jews in hermetically sealed ghettos in many of the major cities of Europe. The Warsaw ghetto was one such place; crammed with more than half a million Jews by the beginning of 1943:

The Jews, especially in the big Ghettos, suffered from overcrowding, hunger and disease. The Jews were given starvation rations . . . Because of the overcrowding and the shortage of food and fuel for heating, there were outbreaks of infectious diseases in the larger concentrations; the Warsaw Ghetto in particular became a focus of typhus. For a time there was a feeling among the Jews that the Nazis were set on wiping out the Jews by means of starvation and intolerable living conditions."

Incredibly, even that tragic prediction turned out to be too civilized an opinion regarding Nazi methods. They soon began to ship out quotas of Jews to extermination camps outside the city under the pretext of transferring them to labor camps. The ultimate horror of what the Nazis had in store for them slowly became clear to the Jews trapped in the Warsaw ghetto, and the decision to fight was made.

When the Nazi SS Troopers ringed the ghetto early in the morning on April 19, 1943, and prepared to seize more Jews to fill the death quota, the Jewish Combat Organization commanded by Mordechai Anielewicz was waiting. The Nazis arrogantly marched into the ghetto only to be met by fierce organized resistance. By the time they retreated hours later, the Germans had left behind hundreds of killed and wounded.

During the next several weeks German planes and tanks repeatedly attacked the underground bunkers where the resistance was holed up. Ultimately, it required the complete devastation of 800 acres of the ghetto to end the resistance. Perhaps more important, the Warsaw ghetto uprising proved to be the signal which inspired similar revolts in other Jewish concentrations in the ghettos and the camps, such as those in Vilna and Bialystok later that same year.

The spirit, courage, and tenacity of the Jewish fighters in the Warsaw ghetto which we are commemorating today will always remain an inspiration to people everywhere who believe in freedom and democracy. Let us never forget those brave souls, or the responsibility each of us has to defend the rights which have cost so much because, as one writer put it—

It is in the nature of things that a combat like this, destined to express human solidarity and to make manifest supreme values, would find only a few capable of waging it.●

## NEW YORK STATE LEGISLATURE SUPPORT OF "MEALS ON WHEELS"

### HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. WOLFF. Mr. Speaker, I would like to bring to the attention of my colleagues a resolution recently adopted by the New York State Legislature concerning H.R. 6337, the Home-Delivered Meals for the Elderly Act. Commonly known as "meals on wheels," this bill would provide for the total preparation and delivery of one hot, balanced meal for the elderly 5 days a week. Presently, the resources for the program are so severely restricted that the aged are only assisted in shopping and food preparation. This legislation is clearly needed to insure that the needs of the homebound are fully met.

The New York State Legislature has taken an interest in this bill because they have recognized the inherent nationwide need for the program. I am sure that there are many homebound elderly that are excluded from the program, despite their demonstrated need for the services. I sincerely hope that my colleagues will act quickly and favorably on this much needed legislation:

LEGISLATIVE RESOLUTION SENATE NO. 168

Legislative resolution urging the Committee on Labor and Education of the House of Resolved, That this Legislative Body report H.R. 6337 to the full House and memorializing the Congress of the United States to pass this legislation

Whereas, The plight of the elderly has been recognized and alleviated by several packages of legislation whose source was this legislative Body; and

Whereas, Under existing Federal law, Title 6 of the Older Americans Act, the resources available to supply the homebound elderly are severely limited so that present care is constrained to assistance to the homebound elderly in shopping and food preparation only; and

Whereas, The existing Federal program in the Bronx, New York (Project RAIN) is attempting to serve the needs of more than fifty homebound elderly above that Project's federally-funded allowance; and

Whereas, H.R. 6337, The Federal, often referred to "meals-on-wheels", legislation would afford the homebound elderly previously prepared, nutritionally balanced, full meals delivered directly to their homes instead of mere assistance in food preparation; and

Whereas, The House Subcommittee on Labor and Education has already recognized this great need of the homebound elderly by sending H.R. 6337 to the full House Committee on Labor and Education, when it now reposes; now, therefore, be it

Resolved, That this Legislative Body respectfully urges the House Committee on Labor and Education to favorably report H.R. 6337 to the floor of the House of Representatives and memorializes the Congress of the United States to pass this legislation; and be it further

Resolved, That copies of this resolution, suitably engrossed, be transmitted to the House Committee on Labor and Education, to the Speaker of the House of Representatives of the United States, to the President Pro Tempore of the Senate of the United States and to each Member of the Congress of the United States from the State of New York.●

## EMERGENCY AGRICULTURE ACT

### HON. DAVE STOCKMAN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. STOCKMAN. Mr. Speaker, last week this House rejected the conference report on the Emergency Agricultural Act by a substantial margin. While I joined the majority of my colleagues in defeating what I viewed to be an ineffective means of dealing with the current farm crisis, I wish to remind by colleagues that the current troubles on the farm will not simply go away if the House fails to act further.

For this reason, Mr. Speaker, I would like to share with my colleagues the results of my own research into agricultural problems. It is my belief that by demonstrating why the Dole bill would not solve the problem of low farm prices, I will be able to illustrate the sort of policies which are needed to provide for stable and continued growth of our agricultural economy. For this reason, I would first like to review with my colleagues the basic conclusions I reached about the so-called flexible parity set-aside program:

* * * * *

*(1) The Dole bill was wrong in principle*

Its supporters claimed that the Dole bill was a "voluntary" solution to the problem of low farm prices. Close inspection shows that it was really an effort to fix prices, rig market supply and demand, and deprive the individual producer of the right to compete in an open market. Admittedly, many natural defects—and significant government interference—make existing farm markets less than perfect. But from the beginning I have worked to remove existing market distortions, not to create new ones. Moreover I have spent the past year fighting for less government interference in many other areas—energy, surface transportation, the auto industry, and other areas in which federal government involvement has placed intolerable burdens on our economy. On principle alone I could not support an effort to replace the market system in farm commodities with politically inspired government controls on supplies, prices, and profits.

*(2) The Dole bill was based on an obsolete concept: Strict parity prices*

I believe very strongly that farmers have a right to expect fair rates of return on their investments—particularly the long hours of labor that go into producing every crop. Many of my colleagues here in the Congress do not realize that today's farmer must be a skilled business manager with training and experience in marketing, finance, and scientific production methods, and therefore has a right to expect a return on his labor commensurate with these skills.

But the concept of a fair rate of return cannot simply be translated into one nationwide price for each commodity. Because of the tremendous variations in the cost of planting an acre that exist even within the same geographic region, one man's break-even price can send another into bankruptcy. There are, for example, great differences in the age and cost of equipment; in the purchase price of land; and in the taxes and mortgage interest rates for that land. Differences in conditions and farm management practices can lead to great differences in the mix of seed, fertilizer, herbicide, and pesticides used for a crop.

Another major cost factor that varies enormously from farm to farm is irrigation. Factors such as the cost of water and equipment, the intensity of application, and the effectiveness in raising yields all make a tremendous difference in the cost of production.

Even after taking into account the great differences in cost of production that arise because of factors within the control of the producer, factors such as weather during the growing season and insect and weed conditions can also lead to large variations in yield that change the price necessary to achieve a fair rate of return.

Finally, yield and cost of production per acre will not provide a true measure of the farmer's return. Transportation distance to markets and the time at which the crop is sold can lead to still more variation in the producer's final return.

The official parity base in law—the ratio of costs to farm prices in the 1914 marketing year—completely ignores all of these factors in establishing a national average return on investment. Over time, as vast improvements in yields have been realized due to improved technology and tremendous advances in agricultural chemicals, the legal parity base has become more and more unrealistic. The world of 1914 is very different from that of 1978.

For example, in 1914 the national average yield for corn was just 23 bushels per acre. Today, some producers in irrigated areas of Branch and St. Joseph counties achieve yields of up to 190 bushels per acre. In 1914, 167 bushels of corn were produced per agricultural worker. Today, that ratio has risen to over 1,400 bushels per worker. Considering the differences between tools available in 1914—horse-drawn single-bottom plows and hand picking—and today's irrigators, row harvestors, hybrid seed and herbicides, it is impossible to compare cost factors in 1914 with 1978.

Despite the continuing shift in production methods, the techniques used to measure the 1914 parity ratio in current prices have been updated only three times. Even since the last revision, which was over ten years ago, production methods have changed considerably. A further fundamental problem with the 1914 parity ratio is that at best it is a national average. Because it fails to account for individual and regional variations, efforts to establish prices at any percentage of parity cannot guarantee any particular rate of return for the majority of American farmers. In all, while the idea of a single parity price for all producers may sound attractive, it is not useful as a mechanism for determining what constitutes a fair return on investment and labor for our agricultural producers. Adopting a government-imposed farm control and management program based solely on this obsolete concept is bound to produce inequities in farm markets.

*(3) The Dole bill would not raise market prices*

The sole justification for the Dole bill was that it would raise market prices by reducing production. Yet the way in which the bill was written made significant supply reductions impossible. Because it was tied to the programs authorized in the 1977 Farm Bill, its leaky loophole-ridden acreage con-

trol provisions made it possible for some producers to actually increase their planted acreages of corn, wheat and cotton and still be guaranteed parity profits. Nationwide, this would have led to significant diversion of acreage into the very crops the bill sought to cut back, and produced serious market dislocations in the crops not covered by the bill, such as soybeans, from which acreage would have been diverted.

The table below shows the trend in acreage nationwide between soybeans, corn and cotton:

| Crop | 1957 | 1977 |
|---|---|---|
| Soybeans: | | |
| Acres | 23,349,000 | 50,327,000 |
| Percent | 19 | 34 |
| Corn: | | |
| Acres | 82,742,000 | 84,121,000 |
| Percent | 69 | 58 |
| Cotton: | | |
| Acres | 15,833,000 | 11,656,000 |
| Percent | 13 | 8 |
| Total: | | |
| Acres | 121,924,000 | 146,104,000 |
| Percent | 100 | 100 |

The major shift from corn and cotton to soybeans over the past twenty years as the result of *price* movements. As more uses for soybeans over the past twenty years is the for soybeans created sharp upward price movements. Before 1960, the season average price for soybeans never broke $2.00. Since 1971, the price has never fallen below $4.00, and in fact has peaked over $10.00 in some spot periods in recent years. It is only natural that producers devoted all suitable land to the production of beans. Even increases in corn acreage caused by that upward price movement of the 1973–74 period did not shift the percentage balance between these crops, because soybeans also rose in balance.

The problem with the Dole bill is that it only covered two of the commodities—corn and cotton—and would have drastically altered prevailing price relationships between covered and uncovered crops—a 30–40% increase in corn and cotton parity target prices and no change for soybeans. Given the overlap of cotton-soybean and corn-soybean acreage in many areas of the country, the result would have been a substantial shift of acreage out of soybeans into cotton and corn—with the ironic consequence of worsened supply/demand and price conditions for the commodity we were trying to help and an even stronger market for soybeans which did not need help.

*(4) The Dole bill could not possibly have been just a "one-year" bill*

Current levels of world and U.S. cotton and grain stocks are so high, and the cutbacks which the bill would have encouraged so small, that at the end of one year under the Dole bill farmers would have been faced with nearly the same supply/demand/price conditions that created the current distress. One year under high levels of support subsidies could not have solved these market imbalances. It could only have paved the way for a return to permanent USDA control of the American farm.

*(5) One subsidy does not justify another*

I can understand the dismay of many farmers who have for years supported through their taxes the many subsidy schemes the federal government has sponsored: loans to New York City, maritime subsidies, make-work government jobs, welfare, subsidized barge lines and railroads, and countless other give-aways. Yet granting a matching subsidy to the American farmer is no answer. I have dedicated my energies since coming to Congress to eliminating the contribution these subsidies make to the continuing federal deficit. I have worked hard to reduce the excessive burden of taxation. While I am painfully aware of the crisis condition of many of our farms, I could hardly support a bill which offered over $5 billion in government handouts without offering any relief from the underlying problem—low prices in the open market

*(6) The Dole bill would have led agricultural policy in the wrong direction*

When Earl Butz was Secretary of Agriculture, USDA policy shifted away from its sorry 40-year history of controlling, managing, and curtailing supply toward a policy based on expanding world-wide demand for American farm products. The goal was to match U.S. production to the growing sectors of world demand in food and feedstuffs. Since coming to Congress, I too have worked to further this goal by sponsoring legislation that would make improved foreign market information available to the American farmer, as well as legislation to reduce the remaining barriers to free agricultural trade. My aim has been to expand the American agricultural pie, not merely to slice up a stagnant or shrinking pie. In my view, it would be a drastic mistake to start back down the road toward subsidies and controls.

II. THE CAUSES OF THE CURRENT FARM CRISIS

When faced with a serious problem, Congress has a tendency to slap a band-aid on its symptoms, rather than probing the underlying causes and developing a systematic solution. The Dole bill, as drafted by the House-Senate Conference Committee, was no exception to this rule. In its efforts to artificially manipulate the market, it failed to respond to the three basic factors contributing to the low grain prices of the last few years: government pressures on the costs paid by producers, the rapidly-growing productivity of the American farmer, and the failure to adequately expand world markets.

*(1) Government-induced cost increases*

Government pressures on the cost of farm production go far beyond adding to inflation by deficit spending. The farmer has borne more than his share of the tremendous increase in government regulation.

Every year, new varieties of federal bureaucrats and inspectors descend upon the American farm. The Occupational Safety and Health Administration (OSHA) has been in the lead wave of the federal invasion.

Originally, OSHA was created by Congress to encourage improved health and safety for employees in the industrial workplace. Once established, however, it followed the pattern of all bureaucracies in relentlessly working to expand its jurisdiction. Even though the farmer is primarily a businessman and employer, the OSHA bureaucrats were soon devising new and costly ways to "protect" the farmer from himself.

In crowded industrial workyards or minesites, it may make sense to attach warning devices to heavy machinery in order to alert workers to the dangers involved when such equipment moves or backs up. Yet many farmers have been forced to attach costly warning devices to their farm equipment, even though it is used by the farmer himself in an open field.

In fields well away from farm buildings and structures, it may make sense for farmers who employ large numbers of migrant or temporary workers to provide sanitary facilities in the field. Yet a few years ago OSHA proposed a rule requiring that portable toilets be placed so that the workers are never farther than 600 feet from one of these facilities. When it was pointed out by angry farmers that this regulation would have required placement of at least fifteen such facilities on the average 400 acre farm regardless of how many worked there, OSHA scaled back its demands. Nevertheless, it is just this sort of mindless regulation which dramatically increases costs for farm producers without contributing one bushel to a farm's production.

In the past year, the Environmental Protection Agency (EPA) has been turned loose on the many chemicals that farmers need to make a living in today's markets. Because of the Toxic Substances Control Act, EPA will conduct an exhaustive study of farm chemicals, most of which have already been approved by another government agency. Such heavily tested and proven chemicals as Benomyl are now proposed for extensive retesting at the taxpayer's expense. Never mind that years of use of these chemicals have failed to indicate any problems.

Nor is EPA the only agency which comes down heavily on farm chemicals. The Food and Drug Administration (FDA) has launched a two-pronged attack on antibiotics in animal feeds and preservatives. Concerned that continued use of antibiotics in animal feeds may increase the resistance of meat consumers to antibiotics, the FDA announced last year that it was placing heavy restrictions on the use of penicillin and tetracyclines, despite the protests of both scientists and producers that the move was premature. Scientists are greatly divided on whether antibiotics in feeds have anything to do with increasing resistance to antibiotics in humans. Producers are concerned that heavy reductions in the use of antibiotics will open up a Pandora's Box of potential public health hazards. It is ironic that the FDA may find itself having to provide new regulatory "cures" for the hazards it may well be creating.

Similarly, the FDA has become concerned about the use of nitrites in meat curing, alleging, as in so many cases, that they pose a potential threat of cancer. Now, nitrogen-oxygen compounds have been used in the curing of meats for literally thousands of years. Nitrate is usually present in natural salt, the original meat-curing agent, and scientific evidence has demonstrated that it is the nitrate, rather than the salt compound itself, which did the curing. Nitrites, which are more commonly used today, are used precisely because they provided greater protection and fewer potential hazards than natural nitrate salt. To ban the use of these chemicals could create a severe threat of new outbreaks of botulism and other diseases which are carried in imperfectly-cured meats. The alternative—eliminating the sale of pork, ham and bacon—seems hardly superior, and would cause a disaster in both the livestock and the feedgrains sectors.

In all, the endless stream of excessive regulations flowing from the agencies of the federal government constitutes the single largest factor in the cost crunch faced by the American farmer today. At almost every turn, from minimum wage legislation to mandatory unemployment insurance coverage, truck mileage standards and cost penalties for energy conservation, the farmer is faced with rising costs imposed by federal bureaucrats. Yet efforts to relieve the farmer of this enormous cost pressure were conspicuously absent from both the Dole bill and the 1977 Farm Bill which preceded it.

*(2) The rising productivity of the American farmer*

Amazingly, in the face of all of these constraints, the productivity of the American

farm has risen faster than any other major American industry. In the manufacturing sector, significant improvements in tools and equipment and a better trained workforce have increased industrial output per man-hour by almost 45 percent in the last twenty years. In the same period, yields per acre for wheat have risen 50 percent, while yields for corn have risen nearly 80 percent! When viewed in these terms, the scientifically-managed American farm may be the most efficient productive enterprise on Earth.

*(3) Artificial constraints inhibit the growth of world markets*

The rapid growth of the world's population has led to an ever-increasing demand for food supplies. The American producer, as the world's most cost-efficient grower of food and feedstuffs, should be able to profitably tap this virtually unlimited market for agricultural products. But political actions designed to provide short-sighted protection for many of the world's least efficient producers have inhibited the growth of overseas markets for American farm products.

The policies of Japan are a classic example of harmful agricultural protectionism. Japan, as a heavily-populated island nation with limited land resources, is heavily dependent on imports to feed her people. Since World War II, the Japanese import market has been rapidly expanding to accommodate the demand of its affluent population for more and better food.

Sadly, actions of the United States government are in large part responsible for Japan's current high level of import barriers. Faced with a shortfall of oil-producing crops in 1973 and 1974, the federal government announced an export embargo on soybeans during the summer of 1974. Japan, as the leading buyer of U.S. soybeans in international markets, was badly scared by this embargo, even though it effectively lasted only six weeks and resulted in little disruption of soybean deliveries. To combat what they viewed to be a threat of increasing dependence on increasingly unreliable U.S. exports, they announced a massive program designed to make them self-sufficient in food by 1985.

They are finding, however, that this task is immensely costly, if not impossible. While they have an agricultural workforce of roughly the same size as ours (4 million), our producers have 35 times the arable land that Japanese producers do. In order to encourage high levels of production on these limited lands, they have had to resort to massive subsidies to domestic producers. By 1977, although their agricultural industry comprises only 4 percent of their national production, more than 10 percent of their national budget had been committed to pay out these subsidies.

This level of cost is not surprising when one look at the level at which they must support prices in order to encourage production. For the 1977 crop year, the Japanese established price supports for wheat at $12.50 per bushel, while their support price for soybeans is a whopping $17.50 per bushel. In order to protect these high prices in the marketplace, they have applied an ad valorem tariff to ensure that their domestic production will not be significantly undersold.

Since only 3 percent of all Japanese land is arable, it is not surprising that it costs them nearly $18 per bushel to grow soybeans up the side of a mountain. But this policy places a tremendous burden on the Japanese economy. By paying two to three times the price for domestically-produced foodstuffs that they would have to pay for food in world markets, they are robbing their people of the opportunity to pay significantly reduced prices for food—prices at which American producers could still make a healthy profit.

Nor are soybeans the only example of ways in which the Japanese shackle their entire economy in their attempt to achieve the impossible objective of food self-sufficiency. Japanese policy toward beef imports is a clear example of the massive market dislocations that result from attempting to support domestic production at prices above world market levels.

The traditional Japanese diet of fish and rice is significantly different than that of Western societies. The Japanese agricultural industry has, for centuries, centered on efficient production of these products. But increasing imports of other foods began a shift toward a more typically Western diet after World War II. In particular, Japanese consumers now demand far more meat products.

The Japanese government is determined to prevent this shift from occurring in order to protect its agricultural industry from declining domestic demand for its products. The result has been heavy import controls on meat, particularly beef.

A limited domestic beef industry in Japan produces Kobe beef from mountain-ranged cattle. This industry is small, however, and even with a recent shift toward feedlot methods has been unable to keep up with rising domestic demand for better-quality cuts. Because of their excessive protection of domestic producers of feed grains, the Japanese have placed themselves in the ironic position of pricing their own beef industry out of the market. In an attempt to prevent this from happening, they have slapped both quotas and heavy tariffs on beef imports.

Tariff and quota barriers are particularly stringent for chilled or frozen cuts of better quality beef—the market sector in which U.S. producers have the greatest competitive advantage and opportunity for expansion. In addition to annual quotas which limit imports of these cuts (from all nations) to 20,000 metric tons for 1978, a 25 percent ad valorem duty is placed on beef imports. To further insure that imported beef does not undersell domestic producers, an additional $1.43 per pound "surcharge" is levied on the best hindquarter cuts.

The predictable result is that beef in the market—when it can be had—sells to the consumer for a price of $7–11.00 per pound, with prime cuts of sirloins and filets reaching $15.00 per pound.

Similarly, Japanese policies on food grains are designed to protect their domestic rice production industry. Rice is the only major crop in which Japan is self-sufficient. But to protect this industry from competition with wheat and flour, the Japanese are forced to restrict wheat imports and control millers and flour users.

In the final analysis, the Japanese policy of self-sufficiency places an unbearable burden on their agricultural economy, as well as on their overall economic health. They pay two to three times more for food than would be necessary if they purchased food in world markets.

Experience has shown, however, that internal Japanese politics will prevent any significant opening of the market unless significant pressure is brought to bear from the outside. I believe that it is imperative that the United States take the lead in bringing Japanese trade barriers down. Only by making it clear that continued access to U.S. markets for manufactured imports is contingent on major concessions on agricultural imports can we hope to break the strangling tariffs and barriers which inhibit U.S. agricultural trade with Japan.

Japan is not the only nation that erects barriers against U.S. agricultural products. The European Common Market has an equally elaborate scheme of tariffs and domestic production subsidies to prevent its farmers from being undersold by more efficient U.S. producers. A system of "variable levy" tariffs ensures that even increased efficiency by U.S. producers will not permit them to penetrate European markets. Under the variable levy system, the tariff is raised whenever importers lower their prices. This creates a high floor price under which the less-efficient European producers can compete. Even at this higher price level, domestic price supports are necessary to ensure that producers can recoup their extremely high production costs, which otherwise would make them uncompetitive in world markets.

Other countries have similar policies. These two examples only illustrate the problem in world markets. The problem is not a general excess of world supply over demand in agricultural products. As we have documented, in many cases actual demand exceeds the supply available at the world price. The problem is that there is an excess of high-cost, non-U.S. supply that results from inefficient production behind the protective walls of price supports, trade barriers, and other restrictions.

If we were able to negotiate a reduction in this protection of inefficient foreign agriculture in exchange for continued access to the U.S. for industrial products, the supply of inefficient high-cost grains produced abroad would shrink significantly and the demand for U.S. agricultural exports would rise markedly. While this course would result in higher prices for U.S. producers, it would also result in cheaper food for the world's hungry nations. In view of this double benefit, it is irresponsible to allow these barriers to stand in the way of opening world markets. Yet the Congress has consistently shied away from a determined attack on these foreign controls. The farm legislation passed or proposed in this Congress has been no exception.

III. AMERICAN FARMERS NEED A BETTER ANSWER—NOW

Based on my studies of world farm markets, it is clear that any farm policy which fails to seek expanded markets for American farm products will ultimately fail to provide the continued growth and stable markets which American farmers need. Failure to come to grips with this problem has been the chief contributor to the major price swings which have plagued the farm community. It is also a controlling factor in the current serious price slump.

But policies directed toward exports alone will not bring relief soon enough to solve the problems of the current crisis. This crisis, which is caused by problems which develop when crop prices are on the *high* side, is due to what I call the "ratchet effect."

Worldwide crop failures, low world stocks and below-normal U.S. production contributed to a major farm price surge in 1973 and 1974. Within three years, season average prices for wheat rose over 300%, from $1.34 per bushel to over $4.00. During the same period, season average corn prices jumped from $1.08 to $3.03.

These prices produced record profits while they lasted, but they also had major negative effects. The price of farmland—both for purchase and for rent—rose right along with commodity prices as producers sought to expand their production. Yet when this greater

production built up world stocks and prices moved lower, these high land costs did not go away. Those who acquired mortgages on land purchased during the boom found themselves still having to pay these inflated mortgage costs even after commodity prices moved back down to previous levels—below $3.00 for wheat and $2.00 for corn. Tax assessments, which never seem to go down, continued to be based on the inflated land values of the 1973–74 period. Many farmers subsequently found that land costs which were reasonable when they were grossing $200–$300 per acre were impossible to manage when falling prices brought returns of only $150 or less per acre.

Even national average statistics bear out this land cost crunch. Current ASCS estimates show that the average of producing a bushel of corn, on an acquisition or equivalent rental cost basis, to be $2.12, based on nationally average yields of 91 bushels to the acre. When we add in current costs of land, which include interest and taxes on recently purchased land, the total cost to produce a bushel of corn rises to $2.50. In today's market, then, it is precisely these current costs which make the difference between success and failure.

Now, the United States Congress can not be expected to roll back the cost of land already purchased, or to lower property taxes assessed by state and local governments. Yet to the extent that these current cost problems are credit problems, I believe that the Congress can and should make assistance available to those who have been hardest hit by the current cost squeeze.

Existing farm credit programs, administered through the Farmers Home Administration, were never designed to deal with problems of this magnitude. For this reason, the Committee on Agriculture in the House is now finishing work on emergency credit legislation that would establish a new credit program with FmHA. This program would offer loans of the size currently available only from commercial lenders. By providing either direct re-financing or loan guarantees to those farmers who need immediate assistance with their current land costs, such a program can provide a safety net under producers until markets rise and the net is no longer needed. In comparison to the mass disbursement of "deficiency payments" under a high target price scheme, this approach is targeted at the very real problems faced by those producers in the greatest difficulty.

IV. PROGRESSIVE LONG-TERM POLICIES ARE ESSENTIAL TO THE HEALTH OF THE AGRICULTURAL COMMUNITY

The federal government can and must take positive steps to ensure the short-term survival of our hardest-hit producers. But without immediate steps to formulate and implement an aggressive market expansion policy, no amount of short-term cures can stabilize the agricultural economy. Programs to adjust domestic supply and demand by major government controls over farm production have simply not worked. Even the approach embodied in the Dole bill would have been woefully insufficient to stabilize prices. This is not because restricting supplies won't raise prices. It is because the Dole approach had no hope of restricting supplies enough to make any difference.

As the major supplier of grains to the world market, the United States price is fixed more by world supply conditions than it is by short-term or regional variations in domestic stocks and production. The U.S. accounts, for instance, for less than 20 percent of world wheat production. A careful study of world open market price trends in the past years indicates the size of world production cutbacks necessary to create large upward price movements. From 1972 to 1973, world carry-over stocks declined as open market demand grew faster than world production. When major world-wide crop failures hit in 1973–74, world stocks were unusually low.

In response, season average prices for wheat and corn broke record levels, at $4.00 and $3.00, respectively. At peak points, due to harvest lags throughout the year and regional supply variations, monthly averages went about $1.00 higher for both commodities, and in rare circumstances spot prices were still higher.

World supply conditions today are very different from 1974, however. World-wide stocks of wheat and corn are almost back to the heavy surplus levels of 1967–72. Average stocks of wheat for that period were 89 million tons, compared to 85 million tons today. These levels are considerably different from the 1973–74 period, when world stocks were about 40% lower.

As a result, even huge U.S. productions cuts today would not substantially reduce world stocks and raise prices unless accompanied by another major world-wide crop failure—a contingency on which we cannot depend as the basis for a farm program. Without lower production outside the U.S., it would take a cut of over 40 million tons of wheat—or nearly 70% of total U.S. production—to move U.S. market prices to a season average level of $5.00, the target sought by the Dole bill.

The situation in corn is slightly less rigid since the U.S. produces over half the total world production of feedgrains. Yet based on a similar analysis, it would take an actual production cut of at least 30% to move the price toward the $3.45 level guaranteed producers under the Dole bill.

*(1) The Dole bill would not have produced effective production cutbacks*

Based on this analysis, I became convinced early that the Dole bill's promise of $5.00 wheat in the marketplace was an empty one. The maximum 33% set-aside would not approach the 70% cutback needed to bring prices up to that level. It did seem possible to me at first that the Dole bill might actually achieve the necessary production cuts in corn.

Closer analysis of the bill's set-aside program indicated that corn production cuts under the Dole bill would also be insufficient. There are two reasons for this. While the Dole bill promised parity profits only in return for a 50% cut in production, in actuality this guarantee was based on setting aside an amount of land equal to 50% of what the farmer actually planted. This means that at most acreage must be cut by 33% in order to be given the parity profit guarantee.

Even a 33% acreage cut, though, does not guarantee a 33% production drop. Officials of the ASCS have informed me that at least half of the land placed into set-aside programs in the past had been in wet areas or land infested by quack grass. When the least productive land is set aside, even substantial acreage cuts do not guarantee substantial production cuts.

The second and more serious problem with the version of the Dole bill passed by the Senate, however, was that it contained a loophole which would have allowed many farmers to increase their corn acreage and still be guaranteed parity profits.

Unlike price support loans or the diversion payment program which requires acreage cuts for eligibility, the set-aside program in the Dole bill used the farmer's total Normal Crop Acreage (NCA) for all crops in computing set-asides. As long as a farmer set aside 5 acres within the NCA for every 10 acres he planted, he would have been eligible for the $3.45 price guarantee for corn.

For the farmer who planted only corn last year, only a real acreage cutback would have entitled him to the parity guarantee, since all of his NCA is composed of corn land. But the farmer with a mixed crop acreage last year would have been able to set aside soybean land (for example) from within his total NCA in order to qualify for the set-aside under the corn program. In fact, the Dole bill would have encouraged him to do this, because of the high profit guaranteed on every acre of corn planted.

As an example, let us look at the case of a farmer with 1,000 acres of land. Let us suppose that in 1977 he planted 500 acres in corn and 500 acres in soybeans. Under the Dole bill, he would be presented with several options for 1978. He could cut out corn planting altogether, betting on the soybean market. Based on national average costs of production for beans and the current futures price of $6.20 for soybeans, he could plan on net revenues of $21,000 prior to fixed costs for land, taxes, and other overhead. If he studied the bill carefully, though, he would learn that he could do much better than that.

By planting only 500 acres of beans and taking the set-aside of 50% for corn, he could plant 333 corn acres and set aside 167. Since he would receive a guaranteed parity profit equivalent to $3.45 corn prices in the market, he could expect net revenues of $22,464 prior to fixed costs.

He would soon find, however, that his best deal would be to eliminate soybeans altogether and plant the maximum possible amount of the profit-guaranteed corn. Since his NCA for 1977 was 1,000 acres, he could plant 667 acres of corn and still qualify for the parity profit guarantee if he set aside the balance. In this case, his net revenue goes up to $36,283!

I have never met a farmer who did not pursue his own best advantage as he saw it in the market. I do not believe that the Dole bill would have changed that. The result, in many cases, would be a significant diversion of acres into the crops eligible for guaranteed parity prices.

Admittedly, this loophole would not have encouraged large increases in corn production nationwide. Many farmers, who were ready to plant beans before the bill was considered, would not have been in a position to switch to corn. Then, too, the chance that soybean prices would rise dramatically might keep some farmers in soybeans, hoping that everyone else switches to corn.

When all planting was finally done, however, the result would have been that there would have been very little, if any, reduction in total corn acreage, and little increase in the market price for corn.

What would go up would be the deficiency payments promised under the bill for the difference between parity guarantees and market prices. A study which included the likely effects of this set-aside loophole concluded that the federal Treasury would pay out nearly $6 billion in direct subsidy payments to producers. Of these recipient producers, the largest 5% would have received 35%—or $2 billion—of these subsidy payments. The smallest producers, many of whom are in the most severe trouble, would have received the smallest amount of help.

V. THE BETTER ANSWER: LESS GOVERNMENT, MORE MARKETS

As a result of my analysis of all of these factors, I have reached the conclusion that *any* farm program designed to restrict U.S. production can *never* be a longterm means of encouraging stability and growth in the American agricultural economy. Only by eliminating the restrictive policies of gov-

ernments around the world—including our own—can we hope to open up world markets to the level of agricultural trade necessary to achieve our twin goals of stability and continued growth.

Stated in these general terms, the task may seem hopelessly large, and the influence of the American farm community too little to achieve it. I am convinced, however, that by harnessing the influence of the United States government for *constructive* purposes we can make major strides toward tearing down the barriers to agricultural prosperity that exist in the world today.

(1) *The immediate program: returning control of the farm to the farmer*

As with any effort to make improvements, the task begins at home. We must act *now* to roll back the excessive interference of the federal government in the agricultural economy, and in other areas where short-sighted federal policies inhibit productivity and increase the costs of the American farmer.

First and foremost, we must examine the role of federal regulatory agencies in raising costs for American farmers.

The Occupational Health & Safety Act must be amended to clearly protect the farmer, as a businessman and employer, from regulations designed to protect employees. I do not mean to suggest that reasonable safety standards for equipment are not important in farming. Certainly, farm machinery and farm buildings pose potential hazards for those who work with them. As businessmen and individuals, farmers naturally take precautions against these hazards. The problem is that, by setting standards which are at best arbitrary, OSHA has attempted to enforce an unreasonable set of standards for farm operations. This authority should be severely limited.

Similarly, we need legislation which constrains the scope of FDA and EPA witchhunts against proven agricultural chemicals. While I share the desire for a clean environment and safe food, these goals must be balanced against the costs of excessive regulation. In their zeal to protect consumers from any risk whatsoever, regardless of cost, these agencies have not limited their regulation to those areas in which the costs match the benefits obtained. Congress can no longer avoid its responsibility to settle this matter for the American people. By placing precise limits on these agencies in cost-benefit terms, I believe we will sharply curtail their excessive—and costly—interference in the farm economy.

The efforts of some government agencies must be reinforced, however. In particular, I believe that the President's recently-proposed cuts in agricultural research move in precisely the wrong direction. While the major thrust of such research is in productivity enhancement, there is a growing body of research in cost control. We cannot allow this vital research to be discontinued. We must expand its role in assisting the individual farmer in applying cost-saving methods of production.

Many other federal policies, written to affect the economy as a whole, hit the farmer particularly hard. Despite efforts to reduce the burden of estate taxes on farm property, the fact of the matter is that inheritance taxes have increasingly made it impossible for farms to be retained within a family for more than one generation. Another problem is the move to force farmers to use accrual methods of accounting. This could deprive them of the flexibility to represent each crop year as a separate business venture and thereby produce serious cash flow and credit problems. The Congress must ensure that this year's tax law changes do not deprive the farmer of the ability to respond to changes in the market by selling his crop at the best time.

Federal restrictions and requirements also place a heavy burden on export markets. Due to pressure from maritime unions for example, Congress has established requirements that all sales under either government farm export programs or sales agreements negotiated with other nations must make heavy use of the high-cost U.S.-flag shipping. Even with massive government subsidies, these transports are the most inefficient and expensive in the world, since the high costs of labor for constructing and operating them under excessive maritime union contracts have been locked into the subsidy schemes.

It has been estimated that cargo preference requirements such as these can add as much as 25c per bushel to the cost of American grains shipped overseas, over and above what would have been paid if competitive foreign-flag transports could be used. This price differential places us in an extreme competitive disadvantage with countries such as Canada and Australia, who do not have similar restrictions. These cargo preference provisions must be repealed at once.

Similarly, extended dock strikes can tie up American export goods indefinitely, raising serious questions about our ability to deliver on foreign markets. This uncertainty has diminished our ability to land overseas commodity sales contracts. We must establish requirements for binding arbitration of these strikes, to ensure that they do not cripple our efforts to expand overseas markets.

The most damaging way in which our government intervenes in our export markets, however, is by placing embargoes on sales of U.S. commodities. In efforts to "protect" consumers from rising farm prices, the government has often limited or closed overseas sales at the peak of the marketing year. Congress should completely eliminate the President's authority in this area.

(2) *The continuing program: Aggressive expansion of export markets*

Reducing internal restrictions alone will not produce an automatic expansion of American farm markets. It is essential that the federal government initiate a policy of aggressively promoting American interests in world commodity markets. In my view, there are three essential elements of such a policy: an all-out campaign against foreign trade restrictions, a vastly improved system of providing American producers with information about foreign demand trends, and a hard-hitting marketing effort which promotes American farm products abroad and provides the financial assistance which our producers and their customers need to ensure a continuous flow of U.S. agricultural products abroad.

(a) Bringing Down Trade Barriers

The United States is currently involved in a series of multi-lateral negotiations on the terms of the General Agreement of Trades and Tariffs (GATT), the major world treaty on trade. This treaty is, as its name suggests, of a general nature. Rather than specifying actual trade agreements, it merely lays out the rules which signatories must follow in establishing their trade policies.

The Administration is also involved in a series of talks with Japan and other Asian countries concerning their trade policies. In my view, U.S. efforts in both of these negotiations are moving in the wrong direction. By concentrating on limiting imports into the United States from these nations, they fail to realize our potential for using U.S. imports as a lever to increase U.S. exports to these nations. The Administration is selling short the potential of American agricultural products to lead the way in increasing *exports* as a means of restoring the trade balance.

This needed expansion of export markets cannot be accomplished by jawboning nations assembled at a conference into minor trade concessions. I believe that it is necessary for the United States to initiate a series of trade agreement negotiations with major producers of U.S. industrial and consumer product imports, in which it is made very clear that continued access to the U.S. market depends completely on their willingness to eliminate barriers to exports of our farm products. Unilateral retaliatory trade barriers cannot possibly enhance the growth of our economy. But carefully negotiated item-for-item agreements on minimum levels of purchases of foreign manufactured products in return to U.S. access to foreign agricultural markets are essential to stabilize commodity prices in world markets and provide a basis for continued growth.

At its recent convention, the AFL–CIO announced that it would work diligently to frustrate any such effort, claiming a threat to jobs for its members. They fail to realize that a healthy farm community which can purchase the products manufactured by AFL–CIO members is even more essential to the ultimate safety of their jobs. I believe that it is imperative that the Congress reject any and all efforts to respond to foreign trade barriers with barriers of our own. To do so would be to throw away the bargaining chips which we desperately need to bring down foreign barriers to U.S. farm products. And I believe that the Congress must firmly direct the President to initiate treaty negotiations immediately with those nations which, in attempting to protect inefficient domestic farm producers, unreasonably bar access of their citizens to efficiently-produced American farm products.

(b) Improving Market Information for American Producers

Under every farm program run by USDA since the 1930's, production targets and regional production allocations have been made based on woefully inadequate information on world marketing and production trends. As a result, American farm producers have been left holding the bag when USDA recommendations produce unmarketable surpluses. While the Foreign Agricultural Service (FAS) of USDA is empowered to conduct continuing market research, its staff is so small and its information base so limited that it is unable to provide the kind of specific, reliable data that American producers need to make planting decisions.

To take best advantage of world markets, American producers need to know the specific markets in order to carefully match their production to world commodity needs. For this reason, the FAS must be charged with the task of providing in-depth analysis of major agricultural market areas on at least an annual basis. But even this effort would be insufficient to generate all of the required information for U.S. producers. The FAS must also be provided with the resources necessary to enable it to identify new markets for American products.

Many countries do not currently provide the U.S. with access to information about their growing areas or consumer markets. A significant amount of world agricultural data must now be generated through clandestine CIA surveillance. The recent seriously mistaken estimate of Soviet wheat production highlights the short-comings of this method. By relying on intelligence sources for agricultural data, we run the risk of being mislead by counter-intelligence methods such

as those used this year by the Russians to conceal the pending wheat shortfall.

It is ridiculous that the U.S. must depend on cloak-and-dagger methods to gather information that is so vital to the stability of U.S. agriculture. This matter must be seriously addressed by treaty. As part of either bi-lateral trade agreements or through separate agreements, we must ensure that the American agricultural researchers have guaranteed access to the data base needed to make intelligent market forecasts.

No amount of sophisticated market information can be of any value unless American producers use it in making planting decisions. In recent years, the American farmer has come to distrust USDA demand forecasts, largely because of their sorry track record. Once our research capability has been augmented to the point that it becomes a viable forecasting system, producers and their organizations should be given a role at the national level in interpreting and disseminating market forecasts. Only in this way can we restore the confidence necessary to ensure most effective use of the improved world market information system.

*(3) Providing assistance to producers and their customers*

Even if the stage is set for expanded export markets through trade agreements and improved market information, there will still be obstacles to overcome in matching foreign customers to U.S. producers. Foreign customers must be made aware of U.S. production capabilities, sales agreements involving different languages and varying currencies must be negotiated, transportation arrangements must be made, and financing must often be available to enable foreign customers to complete purchases. An expanded Foreign Agricultural Service, working in conjunction with the Commodity Credit Corporation, can be of considerable assistance in providing the promotional, marketing, transport and financing assistance necessary to enhance the flow of U.S. goods overseas.

Currently, FAS maintains agricultural attaches within U.S. embassies around the world. It is a mistake to tie agricultural marketing efforts too tightly to the overall U.S. diplomatic efforts, lest temporary foreign policy differences prove disruptive to agricultural trade. By establishing separate offices for an upgraded FAS agricultural marketing service in foreign capitals and major cities, we would be able to reinforce a link between foreign customers and the private American producers who supply them that would be less susceptible to the winds of diplomacy.

Such offices could provide a central clearinghouse in major marketing areas for the research, promotion and marketing efforts necessary to provide a comprehensive package of services. There may well be other benefits to be derived from these offices. If they come to symbolize a new American effort to make foreign nations partners in an expanded level of world trade through links between the private citizens of both nations, they could actually enhance America's diplomatic presence in these countries.

In backing up these offices from the United States, our existing agricultural trade institutions must be significantly improved. In addition to expanding the role of the Foreign Agricultural Service as the central research and marketing arm of the U.S. agricultural trade effort, we must provide additional resources to the Commodity Credit Corporation to finance world commodity sales.

Currently, the CCC is the financing arm of the U.S. grain reserve program, both for CCC-held and on-farm storage loan programs. In addition, it administers both concessional sales and emergency food aid programs under the Food for Peace program. Yet budgetary limitations and the pre-eminent position of domestic reserve programs severely limit the effectiveness of the CCC in providing the assistance necessary to support the level of sales needed to significantly expand U.S. exports.

As part of an expanded export assistance program, legislation is needed to give the CCC more flexibility in providing long-term loans and concessional loan terms. Export programs must be made the primary mission of the CCC, with budgetary authority to match this expanded role. Consideration must also be given to expanding grants of food and feedstuffs as part of the overall American foreign aid effort.

In all, we can no longer expect that world markets will take care of themselves while we go our own way. The growing dependence of the American agricultural economy on export sales and increasing protectionism in world agricultural markets means that the federal government must take a leading role in expanding sales of our farm products abroad. An ambitious program of the magnitude I have outlined here is the minimum necessary to ensure the markets American farmers need to stabilize prices, increase their income, and exploit their potential for maximum efficiency and future growth.

Mr. Speaker, in the near future I will introduce legislation to provide the needed authority to embark on this aggressive program. At the same time, I urge my colleagues to join me in passing legislation to roll back the excessive burden placed on the farm economy by misguided tax and regulatory policies. I hope I can count on your support in working toward these vital objectives. Policies which reward the productive potential of American agriculture, rather than seek to restrict it, are long overdue. Working together, we can finally make these policies a reality.●

## JOHN DAVENPORT ON RHODESIA

### HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. ASHBROOK. Mr. Speaker, John Davenport, author of U.S. Economy and former editor of Barron's and Fortune, has written a most perceptive article in the April 14, 1978, issue of National Review. In his usual careful and factual manner, Mr. Davenport outlines the tragedy of our Rhodesian policy. As a Member of Congress who was always pro-Rhodesia I find his article most timely.

It is a sad day when our President and his emissary, Andrew Young, side with the terrorists against a free and peaceful government. The irony of their position is that they now say we must bring about a coalition with the guerrilla forces in Rhodesia to prevent the Soviets from becoming involved. Anyone who knows anything about Rhodesia knows full well that it is the other way around. The Soviets are involved with the terrorist forces and our Government appears bent on forcing an accommodation to the Soviet-backed forces in Rhodesia.

Mr. Davenport's article is worth the close consideration of every member and I include it at this point:

AN AMERICAN-RHODESIAN PERSPECTIVE

(By John Davenport)

I first met Ian Smith in the autumn of 1966, and I recall that his first question to me as we sat in his office off Cecil Square, Salisbury, was a quizzical: "Are you another American intellectual seeking to reform us?" From this inauspicious beginning, conversation turned amicably to Rhodesia's chances of surviving world ostracism and UN sanctions imposed as the result of its breakaway from the apron strings of the British Empire in the previous year. At the time, Smith was fairly sanguine about the prospects—a prognosis confirmed by my subsequent tour of Rhodesia's farms, mines, and factories, and by its remarkable development from 1966 onward.

But when I visited Rhodesia just a decade later, and again saw Smith, those euphoric years had drawn to a close. Soldiers in battle dress slipped in and out of the Meikles Hotel, and an ambitious project for enlarging that hostelry, plus other projects, remained uncompleted. The economy was obviously hurting, partly as the result of sanctions, much more because Western diplomacy had encouraged the Soviet-armed terrorist war, then lapping across Rhodesia's northern and eastern frontiers. In view of that worsening war and the fall of Angola, Henry Kissinger had engaged in his famous shuttling, and in September of 1976 had offered Smith his bottom-line terms: Let Rhodesia finally accept the slippery and ill-defined principle of "majority rule" for its six million black inhabitants, and the U.S. would lift sanctions and use its good offices to wind down the terror.

Since Smith had not yet publicly accepted the package, and since my invitation to his home at Number 8 Chancellor Avenue was specifically "for a drink not an interview," conversation at first turned to trivia. Nursing a light scotch-and-water, Smith, grayer and even thinner than when we had first met, and tired from weeks of negotiation, allowed that he yearned for his ranch in Rhodesia's Midlands where, as he observed, "The cows don't ask questions." It was only as my wife and I prepared to leave that he probed the basic issue of detente in the face of mounting Soviet aggression. "I suppose that's my trouble," he said softly, "is that I do not understand the West." The words hung in a peculiar way in the airy living room. It was almost as if he had asked: "Is there any longer a West to believe in?"

Many times since that evening I have asked myself the same haunting question. For the conduct of the West toward Rhodesia over the years has been quite incredible, and never more so than in recent months, when Smith in his own way and in his own time has been seeking to fulfill the basic terms of the Kissinger agreement by effecting with moderate black leaders an "internal solution" to Rhodesia's problems, rather than turning the country over to Communist-dominated terrorists. One woud have assumed that the West in general and the U.S. in particular would embrace such a solution with open arms. Instead there has been constant bickering in Washington and the United Nations based to no small degree on the assumption that anything Ian Smith touches must be a racist "contrivance" and that the man himself, in the unguarded lan-

guage of a senior State Department official "reminds one of Thomas Jefferson—an agrarian who kept slaves!"

Two transient meetings and occasional brief correspondence with this soft-spoken and controversial man are obviously not enough to support more than an impression of his honesty and sincerity. But if one puts that impression together with first-hand observation of his country, with impressions of those who have known him, and with the unexpungeable record of political events in Rhodesia and Washington over recent years, one comes out with a picture very different from that usually painted. Ian Douglas Smith, born of Scottish parents in the pioneering town of Selukwe, Rhodesia on April 8, 1919, may not be the paragon of all virtues. But when the petty bureaucrats of Britain, the U.S., and the UN are forgotten, history may well mark him as the man who helped save the West from many of its emotional follies.

Fighting for what he considers to be the values of Western civilization is in any case not new to Ian Smith, which is one reason why today he walks with a slight limp, and why his face has a certain immobile quality, and why, if you look closely, there is a slight droop in one of his keen grey eyes. These physical scars were inflicted during World War II. While in his first year at Rhodes University in South Africa, he enlisted (at age 23) in the Rhodesian Squadron of the British Royal Air Force. In 1943 he was assigned as a fighter pilot to Egypt. Taking off in the pre-dawn darkness for patrol over the Mediterranean, a fellow pilot recalls seeing the exhaust glow of Smith's Hurricane flare out; on returning from the mission, he saw wreckage—guns, radio set, and engine—strewn across the rough flying field. Smith had in fact tripped a bunker and, despite a flying harness with a breaking point of one ton, was flung head first against the instrument panel of his plane. Smith's superb physical condition pulled him through, and skillful facial surgery in Cairo's Scottish Hospital repaired, or nearly repaired, the damage.

For most volunteers this would have been enough, but Smith on recuperation rose to fight another day. In early 1944 he was assigned to strafing the German retreat up the Italian peninsula, this time in a Spitfire instead of a Hurricane. While on a near-ground-level strafing mission, Smith's plane was riddled by ack-ack fire and, as he has recalled, "There was only one thing I could do. I stepped out of the thing and landed in the Ligurian mountains." For a while he lived with Italian partisans and then, with three companions, made his way through the German positions and crossed the Alps in midwinter on foot to find refuge within the American lines. There followed a "refresher" course in Shropshire, England, and Smith was off again to see service over Norway, Denmark, and Germany till the guns along the Western front fell silent.

Such a man does not give in easily. If today Smith is counted as a stubborn fellow by his critics, perhaps we could do with a little more of such stamina and stubbornness in war and in politics. As to the latter, Smith had spent many a long evening in the barracks chewing over with his companions what might be the future of the pioneer country they had left behind them, but these were little more than diversions. At the end of the war he returned to Rhodes University, took his degree in economics in 1946, was married to Janet Watt (a former South African schoolteacher and sister to the wife of Owen Horwood, currently South Africa's Minister of Finance), and settled down to what he thought would be the permanent life of a rancher.

But not for long. Rhodesia's politicians were at the time on the lookout for fresh talent and had marked Smith's war record and his quiet capacity for leadership. He was persuaded to run for Parliament on the Liberal ticket and won handsomely. In the next ten years, in various capacities and under various party labels, Smith made his way up the political ladder and in the process came to grips with the two main issues that had and have increasingly agitated his country. The first was how a minority of white settlers, today numbering no more than 270,000, should deal with an ever-growing black population which in its turn was sharply divided between the urbanized blacks and the much larger tribal communities, and between the two great tribes, the Mashona and the Matabele peoples. The second and interlocking issue was relations with the British Crown.

On the first of those questions, Smith grew up like most British settlers with the vague idea that privileged position entailed the duty to launch blacks into the twentieth century. Bit by bit this presumption hardened into the idea that political emancipation of the blacks must be evolutionary, not revolutionary. But on one point Smith has never wavered: whatever the racial solution, the shots should be called by those who know the country and its inhabitants, not by distant bureaucrats and politicians.

Rhodesia, founded in the 1890s by Cecil Rhodes' British South African Company, had become a self-governing British colony in 1923, with defense and internal security firmly lodged in Salisbury, and enjoyed all but Dominion status. At the end of World War II, Rhodesia could have had that status or even full independence for the asking had she not been diverted into an ill-advised attempt to federate with Northern Rhodesia (now Zambia) and with Nyasaland (now Malawi). When that federation flew to pieces in 1963, while Britain, responding to the "winds of change," was giving most of her colonies independence, Rhodesia looked for the same treatment. It was not to be. By then Britain was responding to the clamor from Commonwealth countries and the UN that white rule should end in all of Africa. In the case of Rhodesia, Britain made independence contingent on "enlargement" of the franchise, which in turn gradually hardened toward the mystic formula of "majority rule." In the lexicon of liberals, Ian Smith is a man who cannot be trusted to keep his word. In point of fact, it was Britain—first under Conservative leadership and then under Labor's loquacious Harold Wilson—which welched on implied promises. In November 1965 the sands of negotiation ran out. Despite frantic telephone cal's from London, Ian Smith, by then Prime Minister, signed Rhodesia's fateful unilateral declaration of independence (UDI).

Critics there are who believe that this ultimate plunge with all its consequences could have been avoided with a little more dickering and patience. Smith himself has never subscribed to that view. The choice, in his judgment, lay between a kind of second-class independence and the real article, and between internal evolution toward a multiracial society and an externally imposed settlement with perhaps revolutionary consequences. "UDI," he has said, "gave us the best ten years of our life." And so matters at first proved, politically and economically, despite Britain's waspish declaration of economic war against Rhodesia and her appeal to the United Nations for succor in putting down what she termed a "rebellion," against which she herself had no handy Redcoats to send, as she had had in the case of the American Colonies in 1776. It did not take the Babel beside the East River long to come to Britain's rescue by declaring that Rhodesia's insurrection constituted a "threat to the peace:" hence she merited ostracism and universal sanctions against her commerce. In vain the late Dean Acheson pointed out to members of the American Bar Association: "It will surprise some of my fellow citizens, though hardly anybody here, to be told that the United States is today engaged in an international conspiracy, instigated by Britain and blessed by the United Nations, to overthrow the government of a country that has done us no harm and threatens no one. *This is bare-faced aggression unprovoked and unjustified by a single legal or moral principle.*"

Meanwhile, in Salisbury, Smith and his government stuck to legal and moral principles as they saw them Rhodesia's new constitution included most of the provisions of the constitution of 1961, negotiated by Britain, which while restricting the franchise made no mention of race, creed, or color, and might have drawn plaudits from a Madison or a Jefferson. In 1969 that constitution was amended along more racial lines, with blacks voting for blacks and whites for whites. Yet as late as 1977 there were four black tribal leaders in Ian Smith's cabinet, and equal number of blacks and whites in Rhodesia's Senate, and 16 blacks v. fifty whites in Rhodesia's Assembly, with provision that black representation would advance at least to parity as the contribution of blacks to the national income rose (thanks to rising productivity and the spread of education).

This was surely not simon-pure democracy, but it was a far cry from the standard caricature of Rhodesia as a land where a rascist minority grinds blacks under its heel. Moreover, economically speaking, the proof of the pudding lay in the eating. Between 1965 and 1975 Rhodesia staged a spectacular comeback which surprised her friends and excited the envy of her foes. In this period Rhodesia's GNP expanded on the average by 7 percent per year, or faster than that of the U.S., as a consequence of the diversification of her agriculture from tobacco to maize, cotton, and cattle breeding, as well as heavy investment in mining, light industry, roads, public housing, and education. The result is that Rhodesia's literacy rate is the highest in all of Africa (except South Africa); and there are more blacks than whites in the fully integrated University of Rhodesia. As of today, blacks constitute over two-thirds of Rhodesia's fighting forces.

What ended these "best ten years of our life" was an event which neither Ian Smith nor other leaders in southern Africa could have averted—the collapse of Portugal's empire in 1974–75, with the rapid loss of its African possessions, Mozambique and Angola, to Communist domination, and the concomitant stepping up of external aggression across Rhodesian borders. Such attacks had begun in a small way in the early Seventies, when certain Rhodesian nationalist leaders, operating from Zambia, turned to terrorist tactics. The loss of Mozambique now exposed Rhodesia's long eastern flank to similar inroads, besides cutting her direct rail connection to the sea via Beira, which now became a port of entry for Soviet bazookas and other equipment destined to sustain "freedom fighters." Their notion of freedom was to kill Rhodesia's farmers and missionaries and, perhaps saddest of all, her black farm workers in their exposed "homelands." As Senator-Chiefs Jeremiah Chirau

and Kayisa Ndiweni—leaders, respectively, of Rhodesia's great Mashona and Matabele tribes—put it: "There is no race war within Rhodesia . . . The fight is between decent Rhodesians, black and white, and terrorists who are being directed and used by the forces of Communism."

The fall of Angola, though more distant geographically, brought less predictable but in the end no less untoward results. For it was the Russian-Cuban attack on Angola that persuaded the U.S. State Department, and specifically Henry Kissinger, that something more was required in Africa than a balancing act wherein the U.S. sought to appease black African sentiment with sanctions against Rhodesia while treating the rest of the continent with benign neglect. In Salisbury there were no doubt high hopes that this "something more" would be a direct confrontation with the Soviets—the cutting off of U.S. grain and high-technology sales to Russia, for instance, or at least open encouragement for South Africa, whose troops late in 1975 were within striking distance of Angola's capital, Luanda, to march in and finish the job. Nothing remotely like this happened. In Washington, when he asked for aid for Angola, Kissinger was decisively turned down by a Congress still smarting from defeat in Vietnam. That tore it. Word flashed to South Africa that its veterans in Angola had best stand down, and presently they began their two-thousand-mile retreat to their camps in South West Africa. Concomitantly, the State Department dusted off a new, or as it turned out very old, tactic for holding states like Zaire and Zambia in the reputedly pro-Western camp. In the spring of 1976 Kissinger journeyed to Zambia, savored the spray of Victoria Falls, and then let go at Rhodesia: No mention of Rhodesia's economic and political progress from 1965 forward. No condemnation of terrorist atrocities. Instead his blunt warning was that Rhodesia must bow to black African demands for "majority rule" here and now or suffer slow strangulation.

However unfairly, the American giant had spoken, and in the next several months rhetoric was translated into action. In a whirlwind series of conferences Kissinger persuaded Prime Minister Vorster that South Africa's own self-interest lay in achieving peace without honor in Rhodesia. South Africa, itself threatened by UN sanctions, withdrew its helicopters from the Rhodesian front and, while purporting to follow strict and technically correct neutrality, put pressure on Smith to settle. When, on Saturday, September 18, Smith flew from Salisbury to Pretoria, ostensibly to watch a rugger match he held few cards.

Next morning, as Sunday church bells chimed out in South Africa's capital, Smith and Kissinger met at the residence of the American Ambassador. On one account, Kissinger opened the meeting with a jocular, "Mr. Smith, I understand you are a slippery man," a sally that drew laughter from all parties. Smith himself recalls that at some point in the day's proceedings Kissinger graciously allowed that he had come "on the most unpleasant diplomatic mission of my life." In any case his technique was faultless:

A painstaking analysis based on U.S. and South African intelligence estimates as to where Rhodesia would find herself six months or a year hence if the terrorist war continued;

The promise of lifted sanctions and American good offices if the principle of "majority rule" were accepted;

A more or less detailed written plan as to how a transition could be made to a new constitution, democratic elections, and full independence;

And the assurance that all this had been cleared with the so-called "front-line presidents of neighboring states, notably Kenneth Kaunda of Zambia and Julius Nyerere of Tanzania. Smith listened somberly and asked for time to mull over the "package." Toward dusk he and Kissinger met again, this time with Vorster at the latter's official home, Libertas, on the low hills overlooking the city. Smith, on one reliable British report, came swiftly to the point: "All I have to offer is my own head on a platter."

But not quite all. For in the hours of discussion Smith managed to insert into the package certain provisions which would make it more palatable to his constituency back home—specifically, that in the transition government whites would temporarily hold the key portfolios of internal security and defense. Moreover, it was agreed that after returning to Salisbury and consulting with his party, he should announce his rejection or acceptance of the agreement and should spell out its terms. This he did at the end of the week in a low-keyed television address to his country, stressing that his acceptance of the proposal was made on condition that Britain and the U.S. fulfill their part of the bargain as regards the lifting of sanctions. By then Kissinger, having touched base again with Rhodesia's bellicose neighbors, was in full flight over the western Atlantic toward Washington. As Smith's flat voice came over the scratchy radio, younger members of Kissinger's entourage cheered and ordered an extra drink. The Secretary himself remained peculiarly solemn and impassive—a scowling Buddha—perhaps because, more than most men, Kissinger knew that in the case of Rhodesia he was tampering with an outpost of civilization; perhaps for more mundane reasons.

His reserve in any case was fully justified. Forty-eight hours after the broadcast the front-line presidents, under powerful pressure from the Soviets, let go a broadside of criticism, and in effect reneged on whatever they had agreed to during Kissinger's shuttling. Britain, and later the State Department, allowed that most of the terms of the agreement were "negotiable" at a conference to be held outside of Rhodesia. With that, the whole package unraveled. There followed the abortive Geneva conference, where it turned out that the black "nationalist" Rhodesian leaders were themselves hopelessly split as between the forces of the moderate Bishop Muzorewa, and those of the "Patriotic Front" of Joshua Nkomo and the implacable Robert Mugabe, a self-admitted Marxist, who claimed control of most of the terrorist forces in Mozambique. There followed, too, the futile efforts of the pipe-smoking British ambassador to the UN, Ivor Richards, to put Humpty Dumpty back on the wall. Finally, in September of 1977, a new British-American "initiative" was announced. In effect it asked for the capitulation of the "illegal" Smith regime. A British administrator, Lord Carver, would be moved into Salisbury until a new Rhodesian constitution could be adopted; his regime would be bolstered by a United Nations peace-keeping force (presumably consisting largely of Nigerians). Meanwhile Rhodesia's own armed forces would somehow be integrated with those of the terrorist, with the latter, on the word of Britain's Foreign Secretary David Owen, holding the upper hand.

Predictably, Smith received this "initiative" cooly, and presently wrote it off as "mad," since it would give the terrorists precisely what they wanted—a takeover of the country. Already he was working on a better way to solve his country's difficulties, an "internal settlement" based on the unwavering conviction that any settlement must be made "by and for Rhodesians." Such Rhodesians were by now at hand, though their combination under the pressure of war and necessity made for strange bedfellows: the diminutive Bishop Muzorewa, with whom Smith had vainly negotiated in the Sixties, but who now commands by far the largest black following in Salisbury; the Reverend Sithole, once accused of plotting Smith's death, but who is now violently opposed to the terrorists; and finally, the towering Chief Chirau, who had served in Smith's cabinet and now heads an independent party of his own, and who may well become the anchor-man in Rhodesia's politics despite jibes from critics that he is no more than an "Uncle Tom" (a cross which our own Booker T. Washington had to learn to bear). Bit by bit these negotiators found common ground.

Early last month a final settlement was signed which followed closely the terms of the Kissinger proposal: it called for a transitional interim government ruled by an Executive Council consisting of Smith and the three black leaders, with chairmanship rotating, plus a racially mixed cabinet of ministers. A promised constitution provided universal suffrage and, indeed, one-man/one-vote, but also gave the white minority certain political protections for the next ten years. Free elections were to be held as soon as possible, with the provision that the Patriotic Front could participate in the elections if they renounce their terrorist tactics. In the meantime, control of Rhodesia's fighting forces would rest in the hands of the interim government.

What more, asks Smith, can the West want?—a good question. Incredibly, London and Washington hesitated and dithered. For one thing, there are those in Whitehall and Foggy Bottom who make it their business to distrust "Smithie." For another, the internal settlement caused a furor in the United Nations, which has already passed a resolution condemning it out of hand. The third and more rational explanation for Washington's hesitancy is that since the Salisbury accord was made without, and in defiance of, the terrorist leaders, it will not put an end to the war. This is probably true as far as it goes, but it overlooks the fact that the way to deal with bandits is not necessarily to admit them into the house. It also overlooks the fact that the U.S. could deflate the terrorist cause by halting its decade-long "aggression" (Dean Acheson's term) against Rhodesia and unilaterally lifting sanctions against Salisbury. But Cyrus Vance and Jimmy Carter have brushed aside this obvious option. Behind their hesitancy it is not difficult to perceive fears that if the U.S. dealt thus justly with Rhodesia, Russia might throw in fresh armament and Cuban troops, leading to outright confrontation. In the days of Neville Chamberlain there was a word for such poltroonery, namely, appeasement.

All this may change, but today's U.S. policy toward Rhodesia troubles many Americans. It is likewise troubling, we may be sure, to the ex-fighter pilot from Selukwe, who confesses that he does not "understand" the West. What, in conclusion, of him?

When the accord with the black moderates was signed in Salisbury under the portrait

of Cecil Rhodes, it was noticeable that Smith was stony-faced, spreading his hands out in a gesture of resignation rather than celebrating the victory with the jubilation of the rest of the participants. In a subsequent interview he stated flatly: "I have come to this solution because I had no other option." From which critics might deduce that Smith is still their much maligned "racist" at heart, who now concludes his career as no better than a political trimmer.

Such evaluation will really not do. Smith is scarcely one to underrate the importance of race in shaping human destiny. But over the years he has sought to disentangle that thorny issue from popular liberal slogans that have in fact little to do with it and have worked great harm. He is still a believer in the qualified franchise for blacks and whites alike, for the same reasons the founders of the American Republic, believed in it. His frequent sallies against the panacea of "one-man/one-vote" rest on the conviction that what matters in politics is not the counting of heads but what goes on in the heads counted. He is that strange phenomenon in our day—a man who believes that the test of government is not just how it is elected but whether it is capable of ruling for good or ill. He perhaps came closest to expressing his ideal when he termed it "meritocracy," where men are judged not by the color of their skin but by what they stand for and how they conduct themselves. In short, for him politics cannot be divorced from standards and the maintenance of civilized values.

But politics is the art of the possible, and, given the world as it is, not as it might be, the possible is not always, indeed is rarely, synonymous with the best. In shaping his course Smith has had to adapt not only to the realities of his own country—tribal differences and suspicions not least among them—but also to the realities of the wider world. In beating down opposition within his own party from die-hards and men of the extreme Right, Smith recently reminded his hearers that anyone who thinks that the Rhodesia of the Seventies can be the Rhodesia of the Fifties and Sixties is living in a fairyland and needs his head examined. Smith will have no truck with Communism, which he believes is out to subvert most of Africa. By its very location, trade connections, and human relations, Rhodesia can prosper only as a member of the community of Western nations from which it was born. When that community, through Kissinger, demanded a New Deal in Rhodesia, Smith accepted the verdict, asking only that the West fulfill solemn commitments made. If that happens, if sanctions are promptly lifted with the formation of a new interim government, Smith may well have turned necessity into opportunity. For Rhodesia has one thing going for it that is lacking in other African states which have confused justice for blacks with the questionable doctrine of one-man/one-vote; namely, long years of fairly relaxed racial relations and the fact that whites and blacks have been fighting shoulder to shoulder against a common enemy. As a result, the new Zimbabwe, if backed by the West, may show the way to something new under the African sun, a stable society where both races find their common homeland.

A political trimmer? Maybe. But maybe, too, the celebrated aphorism of Lord Halifax applies: "I trim as the temperate zone trims between the climate in which men are roasted and the climate in which they are frozen." As it happens, Rhodesia, and specifically Selukwe, to which Smith will one day be returning, is endowed with precisely that climatic blessing.●

## FAIRER INVESTIGATIONS NEEDED

### Hon. Theodore M. (Ted) Risenhoover

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. RISENHOOVER. Mr. Speaker, a series of stories in Traffic World deeply concern me. Since they have not been published elsewhere, I wish to call this matter to the attention of my colleagues.

The April 18 issue of Daily Traffic World carries the following story:

TRANSPORT LAW PROFESSOR'S TESTIMONY IN MOTOR CARRIER RATE PROBE REJECTED

Kennedy Panel Again Rebuffs Witness, Who, While Advocating Motor Carrier Reforms, Supports Continued Existence of Rate Bureaus. New Hearing Date Set. ICC Commissioners Queried

(By Don Byrne)

A professor of transportation law at the University of Denver College of Law offered testimony to the Senate subcommittee investigating ratemaking or procedures in the motor carrier industry only to have it rejected, apparently because parts of it supported the position that motor carrier rate bureaus should not be abolished.

This latest incident in the investigation of the motor carrier industry by the antitrust and monopoly subcommittee of the Senate Judiciary Committee is the third uncovered in recent weeks by *Traffic World* in which either questions and answers were prepared for a witness or testimony was rejected because it did not agree with the subcommittee staff's thinking on how the investigation should proceed.

The latest incident involves Dr. Andrew F. Popper, assistant professor of law at the University of Denver, who holds the professorial chair in transportation law in the University's Law College.

The subcommittee held hearings on the ratemaking issue in Chicago on March 23 and then moved on to Denver the next day. Prior to this, after discussion with Jay Steptoe of the subcommittee staff, Dr. Popper had prepared testimony particularly with reference to court decisions supporting ICC rulings which would no longer allow rate bureaus to protest independent actions by their members, prohibit shipper-affiliated motor carriers from serving on rate bureau boards of directors and prohibit rate bureaus from operating as profit-making entities.

Professor Popper's testimony explored both sides of those decisions and added testimony calling on the committee to launch a full-scale investigation of regulation and deregulation and the ICC.

But then he added:

"I do not advocate the total abolition of regulation in the motor carrier field. I do not advocate the destruction of rate bureaus for collective ratemaking. I do most strenuously advocate a complete study of all the component parts of regulation, this being vital to the public interest as well as the interest of the motor carrier industry."

Professor Popper told *Traffic World* that after his meeting with the staff, including Jay Steptoe and Jeff Stone, on the day before the Denver hearing, "it appeared to me the staff didn't want to hear what I wrote."

The April 10 issue of Traffic World reported:

KENNEDY PANEL DISALLOWS TESTIMONY FAVORABLE TO RATE BUREAU PROCESSES

Nationwide Traffic Service Bureau Official Abruptly Canceled Out of Ratemaking Hearing After Requested Testimony He Submits Points Out Tariff Problems That Would Exist Without Rate Bureaus

(By Don Byrne)

The Senate subcommittee investigating ratemaking in the motor carrier industry sought testimony from an expert in the field because of his ". . . knowledge and experience with motor carrier ratemaking practices and processes . . ." and then rejected the testimony, apparently because it was favorable to the rate bureau process.

This came to light after *Traffic World* reported that there was evidence of rigged testimony in a hearing on trucking industry ratemaking practices March 23 in Chicago.

On March 7 Senator Edward M. Kennedy (D-Mass.), chairman of the antitrust and monopoly subcommittee of the Judiciary Committee, wrote to Jack F. Steuber, Sr., vice-president—sales and consulting for Nationwide Traffic Service Bureau, Inc., in North Miami, Fla., asking him to appear before the subcommittee on March 13 saying, "In view of your knowledge and experience with motor carrier ratemaking practices and processes, we ask that you appear before the subcommittee to give testimony. The hearing will begin at 9:30 a.m., on Monday, March 13. . . ."

That same day, a subcommittee staff member, Jeff Stone, also called Nationwide and spoke with Al Jensen, executive vice-president of Nationwide, in Mr. Steuber's absence. He requested Nationwide to present the subcommittee with an in-depth background on the company, the typeof cilentele and other pertinent information. He also requested that Nationwide submit a list of questions it would like the subcommittee to ask, Mr. Steuber said.

In a letter to Senator Kennedy and other members of the subcommittee dated April 4, Mr. Steuber describes what then happened:

"Your letter requested testimony based on my knowledge and experience on federal regulation of ratemaking in the motor carrier industry and the ratemaking practices and processes. My prepared statement included background on Nationwide and testimony on collective ratemaking.

"Five copies were sent to Mr. Stone on Thursday, March 9 and were in his hands the following day. All arrangements were made for me to be in Washington, Monday, March 13, 1978, to give testimony. Late Friday evening, March 10, Mr. Stone telephoned my office and again talked to Al Jensen. Mr. Jensen was informed by Mr. Stone, that due to the resumption of the Panama Canal Treaty hearings, cancellations were necessary. I was one of the cancellations. This was understandable due to the circumstances.

"Mr. Stone also stated to Al Jensen during the Friday evening telephone conversation, that I did a '180 degree turn' on my testimony. He said that all he wanted was information on Nationwide Traffic Service Bureau and its clients, as stated previously herein. Mr. Stone said that the committee had enough testimony on collective ratemaking. He further stated that if we wished to change our testimony, indicating that we limit it to our services, etc., that we could resubmit it when the hearings resume sometime in April.

"Senator, this disturbs me greatly. Your letter contained nothing requesting background on Nationwide Traffic Service Bureau. The contents of your letter spe-

cifically requested testimony on motor carrier ratemaking and federal regulations of ratemaking. Why should we have to change our testimony in order to have it entered in the record of future hearings? I feel sure that you and your committee want to be made aware of all of the thinking of the transportation industry and the shipping public, regardless of which side of the issue a particular piece of testimony may fall."

On April 3, from Chicago, the following was published in Traffic World:

"RIGGED" TESTIMONY GIVEN IN CHICAGO HEARING CONDUCTED BY SEN. KENNEDY

Document Obtained by Traffic World Shows That Illinois State Legislator Used Question-and-Answer Document Prepared for Him Beforehand by Subcommittee staff

(By Elleen Kelliher)

Evidence of rigged testimony and hand-picked witnesses surfaced in a U.S. Senate subcommittee hearing on trucking industry ratemaking practices, March 23, in Chicago. Conducting the hearing was Senator Edward M. ("Ted") Kennedy (D-Mass.), who is chairman of the Senate Judiciary Committee's subcommittee on antitrust and monopoly.

The hearing was one in a series held by the subcommittee, supposedly for the purpose of determining whether a need exists for enactment of proposed legislation to remove the motor carriers' right, under the Interstate Commerce Act, to make rates collectively, through their rate bureaus.

Inquirers learned that the subcommittee staff had made contact, prior to the hearing in Chicago, with all the witnesses who testified in the hearing. Tom Sussman, general counsel for the subcommittee, said that it is "standard procedure" to interview prospective witnesses.

Of the 10 persons who were "invited to testify," only the three who represented the motor carrier industry spoke in favor of collective ratemaking. Of the remaining seven witnesses, four were self-described "consumer advocates," two were shipper representatives, and one was a state legislator from Chicago who opposed collective ratemaking by motor carriers.

Minutes before the hearing began, *Traffic World* obtained a copy of a document indicating that Illinois State Representative William A. Marovitz gave testimony prepared for him by subcommittee staff.

The document was titled "Questions for Marovitz." It contained four questions with lengthy answers that were designed to show that rate bureau ratemaking is no longer necessary; that it's partly to blame for higher truck rates; that it hurts the consumers, and that it eliminates competition in the trucking industry.

Mr. Marovitz, the first to testify, said in a brief statement that "the public needs to be aware of the inflationary effect price-fixing in the trucking industry has on the price of consumer goods."

Then, Senator Kennedy asked Mr. Marovitz each of the four questions and the young attorney, a Democrat who represents a district on Chicago's South Side, read off the answers nearly word for word as they appeared on the document held by Traffic World.

The subcommittee's counsel, Mr. Sussman, verified that "Questions for Marovitz" had been prepared by a subcommittee staff aide.

"When Senator Kennedy asks questions he likes to know what the answers will be," Mr. Sussman said.

While I do not pretend to set standards of conduct for the other body, I have concern about investigative methods reported by this respected publication. All three stories reflect a pattern of witnesses being selectively picked and, worse, allegations that testimony was rigged by staffers of a committee in the other body.

Congress has a responsibility to get facts. But, we should set a standard of fairness, balance, and objectivity. When we fall short of these minimums, we all are poorer.●

## GEORGE WASHINGTON HONOR MEDAL AWARDED FOR SERMON

### HON. ADAM BENJAMIN, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, April 19, 1978*

● Mr. BENJAMIN. Mr. Speaker, I am delighted to inform my colleagues that Rev. Jack H. Barrell, pastor of the First Presbyterian Church of Hammond, Ind., will, in the near future, be awarded, for the third time, the George Washington Honor Medal for his outstanding sermon entitled "One Nation Under God—Who Needs Him?" This sermon was delivered on the occasion of George Washington's Birthday, 1977.

The Freedoms Foundation has previously awarded this medal to Pastor Barrell in 1973 and 1977 in honor of his outstanding contribution to the understanding of the American way of life. These annual awards have been presented to worthy individuals and organizations since 1949.

Pastor Barrell will also be distinguished by Hanover College, Hanover, Ind., after he preaches the baccalaureate sermon on Sunday, May 28, 1978. At that time, Hanover College will present to Pastor Barrell a doctor of divinity degree honoring his dedicated service to his community.

The First Presbyterian Church of Hammond has, under the extremely competent direction of Reverend Barrell, grown and expanded. During the week of April 23–30, 1978, Pastor Barrell and his congregation will celebrate the dedication of the new sanctuary and fellowship hall, the service of dedication taking place on "Dedication Sunday," Sunday, April 30.

I know my colleagues share my admiration for Rev. Jack H. Barrell's selfless and dedicated work. His being so honored is a great tribute to his untiring efforts to constantly improve the quality of life for every man, woman, and child.

Mr. Speaker, colleagues, I am extremely pleased to have this opportunity to recognize, congratulate, and praise Reverend Barrell for a job well done. This praise has been echoed countless times by all those people he has aided, and many times without acclaim. I know that his recognitions will continue to grow because he will never stop growing and giving as long as there is a person in need.●

## SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meeting as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committees scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, April 20, 1978, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 21

9:00 a.m.

Agriculture, Nutrition, and Forestry

Foreign Agricultural Policy Subcommittee

To hold hearings on S. 2278, S. 2641, and S. 2869, the International Emergency Food Reserves Act.

324 Russell Building

Armed Services

Arms Control Subcommittee

To hold closed hearings regarding vulnerabilities of the U.S. strategic force.

S–407, Capitol

* Energy and Natural Resources

Energy Research and Development Subcommittee

To resume markup of S. 2692, FY 79 authorizations for the Department of Energy.

3110 Dirksen Building

9:30 a.m.

Commerce, Science, and Transportation

Merchant Marine and Tourism Subcommittee

To hold hearings to receive a report on Federal policies and programs relating to tourism.

235 Russell Building

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold hearings on S. 2897 and S. 2898, authorizing funds through FY 1980 for the Federal Railroad Safety Act and to coordinate activities between State and Federal inspectors by permitting State agencies to enforce safety rules in U.S. district courts.

1202 Dirksen Building

Environment and Public Works

Resource Protection Subcommittee

To consider proposed resource protection legislation.

4200 Dirksen Building

Human Resources

Education, Arts, and the Humanities Subcommittee

To resume markup of S. 1758, authorizing funds through FY 83 for the Elementary and Secondary Education Act.

155 Russell Building

Judiciary
To resume hearings on S. 1874, to allow consumers and other parties who have not dealt directly with an antitrust violator to recover their damages under the antitrust laws.
2228 Dirksen Building

Judiciary
Criminal Laws and Procedures Subcommittee.
To continue hearings on S. 2013, to require the additional labeling of explosive materials for the purpose of identification and detection.
5110 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To continue hearings on budget estimates for FY 79 for NASA.
1318 Dirksen Building

Appropriations
Interior Subcommittee
To continue hearings on proposed budget estimates for FY 79 for the Department of the Interior.
1114 Dirksen Building

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To continue hearings on budget estimates for FY 79 for the Department of Justice.
S-146, Capitol

Energy and Natural Resources
Energy Conservation and Regulation Subcommittee
To resume hearings on S. 2692, FY 79 authorizations for the Department of Energy.
357 Russell Building

Finance
International Trade Subcommittee
To hold hearings on proposed FY 79 authorizations for the International Trade Commission
2221 Dirksen Building

Foreign Relations
International Operations Subcommittee
To resume hearings on S. 2863, FY 79 authorizations for the Department of State.
4221 Dirksen Building

Select Indian Affairs
To resume hearings on S. 2712, proposed Indian Program Evaluation and Needs Assessments Act.
457 Russell Building

1:00 p.m.
Human Resources
Aging Subcommittee
To hold hearings on S. 2850 and S. 2609, proposed Older Americans Act amendments.
457 Russell Building

1:30 p.m.
*Human Resources
Handicapped Subcommittee
To mark up S. 2600, to extend certain vocational rehabilitation programs and to establish a comprehensive services program for the severely handicapped.
4232 Dirksen Building

2:00 p.m.
Select Intelligence
Collection, Production, and Quality Subcommittee
Closed business meeting.
S-407, Capitol

APRIL 24

9:00 a.m.
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To mark up S. 2570, to extend the Comprehensive Employment Training Act (CETA).
4232 Dirksen Building

9:30 a.m.
Environment and Public Works
Regional and Community Development Subcommittee
To consider proposed regional and community development legislation.
4200 Dirksen Building

Judiciary
To resume consideration of S. 1874, to allow consumers and other parties who have not dealt directly with an antitrust violator to recover their damages under the antitrust laws.
2228 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Department of Commerce, and on supplemental appropriations for FY 78.
S-146, Capitol

Banking, Housing, and Urban Affairs
To hold oversight hearings on monetary policy.
5302 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on S. 2832, FY 79 authorizations for the Fishery Conservation and Management Act, and S. 2878, authorizing funds through FY 82 for the Central, Western, and South Pacific Fisheries Development Act.
235 Russell Building

Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 2876, authorization ceiling and boundary modifications of units of the National Park System.
3110 Dirksen Building

Energy and Natural Resources
Public Lands and Resources Subcommittee
To hold oversight hearings on the implementation of the Surface Mining Act (P.L. 95-97).
6226 Dirksen Building

Finance
Taxation and Debt Management Subcommittee
To hold hearings on S. 2738, to provide for the indexation of certain provisions of the Federal income tax laws, and related bills.
2221 Dirksen Building

Foreign Relations
Foreign Assistance Subcommittee
To resume hearings on FY 79 authorizations for foreign assistance programs; S. 2420, proposed International Development Cooperation Act; and to mark up proposed FY 79 authorizations for the Peace Corps.
4221 Dirksen Building

Governmental Affairs
Permanent Investigations Subcommittee
To hold hearings on Federal investigations of organized crime labor racketeering.
5110 Dirksen Building

1:30 p.m.
Armed Services
Manpower and Personnel Subcommittee
To mark up manpower and personnel provisions of S. 2571, FY 79 authorizations for military procurement.
212 Russell Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To continue hearings on budget estimates for FY 79 for the Department of Commerce, and on supplemental appropriations for FY 78.
S-146, Capitol

APRIL 25

9:00 a.m.
Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To continue markup of S. 2570, to extend the Comprehensive Employment Training Act (CETA).
4232 Dirksen Building

Judiciary
Improvements in Judicial Machinery Subcommittee
To resume hearings on S. 2094, S. 2389, and H.R. 9622, bills to provide access to the Federal Courts for the redress of citizens' grievances.
5110 Dirksen Building

9:30 a.m.
Environment and Public Works
To consider proposed highway legislation.
4200 Dirksen Building

Judiciary
To resume oversight hearings on the application and enforcement of the FBI Charter.
2228 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To receive testimony from Secretary of Commerce Kreps on budget estimates for FY 79 for the Department of Commerce.
S-146, Capitol

Banking, Housing, and Urban Affairs
To continue oversight hearings on monetary policy.
5302 Dirksen Building

Energy and Natural Resources
To resume hearings on S. 499, 1500, 1546, 1787, and 2465, to designate or add certain lands in Alaska to the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, and National Wilderness Preservation Systems.
3110 Dirksen Building

Finance
Public Assistance Subcommittee
To resume hearings on S. 2084, to replace the existing Federal welfare program with a single coordinated program.
2221 Dirksen Building

Foreign Relations
Foreign Assistance Subcommittee
To continue hearings on FY 79 authorizations for foreign assistance programs, and on S. 2420, proposed International Development Cooperation Act.
4221 Dirksen Building

Governmental Affairs
Permanent Investigations Subcommittee
To continue hearings on Federal investigations of organized crime labor racketeering, and on criminal efforts to defraud labor organizations and their benefits and pension funds.
S-126, Capitol

Rules and Administration
To consider S. 1029, to authorize construction of museum support facilities for the Smithsonian Institution; S. 2507, to authorize the Smithsonian Institution to acquire the Museum of African Art, Washington, D.C.; and S. 2730, to establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars.
301 Russell Building

Select Intelligence
To resume hearings on S. 2525, to improve the intelligence systems of the U.S. by establishing a statutory basis for U.S. intelligence activities.
318 Russell Building

1:00 p.m.
Select Small Business
To resume hearings on the nomination of Milton D. Stewart, of New York, to be Chief Council for Advocacy, SBA.
424 Russell Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To continue hearings on budget estimates for FY 79 for the Department of Commerce, and on supplemental appropriations for FY 78.
S-146, Capitol

Banking, Housing, and Urban Affairs
Securities Subcommittee
To hold hearings on H.R. 8331, the Securities Investor Protection Act.
5302 Dirksen Building

Judiciary
To resume hearings on FY 79 authorizations for the Department of Justice.
2228 Dirksen Building

APRIL 26

9:00 a.m.
Commerce, Science and Transportation
Science, Technology, and Space Subcommittee
To hold oversight hearings to examine the science and technology aspects of the Federal Research and Development budget.
5110 Dirksen Building

Energy and Natural Resources
Public Lands and Resources Committee
To hold hearings on S. 2913 and S. 2914, to amend the Federal Land Policy and Management Act so as to conform the interest rate therein to yield on certain tax exempt bonds and U.S. obligations.
3110 Dirksen Building

Human Resources
Employment, Poverty, and Migratory Labor Subcommittee
To continue markup of S. 2570, to extend the Comprehensive Employment Training Act (CETA).
4232 Dirksen Building

9:30 a.m.
Environment and Public Works
Regional and Community Development Subcommittee
To resume consideration of proposed regional and community development legislation.
4200 Dirksen Building

10:00 a.m.
Appropriations
HUD-Independent Agencies Subcommittee
To hold hearings on budget estimates for FY 79 for the Federal Home Loan Bank Board and the National Institute for Building Sciences.
1318 Dirksen Building

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Arms Control and Disarmament Agency, Foreign Claims Settlement Commission, Japan-U.S. Friendship Commission, and the Legal Services Corporation.
S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for ConRail and the U.S. Railroad Association.
1224 Dirksen Building

Commerce, Science, and Transportation
To hold oversight hearings on the Fishery Conservation and Management Act (P.L. 94-265).
235 Russell Building

Energy and Natural Resources
To consider pending calendar business.
3110 Dirksen Building

Environment and Public Works
Nuclear Regulation Subcommittee
To mark up FY 79 authorizations for the Nuclear Regulatory Commission.
S-126, Capitol

Finance
Public Assistance Subcommittee
To continue hearings on S. 2084, to replace the existing Federal welfare program with a single coordinated program.
2221 Dirksen Building

Foreign Relations
Foreign Assistance Subcommittee
To continue hearings on FY 79 authorizations for foreign assistance programs, and on S. 2420, proposed International Development Cooperation Act.
4221 Dirksen Building

Rules and Administration
To resume hearings on S. Res. 166, to reorganize administrative services of the Senate, and to consider other legislative matters.
301 Russell Building

Select Indian Affairs
To hold hearings on S. 2358 and 2588, to declare that the U.S. hold in trust for the Pueblo tribes of Zia and Santa Ana respectively, certain public domain lands.
6226 Dirksen Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the National Transportation Safety Board and the ICC.
1224 Dirksen Building

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the FCC, Federal Maritime Commission, FTC, International Trade Commission, and on supplemental appropriations for FY 78.
S-146, Capitol

APRIL 27

9:00 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To hold hearings on S. 2385, S. 2405, and S. 2504, bills to authorize the Commodity Credit Corporation to finance export credit sales of agricultural commodities.
324 Russell Building

Energy and Natural Resources
Energy Research and Development Subcommittee
To resume mark up of S. 2692, FY 79 authorizations for the Department of Energy.
3110 Dirksen Building

Judiciary
Constitution Subcommittee
To resume hearings on S.J. Res. 65, to amend the Constitution so as to provide for representation of the District of Columbia in Congress.
5110 Dirksen Building

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To resume consideration of proposed resource protection legislation.
4200 Dirksen Building

Judiciary
To hold hearings on S. 1382, to establish criteria for the imposition of the sentence of death.
2228 Dirksen Building

10 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Civil Rights Commission, EEOC, and on supplemental appropriations for FY 78.
S-146, Capitol

Governmental Affairs
To resume hearings on S. 991, to create a separate Cabinet-level Department of Education.
3302 Dirksen Building

10:30 a.m.
Commerce, Science, and Transportation
To continue oversight hearings on the Fishery Conservation and Management Act (P.L. 94-265).
235 Russell Building

2:00 p.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold hearings on budget estimates for FY 79 for the Renegotiation Board, SEC, and on supplemental appropriations for FY 78.
S-146, Capitol

APRIL 28

9:00 a.m.
Judiciary
Constitution Subcommittee
To continue hearings on S.J. Res. 65, to amend the Constitution so as to provide for representation of the District of Columbia in Congress.
5110 Dirksen Building

9:30 a.m.
Environment and Public Works
Resources Protection Subcommittee
To continue consideration of proposed resource protection legislation.
4200 Dirksen Building

Judiciary
Improvements in Judicial Machinery Subcommittee
To resume hearings on S. 1314, to provide that State and Federal prisoners may petition Federal courts in a writ of habeas corpus.
2228 Dirksen Building

Select Small Business
To hold hearings on S. 836, to amend the Small Business Investment Act so as to provide an adequate guarantee for participating surety companies.
424 Russell Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Foreign Agricultural Policy Subcommittee
To continue hearings on S. 2385, S. 2405, and S. 2504, bills to authorize the Commodity Credit Corporation to finance export credit sales of agricultural commodities.
324 Russell Building

Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To receive testimony on budget estimates for fiscal year 1979 for the Departments of State, Justice, Commerce, the Judiciary, and related agencies.
S-146, Capitol

Banking, Housing, and Urban Affairs
To mark up proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
5302 Dirksen Building

Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 88, to add additional lands to the Sequoia National Park, California.
3110 Dirksen Building

Finance
Public Assistance Subcommittee
To resume hearings on S. 2084, to replace the existing Federal welfare programs with a single coordinated program.
2221 Dirksen Building

Foreign Relations
Foreign Assistance Subcommittee
To resume hearings on FY 79 authorizations for foreign assistance programs, and on S. 2420, proposed International Development Cooperation Act.
4221 Dirksen Building

2:00 p.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for fiscal year FY 79 for the Minority Business Resources Center.
1224 Dirksen Building

MAY 1

9:30 a.m.
Environment and Public Works
To resume consideration of proposed highway legislation.
4200 Dirksen Building

10:00 a.m.
Foreign Relations
To resume hearings on FY 79 authorizations for foreign assistance to Korea related to the withdrawal of U.S. forces, and on S. 2420, proposed International Development Cooperation Act.
4221 Dirksen Building

9:30 a.m.
Environment and Public Works
To mark up proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
4200 Dirksen Building

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the Office of the Secretary, DOT.
1224 Dirksen Building

Banking, Housing, and Urban Affairs
To continue markup of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
5302 Dirksen Building

Finance
Public Assistance Subcommittee
To continue hearings on S. 2084, to replace the existing Federal welfare programs with a single coordinated program.
2221 Dirksen Building

Foreign Relations
To continue hearings on FY 79 authorizations for foreign assistance to Turkey and Greece, and on S. 2420, proposed International Development Cooperation Act.
4224 Dirksen Building

Judiciary
Constitution Subcommittee
To resume hearings on S. 35, the proposed Civil Rights Improvements Act.
6226 Dirksen Building

MAY 3

9:00 a.m.
Governmental Affairs
Governmental Efficiency and the District of Columbia Subcommittee
To hold hearings on proposed new criminal code for the District of Columbia.
3302 Dirksen Building

Judiciary
Constitution Subcommittee
To continue hearings on S. 35, the proposed Civil Rights Improvements Act.
1202 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 2883 and S. 2901, authorizations for the Corporation for Public Broadcasting for fiscal years 1979-1983.
1224 Dirksen Building

Environment and Public Works
To continue mark up of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
4200 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue markup of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
5302 Dirksen Building

MAY 4

8:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings on the status of nonfarm, nonfood, and fiber rural development research with USDA and the State land grant system.
322 Russell Building

9:00 a.m.
Governmental Affairs
Governmental Efficiency and the District of Columbia Subcommittee
To continue hearings on proposed new criminal code for the District of Columbia.
3302 Dirksen Building

9:30 a.m.
Commerce, Sciences, and Transportation
Communications Subcommittee
To continue hearings on S. 2883 and S. 2901, authorizations for the Corporation for Public Broadcasting for fiscal years 1979-1983.
1224 Dirksen Building

Environment and Public Works
To continue markup of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
4200 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue markup of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
4200 Dirksen Building

MAY 5

8:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To continue hearings on the status of nonfarm, nonfood, and fiber rural development research with USDA and the State land grant system.
322 Russell Building

9:30 a.m.
Environment and Public Works
To continue markup of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
4200 Dirksen Building

Veterans' Affairs
To resume markup of S. 364, to provide for the judicial review of administrative decisions promulgated by the Veterans' Administration, and to allow veterans full access to legal counsel in proceedings before the VA; S. 2398, to extend the period of eligibility for Vietnam-era veterans' readjustment appointment within the Federal Government; H.R. 5029, authorizing funds for hospital care and medical services to certain Filipino combat veterans of WW II; and S. 2836, to amend the Veterans' Administration Physican and Dentist Pay Comparability Act.
412 Russell Building

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the St. Lawrence Seaway Development Corporation, and the Research and Special Programs Directorate, Department of Transportation.
1224 Dirksen Building

Banking, Housing, and Urban Affairs
To continue markup of proposed legislation authorizing funds for those programs which fall within the committee's jurisdiction.
5302 Dirksen Building

MAY 8

9:30 a.m.
Human Resources
To mark up S. 2600, to extend certain vocational rehabilitation programs and to establish a comprehensive services program for the severely handicapped.
4232 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 2211, the International Maritime Mobile Satellite Telecommunications Act.
235 Russell Building

MAY 9

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the Office of the Secretary of Transportation.
1224 Dirksen Building

MAY 16

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on budget estimates for FY 79 for the Department of Transportation.
1224 Dirksen Building

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings jointly with the Senate Banking Subcommittee on International Finance on technology exports and research and development investments.
6226 Dirksen Building

MAY 17

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold hearings in connection with restrictions employed by foreign countries to hold down imports of U.S. goods.
5302 Dirksen Building

MAY 18

9:30 a.m.
Veterans' Affairs
Housing, Insurance, and Cemeteries Subcommittee
To hold hearings on S. 1643 and H.R. 4341, to eliminate the requirement for inspections of the mobile home manufacturing process by the VA, and S. 1556, authorizing funds through FY 81 to assist States in establishing and maintaining VA cemeteries.
457 Russell Building